

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14374, of Executive Club, Ltd., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the rear yard requirements (Sub-section 5303.1) for a proposed addition to an existing restaurant in a C-4 District at premises 1520 K Street, N.W., (Square 199, Lots 807 and 822).

HEARING DATE: January 15, 1986
DECISION DATE: February 5, 1986

FINDINGS OF FACT:

1. The subject site, known as premises 1520 K Street N.W., is located on the south side of K Street between 15th and 16th Streets. It is in an C-4 District.
2. The site is rectangular with a frontage of 22.75 feet along K Street and a depth of 85.66 feet. It has an area of approximately 1,948 square feet.
3. The subject site is bordered on the south and west by the adjacent eleven story office building and on the east by a 15 foot wide public alley. The C-4 District extends in all directions from the subject site and a SP-2 District is located approximately 30 feet to the west.
4. The subject site is improved with a four story structure which is approximately 75 years old. The first two floors of the building occupy 100 percent of the lot, and are presently used for restaurant purposes. The upper two floors are presently set back approximately 18 feet from the rear property line and are devoted to office use.
5. The subject structure was constructed prior to May 12, 1958, the effective date of the current Zoning Regulations. On that date it became a nonconforming site since it provided no rear yard at the first two floors of the structure.
6. Pursuant to Paragraph 8207.11 of the Zoning Regulations the applicant is seeking a variance from the rear yard requirement (Sub-section 5303.1) to construct an addition to be used as a restaurant extending the upper two floors out over the existing lower floors to the rear property line, and therefore into the rear yard of the site. In so doing, variance relief is required from the rear yard regulations.

7. Paragraph 8207.11 of the Zoning Regulations, states that where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under this Act would result in peculiar and exceptional practical difficulties to or exceptional an undue hardship upon the owner of such property, to authorize, upon an appeal relating to such property, a variance from such strict application so as to relieve such difficulties or hardship, provided such relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and map.

8. Sub-section 5303.1 requires a minimum rear yard depth of two and one-half inches per foot of vertical distance for structures in a C-4 District. A rear yard of 12 feet is required for the subject structure. Since no rear yard is provided, a variance of 100 percent is required.

9. The subject building is approximately 50 feet in height, or approximately 80 feet lower than the maximum permitted height in the C-4 District at this location.

10. The existing building on the site is not structurally capable of withstanding the placement of multiple additional floors on top of it to increase the usable floor space in the building.

11. The strict application of the regulations would allow the extension of the upper two floors to the rear only approximately five feet to achieve a net increase of about 200 square feet. Thus, the only option available for significantly increasing the usable floor space in the building is by extending the existing upper two floors out to the rear lot line.

12. The lower two floors of the subject building are already built out to the rear property line. Thus, the required rear yard begins at a height of 20 feet. The proposed addition will not be readily visible from K Street or from the adjacent properties.

13. In order to use the upper two floors for restaurant use, the applicant is required to construct a fire stair as a second means of egress pursuant to the Building Code. This fire stair will be placed at the rear of the building, as far as possible from the front entrance as revised by the Code. Approximately one-half of the space created by this addition will be taken up with the required stairway.

14. If the addition were not permitted, the fire stairway would be required to be located at the existing rear of the upper floors. As such, the fire stair would then cut down through the existing space in the lower floors in such a manner as to adversely impact upon use and circulation. The existing bathrooms on the lower floors would of necessity be relocated behind the fire stair. The only means of access to the bathrooms would then be through the food preparation area. This configuration would be contrary to health safety regulations, would drastically reduce the efficiency of the operation, and would result in the loss of existing restaurant space. Further, the small third floor area would be further reduced in size to accommodate the fire stair, and the kitchen area on the top floor would be required to shift forward by 12 feet, resulting in the loss of necessary storage and office space on that floor.

15. The proposed addition allows all support functions for the restaurant use to be located at the rear of each floor of the building, and would allow the fire stair, the dumb waiter, and the plumbing stacks and mechanical systems to be located in a continuous vertical alignment in the most functional and efficient manner.

16. There will be no windows at the rear of the proposed building nor are there any windows along the wall of the abutting building which is adjacent to the rear lot line of the subject property.

17. The wall of the adjacent building which abuts the western side lot line of the subject structure has windows beginning at the fifth floor level, which is above the level of the proposed addition.

18. The existing trash plan involves the placement of dumpsters in the public alley. With the proposed addition the applicant will locate a trash room on the third floor of the subject structure for the storage of trash. This room will be on the same floor as the kitchen. Trash pick-up will be on a daily basis by a private company.

19. For cause shown, the Board accepted into the record the untimely filed report of Advisory Neighborhood Commission (ANC) 2B. In that report, the ANC voted to support the subject application. No reasons for the ANC's position were stated. No issues and concerns were expressed. The Board finds that it is required to give "great weight" to the ANC when its reasoning is reduced to written form. Such is not so in the subject application.

20. The owners of the building to the west and south of the subject site indicated their support for this application in a letter submitted to the record.

21. There was no opposition to the application either at the hearing or of record.

CONCLUSIONS OF LAW:

Based upon the evidence and testimony, the Board concludes that the applicant is seeking area variance relief, the granting of which requires the applicant to demonstrate that the property is affected by an exceptional situation or condition, that a strict application of the regulations will result in a practical difficulty, and that relief can be granted without substantial detriment to the public good, and without substantially impairing the content, purpose or integrity of the zone plan.

The Board concludes that the applicant has met the burden of proof. The practical difficulty is inherent in the site. The structure is nonconforming since it was constructed prior to the effective date of the current Zoning Regulations and does not meet the rear yard setback requirements. The proposed addition will be located two stories above grade over an existing structure which occupies the entire rear yard. The subject building is approximately 80 feet lower than the maximum permitted height however it is not structurally capable of supporting additional floors on top of the fourth floor. Thus, the only option available for increasing the usable floor space of the building is to extend the upper two floors out to the rear lot line. Further, were the addition not permitted, the required location of the fire stair would have a negative impact on the circulation of the existing lower floors.

The rear yard of the subject structure is not now functional. No windows will be blocked by the proposed addition. Therefore, the Board further concludes that granting the proposed relief will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan.

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

1. Construction shall be as indicated in plans marked as Exhibit No. 10 of the record.
2. The trash removal operation will be carried out in a manner which will prevent the trash truck from blocking the alley.

VOTE: 5-0 (William F. McIntosh, Paula Jewell, Charles R. Norris to grant; Lindsley Williams and Carrie L. Thornhill to grant by proxy).

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

ATTESTED BY: 
EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: 30 MAY 1986

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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