

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16271 of Matthew L. Snyder, pursuant to 11 DCMR 3107.2, for a variance to allow an addition to an existing nonconforming structure that exceeds the lot occupancy requirements, [Paragraph 2001.3 (a)], and a variance from the lot occupancy requirements (Subsection 403.2) for a deck addition to a single-family dwelling in an R-5-B District at premises 1905 16th Street, N.W. (Square 190, Lot 801).

HEARING DATE: October 15, 1997
DECISION DATE: October 15, 1997 (BENCH DECISION)

ORDER

SUMMARY OF EVIDENCE

The property which is the subject of this application is located at 1905 16th Street, N.W. It is improved with a four-story semi-detached residential brick structure built in 1869. The garage located at the rear of the property was added subsequent to the initial construction.

The property is located in the R-5-B District. The maximum allowable lot occupancy for the R-5-B District is 60 percent. This would allow the applicant to occupy a maximum of 849.3 square feet. The existing structure occupies 1,455 square feet. The applicant proposes to construct a deck addition that would create a lot occupancy of 1,511 square feet. Therefore, the applicant is requesting two variances, one from the allowable lot occupancy in the amount of 661.7 square feet, and the other from Subsection 2001.3 which prohibits additions to nonconforming structures.

The applicant described the proposal in detail stating that he plans to construct an 18 by 20-foot deck atop the roof of the existing garage at the rear of the site. He also plans to construct a second floor balcony measuring 7 feet by 3 feet. He testified that he is proposing to make an unsafe, unsecured, unattractive deck, safe, secure and attractive.

Issues and Arguments:

1. Whether there exists a unique or exceptional situation or condition related to the property, which creates a practical difficulty for the owner in complying with the Zoning Regulations?

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The applicant testified that the property is unique because it is the only single-family dwelling on this block. Mostly all of the other residences his size have been divided up into condominiums. He testified that the southern portion of his lot is bound by the rear of lots whose houses front on T Street. The applicant described the layout of his property. He stated that the front room is the widest room on all three levels and where the second room begins, there is a jog. Then the property line continues straight back but at the third room, the structure jogs back again. The rear is the narrowest part of the house. He stated that there is a diagonal area on the south exposure of the lot and that his lot is the only one with this type of configuration in this square.

The applicant also believes that his site is located in a historic district and he stated that the Historic Preservation Review Board has already approved the plans.

2. Whether allowing the proposed deck addition would be of substantial detriment to the public good?

One neighbor testified in opposition to the application. She resides at 1543 T Street N.W. She stated that only a narrow alley about seven feet wide separates her property from the subject site. She stated that the brick garage is very close to the only public light at the west end of the alley that runs behind the houses on the north side of the 1500 block of T Street. She testified that the lamp pose is only about 20 feet high and the lighting fixture is not at the top of the pole. It is about five feet from the top – at about 15 feet. By comparison, she noted that the applicant's garage is eight and a half feet high, and if the deck is to be three to four feet high, there would not be more than four feet remaining (between the structure and the light). She testified that the illumination from the light fixture is very meager. She is concerned that once the deck is built or anything else is added to the existing brick garage, the illumination will drop considerably. She stated that further diminution of light in the alley would create a grave safety problem, making it difficult for emergency personnel to perform their duties efficiently. The opposing neighbor testified that this light is the most reliable and efficient light and it is more likely to be permanent. She maintains that this light is still needed and urged the Board not to allow it to be diminished.

The opposing neighbor testified that there is light that comes from the condominiums, but that building might be vacant in a few years, given that it was vacant back in the 1980s. She also testified that the previous owner at the applicant's house had lights strung all around the outside of his house, but when he left there were no more lights until now. However, they still had the public lamppost. This witness maintained that if the application were approved, the houses at 1541 T Street and 1543 T Street (her house) would be practically in total darkness, which is unfair.

Responding to the issue of safety and lighting raised by the opposing party, the applicant stated that he is just as concerned because more of his home is exposed to the

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alley than any other home. He testified that the area of concern to the opposing witness is located on the south side of his property. He maintains that the proposed construction will not block that light from shining on the properties along T Street. He believes that the opposing witness has underestimated how high the light pole really is.

3. Whether allowing the proposed construction would impair the intent, purpose and integrity of the zone plan?

The applicant testified that the property is located in a historic district, and the plans were approved by the HPRB. Therefore, it is the applicant's position that the zone plan would not be impaired by the proposed addition, given that the plans were determined to be compatible with the district.

FINDINGS OF FACT

Based on the evidence of record, the Board makes the following findings of fact:

1. The structure is different from others in the block because it is a single-family structure amidst condominiums, and because the structure is oddly configured.

2. The proposed addition will not block the public light shining on the alley and the rear of lots facing on T Street.

3. The addition has been designed to be compatible with the zone district and the historic nature of the district.

CONCLUSIONS OF LAW AND OPINION

Based on the evidence of record, the Board concludes that the applicant is seeking area variances to allow the construction of a deck addition atop a garage at the rear of property located in an R-5-B district. The granting of such a variance requires a showing of substantial evidence on the record that there exists a unique or exceptional situation or condition which creates a practical difficulty for the owner in complying with the strict application of the Zoning Regulations, that granting the application would not be of substantial detriment to the public good and that it would not impair the intent, purpose and integrity of the zone plan. The Board concludes that the applicant has met this burden of proof.

The Board is of the opinion that the property is unique and that the applicant is unable to comply with the lot occupancy restrictions of the Zoning Regulations because of the unique conditions. The Board further concludes that to grant the application would not be of substantial detriment to the public good, nor would it impair the intent, purpose and integrity of the zone plan.

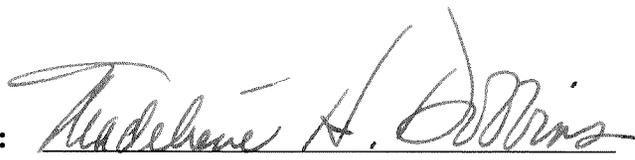
The Board concludes that Advisory Neighborhood Commission (ANC) 1B did not submit a written statement related to the application, nor did a representative testify at the hearing. Therefore, the Board is unable to give great weight to the views of the ANC.

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

VOTE: 4 – 0 (Maybelle Taylor Bennett, Susan Morgan Hinton, Sheila Cross Reid and Betty King to grant; Laura M. Richards not present, not voting).

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

ATTESTED BY:



**MADELIENE H. DOBBINS
DIRECTOR**

FINAL DATE OF ORDER: DEC 23 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 AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATION OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



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As Director of the Board of Zoning Adjustment, I certify and attest that on
DEC 23 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 blow:

Dr. Matthew Snyder
1905 16th Street, N.W.
Washington, D.C. 20009

Ms. Artie B. Sutton Parlor
1543 T Street, N.W.
Washington, D.C. 20009

Attested By:

A handwritten signature in cursive script that reads "Madeliene H. Dobbins".

MADELIENE H. DOBBINS
Director

Date: DEC 23 1997

Attest/ljp