

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15725 of Joseph and Victoria Van Hecke, as amended, pursuant to 11 DCMR 3107.2, for a variance to allow an addition to an existing nonconforming structure that now exceeds the maximum allowable lot occupancy requirements [Paragraph 2001.3(a), (b) and (c)], a variance from the allowable percentage of lot occupancy requirements (Subsection 403.2), and a variance from the rear yard requirements (Subsection 404.1), for an addition to a single-family row dwelling in an R-4 District at premises 2100 First Street, N.W. (Square 3119, Lot 24).

HEARING DATE: October 14, 1992
DECISION DATE: February 3, 1993

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The property which is the subject of this application is located at 2100 First Street, N.W., on the northwest corner of the intersection of V and First Streets, N.W.

2. The site comprises 1,788.3 square feet of land area and is improved with a three-story plus basement Victorian styled row dwelling. The site abuts a 15-foot wide public alley located at the rear side of the site.

3. The immediate area surrounding the site is characterized by single-family row dwellings, flats, and low-rise apartment buildings. The area is zoned R-4, which permits matter of right development of residential uses including detached, semi-detached and row single-family dwellings and flats with a minimum lot width of 18 feet, a minimum lot area of 1,800 square feet, a maximum height of three stories/40 feet, and a minimum rear yard depth of 20 feet.

4. By memorandum dated October 7, 1992, the Zoning Administrator (ZA) revised the computations regarding the relief sought in this case. The revised application indicated that the subject property is a nonconforming structure that exceeds the lot occupancy under 11 DCMR 2001.3(a), (b) and (c). It eliminated the need for a variance from the width and area of a closed court.

5. The revised application was for a variance from the allowable percentage of lot occupancy for a structure (Section 403.2) in an R-4 zone. (Section 3107.2); variance from rear yard setback requirements (Section 404.1) for a structure in a R-4 zone (Section 3107.2); and variance from the provisions of Section 2001.3(a), (b) and (c) to allow an addition to a nonconforming

structure which now exceeds the allowable percentage of lot occupancy in an R-4 zone. (Section 3107.2).

6. At the public hearing, the applicants testified that the purpose of the addition is to increase the kitchen and provide a dining room in the house. They indicated that the house is 90 years old, and was not designed for a large gathering. They contended that the addition will not add to the nonconformity of the structure, that the addition would be above the existing garage and within the premises of the exterior of the garage.

7. The applicants added that the structure had undergone renovation, interior reconfiguration and some additions made to the structure long before he bought the property. They further indicated that the Advisory Neighborhood Commission (ANC) 5C and their immediate neighbors support the application.

8. By memorandum dated October 6, 1992, and through testimony at the public hearing, the Office of Planning (OP) stated that there is no practical difficulty inherent in the subject property which would justify the area variances requested in this case. The subject property is nonconforming with regard to the depth of the rear yard and the lot occupancy. However, these conditions are not sufficient in themselves to support the granting of the requested variances. Notwithstanding the fact that the proposed addition would not increase the amount of nonconformity in terms of lot occupancy and depth of rear yard, the Office of Planning believes that the requested variances in this case are excessive for the R-4 zone district in which the property is located with regard to the existing percentage of lot occupancy and depth of rear yard. The applicants have not met the burden of proof under Paragraphs 2001.3(a),(b),and(c) or Subsections 403.2 and 404.1 of 11 DCMR. Therefore, the Office of Planning recommends denial of this application.

9. By letter dated October 13, 1992, ANC-5C indicated its unanimous support for the application. The ANC added that neither the commissioner representing the single member district in which the above premises are located, nor anyone present at the ANC meeting, knew of feelings by residents of the immediate vicinity of the subject property that are in opposition to the relief requested.

10. At the close of the public hearing on October 14, 1992, the Board left the record open to receive an additional statement from the applicants on their practical difficulty including a history of improvements to the subject property. By letter dated December 4, 1992, the applicants requested the Board to postpone a decision in the case scheduled for December 2, 1992 to February 3, 1993, for the additional information to be submitted to the record.

11. At the December 2, 1992 public meeting, the Board considered and granted the applicants' request for a postponement of a decision in the case. The record was re-opened to allow the applicant additional time to submit the information.

12. The Board did not receive the additional information from the applicant as requested.

FINDINGS OF FACT:

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

1. The Board does not agree with the opinion of the Advisory Neighborhood Commission. The ANC report does not state any issues or concerns relevant to the Board's criteria in deciding the application.
2. The applicant failed to submit relevant information on its practical difficulty.
3. Reasons for the addition were personal in nature.
4. The site is similar to other properties in the area.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of record, the Board concludes that the applicants are seeking a variance from the allowable percentage of lot occupancy, a variance from rear yard requirements and a variance to allow an addition to an existing nonconforming structure for an addition to a single-family row dwelling in an R-4 District. 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. Further, the Board 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. Location of the property on a small lot does not make it unique. Small lot size is a characteristic of the immediate neighborhood of the property.

The Board concludes that there are other properties nearby that are similar to the subject property in terms of size, shape, width, and depth.

The Board concurred with the recommendation and analysis of the OP, that nonconformity of the property with regard to lot occupancy, and rear yard are not sufficient to support the granting of the variances and that the requested variances are excessive for R-4 zone.

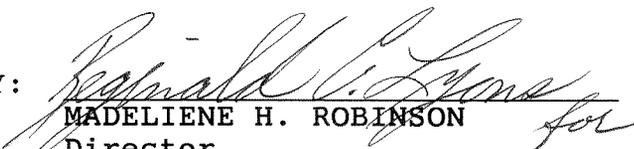
It is the opinion of the Board that to allow the variance under these circumstances, where the tests for variance relief has not been met, would substantially impair the intent, purpose and integrity of the Zoning Regulations.

Advisory Neighborhood Commission - 5C was given the "great weight" to which it is entitled.

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

VOTE: 4-0 (Angel F. Clarens, Maybelle Taylor Bennett, Paula L. Jewell and Carrie L. Thornhill to deny; Sheri M. Pruitt not present, not voting, and 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: JUL 18 1994

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."

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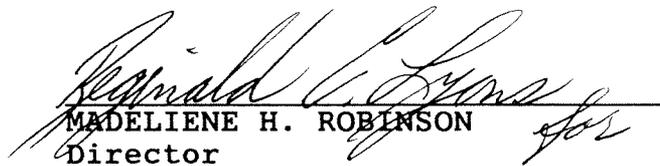


BZA APPLICATION NO. 15725

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

Joseph and Victoria Van Hecke
2100 First Street, N.W.
Washington, D.C. 20001

James D. Berry, Jr., Chairperson
Advisory Neighborhood Commission 5-C
1723 - 3rd Street, N.E.
Washington, D.C. 20002


MADELIENE H. ROBINSON
Director

DATE: JUL 18 1994