

# **Appellants' Presentation Board of Zoning Adjustment**

## **Case Nos. 20452 & 20453**

### **Hearing Date Nov. 10, 2021**

## Testimony and Exhibits

- The following slides and exhibits include a summary of the expected testimony of Appellants' and their experts.

## Excerpt from *Ward 5 Imp. Ass'n v. DC*

*Ward 5 Imp. Ass'n v. DC Bd. of Zoning Adjustment*, 98 A.3d 147, 154-55 (2014) (vacating BZA's decision), in holding that the Board has *de novo* interpretative responsibility over the Zoning Regulations, stated:

***“We have held that “[i]t is the Board, not the Zoning Administrator, which has final administrative responsibility to interpret the zoning regulations.”*** [\*Bannum, Inc. v. District of Columbia Bd. of Zoning Adjustment\*, 894 A.2d 423, 431 \(D.C.2006\)](#) (quoting [\*Murray v. District of Columbia Bd. of Zoning Adjustment\*, 572 A.2d 1055, 1058 \(D.C.1990\)](#)); see also [\*District of Columbia, Dep't of Pub. Works v. L.G. Indus., Inc.\*, 758 A.2d 950, 956 \(D.C.2000\)](#) (stating that the BZA “is charged with interpreting the zoning regulations”). ***The BZA's interpretive responsibility, therefore, is de novo. The BZA's responsibilities*** to “hear and decide” zoning appeals under [D.C. Code § 6–641.07\(g\)\(2\)](#) and 11 DCMR § 3100.2 ***require more of the BZA than deference to the Zoning Administrator[.]”*** [Emphasis added.]

# Principles of Interpretation

- Statutory and regulatory construction must begin with “the assumption that the ordinary meaning of language accurately expresses the legislative purpose.” *Park ‘N Fly, Inc. v. Dollar Park & Fly, Inc.*, 469 U.S. 189, 194 (1985). Thus, this Board’s construction must be “plausible,” and an outlier meaning is insufficient. *Cohen v. JP Morgan Chase & Co.*, 498 F.3d 111, 120 (2d Cir. 2007).
- Courts must presume that the legislature “says in a statute what it means and means in a statute what it says.” *Dodd v. United States*, 545 U.S. 353, 357 (2005); see *Kakeh v. United Planning Org., Inc.*, 655 F. Supp. 2d 107, 123 (D.D.C. 2009) (same).
- The Board cannot, in the guise of interpreting a statute or regulation, ignore certain words, and “rewrite” it to impose a different meaning not contemplated by the legislature. *Ind. Mich. Power Co. v. Dep’t of Energy*, 88 F.3d 1272, 1276 (D.C. Cir. 1996).

# Email from Attorney Lawrence Ferris to ZA Mathew LeGrant dated September 25, 2018 (IZIS Dkt Ex. #11)

(See Separate PDF for Enlarged Version With All Pages)

**From:** [Ferris, Lawrence](#)  
**To:** [LeGrant, Matt \(DCRA\)](#)  
**Cc:** [Boddy, Christine](#)  
**Subject:** 1733 16th Street NW - Scottish Rite Redevelopment  
**Date:** Tuesday, September 25, 2018 5:22:47 PM  
**Attachments:** [Draft Zoning Determination Letter - 1733 16th Street NW - Proposed Project.docx](#)  
[1733 16th Street NW - Architectural Plans.DWG](#)  
[Determination Letter re 1733 16th St NW 4-18-18.pdf](#)

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Matt,

As you may recall, we met on August 27 to discuss our client's proposed development for the site of the Scottish Rite Temple at 1733 16<sup>th</sup> Street NW and, specifically, changes made to the project since our meeting on February 20 and your subsequent determination letter dated April 18.

Per our discussion, attached is a draft determination letter and the relevant architectural plans. As stated in the letter, this draft incorporates both your earlier findings in the April 18 determination and the substance of our discussions on August 27. I've also attached your April 18 determination letter for reference.

I did want to note one slight revision since our meeting on August 27. At the time of our meeting, the plans showed one bay that is cantilevered over the areaway on the eastern façade near the corner of 15<sup>th</sup> and S Street NW, beginning on Level O1 (the first level above grade). The plans have since been revised to add two more such cantilevered bays, which are located on the northern façade facing S Street NW and begin at Level O2 (the second level above grade). This is outlined in detail the draft letter and also shown in the attached plans, but I wanted to bring it to your attention since it differs slightly from what was presented when we met with you.

Please let us know if you have any questions, would like any additional information, or would like to discuss.

Thank you very much for your time.

Best,  
Lawrence

.....  
Lawrence Ferris  
Direct (202)-721-1135  
***goulston&storr*s**  
1999 K Street, NW \* Suite 500 \* Washington, DC 20006-1101  
(202)-721-0011 \* Fax (202)-721-1111 \* [www.goulstonstorr.com](http://www.goulstonstorr.com)  
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This communication may contain information which is privileged and/or confidential under applicable law. Any dissemination, copy or disclosure, other than by the intended recipient, is

Board of Zoning Adjustment  
District of Columbia  
CASE NO. 20483  
EXHIBIT NO. 11

**Draft Zoning Determination Letter (Dated Sept. 2018 Written by  
Perseus' Atty Ferris for ZA Mathew LeGrant to Sign)  
(IZIS Dkt. Ex. #10)  
(See Separate PDF for Enlarged Version With All Pages)**

September \_\_, 2018

Lawrence Ferris  
Goulston & Storrs  
1999 K Street, NW, Suite 500  
Washington, DC 20006

Re: 1733 16<sup>th</sup> Street NW – Scottish Rite Temple Site, Square 192, Lot 108

Dear Mr. Ferris:

This letter is a comprehensive determination for your client's project at 1733 16<sup>th</sup> Street NW (Square 192, Lot 108) (the "Property"). This determination combines the findings from my determination letter dated April 18, 2018, and the substance of our discussion on August 27, 2018.

**I. Background**

As shown on the plans attached to this letter, the Property is bounded by S Street NW to the north, 15<sup>th</sup> Street NW to the east, a public alley to the south, and 16<sup>th</sup> Street NW to the west. The Property is currently improved with the Scottish Rite Temple ("Temple"), located on the western portion of the lot, and a carriage house ("Carriage House"), located on the eastern portion of the lot along the alley to the south. The entire site is a designated historic landmark. The Property is split-zoned, with the western portion zoned RA-9 and the eastern portion zoned RA-8. Your client proposes to subdivide the Property into two separate record lots. The proposed subdivision will create a new lot line that will be coterminous with the zone boundary line, bisecting the Property into a western lot occupied by the Temple ("Western Lot") and an eastern lot ("Proposed Eastern Lot"). The Proposed Eastern lot will be bounded by S Street to the north, 15<sup>th</sup> Street to the east, a public alley to the south and the Western Lot to the west. The Proposed Eastern Lot will be developed with a new apartment building that will incorporate the existing Carriage House (the "Project"), as shown in the attached plans. This determination letter pertains to the Project.

**II. Zoning Issues**

**A. Rear Yard**

The Project will front on 15<sup>th</sup> Street NW, with the rear yard measured from the newly created lot line running through the Property. Based on the Project's proposed height of 50 feet, under Subtitle F § 605.1, the rear yard requirement is 16.7 feet. Pursuant to Subtitle B § 318.2, the rear yard is measured as the "mean horizontal distance between the rear line of the building and the rear lot line." In other words, the rear yard measurement may be "averaged" across the Project, and the Project satisfies rear yard requirements so long as this average meets or exceeds 16.7 feet. Notably, as shown in the site plan on Sheet A-1 of the attached plans, the existing

Error! Unknown document property name.

Board of Zoning Adjustment  
District of Columbia  
CASE NO.20453  
EXHIBIT NO.10

# Zoning Determination Letter Dated Oct. 30, 2018 Written by Perseus' Attorney and Signed by ZA Mathew LeGrant Without Changing a Word (IZIS Dkt. Ex. #12) (See Separate PDF for Enlarged Version With All Pages)



**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
OFFICE OF THE ZONING ADMINISTRATOR**

October 30, 2018

Lawrence Ferris  
Goulston & Storrs  
1999 K Street, NW, Suite 500  
Washington, DC 20006

Re: 1733 16<sup>th</sup> Street, NW – Scottish Rite Temple Site, Square 192, Lot 108

Dear Mr. Ferris:

This letter is a comprehensive determination for your client's project at 1733 16<sup>th</sup> Street NW (Square 192, Lot 108) (the "Property"). This determination combines the findings from my determination letter dated April 18, 2018, and the substance of our discussion on August 27, 2018.

## I. Background

As shown on the plans attached to this letter, the Property is bounded by S Street NW to the north, 15<sup>th</sup> Street NW to the east, a public alley to the south, and 16<sup>th</sup> Street NW to the west. The Property is currently improved with the Scottish Rite Temple ("Temple"), located on the western portion of the lot, and a carriage house ("Carriage House"), located on the eastern portion of the lot along the alley to the south. The entire site is a designated historic landmark. The Property is split-zoned, with the western portion zoned RA-9 and the eastern portion zoned RA-8. Your client proposes to subdivide the Property into two separate record lots. The proposed subdivision will create a new lot line that will be coterminous with the zone boundary line, bisecting the Property into a western lot occupied by the Temple ("Western Lot") and an eastern lot ("Proposed Eastern Lot"). The Proposed Eastern lot will be bounded by S Street to the north, 15<sup>th</sup> Street to the east, a public alley to the south and the Western Lot to the west. The Proposed Eastern Lot will be developed with a new apartment building that will incorporate the existing Carriage House (the "Project"), as shown in the attached plans. This determination letter pertains to the Project.

## II. Zoning Issues

### A. Rear Yard

The Project will front on 15<sup>th</sup> Street NW, with the rear yard measured from the newly created lot line running through the Property. Based on the Project's proposed height of 50 feet, under Subtitle F § 605.1, the rear yard requirement is 16.7 feet. Pursuant to Subtitle B § 318.2, the rear yard is measured as the "mean horizontal distance between the rear line of the building

Board of Zoning Adjustment

# Screenshot of DCRA Website Page Entitled “Determination Letters, Zoning Maps and Plans” Explaining Purpose of Zoning Determination Letters (See Separate PDF for Enlarged Version)

DCRA's Corporation and Professional Licensing platforms will be unavailable from Friday, July 23 at 8 pm to Sunday, July 25 at 8 am due to scheduled maintenance. Thank you for your patience.



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## Determination Letters,Zoning Maps and Plans

**Tuesday,  
March 6,  
2018**      Determination Letters,Zoning Maps and Plans

The Zoning Administrator issues determination letters resulting from requests by property owners, developers, architects, and land use attorneys inquiring about the applicable zoning regulations applicable to specific development proposals. These letters offer guidance to requesting parties as to whether a proposed project, such as a new building, an addition to an existing building, or a use change, conform to the District's Zoning regulations as set forth in DCMR Title.

 [DECEMBER 20, 2016 ZONING DETERMINATION LETTER FOR 1107 H STREET, NE.PDF](#)

 [DET LET RE 1101 H ST NE TO MAZO 2-14-18.PDF](#)



# FOIA Request 2021-FOIA-01918 Filed by Edward Hanlon in Dec. 2020 (IZIS Dkt. Ex. #54)

(See Separate PDF for Enlarged Version With All Pages)

FOIA REQUEST 2021-FOIA-01918 TO DCRA DATED 12/30/20



Boards of Zoning Adjustment  
District of Columbia  
CASE NO. Z0453  
EXHIBIT NO. 54

# Attachment to FOIA Request 2021-FOIA-01918 Filed by Edward Hanlon in Dec. 2020 Listing the Documents Requested from the Office of the Zoning Administrator (IZIS Dkt. Ex. #54) (See Separate PDF for Enlarged Version)

## **ATTACHMENT to FOIA Request:**

With respect to the subdivision of Sq. 192 Lot 108 into lots 110 & 111:

1. The application for subdivision of Sq. 192 Lot 108 into lots 110 & 111;
2. Any survey provided to the Office of the Zoning Administrator with the application or otherwise relied upon by DCRA in reviewing and approving the requested subdivision application;
3. Any drawings or data submitted to the Office of the Zoning Administrator by the Applicant wishing to subdivide Lot 108 or which were otherwise reviewed by your office during the subdivision application process which address zoning issues including building height, yards, set back and/or lot coverage issue;
4. Any drawings or plans of the existing Scottish Rite Masonic Temple which were reviewed by the Office of the Zoning Administrator during the subdivision application process;
5. Any and all elevation or setback information provided by the Applicant to the Office of the Zoning Administrator during the subdivision application process; and,
6. All other pertinent data upon which the Office of the Zoning Administrator relied when making its decision to approve the subdivision of this lot 108.

[Date Range for Record Search: From 08/01/2020 To 12/30/2020]

# DCRA's FINAL RESPONSE to FOIA Request 2021-FOIA-01918 and 2021-FOIA-01919 (Annotated) (IZIS Dkt. Ex #58)

(See Separate PDF for Enlarged Version With All Pages)



## Office of the Director

February 9, 2021

### VIA ELECTRONIC MAIL

Edward Hanlon  
1523 Swann Street, NW  
Washington, D.C. 20009  
Phone 301-466-4492  
[ed.hanlon3@gmail.com](mailto:ed.hanlon3@gmail.com)

**Subject: Final Response for FOIA Request Nos. 2021-FOIA-01918 and 01919**

Dear Mr. Hanlon:

The D.C. Department of Consumer and Regulatory Affairs (DCRA) is in receipt of your request pursuant to the District of Columbia Freedom of Information Act (FOIA). Specifically, you requested

#### FOIA Request No. 2021-FOIA-01918

With respect to the subdivision of Sq. 192 Lot 108 into lots 110 & 111:

1. The application for subdivision of Sq. 192 Lot 108 into lots 110 & 111;
2. Any survey provided to the Office of the Zoning Administrator with the application or otherwise relied upon by DCRA in reviewing and approving the requested subdivision application;
3. Any drawings or data submitted to the Office of the Zoning Administrator by the Applicant wishing to subdivide Lot 108 or which were otherwise reviewed by your office during the subdivision application process which address zoning issues including building height, yards, set back and/or lot coverage issue;
4. Any drawings or plans of the existing Scottish Rights Masonic Temple which were reviewed by the Office of the Zoning Administrator during the subdivision application process;
5. Any and all elevation or setback information provided by the Applicant to the Office of the Zoning Administrator during the subdivision application process; and,
6. All other pertinent data upon which the Office of the Zoning Administrator relied when making its decision to approve the subdivision of this lot 108.

(Date Range for Record Search: From 09/01/2020 To 12/30/2020)

# Only Document DCRA Supplied in Response to FOIA Requests 2021-FOIA-01918 and 2021-FOIA-01919 (IZIS Dkt. Ex. #59) (See Separate PDF for Enlarged Version)

<p>The undersigned hereby certifies that the copy of this document is a true and correct copy of the original as submitted to the Office of the Surveyor of the State of Maryland.</p>	<p>OFFICE OF TAX AND REVENUE I certify that the following information regarding the subdivision is correct: 1. County: <u>Prince George's</u> 2. Parcel number: <u>01-00000000000000000000</u> 3. There are <u>2</u> lots in the subdivision. I acknowledge that this is not a true and correct copy of the original as submitted to the Office of the Surveyor of the State of Maryland.</p>	<p><b>SUBDIVISION SQUARE 192</b></p>
<p>SECTION 192 THE PUBLIC PROJECT OFFICE OF THE SURVEYOR OF THE STATE OF MARYLAND 1150 EAST CALVERT STREET, SUITE 300 BETHESDA, MARYLAND 20814 TEL: 301-281-6000 WWW.SURVEYOR.MD</p>	<p>DEPARTMENT OF COMMERCE AND REGULATORY AFFAIRS I certify that the subdivision complies with all applicable provisions of the Code of Regulations of the State of Maryland. Issued on: <u>04/28/2021</u></p>	<p>S STREET, N.W.</p>
<p>NUMBER OF TRUSTS: <u>2</u> ASSENT BY TRUSTEES:</p>	<p>DEPARTMENT OF THE ENVIRONMENT &amp; NATURAL RESOURCES I certify that the subdivision complies with all applicable provisions of the Code of Regulations of the State of Maryland. Issued on: <u>04/28/2021</u></p>	
<p>SURVEYORS OFFICE, D.C. 1150 EAST CALVERT STREET, SUITE 300 BETHESDA, MARYLAND 20814 TEL: 301-281-6000 WWW.SURVEYOR.MD</p>	<p>OFFICE OF THE SURVEYOR I certify that this plan is correct and is for my record. Surveyor, D.C.</p>	

# Curriculum Vitae

## Professor James McCrery

(See Separate PDF for Enlarged Version With All Pages)

James Curtis McCrery, II AIA, NCARB

900 Massachusetts Avenue, NE  
Washington, DC 20002  
202.737.5444  
[mccrery@cua.edu](mailto:mccrery@cua.edu)  
[james@mccreryarchitects.com](http://james@mccreryarchitects.com)

CURRICULUM VITAE – January 2021

### EDUCATION

**Master of Architecture**, The Ohio State University. Columbus, Ohio. May 1993.  
Principal critics and theorists in ascending order of coursework and influence:  
Sanford Kwinter, Douglas Graf, Jeffrey Kipnis, Peter Eisenman.

**Bachelor of Science in Architecture**, The Ohio State University. Columbus, Ohio. December 1989.

### ACADEMIC ACTIVITY

Appointment with  
Continuous Tenure - The Catholic University of America – Washington, DC.  
Effective August 2020.

Promoted  
Associate Professor - The Catholic University of America – Washington, DC.  
Effective August 2020.

Assistant Professor - The Catholic University of America – Washington, DC.  
August 2016 to August 2020.

Founder and Director: The Concentration in Classical Architecture and Urbanism  
at The School of Architecture and Planning  
The Catholic University of America – Washington, DC

University Service: Curriculum Committee – Member  
Graduate Admissions Committee – Member  
Dean's Strategic Planning Committee (2016-2020) – Member  
New Classical Faculty Search Committee – Chairman  
Human Ecology Institute – Inaugural Fellow

# Summary of Conclusions of Professor McCrery

- *First*, the new rear yard violates the zoning regulations because it is occupied by a structure that is over four feet tall in violation of 11-B DCMR § 100.2.
- *Second*, the Subdivision of Lot 108 violates 11-F DCMR § 605.1 because the depth of the new rear yard is insufficient.
  - Perseus and DCRA do not dispute a central contention in my Expert Report: if the 332 ton roof of the Temple is deemed a roof, and not an “architectural embellishment,” then the Subdivision violates 11-F DCMR § 605.1 because the new rear yard is insufficiently deep, even accepting their other contentions.

# Summary of Conclusions of Professor McCrery (cont'd)

- *Third*, even if the roof is deemed an “architectural embellishment,” 11-C DCMR § 1501.3 expressly provides that such embellishment **cannot** be excepted from the height restrictions if it results “in the appearance of a raised building height for more than thirty percent (30%) of the wall on which the architectural embellishment is located.”
- The Temple’s pyramidal roof, which is co-extensive with the walls of the Temple, obviously gives “the appearance of a raised building height for more than thirty percent (30%) of the wall” on which it sits. The pyramid sits on 100% of each wall plate. If the 332 ton pyramidal roof is deemed an embellishment, then the pyramid obviously gives the appearance of a raised building height along 100% of the wall on which the pyramid is located in violation of 11-C DCMR § 1501.3.

## Summary of Conclusions of Professor McCrery (cont'd)

- Thus, if the pyramid is deemed a roof, then the minimum rear yard requirements of 11-F DCMR § 605.1 are violated.
- On the other hand, If the pyramid is deemed an embellishment, then 11-C DCMR § 1501.3 is violated.



# **The New Rear Yard Violates the Zoning Regulations Because It Is Occupied by a Structure that Is Over Four Feet Tall**

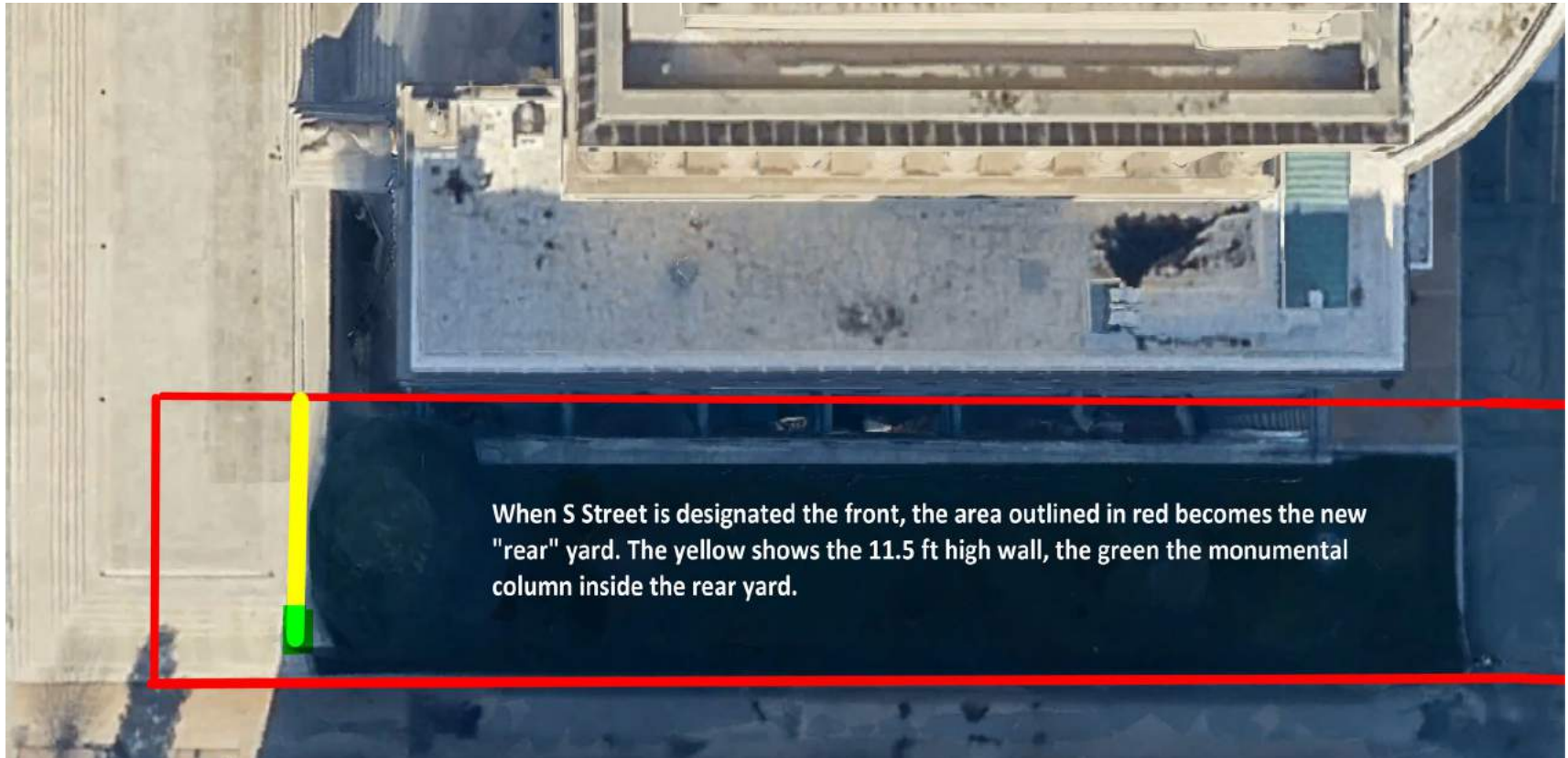
- The Zoning Regulations provide that a rear yard “shall be unoccupied, except as specifically provided in this title.” 11-B DCMR § 100.2 (definition of “yard, rear”).

# Exceptions to Prohibition of Structures in Rear Yard

11-B DCMR § 324.1, in turn, exempts from this requirement:

- (a) **A structure**, not including a building ***no part of which is more than four feet (4 ft.) above the grade at any point***, may occupy any yard required under the provisions of this title. Any railing required by the D.C. Construction Code Supplements, Title 12 DCMR, shall not be calculated in the measurement of this height;
- (b) **A fence or retaining wall** constructed in accordance with the Construction Code may occupy any yard required under the provisions of this title; and
- (c) **Stairs** leading to the ground from a door located on the story in which the principal entrance of a building is located may occupy any yard required under provisions of this title. The stairs shall include any railing required by the provisions of the Construction Code.

# Location of 11' 6" High Wall and Stone Column



## Wall and Stone Column Are More Than 4 Feet High

**First Exception to Rear Yard “Unoccupied” Requirement:** “A structure, not including a building *no part of which is more than four feet (4 ft.) above the grade at any point . . .*”

**Not Applicable:** Wall and Stone Column do not come within exception because both are over 11’6” high

**Photo of the 11'6" High Monumental Stone Column and Wall in the Rear Yard with DECAA's President, Nick DelleDonne, Standing Next to It (IZIS Dkt. Ex. #52 (p 3))**



# 11'6" High Wall and Stone Column Are Not a Fence

- **Second Exception to Rear Yard “Unoccupied” Requirement: Fence.** The term “fence” is not defined in the Zoning Regulations. Thus, under 11-B DCMR § 100.1(g), we must consult Webster’s Dictionary for a definition.
- Webster’s defines “fence” as “a barrier intended to prevent escape or intrusion or to mark a boundary.”
- **Not Applicable:** Here, neither the Wall nor the Stone Column prevents “escape or intrusion” as they are open ended and do not enclose anything. Further, neither “mark[s] a boundary”.
- Also, *“a fence differs from a wall in not having a solid foundation along its whole length.”* Prince George’s County Zoning Regulations.
- Here, the Wall and Stone Column each have a solid foundation along their entire length.

# Photo Showing that Wall and Stone Column Do Not Constitute a Fence (Prof. McCrery's Reply - at p. 23)



# 11'6" High Wall and Stone Column Are Not a Retaining Wall

- **Third Exception to Rear Yard “Unoccupied” Requirement: Retaining Wall.** 11-B DCMR § 100.2 defines a “retaining wall” as:

“A vertical, self-supporting structure constructed of concrete, durable wood, masonry or other materials, *designed to resist the lateral displacement of soil or other materials.*” (Emphasis added).

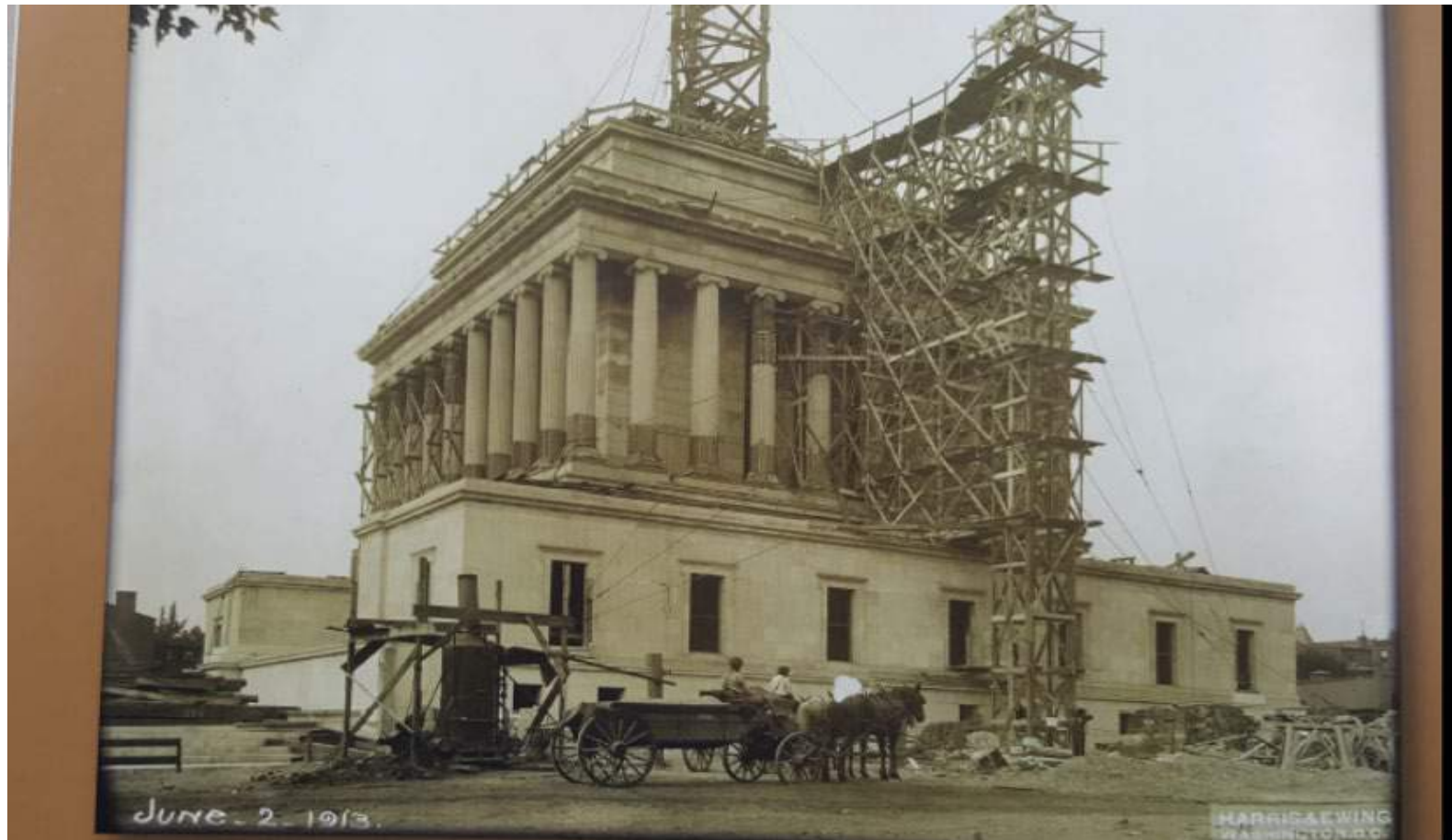
- **Not Applicable:** As the below photos establish, neither the Wall nor the Stone Column “resist[s] the lateral displacement of soil or other materials.”



## Wall and Stone Column Are Not a Retaining Wall (Cont'd)

- The 1913 photo shown below was taken during the construction of the Temple and is published by the Masons in their book *“A Guidebook to the House of the Temple”*.
- It clearly shows the above 11'6" Wall and Stone Column retain nothing on either their west or east sides of the Wall and Stone Column and their construction was obviously not “designed to resist the lateral displacement of soil or other materials.”
  - In the 1913 construction photo below the horse drawn wagon is on the south side (alley side) of lot 108 and is sitting approximately where the 11'6" Wall and Stone Column are today. The grade is approximately the same on all four sides of the wagon.

