

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14475, of Chris and Belinda Perry, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the side yard requirements (Sub-section 3305.1) and from the prohibition against allowing an addition which is not conforming as to structure (Paragraph 7105.12) to construct a rear deck to a nonconforming structure, a single family dwelling in an R-1-B District at premises 3009 - 34th Street, N.W., (Square 2098, Lot 11).

HEARING DATE: September 17, 1986
DECISION DATE: September 17, 1986 (Bench Decision)

FINDINGS OF FACT:

1. The site, known as 3009 - 34th Street, N.W., is located on the east side of 34th Street between Klingle and Woodley Roads. It is in an R-1-B District.
2. The site is rectangular in shape with a frontage of 30.67 feet along 34th Street and a depth of 105.00 feet. The rear lot line is adjacent to a 15 foot wide public alley. The site is improved with a two-story plus basement single family attached dwelling constructed in the mid-1920's. On May 12, 1958, the effective date of the current Zoning Regulations, the structure became nonconforming as to side yard setbacks and lot width.
3. By BZA Order No. 12835, dated February 19, 1979, the Board granted an application for a variance from the side yard requirements to construct a rear addition to the subject structure. That proposed addition was never constructed.
4. Pursuant to Paragraph 8207.11 of the Zoning Regulations the applicants are seeking variances from the side yard requirements (Sub-section 3305.1) and from the prohibition against allowing an addition which is not conforming as to structure (Paragraph 7105.12) to construct a rear deck to the structure.
5. The proposed deck will be approximately eight feet above the ground. It will extend approximately 12 feet from the main part of the existing structure. A stair case will project further into the rear yard from the proposed deck. The deck will extend across the entire width of the property.

6. The existing building with the proposed addition will comply with the percentage of lot occupancy and rear yard requirements.

7. Many of the houses in the neighborhood, including those on lots immediately adjacent to the subject site, have decks at the rear. The proposed deck will not project farther than the adjoining structures on either side.

8. By letter dated June 24, 1986, Advisory Neighborhood Commission (ANC) 3C reported that the ANC recommended support for the application as (a) the immediate neighbors of the site did not object to the porch (b) an order granting relief for a similar deck to be built was previously issued, and (c) the variance is necessary because the house is a row house and therefore lacks the required eight foot side yard. The Board concurs with the reasoning and recommendation of the ANC.

9. Neighbors immediately adjacent to the site submitted letters to the record stating that they had reviewed the plans and were in support of the application.

10. 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 applicants are 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 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 applicants have met the burden of proof. Sub-section 3305.1 of the Zoning Regulations requires that a minimum side yard of eight feet be provided in the R-1-B zone. The addition will provide no side yard so a variance of eight feet or 100 percent is required. Paragraph 7105.12 allows for additions to be made to a nonconforming structure provided the addition is conforming as to structure and does not increase the nonconforming aspect of the structure. The structure does not meet the side setback requirements as it is a row dwelling and has never provided side yards. Since the lot is extremely narrow, approximately 30 feet, for the R-1-B District which requires a minimum width of 50 feet, it is not practical to decrease the width of the deck to conform to with the side set back requirements. The Board further concludes that

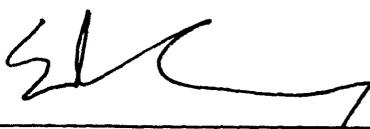
granting the proposed relief will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan.

Accordingly, it is hereby ORDERED that the application is GRANTED, SUBJECT to the CONDITION that construction be in accordance with the plans marked as Exhibit No. 12 of the record.

VOTE: 3-0 (William F. McIntosh, Paula L. Jewell and Carrie L. Thornhill to grant; Charles R. Norris and Patricia N. Mathews 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: _____

OCT 17 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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