

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

**APPLICATION OF TIMOTHY  
AND CHARLOTTE LAWRENCE**

**1665 (rear) HARVARD ST. NW  
ANC 1D**

**STATEMENT OF THE APPLICANT**

**I. NATURE OF RELIEF SOUGHT**

This statement is submitted on behalf of the Applicant, Timothy and Charlotte Lawrence (the “Applicant”), the owners of the property located at 1665 (rear) Harvard Street NW, (Square 2588, Lot 827) (the “Property”) in support of their application for special exception relief pursuant to 11 DCMR § Subtitle X § 901.2, Subtitle E § 5108.1, Subtitle E § 5204.1, Subtitle E § 5104.1, and Subtitle E § 5105.1, and variance relief pursuant to 11 DCMR § Subtitle X § 1002.1, Subtitle E § 5106.1, and Subtitle E § 5107.1, to permit construction of a new one-family dwelling on an alley lot in the RF-1 zone.

**II. JURISDICTION OF THE BOARD**

The Board of Zoning Adjustment (the “Board”) has jurisdiction to grant the special exception and variance relief requested herein pursuant to Subtitle X § 901.2, Subtitle X § 1002.1, and Subtitle Y § 100.3 of the Zoning Regulations.

**III. BACKGROUND**

**A. The Property and the Surrounding Neighborhood**

The Property, comprised of Lot 827 on Square 2588, is a trapezoidal alley lot in the RF-1 Zone District. A copy of the zoning map is attached at **Exhibit A** and a copy of the A&T Book recordation is attached at **Exhibit B**. The lot was created in 1948, and accordingly, predates the 1958 Zoning Regulations. The Property is located on a 15’ wide alley that is mid-block to the rear of Harvard Street NW and between Irving Street NW to the west and Mount Pleasant Street

NW to the east. A satellite view of the lot from Google Earth is attached at **Exhibit C**. The Property is comprised of 557 square feet of land area and is located directly behind 1701 Harvard Street NW, which is improved with a separately-owned attached one-family dwelling. Additionally, the Property abuts a 7.5' public alley to the east, which separates it from 1665 Harvard Street NW, which is also owned by the Applicant. The Property is unimproved and currently used for vehicle parking.

The Property is located in the Mount Pleasant neighborhood and is within the boundaries of the Mount Pleasant Historic District. Square 2588 is bounded by Harvard Street to the south and west, Irving Street NW to the north, and the narrow public alley described earlier to the east. The surrounding area is comprised primarily of one-family attached dwellings, as well as a number of multi-story apartment buildings along Harvard Street NW to the south and east.

#### **B. Traffic Conditions and Mass Transit**

The Property is well serviced by mass transit options. Multiple Metrobus lines are within walking distance, including the H2, which is approximately 150 feet from the Property, and the 42, 43, S1, S2, S4, and S9 lines which are 0.2 miles from the Property. Walkscore.com indicates that the area is “a walker’s paradise” and that daily errands do not require a car. There is a Capital Bikeshare station at the corner of Harvard Street NW and Beach Drive NW, which is approximately 0.4 miles from the Property. The Columbia Heights Metrorail station is 0.5 miles from the Property.

#### **C. The Project**

The Applicants have owned the Property since 2006. The lot is under-utilized as a parking pad.<sup>1</sup> With an intent on improving the lot and providing “eyes on the street”, the Applicant wishes to remove the parking pad and construct a two-story, single-family dwelling

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<sup>1</sup> The Applicant unsuccessfully requested zoning relief to construct a private garage in 2008 in BZA case #17833.

(the “Project”). The alley has numerous two-story structures, garages, and decks along both the rear of Harvard Street NW and Hobart Street NW. The project is designed to be in keeping with these existing structures and appear as a garage from passersby.

