



DONOHUE & STEARNS, PLC

January 22, 2014

Chair Jordan
D C Board of Zoning Adjustment
441 4th Street, NW Room 200 South
Washington, D C 20001

Re: Finding of Fact and Conclusions of Law – Case No 18659

Chair Jordan and Members of the Board

At the November 19, 2014 D.C. Board of Zoning Adjustment hearing, both parties were instructed to submit and exchange their proposed Findings of Fact and Conclusions of Law by January 8, 2014 with responses due to the Board by January 22, 2014. Attached hereto is the Findings of Fact and Conclusions of Law submitted by the Party in Opposition, Peter and Sally Baker. A copy of this submission has also been emailed to counsel for the Applicant in this case, Martin Sullivan.

Respectfully submitted,

Edward L. Donohue
Counsel for Peter and Sally Baker – Party in Opposition

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Attached: Findings of Fact and Conclusions of Law – Party in Opposition

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BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18659

EXHIBIT NO. 44

Board of Zoning Adjustment
District of Columbia
CASE NO.18659
EXHIBIT NO.44

District of Columbia Board of Zoning Adjustment Application No. 18659
Findings of Fact and Conclusions of Law
Party in Opposition

Findings of Fact

1. The Applicant removed the north, east and west exterior walls, in their entirety, during the week of February 11, 2013. The Applicant alleges that the portions of exterior walls removed were rotten, but has offered no reliable proof of such conditions other than photographs that do not depict what they claim (as addressed in Finding No. 9). The Applicant also knowingly (as evidenced by Inspector Cluff's June 26, 2013 report – see Finding No. 12) failed to notify DCRA's zoning staff of the change in construction plan and deviation from the approved plans that would necessarily change the classification of the project from an addition to a raze and with it the parameters of what was allowed. Due to the Applicant's continuing failures to comply with their requests that permits be brought in line with actual construction, DCRA ultimately issued a Stop Work Order (6/26/2013) and revocation of permits (7/03/2013).
2. At no point did the Applicant notify DCRA of the condition of the exterior walls requiring their removal nor did he provide any contemporaneous third-party support to document the condition of the exterior walls to support making their eventual removal necessary. As a practicing architect and construction manager with significant experience in the District, the Applicant is well-aware of the protocol for the submission and approval of plans with DCRA, yet knowing that he lacked sufficient evidence to comply, he evaded DCRA's repeated requests for evidence to corroborate the need for the walls removal (see email exchange in Exhibit 4).
3. Once instructed by Inspector Cluff and after the demolition of walls had taken place, the only submission to DCRA and approved by them on March 1, 2013 were structural and demolition drawings (S1, S2 & D1) depicting the replacement of existing floor and ceiling joists (S1 attached as Exhibit 1) – nothing in this after-the-fact submission indicated any change to the exterior walls or the fact that they had been demolished. The March 1, 2013 submission was utilized to secure Permit Number B1304446, which was exclusively for the replacement of the joists and does not include any reference to the removal of any portions of the exterior walls required to be retained by the plans on file with DCRA. The permit itself (attached as Exhibit 2) contains language that requires the Applicant to perform the work thereby permitted in accordance with the plans on file with DCRA. No plans were ever filed with DCRA indicating problems with any portions of the exterior walls or showing their removal. By completely removing the north, east and west exterior walls, the Applicant exceeded the scope of the permits he had obtained, including the March 1 permit and to date, after repeated requests by DCRA, he has failed to obtain permits, which reflect the actual scope of work.
4. The open-air porch was completely torn down and replaced with the powder room on April 8, 2013. Contrary to the Applicant's testimony (*Transcript at 100, lines 15-17*) that the new roof line is lower by one foot (1'), the new powder room [based on photographic evidence submitted by the Party in Opposition at the November 19th BZA hearing] is approximately two feet (2') higher than the original, now demolished, open-air porch and approximately 1.75 stories high relative to the main part of the new house (see Exhibit 3).

5. The May and November 2013 letters from Robert Neubauer were procured by the Applicant after both the removal of the exterior walls and the demolition and rebuilding of the open-air porch in response to DCRA's inquiries concerning the legitimacy of the Applicant's reasons for the complete removal of existing walls
6. The May 9, 2013 letter from Robert Neubauer concerns "sections of first floor front wall and the existing rafters over the front mudroom/entry" and is based on "a number of photographs showing the original construction [that] indicate a considerable amount of moisture-related issues". The letter does not reference a site visit at all or date thereof. Phrasing in the letter such as "the photographs revealed" or "gauging from the photographs" underscores the fact that Mr. Neubauer's assessment was based upon photographs alone. The Applicant falsely testified at the November 19th BZA hearing that Mr. Neubauer did physically inspect the premises for the express purpose of determining structural sufficiency, but the Applicant was unable to provide a date that this inspection took place. It is clear that no site visit occurred at a time, which would allow structural assessment of the walls, or (1) it would be mentioned in the letter as the basis for Mr. Neubauer's assessment (rather than photographs) and (2) the Applicant would be able to provide the date on which the physical inspection occurred. In fact, Mr. Neubauer's letter could only be based upon photographs as, by the time the letter was drafted, the original walls had been removed. It must be noted that the May 9, 2013 letter from Robert Neubauer did not include "and west existing walls." These words were added by the November 14, 2013 letter after it was brought to the attention of the Applicant by the Party in Opposition. Finally, Mr. Neubauer's May 9, 2013 letter concludes only that "re-using the original structure seems incompatible with what was shown on the structural drawings." At no point does he state that the 26' West wall *must* be removed in its entirety.
7. The Party in Opposition, Peter and Sally Baker, met with the Zoning Administrator, Matt LeGrant, on December 26, 2013 to review his position and determine if the Applicant had submitted any additional filings to justify the razing of the original structure. At that meeting, which also included Rohan Reid, Program Analyst in the Office of the Zoning Administrator, the Bakers were provided with a copy of an email exchange that further evinces the fact that no physical inspection was ever performed by Mr. Neubauer. In that same meeting it was also learned from Mr. Reid that the Zoning Office considered the opinion letter issued by Neubauer to be inadequate in scope and lacking and unpersuasive in substance.

The email chain (attached as Exhibit 4) began on April 26, 2013 following the Applicant and Agent, architect, K. C. Price's meeting with Mr. Le Grant and Mr. Reid. At that meeting K. C. Price promised to forward the letter from Mr. Neubauer concerning the rotten and water damaged areas of the original structure to Mr. Reid. On May 15, 2013, Mr. Price sent the May 9, 2013 letter from Mr. Neubauer to Mr. Reid.

Following the Zoning Office's review of the Neubauer letter, the most crucial exchange occurred on May 21, 2013 when Mr. Reid explained to Mr. Price that the Neubauer letter only explains the removal of some portions of the original structure and noted the following outstanding questions:

- What specific portions of the original structure remain?
- Are the portions of the original structure that remain four feet (4') or more in height as required?

- Can Mr Price provide pictures that document the retention of more than four feet (4') in original structure with measurements?
- Was an in-person inspection done?
- Did Mr. Neubauer draft a report as a part of the in-person inspection and was that report submitted to DCRA for review prior to the Applicant's obtaining the permit for replacing the joists?

When Mr Price failed to respond, Mr. Reid reiterated the above-listed questions in an email dated May 31, 2013 and noted that he must receive a response by June 7, 2013. On June 3, 2013 Mr. Price wrote to Mr Reid and in an attempt to respond to all of his questions merely referenced the May 9, 2013 Neubauer letter. He failed to provide any of the additional information that Mr. Reid had requested including the date of the in-person inspection, the specific portions of the original structure that were kept, pictures and measurements documenting that the portions retained were four feet (4') or more as required. Moreover, Mr Price admitted that no report had been generated (how could it if no in-person inspection was performed?) Mr Price identified the foundation and cellar walls as the only portion of the original structure that was retained, yet offered no pictures, or other information that Mr Reid had requested.

It should be noted that the questions posed by Mr Reid were directed to and should have been answered by Mr Neubauer who drafted the May 9, 2013 letter that the Applicant inadequately proffers as justification for the removal of the original walls. It is clear that no physical inspection was performed as alleged by the Applicant. The Applicant misrepresented this fact to the Board at the November 19, 2013 hearing and to date has provided no credible evidence to substantiate his claim. Moreover, in addition to failing to notify DCRA of the deviation from approved plans, the Applicant has failed to provide DCRA with any of the supporting documents that they have requested on multiple occasions. At their meeting on December 26, 2013, Mr Reid reiterated to the Party in Opposition that the May 9th Neubauer letter was considered insufficient for DCRA staff's verification and assessment purposes. This fact was underscored by Mr LeGrant's August 1, 2013 letter (previously entered into the record) upholding his original determination that the project was deemed a raze.

- 8 When contacted by counsel for the Party in Opposition, Mr. Neubauer stated that he had been instructed by the Applicant not to speak with them but rather to have all questions related to the May 9, 2013 and November 14, 2013 letters and the subject property directed to Mr Sullivan, counsel for the Applicant. Accordingly, counsel for the Party in Opposition has submitted a letter (attached as Exhibit 5) to Mr Sullivan with questions concerning the dates on which the site visits occurred and the photographs upon which the letter was based. Counsel for the Applicant has indicated that he will not provide us with the information requested, but will follow the directives of the Chair. At the November 19, 2013 hearing, Chair Jordan did specifically ask that the Applicant provide additional information concerning the physical inspection of the property when he stated, "[o]ne, I would like to have the complete engineering report, statement of action and analysis that was performed by your structural engineer. I need to know what they considered and what they did not consider and what actions they actually took, whether or not they came out or didn't come out. So I need the statement of actions and activities." Transcript at 197-198. At neither of the two (2) ANC meetings at which Application No. 18659 was considered (October 2, 2013 and November 6, 2013) nor the BZA hearing was the Applicant able to provide a date of the on-site inspection of

the exterior walls. The Applicant's January 8, 2014 Proposed Findings of Fact and Conclusions of Law included yet another letter (dated January 3, 2014) from Mr. Neubauer attesting to the fact that he never physically inspected the walls but rather based his assessment on the two photographs provided to him by the Applicant. Photographs that, as explained below in Finding No. 9, are not of the West Wall as the applicant claims.

In summary, the May 9, 2013 letter was based solely on photographs and lacked any reference to the West Wall specifically. Only after the Party in Opposition brought that fact to the Applicant's attention at the ANC 3D meeting did the Applicant have Mr. Neubauer draft the November 14th letter to correct the omission. Finally, the January 3, 2014 letter confirms, contrary to the Applicant's testimony, that no physical inspection of the allegedly rotten walls ever occurred.

- 9 In an effort to substantiate his claim that the exterior walls were structurally deficient and required removal, the Applicant has provided photographs of the existing conditions of some walls – to Mr. Neubauer for the preparation of his May 9, 2013 letter and to the Board at the November 19, 2013 hearing. The problem with the photographs is twofold.

First, without an on-site, physical inspection, they cannot provide an adequate basis for the raze (and, to date, no date of any on-site inspection has been offered by the Applicant.)

Second, the Applicant has misrepresented to the Board what the photographs depict. The photographs that the Applicant has provided to the Board and that are included in the Power Point presentation on slide 23 are labeled "East Wall – existing condition" (Exhibit 6a). This clearly is, indeed, the East Wall or some location other than the West Wall as the West Wall is distinguishable in that it is free standing over the basement foundation, whereas the wall shown in the photo stands on a concrete slab. In addition, the left-hand photo appearing on slide 23 is altered in terms of its size from what the Applicant presented to Matt LeGrant on May 15, 2013. Review of the photograph provided to Matt LeGrant further confirms the concrete slab foundation, as well as the existence of a small window (shown boarded up) the size of which does not exist on the West Wall. (See Exhibit 6b). Despite all of this evidence to the contrary, the Applicant stated at the November 19, 2013 hearing that the labeling was simply a typographical error and that the photograph in slide 23 actually showed the West Wall. *Transcript at 127, lines 20-21.* The bottom line is that the Applicant misrepresented to the Board that the photograph was of the West Wall in order to justify its removal when, in fact, the photograph is not what he claims.

Furthermore, at the November 19th hearing, when asked by Mr. Donohue what structural considerations forced the razing of the West Wall, Mr. Price's response was "The bottom plate was rotten so you could not attach any screws. So the construction of the sheer wall forced this to be taken down. It was not structurally sound in order to maintain the structural integrity of what was designed by the structural engineer to make this wall a strong enough wall to support." *Transcript at 127, lines 1-8.*

We know based on photographs taken by the Party in Opposition in February and taken by Inspector Cluff on June 26, 2013 that the bottom sill plate of the West Wall was in good shape and, in fact, was retained and used as the foundation for new construction (see attached photos in Exhibit 7a and 7b). This fact was confirmed by Construction Inspector Manager, Ferdinand

Gamboa, when the Party in Opposition met with him on December 26, 2013 Mr Neubauer also refers to the sill plate in the May 9th letter when referencing the North or Front Wall This is yet another example of the Applicant's attempt to provide justification for the removal of a wall where no justification exists. It can be inferred that the exterior walls were removed for the Applicant's own convenience and to save time and cost of construction (see Finding No. 12 – Inspector Cluff Report).

