GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 13468, of John and Lillian Lewis, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the off-street parking requirements (Sub-section 7202.1) and from the prohibition against allowing an open parking space to be located within ten feet of any wall of a multiple dwelling if such wall contains openings designed to provide light or ventilation for such multiple dwelling (Paragraph 7205.22) to use all floors of the subject premises as an eight unit apartment house in an R-5-B District at the premises No. 9 Logan Circle, N. W., (Square 241, Lot 111).

HEARING DATE: April 15, 1981

DECISION DATES: May 6, June 3 and July 1, 1981

FINDINGS OF FACT:

1. The subject site is located on the northwestern frontage of Logan Circle between 13th Street to the northeast and P Street to the southwest and is known aspremises No. 9 Logan Circle. It is in an R-5-B District.

2. The site is irregular in shape and topographically level. The site is improved with a four story structure constructed as a single family dwelling. The building is constructed of brick and has an English basement. The yard is fenced. There is a concrete paved parking pad to the rear of the site. The pad has frontage on a fifteen foot wide public alley leading to Kingman Place.

3. To the northeast of the site, there is a semi-detached four story structure in the R-5-B District. To the southeast is Logan Circle, which has three lanes of one-way traffic counterclockwise around the circle enclosing Logan Statue Park. To the southwest abutting the site there is a row dwelling of three stories in the R-5-B District. To the north and west is a fifteen foot wide public alley abutting the rear of the site, along with the rear yard and garage of a dwelling which fronts on Kingman Place in the R-5-B District.

4. The subject premises was built at the turn of the century as a single family residence. The structure occupies approximately seventy percent of the lot. It contains approximately 7,400 square feet of gross floor area. The application proposes to convert

the building into an eight unit condominium apartment house. The interior of the building would be completely renovated to include modern heating, ventilating, air conditioning and plumbing. The renovated building would contain one two-bedroom duplex, one two-bedroom unit, one loft efficiency, four one-bedroom and den units, and one one-bedroom unit. There will be fireplaces provided in all of the new dwelling units. The proposed dwelling units range in size from 645 to 1,044 square feet. Each unit will have a heat pump and all new top-grade applicances. The sales prices for the proposed condominiums will range from $70,000 to $125,000. No exterior alterations to the structure will be made.

5. The applicants purchased the subject property in 1978 for approximately $100,000. It was their intention to create four apartments, one of which would be owner occupied. It was the applicant's impression that the last use of the premises had been for four apartments and several roomers. Some fifteen or twenty persons occupied the premises. On November 14, 1980, the owner contracted to sell the subject premises to a developer, Right Inc., for $235,000 subject to approval of the BZA for use as an eight unit apartment house. The structure is currently vacant. There is no Certificate of Occupancy on Record to confirm past multi-family use.

6. An eight unit apartment house is permitted as a matter-of-right in an R-5-B District. Pursuant to Article 72 of the Zoning Regulations, the applicant is required to provide four parking spaces which meet the requirements of the Zoning Regulations. The applicants proposed to provide one space on the site. In addition, the building has a non-conforming credit for one additional space, by virtue of the building's existence prior to May 12, 1958, the effective date of the current Zoning Regulations, and its previous use as a single family dwelling. The applicants are required to provide four parking spaces for eight units. Given the credit for one space and the proposed space, the applicants seek a variance of two required parking spaces.

7. The front section of the structure occupies 100 percent of its portion of the lot, to a depth of thirty-four feet. The rear addition to the structure abuts the southwest property line and has only an eight-foot wide side yard on the northeast frontage, which is not of sufficient size to locate parking spaces. The only area of the lot which is of sufficient size to locate a parking space is the existing, paved, parking pad at the rear.

8. The applicant's expert traffic witness testified that the applicant's proposed use of the building for eight dwelling units on Logan Circle will have an imperceptible impact on traffic conditions in the area. Based on D. C. Department of Transportation figures, he estimated that the eight units proposed would produce only three new trips during peak hours. Further, the average car ownership in the subject area is merely 0.27 vehicle per dwelling unit, so that the occupants of the eight units would be anticipated to own only a combined total of two cars. If additional parking

is required by the occupants of the building over what is provided on site, the applicant submitted evidence that there are an estimated forty spaces available on two parking lots on P Street for which there are no plans to change the existing use as parking lots. In addition, the traffic expert found that for those not wishing to rent a space there would be no problem in locating on-street overnight parking, since his survey made on two evenings showed that there was available curb parking space for at least thirty-four vehicles within one block of Logan Circle. The expert concluded that no adverse impact would result from the granting of the requested variance.

9. The architect for the applicants testified that a four unit condominium building was not feasible. Each unit would contain approximately 1,800 square feet and would have to sell for at least $200,000. He further testified that there was no market for such a sales price in the subject area. The applicants also submitted evidence to the record of a lending institution accepting an eight unit proposal for permanent and construction financing and rejecting a four unit proposal as being impractical for the subject area. There was also a letter from a realtor asserting that there were no comparable sales of apartments in medium density buildings such as the subject property in the immediate vicinity of this property in the $200,000 price category. Such $200,000 units will have a very low probability of sale in that they would not be representative of what the market in the Logan Circle area will bear at the subject time.

