

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15003, of B. Paul and Sally C. Haskell, pursuant to 11 DCMR 3107.2, for a variance from the side yard requirements (Sub-section 405.9) and a variance to allow an addition to a nonconforming structure which does not meet the side yard requirements (Sub-section 2001.3) for the proposed construction of a two story addition to an existing nonconforming detached dwelling in an R-2 District at premises 4110 Garrison Street, N.W. (Square 1738, Lot 27).

HEARING DATE: May 10, 1989
DECISION DATE: June 7, 1989

FINDINGS OF FACT:

1. The site is located on the south side of Garrison Street between 41st and 42nd Streets, and is known as premises 4110 Garrison Street, N.W. It is zoned R-2.
2. The site is rectangular in shape with a width of 30 feet along Garrison Street and a depth of 183 feet. A 15 foot wide public alley is located to the rear of the site.
3. The site is currently improved with a single-family shingled detached dwelling which was constructed in approximately 1925, prior to the adoption of the 1958 Zoning Regulations.
4. The surrounding area is predominantly developed with low density residential housing including detached and semi-detached dwellings. The site is one block east of Wisconsin Avenue, a major commercial thoroughfare. The Friendship Heights Metrorail station is located approximately four blocks north of the subject site.
5. The existing dwelling is two stories plus a basement and attic. The dwelling contains a living room, dining room and small kitchen on the first floor and three bedrooms and one bath on the second floor. The basement and attic are not suitable for living area and are used for storage purposes.
6. The applicants propose to construct a two-story addition to the rear of the existing dwelling which will extend for the full width of the existing dwelling approximately 20 feet from the rear of the structure.

The proposed addition will provide for a family room, breakfast area, powder room and enlarged kitchen on the first floor and a master bedroom and full bath on the second floor. The proposed addition is sought to enable the applicants to provide adequate living space for their growing family.

7. The existing lot is nonconforming as to the lot width requirements for a detached dwelling in the R-2 District. The R-2 District requires a minimum lot width of forty feet. The subject lot is thirty feet in width.

8. The existing dwelling is also nonconforming as to the side yard requirements of the R-2 District. The existing side yard on the west measures approximately five feet. The eastern side yard measures approximately 2.99 feet. The proposed addition will continue the existing side yard dimensions.

9. Pursuant to 11 DCMR 405.8, in the case of a building existing on or before May 12, 1958, with a side yard less than eight feet wide an extension or addition may be made to the building provided that the width of the existing side yard shall not be decreased and, further, that the width of the existing side yard shall be a minimum of five feet.

10. The applicants are seeking variance relief from the side yard requirements on the east side of the property and for permission to construct an addition which extends the existing nonconforming side yard. The proposed addition has been designed to blend in with the existing structure and contains design elements in keeping with the original period of the structure.

11. The site contains 5,494 square feet of lot area. The R-2 District provides for maximum lot occupancy of forty percent. The existing lot occupancy is 860.18 square feet. The proposed addition will result in a total lot occupancy of 1,440.39 square feet or twenty-six percent.

12. The applicants contend that the property is affected by an extraordinary condition by virtue of the size of the lot, its narrow width, and the siting of the existing structure on the lot. There are several lots of a similar size in the subject square, however, the size of the side yards is varied. In addition, several of the similarly sized lots are developed with semi-detached dwellings which require only one side yard and which require a lot width of only thirty feet.

13. Strict compliance with the eight foot side yard requirements would result in a reduction in the width of the addition by 5.01 feet or approximately twenty-five percent. The applicants would be able to construct an addition of approximately 17.01 feet in width and up to 81.15 feet in depth without variance relief.

14. The applicants contend that they would suffer practical difficulties if the Zoning Regulations are strictly enforced. A matter-of-right addition such as described in Finding No. 13 would result in an internal width of approximately fifteen feet which is too narrow to provide practical living space in keeping with the dimensions of existing rooms and the uses to be located in the proposed addition. The recessing of the proposed addition approximately five feet from the existing eastern wall of the dwelling would further result in the elimination of architectural anchors or supports; the inability to effectively continue existing circulation patterns of the dwelling into the addition; and would require extensive relocation of the plumbing by placing the proposed kitchen expansion and master bathroom further from the existing kitchen plumbing on the east side of the dwelling.

15. The Office of Planning (OP), by memorandum dated May 2, 1989 recommended that the application be approved. The OP was of the opinion that the narrow width of the lot prevents the applicants' compliance with the existing side yard requirements. The OP was further of the opinion that given the overall low lot occupancy of 26 percent and the compatibility of the plans with the existing character of the neighborhood, the proposed addition would not adversely affect the immediate neighborhood or the public good.

16. Advisory Neighborhood Commission (ANC) 3E, by letter dated April 13, 1989 and by representative at the public hearing, voted unanimously to support the granting of the application.