Notably, a residential dwelling unit on an alley lot is a by-right use in the RF zones. The Project meets all five conditions for a matter-of-right alley dwelling as set forth in Subtitle U § 600.1(e). The Property is located in an RF zone (U § 600.1(e)(1)), the Property exceeds the minimum lot area requirement of 450 square feet (U § 600.1(e)(2)), and the Project has access to an improved public street through an improved alley no less than 15 feet wide and within 300 feet of an improved public street. *See* U § 600.1(e)(3). Additionally, the Project will meet all building code requirements for a residential structure (U § 600.1(e)(4)). The Applicant will satisfy the fifth condition (U § 600.1(e)(5)), if necessary.

The Applicant is requesting zoning relief because the Project cannot satisfy the RF-1 rear yard requirement of five feet (Subtitle E § 5104.1) along the southern boundary of the Property and the side yard requirement of five feet (Subtitle E § 5104.1) along the western boundary. Further, it cannot meet the alley centerline setback and pervious surface requirements. Therefore, special exception and variance relief are requested as outlined below.<sup>2</sup>

#### **IV. NATURE OF SPECIAL EXCEPTION RELIEF SOUGHT AND STANDARD OF REVIEW**

Special exception relief is required for the rear yard requirements set forth in Subtitle E § 5104.1, and the side yard requirements set forth in Subtitle E § 5105.1, pursuant to Subtitle E § 5204.1.

Under D.C. Code § 6-641.07(g)(2) and 11 DCMR X § 901.2, the Board is authorized to grant a special exception where it finds the special exception:

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<sup>2</sup> Pursuant to Subtitle C § 303.3(c), because the Property was created prior to May 12, 1958, subdivision of the Property into a new record lot is not required to satisfy the requirements of Subtitle C § 303.3(a-b).

- (1) Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;
- (2) Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps; and
- (3) Subject in specific cases to special conditions specified in the Zoning Regulations. 11 DCMR Subtitle X § 901.2.

Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific requirements for the relief are met. In reviewing an application for special exception relief, “[t]he Board’s discretion . . . is limited to a determination of whether the exception sought meets the requirements of the regulation.” *First Baptist Church of Wash. v. District of Columbia Bd. of Zoning Adjustment*, 432 A.2d 695, 701 (D.C. 1981) (quoting *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

As outlined below, the Project meets these requirements to obtain special exception relief for a single-family dwelling on an alley lot.

## **V. APPLICANT MEETS BURDEN FOR SPECIAL EXCEPTION RELIEF**

### **A. The relief is harmonious with the general purpose and intent of the Zoning Regulations and maps**

The Project will be in harmony with the purpose and intent of the Zoning Regulations and related maps. The RF-1 zone is intended for homes on small lots with no more than two dwelling units and permits single-family dwellings on alley lots as a matter-of-right. The Project directly aligns with this intent, as the relief will allow the Applicant to create one residential dwelling unit on a small alley lot. Moreover, pursuant to Subtitle E §§ 5108.1 and 5204.1, alley lot yards relief is permitted as a special exception.

Recently, the District has encouraged the use of alley space for residential dwellings, particularly through the zoning regulations.<sup>3</sup> The District was once home to hundreds of alley dwellings. After the Civil War ended, the District's population grew rapidly and alley homes became a desirable housing option for recently emancipated African-Americans. Today, the exact number of residentially inhabited alley homes in the District is unknown. However, most alley homes are located in Northwest D.C. and Capitol Hill, and share common characteristics, including modestly-sized structures on lots that are relatively small.

As noted above, the relief from rear and side yard relief is in harmony with the general purpose and intent of the zoning regulations, as the lot existed prior to 1958 and the creation of more housing is an important planning goal.

