

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13801, of Louis H. Kuhn, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the rear yard requirements (Sub-section 3304.1) to construct a rear deck addition and renovate an existing porch of an existing dwelling in an R-3 District at the premises 2416 39th Street, N.W., (Square 1810, Lot 23).

HEARING DATE: July 28, 1982
DECISION DATE: August 4, 1982

FINDINGS OF FACT:

1. The subject property is located on the west side of 39th Street between Calvert and Benton Streets and is known as premises 2416 39th Street, N.W. It is in an R-3 District.

2. The subject property is rectangular in shape, with a total land area of 1374.75 square feet. The lot width is 18.33 feet.

3. The property is improved with a two-story brick row house, also rectangular in shape. Because of a change in grade, there is an approximately eight foot drop from the first floor front to the rear yard. At the rear of the first floor of the dwelling, within the rectangular area of the dwelling, there is an existing, enclosed, wooden porch. Beneath the porch, on the ground level, are the entrances to the dwelling's basement and in-house garage. There is a public alley to the rear of the property, on the other side of which are the rear yards of row houses on 39th Place, N.W.

4. The applicant proposes to remove the existing outside stairway which is rotting, the two wooden sides, and the floor of the existing, enclosed porch. He would then replace the flooring, and extend it as a deck beyond the existing dwelling into the rear yard. The deck would be an extension of the original porch, attached to the first floor level at the existing rear door of the dwelling. The deck would be approximately eight feet off the ground, over the entrances to the basement and the garage, and within the area of the original cement slab to the rear of the dwelling which supports the porch and its outside stairway.

5. The proposed deck, roughly triangular in shape, would have a maximum width of 11.2 feet and would extend 8.6 feet into the rear yard at its greatest depth. The proposed deck construction would provide a rear yard of 17.27 feet. The R-3 District requires a minimum rear yard of 20.0 feet. The applicant thus requires a variance of 2.73 feet.

6. The applicant testified that the subject enclosed porch was used for storage. It did not provide any of the amenities for outdoor living and recreation that the proposed open deck would afford for his family.

7. During the public hearing, it was noted that although two neighbors had written letters to the Board in support of the planned construction, there were none in the record from the applicant's immediate neighbors. The applicant testified that he had shown the actual construction diagram to one of the immediate neighbors, and that he had at least discussed it with the others. None had expressed any objection. To substantiate the applicant's testimony, the Board requested written statements from the applicant's immediate neighbors. On July 30, 1982, the applicant submitted written testimonials by the owners of the properties immediately to the right, left, and rear of this property, as well as an additional letter from the residents of the only one of the properties currently being rented. All four letters stated that the immediate neighbors had seen the actual proposed construction plans, had no objection to the construction as planned, and were positive in their support for the construction. The adjoining property owners stated that the proposed plan would not interfere with the light and air of their premises. The Board agrees.

8. No one appeared at the public hearing in opposition to the granting of this application, nor were there any letters of opposition in the record.

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

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the requested variance is an area variance, the granting of which requires evidence of a practical difficulty inherent in the property itself. The Board notes that other than the rear yard requirements the present structure conforms with all the requirements of the R-3 District. The Board further notes that the applicant's proposed rear deck and porch renovation would not require a substantial variance to the normal rear yard requirements, that the surrounding residential neighborhood will not be adversely affected by the grant of such a

variance, and that the application has the strong support of each of the applicant's immediate neighbors.

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 Maps. It is, therefore, ORDERED that the application is GRANTED.

VOTE: 3-0 (Walter B. Lewis, Connie Fortune and Charles R. Norris to GRANT; William F. McIntosh and Douglas J. Patton not voting, not having heard the case).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

SEP 24 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.