GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 12934 of Dayton Investments, Inc., as amended, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances allowing construction on an alley lot which does not have a thirty foot width leading to a street (Sub-section 7606.2), the lot width requirements (Sub-sections 3301.1 and 7615.2) and from the prohibition against construction of four single family row dwellings without having street frontage (Sub-section 3301.6) in an R-4 District at the premises rear 215,217,219 and 221 - 15th Street, S.E., (Square 1060, Lot 30).

HEARING DATE: May 23, 1979
DECISION DATE: June 6, 1979

FINDINGS OF FACT:

1. The application, as advertised, requested permission for the construction of three flats and a dwelling on the subject property. At the public hearing the application was amended so that the construction would now consist of four single family dwellings. The variance reliefs remained the same. Advisory Neighborhood Commission 6B and the Capitol Hill Restoration Society withdrew their opposition based on the amended application.

2. The subject property comprises one large vacant lot of approximately 8,755 square feet located between 14th and 15th Streets, S.E. and is known as rear 215,217,219 and 221 - 15th Street. It is in an R-4 District.

3. The north and west sides of the property border on public alleys sixteen feet in width, and the east side borders on a public alley fifteen feet in width. In addition, a small portion of the south side of the property borders on a public alley thirty feet in width. A fifteen foot wide public alley runs through the middle of the square from 14th Street to 15th Street.

4. The area surrounding the property is residential, composed primarily of single family homes.

5. The owner of the property stipulated at the hearing that he would submit the proposed plans to the Fire Department for its review and would comply with whatever suggestions that Department made to improve fire safety, including, if required, the installation of a sprinkler system.

6. Access to the subject property is by public alley, entering on 15th Street and extending through to 14th Street. Under the Zoning Regulations, a driveway to serve a single family dwelling is required to be a minimum of eight feet wide. The subject site has access via alleys which are fifteen and sixteen feet wide.

7. The location of parking spaces on site, one space for each dwelling unit, reduces the likelihood that the alley will be used for parking, thus minimizing inconveniences to the abutting property owners.

8. Under the Zoning Regulations, uses permitted on an alley lot as a matter of right are public or private parking garages, museums, art galleries, private clubs, and churches. With Board approval, the property can be used for the storage of wares and goods or as a parking lot, subject to the conditions set forth in Paragraph 3104.43 of the Zoning Regulations. In view of the location, shape and size of the subject property and adjacent uses, the proposed use of the property for single family residences is the only feasible use. Were the subject property to be used for any other purpose the more intense use would almost certainly prove objectionable.

9. Due to the irregular shape of the lot, the average lot width is less than the eighteen feet required under Sub-section 3301.1 of the Zoning Regulations. The houses themselves, however, are eighteen feet in width. Further, the area of the lots ranges from approximately 1,900 square feet to approximately 2,500 square feet, thus exceeding the 1,800 square foot minimum required under the Zoning Regulations.

10. In view of the large size of the subject property the location of the public alleys within the square and the relatively small lot occupancy of thirty percent, there is more than adequate light and air.

11. Advisory Neighborhood Commission 6B appeared at the public hearing in favor of the application and submitted a letter, dated May 21, 1979, to the record. In the said letter the ANC reported that by resolution of May 8, 1979 it supported the application. A petition by many neighbors in support of the application was received and considered. Those residents who attended the ANC meeting all supported the proposed change, and complained that the vacant lot in its present state attracted criminals and was a dumping ground for trash. The provision of more housing units, without detriment to neighboring residents, was viewed as sufficient reason for the ANC to support this application, particularly considering the unusual configuration of the alleys adjacent to which the proposed structures will be constructed. The Board concurs.

12. The Capitol Hill Restoration Society voted to oppose the application as filed, but noted that it would support the application if amended to state that there would be four single family houses instead of seven dwelling units in four houses. A representative of the Society appeared at the public hearing in support of the amended application and submitted a letter, dated May 22, 1979, for the record to that effect. The letter noted that the subject property is a large parcel in the interior of a block which has an unusually large amount of open space and that it is presently being used as a trash dump. The main concern of the neighborhood was the elimination of this trash dump through development of the lot. Those who opposed the original request were concerned with the increase in density and a resulting parking problem.

13. There was no opposition to the application at the public hearing. There was one letter on file in opposition on the basis of one increase in density.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is seeking both use and area variances. As the Board has concluded in previous cases, the variance to allow construction of a dwelling on an alley lot, fronting on alleys less than thirty feet wide, is a use variance, because what is at issue is the use of the property. As the Board has found, other uses in the R-4 District are permitted on this lot as a matter-of-right or as special exceptions. The lot width and street frontage variances are area variances, because they relate to the size and configuration of the property, rather than its use.

The granting of a use variance requires the showing of an undue hardship upon the owner of the property arising out of some unique or exceptional condition arising out of the property itself. The granting of an area variance requires the showing of a practical difficulty, instead of a hardship.

The Board concludes that the applicant has made the required showing. The Board concludes that no other use permitted in the R-4 District can reasonably be made of the subject property, and that the location of the lot, its size and its shape constitutes a hardship and a practical difficulty for the owners. The Board further notes that the subject large vacant lot is more suitable for residential use than other uses which are permitted as a matter of right or by special exception under the Zoning Regulations.

Ingress and egress are adequate for the proposed use and the location of on site parking spaces for each unit ensures adequate parking. Access to the property is adequate to ensure fire safety. In addition, the applicant will comply with any suggestions the Fire Department makes, including the installation of a sprinkler system. Although the average lot width does not meet the eighteen foot minimum required under the Zoning Regulations, each of the houses will be eighteen feet wide and the square footage of each lot exceeds the 1,800 square foot minimum area requirements.

The applicant has cooperated with the neighborhood resulting in a plan the neighborhood can accept. The Board further concludes that the application can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan.

Accordingly, it is hereby ORDERED that the application, as amended, is GRANTED.

VOTE: 3-0 (Charles R. Norris, John G. Parsons and Chloethiel Woodard Smith to grant, William F. McIntosh and Leonard L. McCants not voting, not having heard the case).

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

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 7 AUG 1979

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "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 LICENSES, INVESTIGATIONS, AND INSPECTIONS.