

Before the Board of Zoning Adjustment, D, C,

Application No. 11951, of Reid A. Dunn and Christian Dutilh, pursuant to Section 8207.1 of the Zoning Regulations for the following variances: a variance from the side yard requirements (Section 3305.1) in the R-1-B zone; variances from the rear yard requirements (Section 3304.1) in the R-3 and R-1-B zone; variance from Section 7601.2 to permit an accessory building in the side yard of a dwelling; and a variance from Section 1302.2 to permit proposed subdivision of a portion of the property (Lot 997) into three (3) lots, pursuant to Section 8207.11 of the Regulations, at the premises 3238 R Street, N. W., known as Lots 996 and 997, Square 1280.

HEARING DATE: July 22, 1975

DECISION DATE: August 6, 1975

FINDINGS OF FACT:

1. As a preliminary matter before the Board at its public hearing on July 22, 1975 the unopposed Motion to Intervene as Parties of Charles Billingslea, Abe Fortas, Arthur Frank, John E. Sheehan, Mary H. Davidson Swift and Mary E. Weinmann was granted by the Board.
2. Applicants originally requested subdivision of the subject property (Lots 996 and 997) into four (4) lots but at public hearing with leave of the Board Applicants withdrew that portion of the Application relating to subdivision of Lot 996 on the grounds that the subdivision was already approved by the Zoning Administrator on June 25, 1975.
3. Applicants propose to subdivide Lot 997 of the subject property so as to make each of the following three (3) structures located thereon a principal dwelling: the large mansion fronting on R Street, N. W. the guest house located on the southwestern portion of the property; and the carriage house located on the southeastern portion of the property directly abutting the side lot line.
4. A proposed structure is also to be erected on Lot 996 now known as Lot 96, pursuant to its June 25, 1975 subdivision, but that matter is not part of the subject application.
5. The Intervenor's objected as a procedural matter to errors in the newspaper advertisement of public hearing and the letters of notice mailed to abutting property owners and occupants of improved property within two hundred feet of the subject property. The address was incorrectly listed as 3233 R Street, N. W. an address which does not exist, instead of the correct number 3238 R Street, N. W. Intervenor's simultaneously argued that Lot 987 designated in the notice and listed in the Baist Atlas was also incorrect and that Applicants had obtained new tax lot numbers 996 and 997 when the property was subdivided some time ago.

6. The Applicant posted the property with the correct address and lot numbers on July 9, 1975 and the Affidavit of Posting was received by the Board on July 10, 1975.

7. Testimony by opposition to the application at public hearing included the Georgetown Citizens' Association representative, an abutting property owner and owners of improved property within two hundred (200) feet of the subject property and all of said parties had actual notice of the public hearing. Intervenors also appeared before the Board on July 16, 1975 to argue a motion in this case and confirmed knowledge of the date of the public hearing at that time.

8. Pursuant to Section 3301.1 of the Zoning Regulations the minimum lot area in the R-1-B zone is 5,000 square feet. Of the subject property proposed Lot 1 has 14,132.49 square feet, proposed Lot 2 has 10,323.31 square feet and proposed Lot 3 has 10,111.35 square feet,

9. Applicants require a variance from Section 1302.2 of the Zoning Regulations because they are unable to meet all of the yard requirements in subdividing the subject property and therefore, also require the following area variances:

a) 16 foot rear yard variance for the guest house located on proposed Lot 1,

b) 4.89 foot and 7.0 foot side yard variances for the carriage house located on proposed Lot 3

c) 9.80 foot rear yard variance for the carriage house located on proposed Lot 3.

d) Variance to allow an accessory building (tool shed) to remain in the side yard of the dwelling located on proposed Lot 1.

10. The large mansion located on the property is listed on the D. C. Register of Historic Places and has been designated a Category II Landmark of the National Capital by the Joint Committee on Landmarks of the National Capital.

11. An affidavit in the record by a previous occupant of the property, Major General Davidson, who resided on the premises from 1935 to 1966 indicates that the carriage house was rented almost continuously from 1935 and the guest house was rented almost continuously from 1942 until the owner vacated the property. Said affidavit further states the General's daughters who owned the estate then rented out all

three (3) structures as single family dwellings, until 1970. The General states that during his thirty-one (31) years of residence there were no complaints registered regarding the tenants on the property.