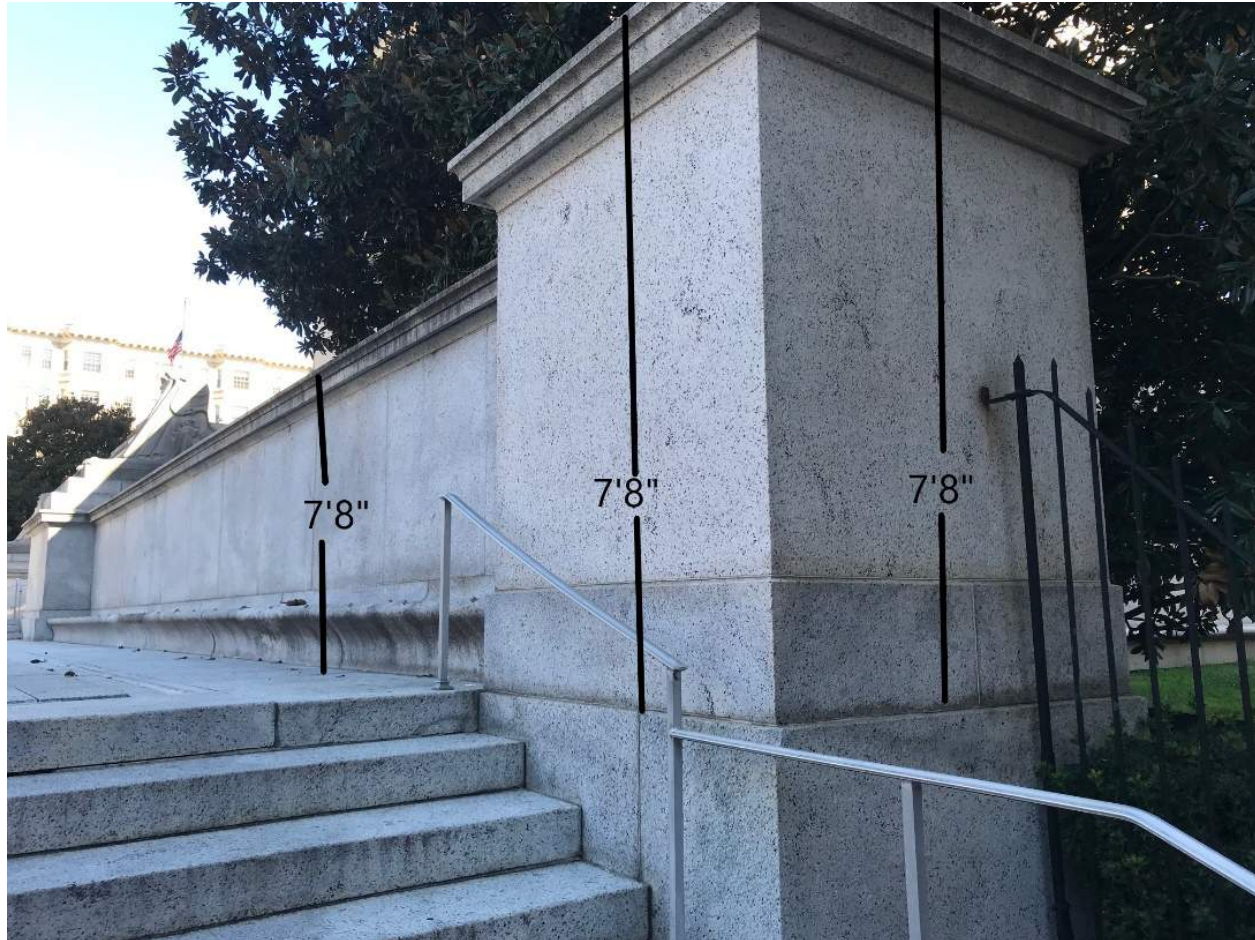
# 1913 Construction Photo of Temple Showing That Wall and Stone Column Are Not a Retaining Wall



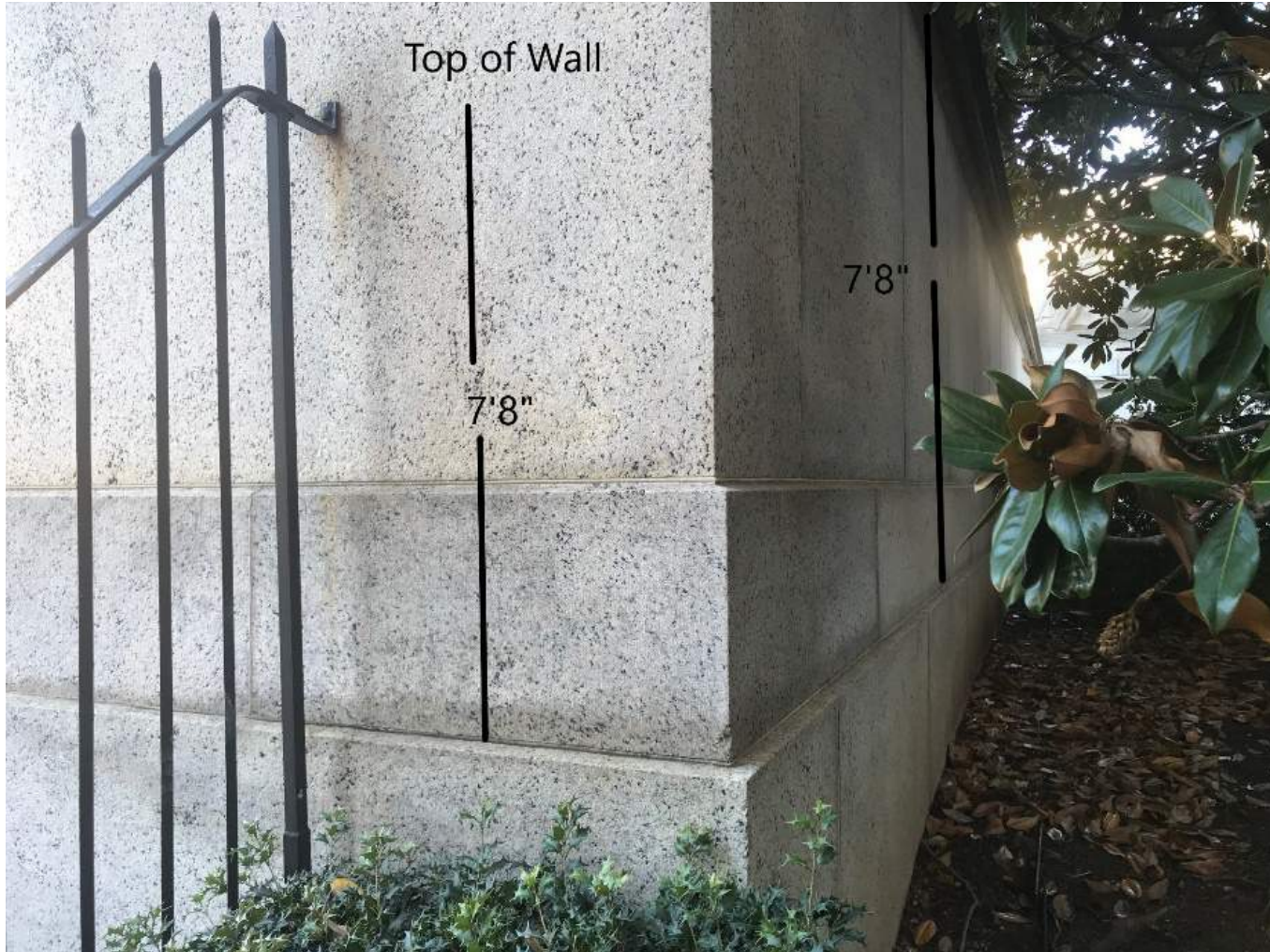
**Photo of the East Side of 11'6" High Wall in the New Rear Yard (IZIS Dkt. Ex. #52 (p.1)) Showing It Is Not a Retaining Wall**



**Photo of West Side of Wall and Stone Column With 7'8" Measurement Above Stone Platform Level on West Side of Temple Showing These Are Not Retaining Walls**



**Photo of East Side of Wall and Stone Column with 7'8" Measurement Above Stone Platform Level on West Side of Temple Showing They Are Not a Retaining Wall**



# Photo Showing 7'8" Measurement of Granite Wall And Stone Column Above Concrete Platform



# Additional Photo Showing 7'8" Measurement of Granite Wall And Stone Column Above Concrete Platform



# Photo of Groundbreaking Ceremony From Temple Guidebook Showing Temple Lot Is Vacant Land

## Groundbreaking Ceremony

ON MAY 31, 1911, Grand Commander James D. Richardson turned "the first spade of earth in the building of the new Temple" (1911 *Transactions*, p. 124). The day was chosen in honor of the 110th anniversary of the founding of the Supreme Council in Charleston, South Carolina. The ceremony marked the beginning of the work that would take four years to complete. In 2011, the Supreme Council celebrated the 100th anniversary of the official groundbreaking ceremony for the new House of the Temple.

As the builders went about the work of excavating for the basement and foundations, Richardson arranged for an event following explicitly Masonic traditions to celebrate laying the cornerstone the new House of the Temple.



Pictured (left to right): Stirling Kerr, Jr., 33°, Secretary-General; Rev. William Snyder, 32°; James D. Richardson, 33°, Grand Commander; Francis J. Woodman, 33°, Grand Tiler; William I. Boyden, 33°, Librarian of Supreme Council.

## Laying the Cornerstone

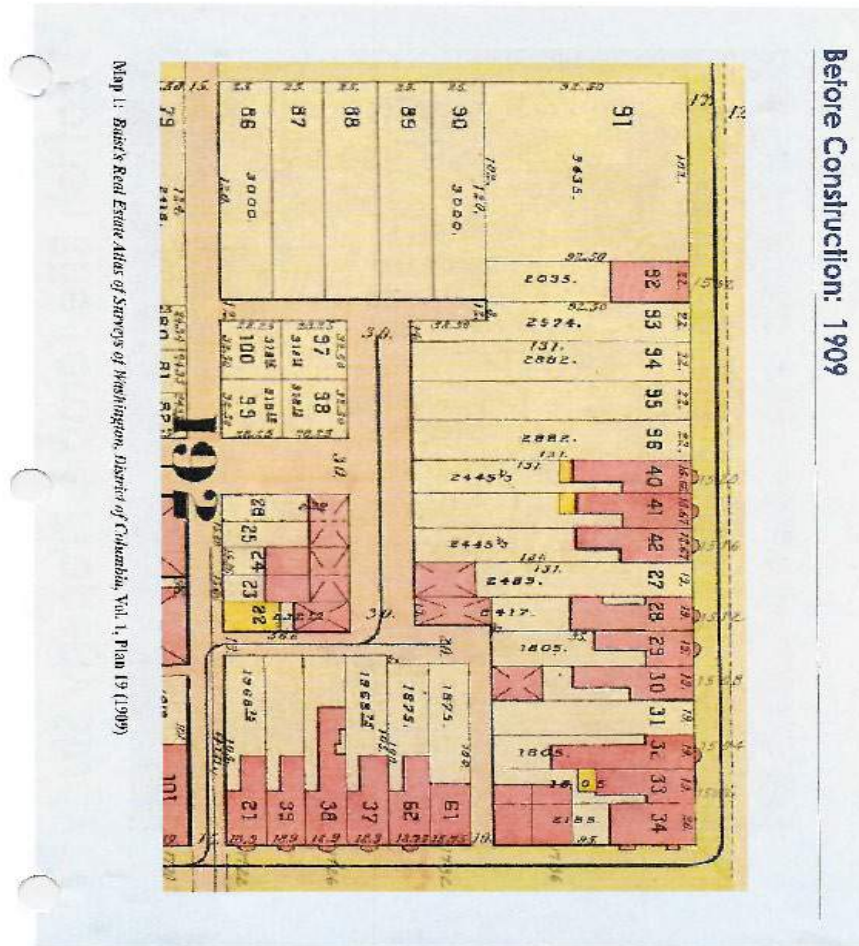
IN AUGUST 1911, plans were made to hold a very special and Masonically symbolic ceremony to lay the cornerstone of the House of the Temple. At the invitation of Sovereign Grand Commander James D. Richardson, J. Claude Keiper, Grand Master of the Grand Lodge of the District of Columbia, presided over the laying of the cornerstone.

On October 18, that year the corner

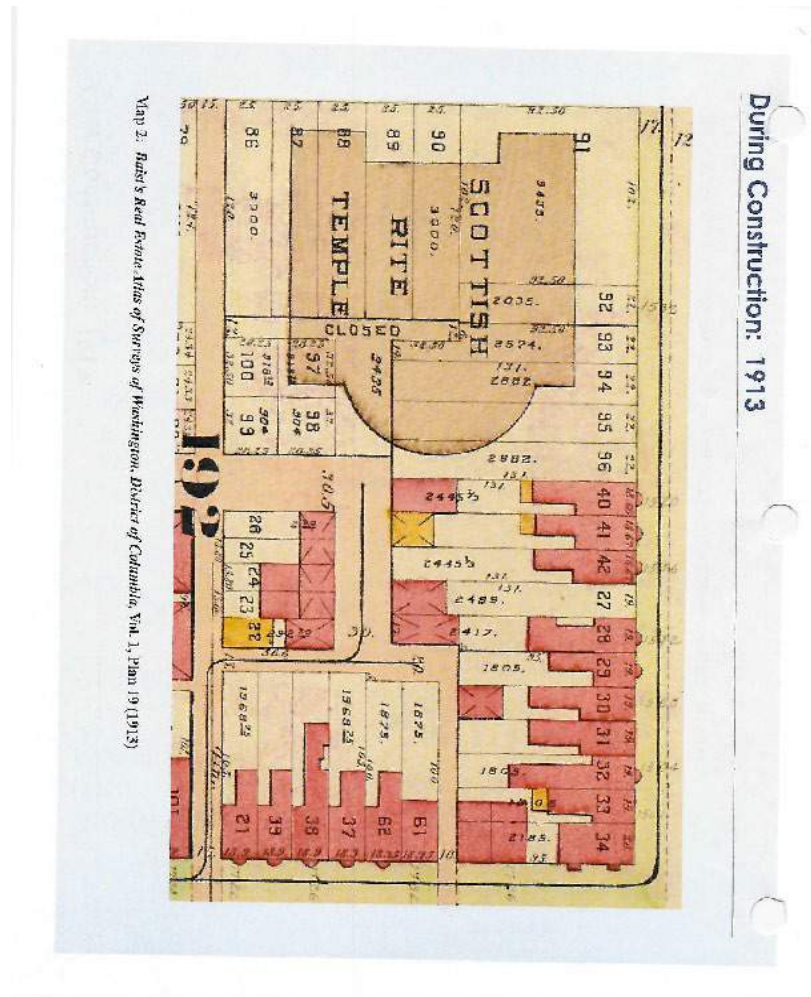




# Baist Map of Square 192 in 1909 Shortly Before Temple Construction Commenced Showing Vacant Lot Where Temple Is To Be Built



# Baist Map of Square 192 in 1913 During Construction Showing Outline of Temple



# **Rear Yard Insufficiently Deep In Violation of 11-F DCMR § 605.1**

- I now address the insufficient depth of the new rear yard.
- The Temple lot is zoned RA-9. 11-F DCMR § 605.1 requires a 1 to 3 ratio of rear yard depth to building height for RA-9 zones.
- The Luxury Project is designed to be constructed on the new proposed Eastern Lot six feet from the rear of the Temple.
- Thus, what is now the Temple's actual rear yard can no longer serve as the Temple's rear yard for zoning purposes because it would mean that the design would grossly violate the rear yard requirements of 11-F DCMR § 605.1.

