GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

May 13, 2004

Ann Goodman
3254 O Street, N.W.
Washington, D.C. 20007

Re: BZA Application No. 16696 - 3254 O Street, N.W.

Dear Ms. Goodman:

The Office of Zoning (OZ) received your letter dated May 11, 2004, concerning the above-cited application. As you know, the record in your application has been closed for some time. Please be advised that any material correspondence received by the Board of Zoning Adjustment (Board) after the close of the record that bears upon the substance of an application must be returned and not received into the files of the Board pursuant to subsection 3121.9, of the Zoning Regulations. As such, I am returning your letter to you.

In my March 29, 2004, reply letter to you I noted that the final date of the Board order denying your application is February 4, 2002. As one (1) year has lapsed since the date that this order was issued, you are entitled to file a new application with the Board, even for an identical project, pursuant to subsection 3126.11 of the Zoning Regulations. A new application would still require that you submit the requisite fee, forms and documentation pursuant to the Board's rules. In light of the recent D.C. Court of Appeals decision affirming the Board's decision in this matter, should you decide to file a new application, I would recommend that you meet in advance with Advisory Neighborhood Commission 2E and the Office of Planning to discuss your development plans.

If you have any questions relevant to the foregoing, please call Richard S. Nero, Jr., Chief, Support Services and Quality Control on (202) 727-6311.

SINCERELY,

JERRILY R. KRESS, FAIA
Director

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 16696
EXHIBIT NO. 102

Board of Zoning Adjustment
District of Columbia
CASE NO.16696
EXHIBIT NO.102

(See original Back)

rsn
Attachment
Jack Evans, Ward 2 Councilmember
Chairperson ANC 2E

Ann Goodman
3254 O Street, NW
Washington, DC 20007
T: (202) 333-3288 F. (202) 333-3266

Tuesday, May 11, 2004

RECEIVED
D.C. OFFICE OF ZONING
2004 MAY 13 AM 10:40

Chairman Geoffrey Griffis
Board of Zoning Adjustment
441 4th Street, NW
Suite 210
Washington, DC 20001

BZA APPLICATION NUMBER 16696

Dear Chairman Griffis,

Please invoke your inherent power to rectify prior errors commonly referred to as a "Writ of Coram Nobis" to the above referenced case which now forces me to apply for five (5) variances when originally, the Office of Planning said I did not need any variance at all.

Errors of Record on the Decision Day Transcript upon which a negative vote was cast:

1) The use of an accessory structure to house domestics is a *permitted use* in an R-3 District. Commissioners Mitten[1] and Levy's votes were based on their conviction that the use as domestic quarters was not permitted, Decision Day Transcript, page 80, *the entire discussion was limited exclusively to "use."* See attached BZA Case #13550, page 2, line 21, "Living area for a domestic employee in an accessory structure is a *permitted accessory use* under Paragraphs 3101.56 and 3101.63 of the Zoning Regulations." This case was actually on the *exact same half of the exact same alley and for the exact same use.*[2]

2) Chairperson Cross Reid's vote was based on her having forgotten that the requested "use" was exclusively for domestic quarters. In the Decision Day Transcript page 91, Line 1-6, she asked *you,* "...how do you get around the fact that it (the zoning regulations) stipulates that it (a 2nd story over a garage) must be living quarters of a domestic employees... and it (the Goodman's) was proffered to us that this (the 2nd story over the garage) was going to be a *family member* that would be occupying it and ***that was my***

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[1] Comm. Mitten also expressed concern for the neighborhood's rejection. This was based on belief that we blocked the air circulation of the two properties given "party statue." OP determined was not applicable. And on the fire departments request that I use metal stairs. Metal stairs are on at least half of the homes in Georgetown, including the two neighbors given party status. Another concern was that our grandfathered R-1B property could be held as precedent for all other typical R-3 row houses to fill the alleys with three-story, multi-unit apartments. The BZA determined that precedent was also *not an issue* as each property is judged on its own merit- the very reason for having a BZA. Thus, there is NO legitimate reason for the neighborhood/ANC to oppose.

[2] What are those odds!

point of departure." This fact was made clear by Mr. Bello at the BZA Hearing; BZA Hearing Transcript, page #211, line 7-9, "And Mr. Goodman's application to the Office was that the space was devoted ***solely*** to (a) domestic employee."

3) Your own vote was based on Cross-Reid's interrupting your argument in support of a variance by correcting your accurate memory with her above mentioned error Please see attached abbreviated Decision Day Transcript, page 91, Line 7, **"Oh well-" !** (Thank you for supporting us by noting on the record that we were the first case to be rejected for this request.)

Errors of Record in the BZA Order upon which the above negative vote was erroneously justified.

4) As my existing accessory structure is 17 feet from the alley centerline (as all information on record states) and as I am *neither **constructing** nor **converting a garage**,* the BZA is in error in stating that we may need a variance from the 12-foot[3] setback from the alley centerline.

5) The BZA erred in determining that we need a variance for extending a non-conforming structure. The BZA failed to note that the four-foot side lot to the West, Lot #825, which we had purchased subsequent to the purchase of our home on Lot # 809, *was never joined to our first lot*. Therefore, the BZA erred in stating that it created a new, non-conforming, four-foot (4 ft.) side yard to both our existing building and to our proposed extension. Both Lot #809 and Lot #825, as well as the proposed extension on Lot #809, remain fully consistant within the existing regulations. The accessory building on Lot # 809 is now, has always been, and would continue to be even with the extension, a zero side yards structure, which is permitted in an R-3 District. Please see the attached site plans. Tax records may also be forwarded to you if necessary.

   This second lot, Lot #825, provides an entirely separate, "buffer-lot" such that *neither one of the two properties given "party status" abuts Lot #809, the lot of construction.*[4] Nine trees now grow healthily on this lot and provide a visual barrier. Since this application, not only have these trees been planted, but we have also planted an additional eight (8) trees such that all neighbors to the West are shielded from view. The anticipated height of these trees is thirty-five feet (35 ft.).

