

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15634 of Mary E. Stansel, as amended, pursuant to 11 DCMR 3107.2, for a variance from the lot occupancy requirements (Subsection 403.2), for a detached accessory garage for a single-family dwelling in an R-4 District at premises 514 G Street, N.E. (Square 833, Lot 29).

HEARING DATE: March 11, 1992
DECISION DATES: April 8, and May 6, 1992

ORDER

The application was amended to eliminate the variance from the rear yard requirements (Subsection 404.1) and the variance from the minimum width and area of the closed court requirements (Subsection 406.1). These variances were eliminated because the applicant removed the garage-top deck from her proposal.

SUMMARY OF EVIDENCE OF RECORD:

1. The property which is the subject of this application is located on the north side of G Street N.E. between 5th and 6th Streets. The address of the property is 514 G Street, N.E. It is located in an R-4 District.

2. The subject site is located in Square 833 in the Stanton Park neighborhood of Ward 6. The boundaries of the subject square are H Street N.E. to the north, G Street N.E. to the south, 6th Street N.E. to the east and 5th Street N.E. to the west. In the vicinity of the site, G Street N.E. forms the boundary line that separates Ward 2 and Ward 6. The subject property is located three blocks to the east of Union Station and one block to the south of the H Street commercial corridor.

3. The subject property is rectangular in shape and contains 1,663 square feet in land area. It is 17.5 feet in width and 95 feet deep. The lot is improved with a two-story, brick rowhouse that contains 2,565 square feet in gross floor area. The dwelling occupies 997.8 square feet, or 60 percent of the lot. There is a porch and stairs located at the rear of the dwelling.

4. The applicant proposes to construct a one-car garage at the rear of the property, with an open deck on top of the garage. New access steps would be built to extend from the existing back porch of the house to the roof-top deck. The applicant stated that Board approval is required for the garage but not for the deck. The garage would measure about 375 square feet and the exterior stairs would occupy approximately 45 square feet of space.

The maximum lot occupancy for the R-4 District is 60 percent, or 997.80 square feet in this case. The proposed garage and stairs would increase the total lot occupancy to 1,211.75 square feet. The applicant is therefore requesting a variance of 213.95 square feet from the maximum allowable lot occupancy requirements.

5. The minimum rear yard requirement for the R-4 District is 20 feet. With the proposed garage, only 6.5 feet of the rear yard will remain. The applicant is therefore requesting a rear yard variance of 13.5 feet or 65.5 percent.

6. The construction of the proposed garage would create two closed courts on the subject premises. One court on the east side of the property would be L-shaped, widening from 4.5 feet alongside the dwelling to 7.0 feet at the rear of the house. The court along the west side of the lot would be 6.0 feet in width. The Zoning Regulations require a minimum closed court width of 15 feet. The applicant requests two variances for the east side - one for 10.5 feet or 70 percent, and the other for 8 feet or 53 percent. For the west side court, the variance request is for 9 feet or 60 percent.

7. A minimum area of 350 square feet is required for a closed court in an R-4 District. The closed courts would have areas of 90 square feet and 183.5 square feet. Both courts will be smaller than required. Therefore, the applicant is seeking two variances from the minimum area of open court requirements one variance is for 260 feet, 74.3 percent and the other is for 166.5 square feet, 47.6 percent.

8. The applicant maintains that her application meets the requirements for the variance relief requested. She stated that her lot is substandard in area and width and that these substandard conditions create a hardship for her in making reasonable use of the property.

9. The applicant stated that while about five other lots in the vicinity contain approximately the same amount of land area, the rear yards of the properties are configured differently from her own. She stated that the property at 520 G Street is much shorter than the other five lots. It has an extended wooden deck on two levels. The main structure at 520 G Street is attached to the shelter located at 700 6th Street. This shelter is a taller and larger structure. At 700 6th Street the garage is still intact with a deck on top. The deck also extends to the second story.

The rowhouses at 518 and 516 G Street have rear additions on the first and second levels. The rear property line at 518 G Street extends beyond those of 516 and 520 G Street.

OP stated that it is sympathetic to the applicant's need for security. However, OP is of the view that the property is not unique. OP stated that although the subject property is sub-standard relative to the lot area and lot width requirements of the R-4 District regulations, a practical difficulty does not appear to exist in the applicant's ability to reasonably develop the property. Several other lots in the same square have similar dimensions. As a result, there appears to be no significant unique characteristics associated with the property.

OP stated that pre-1958 maps indicate that a detached garage existed on the property. However, OP has not been able to determine when the previous garage was razed or the circumstances associated with its demolition. Currently, there is no garage on the applicant's property nor are there garages on the abutting neighbors' properties. However, garages presently exist on other properties that are located in the subject square. OP believes that the proposed garage is not likely to impact the area adversely.

Instead of the proposed garage, however, OP suggested that the applicant could erect a security gate that would cover the entire width of the lot and would open and close automatically like a garage door. OP stated that such a gate could be erected even in an historical district.

