

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14936, of John H. Waller, as amended, pursuant to 11 DCMR 3107.2, for a variance from the side yard requirements (Sub-section 405.9), a variance from the allowable lot occupancy requirements (Sub-section 403.2), and a variance to allow an addition to a nonconforming structure [Paragraphs 2001.3(a) and (c)] for a proposed addition to an existing nonconforming semi-detached dwelling and the construction of a detached accessory garage in an R-1-B District at premises 1518 Whittier Street, N.W., (Square 2732, Lot 74).

HEARING DATE: February 8, 1989
DECISION DATE: February 8, 1989 (Bench Decision)

FINDINGS OF FACT:

1. At the hearing, the applicant amended his proposal to eliminate the request for a variance (Section 3107.2) from the minimum setback requirements of Sub-section 2300.2 which provides that a private accessory garage abutting an alley must "be set back at least twelve feet (12') from the center line of the alley upon which it opens."

2. The subject site is located on the southeast corner of 16th and Whittier Streets, N.W. The site is in an R-1-B District for one family detached dwellings.

3. The subject site is rectangular in shape with a 35 foot frontage along 16th Street and approximately 120 feet of frontage along Whittier Street. The site is improved with a two-story with basement semi-detached brick dwelling. The dwelling was constructed in 1927. A 16-foot through alley is located to the rear of the subject property. A ten foot building restriction line exist along the Whittier Street frontage of the site.

4. Adjacent to the R-1-B Zoned District where the subject property is located, there is a small R-2 zoned area which contains single-family, semi-detached structures. The general land use pattern or development character of the neighborhood is single-family housing with walk-up garden apartments interspersed throughout the area.

5. The applicant is requesting area variances from the side yard requirements and allowable lot occupancy requirements to permit the construction of an accessory detached two-car garage, and a variance to allow an addition to a nonconforming structure to construct an enclosed back porch.

6. The R-1-B District permits a maximum lot occupancy of 40 percent for a single-family dwelling. For the subject lot, a building area of 1,690 square feet is allowed. The existing building occupies 1,495 square feet. The addition, 789 square feet, would increase the total building area of the site to 2,284 square feet. A variance of 594 square feet is required.

7. The existing dwelling has no side yard at its south side, since that is the side which abuts the lot line and makes it a semi-detached dwelling. There are five similar semi-detached dwellings facing 16th Street to the south of the subject site. All have garages in their rear yards which face on a public alley. There is also a garage at the rear of the house located directly across Whittier Street to the north.

8. The proposed garage and rear addition will follow the lines of the existing dwelling and abut the south side lot line. Access to the garage will be from the alley.

9. The applicant originally proposed to build the garage with a setback of only eight feet (8') from the center line of the alley. The original proposal, therefore, contained a request for a variance from the minimum setback requirements of Sub-section 2300.2, to allow the construction of a detached garage abutting an alley with a setback of less than twelve feet (12') from the center line of the alley. The applicant, however, amended his plans. The revision involves a plan to build the garage 9.3 feet from the lot line (17.3 feet from the center of the alley), thereby, falling within the requirements and making the request for a setback variance unnecessary.

10. The house presently has no interior access to the basement. One of the purposes of the rear addition is to provide access to the basement without having to go outside.

11. The applicant testified that he has been trying to beautify his home since he purchased it in 1979. Adding a garage would make his house more like those in the surrounding area and would make it more valuable. A garage was not built by the prior owners because they did not want to remove a tree located in the back yard. The applicant further testified that he attempted to have the garage and back porch designed so that they enhance the aesthetics of his lot and fit in with the homes nearby.

12. The Office of Planning (OP), by report dated February 1, 1989, recommended that the application be granted.

13. The Office of Planning, noting the facts stated above, finds that:

The applicant has practical difficulty because the existing zoning of the property (R-1-B) allows matter-of-right development of single-family detached residential dwellings. The applicant's dwelling is semi-detached. The building was constructed in 1927, prior to enactment of the Zoning Regulations and Maps which were effective on May 12, 1958. Of the five adjacent semi-detached dwellings that are within the R-1-B zoning District, the applicant's property is the only structure without a detached garage. Also, the dwelling has no interior access to the basement. OP believes that this situation deprives the owner of reasonable use of the property.

