GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: AS for Andrew Altman

DATE: November 19, 2002

SUBJECT: BZA Case 16948 Variance Request

APPLICATION

The application by Nicholas Perring, pursuant to 11 DCMR 3103.2, seeks variance relief from subsection 2001.3, to permit construction of an addition upon an existing rear deck serving a single-family dwelling. The subject dwelling is in the R-5-B District. The existing dwelling is nonconforming as to lot occupancy, rear yard and side yard, and accordingly, the applicant also needs relief from Sections 403, 404 and 405 respectively.

OFFICE OF PLANNING RECOMMENDATION-IN-BRIEF

The Office of Planning recommends **Denial** of the subject application.

SITE AND AREA DESCRIPTION

The subject premises are in the Dupont Circle Neighborhood of Ward Two. S Street generally bounds the site to the north, Riggs Street is to the south, 18th Street is to the east and 19th Street is to the west. The subject dwelling is in Square 133, which consists mostly of row and semi-detached dwellings. The subject dwelling is a four-story structure, located at 1830 S Street, N.W., which is on the south side of S Street. It is the westside unit of a set of two semi-detached dwellings, situated near the intersection of 19th & S Streets. The referenced square is conveniently situated in an area, where there are commercial services within one block, both to the east and west. There are low density, neighborhood serving retail services to the east, on 18th Street, between S Street to the south and California Avenue to the north. Additionally, there are medium to high density commercial to the west of the subject site, along the Connecticut Avenue corridor, between Florida Avenue and Dupont Circle.

BZA
Case No. 16948
Exhibit No. 26

Board of Zoning Adjustment
District of Columbia
CASE NO.16948
EXHIBIT NO.26

Most of the dwellings on the square were constructed between 1890 and 1966, and thus many predate the adoption of the Zoning Act of 1958 and do not fully comply with the current zoning regulations. The subject structure was built in 1890 of brick veneer material, as a single-family dwelling. It was later converted into a four-unit condominium building, and now it is being returned to its original single-family use.

The subject premises are in the Dupont Circle Historic District. The staff of the Historic Preservation Review Board must review any alterations to the structure.

During a field survey of the subject site on October 30, 2002, OP staff observed that the proposed enclosure of the existing deck was approximately ninety per cent (90%) completed. This information was presented to the Historic Preservation Inspection staff and a "stop work order" was issued the next day, October 31, 2002.


9th St NW
18th St NW
S St NW
C-2-A
1830 S Street, N.W.
SQR 0153
R-5-B
Riggs Pl NW
19th St NW
SQR 0133
R St NW
Feature Key
Zoning Boundaries
Square Index
Board of Zoning Adjustment
Application No. 16948
Scale 1:1293
DC Office of Planning
November 6, 2002
Attachment 1

APPLICANT'S PROPOSAL

The applicant is requesting area variances to permit the enclosure of an existing rear deck, which is attached to single-family dwelling in the R-5-B District. The enclosure would be 19.6 feet in width by 8.3 feet in depth, covered with wood framing made of southern pine. It would be 11 feet in height, with two one-foot wide by four-foot long skylights in the roof. The entire enclosure will be built on an elevated four-inch concrete slab.

ZONING ANALYSIS

The subject premise is in the R-5-B District. The R-5 districts permit flexibility of design by permitting, all types of urban residential development if they conform to the height, density, and area requirements established for R-5 districts under Chapter 4. In the R-5-B districts, a moderate height and density shall be permitted.

2001 Nonconforming Structures Devoted To Conforming Uses

2001.3 Enlargements or additions may be made to structures provided, that the following requirements shall be met:

(a) The structure shall conform to percentage of lot occupancy requirements.

The proposed enclosure will further increase the percentage of lot occupancy. Lot occupancy in the R-5-B district is limited to sixty percent (60%). The lot area of the existing property is 1,012 square feet. The existing dwelling already covers approximately 809.6 square feet, or eighty percent (80%) of the lot. The requested enclosure is proposed to be about 188.6 square feet, which will increase the lot occupancy to 98.6. % The revised dwelling would be approximately 38.6 per cent above the lot occupancy permitted in the R-5-B district.

(b) The addition or enlargement itself shall conform to use and structure requirements.

The proposed rear deck enclosure does conform to the residential use requirements, but does not meet the rear yard requirements. The minimum depth of a rear yard in the R-5-B district shall not be less than 15 feet. The rear yard on the subject property is only 0.5 feet in depth, which is 14.5 feet less than the minimum requirement.

(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 new enclosure will increase and extend an existing nonconforming aspect of the structure. The requested enclosure will increase the lot occupancy to

98.6 per cent, which is approximately 38.6 per cent above the lot occupancy permitted in the R-5-B district.

403 Percentage of a lot Occupancy

403.2 No structure, including its accessory building, shall occupy its lot in excess of the percentage of lot occupancy set forth in the following table:

In the R-5-B district, the maximum lot occupancy is 60%. The existing dwelling already occupies approximately 80% of the lot. The proposed enclosure would add 188.6 square feet to that portion of the lot that is occupied, thus increasing lot occupancy to approximately 98.6% of the total lot.



Side Yard on the west side of Dwelling

404 Rear Yard

404.1 Rear Yard A rear yard shall be provided for each structure located in a residence district, the minimum depth of which shall be set forth in the following table:

The minimum depth of a rear yard in the R-5-B district shall not be less than 15 feet. The existing rear yard setback is only 0.5 feet in depth from the rear property line, which is 14.5 feet less than the minimum requirement.

