GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14182, of Greenbaum Brothers Joint Venture, as amended, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the rear yard requirements (Sub-section 5303.1) to enclose a stairwell of an existing bookstore in a C-2-A District at premises 3131 M Street, N.W., (Square 1208, Lot 55).

HEARING DATES: September 26 and December 19, 1984
DECISION DATE: January 9, 1985

FINDINGS OF FACT:

1. The application was first scheduled for the public hearing of September 26, 1984. At that hearing, counsel requested a continuance of the hearing on the grounds that the architect had amended the plans so that the variances from the side yard requirements and the court niche requirements were no longer required. The Zoning Administrator had not had the opportunity to review the amended plans and to file a revised memorandum. In addition, counsel had only recently been retained to represent the applicant. There was no opposition to the continuance request. The Board continued the hearing to December 19, 1984.

2. At the public hearing of December 19, 1984, the applicant requested to amend its application to exclude the requests for variances from the side yard (Paragraph 5304.14) and court niche (Paragraph 5305.6) requirements of the Zoning Regulations. The Board granted the request. The applicant's revised plans, which were reviewed by the Zoning Administrator and made part of the application to the Board, extended the proposed rear yard enclosure from side lot line to side lot line. Therefore, the side yard and court niche variances were no longer necessary. The public hearing was limited to a request for a variance from the rear yard requirements (Sub-section 5303.1) of the Zoning Regulations.

3. The subject site is located on the north side of M Street between 31st Street and Wisconsin Avenue and is known as premises 3131 M Street, N.W. The site is located in a C-2-A District.

4. The subject site has an area of 2,952 square feet. It is improved with a one-story masonry and brick structure with partial basement approximately twenty-three feet in

height. The site has a twenty-four foot frontage on M Street and a depth of 123 feet. It is rectangular in shape.

5. The site is bounded by a ten foot wide public alley to the east, a commercial structure to the west and a ten foot wide public alley to the north. M Street is to the south. At the intersection of the north and east alleys, the alley widens to a width of twenty feet. All of the structures fronting on M Street in the subject square are commercial and retail establishments. Surrounding structures have one, two and three stories. The rears of the adjacent structures to the east extend approximately three feet farther toward the public alley than the structure on the subject site. The rears of the structures to the northeast and northwest of the subject site are built to the alley. The rears of the structures to the west of the subject site up to Wisconsin Avenue, do not extend as close to the alley as the subject structure.

6. The subject property is currently occupied by a long-term tenant, Crown Books Corporation ("Crown Books") which operates a chain of 183 bookstores serving the Washington area as well as other parts of the country. There are forty-three locations of Crown Books in the Washington area. The operation of a commercial bookstore in this zone is allowed as a matter-of-right.

7. Crown Books advertises nationwide. Its financial success depends on its reputation as a well-stocked discount bookstore.

8. Before opening the store, Crown Books determined that a rear addition to the subject property was necessary to accommodate the minimum requirements for the operation of the bookstore. Plans were initially drawn which would have extended the subject property to the rear lot line of the subject property. After meeting with the Advisory Neighborhood Commission (ANC 2E), which opposed the addition as planned, Crown Books revised its plans with its architect. The proposed addition extended the existing facility by 17.78 feet, satisfying the fifteen foot rear yard requirement of the Zoning Regulations. As constructed, the rear addition contained an outdoor stairwell leading from the at-grade level to the basement. The basement contains washroom facilities for the employees. The purpose of the stairwell is for the employees to reach the bathroom in the basement.

9. The applicant applied for a building permit for the subject rear addition. The permit, which was issued on February 17, 1983, allowed for the construction of an exterior below-grade stairwell leading to the basement. The basement contains washrooms for the employees of Crown

Books. The basement area is not used for any other purposes.

10. Following completion of the addition, Crown Books applied for a certificate of occupancy for the operation of its bookstore. The health inspector who visited the site said he could not issue the certificate of occupancy until the outside stairwell leading to the basement was enclosed. Relying on his advice, Crown Books constructed a wooden enclosure around the stairwell. The certificate of occupancy was issued on May 17, 1983.

11. Crown Books began sales operations at the premises in late May, 1983. The applicant was thereafter notified that it was violating the District of Columbia Building Code because the wooden structure enclosing the stairwell was made of a combustible material "without obtaining a building permit and Fine Arts and Land Mark approval." The applicant was directed to submit revised plans to the Zoning Division, Engineering Branch, Department of Consumer and Regulatory Affairs to cure the building code violation. The applicant submitted new plans to the Zoning Division. The plans were rejected because they did not meet the requirements of the Zoning Regulations as to rear yard, side yard and court niche.

12. The applicant now proposes to construct a masonry stairwell enclosure that conforms with the Building Code, but requires a five foot rear yard variance from the Zoning Regulations. The resulting rear yard will be ten feet measured to the centerline of the rear alley as authorized by Sub-section 5303.2 of the Zoning Regulations. The enclosure is approximately 22.5 feet wide and five feet long. It is approximately eight feet in height and slopes to the rear alley to approximately six feet in height.

13. Even with the rear yard addition of the store, the subject store can carry only 7,000 titles. The prototype for a typical Crown Book store is 10,000 titles. If Crown Books were required to relocate the stairwell inside the existing structure there would be decreased sales space and the ability to stock another 1,500 titles would be lost. These titles would include books for children and books on travel and religion. These books are provided for the convenience of the Crown Books customers.

14. The applicant's partnership includes individuals who are long-time residents of the area. They have an interest in having a long-term tenant on the premises who will keep the property in good condition and make it attractive to customers who come to do business in the Georgetown area. The applicant testified that nationally-known companies that benefit the neighborhood by drawing customers to the general area are difficult to locate.

