



MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Jennifer Steingasser, Deputy Director Development Review & Historical Preservation

DATE: March 2, 2010

SUBJECT: BZA Case 18043 - Request for variance relief at 401 Rock Creek Church Road, NW

SUMMARY RECOMMENDATION

The Office of Planning (OP) does not support approval of the requested variance relief from Sections 404.1, 403.2 and 2001.3. The applicant has not demonstrated that there is a practical difficulty in using their rear yard.

AREA AND SITE DESCRIPTION

Address:	401 Rock Creek Church Road, NW
Legal Description:	Square 3236, Lot 46
Ward:	4C
Lot Characteristics:	Triangularly-shaped lot with frontage along Rock Creek Church Road, NW. A 10-foot wide public alley abuts the side and rear of the property
Existing Development:	The lot is developed with a two-story plus basement, semi-detached house. The house does not have a side yard along the alley. The house was constructed in 1912. The rear of the house has indications that a deck at the main floor level was attached to the rear façade. There is no on-site parking pad in the rear yard.
Zoning:	R-4 – semi-detached dwellings and flats are allowed as a matter-of-right
Historic District:	None
Adjacent Properties:	The adjacent properties are developed with 2-story rowhouses. Neither house has a deck attached at the rear.
Surrounding Neighborhood Character:	Predominantly 2-story row houses on long rectangular lots. Some lots have an accessory garage. Some houses within the square have first and second floor enclosed additions or covered porches. To the east of the property is the US Solders and Airman's Home.



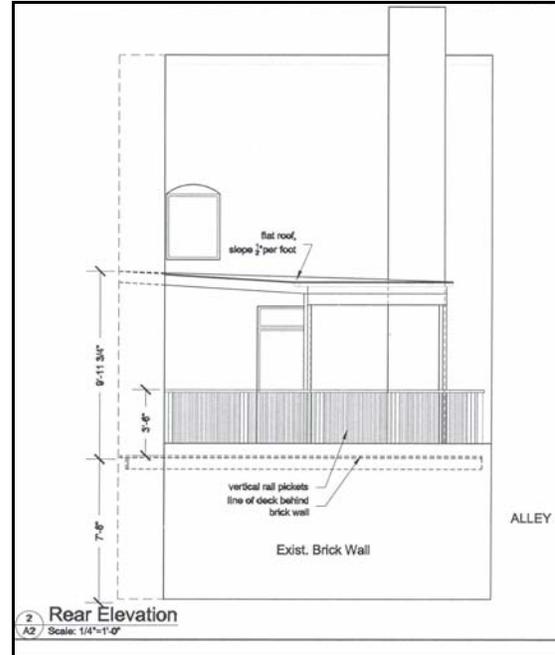
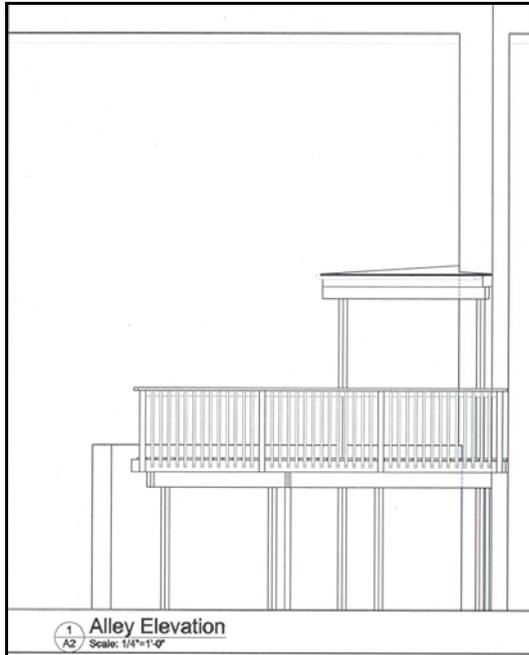
Site Location



Aerial Photograph

PROPOSAL

The applicant proposes to add a 195 square feet deck to the rear of the house at the main floor level. A portion of the deck would be covered as seen on the elevations below.



RELIEF AND ZONING

In order to construct the proposed deck, the applicant has requested variance relief Section 2001.3 (a) and (b) (1) and (2), expansion of a non-conforming structure; Section 403.2, lot occupancy; and Section 404.1, rear yard setback requirements.

