

BZA #20382

Parties in Opposition

June 16, 2021

Parties in Opposition



- Thomas Sheeran and Theresa Harrison, 311 10th Street, NE (neighbors directly behind, west, across the alley) (“Sheeran Residence”), residents since July 2018.
- Randi Spivak and Andy Kerr, 313 10th Street, NE (neighbors directly behind, west, across the alley) (“Spivak Residence”), residents since December 2004.
- Winfield Wilson and Veena Srinivasa, 310 11th Street, NE (neighbors directly adjacent to the north) (“Wilson Residence”), residents since June 2017
- Darrin Howell and MaryJoy Ballantyne, 306 11th Street, NE (neighbors directly adjacent to the south) (“Howell Residence”), residents since May 2000.

The Applicant's Request Does not Satisfy the Board's Review Standards in 11-X DCMR 901

- The Project is not in harmony with the general purpose and intent of the Zoning Regulations (11-X 901.2)
- The Project as currently proposed will unduly adversely affect the use of the neighboring properties (11-X DCMR 901.2)
- The Applicant has failed to fully prove **“no undue adverse impact”** (11-X DCMR 901.3, 11-E DCMR 5201)

EXISTING RECORD STILL INCLUDES INACCURACIES THAT SHOULD BE CORRECTED OR REMOVED.

Neighborhood Context

- Unique, nearly uniform, nearly unaltered for 100+ years
- Project is a first of its kind on the west 300 block street frontage
- No pop-ups, no 2-level garages (325 10th and 313 11th are materially different)
- At least 39 neighbors oppose, no known support

Neighborhood Context



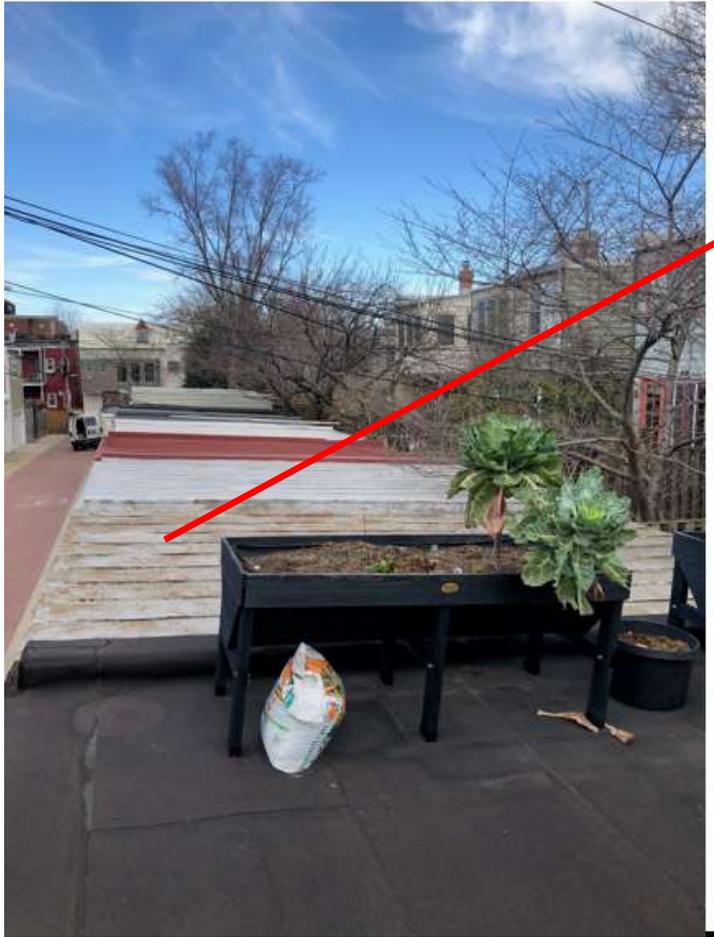
Full length, west side, 300 block of 11th Street NE



Applicant's
Property



Rooftops of west side 300
11th St., NE block looking
north.



Applicant's Property



Project Context

- Although request is for zoning approval for a 2-level garage (with upper level apt.), when the Project is complete, the only original elements remaining in the home and garage will be party walls, some joists, and front façade.
- Stop Work order issued July 1, 2020 for work beyond permit.
- Inaccurate drawings submitted to obtain Building Permit 2007159 whereby Applicant's full scope of work may have avoided proper permit review, submitting structural plans, special underpinning requirements, Neighbor Notification process. See Motions to Strike

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- The Project will adversely affect the use of the neighboring properties (11-X DCMR 901.2)
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The Project is not in harmony with the general purpose and intent of the Zoning Regulations (11-X 901.2)

- **In Residential Zones and RF-1 Zones, intent is to Balance Development while Retaining the Enjoyment and Livability of Residential Neighborhoods (11-E 101.2).**
 - “control the **bulk or volume of structure, including height, floor area ratio, and lot occupancy;**”
 - “**control the location of building bulk in relation to adjacent lots** and streets, by regulating rear setbacks, side setbacks, and the relationship of buildings to street lot lines.”
 - “**recognize and reinforce the importance of neighborhood character . . . and health of the city.**”
- **This Balance Is Particularly Important for Small RF-1 Lots with Non-Conforming Aspects, Like Ours.**

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Development Standards

Balance density w/ livability

- New row house lot, at least 1800 sq. ft. and 18 ft. wide (§ 201.1);
- Maximum number of dwelling units for a row house limited to 2;
- Maximum permitted height is 35 ft. and 3 stories;
- Maximum lot occupancy is 60%; and
- Rear yard at least 20 ft. § 201.1; §§ 302 – 305, § 306.
- ADU's abutting an alley, must have 7.5 ft. setback. §§ 5004.1, 5004.3.

Property and Adjacent Properties

Already limited light, air, privacy

- ~ 1700 sq. ft. and 16 ft. wide.
- Single-family homes.
- Less than 35 ft. high.
- No more than three stories with no 4th-level pop-ups or roof decks.
- Small rear yards, ~ 22 ft. long. (not including projections).
- Low-profile (~7 ft.) 1-level garages.
- Narrow 10 ft. wide alley.

