

**BEFORE THE BOARD OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA**

Application of the 1626 29th Street NW Trust
ANC 2E

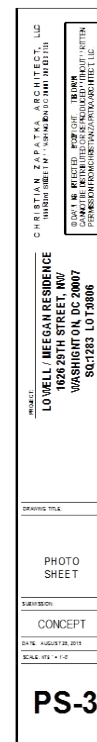
Case No. 19097
Hearing Date: October 27, 2015

Applicants' Response to One Neighbor's Opposition

On July 24, 2015, the 1626 29th Street NW Trust ("Applicants") applied for a special exception to construct a modest addition to the rear of their semi-detached house at 1626 29th Street NW. See Application No. 19097. On August 31, The Old Georgetown Board approved the concept design based on drawings submitted less than one week before, without requiring an oral presentation by the architect. The Advisory Neighborhood Commission ("ANC") has no objection to the project, and, as a group, decided that there was no need to put this small proposed addition on the agenda for discussion at its public meeting. Applicants and their architect, Christian Zapatka, reached out to both the northern and southern neighbors to share the architectural drawings for the addition, as well as plans by a well-known landscape architect, Jane MacLeish, for developing the front and back gardens. The southern neighbors, whose home and garden are adjacent to and actually attached to Applicants' home and garden, have written a letter of support for the project. The northern neighbor, Mrs. Dolly Chapin, who lives in a detached home on property graded three feet above Applicants' property, with its own rear addition that is significantly taller and deeper than Applicant's proposed addition, has objected.

Mrs. Chapin filed a letter with the BZA opposing the request for a special exception. That letter sets forth two arguments against the proposed addition: 1) the addition exceeds the lot occupancy standards; and 2) granting a special exception would set an "alarming

First, these arguments are not specific to this property and would apply to any request for a special exception to exceed lot occupancy requirements that comes before the BZA. Second, Mrs. Chapin's concern about setting an "alarming precedent" is belied by the fact that both Mrs. Chapin and the immediately adjacent neighbor to 1626 already have additions to the back of their homes. The neighbor to the south, whose home is attached to Applicants', has a modest addition and has written a letter of support for Applicants' proposed addition. Mrs. Chapin's home, in contrast, has a two-story addition (shown on the top house in the photo below), which, ironically, also houses a kitchen and family room and extends far above and beyond Applicants' proposed one-story kitchen/family room addition.





PROJECT: LOWELL / MEGAN RESIDENCE 1626 29TH STREET, NW WASHINGTON, DC 20007 SQ. 1283 LOT 0806	
DRAWING TITLE:	
PHOTO SHEET	
SUBMIT: CONCEPT	
DATE: AUGUST 2015	
SCALE: 1/8" = 1'-0"	
PS-4	

As shown in the photo above, Mrs. Chapin's two-story addition, with oversized windows looking down into Applicant's property and of a style that is not consistent with the existing architecture and history of her home, may set the alarming precedent. Applicant's proposed one-story addition does not provide a new vantage point into Mrs. Chapin's home, affect the light or air available to her property, or cast any shadow on her property.

Mrs. Chapin asserts that Applicants' request for a special exception is highly irregular and precipitous because the Zoning Regulations were amended last year. While the Zoning Regulations were amended, those amendments did not alter the lot occupancy standards or the special exception standards relevant here. The regulations set forth the procedures for review and granting of special exceptions of this type, the process undertaken here. This is not an irregular request; it is one specifically provided for in the

current regulations. Indeed, the proposed addition fits squarely within BZA precedent granting similar special exceptions in multiple previous cases.

Standard of Review

Applicants are seeking a special exception to construct a small, one-story addition to a single family dwelling in an R-3 District. The proposed addition will exceed the lot occupancy requirements of § 403 of the Zoning Regulations (Title 11 DCMR) by 3.8%, or 110 square feet, but it will comply with all other zoning requirements, including the rear yard. The proposed addition is 12 feet deep (not 18 feet as claimed by Mrs. Chapin¹), resulting in a rear yard depth of approximately 25 feet, which is well in excess of the 20 foot minimum. This is a small project intended to allow the Applicants to gather in their kitchen/family room to share daily life, meals, homework, and family time.