# Rear Yard Insufficiently Deep

## Text of 11-F DCMR § 605.1

605.1 A minimum rear yard shall be established for lots in the RA-8, RA-9, and RA-10 zones as set forth in the following table:

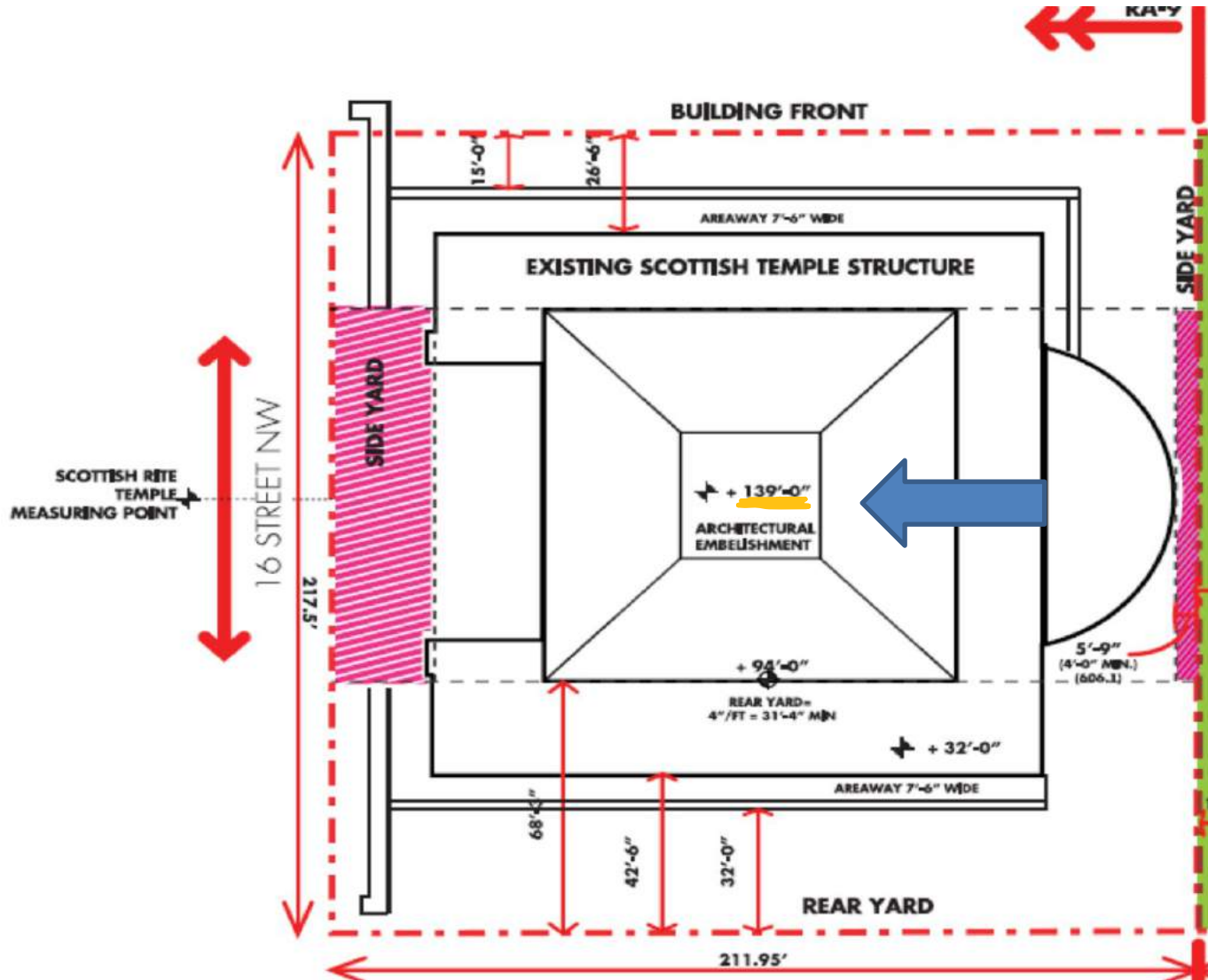
**TABLE F § 605.1: MINIMUM REAR YARD**

<i>Zone</i>	<i>Minimum Rear Yard</i>
RA-8	15 ft.; or A distance equal to 4 in. per 1 ft. of principal building height
RA-9	15 ft.; or A distance equal to 4 in. per 1 ft. of principal building height

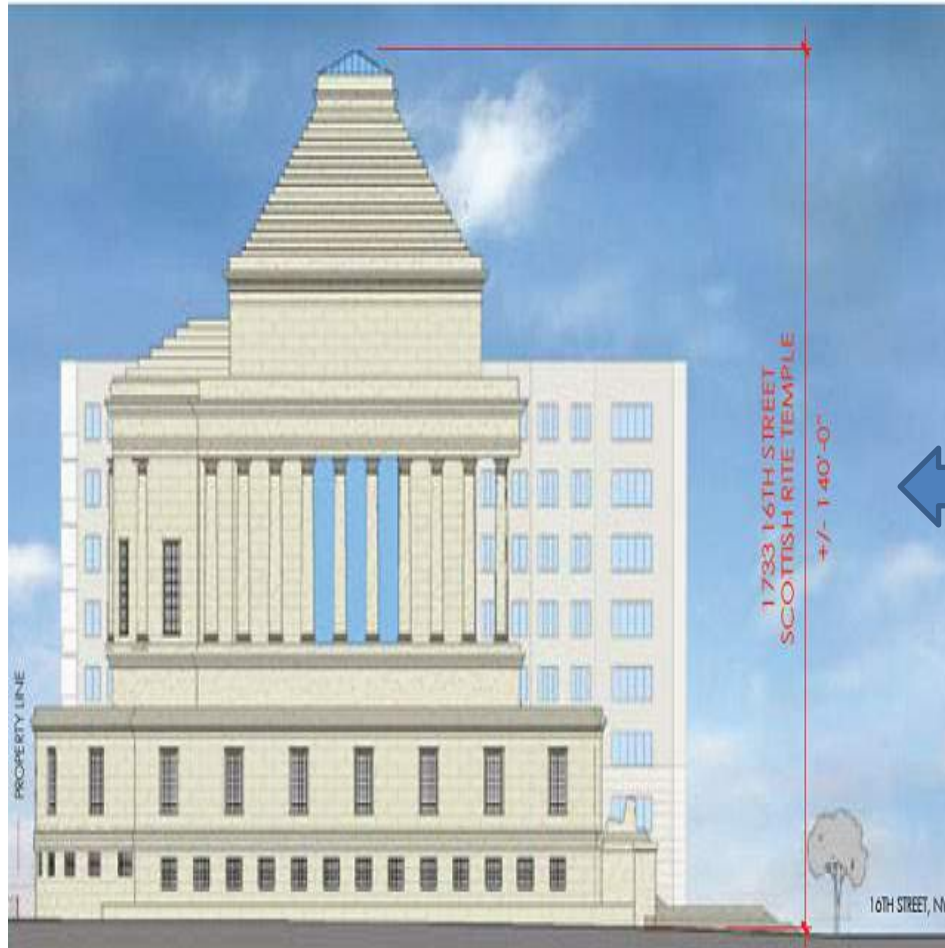
# Rear Yard Insufficiently Deep

- Perseus now attempts to evade this rear yard requirement by redesignating the S Street side as the “front,” so that the new rear yard is on the south side.
- This does not cure the violation of 11-F DCMR § 605.1
- The below diagram, which Perseus submitted to the HPRB, sets forth this attempt.

# Perseus' Diagram Showing Temple Height is 139'



# Prof. McCrery's Reply - Figure 2 at 5 From Perseus' Application to HPRB Showing Temple Height of "140' +/-"



# Necessary Depth of Rear Yard

- Perseus' own measurements establish that the Temple height is at least 139' and that the depth of the S Street areaway is 15'.
- Thus, to comply with 11-F DCMR § 605.1, the new rear yard, including the 15' depth of the S Street areaway, must be at least:

$$139' + 15' = 154'$$

$$1/3 \times 154' = 51'4''$$

- Not including the 15' depth of the S Street areaway, the new rear yard must be at least:

$$1/3 \times 139' = 46'4''$$

- However, as established by Perseus' own diagram calculations, the rear yard is at most only **42'6''** deep, even including the south areaway width.
- Thus, the new rear yard is insufficiently deep.



## **Perseus' Contentions Insufficient To Support Approval of Subdivision**

- Perseus attempts to whittle down the Temple's height and increase the depth of the rear yard.
  - It contends that the vertical depth of north areaway is not included in the height.
  - It contends that the south areaway is included in the depth of the rear yard measured from the property line.
- But even accepting these contentions, which are wrong, the Subdivision still violates 11-F DCMR § 605.1.

# Rear Yard Calculations Based On Perseus' Measurements

To comply with 11-F DCMR § 605.1, the depth of the rear yard must be 1/3 of the Temple's height

## Scenario 1

Temple Height measured from S Street (correctly including north areaway):  
154'

$$139 + 15 = 154'$$

$$1/3 \times 154' = 51'4''$$

Rear yard is 32' (42'6" deep, improperly including the south areaway):

**Result: In Either Case - Violation of 11-F DCMR § 605.1**

## Scenario 2

Temple Height measured from S Street (improperly excluding north areaway):  
139'

$$1/3 \times 139' = 46'4''$$

Rear yard is 32' (42'6" deep, improperly including the south areaway):

**Result: In Either Case - Violation of 11-F DCMR**

# Rear Yard Calculations Based On Perseus' Measurements (Cont'd)

## Scenario 3

Temple Height (16<sup>th</sup> Street) (improperly excluding north areaway):  
139'

$$1/3 \times 139' = 46'4''$$

Rear yard is 32' (42'6" deep, improperly including the south  
areaway):

Result: In Either Case - Violation of 11-F DCMR § 605.1

# 332 Ton Roof Is Not an “Architectural Embellishment”

## Definitions from Prof. McCrery Reply at 6

- Webster’s defines “**roof**” in relevant part as:
  - “**the outside cover of a building or structure including the roofing and all the materials and construction necessary to maintain the cover upon its walls or other support**”
  - “**the highest point or reach of something**”
- By contrast, Webster’s defines “**embellishment**” in relevant part as follows:
  - “the act or process of embellishing”
  - “something serving to embellish”
- Webster’s in turn defines “embellish” in relevant part as:
  - “to enhance [or] amplify . . . *with inessential but decorative or fanciful details.*”

# The Temple's 332 Ton Pyramidal Roof Is Not An Architectural Embellishment

- 11-C DCMR § 1501.3, mentioning “architectural embellishments,” is entitled “Penthouse Height” and is contained in Chapter 15 of Subtitle C, entitled “Penthouses.” It is limited to penthouses and does not apply here.
- Even assuming *arguendo* that 11-C DCMR § 1501.3 applies, that does not assist the District or Perseus because 11-C DCMR § 1501.3 unambiguously specifies that not all “domes” are “architectural embellishments.” 11-C DCMR § 1501.3 states:
  - “Architectural embellishments ***consisting of*** spires, towers, domes, minarets, and pinnacles may be erected to a greater height than any limit prescribed by these regulations or the Height Act, provided the architectural embellishment does not result in the appearance of a raised building height for more than thirty percent (30%) of the wall on which the architectural embellishment is located.” [Emphasis added.]

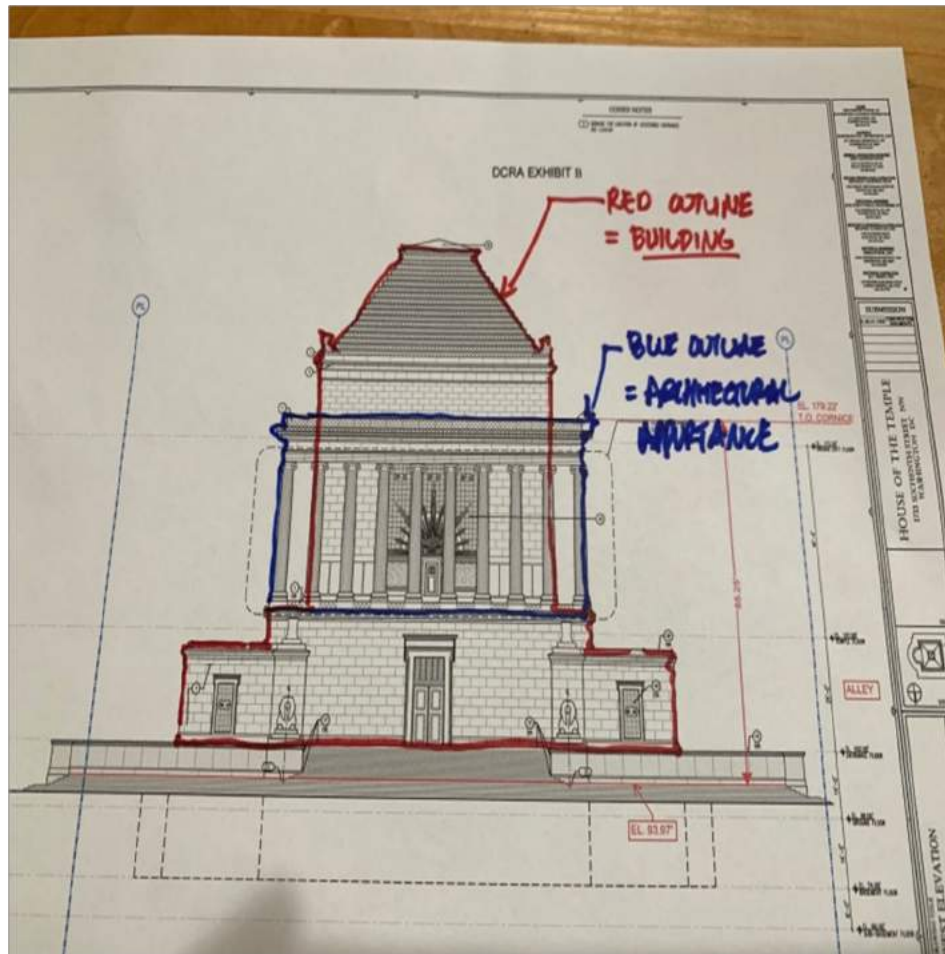
# The Temple's 332 Ton Pyramidal Roof Is Not An Architectural Embellishment

- Thus, for 11-C DCMR § 1501.3 to apply, the dome must be an “architectural embellishment.”
- The purpose of the “architectural embellishment” exception is to permit limited decorative detail to “embellish” a building. By analogy, a bow in a woman’s hair is a decorative detail, the head is not.
- By contrast, here the Temple’s pyramidal roof obviously does not fall within Webster’s definition of embellishment because it is clearly not an “inessential” “decorative or fanciful detail.” Rather, the roof is essential to the building to give it form and identity both inside and out, and to provide protection from the elements.

## **The Pyramidal Roof Has the Appearance of a Raised Building Height for More than 30% of the Temple Wall**

- Even assuming *arguendo* that the 332 ton roof is an architectural embellishment, 11-C DCMR § 1501.3 provides that an architectural embellishment is exempted from the height limitations **only if:**
  - **“the architectural embellishment does not result in the appearance of a raised building height for more than thirty percent (30%) of the wall on which the architectural embellishment is located.”** [Emphasis added.]

# Prof. McCrery's Reply – Fig. 11 at p. 21 Showing Roof Has Appearance of Raised Building Height for More Than 30% of the Temple Wall on Which It Sits