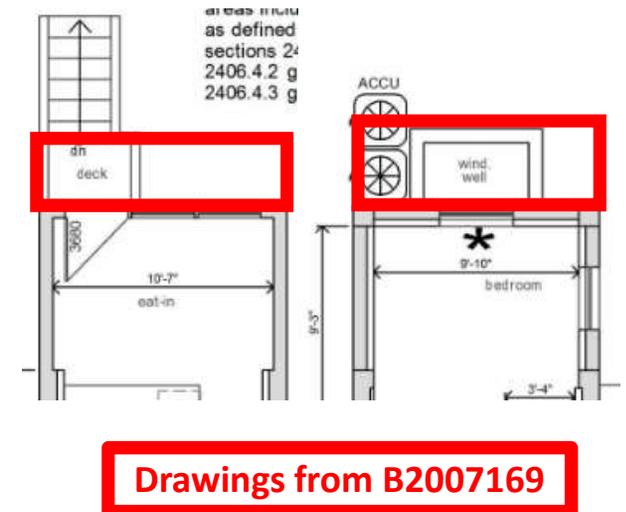
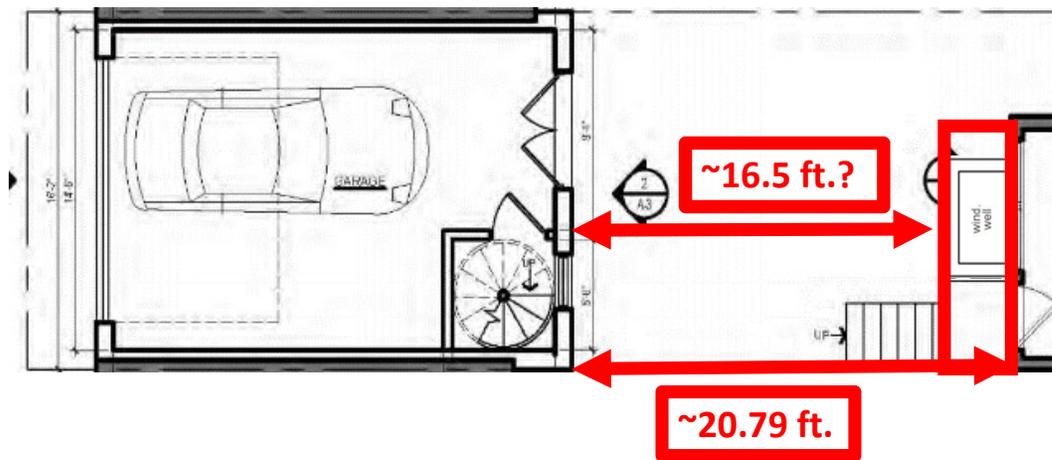
“de minimis” changes in a drawing can have significant undue effects on the pre-existing use and enjoyment of the adjacent/nearby properties.

The Project is not in harmony with the general purpose and intent of the Zoning Regulations (11-X 901.2)

- Rooftop pop-up may be an impermissible 4th story because the lowest level of the Property is a basement, not a cellar.
- Required rear yard may be less than 20 ft. long, if projections included.
- Existing non-conforming garage will be demolished and replaced with a larger 2-level non-conforming garage.

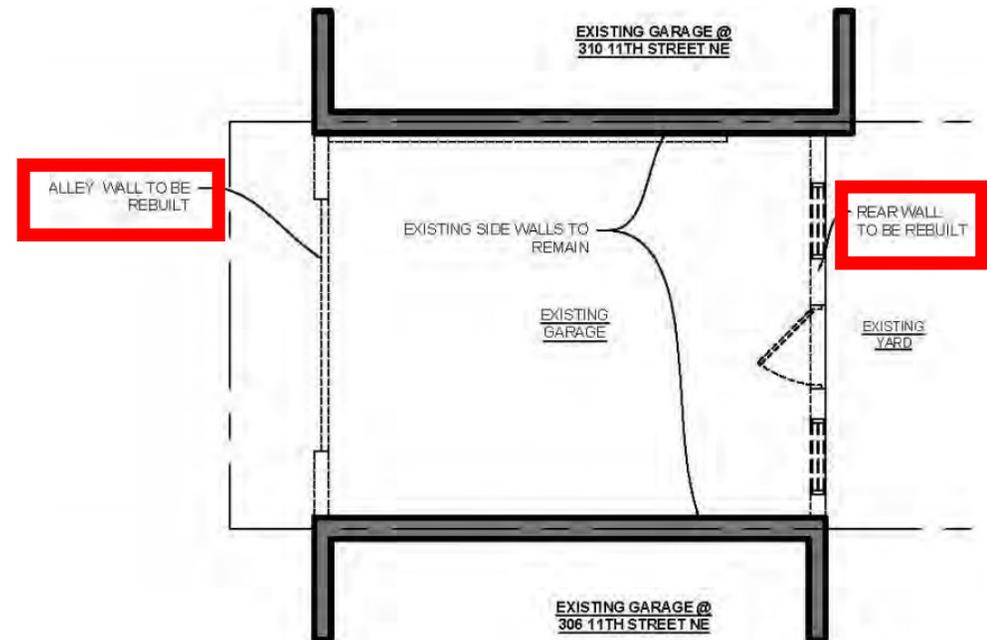
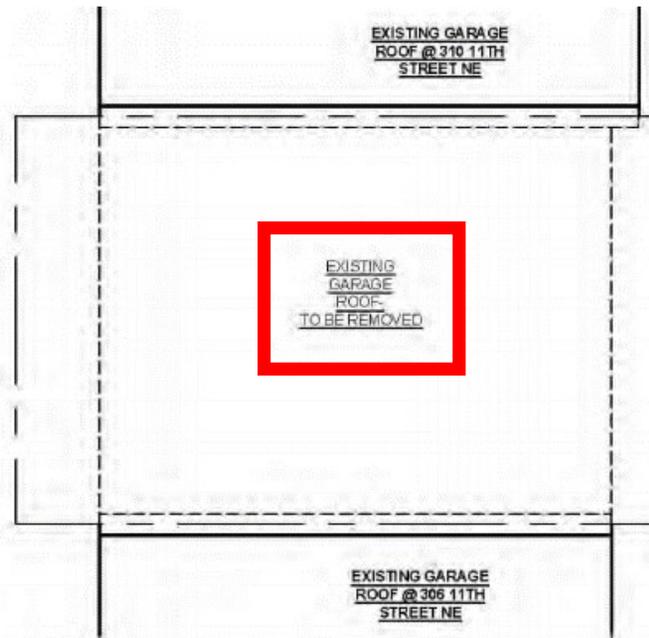
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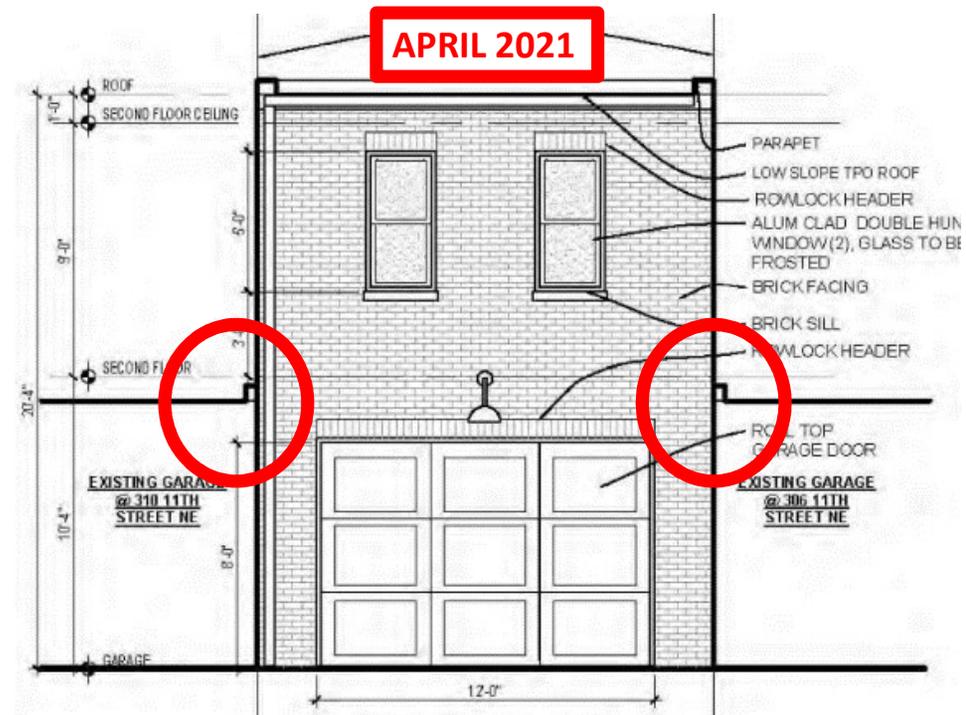
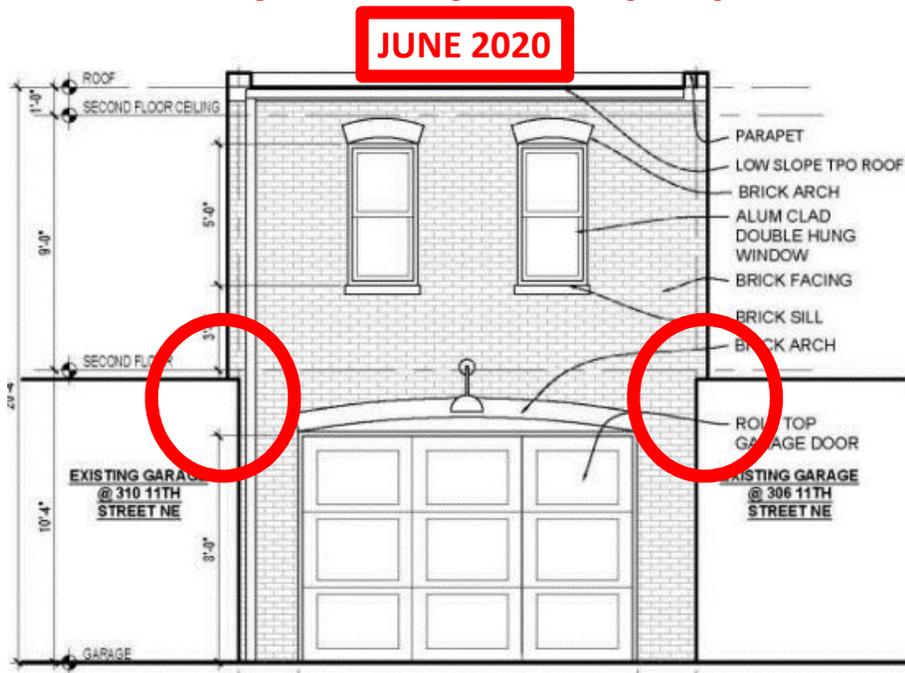


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The Project will adversely affect the use of the neighboring properties (11-X DCMR 901.2)

- May foreclose any future use and access to entire top of all party walls by the adjacent properties.



The Project will adversely affect the use of the neighboring properties (11-X DCMR 901.2)

The Project May Fatally Damage Two Protected Trees, Including A Heritage Tree

- 11-C DCMR § 401 restricts/prohibits removing, cutting down, or fatally damaging trees with circumference of at least 12 in. and includes additional protections for “Special Trees” (44 in.) and “Heritage Trees” (100 in.)
- Wilson Heirloom Cherry is “Special Tree” (~46 in.), significantly overhangs existing Property’s garage.
- Shared American Elm tree is “Heritage Tree” (>100 in.), significantly overhangs Property.

Heirloom Cherry (~46" Circumference)



Heritage Elm (>100" Circumference)



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- **The Applicant has failed to fully prove “no undue adverse impact” (11-X DCMR 901.3, 11-E DCMR 5201)**

Applicant has failed to prove no UNDUE adverse impacts (11-X DCMR 901.3, 11-E DCMR 5201)

- Proposed 2-Level garage w/ apt.
 - MORE than 3X's the volume of existing garage
 - NEARLY 3X's higher than adjacent garages from rear yard
 - UNFROSTED WINDOWS look directly into Howell and Wilson Residences
 - ONLY ~20ft. away from Howell Residence
- Significant UNDUE intrusions into privacy of Wilson and Howell Residences
- Significant UNDUE affects on light and air temperature to Wilson Residence
- Significant UNDUE affects on air temperature and air flow to Howell Residence
- Significant UNDUE light and noise nuisance to Wilson and Howell Residences

For each family, even one of these effects is significantly undue. The collective impact—for all neighbors and with all the undue effects—is exponential.

Significant UNDUE Intrusions into Privacy of Howell and Wilson Residences

Howell Residence

- 3 young children home all day
- All 3 children educated at home, rear main level and rear yard serve as classroom, highest use of entire home
- 3rd level is master bedroom
- Rear is ONLY part of home afforded privacy
- Special needs, rear yard is ONLY place child will be outside alone.
- Rear walls on both levels of home are floor-ceiling glass doors.

Wilson Residence

- 2 young children home
- Rear yard in high use
- Rear of home is in high use as kitchen on main level. Bedroom on upper level.

Significant UNDOE Intrusions into Privacy of Howell and Wilson Residences

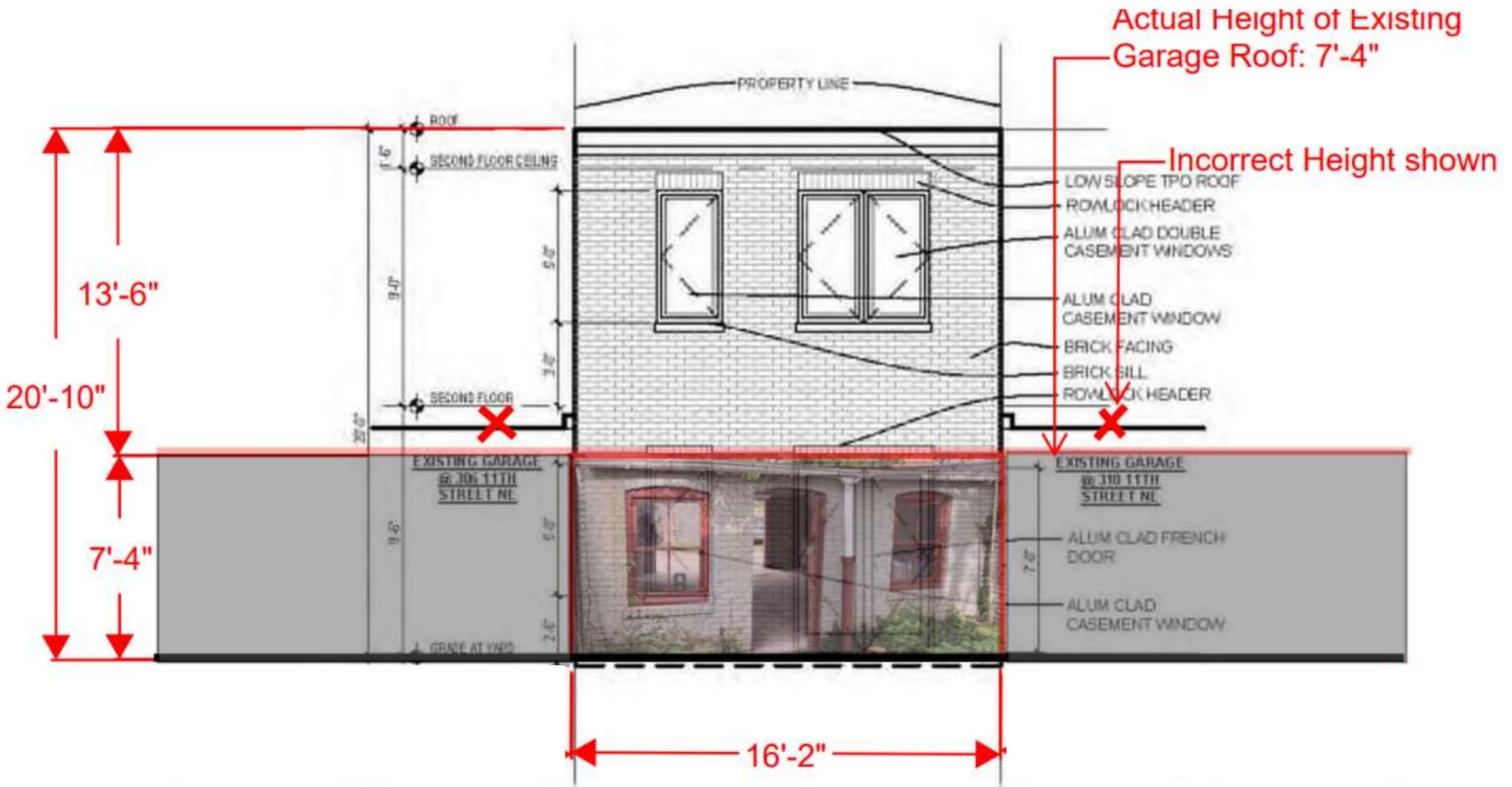
- Long, unfrosted east windows face directly into Wilson Residence and into Howell classroom, master bedroom, rear yard ONLY ~20 ft. away.
- Enlarged window on dogleg looks directly into the main bathroom of Wilson bathroom and children's bedroom.
- If use is as ADU, not just office, significantly heightens privacy concerns.
- **Applicant's recent modifications concede UNDO privacy, but benefit Applicant, not neighbors (Applicant frosted windows in bathroom and "nook") on alley. Not consistent with BZA precedent.**
- **ELECTRONIC FROSTING PROVIDES PRIVACY TO APPLICANT, NOT NEIGHBORS**
- BZA precedent on same alley required higher sills, smaller windows, frosted, for a 2nd level that is used solely as home office (no bathroom/water), and for a neighbor over 100 ft. away.
- Apartment includes two skylights in main living area.

Narrow 10' wide Alley

Applicant's Property



10 ft. wide **NARROW** alley. Homes already constrained with light, air, privacy.



2X4s indicated approximate height (from garden)



2X4s indicated approximate height (from alley)



Howell Residence: rear yard
(playground, extended
classroom).



Howell Residence: rear yard (playground, extended classroom). Substantial undo impact on light, air temp., privacy.



Howell Residence: main living area (kitchen, classroom, playroom). Substantial undo impact on light, air, privacy.



BEFORE

Howell Residence: main living area (kitchen, classroom, playroom). Substantial undo impact on light, air, privacy.



Howell Residence master
bedroom.



Howell Residence master bedroom.



Unduly intrudes on only portion of Howell Residence with privacy. Even more unduly intrusive at night and for the three young children.

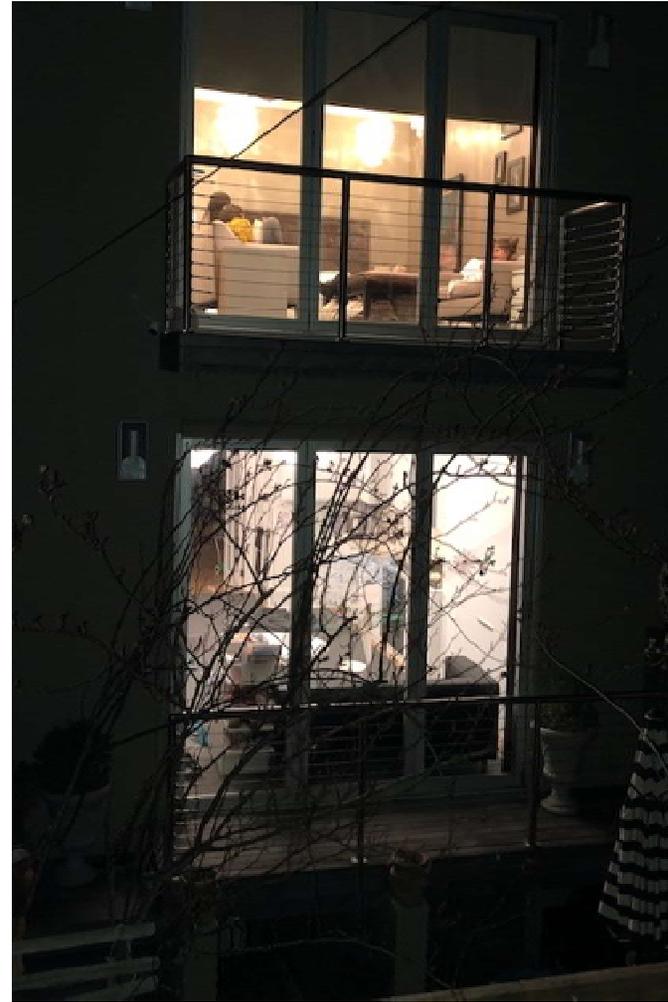
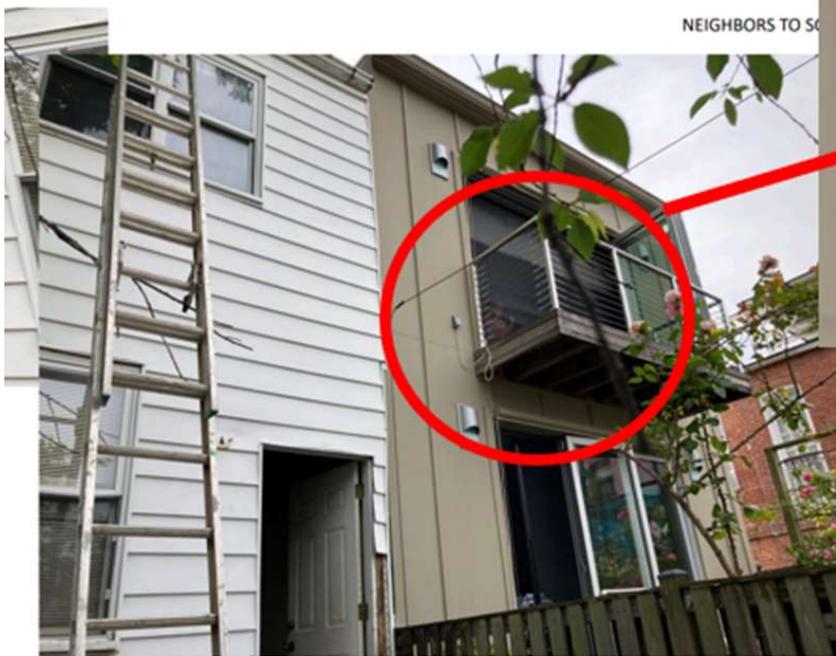


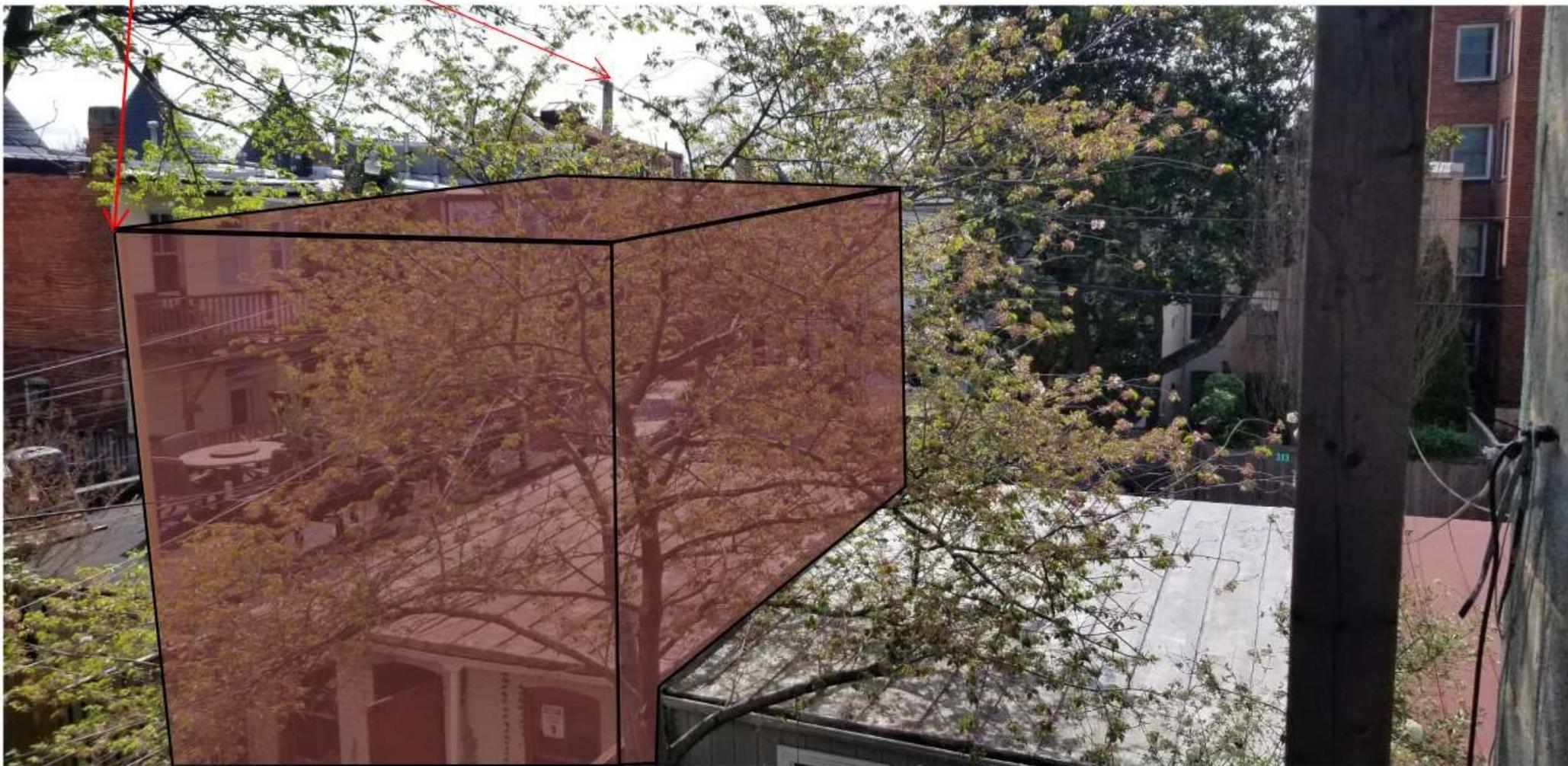
Photo taken by Applicant
and included in
Application



Fowler Architects



2x4s showing actual height.



Significant **UNDUE** affects on **LIGHT** to Wilson Residence

Applicant's Shade Study Does Not Sufficiently Assess Impacts on Wilson Residence. Afternoon/evening is sunniest and highest-use time.

- Insufficient time to review June 9, 2021 revised shade study.
- May be inaccurate.
- Excludes shading in late afternoon through sundown, **the sunniest and highest use time, sunniest time.**

Significant **UNDUE** affects on **AIR TEMPERATURES** and **AIR FLOW** to Howell Residence

- 13 ft. high x 22 ft. long wall facing directly adjacent south onto Howell Residence and into rear yard will **UNDULY** increase air temperatures into Howell rear yard.
- 20 ft. high x 16 ft. long wall facing directly adjacent east onto Howell Residence will **UNDULY** increase air temperatures into Howell rear yard.
- Unduly increased air temperatures will be compounded by two new AC units placed directly adjacent to Howell property line. **NOTE: Applicant's statement that property will be single-family dwelling—B2007169 shows 2 AC units (e.g., will units be on same or separate electric meters?).**

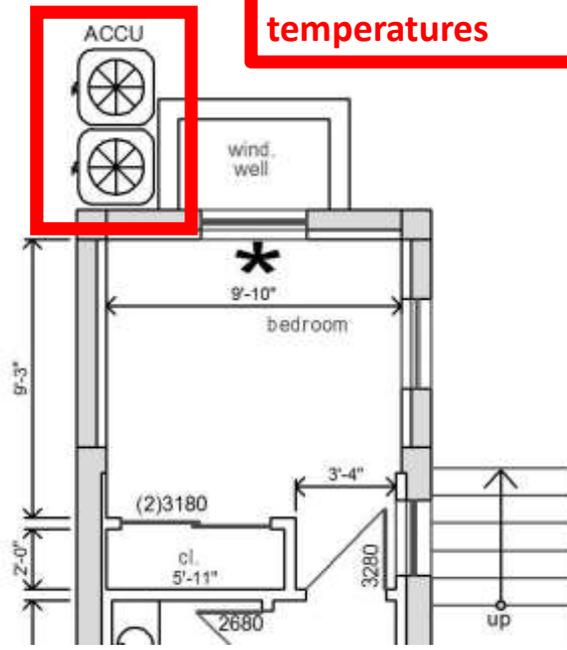
Significant **UNDUE** affects on **AIR TEMPERATURES** and **AIR FLOW** to Howell Residence

10-15 Degree increase in Solar Heat Gain from Reflected sun.

2x4s showing actual height.

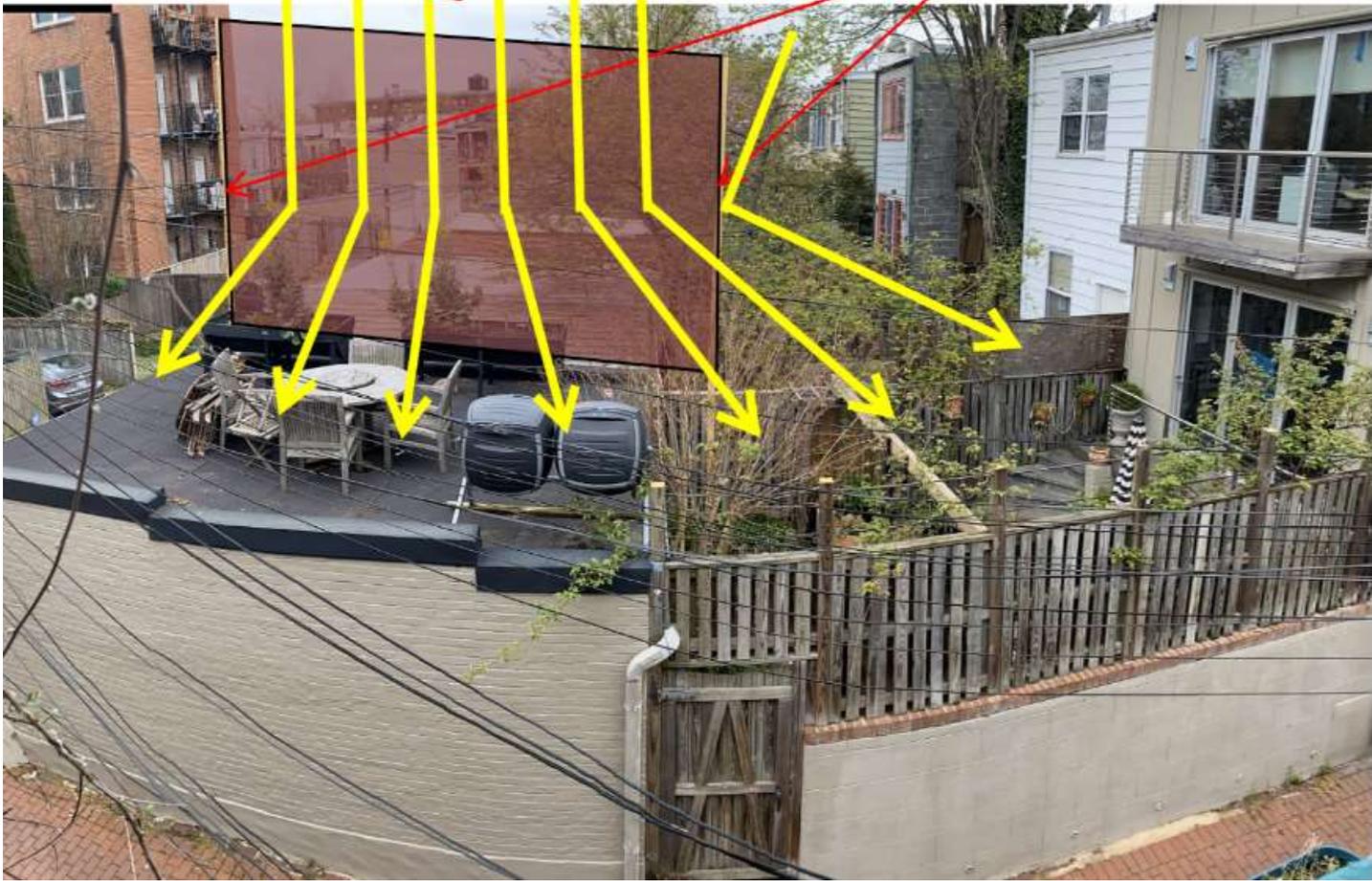


2 new AC units adjacent to Howell Residence will further increase air temperatures



10 to 15 degree increase in solar
Heat Gain from Reflected sun.

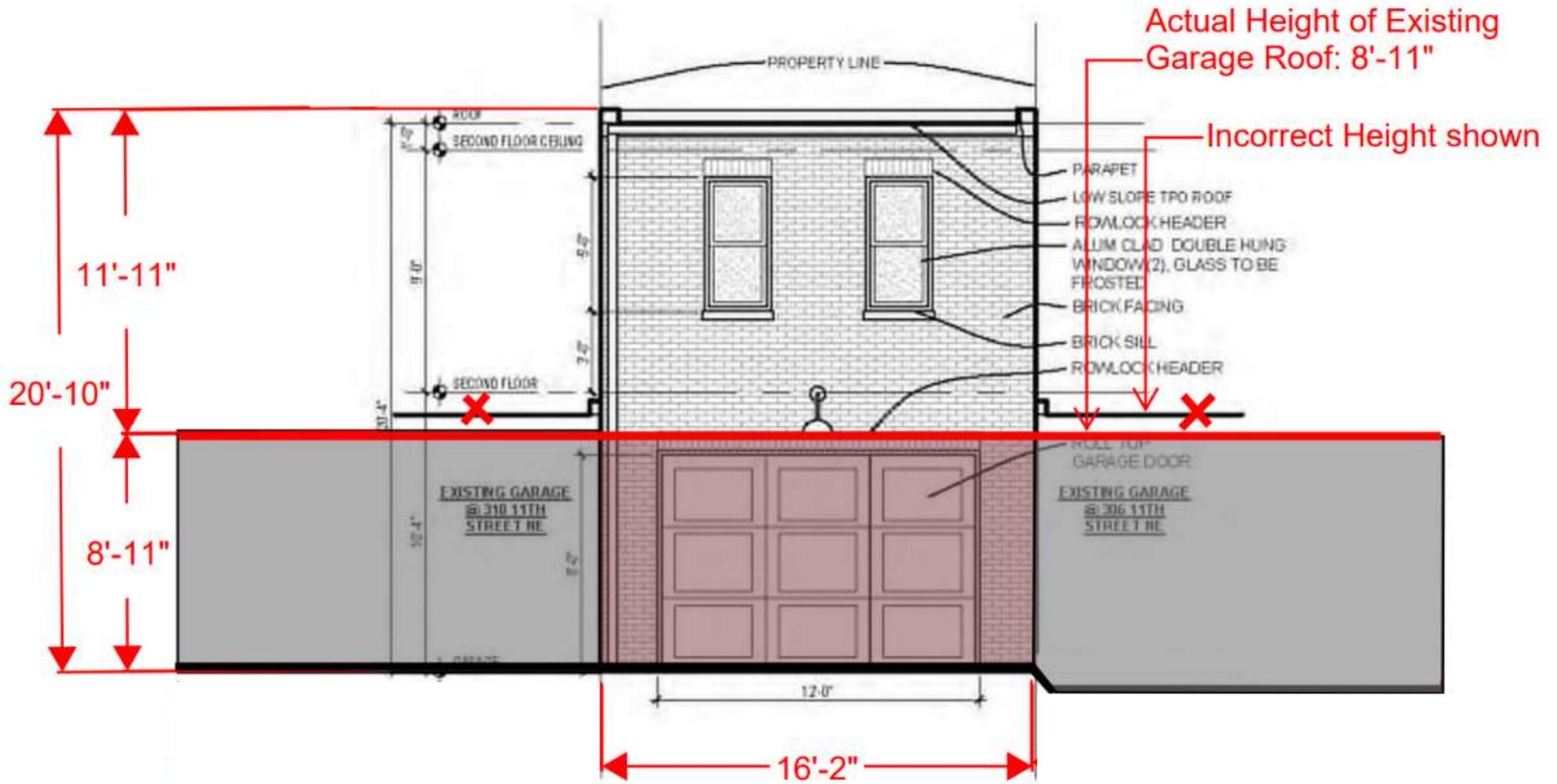
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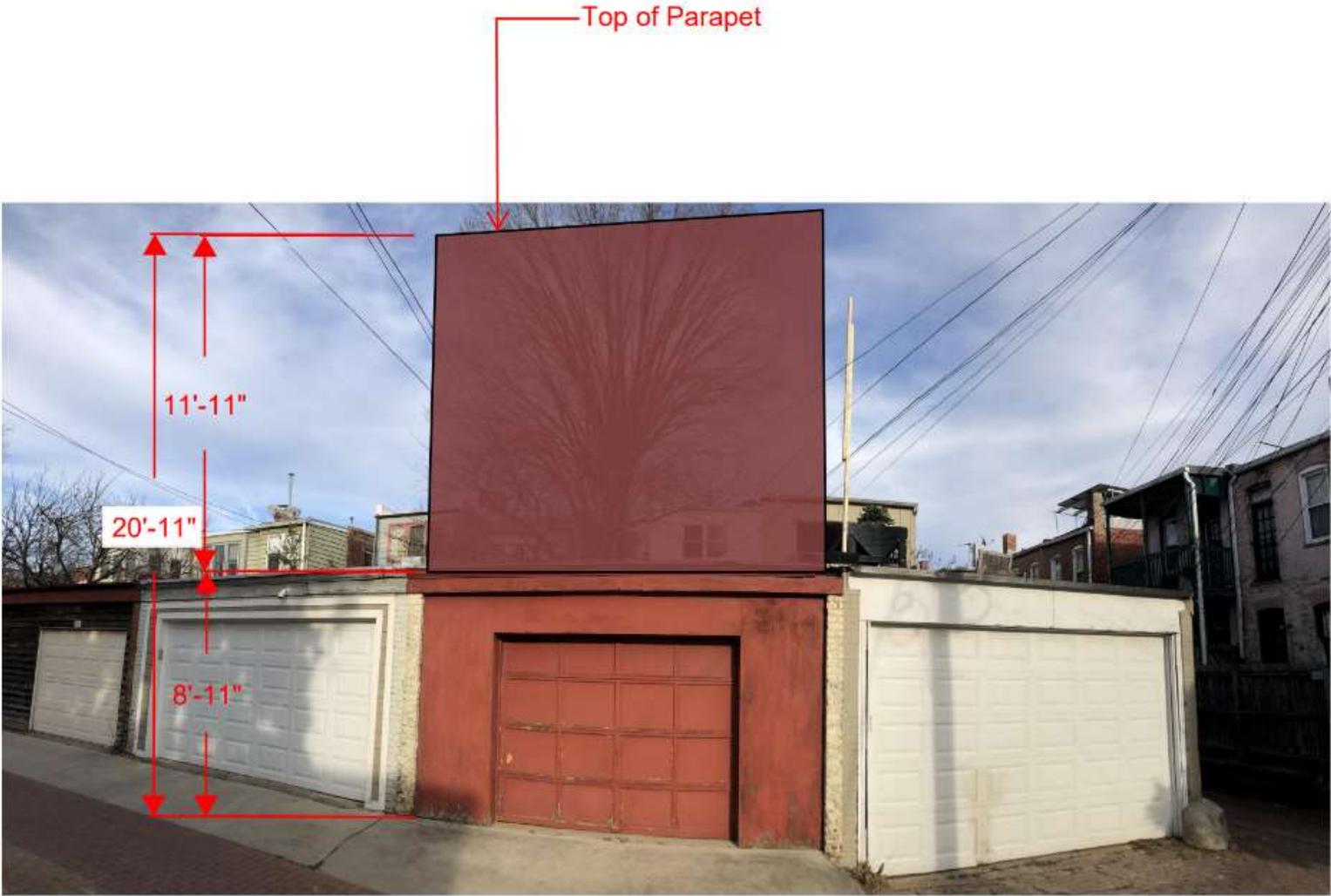
Significant **UNDUE light and noise nuisance** to Wilson and Howell Residences

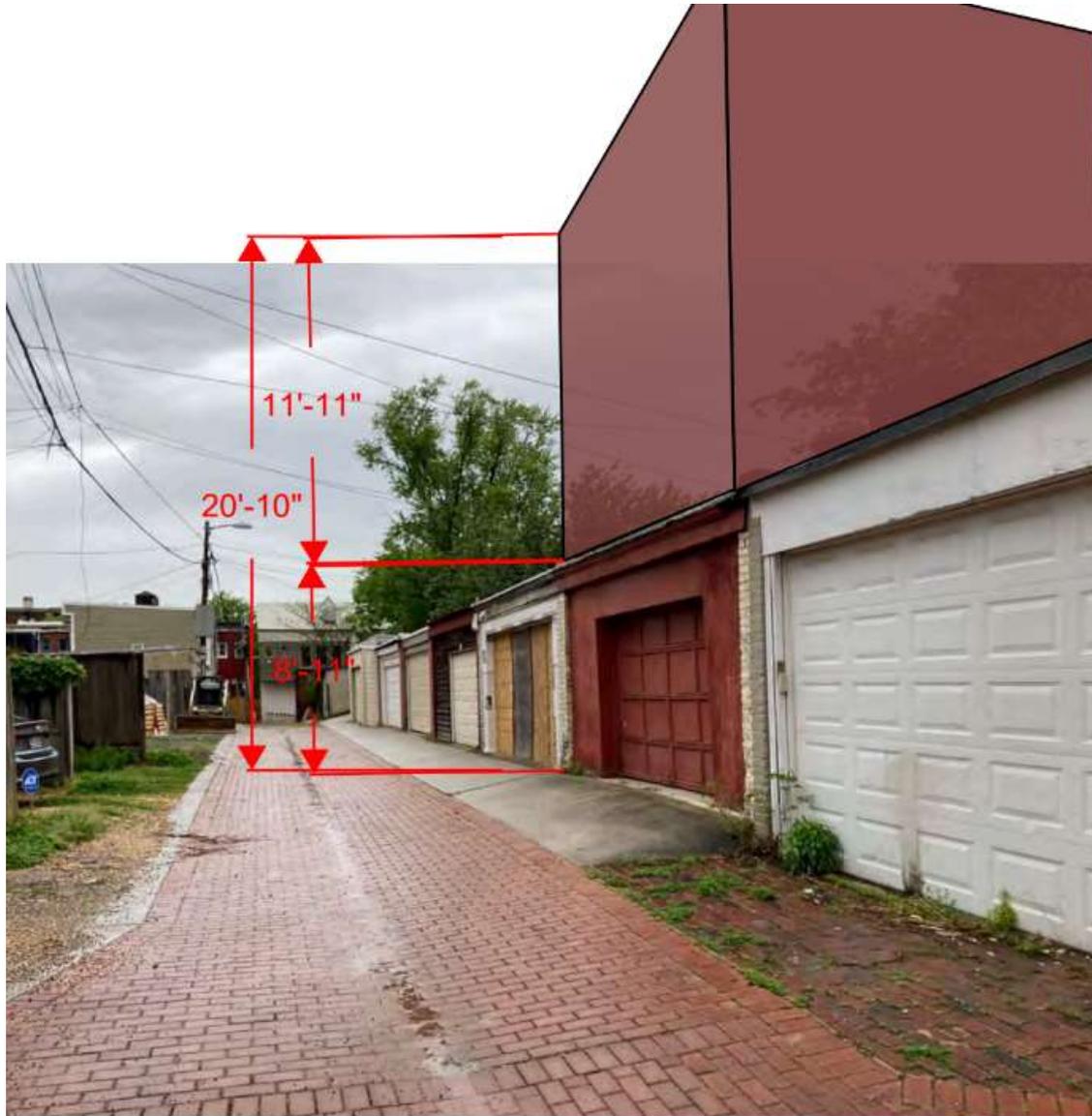
- Significant undue light pollution from unfrosted ADU windows in close proximity to Howell master bedroom.
- Significant undue noise nuisance from rooftop deck that is directly above adjacent to Wilson and Howell family bedrooms.

- **2-level garage with apartment will significantly Visually Intrude Upon the Character, Scale, and Pattern As it Has Existed for More than 100 Years (11-E DCMR 5201.3)**
- 2-level garage/apt will be destroy the unique, nearly uniform span of low-level garages across the entire length of the east side of the alley.









ALLEY,
LOOKING NORT

Applicant's Record Fails to Meet Board's Review Standards in 11-X DCMR 901

Applicant must correct record (see PIO Motions to Strike)

Applicant's proposed rear yard may not meet zoning standards (projections)

Applicant's use of party walls must not foreclose use by adjacent owners

Applicant must show it will not fatally damage Protected Trees

Applicant must mitigate the UNDUE adverse impacts (11-X DCMR 901.3, 11-E DCMR 5201) :

- Significant UNDUE intrusions into privacy of Wilson and Howell Residences
- Significant UNDUE affects on light to Wilson Residence
- Significant UNDUE affects on air temperatures to Howell Residence
- Significant UNDUE light and noise nuisance to Wilson and Howell Residences

Thank you!

Strong Neighborhood Opposition (~39 neighbors)
No Neighborhood Support

