

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15496 of Sam and R.D. Ansellem, as amended, pursuant to 11 DCMR 3107.2, for a variance to allow an addition to an existing nonconforming structure that does not meet the side yard requirements, and the addition will extend the nonconforming side yard [Paragraph 2001.3 (b) and (c)], and a variance from the side yard requirements (Subsection 405.9) for a deck and two-story addition to a nonconforming single-family detached structure in an R-1-B District at premises 3417 Fulton Street, N.W. (Square 1941, Lot 18).

HEARING DATES: April 17, September 11, and November 13, 1991  
DECISION DATES: December 4, 1991 and January 8, 1992

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The application was originally scheduled for the public hearing of April 17, 1991. At that public hearing, the staff advised the Board that the subject property is located within the area advertised for consideration by the Zoning Commission as part of the proposed Woodland-Normanstone Overlay District or the Tree and Slope Protection Overlay District. Staff requested deferral of the public hearing on the application pending resolution of the Zoning Commission consideration of the proposed map amendment in order to assure that proper notice of the application is given and that the correct zoning criteria is used in considering the applicant's request. The Board rescheduled the application for the public hearing of September 11, 1991.

2. By memorandum dated September 3, 1991, the Office of Planning submitted a supplemental report. The OP indicated that the subject property is not within the boundaries of the Woodland/Normanstone or Tree and Slope Protection Overlay District. Accordingly, the maximum allowable lot occupancy of the subject site would be 40 percent rather than 30 percent as permitted in the Tree and Slope Protection Overlay District. The proposed lot occupancy of the subject site would be 39.9 percent. Therefore, no variance from the lot occupancy requirements of the Zoning Regulations is necessary.

3. At the public hearing of September 11, 1991, the application was called in the order that it appeared on the public hearing agenda. There was no response from the applicants or their representative. The Board deferred consideration of the application and proceeded to hear other applications as scheduled.

4. Upon being contacted by telephone by staff, the applicant's representative appeared at the public hearing and testified that he was not aware that the subject application had been scheduled for hearing on that date. The applicant's representative requested that the public hearing be postponed to allow sufficient time for the submission of the prehearing statement and exhibits in support of the applicants' case. The Board rescheduled the application for public hearing on November 13, 1991.

5. The subject site is located at the northeast corner of the intersection of 35th and Fulton Streets and is known as premises 3417 Fulton Street, N.W. It is zoned R-1-B.

6. The subject site is topographically level and rectangular in shape with a frontage of 122.5 feet along Fulton Street and a depth of 55 feet for a total lot area of 6,737.5 square feet.

7. The site is developed with a single-family detached dwelling which was constructed circa 1925 and contains approximately 3,762 square feet of gross floor area. A detached garage is located at the rear of the property adjacent to a 15-foot wide public alley immediately east of the site. A 15-foot building restriction line is located along both the Fulton Street and 35th Street frontages of the lot.

8. The site is located in the Massachusetts Heights neighborhood of Ward 3. Observatory Circle and the U.S. Naval Observatory are located one block to the south of the site. The National Cathedral is located on a 12-acre site to the north of the site. The Cathedral and the Naval Observatory are major institutional facilities located in the Massachusetts Heights neighborhood. Normanstone Park and various chanceries and embassies are other major uses located primarily along Massachusetts Avenue. The predominant development of the area consists of single-family dwellings on lots that are 6,000 square feet or greater in area.

9. The applicant proposes to construct a two-story addition to the east side of the existing dwelling containing a family room and terrace on the first level and a bedroom and two bathrooms on the second level. The project also includes adding a sitting room, a closet and a bathroom above an existing enclosed porch on the west side of the dwelling. The proposed additions would add approximately 1,300 square feet to the existing dwelling for a total gross floor area of approximately 5,062 square feet. The only proposed excavation of the existing site would be a trench to accommodate the footings for the new terrace.

10. The subject lot is required to have a land area of 5,000 square feet as specified by the Zoning Regulations. The area of the subject lot is 6,737.5 square feet, exceeding the requirements of the Zoning Regulations by 1,737.5 square feet, or 26 percent. The lot is required to have a width of 50 feet; however, its width is 55 feet. As such, the lot's width exceeds the requirements of Zoning Regulations by five feet.

11. One parking space is required for each single-family dwelling in the R-1-B District. The applicants intend to retain an existing enclosed garage that is located at the rear of the premises; thereby, meeting the parking requirement of the Zoning Regulations.

12. The applicants are required to provide only one side yard of eight feet in width. A side yard is not required along a side street abutting a corner lot in a residential district. Two side yards are located on the subject property. A 20-foot wide side yard is located on the south side of the site, or the portion of the property that abuts Fulton Street. An existing three-foot wide side yard is located on the north side of the site. Because this side yard is narrower than the required eight feet, the applicants are seeking a variance of five feet or 62 percent from the minimum width of side yard requirement of the Zoning Regulations.

13. The Zoning Regulations require a 25-foot deep rear yard in the R-1-B District. The applicants are proposing to provide a 21-foot deep rear yard with the proposed addition. The Zoning Administrator has determined that the applicants need a variance of four feet or 16 percent from the minimum depth of rear yard requirement of the Zoning Regulations. The applicant testified that relocating the stairs to the terrace level from the rear yard to the side yard would eliminate the need for a variance from the rear yard requirements. The Board notes that the public notice regarding the subject case did not cite the need for variance relief from the rear yard.

