CRAIG G. GOODMAN

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June 25, 2001

Mrs. Jerrily R. Kress
Director of the Office of Zoning
Board of Zoning Adjustment
441 4th Street, NW
Suite 210
Washington, DC 20001

Re: Modification And Support for BZA Application No. 16696- A 5 Foot Height Variance for a Permitted Use for an Existing Accessory Building on an R-1-B Property in an R-3 District

Dear Mrs. Kress,

I will be out of town until shortly before the Hearing on July 17, 2001. Therefore, pursuant to Board of Zoning Adjustment Supplemental Rules of Practice and Procedure Section 3316.6, I am enclosing one original of "Modification And Support for BZA Application No. 16696" with 9 attachments and color photos for submission into the formal record of BZA Application No. 16696 as Modified herein. I am also enclosing 6 duplicate originals with all attachments, one for each Board Member and Mr. Nero. Additionally, Notice as required by Section 3317.4 will be posted on the Property no later than June 26, 2001.

It would be greatly appreciated if you would provide one duplicate original with all attachments and photos to each Board Member and Mr. Nero at your earliest possible convenience. I am hopeful they will have time to familiarize themselves with this matter prior to the hearing, so that Hearing time can be most efficiently used.

Thank you in advance for your assistance herein.

Sincerely,

Craig G. Goodman, Owner

BZA
Case No. 16696
Exhibit No. 44

cc: Maxine Roberts Office of Planning

Board of Zoning Adjustment
District of Columbia
CASE NO.16696
EXHIBIT NO.44

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June 25, 2001

Chairperson, Sheila Cross Reid
Board Members Susan Morgan Hinton, Anne Renshaw and Geoffrey Griffis
C/O Mrs. Jerrily R. Kress, Director of the Office of Zoning
Board of Zoning Adjustment
441 4th Street, NW
Suite 210
Washington, DC 20001

Re: Modification And Support for BZA Application No. 16696- A 5 Foot Height Variance for a Permitted Use for an Existing Accessory Building on an R-1-B Property in an R-3 District

Dear Madame Chairperson and Members of the Board,

Practical and exceptional difficulties inherent in the land on which 3254 O Street is located make strict application of the zoning regulations impractical and/or impossible, and create an undue hardship on the Applicant. After numerous meetings with neighbors to minimize any burden on the public, Application 16696 has been modified significantly to reduce the request for a height variance from 16 feet to 5-feet for a one story addition to an existing accessory garage to be used as living quarters for a domestic employee.

To date, more than 60 neighbors have seen the modified 20-foot plans and either have no objection or have withdrawn any objections or actively support the Modified Application.[1] Zoning Officials have advised that a 5-foot height variance is required under an interpretation of Code Section 2500.4, but that the use is permitted for an accessory building in an R-3 district.[2] The ANC agrees with Applicant on the major issues affecting this Application, and the ANC concerns about the site and air of 2 property owners have been addressed by this Modified Application to fully comply with existing regulations and precedent.

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[1] See Attachment-1-Petition in Support of Modified Application with drawings and photos. See also Attachment-9- Site plan of supporting neighbors with annotations and copy of signatures to original Petition with original drawings.

[2] See Attachment -2- Clarification of Zoning Review Supervisor dated June 21, 2001 and Letter from Zoning Administrator dated June 5, 2001.

I

The Property is Unique and Presents an Anomaly Under the Strict Application of the Zoning Regulations

3254 O Street is a small, Federal Period, two-story, 150 year old, fully detached, single family dwelling facing O Street with an accessory garage of 8 feet in height set back from an alley. It is situated on a large lot with a total land area of 5533 sq. ft. This property is unique as it is the only property abutting this alley that fully meets the light and air requirements of Code Section 101.1, and the density limitations set forth in Zoning Code Section 403.2 for an R-1-B property which would not require this variance. It also meets or exceeds all the density, light and air requirements of the R-3 Zoning Regulations. The accessory building for which the 5-foot variance is requested has a side yard and is located behind a foliage screen, 28.5 feet from the rear of the nearest house fronting 33rd Street. After the addition is built, less than 35 percent of the 5,533 sq. foot land area of the property will be built out. Additionally, with the foliage screen that has been installed, the addition should not be visible from the neighboring 33rd Street properties.

The main house consists of two stories with less than 2200 ft of "Gross Floor Area" of "habitable room" and a "cellar" as defined by Code Section 199. There are three "habitable" bedrooms currently being used full time. The cellar is used primarily for storage with an area that is used as a guest room by family members, friends and business associates approximately 40 percent of the year. There is currently no habitable room for a domestic employee to live in on a full time basis.

Directly in the rear of the property there is an historic boxwood garden, a mature double cherry tree, two other mature ornamental trees and an archaeological site that is a root cellar, cistern or the remains of a slave tunnel. Additionally, there is an underground solid granite wall beneath the surface of the property of unknown age and origin. There is no access to the rear of the property for earthmovers or any other machinery that would be needed to expand the main house as permitted by Code Sections 403.2 or 202.9.

On this block, the typical R-3 residence is a single family, fully attached, row house with no side yard, situated on 2,500 sq. ft. of property, a number of which have basement rental units. On the south side of this block, there are also much larger 5000 sq. foot, 5 story Federal Period attached row houses. On this block and the next, a number of garages on the alley have second stories built on lots smaller than the Applicant's property, some of which are currently occupied. Apartment buildings on Applicant's block have zero lot lines with no rear or side yards with much higher density.

The 3254 O Street property sets 10 feet back from the public sidewalk, and with the addition, would still occupy less than 35% of the land. The Applicant's total land-to-building ratio would be three times less dense than the other properties on the block. Applicants submit that this is the reason that properties fitting the R-1-B density limitations are permitted to build this addition as a matter of right.

II
There are Exceptional Conditions And Practical Difficulties Inherent in the Land

Under a strict application of the R-3 Zoning Regulations, the owner is permitted to build out up to 60 percent of the existing lot area under Code Section 403.2, and/or to request an expansion of the existing dwelling by 25 percent under Code Section 202.9. 3254 O Street is a small, historic house, built in 1843, situated on the largest lot on the block with a number of exceptional conditions and practical difficulties inherent in the land that prevent the owners from using the land as needed and permitted.

The house itself is historic and any expansion of the exterior would be impractical or impossible and negatively affect the historic fabric of the home and negatively impact neighbors on both sides. Expanding the main house would be impossible or extremely impractical because of numerous exceptional conditions and practical difficulties inherent in the land. As noted, directly behind the house there is an historic boxwood garden, a mature double cherry tree, two other mature ornamental trees and an archaeological site that is a root cellar, cistern or the remains of a slave tunnel.[3] Additionally, there is an underground solid granite wall beneath the surface of the property and there is no access to the rear of the property for earthmovers or any other machinery that would permit expansion of the main house.

Even if there were some way to air lift earthmovers into the rear yard to expand the main house, it would destroy the historic boxwood garden, destroy an existing mature double cherry tree and two other mature ornamental trees, destroy the archeological remains of a cistern, root cellar or possible slave tunnel dating back more than 100 years and destroy the historical exterior of the 150 year old house. Additionally, if the solid granite wall runs the length of the property, it might require blasting to lay a foundation. These exceptional conditions and practical difficulties inherent in the land render it extremely difficult or impossible to expand the main house by 25% or to build out this property to the 60 percent limitation allowed for R-3 properties.

Consequently, unless the BZA grants this 5-ft variance from the strict application of Section 2500.4, there is no other reasonable or practical way for the owners to add habitable space for live-in quarters for a domestic employee. Granting this 5-ft. variance will relieve the undue hardship on the owner to accommodate a permitted accessory use with no impact on the historic house, historic garden, neighbors or the public. If this structure were built on a property of similar size and density located in a more restrictive zoning district, this 20 foot second story addition on the accessory garage would be permitted as a matter of right under Zoning Code Regulations 403.2, 2500.5, 320.1 and 321.1.

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[3] See Attachment 3-Photo of exceptional conditions and practical difficulties inherent in the land.

III
Strict Application of Code Section 2500.4 Imposes Exceptional Practical Difficulties and Undue Burdens on the Applicant for a Permitted Use

Applicants work full time and are greatly in need of a full time, live-in domestic employee to maintain the home and grounds. In the future, it is possible that a family member may have an emergency need for assisted living. As noted, the main house only consists of two stories with 2200 ft. of "Gross Floor Area" of "habitable room" and a "cellar" as defined by Section 199. There are three "habitable" bedrooms currently being used full time. The cellar is used primarily for storage with an area that is used for guests approximately 40 percent of the year. There is currently no habitable room for another adult to live in this small house on an R-1-B-sized lot. Owners request the 5-foot variance to the strict application of Code Section 2500.4 to add living quarters for a domestic employee (a permitted accessory use) that cannot otherwise be accomplished because of the exceptional conditions and practical difficulties inherent in the land, as listed above.

IV
Analysis of ANC Resolution

A. The ANC Agrees with Applicant on Issues Relevant to This Application. The ANC Resolution filed in this record states as follows:

> ANC 2E does recognize a certain degree of uniqueness of the 3254 O Street property, specifically the low land use percentage and its beautiful upkeep... Other Factors: ANC 2E feels that the application would have little impact on sunlight to the surrounding neighbors. ANC 2E recognizes the low land use percentage of the applicant's property. Also ANC 2E does not believe that such a project would cause parking issues since the applicant maintains five parking spaces. Thus, the ANC 2E does not object to the applicant on the aforementioned grounds.

1. The ANC supports Applicants claim that this property is unique and presents an anomaly under the strict application of the Zoning Regulations. It also recognizes one of the exceptional conditions that imposes practical difficulties in the use of the land, namely the uniqueness of the property, and the historic gardens that would be destroyed if the Applicant used the property in strict accordance with Zoning Regulations.

2. Importantly, the ANC agrees with Applicant that there are no density impacts on the public. The Application as modified not only exceeds the minimum density requirements of Section 403.2 for R-3 properties, but it even meets the far stricter density requirements for R-1-B properties, thereby, ensuring more than adequate light and air ventilation to all neighboring properties. Under Zoning Code Sections 101.1 and 403.2, the land-to-building density limitations of each zoning district are designed specifically to protect the public good and to ensure adequate light and air. ANC's finding of no density impacts supports Applicant's arguments that the Application does not harm the public good.

3. **The ANC also agrees with Applicant that there would be no impact on public parking as the Applicant maintains 5 off-street parking spaces for two cars.** All of these facts and conclusions of the ANC cited above support Applicant's arguments that granting the application would not negatively impact the public good as defined in the Zoning Code.

B. The Modified Application Improves Sight, and Fully Complies with the Light and Air Requirements of the Zoning Code. However, the ANC stated:

> ANC 2E objects to the application because there would be significant harm to the public good, specifically to the sight lines and air circulation of the neighbors at 1317 and 1319 33rd Street.

Applicant disagrees. The site lines and air circulation will be improved, unaffected or at most, so minimally affected by a 5 foot variance that it does not negatively impact the public or the public good.[4] Applicant opposes expanding the private property rights of the owners or renters of 1317 and 1319 33rd Street to grant these private parties a visual easement over Applicant's property in the name of the public good. The light, air and density impacts on the public and the public good are protected by Code Sections 101.1 and 403.2. As set forth more fully below, this Application fully complies with both of these Code Sections.

1. **The existing view will be improved, and the major impact of the view associated with this Application is on the Applicant.**[5] The addition, when built, will directly face the back of the home of the Applicants. Currently, the 2 properties cited by the ANC look at a dilapidated roof of the shortest building on the alley.[6] Adjacent neighbors will have no view or a side or angled view and a foliage screen should block any remaining view of the proposed addition.[7]

2. **The Application meets or exceeds the Zoning Regulations governing light and air consistent with the "Public Good."** Zoning Code Section 101.1 states that the building density requirements contained in Section 403.2 for each zoning district sets forth the minimum requirements necessary to protect the public good and provide "adequate air and light." The Application as modified not only exceeds the minimum light and air requirements of Code Sections 101.1 and 403.2 for R-3 properties, but it even meets the far stricter light and air requirements under Code Section 403.2 for R-1-B properties, thereby ensuring more than adequate light and air ventilation to all neighboring properties.

