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May 18, 2000

BY HAND-DELIVERY

Ms. Sheila Cross-Reid
Chairperson
Board of Zoning Adjustment
441 Fourth Street, N.W.
Room 210
Washington, D.C. 20001

00 MAY 18 AM 9:05
DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Re: 3020 43rd Street, N.W.
BZA Appeal No. _____
BZA Application No. 16521

Dear Ms. Reid:

On Monday, May 8, 2000, this firm filed a BZA Appeal of the February 29, 2000 administrative decision of Mr. Edgar T. Nunley, Chief of the Zoning Review Branch which prematurely, incompletely, and inaccurately attempted to determine the zoning relief required for the illegally constructed improvements which are the subject in BZA Application No. 16521. This Appeal was filed on behalf of the Spring Valley-Wesley Heights Citizen's Association ("Appellant").

Based on recently provided information from the Applicant and newly obtained information, our investigation of this matter is continuing, but remains incomplete as a result of the continued lack of requested and accurate information from the Applicant. However, the following additional information is directly relevant to the recently filed Appeal and the related BZA Application No. 16521. Accordingly, this letter should be made a part of the record in both the Appeal and Application cases.

BZA
Case No. 16521
Exhibit No. 41

Board of Zoning Adjustment
District of Columbia
CASE NO.16521
EXHIBIT NO.41

1. **Front Yard Variance Incorrect:** The front yard variance required for the illegally constructed improvements of 3.3 feet (15.7%) set forth by Mr. Nunley is incorrect and understates the substantial nature of the variance by almost 3 feet. The applicable Wesley Heights Overlay District front yard setback is 21.0 feet. As shown on the Applicant's most recent Surveyor's Plat (Exhibit A), the depth of the front yard prior to the illegal construction of the covered porch was 24.95 feet. At its maximum depth, the covered porch was 10.0 feet (Exhibit B, Applicant's construction plans), not 8.0 feet (or 7.66 feet shown on the Surveyor's Plat (Exhibit A)). As a result, the front yard after the illegal construction was 14.95 feet. This will require a variance of 6.05 feet (28.8%). An October 5, 1998 Surveyor's Plat (Exhibit C) submitted by the Applicant for a building permit for the covered porch which had already been completed illegally and without a permit shows a front yard setback of 13 feet, but does not show the correct configuration of the covered porch.

2. **Side Yard Discrepancies/Violation:** The side yard information submitted by the Applicant over the last two (2) years has been inconsistent, incomplete and just plain incorrect. As a result, it is likely that the illegally constructed improvements also violate the applicable minimum side yard restrictions. In such event, a variance will be necessary and, to date, none has been sought. The Board should note the following information and discrepancies:

   a. The Applicant's original building permit application in January 1998 (Exhibit D) showed a south side yard of "6' (+/- 1')," a house width of 41.6 feet, and no dimension on the north side yard (adjacent to Mrs. Crary). Based on the information provided, the north side yard was 4.9 feet, but could have been 3.9 feet. The minimum side yard allowed for an addition under 11 DCMR 405.8 is 5.0 feet. The north side yard for the illegally constructed improvements is less than the minimum 8.0 feet required. This is an additional violation of the Zoning Regulations.

b. The Applicant's current Surveyor's Plat (Exhibit A) shows a north side yard of 6.50 feet, a south side yard of 4.434 feet, and a building width of 41.66 feet. The sum of the two (2) side yards and the existing building exceeds the established 52.50 foot lot width of the property.

c. Field measurements conducted by the undersigned and an ANC 3D Commissioner based on Surveyor's markers in the ground and the illegally constructed improvements, show a north side yard of approximately 4.50 feet. This measurement agrees with anecdotal information provided by the prior and long-standing owner of the subject property and Mrs. Crary and the Applicant's own documentation in Exhibit D.

The Applicant has failed and refused to provide an as-built survey which Mrs. Crary requested almost two (2) years ago. For this reason alone, the Board should dismiss the Application or continue it until such a survey is provided. Without such a survey the Board cannot properly consider the Application.

The Appellant reserves the right to submit additional information in both cases as it becomes available.

Very truly yours,

GREENSTEIN DELORME & LUCHS, P.C.

By: _____
John Patrick Brown, Jr.

Enclosures: 136640
cc: Advisory Neighborhood Commission 3D
Mr. George Watson, Wesley Heights Historical Society
Mr. William Harrop, Spring Valley-Wesley Heights Citizens's Assoc.
Mr. Michael D. Johnson, Zoning Administrator
Allison C. Prince, Esq.

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D. C., 5-12-1999

Plat for Building Permit of SQUARE 1621 LOT 70

Scale: 1 inch = 20 feet Recorded in Book 197 page 96

Receipt No. 61127

Furnished to NICK

Surveyor, D. C.

By: DA D

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plan as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat; and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb or alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property).

Date 8/12/99

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.

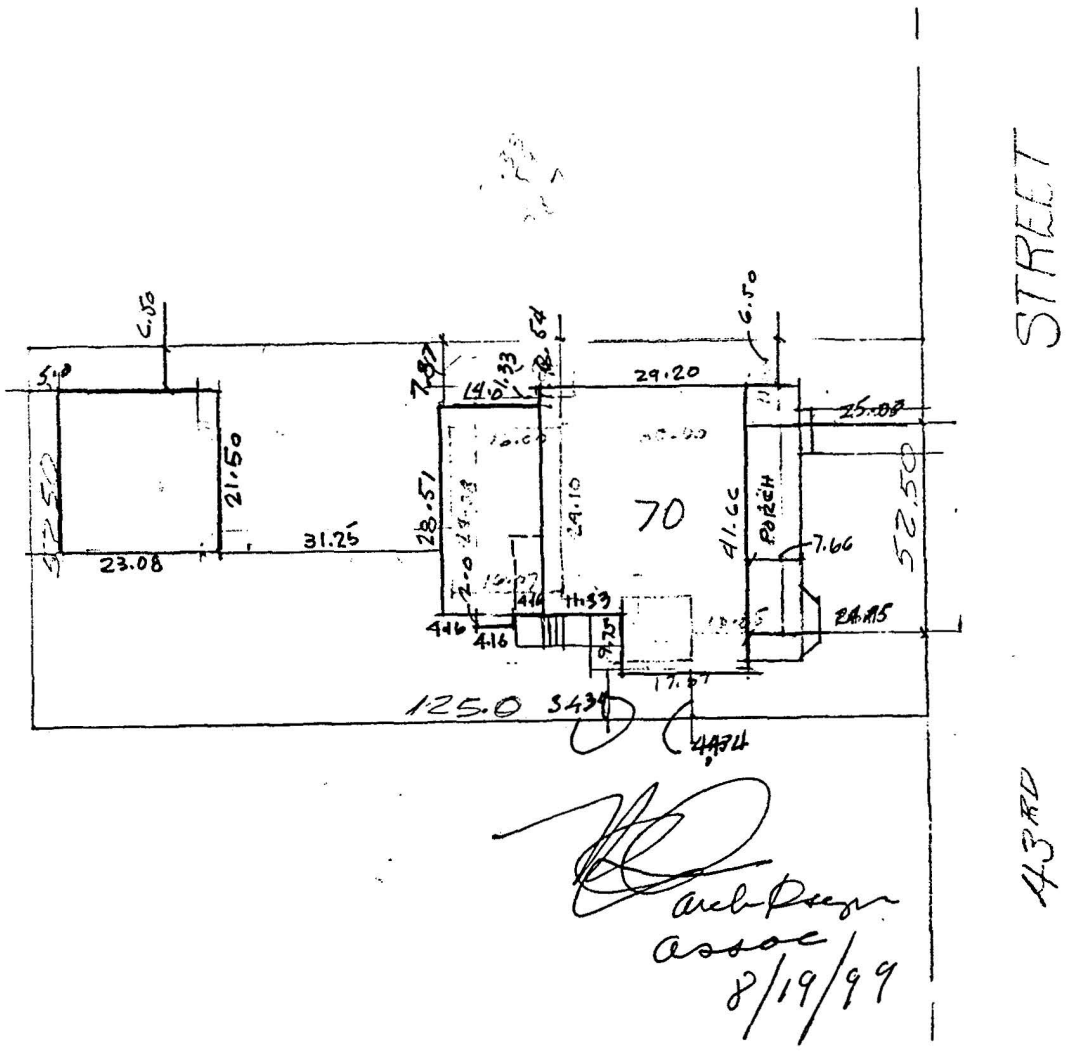
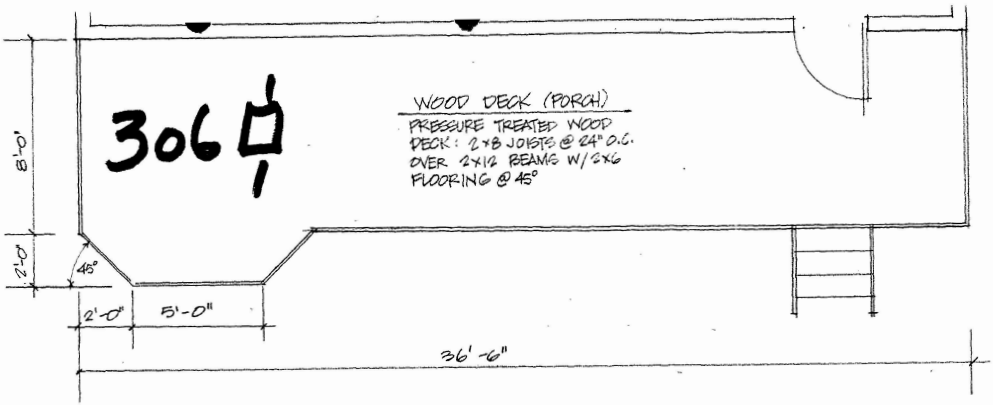


EXHIBIT
A
PENGAD-Bayonne, N. J.



PORCH PLAN

SCALE: 1/4"=1'-0"

BUREAU OF COMPLIANCE DIVISION
PERMIT PROCESSING DIVISION
APPROVED SUBJECT TO THE
ATTACHED CONDITIONS
FURTHER ACTION
MAY 29 1996

EXHIBIT
B

project name:

project no.

scale: AS

date: 1/

drawn by:

revisions:

- Master b
revision
owner m
- Kitchen
per owne
- Remote
add deck
per DO

16

A

drawing

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D. C. 10-02 19 98

It of SQUARE 1821 LOT 810

20 feet Recorded in Book 207 page 1453

Receipt No.

E.D. SHELTON

Surveyor, D. C.

By:

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plan as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat; and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb or alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 12% at any point for other buildings. (The police of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property).

Date 10-5-98

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.

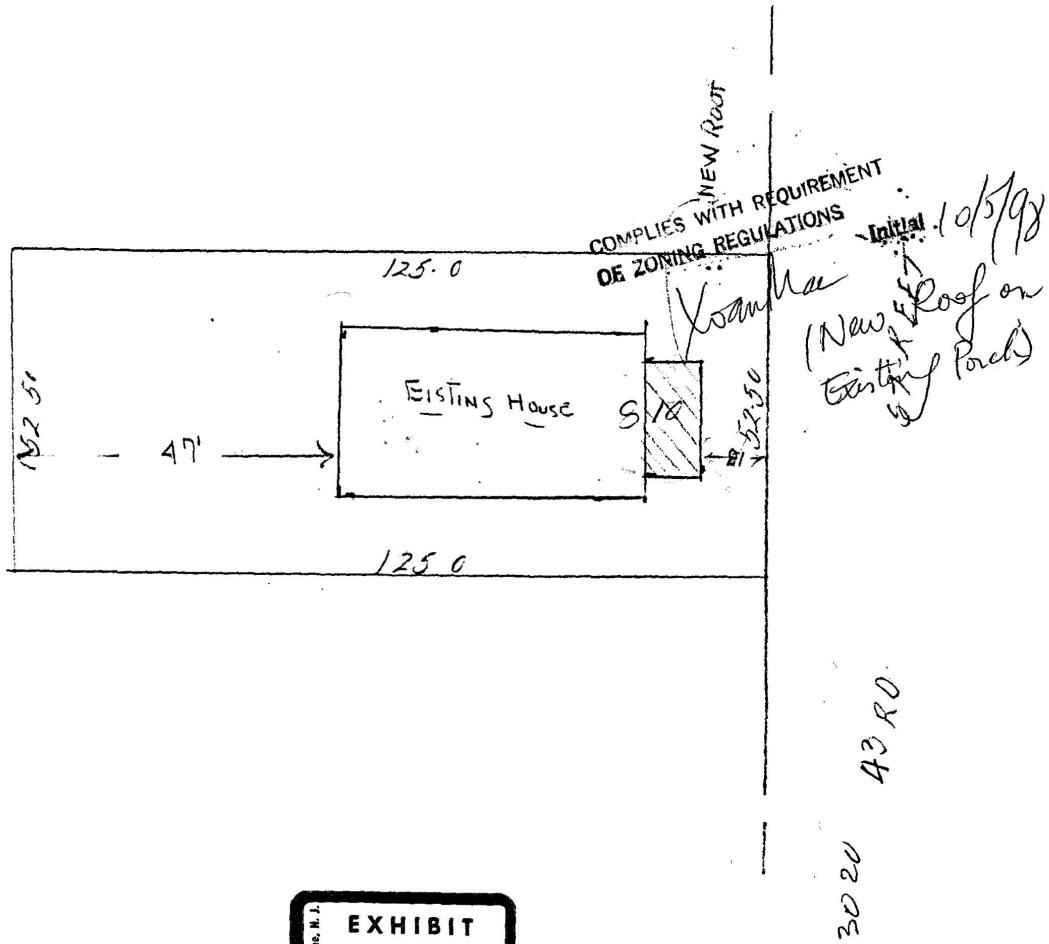


EXHIBIT C

PENCAD-Bayonne, N. J.

