

**Before
The Board of Zoning Adjustment of
The District of Columbia**

Appeal of
Jonathan Gottlieb
of
Building Permit No. 84942

4641 Dexter Street, N.W.

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**Appellant's Statement
in Support of His Appeal**

March 17, 2006

Jonathan Gottlieb - Appellant

**BOARD OF ZONING ADJUSTMENT
District of Columbia**

CASE NO. 17502

EXHIBIT NO. 2

Board of Zoning Adjustment
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I. Introduction

Jonathan Gottlieb (the "Appellant") hereby appeals from an administrative decision of the Department of Consumer and Regulatory Affairs, Building and Land Regulation Administration ("DCRA"), to issue Building Permit Number 84942 to Decker Development. The building permit purported to authorize Decker Development to gut and rebuild an existing house and to build a second house of greater size on property it owns located at 4641 Dexter Street, N.W., Square 1381, Lot 6 (the "Decker Development Site"). This administrative decision violates numerous provisions of the Zoning Regulations of the District of Columbia and other regulations and laws.

As a preliminary matter, the Appellant notes that despite his repeated diligent attempts to examine the permit and related documents, DCRA has failed to provide him access to any documents relating to the permit because DCRA claims the permit and related documents are "missing." Appellant reserves the right to amend this appeal and this statement.

II. The Appellant

Appellant resides with his wife and their children at 4610 Dexter Street, N.W., Square 1397, Lot 1032. Appellant and his family live in a single story ranch style house built in the 1950s. Appellant's property consists of 28,562 square feet (approximately two thirds of an acre). The Appellant's property is located within the Wesley Heights Overlay District. The Appellant's property is across the street from 4641 Dexter Street, N.W.

III. The Decker Development Site

The Decker Development Site is located at 4641 Dexter Street, N.W., Square 1381, Lot 6. The property is owned by Decker Development. The Decker Development Site is zoned R-1-A, low density residential. The Decker Development Site is located within the Wesley Heights Overlay District and is subject to applicable zoning regulations.

The natural grade of the Decker Development Site drops dramatically from the front of the Site on Dexter Street to the rear of property. The rear property line is shared with the Wesley Heights Park, part of Rock Creek Park, federal parkland owned by the U.S. Park Service. A walking trail meanders through the park; a portion of the trail is near the property line of the Decker Development Site.

IV. The Administrative Decision

Appellant appeals from the decision of the Director of the Department of Consumer and Regulatory Affairs to issue, on January 17, 2006, Building Permit Number 84942 to Decker Development. The building permit purported to authorize Decker Development to gut and rebuild an existing house and to build a second house of greater size on property it owns located at 4641 Dexter Street, N.W., Square 1381, Lot 6.

V. The Manner in Which the Appellant Is Aggrieved by the Administrative Decision

As a result of the errors in issuing the Building Permit, the Appellant has been and will be irreparably harmed. These errors have harmed the health, safety and welfare of the Appellant and other neighbors, as well as the Wesley Heights Park. They have suffered significant losses in the value of their properties as a result of the errors committed in issuing the Building Permit.

The Appellant and their neighbors have been particularly adversely affected by the new structures that are eyesores that loom over neighboring properties and the federal park. They inhibit enjoyment of the Appellant and his family and the neighboring properties as well as the federal park. They have greatly diminished the aesthetic appeal and views from within the park.

Like other neighbors and D.C. residents who use the trails that runs through Wesley Heights-Rock Creek Park, Appellant is affected by the oversize development that is visible from the trail.

Given the southern exposure, the over size structures being built by Decker Development block light, including sun light, and air of neighbors and of the Federal Park. This endangers trees, inhibits

growth of grass and plants, and increases erosion. Moreover, it conflicts with the design and appearance of the neighborhood.

The elaborate structures dramatically increase the runoff creating damage to the homes, trees and property. The runoff endangers the roots of the many trees. The combination of the high amount of runoff and the lack of sunlight creates a serious erosion problem in the Federal Park.

The effect of errors in issuing the Permit is to dramatically alter the character of the neighborhood. The enormous mass of the structures threaten existing trees, limit the access of air and light and conflict with the design and appearance of the homes in the Wesley Heights Overlay District.