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[4] See Attachment-4- Site lines and photos of 1317 and 1319 33rd Street before the foliage screen.

[5] See Attachment-5 The improved site line of the Modified Application.

[6] See Attachment-4-Photo of site line of 1317 and 1319 33rd Street from private and public space.

[7] See Attachment 6-Photo of site line taken from 3258 O Street, also applicable to 1327 and 1321 33rd Street. Additionally, Attachment 7 shows that 1317 and 1319 33rd Street both have existing foliage that will also cover the proposed addition.

To address concerns of neighbors, the original height variance has been reduced from 16 feet to 5 feet, and Applicants have purchased a row of trees as a visual screen to improve the view for all affected neighbors[8]. Additionally, to ensure adequate light and air circulation, the Applicants also purchased an extra four-foot strip of land to provide a side yard for the accessory building so that the addition is 28.5 feet from the nearest house fronting 33rd Street and 36 feet from the next nearest house.

The addition will be split between the two 33rd Street lots cited by the ANC leaving both lots with cross alley and cross-courtyard views and plenty of air circulation.[9] Lastly, the light and air ventilation will also be greater than that which existed before a mature tree was removed that would have completely blocked the view of this addition.[10]

This property is unique as it is the only property abutting this alley that fully meets the light, air and density limitations set forth in Zoning Code Sections 101.1 and 403.2 for R-1-B properties as well as all the density, light and air requirements of the R-3 Zoning Regulations. Therefore, the light and air associated with this Application are fully consistent with Code Section 101.1 and the overall intent, structure and limitations in the Zoning Regulations that protect the public good.

V

Arguments Required to Protect Applicants Legal Rights on Appeal

A. This Application as Modified, is Consistent with Existing Laws, Past Precedent and Does Not Set a New Precedent for Illegal Rental Units to be Constructed. The ANC expressed a concern that the Application may set a precedent for a use that is not permitted by the Zoning Regulations:

> ANC 2E is principally concerned that a special variance would establish a precedent that would encourage other residents of Georgetown's historic alleyways to construct freestanding residential units.

From the beginning, Applicants have filed an affidavit stating that this addition will be used as living quarters of a domestic employee which is clearly a permitted use for accessory buildings in an R-3 district.[11] This addition is not a "Freestanding Residential Unit," and this property is not an "Alley Lot" as defined in Zoning Code Section 199.1.

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[8] Compare Attachments-4 and 5 and see Attachments 6 and 7.

[9] Attachment- 7-Shows the site, light and air of 1317 and 1319 33rd Street from public space.

[10] 1317 33rd Street had a mature tree that completely blocked the view of the addition. The tree was removed without a permit, and Applicant has replaced it with the foliage screen shown in Attachment 5.

[11] This application is for a second story to be used as living quarters for a domestic employee. It should be noted that the emergency use by a family member in need of assistance is only a possibility. In the event of such an emergency, owners do not wish to be forced to use a nursing home if it is not necessary. Should emergency use by a family member require a separate application, such use will not occur without a future application.

On this block and the next, a number of garages on the alley have second stories built on lots smaller than the Applicant's property, some of which are currently occupied. 3254 O Street is the only fully detached home on this block that would qualify for this addition under the strictest sections of the DC Zoning Codes.

This application is consistent with current laws, existing precedent of other detached homes on this alley and will not set a legal precedent to permit unauthorized rental units to be constructed by attached town-homes already built out to the maximum 60 percent of existing land area. Granting a 5-ft variance for a permitted use of an accessory building on an R-1-B sized lot will not be precedent for smaller R-3 properties.

B. Application No. 13550 is Not Precedent for This Modified Application

The facts of Modified Application Number 16696 are completely different than the facts of Application No. 13550. In 1981, a 5-story, 5000 sq. ft. Federal Period fully attached row house of "magnificent proportions" abutting this alley requested a variance to build a maid's quarters on their garage. The variance was denied. It was denied because (1) the Applicants had ample habitable room in the main house to accommodate a maid, but the owners did not want to "chop-up" the house, (2) Applicant's admitted that there was no undue hardship on the owners or any practical difficulties inherent in the land, and (3) the property was built out to the maximum limits for an R-3 property and did not meet the lot size or density requirements of an R-1-B property. Consequently, the Commission found that Applicants did not meet the Three-Prong Test for a variance.

As stated above, 3254 O Street is a small, Federal Period, fully detached, single family dwelling that only has two stories with 2200 sq. ft. of "Gross Floor Area" of "habitable room" and a "cellar" as defined by Section 199. There are three "habitable" bedrooms currently being used full time. The cellar is used primarily for storage with an area that is used as a guest room approximately 40 percent of the year. <u>There is currently no habitable room for another adult to live in on a full time basis in this small R-3 house on an R-1-B sized lot</u>. Owners request the 5-foot variance to the strict application of Code Section 2500.4 to add living quarters for a domestic employee that cannot otherwise be accomplished because of the exceptional conditions and practical difficulties inherent in the land itself as listed above. None of these facts were present in Application Number 13550.

C. Granting this Application Is Consistent with the Overall Intent, Structure and Proper Interpretation of the Zoning Code.

In addition to meeting the Three-Prong Test for a variance from Zoning Administrators interpretation of Code Section 2500.4, this Application is consistent with (1) Code Section 2500.5 which permits maids quarters to be built on accessory buildings up to a height of 20 feet on lots that comply with the building density limitations applicable to R-1-B; (2) Code Section 320.1 which permits the same related uses in R-3 districts as in R-1 districts; and (3) Code Section 321.1 which permits <u>any accessory use or building</u> permitted in R-1, in an R-3 district. A variance is not necessary under the plain wording of these Zoning Regulations.

In addition, the overall intent, structure and plain wording of the DC Zoning Code allows buildings and uses that are permitted in more restrictive zoning districts in less restrictive districts. Zoning Administrator's interpretation of Code Sections 403.2, 2500.4, 2500.5, 320.1 and 321.1 yields a result that is completely contrary to the overall structure, intent and the plain wording of the DC Zoning Code. Prohibiting Applicants the use of an R-1-B sized property in accordance with R-1-B regulations violates a number of controlling principles of law and has a negative impact on Applicants property rights.

Specifically, the interpretation rendered by Zoning Administrator produces a result that is: (1) contrary to the plain wording of the code as written and administrative law governing the proper interpretation of statutes and regulations, (2) yields a result that treats equal properties in an unequal fashion, (3) improperly deprives Applicants of property rights under both federal and state laws, and (4) improperly grants other private property owners property rights to the Applicant's property that they do not own as a matter of law, and is therefore (5) arbitrary and capricious. Even assuming arguendo that the Zoning Administrator's interpretation does not violate applicable laws, it is equally clear that approval of this application would clearly be consistent with the general intent and structure of the Code as this same exact property located less than a mile away would be permitted this same request as a matter of right.

D. Improper Conduct and Misrepresentations Submitted into this Record have Prejudiced Applicant's Legal Rights.

It is extremely distressful that a property owner must be subjected to the conduct that has occurred in this matter, merely to use their property in a reasonable fashion permitted by law. Applicant truly regrets having to document the following facts, however, the law requires the full documentation of the record in the event of an appeal. Failure to do so could significantly affect Applicants' property rights.

1. Improper official conduct prejudiced Applicants. Official misconduct prevented Applicants from having an opportunity to address the Three-Prong Test at the ANC. Both the Applicants and the OPA thought a variance would not be needed for the Modified Application if the property qualified as a matter of right under Section 2500.5 because it meets the height and density limitations of an R-1-B property. A copy of Zoning Administrator's letter dated June 5, 2001, purported to copy the Applicant but has never been sent to Applicant. Only the ANC and protesting neighbors had a copy in advance of the meeting. Applicant was given a copy by the ANC after the Applicant finished its presentation. Consequently, Applicant's ANC presentation solely addressed concerns expressed by neighbors, and not the Three-Prong Test. As a result, the ANC resolution incorporated facts and law that Applicant had no opportunity to correct, and had no reason to believe were issues before the ANC.

2. Misconduct and misrepresentations by certain property owners and renters prejudiced the legal rights of the Applicant. This Application is for a 5-ft addition to add a second story to an existing garage for a permitted use that places the least density demands of any property on the entire block. However, a petition submitted into this record misrepresented the nature and intended use of the property as a three-story apartment that would have multiple rental units. The Petitioner also misrepresented to signatories to the petition (who had supported the Original Application) that the drawings they originally saw and approved were switched. All of these statements were false and caused unnecessary confusion and concern within the neighborhood, which resulted in qualified ANC opposition.

Additional improper conduct and misrepresentations caused the ANC to ignore a petition signed by 60 neighbors supporting the Modified Application and to base its resolution on facts that no longer apply to the Modified Application and interpretations of law that are not correct. One property owner wanted a free easement to drain his swimming pool. One renter in a zero lot line property objected to renters and parking and high-density demands on public services. One property owner outright falsified the record and misled neighbors into opposing the Application. These parties have also stated that there is no plan that would satisfy them.

The misconduct cited and misrepresentations submitted in this record are thinly veiled attempts of private property owners and renters to acquire free easements that improperly enhance their personal property rights at the Applicant's expense and to complain about conditions they in fact create. The facts are that these same parties (1) are or have renters on far smaller properties, (2) have no or illegal parking spaces, and (3) use the alleyway and public space to dump trash or otherwise place high demands on the other residents and the public. Additionally, the entrance of the alley maintained by two such parties restricts access to the alley by approximately 10 feet or more depending on the location of a private apartment building dumpster on public space, and the cultivated growth of vegetation into the alley.[12] When cars or vans of property owners and their renters are illegally parked at the 33rd Street or Potomac Street entrance to the alley, the alley is impassable. Each of these instances of misconduct and misrepresentations have prejudiced Applicant and its property rights.

Conclusion

This Modified Application is for a unique property that presents an anomaly under the Zoning Regulations and is supported by more than 60 neighbors. Due to unique and exceptional conditions of the property itself, the strict application of the Zoning Regulations result in peculiar and exceptional practical difficulties to and an undue hardship on the owners of the property. Granting this Modified Application will accommodate a permitted use with the least impact on the public, neighboring properties, the historical structure, the historic garden and the other

[12] See Attachment-8-Photos of alley as maintained by protesting parties.

exceptional condition[redacted]nd practical difficulties inherent in [redacted] land. The Modified Application will improve sight, the surrounding area and have no impact on light or air as defined by the Zoning Code. Approval of a 5-foot variance for a permitted use cannot be accomplished in another way because of unique, exceptional and practical difficulties inherent in the land itself. This Modified Application is consistent with the intent and structure of all existing laws and regulations, will have no impact on the public and is consistent with existing precedent.

Respectfully submitted,

Craig Goodman

Craig Goodman, Owner

cc: Original and 6 Duplicate Originals with all attachments for each Board Member. Sent Federal Express to Mrs. Jerrily R. Kress, Director of the Office of Zoning.

One Duplicate Original with all attachments sent Federal Express to Maxine Roberts, Office of Planning.

With Attachments:

Attachment-1-Petition in Support of Modified Application with Drawings and Photos (10 pages and 3 photos).

Attachment-2-Clarification of Zoning Review Supervisor dated June 21, 2001 (2 pages). Letter from Zoning Administrator dated June 5, 2001. (2 pages).

Attachment-3-Photos of exceptional conditions and practical difficulties inherent in the land. (2 photos).

Attachment-4-Site lines and photos of 1317 and 1319 33rd Street before the foliage screen. (2 photos and 2 drawings).

Attachment-5-Photos of site line with foliage screen from public and private space. (2 photos).

Attachment-6-Photo of site line taken from 3258 O Street, also applicable to 1327 and 1321 33rd Street.

