

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13825, of Robert Hirst, 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 a detached dwelling in an R-1-B District at the premises 2812 Northampton Street, N.W., (Square 2314, Lot 36).

HEARING DATES: September 22 and November 10, 1982
DECISION DATE: November 10, 1982 (Bench Decision)

ORDER

The subject application was scheduled for the public hearing of September 22, 1982. At that public hearing, the applicant was out of the country and was represented by his contractor. During the course of the public hearing, the Board found that the addition to the dwelling had been completed. The applicant's representative did not address the burden of proof necessary for the granting of an area variance and was unable to answer the Board's questions as to when, why and how the addition was constructed without first obtaining a building permit. On a motion made by Douglas J. Patton, seconded by Connie Fortune, the Board postponed the public hearing on the subject application until the applicant could be present by a vote of 5-0 (Douglas J. Patton, Connie Fortune, William F. McIntosh, Lindsley Williams and Charles R. Norris to postpone).

The further hearing in the subject application was limited to the issue of when, why and how the addition was completed without a building permit and was scheduled for November 10, 1982. The applicant was present at that public hearing and testified that:

- a. He had hired a contractor to build the addition on July 5, 1981.
- b. The contractor assured him that all applicable D.C. codes and ordinances were complied with.
- c. He relied on the contractor to obtain all permits necessary for the addition.
- d. He was informed of the public hearing date and posting requirements by letter from the Zoning Secretariat in August, 1982.

- e. He was unaware of the November 27, 1981 letter from the Zoning Administrator directing the filing of an application for a variance until November, 1982.
- f. He did not know why the application was not filed until June of 1982.

The applicant's counsel stated that he had recently been retained by the applicant and, because of the limited nature of the further hearing as specified in the notice, he was not prepared to prove the applicant's case based on its merits. Counsel requested the Board to postpone the hearing to allow him time to review the file and prepare the applicant's case.

The Board finds that the applicant's representative at the public hearing of September 22, 1982, did not meet the burden of proof necessary for the granting of an area variance. The Board finds that the applicant has been before the Board twice and that the request for a continuance is based solely on the unreadiness of the applicant to prove his case. The Board finds that a further continuance of the subject application would be disruptive of the Board's schedule and would inconvenience other applicants desirous of having their cases heard.

Upon consideration of the foregoing facts, it is ORDERED that the request for continuation is DENIED and the application is hereby DISMISSED WITHOUT prejudice to the refiling of a subsequent application.

VOTE: 5-0 (Walter B. Lewis, Carrie L. Thornhill, William F. McIntosh, Douglas J. Patton and Charles R. Norris to DISMISS WITHOUT PREJUDICE).

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

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

FINAL DATE OF ORDER: JAN 18 1983

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."