

NOV 19

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18659
EXHIBIT NO. 35

BZA APPLICATION NO. 18659

Area Variance Request

Elodie Goirand and Andreas Xenophontos

4540 Lowell Street, NW
Washington, DC 20016

The Request

- Area Variance Relief to allow a 10.4' x 10.9' one-story portion of the house at 4540 Lowell to remain as built – this structure is referred to in this case as the Powder Room, although it also includes a closet.
- This nonconforming aspect of the Property existed as a covered porch in the same height and footprint sixty (60) years prior to the adoption of the Wesley Heights Overlay front yard setback requirement.
- Applicant constructed the currently existing Powder Room in accordance with approved permits.

The Issue

- The Zoning Administrator made a decision which changed the status of the Powder Room from legally nonconforming to illegal, but that decision was made:
 - THREE MONTHS AFTER the Powder Room was constructed in accordance with the approved permit plans.
 - FIVE MONTHS AFTER the Applicant removed portions of a wall unrelated to the Powder Room, which the ZA noted as the source of his re-characterization.
 - TWO MONTHS AFTER after numerous inspections and discussions with DCRA and Zoning Division staff in which the idea that the Powder Room may no longer be permitted was never discussed or even implied.

The Rule that retroactively changed the permit application

- The “rule” on which the ZA based his decision was so vague and ambiguous that:
 - Three comprehensive inspections by the “Illegal Construction” Inspector, Robert Cluff, failed to note the alleged violation; and after each inspection, the Applicant was instructed to continue working.
 - In addition to the Illegal construction inspections, there were numerous other inspections, including framing, ground work, and rough-in.
 - In an meeting with Zoning Division staff Mr. Rohan Reid that took place two months after the subject wall was removed, Mr. Reid made no mention of the raze issue, confirmed the Applicant’s compliance with zoning, and instructed the Applicant to continue working.
 - Once the Applicant was told that there may an issue that might affect the Powder Room (a month after construction of the Powder Room), it then took the Zoning Administrator six weeks to finally decide the issue and issue a stop work order.
 - The Zoning Administrator has noted that the “rule” is not a written rule and it is a determination that he follows on a case-by-case basis, under an interpretation that he has held for only the last three (3) years.

Variance Test – Prong One

- **Exceptional Conditions**
 - Pre-Existing Legally Nonconforming Covered Porch.
 - Zoning History and Permitting Process.
 - Reliance on Permit Approvals, Inspections, and Other Feedback from DCRA
 - This Board has many times found that the zoning and permitting history of a property may represent an exceptional condition

Variance Test – Prong Two

As a direct result of:

- Trying to retain the historical footprint of the covered porch, as permitted, and
- Realizing later the inability to retain certain portions of pre-existing structural walls (not facades):
- Proceeding with construction of the Powder Room in reliance on representations from DCRA:

Practical Difficulty (continued)

The Applicant now faces the practical difficulty in strictly complying with the Zoning Regulations of:

- Removing the Powder Room, Repairing the siding and the front of the house after such removal, and relocating the powder room to somewhere else on the first floor.

No Substantial Detriment to the Public Good

- The BZA has received thirteen (13) letters of support from neighbors within 200 feet of the Property.
- The Applicant will present evidence that the nonconforming Powder Room structure has minimal effect, if any, on the light and air of the neighbor to the west.
- The area of the nonconforming structure is smaller than it was previous to this construction.
- The change from what was there previously amounts to closing up a 10' x 10' area of a covered porch existing since the 1930s, in a direction from which sunlight does not even project toward the property to the west.

No Substantial Detriment to the Integrity of the Zone Plan

- The Nonconforming Structure, a mere 10.4' x 10.9' one-story structure, existed in this exact same footprint and height, sixty years before the adoption of the Wesley Heights Overlay.
- The Wesley Heights Overlay front yard setback amount is an average of the existing situation, meaning that when the Overlay was adopted, about half of all properties, including the Applicants', became legally nonconforming. Such a calculation obviously provides that pre-existing structure in the setback area are part and parcel of the character of Wesley Heights.
- The removal of an unrelated wall is a technicality that has worked an injustice on this Applicant, and threatens to force them to pay tens of thousands of dollars as a result.
- Closure of nonconforming front porches is a regular occurrence in Wesley Heights, as the Applicant will show.
- Granting relief essentially results in the status quo, allowing a previously existing legally nonconforming structure to remain in the same footprint.
- This exceptional situation is so unique that there is no chance that granting relief will result in any unwanted precedent.

Testimony – Andreas Xenophontos

- 18-year residents of 4540 Lowell Street.
- The previously existing house was a 2-bedroom, one bath home.
- Designed and built a new home in accordance with (i) approved permits and (ii) the Zoning Regulations and (iii) the pre-existing legally nonconforming porch.
- NO expansion of the nonconforming porch (in fact a reduction) and full compliance with the much greater restrictions of the Wesley Heights Overlay. (30% lot occupancy and 5,000 sf GFA).



