WILKES, ARTIS, HEDRICK & LANE
CHARTERED
ATTORNEYS AT LAW
SUITE 1100
1666 K STREET, N. W.
WASHINGTON, D. C. 20006-2897
(202) 457-7800

CABLE ADDRESS: WILAN
FAX: 202-457-7814

WRITER'S DIRECT DIAL:

ANNAPOLIS, MARYLAND
BETHESDA, MARYLAND
FAIRFAX, VIRGINIA
GREENBELT, MARYLAND
WALDORF, MARYLAND

October 7, 1999

BY HAND

99 OCT -7 P1:29
OFFICE OF ZONING
DISTRICT OF COLUMBIA

Ms. Sheri Pruitt Williams
Office of Zoning
441 4th Street, N.W.
Room 210
Washington, D.C. 20001

Re: Square 1621 Lot 70
3020 43rd Street, N.W.

Dear Ms. Williams:

Following the Board of Zoning Adjustment (BZA) granting the appeal in Case No. 16405, enclosed is the BZA application for a special exception and variance for the above-referenced property.

Please set a hearing date for this case as soon as possible. Should you have any questions, please do not hesitate to call me at (202) 457-7860.

Sincerely,

Maureen Dwyer

Maureen E. Dwyer

Enclosure

BZA
CASE No. 16521
EXHIBIT No. 9

Board of Zoning Adjustment
District of Columbia
CASE NO.16521
EXHIBIT NO.9

WILKES, ARTIS, HEDRICK & LANE
CHARTERED
ATTORNEYS AT LAW
SUITE 1100
1666 K STREET, N. W.
WASHINGTON, D. C. 20006-2897
(202) 457-7800

CABLE ADDRESS: WILAN
FAX: 202-457-7814

MAUREEN E. DWYER
202-457-7860

ANNAPOLIS, MARYLAND
BETHESDA, MARYLAND
FAIRFAX, VIRGINIA
GREENBELT, MARYLAND
WALDORF, MARYLAND

August 30, 1999

'99 OCT -7 P1:28
OFFICE OF ZONING
DISTRICT OF COLUMBIA

BY HAND DELIVERY

Mr. Edgar T. Nunley
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
941 N. Capitol Street, N.E.
Second Floor
Washington, D.C. 20001

Re: 3020 43rd Street, N.W.
Lot 70 (former Lot 810), Square 1621
BZA Appeal No. 16405

Dear Mr. Nunley:

On June 16, 1999, the Board of Zoning Adjustment decided to grant the above referenced appeal. That afternoon, I met with you and Mr. Denzil Noble to review the facts of the case, the zoning requirements, and the options available to Mr. Charles Sisson, the owner of the above referenced property. We subsequently met again and what follows is a summary of the issues we discussed. You also requested that the architect confirm the width of the side yards and attached is a plat showing the dimensions of all structures on the site and the width of the existing side yards.

1. The property is zoned WHOD/R1A. The required lot area is 7,500 square feet and the required lot width is 75 feet. The subject property has a lot area of 6,562.50 square feet and a lot width of 52.50 feet. Because the lot predated the 1958 Zoning Regulations, however, it is grandfathered and thus the lot area and lot width do not create the need for any variance relief. It was formerly Lot 810 and has since been subdivided into Lot 70. (See the attached subdivision plat indicating that the lot complies with the Zoning Regulations.)

2. Side yard: The existing house has side yards of 6.5 feet and 4.4 feet which are less than the required side yard of 8 feet. Pursuant to Section 405.8 of the Zoning Regulations, an addition is permitted provided that the width of the existing side yard shall not be decreased and provided that the existing side yard shall be a minimum of five feet. (See the attached Section 405.8.) Since one of the side yards does not meet the requirements, variance relief is required for the addition.

