GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: JLS for Ellen McCarthy, Director

DATE: September 13, 2005

SUBJECT: BZA Application No. **17354**
1201 Harvard Street, N.W.

Application of Steven Hopkins, pursuant to 11 DCMR § 3103.2, for a variance from the use provisions under subsection 330.5, or in the alternative, a variance from the minimum lot area requirements under subsection 401.3, and a variance from the open court width requirements under section 406, to allow a third floor addition to and conversion of an existing row dwelling to a three (3) unit apartment house in the R-4 District at premises 1201 Harvard Street, N.W. (Square 2853, Lot 139).

RECOMMENDATION

The Office of Planning **recommends:**

- **Denial of variance relief to permit the addition and conversion to a three-unit apartment building as submitted.**
- **Approval of variance relief from the lot area and court width requirements to permit the third floor addition for a flat or row dwelling.**

SITE DESCRIPTION

The subject property is located in Square 2853, Lot 139, which is located in the Columbia Heights neighborhood. Lot 139 is located approximately mid-block on the southern portion of the square at Harvard Street. The Square is bound by Harvard Street to the south, Columbia Road to the north, 12th Street on the east and 13th Street on the west. The neighborhood is zoned R-4 and developed primarily with row house structures. The property was previously occupied by a youth care home as shown by the applicant's submitted Certificate of Occupancy.

BZA
Case No. 17354
Exhibit No. 26

Board of Zoning Adjustment
District of Columbia
CASE NO. 17354
EXHIBIT NO. 26

PROJECT DESCRIPTION

The applicant proposes to renovate the existing three-story row structure, which was occupied by a youth care home, with an addition to the third floor and subsequent conversion to a three-unit apartment building. The applicant intends to reside in one unit and lease the two other units.

ZONING REQUIREMENTS and ANALYSIS

Variance relief is required from §§ 401.3 and 406 before the addition is permitted, since the structure is non-conforming due to its court width and lot area.

The R-4 Zone District permits matter-of-right development of single-family residential uses (including detached, semi-detached, row dwellings) and flats, with a minimum lot width of 18 feet, a minimum lot area of 1,800 square feet, maximum lot occupancy of 60% and a maximum height of three (3) stories/40 feet. The primary purpose of the R-4 District is "the stabilization of remaining one-family dwellings." (§330.2) Conversions of existing buildings to apartments are permitted only for lots with a minimum lot area of 900 square feet per dwelling unit.
The Zoning Administrator has in the past interpreted this conversion provision as applicable only to the existing building and that additions could not be made to the existing building for apartment purposes.

The applicant is requesting variance relief from the minimum lot area provision, pursuant to § 3103 and must demonstrate that:

1) The subject property is unique due to an extraordinary or special condition;
2) That a strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulty for the applicant; and
3) 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.

OP reviewed the request accordingly:

The subject property is not unique because of an extraordinary or special condition

The subject property is a mid-block row house lot and although it does not meet the required minimum standard for lot area and court width it is not at all unique within the Square. According to the Sanborn Maps, there are 58 lots within Square 2853. Of the 58 lots, only 14 conform to lot width. Therefore 76% of the lots are non-conforming due to lot width. The subject lot has a width of 16.66 feet and is one of 18 lots with such a width, and one of 15 identical and adjacent lots. While there are existing apartment buildings within the square, those apartments face 13th or 14th Street and are on substantially larger lots. The subject property is part of a block of row house buildings. OP does not believe the property is unique.



Figure 1

A strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulty for the applicant.

As stated above the subject property is non-conforming due to lot width and court. OP can conclude that there is practical difficulty to the owner with regards to the permitted use of a row house or flat. The property is mid-block and cannot expand in area to meet the required lot width. There is no requirement of a court or side yard in the R-4 Zone District but if provided must have a minimum width of ten feet. If the court is eliminated altogether, light and air to the abutting residence to the east and the subject property would be severely minimized. The proposed addition will not affect the width of the court. The addition to the third level extends the existing structure above the second floor's roof. Therefore, while the height of the court is increased, the width will not be affected. A practical difficulty is created if the applicant has to renovate the existing structure to widen the court to the standards of the Zone Regulations or eliminate the court altogether for the addition on the third level.