- 10 In yet another material misrepresentation the Board, the Applicant stated at the November 19, 2013 hearing that the total amount of wall removed that was originally planned to be retained was "no more than 15 feet." *Transcript at 125, lines 20-21* The Party in Opposition had a professionally-licensed architect, Ms Susan W Ross, AIA (AIA # 21815881), review the Applicant's approved demolition plans (labeled D1) and she calculated linear feet of exterior wall which were to be retained 51 feet on the first floor, 59 feet on the second floor and 6 feet on the third floor She also noted that the standard for measuring the amount of wall to be retained is, indeed, linear feet per floor. Furthermore, the portions of wall that contain windows are not excluded from the length of wall removed. The bottom line is that the Applicant grossly understates the amount of wall that he removed in its and which was supposed to remain pursuant to the approved plans on file with DCRA The Applicant has since testified, and DCRA confirmed, that none of the exterior wall has been retained
11. The structural engineer whose seal and signature appears on every drawing and plan submitted by the Applicant to DCRA is Frank H Chow, license number 8249. The Applicant provides no explanation why Mr Chow, an integral party in the design of the new house, would not have provided any letter attesting to the condition of the existing exterior walls requiring their removal It seems only logical that the project's main structural engineer would have drafted any such letter when he would be the one most familiar with the condition and details of the existing structure. Instead a different structural engineer was subsequently brought in to address the issue that he did via a letter dated after the removal of the walls and without any report or reference to an on-site inspection Mr. Neubauer's involvement can only be interpreted as an attempt by the Applicant to justify actions he undertook without either notification of/ authorization by DCRA or sufficient cause as substantiated by a letter from a structural engineer who had seen the conditions of the exterior walls first-hand prior to their removal The only reason why Mr Chow would not have been asked to draft the letters concerning the conditions of the exterior walls is that he could not, based on physical inspection, state that they needed to be removed Therefore, the Applicant sought such a letter from Mr Neubauer on the basis of photographs alone

Again, as an architect and construction manager familiar with the practices and procedures within D C , the Applicant clearly understood his actions were in violation. Moreover, as documented in Illegal Construction Inspector Cluff's Inspection Report (see Finding No 12 below), the Applicant was warned on several occasions prior to demolition of the front porch and walls that DCRA would have a problem with the removal of the exterior walls shown to remain on the approved plans on file there (B1003061) The Applicant repeatedly ignored DCRA's required procedures as well as warnings and instructions by both Inspections and Zoning staff

- 12 The Applicant's testimony and presentation to the Board centers upon the several inspections that were performed by DCRA inspectors The Applicant stated that at no time, did the

inspectors ever find anything to be in violation of the permits obtained and plans approved. This representation is **patently false**. On June 26, 2013 at 1:10 p.m. Illegal Construction Inspector Robert Cluff visited the site and prepared an Inspection Report (attached in its full form as Exhibit 8), the relevant sections of which are provided below

- "I understand that Mr. Xenophontos has stated that he doesn't think he's in violation since I didn't mention to him that he was, but this is totally false. I've noted several times about the times we've spoken of the removal and reconstruction of the covered porch structure and additional walls that were to remain, and Rohan and I spoke of this at the meeting we held, so he can't go there!"
- "Mr. Xenophontos had EXCEEDED THE SCOPE OF THE BUILDING PERMIT (B1003061) BY RAZING "
- "To begin with, Mr. Xenophontos believes that his current permits allow him to remove whatever portions of the former residential structure at his leisure, if he deems the existing wood framing is either deteriorated, and/or damaged, which is not the case "
- "Mr. Xenophontos has an approved permit and drawing that shows renovation of a former residential structure, but leaving a small covered porch structure in the front and some additional walls throughout. Mr. Xenophontos decided that leaving this area would obviously not fit in to his design, so he decided to completely remove the small covered porch structure and completely rebuild it with new wood framing, which he knew wasn't allowed, because I had spoken with him on at least two (2) different occasions addressing this issue."
- "No permits were obtained for removing the front covered porch or other walls that were to remain. On my third [April 24, 2013] visit I noticed that he had completely removed and reconstructed the former porch structure, which I brought to his attention, and also the additional walls that were shown to remain on building plans (B1003061). He explained...it's no big deal. I told him that DCRA Zoning is going to have an issue with this, but he just brushed it off."
- "Rohan [Reid] basically told me that what Mr. Xenophontos had done was against the Zoning [R]egulations and we need to address it "
- "Mr. Xenophontos .did admit to the removal and reconstruction of the covered porch structure and other walls

that were to remain, but still insisted that he was allowed to do this, and it wasn't a big deal "

- "Mr Xenophontos [k]new that he deviated from his approved drawings, by removing the covered porch structure and additional walls that were to remain, because we had talked about it on two (2) different occasions, and I specifically told him that he needed to get a revision, which he said he would take care of, but he insisted that he didn't need to "
- "I told him that...you know that you removed more than what was allowed, but he still doesn't see it that way "
- "I posted the SWO on the front door glass, and told Mr Xenophontos that everyone would have to leave the site He asked if I could come the next day and post the SWO, but I told him no, that's not appropriate."

In his Proposed Findings of Fact and Conclusions of Law the Applicant conveniently makes no reference to this illustrative and highly critical report, which contradicts his repeated statements that he was never made aware that his actions were in violation of the Zoning Regulations. Instead, the Applicant limits his reference of the inspection history to February 27, 2013, March 12, 2013 and March 14, 2013 and alleges that no problems were documented. As the attached timeline (Exhibit 9) and summary of inspection reports otherwise demonstrates

- 1 On February 27, 2013 Inspector Cluff identified work performed by the Applicant beyond the permitted scope and the Applicant was instructed to update permits.
- 2 On March 12, 2013 Inspector Cluff warned the Applicant that, in accordance with approved plans, he must retain portions of the exterior walls and front porch
- 3 On March 14, 2013, Inspector Cluff reiterated his warning regarding retention of exterior walls and front porch
- 4 On April 24, 2013 Inspector Cluff, after viewing the complete demolition of the front porch, advised the Applicant that he had concerns about the removal of the exterior walls and front porch
- 5 On April 26, 2013 the Applicant met with DCRA to discuss DCRA's concerns that demolition work has exceeded scope of approved plans. Staff requests an engineer's report to support Applicant's claims of structural deficiency.
- 6 On June 26, 2013 Inspector Cluff visited the site to take photos, document violations, and post Stop Work Order
- 7 On July 3, 2013 Rabbiah Sabbakhan, Chief Building Official, issued the Notice to revoke Building Permits

Subsequently, the Zoning Administrator affirmed his decision that the project was a raze (via letter dated August 1, 2013) and on August 8, 2013, Inspector Cluff visited the site and determined that there was ongoing work in violation of the Stop Work Order and instructed workers to leave the premises (See Exhibits 9 & 10).

The timeline and numerous inspections illustrate clearly the Applicant's disregard for DCRA's rules and his proclivity to exceed the scope of what is permitted until caught violating the Zoning Regulations and ignoring explicit directions of staff with a response pattern of deliberate obfuscation

- 13 Throughout the Applicant's Proposed Findings of Fact and Conclusions of Law, he references the "proposed plan" and DCRA's staff's associated approval. For example in Paragraph 10 of his Proposed Findings of Fact and conclusions of Law, he notes that his proposed project complied in all respects with the Zoning Regulations. What the Applicant fails to acknowledge is the fact that the *proposed plan* differed significantly from the plan actually effectuated. The proposed plan contemplated an addition, while a raze was actually completed. Accordingly, when the Applicant refers to actions performed "in accordance with the applicable building permit" – the tear down of the front porch and construction of the front room, for instance – he misrepresents himself. None of his actions involving the removal of the front porch and construction of the front room subsequent to the unpermitted removal of the exterior walls were in accordance with any approved permits due to the fact that the approved permits had been issued when the project as a whole was deemed an addition. Upon removing the exterior walls, the Applicant forfeited permission to perform the originally planned work as razing removed the protection of the front and side yard setbacks.

- 14 The Office of Planning has recommended that the Board deny the application, finding that

"The application has not adequately established a practical difficulty associated with an existing property condition or characteristic, the first standard for variance approval. There is no nexus between any uniqueness of the property and a practical difficulty for the applicant. Therefore, the requested variances cannot be justified without impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map' (§ 3103 2). In addition, the applicant's proposal would be detrimental to the intent of the zoning regulations."

Contrary to what the Applicant alleges, planning staff did consider the existence of the previous structure which was the very heart of the issue in that the Applicant's razing of the existing structure without notifying DCRA removed the protection of the reduced front and side yard setbacks. When the Applicant constructed the front room so as to encroach on the front and side yards, he did so knowing (based on prior warning by Inspector Cluff) that it was in violation of the Zoning Regulations and thereby assumed the risk for the possible required removal of the infringing part of the structure.

The Applicant also claims that planning staff erred in failing to consider the zoning and permitting history of the parcel. The Applicant proposes that the practical difficulty is the removal of the front room at great expense in order to comply with the strict application of the Zoning Regulations. If the Applicant had complied with Zoning Regulations prior to constructing the front room he could have easily avoided the expense he now claims. Since his alleged practical difficulty is entirely self-imposed, it cannot be utilized to satisfy the variance test. Moreover, the zoning history of the parcel is far from unique – all other homes in the zone are subject to exact same provisions. As far as the permitting history of this specific parcel, its uniqueness is wholly attributable to the fact that the Applicant did not disclose to DCRA his

actions which resulted in a change in classification of the project from an addition to a raze. By failing to disclose and proceeding with the raze and illegal construction in violation of the permits obtained, he imposed the liability of removing the front room on himself and cannot use it to satisfy the first prong of the variance test.

Finally, the Applicant notes that planning staff did not consider the encroachments into the front yard of other properties in the Wesley Heights Overlay District. First, none of these other properties are before the Board here. Second, the encroachments referenced maintained their protected status due to the homes' additions. Here a raze was effected and any setback encroachments were therefore required to be removed completely.

- 15 As documented in the November 12, 2013 letter from Chair Penny Pagano, the Advisory Neighborhood Commission ("ANC") 3D voted unanimously to recommend that the Board deny Application No. 18659 based on the following:

- Applicant's construction deviated from approved construction plans
- Zoning Administrator determined the property was a raze, not a renovation/addition and noted that the Applicant knowingly exceeded the scope of the construction permit violating Sections 2000.4, 2001.2 and 2001.3 of the Zoning Regulations
- Given the construction has been designated as new construction by the Zoning Administrator, the Applicant should be seeking a variance under Section 3103.2 instead of a special exception for side yard relief under Section 223 of the Zoning Regulations. The Applicant has advised the ANC that he plans to revise the application to seek a variance of the side yard requirement, instead of a special exception.
- The Applicant has not met the burden for variance relief (§3103.2) for either the front or side yard setback restrictions in that the applicant has not identified any undue hardship or exceptional difficulties that would justify variance relief.
- The Applicant has not met the burden for variance relief of the Wesley Heights Overlay District (WHOD) Sections 1541.1, 1541.3 and 1543.4, in that the new structure visually intrudes upon the (character) **harmonious design** of houses falling within the Wesley Heights Overlay District, (compromises) **reduces** the (enjoyment) **access to air and light** of the neighboring property, including their ability to add to their property within existing zoning rules; and the new structure is inconsistent with provisions of the Zoning Regulations for the Wesley Heights Overlay District.

The Applicant admits the deviation from the construction plans yet calls the deviation 'minor' and suggests that it was inconsequential to any zoning aspect until months later when the Zoning Administrator determined the project to be a raze. This assessment is false. The deviation was consequential at the time it occurred and the delay in the Zoning Administrator's determination was due to the Applicant's failure to notify DCRA of his deviation. Furthermore, the Applicant attempts to minimize the importance of the raze standard due to the fact that it is an unwritten rule in play for three (3) years. This is irrelevant. The rule is in place. Had the Applicant checked with DCRA he would have been made aware of it prior to moving forward with the demolition and construction of the exterior walls and front room. After ignoring DCRA's warnings, required protocol and procedure, he is estopped from placing blame on DCRA for his violations.

The Applicant proposes that it would be a high burden to require that he anticipate the raze interpretation prior to removing all exterior walls. No such burden was placed on the Applicant, especially in light of DCRA's advance warnings. Before removing the walls, he could have inquired with DCRA what the ramifications would be whereupon he would have learned of the four-foot rule

In his Proposed Findings of fact and Conclusions of Law, the Applicant misinterprets several of the Zoning Regulations on which the ANC based their denial. First, he states that §2000.4 relates specifically to the continuation of nonconforming uses. If he were to have read on, he would find that the section continues to read "or any nonconforming structure lawfully existing on May 12, 1958, that remains nonconforming, and any use or structure lawfully existing that became nonconforming on May 12, 1958, may be continued, operated, occupied, or maintained, subject to the provisions of this chapter." The nonconforming structure, in this case, the front room, was no longer allowed pursuant to the Zoning Regulations once the project became a raze

Second, §2001.2 is not merely an introductory paragraph as the Applicant states, but reads, "Except as provided in §§ 2001.11 and 2001.12, ordinary repairs, alterations, and modernizations to the structure, including structural alterations, shall be permitted." The complete demolition of the front porch – the subject nonconforming structure – falls clearly outside the scope of ordinary repairs, alterations, and modernizations

The Applicant similarly tries to escape his violation of §2001.3, which governs enlargements or additions by alleging that his demolition and construction was lawful at first and then permitted due to the variance request. Since the demolition and construction of the front room occurred after the removal of the exterior walls, it was done in violation of the permits obtained. The Applicant cannot avoid liability by asserting that the work was lawful until the Zoning Administrator caught him – rather, it was unlawful at the time demolition was carried out. Moreover, as the Zoning Regulations require, the Applicant did not request the variance relief prior to demolishing the exterior walls and front porch and constructing the front room. Again, he only applied for the variance after his unlawful actions were brought to light. The Applicant did violate §2001.3 for this is and was not an addition at the time the front room was erected – it was a raze

Finally, the Applicant contends that the ANC provided no specific information as to how the variance test was not met. As the final two (2) bullets above describe, the ANC found no evidence of undue hardship, exceptional difficulties and did find that the intent of the Wesley Heights Overlay as well as the adjacent parcel would be negatively impacted by the new structure.

- 16 Despite the Applicant's assertions as to the new structure's compliance with all other Zoning Regulation provisions, the only wall check that was performed was done so in December 2012 and thus did not include the portion of the new structure in question. ANC 3D requested that a new wall check be performed to confirm the Applicant's representations. DCRA Inspectors confirmed at meetings with the Party in Opposition on January 8, 2014, that a new wall check was needed. Specifically, the Party in Opposition rebuts the assertion that the roof of the new front room is nearly two feet (2') lower than the roof of the front porch (See Exhibit 3).

- 17 The Applicant has continued to attempt to escape responsibility for his own unlawful actions by placing the blame on DCRA staff, inspectors and the Zoning Administrator himself. Chair Jordan noted at the November 19, 2013 hearing that he was not convinced by this approach. *Transcript at 98; lines 15-18*. The role of DCRA inspectors is not to advise or provide information, but rather to insure that work performed is in accordance with the Zoning Regulations and complies with the permits in place. As illustrated by the June 26, 2013 report by Inspector Cluff, the Applicant was provided the professional courtesy of several warnings, and a delay in issuance of the Stop Work Order, all of which he ignored.

The Applicant also states that the four foot (4') rule utilized by the Zoning Administrator to make the raze determination is unwritten and has only been in place for three (3) years. All of which is irrelevant and bears no weight here. First, the Applicant kept none of the exterior walls so he is not off by a matter of inches. Second, the rule is in place and is required to be followed. Had the Applicant notified DCRA as required, he would have been informed of the rule. It should be noted in addition that it is hard to believe that the Applicant, an architect and construction manager with significant experience in D.C., was unaware of the rule.

