DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

APPEAL OF HENRY SAILER, *et al.*,	:	BZA Appeal No. 17054

DECLARATION OF EDGAR T. NUNLEY

I, Edgar T. Nunley, do hereby declare as follows:

1. I am the former Chief of the Zoning Review Branch of the District of Columbia Department of Consumer and Regulatory Affairs ("DCRA"), a job I held for seventeen (17) years. I retired from the DCRA as Chief of the Zoning Review Branch in the Winter of 2000. I am over 21 years of age and am competent to testify as a witness in the above-captioned matter.

2. During the course of my job as Chief of the Zoning Review Branch of the DCRA, I reviewed applications submitted to the DCRA for certificates of occupancy and building permits in order to ensure compliance with all applicable D.C. zoning regulations. During the course of my employment as Chief of the Zoning Review Branch, I also have appeared before the Board of Zoning Adjustment ("BZA") on behalf of the DCRA and testified in numerous matters concerning the interpretation of provisions of Title 11 of the District of Columbia Municipal Regulations.

3. I have had the opportunity to review the entire record on file with the BZA for the above-captioned appeal, including Intervenor Brian Logan's application for the June 13, 2003 revised permit, electronic mail correspondence between Mr. Leon Paul of the DCRA and Appellant Arthur Levi, and Intervenor's Statement in Opposition to the Appeal dated January 22, 2004, and have physically inspected the subject property located at 3101 Chain Bridge Road, N.W. (Lot 30, Square 1427).

4. Having reviewed the above information and the applicable D.C. zoning regulations, it is my opinion that the June 13, 2003 revised permit was issued to Intervenor by the DCRA in error. Specifically, I have reviewed the opinion provided to Appellant Arthur Levi by Mr. Leon Paul of the DCRA via electronic mail dated June 14, 2003, a copy of which is attached hereto as **Exhibit A**, and find Mr. Paul's reasoning as for issuing the permit to make no sense. In all of my seventeen years as Chief of the Zoning Review Branch of the DCRA, I never have seen a permit issued for a "pervious"

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surface driveway, particularly as no such provision exists within the zoning regulations for a "pervious" surface driveway.

5. Furthermore, while I was employed by DCRA, I was familiar with Mr. Leon Paul, who was a mechanical engineer for DCRA. As a mechanical engineer, Mr. Paul's primary responsibility for which he was qualified was to review applications for building permits and to ensure compliance with the applicable building code. Mr. Paul was not, however, a zoning engineer, and in my opinion was not qualified to review applications for zoning/use permits and ensure compliance with the zoning regulations because that was outside the scope of his expertise.

I declare under penalty of perjury that the foregoing is true and correct.

Edgar T. Nunley

Dated: February 2, 2004



"Paul, Leon (DCRA)"
<Leon.Paul@dc.gov>
06/14/2003 05:38 PM

To: 'Arthur Levi' <Alevi@ifc.org>
cc:
Subject:

Please read the attachment and respond back. I will also be sending you another email that outlines the official correspondence process. I hope this helps clarify things for you

Leon Paul
Mechanical Engineer
District of Columbia Government
Building and Land Regulation Administration



Final Response to Arthur Levi.c

Ex. A

I had a meeting with Mr. Knudson, after which I went through an entire re-review of the drawings submitted. My findings from this re-review bring me again to the conclusion that 3101 Chainbridge Road NW is a conforming structure in all aspects where the Zoning Code is applicable for a single family structure with the Chainbridge Road – University Terrace – Tree Slope Protection Overlay. With respect to the areas of concern that you stated to me with your first email, I state the following;

Elevator Shaft – Section 400.7

This shaft is conforming to this section in all aspects. With respect to the zoning regulations, height is measured as the dimension from the finished grade at the center of the front of the building to the ceiling of the top story, which makes the applicable height 39'6". From there, as stated in section 400.7 of the code, the elevator shaft can extend 18'6" above the **roof** of that structure.

Accessory Garage – Section 2500.5, Sections 2115.1, 2117.4 & 2117.8

The accessory garage, as depicted in the drawings, is designed within the guidelines provided by the code. The upper level of the structure is domestic quarters, which is allowed by section 2500.5 of the zoning regulations. The ground floor level is has a 10 ft garage door facing the drive court. That entrance leads to an area for parking that exceeds the necessary 171 ft^2 (from 9ft X 19ft min. size for parking space) required in section 2115.1 of the regulations. The ambiguity in this situation pertains to the fact that the original plat does not show a driveway leading to this accessory structure for the parking, when the code specifically states that a driveway is required for parking. However, the zoning regulations state that a driveway is necessary for **required** parking. The interpretation made was that the required parking, in this case, is the parking provided within the house. A fully paved driveway is provided which leads to those parking spaces. Therefore the parking located in the accessory garage is extra, not required, and does not require a driveway if a strict interpretation of the code is used. However, after further discussion with the architect regarding this matter a driveway connection from the upper drive court to the lower drive court where the accessory garage is located has been added to revised version of the plat to clarify the intent of the structure.