Janet and David Pritchard
204 11th Street NE
Washington DC 20002

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D.C. OFFICE OF ZONING
2001 OCT 30 AM 9:26

October 29, 2001

David Clark, Director
District of Columbia Department of Consumer and Regulatory Affairs
941 North Capital Street, NE
Washington, DC 20002

RE: Request for the revocation of building permit No. B431591 (1018 Constitution Avenue NE)

Dear Mr. Clark:

We write to ask your immediate action to suspend Building Permit No. B431591 for construction of a two-story addition to his single-family semi-detached dwelling at 1018 Constitution Avenue NE. We are simultaneously appealing this decision to the Board of Zoning Adjustments (BZA). The proposed building addition does not comply with the side yard requirements of section 405 of the District of Columbia Zoning Ordinance. Therefore, the Zoning Administrator should not have issued a permit without first determining whether a special exception to the Zoning Ordinance was warranted.

Section 223 of the Zoning Ordinance provides that a special exception may be granted only if the proposed building addition does "not have a substantially adverse affect on the use or enjoyment of any abutting or adjacent dwelling or property; in particular, [t]he light and air available to neighboring properties shall not be unduly affected." *See* 11 DCMR sec. 223 (Attachment A). As illustrated in the enclosed photographs (*see* Attachment B), the side yard of 1018 Constitution Avenue NE abuts the rear lot line of our property, 204 11th Street NE. The proposed addition, which would fill in the side and rear yard of 1018 Constitution Avenue NE where it abuts our property and that of our neighbor at 206 11th Street NE, would be extremely detrimental to our property, substantially reducing the light and air available to our home and to our neighbors'.

The Zoning Administrator's grant of the permit at issue without first requiring a special exception to the side yard requirements of section 405 contrasts sharply with the treatment of a similarly-situated property. In the case of 220 5th Street SE, where the owner is also filling in a side yard with a new addition that does not share a common division wall with an existing property, the Zoning Administrator is requiring a special exception to the side yard requirements of section 405.

BZA
Case No. 16811
Exhibit No. 2

Board of Zoning Adjustment
District of Columbia
CASE NO.16811
EXHIBIT NO.2

1.

Brief History of the Situation

The owners of 1018 Constitution Avenue NE notified us in late April 2001 that they were planning to build an addition to their home. Upon learning that the planned addition would result in a two-story brick wall running along almost the entirety of our rear property line -- a mere thirteen feet from the rear wall of our home -- we promptly contacted officials at the Zoning Division of the DCRA, including Toye Bello, to advise them that we believed the proposed addition was inconsistent section 405 of the Zoning Ordinance, that a permit should not be issued without a special exception, and that we intended to contest any application for a special exception. We were very surprised to learn in late July that a permit had been granted.

Assuming that the permit had been issued in error, we promptly wrote to the Zoning Administrator, Michael D. Johnson, asking him to revoke the permit. *See* August 7, 2001 Letter to Michael D. Johnson from Janet and David Pritchard, Colleen Kollar-Kotelly and John Kotelly, and Steve Hansen explaining Zoning Violations (Attachment C). In our letter, we explained that section 405.3 requires that, where a building "does not share a common division wall with an existing building or a building being constructed together with the new building, then it shall have a side yard on each free standing side." As illustrated by the enclosed photographs (Attachment B), the building at 1018 Constitution Avenue NE is a single-family semi-detached dwelling; it does not share a common division wall with an existing building on its east side. Indeed, there is no possibility that it could share a common division wall with an existing building on its east side because the buildings to its east side are all row houses facing 11th Street NE. Furthermore, section 405.2 of the Zoning Ordinance, read together with section 405.9, requires that a semi-detached, single-family dwelling in an R-4 district maintain a side yard of at least eight feet. *See* 11 DCMR secs. 405.2, 405.3, 405.9 (Attachment D).

Mr. Johnson declined to revoke the permit, arguing that a property owner in an R-4 district is entitled to convert a semi-detached dwelling into a row house as a matter of right, and thus is not bound by the side yard requirements of section 405. *See* August 20, 2001 letter from Michael D. Johnson to David and Janet Pritchard (Attachment E).

The Zoning Administrator's Decision in this Case is
Inconsistent with the Treatment of Similarly-Situated Properties

Notably, Mr. Johnson failed to provide any other examples in which the owner of a semi-detached dwelling was allowed to convert to a row house by filling in an existing side yard without first obtaining a special exception to the requirements of section 405. Indeed, this ruling appears to be inconsistent with the treatment of 220 5th Street SE. In the case of 220 5th Street SE, the Zoning Administrator has required the owners of a semi-detached, single-family dwelling to obtain a special exception to sections 405.2 and 405.3 in order to build an addition to their existing building where the resulting building would not share a common division wall with an adjacent building. *See* BZA Case No. 16755.

The existing building at 220 5th Street SE is a semi-detached, single-family dwelling. It shares a division wall with a row house on its north side and has a 8'-5" side yard on its south side. The property owner seeks to construct a two-story addition in the existing side yard. The adjacent property owner's house, 222 5th Street SE, is located 3'-7" away from the property line. Thus, the proposed addition would not be able to share a division wall with the neighboring property. *See* BZA Case No. 16755 Exhibits 7, 11 (Attachment F); *see also* 5th Street photograph (Attachment G).

Accordingly, the owners of 220 5th Street SE have applied for a special exception to sections 405.2 and 405.3 of the Zoning Ordinance. In their application, the owners ask for "relief from Sections 405.2 and 405.3, which respectively require a side yard for any one-family semi-detached dwelling and a side yard when a one-family dwelling does not share a common division wall with an existing building." *See* BZA Case No. 16755 Exhibit 7 (Attachment F). The Zoning Administrator confirmed that the proposed addition requires BZA approval to obtain a special exception pursuant to Section 223.1 because the addition does not comply with the requirements of Sections 405.2 and 405.3. *See* BZA Case No. 16755, Exhibit No. 6 (Attachment H). The matter is scheduled to be heard by the BZA on November 13, 2001.

The situation of 220 5th Street SE is substantially similar to the situation at 1018 Constitution Avenue NE. The existing building at 1018 Constitution Avenue is a semi-detached, single-family dwelling. It shares a division wall with a row house on its west side and has a side yard on its east side. The existing side yard is 7 feet wide along the front 32.4 feet of the house and 12.33 feet wide along the rear 16 feet of the house. *See* Diagram of the Proposed Addition (Attachment I). The property owner seeks to construct a two-story addition in the existing side and rear yards. The adjacent property owners' homes, 200, 202, 204, 206, and 208 11th Street NE, all face 11th Street. Thus, the proposed addition would not be able to share a division wall with the neighboring properties. *See* Constitution Avenue photographs (Attachment B).

Notwithstanding their obvious similarities, the Zoning Administrator has inexplicably treated these two situations differently. The only difference between the 220 5th Street SE and 1018 Constitution Avenue NE is that, in the Constitution Avenue case, the existing side yard abuts the rear yards rather than the side yards of the adjacent properties. There is nothing in the Zoning Ordinance or Mr. Johnson's interpretation of the Ordinance, as expressed in his August 20th letter, that suggests that this difference alone should lead to different treatment under sections 405.2 and 405.3.

The Interpretation of Section 405 Offered in the Zoning Administrator's August 20th Letter Strips Section 405 of Any Real Meaning or Effect

Mr. Johnson's rejection of the arguments presented in our August 7th letter is based on the premise that, in an R-4 district, a row dwelling is permitted as a matter of right. Mr. Johnson construes this right to allow owners of existing semi-detached dwellings to convert their homes into row dwellings. The only way to accomplish such a conversion is to fill in the existing side yard with a building addition. However, sections

405.2 and 405.3 require that a single-family, semi-detached dwelling shall have a side yard of at least eight feet. *See* 11 DCMR sec. 405 (Attachment D). Obviously, if a side yard is *required*, one should not be allowed to construct a building addition that would eliminate the side yard. Yet Mr. Johnson suggests that *the only property owners to whom these building restrictions could apply* -- owners of semi-detached dwellings which, by definition, have side yards -- can nevertheless *evade* these building restrictions by converting their homes to row dwellings *without* being burdened by these restrictions!

Mr. Johnson seeks to rely on section 405.6 to support his contention that the owner of an existing semi-detached dwelling can convert his property to a row dwelling as a matter of right. Section 405.6 notes that "[*e*]*xcept as provided in 405.1 and 405.2*, a side yard shall not be required in an . . . R-4 . . . district." *See* 11 DCMR sec. 405 (Attachment D) (emphasis added). Section 405.2, in turn, when read in conjunction with section 405.9, provides that a one-family semi-detached dwelling shall maintain a side yard of at least eight feet. Obviously, Mr. Johnson's reliance on section 405.6 is misplaced; one-family semi-detached dwellings -- such as the existing building at 1018 Constitution Avenue NE -- are clearly an exception to section 405.6's statement that side yards are not, in general, required in an R-4 district.

