BEFORE THE DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT

In the Matter of:

Application No. 21360 – M & Potomac Street Associates LLP
Property Address: Prospect Street NW between 33rd & Potomac Streets NW Square 1206, Lot 832 – R-3/GT Zone

OPPOSITION OF MONICA SPOUSE

Monica Spouse
1233 Potomac St NW, Washington, DC, 20007
Phone: (601) 622 4159
Email: monicaspouse@gmail.com

Date: October 26, 2025

EXECUTIVE SUMMARY

This opposition challenges BZA Application No. 21360 on multiple independent grounds, each sufficient to warrant denial:

1. **Self-Created Hardship:** The applicant deliberately subdivided Square 1206 in 1981, creating an unbuildable 1,437 sq ft remnant, then seeks relief for conditions of its own making—barred under Subtitle X § 1002.1.

2. **Adverse Impacts:** The proposal would eliminate light, air, privacy, and mature vegetation protecting neighboring properties, violating Subtitle D § 5201.3(a)–(c).

3. **Misrepresentation:** The applicant concealed tree removal, omitted critical walkway dimensions, filed false letters of support, and attempted coercion—conduct warranting dismissal under Subtitle Y § 300.13(c).

4. **Dangerous Precedent:** Approval would invite every developer to manufacture hardships through subdivision and return for variances, eviscerating zoning integrity.

5. **Prior Denial:** BZA Order No. 14854 (1988) already denied substantially identical relief for this same parcel on these same grounds.

The application should be **denied in its entirety**.

I. INTRODUCTION AND STANDING

I, Monica M Spouse, resident and owner of 1233 Potomac StNW, Washington, DC, immediately facing the proposed development site at Square 1206, Lot 0832. My home relies on the ambient

light, tree canopy, privacy screening, and pedestrian access that this proposal would eliminate or obstruct.

I oppose this application because:

- It rests on a **self-created hardship** manufactured by the applicant's own 1981 subdivision;
- It would cause **severe adverse impacts** on light, air, privacy, and emergency access;
- It relies on **incomplete and misleading submissions** that conceal tree removal, grading, and walkway dimensions;
- It was advanced through **coercion and misrepresentation**, including false claims of community support; and
- It contradicts **binding BZA precedent** from 1988 denying identical relief. As detailed below, the proposal fails every element of Subtitle X § 901 (special exception standards) and § 1002 (variance standards) and should be denied.

II. SUMMARY OF RELIEF REQUESTED

Owner/Applicant: M & Potomac Street Associates LLP (authorized representative: Gregory Kearley, InscapeStudio; owner's agent: Peter Mallios)

Zoning/Location: R-3/GT (Georgetown Historic District); Square 1206, Lot 832 (vacant interior lot, approximately 1,437 sq ft)

Proposed Project: Two-story single-family detached dwelling with cellar

Relief Sought:

- A lot-area variance (64 % deviation);
- A lot-occupancy variance (30 % deviation);
- A rear-yard setback special exception (8'-2¼" deviation); and
- A west side-yard setback special exception (4.25' deviation)

III. APPLICABLE LEGAL STANDARDS

A. Variance Review Standards – Subtitle X § 1002

To obtain an **area variance**, an applicant must prove:

1. A **unique physical condition** of the property creates **practical difficulties** in strict compliance with zoning; and
2. Granting relief will **not substantially impair** the intent, purpose, or integrity of the Zoning Plan or harm the public good.

Furthermore, the binding precedent in Taylor v. District of Columbia which demands that the condition was not self-imposed by the owner's own actions.
(Taylor v. District of Columbia Board of Zoning Adjustment, D.C.App., 308 A.2d 230 (1973))

The applicant bears the full burden of proof (Subtitle X § 1002.2).

B. Special Exception Review Standards – Subtitle X § 901

The Board may grant a special exception **only if** the proposal:

- (a) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps (§ 901.2(a));
- (b) Will not tend to adversely affect the use of neighboring property in accordance with the Zoning Regulations (§ 901.2(b)); and
- (c) Will meet all special conditions specified in this title (§ 901.2(c)).

The applicant has the full burden to prove no undue adverse impact through evidence in the public record (§ 901.3).

The Board may impose design, landscaping, screening, or other conditions to protect adjacent properties (§ 901.4).

C. Special Exception Criteria for R Zones – Subtitle D § 5201

For relief from development standards (lot occupancy, yards, setbacks) in R zones, the applicant must demonstrate that the proposed structure (§ 5201.3):

- (a) Will not unduly affect the light and air available to neighboring properties;
- (b) Will not unduly compromise the privacy of use and enjoyment of neighboring properties;
- (c) Shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage;
- (d) Is supported by adequate graphical representations (plans, photographs, elevations, and sections) sufficient to represent the relationship of the proposed structure to adjacent buildings and views from public ways; and
- (e) Does not exceed the maximum lot occupancy specified in Table D § 5201.3 (which limits detached and semi-detached dwellings in R-3 zones to 50%, not 70%).

The Board may require special treatment regarding design, screening, lighting, or building materials for the protection of adjacent properties (§ 5201.4).

IV. SELF-CREATED HARDSHIP AND MANIPULATED LOT SIZE

A. The Developer Created This Lot and Chose Its Unbuildable Size

When **M & Potomac Street Associates** recorded the **Eton Condominium Declaration and Plat** (Plat 3679-I) on **April 8, 1981**, it owned the entire parent tract in fee simple absolute and could have drawn the new internal boundaries in any configuration that met zoning standards.

Instead, it deliberately carved out a **1,437 square-foot rectangle** and labeled it:

"Convertible Land – Withdrawable Land (1,437 sq ft). Hereby Withdrawn from Condominium."

(See below: Eton Condominium Declaration)

This was a conscious intentional development choice—not an inherited condition, not a natural topographic constraint, and not a governmental imposition.

At that moment, the Declarant could have:

- Included the parcel in the Eton Condominium's common elements;
- Enlarged it to meet the minimum 2,000–4,000 sq ft lot area required for the R-3 zone; or
- Configured it to allow compliant side and rear setbacks for a by-right dwelling. It chose none of those options.

Instead, it designed a fragment intentionally too small to build on without relief, ensuring that any future construction would require substantial variances—precisely what it now seeks.

That deliberate decision makes the present "hardship" entirely self-created. The hardship here exists only because the applicant drew it that way.

B. Title Evidence Confirms Continuous Developer Ownership and Control

The title examiner at **Mortiles LLC** (*see below: correspondence dated September 26, 2025*) confirmed the parcel was created to serve as a walkway easement to the Eton Condominium properties.

Thus, this was not an overlooked remainder or accidental tax lot. It was a planned fragment retained by the developer for future monetization, intentionally drawn at a size that precluded byright construction.

C. The Applicant's 2025 Plat Misrepresents the Record

The **2025 "Plat for Building Permit"** (Exhibit 2) prepared by architect Greg Kearley omits every key notation from the original recorded plat:

- No mention of "Convertible Land";
- No mention of "Withdrawable Land";
- No mention of "Hereby Withdrawn from Condominium"; and
- No depiction of the walkway easement or brick-wall boundaries shown on the 1981 recorded plat.

By redrawing the parcel as a simple vacant rectangle, the applicant erases its developmental history and presents a misleading picture of hardship to the Board and the public.

Under Subtitle X § 901.3, such omissions amount to material misrepresentation and undermine the integrity of the application.

F. Policy and Precedent Warning: Preventing Manufactured Hardships

Approval of this application would set a dangerous and far-reaching precedent.

If the Board were to grant relief for a lot that the developer itself created through voluntary subdivision, it would effectively invite every future property owner in the District to manufacture a hardship by cutting a conforming parcel into smaller, non-compliant pieces and then return to the BZA claiming that the self-inflicted condition "compels" a variance.

The variance standard under Subtitle X § 1002.1 was never intended to reward such conduct. It exists only to relieve genuine, pre-existing difficulties inherent to the land itself—not conditions created by an owner's deliberate actions.

Allowing this case to proceed would:

- **Erode the integrity** of the zoning code;
- **Contradict decades** of BZA precedent; and
- **Undermine the principle** that zoning relief must be based on necessity—not opportunism.

To approve this application would not merely affect this block; it would dismantle the rule that variances are for unavoidable conditions, not self-created tactics.

Every developer could subdivide a parcel to an unbuildable size and then cite this case as authority to demand the same.

The Board should decline to establish such a precedent and must deny this application in full.

V. ADVERSE IMPACTS ON LIGHT, AIR, PRIVACY, AND VISUAL CHARACTER

A. Light and Air: Incomplete and Unreliable Shadow Study

The applicant's shadow study (Exhibit 30, prepared by InscapeStudio) is incomplete, misleading, and insufficient to satisfy the burden of proof under Subtitle D § 5201.3(a).

The study's deficiencies include:

1. **Limited Time Snapshots**: It models shadows at only three fixed times—9 a.m., 1 p.m., and 4 p.m.—on only three "idealized" dates (summer solstice, equinox, and winter solstice). Real-world shadow impacts occur throughout the day and across all seasons, not just at selected moments.

2. **No Three-Dimensional Perspectives**: The study relies entirely on flat plan-view diagrams with no 3-D renderings, making it impossible to assess actual shade height, intensity, or visual obstruction from neighboring windows.

3. **Omits Duration and Intensity**: There is no data on cumulative hours of shadow cast on adjacent properties, no quantification of loss of direct sunlight, and no measurement of reduced sky view.

4. **Ignores Real-World Conditions**: The study omits the effects of existing tree canopies, topography, and actual neighboring building masses, depicting adjacent homes and the Eton Condominium as abstract blocks rather than light-dependent living spaces.

