

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14221, of Howard C. Witcher, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the lot occupancy requirements (Sub-section 5303.1) and the side yard requirements (Sub-section 3305.1) to construct a rear addition to a single family detached dwelling in an R-2 District at premises 3308 - 5th Street, S.E., (Square 5972, Lot 14).

HEARING DATE: December 19, 1984

DECISION DATE: January 9, 1985

FINDINGS OF FACT:

1. The subject site is located on the east side of 5th Street between Trenton and Savannah Streets and is known as premises 3308 5th Street, S.E. It is in an R-2 District.

2. The subject site is rectangular in shape with a width of twenty-five feet and a depth of 106.34 feet.

3. The site is improved with a two story, single family, detached frame structure. The structure has no basement. The structure is occupied by the applicant and two children, a male of sixteen years and a female of nine years.

4. The structure was built prior to May 12, 1958, the effective date of the current Zoning Regulations.

5. The subject lot is a non-conforming lot. The R-2 District requires a lot area of 4,000 square feet, a lot width of forty feet and side yards measuring eight feet. The subject site provides a lot area of 2,658.5 square feet, a lot width of twenty-five feet and side yards measuring 2.5 feet on the south and 7.5 feet on the north.

6. A lot occupancy of forty percent or 1,063.4 square feet is permitted. The subject structure currently occupies 865.12 square feet.

7. A front yard is not required. The site has a front yard measuring twenty-four feet.

8. The applicant proposes to construct a rear addition which will be used as a recreation room for his children to afford to them a safe and secure place off-street. The

applicant testified that he has been very concerned about the safety of his children because of increased crimes against persons in his neighborhood.

9. The addition will be twenty-seven feet deep and 14.6 feet wide. The width is the same as that of the existing structure. The addition will be connected to the rear of the existing structure by a covered walkway which will be connected to the cover now over the existing side porch. The distance between the rear of the house and the addition is 6.8 feet.

10. The addition will occupy 494.2 square feet, for a total lot occupancy of 1,359.32 square feet. A variance of 295.92 square feet is required.

11. The addition including the covered walkway would have side yards of 2.5 feet on each side. Variances of 5.5 feet are thus required.

12. The applicant had not considered attaching the addition to the existing structure because of additional costs involved with plumbing in the existing kitchen which fixtures and plumbing are connected to the rear wall.

13. Several neighbors testified at the public hearing in favor of the application. They included owners of property immediately to the west, rear and across the street from the subject site. It was their opinion that the addition would have no adverse affect on their properties and would enhance the neighborhood. There was also a letter on file from eight neighbors in support of the application on the conditions that the addition match the existing structure in appearance and that the construction site be kept neat and orderly.

14. A Single Member District Commissioner of ANC 8C filed a letter in support of the application on the grounds that no opposition to the application was voiced by the neighborhood.

15. The owner of the property immediately adjacent to the east of the site appeared at the public hearing in opposition to the application. His opposition was based on the fact that rainwater accumulated on the rear of the subject property and his property and seeps into his basement. With the proposed addition, he feared that his property would now receive the entire accumulation of the rainwater. The neighbor was further concerned that the applicant had proceeded to build the addition without a permit. It was the neighbor's belief that the applicant proposed no drainage system to the sewer for the addition.

16. The applicant was of the opinion that he could construct his addition without a permit. He was advised subsequently by the D.C. Permit Office that he must apply for the permit and cease the construction. It was in this sequence that the applicant was now before the Board. The applicant was aware that to get the permit he would have to comply with the building code and obtain the relief he now seeks from the Board.

17. Advisory Neighborhood Commission 8C filed no recommendation on the application.

18. The Board finds that the design of the addition on the lot would be improved, and the goals of the applicant better achieved, if the addition were located directly behind the existing building. The extent of the variance would be reduced by eliminating the covered walkway connection, which would not be necessary. Any additional costs to the applicant that could result from relocation of existing utility lines would be at least partially offset by eliminating the need for an additional exterior wall.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking area variances, the granting of which requires 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, topographical conditions. The Board further must find that the application will not be of substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan. The Board concludes that the applicant has met his burden of proof. Based on Finding No. 5 the Board concludes that the practical difficulty is inherent in the site because of its non-conforming status. The Board further notes the general lack of opposition from the neighborhood. The Board concludes that the relief can be granted without an adverse impact to the public good.

Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. The proposed addition shall be constructed immediately adjacent to the existing dwelling, and shall not exceed twenty-seven feet in depth.
2. The covered walkway shall be eliminated.

VOTE: 4-0 (Charles R. Norris, William F. McIntosh, George M. White and Carrie L. Thornhill to grant; 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:

20 FEB 1985

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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