

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14329, of Ann Caracristi, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the prohibition against allowing an addition to an existing dwelling, a nonconforming structure, which addition creates a new nonconformity, side yard to court (Paragraph 7105.12) in an R-3 District at premises 1222 - 28th Street, N.W., (Square 1212, Lot 816).

HEARING DATE: September 18, 1985  
DECISION DATE: September 18, 1985 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is known as premises 1222 - 28th Street, N.W., and is located at the south of the southwest corner of the intersection of Olive Avenue and 28th Street. It is zoned R-3.
2. The subject property is rectangularly shaped with a frontage of 21.17 feet on 28th Street and a depth of 54 feet.
3. The subject property is improved with a single-family semi-detached one and a half story dwelling which is non-conforming since it does not meet side yard setback requirements. On May 12, 1958, the effective date of the current Zoning Regulations, the subject side yard became non-complying.
4. The subject site is abutted by a single-family row dwelling to the south and an apartment house on the north. The surrounding area is predominantly developed with row dwellings and apartment buildings.
5. The subject structure is set back 4.6 feet from the property line. The applicant is seeking a variance in accordance with 8207.11 of the Zoning Regulations to allow the construction of an addition to the house which will eliminate the existing non-conforming side yard and create a court width of 4.5 feet instead of the six feet required by Paragraph 7105.12 of the Zoning Regulations.
6. The subject structure, a small woodframe house, contains 380 square feet on the first floor divided into two small rooms and a kitchen. The upper story is accessible only by a steep narrow staircase and contains a bedroom and

bathroom. There is a partial basement housing the heating unit. There is no washer or dryer in the house.

7. The applicant has owned and occupied the subject structure for the past thirty years. She is now retired and anticipates that the proposed addition will make the house more functional on one level to allow her to continue to live there more comfortably.

8. The existing structure will be remodeled to replace the kitchen with a powder room and space for a washer and dryer. The proposed addition will contain a kitchen and dining area.

9. The proposed addition will extend eleven feet from the existing structure to the west, or rear, of the property and will span the entire width of the property. It will have a width of 18'6" on the interior.

10. If the existing side setback line is maintained, the addition would be ten feet wide which is not adequate for its intended use.

11. The house is unique in appearance and one of the oldest in Georgetown. The Fine Arts Commission would not approve an addition which would impact significantly on the existing front facade.

12. The south side of the existing structure extends to the property line. Since it is located in the R-3 District, the house could, by matter-of-right development, be extended to the north property line eliminating the non-conforming side yard entirely.

13. The proposed addition is setback approximately 20 feet from the front property line and will not be seen from the street since the front gate will be replaced with a higher one.

14. The proposed addition will not substantially alter the appearance of the structure and the Fine Art Commission does not oppose the construction.

15. The structure directly north of the subject site has no windows on the side facing the proposed courtyard.

16. No room in the existing structure or proposed addition is dependent upon light and ventilation from the proposed court.

17. By letter dated September 10, 1985, Advisory Neighborhood Commission 2E indicated that it had no objection to the granting of the variance if the fence height were increased as indicated on the plans. The ANC's statements

of support for the application included the following reasons:

- a. The proposed new construction is conforming with respect to lot coverage, rear yard size, and set backs from lot lines lines and use.
- b. The existing structure is one of the oldest houses in Georgetown. The house presently has a non-conforming side yard. The applicant could, as a matter-of-right fill in the side yard and eliminate the existing non-conformity. Instead, the applicant has chosen to add on to the rear of the house, leaving the street portion of the house unchanged. The alteration plans have been conceptually approved by the Commission.
- c. The proposal amounts to a change in the definition of the side yard. The applicant is not proposing to construct a non-conforming side or court yard, but is being forced to in order to comply with the historic preservation concerns and the Zoning Regulations.
- d. No required openings for light and ventilation open into the existing side yard since the neighboring party wall is solid masonry.

The Board concurs with the reasoning and recommendation of the ANC.

18. By letter dated September 10, 1985, the Citizens Association of Georgetown approved the application based on the same reasons for the support of the ANC.

19. Two property owners in the subject square, including the owner of the lot directly south of the subject site, submitted letters to the record in support of the application.

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

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking an area variance, 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 applicant has met the

burden of proof. The practical difficulty is inherent in the site because of the existing non-conforming side yard. The age and historic status of the structure also adds to the practical difficulty. 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 the statute. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 4-0 (Charles R. Norris, William F. McIntosh, Maybelle T. Bennett and Carrie L. Thornhill to grant; Douglas J. Patton not present, not voting).

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

ATTESTED BY:



CECIL B. TUCKER  
Acting Executive Director

FINAL DATE OF ORDER: 06 DEC 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.

14329order/LJPI