524 9th Street S.E.
Washington D.C. 20003
December 28, 2001

Ms. Sheila Cross Reid
Chairperson
Government of the District of Columbia
Board of Zoning Adjustment
441 4th Street N.W. Suite 210
Washington, D.C.

Reference: Case Number 16756
Application of Teddy L. Houston

Dear Ms. Reid

During my scheduled hearing on October 2, 2001, the Board requested some additional information from me regarding my application. The Board further agreed to allow two extensions of time to provide the additional information. Given my work schedule in the past three months, I do very much appreciate that.

I respectfully request the Board consider the information I have written and enclosed. This information is based on assistance I have received from a consultant in District of Columbia zoning matters and my own interpretation of the existing property characteristics. I trust the information will be sufficient for the Board in its review of my application. I have not enclosed additional photographs of the proposed garage location and alley behind my home because they are already included in the file for my case. I will certainly provide more photographs if considered necessary by the Board.

Should the Board have additional questions or comments, please let me know. I am confident I will be able to respond to concerns the Board may have. I also invite the Board to visit my property to inspect first-hand the existing structures and proposed garage location. Thank you for your consideration.

Sincerely,

Teddy L. Houston

Enclosure

cc: Ms. Sheri Pruitt

BZA
Case No. 16756
Exhibit No. 27

Board of Zoning Adjustment
District of Columbia
CASE NO.16756
EXHIBIT NO.27

Supplemental Information
Application of Mr. Teddy L. Houston
524 9th Street SE
Washington, D.C. 20003
Case # 16756

Background

The owner's home at 524 9th Street SE is a single-family dwelling built prior to 1900. The owner consulted with an architect specializing in historic buildings to get an idea of the age and historical significance of the dwelling. Based on a review of the architecture and construction techniques, the original front part of the house is believed to have been built around 1840. An existing addition to the original building appears to have been constructed around the turn of the century, perhaps a bit later. Both the original structure and the existing addition pre-date current zoning regulations that dictate lot area and width.

The owner desires to construct an accessory garage addition to his home. During the design phase it was determined that, due to District of Columbia zoning limitations, the garage could not be constructed as a matter of right. The owner sought relief from the Board of Zoning Adjustment. To avoid delays resulting from Zoning Administrator review, the application was self-certified by an architect registered in the District of Columbia. The application sought relief from the percentage of lot occupancy limitations (11 DCMR, Section 403). A pre-hearing memorandum from the Office of Zoning directed that additional variance relief is required under 11 DCMR, Section 2101.3, because the existing structure is nonconforming.

A hearing on these two issues was conducted on October 2, 2001 (Case #16756). The Board deferred making a decision to allow the owner time to provide additional information in support of his request. The Board asked for more information substantiating the existence of an exceptional situation that prevents the owner from compliance with zoning regulations. The owner conferred after the hearing with the Secretary of the Board of Zoning Adjustment. During that review, it was suggested that a special exception granting relief under 11 DCMR, Section 223, might be possible. The owner, not being familiar with the District of Columbia Zoning Regulations, had not previously considered that option.

At the Hearing, the Board verbally gave the owner permission to proceed with laying a concrete foundation for the garage before cold weather sets in to avoid problems in pouring concrete. The owner, through Mr. J. Minard's Permit Services, applied for and obtained a permit to do so.

Discussion – Original Variance Request

The application was submitted pursuant to 11 DCMR, § 3103.2 for an area variance from the lot occupancy provisions under Section 403, and a variance from the provisions that prohibit enlargements of an existing structure that is nonconforming as to lot occupancy under Subsection 2001.3, to allow the construction of an accessory garage in the R-4 District at premises 524 9th Street, S.E. (Square 949, Lot 830).

