

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14421, of James and Mildred Palmer, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the rear yard requirements (Sub-section 3304.1 and Paragraph 7105.12); the lot occupancy requirements (Sub-section 3303.1 and Paragraph 7105.12); the open court width requirements (Sub-section 3306.1 and Paragraph 7105.12) and from the prohibition against allowing an addition to a nonconforming structure which now exceeds the lot occupancy (Paragraph 7105.12) for the proposed addition of a deck to a nonconforming structure in an R-2 District at premises 810 Tewkesbury Place, N.W., (Square 2976, Lot 76).

HEARING DATE: June 11, 1986
DECISION DATE: June 11, 1986 (Bench Decision)

FINDINGS OF FACT:

1. The premises is located on the south side of Tewkesbury Place and is known as 810 Tewkesbury Place, N.W. Directly east and directly south of the dwelling are public alleys. To the west is another detached residence. The site is in an R-2 District.

2. The property is improved with a two-story single-family detached dwelling with basement. The structure is approximately 71 years old.

3. The lot is basically rectangular in shape. In 1958, when the current Zoning Regulations became effective, this dwelling became a non-conforming structure and site. In an R-2 District the required lot area is 3000 square feet. The site provides 1500 square feet. The lot width required is 30 feet and the site provides 19.10. Before the present deck addition, the lot occupancy exceeded the 40 percent requirement by over 200 square feet. The same situation occurs with the rear yard, side yard and courts.

4. The applicants seek area variances from the rear yard, lot occupancy and open court width requirements and from the prohibition against allowing an addition to a non-conforming structure, so that an existing deck at their home can remain. The sundeck was completed in March of 1985. The deck is located at the rear of the dwelling and measures 229.20 square feet.

5. When the applicants decided to build a rear deck they notified a company to do the work. They obtained an estimate on construction cost from a representative of the company, who also informed the applicants that no construction permit was required. The applicants determined that the estimate was excessive and the applicant built the deck himself. After the deck was built, the applicants were notified by a building inspector that the structure did not comply with the Zoning Regulations. The applicants paid a \$100 fine and immediately filed an application before the Board.

6. The Advisory Neighborhood Commission (ANC) 4B filed a timely report recommending the approval of this application. The ANC noted that residents of adjacent structures found the sun deck to be in good taste and complimented the neighborhood. The ANC further noted that there had been no objections.

7. The Board is required by law to give "great weight" to the issues and concerns of the ANC. The Board finds that the ANC did not address the zoning variances sought but rather the issue of substantial detriment under Paragraph 8207.11. In that respect the Board concludes with the ANC.

8. Letters were written in support of the application by neighboring residents on the ground that the sundeck is a beautiful structure that greatly enhances the appearance of the neighborhood.

9. There was no opposition to the application.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicants are seeking area variances, pursuant to Paragraph 8207.11 of the Zoning Regulations, from the rear yard requirements, the lot occupancy requirements, the open court width requirements, and from the prohibition against allowing an addition to a non-conforming structure which now exceeds the lot occupancy, for the proposed addition of a deck.

Under Paragraph 8207.11 of the Zoning Regulations, the Board has the power to grant an area variance if the strict application of any regulation would result in practical difficulties to the owner, provided that such relief can be granted without substantially impairing the intent, purpose, and integrity of the zone plan.

The Board concludes that the practical difficulty to the owner is that in 1958 when the current Zoning Regulations became effective this dwelling and site became non-complying. It appears that any addition to the property

would require zoning relief since the site is small. In determining that relief can be granted without substantial detriment to the public good and intent of the zone plan the Board took, into consideration the letters of support for the application from neighbors and the lack of opposition. The Board further concludes that it has given the "great weight" to the report of the ANC. The Board advises that the granting of this application in no way condones construction without legal permits. In this case, the Board is convinced that the applicants acted in good faith, however, imprudently.

VOTE: 5-0 (Patricia N. Mathews, Charles R. Norris, William F. McIntosh, Paula L. Jewell and Carrie L. Thornhill to grant).

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

ATTESTED BY:


EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: AUG 29 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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