

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA Application No. 14389 of Jamie Platt, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the prohibition against allowing an addition to a nonconforming structure exceeding the lot occupancy requirements (Paragraph 7105.12), the lot occupancy requirements (Sub-section 3303.1) and the rear yard requirements (Sub-section 3304.1) to construct a two-story rear addition in an R-4 District at premises 807 E Street, S.E., (Square 926, Lot 815).

HEARING DATE: February 12, 1986
DECISION DATE: February 12, 1986 (Bench Decision)

FINDINGS OF FACT:

1. The subject site known as premises 807 E Street S.E., is located on the south side of E Street between 8th and 9th Streets. It is in an R-4 District.
2. The subject site is rectangular with a frontage of 17 feet along E Street and a depth of 70 feet.
3. The subject site is improved with a two story frame structure constructed prior to May 12, 1958, the effective date of the current Zoning Regulations, namely 1900. At that date the subject site became nonconforming as to its lot occupancy, lot width and lot area. A shed is located at the rear of the site.
4. The R-4 District extends to the north and east of the subject site. The area to the east of the site is developed primarily with single family row dwellings. The areas to the west and south of the site are devoted to commercial uses.
5. The applicant proposes to construct a two story addition to the rear of the subject structure.
6. The proposed addition requires a variance pursuant to Paragraph 8207.11 of the Zoning Regulations, which 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 and 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.

7. Specifically, the applicants seek variances from the provisions of Paragraph 7105.12 prohibiting an addition to a non-conforming structure now exceeding the percentage of lot occupancy; from the rear yard requirements under Sub-section 3304.1 and the lot occupancy requirements under Section 3303.1.

8. A lot occupancy of 60 percent or 714.8 square feet is allowed. With the construction of the addition the house will exceed the percentage allowed by 225.8 feet or 31.6 percent.

9. A rear yard of 20 feet is required. The proposed addition will provide a rear yard of 14.67 feet which is 5.33 feet or 26.7 percent less than that required.

10. The applicant, who owns and occupies the subject structure, is renovating the house which deteriorated under the previous ownership.

11. The main portion of the house measures less than 14 feet by 42 and a half feet. It has insufficient space for the normal living activities of the three working adults who reside in the dwelling. The structure contains only one bath and has no basement or attic.

12. The only storage area is a shed measuring eight by 17 feet located at the rear of the subject site. It is dilapidated and rat infested. There is no way to secure it since it is detached from the house.

13. An existing addition, which will be removed, is located to the rear of the subject structure. The addition is eight feet in depth and wraps around the west side of the house for eight feet. It is three and a half feet wide. The addition is barely usable. It contains a small bedroom and almost no closet space. It is poorly constructed and dilapidated. It can't be insulated and its wall has no foundation so water comes in when it rains.

14. To make the house more livable, the applicant proposes to add a new bedroom and walk-in closet to the rear as the front bedroom is not habitable by the applicant.

15. A disco is located in the basement and a bar is located on the second floor of the building directly adjacent to the subject site on the west.

16. The main entrance to the bar is from the side adjacent to the subject site. It is seven feet from the applicant's front door.

17. The patrons from the neighboring commercial establishments are generally noisy. When the bars close at 2:00 or 3:00 A.M. the patrons loiter around the site and the noise drifts into the front bedroom of the subject structure.

18. The applicant also intends to include a utility room in the proposed addition.

19. The utility room will be located at the side of the subject structure so maximum sunlight can enter the bedroom at the rear which faces south.

20. The proposed addition will be extended five feet into the rear yard to be even with the residential unit adjacent to the east.

21. The existing shed at the rear of the subject site will be removed.

22. The construction of the addition and the removal of the shed will increase the backyard area by five square feet. The site will have more usable yard space as the side yard, which will be occupied by the proposed addition, is not now functional and poses a security problem by providing a place for someone to hide.

23. The one story addition currently to the side of the structure also presents a security problem since two air conditioning units and a smaller addition are located on the adjacent property and can easily be used as a stairway to gain entrance to the second floor windows of the subject structure.

24. The addition will also eliminate the access from the adjacent yard into the applicants rear yard. There have been robberies in the adjacent restaurant and at the subject site.

25. The construction of the addition as proposed will block the noise of the adjacent bar's air conditioning units from the subject site.

26. By letter dated January 28, 1986, Advisory Neighborhood Commission (ANC) 6B reported that it voted to support the subject application for the following reasons:

- a. certain structural alterations are mandated by architectural necessity to correct deterioration and housing code violations;
- b. The actual and existing rear yard area would actually increase, despite the addition to the structure, because an accessory structure (shed) will be eliminated;
- c. The addition of the three feet (net) is not appreciable and will effect improvements that are reasonable and in keeping with accommodations in like-residence in the historic district; and
- d. The addition will not extend the rear of the house beyond the rear (sight) line of adjacent structures, nor impinge on their air or light.

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

27. The owner and occupant of the townhouse adjacent to the subject site submitted a letter to the record in support of the application. She stated that the proposed addition will not impact negatively on her property as far as light and air are concerned and that it would actually make her property more secure. She further reported that E Street has gotten progressively noisier and she can understand why the applicant would want to move to a rear bedroom. The Board concurs.

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

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of 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 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 of the zone plan.

The Board concludes that the applicant has met the burden of proof. The subject structure is a nonconforming structure. The lot is extensively narrow and the house is small with an addition that is dilapidated and too small to be functional. Because of excessive noise on E Street due to the proximity of bars in the adjacent commercial district, the front bedroom is not reasonably habitable.

The configuration of the addition will provide more security for the subject structure. Further, the construction of the addition will provide more storage space for the occupants of the dwelling allowing them to remove the shed in the rear yard resulting in a larger yard area.

The Board notes the support of the neighboring property owner and concludes that the addition will not have adverse impacts on adjacent property. 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.

The Board further concludes that it has afforded the ANC the "great weight" to which it is entitled.

Accordingly, it is hereby ORDERED that the application is GRANTED.

VOTE: 3-0 (Charles R. Norris, Paula L. Jewell and Carrie L. Thornhill to grant; Maybelle T. Bennett and William F. McIntosh not present, not voting).

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.

order14389/BJW14