3. FAR: Pursuant to Section 1543.3. of the Zoning Regulations (a copy of which is attached), the FAR limitation in the WHOD district is 4,625 square feet. (2,000 square feet plus 40% of the area of the lot (2,624.80) for a total of 4,625 square feet.) The existing house on the lot is 2,212.00 square feet. With the two-story addition (798 square feet), the garage (496 square feet) and the porch addition (319 square feet), the gross floor area is 3,825 square feet. Pursuant to Section 1543.3, 800 square feet is subtracted from this leaving a total of 3,025, thus well within the FAR requirements. Accordingly, no variance relief is required from the FAR requirements.

4. Lot occupancy: The required lot occupancy is 2,000 square feet. The existing house has a lot occupancy of 1,240.32 square feet. With the two-story addition and the garage, the lot occupancy is 2,000 square feet, thus within the 2,000 square foot requirement. With the addition of the porch, the lot occupancy is 2,319 square feet. Pursuant to Section 223.1 of the Zoning Regulations, an addition that exceeds the lot occupancy requirements is permitted if approved by the Board of Zoning Adjustment as a special exception. Accordingly, special exception relief is required for the lot occupancy of the porch addition.

5. Front yard setback: Under the WHOD district, the required front yard setback is 21 feet. With the porch addition, the front yard setback is reduced to approximately 17 feet. Accordingly, a variance from Section 1543.4 of the Zoning Regulations is required for the porch addition.

The above discussion of the issues in this case conforms with the testimony you presented at the public hearing. At that time, you testified that the garage and two-story addition were in compliance with the zoning requirements with the

possible exception of the side yard for the two-story addition and the porch. You also testified that the garage would meet the access requirements of Section 2117.4 of the Zoning Regulations if it could be shown that access from an improved street was provided by a private driveway. Mr. Sisson subsequently submitted a recorded easement showing this right of access. Finally, you testified that with regard to the porch addition, this exceeded both the lot occupancy and the front yard setback requirements.

Based upon the above, it is our understanding that a special exception application pursuant to Section 223.1 of the Zoning Regulations for the porch and rear addition as well as a variance from Section 1543.4 for the front yard setback requirements is required in order to fully comply with the zoning requirements for the WHOD/R1A district. If this is your understanding of the matters discussed in our meetings, please so indicate by signing a copy of this letter in the space provided below and returning it to me.

This letter will be filed with the Board of Zoning Adjustment requesting a further hearing on the appeal as well as part of an application before the Board for the requested special exception and variance relief.

Thank you for your time and attention to this matter.

Sincerely yours,

Maureen Dwyer

Maureen Ellen Dwyer

MED:lm/150049

CONFIRMED: Michael O'Grady, Zoning Administrator
Oct. 01, 1999

1542.2 All uses, buildings and structures permitted in accordance with this chapter and the appropriate regulations of the underlying district with which mapped WHOD is combined, shall be permitted in the combined districts.

1542.3 All restrictions and prohibitions provided for by either of the underlying districts combined in accordance with this chapter shall also apply, except as specifically modified by this chapter. Where there is a conflict between this chapter and the underlying zoning, the more restrictive provisions of this title shall govern.

SOURCE: Final Rulemaking published at 39 DCR 6827, 6829 (September 11, 1992).

1543 RESTRICTIONS: MAXIMUM LOT OCCUPANCY, FLOOR AREA RATIO AND FRONT YARD SETBACK

1543.1 The restrictions, under this section, shall apply to both the R-1-A and the R-1-B zone districts, within the WHOD.

1543.2 No structure, including accessory buildings, shall occupy an area in excess of thirty percent (30%) of the lot; except that the following apply:

(a) Structures on lots of between five thousand square feet and six thousand six hundred and sixty-seven square feet (5,000 ft.^{2} and 6,667 ft.^{2}) may occupy up to two thousand square feet (2,000 ft.^{2}); and

(b) Structures on lots of less than five thousand square feet (5,000 ft.^{2}) may occupy up to forty percent (40%) the area of the lot.

