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JOHN BURGESS WALSH, JR.
WILLIAM JAMES CHEN, JR.*
KENNETH B. TECLER*
JOHN F. MCCABE, JR.*

*ALSO ADMITTED IN THE
DISTRICT OF COLUMBIA
1-800-229-9510

October 5, 2007

Jeffrey M. Axelson, Esq.
VanGrack, Axelson, Williamowsky,
Bender and Fishman, P.C.
401 North Washington Street, Suite 550
Rockville, MD 20850

HAND DELIVERED

Re: Patrick Matthews Bogart and Benjamin Kurtz vs. Carderock Springs Citizens
Association, Inc. - Civil Case No. 273518-V

Dear Jeff:

Please find enclosed a copy of the Motion to Enforce Settlement and Request for Hearing that I filed today. The Plaintiffs are materially disregarding the approval of their addition pursuant to the settlement in May of this year. Consequently I am required to file this motion.

Should they continue construction contrary to the approval, they proceed at their own risk.

If you wish to discuss this please feel free to call.

Very truly yours,



John F. McCabe, Jr.

JFM:wms
Enclosure
cc: Carderock Springs Citizens Association, Inc.

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

PATRICK MATTHEWS BOGART
and BENJAMIN KURTZ,

Plaintiffs,

vs.

CARDEROCK SPRINGS CITIZENS
ASSOCIATION, INC.,

Defendant.

Civil Case No. 273518-V

RECEIVED
OCT 5 - 2007
Clerk of the Circuit Court
Montgomery County, Md.

MOTION TO ENFORCE SETTLEMENT AND REQUEST FOR A HEARING

Defendant/Counter Plaintiff Carderock Springs Citizens Association, Inc.(Carderock Springs), by its undersigned attorney, moves this court to enforce the settlement agreement reached among the parties for the following reasons:

1. This is an action filed by property owners Patrick Matthews Bogart and Benjamin Kurtz against Carderock Springs Citizens Association, Inc. challenging the refusal of Carderock Springs Citizens Association, Inc. to approve plans for the modification of the Plaintiffs' dwelling in Carderock Springs under the covenants applicable to Plaintiffs' property. Carderock Springs Citizens Association, Inc. filed a Counter-Claim seeking to enforce its covenants and for a declaratory judgment that those covenants are valid and enforceable.

2. This matter was set for a preliminary injunction hearing on May 15, 2007 pursuant to a motion filed by Carderock Springs. On that date the parties had an opportunity to discuss and to reach a settlement regarding the plans for the proposed addition. The parties reviewed and annotated a set of plans, a reduced copy of which is attached hereto, entitled

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"Proposed Elevations, Renovations to Mr. Bogart's and Kurtz's Residence, 8209 Stone Trail Dr., Rockville, MD 20853". Malcolm G. Stevenson executed the revisions as President on behalf of Carderock Springs and Patrick Matthews Bogart executed the plans on behalf of the Plaintiffs.

3. On May 15, 2007 the parties agreed that the revised plans would be submitted to the Carderock Springs Architectural Review Committee for final approval. They were approved by letter dated May 21, 2007 to Patrick Bogart from Malcolm G. Stevenson transmitted by letter dated May 23, 2007 to Jeffrey M. Axelson by John F. McCabe, Jr. Copies of both of those letters are attached.

4. The parties agreed that this matter would be placed on the stet docket so that they could work out further details of the settlement. Per their agreement the case was placed on the stet docket for 120 days. The parties also agreed that Plaintiffs would amend their complaint to delete any claims challenging the validity of the restrictive covenants. Per their agreement Plaintiffs filed a Third Amended Complaint doing so on July 18, 2007.

5. Among those present on May 15, 2007 in addition to Patrick Matthews Bogart and Malcolm G. Stevenson was Douglas Soe-Lin, an architect and a member of the Carderock Springs Architectural Review Committee. Douglas So-Lin annotated the plans with Patrick Matthews Bogart to reflect the agreed upon modifications. Attached in support of this motion is the Affidavit of Douglas Soe-Lin.


