GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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WASHINGTON, D. C.

Application No. 12783, of 1754 N Street Associates Limited Partnership, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for special exceptions under Paragraph 4101.44 to permit an addition to an office building and conversion of existing residential buildings into offices and under Sub-section 3308.2 to erect a roof structure and for variances from the rear yard requirements (Sub-section 4303.1) and the regulation regarding the vesting of rights in cases where the Zoning Regulations have been amended (Sub-section 8103.6) in the SP-2 District, at the premises 1752, 1754, 1756 N Street, N.W. (Square 159, Lots 59, 67, 68, 69, 823 and 824).

HEARING DATES: October 25, November 15 and November 29, 1978
DECISION DATE: December 6, 1978

FINDINGS OF FACT:

1. The subject property is located on the south side of N Street, N.W., between 17th and 18th Streets and is known as premises 1752, 1754 and 1756 N Street, N.W. It is in an SP-2 District.

2. The subject site is improved with three rowhouses that face N Street and constitute lots 59, 68 and 69. To the rear of the rowhouses in the interior of the subject square 159 is a parking lot on lots 67, 823 and 824. The site abuts public alleys on the south and the west sides.

3. A request for incorporating the entire subject property as well as the adjoining property at 1750 N Street in an SP office building was made under BZA Application No. 12569. By BZA Order dated February 3, 1978, the application was withdrawn before the public hearing, when it was discovered that the applicant did not have proper authorization and consent from the owners of all the lots involved.

4. By BZA Order No. 12633, dated October 24, 1978, the Board denied the use of the subject lots 67, 823 and 824 as a parking lot.

5. The subject row houses are located in the Dupont Circle Historic District, a Category II Historic District listed in the District of Columbia Inventory of Historic Sites.

Board of Zoning Adjustment
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CASE NO.16669
EXHIBIT NO.28A2

6. The applicant originally intended as one alternative for the development of the site, to demolish the existing buildings and thereafter erect a ninety foot apartment building as a matter-of-right with no approvals required from this Board.

7. The applicant, however, stated a desire to preserve the historic structures involved, if practicable, and in a letter of counsel consented to the imposition by the State Historic Preservation Officer of a 180 day delay in demolition pursuant to D.C. Regulation 73-25 in order to negotiate for the preservation of the historic structures involved.

8. As a result of the negotiation sessions with interested parties including the State Historic Preservation Officer, plans were submitted to the Joint Committee on Landmarks which preserved the entire exterior facade of the historic structures located on the site and provided for the erection of a ninety foot office building addition at the rear of the premises.

9. In a recommendation to the State Historic Preservation Officer dated September 21, 1978, the Joint Committee stated that the alternative to demolition embodied in the aforementioned plans would not be contrary to the public interest. This document was submitted as an exhibit and made a part of the record in this case.

10. The State Historic Preservation Officer in a transmittal letter dated September 25, 1978, stated that the proposed alteration embodied in applicant's plans would not be contrary to the public interest.

11. The applicant's plan presently before the Board is identical to the plan reached as a result of negotiations with the State Historic Preservation Officer, pursuant to D.C. Regulation 73-25.

12. The testimony and evidence of record including the summary of the negotiation sessions held pursuant to D.C. Regulation 73-25 discloses that representatives of "Don't Tear It Down," Dupont Circle Citizens Association and Advisory Neighborhood Commission 2B were participants in the negotiation process before the Joint Committee.

13. When the notice for the public hearing of October 25, 1978 was published as of September 22, 1978, the subject application was advertised under the Zoning Regulations in effect on September 5, 1978, the date this application was filed with the BZA. It appeared as follows:

> Application of 1754 N Street Associates Limited Partnership, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for special exceptions under Paragraph 4101.42 to permit an addition to an office building and conversion of existing residential buildings into offices and under Paragraph 4201.22 and Sub-section 3308.2 to erect a roof structure and pursuant to Paragraph 8207.11 for a variance from the rear yard requirements (Sub-section 4303.1) in the SP District at the premises 1752 and 1754 and 1756 N Street, N.W., (Square 159, Lots 59, 67, 68, 69, 823 and 824).

