Testimony of ANC3C
Before the Board of Zoning Adjustment 18886
2709 36th St NW
March 31,2015

My name is Catherine May. I am the Commissioner for ANC3C08 and I reside at 2800 36th St NW. I am testifying as both the authorized representative of ANC 3C and a resident of the affected neighborhood. In my 10 years as an ANC commissioner, I have participated in dozens of applications for special exceptions to existing zoning and land use regulations. ANC3C08 has been willing in all circumstances to work with applicants seeking to make modifications large and small, which require special exceptions. There is an established and well-known procedure for doing this and most often it results in ANC3C08 being able to support applications because most applicants come before the ANC, abide by the process and reach an agreement with the affected neighbors. In fact this is only the second time in ten years I have had to appear before this Board in a contested matter.

ANC3C voted 5 to 0 with one abstention to oppose the Applicant's request for a special exception. The grounds to oppose are set out in the ANC resolution 2014-043 on file with this Board. The submissions from the Massachusetts Avenue Heights Citizens Association and affected neighbors detail the particular violations for which the owner/developers seek dispensation. My major concern, that of my constituents, and I trust of concern to the members of the BZA, is that the compelling reason to deny the exception is the fundamental disregard of the established legal process for considering projects that indisputably violate zoning requirements. Those requirements, which have the force of law, exist to protect the neighbors, who, as

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citizens of the District of Columbia, are entitled to rely on them, and those charged with enforcing them, to ensure that their interests are protected and that all applicants are held to the same standards. If the citizens' interests can be freely ignored in the hope, and in this case apparently the expectation, that violations will be forgiven after the fact, the Board will be put in the position of setting a policy that ultimately undermines the integrity of the process. Applicants cannot secure approval after ignoring the procedures and their neighbors by arguing that they have spent a lot of money to do what the law forbids them to do. Whether or not they think the Board might have approved the application if it had been timely filed, this disregard is further compounded by the fact that the applicant continued work on the project for more than a year after being directed to apply for a special exception before taking the steps to file.

I want to note that the ANC vote was based on several factors:

Most important was the lack of any effort by the Applicant to show that she met the requirements of the zoning law.

Second was the finding during site visits by several Commissioners and the photographic documentation by the affected neighbors. These demonstrate that the addition has an adverse impact on light, air and privacy of surrounding properties. No other property in this neighborhood is as large in size on one lot, as imposing in mass, or as intrusive by virtue of very large windows overlooking neighbors' yards and homes. For example, the large picture windows in close proximity to the back garden of Ms. McKee block light, air

and entirely prevent any sense of privacy. The view from the homes across the alley of a structure totally out of proportion and out of character with the neighborhood, the privacy intrusion expected from Applicant's roof top deck, and the placement of a structure eight feet or more above the prior grade in the side yard to the south of the addition - that intrudes on the privacy of the neighbor to the south are further examples of the adverse impact on light air and privacy. The structure to the south, in an area marked existing concrete driveway on the plans but clearly a new structure has somehow allowed the Applicant to skirt the occupancy limits because Applicant has not included the structure in total occupied space even though it occupies a large piece of land and is integrated into the main floor of the house.

Third was the posture of the Applicant that she, as represented by her counsel, is not bound by the law - that because the structure has been essentially completed she is entitled to a special exception.

Fourth consistent with my experience and the reports of my neighbors, that the Applicant had made no effort to consult with the neighborhood about mitigating adverse impacts during the building process but instead maintained the position that she was entitled to build whatever she was wanted.

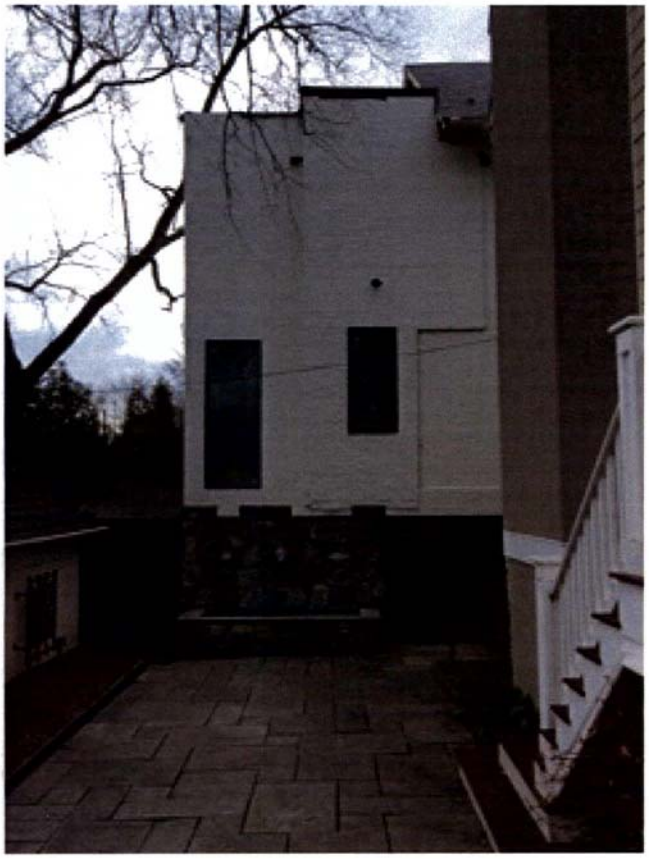
The applicant asked to postpone the BZA hearing scheduled for January in order to reach out to the neighbors and attend further ANC meetings, supposedly to address some of these concerns. Since January, the Applicant has continued to work on the project and has made no attempt to reach out to the ANC or apparently to the neighbors.

