

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16465 of Willie H. Lisane, pursuant to 11 D.C.M.R. § 3107.2, for a variance from Subsections 403.2, 404.1, and 405.9 of the Zoning Regulations relating to percentage of lot occupancy, minimum depth of rear yard, and minimum depth of side yard requirements, to allow the construction of a garage addition to a dwelling in an R-1-B District at premises 1616 Lawrence Street, N.E. (Square 4145, Lot 800).

HEARING DATE: June 2, 1999

DECISION DATE: June 2, 1999

DECISION AND ORDER

PRELIMINARY MATTERS:

The applicant, Willie H. Lisane, filed an application pursuant to 11 D.C.M.R. § 3107.2 (1995)¹ with the Board of Zoning Adjustment (Board) on March 24, 1999, for a variance from 11 D.C.M.R. §§ 403.2, 404.1, and 405.9 (1995), relating to percentage of lot occupancy, minimum depth of rear yard, and minimum depth of side yard requirements for the premises at 1616 Lawrence Street, N.E., located in an R-1-B District. Mr. Lisane requests this variance to construct a garage addition to his single-family dwelling.

By memoranda dated March 24, 1999, the Office of Zoning advised the Office of Planning and Advisory Neighborhood Commission (ANC) 5A, the ANC for the area within which Mr. Lisane's property is located, of Mr. Lisane's application.

The Board scheduled a public hearing on the application for June 2, 1999. Pursuant to 11 D.C.M.R. § 3317.3, the Office of Zoning mailed Mr. Lisane, the owners

¹ The Board's rules of practice and procedure were amended and renumbered effective October 31, 1999. The amendments do not affect this application. See 11 D.C.M.R. § 3102.2, 46 D.C. Reg. 7853 (Oct. 1, 1999). To conform to the citations used in Mr. Lisane's application, all citations to the Board's rules are to the rules as published in 11 D.C.M.R. ch. 31 and 33 (1995).

of all property within 200 feet of Mr. Lisane's property, and ANC 5A notice of the hearing. Notice was also published in 46 D.C. Reg. 3496 (Apr. 16, 1999). Mr. Lisane filed an affidavit of posting stating that on May 17, 1999, he placed zoning posters on the front of the property, in plain view of the public.

At the June 2, 1999, public hearing on Mr. Lisane's application, the Board heard testimony from Mr. Lisane and his architect, Hayward Patterson. There were no reports from ANC 5A or from any government agency. No persons testified in support of or in opposition to the application. Two neighbors submitted letters stating they had no objection to the application. At the conclusion of the hearing, the Board, by a 4-0 vote, denied the application.

FINDINGS OF FACT:

1. The premises that are the subject of this application, 1616 Lawrence Street, N.E., are in an R-1-B zoning district. The applicant's dwelling is a single-family dwelling.
2. The applicant, Willie H. Lisane, built his home in 1993 on a vacant corner lot. He would like to construct a garage addition on the west side of his house to provide storage for his vehicles, lawnmowers, wheelbarrows, shovels, and other equipment. As shown in his plans, the proposed attached garage would be 26 feet, 8 inches long, facing Lawrence Street, by 30 feet wide, facing the public alley on the west side of his lot.
3. To construct his garage, Mr. Lisane requested a variance from 11 D.C.M.R. §§ 403.2, 404.1, and 405.9, for relief from the percentage of lot occupancy, minimum depth of rear yard, and minimum depth of side yard requirements in an R-1-B zoning district, for purposes of constructing a garage addition.
4. Under Subsection 403.2 of the Zoning Regulations, a structure, including its accessory building, in an R-1-B zoning district may not occupy more than 40 percent of its lot.
5. Under Subsection 404.1, a rear yard, with a minimum depth of 25 feet, must be provided for each structure located in an R-1-B District.
6. Under Subsection 405.9, each side yard in an R-1-B district must have a minimum depth of 8 feet.
7. The Board referred to the zoning memorandum prepared by the Edgar T. Nunley, Chief of the Zoning Review Branch, Zoning Division, Building and Land Regulation Administration, Department of Consumer and Regulatory Affairs, dated March 3, 1999, throughout the hearing. The attached computation sheet shows that the requested variance from the 40 percent lot occupancy requirements totals 482.92 square feet, a 24

percent variance above the 2000 square feet allowed.² The existing rear yard is 30.33 feet deep. The requested variance would reduce the rear yard to 4 feet, an 84 percent variance from the 25-foot requirement. The existing side yard would be eliminated.

8. The proposed garage, as shown on the plans, would have two garage doors facing the public alley, each 8 feet wide, separated by 2 feet in the middle, with 2 feet on one side and 12 feet on the other, totaling 30 feet wide.

9. Mr. Lisane stated that he could place a driveway from the front of his lot on Lawrence Street leading to the garage; or, alternatively, from the public alley. If the garage doors open to Lawrence Street, the distance from the building line to the lot line would be four feet. The distance from the building line to the Lawrence Street curb would be 29 feet. On the public alley side, the plans show the distance from the building line to the alley as four feet.

10. The subject lot is substantially the same size and shape as the other lots in Mr. Lisane's neighborhood. Mr. Lisane stated that his lot may appear larger than his neighbors' properties because it is a corner lot. There are no unusual topographic conditions. The surrounding lots are occupied by similar homes. While some of the older homes have two-car garages, none are as large as the proposed garage. The Board finds that there is nothing unusual or exceptional about Mr. Lisane's property.

