

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13736, of Theodore C. and Elva L. Osborne, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the side yard requirements (Sub-section 3305.1) for a proposed addition to an existing detached dwelling in an R-3 District at the premises 1521 Foxhall Road, N. W., (Square 1353, Lot 94).

HEARING DATE: April 28, 1982
DECISION DATE: May 5, 1982

FINDINGS OF FACT:

1. The subject site is located on the east side of Foxhall Road between Volta Place and P Street and is known as 1521 Foxhall Road, N. W. It is in an R-3 District.
2. The subject site comprises 6750 square feet in area having a depth of 135 feet and a width of fifty feet. The site is improved with a frame two-story detached dwelling and a sheet metal garage at the rear of the premises. There is a ten feet wide public alley to the rear of the site.
3. The site currently conforms in all respects with the Zoning Regulations. The northern side yard measures 12.8 feet in width. The southern side yard measures 10.7 feet. The rear yard measures 87.60 feet in depth. The site is rectangular shaped and flat.
4. The applicants proposed an addition in the northern side yard of 380.80 square feet. If approved, the remaining northern side yard will measure three feet. A variance of five feet is requested.
5. The proposed addition to the existing dwelling is to provide, at a level close to that of the ground to the rear of the house and also close to the level of the existing first floor, a bathroom, a large closet, and a room to serve as a bedroom for two as and when needed. The applicants intend that these rooms, and a storage loft over the bathroom and closet, be used by the owners as an integral part of the existing single-family dwelling, not as a distinct dwelling unit. The increasing painfulness of applicant Elva Osborne's arthritis, in particular, is expected to require that the ground floor sleeping quarters

to be provided by the proposed addition be used by the owners instead of the existing bedrooms on the second floor.

6. The garage has for many years been used for storage for garden tools and equipment, unused furnishings of minor value, firewood, paint, etc., and trash awaiting disposal. No change in the use of the garage is intended.

7. There is no first-floor bathroom in the existing dwelling. The existing first-floor living room, dining room and kitchen do not offer practical and appropriate space to accommodate a bathroom or sleeping quarters. Existing first floor clothes closet space is limited to a small coat closet off the living room and a two foot by two foot alcove near the back door.

8. The proposed addition is also intended to supply loft space, over the bathroom and closet, for storage of bulky items such as chests, baggage, and extra furniture, as it is not practicable to use the space over the second floor of the existing house for an attic. There is no stairway to that space and access to it is through a small door in the attic fan suction box or plenum.

9. The applicant argued that the situation of the existing house on the lot makes it impractical to build the desired addition onto the front or either side of the house. In taking land for widening Foxhall Road in the 1940s, the District put the street line along Foxhall Road less than three feet away from the outside of the front wall of the structure.

10. The applicant further argued that in building an addition onto the rear of the house, existing windows which admit light and air to the upstairs hall and small rear room, and to the kitchen on the first floor, need to be left unobstructed. Given the proposed rearward-sloping shed roof for the addition and the need for adequate headroom in the loft, leaving the existing rear windows unobstructed will mean that the southerly wall of the addition will tie to the rear wall of the existing house about ten feet from the northerly end of that wall. Setting aside eight feet out of the eleven feet between the northerly end of the rear wall and the northerly property line for side yard allows a total width for the addition of approximately thirteen feet.

11. The applicant testified that it would be desirable to minimize the projection of the addition toward the rear of the lot. To accomplish that, the bathroom and closet should be built, as here proposed, along the northerly wall of the addition. To allow four feet interior width for the bathroom, a bare minimum, and an additional foot for the width of the exterior northerly wall plus the width of the interior bathroom partition allows a width for the proposed

bedroom area of only about eight feet out of the thirteen feet available if the eight foot side yard requirement is strictly enforced. Eight feet is not a reasonably adequate width to accommodate bedroom furniture for two, including chests of drawers, chairs, etc., and allow reasonable room for traffic. The applicants argued that strict enforcement of the eight foot side yard requirement thus results, in the circumstances peculiar to this case, in creating a practical difficulty to developing the subject premises in a reasonable way to meet the needs of the owners.

12. There were letters recommending general approval of the application from the owners of adjacent properties submitted to the record. There were some concerns as to the proposed design and a possible drainage problem which issues the applicant addressed.

13. There was no opposition to the application.

14. Advisory Neighborhood Commission 3B made no recommendation in the application.

15. The Board at the Public Hearing specifically requested the applicants to address themselves to the issue of the practical difficulty inherent in the land which might support the variance relief. The Board further inquired why the addition could not be constructed in the rear yard where no variance would be required. The applicants replied that there was no practical difficulty in a zoning sense and that a rear addition would be offensive to the neighbors since it would deprive them of the existing, tranquil view of the rear yard as it now exists.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicants are seeking an area variance the granting of which requires proof of a practical difficulty that is inherent in the land. The Board concludes that neither an exceptional or extraordinary situation or condition of the property nor the practical difficulty exists. The land is flat and rectangular in shape. It has a rear yard that measures 87.60 feet in depth which could accommodate an addition requiring no relief from the Board. The yards are now conforming. The proposed addition would result in a non-conforming structure. The practical difficulties argued by the applicants are based on personal and aesthetic grounds. Relief for area variances cannot be based on such grounds. Also, the fact that owners of property surrounding the subject site recommend approval of the application does not relieve the applicants of their burden of proof. Accordingly, it is ORDERED that the application is DENIED.

VOTE: 4-1 (Walter B. Lewis, William F. McIntosh, Connie Fortune and Douglas J. Patton to deny, Charles R. Norris opposed to denial).

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

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

FINAL DATE OF ORDER: DEC - 8 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."

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