

Burden of Proof Variance Application

1007 F Street NE

To: **The Office of Zoning**
Government of the District of Columbia
Suite 210 South
441 4th Street, NW
Washington DC 20001

From: **Jennifer Fowler, AIA**
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Date: May 22, 2015

Subject : **BZA Application for a Deck at 1007 F Street NE**
(Square 0961 Lot 0021)

Andrew Hollinger, owner and resident of 1007 F Street NE, is requesting area variances to build a one-story deck on the rear of his existing row house. The aspects of the proposed project that falls outside the current zoning regulation are as follows:

The proposed construction raises the lot occupancy from 806.7 SF (59.8%) to 1031.7 SF (76.4%), which is 16.4% over the allowed lot occupancy for a row dwelling in the R-4 Zoning District (11 DCMR 403.2) and 16.6% over the existing lot occupancy. Additionally, the proposed deck will reduce the rear setback to 15.33'. The minimum required setback for an the R-4 Zoning District is 20.0', pursuant to 11 DCMR Section 401.1.

The property is currently non-conforming for lot area (DCMR Section 2001.3).

Variances Requested:

1. *Variance from setback requirements for structures in the R-4 zone pursuant to 11 DCMR 404.1.*
2. *Variance from lot occupancy restrictions pursuant to DCMR 403.2*

Bases for Grant of Variances:

Section 3103 provides relief based on satisfying specific criteria. Those criteria are addressed separately below:

Subsection 3103.2:

As set forth in D.C. Code Ann §5-424(g)(3) (1981), "[w]here, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Code Ann. §5-413 to 5-432 (1981) would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; Provided, that the 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."

This provision has three main tests that must be proved by the applicant:

1.) *The physical characteristics of the property:*

- a. *make it difficult for the owner to use the property in compliance with the Zoning Regulations (area variance) – ie. shape and size of the property, unusual topography or slope, soil problems, etc.*
- b. *creates financial hardship for the owner in using the property consistent with the Zoning Regulations (use variance)*

2.) *Granting the application will not be of substantial detriment to the public good – ie. traffic, noise, lighting, etc.*

3.) *Granting the application will not be inconsistent with the general intent and purpose of the Zoning Regulations and Map.*

The physical characteristics of the property make it difficult for the owner to comply with the Zoning Regulations:

There are several characteristics of the property that make it unique and make it difficult for the owner to comply with the zoning regulations:

1. Two of the three existing houses to the west, between 1007 F and 10th Street NE, have established a precedent for a setback of approximately 15' from the rear property lines.
 - a. The property at 1005 F Street NE has an existing deck that is the same depth and height of the proposed deck at 1007 F Street NE.
 - b. The property at 1001 F Street NE has an existing deck that is the same depth and height of the proposed deck at 1007 F Street NE.
2. There is no public alley; however the rear yards of these properties all include easements. The easements create a space that has historically been treated as an alley. None of the yards are fenced off and there is access from 10th Street to the rear of 1007 F Street NE. The presence of the easement limits the use of the rear yards of these properties.
3. 1007 F Street NE is the last property in a row accessed by the easement. Because the alley dead ends with the subject property, the encroachment into the rear setback does not limit access to other properties.
4. There is a substantial change in grade from the front of 1007 Street to the back. The basement is at walk-out level and the first floor is a full story above the yard. The owner of 1007 F Street stores his motorcycle in the basement, requiring access from the alley to the back door of the house. The deck allows the rear yard to be utilized while still maintaining access for indoor parking.

Granting of the relief will not be of substantial detriment to the public good:

1. The proposed deck will not add to the amount of traffic, noise or light. The proposed deck will not increase the number of occupants, or the number of parking spaces. The deck will in fact eliminate the possibility for the occupants of 1007 F Street NE to park a car in the rear yard via the easement behind the houses at 1005, 1003, and 1001 F Street NE.
2. The proposed deck will not unduly impact the light, air, privacy, and use and enjoyment of the adjacent properties. The neighbors to the west have submitted letters of support for the proposal.
3. Two of the three houses to the west have a deck of the exact size as is proposed for 1007 F Street NE.
4. The 15' setback is adequate to allow access by service and emergency vehicles.

Granting the relief will not be inconsistent with the general intent and purpose of the Zoning Regulations and Map:

1. The proposed deck is consistent with the scale and massing of the existing structures in the 1000 block of F Street NE
2. The 4.67' decrease in the rear setback will have minimal impact on the immediate area that is already very dense.
3. Many of the existing adjacent properties currently do not adhere to the current zoning regulations with regards to lot occupancy and alley setback. As a result the alley behind the property is extremely dense.

Along with this application, we have included the following items:

- a) Photos of the existing house and surroundings;
- b) Signatures of support from neighbors for a rear deck;
- c) Plan and elevation drawings of proposed deck, including a site plan showing the relationship of the proposed deck to adjacent buildings.
- d) Official Plat from the DC Office of the Surveyor.

If you require any further clarification or have any questions regarding the application, I am available at any time to discuss them with you.

Thank you,

Jennifer Fowler
Agent/Architect