GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director

DATE June 29, 2004

SUBJECT: BZA Application 17185 – Request filed by Jim Firsker for **five area variances** to construct a deck onto the rear of a row house at 2130 Leroy Place, N.W.

APPLICATION
Application of Jim Firsker for:

1. **Variance to § 401.3 pursuant § 3103.2 of Title 11 DCMR** to reduce the minimum lot area from 2,000 square feet to 1,206 square feet and the minimum lot width from 20 feet to 16.67 feet;
2. **Variance to § 403.2 pursuant § 3103.2 of Title 11 DCMR** to increase the maximum lot occupancy from 60 percent to 95.6 percent;
3. **Variance to § 404.1 pursuant § 3103.2 of Title 11 DCMR** to reduce the minimum rear yard from 20 feet to 2.5 feet;
4. **Variance to § 406.1 pursuant to § 3103.2 of Title 11 DCMR** to reduce the minimum width of an open court from 6 feet to 1.46 feet; and
5. **Variance to § 2001.3(a) and (b) pursuant to § 3103.2 of Title 11 DCMR** to allow a building addition to a structure that does not conform to the percentage of lot occupancy requirements, that does not conform to structure requirements, and to increase the nonconforming aspect of the structure

for property located on the south side of Leroy Place, N.W., between Connecticut Avenue and Phelps Place, 2130 Leroy Place, Square 2531, Lot 41. The property is located within the R-3 (row dwellings) Residence District and the Sheridan-Kalorama Historic District.

SUMMARY RECOMMENDATION
The Office of Planning recommends **DENIAL** of the application.

BZA
Case No. 17185
Exhibit No. 26

Board of Zoning Adjustment
District of Columbia
CASE NO. 17185
EXHIBIT NO. 26

PROJECT DESCRIPTION
The applicant proposes to construct a 244 square foot deck off the rear of the main level of an existing 3-story row house. Due to the topographical slope of the subject property, the main level of the row house at the rear is one flight lower than it is at the front. As a result the applicant is only able to walk out of the basement level of the dwelling at the rear.

The deck will include a planting area along a portion of the structure along the alley. The area under the deck is to be used for parking.

SITE AND AREA DESCRIPTION
The property consists of Square 2531, Lot 41 in the North West quadrant of the District, and is 1,206 square feet in area. A 15-foot wide public alley provides access to the rear of the subject property. The lot is improved with a 3-story plus basement row house that was originally constructed in 1904, consisting of approximately 3,420 of gross floor area. The rear yard is paved and used for parking.

The surrounding neighborhood is a mixture of residential, institutional, office and embassy uses. To the north, across Leroy Place, are 3-story row houses and detached dwellings used for residential, embassy or religious purposes. To the south, across the public alley, are 3-story row houses. To the west is a residential row house and to the east is a row house used as office space. All surrounding properties are located within the R-3 Zone District and the Sheridan-Kalorama Historic District.

ZONING REQUIREMENTS
The subject property is located in the R-3, row dwellings residence district.

The R-3 District " *is designed essentially for row dwellings, but there shall be included in an R-3 District areas within which row dwellings are mingled with one-family detached dwellings, one-family semi-detached dwellings, and groups of three (3) or more row dwellings. To maintain a family-life environment, permitted related uses are the same in R-3 Districts as in R-1 Districts.*" (§ 320.1)

RELIEF REQUESTED
The Board of Zoning Adjustment is empowered to grant variances as provided by Section 3103.2 as follows:

> *"With respect to variances, the Board has the power under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(3)(2001) (formerly codified at D.C. Code § 5-424 (g)(3) (1994 Repl.)), "[w] here, by reason of exceptional narrowness,*

shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, 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 adopted under D.C. Official Code §§ 6-641.01 to 6-651.02 would result in peculiar and exceptional 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, that the 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."

