

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13480, of Kenneth N. Bragg, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the prohibition against allowing an addition to an existing flat which now exceeds the allowable percentage of lot occupancy (Paragraph 7107.21), the lot occupancy requirements (Sub-section 3303.1 and Paragraph 7107.23), the closed court area and width requirements (Sub-section 3306.1 and Paragraph 7107.22) and the rear yard requirements (Sub-section 3304.1 and Paragraph 7107.22) for a proposed rear deck on an existing flat which is a non-conforming structure in an R-4 District at the premises 105 "E" Street, S. E., (Square 736 and Lot 103).

HEARING DATE: April 22, 1981

DECISION DATE: May 6, 1981

FINDINGS OF FACT:

1. The subject property is located on the south side of "E" Street between 1st and 2nd Streets, S. E. It is in an R-4 District at premises known as 105 "E" Street, S. E.

2. The property is presently improved with a 2½ story brick structure used as a two family unit.

3. The subject lot is 16.5 feet wide by 79.25 feet deep. The structure occupies the entire width of the lot and is attached to adjoining units on either side. At the rear of the existing dwelling is a projecting portion of the basement measuring 8.5 feet by 6.5 feet. The top of the projection serves as the landing and porch area at the rear door of the first floor of the house.

4. The applicant proposes to construct a one-story greenhouse on top of the existing rear porch, and to extend a deck at the level of the existing porch to within six inches of the rear lot line. The deck is 15.5 feet deep by 16.5 feet wide. The deck area to be covered with flooring is ten feet wide. The area on either side of the deck will be covered with translucent plastic to admit natural light to the addition below. Excavation of the rear yard will be necessary to achieve appropriate ceiling height for the addition. The addition below the deck will serve as a garage and trash room.

5. The adjoining lots to the east and west of the subject property contain structures in their rear yards. Lot 104, east of the property in question, contains a structure fourteen feet by

sixteen feet, 12.5 feet in height at the rear property line abutting the lot line with lot 103. Lot 102, west of the property in question, contains a structure sixteen feet by nineteen feet, approximately 10.5 feet high, with a six foot fence at the roof level making the effective height some 16.5 feet above the level of the alley. This structure is located at the rear of lot 102 and abuts the western property line of the rear of lot 103.

6. The R-4 District requires a minimum lot area of 1,800 square feet. The site in question contains 1,307.63 square feet. The required lot width in the R-4 District is eighteen feet. The site in question has a width of 16.5 feet.

7. The R-4 District permits a maximum lot occupancy of sixty per cent or 784.58 square feet for the subject lot. As determined from the plat marked as Exhibit No. 2 of the record, the existing building occupies 946.125 square feet, or 72.35 per cent of the lot. The proposed addition will occupy 285.75 square feet more, for a total lot occupancy of 1231.88 square feet. The applicant thus requires a variance of 447.3 square feet.

8. The R-4 District requires a minimum rear yard of twenty feet. The subject site including the addition will have a rear yard of 0.5 feet. This requires a variance of 19.5 feet, or a variance of 97.5 per cent.

9. The R-4 District requires a closed court if provided, to have a minimum width of fifteen feet and a minimum area of 350 square feet. The applicant proposes to create a closed court having a width at its narrowest point of four feet and an area of 137.5 square feet. The applicant thus requires a variance of eleven feet on the width and 212.5 square feet on the area.

10. The applicant argued that the rear of the lot is affected by an extraordinary condition by virtue of the existing walls on adjoining lots which enclose the rear yard of the subject premises. The applicant testified that the level of the rear yard was so far below the tops of the adjoining walls that he would be unable to use it as reasonable open space. The Board so finds.

11. The top of the garage and the level of the deck will be at the same level as the main floor of the house. There will be adequate light and air available to the basement level because of the existing open court.

12. Advisory Neighborhood Commission 6-B by letter dated April 20, 1981 voted unanimously to take no position on the proposed application. The ANC noted no issues or concerns for the Board to address.

13. The applicant submitted for the record statements of support from adjoining and neighboring property owners. The owners of the

immediately abutting properties on either side supported the applicant.

14. A resident of 130 North Carolina Avenue, S. E. appeared in opposition to the application. The opposition was to the amount of the lot to be occupied. The opposition argued that the lot exhibited no exceptional or extraordinary condition, and that approval of this application would be contrary to the intent and purposes of the Zoning Regulations.

15. As to the issues raised in opposition, the Board set forth in Finding No. 10 the exceptional conditions that affect the site. The Board further finds that the proposed addition will provide for usable open space to serve the occupants of the building without adversely affecting any adjoining property.

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 existing sub-standard size of the lot, when combined with the existing conditions on adjacent property, constitutes an exceptional condition. The Board further concludes that the applicant would suffer a practical difficulty if no addition is allowed because of the unfavorable nature of the existing rear yard. The Board concludes that the deck would be consistent with the intent and purpose of the Regulations to provide usable open space around and behind dwellings. 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 (John G. Parsons and Connie Fortune to GRANT; William F. McIntosh and Douglas J. Patton to GRANT by proxy; Charles R. Norris not voting, not having heard the case).

BY ORDER OF THE DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: 27 JUL 1981

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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.