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BZA
Case No. 17109
Exhibit No. 53

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Monday, November 3, 2003

Mr. Denzel Noble, Director Building and Land Regulation Administration, Zoning Administrator
941 North Capitol Street NW
Washington, DC 20002

Dear Director Noble,

We appreciated the time of the BLRA, DCRA, and Zoning administration last week, Monday October 27, 2005, in our meeting to review numerous issues raised by a permit for a roof stair access, skylight, and deck on the roof adjoining our open third floor porch. Our address is 2359 Ashmead Place NW. The permit was issued for 2357 Ashmead Street NW.

We write to request the necessary follow-up to the meeting.

- **A** What is the the meaning of the note "cols to be cut" on page 4 of 21 of the plans for 2357 Ashmead?
- **B** What would change in the plans if the location of the columns supporting our porch roof and resting on the party wall shared with 2357 were corrected on the drawings? At least one column is shown at an incorrect location.
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- **C** What is the correct representation of the plans with respect to the proposed new 8" wall (pp. 4,5,10,13 and 21 o 21)?
- Where exactly is the proposed wall to be built? The party wall appears to be represented at widths of 12" and possibly 18". (Our measurements show that it is about 12" wide underneath the metal cladding.)
- The architect for the 2357 renovation at one time announced that our consent would be required for the project since the party wall was needed for support. Having had no formal request for such consent, we assumed the plan had been abandoned.
- However, in presenting us with notice that permits had all been approved and construction was imminent, the owner at 2357 explained that no consent was requested because the attachment to the party wall would affect only the half of the party wall considered part of the 2357 property.
- But how can eight-inch wall be considered only half of a 12-inch party wall - as the existing drawings seem to imply?
- **D** SETBACK REQUIRED

1. The permit states that "Roof access shall be at minimum 7'4" from all exterior walls. (sec 400.7b)" The cited section 400.7b states that a roof structure "shall be set back from all exterior walls a distance at least equal to its height above the roof on which it is located."

2. Mr. Leon J. Paul, the zoning administrator who evaluated the permit application, stated that a row house party wall is not an exterior wall, open to the air. He stated that this usage is defined in Webster's dictionary. By the Paul-Webster definition our party wall would constitute an exterior wall since at the roof level of 2357 Ashmead, 2359 Ashmead is an open air porch.

3. We requested the written legal justification which underlies the interpretation of paragraph 400.7b of the DC Municipal Regulations that designates the exterior wall of our domicile, a party wall, to be an "interior" wall. Mr. Paul stated that he could not provide it. He did provide copies of the pages on which regulation 400.7b appears, and the page showing regulation 411.11 which is cited in case of a need to request an exception to compliance with 400.7. But that exception is allowed only "provided, that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air

of adjacent buildings shall not be affected adversely."

4. The architect of the plans for 2357 Ashmead understands that our party walls are exterior walls and not interior walls. The plans (page 21 of 21) for the roof changes at 2357 Ashmead titled "ATTIC LEVEL MECHANICAL PLAN" show pipes following the party wall and at the bottom of the page the words: "NOTE: HOLD DUCT WORK TIGHT TO EXTERIOR WALLS."

5. It is important to note that the exterior, "fresh air" porches which are part of the original design of the row houses in our block, are all positioned with several feet intervening between them. Although many of these porches have been enclosed, unlike ours, the original amenity of some intervening space was clearly important. The proposed structures approved adjacent to our porch do NOT allow any clearance.

6. Mr. Denzel Noble cited BOCA (a manual for Building Officials and Code Administrators) in support of the opinion that a rowhouse party wall is an "interior wall". However, the citation of page 12 (1996 edition) does not refer to a party wall. In fact, the citation was merely to a "Lot line, interior: Any lot line other than one adjoining a street or public space."

7. The permit does not include a fence in the permitted roof structures, although it is shown in the plans. It appears to be a total enclosure of at least six feet in height, with zero setback, even from the rear exterior wall. If this structure were on the ground it would require a permit. Please inform us the basis for the exemption from the need for a permit in this case.

In conclusion, we find no supporting documentation for the opinion of the zoning administration that our rowhouse party wall is not an exterior wall within the meaning of DC Municipal Regulation 400.7b, particularly at the third floor open porch location.

We therefore request that the documentation be provided or the permit rescinded on the basis of this error.

D Two additional basic errors were observed in the permit.

1. The permit refers to the street address as Ashmead Street, as do the plans. However the city plat included in the permit file shows Asmead Place, our address since 1960.

2. The permit says the zoning applicable is R-1, although we understand it to be R-5-B.

E Since the meeting we have ascertained that our copy of the file in the case omits the reverse side of the permit that was issued. Is any information contained on the reverse of the permit?

F We request notification of changes in the plans, as some changes appear to be contemplated.

Thank you for your consideration.

Robert Malakoff
Grace Malakoff
cc. Matt Forman, President, Kalorama Citizens Association
Historic Preservation Review Board
Inspectors Leon J. Paul, A. Barrow, Chief Agiponti
Councilmember Jim Graham, ANC1C