

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13858, of Francis M. Dilone, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the prohibitions against allowing an addition to a non-conforming structure which now exceeds the lot occupancy requirements (Sub-section 5302.1 and Paragraph 7107.21) and the rear yard requirements (Sub-section 5303.1 and Paragraph 7107.22) for a proposed second floor rear addition in a C-2-A District at the premises 3161 Mt. Pleasant Street, N.W., (Square 2595, Lot 677).

HEARING DATES: November 10, 1982 and January 12, 1983  
DECISION DATES: February 2, and March 2, 1983

FINDINGS OF FACT:

1. As a preliminary matter to the public hearing of November 10, 1982, the Board considered the issue that no affidavit of posting was filed. It was also determined that the property was not posted. The Chairman ruled that the case would be continued January 12, 1983 to allow proper posting and compliance with the Supplemental Rules of Practice and Procedure before the BZA. The property was posted for the January 12, 1983, hearing.

2. The subject property is located on the north side of Mt. Pleasant Street between Irving and Lamont Streets, N.W. at premises known as 3161 Mt. Pleasant Street, N.W. It is in a C-2-A District.

3. The subject lot is rectangular in shape containing 900 square feet of land area and fifteen feet of frontage on Mt. Pleasant Street. The site is improved with a two-story masonry row structure constructed prior to May 12, 1958, the effective date of the current Zoning Regulations. The building occupies 100 percent of the lot.

4. The subject structure is presently occupied as a grocery store on the ground floor and a residence on the second floor with separate entrances from Mt. Pleasant Street. The first floor which is occupied by the grocery store alone extends to the rear lot line of the site. The applicant operates the grocery store and has her residence on the second floor.

5. The subject property is joined on the north by a barber shop and on the south by a bicycle shop. Both shops have a residential unit above the stores.

6. The applicant proposes to construct a second story rear addition to the existing structure. The addition will measure approximately fifteen feet by fifteen feet and one-story high. The addition will not increase the height of the existing structure as measured from the front, nor will it increase the lot occupancy.

7. An existing partial wall was begun approximately ten years ago to construct the proposed rear addition on the second floor. It was never completed.

8. The representative of the applicant testified that the applicant needs additional living space for her four member family.

9. The witness further testified that repeated burglaries of the first floor grocery store have occurred through the first floor roof at the rear of the subject structure. The proposed addition would provide greater security to the structure by eliminating any access from the first floor roof to the grocery store.

10. The subject structure is joined on the north and south by similar two-story brick row structures. The adjoining structure to the south is built out to the same line as the rear of the subject structure on both the first and second floors creating a wall along the common boundary at the second floor. The witness testified that several other structures on the north side of the street have second story additions.

11. The subject structure is non-conforming in regard to residential lot occupancy in the C-2-A District. A maximum lot occupancy of sixty per cent or 540 square feet is allowed and 900 square feet is proposed, requiring a variance of 360 square feet or 66.6 percent. A total floor area ratio of 2.5 or 2,250 square feet is permitted, and 1,800 square feet total floor area is provided. A rear yard for the addition of fifteen feet is required. No rear yard exists and none is provided, requiring a variance of 100 percent.

12. Advisory Neighborhood Commission 1A made no recommendation on the application.

13. No one appeared in favor or in opposition to the application at the public hearing. No letters were filed of record.

14. The Board in its initial deliberation of this case on February 9, 1983 determined that the views of the adjoining property owners were of interest to the Board. Consideration of a decision in this application was deferred until March 2, 1983 to allow the applicant an opportunity to seek the views of the adjoining neighbors. No response was received into the record. The applicant had indicated that the adjoining properties were occupied by tenants and that the owners lived out-of-state.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking an area variance, the granting of which requires the showing of a practical difficulty inherent in the property itself. The Board concludes that there are practical difficulties unique to the subject property. The structure, constructed prior to 1958, is presently non-conforming, exceeding the residential lot occupancy of the C-2-A District by approximately twenty-five percent. The proposed addition will increase the non-conformity to 66.6 percent. The addition will provide needed living space to the residential portion of the structure and additional security to the business. The addition will be constructed at the second floor to the limits of the first floor, which presently occupies 100 percent of the site. The addition will be one-story in height and will not increase the overall height of the structure nor the lot occupancy.

The Board further concludes that the requested relief can be granted without causing substantial detriment to the public good. The addition is a modest increase in the size of the structure and will not adversely affect the use of adjoining properties or obstruct their light and air. The Board is further of the opinion that the relief can be granted without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the application is hereby GRANTED.

VOTE: 4-1 (Douglas J. Patton, Carrie L. Thornhill and Charles R. Norris to grant; John G. Parsons to grant by proxy; William F. McIntosh opposed to the motion).

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

ATTESTED BY:

  
\_\_\_\_\_  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: \_\_\_\_\_

APR 27 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."

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.

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