BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of Michelle J. Simon and
Brian L. Schwalb

BZA Application No. 16767
Public Hearing: October 16, 2001
ANC 3G

STATEMENT OF THE APPLICANT

I. Nature of Relief Requested

This is an application by Michelle J. Simon and Brian L. Schwalb ("Applicants") pursuant to 11 DCMR 3104.1 for a special exception to allow a two story addition and deck to a single-family dwelling under Section 223 not meeting the rear yard requirements (Section 404) and side yard requirements (Section 405) in a R-1-B District at premises 3728 Kanawha Street, N.W. (Square 1873, Lot 2).

II. Jurisdiction Of The Board

The Board has jurisdiction to grant the requested special exception relief pursuant to Section 3104.1 of the Zoning Regulations. The Applicants' clear satisfaction of the burden of proof is set forth below.

III. Background Of The Application

The subject property, 3728 Kanawha Street, N.W., is a single-family detached dwelling built in approximately 1917. The property has lot dimensions of 50 feet wide and 85 feet deep and a lot

BZA
Case No. 16767
Exhibit No. 23

Board of Zoning Adjustment
District of Columbia
CASE NO.16767
EXHIBIT NO.23

area of 4,250 square feet which is less than the minimum 5,000 square feet required in an R-1-B zone. A 15- foot wide public alley runs east-west behind the property. The property is zoned R-1-B. The existing dwelling contains three (3) small bedrooms and only one (1) full bath and was purchased seven (7) years ago by the Applicants before the birth of their two daughters, now ages 4 and 2.

Unfortunately, the Applicants and their children have outgrown the existing house, but they very much want to remain in their wonderful neighborhood and the District of Columbia, where they both work. In order to be able to comfortably remain in their home, the Applicants have proposed a two-story addition. The addition will include an expanded basement, rear family room with a deck and powder room and home office on the first floor, and a master bedroom/bath on the second floor. As a result, the house will have additional living space, an additional bedroom and three and a half bathrooms instead of just one. As part of the proposal, Applicants will replace the 6-foot high fence along the sides and rear of the property and maintain the existing screening landscaping, including two (2) mature trees in each of the rear corners of the property.

The proposed addition could be accommodated on the existing property without the requested zoning relief, except for the shallowness of the lot (85 feet rather than typical 100 feet) and the location of the original house on the property. See Site Plan attached as Exhibit A. The existing house is set back approximately seven (7) feet from the Kanawha Street Building Restriction Line. This original setback is approximately equal to the reduction in the minimum

25-foot rear yard requirement created by the proposed addition. Furthermore, the 15-foot public alley running along the rear of the property provides an additional rear buffer to the rear yards of the properties fronting on Jocelyn Street, N.W. and thus, mitigates any affect of the reduced rear yard setback. Similarly, the substandard 7-foot side yard (8 feet required) on one side of the house is occasioned by the 10-foot side yard on the opposite side. As proposed, the lot occupancy of the property will be less than the forty percent (40%) maximum permitted as a matter-of-right in the R-1-B zone or fifty percent (50%) permitted under 11 DCMR 223.3.

IV. Overwhelming Community Support

On September 10, 2001, Applicants presented their proposed addition to Advisory Neighborhood Commission 3G ("ANC 3G") which voted unanimously[1/] to support this application. See ANG 3G letter dated September 17, 2001, Exhibit B. The Applicants have also met with their neighbors to discuss their plans and obtained signatures on a petition in support from seventeen (17) neighbors representing the most immediately affected property owners, including the houses on either side of the property (3726 and 3730 Kanawha Street), immediately across the street (3727 and 3731 Kanawha Street), and behind the property (3719 Jocelyn Street). See Neighborhood Petition in Support, Exhibit C.

1/ ANC 3G Chairperson, Mrs. Anne M. Renshaw, voluntarily recused herself from any participation in this matter and left the room during the Commission's action.

V. Applicants Meet The Requirements For The Requested Special Exception

Uses that are allowed by special exception are deemed compatible with other uses permitted in that particular zoning classification provided certain requirements are met. In reviewing applications for a special exception under the Zoning Regulations, the BZA's discretion is limited to determining whether the proposed exception satisfies the relevant zoning requirements. If the prerequisites of the Regulations are satisfied, the Board ordinarily must grant the application. See, e.g., Bakers' Local Union No. 118 v. District of Columbia Board of Zoning Adjustment, 437 A.2d 176, 178 (D.C. 1981).

