GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

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**MEMORANDUM**

**TO:** Board of Zoning Adjustment

**FROM:** Andrew Altman
Director

**DATE:** October 10, 2000

BZA
Case No. 16606
Exhibit No. 20

**SUBJECT:** BZA Application 16606

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## APPLICATION

Application of Ms. Traci Brown requesting the following pursuant to Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning:

- A variance from the requirements of Section 2001.3 (a) (b) and (c) to allow enlargement of an existing nonconforming building. (Section 3103.2)
- Special Exception relief under Section 223.1 to allow a nonconforming rear yard setback for a single family dwelling in the R-4 Zone. (Section 3104.1)

## SUMMARY RECOMMENDATION

The Office of Planning recommends approval.

## SITE AND AREA DESCRIPTION

The subject property at 1032 D Street, N.E., is a corner lot located northwest of the D Street, N.E., intersection with 11th Street, N.E. It is developed with a three-story semidetached masonry row building with frontage on both streets. Behind (north) and approximately six feet from the principal row building is an accessory 16' x 16' one-story masonry garage with a driveway from 11th Street, N.E. The property is zoned R-4 and located in the Capitol Hill Historic District.

The principal row building was constructed 1928 in the southwest corner of the property. According to Finance Office assessment records, land uses on the property were apartments on the upper two floors with a first floor retail market. The row building is constructed to the front property line and both structures extend from the eastern boundary to the western boundary.



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The applicant is now renovating this row building into a single-family dwelling. Building permits have been issued for interior renovations and to redo exterior brickwork, add a new roof to the garage, add a metal balcony on the third floor and to erect a metal fence 36"-tall around the south and east sides of the dwelling on the public right-of-way.

Adjacent properties to the north and west are developed with similar three-story masonry row dwellings, several with garages, and some with attached garages. Similar structures are also located at 327 11th Street, N.E., 920 South Carolina Avenue, N.E. and 642 A Street S.E.

**APPLICANT'S PROPOSAL**

Ms. Traci Brown, the applicant, acquired the subject property in 1999. She would like to construct an addition six feet long that would continue the renovated dwelling to the garage. In a letter to the Board of Zoning Appeals (BZA) received June 15, 2000, the applicant listed the following reasons for granting this request:

- Safety and security: Connecting the dwelling to the garage will allow passage between the garage and the dwelling without going outside.
- The expansion will provide sufficient room for a "traditional" living room and kitchen in the dwelling.
- The requested Special Exception will be in general harmony with the purpose and intent of the Zoning Regulations and Zoning Map.
- Lot dimensions are less than the dimensions required in the R-4 District.
- Several buildings in the historic district have similar additions.

**EXISTING ZONING AND RELIEF REQUESTED**

The subject property is sixteen feet wide and approximately 65' long with an area of 1,040 square feet. Under the current regulations, the minimum lot width and area in an R-4 district is thirty feet and 3,000 square feet, respectively. Based on City assessment records, this lot was established before 1958 and before the adoption of Title 11 in 1995. Therefore, this property is a legally nonconforming lot.

The Zoning Regulations list a "row dwelling" as a use permitted by right in this zoning district. Therefore, the proposed use is a conforming use.

The existing yards are: zero side yard and a rear yard of 26' for the row dwelling; and zero side yard and a rear yard setback of approximately 4' for the garage. The proposed addition would bridge the distance between the row dwelling and the garage, making the garage part of the row dwelling. The expanded row dwelling would then have a 4'-rear yard. Zoning regulations require side and rear yard setbacks of eight and twenty feet, respectively for a corner property. Therefore, the existing garage and the proposed row dwelling expansion do not meet the current yard requirements.

Existing principal and accessory buildings occupy approximately 891 square feet or around 86% of the lot area (it should be noted that the existing interior bays in the northeast and southeast

corners of the row dwelling project beyond the lot line). Connecting the two buildings will increase the lot occupancy to nearly 95%. Zoning Regulations limit the percentage of lot occupancy for a single-family dwelling to a maximum of 60%. Therefore, both the existing and proposed development exceeds the maximum allowable lot occupancy.

Based on this information, it has been determined that:

- The proposed single-family residential use is permitted by right.
- The property does not meet the minimum lot width and size requirements of the R-4 District.
- The existing row dwelling does not meet the side yard requirement and the garage does not meet the side and rear yard requirements. The expanded building also will not meet the side or the rear yard requirement.
- The existing buildings and the proposed addition exceed the maximum allowable lot occupancy.

