

BEFORE THE
BOARD OF ZONING ADJUSTMENT
WASHINGTON, DC

No. 18556
1375 Massachusetts Avenue SE
Square 1037, Lot 102

RECEIVED
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PRE-HEARING STATEMENT OF DEREK S. MATTIOLI
IN SUPPORT OF APPLICATION FOR VARIANCE RELIEF
AUGUST 27, 2013

My name is Derek Mattioli. I am the owner/occupant of 1375 Massachusetts Avenue SE, a row dwelling on Capitol Hill. I purchased my house in 2003 under the District's First-Time Homebuyer Program, and reside there with my wife. I grew up on this block at 1363, where my mother still lives. I went to Peabody, Watson, and Duke Ellington Public Schools, and currently work for a company providing IT services to Congress. My employer is based in Albany, New York and does not provide me with an office. A significant amount of my work is done from home.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18556

EXHIBIT NO. 32

Board of Zoning Adjustment
District of Columbia
CASE NO.18556
EXHIBIT NO.32

RELIEF REQUESTED

I am seeking variance relief to legitimize an existing one-story screened-in porch constructed in 2009 at the rear of my house (see Exhibit 1). This porch provides much needed additional living and work areas and enhances the functionality of the first floor. The space where the porch was built had previously been occupied in large measure by a concrete porch and steps which were used to access an exceptionally small back yard area where trash cans are placed. The space is unusable for any other purpose due to its small size and the proximity of trash storage on that level by me and my surrounding neighbors (see Exhibits 2 and 3).

The new porch gives us access to fresh air that is not affected by trash storage prior to collection. We now have a livable and usable back lot area while continuing to maintain space underneath for garbage cans. Given the exceptionally small size of our 818 square foot lot, the porch provides our house with a significant improvement in functionality.

The porch was built by a licensed contractor and completed in 2009. I relied on the contractor to obtain permits and approvals. Regrettably the contractor, who secured the original building permit, did not seek variance relief and I was not aware of that requirement.

As the owner of the house, I took full responsibility. DCRA conducted a proceeding in 2012 that resulted in a fine because some of the work was outside the scope of the building permit. I admitted to the infractions cited by DCRA with explanation. Administrative Law Judge Louis J. Burnett determined that “where, as here, a party admits violations, this administrative court may reduce fines based on mitigating factors, including but not limited to acceptance of personal responsibility, good faith effort to comply with the law, corrective action, and concrete steps to prevent future violations. Respondent has accepted responsibility for his conduct and there is no evidence in the record that he has a history of previous, similar violations. These are mitigating factors that warrant reducing the fine.”

Judge Burnett reduced the proposed fine by \$1,000 based on these factors. Judge Burnett’s decision is attached as Exhibit 4. I have been working diligently with DCRA staff to resolve remaining issues, including obtaining the variance relief I am seeking here.

I am asking for a variance to avoid tearing down my already constructed porch which overhangs a 36-inch strip of pavement that comprises my back yard (Exhibit 5). The porch is built on posts and is about five feet above rear grade level with open space beneath (see Exhibit 1). There is little or no impact on light and air.

My lot is 818 square feet, less than half the size required under the 1958 Zoning Code. Before the porch was built, my lot occupancy was 88%. The porch increases the area coverage by 64 square feet, or 8%, resulting in total lot occupancy of 96%.

The variance relief I need is from these Zoning Code provisions:

- Rule 11-401 (60% maximum lot coverage)**
- Rule 11-404 (20 foot minimum rear yard depth)**
- Rule 11-406 (minimum open court)**
- Rule 11-2001 (changes to non-conforming structures)**

THE STANDARD FOR VARIANCE RELIEF

The standard for variance relief in the District of Columbia was recently summarized in Fleischman v. BZA, 27 A.3d 554 (D.C. 2011)

(citations omitted):

“This court has distilled a three-part test that “[i]n order to obtain [area] variance relief, an applicant must show that (1) there is an extraordinary or exceptional condition affecting the property; (2) practical difficulties will occur if the zoning regulations are strictly enforced; and (3) the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan.

“The rationale behind the uniqueness test is that difficulties that are common to or affect an entire neighborhood, or a substantial portion thereof, are properly addressed by seeking amendment of the regulations themselves from the Zoning Commission. * * * The test follows from its rationale. To support a variance it is fundamental “that the difficulties or hardships [be] due to unique circumstances peculiar to the applicant's property and not to the general conditions in the neighborhood.

"Determinations of whether 'practical difficulties' exist, like determinations of whether the variance at issue is one of area or use, must be made case-by-case. * * * With respect to area variances . . . the applicant must demonstrate that (1) compliance with the area restriction would be unnecessarily burdensome; and (2) the practical difficulties are unique to the particular property□ Economic use of property has been considered as a factor in deciding the question of what constitutes an unnecessary burden or practical difficulty in variance cases."

MY PROPERTY

1375 Massachusetts Ave SE sits at the extreme eastern edge of the Capitol Hill Historic District. The house was built in 1909. The south side of the block, which has 28 brick row houses, comes to a point at 14th Street SE where Massachusetts and Independence Aves SE intersect (see Exhibit 6).

Most of the houses on this block have much larger lots ranging up to 2,120 square feet, but 1375, with 818 square feet, is among the smallest lots on all of Capitol Hill. In fact, even with the porch constructed, the rear of my house is in line with or recessed from all 26 properties to its west.

Because the 1300 block of Mass Ave SE comes to a point, the houses at the southeast end have virtually no back yards (see Exhibits 2 and 7). And unlike many Capitol Hill row dwellings, these houses do not abut the rear alley, but instead share a public walkway that leads to Independence Ave SE. This walkway provides access to the rear of the houses and an outlet for placing trash and along Independence Ave for collection.

~~The porch allows much needed additional living and work space in my~~
very small house, greatly improving its functionality. As shown in Exhibit 8,
the first floor has an entry and hallway leading to the kitchen, with an open
entry to the living room on the right. A small dining room adjoins both the
kitchen and living room in an open space plan, with no doors or solid walls
dividing these spaces.

Thus, when my wife and I use the first floor at the same time, noise
has often been a problem, for example, when one of us is watching TV or
listening to music or cooking. If one of us has the TV or music on, that
interferes with the other being able to read downstairs. The new porch has
a door that can be closed allowing each of us our own living and working
space on the first floor. As noted, the porch provides not only additional
living space but a work area for my employment.

The second floor has two bedrooms and a bathroom and an extremely
small room used as a closet. There is sufficient space in the bedrooms for
bedroom furniture, but not for a work area

The Board has taken into account the need for more living space and
improved functionality in granting variances to other Capitol Hill home-
owners with exceptionally small houses and lots. See **BZA No. 15310,**
6/6/90 (226 12th Street SE), granting a variance for 96% area coverage
and 100% back yard coverage for a rear deck that had already been built.

~~The applicants said that the lot's small size (796 square feet) left~~
"insufficient room for family activities." The Office of Planning agreed,
stating that the small lot "limits the availability of living space." The Board
found that the "very small" lot "creates a practical difficulty for the owner in
the reasonable use of his property," and granted relief. Similar Board
decisions include the following:

BZA No. 17313, 5/3/05 (924 G Street SE), granting a variance for a
sunroom that would increase lot occupancy to 92%. The Board found that
the lot (1,452 square feet) is "significantly smaller and shallower than the
1,800 square foot lots required," and that the small house provides
"insufficient living quarters for the applicant's family." In finding the
property to be unique, the Board cited the "confluence of factors" standard
set by Gilmartin v. BZA, 579 A.2d 1164, 1167 (D.C. 1990). The Board said
the property is a small corner lot with limited space. "Accordingly, in light
of the unique conditions of the property, the only area in which the
applicants can expand to accommodate their family needs requires
variance relief."

BZA No. 14479, 9/24/86 (629 G Street SE), granting a variance for
94% area coverage of a 2,673 square foot lot. A proposed bay would
enlarge the kitchen and provide sit-down space for eating.

BZA No. 14320, 2/6/85 (302 G Street SE), allowing 85% area coverage, finding that “the practical difficulty is inherent in the land because of its physical condition as to size” (1,106 square feet).

