

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13306 of Leonard G. and Christine M. Shurtleff, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the side yard requirements (Sub-section 3305.1 and Paragraph 7107.22) to extend a side addition of a single family detached dwelling which is a non-conforming structure in an R-1-B District at the premises 4809 - 46th Street, N.W., (Square 1571, Lot 37).

HEARING DATE: July 30, 1980
DECISION DATE: September 3, 1980

FINDINGS OF FACT:

1. The subject property is located in an R-1-B District on the east side of 46th Street between Davenport and Ellicott Streets, N.W.
2. The subject property is improved with a two story plus basement brick detached single family dwelling built prior to the adoption of the present Zoning Regulations in 1958.
3. There is a one story screened porch, with a cement and brick permanent foundation, located on the south side of the dwelling, off the living room. Access to the porch is via a doorway from the living room, adjacent to a fireplace.
4. The existing porch is eight feet wide by seventeen feet deep. The usable floor space is limited by the back of the fireplace which extends two feet into the porch and is six feet wide at the base.
5. The applicants propose to convert the existing porch into a part of the house by extending the east wall of the dwelling three feet and by enclosing it.
6. The existing side yard adjacent to the porch is 7.75 feet. Since the regulations now require a side yard to be a minimum of eight feet in width, the existing structure is non-conforming.
7. The proposed extension of the porch would reduce the side yard to 4.75 feet. A variance of 3.25 feet is thus required.

8. The existing dwelling with the addition will be far below the maximum permitted lot occupancy.

9. There is a distance of approximately 14.67 feet between the existing porch and the adjoining dwelling to the south. With the three foot extension, there will still be more than eleven feet between the two houses.

10. The applicants require additional living space to provide more sitting room and Hobby room space for parents who are now living with the applicants. The applicants testified that it was not practical to provide such additional space to the rear, in the attic or in the basement. The applicant further testified that the depth of the existing fireplace limited the useful area of the porch if it were not extended, and that existing dining room windows in the house precluded the possibility of expanding the porch to the rear. The Board so finds.

11. The applicant further testified that noise and pollution emanating from traffic on 46th Street had rendered the open porch unuseable and that the enclosure would make the space a useable part of the house again.

12. Advisory Neighborhood Commission - 3E, by letter dated July 24, 1980, recommended that the Board approve the application. The ANC reported that a strict application of the existing regulations would result in undue hardship to the owners of the property and that the relief requested can be granted without impairing the intent, purpose or integrity of the zone plan as embodied in the Zoning Regulations and Map. The ANC reported that the proposed closing in of the side porch will make useable floor space that is not now useable because 46th Street on which it faces carries a heavy volume of traffic which has an adverse effect on people attempting to use the open porch because of noise and air pollution. To convert the open porch to a habitable room requires only a minor variance that can be permitted by the Board. The ANC reported that no objection has been made by anyone and that the proposal meets with the approval of the neighbors. The Board agrees with the findings and recommendation of the ANC.

13. The owners of the abutting property to the south, by letter dated August 5, 1980, stated that they had no objection to the variance.

14. There was no opposition to the application.

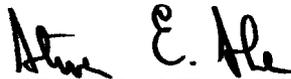
CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the requested variance is an area variance, the granting of which requires the showing of an exceptional or extraordinary condition of the property which creates a practical difficulty for the owner. The Board concludes that, as set forth in finding of fact No. 10, the applicants have made the proper showing that there is an exceptional condition by reason of the configuration of the existing building and that strict application of the regulations would create a practical difficulty for the owner. The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled. The Board concludes that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and maps. It is therefore ORDERED that the application is GRANTED.

VOTE: 4-0 (Walter B. Lewis, Connie Fortune and Charles R. Norris to GRANT; William F. McIntosh to GRANT by PROXY; Leonard L. McCants not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

15 OCT 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.