13. OP referred the application to the following government agencies for review and comment:

1. Department of Public Works;
2. Fire and Emergency Medical Services Department;
3. Metropolitan Police Department;
4. Department of Consumer and Regulatory Affairs;
5. Department of Housing and Community Development (DHCD); and
6. D.C. Public Schools

Responses were received from the Fire Department and from DHCD.

14. By memorandum dated February 4, 1992, the Fire Department stated that it has evaluated the subject application to determine its impact on emergency operations. Based on its review, the Fire Department has no objection to the request for variances. However, the department stated that fire and safety features such as fire alarms, sprinkler systems, standpipe systems, exits, fire rated separations, fire extinguishers and other safety features required by city codes, shall be determined during the plan review process as part of the building permit application review.

The remaining rear yard of 516 G Street is totally landscaped and has a ground-level cedar deck and ornamental fish pond and raised planting beds.

The applicant stated that the rear of 512 G Street appears to be similar to her own. However, there are some distinctions. At 512 there is no entrance to the basement. There is a series of six wooden props in a horizontal line supporting the owner's grapevine. There is also a small vegetable garden on the property at 512 G Street. The applicant's property does not have wooden props or a garden. She does have a basement entrance and her property is the only one with a wrought iron back porch. There is also a second story veranda with iron main-level steps and wrought iron railings at the second, main and basement levels.

The applicant stated that her rear yard is uniquely shaped because of the retaining wall that protrudes out near the rear entrance to the English basement and because of the 20-foot long, 4 to 5-foot wide strip of space along the east side of the house. She stated that when all of the inherent features of the property are combined with the location of the existing structure, they create a practical difficulty for her in her efforts to reasonably develop the property in accordance with the Zoning Regulations. Therefore, as the owner, she is deprived of reasonable use of the property.

10. The applicant stated that she has support from one of her next door neighbors as well as other neighbors in the square. She also pointed out that ANC 2A is in support of the proposal. She stated that a garage previously existed on the lot and the proposed garage will not have an adverse impact on the area.

11. In addition to addressing the characteristics of the subject property and the practical difficulties created thereby, the applicant testified that she also needs the garage for safety and health reasons. She stated that crime is prevalent in her neighborhood. There have been many attempts to break into her house and her car has been vandalized several times. To protect her car from vandalism, she has parked her car at a location away from the house. However, she found the eight-block distance to the house to be too far to walk given that she has trouble with her knees. The applicant believes that her property is targeted more than other properties and the garage would help her protect her car from further vandalism. The garage would also keep her from having to walk great distances to get to and from her car.

12. The Office of Planning (OP), by report dated March 3, 1992 and through testimony at the hearing, recommended denial of the application unless the applicant can establish that the property is unique, that there exists a practical difficulty and that the community is supportive of the proposal.

15. By memorandum dated February 13, 1992, the Department of Housing and Community Development stated that it has determined that the proposed construction will not have an adverse impact on the adjacent properties. Therefore, DHCD has no objections to the proposal.

16. The subject property is located within Advisory Neighborhood Commission (ANC) 2C and is in close proximity to ANC 6A. The Board waived the rules to accept into the record the report of ANC 2C dated March 6, 1992. In its report, ANC 2C expressed its support for the application. The ANC pointed out that a garage previously existed on the subject lot and on other lots on the street. To grant the proposal would allow the applicant to replace this structure on her lot. Also, the garage would keep the applicant from having to find a parking space in an area where parking is difficult to find in the evenings.

17. In testimony at the hearing, the Single Member District representative for ANC-2C15 pointed out that the construction of a garage would allow one vehicle to be removed from the street, thus reducing the competition for on-street parking. She also stated that for new construction, one off-street parking space is required per unit. In her view, the proposed garage will enhance the property value of the house, therefore possibly increasing the tax assessment on the structure. This would create a tax benefit to the city. She supported granting the application.

18. The subject property is located in close proximity to ANC 6A. By letter dated March 8, 1992, ANC 6A expressed its opposition to the application. The ANC stated that currently, there are no garages along the applicant's side of the 500 block of G Street, N.E. and there are only six garages in the entire square which contains 30 houses. The new garage would occupy most of the existing back yard from the back of the house to the new structure. ANC 6A further stated that at least eleven neighbors adjacent to the applicant's property oppose the roof-top deck because it would significantly affect their privacy. The ANC pointed out that there are also three neighbors in the square along 6th Street whose backyards are near the applicant's backyard, who oppose the variance requests. Based on the opposition expressed by neighbors ANC 6A requested denial of the application.

19. One neighbor residing at 501 G Street, N.E. testified in opposition to the application. She stated that she was testifying on her own behalf and on behalf of her neighbors who also oppose the application. She testified that they oppose the garage mainly because it will block the light and air of the open area in the back. She testified that now one can see clear through to 4th Street and over to 6th Street. There are no garages on that side of the street. She indicated that the corner houses on both sides

of G Street have garages. However, the garage at 5th and G Streets is quite small and the garage at 6th and G Streets is connected to the house and therefore does not extend far into the rear yard.