Variance to § 403.2 pursuant § 3103.2 of Title 11 DCMR
The R-3 Zone District permits a maximum lot occupancy of 60 percent for row dwellings. The subject property is developed with a lot occupancy of 75.37 percent. As such, the lot occupancy is already more than 25 percent over the maximum permitted. The subject application requests a lot occupancy of 95.6 percent, an increase of 59.3 percent over the maximum permitted by the R-3 Zone District. This application is not eligible for special exception approval to increase the lot occupancy under § 223 because that provision limits the increase in lot occupancy to a maximum of 70 percent.

A lot occupancy of 95.6 percent on a lot of 1,206 square feet results in only 53 square feet of the lot that is not covered by a structure. The application indicates that the dwelling at 2126 Leroy Place has a lot occupancy similar to the one proposed within this application. However, the Office of Planning was unable to locate any record of variance approvals for that property. Within the entire square the Office of Zoning has record of only four properties for which the BZA has granted relief, shown below.

1. BZA Application No. 17032: Special exception application for 2124 Leroy Place pursuant to § 223. The application was approved in 2003 to increase the lot occupancy to 64 percent.

2. BZA Application No. 16563: Variance application for 2134 Leroy Place to increase the lot occupancy to 99.2 percent for the construction of a one-story building addition and deck. The file indicates that the application was approved in 2000. The Office of Planning did not prepare a report on this application.

3. BZA Application No. 14808: Variance application for 2136 Leroy Place to increase the lot occupancy to 100 percent. It was approved in 1988 and the Office of Planning recommended approval.

4. BZA Application No. 7435: Variance application for 2135 Bancroft Place to increase the lot occupancy, approved in 1963.

As can be noted above, the Office of Planning has no recent history of supporting requests similar to the subject application.

The square also contains many other lots that appear to be improved with lot occupancies in excess of the maximum 60 percent permitted. However, many of these structures likely pre-date the 1958 Zoning Regulations as they appear on the Baist Maps dated 1960.

The subject property is narrow, shallow and has sloping topography. Despite this, the property is developed with a 3-story row house with a basement, a roof deck and has a gross floor area of approximately 3,420 square feet, indicating that the uniqueness has not resulted in peculiar and exceptional difficulties to the owner. As there is no peculiar or exceptional situation justifying an increase in the lot occupancy to 95.6 percent, the increase in the lot occupancy as requested cannot be permitted "*without impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.*" (§ 3103.2)

Variance to § 404.1 pursuant § 3103.2 of Title 11 DCMR
The minimum rear yard required within the R-3 Zone District is 20 feet. The building on the subject property is constructed at an angle to the rear lot line, ranging between 16 and 19 feet, with an average of 17.5 feet. The subject application requests to reduce the rear yard to only 2.5 feet for the construction of a deck. This is only 12.5 percent of the rear yard that is required. Although the subject property is narrow, shallow and has a sloping topography, none of these has resulted in the inability to develop the site. The subject property is already improved with a 3-story plus basement row house that consists of approximately 3,420 square feet of gross floor area. Therefore, there is no peculiar or exceptional situation justifying the reduction of the rear yard to only 2.5 feet "*without impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.*" (§ 3103.2)

Variance to § 406.1 pursuant to § 3103.2 of Title 11 DCMR
The minimum permitted width of an open court is 6 feet and the application proposes to reduce the width to 1.46 feet, less than one-quarter of that required. This variance is requested in order to construct a deck that will increase the lot occupancy to 95.6 percent and reduce the rear yard to 2.5 feet. As the Office of Planning does not support either the lot occupancy or the rear yard variances, the variance for the court width is similarly not supported for the same reasons. Therefore, it is the Office of Planning's conclusion that the request to reduce the minimum width of an open court does not meet the criteria for variance relief under § 3103.2, in that it has not been documented that the subject property *"by reason of exceptional narrowness, shallowness or shape...would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship..."*(§ 3103.2)

Variance to § 2001.3(a) and (b) pursuant to § 3103.2 of Title 11 DCMR
The application requests permission to construct a building addition onto a structure that does not conform to the percentage of lot occupancy requirements, that does not conform to structure requirements, and to increase the nonconforming aspect of the structure. Although the existing structure does not conform to all of the provisions of the R-3 Zone District, it is permitted to continue as it predates the adoption of the Zoning Regulations.

