

DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT

Case No. 18296 - 3825 Morrison Street, N.W.

EXHIBITS OF OBJECTING NEIGHBORS

PETER and ANN KOLKER

STUART and ROBIN MILES-MCLEAN

JAN 17

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18296

EXHIBIT NO. 46

January 17, 2012

District of Columbia

MAYOR FENTY

DC GUIDE

RESIDENTS

BUSINESS

VISITORS

GOVERNMENT

Consumer & Regulatory Affairs

DCRA HOME

About DCRA
How to Reach Us
Ask the Director
FOIA Requests
News Room
Helpful Links
Site Map

SERVICES

Building Permits
Consumer Protection
Corporate Registration
Elevator Safety &
Regulation
Homeowners Center
Inspections &
Enforcement
Licenses
Office of the Surveyor
Residential Inspections
Street Vending
Vacant Properties
Weights & Measures
Zoning Requirements

INFORMATION

Agency Calendar &
Outreach
Board for the
Condemnation
of Insanitary Buildings
Building Code Advisory
Committee
Career Opportunities
Construction Code
Coordinating Board
Expired Business
License Information
Fireworks Sales Permit
and License
Multi-Door Dispute
Resolution
Photo Gallery
Proposed 2008
DC Construction Code
Publications
Rooming Houses
Service Hours
Outdoor Advertising Signs
Used Car Lots and
Enforcement Photo
Gallery

ONLINE SERVICE
REQUESTS

Building Plan Review Status

Project Information

- **Application ID:** B1001551
- **Date filed:** 11/30/2009
- **Address:** 3825 MORRISON ST NW
- **Agent:** JOHN OWENS, (301) 741-0878

Review Status and Comments

Please see the table below for the status of this review and any comments.

Discipline	Review Status	Status Date
Zoning Review	Zoning Review Approved . REPLACE EXISTING REAR ADDITION, REPLACE EXISTING DECK WITH CONCRETE TERRACE WITH MAX HEIGHT 3' 7 5/8", REPOINT/REPAIR EXISTING DRIVEWAY AND REPAIR/REPOINT EXISTING PRIVATE SIDEWALK.	12/15/2009

If you have questions about a particular building application, please contact the Permits Division at: (202) 442-4589.

[Search for another job](#)

[Telephone Directory by Topic](#) [Agencies](#) [DC Council](#) [Search](#) [Elected Officials](#) [Feedback](#) [Accessibility](#) [Privacy & Security](#) [Terms & C](#)

