GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 14947 of Mia Lovink, as amended, pursuant to 11 DCMR 3107.2, for a variance to allow an addition to a structure which now does not meet the rear yard requirements [Paragraphs 2001.3(b) and (c)], and a variance from the rear yard requirements (Sub-section 404.1) to construct an addition to a nonconforming dwelling in an R-3 District at premises 1405 30th Street, N.W., (Square 1258, Lot 831).

HEARING DATE: February 22 and June 21, 1989
DECISION DATE: July 5, 1989

FINDINGS OF FACT:

1. The application was originally scheduled for the public hearing of February 22, 1989. During the course of the applicant's presentation, evidence was presented that the Zoning Administration's computations were based on the dimensions of a large single lot which had subsequently been subdivided into two lots. The public hearing was deferred to allow for the submission of the correct plat and revised computations from the Zoning Administrator.

2. The applicant appeared on the preliminary agenda for the public hearing of June 21, 1989. The Affidavit of Posting was submitted two days prior to the public hearing instead of five days as required by the Rules. The applicant testified that the property was posted fifteen days as required by the Rules but that the affidavit was inadvertently filed later than required. The Chairperson waived the Rules and ruled that the application be heard as scheduled.

3. The property is located on the east side of 30th Street between O and P Streets and is known as premises 1405 - 30th Street, N.W. It is zoned R-3.

4. The site is irregularly shaped as an "L" with a frontage of approximately 16.27 feet along 30th Street for a depth of approximately 40 feet and a width of approximatelly 45.17 feet for a depth of approximatelly 22.87 feet at the the rear of the site. The average width of the lot is 30.72 square feet.

5. The site is topographically level and contains approximatelly 1,734 square feet of lot area.

6. The site is currently improved with a three story plus basement brick single family row dwelling. The subject dwelling was originally constructed in two phases as an addition to the adjacent nonconforming apartment house at 1403 - 30th Street. The main portion of the building was constructed in 1870. A small addition, including the kitchen, was constructed in approximately 1940. The site was subsequently subdivided to separate the subject single family dwelling from the apartment building at 1403 - 30th Street.

7. The surrounding area is predominantly developed with two- and three-story, large single family dwellings typical of homes within the Georgetown Historic District. There is also a five-story garden apartment located within the subject square.

8. The R-3 District permits a maximum lot occupancy for row dwellings of sixty percent or 1,040 square feet. The subject dwelling occupies 607.13 square feet of the lot. The minimum lot size required for a row dwelling in the R-3 District is 2,000 square feet. The subject lot contains 1,734 square feet.

9. The existing dwelling is currently nonconforming with respect to the rear yard requirements. The R-3 District provides for a minimum rear yard of twenty feet. The existing rear yard of the subject site is 10.51 feet.

10. The applicant proposes to construct a one-story addition to the first floor level of the existing dwelling to provide convenient eating space for the existing small kitchen. As presently configured, the existing kitchen seats two persons with no adjacent dining room. The dining room was originally located in the basement of the dwelling accessed by a narrow interior staircase. The dwelling is currently occupied by a family of four with a roomer occupying the basement area.

11. The proposed rear addition would measure six by twelve feet in area and would be of brick materials with no windows. Light for the addition will be provided through three rooftop skylights. The resulting rear yard would measure four feet. A variance from the rear yard requirements of sixteen feet or eighty percent is required. The lot occupancy would be 679.173 square feet or 39.1 percent.

12. The existing dwelling is set back from the front property line approximatelly 24.15 feet. There is a fifteen foot building restriction line at the front of the site.

The applicant is unable to enlarge the existing dwelling to the front because the property's location in an historic district precludes alteration of the building's facade.

