

# SULLIVAN & BARRON, LLP

Real Estate | Zoning | Land Use

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November 5, 2013

**By Hand Delivery**

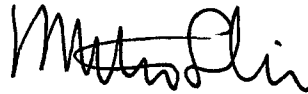
Lloyd Jordan, Chairman  
Board of Zoning Adjustment  
441 4<sup>th</sup> Street, NW  
Suite 210S  
Washington, DC 20001

**Re: Prehearing Statement for BZA Application No. 18659 – 4540 Lowell Street NW**

Dear Chairman Jordan and Members of the Board:

Enclosed please find an original and ten (10) copies of the Applicant's prehearing statement.

Sincerely,



Martin P. Sullivan

**BOARD OF ZONING ADJUSTMENT**  
District of Columbia

CASE NO. 18659

EXHIBIT NO. 26

**BEFORE THE BOARD OF ZONING ADJUSTMENT**  
**APPLICATION NO. 18659**

**APPLICANT'S PRE-HEARING STATEMENT**  
**Application of Andreas Xenophontos and Elodie Goirand**

**4540 Lowell Street, NW (Square 1608, Lot 68)**

**I. DESCRIPTION OF THE PROJECT.**

Andreas Xenophontos and Elodie Goirand have lived at 4540 Lowell Street, NW (the "Property") for the past eighteen (18) years. They have undertaken new construction to enlarge, or reconstruct, the home on the Property (the "House"), as described herein (the "Project") (See photographs of the Project attached as Exhibit A). Such construction was originally approved as a renovation, meaning that a 10.4' x 10.9' one-story covered porch (the "Covered Porch") at the northwest corner of the House (the front right as you face it) (hereinafter referred to as the "Enclosed Porch") which encroached into the required side yard and front yard setbacks, was lawfully permitted to remain and to be closed in. After the Enclosed Porch was substantially constructed by the Applicant, the Project was re-characterized by the Zoning Administrator as a raze and new construction, based apparently on the demolition of a small area of original wall that was originally meant to be retained. This re-characterization meant that the Enclosed Porch was no longer a legally nonconforming structure and was therefore no longer permitted to remain or to be closed in.

This Application, therefore, stipulates that the Project is one of new construction, not mere renovation, and necessarily requests variance relief to allow the Enclosed Porch to remain as constructed and as originally approved. The Enclosed Porch (i) extends a distance of 4.3 feet into the required side yard setback (§405.9) – for a distance of 10.9 feet - and (ii) extends a distance of about thirteen (13) feet into the required Wesley Heights Overlay front yard setback

(§1543.4) – for a width of 10.4 feet. The Enclosed Porch existed as a covered porch in this exact footprint since the House's original construction in the 1930's. The 10.9 foot length of the 4.3 foot side yard encroachment is actually 7 feet less than it was originally, as the Applicant's project removed a 4.3' x 7' portion of the legally nonconforming structure in the area as shown on the diagram attached as Exhibit B. Substantially screening the Enclosed Porch from the front street is a large Weeping Cherry Tree (see photo attached as Exhibit C).

In 2012, the Applicant received a building permit to build an addition to the existing House and to enclose the existing Covered Porch, which predates the 1958 Zoning Regulations and the Wesley Heights Overlay front yard setback restrictions. The proposed work consisted of what was a near-total demolition of the existing House, although DCRA determined the proposed work to be an addition, and not new construction. Because the project was considered to be *an addition* to an existing structure – and not a raze and new construction – the construction of the Enclosed Porch was permitted as a matter-of-right as the continuation of a legally nonconforming structure.

During construction, an approximate fifteen-foot portion of an existing wall of the House – originally intended to be retained - was determined to be structurally insufficient and was removed by the Applicant upon the advice of his structural engineer (see Engineer's recommendation attached as Exhibit D.) The Applicant did not revise the original permit to reflect this change, believing the change to be immaterial and in part already reflected in the original permit plans – although not on the demolition page.

After removal of that section of wall, which took place in early February, 2013, DCRA inspectors completed a successful framing inspection, and made at least three additional inspection visits, after which all construction was found to be in compliance with all building

code and zoning regulations, and work was allowed to continue. It was not until April 26, 2013 that the Applicant was first informed that the Zoning Administrator was looking into the issue of whether or not the original house had been technically razed or not. No stop work order was issued at this time and work was allowed to continue. It was not until July 3, 2013, more than two months after April 26, and more than four months after framing had been completed, that a stop work order was issued after the Zoning Administrator determined that the removal of additional original walls – we assume the fifteen foot section – meant that the work was now technically characterized as a raze and new construction. That re-characterization led to the determination that the Enclosed Porch was no longer permitted as a matter of right and must be removed. DCRA then stopped all construction on the entire structure, rather than on just the Enclosed Porch. The Applicant was eventually permitted to proceed in completing construction on the main portion of the House (because it was compliant with the Zoning Regulations), and was later permitted to complete the weatherization of the Enclosed Porch (to protect the property from further weather damage).

The Applicant spent approximately fifty thousand dollars (\$50,000) constructing the Enclosed Porch, which at this point contains a powder room; the only bathroom on the first floor of the House. Removing the Enclosed Porch would cost the Applicant approximately \$50,000, would leave the Applicant without a bathroom on the first floor, and would likely leave unsightly remnants from such work and closing up the front wall. The construction of the Enclosed Porch was at all times undertaken in accordance with duly-issued (and rightfully issued) building permits. It was not until the remaining original wall was removed – in an area of the house completely removed from the Enclosed Porch – that the already completed work was determined by the Zoning Administrator to have changed characterizations from “addition” to “new,”

causing the previously matter-of-right Enclosed Porch to now be in violation of the side and front yard setbacks.

As a result, and at the suggestion of the Zoning Administrator and his legal counsel, the Applicant hired land use counsel and filed this Application, asking for relief to allow the Enclosed Porch to remain. For purposes of this Application, the Applicant stipulates that the Project was a raze and new construction and that the Covered Porch was no longer a legally nonconforming structure.<sup>1</sup>

## II. PRELIMINARY MATTER.

The Applicant has filed the Application as a request for (i) variance relief for the front yard, and (ii) § 223 special exception relief for the side yard. The Applicant's reasoning is that since the main portion of the House has been found to be in complete compliance with the Zoning Regulations, and since construction is permitted to continue until completion, that the construction of the main section of the House has been effectively bifurcated from the construction of the Enclosed Porch. As such, the Enclosed Porch is yet to be lawfully permitted. If and when the Enclosed Porch is lawfully permitted, that permit will not be for new construction of the entire house – it should be for an *addition to* the existing – and already approved and constructed – main House.

The Office of Planning has informed the Applicant that it does not agree with such an analysis, and that the variance should be requested for both the side yard and the front yard relief. The Applicant will not oppose the Office of Planning's position, and will defer to the

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<sup>1</sup> The Applicant has challenged the actions of DCRA in a proceeding currently before the Office of Administrative Hearings, where it was directed after receiving a Notice of Intent to Revoke the Permit. That proceeding is currently being held in abeyance pending the outcome of this Application. Contrary to the Party Status Applicant's assertion, the OAH action was initiated by the Applicant; OAH has not taken any "action against the Applicant."