**ANALYSIS**
The applicant's proposal is subject to the following provisions of the Zoning Regulations:

The subject building is nonconforming. Section 2001.3 allows additions or enlargements to nonconforming structures provided that the following requirements are met:

(a) The structure shall conform to percentage of lot occupancy requirements;
(b) The addition … itself shall conform to use and structure requirements; and
(c) The addition or enlargement shall not increase or extend any existing non-conforming aspect of the structure, and shall not create any new nonconformity of structure and addition combined.

The expanded structure (row dwelling, addition and garage):

(a) would not conform to lot side yard, rear yard and occupancy requirements;
(b) would conform to the use and structure requirements; and
(c) would create a new nonconformity by effectively extending the dwelling further north and reducing the existing rear yard of 26' (from the existing row dwelling) to 4' (from the combined garage).

Therefore, a variance is needed from this regulation.

Section 3103.2 grants the Board of Zoning Appeals (BZA) the power to grant variances from regulations set forth under the Zoning Act "[w]here by reason of exceptional narrowness, shallowness or shape of a piece of property at the time of the original adoption of the regulations, or … extraordinary practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; Provided the relief can be granted without

substantially impairing the intent, purpose and integrity of the zone map as embodied in the Zoning Regulations and Map."

The proposed addition will not conform to side and rear yard, and lot occupancy requirements. Section 223.1 permits an addition to a one-family dwelling that does not comply with the requirements of (Title 11 height, area and density regulations) if approved by the Board of Zoning Appeals (BZA) based on certain conditions. Special Exception approval is contingent on the following (as outlined under Section 223.2):

(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 … sufficient to represent the relationship of the proposed addition to adjacent buildings and view from public ways.

**Compliance with Section 3103.2**
The subject property is two feet narrower and includes roughly one third of the lot area required under the current Zoning Regulations. It also predates the current regulations. The inability to pass from the garage directly into the dwelling does not constitute an undue hardship. However, the proposed expansion would be consistent other existing development in the area. In fact, the proposed six-foot expansion would not result in a violation of the required rear yard (the dwelling at this point would still have a rear yard setback of twenty feet). Attaching the addition to the garage creates the encroachment. However, this is the only way to achieve the desired direct access between buildings.

However, the required rear yard is now substantially developed with the existing garage. Since the 4'-rear yard beyond the garage would remain after the addition, granting the requested relief would essentially maintain the status quo. The requested Special Exception could be granted without substantially impairing the intent, purpose and integrity of the zone map as embodied in the Zoning Regulations and Map.

**Compliance with Section 223.1**
Planning staff reviewed the proposed site plan and building elevations and determined that this proposal would not affect the provision of light and air to neighboring properties, impact privacy or the enjoyment of the existing use. The building design would not intrude upon the character and scale of housing along the street frontage (refer to agency comments from Historic Preservation Review Board below). This addition will also be compatible with the surrounding community.

**COMPREHENSIVE PLAN**
The Comprehensive Plan Generalized Land Use Map designates the general surrounding area for medium density residential uses, with single-family detached and semi-detached as the predominant uses. Housing objectives for Ward 6 under Subsection 1705.1 include:

"(b) To stimulate production in Ward 6 of new and rehabilitated housing … to provide housing opportunities and allow for residential growth and stability according to area needs, (and) encourage row house construction compatible with the existing neighborhoods …"

Objectives for preservation and historic features in Subsection 1725.1 include:

"(b) To protect and preserve the historic character of the residential neighborhoods in the Capitol Hill … Historic District …;
(c) To encourage new development and renovations of structures that are sensitive to the character of the historic districts in Ward 6." (parentheses and dittos added)

**COMMUNITY COMMENTS**
The Zoning and Licensing Subcommittee of Advisory Neighborhood Commission (ANC) 6A recommended approval of the requested variance and special exception. The full ANC will be voting on this recommendation during their regular scheduled meeting on October 5, 2000.

**AGENCY COMMENTS**
This proposal was subject to review by the Historic Preservation Review Board (HPRB). The HPRB considered conceptual plans for the building renovation and addition on September 23, 1999. HPRB staff recommended approval of the conceptual design based on it being consistent with the purposes of the preservation law. The HPRB adopted the recommendation by consent, with the provision delegating final design approval to HPRB staff.

**RECOMMENDATION**
The Office of Planning recommends approval.

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