

PUBLIC HEARING--Sept. 30, 1964

Appeal #7907 Motel Associates, Inc. appellant.

The Zoning Administrator District of Columbia, appellee.

On motion duly made, seconded and carried with Messrs. Harps and Davis dissenting the following Order was entered on October 7, 1964:

ORDERED:

That the appeal for a variance from the rear yard requirements of the C-M-2 District to permit 3rd, 4th, 5th and 6th floor addition to existing motel at 1615 New York Avenue, N.E., lot 828, square 4099, be denied.

From the records and the evidence adduced at the hearing, the Board finds the following facts:

(1) The lot in question lies on the south side of New York Avenue, N.E. and abuts at its rear on a spur of the Baltimore and Ohio Railroad.

(2) Subsequent to May 12, 1958 appellant or his predecessor constructed on the property a U-shaped, two story motel building, providing the required rear yard but no providing any excess rear yard. All of the parking required by the Zoning Regulations was provided between the building and New York Avenue and none was provided in the rear yard. The FAR of the building was less than that permitted by the regulations.

(3) Appellant now proposes to construct on the rear part of the building (i.e. the bottom of the U) four additional stories which will be occupied by motel rooms and parking. The entire area of the present rear yard will be occupied as follows:

(a) The ground level will be occupied by a swimming pool and building operation equipment.

(b) The levels above the ground level will be occupied by an automobile parking structure, the access to which will be by a ramp starting at the middle of the front of the building and extending through the building.

(4) The FAR of the proposed building, including the addition, will be less than permitted by the Zoning Regulations.

(5) The lot presents no extraordinary or unusual conditions such as shape, topography or the like.

(6) Appellant's claim to hardship is that unless he is permitted to use the rear yard for a parking structure he cannot provide the parking required for the complete building including the addition.

(7) Appellant has made no showing of any effort to secure land for accessory parking on any lot other than the lot on which the building is located.

(8) Appellant contends that because ~~of~~ a railroad spur is directly behind the lot the reason for a rear yard is not present and that this not only satisfies the second part of the variance clause but constitutes a reason for liberal interpretation of the first part of the clause.

(9) Under the Zoning Regulations a railroad spur is not considered a permanent installation.

OPINION:

It is the opinion of this Board that appellant has failed to prove a case of hardship within the meaning of the variance clause (Sect. 8207.11) of the Zoning Regulations as there is no exceptional narrowness, shallowness or shape of the specific property, the lot being approximately rectangular in shape, contains 36,332 square feet of land with a frontage of approximately 213 feet on New York Avenue and depths of 198.13 feet and 109.12 feet. The land has no exceptional topographical conditions or other extraordinary or exceptional situation or conditions.

It is the further opinion of this Board, as stated in the finding of fact, that a railroad spur is not considered a permanent installation and therefore is not considered an extraordinary or exceptional situation of the property, and in its opinion does not warrant a waiver of the required rear yard.

In view of the above it is our opinion that this relief cannot 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.