The only logical way to reconcile the purported right to a row dwelling in the R-4 district and the side yard requirements imposed on semi-detached dwellings by section 405 is to recognize that section 405 was adopted on May 12, 1958 and imposed upon the already-developed (and historically-preserved) neighborhood of Capital Hill. Although those acquiring undeveloped properties may be able to build a row dwelling as a matter of right, those possessing or acquiring existing semi-detached dwellings remain subject to the side yard requirements of section 405. Viewed in this light, Mr. Johnson's concern that a newly-created 1800 square foot lot could subsequently be required to have an eight foot side yard setback becomes inapposite.

Moreover, the interpretation offered here is further supported by section 405.8. Section 405.8 provides that, for semi-detached buildings existing on or before May 12, 1958 with a side yard less than eight feet wide, "an extension or addition may be made to the building; *provided that the width of the existing side yard shall not be decreased.*" *See* 11 DCMR sec. 405 (Attachment D) (emphasis added). Section 405.8 is plainly intended to preserve side yards in existence prior to May 12, 1958. Thus, Mr. Johnson's suggestion that an existing semi-detached dwelling can be converted to a row dwelling as a matter of right clearly conflicts with section 405.8 where the existing side yard is less than eight feet in width. It would be inconsistent to suggest that regulators intended to permit owners of existing semi-detached dwellings with side yards of eight feet or more to convert to a row dwelling as a matter of right.

Relief Requested

We respectfully submit that the facts of this matter establish that the current permit was issued in error. Please take immediate action to suspend the current permit and inform the property owners that they must apply to the BZA for a building exception

if they wish to proceed to build the proposed addition onto their home at 1018 Constitution Avenue NE.

We appreciate your attention to this matter and look forward to your prompt and favorable response.

Sincerely,

David and Janet Pritchard
204 11th Street NE

cc:

Council Member Sharon Ambrose
Chairperson, Consumer and Regulatory Affairs Committee
Council of the District of Columbia
441 4th Street NW
Washington DC 20001

Members of ANC 6A

Lyle Schauer
Capital Hill Restoration Society
146 11th Street SE
Washington DC 20003

Philip Sedlak and Kathleen Peoples
1018 Constitution Avenue NE
Washington DC 20002

ATTACHMENT A

221.3 There shall be adequate, appropriately located and screened off-street parking to provide for the needs of occupants, employees, and visitors to the facility.

221.4 The proposed facility shall meet all applicable code and licensing requirements.

221.5 The facility shall not have an adverse impact in the neighborhood because of traffic, noise, operations, or the number of similar facilities in the area.

221.6 The Board may approve more than one (1) communitybased residential facility in a square or within *one* thousand feet (1,000 ft.) only when the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood because of traffic, noise, or operations.

221.7 The Board shall not approve more than one (1) youth rehabilitation home, adult rehabilitation home, or substance abusers' home in a square or within one thousand (1,000 ft.) of each other.

221.8 The Board shall submit the application to the Director of the Office of Planning for coordination, review, report, and impact assessment, along with the reports in writing of all relevant District departments and agencies, including but not limited to the D.C. Departments of Public Works, Human Services, and Corrections and, if a historic district or historic landmark is involved, to the State Historic Preservation Officer.

222 [RESERVED]

223 ADDITIONS **TO** ONE-FAMILY DWELLINGS OR FLATS (R-l)

223.1 An addition to a one-family dwelling or flat, in those districts where a flat is permitted, that does not comply with all of the requirements of §§401, 403, 404, 405 or 406 of this title shall be permitted if approved by the Board of Zoning Adjustment in accordance with the conditions specified in §3108 of Chapter 31 of this title, subject to the provisions of this section.

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;

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

7.

(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 street frontage; and

(d) In demonstrating compliance with l/l(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 view from public ways.

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

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.

299 DEFINITIONS

299.1 The provisions of §199 chapter 1 of this title, and the definitions set forth in that section, shall be incorporated by reference in this section.

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404.1 (Continued)

R-5-E	3 inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 12 feet.

404.2 In the case of a through lot or a corner lot abutting three (3) or more streets, the depth of rear yard may be measured from the center line of the street abutting the lot at the rear of the structure.

404.3 In the case of a lot proposed to be used by a public school which abuts or adjoins along the rear lot line a public open space, recreation area, or reservation, the required rear yard may be reduced or omitted.

404.4 In the case of a building existing on or before May 12, 1958, an extension or addition may be made to the building into the required rear yard; Provided, that the extension or addition shall be limited to that portion of the rear yard included in the building area on May 12, 1958.

SOURCE: §3304 of Regulations effective May 12.1958; as amended by Final Rulemaking published at 39 DCR 8305. 8307 (November 13, 199.2).

405 SIDE YARDS (R)

405.1 In an R-2, R-3, R-4, or R-5 district, a one-family detached dwelling shall be subject to the side yard requirements of an R-1 district.

405.2 In an R-3, R-4, or R-5 district, a one-family semi-detached dwelling shall be subject to the side yard requirements of an R-2 district.

405.3 In R-2, R-3, R-4, and R-5 districts when a one-family dwelling, flat, or multiple dwelling is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, then it shall have a side yard on each resulting free standing side.

405.4 Except as provided in §405.1, in an R-5-A district, one (1) side yard shall be provided for all structures unless the structure is an apartment house containing three (3) or more dwelling units per floor, in which case two (2) side yards shall be provided, each with the minimum width set forth in §405.9.

405.5 A side yard shall not be required along a side street abutting a corner lot in a Residence district.

405.6 Except as provided in §§405.1 and 405.2, a side yard shall not be required in an R-3, R-4, R-5-B, R-5-C R-5-D or R-5-E district. However, if the yard is provided, it shall be at least three inches (3 in.) wide per foot of height of building, but not less than eight feet (8 ft.) wide.

9

405.7 In the case of a lot located in en R-l or R-2 district proposed to be used by a public school that abuts or adjoins on one **(1) or** more side lot lines a public open space, recreation area, or reservation, the required side yard may be reduced or omitted.

405.8 In the case of a building existing on or before May 12, 1958, with a side yard less than eight feet (8 ft.) wide, an extension or addition may be made to the building; Provided, that the width of the existing side yard shall not be decreased; and Provided further, that the width of the existing side yard shall be a minimum of five feet (5 ft.).

405.9 Side yards shall be provided on lots in Residence districts as set forth in the following table, subject to the special requirements of other provisions of this chapter:

ZONING DISTRICT	MINIMUM DEPTH OF EACH SIDE YARD
R-l-A, R-l-B, R-2	8 feet
R-3, R-4	None required, except as provided under §§405.1, 405.2, and 405.5
R-5-A	3 inches per foot of height of building, but not less than 8 ft.
R-5-B, R-5-C. R-5-0, R-5-E	None required. except as provided under §§405.1,405.2, and 405.5.

SOURCE: §3305 of Regulations effective May 12, 1958; as amended by Final Rulemaking published at 39 DCR 8305.8307 (November 13, 1992).

406 COURTS (R)

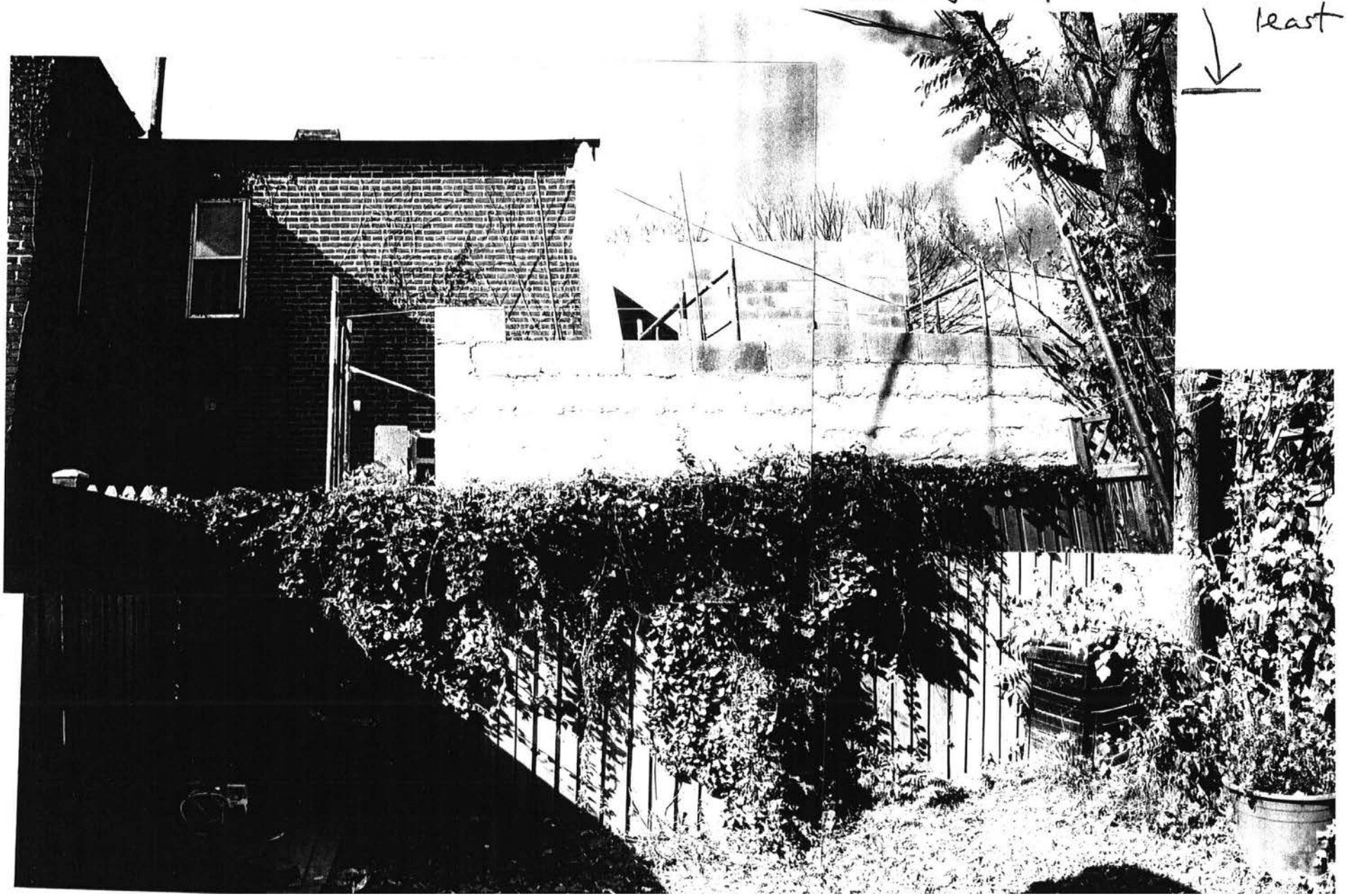
406.1 Where a court is provided in a Residence district, the court shall have the minimum dimensions set forth in the following table:

ZONING DISTRICT AND STRUCTURE	WIDTH OF OPEN COURT	WIDTH AND AREA OF CLOSED COURT
R-l-A. R-l-B, R-2, R-3, R-4, R-5-A One-family dwelling	4 in. per foot of height of court, but not less than 6 ft.	Width: 4 in. per foot of height of court, but not less than 5 fl. Area: Twice the square of the required width of court dimension based on the height of court. but not less than 350 ft.^{2}

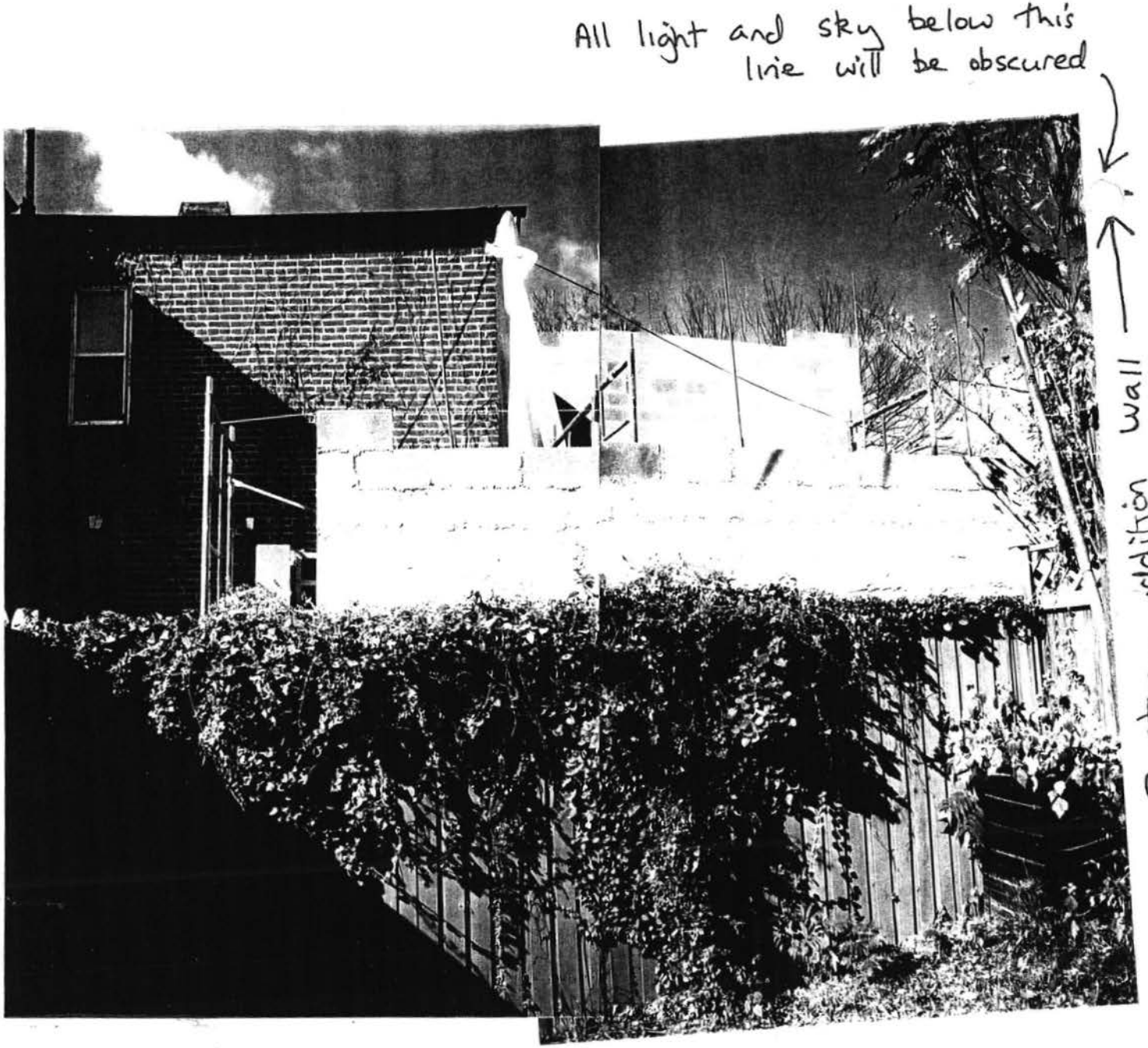
1C

ATTACHMENT B

View of [redacted] yard from back door steps



View taken from back to kitchen wall — 13ft from fence



View from middle of year yard – 6ft. from fence

All view of sky from this vantage point will be blocked by the new wall when completed

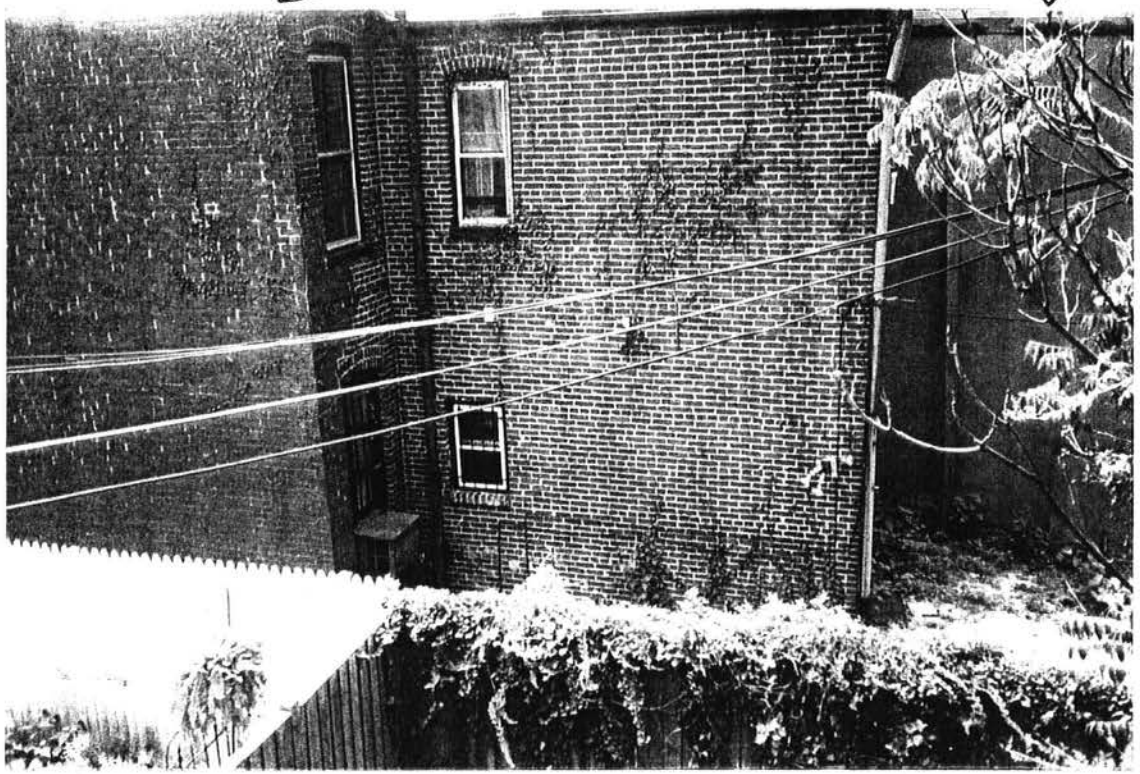


View of [illegible] Kitchen roof of 204 11th Street

Prior to construction

1018 Constitution Ave

Wall of 1016 Constitution Ave



Corner of rear yard of 204 11th Street

View from bedroom window of 204 11th Street

2-storey addition will rise to this height →



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ATTACHMENT C

Janet E.M. Pritchard
204 11th Street, NE
Washington, DC 20002

August 7, 2001

Mr. Michael D. Johnson
Zoning Administrator
Department of Consumer and Regulatory Affairs
941 North Capital Street, NE
Washington, DC 20002

RE: Request for suspension of building permit No. B431591, 1018 Constitution Ave. NE, due to violations of DC Zoning Regulations

Dear Mr. Johnson:

I write to ask your immediate action to suspend Building Permit No. B431591. ("the current permit") for construction of a two-story addition to the single family semi-detached dwelling at 1018 Constitution Ave. NE ("the property"), because it was erroneously issued. The proposed building addition would violate DC Zoning Regulations, as explained in detail below.

