GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



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Office of the Director

MEMORANDUM

DATE: July 8, 2002

TO: District of Columbia Board of Zoning Adjustment

THROUGH: for Andrew Altman, Director OP
Ellen McCarthy, Deputy Director OP

FROM: David J. McGettigan, AICP

SUBJECT: Board of Zoning Adjustment Case No. 16895
1513 and 1515 Independence Ave., SE,
Square 1072S Lots 21 and 22

SUMMARY

The applicant and owner, Debra M. Tunney seeks approval of variances from the minimum rear yard setback requirement of §404 for a structure in the R-4 zone, the maximum allowed lot occupancy requirement for a structure of §403, and the requirements regulating additions to non-conforming structures of §2001.3. The applicant proposes construction of a new addition to two existing, vacant row dwellings.

Recommendation:

The Office of Planning recommends **approval** of the variances based on the following findings:

- The existing lots are very small creating an exceptional situation for this property that justifies the requested variances.
- The applicant has a practical difficulty in the strict application of the zoning regulations, because of the following:
  - Regarding the rear yard requirements, the existing lot is only 42 feet deep and a 20' rear yard, if provided, would require demolition of a large portion of the existing structures, which are already exceptionally small for row houses.
  - Regarding lot occupancy, the small lot size constrains reasonable use of the lot without exceeding the lot occupancy requirements.

BZA
Case No. 16895
Exhibit No. 24

Board of Zoning Adjustment
District of Columbia
CASE NO.16895
EXHIBIT NO.24

- ➢ Regarding the non-conforming structure provisions, the existing structures are in need of renovation and the severe space limitations provided by the existing structure and existing lot, warrant special consideration of a reasonable addition.

❖ The proposed development will not be a substantial detriment to the public good or impair the intent, purpose and integrity of the zone plan.

Background

The subject properties are located mid-block along Independence Avenue, SE (Square 1072S, Lots 21 and 22) between 15th and 16th Streets, SE in the R-4 zone. Each lot is occupied by a vacant two-story row dwelling. The lots, 1513 and 1515 Independence Avenue, SE, contain 515 and 516 square feet, respectively, and are rectangular with a depth of 42.80 feet. The rear of the property abuts a public alley of varying width. Each side shares a party wall with an existing row house. The house to the west on Lot 20 is built to the rear property line and appears to cover 100% of the lot.

The existing structure on Lot 21 extends to the rear property line and provides a 4 foot by 12 foot court yard. Since courtyards of less than 5 feet are counted as lot occupancy the existing lot has a lot occupancy of 100%. Lot 22 has a lot occupancy of 81%. There is no rear yard for Lot 21 and Lot 22 provides only a 4 foot 4 inch rear yard.

The area is characterized by row dwellings, some low-scale, converted multi-family dwellings, and low scale commercial uses along 15th Street. The square of the subject lots narrows substantially toward the western end and therefore contains a number of small lots with non-conforming structures, most of which were built prior to 1958.

Project Description

The applicant proposes to renovate, expand and modernize both of the existing vacant row dwellings. The plans propose to remove portions of the rear walls of the two existing structures and build an addition to each structure that will be symmetrical. The new additions will extend to the rear property line, which will eliminate the rear yard and increase the lot occupancy to 100% for Lot 22. In addition to the interior renovation and expansion the applicant proposes to enhance the façade with a new gabled parapet.

Comprehensive Plan

The subject sites are designated Moderate Density Residential on the General Land Use Map. The moderate density residential land use category includes row houses and garden apartments as the predominant uses and may also include, as appropriate uses, low density housing. The Comprehensive Plan sets goals of stabilizing and improving the quality of residential neighborhoods. Comprehensive Plan Section 1104.1(h) outlines a policy to "encourage the maintenance of existing housing stock and, where appropriate, the rehabilitation and new construction of detached and row housing." Other related goals can be found in the Housing Element of the Comprehensive Plan as follows:

300.2. A central theme of the Housing Element is that the District must stimulate a wider range

of housing choices and strategies through the preservation of sound older stock and the production of new units for a wide variety of household types. The District will continue to use all available public and private resources to support a variety of programs designed to do the following:

(a) Extend affordable homeownership opportunities to low-and moderate-income households;

(c) Protect existing housing stock from demolition and conversion to non-housing uses; and

d) Stimulate the construction and rehabilitation of affordable housing by private for-profit and non-profit housing providers.

