

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**Application No. 16030** of Greystone Associates, pursuant to 11 DCMR 3108.1, for a special exception under Subsections 2516.1 and 2516.6(d) to allow a theoretical lot subdivision and to allow a portion of the required 60-foot diameter turning area to be part of a lot not being subdivided in an R-1-A District at premises 2325 Porter Street, NW (Square 2224, Lots 3 and 4).

**HEARING DATE:** March 8, 1995

**DECISION DATE:** June 7, 1995

**ORDER**

**SUMMARY OF EVIDENCE:**

1. The subject lot is located at 2325 Porter Street, NW. It consists of approximately 107,575 square feet of land area and has irregular topography.
2. The site is largely unimproved and contains numerous trees and other types of vegetation. A garden pergola is located on the northeastern portion of the site, adjacent to the existing Greystone House, which is situated on an adjacent lot (Lot 4, Square 2224).
3. The subject site and the abutting Greystone House, together with three other adjacent properties, were designated as a historic landmark by the Historic Preservation Review Board (HPRB) on June 21, 1989.
4. The immediate area surrounding the site is sparsely developed with large single-family, detached dwellings.
5. The applicant proposes to construct a four-part theoretical subdivision of Lot 3 and construct three single-family dwellings on three of the four proposed theoretical subdivision lots. Access to three of the proposed theoretical lots (Lots A, B and D) would be via an approximately 25-foot wide right-of-way running in an easterly direction from Porter Street to the interior of the site. Lot C would be accessed from Porter Street through an easement on the southwest portion of the abutting Greystone property (Lot 4).
6. The subject proposal has been reviewed and granted conceptual approval by the HPRB.

7. Several neighborhood residents contacted by the applicant support the proposed development.

8. Three neighboring residents opposed the application, expressing concern over, among other things, landscaping, the effect of truck traffic on the access driveway, possible litigation in the future, and the possibility that setbacks may be required from easements or rights-of-way.

9. The Office of Planning, by its report dated March 1, 1995, recommended approval of the application with the following conditions:

- a. Measures shall be taken to protect and maintain existing natural vegetation, including deciduous trees. The applicant shall submit a detailed landscape plan for the proposed development.
- b. The applicant shall submit the recommendations of historic and design review agencies, as they become available.
- c. The applicant shall submit to the Board documents containing the terms of a settlement agreement reached with the owners of neighboring properties.

10. By report dated March 3, 1995, Advisory Neighborhood Commission (ANC) 3C withheld objection to the application if the applicant fulfills several conditions, including that the Board establishes the exact number of theoretical lots and clearly limit the number of new homes which can be built; provide the status of the right-of-way; and, provide a plan for preserving trees and shrubs.

**FINDINGS OF FACT:**

Based on the evidence of record, the Board finds the following:

1. Each of the three theoretical lots to be developed with new houses is equal to or greater than 30,000 square feet, which far exceeds the minimum requirements of 7,500 square feet per lot.
2. The fourth theoretical lot (Lot D) on which the existing pergola is located would be conveyed to the owner of Lot 4 upon approval of the application by the Board, pursuant to an agreement between the applicant and the owner.
3. The Board finds that the majority of concerns raised by parties in opposition, ANC 3C, and the recommendation by OP, have been satisfactorily resolved by means of revisions to the plans by the applicant. The Board has obtained and reviewed a landscaping plan submitted by the applicant.

**CONCLUSIONS OF LAW AND OPINION:**

Based on the foregoing findings of fact and evidence of record, the Board concludes that the applicant is seeking a special exception to construct a number of principal buildings on a single subdivided lot in a residential district. The applicant seeks to establish four theoretical lots, three of which would contain new single-family dwellings and one of which would be devoted to the required covenanted means of ingress and egress. The granting of such a special exception requires a showing through substantial evidence that the proposed use is in harmony with the general purpose and intent of the Zoning Regulations and Map and would not tend to affect adversely the use of neighboring properties. The applicant must also meet the specific requirements of Section 2516 pertaining to theoretical lot development.

The Board concludes that the applicant has met the standards for granting the relief requested and has satisfied the requirements of the applicable subsections of Section 2516 of the Zoning Regulations, and has satisfied all requirements relative to use, height, bulk, and open space around each building with respect to the subject proposal.

The Board also concludes that the designs of the three houses are compatible with both the neighborhood and the conditions of the site, including its historic status, topography, and natural vegetation.

