

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13345 of Elsworth E. Pierce, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the side yard requirements (Sub-section 3305.1) to construct an addition to an existing semi-detached dwelling in an R-2 District at the premises 1549 Fort Davis Street, S.E., (Square 5379, Lot 19).

HEARING DATE: September 24, 1980

DECISION DATE: September 24, 1980 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located on the northwest side of Fort Davis Street in an R-2 zone District at premises known as 1549 Fort Davis Street, S.E.
2. The site is presently improved with a two story and basement brick semi-detached structure.
3. The applicant, without knowledge of the need for a permit, began construction of a covered patio on the west side of the structure.
4. Work was halted by a stop work order issued by the Zoning Regulations Division. The applicant at that time, ceased all work, and filed this application before this Board.
5. The applicant proposes to cover an existing twelve by thirty foot concrete slab, in order to protect patio furniture from the elements of inclement weather. The applicant proposes no side enclosures for the patio.

6. The lot, in existence prior to adoption of the 1958 Zoning Regulations, is nonconforming as to lot area and lot width. The applicant's proposal in no way increases this degree of nonconformity. The applicant's structure is well under the forty percent allowable lot occupancy. A twenty foot rear yard is required, and the applicant provides 27.32 feet.

7. An eight foot side yard is required to be provided. The applicant provides a two foot side yard. Thus a variance of six feet is required.

8. There was no report of Advisory Neighborhood Commission 7B on this application.

9. There was no opposition to the granting of this application. The applicant testified that he had discussed plans for the patio with adjoining residents and they offered support for the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the above 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 a practical difficulty upon the owner in his use of the property. The Board is of the opinion that the applicant has demonstrated such a difficulty in that the proposal is strictly to cover an open patio. It in no way blocks the light, air and ventilation of adjoining or nearby property. The Board further 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 Map. Accordingly, it is ORDERED that this application is hereby GRANTED.

VOTE: 3-0 (Theodore F. Mariani, Connie Fortune and William F. McIntosh to grant; Leonard L. McCants and Charles R. Norris not present, not voting).

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

ATTESTED BY: Steven E. Sher  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: 1 DEC 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.