GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 12962, of Arnold and Alex Litman, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for special exception to allow a sub-division and new residential development comprising eight row dwellings (Paragraph 3105.42) and to permit carports in front of dwellings (Sub-section 7401.2) and for a variance from the lot occupancy requirements (Sub-section 3303.1) in an R-5-A District at the premises 4625 through 4639 Minnesota Avenue, N.E. (Square 5160, Lots 11, 12, 13, 14, 15 and 16).

HEARING DATES: June 13 and August 22, 1979
DECISION DATES: July 11, August 8, October 3, and November 7, 1979

FINDINGS OF FACT:

1. The subject site is located on the southeast side of Minnesota Avenue between Nash Street to the north and Meade Street to the south. It is known as 4625-4639 Minnesota Avenue, N.E. and is in an R-5-A District.

2. The subject site is rectangular in shape and generally level. It is unimproved.

3. The applicant proposes to construct eight, two story row dwellings at the subject location. The dwellings will be constructed of brick and aluminum siding. The dwellings were originally proposed to each have a one car carport in the front yard. The interior layout will consist of three bedrooms,2 1/2 baths, living/dining room, kitchen and den. The dwellings will each have a wooden deck off the rear of the house.

4. To the north of the subject property, across Minnesota Avenue, there is a single family detached dwelling, apartment house and the Deanwood Metrorail station in the C-M-1 District. To the east there is a fifteen foot wide alley followed by a large vacant parcel and occupied single family detached dwellings in the R-2 District. To the south, there are single family detached dwellings in the R-2 and R-5-A Districts, and to the west, across Minnesota Avenue, there is a garage in the C-M-1 District.

5. The proposed development consists of eight lots, each having a lot area of 1,875 square feet. The lots are 18.75 feet wide and 100 feet deep. The rear lot lines front on a fifteen foot wide public alley. A thirty-five foot deep rear yard is proposed.

6. The Zoning Regulations permit a lot occupancy of forty percent in the R-5-A District. The applicant's plan shows a lot occupancy per lot of 955 square feet whereas 750 square feet is allowed. A variance of 205 square feet is requested. The plan meets the allowable floor area ratio (0.9) requirements of the R-5-A District.

7. The applicant is also requesting a special exception under Sub-section 7401.2 of the Zoning Regulations which states that a carport shall be attached to the main building and shall not be located along the side of the building which faces a building line. The plan shows four curb cuts, eighteen feet in width on Minnesota Avenue, leading to eight carports which are attached to the front of the dwellings. These driveways are of concrete construction. Minnesota Avenue at this location has a right of way of ninety feet with two-way traffic and on-street parking permitted on both sides of the street.

8. The Deanwood Metrorail station is north of the site within walking distance of the dwellings. There is public parking for 220 cars provided at this station. Minnesota Avenue is also a metro bus route.

9. As required under Paragraph 3105.42 of the Zoning Regulations, the application was referred on April 20, 1979, to the D.C. Board of Education, Department of Transportation, Department of Housing and Community Development and the Office of Planning and Development for their comments and recommendations.

10. No report was received from the D.C. Board of Education or Department of Housing and Community Development.

11. By report dated June 7, 1978, the OPD recommended that the application be approved. The report stated as follows:

"The Office of Planning and Development is of the opinion that the requested relief from the Zoning Regulations can be granted without causing substantial detriment to the public good, and without impairing the intent of the Zoning Regulations and Map. OPD does not believe that automobile ingress and egress to the proposed driveways will have any more an impact on traffic on Minnesota Avenue than cars pulling in and out of normal on-street parking spaces from this location. The orientation of the parking on Minnesota Avenue leaves the rear yards of the lots with more room for recreational living away from the automobile activity on Minnesota Avenue.

OPD is of the opinion that the increase in lot occupancy as requested by the applicant will not cause substantial detriment to the public good, as the carport and rear deck amenities provided in the plan and computed in the lot coverage figure, are accessory items which add to the livability of the dwellings and architectural interest."