   The BZA erred in requiring a variance from the "one-story" limitation of an accessory structure as we already have a permit from the Commission of Fine Arts for a 2nd story. See attached OG #98-187.

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[3] **Section 2300.2** A private garage that is an accessory building in a Residence District: (b) Where abutting an alley, it shall be set back at least twelve (12ft.) from the center line of the alley upon which it opens.

[4] And we're not "unique?"

6) The BZA erred in requiring two separate variances from Section 2500.4 because, in the attached BZA Case #13550, the BZA had already determined that only *one* variance was required from sub-section 7601.3, not two. See attached Case #13550, page 1, line 3, "...for ***a*** variance from the prohibition against a *second story* addition to an accessory building to be used for sleeping *exceeding fifteen feet in height*....."

7) The BZA erred in stating that the Family Room and one Bedroom would have adequate light and air from the windows to the East, if the Southern windows were blocked by an extension. The architect of record stated: "Such an addition would force the Family Room and one recently renovated Bedroom.... to be entirely dependant on the modern windows to the East *which are located 5 to 7 feet from the residence to the East."* (The Family Room is at 5 ft., the Bedroom is at 7 ft.) I showed Ms. Faye Ogunneye of the Office of Zoning the pictures and asked if the five feet were a proper distance to insure adequate light & air, and she said that it was not.

8) **THIS IS A MOST IMPORTANT ISSUE AND SHOULD BE LOOKED AT VERY CAREFULLY**: As a result of my ridiculous, error ridden case, the BZA erred in inserting the word "only" into Section 2500.5 as an effort to limit the construction of 2nd story domestic quarters to R-1A and B properties found "only" within R-1A and B Districts. This action, on the part of the BZA is in error as it renders the last part of this sentence from Section 2500.6 *totally meaningless*: "It (the 2nd story domestic quarters over a garage permitted in Section 2500.5) shall also be set back form all side lot lines for a distance equal to the minimum width of a required side yard ***in the district in which it is located***."

   While 2500.5 clearly limits (a) habitable, 2nd floors on accessory structures to (b) domestic quarters over (c) garages only, on properties wherein the main structure has (a) eight-foot side yards, (b) a twenty-five foot rear yards, (c) on a minimum 5,000 sq. ft. lot size, (d) at 40% building density limitation, (e) with a 40 foot height limitation for (f) single family dwellings (abbreviated by saying "In R-1A and R-1B Districts), the phrase **"in the district in which it is located"** allows for *varying side yards* such as having *no side yards at all* for the same situation found on a similarly described properties found within districts which do not require any side yards.

   The logic behind this code ruling is simple as:

   (a) Larger lots have the *same* higher maintenance demands regardless of what district they are found in and, *most importantly*

   (b) *They do not violate the building/land density, parking/transportation, city services, and light/air issues as they already provide relief for these issues when located within higher density districts*. These anomalously large properties should not have to obtain a variance for domestic quarters over the garage. This is clearly evidenced by OP's opinion on our property and by the basic structure of the Zoning Regulations.

If you would kindly invoke your inherent power to rectify prior BZA errors, commonly referred to as a "Writ of Coram Nobis," so that I may reapply for the appropriate variance, if one is required at all. Or, if you do not see that any error has been made, please also let me know as I await your instruction before reapplying. It would be nice, in recognizing these errors, if you would *reverse the BZA decision.* According the Writ of Coram Nobis, it is never too late for an official ***to voluntarily correct all errors on his own record in order to prevent these errors from eroding the main body of governance.***

The Urban Forest Act, Bill 14-307,

The city recently passed The Urban Forest Act, Bill 14-307, in order to preserve all trees on private property at or over the size of fifty-five inches (55") in circumference. My original application was for a variance to preserve my 66"C Ornamental Cherry Tree. The BZA concluded that, as trees were not protected, I should cut it down in order to extend my house. *The city now recognizes exceptionally large trees as contributing to the "Public Good" by providing for a healthier environment/air quality.*

The Office of Planning concluded that my constructing to twenty-feet *does not* have a "detrimental effect on Public Good" (and also does not impair "the intent, purpose, and integrity of the Zone Plan as embodied in the Zoning Regulations and Map" nor block anyone's Light & Air.)

Now, not only is my tree *protected* but, removing such a tree *would constitute a "detriment to the Public Good.* Therefore, if I have to *reapply* for a variance, may I assume that my tree is now protected so that I may be given a variance even without any of the original issues such as (1) destroying the rear elevation of an historic home dating before 1830, (2) destroying the oldest garden in Georgetown, (3) destroying an historic brick-arched cistern dating back to the Civil War (4) blocking the light & air as well as the garden view from the house as described in Architect Almy's letter and (5) the peculiar and exceptional practical difficulty of getting a backhoe into our rear garden through three-foot wide doors with its concomitant destruction of multiple trees, English boxwood and a 90-foot long brick walkway dating back to 1860.

Your attention to this request would be greatly appreciated. I await your direction. Thank you.

Sincerely,

Ann Goodman
Attachments:

Cc: Councilman Evans and ANC 2E

possibility that this would be for a family member.

Under that, in that situation for a family member, do you think that that would require a use variance?

MR. BELLOW: Absolutely.

COMMISSIONER MITTEN: Okay.

MR. BELLOW: And Mr. Goodman's application to the Office was that the space was devoted solely to domestic employee.

COMMISSIONER MITTEN: Okay. Thank you.

CHAIRPERSON CROSS REID: Okay. Thank you, Mr. Bellow.

Do any other Board members have questions for Mr. Bellow?

(No response.)

CHAIRPERSON CROSS REID: All right. Thank you very much, Mr. Bellow.

MR. GOODMAN: I'd like to point out something since the Commissioner pointed this out. In my -- because I was aware of that ruling, as well, and the ruling on a -- although it was unclear about whether or not, and indeed, I believe it is unclear, whether a proper use of an accessory building, accessory to a single family dwelling, is for any accessory use attendant to a single family dwelling.

which are zoned D/C-2-A, are each about 500 feet from the subject site.