A



**BEFORE- NO
GARAGE- OPEN
REAR YARD AS
REQUIRED BY
ZONING**



**AFTER GARAGE-
OPEN REAR YARD
AS REQUIRED BY
ZONING**

B

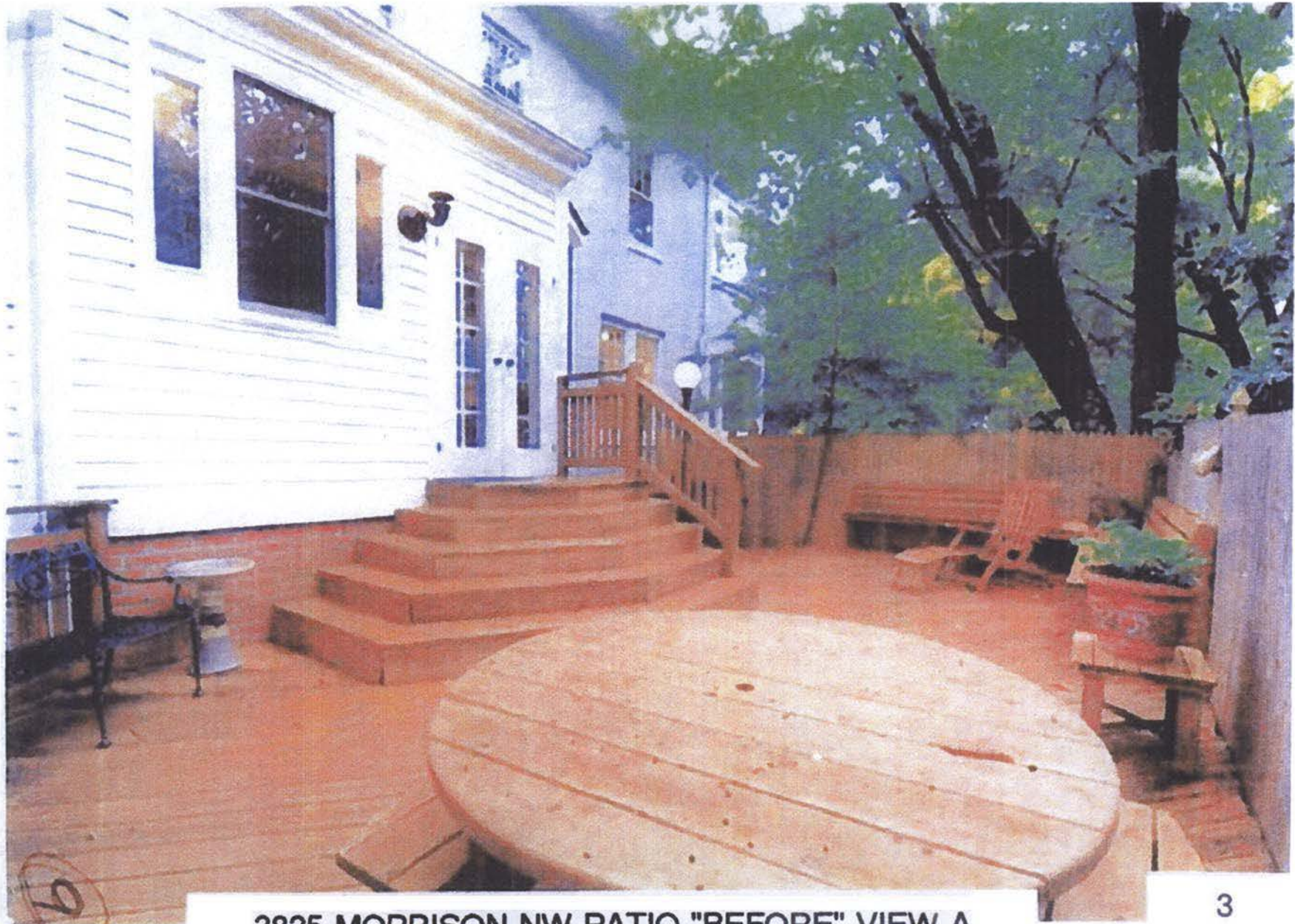


BEFORE



AFTER

②



3825 MORRISON NW PATIO "BEFORE" VIEW A
LOOKING WEST (toward 39th)

3

(D)

