GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

Office of Zoning

Application No. 16634 of Ira Clements, pursuant to 11 DCMR 3103.2 for variances to allow an addition to an existing nonconforming structure that does not now meet the lot width and lot area requirements, and exceeds the lot occupancy allowance, and will create a new nonconforming rear yard [Paragraphs 2001.3 (a)(b) and (c)]; and variances from the maximum allowable lot occupancy requirements (Subsection 403.2), and the minimum rear yard requirement (Subsection 404.1), for a deck addition to a row dwelling in an R-3 District in premises 4904 4th Street, N.W. (Square 3252, Lot 112)

HEARING DATE: November 14, 2000
DECISION DATE: November 14, 2000 (Bench Decision)

SUMMARY ORDER

The zoning relief requested in this case is by a zoning memorandum from the Division of Zoning of the Department of Consumer and Regulatory Affairs that specifies the zoning relief required by the applicant.

In 1997, under Application No. 16288, the Applicant initially filed a BZA application. The case was initially scheduled for a public hearing on December 17, 1997. At that time, and subsequently after, the Applicant requested postponement of the hearings. The scheduled hearing dates on Application No. 16288 were December 17, 1997, February 18, 1998, May 6, 1998 and September 2, 1998.

On June 5, 1998, the Office of Zoning sent the Applicant a letter outlining the necessary steps for the hearing process to continue on the application. The Office of Zoning did not receive a response to its letter. Therefore, at its February 2, 2000 public meeting the Board dismissed the case. A Dismissal Order was issued on March 21, 2000.

On June 13, 2000, counsel for the Applicant petitioned the Board to reopen the case because the Applicant **did** in fact respond to the letter sent by the Office of Zoning on June 5, 1998. The facts of the case were reviewed and the case was reopened under Application No. 16634.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, by mail to Advisory Neighborhood Commission (ANC) 4D, and to owners of property within 200 feet of the site.

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Board of Zoning Adjustment
District of Columbia
CASE NO.16634
EXHIBIT NO.24

The site of this application is located within the jurisdiction of ANC 4D. ANC 4D, which is automatically a party to this application, did not submit a written statement on the application.

The Board received a letter of opposition to the application (Exhibit No. 20). The letter stated that the Board should not consider honoring the Applicant's request because the site is nonconforming and cannot meet the requirements of the Zoning Regulations. The Board reviewed the correspondence, however, did not concur. The Board determined that there are unique characteristics existing at the site, which encumbers the use of the property to construct the deck. No person or party presented testimony at the public hearing in opposition to the application.

As directed by 11 DCMR 3119.2, the Board required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a variances from the strict application of the requirements of 11 DCMR 3103.2. Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR Subsection 3103.2, 403.2, 404.1, and Paragraph 2001.3 (a) (b) and (c). The Board is further of the opinion that there exists an exceptional or extraordinary situation or condition related to the property which creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that this application be **GRANTED.**

Pursuant to 11 DCMR 3101.6, the Board waived the requirement of 11 DCMR 3125.3 that findings of fact and conclusions of law accompany the order of the Board. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 5 to 0 (Robert Sockwell, Anne Renshaw, Rodney Moulden, Sheila Cross Reid and Kwasi Holman to approve).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director

FINAL DATE OF ORDER: DEC 18 2000

PURSUANT TO D.C. CODE SEC. 1-2531 (1999), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3125.9, "NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER HAVING BECOME FINAL PURSUANT TO § 3125.6."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

BAB/12.15.00

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

Office of Zoning

BZA APPLICATION NO. 16634

As Director of the Office of Zoning, I hereby certify and attest that on DEC 18 2000 a copy of the order entered on that date in this matter was mailed first class, postage prepaid, to each party who appeared and participated in the public hearing concerning the matter, and who is listed below:

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Dept. of Consumer and Regulatory Affairs
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941 North Capitol Street, N.E., Suite 2000
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ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director