The above facts demonstrate that the Applicant made the independent decision to remove the exterior walls and failed to provide DCRA with either the change in plans or credible reasons for the razing of the walls. The Applicant then completely removed the open-air porch and replaced it with the enclosed powder room with a different style (A Frame) and significantly higher roof that encroaches on front and side yard setbacks. The Applicant is attempting to place the onus on DCRA for not catching his deviations from approved plans and subsequent violations when, in fact, the burden was on him, a professional architect and construction manager with over 15 years' experience, to adequately apprise DCRA of changes to his construction plans prior to acting. Moreover, the Applicant has testified and submitted documents into the record that allege that, despite numerous on-site inspections, no inspector ever informed him that he was in violation. Inspector Cluff's Report proves all of this testimony made by the Applicant to the Board to be false. Moreover, the Applicant repeatedly ignored DCRA's advance warnings and remedial instructions and continued work in violation of DCRA's orders and instructions even despite continued reminders by Inspector Cluff. The Applicant's claim that he proceeded only because he did not know that what he was doing was wrong is clearly false. He was informed on several occasions by several members of DCRA personnel that he was in violation.

Conclusions of Law

With respect to variances, the Board has the power under § 8 of the Zoning Act, D.C. Official Code § 6-41.07(g)(3)(2001) (formerly codified at D.C. Code § 5-424 (g)(3) (1994 Repl.)), "[w]here, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Code § 6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship, provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map."

The District of Columbia Court of Appeals set forth the three prongs of the test that an Applicant must satisfy before the Board may grant a variance.

"An applicant must show, first, that the property is unique because of some physical aspect or 'other extraordinary or exceptional situation or condition' inherent in the property, second, that strict application of the zoning regulations will cause undue hardship or practical difficulty to the applicant, and third, that granting the variance will do no harm to the public good or to the zone plan " *Gilmartin v Bd of Zoning Adjustment*, 579 A 2d 1164 (DC, 1990)

Exceptional Situation or Condition

The Applicant alleges that he satisfies the first prong of the above-described test for an area variance, the exceptional situation or condition, based upon the unanticipated discovery of the rotten condition of portions (116') of the north, east and west exterior walls. First, he has provided no credible proof of an adequate or verifiable nature to support the alleged rotten condition. Additionally, the timeline of events from the demolition of the exterior walls makes the Applicant's satisfaction of the second prong impossible as discussed in the section below.

Applicant also alleges that the unique zoning history satisfies this prong and cites *De Azcarate v. Board of Zoning Adjustment*, 388 A.2d 1233 (D.C. 1978). This case is distinguishable from the present situation in two (2) very important ways. First, in *De Azcarate*, the Applicant acted in good faith. *Id.* at 1238. Here, the Applicant ignored required procedure and several warnings from DCRA and removed the front porch and constructed the front room without notifying DCRA of the removal of the exterior walls or obtaining the necessary permits. The Applicant here clearly did not act in good faith. Second, the *De Azcarate* Court found that the zoning officials had acted in error. *Id.* at 1238. Here, there has been no error on any member of DCRA staff. In fact, the only error rests on the Applicant himself. This same good faith reliance on DCRA sanctions of work is present in BZA Order No. 17264 and conspicuously absent here. The second case that the Applicant cites, *Monaco v Board of Zoning Adjustment*, 407 A 2d 1091, has already been distinguished by the Chair at the November 19, 2013 hearing. As Chair Jordan explained to counsel for the Applicant, "You do know in those cases the reliance was up front that they gave him proper instructions and allowed, there wasn't a change of plans that changed anything in that case." *Transcript at 194, lines 16-20*

The zoning history of the parcel is the same as the zoning history for all of the parcels within this zone. All homes in the neighborhood are subject to the same provisions of the Zoning Regulations and the changes thereto. The only thing that separates the Applicant's project from the others performed in the neighborhood is his violation of the Zoning Regulations. Similarly, the permitting history related to the Applicant's project does not satisfy this first prong, for the Applicant knowingly failed to revise his plans as instructed by DCRA and therefore proceeded with construction in violation of the originally obtained permits. The burden was on the Applicant to apprise DCRA of the deviations and apply for revised permits. He cannot now hope to satisfy this prong by blaming DCRA for not catching him in his violations. In his Proposed Findings of Fact and Conclusions of Law, the Applicant refers to the Zoning Administrator's rare determination as a 'technicality.' It is in the same way every provision of the Zoning Regulations are technicalities – technicalities that, if not followed, have consequences.

Practical Difficulty

The practical difficulty that the Applicant claims is the cost of removing the nonconforming portion of the new structure (the powder room) and placing it at a different location on the first floor. It is well-settled by the case law in the District of Columbia that an Applicant for a variance cannot satisfy the test if his harm is self-inflicted. The Court of Appeals stated in *Foxhall Citizens Association v. Board of Zoning Adjustment*, 524 A 2d 759 (DC, 1987), "If the peculiar circumstances which render the property incapable of being used in accordance with the restrictions contained in the ordinance have themselves been caused or created by the property owner, . . . the essential basis of a variance — that is, that the hardship be caused solely through the manner of operation of the ordinance upon the particular property — is lacking. In such a case, a variance may not be granted." *Foxhall Citizens Ass'n v. Bd. of Zon. Adj.*, 524 A 2d 759, 761 (DC, 1987). This is precisely the case here.

At the point in time when the Applicant discovered the alleged structurally deficient condition of the exterior walls, the open-air porch remained in its original state. It had not been removed or rebuilt at all. The exterior walls were demolished during the week of February 11, 2013. Before the removal of the porch and construction of the powder room on April 8, 2013, Inspector Cluff visited the premises on three (3) separate occasions and advised the Applicant against the removal of the exterior walls and the need for revised permits from DCRA. At this point, no money had been invested in the powder room. If the Applicant, an architect with self-proclaimed significant experience within the District, had, as he was required to, notified DCRA of the newly discovered condition, DCRA would have informed him that removing the exterior walls as he did would change the classification of the project to a raze. The June 26, 2013 Report by Inspector Cluff mentions the several occasions on which the Applicant was advised against the removal of the exterior walls. As such, he would not be able to utilize the original footprint of the nonconforming open-air porch that extended into the required front and side yard setbacks. The Applicant states that his actions did not afford him any benefit, but these encroachments benefit the Applicant alone and negatively impact the Party in Opposition. At this point, the Applicant could have located the powder room at another location on the first floor and avoided any expense — a fact that he has admitted in his filings. In addition, there are five (5) additional bathrooms in the new structure and no bathroom existed on the first floor in the original structure that sufficed for the applicant for the past eighteen (18) years. The Applicant chose to ignore his obligation to alert DCRA of the change in plans in advance of removing the walls and proceeded without obtaining the necessary permits/authorization despite several advance warnings by Inspector Cluff of the potential for violation. The expense he may incur for the removal of the powder room is wholly due to his own disregard for the Zoning Regulations, required procedures and instructions from the inspector. As the De Azcarate Court explained, "The self-created hardship rule is, in fact, a manifestation of the equitable principle of estoppel, that is, where an applicant for an area variance, or his predecessor in title, has committed an *affirmative act* which directly results in the hardship complained of, variance relief will be withheld." *De Azcarate v. Bd. of Zon. Adj.*, 388 A 2d 1233 at 1239 (D.C. 1978). Instead of the hardship being caused "solely through the manner of operation of the ordinance upon the particular property" as is required, the hardship in this case is caused solely by the Applicant's own actions and disregard for the regulations and thus could have been avoided. *Foxhall Citizens Ass'n v. Bd. of Zon. Adj.*, 524 A 2d 759, 761 (DC, 1987).

It must be noted that the Applicant has quoted the amount to be incurred if he is required to remove the front room as \$32,875. In order to defend their right to the enjoyment of their own property and to enforce the Zoning Regulations that the Applicant ignored, the Party in Opposition has incurred over \$42,000 in legal fees and stands to spend another \$29,480 (see Exhibit 11) on landscaping to mitigate the effects of the Applicant's violations. It seems only just that the Applicant should bear the cost of his

infractions when the Party in Opposition has borne twice that much in the defense of the quiet enjoyment of their parcel

In a letter dated October 10, 2013 (attached as Exhibit 12), the Zoning Administrator, Matt LeGrant, wrote to counsel for the Applicant and stated that, "Mr. Xenophontos fully understands that he is proceeding at his own risk in taking these weatherization actions, knowing that the Front Room may be subject to removal depending on the outcome of the BZA case and any other proceedings related to the approval of the Front Room." The Applicant was on notice that the removal of the porch and construction of the powder room would be in violation of the approved plans on file with DCRA before any work was begun in April. Furthermore, as the October 10, 2013 letter from Matt LeGrant demonstrates, the Applicant was aware that any additional work performed on the powder room would also be at his own risk. As such, the Applicant is precluded from satisfying this second prong for a variance as he had multiple opportunities to avoid the practical difficulty he now claims.

Harm to the Public Good

The Applicant also fails to meet the third prong of the variance test, which requires that the granting of the variance will do no harm to the public good or to the zone plan. Here, there will be a significant negative impact to the property closest to the Applicant's belonging to Peter and Sally Baker. The result of the Applicant's violations of front and side yard setbacks is a decrease in sunlight and overall light and air to the Bakers' dining room, bay window, front and side yard and front stoop. It also eliminates any possible landscaping options between their property and the Applicant's as the Applicant previously 'mistakenly' erected a stone wall on the Party in Opposition's parcel prior to their ownership of the property. ANC3D recognized the specific intent of the Wesley Heights Overlay District language in §1541 to protect the light and air to adjacent properties and the Applicant's noncompliant construction infringes on that protection.

In *Clemons of St. Viator, Inc. v. District of Columbia Board of Zoning Adjustment*, 320 A.2d 291, 294-95 (DC, 1974) the Court of Appeals explained, "It is well established that a variance may not be granted, even to alleviate a bona fide serious hardship to the owner, if the granting thereof would adversely affect the surrounding neighborhood." *Clemons of St. Viator, Inc. v. District of Columbia Board of Zoning Adjustment*, 320 A.2d 291, 294-95 (DC, 1974). Even if the Applicant was able to demonstrate a 'bona fide serious hardship,' the requested relief violates the intent of the Wesley Heights Overlay District provisions in the Zoning Regulations and adversely affects the Bakers' adjacent property.

At the November 19th BZA hearing, the Board requested that the Party in Opposition provide photographs that depicted the negative impact to sunlight and light and air to their property. Vice Chair Allen specifically requested photographs showing that light [and air] used to come through the Applicant's porch. *Transcript at 198, lines 15-19*. In response, the Party in Opposition has provided Exhibit 13, numbers 1-10. Commissioner Miller requested that the Party in Opposition provide for the record dining room and bay window photographs showing the direct sunlight that was experienced prior to the new construction. *Transcript at 199, lines 7-12*. In response, the Party in Opposition has attached Exhibit 13, numbers 11-13.

In addition, the sun study (attached as Exhibit 14), confirms that the sunlight that reaches the Party in Opposition's property will be reduced or eliminated five (5) months out of the year. When considered in conjunction with the light and air that they will not receive as a result of the significantly taller structure that replaced the original home, this reduction is rendered even more impactful.

The Applicant suggests that the trees on both parcels lessen the significance of the reduction in light and air, but such reasoning is flawed. First, there are only two (2) trees in the vicinity of the nonconforming structure. The first is between the sidewalk and street in the front of the Party in Opposition's home and the second is in the front yard of the Applicant's home. Neither has changed since the demolition of the front porch and construction of the front room and yet there has been a substantial reduction in the amount of sunlight that reaches the front of the Party in Opposition's home. So much so that the front portions of the home are now constantly damp, the flowers along the front of the home did not grow this season and the sunlight previously enjoyed in the morning hours in the dining room and front porch is now gone.

The Applicant also tries to use the existence of the single tree between the street and the new structure as mitigation for the encroachment into the front yard setback. There is no provision in the Zoning Regulations that exempts him from the setback requirement by virtue of the placement of a tree in the front yard. Moreover, this tree does nothing to lessen the impact of the front porch on the Party in Opposition's property. The Applicant's reference to the tree canopy is merely an effort to dilute the fact that the adjacent parcel is negatively impacted.

The Applicant states that roughly half of the other properties on the block have nonconforming structures in their front yards. What he fails to note is that these nonconforming structures are permitted under the Zoning Regulations as the owners of the parcels did not forfeit the protection of the encroachments by razing the original structures. The Applicant razed the original structure on his parcel and thereby lost the right to build out to the original footprint. If the Applicant is allowed to keep the front room there will be significant harm to the zone plan. While the other homes referenced by the Applicant have maintained the integrity of the original structure, this will be the only parcel with an enclosed front porch within the front yard setback encroachment. A total of 21 homes front the 4500 block of Lowell Street, NW. Of these, only two (2) have a front porch and both are open and setback the requisite 13 feet. If the new structure is allowed to remain in its present form, it will be the only home on the block to have an enclosed front porch and will be setback only two feet (2').

The Applicant also attempts to minimize the harm to the Party in Opposition by claiming that the new front room is two feet (2') shorter in height and 28 feet smaller in footprint than the original porch. As testified by the Applicant, the 28-foot reduction is to make way for HVAC outside unit, this opened space provides no light to the Party in Opposition. Upon the Applicant's raze of the original structure, the Party in Opposition was entitled to the benefit of the full side and front yard setbacks so the footprint should be eliminated entirely.

