

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15962 of Demetrius F. and Edna B. Reid, pursuant to 11 DCMR 3107.2, for a variance from the rear yard requirement (Subsection 404.1) for an addition to a row dwelling in an R-4 District at premises 1342 Talbert Terrace, S.E. (Square 5807, Lot 860).

HEARING DATES: July 13, September 14 and November 16, 1994
DECISION DATE: December 7, 1994

ORDER

SUMMARY OF EVIDENCE OF RECORD:

The property which is the subject of this application is located at 1342 Talbert Terrace, S.E. (Square 5807, Lot 860). It is located on the north side of the street with Bowen Road to the east and Talbert Terrace to the west.

The site is comprised of 1,191.2 square feet of land area and is improved with a two-story plus basement brick row structure. The site is landlocked on three sides and abuts a row dwelling to the east, a semi-detached dwelling to the west, and another row dwelling to the north (rear).

The site is located in an R-4 District which permits matter of right development of residential uses including detached, semi-detached, and row single-family dwellings, and flats with a minimum lot width of 18 feet, a minimum lot area of 1,800 square feet, and a maximum height of three stories/40 feet. A minimum rear yard depth of 20 feet is required in the R-4 District.

Prior to the filing of this application, the applicants had hired a contractor to construct an addition at the rear of his property. A building permit was secured for the structure and construction began. The plans used by DCRA to issue the permit did not require zoning relief. However, officials later learned that the actual construction was not consistent with the plans that had been approved. Consequently, the building permit was revoked and a stop work order was issued. The applicants' contractor applied for another permit based on revised plans. Upon review of the revised plans, the ZA determined that zoning relief would be needed. Therefore, the building permit was denied and the applicants filed this variance application.

The applicants are requesting a variance from the 20-foot minimum rear yard requirement to allow the construction of a two-story plus basement addition at the rear of his house. According

to the revised plans, the addition measures 13.58 feet by 15.04 feet on the first floor and 16 feet by 15.04 feet on the second floor.

The proposed addition would consist of a recreation room in the basement, a bathroom and a family room on the first floor, and a master bedroom on the second floor.

The calculations provided by the Zoning Administrator indicate that the applicant needs a rear yard variance in the amount of 5.78 feet. The addition is approximately halfway complete.

ISSUES AND ARGUMENTS:

1. Whether there exists a unique or exceptional situation or condition inherent in the property which would create a practical difficulty for the owner in complying with the Zoning Regulations?

With regard to uniqueness, the applicants testified that no two lots on Talbert Terrace, Dexter Terrace and the surrounding community are the same. However, on their side of the street the lots are more alike. They stated that many of the houses across Talbert Terrace have an addition and they did not know how these other property owners were able to construct their additions without zoning relief.

The applicants testified that they suffer from arthritis and need to have a bathroom on the first floor level. They stated that they also have a large family and need the addition to accommodate family members when they visit.

The applicants testified that the man who was working on the addition was not a licensed contractor, and he misled them with regard to the legality of the structure. The applicants believe that this is an exceptional circumstance and to deny the variance and building permit would be unfair because they were unaware of the problems with the addition until the building inspectors came.

The Office of Planning (OP) submitted a report dated June 22, 1994, recommending denial of the application. OP stated that the site is similar in size and topographical characteristics to other properties in the area. The subject structure is also similar in size to other structures in the area. Therefore, OP finds nothing unique about the property which creates a practical difficulty for the owner. OP stated that the depth of the rear yard without the new construction and the placement of the existing dwelling on the lot allow for an alternative design that would be in conformance with the Zoning Regulations and more consistent with the existing character of the neighborhood than the design proposed in this application. A smaller two-story addition that extends ten feet

into the rear yard would adequately meet the applicants' needs and could be constructed as a matter of right in the space available at the rear of the existing dwelling.

Responding to OP's suggestion about building an addition, the applicants stated that the rooms in a matter of right addition would be too small and it would be economically infeasible to tear down the excess portion of the deck. They noted that the contractor has already paid for the work and they would like to keep what currently exists.

2. Whether allowing the proposed deck would be of substantial detriment to the public good?

Three letters from neighbors in support of the application were submitted into the record. No one from the community appeared at the hearing to testify in support of or opposition to the application.

The Office of Planning stated that the proposed addition would have a negative impact on the light and air of adjacent properties. ANC 8A did not submit a report related to the application.

3. Whether granting the variance would impair the intent, purpose and integrity of the zone plan?

The Office of Planning stated that the immediate area surrounding the site is characterized by rowhouses, single-family detached houses, and low-rise apartment buildings. OP stated that with the proposed, addition, the depth of the rear yard would be reduced by approximately six feet. As a result, the rear yard would be approximately 14 feet in depth, or about 30 percent less than the required minimum 20-foot rear yard depth. This would make the property nonconforming. OP believes that the proposed addition would be inconsistent with the character of the area, that the requested variance is excessive for the R-4 District in which the property is located and that the proposed addition would seriously impair the intent, purpose, and integrity of the zoning regulations for the R-4 District.

Therefore, OP recommended denial of the application.

FINDINGS OF FACT:

Based on the evidence of record, the Board make the following findings:

1. The applicants' lot is similar in size and shape to other nearby lots.

2. Houses in the area are similarly situated on their lots.
3. The applicants' can still have a first floor bathroom with a matter of right addition.
4. Neither the applicants' health problems nor the problems between the applicants and the contractor constitute exceptional conditions arising out of the property within the meaning of the Zoning Regulations.
5. The addition is likely to block light and air of nearby properties.
6. An addition which occupies a portion of the required rear yard is out of character with what the Zoning Regulations intended.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of record, the Board concludes that the applicants are seeking an area variance to allow the construction of a rear addition to property located in an R-4 District. Granting such a variance 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 applicants have not met this burden of proof. The Board concludes that the applicants have failed to demonstrate that there is a uniqueness or exceptional condition inherent in the property that creates a practical difficulty in using the property as allowed. The Board notes that even without the zoning relief, the applicants are able to install a bathroom on the first floor level. While the other rooms desired may be smaller than originally anticipated, the main purpose for building the addition can be met as a matter of right.

The Board concludes that granting the application would be of substantial detriment to the public good and would impair the intent, purpose and integrity of the zone plan.

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

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VOTE: 3-2 (Craig Ellis and Susan Morgan Hinton to deny; William L. Ensign to deny by absentee vote; Angel F. Clarens and Laura M. Richards opposed to the motion).

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

ATTESTED BY:



MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: _____

DEC 27 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."

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15692

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

Demetrius F. Reid
1342 Talbert Terrace, S.E.
Washington, D.C. 20020

David J. White, Chairperson
Advisory Neighborhood Commission 8A
2427-A Martin Luther King Jr. Avenue, S.E.
Suite 108
Washington, D.C. 20020


MADELIENE H. DOBBINS
Director

DATE: DEC 27 1995