

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15821 of Bufus Berger, Jr. and Margaret T. Berger, pursuant to 11 DCMR 3107.2, for a variance from the rear yard requirements (Subsection 405.9) for a deck addition to a semi-detached dwelling in an R-5-A District at premises 275 Hawaii Avenue, N.E. (Square 3672, Lot 24).

HEARING DATE: May 9, 1993
DECISION DATES June 2, July 7 and September 8, 1993

SUMMARY ORDER

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 4D and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 4D. ANC 4D, which is automatically a party to the application did not file a written statement of issues and concerns regarding the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a variance from the strict application of the requirements of 11 DCMR 404.1 and 405.9. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

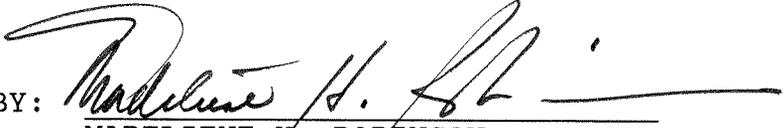
Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3107, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that the application is **GRANTED**, SUBJECT to the condition that the applicant seek appropriate review by the Public Space Committee and, if any alterations or modifications to the deck result as a consequence of that review, the applicant shall submit a copy of the revised plans to the Board for review and approval.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.1 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

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VOTE: 4-0 (Carrie L. Thornhill, Sheri M. Pruitt and Paula L. Jewell to grant; William L. Ensign to grant by proxy; Angel F. Clarens 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: SEP 17 1993

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 SUPPLEMENMTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, 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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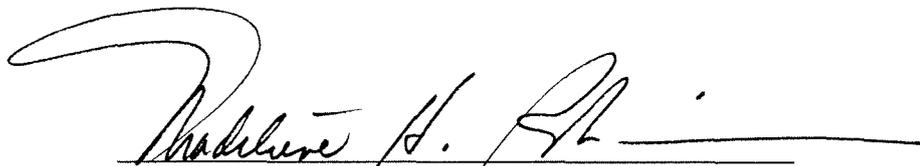


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As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on SEP 17 1993 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Bufus and Margaret Berger
275 Hawaii Avenue, N.E.
Washington, D.C. 20011

Lorenzo Allen, Chairperson
Advisory Neighborhood Commission 4-D
715 Kennedy Street, N.W.
Washington, D.C. 20011


MADELIENE H. ROBINSON
Director

DATE: SEP 17 1993