There are three tests that must be addressed to meet the burden of proof associated with the area variance request. One test is that granting the application will not be of substantial detriment to the public good. The owner can find no reason that the variance would be detrimental to the public good. Rather, the proposed garage would serve the public good by reducing by two the number of automobiles regularly parked on the street. That will relieve pressure in an area with too few street parking spaces for the number of people (residents and visitors) needing to park their cars. There are several restaurants on neighboring 8th street and the Marine Corps Barracks are a half block to the south of the applicant's residence. The area is congested in the evenings because many people from outside the neighborhood park to visit the restaurants. In addition, during the spring and summer months, there are regular weekend events at the Marine Barracks that make street parking in the applicant's neighborhood, and particularly on 9th Street, very difficult.

A second test is that granting the application will not be inconsistent with the general intent and purpose of the Zoning Regulations. The owner can find no reason that granting the variance would be inconsistent with the general intent and purpose of the Zoning Regulations. The home is a single-family dwelling and having an accessory garage is common and contributory in residential neighborhoods. Most of the homes along 9th and 10th Streets bordering the common alley have accessory garages.

The third test requires evidence that there are peculiar and exceptional practical difficulties, such as the property is exceptionally narrow, shallow, oddly shaped, and/or has unusual topography, soil conditions or other special conditions that make it difficult for the owner to build on the property in compliance with the Zoning Regulations. An anomaly with the owner's property that creates such a peculiar and exceptional practical difficulty is that a three-foot, three-inch wide walkway exists along the side of the house between the building and the property line. Strict interpretation of current Zoning Regulations make it virtually impossible to build in compliance on the property for two reasons. First, a strict interpretation requires that the walkway be deemed a nonconforming side yard, and second, that the dwelling be viewed as a semi-detached structure. Requirements of 11 DCMR, Section 199, *Definition of Building Area*, stipulates that the term "building area" shall include all side yards and open courts less than five feet in width. The percentage of lot occupancy is determined by calculating building area, and in this case the walkway counts in the calculation as if the house were a row house.

Because there is the walkway and the house is viewed as a semi-detached dwelling, there are much greater lot area and width requirements (3000 sq. ft lot area requirement, 30 foot lot width requirement, and 40 percent lot coverage allowance) than if the house were viewed as a row structure. If the walkway did not exist, or was covered with a structure already, the house would be viewed as a row house with an 1800 sq. ft lot area requirement, 18-foot lot width requirement and 60 percent lot coverage allowance. The owner believes the side yard should not be included as covered space in the calculation of lot occupancy and the structure should be viewed as a row house. That would be more consistent with the size and configuration of the owner's house and property, and with the types of dwellings and existing widths of most of the properties in the neighborhood.

The area variance is requested because the regulations recognize that composition of the R-4 zone is primarily row dwellings and the existence of the nonconforming 3.25' side yard is an anomaly that causes the owner's property to already be nonconforming in terms of lot coverage without considering the proposed garage. Without including the side yard as covered space, the owner calculates the lot coverage (including the proposed garage) to be 62.5 percent. That percentage does include the front yard from the sidewalk to the front wall of the house. Lot coverage without considering the front yard would be 71.7 percent.

Attached is a drawing of the property (notional - not to scale) done by the owner that shows dimensions taken of the property, as it exists (attachment 1). The owner's measurements represent the actual space associated with the dwelling and property bordered by existing house and garage walls, and fences. They line up with each house on the block in front with the fence next to the sidewalk, and in the rear to the alley wall of the existing garages and fences of the applicant's neighbors. There is a large, clean alley behind the property that measures 30 feet across to the garages on the other side. Also attached (attachment 2) is an analysis of the peculiar circumstances affecting the applicant's property by Mr. Edgar T. Nunley in support of the applicant's request.

Discussion – Alternate Variance Request

For properties in the R-4 District, 11 DCMR, Section 223, allows for relief within a 70 percent lot coverage. As an alternative to the original variance request, the applicant requests the Board consider granting relief in light of this provision of the Zoning Regulations. The owner believes the application can meet Section 223 requirements.