6. After May 21, 2007, in particular in August of 2007, Plaintiffs continued with construction. Plaintiffs have deviated in several material ways from the agreed upon May 15, 2007 plans and May 21, 2007 approval. The Affidavit of Douglas So-Lin identifies those

deviations.

7. The agreement reached by the parties constituted an executory accord which the Court of Appeals of Maryland has recognized as being enforceable in settlement of a pending lawsuit. Clark v. Elza, 286 Md. 208, 406 A.2nd 922 (1979). The parties acted in furtherance of the executory accord - Carderock Springs approved the modified plans on May 21, 2007, Plaintiffs Bogart; Kurtz filed a Third Amended Complaint withdrawing their challenge to enforce the legal validity of the covenants on July 18, 2007; and the parties placed this matter on the stet docket. However, Plaintiffs have now reneged by failing to construct their addition in accordance with the approval of their plans by Carderock Springs.

8. Carderock Springs requests therefore that this court enter an order enforcing the settlement reached by the parties and requiring any nonconforming construction to be removed.

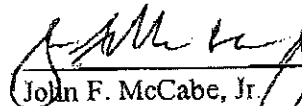
Respectfully submitted,



John F. McCabe, Jr. Esq.
200A Monroe Street, Suite 300
Rockville, MD 20850
301-279-9500

REQUEST FOR HEARING

Defendant requests a hearing on this motion.




John F. McCabe, Jr.

CERTIFICATE OF SERVICE

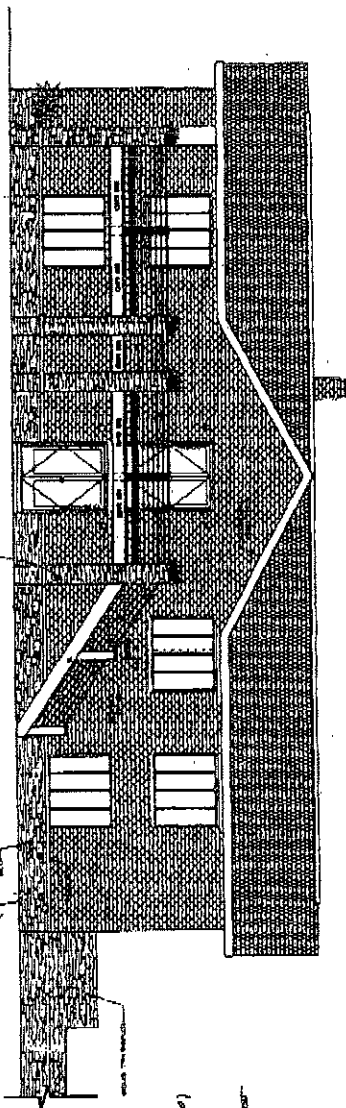
I HEREBY CERTIFY that on this 5th day of October, 2007, a copy of the foregoing "Motion to Enforce Settlement and Request for a Hearing" was hand-delivered to:

Jeffrey M. Axelson, Esq.
VanGrack, Axelson, Williamowski,
Bender & Fishman, P.C.
401 North Washington Street, Suite 550
Rockville, MD 20850