14. At the public hearing of October 25, 1978, the applicant requested permission to amend the application to include a variance from the 3.5 FAR requirement (Sub-section 4301.1) of the aforementioned amended SP Regulations to permit the construction of the proposed SP building addition pursuant to the plans filed with its application on September 5, 1978. At the time of the filing of the application no variance was required from the 5.5 floor area ratio provisions of the SP District.

15. The requested amendment to the application was necessitated by amendments to the Zoning Regulations adopted by the Zoning Commission in Order No. 235, dated September 14, 1978. This Order became effective on October 5, 1978, and among other changes, designated this property SP-2 in lieu of SP and reduced the floor area ratio for office use of the property from 5.5 to 3.5. The amendment adopted by the Commission also changed the paragraph under which the Board could approve a special exception for office use from 4101.42 to 4101.44

16. The opposition requested a continuation of the hearing on this application, on the grounds that the notice as published did not state that a variance from the FAR provisions of the new SP-2 District was being requested and, accordingly, was inadequate notice. The Chairman denied the opposition's request. He found that all parties in opposition to this application had sufficient notice of the applicant's building plans. The opposition had attend the aforementioned negotiations sessions and in the instant hearing it would have an opportunity to testify and cross-examine the applicant on the requested variance and all relevant issues.

17. The applicant in this action, at the public hearing conducted on October 25, 1978, was granted permission by this Board to amend its application for relief so as to request the relief necessary under the amended SP regulations to permit the erection of the proposed building addition, pursuant to the plans filed with the Zoning Regulations Division on September 8, 1978.

18. The applicant proposes to construct an addition to an office building and to permit the conversion of the second, third and fourth floors at premises 1752 N Street, which were formerly used for residential purposes, but which are presently vacant, into SP offices.

19. The 1700 block of N Street contains a mix of office and residential uses, including hotels and private residences. The Board finds the proposed use of the subject premises for office purposes to be in harmony with the existing uses on neighboring property.

20. The Board finds the height of the proposed building addition to be in harmony with the existing uses and structures on neighboring property, as the subject site is bordered by the Longfellow Building on the southwest, which is over ninety feet in height and on the west by an office building fronting on Connecticut Avenue which is ninety feet in height. St. Mathews' Church, located to the south, is over 100 feet in height, and to the north, the National Association of Broadcasters' Building is ninety feet in height. Furthermore, a height of ninety feet is permitted as a matter of right in the SP-2 District.

21. The Board finds the bulk of the proposed building addition to be in harmony with the existing uses and structures on neighborin property since a 6.0 F.A.R. for apartment structures is permitted as a matter of right in the zone. In addition, the Longfellow Building and St. Mathews' Church both have a greater building bulk than the proposed building addition. In addition, the proposed building addition has been carefully located at the rear of the subject site so as to minimize its impact on surrounding properties.

22. The Board finds the design of the proposed building addition to be in harmony with existing uses and structures on neighboring property since applicant's proposal preserves three historic structures located on the building site and integrates them into a total project for the site which includes a ninety foot building addition erected at the rear. The addition is to be constructed of red brick and with fenestration designed to blend with the existing buildings fronting on N Street. Furthermore, the design of the proposed building addition has been reviewed by the Joint Committee on Landmarks and found to be not contrary to the public interest.

23. N Street from curb to curb is thirty-two feet in width with a public right-of-way of fifty-six feet. The subject property is located just east of Connecticut Avenue and is served both by a public alley to its west and to its rear. N Street is one-way in an easterly direction. The loading berth and garage have access from the north-south public alley abutting the west property line. This public alley is eighteen feet in width. The proposed building will have approximately 200 occupants and during the peak hours between 8:00 A.M. and 9:00 A.M. and 5:00 P.M. to 6:00 P.M. will generate approximately fourteen vehicular trips for each peak period Traffic volumes in peak hours at the intersection of 17th and N Streets, N.W., are 1,237 vehicular trips in the A.M. peak hour and 1,051 in the P.M. peak hour.