5. **Masks Cumulative Impact**: By abstracting neighbors as shapes, the study masks the true impact on windows, yards, patios, and outdoor areas used for daily living.

The conclusion of "negligible impact" is therefore not credible and fails to meet the applicant's burden under Subtitle X § 901.3 to demonstrate that "the light and air available to neighboring properties shall not be unduly affected."

The record instead shows that shadows will extend across:

- The rear yards of **1223–1227 33rd Street NW**, which currently receive afternoon and evening sun; and
- The Eton Condominium courtyard, especially during winter months and late-afternoon hours when low sun angles magnify shadowing.

Without quantitative proof—hour-by-hour solar access modeling, sky-view factor analysis, or window-by-window impact data—the applicant has not carried its burden.

B. Privacy: Complete Loss of Existing Visual Screening

Under Subtitle D § 5201.3(b), the Board must find that "the privacy of use and enjoyment of neighboring properties shall not be unduly compromised."

Read together with Subtitle X § 901.2(b) (no adverse effect on neighboring use), this standard protects:

- **Visual privacy** inside neighboring rooms (kitchens, bedrooms, living areas);
- **Privacy in outdoor areas** (rear yards and courtyards) ordinarily used without feeling observed; and
- **Loss of existing screening** (vegetation or spatial separation) that currently prevents direct views between dwellings.

Effect of the Proposed Construction

The proposed structure would inhibit safe egress from the rear of my property.

The proposed structure will also create a security threat to the neighboring houses, often inhabited by female students.

This would transform an environment of complete privacy and filtered natural light into one of constant visibility and shadow, constituting an "undue compromise" within the meaning of § 5201.3(b).

The Applicant Has Not Met Its Burden

The applicant's graphics (Exhibit 30) do not meet the requirements of § 5201.3(d): they omit true eye-level view studies and section/elevation relationships from my windows to proposed façades.

The record, as it stands, supports denial.

C. Visual Intrusion and Historic Character: False Depictions of Tree Retention

The applicant's renderings (Exhibit 30) falsely depict tree cover and vegetative buffers that either do not exist and will be removed for construction.

Those images artificially minimize the building's visibility and mass when viewed from Prospect Street and surrounding properties.

The proposed structure would:

- Eliminate mature trees and greenery that have served as a natural visual buffer for decades; and
- Disrupt Prospect Street's historic rhythm and open-space character.

Because it would be the only Prospect-fronting structure within this square, the project would visually intrude upon the established scale and pattern of the block in violation of § 5201.3(c).

VI. MISLEADING VISUAL DEPICTIONS AND TREE REMOVAL OMISSIONS

The applicant's architect, **Greg Kearley (InscapeStudio)**, failed to provide an honest or complete representation of the project's visual and environmental impact.

1. Failure to Show Views from my property’s perspective (1233 Potomac StNW)

None of the materials filed with the application or the Office of Planning (Exhibit 35) show the view from within the Eton Condominium—the perspective of those most affected.

The renderings depict only distant or oblique street-level perspectives and entirely omit the actual view corridors from:

- The Eton courtyard; • Upper-floor windows; and
- The Prospect walkway.

These are the vantage points where the new structure would dominate the horizon.

This violates Subtitle D § 5201.3(d), which requires:

"plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed structure to adjacent buildings and views from public ways."

Without these, neither the Board nor the public can assess the true scale, proximity, or shadowing of the proposal.

2. Concealment of Tree Removal and Grading

Even more seriously, the applicant omits the fact that he will:

- Level the existing grade; and
- Remove every mature tree currently occupying the site.

Those trees are the same canopy shown in the renderings as if they would remain.

The Office of Planning Report (Exhibit 35) acknowledges that:

"the lot currently contains mature vegetation,"

yet it offers no analysis of the environmental or visual consequences of their removal and recommends no preservation condition whatsoever.

That omission creates a false impression of continuity and screening.

In reality, the project would:

- Strip the site of its vegetation; and
- Destroy the natural privacy barrier that protects neighboring homes and the historic openspace character of the block.

3. The Board Has Authority to Require Tree Preservation

Under Subtitle X § 901.4, the Board of Zoning Adjustment has explicit authority to impose requirements regarding:

- Landscaping;
- Design; and • Materials,

to protect adjacent properties and ensure compliance with zoning intent.

Given that authority, the Board should:

1. Order that all existing mature trees and vegetation remain in place as a condition of any approval;
2. Prohibit grading or removal of soil and canopy except where strictly necessary for safety; and
3. Require accurate visual simulations from the Eton courtyard and upper-level windows showing the proposed mass without tree cover before any permit is issued.

4. Conclusion

Preserving the environment as it is—they are an integral part of the historic rhythm and environmental fabric of this block.

This development will remove the trees that currently block the unsightly construction at Eton Court, which is not in keeping with Georgetown's historic character.

Their removal would permanently alter the appearance and livability of Eton Court and Prospect Street and would directly contradict the purpose of the R-3/GT zone.