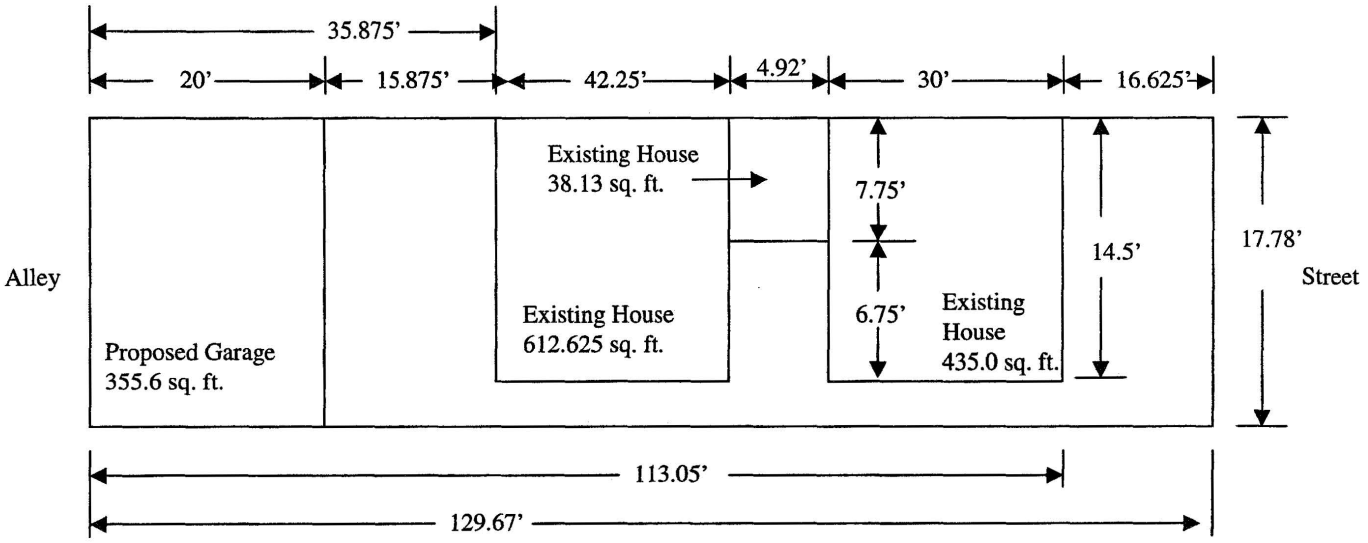
The proposed garage does not adversely affect the use or enjoyment of any abutting or adjacent dwelling or property. The light and air available to neighboring properties are not unduly affected, and the privacy of use and enjoyment of neighboring properties are not unduly compromised. The proposed garage, together with the existing house, as viewed from the street or alley, do not substantially visually intrude upon the character, scale and pattern of houses along the street frontage. The proposed garage will have a brick facing and 6 over 6 window in view so that the wall of the garage visible from the street (through the side walkway) will match the existing house.

The proposed garage has the written support of the owner's next-door neighbors on either side, as well as the ANC 6B (attachments 2, 3 and 4). The owner has received verbal support from many other neighbors and has not found any neighbor in the neighborhood with an objection. The owner intends to use the garage only for parking two cars - for reasons of security and to remove two cars that would otherwise be parked on the street. The parking situation in Ward 6 near the restaurants, businesses and the Marine Corps Barracks along on the 8th Street corridor can be particularly difficult. The owner believes both he and the city will gain by the construction of the garage, and that relief can be granted without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Request

The owner requests the Board favorably consider and approve his application for a permit to build an accessory garage at 524 9th Street SE.

5 Attachments
1. Owner's Drawing
2. Mr. Nunley's Analysis
3. Letter – Brad Kading
4. Letter – John Canderan
5. Letter – ANC 6B



Existing House: 612.625
38.130
435.000
1085.755 sq. ft.
Garage: +355.600
Toytal: 1441.355 sq. ft.

Lot Area:
With Front Yard:
129.670
x 17.78
2305.532 sq. ft.

Without Front Yard:
113.05
x 17.78
2010.029 sq. ft.