BZA No. 16150, 10/2/96 (215 10th Street SE), granting a variance for 70% lot occupancy, citing testimony from neighbors that the applicant’s proposals “are the type of renovations that are essential to keep Capitol Hill’s homes modern, while preserving the historical integrity of the neighborhood.” The Board found that the configuration of the lot “prevents the applicant from having a house size that would normally be attained by other houses in the neighborhood, or bring the house in line with modern living arrangements.”

**MY PORCH HAS ALREADY BEEN BUILT
AND TEARING IT DOWN WOULD BE UNNECESSARILY
BURDENSOME AND CAUSE PRACTICAL DIFFICULTY**

My porch was constructed four years ago, in 2009, and cost over \$20,000 to build. Tearing it down now and reconstructing the rear wall of my house would cost many thousands of dollars more. Further, because I removed a pre-existing structure in order to build the porch, I would lose the ability to use that space for other construction in the future.

In BZA No. 17264, 3/15/05 (407 E Street NE), the Board granted an area variance of 78% to allow a two-story rear deck, erected without a building permit or variance, to remain. The Board found the lot, at 753 square feet, to be exceptionally small, and the practical difficulty absent a variance to be “manifest – applicants would be required to remove the new deck.” The Board stated that the deck “does not impair the public good nor does it impair the intent and integrity of the Zoning Plan or Regulations.”

NEIGHBORHOOD SUPPORT

A total of 35 neighbors support my requested variance (Exhibit 9). The owner/occupants of the adjoining houses at 1377 and 1373 have submitted individual letters in support. Seven other neighbors have written individual letters of support (1371, 1367, 1363, and 1355 Mass Ave SE and 1366, 1364, and 1322 Independence Ave SE). A supporting petition signed by 26 other neighbors has also been submitted. ANC-6B, at a public meeting on May 14, 2013 voted to take no position on my variance application.

**MANY NEARBY PROPERTIES HAVE
AREA COVERAGE BETWEEN 90% AND 100%**

Five properties adjoining or near my house in Square 1037 have area coverage of 100%, including 1373 Massachusetts Ave SE, which adjoins to the west, and 1371, which adjoins 1373 (see Exhibit 6). Eight other nearby houses where Mass and Independence Aves SE intersect have area coverage ranging between 90% and 98%. See Exhibits 10 and 11.

The Board has taken into account the lot occupancy of nearby properties in granting area variances in the Capitol Hill Historic District. In **BZA No. 17846, 11/25/08 (130 14th Street NE)**, the Board granted variance relief to Brown Memorial A.M.E. Church to allow lot occupancy of 81% and rear yard coverage of 100%. Among other factors, the Board found that lack of a rear yard is consistent with the land use pattern along this portion of North Carolina Avenue NE, where most of the other structures are also built to the property line.

See also **BZA No. 17313, 5/3/05 (924 G Street SE)**. In issuing an area variance, the Board noted that many other nearby lots are at 100% occupancy, and thus increasing lot occupancy in this case to 92% “would not be out of character with the neighborhood.”

The situation of 1375 Massachusetts Ave SE is unique, and strict compliance with the area limitation would be unnecessarily burdensome and present practical difficulty. The lot is exceptionally small, adjoining and nearby properties have 100% or close to 100% area coverage, there is wide neighborhood support, the 36-inch strip that constitutes my back yard is not useable for any other purpose, and the porch has already been built.

POST-CONSTRUCTION AREA VARIANCE RELIEF HAS BEEN GRANTED IN PRIOR CASES

In several cases involving the Capitol Hill Historic District, the Board has granted area variances to legitimize construction that had already taken place. See **BZA No. 17264, 3/15/05 (407 E Street NE)**, allowing after-the-fact relief for 78% area coverage for a two-story rear deck completed two years previously without a building permit or variance; **BZA No. 15310, 6/6/90 (226 12th Street SE)**, issuing a variance for area coverage of 96% and back yard coverage of 100% for a rear deck that the owners had already constructed; **BZA No. 13253, 9/3/80 (921 North Carolina Ave. SE)**, allowing 82% lot occupancy for an existing rear deck that a contractor had built without a permit.

MINIMUM REAR YARD DEPTH

Under Rule 11-401, minimum rear yard depth of 20 feet is required. With existing lot coverage of 88%, my back yard is only 36 inches deep. This space, which borders the public walkway described above, is a concrete strip that has no use as a back yard.

Because the new porch is on posts and is above grade level, it does not actually occupy the rear yard and there is negligible impact on light and air. My next door neighbors, who are the owner/occupants of the adjoining properties (1377 and 1373), support my request. My neighbors across from my lot (1366 and 1364 Independence Ave) who would be most affected by the lack of depth also support my request. In view of the exceptionally shallow dimensions of my back yard and the practical difficulty presented, a variance from minimum rear yard depth should be granted

MINIMUM OPEN COURT AND CHANGES TO NON-CONFORMING STRUCTURE

Variances from the provisions of Rule 11-406 on minimum open court and Rule 11-2001 on changes to a non-conforming structure should be granted in light of all the factors and circumstances discussed above.

CAPITOL HILL RESTORATION SOCIETY

Before addressing the opposition filed by the Capitol Hill Restoration Society, I would like to reiterate the confluence of factors that make my situation unique and present practical difficulty and unnecessary burden.

My lot, at 818 square feet, is exceptionally small. My house is the second-to-last property on a block that ends in a point. My existing lot occupancy is 88%. The lot occupancy of the two houses immediately to my west, 1373 and 1371, is 100%. Three other nearby houses in Square 1037 have lot coverage of 100%, and eight others have coverage between 90% and 98%. The porch, which has already been built, significantly enhances the functionality of my house. My back yard consists of a narrow concrete strip that has no use.

With these factors in mind, I now turn to comments submitted by CHRS. To support its contention that my situation is not unique, CHRS submitted Extracts of the D.C. Zoning Map (CHRS Exhibits B, C, and D) showing several blocks of Massachusetts Ave NE to the west of the 1300 block of Massachusetts Ave SE. CHRS argues that these blocks also come to a point, and that this defeats any claim of uniqueness for my lot.

However, the lots of the last three houses at the west end of these other blocks are far larger than my exceptionally small 818 square foot lot. Detail on lot sizes is provided in Exhibit 11. The properties identified by CHRS do not share the unique and exceptional challenges I face with my lot and its almost non-existent back yard.

Indeed, one of the properties shown on CHRS Exhibit D, at the southeast tip of the 1000 block of Massachusetts Ave NE (Square 966, Lot 22 with a street address of 1020 East Capitol Street NE), is a five-story, nine unit apartment building with over 11,000 square feet of living space. This building is situated on a 2,501 square foot lot with area coverage of 100%. Moreover, this very property was granted an area variance to allow construction of the fifth floor (BZA No. 12222, 9/30/76), comprising relief that dwarfs the modest variance I am seeking to make beneficial use of a small patch of concrete at the rear of my exceptionally small lot.

There is a similar apartment building across the street at the northeast tip of the 1000 block (Square 965, Lot 38, 1024 Massachusetts Ave NE). This is also a five-story structure and sits on a 1,960 square foot lot with area coverage of 100%. And two doors up from 1020 East Capitol Street NE is another property with 100% area coverage (Square 966, Lot 801).

CHRS further alleges that granting a variance in my case would set a bad precedent. It is well-established that the Board decides each case based on its own unique facts and circumstances. See BZA No.13253, 9/3/80, p. 5 ("As to the issue of precedent-setting, the Board has consistently held that it will determine each application on its own merits and that the granting of relief in one situation does not preclude the Board from denying the relief in a second situation").

The Board has granted variances for properties in the Capitol Hill Historic District despite opposition from CHRS. See BZA No. 17846, 11/25/08 (130 14th Street NE); BZA No. 17313, 5/3/05 (924 G Street SE); BZA No. 16150, 10/2/96 (215 10th Street SE), and BZA No. 13253, 9/3/80 (921 North Carolina Ave. SE).

