

Burden of Proof Before the Board of Zoning Adjustment

RECEIVED
D C OFFICE OF ZONING

1. Variance pursuant to § 403.2 for the erection of a one-story rear deck to a **Single-Family Structure that does not comply with maximum lot occupancy requirements. (§ 3103.2)**
2. Variance pursuant to § 404.1 for the erection of a one-story rear deck that does not comply with minimum rear yard setback requirements. (§ 3103.2)
3. Variance pursuant to § 406.1 for the erection of a one-story rear deck that does not comply with minimum open court width requirements. (§ 3103.2)
4. Variance pursuant to § 2001.3 for the erection of a one-story rear deck to a **nonconforming Structure that has exceeded the maximum lot occupancy requirements in R-4. (§ 3103.2)**

E. A detailed statement explaining how this application meets the specific tests identified in the Zoning Regulations for variance (area and/or use):

The lot appears to predate the Zoning Regulations in 1958, and is nonconforming as built. The total lot space area is, in existence, non-conforming with the current square footage provided of 12260sq. ft. and the required amount being 1800sq. ft. Therefore the variance requested from existing is actually less than the DCRA noted percentage. In addition the rear stand off to the public alley as currently built is 16' with the requirement for R-4 set at 20'. This presents a particular challenge and hardship to any upgrades to the property to build/add usable space and to satisfy the Zoning Regulations under the current application. The proposed rear deck erection would not change the rear yard's depth variance of 19' but rather 17 5' There is effectively no area in which to build on the property without violating the Zoning Regulations for area unless a significant two-story addition was built to the front of the property. Given that the existing condition of the lot is already over the maximum 60% of lot occupancy allowed, the owners have unique hardships and difficulties in proposing to build any structure on the lot in compliance with the Zoning Regulations. The following details the request for relief to be granted for a variance without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as it embodies the Zoning Regulations

This subject property is unique from neighboring lots in that it encompasses a limited amount of total space and presents significant area challenges for utilizing or developing the current lot. The row homes and lot characteristics on Parkwood Place NW are unique in that the lot spaces themselves are different from those neighbors to the south and the north. While the lots on the south side of the 1400 block of Parkwood Place NW are roughly the same distance in length, their width is slightly wider allowing for more live able or enclosed space and total lot space allowable (see photo N) The lots to the north along Perry Place NW across the public alley are roughly the same width but are longer in rear depth. This allows neighbors more useable outdoor space including the ability to erect a sub 4' level deck or patio to the rear of those properties. Several of these lots on Perry Place in close proximity are not utilized for parking due to; the existence of a ground level deck already, do not provide parking on the lot, or have enough lot space to accommodate both (see photos J-M). The subject property rear yard as existing is only 16' and does not allow enough room for parking and a ground level recreation area. The depth of the Perry Place lots allow for outdoor usage without the requirement or hardship to maintain a parking space or exceed lot occupancy with an elevated structure.

Michael Runyan – 11-8-13

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18696
EXHIBIT NO. 5

Board of Zoning Adjustment
District of Columbia
CASE NO. 18696
EXHIBIT NO. 5

In comparison the property is also unique from the lots along Perry Place due to topography or elevation. The rear end of the subject lot on the north side near the alley is one story lower than the front or south side of the lot along Parkwood Place. While this rear yard area does allow for a parking space (which the District requires it to remain) as well as entry via the garage on the back of the house, it precludes the ability to utilize a low level deck or patio for an outdoor recreation space that does not increase the lot occupancy. This area is also much smaller when there is a car parked in the space. The rear elevation also eliminates the possibility to connect the first floor (street level) of the home without being an elevated deck and/or adding stairs which either option would also add to occupancy space.

In addition to parking, the rear yard space is currently utilized for trash receptacles and an AC compressor. The entire rear area is covered by a two-level concrete slab, an 'L' shaped alley level area for parking leading to the garage, trash receptacles and the AC compressor, and a 1'-1.5' raised slab running $\frac{3}{4}$ length of the yard leading to the rear storage door on the back of the house. To reduce the size of the proposed deck the footers would need to be moved closer together and potentially altering or reducing the viable parking space. This may also include the hardship of having to remove the fencing and excavate and re-pour the raised concrete slab section to widen the current parking slot which is currently 9' wide. This activity may not only be costly but potentially damaging to neighboring properties. Relocating the AC compressor to another location or to the roof of the home would also result in significant financial burden to the owners.

