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September 17, 2001

Chairman Sheila Cross-Reid
C/O Mrs. Jerrily R. Kress, Director of the Office of Zoning
Board of Zoning Administrator
441 4th Street, NW
Suite 210
Washington, DC 20001

Re: Modification of BZA Application No. 16696

Dear Madam Chairperson and Members of the Board,

3254 O Street cannot be "Unique" and a "Precedent" at the same time.

While Applicant sympathizes with neighborhood concerns about "precedent" that might turn into student housing, this Application does not represent such a problem. Webster defines "unique" as "*Being without a like or equal, unequal*." The terms "precedent" and "unique" are commonly understood to be mutually exclusive concepts. OP, Zoning, ANC, and Applicants' expert Architectural witness have all found this property to be unique. Yet the ANC, and the Office of Planning are still concerned about this unique property somehow setting a "precedent."

The following is a list of qualities that makes this property "unique" in the neighborhood and unlikely to allow it to be used as precedent for any other property in the area. After a full search of the neighborhood, I am convinced it would be difficult or impossible to find even one similar property in the neighborhood which does not already have a 2nd story on the garage. I offer the following list of unique attributes to support the fact that this 5-foot variance should be granted without fear that it will be used by other property owners as "precedent."

1. It is an R-1 size lot in an R-3 district and use of such a structure as accommodations for a domestic is a permitted use.
2. It is on a 22-foot wide alley.
3. It is 17 feet from the centerline of the alley.
4. It has a 7-foot rear yard between the garage and the alley and is in the *middle* of the alley so as to have little or no impact on the sight lines from the streets and sidewalks.
5. The garage has a 4-foot side yard.

BZA
Case No. 16696
Exhibit No. 82

Board of Zoning Adjustment
District of Columbia
CASE NO.16696
EXHIBIT NO.82

6. It *has room to plant*, and has planted, a foliage screen to completely conceal and protect neighboring views, year round.
7. It provides 5 off-street parking spaces.
8. It is 28 feet from the nearest residential structure.
9. The garage is not located within the required rear yard.
10. The rear yard is 4 ½ times the required length.
11. The house is a detached "small scale" Federal Period house on a 5500 square foot lot unlike typical R-3 homes.
12. The property is three times less dense than surrounding lots.
13. Even with the addition, the property has a 33% land/building ratio.
14. No light or air of neighboring properties would be affected.
15. The property has an historic, Federal Period cistern in excellent condition as well as a 6' diameter ornamental cherry tree which would both be destroyed should the house be extended.
16. The rear yard is a rare and beautifully restored historic English boxwood garden with an elongated circular brick walkway and worthy of continued preservation.
17. All 4 sides of the historic house retain the original character and the CFA even made the past owners maintain the original rear balcony.
18. Applicants have proven their care and concern for the neighborhood. We have restored both the house and historic rear garden, landscaped the front garden, and improved the conditions of the alley as pictured in Attachment 1 to our brief.
20. The garage addition would have no impact on any existing historical structure, garden, or existing zoning map.
21. Most importantly, the addition would *greatly* improve the esthetics of the alley.

Also please note that the 7-foot setback of the addition from the alley allows the attractive long view from Carter's deck, of the townhouse across Potomac Street to remain. Only the *unattractive* view of the garage roof will be affected by the addition.

Respectfully,



Ann Goodman

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September 18, 2001

Chairperson Cross-Reid, Vice Chairperson Renshaw
Commissioners Mitten and Geoffrey Griffis
C/O Mrs. Jerrily R. Kress, Director of the Office of Zoning
Board of Zoning Administrator
441 4th Street, NW
Suite 210
Washington, DC 20001

Re: BZA Application No. 16696

Rebuttal of Post Hearing Submissions

1. Opposing Parties and Witnesses Have Erred in Fact and Law.

A. Rebuttal of Submissions of Opposing Parties

The owner of 1317 33rd Street has been granted party status and represents herself and her neighbor at 1319 33rd Street. Throughout this proceeding, Mary Carter, a Ph.D. in psychology, has misled neighbors, elected officials, the ANC, OP and the BZA about the nature and extent of the project as well as the nature and extent of the opposition to it. She has inflamed the neighborhood by scaring neighbors into thinking that Applicants intend to build a 3 story, multiple rental unit apartment house on top of an 8-foot high garage.[1] This tactic also formed the basis for the ANC and the Office of Planning to think that this Application might set a "dangerous precedent."

In fact, none of this is true. The Office of Zoning Administrator has referred this case to the BZA for a height variance pursuant to Code Section 2500.4. Applicants only request a 5-foot height variance to Code Section 2500.4 to construct living quarters for a domestic employee which the Office of Planning found was "*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 (permitted as a matter of right) would not meet the Building Code requirements.*"

[1] See transcript at page 284, line 12.

Additionally, the owner of 1317 33rd Street repeatedly slandered Applicants by claiming that Applicants had switched drawings and tricked neighbors into signing off in support of this project.[2] In fact, this is also false. Mrs. Goodman, a graduate from Pratt with a 5-year degree in architecture, presented the neighbors affected by this Application the same drawings submitted to the BZA for review.

Unknown to the Applicants, a Petition was circulated against the fictitious 3-story apartment house and was signed by neighbors many of whom are renters, landlords or live blocks away. On April 16, 2001, the Office of Planning sent Applicants a copy of the Carter letter and Petition. Several neighbors who were misled by these misrepresentations into opposing the Application, in fact, had signed in support of the Original Application for a 17-foot height variance.[3]

Immediately upon receipt of the Carter Petition, Applicants postponed both the ANC hearing and the BZA hearing and invited OP, the ANC and all affected neighbors to a meeting in Applicants' home to review and address all neighborhood concerns.[4] In response to these meetings, on April 25, 2001, Applicants modified BZA Application No. 16696 to reduce the requested variance from 17 feet to 5 feet and sent a letter out to advise all affected neighbors.

Subsequently, more than 60 neighbors either withdrew opposition or signed in support of Applicants' Petition.[5] In fact, only the two neighbors granted party status would be arguably impacted by this proposal in any way, and only one, lives in the neighborhood. However, many neighbors voiced considerable upset and displeasure at having been intimidated and manipulated by such improper misrepresentations. Other neighbors expressed serious concern and were upset that Applicants would be treated in this fashion and that Applicants' property rights and the BZA process should not properly be subjected to such conduct. We applaud the BZA for the quick and professional way that they identified the only person potentially affected by this Application.

Unfortunately, the damage had already been done. The ANC cited "the Petition in Opposition to the Application, signed by a large number of the surrounding neighbors" as evidence that Applicants did not meet the three-prong test.[6] In so doing, ANC totally ignored Applicants' Petition with more than 60 signatures in support of the modified 5-foot proposal that was in fact before the ANC.

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[2] See Transcript page 286, line 8. See also: Letter from Carter dated April 5, 2001, and Letter from Lauder dated March 30, 2001

[3] These signatures were appended to Applicants' June 25, 2001 submission as Attachment 9.

[4] It should be noted that neighbors Carter, Mitchell and Vogt did not attend and each has stated flatly to Applicants that there was no proposal that would be acceptable to them.

[5] See Applicants June 25, 2001, Brief, Attachment 1.

[6] Applicant's reiterate and incorporate by reference the due process and equal protection issues raised in prior briefs. Additionally, both the Office and Planning and Applicants relied on the plan wording of Zoning Code Sections 320.1, 321.1, 2500.5 and 403.2 to permit a 20 foot second story to the garage as a matter of right, making the three prong test under Code Section 3103.2 legally irrelevant. Notice to the contrary was received after Applicants presentation to the ANC.

Additionally, this same Carter Petition in Opposition to the 31-foot addition was supplied to elected officials and formed the basis for their letters to the BZA in opposition.

Attachment 1 is a picture of the sight line of both opposing parties at the beginning of this application process. Carter had a mature tree that completely covered the garage and any potential addition to it. The tree was removed without a permit. Applicants have temporarily planted foliage and have offered to plant a foliage screen so that the sight line would be blocked by foliage.

Ironically, both Carter and her neighbor either use or have used their structures as rental properties, yet oppose this Application because someone else might try to use it as a rental apartment. In truth, there is one neighbor who has gotten a number of renters and absentee landlords with no parking spaces in the immediate vicinity to support her claim that a 5 foot height variance will somehow impair their parking and her light and air while she is outside on an elevated deck that has been appended to a structure that is 28 feet away from the garage in question on a 22 foot wide alley. In truth, Carter is closer to 5 of the opposing signatories than she is to the garage at issue. All of these neighbors pose more light, air, sight, noise, safety, sanitation, parking and density-related issues than the Applicants.

Of equal legal import, the material factual misrepresentations made by Carter and others, plus the lack of notice and due process afforded to the Applicants by the Zoning Administrator formed the basis for ANC's recommendations to the BZA which, as a matter of administrative law, should not properly be entitled to "great weight" as would otherwise be required by Zoning Code Section 3307.2.[7] Additionally, it is important for the BZA to note that despite the misrepresentations and the false appearance of widespread neighborhood opposition, both the ANC and OP actually found that the proposal did not create any of the light, parking or density related impacts complained about by Carter and reiterated in letters submitted by Mitchell, Vogt, and others who signed misleading form letters circulated by these individuals.

B. A 5-Foot Variance Will Not Impair the Light and Air of an Open-Air Deck Elevated Above Neighboring Privacy Fences and Appended to a Semi-Detached Townhouse Located 28 feet From the Subject Garage.

OP agrees with Applicants' expert witness that Carter's light, air and view will not be impaired. As a matter of law, decks are not part of the density computations in the DC Zoning Code and DC light and air requirements attach to the structure. As is obvious, decks are not "habitable" space, are for occasional use, are not

[7] It should also be noted that Carter misrepresented a number of other important facts that are not immediately germane to this rebuttal but must be noted here for the record on Appeal. These facts include the legal boundaries of her property, her use of public space, her knowledge of the project and her creation of the sightline at issue.

"dwelling structures" and anyone using a deck is already in the light with air throughout. Carter's deck is elevated above the neighbors' privacy fences, contains an umbrella to shelter her from the sunlight, and has a full Southern exposure on a 22 foot wide alley. Carter's sight line currently looks at a three-story multi-unit apartment building 22 feet from her property line with steel balconies, a steel fire escape and the unsightly top of Applicants' 8-foot roof located 28 feet from her rear building line. Applicants and expert testimony support the fact that Carter's sight line will be greatly enhanced from its current condition. At worst, a 5-foot easement might minimally alter Carter's view but not impair it in any technical or legal sense as OP has determined.

Additionally, the ANC, the Office of Planning and Experts in Zoning and Archeology from the City, an Architect with more than 30 years of experience, Applicants[8] and a professional Arborist have submitted significant expert testimony and findings into this record that support the positions of the Applicants in this case. To date, the expert testimony submitted in this case supports the conclusion that the variance requested would be consistent with the Zoning Code and Map and would not impair Carter's light air, view or impose parking or density-related impacts on the neighborhood.

2. "Expert" Proffered by Opposing Parties Submitted Unsubstantiated "Non-Expert" Testimony, Erroneous Facts and Conclusions of Law.

Applicants' submissions made to date document with expert testimony that the Applicants have met or exceeded their burden of proof under DC Zoning Code Section 3103.2. Neither an addition to the existing historical structure with its concomitant destruction of the documented architectural integrity of the structure and grounds nor forcing family or friends out of the house or basement of the Applicants is a requirement under the Zoning Code, as Opposing Parties and witnesses argue. Applicants have documented with expert testimony the exceptional and practical difficulties as well as the hardships required to be proven under Code Section 3103.2. Moreover, no testimony has been submitted by a witness with "expertise" in the requisite disciplines in opposition to the expert opinions and documentary evidence submitted by the Applicants.

Opposing parties have proffered Nathan Gross as an "expert witness" and submitted his testimony as rebuttal to expert opinions of professional Architects, Archeologists, Applicants and a professional Arborist. Mr. Gross has conceded that he is not a lawyer, not an architect, not an archeologist, not a builder, not an

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[8] One of he Applicants is an attorney with more than 20 years experience in administrative law, litigation and public policy. Mr. Goodman has testified before Congress and regulatory agencies around the country on the proper structure and meaning of regulations. **Attachment 6** is a short Bio of Applicant Craig Goodman is attached hereto to substantiate his testimony and submissions as that of an expert in administrative law. Applicants' submissions throughout this matter contain Mr. Goodman's opinion on the proper interpretation of regulations at issue under applicable precepts of administrative law.

arborist and not an expert in administrative law or its proper interpretation. Mr. Gross has never inspected the Applicants' house, property, grounds or garden. Despite this, opposing parties have submitted his testimony on a number of factual and legal issues about which Mr. Gross has no actual knowledge and on which Mr. Gross admits no expertise.[9]

Applicants submit that permitting Gross to testify as an "expert" in this matter and admitting his testimony into the record has prejudiced the Applicants both because it has been submitted in an untimely manner and because this testimony contained the following significant and material errors of both fact and law.

A. Mr. Gross submitted his "expert" opinion that the proposed addition exceeded 30 percent of the "Required Rear Yard" requirements of Code Section 404. In fact, the Applicants' garage comprises zero percentage of the Required Rear Yard as defined by Code Section 404 because it is not even located in the Required Rear Yard.[10]

B. Mr. Gross erroneously testified that because the garage did not conform to the Require Rear Yard requirements, building a second story would extend this non-conformity contrary to Code Section 2001.3. Mr. Gross erred both in fact and law. First, as evidenced by the expert opinion of the Office of Zoning Administrator, the garage is in complete conformity with the Rear Yard Requirements as Applicants' rear yard is over four times larger than the law requires and infinity larger than the three story, zero lot line apartment building represented by Mitchell. In fact, the garage is not even located in the Required Rear Yard. Second, Applicants' have purchased an extra strip of land to increase the width of the rear yard at the garage to also bring it into conformity with the 40 foot width requirements of Section 403 which will also provide this semi-detached garage with a side yard. As can be seen in **Attachment 2** the Applicants' have been unable to find any other garage on an alley West of Wisconsin Avenue with any side yard whatsoever, despite the fact that numerous garages have second stories and many of them contain self-sustaining dwelling units.

C. On July 17, 2001, Mr. Gross submitted testimony that *"The subject lot is wider than the typical lot and minimum required width of a lot in an R-3 district and larger in square footage than the typical lot or the required minimum lot size in R-3."* However, Gross argues that the property is not wide enough and that a second floor vertical addition extends a "non-conforming"

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[9] To protect our rights on Appeal, Applicants reiterate their objections to Mr. Gross' expert witness status and submission of his opinions as expert testimony into this record. To protect the record on Appeal, Applicants also move to strike all testimony submitted into this record by Mr. Gross.

[10] See letter from Gross dated July 17, 2001; Transcript at page 258, line 10, and Expert Opinion from Zoning Administrator in direct contradiction to Gross Testimony attached to Applicant's brief dated August 22, 2001, Attachment 7.

width of the building. In fact, Applicants have never proposed to increase the width of the building and have instead purchased a vacant lot next door to bring the width of the property at the garage to a full 40 feet in width. Gross also erred throughout his testimony in characterizing his clients as abutting. Technically, Gross' clients abut an empty lot that will be used as a side yard for the garage when built out.

D. Mr. Gross repeatedly submitted testimony about the slope and topographical condition of Applicants' yard, the ease and appropriateness of expanding Applicants' historic main house and yet has never personally inspected it. Expert testimony by Mrs. Goodman,[11] Architect Almy, the City Archeologist and a professional Arborist all rebut Gross' unsupported "non-expert" opinions about the hardships and exceptional practical difficulties inherent in the land as defined by Code Section 3103.2. Architect Almy found that there is no habitable space as defined by the Code currently in the main house for living quarters for a domestic employee and that expansion of the main house, among other things, would destroy the architectural integrity of the historic house and the gardens. As Gross admits no architectural expertise, these expert findings are unrebutted.

E. Mr. Gross submitted his admittedly "non-expert" legal opinion that a use variance is needed. The expert testimony of the Zoning Administrator directly and emphatically contradicts Gross' testimony as does a plain reading of the DC Zoning Code.[12]

F. Mr. Gross claims the variance would contradict the Zoning Plan and Map. **Attachment 2** demonstrates that this variance is entirely consistent with numerous other second story garages in the immediate vicinity, many of which are occupied. The Office of Planning agrees with Applicants.

G. Importantly, Mr. Gross relies on his experience in the Office of Planning, which he left in 1997, as his qualification to be an expert witness in this case. He cites his experience as "principle advocate of 13 adopted overlay zones, and a wide range of other rezoning and use regulations affecting subway stations, transferable development rights, new commercial and residential zones and others (affecting hotels)." None of this experience is relevant to the instant case.

In fact, the only experience proffered by Mr. Gross that is relevant to this case was the recommendation he approved to be made by the Office of Planning to

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[11] Mrs. Goodman graduated with a five year degree in architecture from Pratt University and has designed or renovated very significant new and historic buildings, villas, embassies and skyscrapers all over the world.

[12] See Attachment 2 to Applicant's Brief dated June 25, 2001, and a complete discussion of this issue in each of the briefs filed by the Applicants. When a regulation is clear on its face, interpretations that yield a contrary result are arbitrary and capricious as a matter of law.

the BZA in Case Number 13550. Mr. Gross admitted that he found ample reason to recommend a second story to a garage on this same alley for use as living quarters for a domestic employee which was turned down by the BZA, because it did not have the low density, large open lot space and small "habitable" square foot dimensions of Applicants' property.

In that case, the property in question was completely built out to the 65 percent density limitation, had no required rear yard (as Gross incorrectly interprets that term), had no side yards and had over 5000 square feet of habitable space in which to house a domestic without forcing the owners or their family out of needed space. In fact, the "exceptional practical difficulty" endorsed by Mr. Gross was the misfortune of the owners having to chop up the "magnificent proportions" of the main house. Applicants in this case do not have "magnificent proportions" to chop up. Applicants' cannot even have family and friends stay in the house without tripping over them.[13]

H. Mr. Gross also submitted completely contradictory testimony on the flexibility of the Applicants to build out the main house. Gross testified in both his July 17 and September 5, 2001 letters that *"the property owner has substantial flexibility under R-3 provisions to construct an addition to the main house, if additional habitable space is desired."* This testimony was flatly contradicted by Gross under cross examination when he testified under oath that, contrary to all of his other testimony, Applicants do not in fact have the flexibility to extend the historic structure of the main house and build it out into the back yard.[14] Additionally, Applicants' expert Almy submitted into this record his expert opinion that expansion of the rear of the main house would unnecessarily damage the architectural integrity of the house and significantly impair the light and privacy of both the Applicants and neighbors, whereas, the granting of this variance would have none of these impacts.

To be clear, on January 18, 2000, the Office of Zoning specifically referred this Application to the BZA to review the proposed addition for a ***"Variance from the limitations of Section 2500.4 to allow a second story addition to and allow in excess of fifteen feet (15') of height to an accessory building in the R-3 Zone (Section 3103.2)."*** At all times subsequent to January 18, 2000, the subject matter of this case has been a determination of the legal and factual basis for a height variance. Despite this, Opposing Parties, witnesses, and their proffered "expert" have raised numerous frivolous and irrelevant legal and factual issues which the Applicants have been forced to rebut. To mention them all would waist BZA time. However, it is important to note that many of these issues were raised without proper notice to the Applicants, many for the first time at and after the hearing on this matter. None of the rhetoric and bald assertions has been supported with competent evidence, particularly the concerns about a "dangerous precedent."

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[13] See photo of Applicants kitchen marked **Attachment 3.**

[14] See Transcript page 272, line 20.

For nearly 2 years, Applicants have been required to rebut every false, misleading, erroneous, frivolous and legally irrelevant fact and legal interpretation that Carter, and her friends and hired witness have submitted into the record of this proceeding. All of the legal and factual issues raised by Opposing Parties have been refuted by expert testimony proffered by Applicants.

After nearly two years, it is clear that continual and material misrepresentations of the nature of this Application to the neighborhood, the ANC and the OP as a multi-unit rental apartment led both the ANC and the Office of Planning to be concerned that if Applicants can use their garage for a domestic employee, than this could be interpreted as "precedent" for other neighbors to convert their garages into rental apartments. However, all parties and experts in this case have come to admit that this fear is not based on any fact in this record. The use of this garage as living quarters for a domestic employee is permitted as a matter of right in the Zoning Code and Applicants have not requested a variance for a multi-unit rental apartment. ANC and OP objections to the use of Applicants' garage as a rental apartment is not before the BZA and is unfounded.

3. Non-Party Witnesses and Renters Have Continued to Misrepresent the Nature and Impact of this Proposal and Have Created or Contribute to the Density Related Issues About Which they Complain.

