

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14253, of Albert and Audrey Manley, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the lot occupancy requirements (Sub-section 3303.1) and from the prohibition against permitting a private garage measuring less than twelve feet from the center line of an alley (Paragraph 7402.112) to construct a garage in an R-5-B District at premises 2807 - 18th Street, N.W., (Square 2582, Lot 194).

HEARING DATES: February 20 and April 24, 1985  
DECISION DATE: May 1, 1985

FINDINGS OF FACT:

1. The application appeared on the preliminary agenda of the public hearing of February 20, 1985, since the applicants had failed to comply with Section 302.3 of the Supplemental Rules of Practice and Procedures before the BZA. That section requires that the applicants file with the Board not less than five days prior to the public hearing an affidavit evidencing that the subject property had been posted advising of the hearing on the application. The applicants advised that the property had not been posted. The ANC Single Member District Commissioner requested that the case go forward on the grounds that, in his opinion, sufficient notice had been given to the public in the absence of any posting. The Chairperson ruled to continue the case to the public hearing of April 24, 1985. The property was properly posted for that hearing.

2. The subject site is located on the southeast side of 18th Street between Summit Place and Ontario Road and is known as premises 2807 18th Street, N.W. At its located in an R-5-B District.

3. The subject site has a width of eighteen feet on its northwest frontage and a width of 20.64 feet at its rear or southeastern boundary. The depth of its southwestern property line measures 114.25 feet and the northeastern line is 120 feet deep. To the southeast of the site is a fifteen foot wide public alley. The lot has an area of 2,146 square feet.

4. The site is improved with a three story single family row dwelling which is occupied by the applicants.

5. A hot tub is located in the northern corner of the rear yard a distance of some twenty feet from the southeastern property line. The tub is approximately four feet in height and seven feet in diameter. Separate plumbing lines lead into the tub.

6. The applicants propose to construct a two car garage. The garage will contain 324 square feet. The subject R-5-B District permits a lot occupancy of sixty percent or 1,287.6 square feet for the subject site. With the addition of the garage, the site will exceed the permitted lot occupancy by 107.4 square feet. The applicants seek a variance of eight percent.

7. The proposed siting of the garage also requires a variance from Paragraph 7402.112 which requires that the entrance to the subject garage be set back at least twelve feet from the center line of the alley to the rear of the site. The entrance is located 7.5 feet from the center line of the alley. A variance of 4.5 feet is requested.

8. The applicants' plans require no rear yard variance.

9. The applicants' positions require that each own a car because of the hours they work and the traveling involved. The rear alley is often used illegally for parking by neighborhood residents. At times the applicants' parking pads are occupied by strangers. At other times, the applicants have had to call the Police Department to remove cars from the alley which have blocked the applicants from exiting from their premises. One of the applicants has been assaulted and their cars have been vandalized. The proposed garage will provide protection to their persons and their property.

10. Advisory Neighborhood Commission 1C, by report dated February 14, 1985, recommended that the application be approved. The ANC reported that an abutting property owner had some concerns about the application but that the applicants and that owner had entered into a written agreement to resolve the concerns. The Board concurs with the ANC recommendation.

11. The aforementioned agreement was entered into the record. The Board notes that it has no jurisdiction over the private agreement where no zoning issues are concerned.

12. There were several letters of record in favor of the application by neighboring property owners. There was a letter from Councilmember Frank Smith, Jr., submitted to the record in favor of the application. The grounds for approval were that the proposal would prevent the amount of tampering and breaking-in that neighbors in the area were

experiencing from unlawful elements preying on automobiles. In addition, the area experiences a significant parking problem and the proposal would alleviate the condition particularly when the applicants had no access to the parking pad.

CONCLUSIONS OF LAW AND OPINION:

Based on the 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 owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or 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 applicants have met their burden of proof. The practical difficulty is inherent in the land because of its physical conditions as to irregular shape and the hot tub thereon. The Board notes the approval of the ANC and the lack of opposition.

The Board further concludes that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan. The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled by statute. ACCORDINGLY, it is ORDERED that the application is GRANTED.

VOTE: 4-0 (William F. McIntosh, Charles R. Norris and Carrie L. Thornhill to grant; Maybelle T. Bennett to grant by proxy; 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:

24 JUL 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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