VII. REBUTTAL TO THE OFFICE OF PLANNING REPORT (EXHIBIT 35)

The **Office of Planning Report** (Exhibit 35, dated October 16, 2025) recommends approval of both variance and special-exception relief.

That recommendation rests on errors and contradictions.

1. OP Misstates the Law on Lot Occupancy

OP claims the proposal's 70% lot occupancy "would be permitted by special exception." That is incorrect.

Under Table D § 5201.3(e) in the same exhibit, the R-3/GT zone limits detached and semidetached dwellings to 50% lot occupancy.

The applicant seeks a 70% footprint on a detached structure, which therefore requires a variance, not a special exception. This fundamental misreading collapses OP's premise that the building "complies in spirit" with the R-3/GT zone.

TABLE D § 5201.3: MAXIMUM PERMITTED LOT OCCUPANCY

Zone	Maximum Lot Occupancy
R-3 R-13 R-17	70%
R-20 – attached dwellings only	70%
R-20 – detached and semi-detached dwellings All Other R zones	50%

2. OP Ignores the Self-Created Hardship

OP explicitly acknowledges that the parcel was:

"created in the 1980s during the development of the Eton Court Condominiums … and was withdrawn from the land subject to that subdivision."

Yet OP then treats this developer-initiated subdivision as an "exceptional situation," even though **variance law forbids a self-created hardship**.

The same applicant **recorded the Eton Declaration** reserving this 1,437 sq ft tract as "withdrawable land." That is, in fact, the definition of a self-imposed condition, which cannot justify relief under Subtitle X § 1002.1(a)–(b).

3. OP Applies the Wrong Comparison for "Compatibility"

OP asserts the dwelling "would be compatible … with the scale and pattern of [buildings] on the adjacent block face." But § 5201.3(c) directs the Board to examine compatibility "along the subject street frontage," not on the next block. This is the only parcel on this square fronting Prospect Street NW; by OP's own admission, all neighboring façades run perpendicular.

Thus, OP's conclusion of "compatibility" rests on the wrong spatial reference and should carry **no weight.**

4. OP Dismisses Privacy Without Evidence

OP claims that:

"none of the existing properties have a high degree of privacy that would be impacted."

That statement is factually untrue and unsupported by any field documentation.

As shown in the photos provided above, my property at 1222 Eton Court enjoys full visual privacy: windows open only to tree canopy and sky, not to other dwellings.

OP provides:

- No site photos;
- No view studies; and
- No elevation relationships to support its contrary claim.

Its reliance on a generic assumption of "dense development" is a conclusory error that fails to satisfy the applicant's evidentiary burden under § 901.3.

The OP should be given NO WEIGHT AS TO THIS MATTER.

5. OP Relies on an Incomplete Shadow Study

Without real modeling, as explained above, of shade duration and loss of sky view, OP's acceptance of those diagrams as "sufficient" violates § 5201.3(d), which requires:

"plans, photographs, or section drawings sufficient to represent the relationship … to adjacent buildings."

The record contains none of the above.

6. OP Ignores Access and Safety Concerns

At Exhibit 31, the Eton Condominium Board warns that construction could obstruct the Prospect Street emergency and pedestrian easement used daily by residents.

OP fails to mention this entirely, even though § 901.2(b) requires consideration of adverse effects on "the use of neighboring property."

That omission alone undermines its conclusion that the project will "not affect neighboring properties."

8. Summary of OP Errors

Issue	OP Claim	Error
Lot Occupancy	70% "permitted by special exception"	Misreads table—only 50% allowed for detached R-3/GT
Hardship	"Exceptional situation" due to 1980s subdivision	Self-created; cannot justify variance
Compatibility	"Matches adjacent block face"	Wrong frontage per § 5201.3(c)
Privacy	"No high degree of privacy exists"	FALSE
Light & Air	"Shadow study sufficient"	Incomplete; no 3-D or duration data
Access	Ignored	Eton Condo easement unaddressed
Precedent	Omitted	1988 Order 14854 contradicts approval

9. Conclusion

The OP report (Exhibit 35) is legally and factually defective. It:

- Misstates applicable standards;
- Disregards binding precedent; and
- Fails to analyze evidence in the record.

Its conclusion that relief "adequately meets the standard for granting" is unsupported.

The Board should therefore give no weight to the OP recommendation and instead rely on the actual record, which demonstrates clear non-compliance with Subtitle X § 901 and D § 5201.

VIII. MISREPRESENTATION, COERCION, AND PROCEDURAL IRREGULARITIES

The record now demonstrates a **pattern of bad-faith conduct** by the applicant and its representatives that warrants dismissal or denial under Subtitle Y § 300.13(c).

A. Threats and Coercion Directed at Neighbors

On September 28, 2025, the applicant's representative and property owner, Pete Mallios of M & Potomac Street Associates, emailed me and other neighbors the night before the scheduled ANC 2E hearing, stating:

"If the house is not approved… surface parking is allowed by right in all residential zones. The variances being sought for the house are not necessary for surface parking."