24. The Department of Transportation at the public hearing of November 15, 1978, and by memorandum dated November 15, 1978, testified in substance, as follows:

> The applicant indicates that 220 persons will be employed in the proposed building. Assuming a twenty-five percent automibile usage and a 1.5 automobile occupancy rate, the Department anticipates that approximately thirty-three parking spaces will be required for the employees of the building. Zoning Regulations require a minimum of thirty-five spaces. Approximately twenty automobiles belonging to employees in the three existing buildings are now parked on the site.
>
> The thirty-five spaces should be adequate for the necessary long term and short term parking requirements of the development. The building management should assign the spaces to long term and short term users according to priority needs. The excess needs for either user can be adequately served in the commercial parking facilities adjacent to the development.
>
> The site is served well by both Metrorail and Metrobus. The Dupont Circle station portal on 19th Street, N.W. is approximately 1,300 feet from the site. Both local and express bus service is available on Connecticut Avenue and 19th Street, N.W. with connections to downtown routes and crosstown routes on upper Connecticut Avenue. This excellent transit service will reduce the dependency on the automobile by workers and visitors to the site.

N Street on which the development fronts, is a local street with a thirty-two foot roadway. The block between 17th Street and 18th Street is one-way eastbound at all times. No parking is allowed between 6:00 A.M. and 9:30 A.M. Two hour metered parking is allowed on both sides between 9:30 A.M. and 6:30 P.M. All parking spaces are occupied throughout the day.

Site observations between 4:30 P.M. and 5:30 P.M. on November 6, 1978, and between 7:45 A.M. and 8:30 P.M. on November 8, 1978 revealed no traffic problems on any of the adjacent streets or the internal alley system.

The portion of the alley system from Rhode Island Avenue to the alley on the southern boundary of the site is now posted one-way northbound. The Department intends to monitor the system to determine if this portion should be returned to two way operation to reduce the impact from all traffic being required to go northbound to N Street.

The Department reported that it did not expect this office development with thirty-five parking spaces to cause a measurable difference in the traffic operation on the adjacent street and alley system.

25. The Board finds that on the basis of the applicant's expert traffic witness and the testimony of the Department of Transportation representative the vehicular traffic anticipated to be generated by the applicant's proposed development will not create dangerous or other objectionable traffic conditions.

26. The roof structure complies with the maximum permitted height of eighteen feet, six inches with an F.A.R. of .1688 or substantially less than the .375 F.A.R. permitted. The structure is located to the southwest corner of the site well removed from the structure fronting on the 1700 block of N Street, N.W.

27. The Zoning Regulations normally require that roof structure be set back from all lot lines of the lot a distance equal to their height above the roof.

28. The size and shape of the subject site and the constrictions of the site involved in this project and special design factor present in carefully placing and designing the roof structures of the proposed building addition so as to be compatible with the character of the Historic District necessitate their sitting at the western edge of the property near the east frontage of the Longfello Building. This requires approval of the Board.

29. As testified to by the architect of the project, the location of the historic structures on the site and the size and shape and constructions of the site dictate the design, size and location of the proposed building addition, as that addition must be placed and treated so as to compliment the existing residential building.

30. The subject site as existing is developed with only 12,803 square feet of gross floor area, only a small percentage of its permitted F.A.R. under either residential or office use. Under residential development, such as an apartment use, for which the applicant has already filed plans, the permitted F.A.R. is over 76,000 square feet. Furthermore, the subject site is improved with histori structures which the applicant wishes to preserve through the erection of a building addition.

31. The Board finds the existing conditions and costs to applicant imposed upon the property owner in order to save the existing townhouse type structures require the relief necessary to make the alternative to demolition acceptable when compared to matter of right development of a ninety foot, 6.0 F.A.R. apartment building with demolition of the existing townhouse.

32. The Board finds that in order for the applicant to provide a court area between the existing structures and the proposed building addition that it is not feasible to provide the required rear yard in this project.

33.The architect for the project testified and the Board so finds that premises 1754 and 1756 N Street are currently used for office purposes and that 1752 N Street is precently vacant and that the proposed use of the second, third and fourth floors of premises 1752 N Street, N.W. for office purposes would be in harmony with the existing mixed use character of neighboring properties.

34. The Municipal Planning Office, by report dated October 20, 1978, hoped that the Board's action on the subject application would foster the retention of the three townhouses while allowing for the appropriate development of the site.