The variances requested are to allow the construction of a deck that will increase lot occupancy to 95.6 percent, reduce the rear yard to 2.5 feet and allow for an open court only 1.46 feet in width.

	Permitted/Required	Existing	Proposed
Lot Area	2,000 square feet minimum	1,206 square feet	1,206 square feet
Lot Width	20 feet minimum	16.67 feet	16.67 feet
Lot Occupancy	60 percent maximum	75.37 percent	95.60 percent
Rear Yard	20 feet	17.5 feet	2.5 feet

The establishment of minimum requirements within the Zoning Regulations is intended to *"[p]revent... the overcrowding of land"* (§ 101.1(b)). The subject application proposes to reduce the amount of the subject property not covered by a structure to only 53 square feet. As a result of the significant increase in lot occupancy and significant decreases in rear yard and court width, the subject application is in conflict with the provisions of the Zoning Regulations and result in overcrowding of the site.

As discussed above, these variances cannot be permitted without impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. The site is already well in excess of permitted R-3 Zone District development standards. Section 2001 is explicitly written to prohibit the expansion of nonconforming structures. The proposed deck is not a life-safety item, but rather an amenity that cannot be accommodated by the subject property as currently developed. Therefore, as the Office of Planning recommends denial of the variances necessary to construct the deck, there is no practical or exceptional difficulty that necessitates the granting of a variance to this section of the Zoning Regulations.

Variance to § 401.3 pursuant § 3103.2 of Title 11 DCMR
The R-3 Zone District requires a minimum 20 foot lot width and a minimum lot area of 2,000 square feet. The existing lot, which has been developed with a row dwelling for 100 years and predates the Zoning Regulations, is 16.67 feet in width and 1,206 square feet in area. There are no adjoining properties with which the subject property could be assembled to increase either the lot area or the lot width. There is no use that may be constructed on the subject property that will not result in the need for a variance to lot

area and lot width, and row dwellings require the least amount of lot area and lot width within the R-3 Zone District, minimizing the variance to the extent possible.

The extraordinary or exceptional situation is that the lot has been in existence in this configuration since prior to the adoption of the Zoning Regulations and there are no vacant or unimproved properties that the subject property could be combined with to increase its size or width. However, the need for the variance is a result of the desire to increase the lot occupancy to 95.6 percent, reduce the rear yard to 2.5 feet and reduce the minimum width of an open court to 1.46 feet. As the Office of Planning does not support those variance requests, the need for a variance to lot width and lot area is not necessary.

COMPREHENSIVE PLAN
The Generalized Land Use Map recommends the Moderate Density Residential land use category for the subject property- "Row houses and garden apartments are the predominant uses; may also include low density housing."

