

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14125 of Jim and Linda Lyons and Mary L. Casto, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the parking requirements (Sub-section 7202.1) to add two floors to an existing garage and convert the structure to a flat in an R-4 District at premises 804 D Street, S.E., (Square 924, Lot 74).

HEARING DATE: April 25, 1984

DECISION DATE: May 2, 1984

FINDINGS OF FACT:

1. The subject property is located on the north side of D Street between 8th and 9th Streets and is known as premises 804 D Street, S.E. It is zoned R-4.

2. The subject lot is flat, rectangular in shape and contains approximately 1,650 square foot of lot area, which is 150 feet less than the 1,800 square foot minimum lot area required by the Zoning Regulations for the R-4 District.

3. The subject lot is presently improved with a one-story, two car garage structure. The garage was previously used to provide parking for the adjacent dwelling at 806 D Street, S.E.

4. The garage structure measures approximately twenty-two feet by 34.4 feet for a total area of 756.8 square feet. The structure is set back from the front lot line a distance of twenty-five feet.

5. Vehicular access to the premises is by way of an existing curb cut on D Street which is one-way westbound, with parking permitted on both sides. The site is landlocked. There is no alley access to the rear of the lot.

6. The applicants propose to construct a two-story addition to the existing garage. The applicants propose to use the structure as a flat with a one-bedroom apartment in the existing garage area and a second one-bedroom apartment in the proposed two-story addition. The applicants argued that demolition of the existing structure in order to construct a new dwelling or flat would be prohibitive economically because the applicant would have to provide new footings, foundation, etc.

7. The applicants propose to construct a three-story facade similar to that of adjacent row dwellings at the front property line to fill in the void in the streetscape created by the twenty-five foot setback of the subject structure. Access to the proposed apartments will be through a two-story, seven foot wide addition running from the front facade to the structure.

8. The closed court created by the construction of the facade and the accessway will meet the area requirements of the Zoning Regulations and the resulting open space ensures compliance of the structure with the sixty percent lot occupancy requirement for the R-4 District.

9. The applicants are seeking a variance from the parking requirements under Sub-section 7202.1 which requires the provision of one on-site parking space. The applicants do not propose to provide any on-site parking. The applicants contend that even though no parking would be provided on-site, the closing of the additional existing curb cut would provide for an parking space on the street.

10. The subject premises were previously considered by the Board in BZA Application No. 13462, in which a variance from the lot occupancy requirements was granted to permit the construction of a single-family row dwelling. The Board found a practical difficulty inherent in the property itself inasmuch as the lot existed as a record lot prior to the adoption of the 1958 Zoning Regulations. The Board concluded that given the lack of access to the rear of the site necessitating the inclusion of a garage inside the first floor level of the unit and the three story height restriction, the applicants had to increase the size of the structure to obtain adequate living space. The Board further concluded that the requested variance would not adversely affect the use of neighboring property nor be inconsistent the the purpose of the R-4 District.

11. Construction of the single-family row dwelling proposed in BZA Application No. 13462 was not pursued due to the prevalent economic situation and high interest rates at the time of such approval.

12. The applicants now contend that the lack of alley access to the rear of the site constitutes a practical difficulty inherent in the property itself which prevents the provision of the required on-site parking space.

13. The applicants' architect testified that the provision of parking within the structure was eliminated due to neighborhood opposition to the existence of a curb cut on D Street.

14. The subject premises are located within the Capitol Hill Historic District. Review and approval of the design aspects of the proposed structure is required by the D.C. Historic Preservation Review Board.

15. The applicants' agent testified that the Historic Preservation Review Board, previously the Joint Committee on Landmarks, has given concept review and approval for the structure as proposed.

16. The applicants' agent further testified that based on the discussions before the Joint Committee on Landmarks regarding the house as proposed in Application No. 13462, it was undesirable to provide garage doors on the front of the structure. Based on their past experience with the Historic Preservation Review Board and neighborhood opposition, the applicants chose not to propose a garage in the subject case.

