

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16146 of Gary R. Lovejoy, pursuant to 11 DCMR 3107.2, for a variance from the side yard requirement (Subsection 405.9) for a carport addition to a detached single-family dwelling in an R-1-B District at premises 4564 Indian Rock Terrace, N.W. (Square 1367, Lot 915).

HEARING DATE: September 4, 1996

DECISION DATE: September 4, 1996

ORDER

SUMMARY OF EVIDENCE

1. The property which is the subject of this application is located on the south side of Indian Rock Terrace, between Salem Street and Q Place, N.W. and consists of one lot of record (Lot 915) containing 7,554 square feet of land area. It is improved with a three-story with basement detached single-family dwelling built in 1956. The property's west side yard is approximately 15 feet wide, while the east side yard measures 13 feet in width. The site does not abut a public alley.
2. The area surrounding the site is characterized primarily by single-family detached dwellings interspersed with a number of medium-sized apartment buildings. MacArthur Boulevard N.W. is located one block to the south of the site, while Foxhall Road is located several blocks to the east. The Georgetown Reservoir is located a short distance to the west of the property.
3. The site is located in an R-1-B zone district. This zone permits matter-of-right development of single-family residential uses for detached dwellings with a minimum lot area of 5,000 square feet, a maximum lot width of 50 feet, a maximum lot occupancy of 40 percent, a maximum height of 3 stories/40 feet, and a minimum side yard depth of 8 feet on each side of a dwelling.
4. The applicant is proposing to construct a carport within the west side yard of the property. It would occupy 320 square feet of land area (32 feet long by 10 feet wide) and would be 8 feet high. It would be made of pressure-treated wood construction and would provide covered space for one vehicle.

5. The applicant testified that the location proposed for the carport is partially dictated by a steep slope of the subject lot at the rear, the fact that there is a steep driveway with steps that go up to the front door on the side of the house, and the fact that the portion of the lot designated for the proposed carport is the only flat area on the property.
6. The applicant further testified that he needed the carport to protect his car from surrounding trees and bird droppings. He indicated that building a garage at the back of the property as opposed to building a carport on the side would be a financial burden on him.
7. By report dated August 26, 1996, and through testimony at the public hearing, the Office of Planning (OP) recommended denial of the application. The OP stated that the subject property was similar to other properties within the immediate neighborhood and did not exhibit any unique or extraordinary situation or condition inherent in it. In OP's opinion, the applicant was not faced with a practical difficulty in his ability to reasonably develop the property in accordance with the Zoning Regulations. The applicant could construct a matter-of-right one- or two-car garage in the rear yard of the property. The OP further stated that the proposed carport would impair the R-1-B zone district regulations because it would completely eliminate the required 8-foot wide west side yard of the property. The OP further concluded that the proposed construction would cause adverse effects on the area in terms of increased structural density and diminished light and air for the abutting property.
8. By letter dated May 13, 1996, the Advisory Neighborhood Commission (ANC) 2E stated that it had voted to approve the applicant's request for a side yard variance.
9. Four neighboring residents signed and submitted a petition in support of the application. The neighbors stated that the addition would improve the appearance of the property and would neither result in substantial detriment to the public good nor substantially impair the intent and purpose of the zone plan.
10. No one appeared at the hearing to testify either in support or in opposition to the application.

FINDINGS OF FACT

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

1. The property is similar to other properties within the immediate neighborhood.
2. There is an alternative under which the applicant can construct a garage or carport on the property as a matter-of-right.

3. The applicant failed to identify an extraordinary or exceptional situation that would justify the building of a carport.

CONCLUSIONS OF LAW AND OPINION

Based on the evidence of record, the Board concludes that the applicant is seeking a variance from the side-yard requirements to build a carport addition to a detached single-family dwelling in an R-1-B District.

The granting of such a variance requires a showing through substantial evidence that requiring strict compliance with the Zoning Regulations will create an undue hardship upon the owner in their efforts to make reasonable use of the property. The hardship must arise out of some unique or exceptional condition of the property such as, exceptional narrowness, shallowness, shape or topographical condition. In addition, the Board 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 not met this burden of proof and he failed to demonstrate how complying with the Zoning Regulations will create a practical difficulty for him in making reasonable use of the property.

The Board concludes that the applicant has not submitted evidence persuasive enough to show that the property itself has an exceptional condition.

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

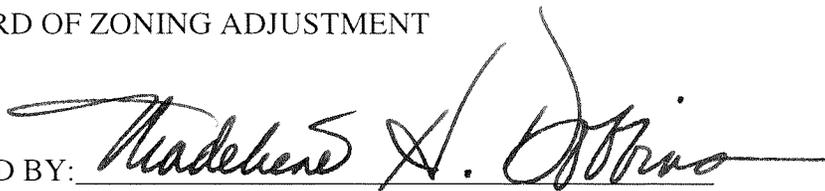
The Board has accorded ANC 2E the “great weight” to which it is entitled.

In accordance with the above analysis, the Board hereby orders **DENIAL** of the application.

VOTE: 3-0 (Susan Morgan Hinton, Laura M. Richards and Sheila Cross Reid to deny; Angel F. Clarens and Howard Croft not present, not voting).

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

ATTESTED BY:



MADELIENE H. DOBBINS

Director

FINAL DATE OF ORDER: 001 1 5 1997

PURSUANT TO D.C. CODE SEC. I-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 PROPERTY 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 AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16146

As Director of the Board of Zoning Adjustment, I hereby certify and attest that on OCT 15 1997 a copy of the order entered on that date in this matter was mailed first class postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Gary R. Lovejoy
4564 Indian Rock Terrace, N.W.
Washington, D.C. 20007

Rod Johnson, Chairperson
Advisory Neighborhood Commission (ANC 2E)
3265 S Street, N.W.
Washington, D.C. 20007

A handwritten signature in black ink, reading "Madeliene H. Dobbins", written over a horizontal line.

MADELIENE H. DOBBINS
Director

DATE: OCT 15 1997