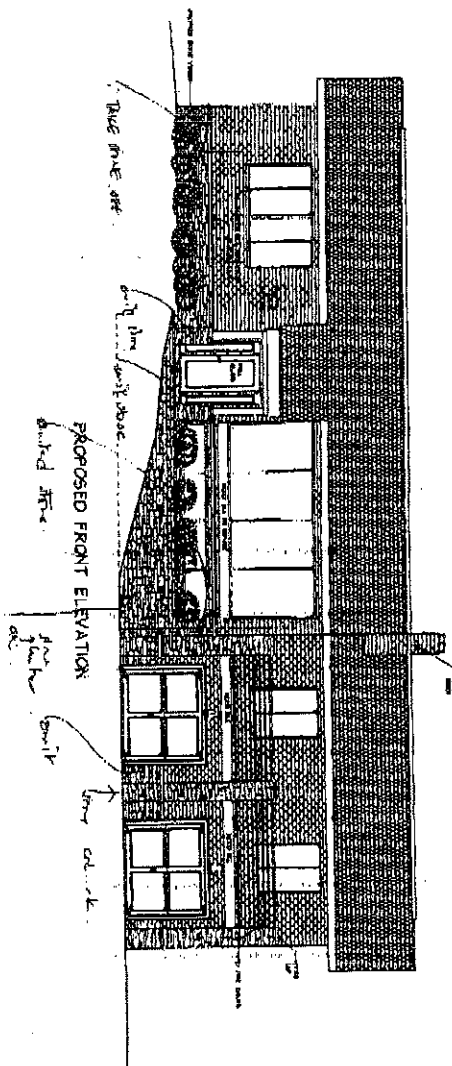


John F. McCabe, Jr.

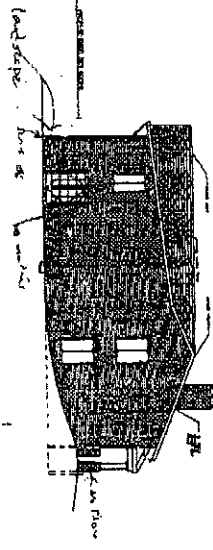
Handwritten: Howard G. Jensen
5/15/07
5/15/07



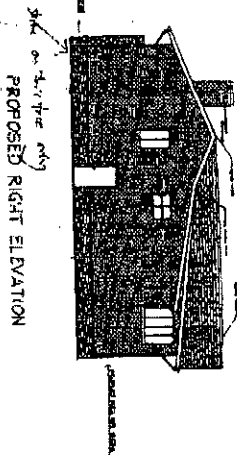
PROPOSED REAR ELEVATION



PROPOSED FRONT ELEVATION



PROPOSED LEFT ELEVATION



PROPOSED RIGHT ELEVATION

<p>A-7 SHEET</p>	<p>PROPOSED ELEVATIONS</p>	<p>SQUARE FOOTAGE CALC:</p> <p>BASEMENT AREA: _____</p> <p>FIRST FLOOR AREA: _____</p> <p>SECOND FLOOR AREA: _____</p> <p>TOTAL AREA: _____</p>	<p>DATE: _____</p> <p>SCALE: _____</p> <p>JOB NO: _____</p>
	<p>RENOVATION TO MR. BOGART'S AND KURTZ'S RESIDENCE 8209 STONE TRAIL DR. ROCKVILLE, MD 20853</p>		

CARDEROCK SPRINGS CITIZENS' ASSOCIATION
P.O. Box 237
Cabin John, MD 20818

May 21, 2007

Mr. Patrick Bogart
8209 Stone Trail Drive
Bethesda, MD 20817

Dear Patrick,

This letter is in follow-up to our meeting on May 15th prior to the scheduled hearing. We appreciate your initiative in proposing changes to your current plans responsive to our concerns and in particular your agreement to change the front of the house by replacing stone wainscoting with brick. The ARC has reviewed the sketches as modified by notes added during our meeting of May 15th. Those plans are approved. To confirm our understanding of the changes to the front of the house:

Stone veneer on the front elevation of the house will be replaced with brick. The stone columns will be separated from the face of brick at the front elevation and stone caps will be eliminated. The stone bases at the entry columns will be deleted so that the columns from the roof are continuous to the entry slab. Carderock or similar stone will be used as a veneer for the landscaping planters and retaining walls, laid horizontally so that the narrow edges are exposed, as was done at 8021 Park Overlook. Though not discussed at the May 15th meeting, we also understand from prior conversation that the roof overhang at the front elevation entry will be widened to approximately two feet; let me know if you have a different understanding of this last detail.