17. The record in the subject application was left open for the applicants to submit evidence of the Historic Preservation Review Board/Joint Committee on Landmarks decisions with respect to the provision of garage doors on the front of the structure.

18. The applicants' agent further testified that the provision of on-site parking within the subject structure would decrease the amount of living space within the structure and preclude the provision of two adequately sized one-bedroom units within the structure based on the amount of floor space which can be constructed without requiring further variance relief.

19. The applicants' agent also testified that the provision of the required parking space in the front court area was considered and rejected. The provision of a parking space in that area would require further variance relief from the Board in that an open parking space cannot be located within ten feet of the proposed flat. Additionally, the enclosing of this court area to provide a garage would increase the lot occupancy of the subject premises beyond the sixty percent allowed as a matter of right and thus require a variance.

20. By letter dated April 23, 1984, the Capitol Hill Restoration Society supported the granting of the requested variance from the parking requirements on the grounds that the subject lot has no alley access. The Capitol Hill Restoration Society was of the opinion that the parking requirement for row dwellings located on lots without alley access is detrimental to the public good since a curb cut for the creation of one off-street parking space also eliminates one on-street parking space.

21. By letter dated April 11, 1984, Advisory Neighborhood Commission 6B took no position on the subject application.

22. By memorandum dated April 18, 1984, the Office of Planning recommended approval of the requested relief. It was the opinion of the Office of Planning that lack of alley access to the rear of the site creates a practical difficulty upon the owner and prohibits strict compliance with applicable R-4 parking requirements. The Office of Planning was also of the opinion that the granting of the requested relief will not adversely affect the use of adjoining properties nor be inconsistent with the intent and spirit of the R-4 District.

23. Subsequent to the public hearing, the applicant's agent submitted memoranda of action and final review approval from the Joint Committee on Landmarks as well as a letter from a staff member of the Historic Preservation Review Board. Transcripts of the proceedings were not available.

24. The Board finds that the memoranda of actions and recommendations on the design review do not specifically refer to any concerns regarding the location of a garage door on the front of the structure which would substantiate the applicants' need to eliminate the garage in the present application.

25. The letter from staff of the Historic Preservation Review Board indicates that the agency prefers a street facade which is not interrupted by curb cuts or garage doors. That letter further indicates that the previous design for a proposed single family dwelling incorporating a garage door in the facade which was the subject of BZA No. 13462 was approved by the Joint Committee on Landmarks because it was required by the Zoning Regulations.

26. The Board finds the the applicant's contention that it is not practical to provide the required on-site parking spaces on the subject lot is not supported by substantial evidence of record. The lack of alley access to the rear of the site does not, in this case, preclude the provision of the required off-street parking space. The subject site presently provides for two off-street parking spaces. The Board has previous approved a proposed single-family row dwelling incorporating the required parking space within the structure. The applicants have not shown that a design incorporating the required parking within the structure was considered or reviewed by the Historic Preservation Review Board in the subject case.

27. There was no opposition to the application at the public hearing or of record.

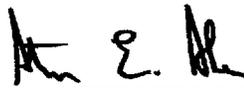
CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicants are seeking an area variance, the granting of which requires the showing of a practical difficulty which is inherent in the property itself. In addition, the applicants must establish that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zoning Regulations. The Board concludes that the applicants have not met the required burden of proof. The Board concludes that the existing use of the site and the prior zoning history of the site evidence that on-site parking can be provided. The lack of alley access to the subject site, therefore, does not constitute a practical difficulty upon the owner which precludes the provision of the required parking on-site. The Board further concludes that the requested relief cannot be granted as in harmony with the intent and purposes of the Zoning Regulations and map. Accordingly, it is ORDERED that the application is hereby DENIED.

VOTE: 3-1 (William F. McIntosh, Walter B. Lewis and Charles R. Norris to deny; Carrie L. Thornhill opposed to the motion; 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: JUL - 5 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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