The renters across the alley represented by Allan Mitchell and the co-owner of 3258 O Street, Tom Vogt, have both been denied party status and are both located more than 35 feet from the proposed addition. The BZA properly found that these individuals do not have an interest in this matter sufficiently distinctive or unique to be granted party status under Code Section 3106.3. Yet, they have cluttered this record with irrelevant legal issues, misleading factual representations and form letters from friends and political associates. Consequently, their untimely, non-party filings and rebuttals are misleading and continue to improperly prejudice Applicants' legal rights.

A. Rebuttal of Submissions of Allan Mitchell. Allan Mitchell, Ph.D. is one of numerous renters occupying 1301 33rd Street. 1301 33rd Street is a three story, zero lot line apartment building situated on the corner of the subject alley and 33rd Street. The structure has no side yard, no rear yard and is built exactly 22 feet across the alley to the South from the building line of Carter at 1317 33rd Street.

Mitchell's building maintains a dumpster on the public alleyway that obstructs ingress and egress to the alleyway in question.[15] Renters in Mitchell's building also

[15] Mrs. Goodman continuously maintains the alleyway and attempts to clean up the garbage thrown into the alley by these and other neighbors. In so doing, Mrs. Goodman has used the dumpster to dispose of this garbage and other light debris. When confronted by renters to stop using the dumpster, Mrs. Goodman called the dumpster company and was advised that it is in fact on public space and is therefore useable by the public for its intended purpose. Charges of illegal dumping are both factually and legally inaccurate and inflammatory.

illegally park at the opening of the alleyway further obstructing ingress and egress to the alleyway. As seen in Attachment 8 to Applicants' June 25, 2001, brief, Mitchell and the other renters improperly dump trash both in and around public space, and on the date the picture was taken, Mitchell's trash together with Carter's use of public space reduced the opening of the alleyway from 22 feet to a maximum width of 10 feet.[16] When vehicles are illegally parked next to the dumpster there is no room to enter the alley by car. None of the renters in 1301 33rd Street have off street parking and all of them burden the neighborhood with their demands on public space.

The assertion that Mitchell submits letters and testimony in this matter with "unclean hands" is based on the following facts.

First, throughout this matter, Mitchell has repeatedly based his opposition on *"public safety, increased residential density in the neighborhood, and the concomitant diminishment of available on-street parking that residential congestion brings with it."* In fact, Mitchell and the other renters of 1301 33rd Street are precisely the ones who, in fact, affect *"public safety, increased residential density in the neighborhood, and the concomitant diminishment of available on-street parking that residential congestion brings with it."* Throughout this matter, the ANC and the Office of Planing and indeed Gross' testimony supports that fact that Applicants do not create any of these issues. In fact, Applicants' property, even after the addition is built and occupied, is three times less dense than any of the surrounding properties and three times less dense than the law permits for an R-3 district. Nevertheless, Mitchell and others continue to misrepresent these facts to neighbors.

Second, Mitchell together with Carter and Vogt have repeatedly misrepresented the nature and extent of opposition to this variance. In both his testimony before this Commission and in his unauthorized letter out of time to the BZA, Mitchell misstates that there are 70 neighbors opposed to this Application. This is blatantly untrue and the perpetuation of the misconduct cited in 1A above. In fact, there are only a few neighboring properties that have voiced an objection, based primarily on Carter's porch and non-existent density impacts and only the two Opposing Parties are arguably impacted.[17] While offering the signatures of renters in one apartment building from one end of the alley, Mitchell also complains against renters in another apartment building on the other side of the alley on Potomac Street signing in favor of this Application.

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[16] Carter maintains the alleyway is 22 feet wide. However, Carter and Mitchell's use of the alley reduces the width to 10-14 feet except at our property line where it is 27 feet.

[17] Carter, Mitchell and Vogt offered a Petition in Opposition to the Modified Application with 21 signatures. Most had either changed their minds, supported the proposal if it met city service regulations or had approved the 31-foot structure until being misinformed by Carter about the drawings. Other signatures were either duplicate or multiple signatures from the same property leaving only the 2 people granted party status even remotely affected, and one of the 2 does not even live there.

Third, the quid pro quo offered to my wife to support the petition if my wife stopped using the dumpster improperly maintained on public space did in fact occur.

B. Rebuttal of Submissions of Tom Vogt. Tom Vogt and Bob Laycock are co-owners of 3258 O Street. Vogt was denied party status because his house is located more than 50 feet away from the proposed addition and is covered most of the year by foliage as shown in Attachment 6 in Applicants' brief dated June 25, 2001. Until recently, Mrs. Goodman and I considered them friends and neighbors. Indeed, Mr. Vogt admits to approving the Original 31 foot Application because he wanted to be a "good neighbor," and we appreciated that. In fact, at the time he enthusiastically supported the Application because he saw first-hand how hard Mrs. Goodman works to improve the neighborhood and the alley.[18] His recent conduct and change of heart has hurt us both personally.

Immediately prior to changing his enthusiastic support into active opposition, Mr. Vogt spoke to me directly about his desires to drain wastewater from his swimming pool across our property. During this conversation, he specifically stated that he was "thinking about changing his mind" about supporting this Application and specifically requested that I grant him a "legal easement" to drain his wastewater onto our property. I explained to him that it had taken me a great deal of time and resources to acquire the property in question and to extinguish all easements affecting it. I told him that I would be glad to work with him if he wanted to tie into the main sewer line that runs down the center of the alley, however, I did not in any way want to encumber my property with an easement. Immediately after this conversation, Mr. Vogt actively opposed this Application and has since sent form letters and other communications to friends and officials that materially misrepresent the nature and impact of this 5-foot easement. As a trained attorney, there was and is no doubt in my mind that this was a requested quid-pro-quo that I refused. BZA approval should not require Applicants to negotiate away their valuable property rights.

Specifically, the Petitions and form letters that have been circulated by Carter, Mitchell and Vogt have fabricated the notion that a second story on a garage would set a "precedent" and that this Application *"would unnecessarily contribute to the residential density and problems that accompany such density."* As is shown in **Attachment 2** second stories on garages are located all over the neighborhood, and OP has determined that they are consistent with the Zoning Plan and Map. All three of these individuals know these facts.

Moreover, all three individuals maintain properties that are at or above the maximum density limitations for an R-3 district and all three contribute significantly to the density, public safety, sanitation and parking problems about

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[18] See **Attachment 1** to this brief and Attachment 9 to Applicant's brief dated June 25, 2001 to see the alley before and after Mrs. Goodman's improvements. Neighbors from all over continually thank us for improving this alley view.

which they complain. Mitchell's building is the densest in the neighborhood. Ten renters scramble regularly in our immediate neighborhood for legal on-street parking. Vogt and his housemate park both of their luxury cars on the street in front of their home despite the fact that they have off-street parking a block away. Carter has rented her basement out and her renters (and family) have illegally parked in the alley, blocking traffic on repeated occasions.[19] The owner of 1319 O Street, an absentee landlord, has rented out her entire house and maintains no off-street parking.

