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November 7, 2006

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VIA HAND DELIVERY

Jerrily R. Kress, FAIA
Director, Office of Zoning
441 4th Street, N.W., Suite 210
Washington, DC 20001

Client No.

C 04753-00001

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DC. OFFICE OF ZONING
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Re: BZA Appeal No. 17532 — *Authorization of Representation and
Brief of Appellant*

Dear Ms. Kress:

In relation to Appeal No. 17532 before the Board of Zoning Adjustment, I am enclosing
for filing the following documents:

- (1) Written authorization from the appellant's managing director, pursuant to § 3106.1 of
the Zoning Regulations, for Gibson, Dunn & Crutcher LLP to appear on the
appellant's behalf in this proceeding; and
- (2) Thirteen copies of the Brief of Appellant, filed pursuant to § 3112.10 of the Zoning
Regulations.

Thank you for handling these items. Please let me know if you have any questions.

Very truly yours,



Curtis E. Gannon

Enclosures

cc: Bill Crews, Zoning Administrator
Advisory Neighborhood Commission 6A

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 17532

EXHIBIT NO. 21



AppleTree Institute

for Education Innovation

1000 17th Street, NW, Washington, DC 20036

November 7, 2006

District of Columbia Office of Zoning
Board of Zoning Adjustment
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Re: BZA Appeal No. 17532, Authorization for Representation

To the Board:

AppleTree Institute of Education Innovation, Inc. hereby authorizes the law firm of Gibson, Dunn & Crutcher LLP to represent it in the proceedings before the Board in Appeal No. 17532, in which AppleTree is the appellant. This authorization includes the power to bind AppleTree in its case before the Board.

Sincerely,

Jack McCarthy,
Managing Director

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D.C. OFFICE OF ZONING

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

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In re AppleTree Institute for
Education Innovation, Inc.

Appeal No. 17532

BRIEF OF APPELLANT

The building on the Subject Property is situated between rowhouses on a predominantly residential street but, in its 90-year existence, has never itself been used as a residence. Rather, it is a commercial building that has been used for a variety of non-residential purposes, most recently as an assembly hall for a private club. The current property owner, Appellant AppleTree Institute for Education Innovation, Inc. (“AppleTree”), seeks to renovate and expand the building, which has been an unoccupied eyesore, and use it for a small, public charter school that will teach language and literacy skills to three- and four-year-old children.

This appeal involves discrete legal questions about the interpretation of provisions of the Zoning Regulations that were not affected by the Zoning Commission’s recent efforts to amend provisions in the Zoning Regulations that apply to public schools. In particular, § 401.1 of the Zoning Regulations allows a pre-May 12, 1958 building to be enlarged even if its underlying lot has a “lot area or width of lot, or both, less than that prescribed in § 401.3,” and § 2100.5 declares flatly that “[n]o additional parking spaces shall be required” for a building that is certified as contributing to the character of a historic district. This appeal requires the Board to decide only whether those two provisions mean what they say — and what the Board has previously interpreted them to mean. Adhering to settled precedent requires reversal of the Zoning Administrator’s denial of AppleTree’s application for a building permit.

SUMMARY OF FACTS

The Subject Property is located in the R-4 District at premises 138 12th Street, N.E. (Square 988, Lot 820). The lot is 36 feet wide and 117.5 feet deep, or 4230 square feet. The existing building is 36 feet wide and 40 feet deep. *See* Exhibit No. 4 in this case (appellant's set of plans); Exhibit No. 5 in this case (D.C. Surveyor's plat). It "was constructed sometime in the 19-teens, first appearing in city directories in 1916 when it . . . functioned as an office facility." Historic Preservation Review Board, Staff Report and Recommendation, *Re: 138 12th Street, NE* at 1 (Dec. 2005) (attached as Exhibit A). More recently, it was used as an assembly hall for the Knights of St. John and Women's Auxiliary. As the staff of the Historic Preservation Review Board concluded, "[t]he building retains a high degree of integrity and appears to have experienced only minor cosmetic modifications on the front façade." *Id.*

Appellant AppleTree is a D.C.-based not-for-profit corporation that has created and supported several successful education programs, including some public charter schools, in the District since 1996. It supports the AppleTree Early Learning Public Charter School, which has been granted a charter by the D.C. Public Charter School Board and has been operating at a location in Southwest. The school is open to all three- and four-year-old children in the District, and employs an intensive early-education program intended to provide them with the language, early literacy, and social skills they need to transition successfully into kindergarten. After conversations with officials in the Department of Consumer and Regulatory Affairs in which oral (but not written) advice established that the Subject Property would, after renovation, be suitable for matter-of-right use as a public charter school, AppleTree purchased it from the Knights of St. John, with the intention of renovating the premises as an additional location for the school.

