

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15973 of Robert B. and Susan Krause Bell, pursuant to 11 DCMR 3108.1, for a special exception under Section 2516 to allow an addition to a single-family structure on a theoretical lot in an R-1-A District at premises 2945 Albemarle Street, N.W. (Square 2255, Lot 846).

HEARING DATE: July 20, 1994  
DECISION DATE: July 20, 1994 (Bench Decision)

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

FINAL DATE OF ORDER: July 29, 1994

RECONSIDERATION ORDER

The Board granted the application by its order dated July 29, 1994. By letter dated August 8, 1994, the Single Member District Commissioner for Advisory Neighborhood Commission (ANC) 3F01, on behalf of ANC 3F, requested the Board to reconsider its decision in the case. In support of its request, the ANC representative noted the resolution of ANC 3F, dated June 30, 1994, which recommended approval of the application subject to the conditions set forth in correspondence between the applicants and the owners of 2939 Albemarle Street, N.W., dated June 20, 1994. The ANC requests that the Board reconsider its decision and include a condition requiring that the agreements contained in the June 20, 1994 correspondence be binding on the current owners, as well as any future owners of 2945 Albemarle Street, N.W., in order to protect the privacy of the residents of 2939 Albemarle Street, N.W.

By letter dated August 24, 1994, the applicants requested a waiver of the seven-day period for filing a response to the motion for reconsideration. One applicant indicated that he was erroneously informed that he could respond to the motion at any time during August because the decision on the matter would not take place until September 7, 1994. At its public meeting of September 7, 1994, the Board waived its seven-day filing requirement in order to accept the applicants' response.

By letter dated August 24, 1994, the applicants opposed the motion for reconsideration. The applicants argued that the referenced correspondence does not constitute an "agreement" between the applicants and the owners of 2939 Albemarle Street but is merely correspondence indicating, among other things, that the

applicants would plant six trees along the eastern property line to create a privacy screen. The applicants further argue that the Board specifically addressed the issue of the ANC's proposed condition at its public hearing of July 20, 1994 and determined that such a condition was not necessary because the proposed planting was already in place prior to the public hearing.

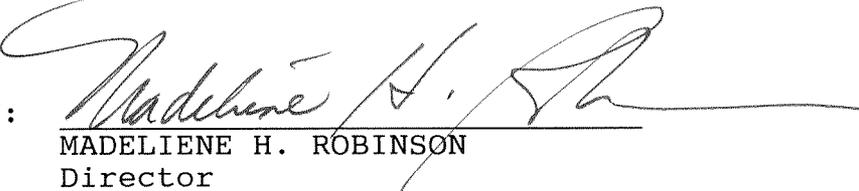
Upon consideration of the motion for reconsideration, response thereto, and the record in the application, the Board concludes that it has made no error in deciding the application. The Board concludes that the issue raised in the motion for reconsideration was specifically and thoroughly considered by the Board during its public hearing process. The Board notes that the planting referred to by the applicant is already in place. The Board further notes that if the proffered correspondence constitutes a binding agreement, the enforcement of such an agreement is beyond the jurisdiction of the Board and the parties to that agreement must seek its enforcement within the proper forum. The Board's decision was based on consideration of all the evidence presented, including the recommendation of the ANC. The fact that the Board and the ANC came to different conclusions with respect to the inclusion of conditions to the granting of the application does not make the decision of the Board arbitrary, capricious or unlawful. Accordingly, the motion for reconsideration is hereby **DENIED**. The order of the Board dated July 29, 1994 shall remain in full force and effect.

**DECISION DATE:** September 7, 1994

**VOTE:** 3-0 (Angel F. Clarens, Laura M. Richards and Craig Ellis to deny; Maybelle Taylor Bennett not voting, not having participated in the original decision; Susan M. 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: \_\_\_\_\_

SEP 26 1994

BZA APPLICATION NO. 2-15973  
PAGE NO. 3

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.

ord215973/SS/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT

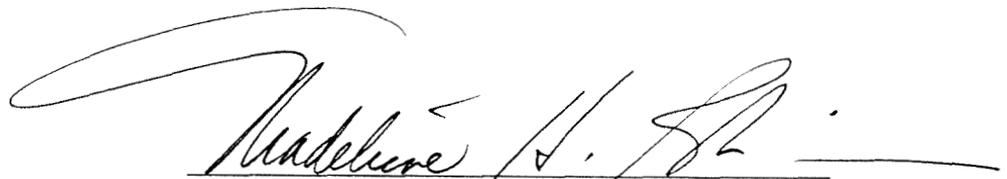


BZA APPLICATION NO. 15973

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on SEP 26 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:

Robert B. and Susan Bell  
2945 Albemarle Street, N.W.  
Washington, D.C. 20008

Douglas Mitchell, Chairperson  
Advisory Neighborhood Commission 3-F  
4401 Connecticut Avenue, N.W., #401  
Washington, D.C. 20008

  
MADELIENE H. ROBINSON  
Director

DATE: SEP 26 1994