35. The Association for the Preservation of the 1700 Block of N Street, N.W., and the Dupont Circle Citizens Association were present at all hearings conducted in this case and objected to the application on the basis that the notice of applicant's request for relief was defective, that the proposed addition was out of character with the area, that the application was illegal under the new SP-2 Regulations, and that negotiations to preserve the structures which are located on a part of the subject site were in process before the State Historic Preservation Officer. The Board finds that it has responded to these objections in the foregoing findings of fact. At the November 15 public hearing the "Don't Tear It Down" organization favored the granting of the application except for the FAR variance and provided that three subject buildings were retained.

36. Advisory Neighborhood Commission 2B opposed the application on the following grounds:

a. The request for the FAR variance was never advertised to the public. The notice was accordingly defective. It should be readvertised and the application set for a new hearing date so that the public would be aware of the specific relief that was being requested and have sufficient time to prepare their evidence.

b. The Zoning Regulations for the SP-2 District were effective October 5, 1978. To grant the present application would militate against all the work and planning that went into the formation of the new Regulations and have the effect of reversing the Z.C. Order as it applies to this property.

c. The proposed use does not meet the requirements of Sub-paragraphs 4101.441 and 4101.442 of the Zoning Regulations.

d. The subject site was not unique in the neighborhood.

e. The best economic return on the property cannot be the basis to sustain the relief sought.

f. The granting of the application would destabilize the SP-2 District.

g. Negotiations were still underway for the preservation of the historic structures on the subject site.

37. The Board, by statute, is required to give great weight to the issues and concerns of the ANC. In addressing itself to these issues and concerns the Board finds as follows:

a. In Findings of Fact 14, 15 and 16, the Board addressed this issue when it granted the applicant permission to amend its application and proceed with the hearing. The Board emphasizes that the subject matter of this application is not new but well known to the concerned parties and public.

b. The applicant in this case stands in the position of any other applicant. Notwithstanding the recent amendments to the Zoning Regulations of SP Districts, the Zoning Regulations pursuant to Paragraph 8207.11 still provide that variance relief can be requested. The Board has authority to grant such relief, provided that the applicant can meet the requirement of Paragraph 8207.11.

c. The Findings of Fact ant the Conclusions of Law, hereinafter stated, find that the applicant has met its burden of proof and met the requirements of Sub-paragraphs 4101.441 and 4101.442 of the Zoning Regulations.

d. The Board finds the site unique not in the sense as the opposition stated, but as stated hereafter in the conclusions of law. In addition, upon cross-examination the ANC was unable to indicate a similarly situated property in the neighborhood.

e. The Board has never determined, nor does it in the subject application, that the best economic return on a property, is a basis to grant relief.

f. Sub-section 4101.1 of the Zoning Regulations does not preclude office buildings. The major purpose of the SP District is to act as a buffer between adjoining commercial and residential areas, and to ensure that new development is compatible in use, scale and design with the transitional function of this zone district. In the subject application, as hereinafter concluded, the proposed building is compatible with the neighborhood uses and structures. In addition, buildings of architectural merits are being preserved and protected.

g. The Board finds that the proposed development plan does not entail demolition of the subject structures on N Street and therefore, in no manner adversely affects any proceedings before the State Historic Preservation Officer but will in fact implement these negotiations.

CONCLUSIONS OF LAW:

The applicant seeks special exceptions and area variances. Based on the record the Board finds that as to the special exceptions, the proposed building addition in its use, height, bulk and design is in harmony with existing uses and structures on neighboring property; that the use will not create dangerous or other objectionable traffic conditions and that the Board requires no special treatment in this instance by way of design to protect the value of neighboring property since that design of the proposed addition has been reviewed by the Joint Committee on Landmarks and the State Historic Preservation Officer and found not to be contrary to the public interest.

The Board also finds that in view of the mixed use character of the subject neighborhood that the conversion of the second, third and fourth floors of premises 1752 N Street, N.W., will be in harmony with existing uses and structures on neighboring property.

The Board concludes that as to the addition to the building and the conversion of premises 1752 N Street the requirements of Paragraph 4101.44 of the Zoning Regulations have been met.

As to the special exception to erect a roof structure, the Board finds that the constriction of the site involved in this project and the special design factors present in placing and designing the roof structure so as to be compatible with the character of the Historic District necessitate its placement at the western edge of the property near the east frontage of the Longfellow Building. Full compliance with the Zoning Regulations would be unduly restrictive and unreasonable. Under Sub-section 3308.2 the Board approves the location and design of the subject roof structure.