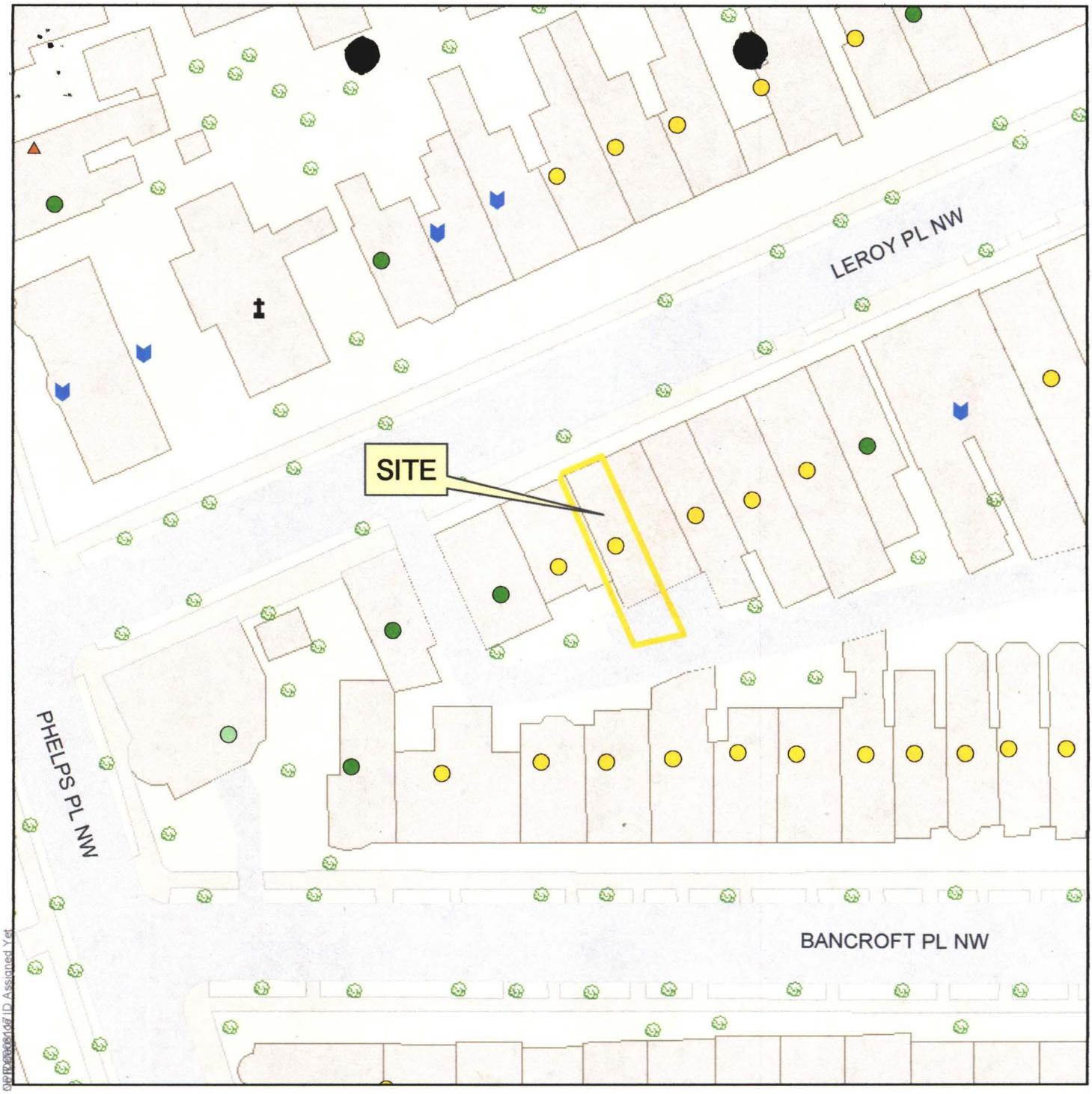
COMMUNITY COMMENTS
ANC 2D has not responded to requests for comments from the Office of Planning.

AGENCY COMMENTS
The Historic Preservation Office has signed off on the proposed application.

RECOMMENDATION
The Office of Planning has reviewed the application in terms of the property's zoning and the standards for a variance. OP concludes that the proposal does not meet the required variance tests and cannot 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."*

The Office of Planning recommends **DENIAL** of the application.

AA/sjm$_{AICP}$



BZA APPLICATION NO. 17185

2130 Leroy Place, N.W.

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★ ★ ★ **Government of the District of Columbia**
Anthony A. Williams, Mayor

Office of Planning ~ June 15, 2004

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.

- Rowhouse
- Single-Family Semi-Detached
- Single-Family Detached
- Multi-family
- Embassy or Chancery