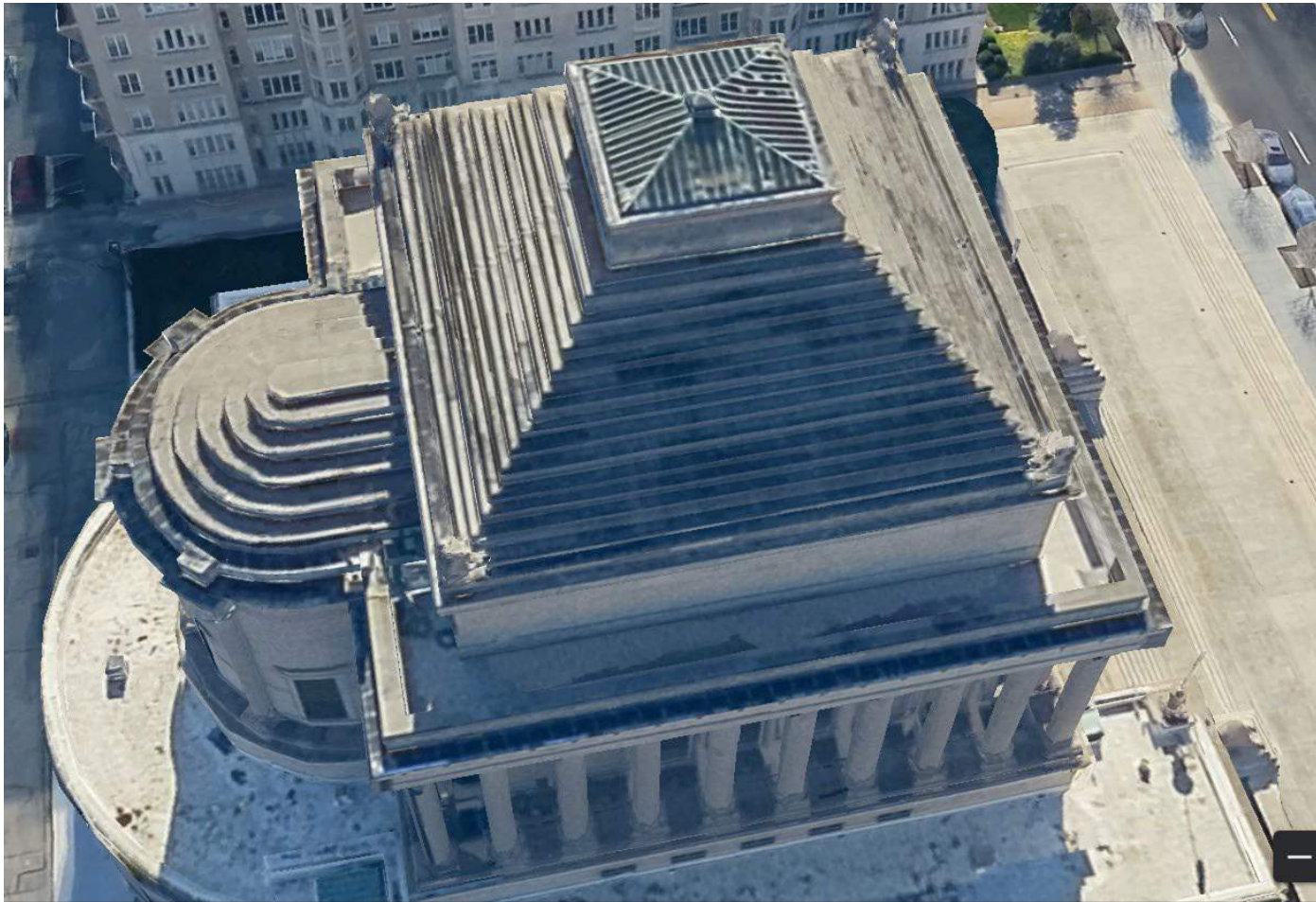




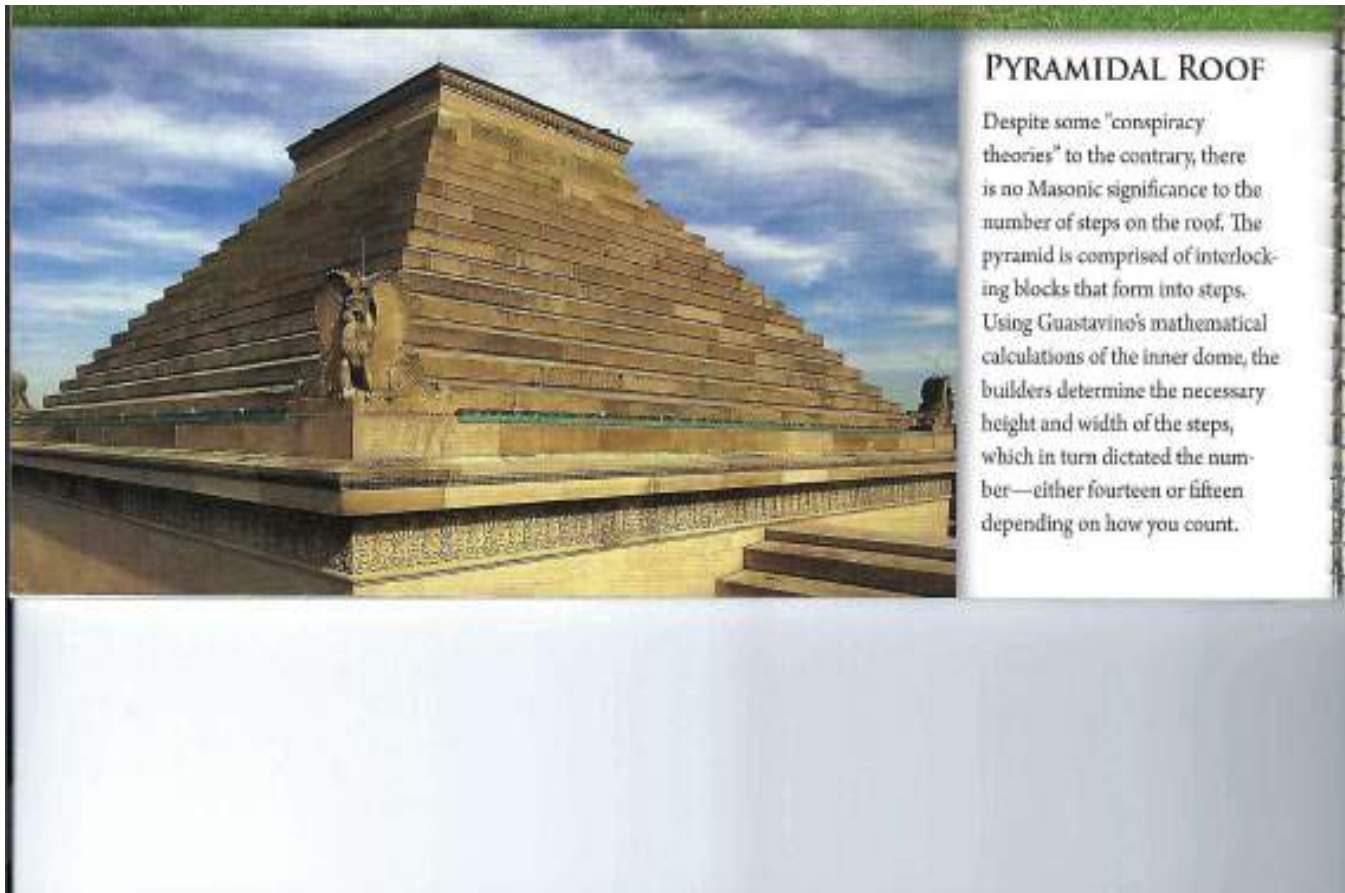
# Arguments That Roof Does Not Give Appearance of Raised Building Height Are Meritless

- *First*, Perseus' claim that "dome is not located on a wall" is totally false as previous diagram showed.
- *Second*, Perseus' argument that "because the dome is stepped, each step sets back from the wall on which it is located and thus does not result in the appearance of a raised height of more than 30% of the wall upon which the step is located" literally makes no sense. Perseus' argument literally means the Temple has no roof.
  - Each step is obviously not a wall, and even if it were, each "step" would comprise more than 30% of the wall on which it sits. The below picture of the Temple's roof establishes this fact:

# Prof. McCrery's Reply – Fig. 12 at p. 22 Showing Temple Roof



# Excerpts from “Guidebook to House of the Temple” (Submitted with DECAA’s April 2020 Supp.) Showing “Pyramidal Roof”



# Perseus and Mason's Attempts To Escape The Rear Yard Requirements Fail

- These attempts fall into 5 categories
  - Building Height Act
  - Previous Approvals of Other Buildings
  - Changing the Height of Temple
  - Vertical Depth of Areaway at New S Street Front Not Included in Height
  - Width of Areaway in New Rear Yard Not Included in Depth of Rear Yard

## Perseus' First Attempted Misdirection Meritless Building Height Act Argument

- First, Perseus claims that: “If the [Temple] dome had not been considered an embellishment and instead been included in the Temple’s building height, approval to exceed the Height Act maximum of 130 feet *would have required an amendment to the Height Act* specifically granting an exemption for the Temple Lot.” Perseus Opp. 11 (emphasis added).
- This contention is flatly wrong, and the BHA itself belies that contention, as I previously established in my Reply at pages 9-10.

## Building Height Act § 5 Excerpt

- “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***[.]” BHA § 5 [Emphasis added.]
- BHA does not mention “architectural embellishments,” which is a later zoning construct not found anywhere in the BHA

# Masons' App. for Permit to Build - Prof. McCreery Supp. Ex. 1

Form No. 1-1-1922  
 No. 1000 of 1922  
 Price 15¢

ALL OUT APPLICATION IN COPYING INK

APPLICATION FOR PERMIT TO BUILD

Washington, D. C. July 10, 1922

To the INSPECTOR OF BUILDINGS:

I, the undersigned, do hereby apply for a permit to build according to the following specifications:

1. What is the name of the owner? John McCreery, 1111 Pennsylvania Avenue, N.W., Wash. D.C.
2. What is the address of the property? 1111 Pennsylvania Avenue, N.W., Wash. D.C.
3. What is the nature of the work? Remodeling of existing building
4. What is the name of the architect? John McCreery, 1111 Pennsylvania Avenue, N.W., Wash. D.C.
5. Has a plan been filed with the Surveyor and building laws department as required by Sec. 2206? Yes
6. What is the number of the plan? 192
7. How many stories will be built? One
8. Number of stories to be kept? None
9. What is the proposed use of the building? Office and work
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Signature: John McCreery

Inspector of Buildings: John McCreery

1111 Pennsylvania Avenue, N.W., Wash. D.C.

# Masons' App. for Permit to Build - Prof. McCrery Supp. Ex. 1 (Expanded)

Form 500 E. D.-2M-8-16-10

No. Brick Required 5 000 M. Permit No. 1527 R. 1520

FILL OUT APPLICATION IN COPYING INK

## APPLICATION FOR PERMIT TO BUILD

Washington, D. C., July 10 1911

To the INSPECTOR OF BUILDINGS:

The undersigned owner hereby applies for a permit to build according to the following specifications:

1. What is the owner's name? Supreme Council 5441 of the P. M. Masons Southern Jurisdiction of the U. S.
2. What is the architect's name? John Russell Pope - New York, N.Y.
3. What is the builder's name? Anonymous Bros. Address Colonial Bldg. Washington, D. C.  
Street 16<sup>th</sup> N.W. - S.
4. What is the house number? + Avenue \_\_\_\_\_
5. Has a plat been obtained from the Surveyor's office and building been located thereon as required by Sec. 26 Yes.
6. What is the number of lot? 86 to 97-100 front block 192 subdivision N. W.  
of 98-99-100 alleys.
7. State how many buildings to be erected One
8. Number of stories in height Three Material stone and brick.
9. If of frame, will the proposed structure be within 24 feet of any brick building?
10. Size of lot: Front 217'-6"; rear 217'-6"; depth 212'-0"
11. Size of main building: Width 149'-0"

*Check to name of 1*



# Masons' App. for Permit to Build - Prof. McCrery Supp. Ex. 1 (Expanded)

*L. J. Robinson*  
*K 1733*

10. Size of lot: Front 217'-6"; rear 217'-6"; depth 212'-0"

11. Size of main building: Width of front 149'-8"; No. of feet deep 181'-2"

12. Size of back building: No. of feet wide \_\_\_\_\_; No. of feet long \_\_\_\_\_; No. of feet high \_\_\_\_\_  
 No. of feet in height from level of sidewalk to highest part of roof at front 137'-5 $\frac{3}{4}$ "  
 No. of feet in height from sidewalk to eaves at back \_\_\_\_\_; average height \_\_\_\_\_

13. What is the purpose of the building? Masonic If a dwelling, for how many families? No

14. Will there be a store in the lower story? No Nature of business to be conducted? Masonic

15. Will the building be erected on solid or filled land? solid; material of foundation reinforced p.c. concrete  
 Width of foundation 39'-0"; thickness 4'-0"; No. of brick footing \_\_\_\_\_

16. Thickness of external walls: To first floor level 3-8"; 1st story 4-9"; 2d story 4-9"; 3d story 2-0"  
 4th story \_\_\_\_\_; 5th story \_\_\_\_\_; 6th story \_\_\_\_\_; 7th story \_\_\_\_\_; 8th story \_\_\_\_\_; 9th story \_\_\_\_\_

17. Thickness of party walls: To first floor level \_\_\_\_\_; 1st story \_\_\_\_\_; 2d story \_\_\_\_\_; 3d story \_\_\_\_\_  
 4th story \_\_\_\_\_; 5th story \_\_\_\_\_; 6th story \_\_\_\_\_; 7th story \_\_\_\_\_; 8th story \_\_\_\_\_; 9th story \_\_\_\_\_

18. What will be the material of the front? stone If stone, what kind? Indiana limestone

19. Will the roof be flat, pitch, or mansard? pitch; material of roofing stone; access to roof iron stairs

20. Will there be any projections beyond the building line? No; Have they been approved? \_\_\_\_\_

21. Projection of main steps from building line Part of Terrace cellar step projection \_\_\_\_\_ how projected \_\_\_\_\_

22. Are there any bay windows? No; height \_\_\_\_\_; width \_\_\_\_\_; projection \_\_\_\_\_

23. Are there any oriels? No; height \_\_\_\_\_; width \_\_\_\_\_; projection \_\_\_\_\_

24. Are there any tower projections? No; height \_\_\_\_\_; width \_\_\_\_\_; projection \_\_\_\_\_

25. Are there any show windows? No; form \_\_\_\_\_; width \_\_\_\_\_; projection \_\_\_\_\_

26. Are there vaults? No; depth \_\_\_\_\_; length \_\_\_\_\_; width \_\_\_\_\_

# Masons' App. for Permit to Build - Prof. McCrery Supp. Ex. 1 (Expanded)

26. Are there vaults? No; depth \_\_\_\_\_; length \_\_\_\_\_; width \_\_\_\_\_
27. Will there be an area? \_\_\_\_\_; width \_\_\_\_\_; projection \_\_\_\_\_; how protected \_\_\_\_\_
28. Are there any elevator shafts? Two; how protected in brick walls.
29. How will the building be heated? steam; will the building be wired for electric lighting or power? Yes. ✓
30. What is the height of first floor above sidewalk or parking? 12'-0"
31. Has the curb grade been obtained from engineer of highways? Yes.
32. What is the height of the present terrace or parking above curb? level
33. Is any change proposed in this height of terrace or parking? raised 4'-5 1/2" on 16" st post.
34. Is there a sidewalk, curbing, or improved roadway in front of proposed structure? Yes.
35. Has availability of sewer been ascertained from Superintendent of Sewers? Yes.
36. Have deposited \$300.00 as required by order of Commissioner to cover cost of any damage to public property.
37. Collector's receipt for above deposit, No. 24673, date June 11-1911
38. What is the estimate cost of the improvement? \$1,100,000.00

See file E.D. 96650  
for authority for dgst.

A certificate must be obtained from the Plumbing Inspector before this application will be considered by the Inspector of Buildings.

275<sup>00</sup>

Sign here. →

SIGNATURE OF OWNER Samuel Dufrenoy, Leavelle, Leathick, Robt. Masons  
Southern Preservation United States X

APPLICANT by James D. Richardson, Agent

ADDRESS 433 - 5<sup>th</sup> St. N.W.  
Washington D.C.

# Masons' Permit to Build Approved By "Commissioners DC" (Prof. McCrery Supplement Exhibit 2)

NO PROJECTIONS BEYOND THE BUILDING LINE.

Form 501 E. D. - 4 M. 7-1-20 R. 108

No. brick required *5 million* Permit No. *1527*

## PERMIT TO BUILD

OFFICE OF INSPECTOR OF BUILDINGS  
DISTRICT OF COLUMBIA

Walls shall not be erected to a greater height than (12'-0") above footings until their correct location is certified by Surveyor D. C., See Sec. 27, Building Regulations.

This is to Certify, That *Supreme Council Scottish Rite* has permission to erect *one 3 story brick stone masonic temple* on *lot 2 block 192 square subdividing* No. *S. 6. Cor. 16th + D. Sts, NW*

HOUSE NUMBER MUST BE VERIFIED BEFORE BEING PLACED ON BUILDINGS

in accordance with application No. *1527* and drawings on file in this office, and subject to the provisions of the Building Regulations of the District.

The right is reserved to examine the buildings as often as may be necessary while in course of erection, and order any change in the construction that may be deemed requisite to insure sufficient strength, solidity and safety from fire.

This permit grants no right to change the grade or formation of any public terrace, parking, or pavement; nor to build leads, coping or terrace steps outside the building line.

Permission is granted to lay a plank roadway across pavement. Deposit has been made to repair pavement, clean roadway, and to cover cost of any damage to public property.

Deposit *24673* Amount, \$ *300*

By Order of the Commissioners, D. C. *June 11/11*  
*Morris Blacker*  
Inspector of Buildings.

Fee Paid, \$ *275.00*  
*approval is for building only, does not cover terrace or approach steps.*

Water used through meter.

It is a condition of this permit that the owner of the building shall be notified the day of the issuance of this permit.

