GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

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DATE: April 14, 2005

TO: District of Columbia Board of Zoning Adjustment

FROM: JLS for Ellen McCarthy, Director

SUBJECT: Board of Zoning Adjustment Case No. 17313
924 G Street S.E.

Summary

The applicant seeks variances from the lot occupancy provisions of §403.2 to allow 99% lot occupancy, and from the provisions of §2001.3 to allow an addition to a non-conforming building for an existing house in the R-4 zone. The applicant seeks to fill and existing courtyard between the existing house and carriage house. The Office of Planning **cannot recommend approval** of these variances based on the findings below.

Site and Area Description

The subject property is located at 924 G Street SE, Square 949, Lot 33. The existing house is a two-story semi-detached row home that is contributing to the historic district. The lot also contains a two story renovated carriage house used as rental property and separated from the main structure by a courtyard. The lot is 1452 square feet in area and the current buildings cover approximately 76% of the lot area. The subject property and properties in all directions are zoned R-4 and are in the Capitol Hill Historic District. All of the houses in the immediate area are two-story row houses of similar construction and contributing to the historic district.

Project Description

The applicant proposes to add on to the main house by filling in the existing courtyard with a two-story addition. The addition would contain a sunken garage under two-stories of living area. The carriage house would be retained as a rental unit. Lot occupancy would increase from 76% to almost 100%.

BZA
Case No. 17313
Exhibit No. 20

Board of Zoning Adjustment
District of Columbia
CASE NO. 17313
EXHIBIT NO. 20

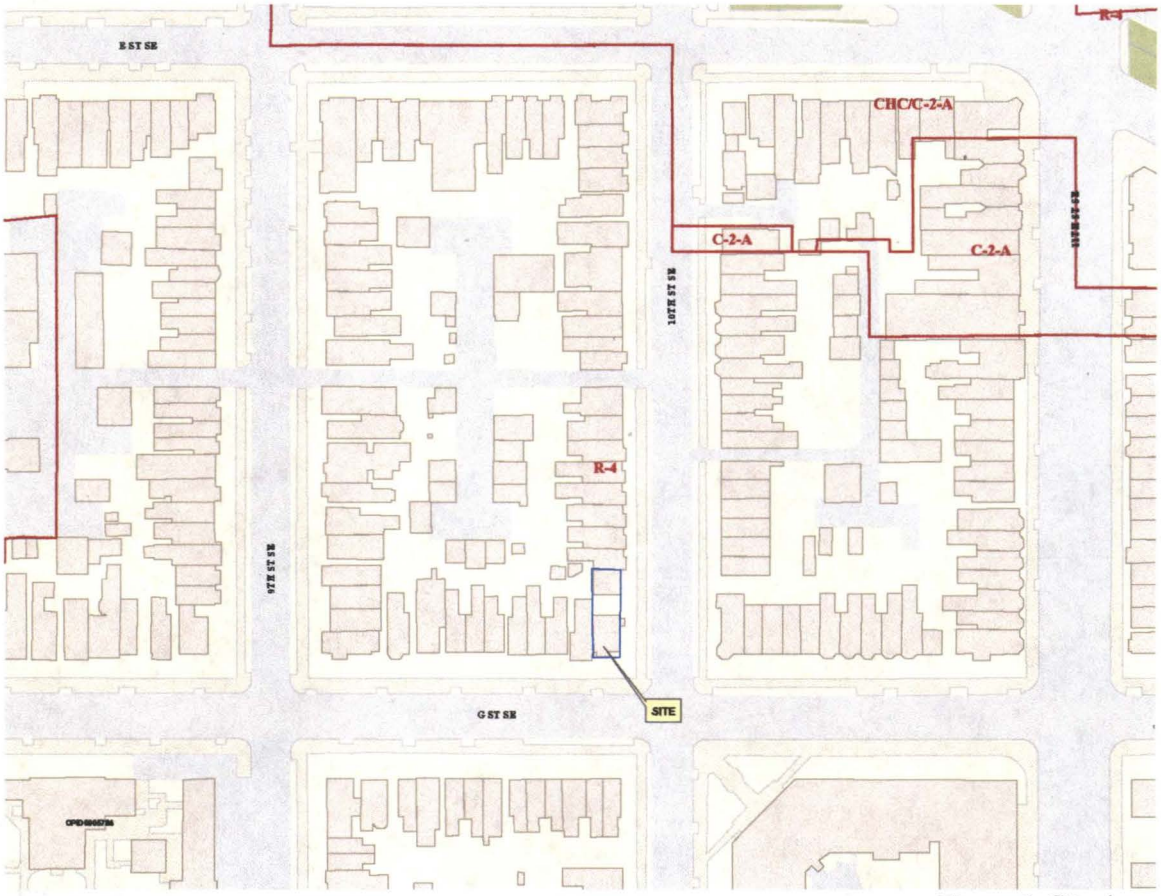


Figure 1: Site Area

Zoning Requirements

The applicant is requesting a variance from the lot occupancy requirements as well as a variance to allow an addition to a nonconforming structure. The existing property is nonconforming for rear yard and lot occupancy and minimum lot dimensions. The property meets all other requirements of the R-4 zoning district.

Section	Item	Required/Allowed	Existing	Requested	Deviation
400.1	Height	40'	25.2'	25.2'	N/A
401.3	Min Lot Size	1800 sq ft	1452 sq ft	1452 sq ft	Existing Nonconforming
403.2	Lot Occupancy	60%	75%	99%	39%
404.1	Rear Yard	20'	0'	0'	Existing Nonconforming



Figure 2: 10th Street Frontage

Analysis

The provisions of §3103.2 require the applicant to meet three standards for a variance; to show a unique physical aspect or other extraordinary or exceptional situation or condition of a specific piece of property that creates an undue hardship or practical difficulty and show that there will be no harm to the public or to the zone plan.