11. The proposed garage is extremely large, and would occupy the entire side yard and most of the back yard. It is much larger than a typical two-car garage; from the drawings that were submitted it appears to be a three or four-car garage.

12. Mr. Lisane currently uses a large concrete parking pad and basement storage to meet his parking and storage needs in a manner that complies with the Zoning Regulations.

13. Mr. Lisane has sufficient space on his lot to construct a one-car garage with a storage area that will comply with the Zoning Regulations.

CONCLUSIONS OF LAW AND OPINION:

The Board is authorized under the Zoning Act of 1938, 52 Stat. 797, as amended, D.C. Code § 5-424(g)(3) (1994 repl.), to grant variances. Mr. Lisane applied under 11 D.C.M.R. § 3107.2 for a variance from the percentage of lot occupancy, minimum depth of rear yard, and minimum depth of side yard area requirements of 11 D.C.M.R. §§ 403.2, 404.1, and 405.9, to construct a garage addition to his single-family dwelling. The

² The percentage of lot occupancy calculation includes the area occupied by the dwelling and proposed garage addition. As defined in 11 D.C.M.R. § 199.1 (1995), "percentage of lot occupancy" does not include the area occupied by the parking pad.

notice requirements of 11 D.C.M.R. § 3317 for the public hearing on Mr. Lisane's application have been met.

Mr. Lisane's application requests an area variance. To meet his burden of proof under Subsection 3107.2, Mr. Lisane must demonstrate that, by reason of exceptional narrowness, shallowness or shape of his property or by reason of exceptional topographical or other extraordinary or exceptional conditions of his property, the strict application of Subsections 403.2, 404.1, and 405.9 will result in peculiar and exceptional practical difficulties. *See Palmer v. Board of Zoning Adjustment*, 287 A.2d 535, 540-41 (D.C. 1979). To demonstrate "practical difficulties," Mr. Lisane must show that compliance with the area requirements would be unnecessarily burdensome. *Id.* at 542. Under 11 D.C.M.R. § 3107.2, Mr. Lisane must also show that the variance 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 concludes that Mr. Lisane has not met his burden of proof under Subsection 3107.2. First, Mr. Lisane has not demonstrated that the conditions of his property are extraordinary or exceptional. The adjacent properties are similar in size and shape. There are no facts in the record that would support a conclusion that Mr. Lisane's property is in any way unique.

Second, Mr. Lisane has not shown that compliance with the area requirements of the Zoning Regulations is unnecessarily burdensome. While Mr. Lisane would prefer a garage, he is currently able to comply with the Zoning Regulations by using his parking pad and basement storage. Further, Mr. Lisane could construct a single-car garage, with additional storage space, that would comply with the Zoning Regulations. Since Mr. Lisane is able to use his property in a manner that conforms with the Zoning Regulations, the Board concludes that Mr. Lisane has not met his burden of proving that the strict application of the area requirements will result in peculiar and exceptional practical difficulties.

Finally, the Board concludes that the requested variance would substantially impair the intent, purpose, and integrity of the R-1-B zone plan as embodied in the Zoning Regulations and Map. The lot occupancy, rear yard, and side yard requirements seek to provide a certain amount of open space within a neighborhood. The proposed garage is massive in size and would take up much of the space in Mr. Lisane's lot, defeating the intent, purpose, and integrity of the R-1-B zone plan.

The affected ANC did not submit a written report to the Board, as provided in 11 D.C.M.R. § 3307. The Board is therefore unaware of any concerns that ANC 5A may have with respect to Mr. Lisane's application and unable to afford ANC 5A the great weight to which it is entitled.

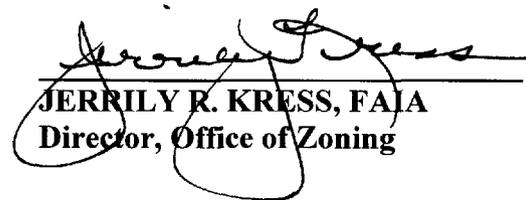
For the reasons stated above, the Board concludes that the applicant has not met his burden of proof. It is hereby **ORDERED** that the application be **DENIED**.

VOTE: 4:0 (Sheila Cross Reid, Betty King, Jerry H. Gilreath, and Anthony J. Hood to deny).

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

Each concurring member has approved the issuance of this Decision and Order and authorized the undersigned to execute this Decision and Order on his or her behalf.

ATTESTED BY:



JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: MAY - 8 2000

UNDER 11 D.C.M.R. 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 OF THE DISTRICT OF COLUMBIA."

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



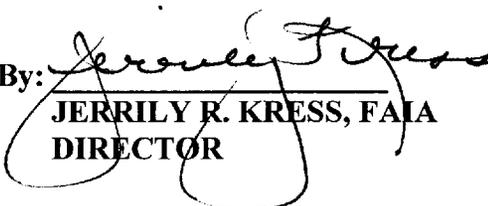
BZA APPLICATION NO. 16465

MAY - 8 2000 As Director of the Office of Zoning, I certify and attest that on a copy of the decision entered on that date was mailed first class, postage prepaid to each party in this case, and who is listed below:

Willie Hayes Lisane
1616 Lawrence Street, N.E.
Washington, D.C. 20018

The Chairperson
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Slove Demountable
14th & Irvine Streets, N.E.
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Michael Johnson, Zoning Administrator
Dept. of Consumer & Regulatory Affairs
941 North Capitol Street, N.E.
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Attested By: 
JERRILY R. KRESS, FAIA
DIRECTOR

Attest/fo16465/JKN//040400