RELEASED

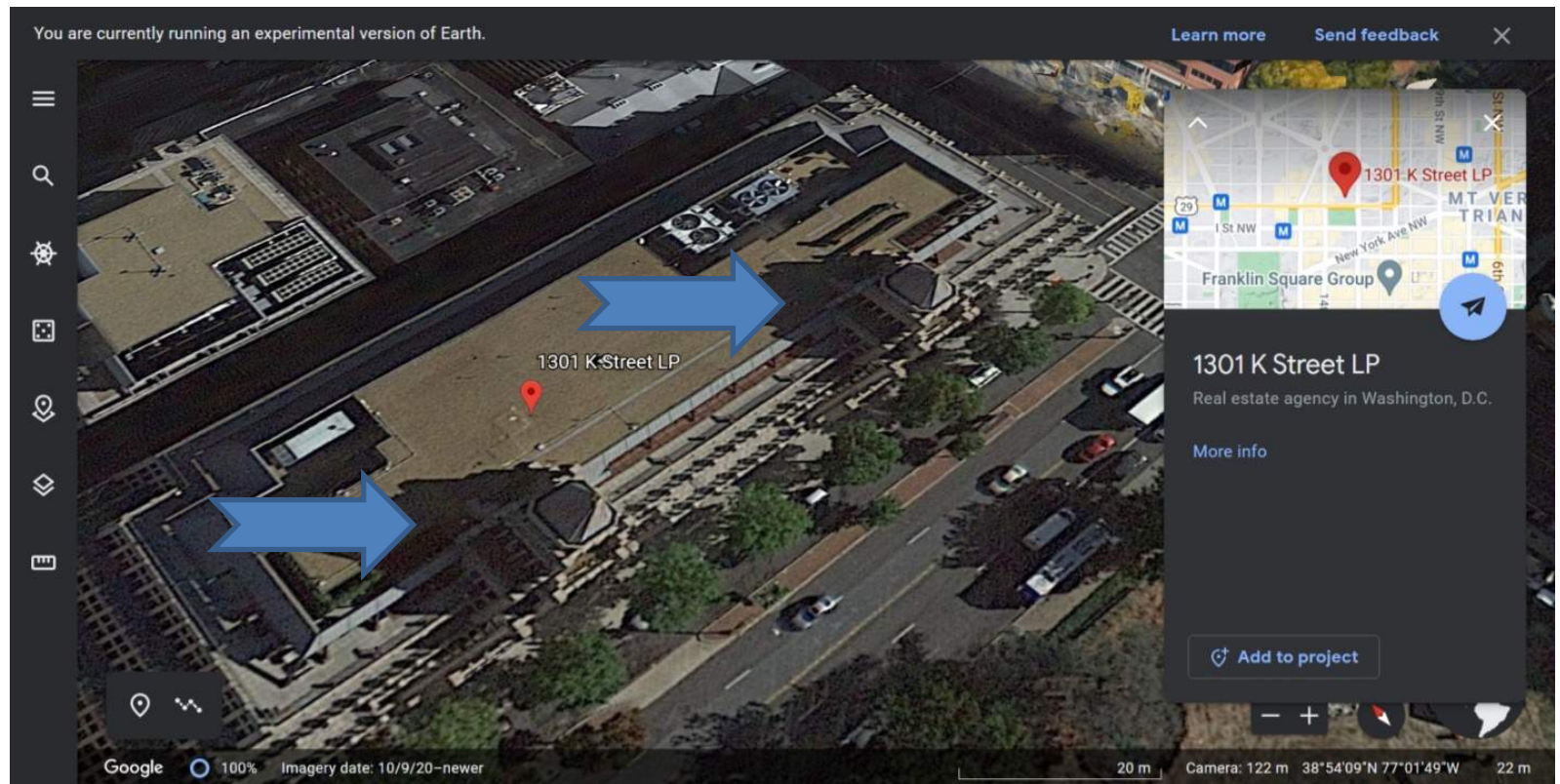
“This is to Certify, That Supreme Council Scottish Rite has permission to erect” the Temple “in accordance with application No. 1527 . . . By Order of the Commissioners DC.”

## **Perseus' Second Attempted Misdirection Prior Height Approvals**

- *Second*, the examples of buildings with embellishments Perseus and the Masons offer, even assuming they were approved under 11-C DCMR § 1501.3, are radically different from the present case.
- Perseus' examples and other examples show embellishments that do not occupy the entire roof, but are minor additions, and unlike the Temple's dome, do not constitute the entire roof.

# Prof. McCrery's Reply - Figure 2 at p.8

## Example of Embellishment



# Prof. McCrery's Reply - Figure 4 at p. 10

## 1331 F Street, NW



# Prof. McCrery's Reply - Figure 5 at p. 10

## Example of Embellishment



# Prof. McCrery's Reply - Figure 6 at p. 10

## Example of Embellishment





## Zoning Determination Letter for 1920 N Street at 2-3 Articulates Some of the Relevant Criteria

- “The Embellishment is also separate from, has no direct communication with, and is ***below the height of the project’s roof structure . . . .***”
- “As mentioned above, the Embellishment comprises approximately 5,200 square feet of area. The roof area of the building is approximately 43,000 square feet. ***Therefore, the Embellishment comprises approximately twelve percent (12%) of the roof area, and an even smaller percentage of the building footprint.***”

[Emphasis added.]

## Perseus' Third Attempted Misdirection Chipping Away at Height of Temple

- Perseus makes two attempts to chip away at 139' height of Temple that it previously provided to Zoning Administrator.
- *First*, Perseus submits new documents not before Zoning Administrator claiming height is 134' 6".
- *Second*, Perseus claims that the Temple's height is not measured from new S Street "front" of building, but from 16<sup>th</sup> Street to avoid having to include the vertical depth of the S St. areaway.
- Both are meritless.

## **Response to Perseus' Third Attempted Misdirection The Height of the Temple From 16<sup>th</sup> Street Is Measured from the Sidewalk Level, Not Five Feet Up the Stairs to the Temple.**

- First, Perseus attempts to chip away at the Temple's legitimate height by offering another height calculation from 16th Street, claiming that the height is 134' 6".
  - This calculation was not before the Zoning Administrator and thus cannot be considered.
- In any event, this contention is erroneous. To reach this calculation, Perseus assumes that 16<sup>th</sup> Street is the proper location from which to take the measurement, which it is not, if the rear yard is to the south of the Temple, and does not measure from the sidewalk level, as 11-B DCMR § 308.2 requires. Instead, it begins its measurement approximately 5' higher up the stairs at the front of the building.

**Prof. McCrery's Reply - Figure 8 at p. 13  
Showing Improper Location of Perseus 134' 6" Measurement**

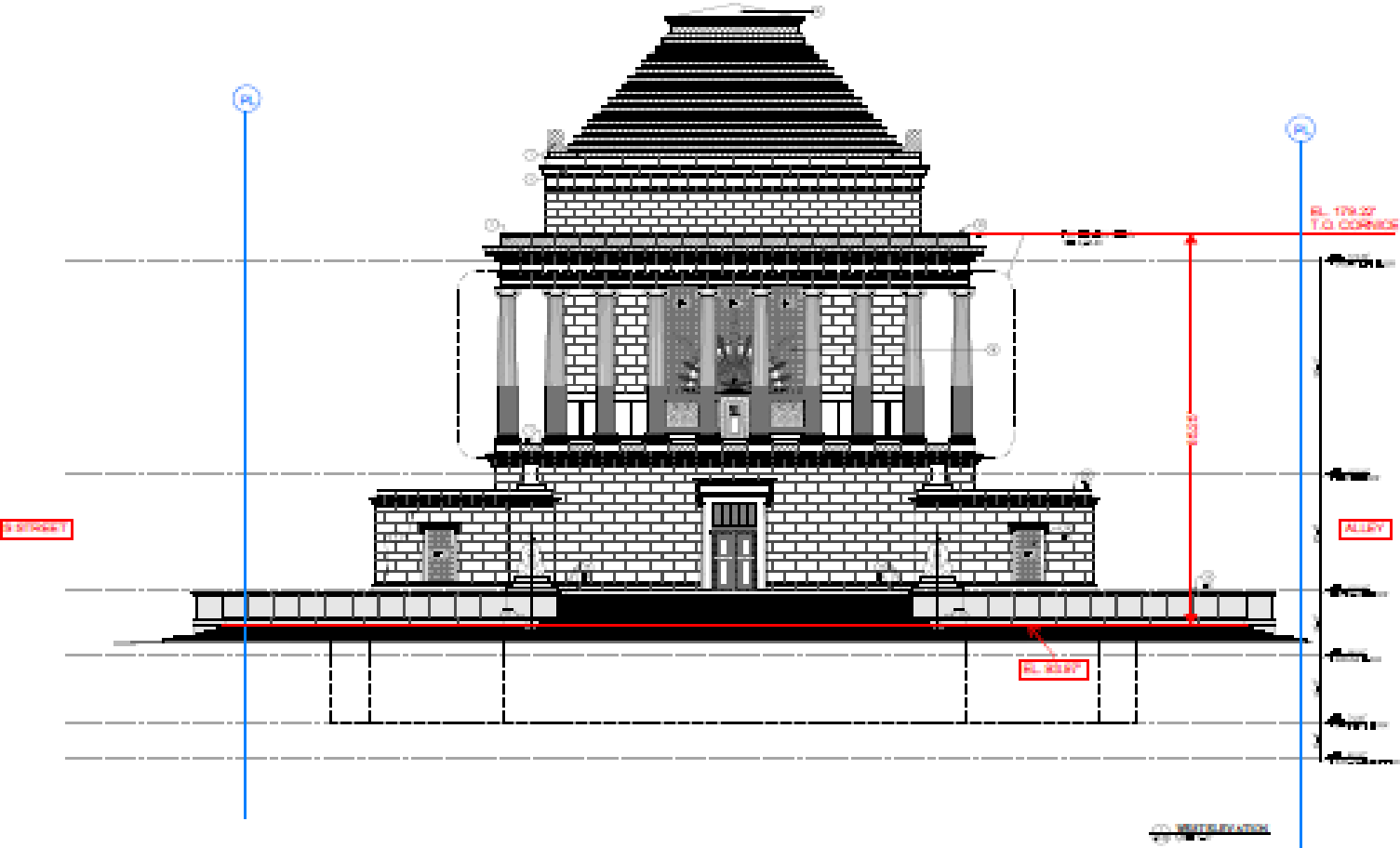


# Perseus Ex. B

(Not Before Zoning Administrator)

LANDMARKS  
CITY OF WASHINGTON

Temple Height - Measured from 16th Street NW



# **Perseus' Fourth Attempted Misdirection Excluding the Vertical Depth of the S Street Areaway**

- In an effort to avoid including the vertical depth of the S Street areaway in the height of the Temple, Perseus claims the height should be measured not from the Temple's newly designated "front" on S St., but from a different "street frontage" on 16<sup>th</sup> Street.
- No documents where before the Zoning Administrator in which Perseus made the "street frontage" claim, so there is no basis to consider it.
- In any event, this argument is clearly contrary to the Zoning Regulations and common sense.

**Response to Perseus' Third Attempted Misdirection  
The BMHP Must Be Calculated From S St. Which  
Is the Side Designated As The "Front"**

- The most reasonable interpretation of the Zoning Regulations is that, once an applicant has determined the "front" of the building, that is the front of the building for both BMHP and rear lot line determination purposes.

## Response to Perseus' Third Attempted Misdirection The Temple's Height Is Measured From The Temple's Designated Front Per 11-B DCMR § 308.7

- “If a building fronts on more than one (1) street, any front may be used to determine street frontage; ***but the basis for measuring the height of the building shall be established by the street selected as the front of the building.***” [Emphasis added.]
- Section 308.7 **does not** say the height is measured from the “street frontage.”



## Response to Perseus' Third Attempted Misdirection Measurement Principles

- The BMHP cannot be measured from 16<sup>th</sup> Street as the Temple “front,” unless the rear yard is to the east of the Temple, which will mean that the Temple will have almost no rear yard.
- As to the rear yard, the term “rear” is not defined in the Zoning Regulations.
- Thus, we look to Webster’s Unabridged Dictionary for a definition. See 11-B DCMR § 100.1(g).
- Webster’s defines “rear” in pertinent part as “*the part of something that is located opposite to its front,*” not opposite its “street frontage.” [Emphasis added.]

## Perseus' Fourth Attempted Misdirection Improper Attempt to Exclude the Vertical Depth of S Street Areaway From Temple's Height

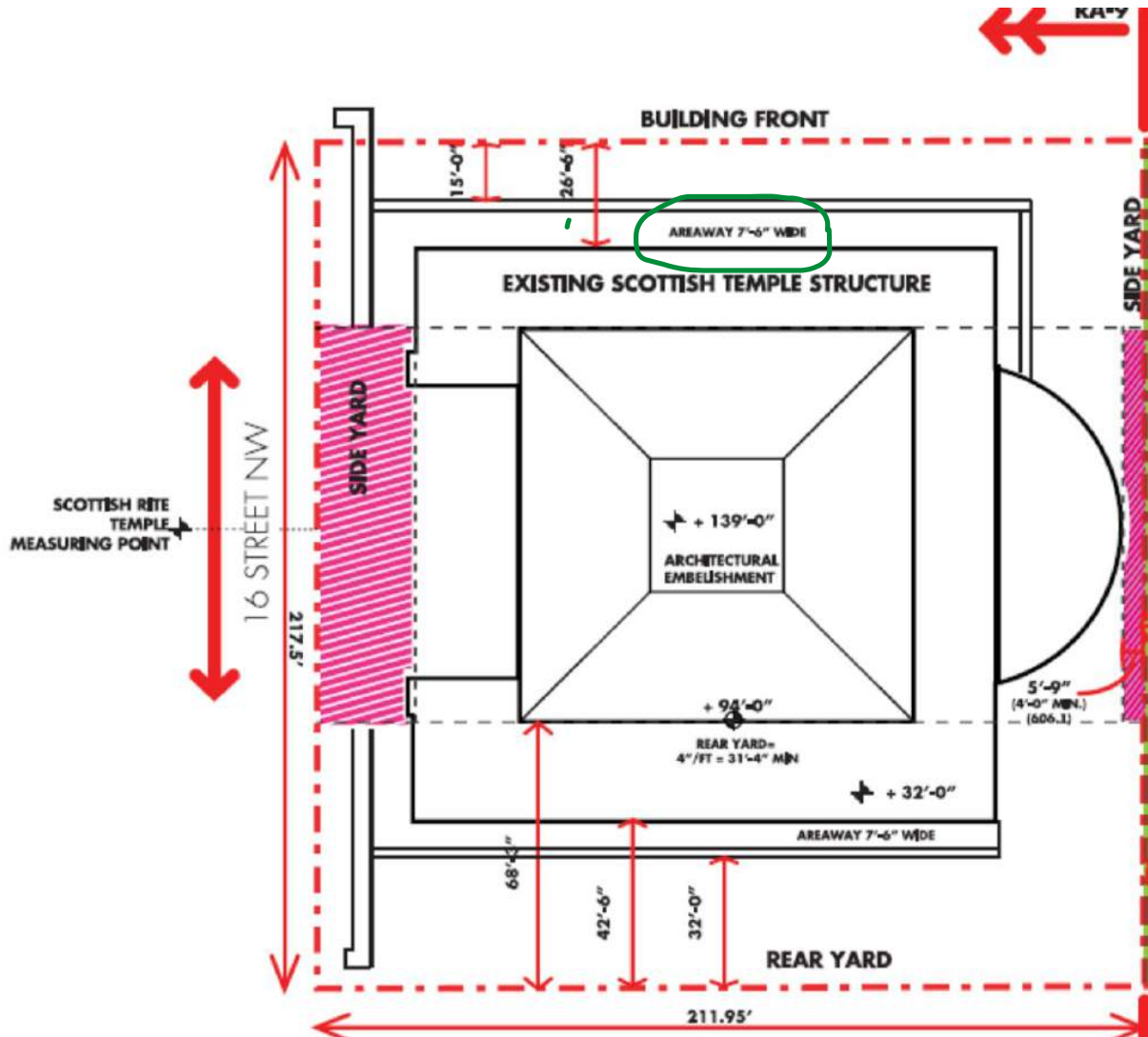
- The vertical depth of the S Street areaway must be included in the BHMP.
- 11-B DCMR § 308.2 states: “The building height measuring point (BHMP) shall be established at the adjacent natural or finished grade, *whichever is the lower in elevation* [.]”
- 11-B DCMR § 100.2 defines exceptions to grade:

Grade, Exceptions to: The following are exceptions to “Finished Grade” and “Natural Grade” as those terms are defined below . . . (b) *An areaway that provides direct access to an entrance and, excluding associated stairs or ramps, projects no more than five feet (5 ft.) from the building face.* [Emphasis added.]

