

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14647, of Armand L. Dumas, pursuant to 11 DCMR 3107.2, for variances from the provisions of Sub-section 2001.3 prohibiting an addition to a nonconforming structure and from the floor area ratio requirements of Sub-section 402.4 in a D/R-5-B District at premises 1712 - 21st Street, N. W., (Square 65, Lot 805).

HEARING DATE: July 29, 1987 and September 23, 1987  
DECISION DATE: October 7, 1987

FINDINGS OF FACT:

1. The subject property is a 2,592 square foot, L-shaped lot at 1712 21st Street, N. W. The lot is in a square bounded by Florida Avenue, R Street, and 21st Street. The lot is 85 feet deep and has a frontage of approximately 38 feet on 21st Street and 20 feet on Florida Avenue.

2. The lot is located in a D/R-5-B District which extends approximately 100 feet north, 500 feet south, and 300 feet east and west of the lot. The District is adjacent to a C-3-B, D/R-3, and SP-1 Districts.

3. A 5,025.15 square foot, three-story rowhouse occupies 1,606.05 square feet of the lot. The first floor of the building houses an art gallery which is supervised by the applicant's wife and open to the public by appointment only. The remainder of the first floor includes a garage, foyer, laundry room, and lavatory. The second floor of the house contains a family room, dining room, living room, and a small kitchen area. The third floor has two bedrooms, and a nursery. Other than occupying a room on the first floor, the art gallery has no physical structural barriers between it and the residential use of the building.

4. The applicant purchased the house in 1983 when he was single and had only two children. After buying the home, the applicant converted a library into a nursery.

5. The house is presently occupied by the applicant, his wife, their two children, and a live-in housekeeper. An older child occasionally stays at the house. The applicant's wife is expecting another child.

6. The applicant proposes to construct a three-story addition to the rear of the house to provide additional storage, dining, and sleeping space for the applicant's family.

7. The residential use and art gallery are permitted as a matter-of-right in the R-5-B District. The existing structure is nonconforming with respect to lot occupancy and floor area ratio (FAR). The existing lot occupancy is 1,606.05 square feet or approximately sixty-two percent, when 1,555.2 square feet or sixty percent is permitted. The existing FAR is 5,025.15 square feet or 1.93, when 4,665.6 square feet or 1.8 FAR is permitted.

8. The proposed addition will increase the lot occupancy by 490.7 square feet to a total of 2,096.75 square feet requiring a variance of 541.55 square feet or 34.82 percent. The addition will increase the floor area by 1,472.1 square feet to a total floor area of 6,497.28 square feet or an FAR of 2.5 requiring a variance of 1,831.65 or 39.26 percent.

9. The addition would substantially reduce the light and air enjoyed by the residents of the apartments in the adjoining four-story rowhouse at 1716 21st Street, N.W. The first, second, and third floor apartments would be eight feet from the north wall of the proposed addition. The fourth floor apartment would be above the roof of the proposed addition.

10. The lot is located within the jurisdiction of Advisory Neighborhood Commission (ANC) 2B. In a written report dated September 14, 1987, the ANC indicated that it had voted to oppose the proposed addition on the grounds that it would deprive adjoining residents of light and air. The ANC opposition was also based on its finding that the applicant's hardship and resulting desire for an addition are not the result of the Zoning Regulations or any exceptional condition of the subject property. The Board concurs with these findings and gives them "great weight" in its decision.

11. The residents of 1716 21st Street, N.W., appeared at the hearing and wrote letters for the record to express their opposition to the proposed addition. Additional opposition was expressed by a representative of the Dupont Circle Citizens Association. The opponents were concerned about the addition's impact on the light and air enjoyed by adjacent residents and felt that the shortage of space suffered by the applicant is a result of his unwillingness to convert the gallery to residential use. The Board concurs.

12. In a memorandum dated September 15, 1987, the Office of Planning (OP) recommended that the applicant's request be denied. OP found no hardship resulting from any exceptional condition of the lot and concluded that the applicant's hardship is self-inflicted. OP also found that the addition would have an adverse affect on the light and air enjoyed by residents of the adjoining building. The Board concurs with the OP's findings.

CONCLUSIONS OF LAW AND OPINION:

The applicant is seeking variances from the strict application of Sub-section 2001.3, which prohibits the construction of an addition to a nonconforming structure, and Sub-section 402.4, which prescribes the maximum permissible floor area ratio. To qualify for relief, the applicant must demonstrate that he has satisfied all the requirements of Sub-section 3107.2. The applicant must show that he suffers an exceptional practical difficulty or hardship resulting from the strict application of the Zoning Regulations and the exceptional condition of the subject property. The applicant must also show that relief can be granted without substantially impairing the public good or the intent, purpose, and integrity of the zone plan.

Based on the foregoing Findings of Fact and the evidence of record, the Board concludes that the applicant has failed to meet the requirements of Sub-section 3107.2. The applicant has not shown the shortage of living space to be the result of any exceptional condition of the subject property, but has shown it to be the result of the applicant's choice to use part of the first floor as an art gallery.

The applicant has also failed to demonstrate that the proposed addition would not substantially impair the public good or the intent, purpose, and integrity of the zone plan because it would substantially reduce the light and air enjoyed by the tenants of the adjacent building. The Board has accorded to the ANC the "great weight" to which it is entitled. It is therefore ORDERED that the application is DENIED.

VOTE: 3-0 (Paula L. Jewell, William F. McIntosh and Charles R. Norris to deny; Carrie L. Thornhill not voting, not having heard the case).

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

ATTESTED BY:

  
EDWARD L. CURRY  
Executive Director

FINAL DATE OF ORDER: \_\_\_\_\_

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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."

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 14647

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 OCT 28 1968, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

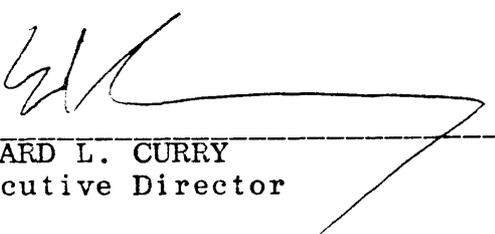
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EDWARD L. CURRY  
Executive Director

DATE: OCT 28 1968