As set forth in greater detail below, approval of special exception relief in this case meets or exceeds all of the applicable requirements and is in harmony with the general purpose and intent of the Zoning Regulations and Map and will not adversely affect the use and enjoyment of nearby properties.

In creating this new special exception under 11 DCMR 223 for families making additions to their existing homes, the Zoning Commission recognized the need for additional flexibility in order to retain families in the District. Rather than continuing the more onerous variance standards, the Zoning Commission embraced the simpler special exception process and established the following enumerated criteria to be applied by the Board:

223.2 The addition shall not have a substantially adverse affect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

(a) The light and air available to neighboring properties shall not be unduly affected;

Compliance: Both at the rear and side, adequate physical separation between the adjoining properties will be maintained in order to avoid any affect on the availability of light and air. See Baist and Sanborne Maps, attached as Exhibit D. On the side, the addition will only intrude one (1) foot into the required side yard. A 7-foot side yard will be maintained on the property and at least an 8-foot side yard exists on the abutting property, 3730 Kanawha Street. Further, the yards will remain separated by a 6-foot high fence. In the rear, the Applicants will maintain a 17.1-foot rear yard. Additionally, a 6-foot fence at the rear property line and 15-foot public alley will maintain a substantial buffer zone with the rear properties fronting on Jocelyn Street. As demonstrated by the supporting petitions submitted, the most immediately affected neighbors have reviewed the proposed plans and registered their support for this application.

(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;

Compliance: As set forth above, the side and rear yard spacing between the proposed addition and abutting properties, landscaping, and 6-foot fence will be more than adequate to maintain the privacy and enjoyment of the neighbors.

(c) The addition, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage; and

Compliance: No changes to the front of the existing house are proposed. Viewed from Kanawha Street, the side and rear addition will be almost unnoticeable. At most, a careful observer

will only see a 1-foot wide addition to side of the building which will be almost entirely obscured by the existing covered front porch which wraps around that side of the house and landscaping. The rear elevation, although obscured by the 6-foot fence along the alley and side yards, will be consistent in character, scale and pattern with the other houses in the neighborhood and the existing house.

(d) In demonstrating compliance with paragraphs (a), (b) and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs or elevation and section drawings sufficient to represent the relationship of the proposed addition to adjacent buildings and views from public ways.

Compliance: In addition to Site Plan, Floor Plans, Elevations and site photographs previously submitted to the Board with the Application, the Applicants have also submitted excerpts from the Baist and Sanborne Maps, Exhibit D, showing the subject property and its relationship to the adjoining properties.

223.3 The lot occupancy of the dwelling or flat, together with the addition, shall not exceed fifty percent (50%) in the R-1 and R-2 districts or seventy percent (70%) in the R-3, R-4 and R-5 districts.

Compliance: As proposed, the lot occupancy is less than forty percent (40%) which complies both with the standard imposed in the R-1-B zone and the more liberal fifty percent (50%) maximum authorized by this section.

223.4 The Board may require special treatment in the way of design, screening, exterior or interior lighting, building materials or other features for the protection of adjacent and nearby properties.

Compliance: The Applicants have attempted to design this proposed addition in a manner that meets their needs, but at the same time respects their neighbors and the character of the neighborhood. Judging by the overwhelming support of Advisory Neighborhood Commission 3G and the most immediately affected neighbors, it would appear that it is not necessary for the Board to impose any additional conditions or special treatments.

The proposed addition will not have any adverse impacts on the neighborhood and is actively supported by the community. Although nominally exceeding the rear and side yard requirements, this Application is entirely consistent with the purpose and intent of the Zoning Regulations and the R-1-B zoning of the property.

VI. Witnesses

The following witnesses will testify in support of this Application:

1. Mr. Brian L. Schwalb

2. Ms. Michelle J. Simon

VII. Exhibits In Support Of Application

Exhibit A: Site Plan.

Exhibit B: ANC 3G Letter of Support.

Exhibit C: Neighborhood Petition in Support.

Exhibit D: Baist and Sanborne Maps.

