

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16099 of Dorothy Byrd, pursuant to 11 DCMR 3107.2, for a variance to allow an addition to an existing nonconforming structure that now exceeds the lot occupancy requirements and will create a new nonconforming rear yard [Paragraph 2001.3(a), (b) and (c)], a variance from the lot occupancy requirements (Subsection 403.2), and a variance from the rear yard requirements (Subsection 404.1) for a rear addition to a single-family row dwelling in an R-4 District at premises 1251 Walter Street, SE (Square 1015, Lot 273).

HEARING DATE: May 15, 1996
DECISION DATE: July 10, 1996

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The subject site, known as 1251 Walter Street, SE, contains 786.5 square feet of land area. The lot has a frontage of 12.5 feet and a depth of 62.92 feet. The lot abuts an unimproved 10-foot wide public alley.
2. A two-story, brick, row dwelling that contains a gross floor area of 802 square feet is located on the property. The structure, built in 1914, does not have a basement. An enclosed porch, followed by a one-story center block addition, is located at the rear of the property on the ground floor. The applicant proposed to construct a two-story, rear yard addition. The addition would replace the portion of the building that was previously constructed of center blocks.
3. The construction date of the one-story center block addition is unknown; however, it was built after the original building. The addition extends approximately 5.5 feet into the rear yard.
4. Members of the same family have lived in the dwelling since 1957 and wish to continue to do so. The applicant indicated that the house is generational. The building's small size (among other structural problems) makes it impractical for the owners to continue to reside on the premises without modernizing the building.
5. The site is zoned R-4. The R-4 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, a minimum rear yard depth of 20 feet, and a maximum height of three stories/40 feet.

6. The applicant originally proposed to construct a 14'6" deep by 11'3" wide addition. The project's computations, prepared by the Zoning Administrator's office, were based on this dimension. Subsequently, because of neighborhood opposition, the applicant reduced the size of the addition.

7. The revised building plans reduced the depth of the addition to 10'6". Based on the revised plans, the following would result: a lot occupancy of 68 percent and a rear yard of 10'10".

8. The site is located in the Capitol Hill Historic District. After reviewing the project's conceptual plans, the District of Columbia Historic Preservation Review Board (HPRB) staff recommended approval of the proposed two-story addition.

9. By memorandum dated May 8, 1996, the Office of Planning recommended approval of the application to: enable the applicant to modernize the building, make the structure more functional, and enlarge cramped living space. The recommendation was based on the following:

- a. The dwelling contains 802 square feet of gross floor area. The average size of a newly constructed single-family dwelling in the District of Columbia is between 1,200 and 1,500 square feet. The proposed addition would make the premises more habitable for a family. Additionally, the proposed improvements would be the first major overhaul of the structure since it was constructed in 1914.
- b. The premises is nonconforming. The lot was created and the building constructed 82 years prior to 1996, and 38 years before enactment of the city's 1958 Zoning Regulations. The 786.5-square foot lot size is less than one-half of the 1,800 square feet required by the Zoning Regulations. Likewise, the lot's width cannot meet the 18-foot zoning requirement. A building restriction area that reduces the amount of space that can be used for construction is located at the front of the site. Although these existing conditions are grandfathered into the property, they place substantial limitations on the matter-of-right improvements that can be made to the exterior of the building.
- c. The proposed addition would not have significant adverse impacts on abutting properties. Two doors to the west of the site, the Board granted permission for the construc-

tion of an addition. A rear yard addition was built at 1247 Walter Street, SE; the property has similar characteristics to the site. The close-by addition has blended in harmoniously with the abutting properties.

- d. The proposed addition would not impair the intent, purpose and integrity of the Zoning Regulations and Map. The site is zoned for moderate-density residential use, and the applicant proposed to use it accordingly. Further, after the addition is constructed, the applicant would continue to have usable rear yard space.

10. The applicant submitted petitions, in support of the addition, signed by residents of the 1200 block of Walter Street and the 200 block of 13th Street.

11. In correspondence to the Board dated May 13, 1996, the Zoning Committee of the Capitol Hill Restoration Society indicated that the organization was opposed to the application. The organization further stated that it would not oppose an addition to the dwelling that is no longer than the rear addition approved by the Board in 1988 at 1247 Walter Street, SE. The reasons for the opposition were the property owners residing within the square indicated that light and air to their properties would be diminished; and, the size of the addition was too large.

12. The Society's Zoning Committee indicated that it often opposes area variances for additions to residential buildings because the additions reduce light and air to nearby residences in the Capitol Hill neighborhood. However, when the lots are particularly shallow, as is the subject lot, the Society does not oppose small variances. Thus, the Society was not opposed to the rear yard addition that the Board approved for 1247 Walter Street, SE because it resulted in a lot occupancy of approximately 61 percent. The Zoning Committee of the Society did not oppose a similar variance for the subject site.

