DRISCOLL & DRAUDE
ATTORNEYS AT LAW

SECOND FLOOR
1230 THIRTY-FIRST STREET N.W.
WASHINGTON, D.C. 20007

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BRIAN G. DRISCOLL (DC, MD)
JAMES T. DRAUDE (DC, MD, VA)

Of Counsel
EDWIN E. HUDDLESON, III (DC, CA)

September 18, 2001

HAND DELIVERED

Jerrily R. Kress
Director
Office of Zoning
Room 210
441 Fourth Street NW
Washington, D.C. 20004

Re: BZA Appeal No. 16764

Dear Ms. Kress:

Enclosed for filing in the above case are the original and ten copies of Appellant's Statement with attachments. Please date stamp the additional copy and return it to us with our messenger.

For the reasons stated in my letter of September 12, 2001, faxed to your office, Appellant respectfully requests the Board to waive the rules to allow late filing of Appellant's Statement. Neither the Zoning Administrator nor the Owner will be prejudiced by the late filing because Appellant raised all of the issues with the office of the Zoning Administrator and the Owner in the Fall of 2000 prior to issuance of a construction permit.

Sincerely,

James T. Draude

James T. Draude

BZA
Case No. 16764
Exhibit No. 21

Board of Zoning Adjustment
District of Columbia
CASE NO.16764
EXHIBIT NO.21

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

In re: Appeal of Darrel J. Grinstead) Appeal No. 16764
) ANC 3F

APPELLANT'S STATEMENT

This is an appeal of a decision of the Department of Consumer and Regulatory Affairs ("DCRA") approving construction of a single family residence at 2944 Chesapeake Street NW (Lot 30, Square 2256) ("Subject Property") in an R-1-A zoning district. DCRA issued building permits and ruled that the proposed residence complies with the Zoning Regulations in all respects. The owner/developer of the Subject Property is William Wahabi ("Owner"). Appellant Darrel J. Grinstead ("Grinstead") is the adjoining neighbor.

STATEMENT OF THE CASE

The R-1-A zoning district limits buildings to three stories and forty feet in height with specified minimum lot size and width and required rear yard and side yard setbacks (11 DCMR 400.1, 401.3, 404.1, and 405.9).

On June 27, 2000, the Owner filed an application for a permit to construct a "new custom house" as a single family dwelling on the Subject Property (Ex. A).[1] The application described the number of stories as three plus cellar (Ex. A).

After reviewing plans for the house on file with DCRA, Grinstead contacted the Owner to express his concerns regarding the size of the proposed house. The Owner met with Grinstead at Grinstead's residence near the end of September, 2000. Grinstead

[1] "Ex. ___" refers to Appellant's Exhibits attached hereto.

reviewed the plans with the Owner and complained to the Owner about the height, number of stories, and size (square footage) of the proposed house. Grinstead expressed his concern that the size of the house was totally out of proportion with the rest of the houses in the neighborhood and that the construction of such a house would diminish the value of Grinstead's house. The Owner denied all of Grinstead's assertions and refused to make any changes to the plans.

Grinstead subsequently met with adjoining and neighboring property owners to review the plans for the proposed house. They expressed their support for the objections raised by Grinstead and gave him permission to represent their interests. The adjoining property owners agreed to provide financial support to challenge the approval of the project by DCRA.

On October 5, 2000, the Owner filed an application for a permit for grading, excavation, footing and foundation walls on the Subject Property (Ex. B).[2] The application described the number of stories as three plus cellar (Ex. B).

On October 7, 2000, Grinstead hand delivered a letter to DCRA (with a copy mailed to the Owner) on behalf of himself and adjoining neighbors requesting DCRA to deny the pending permit application (Ex. C). Grinstead noted that the proposed house was four stories, that the height exceeded permissible limits, and that the lot did not meet the required minimum lot size. He also

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[2] DCRA erroneously marked this application as being in an R-1-B zoning district (Ex. B).

stated that the neighbors did not possess sufficient information to determine if the proposed house met rear yard, side yard, and other requirements of the Zoning Regulations.

On October 7, 2000, DCRA issued a permit to the Owner for grading, excavation, footing and foundation walls on the Subject Property (Ex. D).[3] On October 13, 2000, DCRA issued a permit to the Owner to construct a new custom house on the Subject Property (Ex. E). This permit described the house as three stories (Ex. E). The Owner started construction shortly after issuance of those permits.

On the day in mid-October, 2000, when heavy equipment was being placed on the Subject Property to begin excavation, Grinstead and one of the adjacent property owners again confronted the Owner with their objections to the project and to the size and height of the proposed house. When the Owner refused to make any concessions, Grinstead told the Owner that Grinstead would be raising legal objections to construction of the proposed house.

DCRA did not respond to Grinstead's letter of October 7, 2000 opposing issuance of the permits. After repeated and unavailing telephone calls to DCRA seeking a response, Grinstead mailed a letter dated February 19, 2001 to DCRA (with a copy mailed to the Owner) repeating his objections to the proposed house (Ex. F). He cited a prior case in which the Board of

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[3] This permit erroneously stated that the Subject Property is zoned R-1-B (Ex. D).

Zoning Adjustment ("BZA") had found that DCRA had approved construction of an illegal four story house in a zone with a three story limit (Ex. F, p. 2).

The Owner continued construction.

On May 14, 2001, DCRA sent a letter to Grinstead responding to his letters of October 7, 2000 and February 19, 2001 (Ex. G). DCRA stated that after review it found that the project was in compliance with all Zoning Regulations (Ex. G). DCRA noted that Grinstead had a right to appeal its decision to the BZA (Ex. G).

This appeal was filed on June 28, 2001.

ANALYSIS

The house being constructed by the Owner ("Subject House") violates the requirements of the Zoning Regulations with respect to number of stories, height, minimum lot dimensions, rear yard, and side yard.

1. Number of Stories. The R-1-A zoning district limits residences to three stories (11 DCMR 400.1). The term "story" does not include "cellars" (11 DCMR 199, Story). The construction drawings for the Subject House show four stories, with the lowest story labelled "cellar" (Sht. A-3).[4]

Although the entire lower story of the Subject House is labelled "cellar" on the construction drawings (Sht. A-3), only a portion of the lower story falls within the definition of "cellar" in the Zoning Regulations. A "cellar" is "that portion

[4] "Sht. ___" refers to the sheets of the approved construction drawings on file with the office of the Zoning Administrator.

of a story, the ceiling of which is less than four feet (4 ft.) above the adjacent finished grade" (emphasis added) (11 DCMR 199, Cellar). Only the portion of the lower story that is west of the main entrance to the house appears to qualify as a "cellar" (Sht. A-3). The portion of the lower story east of the main entrance to the house includes a garage at the front as well as other living space to the rear. The ceiling of the garage at the front of the house plainly is more than four feet above the adjacent finished grade (Sht. A-3). Thus, the garage is not a "cellar" but rather is a "story".

The number of stories is counted from the point at which the height of the building is measured (11 DCMR 199, Story). In the R-1-A district, the height of a building is measured "from the finished grade level at the middle of the front of the building" (11 DCMR 199, Building, height of). The front of the Subject House is 35 feet wide (Shts. CS and A-1.1). The mid-point of the front of the Subject House is east of the main entrance at the location of the garage (Sht. A-1.1). As noted above, the garage is not a "cellar" as defined in the Zoning Regulations. Therefore, the number of stories counted at the height-measuring point clearly is four, which violates the Zoning Regulations.

2. Height. The R-1-A zoning district limits residences to forty feet in height (11 DCMR 400.1). In the R-1-A district, the height of a building is measured "from the finished grade level at the middle of the front of the building to the ceiling of the top story" (emphasis added) (11 DCMR 199, Building, height of).

The construction drawings show the heights of each of the four stories (Sht. A-3). Those heights total forty feet ten and one quarter inches (Sht. A-3), which exceeds the permissible height.

In addition, although the drawings are somewhat misleading, examination of the drawings and the Subject House as constructed reveals that the Subject House exeeds the applicable height limit by approximately three to four feet.

Height is measured "to the ceiling of the top story". The heights shown on the construction drawings are measured to a line located at the top story but that is not labelled anywhere on the construction drawings (Shts. A-3, A-4, A-5, A-6, and A-7) ("Fourth Story Plane Line"). However, the construction drawings show that the Fourth Story Plane Line is not, in fact, the ceiling of the top story. The top story has a bedroom at the rear of the house with three skylights (Sht. A-2.2). Those skylights on the rear roof of the house are located entirely <u>above</u> the Fourth Story Plane Line (Sht. A-4). The top story also has a study located at the front of the house with a window located on the centerline of the front facade (Sht. A-2.2). The Fourth Story Plane Line passes horizontally through the center of that window. Clearly, the Fourth Story Plane Line is <u>not</u> "the ceiling of the top story". The misleading nature of the drawings is demonstrated by the fact that the flat ceiling of the fourth story is visible from outside the house and is approximately three feet above the windows shown on the drawings. The height

of the house, therefore, exceeds forty feet.

3. Minimum Lot Dimensions. The R-1-A zoning district requires a minimum lot area of 7,500 square feet and a minimum lot width of 75 feet (11 DCMR 401.3). The construction drawings state that the lot size is 6,723 square feet, and the width of the irregularly shaped lot, no matter how measured, plainly is less that 75 feet (Sht. CS). Thus, the Subject Property violates the minimum lot dimensions required by the Zoning Regulations.

The Owner and/or the Zoning Administrator apparently relies on an exception to the minimum lot dimensions (11 DCMR 401.2). That exception applies, however, only if "the structure shall comply with all other provisions of this title" (11 DCMR 401.2). As shown above and below, the Subject House does not comply with all the other provisions of the Zoning Regulations and, therefore, is not entitled to any exception from the required minimum lot dimensions.

4. Rear Yard. The R-1-A district requires a rear yard with a minimum depth of 25 feet (11 DCMR 404.1). A yard required by the Zoning Regulations "shall be open to the sky from the ground up, and shall not be occupied by any building or structure" (11 DCMR 199, Yard). A rear yard "shall be for the full width of the lot and shall be unoccupied" (11 DCMR 199, Yard, rear).

The construction drawings show that the distance from the rear wall of the house to the rear lot line is 25 feet (Sht. CS). Those drawings also show that a bay, containing a breakfast nook on the second story and a bathroom on the third story, intrudes

into the area of the rear yard (Shts. A-1.1 and A-2.2). In addition, a deck of approximately ten feet by twenty-eight feet occupies the rear yard at the second story level (Sht. A-1.1).