CONCLUSION

I respectfully request that the Board grant the variance relief I am seeking as consistent with the standards applied in such cases as to uniqueness, practical difficulty, unnecessary burden, and exceptional circumstances; as being in harmony with the general intent of the Zoning Regulations and Map; and as not tending to adversely affect the use of neighboring property.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Mattioli', written over the printed name.

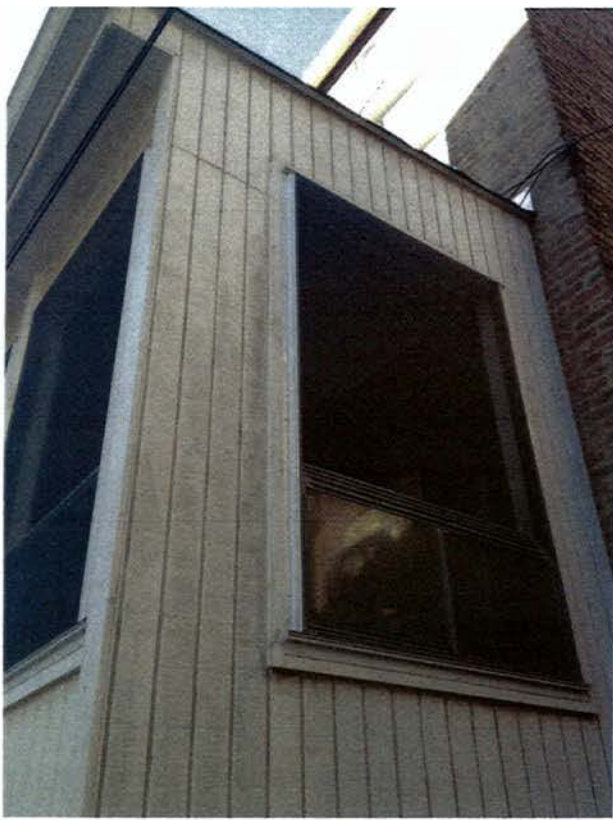
DEREK S. MATTIOLI
1375 Massachusetts Avenue SE
Washington, DC 20003
(202) 546-7688
wrldetr@aol.com

