GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 13518, of Allen I. and Rona H. Mendelsohn, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the side yard requirements (Sub-section 3305.1 and Paragraph 7107.22) and the open court requirements (Sub-section 3306.1 and Paragraph 7107.22) for a proposed one story addition to a dwelling which is a non-conforming structure in an R-1-B District at the premises 3310 Cathedral Avenue, N.W., (Square 2118, Lot 39).

HEARING DATES: July 15 and September 16, 1981
DECISION DATE: November 4, 1981

DISPOSITION: The Board GRANTED the application by a vote of 4-1 (Walter B. Lewis, Charles R. Norris and Connie Fortune to grant; William F. McIntosh to grant by proxy; Douglas J. Patton opposed).

FINAL DATE OF ORDER: March 16, 1982

ORDER

By letter dated June 16, 1982, the applicant requested clarification of the Board's decision in the subject application. The reason for this request was that a recent inspection of the construction on the subject property by the D.C. Surveyor's Office revealed that the 84.48 foot depth of the applicant's property does not extend to the center of the private alley located to the rear of the subject property as indicated in the original approval. The rear yard approved by the Board was measured from the rear wall of the addition to the center of the alley, with a depth of 25.8 feet. The applicant has now been made aware that he owns only approximately one foot of the alley. The rear yard will now measure 21.88 feet. A rear yard variance is therefore required in order for construction to continue. In all respects, the construction of the addition will be identical to that approved in the Board's prior Order.

The Board concludes that the material facts relied upon by the Board related to the variances from the side yard and open court requirements are unaffected by the change in measuring line revealed by the D.C. Surveyor's inspection. The size, shape and footprint of the addition are unaltered. The Board further concludes that its decision was based on the rear yard as measured from the rear of the addition to

the center line of the alley. The Board further concludes that the situation described by the applicant, when combined with the circumstances which supported the granting of the original variances, result in a situation in which a rear yard variance can be granted without substantially impairing the intent, purpose and integrity of the zone plan. The Board notes that there was no opposition to the granting of the rear yard variance from the owners of any of the immediately adjacent properties.

It is therefore ORDERED that the rear yard variance is APPROVED. In all other respects, the Order of the Board dated March 16, 1982 shall remain in full force and effect, and the construction approved in that order shall be permitted.

Decision Date: July 7, 1982

VOTE: 4-1 (Walter B. Lewis, William F. McIntosh, Connie Fortune and Charles R. Norris to GRANT; Douglas J. Patton opposed to the Motion).

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

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

FINAL DATE OF ORDER: AUG 31 1982

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."

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 13518 of Allen I. and Rona H. Mendelsohn, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the side yard requirements (Sub-section 3305.1 and Paragraph 7107.22) and the open court requirements (Sub-section 3306.1 and Paragraph 7107.22) for a proposed one story addition to a dwelling which is a non-conforming structure in an R-1-B District at the premises 3310 Cathedral Avenue, N.W., (Square 2118, Lot 39).

HEARING DATE: July 15 and September 16, 1981
DECISION DATE: November 4, 1981

FINDINGS OF FACT:

1. The application was originally scheduled for the Public Hearing of July 15, 1981. It appeared on the preliminary calendar since the applicant had failed to comply with Section 3.33 of the Supplementary Rules of Practice and Procedure before the Board of Zoning Adjustment in that the applicant had posted the subject property five days prior to the Public Hearing and filed an affidavit to that effect two days prior to the Public Hearing instead of ten days of posting and five days for filing as required under the Rules. No good cause was shown by the applicant. The Chair continued the case to September 16, 1981.

2. The subject property is located on the south side of Cathedral Avenue between 33rd and 34th Streets and is known as premises 3310 Cathedral Avenue, N.W. It is in an R-1-B District.

3. The subject site is rectangular in shape. It measures 35.50 feet in width and 84.48 feet in depth. There is a fifteen foot wide public alley to the east of the site. There is a ten foot wide private alley at the rear of the site. To the west is a row dwelling known as premises 3312 Cathedral Avenue.

4. The entire south side of Cathedral Avenue between 33rd and 34th Streets consists of non-conforming lots devoted to rowhouses and semi-detached dwellings.

5. The site is improved with a semi-detached brick structure that has a height of two stories on Cathedral Avenue and three stories on the rear alley. The first floor is one full story, approximately eight feet, above the level of the private alley at the rear.

6. The site is non-conforming. The R-1-B District requires a lot area of 5000 square feet, a lot width of fifty feet and side yards measuring eight feet. The subject site has an area of 2,999 square feet and a lot width of 35.50. The dwelling has no side yard on the west side and a side yard of three feet on the east side.

