

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15474 of David E. Barbee and Constance A. Condrell, pursuant to 11 DCMR 3107.2, for a variance to allow an addition to an existing nonconforming structure that now exceeds the allowable lot occupancy requirements and does not meet the minimum side yard requirements; the addition will increase and extend the existing nonconforming lot occupancy and side yard, and will create a new nonconforming rear yard [Paragraphs 2001.3(a), (b), (c)], a variance from the lot occupancy requirements (Sub-section 403.2), a variance from the side yard requirements (Sub-section 405.9), and a variance from the rear yard requirements (Sub-section 404.1) for the construction of a carport and deck addition to an existing nonconforming semi-detached dwelling in an R-2 District at premises 4419 Harrison Street, N.W. (Square 1580, Lot 30).

HEARING DATE: March 20, 1991

DECISION DATE: May 1, 1991

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The subject site is located on the north side of Harrison Street, N.W. between 44th and 45th Streets. It is known as premises 4419 Harrison Street, N.W. and it is zoned R-2.

2. The lot is rectangular in shape and contains 2,068 square feet in land area. It is approximately 24 feet in width and 85 feet in length.

3. The lot is developed with a single-family, semi-detached dwelling built in 1953. There is a small porch/deck on the rear of the structure off from the kitchen. The property abuts an alley at the rear. The alley is about 1 1/2 feet below the grade of the house.

4. The applicants propose to construct a carport with a deck on top at the rear of the structure. The addition would measure 20' x 23'6". The carport would accommodate two cars. The middle of the deck would be about 8 1/2 feet above ground, and the portion of the deck that is closer to the house will be a little less than eight feet above ground. A fence will be placed around the deck. The height of the fence will vary from three feet to five feet. Applicants propose to cover the top of the deck with flowers and shrubs.

5. The applicants' lot and structure are currently nonconforming with respect to lot area, lot width, percentage of lot occupancy and width of side yard. The existing rear yard is in compliance with what is required.

Lot area. A lot area of 3,000 square feet is required in an R-2 District. The subject lot contains 2,068.05 square feet. The applicants' lot varies from the requirement in the amount of 931.95 square feet.

Lot width. In an R-2 District, the required lot width is 30 feet. The subject lot is 24.33 feet wide. The applicants' lot varies from the lot width requirement by 5.67 feet.

Lot occupancy. For an R-2 District, a 40 percent lot occupancy is allowed. In the subject case, the structure could occupy 827.22 square feet of the lot. The applicants' structure currently occupies 855 square feet of the lot. The proposed deck/carport will add another 470 square feet, for a total of 1,325 square feet of lot coverage. The applicants are therefore requesting a lot occupancy variance of 497.78 square feet.

Rear yard. In an R-2 District, a rear yard measuring at least 20 feet is required. The existing rear yard measures 30 feet. However, with the addition, only 10 feet of the rear yard will remain. A 10-foot (50%) rear yard variance is therefore requested.

Side yard. For a semi-detached dwelling in an R-2 District, the side yard must measure a minimum of eight feet in width. The existing side yard measures 5.33 feet. With the addition, only .5 feet (6 inches) will remain. The applicants are requesting a variance of 7.5 feet (95%).

6. Because the proposed construction will extend the existing nonconforming lot occupancy and side yard and will create a new nonconforming rear yard, the applicants are seeking a variance from the prohibition of such extensions.

7. At the public hearing the appellants testified that they live near Mazza Gallerie and to the rear of their property is the two-level parking lot of the Lord and Taylor department store. The store was there when they moved to the site in 1984. They stated that during the past several years, parking on the 4400 block of Harrison Street has become increasingly difficult because of the substantial increase in the density along Wisconsin Avenue in Friendship Heights. They further stated that the bus barn and the recent increase in the number of movie theaters add to the congestion. The applicants maintained that because of the congestion, often they must park their cars a substantial distance from their house. They testified that the proposed two-car carport

at the rear of their house would help the situation. The applicants stated that the deck will provide them with an area to use for social and recreational purposes.

8. The applicants testified that the lots on their side of the street are smaller than those across the street and in the general area. They believe that the small size of their lot creates a practical difficulty for them in their effort to comply with the Zoning Regulations. The applicants testified that their lot is similar in size, shape and topography to the other houses on their side of Harrison Street. They stated that their lot is not unique in itself but that all of the lots on their side are unique because they are smaller in size when compared to other lots in the surrounding area.

9. The applicants testified that the proposal will not have an adverse impact on the area. They believe it will have a positive impact because it will provide two off-street parking spaces and improve the general appearance of the space at the rear of their house. The applicants stated that because their lot slopes in the rear, their neighbors will see only the deck, not the carport. The applicants testified that their neighbors support the proposal.

10. The applicants testified that the proposal will not impair the zone plan because the area is zoned residential and the zoning is intended to preserve the residential quality of the neighborhood. The proposal is designed to reduce parking congestion and improve the appearance of the rear of the property. The applicant testified that this will fulfill the intent and purpose of the original zoning.

11. By memorandum dated March 13, 1991, the Office of Planning (OP), recommended denial of the application. OP described the location and dimensions of the subject lot. OP stated that across the alley to the north is the Lord and Taylor department store and parking lot which are shielded from view by a solid stockade fence. OP further stated that the neighborhood is primarily residential and is generally known as Friendship Heights.

