

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Updated Burden of Proof
Laura Williams and Kevin Donohue
4401 Garrison Street, NW (Square 1581, Lot 80)

I. INTRODUCTION AND OVERVIEW.

This updated Burden of Proof contains no substantive changes. The primary changes are additional visual aids to explain the requested modification.

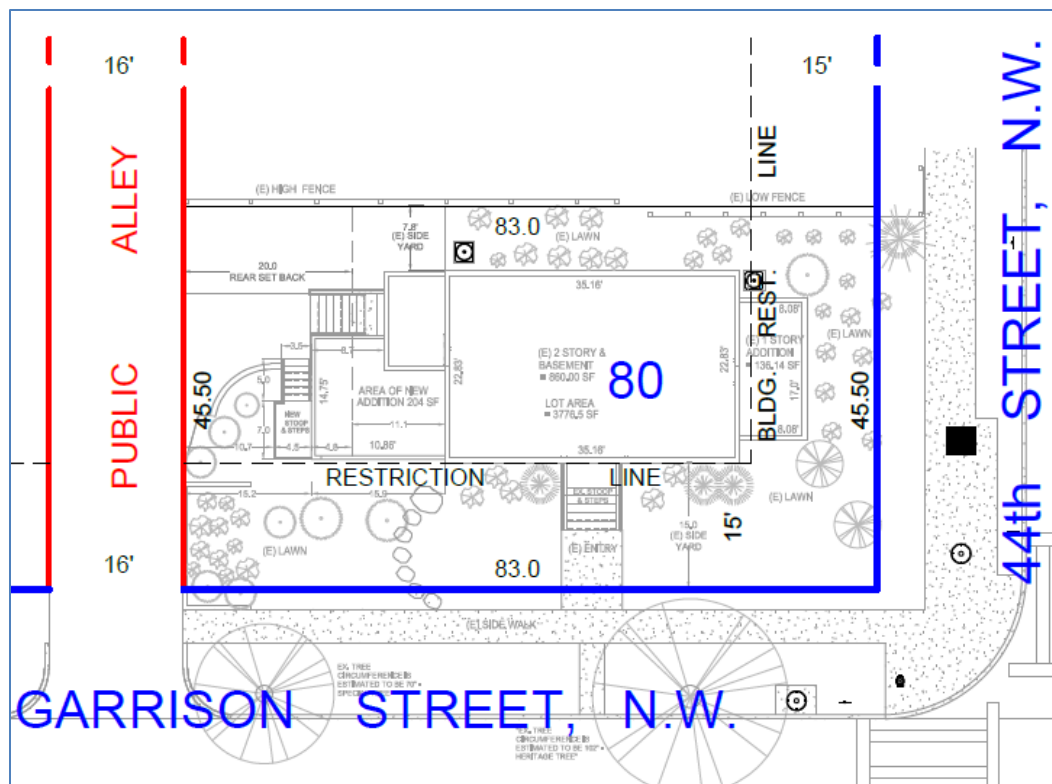
Background

This request for a modification without hearing (the “**Modification**”) was submitted on behalf of Laura Williams and Kevin Donohue (collectively the “**Applicant**”), owners of the property located at 4401 Garrison Street, NW (Square 1581, Lot 80) (the “**Property**”). The Property is located in the R-2 Zone and is improved with a detached, 2-story + basement, single-family dwelling (the “**Building**”). The Board previously approved the Applicant’s request for special exception relief pursuant to Subtitle D-5201 to permit the construction of a one-story covered deck addition at the rear of the Building (the “**Addition**”). As approved, the Addition reduced a portion of the rear yard to approximately 15 feet 2 inches, where 20 feet is required. The Addition otherwise complies with all other development standards of the R-2 Zone.

The Applicant is in the construction phase of the project and DOB recently conducted a wall check (Exhibit A). In connection with that review, DOB relied upon a historic survey of the Property, approximately 90 years old, to determine the location of the property lines. Based on that survey, DOB asserts that the property lines are 1.74 feet closer to the east than shown on the survey the Applicant’s surveyor provided (Exhibit B - the BZA Approved Plat). Effectively, the Applicant’s Surveyor was incorrect in doing the survey and therefore incorrectly located the building on the BZA Approved plat. This is a locational discrepancy concerning the position of the lot lines relative to the existing and constructed improvements—the dimensions of the lot itself are not in dispute. As a result of this difference in the established location of the lot lines, DOB has indicated that the as-built rear yard depth is approximately 13.46 feet, rather than the 15 feet 2 inches granted in BZA Case no. 21374.



The Original Survey (used by DOB).



BZA Approved Plat

The Addition was constructed exactly as approved by the Board in terms of relation to the building and surrounding buildings, as well as approved dimensions. No modifications or deviations were made during construction. The discrepancy arises solely from differing survey sources used to establish the location of the existing and constructed improvements relative to the lot line. The Applicant's surveyor thought the lot lines were further west by 1.74 ft. than they are in reality.