10. The Office of Planning and Development by report, dated April 9, 1981, recommended that the application be conditionally approved. The Office of Planning and Development was of the opinion that there are practical difficulties related to the subdivision of the lot and its improvement prior to the 1958 adoption of the Zoning Regulations. Most significantly, the site's irregular shape restricts the owner from complying with the parking provisions. The OPD noted that the proposed eight units were all adequately sized and designed with proper amenities. The units will be located within 200 feet of the Central Employment Area, which is defined by the Zoning Regulations as the core area of the District of Columbia where the greatest employment in the city and region are found. The OPD speculated that singles and childless couples will be attracted to the site given the desirability of being able to walk to work and the availability of public transit in the area. The OPD viewed the variance request as not causing substantial detriment to the public good and recommended that this application be approved provided that the cars "pull in" the space only, in order to direct automobile emissions away from the dwelling. The Board for reasons stated below, does not concur in the OPD recommendation.

11. The Logan Circle Community Association and individual property owners in the immediate area opposed the application at the public hearing and in letters and a petition to the record. The grounds of opposition were based on parking impact, intensification in use and profit gouging. The opposition disagreed with the applicant's traffic expert as to impact on parking. Testimony based on the personal experiences of persons living in the Logan Circle area indicated that, as a daily and constant routine, they presently experience a significant parking problem. They testified to having to park three blocks from their residences and of going around in circles to find a parking space. The addition of any additional cars competing for on-street parking would be unreasonable. They disputed the survey made by the traffic expert showing at least thirty-four available parking spaces within one block of Logan Circle. They further contended that residents will not walk blocks from parking lots to their residences. The opposition questioned the site plan of the applicant and suggested that the subject site may not even have one parking space that meets the requirements of the Zoning Regulations. The proposed conversion to an eight unit condominium without adequate off-street parking would severely impact on the existing shortage of residential parking in the immediate area. The opponents further testified that with the surge of renovation in the Logan Circle area, especially over the last two years, parking for residents and guests has reached an impossible stage and the proposed eight units without adequate off-street parking will further exacerbate the situation.

12. The opposition testified that the unit density proposed was too great for the subject property. They objected to crowding older houses in the neighborhood with the maximum number of units those buildings would hold. On the subject quadrant of Logan Circle there are eleven structures. Nine of them are single family residences, including two vacant ones and the subject property. The other two structures are large apartment houses. The opposition, in a petition, stated that, from their collective experience and from knowing the former residents, at no time were there as many as four units in the subject structure. The structure was mainly a single family residence with "efficiency" rooms for rent.

13. The opposition also testified to the fact that the subject property was purchased two years ago for approximately $100,000. No improvements have been made by the current owners. These variances are being sought to inflate the resale price by more than twice the purchase price. It was submitted that the granting of any variances would reward continued speculation and price gouging. There is no economic justification for placing more units into the house than already permitted. A member of the opposition, a real estate broker, testified that from her experiences, a $200,000 price for each of the units of a condominium of four units was as marketable as other units in the subject area.

14. There was no recommendation from Advisory Neighborhood Commission 2-C.

15. On June 16, 1981, the Board and the parties personally inspected the site.From that inspection, the Board finds that the concrete pad located at the rear of the site cannot accommodate any legally required parking spaces. One required parking space meeting the size requirements of the Zoning Regulations can be located on the existing pad, but even if that space is removed as far as possible, it will still be within ten feet of the building. If two cars were parked perpendicularly to the alley, both spaces would violate the ten foot requirement and one would violate the prescribed nine feet by nineteen feet size dimensions.

16. It is not possible for a car to enter the east-west alley from Kingman Place and turn directly into the parking pad. A driver would have to proceed up the alley and back in. Otherwise, he would be trespassing on private property. Another alternative is for a drive to enter the wider east-alley from Kingman Place on 13th Street, and approach the site from the north. With good maneuvering it is possible to approach the pad from this alley from the north.

17. When a standard size car and a compact car are parked perpendicular to the alley, there is barely room to exit from the cars. In such a situation, the first car leaving the pad in backing out must cross on private property in order to eventually exit through the alley.

18. After the close of the hearing, the Logan Circle Community Association submitted two motions for further hearing. The motions both related primarily to the existing condition at the rear of the property, and whether legal parking spaces could be located in the subject rear yard. The Chairman ruled to deny both motions, on the grounds that the Board would determine for itself the conditions of the rear yard by making a personal site-inspection.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking an area variance, the granting of which requires proof of an exceptional or extraordinary condition or situation of the property that causes a practical difficulty for the owner. The Board concludes that the size and irregularity of the shape of the lot and the existence of improvements therein combine to constitute an exceptional condition.

The Board concludes however, that the practical difficulty for the applicants exists only because of the specific number of units proposed to be created in the building. The only lawful use of the subject premises was as a single family dwelling. Testimony and evidence in the record clearly indicates that the building has been used for some multi-family occupancies without proper authorization from the

District of Columbia Government. However, the Board concludes that the subject property could be used as a flat or a rooming house for up to seven persons and no variance would be required. The Board concludes that the applicants have not carried the burden of proof as to this practical difficulty. The great density the applicant proposes is the basis for a variance relief.

The Board agrees with the opposition that to grant the relief would create an adverse impact on parking in the area. In the instant case, the Board finds the daily observations on parking availability on the part of the opposition to be more persuasive than the survey of the applicant's traffic expert, taken on only two isolated occasions. The Board further concludes that, what with the impact on parking and the intensification in the use of the subject property, the relief cannot be granted without substantially impairing the intent, purpose and integrity of the Zoning Regulations for an R-5-B District. Accordingly, it is ORDERED that the application is DENIED.

VOTE: 5-0 (Connie Fortune, Douglas J. Patton, William F. McIntosh and Charles R. Norris to deny, John G. Parsons to deny by proxy).

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher

STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 14 SEP 1981

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."