The Board further concludes that the special exceptions request can be granted as in harmony with the general purpose and intent of the Zoning Regulations and maps and will not tend to affect adversel the use of neighboring property in accordance with said Zoning Regulations and Maps.

The applicant also seeks variances from the rear yard and FAR requirements. Both of these are area variances which require a showing of a practical difficulty stemming from the property itself. The Board finds that it is true that the subject site is basically rectangular with a small notch in the northeast corner of the lot providing for the rear of 1750 N Street, N.W., and a slight angle caused by the angle of the alley.

However, the site is unique in that it has extensive lot depths and it is located on two public alleys. There are only two other properties in the square that share the public alleys, a large office building on Connecticut Avenue and the St. Mathews' Cathedral, and three townhouses on the front portion of the site have less than 1.5 FAR with the remainder of the lot unimproved. The street frontage available is small. The remainder is alley frontage and blank walls.

The Board concludes that the subject site is affected by several extraordinary or exceptional situations or conditions. Due to the presence of townhouse type structures on the site which dictate the design, size and location of the proposed building addition, the applicant has had little choice but to design a building addition which necessitates the requested variance relief. Furthermore, the low level of current utilization of the site also constitutes an exceptional situation or condition.

The applicant's practical difficulty in this case stems from the existence of existing structures on the site and the added cost and complexity of development imposed in attempting to preserve such structures and integrate them into a building addition. This fully supports the variance of relief as to the required rear yard. The Board also recognizes that as a practical difficulty that applicant is being requested to save the existing structure on the site and forego building and apartment house with F.A.R. of 6.0 and ninety feet in height.

As a result of the constrictions placed on the development of the site by the presence of the existing structures, the applicant is required to seek the requested relief as an alternative to demolition of the historic properties.

The State Historic Preservation Officer and the Joint Committee on Landmarks have previously determined that the proposed alteration of the historic structures involved and the building addition propos by the applicant would not be contrary to the public interest. In addition, the applicant's proposal furthers the public interest in that it provides for the preservation of historic structures.

The Board further concludes that the practical difficulty is inherent in the property itself and that the variance requested can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan.

The Board in its Findings of Fact 36 and 37 has addressed itself to the issues and concerns of the ANC and has given great weight to such issues and concerns as required by statute.

Accordingly, is is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. The exterior facades of the existing buildings shall be maintained.

2. All additions to the building, such as fire escapes, which do not relate to the historic character of the building shall be removed.

VOTE: 3-1 (Walter B. Lewis, Charles R. Norris, Chloethiel Woodard Smith to GRANT, William F. McIntosh opposed; Leonard L. McCants not voting, having recused himself).

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

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 30 JAN 1979

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 12783, of 1754 N Street Associates Limited Partnership, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for special exceptions under Paragraph 4101.44 to permit an addition to an office building and conversion of existing residential buildings into offices and under Sub-section 3308.2 to erect a roof structure and for variances from the rear yard requirements (Sub-section 4303.1) and the regulation regarding the vesting of rights in cases where the Zoning Regulations have been amended (Sub-section 8103.6) in the SP-2 District at the premises 1752, 1754, 1756 N Street, N.W., (Square 159, Lots 59, 67, 68, 69, 823, and 824).

HEARING DATES: October 25, November 15 and November 29, 1978
DECISION DATE: December 6, 1978

ORDER

By Order dated January 30, 1979, the Board granted this application by a vote of 3-1 (Walter B. Lewis, Charles R. Norris and Chloethiel Woodard Smith to GRANT, William F. McIntosh opposed, Leonard L. McCants not voting having recused himself). In accordance with Section 5.4 of the Supplemental Rules of Practice and Procedure before the Board of Zoning Adjustment, Nicholas Addams, representing various parties in opposition, filed on February 13, 1979, a Motion for Reconsideration or Rehearing and Reargument. At it's public meeting held on March 7, 1979, upon consideration of that motion, and the applicant's opposition to Motion for Reconsideration filed on February 15, 1979, and various other responses, the Board found that the Motion for Reconsideration set forth an acceptable basis of error on the part of the Board; that is, the Board failed to adequately consider and receive public testimony on the four issues raised by the Motion. It is therefore ORDERED that:

(1) The Motion for Reconsideration is hereby GRANTED.

