EXHIBIT
BZA No. 16970
3d (CPN)

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of Edward A. Markowitz B.Z.A. Application No.

Hearing Date:

ZONING SECRETARIAT
DISTRICT OF COLUMBIA

STATEMENT OF APPLICANT

I.
Nature of Relief Requested

This is an application pursuant to Section 8207.11 for a variance to permit the construction of a single-family residential structure which does not have the required street frontage pursuant to Section 3301.6 at the premises known as 2329 Porter Street, N.W., Lot 821 in Square 2224 in an R-1-A District.[1]

This is also an application pursuant to Section 8207.11 for a variance to construct a dwelling on an assessment and taxation lot that cannot be converted to a record lot pursuant to Section 8103.3 in the R-1-A Zone.

Applicant views the relief requested as being technical in nature since no variance would be required if the subject site had street frontage. As a practical matter, the subject site has access to two street frontages, Porter Street and Williamsburg Lane, through a private right-of-way for "highway purposes" which is 25 feet in width and as will be more fully explained hereinafter.

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[1] There is some confusion regarding the correct address of the subject site. The original address was 2329 Porter Street. However, the building application issued in 1981 listed the address as 3525 Williamsburg. This address also appeared on the Building Application submitted to the Zoning Administration in 1986.

The Zoning Administration misread the address and issued their memorandum to 3525 Williams Lane. Finally, the Surveyor's Plat, Exhibit "I", shows the address as 2329 Williamsburg Lane. However, it is clear from all documents submitted that all the addresses refer to Lot 821 in Square 2224, in the District of Columbia.

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14583

LAW OFFICES
ACY, MYERS & SUISSA
8701 GEORGIA AVENUE
SUITE 700
ILVER SPRING, MD. 20910
ELEPHONE (301) 585-6677

Board of Zoning Adjustment
District of Columbia
CASE NO.16970
EXHIBIT NO.192A2

II.
Factual Background

In order for the Board to be better able to understand the nature of the relief requested herein, Applicant feels that it is appropriate at this time to present a brief background statement as to the history of the creation of the subject site.

In 1907, a plat was recorded with the Office of the Surveyor and with Columbia Title Company for a parcel of ground called "Coleman Park", consisting of approximately 39 acres of ground and 59 lots as shown on the attached plat, Exhibit "A".

Significantly, this subdivision plat provided a private roadway system of 25 foot wide streets, two of which abut the subject site on two frontages and provide direct access to Porter Street and Williamsburg Lane, respectively. The proposed streets are contained in right-of-way descriptions included in the original conveyance out of properties within said subdivision and each property owner in the subdivision has a right to use all the streets dedicated on the plat. See Exhibit "B", a title report of the subject site. Specifically, the interest is a property right to use all such street areas shown on the Exhibit "A" plat. These street areas encroach on all effected sites at a distance of 12 1/2 feet on each side of the property line of properties abutting the streets. No properties in the original subdivision were without street frontage.

In 1930, a plat was recorded with the Office of the Surveyor as part of the District of Columbia highway plan which envisioned a Quebec Street linkage with Porter Street and would provide a direct access to the subject site. The Quebec Street linkage proposal was abandoned in 1935 when 24th Street, now Williamsburg Lane, was cut through. The present situs of street access to Porter Street and Williamsburg Lane has remained the same since that time.

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As a result of the construction of Williamsburg Lane instead of the Quebec Street connector, the subject site is now technically "landlocked" for zoning purposes even though it contains a right-of-way for "highway purposes" of two 25 foot streets which connect directly to Porter Street and Williamsburg Lane.

In 1980, the former owner applied, inter alia, for a variance to construct a single-family dwelling on the lot. BZA granted the variance in a bench decision on June 4, 1980, in Case No. 13178, Exhibit "C."

III.
Jurisdiction of the Board

This Board has jurisdiction pursuant to Section 8207.11 to grant the variance relief requested from the provisions of Sections 3301.6 and 8103.3.

IV.
Points in Support of Relief Requested

Before proceeding with the specific requirements of the Zoning Regulations, Applicant offers the following additional exhibits:

Exhibit D - Zoning Administration Memorandum dated December 31, 1986, and computation sheet setting forth the relief required from this Board.

Exhibit C - Board of Zoning Administration Bench Decision dated June 4, 1980.

Exhibit E - Surveyor's Plat of the subject site.

Exhibit F - Zoning map of the vicinity of the subject site showing such site filled in red.

Exhibit G - Outline of Statement of Applicant.

Exhibit H - Building plan for new home.

Exhibit I - Surveyor's Plat showing location of improvements and rights-of-way.

V.
Applicant Complies with the Requirements of Section 8207.11 so as to be Entitled to Variance Relief from the Provisions of Sections 3301.6 and 8103.3 of the Zoning Regulations

A. The subject site is unique and effected by several

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extraordinary or exceptional situations or conditions.

The unique conditions affecting the subject site are briefly set forth as follows:

1. The subject site is of an unusual size containing approximately 16,211 square feet of land in an R-1 District where minimum lot size required is 7500 square feet.

2. The subject site is technically "landlocked" under the Zoning Regulations in that it has no direct street access to public roadways.

3. Although the subject site is technically "landlocked", it is serviced by two 25 foot rights-of-way for highway purposes giving direct access to both Porter Street and Williamsburg Lane.

4. The site has a unique development history as set forth in Section II. of this statement.

5. Without the granting of the variance relief requested, no building permits can be issued for the proposed single-family dwelling.

B. The strict application of the Zoning Regulations in this case would impose a practical difficulty upon the applicant.

The District of Columbia Court of Appeals in the action of Palmer v. District of Columbia Board of Zoning Adjustment, 287 A.2d 535 (D.C. App. 1972), stated that in "area" variances cases, the standard of proof is "practical difficulties" which are unduly burdensome. The requested variances are street frontage and inability to acquire a record lot, which are area variances. The proposed use of the site for a single-family dwelling is permitted as a matter of right, and a variance was granted in July, 1980 (Case No. 13178) and, therefore, it requires no use variance.

Applicant's practical difficulty in this case stems from a condition relating to the property which would prevent the issuance of any building permits for this site without relief

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from this Board. Applicant, at this time, is unable to obtain a building permit as a matter of right or use his property in any manner consistent with the Zoning Regulations as could his neighbors which have street frontage.

The inability to use property in a manner otherwise permitted by the Zoning Regulations by the mere fact that there is no street frontage under the Regulations when in fact access to two streets is provided constitutes a most compelling type of practical difficulty.

Applicant's request for relief in this case is essentially one to permit his property to be treated under the Zoning Regulations as any other parcel of ground in the District which would have street frontage.

C. The requested relief can be granted without detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations.

A survey of surrounding land uses shows that the proposed single-family dwelling will not adversely affect such uses.

The subject site is completely surrounded by R-1-A zoned and developed single-family residential uses. Applicant's proposed building is to be used for single-family purposes and would be consistent with the R-1-A regulations and Section 7615 of the Regulations.

Therefore, the granting of the variance relief requested herein will not adversely affect adjoining and surrounding properties.

VI.
Witnesses

Edward A. Markowitz, Applicant.

VII.
Conclusion

For the above-stated reasons, and based on prior approval and granting of a variance in Case No. 13178, the requested

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relief may be granted without substantially impairing the intent, purpose and integrity of the Zoning Regulations.

DACY, MYERS & SUISSA

BY: _____

HARRY A. SUISSA
8701 Georgia Avenue, #700
Silver Spring, MD 20910
(301) 585-6677
Bar No. 962407
Attorney for Applicant

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DACY, MYERS & SUISSA
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SUITE 700
SILVER SPRING, MD. 20910
TELEPHONE (301) 585-6677

Edward Markowitz

OUTLINE OF STATEMENT OF ~~MICHAEL MINKOFF~~

A. Identification.

B. Description of subject site and surrounding vicinity.

1. Size 38,700 square feet.

2. Site is landlocked.

3. Site is serviced by two 25 foot rights-of-way for highway purposes, Clifton Avenue and Roosevelt Drive.

4. Description of abutting properties; single family residential uses.

C. Description of proposed single family dwelling.

D. The strict application of the Zoning Regulations results in practical difficulty since no building permits may issue without Board relief.

RECEIVED
ZONING SECRETARIAT
DISTRICT OF COLUMBIA

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EXHIBIT "G"

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SILVER SPRING, MD. 20910
TELEPHONE (301) 585-6677

3e

EXHIBIT
BZA No. 16970
3e (CAN)

BZA Form 2
(Revised 4/20/74)

Docket No. 14583
KW

BEFORE THE
BOARD OF ZONING ADJUSTMENT
FOR THE
DISTRICT OF COLUMBIA

APPLICATION

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 Section(s) 8207.11 of the Zoning Regulations of the District of Columbia, an application is hereby made for the following action: _____, which is provided for by Section(s) 3301.6 and 8103.3 of the Zoning Regulations.

Premises affected are located at 3525 ~~Williamsburg~~ Lane NW
(Street Address)

Lot(s) 821, Square(s) 2224, in the District of Columbia, in Zoning District R-1-A.

Present Use of Property: Vacant.

Proposed Use of Property: Single Family Dwelling.

Owner of Property: Eduard and Vicki Markowitz.

Address of Owner: 8713 Snowhill Ct. Potomac MD 20854.

State briefly the basis for action sought:

Date: February 18, 1987 Signature: Ellen S. Lee 585-6677
Applicant*

*The owner of the property for which application is made or his authorized agent may file an application. In the event an authorized agent files an application on behalf of the owner, the notice of application shall be accompanied by a letter signed by the owner authorizing the agent to act on his behalf in this application.

TO BE NOTIFIED OF HEARING AND DECISION:

Name Ellen L. Lee

Address 8701 Ga. Ave. Ste 700, SS. Md ~~20910~~

Zip Code 20910 Phone No. 585-6677

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

ZONING SECRETARIAT
DISTRICT OF COLUMBIA
1987 FEB 18 PM 3:24



PROPOSED ORDER, FINDINGS OF FACT AND CONCLUSIONS OF LAW

Application No. 14583, of Edward A. Markowitz, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the prohibition against allowing the construction of a dwelling on a lot which does not have street frontage in an R-1-A Zone (Sub-section 3301.6) and from the prohibition against allowing the construction of a dwelling on an assessment and taxation lot that cannot be converted to a record lot in an R-1-A Zone (Sub-section 8103.3) at the premises known as 3525 Williamsburg Lane, NW or 2329 Porter St., NW, C Square 821, Lot 821).

HEARING DATE: April 22, 1987
DECISION DATE: May 6, 1987

FINDINGS OF FACT:

1. At the public hearing of April 22, 1987, the Board granted permission to the applicant to keep the record open to allow the submission of a revised set of building plans conforming to the Declaration of Covenants instrument #32436 in the record.

2. The subject site is located east of Williamsburg Lane and to the north of Porter Street. It is bounded by R-1-A Zone Lots, and has no street frontage. The property is known as 2329 Porter St., NW. It is in an R-1-A district.

3. The subject site is approximately 16,211 square feet in area.

4. The applicant is requesting to build a two-story single family dwelling on the lot.

5. The present subject site was originally laid out as old Lots 12, 13, and 54 and Square 2224.

6. The streets and roadways leading to the subject site created as right-of-ways were Roosevelt Drive and Clifton Avenue. These rights-of-ways have only been partially improved at this time with macadam and gravel.

7. In 1930 a plot was recorded with the office of the surveyor as part of the District of Columbia highway plan which envisioned a Quebec Street linkage with Porter Street, which would have provided direct access to the subject site via a public roadway system.

8. The Quebec Street linkage proposal was abandoned in 1953 when 24th Street, now Williamsburg Lane, was cut through. The presence of street access to Porter Street and Williamsburg Lane have remained the same since that time.

9. As a result of construction of Williamsburg Lane instead of the Quebec Street connector, the subject site is now "land-locked" for zoning purposes even though it contains a right-of-way for highway purposes which connects directly to Williamsburg Lane.

10. Without the granting of a variance relief no building permits may be issued for the proposed building for the dwelling unit proposed to be erected on the site.

11. In 1980 Michael Minkoff, Ltd., the previous owner of the site, conducted negotiations with neighboring and abutting property owners for the development of the site. These negotiations resulted in the execution by Mr. Minkoff of a "Declaration of Covenants" dated May 13, 1980.

12. The proposed use of the site for a single-family dwelling is far less than that permitted by the zoning regulations for an R-1-A parcel of this size.

13. Architectural plans were orginally submitted with the application. On April 28, 1987, the applicant submitted architectural drawings for proposed single-family dwelling to be located on the site and requested the Board approve the construction of the single-family dwelling which was consistent with the building parameters outlined contained in the Covenant and with no further restrictions on its design.

14. At the hearing there appeared several of the neighboring and abutting property owners. These owners indicated that they were in favor of the approval of the application based on the applicant's compliance with the Declaration of Covenants.

15. Advisory Neighborhood Commssion - 3C submitted no recommendation on the application. A member of the Advisory Neighborhood Commission, Peggy Robin, appeared and recommended approval of the applicant provided that the applicant comply with the Declaration of Covenants.

16. Both the testimony at the hearing and the exhibits submitted clearly demonstrate that the proposed single-family dwelling is in compliance with the Declaration of Covenants.

17. The Board finds that the applicant has direct access to Williamsburg Lane, a public street, via a right-of-way (Roosevelt Drive). The Board further finds that the applicant has direct access to Porter Street via a right-of-way (Clifton Avenue).

18. There was some discussion at the hearing concerning a covenant between the applicant and abutting property owners Dr. and Mrs. Pincus. Said covenant is not part of the record.

19. The covenant between the appliant and Dr. and Mrs. Pincus involves a property line and does not in any way affect the propsed dwelling.

20. The contract purchaser, Mr. Auger, testified that he would abide by all covenants as recorded with the Recorder of Deeds in the the District of Columbia.

CONCLUSIONS OF LAW:

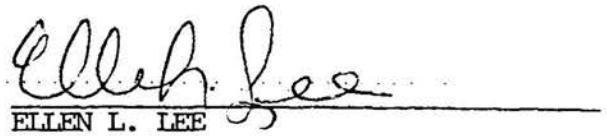
Based on the record, the Board concludes that the applicant is seeking area variances, the granting of which requires a showing of practical difficulty upon the owner of property which is inherent in the property itself.

The Board notes that the subject site is unique and affected by several extraordinary or exceptonal conditions. The size of the lot is approximately 16,211 square feet which is far in excess of the minimum required for a detached dwelling in an R-1-A district. The subject site is land-locked under the Zoning Regulations in that it has no direct street access to public roadways. Although the site is land-locked it is serviced by private rights-of-way which give direct access to public streets. The site has had a unique development history and without the granting of variance relief no building permits may be issued for the proposed single-family dwelling to be erected on the site. The Board concludes that the inability to use property in a manner otherwise permitted by the Zoning Regulations by the mere fact that there is no street frontage under the Regulations when, in fact, access to the public street system is provided constitutes a most compelling type of practical difficulty.

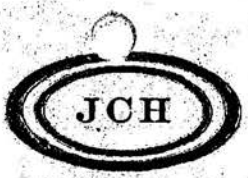
The subject site is completely surrounded by R-1-A zoned and developed single-family residential uses. The applicant's proposed single-family unit on the site would cause no substantial detriment to the public good nor substantially impair the intent, purpose and integrity of the Zone Plan.

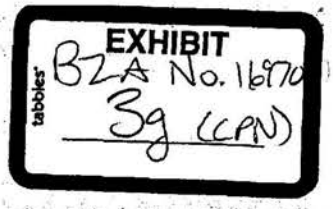
I HEREBY CERTIFY, that a copy of the foregoing Proposed Order, Findings of Fact and Conclusions of Law, was sent via Central Delivery Service on April 28, 1987, to John Clark Holman, Holman & Stern, 2401 15th Street, NW, Washington, D.C., 20009; Advisory Committee-3C, 2737 Devonshire Place, NW, Washington, DC, 20008, Attention Sally Minshew; Peggy Robin, 3021 Macomb Street, NW, Washington, D.C. 20008; and Donald P. Tuttle, Esquire, 1815 H Street, NW, Suite 1001, Washington, DC 20006.

DACY, MYERS & SUISSA



ELLEN L. LEE
8701 Georgia Avenue, Suite 700
Silver Spring, Maryland 20910
(301)585-6677





PM 5/6/87 file

JOHN CLARKE HOLMAN

OCIATION

5/4/87

Ms Carrie Thornhill
BZA
The District Bld. Rm 11
1350 Pa. Ave. NW
Wash. DC. 20004

Re. Appl. 14583

Dear Ms Thornhill.

Enclosed is the position of the Rock Creek Glen Community Association, namely, we favor compliance with the May 13, 1980 covenants.

reek Glen Community above-referenced

is to obtain a portion of Lot 818, Street, N.W. In the tantial time and of the lot, a ding his proposal to tions resulted in the tion of Covenants," development of this y 14 and 21, and June osal, and a Bench 4, 1980. The ants dated May 13, s prior to the ditional dwelling ding addition to the existing dwelling unit." See Attachment.

1987 MAY -5 AM 11:52
ZONING SECRETARIAT,
DISTRICT OF COLUMBIA

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1987 MAY -5 AM 11:5
ZONING SECRETARIAT,
DISTRICT OF COLUMBIA

No building permit was ever issued and nothing has happened on the subject site until this time. The present owner of the lot, Mr. Edward Markowitz, has now requested in the above-referenced application a hearing at the BZA, which is scheduled for April 22, 1987. The Association is not aware of any details regarding Mr. Markowitz's application. The

PM 5/6/87
file

ROCK CREEK GLEN COMMUNITY ASSOCIATION

Grier C. Raclin
President

April 20, 1987

Board of Zoning Adjustment
District Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Re: Application No. 14583
BZA Hearing 4/22/87

To: The Board

This is a Statement of the Rock Creek Glen Community Association's position with regard to the above-referenced application and proceeding.

The above-referenced application is to obtain a building permit to construct a house on a portion of Lot 818, Square 2224, commonly known as 2329 Porter Street, N.W. In the Spring of 1980, the Association spent substantial time and money negotiating with the previous owner of the lot, a developer named Mr. Michael Minkoff, regarding his proposal to construct homes on the lot. These negotiations resulted in the parties signing on May 13, 1980 a "Declaration of Covenants," which applied certain restrictions to the development of this land. Hearings were held by the BZA on May 14 and 21, and June 4, 1980, with regard to Mr. Minkoff's proposal, and a Bench Decision was rendered by the Board on June 4, 1980. The Decision specifically held "That the Covenants dated May 13, 1980 be recorded with the Recorder of Deeds prior to the issuance of any building permit for the additional dwelling unit to be erected on the site or the building addition to the existing dwelling unit." See Attachment.

No building permit was ever issued and nothing has happened on the subject site until this time. The present owner of the lot, Mr. Edward Markowitz, has now requested in the above-referenced application a hearing at the BZA, which is scheduled for April 22, 1987. The Association is not aware of any details regarding Mr. Markowitz's application. The

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ZONING SECRETARIAT
DISTRICT OF COLUMBIA

Association contacted the attorneys for Mr. Markowitz over a month ago in an attempt to obtain information on the substance of his application, and has informed the attorneys that the Association's position remains consistent with its position in 1980; i.e., that the Association desires and expects compliance with the May 13, 1980 Covenants and the June 4, 1980 BZA Decision.

More than three weeks after our initial contact with the attorneys for Mr. Markowitz, those attorneys requested that the Association meet with them on April 14, 1987, only a week before the scheduled BZA hearing. The Association's Treasurer, Mr. John C. Holman, attended the meeting on behalf of the Association, at which time Mr. Markowitz's attorneys proposed some changes to the Declaration of Covenants and the 1980 BZA Decision. While the Association is willing to discuss these matters at any time, the attorneys were informed the Association opposes any changes proposed at this late date because there was not sufficient time between the proposed meeting with Mr. Markowitz's attorneys and the April 22nd BZA hearing to allow the Association members to assemble and discuss proposed changes in the Covenants.

In sum, the Rock Creek Glen Community Association's position is in favor of a decision by the BZA on the captioned application which would be identical and consistent with the BZA's Decision rendered in June, 1980, and which will require the present Declaration of Covenants to be recorded with the Recorder of Deeds prior to the issuance of any permit for building on the site. Should any changes to the prior BZA Decision be proposed at the hearing scheduled for April 22, the Association opposes those changes and seeks the continuance of the BZA hearing to allow the Association to call a meeting of its members to consider and address proposed changes to the Covenants.

Any questions regarding this matter may be referred to the undersigned, or to John C. Holman.

ROCK CREEK GLEN COMMUNITY ASSOCIATION

BY: _____
Grier C. Raclin, President

cc: Mr. John C. Holman

14583

DECLARATION OF COVENANTS

THIS DECLARATION, made this 13th day of May, 1980, by MICHAEL MINKOFF, LTD., hereinafter called the "Declarant," hereby makes the following declaration and hereby specifies that such declaration shall constitute a covenant to run with the land, as provided by law, and shall be binding on all parties and persons claiming under it, and for the benefit of and with limitations on all future owners of the property described below and for the benefit of the owners of the property abutting the subject site below;

W I T N E S S E T H :

WHEREAS, Declarant is the record owner of certain lands situated within the District of Columbia, Lot 818 in Square 2224, consisting of approximately 38,731 square feet shown on the attached plat, Exhibit A, (hereinafter referred to as the subject site); and

WHEREAS, Declarant is the applicant before the Board of Zoning Adjustment in Application No. 13178 to permit a building addition and the erection of an additional residential structure on the subject site; and

WHEREAS, Declarant is desirous of obtaining the unqualified support of the owners of property which abut the subject site for the above Board of Zoning Adjustment application.

NOW, THEREFORE, in consideration of the mutual covenant and agreement of abutting property owners to support Application No. 13178 before the Board of Zoning Adjustment and other good and valuable consideration, receipt of which is hereby acknowledged, the said Declarant does hereby declare that the subject site is and shall be held, transferred, sold and conveyed subject to the easement set forth, to wit:

/ OFFICES
S & ARTIS
ARTERED
STREET, N. W.
ON, D. C. 20006
457-7900

ZONING SECRETARIAT
DISTRICT OF COLUMBIA
1987 APR 20 PM 2:03

1. That the subject site shall be improved with no more than two (2) residential dwelling structures, the existing structure as of the date of this Declaration, and an additional structure contemplated to be erected in the future, hereinafter called "additional structure." and any future building addition thereto

2. That the additional structure shall be erected within the building area delineated on the attached plat, Exhibit B.

3. That Declarant waives any right to remove or petition for the removal of any encroachments existing as of January 1, 1980 in the right-of-way for roadway and highway use delineated on a plat of survey made by M.C. Hazen, Civil Engineer, in March of 1907.

4. That Declarant ~~does~~ shall not ~~intend to~~ improve the aforesaid right-of-way for roadway and highway use to its full twenty-five foot width for its proposed development of the subject site but rather ~~intends to~~ shall maintain the existing right of way areas as they presently exist unless required to do otherwise by applicable District of Columbia regulation.

5. That Declarant ~~intends to~~ shall establish a suitable ornamental planting screen along a portion of the western boundary of the subject site where it abuts Lot 817 and to cooperate with the owner of Lot 817 in the establishment of such ornamental planting screen.

6. That the abutting property owners to the subject site are third-party beneficiaries hereof with the right of specific enforcement.

7. That said declaration shall not be extinguished without the written consent of all beneficiaries.

LAW OFFICES
ES & ARTIS
CHARTERED
STREET, N. W.
STON, D. C. 20009
(202) 457-7800

8. That the covenants contained herein are and shall be construed as real covenants running with the land and shall bind the parties hereto, their successors, heirs, executors, administrators or assigns.

9. That the provisions of this Declaration are contingent upon approval of applicant's request in B.Z.A. Application No. 13178; in the event no approval is given, then this covenant shall be deemed null and void and of no force and effect.

10. That Declarant will work diligently with the owners of Lots 804, 805, 806, 810, 812, 813, 816, and 817 (such lots shown on the attached plat Exhibit C) to reach an agreement for an equitable apportionment of costs between and among the aforesaid owners and declarant for the maintenance and upkeep of the improved portions of the easement areas dedicated for highway and roadway use which abut and run through the subject site and the aforesaid lots as delineated on a plat of survey made by M.C. Hazen, Civil Engineer, in March of 1907.

IN WITNESS WHEREOF, on the day and year first hereinabove written, the said Michael Minkoff, Ltd. has caused these presents to be signed with its corporate name by Michael Minkoff, its President, attested by Robert J. Gray, Jr. its Secretary and its corporate seal to be hereunto affixed and does hereby constitute and appoint Michael Minkoff its true and lawful attorney-in-fact for it and in its name to appear before any officer authorized by law to take and certify acknowledgments and then and thereto acknowledge and deliver these presents as its act and deed.

MICHAEL MINKOFF, LTD.

ATTEST:

Robert J. Gray Jr.
Secretary

By Michael Minkoff
Michael Minkoff, President

(CORPORATE SEAL)

LAW OFFICES
.KES & ARTIS
CHARTERED
1 K STREET, N. W.
NGTON, D. C. 20006
202) 457-7800

DISTRICT OF COLUMBIA, ss:

I, FRANK R. WELSH, a Notary Public in and for the District of Columbia, do hereby certify that Michael Minkoff, who is named as attorney-in-fact for Michael Minkoff, Ltd., party to the foregoing and attached Declaration bearing date of the 13th day of May, 1980, personally appeared before me and the said Michael Minkoff, being personally well known to me as the person named as attorney-in-fact in said Declaration for said Michael Minkoff, Ltd. and acknowledged said Declaration to be the act and deed of said corporation and delivered the same as such.

GIVEN under my hand and seal this 13th day of May, 1980.

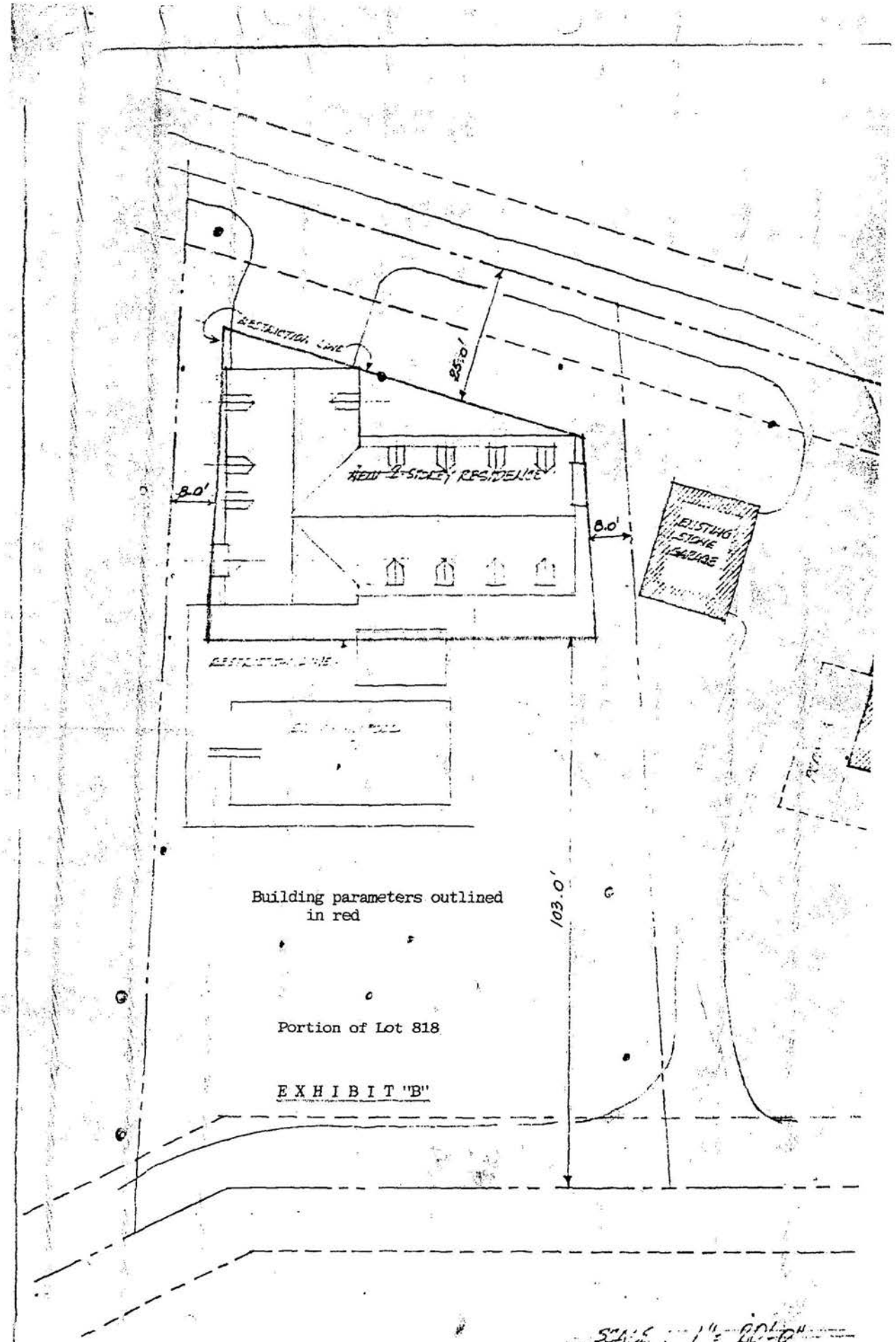


Notary Public FRANK R. WELSH

My commission expires: 9-30-82.

LAW OFFICES
WILKES & ARTIS
CHARTERED
1666 K STREET, N. W.
WASHINGTON, D. C. 20006

(202) 457-7800



Building parameters outlined in red

Portion of Lot 818

EXHIBIT "B"

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

EXHIBIT
BZA No. 16970
3h (CAN)

Washington, D. C., MAY 2 ..... *19*86

Plat for Building Permit of SQUARE 4224 ..... LOTS 820 + 821

Scale: 1 inch = ...40.... *feet* *Recorded in Book* S.O. 202 ..... *page* 124

Receipt No. 34-66 .....

Furnished to ELLEN LEE .....

..... *Surveyor, D. C.*

By .....

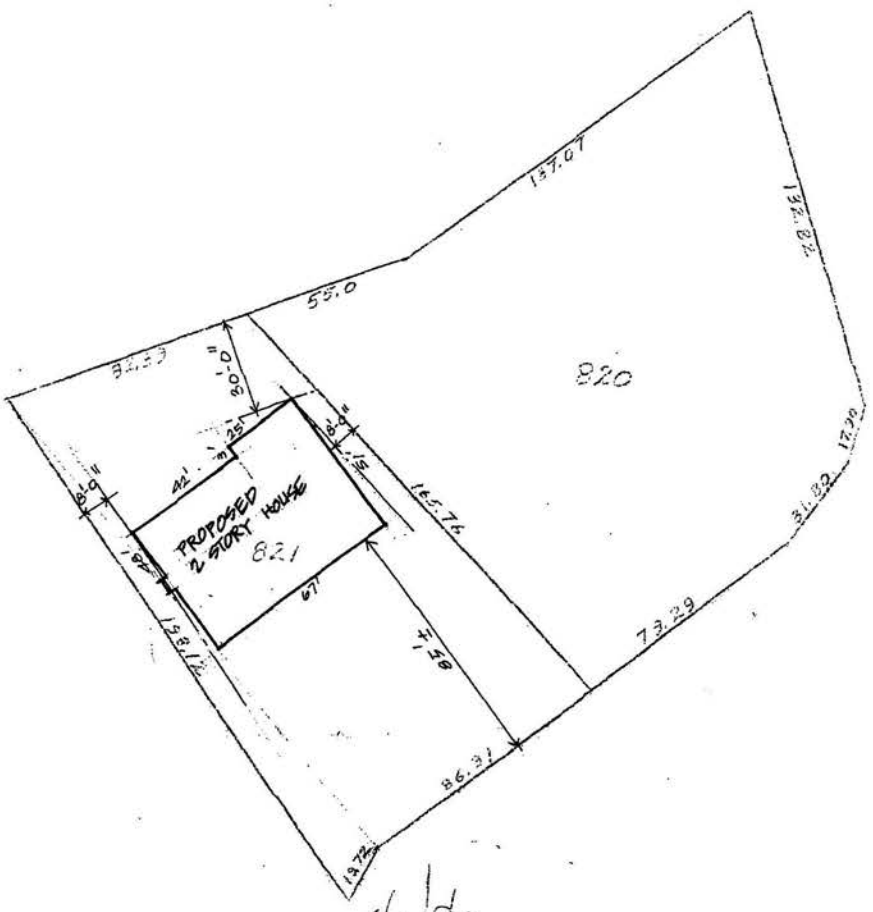
RECEIVED
MAY 2 3 51

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

Date April 29, 1986.

..... *(Signature of owner or his authorized agent)*

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



LOT 821 CANNOT become a Record Lot
Building Permit
Cal 5/2/86

B. S. Ravishankar
Zoning Review Branch
Zoning Division

EXHIBIT "E"

J-93270

S. O. Form 1

EXHIBIT
tabbies B24 NO. 16970
4a (CAN)

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16352 of Benjamin Johns, pursuant to 11 DCMR 3107.1, for a variance from the height limitation for an accessory structure (Section 2500.4) and a variance from the record lot subdivision requirements (Section 3202.3) to allow the construction of a new single-family dwelling with an accessory pool and private garage in an R-3 District at premises 1635 29th Street, NW (Square 1284, Lots 837 and 838).

HEARING DATE: July 8, 1998
DECISION DATE: July 8, 1998 (Bench Decision)

SUMMARY ORDER

The applicant modified the proposal to reflect the recommendations submitted by the R Street Neighborhood group which consists of the owners of properties within 200 feet of the subject site. The modification also included an agreement to impose a covenant on the property stating that the property would remain under single ownership for 35 years.

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2E and to owners of property within 200 feet of the site.

The site of this application is located within the jurisdiction of ANC 2E. ANC 2E, which is automatically a party to this application, did not submit a written statement regarding the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for variances from the strict application of the requirements of 11 DCMR 2500.4 and 3202.3. No person or entity appearing as a party to this case testified in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3107, that there exists an exceptional or extraordinary situation or condition related to the property which creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that this application be **GRANTED.**

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.1 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: **3-0** (Betty King, Anthony J. Hood and Sheila Cross Reid to grant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Stacey W. Rose
for **SHERI M. PRUITT-WILLIAMS**
Interim Director

Final Date of Order: SEP 30 1998

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATION OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

SO16352/POH

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.1 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 3-0 (Betty King, Anthony J. Hood and Sheila Cross Reid to grant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Tracey W. Rose
for **SHERI M. PRUITT-WILLIAMS**
Interim Director

Final Date of Order: SEP 30 1998

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

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SO16352/POH

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16352

As Interim Director of the Office of Zoning, I certify and attest that on SEP 30 1998 a copy of the order entered on that date in this matter before the Board of Zoning Adjustment was mailed first class, postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Cynthia A. Giordano, Esquire
Linowes and Blocher
1150 17th Street, N.W., Suite 302
Washington, D.C. 20036

Mr. & Mrs. Benjamin Johns
1633 29th Street, N.W.
Washington, D.C. 20007

Attested By: Tracey H. Rose
for **SHERI M. PRUITT-WILLIAMS**
Interim Director

Date: SEP 30 1998

Attest/ljp

EXHIBIT D

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

March 31, 1998

MEMORANDUM

TO : Board of Zoning Adjustment

FROM : Edgar T. Nunley, Chief
Zoning Review Branch

SUBJECT : Proposed Construction of a new Single Family Dwelling with an Accessory Pool and Private Garage located at premises 1635 29th Street, N.W., Lot(s) 838, in Square 1284, Zoned R-3

Review of plans for the proposed new construction of a single family dwelling at the above subject premises indicates that the Board of Zoning Adjustment approval is required as follows:

1. Variance from the height limitation for an accessory structure (Section 2500.4) in the single family R-3 Zone. (Section 3107.2)

2. Variance from the record lot subdivision requirements Section 3202.3 for construction of a single family dwelling on an otherwise vacant lot in the R-3 Zone. (Section 3107.2)

DISTRICT OF COLUMBIA
'98 APR -3 P3:56

#7
16352

EXHIBIT
BZA No. 16970
4b (CPN)
tabbies

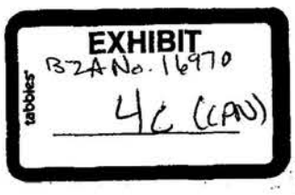
ZA-97-747

NOTES AND COMPUTATIONS

ADDRESS: 1635 29th Street. N.W. **LOT(S):** 838 **SQUARE:** 1284

ZONED: R-3

	REQUIRED:	ALLOWED:	PROVIDED:	VARIANCE:
LOT AREA	3,000 Sq.Ft.		26,889.0 Sq. Ft.	
LOT WIDTH	30'		111.8'	
LOT OCCUPANCY (40%)		10,755.6 Sq.Ft.	1.684.75 Sq.Ft. (6.2%)	
FLOOR AREA RATIO (		N/P	N/A	
PARKING SPACES	1		2	
LOADING BERTHS	N/A		N/A	
FRONT YARD	N/A		N/A	
REAR YARD	25'		25'+	
SIDE YARD	N/A			
COURT, OPEN	N/A			
COURT, CLOSED				
ACCESSORY STRUCTURE HEIGHT		15'	21.5'	6.5' (43%)



BZA Form 2
(Revised 4/20/74)

Docket No. 16352

KW

BEFORE THE

BOARD OF ZONING ADJUSTMENT

FOR THE

DISTRICT OF COLUMBIA

APPLICATION

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 Section(s) 3107.2 of the Zoning Regulations of the District of Columbia, an application is hereby made for the following action: Variances from section 2500.4 and 3202.3, which is provided for by Section(s) _____ of the Zoning Regulations.

Premises affected are located at 1635 29th Street, N.W.
(Street Address)

Lot(s) 838, Square(s) 1284, in the District of Columbia, in Zoning District R - 3.

Present Use of Property: Vacant.

Proposed Use of Property: Single - family residential.

Owner of Property: Mr. & Mrs. Benjamin Johns.

Address of Owner: 3409 O Street, N.W. Washington, D.C. 20007.

'98 APR -3 P3:55 OFFICE OF ZONING DISTRICT

State briefly the basis for action sought:

Date: March 31, 1998 Signature: Cynthia Giordano
Applicant*

*The owner of the property for which application is made or his authorized agent may file an application. In the event an authorized agent files an application on behalf of the owner, the notice of application shall be accompanied by a letter signed by the owner authorizing the agent to act on his behalf in this application.

TO BE NOTIFIED OF HEARING AND DECISION:

Name Cynthia Giordano

Address 1150 17th Street, N.W. -- Suite 302

Zip Code Washington, DC 20036 Phone No. 202-293-8509

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

#1

Exhibit "A"

Statement Of Existing and Intended Use Of Subject Property
1635 29th Street, N.W.

The subject property is adjacent to a larger parcel (Lot 837) which is under common ownership and which is currently improved with a historic single-family residential structure that is a designated landmark building. The property owners recently purchased the property and are in the process of renovating the landmark as a new home for themselves and their four children.

The properties include a substantial amount of vacant land; together the properties consist of a total area of 86,069 square feet (or 1.97 acres). The property owners want to build a new garage and pool/guesthouse as well as a swimming pool as part of the renovation project. The pool/guesthouse is considered to be a single-family structure under the Zoning Regulations requiring a record lot subdivision (§ 3202.3). However, because of its historic landmark status, the Historic Preservation Review Board would not approve a subdivision of the property, urging the property owners to seek a variance instead. (See attached Report of the Historic Preservation Review Board staff).

The need for the requested variances arises from the extraordinary historic character and status of the subject property. A strict application of the Zoning Regulations in this circumstance would result in undue hardship and practical difficulties for the property owners.

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#5
16352

HISTORIC PRESERVATION REVIEW BOARD
STAFF REPORT AND RECOMMENDATION

Landmark/Historic District:
Mackall Square
Georgetown Historic District

Meeting: **November 20, 1997**

Address:
1633 29th Street, N.W.

( ) Consent Calendar
(X) Agenda

H.P.A. Number: **98-30**
Date Received: **October 28, 1997**

(X) Subdivision
( ) New Construction
( ) Demolition
( ) Conceptual Review

Staff Reviewer: **Eve Barsoum**

The applicant, architect Robert Bell for his clients Mr. and Mrs. Johns, seeks approval to subdivide the Mackall Square estate. The property, located at 1633 29th Street, N.W., occupies most of the land between Q, R, 28th and 29th Streets in the Georgetown Historic District. Mackall Square has been recognized individually since 1964 when the Joint Committee prepared its preliminary list of *Landmarks of the National Capital*.

Early Development in Georgetown

18th century George Town was dominated by Scottish, Maryland, and Virginian tobacco merchants who fueled the local economy, were appointed its commissioners, and established themselves as the social elite. At the turn of the century, some of the merchants acquired land comprised of several acres on the high ground above Back Street (present day Q Street). They erected Federal style edifices on their estates. Today, most of the mansions remain on much if not all of their original estates. The more well-known estates include: Mackall Square (c. 1770-1820), Beall-Washington House (1784), Evermay (1792-1794), Tudor Place (1794-1816), Dumbarton House (1799-1805), Bowie-Sevier House (c. 1800), and Dumbarton Oaks (1801).

History and Description of Mackall Square

The property known as Mackall Square was part of a tract of land owned by Ninian Beall, one of Georgetown's earliest and premier land owners. In the mid 1700s, his son George erected a small frame cabin on the property. During this time, Colonel Benjamin Mackall was establishing himself as a prominent landholder in Calvert and Prince Georges Counties, Maryland. He married Christianna Beall, daughter of the locally prominent shipping merchant, Colonel Brooke Beall. The newlyweds acquired Mackall Square in 1805. Initially, they enlarged George Beall's cabin with one- and two-story frame structures. In 1820, they commissioned the brick Federal addition set perpendicularly to the frame buildings. Its imposing Greek Revival portico probably dates from the 1840s.

Mackall Square is unique in the historic district because it clearly represents the development of an estate, and in turn the economic situation of the owners, during the period c.1770 to c.1820. The evolution of the property presents a microcosm of the development of Georgetown in the Georgian and Federal periods. The vernacular parts which comprise Mackall Square, including the brick privy and wood cabin,

which has no internal connection to the adjacent one-story structure, are a rarity in Georgetown. Mackall Square is unique among the neighboring mansions which typically comprise a central brick block flanked by hyphens and wings.

The four-acre estate remained in the Mackall family for 106 years until 1911 when the property, minus the lots along Q Street which had been established in the late nineteenth century, was purchased by Herman Hollerith. The rambling structure did not meet the needs of Hollerith's family of eight, so he subsequently commissioned Frederick Pyle to build a Colonial Revival house at the southwest corner of the estate. In the mid 1950s, seven lots along R Street were created and rowhouses reflecting the post-War version of the Colonial Revival style were constructed. The Hollerith home and an accompanying 2/3 acre was subdivided from the larger property in 1996, per HPRB approval.

Proposed Subdivision

The proposal calls for separating two-thirds of an acre from the landmark. The proposed lot is a full third of the present two-acre estate and is much larger than the minimum buildable lot size required by zoning.

The applicant is requesting the subdivision in order to construct a 2-1/2 story structure which would accommodate a garage, pool house, and guest quarters; the structure does not meet the definition of "auxiliary structure" under the zoning code. The project can be realized if either the subdivision is approved by the Mayor's Agent (required for individual landmarks) or a variance is granted by the Board of Zoning Adjustment.

Evaluation and Recommendation

The Georgetown Historic District was recognized in general for its architecture and cultural heritage. The importance of the 134 remaining structures which date from the Georgian and Federal periods comprise a critical minority of the 3033 buildings in Georgetown. They are important because they are rare. The great estates located on the high ground, comprised of Georgian and Federal edifices and several acres, are a highly significant aspect of the historic district. The buildings and their lots established the framework for the development pattern of the town, which remains a thriving community 250 years later.

This subdivision application is inherently inconsistent with the purposes of the preservation law because it severs the property of the individual landmark known as Mackall Square, one of the most significant Federal estates on the high ground of Georgetown. The property has been associated with its building for more than 200 years. The integrity of the remaining two out of the original four acres of Mackall Square is critical to understanding this individual landmark.

However, the owner has verbally agreed to place a covenant on the land which would ensure that the two acre estate will remain under single ownership in perpetuity.

From the perspective of historic preservation, the best solution is for the applicant to seek a variance from the Board of Zoning Adjustment for the proposed non-conforming accessory building. If, however, a subdivision is recorded in conjunction with a perpetual covenant, binding the lots in common ownership to assure that the estate remains intact, then the subdivision may not be inconsistent with the purposes of the preservation law.

EXHIBIT
tabbies
BZA No. 16970
4d (CPN)

MACKALL SQUARE
1633 29TH STREET

OUTLINE OF SLIDE PRESENTATION FOR JOHNS RESIDENCE

1. History of site -see exhibit A

A. Historically this 1820 Greek Revival house property was entered from the south as a classic center hall anti-bellum house. The first axis of the house was through the center hall to the porch and to the garden.

B. Historical maps show that the property had out buildings and particularly a green house located almost exactly where the proposed new pool house is to be located.

C. When the property was purchased by Herman Hollerith, with his family of 8, constructed a new classic revival house on 29th street. This with the cutting of the grid pattern of 28th and 29th street eliminated the original entrance and created a back road entrance off of 29th street which was the entrance to the property which was inconsistent with the design.

D. In approximately 1958 the property was divided into approximately 10 lots, the north end of the property was cut off creating eight new residences facing onto R Street N.W. Four of these "non contributing" 1950 houses are the only people who have objected to the design by the present owner. All of the property is R-4 zoning allowing row dwellings.

E. In the 1970 the owners of the land separated the land into two parts. The remaining property was divided into two 800 lots.

1. One of these parts which contain approximately eight more additional lots was established

2. The second lot was established with the two residences located on it.

3. In approximately 1984, the owners granted a scenic easement to the Foundation the Preservation of Historic Georgetown protecting only the southern portion from visual change.

JUL 8 1998
BZA
CASE No. 16952
EXHIBIT No. 23

F. Before the purchase of the present property by the present owners, the HPRB as well as the Foundation for the Preservation of Historic Georgetown approved the subdivision of the property into two separate lots. See exhibit A.

2. The present owners are Ben and Debby Johns. They are long time residents of Georgetown

with four young children under eight years old. They are committed to raising their children in the District of Columbia. Upon the purchase of the land, the Johns applied for a swimming pool on the scenic Easement portion of the property, but were rejected by the Foundation because the Foundation interpreted that only one pool could be built on the easement part and they had already granted, by a few days, a pool to the other parcel of the Mackall square.

III. ARCHITECTURAL DESIGN OF PROPERTY- the arrival and lands of the 1820 house have been substantially altered by the lose of the other property which now contains the garage and obviously was the original driveway arrival. What the purchasers were left with was a property where the original entrance and arrival were lost and the spaces around the house were given over to indiscriminate automobile parking - THE ORGANIZING DESIGN PRINCIPALS

1. The design principal was to separate out the automobile arrival from the garden side of the property.

2. The second organizing principal was the central axis of the center hall building. This reflects the historical design as demonstrated by the original green house located on the axis of the center hall.

IV. The present house is presently being restored for occupancy the spring of this year, but there were three functional parts which were missing from the house.

1. NEED FOR GUEST ROOM. The building itself contains only four bedrooms - which means for a family of 5 two people already have to share a room. Remember that Mr. Hollerith built a whole new residence because of 2 more children. Therefore the Johns needed to create at least a room for a guest or the grandparents to visit. grandparents and visitors.

2 NEEDED TO LOCATE A POOL they wanted to have a pool and pool house but the Foundation would not let them build the pool on the easement area saying that they had given the ONE allowed pool to the other part of the property. Therefore the pool had to be located on the unease portion of the property.

3. NEEDED A GARAGE- We note that- The architectural design of the residence was to again try to establish a separation of the driveway from the house and to have some awareness of the front entrance of the house which is what makes it special and gives it its special character. Design principles were to divide the garden area from the driveway parking areas. But with the separation of the garages which went with the southern property, there was not any place for cars. In addition there is the problem of minimizing the driveway areas from the arrival to the house. Therefore we established the separate area for the cars and their parking. As far from the main house as possible.

V. The design of these three elements were combined into one building forming a single

structure located on axis at approximately the point where the original green house was located. Instead of spreading all three of these elements over the landscape - the original idea of providing a single building with a ha-ha with the landscape to avoid the fencing of the pool. The pool itself is related to the central axis created by the front door of the 18th century residence emphasizing the classical central hall design of the original building .

This did the following things

1. Placing the garage under the pool house to eliminate the separate structure.
2 The garage was designed with the minimum of height.
3 The third floor, for the guest room used the lowest possible third floor by making the eaves come down to 4'0" at the eaves.

The style is related to barn styles with stone base and clapboard to match the existing structure.

EVOLUTION OF THE DESIGN

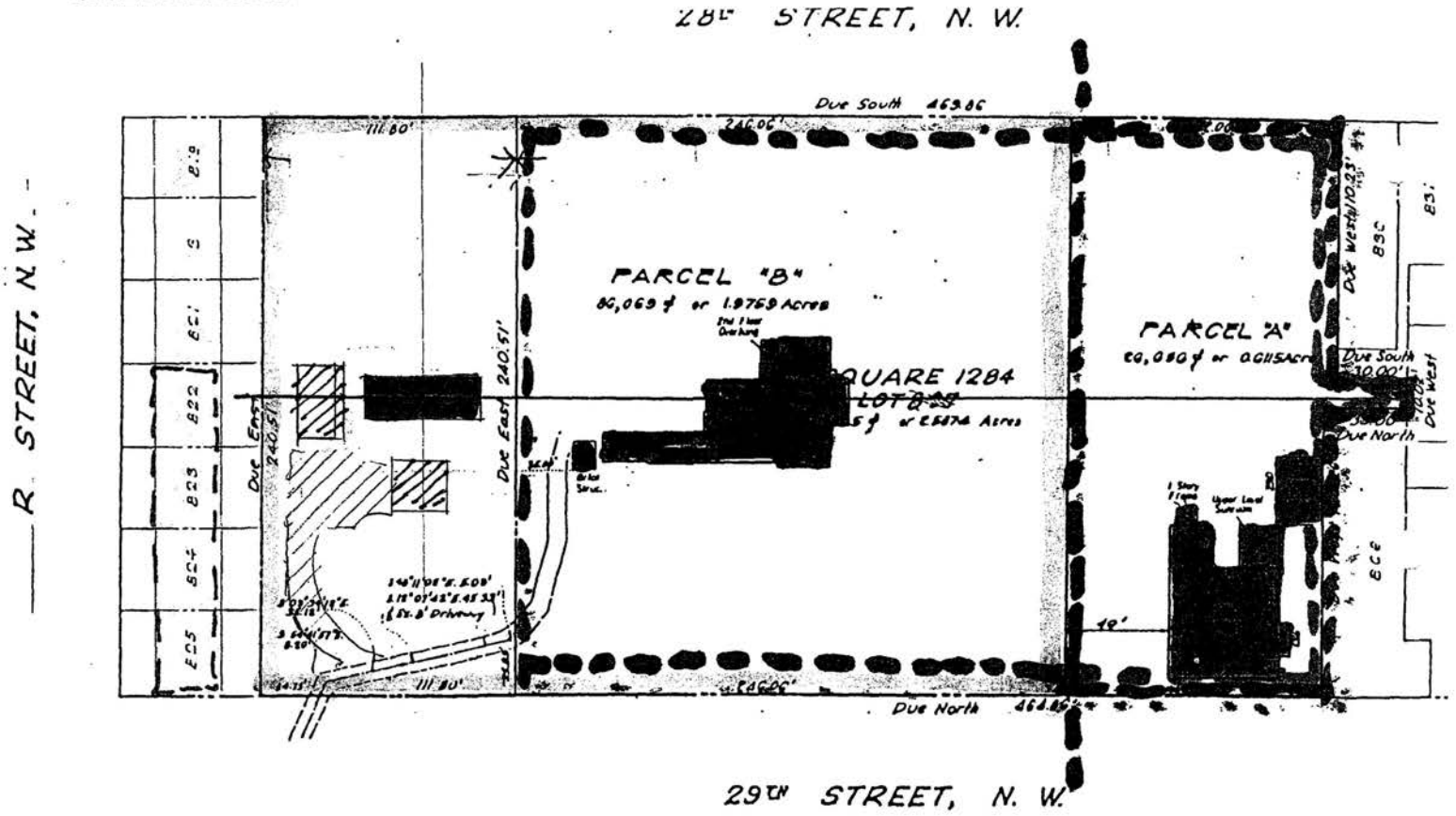
1. The owners wished to achieve a compromise for the project and at first offered to move the pool house back to 18' from the property line although the ZONING ALLOWS A FACE ON LINE DESIGN OF THIS STRUCTURE.

2. After discussions with Eve Barsum, the Georgetown HPRB staff representative, we explored the possibility of creating a two building solution which would lower the pool house by almost eight feet approximately one third of the high of the building. It also lowered the pool and created a garage designed like a ICE house to minimize its height. After much consultation with the staff, we achieved this final design.

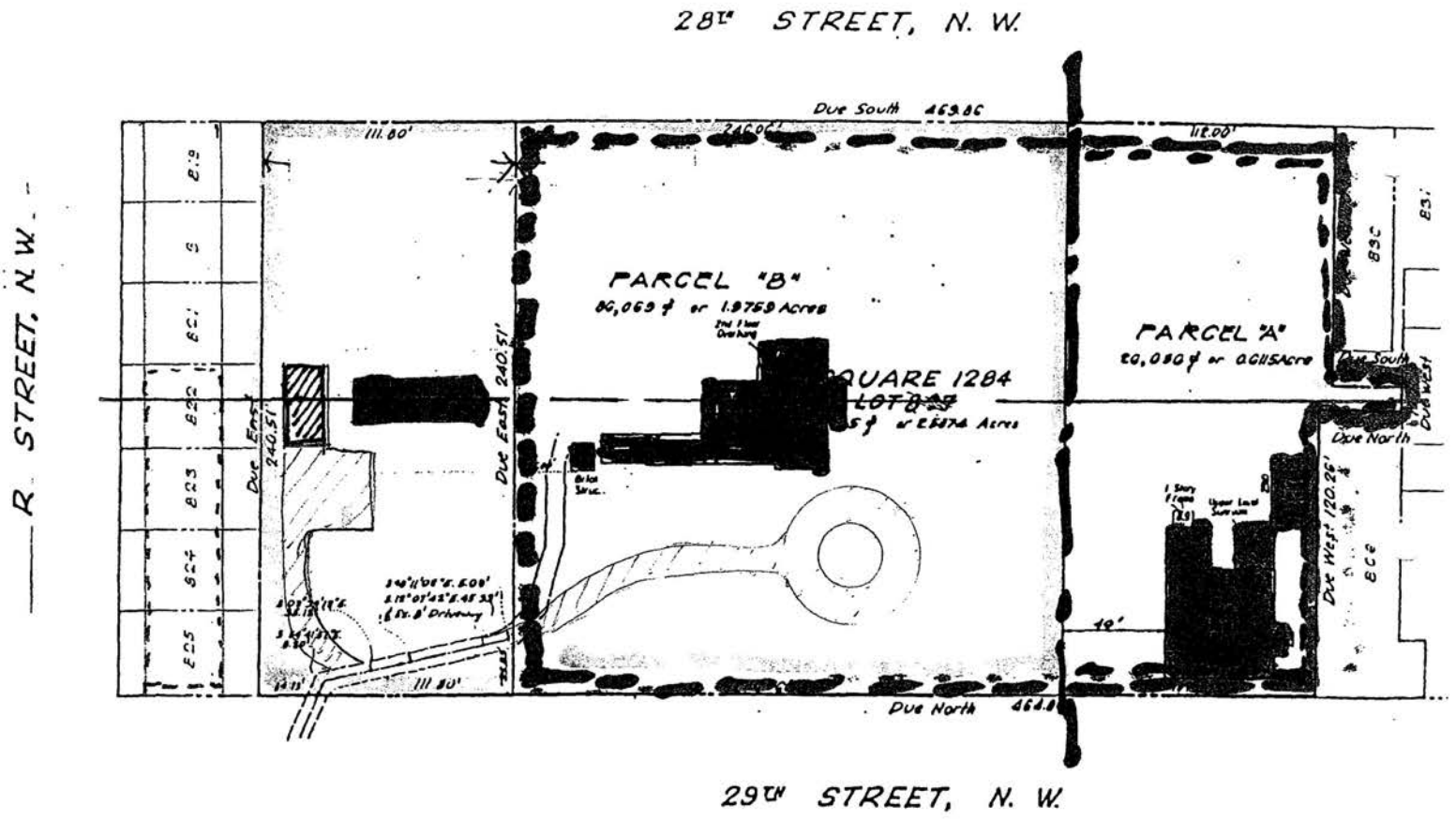
RESOLUTION WITH NEIGHBORS, GEORGETOWN FINE ARTS COMMISSION AND HPRB.

The final solution was to separate the garage from the pool/guest house which was acceptable to both the neighbors and the historical review boards. The concept was that by creating a separate building for the garage, it allowed the height of the building to be lowered which was better for both the neighbors and for the relation to the historical building. The variance requirement for the garage height comes from trying to keep the structure of the garage historically comparable with the existing house by creating the image of a "ice house" in which much of the base of the garage is below grade level. The level is created by bumming the earth against the street facade. The roof line is dictated by the historical context.

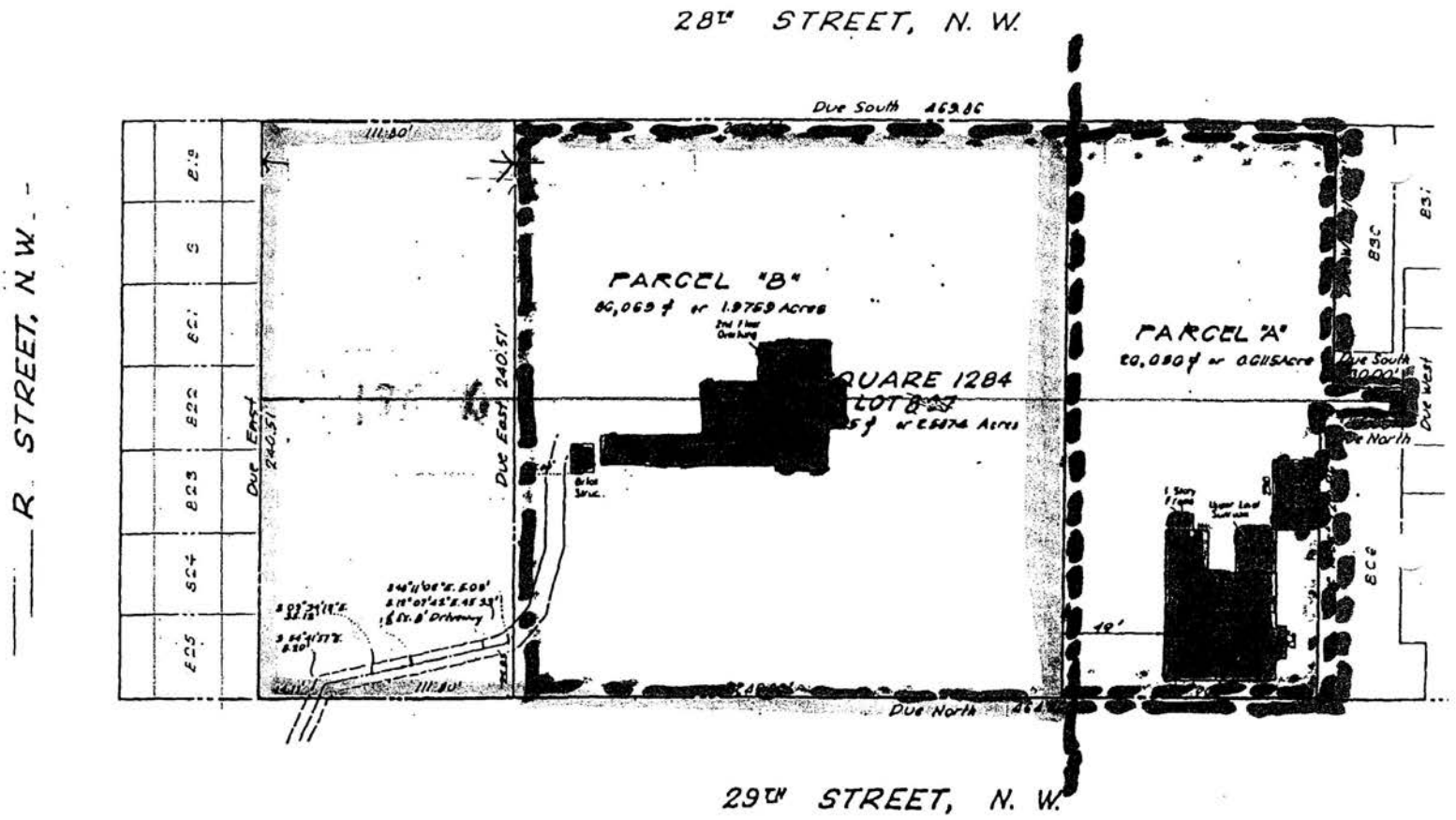
1997 FALL DESIGN ADJUSTED FOR HPRB STAFF AND NEIGHBORS TO A LOWER POOL HOUSE AND SEPARATE GARAGE.



1997 GEORGETOWN FINE ARTS COMMISSION APPROVES CONCEPT OF POOL AND GARAGE POOL HOUSE

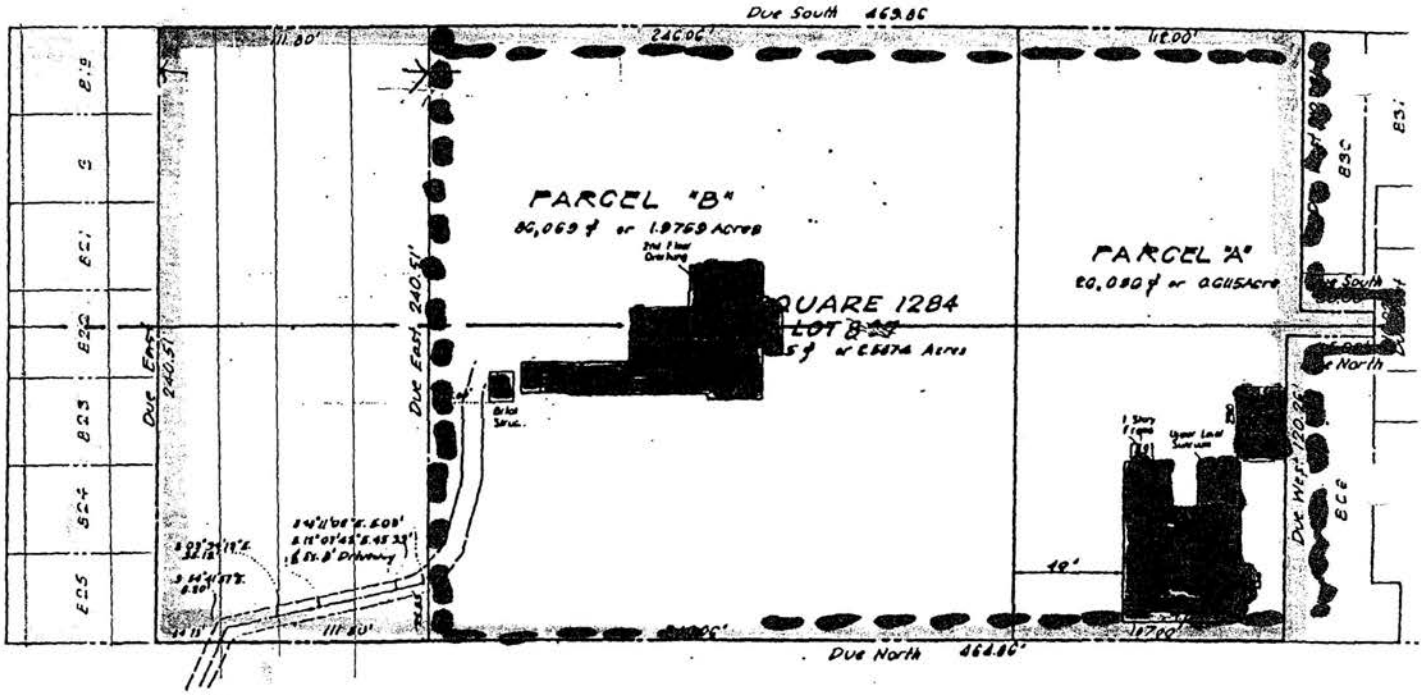


1996 SUBDIVIDED LOT APPROVED BY HPRB AND FOUNDATION



1964 SCENIC EASEMENT ON PART OF PROPERTY - REMAINING WITHOUT HISTORIC EASEMENT

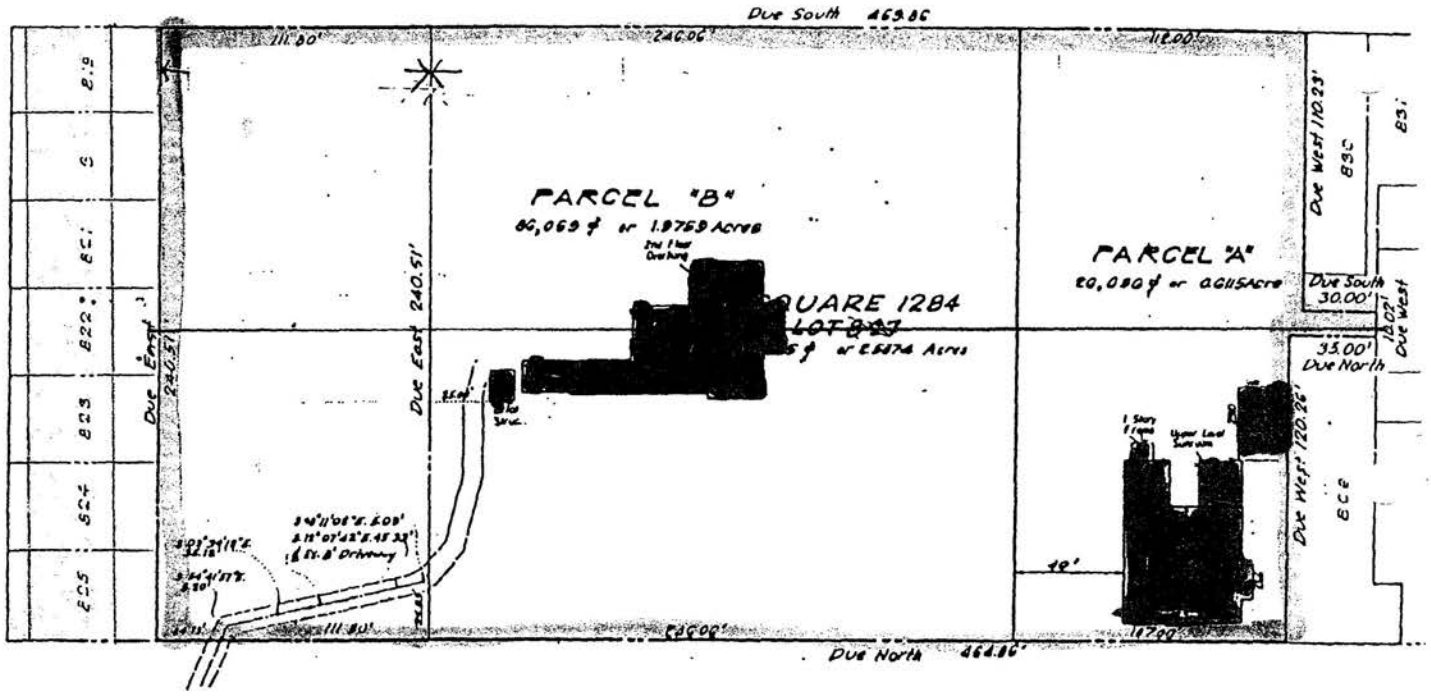
28th STREET, N. W.



29th STREET, N. W.

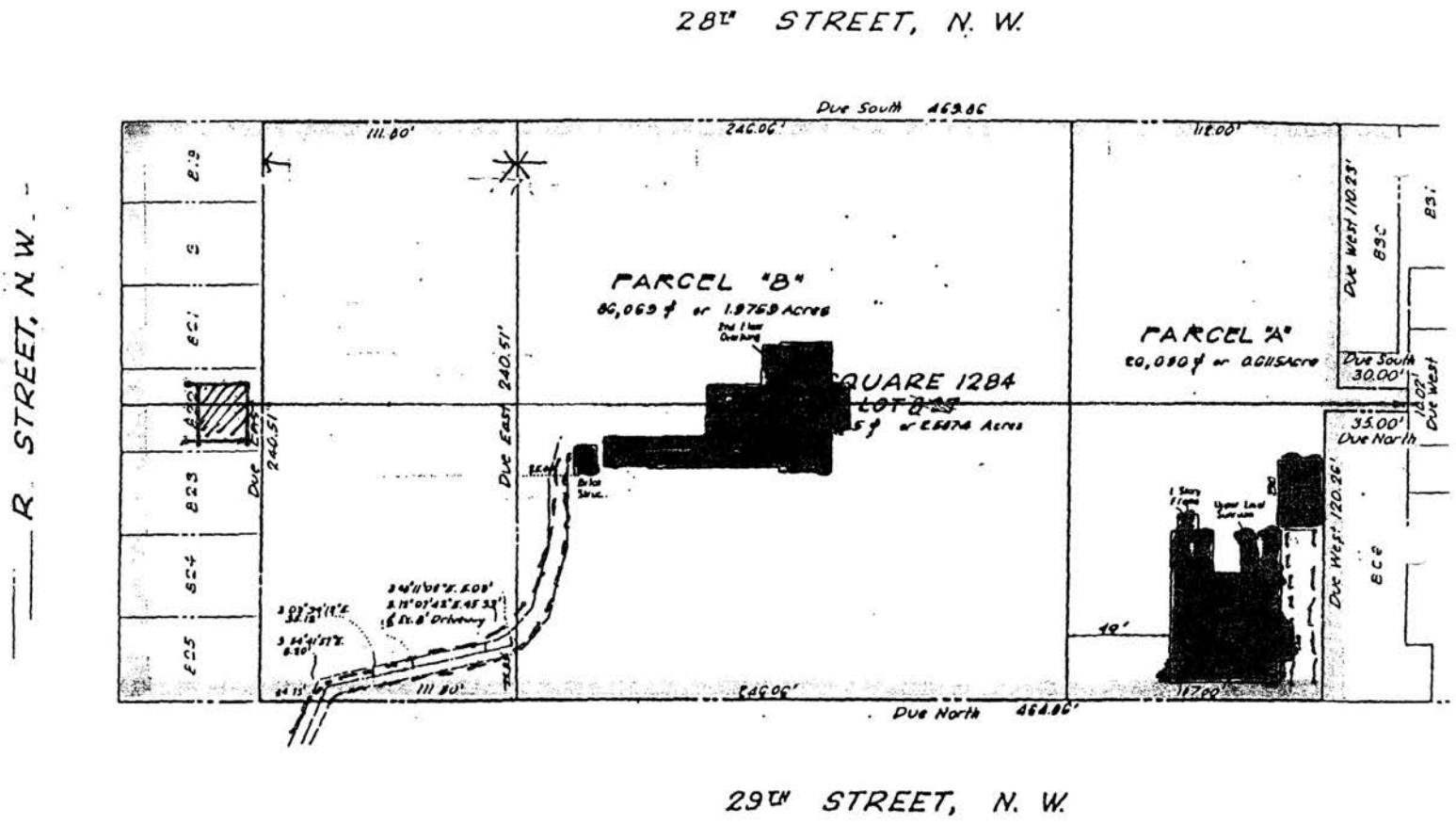
1958 SUBDIVISION IN 9 LOTS AND NEW "NON CONTRIBUTING" BUILDINGS

28TH STREET, N. W.

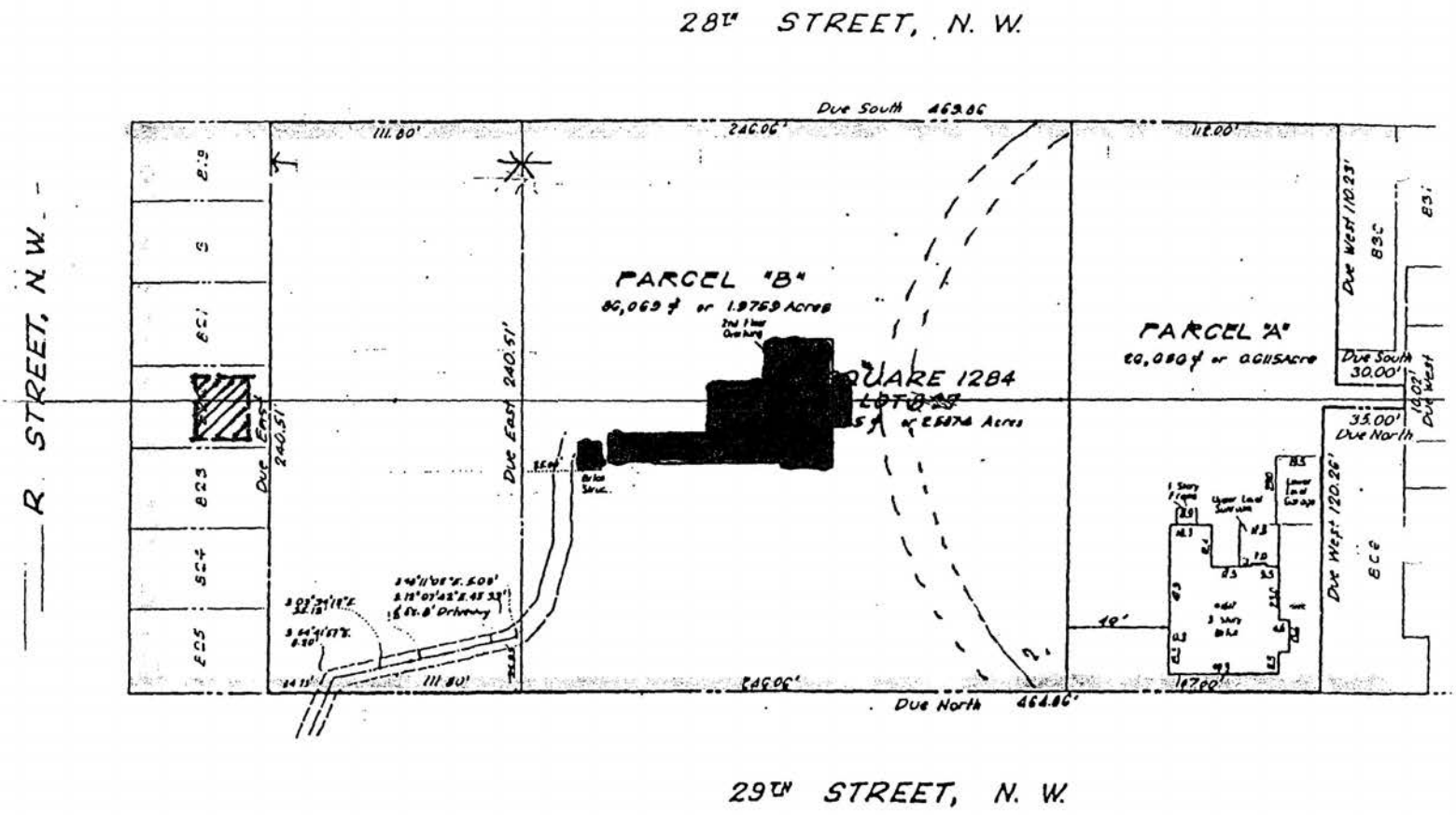


29TH STREET, N. W.

1915 HOLLER CLASSIC REVIVAL



1820 ORIGINAL GREEK REVIVAL



Ex v

HISTORY

1617 29TH STREET and 1633 29TH STREET

Georgetown is Washington's most historic enclave and Mackall Square is one of Georgetown's oldest and most historic houses. The original tract of land was owned by Ninian Beall. His son, George, farmed the land. Around 1740, he constructed a one story frame cottage on the property with a large open fireplace, probably for a caretaker. A two story frame building was added later.

The brick portion of the house, with its Greek Revival portico and fluted Ionic columns, was constructed by the then-owners, Louis and Christina Beall Mackall, circa 1820. Christina was the daughter of Colonel Brooke Beall, one of Georgetown's important shipping merchants. Unlike the other frame portion of the house, which reflects a more simple life style, the rooms of this Federal style house are more grand, with wide halls, high ceilings and spacious size. There is a beautiful entry door with sidelights and a fanlight transom. The Mackall's son, Louis, was born in this house and inherited it in 1839. He made it his home until his death in 1876.

In 1911, the property was purchased by Herman Hollerith, a man truly representative of American genius and opportunity. Coming to Georgetown in 1879, he lived in a rented room while working as a census clerk and engineer. An inveterate tinkerer, he had a laboratory at 1054 31st Street, where he experimented with tabulating devices, which led to his invention of the tabulating card, truly the precursor of today's computer. The new tabulating card was used in the 11th U.S. census. The machines were sold world-wide and the young man's fortune was made. In 1884, he filed for the first of 31 patents on his machines and tabulating system and later sold his invention to IBM.

After purchasing Mackall Square, Mr. Hollerith intended to enlarge the house to accommodate his family of eight. Dissuaded from doing so by his architect, he considered razing the house to build a much larger structure. However, this would have necessitated cutting down the oak trees, something Mrs. Hollerith would not countenance. The alternative was to construct a house on another part of the property.

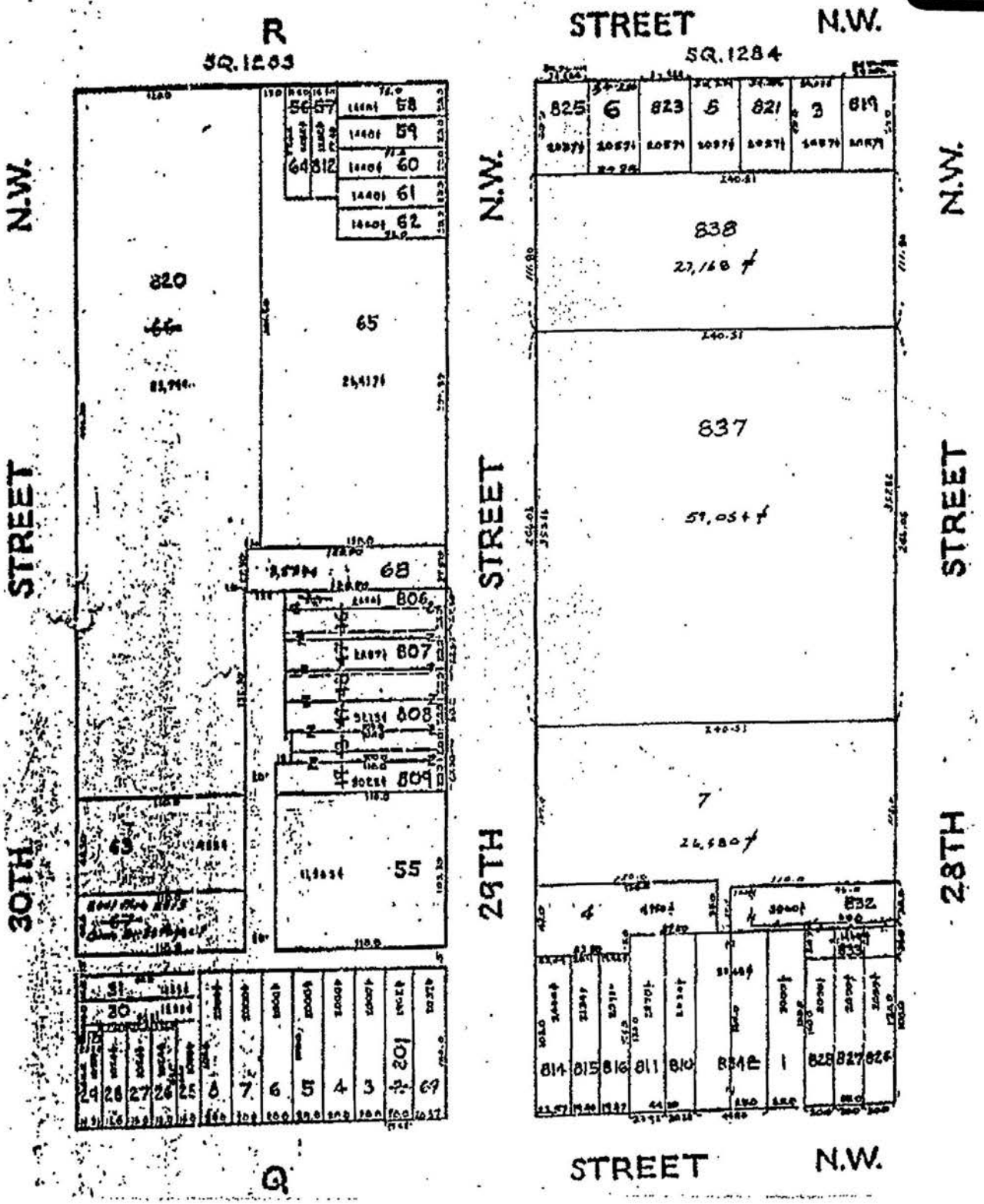
Mr. Hollerith then had the architect, a Mr. Pyle, plan a house for the SW corner of the lot on 29th Street, currently 1617 29th Street. The house was built by the Fuller Construction Company. A steam shovel was used to excavate the basement and the dirt was carried by mule-drawn wagons to the Lincoln Memorial to form the bank around its base.

Ever the innovator, Mr. Hollerith incorporated new ideas and technologies into his house -- metal laths, a built-in vacuum cleaner, and an unusual number of windows and electrical outlets. In 1925, Mr. Hollerith bought one of the first electric refrigerators and automatic washing machines.

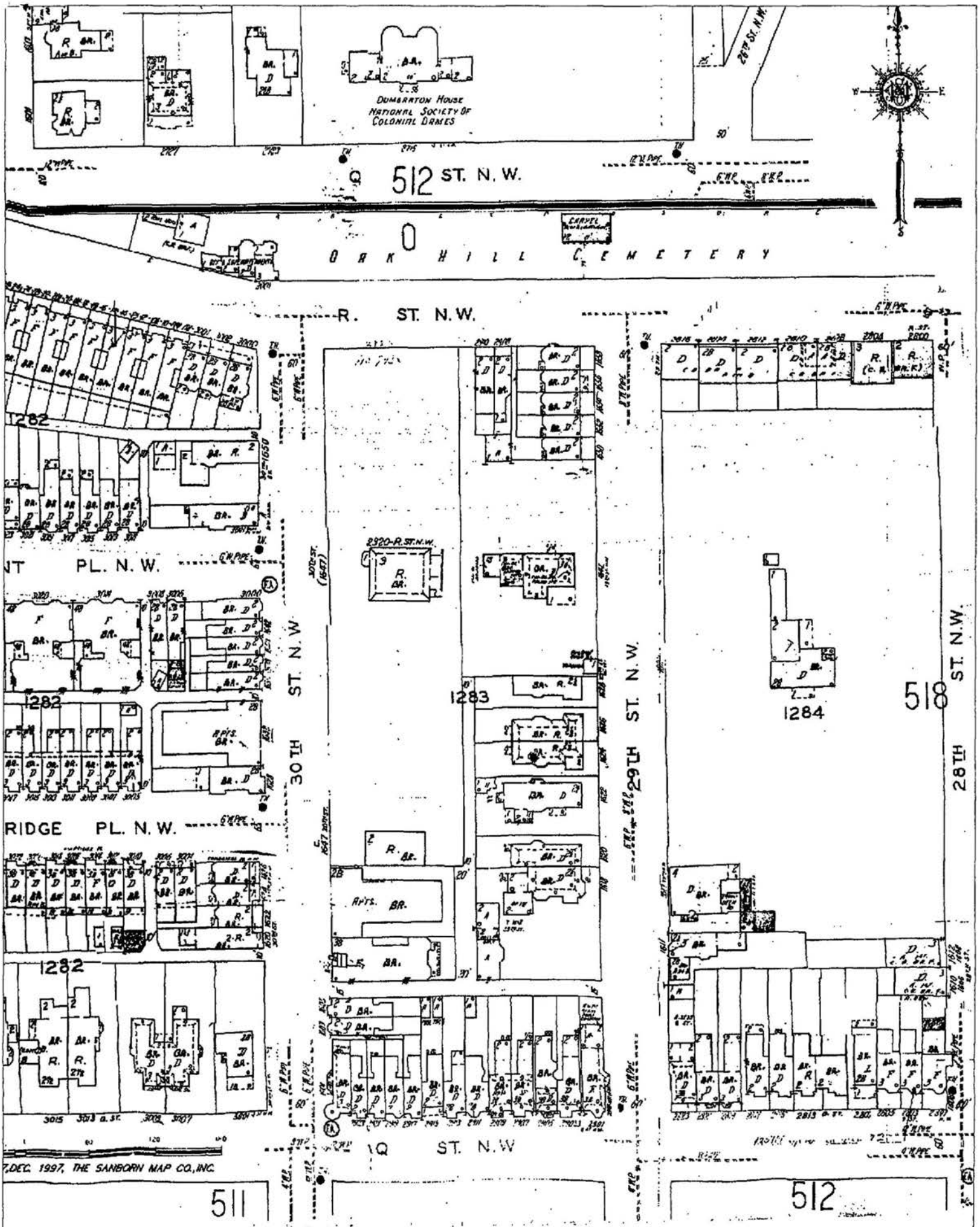
The Hollerith family moved into their new home in 1915. Herman Hollerith died at home in 1929 and was buried at nearby Oak Hill Cemetery, as were his wife and five of their six children.

The Hollerith's daughter, Virginia, carried on the preservationist tradition of her mother by granting a scenic easement on the Mackall Square property to the Foundation for the Preservation of Historic Georgetown in 1984. Thus, the venerable oak trees remain protected.

EXHIBIT
BZA No. 16970
4e (CPN)



Washington, DC , 1998-99 - 1284-0000-0837, Sheet: 1 of 2


DUMBARTON HOUSE
NATIONAL SOCIETY OF
COLONIAL DAMES
Q 512 ST. N. W.
O
O A K H I L L C E M E T E R Y
R. ST. N.W.
1282
1283
1284
2920-R.ST.N.W.
30TH ST. N.W.
29TH ST. N.W.
28TH ST. N.W.
518
PL. N. W.
RIDGE PL. N. W.
P
Q ST. N.W
511
512
7,DEC. 1997, THE SANBORN MAP CO.,INC.

LAW OFFICES

GREENSTEIN DELORME & LUCHS, P.C.

WILLIAM H. HARRIS, JR.
RICHARD G. WISE
ABRAHAM J. GREENSTEIN
GILBERT E. DeLORME
VINCENT MARK J. POLICY
RICHARD W. LUCHS
JUDITH R. GOLDMAN
JACQUES B. DePUY
JEFFREY H. GELMAN
STEPHEN H. ABRAHAM
LEWIS F. MORSE
JOHN PATRICK BROWN, JR.
BONNIE E. GREEN+
DONALD F. HOLMES, JR.
MIRIAM HELLEN JONES
SARAE T. LEUCKEL*
JEANNINE RUSTAD
JAMES D. SADOWSKI

*ADMITTED IN PA, FL AND VA ONLY
+ADMITTED IN NJ AND MD ONLY

1620 L STREET, N.W., SUITE 900

WASHINGTON, D.C. 20036-5605

TELEPHONE (202) 452-1400
FACSIMILE (202) 452-1410

EXHIBIT
BZA No. 16970
4f (CAN)

'98 JUL -2 P3:32

OFFICE OF ZONING
DISTRICT OF COLUMBIA

July 1, 1998

BY MESSENGER

Ms. Sheila Cross-Reid
Chairperson
Board of Zoning Adjustment
Suite 210
441 4th Street, N.W.
Washington, D.C. 20001

Re: BZA Application No. 16352 (Mr. and Mrs. Benjamin Johns); 1635 29th Street, N.W.

Dear Ms. Cross-Reid:

This firm represents Mr. and Mrs. Michael Goldberg, owners of 2814 R Street, N.W., Mr. and Mrs. Joseph Brand, owners of 2808 R Street, N.W., Ms. Lisa Koenig and Dr. Mark Reford, owners of 2812 R Street, N.W. and Mr. David Petrou, owner of 2810 R Street, N.W. (collectively "R Street Neighbors") with respect to BZA Application No. 16352. The R Street Neighbors abut Mr. and Mrs. Johns' property along its northern boundary and are the residents who are the most affected by their proposal.

Please be advised that the R Street Neighbors have negotiated an agreement with the Applicants with respect to their development of a guesthouse, garage and swimming pool. For the information of and review by the members of the Board, I enclose ten (10) copies of this agreement. Attached to the agreement are ten (10) copies of plans and drawings, including a landscaping plan, and ten (10) copies of a draft Declaration of Covenants.

Pursuant to the terms of the agreement, the R Street Neighbors are in support of BZA Application No. 16352 and urge the Board to approve it. The R Street Neighbors also request that, in the event the Board includes conditions in its written order approving the application, such conditions be identical to or substantially similar to the terms of the agreement and to the attached plans and drawings.

BZA
CASE No. 16352
EXHIBIT No. 21

If you, other members of the Board or the staff of the Office of Zoning have any questions regarding the enclosures or any matters discussed above, the staff should contact me at its earliest opportunity.

We appreciate your consideration of the views of the R Street Neighbors in this important matter.

Sincerely,

Jacques B. DePuy

Enclosures
JBD:vlc
cc: Mr. and Mrs. Michael Goldberg
Mr. and Mrs. Joseph Brand
Ms. Lisa Koenig and Dr. Mark Reford
Mr. David Petrou
Cynthia A. Giordano, Esq. (w/copy of agreement only)
(all copies w/o encls.) (by mail)

89515

June 18, 1998

Benjamin I. Johns
Deborah Waterman Johns
1635 29th Street, N.W.
Washington, D.C. 20007

Mr. and Mrs. Michael Goldberg
2814 R Street, N.W.
Washington, D.C. 20007

Mr. and Mrs. Joseph L. Brand
2808 R Street, N.W.
Washington, D.C. 2007

Mr. Mark Reford and Lisa Koenig
2812 R Street, N.W.
Washington, D.C. 20007

Mr. David Petrou
2810 R Street, N.W.
Washington, D.C. 2007

Re: Construction of a Swimming Pool, Guesthouse and Garage at 1635 29th Street, N.W.

Dear Neighbors:

We are pleased to transmit the attached set of architectural plans for the construction of a swimming pool, garage, and guesthouse (the "Proposed Improvements") and landscaping plans pertaining to the Proposed Improvements for our new home at 1635 29th Street, N.W. The plans reflect a number of modifications which we have made to meet your concerns including: (1) a minimum 20 foot setback of the guesthouse from your rear lot lines;(2) a reduction in the size of the paved driveway turnaround area located adjacent to these structures;(3) a reduction in the size of the windows located on the north elevation of the guesthouse; and (4) enhanced landscaping of the setback area. We have also agreed to continue to consult with each of you in refining the size and types of trees to be planted in this area.

The purpose of this letter is to formalize our agreement to: (1) construct the Proposed Improvements in accordance with the attached architectural plans and landscaping plans pertaining to the Proposed Improvements; and (2) to execute and record in the land records a covenant restricting our rights to transfer and subdivide our property and to use the new guesthouse in accordance with specific terms which have previously been negotiated between us. The covenant document which we agree to execute and record is attached hereto. Of course, minor modifications and revisions of the covenant, which do not change the substantive terms of the covenants, may be necessary prior to execution, but such revisions (if any) shall be subject to your consent (which shall not be unreasonably withheld).

Our agreement to implement the attached plans and execute and record the covenant are contingent upon your support for our plans and reasonable efforts on your part to express and convey that support to the following D.C. government and quasi-governmental agencies, if

requested: ANC-2E, the Commission on Fine Arts, the Board of Zoning Adjustment, and the Historic Preservation Review Board. Our agreement to construct the contemplated improvements in accordance with the attached architectural and landscaping plans and to execute and record the covenant are also contingent upon our ability to secure the required approvals of the aforementioned agencies for the Proposed Improvements and to obtain all necessary building permits.

We agree to submit the covenant instrument to the Office of the Recorder of Deeds and to use our best efforts to obtain (i) the consent to the terms of the instrument by the trustees under all deeds of trust secured by the Property (if any) and (ii) the recordation of such instrument within fifteen (15) days of the issuance of all necessary building permits for construction of the Proposed Improvements (or any portion thereof). In the unlikely event that the Declaration of Covenants is not accepted for recordation in the Office of the Recorder of Deeds (notwithstanding our best efforts), we agree to execute and deliver one executed counterpart original to each of you and that the effective date of the Declaration will be the date of execution and delivery.

Please indicate your agreement to support the Proposed Improvements as depicted in the attached architectural and landscaping plans before the aforementioned D.C. governmental and quasi-governmental agencies upon our request and we will proceed to file with, and seek the approval of, the plans by the Commission of Fine Arts and the Board of Zoning Adjustment.

Thank you for your cooperation.

Sincerely,

Benjamin I Johns

Deborah Waterman Johns

[SIGNATURE PAGE FOLLOWS]

We the Undersigned Neighbors Agree and Concur with the Above Representations and We Agree to Support the Proposed Improvements As Indicated Above:

Michael Goldberg

W. Marion Goldberg

Joseph L. Brand

Annelise Brand

Mark Reford

Lisa Koenig

David Petrou

SS_CURRENT: 83931 v.01 09000.0001
Cre. 5/31/98 Orig. Typ.Smb Ed. 6/4/98

We the Undersigned Neighbors Agree and Concur with the Above Representations and We Agree to Support the Proposed Improvements As Indicated Above:

Michael Goldberg	W. Marion Goldberg
Joseph L. Brand	Annelise Brand
Mark Reford	Lisa Koenig
David Petrou	

SS_CURRENT: 83931 v.01 09000.0001
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Michael Goldberg

W. Marion Goldberg

Joseph L. Brand

Annelise Brand

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Michael Goldberg

W. Marion Goldberg

Joseph L. Brand

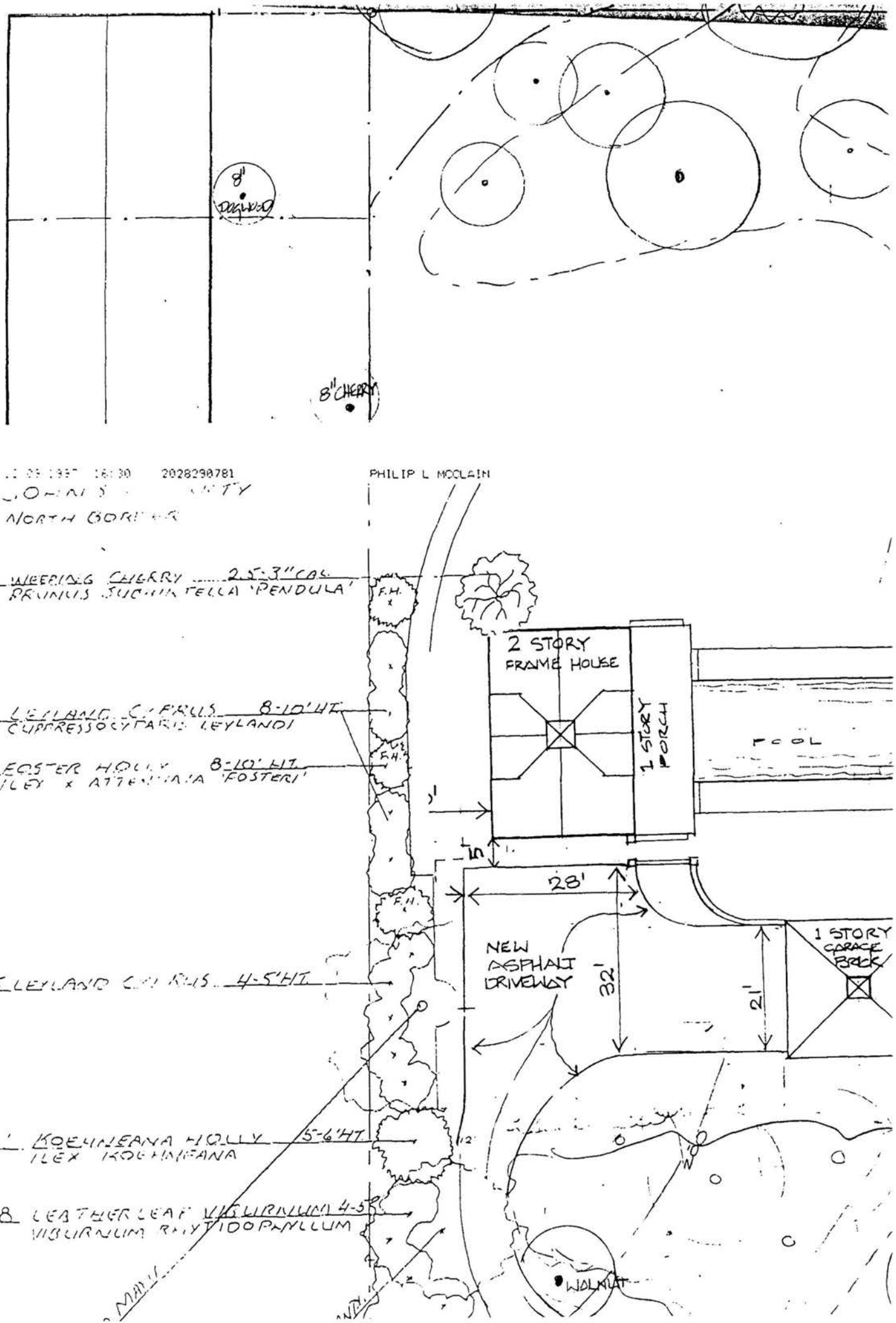
Annelise Brand

Mark Reford

Lisa Koenig

David Petrou

SS_CURRENT: 83931 v.01 09000.0001
Cre. 5/31/98 Orig. Typ.Smb Ed. 6/4/98


8" DOGWOOD
8" CHERRY
PHILIP L MCCLAIN
NORTH BORDER
2 WEEPING CHERRY ..... 2.5-3" CAL.
PRUNUS SUCHIENSIS 'PENDULA'
4 LEYLAND CYPRUS 8-10' HT.
CUPRESSOCYPARIS LEYLANDI
3 FOSTER HOLLY 8-10' HT.
ILEX x ATTENUATA 'FOSTERI'
LEYLAND CYPRUS 4-5' HT.
1 KOELINEANA HOLLY 5-6' HT.
ILEX KOELINEANA
8 LEATHERLEAF VIBURNUM 4-5'
VIBURNUM RHYTIDOPHYLLUM
2 STORY
FRAME HOUSE
1 STORY
PORCH
POOL
1'
10'
28'
NEW
ASPHALT
DRIVEWAY
32'
21'
1 STORY
GARAGE
BRICK
WALNUT

DECLARATION OF COVENANTS

THIS DECLARATION OF COVENANTS ("Declaration") is made this ____ day of _____ 1998, by and between Benjamin I. Johns and Deborah Waterman Johns (the "Owners"), and Michael and W. Marion Goldberg, Joseph L. and Annelise Brand, Lisa Koenig and Mark Reford and David M. Petrou (the "Neighbors").

RECITALS:

A. The Owners are the record owners of certain real property located in the District of Columbia known as Lots 837 and 838 in Square 1284 (hereinafter referred to as the "Property").

B. The Neighbors are the record owners of certain real properties located in the District of Columbia which is situated adjacent to the Property and are known as Lots 5, 6, 821 and 823 in Square 1284.

C. The Property is currently improved with a single family house (hereinafter the "Main House") which is currently being renovated by the Owners for their residence. The Owners desire to build a swimming pool on the Property and two, new accessory structures, to include a garage and a two-story guesthouse (hereinafter the "Guesthouse"), on a portion of the Property located adjacent to the Neighbor's properties.

D. The Owners have modified their plans for the garage and guesthouse to meet certain concerns about the location and design of these structures which were raised by the Neighbors. In order to address concerns raised by the Neighbors about additional, future development of the Property and the use of the Guesthouse, including the potential for the Guesthouse to be used as a principal residence separate and apart from the Main House, the Owners have agreed to restrict their rights to transfer or subdivide portions of the Property. They have also agreed to abide by certain restriction on their use of the Guesthouse. The purpose of this Declaration is to implement these agreements.

NOW THEREFORE, in consideration of the foregoing recitals, each of which are incorporated in and made a substantive part of this Declaration, the sum of One Dollar ($1.00), and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owners hereby declare and covenant as follows:

1. RESTRICTIONS ON TRANSFER OF PROPERTY

A. The Owners agree to and will refrain from making any sale, conveyance, assignment, transfer or other disposition (hereinafter referred to as a "Transfer") of any portion of the Property or any portion of the improvements (i.e., any amount of land or improvements which is less than all of the land and improvements) (i) without providing Neighbors with written notice of Owners' intent to make such Transfer at least ninety (90) days in advance of the closing of such Transfer; and (ii) without obtaining such approvals (prior to settlement of such Transfer) from government agencies with jurisdiction thereof as are necessary to divide or subdivide the Property into two or more lots of record or two or more buildable lots (pursuant to the applicable zoning and building codes). (For example, the Owners are restricted from making a Transfer of

Lot 838 without making a Transfer of Lot 837 simultaneously to the same transferee unless a division or subdivision of the Property has been approved and notice given, as aforesaid.)

B. The requirements set forth in Section 1.A. above shall apply to any Transfer other than a "Permitted Transfer." The term "Permitted Transfer" means either (i) the Transfer of the Property in its entirety in a single transaction to the same transferee or (ii) a Transfer of any portion of the Property or any portion of the Improvements to any of the following: (a) the natural or adopted lineal descendants and ancestors of the Owners or the spouses of such lineal descendants and ancestors, (b) the siblings of the Owners, (c) a trust, whether intervivos or testamentary, for the primary benefit of any of the foregoing individuals identified in (a) and (b); or (d) any joint venture, partnership, corporation, trust, or other entity which is wholly owned by the Owners. Following a Permitted Transfer, the provisions of Section 1.A. above shall be applicable with respect to any subsequent Transfer to any person who or entity which acquires an interest in any portion of the Property or any portion of the Improvements pursuant to a Permitted Transfer (herein referred to as a "Successor in Interest"). Accordingly, subsequent to a Permitted Transfer, any Transfer thereafter by such Successor in Interest shall be subject to the provisions of Section 1.A. unless such subsequent Transfer is a Permitted Transfer.

2. **RESTRICTIONS ON SUBDIVISION OF PROPERTY**. Owners agree to and will refrain from dividing or subdividing the Property (i) without providing Neighbors with written notice of Owners' intent to divide or subdivide the Property at least ninety (90) days in advance of any such division or subdivision; and (ii) without seeking such approvals from government agencies with jurisdiction thereof as are necessary for such division or subdivision (including, without limitation, historic preservation, zoning or other governmental agencies). For the purposes of this Declaration of Covenants, a division or subdivision shall mean and refer to any division or subdivision of the Property which (i) would establish more than one lot of record or more than one buildable lot (pursuant to applicable building and zoning requirements) on the Property or (ii) would permit, or is necessary to facilitate, the use or alteration of then-existing improvements or the construction of new improvements on the Property for the purpose of increasing the number of dwelling units on the Property beyond one dwelling unit or the sale of the Property for use as two or more dwelling units. Nothing contained in this Paragraph 2 shall prohibit (i) the use of the Property in accordance with the terms and conditions of Paragraph 3 hereof or (ii) the consolidation of Lots 837 and 838 into one Assessment and Taxation Lot. Any consolidation of Lots 837 and 838 into one Assessment and Taxation Lot may be undertaken without prior notice to Neighbors.

3. **RESTRICTIONS ON USE OF GUESTHOUSE**. Owners agree to and will use the Guesthouse for purposes which are (i) ancillary and incidental to the Main House and the swimming pool and (ii) for occasional or long-term residential use by members of Owners' family and/or domestic employees of Owners and guests of Owners. Owners agree to and will refrain from offering for rent or renting the Guesthouse to any persons for any purpose. Notwithstanding the foregoing, the use of the Guesthouse by guests shall be limited to the usual and customary use made of a principal residence by guests of the owners of such residence. By way of example, but not in limitation of the foregoing, the occasional, sporadic or intermittent use of the Guesthouse by guests or the use of the Guesthouse by an au pair or foreign exchange student shall be allowed but the use of the Guesthouse by a guest on a permanent, semi-permanent or long-term basis shall not be allowed.

4. **RUN WITH THE LAND**. All provisions of this Declaration, including the benefits and burdens, shall touch, concern and run with the land and be binding upon the Owners and their successors, transferees and assigns and shall inure to the benefit of the Neighbors, and their respective successors, transferees and assigns.

5. **TERM**. The term of the covenant shall be for 35 years from the date on which this Declaration is recorded in the Land Records of the District of Columbia ("Land Records") after which time it shall automatically terminate. If this instrument is not accepted for recordation among the Land Records, the term shall be for 35 years from the date of execution hereof.

6. **WAIVER**. No restriction, condition, obligation or provision of this Declaration shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

7. **AMENDMENT**. This Declaration shall not be modified or amended except by an instrument duly executed by the Owners and consented to in writing by the Neighbors, or their respective successors, transferees and assigns which instrument shall be recorded among the Land Records.

8. **SEVERABILITY**. The terms and provisions of this Declaration are severable and in the event that any term or provision of this Declaration is invalid or unenforceable for any reason, the remaining terms and provisions hereof shall remain in full force and effect.

9. **CAPTIONS AND GENDER**. The captions contained in this Declaration are for convenience only and are not a part of this Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Declaration. Whenever the context so requires, the male or female shall include all genders and the singular shall include the plural.

10. **COUNTERPARTS**. This Declaration shall be executed in three counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

11. **EFFECTIVE DATE**. This Declaration shall be effective upon its recordation among the Land Records. In the event this instrument is not accepted by the Office of the Recorder of Deeds for recordation among the Land Records, this Declaration shall be effective upon execution and delivery hereof to Neighbors.

12. **RIGHTS AND REMEDIES**. Owners and Neighbors, and their successors, transferees and assigns, shall have all rights and remedies under law and equity (including without limitation the right of specific performance) to enforce the terms hereof.

13. **RECORDATION**. This instrument shall be recorded among the land records of the District of Columbia at the Owners' sole cost and expense.

14. **APPLICABLE LAW**. This instrument shall be governed by the laws of the District of Columbia. Any legal action hereunder shall be brought in the courts of the District of Columbia or the federal courts located in the District of Columbia.

15. **ATTORNEYS' FEES**. In the event legal proceedings are filed to enforce this Declaration, the attorneys' fees of the party or parties which prevail(s) in such proceedings shall be paid by the other party.

IN WITNESS WHEREOF, the undersigned have executed this Declaration as of the day and year first above written.

ATTEST/WITNESS:

Owners:

_____

_____
Benjamin I. Johns

_____

_____
Deborah Waterman Johns

IN WITNESS WHEREOF, the undersigned have executed this Declaration as of the day and year first above written to evidence their consent to the foregoing and their agreement to those provisions which pertain to or affect Neighbors.

Neighbors:

_____

_____
Michael Goldberg

_____

_____
W. Marion Goldberg

_____

_____
Joseph L Brand

_____

_____
Annelise Brand

_____

_____
Mark Reford

_____

_____
Lisa Koenig

_____ _____
David Petrou

NOTEHOLDER'S AUTHORIZATION

The undersigned Noteholder pursuant to a certain Note dated _____, 19___ hereby authorizes _____ and _____, Trustees, to execute the following Trustees' Consent.

WITNESS: NOTEHOLDER:

_____ _____

_____ By: _____
(Print): (Print):
Its: _____

TRUSTEES' CONSENT

The undersigned, on this __ day of _____, 199_, Trustees under that certain Deed of Trust made by Benjamin I. Johns and Deborah Waterman Johns, Grantor, dated _____, 199_ and recorded _____, 199_, as Instrument No. _____among the Land Records of the District of Columbia, securing _____ and encumbering Lots 837 and 838 in Square 1294, the Property described in the foregoing Declaration of Covenants, with authority from the beneficiary and party secured under said Deed of Trust, do hereby consent to the terms and provisions of the foregoing Declaration of Covenants, and covenant and agree that the lien, effect and operation of the said Deed of Trust shall be subject to and subordinate to the effect and operation of the said Declaration of Covenants, said Deed of Trust otherwise to be and remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have set their hands and seals on this __ day of _____, 199_.

WITNESS: TRUSTEES:

_____ _____
Print Name:_____ Print Name:_____

_____ _____
Print Name:_____ Print Name:_____

DISTRICT OF COLUMBIA, SS:

I hereby certify that on this ___ day of _____, 1998 before the subscriber, a Notary Public in and for the above jurisdiction, personally appear Benjamin I. Johns who has been satisfactorily proven to be the person whose name is subscribed in the above Declaration of Covenants, and who acknowledged the same to be his act and deed.

_____
Notary Public

[NOTARIAL SEAL]

My Commission Expires:_____

DISTRICT OF COLUMBIA, SS:

I hereby certify that on this ___ day of _____, 1998 before the subscriber, a Notary Public in and for the above jurisdiction, personally appear Deborah Waterman Johns who has been satisfactorily proven to be the person whose name is subscribed in the above Declaration of Covenants, and who acknowledged the same to be her act and deed.

_____
Notary Public

[NOTARIAL SEAL]

My Commission Expires:_____

DISTRICT OF COLUMBIA, SS:

I hereby certify that on this ___ day of _____, 1998 before the subscriber, a Notary Public in and for the above jurisdiction, personally appear Michael Goldberg who has been satisfactorily proven to be the person whose name is subscribed in the above Declaration of Covenants, and who acknowledged the same to be his act and deed.

_____
Notary Public

[NOTARIAL SEAL]

DISTRICT OF COLUMBIA, SS:

I hereby certify that on this ___ day of _____, 1998 before the subscriber, a Notary Public in and for the above jurisdiction, personally appear W. Marion Goldberg who has been satisfactorily proven to be the person whose name is subscribed in the above Declaration of Covenants, and who acknowledged the same to be her act and deed.

_____
Notary Public

[NOTARIAL SEAL]

DISTRICT OF COLUMBIA, SS:

I hereby certify that on this ___ day of _____, 1998 before the subscriber, a Notary Public in and for the above jurisdiction, personally appear Joseph L. Brand who has been satisfactorily proven to be the person whose name is subscribed in the above Declaration of Covenants, and who acknowledged the same to be his act and deed.

_____
Notary Public

[NOTARIAL SEAL]

DISTRICT OF COLUMBIA, SS:

I hereby certify that on this ___ day of _____, 1998 before the subscriber, a Notary Public in and for the above jurisdiction, personally appear Annelise Brand who has been satisfactorily proven to be the person whose name is subscribed in the above Declaration of Covenants, and who acknowledged the same to be her act and deed.

_____
Notary Public

[NOTARIAL SEAL]

DISTRICT OF COLUMBIA, SS:

I hereby certify that on this ___ day of _____, 1998 before the subscriber, a Notary Public in and for the above jurisdiction, personally appear Mark Reford who has been satisfactorily proven to be the person whose name is subscribed in the above Declaration of Covenants, and who acknowledged the same to be his act and deed.

_____
Notary Public

[NOTARIAL SEAL]

DISTRICT OF COLUMBIA, SS:

I hereby certify that on this ___ day of _____, 1998 before the subscriber, a Notary Public in and for the above jurisdiction, personally appear Lisa Koenig who has been satisfactorily proven to be the person whose name is subscribed in the above Declaration of Covenants, and who acknowledged the same to be her act and deed.

_____
Notary Public

[NOTARIAL SEAL]

DISTRICT OF COLUMBIA, SS:

I hereby certify that on this ___ day of _____, 1998 before the subscriber, a Notary Public in and for the above jurisdiction, personally appear David Petrou who has been satisfactorily proven to be the person whose name is subscribed in the above Declaration of Covenants, and who acknowledged the same to be his act and deed.

_____
Notary Public

[NOTARIAL SEAL]

SS_CURRENT: 83810 v.02 02866.0001

HISTORIC PRESERVATION REVIEW BOARD
STAFF REPORT AND RECOMMENDATION

Property Address:	**3209 Highland Place, NW**	X	Agenda
Landmark/District:	**Cleveland Park Historic District**		Consent Calendar
		X	Concept Review
Meeting Date:	**January 23, 2003**	X	Alteration
H.P.A. Number:	**02-636**	X	New Construction
Staff Reviewer:	**Steve Callcott**		Demolition
			Subdivision

The applicant, architect Charles Anthony for the National Child Research Center (NCRC), seeks conceptual design review for alterations and a rear addition to a 1905 Colonial Revival house, and an addition to a 1915 two-story frame outbuilding (called "the playhouse") located at the rear of the property overlooking Ordway Street. The proposal also includes replacing a one-story wooden shed with a somewhat larger one-story shed. The buildings occupy a large (45,000+ square foot) lot that fronts on Highland and slopes down to Ordway Street; the additions would be visible from each of these streets.

The house has served as the home of NCRC, a private non-profit pre-school, since 1930. Currently, the house's four floors contain the school's six classrooms, speech therapy rooms, administrative offices, a kitchen, and mechanical and support spaces. The playhouse contains additional therapy rooms on the upper level, and a playroom on the first floor, which opens to a large deck. The property's sloping site has been partially regraded and terraced to make it more usable for a playground. The site does not contain historically significant landscape features.

The proposal calls for a substantial renovation of the interior of the house, reopening the front door and front hallway among other things, and constructing a two-story addition in the back (one story above a partially submerged basement), that would include two new classrooms, an elevator, and a fire stair. The addition is proposed in the general language of an enclosed porch, with columns separating banks of nine-over-one sash windows set on a more solid brick basement level with punched windows.

A two-story addition is proposed to the playhouse, located at the northwest corner of the site fronting on Ordway Street, to house community and music rooms on the first level and two classrooms above. While technically an addition, the "carriage house" would appear as a separate building, visibly connected to the playhouse by a fenestrated brick arcade seen only on Ordway Street. The plan takes advantage of the sloping grade, submerging the first level below grade on the east and south, reading as a two-story building only on the west and north (Ordway Street) elevations. Its cottage style design, with a steeply-sloped cross-gable roof, brick, stucco and half-timber detailing, and multi-



light sash windows, has been developed to relate to the roof-lines, materials' use and general scale of the houses along Ordway Street and within the historic district.

The existing shed is located behind the house at the northeast corner of the site, abutting a stucco garage on an adjacent property. The new shed would be constructed in the same location, serving as bicycle storage and as an expanded maintenance shed. It would be essentially the same size as the adjacent owner's two-car garage.

The proposed additions have been developed in a manner with is sympathetic to and compatible with the Colonial Revival style house, the property's site, the streetscape along Ordway Street, and the historic district in general. While large in footprint, the proposed rear addition to the house has been kept low in height, preserves the overall massing and rooflines of the house's side and rear elevations, and has been designed in a manner evocative of the often-enclosed rear porches prevalent in Cleveland Park. Similarly, the expanded shed is consistent in its size, mass and materials with garages found throughout the historic district.

Architecturally developed as a separate building, the "Carriage House" is generally compatible in its height, orientation, rooflines, and materials' use with the residential character of Ordway Street and the historic district. Its footprint, roughly 30' wide x 60' deep, is somewhat larger than the surrounding houses on Ordway (3063-3083 across the street average about 30' wide x 25'-40' deep; the house next door at 3220 measures about 40' wide x 35' deep); it is equivalent in size to the larger houses on Highland, such as the school's main building (45' x 65') and the neighboring house at 3207 (30' x 60'). Breaking up the longer east-west elevations with a slight change in plane and/or roofline might be worthy of additional study in order to alleviate the unbroken nature of this building's mass. Minor adjustments – such as reducing the gangs of five windows to three or four on the front and side elevations, and using non-florescent lights on the interior – should also be evaluated in order to further enhance its compatibility with the surrounding residential neighborhood.

While this project has raised concerns from some with regard to the school's enrollment, previous zoning approvals, and the traffic associated with a school in a residential neighborhood, these issues fall outside the purview of the HPRB and the preservation law, and must be addressed by the Board of Zoning Adjustment when it considers this case in the upcoming months. As the project continues to be developed, and if the proposal is approved by the BZA, a landscape plan for the overall site should be prepared that addresses the site's erosion and loss of trees.

<u>The staff recommends that the Review Board approve the conceptual design as consistent with the purposes of the preservation act, however, this approval should not be construed to constitute an endorsement for the necessary zoning variances or zoning relief.</u>