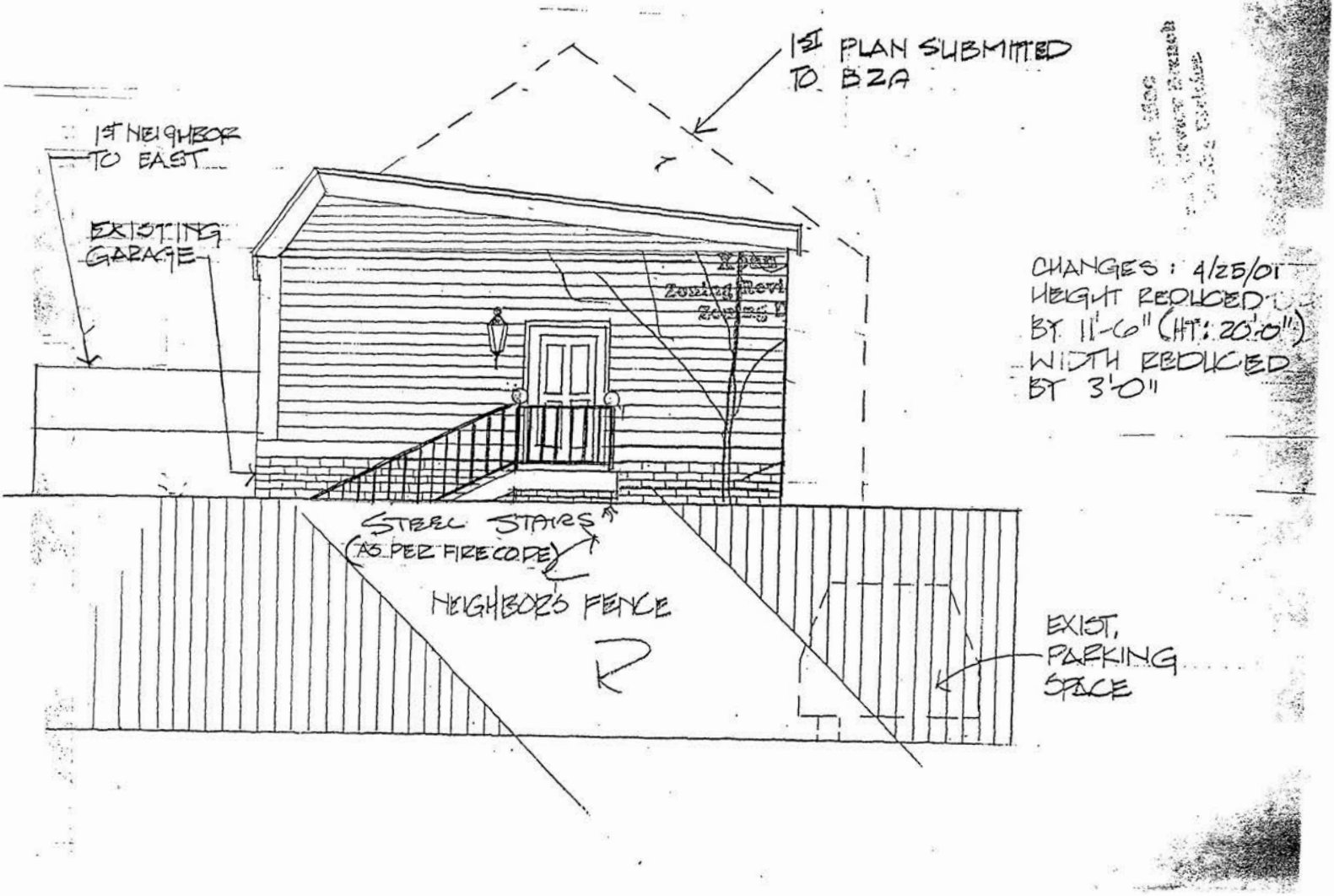
Attachment-7-Photo shows the light and air of 1317 and 1319 33rd Street from public space.

Attachment-8-Photo of alleyway as maintained by Petitioner and renters.

Attachment -9-Site plan of supporting neighbors with annotations and copy of signatures to Original Petition with Original Drawings. (10 pages).

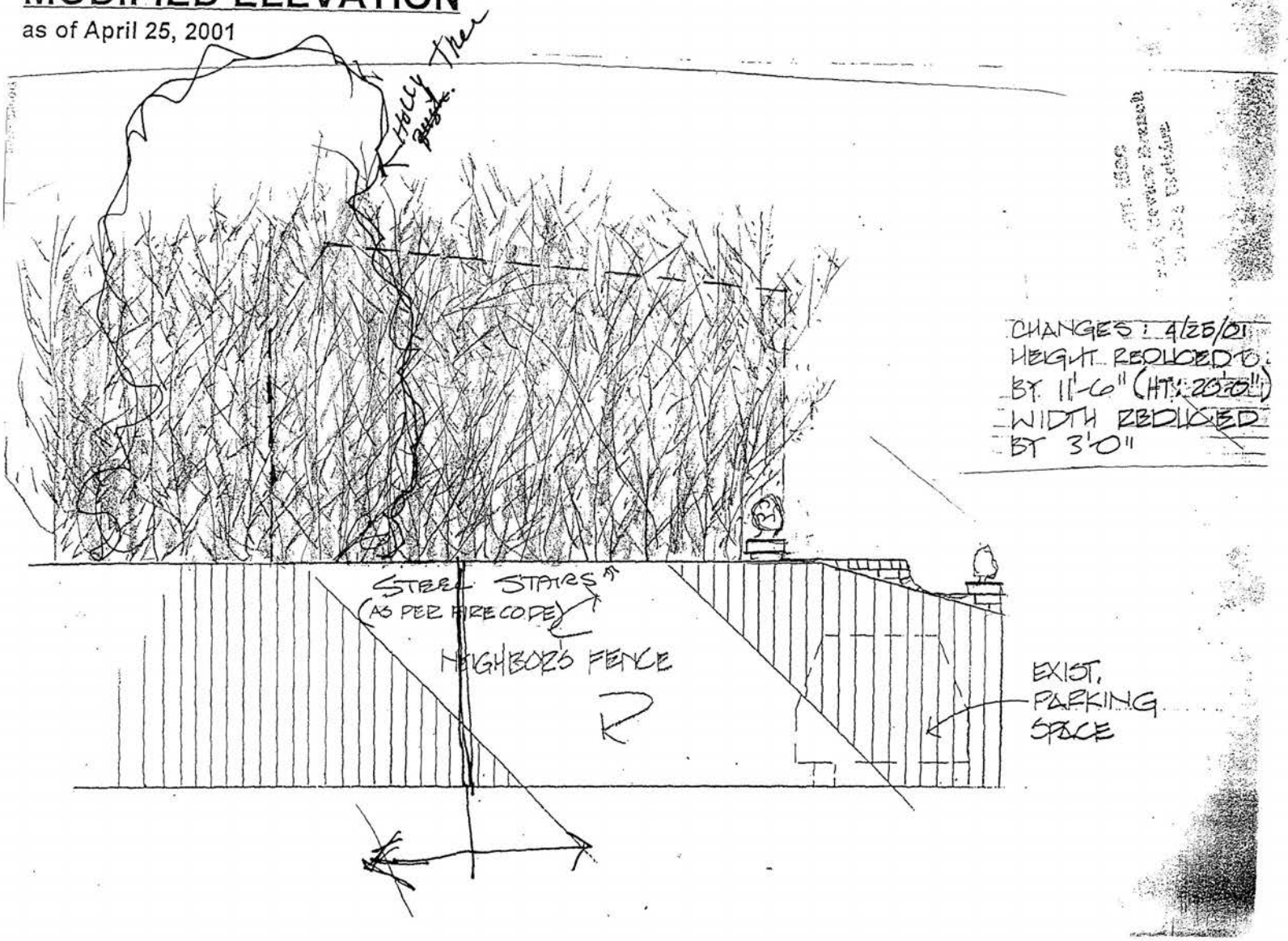
MODIFIED ELEVATION

as of April 25, 2001

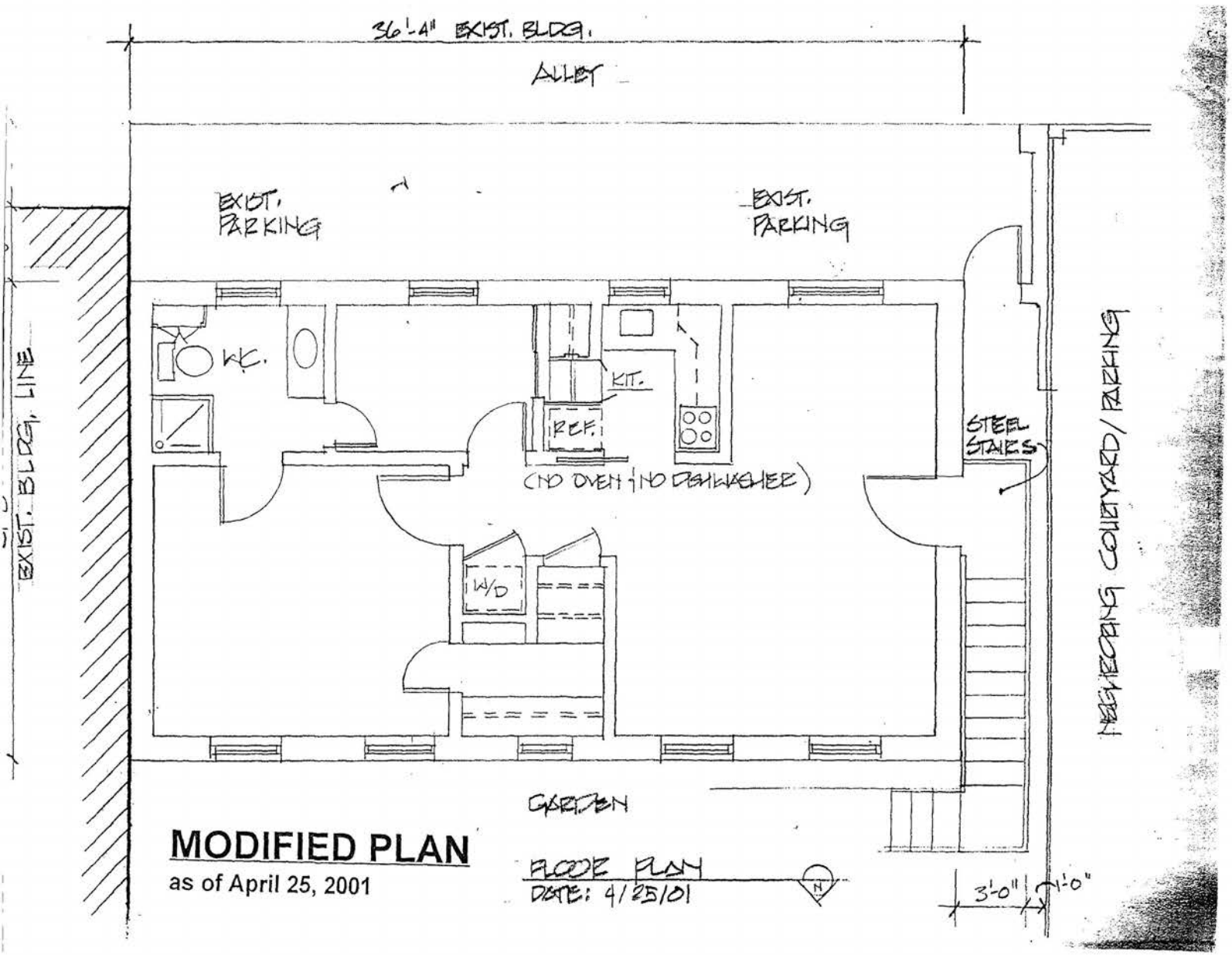


MODIFIED ELEVATION

as of April 25, 2001



CHANGES: 4/25/01
HEIGHT REDUCED TO:
BY 11'-6" (HT: 20'-0")
WIDTH REDUCED
BY 3'-0"



MODIFIED PLAN

as of April 25, 2001

Attachment # 2

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Building and Land Regulation Administration
Office of the Zoning Administrator

June 21, 2001

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

Re: Modified BZA Application No. 16696 - to construct living quarters on an Existing Accessory building for a Domestic Employee to a maximum height of 20 feet in an R-3 District

Dear Mr. Goodman:

In response to your letter of June 13, 2001, requesting clarification with respect to the modification of your relief request before the Board of Zoning Adjustment, the Zoning Review Branch submits the following:

1. In concurrence with the Zoning Administrator memo in submission with your BZA application, a two-story accessory building requires a variance relief from the limitations of Section 2500.4, which limits such buildings to no more than 1 story or fifteen feet (15 ft.) in height.