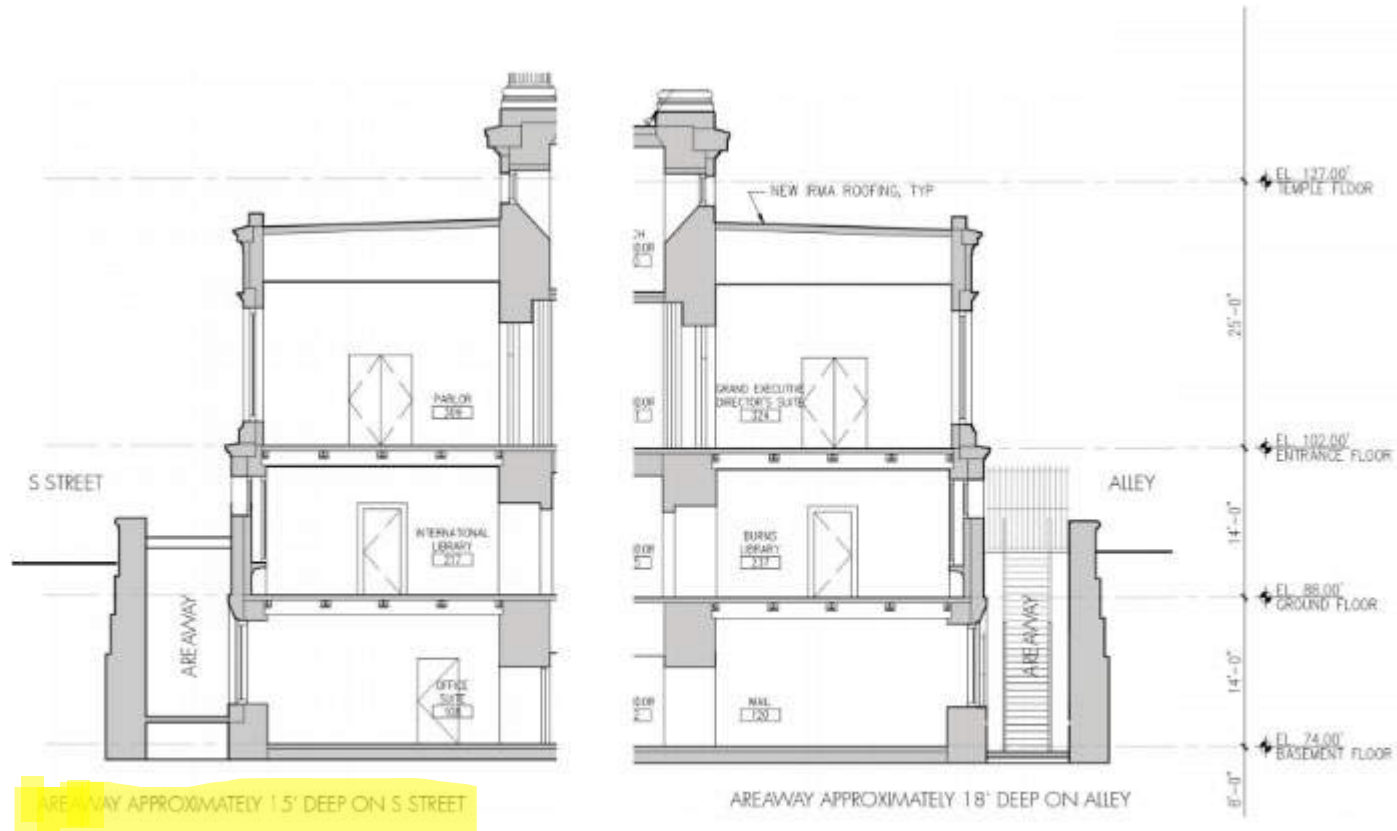
**If the South Side of the Temple Is To Be Used as the Rear Yard, Then the Vertical Depth of the Areaway on the North Side (S St. Side) Cannot Be Excluded from the BMPH**

- The below diagram shows that the areaway circled in green at the redesignated “front” on S Street is more than 7’6” wide from front to back.
- Thus, the BHMP must be measured from the base of the areaway.

# Perseus' Diagram Showing North Areaway Is 7' 6" Wide



# Perseus Diagram Showing Vertical Depth of S Street Areaway Is 15'



# **Minimum Depth of Rear Yard Including Vertical Depth of North Areaway**

$$139 + 15 = 154'$$

$$1/3 \times 154 = 51'4''$$

## **Perseus' Fifth Attempted Misdirection Misguided Argument That The Width of the South Areaway Must Be Included in the Rear Yard Depth.**

- Perseus argues the width of the South Areaway must be included in the new rear yard depth.
- The width of the areaway in the new rear yard (7'6") cannot be included in calculating the depth of the new rear yard.
- In this regard, the depth of the redesignated "rear yard" is measured from the southern edge of the areaway to the south property line.
- The "rear yard" must exclude the areaway, per the definitions of "Yard" and "Rear Yard".

## 11-B DCMR § 100.2 (Definitions)

- “Yard, Rear: A yard between the rear line of a building ***or other structure*** and the rear lot line, except as provided elsewhere in this title. The rear yard shall be for the full width of the lot and shall be unoccupied, except as specifically authorized in this title. “
- “Yard, rear, depth of: The mean horizontal distance between the rear line of a building and the rear lot line, except as provided elsewhere in this title.”
- *Reading these definitions together, it is apparent that the “rear yard” does not include the areaway because the areaway is a “structure.”*



# Definition of Structure

- 11-B DCMR § 100.2 defines “Structure as follows”:
  - “Structure: ***Anything constructed, including a building, the use of which requires permanent location on the ground, or anything attached to something having a permanent location on the ground*** and including, among other things, radio or television towers, reviewing stands, platforms, flag poles, tanks, bins, gas holders, chimneys, bridges, and retaining walls. The term structure shall not include mechanical equipment, but shall include the supports for mechanical equipment. Any combination of commercial occupancies separated in their entirety, erected, or maintained in a single ownership shall be considered as one (1) structure.” [Emphasis added.]

# Picture of South Araway Structure

## Prof. McCrery's Reply - Figure 10 at p. 19



***Adams Morgan for Reasonable Development,***  
**BZA Case No. 18888**

- In that case, the Board addressed whether “the garage ramp and below-grade garage” violated the provision that “the rear yard “shall be unoccupied,” not how the depth of the rear yard is to be measured.
- “AMFRD’s appeal states ‘the Ontario project impedes onto the rear yard requirements as shown on the record, and noted by the Office of Planning, that half of the rear yard is taken up by the ramp structures leading down to the subterranean garage.’”

# Google Earth Photo Showing Lot Line, Existing Parking Lot & Loading (DECAA Pre-H Stat)



# Photo of Loading Berth Dock (DECAA Pre-Hearing Statement)



# Appellants' Exhibit No. 51 - SubTitle C 701.5

Firefox

<https://online.encodeplus.com/regs/washington-dc/doc-view.aspx?priar=1>

701.5 Except as provided for in Subtitle C § 702, parking requirements for all use categories are as follows (all references to "sq. ft." refers to square feet of gross floor area as calculated in Subtitle C § 709):

TABLE C § 701.5: PARKING REQUIREMENTS	
Use Category	Minimum number of vehicle parking spaces
Agriculture, large	1.67 per 1,000 sq. ft.
Agriculture, residential	None
Animal sales, care and boarding	1 per 1,000 sq. ft. in excess of 3,000 sq. ft.
Antennas	None
Arts, design, and creation	1 per 1,000 sq. ft. in excess of 3,000 sq. ft.
Basic utilities	0.33 per 1,000 sq. ft. in excess of 3,000 sq. ft.
Chancery	0.5 per 1,000 sq. ft. in excess of 3,000 sq. ft., or as determined by the Foreign Mission Board of Zoning Adjustment.
Community-based institutional facility	1 per 1,000 sq. ft.
Daytime care	0.5 per 1,000 sq. ft. with a minimum of 1 space required.
Eating and drinking establishments	1.33 per 1,000 sq. ft. in excess of 3,000 sq. ft. A minimum of 1 parking space shall be required for a food delivery service.
Education, college/university	For each building: 2 for each 3 teachers; plus either 1 for each 10 classroom seats or 1 for each 12 stadium seats or 1 for each 10 auditorium seats, whichever is greater, except if a campus plan has been approved by the Zoning Commission or the Board of Zoning Adjustment for the college or university, in which case the parking shall be provided as set forth in the approved campus plan.
Education, private	Elementary and middle school: 2 for each 3 teachers and other employees; High school and accessory uses: 2 for each 3 teachers and other employees, plus either 1 for each 20 classroom seats or 1 for each 10 seats in the largest auditorium, gymnasium or area usable for public assembly, whichever is greater.
Education, public	0.25 per 1,000 sq. ft.
Emergency shelter	0.5 per 1,000 sq. ft.
Entertainment, assembly, and performing arts	2 per 1,000 sq. ft.
Firearm sales	1.33 per 1,000 sq. ft. in excess of 5,000 sq. ft.
Government, large-scale	None
Government, local	0.5 space per 1,000 sq. ft. in excess of 2,000 sq. ft. with a minimum of 1 space required, except: Public recreation and community center: 0.25 space per 1,000 sq. ft. in excess of 2,000 sq. ft. with a minimum of 1 space required; and Kiosk public library - no requirement
Institutional, general	1.67 per 1,000 sq. ft. in excess of 5,000 sq. ft.
Institutional, religious	1 for each 10 seats of occupancy capacity in the main sanctuary, provided, that where the seats are not fixed, each 7 sq. ft. usable for seating or each 18 in. of bench if benches are provided shall be considered 1 seat.
Lodging	0.5 per 1,000 sq. ft. in excess of 3,000 sq. ft.
Medical care	1 per 1,000 sq. ft. in excess of 3,000 sq. ft., with a minimum of 1 space required.
Marine	0.5 per 1,000 sq. ft.
Motor vehicle-related	2 per 1,000 sq. ft.
Office	0.5 per 1,000 sq. ft. in excess of 3,000 sq. ft., except: a medical or dental office, clinic, or veterinary hospital: 1 per 1,000 sq. in excess of 3,000 sq. ft.
Parking	None
Parks and recreation	0.5 per 1,000 sq. ft.
Production, distribution, repair	1 per 1,000 sq. ft. in excess of 3,000 sq. ft., except warehouse or storage facility - 1 per 3,000 sq. ft.
Residential, single dwelling unit	1 per principal dwelling.
Residential, flat	1 per 2 dwelling units.
Residential, multiple dwelling unit	1 per 3 dwelling units in excess of 4 units, except: 1 per 2 dwelling units for any R or RF zone; 1 per 6 units of publicly assisted housing, reserved for the elderly and/or handicapped.
Retail	1.33 per 1,000 sq. ft. in excess of 3,000 sq. ft.

# Photo Taken from S Street Showing the Tree Mound

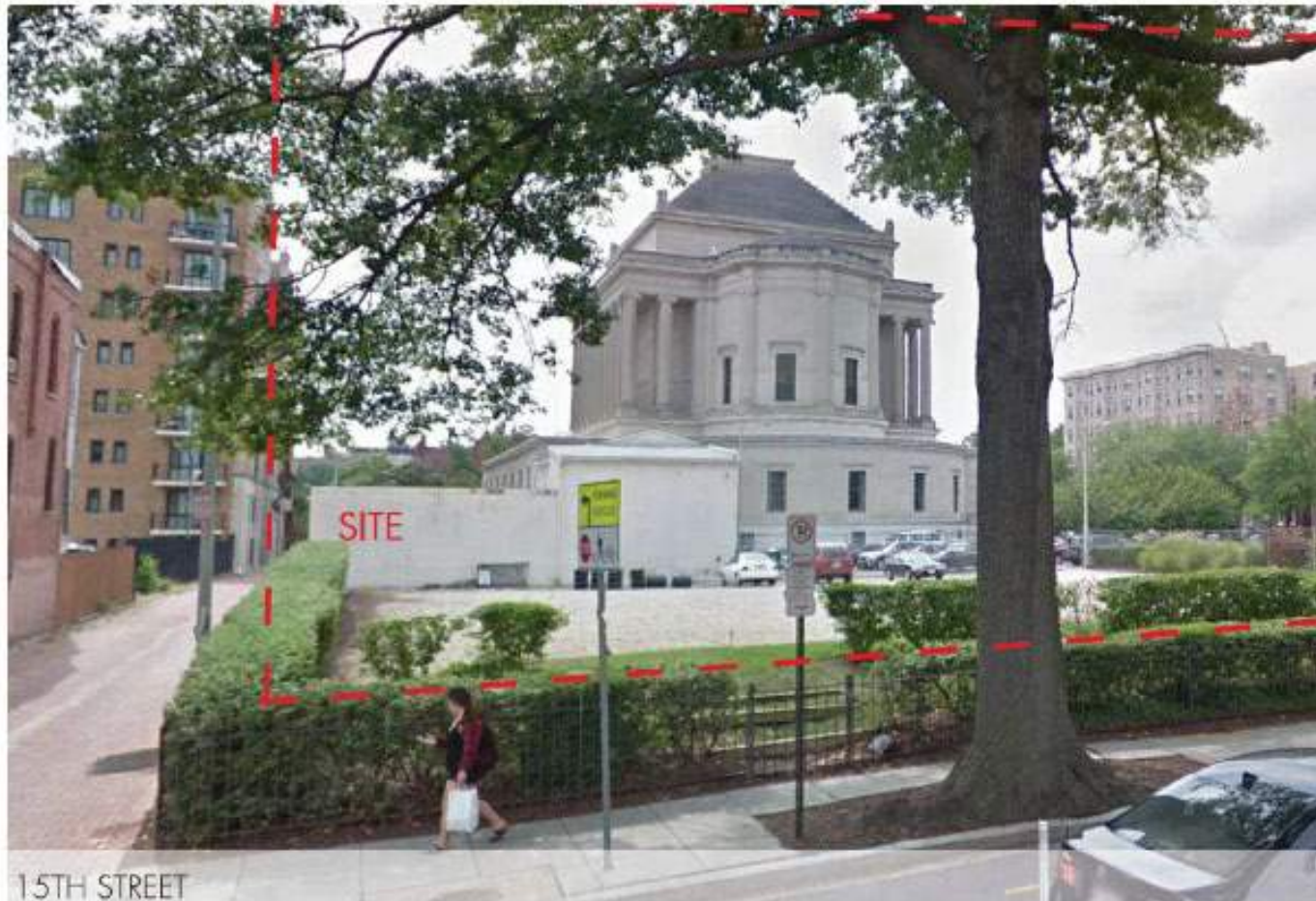


# Photo Taken from S Street Showing Grade





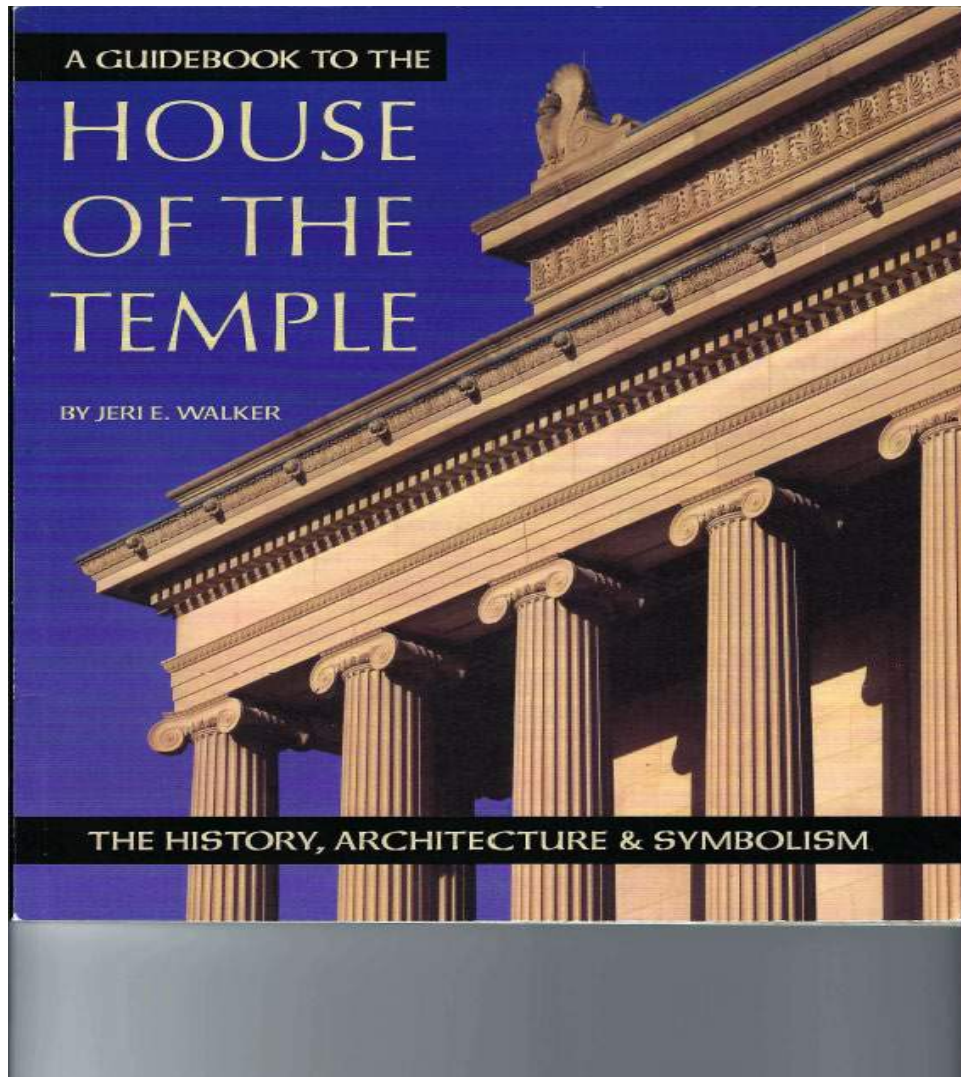
# Photo of Parking Lot from 15th Street ( IZIS Ex. 8A1 p.6)



# Photo of the Temple from the Front Showing the 11'6" High Wall from the Front (IZIS Dkt. Ex. 61)



# Excerpts from Guidebook to House of the Temple (Submitted with DECAA's April 2020 Supp.)



# Excerpts from Guidebook to House of the Temple (Submitted with DECAA's April 2020 Supp.)

*A Guidebook to the House of the Temple:  
The History, Architecture & Symbolism*  
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FIRST EDITION, 2015

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# Excerpts from Guidebook to House of the Temple (Submitted with DECAA's April 2020 Supp.)