August 27, 2013

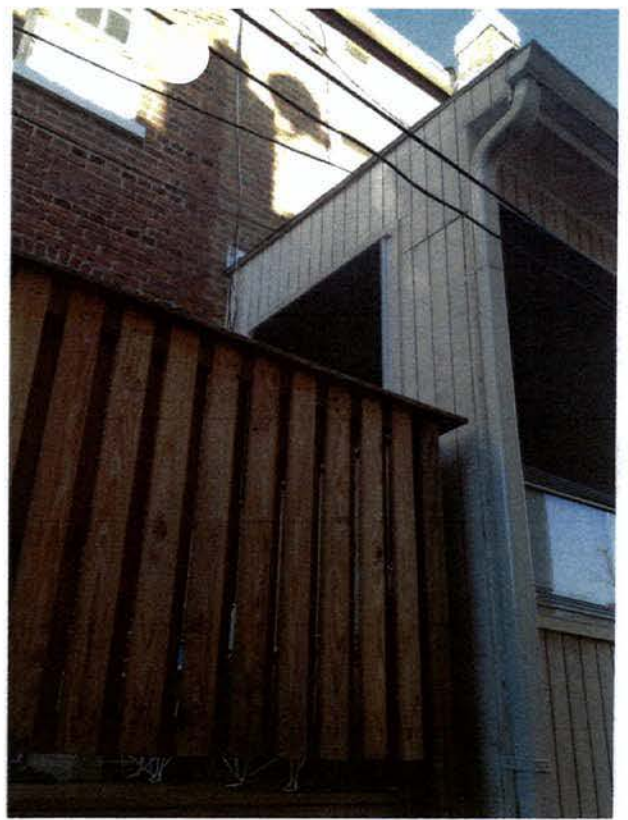
EXHIBIT 1

1375 Massachusetts Ave SE

Rear Porch



IMG_0599



IMG_0601



IMG_0609

EXHIBIT 2

**Rear of Houses at Southeast Tip of
1300 Block of Mass Ave SE**

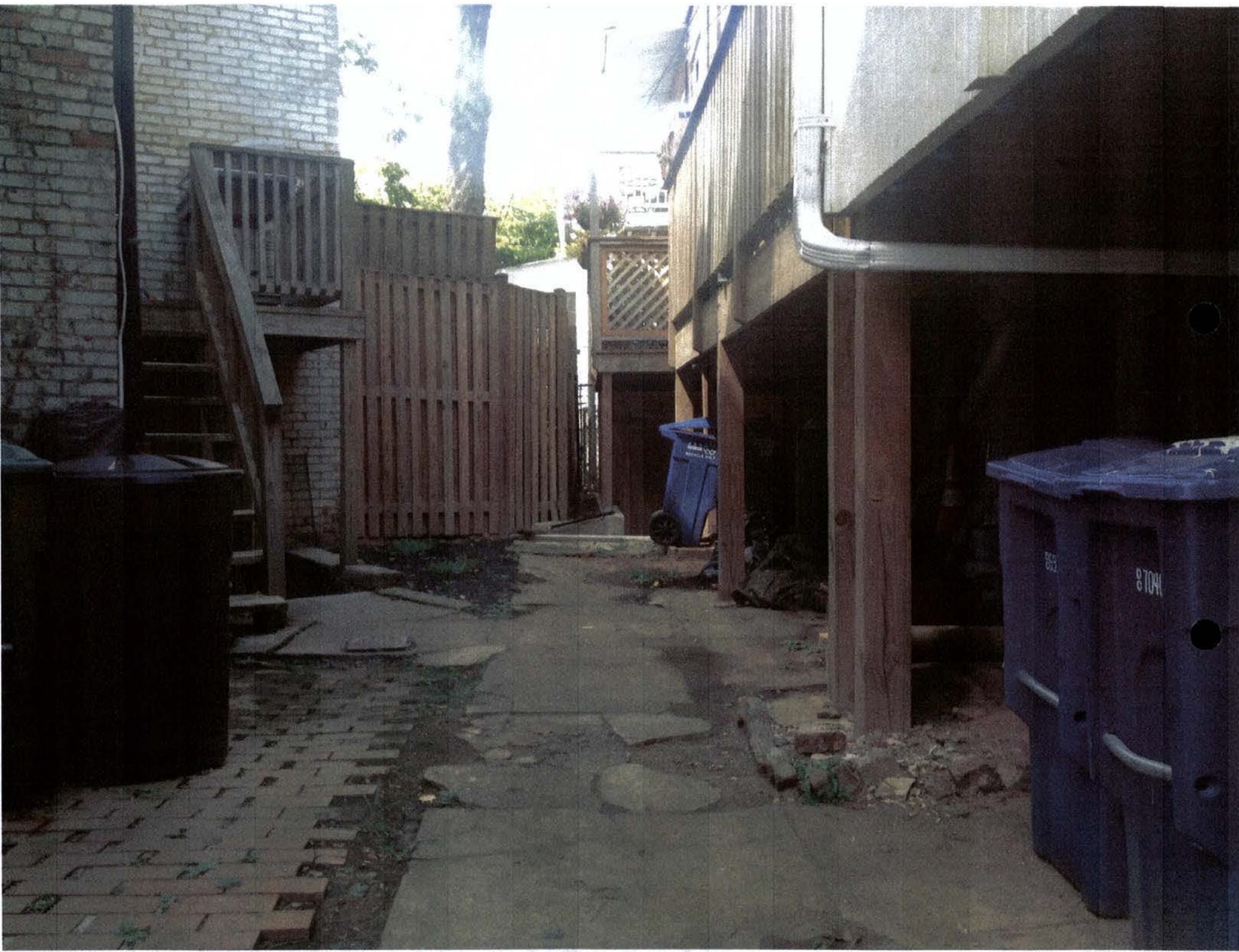


EXHIBIT 3

**Trash Storage In Rear Lot
Of 1375 Mass Ave SE**

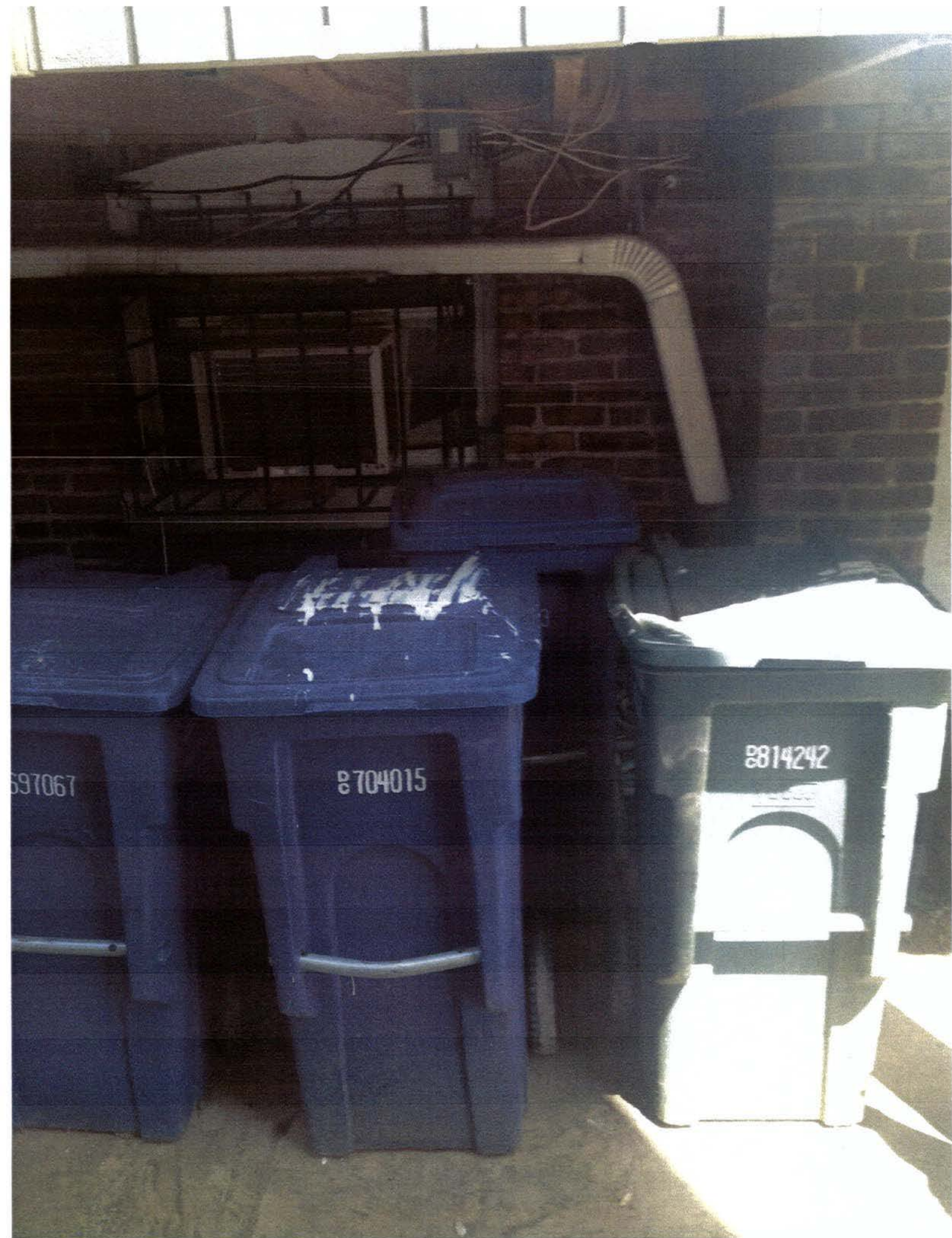


EXHIBIT 4

ALJ Decision in DCRA Case Involving

1375 Mass Ave SE

**DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS**
One Judiciary Square
441 Fourth Street, NW
Washington, DC 20001-2714
TEL: (202) 442-9094
FAX: (202) 442-4789

DISTRICT OF COLUMBIA
OFFICE OF
ADMINISTRATIVE HEARINGS

2011 APR 13 P 12:44

DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND
REGULATORY AFFAIRS

Petitioner

v.

DEREK S. MATTIOLI

Respondent

Case No.: 2011-DCRA-I703060
NOI No.: I703060

FINAL ORDER

I. Introduction

This case arises under the Civil Infractions Act of 1985, as amended, D.C. Official Code §§ 2-1801.01 - 2-1802.05, and the construction code, Title 12A of the District of Columbia Municipal Regulations ("DCMR"). By Notice of Infraction ("NOI") I703060 served February 14, 2011, Petitioner DCRA charged that Respondent Derek S. Mattioli committed three violations of 12A DCMR 105 1 by failing to obtain building, electrical, and gas piping permits. The Government charged that the violations occurred on November 19, 2010, at 1375 Massachusetts Avenue, SE (the "Property"). DCRA seeks fines totaling \$6,000 (\$2,000 per violation).

On September 21, 2009, Respondent filed an answer with pleas of Admit With Explanation to each charge. In a letter accompanying his answer, Respondent indicated that he

was seeking a reduction of the fine because he hired a contractor to perform renovations at the Property and relied on the contractor to obtain any necessary permits

On March 3, 2011, Mark O'Donnell and Susan Oehler filed a letter requesting to intervene in this case to "assure that the owners are required to follow the proper zoning process." This filing fails to comport with OAH Rule 2811.9 requiring that each paper filed must include a signed statement verifying that it was served on the parties and the letter will therefore not be considered in this case. Even if the document had been certified as having been served on the parties, OAH Rule 2816.4 provides that, "no person or entity may intervene as a co-Petitioner with the Government in any enforcement action where the Government seeks a fine unless a statute allows it " Mr. O'Donnell and Ms. Oehler have not identified any statute that allows them to intervene in this enforcement action and their motion to intervene is therefore also denied on this basis ¹

The Government filed a response to Respondent's plea on March 28, 2011, and although it did not challenge Respondent's version of the facts, opposed any reduction of fines because ultimately Respondent is responsible to obtain construction permits for work on his property

Based on the record as a whole and accepting as true the uncontested facts presented with Respondent's plea, I make the following findings of fact and conclusions of law.

¹ The Civil Infractions Act of 1985, as amended, D C. Official Code §§ 2-1801.01 - 2-1802.05, governs this proceeding and does not provide for a party's intervention as a co-Petitioner with the Government.

II. Findings of Fact

Respondent became the owner of the Property, his residence, in 2003. The house required exterior renovation, but Respondent did not then have sufficient funds to make these repairs. Approximately two years ago, he engaged a contractor to complete the renovations and believed that the contractor would secure any required permits. Respondent was not aware that the contractor's work violated the law and has accepted accountability for the violations. There is no evidence in the record that Respondent has a history of previous, similar violations.

III. Conclusions of Law

Respondent's plea of Admit With Explanation establishes that he committed three violations of 12A DCMR 105.1 by performing un-permitted building, electrical, and gas piping work, as charged in the NOI. Each violation is a Class 1 civil infraction punishable by a \$2,000 fine. 16 DCMR 3201.1(a), 16 DCMR 3306.1.1(a).