This neighbor testified that there is an air conditioning unit compressor located between her house and the applicant's house. For a long period of time there has been a problem with heat building up around that area. When it gets extremely hot it tends to blow a fuse. She stated that the recommendation was to increase the air flow around the unit so that heat would not build up. She stated that they tried removing one of the wood sections of the fence but this did not correct the problem. She stated that different sized fuses were placed in the unit and it appears to work properly now. However, there is still some concern about its operation. She believes that the obstruction of air flow from the larger area in the yard and the lack of air exchange around the yard might contribute to the heat build-up. She believes, therefore, that the garage structure would further obstruct the flow of air and have an adverse impact on the air compressor.

21. At the public meeting of April 8, 1992, the Board considered the application as it was originally proposed. The Board expressed some concern about the impact that the deck might have on the neighborhood in terms of invasion of privacy. The Board was also concerned that the proposed garage would extend across the entire rear yard and that one could not gain access to the house from the alley except through the garage. The Board decided to request that the applicant revise the plans eliminating the deck and reducing the size of the garage to allow a passageway on the side. The Board deferred final decision on the matter until its public meeting of May 6, 1992.

On April 23, 1992, the applicant submitted revised plans marked as Exhibit No. 36A of the record. These revised plans reduce the width of the structure to 14.6 feet and creates a 3-foot passageway. The deck and stairs were eliminated.

The Board referred the revised plans to the Zoning Administrator for review. By memorandum dated May 4, 1992. The Zoning Administrator responded to the revisions. The Zoning Administration stated that the applicant would now need only one type of relief - a variance from the allowable percentage of lot occupancy requirements, Section 403.2. The lot occupancy variance would be for 89.85 square feet or 9 percent as opposed to 213.95 square feet or 21.4 percent as originally proposed.

Advisory Neighborhood Commission 6A responded to the proposed revisions by letter dated April 27, 1992. The ANC reiterated its opposition to the construction proposed and stated that a new garage in a block of open back yards would adversely affect all of the adjoining properties by restricting light and air.

The application was amended to eliminate the request for the variance from the rear yard requirements and the variance from the minimum width and area of the closed court requirements.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds as follows:

1. The rear yards in the vicinity of the subject site are configured differently from the applicant's rear yard.
2. There are decks on some of the properties in the square.
3. On-street parking is difficult to find in the area of the subject site.
4. Criminal activity is prevalent in the area.
5. The revised plans reduce the size of the garage. This revision allows for more light and air to pass through the property. Eliminating the deck adequately addresses the invasion of privacy concerns.

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 allowable percentage of lot occupancy requirements to construct a one-car garage in an R-4 District. Granting such a variance 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 applicant has met the burden of proof. The Board concludes that the subject property is substandard with regard to lot area and lot width and these substandard conditions were created several years prior to the enactment of the Zoning Regulations. The Board concludes that the properties located adjacent to the subject lot are owned by the applicant's neighbors. Therefore, the size of the subject lot cannot be increased to create a conforming lot.

The Board concludes that the rear yard is unique in shape because of the rear entrance to the English basement, the protruding retaining wall and the 20-foot long, 4.5-foot wide strip of space along the east side of the house. The Board is of the opinion that these conditions and features create a practical difficulty for the owner in developing the property in accordance with the Zoning Regulations and Map and deprives the owner of reasonable use of the property.

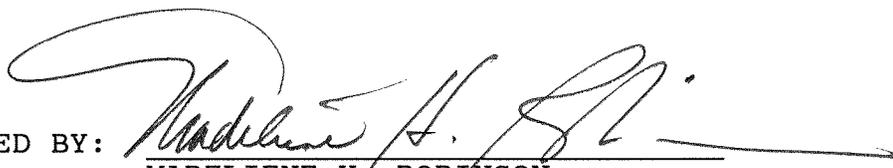
The Board concludes that the revised plans reduced the variance relief needed. Eliminating the deck also eliminated the staircase that would have required an additional 45 square feet in lot occupancy. The Board concludes that reducing the width of the garage allows for access to the interior of the lot without going through the garage. The Board further concludes that a garage previously existed on the lot and that garages are currently located on some of the lots within the square. The Board concludes, therefore, that granting the proposal will not impair the intent, purpose and integrity of the zone plan.

The Board has accorded ANC 2C the "great weight" to which it is entitled.

In accord with the foregoing the Board concludes that the application is hereby **GRANTED**, **SUBJECT** to the **CONDITION** that construction shall be in accordance with the revised plans marked as Exhibit No. 36A of the record.

VOTE: 4-0 (Angel F. Clarens, Paula L. Jewell and Carrie L. Thornhill to grant; Sheri M. Pruitt to grant by proxy; Maybelle Taylor Bennett not present, not voting).

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

ATTESTED BY: 
MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: NOV 18 1992

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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.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15634

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on NOV 18 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:

Jeri Berc
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A large, stylized handwritten signature in black ink, appearing to read "Madeliene H. Robinson".

MADELIENE H. ROBINSON
Acting Director

DATE: NOV 18 1992