Further, the goal of the zoning regulations is to prevent usable land from remaining undeveloped due to a strict interpretation of the regulations. In *DeAzcarate, et al. v. Board of Zoning Adjustment*, the D.C. Court of Appeals explicitly stated that a variance “is designed to provide relief from the strict letter of the regulations, protect zoning legislation from constitutional attack...**and prevent usable land from remaining idle.**” See *DeAzcarate v. D.C. Board of Zoning Adjustment*, 388 A.2d 1233, 1236 (1978) (emphasis added) (quoting, *Palmer v. BZA*, 287 A.2d 535, 541 (1972)). While the *DeAcarate* court made this conclusion in the context of variance relief, the policy of the District and this Board has been to prevent usable land from remaining idle whether a variance or a special exception is sought by an applicant. In this case, the inability to develop the Property has resulted in littering and damage to personal property. To that end, it would prove extremely difficult to improve the Property with any residential use

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<sup>3</sup> See *Washington Post*, “Once Dreaded, D.C. Alleys Become Fun, Even Chic.” [https://www.washingtonpost.com/local/in-darkness-of-dc-alleys-a-new-slice-of-life/2014/09/02/c78e5998-2ef3-11e4-9b98-848790384093\\_story.html?utm\\_term=.f00ef4bff881](https://www.washingtonpost.com/local/in-darkness-of-dc-alleys-a-new-slice-of-life/2014/09/02/c78e5998-2ef3-11e4-9b98-848790384093_story.html?utm_term=.f00ef4bff881)

without obtaining zoning relief as to the rear and side yard requirements. Such an outcome would not be in harmony with the intent and purpose of the zoning regulations.

**B. The proposed relief will not adversely affect the use of neighboring property**

The requested relief will have no adverse impact on the use of neighboring property. The Project will improve and replace a parking pad. The Project will also add a dwelling unit to an area that is transit-rich and amenity-laden, and will function to diversify the nearby housing stock. Importantly, the Project will not jeopardize the existing light, air and privacy available for neighboring properties because it is located over 17 feet from the nearest neighboring dwelling unit (on Lot 826) and screened by vegetation and a fence. The Project will align with other properties in the neighborhood, which are overwhelmingly residential in nature. The zoning regulations require the Project to provide a parking space. One parking space will be provided, which on balance will reduce the number of parking spaces on the Property from two to one and therefore not contribute to an increase in vehicular traffic through the alley.

The importance of having density within an alley was surmised in the District Alley Dwellers Alliance manifesto, an online community for District alley residents, stated as follows: “[a]dding more residents to alleys will add more people and density in ways that strengthen alley neighborhoods, street-fronting residential areas, and the city at large, by providing more affordable living and work spaces and by putting additional eyes into our alleyways (what Jane Jacobs called “eyes on the street”).”<sup>4</sup> Allowing special exception relief to the yards requirements is necessary to add a dwelling to an alley and thereby improve neighborhood safety by increasing the number of residents that actively use the alley. Accordingly, the Application satisfies the requirements for special exception relief from the yards requirements pursuant to Subtitle E §§

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<sup>4</sup> District Alley Dwellers Alliance Manifesto. H Street NE Alley Tour- Walking Town DC/Cultural Tourism DC. See page 5. [http://xa.yimg.com/kq/groups/16542886/2118089279/name/alley\\_tour\\_h\\_street.pdf](http://xa.yimg.com/kq/groups/16542886/2118089279/name/alley_tour_h_street.pdf). Last accessed August 23, 2016.

5108.1 and 5204.1.

**VI. NATURE OF VARIANCE RELIEF SOUGHT AND STANDARD OF REVIEW**

Variance relief is needed from the requirements of Subtitle E § 5106.1 pertaining to the alley centerline setback requirements and pervious surface requirements set forth at Subtitle E § 5107.1. Under D.C. Code § 6-641.07(g)(3) and 11 DCMR § X-1000.1, the Board is authorized to grant an area variance where it finds that:

(1) The property is affected by exceptional size, shape or topography or other extraordinary or exceptional situation or condition;

(2) The owner would encounter practical difficulties if the zoning regulations were strictly applied; and

(3) The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

*See French v. District of Columbia Bd. of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995) (*quoting Roumel v. District of Columbia Bd. of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); *see also, Capitol Hill Restoration Society, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987).

Applicants for an area variance must demonstrate that they will encounter “practical difficulties” in the development of the property if the variance is not granted. *See Palmer v. District of Columbia Bd. of Zoning Adjustment*, 287 A.2d 535, 540-41 (D.C. 1972) (noting, “area variances have been allowed on proof of practical difficulties only while use variances require proof of hardship, a somewhat greater burden”). An applicant experiences practical difficulties when compliance with the Zoning Regulations would be “unnecessarily burdensome.” *See Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990).