## Timeline

Resolution passed at the Supreme Council's Biennial Session to erect a new House of the Temple in Washington, D.C.

October 23, 1908




Supreme Council purchases property at 16th and S Streets, NW at a cost of \$14,333.85.

May 14, 1910

Famed sculptor Adolph Alexander Weinman receives commission to carve the two sphinxes for the temple entrance.


July 10, 1912



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Grand Commander Richardson breaks ground for the new temple.

May 31, 1911



Work is ongoing on the foundation and basement.


April 1, 1912



---

Supreme Council hires Architect John Russell Pope to build the new House of the Temple.

April 16, 1910




Sturtevant Brothers of Worcester, Mass., was contract to construct the Temple.

May 9, 1911

A crowd of about 6,000 people attend the Cornerstone Ceremony.


October 16, 1911



---

Construction continues on the first floor.

May 27, 1912




Supreme Council hires R. Coast & Viny Company of New York boys to build their unique and color dome above the Temple Room.

July 1912

First floor nearly completion.

August 19, 1912



---

# 1909

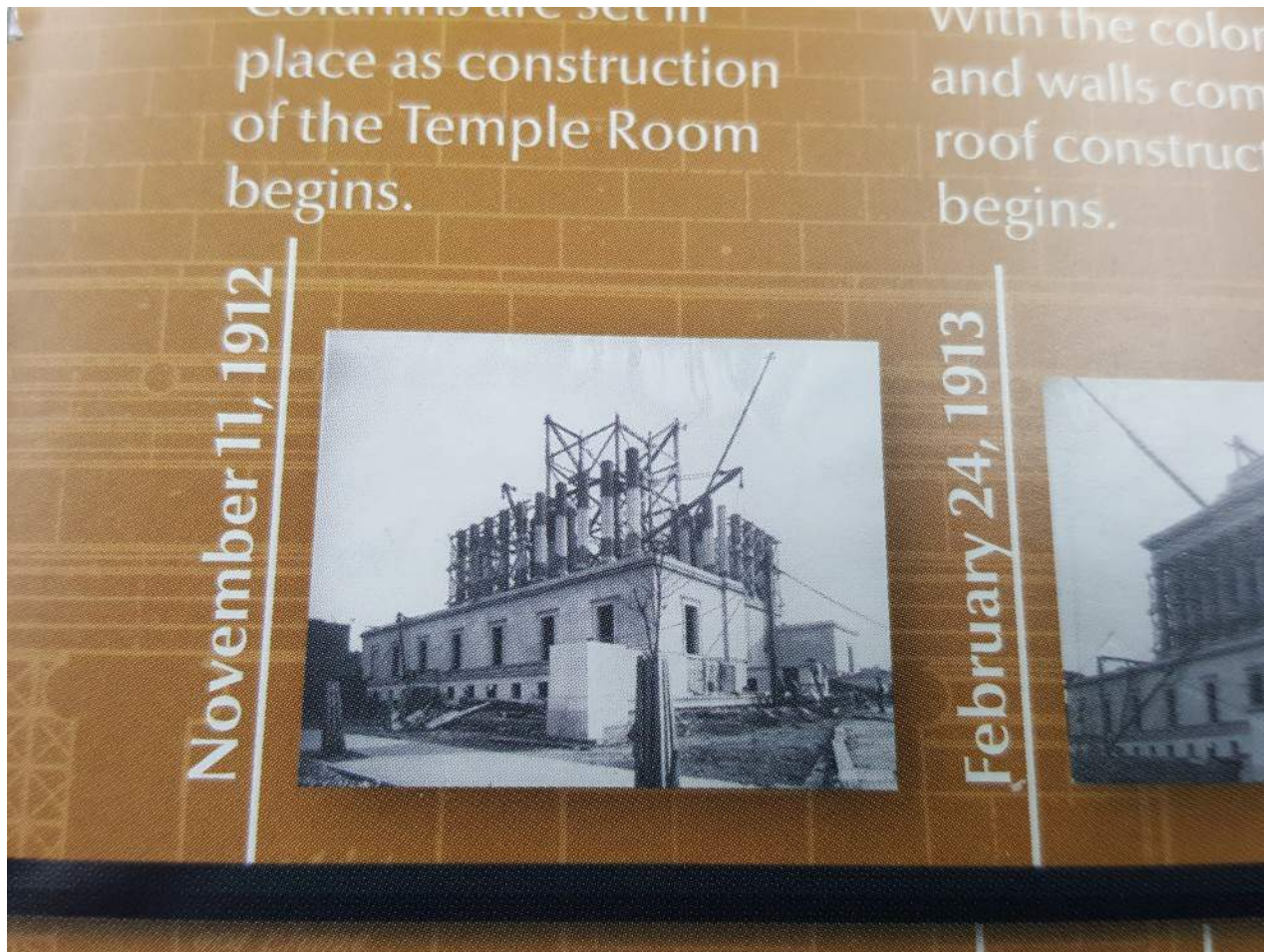
# Blowup of Excerpts - Guidebook (Submitted with DECAA's April 2020 Supplement)

August 19, 1912

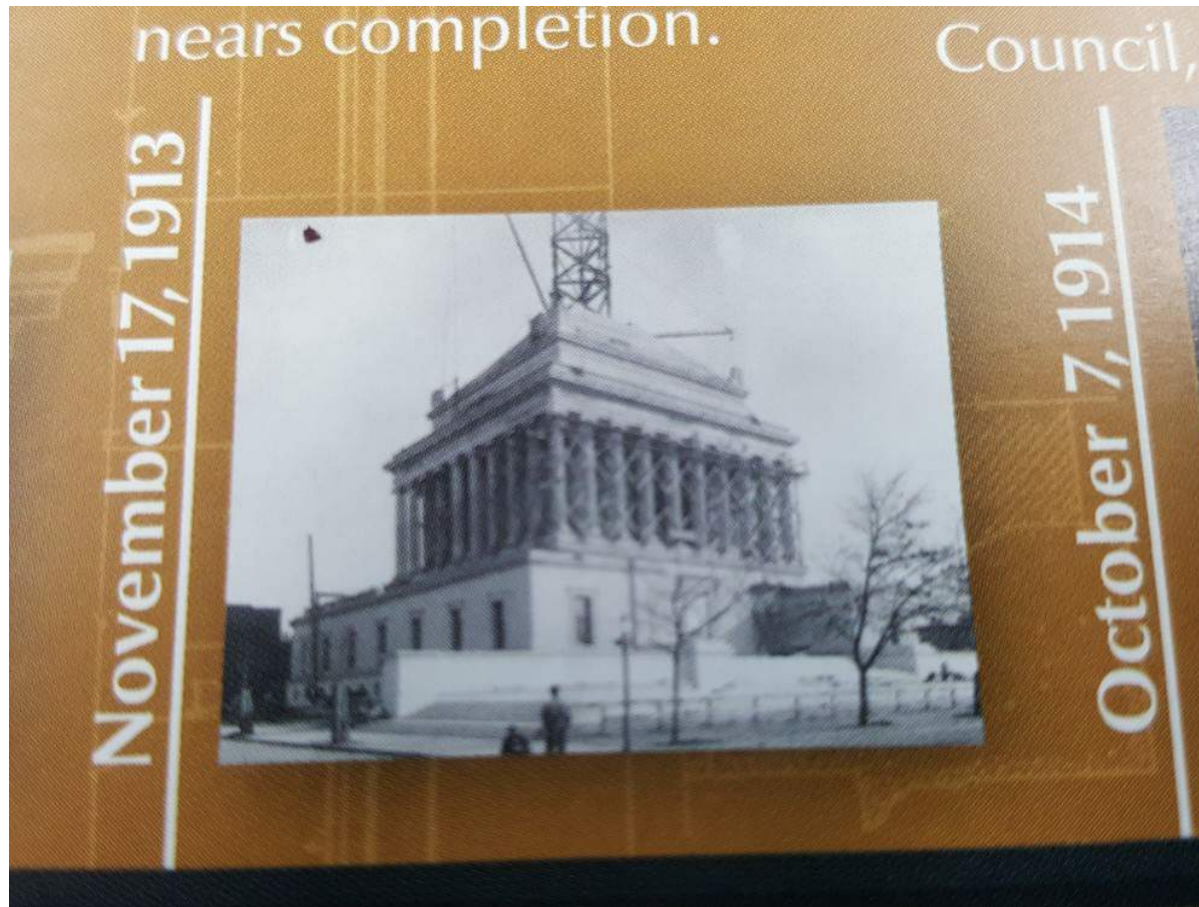


First floor nears  
completion.

# Blowup of Excerpts - Guidebook (Submitted with DECAA's April 2020 Supplement)



# Blowup of Excerpts - Guidebook (Submitted with DECAA's April 2020 Supplement)





# Photo of S Street Lawn



# Photo of the Front Steps of the Temple (IZIS Dkt. Ex #51)



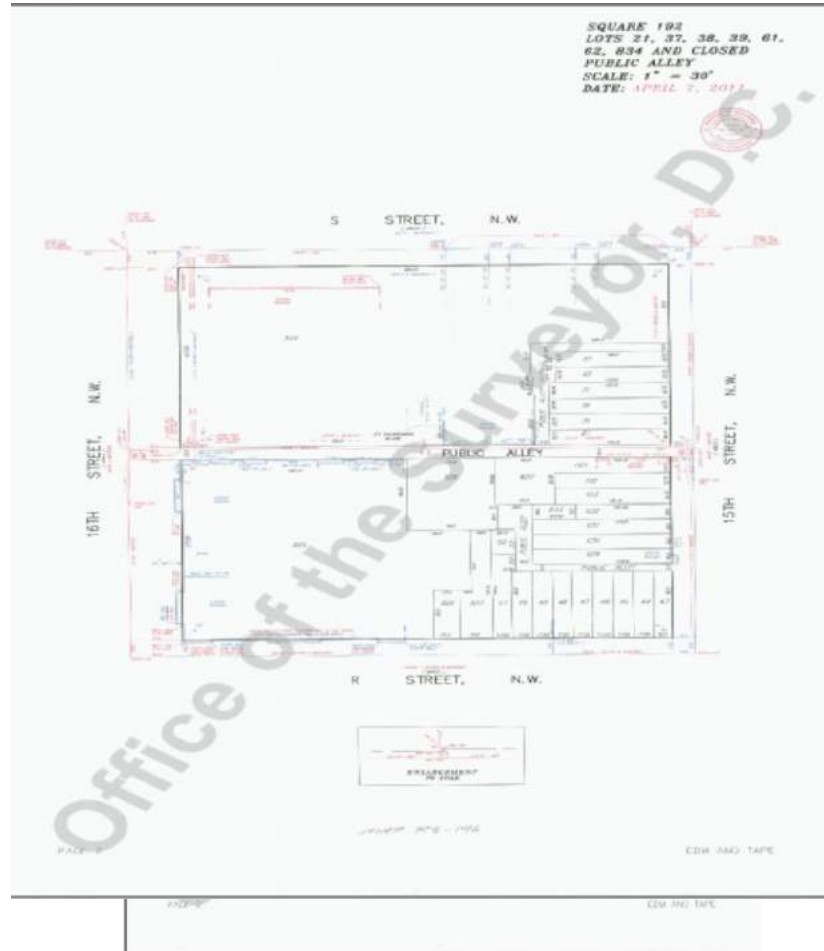
## 11-B DCMR § 100.2

- “Street Frontage: The property line where a lot abuts upon a street. When a lot abuts upon more than one (1) street, *the owner shall have the option of selecting which is to be the front for purposes of determining street frontage.*”
- “Yard, Rear: A yard between the rear line of a building or other structure and the rear lot line, except as provided elsewhere in this title. The rear yard shall be for the full width of the lot and shall be unoccupied, except as specifically authorized in this title.”

## **11-B DCMR § 100.2 (Definitions)**

- “Grade, Finished: The elevation of the ground directly abutting the perimeter of a building or structure or directly abutting an exception to finished grade. Exceptions to Finished Grade are set forth in the definition of “Grade, Exceptions to.”
- “Grade, Natural: The undisturbed elevation of the ground of a lot prior to human intervention; or where there are existing improvements on a lot, the established elevation of the ground, exclusive of the improvements or adjustments to the grade made in the five (5) years prior to applying for a building permit. Exceptions to Natural Grade are set forth in the definition of “Grade, Exceptions to.”

# DC Surveyor's Plat of Square 192



Available at [https://dcraonline-rms.dcra.dc.gov/Watermark/ViewOne.jsp?GUID=035A38A7-40F5-CFED-B22C-56DC2210000&repositoryId=null&repositoryType=null&docid=null&mimeType=null&template\\_name=null&version=null&vsId=null](https://dcraonline-rms.dcra.dc.gov/Watermark/ViewOne.jsp?GUID=035A38A7-40F5-CFED-B22C-56DC2210000&repositoryId=null&repositoryType=null&docid=null&mimeType=null&template_name=null&version=null&vsId=null)

# Study of Carriage House

(See Separate PDF for Enlarged Version With All Pages)

## Memorandum

DATE: June 1, 2017  
TO: Adam M. Peters, Percuss Realty  
FROM: Emily Eig  
SUBJECT: Scottish Rite Temple Garage

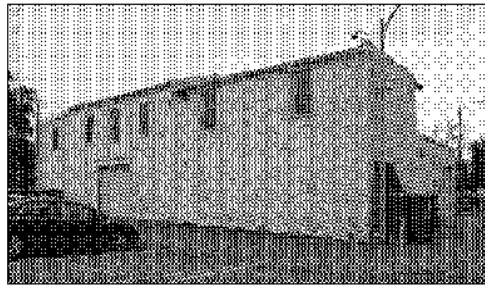


Figure 1: Scottish Rite Temple Garage, north and west elevations, facing southeast. © EHT Traceries.

## Summary

The Garage at 1733 Sixteenth Street, N.W., Washington, D.C., is located in Square 191, Lot 193 (Original Lots 21, 23, 24, 25, and 26 of William S. Rouse's subdivision) (Figures 1 – 4).<sup>1</sup> It is currently owned by the Supreme Council, who acquired it in 1969. The building as it stands today has experienced a substantial number of additions and alterations from its earliest known construction in 1883 as a score

<sup>1</sup> The building has had various uses over its long history, including as a store house, backlot, carriage house, stable, and commercial garage. The building's use as a garage has been its most recent and longest use, as such, the building will be referred to as either the "Garage" or the "Scottish Rite Temple Garage."

<sup>2</sup> Tax and Assessment Lot 193 encompasses the entirety of north half of the area in question. Lot 193 is owned by the Scottish Rite Temple and is the site of the Scottish Rite Temple as well as the Garage.