GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

D.C. OFFICE OF PLANNING
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MEMORANDUM

DATE: July 12, 2005

TO: District of Columbia Board of Zoning Adjustment

FROM: JLS for Ellen McCarthy, Director

SUBJECT: Board of Zoning Adjustment Case No. 17352
1464 Harvard Street N.W.

Summary

The applicant is seeking approval of a variance from the maximum lot occupancy requirement of §403.2. OP believes that there may also be a requirement for a variance from the FAR on the property. While OP does not find the uniqueness and practical difficulty arguments presented by the applicant to be compelling, OP does find that the proposed terrace furthers the intent of the ordinance better than the matter-of-right option. OP requests further information on the first two tests in order to make a positive recommendation on the lot occupancy variance. At this time and without further information, OP cannot recommend approval for a variance to FAR.

Site and Area Description

The subject property is located at 1464 Harvard Street N.W., Square 2668, Lot 39. The lot is 6767 square feet, of which the proposed building currently occupies approximately 70.5%. The subject property and the properties on all sides are zoned R-5-B. The immediate area consists mostly of moderate density residential uses including row houses and some small apartment buildings. One block to the east is the 14th Street corridor with moderate density commercial uses.

Project Description

The applicant has begun construction of the proposed building based on permits previously issued by DCRA. The building contains four above ground stories and a basement level. The finished building will contain 14 units. There is parking on the basement level of the building accessed by a ramp from the rear alley. Covering this access in the center of the property is a terrace that sits about seven feet above ground

BZA
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level. The terrace will be landscaped and provide a visual barrier between the parking and the units in both the applicant's building and the neighboring building. This terrace was not counted in the lot occupancy numbers when the permit was first issued, but has been determined by the Zoning Administrator to count against lot occupancy.

The plans submitted by the applicant show the ceiling of the ground level to be approximately six feet above grade. This would mean that the ground floor is a basement rather than a cellar and counts toward gross floor area. The amended numbers produce a total FAR for this project around 2.33. The matter-of-right FAR is 1.8 or 12,180 square feet.



Figure 1: Site Area

Zoning Requirements

The applicant is requesting a variance from the maximum lot occupancy allowed in an R-5-B district from 60% to 70.5%. The building is currently under construction and appears to meet all other requirements of the R-5-B district.

Section	Item	Required/Allowed	Existing	Proposed	Variance
400.1	Height	50'	40'	50'	N/A
402.1	FAR	1.8	0.45	2.33	0.53
403.2	Lot Occupancy	60%	15%	70.5%	10.5%
404.1	Rear Yard	17'	50'	19'	N/A
405.9	Side Yards	0'	0'	0'	N/A
406.1	Open Court	16.67'	N/A	17.33'	N/A

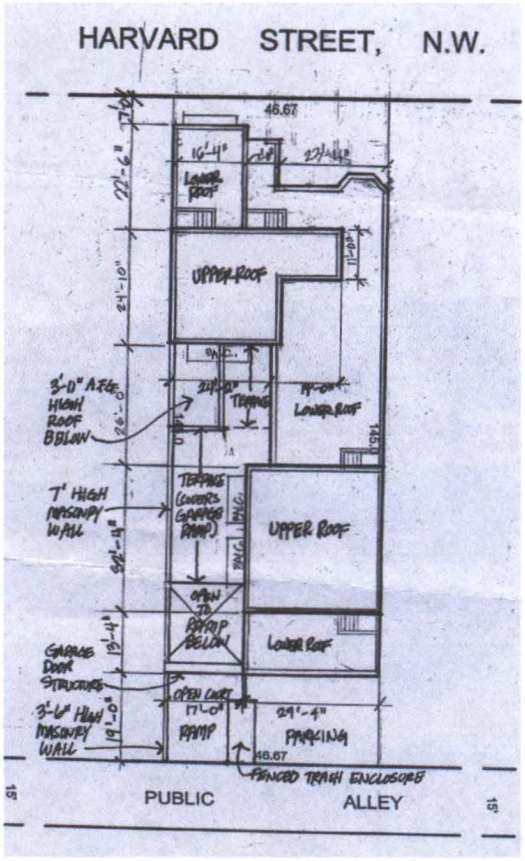


Figure 2: Site Plan

Variance Analysis

The provisions of §3103.2 require the applicant 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. In addition, there should be no harm to the public or to the zone plan.

Exceptional Situation

The existing situation was created by a misunderstanding in the status of the terrace that covers the parking access drive. The applicant assumed that the terrace met the qualifications for open space and would not count toward lot occupancy. Unfortunately, the height of the terrace above the ground affects its inclusion in lot occupancy. Since the terrace is more than four feet above ground level, it does count as part of the building area and therefore as built area.

According to the applicant, the exceptional situation arises from the situation created by the previous approval. If the applicant had known sooner of the status of the terrace, the plans could have been modified to compensate for the extra lot occupancy. Currently, however, there has been significant construction on the property and the situation is in existence.

Further, the applicant argues that the preservation of the existing façade has constrained the development of the site. The applicant concedes that there was no regulation or requirement for them to maintain this façade. OP also would need to see further information on how the façade of the building affected lot occupancy in the rear of the site.

Practical Difficulty

The previous approval of the project by DCRA and the construction already accomplished under those building permits represent some amount of time and effort put into the existing layout. The application claims the work already completed as a significant practical difficulty to finding a matter-of-right solution.

Finding a matter-of-right solution would involve at least removing the terrace, if not a complete redesign of the site. Simply removing the terrace would result in the undesirable situation of an exposed below-grade garage. The applicant believes that the difficulty and impracticality of matter-of-right solutions provides adequate justification for the practical difficulty test for approval of the variance.

It is important to note, however, that work on this project has continued since the applicant was informed of the zoning requirements and the majority of work done on this property has been done at the owners risk.

Substantial Detriment and Integrity of the Zoning Regulations

It does not appear that the proposed addition will have any negative impact on the surrounding neighborhood. The incorporation of the terrace in the project provides an open outdoor space for residents that would otherwise be an open parking area. The enjoyment of the terrace by the building residents and the visual barrier it will provide to the ground level parking both further improve the neighborhood over other, more difficult options.

Furthermore, the intent of the zoning regulations is served by the proposed terrace as there will be more open and accessible area than with only parking spaces and an aisle. The creation of terraces provides the outside open area, albeit manmade and privately controlled, that the lot occupancy requirements contribute to protecting. OP does not believe that approval of this variance would negatively affect the integrity of the zoning ordinance.

Community Comments

OP has been informed by the applicant that ANC 1B has voted unanimously to support this application. OP is aware of one neighbor in opposition to the project.

Recommendation

The Office of Planning concludes that more information is required to meet the burden of proof, pursuant to 11 DCMR §3103 of the Zoning Regulations, for the granting of the requested variances to permit the terrace over the parking area.

OP requests more information regarding the first two tests of the variance for the lot occupancy variance and for all three tests in regard to the FAR variance.

EM/tp