In fall 2005, AppleTree sought approval from the Historic Preservation Review Board for its proposed plans to expand the building at the Subject Property by building a three-story exten-

sion on the back of the building. After meeting with Advisory Neighborhood Commission 6A and some of the neighbors, AppleTree voluntarily withdrew its plans, replacing them with plans for a smaller extension that would provide classroom space for about 50 pre-school and pre-kindergarten students. With the planned renovations, the building would be no deeper than the shallowest of its two neighbors, and the third story would not be visible from the street. On December 15, 2005, the Historic Preservation Review Board voted 9-1 to approve AppleTree's plans with minor modifications.

AppleTree filed its building permit application on February 9, 2006. In the "zoning data summary" on the cover sheet of the plans submitted with the application, and in a follow-up letter to the Zoning Administrator, AppleTree's architect explained how AppleTree's proposed project complies with the height, area, and density regulations for the R-4 zone district and with onsite parking requirements. *See Exhibits B and C.*

On April 28, 2006, the Zoning Administrator denied AppleTree's application, concluding that it fails to meet three requirements in the Zoning Regulations: minimum lot area, minimum lot width, and minimum parking spaces. *See Exhibit D (identical to Exhibit No. 13 in this case).*¹

¹ The Zoning Administrator's decision referred to the Zoning Regulations and to the "Zoning Commission's adoption of an Emergency Text Amendment defining charter schools as public schools, and changing various requirements for public schools to locate in the R-4 Residential District as matter of right on February 13, 2006." Exhibit D at 1. The Emergency Text Amendments were published in the *D.C. Register* on March 17, 2006, and set to expire after 120 days. *See* 53 DCR 2017. On June 12, the Zoning Commission voted to "re-adopt[]" the February 13 emergency rulemaking. *See* 53 DCR 5898 (July 21, 2006). By its own terms, the 120-day emergency rule approved on June 12 expired on October 10. On September 25, 2006, the Zoning Commission approved a final rulemaking that was similar to the emergency rule, but, as of November 7, the final rule has not yet been published in the *D.C. Register*.

Although AppleTree contends that the Commission's rulemaking actions exceeded its authorities in multiple ways, it also believes that the Board may resolve this appeal without addressing the legality of the Commission's recent rulemaking actions. None of the text amendments purported to alter the key provisions at issue in this appeal: §§ 401.1 and 2100.5.

On June 27, 2006, AppleTree timely filed an appeal with this Board, indicating that it would challenge the Zoning Administrator's denial of its permit application. *See* Exhibit No. 1 in this case (Form 125); Exhibit No. 2 in this case (Exceptions to Administrative Decision).

LEGAL ARGUMENTS

The Zoning Administrator contested only three aspects of AppleTree's application: minimum lot area, minimum width of lot, and minimum parking spaces. Exhibit D at 1. But his conclusions were based on legal error. He applied the general rules for each of those parameters without taking account of two facts: first, that the building was located on the lot on May 12, 1958, and, second, that the building has also been certified as contributing to the character of a historic district. Those two undisputed facts trigger legal exceptions from all three of the requirements invoked by the Zoning Administrator in denying AppleTree's application.

I. Under 11 DCMR § 401.1, AppleTree's Pre-1958 Building Is Exempt from Minimum-Lot-Area and Minimum-Lot-Width Requirements

The Subject Property is 4230 square feet in area and 36 feet wide. According to the table in 11 DCMR § 401.3, the general minimum lot area for a public school in an R-4 district is either 4000 or 9000 square feet, depending on whether the Zoning Commission's February 13, 2006 emergency rulemaking or subsequent final rulemaking applies to the evaluation of AppleTree's permit application (an issue that is discussed further in Part III, below). The general minimum lot width is either 40 feet or 120 feet (again depending on the validity and applicability of this year's purported rulemakings). Thus, the Subject Property would be too small on one or both of the dimensions made generally applicable to public schools by § 401.3. But the analysis cannot stop there.