Lot Coverage:
With Front Yard
1441.355 = 62.5%
2305.532

Without Front Yard
1441.355 = 71.7%
2010.029

524 9th Street SE
(True Measurements)

BRINKLEYNET

NUMERICAL ANALYSIS WITH NOTES

DC ZONING

NA-01

Lot 830 in Square 949

524 9th Street, SE

Zoned R-4

BZA Case#16756:

	REQUIRED	ALLOWED	EXISTING	PROPOSED	NOTES
USE(S)		SFD, Flat, Existing Apt.	SFD	SFD	SFD = Single-Family Dwelling
STRUCTURE(S)		Detached Semi-Detached Row	Semi-Detached	No Change	Nonconforming 3 ft. side yard requires review as Semi-Detached structure.
LOT AREA	3000 sq. ft.		1793.62 sq. ft.	No change	Variant = 1206.38 or 40%
LOT WIDTH	30 feet		17.78 ft.	No change	Variant = 12.22 ft. or 41%
LOT AREA-ROW	1800 sq. ft.		1793.62 sq. ft.	Var. = 6.38 sq. ft.	• Original building built in 1900, prior to the regulation that dictates lot area and width.
LOT WIDTH-ROW	18 FT.		17.78 ft.	Var.=.22 ft.	• Building and existing addition built with three-foot walkway between building and property line. • Strict interpretation of current zoning regulations require that this walkway be deemed a nonconforming side yard. The structure, therefore, is reviewed as a semi-detached dwelling (3000 sq. ft./30 ft. requirement) instead of the more consistent and more conforming row dwelling (1800 sq. ft./18 ft. requirement). • This anomaly adds 1200 sq. ft. to the lot area requirement and 12 ft. to the lot width requirement. The lot area variant is thereby increased from less than one percent (6.38 sq. ft. or .35%) to nearly fifty percent (1206 sq. ft. or 40%). The variation from required lot width is increased from .22 ft. (1%) to 12.22 ft. (41%)

Edgar T. Nunley
Zoning Services
(301) 423-4968

Lot 830 in Square 949 | 524 9th Street, SE | Zoned R-4
BZA Case#16756:

	REQUIRED	ALLOWED	EXISTING	PROPOSED	NOTES
LOT OCCUPANCY @ 40%		717.45 sq. ft.	1155.84 sq. ft.	1513.44 sq. ft.	Existing Variant = 438 sq. ft. or (61%) Proposed Variant = 759.99 sq. ft. or (111%) • The site is further impacted by strict interpretation as a semi-detached structure. • The lot occupancy allowance is reduced from 60%, for a row dwelling, to the more restrictive 40% limitation, intended for, and more appropriately applied to, the lower density R-2 district in which a semi-detached structure is first allowed.
REAR YARD	20 ft.		35.875 ft.	Same	The rear garage addition is an accessory building and may be erected within the existing rear yard.
SIDE YARD	None required, but if provided must be at least 8 ft.		3 ft. x 0 ft.	Same	Variant = 5 ft. or 62.5% (existing)
PARKING	1		1	2	

Edgar T. Nunley
Zoning Services
(301) 423-4968

BRINKLEYNET

NUMERICAL ANALYSIS WITH NOTES

DC ZONING

Lot 830 in Square 949 — 524 9th Street, SE — Zoned R-4

BZA Case#16756

This table assumes the three-foot (3') walkway doesn't exist. The property is located in a zone in which the predominant construction type is row structures. The existing premise is more consistent with zoning requirements for a row dwelling in the R-4 district.

The intent of this table is to provide comparison with the table of existing regulatory conditions. Comparison will point out how "...strict application of the regulations...", which require the walkway to be considered a side yard, serves to cause "...peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of the property...". Such interpretation drastically increases the requirements for lot area and lot width, as well as the limitation on allowable percentage of lot occupancy. [excerpted from 11DCMR, Sec. 3103.2, emphasis added]

A further encumbrance results from the requirements of 11DCMR, Sec. 199 – Definition of Building area, which states in part, "The term 'building area' shall include all side yards and open courts less than five feet (5 ft.) in width...[emphasis added]". The percentage of lot occupancy is determined by calculating building area. Even though the allowable percentage of lot occupancy is severely restricted by calling this building semi-detached, the walkway counts in this calculation as if it is, in fact, a row structure.

