Board of Zoning Adjustment
Application Number 17102

January 2, 2004

I am writing to oppose the special exception for construction of a two-story rear addition to 3415 McKinley Street (Square 1997, Lot 76). My property, 3419 McKinley Street, adjoins 3415 McKinley Street and I am the only resident directly affected by this proposed addition. (Please note that the numbering on McKinley Street is erratic – there is no 3417 McKinley)

I am opposed to the proposed 16.5 foot addition, as well as the deck, because they fail to meet the minimum five foot set back requirement by as much as 2.2 feet. This addition has already damaged my property and as currently sited will continue to degrade it permanently.

I oppose this request for an exception for several reasons.

First, as noted, my property has already sustained damage as a result of the construction. The builders piled the dirt from the construction site along the fence that runs the length of the backyards. As a result the dirt, which is mostly heavy clay, filled the cement drainage flume, which also runs the length of my property, with soil and the overflow ran into my basement covering two-thirds of it with mud and water. This flooding happened twice. It was also the incident that alerted me to the problems that the site of this addition will cause my property. My basement floor, which had been painted in the last five years, will at a minimum need to be repainted.

Second, the construction of this addition occurred without any of the preliminary work to protect the owners or me. According to the Beylickjians, they relied on an old survey, done before they owned the property, that clearly states that "it is not a property line survey and should not be used as such." No effort was made to stake the property or take any step to accurately define the property line. I would note for the record that the property line is unusually clear since it is marked by a cement wall, in some places more than three feet high, that runs the entire length of the property. In addition there is a six foot fence on the property line that runs the length of the back yard as well as a picket fence in the front yard. There has never before been any question raised as to where the property line was or any doubt that the fence was at the property line as well as the cement flume that is part of my property.

When I first saw the foot print for the foundation I immediately called the Department of Consumer Regulatory Affairs (DCRA) to inquire what the setback requirements were. I explained that the survey I had indicated that the addition did not appear to meet the set back requirements. The city informed me that the only way to make this determination was through a wall check and the owner must ask for the wall check. I made this initial

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call on July 31st or August 1. Over the next three weeks, I stayed in frequent contact with the city, specifically Rochelle Josephs and Yvonne Roberts of DCRA, expressing my concerns, particularly that construction was proceeding unabated. Ms. Roberts visited the site on August 11th and met with me. The owners of 3415 McKinley on September 3rd told me that every time I called the DCRA they got a call, so they were well aware of my concerns. According to DCRA, a stop work order was placed on 3415 McKinley on Friday, August 22nd. I called the DCRA the following Tuesday to check on what was happening because up to that point, work had continued non-stop on the property over the weekend and the following Monday even though a stop work order was in effect. In fact during that 21 day period from when I initially called, work went on seven days a week at least 12 hours a day every day. There was no effort on the part of the owners or builders at any time to contact me or to address what was clearly a legitimate issue.

Since the stop work order has been in effect, the owners have decided to "winterize" the property by putting on a permanent roof and a permanent door on the second floor. I do not know what, if any, other steps they have taken. While I understand the need to winterize, I believe that there were other alternatives to putting permanent roof in place unless the intent is to make the argument that so much money has already been expended that it would be unfair to make them change it. I would like to emphasize that almost all of the construction took place after August 1st when I made the initial call to the city.

My third reason for opposing this exception is that is does have a permanent, adverse impact on my property. An addition that is more than two stories high which is less than three feet from the property line obviously affects air, mass, light and privacy. Furthermore, because of the proximity of the addition, whoever owns the property, now and in the future, will be beholden to owners of my property to do any kind of maintenance on that side of the house. The owners of 3415 McKinley cannot even put up a ladder without having to come on to my property. They cannot complete the addition without coming onto my property. I am already experiencing what it will be like; since the construction of their roof I have found numerous roof nails, some as long as 4 inches, in my yard. These pose a serious hazard to any one walking in there, especially in summer when people often have on light shoes or are barefoot. The angle of the roof ensures that I will have permanent drainage issues, even with gutters in place because of the pitch of the roof. The next snow storms guarantees that I will get all the snow from their roof which over shoots the cement flume that has to date worked successfully in keeping my basement dry. Until the incident described above, I have never had flooding in my basement in the approximately ten years that I have lived here. Directly in the pathway of the water into my basement by the window is my furnace.

In addition, the plans call for a 10.5 foot deck. Combined with the new addition, this means that approximately 90 feet of the 130 feet of the property's length (more than 70 percent) will not be in compliance with the five foot set back. While I understand that the

house and the garage were pre-existing structures, it makes the importance of the set back for the remaining property even greater.

I bought this property because I wanted to build a garden. I have worked on it with great enthusiasm and joy for almost ten years. To date, the construction on 3415 McKinley has ruined one 20 foot flower bed because the flood washed away the top soil that I have been cultivating for ten years and left construction clay in its place. I must still figure out how to get out the dirt from the construction that has clogged the cement flume, a not insignificant task. The addition cuts off light and air which will adversely affect the entire garden. An addition that adds 16.5 feet to a house that is 28 feet is a large addition. I don't know precisely how high it is but the new roof is almost as high as the old one which accommodates a third floor. The addition also significantly invades my privacy since there are both windows and, apparently, a second floor balcony planned. The pitch of the roof endangers trees that I have planted as well as plants. If almost 70 percent of the property along the fence is covered, there is no place for the water to go but into my yard.

The builders, architects, and ultimately, the Beylickjians, chose to pursue a high risk strategy by not taking basic, fundamental precautions to establish the accurate property lines before they began building. In pursuing this strategy, they not only put their own plans in jeopardy, they ensured that I would not have any input into the process until the project was well along the way. This hearing should have taken place before the construction started.

I notified the appropriate officials in a timely manner so that there was the possibility of changing course. Again, a decision was made to pursue a high risk strategy. I know many neighbors and friends who have had to make amendments to their plans once the wall check occurs. The Beylickjians chose not to take this prudent step. My point is that there were many opportunities along the way: existing structures that clearly pointed to accurate property lines, a survey, staking the properties, a wall check etc. to avoid their present circumstances. None of the opportunities was taken. I regret that the owners of 3415 McKinley Street find themselves in a difficult situation, but they needed to seek a variance as a first step, not a last resort. My property should not be permanently degraded because of their high risk plans.

Ryan Conroy

Ryan Conroy
3419 McKinley Street
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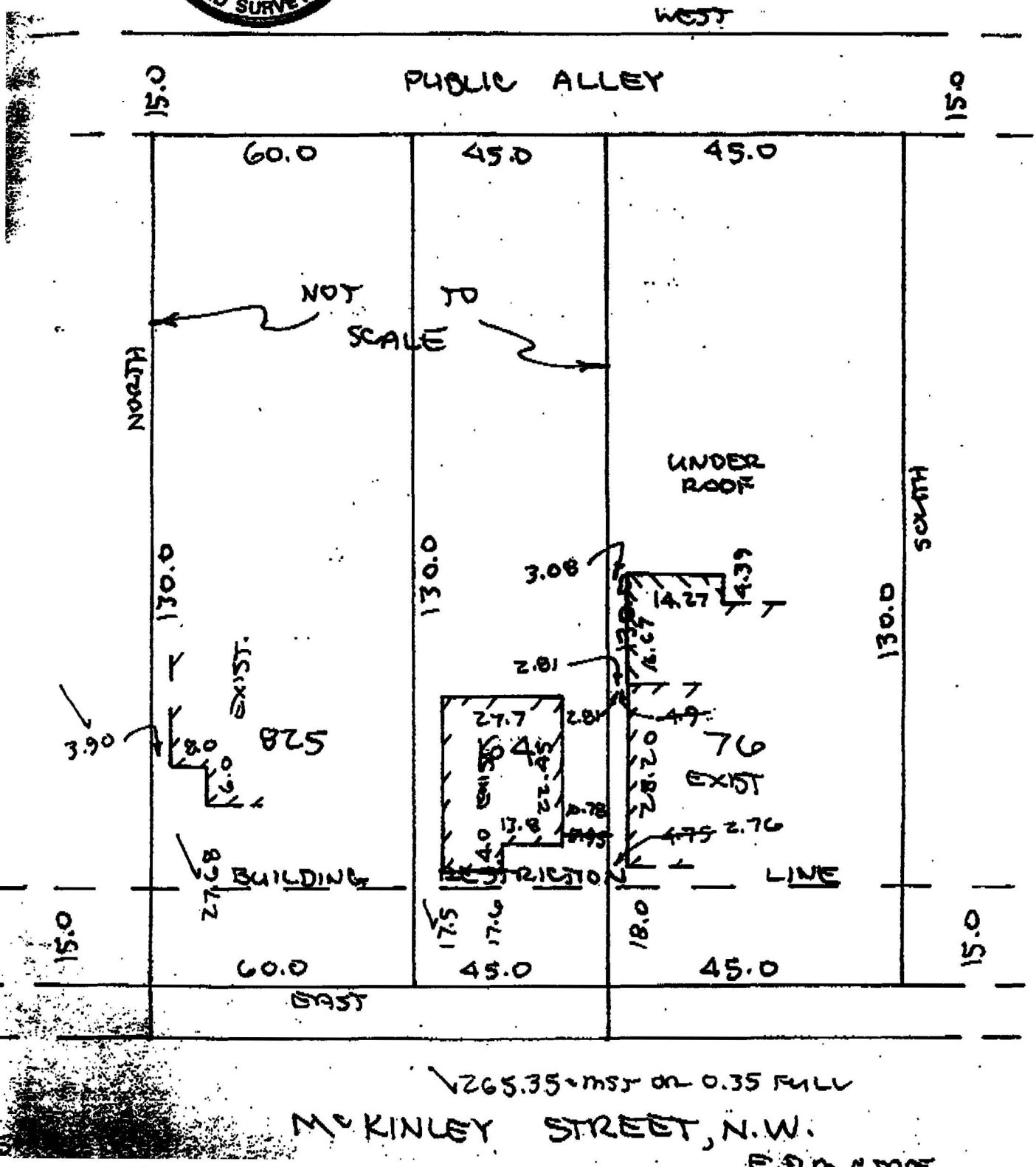
Enclosures: 2

List of Witnesses

I am planning one possible witness but this is not confirmed at this time.

DISTRICT OF COLUMBIA
EDWARD L. LOPEZ, JR.
No. 91-2
REGISTERED
LAND SURVEYOR

SCALE: 1"=20'
DATE: 8/28/2003



265.35 msr on 0.35 FALL

McKINLEY STREET, N.W.

E.O.M. GRADE