ARNOLD & PORTER

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July 16, 2001

D.C. Board of Zoning Adjustment
441 4th Street, N.W., Suite 210
Washington, D.C. 20001

Re: BZA Application No. 16696

Dear Members of the Board:

I represent six residents of houses and buildings that abut or are adjacent to the subject property in this case. The six persons have, in a timely and complete way, requested status as a party in opposition. The purpose of this letter is to indicate to the Board that we believe the Application fails to requested an additional variance that is required under the Zoning Regulations, as set forth below.

Subsection 2500.3 states that, "No more than thirty percent of the area of a required rear yard on any lot shall be occupied by an accessory building or buildings."

The rear yard requirement in R-3 is 20 feet, and the subject garage is clearly situated near the rear property lines. From approximate measurement on maps, the garage appears to be approximately 30 feet in width along the alley and approximately 20 feet in its north-south dimensions. As can be seen on the attached photocopy of the Square 1230 map in the *Sanborn Building and Property Atlas*, the garage clearly occupies much more than 30 percent of the required rear yard, and indeed, occupies a very high percentage of the rear yard.

The garage was apparently constructed prior to adoption of the current Zoning Regulations in 1958 and is accordingly allowed to continue as a nonconforming structure. However, nonconforming structures are subject to special restrictions, as provided in the Zoning Regulations in Chapter 20, "Nonconforming Uses and Structures." Section 2001 provides rules for "Nonconforming Structures Devoted to Conforming Uses." Subsection 2001.3 further provides (in pertinent part):

2001.3 *Enlargements or additions may be made to the structure; Provided, that the following requirements shall be met:*

(c) *The addition or enlargement itself shall not increase* ***or extend*** *any existing, nonconforming aspect of the structure, and shall not create any new nonconformity of structure and addition combined.* (Emphasis added.)

BZA
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Exhibit No. 62

Board of Zoning Adjustment
District of Columbia
CASE NO.16696
EXHIBIT NO.62

The proposed second story addition in this Application is proposed to be a vertical extension of the nonconforming occupancy of the required rear yard pursuant to Subsection 2500.3, cited above. The obvious and well-founded land use rationale for the prohibition against extending nonconforming aspects of a nonconforming structure is to prevent an exacerbation of adverse effects on neighboring properties and residents, who may already be adversely affected by the nonconforming structure.

The logic of restricting ground coverage by buildings is generally to avoid overbuilding of lots and related undue encroachment on the light, air, privacy and enjoyment of neighboring properties. A vertical addition to a structure that greatly exceeds the limited lot occupancy allowed in a rear yard is a violation of §§ 2500.3 and 2001.3(c) and accordingly, the Application has failed to request this necessary variance.

The facts of this Application provide a clear illustration of why Subsection 2001.3(c) is a necessary and desirable restriction. (See the attached map and photograph.) The subject accessory garage is already quite large, extending virtually the entire width of the lot. One of my client's homes, that of Dr. Ruth Carter at 1317 33rd Street, N.W., abuts rear portion of Applicant's lot. Her very small rear yard faces the side of the Applicant's garage The attached photograph is taken from the rear deck (with table and seating) of Dr. Carter's home. An oversized second story addition to the garage is a highly undesirable extension of a nonconforming feature of a nonconforming structure. If it were to be approved, the addition would clearly impair the light, air and privacy of Dr. Carter's property. She and other affected neighbors are entitled to the uniform enforcement of the Zoning Regulations.

The Applicant in Case 16696 has failed to apply for the necessary variances from §§ 2500.3 and 2001.3(c). On behalf of my clients, I respectfully request that this Application be dismissed.

