

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15934 of Frances Sharon, pursuant to 11 DCMR 3107.2, for a variance to allow an addition to an existing non-conforming structure that does not meet the minimum front, rear and side yard requirements and will increase the nonconforming rear yard [Paragraph 2001.3(b) and (c)], a variance from the front yard requirements (Subsection 1543.4), and a variance from the rear yard requirements (Subsection 404.1) to construct a two-story addition to a detached single-family dwelling in WHOD/R-1-B District at premises 4500 Klinge Street, N.W. (Square 1609, Lot 58).

HEARING DATE: April 13, 1994
DECISION DATE: April 13, 1994 (Bench Decision)

DISPOSITION: The Board GRANTED the application by a vote of 4-0 (Laura L. Richards, George Evans, Craig Ellis, and Angel F. Clarens to grant; Maybelle Taylor Bennett not present, not voting).

FINAL DATE OF ORDER: April 29, 1994

MODIFICATION ORDER

The Board granted the application by its order dated April 29, 1994, subject to the following conditions:

1. Construction shall be in accordance with plans marked as Exhibit No. 9 as modified by plans marked as Exhibit No. 31 of the record.
2. The property shall be landscaped in accordance with landscaping plans marked as Exhibit No. 22 of the record.

By letter dated October 21, 1994, the applicant filed a timely request for modification of the approved plans. The proposed modification of plans would result in a two-foot decrease in the height of the brick piers and the proposed fencing and a reduction in the number of and type of tree planting shown in the approved landscaping plan. The basis for the requested modification of plans is summarized, as follows:

- a. The existing wall, constructed Circa 1920, would be destabilized if the height of the piers is increased by two feet as shown on the approved plans. In addition, such increase in load would increase the stress, both horizontal and vertical, in the retaining wall on the adjacent property.

b. The proposed tree plantings, as approved, will cause erosion of the applicant's existing brick wall and the retaining wall on the adjacent property because of the narrow planting area.

The proposed modification of plans would not affect the construction of the addition approved by the Board. No additional zoning relief is required.

By letter dated October 25, 1994, Advisory Neighborhood Commission (ANC) 3D requested the Board to delay consideration of the request for modification of plans to allow the ANC an opportunity to give notice to the community and review the proposed modification at its scheduled public meeting of November 17, 1994.

At its public meeting of November 2, 1994, the Board denied the ANC's request to delay consideration of the requirement for modification of plans. The Board was of the opinion that the requested delay was unreasonable in that the project is currently under construction in no way alters the building addition or the zoning relief originally approved by the Board.

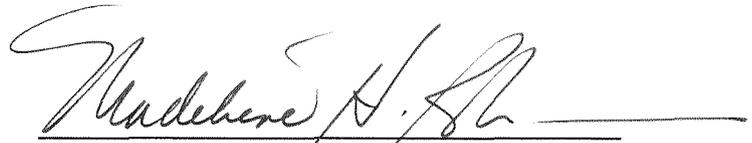
Based on the foregoing, the Board concludes that the proposed modification of plans is minor in nature and would have no impact on the zoning relief originally granted by the Board. The proposed modification would protect the integrity of the existing brick wall and the retaining wall on the adjacent property. The proposed landscaping remains adequate to protect the privacy of neighboring property owners. The material facts relied upon by the Board in deciding the case are unaffected by the proposed modification of plans. No additional zoning relief is required. It is therefore **ORDERED** that the **MODIFICATION OF PLANS** is **APPROVED**, and the plans marked as Exhibit No. 40A of the record shall be substituted for those plans originally approved and marked as Exhibit No. 22 of the record. In all other respects the order of the Board, dated April 29, 1994, shall remain in full force and effect.

DECISION DATE: November 2, 1994

VOTE: 3-0 (Angel F. Clarens and Laura M. Richards to approve; Craig Ellis to approve by absentee vote; Susan Morgan Hinton and Maybelle Taylor Bennett 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: _____

NOV 22 1994

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.

15934Order/SS/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15934 of Mrs. Frances Sharon, pursuant to 11 DCMR 3107.2, for a variance to allow an addition to an existing non-conforming structure that does not meet the minimum front, rear and side yard requirements and will increase the nonconforming rear yard [Paragraph 2001.3(b) and (c) a variance from the front yard requirements (Subsection 1543.4), and a variance from the rear yard requirements (Subsection 404.1) to construct a two-story addition to a detached single-family dwelling in a WHOD/R-1-B District at premises 4500 Klingle Street, N.W. (Square 1609, Lot 58).

HEARING DATE: April 13, 1994
DECISION DATE: April 13, 1994 (Bench Decision)

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) 3D and to owners of property within 200 feet of the site.

The site of this application is located within the jurisdiction of ANC 3D. ANC 3D, which is automatically a party to this application, filed a written statement of issues and concerns in support of 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 2001.3(b) and (c), 1543.4 and 404.1. No person or entity appeared at the public hearing in opposition to this 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, that there exists an exceptional or extraordinary situation or condition related to the property which creates a practical difficulty for the owner in complying with the Zoning Regulations, 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 this application is GRANTED, SUBJECT to the following CONDITIONS:

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



April 5, 1994

Mr. Robert W. Newmann
P.O. Box 23
Prince Street Station
New York, New York 10012

Dear Mr. Newmann:

This letter is in response to your letter dated January 25, 1994 in which you **WITHDREW** Application No. 15935 and requested that the Office of Zoning return to you the materials filed in your application and refund the application fee.

Unfortunately, we are unable to honor your request. The documents submitted are now part of the public record. Therefore, the originals must be retained by our office. However, copies of the materials that you filed are enclosed. The application fee was used to process your application and is **NOT** refundable.

If you have any questions concerning this process, please feel free to contact this office on (202) 727-6311.

Sincerely,

A handwritten signature in cursive script that reads "Madeliene H. Robinson".

MADELIENE H. ROBINSON
Director
Office of Zoning

Enclosures (9)

newltr/TWR/LJP

BZA

CASE No.

EXHIBIT No.

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