

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14161, of William M. and Susan Harvey, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the prohibition against allowing an addition to a building which now exceeds the lot occupancy requirements (Paragraph 7105.12), the lot occupancy requirements (Sub-section 3303.1 and Paragraph 7105.12), the open court requirements (Sub-section 3306.1 and Paragraph 7105.12) and the rear yard requirements (Sub-section 3304.1) to construct a two story rear addition to a single family row dwelling, a non-conforming structure, in an R-3 District at premises 3060 Q Street, N.W., (Square 1269, Lot 301).

HEARING DATE: July 25, 1984
DECISION DATE: July 25, 1984 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located on the south side of Q Street, N.W. between 30th Street on the east and 31st Street on the west and is known as premises 3060 Q Street, N.W.
2. The subject lot is rectangular in shape. Its dimensions are eighteen feet on the north and south sides and ninety-one feet on the east and west sides. The lot has an area of 1,638 square feet.
3. The subject site is improved with a single-family row dwelling, constructed at the turn of the century. The subject site is within the Georgetown Historic District.
4. The subject site is zoned R-3, as are all other properties located within the same square. The neighborhood is predominantly developed with row houses and semi-detached dwellings on lots of varying sizes.
5. The subject property and structure are nonconforming in several respects. The Zoning Regulations require a minimum lot area of 2,000 square feet, and a minimum lot width of twenty feet for rowhouses in an R-3 District. The subject property contains only 1,658 square feet and is only eighteen feet wide. The lot occupancy is 62.6 percent, while the Zoning Regulations provide for a maximum lot occupancy of sixty percent. The existing rear yard is eighteen feet deep, while the Zoning Regulations require a minimum rear yard of twenty feet.

6. The subject dwelling is occupied by the applicants and their young daughter. The first floor living space includes a living room, a dining room, and a kitchen, which is located at the rear of the structure, and opens on to an outdoor deck, which measures approximately ten feet by thirteen feet. The first floor does not contain a powder room, a coat closet, or any kind of family area.

7. The applicants propose to construct a two-story addition at the rear of the subject dwelling at the location of, and upon the piers that hold up, the existing deck. This addition will enable the kitchen to be moved further to the rear of the property, creating space between the existing dining room and the new kitchen for a closet and a powder room. At the rear, there will be a small family area, with a fireplace and windows.

8. On the second floor, the addition will enable the applicants to move the rear bedroom into the area of the addition and to put in a bathroom above the existing kitchen.

9. With respect to the exterior, the applicants propose to use a light-colored aluminum siding in tones that will be compatible with the existing structure and the neighboring structures.

10. The applicants also propose to locate a deck, approximately eight feet above grade, at the rear of the property. The deck would come to within seven feet of the rear property line.

11. The proposed addition would cover the 135 square foot area of the existing deck. Because the existing deck is below the level of the main floor, it is not now included in the lot occupancy. The addition would increase the lot occupancy of the total structure to 1,159 square feet, or a lot occupancy of 70.8 percent. This would require a variance of 176.2 square feet.

12. The addition would be approximately 4.7 feet from the western property line, and would constitute an extension of a nonconforming open court. Based on the height of the court, the Regulations require a minimum width of 9.92 feet. A variance of 5.22 feet is thus requested.

13. When calculated from the end of the proposed deck, the rear yard would be reduced from eighteen feet to seven feet. The Regulations require a minimum yard of twenty feet. A variance of thirteen feet is thus requested.

14. The addition would also require a variance from Paragraph 7105.12, which permits additions to nonconforming structures containing conforming uses only where the applicable lot occupancy requirements are not exceeded. The

present dwelling already exceeds the maximum permitted lot occupancy.

15. The Board of Zoning Adjustment has the power to grant area variances provided that the applicant makes a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographic conditions. The Board further must find that the relief requested can be granted without substantial detriment to the public good and that it will not substantially impair the intent and purpose of the zone plan.

16. There is an extraordinary or exceptional condition affecting the subject site arising from the size and width of the lot and the fact that there is an existing, nonconforming building on the lot. In addition, the lot itself is nonconforming both with respect to area and width.

17. The applicants testified that the absence of a closet, a powder room, and a family area on the first floor of the house have imposed a significant practical difficulty upon their family. The applicants find that these features are essential. At the present time, there is no place at all on the first floor to store a car seat, stroller or similar paraphernalia, nor any place to hang coats, snow suits, etc. It is similarly difficult to live without a first floor bathroom. The applicants also described their concerns with respect to the dangers that result from the absence of any play or family area on the main living level of the house.

18. The applicants' architect testified that there was no feasible way that he could meet the needs described by the applicants within the existing structure. Many of the existing, interior walls are load-bearing and cannot be moved. Furthermore, the location of existing windows, the long and narrow layout of the row dwelling, and the lack of interior hallways make it impossible to divide the existing space in any rational manner. He further testified that he had kept the addition as small as possible, given the needs of the applicants.

19. The applicants' architect also testified that he had considered the impact that the addition would have upon the light and air available to the immediate neighboring properties. With regard to the property to the east, there is a mature, existing magnolia tree located in the rear yard of that property immediately adjacent to the site of the proposed addition. The addition will thus cast no additional shadow upon that property. With respect to the property to the west, the architect testified that the impact would be negligible and that he was certain that

ample light and air would reach the courtyard shared by the applicants' property and its immediate neighbor. He noted that this was an area of particular importance to him because the applicants also relied upon that courtyard for light and air.

