

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15764 of Lorenzo Morris, pursuant to 11 DCMR 3107.2, for a variance to allow an addition to an existing nonconforming structure that now does not meet the minimum rear yard requirements and will increase the nonconformity [Paragraph 2001.3(b) and (c)], and a variance from the rear yard requirements (Subsection 404.1) for a deck addition to a detached single-family dwelling in an R-1-B District at premises 4721 Colorado Avenue, N.W. (Square 2656, Lot 52).

HEARING DATE: December 16, 1992  
DECISION DATE: February 3, 1993

ORDER

SUMMARY OF EVIDENCE:

1. The subject property is located on the south side of Colorado Avenue between 17th and 18th Streets and is known as premises 4721 Colorado Avenue, N.W. It is zoned R-1-B.

2. The property is rectangular in shape with a frontage of 76 feet along Colorado Avenue and a depth of 72.59 feet. The site slopes downward from Colorado Avenue towards the 16-foot wide public alley at the rear of the site.

3. The property is currently improved with a single-family detached dwelling which was constructed during the 1930s.

4. The area surrounding the site is characterized by well-maintained single-family dwellings and relates strongly to Rock Creek Park.

5. The applicant proposes to raze an existing deteriorated rear porch and construct a deck addition measuring approximately 16' X 20' in area. The proposed deck would be located at the first floor level and would be approximately three feet above ground level.

6. The site is located in an R-1-B District which permits matter of right development of single-family detached dwellings with a minimum lot area of 5,000 square feet, a minimum lot width of 50 feet, and a maximum height of three stories/40 feet. A minimum rear yard depth of 25 feet is required in an R-1-B District. An addition and enlargement may be made to a structure in an R-1-B District provided that the requirements specified in Paragraph 2001.3(a), (b) and (c) are met.

7. The existing dwelling has a nonconforming rear yard of 19 feet in depth. The proposed deck would provide for a rear yard of approximately 6.5 feet, thereby increasing the existing nonconformity of the premises. A variance from the rear yard requirement of 18.5 feet or 74 percent is required, as well as a variance from the provisions of 2001.3(c) which allows an addition to a nonconforming structure provided the addition does not increase or extend any existing nonconformity.

8. The applicant's representative testified that the proposed deck is intended to replace the existing, unsafe porch structure; and to provide ample room for outdoor use of the backyard area. The applicant's representative testified that replacing the existing five-foot deep porch would not provide space for sitting. The applicant's representative further testified that the existing downward slope of the rear yard makes the yard space unsuitable for outdoor recreation. The applicant's representative testified that a wider, shallower deck is not possible because of the driveway accessing the existing garage space.

9. The applicant's representative testified that although the property has a side yard in excess of 20 feet in width, the construction of the deck in that area is not practical because there is no entrance to the dwelling on that side of the structure. In addition, the applicant's representative testified that an addition on the side of the structure would be visible from the street and would detract from the physical appearance of the building and the neighboring structures.

10. The applicant's representative testified that the proposed addition would not adversely impact the neighborhood in that the proposed addition does not extend toward the alley any further than other existing structures in the immediate area.

11. The Office of Planning (OP), by memorandum dated December 8, 1992, recommended that the application be denied. The OP was of the opinion that the physical characteristics of the subject property are similar to other properties in the area and, therefore, there is no practical difficulty inherent in the property itself. The OP was further of the opinion that the amount of variance relief was excessive and would result in a considerable increase of the nonconformity of the existing rear yard, and, therefore, would impair the intent and purpose of the zone plan for the R-1-B District.

12. Advisory Neighborhood Commission (ANC) 4A did not submit any written issues and concerns relative to the subject application.

13. At the conclusion of the public hearing, the Board left the record open to allow the applicant an opportunity to submit further argument in support of the requested variance relief and/or a redesign of the proposed deck which would lessen the degree of variance relief requested.

14. By letter dated January 25, 1993, the applicant submitted a written statement in support of his application. The applicant's statement generally restated the arguments proffered by the applicant's representative at the public hearing. No proposed redesign was submitted.

**FINDINGS OF FACT:**

1. The Board finds that the applicant has not met the requisite burden of proof necessary to justify the granting of the requested area variance relief.

2. The Board finds that the applicant failed to adequately demonstrate that the physical characteristics of the subject property are exceptional or unique when compared to other properties in the immediate area.

3. The Board finds that the existing porch could be repaired or replaced in its existing configuration. The Board further finds that the applicant did not adequately explore the possibility of providing the bulk of the proposed deck elsewhere on the lot without increasing the existing nonconformity.

**CONCLUSIONS OF LAW AND OPINION:**

Based on the foregoing findings of fact and evidence of record, the Board concludes that the applicant is seeking an area variance, the granting of which requires a showing through substantial evidence that strict compliance with the Zoning Regulations will create a practical difficulty upon the owner in efforts to make reasonable use of the property. This practical difficulty must arise because of some unique or exceptional condition of the property such as exceptional narrowness, shape or topographical condition. In addition, the Board must find that granting the application will not result in 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 not met the requisite burden of proof. The applicant has failed to provide substantive evidence that the property is affected by a unique or exceptional condition inherent in the land itself or that the strict application of the Zoning Regulations will create a practical difficulty upon the owner.

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

VOTE: 3-0 (Maybelle Taylor Bennett, Angel F. Clarens and Carrie L. Thornhill to deny; Sheri M. Pruitt not voting, not having heard the case; Paula L. Jewell abstaining).

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

ATTESTED BY:



MADELIENE H. ROBINSON  
Director

FINAL DATE OF ORDER:

SEP 27 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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GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



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As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on SEP 27 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:

Lorenzo Morris  
4721 Colorado Avenue, N.W.  
Washington, D.C. 20011

Melvin McClain  
5245 Reeds Mill Road  
Frederick, Maryland 20701

Joseph H. Hairston, Chairperson  
Advisory Neighborhood Commission 4-A  
7600 Georgia Avenue, N.W., #205  
Washington, D.C. 20012

  
MADELIENE H. ROBINSON  
Director

DATE: SEP 27 1994