



BEFORE THE ZONING COMMISSION AND
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA



FORM 153 – MOTION FOR RECONSIDERATION OR REHEARING

Before completing this form, please review the instructions on the reverse side. Print or type all information unless otherwise indicated. All information must be completely filled out.

CASE NO.:	18429					
Motion of:	☐ Applicant	☐ Petitioner	☒ Appellant	☐ Party	☐ Intervenor	☐ Other _____
Motion for:	☒ Reconsideration			☒ Rehearing		

Points and Authorities:

Below and/or on a separate sheet of 8 1/2" x 11" paper, state each and every reason why the Zoning Commission (ZC) or Board of Zoning Adjustment (BZA) should grant your motion, including relevant references to the Zoning Regulations or Map.

SEE ATTACHED:

APPELLANT'S MOTION FOR RECONSIDERATION

AND

MOTION FOR REHEARING

RECEIVED
D.C. OFFICE OF ZONING
2013 DEC 16 PM 12:31

CERTIFICATE OF SERVICE

I hereby certify that on this

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 day of

DECEMBER

, 2013

I served a copy of the forgoing motion or request to each Applicant, Petitioner, Appellant, Party, Intervenor, and the Office of Planning on

the above referenced ZC or BZA case via: ☐ Mailed letter ☐ Hand delivery ☒ E-Mail ☐ Other _____

Signature: /s/ Edward V. Hanlon

Print Name: Edward Hanlon

Firm/Organization:

Address: 1523 Swann Street NW, Washington, DC 20009

Phone No.: 301-474-1800

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To be notified of hearing and decision: (Maker of Motion/Request or Authorized Agent)

In the event an authorized agent files a motion on behalf of the Maker of the Motion or Request, a letter signed by the Maker of the Motion authorizing the agent to act on his/her behalf shall accompany the notice of application, petition, or appeal.

Print Name: Edward V. Hanlon

Address: 1523 Swann Street NW, Washington, DC 20009

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Board of Zoning Adjustment
District of Columbia
CASE NO. 18429
EXHIBIT NO. 52

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

EDWARD V. HANLON

Appellant

No.: 18429

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APPELLANT'S MOTION
FOR RECONSIDERATION OF DECISION
AND
MOTION FOR RE-HEARING

Comes Now the Appellant, Edward V. Hanlon, and files Appellant's Motion for Reconsideration of Decision and Motion for Re-Hearing and states as follows:

I. Factual and Procedural Background

On December 4, 2012, the Board held a hearing on BZA Appeal No. 18429 (the "Appeal") of Edward V. Hanlon (the "Appellant"), pursuant to 11 DCMR §§ 3100 and 3101, from a decision by the Zoning Administrator (ZA) of the Department of Consumer and Regulatory Affairs made April 10, 2012, to issue building permit #B1206336 and revised building permit #B1209691 ("hereinafter the Permit") allowing the construction of a multilevel structure on the second and third floor roofs at premises 1530 Swann Street, N.W. (Square 191, Lot 76) in the DC/R-4 District (herein after "Premises"). The Permit purportedly authorized the construction of two **open, uncovered, unroofed** deck structures on the second and third floor roofs of the Premises **inside the lot line** of Lot 76.

Following the hearing, by Order with Final Date of December 5, 2013 (entered in the record December 4, 2013) ("hereinafter "Decision") the Board denied the Appeal.

Pursuant to 11 DCMR § 3126.2 any party may file a motion for reconsideration or rehearing of any decision of the Board, provided that the motion is filed with the Director within ten (10) days from the date of issuance of a final written order by the Board.

Pursuant to 11 DCMR § 3126.4, a motion for reconsideration shall state specifically all respects in which the final decision is claimed to be erroneous, the grounds of the motion, and the relief sought.

Pursuant to 11 DCMR § 3126.6 a rehearing requires that new evidence be presented to the Board that could not reasonably have been presented to the Board at the original hearing. In accordance with these regulations, the Appellant hereby submits this Motion for Reconsideration and Motion for Re-Hearing of Appeal No. 18429 (hereinafter "Motion").

II. Summary of Argument

The Board was mislead in this Appeal because it relied upon the misstatements of "critical"¹ material facts placed into the record by DCRA.² The homeowner, an attorney, sat in silence and did not correct the dispositive misstatements of material fact made by DCRA, when in fairness to the Board and to this Appellant he should have.

¹ The Board itself in its Decision referred to the Board's finding that the decks were "*uncovered*" as a "*critical*" fact supporting its Decision. See Decision at 10.

² Appellant takes the position that the misstatements of material fact made by DCRA during this Appeal were either innocently made or negligently made. Jay Surabian, Esq., who represents DCRA in this Appeal, is a well respected attorney. Appellant does not allege that the misstatements of material fact were deliberately made. However, Appellant's position may change, if DCRA allows the record to remain uncorrected. DCRA must promptly correct the misstatements of material fact and take prompt appropriate remedial action commensurate with the unique circumstances herein.

The attached up close, photos obtained recently, many months after the record closed, show beyond *any* doubt that what has been constructed on the roof of the second floor pursuant to the Permit is not an open, uncovered deck but a sizeable, **roofed structure, supported by columns and walls**, with a complete finished ceiling underneath. As discussed below, this **roofed** structure atop the second floor built pursuant to the Permit fully meets the definition of a building under the zoning regulations and, therefore, constitutes an "addition" to a building in the context of this case. The Board itself in its Decision found that lot occupancy exceeds the 60 percent permitted in the zone containing the Premises (*see* Decision at 5, fn2). Accordingly, this addition atop the second floor roof cannot be built as a matter of right. Therefore, the issuance of the Permit violated 11 DCMR § 2001.3.

Further, the area under the roofed structure atop the second floor represents an addition to gross floor area.

Further, one of the attached up close, photos obtained many months after the record closed, Exhibit No. 11 (enlarged as Exhibit No. 15) shows the *east side* of the deck atop the *third* floor sits upon the existing *east* parapet (this is not observable from the ground). However, **the east parapet is not a party wall; it is a lot line wall, entirely situated on the adjacent lot, 1528 Swann Street NW.**

In other words the construction done pursuant to the Permit (which was issued as a matter of right) crosses the lot line into the adjacent lot and uses the lot line wall of a neighbor to support the entire east side of the deck atop the third floor of 1530 Swann Street NW. The lot line between 1528 Swann and 1530 Swann is also a building line. DCRA erred in issuing the Permit as a matter of right to allow construction across the lot line/building line.

III. **Newly Acquired Photos Make Clear That The Board's "Critical" Conclusion Is Wrong And In Fact A Sizeable Roofed Structure, Not An Uncovered Deck, Has Been Constructed Pursuant To The Permit**

The Board in its Decision held:

" Appellant attempts to distinguish the *Horsey* matter from the case at hand, contrasting the rooftop decks in the two cases. However, the Board is not persuaded by Appellant's analysis. **In fact, the Board finds that in two critical respects the facts of this case and the *Horsey* case are similar; i.e., in both cases the decks are uncovered** and add no interior enclosed space to the dwelling." (Bold and underlining added) *See* Decision at 10.

In the *District of Columbia's Pre-Hearing Statement* filed October 26, 2012 Mr. Surabian wrote:

"Just like the roof deck in Appeal no. 17971 [the *Horsey* case], **the roof deck here is not covered**, does not create any new interior space, does not increase lot occupancy, and **does not increase gross floor area. Accordingly, the roof deck cannot be considered an addition or enlargement and is therefore permitted as a matter of right.**" (Emphasis added) *District of Columbia's Pre-Hearing Statement* at 5

In the District of Columbia's closing argument before the Board on December 4, 2012 Mr. Surabian again cited *Appeal No. 17971 of Outerbridge and Georgina Horsey* (September 17, 2010) as precedent. *See* Transcript December 4, 2012 hearing, pages 223-224

In his argument before the Board on December 4, 2012 Mr. Surabian also told the Board that Matthew LeGrant, the Zoning Administrator, had *personally* visited the site. ("He's been to the site. He's looked at the conditions there ..." *See* Transcript December 4, 2012 hearing, pages 224-225. Mr. Surabian implied that the factual assertions he was making were based on the personal knowledge of Mr. LeGrant who had inspected the site.

In fairness to Mr. Surabian when he argued that the Zoning Administrator had personally "been to the site" and "looked at the conditions there" Mr. Surabian was speaking about the side court. But, if the Zoning Administrator had *actually* stood on *any* part of the deck atop either the second floor or the deck atop the third floor, it would have been *impossible* for the Zoning Administrator not to have seen the large roofed structure being built atop the second floor.³

If Mr. Surabian meant by "He's been to the site. He's looked at the conditions there ..." that the Zoning Administrator simply did a 'drive-by' or a 'walk-by' and was looking up from ground level, then the Zoning Administrator may well not have been able to see from the ground the roofed structure being built atop the second floor roof. As the exhibits already in evidence show, the homeowner had built a solid wall on the side of the deck atop the second floor which faces the rear alley, had built a solid wall at least nine feet high on the west side of the deck atop the second floor and had put a cover over most of the east side court with a solid impermeable staircase.⁴

All the photos of the deck taken from the rear alley by Appellant and submitted into the record to-date were taken from ground level. Appellant did not have any close-up photos of the deck atop the second floor before the record closed and only recently acquired the attached photos.

Appellant should not be faulted for not having been able to produce better photos from ground level clearly showing the roofed structure, if the Zoning Administrator, with his

³ See the newly acquired attached pictures which show a large section of the roof atop the second floor is now covered by a roof supported by columns and walls

⁴ Id.

experienced eye and who personally visited the site, *apparently* only from ground level also did not clearly see the roof over the deck atop the second floor. And, the attorney defending the Zoning Administrator's decision to issue the Permit *affirmatively represented* to the Board the decks atop the second and third floors were uncovered.

The Board concluded in its Decision as follows:

"The Board is not persuaded ... In fact, the Board finds that in two critical respects the facts of this case and the *Horsey* case are similar; i.e., in both cases the decks are uncovered..." (Emphasis added) See Decision at 10.

APPEARANCE BEFORE CONSTRUCTION BEGAN UNDER THE PERMIT:

Exhibit Nos. 1 and 2 to his Motion show how the deck atop the second floor looked *prior* to the issuance of the Permit. These are MRIS photos also available on the web at homevisit.com. Exhibit No. 2 is a 2009 MRIS photo taken at the time the present homeowner, Mr. Binder, bought the property. The deck atop the second floor was a simple deck with a wooden security railing, uncovered, open to the sky, save for the open unroofed gazebo shown in the photos. These MRIS photos are consistent with the photos provided by Mr. Binder at the time he applied for the Permit. The photos provided by Mr. Binder are in the permit file.

APPEARANCE AFTER CONSTRUCTION WAS COMPLETED UNDER THE PERMIT:

Exhibit Nos. 3 and 13 to this Motion show how the deck atop the second floor looked *after* construction pursuant to the Permit was completed. These Exhibits show that a sizeable *roofed* structure, supported by columns and walls, for the shelter of persons and property

was built pursuant to the Permit. The weathertight, impermeable roof, the finished ceiling underneath, the decorative ceiling fans, the sofa bed shown in these Exhibits all make clear this is roofed over, usable space meant for the shelter of persons and personal property (chattel). A close inspection of the attached photos and a review of the supplemental electric, gas and plumbing permits issued incident to the Permit at issue herein would further show the deck atop the second floor has electricity, natural gas hook-up, running water, a sink and a sanitary drain which can be used for food preparation.

The Zoning Regulations Section 199 **DEFINITIONS** states:

"Structure - anything constructed, including a building, the use of which requires permanent location on the ground, or anything attached to something having a permanent location on the ground" (Emphasis added)

The D.C. Zoning Regulations do not define "roof". However, the Zoning Administrator, Matthew LeGrant, while testifying under oath as an expert witness at a hearing two years ago defined the term "roof" for the Board:

MR. LEGRANT: "I know there is a question as to whether is this really a roof, and I looked at the definition of roof in Webster's as to whether it, if I may quote -

Webster's, the roof is defined as the outside cover of a building or structure, including the roofing and all the materials and construction necessary to maintain the cover upon its walls or other support." (Emphasis added) See Transcript of

Public Meeting of the Board of Zoning Adjustment, November 1, 2011, at 252-53.⁵

The attached photos *indisputably* show what has been built atop the second floor is a roofed structure. This is a fact.

The D.C. Zoning Regulations define "building" as

⁵ See also Appeal No. 18257 of Walter Parrs, et. al., at 7-8 wherein the Board applied this same definition of "roof".

Building: A structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or chattel.

The newly constructed roofed structure atop the second floor roof clearly has a roof supported by columns and walls. The walls and column can be seen in Exhibits 3 thru 13.

