

**BEFORE THE BOARD OF ZONING ADJUSTMENT  
FOR THE DISTRICT OF COLUMBIA**

In re )  
 ) Case No. 20453  
APPEAL OF )  
DUPONT EAST CIVIC ACTION ASSOCIATION )  
 )  
\_\_\_\_\_ )

**REPLY STATEMENT OF APPELLANT  
DUPONT EAST CIVIC ACTION ASSOCIATION  
IN SUPPORT OF APPEAL OF  
ZONING ADMINISTRATOR’S APPROVAL OF SUBDIVISION OF SQ 192 LOT 108**

COMES NOW the Dupont East Civic Action Association (“DECAA”) and in Reply to the Pre-Hearing Statements filed by the Department of Consumer and Regulatory Affairs (“DCRA”) and Perseus TDC, LLC (“Perseus”) states as follows:

DECAA herein incorporates in its entirety as part of its Reply Statement in Support of DECAA’s Appeal of the Zoning Administrator’s Approval of Subdivision of Square 192 Lot 108:

- a. The Reply Statement of Appellant Michael Hays; and,
- b. The Reply Statement of Professor James McCrery

DECAA further states as follows:

- I. The Words “Architectural Embellishment” Are a Red Herring and Appear Nowhere in The 1910 Height Act and Therefore Could Not Have Been Relied Upon in 1911 When Issuing Building Permit No. 1527 for the Temple

Tortured reliance by DCRA and Perseus on the 1910 Height Act to argue the 332 ton roof on top of the Masonic Temple must have been considered by the Commissioners of the District of Columbia to be an “architectural embellishment” in 1911 when they issued Building Permit No. 1527 is completely unfounded. The word “embellishment” and the phrase “architectural

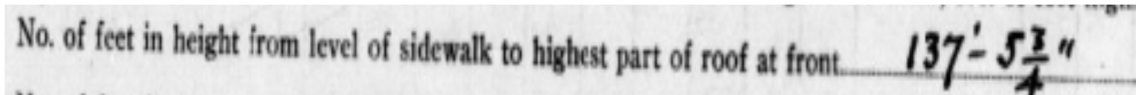
embellishment” do not appear anywhere in the 1910 Height Act and thus could not have been relied upon in 1911 when issuing the building permit for the Temple.

Neither Perseus nor DCRA have submitted any evidence whatsoever, no historical records, no public records, to this Board to show the Commissioners in 1911 ever considered the 46 foot high 332 ton pyramidal roof an embellishment.

The phrase “architectural embellishment” is a phrase first appearing in the Zoning Regulations years after the Masonic Temple was built. The 1910 version of the Height Act in effect at the time of the Temple’s construction states simply:

“Spires, towers, domes, minarets, pinnacles, pent houses over elevator shafts, ventilation shafts, chimneys, smokestacks, and fire sprinkler tanks may be erected to a greater height than any limit prescribed in this Act *when and as the same may be approved by the Commissioners of the District of Columbia*[.]”

Perseus’ Exhibit G contains the original 1911 *Application for Permit to Build* filed by the Masons to construct the Temple at 1733 16<sup>th</sup> Streets NW. The *Application for Permit to Build* is also is attached to Prof. McCreary’s Supplemental Report. The architect listed on the Application is John Russell Pope. The Application states the “No. of feet in height from level of sidewalk to the highest part of the roof at front is 137’ 5 3/4” ” :



Page 1 of Perseus Exhibit G shows that the Commissioners of the District of Columbia approved a building whose height from sidewalk to “highest part of roof” was 137 feet and 5 3/4 inches.

The Permit to Build reads:

“This is to Certify, That Supreme Council Scottish Rite has permission to erect” the Temple “in accordance with application No. 1527 . . . *By Order of the Commissioners DC.*”

A building approximately 137 ½ feet from sidewalk to top of the “roof” was approved by the Commissioners in 1911 and it required no reliance on the tortured phrase “architectural embellishment” since such words do not exist the 1910 Height Act.

Further, the Masons in their 1911 Application to Build described their roof as a “pitch” roof which is what the pyramidal roof they built is. From the July 10, 1911 Application to Build attached to Prof McCreary’s Report:

19. Will the roof be flat, pitch, or mansard?..... *pitch* ..... ; material of roofing *stone* ;

In sum in 1911 the Commissioners had the right to approve, as they did, a domed roof higher than 130 feet and that dome did not have to be an “embellishment”.

II. The Contractor Who Constructed The Temple’s Domed Roof Called It A Roof in a January 1916 Article in *Architectural Review* Devoted to the Masonic Temple

In a 1916 article entitled “*Roof Construction of the Temple*”, the contractor who built the roof, R. Guastavino Company, referred to the 332 ton pyramidal structure as a roof writing:



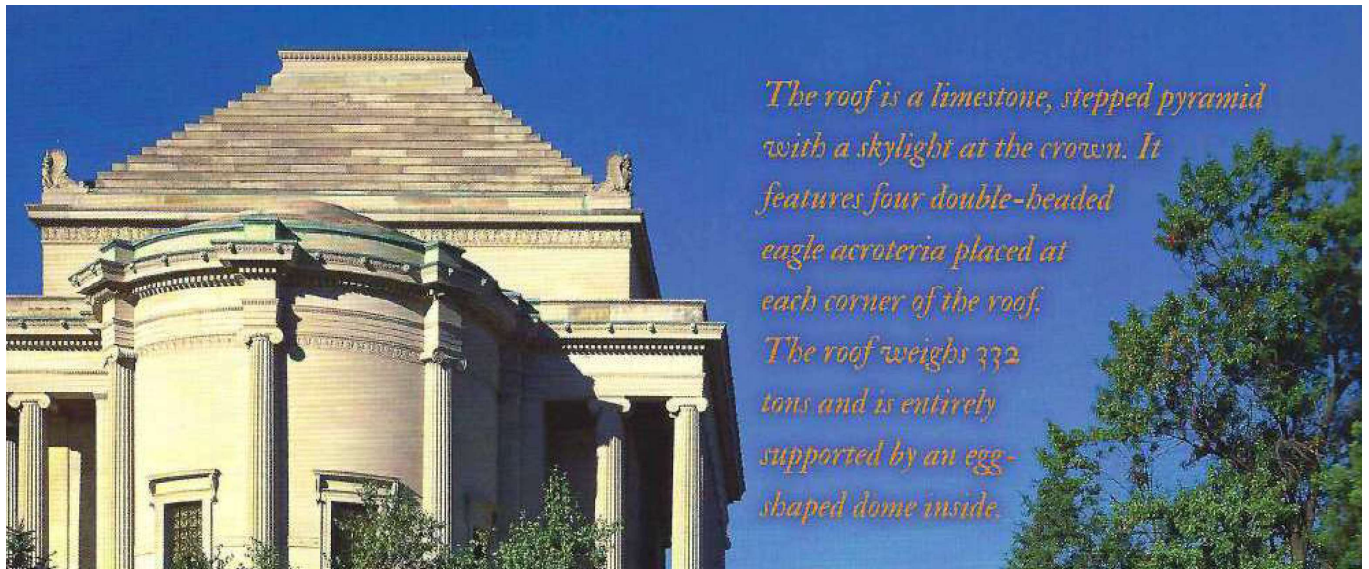
View of Building, Showing Solid Limestone Roof

“[I]n the roof of the Temple the limestone alone, composing the steps in the roof as seen in the photograph weighs 332 tons! The entire weight of this roof, limestone and all, is supported by a shell of typical Guastavino Construction.” (Photo to left appeared in the original 1916 article)

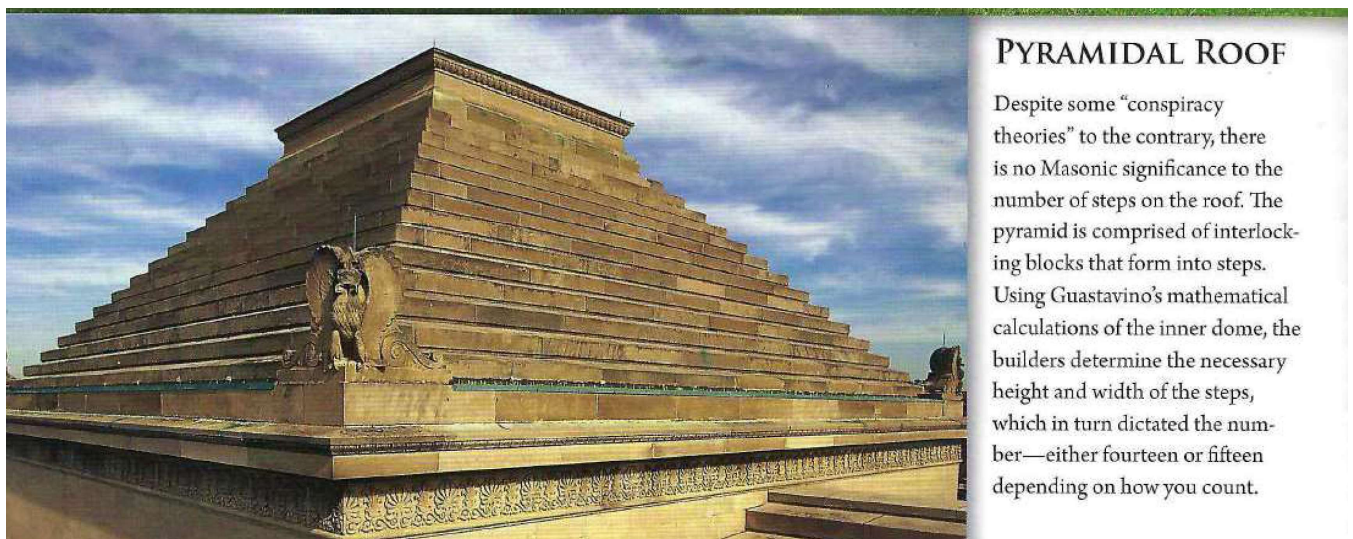
*Architectural Review*, January 1916, Volume IV, No. 1 (See attached article)

III. The Masons Themselves In Their Publications Repeatedly Refer To The 332 Ton Pyramidal Structure As The Roof Of Their Temple

IZIS Exhibit # 29c, “A Guidebook to the House of the Temple” (published by the Masons in 2015) repeatedly refers to the 332 ton pyramidal structure as their roof. The following is from page 3 of IZIS Exhibit #29c:



And, again the Masons in Their *Guide*, IZIS Exhibit #29c, in bold print call the structure a “PYRAMIDAL ROOF”:



Those who have referred to the 332 ton structure as the roof of the Temple include:

- a. The Masons, themselves, in their publications and on their website;
- b. The architect John Russell Pope who designed the building;
- c. The contractor R. Guastavino Company who built the roof; and
- d. The 1911 Application to Build approved by the Commissioners of the District of Columbia

IV. The Zoning Administrator And Perseus Cannot Designate S Street The Front For Purposes Of Determining The Required Rear Yard Because The ‘New’ Rear Yard Would Then Contain A Structure 11.5 Feet In Height Violating 11-B DCMR § 324.1(a)

As Perseus notes in its Opposition (at 9), the Zoning Regulations provide that a rear yard “shall be unoccupied, except as specifically provided in this title.” 11-B DCMR § 100.2 (definition of “yard, rear”). 11-B DCMR § 324.1(a), in turn, exempts from this requirement “any structure less than four (4) feet in height, [which] is permitted to be located within a required side or rear yard.” Perseus Opp. at 9. Here, the wall identified in the below picture occupies a portion of the re-designated Rear Yard in gross violation of that requirement. That wall, shown in the photo below, is 11’6” tall:



The monumental height of the wall and the huge column shown in the photo below will bisect the new rear yard if S Street is designated as the front for purposes of determining rear yard requirements. The human in the photo below helps put the size of this structure in perspective:



By playing games, designating 16<sup>th</sup> Street as the “front” for purposes of measuring height but S Street as the “frontage” for determining rear yard requirements results in the following:



As shown above, designating S Street as the front for rear yard requirements puts a *significant part of the monumental front steps into the rear yard*, an absurd outcome.

A rear yard extends from lot line to lot line. Therefore, the ‘new’ redesignated rear yard must extend from the lot line on the east fully to the lot line on the west adjacent to 16<sup>th</sup>. The green box outlined in the photo immediately above shows the new re-designated rear yard. That which is circled in yellow shows the portion of the front steps and monumental wall which will now be in the new “rear” yard. Front steps in a rear yard. An 11.5 foot wall with an 11.5 foot column in the middle of the rear yard.



The photo above is taken from the 16th Street side and shows a woman sitting on the stone bench which bisects the redesignated rear yard and leaning against a portion of the wall shown above

which also bisects the new rear yard. Redesignating the south side of the Temple as the 'new' rear yard violates 11-B DCMR § 324.1(a).

### CONCLUSION

For all the above reasons, DECAA hereby respectfully requests that the Zoning Administrator's approval of the Subdivision of Lot 108 be reversed and vacated.

Respectfully submitted,

/s/Edward Hanlon  
Edward Hanlon

### CERTIFICATE OF SERVICE

I certify that on this date I served a copy of foregoing via email to:

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I certify that on this date I served a copy of forgoing via first class mail postage prepaid to::

The Supreme Council of the Scottish Rite Temple  
1733 16th Street NW  
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Property Owner



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Date: July 19, 2021