Board on the correct nature of the relief. In the event that the Board finds the side yard violation to require variance relief, rather than § 223 relief, then the Applicant hereby amends the application to request variance relief for the side yard as well as the front yard. The Applicant respectfully requests that the Board waive the notice requirement for such a change. Doing so will not harm or prejudice any parties. Variance relief was always requested for the entire Enclosed Porch, since all of the subject side yard encroachment is also within the area of the front yard encroachment. The originally requested relief was overlapping, not isolated, relief. Therefore the public has had full notice that a variance was being requested for the entire area of the Enclosed Porch, and that such relief related to both the front yard and side yard setbacks. No facts underlying the project or the Enclosed Porch have changed; all substantive aspects of the completed and proposed work are just as they were presented to ANC 3D and surrounding neighbors. The requested change presents no material change to the Application, other than to change the standard under which the side yard relief will be considered by the Board. Since variance relief was already noticed as being part of this Application, there would be no prejudice or harm to any party in making such a change.

### III. THE APPLICATION SATISFIES THE STANDARD FOR VARIANCE RELIEF.

The burden of proof for an area variance is well established. The Applicant must demonstrate three elements: (1) unique physical aspect or other extraordinary or exceptional situation or condition of the property; (2) resulting in practical difficulty in complying with a strict application of the Zoning Regulations; and (3) no harm to the public good or the zone plan. *Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990). As set forth below, the Applicant meets the three-part test for the requested area variance.

A. The Property is Subject to Exceptional Conditions and Situations.

In order to prove an extraordinary or exceptional condition, or uniqueness, the Applicant must show that the property has a peculiar physical aspect or other extraordinary situation or condition. *Monaco v. D.C. Board of Zoning Adjustment*, 407 A.2d 1091, 1096 (D.C. 1979). A property's uniqueness is not limited to physical aspects of the land and may be determined by "some difficulty not shared by the entire neighborhood." *Id.* at 1098.

The Court of Appeals held in *Clerics of St. Viator v. D.C. Bd. of Zoning Adjustment*, 320 A.2d 291 (D.C. 1974) that the exceptional situation or condition standard goes to the property, not just the land; and that "...property generally includes the permanent structures existing on the land." *Id.* at 293-94. The Court held that the exceptional situation standard of the variance test may be met where the required hardship is inherent in the improvements on the land (*i.e.*, the building or structure) and not just the land itself.

Furthermore, the Court of Appeals held in *Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990), that it is not necessary that the exceptional situation or condition arise from a single situation or condition of the property. Rather, it may arise from a "confluence of factors."

In *Monaco v. D.C. Board of Zoning Adjustment*, the Court of Appeals held that the history of a property could be considered in making the determination of uniqueness. In numerous BZA cases, this Board has found that actions or inactions of DCRA in permit processing may qualify as a unique situation or condition sufficient to meet the variance test. In fact, even the consequences of honest mistakes made by an applicant when they perform illegal construction (not the case here) has been considered to be a unique condition leading to a practical difficulty for purposes of granting area variance relief.

A recent instructive case is Application No. 18586 of Mary McGrath. In that application, also involving the Wesley Heights Overlay, the applicant and her architect designed and built a screened-in porch along the entire front of the existing house in clear violation of the Wesley Heights Overlay front yard setback. DCRA mistakenly approved the permit application for the illegal construction. In contrast to the McGrath situation, this Applicant is merely closing in the pre-1958 covered porch, and has not proposed any expansion of that legal nonconformity. In fact, the Applicant has actually reduced the area of the nonconformity in an area nearest the west neighbor, as detailed above and in Exhibit B. In addition, the construction under review in this Application was originally correctly approved as matter-of-right activity, whereas in the McGrath case the subject construction was never correctly considered to be matter-of-right. Rather, it was simply approved and completed in error. In the present situation, it was a subsequent event – unrelated to the Enclosed Porch – that caused a change which led to the re-characterization of the Enclosed Porch work from its previously – and correctly – granted matter-of-right status.

The McGrath application was approved by the Board and overwhelmingly supported by ANC 3D, despite party status opposition from two neighbors.<sup>2</sup>

There are two principal exceptional situations and conditions involving the subject Property, and several other unique situations which either contribute to the practical difficulty or contribute to the conclusion that granting relief will not be a substantial detriment to the public good or to the integrity of the zone plan.

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<sup>2</sup> The McGrath application was considered as § 223 special exception relief, even though it included a further incursion into the WHO front yard setback. The Applicant agrees that variance relief is required in this Application, even though there is no such expansion of the existing nonconforming structure. In other words, the standard for review is slightly higher in this case, while the extent of the violation is of a much lesser degree than it was in the McGrath case: where this Application involves enclosing a porch that has existed for over 80 years, the McGrath application involved the expansion of such a porch across the entire front of the house in violation of the front yard setback.

First, the 113 square foot area in question – the Covered Porch – was built together with the original house well before the adoption of the current Zoning Regulations in 1958 and well before the enactment of the Wesley Heights Overlay, thereby making the Covered Porch a legally nonconforming aspect of the original House. Closing in a legally nonconforming covered porch is permitted as a matter of right under the Zoning Regulations, since such a structure already qualifies 100% as a structure, *i.e.*, it counts against lot occupancy and cannot be located in any required open space. This interpretation applies everywhere in the District, not just in the WHO, and has been used many times by Wesley Heights property owners to add such historical porches to the interior space of their houses, as the Applicant intended in this case. Accordingly, while the project was considered by DCRA to be an addition, the Enclosed Porch, along with the rest of the project, was correctly permitted as a matter-of-right.

The Second exceptional situation involving the Property was the combination of the discovery of the structurally deficient walls which, upon discovery of such deficiency, were required to be replaced, and DCRA's eventual (late) response following multiple inspections of the work including that change. DCRA's response involved a re-characterization of the Project as a raze and new construction after the Applicant had substantially completed construction of the House and the Enclosed Porch. The regulatory underpinning of DCRA's determination is vague, as can be deduced simply from the fact that removal of just a few feet of a wall four feet high could retroactively change the character of the Project in to such degree as to force the Applicant to spend tens of thousands of dollars tearing down completed construction.<sup>3</sup> If the

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<sup>3</sup> The Zoning Administrator noted in an e-mail that the basis for his determination in this case was an interpretation which he has followed for only the past three years (see e-mail attached as Exhibit E). There is no language within the Zoning Regulations regarding what determines a structure to be an addition vs. new construction. There is such language in the building code, which provides that "a raze permit is required to secure the right to remove a building or structure down to the ground." (§ 105.1.7).

