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

DATE: March 5, 2001

SUBJECT: BZA Case # 16647 – Variance Request (Application of James Curtis, Jr.)
4638, 4650 and 4654 Hillside Road, S.E.
Square 5362, Lots 65, 66 and 70.

APPLICATION-IN-BRIRF

Applicant:	James Curtis, Jr. of Fort Washington, MD
Relief sought:	Use Variance, to continue using three buildings as two family dwellings
From Section:	11 DCMR §3103.2
Relief Sought Under:	§ 300.3
Applicants Justification:	Mr. James Curtis, Jr. wishes to rectify a situation which occurred over ten years ago, when he converted three residential buildings, which contain four one bedroom units each, into three buildings, with two duplex units, with three bedrooms in each unit.

OFFICE OF PLANNING RECOMMENDATION-IN-BRIEF

The Office of Planning (OP) recommends the subject application be approved with conditions.

SITE AND AREA DESCRIPTION

The subject premises are at 4638, 4650 and 4654 Hillside Road, S.E. (Square 5362, Lots 65, 66 and 70. The properties are on the north side of Hillside Road, among several other

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Exhibit No. 29

Board of Zoning Adjustment
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EXHIBIT NO.29

two-story walk-up apartment buildings. The buildings are oriented toward each other, with only one side of the properties facing 46th Street. There is a "marked difference" in the appearance of the units on the north side of the block, when those units are compared to the units on the south side of the block. Most of the buildings on the north side of the 4600 block of Hillside Road are in poor to fair condition and are in need of reinvestments. The south side of the block contains well-maintained semi-detached single-family homes and approximately seven four-unit apartment buildings. These properties are in good condition. The residents on the south side of the block are impacted by the lack of maintenance and up-keep of the units on the opposite side of the block, as well as the criminal elements that frequent the north side of the block.

AREA ZONING

The subject premises and most of the surrounding areas are zoned R-2, for one-family, semi-detached dwellings there is a small neighborhood shopping area, zoned C-1, to the northeast of the subject premises, at Benning Road and H Street, S.E. The area to the southwest, generally along the Alabama Avenue corridor, is zoned R-1-B, and is designed to accommodate high-density, one-family detached dwellings.

APPLICANT'S PROPOSAL

According to the applicant, his intention was to "rectify a situation, which occurred over ten years ago." At that time, the applicant converted the three subject buildings, which contained four one-bedroom units each, into three buildings that contained two duplex units, with three bedrooms in each of the units. The building conversions were done in response to the request from the D.C. Government housing agency, which expressed a need for private housing providers to produce more multiple bedroom residences to meet the need for decent affordable housing, for low-to-moderate income families. At that time, when the applicant went to DCRA to apply for a new Certificate of Occupancy which would reflect the conversions, he was told by DCRA that since the number of units in each building was not being increased, a new Certify of Occupancy wasn't required. The applicant inserted the changes to the licenses, to reflect that the unit reductions, (from four to two units per building) when it was time to renew the housing license. Subsequent annual license renewal forms received from DCRA reflected the changes. Recently, when the applicant attempted to renew the license, DCRA disapproved the application, citing a need for BZA approval.

RELATIONSHIP OF THE APPLICATION TO COMPREHENSIVE PLAN

The subject premises are designated in the Comprehensive Plan as being in the moderate density residential land use category. The predominant uses in this category usually includes row houses and garden apartments buildings and may include, as appropriate uses, low density housing

REQUESTED ZONING RELIEF

Pursuant to § 3103.2 of the Zoning Regulations, the applicant is requesting an area variance from the provisions of Subsection 300.3 to use the subject premises as two-unit family flats located in R-2 and R-4 Districts at premises 4638, 4650 and 4654 Hillside Road, S. e. (Square 5662, Lots 65, 66 and 70.

AUTHORITY TO GRANT VARIANCES

11 DCMR, §3103.2 cites the D.C. code provision that authorizes the BZA to grant the requested variance "where, by reason of exceptional narrowness, shallowness or shape of a piece of property, or by reason of:

- Exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property;

  The strict application of any regulation ... would result in

- peculiar and exceptional practical difficulties to or;

- exceptional and undue hardship upon the owner of the property ...;

  Provided, that the relief can be granted

- Without substantial detriment to the pubic good; and

- Without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map."

DOES THE APPLICATION MEET THE VARIANCE TESTS?

1. With respect to exceptional narrowness, shallowness or shape of a piece of property:

No. The subject properties do not meet the test.