20. The applicants have discussed the plans for the addition with a number of their neighbors, and were aware of no opposition to the proposal. One neighbor had expressed concern that other nearby property owners might make similar proposals, but indicated that she had no opposition to the applicants' proposal itself.

21. The addition will not be readily visible to most of the property owners in the square due to extensive foliage located throughout the interior of the square, photographs of which were submitted for the record, and extensive fencing between the various rear yards.

22. Three neighbors including occupants of the abutting property to the west submitted letters for the record. One neighbor stated that he had no opposition to the proposal, and two neighbors supported the proposal. One of the letters in support specified that a careful review of the proposal had been undertaken and that the investment proposed to be made by the applicants would provide some stability to the neighborhood, which, the letter pointed out, was suffering an erosion of single-family use and a change to multi-family dwellings.

23. Advisory Neighborhood Commission 2E, by resolution dated July 2, 1984, opposed the application. The ANC noted the following issues and concerns:

- A. The historic preservation element of the Comprehensive Plan of the District of Columbia specifically mentions the importance of preserving remaining open spaces in the historic districts.
- B. The property as presently developed exceeds the allowable lot occupancy in this R-3 District. This house is located in a row of seven dwellings that have similar size and lot coverage. At least three of the houses appear to be identical in lot size and design.
- C. The existence of a separate basement entry from Q Street that has a separate porch light and a second mail box labelled 3060A raises questions concerning the present use of the premises and the need to expand into the rear yard in order to increase living space for the upstairs inhabitants.

- D. The house has been inhabited for at least the last eighty-five years in its present condition. The proposed additions can be characterized as convenience additions of the type that many residents would want to have if they had a site that was large enough.
- E. An examination of the plans indicates that the additional living areas could be provided within the existing four floors of the building, at least within an addition that would not encroach on the required twenty-foot-deep rear yard.
- F. The proposed deck projects two-thirds of the way into the required rear yard and will be eight feet above the ground level and would, therefore, result in an observation deck that would violate the quiet enjoyment of neighboring yards.
- G. There are no practical difficulties inherent in this particular piece of property that would justify the granting of this application.

24. The Board is required by statute to give "great weight" to the issues and concerns of the ANC that are expressed in writing. As to those issues and concerns, the Board finds as follows:

- A. The historic preservation element of the Comprehensive Plan is not self-executing and is not binding upon the Board. The application must be judged against the standards of the Zoning Regulations, in this case Paragraph 8207.11.
- B. The fact that the house now exceeds the lot occupancy requirements is one of the reasons that a variance is required. Upon a showing of compliance with Paragraph 8207.11, the variance can be granted.
- C. The applicants testified specifically that they never have and do not intend to lease the basement of the dwelling as an apartment. The existing separate porch light and mailbox were there when Mr. Harvey purchased the property.
- D. The assertion that the additions constitute "convenience additions" is contradicted by the record. There is substantial evidence that the lack of a powder room, coat closet and family area on the main level of the house have and will continue to cause significant, practical difficulties to the applicants.

- E. With respect to the proposed deck, the applicants acknowledged at the hearing that it was not essential to their needs, and expressed a willingness to eliminate it from the plans, so long as they were permitted to have an exit and staircase to the rear yard. The Board will so condition the grant of this application.

CONCLUSIONS OF LAW AND OPINIONS:

Based upon the findings of fact and the evidence of record, the Board concludes that the applicants are seeking area variances, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owners arising out of some exceptional or extraordinary condition of the property, such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the relief requested can be granted without substantial detriment to the public good and that it will not substantially impair the intent and purpose of the zone plan.

The Board concludes that the applicants have met this burden of proof in showing a practical difficulty inherent in the property in that it lacks several features that have become essential to modern family living. The layout of the existing structure, the nonconforming lot size and width, its location within an historic district, and the fact that it is a row dwelling with no side yards therefore constitute an exceptional condition. The Board further concludes that strict application of the Regulations prevent the construction of a reasonable addition to the property, but that full construction of the deck would result in excessive variances and is unwarranted.

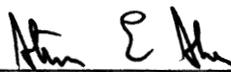
The Board further concludes that permitting the proposed rear addition will not cause substantial detriment to the public good, nor will it substantially impair the intent and purpose of the zone plan. The proposed structure is not objectionable to the neighborhood and will permit a reasonable use of private property. The Board concludes that granting the requested variances will actually further the intent of the Zoning Regulations by enabling improvements that will render the subject structure far more suitable for occupancy by a single-family, as contemplated for an R-3 row dwelling. The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled. Accordingly, it is hereby ORDERED that the applicant is GRANTED, SUBJECT to the following CONDITIONS:

1. The rear deck, as shown on the plans marked as Exhibit No. 10 of the record, shall be eliminated from the proposed addition.

2. The exhaust vent over the kitchen range shall be located internally rather than in the wall as shown on plans marked as Exhibit No. 10 of the record.
3. All fireplace and window sill projections into the courts and yards shall meet the requirements of Section 7602 of the Zoning Regulations.

VOTE: 3-1 (Lindsley Williams, Charles R. Norris and Carrie L. Thornhill to grant; William F. McIntosh 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: AUG 17 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."

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 CONSUMER AND REGULATORY AFFAIRS.

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