Pursuant to 11 DCMR § 3104.1, the BZA “is authorized . . . to grant special exceptions, as provided in this title, where, in the judgment of the Board, the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps.”

When evaluating requests for special exceptions, the BZA determines whether the applicant has met the requirements of the special exception sought. Once that showing has been made, the Board ordinarily grants the application. *See Georgetown Residents Alliance v. District of Columbia Bd. of Zoning Adjustment*, 802, A.2d 359, 363 (D.C. 2002); *National*

¹ Mrs. Chapin mistakenly argues that a six-foot wide landing and three steps leading into the garden should be counted as an additional six feet of expansion. The Zoning Regulations exclude uncovered landings and stairs from the calculation of lot occupancy percentage. 11 DCMR § 199.

Cathedral Neighborhood Ass'n v. District of Columbia Bd. of Zoning Adjustment, 753 A.2d 984, 986 n. 1 (D.C. 2000).

As noted in the initial application, the requested special exception is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps. The proposed addition will not change the residential use of the building, will restore original detailing to the residence, and is designed to echo the existing architecture and materials of the exterior of the home. The plan will restore and increase the green space on the property. The addition will not be visible from the street and only minimally visible from the rear alley. The proposed addition is, in total, only 204 square feet. Indeed, the current request for a special exception seeks permission to exceed lot occupancy restrictions by 3.8% - only 110 square feet.

Nonetheless, the northern neighbor of Applicants' property is objecting to the proposed addition. Her objections are baseless.

Argument

Under Zoning Regulations § 223.1 and 223.2, an addition to a one-family dwelling shall be permitted even though it does not comply with applicable area requirements (such as the lot occupancy) if approved by the Board as a special exception, subject to it not having a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property. While Mrs. Chapin attempts to fit her opposition within this language, the facts do not support her arguments.

- A. The Light And Air Available To The Northern Neighbor's Property Will **Not** Be Affected.

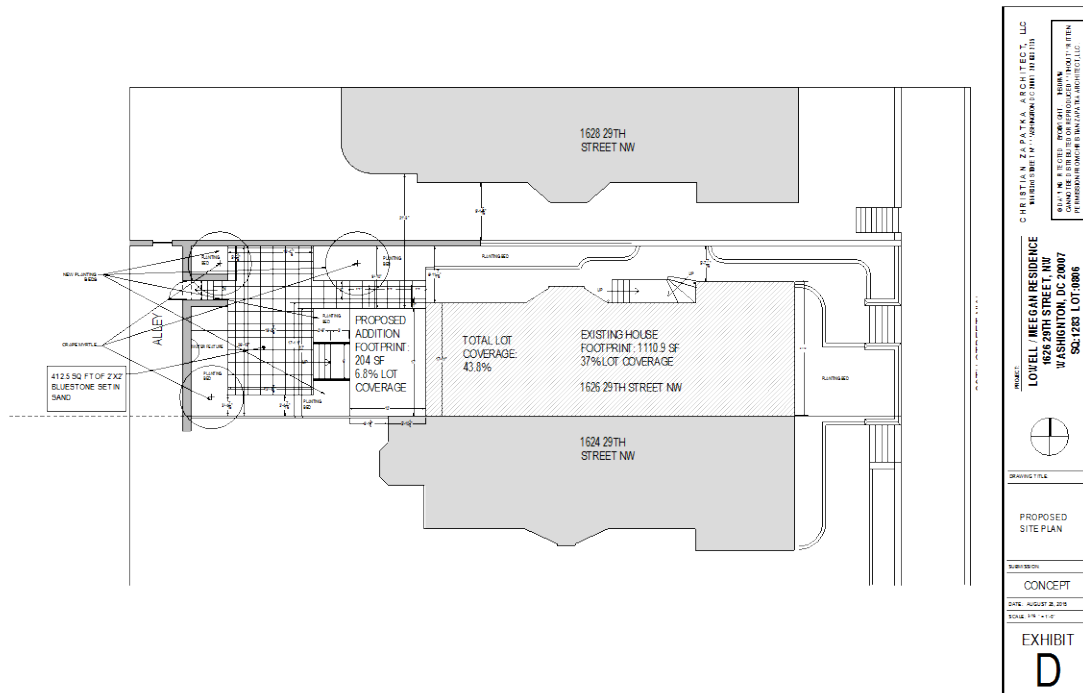
Applicants' home and the house to the north are separated by more than 18 feet of open space. To start with, Mrs. Chapin's home and property are sited three feet above the grade of Applicant's home and property, as shown on the photos below.