The D.C. Zoning Regulations do not define "addition". However, the 2006 International Building Code adopted by the District of Columbia does define an "addition" to a structure as:

ADDITION: An extension or increase in floor area or height of a building or structure. (Emphasis added) 2006 IBC Sec. 202

The 2006 International Building Code adopted by the District of Columbia also defines "floor area" as:

FLOOR AREA, GROSS: The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts. (Emphasis added) 2006 IBC Sec. 1002.1⁶

In a July 23, 2013 Decision in *Application No. 18263-B of Stephanie and John Lester* this

⁶ See also e.g., the application of this same definition of gross floor area to other roofed unenclosed structures such as: *March 27, 2013 Determination Letter with subject: Re: 10111st Street, S.E.* signed by Zoning Administrator Matthew LeGrant at page 1 "As long as the horizontal members of the trellis are no further apart than 24 inches on center, that trellis would be deemed to constitute a roof over the connection. The area under the trellis would be included in gross floor area ..."

See also application of this same definition of gross floor area to other roofed unenclosed structures such as: *April 27, 2010 Determination Letter with subject: Re: 1020 Monroe Street, N.W.* signed by Zoning Administrator Matthew LeGrant at page 3

Board applied essentially the same above definition to an unenclosed roofed structure as follows:

"Subsection 199.1 of the Zoning Regulations defines a "building" as a structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals, or chattel. The Board has previously concluded that a trellis meets the definition of "building" when it has a roof that provides at least 51% coverage, is supported by columns, and is used for the shelter, enclosure or support of persons. (Emphasis added) *See Application No. 17331 of JPI Apartment Development LP* (2005) at 2."

"Here, as set forth in the Findings of Fact, the proposed trellis will be designed to contain sufficient coverage to constitute a "roof," it will be supported by columns, and it will provide shelter and support for the Applicant. Accordingly, the Board concludes that the trellis meets the definition of "building" under the Zoning Regulations." *See Application No. 18263-B of Stephanie and John Lester* at 10-11.

Comparing Exhibit Nos. 1 and 2 on one hand with Exhibit Nos. 3 thru 13 on the other hand the Board can clearly see what was constructed pursuant to the Permit was an addition to the building at 1530 Swann Street NW.

An addition to the building at 1530 Swann Street NW cannot be built as a matter of right. The pre-existing structure at 1530 Swann Street NW already exceeded 70% lot occupancy (*See* the calculations at IZIS Docket Entry Number 36, pages 7 thru 11) In an R-4 district an addition to a building can be built as a matter of right only if lot occupancy is less than 60% and the addition will not increase lot occupancy above 60%. This Board in its Decision has already held that "the lot occupancy is more than the 60% maximum which is permitted in the zone." *See* Decision fn 2

What was built atop the second floor roof, clearly shown in attached Exhibit Nos. 3 thru 13, was an **addition** to a building. The Board itself in already finding that "lot occupancy is more than the 60% maximum which is permitted in the zone" makes logically clear that an "addition"

to the building at 1530 Swann Street NW *cannot* be built as a matter of right.

Further, the Board in its Decision held:

" Appellant lastly claims that the deck is not consistent with the provisions of the Overlay. Appellant alleges that the permits authorizing such a massive deck runs afoul of §§1501.1 and 1501.4 of the Zoning Regulations, the Dupont Circle Overlay provisions. Subsection 1501.1 states that "Strong protections are needed to retain [the] low scale [of the Overlay as well as] human scale streetscapes, and [the] historic character [of the Overlay]." Subsection 1501.4 details the purpose of the Dupont Circle Overlay, including the [preservation of] "low scale buildings". (11 DCMR § 1501.4(a).) **However, the purpose provisions in both of the above sections are merely precatory and do not alter the matter of right standard.**" (Emphasis added) See Decision at 10.

Further, if the structure which was built pursuant to the Permit *cannot* be built as "a matter of right", then §§1501.1 and 1501.4 of the Zoning Regulations would not be merely "precatory", they would be Sections of the Zoning Regulations which the Board must apply to this Permit.

IV. **Newly Acquired Close Up Photos Show That The Deck Built Pursuant To The Permit Impermissibly Crosses The Boundary Line/Lot Line With 1528 Swann Street And Sits Upon The Parapet Wall Belonging To The Adjacent Lot Owner**

The deck built atop the third floor (the highest floor) runs across the width of the lot, east to west. The supports for the deck atop the third floor sit on the parapet wall on the west side (1530/1532 Swann) which is a party wall. The deck supports sit atop one half of the width of this parapet wall.