1543.3 The gross floor area of all buildings and structures on the lot shall not exceed the sum of two thousand square feet (2,000 ft.^{2}) plus forty percent (40%) of the area of the lot; Provided, that the following modifications of gross floor area shall apply in the WHOD:

(a) The first two hundred square feet (200 ft.^{2}) of an open porch, or total open porch space if there is more than one open porch, and the first six hundred square feet (600 ft.^{2}) of a garage shall not count in gross floor area; and

(b) Basement or cellar floor area shall count in gross floor area if a finished floor is provided, if the floor to ceiling height is in excess of six feet six inches (6 ft. 6 in.), and shall count only up to a floor area equal to five (5) times the total fenestration area for the cellar or basement floor.

1543.4 All residential buildings shall have a front yard setback equal to or greater than the average setback of all structures on the same side of the street in the block where the building in question is located. The required setbacks are depicted in the map entitled, "Required Front Yard Setbacks," which is a part of this overlay district and located in the Office of Zoning and in the Zoning Division of the Department of Consumer Regulatory Affairs.

SOURCE: Final Rulemaking published at 39 DCR 6827, 6829 (September 11, 1992).

221.3 There shall be adequate, appropriately located and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility.

221.4 The proposed facility shall meet all applicable code and licensing requirements.

221.5 The facility shall not have an adverse impact in the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.

221.6 The Board may approve more than one (1) community-based residential facility in a square or within one thousand feet (1,000 ft.) only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.

221.7 The Board shall not approve more than one (1) youth rehabilitation home, adult rehabilitation home, or substance abusers' home in a square or within one thousand (1,000 ft.) of each other.

221.8 The Board shall submit the application to the Director of the Office of Planning for coordination, review, report, and impact assessment, along with the reports in writing of all relevant District departments and agencies, including but not limited to the D.C. Departments of Public Works, Human Services, and Corrections and, if a historic district or historic landmark is involved, to the State Historic Preservation Officer.

SOURCE: §3101.416 of Regulations effective May 12, 1958; as added by Final Rulemaking published at 28 DCR 3482, 3489 (August 7, 1981); renumbered by Final Rulemaking published at 35 DCR 6916, 6918 (September 16, 1988); renumbered by Final Rulemaking published at 36 DCR 1509, 1517 (February 24, 1989); and by Final Rulemaking published at 40 DCR 726 (January 22, 1993).

222 [RESERVED]

223 ADDITIONS TO ONE-FAMILY DWELLINGS OR FLATS (R-1)

223.1 An addition to a one-family dwelling or flat, in those districts where a flat is permitted, that does not comply with all of the requirements of §§401, 403, 404, 405 or 406 of this title shall be permitted if approved by the Board of Zoning Adjustment in accordance with the conditions specified in §3108 of Chapter 31 of this title, subject to the provisions of this section.

223.2 The addition shall not have a substantially adverse affect on the use or enjoyment of any abutting or adjacent dwelling or property; in particular;

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

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

(c) The addition, 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 frontage; and