As discussed below, and as will be further explained at the public hearing, all three prongs of the area variance test are met in this Application.

**VII. THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARIANCE RELIEF**

**A. The Property Is Affected by an Exceptional Situation or Condition**

The unique or exceptional situation may arise from a confluence of factors which affect a single property. *Gilmartin*, 579 A.2d at 1168. The Property is characterized by an exceptional situation and condition as a result of (1) Small size of the alley lot; (2) Shape of the alley lot; and (3) Adjacent to a public alley 7.5' in width.

**1. Small size of the alley lot**

The Property, at 557 sq ft., is an exceptionally small alley lot. A&T lot records indicate that the Property was created in 1948<sup>5</sup>. Further, it is the smallest lot and only alley lot in either Square 2588 or 2591.

**2. Shape of the alley lot**

The trapezoidal shape of the lot is unusual in that the width along the alley is 25'3" and the width to the rear tapers down to 19'. This restrictive lot shape necessitates a creative design that maximizes the available space to provide for a single-family dwelling with a parking space.

**3. Adjacent to two public alleys**

The Property abuts a 15' public alley to the north and is separated by a 7.5' wide public alley from Lot 1028, which is owned by the Applicant. Notably, the narrow public alley also requires the provision of a setback.

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<sup>5</sup> Order 17833 indicates the lot was "recorded" on a Baist map as early as 1925.



## **B. Strict Application of Zoning Regulations Would Result in Practical Difficulty**

Strict application of the Zoning Regulations with respect to the alley centerline setback requirements of Subtitle E § 5106.1 and pervious surface requirements of Subtitle E § 5107.1 would result in a practical difficulty to the Applicant.

### **1. Alley Centerline Setback**

The alley centerline setback requirement for the RF-1 zone is 12'. Subtitle E § 5106.1. The alley to the north is 15' in width, so 4.5' of relief is requested. The requirements of this section also apply to the eastern side of the Property where it abuts the 7.5' wide public alley. The width of this alley necessitates 8.25' of relief.

The need for the alley centerline setback relief requested here is directly related to the exceptional conditions.<sup>6</sup> The small size and unusual shape of the lot paired with the fact that it abuts two alleys makes the construction of a residential unit over the zone's cap necessary. As noted, the Property comprises only 557 sq ft. Providing for both alley setbacks would result in the reduction of approximately 278 sq ft. of building footprint, or half of the Property's total square footage.

Additionally, fulfillment of the alley setback requirement would eliminate the potential for developing along the widest two lot lines of the trapezoidal lot, resulting in a much smaller structure than would otherwise be possible. In any event, a reduction in the footprint of the building as proposed would make the construction of a residential dwelling impractical and create a practical difficulty that results in unnecessary hardship to the Applicant without the requested relief. Accordingly, without variance relief, the Property would remain idle and under-utilized.

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<sup>6</sup> Further, 100% lot occupancy is permitted on an alley lot with less than 1,800 sq ft. pursuant to Subtitle E § 5103.1.

## **2. Pervious Surface**

The pervious surface requirement for the RF-1 zone is 10%. Subtitle E § 5107.1. The Property currently is used as a parking pad, and is generally not pervious. The Applicant's proposal requests 55.7 sq ft. of relief, but would likely not diminish the existing perviousness. The small size of the lot, coupled with its shape and adjacency to two alleys makes the provision of this requirement impractical, as fulfillment of this requirement alone would reduce the footprint of the structure by 10%. At 557 sq ft., even a small reduction to the Applicant's modestly-sized proposal would make the construction of a residential dwelling – which is a matter-of-right use on an alley lot – practically difficult and result in unnecessary hardship to the Applicant without the requested relief.

For these reasons, without the requested alley centerline setback and pervious surface variance relief, the Applicant would face severe practical difficulties due to the exceptional conditions on the site.

