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2013 JUN -7 AM 10:12

June 6, 2013

Mr. Richard Nero
Deputy Director of Operations
District of Columbia Office of Zoning
441 4th St NW, Suite 200S
Washington, DC 20001

Re Zoning variance application no 18566

ADDENDUM: Response to Office of Planning Memorandum dated June 4, 2013

Dear Mr. Nero,

In light of the report from the Office of Planning issued on June 4, I am writing to request a waiver of the 14-day filing deadline in order to specifically address the findings of that report

In response to the report's statement that we have not demonstrated that there is "an exceptional situation related to the property that results in a practical difficulty," we would like to offer the following two main burdens that we feel limit the practical use of the home:

Burden #1 - The R-5-B zone appears to be obsolete and non-applicable in this case:

Within the Near Southeast neighborhood (which for this purpose is the area bounded by South Capitol Street to the west, I-695 to the north, the 11th Street Bridge to the east, and the Anacostia River to the south), the R-5-B zone has been eroded so much as to have become an anomaly, rather than a definition of the fabric of the neighborhood.

JUN 7

A. Obsolete: Of the 330 acres within Near Southeast only 0.73 acres, or about 0.2%, of the total land area remains R-5-B after decades of evolution including, most recently, the major Capper/Carrollsbury PUD. Subtracting the land area of the Navy Yard grounds from the total area of Near Southeast takes the ratio of R-5-B to total "civilian" land area up to a little under 0.3%. By way of comparison, that's approximately the ratio of the spleen - about the size of an avocado - to the human body.

B. Non-Applicable: R-5-B is defined in the Office of Planning's report as "residences of a moderate height and density" and in most parts of the city this zone is applied for neighborhoods of multi-family density including mid-rise buildings as found, for example, in the R-5-B zones scattered throughout the SW quadrant of the city (also in ANC 6D). The FAR requirement of the R-5-B zone, from which we are seeking relief, is in place as a second line of defense to prevent over-building on large lots/multi-family buildings, such as those in SW

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18566
EXHIBIT NO. 29

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ADDRESS

In all of Near Southeast, only 31 lots are zoned R-5-B. Of these, 27 are single family rowhouse dwellings, two are small multi-family buildings, one is vacant, and one is a non-buildable 28 SF lot. Of all of the lots zoned R-5-B, most are well under 1,000 SF each and the largest, located at 1010 3rd Street SE (Sq 0799/ Lot 0808), is only 2,490 SF. At this size, none of these lots are suitable for apartment construction of a scale that would require FAR restrictions typical of R-5-B zoning. Height restrictions similar to those imposed by R-3 and R-4 zones are sufficient and actually more suited to maintain rowhouse residential density and character.

Given A) and B) above, I would like to suggest that not only is R-5-B now an anomaly in the neighborhood, but the zoning designation itself appears to not actually represent the housing stock. Typically in other parts of the city the Near Southeast lots described above would fall under a rowhouse-centric zoning designation such as R-3 or R-4. The main practical difference is that, while those zones require similar lot occupancy, rear yard, building height and side court restrictions, there is no restriction on FAR in those rowhouse-focused zones.

In summary, for the purposes of evaluating our variance request, we believe that the R-4 zone's height restriction standard is a more fair basis for review than the current FAR restrictions imposed under R-5-B. To be clear, we are not asking for re-zoning. What we are seeking is an applicable standard that can be used to provide perspective and guidance as you consider our application. We hope that you will agree with our findings and not require our property to be bound by FAR requirement in R-5-B.

Burden #2 - The age of the home, relative to the lot size: The home was built in 1890, long before the implementation of zoning regulations and at a time when the basic needs of families were much different than they are today.

A. Age of the home: The home was built in the late 19th century, at a time when large families lived in very small dwellings out of economic necessity. Family members shared bedrooms, and auxiliary spaces such as closets and bathrooms were negligibly small. Such housing stock has become obsolete by 21st century standard for families. The structure was built long before zoning was implemented in the District, and therefore some of the existing non-compliant attributes of the home could have been mitigated without compromising total built area if a new dwelling were to be built on the same lot today.

