

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15611 of Reginald and Louise Webb, pursuant to 11 DCMR 3107.2, for a variance from the lot occupancy requirements (Subsection 403.2), and a variance from the rear yard requirements (Subsection 404.1) for an addition to a semi-detached structure in an R-2 District at premises 706 Decatur Place, N.E. (Square 3789, Lot 9).

HEARING DATE: December 18, 1991  
DECISION DATE: February 5 and March 4, 1992

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The property which is the subject of this application is located at 706 Decatur Place, N.E. (Square 3789, Lot 9). It is located on the north side of Decatur Place between 7th Street and 7th Place. The lot is zoned R-2.

2. The lot contains 1,898 square feet in land area. It measures 26 feet wide and 73 feet deep. The rear yard measures 26 feet. The west side yard measures 7.6 feet.

3. The lot is improved with a two-story, semi-detached, single-family dwelling with a footprint of 604.89 square feet.

4. The applicant proposes to construct an addition on the first floor of the property at the rear. The addition would be used as a powder room and sun-room for one of the residents who uses a wheelchair for mobility.

5. The first floor contains a living room, dining room and kitchen. The new addition would be accessible from the dining room. It would occupy an additional area of 159.15 square feet. With the addition, the structure would exceed the allowable lot occupancy by 4.85 square feet or .25 percent.

6. With regard to uniqueness, the applicant stated that a neighborhood survey revealed that while lots on Decatur Place, N.E. are of similar dimensions to his lot, lots on other nearby streets such as Crittenden, Decatur, Buchanan and Delafield have rear yard depths extending 50 to 100 feet. He stated that those lots are substantially larger than his own.

\*Vote corrected, page 6.

The applicant indicated that he is unsure of what is meant by "neighborhood" when examining property for its comparative uniqueness. However, he asked the Board to consider his property in light of the larger neighborhood rather than its immediate surroundings.

7. The applicant maintains that the extreme practical difficulty lies in the nonconforming nature of the subject lot dimensions. The applicant stated that if the lot conformed to the lot width, lot occupancy and side yard zoning requirements, he would be able to construct the addition without zoning relief. He believes therefore, that the nonconforming nature of the lot creates a practical difficulty in making reasonable use of his property. The applicant argued that it is a hardship on him as the owner of the property for the Board to require strict conformance to the current regulations without some consideration of the nonconforming dimensions of the lot.

8. Also regarding practical difficulty, the applicant stated that as the property is currently configured, an addition extending six feet to the rear would be allowed as a matter-of-right. However, the floor plan for a six-foot addition would only provide the minimum amount of space necessary for wheelchair maneuvers. A six-foot addition would not provide adequate space needed for sleeping accommodations. The applicant pointed out that there is a need to design the space to allow the wheelchair-bound resident to spend 90 percent of her time on the first floor level. She will be unable to traverse the stairs to access sleeping facilities. However, if the variance is denied, she will have to go upstairs to sleep. This will cause a hardship on the owners of the property.

The applicant further stated that allowing him to use only the six feet of space would limit furniture arrangement and layout options for the space. First, only about 5 1/2 feet of functional area would remain because construction materials would occupy some of the space. A basic sofa, loveseat or chair would take up a minimum of 30 inches, leaving only about 36 inches. This would be the only space left for an access aisle or for mobility. The applicant maintains that without the additional 4.85 square feet, the space would not be as functional and would amount to little more than a closet.

9. In designing the addition, the applicant's architect was careful not to disrupt certain features at the rear of the property including existing landscaping and a brick landscape box; a concrete deck area used for outdoor activities; and the rear exit from the lower level basement.

The architect pointed out that the applicants wish to leave the living room, dining room and kitchen in its present

configuration. However, if the variances are denied, they may have to reconfigure some of the existing space to make adequate room to suit their needs.

10. The applicant pointed out that the lot occupancy would be increased by only .25 percent and the rear yard would be reduced by only 3.5 feet. He maintains that the variance relief is very minor and will not impair the intent, purpose or integrity of the zone plan.

11. By memorandum dated December 10, 1991, and through testimony at the hearing the Office of Planning (OP) recommended denial of the application. OP stated that the area surrounding the site is characterized by residential properties which are similar to the subject site in terms of lot dimensions, lot area and housing type. OP stated that the subject lot totals 1,898 square feet in land area, which is 1,102 square feet less than the minimum requirement of 3,000 square feet in an R-2 District. The existing lot width is 26 feet, or four feet less than the minimum R-2 District requirement of 30 feet. The existing lot occupancy of the subject dwelling totals 604.89 square feet, or 31.87 percent. In an R-2 District, a maximum lot occupancy of 40 percent is permitted.

OP stated that with the proposed powder room and sun-room, addition, the lot occupancy of the dwelling would increase to 764.04 square feet, or 40.25 percent (4.84 square feet over that which is permitted). The lot's existing rear yard depth is 26 feet, or six feet greater than the R-2 District's minimum depth requirement of 20 feet. If the proposed addition is constructed, the rear yard depth would decrease to 16.5 feet, or 3.5 feet (18 percent) less than the required minimum.