The drawings also are misleading since they show the bay cantilevered over the rear yard, but visual inspection from the adjoining yard reveals that the bay extends to and below grade level at the rear of the house. In addition, part of a tennis court and fence occupy a portion of the rear yard at the rear lot line (Sht. CS). The deck in the plans would eliminate any rear yard. As a result of all of those factors, the appearance from neighboring yards is that there is virtually no rear yard for the Subject House.

In sum, the Subject House violates the requirements that the rear yard be open to the sky and unoccupied.

5. Side Yard. The R-1-A district requires a side yard with a minimum depth of eight feet (11 DCMR 405.9). A yard required by the Zoning Regulations "shall be open to the sky from the ground up, and shall not be occupied by any building or structure" (11 DCMR 199, Yard).

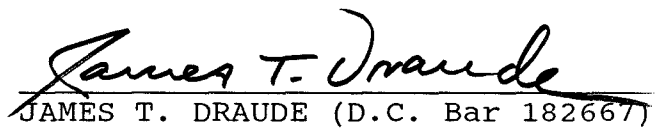
The construction drawings show side yards with a depth of eight feet (Sht. CS). However, a chimney on the east side of the Subject House intrudes into the side yard area (Sht. A-1.1). On the west side, front and side porches and first story window wells also intrude into the side yard area. Thus, the Subject House violates the requirements that the side yard be open to the sky and unoccupied.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests the BZA to reverse the decision of DCRA approving construction of the proposed house on the Subject Property and to direct DCRA to revoke all extant permits and to require the Owner to abate all violations of the Zoning Regulations.

Dated: September 18, 2001

Respectfully submitted,



JAMES T. DRAUDE (D.C. Bar 182667)
Driscoll & Draude
Second Floor
1230 Thirty-First Street NW
Washington, DC 20007
(202) 333-0330

Attorney for Appellant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Appellant's Statement with attachments was hand delivered on September 18, 2001 to: Michael D. Johnson, Zoning Administrator, Suite 2127, 941 North Capitol Street NE, Washington, DC 20002, and was mailed, postage prepaid, on September 18, 2001, to: William Wahabi, P.O. Box 1460, Falls Church, VA 22041.



JAMES T. DRAUDE

OUTLINE OF TESTIMONY OF DARREL J. GRINSTEAD

My name is Darrel J. Grinstead, and I reside at 2964 Chesapeake Street NW, Washington, DC 20008. My family and I have owned and resided at that address since July, 1984. I am the Appellant in this case.

Mr. Grinstead will testify to the facts set forth in Appellant's Statement.

OUTLINE OF TESTIMONY OF STEPHEN W. GRESHAM

My name is Stephen W. Gresham, and my business address is 300 N. Lee Street, Suite 502, Alexandria, VA 22314.

Mr. Gresham's resume is attached.

Mr. Gresham will testify to the "Analysis" set forth in Appellant's Statement.

Architects & Planners
300 N. Lee Street
Suite 502
Alexandria, Virginia 22314
703.836.0915
FAX 703.684.3653

Atlanta, Georgia
404.365.7600
FAX 404.365.7610

Stephen W. Gresham, AIA

Principal
26 years architectural experience
NCARB Certificate
Registered Architect in Virginia, Georgia, District of Columbia, West Virginia, Maryland, Pennsylvania, Delaware, New Jersey and New York

Education
Master of Business Administration, Georgia State University, 1988
Master of Architecture, Georgia Institute of Technology, 1979
Bachelor of Science, Architecture, University of Virginia, 1974

Relevant Experience

Resort / Recreation / Leisure
Bayside, 1,200 acre mixed-use development, planned community, Sea Colony Development Corp., Sussex County, Delaware
Bear Trap Dunes Golf Club, 600 acre mixed-use development, planned community, Coastal Resorts Development, Bethany Beach, Delaware
Belmont Country Club and Restoration of Late 18th Century Home on National Register, Toll Brothers, Leesburg, Virginia
Cullasaja Golf Club, Arvida Company, Highlands, North Carolina
International Town & Country Club, Fairfax, Virginia
Moraine Country Club, Dayton, Ohio
Mt. Vernon Country Club, Alexandria, Virginia
Piedmont Recreation Center, Kettler and Scott, Gainesville, Virginia
Piedmont Visitor's Center, Kettler & Scott, Gainesville, Virginia
Riverside Villages Community Center, University Center, Charles E. Smith Companies, Loudoun County, Virginia
Sea Colony, Sea Colony Development Corp., Bethany Beach, Delaware
Woodmont Country Club, Rockville, MD

Residential
Apartments at Regents Park Phase I and II, 352 and 208 units, The Bozzuto Group, Vienna, Virginia
Apartment Units (1,000), Hazel/Peterson Companies, Fairfax, Virginia
Apartment Units (10,000), Trammell Crow Residential, Georgia, Florida, Tennessee, Ohio, North Carolina, South Carolina
Apartment units (210), Madison Associates, Madison, Mississippi
Apartment Units (2,600), Club Properties, Atlanta, Georgia; Memphis and Nashville, Tennessee
Archstone at Governor's Green, 338 units and clubhouse, Archstone Communities, Bowie, Maryland
Archstone at Woodland Park, 392 units and clubhouse, Archstone Communities, Herndon, Virginia
Avalon at Cameron Court, 460 units, AvalonBay Communities, Inc., Alexandria, Virginia
Avalon Fields, 192 units, AvalonBay Communities, Inc., Gaithersburg, Maryland
Avalon Manor Apartments, 132 units, Avalon Bay Communities, Freehold, New Jersey
Avalon on the Fairways, 450 units, Avalon Bay Communities, Coram, New York
Avalon Rock Springs, 425 units, Avalon Bay Communities, Bethesda, Maryland
Bayside, 1,200 acre mixed-use development, planned community, Sea Colony Development Corp., Sussex County, Delaware