To date, Applicants have been careful not to comment on the intentions, and the lack of good faith in arguing facts known to be untrue, or on the ethics of our neighbors. We merely commented on their conduct. Unlike the rhetoric of Carter, Mitchell and Vogt, Applicants' use the term "unclean hands" accurately, as it is intended to be used. A person comes into court with "unclean hands" when he or she causes the very problems about which they complain. Regrettably, this is precisely what Carter, Mitchell and Vogt have done in this case, all to the prejudice of Applicants' legal and property rights.

4. Rebuttal of Peter Pulsifer's Letter Dated September 8, 2001 and Mailed September 13, 2001.

A. Pulsifer's Actions Have Unfairly and Improperly Prejudiced Applicants' Property Rights. On June 13, 2001, the ANC forwarded to the BZA its recommendations on this Application that were voted on during a hearing on June 5, 2001. Three months later and one business day prior to the date on which Applicants are required to submit rebuttal evidence, Peter Pulsifer mailed to the Applicants a letter that attempts to rewrite the basis for the ANC's decision characterizing it as a "clarification." Applicants object both to the untimely filing of such a document, as well as, the substantive and procedural violations of Applicants' legal and property rights represented by this submission.

This letter dated September 8, 2001, and mailed September 13, 2001,[20] omitted its findings on density and recharacterized the basis for the ANC's June 5, 2001, decision as well as its one specific finding on the "public good." This letter is an improper and untimely, post-hearing attempt to correct the errors of fact and law contained in the ANC decision of June 5, 2001, hoping that by rewriting this decision without a hearing and opportunity for Applicants to present any evidence, it will be entitled to "great weight" under Zoning Code Section 3307.2. However, this improper and untimely action has further prejudiced Applicants' legal and

[19] In fact, Carter's letter of April 5, 2001, at footnote 6 demonstrates that she knew or believed that the alley at her property line was 22 feet wide and yet maintains a courtyard parking space that reduces the alley's width at her fence to 19 feet, while at the same time complaining about the fact that the Applicants have a full 7 foot set back from the alley which makes the width of the alley at the Applicants' property line the widest section of the entire alley. Applicants have marked their property to ensure that cars legally parked on Applicants' property will not be ticketed when the neighbors illegally park blocking the alley and are ticketed.

[20] **Attachment 4** is a photocopy of the postmark.

procedural rights and is further evidence that the ANC decision of June 5, 2001 should not be entitled to "great weight" in this matter.

"Great weight" is normally afforded to the findings of a jury on Appeal in a civil or criminal case assuming there is no important evidence that was excluded or improperly admitted into the record and that all the procedural due process rights of the parties are protected. In administrative law, "great weight" or "deference" is accorded to a regulatory agency with expertise in a given area when it is interpreting its own regulations, assuming it follows notice and due process rights of the parties and has not erred on the facts, acted arbitrarily, capriciously or otherwise improperly such as having ex-parte contacts with the affected parties. In this matter, the ANC has violated all of these principles, thereby vitiating its entitlement to "great weight."

In this case, the ANC is an elected body of citizens with no necessary expertise in Zoning Law. Peter Pulsifer and Justin Wagner visited the Applicants' property on April 18, 2001 to review the impact of the Original 31-foot Application. On April 25, 2001, in response to their comments, Applicants modified this Application to request a 5-foot variance. However, at no time subsequent to April 18, 2001 did anyone from the ANC or the CAG review the impact of a 5-foot height variance on the neighborhood or even the difference in air and sight that occurs from the difference between a 15-foot garage allowed as a matter of right and an 18-20 foot garage for which this 5-foot variance is requested.

As noted in previous briefs, the Applicants' were not advised that the three-prong test was to be an issue before the ANC until after Applicants made their presentation. Additionally, Applicants were advised that the ANC had made up their minds to deny the Application prior to the meeting. Lastly, three months after the decision is made, Peter Pulsifer, without notice or opportunity for Applicants to comment, files a material change in the decision that further prejudices the Applicants. The ANC's lack of expertise in Zoning Law and their failure to afford Applicants the proper legal and procedural protection of their property rights violates the legal principles upon which "great weight" should properly be accorded.

B. Pulsifer's Letter Mailed September 13, 2001 Materially Changes the ANC's Decision of June 5, 2001, and Makes Erroneous Statements of Fact and Law.

1. Misstatements on the Prior Use of the Property. Specifically, in his letter mailed on September 13, 2001, Peter Pulsifer made the following unsubstantiated misstatements of fact:

> "This historic property has been occupied for over a century and has met the needs of its occupants during that time. The requested variances is not in order to use the property according to its historic use or in a similar manner to neighboring properties."

This is completely false. Both of the prior owners needed more space, one moved out of this house because it was too small and one was retired, permitting full time to maintain the property. To properly taking care of a historical wooden structure with 5500 square feet of space requires significant time and effort, which is why Applicants (who both work full time) need live in help. Indeed, the very purpose of the zoning and variance process is to ensure that historic properties can be used reasonably in a modern society. Moreover, neither Applicants nor Pulsifer know whether this garage was used to house either farm workers or stable men during the last century. The "historic use" of this house was a chicken farm in the early 1900s. Importantly, this variance will permit Applicants' to use this house in "a similar manner to neighboring properties" as can be seen in **Attachment 2.**

2. Misstatements about Precedent, the Public Good and the Evidence Supporting Same. Next and most importantly, Pulsifer's letter changes the ANC's finding of the "public good" and the rationale for it. On June 5, 2001, the ANC 2E specifically found as follows:

> In reference to provision (C) of the Three Prong Test, 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. The petition in opposition to the application, signed by a large number of the surrounding neighbors, is testimony to this impact.

Pulsifer now wants the BZA to believe that the above language does not mean what it clearly says. Instead, Pulsifer states that the Application would result in a substantial detriment to the public good because:

> Approval would establish a dangerous precedent that would encourage other residents of Georgetown's historic alleyways to construct freestanding residential units. In the vicinity of the Applicants' property, there are several properties that might be converted in this way.

This statement is completely erroneous in fact. **Attachment 2** shows numerous other garages with second story residential units in the Applicants' immediate vicinity. Additionally, to deny Applicants' variance because others may wish to convert a garage into a rental apartment is completely improper.

Moreover, all of Applicants' briefs have relied on the record in this case and have addressed ANC's specific finding of the "public good" as well as the evidence cited to support same as it was written.[21] Three months after its decision, Pulsifer attempts to change the ANC's finding of public good from the sight line of two neighbors that in fact created the sight line in question as shown in **Attachment 1.**

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[21] See End Note 1.

He and the ANC are equally inaccurate in finding that somehow this 5-foot variance would set a precedent, dangerous or otherwise.

Of particular legal import is that Peter Pulsifer's rewriting of the ANC findings omitted the factual basis for ANC's decision on the "public good." Peter Pulsifer was the person who insisted upon adding the erroneous and misleading reference in the resolution to "the Petition in Opposition to the Application, signed by a large number of the surrounding neighbors," as "*testimony to this impact.*" This was done over Applicants' strong objection and evidence submitted to the contrary.

