

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13341, of Joseph M. Juhas, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the open court requirements (Sub-section 3306.1 and Paragraph 7107.22), number of stories limitation (Sub-section 3201.1 and Paragraph 7107.23) and from the prohibition against allowing an addition to a non-conforming structure which now exceeds the allowable percentage of lot occupancy (Paragraph 7107.21) for a proposed fourth story addition to a non-conforming dwelling structure in an R-4 District at the premises 1217 Massachusetts Avenue, S.E., (Square 1013, Lot 24).

HEARING DATE: September 24, 1980

DECISION DATE: September 24, 1980 (Bench Decision)

FINDINGS OF FACT:

1. The subject premises is located in an R-4 District on the south side of Massachusetts Avenue between East Capitol and 13th Streets, S.E.

2. The subject property is improved with a brick row structure having a basement and two upper stories. The most recent use of the building was as a single-family dwelling. The applicant was issued a building permit in June, 1980 to begin renovations of the building to convert it to a flat. The work authorized by that building permit includes interior repairs and alterations and the construction of a deck at the rear of the building on top of the roof.

3. The ceiling of the basement is more than four feet out of grade at the front of the building. The definition of "story" contained in Section 1202 of the Regulations provides in pertinent part "For the purpose of determining the maximum number of permitted stories, the term story shall not include cellars, a basement the ceiling of which is less than four feet above the finished grade,..." Thus, the basement in this application is counted as a story, and the existing building is considered to be a three story building.

4. The applicant proposes to add a fourth story addition which would cover approximately two-thirds of the existing roof. The remaining portions of the roof would be occupied by the deck for which the permit has been issued.

5. The addition would contain two rooms, one with a large bath tub and one to be used for general recreation purposes.

6. The existing building occupies almost one hundred percent of the lot, with only approximately forty-seven square feet not occupied out of a total of 918.90 square feet. Since the maximum permitted lot occupancy is sixty percent, the maximum building area permitted is only 551.32 square feet. Since the existing building exceeds the lot occupancy, expansion of that building requires a variance from Paragraph 7107.21. The addition does not increase the lot occupancy of the site.

7. The Zoning Regulations allow a maximum height of forty feet and four stories in the R-4 District. The height of the building including the addition will be less than forty feet. However, because the basement is counted as a story, the building as proposed will have four stories, and will thus require a variance from Sub-section 3201.1 and Paragraph 7107.23.

8. The existing building has a four foot wide open court on the east side of the building at the rear. The fourth story addition and roof deck will follow the line of the existing building. The Zoning Regulations require an open court to be a minimum of ten feet in width. Since the court at the fourth floor level will continue to be only four feet in width, a variance of six feet from the requirements of Sub-section 3201.1 and Paragraph 7107.23 is required.

9. The existing building has a rear yard which averages only 2.5 feet in depth. There is thus no room to expand the building to the rear. In addition, the area of the lot is sub-standard. The regulations require a minimum area of 1800 square feet, while the lot contains only 918.90 square feet.

10. The applicant testified that his family has no access to a yard with any privacy. The house fronts the heavy traffic of Massachusetts Avenue and Lincoln Park. In the rear, due to the wedge-like shape of the lot, and the near-total occupancy of the lot by the building, there is only space for stairs and a narrow passageway to the basement. The house needs some habitable space directly adjacent to an outdoors space. A new fourth floor with access to a roof deck would provide this. Without the fourth floor addition, use of the roof deck will be severely limited.

11. The house is oriented north and south, but no rooms enjoy a long exposure to the southern and southwestern sun. The alley is 10 feet wide, and the adjacent buildings backing onto the alley and those on the other side similarly fully occupy their lots. Thus, most of the habitable rooms are dark. The applicant testified that he would like a large room with a good orientation for light and would like to take advantage of the proposed glazing on the fourth floor as a passive solar heat system.

12. The addition has been designed so that the front of the fourth floor slopes back at an angle to minimize the intrusion of the additional height. The two abutting buildings to the west are both four stories in height, and the building one lot removed to the east is also four stories in height. The project has received conceptual design approval from the Joint Committee on Landmarks.

13. The owners of the abutting properties on both sides and to the rear are in support of the application. There is a petition in support of the application from other owners of nearby property.

14. Advisory Neighborhood Commission - 6B, by letter dated September 15, 1980, recommended that the application be granted. The ANC noted that the addition will not be seen from the sidewalk or street, as the existing cupola will block the new story. The addition will also bring the building closer to the height of other existing buildings in the block. The ANC advised that it felt that granting of the variances would not be detrimental to the public good and would not impair the intent, purpose and integrity of the zone plan. The Board agrees with the findings of the ANC.

15. There was no opposition to the application.

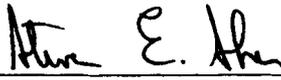
CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the requested variances are area variances, 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 the size of the lot and the configuration of the building existing before the adoption of the present Zoning Regulations combine to create such an exceptional condition causing 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: 3-0 (Theodore F. Mariani, Connie Fortune and William F. McIntosh to GRANT; Charles R. Norris and 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: _____

24 NOV 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.