Brookstone Condominiums, 74 units, Bozzuto and Associates, Pikesville, Maryland
Cameron Valley Apartments, 432 units, Archstone Communities, Chesterfield County
Chesapeake at Virginia Center Phase II, 88 units, Archstone Communities, Henrico County
Copperfield Crossing Condominium Phase I and II, 68 and 26 units, The Bozzuto Group, The Kentlands, Gaithersburg, Maryland
Estates at Princeton Junction, 636 units, Toll Brothers, Inc., West Windsor, New Jersey
Estates at Windsor Hollow, 400 units, Toll Brothers, Inc., East Windsor, New Jersey
Hillsborough, 256 apartment units, Hillsborough Associates, Kansas City, Kansas
Lakelands Apartments, 253 units, The Bozzuto Group, Gaithersburg, Maryland
Milestone Apartments Phase II, 132 units, Archstone Communities, Montgomery County
Oak Park Condominiums, 180 units, Hazel/Peterson Companies, Reston Town Center, Virginia
Post Creek, 258 apartment units, Post California, Pleasanton, California
Remington at Dulles Town Center, 406 units, Lerner Enterprises, Dulles, Virginia
Reston Landing at Reston Town Center, 400 units, Charles E. Smith Companies, Reston, Virginia
Savoy Park condominiums, 255 units, Charles E. Smith Companies, Fairfax, Virginia
Sea Colony Resort Single Family, 22 homes, Sea Colony Development Corp., Bethany Beach, Delaware
Sea Colony Resort Townhouses, 100 units, Sea Colony Development Corp., Bethany Beach, Delaware
SouthGlen condominiums, 180 units, Charles E. Smith Companies, Loudoun County, Virginia
Springfield Metro Site, 347 high rise and garden units, KSI Services, Fairfax County, Virginia
Springfield Station, 440 units and clubhouse, Charles E. Smith Companies, Fairfax County, Virginia
Summerland Manor Condominiums, 112 units, David Lyles Developers, Hagerstown, Maryland
Stoneridge at University Center, 630 multi-family units, Charles E. Smith Companies, Loudoun County, Virginia
The Westerly, 320 units, Charles E. Smith Companies, Fairfax County, Virginia
University Heights, 466 units, Charles E. Smith Companies, Loudoun County, Virginia

Senior Living
Pine Grove Retirement Community, Thyssen Rheinstahl Technik Co., Atlanta, Georgia

Commercial
2000 Powers Ferry, Mixed-Use Development, Thyssen Rheinstahl Technik Co., Atlanta, Georgia
County Line Shopping Center, H.C. Bailey Co., Jackson, Mississippi

Restaurant
Applebee's Neighborhood Grill and Bar, 30 Locations: Virginia, Maryland, West Virginia, Delaware, Pennsylvania
Chick-fil-A, 19 locations, Virginia, Maryland
Ruby Tuesday's, 35 Locations: Virginia, Maryland, Delaware, New Jersey, Pennsylvania, District of Columbia

Corporate
Coca-Cola Headquarters, Masterplan, Atlanta, Georgia*
Motorola Corporation, Office and Manufacturing Facility, Boynton Beach, Florida*

Educational
Administration Addition, Tucker High School, Richmond, Virginia*
Gymnasium Addition, Jefferson High School, Richmond, Virginia*
Library Addition, Administrative Addition, Henrico High School, Richmond, Virginia*
Sanford Stadium, Addition, University of Georgia, Athens, Georgia*
Turman Center Student Housing, Emory University, Atlanta, Georgia*

Institutional
Armed Forces Signal Center and School, Taif, Saudi Arabia*
DePaul Hospital, Renovation and Addition, Norfolk, Virginia*
General Hospital of Virginia Beach, ICU addition, Virginia Beach, Virginia*
International Airport Expansion, San Antonio, Texas*
Richmond Memorial Hospital, Renovation, Richmond, Virginia*
Stuart Circle Hospital, Addition and Renovation, Richmond, Virginia*

Research
Building Occupant Behavior During Earthquakes and Other Short Term Natural Disasters, Georgia Tech, 1979
Building Occupant Behavior at Orientation Edges, Georgia Tech, 1978

Other Experience
Building Code Consultant, Virginia / Maryland Multi-Family Code Advisory Group
Building Code Consultant, National Multi-Housing Council, National Association of Home Builders
Fair Housing Study, Paralyzed Veterans of America, Washington, DC
Construction Safety, Health & Education Improvement Acts of 1990 and 1991, Testimony
before the House of Representatives Subcommittee on Health and Safety
for the National Apartment Association, Washington, DC
Juror, 1992 and 1993 Development and Renovation Showcase, National Apartment Association
Juror, 1998, Builders, Owners and Developers Award Competition, National Apartment Association

* Projects accomplished prior to joining Niles Bolton Associates

APPELLANT'S EXHIBITS

Ex. A: Application for construction permit for new custom house, dated June 27, 2000

Ex. B: Application for construction permit for grading, excavation, footing and foundation walls, dated October 5, 2000

Ex. C: Letter, dated October 7, 2000, from Darrel J. Grinstead to DCRA

Ex. D: Permit for grading, excavation, footing and foundation walls, dated October 7, 2000