It is precisely this factual basis upon which the ANC made its findings that grossly misrepresented both the nature of the project and the opposition to it. Peter Pulsifer, as Chair of the ANC, not only refused to admit the 60-signature Petition in Support of the Application into the ANC record but he personally and erroneously referenced the Petition in Opposition to the 31-foot proposal that was not even before the ANC as the basis for its decision. Peter Pulsifer, as Chair, also failed to append Applicants' submission and 60 signature Petition proffered to the ANC with its resolution to the BZA as requested. All of these actions have prejudiced Applicants' legal, property and due process rights.

3. Misstatements of ANC's findings on Density-Related Impacts. Pulsifer's letter alleges that *"The Applicant incorrectly stated that the ANC....Acknowledged that this variance would create no density-related impacts on parking, light, public services, etc."- in fact, the ANC position states only that parking and "sunlight to surrounding neighbors" are not grounds of Objection.*" Both of these statements are flatly wrong.

Applicant stated clearly in its briefs of June 25, 2001 and August 22, 2001 that the ANC 2E's findings as quoted below "supports Applicants' claim that this property is unique" and "agrees with Applicants that there are no density related impacts on the public." Both of these statements are true. As stated in detail in Endnote 1, under the DC Zoning Code the maximum percentage of land use required under Section 403 is the basis for the determination of density as well as its related impacts. Additionally, Zoning Code Section 101.1 states that the building density requirements contained in Section 403 for each zoning district sets forth the minimum requirements necessary to protect the public good and provide "adequate air and light." All of Applicants' expert testimony and the Office of Planning agree. Additionally, in its decision on June 5, 2001, the ANC 2E supports Applicants' expert testimony far more than Pulsifer's letter states.

On June 5, 2001, the ANC twice acknowledged Applicants' low density and specifically held as follows:

> In reference to provision (A) of the Three Prong Test, ANC 2E does recognize a certain degree of uniqueness of the 3254 O St. property, specifically the <u>low land use percentage</u> 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 applicants' property. Also, ANC 2E does not believe that such a project would cause parking issues since the applicant maintains five parking spaces. Thus, ANC 2E does not object to the application on the aforementioned grounds.

Density related impacts include parking, light, ingress and egress to the alleyway, none of which were cited by the ANC as a concern and none of which including air and sight are issues as both expert opinions as well as the OP have found. After the addition, this property will still be three times less dense than all the surrounding properties and three times less dense than required by law.

Peter Pulsifer as well as the ANC and OP mistakenly cite ANC 2E's concerns over a non-existent "dangerous precedent" because other homeowners might wish to add rental apartments in garages as the primary reason to object to Applicants' request for a 5 -foot height variance for a use that is permitted as a matter of right. As the record shows, this variance is not for a multi-unit rental apartment as cited by Pulsifer and the ANC who mistakenly based their decision on "the Petition in Opposition to the Application, signed by a large number of the surrounding neighbors," as "testimony" on the impact of this Application. Moreover, even if the variance is granted, the Applicants' property will still have a "low percentage land use," as recognized by the ANC.

4. Pulsifer's Letter Should be Stricken from the Record. Three months after ANC's decision, two weeks after Opposing Parties were required to make filings with the BZA and one business day before Applicants were required to file its rebuttal, Mr. Pulsifer submits a letter attempting to change the entire basis for the ANC's findings on the public good, precedent, and density. Applicants move that Mr. Pulsifer's letter be stricken from the record as untimely and significantly prejudicial to Applicants' legal and property rights as well as misleading in both fact and law.

Mr. Pulsifer is changing the ANC 2 E's findings and misstates that a speculative fear that other properties may request rental apartments in garages is the threat to the public good. It is wholly improper for Mr. Pulsifer to rewrite the ANC 2E's findings and then to file a letter out of time, one day before Applicants' rebuttal is due, all without notice, thereby further violating Applicants' rights to due process and fair and equal protection of property rights under law. Consequently, Applicants must request that this letter be stricken from the record to protect Applicants' rights on Appeal.

5. The Facts of this Application are Unique and Granting a Variance Would be Fully Consistent with Existing Precedent that is Well Established in the Neighborhood, While Not Establishing a Precedent for Others.

Both the ANC and the OP recognized the uniqueness of the Applicants' property, and the fact is that there are multiple garages in the area with second stories of similar heights. However, in addition to the unique circumstances and descriptions already supported by expert testimony in the record, the property at issue is unique in a number of additional important respects that support the granting of this Application in both fact and law.

Specifically, no other property (detached or otherwise) on this alley has the open space of this property. The main house is situated on an R-1 sized lot (over four times the size required) and is located 90 feet from the rear property line. The subject garage is the only structure on this alley that is set back 7 feet from the rear property line enjoying more than a 17-foot setback from the centerline of the alley and is located 28 feet from the nearest residential structure. A search of properties with either one or two story garages has found none with setbacks from the rear property line and none with side yards.[22]

Applicants have not found any other property with a second floor on a garage that has any side yards for the garage. Applicants have purchased lot 825 (see **Attachment 5**) to operate as a side yard for this garage. This side yard for the garage increases the width of the property at the garage from 36 feet to 40 feet.[23] Opposing parties technically abut this empty lot and not Applicants' property. In fact, Opposing parties are closer to each other and to the apartment building across the alley than they are to the proposed addition.

The garage is an 8-foot, semi-detached structure.[24] The owners of the garage to which it is attached support this variance, as did their predecessors. Typically, structures in an R-3 district (particularly attached and semi detached structures) do not have any side yards. This property is quite unique to have side yards for the house and one for the garage with a full setback for both structures from both the alley and the sidewalk. The ANC, OP and expert witnesses all agree that the house and the garage meet or exceed all density-related requirements of the Zoning

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[22] See **Attachment 2.**

[23] The Office of Planning determined that the width of the Applicants' property will not be affected by the proposed addition to the garage. It should be noted that Applicant is not aware of any garages on the West side of Wisconsin that have side yards and none that are accessory to a detached house with 2300 square feet above grade on a lot in excess of 5500 square feet. The open space, lot dimensions, historical gardens and small historical house size for this Application are quite unique, even for Georgetown.

[24] On Saturday September 9, 2001, an intruder scaled the 8-foot garage and broke into and burglarized both the Applicants and our neighbor at 3252 O Street. Applicants reiterate our security issues and concerns expressed in our earlier filing. Construction of this second floor is also necessary for the security of the Applicants' family and our immediate neighbor.

Code including 5 full parking spaces. The 5 additional feet that is needed to stand up in the garage will not impact the neighborhood in any material way.

The facts of this Application cannot easily be replicated by another property owner in Georgetown. Consequently, granting this Application will not set a "dangerous precedent" as feared by the ANC or OP. Use of the premises as living quarters for a domestic employee is a use that experts from the city testified to be permitted as a matter of right. Such a use is also clearly "customarily incidental to a residential use in a residential district." Applicants are not requesting a rental apartment.

It would be an error to deny this Application merely because someone else might try to use a garage as a rental apartment without the proper permits. To the contrary, Applicants submit that denial of this Application could set an important legal precedent that will materially affect all property owners that request a variance for a use that is permitted as a matter of right. Particularly if the denial is based on a fear that the property owner may do something that is not supported by the facts or the record.