Untouched by the Zoning Commission's recent rulemaking efforts about public schools, § 401.1 of the Zoning Regulations has consistently read as follows:

Except as provided in chapters 20 through 25 of this title, in the case of a building located, on May 12, 1958, on a lot with a lot area or width of lot, or both, less than that prescribed in § 401.3 for the district in which it is located, the building may not be enlarged or replaced by a new building unless it complies with all other provisions of this title.

AppleTree’s architect highlighted this provision in the permit application and in a follow-up letter to the Zoning Administrator. *See* Exhibit B (detail from cover sheet on plans submitted with building-permit application, citing § 401.1 and noting that building existed as of May 12, 1958); Exhibit C at 2 (letter from Daniel J. deBettencourt to Bill Crews, explaining operation of § 401.1 independent of any effect of the emergency rulemaking). Construed properly, this provision means that AppleTree’s proposal need not satisfy the “lot area or width of lot, or both, . . . prescribed by §401.3,” so long as it “complies with all *other* provisions” of the Zoning Regulations.

That result follows directly from the plain text of the rule, and that interpretation is supported by the internal structure of § 401.1, the way it relates to § 401.2, and this Board’s practice in construing both provisions. The internal structure of § 401.1 reveals that it is primarily a prohibition on enlarging or replacing a pre-1958 building. It expressly addresses “the case of a building located, on May 12, 1958, on a lot” that fails to have the minimum “lot area or width of lot, or both” that is currently required by § 401.3 for the building’s location.² But that prohibi-

² It could perhaps be argued that the lack of conformity with area or width requirements should be judged as of May 12, 1958, and therefore that § 401.1 exempts AppleTree only from the 40-foot width requirement, which was already in place in 1958, but not the new 9000-square-foot area requirement from the 2006 rulemaking efforts, because the Subject Property’s lot, at 4230 square feet, met the area requirement that was in place in 1958. But such an argument would fly in the face of the provision’s construction. It contains two relevant segments: (1) “in the case of a building located, on May 12, 1958, on a lot,” and (2) the phrases that modify “lot” (*i.e.*, “with a lot area or width of lot, or both, less than that prescribed in § 401.3 for the district in which it is located”). The modifying phrases discussing area and width are accompanied by the present-

tion on enlarging or replacing pre-1958 buildings has two exceptions: first, as the initial clause indicates, those “provided in Chapters 20 through 25 [of the Zoning Regulations],” and, second, when the project “complies with all *other* provisions of this title” (emphasis added).

This Board has expressly concluded that, pursuant to § 401.1, a pre-1958 building *can* be enlarged or replaced even if its lot fails to meet the minimum-lot-width requirement in § 401.3. As the Board explained in its March 5, 2002 Decision and Order in Appeal No. 16830 of Advisory Neighborhood Commission 2A and Richard J. Price, § 401.1 “means that a replacement for a pre-1958 building on a nonconforming lot is permitted so long as it meets all zoning requirements ‘other’ than lot width.” Exhibit F at 5. (Although lot area was not relevant in that case, § 401.1 clearly creates a parallel exception from the minimum-lot-area requirement by referring to “lot area or width of lot, or both.”) The Board correctly noted that requiring an applicant to satisfy the lot-area or lot-width requirements would betray the regulation’s text by treating it “as if the word ‘other’ did not exist.” *Id.*

tense reference to “*is located*.” This is a clear signal that lot area and width are to be judged by current standards.

Moreover, the reference to area and width requirements “prescribed in § 401.3” would be anachronistic if applied to May 12, 1958, because the Zoning Regulations were numbered differently in 1958. It would be especially odd to expect someone in 2006 to read a reference to “§ 401.3” as if it said “§ 3301.1 of the Zoning Regulations, as they existed on May 12, 1958.”