2. Section 2500.5 permits, in an R-1-A or R-1-B district, the use of a second story on an accessory private garage for purposes of living quarters of domestic employees of the family occupying the main building.

3. In the event that the Board of Zoning Adjustment grants relief for the erection of a two-story accessory building, the devotion of the second story to a domestic employee living quarters is allowed as a matter of right since the use is already allowed in the more restrictive R-1 District.

Furthermore, Section 321.1(a) of the R-3 district allows as a matter of right, "any accessory use or accessory building" permitted in the R-1 District. While Section 2500.4 provides further restriction for an "accessory building", no language further restricts the "Accessory Use" element of the language set forth in Section 321.1(a).

I hope this provides the clarification you seek for purposes of the hearing before the Board of Zoning Adjustment.

If I can be of further assistance, please do not hesitate to contact me (202) 442-4674.

Respectfully,

TOYE BELLO

for Toye Bello, Chief
Zoning Review Branch

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Building and Land Regulation Administration
Office of the Zoning Administrator

June 5, 2001

Advisory Neighborhood Commission
3265 S Street, NW
Washington, DC 20007
Attn: Peter Pulsifer, Chair

Re: BZA Application 16696 (Craig and Ann Goodman) for Variance for Construction of a Second Story to an Existing Accessory Garage

Dear Ladies and Gentlemen:

This letter is to clarify the DC Zoning Regulations(DCMR Title 11) that apply to the referenced Board of Zoning Adjustment (BZA) application.

Section 2500.4 of the Regulations provide that accessory buildings shall not exceed one (1) story or fifteen feet in height. The Regulations provide one exception to this general prohibition. In the R 1-A and R-1-B districts, if certain qualifications are met, a homeowner may add a second story to an accessory building not to exceed twenty feet in height for sleeping or living quarters for a domestic employee. This exception does not extend to the R-3 district. Therefore, regardless of the height of their proposed addition to their accessory garage, the Goodmans must obtain a variance for any building height exceeding fifteen feet (15ft). The Zoning Regulations, as interpreted by Mr. Goodman in his May 15, 2001 letter to Maxine Brown Roberts, are incorrect.

The applicant for a variance must meet the following burden of proof in order for the BZA to vary or modify any part of the Regulations: (1) where, because of an exceptional situation, the strict application of the Zoning Regulations results in "exceptional practical difficulties or exceptional and undue hardship" upon a property owner; (2) granting the request would not cause substantial detriment to the public good; and granting the request would (3) not be inconsistent with the general extent and purpose of the Zoning Regulations.

Please feel free to contact our offices at 442-4576 if additional information is required.

Respectfully,

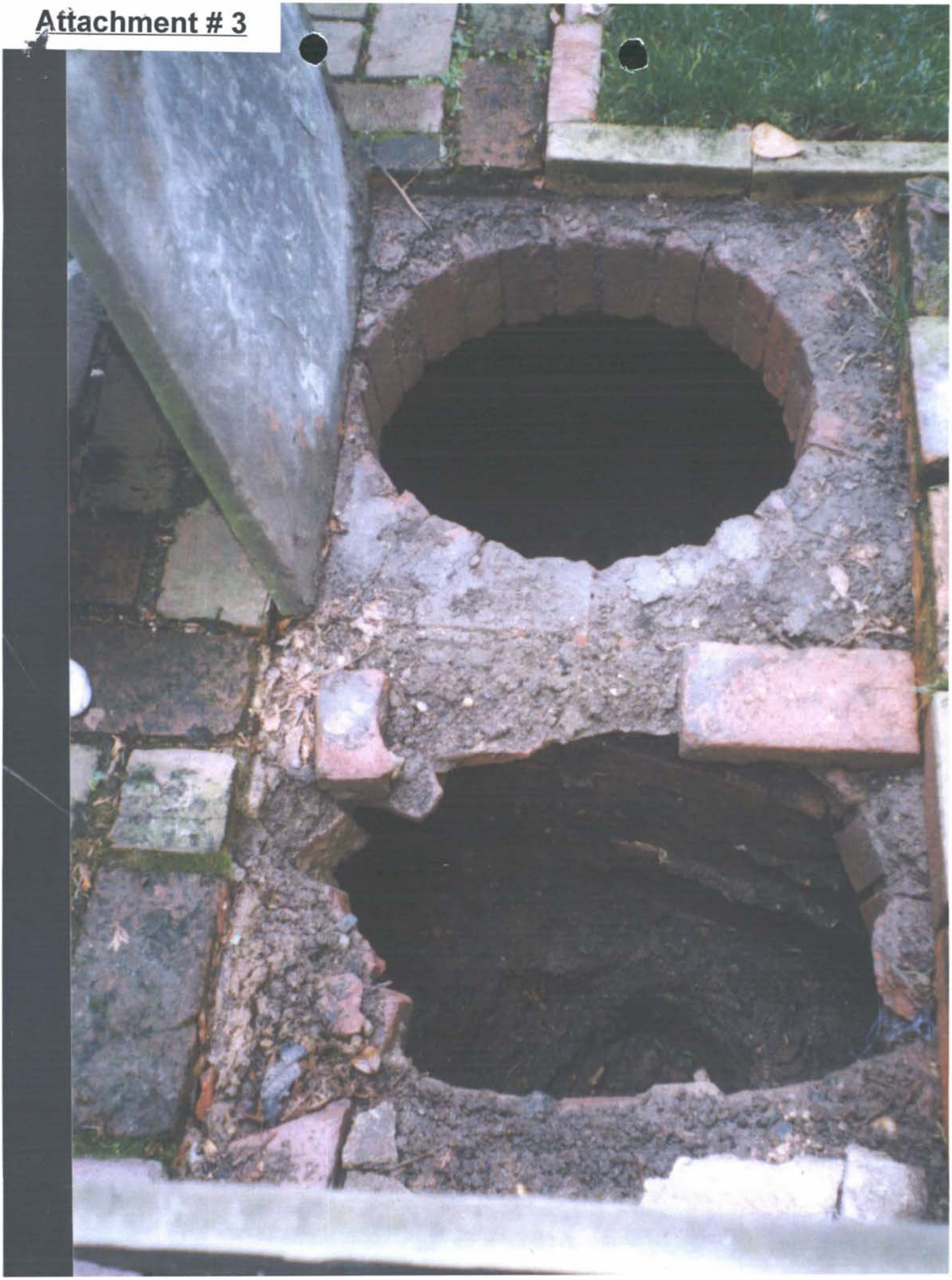
Michael D. Johnson
District of Columbia
Zoning Administrator

MDJ/er

Cc: Toye Bello, OZA
Maxine Brown Roberts, OP
Craig Goodman, Applicant
Jerrily R. Kress, OZ

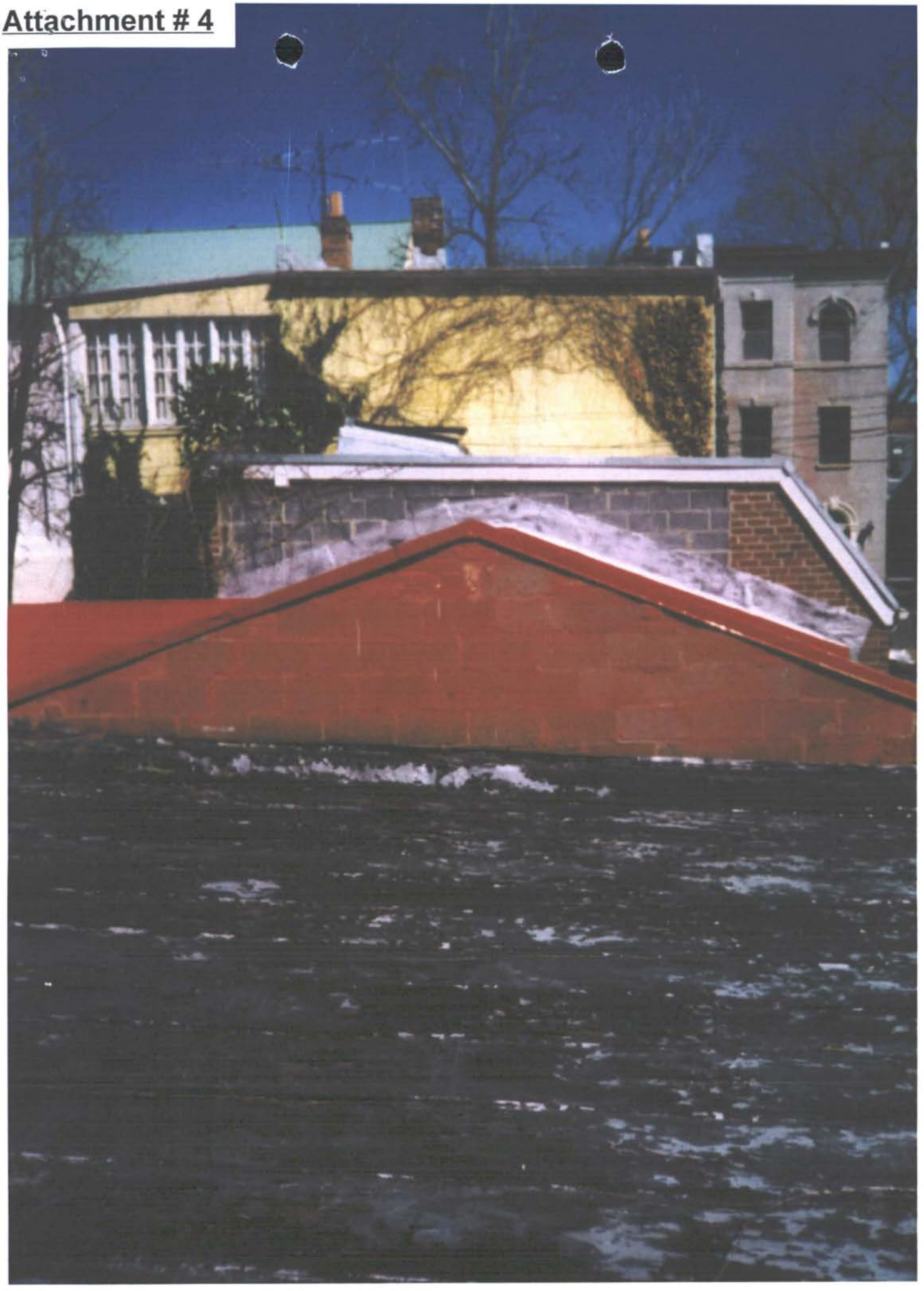
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Attachment # 3