The Board agrees with the Office of Planning.

14. Advisory Neighborhood Commission (ANC) 4A, filed no recommendation on the application.

15. A neighbor who resides in close proximity to the subject property testified in opposition to the application. The neighbor's front porch is located at the rear of the subject property, across the alley from where the applicant proposes to construct the garage. The neighbor, by letter expressed opposition, not to the applicant's right to build the garage, but to the manner in which the applicant plans to construct his garage. He was concerned that the garage would be built in such proximity to his front porch that when leaving his house, he would see the applicant's open garage and be subject to the various activities, noises and smells associated with a garage and its maintenance. The neighbor testified that garages at other homes nearby are not situated in this manner.

16. The applicant responded that he would have no reason to leave his garage door open. To do so would diminish his privacy.

17. The neighbor in opposition further testified that he would prefer that the applicant's access to the garage be on Whittier Street, like his neighbor, rather than in the alley.

18. The applicant indicated that he originally planned to access his garage on Whittier Street but if he built it there his neighbors would lose the public street parking spaces on Whittier Street. He did not wish to take those spaces. The applicant further testified that although his neighbor across the street has a garage facing Whittier Street, the neighbor's lot is almost twice the size of his own. If he were to build the garage on Whittier Street, it would have to be built almost in the middle of the yard,

destroying his side yard and leaving him with virtually no yard at all. He pointed out that if the garage were constructed in this manner, his lot would not be in symmetry with those of his neighbors and the area would not be aesthetically pleasing. Consequently, the applicant is amending his proposal so that access to the garage will be from the alley.

19. The neighbor in opposition inquired as to whether the rear wall of the garage will abut the alley or will be set back like those of the other neighbors.

20. The applicant testified that he will comply with the setback requirements in constructing the garage fronting the alley. The amended plans indicate that the garage is set back 9.3 feet from the lot line. This exceeds the four-foot (4') requirement.

21. Due to the applicant's amendment to comply with the setback requirements, the opposition expressed by the neighbor was withdrawn.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a variance from the minimum side yard requirements and the maximum allowable lot occupancy requirements for a single family dwelling in an R-1-B zone to allow the construction of an accessory detached garage abutting an alley, and a variance to allow an addition to an existing nonconforming structure.

The granting of an area variance requires a showing 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 application will not be of substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan as embodied in the Zoning Regulations and Map. The Board concludes that the applicant has met this burden.

The Board concludes that there is an exceptional condition of the property depriving the owner of reasonable use of its improvements. There is no exterior access to the basement. The applicant encounters a practical difficulty in gaining access to and use of his basement.

The Board further concludes that building a garage fronting the alley will not be detrimental to the public good. The applicant's garage will not be maintained so as to have a negative effect on the appearance of the neighborhood. The Board further concludes that having the garage front the alley will save public parking spaces on Whittier Street.

The Board concludes that the variances can be granted without substantially impairing the intent and purpose of the zone plan. Accordingly, it is ORDERED that the application is GRANTED, SUBJECT to the CONDITION that the proposed plans, as shown in Exhibit No. 11, be revised to relocate vehicle access to the garage from Whittier Street to the 16-foot public alley.

VOTE: 4-0 (Charles R. Norris, William F. McIntosh, Paula L. Jewell and Carrie Thornhill to grant, Lloyd Smith 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: _____

JUN 30 1989

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

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.

14936order/BHS6

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 14936

As 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 said Order dated _____, has been mailed postage prepaid to each party who appeared in the public hearing concerning this matter listed below:

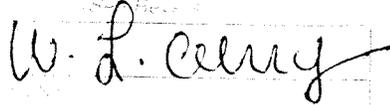
John H. Waller
1518 Whittier Street, N.W.
Wash, D.C. 20012

Walter L. Curry
1440 Whittier Street, N.W.
DC 20012


EDWARD L. CURR
Executive Director

P-600 301 722

RECEIVED FOR CERTIFICATION



U.S. G.P.O. 1953 506

14936

DATE: _____