7. The structure was built about 1922, prior to the current Zoning Regulations.

8. The exsting dwelling is 32.5 feet wide and twenty feet deep. There is also a two-story extension at the center of the rear of the house which is approximately 11.5 feet wide and extends approximately 8.5 feet to the rear.

9. The first floor of the main part of the house contains a living room, dining room and an extremely small kitchen. The kitchen is located at the southwest corner of the first floor. The extension is used as a dining area on the first floor.

10. The applicant propose to construct a one story addition adjacent to the existing kitchen and dining area. The addition would be "V" shaped and would consist of two parts. The western part would be fully enclosed and would constitute an extension and enlargement of the existing kitchen. The eastern part would be a screened porch.

11. The west wall of the addition would be a party wall, would be of solid brick with no windows, and would extend approximately twenty feet to the rear of the main part of the dwelling. The east wall would follow the east wall of the existing extension for a further depth of approximately ten feet.

12. The top of the addition on the west side would be at the same level as the second floor, or approximately nineteen feet above the level of the private alley at the rear.

13. The R-1-B District requires that a side yard at least eight feet in width be provided on each side of the proposed addtion. As the west side wall is on the lot line, there is no side yard provided, and a variance of the full eight feet is required.

14. The Zoning Regulations require that if an open court is provided, it shall have a minimum width of six feet. That width is to be measured parallel to the opened end of the court. Because of the "V" shaped nature of the court, its width is sixteen feet wide at the open end and tapers down to a point at the closed end. The width of the court is thus determined to be zero. The applicant therefore require a variance of the full six feet.

15. There is an existing alternating board on board fence located directly adjacent to the property line on the property to the west. The fence is approximately six feet in height. The west wall of the proposed addition would extend between five and six feet above the top of the fence.

16. There is no other practical way to expand the existing kitchen without requiring extensive and expensive renovation to the existing dwelling.

17. Evidence of record established that several rear additions to other properties in the immediate area exist without creating apparent harm or adverse effects on the properties which such additions adjoin.

18. Advisory Neighborhood Commission 3C by letter of 7/13/81 reported that it had reviewed the plans and voted unanimously not to oppose the application. No specific reasons were given.

19. The owner of the adjoining property to the west of the subject site objected to the application on the grounds that the height of the proposed addition is almost double the height of the existing fence on the westerly property, that the addition would drastically reduce the sunlight and air to her living room and breakfast room, that the addition will create a closed-in atmosphere to her property and that the addition would cut off her scenic views.

20. In order to adequately assess the grounds of opposition raised by the owner of the adjoining property, the Board personally inspected the subject property with notice to and in the presence of the applicants and counsel for the opposition.

21. As a result of said inspection and in reliance upon other information in the record, including the plans for the addition and photographs submitted by both the applicant and the opposition, the Board finds that the proposed addition will not substantially adversely effect the use of the adjoining property as a residence. The opposition has no right to a view across the applicants' property. Nor are the applicants required to provide light, air and ventilation on their property for the benefit of the opposition. The existing fence and trees already affect the opposition's ability to see out, and the proposed addition will not substantially reduce the ability of light and air to penetrate to the opposition's windows. Those windows would front on a court on the opposition's property having a width of approximately eleven feet.

CONCLUSIONS OF LAW AND OPINION

Based on the record the Board concludes that the applicant is requesting area variances, the granting of which requires proof of a practual difficulty that is inherent in the land itself. In addition the applicant must establish 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.

As to the practical difficulty inherent in the land, the Board concludes that the narrow width of the lot, the configaration of the existing dwelling on the lot and the existence of a very small inadequate kitchen constitutes exceptional conditions within the meaning of the Regulations. The Board concludes that strict application of the Regulations would permit the applicants from constructing the proposed addition, thereby continuing a practical difficulty for the owners.

As to the issue of substantial detriment, on the basis of the record and its personal inspection of the site the Board concludes that there is none. The applicant and the objectant share a common party wall. There are no side windows involved, all windows face south. Both parties have ample gardens and rear yards. The objectant's windows are several feet from the proposed wall. Also, the objectant has no easement for scenic views.

Accordingly, based on the above reasons, it is ORDERED that the application is GRANTED.

VOTE: 4-1 (Walter B. Lewis, Charles R. Norris and Connie Fortune to grant, William F. McIntosh to grant by proxy, Douglas J. Patton opposed).

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

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

FINAL DATE OF ORDER: MAR 16 1982

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."

THE 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.