Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING -- July 13, 1966

Appeal No. 8851 American Security and Trust Co., Trustees, appellants.

The Zoning Administrator of the District of Columbia, appellee.

On motion duly made, seconded and unanimously carried, the following Order was entered at the meeting of the Board on July 18, 1966.

EFFECTIVE DATE OF ORDER -- Sept. 13, 1966

ORDERED:

That the appeal for a variance from the use provisions of the C-M-2 District to permit continuation of apartment building use at 3356 M Street, NW., lot 822, square 1184, be granted.

FINDINGS OF FACT:

(1) The subject building was erected in the late 1700's and has been denominated an historical structure by the Commission of Fine Arts.

(2) Under the will of Robert A. Phillips the building was devised to certain life tenants, the American Security and Trust Co. being trustee under the will.

(3) In or about 1941 the life tenants altered the building to provide for apartments on the second and third floors. In 1943 an occupancy license was issued.

(4) In 1943 the zoning of the subject property was 2nd commercial (60-D). Apartment uses were permitted under this zoning.

(5) The current zoning enacted in 1958 does not permit the use of property in the C-M-2 District for residential purposes.

(6) No certificate of occupancy was issued subsequent to 1958. Licenses for tenement use of the second and third floors were issued in 1964 and 1965.

(7) On May 27, 1966 the Zoning Administrator notified appellant that a certificate of occupancy could not be issued for the subject premises since they are located in the C-M-2 District, which does not permit an apartment house unless approved by the Board of Zoning Adjustment.

(8) The building has had an apartment use on the second and third floors continuously from the early 1940's to the present date. The apartments in the building are now rented.

(9) No opposition to the granting of this appeal was registered at the public hearing. The Citizens Association of Georgetown expressed support for the granting of this appeal.

OPINION:

We are of the opinion that appellant has proved a hardship within the meaning of the variance clause of the Zoning Regulations and that to require that the property now be utilized as a commercial building would result in peculiar and exceptional practical difficulties and undue hardship upon the owner. Further, the requested 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 and Map.