17. The record contains several letters in support of the application and several nearby property owners testified in support of the application at the public hearing. The letters in support include a statement from the owner of 4108 Garrison Street, immediately east of the subject property, offering no objection to the proposed addition.

18. The owner of 4112 Garrison Street, immediately west of the subject site, testified at the public hearing in opposition to the granting of the application. The bases for opposition are summarized as follows:

a. The width of the subject property is not exceptional in that other properties in the same square are essentially identical in terms of size, shape and topography.

b. The applicants would not suffer practical difficulties if the application were denied due to their ability to building a sizable structure as a matter-of-right.

c. The proposed two-story addition would adversely affect sun light and air to 4112 Garrison Street. Due to the ill health of the opposition's daughter, indirect sunlight to her bedroom window on the east side of 4112 Garrison Street is very important to her physical and psychological well being.

d. The proposed construction could damage or destroy an existing large maple tree in the rear yard of the opposition's residence.

19. The record contains a petition of ten signatures in opposition to the granting of the application. The owner of 4104 Garrison Street testified at the public hearing in opposition to the construction of any addition because of its impact on sunlight, whether constructed as a matter-of-right or with variance relief.

20. In addressing the concerns raised by the opposition, the Board finds as follows:

a. The exceptional condition of the property is not limited to the width of the site, but is inclusive of the size of the property and the siting of the existing dwelling on the lot at a time which pre-dates the current Zoning Regulations.

b. The applicants' inability to design and construct an addition as a matter of right which is compatible with the siting, circulation, architectural and plumbing features of the existing structure constitutes a practical difficulty upon the owners.

c. In response to opposition's concerns regarding the tree in his rear yard, the applicants offered at the public hearing to undertake necessary steps during construction to strengthen the tree's chance of survival and has agreed to bear the cost of its removal in the event that it does not survive.

Conclusions of Law and Opinion:

Based on the foregoing Findings of Fact and the evidence of record, the Board concludes that the applicants are seeking an area variance, the granting of which requires the showing of an exceptional or extraordinary condition of the property which creates a practical difficulty upon the owner. The Board concludes that an exceptional condition exists and that the applicants would suffer a practical difficulty if the Zoning Regulations were strictly applied. The narrow width of the lot, its depth and size, and the siting of the existing dwelling combine to create an exceptional condition of the property. The existing structure pre-dates the adoption of the Zoning Regulations and is currently nonconforming with respect to the side yard

requirements. Due to the narrow width of the lot and the configuration of the existing dwelling on the site, compliance with the eight foot side yard requirements would create a practical difficulty upon the owners in that the resulting addition would be too narrow to accommodate their needs and would result in negative impacts in terms of the effect of the existing architectural, circulation and plumbing patterns on any proposed addition to the dwelling.

The Board further concludes that the weight of the evidence of record is that the proposed addition will not substantially impair the intent, purpose and integrity of the zone plan and can be granted without substantial detriment to the public good. The proposed addition will result in a twenty-six percent lot occupancy, less than the forty percent permitted by the Regulations. The proposed addition will not exceed the height of the existing house and is designed to be compatible with the character of the neighborhood.

The Board concludes that it has afforded the ANC the "great weight" to which it is entitled. Accordingly it is hereby ORDERED that the application is GRANTED, SUBJECT to the CONDITION that construction shall be in accordance with the plans marked as Exhibit No. 7, as amended by Exhibit No. 30 of the record.

VOTE: 3-0 (Charles R. Norris, William F. McIntosh and Carrie L. Thornhill to grant; Paula L. Jewell not present, not voting).

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

ATTESTED BY:


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: JUL 24 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.

15003order/LJP50

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 15003

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 numbered case, said Order dated JUL 24 1969, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Paul & Sally Haskell
4110 Garrison Street., N.W.
Washington, D.C. 20016

Michael Duffy
4109 Garrison St, N.W.
D.C. 20016

John F. Dex
4104 Garrison St., N.W.
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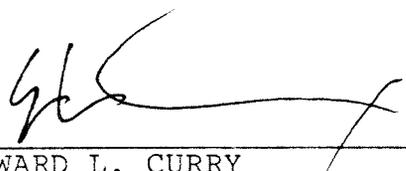
Paul Strauss, Chairperson
Advisory Neighborhood Commission 3-E
P.O. Box 9953, Friendship Station
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Aurelius K. Wilson
c/o McCants & Gerald
8701 Georgia Ave., Suite 801
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James W. Smith
4112 Garrison Street, N.W.
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Jack Gresham
4106 Garrison St, N.W.
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John McLaughlin
4117 Garrison St., N.W.
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EDWARD L. CURRY
Executive Director

DATE: _____