IX. Conclusion

For the reasons set forth above, the requested special exception relief can be granted without impairing the intent, purpose and integrity of the Zoning Regulations. Applicants respectfully request the Board to issue a Bench Decision and Summary Order to allow this project to move forward as expeditiously as possible.

Respectfully submitted,

GREENSTEIN DELORME & LUCHS, P.C.

October 2, 2001

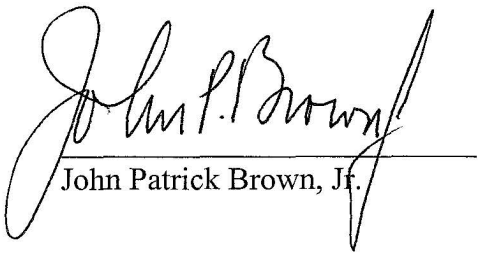
By: _____
John Patrick Brown, Jr.

Counsel for Applicants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Statement of the Applicant was served by first-class mail, postage prepaid, this 2nd day of October, 2001, upon:

Mr. Joseph L. Bishop
Vice Chair
Advisory Neighborhood Commission 3G
P.O. Box 6252, Northwest Station
Washington, D.C. 20015



John Patrick Brown, Jr.

167483

A

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., MAR 7, 2001

Plat for Building Permit of SQUARE 1873 LOT 2

Scale: 1 inch = 20 feet Recorded in Book 36 Page 29

Receipt No. 2462

Furnished to: SCHWALB

Surveyor, D.C.

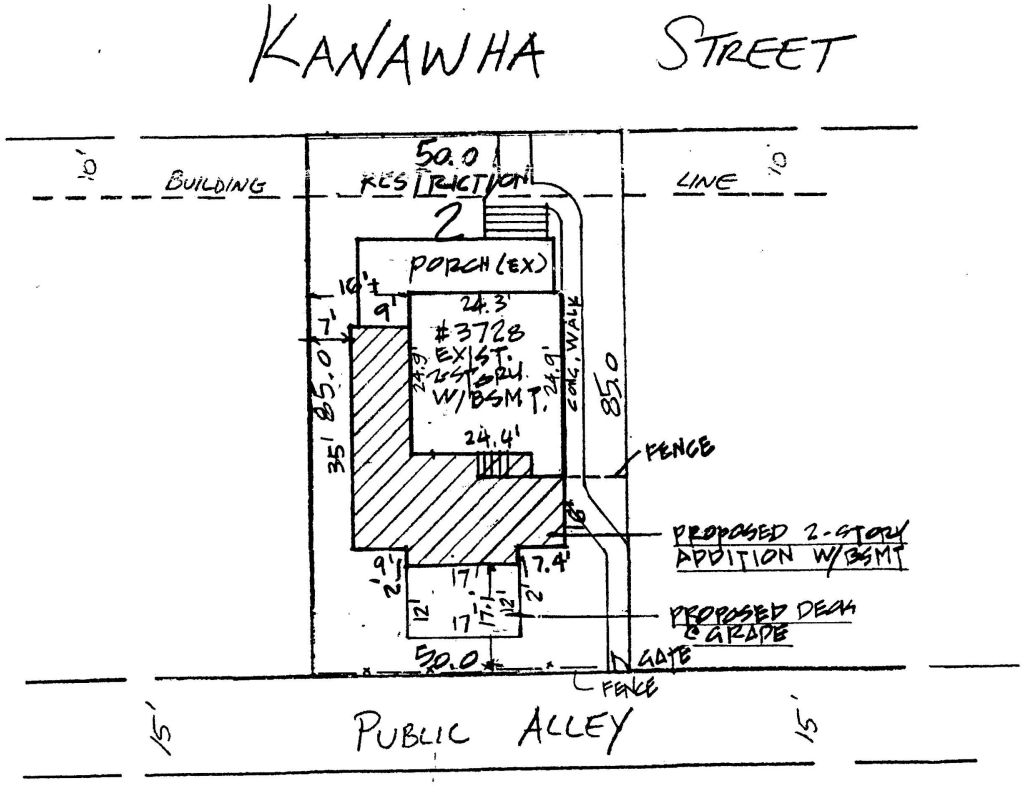
By: MT

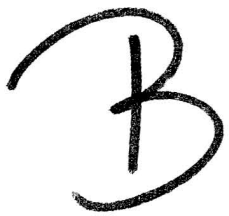
I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat;and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

Date: March 12, 2001

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.





Chevy Chase
Advisory Neighborhood Commission 3G
MAILING ADDRESS: P.O. BOX 6252 Northwest Station Washington, DC 20015

CHEVY CHASE OFFICE
5601 Connecticut Ave. NW
Washington, DC 20015
(202) 363-5803
FAX (202) 686-4366
E-Mail uppernwdc@juno.com

September 17, 2001

Ms. Sheila Cross Reid
Chairman,
Board of Zoning Adjustment
441 4th Street, N.W. Room 210
Washington DC 20001

Dear Ms. Reid:

RE: Application 16767 Michelle J. Simon and Brian L. Schwab for a special exception to allow a two story addition and deck to a single-family dwelling not meeting rear and side yard requirements.

At ANC 3G's publicly announced meeting of September 10, 2001, the Commission voted 6 - 0 –1 (a quorum being four) to support the application 16767 for the special exception for Michelle Simon and Brian Schwab. Mr. Schwab appeared at the ANC 3G's meeting of September 10, and made a presentation at that meeting on their needs and the implication of this special exception. Mr. Schwab reviewed the plans and the fact that the lot sizes on this block are not standard size, with only an 85-foot depth, rather than the normal 100 feet. This smaller size makes meeting the rear yard set back a burden. He presented a petition of neighbors, who had no objections. No objection was voiced at the meeting to this request for the special exception. The ANC support was in part due to the substandard size of the lot.

Sincerely

Joseph L. Bishop
Vice-Chair
ANC 3G

C

NEIGHBORHOOD PETITION IN SUPPORT OF
BZA APPLICATION NO. 16767

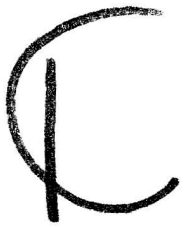
The undersigned neighbors of the Simon/Schwalb family have reviewed their plans for a proposed two story addition and deck to their existing home at 3728 Kanawha Street, N.W. and support their BZA Application for a special exception to allow the establishment of a non-conforming rear yard and side yard.

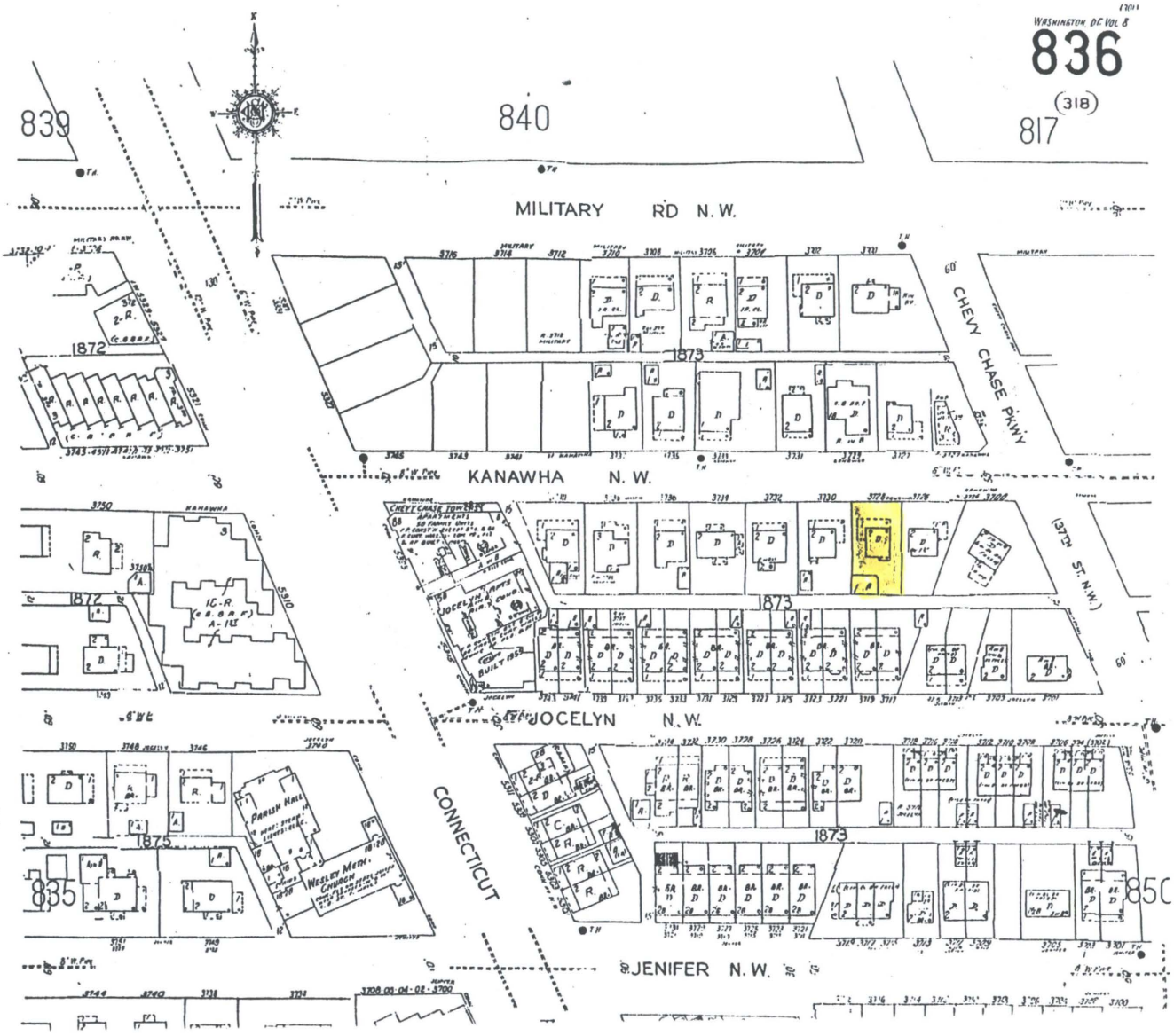
NAME	SIGNATURE	ADDRESS
Rachel Feichter	R. Feichter	3727 Kanawha St, NW 20015
Steve Wolfe	Steve Wolfe	3727 Kanawha St, NW 20015
Suzanne Wetherell (and Anil Kumar)	SUZANNE WETHERELL	3726 KANAWHA ST. NW 20015
Tom Beckman	Tom Beckman	3731 Kanawha St NW 20015
Tom Beckman		
Edith Levine	Edith Levine	3731 Kanawha St NW 20015
Priscilla Skillman	Priscilla Skillman	3733 Kanawha Street NW 20015
CURT WITTIG	Curt Wittig	3740 Kanawha St, NW 20015
AMY PASTAN	Amy Pastan	3727 Jocelyn St NW 20015
Will Guthrie	Will Guthrie	3719 Jocelyn St NW 20015
Amy Conway	Amy Conway	3709 Jocelyn St NW 20015
Cheryl Scarbor	Cheryl Scarbor	3701 Jocelyn St NW 20015