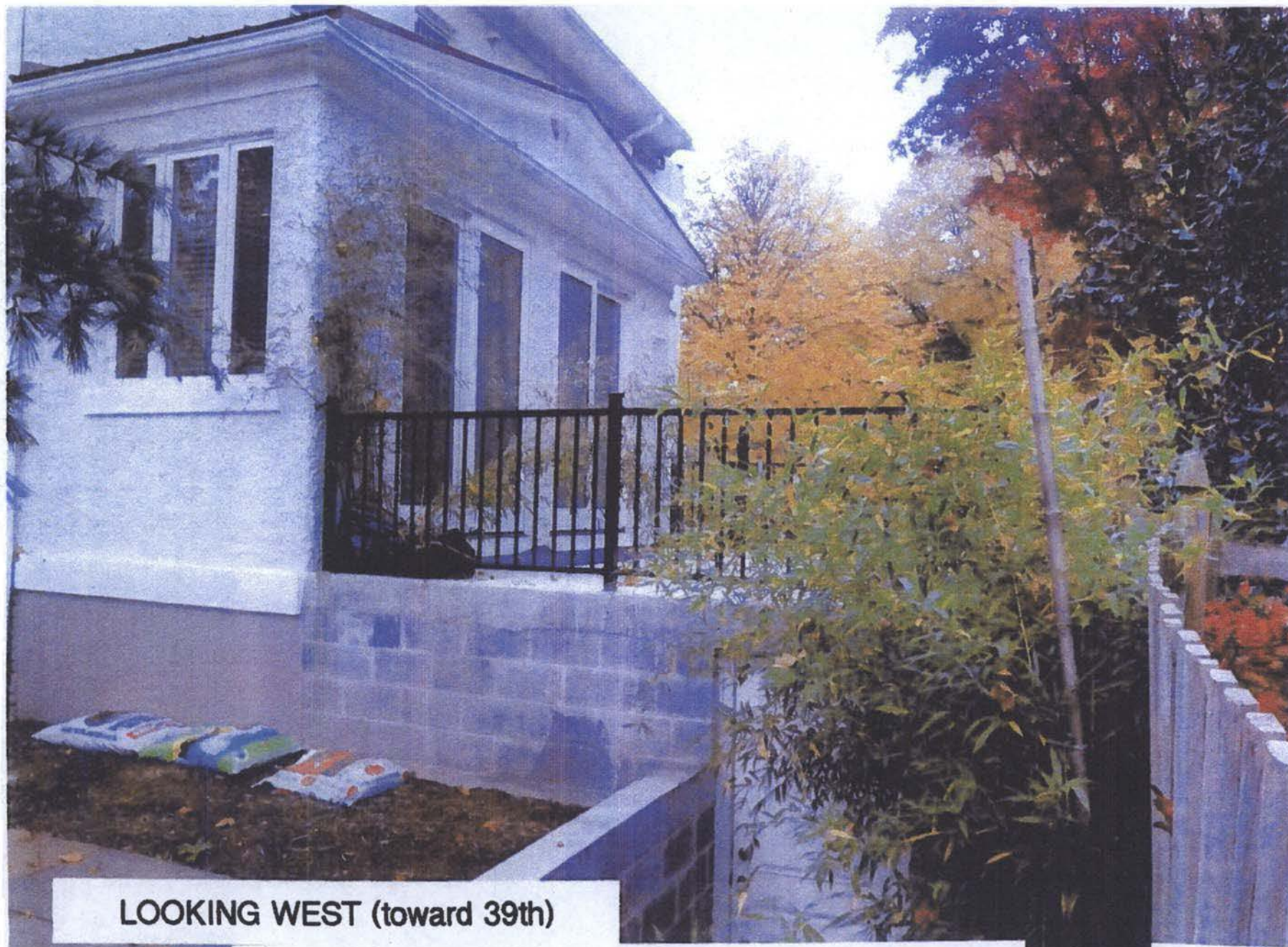


3825 MORRISON NW PATIO "BEFORE" VIEW B
LOOKING EAST



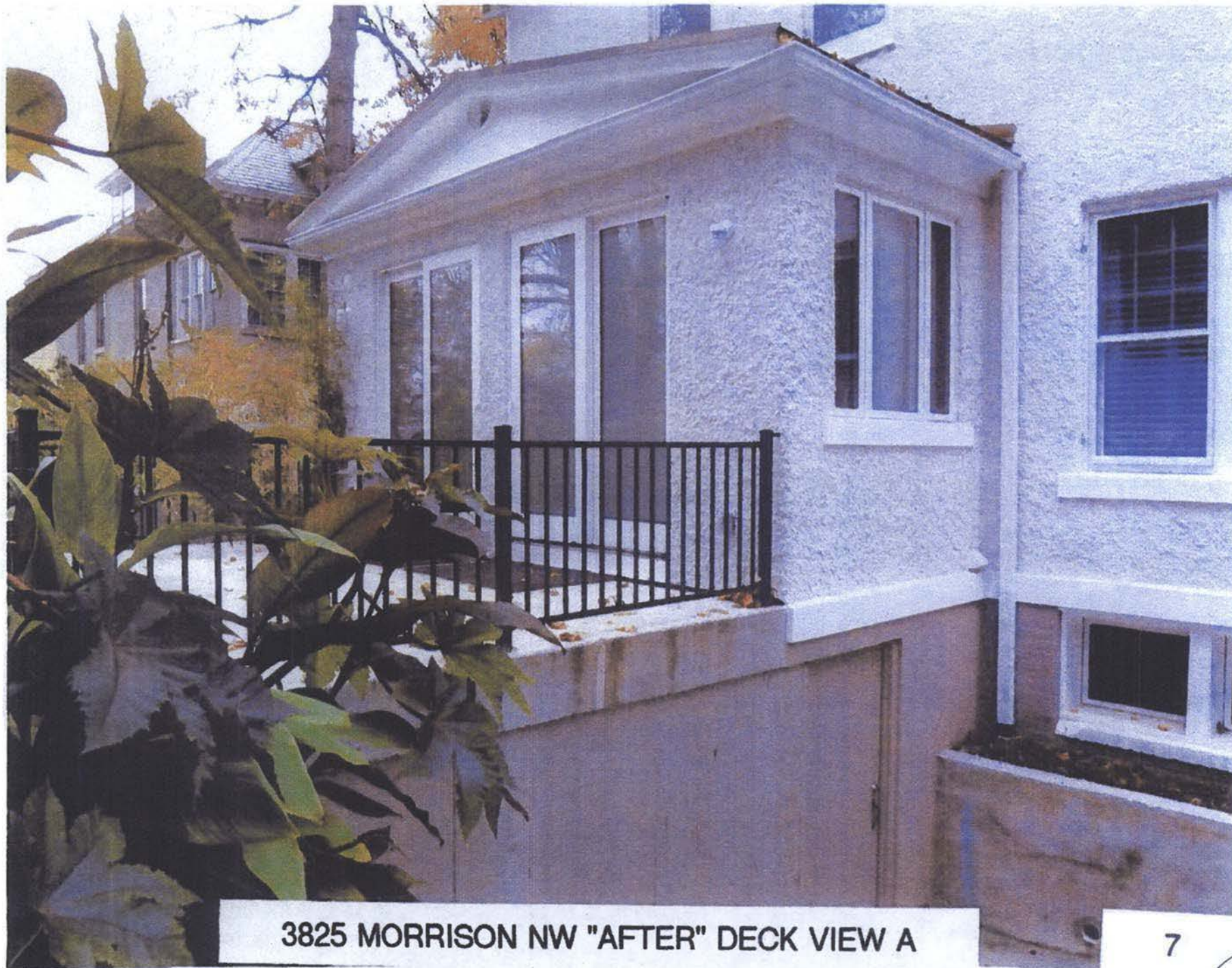


3825 MORRISON NW "AFTER" DECK VIEW C
NORTH SIDE



LOOKING WEST (toward 39th)

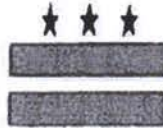
3825 MORRISON NW "AFTER" DECK VIEW B



3825 MORRISON NW "AFTER" DECK VIEW A
LOOKING EAST (view from 39th st)

(14)

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**



December 1, 2010

Daniel Merlis
3825 Morrison St NW
Washington, DC 20015-2806

Mr. Merlis:

As you know I have been reviewing the addition you have constructed to your home at 3825 Morrison St., NW ("the Property") for compliance with the Zoning Regulations. DCRA had previously informed you that the addition you built encroaches into the required rear yard. After meeting with you, I understood your position to be that the addition was in compliance because it was a lawfully, non-conforming structure permitted by 11 DCMR § 404.4. After conducting a thorough review of this matter, I have concluded that the structure is not lawfully non-conforming or "grandfathered" and thus it does encroach into the required rear yard in violation 11 DCMR § 2503.1.

The Property is located in an R-2 zone, which requires a minimum 20-foot rear yard. See 11 DCMR § 404.1. Because part of the addition is more than 4 feet above grade, it may not encroach into the required yard. See 11 DCMR § 2503.2.

To address the question of whether the encroachment is grandfathered, I look to 11 DCMR § 404.4, which states:

In the case of a building existing on or before May 12, 1958, an extension or addition may be made to the building into the required rear yard; provided that the extension or addition shall be limited to that portion of the rear yard included in the building area on May 12, 1958.

You and your counsel have explained to me that the addition is grandfathered because it replaced a deck that existed before you purchased the property. You removed this deck as you began construction of the addition. In order to conclude that the addition is grandfathered under § 404.4, I must find that the pre-existing deck was 1) in excess of 4 feet above grade, and 2) that it was lawfully in existence on May 12, 1958.