Finally, the ANC is very concerned that developers like the Applicant believe they can develop properties out of compliance with the regulations and then come to this Board and get a special exception based on an the assumption that the BZA will be reluctant to require adherence to the law after the fact. This sort of behavior should not be rewarded. It undermines confidence in the review process and fairness of application of the law and penalizes those residents who adhere to the process. If tolerated, it will encourage other developers to pursue the same tactic. We are wiling to work with anyone in the neighborhood who is willing to work within the guidelines to which all of us are subject. It is not too much to ask what the law requires.

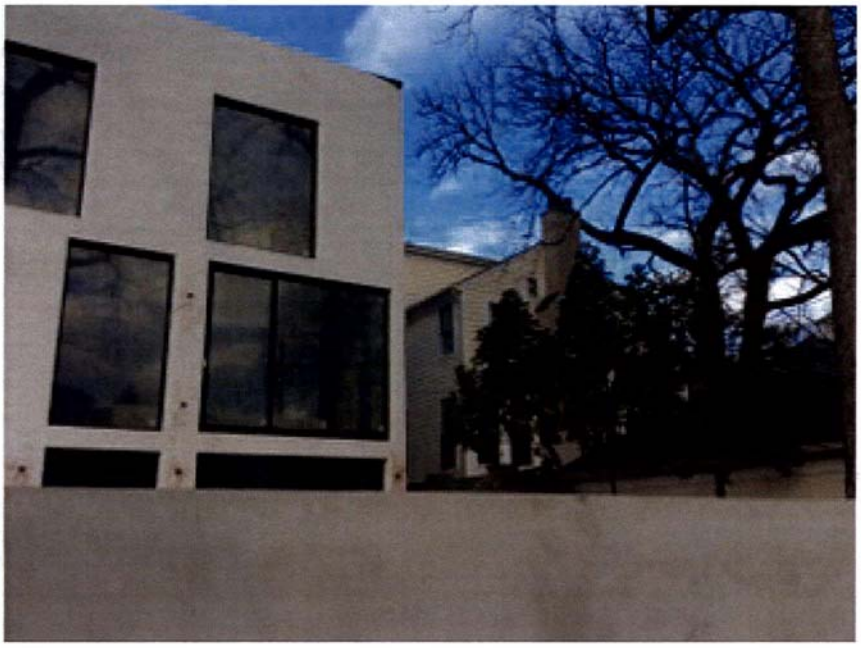
Thank you for considering these comments.

ADDENDUM to ANC3C testimony BZA 18886 3/31/15

This is a picture I took in the morning. The picture looks at the South façade of 2709 and shows how the addition blocks the morning light and prevents it from reaching the backyard of Ms McKee the neighbor to the north.



This picture shows the backyard of Ms McKee and the windows looming over her backyard and the blocking of light and air (as shown by the picture of the morning sunlight above.



This picture shows the oversized windows which overlook the properties to the East across the alley. There are no other homes in this neighborhood that have windows this large that have an impact on the light and privacy of the surrounding neighbors. This is the view from Mr Glowakies' perspective to the east of the property. These windows are massive in comparison to others in the neighborhood.

I further referenced the elevation of the driveway structure on the south side yard. The driveway was originally below the level of the first floor, it is now significantly higher as can be seen in the picture displayed on the screen in the hearing room this morning provided by Ms Moldenhauer. Also there has been elevation of the driveway within public space which extends four feet in from the sidewalk. The drive way now is elevated approximately to the level of the neighbor's first floor window and above the care roof in the picture.