Ex. E: Permit for new custom house, dated October 13, 2000

Ex. F: Letter, dated February 19, 2001 from Darrel J. Grinstead to DCRA

Ex. G: Letter, dated May 14, 2001, from DCRA to Darrel J. Grinstead

Approved construction drawings on file with office of the Zoning Administrator as follows:

Sheet No. CS: Cover Sheet/Schedules

Sheet No. A-1.1: Floor Plans

Sheet No. A-2.2: Floor Plans

Sheet No. A-3: Elevation

Sheet No. A-4: Elevation

Sheet No. A-5: Elevation

Sheet No. A-6: Elevation

Sheet No. A-7: Building Section

00-00169

PRE-FILE NUMBERS		ZONING DISTRICT	FILE NUMBER	PERMIT NUMBER	
P.A.D.C. No.:	O.G. No.:				B:
H.P.A. No.:	S.L. No.:	Ward No.:	Receipt No.:	Date:	Receipt No.:

★ ★ ★ GOVERNMENT OF THE DISTRICT OF COLUMBIA

BLRA-33 (Rev. 10/91)

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION; PERMIT PROCESSING DIVISION (727-7050)

APPLICATION FOR CONSTRUCTION PERMITS ON PRIVATE PROPERTY

(PRINT IN INK OR TYPE; DO NOT WRITE IN SHADED AREAS OR ON PAGE 4)

571-C

CLEARANCE TO FILE
By: Date:

ERASING, CROSSING OUT, WHITING OUT, OR OTHERWISE ALTERING ANY ENTERED INFORMATION WILL VOID THIS APPLICATION

(A) ALL APPLICANTS MUST COMPLETE ITEMS 1 THRU 27

1. Address of Proposed Work:	Suite No.:	2. Lot:	3. Square:	4. Application Date:
2934 CHESAPEAKE ST NW		30	2256	06-27-00

5. Owner of Building or Property:	6. Address: (include Zip)	7. Phone:
WOLDAM WAHABI	P.O. BOX 1460 FALLS CHURCH VA 22041	Work: Home:

8. Agent for Owner: (if applicable)	9. Address: (include Zip)	10. Phone:
ROCHFORD MACREDIE	6587 SKYLEMARK DR CENTREVILLE VA 20121	Work: Home:

11. Type of Proposed Work (check all applicable boxes):

- ☑ New Building
- ☐ Addition
- ☐ Alteration and Repair
- ☐ Raze Building
- ☐ Retaining Wall
- ☐ Fence
- ☐ Shed
- ☐ Awning
- ☐ Garage
- ☐ Sign
- ☐ Other (Specify) _____

12. Description of Proposed Work:

NEW CUSTOM HOUSE

13. Existing Use(s) of Building or Property:	14. Ex. No. of Stories of Bldg.:	15. Ex. No. of Dwelling Units:	Official Use Only: Miscellaneous FEE $ By: Date:
Vacant	0	—	

16. Proposed Use(s) of Building or Property:	17. Prop. No. of Stories of Bldg.:	18. Prop. No. of Dwelling Units:
S F D	3 + Cellar	1

19. Starting Date of Work:	20. Completion Date of Work:	21. Method of Removing Construction Debris:	22. Does the proposed work involve disturbing the earth or razing a building?
ASAP	ASAP	☑ Pick-up Truck ☐ Dumpster ☐ Other (specify):	☐ Yes, answer q. 23 ☑ No, SKIP q. 23-27

23. Is the area of disturbed earth more than 50 sq. ft.?	24. Soil Erosion Control Methods:	25. Area of Offsite Drainage:	26. No. of Footings or Columns:	27. Size of Footings of Columns:
☑ Yes, answer q. 24-25 ☐ No, SKIP q. 24-25		sq. ft.		sq. ft.

ALWAYS SIGN THE APPLICATION ON PAGE 3 (SECTION I).

Complete Section B if the proposed work is **new building, addition or alteration.** (Page 2)
Complete Section C if the proposed work is **razing a building.** (Page 2)
Complete Section D if the proposed work is a **retaining wall.** (Page 2)
Complete Section E if the proposed work is a **fence.** (Page 3)
Complete Section F if the proposed work is a **shed/garage.** (Page 3)
Complete Section G if the proposed work is an **awning.** (Page 3)
Complete Section H if the proposed work is a **sign.** (Page 3)

0307 wd-375

OFFICIAL USE ONLY

	R	F	H	A
M				
P				
E				No
F				
S				Sm. Lg.

571-C

Exhibit A

4XX-XX0164 Ag. 1p079

PRE-FILE NUMBERS		ZONING DISTRICT	FILE NUMBER	PERMIT NUMBER	
P.A.D.C. No.:	O.G. No.:	R-1-B		371-C	By:
H.P.A. No.:	S.L. No.:	Ward No.:	Receipt No.:	Date:	Receipt No.:

★ ★ ★ GOVERNMENT OF THE DISTRICT OF COLUMBIA

BLRA-33 (Rev. 10/91)

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION; PERMIT PROCESSING DIVISION (727-7050)

APPLICATION FOR CONSTRUCTION PERMITS ON PRIVATE PROPERTY

25770

(PRINT IN INK OR TYPE; DO NOT WRITE IN SHADED AREAS OR ON PAGE 4)

CLEARANCE TO FILE
By: Date:

ERASING, CROSSING OUT, WHITING OUT, OR OTHERWISE ALTERING ANY ENTERED INFORMATION WILL VOID THIS APPLICATION

(A) ALL APPLICANTS MUST COMPLETE ITEMS 1 THRU 27

1. Address of Proposed Work:	Suite No.:	2. Lot:	3. Square:	4. Application Date:
2944 CHESAPEAKE ST NW		30	2256	10-5-00

5. Owner of Building or Property:	6. Address: *(include Zip)*	7. Phone:
William Wahabi	P.O. Box 1460 - Falls Church VA-22041	Work: 703-933-045 Home: 703-998-9098

8. Agent for Owner: *(if applicable)*	9. Address: *(include Zip)*	10. Phone:
		Work: Home:

11. Type of Proposed Work *(check all applicable boxes):*

- ☑ New Building
- ☐ Addition
- ☐ Alteration and Repair
- ☐ Raze Building
- ☐ Retaining Wall
- ☐ Fence
- ☐ Shed
- ☐ Awning
- ☐ Garage
- ☐ Sign
- ☐ Other *(Specify)* Grading

12. Description of Proposed Work:

Grading excavation, Footing and Foundation walls.

13. Existing Use(s) of Building or Property:	14. Ex. No. of Stories of Bldg.:	15. Ex. No. of Dwelling Units:	Official Use Only Miscellaneous FEE $ 100.00 By: Date: 10/6/00
VACANT			
16. Proposed Use(s) of Building or Property:	**17. Prop. No. of Stories of Bldg.:**	**18. Prop. No. of Dwelling Units:**	
S.F.D	3 + Cellar	1	

19. Starting Date of Work:	20. Completion Date of Work:	21. Method of Removing Construction Debris:	22. Does the proposed work involve **disturbing the earth** or razing a building?
ASAP. 10-9-00	A.S.A.P	☒ Pick-up Truck ☐ Dumpster ☐ Other *(specify):*	☒ Yes, answer q. 23 ☐ No, SKIP q. 23-27

23. Is the area of disturbed earth more than 50 sq. ft.?	24. Soil Erosion Control Methods:	25. Area of Offsite Drainage:	26. No. of Footings or Columns:	27. Size of Footings of Columns:
☐ Yes, answer q. 24-25 ☐ No, SKIP q. 24-25	AS PER Site Plans	sq. ft.	AS PER Plans	AS PER Plans

ALWAYS SIGN THE APPLICATION ON PAGE 3 (SECTION I).

Complete Section B if the proposed work is **new building, addition or alteration.** (Page 2)
Complete Section C if the proposed work is **razing a building.** (Page 2)
Complete Section D if the proposed work is a **retaining wall.** (Page 2)
Complete Section E if the proposed work is a **fence.** (Page 3)
Complete Section F if the proposed work is a **shed/garage.** (Page 3)
Complete Section G if the proposed work is an **awning.** (Page 3)
Complete Section H if the proposed work is a **sign.** (Page 3)

OFFICIAL USE ONLY					
	R	P	H	A	
M					
P					
E					No
F					
S					☐ Sm. ☐ Lg.

Exhibit B

2-0307 wd-375

Darrel J. Grinstead
Attorney at Law
2964 Chesapeake Street NW
Washington, DC 20008

October 7, 2000

Armando Lourenco
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
District of Columbia
941 North Capitol Street
Washington, D.C. 20002

Re: Opposition to Application for Building Permit on 2900 Block of Chesapeake Street NW

Dear Mr. Lourenco:

There is currently pending before your division an application for a permit to construct a single family dwelling on an unimproved lot (lot 30, sq. 2256) on Chesapeake Street NW (Case 571C, Bin R6). I am the one of the owners of the properties adjacent to that lot. The purpose of this letter is to draw your attention to numerous problems with respect to that application, and to ask on behalf of all the other property owners adjacent to that property that the application be denied in its current form. I am joined in this letter by all the other adjacent property owners and affected neighbors on Chesapeake Street.

Our principal concern with respect to the application is that the size and height of the house to be constructed violates existing zoning restrictions in this R-1-A district. The house and its construction will irreparably damage the character of the neighborhood and will cause substantial degradation to the adjacent properties. For this reason we ask for your careful review of all aspects of this application.

The lot in question is about 6700 square feet in size, substantially less than the 7500 square feet minimum lot size for the construction of a single family dwelling in this R-1-A district. If the lot is buildable at all, which we do not concede, it can be so only as a result of an exception in the current zoning rules. The only exception to the size limits of which I am aware relates to lots in existence in 1957. I can find no record of lot 30 being in existence in 1957, so it is not clear what basis exists for permitting a

— Exhibit C

house to be built on this lot. We ask that you postpone the issuance of any additional permits for this construction until it can be determined whether a permit for construction of a house on this lot can be issued at all.

The plans that I have reviewed of the dwelling to be built on this lot indicate that it will contain approximately 6800 square feet of living space. That is more than twice the size of any other houses in this block. Moreover, the plans indicate that the structure will consist of four floors. Since only three story structures are permitted in this R-1-A district, the plans on their face appear to violate the zoning code. The three-story limitation is not waivable.