I reside at 204 11th Street NE. The rear property line of my property abuts the side yard of 1018 Constitution Avenue NE. Construction of the planned addition would essentially replace a portion of my fence and that of my neighbor at 206 11th Street NE with a two-story brick wall. Together with my neighbors at 206 and 208 11th Street NE, I seek suspension of the current permit in order to have the full benefit of the rights provided by the District of Columbia's building and zoning regulations.

I mentioned in our telephone conversation yesterday evening that the property owners, Philip Sedlak and Kathleen Peeples, had taken down fences in apparent preparation to begin their planned construction. **I hope that you can move quickly because bulldozers have begun digging in the rear of the property this morning.**

The 1018 Constitution Ave. NE Property

The property at 1018 Constitution Avenue NE is a single-family semi-detached dwelling and is described as such in the application for the current permit. The property is located in zoning district R-4. The property is bounded on the west by the rowhouse at 1016 Constitution Avenue NE and has a side yard on the east. The existing side yard clearly meets the definition of a side yard as set forth in the zoning regulations definitions, in that it is "a yard between any portion of a building or other structure and the adjacent side lot line, extending for the full depth of the building or structure." 11 DCMR sec. 199.1. The current existence of such a side yard is plainly indicated by the sketch accompanying the current permit and the city's survey maps as

well as by the enclosed photographs. Accordingly, the property is properly defined as a one-family semi-detached dwelling in that it is "a one-family dwelling, the wall on one (1) side of which is either a party wall, or a lot line wall, having one side yard." 11 DCMR sec. 199.1.

On July 5, 2001, the Building and Land Regulation Administration ("BLRA") issued the current permit to Mr. Sedlak for "new construction" of a "two story addition on rear of existing home."

The Zoning Violations

Issuance of the current permit violated the D.C. Zoning Regulations in several respects.

1. The Planned Building Addition Would Exceed the Percentage Lot Occupany Permitted by DC Zoning Regulations.

Section 403.2 of Title 11 of the District of Columbia Zoning Regulations provides that a single-family semi-detached dwelling located in an R-4 district shall occupy no more than 40% of its lot. Specifically, the regulation provides that "no structure, including its accessory building, shall occupy its lot in excess of the percentage of lot occupancy set forth in the following table." The accompanying table provides that, in an R-4 district, a row dwelling, flat, church, or public school may occupy up to 60% of its lot, but that for "all other structures" the lot occupancy allowed is only 40%. As the table does not specifically list single-family semi-detached dwellings under the requirements for R-4 districts, such dwellings must be assumed to fall within the category of "all other structures."

According to the sketch accompanying the permit application and the city's survey maps, Lot 46, Square 964 (1018 Constitution Ave. NE) is 2352 square feet. The existing building occupies 759 square feet or roughly 32% of the lot. However, with the planned addition, the resulting building would occupy 1,225.5 square feet, or roughly 52% of the lot. This is plainly in excess of the 40% lot occupancy allowed.

2. DC Zoning Regulations Require that Any Additions to the Property Allow for a Side Yard of at Least Eight Feet on the East Side.

Section 405.3 of Title 11 of the District of Columbia Zoning Regulations requires that, in an R-4 district, "when a one-family dwelling . . is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, then it shall have a side yard on each resulting free-standing side." As explained above, the building at 1018 Constitution Ave. NE is a single-family semi-detached dwelling; it does not share a common division wall with an existing building on its east side. Indeed, there is no

possibility that it could share a common division wall with an existing building on its east side because the buildings to its east side, including the properties at 204 and 206 11th Street, are all row houses facing 11th Street NE.[1]

Section 402.2 provides that, in an R-4 district, a one-family semi-detached dwelling shall be subject to the side-yard requirements of an R-2 district. Section 405.9 requires eight-foot side yards in R-2 districts (and, by operation of section 405.2, for single-family semi-detached dwellings in R-4 districts).

Relief Requested

We respectfully submit that the facts of this matter establish that the current permit was issued in error, due to violations of the zoning regulations as explained above. I am requesting that you take immediate action to suspend the current permit and inform Mr. Sedlak that he must apply to the BZA for a variance if he wishes to proceed to build the proposed addition onto his home at 1018 Constitution Avenue NE. We appreciate your attention to this matter and look forward to your prompt and favorable response.

Sincerely,

Janet Pritchard /comp

Janet Pritchard, Esq.
David Pritchard
Owners and Residents of 204 11th Street NE

Colleen Kollar-Kotelly, Esq.
John Kotelly, Esq.
Owners and Residents of 208 11th Street NE

Steven Hansen
Owner of 206 11th Street NE

[1] In other words, as is apparent from the city's survey maps as well as the enclosed photographs, the side lot line on the east of 1018 Constitution Avenue abuts the *rear* lot lines of the properties at 200, 202, 204, 206, and 208 11th Street NE ("11th Street properties"). Unlike most lots in the neighborhood, there is no public alley separating the 11th Street properties from 1018 Constitution Ave. NE. However, owners of the 11th Street properties have historically exercised a right of access to the rear of their properties through the side yard of 1018 Constitution Ave. NE. Based upon this historic use and practice and in light of safety concerns, continued access to the rear of the 11th Street properties through the existing side yard ought to be secured. It appears from the sketch accompanying the permit application that the proposed two-story addition would block any access to the rear of 206 11th Street, thus violating this right and posing a serious safety concern.

cc:

Mr. David Clark
Director
Department of Consumer and Regulatory Affairs
941 North Capital Street NE
Washington, DC 20002

Ms. Theresa Lewis
Deputy Director
Department of Consumer and Regulatory Affairs
941 North Capital Street NEDC 20002

Mr. Toye Bello
Chief of Zoning Review
BLRA
Department of Consumer and Regulatory Affairs
941 North Capital Street NE
Washington DC 20002

Council Member Sharon Ambrose
Chairperson, Consumer and Regulatory Affairs Committee
Council of the District of Columbia
441 4th Street NW
Washington DC 20001

Ivette Basterrechea
Chair, Advisory Neighborhood Commission 6A
1610 D Street NE
Washington DC 20001

Lyle Schauer
Capital Hill Restoration Society
146 11th Street SE
Washington DC 20003

Philip Sedlak
1018 Constitution Ave. NE
Washington DC 20002

ATTACHMENT D

404.1 (Continued)

R-5-E	3 inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 12 feet.

404.2 In the case of a through lot or a corner lot abutting three (3) or more streets, the depth of rear yard may be measured from the center line of the street abutting the lot at the rear of the structure.

404.3 In the case of a lot proposed to be used by a public school which abuts or adjoins along the rear lot line a public open space, recreation area, or reservation, the required rear yard may be reduced or omitted.

404.4 In the case of a building existing on or before May 12, 1958, an extension or addition may be made to the building into the required rear yard; Provided, that the extension or addition shall be limited to that portion of the rear yard included in the building area on May 12, 1958.

SOURCE: §3304 of Regulations effective May 12.1958; as amended by Final Rulemaking published at 39 DCR 8305. 8307 (November 13, 199.2).

405 SIDE YARDS (R)

405.1 In an R-2, R-3, R-4, or R-5 district, a one-family detached dwelling shall be subject to the side yard requirements of an R-1 district.

405.2 In an R-3, R-4, or R-5 district, a one-family semi-detached dwelling shall be subject to the side yard requirements of an R-2 district.

405.3 In R-2, R-3, R-4, and R-5 districts when a one-family dwelling, flat, or multiple dwelling is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, then it shall have a side yard on each resulting free standing side.

405.4 Except as provided in §405.1, in an R-5-A district, one (1) side yard shall be provided for all structures unless the structure is an apartment house containing three (3) or more dwelling units per floor, in which case two (2) side yards shall be provided, each with the minimum width set forth in §405.9.

405.5 A side yard shall not be required along a side street abutting a corner lot in a Residence district.

405.6 Except as provided in §§405.1 and 405.2, a side yard shall not be required in an R-3, R-4, R-5-B, R-5-C R-5-D or R-5-E district. However, if the yard is provided, it shall be at least three inches (3 in.) wide per foot of height of building, but not less than eight feet (8 ft.) wide.

405.7 In the case of a lot located in en R-l or R-2 district proposed to be used by a public school that abuts or adjoins on one **(1) or** more side lot lines a public open space, recreation area, or reservation, the required side yard may be reduced or omitted.

405.8 In the case of a building existing on or before May 12, 1958, with a side yard less than eight feet (8 ft.) wide, an extension or addition may be made to the building; Provided, that the width of the existing side yard shall not be decreased; and Provided further, that the width of the existing side yard shall be a minimum of five feet (5 ft.).

