

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15839 of Virginia E. Broadway, pursuant to 11 DCMR 3107.2, for a variance to allow an addition to an existing nonconforming structure [Paragraph 2001.3(b) and (c)], a variance from the rear yard requirements (Subsection 404.1), a variance from the allowable percentage of lot occupancy requirements (Subsection 403.2), and a variance from the side yard requirements (Subsection 405.9) for an addition to a nonconforming semi-detached dwelling in an R-2 District at premises 607 Roxboro Place, N.W. (Square 3149, Lot 181).

HEARING DATE: July 28, 1993  
DECISION DATE: September 8, 1993

ORDER

SUMMARY OF EVIDENCE OF RECORD:

The property which is the subject of this application is located on the north side of Roxboro Place, N.W. It is known as 607 Roxboro Place and it is bounded on the north by Sheridan Street, on the east by 5th Street and on the west by 7th Street, N.W.

The subject property is a rectangular-shaped lot that contains 1,409 square feet in land area. The lot is 21.68 feet wide and 65 feet deep. A 15-foot wide public alley abuts the site at the rear.

The property is developed with a single-family semi-detached dwelling that was constructed in 1925. The structure has a gross floor area of 1,518 square feet and contains two bedrooms, one bathroom, a basement and other living space.

The site is located in the Brightwood Neighborhood of Ward 4. This neighborhood is a residential community that contains single-family detached and semi-detached dwelling units. A small number of garden apartments are also located in the community. Georgia Avenue, a predominantly commercial artery, is located to the west of the site. The neighborhood is enhanced by a significant amount of open space (including urban gardens), well maintained public spaces, and public facilities that are conveniently located in the community. Coolidge High School, Whittier Elementary School and the Takoma Recreation Center are located one block to the east of the site. The Takoma Metro Station is located approximately one mile to the east of the site at Cedar and Carroll Streets, N.W.

The applicant proposes to construct a 252 square foot addition at the rear of the structure. The addition would contain a bedroom and half bath.

The site is zoned R-2. The R-2 District permits matter of right development of single-family detached and semi-detached dwellings with a minimum lot area of 3,000 square feet, a minimum lot width of 30 feet, a maximum lot occupancy of 40 percent, and a maximum height of three stories/40 feet.

Currently, the subject property is nonconforming with regard to lot size, width of lot and side yard. The new addition would create two new nonconformities, lot occupancy and rear yard depth. The existing lot occupancy is 36.4 percent. The addition would increase the lot occupancy to 54.2 percent. A lot occupancy variance of 14.3 percent is being sought.

The 20-foot rear yard will be reduced to 13 feet, requiring a variance of seven feet.

The side yard measures 4.88 feet, 3.12 feet less than the eight feet required. While the addition will not encroach into the side yard, it will extend the side wall of the house rearward thereby creating a 4.88-foot side yard further back on the property. Therefore, the applicant will need a side yard variance of 3.12 feet.

Issues and Arguments:

1. Whether there is a unique or exceptional condition related to the property?

At the public hearing, the applicant testified that the addition is needed to accommodate her ailing mother who is unable to use the stairs in the house to gain access to the various floors or evacuate the house in an emergency.

The applicant testified that her home is somewhat unique or unusual because there is a small percentage of homes in the area that have not changed their size by an addition or enclosure.

The applicant testified that it is important for her home to accommodate extraordinary and unusual family needs, whether it be illness or some other problem that would render the occupants unable to resume normal living.

The applicant stated that the homes in the area were all the same size originally. She maintains that the subject property is unique because it does not have an addition like the other houses nearby. She stated that Roxboro Place is narrower and more densely developed than bordering streets.

The applicant stated that the lot would not be considered too small but for the enactment of the Zoning Regulations rendering it a nonconforming lot with regard to area and width. Therefore, the

Zoning Regulations have created a unique condition for the property.

The Office of Planning (OP) by report dated June 21, 1995, recommended denial of the application. On the issue of uniqueness, OP stated that many of the lots that front on Roxboro Place, N.W. do not meet the minimum 3,000 square-foot lot area and 30-foot lot width requirements. It is the small size of these lots which creates the inherent problem of nonconformity and thus the impediment to the construction of an addition. The fact that many of the lots in the area have the same problem is, however, also the reason that there is no unique or extraordinary condition inherent in the property.

2. Whether the owners of the property face a practical difficulty caused by some unique or extraordinary condition of the property?

The applicant stated that the Zoning Regulations created the nonconformities of the lot and any modification to the property would extend the nonconformities. She stated that she cannot expand the structure in any way without variance relief because of the nonconformities. The applicant stated that the addition can only be placed at the rear of the property. She further stated that the property with the addition would not exceed the lot occupancy if the lot complied with the requirement for the R-2 District. The maximum allowable lot occupancy is 40 percent. For a 3,000 square foot lot, the maximum lot occupancy would be 1,200 square feet. The existing structure and the proposed addition would total 764.4 square feet, only 25.5 percent of a 3,000 square foot lot. However, this same construction occupies 54.2 percent of the existing 1,409.2 square foot lot. The applicant maintains that her property can never comply with the lot occupancy provisions. Finally, the applicant maintains that the small size of the lot and the inability to locate the addition elsewhere on the lot create a practical difficulty for her.

