

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15661 of Roger C. Andrews, pursuant to 11 DCMR 3107.2, for a variance from the allowable percentage of lot occupancy requirements (Subsection 403.2), a variance from the width and area requirements of a closed court (Subsection 406.1), and a variance from the setback requirements [Paragraph 2300.2(b)] for construction of an accessory garage in an R-4 District at premises 19 R Street, N.E. (Square 3521, Lot 87).

HEARING DATE: June 10, 1992
DECISION DATE: July 1 and July 29, 1992

ORDER

SUMMARY OF EVIDENCE

1. The property is located on the south side of R Street between Lincoln Road and 1st Street and is known as premises 19 R Street, N.E. It is zoned R-4.

2. The property is rectangular in shape with a frontage of 17 feet along R Street and a depth of 90 feet for a total lot area of 1530 square feet. The site abuts a 20-foot wide public alley to the rear.

3. The site is currently improved with a two-story plus basement row dwelling and a partially-constructed garage.

4. The property is located in the Eckington neighborhood. The surrounding neighborhood is primarily developed with single-family row dwelling and flats.

5. The topography of the site slopes downward from north to south for a total grade change between the front and rear of the site of approximately 8.5 feet.

6. At the time of the applicant's purchase of the property in September 1988, the existing residence was in a deteriorated state. The rear of the property was improved with the foundation of an old one-car garage and steps from the residence to the ground level in the rear. Both the steps and foundation were in disrepair.

7. The applicant testified that the garage foundation was used as a patio by the previous owner and was used as a storage area and parking pad by the applicant. The walls of the garage foundation also served as retaining walls for the adjoining property.

8. The applicant proposes to construct a two-car concrete block garage with storage space and a roof deck which would attach to the existing deck at the rear of the dwelling. Construction of the deck commenced without appropriate building permits and is approximately 85 percent complete. The applicant is currently seeking variance relief in order to complete construction of the garage.

9. The proposed garage measures approximately 17 feet by 20 feet in area and is approximately 14.5 feet tall at its highest point. The R-4 District allows for a maximum lot occupancy of 60 percent for a row dwelling and accessory structures. The permitted lot occupancy of the subject site would be 918 square feet. The existing lot occupancy of the site is approximately 850 square feet. The proposed lot occupancy, including the existing dwelling, deck and proposed garage, would be 1,465.98 square feet or 95.8 percent. A variance of 547.98 square feet or 35.8 percent is therefore required.

10. The construction of the deck and proposed garage creates a closed court measuring approximately 4.4 feet by 18.4 feet for a total area of approximately 81.12 square feet. The minimum width of closed court in an R-4 District is 15 feet. A variance from the court width requirements of 10.6 feet or 70 percent is therefore required. The minimum area of the closed court would be 350 square feet. A variance from the court area requirements of 268.88 feet or 76.8 percent is therefore required.

11. The R-4 District requires that an accessory garage must be set back from the center line of the adjacent public alley a minimum of 12 feet. The proposed garage would be constructed at the rear property line measuring ten feet from the center line of the adjacent alley. A variance of two feet or 16.6 percent is therefore required.

12. The applicant testified that the subject site is affected by an exceptional condition due to its substandard size, the change in topography from front to back, and the existing grading of the rear yard. In addition, the applicant testified that the existing grading makes the rear yard of the subject site several feet lower than the adjoining lots so that the previously existing retaining walls need to be replaced.

13. The applicant testified that the construction of the proposed garage and deck converts an existing open court into a closed court. The proposal does not change the existing court dimensions. In order to meet the minimum court width and area requirements, the applicant would be forced to raze a portion of the existing dwelling.

14. The applicant testified that the proposed construction needs to extend to the rear property line in order to provide a retaining mechanism or wall to protect the adjoining properties due to the change in grade level between the subject site and the adjacent lots.

15. The applicant testified that the proposed garage would enhance the security of his property. The applicant indicated that the adjacent alley has been the scene of various crimes and unsavory activities. In addition, the applicant has had his own property and vehicles vandalized. The project would provide protection for the applicant's vehicles, would provide a secure entry to the dwelling from his vehicles, and the roof top deck would provide secure outdoor living space.

16. The applicant testified that he informed all of the neighboring property owners of the proposed garage prior to and during the construction process and was not informed of any objections to the proposal.

17. The Office of Planning (OP), by memorandum dated June 2, 1992, recommended that the application be denied. The OP was of the opinion that the applicant has not met the requisite burden of proof. The OP was further of the opinion that the proposed garage is inconsistent with the character of the area and would have a negative impact on the privacy of adjacent property, as well as other properties in the immediate area.

18. The D.C. Metropolitan Police Department (MPD), by memorandum dated March 26, 1992, offered no opposition to the application. The MPD was of the opinion that the proposal would not affect the public safety in the immediate area nor generate an increase in the level of police services now being provided.