What was not clear until examining the recently obtained close up photo in Exhibit No. 11 is that the east side of this massive deck atop the third floor appears to sit entirely on the parapet wall belonging to 1528 Swann Street NW. See Exhibit No. 15 which is an enlargement of Exhibit

No. 11. In other words the deck built pursuant to the Permit allowed construction across a lot line/boundary line onto an adjacent lot. Showing the deck crosses the lot line and uses the adjacent parapet/lot line wall belonging entirely to 1528 Swann Street for its support can also be seen in Exhibit No. 16. This massive deck atop the third floor could not have been structurally supported without using this east side parapet. Any deck laid directly on the third floor roof would have to have been smaller, lighter and not as high.

The east side lot line is also a building line. Section 199.1 of the Zoning Regulations define a building line as:

Line, building - a line beyond which property owners have no legal or vested right to extend a building or any part of the building without special permission and approval of the proper authorities. (Emphasis added)

The District of Columbia Code, Section 6-404 entitled: *Permits for extensions of buildings beyond building line* states " no such permits shall be granted except upon special application".

The Permit at issue which allowed construction atop the parapet wall belonging to the adjacent lot owner could never have issued as "a matter of right."

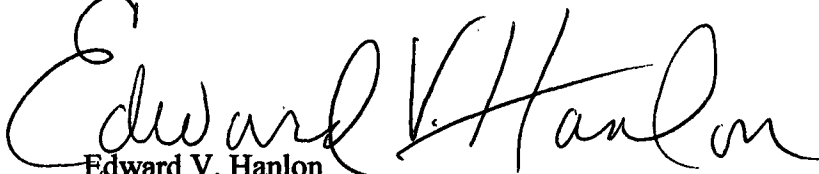
CONCLUSION

Accordingly, the Permit was issued in error and the Appeal of Edward V. Hanlon to the issuances of permit #B1206336 and revised building permit #B120969 should have been upheld. A serious injustice has been done to this Appellant and a serious problem has been created for this Board by the misstatements of critical, dispositive, material facts by the District of Columbia and by the silence of the homeowner who had to know of the wrongness of those misstatements but

sat silently in order to profit from those misstatements to the detriment of the Board and to the detriment of the other parties.

For all the foregoing reasons the Board is respectfully requested to grant Appellant's Motion for Reconsideration and Appellant's Motion for Re-Hearing. In addition the record should be re-opened prior to re-hearing and the attached exhibits should be admitted into the record of this appeal.

Respectfully submitted,

A handwritten signature in black ink, reading "Edward V. Hanlon". The signature is written in a cursive, flowing style with a large initial "E".

Edward V. Hanlon
1523 Swann Street NW
Washington, DC 20009

CERTIFICATE OF SERVICE

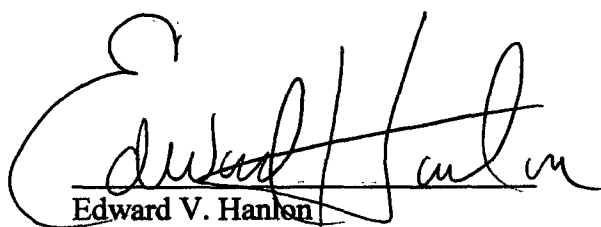
I certify that on this date one copy of the foregoing was sent via email:

Jay A. Surabian, Esq.
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Martin P. Sullivan, Esq.
Sullivan & Barros, LLP
1990 M Street NW, Suite 200
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I certify that on this date one copy of the foregoing was sent first class postage pre-paid to:

Advisory Neighborhood
Commission 2B
#9 Dupont Circle, NW
Washington, DC 20036


Edward V. Hanlon

12/16/13
Date

VIRTUAL TOUR

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Pick a Room Photo

■ STOP SLIDE SHOW | START SLIDE SHOW ▶



ROOF TOP DECK

◀ LAST PHOTO | NEXT PHOTO ▶





EXHIBIT NO. 2



EXHIBIT NO. 3



EXHIBIT NO. 4



EXHIBIT NO. 5



EXHIBIT NO. 6



EXHIBIT NO. 7



EXHIBIT NO. 8



EXHIBIT NO. 9



EXHIBIT NO. 10



EXHIBIT NO. 11

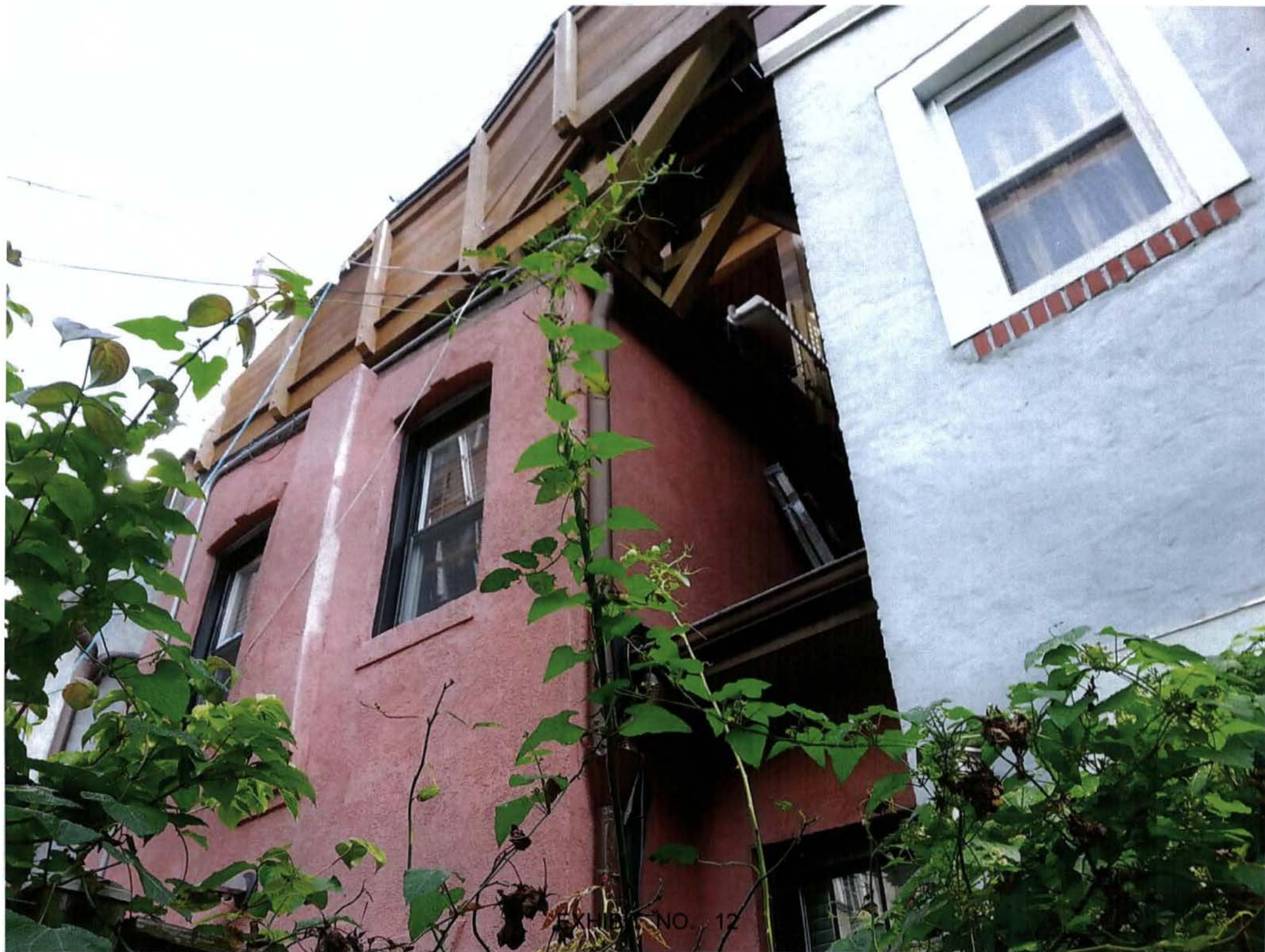




EXHIBIT NO.

EXHIBIT NO. 13

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



March 27, 2013

Norman M. Glasgow, Jr.

Steven E. Sher

Director of Zoning and Land Use Services

Holland & Knight LLP

800 17th Street, N.W. - Suite 1100

Washington, DC 20006

Re: 1011 1st Street, S.E.

Gentlemen:

This is to confirm the substance of our discussion on Wednesday, December 5, 2012, with Erin Reisinger of Toll Brothers, concerning the development of the above-referenced property located in the block bounded by Half, 1st, K and L Streets, S.E. The entire square has been combined into a single record lot, Lot 23 in Square N699. The property is zoned C-3-C in the Capitol South Receiving Zone for the use of transferable development rights (TDRs).