405.9 Side yards shall be provided on lots in Residence districts as set forth in the following table, subject to the special requirements of other provisions of this chapter:

ZONING DISTRICT	MINIMUM DEPTH OF EACH SIDE YARD
R-l-A, R-l-8, R-2	8 feet
R-3, R-4	None required, except as provided under §§405.1, 405.2, and 405.5
R-5-A	3 inches per foot of height of building, but not less than 8 ft.
R-5-8, R-5-C. R-5-0, R-5-E	None required. except as provided under §§405.1,405.2, and 405.5.

SOURCE: §3305 of Regulations effective May 12, 1958; as amended by Final Rulemaking published at 39 DCR 8305.8307 (November 13, 1992).

406 COURTS (R)

406.1 Where a court is provided in a Residence district, the court shall have the minimum dimensions set forth in the following table:

ZONING DISTRICT AND STRUCTURE	WIDTH OF OPEN COURT	WIDTH AND AREA OF CLOSED COURT
R-l-A. R-l-B, R-2, R-3, R-4, R-5-A One-family dwelling	4 in. per foot of height of court, but not less than 6 ft.	Width: 4 in. per foot of height of court, but not less than 5 fl. Area: Twice the square of the required width of court dimension based on the height of court. but not less than 350 ft.^{2}

ATTACHMENT E

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

Building and Land Regulation Administration
Office of the Zoning Administrator

August 20, 2001

David E. M. Pritchard & Janet Pritchard
204 – 11th Street, NE
Washington, DC 20002

Re: 1018 Constitution Avenue, NE (Request for Suspension of Permit # B431591)

Dear Mr. David Pritchard and Ms. Janet Pritchard:

I am in receipt of your August 7, 2001 letter and email message regarding the above referenced matter. After careful consideration and reevaluation of staff's review of the application for building permit and the review/ approval process regarding this matter, I have concluded that there is no basis to issue a Stop Work Order. My rationale is explained below:

Section 199 of District of Columbia Municipal Regulations (DCMR), Title 11 (the Zoning Regulations) define a Row Dwelling as a one family dwelling having no side yard. The Zoning designation for the subject property is R-4. DCMR Title 11, Section 330.5(a) permits any use permitted in the R-3 districts. DCMR, Title 11, Section 320.3(b) permits row dwellings as a matter of right, hence, by extension; a row dwelling is also permitted in the R-4 zone.

Title 11, Section 403.2 allows row dwellings to cover up to 60% of their lot area. I concede the accuracy of your observation that a semi-detached structure is limited by Section 403.2 to a maximum of 40% lot occupancy, however, the right of a property in the R-4 zone to convert, through an addition, to a row structure is not abrogated by that Section.

I recognize that there seemingly is ambiguous or contradictory language between Section 405.3 and the allowance of a row dwelling in the R-4 district as a matter of right. The intent of Section 405.3 is not to compromise the right of a property to establish the type of structure/use that it is allowed as a matter of right by requiring a side yard and therefore forcing upon a property owner a semi-detached or detached structure.

However, it is intended to ensure the establishment of a common division wall between each two adjacent properties. The referenced property has met that requirement by sharing a common division wall with an adjacent structure.

Furthermore, your interpretation would be illogical if applied to the minimum lot area and minimum width requirements of Section 401.3. Surely the regulations intent cannot be to allow the creation of 1800 square foot lots as prescribed under Section 401.3 in the R-4 Zone, and then subsequently require an eight (8) foot side yard setback. The provision of Section 405.6 of DCMR Title 11 is instructive. In summary, Section 405.6 reiterates that with the exception of the provision of Sections 405.1 and 405.2: "A side yard shall not be required in an R-3, R-4, R-5-B, R-5-C, R-5-D or R-5-E zone." If however, a side yard were provided, at the discretion of the property owner, it shall be no less than eight (8) feet.

Accordingly, my conclusion is that the permit for the subject property was not issued in error, but was issued correctly, in accordance with the Zoning Regulations and previous precedence, as established by past Zoning Administrators. Because this is a Zoning Administrator formal determination, you may appeal this decision before the Board of Zoning Adjustment pursuant to DCMR, Title 11, Section 3100.2. For specific instructions on filing an appeal, please contact the Office of Zoning at 727-6311.

Respectfully,

Michael D. Johnson
District of Columbia
Zoning Administrator

Cc: Dave Clark, DCRA Director
Theresa Lewis, Deputy Director for Operations
J. Gregory Love, BLRA Administrator
Denzil Noble, Deputy BLRA Administrator
Toye Bello, Zoning Review Chief
Jerrily Kress, OZ Director

MDJ/TB/er/mdj
Tracker # 3932

ATTACHMENT F

Canfield-Thomas House Addition
220 5th Street, SE (Sq. 843, Lot 804)

Statement of Conditions and Basis for Special Exception

The owners at 220 5th Street, SE wish to apply for a special exception to the District of Columbia Zoning Ordinance. The subject property is located in an R-4 district. The street of the subject property contains mostly rowhouses, with only a few semi-detached houses, one of which is 220 5th Street, SE. There is an 8'-5" side yard on the south side of the subject property. The owners propose to construct a two-story (8'-5" x 14'-8") addition in the existing side yard. The proposed addition would provide an entrance vestibule and a child's bedroom.

Specifically, the owners wish to request relief from **Sections 405.2 and 405.3**, which respectively require a side yard for any one-family semi-detached dwelling and a side yard when a one-family dwelling does not share a common division wall with an existing building. The proposed addition would extend to the property line, but the new exterior wall would not be in common with the neighboring house. Thus the subject property would still be considered semi-detached, requiring an eight foot side yard. The adjacent property owner's house, located on the south side of the subject property, is located 3'-7" away from the property line. Thus when the addition is constructed, there will be a 3'-7" wide court in between the proposed addition and the neighboring house.

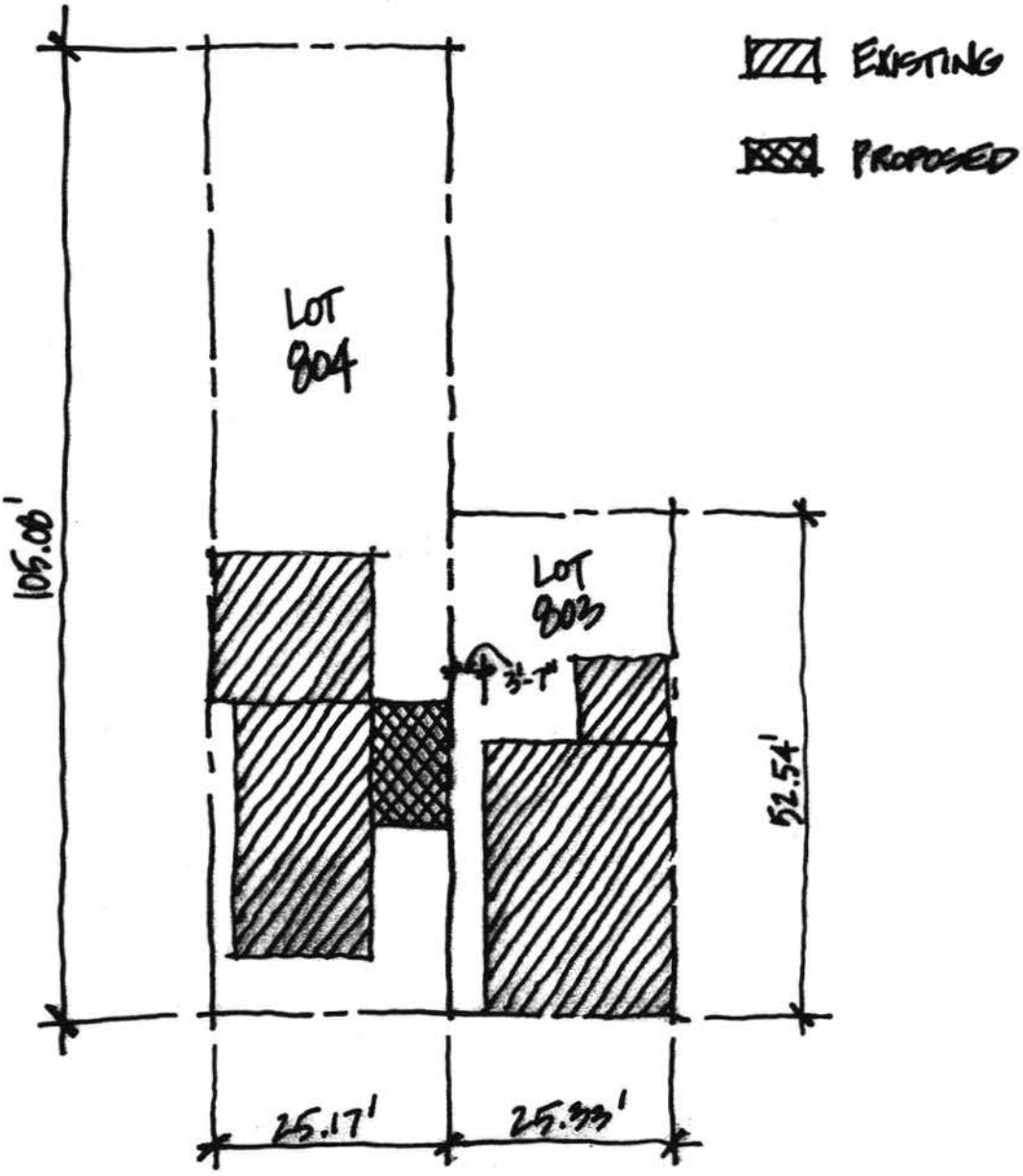
Section 223.1 provides for the means by which a special exception to the above conditions can be granted, permitting approval by the Board of Zoning Adjustment. This court condition created by the proposed addition is quite common in the Capitol Hill neighborhood and is characteristic of the density of rowhouse development within the community. The addition will not have substantially adversely affect the use or enjoyment of the adjacent property. The adjacent property owner, located at 222 5th Street, SE (lot 803), has written a letter (see attached) attesting his support to this project. The addition also will not visually intrude upon the character, scale and pattern of houses along the street. The project was approved by the DC Historic Preservation Review Board in May 2000 (see attached).

BZA
Case No. 16755
Exhibit No. 7

led on
6/13/01
eR

H. Other back up Explanation of current/proposed conditions

Canfield-Thomas House Addition
220 5th Street, SE (Sq. 843, Lot 804)



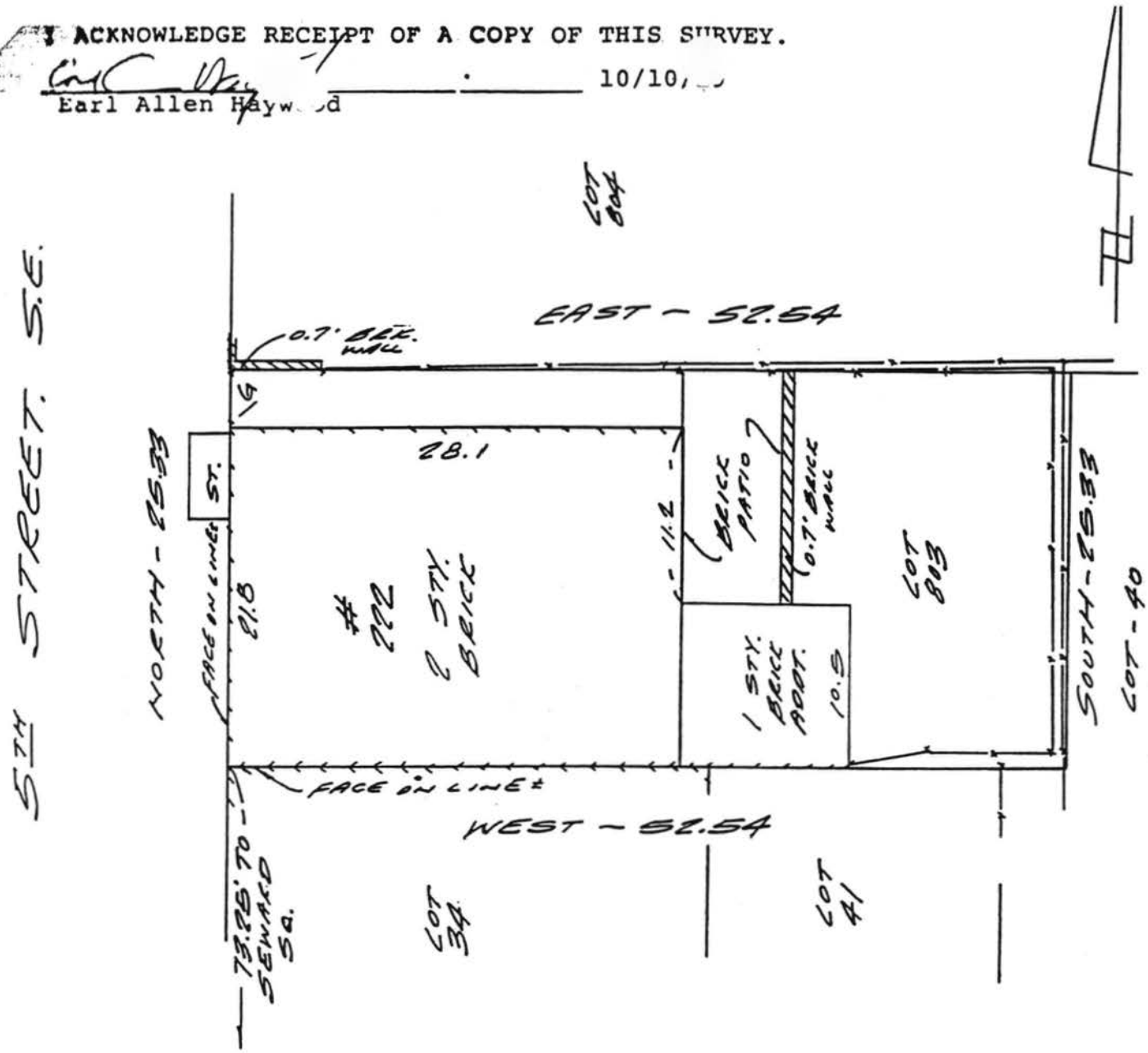
BZA
Case No. 16755
Exhibit No. 11

filed on 6/13/01 EB

I ACKNOWLEDGE RECEIPT OF A COPY OF THIS SURVEY.

_____ 10/10/_

Earl Allen Haywood



Notes: This property does not lie within the limits of a flood hazard area as delineated on the maps of the National Flood Insurance Program, unless otherwise shown. This survey prepared for title purposes only.

STATE OF MARYLAND
EDWARD L. LOPEZ, JR.
No. 522
REGISTERED
PROPERTY LINE SURVEYOR

CAPITOL SURVEYS

NOTE: This drawing is not intended to establish property lines. It cannot be used for construction or design purposes. All information shown hereon taken from the land records of the county or city in which the property is located and field work performed.

© As of current date.

HOUSE LOCATION

LOT ~ 803 SQUARE ~ 893

SHOWN A. & T. TRACINGS

DISTRICT OF COLUMBIA

Recorded in Liber _____ Folio _____ Scale 1" = 10'

DATE: SEPT. 16, 1997 | CASE: 8971 | FILE: 57424

I hereby certify that the position of all the existing visible improvements on the above described property have been established by accepted field practices, and that unless otherwise shown there are no visible encroachments.

EDWARD L. LOPEZ, JR.
MD Property Line Surveyor
No. 522

31

Neighboring property

...or Building Permit of ...SQUARE 819, 1st ... 24.....

...Lot 3 Block a ....B2....for ... Recorded in Book ....1 ... Page ... Folio ... 5260

...urnished to .....CAPITAL.....

Surveyor, D. C

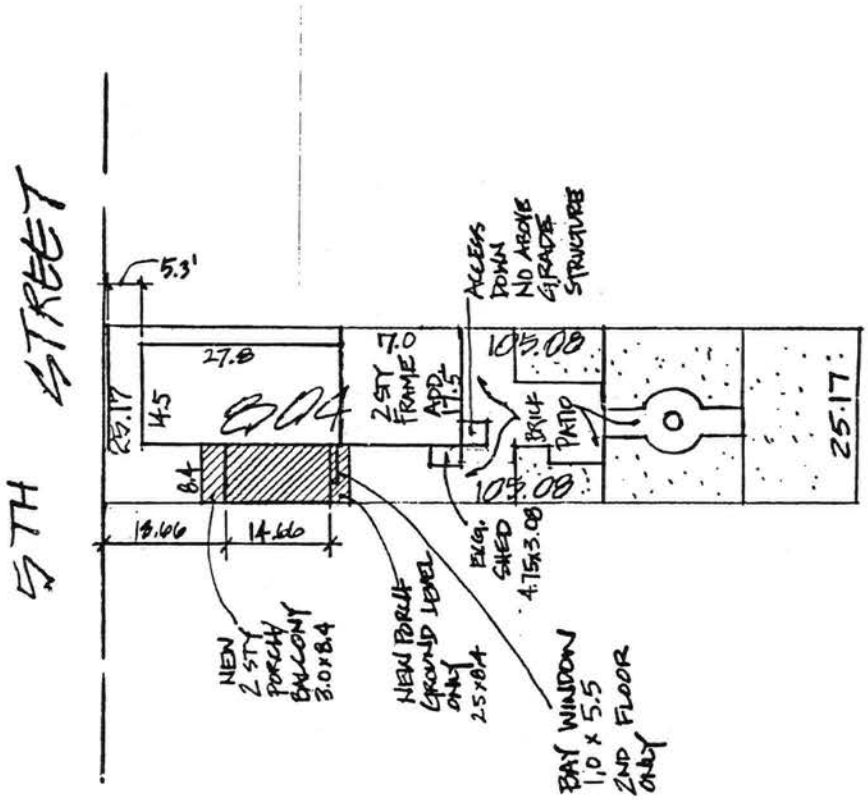
By: ...W. H. GRAHAM..

dimensioned, and are correctly platted; that all proj
parts thereof, including covered porches, are correc
agree with plans accompanying the application; th
hereon is shown, and dimensioned accurately to t
...and that by reason of the prope
...the rules of any ...
...by the Zoning Regu...
...and that accessible par...
...will be reserved in accordance with the
...elevation of the accessible parking area with resp
approved curb or alley grade will not result in a
driveway at any point on private property in excess
or flats, or in excess of 12% at any point for oth
Highway Department permits a maximum driveway
parking and the private restricted property).

Date .....

.....
(Signature of owner or his

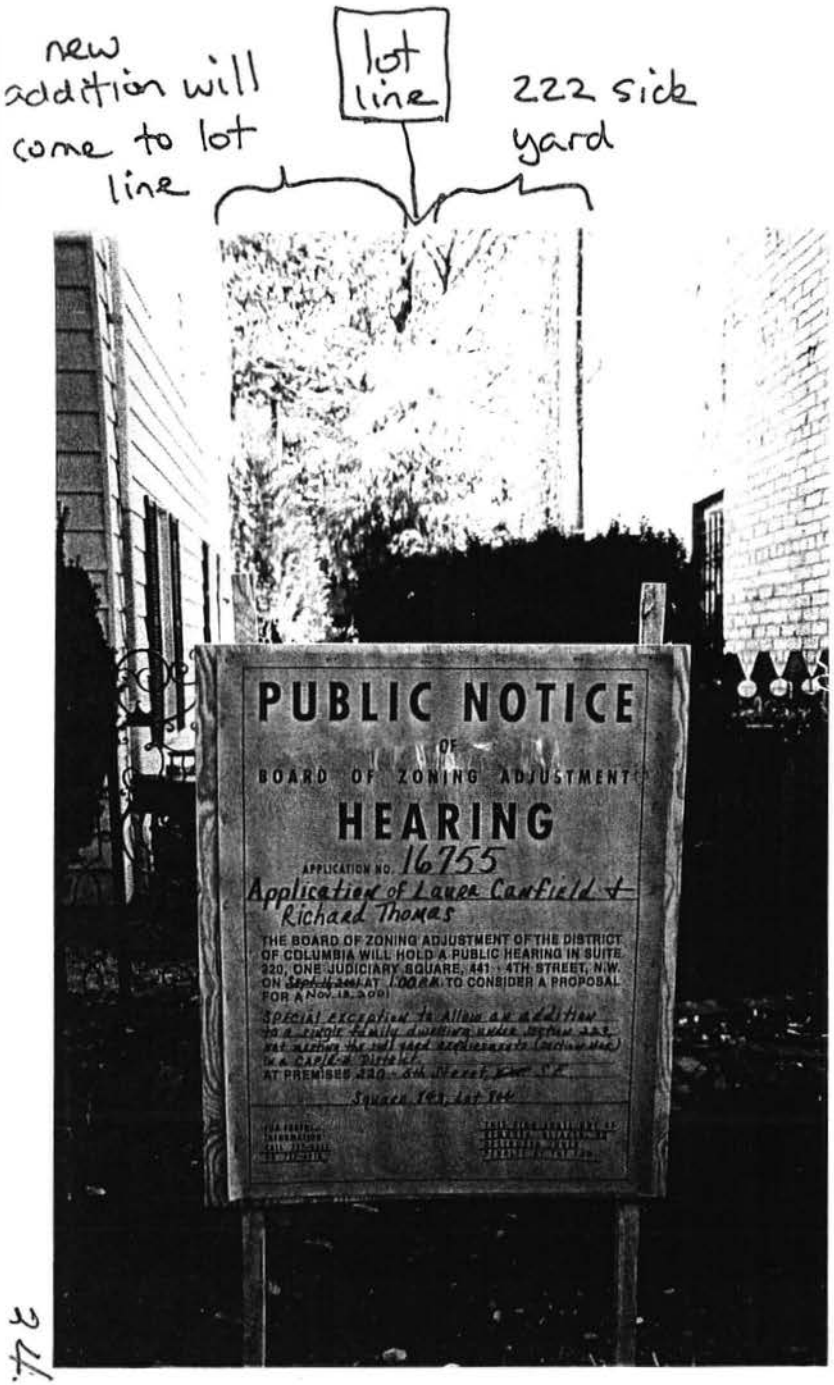
NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.

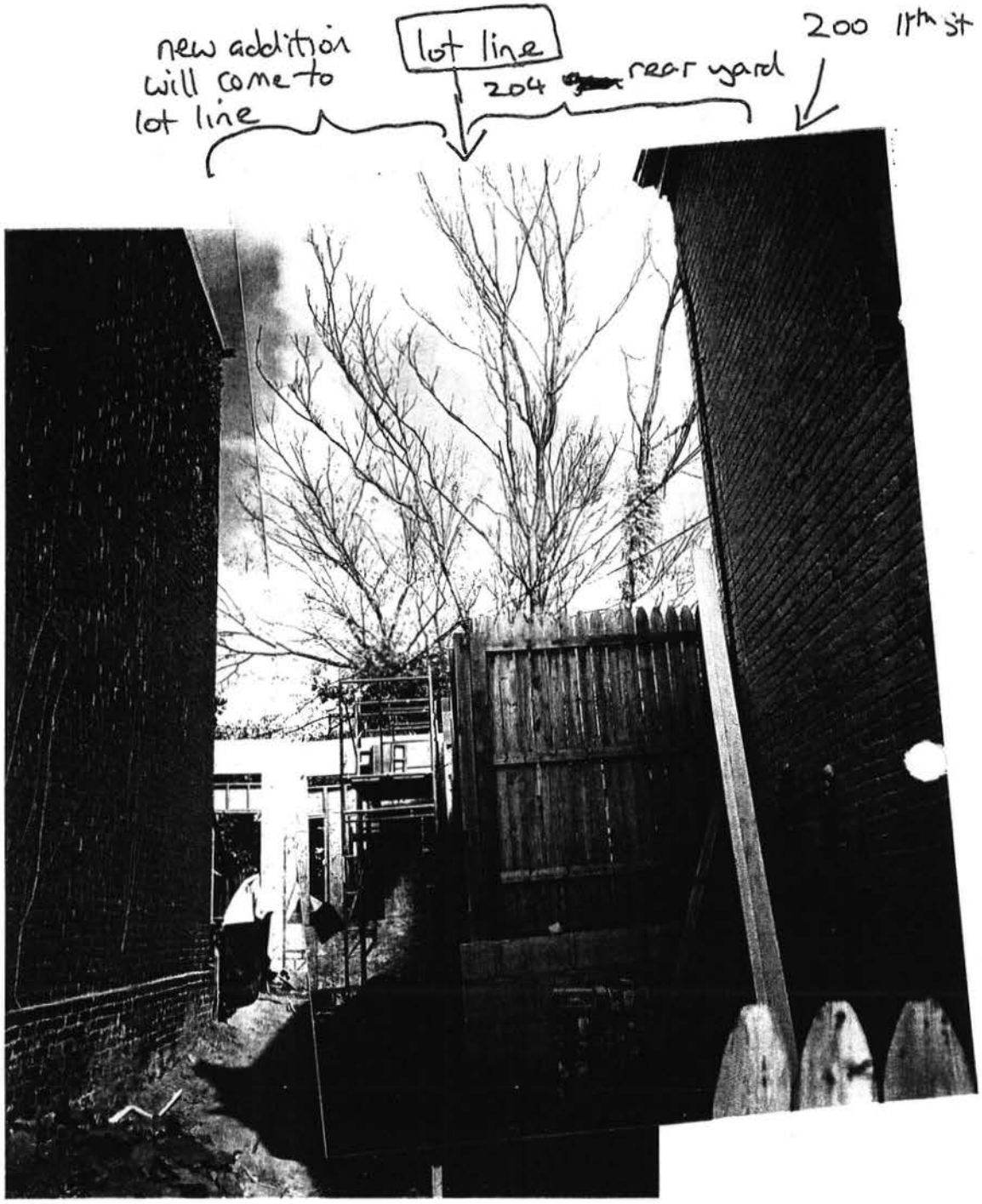


A SUBDIVISION HAS
BEEN ORDERED TO
CREATE A LOT OF RECORD.
5/25/01

ATTACHMENT G

Comparison of 220 3rd Street SE, and 1018 Constitution Ave





24.