The subject properties were built as walk-up garden apartments in the 1950's. Each building containing four one bedroom units and were marketed to single individuals or couples without children. Neither the size of the land area or the unit size were insufficient to meet the minimum area permitted in the R-2 Zoned District.

2. With respect to "practical difficulties":

Yes. The subject property does meet the test.

Mr. James Curtis the owner of the subject properties, converted the three buildings from four units containing one bedroom each, into three buildings which contained two duplex units per buildings. There were three bedrooms in each unit. According to Mr. Curtis, the conversions were done in response to a request from the District's housing agency (DHCD) that private housing providers bring on line more affordable multiple bedroom units to address the housing needs of low to moderate-income residents. The converted units were to be used exclusively under the Section 8 and the Tenant Assistance programs.

When the buildings offered only one-bedroom units, the owner believes that more of a transitory tenant was attracted. These tenants would rent for a short period and then vacate. Further, the owner believed that the single tenants attracted an element, which was detrimental to neighborhood stability.

According to the owner, if the requested variance were not granted he would have to evict all of the existing tenants occupying units under the Section 8 program, many with children in local public schools and having established themselves in the neighborhood. He would also have to reconfigure the buildings back to one-bedroom units. The loss of tenants would be translated into loss of revenues. Additionally, the community would revert back to a more transitory element, rather than the desired stability that is usually associated with families.

3. With respect to "the variance being granted without detriment to the public good and without impairing the intent, purpose and the integrity of the zone plan:"

Yes. The subject property can meet the test.

The Comprehensive Plan designates the area surrounding the subject properties being in the moderate density residential land use category. The predominant uses in this category usually includes row houses and garden apartments buildings and may include, as appropriate uses, low density housing.

The subject premises and most of the surrounding areas are zoned R-2. The R-2 districts consist of those areas that have been developed with one-family, semi-detached dwellings, and are designated to protect them from invasion by denser types of residential development. When the subject properties were converted from buildings with four one-bedroom units, (which attracted more singles) into buildings containing two duplex units, with three bedrooms in each unit, (which was more conductive to families) the properties became less dense than what would be permitted in the R-2 district. Since the reconfigured units are less dense than units permitted in R-2 districts, the project can be accomplished without detriment to the public good and without impairing the intent, purpose and the integrity of the zone plan:"

COMMUNITY COMMENTS

Ms Naomi Robinson, ANC 7EO7, informed OP that the ANC had provided a letter to the BZA, strongly opposing the subject application, on the grounds that the applicant was a "slum landlord", that his properties were not maintained and that the neglected condition of the properties created opportunities havens for criminal activities, which cause many neighborhood residents to live in fear. The ANC representative felt that changes in the structural component of the buildings would not alter either the landlords' inattentiveness, or the externalities (crime and drug activity) his inattentiveness generates.

OP made the case to the ANC Commissioner that a conversion to more family-style living units would attract more families and would contribute toward neighborhood stability. The ANC Commissioner stated that if the same management were allowed to continue, serious social problems would continue hurting neighborhood integrity.

AGENCY COMMENTS

Department of Housing and Community Development

The applicant provided two letters from the Department of Housing and Community Development (DHCD), in response to his letter to DHCD, requesting that the subject properties that he owned be considered for inclusion in the Tenant Assistance Program and the Private Unit Leasing Program. DHCD responded to Mr. Curtis that the agency appreciated his interest and that his units were qualified for the two referenced programs.

Metropolitan Police Department

According to the Six District Police Headquarters, many of the units on the north side of the 4600 block of Hillside Road have long been associated with serious crimes, including two homicides last year and drug activities which resulted in the arrest of three major figures.

OP SUMMARY RECOMMENDATION

It is the applicant's belief, that he converted the subject properties to help the housing agency in its efforts to meet the housing demand for multiple bedroom housing units for low-income families. This position was confirmed by DHCD in letters of appreciation to the applicant. However, issues identified by the ANC and the Police Department, regarding the lack of maintenance, criminal activities in the properties and the resulting negative impact on the community are still unresolved.

While OP is recommends that the application be approved, the on-going enforcement issues linked to this site should be addressed. It is OP's understanding (from a meeting with Building & Land Regulation Administration, DCRA) that DCRA can require reviews/inspection of properties having histories of non-compliance.

Conditions of Approval of BZA Application 16656

If the BZA approves this application, OP recommends that the following conditions be placed on the Board approval:

1. The owners of the subject properties (Mr. James Curtis) contact the Zoning Administrator's Office to initiate an annual inspection of the subject properties, before the Certificate of Occupancy is issued.
2. The review period should be for five years, starting in 2002.