The conclusion that § 401.1 refers to the *current* rather than historical lot-area and lot-width requirements is supported by a comparison between § 401.1 and the somewhat-parallel grandfather clause contained in § 401.2. Both provisions contain one clause that has no verb but contains a date in the past, followed by another clause that includes present-tense forms of the verb “to be” and mentions area and width standards. This Board has sensibly construed § 401.2 as creating one inquiry about 1957 (whether the lot “*was* both unimproved and in single ownership on November 1, 1957”) and another inquiry about the present (whether it “*today* does not adjoin another unimproved lot in the same ownership” and “*has* a lot width or lot area which *is* at least 80% of the required minimum”). BZA Order in Appeal No. 17034 of Advisory Neighborhood Commission 2E at 5 (May 12, 2004) (emphases added) (attached as Exhibit E).

Thus, it is irrelevant that the Subject Property happened to comply with the area requirements in 1958. The pre-1958 building may still be enlarged if it meets all requirements “other” than lot area and width — as the Subject Property does.

In AppleTree's case, apart from lot area and lot width, the Zoning Administrator identified no "other" provision with which AppleTree's application fails to comply, except the one for onsite parking. As explained below in Part II, it is clear that AppleTree's application did not fail to comply with the parking requirements. Accordingly, AppleTree's application falls within the exception to § 401.1's prohibition on enlarging a pre-1958 building, and the Zoning Administrator erred in finding it does not meet the minimum-lot-area and minimum-lot-width requirements.

II. Under This Board's Consistent Interpretation of 11 DCMR § 2100.5, AppleTree's Building, Which Is Certified as Contributing to a Historic District, Requires No Additional Parking Spaces

AppleTree's building-permit application explained that the lot has room for only 3 onsite parking spaces (both before and after the proposed expansion), and that AppleTree had secured a long-term lease in a nearby parking lot for 10 additional spaces. The Zoning Administrator concluded that AppleTree's proposed use of the Subject Property — a public charter school for pre-kindergarten students with 15 staff members — would require 10 parking spaces. In doing so, he flouted this Board's consistent and authoritative interpretation of 11 DCMR § 2100.5, which was specifically invoked by AppleTree's permit application and a follow-up letter from its architect. *See* Exhibit B (detail from application's cover sheet, citing § 2100.5 and noting that building has been certified); Exhibit C at 2–3 (letter to Zoning Administrator).

Section 2100.5 says:

No additional parking spaces shall be required for a historic landmark or a building or structure located in a historic district that is certified by the State Historic Preservation Officer as contributing to the character of that historic district.

The Subject Property has in fact been certified by the State Historic Preservation Officer as contributing to the character of the Capitol Hill Historic Preservation District. *See* Exhibit No. 15 in this case (copy of certification); Exhibit A at 1 (Staff Report for Historic Preservation and

Review Board referring to property as “contributing” to the Capitol Hill Historic District). Accordingly, the Board should conclude, just as § 2100.5 declares, that “[n]o additional parking spaces [are] required.”

Prior decisions of this Board amply demonstrate that § 2100.5 eliminates the need for new parking spaces for historic structures not only when there is a change in use but also when there is new construction.³ In its July 7, 2006 Summary Order about Application No. 17459 of DC Hampton LLC, the Board noted that there are “many decisions of this Board finding and concluding that Section 2100.5 operates to waive the requirement for additional parking spaces for new construction” whenever a site “includes a historically significant building that is certified as contributing to the character of [a historic district]” (attached as Exhibit I). As the Board further explained: “This has been a long-standing consistent interpretation by this Board, as well as by the Office of the Zoning Administrator, since Section 2100.5 was enacted by the Zoning Commission in 1985.” *Id.* at 2. Furthermore, the Board specifically rejected the Zoning Administrator’s recent attempts to defy its settled interpretation:

The Office of the Zoning Administrator has recently called this interpretation into question. The Board finds that its prior reasoning is sound, and that there is no reason to reverse this long-standing interpretation. Indeed it is the Board, and not the Zoning Administrator, which has the final administrative authority to interpret the Zoning Regulations. *Murray v. D.C. Bd. of Zoning Adjustment*, 572 A.2d 1055, 1058 (D.C. 1990).