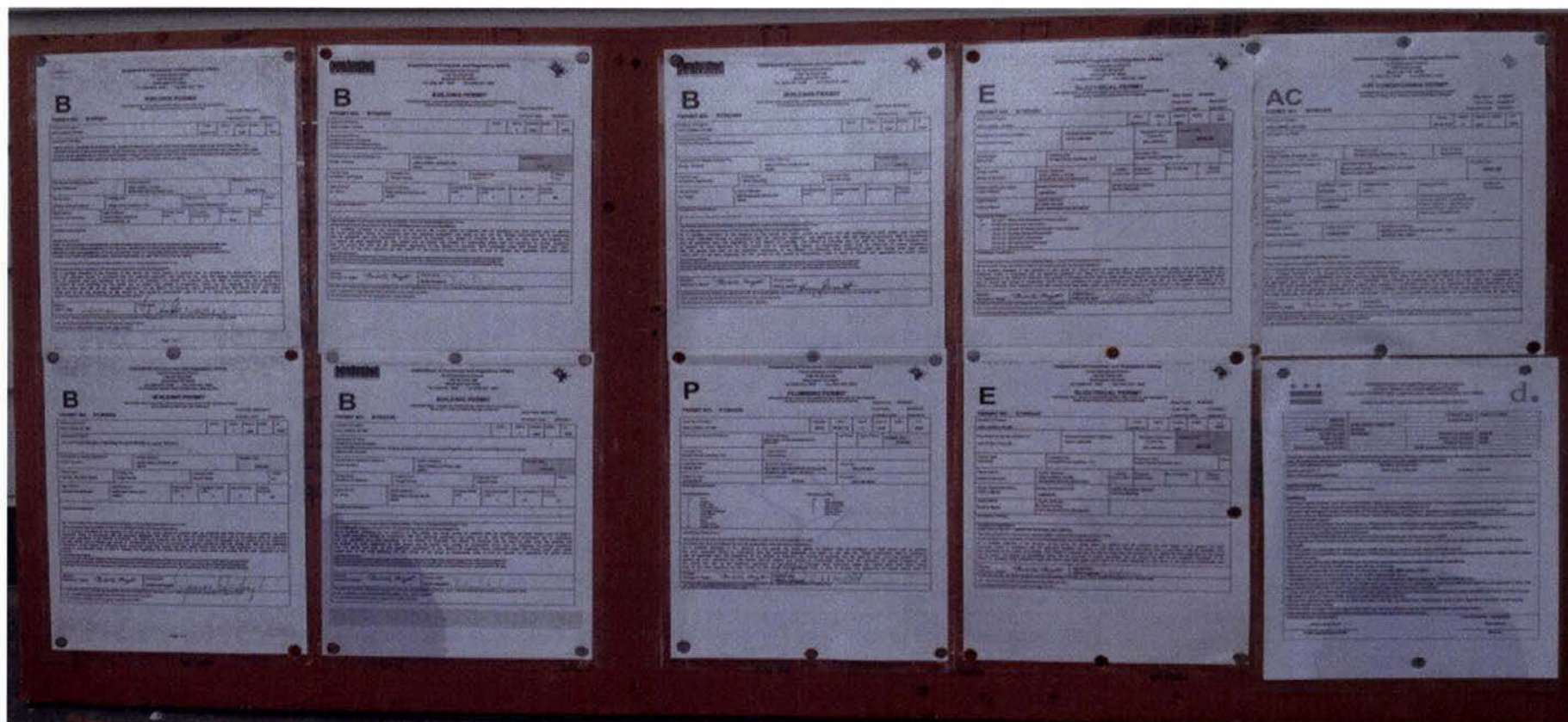
DCRA Approved North Elevation



Constructed North Elevation

Construction Commenced

- Construction Begins November, 2012
- It progresses in stages, allowing (1) Andreas and Elodie to remain in the house longer, and (2) the construction to be compatible with the intention to retain material portions of the pre-existing house.



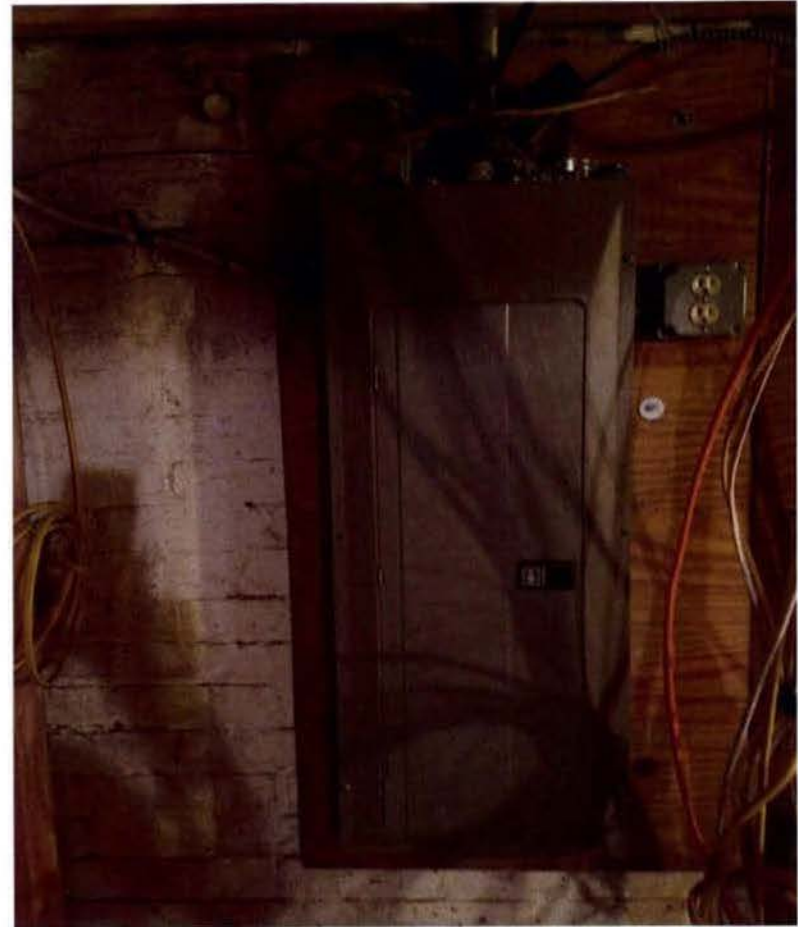
DCRA ISSUED PERMITS



Existing structure remaining



Existing Conditions of Cellar before construction and present condition



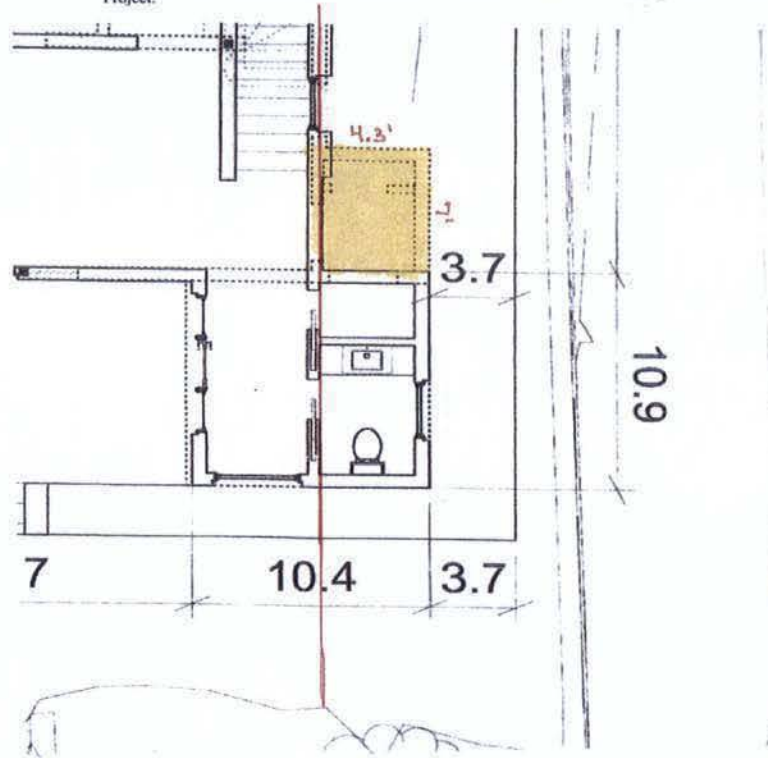
Uninterrupted utility - Gas, Electrical & Water



Excavation for DCRA approved addition

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.



Portion of nonconforming Structure removed



Photo Showing area of existing porch to be removed

Portions of Rotted Wall Removed

- The week of February 11th 2013, portions of the west wall were removed because it was rotted.
- This is the action which led the Zoning Administrator to re-characterize the project as full demolition, albeit five months later.
- The exterior surface of this wall was never to be retained, and the size and façade of the new wall here has been built per the originally approved permit plans.

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
District of Columbia
Department of Consumer and Regulatory Affairs

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

Very truly yours,

Robert Neubauer, P E



File re: 4540 Lowell St 1

Engineers statement

NEUBAUER CONSULTING ENGINEERS, P.A.

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

November 14, 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:

Regarding this office's previous letter dated May 9, 2013; there was an omission in the first paragraph which should read as:

"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 and west existing walls 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."

This was an oversight on our part as both walls are part of the existing structure in question.

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

Very truly yours,

Robert Neubauer, P.E.