As we discussed at the meeting, the ARC would prefer that the stone wainscoting used on the other three sides of the house be broken in various ways -- e.g., stop at the offset in the rear elevation, stop several feet from the corners on the right elevation -- but this is entirely up to you.

Two other items in the sketches that I call to your attention to concern the stone caps on the rear columns and the fascia. To be consistent with the front, we believe that stone caps should be eliminated from the rear columns. Also, the right elevation shows 1 x 6 fascia; I believe it should be 1 x 8 to be consistent.

If you are in agreement with these matters, please submit final drawings consistent with this letter and the sketches that you and I signed last week. Finally, as a separate matter, please submit paint colors and plans and elevations of the stone wall and patio when they are developed.

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I am glad that we could work this out without further litigation. Should you have any questions concerning the substance of this letter, please do not hesitate to contact me.

Sincerely,



Malcolm G. Stevenson
President, CSCA

Cc: ARC
John McCabe, Esq.

CHEN, WALSH, TECLER & MCCABE, LLP.

ATTORNEYS AT LAW

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WILLIAM JAMES CHEN, JR.*
KENNETH B. TECLER*
JOHN F. MCCABE, JR.*

May 23, 2007

Jeffrey M. Axelson, Esq.
VanGrack, Axelson, Williamowsky,
Bender and Fishman, P.C.
401 North Washington Street, Suite 550
Rockville, MD 20850Re: Patrick Matthews Bogart and Benjamin Kurtz vs. Carderock Springs Citizens
Association, Inc. - Civil Case No. 273518-V

Dear Jeff:

Enclosed is a copy of the May 21, 2007 letter from Malcolm G. Stevenson, President of Carderock Springs Citizens Association, Inc. to Patrick Bogart conveying the decision of the Architectural Review Committee to approve the modifications to plans that we discussed on May 15, 2007. The letter fleshes out the discussion and notes what may be some discrepancies in the plans we have, but the intention is to approve what we discussed on May 15, 2007 and not to change or add to what was approved. This letter has not been sent directly to Mr. Bogart and Mr. Kurtz. The Association asked that I convey it to you so that you could convey it to your clients.

The next step is to consider how to resolve the pending litigation. Carderock Springs would like to have a final set of drawings for its ARC embodying everything agreed to for the record. We may want to file a set of those drawings with the court to indicate that the plans submitted have been approved and are consistent with the covenants pursuant to the relief requested in Count II of the Second Amended Complaint.

I also mentioned to you that we would like to have a mutual release, which I can prepare, running to not only the entities but the individuals involved.

Additionally, we talked about the issue of the challenge to the covenants. It seems that your suggestion to resolve that matter is a good approach. Namely if you were to amend the complaint to eliminate the count challenging the covenants, and we were to file the plans that have been approved, then the remaining count, which addresses the fact that your plans comply with the covenants, could be dismissed, with prejudice, or with a stipulation that the plans submitted do comply.

CHEN, WALSH, TECLER & MCCABE, LLP.

Jeffrey M. Axelson, Esq.

May 23, 2007

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While we are trying to work all of this out, we probably want to place this case on the stet docket, as we also discussed.

Please let me have your thoughts on the above.

Very truly yours,



John F. McCabe, Jr.

JFM:wms

Enclosure

cc: Carderock Springs Citizens Association, Inc.

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

PATRICK MATTHEWS BOGART
and BENJAMIN KURTZ,

Plaintiffs,

vs.

Civil Case No. 273518-V

CARDEROCK SPRINGS CITIZENS
ASSOCIATION, INC.,

Defendant.

AFFIDAVIT OF DOUGLAS SOE-LIN

1. My name is Douglas Soe-Lin. I am over eighteen (18) years of age and competent to make this Affidavit based upon personal knowledge of the matters stated herein.

2. I am an Architect licensed to practice in the State of Maryland. I have been practicing architecture in the State of Maryland since 1976.

