

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15981 of Johnny Donelson, pursuant to 11 DCMR 3107.2, for a variance from the minimum lot area requirement (Subsection 401.1) and a variance from the allowable lot occupancy requirement (Subsection 403.2) for a deck addition to a single-family row structure in an R-4 District at premises 223 17th Street, N.E. (Square 1093, Lot 66).

HEARING DATE: October 12, 1994
DECISION DATE: October 12, 1994 (Bench Decision)

ORDER

SUMMARY OF EVIDENCE:

1. The property which is the subject of this application is located on the east side of 17th Street, N.E., between Constitution Avenue and C Street, N.E. The site is rectangular in shape and occupies approximately 1,432 square feet of land area, with a width of 18 feet and a depth of 79.5 feet. It is developed with a two-story plus basement rowhouse that is being used as a single-family dwelling. A 20-foot wide alley is located at the rear of the property.

2. The rowhouse was constructed prior to 1958, on a nonconforming lot. The site is zoned R-4. This zone district permits matter of right development of residential uses (including detached, semi-detached and row single-family dwellings, and flats) with a minimum lot area of 1,800 square feet, a minimum lot width of 18 feet, a maximum lot occupancy of 60 percent, and a maximum height of 3 stories/40 feet.

3. The area surrounding the site is characterized by rowhouses interspersed with churches and schools (Elliott Junior High School and Eastern High Schools are located one-half block to the east and south of the site, respectively).

4. The applicant proposes to construct a wooden deck at the rear of the existing two-story rowhouse at the subject site. The proposed deck would be located at the first floor level and would measure approximately 18 feet in width and 12 feet in depth. The deck would be provided with a roof and an approximately 3.5 foot high railing for safety. The existing windows at the first level would be replaced with a glass door to provide access from the living room to the deck. Owing to a slope in topography, the basement at the rear is located completely above ground level and is used for parking.

5. The applicant indicated that he needed the proposed deck to satisfy the needs of the family for additional living space and enjoyment of the outdoors in good weather.

6. The applicant, through testimony requested that he be allowed to put a roof over the deck. The applicant added that the 6.7 feet deep deck, recommended by the Office of Planning in its report of October 3, 1994, would not be large enough to accommodate his family of five, including three children.

7. The applicant said that he had no use for the backyard he owned, part of which was used for a driveway.

8. By a memorandum dated October 3, 1993, the Office of Planning (OP) recommended denial of the application. OP stated that the size of the existing lot 1,432 square feet cannot be increased to accommodate the specifications of the deck due to the fact that the adjoining properties are already developed. OP further stated that the size of the lot is not unique in the area in that it is approximately the same as all the other lots in the block. The size of the existing rowhouse is generally similar to most of the other rowhouses in the block. OP indicated that it could not find a practical difficulty for the applicant if the application were not granted. Based on its analysis of the relief requested, OP was of the opinion that the proposed deck would have a depth of approximately 12 feet and would exceed the minimum lot occupancy requirement of 60 percent in this zone district by approximately 11 percent. OP stated that although the relief was not substantial, the applicant could build the deck as a matter of right to a depth of 6.7 feet rather than the 12 feet as proposed.

9. OP believes that the proposed deck would adversely affect the light and air of neighboring properties since the structure would cast a shadow on the rear facade of the adjacent rowhouses to the north of the area.

10. OP further believes that the proposed deck would impair the intent and purpose of the zone plan for the R-4 District.

11. Advisory Neighborhood Commission (ANC) 6B, by its letter of September 20, 1994, recommended approval of the application on the grounds that the requirements of "practical difficulty" appeared to have been met.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds as follows:

1. The subject property is similar in size to adjoining properties.

2. There is no uniqueness in the subject property in terms of its physical characteristics or any characteristics extraneous to the property and relative to other properties in the area.
3. The depth measurement of the proposed deck would exceed the maximum lot occupancy requirements in the R-4 District.
4. The nonconforming dimensions of the property do not prevent the applicant from constructing a reasonable size as a matter of right.

CONCLUSIONS OF LAW AND OPINION:

Based on the evidence of record, the Board concludes the applicant is seeking area variances to construct a wooden deck with a roof at the rear of his property. The granting of 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 the application will not be a 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 Board concludes that the property is not the lot or the structure that constitutes an exceptional condition that creates a practical difficulty for the owner of the property. The Board concludes that the applicant seeks to construct the wooden deck as a matter of convenience rather than need.

While the Board is of the opinion that the variances requested are minor, the Board concludes that to grant the relief as a matter of convenience when an adequate addition can be built as a matter of right, would impair the intent, purpose and integrity of the zone plan.

The Board concludes that it has accorded ANC 6A the "great weight" to which it is entitled.

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

VOTE: 4-0 (Craig Ellis, Maybelle Taylor Bennett, Angel F. Clarens and Susan Morgan Hinton to deny; Laura M. Richards not present, not voting, not having heard the case).

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

ATTESTED BY:



MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER:

OCT 22 1996

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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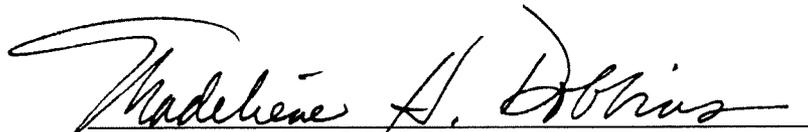


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As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on OCT 22 1996 a copy of the order entered on that date in this matter was mailed postage prepaid to each person who appeared and participated in the public hearing concerning this matter, and who is listed below:

Johnny Donelson
223 17th Street, N.E.
Washington, D.C. 20002

Peter J. Waldron, Chairperson
Advisory Neighborhood Commission 6B
921 Pennsylvania Avenue, S.E., #108
Washington, D.C. 20003


MADELIENE H. DOBBINS
Director

Date: OCT 22 1996