After reviewing this matter, I find that there is a lack of evidence for me to conclude either that the pre-existing deck existed on May 12, 1958 or that it was more than 4 feet above grade. Non-conforming structures and uses are disfavored by the law. As such, the burden of proof to establish non-conformance rests with the person seeking

17

to continue the non-conforming use or structure. Thus, I cannot conclude, without an evidentiary basis, that the structure is non-conforming.

As I have concluded that the addition does not comply with District of Columbia Zoning Regulations, you must take corrective action. Accordingly, you must obtain a variance from the District of Columbia Board of Zoning Adjustment (the "BZA") or you must alter the existing structure so that it is in compliance with 11 DCMR § 2503.1.

If you do not take the actions specified in this letter within 60 days, DCRA will refer this matter to the District of Columbia Office of the Attorney General for enforcement action. If you apply to the BZA for a variance, DCRA will not pursue enforcement action until the BZA has issued a final decision.

If you believe that my decision contained in this letter is erroneous, you may file an appeal within sixty (60) days with the District of Columbia Board of Zoning Adjustment, 441 4th Street, NW, Suite 210 South, Washington, DC 20001.

Please direct any questions regarding this letter by contacting me via email at matt.legrant@dc.gov or by calling me at (202) 442-4652.

Sincerely,



Matthew LeGrant
Zoning Administrator

LeGrant, Matt (DCRA)

From: Toye Bello [toyebello@bandbllc.com]
Sent: Monday, January 03, 2011 3:12 PM
To: LeGrant, Matt (DCRA)
Subject: 3825 Morrison St. NW
Attachments: Zoning Letter to Merlis re 3825 Morrison St NW 12-1-2010.pdf
 Mr. LeGrant:



Greetings and Happy New Year. This email is to inform you, on behalf of my client, that in response to the attached zoning letter regarding the subject matter, an application for relief will be filed within the next 30 days before the Board of Zoning Adjustment. A copy of the proof of filing will be provided for your record as soon as the application is filed.

In accordance with the stipulation in your letter, evidence of such application will stave further enforcement action until the BZA issues a final order related to the application.

As you know, the kitchen replacement renovation, when complete, will allow access to the open concrete deck, which at its highest point, is approximately 8 - 9 feet to the bottom of the driveway, which creates an unsafe condition, contrary to the requirement of the building codes. The Building Codes require protective guard rails under the prevailing conditions

Further, the storage area beneath the concrete deck is currently boarded up where a secure garage overhead door was contemplated, hardly, you will agree, providing appreciable secured access to the basement door, which leads into the living area.

Given that that the BZA application process will take upwards of 6 months to navigate, there is commensurate concern about the duration of the unsafe and insecure conditions. Hence the request that you grant conditional installation of the guardrail and secure overhead door, provided that the client shall solely bare the cost of removal of those items and hold the District harmless, in the event that the BZA does not grant the necessary relief.

I think the request is reasonable under the circumstances in the interest of public safety and the security and safety of the homeowner. Moreover, granting the request replaces what is currently an esthetic eyesore to the adjoining neighbor.

We are glad to get on your calendar if you need additional documentation for your decision, but if not, please let know your thoughts at your earliest convenience.

Thank you in advance of your consideration

toye bello

Bello, Bello & Associates, LLC - LSDBE Certified
 900 Second Street, NE, Suite 6
 Washington DC 20002
 202-289-1663 x 203 o.
 240- 350- 7199 c.
 202-350-9488 f.

— Railing around perimeter of deck
 — Overhead garage door
 BZA File before enforcement



2

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**

Inspection and Compliance Administration

August 1, 2011

VIA EMAIL and REGISTERED MAIL

To: Daniel Merlis
3825 Morrison St., NW
Washington, DC 20015-2806
danmerlis@comcast.net

NOTICE OF VIOLATION AND ORDER TO ABATE

This serves as official notice by the Department of Consumer and Regulatory Affairs ("DCRA") under D.C. Code § 42-3131.01(a), that you are ordered to take corrective action to abate a violation of the District of Columbia Zoning Regulations created by your construction of an addition to your property located at 3825 Morrison St., NW (the "Property"). Under D.C. Code § 42-3131.01(a), DCRA has the authority to abate a condition on a property in violation of any law or regulation.

