Before the Board of Zoning Adjustment, D. C.

Application No. 11909 of Paul Wieck, pursuant to Sub-section 8207.1 of the Zoning Regulations, for a variance from the strict application of Sub-sections 7615.2 and 7615.3 (relating to permission to locate more than one building on a single lot), 7601.2 (relating to location of accessory buildings) and Section 7202 (relating to parking requirements) to permit two buildings on one lot to be used for human habitation in the R-3 District at the premises 3267 P Street, N. W. (Square 1255, lots 863 and 864).

HEARING DATES: May 21, June 18 and July 16, 1975
DECISION DATE: August 6, 1975

FINDINGS OF FACT:

1. The property is located in an R-3 District.

2. The property is presently improved with three structures as follows:

A. A multi-story dwelling located at the front of the property described in the record as the "front house" or "main house."

B. A one story structure located at the rear of the property, described in the record as the "rear house."

C. A tool shed located on the rear north-eastern side of the property, described in the record as the "tool shed."

3. The property contains 5,425 square feet and is L-shaped, having a street frontage of 27.79 feet and a rear lot line of 70.05 feet.

4. The rear house was originally constructed as an accessory building to the front house for the storage of garden tools, in accordance with Building Permit No. B158278, issued June 22, 1967.

5. A building permit was issued to the owner of the premises, Mrs. Cecile de Rochefort, on November 15, 1967 for work on the rear house.

The permit, No. B163502, authorized the construction of "new fire place, partitions for new bathroom, etc. as per plans. All interior work." "The permit stated that the premises were to be occupied as a "dwelling."

6. The applicant purchased the property from Mrs. de Rochefort on May 31, 1974.

7. The BZA application form lists the property as being comprised of two lots, 863 and 864, These lots are assessment and taxation lot numbers assigned by the Department of Finance and Revenue. The applicant bought the property as one lot, lot 862, as listed in the deed. The subdivision of lot 862 into lots 863 and 864 occurred in December, 1973. The property consists of parts of two record lots, lots 162 and 163, on the records of the D. C. Surveyor.

8. The applicant proposes to have two principal dwellings on a single subdivided lot, if the Board grants the requested variance. These variances are requested from the requirements of Sub-sections 7615.2 and 7615.3.

9. Sub-section 7615.1, which controls the applicability of the entire Section 7615, states:

> "This Section is designed to permit two or more principal buildings or structures to be erected on a single subdivided lot."

10. The only access to the rear house is by a passage along the east side of the front house. There is no alley access to the property.

11. The rear house has a side yard of .8 feet on its west side and a rear yard of .8 feet. It would be located on a lot having only 2400 square feet, and would have no parking space

12. In an R-3 District, no side yard is required. If a side yard is provided, it must be a minimum of 8 feet wide. A rear yard of 20 feet is required. A minimum lot area of 4,000 square feet is required for a detached single family dwelling. One parking space per dwelling is required.

13. The applicant thus requires variances of 7.2 feet on the side yard, 19.2 feet on the rear yard, 1600 square feet on lot area and one parking space.

14. The applicant states that the above variances are area variances, requiring only the showing of a practical difficulty in order to be granted.

15. The applicant states that the practical difficulty results from the unsuitability for use of the rear house for storage, its full suitability for use as a dwelling, the large size of the property, the unusual shape of the property, substantial economic injury, the impairment of the security for a mortgage and the security benefits to the owner. The Board finds none of these arguments to be persuasive.

16. The Municipal Planning Office, by report dated May 12, 1975, recommended denial of the application. The MPO report states in part: "The property does not have any exceptional topographic or other exceptional conditions limiting the use of the property for the purposes specified in the R-3 Zoning District in which it exists."

17. Three abutting property owners on the east and west opposed the application. Mr. William Greer, attorney for Mr. & Mrs. John Walker, stated the view that the requested variance was a use variance, requiring the showing of a hardship. Mr. Greer asserted that no such hardship had been shown. The other abutting owners objected on the grounds that their privacy would be reduced, that the density of the area would be increased to the point of overcrowding and that the value of their property would be reduced.

CONCLUSIONS OF LAW AND OPINION:

It is clear from the applicant's own statement that the subject property is not a single subdivided lot. It is either two Tax lots or parts of two Record lots. The Board concludes that it lacks authority to grant the requested relief under the Regulations on the application as filed.

The Board notes that testimony and argument were presented by counsels for the parties as to whether the requested variances are use variances or area variances, requiring differing burdens of proof. The Board makes no determination as to that issue, but notes that the variance clause of the Regulations states that relief can be granted only "provided such relief can be granted without substantial detriment to the public godd and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map." The Board concludes that the granting of this application would create substantial detriment to the public good, by creating a land-locked dwelling on a theoretical lot with no direct street or alley access, by increasing the density in the subject square and by adversely effecting neighboring property. It is therefore ordered that the application be denied.

VOTE: 4-0 (Samuel Scrivener, William Harps, William McIntosh, and Walter B. Lewis to **DENY**, Lilla Burt Cummings, Esq. abstaining not having heard the case).

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

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Acting Secretary to the Board

FINAL DATE OF THE ORDER: APR 27 1976