GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 15800 of Martin J. Scherr and Jeanne Connelly, pursuant to 11 DCMR 3107.2, for a variance from the allowable percentage of lot occuancy requirements (Subsection 403.2), a variance from the rear yard requirements (Subsection 404.1), and a variance from the minimum width and area requirements for a closed court (Subsection 406.1) to allow an addition to a garage and exterior stairs to a row structure in an R-3 District at premises 2237 Bancroft Place, N.W. (Square 2529, Lot 296).

HEARING DATE: March 17, 1993
DECISION DATES: April 7 and April 21, 1993

ORDER

The property which is the subject of this application is known as 2237 Bancroft Place, N.W. It is located on the north side of the street between 23rd Street and Phelps Place N.W. and it is zoned R-3.

The lot contains 2,075.2 square feet of land area. It is improved with a three-story, single-family row dwelling, the first story of which is considered the basement located on ground level.

The applicant stated that one enters the house from the front at the basement level. There is a foyer, a utility room, a boiler room and a bedroom at the rear. There are stairs in the foyer leading to the second story. The kitchen, living room and dining room are all on the second story. Bedrooms are located on the third floor of the structure.

The applicant stated that there is a porch at the rear of the house at the second story. There is also an accessory garage at the rearmost portion of the rear yard. A 15-foot public alley abuts the north (rear) and west of the site. There is a closed court between the house and the garage.

The applicants testified that the garage is in a delapidated condition and needs to be replaced.

The applicants maintain that the existing garage is too small to accommodate their two cars (one compact and one midsized). They propose to enlarge the garage by extending it 1 1/2 feet to the side toward the adjacent property and 3 1/2 feet toward the rear of the house. This expansion will provide space for their two cars and allow them to put a door on the garage that closes.

The applicants also testified that there is currently no access directly from the rear of the house to the second floor living area. Therefore, the applicants propose to add stairs at the northeast corner of the rear of the house between the garage and the house. The stairs will provide access from the ground floor level to the second story porch where there is an entry way into the house.

The maximum allowable lot occupancy for the R-3 District is 60 percent or, 1,245.12 square feet for the subject property. After the proposed construction, the lot occupancy would be 1,670.99 square feet, exceeding the allowable lot occupancy by 425.87 square feet (34 percent). Therefore, the applicants are requesting a lot occupancy variance under Subsection 403.2.

The rear yard requirement for the R-3 District is 20 feet. With the addition, the rear yard would measure 1.92 feet. Therefore, the applicants are seeking a rear yard variance in the amount of 18.08 feet (90 percent).

Because the existing lot occupancy exceeds what is allowed, and the existing rear yard does not meet the requirement, the applicants are requesting a variance under Subsection 2001.3(a) and (c) to extend the existing nonconforming aspects of their lot.

A width of 15 feet and an area of 350 square feet are required for a closed court in the R-3 District. The applicants would provide 12.25 feet in width and 45.82 square feet in area. Consequently, they are requesting a variance from the closed court requirements in the amount of 2.75 feet (18 percent) for the width and 304.18 square feet (87 percent) for the area.

CONTESTED ISSUES AND ARGUMENTS:

1. Whether the subject property is unique or exceptional?

The applicants testified that their property is unique in a number of ways. They stated that theirs is one of three townhouses, and while the structures are similar and the fronts look alike, their lot is smaller than the other lots.

They also testified that their lot has a triangular shape at the rear off from the alley. They noted that other lots have larger garages than theirs. Also, theirs is the only house without access to the second floor from the outside ground level at the rear.

The applicants testified that there is a small unusable space between their house and that of the adjacent neighbor. This space is angled with a large cement block in front of it and wooden slats

built into the space. Only the applicants' adjacent neighbors can access this space by standing on top of their wall.

2. Do the owners face a practical difficulty in making reasonable use of the property because of the physical characteristics of the property?

The applicants testified that because their lot is smaller than others, they have less flexibility in creating options to address their needs.

The applicants testified that because of the triangular shape at the rear lot line they cannot extend the garage to the rear. The garage which measures 18.5 feet by 17.67 feet (327 square feet) is too small for their two cars.

The applicants testified that the stairs are needed for access to the main living space on the second floor. Having the stairs will promote security and fire safety for the residents of the house.

The applicants testified that installing a spiral staircase is not feasible because it would be difficult for older family members to use. They stated that it would not be feasible to eliminate the stairs from the proposal because the only existing access is to the lower level. To get to the main living area from this entrance, one has to go through their daughter's bedroom, through the utility room, then a boiler room, into the front foyer and up the stairs. The applicants do not believe that it is reasonable to have to go through a bedroom to gain access to the main living area of their house from the rear of the property.

By memorandum dated March 10, 1993, the Office of Planning (OP) recommended denial of the application. OP stated that the site has a 20-foot wide frontage on Bancroft Place. Also, a 10-foot wide building restriction line traverses the front of the property. The site is located in the Sheridan Kalorama Historic District.

