

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15122 Daniel Lashof and Diane Regas, pursuant to 11 DCMR 3107.2, for a variance from the allowable lot occupancy requirements (Sub-section 403.2) and a variance from the rear yard requirements (Sub-section 404.1) for a deck addition to a structure in an R-4 District at premises 1742 Hobart Street, N.W., (Square 2588, Lot 101).

HEARING DATE: September 22, 1989
DECISION DATE: October 4, 1989

Findings of Fact:

1. The property is located on the south side of Hobart Street between Mt. Pleasant Street and Adams Mill Road and is known as premises 1742 Hobart Street, N.W. It is zoned R-4.

2. The site is rectangular in shape with a frontage of 20 feet along Hobart Street and a depth of 85 feet. The total lot area of the site is 1,700 square feet.

3. The property is currently improved with a two story plus basement brick row dwelling. There is an 11 foot building restriction line at the front of the site. The site abuts a 15 foot wide public alley to the rear.

4. The applicants propose to construct a deck at the rear of the site which will extend from the rear of the dwelling at the first floor level to approximately three feet from the public alley to the rear and to replace the existing wooden stairs to the first floor level. The applicants are seeking variances from the lot occupancy and rear yard requirements of the Zoning Regulations to allow construction of the proposed deck.

5. The R-4 District permits a maximum lot occupancy of 60% or 1,020 square feet. The existing dwelling occupies 912 square feet of lot area. The proposed deck consists of 192 square feet and would result in a total lot occupancy of 1,104 square feet. A variance from the maximum lot occupancy of 84 square feet is therefore required.

6. The R-4 District requires a minimum rear yard of 20 feet. The existing dwelling currently provides a 19 foot rear yard. The construction of the proposed deck would result in a rear yard of three feet. A variance from the rear yard requirements of 17 feet is therefore required.

7. The surrounding area is generally developed with two-story, single family row dwellings constructed in the 1920's and

30's. The subject property is abutted to the east and west by lots of similar size, shape and topography which are developed with two story row dwellings consistent with the subject site. The rear yards of the adjacent row dwellings are used for patios or parking spaces with the exception of a one-story deck located to the west of the subject site.

8. The proposed deck would measure approximately 12 feet by 16 feet and would be level with the main floor of the existing dwelling, approximately 10 feet from the ground level of the rear yard. One parking space would be provided beneath the proposed deck.

9. The applicants testified that the rear yard of the existing dwelling does not provide for a convenient and secure play area for their children because of the 10 foot separation between the surface of the rear yard and the main living level of the dwelling, as well as the existence of a surface parking space in the rear yard area.

10. The applicants testified that the proposed deck would substantially improve the appearance of the rear of the property. The applicants further testified that the open design of the proposed deck would not interfere with the light and air to adjacent properties.

11. The Office of Planning (OP), by memorandum dated September 15, 1989, recommended that the application be denied. The OP was of the opinion that the applicants had not met the requisite burden of proof. The OP was further of the opinion that the subject lot is not unique with respect to size, shape and topography and that, because of its height, the proposed deck extension to within three feet of the property line would adversely impact the open space, privacy and use of adjacent and neighboring dwellings.

12. Advisory Neighborhood Commission (ANC) 1E did not submit a written recommendation on the application.

13. The owner of 1753 Harvard Street testified at the public hearing in opposition to the application. The opposition was generally based on the following:

- a. The proposed deck would overcrowd the existing small rear yard.
- b. The proposed deck would rise ten feet above alley level approximately eighteen feet from the rear property line of 1753 Harvard Street, substantially reducing the privacy of the rear yard of that dwelling.
- c. The majority of the other decks in the block cited by the applicants are located at the other end of the block and

may or may not have been legally constructed.

- d. The applicants have not met the burden of proof necessary to justify the granting of variance relief.

CONCLUSIONS OF LAW AND OPINION:

Based on the Findings of Fact and the evidence of record, the Board concludes that the applicants are seeking area variances, the granting of which requires a showing through substantial evidence 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 relief requested can be granted without substantial detriment to the public good and that it will not substantially impair the intent of the zone plan.

The Board concludes that the applicants have not met the requisite burden of proof. The subject site is bounded on both sides by similarly sized and developed lots and thus is not unique with respect to other properties in the immediate area. The existing rear yard is currently nonconforming. The proposed deck would increase the nonconformity of the rear yard substantially. In addition, the proposed height and dimensions of the deck could adversely impact on the light, air and privacy of adjoining and nearby properties.

The Board further concludes that granting the proposed relief will cause substantial detriment to the public good and will substantially impair the intent and purpose of the zone plan. Accordingly, it is hereby ORDERED that the application is DENIED.

VOTE: 4-1 (Charles R. Norris, Paula L. Jewell and William F. McIntosh to deny; William Ensign to deny by proxy; Carrie L. Thornhill opposed to the motion).

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

ATTESTED BY:



EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER:

DEC 26 1990

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE

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EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE
SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF
ZONING ADJUSTMENT."

15122order/BHS

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION NO. 15122

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a letter has been mail to all parties, dated DEC 26 1990 and mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Diane Regas
1742 Hobart Street, N.W.
Washington, D.C. 20009

Andrew F. DeVito
1753 Harvard Street, N.W.
Washington, D.C. 20009

Ken Fealing, Chairperson
Advisory Neighborhood Commission 1E
P.O. Box 43529, Columbia Hgts. Station
Washington, D.C. 20010

A handwritten signature in black ink, appearing to read "E. L. Curry", is written over a horizontal line.

EDWARD L. CURRY
Executive Director

DATE: DEC 26 1990