In OP's opinion, the applicants have not meet the burden of proof. OP stated that the subject lot and the existing semi-detached dwelling are similar in size and shape to other adjoining properties in this block and are not distinguished from them for reasons of size, shape or topography. Furthermore, the existing structure on the subject site is marginally nonconforming with respect to lot occupancy. The proposed addition would increase this nonconformity considerably.

Accordingly, the Office of Planning finds no uniqueness in the subject property and, thus, no practical difficulty for the applicants in this case.

OP stated that the proposed addition would reduce the existing 30-foot rear yard depth to ten feet. A minimum rear yard depth of 20 feet is required in the R-2 District. In addition, the existing 5.33-foot wide side yard would be reduced to 6 inches. In OP's opinion, the proposed addition is excessive in size and would have a potential to reduce the air, light and privacy of neighboring properties. It would also seriously impair the R-2 District regulations. Therefore, OP recommends denial of the application.

12. The Office of Planning referred the application to the Department of Public Works, the D.C. Fire Department and the Metropolitan Police Department. By letter dated February 22, 1991, the Metropolitan Police Department stated that it does not oppose the application. Neither of the other two agencies responded to the referral.

13. Advisory Neighborhood Commission (ANC) 3E did not submit a written report on the application, nor did a representative of ANC 3E appear at the hearing to testify as a party in the application. However, a letter of support was received from the Single Member District Commissioner for ANC 3E-03. In his letter he indicated that he met with the applicants, reviewed their plans and discussed the plans with many of the applicants' closest neighbors. He believes that the applicants' side of the street is unique because of its location near the Lord & Taylor parking lot and because of the insufficient space available for parking. He stated that the applicants are trying to improve their property and as long as their neighbors do not object (and they appear not to) the applicants have his support.

14. A neighbor residing at 4410 Harrison Street, N.W. testified in support of the application. He testified that he lives across the street from the applicants and that on his side of the street the lots are large enough for off-street parking. He testified about the inconvenience of having to park on the street and the danger of having to park faraway from one's home, especially at night. The supporting neighbor also testified about the factors that cause the congestion nearby, including the location of the subway and bus stations in the area, the substantial increase of commercial businesses and the increase in the number of commuters that come from Maryland and park on their streets. He encouraged the Board to consider granting the application because of the inconvenience and danger of parking on the street.

15. No one appeared at the hearing as a party in opposition to this application.

FINDINGS OF FACT:

1. The subject lot is similar in size, shape and topography to other lots in the area.
2. There is a shortage of available space for parking in the area of the subject site.
3. The requested variance relief is excessive.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of record, the Board concludes that the applicants are seeking area variances to allow the construction of a two-car carport and deck addition to a single-family dwelling in an R-2 District. Granting such variances 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 application will not be of substantial detriment to the public good and will not substantially impair the intent, purpose and integrity of the zone plan.

The Board concludes that the applicants have not met this burden of proof. The Board concludes that the applicants' property is not unique. Rather, it is similar to other properties on the street in terms of size, shape and topographical conditions. Because the property is not unique, the first standard for granting an area variance has not been met.

Having concluded that the property is not unique, the Board concludes that it is unnecessary to address the remaining variance standards.

The Board concludes that since Advisory Neighborhood Commission 3E did not file a written report pursuant to 11 DCMR 3307.1, the views of the ANC are not entitled to "great weight".

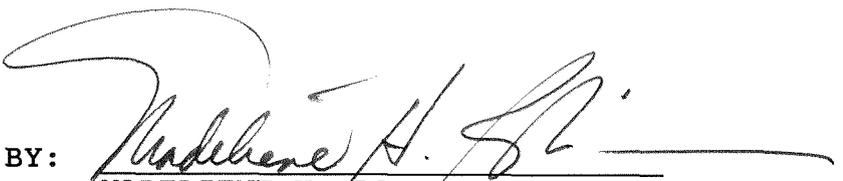
In light of the foregoing, it is hereby **ORDERED** that the application is **DENIED**.

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

BZA APPLICATION NO. 15474
PAGE NO. 6

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."

15474Order/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



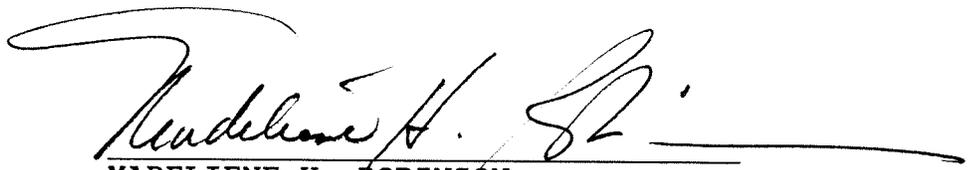
BZA APPLICATION NO. 15474

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JUN 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:

David Barbee
Constance Condrell
4419 Harrison Street, N.W.
Washington, D.C. 20015

Jack M. Reid
4410 Harrison Street, N.W.
Washington, D.c. 20015

James Curtin, Chairperson
Advisory Neighborhood Commission 3E
P.O. Box 9953
Washington, D.C. 20016


MADELIENE H. ROBINSON
Acting Director

DATE: JUN 22 1992

15474Att/bhs