Sincerely,
ARNOLD & PORTER

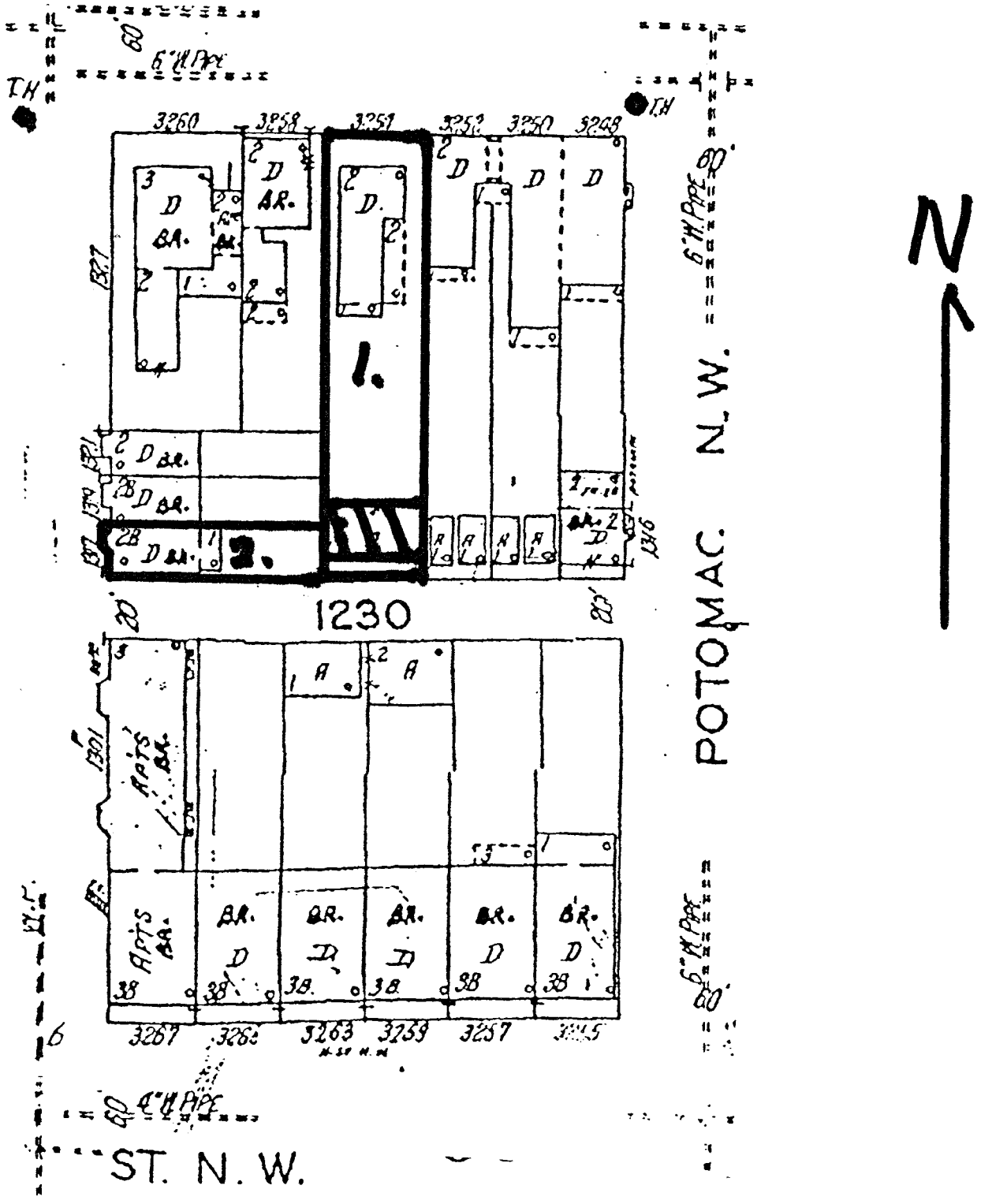
Nathan W. Gross, AICP

Cc: Craig and Ann Goodman, Applicant
Advisory Neighborhood Commission 2E

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1. Applicant's Property, with subject garage shown cross-hatched

2. Dr. Ruth Carter's home at 1317 33rd Street, N.W.




Approx 3
Goodman
PROPOSAL