

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15409 of Troy Thompson, pursuant to 11 DCMR 3107.2, for a variance from the rear yard requirements (Sub-section 404.1) for the construction of a single-family dwelling in an R-2 District at premises 1012 Taylor Street, N.E. (Square 3890, Lot 120).

HEARING DATE: December 12, 1990
DECISION DATE: February 6, 1991

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The property which is the subject of this application is located on the northwest corner of 12th and Taylor Streets N.E. It is known as premises 1012 Taylor Street and it is located in an R-2 District.

2. The subject lot is rectangular in shape and is bordered by 12th Street on the east, Taylor Street to the south, a 15-foot public alley to the west and the side yard of an adjoining neighbor to the north. The lot contains 5,587 square feet in land area. It measures 109.59 feet in width along Taylor Street and 55 feet in depth along 12th Street. There is a 15-foot building restriction line along both street frontages. The grade of the lot slopes slightly downward toward the rear.

3. The area surrounding the subject property is characterized by two-story, single-family, detached houses, some of which have small garages abutting alleys that run to the rear of the properties.

4. The applicant proposes to develop the lot with a one-story with basement single-family dwelling. The structure shall also contain a one car garage accessible from the public alley. The structure will occupy 2,179.35 square feet of the lot. The side yard to the east will measure 15.5 feet and the side yard to the west will measure 8.5 feet. The dwelling will front on Taylor Street.

5. The R-2 District permits matter of right development of single-family detached and semi-detached dwelling units. For detached dwellings, the Zoning Regulations require a minimum lot area of 4,000 square feet, a minimum lot width of 40 feet, a minimum rear yard of 20 feet and side yards measuring at least 8 feet. There is also a maximum lot occupancy of 40 percent and a maximum height of three stories/40 feet.

6. The applicant's proposal meets all area requirements except the minimum rear yard requirement. The applicant is therefore requesting a variance from the rear yard requirement in the amount of 9.5 feet or 47.50 percent.

7. The applicant testified that he has arthritis and that the structure will contain only one story (besides the basement) because of this health condition. However, he indicated that because of the slope, the structure will appear to have two stories when viewed from the 12th Street side.

8. The applicant's builder testified that he and the applicant had the plans drawn and the survey done, and they were under the impression that the proposal complied with all applicable codes and Zoning Regulations. The builder stated that, as proposed, the front of the structure is to be set back five feet from the building restriction line. This factor contributes to the inadequate size of the rear yard. He testified that the structure could be built closer to the building restriction line to create more space at the rear. He testified that this option was not proposed because he was not sure it would have made much of a difference. Furthermore, the applicant has already spent a great deal of money to get this project started and to make the changes would require him to spend even more money. The builder requested that the application be granted to relieve the applicant of any additional financial burden.

9. The Office of Planning (OP), by report dated December 5, 1990 and through testimony at the hearing, recommended denial of this application. OP described the lot and the applicant's proposal. OP stated that the adjacent lot to the north and the lot across the alley to the west are similar in size and shape to the subject lot. Each lot is developed with a two-story, single-family, detached house that conforms to the Zoning Regulations for the R-2 District. OP stated that the other houses in the area either meet or exceed the minimum rear yard requirement of 20 feet. OP stated that the lot is a flat piece of property without any unique characteristics. Accordingly, OP believes that there is no practical difficulty on the property owner caused by the uniqueness of this property.

OP stated that the proposed rear yard of 10.5 feet would be out of character with this neighborhood. Consequently, granting the variance would impair the intent, purpose and integrity of the zone plan for the city and particularly for this R-2 District.

OP was of the view that the applicant could build a new house that does meet all of the requirements of the R-2 District regulations because the applicant has an oversized lot with no topographical constraints. Therefore, OP recommends denial of the application.

In testimony at the hearing, OP offered suggestions about how the applicant might bring his proposal into compliance with the Zoning Regulations. OP suggested that the garage could either be put in the basement or detached from the main structure.

10. The Board left the record open to afford the applicant an opportunity to respond to OP's comments by withdrawing the case or submitting revised plans that may lessen the variance, or in some way bring the project into compliance.

11. By memorandum dated November 19, 1990, the Fire Department stated that it has evaluated the variance request to determine its impact affecting emergency operations. Based on its review, the Fire Department stated that it has no objection to the application.

12. Advisory Neighborhood Commission (ANC) 5A did not submit an official written report on the application. ANC 5A submitted a letter dated December 10, 1990, authorizing one of its commissioners to testify at the hearing. Attached to this letter was a petition containing four signatures of 12th Street residents requesting denial of the application. The petition stated that any variance would destroy the colonial environment of the community and clutter the open space between existing homes.

13. No other persons or entities testified at the hearing on the application.

14. One letter of support was submitted into the record. Also, one letter opposing the application was received from the adjacent property owners to the north.

FINDINGS OF FACT:

1. The subject lot is similar in size and shape to properties located nearby.

2. The slope in topography will not prevent the development of a proposal that complies with the Zoning Regulations.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of record, the Board concludes that the applicant is seeking a variance from the minimum rear yard requirement to construct a single-family dwelling in an R-2 District. The granting of a variance requires a showing of substantial evidence of a practical difficulty upon the owner arising out of some extraordinary or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical condition. The Board further must find that the requested relief can be granted

without substantial detriment to the public good and that it will not substantially impair the intent, purpose or integrity of the zone plan.

The Board concludes that the applicant has not met this burden of proof. The Board concludes that financial hardship and physical illness are not evidence of the type of practical difficulty or unique circumstance that the Zoning Regulations describe. The uniqueness must relate to the property itself. The Board concludes that there is nothing unique or exceptional about the applicant's property that would create a practical difficulty for him in his effort to comply with the Zoning Regulations. Because the lot is vacant, the applicant can modify the current plans or redesign the structure to meet the applicable Zoning Regulations. Given this factor, the Board concludes that to grant the application would impair the intent, purpose and integrity of the Zoning Regulations and Map.

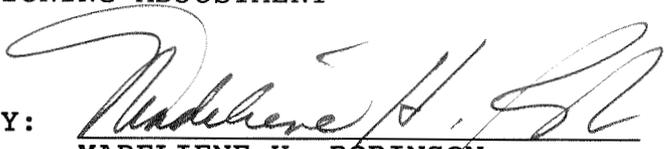
The Board concludes that ANC 5A did not submit a written report in compliance with 11 DCMR 3307.1. Therefore, "great weight" shall not be given.

In light of the foregoing, it is hereby ORDERED that the application is DENIED.

VOTE: 4-0 (Sheri M. Pruitt, Charles R. Norris, Paula L. Jewell and Carrie L. Thornhill to deny).

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

ATTESTED BY:


MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: _____

JUN 22 1992

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."

15409Order/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15409

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on June 22 1992 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Troy Thompson
1410 Perry Place, N.W.
Washington, D.C. 20010

Larry Simpson
5425 Old Temple Hill Road
Temple Hills, Maryland 20748

Brian K. Flowers, Chairperson
Advisory Neighborhood Commission 5-A
Slowe School Demountable
14th & Irving Streets, N.E.
Washington, D.C. 20017


MADELIENE H. ROBINSON
Acting Director

DATE: June 22 1992

15409Att/bhs