19. The D.C. Fire Chief, by memorandum dated May 22, 1992, offered no objection to the proposal based on the Fire Department's evaluation of its impact on emergency operations.

20. Advisory Neighborhood Commission 5C, by letter dated June 9, 1992, and by representative at the public hearing, opposed the granting of the application. The ANC expressed its concurrence with the recommendation of the Office of Planning and noted the opposition expressed by neighboring property owners.

21. The record contains approximately 16 letters in support of the application from nearby property owners. The letters do not identify the basis for supporting the project.

22. The record contains approximately 19 letters in opposition to the granting of the application. In addition, the owner of the adjoining property at 17 R Street, N.E. appeared at

the public hearing in opposition to the project. The opposition is generally summarized as follows:

- a. The height of the garage is excessive, exceeds the 15-foot height limit, and is not in character with existing development along the public alley.
- b. The height of the garage blocks light and air to adjacent properties.
- c. The proposed garage blocks the view of the public alley from the rear of the adjacent residence.

The neighboring property owner noted that the opposition would be withdrawn if the height of the garage were reduced by four feet and the existing four-foot brick wall around the deck were replaced with railing in keeping with the railing on the existing deck.

FINDINGS OF FACT:

1. The Board finds that the subject property is not unique and is similar in size and improvements to the majority of lots in the subject square.

2. The proposed height of the structure, including the four-foot wall around the deck, would adversely impact the provision of light, air and privacy of the adjoining property owners.

3. The proposed lot occupancy of 95.8 percent is excessive and is not in keeping with surrounding development or the provisions of the R-4 District.

4. The excavation of the rear yard by a previous owner which results in a change in grade between the front and rear of the subject site and the adjoining properties can not be considered an exceptional or extraordinary condition inherent in the property itself.

5. The applicant can seek other remedies to provide the security measures desired to protect the rear of his property and to provide parking on the site.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board conclude that the applicant is seeking area variances, the granting of which require a showing, through substantial evidence, of an exceptional or extraordinary condition inherent in the property itself which creates practical difficulties for the owner. The Board must further find that the relief requested can be granted without substantial detriment to

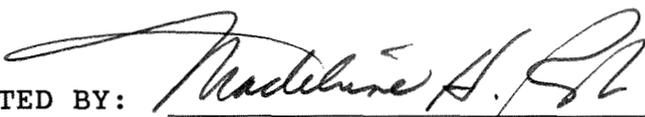
the public good and without substantially impairing the intent, purpose or integrity of the zone plan as embodied in the Zoning Regulations and Map.

The Board concludes that the applicant has not met the requisite burden of proof. The property was developed prior to the adoption of the 1958 Zoning Regulations and does not comply with the minimum lot area requirements of the R-4 District. However, the applicant offered no evidence that the physical characteristics of the lot were substantially different than other properties in the square nor that he would suffer a practical difficulty if the Zoning Regulations were strictly enforced. The applicant's assertion that the difference in elevation of the rear yard of the lot from adjoining lots creates an exceptional condition is not persuasive because the existing rear yard elevation is a result of excavation of the site. The applicant's assertion that he would suffer a practical difficulty if the Zoning Regulations were strictly enforced is also not persuasive because the applicant can provide surface parking on the lot and appropriate fencing could be designed to address his security issues. The extent of the requested variance would result in a lot occupancy of almost 100 percent, which is significant and is not in keeping with the R-4 District or existing development in the immediate area. The Board concludes that the massing of the proposed garage and deck would have an adverse impact on the light, air and privacy of the adjoining property owners.

The Board further concludes that the requested relief can not be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulation's. The Board concludes that it has accorded the ANC the "great weight" to which it is entitled. Accordingly it is ORDERED that the application is hereby DENIED.

VOTE: 5-0 (John G. Parsons, Angel F. Clarens, Paula L. Jewell and Carrie L. Thornhill to deny; Sheri M. Pruitt to deny by proxy).

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

ATTESTED BY: 
MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: JUN 30 1994

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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."

15661Order/SS/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15661

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JUN 30 1994 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:

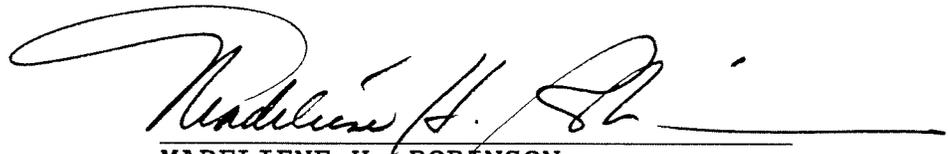
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MADELIENE H. ROBINSON
Director

DATE: JUN 30 1994

15661Att/bhs