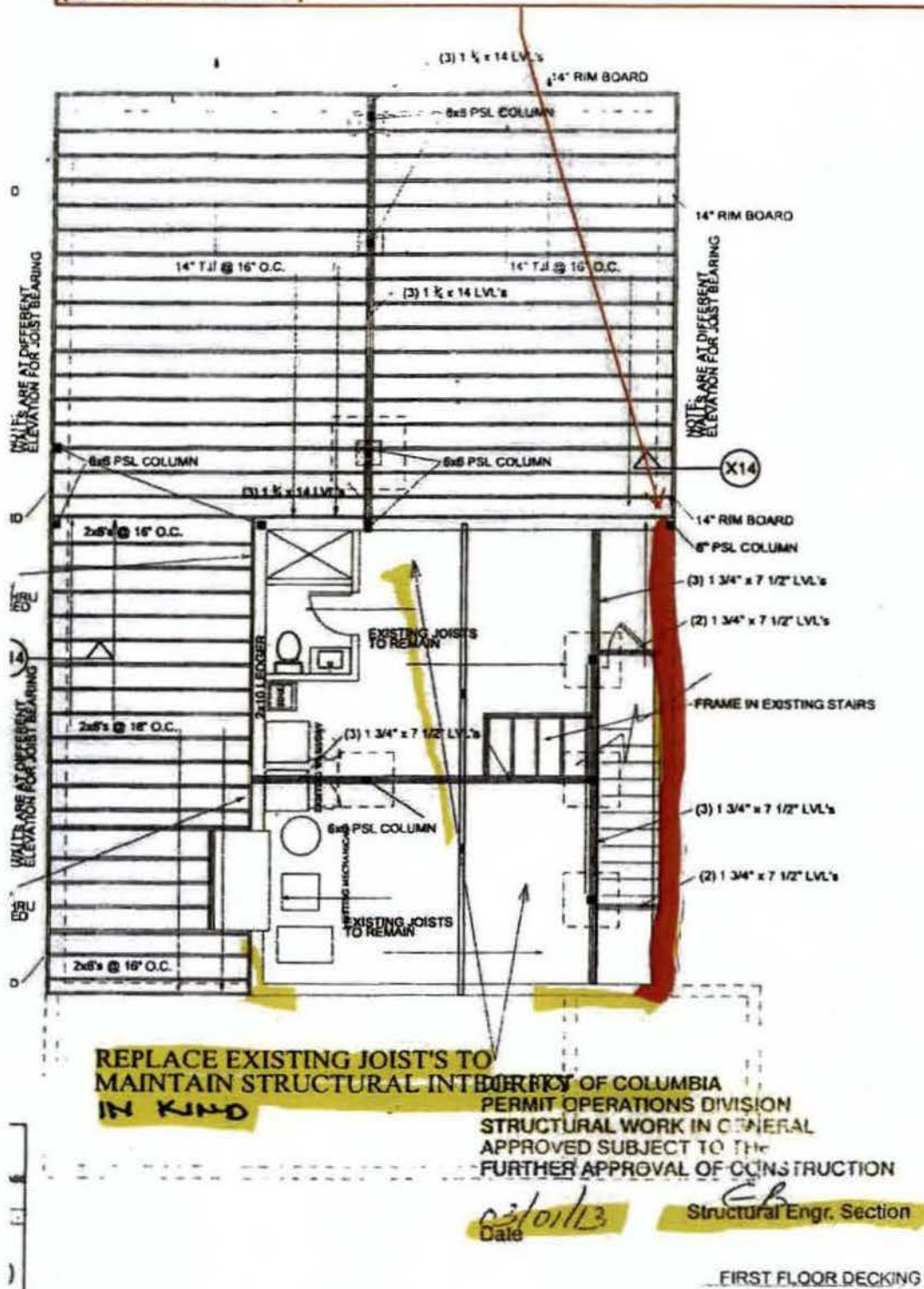
In an attempt to demonstrate satisfaction of this third prong, the Applicant points to the 13 letters of support for the project. Several of these same neighbors have rescinded their letter and submitted originally-drafted letters noting the importance of careful consideration of the effect of Applicant's encroachments on the adjoining property owners closest in proximity. It is important to note that the form letters of support were drafted by the Applicant and the language contained therein that "[i]t is not likely to have a negative impact on us or any other property owner" is clearly inappropriate as no property owner can speak to the impact of the Applicant's construction on another property owner. Finally, the Party in Opposition owns the parcel closest in proximity to the Applicant and stands to suffer the most direct harm. Their rights to the enjoyment of their parcel should not be placed second to the Applicant who knowingly violated the Zoning Regulations.

The Party in Opposition believes based on the photographic evidence, sun study and testimony provided by ANC 3D, Office of Planning and themselves, that the negative impact to their property makes the Applicant's satisfaction of this third prong impossible

For the reasons set forth above, the Party in Opposition respectfully requests that the Applicant's applications be denied

Exhibit 1: Structural drawings dated 3/1/13

03/01/2013 revised Plans Approved for replacement of Floor Joists.
No mention of exterior walls to be retained Vs. demolished
(RED HIGHLIGHTS)



SCALE:
1"=4'-0" 34x55 LAYOUT
1"=2'-0" 11x17 LAYOUT

STRUCTURAL PLANS

S1

Exhibit 2: Permit number B1304446



Department of Consumer and Regulatory Affairs

Permit Operations Division

1100 4th Street SW

Washington DC 20024

Tel. (202) 442 - 4589

Fax (202) 442 - 4862



B

BUILDING PERMIT

THIS PERMIT MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT THE ADDRESS OF
WORK UNTIL WORK IS COMPLETED AND APPROVED

Issue Date 03/01/2013

PERMIT NO. B1304446

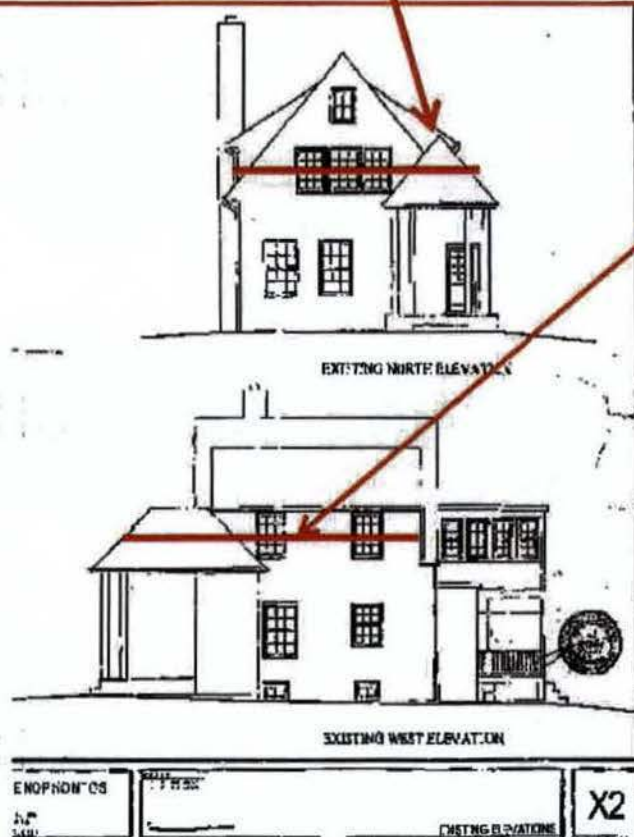
Expiration Date 03/01/2014

Address of Project 4640 LOWELL ST NW		Zone	Ward 3	Square 1608	Suffix	Lot 0820
Description Of Work: Alteration to Permit B1209664 - Upon Demolition of existing structure - integrity of proposed structure to remain-0 Pages 81, and 82 - is not structurally sound and will be replaced with new joist.						
Permission is Hereby Granted To Elodie Golrand		Owner Address: 4540 LOWELL STREET, NW 20016			PERMIT FEE: \$116.01	
Permit Type. Alteration and Repair	Existing Use: Single Family		Proposed Use. Single Family			Plans
Agent Name: Kc Price	Agent Address 1629 California Street, Nw 20009	Existing Dwell Units: 1	Proposed Dwell Units: 1	No. of Stories 2	Floor(s) Involved: 12	
Conditions/ Restrictions						
This Permit Expires If no Construction is Started Within 1 Year or If the Inspection is Over 1 Year. All Construction Done According To The Current Building Codes And Zoning Regulations, As a condition precedent to the issuance of this permit, the owner agrees to conform with all conditions set forth herein, and to perform the work authorized hereby in accordance with the approved application and plans on file with the District Government and in accordance with all applicable laws and regulations of the District of Columbia. The District of Columbia has the right to enter upon the property and to inspect all work authorized by this permit and to require any change in construction which may be necessary to ensure compliance with the permit and with all the applicable regulations of the District of Columbia. Work authorized under this Permit must start within one(1) year of the date appearing on this permit or the permit is automatically void. If work is started, any application for partial refund Lead Paint Abatement Whenever any such work related to this Permit could result in the disturbance of lead based paint, the permit holder shall abide by all applicable paint activities provisions of the 'Lead Hazard Prevention and Elimination Act of 2008' and the EPA 'Lead Renovation, Repair and Painting rule' regarding lead-based include adherence to lead-safe work practices. For more information, go to http://ddos.dc.gov, Lead and Healthy Housing.						
Director: Nicholas A. Majett		Permit Clerk Keith Hawkins				
TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICIAL, CALL THE DC INSPECTOR GENERAL AT 1-800-521-1639 FOR CONSTRUCTION INSPECTION INQUIRIES CALL (202) 442-9557 TO SCHEDULE INSPECTIONS PLEASE CALL (202) 442-9557.						

Exhibit 3: Porch Height – Original to New Comparison

Porch Height: Original to New Construction

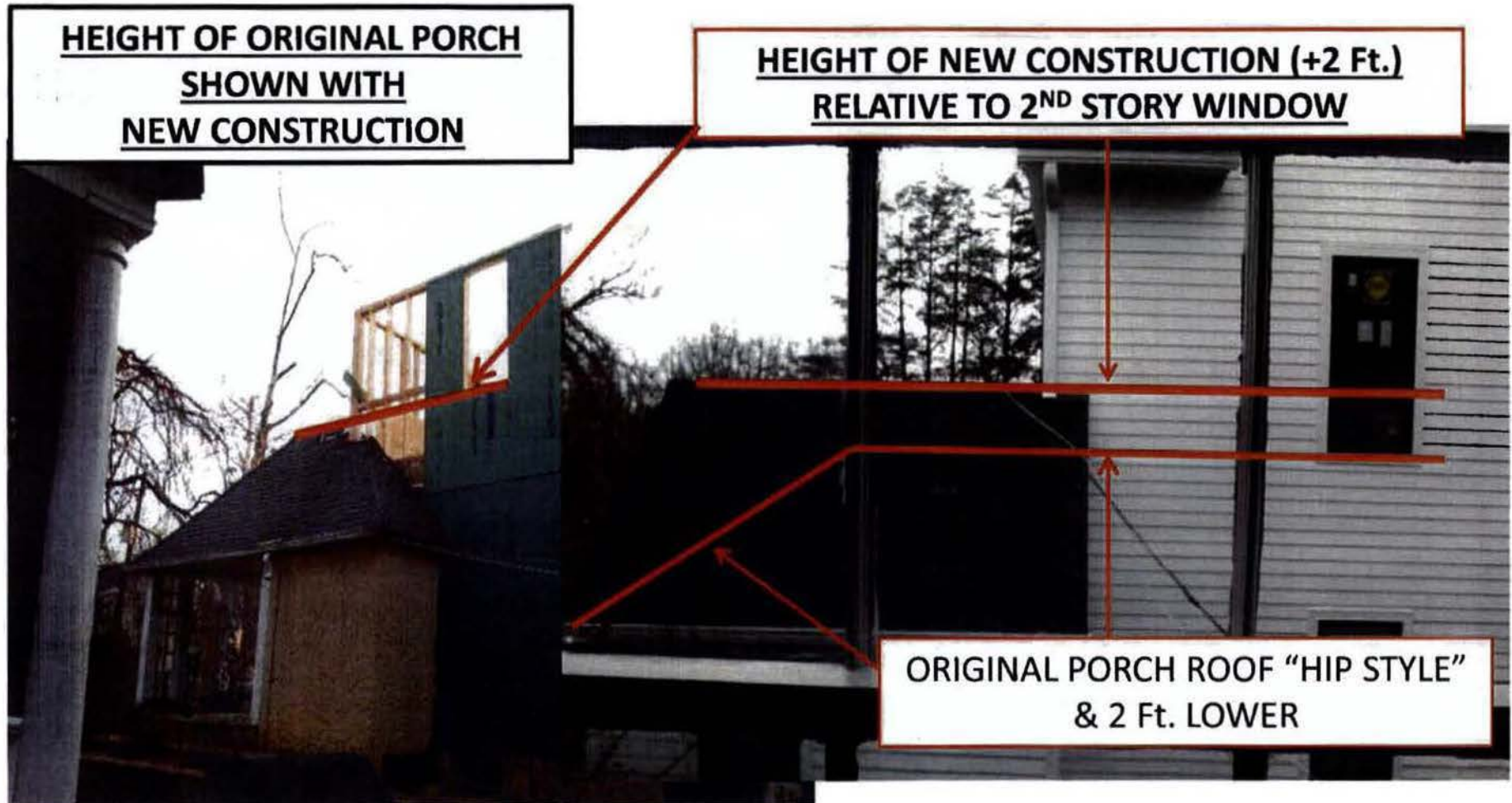
**APPLICANT'S DRAWING &
REPRESENTATION OF ORIGINAL HEIGHT
NOT ACCURATE**



HEIGHT OF ORIGINAL PORCH (photo 10/2010)



Porch Height: Comparison Original to New Construction



Porch Style as Built: Reduced Light and Air Vs. Original or Plan
View of Approved Plan A4 West Elevation

ROOF STYLE FRONT ROOM: Approved plan was for a "Pyramid Style" design allowing more light and air. As built is taller "A Frame" thereby reducing light & air



Exhibit 4: Email exchange between Rohan Reid and K.C. Price

Reid, Rohan (DCRA)

From: KC Price [kcdprice@gmail.com]
Sent: Monday, June 03, 2013 7:46 PM
To: Reid, Rohan (DCRA)
Subject: Re: 4540 Lowell Street, NW

Good Evening Mr. Reid

Thank you again for taking the time to reviewing the FAR issues with the zoning administrator. Regarding the last e-mail questioning the remains the existing structure - the 3rd paragraph from our engineer describes the state of the existing structure that was to remain and why it was clearly needed to be removed and replaced. As advised and requested by the DC inspector we obtained permit number B130446 to remove the existing structurally compromised components to insure the full integrity of the building. We were not asked nor informed that a report should be prepared or needed in order to obtain this permit. The construction sequence began with East and West walls leaving intact the existing structure that was to be maintained. It was every intention to maintain the existing portions of wall noted in the plans but upon the removal of the exterior siding and interior finishes it was clear that these items were not structurally adequate to support the shear walls needed. The construction of the shear walls as stated by the engineer would only maintain the intermediate studs and sill plate which were structurally comprised as the pictures indicate - along with inadequate rafters. The entire existing foundation/cellar walls are intact and structurally sound/uncompromised and are an integral part to this structure. Again thank you for your time in reviewing the unforeseen issues that arose with this project and do let us know if you should have further questions.

Thank you

KC Price & Andreas Xenophontos

On Fri, May 31, 2013 at 12:14 PM, Reid, Rohan (DCRA) <rohan.reid@dc.gov> wrote:

Mr. Price,

Thanks for getting back to me. We look forward to your response on Monday.