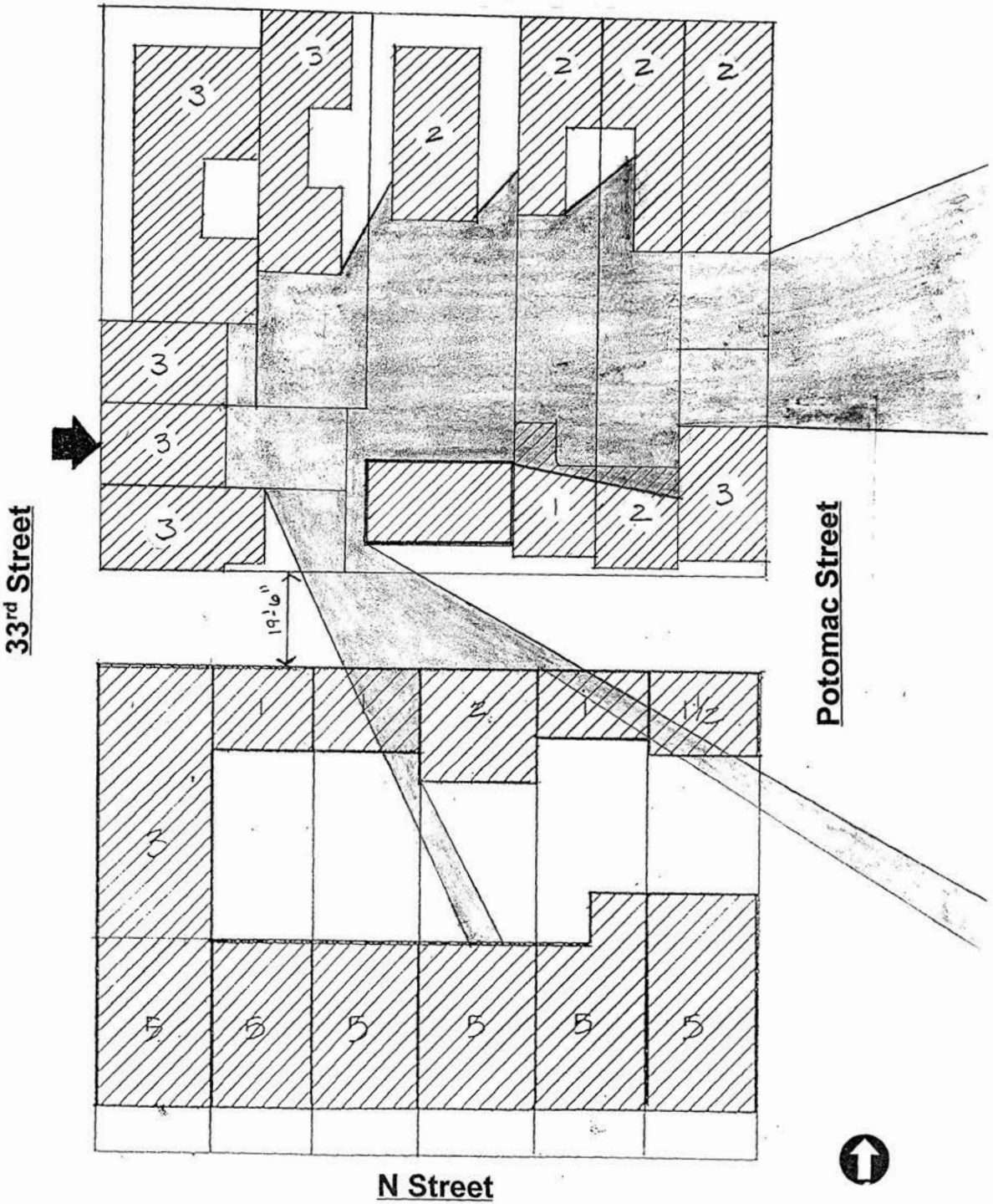
Attachment # 4




3254

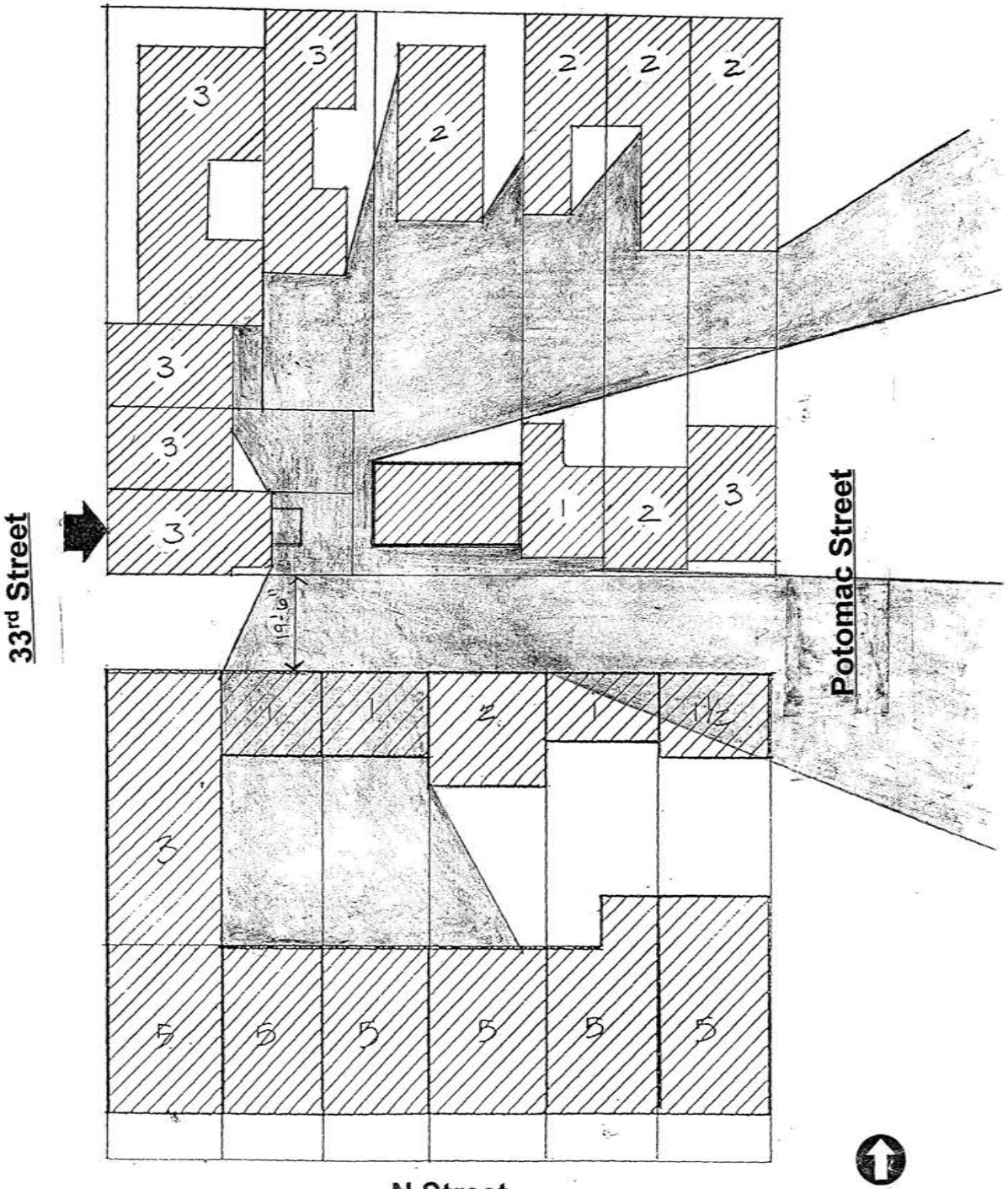
View from 2nd Floor of 1319 33rd Street

with the addition, and *without* vegetation



View from 2nd Floor of 1317 33rd Street

with the addition, and *without* vegetation



Attachment # 5





Attachment # 6

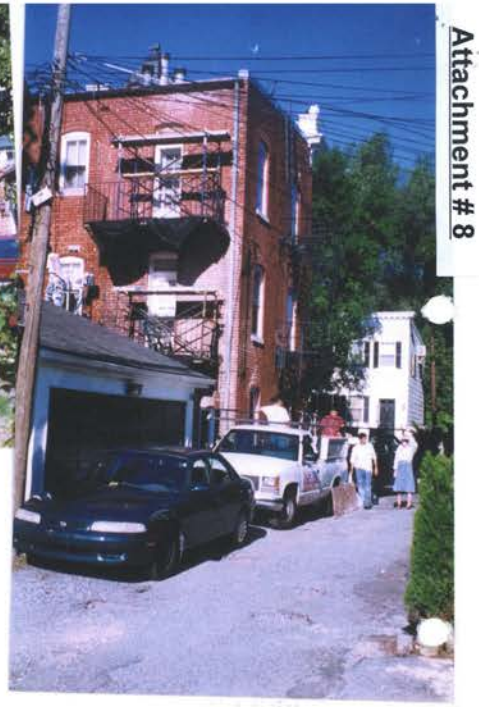
Attachment # 7





NEIGHBOR'S FENCE W/ REAR SIDE FACING PUBLIC SPACE





BEFORE





AFTER

NEW TREES





VIEW FROM GARDEN

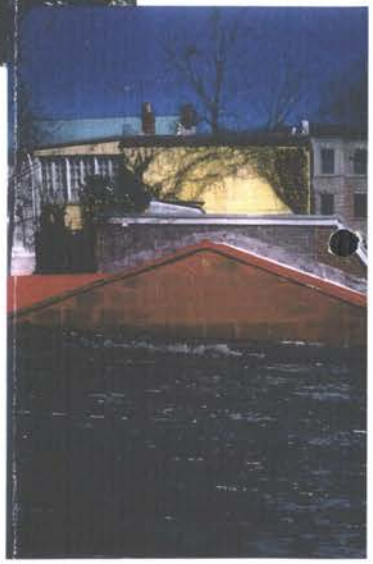
VIEW FROM 33RD ST. TOWN HOUSES



VIEW FROM FAMILY ROOM



VIEW FROM 33RD ST. SIDEWALK

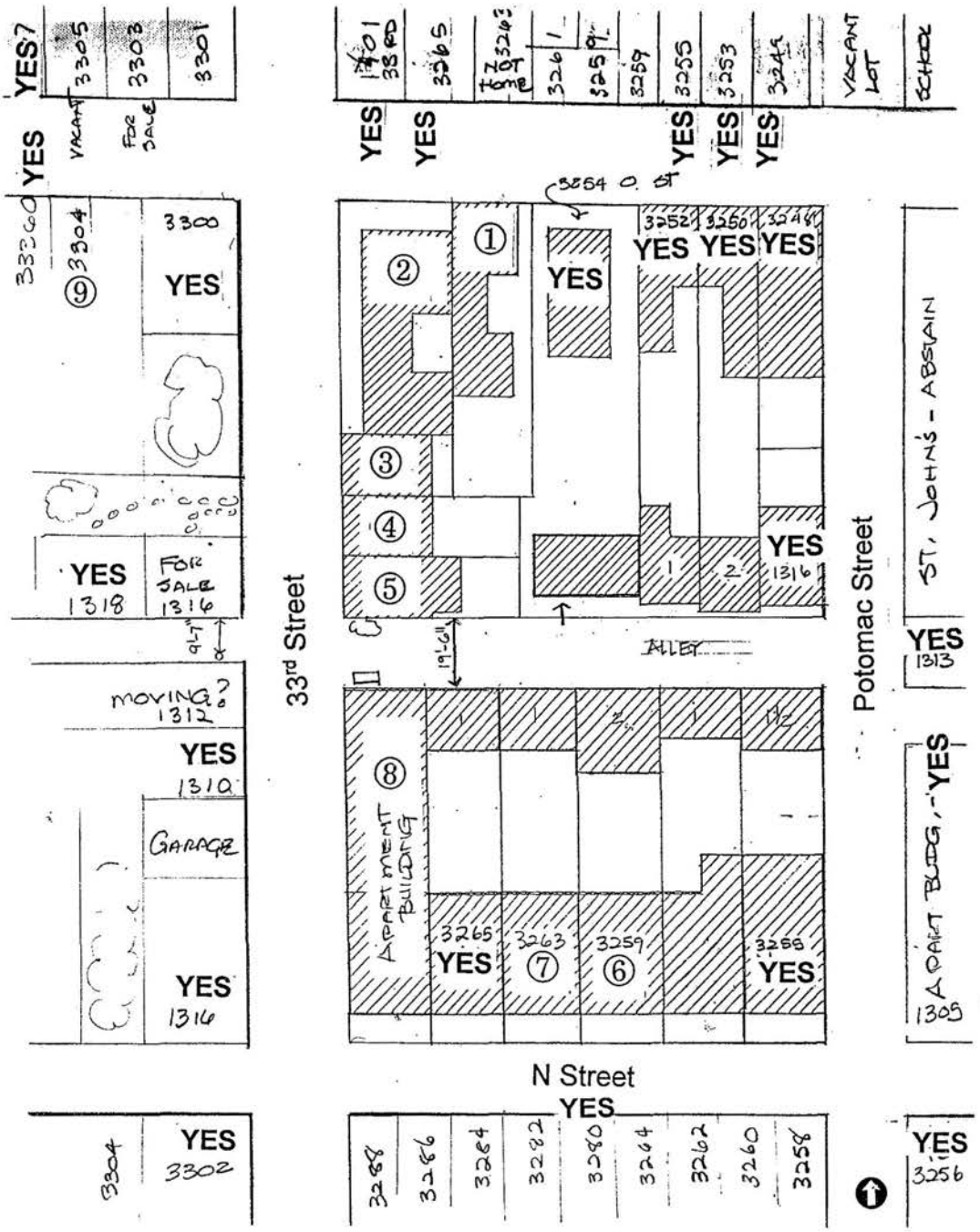





3 STORY
2 STORY
1 STORY
8 FEET

Attachment # 9

Supporting Neighbors



1. Owner approved Original Application. Wanted an easement to drain swimming pool over Applicant's property, then opposed.
2. Objected to Original Application, and is considering Modified Application.
3. Objects to uses permitted by the code.
4. Asked to move fence off Applicant's property- then threatened suit for an easement.
5. Asked to move fence off Applicant's property- Misrepresented application to neighbors.
6 Approved Original Application, then later opposed based on misinformation.
7. Approved Original Application, then later opposed based on misinformation.
8. Renters who oppose to density and parking, yet create these conditions.
9. Not interested in the validity of the project, but stated opposition was based on a friendship.