6. The subject site is 28.62 feet in width and developed with a row house with an English basement. A two-car garage approximately fifteen feet in height occupies the entire width of the lot in the rear yard.

7. A private twenty-two foot wide alley is located between the garage and the rear property line and abuts the property to the north.

8. The applicant proposes to add a second story to the garage. The first story would continue to function as a garage. The second story would be used as living quarters for a domestic employee and would contain two rooms and a bath. No kitchen would be provided. Access to the second floor would be from the alley and from the rear yard of the subject lot. The height of the structure would be twenty feet.

9. Sub-section 7601.3 of the Zoning Regulations limits the height of accessory buildings in R-3 Districts to fifteen feet and one story. The requested relief is, therefore, an area variance of one story and five feet in height. Living area for a domestic employee in an accessory structure is a permitted accessory use under Paragraphs 3101.56 and 3101.63 of the Zoning Regulations.

10. The main building contains five floors with eight rooms, four of which are bedrooms. The applicant proposes to convert two of the bedrooms into a study and a library. The architect for the applicant testified that it would be difficult, or not desirable, to separate living accommodations for a servant in the main building since there would be a lack of privacy for the applicant.

11. The applicant's architect testified that the proposed addition would enhance the appearance of the alley and create a harmonious relationship with the taller and smaller buildings now surrounding the site. The architect further testified that a servant being on the premises would alleviate the use of a car by the servant and thus decrease traffic congestion in the alley. The applicant perceived no substantial detriment to the public good or substantial impairment of the intent, purpose and integrity of the zone plan with the proposed addition.

12. The architect testified that there was no practical difficulty inherent in the land itself to support the request for the variance but that there was a practical difficulty inherent in the main building. The main building is a Federal house with magnificent proportions. The applicant did not intend to "chop it up" to provide

P.91, L.1	*and gets her facts backwards:* (This error now makes the area-based application totally invalid, as a 2nd story may only be added for domestics-without a use variance. We had legally removed the "mother" issue from our original application and Mr. Bello had personally clarified this fact at the Hearing.)	"…how do you get around the fact that it (the zoning regulations) stipulates that it must be living quarters of domestic employees …..and it was proffered to us that this was going to be a family member that would be occupying it …"
P.91, L.6	*Chairperson Reid, now has a legitimate, though erroneous, excuse to reject the aria variance:*	"…and that was my point of departure." *
P.91, L.7	*Griffis, believing Reid's misinformation, is now forced to give up arguing the" use" issue based on existing precedent, as the application itself is now believed to be totally invalid.*	"Oh, Well—"
P. 91, L. 12	*Mitten now rules on her own, that no existing second story accessory building can be habitable unless the BZA approves. In this one moment, thousands of people will now have to move.*	"The first issue is can an accessory building with a second floor in R-3 be used for human habitation for whatever reason? I believe the answer is "no" unless you get a use variance."
P. 92, L.8	*Mitten, recognizing Reid's error, jumps to reinforce it by indicating that **we** were being deceitful all along. Note that she is aware that the record does **not** support Reid's error as she uses the words "they said."*	"…they said this isn't really for maid's quarters."*
P.92, L.9	*Mitten continues:* (Now, not only has Serem, our maid, been dismissed, but my mother has been relegated to "an elderly relative or something like that!" Sounds as if she isn't quiet human anyway.)	"This is for, you know, an elderly relative or something like that."
P.93, L.1	*Levy, who seconded Mitten's illegal move to deny based on "use," and impatient with the impossible task of legitimizing a use variance, now seizes the opportunity for **Option B** to work as Reid and Griffis forgot what the variance was for:*	"If this motion is denied based on the application presented to us, this conversation's no longer relevant."
P. 93, L.7	*Chairperson Reid, now with clear conscience, restates Mitten's opening motion to deny, but switches it from being use-based to aria-based, as an area variance application is now no longer valid due to her own error of record.*	"So basically, Ms. Mitten has moved that it be denied predicated from the fact— notwithstanding the use— that use bearing is that the Applicant has not met his burden of proof as it pertains to that area variance in the first place."
P.93, L.12	Levy quickly confirms the new motion and the application is denied.	"Correct" *(Emphasis added)

CONSUMER INFORMATION NOTES.

1. This plan is a benefit to a cons[illegible]r insofar as it is required by a lender [illegible] title insurance company or its agent in connection with contemplated *transfer, financing or re-financing.*
2. This plan is not to be relied upon for the establishment or location of fences, garages, buildings, or other existing or future improvements.
3. This plan does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or re-financing.
4. Building line and/or Flood Zone information is taken from available sources and is subject to interpretation of orginator