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. Granting this Modified Application will accommodate a permitted use with the least impact on the public, neighboring properties, the historical structure and the historic garden. The Modified Application will improve sight, the surrounding area and have no impact on density, parking, light or air as defined by the Zoning Code. Approval of the 5-foot variance for a permitted use cannot reasonably be accomplished in another way because of unique, exceptional 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.

Consequently, Applicants submit that we have met and/or exceeded all of the evidentiary requirements of DC Code Section 3103.2 and request the BZA to grant this Application for a 5-foot height variance.

Respectfully submitted,

Craig Goodman, Owner

cc: Nathan Gross
ANC-2E

With Attachments:

Attachment 1- Photos of the preexisting sightline of Opposing Parties and improvements to alley
Attachment 2- Photos of other second stories to garages West of Wisconsin Avenue. (4 pages)
Attachment 3- Photo of Applicants' kitchen and need for separate quarters.
Attachment 4- Photo of late postmark of Pulsifer's letter
Attachment 5- Survey of empty lot to be used as side yard for the garage.
Attachment 6- Short Bio of Craig Goodman

Endnote 1.

Applicant has previously submitted the following arguments in reliance on the June 5, 2001, ANC decision as written and submitted into this record:

ANC Erred in Fact and Law and is Therefore Not Entitled to Great Weight Under Code Section 3307.02.

A ANC made several errors in fact based on misrepresentations that prejudiced Applicants. ANC found that "a large number of surrounding neighbors" opposed the Application. This is not correct. Only 2 neighbors determined by the BZA to be affected oppose this Application and a few other neighbors with personal conflicts of interests have opposed. Over 60 neighbors signed in support of this Modified Application for a 5-foot variance. Opponents have admitted that they materially misrepresented this Application to the entire neighborhood, to the ANC and to several elected officials by mischaracterizing this Application and by submitting signatures in opposition to a "31-foot, three story, multiple rental unit dwelling" and not to the Modified Application for a 5-foot variance which is at issue in this proceeding. Each contacted party and public official in opposition advised Applicants that they opposed based on a the mischaracterization that this variance was for a "31-foot, three story, multiple rental unit dwelling" and was unaware that 60 neighbors actually supported this Modified Application for a 5-foot variance. Applicants request that all signatures and petitions in opposition to the 31-foot structure be stricken from this record.

B. ANC erred as a matter of law - ANC also based its objection on the following statement: 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." This finding is erroneous in both fact and law.

1. The Application meets or exceeds the Zoning Regulations governing density, 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 to 20 feet not only exceeds the minimum light and air and density 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. Additionally, OP and Expert Witness Almy both found the variance would cause no impairment of sight, light or air.

2. Owners of 1317 and 1319 33rd Street have no legal right to a visual easement over Applicants property. Applicants own fee simple ownership over all the property in question and have legally extinguished all easements over same. ANC does not have the legal authority to create a property right that does not in fact exist and to elevate such a non-existent right over the fee simple property rights of Applicants. Additionally, the Zoning Code permits Applicants to extend the accessory structure to 15 feet as a matter of right. OP and Expert Almy both agree that the extension of the structure from 15 to 20 feet will not materially impact the site-line of any neighbors.

3. 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. 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.

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. 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. 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.

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.

C. 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.[1] This addition is not a "Freestanding Residential Unit," and this property is not an "Alley Lot" as defined in Zoning Code Section 199.1.

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.



Before

Note Carter's tree would have totally blocked garage addition. Also note Carter's renter parking in the alley, the garbage at the dumpster, and the steel fire escape stairs of the apartment building.



After

Note improvement made to the alley view and alignment with Carter's existing fence and curb.

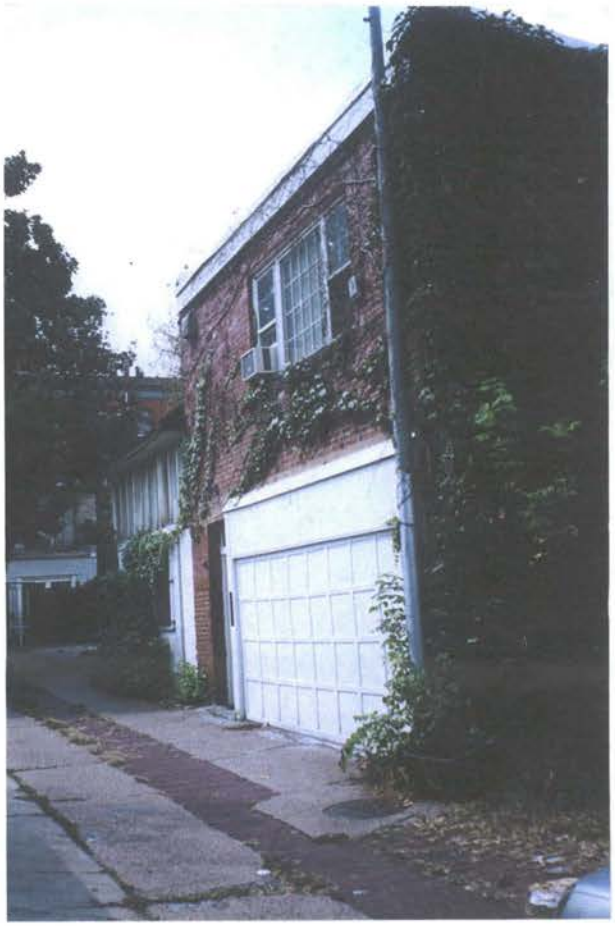
Attachment 2



Two story garage apt. Possible living quarters.
No side yards. R-3 property.



This garage apt. is in the West extension of our alley. It is currently being used by the owners while they renovate their house.



Two, two story garage apts. Livable,
No side yards.



Two story garage apt. Possible living quarters.
No side yards. R-3 property.











Three, two story alley dwe
No side yards.

Three, two story garage apt. Possible living quarters. No side yards. R-3 property.



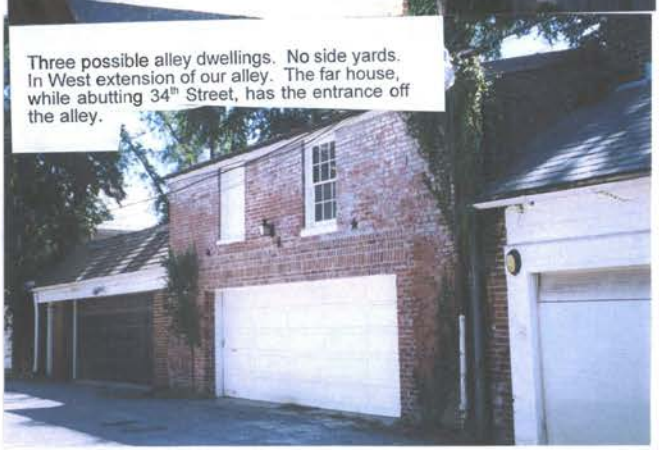
Two story garage with dwelling possibilities.
No side yards



This structure is accessible in a small alley with two right angles turns. It is a row of converted garages with 2nd story dwelling possibilities.
No side yards.



