GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 13959, of Donald W. Kreuger, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the prohibition against allowing an open parking space to be located less than ten feet from a dwelling (Sub-section 7205.2) for a proposed driveway and parking area for an existing semi-detached flat in an R-5-C District at premises 600 23rd Street, N.W., (Square 43, Lot 9).

HEARING DATE: May 11, 1983
DECISION DATE: June 1, 1983

FINDINGS OF FACT:

1. The subject property is located at the northwest corner of the intersection of 23rd Street and Virginia Avenue and is known as premises 600 23rd Street, N.W. It is zoned R-5-C.

2. The subject property is irregular in shape. The lot measures 24.0 feet along the 23rd Street frontage, 58.08 feet along the northern lot line, and 23.75 feet along the southern lot line along Virginia Avenue. The rear lot line is 42.25 feet diagonally from Virginia Avenue to the northern lot line.

3. The subject property is improved with a two-story semi-detached brick flat.

4. The applicant proposes to provide one open parking space in the rear yard of the subject premises. Because of the small size and triangular shape of the rear yard, the parking space must be located approximately one foot from the rear wall of the existing flat.

5. Sub-section 7205.2 of the Zoning Regulations prohibits the location of any portion of an open parking space within ten feet of a one-family dwelling or flat. The applicant is seeking a variance from that provision of nine feet or ninety per cent.

6. On-street parking in the immediate area of the subject site is scarce. Due to the arterial nature of the surrounding streets, on-street parking is prohibited during rush hours.

7. The applicant has leased a garage parking space in nearby office and apartment buildings over the past several years. The cost of leasing parking in those buildings has doubled since he purchased the subject premises and began leasing parking. The applicant attempted to purchase a parking space in a nearby condominium but his request was refused because he was not a resident of that building.

8. The rear yard of the subject premises is presently paved with cement and brick. An existing greenhouse structure, which is in a deteriorated condition, is proposed to be razed. The rear yard is presently surrounded by a brick retaining wall and a six foot stockade fence.

9. The rear yard is triangular in shape and slopes upward approximity three to four feet above the level of the sidewalk along Virginia Avenue.

10. The applicant proposes to remove approximately seventeen feet of the existing retaining wall along Virginia Avenue to permit vehicular access to the rear yard. The rear yard will be re-graded and paved. The proposed parking space will accommodate a compact car measuring approximately five by fourteen feet and will be located approximately one foot from the rear wall of the existing flat.

11. The rear wall of the existing flat contains two windows which face into the rear yard. The building is air conditioned and all the windows in the building are generally closed due to the noise and pollution generated by existing traffic conditions on Virginia Avenue and 23rd Street.

12. The parking space will be screened from view by the retention of a portion of the existing three to four foot high retaining wall along Virginia Avenue. The existing retaining wall and stockade fence separating the subject premises from the dwelling to the immediate north will be retained and repaired or rebuilt if necessitated by the required excavation.

13. Access to the proposed parking space will be via a curb cut on Virginia Avenue approximately eighty feet from its intersection with 23rd Street. The curb cut will not affect access to the pedestrian alley located approximately seventeen feet to the west of the subject site. No on-street parking will be removed from the area because the curb cut is located in an existing "no-parking" area. No trees or street improvements will be affected by the location of the curb cut.

14. Counsel for the owner of the property immediately to the north of the subject premises appeared at the public hearing in opposition to the subject application. The cross-examination of the applicant by counsel indicated

concerns with regard to the protection of the existing retaining wall and fence separating the two properties, obstruction of the pedestrian alley to the west of the subject property during parking maneuvers, and the elimination of an on-street parking space by the proposed curb cut.

15. Advisory Neighborhood Commission 2A, by resolution dated May 3, 1983, supported the application subject to the following:

1. The parking space to be provided is very small, so the maximum size of the vehicle permitted to occupy the space should be specified so that the sidewalk will not be obstructed in any way by use of the space.

2. The height of the eleven foot wall running parallel to Virginia Avenue should be required to be no more than four foot high, so that the driver's view of pedestrians and oncoming traffic is not obstructed when backing out.

3. Appropriate fencing or screening along the north lot line should be required to protect neighboring property owners.

4. The D.C. Department of Transportation should certify the safe layout of the proposed parking space.

16. In addressing the concerns of the opposition and of the Advisory Neighborhood Commission 2A, the Board finds as follows:

a. As indicated in Finding of Fact No. 12, the existing retaining wall and fence along the northern lot line of the subject property will be maintained during excavation and repaired or rebuilt if necessary.

b. The retaining wall along Virginia Avenue on the south side of the subject lot will not exceed four feet in height as indicated in Finding of Fact No. 12.

c. No on-street parking spaces will be removed as indicated in Finding of Fact No. 13.

d. There is ample distance between the proposed curb cut and the existing pedestrian alley to permit parking maneuvers as indicated in Finding of Fact No. 13.

e. All permits for curb cuts must be approved by the D.C. Department of Transportation.

f. It is beyond the Board's jurisdiction to specify the size of the vehicle owned by the applicant. However, as hereinafter conditioned, there shall be no obstruction of the sidewalk by any vehicle parked in the proposed space.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing finding of fact and the evidence of record, the Board concludes that the applicant is seeking an area variance, the granting of which requires proof, through substantial evidence, of a practical difficulty which is inherent in the property itself. The Board concludes that the shape of the lot and the configuration of the existing flat create such a condition and make it impractical to locate the parking space ten feet from the rear wall of the structure as required by the Zoning Regulations.

The Board concludes that the requested relief can be granted, as hereinafter conditioned, without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. The Board concludes that it has accorded to the Advisory Neighborhood Commission the great weight to which it is entitled.

It is therefore hereby ORDERED that the application is GRANTED SUBJECT to the CONDITION that no vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.

VOTE: 5-0 (Carrie L. Thornhill, Douglas J. Patton, William F. McIntosh, Maybelle T. Bennett and Charles R. Norris 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: AUG 15 1983

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 CONSUMER AND REGULATORY AFFAIRS.

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