Regards,

Rohan Reid

Program Analyst | Office of the Zoning Administrator

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Government of the District of Columbia

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From: KC Price [<mailto:kcdprice@gmail.com>]

Sent: Friday, May 31, 2013 11:43 AM

To: Reid, Rohan (DCRA)

Subject: Re: 4540 Lowell Street, NW

Good Morning Mr. Reid -

Sorry for our delay in response We will be responding to your previous e-mail by end of day Monday.

Thank you for checking in.

KC Price

On Fri, May 31, 2013 at 11:30 AM, Reid, Rohan (DCRA) <rohan.reid@dc.gov> wrote:

Good morning Mr. Price

I am following up to confirm that you received the email below that was sent on Tuesday, May 21, 2013. Please let me know if you or Mr. Xenophontos can provide answers and supporting documentation in response to the questions that were asked. We are still in the process of making a determination regarding whether the existing structure was razed and the requested information will be helpful in doing so. We hope to have a decision made by Friday June 7, 2013 and look forward to hearing from you or Mr. Xenophontos.

Regards,

Rohan Reid

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From: Reid, Rohan (DCRA)

Sent: Tuesday, May 21, 2013 5:05 PM

To: 'KC Price'

Subject: RE: 4540 Lowell Street, NW

Good afternoon Mr. Price,

Thanks for providing the letter from your engineer. The letter seems to explain the removal of some portions of the structure that were to remain. Please confirm that we have the correct understanding that there are portions of the existing structure that still remains. In particular, is there more than four feet of the existing structure that still remains? If so, can you send along pictures that show those portions at a wider viewpoint with measurements? In addition, was an in person inspection done to confirm the compromised structural elements and was a report done and submitted to DCRA prior to obtaining the permit to replace the joists, etc.?

Thanks for your cooperation and patience as we work towards make a zoning decision regarding compliance

Regards,

Rohan Reid

Program Analyst | Office of the Zoning Administrator

Department of Consumer and Regulatory Affairs

Government of the District of Columbia

1100 4th Street, SW Suite E340 | Washington, DC 20024

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From: KC Price [<mailto:kcdprice@gmail.com>]

Sent: Wednesday, May 15, 2013 7:39 AM

To: Reid, Rohan (DCRA)

Subject: Re: 4540 Lowell Street, NW

Good Morning Mr Rohan

Please find the attached letter and pictures from our engineer - Robert Neubauer - that explain the deterioration of the existing structure that we had to replace. Please let me know if there is further information needed that we can provide.

Thank you,

KC Price

On Fri, May 10, 2013 at 4:13 PM, KC Price <kcdprice@gmail.com> wrote:

Good Afternoon Mr Rohan

Thank you very much for your response - we do greatly appreciate the time and effort spent in coordinating the re-review of the FAR and Height concerns.

We will be providing to you early next week the letter from our engineer and pictures that clearly indicate why we the existing structural members had to be replaced.

Thank you and we will be in touch early next week,

KC Price

On Fri, May 10, 2013 at 12:47 PM, Reid, Rohan (DCRA) <rohan.reid@dc.gov> wrote:

Good afternoon Mr Price,

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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 on 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

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From: KC Price [<mailto:kcdprice@gmail.com>]

Sent: Wednesday, May 01, 2013 1:33 PM

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To: Reid, Rohan (DCRA)
Subject: Re: 4540 Lowell Street, NW

Good Afternoon Rohan -

Unfortunately Mr Xenophontsos is traveling at the moment to retrieve his daughter from her 1st year of college. Upon his return we are happy to meet with the Zoning Administrator with our stamped set in person, but we cannot loan our original stamped set in case we do have further issues on site. I hope you can understand and thank you for your time in trying to expedite the review

Please let me know if there is anything else I can do,

Thank you,

KC Price

On Wed, May 1, 2013 at 1:16 PM, Reid, Rohan (DCRA) <rohan.reid@dc.gov> wrote:

Hi Mr. Price,

I was informed that our office has not received the requested record copy of the approved plans, B1003061 from the offsite facility. In order to expedite the review of the FAP as we discussed in our meeting, would it be possible to provide us with your set of the approved and stamped plans? I'll be sure to safeguard them if you are able to loan them to us. I want to make sure that we continue to do our part in making sure that there are no unnecessary stops in the progress of the construction.

Regards,

Rohan Reid

Program Analyst | Office of the Zoning Administrator

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From: KC Price [mailto:kcdprice@gmail.com]
Sent: Friday, April 26, 2013 2:21 PM
To: Reid, Rohan (DCRA)
Subject: 4540 Lowell Street, NW

Good Afternoon Rohan -

Thank you for taking the time to meet with Andreas and myself to discuss 4540 Lowell Street, NW. I hope that we were helpful in explaining the situation and in providing our calculations of the finished square feet.

I have spoken with our engineer and I will forward onto you the letter with his recommendation of replacing the rotten and water damaged elements.

Please let me know if you have further questions and hopefully this will be resolved in the coming week.

Thank you again,

KC Price
912 604 8951

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KC Price

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KC Price

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KC Price

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KC Price

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KC Price

Exhibit 5: Letter from Edward L. Donohue to Martin Sullivan dated 12/13/13



DONOHUE & STEARNS, PLLC

December 13, 2013

Mr. Martin Sullivan
1990 M Street, NW
Suite 200
Washington, DC 20036

Re: 4540 Lowell Street, NW – Assessment of Existing Walls

Mr. Sullivan,

On November 27, 2013, I spoke to Robert Neubauer regarding his letters dated May 9, 2013 and November 14, 2013 which your client, Andreas Xenophontos, and the Applicant in Board of Zoning Adjustment (the "Board") Case No. 18659 has submitted as proof that the condition of the existing walls necessitated their removal. Mr. Neubauer informed me that your client had instructed him not to speak with me and to direct any questions to you. This letter addresses the questions I had hoped to have Mr. Neubauer answer. Given the January 8, 2013 deadline for the exchange of the parties Findings of Fact & Conclusions of Law and supporting documents, I would ask that the information herein requested be provided before that time.

First, the May 9, 2013 letter fails to mention the dates on which Mr. Neubauer visited the site for the express purpose of assessing the structural integrity of the exterior walls. Any on-site physical inspection of the exterior walls that were purported to remain and discovery of structural problems such as rotten conditions would have necessarily had to occur between February 12, 2013 when the west exterior wall still remained intact and February 19, 2013 when it had been demolished. At the November 19, 2013 hearing before the Board, Mr. Xenophontos testified that a representative from the Neubauer firm came to the site "on several occasions." Transcript – Page 121, Lines 2-3, 8-9, 15-18. Chairman Jordan reiterated the question when he stated, "He didn't just look at the pictures, he actually came out." Mr. Xenophontos answered "yes." Transcript – Page 124, Lines 19-21. Please provide the dates and findings of these visits.

Second, the May 9, 2013 letter references the photographs that were provided by Mr. Xenophontos to Mr. Neubauer and upon which he made his assessment of the condition of the existing walls. Attached are the two (2) Power Point slides presented at the November 19th hearing that show (1) "East Wall-Existing Condition" and (2) Existing Rafter/ Roof Condition." Applicant's Power Point Presentation, Slides 23 & 24. Are these the photographs that were provided to Mr. Neubauer for the preparation of the May 9, 2013 letter? Please provide any additional photographs, notes taken during the site visit by the Neubauer representative or any other documentation upon which the assessment in the May 9, 2013 (and November 14) letter was based.

Sincerely,

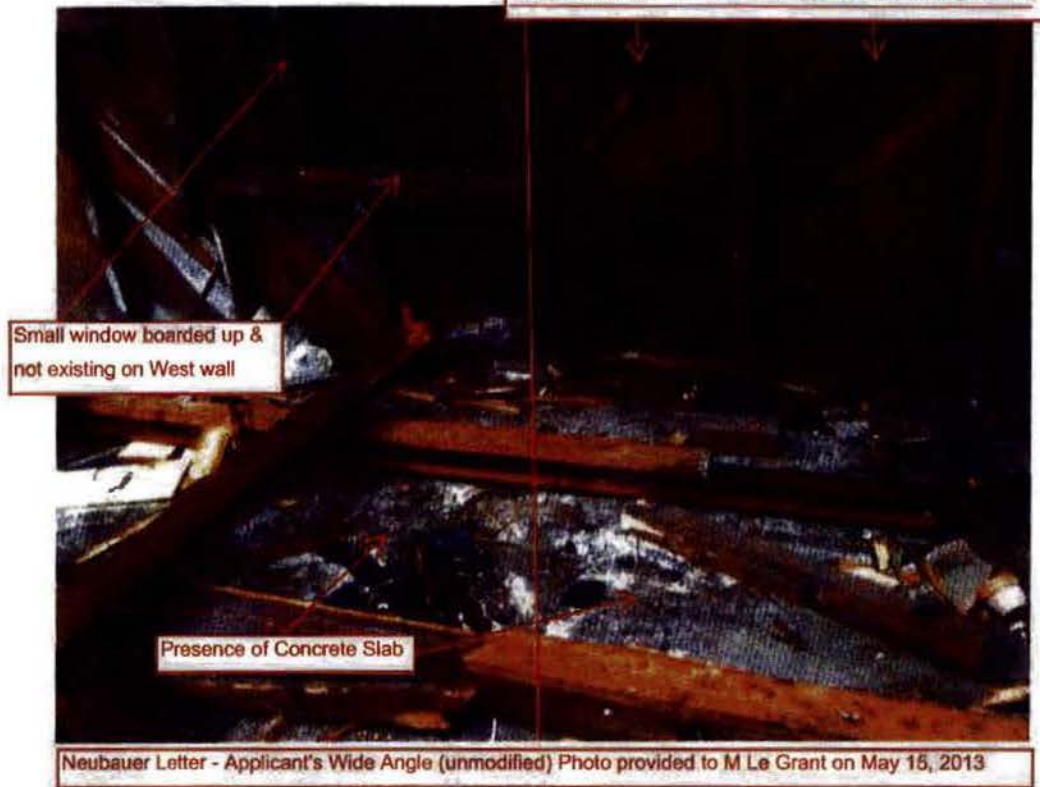
Edward L. Donohue
117 Oronoco Street
Alexandria, Virginia 22314
703 549.1123

Exhibit 6a: Applicant's slide 23



East Wall - existing condition

Exhibit 6b: Photograph provided to Matt LeGrant



EXISTING CONDITIONS

Exhibit 7a: Sill plate photograph taken by Inspector Robert Cluff

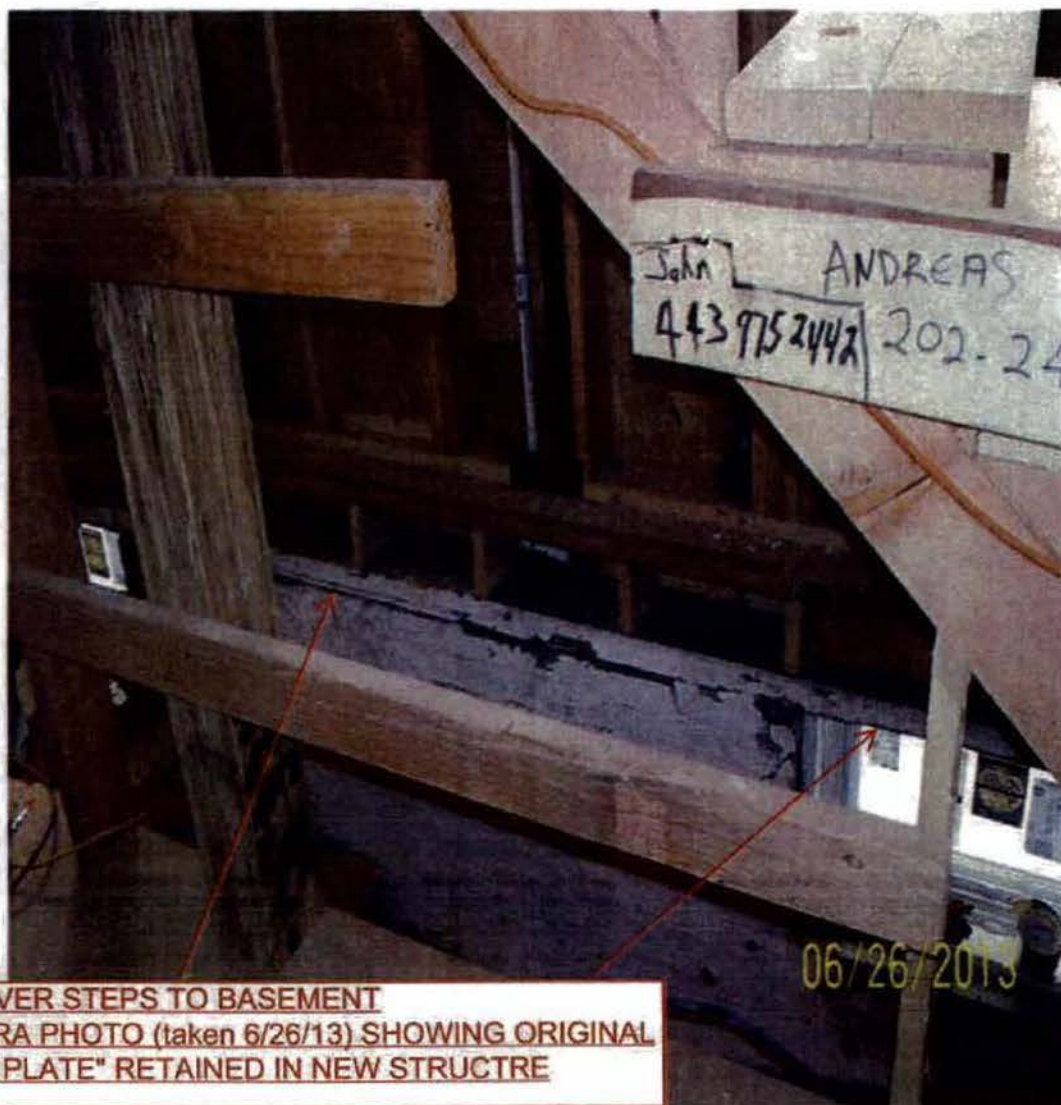


Photo # 6

6/26/13

NOI: I704956

4540 Lowell St. NW

Photo shows an interior view of the existing plate line, and the new wood framing. This area is a portion of where the walls & posts were removed in lieu of what was indicated on the approved drawings.