Three possible alley dwellings. No side yards. In West extension of our alley. The far house, while abutting 34th Street, has the entrance off the alley.



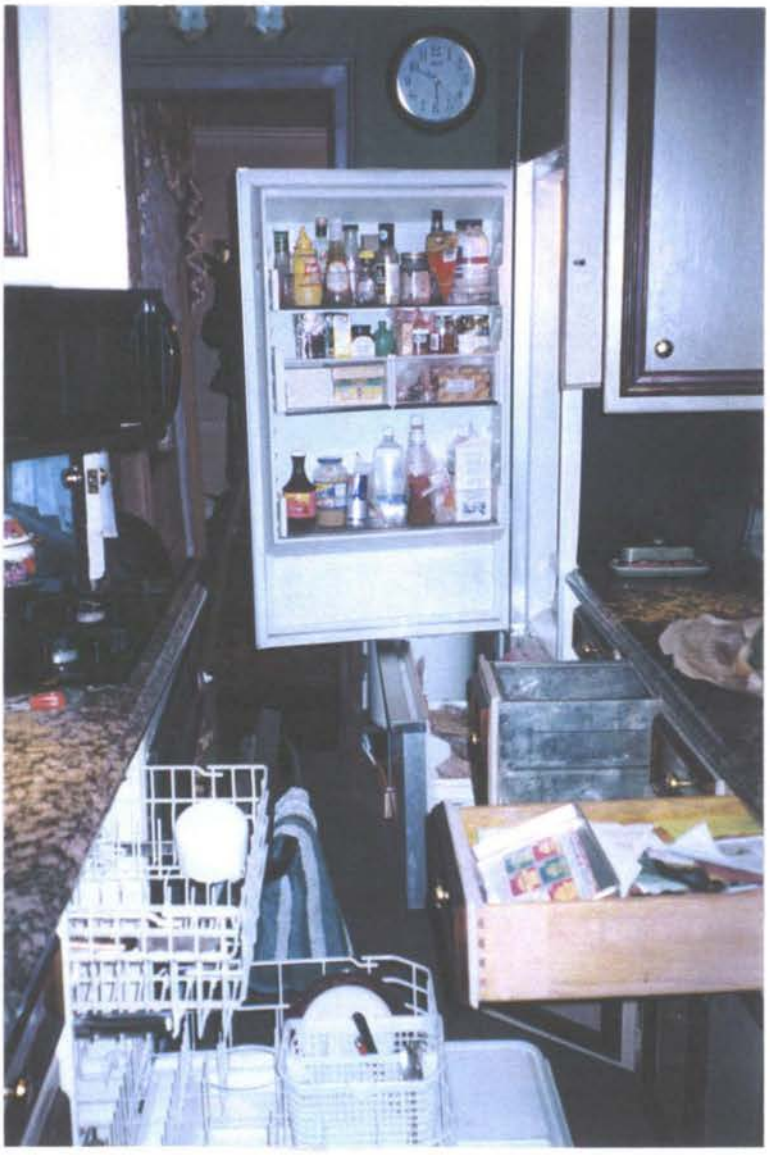
Two story garage immediately behind ours. Possible living quarters, no one lives there. R-3 property. No side yards.



Garage converted into studio downstairs with two bedroom living quarters upstairs. Used as guest quarters. No side yards.



This garage apt. has had the garage bricked in. Appears to be used as housing. Window was also bricked in at A/C. No side yards.



GOVERNMENT OF THE DISTRICT OF COLUMBIA

Advisory Neighborhood Commission 2E

Representing the communities of Burleith, Foxhall-MacArthur, Georgetown and Hillandale
3265 S Street, NW • Washington, DC 20007
(202) 338-7427 • FAX (202) 338-0279 • anc2e@erols.com

September 8, 2001

Sheila Cross Reid, Chair
Board of Zoning Adjustment
441 4th Street, NW
Suite 210
Washington, DC 20001

Re: BZA Application No. 16696
Goodman Residence, 3254 O Street, NW

ANC 2E
3265 S Street, NW
Washington, DC 20007

WASHINGTON, DC 200
PM
13 SEP
2001

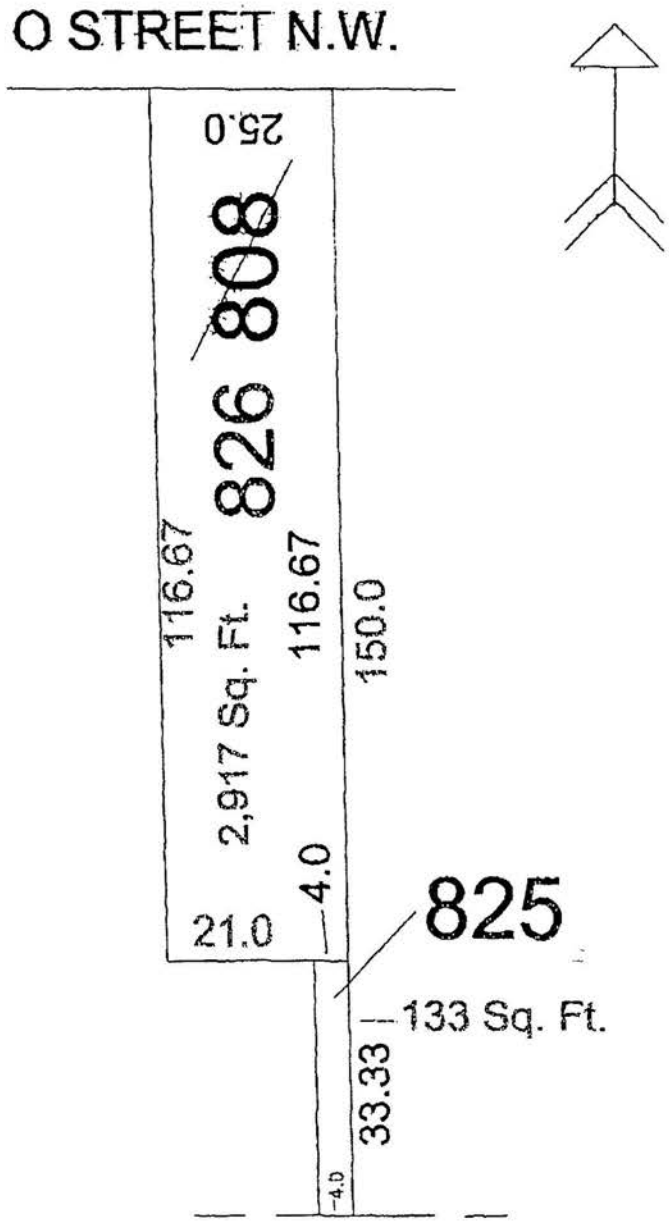
Mr. Craig G. Goodman
3254 O Street, NW
Washington, DC 20007

20007-2647 36

Attachment 5

OFFICE OF TAX AND REVENUE
ASSESSMENT DIVISION

ASSESSMENT AND TAXATION PLAT
SQUARE 1230



L E Brown #44514 6-10-98 4/30/01 Scale, 1 inch = 50 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. 3/98)
3-93451