GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 13039, of Susan Tripodi, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the side yard requirements to construct an apartment building to the property line without a common division wall (Sub-section 3305.4) and from the required width of a driveway to serve required parking (Sub-section 7206.7) in an R-5-B District at the premises 732 - 5th Street, S.E., (Square 847, Lot 66).

HEARING DATE: September 12, 1979
DECISION DATE: October 3, 1979
STATUS: The Board GRANTED the application by a vote of 4-0 (Walter B. Lewis, Chloethiel Woodard Smith, William F. McIntosh and Charles R. Norris to grant; Leonard L. McCants not voting, not having heard the case).
FINAL DATE OF ORDER: November 28, 1979

FINDINGS OF FACT:

1. In its Final Order dated November 28, 1979, the Board approved plans marked as Exhibit No. 8 of the record.

2. By letter dated March 25, 1980, the applicant requested certain modifications to the plans and specifications for the construction of the subject apartment building.

3. The applicant now proposes to construct an apartment building of four condominium units. There will be two two-bedroom units and two one-bedroom units. Originally, the applicant had planned for six one-bedroom units. There will be no changes to the exterior dimensions or appearance of the building.

4. The applicant stated that the change in the number of units for the building was necessary to meet the requirements of the financing institution.

5. The applicant now requests approval of the plans marked as Exhibit No. 24 of the record.

CONCLUSIONS OF LAW AND OPINION:

Upon consideration of the applicant's request, the Board finds that approval of the revised plans does not change the relief granted by the Board. There are no additional variances required and all of the material facts which the Board relied upon in granting the application are still relevant. The Board also notes that the modified plans will result in a decrease in density. It is therefore ORDERED that the applicant's request for modification of plans is GRANTED, that the revised set of plans marked as Exhibit No. 24 of the record are hereby APPROVED and that such plans shall be substituted for those originally submitted to and approved by the Board. In all other respects, the Order of the Board dated November 28, 1979, shall remain in full force and effect.

VOTE: 4-0 (William F. McIntosh, Charles R. Norris, Connie Fortune and Leonard L. McCants to GRANT).

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

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

FINAL DATE OF ORDER: 21 APR 1980

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

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."

GOVERNMENT OF THE DISTRICT OF COLUMBIA
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HEARING DATE: September 12, 1979

DECISION DATE: October 3, 1979

FINDINGS OF FACT:

1. The Board approved application No. 12449 by order dated August 19, 1977. That application requested the same variances for the same property involved in this application. The applicant in that case, a prior owner of the property, did not apply for permits in a timely manner, and the approval granted thus lapsed.

2. The subject property is located in an R-5-B District on the east side of 5th Street just north of its intersection with Virginia Avenue and the Southeast Freeway.

3. The subject property is presently unimproved, but is covered with bushes and small trees. The applicant proposes to construct an apartment building on the site containing six one-bedroom apartments.

4. The subject lot is approximately 2101.60 square feet in area and is twenty feet wide. To provide an eight foot side yard on one side, as required by Sub-section 3305.4 of the Zoning Regulations, the applicant would have to construct a building of only twelve feet in width. Providing two side yards of eight feet would leave only four feet of the lot which could be built upon.

5. The subject property is bounded on the south by a vacant grass covered lot owned by the Federal Government, followed by Virginia Avenue and the Southeast Freeway. On the north side of the property located on the abutting property is an existing twelve foot wide privately owned alley. This alley is a permanent easement recorded on the deeds of the adjacent property owners. It serves as a right-of-way to the

rear of properties on the seven or eight adjacent lots to the north.

6. The applicant is required to provide three parking spaces for the six units. The applicant proposes to provide four spaces at the rear of the building on the lot. The spaces would be oriented perpendicular to the side of the lot. Access to the spaces would be from the private alley on the north. There is no public alley access to the subject property through Square 847.

7. The Zoning Regulations require that private alleys which are driveways serving apartments be a minimum of fourteen feet wide. If the applicant is required to reduce his property width by the required two feet for the full length of the driveway, he could not meet the parking requirements of the R-5-B Zone.

8. The architect for the applicant testified that reducing the width of the building to add to the driveway would reduce the size of the apartments in the building, and endanger the feasibilityof the project.

9. The report of the Office of Planning and Development dated September 10, 1979 was not received in the record of this case and was not relied on by the Board.

10. Advisory Neighborhood Commission 6-B, by letter dated September 12, 1979, reported that it unanimously supported the application. No reasons for the support were presented.

11. The Capitol Hill Restoration Society, by statement dated September 11, 1979 and by testimony presented at the hearing, supported the variance from the side yard requirements but opposed the variance from the driveway width requirements. The Society reported that the width of the lot, the lack of buildings on either side to connect with and the eight foot yard requirement combine to create a practical difficulty for the applicant on the side yard question. On the driveway width, the Society stated that it believed the applicant could satisfy the width requirement by removing two feet from the building and adding them to the existing driveway. The Society was further of the opinion that it would perfer to see sub-standard parking spaces rather than a sub-standard driveway.

12. The owner of the abutting property to the south, on which the driveway is located appeared at the hearing and supported the application. He testified that the width of public alleys in this square, to which the private alley connects, are only nine to ten feet.

13. As to the issues raised by the Capitol Hill Restoration Society in opposition to the driveway width variance, the Board has already found that legal size parking spaces cannot be provided if the driveway width is increased. The Board has further found that the feasibility of this entire project is jeopardized if the size of the building is reduced. The Board also finds that the private alley makes a ninety degree turn to the north opposite the proposed parking area, thus providing additional maneuvering room for access to the spaces.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing Findings of Fact and the evidence of record, the Board is of the opinion that the requested variances are area variances, the granting of which requires the showing of some exceptional or undue condition of the property which creates a practical difficulty for the owner. The Board concludes that if the applicant was required to provide the eight foot side yard this would limit the applicant to a building of only twelve feet in width. The Board concludes that if two feet of the lot were added to the existing twelve foot drive, the applicant would not be able to provide the three parking spaces required by the Zoning Regulations and would further jeopardize the entire project. The Board concludes that this would impose a practical difficulty upon the applicant in utilizing the property in a manner which is otherwise consistent with the intent of the Zoning Regulations and Map. The Board concludes that the requested relief can be granted without substantial detriment to the public good and without impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Maps. It is therefore ORDERED that the above application is hereby GRANTED.

VOTE: 4-0 (Walter B. Lewis, Chloethiel Woodard Smith, William F. McIntosh and Charles R. Norris to grant, 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: 28 NOV 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."

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