The Board concurs in the OPD report as to the variance from the lot occupancy requirements of the Zoning Regulations.

12. The Department of Transportation, by memorandum dated June 29, 1979, reported as follows:

"We recommend that the applicant redesign the project to provide access to the proposed off-street parking from the existing alley at the rear of the site.

We make this recommendation for several reasons. Project plans currently call for 4 driveway cuts on Minnesota Avenue. Minnesota Avenue is a 44 foot-wide collector street providing direct access to the Deanwood Metrorail station, bus, kiss-and-ride, and parking facilities across from the project between Quarles and Nash Streets. Traffic backing out of the proposed driveways into Minnesota Avenue would cause safety and operational problems particularly in view of the traffic at the Metrorail Station facility. In addition, current project plans would completely eliminate on-street parking because the distances between driveways does not provide sufficient parking space. This will have the added effect of creating unnecessary shortages of parking for guests and residents and other neighborhood parking needs. Morover, we anticipate that automobiles would nevertheless be illegally parked from time to time and thereby create added conflicts with driveways between driveways, and other traffic. The driveways also cut-up the sidewalk in an area where pedestrian activity will be very important to the neighborhood in terms of Metro access.

> We strongly urge that the applicant include construction of that portion of the alley abutting the development. Present demands on scarce District alley construction funds preclude the District's ability to program the construction of the alley to coincide with construction of the development. In addition, we would prefer that the alley width also be increased to the standard minimum of 16 feet."

The Board so finds.

13. The Board, at its public meeting of August 8, 1979 tentatively approved the application and decided to hold a further hearing on the application on August 22, 1979. The further hearing was limited to the following issues which were the conditions imposed by the Board for its tentative approval:

1. The carports located in the front of the dwellings shall be removed, and the required off-street parking spaces shall be located at the rear of the dwelling with access via the public alley.

2. The front facades of the buildings shall be redesigned to eliminate the sloping roofs.

3. The applicant shall submit a proposed landscape plan to the Board, showing proposed landscaping, planting, screening and fencing if any for the front and rear of the dwellings.

4. The applicant shall dedicate to the District of Columbia sufficient property at the rear of the site to increase the width of the public alley to sixteen feet.

5. The applicant shall pave the alley to provide access to the parking spaces.

14. At the further hearing, the applicant objected to conditions 1, 4 and 5 on the grounds that the existing rear alley was not now paved and would create a further expense. He further stated that the neighbors wanted the alley to remain as it is as indicated by petitions and that the neighbors wanted the carports in front of the dwellings. The applicant argued that carports in front of dwellings existed throughout the city and that it was safer and more amenable for owners to enter the front of their homes than to have to cross a rear yard to gain entry. The applicant further argued that paving the alley would cause the price of the dwellings to increase and that the neighborhood would not warrant such an increase.

As to condition 2, the applicant argued that the design had been used throughout the country, that it would produce a flair for the neighborhood and blended in with the proposed carports in front of the dwellings.

15. The Chair stated that the Board was of the opinion that the design of the buildings with its protruding roof which extended over the carports and almost to the street was not in keeping with the neighborhood and that the Board was concerned about the effect of having snow and winds on the sloping roofs.

16. The Department of Transportation at the further public hearing of August 22, 1979 testified that it proposed that the rear alley be built all the way to Meade Street at the expense of the builder. The Board requested that the DOT determine if the city would meet half of the expenses. The Board also directed the staff to determine if there was an application to close the alley as stated by the neighborhood residents.

17. The Office of Planning and Development, by report dated August 16, 1979, reported as follows:

> "Subsequent to the filing of our report, the Department of Transportation reported on the subject case and recommended that off-street parking should be provided in the rear yards to prevent adverse traffic impact on Minnesota Avenue. The Office of Planning and Development concurs with the D.C. Department of Transportation's recommendation. It is OPD's view that this redesign will eliminate pedestrian and vehicular safety and operational problems resulting from the proposed driveway curb cuts and cars backing out onto Minnesota Avenue at this location in such close proximity to a metrorail station facility."