Applicant had known that the proposed work was not an addition, or that it was subject to being re-characterized as new construction – making the Enclosed Porch illegal – then the Applicant would not have enclosed the Covered Porch, but would have designed and built the powder room in another part of the House. Retaining the Enclosed Porch provided no great benefit to the Applicant above what they would have otherwise been granted as a matter-of-right. The Project meets the overall lot occupancy and gross floor area restrictions of the WHO Overlay, with the Enclosed Porch included, and the Applicant had plenty of rear yard space into which they could have extended the back of the House. The fact was that the retention of the historical Covered Porch was permitted as a matter-of-right, so the Applicant followed that course of action, without realizing that any subsequent changes might alter the lawful status of the Enclosed Porch and cause the Applicant to have to remove what they had already built.<sup>4</sup>

**B. Strict Application of the Zoning Regulations would Result in a Practical Difficulty.**

The second prong of the variance test is whether a strict application of the Zoning Regulations would result in a practical difficulty. In reviewing the standard for practical difficulty, the Court of Appeals stated in *Palmer v. Board of Zoning Adjustment*, 287 A.2d 535, 542 (D.C. App. 1972), that “[g]enerally it must be shown that compliance with the area restriction would be unnecessarily burdensome. The nature and extent of the burden which will warrant an area variance is best left to the facts and circumstances of each particular case.” In

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<sup>4</sup> Building permit applicants often seek to characterize construction as an addition so they do not incur a parking requirement, or in the case of R-4 property, so they can convert to apartment house, or as in this case, they wish to retain some historical aspect of an original footprint. But the overall gain of such an action to this Applicant was certainly not important enough to be a central factor in deciding how much of the existing house to save. For instance, the entire fireplace from the original structure was retained, a costly action which provided no benefit to the Applicant other than the emotional satisfaction of preserving another historic aspect of the original house, which this Applicant has lived in for eighteen (18) years. Additionally, the Applicant voluntarily removed 39% of the existing nonconformity.

area variances, applicants are not required to show “undue hardship” but must satisfy only “the lower ‘practical difficulty’ standards.” *Tyler v. D.C. Bd. of Zoning Adjustment*, 606 A.2w 1362, 1365 (D.C. 1992) (citing *Gilmartin v. Bd. of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990)).

It is well settled that the BZA may consider “a wide range of factors in determining whether there is an ‘unnecessary burden’ or ‘practical difficulty’ ... Increased expense and inconvenience to an applicant for a variance are among the factors for the BZA’s consideration.” *Gilmartin*, 579 A.2d at 1711. Other factors to be considered by the BZA include: “the severity of the variance(s) requested”; “the weight of the burden of strict compliance”; and “the effect the proposed variance(s) would have on the overall zone plan.” Thus, to demonstrate practical difficulty, an applicant must show that strict compliance with the regulations is burdensome, not impossible.

As such law applies to the facts in this Application, the Applicant clearly has a substantial practical difficulty in complying with a strict application of the Zoning Regulations; and such practical difficulty is a direct result of the exceptional conditions noted in the above section. If the requested relief is not granted, the Applicant will be required to demolish the Enclosed Porch, which was substantially constructed before the Zoning Administrator made his redetermination that the structure was no longer a legally nonconforming structure. The Applicant, Andreas Xenophontos, an architect and construction manager, estimates that the removal of the Enclosed Porch, and all consequential work necessary to close up that side of the House will cost at least \$50,000. In addition to that expense, the Applicant will be required to relocate the necessary first floor powder room somewhere inside the finished structure. As the building systems have already been installed, and all other spaces designed and constructed, the

expense of relocating the powder room carries an estimated expense of at least \$ 50,000 or more. Along with the financial expense there are additional difficulties, including the time delays in completing and moving back into the House and landscaping the scarred ground under the area of the Enclosed Porch. In addition to future costs, the construction work on the Enclosed Porch included costs of approximately \$50,000, which will be wasted if the Enclosed Porch is to be removed.

An important aspect of the practical difficulty standard is the degree of the variance requested. The Board may consider the degree of the variance requested in weighing whether or not an Applicant meets the practical difficulty test. In this Application, the degree of variance requested is small in nature, not only because of the small area of the Enclosed Porch, but because the porch existed for over eighty years in this footprint, which means that the requested relief will effectively allow the closing in of the porch in its historical footprint, which would have been permitted as a matter-of-right anyway if the Zoning Administrator had not changed the characterization of the work, after the fact.

Amid the argument submitted by the party status applicant is lost the fact that the only change to the Enclosed Porch from what existed historically is a one-story wall about 10 feet long, in an area already shaded by existing trees as well as the matter-of-right portion of the House. Also lost in that opposition is the fact that the Applicant actually removed a 4.3' x 7' portion of nonconforming structure nearest the neighbor's house, which made what was previously a 3.7' side yard into a full 8-foot side yard for that 7-foot length. It's arguable that the net effect of removing this section and filling in the existing covered porch is positive for this neighbor. At the very least, it has no material negative impact on their property.

**C. Relief Can be Granted without Substantial Detriment to the Public Good and without Impairing the Intent, Purpose, and Integrity of the Zone Plan.**

Granting relief will approve what was already approved by the Zoning Administrator in the original permit approval. As noted above, the Covered Porch has existed in this location, at this same height and footprint, for more than eighty (80) years, and the Project included the removal of a 4.3' x 7' portion of the original house that was located in the required side yard setback. Regarding the front yard relief, the Covered Porch pre-dated the Wesley Heights Overlay, and many such porches have been enclosed over the years in Wesley Heights. The subject work did not include any expansion of the nonconforming Covered Porch, which according to guidance provided in past BZA decisions, could have been granted under the § 223 special exception standards.

Lowell Street has a right-of-way of ninety (90) feet, but only thirty (30) feet of that right-of-way is actual paved street. Therefore, even though the Enclosed Porch extends about 12 feet into the required front yard, that porch is still over thirty (30) feet from its adjacent curb bordering the south side of Lowell Street. It is also worth noting that the Wesley Heights front yard overlay is calculated by averaging the current existing front yard setbacks, meaning that a large portion of the houses in Wesley Heights, by definition, do not meet the front yard setback requirement (including the party status applicant's house). So the Overlay requirements were meant to protect from further expansion toward the curb, while it recognized that existing encroachments into the front yard existed as part and parcel of the historic character of Wesley Heights. This Project does not include any expansion of the existing historical footprint of the front yard encroachment, either out toward the curb or extending further across the front of the

house, unlike the McGrath application approved by the BZA and this ANC this past summer, which extended a similar historical encroachment across the entire front of the house.

The Enclosed Porch is also shielded to a large degree by a large, old, Weeping Cherry Tree, as noted above, which further mitigates any impact of the view of the Enclosed Porch from the street.

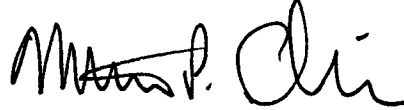
Finally, the Applicant has undertaken considerable community outreach, personally discussing the Application with almost every neighbor located within two hundred (200) feet of the Property. The result of that outreach is overwhelming support from these neighbors. Attached as Exhibit F is a map showing the location of the supporters and thirteen (13) letters of support.