However, relative to the requested conversion and addition for an apartment building OP cannot conclude the strict application of the Zoning Regulations creates a practical difficulty. The regulations require that there be a minimum land area of 900 square feet per unit for conversion. The existing property has only 2,437 square feet of land. The only practical difficulty results form the owner's desire to construct a building that is not permitted. The applicant has not shown how the application of the Zone Regulation would create practical difficulty for the permitted use as a flat versus an apartment building. The applicant has stated that renovation of the building would become unaffordable without the improved value of three apartments. However, OP rejects this argument because no detailed evidence has

been provided and the argument appears circular, since without the addition for the 3rd unit,, the costs would be less.

Therefore, OP does not support the applicant's statement in the latter instance.

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

OP believes the addition and subsequent conversion to a three-unit apartment building is not appropriate and would impair the intent and integrity of the Zone Regulations.

For a row dwelling and flat, §401.5 of the Zone Regulations determines that each row dwelling in an R-4 Zone District should have at least 1,800 square feet of gross land area. For conversion of an existing structure to a flat, no area requirement is prescribed. However, the Zone Regulations are specific with respect to conversions of structures in the R-4 Zone District into apartments, requiring 900 square feet of land area per apartment before conversion is permitted.

Further, the following Sections specifically state the intent of the R-4 Zone District:

330.3 The R-4 District ***shall not be an apartment house district*** as contemplated under the General Residence (R-5) Districts, since the conversion of existing structures shall be controlled by a minimum lot area per family requirement. (Emphasis added)

330.4 Except as provided in chapters 20 through 25 of this title, in an R-4 District, no building or premises shall be used and no building shall be erected or altered that is arranged, intended, or designed to be used except for one (1) or more of the uses listed in §§ 330 through 349.

Apartment buildings are not listed in Sections 330 through 349, and are therefore not permitted uses.

The R-4 Zone allows for moderate density residential uses, including flats as uses permitted as a matter-of- right. To permit conversion in this instance, notwithstanding the addition, would open the door to a substantial number of conversions of existing row structures in the R-4 District into apartments where the lot area requirement is non-conforming, leading to a subsequent erosion of the predominately row house districts into apartment districts.
OP concludes that the requested relief would result in substantial detriment to the public good, and would impair the intent, purpose, and integrity of the Zone Plan. Therefore, OP would not support the conversion of the existing row structure into a three-unit apartment building in the R-4 Zone District.

Based on the above reasons, OP cannot recommend approval to permit the three-unit apartment building. Granting the variance would impair the intent and purpose of the zone plan as embodied in the Zoning Regulations and Map, (including §§ 330.1 through 330.4) since it would result in an intensified use beyond that intended by the R-4 Zone.

COMMUNITY COMMENTS

OP has not acquired the ANC's comments regarding the requested relief. However, the applicant has indicated that ANC 1A reviewed the proposal and voted unanimously to support the zoning variances related to the conversion.

RECOMMENDATION

OP has no objection to a proposal which would convert the existing structure to a flat on the subject property, since this is a matter of right use in the R-4 Zone District. In this regard, **OP supports the area variance.**

However, **OP does not support** the development of the apartment building. Permitting the variance for the apartment use would be contrary to the intent of various sections of the Zone Regulations, including §§ 330.1, 330.2, and would result in an intensified use beyond that permitted in the R-4 zone.

Therefore, for the reasons discussed, OP recommends the following:

- **Denial of variance relief to permit the addition and conversion to a three-unit apartment building as submitted.**

- **Approval of variance relief from the lot area and court width requirements to permit the third floor addition for a flat or row dwelling.**