Robert Cluff

Badge #2009

Exhibit 7b: Sill plate photograph taken by Party in Opposition



4540 LOWELL STREET WEST SIDE (foreground):
ORIGINAL EAST, SOUTH & WEST WALLS
REMOVED, "BOTTOM SILL" RETAINED AND USED
IN NEW CONSTRUCTION (date taken 2/19/2013)

PHOTO EVIDENCE: BOTTOM SILL PLATE NOT ROTTED ON EAST, SOUTH & WEST SIDES

Exhibit 8: Inspection Report by Robert Cluff dated 6/26/13



DEPARTMENT OF CONSUMER & REGULATORY AFFAIRS

Department of Consumer and Regulatory Affairs
Inspection and Compliance Administration
1100 4th St SW, Washington, DC 20024

Inspection Report

Property Address & Unit Number	4540 Lowell St. NW
Customer	Owner/Contractor – Andreas Xenophontos
Site Representative	Andreas Xenophontos
Inspector name	Robert Cluff Badge #2009
Date & Time of Inspection	6/26/13 1:10 p.m.
CAP ID # / Permit #	CIC1301670
Inspection Type: (Check below or list) → ☐ Permit ☒ Complaint	

☒ Illegal Const.

Description

As assigned, I proceeded to the above address to post a SWO per Rohan Reid, with DCRA's Zoning Department, as requested. The SWO posting was initiated, because the owner, Mr. Xenophontos had **EXCEEDED THE SCOPE OF THE BUILDING PERMIT (B1003061) BY RAZING.**

To begin with, Mr. Xenophontos believes that his current permits allows him to remove whatever portions of the former residential structure at his leisure, if he deems the existing wood framing is either deteriorated, and/or damaged, which is not the case.

Mr. Xenophontos has an approved permit and drawing that shows a renovation of a former residential structure, but leaving a small covered porch structure in the front that was the former entrance and some additional walls throughout. Mr. Xenophontos decided that leaving this area would obviously not fit in to his design, so he decided to completely remove the small covered porch structure and completely rebuild it with new wood framing, which he knew wasn't allowed, because I had spoken with him on at least two (2) different occasions addressing this issue.

I've been to the above address on at least four (4) different occasions to address a multitude of complaints that have been generated by the neighbors. Most have been unfounded, but at my initial encounter with Mr. Xenophontos, I did have him revise his then current approved drawings for removing and replacing some floor joists that were shown as "EXISTING." Mr. Xenophontos did comply, and had his then current drawings revised and received a new Building Permit (B1304446). No permits were obtained for removing the front porch or other walls that were to remain. Also at this time, I observed that the front covered porch structure was still in place, and looking at his current approved drawings, this structure was to be incorporated in with his new construction, and we discussed this extensively at that time. On my next visit, I believe it was for a height concern, I still observed the front covered porch structure was still in place. But, on my third visit I noticed that he had completely removed and reconstructed the former porch structure, which I brought to his attention, and also the additional walls that were shown to remain on building plans (B1003061). He explained, like I've noted in my second paragraph, that the structure was unsound, and it was only a couple of posts, so it's no big deal. I told him that DCRA Zoning is going to have an issue with this, but he just brushed it off. I told him that I would get back with him after I spoke with DCRA Zoning, to see if they were going to have an issue with what he did.

At some point after I arrived back at the office, I spoke with Rohan Reid, with DCRA Zoning, and

informed him what had occurred. Rohan basically told me that what Mr. Xenophontos had done was against the Zoning regulations and we need to address it. At some point after Rohan and I spoke, Rohan set up a meeting with Mr. Xenophontos to address the removal and reconstruction of the covered porch area along with the additional walls that were removed. Also, there were other Zoning concerns that Rohan discussed that stemmed from the neighbor's complaints about the construction. The meeting, which I don't remember at what date this occurred, was to convene at the DCRA Zoning conference room. Basically, Rohan informed Mr. Xenophontos that he was possibly in violation, and he might have to go BZA for review, have his drawings revised, and obtain a new permit, if approval was granted. Mr. Xenophontos was a little shocked, but did admit to the removal and reconstruction of the covered porch structure and other walls that were to remain, but still insisted that he was allowed to do this, and it wasn't a big deal. I believe this meeting finished up by Rohan was going to speak with Matt LeGrant, DCRA Zoning Administrator, and get his take on this issue. I don't recall what exactly Rohan had requested Mr. Xenophontos to do from this point.

Just to make this clear, although I could have posted a SWO in the past for exceeding the scope of his building permit, I didn't, because Mr. Xenophontos did comply with my earlier request to revise his drawings, as I've stated in paragraph four (4). Further, Mr. Xenophontos new that he deviated from his approved drawings, by removing the covered porch structure and additional walls that were to remain, because we had talked about it on two (2) different occasions, and I specifically told him that he needed to get a revision, which he said he would take care of, but he insisted still that he didn't need to.

On the date of this inspection report I was tasked to post a SWO, per Rohan's request. I went to the site, and Mr. Xenophontos was there. I informed him why I was there, which he couldn't believe, so he wanted to go back through the whole scenario again, about why he removed the covered porch structure. As we walked through this scenario again, he still insist that his drawings, and permits allowed him to remove the covered porch structure, because now he insist he only removed two (2) wood columns. I told him that we have looked at this in the past, and you know that you removed more than what was allowed, but he still doesn't see it that way.

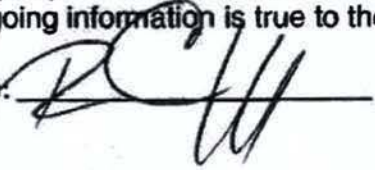
I understand that Mr. Xenophontos has stated that he doesn't think he's in violation since I didn't mention to him that he was, but this is totally false. I've noted several times about the times we've spoken of the removal and reconstruction of the covered porch structure and additional walls that were to remain, and Rohan and I spoke of this at the meeting we held, so he can't go there!

At any rate, I posted the SWO on the front door glass, and told Mr. Xenophontos that everyone would have to leave the site. He asked if I could come the next day and post the SWO, but I told him no, that's not appropriate; I was here now as I was tasked to do. Further, I told him that if he wanted to try and speak with Rohan Reid, and/or my current supervisor, Ferdinand Gamboa, he could. He told me that he was going down to DCRA as soon as I was done. I told him good luck, and I would probably see him soon.

NOI to follow.

Designated this property as Blighted? ☐ YES ☒ NO

This inspection summary report was prepared in the regular course of business of DCRA and is maintained in the files of the Inspections and Compliance Administration. It accurately reflects the condition of the property on the date written above. The undersigned declares under penalty of perjury that the forgoing information is true to the best of my knowledge, information, and belief.

Inspector Signature: 

Badge #: 2009

Date: 6/26/13

Exhibit 9: Timeline

4540 LOWELL ST. ON-SITE INSPECTION RECORD

TIMELINE OF EVENTS - ILLEGAL CONSTR. INSPECTIONS, DEVIATION FROM PLAN AND DCRA ORDER & NOTICES

R. Cluff ILLEGAL INSP. TIME-LINE	ACTION/EVENT DATE	ACTION/EVENT DESCRIPTION
EXTERIOR WALLS DEMOLISHED	Feb. 12 to Feb. 18, 2013 (7 days)	MAIN HOUSE ONLY - BEGIN DEMOLITION PERIOD (7 DAYS), REMOVE 100% ALL WALLS OF MAIN HOUSE, NO REPORTING OF PLAN DEVIATION OR STRUCTURAL DEFICIENCY TO ZONING ADMINISTRATOR
BEGIN NEW CONSTRUCTION	Feb. 19 to Apr. 03, 2013	COMMENCEMENT OF NEW CONSTRUCTION (FRAMING) FOR MAIN HOUSE ONLY, 42 DAYS TO FRONT PORCH DEMOLITION
1	February 27, 2013	R. Cluff Illegal Construction Inspector, Visit #1 identified demolition work beyond scope of permits, Applicant instructed by Cluff to revise drawings and permits to reflect full extent of demolition new construction.
		BZA Transcript pp 130, line 14-16 Applicant testified that he verbally informed Robert Cluff of his demolition of exterior walls, yet to avoid early raze determination March 1 Permit does not reflect demolition of exterior walls.
NEW BUILDG. PERMIT ISSUED # B1304446	March 1, 2013	As instructed by R. Cluff, Applicant submits revised drawings (S1, S2 & D1) and permit application to DCRA which reflect structural deficiency of FLOOR JOISTS (ONLY) . To avoid early raze determination by DCRA, no revision to plan for demolition of exterior walls .
2	March 12, 2013	R. Cluff Illegal Construction Inspector, Visit #2 To confirm if necessary permits obtained, per Inspection Report, R. Cluff provided a warning that portions of the exterior walls & front porch must be retained
3	March 14, 2013	R. Cluff Illegal Construction Inspector, Visit #3 no current problems identified, however, per Inspection Report, R. Cluff provided a warning that portions of the exterior walls & front porch must be retained
FRONT PORCH DEMO-PERIOD	April 4, 2013 (100% IN 1 DAY)	FRONT PORCH 100% DEMOLISHED (8:08 AM), DEMOLISH & BEGIN NEW CONSTRUCTION. FRAMING COMPLETE BY APRIL 8 2013
4	April 24, 2013	R. Cluff Illegal Construction Inspector, Visit #4 at the request of Zoning for purpose of taking photos of demolition and construction activity in preparation for Rohan Reid's meeting with Owner. R. Cluff, observes the front porch demolition and reconstruction and advises Owner of concerns regarding extent of demolition of both front porch & walls.
DCRA - ZONING/INSP. T. MEETING #1	April 26, 2013	Applicant's meeting with Rohan Reid, DCRA Zoning Administration & R Cluff, Illegal Construction. K. C. Price, Owner Agent. DCRA's meeting has two topics: 1) Review compliance with FAR, Lot Occupancy, etc. ... and 2) Review extent of demolition Raze issue. R Reid identifies and communicates problem with Applicant's construction exceeding scope of Permit(s) based on extent of demolition. DCRA requests Owner to provide additional and supporting information (Engineer's Report, evidence of walls retained, etc.) necessary for its raze determination.
5	June 26, 2013 INSPECTION REPORT	R. Cluff Illegal Construction Inspector, Site visit to post SWO, take additional photos (10) and prepare INSPECTION REPORT (see Exhibit 7 attached)
	JUNE 26 2013, SWO POSTED	DCRA, Robert Cluff Issues Stop Work Order (SWO) for work exceeding permits
	July 3, 2013	DCRA Rabbiah Sabbakhan, Chief Building Official Issues Notice to Revoke Building Permits
DCRA - ZONING/INSP. T. MEETING #2	July 17, 2013	Applicant (Xenophontos, M Sullivan, KC Price) submit plans for consideration by Zoning Admin. and Inspections/Compliance. Per Mat LeGrant and Rohan Reid - Plans do not reflect full extent of demolition of exterior walls, Engineer's Report of structural deficiency deemed inadequate to support Applicant's claims. Recommend proceeding to AOH. See ZA 8/1/13 letter of re-determination
	July 18, 2013	Applicant files appeal to OAH regarding revocation of building permits, currently waiting BZA decision.
	August 1, 2013	DCRA Zoning Administrator, Matt La Grant issues redetermination letter, upheld initial decision of July 3, 2013 - Revocation of Building Permits.
6 SWO Violation	August 8, 2013	R. Cluff Illegal Construction Inspector, Visit #6 for ongoing illegal construction including Drywall, HVAC and insulation not permitted under terms of SWO. Workers (insulation) instructed to leave.

Exhibit 10: Inspection Report by Robert Cluff dated 8/8/13

[illegible]

Exhibit 11: Landscaping Estimate

Landscaping & stone works

21100 Goshen rd Gaithersburg Md. 20882

Office: 301-740-3136 cell: 240-286-9666

Email: perezlandscapingandstoneworks@gmail.com

www.perezlandscapingandstoneworks.com

January 21, 2014

Peter and Sally Baker
4546 Lowell St. NW
Washington, DC 20016

Prepare the bed of soil for the new trees with good topsoil, 20% organic manures, and leaf compost. Transplant all shrubs and trees that are in the hedge area.

\$ 1,200.00

Raise the grade to create berm/swale effect for positive drainage. Resod disturbed area.

\$ 880.00

4- Cryptomaria japonica 18' ht \$ 16,200.00

6- Thuja 'Green Giant' 18" ht \$ 11,200.00

Total \$ 29,480.00

After we finish, Perez Landscaping and Stoneworks will guarantee the planting for up to one year or with a onetime replacement.

Payments will be made as follows:

50% deposit

20% during the middle stage of the project

30% upon completion of the project

Client signature:

Exhibit 12: Letter from Matt LeGrant dated 10/10/13

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

October 10, 2013

Martin P. Sullivan
Sullivan & Barros, LLP
1990 M Street, NW
Suite 200
Washington, DC 20036



Re: 4540 Lowell Street, N.W., Square 1608, Lot 68

Dear Mr. Sullivan:

I am writing as a follow-up to the meeting of October 9, 2013, between you and your client Andreas Xenophontos, the owner of 4540 Lowell Street, Jatinder Khokar, DCRA Deputy Chief Building Official, and Melinda Bolling, DCRA General Counsel. In that meeting, Mr. Xenophontos requested that he be permitted to "weatherize" a portion (the "Front Room") of his house at 4540 Lowell (the "House").

The Front Room is currently subject to a Stop Work Order as a result of certain zoning setback violations. You have applied for BZA special exception and variance relief from these setback requirements, and a hearing for that request is scheduled for November 19, 2013. If that relief is granted, the Stop Work Order would be lifted and all permitted construction could continue on the Front Room, assuming compliance with all other zoning and building code regulations.

Mr. Xenophontos noted that the weatherization of the Front Room is critical for protecting the House from water and weather damage and mold growth, not only in the area of the Front Room, but also in adjacent areas of the House. Such requested weatherization would include the installation of siding, gutters (including soffit and fascia), and downspouts. You have provided documentation in support of this request, including a letter from Mr. Xenophontos's structural engineer recommending such weatherization, photos of existing damage and areas of potential further damage, and e-mails and letters representing that certain warranties related to exposed building materials on the exterior walls of the Front Room may be voided if not covered by October 25, 2013.

Based on these factors, I have agreed to lift the Front Room Stop Work Order and allow further construction for the very limited purpose of installing siding, gutters (including soffit and fascia), and downspouts in order to protect the Front Room and adjacent areas of the House from

Martin Sullivan
October 10, 2013

water and weather damage and to protect Mr. Xenophontos' existing warranties on certain building products, including the currently exposed Zipwall® boards.

You have told me that Mr. Xenophontos fully understands that he is proceeding at his own risk in taking these weatherization actions, knowing that the Front Room may be subject to removal depending on the outcome of the BZA case and any other proceedings related to the approval of the Front Room.