B. Relative to lot size: The city is filled with old homes that one may say don't meet modern needs anymore, but the exceptional situation here is that the lot size is extremely small and does not allow for us to update to basic modest needs for a family of four under the R-5-B regime. The size of the home is further constrained by the fact that there is no basement as is allowed by zoning, and to build one today would require cost-prohibitive underpinning of the existing masonry bearing and party walls.

C. Economic burden: Because nearly all of the housing in Near Southeast is new construction, there are very few opportunities for families to buy affordable homes. In particular since the older homes are too small to meet the needs of families, the cost gap between the existing housing stock and the new is too great for a family like ours to

overcome if we were to take the alternate route of attempting to purchase a larger home to stay in the community.

In fact, some of the new Capitol Quarter properties purchased under the original "workforce housing" lottery allocation are now starting to come back on the market, but at full market rate; the affordable housing subsidies are being re-paid the city by the original buyers and the original incentives are not being passed on. Because of this, there is no "intermediate" housing stock between the too-small older houses and the modern new construction in Capitol Quarter that could satisfy our needs, and that is what we are hoping this improvement will provide for us.

We also want to reiterate that, although the Office of Planning memo lists several variance requests under our application, the only **change** from existing conditions for which we are requesting relief is FAR. All others, including open court, rear yard setback, and lot occupancy, will remain unchanged from existing conditions as a result of the improvements we are proposing

We understand that it is not the BZA's mandate to determine the merits of a given zone, and therefore we have presented these arguments in the hope that they provide a perspective with which to evaluate our application. We humbly request that the Board does not refer us to the Zoning Commission to apply for re-zoning; That process would be cost-prohibitive, and even if we could afford to pursue it, the amount of time required would not allow us to meet our fundamental need to provide adequate housing for our young children in a timely manner. We are not developers or speculators, we're a family of four hoping to be able to put down roots and send our children to school in a neighborhood that we love but could otherwise not afford to live in, and we believe that the improvements we are proposing are in fact more consistent with the existing neighborhood fabric than the R-5-B zone itself.

Together these exceptional situations, which severely hamper practical use of this simple family home, make this case an excellent example of the need and benefit of the BZA variance review process, and we thank the Board in advance for your thoughtful consideration.

Sincerely,



Chris French

Encl.: Attachment A. Map of Near Southeast, highlighting remaining R-5-B zones to scale
Attachment B. Table of lot areas for all R-5-B lots in Near Southeast

Attachment A:

Map of Near Southeast, highlighting remaining R-5-B zones to scale



Attachment B:

Table of lot areas for all R-5-B lots in Near Southeast

R-5-B lots in Near Southeast

	Address	Square	Lot	Area
1	301 K Street SE	799	39	469
2	303 K Street SE	799	40	481
3	305 K Street SE	799	41	690
4	307 K Street SE	799	42	702
5	309 K Street SE	799	43	1,066
6	1000 3rd Street SE	799	38	765
7	1002 3rd Street SE	799	37	675
8	1004 3rd Street SE	799	36	675
9	1008 3rd Street SE	799	809	1,400
10	1010 3rd Street SE	799	808	2,490
11	1012 3rd Street SE	799	29	1,350
12	1014 3rd Street SE	799	28	1,365
13	1016 3rd Street SE	799	27	1,515
14	1018 3rd Street SE	799	807	990
15	1020 3rd Street SE	799	806	990
16	1026 3rd Street SE	799	805	1,644
17	302 L Street SE	799	825	792
18	304 L Street SE	799	826	864
19	306 L Street SE	799	827	896
20	L Street SE	799	803	2,256
21	913 5th Street SE	824	24	710
22	915 5th Street SE	824	25	709
23	919 5th Street SE	824	26	698
24	921 5th Street SE	824	27	698
25	923 5th Street SE	824	28	698
26	925 5th Street SE	824	29	698
27	927 5th Street SE	824	30	698
28	929 5th Street SE	824	31	698
29	931 5th Street SE	824	32	698
30	933 5th Street SE	824	33	698

* Excludes 0799/0828 - non-compliant lot with total area of 28 SF