301.1 It is the goal of the District to have adequate affordable housing for all residents in communities that have access to services and facilities to meet their needs.

302.1 The general objectives for housing are to stimulate production of new and rehabilitated housing to meet all levels of need and demand and to provide incentives for the type of housing needed at desired locations.

302.2 Among the policies established in support of the general objectives for housing are as follows:

(c) Work with owners and community groups to identify vacant housing units suitable for rehabilitation and make restoration of vacant units to the housing stock a major government priority

This development is consistent with these goals.

Zoning

The proposed additions will require relief from the requirements of §§401, 403, 404 and 2001.3. The proposed additions will not comply with the lot occupancy requirements of §403, which permits a lot occupancy of only 60% (100% proposed). Also, the proposed additions will not comply with §404, which requires a 20' rear yard (none proposed). According to the applicant relief is also sought from §406, the court created by the proposed additions will not meet the courtyard requirements of §406, which requires a court to be a minimum of 5' wide (3' proposed). Section 401 by reference requires the compliance with §2001.3, which limits the enlargement or additions to non-conforming structures devoted to conforming uses:

2001.3 Enlargements or additions may be made to the structure; provided, that the following requirements shall be met:
(a) The structure shall conform to percentage of lot occupancy requirements; and
(b) The addition or enlargement itself shall conform to use and structure requirements; and
(c) The addition or enlargement itself shall not increase or extend any existing, nonconforming aspect of the structure, and shall not create any new nonconformity of structure and addition combined.

The proposed additions will not meet the requirements of this section.

A summary of the zoning relief requested is shown in the table below.

	Permitted/Required	Provided	Variance
Building Height	3 stories	2 stories	N/A
Lot Area	1800 sf	514 sf	See note 1
Lot Width	18 ft.	12.02 ft.	See note 1
Lot Occupancy	60%	100%	40%
Rear Yard	20 ft.	0 ft.	20 ft.
Side Yard	None	None	N/A
Court (Open)	4"/1'ht. (min. 6')	0 ft.	See note 2
Parking	1	0	See note 3

1 A variance is not required from lot area and lot width, but as these lots are non-conforming with regard to the lot area and lot width requirements of §401, they are subject to the requirements of §2001 from which the applicant seeks relief.
2 Though the applicant has indicated needing relief from the provisions of §406, these provisions only apply if a court is provided. The areas provided at the rear door are underneath the second story and therefore not open to the sky and not a court.
3 There is no change in use or substantial increase in use that would require this property to be less non-conforming in regards to parking.