Crown Books is one such tenant. Even if the premises were to be relet, the applicant would still have the same practical difficulty of an existing violation of the rear yard requirements of the Zoning Regulations.

15. The site is long and narrow. There is not a full basement. The partial basement is used only for washroom facilities. The site of the former Woolworth's store in the same block is more than sixty feet wide. The structure on the site contains only one story, while the typical building in the area has two or three stories.

16. The stairwell enclosure cannot be viewed from M Street. The configuration of the site allows for turning movement into the ten foot alley to the east and rear of the subject site.

17. The rear of the subject property is not used for parking or loading and unloading. Delivery to the store is from M Street and is accomplished in the early off-peak morning hours.

18. An adjoining property owner, by letter of October 5, 1984, recommended that the application be denied. The owner reported that the proposed addition, which is built, renders the alley intersection useless and causes drastic inconvenience to cars trying to negotiate this intersection. In addition to building into the required rear yard, the applicant has also erected steel bollards one foot into the alley to protect the building.

19. Advisory Neighborhood Commission (ANC) 2E, by report filed September 10, 1984, recommended denial of the application. The ANC reported that the site is not unique. It is of a flat topography and similar to almost all of the other lots on the subject block. The only off-street service point for the subject building, including parking and loading across, is located in the rear off the alley. The structure fronts on M Street just before Wisconsin Avenue in a critical traffic location. The subject property is located adjacent to the intersections of the alleys in this block and the building's location critically affects the usefulness of the adjoining alleys. It was the ANC's opinion that granting the requested variance would detrimentally affect the use of the adjoining alleys and would require that future service to this premises, regardless of who the future tenants may be, take place either by blocking M Street at a critical location, or by blocking the alley which is an important internal circulation artery in this block. The ANC further reported that prior to any renovation work on the subject site, the rear yard measured twenty-eight feet. The complete addition reduced the rear yard to ten feet. The Board does not concur in the ANC recommendation.

20. The Board is required by statute to give "great weight" to the issues and concerns of the ANC reduced to writing. In addressing these concerns as well as other opposition, the Board finds that the requested rear yard variance has no relationship to the alleged traffic conditions in the alley. The Board finds that the public alley to the north is and has been for some time ten feet wide. The alley will remain ten feet wide. It appears that the ANC is suggesting that motorists could traverse the private property of the applicant in order to better maneuver their cars in the alley. The existence of the subject enclosure does not itself cloud the visibility throughout this alley. The rear of the structures to the northeast, northwest and directly west of the subject site are built to the alley and in most cases are two-story structures. The only clear visibility is to the west of the site towards Wisconsin Avenue. The subject enclosure does not block any light or air to the surrounding sites in the aforesaid directions. Also, the surrounding structures are not residential but commercial. The proposed relief creates no substantial detriment to the public good. The Board finds that the relief requested is a reasonable request that by itself has no adverse impact on adjoining or nearby property. The subject lot is dissimilar to many lots in the square in that its improvements do not eliminate a rear yard entirely.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking an area variance, the granting of which requires the showing of an exceptional or extraordinary situation or condition which causes a practical difficulty for the owner and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan.

The Board concludes that, as found in Finding No. 20, the practical difficulty does exist. The stairwell enclosure will not interfere with alley servicing. There is sufficient room to maneuver cars in the rear alley. All loading and deliveries are made through the front entrance on M Street, N.W. during off-peak hours.

The Board concludes that the applicant is before the Board because it relied, although imprudently, on the advice of government officials of the District of Columbia allegedly familiar with District laws and regulations in meeting building and health code requirements. The applicant appears to have been unaware that it was violating the Zoning Regulations while satisfying the health and building Code requirements. The Board concludes that Crown Books depends on its nationally advertised reputation as a

bookstore chain that can provide discount books for area residents. If Crown Books had to relocate the stairwell inside existing space, there would be decreased sales space. The Board concludes that Crown Books could not function as effectively if it could not stock at least 7,000 titles and use 2,700 square feet of space, which is less than the prototype requirements for a Crown Books store of 10,000 titles and 3,000 square feet.

The Board further concludes that the requested relief can be granted 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 Crown Books serves the needs of the Georgetown community by providing discounts books and attracting customers to other retail shops in the area.

The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled. Accordingly, it is ORDERED that this application for a rear yard variance is hereby GRANTED.

VOTE: 4-0 (Charles R. Norris, George M. White, Carrie L. Thornhill and William F. McIntosh to grant; Douglas J. Patton 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: 5 MAR 1985

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.

14182order/LJPC

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

APPLICATION NO. 14182

As Executive Director of the Board ( I hereby certify and attest to the fact Order of the Board in the above numbere dated 5 MAR 1985, have been ma: to the following parties who appeared a the public hearing concerning this matte

J. Kirkwood White, Esq.
655 15th Street, N.W.
Wash, D.C. 20005

William A. Cochran, Chairperson
Advisory Neighborhood Commission 2-E
1041 Wisconsin Avenue, N.W.
Washington, D. C. 20007

PS Form 3800, Feb. 1982

14182

| | |
|---|---|
| Postmark or Date | |
| TOTAL Postage and Fees | $ |
| Return Receipt Showing to whom, Date, and Address of Delivery | |
| Return Receipt Showing to whom and Date Delivered | |
| Restricted Delivery Fee | |
| Special Delivery Fee | |
| Certified Fee | |
| Postage | $ |
| P.O., State and ZIP Code | |
| Street and No. | |
| Sent to | |

(See Reverse)

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL

RECEIPT FOR CERTIFIED MAIL

P 513 331 294

STEVEN E. SHER
EXECUTIVE DIRECTOR

Date: 5 MAR 1985