BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application of PSD Trust
Square 2119, Lot 18
2740 32nd Street, N.W.

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

I. Background:

The improvements on the subject lot and on the neighboring lot to the south were built over time. The location of the most recent addition to the subject property, under construction pursuant to Building Permit No. B-448662, was based upon a good-faith reliance upon an understanding of the location of the side lot line, and the location where the side wall of the new addition was to be placed, relative to the side lot line. That information was based primarily on the location of a brick wall which was understood to be on the lot line. That information was used in order to obtain the building permit, and to construct the addition (See Exhibit No. 1).

When the exterior walls of the addition were completed, and the interior was ready for close-in, a D.C. building inspector requested a survey of the side wall relative to the side lot line. A third party surveyor was hired to undertake this work, and discovered a discrepancy in two locations. These locations are the exterior wall of the stairway addition, where the setback was calculated at between 7.16 and 7.21 feet from the side lot line, and at the rearmost corner of the addition, where the measurement was 6.83 feet between the rear corner of the addition and the side lot line. (See Exhibit No. 2). However, the third party surveyor indicated that the distance between the improvements and the brick wall (which was erroneously understood to be on the side lot line) is approximately 8 feet (See Exhibit No. 3).

There have been multiple surveys of the subject property and neighboring property to the south over time. These surveys are inconsistent in the location of the masonry walls which separate the two adjacent lots. The Applicant's contractor and surveyors have been unable, thus far, to resolve the discrepancies in the building surveys.

A special exception under § 223.1 of the Zoning Regulations is thus sought in order to obtain approval for the already-constructed addition, in accord with the current Zoning Regulations.

BZA
Case No. 17073
Exhibit No. 5

Board of Zoning Adjustment
District of Columbia
CASE NO. 17073
EXHIBIT NO. 5

Pursuant to §3113.8 of the Zoning Regulations, the Applicant will file its Statement of the Applicant with the Board no fewer than 14 days prior to the public hearing for the present Application. In said Statement, and at the public hearing, the Applicant will provide testimony to meet its burden of proof to obtain the Board's approval of the requested special exception. Following herein, as required by the Board's application process, is a summary statement indicating how the Applicant will meet said burden of proof.

II. Burden of Proof:

Pursuant to § 223.1 of the Zoning Regulations, an addition to a one-family dwelling that does not comply with all of the applicable area requirements of §§ 401, 403, 404, 405, 406, and 2001.3 shall be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of § 223. The Subject Property is in compliance, as set forth herein:

Section 223.2(a):

The light and air available to neighboring properties shall not be unduly affected.

The Applicant will show that the addition does not affect the light and air available to neighboring properties. The encroachments are approximately one foot or less shy of the side yard requirement. The distance between the two adjacent dwellings is 19.5 feet at its closest point, and the zoning requirement is at least 16 feet (minimum of 8 feet for each side yard). The encroachments are significantly screened from the neighbor's view by a masonry wall and wood privacy fence.

Section 223.2(b):

The privacy of use and enjoyment of neighboring properties shall not be unduly compromised.

The combination brick and wood privacy fence between the properties screens the majority of the encroachments from view from the side and rear yards of the neighboring property to the south. There are no windows in the portion of the walls which encroach into the required yard. The encroachments are not readily visible from any other neighboring property.

Section 223.2(c):

The addition, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage.

The Applicant will show that the encroachments are not inconsistent with the character, scale and pattern of neighboring homes. The addition presents a minimal deviation from the measurements permitted by the Zoning Regulations. According to the survey attached as Exhibit No. 2, the side yard of the subject residence measures 6.83 feet at its southwestern most tip; and the stairway projection is 7.16 to 7.21 feet from the side lot line. Otherwise, the addition meets the side yard requirement. The stairway projection into the required side yard is 0.79 to 0.84 feet, which is less extensive than a permitted chimney projection, which may extend up to 2 feet into a required side yard. (See Section 2502.8). The rear corner of the addition encroaches into the side yard at an angle, creating a triangular projection of a maximum of 1.17 feet, narrowing down to 0 feet. This is also less extensive than a permitted chimney projection, and is located at the rearmost portion of the house, beyond the rearmost portion of the adjacent house on the neighboring property to the south, and one story lower than the street level of the subject property.

The Zoning Administrator is permitted under Section 2522.1(c) to permit a deviation of up to one foot from the side yard requirement. According to the survey attached as Exhibit No. 2, the maximum deviation at the rear corner of the addition is 1.17 feet, which is 0.17 feet beyond the Zoning Administrator's waiver authority, and the maximum deviation at the stairway addition is 0.79 to 0.84 feet.

Section 223.2(d):

In demonstrating compliance with paragraphs (a), (b) and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition to adjacent buildings and views from public ways.

In addition to the photographs included with this preliminary statement, the Applicant will present additional photographs and graphical representations at the public hearing that will further demonstrate compliance with the subsection 223.2.

Section 223.3:

The lot occupancy of the dwelling, together with the addition, shall not exceed fifty percent (50%) in the R-1 District.

The total lot occupancy of the dwelling, including the subject addition, is only 25.7%.

Section 223.4:

The Board may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties.

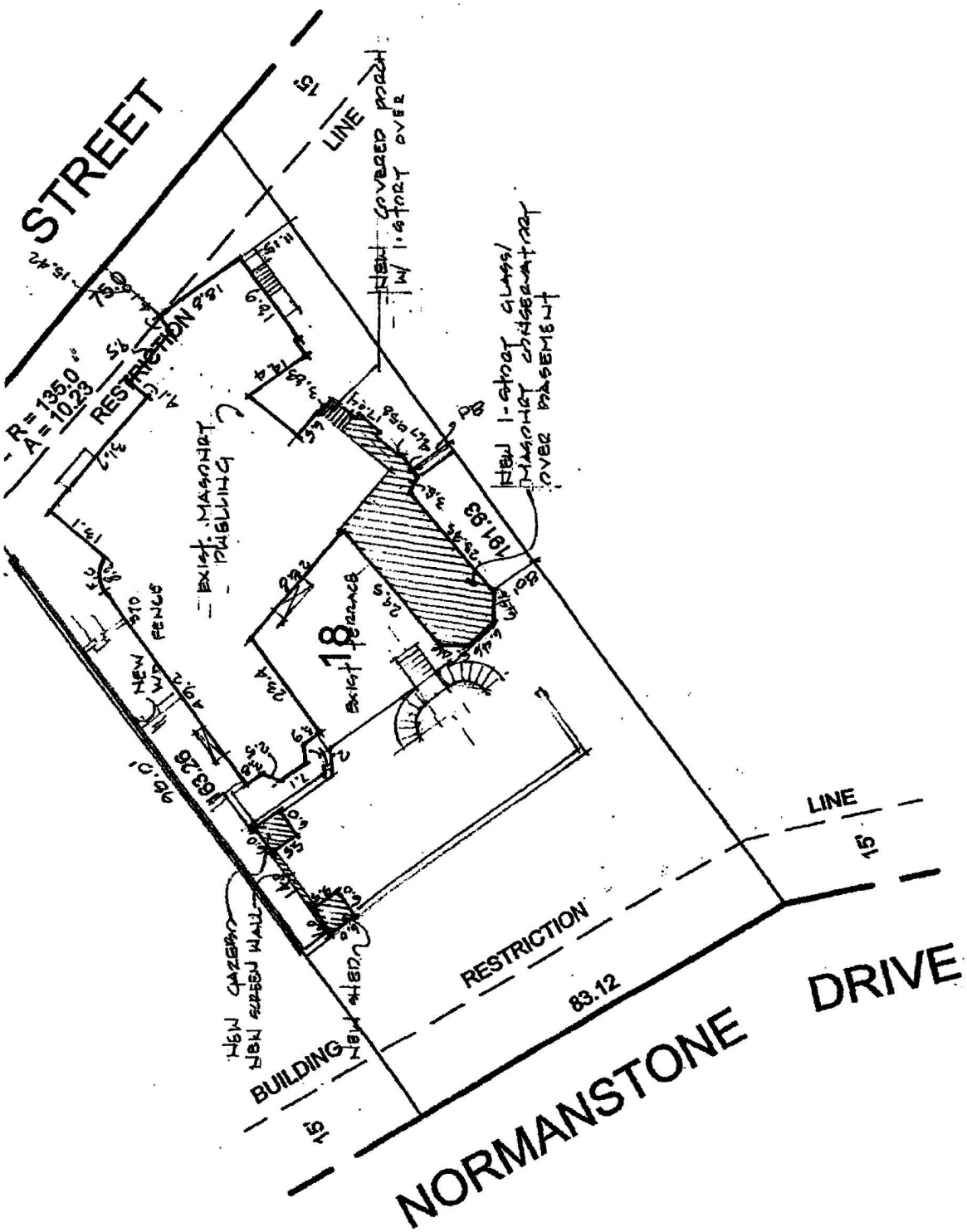
The Applicant will demonstrate at the public hearing that the side yard is heavily screened and buffered and that no other special treatment is necessary for the protection of adjacent and nearby properties, as a result of the minor projections into the required side yard.

Section 3104.1:

This section authorizes the Board to grant special exceptions as provided in the Zoning Regulations, where the Board determines such grant(s) of special exception to be in harmony with the intent and purpose of the zone plan and which does not tend to adversely impact the use of neighboring property.

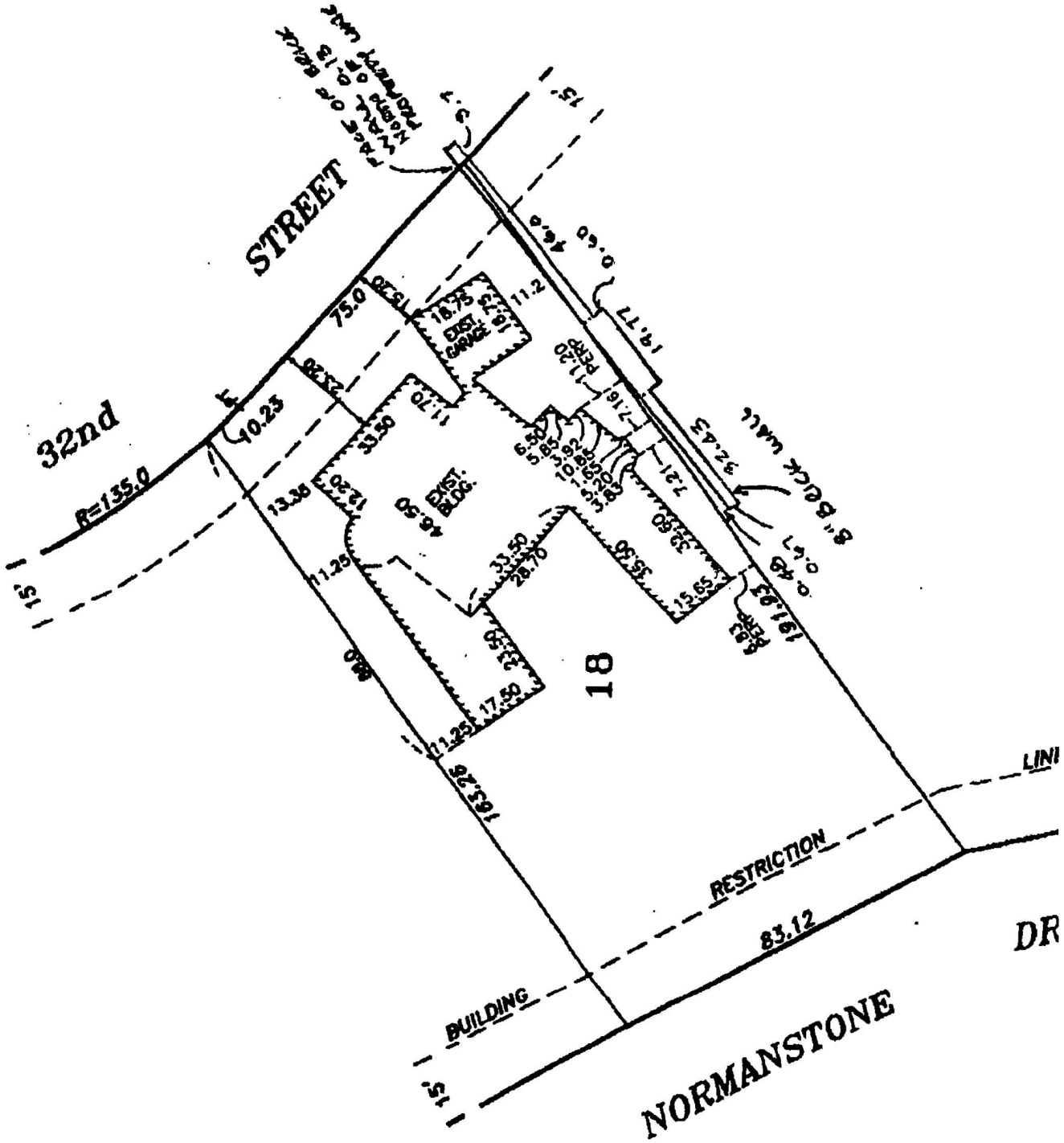
The requested special exception is in harmony with the intent and purpose of the zone plan and, as further detailed above, will not tend to adversely impact the use of neighboring property.

EXHIBIT NO. 1



SO-8353(2002)

EXHIBIT NO. 2


STREET
32nd
R=135.0
40.23
75.0
18.75
EXIST. GARAGE
EXIST. BLDG.
46.50
33.50
13.36
12.20
11.25
17.50
33.50
28.70
18
165.26
83.12
RESTRICTION
BUILDING
NORMANSTONE
15'
46.0
19.77
92.43
19.83
7.21
7.16
11.2
11.20
6.50
5.85
3.92
10.85
2.20
3.83
35.80
35.50
15.65
LANE
LINE
DR

WEST CONSULTING GROUP INC.

EXHIBIT NO. 3

FAX TRANSMITTAL LETTER

FAX: 703 818 9773 DATE: _____

TO: Charles

COMPANY: Accent General

PAGES (INCLUDING COVER SHEET): _____

REMARKS: The dimensions to the new addition do not change. It does appear that the brick wall was used to layout the new addition. The distance from the addition to the brick wall at the rear is approximately 8' (.67 + .48 + 6.83 = 7.98')

WEST CONSULTING GROUP INC.
ENGINEERS SURVEYORS CONSULTANTS
- SUBDIVISIONS AND LAND PLANNING
- ALTA/ACSM SURVEYS
- BOUNDARY/TOPOGRAPHIC SURVEYS
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