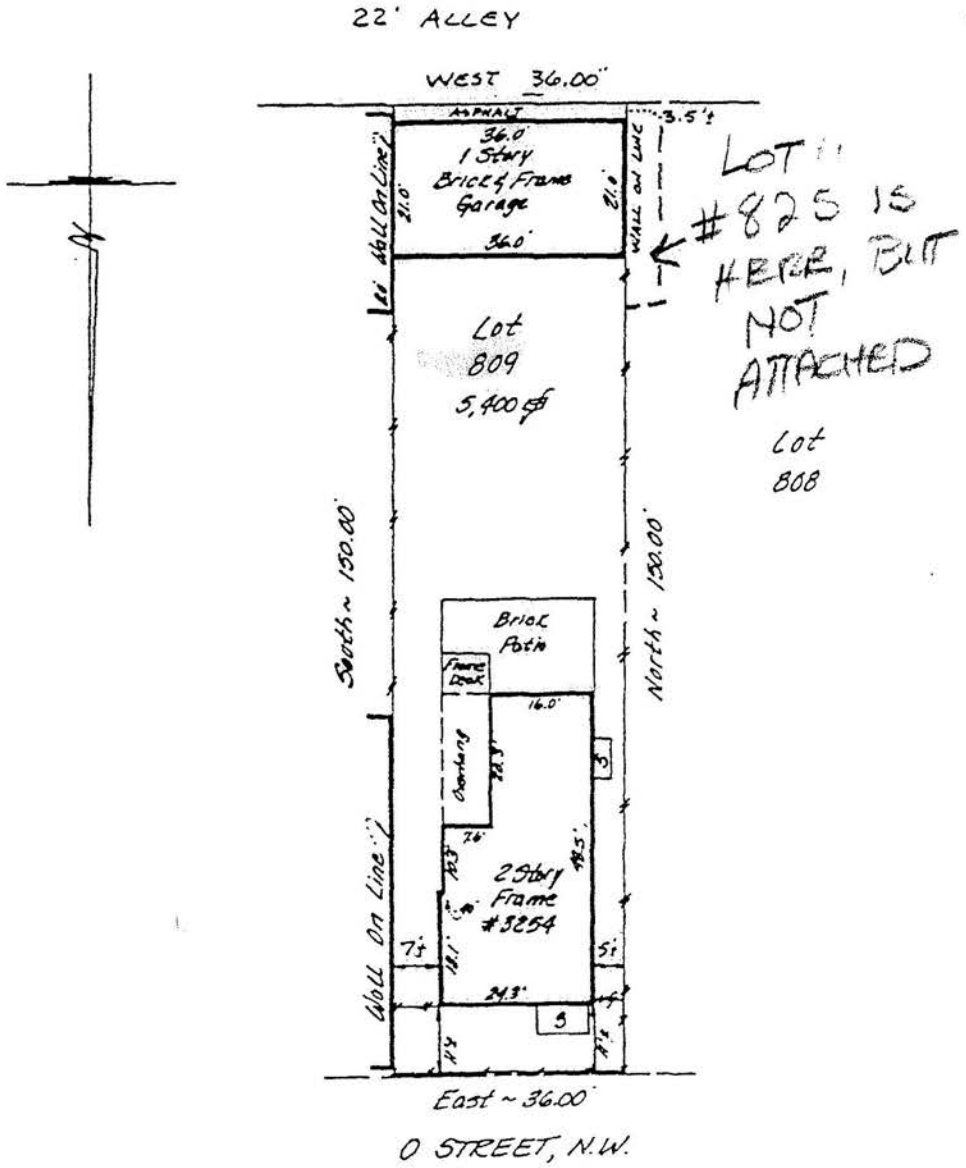
STATE OF MARYLAND
JEFFREY A FOSTER
REG. NO. 527
PROPERTY LINE SURVEYOR

Notes:

1) Flood zone "C" per H.U.D., panel No. 0015B

2) No property corners found. Lines shown evidenced by drawing of record and field measurement.

24.3 x 48.5
= 1178.55
21% 15%



Location Drawing
LOT 809 SQUARE 1230

WASHINGTON
District of Columbia

SURVEYOR'S CERTIFICATE

"THE INFORMATION SHOWN HEREON HAS BEEN BASED UPON THE RESULTS OF A FIELD INSPECTION PURSUANT TO DOCUMENTS OF RECORD AT THE OFFICE OF THE DISTRICT OF COLUMBIA SURVEYOR. LOCATION OF IMPROVEMENTS SHOWN HAS BEEN BASED UPON FIELD MEASUREMENTS FROM EXISTING LINES OF APPARENT OCCUPAITON WHENEVER POSSIBLE. PRIOR SURVEYS OF PUBLIC RECORD HAVE BEEN USED TO CONFIRM INFORMATION SHOWN."

Jeffrey A. Foster
MARYLAND PROPERTY LINE SURVEYOR REG. NO 527

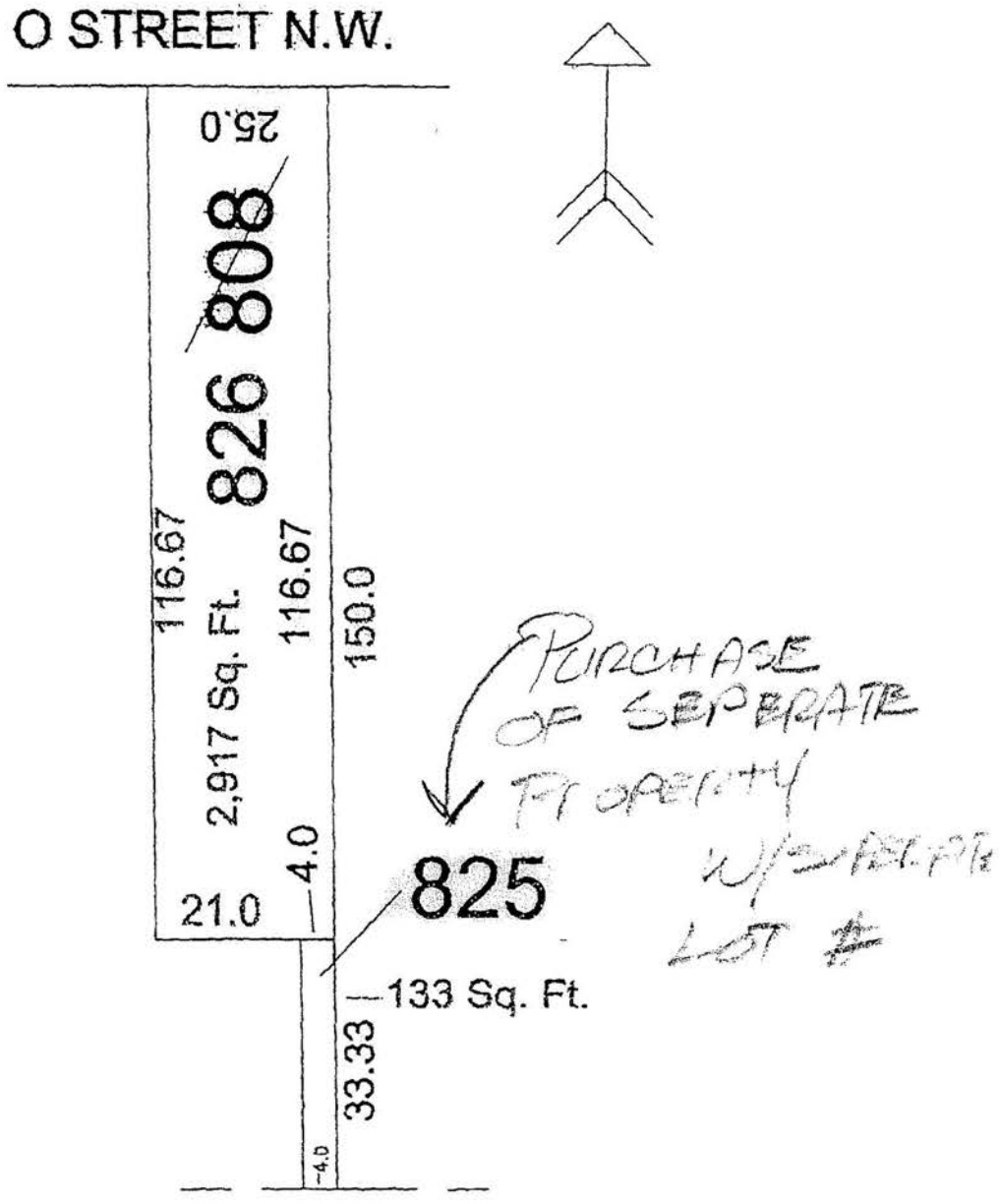
REFERENCES
D.C. SURVEYOR RECORDS
BOOK A&T Tracings
PAGE
LIBER
FOLIO

