CITY OF ROCKVILLE PLANNING DIVISION
STAFF REPORT

September 25, 2003

SUBJECT:

Variance Application APP2003-00805

Applicant: Gary Roberts
12917 Ardennes Avenue
Rockville, Maryland 20851

Property Location: 12917 Ardennes Avenue

Board of Appeals Public Hearing Date: October 4, 2003

REQUEST:

The applicant seeks a seven foot four inch variance from the front yard setback requirement to reconstruct a twelve foot eight and one-half inch wide by eight foot four inch deep addition onto the front of the existing house.

STAFF RECOMMENDATION:

Denial.

ANALYSIS:

Project Proposal

The applicant seeks approval of a variance to reconstruct a twelve foot eight and one-half inch wide by eight foot four inch deep addition onto the front of the house.

Property Description and Background

The subject property is located in the Twin-Brook subdivision, where it is zoned R-60, One-Family Detached Residential. The property contains 5,970 square foot of land with a relatively flat grade and is improved with a single-family dwelling. An addition of roughly the same size already exists in the proposed location. It apparently started out as a screened porch that was constructed without a permit. In 1992, a permit was erroneously issued that allowed for the enclosure of the space. The addition, however, is in poor shape and in need of replacement. Since the addition is nonconforming, if it were to be torn down, it could not be replaced.

Requested Variance

Section 25-311 requires that the dwelling be setback twenty-five feet from the front property line in the front yard. It also requires that any dwellings constructed thereafter be setback in line with the existing dwellings on the same block even though that setback may exceed the twenty-five feet minimum requirement. The applicant would like to replace the addition onto the front of the house. The existing house is setback twenty-six feet from the front property line and the new addition is proposed to extend eight feet four inches out from the house. As such, a front yard setback variance of seven feet four inches is required to construct the proposed addition.

Applicable Sections of the Zoning Ordinance

Section 25-311 of the Zoning Ordinance requires that structures be setback twenty-five feet from front property line for properties located in the R-60 Zone. It also requires that all future buildings be setback in-line with the existing dwellings on the same block.

Staff Analysis and Recommendation

The following are the findings that the Board is required to make to approve a variance as well as staff's observations.

1. **The variance as requested would not be contrary to the public interest.** Additions like this would be contrary to the public interest. The Zoning Ordinance contains specific front yard setback requirements for all zones. Within those zones, more specifically residential zones, the setbacks preserve an overall setting that is guaranteed when a person purchases a property within a neighborhood. There are limited permitted encroachments into the front setback space but they are basically for uninhabitable spaces for very limited distances. To allow a significant encroachment into the front setback for an addition whose space could be accommodated elsewhere on the property would be contrary to the public interest.

2. **The variance is requested owing to conditions peculiar to the property and not the result of any action taken by the applicant.** Significant improvements are planned for the property. The variance is requested to replace an existing addition onto the front of the house. The need for the variance is not due to conditions peculiar to the property and this property is like many others along the same street and the neighborhood in general. It is, rather, a desire to retain an existing nonconformity. Since extensive renovations are currently underway, it would have been relatively easy to accommodate the lost space in another area of the home without the need for a variance. As such, the requested variance is not the result of conditions peculiar to the property.

3. **A literal enforcement of the Ordinance will result in practical difficulty.** A literal enforcement of the Zoning Ordinance would result in practical difficulty for the property owner. It seems that the addition cannot be properly repaired because structural alterations can only be made to a development nonconformity for the purpose of its elimination. This is not, however, even a legal nonconformity because it was never legally permitted by zoning standards, only issued a building permit in error. Therefore, the only option, due to its poor condition, is for its removal. That removal would certainly cause practical difficulty for the applicant but it is not a reason for granting a variance.

Based on the above, staff recommends denial of Variance Application APP2003-00805 and removal of the front addition.

NOTIFICATION

Notices about the public hearing were sent to 432 residences, including those that are legally required.

Attachments