File: reside13/4540 Lowell St.3





East Wall - existing condition



Existing Rafter/roof Condition



DCRA Approved West Elevation



Construction West Elevation



West Side Elevation

First Inspection

- On February 27, in response to complaints from the neighbor to the west, DCRA's illegal construction inspector, Robert Cluff, visited the property for a comprehensive review for compliance.
- His conclusion: **"Owner/architect for the construction work at the above address, will revise current drawings and permits to reflect actual conditions. Also, he'll obtain a permit for the temporary structure built in the rear yard."**
- No violations were cited and work continued.

Application No. CIC1300922	CAP Type* Enforce/Compliance/Construction/Illegal Construction	Inspection Type* Initial Inspection Required/Optional Optional
Address 4540 LOWELL ST , WASHINGTON, DC 20016		
Request Date 02/26/2013	Request Time 11 : 02 AM	Scheduled Date * 02/27/2013
Department * Current Department COMMERCIAL INSPECTOR	Inspector* Current User Robert Cluff	Submit Date 02/27/2013
Inspection Date 02/27/2013	Inspection Time 2 : 00 PM	Total Time
Request Comment WORKING ABOVE THE SCOPE OF PERMITS		Status * No Cause
Result Comment Standard Comments Owner/Architect for the construction work at the above address, will revise current drawings & permits to reflect actual conditions. Also, he'll obtain a permit for the temporary structure built in the rear yard.		
CAP ID* 13COM-00000-03063		

Inspector Cluff's 1st Inspection for illegal construction & comments

Second Inspection – 3.12.13

- On March 12, 2013, a second inspection by Mr. Cluff.
- Conclusion:

“As stated on my previous inspection, all current work is proceeding, per the approved set of drawings. The owner has applied and received a new Building Permit, and is obtaining a new permit for the storage shed.”

Application No. CIC1300990	CAP Type* Enforce/Compliance/Construction/Illegal Construction	Inspection Type* Initial Inspection Required/Optional Optional
Address 4540 LOWELL ST , WASHINGTON, DC 20016		
Request Date 03/08/2013	Request Time 4 : 05 PM	Scheduled Date * 03/12/2013
Department * Current Department COMMERCIAL INSPECTOR		Inspector* Current User Robert Cluff
Inspection Date 03/12/2013	Inspection Time 1 : 35 PM	Submit Date 03/12/2013
Request Comment CMP: Exceeding the scope of the building permits. A 2 story addition is being built.		Status * No Cause
Result Comment Standard Comments As stated on my previous inspection, all current work is proceeding, per the approved set of drawings. The owner has applied and received a new Building Permit, and is obtaining a new permit for the storage shed.		
CAP ID* 13COM-00000-03452		

Inspector Cluff's 2nd Inspection – 3/12/2013

Third Inspection – 3.14.13

- On March 14, 2013, a third inspection by Mr. Cluff
- Request Comment:
To reassure permits and drawings have been submitted and obtained.
- Conclusion:

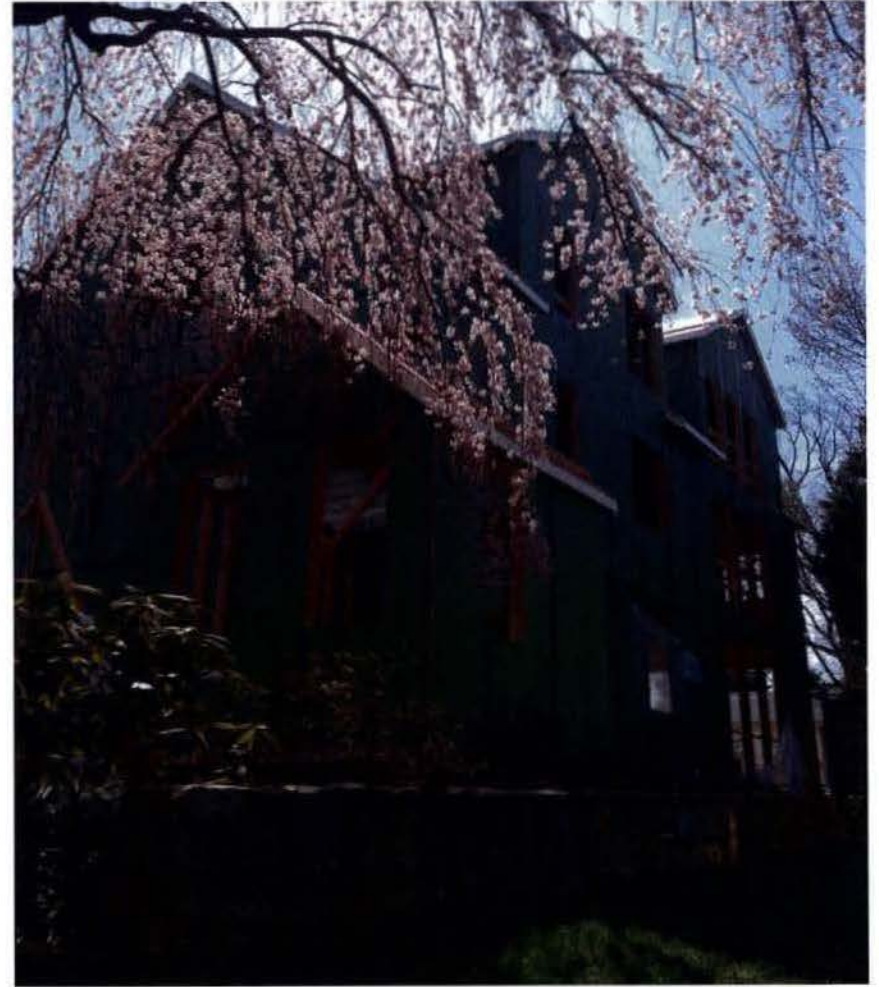
“Owner has obtained all current construction permits.”

Inspection Detail		Guide Sheet		Documents (0)	
Application No. CIC1300922		CAP Type* Enforce/Compliance/Construction/Illegal Construction		Inspection Type* Follow Up	
Address 4540 LOWELL ST , WASHINGTON, DC 20016				Required/Optional Optional	
Request Date 03/01/2013	Request Time 1 : 44 PM	Scheduled Date * 03/12/2013	Scheduled Time : AM		
Department * COMMERCIAL INSPECTOR	Inspector* Robert Cluff	Submit Date 03/14/2013			
Inspection Date 03/14/2013	Inspection Time 12 : 35 PM	Total Time 		Status * No Cause	
Request Comment To reassure permits and drawing have been submitted and obtained.					
Result Comment  Standard Comments Owner has obtained all current construction permits.					

Inspector Cluff's 2nd Visit - 3/14/3013 – "Owner Obtained All Construction Permits"



Early winter construction - 2013



Front Porch Enclosure – Early Spring 2013

Powder Room is Framed

- During the week of April 8, 2013, the Legally Nonconforming Covered Porch is converted into the Powder Room, and is Framed and Constructed as Approved in the Original and Currently Active Building Permit.

Fourth Inspection

- On April 24, 2013, Mr. Cluff visits for a fourth time at the behest of the neighbors.
- Conclusion: He yet again finds no violations and notes in his report:

All photos have been turned over to Rohan Reid, in DCRA Zoning, for disposition. Rohan is setting up a meeting with the property owner.