ATTACHMENT H

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

Building and Land Regulation Administration
Office of the Zoning Administrator

June 11, 2001

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Michael D. Johnson
Zoning Administrator

SUBJECT: Proposed Addition to a Semi-Detached Single Family Dwelling located at premises 220 5th Street, S.E., Lot(s) 804 in Square 843, in Square 843, Zoned CAP/R-4

Review of plans for the proposed addition to a semi-detached single family dwelling at the above subject premises indicates that the Board of Zoning Adjustment approval is required as follows:

1. Special exception pursuant to Section 223.1 to allow an addition which does not comply with the requirements of Sections 405.2 and 405.3 for a single family dwelling in the CAP/R-4 Zone. (Section 3104.1)

MDJ/XM/ee

941 North Capitol Street, N.E., Suite 2700 Washington, DC 20002 Phone: (202) 442-4560 Fax: (202) 442-4871

BZA
Case No. 16755
Exhibit No. 6

filed on 6/13/01

01-224-D(a)

NOTES AND COMPUTATIONS

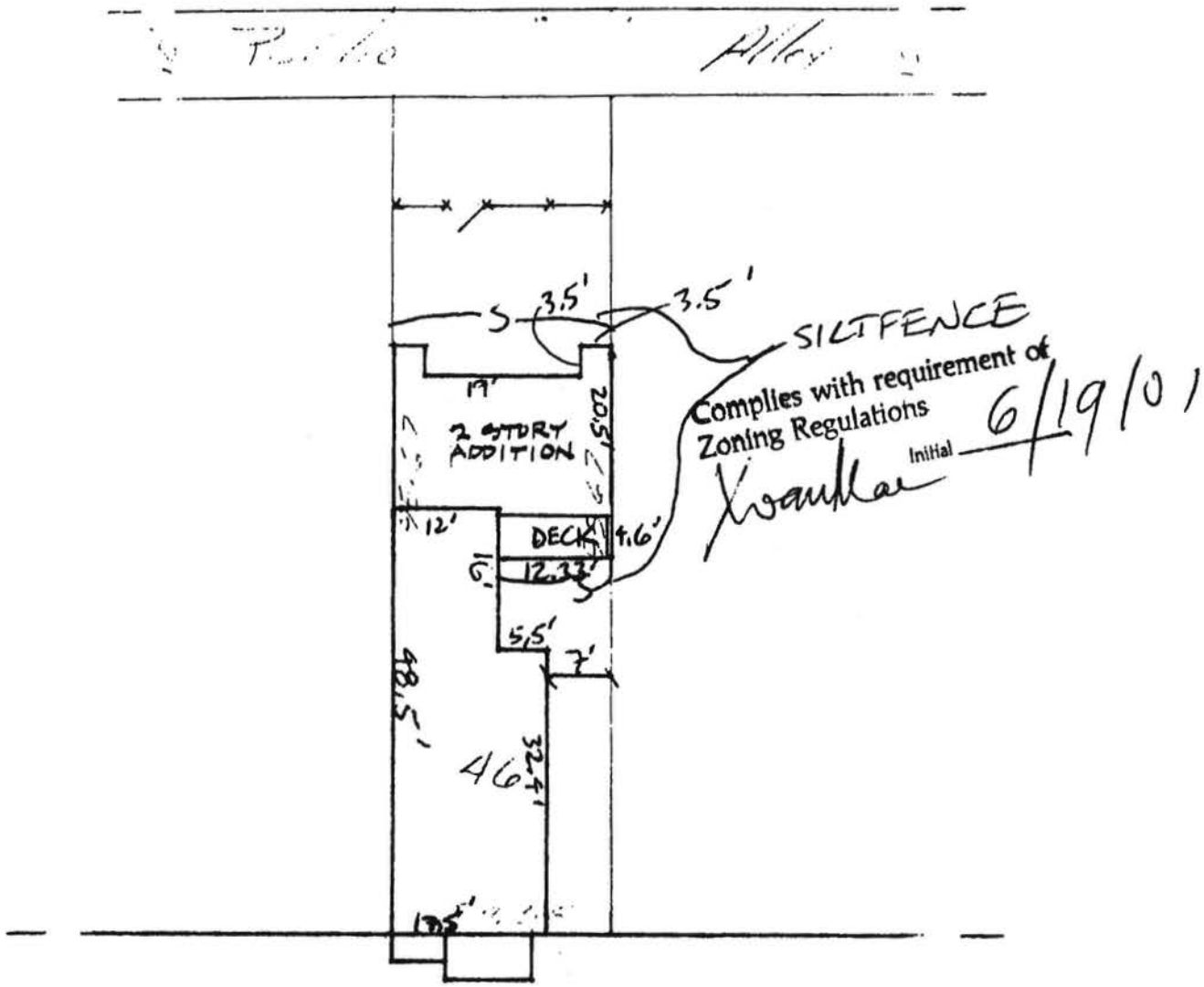
ADDRESS: **220 5th Street, N.E.** LOT(S): **804 / Per Sub** SQUARE: **843**

ZONED: **CAP/R-4**

	REQUIRED	ALLOWED	PROVIDED	VARIANCE
LOT AREA	3,000 Sq. Ft.		2,644.86 Sq. Ft. (Exist.)	335.14 Sq. Ft. - (11.84%) (Existing) - (Existing)
LOT WIDTH	30'		25.17' (Existing)	4.83' - (16%) (Existing) - (Existing)
LOT OCCUPANCY (40%)		1,057.94 Sq. Ft. (40.00%)	Existing: 798.63 Sq. Ft. Proposed: 169.34 Total 967. 97 Sq. Ft. (36.60%)	
FLOOR AREA RATIO (1.8)		4,760.75 Sq. Ft.	1,935.94 Sq. Ft. (0.73)	
PARKING SPACES	1		Existing	
LOADING BERTHS	N/A		N/A	
FRONT YARD	N/A.		N/A	
REAR YARD	20' min.		54.98'	
SIDE YARD	0' and 8'		0' and 0'	8' (100%)
COURT, OPEN	N/A		N/A	
COURT, CLOSED	N/A		N/A	

37

ATTACHMENT I



CONSTITUTION AVENUE

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., 2-9, 2001

Plat for Building Permit of SQUARE 964 LOT 46

Scale: 1 inch = 20 feet Recorded in Book 41 Page 18

Receipt No. 2168

Furnished to: CLARK'S PERMITS

Surveyor, D.C.

By: DH

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: 5/2/06

(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.

46

Comparison of 220 5th Street SE, and 1018 Constitution Ave

new addition will come to lot line

lot line

222 side yard



new addition will come to lot line

lot line

204 ~~ft~~ rear yard

200 11th St.



34.

rnished to .....

Surveyor, D. C

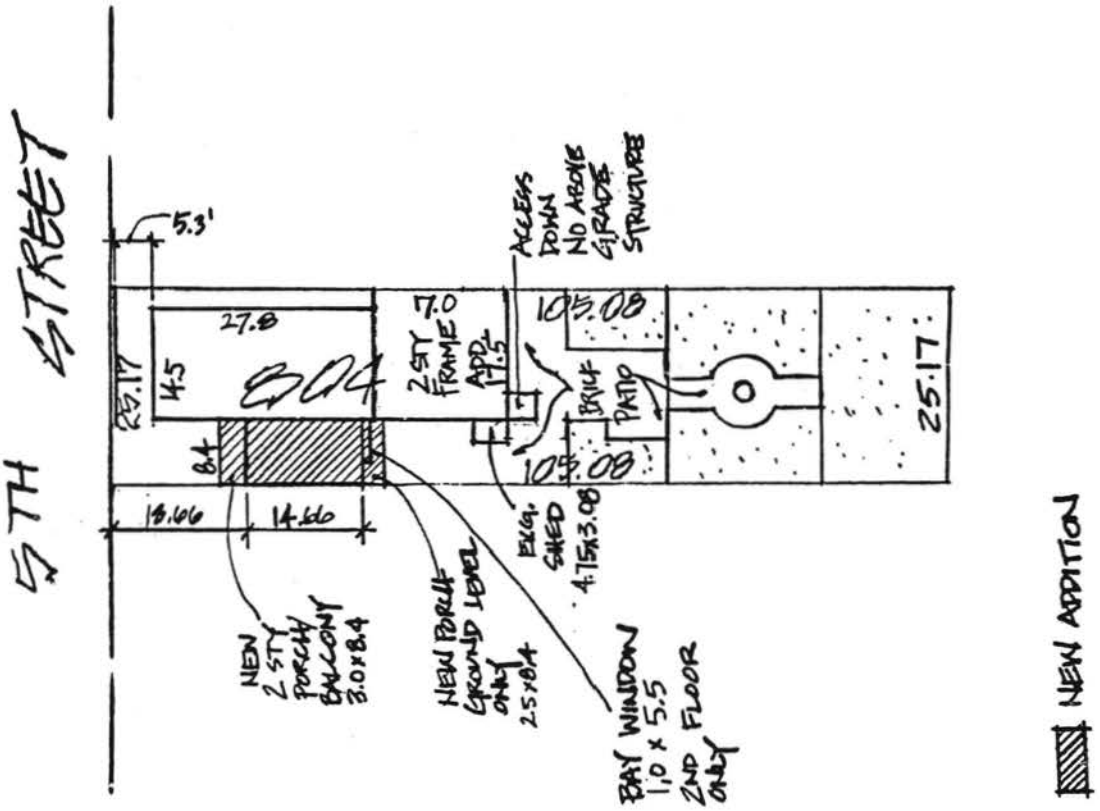
By: W. H. GRAHAM

elevation of the accessible parking area with respect approved curb or alley grade will not result in a rate driveway at any point on private property in excess of 2 or flats, or in excess of 12% at any point for other Highway Department permits a maximum driveway gr parking and the private restricted property).

Date .....

.....
(Signature of owner or his aut

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.



A SUBDIVISION HAS
BEEN ORDERED TO
CREATE A LOT OF RECORD.

5/25/01

View of [redacted] yard from back door steps



12.

View taken from back to kitchen wall — 13ft from fence



View from middle of rear yard – 6ft. from fence:

All view of sky from this vantage point will be blocked by the new wall when completed



View of 1018 Constitution Ave from Kitchen roof of 204 11th Street

Prior to construction

1018 Constitution Ave

Wall of 1016 Constitution Ave



Corner of rear yard of 204 11th Street

15

View from bedroom window of 204 11th Street

2-storey addition will rise to this height →