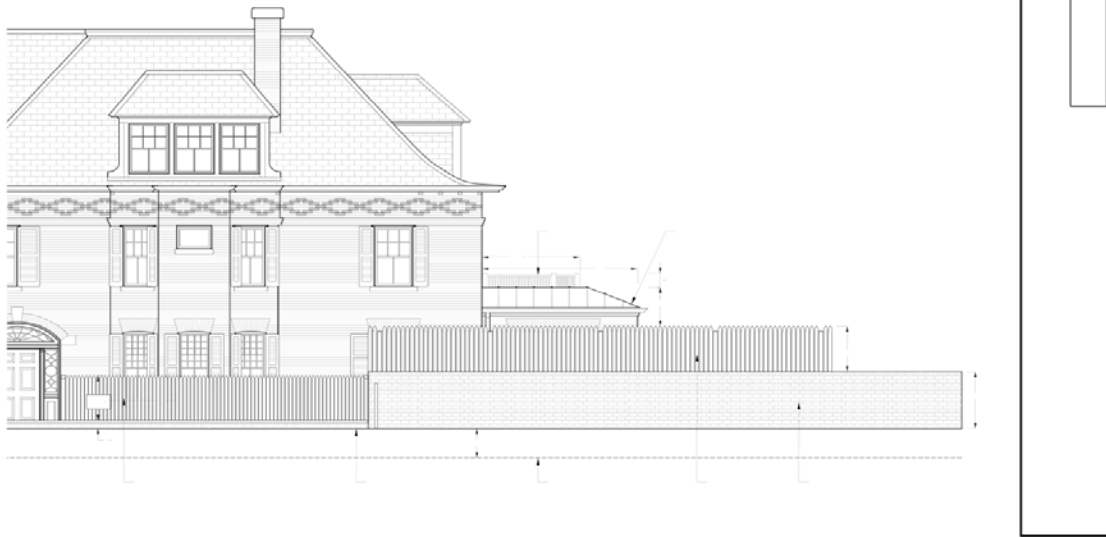
There are several trees and various other plantings between the two houses, and a nine-foot brick and wood fence that sits atop the three-foot grade increase between the properties.



The proposed addition is one story, and sits far below the dwelling's existing roof pitch. The rear yard is conforming and will be improved with substantial plantings and greenery.



Little more than the copper roof of the proposed addition will extend above the fence line, as illustrated below.



With significant space between the properties, the small size of the proposed addition, and the improved rear and side gardens, air flow to the northern property will not be impeded or negatively affected in any way if the special exception is granted. *See BZA Application No. 18294 of Paul and Emily Thornell, decided Feb. 7, 2012 at 4 (finding that a proposed addition did not significantly affect light and air at neighboring property when the proposed addition was below the height of the dwelling's existing roof, there was a seven-foot wide side yard and a conforming rear yard.)*

Nor will light available to the northern property be affected. The proposed addition is less than 15 feet tall. Only the top of the addition, primarily the copper roof, will be visible over the fence between the properties. (See above and initial Application.) In contrast, the northern property currently has a very large, two story addition appended to the back of that house that towers both above and beyond the site of the proposed addition.



C H E R I T Y A N D A S S O C I A T E S, L L C 1626 29TH STREET, NW WASHINGTON, DC 20007 900.726.1070	1626 29TH STREET, NW WASHINGTON, DC 20007 900.726.1070
PROJECT: LOWELL / MEEGAN RESIDENCE 1626 29TH STREET, NW WASHINGTON, DC 20007 900.726.1070	
SHEET TITLE: PHOTO SHEET	
CONCEPT SITE: 1626 29TH STREET, NW 900.726.1070	
PS-4	

Not surprisingly, a shadow study commissioned by the Applicants shows that the addition will cast no shadows and will have no effect on the light available to its northern neighbor. See *Exhibit A* and BZA Application No. 18000 of Christopher and Jean Whaley, decided Nov. 24, 2009 (finding for the applicant when the neighboring dwelling to the north had a three-story rear addition of more solid massing than the proposed addition); BZA Application No. 17355 of Joseph and Regina Stettinius, decided Oct. 11, 2005, at 3 (finding for the applicant when shadow study showing only minimal affects on light at the neighboring property.)

The argument that a small, one-story addition that is 12 feet deep and less than 15 feet high, sits three feet below the neighboring property and behind 12 feet of fencing and brick wall, and is more than 8 feet away from Mrs. Chapin's property line and 18 feet from her home, will cast a shadow or interfere with the light and air available to that neighbor is without any grounding in fact. Indeed, it is Mrs. Chapin's property, with its own huge, two story addition that looms over and affects the light and air available to 1626 29th Street.

The real facts and equities of the situation illustrate the lack of substance, indeed the stark double standard, of Mrs. Chapin's opposition.²

B. The Privacy Of Use And Enjoyment Of The Northern Neighbor's Property Will Not Be Compromised.

Mrs. Chapin notes that other construction projects are expected in the neighborhood. While Applicants understand Mrs. Chapin's desire to minimize construction in Georgetown or nearby properties generally, it is a fact of life that homes built more than a century ago will need some maintenance and updating in order to ensure that the neighborhood continues to thrive and keep its current property values.

Mrs. Chapin also asserts that, while she will only see the copper rooftop of the proposed addition, she would still feel its volume and have her privacy affected. The privacy of use and enjoyment contemplated by 11 DCMR §223.2(b) is aimed at proposals that would provide significant new vantage points to view inside adjoining properties. In this case, the proposed addition has one window on the northern side, which does not provide any vantage point into Mrs. Chapin's property. Indeed, the window faces a three foot grade up to Mrs. Chapin's property, topped by a nine foot fence erected between the properties. That fence would allow only the very top of the proposed family room, which consists of a quite lovely copper roof, to be visible from Mrs. Chapin's property. To argue that six-feet of a roofline, which is consistent with the existing architecture of the home, would interfere with Mrs. Chapin's privacy and use of her property is simply not accurate.

See BZA Application No. 18294 at 4 (noting that the addition will not cause an undue impact

² Mrs. Chapin attempts to gloss over the inherent unfairness of her opposition, given the huge and imposing addition to her own home, by stating that her addition was built on an existing brick terrace to her home. Applicant's proposed addition will be built on an existing flagstone terrace as well, although that fact does affect the zoning analysis.

on privacy of use and enjoyment when one side of the proposed addition had no windows and the other side had windows that were reduced in size and separated from the adjacent property by a seven foot side yard.)

In contrast, and as explained above, Mrs. Chapin's property has a two-story kitchen/family room addition that is far higher and extends far deeper than Applicants' proposed addition, and has multiple huge, oversized windows looking down upon the Applicants' property and the site of their proposed addition. Mrs. Chapin's opposition is patently unfair, and is so inaccurate that it borders on the frivolous. *See BZA Application No. 18000 at 4 (rejecting neighbor's opposition to proposed addition based, in part, on the fact that neighbor's property had multiple windows looking into the applicant's property.)* In sum, the Zoning Regulations do not contemplate denying applications that have no effect on the light, air, or privacy of use and enjoyment on a neighboring property. This is especially true when the equities of the situation do not favor the opposing party.³

Conclusion

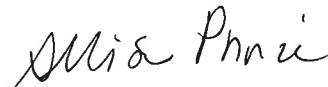
"Special exceptions, unlike variances, are expressly provided for in the Zoning Regulations." *Stewart v. D.C. Bd of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973). The BZA must determine whether the proposed exception satisfied the requirements of the regulations. *First Washington Baptist Church v. DC Bd. Of Zoning Adjustment*, 423 A. 2d 695, 701 (D.C. 1981). If it does, the Board must grant the application. *Stewart*, 305 A.2d at 518.

³ Oddly, Mrs. Chapin suggests that Applicants should consider reconfiguring other rooms in their house, especially the kitchen, to accommodate their needs. The current application is seeking to accomplish precisely that. To the extent Mrs. Chapin thinks the Applicants should reconfigure a bedroom or the basement to create a kitchen/family room, it is worth noting that she did not choose to do that in her own home.

In their application for a special exception, Applicants demonstrated that the proposed addition was in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and would not adversely affect the use of the neighboring property. Indeed, the southern neighbor, whose residence actually adjoins Applicants, supports the proposed addition. While the northern neighbor has voiced opposition to the application for a special exception, that opposition is not based on the facts or the law and is based on an inappropriate double standard given her own two-story kitchen/family room addition to the rear of her property. It should not influence the Board in its decision.

Applicants are very excited to be joining the warm and vibrant community that is Georgetown. They intend to be good neighbors and to contribute to the community by among other things, creating another beautiful garden and maintaining their home in accord with its history and tradition. And they look forward to getting to know and supporting all their neighbors, including the northern neighbor.

Respectfully Submitted,
GOULSTON & STORRS, PC

A handwritten signature in black ink that reads "Allison Prince".

Allison Prince

A handwritten signature in blue ink that reads "Cary Kadlecek".

Cary Kadlecek

EXHIBIT A

CHRISTIAN ZAPATKA

ARCHITECT, PLLC

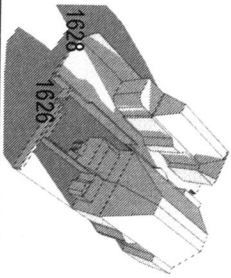
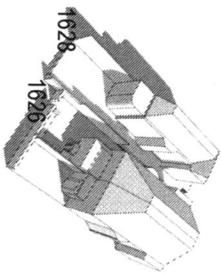
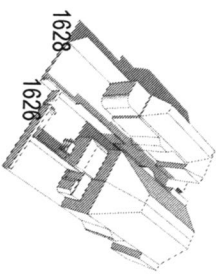
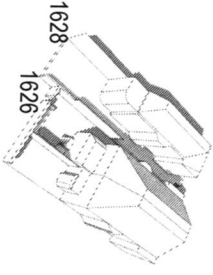
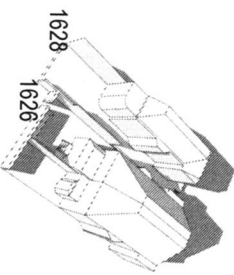
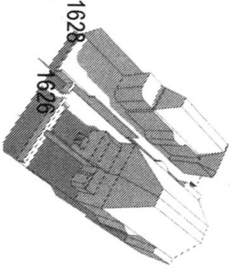
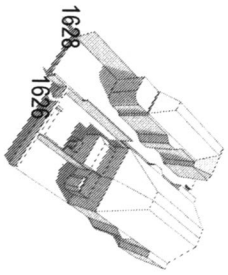
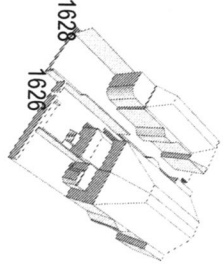
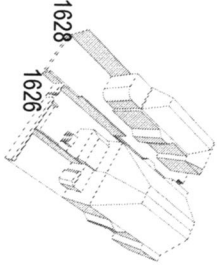
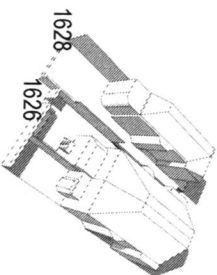
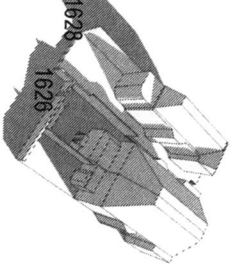
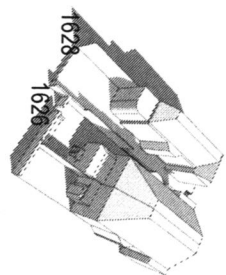
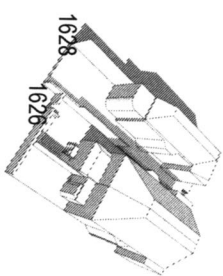
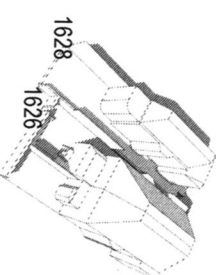
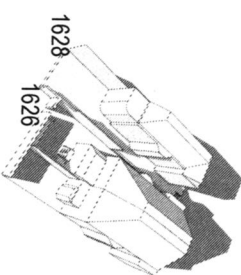
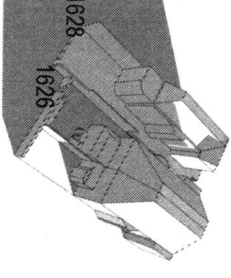
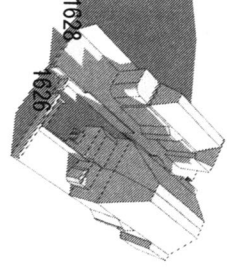
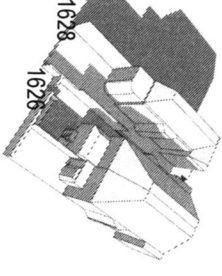
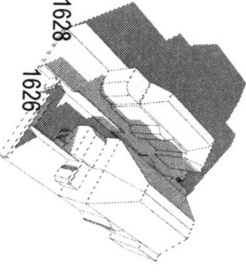
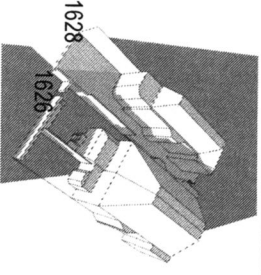
1656 33rd Street NW Washington DC 20007

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christianzapatka.com

The following diagram shows the shadows cast by 1626 29th Street throughout the year. A digital massing model accurately represents the footprint, widths and heights of the 1626 29th Street residence as well as the distance, fence, and height difference between the two neighboring lots. The cardinal orientation and the building location parameters in the 3D software program were set to match their true conditions in Washington D.C. Shadows were then cast for the winter and summer solstice (Dec21 and Jun21) along with the spring and autumn equinox (Mar21 and Sep21) for 8:00am, 10:00am, 12:00pm, 2:00pm and 4:00pm to represent the range and extremes of shadows cast throughout the year.

Since the proposed addition would only be one story tall, there is a considerable height difference between the lots, and there is a tall fence between properties, all shadows cast by the proposed addition are within the property of 1626 29th Street. To conclude, no new shadows would be cast on 1624 29th Street by the proposed addition of 1626 29th Street throughout the year.

	08:00 AM	10:00 AM	12:00 PM	02:00 PM	04:00 PM
MAR 21					
JUN 21					
SEP 21					
DEC 21					

*NO NEW SHADOWS CAST ON 1628 29TH STREET THROUGHOUT YEAR

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EXHIBIT

CONCEPT

DATE: SEPTEMBER 14, 2015

SCALE: 1/8" = 1'-0"