OP stated that the immediate area surrounding the site is characterized by single-family row dwellings, flats, several embassies, low-rise apartments, and a parochial school. OP stated that the subject site is similar in size, shape and topography to other properties in the area. OP finds no practical difficulty inherent in the property that would justify the variances requested. OP stated that the subject property is nonconforming with regard to the depth of rear yard and lot occupancy. However, these characteristics are not enough to meet the practical difficulty test. With regard to the garage, OP stated that the applicants have enough space within the confines of the existing garage to accommodate two compact cars.

Responding to OP, the applicant stated that the garage appears too small for two cars and a door that closes.

3. Will the proposed changes have a detrimental impact on the area?

The applicants maintain that the proposal will not have a detrimental impact on the area. They testified that the garage will keep two cars from having to park on the street. Also, their plan will allow them to maintain more green space than other lots have.

Advisory Neighborhood Commission (ANC) 1D did not submit an official report on the application. However, the Single Member District Commissioners for ANC 1D-01 and 1D-02 submitted a letter stating that they have investigated the subject property and support the requested variance relief. They believe that the garage extension and the stairs to the second floor will improve the safety and the appearance of the property. The SMD Commissioners stated that they had numerous requests from neighbors of the applicants to support the variances because the proposed improvements are advantageous to the neighborhood.

By letter dated March 9, 1993, the president of the Sherian-Kalorama Neighborhood Council stated that he knows of no neighborhood opposition to the renovation project and the immediate neighbors support the project. Therefore, he requested that the Board act favorably on this application.

By letter dated March 9, 1993, the Sheridan-Kalorama Historical Association stated that the organization reviewed the plans and found that they did not compromise the architectural or historical integrity of the subject site or adjacent properties. Therefore, the association supports the relief requested.

4. Will the proposed changes be inconsistent with the zone plan?

The Office of Planning stated that the property is already nonconforming with respect to the rear yard and lot occupancy. OP believes that to allow the applicants to further extend the nonconformity will impair the intent, purpose and integrity of the R-3 District Regulations.

The applicants testified that other properties in the area use almost all of their lots, leaving little if any green space. They testified that other garages in the area are larger than what they propose. George Washington University's property has two large garages with driveways, and except for the front of the property, there is no space. Other residents have convered their lots with additions and parking pads.

The applicants testified that they will be placing the stairs on the cemented portion of their rear yard to allow the grassy area to remain. Also the stairs will be on one side of the yard, rather than in the middle of the yard to allow as much open space as possible at the rear. The applicants maintain that their proposal would not impair the intent, purpose and integrity of the zone plan because they will not be covering the entire lot and they will be leaving some green space.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds as follows:

1. The applicant's property is not unique due to its townhouse character because there are at least two other townhouses nearby.

2. There is insufficient evidence to demonstrate that the applicant's property is the only one without rear access to the main floor.

3. The applicant's property is very similar in size to adjoining properties to the east.

4. The applicants can access the main level of their property by entering from the rear at the ground level and using interior stairs.

5. The applicants can park at least one car in the garage as it exists.

6. The proposed construction would consume all but 1.92 feet of a rear yard that is required to be 20 feet deep.

CONCLUSION OF LAW AND OPINION :

Based on the evidence of record the Board concludes that the applicants are seeking area variances to enlarge a garage and construct exterior stairs at a residence in an R-3 District. Granting such variances 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 application will not be of substantial detriment to the public good and will not substantially impair the intent, purpose and integrity of the zone plan.

The Board concludes that the applicant have not met this burden of proof. The Board concludes that there is nothing unique

about the physical characteristics of the applicants' property which deprives them of reasonable use thereof.

The Board concludes that the proposed construction has the community's support and would not be of detriment to the public good. However, the Board is of the opinion that such a small portion of the rear yard would remain that to grant the application would impair the intent, purpose and integrity of the zone plan for the R-3 District.

ANC 1D did not submit an official report for which "great weight" could be accorded.

In light of the foregoing, the Board hereby **ORDERS** that the application is **DENIED.**

VOTE: 3-0 (Paula L. Jewell and Sheri M. Pruitt to deny; William L. Ensign to deny by proxy; Angel F. Clarens and Carrie L. Thornhill not voting, not having heard the case).

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

ATTESTED BY: Madeliene H. Robinson
MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: AUG 30 1994

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."

15800Order/TWR/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 15800

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on AUG 30 1994 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Jeanne Connelly
Martin Scherr
2237 Bancroft Place, N.W.
Washington, D.C. 20008

Marie Drissel, Chairperson
Advisory Neighborhood Commission 1D
2135 Bancroft Place, N.W.
Washington, D.C. 20008

MADELIENE H. ROBINSON
Director

DATE: AUG 30 1994

15800Att/bhs