Application No. CIC1301282	CAP Type* Enforce/Compliance/Construction/Illegal Construction	Inspection Type* Initial Inspection Required/Optional Optional
Address 4540 LOWELL ST , WASHINGTON, DC 20016		
Request Date 04/24/2013	Request Time 9 : 30 AM	Scheduled Date * 04/24/2013
Department * <u>Current Department</u> COMMERCIAL INSPECTOR	Inspector* <u>Current User</u> Robert Cluff	Submit Date 04/24/2013
Inspection Date 04/24/2013	Inspection Time 1 : 00 PM	Total Time
Request Comment Zoning		Status * No Cause
Result Comment  <u>Standard Comments</u> All photos have been turned over to Rohan Reid, in DCRA Zoning, for disposition. Rohan is setting up a meeting with the property owner.		
CAP ID* 13COM-00000-05869		

Inspector Cluff's 3rd Inspection – 4/24/2013

Rohan Reid Meeting – April 26, 2013

- On April 26, 2013, Andreas Xenophontos, and his designer/expediter, KC Price, meet with Rohan Reid of the Zoning Division of DCRA and Inspector Cluff.
- As a result of the delays and repeated inspections, the Applicant asks Mr. Reid for clear guidance so that it may proceed forward in confidence or make any requested changes before it is too late.
- Mr. Reid & Inspector Cluff clears the project for compliance with the Zoning Regulations and assures the Applicant that he may proceed with construction.

At this point in time (April 26, 2013):

- The wall sections in question have been down for over two months.
- The Powder Room has already been constructed per the approved permit plans.
- No DCRA official, or anybody else, has mentioned anything about the removal of that wall or its potential impact on the status of the legally nonconforming Powder Room.

May 10 E-mail from Rohan Reid

- May 10 E-mail from Rohan Reid provides that the Project complies in every respect with all Zoning Regulations, including height, lot occupancy, and FAR [GFA restriction for the WH Overlay].
- Reid, in the May 10 e-mail, makes the first mention that DCRA will be reviewing the demolition activity “and the zoning impact it may have on the construction.”
- At this point, the Powder Room is up; again, as approved per the permit plans and in the footprint of the previously existing, legally nonconforming covered porch.

4540 Lowell Street, NW

Reid, Rohan (DCRA) <rohan.reid@dc.gov>
To: KC Price <kcdprice@gmail.com>
Cc: "Cluff, Robert (DCRA)" <robert.cluff@dc.gov>

Fri, May 10, 2013 at 12:47 PM

Good afternoon Mr. Price,

The Office of the Zoning Administrator has concluded the first stage of the re-examination of the approved permits B1003061, for a new two story addition with unfinished attic space, and B1304899, to finish the attic. Our office received concerns that the height and lot occupancy of the structure may have been exceeded and that the existing structure was razed. This stage of the review primarily focused on the lot occupancy, height, and FAR, and it has been determined that they are in compliance with the zoning regulations and does not exceed the maximum allowable limits.

The second stage of the re-examination will focus of the concern that the structure was razed and the zoning impact it may have on the construction. You and Mr. Xenophontos informed Mr. Robert Cluff and me that the structural integrity of the portions of the structure that were to remain were compromised and had to be replaced. Permit B1304446 was applied for and issued to cure that condition. Please confirm what portion of the existing structure was retained, if any, and provide pictures. Further, we were informed that your engineer provided a letter recommending replacement of the compromised elements of the structure and a copy of that letter will be forwarded to Mr. Cluff and me. As soon as that letter is received, we will move forward with the review.

Regards,

Rohan Reid

Program Analyst | Office of the Zoning Administrator

5/10/2013 – Email from Mr. Reid informing of raze investigation for 1st time.

Construction Continues

- Following the May 10 e-mail, for the next two months, construction continues in accordance with the approved permit plans and the revised and still active original Building Permit.

In the meantime

- The Applicant passes additional inspections from DCRA inspectors, including from Framing, Ground Work, and Rough-ins.



Government of the District of Columbia
Department of Consumer and Regulatory Affairs
 Inspections and Compliance Administration
 1100 4th St, SW; Washington, DC 20024

On-Site Inspection Record

Property Address & Unit Number: <u>4540 Cornell ST NW</u>	
Site Representative & phone #: _____	
Historic property? YES ☐ NO ☒	Parent Building Permit: <u>B1003061-B1009664</u>
Third Party Inspection Company? YES ☐ NO ☒	Company Name: _____ Company Cert #: _____

Schedule Your DCRA Inspections
 24 Hours a Day, 7 Days a Week
 from your Phone
 Just Call 202-442-9557

Required? ☒	Inspection Type (IVR Code) Check required inspections	DATE	INITIALS AND BADGE/ ID #	
			APPROVE	DISAPPROVE
☒	Footing (160) <i>Note: 11-26-12 RFF</i>	12-17-12	RFF	
☒	Foundation (130) <i>12-17-12 RFF</i>	12-17-12	RFF	
☒	Slab (178) <i>12-17-12 RFF</i>	12-17-12	RFF	
☒	Wall Check*			
☒	Framing (100) <i>7-2-13 RFF</i>	7-2-13	RFF	
☒	Insulation (110) <i>8-30-13 RFF</i>	8-30-13	RFF	
☐	Fire Final (174)			
☒	Final (170)			
☐	Zoning by DCRA (175)			
Required? ☐				
Required? ☐				
Required? ☐				

IVR 1.3 (August 2011)

* A WALL CHECK IS REQUIRED TO BE APPROVED BY DCRA'S ZONING ADMINISTRATION.

Required? ☒	Inspection Type (IVR Code) Check required inspections	DATE	INITIALS AND BADGE/ ID #	
			APPROVE	DISAPPROVE
☒	Ground Work (400) <i>9-18-13 RFF</i>	9-18-13	RFF	
☒	Rough-In (410) <i>7-1-13 RFF</i>	7-1-13	RFF	
☐	Final (430)			
☐	Gas Line / Gas Test (485)			
☒	Rough-In (360) <i>7-1-13 RFF</i>	7-1-13	RFF	
☐	Final (380)			
☒	Ground Work (225)			
☒	Rough-In (215) <i>7-1-13 RFF</i>	7-1-13	RFF	
☐	Final (200)			
☐	TPF (230)			
☐	Building Final (715)			
☐	Elevator Certificate Verified			
☐	Boller Inspection Verified			
☐	Zoning Use (745)			

10 Approved DCRA Inspections by Inspector Fones

Stop Work Order is Issued for the Entire House

- On June 26, 2013 a Stop Work Order is Issued to Stop Construction for the Entire House.
- After repeated and desperate requests to be allowed to close up the open construction site, DCRA allows such work on July 10, 2013.

Status Upon Stop Work Order

When the Stop Work Order is Issued:

- It has been more than four months since the west wall was demolished.
- It has been more than two months since the Powder Room was constructed.

Following the Stop Work Order

- A July 17 Meeting with the Zoning Administrator in which he explains the unwritten “four-foot rule” regarding demolition.
- A July 22 E-mail from the ZA noting he has only followed this “Rule” for the past three years.
- On August 1, the final written decision from the Zoning Administrator.