SNIDER & ASSOCIATES
SURVEYORS - ENGINEERS
LAND PLANNING CONSULTANTS
2 Professional Drive, Suite 216
Gaithersburg, Maryland 20879
301/948-5100, Fax 301/948-1286

DATE OF LOCATIONS	SCALE: 1"=30'
WALL CHECK:	DRAWN BY: ROB
HSE. LOC.: 6-10-96	JOB NO.: 96-1735

OFFICE OF TAX AND REVENUE
ASSESSMENT DIVISION

ASSESSMENT AND TAXATION PLAT
SQUARE 1230



RE Brown #44514 6-10-98 4/30/01 Scale, 1 inch 5 ft.
Draftsman Reference Date

The Office of Surveyor of the District of Columbia shall admit this plat to record under the provisions of Chapter 7 of Title 47, District of Columbia Code, Designation of Real Property for Assessment and Taxation, and for other purposes.

Chief Assessor, Office of Tax and Revenue

FP-120 (Rev. 5/98)
J-93451

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

RECEIVED
AUG 14 1998
COMMISSION OF FINE ARTS

RECEIVED BY

Date___/___/___

Staff_____

Filing Date 7-30-98

TRANSMITTAL LETTER - COMMISSION OF FINE ARTS

TO: The Commission of Fine Arts already cleared by HPA

The accompanying application HPA No — — — and OG No. 98-187 is referred for consideration and appropriate action in accordance with the provisions of D.C. Law 2-144, the Historic Landmark and Historic District Protection Act of 1978 and in accordance with the following Act(s):

( ) The Old Georgetown Act, Public Law 808, 81st Congress
( ) The Shipstead-Luce Act, Public Law 231, 71st Congress

PREMISES	LOT	SQUARE
3254 "O" St, NW	809	1250

Complies with the D.C. Zoning Regulations

for Zoning Division

The submitted documents were checked for general compliance of the exterior features with the D.C. Construction Codes: no objections to filing with CFA. This clearance does not constitute an approval for building permit.

for Structural Section 7/30/98

Cleared to file with CFA by Permit Information Branch: 7/30/98

Chief, Permit Branch Lw: 204

TO: Mayor's Agent for D.C. Law 2-144, Public Law 808, and Public Law 231, for those applications also subject to D.C Law 2-144

The accompanying application is returned by the Commission of Fine Arts with recommendation as noted.

Recommendation: No objection to issuance of permit for proposed addition of second floor over garage off alley, with a triangular vent on gable end as shown in supplemental drawings received and dated 3 September 1998. Working drawings conform to approved concept. See previous Action (O.G. 98-59).

J. Carter Brown, Chairman

Date 18 Sept 98

White = HPD Canary = HPD Pink = Record Goldenrod = Applicant

will likely damage these structures. I recommend that these structures not be disturbed and that the proper authorities investigate them for historical significance when practical.

