

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14600 of Claire and Seth Rosen, pursuant to Paragraph 8207.11 (3107.2 11 DCMR) of the Zoning Regulations, for variances from the side yard requirements of Section 3305.1 (405, DCMR 11), and from the lot occupancy requirements of Sections of 3301.1 (401.1, DCMR 11), in an R-3 District at premises 1660 - 34th Street, N.W., (Square, 1291, Lot 218).

HEARING DATE: June 10, 1987
DECISION DATES: July 1, 1987 and January 6, 1988

INTRODUCTION

The Board granted the subject application by its Order dated September 18, 1987. On December 1, 1987, parties in opposition to the application requested the Board to waive the ten day filing requirement of Section 3332.2 to accept a motion for reconsideration of the Board's decision in the subject application. The Board waived its Rules and accepted the motion for reconsideration at its public meeting of January 6, 1988.

In support of the motion for reconsideration, the opposition argued that the Board's decision failed to clearly state the basis for a finding of any exceptional practical difficulty that would result from the strict application of the Zoning Regulations. Upon consideration of the motion and its final order, the Board granted the motion for reconsideration and vacated its prior decision at its public meeting of January 6, 1988.

Upon review of the motion, the record in the case and its final order, the Board finds as follows:

FINDINGS OF FACT:

1. The property is located on the west side of 34th Street, between Reservoir Road and Dent Street, and is known as premises 1660 34th Street, N.W. It is zoned R-3.
2. The lot is irregularly shaped and contains 2,454 square feet of area. The lot has a street frontage of approximately seventeen feet along 34th Street and a depth of approximately 120 feet. There is a dog leg projection set back approximately thirty-two feet from the front of the

property measuring eighteen feet in width and twenty-three feet in depth.

3. The property is developed with a brick semi-detached single-family dwelling. The main two and one-half story portion of the structure is approximately 14.7 feet in width and has a depth of approximately 28.4 feet. The L-shaped one-story portion of the structure extends an additional 18.7 feet into the rear yard and widens to a total width of approximately twenty-eight feet and occupies part of the dog-leg portion of the lot. The entire dwelling was constructed prior to the adoption of the 1958 Zoning Regulations.

4. The R-3 District extends in all directions from the site. The immediate neighborhood is developed primarily with row dwellings.

5. The existing structure abuts the property line to the north and provides a non-conforming side yard measuring approximately three feet in width on the south side of the property. In computing the lot occupancy of the site, the area of the non-conforming side yard is counted as part of the total lot coverage.

6. The applicants propose to construct a second story addition over the existing one-story, L-shaped portion of the dwelling.

7. The structure currently has two bedrooms located on the second floor and a third located on the third floor which is accessed from one of the bedrooms on the second floor. The proposed addition will provide space for reconfiguration of the second floor resulting in two bedrooms, a small laundry room and hallway with steps accessing the third floor bedroom directly from the hallway.

8. Except for a balcony at the second story level measuring approximately three feet by eleven feet, the proposed addition will not increase the footprint of the existing structure. The increase in lot occupancy created by the proposed balcony exceeds the maximum permitted lot occupancy by 18.2 square feet or 1.85%.

9. In order to avoid the necessity of seeking variance relief, the applicants' architect considered two matter-of-right designs. The first design would provide for an addition meeting the required eight foot side yards which would be out of character with the existing structure and would result in an inadequate interior width of approximately 7.5 feet.

10. The second design would involve extending the building from property line to property line. This proposal

would change the existing semi-detached dwelling to a row dwelling and, therefore, result in the elimination of the side yard requirement and increase in the permitted lot occupancy requirements from forty percent to sixty percent. This proposal would negate the necessity of seeking variance relief, but would be burdensome on the applicant in that it results in the construction of additional space which is not required and, it would tend to affect the light and air of neighboring property owners to a greater degree than the addition which is being sought by the applicant in the instant case.