13. The record indicates that written and verbal opposition was expressed by abutting and nearby property owners. The neighbors were supportive of the applicant's need to enlarge the structure; however, they were adamantly opposed to the size of the addition. Specifically, they were of the opinion that:

- a. the depth of the addition constructed at 1247 Walter Street, SE is approximately six feet (not including a chimney that extends further into the rear yard), whereas the depth of the proposed addition would be 10'6";

- b. the sunlight to their properties would be diminished or eliminated, particularly during the winter season and at certain times of the day;
- c. the addition would cast a shadow on their properties;
- d. the resale value of their properties would be negatively affected;
- e. the size of the new addition, when combined with the existing structure, would not fit into the character of the neighborhood (the lot occupancy would be excessive);
- f. the addition would look out of place, and may set a precedent by others to build large additions that would detract from the historic importance of the area; and,
- g. the premises (small lot and building size) is typical of those that are located in the Capitol Hill neighborhood and the historic district.

14. Advisory Neighborhood Commission (ANC) 6B submitted correspondence stating that the application was discussed at its May 14, 1996 public meeting. The ANC did not reach a consensus concerning disposition of the application. A quorum (seven Commissioners) was present; and the vote was one in favor, three opposed, and five not voting.

FINDINGS OF FACT:

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

1. The applicant cannot make any exterior additions to the nonconforming building without zoning relief. The building has not had a major overhaul since it was built in 1914. Its size, 802 square feet of gross floor area, is exceptionally small for a single-family residential dwelling unit.

2. The nonconforming lot is particularly shallow. Its size and width are 786.5 square feet and 12.5 feet, respectively. The size of the lot is substantially smaller than that which is required by the Zoning Regulations. The property is further encumbered by the building restriction area that is located along the front of the property.

3. The 10-foot wide, unimproved (grassy), public alley that is located at the rear of the site adds a measure of open space to the premises and abutting properties.

4. The structure is located in the Capitol Hill Historic District. The city has stringent historic preservation review

requirements. The staff of the District of Columbia Historic Preservation Review Board recommended approval of the addition.

5. The oral and written testimony of the adjoining property owners and the Capitol Hill Restoration Society were considered. In order to ensure that the addition does not adversely affect neighboring property owners, the Board is of the opinion that the addition should not extend further into the rear yard than the addition at 1247 Walter Street, SE.

6. The Board notes that applicant's neighbors were not opposed to the construction of an addition onto the building, rather they objected to the size of the addition. The abutting and nearby property owners and the Capitol Hill Restoration Society supports the two-story addition provided its depth does not exceed six feet.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that the applicant is seeking variance relief to allow a two-story addition to an existing dwelling. 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.

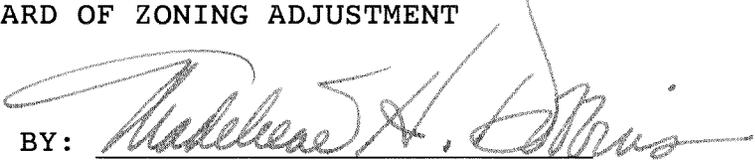
The Board concludes that the physical characteristics of the lot create a practical difficulty in this application and that the applicant has met the burden of proof. The Board believes that the addition can be constructed and the relief granted without substantial detriment to the public good, and without creating adverse impacts on the abutting properties and the neighborhood.

Based on the foregoing, the Board **ORDERS** that the application is hereby **GRANTED**, **SUBJECT** to the **CONDITION** that the addition is constructed to a depth of six feet in accordance with the revised plans marked as Exhibit 47 of the record.

VOTE: 3-0 (Susan Morgan Hinton, Laura M. Richards and Sheila Cross Reid to grant; Maybelle Taylor Bennett not present, not voting, and Angel Clarens, not voting not having heard the case).

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

ATTESTED BY:


MADELIENE H. DOBBINS

FINAL DATE OF ORDER:

AUG 28 1997

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 TWO YEARS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ORD16099/bab

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16099

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on AUG 28 1997 a copy of the order entered on that date in this matter was mailed first class postage prepaid to each person who appeared and participated in the public hearing concerning the matter, and who is listed below:

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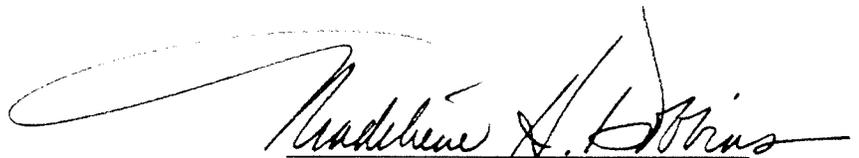
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MADELIENE H. DOBBINS
Director

DATE: AUG 28 1997