The timing and language were unmistakable: if neighbors did not support his project, he would retaliate by:

- Converting the lot to surface parking; and
- Restricting the Prospect Street walkway that Eton residents depend on.

That is not community outreach—it is an attempt at coercion.

Such behavior directly violates the spirit of Subtitle Y § 300.13(b)–(c), which requires applicants to **act in good faith** and prohibits **misrepresentation or intimidation** in the zoning process.

The Board should weigh this conduct heavily in assessing the applicant's credibility.

B. Misrepresentation of Condominium Support

Mr. Mallios also filed a letter in the record purporting to represent the Eton Condominium Association in support of the application. The letter falsely stated that the Eton Board "unanimously" supported the re-zoning project. However, in September, 2025, at a community meeting, a Board member, David Stehlin, confirmed that the Board did not support the re-zoning project, had not been asked to support the re-zoning, had never held a vote on the matter and that Peter's representation otherwise was false (*See below*).

In fact, Exhibit 31 clarifies that Mr. Mallios's original letter was a lie:

"Eton Condominium, acting through its Board of Directors, has not authorized any prior communication to your Board regarding this project… Eton Condominium takes no position either in favor or against this project."

At the time he submitted that "support letter," Mr. Mallios served simultaneously as:

1. President of the Eton Condominium Board; and
2. Owner-developer of the subject parcel—a direct conflict of interest.

Using his corporate title to convey a false impression of institutional endorsement constitutes a material misrepresentation under Subtitle Y § 300.13(c).

The Board should strike any submission signed or transmitted by him on behalf of Eton Condominium.

C. False Claim of Community Consensus

In an **August 26, 2025 email**, Mr. Mallios claimed:

"The board unanimously voted to support the development of the house."

Yet two days earlier he wrote:

"I have never said a single homeowner supported the development."

Those contradictory statements reveal that:

- No actual resident support existed; and
- The alleged "unanimous vote" included former members who were no longer on the Board, invalidating any quorum.

The claim of community backing is therefore fabricated and unreliable.

D. Consequence for the Record

The record now demonstrates that the applicant's representative:

1. Attempted to coerce neighbors on the eve of an official ANC proceeding; **2.** Filed an unauthorized and misleading letter under a condominium's name;
and
3. Falsely portrayed community support that did not exist.

These actions constitute a **pattern of bad faith**.

Under **Subtitle Y § 300.13(c)**, the Board has authority to deny or dismiss an application where material misrepresentation or procedural abuse occurs.

At minimum, the Board should disregard all correspondence and testimony from Mr. Mallios purporting to represent anyone other than himself.

E. Preservation of the Prospect Street Walkway

The **Prospect Street walkway** is a **long-standing access route** benefiting Eton Condominium and its residents.

Any suggestion—implicit or explicit—that this access could be **withdrawn unless the variance is approved** is:

- Contrary to property law; and
- Inconsistent with the zoning process's integrity.

The Board must condition any action on permanent preservation of that easement, prohibiting:

- Parking;
- Gates; or
- Obstructions within its width.

IX. HISTORICAL PRECEDENT: BZA ORDER NO. 14854 (1988)

A. The Board Already Denied Relief for This Same Parcel

The same parcel (then approximately 1,441 sq ft) was before the Board in BZA Order No. 14854 (1988) and denied virtually identical relief.

The Board found:

"The shallowness and small size of the lot … do not justify the extensive area variances requested.… The exceptional conditions … were either created or exacerbated by the owner's resubdivision of the lot subsequent to the adoption of the Zoning Regulations and are therefore self-imposed."

The Board expressly warned that granting such relief would **"set a dangerous precedent."**

That finding remains persuasive authority.

B. Nothing Has Changed Since 1988

The applicant has not shown:

- Any **new unique hardship** arising since 1988;
- Any **change in circumstances** that would justify reversing the prior denial; or
- Any **factual distinction** from the 1988 application.

Same lot. Same condition. Same result.

C. The Board Should Honor Its Own Precedent

To approve this application now would:

- Contradict the Board's own prior decision on the identical parcel;
- Undermine the principle of stare decisis in administrative adjudication; and
- Signal to developers that a denied application can simply be re-filed years later with no new justification.

The Board should decline to reverse itself and should deny the application consistent with Order No. 14854.

X. ALTERNATIVE CONDITIONS (IF ANY RELIEF IS CONSIDERED)

While the application should be **denied outright** for failure to satisfy the variance and specialexception standards, if the Board nevertheless considers partial approval, strict conditions are necessary to limit harm to neighboring properties and preserve the block's light, air, and character:

1. Lot Occupancy Limit

Cap total lot occupancy at no more than 50**%** of the 1,437 sq ft parcel—well below the requested 70%. This ensures compliance with the intent of Subtitle D § 5201.3(e) and prevents bulk inconsistent with R-3/GT scale.

2. Privacy Protections

- **Prohibit any windows within 10 feet** of side or rear property lines.
- **Require frosted or fixed glazing** for any side-facing windows.
- **Mandate year-round evergreen screening** of equal height and density to existing tree cover.

3. Light and Air Mitigation

- **Require an independent 3-D shadow and daylight analysis** verified by DCRA zoning staff prior to permit issuance.
- **Limit structure height** to no more than **22 feet to the parapet** (as shown in concept elevations) and **prohibit roof-deck or penthouse construction**.

4. Tree Preservation and Landscaping

- **Order that all existing mature trees and vegetation remain in place** as a condition of approval.
- **Prohibit grading or removal of soil and canopy** except where strictly necessary for safety.
- **Require replacement of any removed trees** with comparable native canopy trees planted along the property perimeter, consistent with GT Overlay guidance.

5. Preservation of Access Easement

- **Maintain the full Prospect Street walkway width** (minimum **9 feet 5 inches**) for emergency and pedestrian use to the Eton Condominium.
- **No construction fencing, staging, or permanent structures** may encroach upon or narrow this easement.
- **Prohibit gates, parking, or obstructions** within the walkway corridor.
- **Require certification** that the design meets **ADA and emergency-access standards**.

6. Visual Simulations and Graphic Evidence

- **Require accurate visual simulations** from the Eton courtyard and upper-level windows showing the proposed mass **without tree cver** before any permit issuance.
- **Submit revised elevations and sections** showing true view relationships to adjacent buildings, consistent with § 5201.3(d).

These conditions are the minimum necessary to reduce the project's visual and environmental impact if relief were to be granted.

XI. CONCLUSION AND FINAL REQUEST

A. Summary of Grounds for Denial

The applicant's own recorded documents prove that the alleged hardship is **self-created**; the Board already **denied nearly identical relief in 1988**.

The current proposal would:

- **Eliminate open space**;
- **Reduce light and air**;
- **Destroy existing privacy** enjoyed by neighboring homes;
- **Remove mature trees** that define the historic character of the block; and
- **Break the historic rhythm** that the R-3/GT zoning district was specifically enacted to protect.

The **Office of Planning's recommendation (Exhibit 35)**:

- **Misapplies the law**;
- **Ignores key evidence**; and
- **Fails to meet the standards** of Subtitle X § 901 and § 1002. The applicant's conduct includes:

- **Coercion of neighbors**;
- **False claims of community support**;
- **Concealment of tree removal and grading**;
- **Omission of critical walkway dimensions**; and • **Submission of misleading visual representations**.

B. Policy Imperative: Preventing Manufactured Hardships

Approval of this application would set a dangerous and far-reaching precedent.

If the Board were to grant relief for a lot that the developer itself created through voluntary subdivision, it would effectively **invite every future property owner in the District** to manufacture a hardship by cutting a conforming parcel into smaller, non-compliant pieces and then return to the BZA claiming that the self-inflicted condition "compels" a variance.

The variance standard under Subtitle X § 1002.1 was never intended to reward such conduct. It exists only to relieve genuine, pre-existing difficulties inherent to the land itself—not conditions created by an owner's deliberate actions.

To approve this application would not merely affect this block; it would **dismantle the rule** that variances are for unavoidable conditions, not self-created tactics.

Every developer could subdivide a parcel to an unbuildable size and then cite this case as authority to demand the same.

The Board should decline to establish such a precedent.

C. Final Request

For these reasons, I respectfully request that the **Board of Zoning Adjustment DENY BZA Application No. 21360 in its entirety**.

Should the Board nonetheless consider approval, it **must impose the strict conditions outlined in Section X above**, including:

- **Preservation of all existing trees and vegetation**;
- **Prohibition of grading or canopy removal**;

- **Maintenance of full, unobstructed Prospect Street walkway width** (minimum 9 feet 5 inches) for emergency and public access; and
- **Protection of neighboring properties' light, air, and privacy** through enforceable design and setback conditions.

Respectfully submitted,

Monica M Spouse
1233 Potomac Street NW

Washington, DC 20007

Phone: (202) 329 0085
Email tomspouse@gmail.com

Date: October 26, 2025

EXHIBIT INDEX

The following exhibits are incorporated by reference and will be submitted with this Opposition:

	Description
Eton Declaration	Recorded Eton Condominium Declaration (April 8, 1981) showing "Convertible Land – Withdrawable Land" designation for Lot 832
Emails	Email correspondence from Peter Mallios (September 28, 2025 and August 24–26, 2025) documenting coercion, false claims of support, and threats to narrow or eliminate walkway access Email correspondence with MoreTitles

END OF OPPOSITION

LEGAL DESCRTPTION OF WITHDRAWABLE LAND

That parcel of land located in the District of Columbia which is part of Lot 41 in Square 1206 (as shown on the plat recorded in the Office of the Surveyor of the District of Columbia in Subdivision Book 171 at Page 149) and is more particularly described as follows and contains a computed area of 1437 square feet-or 0.03299 of an acre of land:

1. beginning at the northwest corner of Lot 41 then South 89°50'00" east 42.70 feet along the southerly right of way line of Prospect Street, N.W. (the right of way of Prospect Street,„N.W. is 60 feet wide)to the common north corner-of Lots'-`41 and 830;

2. then south 00.23'00" west 34.98 feet along the easterly boundary line of Lot 41 to a point;

3. then across Lot 41 along the following four bearings and distances:

north 89°37'00" west 6.25 feet to a point; then north 45600'00" west 9.63 feet to a point; then south 45°0'00" west 9.50 feet to a point;

then north 8°°37100" west 22.50 feet to intersect the westerly boundary line of Lot 41;

4. then north 00'18'50" west 34.82 feet along the westerly boundary line of Lot 41 to the point of beginning.

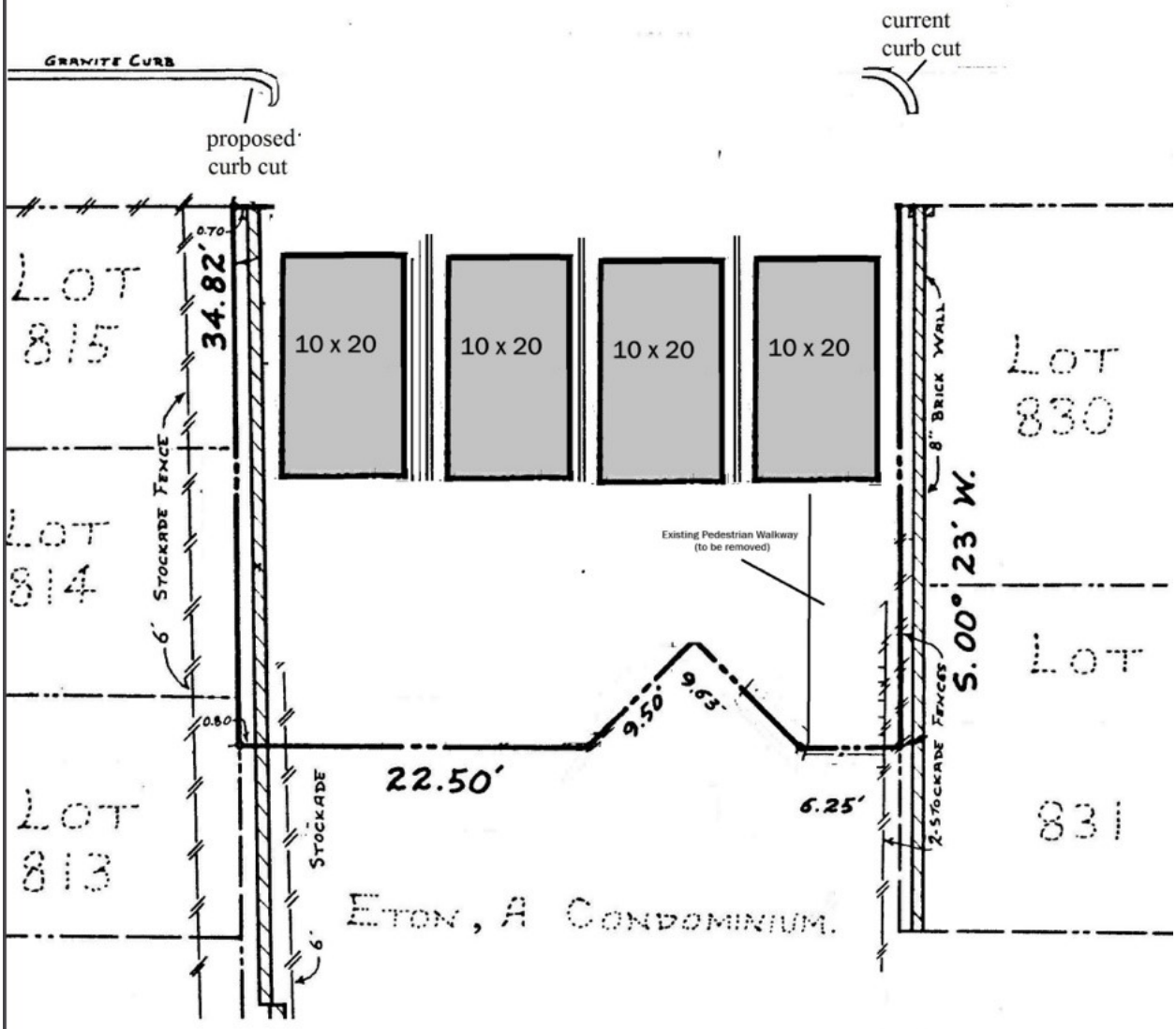
- •

From: Pete Mallios <pete@malliosrealty.com>
Sent: Sunday, September 28, 2025 9:17 PM
To: Cassandra Pena <cp@cassandrapena.us>; J.P. Mohler <johnpmohler@gmail.com>
Cc: tal3892@aol.com <tal3892@aol.com>
Subject: Prospect Street Lot Parking Plan

I want to share with all of you my plans if the house is not approved. If you are not aware, surface parking is allowed by right in all residential zones. The variances being sought for the house are not necessary for surface parking.

Pete

Prospect Street Lot
Parking Scenario



From: Pete Mallios <pete@malliosrealty.com>
Sent: Tuesday, August 26, 2025 6:46 PM
To: Cassandra Pena <cp@cassandrapena.us> **Subject:** RE: Meeting

The board unanimously voted to support the development of the house. The other 4 board members last year all lived at Eton.

The other 4 board members last year were Anne Alonzo, Wolf Wittle, Dave Stihlen and Frances Kummer. Frances is no longer a board member, she was replaced this year by Linda Makings.

From: Cassandra Pena <cp@cassandrapena.us>
Sent: Tuesday, August 26, 2025 12:18 PM
To: Pete Mallios <pete@malliosrealty.com>
Subject: Re: Meeting

But you had the board members? Who were they?

From: Pete Mallios <pete@malliosrealty.com>
Sent: Sunday, August 24, 2025 5:01 PM
To: Cassandra Pena <cp@cassandrapena.us>
Subject: Re: Meeting

I have never said a single homeowner supported the development.

Attachment from above email

January 17, 2025

ANC 2E
Old Georgetown Board
HPRB
Any Other Interested Parties

RE: Prop**osed Single Family Dwelling on Prospect Street**

This letter is concerning the proposed construction of a Single Family Detached Dwelling at the lot known as Lot 0832 in Square 1206. The Eton Condominium Board has reviewed the drawings prepared by Inscape Studio on behalf of the prospective purchaser of the lot. The condominium board unanimously supports the proposed single-family home. The board has also shared the drawings with all unit owners in the condominium. While we did not call for a vote or action of the unit owners, there were no specific objections from any unit owners conveyed to the board.

We believe the proposed single-family home fits with the character of the neighborhood and will be a positive addition to the fabric of Prospect Street NW. The design is modest and works with the scale of the street. We also feel the material choices are consistent with the neighboring structures including the condominium.

Residents have long used this lot as a point of egress under a license agreement for access from the condo the Prospect Street. As part of the development, the purchaser has agreed to provide an easement granting permanent access for residents. The is an important benefit to condo unit owners and tenants.

We hope that OGB, HPRB and the local ANC (ANC 2E) take our recommendation into account and approve the design of the single-family home, which prioritizes architectural compatibility with the surrounding homes.

Peter Mallios
President
Eton, A Condominium
202-374-0123

From: Searches @ Mortiles <searches@mortiles.com> **Sent:** Friday, September 26, 2025 8:26 AM
To: Cassandra Pena <cp@cassandrapena.us>
Subject: Re: District of Columbia for SQUARE 1206 LOT 0832

Hello,

Upon receipt of your inquiry, we had a senior examiner in our Quality Control Department reviewed the matter and provided the following points. Please review and let us know if you have any additional questions or concerns. Thank you & we apologize for any inconvenience.

1. The client requested a search on Parcel #1206 - 0832, which is owned by M & Potomac Street Associates according to the Assessor's database. It is categorized as Vacant-Zoning Limits and classified as commercial land comprising 1,437 sq ft. The current owner is the developer of the subject property.

2. As per Plat Book 50, Page 150 (recorded in 1914), the parent parcel was Square 1206, Lot 39. Subsequently, this Lot 39 was subdivided in Plat Book 171, Page 149 in 1980 and named Lot 41. Lot 41 was further re-subdivided in Plat 3679-I in 1981, creating several lots, including the subject property, Lot 832, which serves as a walkway easement to the Eton Condominium properties. I have attached the highlighted plat copies for the client's reference.

3. It is important to note that we did not find any Deed(s) for the newly created lots, such as Lot 41 and Lot 832. Therefore, the Abstractor reported the parent parcel's (Lot 39) deed: Document ID: 7900003538, as the current deed associated with M & Potomac Street Associates. Since the property remains with the developer, the Abstractor did not include the legal description but provided the condominium declaration and bylaws for Lot 41.

4. The reported current deed (Document ID: 7900003538) is valid and pertains to the subject property. Additionally, Deed Document ID: 8000022119 (copy attached) in question relates to a different property: Lot 20 for Square 1206, which does not connect with the subject parcel.

Thank you.

Regards,

Support/Coordination Team
Mortiles LLC.
4600 Lincoln Dr. W-1
Baltimore, MD. 21227
Ph: 443.575.6680
Fax:1.443.524.8032


37'W.
50'
WALK
GATE