Please feel free to contact me if you have any questions.

Sincerely, Matthew Le Grant
Matthew Le Grant
Zoning Administrator

Enclosures

File: Letter to Sullivan re 4540 Lowell St NW 10-10-13

8

Exhibit 13: Photographs depicting change in sunlight and light and air as a result of Applicant's removal of open-air porch and construction of powder room

04/29/2007, 2:56 PM - Front View Through
Bay Window of 4546 to Open Porch of 4540

4540 Front Porch Post



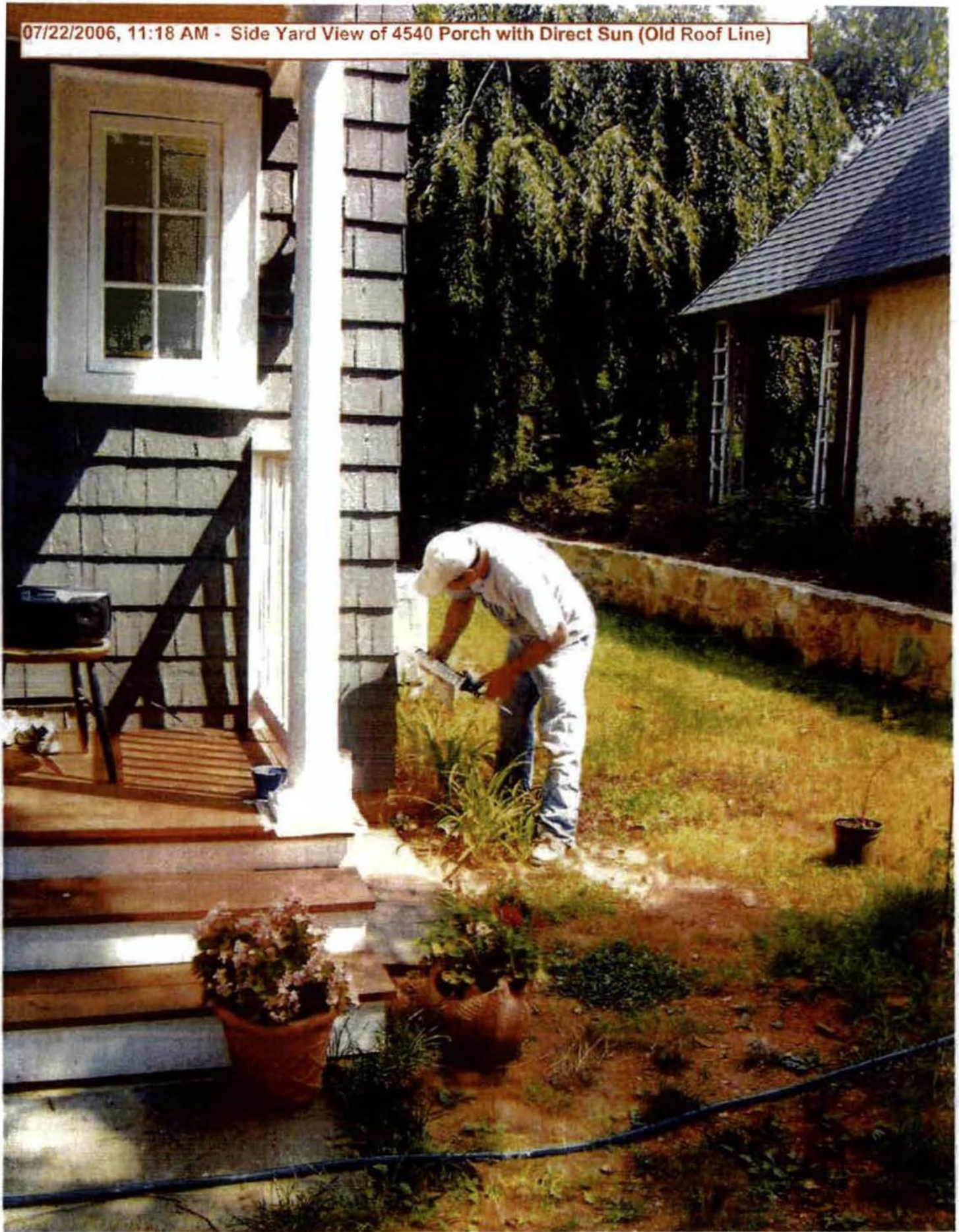
04/29/2007, 2:57 PM - Front View Through Bay Window of 4546 to Open Porch



04/16/2008, 10:28 AM - Front View
Direct Sunlight to Bay Window of 4546

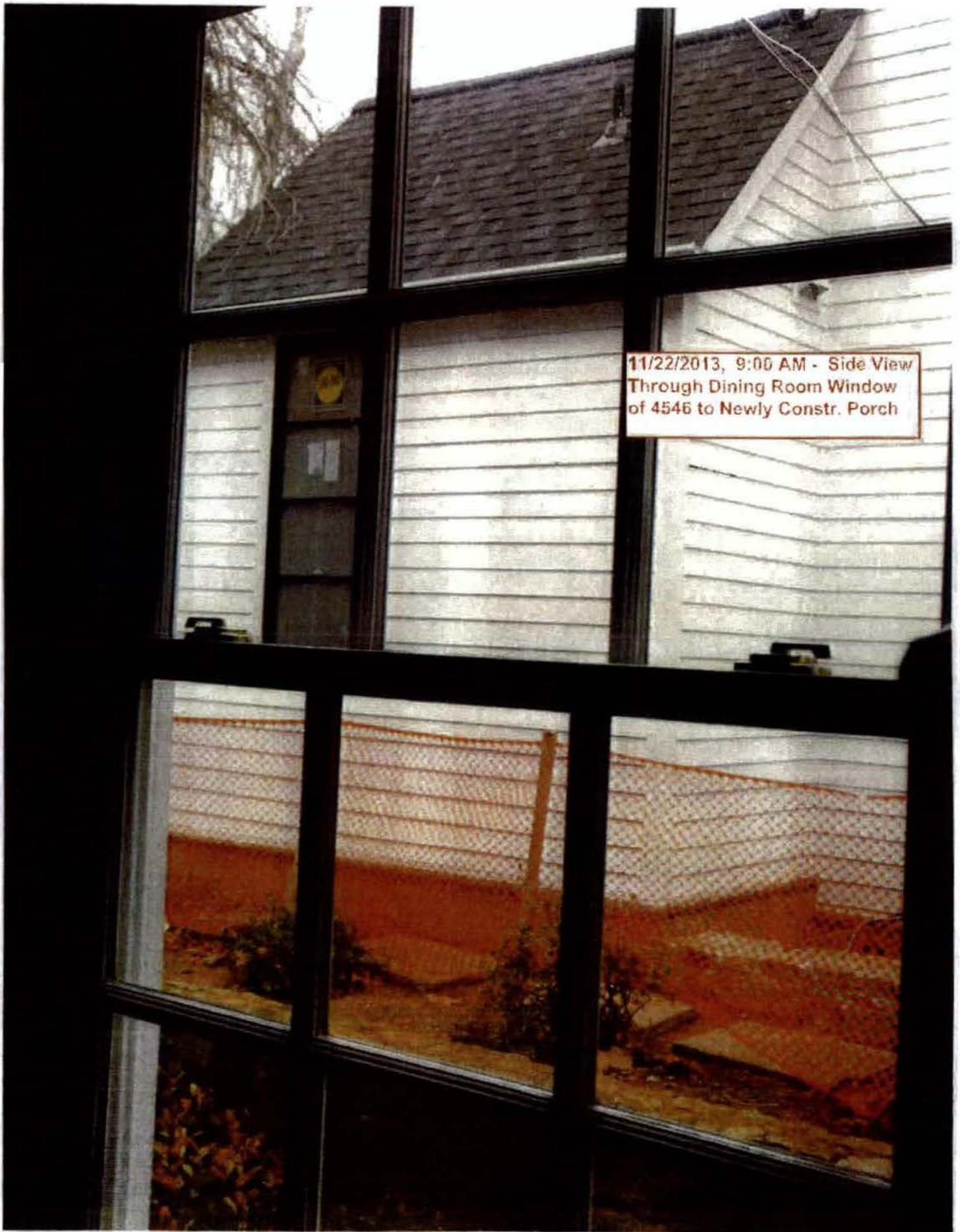


07/22/2006, 11:18 AM - Side Yard View of 4540 Porch with Direct Sun (Old Roof Line)



11/22/2013, 9:00 AM -
Side View Through Bay
Window of 4546 to
Newly Constr. Porch



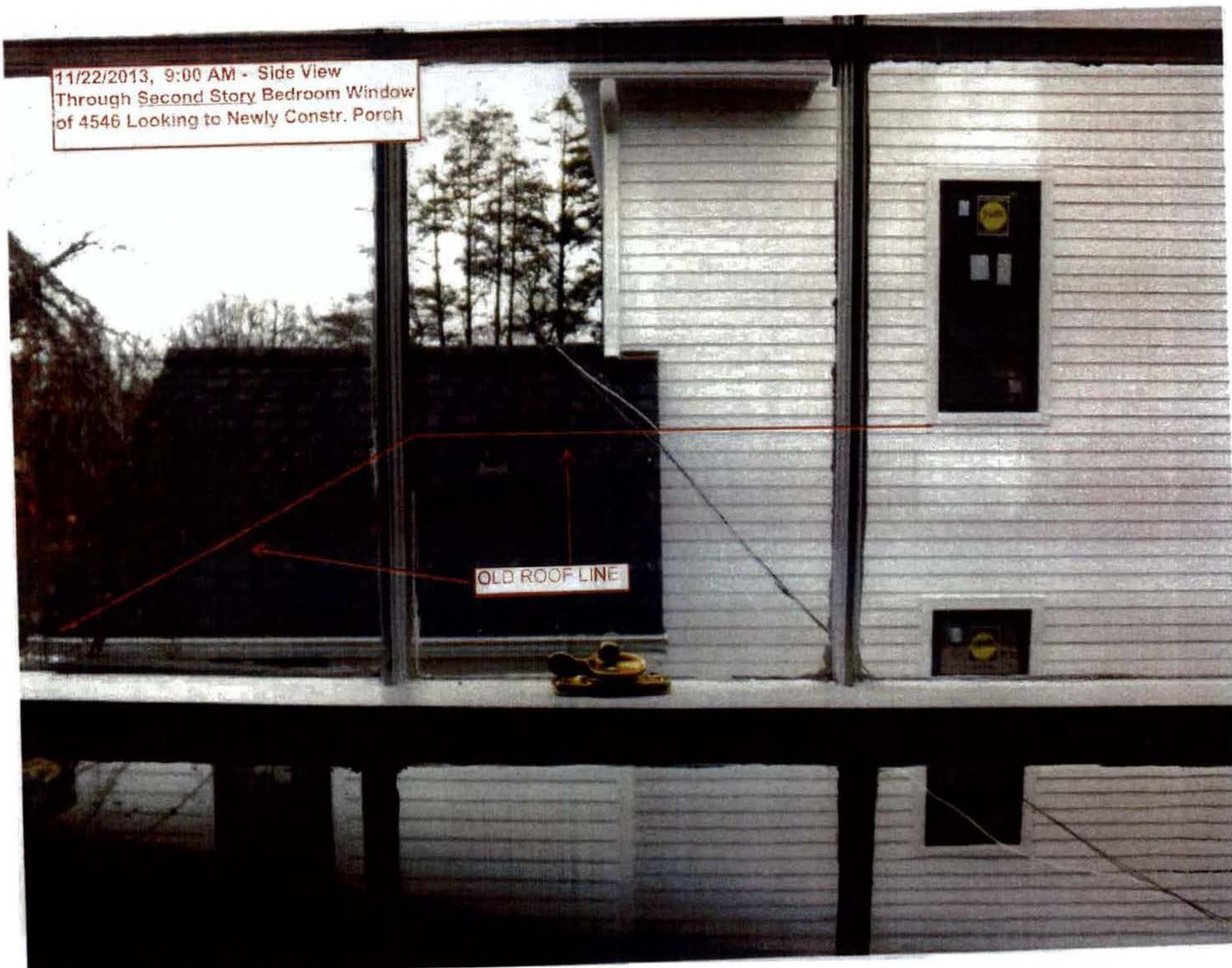


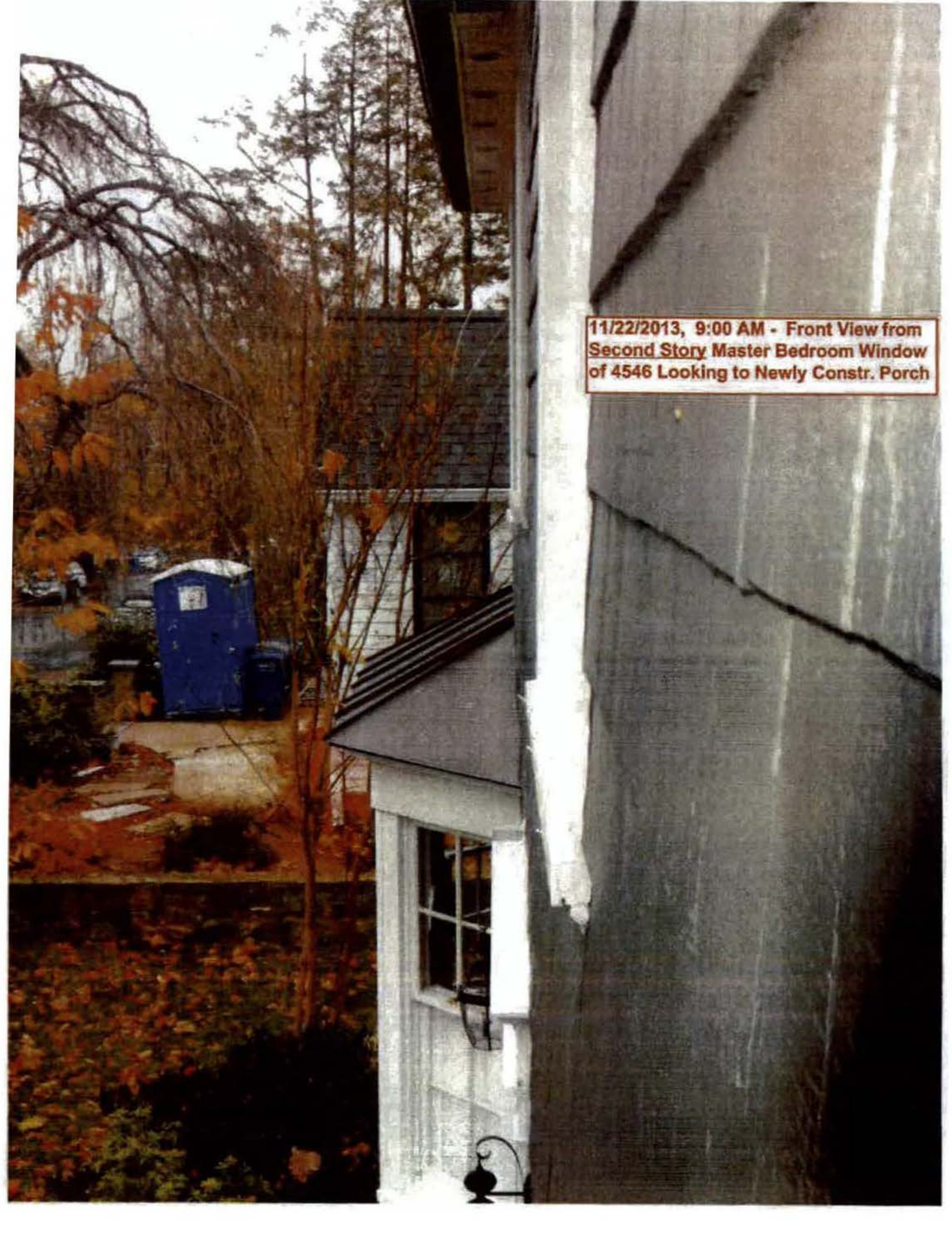
11/22/2013, 9:00 AM - Side View
Through Dining Room Window
of 4546 to Newly Constr. Porch

