ROBERT LEHRMAN

August 30, 2002

Jerrily R. Kress, FAIA
Director
Government of the District of Columbia
Board of Zoning Adjustment
441 4th Street, N.W., Suite 210-S
Washington, DC 20001

D.C. OFFICE OF ZONING
RECEIVED
2002 SEP -5 AM 8: 21

Attention: Beverley A. Bailey

Re: BZA Appeal No. 16849 – Appeal of Robert Lehrman

Dear Jerrily Kress,

In response to your request for additional information pertaining to the BZA Appeal #16849, enclosed please find the following, which is current to the best of my knowledge;

1. Copies of all building permit applications,
2. Copies of all building permits
3. Information related to stop work orders and related DCRA documents.
4. Site plan showing location of trees in questions.
5. A chronology of the permitting and constructions activities on site with related facts.
6. Additional materials that may assist the Board in its decision making.

Please be advised that for all future matters in this appeal, I will personally be representing the case. Therefore, please send all notices and/or correspondence to me at the address listed below.

In that regard, would you please confirm the hearing date and time which currently is scheduled for September 24, 2002. I thank you for your assistance in this matter.

With best wishes,

Robert Lehrman

Robert Lehrman

cc: Cornish F. Hitchcock/Andrea C. Ferster, Esquire
Whayne S. Quin, Esquire
Advisory Neighborhood Commission
Denzil Noble, Acting Zoning Administrator
Office of the Corporation Counsel

BZA
Case No. 16849
Exhibit No. 28

Board of Zoning Adjustment
District of Columbia
CASE NO.16849
EXHIBIT NO.28A1

1027 33rd Street, N.W., 2nd Floor, Washington, D.C. 20007 Phone: (202) 338-8400 Fax: (202) 338-8405

ROBERT LEHRMAN

RECEIVED
D.C. OFFICE OF ZONING
2007 SEP -3 AM 10: 24

CONTENTS

1. COPIES OF BUILDING PERMIT APPLICATIONS

2. COPIES OF BUILDING PERMITS

3. COPIES OF STOP WORK ORDERS AND RELATED DCRA DOCUMENTS

4. SITE PLAN SHOWING LOCATION OF TREES

5. CHRONOLOGY OF ALL PERMITTING AND CONSTRUCTION ACTIVITIES & OTHER FACTS RELATING TO ISSUES OF TIMELINESS OF THE APPEAL AND WHETHER THE DOCTRINE OF LACHES APPLIES.

6. OTHER MATERIALS - PHOTOS WITH NOTES RELATED TO THE DESTRUCTION OF TREES

1027 33rd Street, N.W., 2nd Floor, Washington, D.C. 20007 Phone: (202) 338-8400 Fax: (202) 338-8405

Bldg Permits Apps

01-00041

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

313-B

★ ★ ★ 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)

CLEARANCE TO ISSUE By: Date:

ERASING, CROSSING OUT, WRITING 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:
2221 30TH STREET NW	—	6	2198	3/15/2000

5. Owner of Building or Property:	6. Address: (Include Zip)	7. Phone:
MELVIN ESTRIN	6508 KENHILL ROAD BETHESDA MD 20817	Work: 301-941-8600 Home:
8. Agent for Owner: (if applicable)	**9. Address: (Include Zip)**	**10. Phone:**
DAVID ISAAC	2240 GALLOWS ROAD DUNN LORING VA 22027	Work: 703-849-1784 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:

EXPAND EXISTING 1ST FLOOR BEDROOM WING & ADD 2ND STORY OVER EXISTING 1ST FLOOR ONE STORY AREA. REMODEL INTERIORS & RESKIN EXTERIOR MASONRY VENEER IN EIFS.

13. Existing Use(s) of Building or Property:	14. Ex. No. of Stories of Bldg.:	15. Ex. No. of Dwelling Units:	OTC Fee Only for Miscellaneous Fee
RESIDENTIAL	2	1	By: Date:
16. Proposed Use(s) of Building or Property:	**17. Prop. No. of Stories of Bldg.:**	**18. Prop. No. of Dwelling Units:**	
RESIDENTIAL	3	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?
MAY 15 2000	MAY 15 2001	☐ 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	SILT FENCE SEE NOTES	0 sq. ft.	PER PLANS	sq. ft.

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

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

OFFICIAL USE ONLY

A					
M					
E					
S					

1-375

(B) NEW BUILDING, ADDITION, & ALTERATION (COMPLETE ITEMS 28 THRU 60)

28. Architect's Name:	29. Lic. No.:	30. Architect's Address: (include Zip)	31. Phone:
JOHN NEUFELD ARCHITECTS	A-3039	3003C CHAIN BRIDGE ROAD FAIRFAX VA 22030	703-385-9696
32. Engineer's Name:	33. Lic. No.:	34. Engineer's Address: (include Zip)	35. Phone:
FRANK WILLIAMS AF...	3217	8619 CRESTVIEW DRIVE FAIRFAX VA 22031	703-573-7738
36. Building Contractor's Name:	36A. Lic. No.:	37. Contractor's Address:	38. Phone:
CROWELL & BAKER ASSOCIATES	30001704	152 ROLLINS AVENUE, SUITE 100 ROCKVILLE MD 20852	301-770-3360

39. Type of Construction	40. Fire Suppression:	41. Booster Pump:	42. Total Lot Area:	43. Breakdown of Lot Area (= 100%):
☐ Masonry ☐ Steel ☒ Wood ☐ Other: ☐ Concrete	☐ Fully Sprinklered ☐ Standpipe System ☐ Partially Sprinklered ☒ None ☐ Other:	☐ New ☐ Existing ☒ None	61160 sq. ft.	a. Building: 11 % b. Paved Area: 16 % c. Greenery: 73 %

44. Present Gross Floor Area of Bldg.:	45. Proposed Gross Floor Area of Bldg:	46. Floors involved in this permit:	47. Projection beyond building line?
8911 sq. ft.	15721 sq. ft.	☒ All ☐ Floors	☐ Yes, answer q. 48-52 ☒ No, SKIP q. 48-52

48. Number and type of projection:	49. Distance of projection:	50. Width of projection:	51. Width of building frontage: ft.	52. Signature of Owner (projection only):

53. Water or Sewer Excavation?	54. Driveway Construction?	55. Sheeting/Shoring Necessary?	56. Elevators involved?	57. No. and type of elev.:	58. Plans Certified by Engineer?
☐ Yes ☒ No	☐ Yes ☒ No	☐ Yes ☒ No	☒ Yes, answer q. 57 ☐ No, SKIP q. 57	ONE RESIDENTIAL	☐ Yes, cert. is attached ☒ No

59. Estimated Cost of Work:
(a) New/Add.: $ 750,000
(b) Alt/Rep.: $ 125,000
Total: $ 875,000

60. Volume of New Bldg. or Addition: 162943 6.9400 cubic ft.

OFFICIAL USE ONLY
Alter/Addn FEE $ 1350.00 New Const FEE $ 1875.00 Filing Fee $ 275.00 TOTAL PERMIT FEE $ 3500.00
BP# Date Ap'd By Date Iss'd By

(C) RAZING A BUILDING (COMPLETE ITEMS 61 THRU 83)

61. Raze Contractor's Name:	62. Contractor's Address: (include Zip)	63. Phone:

64. Insurance Company:	65. Policy or Certif. No.:	66. Expir. Date:	67. Raze Method:

68. Building Material:	69. Raze Entire Building?	70. Building Condemned?	70A. Building Vacant?	71. Public Space Vault?	72. Disconnect Water and/or Sewer?	73. Size of Water Connection:
	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	in.

74. Plumber's Name:	75. Lic. No.	76. Length: ft.	77. Width: ft.	78. Height: ft.	79. Volume: cu. ft.	80. Party Wall?
						☐ Yes ☐ No

81. Asbestos in the Building?	82. Raze Contractor Signature:	OFFICIAL USE ONLY
☐ No ☐ Yes, Location _____	83. Owner's Signature:	FEE $ By Date

(D) RETAINING WALL (COMPLETE ITEMS 84 THRU 93)

The retaining wall will not obstruct any accessible parking required by D.C. Zoning Regulations

84. Cost of Work:	85. Material:	86. Height: ft.	87. Color:	88. Location:
$				☐ Entirely on Owner's Land ☐ Party Line with Adjacent Neighboring Land*

* If party wall, the owner of the adjoining property must agree to the erection of the retaining wall and this application.

89. Signature of Adjoining Owner:	90. Phone: Work Home	OFFICIAL USE ONLY
91. Address of Adjoining Owner:	92. Lot:	93. Square:

(E) FENCE (COMPLETE ITEMS 94 THRU 102)

The fence will not obstruct any accessible parking required by D.C. Zoning Regulations

94. Material and type:	95. Height: ft.	96. Color:	97. Location: ☐ Entirely on Owner's Land ☐ Party Line with Adjacent Neighboring Land*

* If party fence, the owner of the adjoining property must agree to the erection of the fence and this application.

98. Signature of Adjoining Owner:	99. Phone: Work Home	OFFICIAL USE ONLY FEE BY DATE
100. Address of Adjoining Owner:	101. Lot:	102. Square:

(F) SHED OR GARAGE (COMPLETE ITEMS 103 THRU 113)

103. Number:	104. Length: ft.	105. Width: ft.	106. Area: sq. ft.	107. Height: ft.	108. Volume: cu. ft.	109. Estimated Cost of Work: $	OFFICIAL USE ONLY FEE BY DATE
110. Material of Roof:	111. Material of Sides:	112. Wall thickness:: ☐ External ( ) Inches ☐ Party ( ) Inches				113. Color:	

(G) AWNING (COMPLETE ITEMS 114 THRU 123)

114. Number:	115. Color:	116. Type: ☐ Folding ☐ Fixed	117. Projections: Beyond bldg. line ____ in. Beyond pt. of attachm. ____ in.	118. Height of lowest part of awning: (a) ____ ft above sidewalk (b) ____ ft above parking (c) ____ ft above grade	OFFICIAL USE ONLY FEE BY DATE

119. Material of Frame:	120. Material of Covering:	121. Lettering on Awning? ☐ Yes ☐ No	122. Fixed posts? ☐ Yes ☐ No	123. Over sidewalk cafe? ☐ Yes ☐ No

(H) SIGN (COMPLETE ITEMS 124 THRU 144)

124. Number:	125. Electric Signs? ☐ Yes, answer q. 126-132 ☐ No, SKIP q. 126-132	126. Type: ☐ Incandes. ☐ Fluoresc. ☐ Neon	127. Power ____ VA	128. Electrical Contractor: Lic. No.:

129. Address of Electrical Contractor *(include Zip)*	130. Signature of Licensed Electrician:	131. Phone:	132. License No.:

133. Height relative to building and ground: (a) ____ ft ____ in above sidewalk (b) ____ ft ____ in above roof (c) ____ ft ____ in is bldg height (d) ____ ft ____ in above projection or window (e) ____ ft ____ in from roof to sign's bottom	134. Material of Sign:	135. Type of Sign:	136. Color:
	137. Width: ft.	138. Length: ft.	139. Area of Sign: sq. ft.
			140. Width of Business Frontage: ft.

141. C of O Number for Building:	142. Sign Contractor Lic. No.:	OFFICIAL USE ONLY Sign FEE Erect FEE Total FEE BY DATE BY DATE
143. Sign Contractor's Address:	144. Phone:	

(I) APPLICANT'S SIGNATURE:

A. **OWNER:** I hereby certify that I am the owner of the property; that the application and plans are complete and correct to the best of my knowledge; and that if a permit (or permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulations of the District of Columbia.

Signature of Owner:_____ Address:_____ Date:_____

B. **AGENT:** I hereby certify that I have the authority of the owner to make this application. I declare that the application and plans are complete and correct to the best of my knowledge. The owner has assured me that if a permit (or permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulations of the District of Columbia.

Signature of Agent: Daniel G. Jacobs Address: 2240 Gallows Rd Vienna VA 22182 Date: 4-19-200

(J) APPROVALS (DO NOT WRITE ON THIS PAGE; OFFICIAL USE ONLY):

A. PERMIT CONTROL

per D. Nichols subject to

- ☒ 1. Fine Arts by: _____ Date: _____
- ☐ 2. Historic by: _____ Date: _____
- ☐ 3. PADC by: _____ Date: _____
- ☐ 4. Cap. Gateway by: _____ Date: _____
- ☐ 5. W.H./ Obs. Precinct by: _____ Date: _____
- ☐ 6. Flood Control by: _____ Date: _____
- ☐ 7. WMATA by: _____ Date: _____
- ☐ 8. Condem. by: _____ Date: _____
- ☐ 9. RLA by: _____ Date: _____
- ☐ 10. Rental Accom. by: _____ Date: _____
- ☐ 11. Chinatown Distr. by: _____ Date: _____
- ☐ 12. Utility Clearance by: _____ Date: _____
- ☐ 13. General Liability Ins. Policy Clearance by: _____ Date: _____

B. CLEARANCE TO FILE PLANS

- ☐ 1. Zoning by: _____ Date: _____
- ☐ 2. DPW — Permit and Records Division
  Access to Parking Street ☐ Street ☐ Alley
  Cleared by: _____ Date: 4/29/08
- ☐ 3. DPW - Consumer Engineer
  Cleared by: _____ Date: _____
- ☐ 4. ERA - Erosion Control
  Cleared by: _____ Date: _____

Restrictions of the Permit:

SEPARATE ELECTRICAL, PLUMBING AND MECHANICAL INSTALLATION PERMITS ARE REQUIRED

TO REPORT WASTE, FRAUD, OR ABUSE BY ANY D.C. GOVERNMENT OFFICE OR OFFICIAL, CALL THE D.C. INSPECTOR GENERAL AT 1-800-521-1639

C. PLANS AND APPLICATION APPROVAL

- ☐ 1. Information Counter by: _____ Date: 7/16/01
- ☐ 2. Information Center by: _____ Date: _____
  - ☐ (a) ABC Board by: _____ Date: _____
  - ☐ (b) Noise Control by: _____ Date: _____
  - ☐ (c) Industrial Safety by: _____ Date: _____
  - ☐ (d) Vector Control by: _____ Date: _____
  - ☐ (e) D.C. Animal by: _____ Date: _____
  - ☐ (f) Police Dept. by: _____ Date: 10/26/00
- ☐ 3. Zoning by: _____ Date: _____
  Zoning Update by: _____ Date: _____
- ☐ 4. DPW - Permit and Records Division/Deposit # DS2780
  Sidewalk Deposit $ 5280 Driveway Deposit $ _____
  by: _____ Date: 7/7/01
- ☐ 5. Water/Sewer Design Branch
  Consumer Eng. by: _____ Date: 8/2/01
- ☐ 6. Environmental Regulation Administration
  - ☐ Environmental Policy Review
    Control No.: _____
    by: _____ Date: _____
  - ☐ Erosion Control by: _____ Date: 3-2-01
  - ☐ Storm Water Mgmt. by: _____ Date: _____
    Plan No. _____
- ☐ 7. Mechanical Eng. Review by: _____ Date: 4/22/01
- ☐ 8. Plumbing Eng. Review by: _____ Date: 1/22/01
- ☐ 9. Electrical Eng. Review by: _____ Date: 11-16-00 01-22-01
- ☐ 10. Health Plan Review
  - ☐ (a) Food Plan Review by: _____ Date: _____
  - ☐ (b) Medical X-ray Plan Rev. by: _____ Date: _____
- ☐ 11. D.C. Fire Dept. (Fire Prevention Plan Review Section) by: _____ Date: _____
- ☐ 12. Elevator Plan Rev. Sec. by: _____ Date: _____
- ☐ 13. Plumbing Insp. Rev. by: _____ Date: _____
- ☐ 14. Construction Insp. Branch (Field Check) by: _____ Date: _____
- ☐ 15. Historic Pres. Div. by: _____ Date: _____
- ☐ 16. Structural Eng. by: _____ Date: 3/8/01
- ☐ 17. Permit and Certificate Issuance Counter By: _____ Date: _____

☐ Q.C. By: _____ Date: 3/5/01

D. ZONING

C of O Number _____ Date _____

Existing Use(s) _____

☐ New bldg.
☐ P.O.D.
☐ File in room 329

DPW — PUBLIC SPACE

Street Name: _____
Street Width: _____
Road Width: _____
Sidewalk Width: _____
Parking: _____
Restrictions: _____

Job No.:	BZA Case No.:	PUD Order No.:

2-0307-4 wd-375

Bldg Permits

01-00218 9:22 a.r

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

TSP/R-14

★ ★ ★ 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)

ISSU. 3.00 3.25 9.25 am 10/16

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:
2221 30th St. N.W.		6	2198	10/15/01

5. Owner of Building or Property:	6. Address: *(include Zip)*	7. Phone:
Melvin Estrin	6508 Kenhill Road Beth. md. 20814	Work: 301 941 8600 Home:

8. Agent for Owner: *(if applicable)*	9. Address: *(include Zip)*	10. Phone:
William Crowell	152 Rollins Ave, Suite 100 Rockville, md. 20852.	301 466 8500 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:

"Replace masonry cinder block walls As per plan"
Revision to Permit No. B435446

13. Existing Use(s) of Building or Property:	14. Ex. No. of Stories of Bldg.:	15. Ex. No. of Dwelling Units:	Official Use Only
Single Family	2	One	Miscellaneous FEE $ 60.00
16. Proposed Use(s) of Building or Property:	**17. Prop. No. of Stories of Bldg.:**	**18. Prop. No. of Dwelling Units:**	By: Date: 10/16/01
Single Family	<2>	One	

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?
10/16/01	10/30/01	☐ 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**	Footings in Place	N/A sq. ft.	N/A	N/A 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)

2-0307 wd-375

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

(B) NEW BUILDING, ADDITION, & ALTERATION (COMPLETE ITEMS 28 THRU 60)

28. Architect's Name:	29. Lic. No.:	30. Architect's Address: *(include Zip)*	31. Phone:
John Neufeld	A3038	3803 C Chainbridge Road Fairfax VA - 22030	703 389 9696
32. Engineer's Name:	33. Lic. No.:	34. Engineer's Address: *(include Zip)*	35. Phone:
36. Building Contractor's Name:	36A. Lic. No.:	37. Contractor's Address:	38. Phone:
Crowell & Baker 8350c LTD	30009467	152 Rollins Ave, Suite 100, Rockville, Md. 20852	301 770 3360

39. Type of Construction	40. Fire Suppression:	41. Booster Pump:	42. Total Lot Area:	43. Breakdown of Lot Area (= 100%)
☐ Masonry ☐ Steel ☑ Wood ☐ Other: ☐ Concrete	☐ Fully Sprinklered ☐ Standpipe System ☐ Partially Sprinklered ☐ None ☐ Other: _____	☐ New ☐ Existing ☐ None	sq. ft.	a. Building: ____ % b. Paved Area: ____ % c. Greenery: ____ %

44. Present Gross Floor Area of Bldg.:	45. Proposed Gross Floor Area of Bldg:	46. Floors involved in this permit:	47. **Projection beyond building line?**
sq. ft.	sq. ft.	☐ All ☐ Floors _____	☐ Yes, answer **q. 48-52** ☐ No, SKIP **q. 48-52**

48. Number and type of **projection:**	49. Distance of **projection:**	50. Width of **projection:**	51. Width of building frontage: ft. 52. Signature of Owner **(projection only):**

53. Water or Sewer Excavation?	54. Driveway Construction?	55. Sheeting/Shoring Necessary?	56. Elevators involved?	57. No. and type of elev.:	58. Plans Certified by Engineer?
☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes, answer **q. 57** ☐ No, SKIP **q. 57**		☐ Yes, cert. is attached ☐ No

59. Estimated Cost of Work:
(a) New/Add.: $ _____
(b) Alt/Rep.: $ 2,200 00
Total: $ 2,200 00

60. Volume of New Bldg. or Addition: _____ cubic ft.

OFFICIAL USE ONLY

Alter/Repair FEE	New Const. FEE	Filing Fee	TOTAL PERMIT FEE
$	$	$	$
By: Date:	By: Date:	By: Date:	By: Date:

(C) RAZING A BUILDING (COMPLETE ITEMS 61 THRU 83)

61. Raze Contractor's Name:	62. Contractor's Address: *(include Zip)*	63. Phone:

64. Insurance Company:	65. Policy or Certif. No.:	66. Expir. Date:	67. Raze Method:

68. Building Material:	69. Raze Entire Building?	70. Building Condemned?	70A. Building Vacant?	71. Public Space Vault?	72. Disconnect Water and/or Sewer?	73. Size of Wate Connection:
	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	in.

74. Plumber's Name:	75. Lic. No.	76. Length:	77. Width:	78. Height:	79. Volume:	80. Party Wall?
		ft.	ft.	ft.	cu. ft.	☐ Yes ☐ No

81. Asbestos in the Building?	82. Raze Contractor Signature:	**OFFICIAL USE ONLY**		
☐ No ☐ Yes, Location _____		FEE	By:	Date:
	83. Owner's Signature:	$		

(D) RETAINING WALL (COMPLETE ITEMS 84 THRU 93)

The retaining wall will not obstruct any accessible parking required by D.C. Zoning Regulations

84. Cost of Work:	85. Material:	86. Height:	87. Color:	88. Location:
$		ft.		☐ Entirely on Owner's Land ☐ Party Line with Adjacent Neighboring Land*

* If party wall, the owner of the adjoining property must agree to the erection of the retaining wall and this application.

89. Signature of Adjoining Owner:	90. Phone: Work / Home	**OFFICIAL USE ONLY**		
		FEE	By:	Date:
91. Address of Adjoining Owner:	92. Lot: / 93. Square:	$		

BLRA 33C

CONTRACT AGREEMENT

Name of Contractor/Owner William Crowell Contractor's License No.

Address of Contractor/ Owner 152 Rollins Ave, suite 100 Rockville, Md. Date: 10/15/01

ADDRESS OF PROPOSED WORK	LOT: 6
2221 30th street n.w wash. DC.	SQUARE: 2198
OWNER OF BUILDING OR BUSINESS:	PHONE No:
melvyn Estrin	301 941 8600

DESCRIPTION OF PROPOSED WORK:

Replace Interior masonry For Frame As Per PLAN.

COST ESTIMATE

CONSTRUCTION e.g drywall, ceilings, framing, carpentry etc	$ 2200.00	
ELECTRICAL	$	
MECHANICAL	$	
PLUMBING	$	
FIRE PROTECTION e.g sprinkler system, fire alarm system, generator etc.	$	
DEMOLITION	$	
MISC/OTHER (please specify)	$	
TOTAL	$ $2200	

The labor and material costs of counter tops, kitchen cabinets, floor coverings, tile work, caulking, patching and plaster repair, painting other than fire retardant paint, gutters and downspouts, not more than 160 square feet of gypsum board shall not be included in the cost estimate for permitting purposes. The entire list can be seen in the 1999 D.C Building Supplement Chapter 1 Section 107.3.

The foregoing terms, specifications and conditions are satisfactory and hereby agreed to. You are authorized to work as specified and payment will be made in the amount as outlined. Upon signing this agreement, the owner represents and warrants that he or she is the owner or the authorized agent of the owner of the aforesaid premises and that he or she has read this agreement.

CONTRACTOR _____ Date: 10/15/01
Signature & print

OWNER OF BUILDING/BUSINESS _____ Date: 10/15/01
Signature & print

Upon signing this document, the owner and contractor declare that the cost of construction as specified above for the referenced project is true and correct to the best of their knowledge

Please fill out this agreement form in accordance with D.C Construction Code Supplement 1999, Chapter 1 Section 112.1.

DCRA Documents

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

Building and Land Regulation Administration
Office of the Administrator

September 14, 2001

Robert Lehman
1027 33rd Street, NW. 2nd Floor
Washington, D.C. 20007

Re: 2221 30th Street, NW

Dear Mr. Lehman:

Thank you for your letter of August 9, 2001 regarding construction at the subject premises and the issue of a possible zoning violation with respect to unauthorized removal of existing trees on the site.

I am informed by the Construction Inspection Branch that a Stop Work Order was issued at the site because demolition of the building was beyond the scope of the approved plans. Additionally, the Zoning Administrator, Michael D. Johnson, is reviewing the other zoning issues related to construction not in accordance with approved plans, including the one related to the removal of trees in violation of the Zoning Regulations, DCMR 11, Section 1514. A review of our records confirms that no prior request for tree removal was made as required by the Tree and Slope Protection Form that was attached to the construction permit application. Therefore, I have instructed the Zoning Administrator to make an expeditious determination on this matter.

If I can be of further assistance, you may contact my office at 202-442-4455.

Respectfully,

J Gregory Love
Administrator

Cc: Denzil Noble
Michael Johnson

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

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

Building and Land Regulation Administration
Office of the Administrator

November 5, 2001

Law Offices of
Andrea C. Ferster, Esq.
1100 - 17th Street, NW - 10th Floor
Washington, DC 20036

Re: Zoning Administrator's Determination

Dear Ms. Ferster:

Thank you for your letter of October 19, 2001.

Please find attached a duplicate copy of the Zoning Administrator's Determination in reference to this issue, an original copy of which was mailed to you on October 23, 2001.

Due to the crisis at the Brentwood Road Postal Facility her in Washington, you may not have received that letter.

At the behest of your client, Robert Lehman, I am in the process of re-evaluating the Zoning Administrator's determination. If a different interpretation is made, you will be so advised. I expect this re-evaluation to be completed within the next two weeks.

Sincerely,

J. Gregory Love,
Administrator

JGL/er

Cc: D. Noble
T. Bello

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



BZA APPEAL # 16849

This is a photograph of the stop work order posted on the site at 2201 30th Street, N.W., owned by Mel Estrin.

PLEASE NOTE: The address and dates on this color photograph have been typed in for informational purposes by Mr. Lehrman.



NOTE: The address & date on this photo reproduction of the stop work order have been typed onto it for informational reference by Mr. Lehrman.

DEPARTMENT OF CONSUMER & REGULATORY AFFAIRS
Building and Land Regulation Administration
941 North Capitol Street NE, Suite 2000
Washington DC 20002
(202) 442-9557

ENVIRONMENTAL INTAKE FORM

Project Name:	Project Address: 2221 30th Street N.W. Lot: 6 Square: 2198
Filed Job Application # (if applicable):	Project Description:

Owner: Melvyn Estrin Date: 10/15/01

Owner's address and phone #: c/o Crowell & Baker

Authorized agent: William McCowell

Address and Phone # of authorized agent: 152 Rollins Ave, S-100, Rockville, md. 20852

Scope of the Project	Yes	No	Instructions
1. Is this project a residential structure within the R-1 through R-5-A zoning districts?	✓		If yes, project is exempt. Skip to signature line.
2. Is this project a single-family structure that is not in conjunction with the building of two or more units?			If yes, project is exempt. Skip to signature line.
3. Is this project an accessory structure such as a garage, patio, swimming pool or fence?			If yes, project is exempt. Skip to signature line.
4. Is the project solely an interior renovation with no change in the use of the building?			If yes, project is exempt. Skip to signature line.
5. Is the project located in an Economic Development Zone, as defined in DC Law 7-177?			If yes, project is exempt. Skip to signature line.
6. Is the project located within the Central Employment Area as defined in DC Zoning Regulations? (DCMR 11)			If yes, project is exempt. Skip to signature line.
7. Does the total cost of the project exceed $1.42 million, including site preparation and construction?			If yes, and no exemption claimed, Environmental Impact Screening Form (EISF) required.
8. Is the cost of this project $1.42 million or less? If yes, please answer all of the following questions:			If yes, complete A through G
A. Does the project site contain any species of plant or animal that is identified as threatened or endangered?			If yes, EISF required
B. Are any streams, lakes, ponds, springs or wetlands within or contiguous to the project site?			If yes, EISF required
C. Will the project result in an emission of odorous or other air pollutants from any source?			If yes, EISF required
D. Will any mature trees be removed from the site?			If yes, EISF required
E. Will construction be on land where the depth to the water table is less than 3 feet?			If yes, EISF required
F. Will blasting occur as part of the project?			If yes, EISF required
G. Will the project generate medical, infectious, radioactive or hazardous waste?			If yes, EISF required

(ove

DEPARTMENT OF HEALTH
ENVIRONMENTAL HEALTH ADMINISTRATION

LEAD HAZARD CONTROL PERMIT QUESTIONNAIRE AND EXEMPTION FORM

Project Address: 2221 30th Street NW Wash D.C.

Name of Owner(s): Inclusion Estivi Name of Contractor: Crowell & Back Assoc LL

Phone Number: 301 770 3366 Square #: 2198 Lot #: C Ward #:

Project Start Date: 10/16/01 Project End Date: 10/30/01

Building Type: Commercial -
- Office ☐
- Mixed Use (Explain) ☐

Residential -
- Multi-family ☐
- Single-Family ☑
- Elderly or handicapped ☐

Government -
- Federal ☐
- District ☐

Institutional -
- Hospital ☐
- Museum ☐
- School/Child Development ☐

1. **Is the project planned in response to a child being identified as lead poisoned? YES ☐ NO ☑**

2. **Is the project designed to eliminate or reduce lead-based paint hazards in a pre-1978 building or structure? YES ☐ N**

If you answer "YES", contact the Lead Division at 51 N Street, N.E., 3rd Floor (202) 535-2637 for a lead-based paint control perm application and notification form, unless an exemption listed below applies. **If you answer "NO"**, a permit is not required, but you required to answer the following questions:

SCOPE OF PROJECT	YES	NO	COMMENTS
1. Is the project disturbing deteriorated lead based paint on surfaces totaling more than 2 square feet per room, or 20 square feet on exterior surfaces, or 10% of a building component with a small surface (such as a small painted window frame) involving the following:		✓	
A. Removal and replacement of lead-based paint components, e.g. windows, doors and baseboards?		✓	
B. Onsite stripping and removal of lead-based paint?		✓	
C. Partial demolition or gutting of building?		✓	
2. Does the project involve the removal and covering of lead-contaminated soil?		✓	

EXEMPTIONS

Please indicate the applicable exemption from the following list:

- ☐ Individuals who perform lead-based paint activities at residences which they own, unless the residence is occupied by a person or persons other than the owner or the owner's immediate family; unle child under the age of 8 years resides, is expected to reside in, or regularly visits such housing.
- ☐ Housing for the elderly or persons with disabilities; unless any child under the age of 8 years resides, is expected to in, or regularly visits such housing.
- ☐ Any (0)-bedroom unit, such as an efficiency apartment.

AFFIDAVIT

I declare that the information provided is accurate, true and complete to the best of my knowledge and belief, and/or I have the authority to represent the owner property to answer this application and sign on behalf of the company and/or persons listed as owners. I understand that if such information contained in this ap false, I am subject to the penalty provisions of D.C. Law 11-221. Any fraud or misrepresentation on an application shall be grounds for automatic rejection and/ administrative penalties. I understand that failure to provide full disclosure of any of the requested or required information may result in rejection of this applica approval.

SIGNATURE — DATE: 10/5/01

William Crowell, Vice President
PRINT NAME

For Official Government Use Only

PERMIT REQUIRED YES ☐ NO ☐ Reviewed By: Date:

Scope of the Project	Yes	No	Instructions
9. Has an Environmental Impact Statement (EIS) been prepared pursuant to the National Environmental Policy Act of 1969 (NEPA), or a determination made that no EIS is needed, or has the functional equivalent of an EIS been prepared?			If yes, submit documentation to EIS Coordinator, DCRA
10. Does the project involve only the operation, repair, maintenance, or minor alteration of public structures, facilities, mechanical equipment, or topographical features and involve negligible or no expansion of use beyond that previously existing?			If yes, skip to signature line
11. Is an exemption claimed from the requirement to submit an Environmental Impact Screening Form pursuant to DCMR 20, Sec. 7202 that is not referred to in this form? If yes, describe the exemption and cite the relevant section of the regulations on an attachment.			If yes, describe on an attachment and submit to EIS Coordinator, DCRA

I certify that all of the statements on this application are true and complete to the best of my knowledge and belief. I agree to comply with all applicable laws and regulations of the District of Columbia. The making of false statements on this application is punishable by criminal penalties (DC Code Ann. Sec. 22-2514)

V.P -

Signature of Owner/Authorized Agent

OFFICIAL USE ONLY

Environmental Impact Screening Form required: Yes _____ No X Referred to EIS Coordinator _____

DCRA Reviewer _____ Date 10/16/01

If yes, submit to EIS Coordinator
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration

Comments _____

_____

_____

TO REPORT WASTE, FRAUD, OR ABUSE BY ANY DC GOVERNMENT OFFICE OR OFFICIAL, CALL THE INSPECTOR GENERAL ON 1-800-521-1639

March/2001

ENVIRONMENTAL HEALTH ADMINISTRATION

CONSTRUCTION PERMIT APPLICATION – SUPPLEMENTAL FORM – ENVIRONMENTAL QUESTIONNAIRE

PROJECT ADDRESS: 2221 30th Street N.W. LOT: 6 SQUARE: 2198

PROJECT DESCRIPTION: Remove & Replace interior walls As per PLAN

Note: please answer all 12 questions in this questionnaire, by checking either column "Yes" or "No" for each question. If you answer "Yes" to any of the questions, you should contact the corresponding office(s) indicated in column 'contact person/office' as soon as possible. Until this application is reviewed and approved by the concerned office(s), the permit will not be issued.

SCOPE OF PROJECT	YES	NO	CONTACT PERSON/OFFICE	OFFICE USE (Initial/Date)
1. Will the proposed use involve the construction of a facility for the handling, transfer, storage, disposal or treatment of solid waste, medical waste, or recyclable materials?		✓	(202) 535-2289, EIS Coordinator, EHA	
2. Will the work to be performed involve the assessment or clean-up of soils associated with the release of materials from an underground storage tank (UST)?		✓	(202) 535-2525, Underground Storage Tank Division, EHA (202) 535-2250, Air Quality Division, EHA	
3. Will the work to be performed involve the assessment or clean-up of groundwater associated with the release of materials from an underground storage tank (UST)?		✓	(202) 535-2525, Underground Storage Tank Division, EHA (202) 535-2190, Water Quality Division, EHA (202) 535-2250 Air Quality Division, EHA	
4. Will the proposed project involve the installation or drilling of wells other than for the purposes stated in questions 3 and 4?		✓	(202) 535-2190, Water Quality Division, EHA	
5. Will the proposed project involve the generation, treatment, storage, disposal or transportation of chemicals or other substances which may be considered hazardous?		✓	(202) 535-2290, Hazardous Waste Division, EHA	
6. Will the proposed project involve construction that will disturb the sediment in rivers, streams or wetlands?		✓	(202) 535-2190, Water Quality Division, EHA	
7. Will the work to be performed involve the installation, removal, abandonment, or repair of an underground storage tank (UST) system?		✓	(202) 535-2525, Underground Storage Tank Division, EHA	
8. Will the proposed project result in the discharge into the air of gases, dust, or the creation of any objectionable odors?		✓	(202) 535-2250, Air Quality Division, EHA	
9. Will the proposed project involve the removal, handling, transportation, disposal, or encapsulation of asbestos? **Please bring with you a copy of your asbestos survey, ten-day notification form, and asbestos abatement permit fee		✓	(202) 535-2250, Air Quality Division, EHA	
10. Was the building built before 1978? (Lead paint may be present.)		✓	If you answer "Yes" to this question, please answer the questions and follow the instructions on the "Lead Hazard Control Questionnaire" to determine if you need a permit to conduct a Lead Abatement Project	

AFFIDAVIT

I hereby certify that I have the authority of the owner of the property to make this application. I declare that the answers to the above questions in this Questionnaire are complete and correct to the best of my knowledge.

Signature _____, V.P. Name (print) William Crowell, V.P.

Address 152 Rollins Ave, Suite 100, Rockville Md. 20852 Date Oct. 15, 2001 Phone 301 770 3366

OFFICE USE ONLY

COMMENTS AND PERMIT RESTRICTIONS:

(USE REVERSE IF NEC

EHA Form # 99-1300 – Revi

DEPARTMENT OF HEALTH
ENVIRONMENTAL HEALTH ADMINISTRATION

LEAD HAZARD CONTROL PERMIT QUESTIONNAIRE AND EXEMPTION FORM

Project Address: 2221 30th Street Wash. D.C.

Name of Owner(s): Melvyn Estrin Name of Contractor: Crowell & Baker Assoc. LTD

Phone Number: 301 770 3366 Square #: 2198 Lot #: 6 Ward #:

Project Start Date: 10/16/01 Project End Date: 10/30/01

Building Type:

Commercial -		Government -	
Office	☐	Federal	☐
Mixed Use (Explain)		District	☐
Residential -		Institutional -	
Multi-family	☐	Hospital	☐
Single-Family	☑	Museum	☐
Elderly or handicapped	☐	School/Child Development	☐

1. **Is the project planned in response to a child being identified as lead poisoned? YES ☐ NO ☑**
2. **Is the project designed to eliminate or reduce lead-based paint hazards in a pre-1978 building or structure? YES ☐ N**

If you answer "YES', contact the Lead Division at 51 N Street, N.E., 3rd Floor (202) 535-2637 for a lead-based paint control permi application and notification form, unless an exemption listed below applies. **If you answer "NO"**, a permit is not required, but you required to answer the following questions:

SCOPE OF PROJECT	YES	NO	COMMENTS
1. Is the project disturbing deteriorated lead based paint on surfaces totaling more than 2 square feet per room, or 20 square feet on exterior surfaces, or 10% of a building component with a small surface (such as a small painted window frame) involving the following:		✓	
A. Removal and replacement of lead-based paint components, e.g. windows, doors and baseboards?		✓	
B. Onsite stripping and removal of lead-based paint?		✓	
C. Partial demolition or gutting of building?		✓	
2. Does the project involve the removal and covering of lead-contaminated soil?		✓	

EXEMPTIONS

Please indicate the applicable exemption from the following list:

- ☐ Individuals who perform lead-based paint activities at residences which they own, unless the residence is occupied by a person or persons other than the owner or the owner's immediate family; unless child under the age of 8 years resides, is expected to reside in, or regularly visits such housing.
- ☐ Housing for the elderly or persons with disabilities; unless any child under the age of 8 years resides; is expected to r in, or regularly visits such housing.
- ☐ Any (0)-bedroom unit, such as an efficiency apartment.

AFFIDAVIT

I declare that the information provided is accurate, true and complete to the best of my knowledge and belief, and/or I have the authority to represent the owner of property to answer this application and sign on behalf of the company and/or persons listed as owners. I understand that if such information contained in this appl false, I am subject to the penalty provisions of D.C. Law 11-221. Any fraud or misrepresentation on an application shall be grounds for automatic rejection and/or administrative penalties. I understand that failure to provide full disclosure of any of the requested or required information may result in rejection of this applicati approval.

William Crowell, Vice President — 10/15/01

SIGNATURE — DATE

William Crowell, Vice President

PRINT NAME

For Official Government Use Only

PERMIT REQUIRED YES ☐ NO ☐ Reviewed By: Date:

(E) FENCE (COMPLETE ITEMS 94 THRU 102)

The fence will not obstruct any accessible parking required by D.C. Zoning Regulations

94. Material and type:	95. Height: ft.	96. Color:	97. Location: ☐ Entirely on Owner's Land ☐ Party Line with Adjacent Neighboring Land *

* If party fence, the owner of the adjoining property must agree to the erection of the fence and this application.

98. Signature of Adjoining Owner:	99. Phone: Work Home	
100. Address of Adjoining Owner:	101. Lot:	102. Square:

OFFICIAL USE ONLY		
FEE	By:	Date:
$		

(F) SHED OR GARAGE (COMPLETE ITEMS 103 THRU 113)

103. Number:	104. Length: ft.	105. Width: ft.	106. Area: sq. ft.	107. Height: ft.	108. Volume: cu. ft.	109. Estimated Cost of Work: $

110. Material of Roof:	111. Material of Sides:	112. Wall thickness:: ☐ External ( ) inches ☐ Party ( ) inches	113. Color:

OFFICIAL USE ONLY	
FEE	
$	
By:	Date:

(G) AWNING (COMPLETE ITEMS 114 THRU 123)

114. Number:	115. Color:	116. Type: ☐ Folding ☐ Fixed	117. Projections: Beyond bldg. line _____ in. Beyond pt. of attachm. _____ in.	118. Height of lowest part of awning: (a) _____ ft above sidewalk (b) _____ ft above parking (c) _____ ft above grade

119. Material of Frame:	120. Material of Covering:	121. Lettering on Awning? ☐ Yes ☐ No	122. Fixed posts? ☐ Yes ☐ No	123. Over sidewalk cafe? ☐ Yes ☐ No

OFFICIAL USE ONLY	
FEE	
$	
By:	Date:

(H) SIGN (COMPLETE ITEMS 124 THRU 144)

124. Number:	125. Electric Signs? ☐ Yes, answer q. 126-132 ☐ No. SKIP q. 126-132	126. Type: ☐ Incandes. ☐ Fluoresc. ☐ Neon	127. Power _____ VA	128. Electrical Contractor: Lic. No.:

129. Address of Electrical Contractor *(include Zip)*	130. Signature of Licensed Electrician:	131. Phone:	132. License No.:

133. Height relative to building and ground: (a) _____ ft _____ in above sidewalk (b) _____ ft _____ in above roof (c) _____ ft _____ in is bldg height (d) _____ ft _____ in above projection or window (e) _____ ft _____ in from roof to sign's bottom	134. Material of Sign:	135. Type of Sign:	136. Color:
	137. Width: ft.	138. Length: ft.	139. Area of Sign: sq. ft.
			140. Width of Business Frontage: ft.

141. C of O Number for Building:	142. Sign Contractor Lic. No.:
143. Sign Contractor's Address:	144. Phone:

OFFICIAL USE ONLY					
Sign FEE		Elect. FEE		Total FEE	
$		$		$ 10	
By:	Date:	By:	Date:	BY:	Date:

(I) APPLICANT'S SIGNATURE:

A. **OWNER:** I hereby certify that I am the owner of the property; that the application and plans are complete and correct to the best of my knowledge; and that if a permit (or permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulations of the District of Columbia.

Signature of Owner:_____ Address:_____ Date:_____

B. **AGENT:** I hereby certify that I have the authority of the owner to make this application. I declare that the application and plans are complete and correct to the best of my knowledge. The owner has assured me that if a permit (or permits) is issued, the construction will conform to the D.C. Construction Codes, the Zoning Regulations, and other applicable laws and regulations of the District of Columbia.

Signature of Agent: [signature] Address: 3204 22nd St N.E. Date: 10-15-01

(J) APPROVALS (DO NOT WRITE ON THIS PAGE; OFFICIAL USE ONLY):

A. PERMIT CONTROL

Not in jurisdiction

- ☐ 1. Fine Arts by: _____ Date: _____
- ☐ 2. Historic by: _____ Date: _____
- ☐ 3. PADC by: _____ Date: _____
- ☐ 4. Cap. Gateway by: _____ Date: _____
- ☐ 5. W.H./ Obs. Precinct by: _____ Date: _____
- ☐ 6. Flood Control by: _____ Date: _____
- ☐ 7. WMATA by: _____ Date: _____
- ☐ 8. Condem. by: _____ Date: _____
- ☐ 9. RLA by: _____ Date: _____
- ☐ 10. Rental Accom. by: _____ Date: _____
- ☐ 11. Chinatown Distr. by: _____ Date: _____
- ☐ 12. Utility Clearance by: _____ Date: _____
- ☐ 13. General Liability Ins. Policy Clearance by: _____ Date: _____

B. CLEARANCE TO FILE PLANS

- ☐ 1. Zoning by: _____ Date: _____
- ☐ 2. DPW — Permit and Records Division
  Access to Parking Street ☐ Street ☐ Alley
  Cleared by: _____ Date: _____
- ☐ 3. DPW - Consumer Engineer
  Cleared by: _____ Date: _____
- ☐ 4. ERA - Erosion Control
  Cleared by: _____ Date: _____

Restrictions of the Permit:

Cleared for FIS
10/16/01

C. PLANS AND APPLICATION APPROVAL

- ☐ 1. Information Counter by: MV Date: 10/16/01
- ☐ 2. Information Center by: _____ Date: _____
  - ☐ (a) ABC Board by: _____ Date: _____
  - ☐ (b) Noise Control by: _____ Date: _____
  - ☐ (c) Industrial Safety by: _____ Date: _____
  - ☐ (d) Vector Control by: _____ Date: _____
  - ☐ (e) D.C. Animal by: _____ Date: _____
  - ☐ (f) Police Dept. by: _____ Date: _____
- ☑ 3. Zoning by: _____ Date: 10/16/01
  Zoning Update by: _____ Date: _____
- ☐ 4. DPW - Permit and Records Division/Deposit #
  Sidewalk Deposit $_____ Driveway Deposit $_____
  by: _____ Date: _____
- ☐ 5. Water/Sewer Design Branch
  Consumer Eng. by: _____ Date: _____
- ☐ 6. Environmental Regulation Administration
  - ☐ Environmental Policy Review
    Control No.: _____
    by: _____ Date: _____
  - ☐ Erosion Control by: _____ Date: _____
  - ☐ Storm Water Mgmt. by: _____ Date: _____
    Plan No. _____
- ☐ 7. Mechanical Eng. Review by: _____ Date: _____
- ☐ 8. Plumbing Eng. Review by: _____ Date: _____
- ☐ 9. Electrical Eng. Review by: _____ Date: _____
- ☐ 10. Health Plan Review
  - ☐ (a) Food Plan Review by: _____ Date: _____
  - ☐ (b) Medical X-ray Plan Rev. by: _____ Date: _____
- ☐ 11. D.C. Fire Dept. (Fire Prevention Plan Review Section) by: _____ Date: _____
- ☐ 12. Elevator Plan Rev. Sec. by: _____ Date: _____
- ☐ 13. Plumbing Insp. Rev. by: _____ Date: _____
- ☑ 14. Construction Insp. Branch (Field Check) by: _____ Date: 10-15-01
- ☐ 15. Historic Pres. Div. by: _____ Date: _____
- ☑ 16. Structural Eng. by: _____ Date: 10/16/01
- ☐ 17. Permit and Certificate Issuance Counter By: _____ Date: _____
- ☐ 18. Q.C. By: _____ Date: 10/16/01

TO REPORT WASTE, FRAUD, OR ABUSE BY ANY D.C. GOVERNMENT OFFICE OR OFFICIAL, CALL THE D.C. INSPECTOR GENERAL AT 1-800-521-1639

ZONING

C of O Number _____ Date _____
Existing Use(s) _____

- ☐ New bldg.
- ☐ P.O.D.
- ☐ File in room 329

Job No.: | BZA Case No.: | PUD Order No.:

DPW — PUBLIC SPACE

Street Name: _____
Street Width: _____
Road Width: _____
Sidewalk Width: _____
Parking: _____
Restrictions: _____

2.0307.4 wd.375

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Form BLRA-15
(Rev. 9/30/91)

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

BUILDING PERMIT

PERMIT NO. B435446

Date 3/7/01 (Type) ADD/A/R

Address of work 2221 30TH STREET NW

Lot 6 Square 2198

TOTAL PERMIT FEE $

FILING FEE $

Permission is hereby granted to NEIL ESTRIN (Owner)

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

NO.

DATE

FEE PAYABLE $ 3,043.00

Authorized work and conditions of performance thereof:

FOR INSPECTIONS CALL [redacted] 442-4641

EXPAND EXISTING 1ST FLOOR BEDROOM WING & ADD 2ND STORY OVER EXISTING 1ST FLOOR ONE STORY AREA. REMODEL INTERIORS & RESKIN EXTERIOR MASONRY VENEER IN EIFS. SEPARATE ELEC.,PLUMB., AND MECH. INSTALLATION PERMITS ARE REQUIRED.

Builder

Value $ No. of Bldgs.

Width of Bldgs. Length Height No. of Stories 3

Zone TSP/R1A To be occupied as RESIDENTIAL

Height of terrace above grade Projections:

Address of owner 6508 KENHILL RD BETHESDA, MD

Deposit No. Amount $

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

C. FULLER 32301

DIRECTOR

Chief, Permit Issuance Branch

Permit Clerk

PERMIT

PERMIT

GOVERNMENT OF THE DISTRICT OF COLUMBIA

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

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

BUILDING PERMIT

PERMIT NO. B439404

Date 10/16/01 (Type) ALTERATION AND REPAIR

Address of work 2221 30TH STREET N.W.

Lot 6 Square 2198

Permission is hereby granted to MELVIN ESTRIN (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.

Authorized work and conditions of performance thereof:

REPLACE MASONRY CINDER BLOCK WALLS AS PER PLAN.
REVISION TO PERMIT NO B435446
CLEARED FOR EIS.

TOTAL PERMIT FEE $
FILING FEE $
NO.
DATE
FEE PAYABLE $60.00
FOR INSPECTIONS CALL XXXXXX442-4641

Builder—
Width of Bldgs. Length Height Value $ No. of Bldgs.
Zone TSP/R-1-A To be occupied as No. of Stories 2
Height of terrace above grade Projections
Address of owner 6508 KENHILL RD. BETH. MD. 20814
Deposit No. Amount $

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

FILE COPY

D. CLARK
DIRECTOR

Chief, Permit Issuance Branch

Permit Clerk

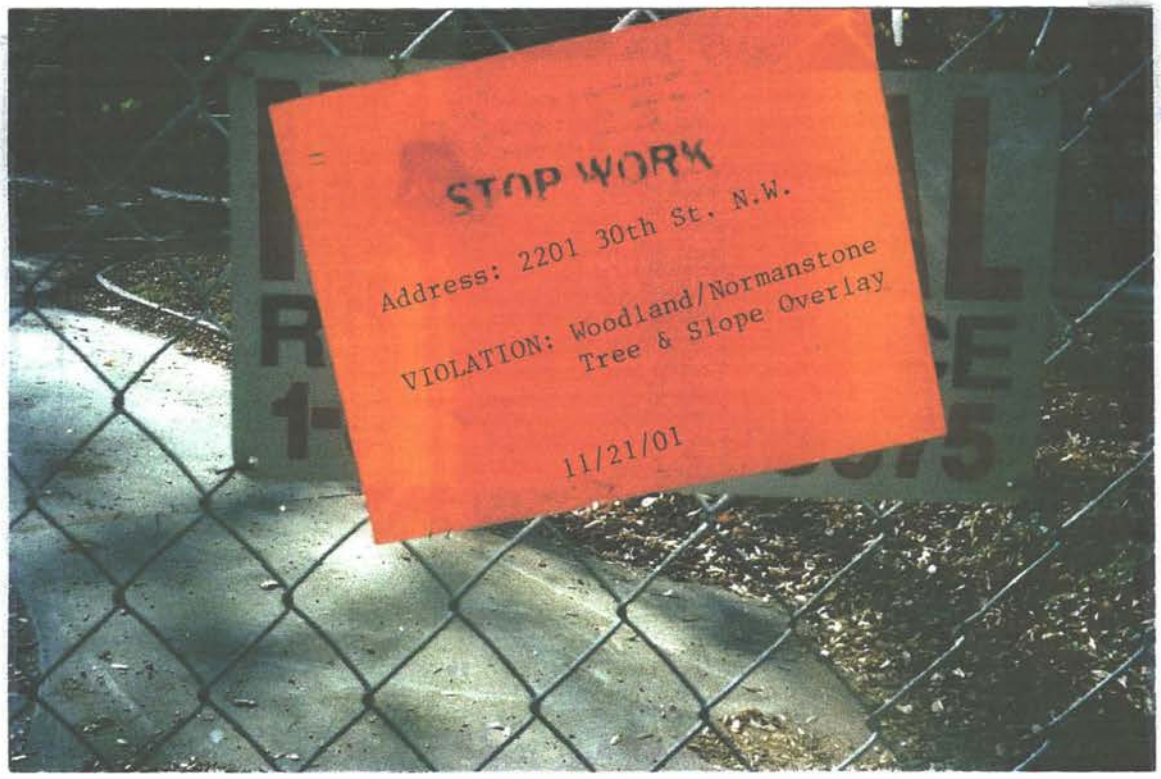
EB229 01215 BUILDING STRUCTURE & EQUI
Rec# 200192 10/16/01 09:32 Clk# 15
Amount $*****60.00
STORE# 0001 CSR/DCRA CASHIER OFFICE
D.C. GOVERNMENT



BZA APPEAL # 16849

This is a photograph of the stop work order posted on the site at 2201 30th Street, N.W., owned by Mel Estrin.

PLEASE NOTE: The address and dates on this color photograph have been typed in for informational purposes by Mr. Lehrman.



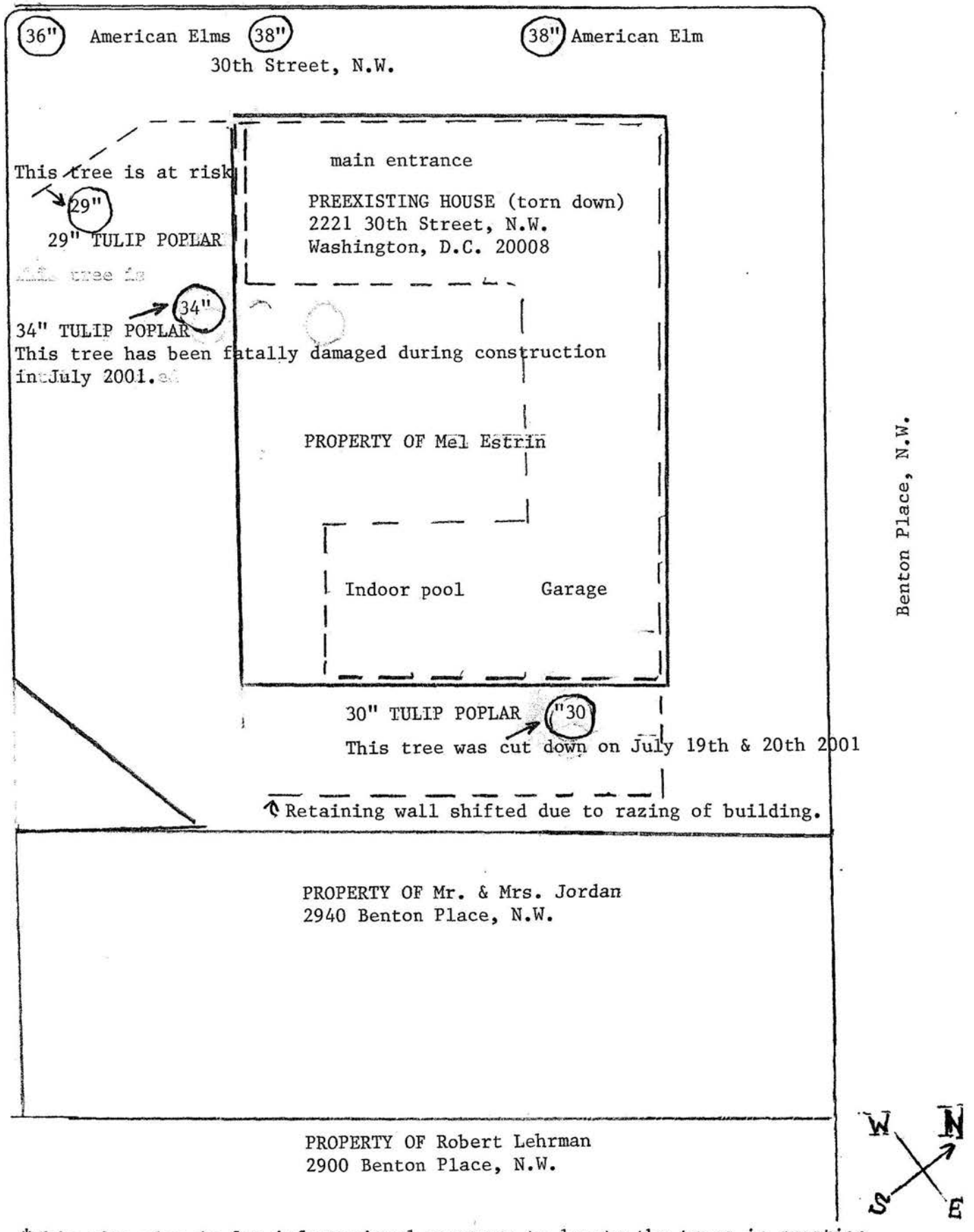
NOTE: The address & date on this photo reproduction of the stop work order have been typed onto it for informational reference by Mr. Lehrman.

Site Plan

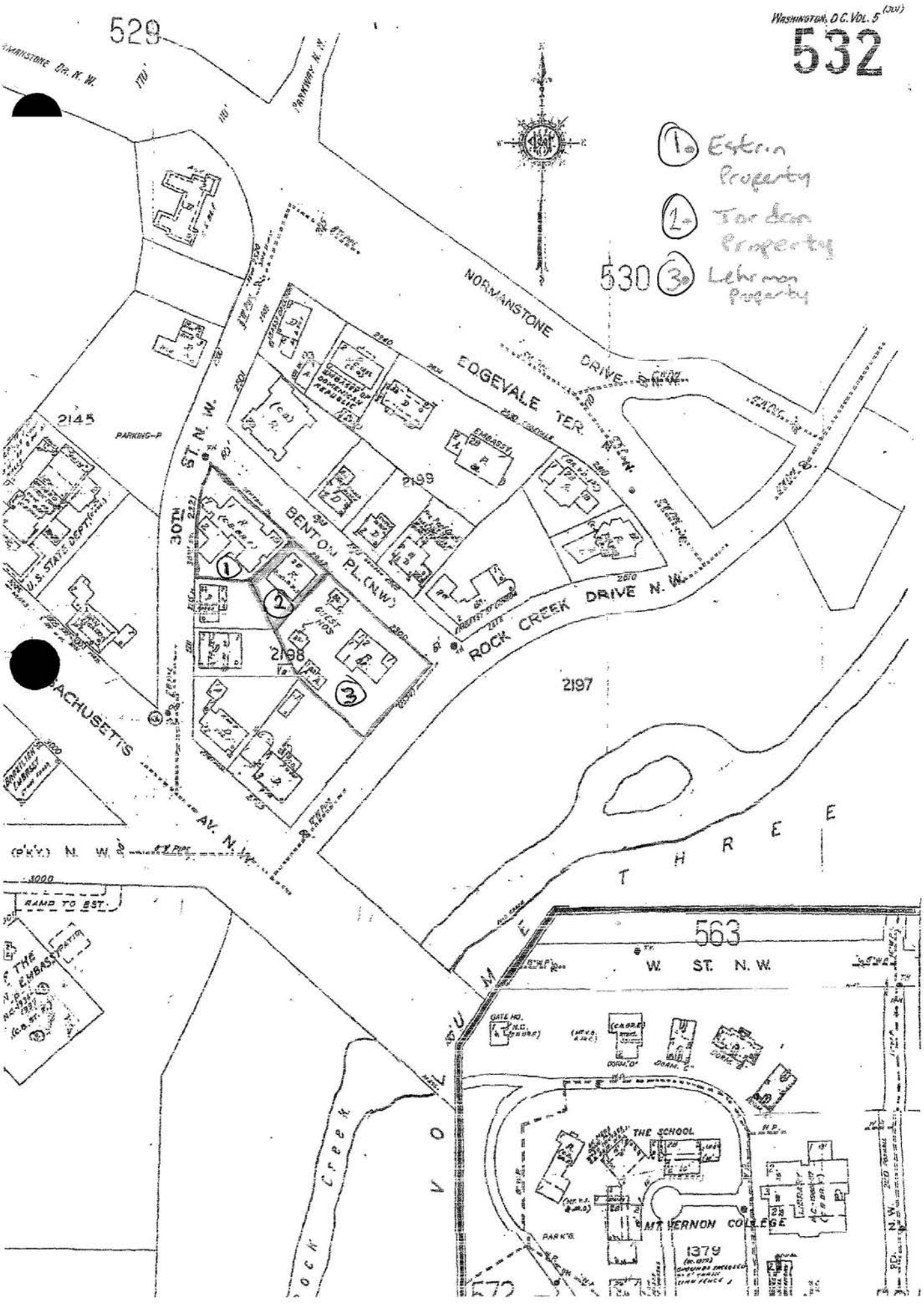
BZA APPEAL # 16849 - Appeal of Robert Lerhman

SITE PLAN *
(not to scale)

- - - - - - - - preexisting house
_____ new construction



*This site plan is for informational purposes to locate the trees in question and is not drawn to scale.


WASHINGTON, D.C. VOL. 5 (SW)
532
529
530
563
1. Estern Property
2. Jordan Property
3. Lehrman Property
NORMANSTONE DRIVE
EDGEVALE TER.
ROCK CREEK DRIVE N. W.
30TH ST. N. W.
BENTON PL. (N.W.)
MASSACHUSETTS AV. N.W.
2145
2199
2198
2197
PARKING-P
U.S. STATE DEPT.
EMBASSY
GUEST HOS
RAMP TO EST.
W. ST. N. W.
THE SCHOOL
MT. VERNON COLLEGE
1379
PARK'G
ROCK CREEK
1. Estern Property
2. Jordan Property
3. Lehrman Property

Chronology of Activities

TREE CARE CHRONOLOGY
2221 30TH street, N.W.
Washington, D.C. 20008

May 28, 1999 Robert Lehrman, owner of 2900 Benton Place, N.W. sent Mel Estrin letter asking him to care for trees on his home site. Lehrman includes the Woodland/Normanstone Tree protection provisions. He specifically mentions concerns related to "*unless you take proactive steps in advance, both in your design plans and in your construction site conditions to protect the trees and their fragile root systems, you can end up unintentionally killing them as a by-product of the damage done during construction.*"

Spring/Summer 1999 At Lehrman's request, Joseph Christopher, Certified Tree Arborist, inspected trees at 2221 30th Street confirming that they were healthy and tried to contact Mel Estrin to offer tree protection services.

March 15, 2000 Éstrin's building permit is filed and states "no" in answer to question #22 asking, "Does the proposed work involved disturbing the earth or razing a building?"

June 2001 Lehrman met (by chance) Mel Estrin and the general contractor, Bill Crowell at 2221 30th Street. He received assurances both from Mel Estrin that they would protect the trees and from the contractor that he would take protective measures and identified the trees in question.

End of June beginning of July 2001 Demolition by Mel Estrin of existing building at 2221 30th Street begins, including razing the building and disturbing the earth at and near pre-existing foundation.

July 19-20, 2001 Lee's Tree Service cuts down 30" tulip poplar tree and damage to other tulip poplar tree is noticed.

July 21, 2001 – Robert Lehrman wrote Mel Estrin by Registered Mail, a letter of concern and posted notice of violation of tree protection on site and around trees. Lehrman photographed the destroyed trees on the ground and the damaged tree.

July 23, 2001 Photos of tree cut into pieces WNAD existing tree with a gash 6" high by 8" wide.

July 23, 2001 Robert Lehrman retains Andrea Ferster, Esquire.

July 23, 2001 Under cover of darkness an Estrin construction employee tried to load tree stumps into a dumpster, which was reported to police.

July 26, 2001 Lehrman sends letter of concern to Michael Johnson, D.C. Zoning Administrator regarding building permit.

August 2, 2001 ADDITIONAL DAMAGE to remaining old growth tree noticed and photographed by Lehrman.

Commercial Demolition Company owner, Ron Velky, told Lehrman that he had been given no instructions to protect or care for old growth trees on the property.

August 3, 2001 Lehrman spoke with David Holmes, D.C. Department of Environmental Health. Received tracking #175661.

August 6, 2001 Joseph Christopher, certified arborist, inspected damaged trees for Lehrman.

August 8, 2001 Letter describing damage to trees provided by Joseph Christopher.

August 8, 2001 Lehrman receives undated handwritten letter from Lee's Tree Service "To Whom It May Concern" explaining why tree was removed: *"The tree had been sitting on less stable ground that had been shifting due to moisture* ***and due to the retaining wall around the tree shifting."***

August 9, 2001 ***Lehrman sends letter to neighbors with chronology, photos, certified arborist's opinions, letter to DC Zoning Administrator and letter to Estrin.***

August 21, 2001 Additional letter provided from Joseph Christopher describing protective measures that could/should have been taken, but were not taken by Estrin.

August 9, 2001 Estrin sends Lehrman letter acknowledging he knows the provisions of the W/N Slope overlay, but says it doesn't apply to him for two reasons: "the tree was wasn't in the area of construction and unsafe condition."

August 27, 2001 ANC 3C meeting held at 7:30 PM at D. C. Police Station at 3320 Idaho Avenue, N.W. The building department has issued a stop work order unrelated to tree removal because Mr. Estrin performed unauthorized work on the site.

August 28, 2001 Construction work resumed. **Steven Mowen, backhoe operator, said he had not been given any instructions to protect the 34" tulip poplar tree.**

August 31, 2001 Lehrman spoke with Vincent Ford, D.C. Chief Building Inspector, who said that the work permit had been and remains suspended.

September 16, 2001, The Washington Post, Metro Section article states that Mayor Anthony Williams at press conference on September 5, 2001, promised "to take steps to make the District a greener place. **'Let trees be'** should be our motto," said the Mayor, who is determined to make D.C. "**a city of trees**" citing benefits of less air conditioning, fewer storm water run off problems, and reduced air pollution. D.C. tree deficit of 551,040, according to a study by a non-profit conservation group of American Forests."

Use Regulation noting that demolition was beyond the scope of the approved plans.

"I am informed by the Construction Inspection Branch that a Stop Work Order was issued at the site because demolition of the building was beyond the scope of the approved plans. ...*A review of our records confirms that no prior request for tree removal was made as required by the Tree and Slope Protection Form that was attached to the construction permit application."* *cc Denzil Noble and Michael Johnson*

September 17, 2001 Lehrman spoke with Roslyn Doggett, Commissioner of ANC 3C. She said that the notice of upcoming AN 3C was given to Mel Estrin on September 10, 2001 for P & Z meeting on September 19, 2001, and that she phoned Whayne Quin to inform him of the meeting at which the tree destruction would be reviewed.

September 17, 2001 Mel Estrin makes site visit with Roslyn Doggett of ANC 3C.

September 17, 2001 Andrea Ferster wrote letter to Mayor.

September 24, 2001 ANC 3C issued unanimous resolution that the BLRA maintain a stop work order until BZA hears case.

October 2, 2001 Lehrman spoke with Gregory Love who said he had referred the matter to Michael Johnson to ascertain if D.C. Municipal Regulations had been violated.

October 10, 2001 Letter to Mel Estrin from Michael Johnson (addressed only one tree.)

October 19, 2001 Cinder blocks delivered to site and work resumed on foundation. Lehrman spoke with Michael Johnson, who confirmed that the stop work order had been lifted. He said he had met with Ann Jordan who confirmed that the tree was leaning. When Lehrman pointed out the §1514.1(a) included a prohibition against "removing, cutting down, or *fatally damaging trees"* he told me: "I'll be candid with you, the reality is that I've only got two weeks before I leave this position. I won't take the case, Mr. J. Gregory Love may take it."
He told me that ultimately David Clark, as Director, would need to make the call

October 23-24, 26, 2001 Lehrman called David Clark (did not take calls.)

October 30, 2001 Advised by J. Gregory Love that his office had done what it can do.

November 1, 2001 Lehrman received phone call confirming that DCRA received his notebook documenting the violations and that they will be sending an inspector to the property and therefore, might be re-evaluating the matter.

November 5, 2001 Andrea Ferster received letter saying they were re-evaluating the matter from J. Gregory Love. cc to D. Noble and T. Bello

November 5, 2001 J. Gregory Love told Lehrman the re-evaluation would be made within two weeks.

November 19-20, 2001 Lehrman called David Clark

November 21, 2001 Wednesday before Thanksgiving. **David Clark called Lehrman and said that they would issue a stop work order and thanked Lehrman for his efforts as a "good citizen" in documenting the violations of the Woodland/Normanstone Tree and Slope overlay, and that the STOP WORK ORDER would be posted.**

November 21, 2001 A stop work order was posted for violation of Woodland/Normanstone Tree and Slope overlay.

December 6, 2001 Work resumed on the site. Lehrman called David Clark four times – did not take the calls.

December 6, 2001 – J. Gregory Love told Lehrman "They met with the department" but would not tell Lehrman who or when.

December 10, 2001 Letter to Robert Lehrman from J. Gregory Love offering his determination and suggesting an appeal to BZA.

December 10, 2001 J. Gregory Love told Lehrman he was preparing some documentation, which he would fax today. He said, "I am on your side, please be patient."

December 13, 2001 Lehrman called Love.

December 14, 2001 Lehrman called Love twice.

December 17, 2001 Lehrman called again and spoke with J. Gregory Love, Administrator of BLRA. Lehrman asked him how the stop work order of November 21, 2001 and the violations were lifted, and how he reached the "determination" of his December 10, 2001 letter was reached? Mr. Love said that Estrin's lawyer came in and "fixed it."

January 17, 2002 Lehrman files appeal of "determination" by BLRA Docket #16849.

Appeal of Robert Lehrman, from decision of Zoning Administrator BZA No.16849

This case presents important issues regarding the BZA's role in the administration and enforcement of the Tree and Slope Protection Overlay District that is designed to preserve and protect mature, old-growth trees in the District of Columbia. The Mayor has recently discussed the importance of expanding the District's tree population as a way of enhancing the quality of life in this city, (cite Post article), and the Tree and Slope Protection Overlay District plays a vital role in that effort.

Appellant Robert Lehrman is filing this appeal because of the important practical and policy issues presented when, as here, a nearby landowner obtained a building permit to construct an addition to his house, yet utterly failed to take basic steps in advance to protect several old-growth trees on his property. This failure to take precautions during the pre-construction stage meant that two old-growth trees were "accidentally" -- yet fatally -- damaged during construction.

The Tree and Slope Protection Overlay District regulations prohibit a property owner from engaging in such destruction as a matter of right and require a hearing before this Board if such destruction is contemplated. The regulations also provide that when an otherwise unlawful removal or cutting of trees has occurred, the penalty is a prohibition on the issuance of a building permit for a seven year period from the unlawful cutting or removal.

Such a sanction is entirely appropriate here, and we urge the Board to use this case as a vehicle to advise property owners of the need to take affirmative steps *before* construction in order to protect regulated old-growth trees. Moreover, when, as here, the owner was advised of the need to protect trees, but failed to take any precautionary measures, Mr. Lehrman asks the Board to stay the effect of the existing building permit. Given that the Overlay District affects primarily residential properties, it is possible that the seven-year period in the Zoning Regulations may be an insufficient deterrent to property owners who needlessly damage protected trees, yet may have no need for additional building permits once the construction has been completed.

BOARD OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA

Appeal of Robert Lehrman, from decision of Zoning Administrator Allowing Building Permit Causing the Illegal Removal of Trees Protected by The Woodland Normanstone Tree and Slope Overlay District, at the premises 2221 30th Street, N.W. (Square 2198, Lot 6)	) BZA No. 16849

APPELLANT'S OPPOSITION TO OWNER'S MOTION TO DISMISS

Appellant Robert Lehrman hereby opposes the "Motion to Dismiss" filed by Mr. And Mrs. Melvyn Estrin ("the Owner").[1] This motion alleges that Mr. Lehrman lacks standing to bring this appeal and that this appeal is untimely, is barred by the equitable doctrine of "laches," and is "moot." For the reasons set forth below, this motion is without merit.

I. Mr Lehrman Is an Aggrieved Person and Therefore Has Standing to Bring this Appeal.

The Owner argues that Mr. Lehrman is not an "aggrieved person" within the meaning of the Zoning Regulations, and thus lacks standing to prosecute this appeal. Motion to Dismiss, at 4. The Owner bases this argument on an assertion that Mr. Lehrman's property is 300 feet away the Estrin property, and that the affected trees on the Estrin property are not visible from Mr. Lehrman's property . These assertions are incorrect both as a matter of fact and a matter of law.

First, as a factual matter, Mr. Lehrman's property line is within 100 feet of the Estrin property line, not 300 feet as the Owner states. Moreover, the Owner's assertion that old growth trees on the Estrin property are not visible from the Lehrman property is also false. Mr. Lehrman

[1] While the certificate of service indicates that the motion was served on Appellant's counsel by mail on March 20, 2002, this motion was not received by counsel until April 1, 2002.

can see the old growth trees on the Estrin property from his home.

The Owner's standing challenge also misrepresents the applicable law. The zoning regulations provide that "[a]ny person aggrieved by any order, requirement, decision, determination or refusal made by an administrative officer or body . . in the administration or enforcement of the Zoning Regulations may file a timely appeal with the Board . . ."11 DCMR § 3112.2. Mr. Lehrman, as a neighboring resident who owns property in close proximity to the Estrin's property, qualifies as a person "aggrieved" by a zoning decision. There is no support for the Owner's suggestion that only "adjoining" landowner can be persons "aggrieved" under these regulations. Rather, the courts have recognized that "neighboring property owners" have standing to enjoin zoning violations. Lund v. Watergate Investors Ltd. Partnership, 728 A.2d 77, 83 (D.C. 1999).

Nor do the zoning regulations establish any mandatory distance within which an appellant or other "affected person" must live in order to be entitled to file an appeal with the Board of Zoning Adjustment. Instead, the applicable zoning rules governing party status in appeals and applications provide that any person can participate as a party in a zoning proceeding, so long as they have interests that are more "distinctly or uniquely affected in character or in kind by the proposed zoning action than those of other persons in the general public." 11 DCMR §§ 3106.2, 3106.3. See Concerned Citizens of Brentwood v. D.C. Board of Zoning Adjustment, 634 A.2d 1234, (D.C. 1993) (persons residing within 200 feet of subject property should have been granted party status in zoning proceeding).

Here, Mr. Lehrman is a nearby neighbor whose property line is not only within the same square as the Estrin property but is located within 100 feet of the Estrin property line. The old

growth trees on the Estrin property are visible from Mr. Lehrman's property, and the Owner's unlawful destruction of these protected trees will damage Mr. Lehrman's use and enjoyment of his property in a manner that is distinct and not shared by the community at large.

Further, the protections to old growth trees afforded by the Woodland Normanstone Overlay District ("WNOD") contribute importantly to the distinctive and unique character of the Woodland-Normanstone neighborhood, enhancing the value of Mr. Lehrman's own property as well as his enjoyment and use of it. As a landowner within WNOD, Mr. Lehrman is himself obligated to comply with the tree removal restrictions imposed by the zoning regulations on tree and slope protection districts. The burden of complying with these restrictions is offset by the reciprocal advantage he enjoys by virtue of the fact that old growth trees on neighboring properties are similarly protected. That reciprocity of benefit and burden is undermined when the District fails to enforce these restrictions. Mr. Lehrman, as a complying landowner within the WNOD, who manages his own property in conformance with the legally mandated tree removal restrictions, has therefore been specially damaged by his neighbor's willful refusal to comply with those same restrictions.

Indeed, Mr. Lehrman's extraordinary perseverance in attempting to secure administrative enforcement of the WNOD tree removal restrictions should be sufficient to demonstrate that he possesses an interest in the subject matter of this appeal and should leave no doubt that his interests differ from that of the general public. These actions, and his closely proximity to the Estrin property, presumptively demonstrate Mr. Lehrman's unique and distinct interest in this matter. He is therefore an "aggrieved person" within the meaning of 11 DCMR § 3112.2.

II Mr. Lehrman's Appeal Was Timely Filed.

The Owner also claims that Mr. Lehrman's appeal is not "timely" because it was filed more than 90 days after the initial determination of the Zoning Administrator, made by letter dated October 10, 2001. However, the Owner ignores the fact that Mr. Lehrman promptly sought reconsideration of the Zoning Administrator's determination from Mr. Gregory Love, Administrator of the Building and Land Regulation Administrator, and Mr. Love provided his decision by letter dated December 10, 2001. Mr. Lehrman's appeal, filed on January 19, 2002, was filed within 60 days of the issuance of Mr. Love's determination, and is thus timely.

The zoning regulations do not specify a particular time limit for filing appeals, but instead state only that appeals must be "timely" filed. 11 DCMR § 3112.2. 11. As the Court of Appeals has noted, the practice before this Board is to apply "a standard of reasonableness" to determine whether an appeal is timely. Waste Management of Maryland, Inc. v. D.C. Board of Zoning Adjustment, 775 A.2d 117, 1121 (D.C. 2001) (delay of three years not reasonable); Woodley Park Community Ass'n v. D.C. Board of Zoning Adjustment, 490 A.2d 628, 636 (D.C. 1985) (delay of one year not reasonable). However, the Court has also stated that, "in the absence of exceptional circumstances substantially impairing the *ability* of an aggrieved party to appeal – circumstances outside the party's control – we conceive of two months between notice of a decision and appeal therefrom as the limit of timeliness." Waste Management of Maryland, Inc. , 775 A.2d at1122 (emphasis in original).

Here, Mr. Lehrman's appeal was clearly timely as it was filed within 60 days of Mr. Love's December 10, 2001 letter. Mr. Love's December 10, 2001 letter is plainly a "determination . . .made by an administrative officer . . . on the administration or enforcement of the Zoning Regulations. " 11 DCMR § 3112.2. Indeed, Mr. Love's letter plainly states that

"[t]he following is my determination:" Moreover, Mr. Love's determination addressed both the old growth tree near the Jordan property that was removed by the Owner as well as the fatally damaged tulip poplar at the center of the Estrin property. Accordingly, Mr. Love's December 10, 2001 letter constitutes a new determination as to both regulated trees that can be appealed to this Board independently of the Zoning Administrator's letter of October 10, 2001, and Mr. Love's letter so advised Mr. Lehrman of his right to file an appeal.

Indeed, Mr. Lehrman could not have appealed the Zoning Administrator's determination of October 10, 2001 to the BZA, since the Zoning Administrator failed to make any determination on a key issue raised by Mr. Lehrman – whether the Owner had unlawfully caused fatal damage to the old growth tulip poplar at the center of the Estrin property. Instead, the October 10, 2001 determination related exclusively to the tree near the Jordan property that was removed by the Owner. The Zoning regulations only permit an aggrieved person to file an appeal from an "order, requirement, decision, determination or refusal made by an administrative officer or body, including the Mayor of the District of Columbia, on the administration or enforcement of the Zoning Regulations. " 11 DCMR § 3112.2. Clearly, Mr. Lehrman could not have filed an "appeal" of the Zoning Administrator's decision of October 10, 2001 with respect to the fatally damaged tulip poplar at the center of the property since the October 10, 2001 determination did not address that issue. This issue was not addressed by the until Mr. Love issued his decision on December 10, 2001. Mr. Lehrman's appeal, filed within 60 days of that decision, is plainly timely.

III Mr. Lehrman's Appeal Is Not Barred by Laches.

The Owner also argues that Mr. Lehrman's appeal is barred by the equitable doctrine of

"laches" because Mr. Lehrman should have filed his appeal in July, 2001, when Mr. Lehrman learned that protected trees had been fatally damaged. Motion to Dismiss, at 8. In order to make out a claim of laches, a party must establish "omission to assert a right for an unreasonable and unsatisfactorily explained length of time under circumstances prejudicial to the party asserting laches." Woodley Park Community Ass'n, 490 A.2d at 639. The Owner cannot demonstrate that either of these elements are met under the facts of this case.

First, Mr. Lehrman did not delay in filing his appeal. As noted above, Mr. Lehrman's appeal was filed within 60 days of the final zoning determination. This appeal could not, as the Owner suggests, have been filed in July 2001, when the Owner unlawfully destroyed protected trees, because the initial zoning determination was not even issued until October 10, 2001. Thus, there was no "determination" to appeal in July 2001; indeed, as noted above, there was no determination with respect to the fatally damaged tulip poplar at the center of the Estrin property until December 10, 2001.

The Owner's suggestion that Mr. Lehrman somehow lacked diligence in attempting to secure the protections due to old growth trees within the WNOD is wholly unsubstantiated, and directly contradicted by the record before the Zoning Administrator and the permitting officials. As noted in his pre-hearing submission, by letter dated May 28, 1999, Mr. Lehrman specifically advised Mr. Estrin of the protections to old growth trees afforded by the WNOD. Mr. Lehrman enclosed with his letter a copy of the zoning regulations governing tree and slope protection overlay districts, and advised Mr. Estrin of the necessity of taking "proactive steps in advance, both in your design plans and in your construction site conditions to protect the trees and their fragile root systems." *See* Prehearing Submission, Exhibit 2 . And yet, the Owner's own

demolition contractors informed Mr. Lehrman that they had been given no directions concerning the need to protect the mature trees on the site.

Moreover, immediately upon learning of that protected trees had been unlawfully destroyed as a result of the Owner's willful disregard for the tree removal restrictions, Mr. Lehrman commenced and expended considerable efforts, both through counsel and through his own efforts, to secure "stop work" orders to prevent construction on the site from going forward. Mr. Lehrman has been in constant contact with permitting and zoning officials, making repeated telephone calls and writing numerous letters, consistently since August 2001. As a result of Mr. Lehrman's efforts, permitting officials learned that the owner's construction activities exceeded the scope of permitted work and two "stop work" orders were issued. Once again, Mr. Lehrman's attentions and efforts were appropriately directed at permitting officials rather than this Board, since, until October 2001, there was no zoning determination to appeal. Indeed, it is difficult to imagine what more Mr. Lehrman could have done to secure enforcement of the zoning regulations.

As to the second prong of the laches test, the Owner makes the unsubstantiated assertion that Mr. Lehrman's "six month" delay in filing an appeal has resulted in "significant expense." This claim is particularly outrageous in light of the Owner's flagrant disregard for the law and affirmative misrepresentations to permitting officials. The Owner made patently false statements on the permit application, claiming that the construction activities would involve no "ground disturbing" activity or razing of buildings, when in fact the construction involved substantial ground disturbing actions as well as complete demolition of the existing structure on the site, which directly resulted in the destruction of protected old growth trees. The Owner was well

aware of Mr. Lehrman's concerns. See Motion to Dismiss, Exhibit 9. Any "expenses" that may have been incurred by the Owner are attributable to the Owner's own false statements, resulting in multiple "stop work orders," and not any "delay" by Mr. Lehrman in filing this administrative appeal.

Indeed, the irony of the Owner's invocation of the equitable doctrine of laches should not escape attention, in view of the circumstances of this case and the Owner's own misrepresentations to permitting officials and flagrant and willful disregard for the legal protections accorded to old growth trees within the WNOD. It is a well-established maxim that equity does not come to the aid of those with unclean hands. Ross v. Fiero, 659 A.2d 234 (D.C. App. 1995). The Owner's attempt to deflect attention away from his own derelictions, and to hurl unsubstantiated charges of "delay" at Mr. Lehrman should not be countenanced

IV. Mr. Lehrman's Appeal is Not Moot..

Finally, it is clear that Mr. Lehrman's appeal is not moot. As noted above, the Owner's construction plans incorporated absolutely no measures or efforts to protect the trees and their fragile root systems from construction activities. The remaining undamaged old growth tree on the property continues to be unfenced and unprotected from ongoing construction activities. (Moreover, if, as the Owner alleges, the damaged tree in the center of the Estrin property is still "healthy," this tree's health will be short-lived as a result of the Owner's ongoing construction activities, which likewise incorporate no fencing or other protection for this tree.). For that reason, Mr. Lehrman has requested this Board to issue a stay of the building permit so that additional unprotected old growth trees are not destroyed. Review by this Board of the building permit pursuant to 11 DCMR § 1515 will ensure that protective measures are taken to ensure that

the existing old growth trees on the Estrin property are not fatally damaged as a condition of BZA approval. Id. § 1515.2(b).

Accordingly, for the foregoing reasons, the Owner's Motion to Dismiss is without merit and should be denied.

Respectfully submitted,

Andrea C. Ferster
Cornish F. Hitchcock
1100 17th Street, N.W. 10th Fl.
Washington, D.C. 20036
(202) 974-5142

Counsel for Robert Lehrman

April 4, 2002

CERTIFICATE OF SERVICE

I hereby certify that, on April 4, 2002, a copy of the foregoing Opposition to Motion to Dismiss was served by first class mail, postage pre-paid, on:

Toye Bello, Zoning Administrator
Building and Land Administration
D.C. Department of Consumer and Regulatory Affairs
941 N. Capitol Street, N.W., 2nd Fl.
Washington, D.C. 20002

Charlotte Parker
Acting Deputy Corporation Counsel
441 4th Street, NW
Washington, DC 20001

Nancy J. MacWood, Chair, ANC 3C
2737 Devonshire Place, NW
Washington, D.C. 20008

Mr. Whayne Quin
Holland & Knight

2099 Pennsylvania Ave., N.W. Suite 100
Washington, D.C. 20006-2826

Andrea C. Ferster

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

Building and Land Regulation Administration
Office of the Administrator

September 14, 2001

Robert Lehman
1027 33rd Street, NW. 2nd Floor
Washington, D.C. 20007

Re: 2221 30th Street, NW

Dear Mr. Lehman:

Thank you for your letter of August 9, 2001 regarding construction at the subject premises and the issue of a possible zoning violation with respect to unauthorized removal of existing trees on the site.

I am informed by the Construction Inspection Branch that a Stop Work Order was issued at the site because demolition of the building was beyond the scope of the approved plans. Additionally, the Zoning Administrator, Michael D. Johnson, is reviewing the other zoning issues related to construction not in accordance with approved plans, including the one related to the removal of trees in violation of the Zoning Regulations, DCMR 11, Section 1514. A review of our records confirms that no prior request for tree removal was made as required by the Tree and Slope Protection Form that was attached to the construction permit application. Therefore, I have instructed the Zoning Administrator to make an expeditious determination on this matter.

If I can be of further assistance, you may contact my office at 202-442-4455.

Respectfully,

J Gregory Love
Administrator

Cc: Denzil Noble
Michael Johnson

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

D.C.-44
APRIL 1980

Memorandum ● Government of the District of Columbia

TO: Toye Bello
Acting Zoning Administrator

Department, Agency, Office: BZA

FROM: Jerrily R. Kress, FAIA
Director

Date: JAN 24 2002

SUBJECT: BZA Appeal No. 16849

Attached hereto is a copy of the above-numbered appeal and documents.

This appeal was filed on January 17, 2002.

APPROXIMATE HEARING DATE: April 9, 2002

referralmemos

cc: Charlotte Parker, Corp. Counsel
Robert Lehrman, Appelant

Melvyn Estrin
Estrin International
7200 Wisconsin Avenue
Suite 600
Bethesda, Md. 20814

BZA Form 1
(Revised 7/17/95)

Docket No. 16849 (APPEAL)

D.C. RECEIVED
OFFICE OF ZONING
2002 JAN 17 PM 3:46

BEFORE THE BOARD OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA

APPEAL

NOTE: See reverse side of this form for filing instructions, filing fees and information required by the Board.

DO NOT MAIL DO NOT MAIL

TO THE BOARD OF ZONING ADJUSTMENT:

Pursuant to Sections 3105 and 3106 of the Zoning Regulations of the District of Columbia, an appeal is hereby taken from the administrative decision of Michael D. Johnson, Zoning Administrator
(Name of administrative officer and title)

made on October 10, 2001, to the effect that destruction of mature tree during construction under Building Permit # B435446 did not violate Zoning Regulations and required no further enforcement action (Ex. 1); letter from BLRA Administrator (Dec. 10, 2001) is attached as Ex. 2.

(Date of decision)

Premises affected are located at 2221 30th Street, N.W.,
(Street Address)

Lot(s) 6, Square(s) 2198

in the District of Columbia, in Zoning District TSP/R-1-A.

Present Use of Property: Residential.

Proposed Use of Property: Residential.

Owner of Property: Melvyn Estrin.

Address of Owner: Estrin International, 7200 Wisconsin Avenue, Suite 600, Bethesda, MD 20814.

Name and address of appellant, if other than owner: Robert Lehrman
2910 Benton Place, N.W., Washington, DC 20008.

State manner in which appellant is aggrieved by administrative decision: Appellant is a nearby land owner whose enjoyment of his property was adversely affected by fatal damage to nearby old-growth trees and removal of one of them in violation of Zoning Regulations and Building Permit requirements.

State briefly the allegations of error in administrative decision:

Zoning Administrator erred in finding no violation of Woodland Normanstone Tree and Slope Protection overlay regulations and in upholding owner's construction activities that did not take necessary precautions to protect regulated trees.

Relevant Sections of the Zoning Regulations: 11 DCMR sections 1511, 1514, 1515; 12 DCMR section 108.9.

Date: January 17, 2002 Signature: Cornish F. Hitchcock
(Appellant)*
(authorization letter attached)

*If appeal is filed by agent of the appellant, Form 1 (notice of appeal) shall be accompanied by a letter signed by the appellant authorizing the agent to act on his behalf in this appeal.

TO BE NOTIFIED OF HEARING AND DECISION:

Name: Cornish F. Hitchcock
Andrea C. Ferster

Address: 1100 17th Street, N.W., 10th Floor Washington, DC

Zip Code 20036 Phone No. 974-5111 (Hitchcock) 974-5142 (Ferster)

ROBERT LEHRMAN

December 31, 20001

Board of Zoning Adjustment of the
District of Columbia
441 Fourth Street, NW, Suite 210
Washington, DC 20001

Dear Members of the Board:

Pursuant to section 3112.4 of the Zoning Regulations, this is to advise you that I authorize Andrea C. Ferster and Cornish F. Hitchcock to act as my attorneys and agents in connection with the appeal that I am filing from the adverse decision of the Zoning Administrator, as set forth in a disposition letter dated October 10, 2001, which disposition was upheld by J. Gregory Love, Administrator of the Building and Land Regulation Administration, in a letter dated December 10, 2001.

Ms. Ferster and Mr. Hitchcock can be reached at:

1100 17th Street, NW, 10th Floor
Washington, DC 20036
(202)974-5142 (Ms. Ferster)
(202)974-5111 (Mr. Hitchcock)
Facsimile: (202)331-9680

Please advise if there is any further information you require.

Sincerely yours,

Robert Lehrman

Robert Lehrman

2900 Benton Place, NW · Washington, DC 20008 · 202.387.8686 · fax 202.387.8689 · lehrmanart@aol.com

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

Building and Land Regulation Administration
Office of the Zoning Administrator

October 10, 2001

Mr. Melvyn Estrin
Estrin International
7200 Wisconsin Avenue, Suite 600
Bethesda, MD 20814

RE: 221 - 30th Street & Benton Place, NW (Tree Removal Determination)

Dear Mr. Estrin:

As you are aware, questions have been raised about the removal of a tree along the Southeastern property line of your property, which is under construction at the corner of 30th Street, N.W. and Benton Place, N.W. The complaints that have been received assert, among other things, that the removal of the tree outside the existing sidewalk and bordering the property of Mr. & Mrs. Jordan at 2940 Benton Place, N.W., was in violation of the Tree and Slope Protection Overlay District set forth in Chapter 15 of the Zoning Regulations.

I have reviewed correspondence submitted on behalf of Mr. Robert Lehrman, a nearby neighbor, correspondence from Mrs. Ann D. Jordan, the adjacent neighbor to the southeast (2940 Benton Place, N.W.), as well as correspondence from you, including the certification from your tree expert, Lee's Tree Service, that certifies that the tree represented an unsafe condition and thus required immediate removal. Apparently, this was due to recent rains.

Additionally, I visited the site and observed the construction area as well as the area south of the existing sidewalk on the property where the tree previously existed, adjacent to the Jordan property. Finally, I have carefully examined the Zoning Regulations and the provisions of Chapter 15.

941 North Capitol Street, N.E., Suite 2000 Washington, DC 20002 Phone: (202) 442-4549 Fax: (202) 442-4863

Appeal of Robert Lehrman
Ex. 1 to Appeal to BZA

Accordingly, while there may be a question as to whether the Tree and Slope Protection Overlay Zone is even applicable to an area outside the zone of construction, I find based upon the information that I received and the investigation conducted, that there was an unsafe condition which warranted the removal of the tree under Section 1514.1(b) of the Zoning Regulations. Further, based upon my review, site inspection and understanding of the issues raised, I conclude that there is no violation of the Zoning Regulations and no further enforcement action is required regarding this matter. Should you have additional questions, please call our office at 442-4576.

Respectfully,

Michael D. Johnson
Zoning Administrator
District of Columbia

cc: Toye Bello, Chief, Zoning Review Branch
Robert Lehman
Ann D. Jordan
Andrea C. Ferster, Esq.

mdj/tm/
PC/Epps/Cdrive

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

Building and Land Regulation Administration
Office of the Zoning Administrator

December 10, 2001

Robert Lehrman
1027 33rd Street NW #2nd floor
Washington, DC 20007

RE: 2221 30th Street NW

Dear Mr Lehrman:

This letter is written in response to all previous correspondence, phone conversations, and complaints regarding construction at the referenced property and particularly with respect to the removal of a tree of regulated size and your specific request for re-evaluation of the Zoning Administrator's disposition letter of October 10, 2001.

I apologize for the seeming delay in response but I am sure your can appreciate the necessity for careful review of the extensive catalogue of documentation relating to possible violations of the Zoning Regulations and/or the D.C. building codes.

The issues of focus are:

1. You believe the Zoning Administrator improperly applied the Zoning Regulations in his determination of October 10, 2001 that the removal of a regulated tree on subject premises did not violate the intent and the letter of the Tree and Slope Protection Overlay Statutes.

2. You provided a tree expert report that a second tree has sustained recent fatal damage from heavy machinery, likely construction equipment, which would lead, in two years, to the demise of the tree.

3. You invoke Building and Land Regulations Administration (BLRA's) authority under 12 DCMR Section 108.9(I) to revoke a building permit obtained on false statements or information and requested revocation of building permit #B435446.

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

The following is my determination:

1. Zoning Administrator's determination:

The Zoning Administrator properly applied the Zoning Regulations in his opinion that the removal of the tree did not violate the TSP overlay restrictions. While one of the purposes of the TSP overlay district is the preservation of the natural topography and mature trees, "to the maximum extent feasible" (see section 1511.4), the regulation recognizes the necessity for removal of trees when they are unhealthy or when they constitute a present danger because of an unsafe condition, provided such conditions are certified by an aborist or other tree professional.

The language of Section 1511.4, in paraphrase, is instructive on overall intent in that it asserts that the TSP overlay district is designed for residential neighborhoods that have undeveloped lots and have a significant quantity of steep slopes, have mature trees and are located at the edge of stream beds, but are unsuitable for mapping in already developed lots where existing mature trees are "either yard trees or street trees". The subject premise is considered a "developed lot" and the unsafe condition of the removed tree was certified by a tree professional and corroborated by a respected resident of the neighborhood whose property is adjacent to said property. There is compliance, in every respect, with the provision of section 1514.1(b) of the Zoning Regulations.
The Zoning Regulation is silent on the timing of the certification of the arborist, perhaps because it recognizes that some situations may present, regardless of circumstance, a clear and imminent danger that warrants the removal of a tree that presents an unsafe condition and clearly cannot await the clearance of the Zoning Administrator. I believe the penalty, as set forth in section 1514.1(f), is designed to discourage willful damage and or removal of regulated trees for gain in the instance of contemporaneous application for building permit to construct where surreptitious removal of trees was effected in recent memory. There is no evidence that an expansion of the existing structure seeks to take advantage of the location of this specific tree removal.

The regulation recognizes that a construction permit is not required for tree removal on private property. Hence it conditions the issuance of a building permit on limits set forth in Section 1514.1(a) through (f) Subsection (f) inherently bestows upon the Zoning Administrator, the discretion of determining what constitutes a "contemporaneous" building permit application, where tree removal has occurred. In this particular case the issuance of the building permit preceded the tree removal and the condition for removal of a tree was satisfied. Therefore, I stand by the decision of the Zoning Administrator, as expressed in his letter of October 10, 2001.

2. Fatal Damage to Regulated Tree:

The property owner and counsel, Whayne Quinn, have provided this Department with a tree expert report (see enclosed) outlining the care administered the subject tree enough to save the tree not only from possible "fatal" construction damage but also from an existing unhealthy condition. No request is filed for the removal of the tree and the owner has committed to precautionary construction measures that are respectful of the intent of the Tree and Slope overlay district.

Your tree expert provides no evidence of the distance of the observation that informed his professional opinion. It is hence not unreasonable to conclude that the property owner's tree expert opinion was probably based on a more proximal observation of the subject tree.

The intent of the Tree and Slope overlay district is clearly to limit new and expansion construction at the expense of removal of mature trees. That is the basis of conditioning the issuance of a building permit for "construction of a building, accessory building, or an addition to a building, or the creation of any impervious surface are" (see Section 1514.1) on limitations on removal of trees of a regulated size.

There also is an inherent liability issue at stake. Assuredly, the intent of the overlay district cannot be to prevent the removal of a tree that is certified by an arborist as creating an unsafe condition, notwithstanding what precipitates said condition. The discretionary judgement of the Zoning Administrator is to determine what constitutes willful and or wanton removal of regulated trees for construction gain and then apply the punitive authority of section 1514.1(f).

There is insufficient evidence in this case to support the necessity for the application of Section 1514.1(f).

3. Revocation of Building Permit

This issue is moot. Building permit #B439404 has been superceeded by building permit #B435446, revised to address one of the basis for issuance of the first stop work order. Specifically the scope of the work allowed under building permit #B439404 was exceeded because it did not permit the complete demolition of the existing building. This has been remedied by the revised building permit.

The tree removal issue, as aforementioned, requires no further enforcement action as the Zoning Administrator's determination has addressed that issue.

The second stop work order was issued solely to address your concern that construction activity continued to willfully cause -fatal damage to protected trees. This stop work order has also been lifted as there was no evidence upon which I could continue to justify the continuance of said order.

In accordance with provisions of the Zoning regulations, DCMR Title II as set forth in section 3100.2, you may file an appeal before the Board of Zoning Adjustment if you believe the Zoning Administrator's decision is in error.

In conclusion, let me applaud your effort and vigilance in ensuring adequate and proper application of city regulations. I urge you to continue the vigorous exercise of your civic duty in the hope that I can be of assistance in the near future.

Respectively,

J. Gregory Love, Administrator
Building and Land Regulation Administration

Enclosure

Cc: D. Clark, D/DCRA
T. Lewis, DD/DCRA
D. Noble, DA/BLRA
T. Bello, AZA/BLRA