Respondent relied upon his contractor to obtain any necessary permits and was not aware that the construction on the Property was illegal; however, ignorance of the law, standing alone, does not excuse the violation or justify reducing the fine. *Bruno v Dep't of Health*, 665 A.2d 202 (D.C. 1995) (a civil infraction, like a traffic ticket, may be properly issued even if the Respondent is unaware of the violation), *Gary Inv. Corp. v D.C. Dep't of Health*, 896 A.2d 193

(D C 2006) (recognizing that intent is not a requirement for certain regulatory offenses).²

Where, as here, a party admits violations, this administrative court may reduce fines based on mitigating factors, including but not limited to acceptance of personal responsibility, good faith efforts to comply with the law, corrective action, and concrete steps to prevent future violations. Respondent has accepted responsibility for his conduct and there is no evidence in the record that he has a history of previous, similar violations. These are mitigating factors that warrant reducing the fine. I will therefore reduce the maximum total fines that could be imposed by \$1,000 and impose fines for the three violations in the total amount of \$5,000

IV. Order

Based on the above findings of fact, conclusions of law, and the entire record in this matter, it is this 12th day of April 2011:

ORDERED, that the motion of Mark O'Donnell and Susan Oehler to intervene in this matter is **DENIED**; and it is further

ORDERED, that Respondent is **LIABLE** for three violations of 12A DCMR 105.1 and shall pay **FIVE THOUSAND DOLLARS (\$5,000)** within 20 calendar days of the date of

² Nothing in the record suggests that Respondent knew about the permit requirement or did anything intentionally to avoid it. Under the circumstances, depending on the terms of their contract, Respondent may have a claim against his contractor for any money damages (including this judgment) occasioned by the failure to apply for a permit. Any such private contract claim, however, is beyond the scope of this court's limited jurisdiction D.C. Official Code § 2-1831 02(a) (OAH's jurisdiction extends only to "all cases to which [the OAH Establishment Act of 2001] applies" D C Official Code § 2-1831 02(a). The cases to which the OAH Act applies are enumerated in D C. Official Code § 2-1831.03.

mailing this Order (15 calendar days plus 5 days for service by mail pursuant to D.C. Official Code §§ 2-1802.04 and 2-1802.05); and it is further

ORDERED, that if Respondent fails to pay the above amount within 20 calendar days of the date of mailing of this Order, interest shall accrue on the unpaid amount at the rate of 1 ½ % per month or portion thereof, starting 20 calendar days after the mailing date of this Order, pursuant to D.C. Official Code § 2-1802.03(i)(1), and it is further

ORDERED, that failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondent's licenses or permits pursuant to D.C. Official Code § 2-1802 03(f), the placement of a lien on real and personal property owned by Respondent pursuant to D.C. Official Code § 2-1802.03(i), and the sealing of Respondent's business premises or work sites, pursuant to D.C. Official Code § 2-1801 03(b)(7); and it is further

ORDERED, that the appeal rights of any person aggrieved by this Order are stated below


Louis J. Burnett
Administrative Law Judge

EXHIBIT 5

My Backyard Is A Narrow

Slab Of Concrete



EXHIBIT 6

**Overhead View Of 1300 Block Of
Mass Ave SE**

To see all the details that are visible on the screen, use the "Print" link next to the map.

Google

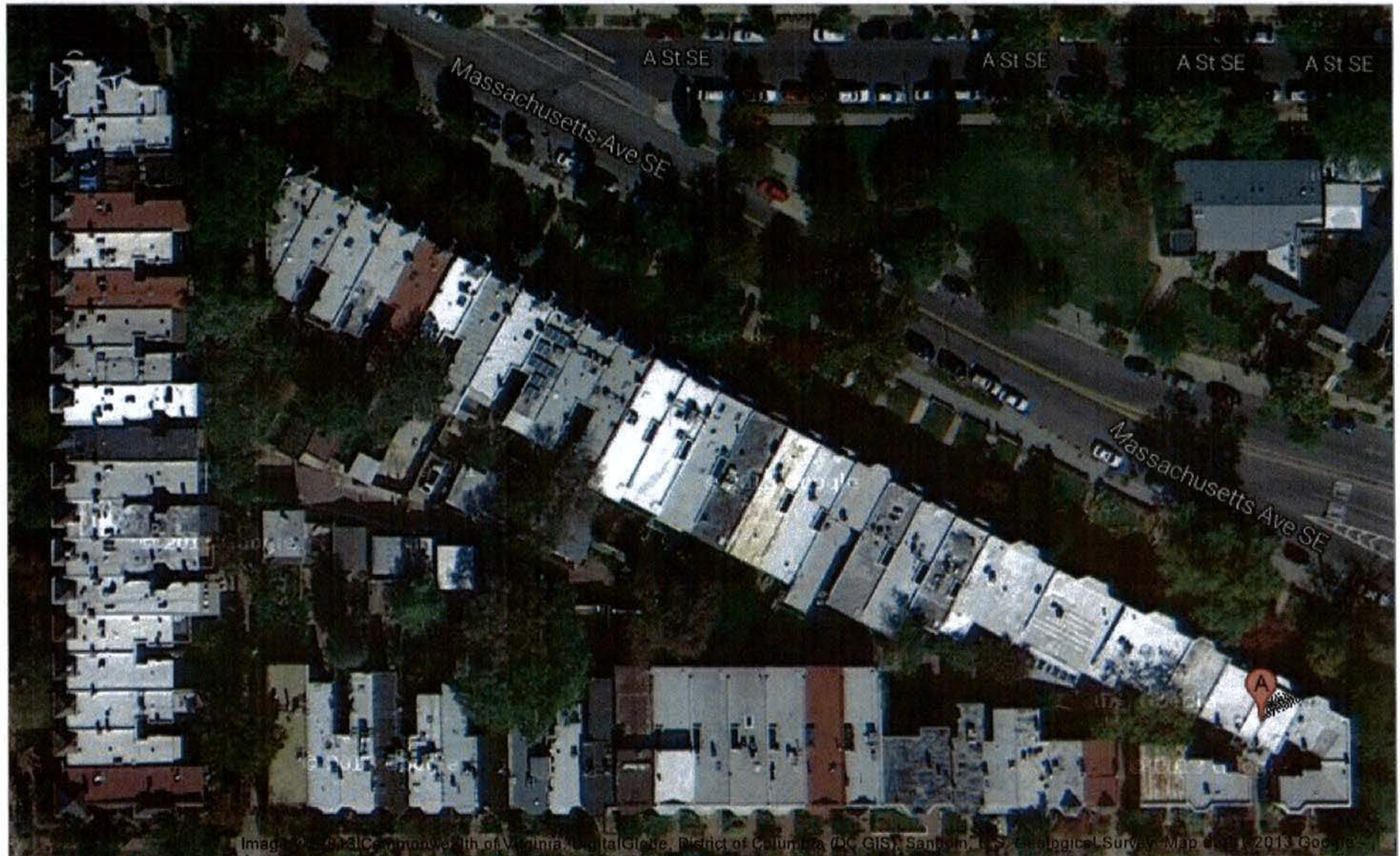


Image © 2013 Commonwealth of Virginia, DigitalGlobe, District of Columbia (DC) GIS, Sanborn, U.S. Geological Survey, Map data © 2013 Google