(2) A rehearing be scheduled limited to the four basic issues raised by the opposition in the Motion for Reconsideration as follows:

(a) Authority to grant FAR variance

(b) Absence of variance re: apartment house window

(c) The shape of the lot is not unique in this neighborhood

(d) Proposed building not in architectural and structural harmony

(3) In accordance with Section 5.43 of the Rules, notice for the hearing shall be given as in the case of an original hearing. The hearing shall be held on April 18, 1979, shall be the last case on the agenda, and shall be limited to one and one-half hours in total.

(4) The effect of the previous Order of the Board in this case, dated January 30, 1979, is hereby STAYED, and the Chief of the Zoning Regulations Division, Department of Housing and Community Development is requested to insure that no permit shall be issued under that Order.

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

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

Final Date of this ORDER: March 7, 1979.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 12783 of 1754 N Street Associates Limited Partnership, pursuant to Sub-sect-on 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for special exceptions under Paragraph 4101.44 to permit an addition to an office building and conversion of existing residential buildings into offices and under Subsection 3308.2 to erect a roof structure and for variances from the rear yard requirements (Sub-section 4303.1) and the regulation regarding the vesting of rights in cases where the Zoning Regulations have been amended (Sub-section 8103.6) in the SP-2 District, at the premises 1752, 1754 and 1756 N Street, N.W. (Square 159, Lots 59, 67, 68, 69, 823 and 824).

HEARING DATE: April 18, 1979
DECISION DATE: June 6, 1979

FINDINGS OF FACT:

1. The Board originally heard this application on October 25 and November 15 and 29, 1978, decided the case by vote taken on December 6, 1978 and approved the above application by Order No. 12783 issued January 30, 1979, herein referred to as the First Order.

2. Opposing parties in the case filed a Motion for Reconsideration or Rehearing and Reargument on February 13, 1979.

3. The Motion for Reconsideration was considered by the Board at its meeting held on March 7, 1979. The Board granted the request as to specific limited issues by Order dated March 7, 1979, herein referred to as the Second Order, at which time the First Order was stayed pending a further hearing on the case.

4. Pursuant to the Board's Second Order a hearing limited to argument on the four issues listed below was conducted on April 18, 1979:

a. Authority to grant F.A.R. variance;

b. Absence of variance re: apartment house window;

c. The shape of the lot is not unique in this neighborhood; and

d. Proposed building not in architectural and structural harmony.

5. Regarding the first issue, as a result of the further hearing the Board finds that the authority to grant the floor area ratio (F.A.R.) variance relief requested herein is encompassed in the grant of authority found in Section 5-420(3) D. C. Code, 1973, as amended and Paragraph 8207.11 of the Zoning Regulations, and that the District of Columbia Court of Appeals has affirmed the Board's general jurisdiction to grant F.A.R. variances.

6. Regarding the second issue, as a result of the further hearing the Board finds that no variance was required for an apartment house window in this case pursuant to Sub-section 4303.4 for the following reasons:

a. Sub-section 4303.4 and Paragraphs 4303.41 and 4303.42 only apply to buildings located in front of other buildings and not located on the side as is the case here. Further, the section applies only to apartment house windows and not offices or single family residences.

b. Variance relief pursuant to Paragraph 8207.11 was requested and granted from the rear yard requirements of Sub-section 4303.1. Therefore, no need exists for the applicant to request a waiver of the rear yard requirements pursuant to Sub-section 4303.4.

7. Regarding the third issue, as a result of the further hearing the Board finds that no new information was submitted nor was any existing information in the record cited to suggest that the Board's finding in the First Order that the subject site is unique is incorrect.

8. Regarding the fourth issue, the Board finds that no new information was submitted nor was any existing information in the record cited to suggest that the Board's finding in the First Order that the proposed building addition is in architectural and structural harmony with existing uses is incorrect.

9. The Board finds that the Findings of Fact and Conclusions of Law of the First Order No. 12783 issued in this case on January 30, 1979 are supported by the substantial evidence in the administrative record and finds that the stay to the First Order should be vacated and said First Order should be fully effective as though no Order of Stay was issued.