You advised that a portion of the site, including approximately one-third of the overall site located in the southeast portion of the Square, has been developed with an apartment building, known as the Velocity, which is Phase 1 of the overall development. It is your client's intention that Phase 2 of the project, located on the northeast portion of the Square, would be constructed as a matter-of-right as an addition to the existing building. Because the development uses TDRs, the building is proposed to be 130 feet high, measured to the highest point of the roof or parapet. The 130 foot height can be achieved through the acquisition of TDRs pursuant to §1709.21 since 1st Street is 110 feet wide adjacent to this property.

We reviewed a number of issues, based on the plans, dated December 4, 2012, prepared by WDG Architects, as follows:

- Connection between Phases 1 and 2:

There will be an open space between Phase 1 and Phase 2. At the top of the first floor level, that space will be covered by a trellis to form the connection between the two phases to make them a single building. As long as the horizontal members of the trellis are no further apart than 24 inches on center, that trellis would be deemed to constitute a roof over the connection. The area under the trellis would be included in gross floor area and would count against FAR. As long as there are means of communication into common areas in both Phase 1 and Phase 2, that trellis would be sufficient to make the two phases part of a single building.

- Calculation of Width of Courts

The area above the trellis would be open to the sky and would therefore constitute a court. The court would be an open court because it opens onto 1st Street. In accordance with §776.3 of the Zoning Regulations:

"Where a court is provided for a building or portion of a building devoted to residential uses, at any elevation in the court, the width of court shall be a minimum of four inches per foot (4 in./ft.) of height, measured from the lowest level of the court to that elevation; provided, that in no case shall the width of court be less than fifteen feet (15 ft.)."

Assuming that the trellis is designed so as to constitute a roof (see above), the lowest level of the court would be the top of the trellis. As shown on the Section labeled as Sheet A9 (copy attached), the width of the court at the bottom is 28 feet, 10 inches, expanding to a width of 38 feet, 10 inches at the 11th floor as the height of the court exceeds 84 feet. Based on the height of the court, the minimum width requirement is met at each level.

In addition to the court over the trellis, there would be a second court to the west of the trellis, starting at the ground level and separating Phases 1 and 2. That court would have a width of 43' 4", which is the minimum required width of the court to the top of a 130 foot high residential building. The court width requirement would therefore be met for this court.

- Roof Plan

The roof of Phase 2 would include a roof structure and a pool deck. The elevation of the top of the roof of building would be 155' 7"; the top of the parapet is at elevation 156' 130 feet above the measuring point. The top of the pool deck would be at elevation 159' 5", less than 4 feet above the top of the roof or the parapet and therefore is permitted. A 42" railing would also be permitted around the roof and the pool deck.

The roof structure contains an elevator override, stair towers, toilet rooms and space for mechanical equipment. There are two principal pieces of the roof structure which would be connected by a wall to give the appearance of a single structure. All of the walls, including the two pieces of the roof structure and the connecting wall, are of equal height 18 feet above the roof. This condition would comply with the requirements of §411 of the Regulations. Mechanical equipment outside the roof structure but less than 4 feet above the roof or parapet is permitted as a matter-of-right.

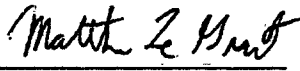
The design includes architectural embellishments which rise above the 130 foot height but are below the top of the roof structures. Those embellishments are shown on the perspectives on Sheet A15 of the plans attached. They are not enclosed or conditioned and are not interior parts of the building. Since they are solely decorative vertical towers, they are permitted as embellishments above the 130 foot height.

March 27, 2013

Page 3

You indicated that there would be sunscreens in the form of canopies attached to the walls of the penthouse around the pool area. These would be permitted as long as they do not extend above the top of the wall. Since the structure of the sunscreens will be more than 24 inches on center, any area under the sunscreen would not be counted as gross floor area toward the 0.37 FAR permitted by §411.7.

This letter addresses only the areas specifically identified herein. A full zoning review will be required at the time of review of an application for a building permit, in order to determine whether Phase 2 may be constructed as a matter-of-right. Please let me know if I may be of further assistance.

Sincerely, 
Matthew Le Grant
Zoning Administrator

Attachments

File: Det Let re 1011 1st St SE to Sher 3-27-13



The red building is 1530 Swann Street NW and the yellow building is 1528 Swann Street NW.

EXHIBIT NO. 15