11. By letter dated May 14, 1987, Advisory Neighborhood Commission 2E indicated that it was unable to pass a vote on its position on the application. The ANC noted that the deadlock reflects the difficulty it had in determining the necessity for the requested variances in the face of the support presented balanced against the high level of community opposition to the proposal as an unnecessary and undesirable infill of available open space in the historic district.

12. Several immediate neighbors of the subject premises submitted letters to the record and or testified in opposition to the application. The opposition was generally based on the following:

- a. There are no unique physical characteristics of the property. There are many other narrow houses and lots in the Georgetown Historic District.
- b. The applicants are not affected by any practical difficulty. They knew the limitations of the site when they purchased the property.
- c. The proposed addition would cause substantial detriment to adjoining property because it would block the light, air and view, especially from the existing side yard of the adjacent dwelling at 1656 34th Street, N.W.
- d. The proposed addition would be out of scale with the existing historical character of the immediate area.
- e. The granting of the subject application would set a precedent for granting variance relief for additions to other properties in the area.

13. The Board does not concur with the arguments presented by the opposition. The Board finds that the size and shape of the lot along with the configuration of the existing dwelling which pre-dates the Zoning Regulations does constitute an extraordinary condition of the property and

that the strict application of the Zoning Regulations would create a practical difficulty upon the owners. The Board further finds that the proposed addition adds a second story to a portion of the existing dwelling which basically follows the foot print of the existing dwelling and will, therefore, have a negligible impact on the light and air to adjacent properties and will be in keeping with the historic character of the area.

14. The Board notes that it considers each application on its individual merits. The approval of this application would not set a precedent for deciding other similar cases in the area.

15. The Board further notes that it has no authority over possible matter of right development of the subject site which could result in the conversion of the existing semi-detached dwelling to a row dwelling occupying up to sixty percent of the lot and eliminating the existing nonconforming side yard. The Board is of the opinion, however, that the proposed addition would provide the applicants with more efficient internal circulation within the dwelling with less impact on the historic character of the area, the density of the site and light and air to adjacent properties than would result from matter of right development of the site.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing 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, purpose and integrity of the zone plan as embodied in the Zoning Regulations and map. The Board concludes that the applicants have met the requisite burden of proof. The subject site is irregularly shaped. The existing dwelling was constructed prior to the adoption of the 1958 Zoning Regulations and does not meet the current eight foot side yard requirements. The proposed second story addition will not encroach further into the existing non-conforming side yard. The lot occupancy will be increased by only 1.85 percent due to the projection of the balcony three feet into the rear yard.

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, purpose and integrity of the zone plan.

Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the CONDITION that construction shall be in accordance with the plans marked as Exhibit No. 10 of the record.

PUBLIC MEETING OF JULY 1, 1987

VOTE: 3-1 (Charles R. Norris, William F. McIntosh and Carrie L. Thornhill to grant; Paula L. Jewell opposed to the motion).

PUBLIC MEETING OF JANUARY 6, 1988

VOTE: 3-1 (Paula L. Jewell, Charles R. Norris and Carrie L. Thornhill to reconsider; William F. McIntosh opposed to the motion by proxy).

3-1 (Carrie L. Thornhill and Charles R. Norris to grant; William F. McIntosh to grant by proxy; Paula L. Jewell opposed to the motion).

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

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: APR 21 1988

UNDER 11 DCMR 3103.1, "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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Government of the District of Columbia

ZONING COMMISSION



APPLICATION No. 14600

As Acting Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order of the Board in the above numbered case, said Order dated APR 21 1988, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Mary Frances Berry
1696 34th St., N.W.
Washington, D.C. 20007

Don Hawkins
1921 Sunderland Pl., N.W.
Wash., D.C. 20036

Anthony Harrison
1662 34th St., N.W.
Wash., D.C. 20007

Alexandra Beeke
1654 34th St., N.W.
Wash., D.C. 20007

Roger Pauley, Chair
ANC 2E- 1041 Wis. Ave., N.W.
Wash., D.C. 20007

Charles Fiedlander
1664 34th Street, N.W.
Wash., D.C. 20007



EDWARD L. CURRY
Executive Director

DATE: _____

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