11/22/2013, 9:00 AM - Side View
Through Second Story Bedroom Window
of 4546 Looking to Newly Constr. Porch

OLD ROOF LINE

7



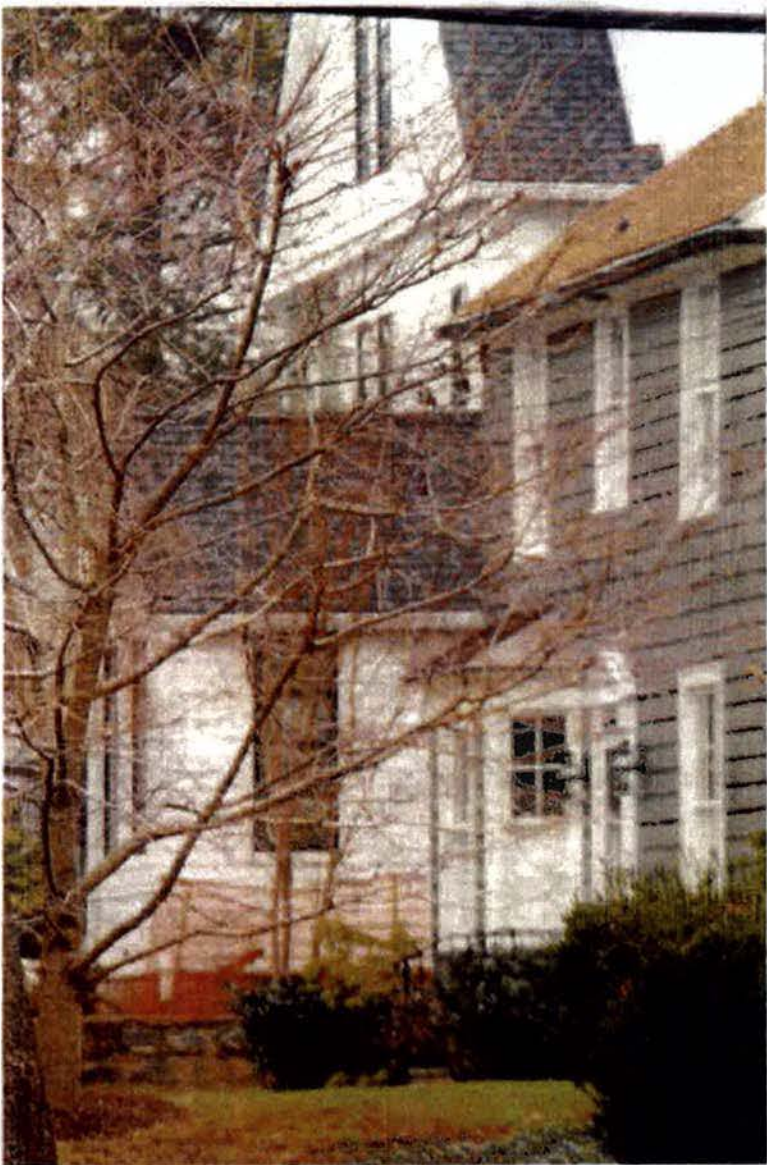


11/22/2013, 9:00 AM - Front View from
Second Story Master Bedroom Window
of 4546 Looking to Newly Constr. Porch

DATE: 04/11/2013, 7:08 AM

Note relative
change in shading:
light to dark

04/11/2013 7:08 AM Note Sun on face of front
room and illuminating inside of front room, also
light is cast across front yard



05/24/2006, 8:05 AM - Bay Window Perspective 4546 Lowell



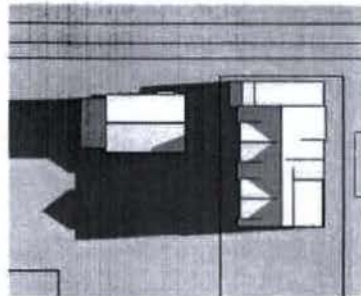
05/24/2006, 8:05 AM - Dining Room Window Perspective 4546 Lowell



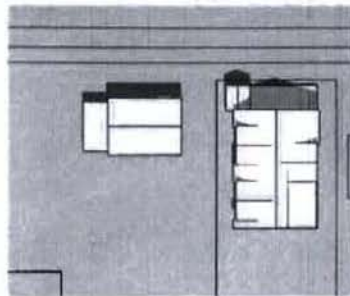
05/24/2006, 8:05 AM - Second Floor Window View of 4540 Porch (Old Roof Line)



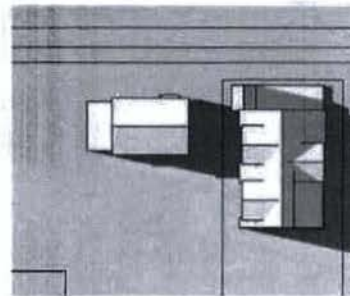
Exhibit 14: Sun Study



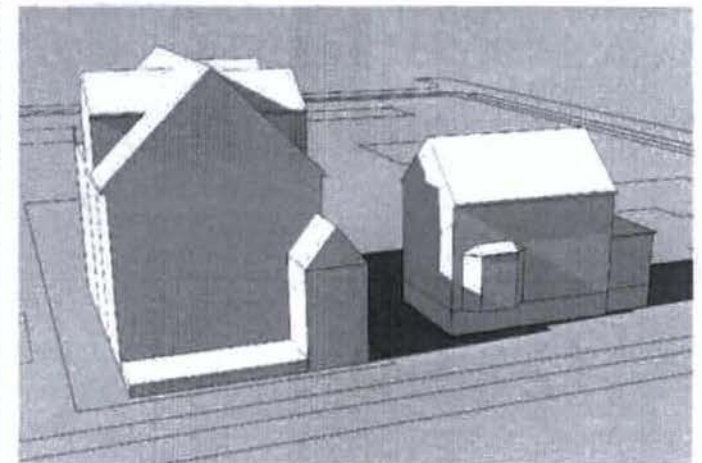
SUMMER SOLSTICE 7:30AM



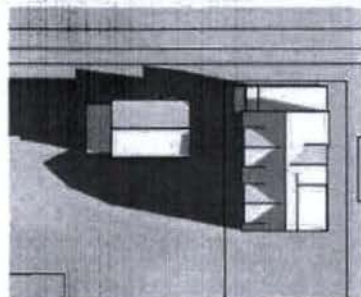
SUMMER SOLSTICE 12:00PM



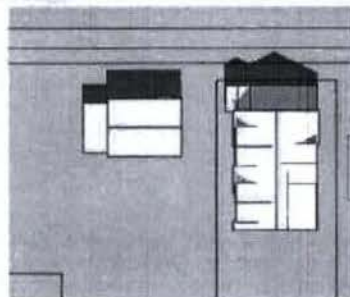
SUMMER SOLSTICE 5:00PM



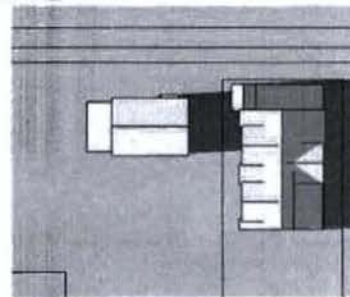
SUMMER SOLSTICE PERSPECTIVE 7:30AM



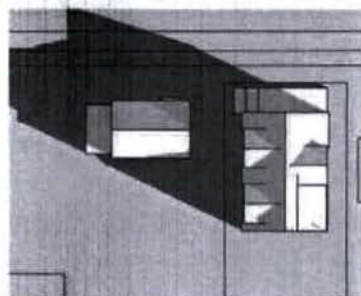
AUGUST 21 8:00AM



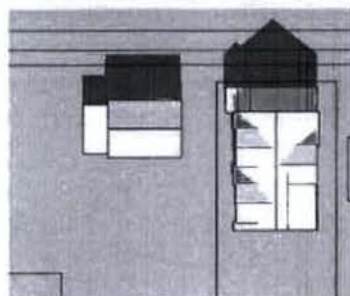
AUGUST 21 12:00PM



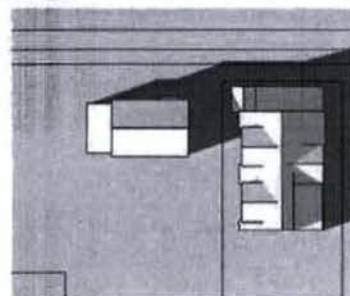
AUGUST 21 4:00PM



EQUINOX 8:30AM



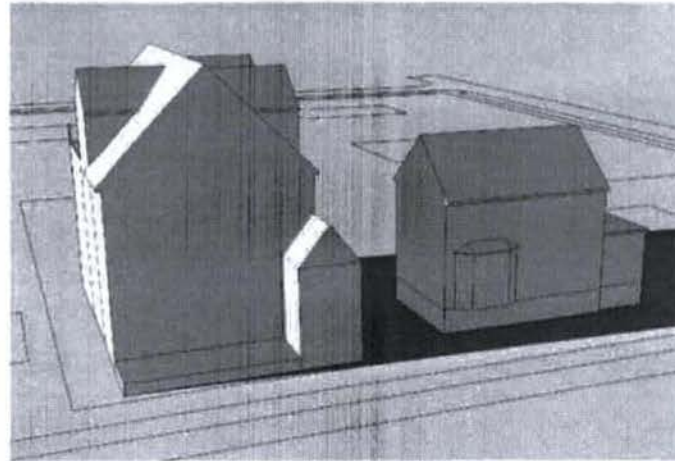
EQUINOX 12:00PM



EQUINOX 4:00PM

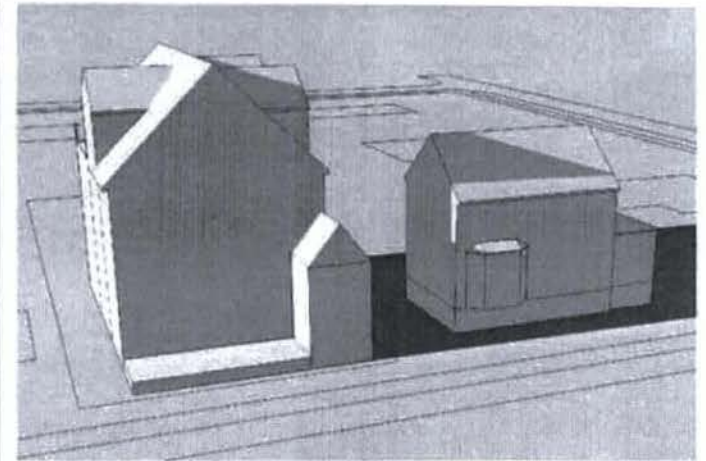
LOWELL STREET NW | SHADOW STUDIES

PERSPECTIVE WITH
FRONT ROOM



MARCH 21

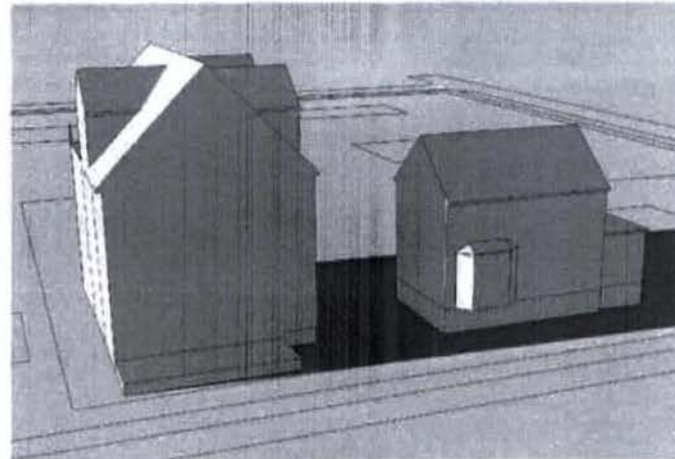
6:15AM



AUGUST 21

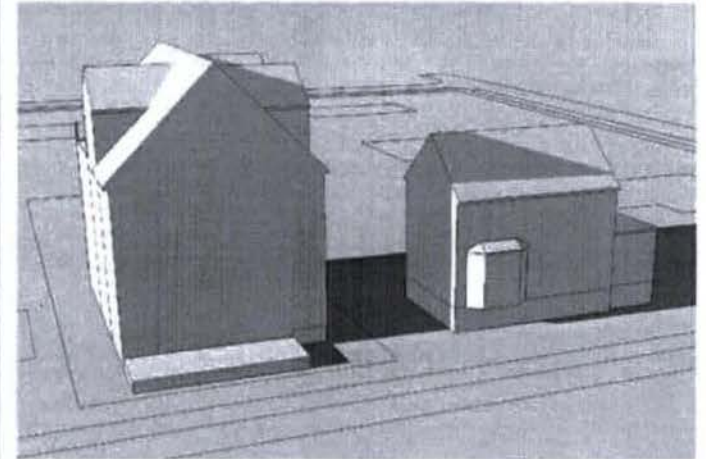
7:00AM

PERSPECTIVE WITHOUT
FRONT ROOM



MARCH 21

6:15AM



AUGUST 21

7:00AM

LOWELL STREET NW | SHADOW STUDIES