3. I am also a member of the Carderock Springs Citizens Association, Inc. Architectural Review Committee. I reviewed the original plans submitted by the Plaintiffs for their addition at 8209 Stone Trail Drive in May of 2006. I was also present on May 15, 2007 when the Plaintiffs agreed to resolve this matter by making certain modifications to their plans. Those modifications are accurately represented on the single sheet of plans signed by Malcolm G. Stevenson and Patrick Matthews Bogart on May 15, 2007 and in the May 21, 2007 correspondence from Mr. Stevenson to Mr. Bogart approving the settlement terms that followed. I personally drew the modifications on those plans and reviewed Mr. Stevenson's letter to Mr. Bogart.

4. As of the date of this Affidavit I have reviewed the construction occurring at the subject property, 8209 Stone Trail Drive, Bethesda, Maryland, to determine whether it complies with the approval by the Carderock Springs Architectural Review Committee. The construction on the site deviates from the agreed upon approval in the following major respects:

- A. Stone installed on all elevations with faces exposed, not edges exposed as agreed, per May 21, 2007 correspondence;
- B. Stone installed above level of planter at front elevation where stone was marked to be omitted as noted and accepted on signed elevations and as noted in May 21, 2007 correspondence;
- C. Stone installed around garage doors, not brick as shown on accepted and signed elevations and noted in May 21, 2007 correspondence;
- D. Large glass windows over planter at front elevations removed and replaced with small windows. This was never proposed by owners;
- E. Divided light, panelled pair of entry doors with arched glass transom has been installed. Single full glass door with sidelights was shown and accepted on signed elevations. Arched transom and double doors were never proposed by owners;
- F. Stone base built above sill of doors at rear elevation. Stone base below window sills was shown and accepted on signed elevations;
- G. Lower right window on accepted and signed elevations deleted on rear elevations;
- H. Soldier course of brick used above all windows and doors. This was never proposed by owners. Running bond course shown on accepted and signed elevations;
- I. Roof lines, trim/fascia at right and left elevations do not match accepted and signed elevations;
- J. Stone columns at the garage on the front elevation are not freestanding per signed elevations and May 21, 2007 correspondence;

K. Matching windows at front elevation above garage shown on accepted and signed elevations changed to uneven heights, one smaller than shown, one enlarged to full height.

5. Based upon a review of the agreement reflected in the plans modified May 15, 2007 and in the May 21, 2007 letter to Messrs. Bogart and Kurtz providing for the ARC's required approval and upon a review of the actual construction at the subject property, it is my opinion that the Plaintiffs are not complying with the agreed settlement in the respects stated above.

6. On Wednesday, October 3, 2007, the Carderock Springs Citizens Association, Inc., Architectural Review Committee (ARC) met to review and approve this affidavit. Prior to the meeting, the ARC members inspected the construction at 8209 Stone Trail Drive. The ARC concurred that the statements made in this affidavit are accurate, and in particular that the Plaintiffs are not complying with the agreed settlement.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Date: 10-5-07

D. Soe-Lin
Douglas Soe-Lin

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

**PATRICK MATTHEWS BOGART
and BENJAMIN KURTZ,**

Plaintiffs,

vs.

Civil Case No. 273518-V

**CARDEROCK SPRINGS CITIZENS
ASSOCIATION, INC.,**

Defendant.

ORDER

UPON CONSIDERATION of the Motion to Enforce Settlement and Request for a
Hearing and any response thereto it is this _____ day of _____, 2007

ORDERED:

The motion of Carderock Springs Citizens Association, Inc. is granted and Plaintiffs
Patrick Matthews Bogart and Benjamin Kurtz are

ORDERED:

To comply with the settlement agreement reached by the parties within 15 days from
the date of entry of this order.

JUDGE

Copies to:

John F. McCabe, Jr., Esq.
Chen, Walsh, Tecler & McCabe, L.L.P.
200A Monroe Street, Suite 300
Rockville, MD 20850

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