The Office of Planning was of the view that because the property is similar in size to many others in the area, there is no unique condition to create a practical difficulty for the owner in making reasonable use of the property.

3. Whether granting the relief would be of substantial detriment to the public good?

The applicant stated that allowing the addition would not adversely affect the neighbors. She stated that the adjoining neighbor to the side would not be any more affected by the addition than by the original structure because the addition does not block

any window or door, nor does it block the flow of natural light and air. For these reasons, the adjoining neighbor does not object to the application.

The applicant stated that the addition will not block the light and air to the rear. She noted that the existing structure does not have this effect and the addition will be one story high and will follow the original width line of the existing structure.

Also with regard to the rear yard impact, the applicant stated that the rear neighbor will not be adversely affected because there will be 50 feet between the addition and the rear neighbor's structure. This includes the applicant's 13-foot rear yard, the alley and the neighbor's rear yard. She noted that the rear neighbor has no objection to the project.

The Office of Planning did not address the impact on the public good.

4. Whether granting the application would impair the intent, purpose and integrity of the zone plan?

The applicant is of the view that the zone plan will not be impaired because the density of the neighborhood will not be affected. She stated that the enlargement is to accommodate the family already living on the property. No new persons are moving in. No new residences are being created. The property is not being converted into a multi-family dwelling. The applicant noted that she and her mother have lived in the home for 25 years. The project will not add any new residents to the neighborhood.

The applicant further stated that the physical structure will not adversely add to the density in the area. She stated that the area has become as dense as possible for single-family dwellings because the majority of dwellings have additions.

The Office of Planning is of the view that the requested variances are excessive for the R-2 zone district and that granting the application would impair the intent, purpose and integrity of the zone plan for the city in general and the R-2 District specifically. OP noted that some of the dwelling units on Roxboro Place do not have additions. OP stated that it would not be in the best interest of the Brightwood Neighborhood for the applicant to increase the built density on the site in an area that is already overdeveloped. Therefore, OP recommends denial of the application.

Advisory Neighborhood Commission (ANC) 4B, which is automatically a party to the application, did not appear at the hearing to testify in the application, nor did the ANC submit a written report related to the application, no other persons appeared at the hearing to express an interest in the application.

FINDINGS OF FACT:

1. The subject property is similar in size, shape and topography to other properties in the area.
2. The nonconforming aspect of the lot is a characteristic shared by many properties nearby.
3. The lack of an addition at the subject site, while other surrounding properties have additions, does not create the type of exceptional condition arising out of the property that the Zoning Regulations contemplate.
4. The physical health conditions of the property owners do not arise out of the property.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and evidence of record, the Board concludes that the applicant is seeking a variance to allow an addition to a nonconforming structure. 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 conditions. The Board further must find that granting 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 not met this burden of proof. The applicant has failed to demonstrate that the property is exceptional when compared to nearby properties. The applicant argues that her house is different because other houses nearby have additions and hers does not. However, the Board is of the view that construction on other properties does not make the subject site inherently exceptional. If the Board were to accept this rationale, it would make itself vulnerable to a similar argument by a property owner that his house is unique because his addition is smaller than all of the others on otherwise similar lots. It is the Board's view that additions on other sites were not contemplated by the Zoning Commission to be "characteristics" inherent in the property under consideration.

The Board also concludes that the nonconforming aspect of the lot does not make it unique because other nearby lots are also nonconforming.

Further, the Board concludes that while the physical condition of the applicant's mother is exceptional and makes use of the home problematic, her condition is personal and not inherent in the

property. Therefore, her condition cannot serve as the basis for variance relief.

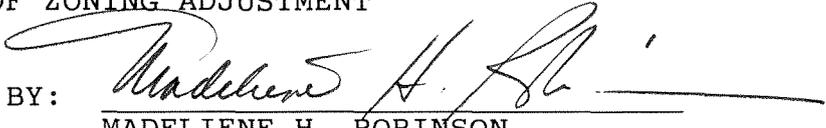
Finally, the Board concludes that all three tests for variance relief must be met for an application to be granted. Because the subject applicant has not met the test for uniqueness, the Board finds it unnecessary to address the issues of practical difficulty and impairment to the zone plan.

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

VOTE: 3-0 (Carrie L. Thornhill, Paula L. Jewell and Angel F. Clarens to deny; Susan Morgan Hinton 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: JUL 28 1995

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 SUPPLEMENTAL 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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15839

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JUL 28 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:

Virginia Broadway  
607 Roxboro Place, N.W.  
Washington, D.C. 20011

Mr. Vannie Taylor, III, Chairperson  
Advisory Neighborhood Commission 4B  
6856 Eastern Avenue, N.W., #350  
Washington, D.C. 20012

A handwritten signature in cursive script, reading "Madeliene H. Robinson", written over a horizontal line.

MADELIENE H. ROBINSON  
Director

DATE: JUL 28 1995