### **C. No Substantial Detriment to the Public Good or Impairment of the Zone Plan**

There will be neither substantial detriment to the public good nor substantial impairment of the intent, purpose, and integrity of the zone plan by approving the requested relief. As noted, the Property is currently unimproved and used for off-street parking. Use of the property as a residence, and the granting this relief would be beneficial to the public good because it would make the alley safer by providing “eyes of the street” as mentioned earlier. Further, denial of the relief could be detrimental to the public good because it would deny the public access to a more-affordable housing option in the neighborhood. The zone plan is similarly not impaired because a one-family dwelling on an alley lot is a matter-of-right use for the zone.

**VIII. COMMUNITY OUTREACH**

Pursuant to Advisory Neighborhood Commission (ANC) 1D's procedures and guidelines, the Applicant will be contacting ANC 1D and Stuart Karaffa, the Single Member District Commissioner for the property, shortly after the application is filed. The Applicant will present to ANC 1D as soon as is possible.

**VI. CONCLUSION**

For the reasons stated above, the requested relief meets the applicable standards for zoning relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant the Application.

Respectfully submitted,  
COZEN O'CONNOR



Meridith H. Moldenhauer

**Certificate of Service on Office of Planning and Advisory Neighborhood Commission 1D**

I certify that on September 8, 2017, a copy of this Application was served, via email, on the Office of Planning and Advisory Neighborhood Commission 1D, as follows:

District of Columbia Office of Planning  
1100 4<sup>th</sup> Street SW, Suite E650  
Washington, DC 20024  
[planning@dc.gov](mailto:planning@dc.gov)

Advisory Neighborhood Commission 1D  
c/o Yasmin Romero-Latin, Chairperson  
1380 Monroe St. NW #117  
Washington, DC 20010  
[yasminkikiANC1D04@yahoo.com](mailto:yasminkikiANC1D04@yahoo.com)

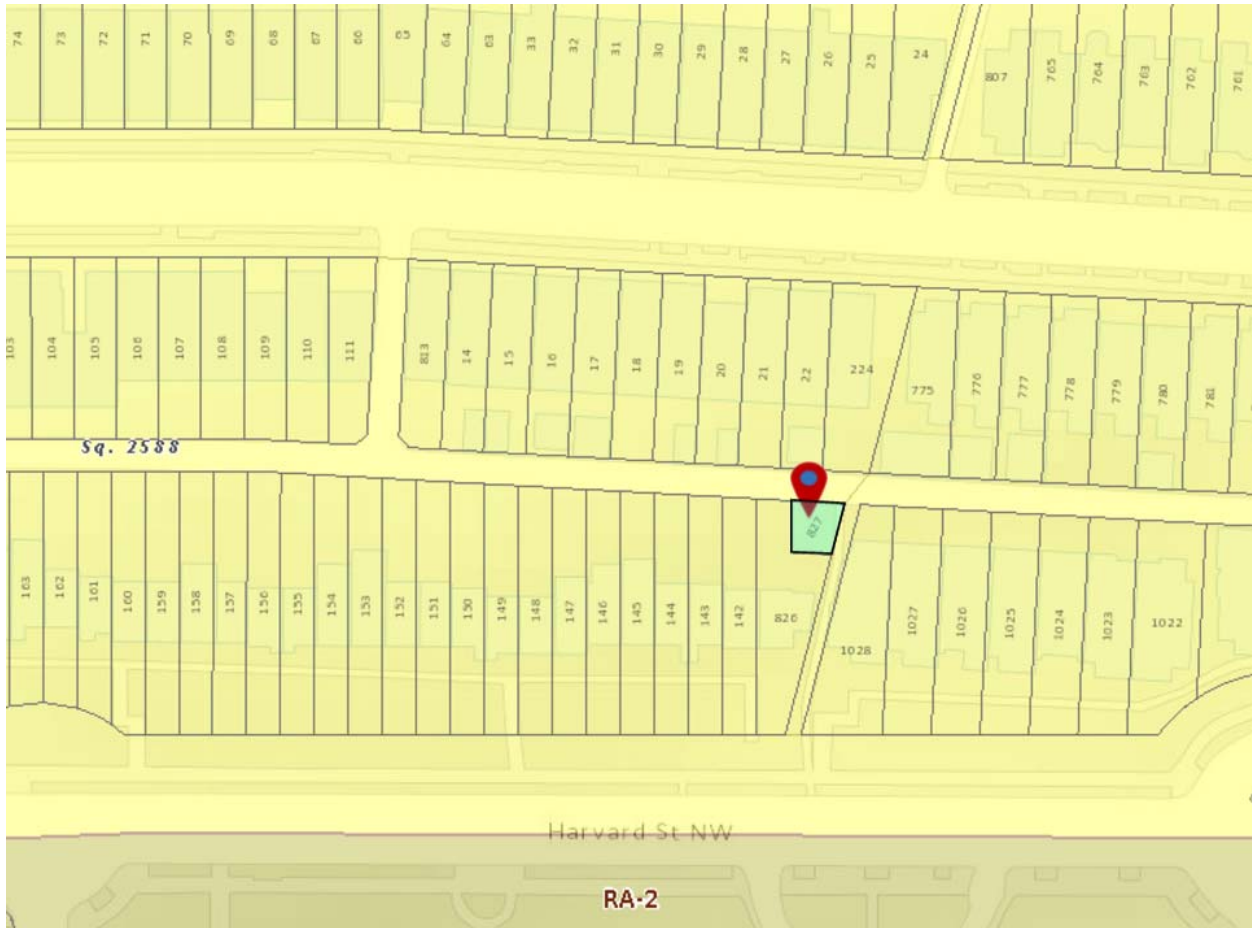
Advisory Neighborhood Commission 1D  
c/o Stuart Karaffa, SMD Commissioner  
[stuart.k.anc@gmail.com](mailto:stuart.k.anc@gmail.com)