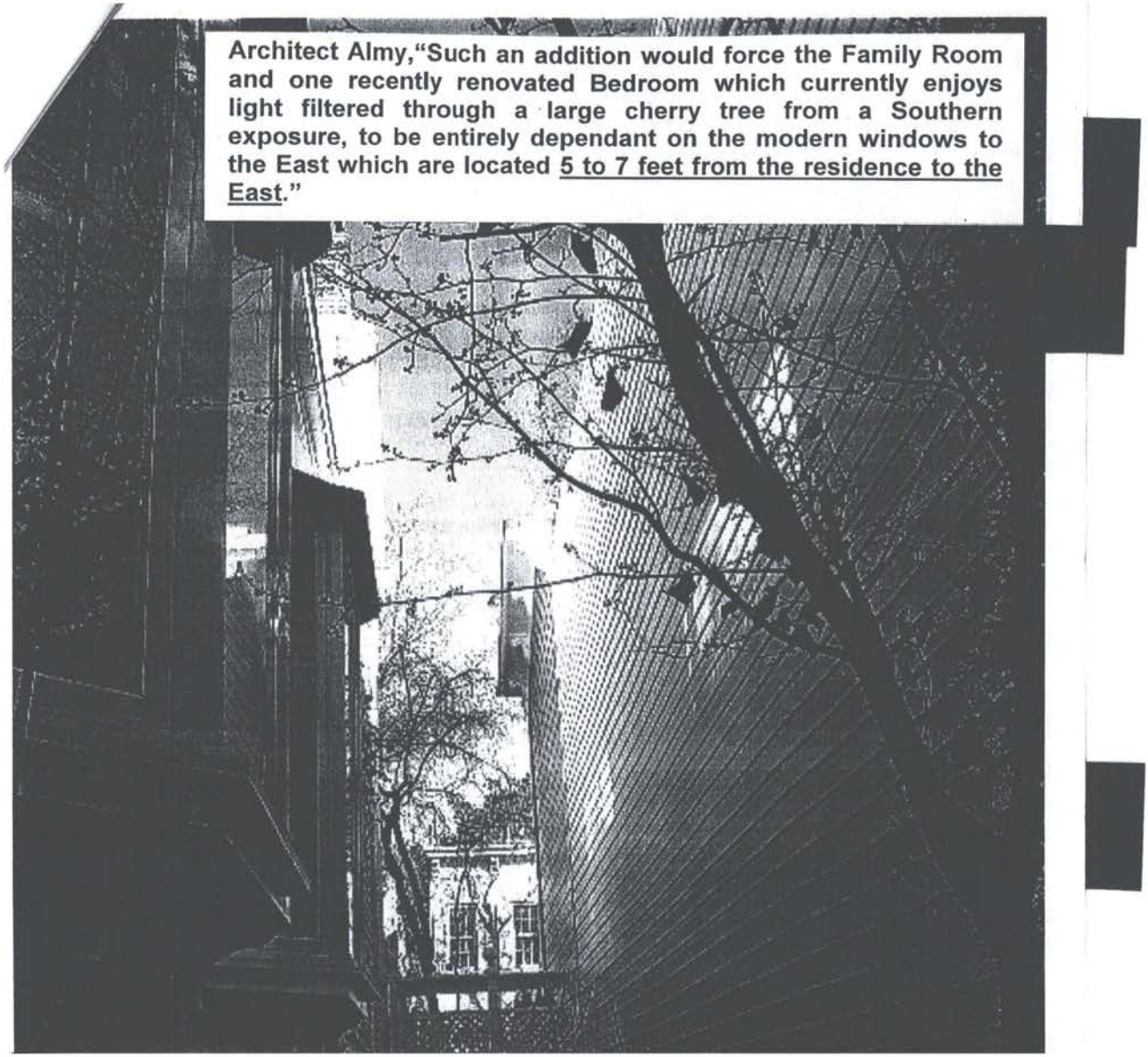
Analysis of Proposed Addition Versus Expansion of Existing House into Rear Yard

I was asked to determine the impacts and difficulties of expanding the existing house versus adding a second story to the garage to accomplish the same intended use, namely to provide sleeping quarters for a domestic employee. I will address each option separately:

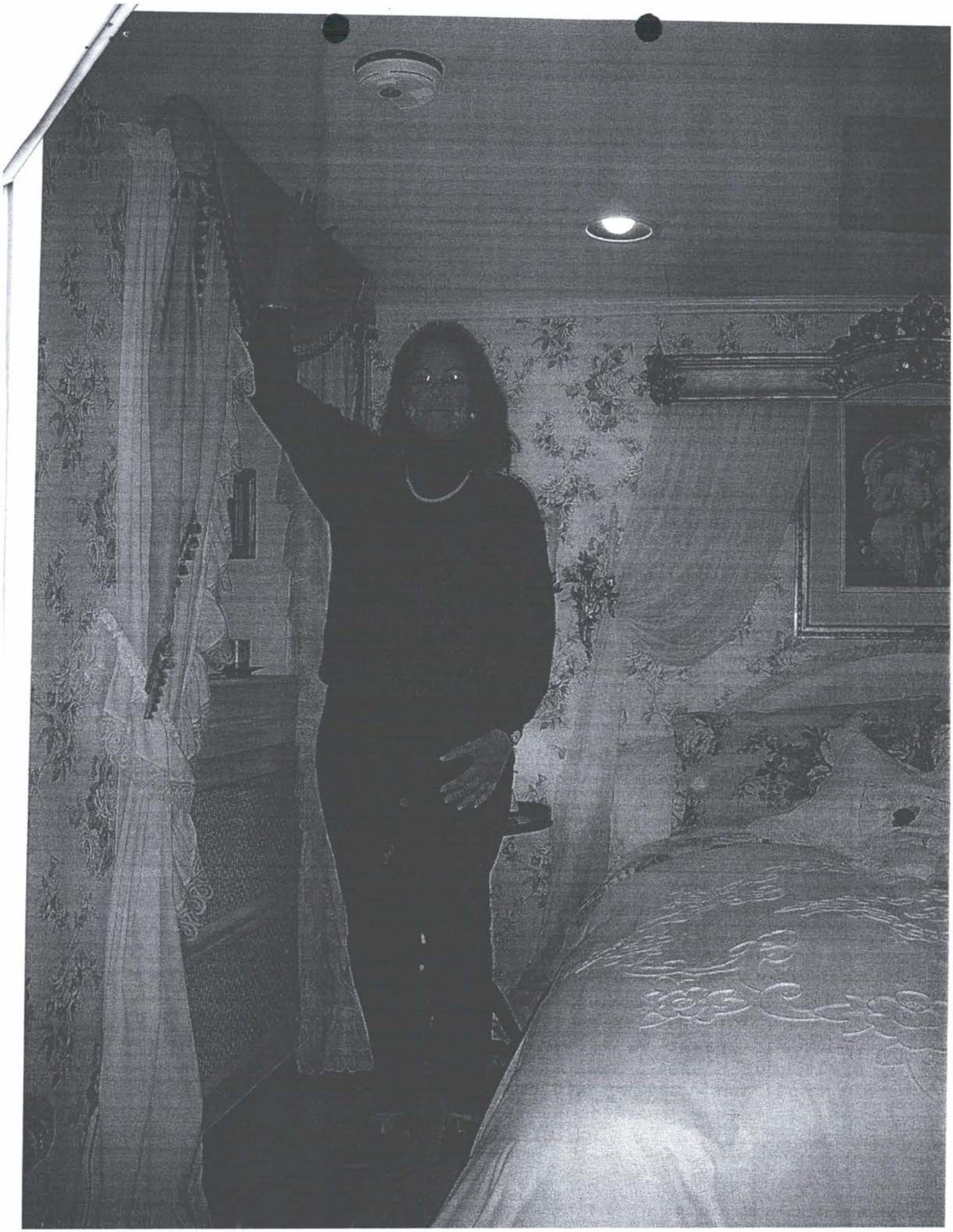
1. Expanding 3254 O Street into the Rear Yard

