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BOOK 2502 PAGE 347

Recorded at Request of Grant W. Stott
By Geo. Jorgensen Fee Paid \$4.70 HAZEL TAGGART CHASE, Recorder Salt Lake County, Utah
Dep. Date OCT 20 1966

BEFORE THE BOARD OF ADJUSTMENT, SALT LAKE CITY, UTAH 946 South 5 East St.

FINDINGS AND ORDER, CASE NO. 5320

REPORT OF THE COMMISSION:

This is an appeal by Grant W. Stott and Milton K. Gehrke for a variance to legalize an 11-unit apartment house at 673 Sixth Avenue without the required side yard and for permission to extend the required parking area into the rear of the adjoining lot at 667 Sixth Avenue in a Residential "R-5" District. These properties are more particularly described as follows:

Commencing at the Southwest corner of Lot 1, Block 88, Plat "D", Salt Lake City Survey, and running thence East 4 rods; thence North 10 rods; thence West 4 rods; thence South 10 rods to point of beginning.

Subject to a right of way over North 12 ft. thereof--and together with a right of way over the following - Commencing at the Northeast corner of Lot 1, Block 88, Plat "D", Salt Lake City Survey; thence South 12 ft; thence West 6 rods; thence North 12 ft; thence East 6 rods to point of beginning.
and

Commencing at the southeast corner of Lot 2, Block 88, Plat "D", Salt Lake City Survey, running thence west 2.5 rods; thence north 10 rods; thence east 2.5 rods; thence south 10 rods to place of beginning.

Mr. Stott was present together with his attorney, Golden W. Robbins. The following were also present:

Sam Weller
Clea Sumner

665 Sixth Avenue
4827 South 1265 East, former owner
of the apartment house

O. V. George

320 "J" Street

Mr. Jorgensen explained there was a request before the Board several months ago to legalize this apartment house without the required side yard and without the required parking. Actually there is a right-of-way through the last two parking stalls to the north so these stalls could not be counted. The Board denied the request for variance and ordered that the apartment be reduced by three units which was the amount they were shy on the parking. At that time it was suggested that the only way out was to acquire property for the additional parking and not just allow more units without the parking. The new owner has now acquired the lot to the west at 667 Sixth Avenue, the Gehrke property, which is the property (indicated as Koerber property on the ownership plat) which had a right-of-way through the apartment house property from "K" Street but the right-of-way does not extend across the rear of the Gehrke property. Under the ordinance any parking lot in a residential district must receive special permission unless it is on the same lot as the building. The request now is for approval of the parking lot. Having this lot attached to the apartment house property will make it possible to utilize the entire apartment building. At the same time the applicant is asking to legalize the reduced side yard of the apartment house as well. The Board noted if a variance is granted, this parking will have to be tied legally to the apartment house property and the apartment house could not be sold without it. One other question is involved. There would have to be permission for one parking space in the rear for the dwelling at 667 Sixth Avenue, assuming that this is a single-family dwelling, so using the rear yard for apartment

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house parking would not do away with any parking for this dwelling. This would require an easement to a parking space in the rear. If the front portion of the property were ever sold there would have to be an easement to the parking lot and one parking space to go with the property.

Mr. Weller, who owns the dwelling west of 667 Sixth Avenue and who has an easement from "J" Street to a carport on the rear portion of his property, just wanted to see what was going to be done. Presently he uses the Gehrke property as a turn-around but now he will have to back out to "J" Street. In order for the Gehrke property to be used as parking for the apartments, there would have to be some fill, the area would have to be hardsurfaced, there would have to be a retaining wall, drainage would have to be provided and whatever else is required to maintain the parking lot. It was noted that the shed now existing on this property would be removed. Mr. Stott indicated he plans to drain this parking area onto his other property. Mr. George asked if there would be a fence high enough to keep car lights from shining on the back yards and if there would be something to keep cars from driving all the way through. He did not want children jumping off a retaining wall onto his property which is to the north and west. Mr. Stott asked if he had to build a fence all the way around his property to satisfy all the neighbors. The Chairman ordered the matter taken under advisement. In the executive session the various aspects of the case were reviewed.

From the evidence before it, the Board is of the opinion that the petitioner would suffer an unnecessary hardship from a denial of the variance; that the spirit and intent of the Zoning Ordinance will be upheld and substantial justice done in the granting of the variance.

IT IS THEREFORE ORDERED that a variance be granted to legalize this apartment house with a reduced side yard as it stands and to permit a parking lot on the adjoining property to the west with the following provisions:

1. that there be a recorded easement granted to the house to the west for ingress and egress and for the parking of one car in the rear
2. that the rear portion of the adjoining property to the west be made permanently a part of the apartment house lot and never be sold except with the apartment house
3. that the entire lot be hardsurfaced
4. that the parking lot be drained in a manner acceptable to the City Engineer's office
5. that the portion of the lot where there are no garages be fenced with a solid fence (the difference in grade takes care of this to the north)
6. that all necessary retaining walls be installed
7. that the final plan showing all these requirements be subject to approval by a Committee of the Board, a copy of the finally approved plan to be filed with the case
8. these restrictions to be recorded in the office of the County Recorder to become a part of the abstract of the property.

Provided these restrictions are complied with, the decision of the Building Inspector

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is reversed and said officer directed to issue the required permits in accordance with the order and decision of the Board provided that the construction plans show conformity to the requirements of the Uniform Building Code and all other City ordinances applicable thereto; and provided such reduction or addition does not conflict with any private covenants or easements which may be attached to or apply to the property, all conditions of the Board to be fully complied with before the Building Inspector can give a certificate of occupancy or final inspection, said order to expire within six months from the dating of this order. This variance expires if work has not been started within six months.

THE FAILURE OF THE APPLICANT TO ABIDE BY THE CONDITIONS OF THIS VARIANCE SHALL CAUSE IT TO BECOME NULL AND VOID, WHICH IN EFFECT IS THE SAME AS THE VARIANCE HAVING BEEN DENIED.

Action taken by the Board of Adjustment at its meeting held Monday, September 12, 1966.

Dated at Salt Lake City, Utah, this 26th day of September, 1966.

Edwin Whistler
Chairman

Mildred G. Snider
Secretary

I, Mildred G. Snider, being first duly sworn, depose and say that these are the Findings and Order in Case No. 5320 before the Board of Adjustment on September 12, 1966.

Mildred G. Snider

Subscribed and sworn to before me this 26th day of September, 1966.

Ernest F. Johnson
Notary Public
Residing at Salt Lake City

My commission expires Oct 16, 1968