See following Page for Plat Comparisons

Site plan for 80 Garrison Street, N.W. The plan shows a rectangular lot with a 2-story building and basement. The lot area is 3776.5 SF. The building area is 860.0 SF. The lot is bounded by 16' on the north and south, 15' on the east, and 16' on the west. The lot is adjacent to a public alley on the west and 44th Street, N.W. on the east. The lot is also adjacent to Garrison Street, N.W. on the south. The plan includes a restriction line, a building rest line, and a rear set back. The lot is also adjacent to a public alley on the west and 44th Street, N.W. on the east. The lot is also adjacent to Garrison Street, N.W. on the south. The plan includes a restriction line, a building rest line, and a rear set back.

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II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the modification without hearing pursuant to Y-703.

III. MODIFICATION STANDARDS.

A. Technical Requirements

Pursuant to Y-703.7 “a modification without hearing” is a modification in which the impact may be understood without witness testimony, including, but not limited to a proposed change to a condition cited by the Board in the final order, or a redesign or relocation of architectural elements and open spaces from the final design approved by the Board. The determination that a modification can be approved without witness testimony is within the Board’s discretion.

The requested Modification falls within the scope of Subtitle Y § 703.7 because it does not propose any physical change to the approved Addition. The building footprint, height, design, and location remain exactly as previously approved and constructed, and no aspect of the project is being redesigned or altered. The Modification is necessitated solely to reconcile the approved relief with the as-built condition as confirmed through DOB’s wall check process. Again, the issue arises solely from differing survey sources used to establish the location of the improvements, not the building envelope.

Because the Modification does not involve any change to the built work, and instead only adjusts the numerical dimension of the approved rear yard relief to match DOB’s determination, its impacts can be fully understood from the record without the need for testimony or further factual development. The underlying basis for the Board’s prior approval remains unchanged. The Addition, as constructed, is identical to what was reviewed and approved, and the relationship of the structure to surrounding properties, including light, air, privacy, and neighborhood character impacts, is not affected by the requested adjustment.

B. Justification and Proposed Changes Since the Initial Approval

In order to resolve the discrepancy identified by DOB and obtain final approval and sign-off, the Applicant is requesting a modification to the previously approved special exception relief to reflect the rear yard depth as determined by DOB’s wall check. Specifically, the Applicant requests that the Board modify its prior approval to reflect a rear yard depth of approximately 13.46 feet, rather than 15 feet 2 inches. No changes are proposed to the Addition, Building, or site

improvements. The Modification is therefore administrative in nature and is necessitated solely by the differing survey sources.

IV. GENERAL SPECIAL EXCEPTION REQUIREMENTS OF SUBTITLE X-901.2 AND D-5201.

A. Granting of the Special Exception will be in Harmony with the General Purpose and Intent of the Zoning Regulations and Zoning Maps & Will Not Tend to Affect Adversely the Use of Neighboring Property in Accordance with the Zoning Regulations and Zoning Maps

The Applicant continues to meet the general special exception requirements of Subtitle X-901.2. The Modification does not involve any physical change to the approved Addition, and the underlying facts supporting the Board's prior approval remain unchanged. The Property remains located in the R-2 zone and is improved with a detached single-family dwelling. The Addition, as constructed, remains a one-story covered deck addition located at the rear of the Building and continues to function as an accessory improvement consistent with the residential character of the neighborhood.

Because the Modification only adjusts the approved rear yard relief to reflect the Department of Buildings' wall check measurement, there is no change to the use, design, scale, or location of the Addition. Accordingly, the prior findings that the project is in harmony with the intent and purpose of the Zoning Regulations and Zoning Maps remain fully applicable.

The Modification likewise does not alter the Board's prior conclusion that the Addition will not tend to adversely affect the use of neighboring properties. The relationship of the structure to surrounding properties, including separation distances, light, air, privacy, and visual impacts from public ways, remains identical to that previously reviewed and approved by the Board.

B. Specific Special Exception Requirements of Subtitle D-5201.

5201.4: An Application for special exception relief under this section shall demonstrate that the proposed addition, new building, or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, specifically:

(a) The light and air available to neighboring properties shall not be unduly affected;

The Modification does not alter the height, size, or location of the Addition. The structure remains one story and remains separated from adjacent properties by the same distances previously analyzed by the Board.

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

The Modification does not change the configuration of the Addition. Existing separation distances and screening conditions remain unchanged.

(c)The proposed addition or accessory structure, 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 or alley frontage;

The Addition remains located at the rear of the Property and retains the same architectural design, massing, and materials previously approved by the Board. It continues to be consistent with the character, scale, and pattern of surrounding residential development and does not create any additional visual intrusion.

V. CONCLUSION.

For the reasons stated above, this Application meets the requirements for a modification without hearing and the request continues to comply with the original special exception approval by the Board.

Respectfully submitted,

Alexandra Wilson

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