From: LeGrant, Matt (DCRA) [mailto:matthew.legrant@dc.gov]
Sent: Monday, July 22, 2013 4:45 PM
To: KC Price
Cc: Andreas Xenophonos; 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

Mr. Le Grant's: Unpublished Raze rule - 48" rule

Final Written Decision

- On August 1, the final written decision from the Zoning Administrator.
- Over five months after the wall was removed.
- Almost three months after the first mention that the demolition may be an issue.
- Over three months after the Powder Room has been built according to approved permit plans and in the footprint of the legally nonconforming covered porch.

Following the Stop Work Order

- Appealed the Stop Work Order to the Office of Administrative Hearings.
- Upon the suggestion of the Zoning Administrator and his counsel, hired counsel and filed this area variance application.

Area Variance Application

- We are asking for variance relief in light of:
 - the extraordinary zoning history of this project, and the previous existence of the legally nonconforming porch.
 - the practical difficulty caused to us by those two exceptional situations.
 - The modest nature of the request, merely asking to retain the pre-existing porch and close it up just as many other Wesley Height's nonconforming porches.

Exceptional Conditions/Situations

- Previously Existing Legally Nonconforming Structure.
 - If the covered porch did not exist, we would have never designed the house in this way and we would not be here before the Board.
 - Closing up the porch was matter-of-right construction and was lawfully permitted and lawfully built.





Exceptional Conditions/Situations (contd.)

- The Project's Zoning History
 - At all times, we followed the approved building permits and the instructions of DCRA personnel.
 - We built the Powder Room in reliance on those permits and those on-going approvals, which took place AFTER the subject wall was removed.

Exceptional Conditions/Situations (contd.)

- Ambiguous Nature of the Unwritten Rule that Threatens the Applicant with Removal of the Powder Room.
 - An unwritten “Rule” drawing an unknown line which the Applicant unknowingly crossed which has only been in use for the past three years.
 - Apparently unknown to DCRA inspectors and zoning personnel, at least in this particular situation.
 - Completely unrelated to the pre-existing, legally nonconforming porch; i.e., an absolute “technicality” that works a completely disproportionate penalty on the Applicant if relief is not granted.

Practical Difficulty – Financial Cost

ARTEL INCORPORATED
architecture • design • construction management

COST TO DEMOLISH POWDER ROOM AND CLOSET		
1	Labor to remove windows(3) and one door	\$ 750.00
2	Plumber labor to eliminate and cap off water lines, drain lines and vent.	\$ 750.00
3	HVAC company - Labor to remove and cap off air supply and return duct.	\$ 1,200.00
4	Electrician - Labor to remove all housing for lights, remove electrical boxes and wiring from electrical panel to front room.	\$ 750.00
5	Dumpster charge to remove all construction debris from demolition.	\$ 500.00
6	Labor to secure existing structure and demolish front room.	\$ 1,500.00
7	Labor to frame, install exterior plywood, siding etc. on new opening.	\$ 3,500.00
8	Labor to remove a small window from the room above and replace with larger one so to match other windows in front elevation.	\$ 1,200.00
9	Labor to close holes at concrete slab below demolished room. The holes/openings are from plumbing water drain lines, HVAC openings from supply lines.	\$ 350.00
10	Labor and material to cover exposed concrete slab with tiles.	\$ 1,800.00
11	Labor and material to extent one downspout to the ground and to be connected to the existing French drain system.	\$ 275.00
TOTAL		\$ 12,575.00 \$ 12,575.00
COST TO RELOCATE ABOVE TO NEW LOCATION ON 1ST FLOOR		
1	Framing cost of new powder room and closet. Material and labor	\$ 2,500.00
2	Demolition of completed walls (open up walls and ceilings) so plumber can install new vent to the roof and install new water and drain lines and to be able to install an exhaust fan which has to go to a vent of an exterior wall so to vent the powder room.	\$ 1,800.00
3	Plumber labor and material to rough in new powder room.	\$ 4,500.00
4	HVAC company to supply new air supply - heat & AC	\$ 3,500.00
5	Electrical cost to wire and install housings, switches and receptacles	\$ 2,500.00
6	Cost to close up walls and ceilings in other affected areas after all trades are done relocating there part of work with new drywall. Plaster, sand and prime drywall.	\$ 2,500.00
7	Other cost to relocated any electrical, plumbing, HVAC need to be moved in order to accommodate new location of powder room.	\$ 3,000.00
TOTAL		\$ 20,300.00 \$ 20,300.00
GRAND TOTAL TO DEMOLISH AND RELOCATE EXISTING POWDER ROOM AND CLOSET		\$ 32,875.00

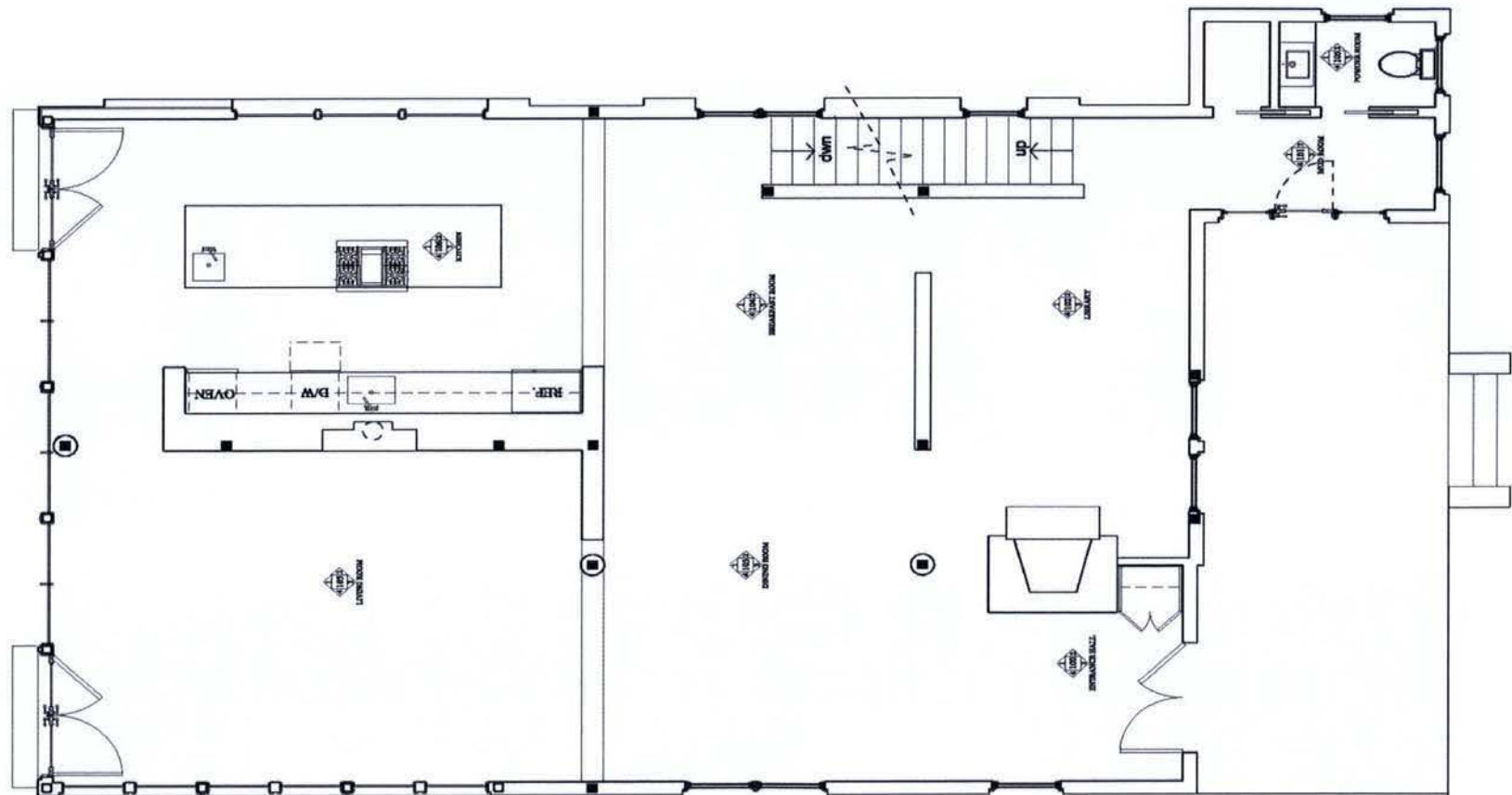
NOTE Also, need to consider the cost of making the powder room in it's current condition.


