



**GOVERNMENT OF THE DISTRICT OF COLUMBIA
ADVISORY NEIGHBORHOOD COMMISSION 3D
PO Box 40486, Palisades Station
Washington, DC 20016**

***PALISADES – KENT - SPRING VALLEY - WESLEY HEIGHTS - NEW MEXICO/CATHEDRAL –
THE AMERICAN UNIVERSITY - FOXHALL VILLAGE -BERKELEY***

June 16, 2015

Mr. Lloyd Jordan
Chair
DC Board of Zoning Adjustment
441 4th Street, NW, Suite 220-S
Washington, DC 20001

**RE: BZA Application No. 18970 for Special Exception Relief under
§ 223 to allow for the construction of an addition to a one-family detached dwelling
located at 2903 44TH St. NW**

Dear Chairman Jordan and Members of the Board:

Thank you for the opportunity to provide comments to the BZA based on the analysis conducted by Advisory Neighborhood Commission (ANC) 3D of the zoning issues presented in the above referenced case. We appreciate your consideration of ANC's findings and vote in this case. ANC 3D has done its due diligence in this case and asks that you give this recommendation the great weight to which it is entitled under DC statute. (This is a slightly revised version of ANC's June 15 letter to correct minor typographical errors.)

ANC 3D FORMAL ACTION

At its regularly scheduled public meeting on June 3, 2015 in Conference Room One of the Medical Office Building of Sibley Memorial Hospital, and with a quorum (5) present at all times, ANC 3D voted 9-0-0 to oppose the Special Exception Request No. 18970, 2903 44th Street, NW.

ANC 3D ANALYSIS

Preliminary Matter

ANC 3D notes that the Special Exception relief requested by the applicant is based on relief granted in BZA Order 11750 (attached), dated November 25, 1974, which granted the Government of Oman,

pursuant to Section 8207.1 of the Zoning Regulations, a variance for the purpose of extending an existing garage.

- Although the DC Zoning Administrator has advised the applicant he must seek a Special Exception, it is unclear why Application No. 18970 is for a Special Exception when the request is based on variance relief requested and granted in 1974.
- The one-story addition over the garage was not permitted in BZA Order 11750 or in any subsequent BZA Order. However, the Office of Planning (OP) report dated March 31, 2015, notes the zoning relief “was permitted for the existing garage, one-story addition and deck (atop the existing garage).” The November 1974 BZA Order references only the garage, not the one-story addition and deck atop the existing garage.

Comprehensive Plan Guidance

ANC 3D finds the following elements of the DC Comprehensive Plan are factors and offer guidance for the review of this application.

Policy LU-2.1.5: Conservation of Single Family Neighborhoods

Protect and conserve the District’s stable, low density neighborhoods and ensure that their zoning reflects their established low density character. Carefully manage the development of vacant land and the alteration of existing structures in and adjacent to single family neighborhoods in order to protect low density character, preserve open space and maintain neighborhood scale. 309.10

Policy UD-2.2.1: Neighborhood Character and Identity

Strengthen the defining visual qualities of Washington’s neighborhoods. This should be achieved in part by relating the scale of infill development, alterations, renovations and additions to existing neighborhood context. 910.6

Policy RCW-1.1.1: Neighborhood Conservation

Protect the low density, stable residential neighborhoods west of Rock Creek Park and recognize the contribution they make to the character, economy, and fiscal stability of the District of Columbia. Future development in both residential and commercial areas must be carefully managed to address infrastructure constraints and protect and enhance the existing scale, function, and character of these neighborhoods. 2308.2

Rationale For ANC 3D Recommendation

The above sections of the Comprehensive Plan, which provide guidance taken from the Land Use Element, Urban Design Element, and Rock Creek West Area Element, do not support the addition proposed for 2903 44th Street, NW. The previous variance granted in 1974 to extend a garage into the rear yard did not have the same impacts as the proposed addition to the home that is the subject of this case.

The unpermitted addition of an enclosed porch above the garage does not make the existing increase in height over the garage or the impacts less offensive. The proposed addition and the removal of any rear yard or a buffer between the subject property and its neighbor is in direct conflict with the Comprehensive Plan Elements cited.

Location: The project site is located on the northeast corner of 44th St. at the intersection with Garfield Street, NW. The one-family dwelling is located within the boundaries of the Wesley Heights Overlay District. The dwelling faces 44th Street NW; however the proposed addition would be visible only from Garfield Street.

The purposes of the Wesley Heights Overlay District are to:

- (a) Preserve in general the current density of neighborhood;
- (b) Allow reasonable opportunities for owners to expand their dwellings; and
- (c) Preserve existing trees, access to air and light, and the harmonious design and attractive appearance of the neighborhood.

Conditions: BZA Order No. 11750, granted November 25, 1974 is in effect. The variance granted to the Government of Oman was for permission to extend an existing garage for the purpose of accommodating a larger motor vehicle. An enclosed porch and deck were constructed above the garage at some point, but are not permitted in the Zoning Order.

The March 31, 2015 OP report, Office of Planning Report, page 2 states: “The request is for the demolition of a one-story addition and deck (originally permitted in 1974 via BZA #11750.” This is incorrect. The 1974 variance was granted “to extend an existing garage for the purpose of accommodating a larger motor vehicle.” This use no longer exists.

Relief Requested: The applicant is seeking Special Exception relief under § 223, to allow for the construction of an addition to a one-family detached dwelling not meeting the rear yard setback requirements under § 404.1.

Section 223.1 - *An addition to a one-family dwelling shall be permitted even though the addition or accessory structure does not comply with all of the applicable area requirements of § 404, and shall be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.*

The addition planned for 2903 44th Street would extend the depth of the house along the rear property line. No rear yard setback is currently provided and none would be provided.

