Burden of Proof
For
Area Variance

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BZA
Case No. 17125
Exhibit No. 7

Board of Zoning Adjustment
District of Columbia
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BURDEN OF PROOF FOR AREA VARIANCE

Section 401.3 of the zoning regulations states that the minimum allowable lot area for a row dwelling or flat in an R-4 district is 1800sf, and the minimum allowable width of the lot is 18 ft.

> The property at 507 Independence Ave, SE is 1392sf and has a lot width of 17.4 ft. and is therefore not in compliance.

Section 403.2 of the zoning regulations states that the maximum percentage of lot occupancy for a structure in R-4 zoning is 60%.

> The existing lot coverage at the property at 507 Independence Ave, SE is currently 60%. The proposed addition would increase the lot coverage to 75%.

Section 406.1 of the zoning regulations states that the minimum width of an open court for a one-family dwelling in R-4 district is "4 in. per foot of height of court, but not less than 6ft.

> The property at 507 Independence Ave, SE has an open court in the rear, created by a dogleg condition that is 5.3 ft. and therefore not in compliance. The proposed addition would eliminate the non-complying court at the first floor level.

Section 405.8 states that "*In the case of a building existing on or before May 12, 1958, with a side yard less thatn (8 ft.) wide, an extension or addition may be made to the building; Provided, that the width of the existing side yard shall not be decreased; and Provided further, that the width of the existing side yard shall be a minimum of five feet (5 ft.)*

> The property at 507 Independence Ave, SE could be added to without a zoning hearing if the addition were to be within the existing footprint of the building. This would entail a third story addition to the rear of the house where there is currently a 2 story portion. However, this would not meet the needs of space for the family. The additional space that is needed is on the first floor for the kitchen and family room. The third floor would not function in this way.

Section 401.1 states that "*Except as provided in chapter 20 through 25 of this title, in the case of a building located, on May 12, 1958, on a lot area or width of lot, or both, less than is prescribed in 401.3 for the district in which it is located, the building may not be enlarged or replaced by a new building unless it complies with all other provisions of this title.*

> The property at 507 Independence Ave, SE was built in 1886. The house is a non-complying structure for this reason.

Section 2001.3 states that "*Enlargements or additions may be made to the structure; Provided, that the following requirements shall be met: (a) The structure shall conform to the percentage of lot occupancy requirements; and (b) The addition or enlargement itself shall conform to use and structure requirements; and (c) The addition or enlargement itself shall not increase or extend any*

existing, nonconforming aspect of the structure, and shall not create any new nonconformity of structure and addition combined.

The addition will comply with use and structure requirements for the building. The addition will decrease another of the non-conforming aspects of the structure – it will eliminate the non-complying open court.

Section 401.2 states that "Except as provided in 401.3, in the case of an unimproved lot in single ownership on November 1, 1957, which has an area or width of lot less than that specified in 401.3 for the district in which it is located and which does not adjoin another unimproved lot in the same ownership, a structure may be erected on the lot if both the area and width of lot are at least eighty percent (80%) of the area and width of lot specified under 401.3; Provided that the structure shall comply with all other provisions of this title.

The total area of the lot is only 77% of the required minimum lot area under section 401.3 and its width of 17.4 ft. is less than the required minimum of 18 ft. In addition to the undue hardship of financial burden that would be created, this zoning regulation would prevent construction of a new house to better suit the needs of the owner.