10. The Board finds none of the arguments submitted by the opposition at the furhter hearing persuasive and finds that the opposition failed to demonstrate how the Board's original

Findings of Fact and Conclusions of Law as set forth in the First Order were in error.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that none of the issues raised by the opposition on rehearing warrant the reversal of the Board's prior Order issued January 30, 1979 and that the stay of the First Order is hereby vacated and that Order should be reinstated and incorporated as a part of this Order, and that the Second Order of March 7, 1979 be vacated.

The Board concludes that it has authority under the D.C. Code and the Zoning Regulations to grant the F.A.R. variance requested herein by the applicant.

The Board concludes that Section 4303.4 is inapplicable in this case for the reasons stated in Finding of Fact No. 6 herein.

The Board concludes the subject site is unique and that there is no requirement in the Zoning Regulations that the "shape of lot be unique" as a condition to the granting of variance relief in a case where the subject site itself is unique and is effected by several extraordinary or exceptional situations or conditions.

The Board concludes that the use, height, bulk and design of the proposed building addition are in harmony with existing uses and structures on neighboring property as required by Paragraph 4101.44 and that the proposed building addition is in architectural and structural harmony with neighboring uses, as set forth in Finding of Fact No. 8 herein.

The Board concludes that it has completely and throughly studied the issues involved in this case, and believes that for the reasons stated herein, the application should be granted. It is therefore ORDERED that Order No. 12783 issued January 30, 1979 is hereby REINSTATED, that the stay on the effect of such Order is vacated, and that the application is GRANTED based on the Findings and Conclusions of the First Order and this Order, subject to the conditions as contained in the Order dated January 30, 1979.

VOTE:

3-2 (Chloethiel Woodard Smith and Leonard L. McCants to grant; Walter B. Lewis to grant by proxy; William F. McIntosh and Charles R. Norris opposed).

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

ATTESTED By: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 9 JUL 1979

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ADVISORY NEIGHBORHOOD COMMISSION 1B

GOVERNMENT OF THE DISTRICT OF COLUMBIA
COLUMBIA HEIGHTS / LEDROIT PARK / SHAW / UNIVERSITY HEIGHTS

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IDA LOVE BLOCKER 1A12

December 28, 2000

Board of Zoning Adjustment
441 4th Street, N.W.
Suite 210
Washington, D.C. 20001

Re: BZA Application No. 16669,
1412 Chapin Street, N.W.

Dear Members of the Board:

Please be advised that ANC 1B, at a scheduled public meeting on December 27th, at which a quorum was present, voted unanimously in favor to support BZA Application No. 16669.

In considering this application, the ANC heard a presentation by the applicant concerning the existing building, the nature and cause of the destruction of the building due to being struck by lightning and causing a partial building collapse. The ANC finds the loss of this building at point when plans had been drawn and bids received and it being ready to be rehabilitated a severely unfortunate event to the community.

The ANC is mindful that the building was purchased with the expectation and understanding that it would be able to be rehabilitated and put back into useful service at the previously existing height and density prior to the storm-related destruction of the building.

BZA
Case No. 16669
Exhibit No. 23

Exhibit L

The ANC believes that the circumstances surrounding the loss of this building is certainly an exceptional situation or condition similar to the destruction which occurred to the Whitelaw building at 13th and U Streets, N.W., for which variance relief was granted for its rehabilitation and reconstruction. The ANC has determined that situations such as this which occur only once a decade, if that, are exceptional situations or conditions and unique to a specific piece of property such that variance relief should be granted. In addition, there is clearly a practical difficulty concerning this property as it was acquired and proposed to be redeveloped at a significantly greater height and density than is now permitted except by virtue of BZA approval through absolutely no fault of the applicant.

Lastly, given the context of the building, its proposed redevelopment and the desire of the community that this property be redeveloped at the earliest practicable date, there will be no adverse impact to the community and, in fact, the proposed development is a significant benefit to the community and, therefore, the ANC urges the Board of Zoning Adjustment to grant the requested variances as expeditiously as possible.

Very truly yours,
ANC 1B

By: Lawrence Dyett Chairman

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