The minimum lot size restrictions in the zoning code are intended to protect neighborhoods and property owners therein from the construction of structures that are inconsistent with the character of the neighborhood. The law requires the strict application of code requirements in this case because, even if approvable, the application will result in a structure being built on a non-conforming lot. There is a clear regulatory objective to prevent non-conforming structures being built in such neighborhoods. Therefore, even if the current owner has the legal right to build on the property, it is your obligation to ensure that he do in the manner that is least destructive of the neighborhood's character and least damaging to the adjacent landowners. For that reason, in order not to unduly damage the character of the neighborhood or diminish the values of the adjacent properties, you should apply the code provisions very strictly. Given the contours, size, and location of this lot, construction of the planned dwelling cannot take place without irreparably damaging the neighborhood and the adjacent properties.

Lot 30 is a triangle-shaped lot with a very short leg on the cul-de-sac on the 2900 block of Chesapeake Street. The lot has only approximately 25 feet of frontage on the cul-de-sac. That frontage is the only access to the lot, which is otherwise surrounded by other developed lots. We have received no information from the developer of how he intends to provide construction ingress and egress through such a narrow space without damaging the adjacent properties. The access to the lot is also flanked by two sizable and attractive trees (each more than 10 inches in diameter) on the public space in front of the lot. We believe the developer should be required to take steps to ensure the protection of those trees before a permit is granted.

We are also concerned with the impact of the construction process on the neighborhood. The cul-de-sac provides the only parking for most of the houses in the block, and there is usually no unoccupied space for other cars. Therefore, there is no space for construction parking. It is inconceivable how construction materials and equipment can be delivered and stored without adversely affecting the neighboring lots. Likewise, we are concerned about the noise resulting from the construction, especially in view of the close proximity of neighboring houses, some of which are occupied by families with small children and by elderly individuals. A limit must be

put on the hours of construction work, with work being permitted only between the hours of 8:00 AM and 5:00 P.M., with no work being permitted on Saturdays, Sundays and holidays. The developer should be required to fully address these issues before a permit is granted.

Because we have not been provided with information regarding compliance of the plans with set-back, side yard and other requirements, we are unable to determine at this time if there are other legal objections to the planned construction. However, we must look to you to ensure that those requirements are strictly applied in this case. Where new construction such as this is shoe-horned into an oddly shaped and non-conforming lot, closely surrounded by other occupied dwellings, every step must be taken to protect the rights of existing landowners whose enjoyment of their property will be severely diminished by the construction of such an enormous building.

I have shared this letter with the other two adjacent landowners and the owners of all the other houses on the cul-de-sac. They have all indicated to me their agreement with the objections and concerns expressed in this letter. In order that we can more fully address these concerns, we request a meeting with you as soon as possible to discuss this matter. I can be reached at 202-637-5989 during business hours to set up such a meeting.

We appreciate your attention to this matter and look forward to meeting with you.

Sincerely,

Darrel J. Grinstead

cc: Neighbors:
Rudolf Knippenberg, 2934 Chesapeake St NW
David Carliner, 2941 Chesapeake St. NW
Shirley Kreuz, 2930 Chesapeake St. NW
Renee Licht, 2915 Brandywine St. NW

Kathy Patterson, Councilperson, Ward 3
Robert Maudlin, ANC 3F
Michael Johnson, DC Zoning Administrator
Board of Zoning Adjustment, District of Columbia
William Wahabi, Metro Construction Co.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

Form BLRA-15
(Rev. 9/30/91

BUILDING PERMIT

PERMIT NO. B430003

PERMIT

Date 10/[illegible]/0[illegible] **(Type)** MISC.

Address of work 2944 CHESAPEAKE ST. N.W. **Lot** 30 **Square** 2256

Permission is hereby granted to
WILLIAM WAHABI (Owner)
who is authorized to perform the work described herein at the address shown above in strict accordance with the conditions stated on BOTH sides of this permit.

TOTAL PERMIT FEE $
FILING FEE $
NO. **DATE**
FEE PAYABLE $ 100.00
FOR INSPECTIONS CALL 727-7582

Authorized work and conditions of performance thereof:

GRADING, EXCAVATION, FOOTING AND FOUNDATION WALLS.
INSPECTION BRANCH 442-4541. 32301

Builder— **Value $** **No. of Bldgs.** 1
Width of Bldgs. **Length** **Height** **No. of Stories** 3 & CELLAR
Zone R-1-b **To be occupied as** S F D
Height of terrace above grade **Projections:**
Address of owner P.O. BOX 1460
Deposit No. **Amount $**
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

L. JORDAN
DIRECTOR

Chief, Permit Issuance Branch

D. MINOR
By Permit Clerk

Cashier Station: GTR0CRA Trade# 0001 Dept. GOVERNMENT
Receipt# 121297 10/06/0[illegible] at 10:23 Clk# 7
B0001215 BLD.STRUCTURE & EQUI Amount $***100.00

Exhibit D

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Form BLRA-15
(Rev. 9/30/97)

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

(1)

BUILDING PERMIT

PERMIT NO. B430178

PERMIT

Date 10/13/00 (Type) NEW CONST.

Address of work 2944 CHESAPEAKE ST NW

Lot 30 Square 2256

Permission is hereby granted to

WILLIAM WAHABI (Owner)

who is authorized to perform the work described herein at the address shown above in strict accordance with the conditions stated on BOTH sides of this permit.

NO.

DATE

TOTAL PERMIT FEE $ 1,612.80

FILING FEE $ 222.00

FEE PAYABLE $ 1,390.80

FOR INSPECTIONS CALL XXXXXX 442-4641

Authorized work and conditions of performance thereof:

NEW CUSTOM HOUSE.
SEPARATE ELEC.,PLUM., AND MECH. INSTALLATION PERMITS ARE REQUIRED.

