GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

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OFFICE OF ZONING
DISTRICT

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman
Director

BZA
Case No. 16606
Exhibit No. 31

DATE: October 10, 2000

SUBJECT: BZA Application 16606 (amended)

APPLICATION

Application of Ms. Traci Brown requesting the following zoning relief 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 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 semi-detached masonry "row" building with frontage on both streets. Behind and approximately six feet north of 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 the row building into a single-family dwelling. Building permits have been issued for interior renovations, 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. These properties are also zoned R-4. Note that dwellings are attached to garages on area properties 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 connect the renovated dwelling to the existing garage. In a letter to the Board of Zoning Appeals (BZA) received June 15, 2000, the applicant listed the following reasons to justify 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.

The applicant provided a preliminary site plan and building elevations with this application.

EXISTING ZONING AND RELIEF REQUESTED

The subject property is sixteen feet wide and approximately 65' long with an area of 1,039 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.

Section 330.5 lists a "one family, semi-detached dwelling" as a use permitted by right in this zoning district. Therefore, the proposed use will be a conforming use.

The existing yards are zero side yard and a rear yard of 26' for the row dwelling, and the garage is located within the rear yard, approximately four feet from the rear property line. 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 four-foot rear yard.

Zoning regulations require a rear yard setback of twenty feet for a row dwelling in R-4. This is a corner property and Section 405.5 states that "a side yard shall not be required along a side street abutting a corner lot in a Residential District." Therefore, no side yard is required along 11th Street, N.W. Section 2300.2 also states:

> "A private garage that is an accessory building in a Residence district shall be subject to the following special regulations in regard to its location:
>
> (a) It may be located either within a rear yard or beside the main building; …"

The existing garage is located in the rear yard, therefore, the existing garage and the proposed row dwelling 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 building project beyond the lot line). Connecting these 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 exceed the maximum allowable lot occupancy.

Based on this information, it has been determined that:

- The proposed single-family residential use is a permitted by-right use.
- The property does not meet the minimum lot width and size requirements of the R-4 District.
- The existing row dwelling and garage meet the rear yard requirement. However, the expanded building will not meet 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 connected to the garage by the addition):

(a) would not conform to the 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 other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Code Ann. §§5-413 to 5-432 (1981) would result in peculiar and 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."

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 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 very small compared to current Zoning Regulations: it is approximately 47% narrower and 65% smaller in area than the current minimum requirements. While not the smallest of the 43 lots on the square, it is among eight lots sixteen feet or less in width, with

areas under 1,050 square feet. Due in part to this minimal size, existing buildings do not conform to the lot occupancy requirement.

The most exceptional aspect of this application is the proposed adaptive reuse of a former corner store and apartment building as a single-family dwelling. Consistent with the Comprehensive Plan and Ward 6 plans (see below), this proposal would enhance the residential character of the neighborhood by renovating a commercial use for single-family residential purposes, in a manner that preserves and protects the historic character of the Capitol Hill Historic District. Too many adaptive-reuse efforts in this area have been directed toward changing single-family dwellings into multi-family or commercial uses.

The inability to pass from a garage directly into the dwelling does not constitute an "exceptional or extraordinary practical difficulty" but illegal activity between the two structures (immediately next to renovated dwelling) does. The space between the dwelling and garage is currently of little use because it is too narrow to be used as open space or for planting trees. A Board member suggested that security concerns might be addressed by erecting a fence. Other area properties where dwellings and garages share street frontage screen the intervening area with fences and/or solid walls. Since the visual impact would be the same from the sidewalk, OP staff determined that extending the renovated dwelling to the garage would be equivalent to building a screening wall. Extending the addition is also the only way to achieve the desired direct access between the dwelling and the garage.

The proposed six-foot expansion would not violate of the required rear yard (the expanded dwelling would still have a rear yard setback of twenty feet to this point). Attaching the addition to the garage would create the encroachment. The required rear yard is now substantially developed with the existing garage, and, since the four-foot rear yard (and apparent access easement) beyond the garage would remain after the addition, granting the requested relief would maintain the undeveloped rear yard. Therefore, 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

The applicant provided a preliminary site plan and building elevations with this application. In response to the BZA, the applicant has submitted revised plans for the building addition with a building section through the garage. Note that the first floor plan indicates a doorway between the proposed dwelling addition and the garage. The building section shows steps inside the garage leading up to a landing on the same level of the addition first floor and common doorway. Planning staff reviewed the amended proposed site plan, building elevation and section, 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 height of the garage would not have to be increased to allow the two buildings to connect. The building design would not

intrude upon the character and scale of housing along the street frontage and the addition will also still be compatible with the surrounding community (refer to agency comments from Historic Preservation Review Board below).