	REQUIREMENT	EXISTING	PROPOSED	DEVIATION
LOT AREA	1,800 sf.	972 sf.	972 sf.	828 sf. (existing nonconformity)
LOT WIDTH	18 ft.	42.71 ft.	42.76 ft.	n/a
LOT OCCUPANCY	60%	75%	97%	37%
SIDE YARD	0/0 ft.	0/0 ft	0/0 ft	n/a
REAR YARD	20 ft.	Varies (0 ft.-20 ft).	0 ft.	20 ft.

The 1,141 square feet house is currently non-conforming to lot occupancy, rear yard, lot area, and lot width. According to the applicant, the existing lot occupancy is 75% which exceeds the maximum allowable 60% in the R-4 district. The current rear yard setback varies between 0 to 20 feet the minimum required is 20 feet. The deck addition would be a conforming use but would not meet the structure requirements. The proposal would increase the non-conforming lot occupancy to 97% and the rear yard setback to 0 feet.

The Zoning Regulations includes following standards for additions to nonconforming structures:

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

(a) The structure shall conform to percentage of lot occupancy requirements, except as provided in § 2001.13.

(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 create any new nonconformity of structure and addition combined.

The subject property was developed in 1915 prior to the current Zoning Regulations. Although it seems that there was a deck attached to the house, the applicant has not provided any evidence as to why and when it was built and removed, or how much of the lot occupancy and rear yard it occupied.

OFFICE OF PLANNING ANALYSIS

Consistency with § 3103.2

Unique condition:

With a lot area of 972 square feet the subject lot is the smallest lot on the square and is 54% less than the required minimum of 1,800 square feet in the R-4 district. The property is one of two triangularly-shaped lots on the square. In particular, the rear yard is a small triangular area.

The street frontage of 42.76 feet is wider than all the other row-houses and the property slopes down in an easterly to westerly direction or from the front to the rear of the property. The sum of these characteristics makes this property unique.

Peculiar and Exceptional Practical Difficulty:

Although the property has the unique qualities outlined above, the applicant has not demonstrated that they pose a practical difficulty for the use of the property. Direct access to the rear yard is currently provided from a door on the lower floor of the house. The applicant reasoning for the deck is that it would allow them the use of their rear yard and that access to their rear yard would be more convenient if accessed from the first floor. This could be provided by a landing and steps down to the rear yard as allowed under Section 2503.4. Additionally, the stairs combined with a deck allowed under Section 2303.2 maybe viable.

The applicant stated that use of the backyard could be dangerous due to cars travelling through the alley and if this is remedied by a high wall then the back yard would become dark. The applicant has not provided any information that would demonstrate this lack of light to the rear yard and if there are light issues could be addressed by a low wall.

The proposed deck would entail the complete elimination of the rear yard and increase the lot occupancy to nearly 100%. None of the lots in the square seem to have that level of lot occupancy and do retain some rear yard.

Detriment to the Public Good and Integrity of the Zoning Plan:

The proposed deck would extend above the adjacent fence and provide a direct view into the rear yard of the adjacent property. However, there would not be any direct views into the living areas of that house. It does not seem that there would be any light and air impacts.

The above analysis recognizes the uniqueness of the property, and the challenge presented by the existing building that already exceeds the allowable lot occupancy. The proposed addition would not preserve the integrity of the Zone Plan as the proposal would eliminate the requirement for a rear yard and increasing the lot occupancy to 97% without addressing reasonable practical difficulty. Such a lot occupancy and rear yard is not consistent with other lots in the square.

COMMUNITY COMMENTS

Advisory Neighborhood Commission (ANC) 4C reviewed the application and voted to recommend approval of the proposal at their scheduled meeting on February 16, 2010.

RECOMMENDATION

OP does not believe that the applicant has met the burden of proof that the uniqueness of the property causes some practical difficulty that does not allow the use of the rear yard. The applicant has not demonstrated that there are no other options which would enable the use of the existing rear yard and also provide access from the main floor. OP therefore **cannot support** the requested variances.

JLS/Staff: Maxine Brown-Roberts