Builder—

Value $

No. of Bldgs.

Width of Bldgs.

Length

Height

No. of Stories 3

Zone R1A

To be occupied as SFD

Height of terrace above grade

Projections:

Address of owner PO BOX 1460

Deposit No.

Amount $

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Chief, Permit Issuance Branch

By

Permit Clerk

L. JORDAN 32301
DIRECTOR

Store# 0001 D.C. GOVERNMENT
OTR/DRW# CASHIER OFFICE
Reg# 0 10/13/00 14:04 Clk# 11
Receipt# 122700 Amount $**1,390.80
EB220015 BLRA.STRUCTURE & EQU

Exhibit E

Darrel J. Grinstead
2964 Chesapeake Street NW
Washington, DC 20008

February 19, 2001

Michael Johnson
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
District of Columbia
941 North Capitol Street
Washington, DC 20002

Re: Nonconforming Structure Under Construction In 2900 Block of Chesapeake Street NW

Dear Mr. Johnson:

The purpose of this letter is to renew the appeal I filed with your office on October 7, 2000 regarding the illegal structure that is being built on the 2900 block of Chesapeake Street NW (Lot 30, formerly lot 856, Square 2256). I herewith repeat all my previously stated objections to this construction, the permits for which were pending in your office at the time of my October 7, 2000 letter (a copy of which is enclosed). I have never received a response to that letter, and my repeated telephone calls to your office and to that of Vincent Ford, the Chief Building Inspector, have gone unanswered.

Despite the objections to this construction stated by myself and the other adjacent property owners, the developer chose to proceed with the construction, apparently even before all the permits were granted. Now that the construction is underway, the nonconformity of this structure with applicable zoning rules is even more apparent than when I first wrote to you (although they should have been apparent from the plans that were submitted by the developer).

In addition to the other objections set forth in my October 7 letter, including inadequate side and rear setback, inadequate lot size, and nonconforming size, the most apparent violation as construction has proceeded is the height of the building, which has grown to four stories in violation of the zoning requirements for houses in this R-1-A district. The ground floor is clearly a story, the ceiling of which protrudes more than four feet above the adjacent finished grade. Above that are three more stories, which soar far above the roofs of adjacent houses.

Exhibit F

This construction presents the same set of facts as were presented to your office with respect to the construction of a house at 4512 - 28th Street NW last year. (BZA Appeal No. 16533, ANC – 3F). In that case your office approved an illegal four story house, the basement of which was clearly a story, fully exposed to the street and more than four feet above grade. In that case the Board of Zoning Adjustment agreed with the complaining neighbors, and required the fourth story to be removed. If anything, this case presents an even clearer case of an illegal four story house. I am enclosing photographs of the site taken on February 19, 2001 that demonstrate the above assertions.

I have also tried to contact your office to discuss the inadequate side and rear setbacks. The rear of the house appears much closer to the adjacent lot than the required setback. Although I have not had access to the property (which is carefully fenced off in an apparent attempt to hide the illegal construction), the side setbacks appear questionable as this oversized house is wedged into a nonconforming lot.

For all of the above reasons, I ask that you issue a stop work order on this project and that you conduct an immediate on site inspection of the construction site to determine the lack of compliance with applicable building and zoning rules. I would appreciate a report as to your findings in that regard so that I and the other adversely affected neighbors can take any additional action that may be appropriate. I can be reached during the day at 202-637-5989.

Thank you for your prompt attention to this matter. I look forward to hearing from you.

Sincerely,

Darrel J. Grinstead

cc: Mayor Anthony Williams
Kathy Patterson, Councilmember, Ward 3
Robert Maudlin, ANC 3F
Board of Zoning Adjustment, District of Columbia
William Wahabi
Northwest Current
Neighbors on 2900 Block of Chesapeake Street NW

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

Building and Land Regulation Administration
Office of the Administrator

May 14, 2001

Mr. Darrel J. Grinstead
Attorney at Law
2964 Chesapeake Street, N.W.
Washington, D.C. 20008

Dear Mr. Grinstead:

This letter is in response to previous letters dated February 19, 2001 and October 7, 2000, regarding construction in the 2900 block of Chesapeake Street, N.W. We apologize for the delay in responding to your concerns regarding this matter.

The following is a summation of activities that we have undertaken in this case. An initial wall test report reflected one of the side yards to have been less than 8ft (7.97') contrary to the approved plat. A Stop Work Order was immediately issued by Stanley Neal, Construction Inspector, Building and Land Regulation Administration. A second wall test report then adjusted the side yard to the required 8ft.

A re-review of approved plans by Toye Bello, Chief, Zoning Technician, concluded that no other issues of non-compliance exist.

The Zoning Administrator exercised his flexibility authority order section 407.1 to grant less than 2% flexibility with respect to lot occupancy limitation of the TSP overlay district. The referenced property was found to have established 30.4% lot occupancy by virtues of the wall test report.

941 North Capitol Street, N.E., Suite 2000, Washington, D.C. 20002
Phone: (202) 442-4455 Fax: (202) 442-4863

Exhibit G

In conclusion, we have found that the project is in compliance with all zoning regulations. However, you are certainly welcome to file an appeal following the appropriate procedures with the Board of Zoning Adjustments. Once again, thank you for your patience and concerns in this matter.

If I can be of further assistance, please contact me on (202) 422-4455.

Sincerely,

Donzil L. Noble
Deputy Administrator