The architectural integrity of this historic home would be damaged if the house were expanded into the rear yard. The main house was designed as a detached structure. The house is a small scale dwelling with a simple layout. When standing in the front Living Room, one can easily observe the entire first floor and the rear yard with light and proper ventilation throughout. The existing floor plan was not designed to ensure adequate light and ventilation to the living areas at the rear of the house, in the event of a rear extension. To rearrange this floor plan to accommodate a bedroom for a domestic employee would require a great deal more than simply putting a room extension on the back of the house, with a door to the existing structure. I do not believe it is possible to achieve without depriving the house of a substantial degree of its existing architectural integrity.

Such an addition would force the Family Room and one recently renovated Bedroom which currently enjoys light filtered through a large cherry tree from a Southern exposure, to be entirely dependant on the modern windows to the East which are located 5 to 7 feet from the residence to the East. Currently, the windows at the rear of the house are original to the house, and greatly add to the historical character of the Family Room and Kitchen area, as well as to the entire house. To remove these windows would significantly damage the historical fabric and integrity of the house. The second story bathroom also shares the rear exposure and if an extension were added it would lose direct sunlight.



Architect Almy,"Such an addition would force the Family Room and one recently renovated Bedroom which currently enjoys light filtered through a large cherry tree from a Southern exposure, to be entirely dependant on the modern windows to the East which are located 5 to 7 feet from the residence to the East."



will likely damage these structures. I recommend that these structures not be disturbed and that the proper authorities investigate them for historical significance when practical.

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The architectural integrity of this historic home would be damaged if the house were expanded into the rear yard. The main house was designed as a detached structure. The house is a small scale dwelling with a simple layout. When standing in the front Living Room, one can easily observe the entire first floor and the rear yard with light and proper ventilation throughout. The existing floor plan was not designed to ensure adequate light and ventilation to the living areas at the rear of the house, in the event of a rear extension. To rearrange this floor plan to accommodate a bedroom for a domestic employee would require a great deal more than simply putting a room extension on the back of the house, with a door to the existing structure. I do not believe it is possible to achieve without depriving the house of a substantial degree of its existing architectural integrity.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

Memorandum

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director
Office of Planning

DATE: July 10, 2001

SUBJECT: BZA Application #16696 (Craig and Ann Goodman)
3254 O Street, N.W. (Square 1230, Lot 809)

APPLICATION

The application by Craig and Ann Goodman (Applicant) requests, pursuant to 11 DCMR 3103.2, an area variance from the provision of Section 2500.4 that limits the height of accessory buildings to one (1) story or fifteen feet.

PROPOSAL

The original application proposed to add a second floor to the existing garage for a maid's quarters, housing for an elderly parent, and studio. This addition would increase the height of the building from 8 feet to 30 feet. The applicant has since revised the proposal and is now requesting to increase the height of the building from 8 feet to 20 feet and is therefore requesting a 5-foot variance.

SUMMARY RECOMMENDATION

The Office of Planning (OP) recommends that the variance request be **DENIED**. The applicant has demonstrated that the property is unique and that adherence to the Zoning Regulations presents some difficulty. Additionally, certain aspects of the proposal will not impair the intent and purpose of the Zone Plan and Map. However, the proposed use could be a detriment to the community, as it could be interpreted as establishing a precedent for conversion of accessory structures to residential uses. If the Board feels that this can be mitigated, the Office of Planning recommends that the following conditions be added:

Compliance with Section 3103.3

The standard by which the BZA should approve a variance is set forth in Section 3103.2 of the Zoning Regulations. The following demonstrates how these standards are met:

The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;

The property is unique as it is within a community developed with single-family attached units and apartments. The site is one of the only properties within the immediate neighborhood that is developed with a single-family detached residence and is the largest of the surrounding properties. The property is developed with an approximately 150-year old detached house with parking garage to its rear. Between the house and the garage are a boxwood garden and other mature trees that contribute to the historic character of the property. In addition, a granite wall beneath the surface of the property represents an exceptional situation, as it will present problems with any expansion of the house.

By reason of the aforementioned unique or exceptional condition of the property, the strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulties or exceptional and undue hardship upon the owner of the property.

In order to accommodate the maid's quarters and housing for an elderly parent, the applicant would have to expand the existing house. However, trying to expand on the existing house would be difficult due to the solid granite wall that would have to be removed to accommodate the new construction. The applicant argues that the access to the rear of the site between the house and the garage is not large enough to allow large equipment and machinery to cut through the granite wall to allow the expansion to take place and thus it would require manual removal. Additionally, they argue that this construction would destroy the boxwood garden. The applicant therefore feels that this constitutes an exceptional practical difficulty. The Office of Planning acknowledges that this situation does make the construction of an addition a complex venture, but such complexities abound in historic neighborhoods such as Georgetown, and OP is not convinced that it rises to the level of an "exceptional practical difficulty".

Since adding to the house would be difficult due to the lack of access to the rear of the house, the applicant has proposed adding 12 feet to the garage for a total building height of 20-feet, which is 5-feet above the 15-feet permitted. The additional building height requested is just enough to support the roof over the garage and the room height as specified by the Building Code. Under the Zoning Regulations the additional 7-feet over the existing garage would not meet the Building Code requirements.