Regarding the zone plan, granting relief will not substantially impair the integrity of the zone plan, primarily because the relief effectively grants what would have been permitted as a matter-of-right, absent the late redetermination by the Zoning Administrator, since the Covered Porch pre-dates the 1958 zoning Regulations and the Wesley Heights Overlay. In addition, the circumstances surrounding this application are so unique that there is little or no risk of a similar situation happening again in Wesley Heights. As noted, the Applicant has not expanded the historical footprint, and has acted at all times in accordance with duly issued building permits. The building permits were correctly issued as well. The problem is that the Zoning Administrator's re-characterization was made way too late, and the rule that prompted that re-characterization was vague and ambiguous. It would be unfair, and financially disastrous, to the Applicant to make them remove the Enclosed Porch now.

VII. CONCLUSION.

For the reasons outlined in this pre-hearing statement, the Applicant asserts that it has satisfied the standards for the requested variance relief, and respectfully requests that the Board grant its approval.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Martin P. Sullivan", written in a cursive style.

Martin P. Sullivan  
Sullivan & Barros, LLP

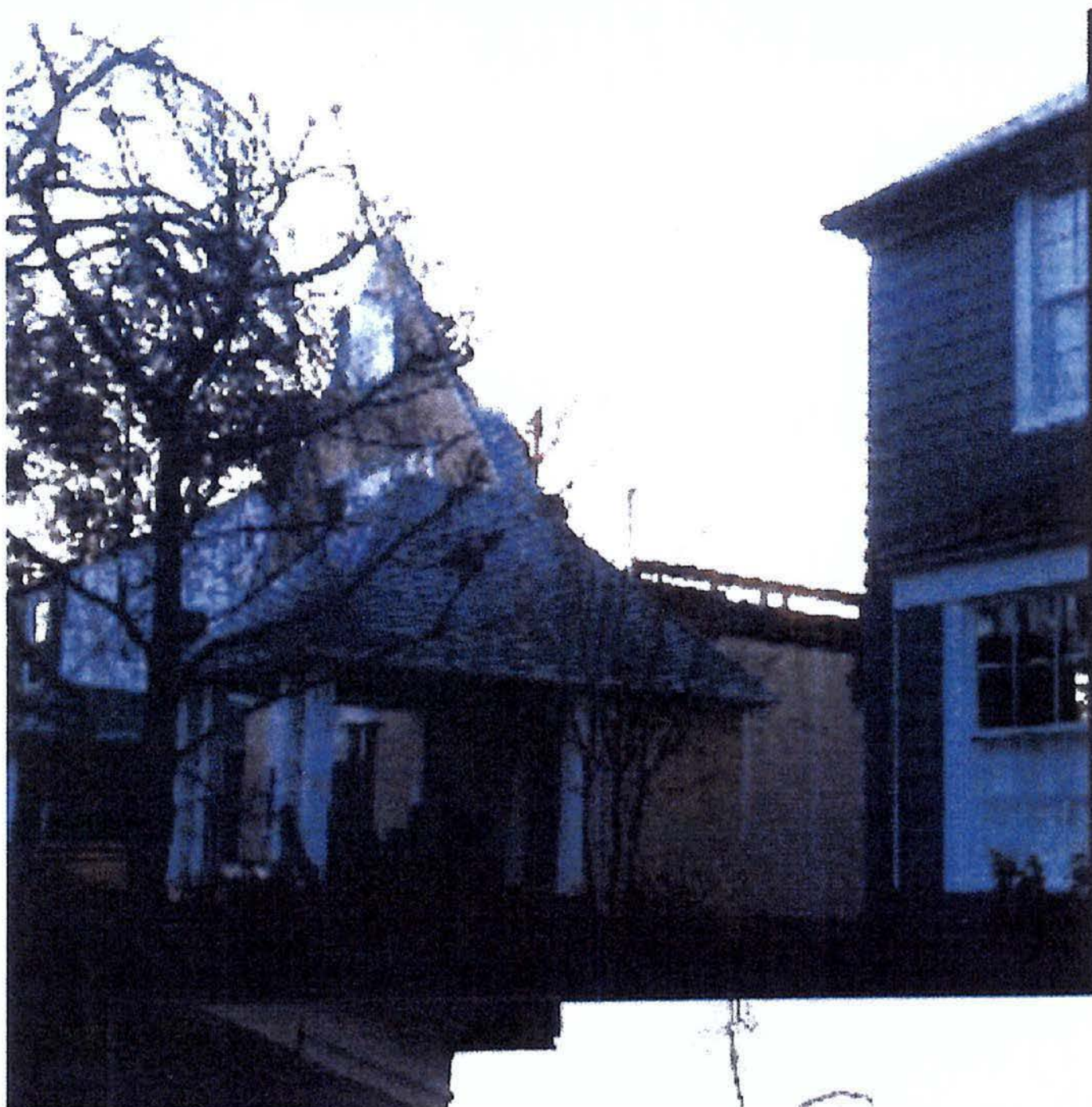
**Exhibit A**

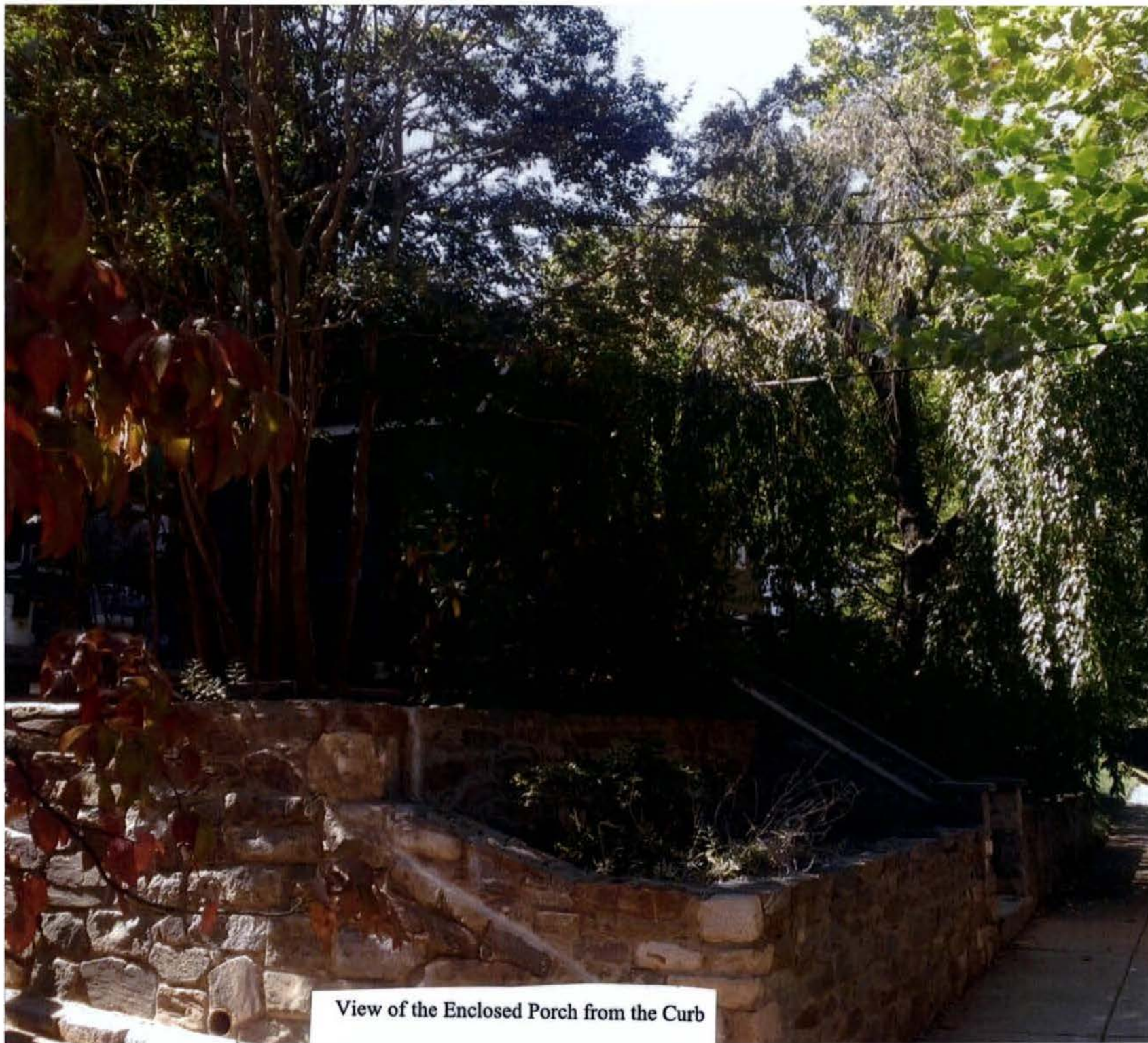
**Photographs Showing the Enclosed Porch**

Photo of the Pre-Existing Covered Porch at 4540 Lowell



Photo of the Pre-Existing Covered Porch at 4540 Lowell





View of the Enclosed Porch from the Curb



Open Space Between the Enclosed Porch and Neighboring House









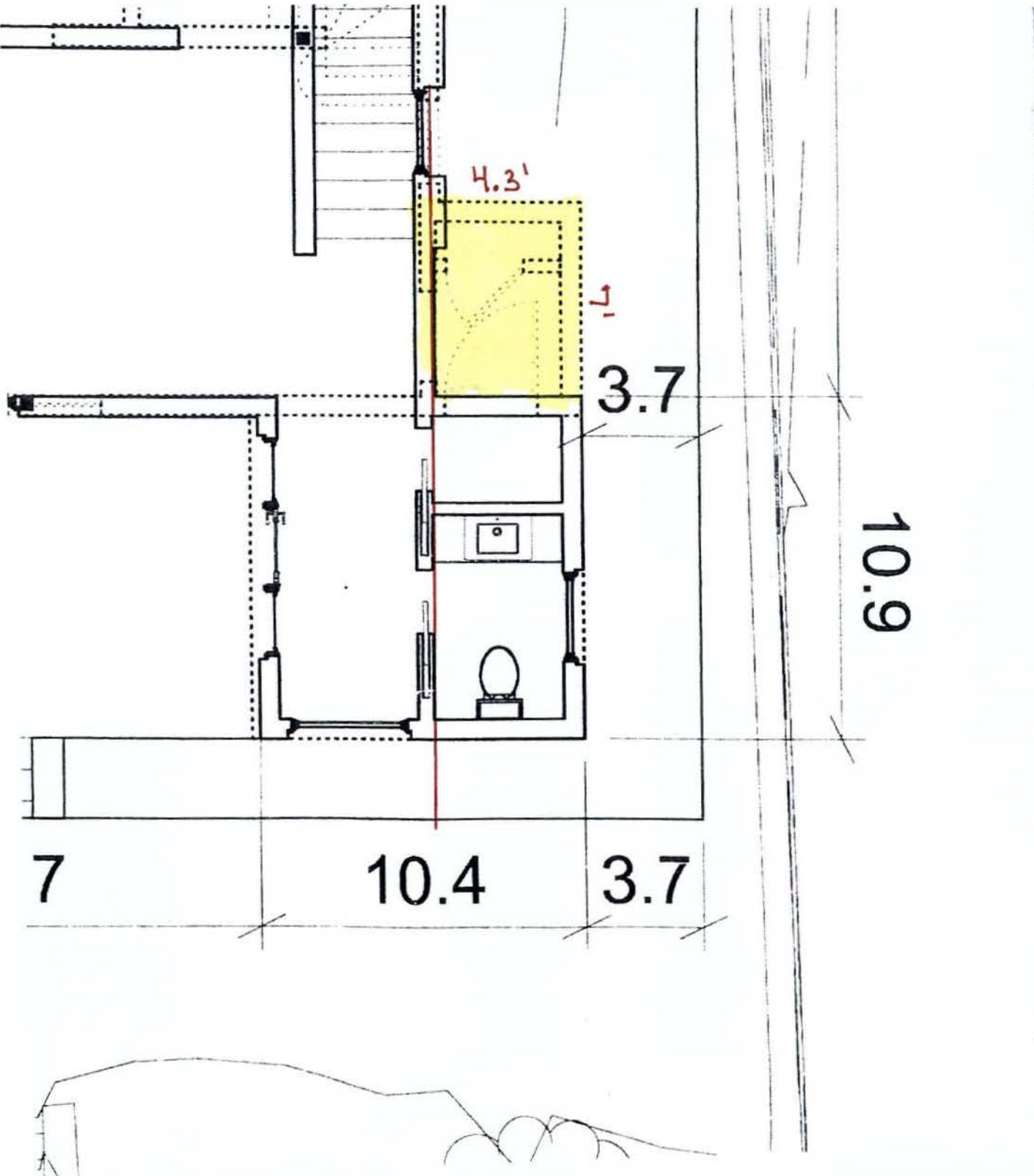
View from Above of the Portion of the Enclosed Porch  
Located in the Side Yard Setback Area





Exhibit B

The highlighted area shows the portion of the legally nonconforming structure which was removed as part of the Project. This portion represents 39% of the total area of the side yard encroachment. In other words, the side yard encroachment, which pre-dates the enactment of the Wesley Heights Overlay and the 1958 Zoning Regulations, was decreased by 39% as part of this Project.



