GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman
Director

DATE June 24, 2004

SUBJECT: BZA Application **17189**
903 9th Street, N.E.

APPLICATION

An application of Joseph Tortorici, pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirement under section 403, and a variance from the nonconforming structure provisions under subsection 2001.3, to construct an accessory garage at the rear of a single family row dwelling in the R-4 District at premises 903 9th Street, N.E. (Square 932, lot 3).

SUMMARY RECOMMENDATION

The Office of Planning **does not support approval** of the variance from the lot occupancy requirement in accordance with the provisions of Sections 403 to allow the addition of an accessory garage on the subject property.

OP also submits that the variance from Section 2001.3 is not required, since the proposed garage would not be attached to the residence, which complies with the lot occupancy requirements of the Zone District.

SITE AND AREA DESCRIPTION

The subject property is a brick masonry row dwelling located on 9th Street between K and I Streets, N.E. The property is zoned R-4. The surrounding area is similarly zoned and developed as row house residences. The property is not located in the Capitol Hill Historic District.

PROJECT DESCRIPTION

The applicant wishes to install a 16.5'W X 20'L garage on an existing parking pad at the rear of the property, which increases the lot occupancy of the existing residence from

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59% to 76%. The residence is non-conforming due to its 3-foot wide court on the property.

ZONING REQUIREMENTS

The applicant is requesting a variance from the lot occupancy requirement to permit the construction of a garage addition to a nonconforming structure (§403) devoted to conforming use per §2001.3

Section	Item	Allowed	Existing	Requested	Deviation
403.2	Lot Occupancy	60% up to 70% per §223	59%	76%	+6%

Table1

The applicant purchased the property that was non-conforming due to court width. The court area (3'Wx 32'L) is therefore applied to the building area (per Section 199) [1], yielding a lot occupancy of 59%.

The property also includes a parking pad to the rear of the residence with a remote controlled garage door. The applicant wishes to frame and enclose the existing parking pad to create a private garage structure. The addition of the 20' L x16.5' W garage as an accessory structure would increase the lot occupancy to 76%.

The application also requests a variance from a non-conforming structure pursuant to Section 2001.3. OP contends that the residence is not a non-conforming structure since it conforms to lot occupancy requirements of the Zone District. However, there is a non-conforming court on the property. Since the garage would not be physically attached to the residence, it would not expand the non-conforming court on the lot.

Variance

The addition itself conforms to use and structure requirements as it is an accessory structure to the residence. In this instance, the applicant requires a variance from the lot occupancy since it would be increased beyond what is allowed by right (up to 60%), and under special exception approval (per §223 – up to 70%). §3103.2 requires that relief must be granted based on the following:

Is the property unique due to an exceptional situation?

The existing parking pad area is bound at the sides by a brick wall to the north and a wooden fence on the south. According to the applicant, the brick fence encroaches on the subject property. The applicant recently purchased the renovated subject property, which included a 31-foot addition to the main structure and an automatic garage door with supporting wood framing. The proposed garage would be a 20'L x 16.5'W structure measured in the interior.

[1] **Section 199 - Definition of Buildable Area** - The term buildable area shall include all side yards and open courts less than five (5) feet in width, and all closed courts less than six (6) feet in width.

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Garage Addition

Section 2115 requires that a parking space shall be a minimum of 9 feet in width and 19 feet in length. Further reduction in width to bring the garage area into conformity with the lot occupancy requirements, would require no less than 13 feet to accommodate a functional garage space.

However, the property is rectangular and level, with no unique features or characteristics that set it apart from other neighboring properties. Therefore, the subject property has no exceptional situation, which makes it unique.

Does the uniqueness in combination with the Zoning regulations result in a peculiar and practical difficulty to the owner?
Since the property displays no unique characteristics, no relief can be provided to the property owner for any practical difficulty arising from an exceptional situation created by the uniqueness. It is not un-common for row houses not to have garages.

Does the variance substantially impair the intent of the Zone Plan?
The area of the garage as proposed increases the lot occupancy of the property beyond what is permitted. In this regard, it would violate the requirements of the Zone District, since it also extends beyond the special exception requirement (per §223) of 70%.

OP notes for the record that similar garage structures as proposed exist in the immediate neighborhood. However, OP found no recorded information regarding permits for or the conformity of these structures to the Zone Regulations. (Photos below)

COMMUNITY COMMENTS
The applicant informed OP that the ANC 6A recommended approval of the variance request at its regularly held meeting in April.

CONCLUSION
The Office of Planning concludes that the application has not met the burden of proof, pursuant to 11 DCMR 3103.2 of the Zoning Regulations, for the granting of the requested variance to permit the garage addition on the premises at 903 9th Street, N.E. OP does **not support the approval of the garage** based on the strict interpretation of the variance tests. Therefore, the applicant would not be able to build a functional garage and satisfy the lot occupancy requirement of Section 403 nor the maximum permitted by Section 223 (70%) for an addition to a single-family residence.

However, if the variance were granted by the Board, OP believes in this instance, the proposed enclosed garage (not attached to the main structure), would be a minimal increase beyond the permitted lot occupancy, which can be granted without impairing the intent of the Zone Plan.

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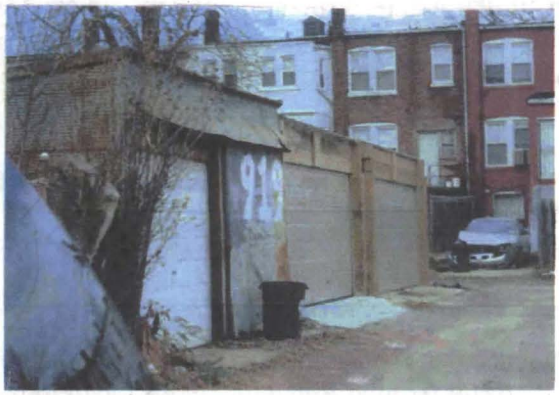


Aerial of Subject Property





Rear Yard of Subject Property



Similar Garage Additions in the Square