The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

The applicant has made every effort to minimize the impact of the proposal on the community. Some of these mitigation measures include using a roof with a less severe pitch and planting trees along the western property line to hide the proposed expansion when viewed from the adjacent properties (the tree planting has already been completed). The expansion will change the views from adjacent properties but will not block their light and air. While in one respect the proposed variance request to increase the size of the garage will not in itself impair the intent and purpose of the Zone Plan and Map since there are various other accessory buildings in the neighborhood that are approximately of the same height as the proposal, on the other hand, the Office of Planning shares the concern of the community regarding the precedential effect of approving a two-story, self-contained residence on the subject property. OP agrees that this could be detrimental to the intent of the Zone Plan. Though OP is recommending that such a conversion, were it to be allowed, would be permitted only for 5 years, in order to require the applicant to return to demonstrate that the property is not being used as a rental property, monitoring such use conversions is difficult. The Georgetown community has for many years opposed the conversion of accessory buildings to residential space for these same reasons. This application could open the door and give weight to the desire of other property owners to convert or make additions to their garages and in effect increase the density in the area as well as having a detrimental effect on the already adverse parking situation.

COMMUNITY COMMENTS

Many neighbors have voiced their opposition to the application and have not changed their opposition even with a reduction in the height and size of the addition. Their main concern is the precedent that allowing a self-contained residence would set and the possibility that it could lead to other conversions into rental units. These units could be rented to university students and lead to a change in the character of the neighborhood.

ANC-2E reviewed the proposal at their June 5, 2001 meeting and voted to oppose the proposal. The ANC rationale was that the proposal would establish a pattern that would encourage other residents to construct residential units along the alleyways and could be detrimental to the Zone Plan of historic Georgetown. In addition the ANC maintains that the application did not meet the test required for the approval of a variance under Section 3103.2.

RECOMMENDATION

The applicant has demonstrated the property is unique and that expanding on their existing house would be difficult. The increase in the height of the building would be consistent with the intent and purpose of the Zone Plan and Map. However, OP finds that the applicant has not met its

two [redacted]nches if I'm not mistaken[redacted]

CHAIRPERSON CROSS REID: Okay. The answer is no.

MR. GOODMAN: Is the answer yes or no?

CHAIRPERSON CROSS REID: Is the answer yes or no? Did you --

DR. CARTER: In my layman's terminology that was a third floor, yes.

MR. GOODMAN: So you did describe it to neighbors as a three story, multiple rental unit dwelling.

DR. CARTER: I described it as a three story building, yes.

MR. GOODMAN: Thank you.

Did you ever ask any of the neighbors also directly to recant their signatures?

DR. CARTER: Absolutely. Some of them --

MR. GOODMAN: Wait a minute. Just -- that's all I asked.

DR. CARTER: Well, I'd like to explain that, please. Some of the people on the alley had been shown an original drawing that was passed by the Fine Arts Commission, the Goodmans' original picture, which I believe is in the record, from the Fine Arts, and they had agreed that it was all right.

Carter admits that, in order to get signatures, she characterized my project as "3-story"

conduct and the description.

Does it state that to erect a three story accessory building that would have one or more future rental units? Is that how it was described in Paragraph 2?

DR. CARTER: I don't know what you're referring to. The petition that I circulated when I --

MR. GOODMAN: No, no. Your letter in opposition. I'm not at the petition yet. Your letter in opposition that was submitted on April 5th, circulated to the neighborhood and signed by 50 neighbors.

DR. CARTER: This was never circulated to the neighbors. The only thing that was circulated to the neighbors was the first petition, which is in the record, and with all the drawings, and I explained to the neighbors that nobody had seen these plans of the Goodmans.

I came down here and Xeroxed the whole file and took the pictures, the plans and everything back to show the neighbors because we simply didn't know what the proposal was.

CHAIRPERSON CROSS REID: Okay.

MR. GOODMAN: So it is your testimony that

you never described this to any of the neighbors as a three story, multiple rental unit property?

DR. CARTER: I just explained. This is what the petition, the first petition said. "We, the undersigned, oppose the" --

MR. GOODMAN: Wait a minute, wait a minute, wait a minute.

DR. CARTER: May I please read this?

"'We, the undersigned,' oppose the application of the Goodmans, 3254 O Street, to construct a self-sustaining unit or units and/or rental unit or units where their existing garage is. We believe this would establish a dangerous precedent on the alley or pedestrian walkway and auto throughway where historically no self-sustaining unit has been permitted."

That's all it said.

MR. GOODMAN: The question I asked you is whether or not you made any verbal representations to the neighbors when you went around for their signatures.

DR. CARTER: I showed the neighbors the pictures, the plans that the Goodmans had submitted. There was a 31 foot building, and you've seen the original plans. The original garage was eight foot,

two inches if I'm not mistaken.

CHAIRPERSON CROSS REID: Okay. The answer is no.

MR. GOODMAN: Is the answer yes or no?

CHAIRPERSON CROSS REID: Is the answer yes or no? Did you --

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The -- the -- yes, it only went to 15 feet. The new plans, which I got down here in your record, was this 31 -- 30.6 foot building, and these people were outraged.

CHAIRPERSON CROSS REID: Okay.

DR. CARTER: They had never seen it.

CHAIRPERSON CROSS REID: Okay.

MR. GOODMAN: Wait a minute. I want to get to this point, too. This is important.

It is your testimony that you assumed that these neighbors never saw the 30 foot building; is that correct?

DR. CARTER: It is correct. They had not.

MR. GOODMAN: That is your assumption.

DR. CARTER: They had not. That's not my assumption. That's knowledge.

MR. GOODMAN: Okay, but you were not --

DR. CARTER: That's a fact.

MR. GOODMAN: But you were not there, right?

DR. CARTER: Excuse me?

MR. GOODMAN: You were not there when that presentation was made. This is --

DR. CARTER: When the original presentation was made?

Carter told neighbors that I had switched drawings!

I did not!!

They changed their votes to "no" because they believed her. They oppose out of anger not because of my project.