Specifically, DCRA's Zoning Administrator has determined that the addition you constructed is in violation of the District of Columbia Zoning Regulations. In the Zoning Administrator's letter of December 1, 2010 ("the December 1st letter") he informed you that he had concluded that the addition does not comply with the 20-foot minimum rear yard set back required in an R-2 district under 11 DCMR § 404.1. He further informed you that the addition did not qualify under the exception found in 11 DCMR § 2503.2 for structures less than 4 feet above grade, nor was the addition legally non-conforming under 11 DCMR § 404.4.

The December 1st letter also advised you that DCRA would pursue enforcement action if you did not apply for a variance from the Board of Zoning Adjustment within 60 days. To date, you have not submitted an application for a variance and have not otherwise corrected the violation.

Accordingly, DCRA hereby ORDERS you to remove or alter the existing structure so that it complies with 11 DCMR § 2503.1 and 11 DCMR § 404.1. In removing or altering the structure, you must conform with all applicable provisions of the Construction Codes and Zoning Regulations, which include obtaining the required permits.

Should you fail to take corrective action or request a show cause hearing within ten (10) days of receipt of this Order, the District of Columbia will: **Cause such condition to be corrected; assess the fair market value of the correction of the condition or the actual cost of the correction, whichever is higher, and all expenses incident thereto (including the cost**

of publication, if any, herein provided for) as a tax against the property on which such condition existed or from which such condition arose, as the case may be; and carry such tax on the regular tax rolls of the District, and collect such tax in the same manner as general taxes in said District are collected.

8-2-11
Date


Rabbiah Sabbakhan
Acting Chief Building Official

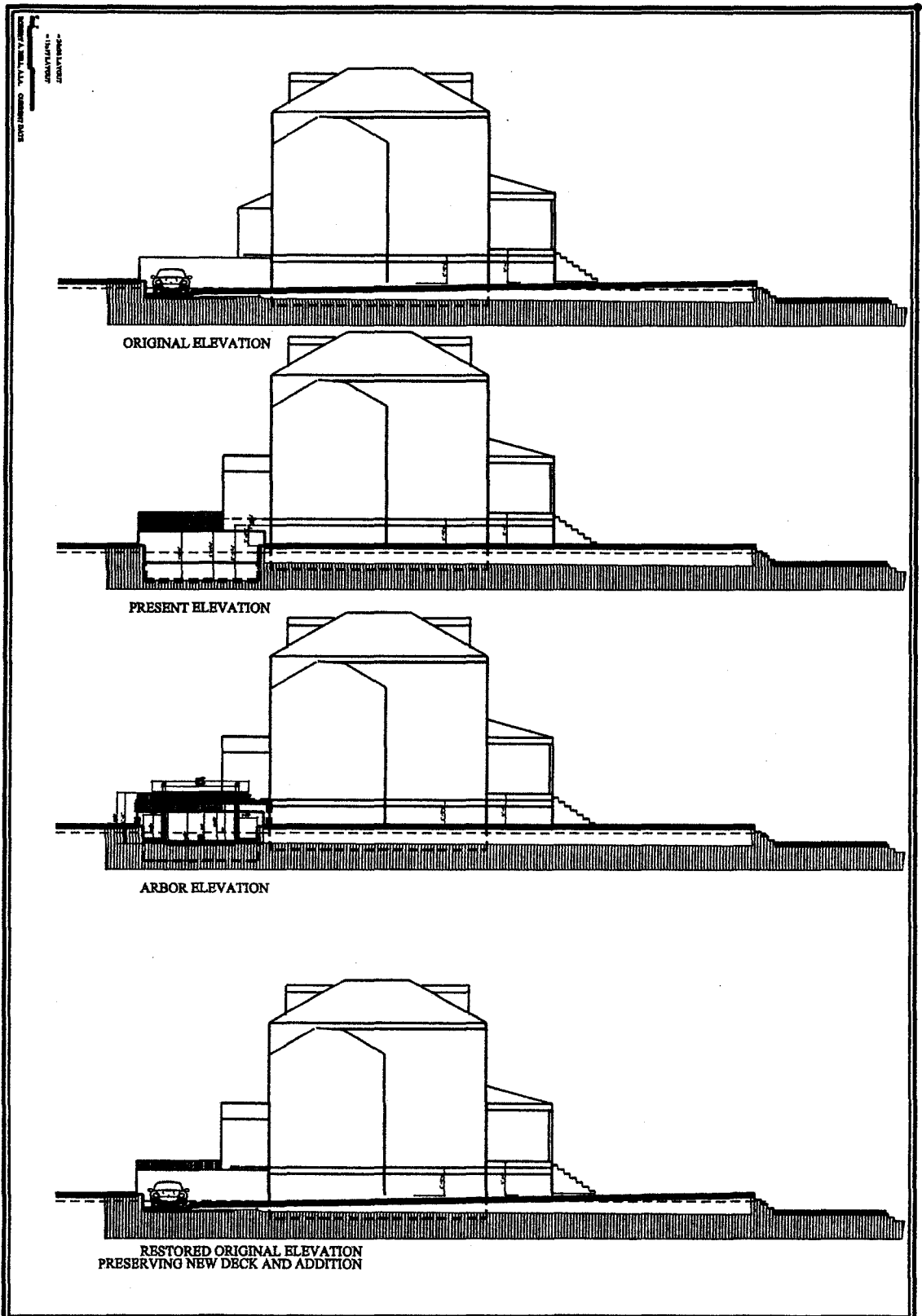
(M)