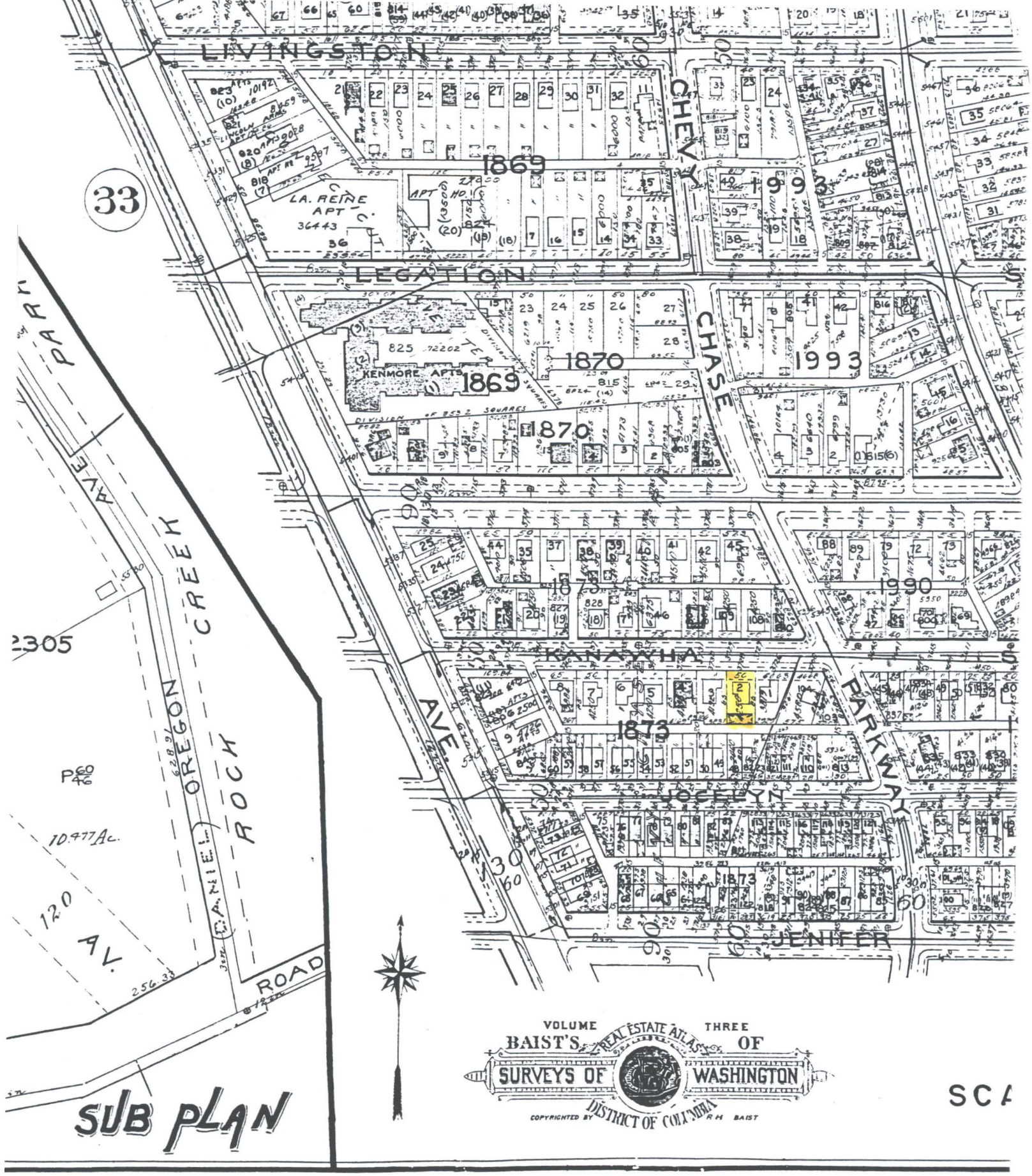
NEIGHBORHOOD PETITION IN SUPPORT OF
BZA APPLICATION NO. 16767

The undersigned neighbors of the Simon/Schwalb family have reviewed their plans for a proposed two story addition and deck to their existing home at 3728 Kanawha Street, N.W. and support their BZA Application for a special exception to allow the establishment of a non-conforming rear yard and side yard.

NAME	SIGNATURE	ADDRESS
Susan Peterson	Susan Peterson	3730 Kanawha St. NW
Cynthia Rothblum	CYNTHIA ROTHBLUM	3640 Kanawha St, NW
Kevin Mulshine	Kevin Mulshine	3620 Kanawha St NW
Eleanor Mulshine	Eleanor Mulshine	3620 Kanawha St. NW
Liam Mulshine	Liam Mulshine	3620 Kanawha St. NW
Laura Simon	Laura Simon	3620 Kanawha St NW




WASHINGTON, D.C. VOL. 8
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MILITARY RD N.W.
CHEVY CHASE PKWY
KANAWHA N.W.
(37TH ST. N.W.)
JOCELYN N.W.
CONNECTICUT
JENIFER N.W.
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PARISH HALL
WESLEY MEM. CHURCH


LIVINGSTON
CHEVY CHASE
LEGATION
KANAWHA
JOCELYN
JENIFER
PARK AVE
OREGON AVE
ROCK CREEK
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1993
LA REINE APT
KENMORE APTS
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SUB PLAN
VOLUME THREE
BAIST'S REAL ESTATE ATLAS OF
SURVEYS OF WASHINGTON
DISTRICT OF COLUMBIA
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