STATEMENT OF EXISTING AND PROPOSED USE OF PROPERTY
4417 GARFIELD STREET NORTHWEST
LOT 59 in SQUARE 161
BOARD OF ZONING ADJUSTMENT CASE NUMBER 17040

BACKGROUND INFORMATION

The subject property is located in the WHOD/R-1-B residential zone. The property is A corner lot which is bounded on the east side by 44TH Street, N.W., on the west by an adjacent lot which is improved by a detached single family dwelling with a detached single family dwelling, on the south by Garfield Street Northwest, and on the north by an improved lot which has a single family detached dwelling. Lot 59 has a detached single-family dwelling and a detached accessory garage. The detached accessory garage has a change room on the west side to be used by the applicant when he or a member of his family uses a swimming pool located in the rear yard. There is a curb cut and an apron on the Garfield Street side of the property which provides driveway access to the detached garage from public space.

The following building permits were issued by the D.C. City Government, the Department of Consumer and Regulatory Affairs, the Building Land and Regulation Administration:

(1) Building Permit number B418971 was issued on September 30, 1998 to construct a detached single family dwelling with a detached accessory garage.

(2) A letter was written on behalf of the applicant to request a building code waiver on October 22, 1998.

(3) Building code waiver number 99-105-10 was submitted to the Department of Consumer and Regulatory Affairs/ BLRA on to allow a swimming pool to be located five feet from the adjacent property line. A six foot setback is required rear yard setback from the applicants rear lot line which serves as the neighbors side yard setback .

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(4) Building Permit number B433890 was issued n December 19, 20000 for an elevator on the interior of the detached single family dwelling.

Attached to this statement are copies of correspondence between Mr.William E. Timmons, a Woodley Heights Overlay District resident and various D.C. City Government Officials regarding 4417 Garfield Street Northwest.

Two violation notices were issued as cited:

(1) A zoning violation was written by Mr. Allen James on March 15, 2001 for noncompliance with (Section 3205.5) of the Building Permit.

(2) A Notice of Violation and Notice to abate was issued on November 4, 2002 by Mr. Vincent Ford, Building Construction Program Manager Pursuant to Title 11DCMR, the D.C. Zoning Regulations, Section 2500.4. The violation notice indicated that the existing detached garage exceeded the maximum allowed height for a detached structure under the D.C. Zoning Regulations..

(3) On March 18, 2003, Mr. Denzil Noble, the Acting BLRA Administrator Issued an Order to Abate or Remove the Garage notice to the applicant. The notice issued to the applicant had two options. The first option was to raze the existing detached garage. The second option was to seek the specified relief from the Board of Zoning Adjustment in order in order for the D.C. City Government to allow the accessory detached garage to remain. The notice indicated that the existing accessory garage was **16.5** feet in height. The maximum allowed height for a one story detached accessory structure is **15.0 feet**. The D.C. City Government , therefore, indicates that the garage is **1.5 feet ((10 percent)** above the allowed height allowed for a one strory detached garage.

The applicant is applying for an area variance from Section 2500.4 to allow a one story detached accessory structure to allow excess height of **1.5 feet** over the maximum allowed in the WHOD/R-1-B residential zone (Section 3103).

VARIANCE RELIEF REQUIRED TO ALLOW THE EXISTING ACCESSORY STRUCTURE TO REMAIN

The existing detached one story accessory structure will require the following relief from the Board of Zoning Adjustment:

(1) Variance from Section 2500.4 the maximum allowed height for an accessory structure in the WHOD/R-1-B residential zone (Section 3103.1).

When a photo of the existing accessory which has across the east lot line an accessory which belongs to the adjacent property owner is reviewed there is little if any at all in the height of both existing garages. The applicant feels that depending upon where the height of the garage is taken makes a difference in the actual height of his garage. On the (brick patio) east side of the garage there is a difference in the grade (the grade is higher). The paved elevation at the south face of the accessory garage the elevation is lower. In addition the driveway pavement slopes toward Garfield Street Northwest (south side) of the accessory structure. The applicant feels that the property is unique due to its topography or difference in elevation. The owner would encounter practical difficulties in removing any portion of the roof to lower the height. The roof is not made of asphalt shingle construction. The construction material used is barrel mission tile. The tile matches the material used on the roof of he principal structure. The detached garage sits over 70 feet from Garfield Street and is situated to the northeast corner of the lot. On the west side of the property there is an existing wrought iron fence and the property is well landscaped .The applicant feels that the request for a variance would not cause a substantial detriment to the public good.

LEGAL TEST FOR A VARIANCE

The applicant is seeking an area variance in order to keep existing construction of an accessory structure which is located in the rear yard. The standards by which the Board of

Zoning Adjustment may approve area variances are set forth by the D.C. Court of Appeals, Palmer V the Board of Zoning Adjustment, 287 A.2d 535, 541 (D.C. 1972). Variances may be granted when the following conditions are shown to exist:

LEGAL TEST FOR A VARIANCE

The applicant is seeking three area variances in order to construct additions and to alter the structure. The standards by which the Board of Zoning Adjustnent may approve area Variances are set forth by the D.C. Court of Appeals, Palmer V the Board of Zoning Adjustment, 287 A.2d 535, 541 (D.C. 1972). Variances may be granted when the following conditions are shown to exist:

(A) The property is unique because of its size, shape, topography, and other extraordinary or exceptional situation or condition;

(B) The owner would encounter exceptional practical difficulties as a result of the strict application of the D.C. Zoning Regulations to its particular property; and

(C) The variances would not cause substantial detriment to the public good and would not impair the intent, purpose and integrity of the Zone Plan. Carlinger V the Board of Zoning Adjustment, 412 A.2d 52, 53 (D.C. 1980); Capitol Hill Restoration Society; Inc. V District of Columbia Board of Zoning Adjustment, 534 A.2d 939 (D.C. 1987).

CONCLUSION

The existing accessory structure was built in 1998. A copy of a wall test report was issued on January 13, 2000 from the D.C. Office of the Surveyor. A copy of the wall test is included in documents submitted by the applicant. The applicant appeals to the Board of Zoning Adjustment for the approval of a **variance from Section 2500.4 of the D.C. Zoning regulations, the height provisions for accessory structures as allowed under Section 3103.2.**

Respectfully,

Gladys Hicks
Zoning Consultant