GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14921 of Iola B. and Virgust Cunningham, pursuant to 11 DCMR 3107.2, for a variance from the use provisions (Sub-section 330.5) to allow a retail laundromat on the first floor in an R-4 District at premises 335 - 15th Street, N.E., [Square 4564, Lot 64 (811)].

HEARING DATE: January 18, 1989
DECISION DATE: January 18, 1989 (Bench Decision)

FINDINGS OF FACT:

1. The property is located on the east side of 15th Street between C and D Streets and is known as premises 335 - 15th Street, N.E. It is zoned R-4.

2. The property is generally rectangular in shape with a frontage of 66.7 feet along 15th Street and a depth of approximately 120 feet.

3. The property is improved with a one-story brick storefront row structure constructed in approximately 1939 which is currently occupied as a church pursuant to Certificate of Occupancy No. B-82885, dated March 21, 1974. Prior to occupancy by the church, the property housed a retail establishment for the sale of office supplies pursuant to BZA Order No. 7314, dated June 18, 1963.

4. The surrounding area is predominantly developed with residential uses typical of the R-4 District including semi-detached, row dwellings, flats and small apartment buildings. There are also several small nonconforming uses in the general area including grocery stores, a beauty/barber shop, and a liquor store.

5. The applicant proposes to establish a laundromat at the subject premises which would be used primarily by walk-in residents in the surrounding neighborhood. The proposed laundromat would contain forty washers and forty dryers. The hours of operation of the facility would be from 7:00 A.M. to 11:00 P.M. There would be a total of four employees, generally two of which would be present at any given time. Parking would be provided at the rear of the site.

6. The current use of the site as a church is permitted as a matter-of-right in the R-4 District. The

proposed laundromat use is first permitted as a matter-of-right in the C-1 District. The applicant is therefore seeking a use variance to establish the proposed use.

7. The existing church desires to relocate the church use to another site because the subject premises provide no room for growth or expansion and has limited parking available for parishioners' use. The church has unsuccessfully attempted to market the subject site for sale for approximately three years. The proceeds from the sale of the premises would enable the church to purchase another site on which to construct a larger church.

8. The contract purchaser testified that the subject property was constructed in 1939 for commercial purposes and is inappropriate for residential use. The structure is built to the property lines along both the north and south sides. The north side of the structure abuts a 16 feet wide public alley. The south side of the structure abuts an adjacent building. This condition precludes the provision of windows and natural lighting along the entire depth of the building. The only natural lighting currently provided in the structure is through the storefront-type windows at the front of the building and from a skylight located at the midpoint of the building. The existing lighting would be inadequate to meet present residential code requirements.

9. The contract-purchaser further testified that the interior of the structure provides for a 12 foot high ceiling which is normal for commercial use. The present commercial configuration of the building, and the lack of opportunity to extend the site, would be prohibitive to residential redevelopment. The maximum residential profile would allow three two-bedroom apartments. However, the construction and operating costs would be prohibitive since the rental rates would be excessively higher than the prevailing market values in the area.

10. The contract-purchaser testified that the proposed facility would have no negative impact on the surrounding area in that the building would be renovated; the proposed use would provide a needed neighborhood service; there are other commercial neighborhood facilities in the area; and there would be no change in the architectural environment of the area.

11. The Office of Planning (OP), by memorandum dated January 10, 1989, recommended that the application be denied. The OP noted that there are no commercial establishments located in the subject block. The OP was of the opinion that the establishment of a commercial use at the subject site would be likely to impact the surrounding area adversely.

12. Advisory Neighborhood Commission (ANC) 6A, by correspondence dated October 11 and December 12, 1988 and January 10, 1989, and by representative at the public hearing, opposed the granting of the application. The ANC was of the opinion that the proposed use is not in keeping with the master plan for development in the area; alternative profitable uses are available, including but not limited to new housing, day care, a senior citizens center, or a new church; and there is no demonstrated need for the facility expressed by area residents.

13. The Capitol Hill Restoration Society (CHRS), by letter dated January 17, 1989, opposed the granting of the application. The CHRS was of the opinion that the applicant had failed to meet the stringent standard necessary to justify the granting of a use variance.

14. The record contains several letters and a petition in support of the application and and two persons testified at the public hearing in support of the application. The support was generally based on the contract-purchaser's history of operating and maintaining similar facilities in an impeccable manner in other areas of the city and the need for economic revitalization in the subject area.

15. There were several persons present at the public hearing in opposition to the application. The Board determined that testimony in opposition to the application was not necessary because the burden of proof rests with the applicant and the Board determined that the applicant had failed to demonstrate that the property was affected by an extraordinary or exceptional condition which would preclude its reasonable use for a purpose permitted within the zoning district in which the property is located.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking a use variance, the granting of which requires proof of an undue hardship upon the owner due to an exceptional or extraordinary situation inherent in the property itself. The Board concludes that the applicant has not met the requisite burden of proof. The Board concludes that although the existing structure pre-dates the adoption of the Zoning Regulations in 1958 and was previously used for commercial purposes, the current use of the property for a church, permitted as a matter-of-right in the R-4 District, evidences that there is no undue hardship upon the owner which precludes the reasonable use of the property for a purpose for which it is zoned. The Board concludes that the testimony that residential redevelopment of the site would be prohibited economically does not justify the granting of a use variance. In addition, the Board notes

that the applicant failed to address the feasibility of using the premises for any of the numberous other uses permitted as a matter-of-right in the R-4 District.

The Board further concludes that the requested relief can not 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. Accordingly, it is hereby ORDERED that the application be DENIED.

VOTE: 3-0 (William F. McIntosh, Paula L. Jewell and Charles R. Norris to deny; Lloyd Smith and Carrie L. Thornhill not present, not voting).

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

ATTESTED BY: _____
EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: SEP 4 1990

UNDER 11 DCMR 3103.1, "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."

14921order/BHS25

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

APPLICATION NO. 14921

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a letter has been mail to all parties, dated SEP 4 1990, and mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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403 - 16th Street, S.E.
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EDWARD L. CURRY
Executive Director

DATE: SEP 4 1990