Before the Board of Zoning Adjustment, D. C.

Application No. 11549, of Evergreen Baptist Church, pursuant to Section 8207.11 of the Zoning Regulations for variances from the lot area and rear yard requirements of the R-4 zone to permit the erection of three (3) row dwellings (flats) at 6th Street and Massachusetts Avenue, N. E., Lot 861, Square 865.

HEARING DATE: February 13, 1974

EXECUTIVE SESSION: February 21, 1974

FINDINGS OF FACT:

1. The subject property is located in a R-4 Zoning District and is unimproved.

2. The application, as originally filed for the hearing of February 13, 1974, requested variances from the lot area, lot occupancy and rear yard requirements of the R-4 District to permit construction of four (4) row dwellings (flats) on 6,533 square feet of property. At the public hearing on February 13, 1974, the applicant at the request of and in concurrence with the adjoining property owner, owners of property and residents in the area and the Capital Hill Restoration Society requested amendment to the application so as to request variances to permit construction of only three (3) row dwellings (flats) on 5,708 square feet of lot 861. The remaining 825 square feet of lot 861 at the eastern most portion of the site on C Street will be deeded to the owner of lot 802, Square 865 for his use and will not be part of the property upon which the three (3) row dwellings would be constructed.

3. At the public hearing, it was represented and acknowledged by representatives of citizens residing on C Street, Massachusetts Avenue and Stanton Park in the immediate area and the Capital Hill Restoration Society that the proposed three-building development had been shown to them and expressly approved by said citizens and society. There was no opposition to the amendment and there appeared to be unanimous support for the proposal as amended.

4. The specific variances requested as shown on the site plan submitted to the Board for the three (3) buildings are a rear yard variance for building No. 1 and a lot area variance for building No. 3. Building No. 1 has a rear yard that averages 14.9 feet and building No. 3 had a lot area of 1,592 square feet. The average rear yards and lot areas for the three (3) buildings

exceed the minimum rear yard and lot area requirements of the R-4 District.

5. Applicant bases his request for variance on the fact that the requested diviations from the Zoning Regulations are minor and therefore, constitute an area variance as opposed to a use variance and consequently, only a practical difficulty need be established. See Palmer vs. Board of Zoning Adjustment, 287 A2d 535 (1972).

6. The subject property is located at the apex of the intersections of Massachusetts Avenue, Sixth Street and C Streets, N. E., with frontage on Stanton Park. The lot is irregularly shaped by virtue of its frontages on the three streets. The character of the development in the area is one of row dwellings used for single-family and flat usage on lots having areas below 1,800 square foot requirement of the R-4 District.

7. Square 865 is triangular in shape and the C Street frontage of the square presently has a substantial area devoted to parking lot use at the eastern most approximate 120 feet. The strict application of the Zoning Regulations due to the size and shape of the lot, would require development for three houses in a fashion that would cause all units to front on Massachusetts Avenue with the rear yards and parking areas facing C Street and the numerous residences located thereon. Such a development would not be in character with development in the area.

8. The variances requested are minor and the development as a whole exceeds the minimum requirements of the R-4 District. By virtue of the grant of the variance, there will be no increase in population over what could be constructed as a matter of right. The grant of the application, likewise, would not produce a change in the character of the neighborhood or cause any detriment to adjoining properties. The contrary is true. The only way that the practical difficulty can be removed is through the grant of the variances requested. The variances are overwhelmingly supported by the citizens in the area.

CONCLUSIONS OF LAW:

Based upon the above Findings of Fact, the Board is of the opinion that the application herein is a area variance request and, thus, the applicant need show only a practical difficulty. See, Palmer vs Board of Zoning Adjustment, supra; Rathkopf, The Law of Zoning and Planning, 45-49; and Anderson, The American Law of Zoning, 14.46. The Board further concludes that the failure to grant

the relief requested would result in a practical difficulty to the applicant in that the type of development that would otherwise be permitted would not be in harmony with the existing character of the area. This is especially true in the sense that the three building development on the average exceeds the minimum requirements of the R-4 zone. The variances requested are minor and thus, the evidence needed to support the variance is less than what might be required in other variance cases.

The lot's irregular shape and the location places constrictions on development which is normal lot configuration cases would not exist. Moreover, the prominent location of the lot and its relationship to surrounding uses and the character of such uses supports a development where each of the three dwellings units fronts on a different street frontage. Without the granting of a variance, separate curb cuts on the C Street frontage of the lots would be required for the three units. Thus, without the granting of this application, the practical difficulty would result.

The Board is also of the conclusion that the relief can be granted without detriment to the public good and without impairing the intent, purpose and integrity of the Zone Plan as embodied in the Zoning Regulations and Map.

ORDERED:

That the above application be GRANTED.

VOTE: 4-0, (Mr. Harps absent, not voting.)

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

ATTESTED By: James E. Miller
JAMES E. MILLER

FINAL DATE OF ORDER: MAR 26 1974

THAT THE ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS ONLY UNLESS APPLICATION FOR A BUILDING AND/OR OCCUPANCY PERMIT IS FILED WITH THE DEPARTMENT OF ECONOMIC DEVELOPMENT WITHIN A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER.