APPEAL OF ALLOWANCE TO CONSTRUCT SECOND STORY OF GARAGE AT 5362 27TH STREET, N.W. (LOT 27, SQUARE 2292)

This Appeal is taken by Jeffrey Schonberger and Geraldine Rebach (5345 28th Street, N.W.; 202.244.0209) to challenge the validity of a second story addition to an existing garage located at the rear of 5362 27th Street, N.W. Said garage abuts a 15 foot public alley. Appellants have their respective residences across the alley from the property.

I. Brief Statement of Facts

The subject property is believed to be owned by Matthew Epstein and Amy Cohen Epstein (husband and wife) who recently purchased the property from 27th Street, LLC, an affiliate of Zuckerman Brothers, Inc. a homebuilder active in Northwest Washington, D.C.

27th Street, LLC owned and developed two adjacent parcels, Lots 27 and 28 of Square 2292. 27th Street, LLC had intended to construct a single family residence of approximately 5,625 square feet and a two story garage on each of the lots. The two story garages would have contained 1,144 square feet each.

In May, 2004, prior to the construction of the two story garages, adjacent neighbors communicated to Stuart Zuckerman, a principal of 27th Street, LLC, their objections to the construction of the proposed second story of the new garages. The objections were based on the neighbor's belief that if the second story was constructed it would not conform to the District of Columbia's zoning regulations notwithstanding the fact that a building permit had already been issued allowing the construction of the second story.

On or about June 1, 2004 Mr. Zuckerman responded, to the neighbors' objection by stating that 27th Street, LLC would abandon the construction of the second story on both garages. 27th Street, LLC, consistent with its representation, proceeded to construct two *single* story garages in June, 2004.

In July, 2005 Mr. Epstein informed Appellants that he was considering adding a second story above his garage, was aware that the Zuckerman Brothers (owner of 27th Street, LLC) had originally intended to construct a second story but abandoned those plans, and he was aware that the neighbors had objected to the plans.

BZA
CASE No. 17414
EXHIBIT No. 5

Board of Zoning Adjustment
District of Columbia
CASE NO. 17414
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On or about July 11, 2005, Appelles commenced the demolition of the roof of the garage. Appelles have since commenced the construction of a second story addition to their garage. Appellees have not obtained a demolition permit nor have they or their contractor obtained any other permit for the construction of the addition. They have posted on the site *a copy of the old permit* originally obtained by 27th Street, LLC (Please see Exhibit "A"). It is the understanding of Appellants that Appellees are not in possession of the original permit nor any original stamped plans. Additionally, it is Appellants' belief that the garage was completed over one year before Appellees commenced construction of the second story of garage and absolutely.

II. Appellants' Exceptions to Administrative Decision

Generally, Appellants object to the size and placement of the Appellee's construction of the two story garage. The building intrudes upon the light, air, and privacy of neighboring properties and is significantly larger and closer to the property line than should be allowed under the governing Regulations.

Specifically, Appellants object to the administrative decision based on the following provisions of Title 11 of the District of Columbia Municipal Regulations:

1. Section 2500.5 provides:

"In an R-1-A or R-1-B district, an accessory private garage may have a second story..."

Section 199.1 defines "Private Garage" in part as "not exceeding nine hundred square feet in area"

The two story private garage is now being constructed to be 1,144 square feet in area and therefore it is in excess of the maximum 900 square feet in area allowed under the Regulations. (Please see Exhibit "B")

2. Section 404.1 provides:

"A rear yard shall be provided for each structure located in a Residence district, the minimum depth of which shall be as set forth... R-1-B...25 feet"

(A) The 1,144 square foot structure which is being constructed has a rear yard of only 7 feet and therefore does not conform to the Regulations. (Please see Exhibit "C")

(B) The 1,144 square foot structure which is being constructed is not set back from the property line by the requisite 25 feet.

3. Section 2500.5 provides:

"In an R-1-A or R-1-B district, an accessory private garage may have a second story used for sleeping or living quarters of domestic employees of the family occupying the main building"

Appellee has stated that the purpose of the second story is to house his mother on visits because she is unable to sleep in the main house due to her allergy to dogs.

4. Section 2500.9 provides:

An accessory building shall not obstruct light and ventilation required by other regulations.

The subject accessory building obstructs light and ventilation and restricts the privacy of neighboring properties.

III. Appellant's Presentation.

Appellants intend to prove that there was an administrative error with regard to the allowance of the construction of the second story of the subject garage by presenting to the Board (1) testimony as to the size and location of the structure, (2) plans of the structure, (3) the affidavit of Appellant, Geraldine Rebach, (4) other affidavits or testimony as may be required, (5) presentation of the applicable sections of the District of Columbia Municipal Regulations and other legal authority.