

Before the Board of Zoning Adjustment, D. C.

Application No. 11931, of Thomas F. Hagan, pursuant to Section 8207.1 of the Zoning Regulations, for variances from the lot occupancy requirements of Section 3303.1, height limitations of accessory buildings of Section 7107.21, and the use provisions of Section 7502.3 to allow the second story of a garage to be used for other domestic employees, as provided by Section 8207.11 of the regulations for permission to construct an addition to a non-conforming structure, in the R-3 Zone, at the premises 3106 N Street, N. W., Lot 44, Square 1208.

HEARING DATE: July 16, 1975

DECISION DATE: August 6, 1975

FINDINGS OF FACT:

1. Applicant proposes to erect a new garage at the rear of his semi-detached house (a nonconforming structure) located in the R-3 Zone. The new garage faces Congress Court (an alleyway between M and N Streets, N. W., off 31st Street).
2. The applicant also plans to restore and rehabilitate an existing garage built on the premises between 1930 and 1940 which is a matter not before this Board. However, the District of Columbia Government, while issuing the applicant a permit to restore the existing garage mistakenly issued a building permit for the new garage which was rescinded only after the new structure was built (Permit No. B220579).
3. The new garage contains an area of 280.11 square feet which when added to the 2,756 square feet area of the other existing structures on the premises requires a lot occupancy variance in the amount of 1,037.47 square feet. The lot occupancy is approximately 50%.
4. Because the new one (1) story garage, fourteen (14) feet in height abuts the existing twenty (20) foot high two (2) story garage a height variance of five (5) feet is required since the existing and new garage are considered as one structure.
5. Applicant has requested from the Board permission to dismiss that portion of the application relating to the use of the second story of the existing garage for other than

domestic employees. The Board dismisses that portion of the application.

6. There was opposition to the application by the Georgetown Citizens Association, by neighbors and by abutting property owners in letter form and by testimony at public hearing. The opposition objected to the failure of notice of the hearing in that the property was not posted and letters of notice were not received by the abutting property owners and occupants of improved property within 200 feet of the premises. The Board finds that applicant posted the subject property on July 1, 1975 and the Affidavit of Posting was received by the Board on July 7, 1975. Applicant also filed the required list of abutting property owners and occupants of improved property within 200 feet of the premises and the Board mailed said letters of notice on June 26, 1975. The Board further finds that the opposition had actual notice of the hearing allowing them the opportunity to express their interest and no party has been deprived of their rights. The opposition further objected to the interference of the new garage with the light of the abutting property. Other bases of objection such as the alleged use violation of the principal building and the encroachment of a wall of the new garage on the property of the abutting owners are not within the jurisdiction of the Board. The Board finds no substantial evidence that there is interference with the light on the abutting property.

CONCLUSIONS OF LAW:

Based upon the above Findings of Fact and the evidence of record the Board concludes that the applicant has erected a garage in reliance upon a building permit issued in error by the District of Columbia Government. Due to this previous reliance the applicant is faced with exceptional practical difficulties in that he may be forced to tear down the new structure. The Board concludes that granting these area variances will cause no substantial detriment to the public good and will not substantially impair the intent of the Zoning Regulations.

ORDER:

It is hereby ordered that the above application be GRANTED subject to the following conditions:

a. The second (2nd) story of the original garage shall not be used as habitable space except for domestic employees.

b. The newly constructed addition (garage) abutting the original garage shall be used only as an accessory building and not as habitable space.

VOTE: 4-0 (Lilla Burt Cummings, Esq., not voting after not having heard the case.)

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

ATTESTED BY: _____

JAMES E. MILLER
Secretary to the Board

FINAL DATE OF ORDER: 5/25/75

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.