12. Applicants removed the tenants from both the guest house and carriage house upon learning that both structures were occupied illegally. Without subdivision the structures cannot be leased or sold as dwellings,

13. The licensed (D.C. and Virginia) real estate salesperson who sold the subject property to Applicants also showed it to other parties all of whom were interested in the property but expressed concern for the costs of renovation and subsequent maintenance of all the structures. Only Applicants expressed enough interest to purchase the property and they had expressed intent to subdivide and sell the dwellings separately. The buildings have no usefulness as accessory uses for the estate and there is no interested party desiring to maintain the estate as a whole,

14. Applicants have the option of demolishing all of the present units on the estate and could rebuild meeting all the Zoning Regulations with approximately seven (7) or eight (8) units but desire instead to preserve the historic buildings,

15. A member of the President's Board of National Park National Monuments and Historic Sites testified in support of the Applicants stating the proposed development was in the best tradition of historic development.

16. A letter in support of the application from the Joint Committee on Landmarks of the National Capital states that Applicants plan is preferable to moving, altering or demolishing the structures,

17. Opposition was heard from an abutting property owner who also was a former owner of the property. The opposition was based upon the fact that her property which she subdivided from the estate in 1964 abuts the rear of the estate with the carriage house sitting on a hill nine (9) feet from her rear fence. The objection is directed only to conveyance of the structures as single family dwellings because she anticipates they will be occupied by families with children. Previously, the rentals were always controlled by the owners of the estate who leased only to childless couples or single persons who generated no noise according to the witness.

18. Georgetown Citizens' Association through its authorized representative objected to the application on the basis that Applicants had shown no hardship and that the structures will **not** conform to the neighborhood because they sit too close to the lot lines. The representative also expressed the view that rental of the carriage and guest houses is preferential to conveying title because lessees are subject to the standards of their landlord and owners of property can do as they please.

19. The owner and occupant for 18 years of property opposite the subject premises opposed the application at public hearing because approval of the application relates to applicant erecting a fourth structure on the property, a matter which is not an issue of this application. This opponent was aware the rear buildings were being leased for years and admits that their occupancy did not infringe on his enjoyment or benefit from his property,

20. Other opposition in the form of letter and affidavits by an abutting property owner and occupants of improved property within two hundred (200) feet of the subject property objected on the basis of the proximity of the carriage house to the abutting property reducing the attractiveness of the abutting property and a depreciation of its market value and the drastic alteration of the character of the historic estate by the Applicants' plans. Opposition as to the fourth structure to be erected on the property is irrelevant to the subject application.

CONCLUSIONS OF LAW:

Based upon the above findings of fact and the evidence of record the Board finds that the Applicants by reason of an extraordinary and exceptional situation will suffer exceptional practical difficulties by the strict application of the Zoning Regulations.

The subject property, Scott-Grant estate, is an exceptional piece of property even for the Georgetown area. The property contains approximately 40,000 square feet of area in a Zoning district requiring only 5,000 square feet of area per lot and contains two separate buildings in addition to the large mansion. It is reasonable to believe that the two outbuildings (carriage house and guest house) were useful in previous times to such former occupants as President and Mrs. Grant and to President Roosevelt's Brain Trust. However, as stated by another previous occupant, Major General H. Davidson, it became desirable as far back as 1935 and 1942 to lease both the carriage and guest house. This practice was necessary until the present time. The Board recognizes the historical significance of the estate and also the unavoidable problems with

renovating the aging estate and maintaining **it** as a whole, There is no evidence to conclude there is a market for an estate of this size and to the contrary the evidence indicates **it** has become a white elephant.

Applicants are unable to maintain the estate **as** a whole and cannot legally use the carriage house and guest house. Because of the historical significance of the estate Applicants **seek** to legally occupy the structures without moving, altering or demolishing them. The estate will be used as **it** has since 1935 but such use will be legal, Applicants therefore, suffer a practical difficulty **if** the Board fails to grant the subject area variances.

The Board is of the opinion that because the proposed subdivided lots are far in excess of the required area for detached dwellings in that zoning district and because the outbuildings have been used as **single-**family dwellings for thirty-five (35) to forty (40) years with no adverse affects the granting of these variances will cause no substantial detriment to the public good and will not substantially impair the intent of the Zoning Regulations and **Map,**

ORDER; **It** is hereby ordered that the above application be GRANTED.

VOTE: 4-1 (Lilla Burt Cummings, Esq. dissenting),

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

ATTESTED BY: James E. Miller
JAMES E. MILLER,
Secretary to the Board

FINAL DATE OF ORDER: September 10, 1975

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF ECONOMIC DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER,