GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 15018 of Margaret C. Dunkle, pursuant to 11 DCMR 3107.2, for a variance to allow an addition to an existing structure that exceeds the allowable lot occupancy requirements [Paragraph 2001.3(a), (b) and (c)], a variance from the allowable lot occupancy requirements (Sub-section 403.2), and a variance from the minimum width requirements of an open court (Sub-section 406.1) for the reconstruction and extension of a rear porch addition of a nonconforming row dwelling in an R-4 District at premises 1223 Girard Street, N.W., (Square 2856, Lot 35).

HEARING DATE: May 17, 1989
DECISION DATE: June 7, 1989

FINDING OF FACT:

1. The property is located on the north side of Girard Street between 11th and 13th Streets and is known as premises 1223 Girard Street, N.W. It is zoned R-4.

2. The lot is rectangular in shape with a frontage of 16.67 feet along Girard and a depth of 142 feet. The total lot area of the site is 2,367.14 square feet.

3. The property is improved with a brick row dwelling and an accessary garage abutting the sixteen feet public alley to the rear of the site.

4. The area surrounding the subject site is predominantly developed with row dwellings in the R-4 District, with several small apartment buildings interspersed throughout the immediate vicinity. The University of the District of Columbia Teacher's College is located at the northeast corner of the square.

5. The applicant is seeking variance relief in order to replace the existing 78 square foot rear porch which is in a dangerously deteriorated condition with a new 97.5 square foot porch.

6. The existing row dwelling was constructed in 1898 and occupies 1,424.94 square feet of the lot. The maximum lot occupancy permitted on the site is 60 percent or 1,420.28 square feet. The lot occupancy of the site with the proposed porch reconstruction and extension would be 1,444.44 square feet or 61.7 percent.

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7. The proposed addition would extend the existing nonconforming open court. The Zoning Regulations provide that an open court be six feet in width. The existing open court is three feet in width.

8. The Zoning Regulations provide that the minimum lot width in the R-4 District is eighteen feet. The lot width of the subject site is 16.67 feet.

9. The main floor of the existing dwelling is at street level in the front and one story above grade at the rear.

10. The applicant testified that the narrowness of the lot and the configuration of the existing structure creates a practical difficulty in that compliance with the open court and lot occupancy requirements would result in the construction of a narrow porch which could not be accessed from the existing door at the main floor level and would, therefore, result in a useless structure and eliminate access to the rear yard and garage from the main floor of the existing dwelling. Because of the nonconforming of the existing structure, the porch could not be replaced its current size and location without variance relief. The Board so finds.

11. The Office of Planning, (OP) by memorandum, dated May 10, 1989, recommended that the application be approved. The OP was of the opinion that the proposed addition is minimal and will not create any negative impacts on the surrounding neighborhood or adjacent properties. The OP was further of the opinion that the applicant is affected by a practical difficulty in that the existing lot width constraints and the configuration of the existing dwelling prohibit the applicant from making a reasonable addition to the property. The Board concurs with the recommendation of the Office of Planning.

12. Advisory Neighborhood Commission 1B, by letter dated May 10, 1989, indicated its support for the granting of the application. The ANC submission did not set forth specific issues and concerns related to the standards of the Zoning Regulations as required by Section 3307.7 (e) and, therefore, cannot be afforded "great weight".

13. By correspondence and appearance at the public hearing, the residents of 1221 Girard Street opposed the granting of the application. The opposition was based on existing dispute related to whether a fence constructed by the applicant encroaches on the adjacent property. The dispute related to the fence is not within the jurisdiction of the Board and has been property brought to the attention of the D.C. Department of Consumer and Regulatory Affairs. The Board notes that the plans on file do not indicate that

the proposed addition will encroach on neighboring property and further notes that the DCRA will insure that construction shall take place in accordance with the plans approved by the Board.

CONCLUSION OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking area variance relief, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some extraordinary or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the requested relief can be granted without substantial detriment to the public good and that it will not substantially impair the intent, purpose and integrity of the zone plan.

The Board concludes that the applicant has met the requisite burden of proof in showing a practical difficulty inherent in the property itself. The site does not meet the minimum width requirements of the R-4 District. The existing structure pre-dates the existing Zoning Regulations and is nonconforming as to lot occupancy and open court width requirements. The existing nonconformity and configuration of the structure preclude the replacement of the existing porch or construction on any other portion of the site. The proposed addition results in a minimal increase in lot occupancy of 1.7 percent and will not result in the loss of light, air or privacy to adjoining properties.

The Board further concludes that the proposed addition is consistent with the intent and purpose of the R-4 District and will not result in substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the Zoning Regulations and Map. Accordingly, it is hereby ORDERED that the application is GRANTED.

VOTE: 4-0 (Charles R. Norris, William F. McIntosh and Carrie L. Thornhill to grant; Lloyd Smith to grant by proxy; Paula L. Jewell not present, not voting).

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

ATTESTED BY: _____
EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: JUL 13 1989

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), 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 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS 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.

15018order/BHS6

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

APPLICATION No. 15018

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order of the Board in the above numbered case, said Order dated JUL 13 1989, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Margaret Dunkle
1223 Girard Street, N.W.
Wash, D.C. 20009

Milton Woody & Gladys Dorgett
1221 Girard Street, N.W.
Wash, D.C. 20009

Stanley J. Mayes, Chairperson
Advisory Neighborhood Commission 1-B
519 Florida Avenue, N.W.
Washington, D.C. 20001

EDWARD L. CURRY
Executive Director

DATE: JUL 13 1989