BEFORE THE BOARD OF ZONONG ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

'00 ABR 10 A11 :22

Appeal of EDWARD M. POTTER from the Decision of Acting Administrator Lourenco to Reverse "Stop Work" Orders at 4900 Indian Lane, NW, and to Approve the Project

DOCKET No. _____

STATEMENT OF MANNER IN WHICH APPELLANT IS AGGRIEVED BY THE DECISION TO REMOVE STOP WORK ORDERS AND TO APPROVE THE PROJECT

Appellant alleges that Defendant's construction of a garage and 2000 square-foot parking platform at 4900 Indian Lane, NW, caused severe property damage to their home in the forms of damage to a shared driveway and loss of value to, and use and enjoyment of, their adjacent home. Defendant has destroyed portions of the shared driveway, thus limiting access to the Appellant's garage; and has built his platform with a surface that causes water to flood the driveway and to erode the subsurface of it. The garage and parking platform, which is built within four feet of the lot line and up to the shared right of way governing the common driveway, has resulted in severe deterioration underneath and to the surface of the driveway, which will eventually collapse. These actions constitute a common law tort of trespass to land. In addition, both the garage and the platform, as constructed, violate the Zoning regulations of the District of Columbia.

Specifically:

1. Defendant has excavated portions of the shared driveway (without building permits) and has caused severe damage to the driveway's subsurface. A rusted steel rod protrudes upward from the excavated portion of the driveway. That excavation limits Appellant's access to their garage and eliminates the ability of the Potter family to enjoy that side of their home.

2. Defendant has built his parking platform with a surface sloped towards the shared driveway, causing deterioration to the pavement and erosion of the surface beneath it. The driveway will have to be repaired or replaced, as it may collapse at any time.

3. The parking platform, which runs from within twelve feet of the rear lot lines and along the side of the house at 4900 Indian Lane (and is physically connected to the house) is either a side-yard structure or an addition to the house. In either case, it must conform to the zoning regulations, which require an eight-foot set-back from the side property line and a twenty-five foot set-back from the rear property line. Had these set-backs been observed, no damage to

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the driveway would have occurred.

4. The garage built atop the platform exceeds the 450 square foot size limitation for an R-1-A zoned district.

5. If the garage is considered a rear-yard structure within the meaning of the zoning regulations, it exceeds the 15 foot height limitation found therein.

ADDITIONAL FACTS:

1. The Potters live at 4856 Indian Lane, next door to 4900 Indian Lane, owned by Mohammed Ghafoorian. The Potters purchased their property in 1992. Mr. Ghafoorian purchased his property in 1997.

2. The lot line between the two properties runs down the middle of a shared driveway. Both parties have an overlapping four-foot right of way to ensure full use of the common driveway for ingress and egress.

3. Construction of the garage and parking platform began in March of 1999. Permits for a portion of it were issued on April 6, 1999. Additional permits were issued on May 27, 1999.

4. Both sets of permits were issued on a walk-through basis.

5. A stop-work order was issued against the project after a site inspection by zoning and building inspectors in December, 1999. That order was summarily reversed the next day by Acting Administrator Lourenco. Lourenco has never answered the Potters' request for review of that decision.

6. The parking platform, as constructed, consists of outer walls, interior support walls, and approximately 2000 square feet of surface area. It is sloped from the residence at 4900 Indian Lane towards the lot lines and shared driveway.

7. The parking platform extends from twelve feet from the rear property line, along the edge of the right-of-way (four feet from the lot lines), through the side yard and to the front of the pre-existing residence at 4900 Indian Lane.

8. The west side of the parking platform is connected to the residence at 4900 Indian Lane.

9. The roof of the residence at 4900 Indian Lane has been extended over the west wall of the parking platform.

10. A wood-frame garage has been built atop the parking platform. As

10. A wood-frame garage has been built atop the parking platform. As constructed, it is approximately 870 square feet and slightly under fifteen feet above the top surface of the parking platform, and over 20 feet above the pre-constructiion surface of the property.

ZONING REGULATIONS VIOLATED BY THE PROJECT

11 DCMR 101, 199 (Structure, p. 1-24; yard, side, p. 1-25); 200, 201(h); 404.1; 405.9; and 2500.4;

Respectfully submitted,



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