

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13662, of David R. Zoellner, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the side yard requirements (Sub-section 3305.1 and Paragraph 7107.22) and the closed court area and width requirements (Sub-section 3306.1 and Paragraph 7107.22) for a proposed deck addition to a row dwelling which is a non-conforming structure in an R-2 District at the premises 5322 41st Street, N.W., (Square 1742, Lot 53).

HEARING DATE: January 27, 1982
DECISION DATE: January 27, 1982 (Bench Decision)

FINDINGS OF FACT

1. The subject application appeared on the preliminary calendar at the public hearing on January 27, 1982. The affidavit of posting in the record evidenced that the property was posted nine days prior to the public hearing instead of ten days required under the Supplemental Rules of Practice and Procedure before the BZA. The applicant testified that the office was closed on Thursday and Friday, January 14 and 15, 1982 and that he picked up the sign on Monday, January 18, and posted it the same day. The Chair waived the ten day requirement for good cause shown.

2. The subject property is located on the west side of 41st Street, N.W. between Jennifer Street and Military Road, N.W. and is known as premises 5322 41st Street, N.W. It is in an R-2 District.

3. The subject property is improved with a row dwelling built in 1917, and is nonconforming in respect to lot area (4,000 square feet required, 1936 square feet existing); lot width (40 feet required, nineteen feet existing); lot occupancy (774.40 square feet allowed, 1,121 square feet existing); side yard (eight feet required, none provided); closed court width (fifteen feet required, 4.6 feet existing); and closed court area (350 square feet required, 52.44 square feet existing). The property is a rowhouse lot in a district which normally requires semi-detached houses. The lot is smaller and narrower than is normal for an R-2 District.

4. The applicants propose to replace the existing steps to the rear entrance of the dwelling which are in a deteriorated condition. The applicants plan to reposition

the steps and to add an access platform measuring approximately eight by four and one-half feet in the existing closed court area located on the north side of the house.

5. The applicants testified that the existing steps lead directly to the rear entrance with no access platform which creates a hazardous condition when entering the dwelling, especially during inclement weather.

6. At the public hearing, the applicants submitted photographs of three dwellings in the same square which have similar additions in their back yards. Such photographs evidence that those additions do not adversely affect adjoining properties. The applicants also submitted photographs of the deteriorated condition of the stairs to be replaced. The photographs evidence that the stairs are in need of replacement.

7. The applicants testified that construction of the deck is already eighty-five percent complete. The applicants testified that they received a permit to repair the existing steps but that when an inspector came out to approve the final construction, he informed them that they needed a construction permit. During the process of filing for a construction permit, they were informed that a variance was needed to obtain the permit. At that time, they ceased construction and applied for the requested variance relief.

8. There is a petition in the record signed by ten residents of the subject square expressing no opposition to the proposed addition.

9. Advisory Neighborhood Commission 3E, by letter dated January 21, 1982, advised the Board that it did not object to the granting of the requested variance, and that granting of the variance can occur without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. The Board so finds.

10. There was no opposition at the public hearing or in the record to the granting of the subject application.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicants are seeking area variances, the granting of which requires a showing of practical difficulty that is inherent in the property itself and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan.

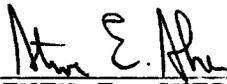
The Board concludes that the non-conformity of the lot as evidenced in Finding of Fact No. 3 creates an exceptional and extraordinary condition of the property which creates a practical difficulty for the applicants in constructing a reasonable replacement for the existing steps and providing the addition of an access platform to those steps. 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 Map.

It is therefore ORDERED that the application is GRANTED.

VOTE: 5-0 (John G. Parsons, William F. McIntosh, Connie Fortune, Douglas J. Patton and Charles R. Norris to GRANT).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: MAY 12 1982

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.