GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14345 of Mr. & Mrs. Hal Weiner, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the rear yard requirements (Sub-section 3304.1), the side yard requirements (Sub-section 3305.1) and the open court width requirements (Sub-section 3306.1) to construct a breezeway between the existing dwelling and the existing playhouse in an R-1-B District at premises 4330 Yuma Street, N.W., (Square 1644, Lot 28).

HEARING DATE: October 9, 1985
DECISION DATE: November 6, 1985

FINDINGS OF FACT:

1. The subject site, known as premises 4330 Yuma Street, N.W., is located on the south side of Yuma Street between 43rd and 44th Streets. It is located in the R-1-B District.

2. The subject site is rectangular in shape with a frontage of 104 feet along Yuma Street and a depth of 107.15 feet. A 16 foot wide public alley is adjacent to the southeast corner of the site.

3. The subject site is improved with a two story single-family detached home and a two story detached playhouse. The main structure was constructed circa 1875. The current Zoning Regulations went into effect May 12, 1958 at which time the subject site became nonconforming.

4. The R-1-B District extends in all directions from the subject site. The neighborhood is developed with single-family detached homes.

5. The applicants, pursuant to Paragraph 8207.11 of the Zoning Regulations, are seeking variances from the rear yard requirements (Sub-section 3304.1) the side yard requirements (Sub-section 3305.1) and the open court width requirements (Sub-section 3306.1) to construct an enclosed breezeway between the existing dwelling and the existing playhouse.

6. Paragraph 8207.11 authorizes the Board of Zoning Adjustments to grant area variances where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation

or condition of a specific piece of property, the strict application of any regulation adopted under this Act would result in peculiar and exceptional practical difficulties to the owner of such property provided such 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.

7. The main structure is the original farmhouse for the area and sits at a 45 degree angle to both the street grid and the surrounding properties. When the property was subdivided in the 1930's the lot line was cut five feet from the original corner of the house creating a triangular-shaped rear yard.

8. A garage was constructed in the southwest corner of the property in the 1930's. The garage was later remodeled into the current playhouse.

9. The applicant originally proposed to construct a second story breezeway which would be open below to connect the house to the playhouse. This would represent the most logical connection consistent with the existing circulation pattern in the main house. The breezeway at the second level would be connected to a central hall and would provide convenient access to the bathrooms and bedrooms of the children who will be using the playroom. If located at the ground level, the breezeway would connect to the living room and guest bedroom which would create an undesirable circulation pattern.

10. In order to minimize the visual effect that the proposed addition would have on neighboring property, the applicants modified the plan to locate the breezeway on the first floor. The variances requested were not altered by this modification.

11. Connecting the playhouse to the main house converts the playhouse to part of the principle dwelling and as such it must meet the setback requirements for a dwelling in the R-1-B District. The Zoning Regulations require a side yard of eight feet and a rear yard of 25 feet. When the playhouse was constructed in the 1930's, it was located adjacent to the side lot line and two feet from the rear lot line. Thus a variance of eight feet, or 100 percent, is required for the side yard, and a variance of 23 feet, or 92 percent, for the rear yard.

12. The construction of the breezeway creates an open court which is required to be six feet wide. The location of the existing structures causes the court to be only three feet wide or 50 percent, less than the distance required by the regulations.

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13. The breezeway is intened to economically provide additional space which is needed for the applicants' growing family without changing the character and scale of the existing structures on the site. The alternative to the proposed breezeway would be to further enlarge the house.

14. The playhouse is currently unheated and therefore uninhabitable in cold weather. Also, it contains no plumbing facilities. If the breezeway is constructed, the playhouse will be heated with electric heat. When the children no longer live at home the playhouse will be used as a den or studio. It will not be used as a separate apartment or to house a business.

15. The house has recently been renovated and enlarged. All work done was approved by the Zoning Administrator.

16. The proposed addition's adverse effects on neighboring property would be minimal since the subject site is elevated above adjoining properties to the west and south. The patio level the site is above the second floor elevation of adjoining houses.

17. A stockade fence is located at the side property line. The rear yard is not visible from neighboring properties and the house is only visible from the second floor windows of the bedrooms of houses on neighboring property.

18. Advisory Neighborhood Commission 3E submitted no report on the subject application.

19. An owner of property adjacent to the subject site at its southwest corner testified that he was in opposition to the proposed breezeway. He objected to the existing violations on the site namely, the intrusions into the rear and side yard by the existing house and the "illegal" conversion of the garage into a non - complying accessory building. He stated that the applicant should not be able to add on to a structure which is nonconforming. He further stated that if the breezeway were on the first level it would be screened by the heavy vegetation he maintains at the property line. If it were to be on the second floor, it would be above his house. While the applicant met with the property owner in opposition and made the concession of removing the breezeway from the second to the first floor, the adjacent property owner remained opposed to the subject application stating that the type of hardship that the variance process is supposed to relieve is not applicable to the subject application.

20. The Board find that the applicant's architect testified that any additions made to the main structure were reviewed and approved by the Zoning Administrator. The only proposal that is before the Board is to construct a breezeway connecting the main house to the playhouse. If the neighboring property owner in opposition is of the opinion that zoning violations exist on the site, he should contact the Zoning Enforcement Branch of the Department of Consumer and Regulatory Affairs. If he does not agree with the Zoning Administrator's decision as to which areas of relief are necessary, he may appeal that decision. The Board further finds that the house and garage constructed in the 1930's became nonconforming as to side and rear yard setbacks in 1958 with the adoption of the current regulations. The Board further finds that the applicants met with the neighbor in opposition and modified their plans as a result of that meeting. The proposed location of the breezway at the ground level will have no substantial negative impacts on neighboring property.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicants are seeking area variances, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the relief requested can be granted without substantial detriment to the public good and that it will not substantially impair the intent of the zone plan.

The Board concludes that the applicants have met the burden of proof. The subject lot is a nonconforming lot. The rear and one side yard do not meet the requirements of 25 and eight feet respectively. The proposed breezeway will not increase the encroachment into the required setback area. The setbacks were created when the property was subdivided in the 1930's. The Board further notes that because of screening and the grade difference between the subject site and adjoining properties, the proposed addition will not have adverse impacts on these properties. The Board further concludes that granting the proposed relief will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan.

ACCORDINGLY, it is hereby ORDERED that the application is GRANTED.

VOTE: 3-1 (Charles R. Norris, Lindsley Williams, and Carrie L. Thornhill to grant; William F. McIntosh opposed; Douglas J. Patton not present,

not voting).

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

ATTESTED BY: _____
CECIL B. TUCKER
Acting Executive Director

FINAL DATE OF ORDER: 19 FEB 1986

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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