EXHIBIT 7

**Rear Lots Of Nearby Houses
That Abut the Public Walkway**



1366 IND



1377 MASS



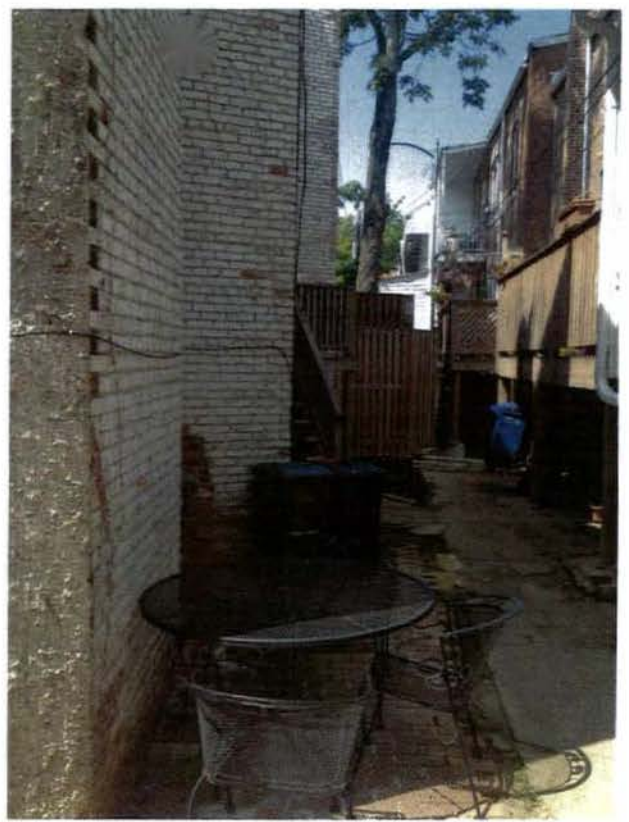
1373 MASS



1362 IND



1371 MASS



1364 IND



1371 MASS/1362 IND

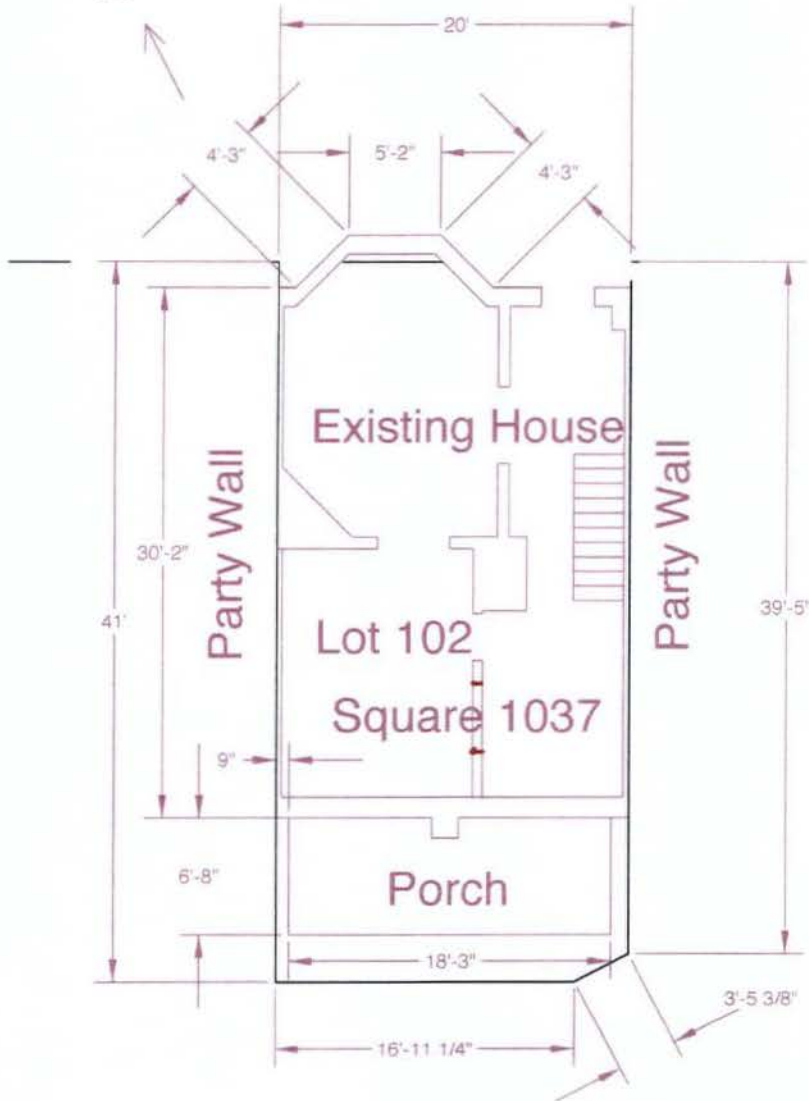
EXHIBIT 8

1375 Mass Ave SE

First Floor Plan

N Massachusetts Avenue SE

Revision		
Zone	Rev	Description



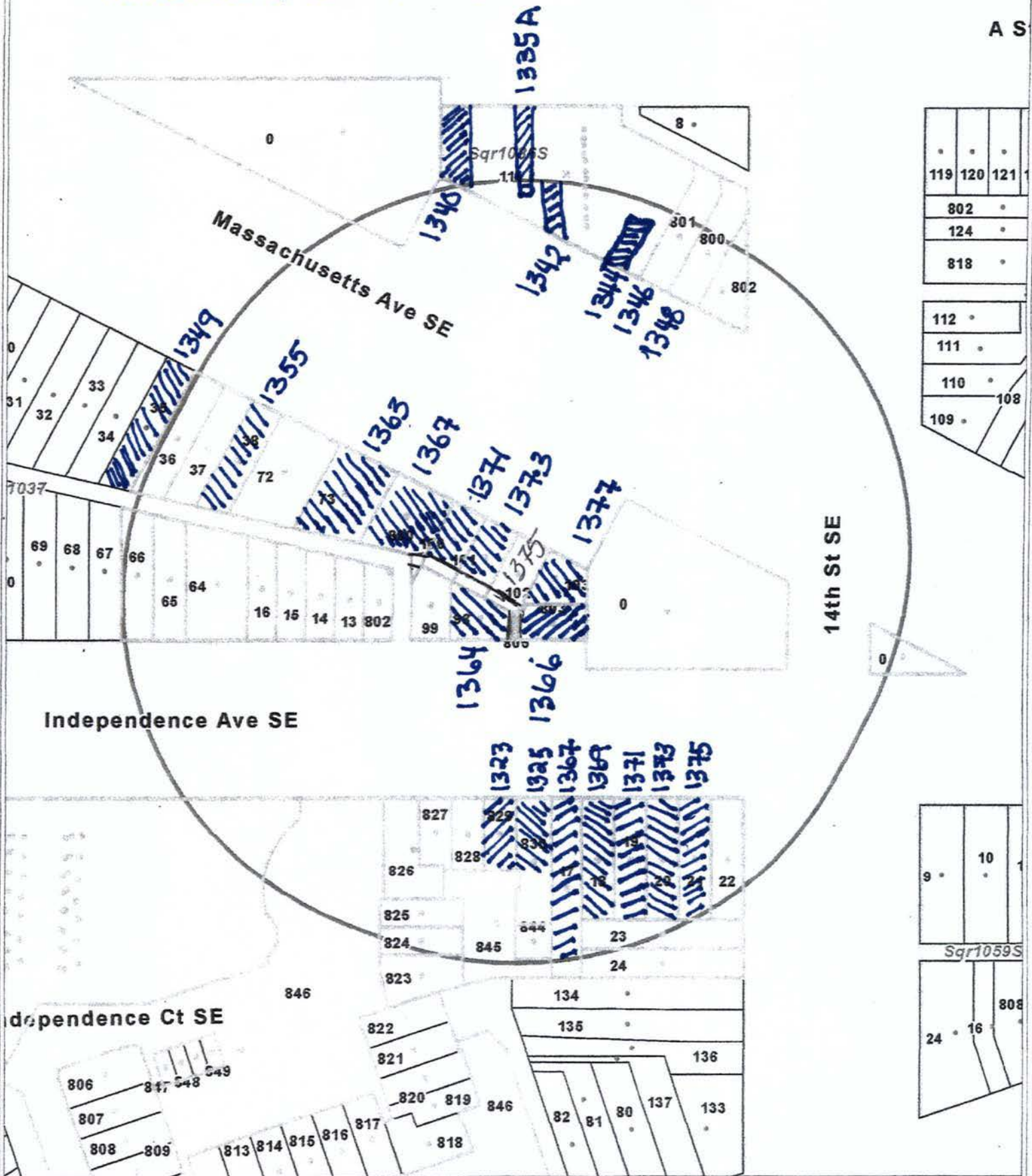
Unless Otherwise Specified:		Name	Date	Derek I	
Dimensions in inches		Drawn	2/10/2011	1375 Ma	
Tolerances: Fractional ±		Checked		1st Floor f	
Angular: Mach ± Bend ±		ENG Appr.			
Two Place Decimal ±		MFR Appr.			
Three Place Decimal ±		QA			
Material		Comments		Size	Draw
Finish		CAD Generated Drawing Do Not Manually Update		B	(
Do Not Scale Drawing				Scale	1:1

EXHIBIT 9

Neighborhood Support

NEIGHBOR S' PORT

A S



Square 1037 Lot 0102

Property Lines
200 Foot Radius

Office of Tax and Revenue
Real Property Assessment Division
Geographic Information Systems

Map Created: 02-20-2013
For planning purposes only

The property owner/s at the following addresses have written individual letters of support.

1377 Massachusetts Ave. SE (next door neighbor east side)
1373 Massachusetts Ave. SE (next door neighbor west side)
1366 Independence Ave SE (behind my house east of public walkway to street)
1364 Independence Ave SE (directly behind my house west of public walkway to street)

The property owner/s at the following addresses can see a portion of my porch and have written individual letters of support.