The Board so finds.

18. Single Member District Advisory Neighborhood Commission 7C02, testified that it recommended that the application be approved as filed by the applicant. It testified that the neighborhood residents were in favor of closing the alley, keeping the carports in front of the dwellings and keeping the original design. It noted that the neighbors were used to using the subject alley for their private purposes, that they had cleaned the alley up and attempted to prevent crime from occuring therein, that the alley added more land to their lots and that they did not wish to increase additional expenses for paving an alley. The neighbors anticipated that a paved alley would cause further traffic problems. Several neighbors testified in support of the recommendation of the single member ANC representative. One neighbor testified in favor of the application as conditioned by the Board.

19. Advisory Neighborhood Commission - 7C made no recommendation on the application.

20. A representative of the Deanwood Civic Association opposed the application on the grounds that the Association would oppose the construction of row houses in its neighborhood as not in character with the neighborhood. The representative testified that it was her impression that semi-detached dwellings were being constructed. The Board notes that row houses are permitted in the subject R-5-A District.

21. As to the concerns expressed by the neighborhood and ANC-7C02, the Board finds that the expertise of the DOT and OPD prevails The recommendations of these two agencies as to the construction of the rear alley would enhance the living style of the property. There would be access for garbage and fire trucks, more parking space would be provided on Minnesota Avenue and pedestrian traffic on Minnesota Avenue would be less encumbered. The neighbors would not be charged for the improvement of the alley. The Board finds that the grant of this application as hereinafter conditioned would add more to the pleasantness of the neighborhood, its safety and its security.

22. By memorandum dated October 21, 1979, the DOT further reported that an official application had been filed to close the alley and that the Office Engineering Division objected and recommended that access to the off-street parking for the subject dwellings be provided from the rear alley instead of Minnesoat Avenue. The office stated that access to the off-street parking from Minnesota Avenue would create an operational/safety conflict with Metro generated traffic and that it would be illegal to close the alley precluding access to off-street parking and the opportunity to provide other services to the houses from the existing alley. The Board so finds.

The DOT further reported that it was committing city resources to construct half of the alley, the developer to assume the cost of the other half.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is requesting a variance and two special exceptions. The variance from the lot occupancy requirements is an area variance, the granting of which requires showing of a practical difficulty inherent in the property itself.

The Board concludes that the elimination of the carport, which is calculated in the lot occupancy, will entirely or substantially relieve the need for a variance from the lot occupancy.

The Board further concludes that the special exception to allow the sub-division and new residential development, as hereinafter conditioned, can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property. As to the special exception to permit carports in front of dwellings, this is eliminated as one of the conditions to the granting of this application. For all these reasons the Board concludes that the application can be granted. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. The carports located in the front of the dwellings shall be removed, and the required off-street parking spaces shall be located at the rear of the dwellings with access via the public alley.

2. The front facades of the buildings shall be redesigned to eliminate the sloping roofs.

3. The landscaping, planting, screening and fencing for the front and rear of the dwellings shall conform to the plan as approved by the Board marked as Exhibit No. 36 of the record.

4. The applicant shall dedicate to the District of Columbia sufficient property at the rear of the site to increase the width of the public alley to sixteen feet.

5. The applicant shall pay for half of the cost of paving the full length of the alley between Meade Street and 47th Place, the District of Columbia paying for the remaining half of the cost, as stated in the report of the Department of Transportation.

VOTE: 4-1 (Walter B. Lewis, Chloethiel Woodard Smith, William F. McIntosh, and Leonard L. McCants to GRANT; Charles R. Norris OPPOSED).

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

ATTESTED BY: Steven E. Sher

STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 4 JAN 1980

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.