Section 223.2 a: *The light and air available to neighboring properties shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property.*

The provided neighboring/adjacent side yard (8 ft. required) is probably 12 feet given the size of the lots in the Overlay district. Significant light and air would be lost by the proposed addition to the subject property, especially given the additional proposed height.

Section 223.2 b: *The privacy of use and enjoyment of neighboring properties shall not be unduly compromised.*

The addition will overlook the side and rear yards and oppose the bedrooms of the adjacent property. It will omit any presumption of privacy. The side yard setback provided by the adjacent property is the only separation between the two structures. Tree limbs extending over the property line will be removed, perhaps at the peril of these old trees which have the effect of buffering the two properties.

Section 223.2 c: *The addition together with the original building as viewed from the street, alley and any other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage.*

The total extent of the proposed addition would be visible from Garfield St. The loss of a rear yard setback is unusual in the Overlay District and is not in keeping with the scale and pattern of houses along Garfield Street. The visual intrusion of the subject property, due to its increase in height would diminish the scale of the adjacent property as well. The massing along the property line is what the Wesley Heights Overlay was meant to prevent. No calculation is provided in the application of the gross floor area of the combined existing structure and proposed addition as required under § 1543.3.

Section 1543.3: *The gross floor area of all buildings and structures on the lot shall not exceed the sum of two thousand square feet (2000 sq. ft.) plus forty percent (40%) of the area of the lot; provided, the following modifications of gross floor area shall apply in the WH Overlay District:*

- (a) The first two hundred square feet (200 sq. ft.) of an open porch, or total open porch space if there is more than one open porch, and the first six hundred square feet (600 sq. ft.) of a garage shall not count in gross floor area; and*
- (b) Basement or cellar floor area shall count in gross floor area if a finished floor is provided, if the floor to ceiling height is in excess of six feet, six inches (six ft., 6 in.) and shall count only up to a floor area equal to five (5) times the total fenestration area for the cellar or basement floor.*

Section 223.4: *The Board may require special treatment in the way of design, screening, exterior or interior lighting, building materials or other features for the protection of adjacent and nearby properties.*

The placement of any exterior lighting at the rear of the addition as well as venting from the proposed kitchen addition into the side yard of the adjacent home yard would have a considerable effect. The height, use of different building materials, and increased occupation of the rear yard offer nothing in the way of screening.

Section 404.1: *A rear yard shall be provided for each structure located in a Residence District, the minimum depth of which shall be as set forth in the following table: R-1-A, 25 feet.*

The need for an extended garage to accommodate a larger vehicle no longer exists. Yet, the proposed addition would provide no rear yard. Given this property is within the Wesley Heights Overlay District which is meant to preserve in general the current density of the neighborhood, allow reasonable opportunities for owners to expand their dwellings, preserve existing trees, access to air and light, and

ensure the harmonious design and attractive appearance of the neighborhood, it is difficult to justify granting this application. It does not meet the zoning purposes outlined in §§ 404.1 or 1543.3.

ANC 3D Findings And Conclusion

The application is incompatible with the sited provisions of the Comprehensive Plan, the general purposes of the Wesley Heights Overlay District, and does not meet the requirements of the zoning regulations outlined in the ANC Analysis. In addition, ANC 3D finds this application is not ripe for a hearing for the following reasons:

1. ANC 3D questions the basis for Special Exception relief, given Zoning Order No. 11750 was for a variance to occupy the rear yard for the purpose of extending the garage to accommodate a larger motor vehicle. The one-story addition and deck above the garage were not permitted by the variance. As the larger motor vehicle no longer exists, the need for the larger structure no longer exists. Since the new construction would occupy the same footprint and enlarge it slightly, it is unclear why the continued removal of the entire rear yard setback would not constitute a variance request. It appears the applicant is changing the use of the variance granted under Zoning Order No. 11750, but also extending the requested relief along the rear property line.

2. The required off street parking space can be accommodated without intruding into the rear yard setback or the need for any zoning relief; and,

3. Discussions between the applicant and the adjacent neighbor, who has objected to the application, have been unproductive.

ANC 3D RECOMMENDATION

ANC 3D recommends that the BZA deny the Special Exception relief requested in this application or, at a minimum, postpone a decision on Application 18970; encourage the applicant to scale back the proposed addition and provide a rear yard to avoid any adverse effects on the use, enjoyment, and privacy of the abutting property; and, encourage the applicant to continue discussions with the abutting property owner, so that an agreement can be reached before returning to the BZA for a decision.

Sincerely,



Thomas M. Smith
Chair

Attachment (1)

Before the Board of Zoning Adjustment, D. C.

Application No. 11750 of the Government of Oman, pursuant to Section 8207.1 of the Zoning Regulations for permission to extend on existing garage in the R-1-A zone at 2903 - 44th Street, N. W., Lot 58, Square 1620.

HEARING DATE: October 16, 1974

DECISION DATE: October 25, 1974

FINDINGS OF FACT:

1. The applicant proposes to extend an existing garage for the purpose of accommodating a larger motor vehicle.

2. The proposed extension would be located on the Garfield Street side of the subject property where the existing garage and dwelling provide no rear yard.

3. The neighbors of the Government of Oman stated by letter of record that they have no objection to this application.

CONCLUSIONS OF LAW:

Based upon the above facts and the Record, the Board is of the opinion that the applicant is confronted with a practical difficulty as a basis for the requested relief, and that this variance, if granted, would not impair the meaning and intent of the Zoning Regulations.

ORDERED: That the above application be GRANTED.

VOTE: 5-0

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

ATTESTED BY: James E. Miller
JAMES E. MILLER,
Secretary to the Board

FINAL DATE OF ORDER: NOV 25 1974

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF ECONOMIC DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.