GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 15126 of Richard Brillantine, pursuant to 11 DCMR 3108.1, for a special exception under Section 353 and 401.3 for new residential development and the minimum lot area and width of a 3-unit apartment house in an R-5-A District at premises 402 Burbank Street, S.E., (Square E-5398, Lot 30).

HEARING DATE: September 26, 1989
DECISION DATE: October 4, 1989

FINDINGS OF FACT:

1. The property is located at the southeast corner of the intersection of Burbank and D Streets and is known as premises 402 Burbank Street, S.E. It is zoned R-5-A.

2. The property is triangular in shape with a frontage of 136.70 feet to the north along D Street, 60.18 feet to the west along Burbank Street, and 122.26 to the south.

3. The property is currently unimproved and has a lot area of approximately 3,672 square feet.

4. The applicant proposes to construct a three-unit apartment building on the site. Section 353 of the Zoning Regulations allows the proposed use subject to special exception approval by the Board.

5. The R-5-A District permits a maximum lot occupancy for the subject site of forty percent or 1,468.8 square feet; a floor area ratio of 0.9 or 3,304.8 square feet; a minimum side yard of eight feet; a minimum rear yard of twenty feet; and a minimum of one parking space per dwelling unit.

6. The proposed apartment building will provide for a lot occupancy of approximately 790.58 square feet or 21.53 percent of the lot; a floor area ratio of 0.52 or 1,905 square feet; minimum side yards of eight feet; an average rear yard of 44.3 feet; and three on-site parking spaces in conformance with the area requirements of the R-5-A District. The proposed three story apartment building will contain one one-bedroom unit on the ground floor and two two-bedroom units.

7. The area surrounding the site is primarily developed with semi-detached single-family dwellings and scattered

garden-type apartment buildings. Fort Chaplin Park is located approximately two blocks to the northwest. Fort Dupont Park is located approximately three blocks to the south. Woodlawn Cemetery is located to the east of the site.

8. The applicant's representative testified that the design of the proposed apartment building is generally consistent with the nearby semi-detached dwellings in terms of height, bulk, and architectural design.

9. The applicant's representative further testified that the small size and irregular shape of the lot combined with the existing fifteen foot building restriction line along the D Street frontage makes development of the site for detached or semi-detached dwellings unfeasible. The minimum lot area requirement for detached and semi-detached dwellings are 4,000 square feet and 3,000 square feet per dwelling respectively. The subject site contains less than 4,000 square feet.

10. By memorandum dated July 6, 1989, the Superintendent, D.C. Public Schools, offered no opposition to the proposed apartment building. The Superintendent indicated that nearby schools should adequately accommodate any student population which is generated by the proposed development.

11. By memorandum dated August 30, 1989, the D.C. Department of Public Works (DPW) offered no objection to the proposed project. The DPW was of the opinion that, from a traffic perspective, the proposed construction of a three-unit apartment building with three on-site parking spaces will not have an adverse impact on the local transportation system.

12. By memorandum dated August 31, 1989, the D.C. Department of Housing and Community Development offered general support for the proposed project with the recommendation that the applicant restudy (a) the design of the building to accommodate additional direct lighting into the basement unit and (b) the proposed on-site parking layout so that three parking spaces are accommodated on the property. The Board notes that the applicant has modified his original proposal in order to provide three on-site parking spaces as required by the Zoning Regulations.

13. By memorandum dated September 19, 1989, the Office of Planning (OP) recommended that the application be approved with the following conditions:

a. All on-site outdoor parking spaces must be adequately screened from adjacent properties with fencing and/or appropriate and densely planted landscaping (i.e. - shrubbery);

b. The architecture, exterior materials and color of the proposed structure must be compatible with that of the surrounding residential structures;

c. The open spaces around the apartment building must be appropriately and adequately landscaped and plant material must be maintained in a healthy growing condition at all times; and

d. The property must be kept clear of trash, litter and debris at all times.

The OP was of the opinion that the proposed development complies with the R-5-A District regulations and that it will not have serious adverse impact on the surrounding properties or the neighborhood in general.

14. The record contains memorandum from the D.C. Fire and Police Departments, the Office of Business and Economic Development, the Department of Finance and Revenue, and the Department of Recreation. None of the above-listed city agencies expressed opposition to the proposed apartment building.

15. Advisory Neighborhood Commission (ANC) 7F, by letter dated September 20, 1989, opposed the granting of the application. The ANC was of the opinion that the proposed structure is too great for the limited amount of space available.

16. The record contains several letters in opposition to the application and several nearby property owners testified at the public hearing in opposition to the proposed project. The opposition was generally based on the following:

a. The use of the site as a three-unit apartment building is not in keeping with the predominant development of the neighborhood for semi-detached dwellings.

b. The proposed use will result in an increase in competition for existing on-street parking which is currently inadequate to meet neighborhood parking demands.

c. The lot is too small to accommodate the proposed apartment building and should be developed with a single-family detached dwelling or two semi-detached dwellings in keeping with surrounding development.

d. The proposed apartment building will reduce the privacy of the adjacent dwelling and reduce property values in the area.

e. The applicant does not propose to provide a sidewalk in the public space adjoining the subject lot.

17. In addressing the issues and concerns of the ANC and the opposition, the Board finds as follows:

a. The development of the site as an apartment house is permitted in the R-5-A District as a special exception if the Board finds that adequate public services are provided and that the project will not affect adversely the use of neighboring property.

b. The applicant is providing three on-site parking spaces as required by the Zoning Regulations. The project, therefore, should have minimal impact on the demand for on-street parking in the neighborhood.

c. There was no substantive evidence to support the allegation that the proposed development would infringe on the privacy of the adjoining residence or reduce property values in the area.

d. The development of public space is not within the Board's jurisdiction. The issue regarding the installation of a public sidewalk should be addressed to the appropriate authorities by the property owners in the area and the applicant.

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 special exception. In order to be granted the required special exception relief, the applicant must demonstrate substantial compliance with the requirements of 11 DCMR 3108.1 and 353. The Board concludes that the applicant has met the requisite burden of proof.

Based on reports of the various government agencies, the Board concludes that there are adequate public facilities in the area to serve the proposed development. The Board concludes that the site plan is a reasonable development for the site and that it provides ample light, air, parking and amenity on the site. The Board concludes that the proposed three-unit apartment building is compatible with the adjoining development of semi-detached dwellings in terms of bulk and design.

The Board further concludes that the requested relief can be granted as in harmony with the general intent and purpose of the Zoning Regulations and map and will not tend to affect adversely the use of neighboring property in

accordance with said Zoning Regulations and Maps. It is therefore ORDERED that the application is GRANTED with the CONDITION that construction shall be in accordance with the revised plans marked as Exhibit No. 13C of the record.

VOTE: 3-0 (William F. McIntosh, Paula L. Jewell and Carrie L. Thornhill to grant; William Ensign not present, not voting; Charles R. Norris 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: _____

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.

15126order/LJP58

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

APPLICATION No. 15126

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:

Richard Brillantine
7120 Towles Mill Road
Spotsylvania County, VA 22553

Magnus R. Blanchette
3800 Nash Street, S.E.
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Willie & Louvenia Parker
404 Burbank Street, S.E.
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Morford L. Jenkins
409 Burbank Street, S.E.
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Martharene S. Smarr, Chairperson
Advisory Neighborhood Commission 7-F
Plummer School Demountable, Room 36
Texas Avenue & C Street, S.E.
Washington, D. C. 20019

EDWARD L. CURRY
Executive Director

DATE: _____