Original Neighborhood List
Approving 31.5 Foot Height Addition

Neighborhood Approval List

I have seen the drawings of a second floor addition to the carriage house at 3254 O street, and do ***not*** object to the change:

Name:	**Address**:
Judith A Terra	3263 N St N W.
Troy Fahy	1316 N. Potomac
T. J. Vogt	3258 O St.
Betty S Work	3255 'N St
P.J. Hart	3252 "O" ST., N.W. MOVED OUT.
Helen C. Turner	3250 "O" St. N.W.
Carl Lagerfeld	3249 N. St.
Angela Rivera	3252 O St. NEW NEIGHBOR

Attachment # 1

We the undersigned **do not object** to a one (1) story addition to the existing garage at 3254 O Street, NW, as shown in the attached drawings dated April 25, 2001

	NAME	ADDRESS
1.	Helen C. Turner	3250 'O' St. N.W.
2.	James M. Oppenheimer	3248 "O" St. NW
3.	Margaret Oppenheimer	3248 "O" St NW
4.	[illegible]	3250 'O'. St. NW.
5.	Katherine Bondurant	1305 Potomac St NW.
6.	Ryan Orner	1305 Potomac St NW
7.	Alex Coolidge	1305 Potomac St NW
8.	Erin Fabrikant	1305 Potomac St NW
9.	James Bonetti	1305 Potomac St NW
10.	[illegible]	3256 N St. NW
11.	[illegible]	1241 Potomac St
12.	[illegible]	1235 Potomac St NW
13.	[illegible]	" " " " " "
14.	[illegible]	1239 Potomac St NW.
15.	Sara F. Carroll	1239 Potomac St NW
16.	TRINA C. DUNCAN	1232 Potomac St NW.
17.	Juanita Bliss (William T. Beadleston) WILLIAM BEADLESTON	1365 N. Street N.W.
18.	[illegible]	3265 Prospect St NW
19.	Peter Colcomb	1442 Wisconsin Ave NW Dc
20.	Steve Cooley	1236 Potomac Street N.W.

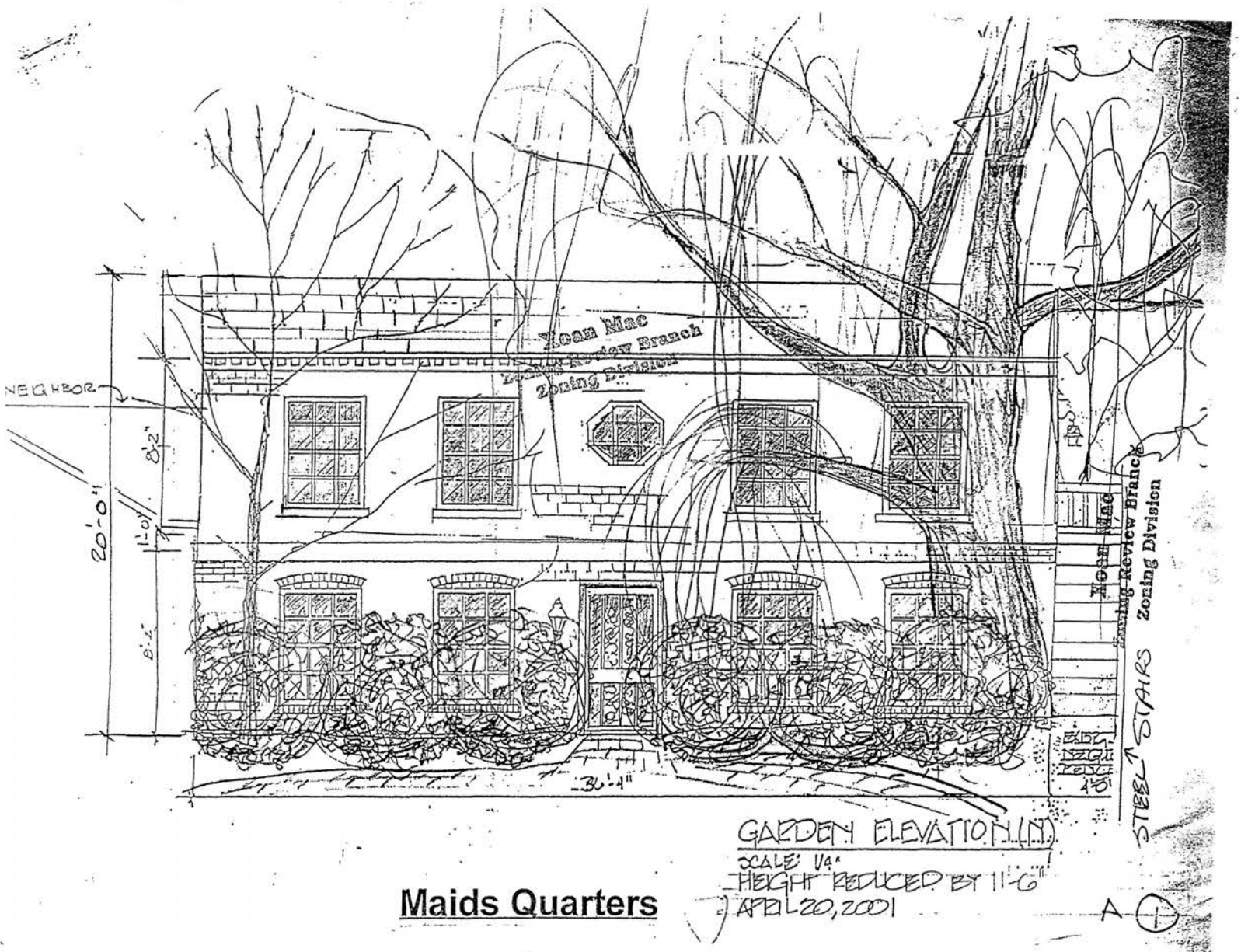
21.	Betsy Cooley	3252 O St NW
22.	Virginia Peters	" "
23.		
24.	Sara Frank	1423 33rd St NW
25.	Elizabeth Lucia	1233 Potomac St, NW
26.		1233 Potomac ST. NW
27.	Dance Powell	3280 N St NW.
28.		3301 N ST NW
29.		3336 O St NW
30.	Stuart Wiesblum	3338 O St NW
31.	Ewa de Hirschberg	3334 O St. NW
32.	A. Grossman	1324 34th St. NW
33.		1314 34RD St.
34.	Lesley Lee	1306 34th St. 1
9/15-1410 35.		3340 N ST. NW
	DON WEAVER + SUZANNE CAMERON	
36.	Tim Tracy	3338 N St. NW
37.	David Brock	3334 N. St NW.
38.		3330 N. Street NW
39.	Lou Pitozzi	3327 N Street, NW
* 40.	Martin to call may	3300 O ST NW
41.	& change vote	3300 O ST NW
42.	N. Nash	1314 34th ST NW

JOSE MARTINEZ

Ref = Pat McGettigan
3327 N St NW

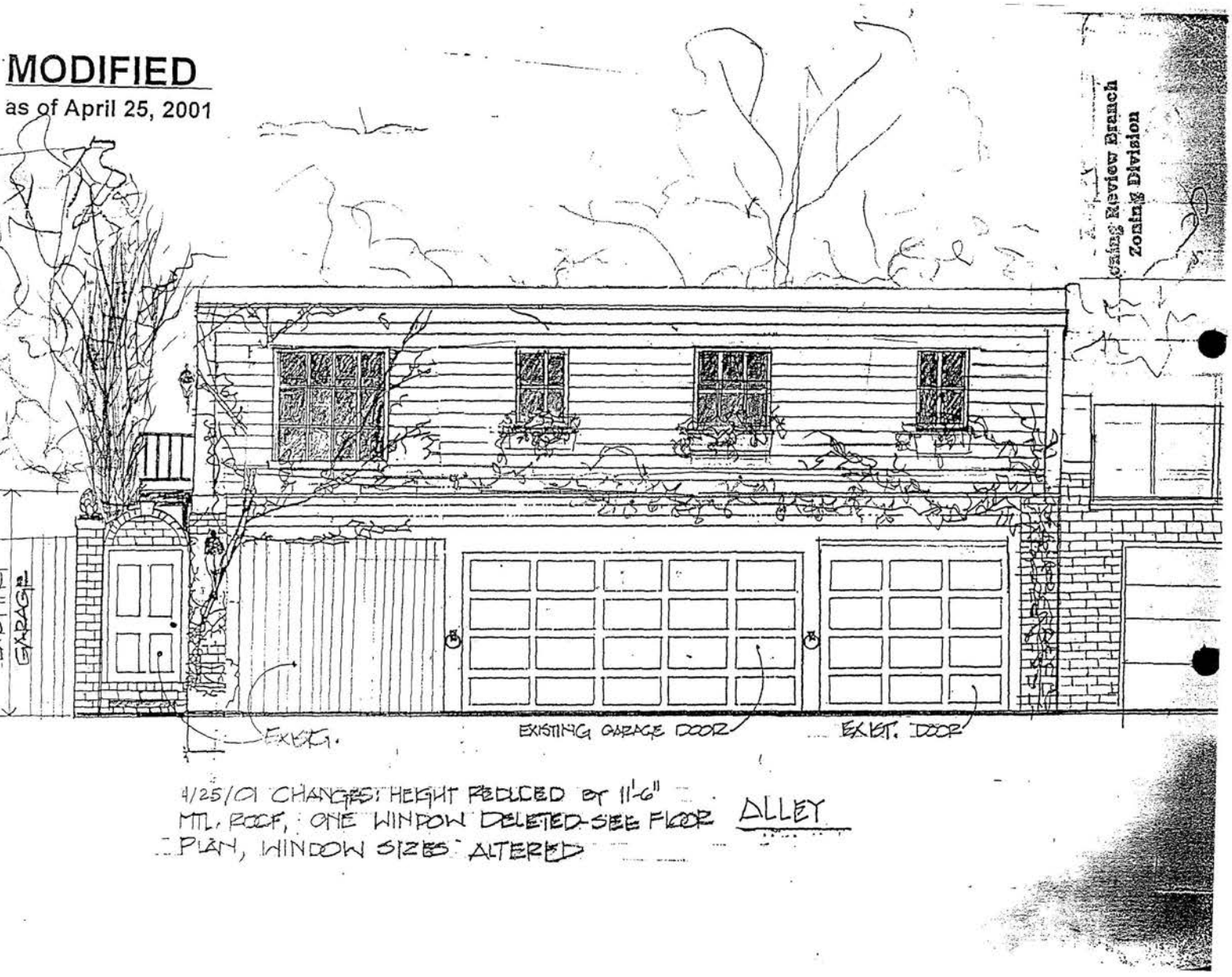
43.		1310 34th Street (T.M. Jones)
44.	Charles Rumph	3328 N St. N.W.
45.	Shirley J. Johnson	3328 N St NW
46.	Wm Thos Hart	3321 N Street NW
47.		3319 N STREET, NW.
48.		1318 33RD ST NW
49.	Jan Pickett	3245 O st St NW
50.		3245 O ST NW
51.		3254 O St NW.
52.	DAVID Pyle	1310 33rd STreet, NW
53.	Elizabeth Barwick	3301 O St. N.W.
54.	CHRIS ALIVERTO	1313 POTOMAC ST NW.
55.		
56.		3313 N St
57.	David L. Marshall	3313 N. St.
58.		3313 N ST.
59.		3317 N St.
60.		3249 O ST.
61.	Jim Carey	1316 Potomac St NW
62.	Antonett Russo	3400 O ST. NW.
63.	Ingrid Mast	3253 "O" St. NW
64.		(Does not affect us) 1401 33rd St NW