YOU HAVE THE RIGHT TO CONTEST THIS ORDER

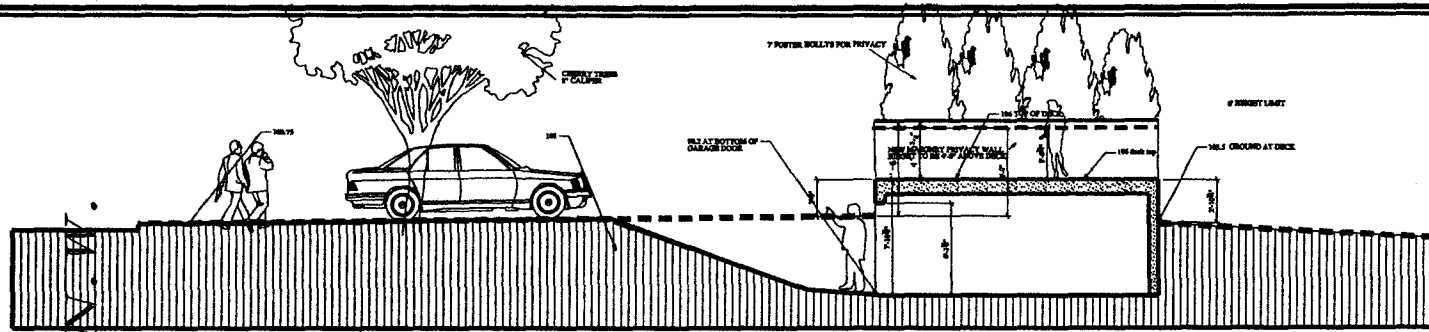
You have the right to show cause why you should not be required to correct the above-referenced violative condition. To request a show cause hearing, you must mail or hand-deliver a request for a hearing to the Office of Administrative Hearings at 441 4th St., NW, Suite 1030S, Washington, DC 20001 within ten (10) days of service of this order.

Any questions about this Order may be directed to the Office of the Zoning Administrator at (202) 442-4652.