13. Due to the irregular shape of the lot, the configuration of the existing dwelling on the lot, and its location in the Georgtown Historic District, the only addition to the existing dwelling which could be constructed as a matter-of-right would extend from the northeast portion of the main dwelling to the northern property line and would measure approximatelly 29.5 feet by 2.87 feet in area. Such addition would not be convenient to the existing kitchen which the applicant seeks to enlarge, nor would an addition of such dimensions serve any useful dwelling function.

14. The proposed addition would extend approximately six feet from the rear of the existing dwelling. The rear of the proposed addition would be even with the rear wall of the adjacent structure at 1403 - 30th Street.

15. The Office of Planning (OP), by memorandum dated June 14, 1989, recommended that the application be denied. The OP was of the opinion that the property is not affected by an exceptional or extraordinary condition. The OP was further of the opinion that the resultant four-foot rear yard is extremely small and is inconsistent with the Zoning Regulations. The Board does not concur with the recommendation of the OP.

16. Advisory Neighborhood Commission 2E, by letter dated June 8, 1989, opposed the granting of the application. The ANC was of the opinion that a variance from the requirements of the Zoning Regulations is inappropriate because the applicant did not show exceptional practical difficulties or undue hardship which would render enforcement of the Zoning Regulations to the applicant's property unfair.

17. Two neighboring property owners testified at the public hearing and the record contains several letters from neighboring property owners in opposition to the granting of the application. The opposition is summarized as follows:

a. The existing structure already exceeds the allowable percentage of lot occupancy and does not comply with the 20 foot rear yard requirement.

b. The proposed addition will detract from the aesthetic quality of the neighborhood.

c. The proposed addition will adversely impact the privacy, light and air to the property 2917 O Street, N.W.

d. Other additions could be added on top of the proposed structure if approved.

e. The premises are currently used for an apartment house rather than as a single family dwelling.

f. The proposed addition would block four existing windows at the rear of the subject building.

g. The proposed addition would encroach on the property of 1403 - 30th Street.

18. In addressing the issues and concerns raised by the ANC and the opposition, the Board finds as follows:

a. Based on the Zoning Administrator's computations dated April 18, 1989, and the plat upon which those computations were based, neither the existing structure nor the existing structure plus the proposed addition exceeds the permitted lot occupancy for the R-3 District.

b. There is no evidence in the record that the subject structure is used illegally nor that the proposed addition will encroach upon any adjoining property.

c. Any further additions to the subject structure atop the proposed addition would require BZA review and approval due to the existing and proposed noncompliance with the rear yard requirements of the R-3 District.

d. The addition will not alter the facade of the subject structure. In addition, the small size of the addition and the fact that it does not protrude beyond the wall of the adjoing structure would result in minimal impacts on neighboring properties.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and the evidence or record, the Board concludes that the applicant is seeking area variances, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some exceptional or extraordinary situation or condition of the property. The Board further must find that the relief will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of the Zone Plan.

The Board concludes that the applicant has met the requisite burden of proof. The irregular shape of the site, the small size of the lot, the existing location and configuration of the structure which predates the Zoning Regulations and its location in an historic district create an exceptional condition of the property.

The Board further concludes that permitting the proposed small addition, as designed, will not alter the facade of the structure, the existing character of the neighborhood, nor result in a substantial impact on the light, air, or privacy of adjoining properties.

The Board concludes that it has accorded the ANC the "great weight" to which it is entitled. The Board further concludes that the required 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. Accordingly, it is ORDERED that the application is hereby GRANTED.

VOTE: 3-0 (Charles R. Norris, Paula L. Jewell and William F. McIntosh to grant; Carrie L. Thornhill not voting, not having heard the case).

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

ATTESTED BY: _____
EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: JAN 29 1990

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

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."

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.

14947order/BHS15

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

APPLICATION No. 14947

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 _____, and mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Mia Lovink
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Rory F. Quirk, Chairperson
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Charles O. Graham
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Gertrude Osborne
2917 O Street, N.W.
D.C. 20007

EDWARD L. CURRY
Executive Director

DATE: _____