

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13936, of Charles W. Cobb, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the lot occupancy requirements (Sub-section 3303.1), the rear yard requirements (Sub-section 3304.1) and the open court width requirements (Sub-section 3306.1) to construct a sun deck to the rear of an existing single family dwelling in an R-5-B District at premises 1734 U Street, N.W., (Square 151, Lot 172).

HEARING DATES: March 23 and May 11, 1983

DECISION DATES: June 1, 1983 and January 11, 1984

FINDINGS OF FACT:

1. At the public hearing held on March 23, 1983, a representative of the applicant informed the Board that the applicant was not prepared to go forward with his case and requested a postponement. The Chairman ruled that the case be continued to May 11, 1983.

2. The subject property is located on the south side of U Street between 17th and 18th Streets, N.W. and is known as premises 1734 U Street, N.W. It is in an R-5-B District.

3. The site is rectangular in shape containing approximately 1,700 square feet of land area with seventeen feet of frontage on U Street. It is improved with a three-story brick row dwelling presently occupied as a single family residence. The site abuts a 10.25 foot wide public alley at the rear. The site is generally flat.

4. The subject structure is one of several similar connected row dwellings. The general neighborhood is characterized by single-family and multi-family structures in an extensive area of R-5-B zoning.

5. In the past five years many single-family structures in the subject neighborhood have been renovated and converted into multi-family dwellings. Apartment houses have also been converted into condominiums.

6. The applicant seeks variances to permit the continued use of an existing rear yard deck, which measures fourteen feet by fourteen feet and which was constructed in 1980.

7. The existing deck is elevated above the ground approximately ten feet and is connected to a metal porch measuring approximately twelve feet by five feet which is connected to the house at the first floor level.

8. The applicant has occupied the subject premises since October, 1978.

9. The applicant testified that the contractor who constructed the deck was hired because of the quality of other decks that the contractor built in the neighborhood. The applicant discussed the contractor's work with those neighbors for whom he constructed decks prior to hiring him.

10. When the applicant hired the contractor, the applicant assumed that the contractor would obtain all the necessary permits to construct the deck. The applicant relied upon the contractor to obtain the permits.

11. The applicant did not have a copy of the signed contract. He paid the contractor approximately \$1,800 to \$1,900 for the construction of the deck.

12. The deck had existed for three years when the applicant was informed by an inspector that the appropriate permits had never been issued for its construction.

13. The east and west lot lines have a wooden fence extending along the lot lines from the rear of the dwelling to the rear lot line at the alley. Other rear yards in the alley have similar fences.

14. The applicant testified that the deck does not obstruct sun-light to the adjoining properties. There have been no complaints from either of his adjoining neighbors.

15. Along the alley in the 1700 block of Willard Street and the 1800 block of S Street, there are garages extending to the rear lot lines.

16. The adjacent neighbor at 1734 U Street had constructed a roof-top deck with a spiral stair from the roof to the ground.

17. The applicant testified that the elevated deck allows the greatest use of the rear yard by being secured from rats which have infested the neighborhood. The elevated deck also allows for a car to be parked below the deck on a concrete pad.

18. The R-5-B District allows a maximum lot occupancy of sixty percent. For the subject lot, a maximum of 1,020 square feet may be occupied. Before the deck was constructed, the house occupied 1,021.6 square feet, and thus

conformed to the Zoning Regulations for percentage of lot occupancy. The deck added 256 square feet, for a total lot occupancy of 1,274.6 square feet. A variance of 254.6 square feet or 24.9 percent is required.

19. A rear yard of a minimum of fifteen feet is required. Before the deck was constructed, the house had a conforming rear yard of twenty feet. The deck reduced the rear yard to six feet, requiring a variance of nine feet or sixty percent.

20. If an open court is provided, it must have a minimum width of six feet. Open court widths of one foot and two feet are provided adjacent to the deck, requiring variances of five feet or 83.3 percent and four feet or 66.6 percent.

21. The applicant testified that if the Board denied the relief sought he would tear down the deck. The applicant testified that he could not meet the practical difficulty test for an area variance since it did not exist in the site.

22. No report was received into the record from Advisory Neighborhood Commission 1C.

23. No one appeared in opposition or in favor of the application at the public hearing or as of record.

24. At its public meeting of September 7, 1983, the Board voted to grant the subject application. At the public meeting of January 11, 1984, the Board reconsidered that action in light of the absence of a basis in the record to sustain the granting of an area variance; i.e., an exceptional or extraordinary condition of the property leading to a practical difficulty. The Board then voted to deny the application based on the findings and conclusions set forth herein.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking area variances the granting of which requires evidence of an exceptional or extraordinary situation or condition of the property that creates a practical difficulty for the owner. The Board concludes that neither such exceptional situation or condition nor the requisite practical difficulty can be found. The site is rectangular in shape and generally flat. Prior to the construction of the deck, the building conformed to the lot occupancy and rear yard requirements. The house and the lot are substantially the same as the other houses and lots on the block and in the area.

The Board is of the opinion that the applicant acted less than diligently in the matter of ensuring that proper permits were obtained for the construction of the deck. If the applicant had acted more responsibly, he would have been aware that no permit had been issued, and consequently would have known of the extent of the variances that were required under the Zoning Regulations. The Board is of the opinion that other than the immediate temporary financial condition resulting from the demolition required, the applicant would suffer no practical difficulty if the Zoning Regulations were strictly applied and the deck was dismantled. The applicant can seek his redress of that condition against the contractor in other forums. Accordingly, it is therefore hereby ORDERED that the application is DENIED.

VOTE as to the original grant: 3-2 (Carrie Thornhill, William F. McIntosh, Charles R. Norris to grant; Maybelle T. Bennett and Douglas J. Patton opposed).

VOTE as to the motion to reconsider: 4-0 (Carrie Thornhill, Maybelle T. Bennett and Douglas J. Patton to reconsider; Charles R. Norris to reconsider by proxy; William F. McIntosh not present, not voting).

VOTE as to the denial: 4-0 (Carrie Thornhill, Maybelle T. Bennett and Douglas J. Patton to deny; Charles R. Norris to deny by proxy; William F. McIntosh not present, not voting).

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

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

FINAL DATE OF ORDER: FEB - 6 1984

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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