

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16029 of Robert B. and Christine Smart, pursuant to 11 DCMR 3107.2, for a variance to allow an addition to an existing nonconforming structure that now exceeds the allowable percentage of lot occupancy and will increase the nonconformity [Paragraph 2001.3(a) and (c)], and a variance from the lot occupancy requirement (Subsection 403.2) for the addition of an accessory garage in an R-3 District at premises 3013 P Street, N.W. (Square 1269, Lot 372).

HEARING DATE: February 15, 1995
DECISION DATE: February 15, 1995 (Bench Decision)

ORDER

The property which is the subject of this application is located at 3013 P Street N.W. It is located on the north side of the street between 30th Street and Dumbarton Rock Court, N.W. The property is zoned R-3 and it is located within the boundaries of the Georgetown Historic District.

The subject property is developed with a two-story plus basement dwelling. Located at the rear of the lot there are two metal garages.

The lot is rectangular in shape and contains 2,760 square feet in land area. It has a lot occupancy of 1,428.3 square feet, a lot width of 23 feet, a rear yard of more than 49 feet, and one side yard measuring 2.2 feet.

Regulations for the R-3 zone district require a lot area of 3,000 square feet, a 20-foot rear yard, eight-foot side yards. A lot occupancy of 1,104 square feet (or 40 percent) is allowed.

The applicants propose to raze the two existing on car garages and build one 19-foot wide by 20 foot deep two car garage.

According to the calculations of the Zoning Administrator, the property is nonconforming with regard to lot size, lot occupancy, width and side yard. The proposed construction will increase the lot occupancy. Therefore, the applicants are seeking a variance from the allowable percentage of lot occupancy and a variance to allow construction of an accessory garage which will increase the nonconformity of the percentage of lot occupancy.

ISSUES AND ARGUMENTS:

1. Whether the property is unique or whether the owners face an exceptional situation or condition related to the property?

The applicants stated that for a number of reasons their property is unique and the property presents an exceptional situation for them. First, the garages are very old. They were built in the 1940s and predate the Zoning Regulations. Second, the garages are small. They measure 10 x 16 on the outside and 9 x 15 on the inside. Third, the metal garages are in a dilapidated condition and present a hazard on the property. Fourth, there is a small space of about one and one-half feet between the structures. This space is unusable. Finally, the applicants noted that their garages are not like others in the area. Other lots have updated garage structures.

With regard to the dwelling, the applicants pointed out that their house is considered a semi-detached dwelling by the Zoning Administrator. They believe that the structure should be treated as a row dwelling because there is only a small amount of space (about one foot) between their house and the adjacent detached structure.

2. Are there unique conditions or exceptional circumstances related to the property which create a practical difficulty for the owners in making reasonable use of their property?

The applicants stated that their property is unique in that the original structure on the subject lot was built around 1811 as a free-standing house. This house predates the construction of the two adjacent structures. Prior to enactment of the Zoning Regulations, additions and alterations were made to the residence to create the current configuration. These structural changes created a narrow sliver of land to the west of the house. Except for this small piece of land the residence would be considered a rowhouse. If the house were considered to be a rowhouse, the lot would be three feet wider and 760 square feet larger than required by the Zoning Regulations. The applicants noted that under these circumstances, the 60 percent lot coverage requested by this application would be allowed. The applicants are of the view that the property should be grandfathered into the Regulations because the circumstances surrounding the structural make-up of this property bring it out of technical compliance with the Zoning Regulations, thereby creating the need for the relief requested.

With regard to the garages, the applicants testified that they cannot park their cars in the garages because they are so small. Therefore, the garages cannot be used for their intended purpose.

The applicants stated that they need to store some household items in the garage because their basement is only a crawl space at the rear of their house.

The applicants testified that currently they cannot gain access to their house from the rear of the lot because the space between the garages is too narrow. One must walk around the block to get to the house. Also, the small space between the garages cannot be maintained properly.

Finally the applicants pointed out that they cannot secure the property with the existing garages.

By memorandum dated February 8, 1995, the Office of Planning (OP) recommended denial of the application. OP expressed the view that the applicants do not face a practical difficulty because construction of the garage is not essential to meet the parking requirements of the Zoning Regulations. In OP's view, the applicants could raze the existing garages and park two cars at the rear without a garage.

OP testified that the applicants could restructure their basement area at the rear to create an entrance that would allow them to store items in that area.

For security, OP recommended that applicant install a gate operable by remote control.

Responding to OP's recommendation about the basement storage area, the applicants stated that reconstruction in that area would create other problems for them because of the structural layout of their home at the foundation level.