## Exhibit C

**NEUBAUER CONSULTING ENGINEERS, P.A.**

**4701 SANGAMORE ROAD, SUITE N290, BETHESDA, MD 20816  
(301) 263-2727 FAX (301) 263-1039**

May 9, 2013

District of Columbia  
Department of Consumer and Regulatory Affairs  
Permits Division  
941 North Capitol St., N.E.  
Washington, D.C. 20002

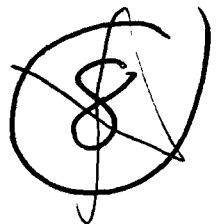
Re: 4540 Lowell St.  
Permit #B1003061

To whom it may concern:

It is my understanding that your office has questions regarding the removal of some portions of original structure at the above address, specifically several sections of first floor front wall and the existing rafters over the front mudroom/entry, that were intended to remain as part of the requirements for a remodeling permit as opposed to one for all-new construction.

The owner has provided me with a number of photographs showing the original construction and they indicate a considerable amount of moisture-related issues: mold, rot and termite damage. Bottoms of studs, sill plates, and wall sheathing all seemed to be severely affected. In addition, the photographs revealed that the original rafters over the mudroom were inadequate as the seat cuts for the rafters protruded to the inside well beyond the top plate of the wall, contrary to acceptable practice. As the note on the approved set of structural drawings stated "replace rafters as needed", it does not seem unreasonable that they would need to be removed.

There also appears to be some conflict between the front walls that were to remain versus what was indicated on the approved drawings as new construction. The shear wall diagrams on sheet S3-1 indicate the "remaining" front walls as shear walls, with new posts, holdowns, and plywood sheathing. This means the only remaining component would be several intermediate studs, and that is assuming the existing sill plate was intact which, gauging from the photographs, it was not. Again, re-using the original structure seems incompatible with what was shown on the structural drawings and the compromised condition of the original components.



**NEUBAUER CONSULTING ENGINEERS, P.A.**

May 9, 2013

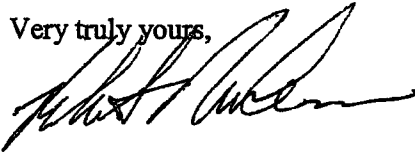
page 2.

District of Columbia

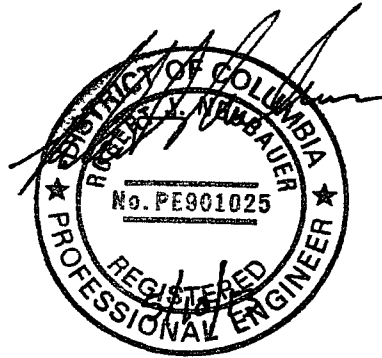
Department of Consumer and Regulatory Affairs

If there are any further questions, please let me know.

Very truly yours,



Robert Neubauer, P.E.



File: reside13/4540 Lowell St.1

**Andreas Xenophontos**

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**From:** LeGrant, Matt (DCRA) <matthew.legrant@dc.gov>  
**Sent:** Monday, July 22, 2013 4:45 PM  
**To:** KC Price  
**Cc:** Andreas Xenophontos; Gamboa, Ferdinand (DCRA); Reid, Rohan (DCRA); Ravishankar, Bellur (DCRA); Khokhar, Jatinder S. (DCRA)  
**Subject:** RE: 4540 Lowell Street, NW

KC Price, et al.

Here is the basic statement of the “retain at least four feet of the perimeter wall rule” that my office has used for the past three years:

**In the course of a partial demolition of a building, one needs to maintain at least four feet of the height of first floor to preserve a nonconforming condition, as measured from the outside of the building from the pre-existing grade. Then he or she could build on top of that retained structure with either a structure with the same volume as before, or an enlarged structure that would keep the same setback, assuming that all other applicable zoning standards are met.**

I hope this is helpful information for you.

Best Regards,

**Matthew Le Grant**

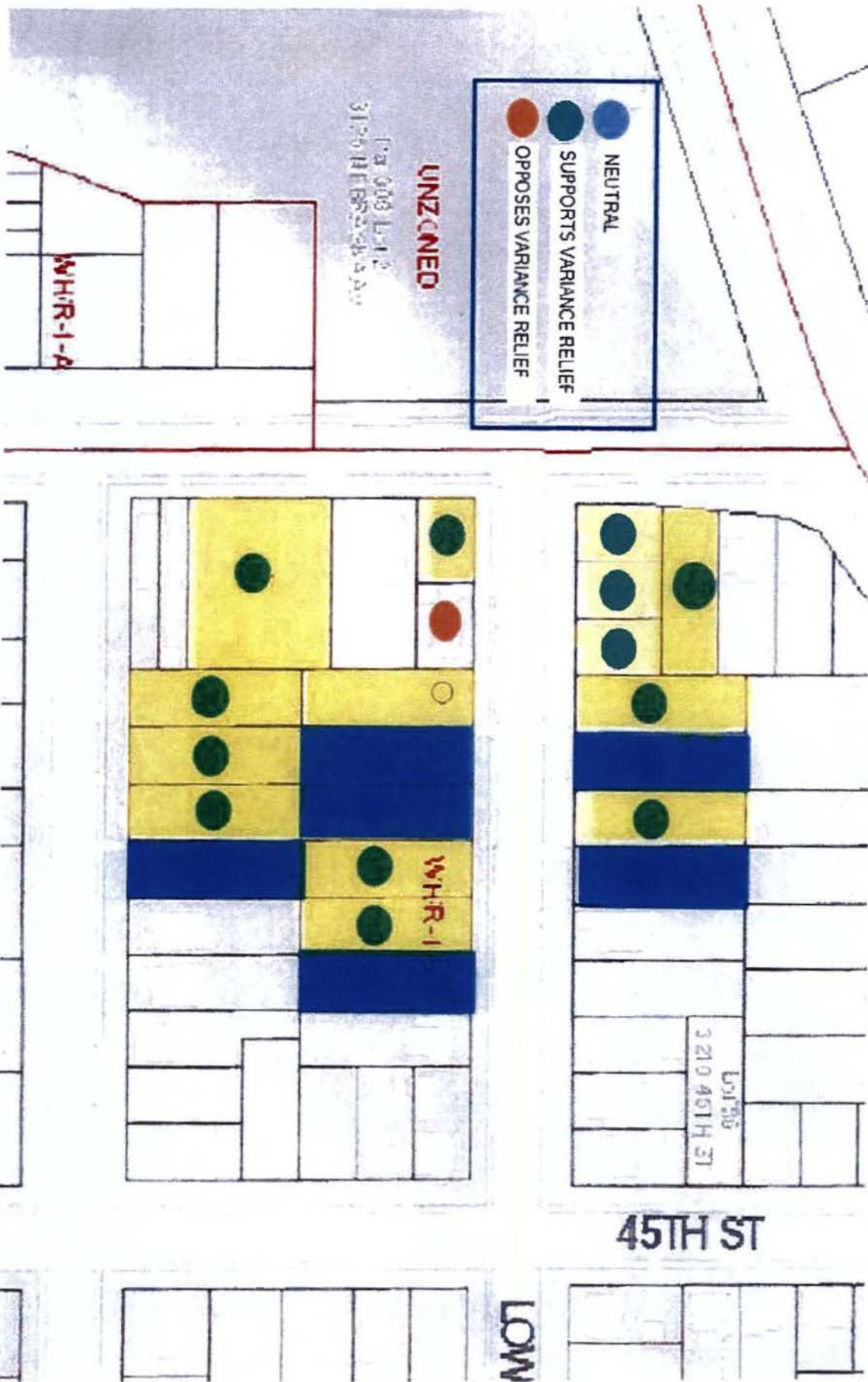
Zoning Administrator  
Dept of Consumer and Regulatory Affairs  
Government of the District of Columbia  
1100 4th St SW - Room 3100  
Washington, DC 20024  
Phone 202 442-4652  
FAX: 202 442-4871  
Email [matt.legrant@dc.gov](mailto:matt.legrant@dc.gov)  
Web <http://dcra.dc.gov/DC/DCRA/Permits/Certificates+of+Occupancy+and+Zoning>