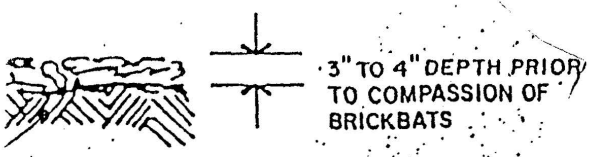
S. O. Form 12.0

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e Applies

on any site in need of temporary ground cover.

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DETAIL NOT TO SCALE

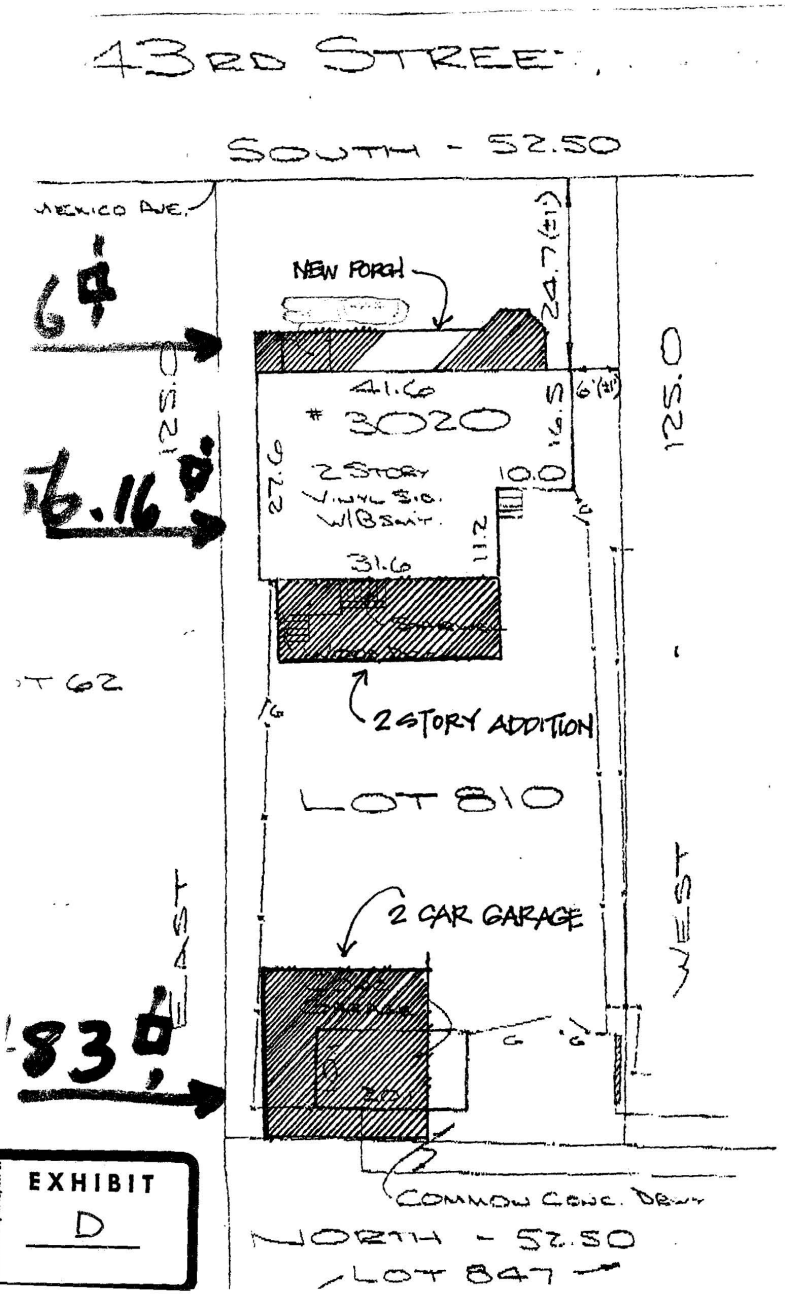


EXHIBIT
D

ceda
Architecture - In
Specializing in
10408 Bird
(3

Sisson Residence: 2 Story Addition and Garage
3020 43rd Street, N.W. Washington D.C.
project name:

drawing title:

project no. 971219
scale: AS SHOWN
date: 12/27/97
drawn by: DDC