1371 Massachusetts Ave SE can see my porch from their back porch or back yard
1367 Massachusetts Ave SE can see my porch from their back porch or back yard
1363 Massachusetts Ave SE can see my porch from their back porch
1355 Massachusetts Ave SE can see my porch from their 2nd story back porch

The property owner/s at the following addresses can see a portion of my porch from their front yards and have signed the letter of support.

1371 Independence Ave SE
1323 Independence Ave SE
1325 Independence Ave SE
1367 Independence Ave SE
1369 Independence Ave SE

The property owner/s at the following addresses cannot see the porch from their property. They live within a 50 feet radius and have signed the letter of support.

1373 Independence Ave SE
1375 Independence Ave SE
1340 Massachusetts Ave SE
1342 Massachusetts Ave SE
1344 Massachusetts Ave SE
1346 Massachusetts Ave SE
1348 Massachusetts Ave SE
1335 A Street SE, unit B
1315 Independence unit 8

The property owners at the following addresses live on the 1300 block of Massachusetts Ave SE or A Street SE, outside the 50 feet radius and have signed a letter of support.

1349 Massachusetts Ave SE unit 1
1349 Massachusetts Ave SE unit 2
1331 Massachusetts Ave SE
1327 Massachusetts Ave SE
1329 Massachusetts Ave SE
1315 Massachusetts Ave SE
1344 A Street SE
1348 A Street SE
1334 A Street SE
1340 A Street SE
1348 A Street SE
1322 Independence Ave SE

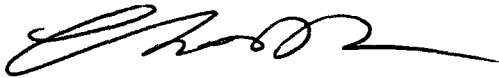
4 May 2013

To Whom It May Concern:

I have known Derek Mattioli since he was eighteen months old. I have watched him grow into a mature and caring adult. He is an excellent neighbor. He does all the neighborly things which make a community – feeding the cat, bringing in mail if I am away, checking up on me when I am sick and, very importantly, mowing my grass.

I can see his addition from the rear of my house. It has improved the look of the back yard area and provides protection from the weather for the back entrance into the house. His addition does not impinge on my property nor does it interfere with my life. I support his application for variances needed to allow a rear addition to his property.

Christine Parson

A handwritten signature in black ink, appearing to read 'Christine Parson', with a long horizontal flourish extending to the right.

1377 Massachusetts Avenue, SE

5/6/13

To whom it may concern:

Derek Mattioli is a wonderful and thoughtful neighbor.

I live directly next to Derek at 1377 Mass. Ave. SE. Wash DC 20003 and can see Derek's rear yard clearly.

I Support the application for the variances needed to allow the rear addition at 1375 Mass Ave., SE Wash. DC 20003 to stay in place.

Sincerely,

Aaron C Frisbie

Maurice E. Ashe
1366 Independence Ave, SE
Wash., D.C. 20003

May 5, 2013

Board of Zoning Adjustments
Government of the District of Columbia
Wash., DC

Dear Sir:

Please be advised that the property variances sought by our neighbor, Derek Mattioli, are fully supported by my household.

Additionally, we consider Mr. Mattioli an exemplary citizen – one who strives to maintain the pristine beauty of the neighborhood.

Sincerely,



Maurice

Date: August 14, 2013

To The Members of the Board of Zoning Adjustments:

I am writing to inform you that I am in full support of the property variances sought by my neighbor Derek Mattioli at 1375 Massachusetts Ave.SE. My property is directly behind Derek's. The public access path runs between our properties. Derek and I frequently talk while I am on my patio and he is on his porch.

Derek is a great neighbor who is there to help me whenever he sees something he can do. He has been the driving force in cleaning up the area behind our houses so that now we can sit out side and enjoy the back porch views. Before he constructed his porch, the old porch was old, and decrepit. A real eye sore. Now all of us who share the public walkway have worked to beautify our rear areas.

If the variances are not approved, I worry that the back of his house will once again become an eyesore.

Most sincerely yours,

A handwritten signature in black ink, appearing to read "Terri S. Norris". The signature is fluid and cursive, with the first name "Terri" being more prominent than the last name "Norris".

**Terri S. Norris
1364 Independence Avenue S.E.
Washington, DC
20003**

Julia Hodges and Michael Merino
1371 Massachusetts Ave, SE
Washington, DC 20003

13 May 2013

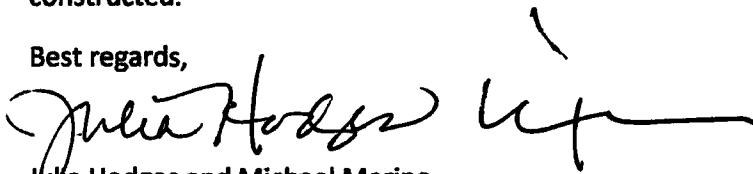
To ANC Officials and Others Whom It May Concern:

We are writing in regard to the Derek Mattioli's application for variances needed to allow the existing rear addition to remain at 1375 Massachusetts Ave SE, occupied by Derek.

Derek Mattioli has been a very good neighbor as long as we have lived here and known him. He is friendly and kind, cares for his property, and is definitely an asset to the neighborhood.

Our property is two houses down from his, and we can see the rear yard of his house from the back of our house. We support Derek's application for the variances needed to allow the currently existing rear addition to his property at 1375 Massachusetts Ave SE to remain. We have no problem with the existing structure as it currently is and do not wish to see it torn down and rebuilt to accommodate a 2.5 foot setback. We understand that these variances are to allow the existing addition to remain as is, as a single level addition, and that the variances in question do not allow any other rooms or levels to be constructed.

Best regards,



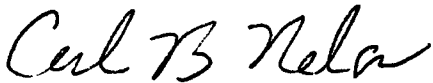
Julia Hodges and Michael Merino

To: ANC

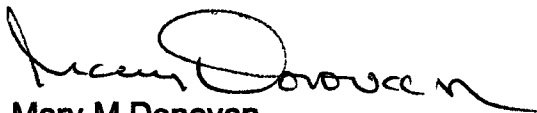
Date: 5/6/2013

Carl B. Nelson and Mary Donovan, owners of the property at 1367 Massachusetts Ave SE. are writing to support the application of Derek S. Mattioli for variances needed to allow a rear addition to his property at 1375 Massachusetts Ave SE. The back areas of all the houses from 1377 Massachusetts Ave to our property (which includes the 1367 property) are visible from our back porches.

Please feel free to contact us if you require more information.

A handwritten signature in cursive script that reads "Carl B. Nelson".

Carl B. Nelson

A handwritten signature in cursive script that reads "Mary M. Donovan".

Mary M Donovan

To: ANC

RE: Board of Zoning Adjustments Application Number 18556

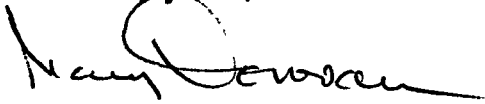
Date: 5/3/2013

I am the owner of the property at 1363 Massachusetts Ave. SE., Washington, DC 20003.

From my back porch, I have a direct view of the rear yard of the property owned by Derek S. Mattioli (1375 Massachusetts Ave SE) for which he has applied for variances needed to allow a rear addition.

I fully support his application.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Mary Donovan", with a large, stylized loop at the beginning.

Mary Donovan

May 5, 2013

Dear ANC:

I am the home owner of 1355 Massachusetts Ave SE, Washington DC 20003. I am able to view the backyard lot of my neighbor's home located at 1375 Massachusetts Ave SE from my rear porch. I support your approval of the variances needed to allow for the rear addition to 1375 Massachusetts Ave SE DC 20003.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Sullivan", with a stylized flourish at the end.

Brendan Sullivan MD

To: Board of Zoning Adjustments
RE: Application Number 18556

I am the owner of the property at 1322 Independence Ave SE. I strongly support the application of Derek S. Mattioli for the variances needed to allow a rear addition to his property at 1375 Massachusetts Ave SE.

Respectfully yours,


Arnold Horowitz

The undersigned owners of property on the 1300 block of Massachusetts Ave SE, support the application of Derek S. Mattioli for variances needed to allow a rear addition to his existing dwelling at 1375 Massachusetts Avenue SE.