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. The Comprehensive Plan, which is the legal basis for zoning in the District, enunciates, as its first principle, the importance of stability for residential neighborhoods. Under Section 101, Major Themes, the plan states:

> "The successful and creative functioning of neighborhoods is a fundamental concern. Citizen participation in civic improvement starts from the interest that people have in their neighborhood blocks and the day-to-day relationships therein. …
>
> The District elements of the Plan propose that the residential character of neighborhoods be maintained and improved. …
>
> Ensuring good quality neighborhoods is of utmost importance to the District."

In Title 11, the Land Use Element, the Plan gets quite specific. Section 1103, Objectives for Residential Neighborhoods, states:

> "The residential neighborhood objectives are to conserve the essentially satisfactory qualities of the District's many stable residential neighborhoods, to enhance other neighborhoods to improve and achieve stability, to redirect public and private initiatives to neighborhoods most in need of improvement and stability, to encourage development of adequate neighborhood shopping and support services in all sections of the District, to protect residential neighborhoods from disruptive uses and to prevent concentrations of non-residential uses in residential neighborhoods."

Policies in support of these objectives include "(1) Promote the conservation, enhancement and revitalization of the residential neighborhoods of the District for housing and neighborhood-related 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 ANC voted on this recommendation on October 5, 2000. During the BZA Public Hearing, there was a question about who voted during the ANC meeting. Commission Marvin Fields later indicated that the five Commissioners present (Fields, Gregory Ferrell, Doris Wallace, Wanda Harris & Angela Cox) unanimously voted approval. However, six Commissioners (out of eleven) are required for a quorum.

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 (please refer to Exhibit 1). 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 a provision delegating final design approval to HPRB staff.

In a letter dated October 2, 2000, the Capitol Hill Restoration Society (CHRS) did not comment on whether the proposed building renovation and design was appropriate in the Capital Hill Historic District. It did, however, recommend denial of the variance because it thought the application did not meet the requirements for granting a variance:

- The property is not unique: CHRS stated that most lots in the neighborhood are less than eighteen feet wide and small in area. They also noted "… corner lots tend to be small, but the buildings on them tend to be grander than their neighbors."
- Practical difficulty: They indicated that the applicant's reasons (passage between the garage and the dwelling without going outside, and providing sufficient room for a "traditional" living room and kitchen) would be for personal convenience, not to address a practical difficulty.

They did not discuss other variance requirements and took no position on the requested special exception.

In a response to CHRS stamped October 11, 2000, the applicant provided the following clarifications:

- The property is unique because it is a commercial property being brought back into residential use. She stated that conversion of the vacant and rodent-infested store and apartment building into a single-family dwelling "supports the historic nature and character of the homes in the area and brings the property in line with the District of Columbia's plan for improving and rehabilitating vacant properties."
- The applicant stated that the subject property was smaller than several corner lots in Capitol Hill, and the proposed addition "would not adversely affect the measure of openness" on the property or negatively impact neighboring properties. The continuous wall would be in line with buildings and other residences in Capitol Hill.
- The requested variance would change the existing occupancy rate by 34%, a relatively small increase.
- "No other building (dwelling)" site has a six-foot open space between the building and the garage.
- The space between the building is currently be used for illegal dumping and other activities. Constructing an addition to close this "unused" portion of the property would not take away from the existing four-foot rear yard between the garage and the northern property line.

In closing, the applicant requested an opportunity to discuss this proposal with the Society.

The applicant also collected signatures from five nearby residents on a petition in favor of this variance and special exception request.

RECOMMENDATION
The Office of Planning recommends approval.

AA/afj

Attachment
Exhibit 1 Historic Preservation Review Board Staff Report and Recommendations for the meeting on September 23, 1999

HISTORIC PRESERVATION REVIEW BOARD
STAFF REPORT AND RECOMMENDATION

Property Address:	**1032 D Street, NE**		Agenda
Landmark/District:	**Capitol Hill Historic District**	X	Consent Calendar
		X	Concept Review
Meeting Date:	**September 23, 1999**	X	Alteration/Addition
H.P.A. Number:	**99-497**		New Construction
Staff Reviewer:	**Steve Callcott**		Demolition
			Subdivision

The applicant, Bernard Guay for owner Traci Brown, seeks conceptual review for renovation of a former corner store into a residence. The three-story building has a full-height projecting bay on D Street and two full-height bays on 11th.

The conceptual plans call for wood windows to be installed throughout the building and switching a window and door on the side of the building. The architect has revised the plans for the first floor entrance and plate-glass window in response to the staff's concerns. The storefront cornice will be recreated, to run around the perimeter of the projecting bay; while the architect is still working on the design, the large plate-glass window will be reconstructed in a manner appropriate for the Victorian building.

Two balconies will be added to the building, one on the rear, and one on the third floor between the two projecting bays. The design of the iron work should be submitted for review by the staff prior to application for the permit. The staff would also recommend that some variation of the "hairpin and picket" be used for the design of the perimeter fence.

The staff recommends that the Review Board approve the conceptual design as consistent with the purposes of the preservation law, and delegate final approval to the staff.