Meridith H. Moldenhauer

# EXHIBIT A

**Zoning map – (rear) 1665 Harvard St. NW (Sq. 2588, Lot 827)**

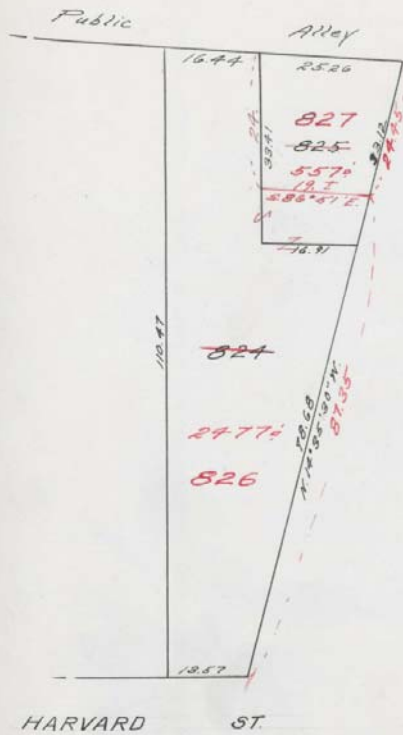


# EXHIBIT B

ASSESSMENT AND TAXATION PLAT

Sq. 2586

3266Y



1948-1261  
To THE COMMISSIONERS, D. C.

Issuance of the following order is recommended:

*[Signature]*  
Assistant Assessor.

ORDERED:

Scale, 1 inch ..... ft.

The Surveyor will admit this plat to record in his office under the provisions of the Act of Congress (Public, No. 89) approved February 23, 1905, and entitled, "An Act to designate parcels of land in the District of Columbia for the purpose of assessment and taxation and other purposes."

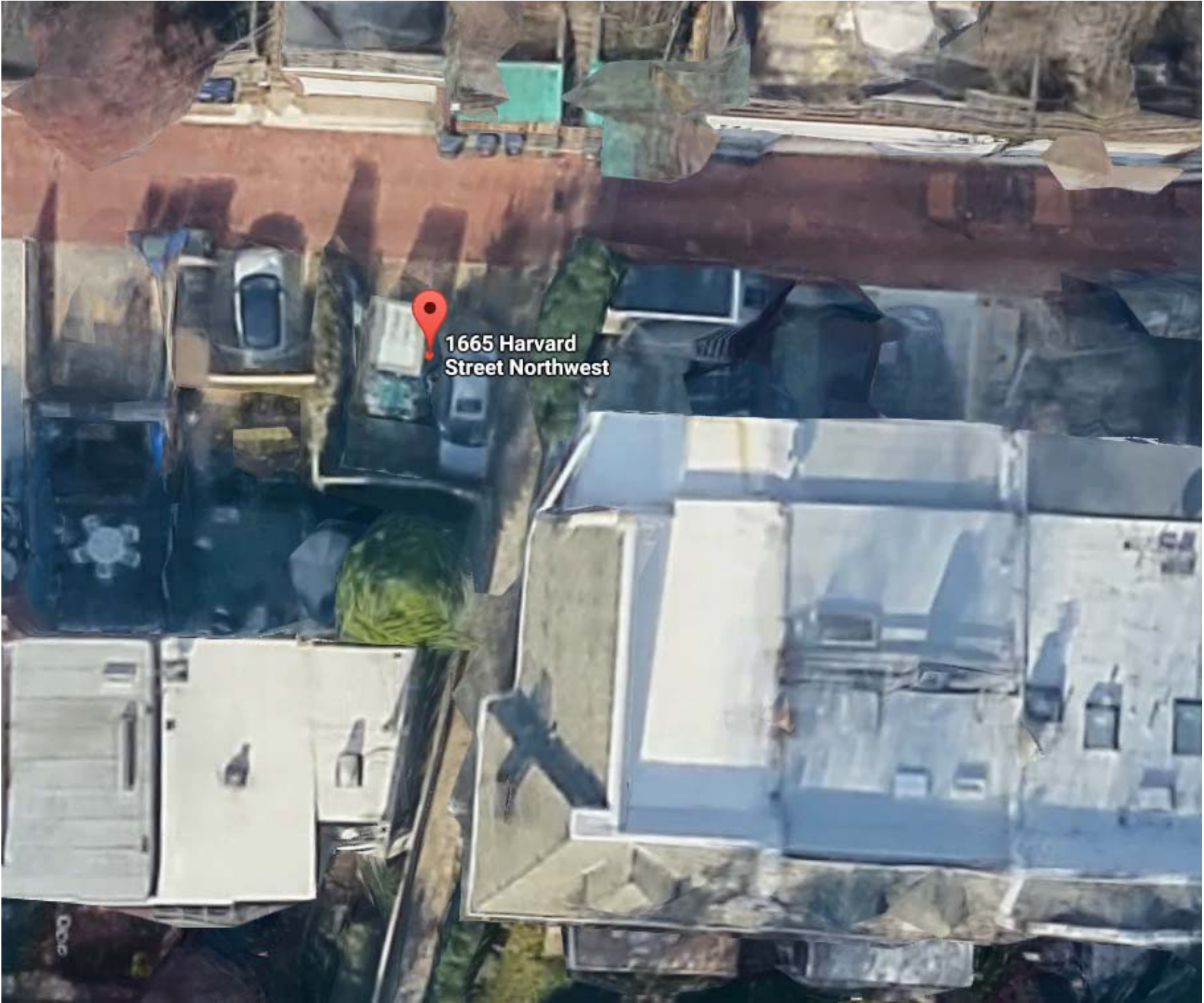
Prepared by  
*[Signature]* 7/2/48  
Draftsman, Assessor's Office.

APPROVED BY THE COMMISSIONERS OF THE DISTRICT OF COLUMBIA SITTING AS A BOARD.  
JUL 15 1948  
Commissioners of the District of Columbia.  
*[Signature]* SECRETARY

RECEIVED  
JUL 15 1948



# EXHIBIT C



1665 Harvard  
Street Northwest