The Board further concludes that the special exception can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map, and as conditioned in this order, would not tend to create adverse effects on adjacent properties, nor would it adversely affect the surrounding neighborhood regarding traffic, noise, and other objectionable conditions. The Board therefore **ORDERS** that the application be **GRANTED, SUBJECT** to the following **CONDITIONS**:

1. Subdivision and construction shall be in accordance with Exhibit Nos. 44 and 45, as amended by Exhibit No. 51-A.
2. The applicant shall submit the recommendations of the Historic Preservation Review Board, the Commission of Fine Arts, and the Mayor's Agent to the Board, as they become available.
3. The applicant shall submit to the Board documents containing the terms of a settlement agreement with the community if current discussions between the applicant and the owners of neighboring properties result in such an agreement.

**VOTE: 3-0** (Laura M. Richards, Susan Morgan Hinton and Craig Ellis to grant; Angel F. Clarens not voting, not having participated in the case).

### **EXCEPTIONS PROCESS:**

This proposed order was issued pursuant to the provisions of D.C. Code Section 1-1509(d), and was sent to all parties on April 18, 1997. The filing deadline for exceptions was May 19, 1997.

Advisory Neighborhood Commission (ANC) 3C and three nearby property owners filed for exceptions and requested to make oral argument to the proposed order. Both requests were made by correspondence dated May 19, 1997.

The parties requested the opportunity to present oral arguments due to lack of clarity concerning ownership of the property and the desire of the new applicant to move forward with the project.

At its public meeting of January 7, 1998, the Board considered the exceptions, the request for oral argument and the responses filed. With regard to the request for oral argument, the Board stated that neither new ownership, nor a new owner's intent to develop the property is germane to issuing an order on the merits of the application. Accordingly, the Board denied the parties' requests to make oral arguments.

The Board noted that ANC 3C has consistently articulated its many concerns about the development of the site. The position of the ANC was made quite clear during the hearing process, and the evidence of record reflects the concerns of the community. The Board addressed each issue raised by the ANC as following:

- **Opposition to the Application**

With reference to item 10 of the proposed order, the Board indicated that the order reflects the correct position of the ANC at the time of the public hearing, irrespective of the ANC's current position of opposing the application. For clarification purposes, the Board authorized the Office of Zoning to include in the order the date of Advisory Neighborhood Commission 3C's report, that is March 3, 1995.

- **Review by the Historic Preservation Review Board**

The Board indicated that, concerning the validity of the conceptual review of the Historic Preservation Review Board (HPRB), it does not have jurisdiction over HPRB decisions. At the time the Board's decision was made, HPRB did conceptually approve the project. Any further decision by HPRB on the merits (historic qualities) of the case would be made after the Board's decision. Condition No. 3 of the order stands.

- **Compliance with District of Columbia Code Requirements**

The Board indicated that prior to the issuance of a building permit, the applicant must comply with all regulatory requirements, including providing the proper fire access/egress for emergency vehicles.

- **Access for Emergency Vehicles**

The Board stated that the issue concerning unsafe access for Lot C was not discussed at the time of the public hearing. Also, the applicant would not receive authorization to develop/occupy the site until all safety issues, concerning the proposed access driveway leading directly from the site onto the high-speed exit ramp from Rock Creek Parkway, are resolved in the permitting process.

The Board discussed the issues identified in correspondence from the nearby property owners and indicated that they are similar to the issues raised by the ANC. Condition No. 8 stands because it correctly identifies the sentiments of the residents at the time of the hearing.

After consideration of the exceptions and the response filed, the Board **ADOPTED** the proposed order, as amended.

**VOTE: 3-0** (Susan Morgan Hinton, Betty King and Sheila Cross Reid to adopt the order, as amended.)

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

ATTESTED:   
**Sheri M. Pruitt-Williams**  
**Interim Director**

APR 27 1998

**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 310.1, "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 TWO YEARS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

Ord16030/JN/BAB

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**BZA APPLICATION NO. 16030**

As Interim Director of the Board of Zoning Adjustment, I certify and attest that on \_\_\_\_\_ a copy of the order entered on that date in this matter was mailed first class postage prepaid to each party who appeared and participated in the public hearing concerning the matter, and who is listed below:

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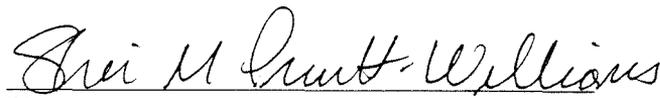
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**Sheri M. Pruitt-Williams**  
**Interim Director**

APR 27 1998

**DATE:** \_\_\_\_\_