405 Side Yard

405.8 In the R-5 district, a one-family semi-detached dwelling shall be subject to the side yard requirements of an R-1 district.

405.8 In the case of a building existing on or before May 12, 1958, with a side yard less than eight feet (8ft.) wide, an extension or addition may be made to the building; Prodided, that the width of the existing side yard shall not be decreased; and Provided further, that the width of the existing side yard shall be a minimum of five (5ft.).

The minimum depth for each side yard in the R-1 district is 8 feet. There is no side yard for the subject dwelling on the east side, because it is attached to an adjoining dwelling to the east. The existing side yard set back to the west of the subject dwelling is 3.1 feet, or 1.9 feet less than the minimum required side yard.

Both the rear and side yards are less than the minimum requirements under the Zoning Regulations for the R-5 districts. These were preexisting conditions when the applicant purchased the property on February 1, 2001.

223 Additions to One-Family Dwellings or Flats (R-1)

223.1 An addition to a one-family dwelling or flat, in those districts where a flat is permitted, that does not comply with all of the requirements of §§401, 403, 404, 405 or 406 of this title shall be permitted if approved by the Board of Zoning Adjustment in accordance with the conditions specified in §3103.2 of Chapter 31 of this title, subject to the provisions of this section.

223.2 The addition shall not have a substantially adverse affect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

(a) The light and air available to neighboring property shall not be unduly affected.

(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised.

The tight configuration at the rear of most of the properties on Square 133, with nearly all of the structures built on or near the property line, and the lack of a public alley in rear of all of the dwellings dwelling, already contributes to the lack of privacy of use of most of the properties on the square. The enclosure of the existing rear deck on the subject dwelling, (which will be elevated to the second level of a four unit building) will further contribute to the inadequacy of light and air to neighboring properties.

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



View from S Street and north-south alley

The new enclosure will be mostly invisible from the west side of the structure, as viewed from S Street, and not visible at all from the east side of the structure from S Street. The enclosure will be partially visible from the alley on the east side, because it is at the second level of a four-story building.

223.3 The lot occupancy of the dwelling or flat, together with the addition, shall not exceed seventy per cent (70%) in the R-5 District.

The proposed enclosure would add 188.6 square feet to that portion of the lot that is 80% occupied, thus increasing lot occupancy to approximately 98.6% of the total lot.

RELATIONSHIP OF THE APPLICATION TO THE COMPREHENSIVE PLAN

The Comprehensive Plan Generalized Land Use Map depicts the subject area as ***Moderate Density Residential***. Row houses and garden apartments are the predominant uses in areas designated as moderate density.

DOES THE APPLICATION MEET THE VARIANCE TEST

Is the property unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition?

Yes. The property is exceptionally narrow and predates the zoning regulations. The subject property was built in 1890 for residential purposes and does not comply with all of the R-5 zoning provisions that were adopted through the Zoning Act of 1958. There are however many lots of similar size and age within the subject square. The subject property was previously converted into a four-unit condominium, but now it is being returned to its original single-family use. The lot is only 44 feet in depth and 23 feet in width. It is between an adjoining semi-detached dwelling on the east and a row dwelling on the west, which is separated by a 3.1-foot walkway.

By reason of the aforementioned unique or exceptional condition of the property, will the strict application of the Zoning Regulations result in peculiar and exceptional practical difficulties or exceptional and undue hardship upon the owner of the property?

No. The strict application of the Zoning Regulations will not result in a practical difficulty upon the owner of the property. The applicant listed the reason for proposing to enclose the deck, as "personal living use." Yet, the property contains approximately 3,024 square feet of space on four floors. The building previously contained four condominiums, and is being returned to its original single-family use. It should reasonably accommodate a single family without enclosing the deck area to create more living space.



New enclosure/rear configuration of properties

The tight configuration at the rear of most of the properties on Square 133, with nearly all of the structures built on or near the property line, and the lack of a public alley in rear of all of the dwellings dwelling, already contributes to the limited passage of light and privacy in the rear of the referenced properties. The enclosure of the existing rear deck on the subject dwelling, which will be elevated to the second level of a four unit building will further contribute to the inadequacy of light and privacy to neighboring properties.

Can the requested relief be granted without substantial detriment to the public good and without substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map?

No. The requested relief **cannot** be granted without substantial detriment to the public good and without substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. The proposed enclosure would increase the lot occupancy of the subject property to 98.6%, which is far higher than the maximum of 60% permitted in the R-5 district. Further, the enclosure would contribute to the inadequate passage of light and air in the rear of neighboring properties.

COMMUNITY COMMENTS

The applicant made a presentation to Advisory Neighborhood Commission (ANC) 2B, at its October 9, 2002 monthly meeting. ANC 2B did not take a position on the proposed rear enclosure. There were 5 of 7 commissioners present, which constitute a qualm.

ANC 2B was concerned about the potential proliferation of deck enclosures of other properties, if this applicant is successful. They expressed concern that the proposed enclosure could seriously affect the quality of life at the rear of properties on the square, as it relate to the adequacy of light and air provisions.

OP RECOMMENDATION

After having reviewed BZA application 16948 requesting a use variance to permit the enclosing of an existing rear deck serving a single-family dwelling, the Office of Planning recommends that the **Board deny** the application. The Office of Planning finds that the application does not address the requirements of §403, 404 and 405, and has not met the burden of proof under §3103 of the Zoning Regulations. OP, therefore concludes that approval of the application would cause substantial detriment to the public good and would substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.