Parking in the rear of the lot under the proposed structure remains in play in accordance with DC requirements prohibiting repurpose of this space. At the same time this precludes the ability to utilize a low level deck sub 4' or a ground level patio. The only way to effectively maintain the rear parking space and utilize any property to the rear of the existing structure would be through an elevated structure. The open structure of the proposed rear deck would not be a closed type and would still maintain a viable parking option on the lot space and appears to be the only practical option.

Additional space along the rear open court would also present difficulties in retaining the space for parking. By limiting the width of the deck posts the fencing and raised concrete slab area adjacent to the parking spot would have to be excavated and re-poured to allow for parking in the middle of the rear lot space. This would also extend the proposed structure to the party wall and potentially encumber the neighbors. The existing open court space from the as built detached portion at the rear of the home (predating the 1958 Zoning Regulations) does not allow much room for any change. While there exists some space here on either side (only 1 foot on one side and less than a foot on the other), it would be exceptionally difficult and expensive to extend the two-story detached portions on either side of the rear walls of the home to increase useable space with much benefit. With only a foot or less being viable areas to build within the requirements, the expansion would serve little purpose for the structural challenges required.

The proposed structure would allow a connection to the 1st floor of the home through the existing double doors (Juliet Balcony). The open rear deck structure would allow for visibility between the existing fencing and proposed structure and does not obstruct any of the street lights or utility

lines in the immediate vicinity. All of the street lights in the alley are located on the north side of the alley way. The vertical rise of the deck allows for some open court space on either side and would not encumber the neighboring properties. While the proposed structure would cast some shadows on the rear yard of the property to the west in the morning and the east in the afternoon, it would not unduly interfere with the light or air availability to those properties. The property to the east currently has an elevated deck as well. Several other Parkwood Place rear elevated decks of various shapes and dimensions in the alley can be found in existence (see photos G-M). It is not felt that the structure would compromise the Zoning Regulations or adjacent neighbors due to the vertical rise from base within the property and open air nature of the structure.

A small covered porch with a fenced in front yard exists on the front or south side of the subject property. The immediate neighboring lot to the west has a brick enclosed two-story porch space add on with a raised first floor and basement level stairwells for access to the home. This neighboring structure extends well beyond the subject property wall and covered porch by 5' and spans across to all but 5" of the party wall (see photos O-S). The neighboring structure allows for more closed livable space on the front end of the property than the subject property enjoys. In addition, this construction has required substantial excavation of the front lot area which resulted in damage to the neighboring house's walls. Several other lots on Parkwood Place have enclosed the front porch space by one level to increase livable space as well as added basement level entry ways. The subject property does utilize some front area space by way of a covered open porch which does not extend to both sides of the property line. Additionally, there exist neighboring lots with semi-enclosed or covered porches significantly greater in area than the subject property (properties 1433, 1429, 1437, 1427, 1423). Owners request a variance to add useable open air recreation space only to the rear of the property so as not to encumber their neighbors or undertake extensive financial and structural hardships to increase closed or open useable lot space in this regard.

Existing elevated deck posts are still intact in the same area as the proposed structure. The previous owner is believed to have torn down the one story rear deck to make adjustments to the property and to replace the old deck, but did not apply or was not successful in obtaining a permit to rebuild it. Double doors or a 'Juliet Balcony' on the rear of the 1st floor above the garage remain which were intended to lead to the deck if/when built.

The owners did attempt to obtain a permit for the proposed alteration to the property from DCRA and on one of several occasions spent nearly 4hrs discussing the matter in several DCRA departments. Owner received several confusing and contradicting answers and/or redirections to other departments, and was ultimately told by a particularly candid DCRA employee to 'just build the deck'. When asked if that could be officially provided in writing he declined, but he did advise that this was 'what he would do'.

Thank you for your consideration.

Michael Runyan
1431 Parkwood Place NW