TECHNICAL ANALYSIS:

	REQUIRED	ALLOWED	EXISTING	PROPOSED	NOTES
USE(S)		SFD, Flat, Existing Apt.	SFD	SFD	SFD = Single-Family Dwelling
STRUCTURE(S)		Detached Semi-Detached Row	Row Dwelling	No Change	Assumed to be a Row Dwelling for purposes of this comparison table. The structure is considered a semi-detached dwelling under strict interpretation.
LOT AREA	1800 sq. ft.		1793.62 sq. ft.	No change	Variant = 6.38 sq. ft. or 0.35%
LOT WIDTH	18 feet		17.78 ft.	No change	Variant = .22 ft. or 1.2%
LOT OCCUPANCY @ 60%		1076.17 sq. ft.	1155.84 sq. ft.	1513.44 sq. ft.	Existing variant = 79.67 sq. ft. or 7% Proposed variant = 437.27 sq. ft. or 41%
REAR YARD					
SIDE YARD	None		None	None	Assumed to be a Row Dwelling for purposes of this comparison table. The structure is considered a semi-detached dwelling under strict interpretation (minimum 5 ft. for existing structure, minimum 8 ft. for new structure).
PARKING					

Edgar T. Nunley
Zoning Services
(301) 423-4968

August 24, 2001

Mr. Ted Houston
524 9th St. SE
Washington, DC 2003

Subject: Garage Zoning Variance

Dear Ted:

We support your effort to build a garage at the rear of your property at 524 9th St. SE, a location immediately south of our home. We support your efforts to win all necessary local government approvals, including a zoning variance, necessary to construct your garage.

Sincerely,

Brad Kading and Kim Ross
522 9th St. SE
Washington, DC 20003
202-547-1770

Mr. Ted Houston
524 9th Street SE
Washington DC 20003

September 25, 2001

Subject: Construction of a Garage

Ted:

I have no objection to your plan to construct a garage as described to me behind your house at 524 9th Street SE.

Sincerely,



John Canderan
526 9th Street SE
Washington DC 20003
202-544-6244

CAPITOL HILL — NEAR SOUTHEAST 921 PENNSYLVANIA AVENUE, S.E. — SUITE 108

Advisory Neighborhood Commission

6B

PHONE: 543-3344 WASHINGTON, D.C. 20003

September 27, 2001

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Kalimah Abdul-Sabur

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EXECUTIVE DIRECTOR

Gottlieb Simon

Board of Zoning Adjustment
Government of the District of Columbia
441 4th Street NW
Washington, DC 20004

Re: BZA Application 16756

Dear Board Members:

On September 19, 2001, the Executive Committee of ANC 6B meet in emergency session to consider BZA Application 16756, a request for a variance for 524 9th Street, SE. This meeting was called under Article IX, Section 5 of the ANC 6B bylaws, which authorizes the Executive Committee to act in on emergency basis after calling a Commission meeting in which a Commission quorum was not achieved. It is the determination of the Chair that the cancellation of the regularly scheduled monthly meeting of ANC 6B on September 11 due to a state-of-emergency in the District of Columbia meets the criteria stated in the bylaws.

Present were Commissioners Ann Black, Will Hill, Ken Jarboe (chairing), Robert Siegel, Charles White, John Branscomb, and Kalimah Abdul-Sabur. With the presence of Jarboe, Hill, Siegel and Abdul-Sabur, a quorum was present (Executive Committee requiring at least 3 officers present for a quorum). The presence of seven Commissioners also constitutes a quorum for the full ANC.

The chair of the Planning and Zoning Committee (Ann Black) delivered an oral report on this case. The Planning and Zoning Committee meet on September 4 and voted to support this application for a variance to construct a garage.

The Executive Committee voted 7-0-0 to approve the P&Z Committee report and support this application.

Sincerely,

Kenan Jarboe
Chairperson