Extraordinary or Exceptional Situation

The application provides several arguments that attempt to meet the uniqueness test of the regulations. First, the property lies in the Capitol Hill Historic District and both structures are contributing buildings to the historic district. Second, the lot has no alley access and is slightly smaller than the surrounding lots as a result of being a corner lot. Third, the existing house contains only three usable bedrooms, one very small, and the owners have outgrown the space.

In discussing these arguments, it is important to keep in mind that the zoning regulations, in describing the tests for variances, requires a uniqueness or exceptional situation that, when the applications of the zoning regulations are applied, would result in "exceptional practical difficulties" upon the owner of such property. While the above statements describe enough characteristics of the property that it can be distinguished from its neighbors, there is neither one situation that meets the definition above, nor a combination of characteristics that relate to each other in such a way as to create a situation resulting in practical difficulty.

The location of the property in the Capitol Hill Historic District is not unique or exceptional. Nor is status as a contributing building within an historic district usually

considered an exceptional situation for the purposes of a variance. Nearly every building on this and the neighboring squares falls into the exact same category.

The size and location of the lot are more common standards for variance relief. However, in this case the lot is neither oddly shaped nor exceptionally small for the area. While the lot is one of the smallest on this square, it is of average size for the Capitol Hill neighborhood where there are many lots sixteen feet or less in width. Indeed, the fact that two units currently exist on the property show that the lot is not exceptionally small or unreasonable.

The final argument is that the existing home is too small for a growing family and contains too few bedrooms. This situation, as above, is hardly unique in the city, much less in this historic neighborhood. Not only is a house of over 1300 square feet normal for this area of the city, but the lot contains a second residential unit that acts as an asset to the owner rather than an exceptional situation requiring zoning relief.

Practical Difficulty

The practical difficulty cited by the applicant is that the house is too small for the growing family and that it is impractical to use the carriage house for further growth. However, the need for more space only rises to the level of practical difficulty where there is an unreasonably small lot. Neither the lot nor the home are unreasonably small in comparison to the city and the area. Based on submitted drawings the existing house has approximately 1370 square feet of livable space. The applicant also states that there is a half basement.

Furthermore, the lot is already overbuilt not as a result of a practical difficulty, but because of a second unit on the lot that adds value and income to the property. The use of some of the allowable lot occupancy on this lot as a rental home is an amenity of the property and should not be considered a practical difficulty requiring further relief.

The result of this analysis is that the lot is shown not to rise to the standard of uniqueness and practical difficulty. Enough characteristics of any lot can be described to differentiate it from its neighbors, but the combination must show an exceptional situation that specifically relates to the relief requested and causes a practical difficulty in meeting the zoning requirements. In this case, the property is already developed with more lot occupancy than permitted and cannot be shown to meet these tests.

Substantial Detriment

In addition to the above tests, §3103.2 further requires that the relief requested will not be a substantial detriment to the public good or substantially impair the intent, purpose and integrity of the zone plan. In fact, approval of this relief would impair the intent and integrity of the plan in multiple ways. Section 2001.3 explicitly anticipates that non-conforming properties be brought into conformity. Expanding non-conforming lot

occupancy is *specifically prohibited* (§2001.3(a)). To use the non-conforming status of the lot as the basis to expand the very same non-conformity goes directly against the stated intent of the zoning regulations. Section 2001 is quoted below (emphasis added).

2001 NONCONFORMING STRUCTURES DEVOTED TO CONFORMING USES

2001.1 The restrictions set forth in this section shall apply to a nonconforming structure devoted to a conforming use.

2001.2 Except as provided in §§ 2001.11 and 2001.12, ordinary repairs, alterations, and modernizations to the structure, including structural alterations, shall be permitted.

2001.3 *Enlargements or additions may be made to the structure; provided*:

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

(b) The addition or enlargement itself shall:

(1) Conform to use and structure requirements; and

(2) Neither increase or extend any existing, nonconforming aspect of the structure; nor

(3) Nor create any new nonconformity of structure and addition combined.

The existing lot is already under the minimum size and overbuilt for the zoning district. Allowing further development of this parcel impairs the intent of the ordinance both to provide open space on residential lots and to prevent further additions on overbuilt lots. The lot occupancy provisions are intentionally tailored as a percentage of lot area in order to provide some open area on even the smallest of lots. In this case the result is an open courtyard between the main house and carriage house despite the fact that the lot is already overbuilt. Eliminating this open area and completely filling the property with development directly opposes both the lot occupancy and the above §2001.3.

Overall, OP considers the arguments in support of the application to be inadequate to meet both the uniqueness and practical difficulty tests. Any uniqueness to the property does not result in practical difficulty, in fact the uniqueness is actually an asset to the lot. In addition the approval of the application based on such arguments would negatively affect both the intent and the integrity of the zoning regulations, specifically the lot occupancy requirements and section 2001 which explicitly prohibits such expansion.

ANC Recommendation

OP has been informed that ANC 6B has meet and has no objection to the project. OP is aware of no neighborhood opposition to this application.

Recommendation

The Office of Planning concludes that the applicant has not met the burden of proof, pursuant to 11 DCMR 3103.2 of the Zoning Regulations, for the granting of a variance to permit the addition to the existing house. The request cannot be granted without substantially impairing the intent, purpose, and integrity of the Zoning Regulations.

The Office of Planning **cannot recommend approval** of the variances by the Board of Zoning Adjustment to allow the addition to the property at 924 G Street S.E.

EM/tp