

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 13563, of Gregory L. Gordon, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the lot occupancy requirements (Sub-section 5302.1) for a proposed residential addition to an existing office and retail building in a C-2-A District at the premises 340 - 8th Street, N.E., (Square 894, Lot 835).

HEARING DATE: September 23, 1981

DECISION DATE: September 23, 1981

FINDINGS OF FACT:

1. The subject property is located on the west side of 8th Street between C Street and D Street and is known as 340 - 8th Street, N.E. It is in a C-2-A District.

2. The site is 992 square feet in area and is rectangular in shape. The site is improved with a single-story building that was constructed about 1909. The structure occupies approximately fifty-eight percent of the lot, the lot being sixteen feet wide and sixty-two feet deep and the building being the same width and extending a depth of thirty-six feet.

3. The applicant proposes to construct a second-story addition, set back six feet from the front facade. The addition would have a sloping roof, rising at the back, with two stories on the street front and three in the rear. The addition is to serve as a two-bedroom, second story apartment unit, part of it convertible to commercial use, and to enlarge the existing first floor unit so it can be used as either office space or an apartment.

4. The applicant requests a variance of 140.8 square feet from the lot occupancy requirements. The addition at the rear of the building would extend 9.67 feet to the rear of the building for the full width of the lot.

5. Under the C-2-A zoning, the applicant can extend the building by 10.67 feet at the rear, with a second story, provided the structure is used only for commercial purposes. Such a commercial addition still would leave a rear yard of 15 feet. The applicant's residence abuts the subject building. The applicant desires to rehabilitate the subject property as a mixed-use property, since more than half of the properties on the affected block are now used as residences. The proposed structure would provide a rear yard of sixteen feet. The applicant seeks a variance since the proposed residential use would exceed by twenty-three percent the lot occupancy limitations.

6. The subject building is in a dilapidated state. The roof leaks badly and it has been determined to be irreparable. Because of the leaky roof, the tenant moved out late this summer. The applicant desires to rehabilitate the building as soon as possible.

7. The property adjacent to the building on the north, at 342 8th Street, N.E., covers the entire lot, with the exception of a four-foot court at the southwest corner, which extends some thirty feet toward the front of the building. There are several windows on that building facing the court. The owner of the property at 342 - 8th Street, N.E., has advised the applicant in a letter dated September 11, 1981 that he does not object to the variance being granted. The applicant testified that the proposed addition will not affect to any great degree the rights of the occupants of that building to light and air. The adjacent owner has advised the applicant that he is looking forward to the proposed construction as an improvement to the block. The proposed addition will match up the rear of the property at 340 - 8th Street, N.E. to the building line of a half dozen structures to the south, all of which are approximately forty-six feet deep.

8. The applicant testified that the proposed plan would preserve the existing storefront on the building. The U.S. Department of Interior, by letter of August 12, 1981, advised the applicant that the proposed design meets its standards as a "certified historic structure." The Joint Committee on Landmarks for the District of Columbia, by letter of June 11, 1981, advised the applicant that the plan was consistent with the historic character of the structure and the neighborhood. While slightly reducing the rear yard of the applicant's property, the rear yard would not be surrounded by tall structures. It abuts a larger yard behind a four-story apartment building, and an open area of several thousand square feet.

9. The plan calls for setting back the second story six feet at the front to preserve the historic storefront. By setting back the addition, the second story would extend thirty feet on the interior without a variance. Living quarters would be exceedingly cramped considering that stairways will take up significant floor space. Theoretically, the existing F.A.R. of 2.5 for residential use in a C-2-A district would allow the applicant to add second and third stories to the existing property within the lot occupancy restriction. The applicant seeks to expand the building without disturbing the architectural integrity of a historic district. There are no existing three-story buildings on that side of the street.

10. Advisory Neighborhood Commission 6A, by letter of September 9, 1981, reported that the ANC had unanimously recommended at its September 3, meeting that the application be approved. The ANC reported that it had contacted the neighbors in the area and encountered no opposition. The Board concurs in the ANC recommendation.

11. The Capitol Hill Restoration Society, by letter dated September 16, 1981, reported that at its regularly scheduled membership meeting on September 9, 1981, the Capitol Hill Restoration Society voted to support this application on the grounds that there exist extraordinary conditions resulting in exceptional hardship and practical difficulties as required under paragraph 8207.11. The applicant's plans propose an addition to an existing commercial building and the use of the second story as a residential dwelling. The applicant would not need a variance if the use were limited to commercial use only. However, this mixed use that is proposed is considered appropriate in an already mixed-use block. Because of the relatively small size of the lot, the extent of the variance, and since the rear extension of the building would be in line with other buildings in the block, the Society supported the variance from the percentage of lot occupancy being requested. Immediate neighbors of the property who would be affected by the reduction of light and air have no opposition to this variance either. The Board agrees with the findings and recommendations of the Society.

#### CONCLUSIONS OF LAW AND OPINION

Based on the record the Board concludes that the applicant is seeking an area variance the granting of which requires a showing of a practical difficulty upon the owner of the property that is inherent

in the property itself. The Board concludes that the practical difficulty results, in part, because the lot is considerably shallower than most lots containing row-houses. The Board also concludes there is a practical difficulty created by the need to maintain the architectural integrity of the building facade for historic preservation reasons. By setting back the second story six feet, to preserve the first floor storefront, the applicant would be reducing significantly the already modest floor space in the second floor unit. The applicant seeks to avoid building a third story unit on a block that consists of only two-story buildings. The Board concludes that the applicant would face practical difficulty without the variance because of the need to rehabilitate a dilapidated building with the limitations in rent income inherent in the lot coverage restriction. The Board notes that the building is about thirty-six feet long, occupying about 580 square feet, or fifteen square feet less than the maximum lot occupancy for residential use. The Board also notes that the proposed variance from the lot occupancy requirements would increase the lot occupancy by approximately 140 square feet. The Board notes further the lack of any opposition to the application and its support by the community. 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: 5-0 (Walter B. Lewis, Charles R. Norris, Douglas J. Patton, William F. McIntosh and Connie Fortune to grant).

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

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

FINAL DATE OF ORDER: 18 OCT 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."

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.