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February 10, 2004

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2004 FEB 10 AM 8:07
CLERK OF THE DISTRICT OF COLUMBIA

VIA COURIER

District of Columbia
Office of Zoning
441 4th Street, N.W.
Suite 210 South
Washington, D.C. 20001

Re: *Appeal of Henry Sailer, et al.*, BZA Appeal No. 17054

Dear Clerk:

We represent the Appellants in the above-referenced appeal before the BZA.

Please find enclosed for filing the certified Declaration of Edgar T. Nunley which we would like added to the record of the appeal.

Thank you, and please do not hesitate to contact me at the telephone number above if you have any questions.

Sincerely,

Andrew Zimmitti

Enclosure

cc: John T. Epting, Esq. (Counsel for Intervenor Brian Logan)
Laura Gisolfi Gilbert, Esq. (Counsel for Appellee DCRA)

BZA
Case No. 17054
Exhibit No. 50

Board of Zoning Adjustment
District of Columbia
CASE NO. 17054
EXHIBIT NO. 50

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 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" 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 5, 2004

Maryland P.G. County
~~District of Columbia~~) ss

Personally appeared before me on this 5th day of February, 2004, Edgar T. Nunley, an individual, known to me to be the person who executed the foregoing instrument and acknowledged the same.

Beville D. Randall Sr.

Commission expires: _____

BEVILLE D. RANDALL SR.
Notary Public
Prince George's County
Maryland
My Commission Expires Mar 1, 2007