GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 13367, of William and Harriett Sumerwell, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the prohibition against allowing an accessory structure (shed) to be located in the front yard of a dwelling (Sub-section 7601.2) in an R-1-B District at the premises 3530 Ordway Street, N.W., (Square 1954, Lot 9).

HEARING DATE: November 12, 1980
DECISION DATE: January 7, 1981

FINDINGS OF FACT:

1. At the public hearing of November 12, 1980, the subject application was considered on the preliminary calendar since the affidavit of posting had been filed just three days prior to the public hearing instead of the required five days under Section 3.33 of the Supplemental Rules of Practice and Procedure before the Board of Zoning Adjustment. The Board waived the requirements since a Saturday and Sunday had intervened in the computation and the opposition present requested that the application go forward on that date.

2. The subject site is located on the south side of Ordway Street between 34th Place and 36th Street, N.W. and is known as 3530 Ordway Street. It is in an R-1-B District. The site is to the immediate north of the Rosedale estate, an Historic Landmark.

3. The subject site is 17,419.27 square feet in area. It has an average lot width of 134.68 feet. The site is improved with a two story dwelling of white painted brick with a red tile roof. The orientation of the main structure is not toward Ordway Street but at ninety degrees to it. The street side of the house is actually not the front of the house, but the back. The proposed accessory structure is to be in the functional side yard of the building, whereas it is the front yard under the Zoning Regulations. There is no entrance on the street side wall of the house. The entrance to the house is in the back, off the driveway. Approximately ten feet in from the lot line is a substantial earth berm approximately five feet in height that runs along the Ordway Street front of the property.

4. The applicant testified that the dwelling has no basement, no garage and little storage space. The applicants desire to build a garden shed to store tools, an area for potting small plants and a small greenhouse for growing orchids. The northwest section of the site was selected because of its proximity to utilities. The gas, electric, sewer and water lines enter at the side of the house. The air conditioning units are now located there. The location is accessible to the driveway and the remainder of the yard. The site is optimum for growing orchids and for the use of solar energy for partial heating. The selected site provides the opportunity to build inconspicuously by using the natural bank to shield the structure from the street. Only the top half of the structure will be visible above the bank and that part will be shielded from the street by the trees and undergrowth. When the landscaping is completed very little will show. The applicant testified that she desired to preserve the architectural integrity of the house and did not wish to "tack on" the structure. Other possible sites on the property were discarded because there is a steep grade to the south and a structure there would block the view of garden and the Cathedral--an integral part of the house's design. The driveway-parking area has an easement which precludes building in that area. The far east side would provide a deleterious exposure of the orchids and so completely defeat the purpose of the greenhouse. It would also leave the storage areas so far from the driveway that supplies would have to be carried a lengthy distance. The applicant intends to preserve all trees and to construct an attractive building of white brick to match the house. The applicant testified that it is a much needed addition and that it will be an asset to the property.

5. The proposed accessory structure will be 43.6 feet wide on the south side 13.4 feet deep on the east side and 8.6 feet deep on the west side. The height is approximately twelve feet at some levels. It will run parallel to Ordway Street. The structure will be built into the hill below the berm. The structure will contain three sections, the storage unit, the pottery unit and the greenhouse. It will be built of the same material and color as the main dwelling. The applicant anticipates that the shrubbery and trees now existing plus additional landscaping will shield the structure from the street view.

6. The property owners residing at 3540 Ordway Street, the residence adjacent to the applicant's residence on the west, opposed the application. By letter of record and by testimony at the public hearing, the owners opposed the application on the grounds that the proposed building is a large building, exceeding the size structure normally thought of as a shed. Further, the placement of the structure at the front of the lot adjoining the street would mar the appearance of the group of houses in that area, all of which were carefully designed and laid out as an architectural unit. The owners further argued that there is other ample space available on the lot in which to build an addition in back of the setback, in a style to match the careful architecture of the houses, and in a way to minimize the disturbing impact on neighbors and passers-by.

7. The owner of the property at 3533 Ordway Street, directly across from the subject site, opposed the application. She testified that both her house and fence were custom built by independent contractors. She went with the contractor to select various material, hardware, etc., that were used to build the house. She noted that subsequent to the erection of her fence, the neighbors at 3525 Ordway Street, N.W., had a similar iron picket fence erected around their front yard on Ordway Street, and the neighbor at the northeast corner of Ordway and 36th Streets, had an iron picket fence erected on the Ordway Street side of his property. The subject proposed shed on the street side of Ordway Street would detract from the front yards with their iron picket fences on the north side of Ordway Street. The owner argued that the shed would not only discourage prospective buyers of houses on the block,but would cause prospective buyers to offer a much lower price than the asking price of the property.

8. There was testimony at the public hearing and letters of record, from other neighbors on the subject street in favor of the application on the grounds that they had seen the plans, the structure was estheticly designed and the structure would be hidden from the street with the proposed landscaping. The Board does not so find.

9. Advisory Neighborhood Commission - 3C, by letter of November 10, 1980, stated that it elected to take no position on the application itself. It did request the Board to note that the proposal was for an accessory building, not a shed and that the term shed was misleading and inaccurate. The Board notes that the memorandum of the Zoning Administrator and the application itself uses the word shed. In Finding of Fact No. 5, above, the Board determined that the structure will be substantially larger than a normal garden shed.

CONCLUSIONS OF LAW AND OPINION:

Sub-section 7601.2 of the Zoning Regulations requires that an accessory building be located only in a rear yard. Based on the Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking an area variance. In order to grant such a variance, the Board must find a practical difficulty on the owner of the property that arises from the property itself, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. The R-1 District is designed to protect quiet residential areas now developed with one-family detached dwellings. The Regulations are designed to stabilize such areas and to promote a suitable environment for family life. For that reason, only a few additional and compatible uses are permitted. The Board notes the size of the subject property, its particular design to more fully appreciate particular views and its setback from the street with plantings to provide privacy and beauty to the occupant and passers-by and neighbors.

It is true that the proposed use would promote a more favorable environment for the applicant. The Board does not find that the proposed use would promote a more suitable environment for the other parties affected by the proposal, the adjacent property owner and the owner directly across the street from the subject premises. The practical difficulties alleged by the applicants are personal to the applicants. Other sites on the lot can be selected, although with inconveniences and extra expenses to the applicants. Such inconveniences are not a proper basis for the granting of the requesting variance.

The Board finds that the proposed use is in a front yard and, regardless of all the plantings, some being deciduous, the proposed accessory structure will be clearly visible from the street and thus detract from the beauty and serenity of the street itself. It thus creates a substantial detriment to the immediate neighborhood or public good as testified to by the opposition. Accordingly, it is hereby ORDERED that the APPLICATION is DENIED.

VOTE: 5-0 (William F. McIntosh, Walter B. Lewis, Charles R. Norris, Douglas J. Patton and Connie Fortune to DENY).

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

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 23 APR 1981

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."