Learn about the District's Parks & Recreation Master Plan at [www.playdc.org](http://www.playdc.org).  
Take a SURVEY to help shape the next 10 years of investments in the DC park system.

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**From:** KC Price [mailto:kcdprice@gmail.com]  
**Sent:** Monday, July 22, 2013 8:00 AM  
**To:** LeGrant, Matt (DCRA); Reid, Rohan (DCRA)

Exhibit F



Michael k Kranbuhl  
4535 Klinge Street, NW  
Washington, DC 20016

October 19, 2013

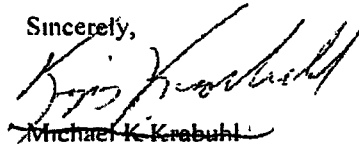
Board of Zoning Adjustment  
441 4<sup>th</sup> Street, NW  
Suite 210S  
Washington, DC 20001

Re BZA Variance/Special Exception Application No. 18659, 4540 Lowell Street, NW,  
Square 1608, Lot 68

Dear Mr Chairman and Members of the Board,

I am the owner of 4535 Klinge Street, NW, which is directly behind 4540 Lowell, the property that is seeking relief in this Application. I am in support of Ms Goirand's and Mr Xenophontos's plans. The area of the addition needing relief was previously a covered porch and is being built in that original footprint. It is not likely to have a negative impact on us or any other property owner, and therefore we urge the Board to approve the Application.

Sincerely,



~~Michael K. Kranbuhl~~

M Kipp Kranbuhl  
10-19-13

Winston B Lord  
3211 Foxhall Road, NW  
Washington, DC 20016

October 8, 2013

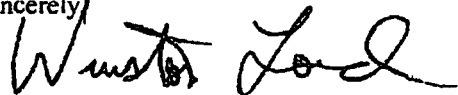
Board of Zoning Adjustment  
441 4<sup>th</sup> Street, NW  
Suite 210S  
Washington, DC 20001

Re BZA Variance/Special Exception Application No. 18659, 4540 Lowell Street, NW;  
Square 1608, Lot 68

Dear Mr. Chairman and Members of the Board,

I am the owner of 3211 Foxhall Road, NW, which is within 200 feet from 4540 Lowell, the property that is seeking relief in this Application. I am in support of Ms. Gouland's and Mr. Xenophontos's plans. The area of the addition needing relief was previously a covered porch and is being built in that original footprint. It is not likely to have a negative impact on us or any other property owner, and therefore we urge the Board to approve the Application.

Sincerely,



Winston B Lord

**Kate S Fralin  
4525 Klinge Street, NW  
Washington, DC 20016**

**September 25, 2013**

**Board of Zoning Adjustment  
441 4<sup>th</sup> Street, NW  
Suite 210S  
Washington, DC 20001**

Re. BZA Variance/Special Exception Application No. 18659; 4540 Lowell Street, NW,  
Square 1608, Lot 68

Dear Mr. Chairman and Members of the Board,

I live at 4525 Klinge Street, NW, which is within 200 feet South from 4540 Lowell, the property that is seeking relief in this Application. I am in support of Ms. Goirand's and Mr. Xenophontos's plans. The area of the addition needing relief was previously a covered porch and is being built in that original footprint. It is not likely to have a negative impact on us or any other property owner, and therefore we urge the Board to approve the Application.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kate S Fralin', written over the word 'Sincerely,'.

Kate S Fralin

**Allison Melrod  
4526 Lowell Street, NW  
Washington, DC 20016**

**September 25, 2013**

**Board of Zoning Adjustment  
441 4<sup>th</sup> Street, NW  
Suite 210S  
Washington, DC 20001**

Re BZA Variance/Special Exception Application No. 18659: 4540 Lowell Street, NW:  
Square 1608, Lot 68

Dear Mr Chairman and Members of the Board,

I live at 4526 Lowell Street, NW, which is within 200 feet East from 4540 Lowell, the property that is seeking relief in this Application. I am in support of Ms. Goirand's and Mr. Xenophontos's plans. The area of the addition needing relief was previously a covered porch and is being built in that original footprint. It is not likely to have a negative impact on us or any other property owner, and therefore we urge the Board to approve the Application.

Sincerely,

A handwritten signature in black ink, appearing to read "Allison W. Melrod", written in a cursive style.

Allison Melrod

**Danielle and David Frum  
3111 Foxhall Road, NW  
Washington, DC 20016**

**September 25, 2013**

**Board of Zoning Adjustment  
441 4<sup>th</sup> Street, NW  
Suite 2108  
Washington, DC 20001**

Re: BZA Variance/Special Exception Application No. 18659, 4540 Lowell Street, NW;  
Square 1608, Lot 68

Dear Mr. Chairman and Members of the Board,

I live at 3111 Foxhall Road, NW, which is within 200 feet South/East from 4540 Lowell, the property that is seeking relief in this Application. I am in support of Ms. Goirand's and Mr. Xenophontos's plans. The area of the addition needing relief was previously a covered porch and is being built in that original footprint. It is not likely to have a negative impact on us or any other property owner, and therefore we urge the Board to approve the Application

Sincerely,

  
Danielle Frum

**Florentine C. Butaru**  
**4554 4540 Lowell Street, NW**  
**Washington, DC 20016**

September 25, 2013

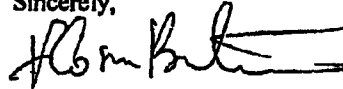
Board of Zoning Adjustment  
441 4<sup>th</sup> Street, NW  
Suite 210S  
Washington, DC 20001

Re BZA Variance/Special Exception Application No. 18659, 4540 Lowell Street, NW:  
Square 1608, Lot 68

Dear Mr Chairman and Members of the Board,

I live at 4554 Lowell Street, NW, which is within 200 feet East from 4540 Lowell, the property that is seeking relief in this Application. I am in support of Ms Goirand's and Mr. Xenophontos's plans. The area of the addition needing relief was previously a covered porch and is being built in that original footprint. It is not likely to have a negative impact on us or any other property owner, and therefore we urge the Board to approve the Application.