Name

Address

Marilyn Ringenborg

1329 Mass. Ave. SE

Gregory Mazzini

1331 MASS AVE SE

Daniel Kaparik

1342 Mass Ave SE

Jeff W. L.

1346 Mass Ave SE

Jillita Clayton

1327 Mass Ave, SE

Chris

1315 Mass Ave SE

~~Jackie Davis~~

~~1344 Mass Ave SE~~

Jackie Davis

1344 Mass Ave SE

Jim M. L.

1349 MASS. AVE. SE

Yelp

1349 Mass Ave SE

Cal B Nelson

1367 MASS. AVE. SE

Harry Donovan

1363 Mass Ave SE

* Marnie Patricia Hanson

1335 A St. SE Unit B

The undersigned owners of property on the 1300 block of Massachusetts Ave SE, support the application of Derek S. Mattioli for variances needed to allow a rear addition to his existing dwelling at 1375 Massachusetts Avenue SE.

Name	Address
Donald Hill	1344 A St SE
Quanta Boyd	1348 A St SE
Michael Wolt	1334 A Street, SE
Jeffrey Dwyer	1340 A St. S.E.
* John J. Chute	1371 Independence Ave SE
* Dan Munk	1369 INDP SE
Catherine Be	1307 Independence Ave SE
Matthew Hunt	1325 Independence Ave SE
Cathy Kr	1348 Massachusetts Ave SE
Stephen M. Metcher	1340 Massachusetts Ave SE
Mike Metcher	1323 INDEPENDENCE AVE SE
Edward McMeans	1373 INDEPENDENCE AVE SE
Karen Lyon	1373 Independence Ave, SE
Mrs. Leana DeVare	-1375 Indep Ave SE

Name

Address

Name GRADY HEDGES PETH Address 1315 INDEPENDENCE AVE SE #8
WASH, DC 20003

EXHIBIT 10

**Rear Lots Of Nearby Houses
That Directly Abut The Alley**



1358 IND



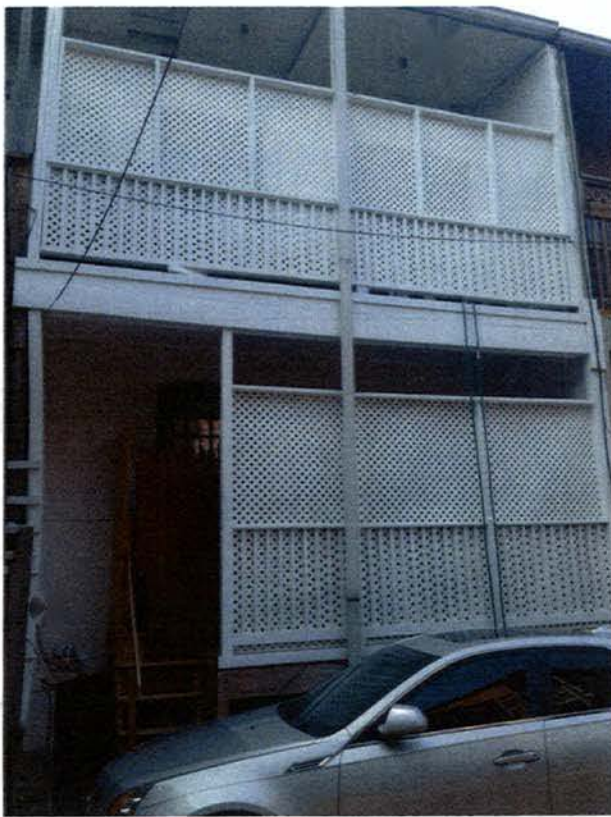
1356 IND



1354 IND



1352 IND



1344 IND



1353 MASS



1349 MASS

EXHIBIT 11

Area Coverage Of Nearby Properties

In Square 1037

EXHIBIT 11

**FIVE HOUSES IN SQUARE 1037 CLOSE TO
1375 MASSACHUSETTS AVE SE HAVE
AREA COVERAGE OF 100%, AND EIGHT
OTHERS RANGE BETWEEN 90% AND 98%**

	Lot Size (Sq Ft)	Area Not Covered	% Area Coverage
<u>Mass Ave SE</u>			
Lot 101 (1373)	820	0	100%
Lot 100 (1371)	820	0	100%
Lot 73 (1363)	1,793	0	100%
Lot 35 (1349)	1,429	23	98%
Lot 37 (1353)	1,265	66	95%
Lot 103 (1377)	746	57	92%

Independence Ave SE

Lot 65 (1344)	1,244	0	100%
Lot 15 (1354)	851	0	100%
Lot 16 (1352)	912	43	95%
Lot 13 (1358)	731	39	95%
Lot 803 (1366)	738	46	94%
Lot 14 (1356)	791	79	90%
Lot 66 (1342)	1,397	150	90%

SOURCE: For Lot Size, DC Real Property Data Base; for Area Not Covered, estimated square feet based on visual inspection and measurement; for Area Coverage %, Area Not Covered divided by Lot Size subtracted from 100%

EXHIBIT 12

Lot Sizes Of Properties Shown

In CHRS Exhibits

EXHIBIT 12

REBUTTAL TO CAPITOL HILL RESTORATION SOCIETY EXHIBITS C, D, and E

THE CHART BELOW SHOWS THE SQUARE FOOTAGE OF THE LAST THREE HOUSES AT THE WEST END OF THE 700, 800, 900, AND 1000 BLOCKS OF MASSACHUSETTS AVE NE AND THE 1300 BLOCK OF MASSACHUSETTS AVE SE

THIS DEMONSTRATES THAT THE LOTS AT THE WEST END OF THE 1300 BLOCK ARE EXCEPTIONALLY SMALL WHICH IS A FACTOR SUPPORTING UNIQUENESS AND EXCEPTIONAL PRACTICAL DIFFICULTY

Sq. 876 Lot 9	725 Mass Ave NE	2,392 sq. ft.
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Sq. 876 Lot 10	727 Mass Ave NE	2,186
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Sq. 876 Lot 52	729 Mass Ave NE	1,030
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Average	1,869
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Sq. 917 S Lot 10	816 Mass Ave NE	1,511
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Sq. 917 S Lot 11	814 Mass Ave NE	1,396
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Sq. 917 S Lot 8	812 Mass Ave NE	1,235
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Average	1,380
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Sq. 918 Lot 3	821 Mass Ave NE	1,316
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Sq. 918 Lot 4	819 Mass Ave NE	1,002
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Sq. 918 Lot 5	815 Mass Ave NE	1,137
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Average	1,151
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Sq. 941 Lot 816	919 Mass Ave NE	998
Sq. 941 Lot 825	915 Mass Ave NE	1,645
Sq. 941 Lot 823	913 Mass Ave NE	1,833
	Average	1,492
Sq. 966 Lot 22	1018 E Capitol St NE	2,596*
Sq. 966 Lot 800	1016 E Capitol St NE	1,401
Sq. 966 Lot 801	1014 E Capitol St NE	1,598
	Average	1,865
Sq. 965 Lot 38	1024 Mass Ave NE	1,960
Sq. 965 Lot 54	1020 Mass Ave NE	748
Sq. 965 Lot 40	1018 Mass Ave NE	1,476
	Average	1,394

* This property was a four-story apartment building which was granted an area variance for construction of a fifth story by converting an attic and to allow an addition and structural change to a non-conforming structure which already exceeded the R-4 height limitations. See BZA No. 12222, 9/30/76. It now has nine units with a total of 11,541 square feet (1 - 1,304 square feet; 2 - 1,330; 3 - 1,411; 4 - 1,163; 5 - 1,127; 6 - 1,163; 7 - 1,127; 8 - 1,563; 9 - 1,353). As shown on CHRS Exhibit D, lot occupancy is 100%.

Sq. 1037 Lot 103	1377 Mass Ave SE	746
Sq. 1037 Lot 102	1375 Mass Ave SE	818
Sq. 1037 Lot 101	1373 Mass Ave SE	820
Average		794

SOURCE: D.C. Real Property Data Base