65.	ART & ROSELYN BROWN	3302 N ST NW
66.		
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86.		



Maids Quarters

MODIFIED
as of April 25, 2001

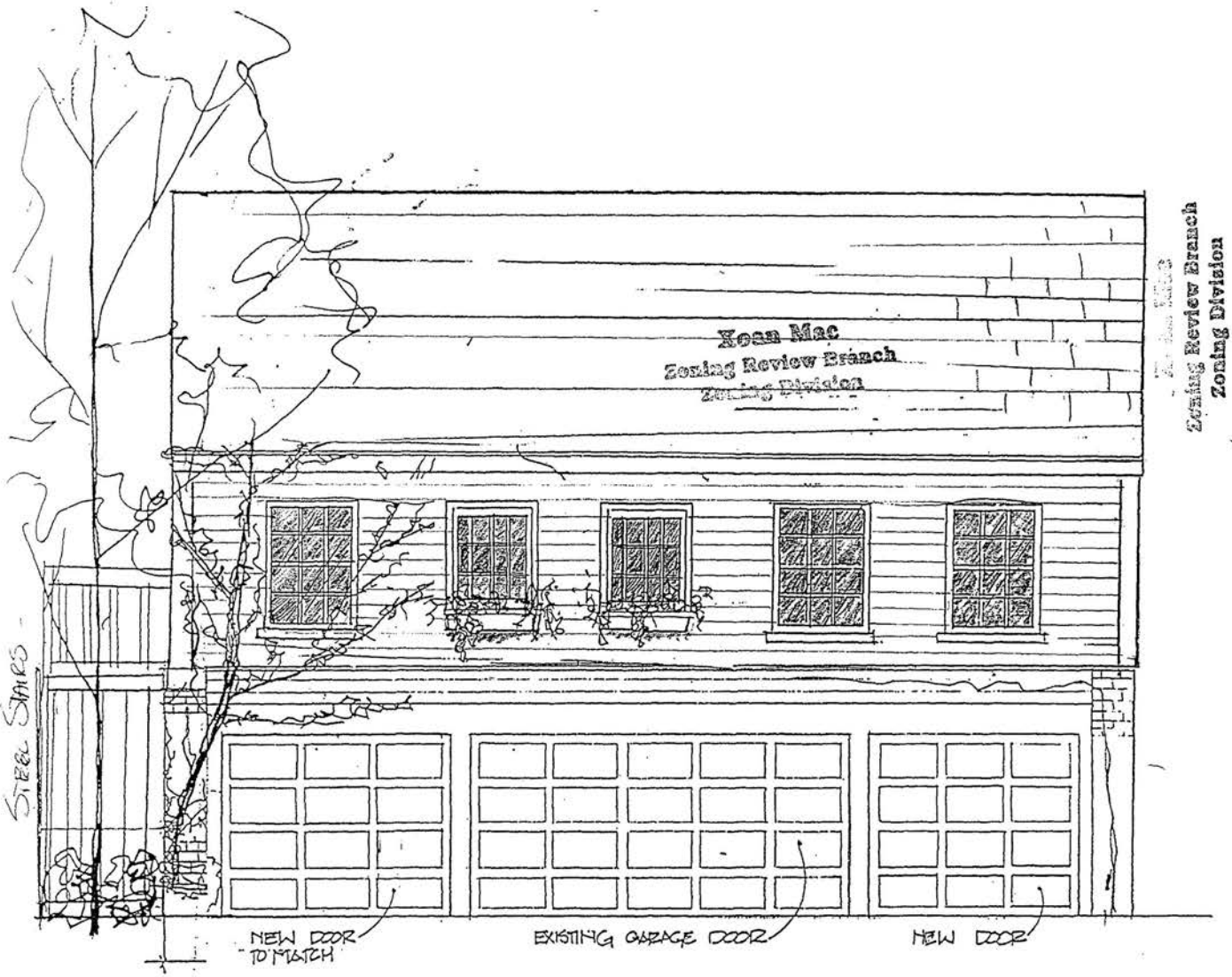


4/25/01 CHANGES: HEIGHT REDUCED BY 11'-6"
MTL. ROOF, ONE WINDOW DELETED-SEE FLOOR
PLAN, WINDOW SIZES ALTERED



Maids Quarters

A (1)

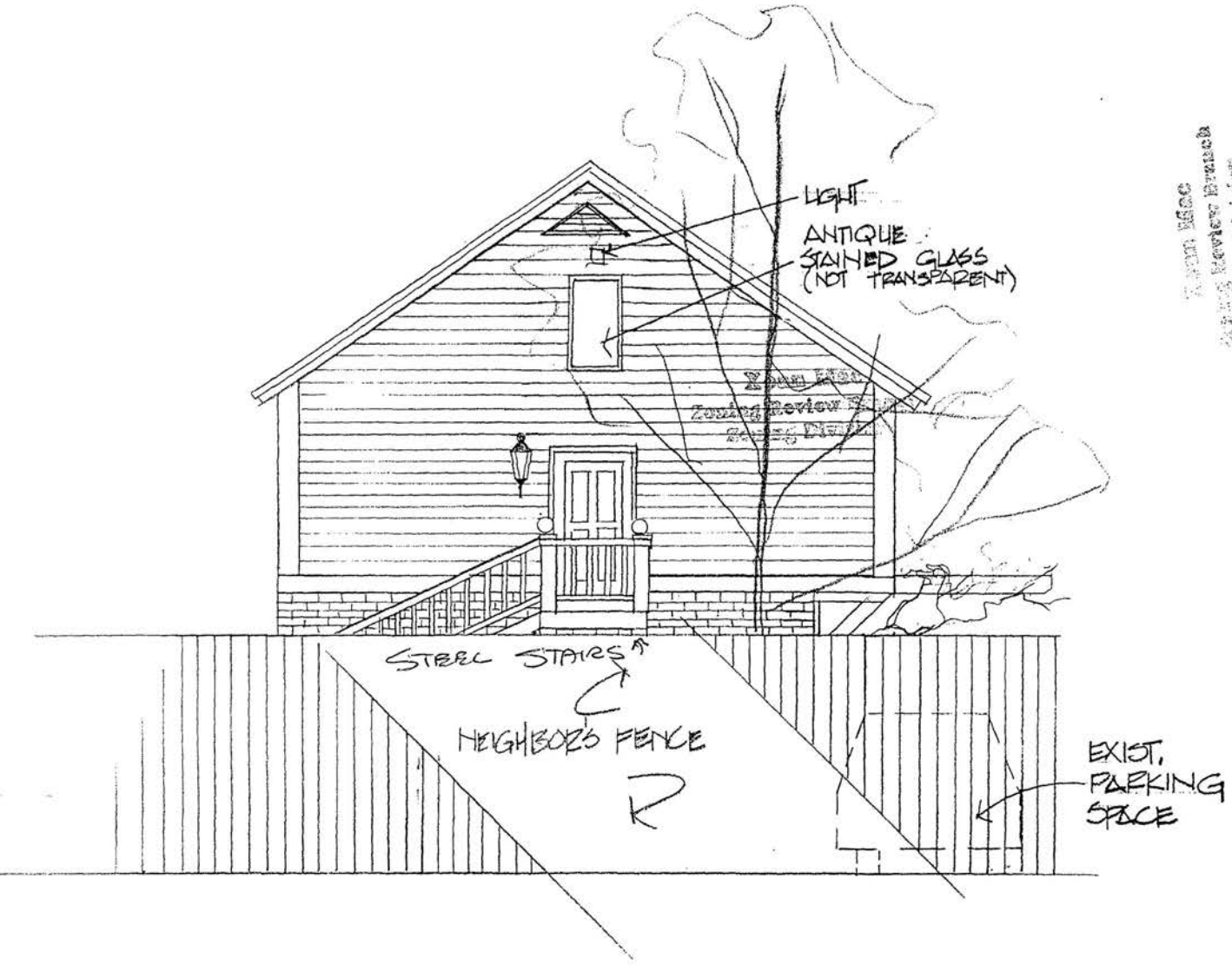


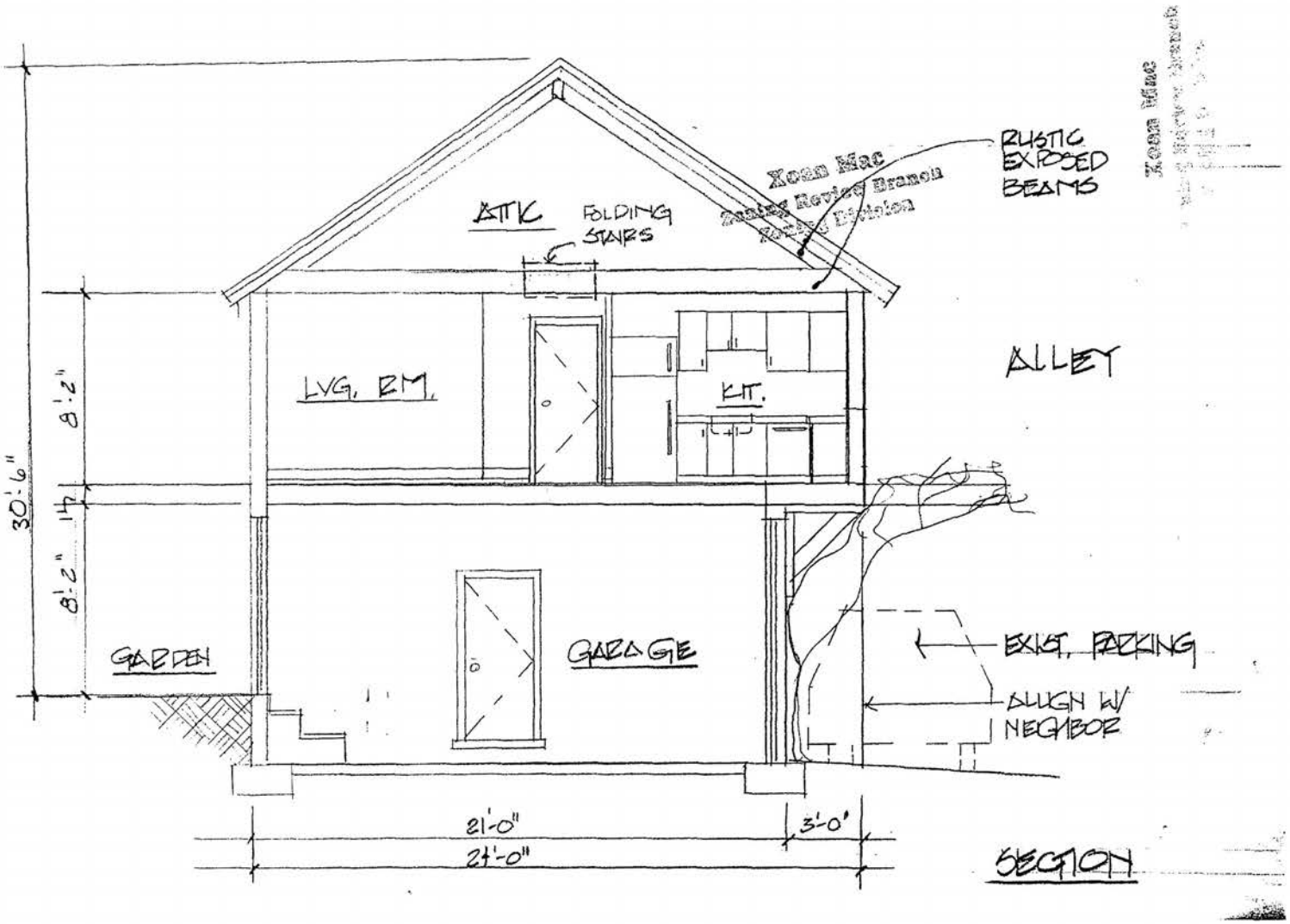
Xoan Mac
Zoning Review Branch
Zoning Division