SUBMISSION

SHADOW
DIAGRAM
WITH PROPOSED
ADDITION

DRAWING TITLE

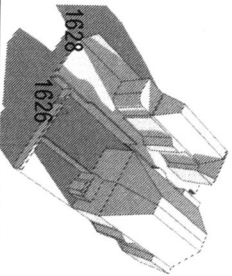
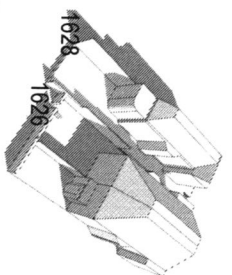
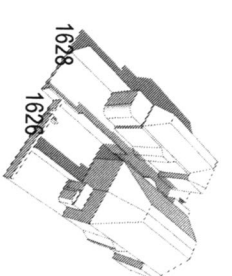
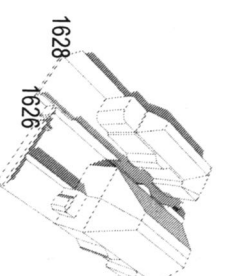
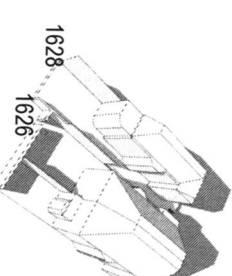
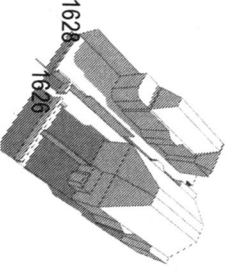
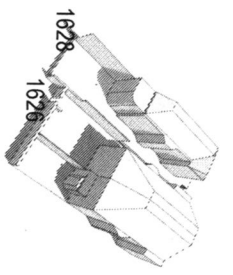
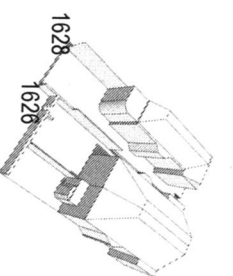
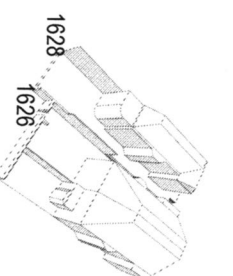
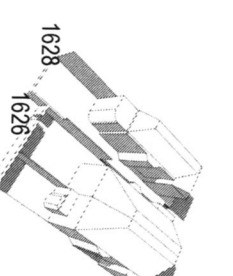
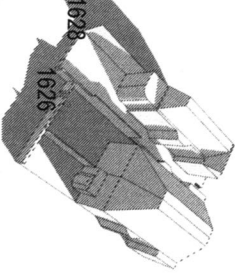
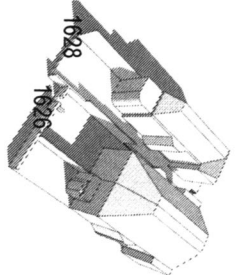
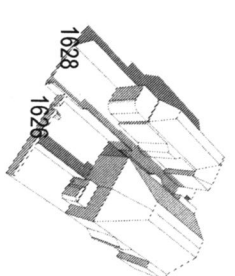
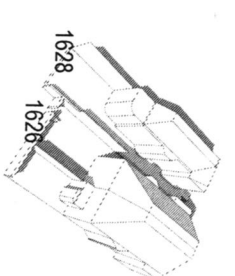
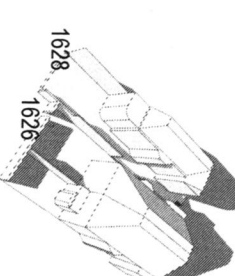
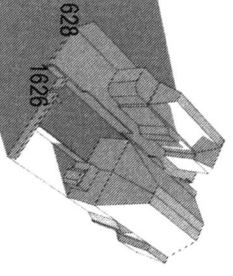
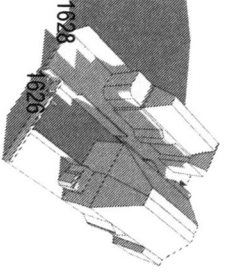
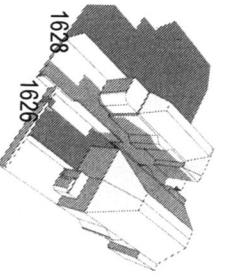
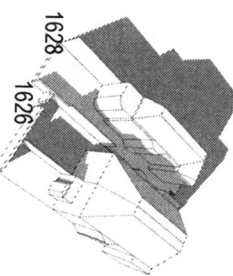
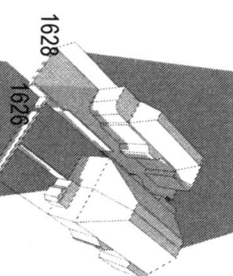


PROJECT

LOWELL / MEEGAIN RESIDENCE
1626 29TH STREET, NW
WASHINGTON, DC 20007
SQ:1283 LOT:0806

CHRISTIAN ZAPATKA ARCHITECT, LLC
1656 33rd STREET NW WASHINGTON DC 20007 202 333 2735

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	08:00 AM	10:00 AM	12:00 PM	02:00 PM	04:00 PM
MAR 21					
JUN 21					
SEP 21					
DEC 21					

*NO NEW SHADOWS CAST ON 1628 29TH STREET THROUGHOUT YEAR

	PROJECT:	LOWELL / MEEGAN RESIDENCE 1626 29TH STREET, NW WASHINGTON, DC 20007 SQ:1283 LOT:0806		CHRISTIAN ZAPATKA ARCHITECT, LLC 1656 33rd STREET NW WASHINGTON DC 20007 202 333 2735
	DRAWING TITLE:	SHADOW DIAGRAM WITH EXISTING HOUSE		
	SUBMISSION:	CONCEPT		
	DATE:	SEPTEMBER 14, 2015		
	SCALE:	1/4" = 1'-0"		
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