C

Board of Zoning Adjustment
District of Columbia
CASE NO. 17355
EXHIBIT NO. 34A2

THERE IS NO DOCUMENT FOR THIS EXHIBIT

D

LEXSTAT DC CODE 6-641.09

LEXIS DISTRICT OF COLUMBIA CODE ANNOTATED
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*** CURRENT THROUGH D.C. LAW 16-1, EFFECTIVE MAY 14, 2005 ***
*** ANNOTATIONS CURRENT THROUGH FEBRUARY 25, 2005 ***

TITLE 6. HOUSING AND BUILDING RESTRICTIONS AND REGULATIONS
CHAPTER 6. ZONING AND HEIGHT OF BUILDINGS
SUBCHAPTER IV. ZONING REGULATIONS; BOARD OF ZONING ADJUSTMENT

GO TO DISTRICT OF COLUMBIA CODE ARCHIVE DIRECTORY

D.C. Code § 6-641.09 (2005)

§ 6-641.09. Building permits; certificates of occupancy [Formerly § 5-426]

(a) It shall be unlawful to erect, construct, reconstruct, convert, or alter any building or structure or part thereof within the District of Columbia without obtaining a building permit from the Inspector of Buildings, and said Inspector shall not issue any permit for the erection, construction, reconstruction, conversion, or alteration of any building or structure, or any part thereof, unless the plans of and for the proposed erection, construction, reconstruction, conversion, or alteration fully conform to the provisions of this subchapter and of the regulations adopted under said sections. In the event that said regulations provide for the issuance of certificates of occupancy or other form of permit to use, it shall be unlawful to use any building, structure, or land until such certificate or permit be first obtained. It shall be unlawful to erect, construct, reconstruct, alter, convert, or maintain or to use any building, structure, or part thereof or any land within the District of Columbia in violation of the provisions of said sections or of any of the provisions of the regulations adopted under said sections. The owner or person in charge of or maintaining any such building or land or any other person who erects, constructs, reconstructs, alters, converts, maintains, or uses any building or structure or part thereof or land in violation of said sections or of any regulation adopted under said sections, shall upon conviction for such violation on information filed in the Superior Court of the District of Columbia by the Attorney General for the District of Columbia or any of his assistants in the name of said District and which Court is hereby authorized to hear and determine such cases be punished by a fine of not more than $ 100 per day for each and

every day such violation shall continue. The Attorney General for the District of Columbia or any neighboring property owner or occupant who would be specially damaged by any such violation may, in addition to all other remedies provided by law, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate such violation or to prevent the occupancy of such building, structure, or land. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this subchapter, or any rules or regulations issued under the authority of these sections, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this chapter shall be pursuant to Chapter 18 of Title 2.

(b) A building permit shall not be issued to or on behalf of the District government unless proper notice has been given under § 1-309.10. The Department of Consumer and Regulatory Affairs shall issue a cease and desist order to enjoin any construction project that is issued in noncompliance with this section.

This wall is 2 ½ stories high for a length of 29 feet and one story high for an additional 20 feet. This massive wall is aesthetically undesirable and creates a sense of encroachment into the neighbors' privacy.

We note that a fence on the property line would be limited to a height of eight (8) feet under the building code.

The number of windows facing into the Friendlys' yard remains the same, but the side yard setback is designed in part to assure ample window separation from adjacent properties. In side yard variance cases, it is most often the loss of privacy in a neighbor's back yard that creates the adverse impact, rather than closer proximity to the adjacent house itself. This addition on the property line creates new windows looking on to the neighbors' tennis court and rear yard, where there is an expectation of some privacy.

Section 223 was adopted by the Zoning Commission in Case No. 97-2/94-6. The Office of Planning made the following point, among others, in the case: "Homeowners, architects and builders should look first to a matter-of-right addition and only apply for special exception relief if their case has significant need and merit." (Zoning Commission Order No. 840, dated February 23, 1998, p. 2).

The intent of the BZA and then OP and the Zoning Commission in creating this flexibility was to accommodate additions that were <u>not</u> objectionable to neighbors.

The intent of the Zoning Regulations is still that a matter-of-right addition is preferred over an exception, as in "exception to the rule."

Existing lot occupancy is only 24 %, which strongly indicates that there are other options for the location and design of the addition. I don't presume to design it, but for example:

The existing rear porch is only a roof supported by four posts. It could be removed and a substantial rear addition or two or three stories constructed, potentially including a ground floor porch.

The owners of 1645 31st Street ask that the Board deny the application, thereby requiring the applicant to prepare an alternate plan that complies with matter-of-right standards.

U.S. COMMISSION OF FINE ARTS

ESTABLISHED BY CONGRESS 17 MAY 1910

NATIONAL BUILDING MUSEUM
401 F STREET, N.W., SUITE 312
WASHINGTON, D.C. 20001-2728

202-504-2200
202-504-2195 FAX

25 July 2005

TO: Mayor's Agent for D.C. Law 2-144, Public Law 808, and Public Law 231, for those applications also subject to D.C. Law 2-144

The accompanying application is returned by the Commission of Fine Arts with recommendation as noted:

O.G. 05-167 (HPA 05-269)
3051 Avon Lane, NW (Lot 258 - Square 1282)
Joseph Stettinius - Residence
One- and two-story additions to front and side yard; also existing pool house, rear porch, gates and pergola
Concept

RECOMMENDATION: No objection to general concept for the proposed one-story and two-story additions to front and side yard of existing house as shown in supplemental drawings received and dated 7 July 2005, and for existing pool house, trellis, rear porch and entrance gates with paved walk, which were completed without review or permit. File new submission of working drawings, including dimensions and details, and material samples with permit application for review by the Commission when ready.

Frederick J. Lindstrom
Assistant Secretary



OPID0006958

Zoning and Land Use Map
BZA 17355
3051 Avon Lane, NW

N

Feet

0 100 200

Government of the District of Columbia
Anthony A. Williams, Mayor

Office of Planning ~ March 18, 2005

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.
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Land Use Legend

- Non-conforming SF Use
- Rowhouse
- Single-Family Detached
- Single-Family Semi-Detached
- Resid. Garage
- Resid. Mixed Use
- Multi-family
- Multi-Resid. Garage
- Hotel - Small
- Hotel - Large
- Club
- Resid. Transient
- Store
- Restaurant
- Office
- Vehicle Service Station
- Parking - Special Purpose
- Warehouse
- Religious
- Educational
- Embassy or Chancery
- Museum, Library, Gallery
- Recreational
- Health Care Facility
- Memorial
- Special Purpose
- Vacant

Attachment 1

E

To: Board of Zoning Adjustment September 12, 2005

From: Barbara Zartman, Chair
Historic Preservation, Planning and Zoning Committee
Citizens Association of Georgetown

Re: Case 17355 - Joseph Stettinius

The Citizens Association of Georgetown wishes to share its concerns about the proposal for a special exception at 3051 Avon Lane, N.W. We have long-held concerns about illegal construction that ignores the system of evaluation of land uses in the District.

The unpermitted structures at this site cannot simply be ignored; they must be evaluated for compliance with zoning regulations before the merits of the case for a new special exception can be considered and evaluated.

We have a continuing concern about the pressures for further construction in residential neighborhoods that adversely affects neighbors' interests and adversely affects the quality of life by eating into the light and air and open space that are so essential to an intensely developed community like Georgetown.

We believe the Georgetown ANC mistakenly confused architectural review with land-use review in its consideration of this property. All in authority agree that Old Georgetown Board/Commission of Fine Arts review is related to aesthetics only; their agendas clearly indicate projects are subject to zoning review (about which they regularly indicate they have no competence or authority).

We ask the Board to postpone decisions until an assessment of the earlier structures can be completed and to then consider the merits of the current proposal. To do otherwise is to rewarrd improper development and deny neighboring property owners the benefit of protections anticipated in the zoning regulations and maps, which are intended to provide property owners with an understanding about how their homes are to be protected by a system of balances between development and open space.

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HISTORIC PRESERVATION REVIEW BOARD
STAFF REPORT AND RECOMMENDATION

Landmark/District:	**Georgetown Historic District**	(x) Agenda
Address:	**1033 31st Street, NW**	( ) Consent
Meeting Date:	**September 22, 2005**	( ) New Construction
Case Number:	**05-330**	(x) Addition
Date Received:	**June, 2005**	( ) Alteration
Staff Reviewer:	**Tim Dennée**	( ) Concept

The applicant, owner Babak Movahedi, requests the Board's approval of a two-story, brick-faced concrete block rear addition. The drawings were executed by Maiden and Associates.

Two parking spaces would occupy the rear of the property, and an open stair would provide egress from the additions' second story rear.

Work on this project was stopped by the Department of Consumer and Regulatory Affairs in early May because the entire rear wall and one-story ell of the building had been demolished, contrary to plans approved under an interior work permit. The U.S. Commission of Fine Arts reviewed this project in July and determined not to take an action, finding that it could not approve the proposal, and instead referred it to the HPRB for final review because of the extent of unpermitted demolition.

The addition would extend the entire width of the lot (thus, the side walls would necessarily be blank), i.e., slightly more than 16 feet wide, and would extend rearward from the 36-foot-deep main block an additional 46 feet. Such a building depth is quite substantial, as is a change involving more than doubling the size of the present structure. In an entirely small-scale residential area, this would likely be unacceptable. On the other hand, because the immediate area has been predominantly commercial in recent decades, there are few issues with relative depth. Many commercial buildings along M Street or below the canal have nearly complete lot coverage and depths often exceeding 100 feet. The two buildings immediately to the north of the subject property have a greater depth from the street than does this proposal, and these and the smaller, similar rowhouse/offices to the south are overlooked by 50- to 70-foot-tall modern buildings with larger footprints. The attached 1996 Sanborn map provides a better idea of the larger context, but it is not entirely up to date. The building immediately to the south—also offices—has since had its original ell removed and has been lengthened, although the presently proposed addition would still extend about 31 feet further back (eastward), as suggested by the site plan. In other words, there are limited views of this structure available, from only the dead-end, ten-foot alley behind or from a few adjacent commercial buildings, and no vantage point to compare the extent of the main block with that of the proposed addition. And many of the surrounding structures are comparable in scale and extent, with some much larger and effectively dominating the alleyscape.

As for the demolition that has already occurred, it is regrettable, particularly in that it was performed without prior permit review. On the other hand, the character and extent of demolition here is not dissimilar to that often approved by the Board for the construction of rear additions. It should be recalled, however, that the preservation law allows demolition that is "necessary in the public interest" as defined in accordance with the purposes of the law. One way to evaluate whether a particular demolition proposal should be considered substantial or significant is an examination of whether the extent of demolition is *necessary* even within the scope of the project. The proposed floor plans suggest that the rear wall at least could have been retained without harming the project's plan or program.

In terms of restoring the visual character of the historic district, there seems to be little good in requiring the reconstruction of a facsimile of that wall only then to encapsulate it within a new addition. However, as unsatisfying as that may be, reconstruction of unlawfully demolished historic fabric is the only restitution provided by the preservation law. Within a structure that has otherwise been gutted, a brick wall at the location of the original could signal, to occupants of the building at least, the original extent of the historic building, remedying what otherwise might be perceived as a cavernous, characterless and undifferentiated space.

Under the circumstances, the staff recommends that the Board approve the proposal with the condition that the plans be revised to construct a brick or brick-faced wall—penetrated by the necessary passages, of course—at the location of the building's original rear wall

Outline of Testimony
Nathan W. Gross, AICP
Application No. 17355
September 13, 2005

The R-1-B District is mapped in the northern part of Georgetown; this area is intended for single-family detached dwellings, not townhouses as authorized in the R-3-zoned majority part of the neighborhood.

The required 8-foot side yards create an open space domain of 16 feet between building walls of adjacent houses.

Even in row house zones, a detached house requires two 8-ft side yards (405.1). Clearly the 8-foot required side setback is strongly preferred in the applicable Zoning Regulations.

The owner's interest is an optimal addition. The public interest is represented by the Zoning Regulations, which govern relationships among properties and set development standards.

Proposed addition eliminates an existing side yard of 10 feet, 7 inches. The addition would extend for <u>49 feet</u> along the west property line.

> **The addition also connects with the existing garage of 20 feet in length, the result being <u>69 feet</u> of building mass on the side property line in an R-1-B District.**
>
> **This extent of encroachment into required open space is unnecessary and unacceptable to the adjacent neighbors on the west side.**
>
> **This development pattern is completely contrary to the intent of the R-1-B District regarding side yard open space and separation between houses and yards.**

Viewed by the neighbors at 1645 31st Street, N.W., the proposed addition imposes itself as a brick wall. Applicants have indicated they plan to remove the existing vine-covered fence during construction.