OP indicated that it can find no practical difficulty for the applicants if the application is not granted. In OP's view there exists no uniqueness to the subject property in terms of its physical characteristics or any characteristics extraneous to the property. The property is similar to many other properties in the immediate neighborhood.

Based on its analysis of the relief requested, OP is of the opinion that the proposed addition would not be in compliance with the existing R-2 District regulations. Although the relief requested is minimal, the applicants could build an addition to the rear of the subject dwelling as a matter-of-right if the addition extended six feet from the back of the dwelling rather than the 9.5 feet as proposed. This would maintain a 20-foot deep rear yard, the required minimum in an R-2 District. In addition, a six-foot extension onto the rear of the dwelling would also eliminate the need for a variance from the lot occupancy limitation of the R-2 District.

In addressing the applicant's claim that a six-foot addition would be inadequate, OP testified that it has not redesigned the interior of the house to address that specific question, but it is of the opinion that the six-foot space could accommodate the applicant's needs even though it may be more costly. In OP's view the application should be denied.

12. Advisory Neighborhood Commission (ANC) 5A submitted a letter dated December 11, 1991 indicating that the ANC voted not to oppose the application. Because this letter lacked certain required information it did not constitute an official report.

At the public hearing a representative of ANC 5A requested approval of the application and asked the Board to leave the record open for the submission of an official report from the ANC. The Board granted the ANC's request to leave the record open.

The ANC submitted a report dated January 28, 1992, setting forth the standards for area variance relief. The ANC stated that in the subject application the exceptional situation or condition which causes practical difficulties for the applicants is as follows:

- a) The structure is currently nonconforming as to lot area, lot width and side yard;
- b) The addition is necessary to provide additional first floor living space due to the medical condition of residents;
- c) Because of the small size of the lot and existing nonconformities, there is no practical alternative location for the addition;
- d) Conformance with rear yard requirements would result in unusable space approximately 4.5 feet in depth;
- e) The building restriction line at the front precludes addition in that direction and would be incompatible with other residences.

The ANC stated that the combination of the above cited burdens should be sufficient to meet the requirement that there be an extraordinary or exceptional situation or condition about the property. The ANC stated that the property also contains landscaping and brickwork not found on adjacent properties. The ANC further stated that the applicants' property is not subject to the same conditions as most other properties within this particular R-2 zoning district because most of the other lots meet the

requirements of the zone and are not nonconforming. Because this is an area variance and not a use variance, it must only be shown that compliance with the area restrictions would be unnecessarily burdensome. Finally, ANC 5A reemphasized its support for the application.

13. No other person or entity appeared at the hearing in support of or in opposition to the application.

**FINDINGS OF FACT:**

Based on the foregoing summary of evidence the Board finds as follows:

1. The subject property is similar in size and shape to other properties in the immediate area.

2. The current location of all sleeping facilities (bedrooms) on the second floor of the structure does not create a problem for the owner of the property who needs to use a wheelchair and who needs to be able to spend 90 percent of her time on the first floor level.

3. The six-foot matter-of-right space will be adequate to provide for a powder room, wheelchair maneuvering and possibly a chaise lounge.

4. The nonconforming dimensions of the property do not prevent the applicants from constructing an addition large enough to meet their needs.

5. Adding a powder room to the property will allow for reasonable use of the property by the owners. The sun-room is not needed but is desired only as a matter of convenience.

**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 construct an addition at the rear of their property. The granting of 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 property is not unique. The Board further concludes that there is nothing about the lot or the structure that constitutes an exceptional condition that creates a practical difficulty for the owners of the property. The Board concludes that the applicants seek to construct the sun-room as a matter of convenience rather than need.

While the Board is of the opinion that the variances requested are minor. The Board concludes that to grant the relief as a matter of convenience when an adequate addition can be built as a matter-of-right, would impair the intent, purpose and integrity of the zone plan.

The Board concludes that it has accorded ANC 5A the "great weight" to which it is entitled.

In light of the foregoing, the Board **ORDERS** that the application is hereby **DENIED**.

**VOTE:** 3-1 (Angel F. Clarens, Sheri M. Pruitt and Paula L. Jewell to deny; Carrie L. Thornhill opposed to the motion; Tersh Boasberg not present, not voting).

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

ATTESTED BY:   
MADÉLIENE H. ROBINSON  
Acting Director

FINAL DATE OF ORDER: JAN 7 1993

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."

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15611

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JAN 7 1993 a copy of the corrected 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:

Mr. & Mrs. Reginald H. Webb  
706 Decatur Place, N.E.  
Washington, D.C. 20017

Charles D. McNear  
1106 Kings Valley Drive  
Mitchellville, Maryland 20721

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

A handwritten signature in cursive script, reading "Madeliene H. Robinson".

MADELIENE H. ROBINSON  
Acting Director

DATE: JAN 7 1993

15611Att/bhs