VI. The Errors in the Administrative Decision

The Director erred in granting the Building Permit because it violates numerous provisions of applicable laws and regulations including, but not limited to, the following:

- 11 DCMR 1543.2 which requires that “no structure, including accessory buildings, shall occupy an area in excess of thirty percent (30%) of the lot;
- 11 DCMR 403.2 which requires that “no structure, including its accessory building,” shall occupy an area in excess of . . . of forty percent (40%) of the lot;
- 11 DCMR 1543.3 which requires that “the gross floor area of all buildings and structures on the lot shall not exceed the sum of two thousand square feet plus forty percent of the area of the lot.”
- 11 DCMR 1541.3 which provides that one of the purposes of the Wesley Heights Overlay District is to “preserve existing trees;”
- 11 DCMR 1541.3 which provides that one of the purposes of the Wesley Heights Overlay District is to “preserve...access to air and light;”

- 11 DCMR 1541.3 which provides that one of the purposes of the Wesley Heights Overlay District is to "preserve ... the harmonious design and attractive appearance of the neighborhood;"
- 11 DCMR 405.9 which requires that the side yard be "a minimum depth" of eight feet;
- 11 DCMR 404.1 which requires that the rear yard be "a minimum depth" of twenty five feet;
- 11 DCMR 199.1 which in defining the term "yard" requires that "a yard required by the provision of this title shall be open to the sky from the ground up, and shall not be occupied by any building or structure, except as specifically provided in this title' and which further requires that "no building or structure shall occupy in excess of fifty percent (50%) of a yard required by this title;"
- 11 DCMR 400.1 which requires that "the height of buildings or structures. . . shall not exceed . . . a maximum height of 40 feet;"
- 11 DCMR 400.5 which requires that a "building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the natural grade;"
- 11 DCMR 101.1 which requires that "[i]n their interpretation and application," the provisions of the Zoning Regulations of the District of Columbia "shall be held to be the minimum requirements...;"
- 11 DCMR 101.1 (a) which requires that "[i]n their interpretation and application," the provisions of the Zoning Regulations of the District of Columbia "shall be held to be the minimum requirements....to provide adequate light and air;"
- 11 DCMR 101.1 (b) which requires that "[i]n their interpretation and application," the provisions of the Zoning Regulations of the District of Columbia, "shall be

held to be the minimum requirements....to prevent ...the overcrowding of land;"

- 11 DCMR 101.1 (c) which requires that "[i]n their interpretation and application," the provisions of the Zoning Regulations of the District of Columbia, "shall be held to be the minimum requirements" to protect property; and
- 11 DCMR 101.2(a) which states that in interpretation and application of the Zoning Regulations of the District of Columbia, it should be considered that the regulations were "designed with consideration of the "character of the respective districts."

VII. The Appellant's Basis for Proving His Case

Appellant intends to prove his case by providing documentation of each of the violations, expert and eyewitness testimony as well as analysis of the applicable laws and regulations.

VIII. The Relief Requested

The Appellant respectfully requests that the Board of Zoning Adjustment enter relief consistent with 11 DCMR 3100.4 and other applicable law including, but not limited to, the following:

1. reverse the decision relating to the issuance of the Building Permit to the extent that it violates the letter and the spirit of applicable laws and regulations;
2. vacate the Building Permit to the extent that it violates the letter and the spirit of applicable laws and regulations;
3. order Decker Development to remove all, or that portion of, structures and any other changes to the Decker Development Site to the extent that they violate the letter and the spirit of applicable laws and regulations and return the property to its original condition; and

4. order such further relief that is just and proper.

IX. Conclusion

The Appellant respectfully requests that the Board of Zoning Adjustment enforce the letter and the spirit of the laws and regulations of the District of Columbia, including the Zoning Regulations of the District of Columbia, to protect this Wesley Heights neighborhood and federal parkland against excessive development.

Respectfully submitted,

Jonathan Gottlieb

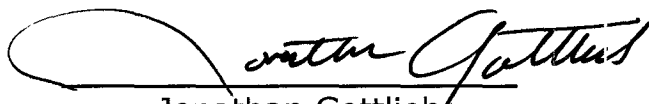
Certificate of Service

I, Jonathan Gottlieb, hereby certify that I caused to be delivered a copy of Form 125 and this Statement upon each of the following persons:

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