3. Whether allowing the proposed garages would be detrimental to the public good?

The applicants maintain that denial of the variance relief would be detrimental to the public good. The applicants stated that the existing structures are historically inappropriate to the Georgetown Historic District, and the proposed replacement has been endorsed by ANC-2E, the Old Georgetown Board (conceptual approval), and many of the neighbors. The applicants noted that the Commission of Fine Arts' statement dated July 28, 1994, indicated that the Commission does not object to the concept proposed.

The applicants maintain that the existing garages need to be replaced because they are an eyesore to the community and they are in poor condition. They maintain that it would be better for the community for the garages to be replaced rather than repaired.

The Office of Planning noted that the two existing garages do not contribute to the character of the historic district. OP expressed the view that the proposed garage would have a positive impact on the appearance and character of the area.

Advisory Neighborhood Commission (ANC) 2E did not appear at the hearing or submit a report related to the application. The applicant submitted into the record the minutes of the ANC's public meeting of August 2, 1994. The minutes indicate that the proposal was presented by the applicants' architect but no action was taken by the ANC.

One witness who resides at 1723 34th Street, N.W. testified in support of the application. In his testimony he advocated the removal of garage structures like that of the applicants. He stated that the removal of such unsightly structures from homes in the Georgetown area will promote the public good.

Several letters from neighbors in support of the application were submitted into the record.

4. Whether allowing the variance relief will impair the intent, purpose or integrity of the Zone Plan?

The applicants pointed out that typically houses in the area are rowhouses, most of which are located on lots that are narrower and smaller than the subject property. The applicants maintain that their property has the appearance of a rowhouse and if considered as such, they would face above-standard conditions at the site. They maintain that the existing coverage is 58 percent above what is allowed and the two percent additional coverage proposed is minor and will not impair the intent, purpose or integrity of the Zoning Regulations.

In its report, the Office of Planning stated that the increase in the property's existing lot occupancy would be small and that there would be no change in the existing intensity and use of the site. Therefore, OP was of the opinion that the present proposal would not impair the intent, purpose or integrity of the zone plan.

FINDINGS OF FACT:

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

1. The subject property is unique because it is very close in proximity but unconnected to the adjacent structure to the west.

Because of this condition, the subject structure is technically a semi-detached dwelling, but for all practical purposes, it is a rowhouse.

2. Because the property is considered to be a semi-detached dwelling instead of a rowhouse, the applicant faces stricter area requirements which are not and cannot be met.

3. The existing garages are too small to be used for parking cars.

4. The proposed garage structure will be compatible with the historic area.

5. The nonconforming aspects of the site predate the Zoning Regulations.

6. The two percent increase in lot occupancy is minor.

CONCLUSIONS OF LAW AND OPINION:

Based on the evidence of record, the Board concludes that the applicant is seeking area variances to construct a two-car accessory garage at the rear of property located in an R-3 District. 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 condition. 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 met this burden of proof.

The Board concludes that the physical characteristics of the property are exceptional and create a practical difficulty for the owner in meeting the technical requirements of the Zoning Regulations. The Board concludes that the variance relief can be allowed without substantial detriment to the public good and without impairing the intent, purpose and integrity of the zone plan.

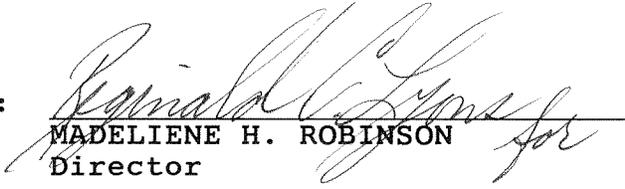
In light of the foregoing, the Board hereby **ORDERS** that the application is **GRANTED**.

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VOTE: 4-0 (Angel F. Clarens, Susan M. Hinton, John G. Parsons and Craig Ellis to grant, Laura M. Richards not present, not voting).

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

ATTESTED BY:


MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: _____

MAR 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.

16029Order/TWR/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA
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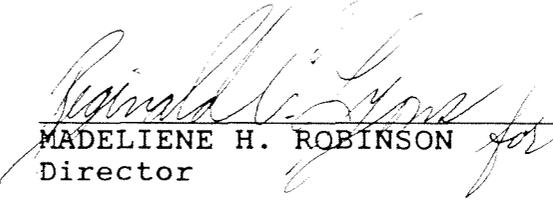
As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on MAR 28 1995 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Douglas Rixey, AIA
Rixey-Rixey Architects
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Washington, D.C. 20007

Robert and Christine Smart
3013 P Street, N.W.
Washington, D.C. 20007

Ronald Mlotek
1723 34th Street, N.W.
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Westy McDermid, Chairperson
Advisory Neighborhood Commission 2E
3265 S Street, N.W.
Washington, D.C. 20007



MADELIENE H. ROBINSON
Director

DATE: _____

MAR 28

16029Att/bhs