

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16148 of Arthur and Myrna Fawcett, as amended, pursuant to 11 DCMR 3108.1 and 3107.2, for a special exception under Section 411.11 for review of the location, design, number and all other aspects of a roof structure, for a variance to allow an addition to an existing nonconforming structure that now exceeds the maximum lot occupancy requirements and does not meet the minimum rear yard and width requirements of an open court, and will create a new nonconformity in the floor area ratio requirement [Paragraph 2001.3(a), (b) and (c)], and a variance from the floor area ratio requirements (Subsection 402.4) for the addition of a roof pavilion and deck to a nonconforming single-family structure in a DCOD/R-5-B District at premises 1763 R Street, N.W. (Square 153, Lot 20).

HEARING DATE: September 18, 1996
DECISION DATE: September 18, 1996 (Bench Decision)

SUMMARY ORDER

At the public hearing, the application was amended to include a special exception under 11 DCMR 411.11 for the location, design, number and other aspects of a roof structure.

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2B and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 2B. ANC 2B, which is automatically a party to the application, filed a written statement in support of the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a variance from the strict application of the requirements of 11 DCMR 2001.3(a), (b), (c) and 402.4 and a special exception pursuant to 411.11. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

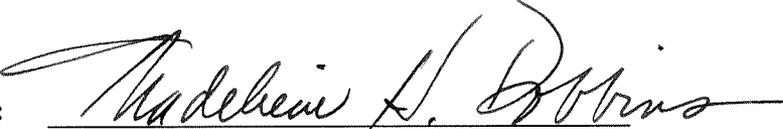
Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3107, that there exists an exceptional or extraordinary situation or condition related to the property which creates a practical difficulty for the owner in complying with the Zoning Regulations,

and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. The Board further concludes that the applicant has met the burden of proof pursuant to 11 DCMR 3108 and that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. It is therefore **ORDERED** that the application is **GRANTED SUBJECT** to the **CONDITION** that construction be in accordance with revised plans marked as Exhibit No. 28A of the record.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.1 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 5-0 (Angel F. Clarens, Laura M. Richards, Sheila Cross Reid, Susan Morgan Hinton and Howard F. Croft to grant).

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

ATTESTED BY: 
MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: OCT 1 1996

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 SUPPLEMENMTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

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BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16148

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on OCT 1 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:

Arthur H. Fawcett, Jr.
1763 R Street, N.W.
Washington, D.C. 20009

Michael Fox
7913 Kentucky Avenue
Bethesda, Maryland 20814

Robert Froman, Jr.
1827 23rd Street, N.W.
Washington, D.C. 20008

Mr. Henry Fernandez, Chairperson
Advisory Neighborhood Commission 2B
1900 Massachusetts Avenue, N.W.
Washington, D.C. 20036

A handwritten signature in cursive script, reading "Madeliene H. Dobbins". The signature is written in black ink and is positioned above a horizontal line.

MADELIENE H. DOBBINS
Director

Date: OCT 1 1996