Analysis

Exceptional Narrowness, Shallowness or Shape

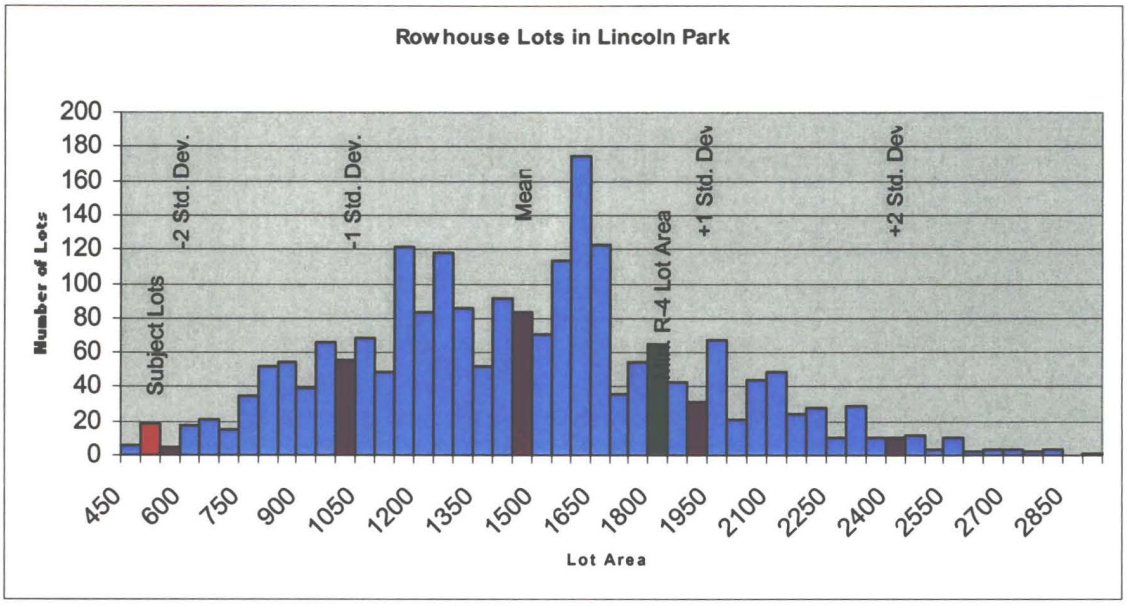
In considering this case, the Board must determine that there is an exceptional narrowness, shallowness or shape of the property existing prior to adoption of the zoning regulations that results in peculiar or exceptional practical difficulties that may be relieved by a variance to the zoning regulations. In this case, the existing lots are exceptionally narrow, being only 12 feet wide. The minimum lot width in the R-4 district is 18 feet. In addition, the lots are exceptionally shallow at 42.80 feet. Though there is no minimum lot depth in the R-4 zone, the minimum lot area is 1800 square feet for a row dwelling. At minimum width of 18' a typical lot would be at least 100 feet deep, over twice the depth of the existing lots.

Practical Difficulties

The exceptionally small dimensions of these existing lots create practical difficulties in meeting other area requirements of the R-4 zone. For example, in the scenario above of an 18-foot by 100-foot lot, the 20-foot rear yard requirement would only take up 360 square feet or 20% of the lot. The 20-foot rear yard requirement for the subject lots would take up 240 square feet or 47% of the lot.

The lot occupancy requirement would similarly create this disparity. The 60% lot occupancy requirement for the example standard lot would yield a minimum of 1200 square feet; more than double the size of the entire existing lot area of 515 square feet. The 60% lot occupancy requirement on the subject properties would only permit a lot occupancy of 309 square feet.

Though there are other small lots in the square, the small size of these lots is not typical for Lincoln Park as shown in the chart below:



Source: Office of Tax and Revenue records

An additional practical difficulty regarding the development of these properties is their relationship to the other existing row dwellings on the block. Because these properties are part of a set of two-story row dwellings they have limited flexibility in modification. For example the construction of an additional story would not be in character with the surrounding row dwellings and would impair the character of this set of row dwellings. Also, the need to rehabilitate the existing structure and rehabilitate the interior requires a significant amount of investment in the structure that could only be reasonably justified by an owner if additional floor space were added to the house to make it livable. These situations along with the character of the neighborhood combine to create peculiar practical difficulties for the reasonable single-family use of these properties.

Adversely Affect Use of Neighboring Property

The Board should determine if the variances can be granted without substantial detriment to the public good and without impairing the intent, purpose and integrity of the zone plan. The proposed additions will not adversely affect use of neighboring properties due to the small change from the existing conditions. The rehabilitation of these vacant units will have a positive affect on the use of neighboring property.

Given the above, the variances will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.

Community Comments

ANC6B unanimously voted to support this addition. There was concern expressed by the ANC regarding the impact of the proposed gabled parapets on the character of the existing set of row dwellings.

Recommendation

The Office of Planning recommends approval of BZA application 16895 requesting variances from the requirements of §§403, 404 and 2001.3.

ATTACHMENTS:

1. Location Map
2. Aerial Photo