Sincerely,



Florentine C Butaru

**Regina M. Van Doren  
4541 Lowell Street, NW  
Washington, DC 20016**

**September 25, 2013**

**Board of Zoning Adjustment  
441 4<sup>th</sup> Street, NW  
Suite 210S  
Washington, DC 20001**

Re BZA Variance/Special Exception Application No 18659: 4540 Lowell Street NW;  
Square 1608, Lot 68

Dear Mr Chairman and Members of the Board,

I live at 4541 Lowell Street, NW, which is less than 200 feet across from 4540 Lowell, the property that is seeking relief in this Application. I am in support of Ms. Gourand's and Mr. Xenophontos's plans. The area of the addition needing relief was previously a covered porch and is being built in that original footprint. It is not likely to have a negative impact on us or any other property owner, and therefore we urge the Board to approve the Application.

Sincerely,

  
Regina M. Van Doren

**Cesar Mongoli  
4531 Lowell Street, NW  
Washington, DC 20016**

**September 25, 2013**

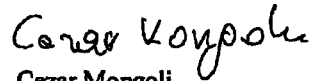
**Board of Zoning Adjustment  
441 4<sup>th</sup> Street, NW  
Suite 210S  
Washington, DC 20001**

Re. BZA Variance/Special Exception Application No. 18659, 4540 Lowell Street, NW;  
Square 1608, Lot 68

Dear Mr Chairman and Members of the Board,

I live at 4531 Lowell Street, NW, which is within 200 feet across from 4540 Lowell, the property that is seeking relief in this Application. I am in support of Ms Goirand's and Mr. Xenophontos's plans. The area of the addition needing relief was previously a covered porch and is being built in that original footprint. It is not likely to have a negative impact on us or any other property owner, and therefore we urge the Board to approve the Application.

Sincerely,

  
Cesar Mongoli

Eli P Joseph  
4547 Lowell Street, NW  
Washington, DC 20016

September 25, 2013

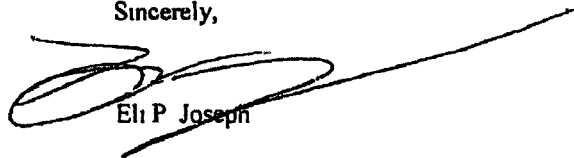
Board of Zoning Adjustment  
441 4<sup>th</sup> Street, NW  
Suite 210S  
Washington, DC 20001

Re: BZA Variance/Special Exception Application No 18659, 4540 Lowell Street, NW,  
Square 1608, Lot 68

Dear Mr Chairman and Members of the Board,

I live at 4547 Lowell Street, NW, which is within 200 feet North from 4540 Lowell, the property that is seeking relief in this Application. I am in support of Ms Goirand's and Mr. Xenophontos's plans. The area of the addition needing relief was previously a covered porch and is being built in that original footprint. It is not likely to have a negative impact on us or any other property owner, and therefore we urge the Board to approve the Application.

Sincerely,



Eli P Joseph

James P Clark  
4522 Lowell Street, NW  
Washington, DC 20016

September 26, 2013

Board of Zoning Adjustment  
441 4<sup>th</sup> Street, NW  
Suite 210S  
Washington, DC 20001

Re BZA Variance/Special Exception Application No. 18659, 4540 Lowell Street, NW,  
Square 1608, Lot 68

Dear Mr. Chairman and Members of the Board,

I live at 4522 Lowell Street, NW, which is within 200 feet East from 4540 Lowell, the property that is seeking relief in this Application. I am in support of Ms. Gorrant's and Mr. Xenophon's plans. The area of the addition needing relief was previously a covered porch and is being built in that original footprint. It is not likely to have a negative impact on us or any other property owner, and therefore we urge the Board to approve the Application.

Sincerely,

A handwritten signature in black ink that reads "James P. Clark". The signature is written in a cursive, flowing style.

James P Clark

4537 John and Sara Arbogast  
~~4547~~ Lowell Street, NW  
Washington, DC 20016

September 27, 2013

Board of Zoning Adjustment  
441 4<sup>th</sup> Street, NW  
Suite 210S  
Washington, DC 20001

Re: BZA Variance/Special Exception Application No. 18659, 4540 Lowell Street, NW,  
Square 1608, Lot 68

Dear Mr Chairman and Members of the Board,

I am the owner of 4537 Lowell Street, NW, which is located directly across from 4540 Lowell, the property that is seeking relief in this Application. I am in support of Ms Goirand's and Mr Xenophontos's plans. The area of the addition needing relief was previously a covered porch and is being built in that original footprint. It is not likely to have a negative impact on us or any other property owner, and therefore we urge the Board to approve the Application.

Sincerely,

  
John Arbogast

Andreas Kristinus  
4523 Klinglc Street, NW  
Washington, DC 20016

October 8, 2013

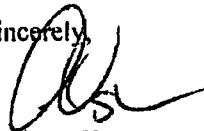
Board of Zoning Adjustment  
441 4<sup>th</sup> Street, NW  
Suite 210S  
Washington, DC 20001

Re BZA Variance/Special Exception Application No 18659, 4540 Lowell Street, NW  
Square 1608, Lot 68

Dear Mr Chairman and Members of the Board,

I am the owner of 4523 Klinglc Street, NW, which is within 200 feet from 4540 Lowell, the property that is seeking relief in this Application. I am in support of Ms Goirand's and Mr Xenophontos's plans. The area of the addition needing relief was previously a covered porch and is being built in that original footprint. It is not likely to have a negative impact on us or any other property owner, and therefore we urge the Board to approve the Application.

Sincerely,



Andreas Kristinus

Zeyneb F Lange  
3207 Foxhall Road, NW  
Washington, DC 20016

October 8, 2013

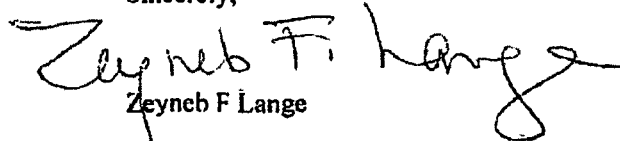
Board of Zoning Adjustment  
441 4<sup>th</sup> Street, NW  
Suite 210S  
Washington, DC 20001

Re BZA Variance/Special Lxception Application No. 18659: 4540 Lowell Street, NW,  
Square 1608, Lot 68

Dear Mr. Chairman and Members of the Board,

I am the owner of 3207 Foxhall Road, NW, which is within 200 feet from 4540 Lowell, the property that is seeking relief in this Application. I am in support of Ms Goirand's and Mr Xenophontos's plans. The area of the addition needing relief was previously a covered porch and is being built in that original footprint. It is not likely to have a negative impact on us or any other property owner, and therefore we urge the Board to approve the Application

Sincerely,

  
Zeyneb F Lange