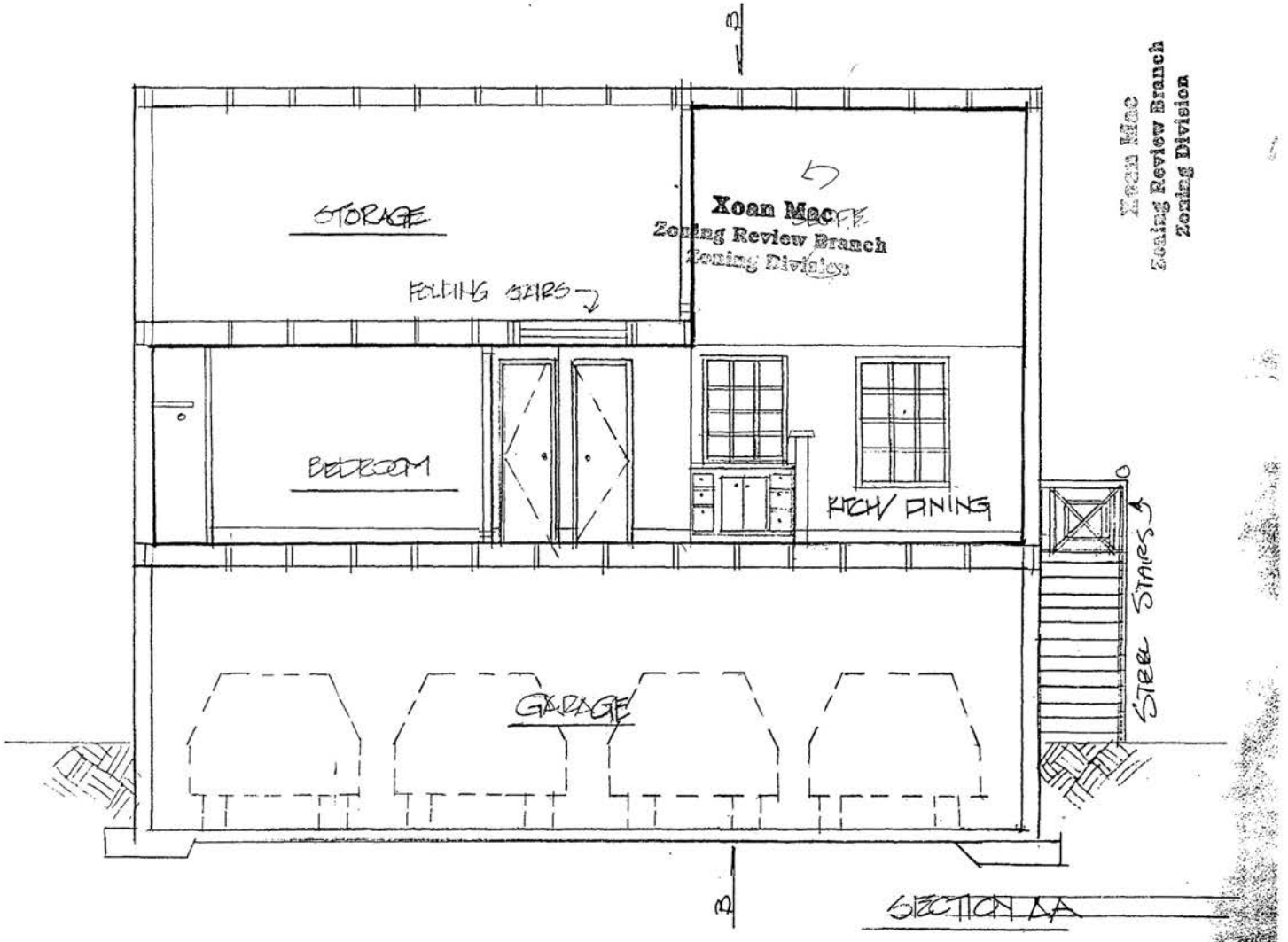
Zoning Review Branch
Zoning Division

ALLEY ELEVATION (S)

SCALE: 1/4"


LIGHT
ANTIQUE
STAINED GLASS
(NOT TRANSPARENT)
STEEL STAIRS
NEIGHBOR'S FENCE
EXIST.
PARKING
SPACE

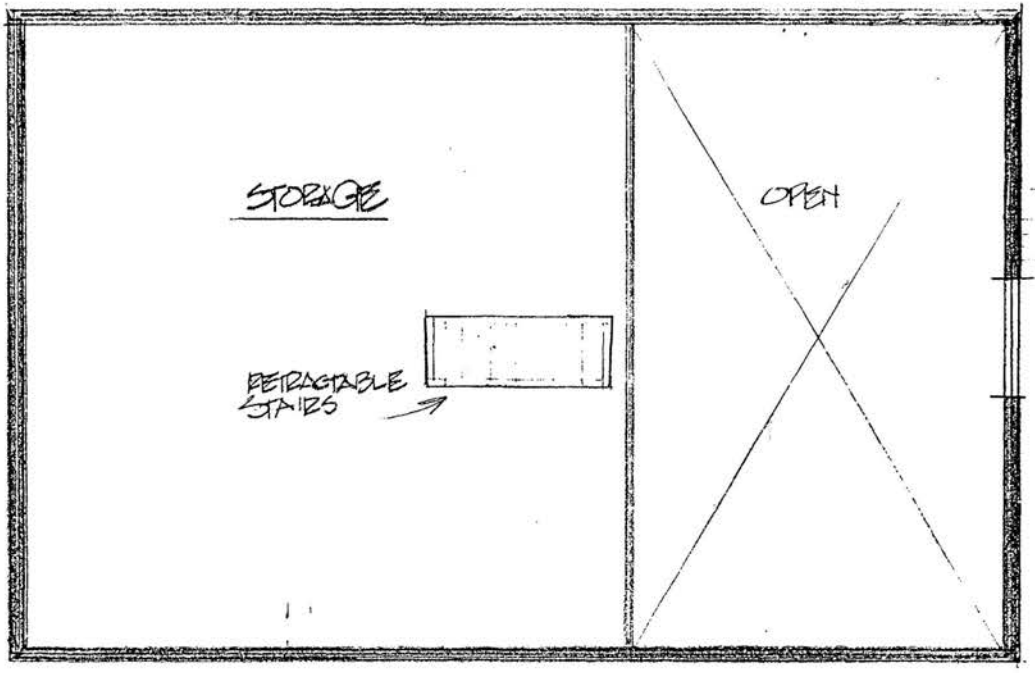

ATTIC
FOLDING STAIRS
RUSTIC EXPOSED BEAMS
ALLEY
LVG. RM.
KIT.
GARDEN
GARAGE
EXIST. FENCING
ALIGN W/ NEIGHBOR
30'-6"
8'-2"
8'-2"
21'-0"
24'-0"
3'-0"
SECTION



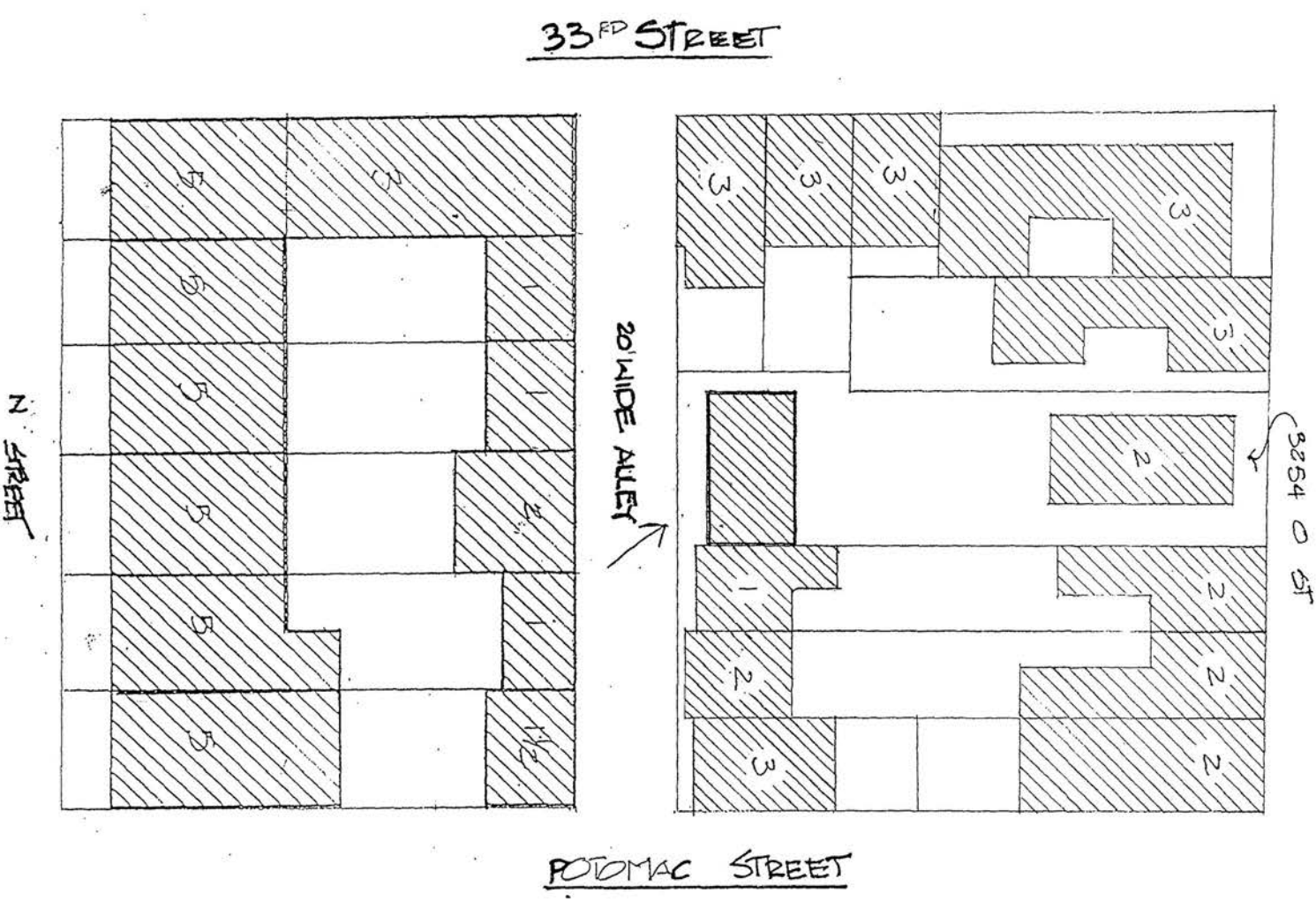
Xoan Mac
Zoning Review Branch
Zoning Division

B
BEDROOM
WC.
BT.
DINING
B/S
B/S
B/S
BEDROOM
LAUNDRY
STORAGE
H
D
LIVINGROOM
A
A
STEEL STAIRS
N
B
21'-0"
36'-4"
3'-9"

Zoning Review
Zoning Division



ATTIC PLAN


33RD STREET
N STREET
20' WIDE ALLEY
3254 O ST
POTOMAC STREET
N