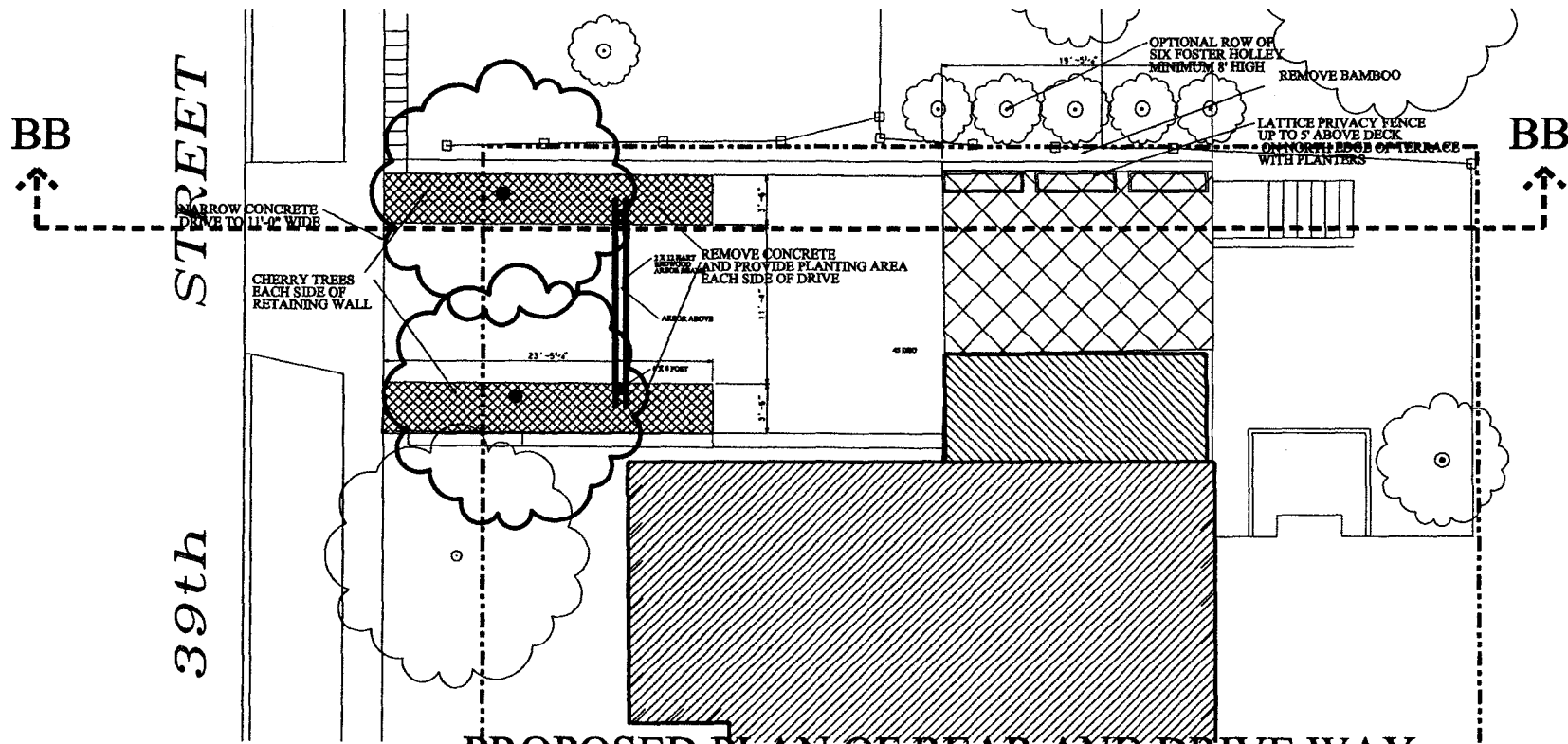
2



Q



SECTION BB THROUGH DRIVEWAY



PROPOSED PLAN OF REAR AND DRIVE WAY
BASED ON B. BALMAN SEPT. 6, 2011

- 24036 LAYOUT
- 11017 LAYOUT

ROBERT A. BELL, AIA JANUARY 11, 2012

LEGAL NOTICE

ROBERT BELL ARCHITECTS
3218 "O" STREET, NW, WASHINGTON, D.C. 20007
T: 202-333-5139 F: 202-333-6461 R: rbell@robertbellarchitects.com

3228 MORRISON STREET
WASHINGTON D.C.
LOT AND SQUARE NUMBER

A-2