Andreas Xenophontos
For Artel Incorporated

11/15/2015
Date:

Practical Difficulty

- No Powder Room on the first floor. After living in a 2-Bedroom home for 18 years, now we are faced with the prospect of having no bathroom on the first floor of our new home.



DCRA APPROVED 1ST FLOOR PLAN

No Substantial Detriment to the Public Good.

- We believe that the immediate neighbors to the west, the Bakers, are not happy about the height and mass of the main house, which is of course completely matter-of-right and not germane to the proceedings here.
- While we understand their concerns, and have offered to discuss landscaping options that might lessen any impact on them from the matter-of-right construction, we do not believe it appropriate to essentially hold us hostage over the nonconforming porch issue, which has little to no real affect on their property.
- The actual impact to the Bakers from the 10.4' x 10.9' one-story Powder Room is immaterial – not substantial.



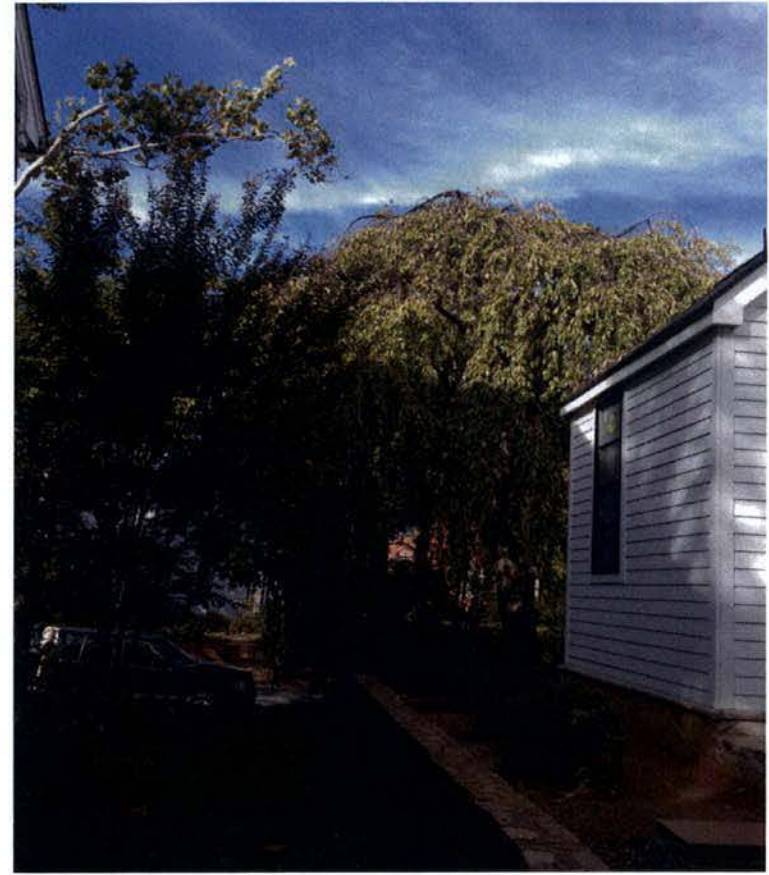
Street View 4540 Lowell Street



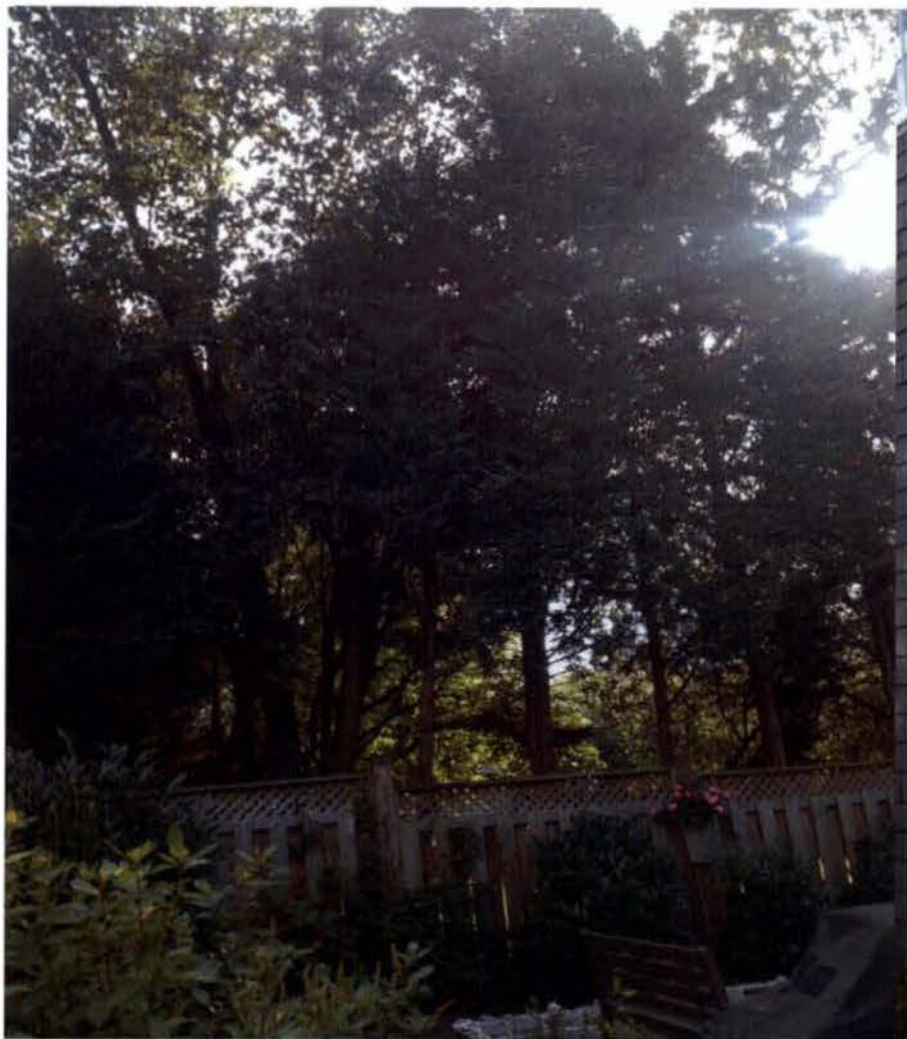
Street View of 4546 Lowell Street, NW



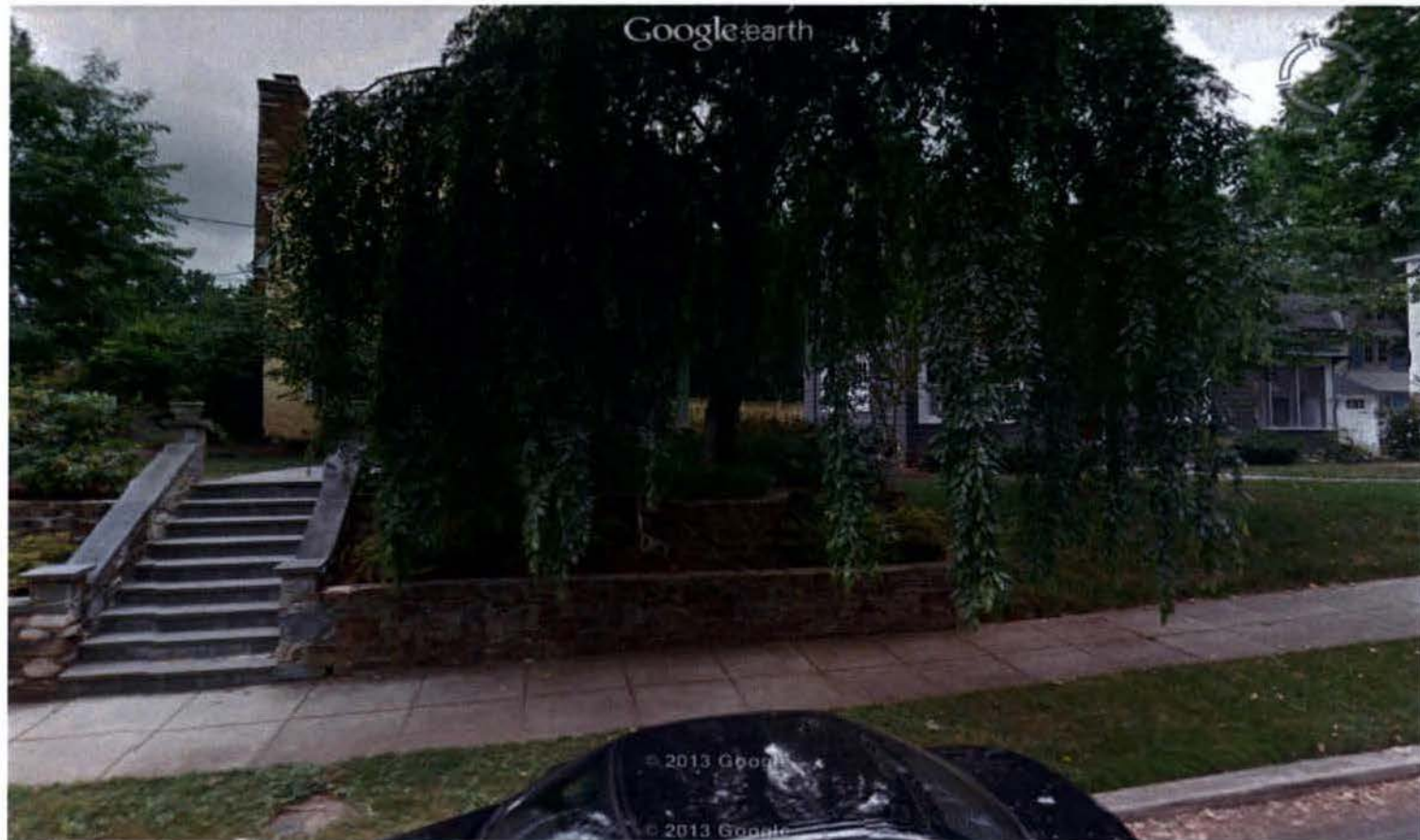
4546 Lowell Street, Front Garden₆₁



Shared Side Yard View



4546 Lowell Street, NW – Rear Yard showing existing tree coverage