14. The proposed two-story addition would extend 17.17 feet to the east of the existing structure and would be removed 3.42 feet from the northern property line. The proposed terrace would extend an additional 11 feet to the east. The materials and design of the proposed addition would be consistent with the existing structure.

15. The Office of Planning, by memorandum dated May 1, 1991, recommended approval of the application. The OP was of the opinion that the 15-foot wide building restriction lines located on two sides of the property, the 1925 construction date of the dwelling, and the existing nonconforming side yard on the north side of the property create a practical difficulty for the applicants. The OP was further of the opinion that the lot is large enough to

accommodate the proposed addition without adversely affecting neighboring properties or adversely affecting the topography and natural beauty of the area. The OP noted that the north side of the property is screened from the adjacent property with shrubbery and other landscaping.

16. Advisory Neighborhood Commission (ANC) 3C, by letter dated September 3, 1991 and by representative at the public hearing, opposed the granting of the application. The Advisory Neighborhood Commission was of the opinion that the applicant had not met the requisite burden of proof necessary to warrant the granting of variance relief. The ANC noted that strong objection to the proposed addition was registered by neighboring property owners, especially the owners of the property immediately adjacent to the side yard for which variance relief is sought.

17. The Metropolitan Police Department (MPD), by letter dated April 3, 1991, offered no opposition to the application. The MPD was of the opinion that the proposal would not affect the public safety in the general area nor generate an increase in the level of service now being provided.

18. The Department of Public Works (DPW), by memorandum dated April 5, 1991, offered no objection to the application. The DPW was of the opinion that the proposal would have no transportation impact.

19. The Department of Housing and Community Development (DHCD), by memorandum dated August 19, 1991, offered no objection to the granting of the application. DHCD was of the opinion that the proposed addition would not adversely impact on adjacent properties.

20. The owners of 2805 35th Street, the property immediate adjacent the subject site to the north, opposed the granting of the requested relief by correspondence received on September 6, 1991 and by testimony at the public hearing. The opposition was generally based on the adverse impacts that the proposed addition would have on existing avenues of light and air to their property and that it would otherwise alter the existing landscape.

**FINDINGS OF FACT:**

1. The Board finds that the applicant has met the requisite burden of proof necessary to justify the granting of the requested area variance relief.

2. The Board finds that the proposed addition does not increase the nonconforming aspects of the existing northern side yard and that the proposed extension of the side yard to the east

created by the proposed addition is slightly wider than the side yard provided adjacent to the existing dwelling.

3. The Board finds that the configuration of the existing dwelling on the site and existing vegetation provide adequate screening of the proposed addition from neighboring property owners.

4. The Board finds the applicant suffers a practical difficulty in complying with the Zoning Regulations. The structure was built with a three-foot side yard prior to the adoption of the present eight-foot side yard requirement of the Zoning Regulations. Further contributing to the applicant's practical difficulty are the 15-foot building restriction lines.

5. The Board finds that, provided the stairs to the terrace level are relocated from the rear yard to the side yard, the proposed addition will not result in any new nonconformity of the site with respect to use, height, lot occupancy or rear yard requirements.

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 area variances, the granting of which require a showing that the site is affected by an extraordinary or exceptional condition or situation, that the strict application of the Zoning Regulations will result in a practical difficulty upon the owner, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan.

The Board concludes that the applicants have met the requisite burden of proof. The property is affected by an exceptional condition or situation in that it was developed prior to the adoption of the 1958 Zoning Regulations and is nonconforming with respect to the northern side yard. The Board concludes that the existence of the building restriction lines and the existing configuration of the dwelling on the site combine to present a practical difficulty upon the owner in developing an addition to property in accordance with the existing Zoning Regulations.

The Board concludes that the large size of the existing lot, its separation from neighboring properties to the east, south and west by public streets and alleys, and the existing landscaping and shrubbery along its nonconforming northern side yard provides adequate separation and screening to prevent any adverse impacts on the surrounding neighborhood.

The Board concludes that the granting of the requested relief will not result in substantial detriment to the public good nor substantially impair the intent, purpose and integrity of the zone plan. The Board further concludes that it has accorded the ANC the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is hereby GRANTED.

VOTE: 3-0 (Maybelle Taylor Bennett, Paula L. Jewell, and Carrie L. Thornhill to grant; Sheri M. Pruitt and Charles R. Norris not voting, not having heard the case).

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

ATTESTED BY:



MADELIENE H. ROBINSON  
Director

FINAL DATE OF ORDER: \_\_\_\_\_

MAR 24 1993

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.

15496Order/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
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BZA APPLICATION NO. 15496

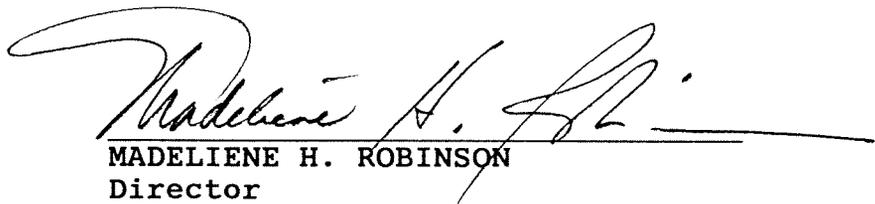
As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on MAR 24 1993 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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MADELIENE H. ROBINSON  
Director

DATE: MAR 24 1993

15496Att/bhs