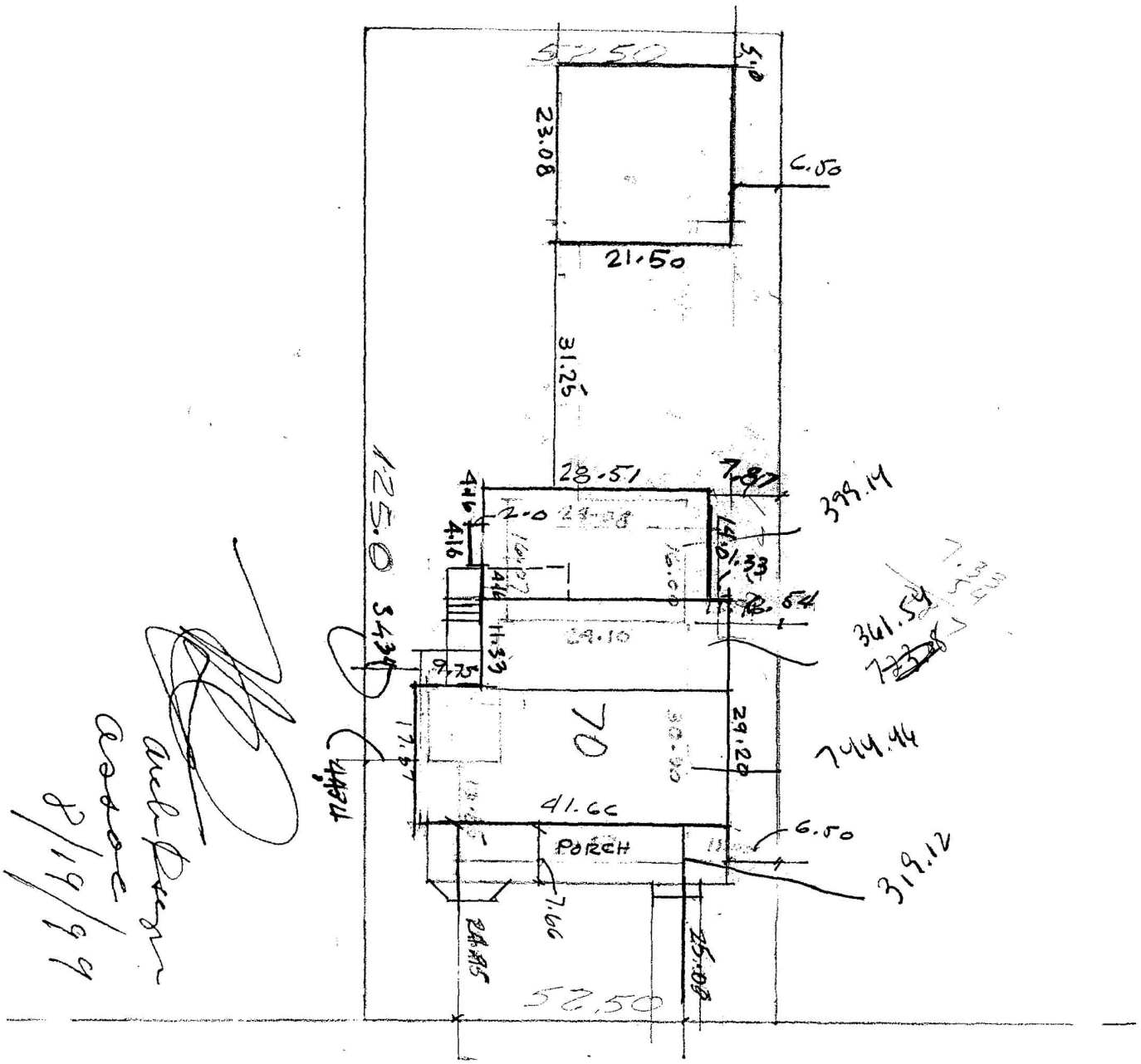
(d) In demonstrating compliance with ¶¶(a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs or elevation and section drawings sufficient to represent the relationship of the proposed addition to adjacent buildings and view from public ways.

223.3 The lot occupancy of the dwelling or flat, together with the addition, shall not exceed fifty percent (50%) in the R-1 and R-2 districts or seventy percent (70%) in the R-3, R-4 and R-5 Districts.

223.4 The Board may require special treatment in the way of design, screening, exterior or interior lighting, building materials or other features for the protection of adjacent and nearby properties.

299 DEFINITIONS

299.1 The provisions of §199 chapter 1 of this title, and the definitions set forth in that section, shall be incorporated by reference in this section.


52.50
5.0
23.08
6.50
21.50
31.25
28.51
7.87
399.14
4.16
2.0
4.16
14.33
361.54
11.33
0.75
70
29.20
744.44
41.66
PORCH
6.50
319.12
7.66
24.85
25.08
52.50
125.0
43RD
STREET