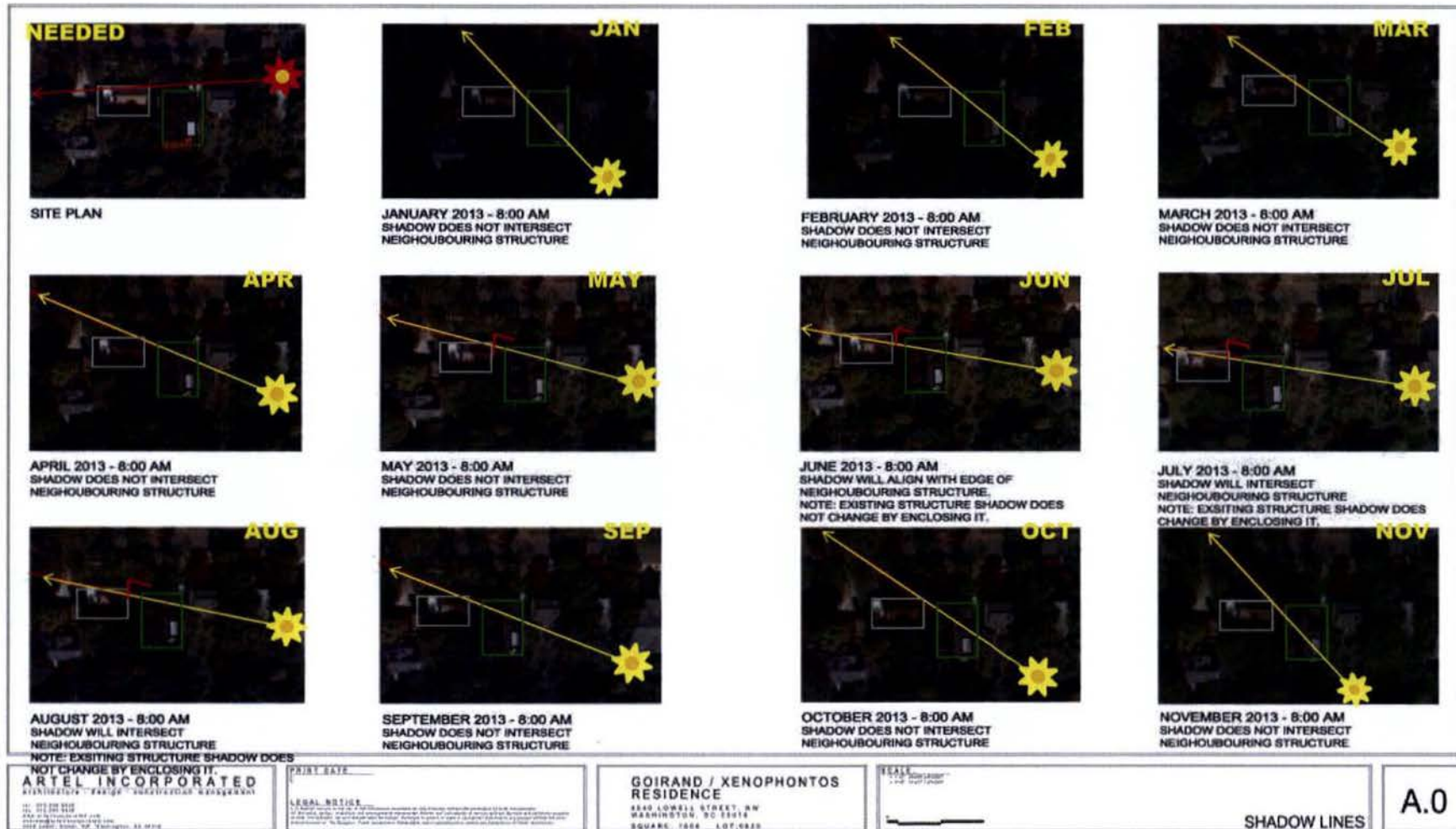


Google Street View Existing Tree



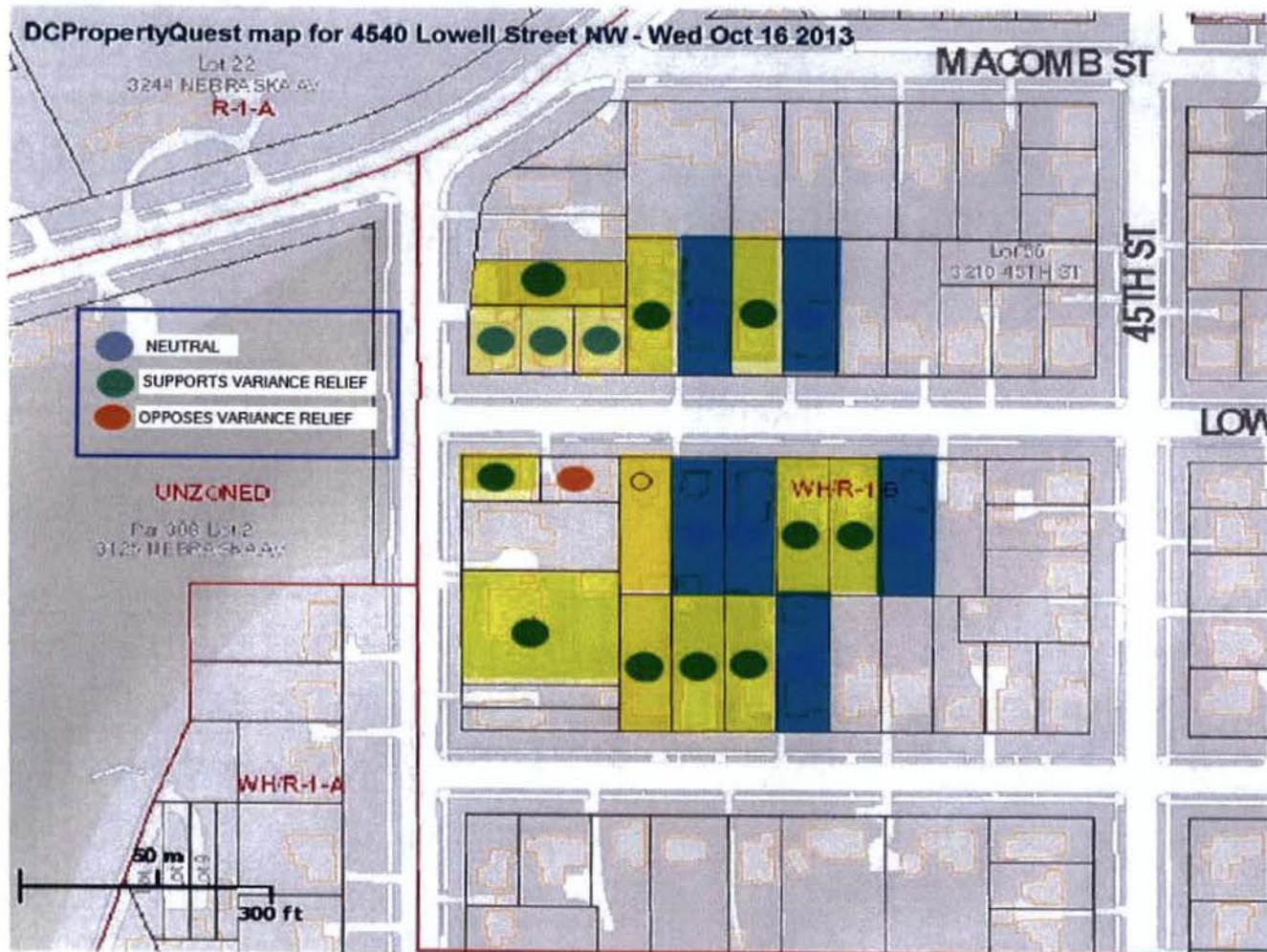
Google Arial View Existing Trees
(required sun exposure to cast shadow)

Monthly Sun Exposure / Shadow Casting



No Substantial Detriment to the Public Good (Contd.)

- The change from what was there previously effectively amounts to closing up a 10' x 10' opening, in a direction from which sunlight does not project toward the property to the west.
- The net change is actually a nonconforming structure that is smaller than it was previous to this construction, as the Applicant removed a significant portion of the nonconforming structure, as shown earlier
- The BZA has received thirteen (13) letters of support from neighbors within 200 feet of the Property.



Neighborhood Support

No Substantial Detriment to the Public Good (contd.)

- Lowell Street has a 90-foot right of way, 2/3rds of which is green space which is effectively additional front yard. The Powder Room is more than thirty feet off the street.

No Substantial Detriment to the Integrity of the Zone Plan

- What is now the Powder Room existed in this same footprint and height since the 1930's. We are asking for the status quo.
- A situation so unique it could not happen again.
- If we had not removed a portion of wall in a totally separate part of the house, we would not be here and the Powder Room would be matter-of-right.

If Relief is Not Granted – Relative Inequities

- If relief is not granted, the Applicants must spend over \$30,000.00 in addition to what has already been spent to remove the Powder Room and will be without a necessary bathroom on the first floor.
- If relief is not granted, the benefit to the Bakers is negligible. The main portion of the house, the obvious source of their complaint, will remain as is.



4310 Lowell Street, NW



3021 45th Street, NW



3118 45th Street, NW



4409 Lowell Street, NW

Conclusion

- Wish I could go back in time.
- Wish DCRA had made its determination about my Powder Room before I built it.
- Wish I still had friendly relations with my neighbors, the Bakers.

Conclusion (contd.)

- We cannot go back in time and predict the eventual interpretation of the Zoning Administrator.
- We cannot, without great practical difficulty, strictly comply with the front and side yard setback requirements.
- For this reason, we believe that under the customs and practices of this Board, we safely satisfy the area variance test, and we respectfully ask for your approval. Thank you.