GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 13027, of Lynden V. Emerson, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the prohibition against adding to a non-conforming structure which now exceeds the allowable percentage of lot occupancy (Paragraph 7107.21) to allow a second story rear addition to a row dwelling in an R-4 District at the premises 521 - 9th Street, S.E. (Square 926, Lot 28).

HEARING DATE: August 22, 1979
DECISION DATE: September 5, 1979

FINDINGS OF FACT:

1. The subject site is located in the R-4 District on the west side of Ninth Street between E and G Streets, S.E., and is known as 521 - 9th Street, S.E.

2. The subject property is topographically flat, and rectangular in shape with an area of 1086 square feet and a width of 13.57 feet. The rear yard depth is twenty-eight feet. The lot is improved with a two story brick single family row dwellings.

3. To the north of the subject property are row dwellings. To the south there is a twelve foot-wide alley followed by row houses. To the east of the subject property are row houses and to the west or rear is a public walkway and a warehouse structure.

4. The subject dwelling is approximately ninety years old.

5. The structure became non-conforming on May 12, 1958, the effective date of the current Zoning Regulations. The non-conformity is due to a one story frame porch, which was added to the rear of the house approximately fifty years ago by a former owner.

6. The structure is non-conforming since with the porch addition, it exceeds the permitted sixty percent lot occupancy by 52.98 square feet.

7. The applicant proposes to add a second story addition over the existing rear first floor porch. The addition will extend the master bedroom to serve as a nursery.

8. The addition will be nine feet by 13.57 feet in dimension. It will be built over the existing first floor structure and flush with it. The proposed addition will not increase the lot occupancy, nor will it decrease the existing rear yard set-back which currently is eight feet nine inches longer than the minimum of twenty feet required by the Zoning Regulations.

9. The subject dwelling has two bedrooms. One is for the applicant's sleeping use and the other is used as a den, study, and guest room. The guest room will serve as sleeping quarters for live-in child care assistance. The house has no basement or area available for storage.

10. There were letters of record, in favor of granting the application from fourteen property owners and one tenant. There was also a petition in favor of the application signed by four owners, all from homes within 200 feet of the applicant's property. Four neighbors spoke at the hearing in support of the application.

11. Opposition was registered by the owner of the home abutting the subject property on to the north and several other home owners in the neighborhood. The opposition testified that the planned addition would adversely affect light and air at the rear of the abutting property. The opposition further argued that to grant the application would set a precedent.

12. The applicant's architect provided drawings which showed the limited impact of the addition on sunlight received by the rear of the abutting property during the summer, fall, and winter of the year.

13. Photographs of existing foliage on the property to the north of the subject property were submitted to the record by the applicant to demonstrate that the proposed addition would provide no more shade than the existing foliage. The Board finds that the proposed addition would be of no substantial detriment to the adjoining property.

14. The applicant provided for the record a block map which showed that at least ten other houses on the west side of the 500 block of 9th Street, S.E., extend as far or further in depth than the subject structure.

15. Advisory Neighborhood Commission - 6B, testified at the public hearing in favor of the application on the gounds that the subject lot is narrower and shallower than required under the Zoning Regulations and that thus created a practical difficulty. The ANC further testified that the blockage of light and air complained of by the owner of the property immediately to the north of the subject property was not considered sufficiently great to require denial of this application. The Board so finds.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is seeking an area variance, which requires a showing of practical difficulty arising from the property itself. The Board notes that the subject lot has an exceptionally narrow width of thirteen feet and an exceptionally small area. The Board concludes that the narrowness and size of the lot constitute the practical difficulty. The Board further notes that this dwelling was constructed in 1890 and that it became non-conforming upon adoption of the current Zoning Regulations. The Board further notes that the proposed addition will not increase the lot occupancy.

The Board is aware of the opposition to the application. As stated in Findings of Fact No. 13 and 15, the Board concurs with the ANC that the issue of light and air will not cause substantial detriment to the adjoining property and does not require that the application be denied. As to the further objections that a precedent might be set if the application is granted, the Board has consistently held that it will judge all applications on their merits alone based on the specific set of facts presented. The Board also notes the many letters of support for the application from the property owners of the neighborhood and the position of the ANC. The Board further concludes that the application can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 4-0 (Charles R. Norris, Ruby B. McZier, Chloethiel Woodard Smith and Leonard L. McCants to GRANT; William F. McIntosh not voting, not having heard the case).

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

ATTESTED BY: _____
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 27 SEP 1979

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "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 SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.