

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13954, of Johnie Hollis, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the side yard requirements (Sub-section 3305.1) to permit the reconstruction of a single family detached dwelling, which was a non-conforming structure, which was more than seventy-five percent destroyed by fire, in an R-1-B District at premises 2627 South Dakota Avenue, N.E., (Square S-4337, Lot 7).

HEARING DATE: April 27, 1983

DECISION DATE: April 27, 1983 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located on the north side of South Dakota Avenue between Bladensburg Road and 30th Street, N.E. and is known as premises 2627 South Dakota Avenue, N.E. It is zoned R-1-B.
2. The subject property is rectangular in shape measuring thirty-nine feet by 97.5 feet and containing 3,802.5 square feet of land area.
3. The subject property is presently improved with a garage and the foundation of a single family dwelling which was destroyed by two fires which occurred in August and November of 1982.
4. The applicant proposes to reconstruct the single family dwelling on the existing foundation.
5. The subject structure was originally constructed in 1923, prior to the adoption of the existing zoning regulations.
6. To the rear of the subject property is a fifteen foot wide public alley followed by detached two-story frame dwellings in an R-1-B District. The adjacent lots are developed with single family frame dwellings which are similar in character and configuration to the subject proposed structure.
7. The Zoning Regulations for the R-1-B District require a minimum lot area of 5,000 square feet, a minimum lot width of fifty feet and side yards having a minimum width of eight feet on each side. The subject site has a

lot area of 3,802.5 square feet and a lot width of thirty-nine feet. The former dwelling had and the remaining foundation has a side yard of 4.10 feet on the east and 11.85 feet on the west.

8. Sub-section 7107.2 of the Zoning Regulations provides that:

"A nonconforming structure which is destroyed or damaged in any manner from any cause whatsoever, to the extent that the cost of restoration to the condition of the structure before the occurrence shall exceed 75 percent of the cost of reconstructing the entire structure, shall not be restored unless such structure after restoration shall comply with all provisions of these regulations, except that, if it exceeds the percentage of lot occupancy, or is located on a lot with a smaller lot area or a lesser width of lot than is prescribed for the district in which it is located, it need not comply with the provisions of that district for percentage of lot occupancy, minimum lot area, or minimum width of lot...."

The subject lot is nonconforming as to lot area and lot width. The only relief sought from the Board in the subject application is a variance of 3.9 feet from the side yard requirements on the east side.

9. The applicant testified that the existing 11.85 foot side yard on the west side of the structure is used as a driveway. The driveway is currently paved with asphalt for a distance of approximately twenty feet from the sidewalk and is composed of dirt and gravel for the remaining distance to the garage. The applicant proposes to pave the entire length of the driveway leading to an existing garage in the rear yard.

10. The applicant testified that he wished to rebuild the dwelling on the existing foundation for economic reasons. The applicant's contractor testified that the foundation was structurally sound and that the additional excavation and rebuilding of the foundation would be impractical and prohibitively costly. Even if the foundation were resituated so as to be centered on the lot, the side yards would measure 7.97 feet each and variance relief would still be necessary. In addition, the applicant would then be unable to provide driveway access to the garage at the rear of the property, creating an additional difficulty for the owner. The Board so finds.

11. Ten form letters supporting the granting of the requested variance were submitted by property owners in the

immediate area, including the owners of the adjacent properties.

12. The Chairman waived the Supplemental Rules of Practice and Procedure before the BZA which requires the submission of the written report of an Advisory Neighborhood Commission seven days prior to the public hearing in order to accept the report of Advisory Neighborhood Commission 5A, dated April 26, 1983.

13. Advisory Neighborhood Commission 5A recommended that the application be approved due to the absence of opposition from neighboring property owners. The ANC's review of the plans and inspection of the premises indicate there will be no hazards to the safety, health, sanitation or morale of the neighbors, and the rebuilding of the dwelling will meet community needs and improve the quality of life for all concerned. The Board concurs with the findings and recommendation of the ANC.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of record, the Board concludes that the applicant is seeking an area variance, the granting of which requires a showing of a practical difficulty which is inherent in the property itself. The Board concludes that there are practical difficulties inherent in the property itself. The subject structure was originally constructed prior to the adoption of the current Zoning Regulations. The lot area and lot width of the subject site do not meet the minimum requirements of the R-1-B District. The Board further concludes that to impose the strict application of the side yard requirements would impose construction and financial difficulties upon the applicant which would preclude the reconstruction of the structure.

The Board further concludes that the requested relief, as hereinafter conditioned, can be granted without causing substantial detriment to the public good. The reconstruction of the home will result in a house that conforms to the existing development in the community and will not create any adverse affects on the neighboring properties.

The Board is further of the opinion that the relief sought can be granted without substantially impairing the intent, purpose and integrity of the zone plan. The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled. Accordingly, it is GRANTED SUBJECT to the following CONDITIONS:

1. The exterior dimensions of the building after reconstruction shall not exceed the exterior

dimensions of the building prior to its destruction by fire in August of 1982.

2. The driveway located on the west side of the structure shall be paved with an all-weather, impervious surface from the sidewalk to the existing garage.
3. The reconstruction of the subject building shall meet all applicable D.C. Codes and fireproofing standards.

VOTE: 4-0 (Carrie L. Thornhill, William F. McIntosh, Walter B. Lewis and Charles R. Norris to GRANT; Douglas J. Patton not present, not voting).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: MAY 23 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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