GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 15139 of Joseph Raymond, pursuant to 11 DCMR 3107.2, for a variance from the use provisions (Sub-section 201) to allow a 4-room rooming house, basement through second floor, in an R-1-B District at premises 1432 Montague Street, N.W., (Square 2722, Lot 850).

HEARING DATE: September 27, 1989
DECISION DATE: October 4, 1989

FINDINGS OF FACT:

1. The property is located on the south side of Montague Street between 14th and 16th Streets and is known as premises 1432 Montague Street, N.W. It is zoned R-1-B.

2. The lot is rectangular in shape with a frontage of 49 feet along Montague Street and a depth of 132.5 feet for a total lot area of 4,492.5 square feet.

3. The site is improved with a two-story plus basement brick detached dwelling with a detached garage at the rear adjacent to a 15 foot wide public alley.

4. The area surrounding the subject property is characterized by large single-family detached dwellings on large lots. A majority of the properties in the immediate vicinity are also improved with detached accessory garages accessed via the public alley system.

5. The R-1-B District permits matter-of-right development of single-family detached dwellings. The applicant proposes to occupy the subject structure as a four-unit rooming house. A variance from the use provisions is therefore required.

6. The applicant testified that he leased a rooming unit at the subject premises from 1983 until 1987 when he purchased the property. The applicant has continued to lease the premises as a rooming house since that time and does not propose any change in operations. The applicant testified that the rooming house is currently occupied by eight residents.

7. The applicant was cited for violation of the Zoning Regulations under the Civil Infractions Act in March 1989

and is seeking to bring the property into compliance through the instant application.

8. The applicant testified that he has received only one complaint relative to the operation of the rooming house caused by the on-street automotive repairs being conducted by a tenant of the premises and that problem has been corrected.

9. The applicant testified that he needed the income generated by the rooming house tenants in order to pay the mortgage and expenses on the subject property.

10. The Office of Planning (OP), by representative at the public hearing rescinded its recommendation contained in its memorandum of September 20, 1989 and recommended that the application be denied. The OP was of the opinion that there have been no substantial interior structural changes which would cause a hardship upon the applicant in reverting the structure back to a single-family occupancy. In addition, the OP was of the opinion that the applicant is unable to provide two on-site parking spaces as required by the Zoning Regulations because the existing garage is used for storage purposes.

11. Advisory Neighborhood Commission (ANC) 4A did not file a written report of issues and concerns.

12. The Single Member District Commissioner of ANC-4A07 and several nearby property owners and community organizations submitted letters to the record and appeared at the public hearing in opposition to the application. The Board notes the many issues and concerns expressed by the opposition. However, the Board declines to address the concerns of the opposition in the instant case for the reason that the burden of prcof rests with the applicant as set forth in Section 3324.2 of the Zoning Regulations. The Board finds that the applicant has failed to meet the burden of proof.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking a use variance, the granting of which requires proof of an undue hardship upon the owner due to an exceptional or extraodinary situation inherent in the property itself. The Board concludes that the applicant has offered no persuasive evidence purporting to justify the granting of a use variance, and therefore, has not met the requisite burden of proof.

The Board further concludes that the requested relief cannot be granted without substantial detriment to the

public good and without substantial impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. Accordingly, it is ORDERED that the application is hereby DENIED.

VOTE: 5-0 (Charles R. Norris, William F. McIntosh, Paula L. Jewell and Carrie L. Thornhill to deny; Maybelle Taylor Bennett to deny by proxy).

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

ATTESTED BY: _____
EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: NOV 19 1990

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."

15139order/LJP65

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

APPLICATION/APPEAL No. 15139

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order in this case, dated NOV 19 1990 has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Joseph Raymond
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EDWARD L. CURRY
Executive Director

DATE: NOV 19 1990