

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15729 of Hezekiah J. Efferson, as amended, pursuant to 11 DCMR 3107.2, for a variance from the rear yard requirements (Subsection 774.1), and a variance from the minimum width requirements of a closed court (Subsection 406.1) for a garage addition to a structure in a C-2-A District at premises 1346 H Street, N.E. (Square 1026, Lot 174).

HEARING DATES: October 14, 1992, May 12, 1993 and July 21, 1993  
DECISION DATE: September 8, 1994

ORDER

SUMMARY OF EVIDENCE OF RECORD:

The application was amended to eliminate the variance from the minimum area of a closed court in accordance with the revised memorandum from the Zoning Administrator dated July 19, 1993.

The property which is the subject of this application is located at 1346 H Street, N.E. (Square 1026, Lot 174). It is located on the north side of H Street between 13th and 14th Streets, N.E. and it is zoned C-2-A.

The lot contains 4,800 square feet in land area. It is 54 feet wide and 90 feet deep. The site consists of one lot of record (Lot 174) and is improved on the eastern portion with a vacant two-story structure. Retail space is located on the first floor and residential space is located on the second floor. The western portion of the site is improved with a smaller two-story structure with retail space (a liquor store) on the first floor and a residential unit on the second floor. The property abuts a ten-foot wide public alley to the rear (north).

The area surrounding the site is characterized by both commercial and residential uses. Florida Avenue N.E. is located one block to the north of the site, and Maryland Avenue is one block south of the site.

The applicant is proposing to construct a four-car garage at the rear of the property. The required rear yard is 15 feet. The existing rear yard measures 36.4 feet and there is a closed court at the rear of the site. The proposed garage would have a footprint of 923.4 square feet and would be 11.5 feet in height with a flat roof. With the proposed garage, the rear yard would be reduced from 36.4 feet to five feet in depth, five feet less than the required rear yard. The closed court would be 6.3 feet wide, 5.7 feet less than the 12 feet required.

The applicant is requesting variances from the rear yard requirement and the width of open court requirement to allow the garage.

ISSUES AND ARGUMENTS:

1. Whether there exists a unique or exceptional situation or condition related to the property which creates a practical difficulty for the owner in making reasonable use of the property?

The applicant's representative ("the applicant" herein) testified that if the rear yard and closed court requirements must be met, there will not be enough room for the applicant to park his truck that measures about 20 feet in length.

The applicant testified that the garage columns and walls are already in place. The "garage" has the appearance of an open carport. The applicant would simply like to cover the garage with a roof and secure it. The garage will extend from the stairs at the rear of the existing building to the rear property line.

By report dated May 5, 1993 and through testimony at the hearing, the Office of Planning recommended denial of the application. The Office of Planning (OP) stated that the C-2-A District in which the property is located permits matter of right low density development, including office, retail and all kinds of residential uses, to a maximum floor area ratio (FAR) of 2.5 with nonresidential uses limited to 1.5 FAR, a maximum height of 50 feet, and a maximum lot occupancy of 60 percent for residential uses. The C-2-A District requires a rear yard depth of 15 feet and a minimum closed court width of 15 feet.

Given these allowances and requirements, OP expressed the opinion that the applicant is not faced with a practical difficulty because the uncovered garage does not prevent him from making reasonable use of his property. The structures can still be used for commercial or residential purposes.

The Office of Planning also stated that the applicant could move the garage 10 feet closer to the existing building and occupy the closed court. This could be done as a matter of right and no zoning relief would be necessary.

2. Whether allowing the variance relief would detrimentally affect the public good?

The applicant's representative testified that enclosing the garage would not have a negative impact on the neighborhood. He stated that the applicant's trucks have been vandalized many times while on the street and while on his property. The applicant

wishes to enclose the garage to secure his vehicles and to stop people from breaking into his property and throwing things into the yard.

Advisory Neighborhood Commission (ANC) 6A, which is automatically a party to the application did not testify at the hearing or submit a written statement related to the application.

No other witnesses appeared at the hearing to testify about the impact on the public good.

3. Whether the intent, purpose or integrity of the zone plan would be impaired if the variances are granted?

The applicant maintained that the zone plan would not be impaired because the relief requested is only a minor deviation from the requirements of the Zoning Regulations.

The Office of Planning is of the view that the applicant has not met the burden of proof with regard to establishing a practical difficulty, therefore, OP believes that granting the requested zoning relief would impair the intent, purpose, and integrity of the C-2-A zone district regulations.

FINDINGS OF FACT:

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

1. The subject property can be used for the purposes for which it is zoned.

2. If the proposed garage is moved closer to the existing structures and into the closed court, four cars can be parked on the site without variance relief.

CONCLUSIONS LAW AND OPINION:

Based on the evidence of record, the Board concludes that the applicant is seeking area variance relief to allow the construction of a four-car garage at the rear of property located in a C-2-A District. Granting 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 condition. 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.

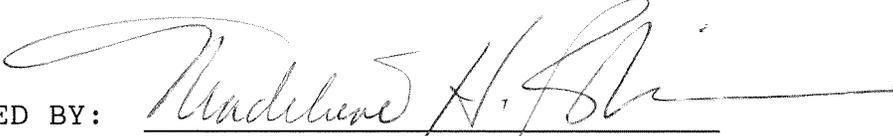
The Board concludes that the applicant has failed to meet the burden of proof. The Board is of the view that the applicant's lot is large enough to accommodate the garage and provide the required rear yard. The Board concludes that for the applicant to meet the requirements of the Zoning Regulations, he would have to construct the garage closer to the existing buildings and eliminate the closed court. The Board concludes that the applicant has failed to demonstrate a practical difficulty related to the property because the garage can be constructed at the rear of the site without affecting the applicant's ability to make reasonable use of the property in compliance with the C-2-A District. Having failed to find an exceptional circumstance or practical difficulty related to the property, the Board concludes that the first test for variance relief has not been met and it is unnecessary to address the remaining tests related to area impact and impairment to the zone plan.

Based on the foregoing, the Board **ORDERS** that the application is hereby **DENIED**.

VOTE: 3-0 (Angel F. Clarens, John G. Parsons and Paula L. Jewell to deny; Sherri M. Pruitt and Carrie L. Thornhill 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: \_\_\_\_\_

MAY 24 1995

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."

15729ord/TWR/LJP

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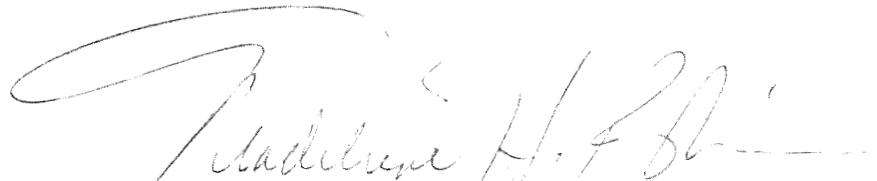
BZA APPLICATION NO. 15729

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on MAY 24 1995 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:

Hezekiah Efferson  
1344 H Street, N.E.  
Washington, D.C. 20002

Robert Mills  
506 Mace Drive  
Fort Washington, Maryland 20744

Keith Mitchell, Chairperson  
Advisory Neighborhood Commission 6A  
1341 Maryland Avenue, N.E.  
Washington, D.C. 20002

  
MADELIENE H. ROBINSON  
Director

DATE: MAY 24 1995