³ For example, in its March 3, 1999 Summary Order upon Rehearing of Application No. 16307 of the National Child Research Center, the Board concluded that § 2100.5 “exempts such historic structures from providing additional parking when the use is changed” (attached as Exhibit G). Similarly, in Application No. 16487, Planned Parenthood Federation of America proposed repairing a façade and gutting and rebuilding the interior of a building while changing the use from a medical clinic to an office; with regard to parking, this Board’s October 29, 1999 Order said: “The subject property has no onsite parking and none is required for the proposed use in accordance with Section 2100.5 which provides that no additional parking spaces are required for historic structures” (attached as Exhibit H).

Id.; see also BZA Summary Order in Application No. 17531 of D.C. Office of Aging (Oct. 11, 2006) (attached as Exhibit J) (unanimous decision noting, in the context of a proposed addition to and change of use, that the “building has been designated a historic landmark and therefore is exempt from parking requirements pursuant to 11 DCMR § 2100.5”).

Notably, the Board’s re-affirmations of its common-sense interpretation of § 2100.5 came after the Office of Planning had petitioned, through a set-down report, for a text amendment that would purportedly “clarify” that § 2100.5 applies only to a “use change.” See ZC Case No. 06-33 (set-down at July 10, 2006 meeting).⁴ The first public hearing about that potential text amendment is scheduled for November 27, 2006. See 53 DCR 7641 (Sept. 22, 2006). Of course, even if the Zoning Commission ultimately changes the rule underlying this Board’s consistent interpretation, that change should have no effect on AppleTree’s application, which was pending long before the set-down occurred. See 11 DCMR §§ 3202.4, 3202.5(a).

This Board should hew to its longstanding interpretation of § 2100.5 and conclude that AppleTree’s application complies with Chapter 21 of the Zoning Regulations.

⁴ Chairperson Mitten discussed the potential text amendment related to historic parking at a May 11, 2006 public hearing of the Zoning Commission and a July 10, 2006 public meeting of the Zoning Commission, indicating that she supports amending the text to something that would depart from the BZA’s consistent interpretation of the current regulation. In her capacity as a member of the BZA, however, she had recently *agreed* with the consistent interpretation of the Board discussed above. During the Board’s May 2, 2006 public hearing, she stated: “I would just concur that we have said this in all those other cases and don’t see any reason to interpret the regulations any differently. I’m not sure why that’s not clear to the Zoning Administrator but if this helps me get clearer today by reaffirming that, then so be it. That’s a good thing.” Tr. of May 2, 2006 BZA Public Hearing at 290 (attached as Appendix K); see also *id.* at 292 (statement of Ms. Mitten noting that § 2100.5 deals with historic landmarks and certified buildings and is distinct from § 2100.6, which deals with pre-1958 structures); ZC Order No. 940, Case No. 00-33C, at 4 (May 11, 2001) (unanimous order of the Zoning Commission, signed by Chairperson Mitten, citing § 2100.5 for the proposition that “a historic landmark located in a historic district . . . is not subject to otherwise applicable parking . . . requirements”).

III. The Board Cannot Rely on the Zoning Commission's February 13, 2006 "Emergency" Rulemaking, Its Extension of the Emergency, or the Final Rulemaking To Deny AppleTree's Application

As the preceding discussion demonstrates, the Board should reverse the Zoning Administrator's permit denial (or exercise the full powers of the Zoning Administrator and grant the permit application). D.C. Code § 6-641.07(g)(4); 11 DCMR § 3100.4. Moreover, it may do so without having to consider the validity of the Zoning Commission's February 13, 2006 emergency rulemaking, its June 12, 2006 re-adoption of the emergency rulemaking, its September 25, 2006 final rulemaking, or the effect that any of those actions might have had on the pendency of AppleTree's permit application. None of those actions affected the text of §§ 401.1 and 2100.5, which are sufficient to determine that the Zoning Administrator erred in denying AppleTree's application.

If, however, the Board were somehow to affirm the Zoning Administrator's denial of AppleTree's application and base its decision on the Zoning Commission's emergency rulemaking, it would be impermissibly relying on a legal nullity, as AppleTree has consistently explained to the Zoning Commission. *See* Letters from Jack McCarthy and Russ Williams AppleTree, to the Zoning Commission, *Re: ZC Case No. 06-06* (Feb. 9, May 10, and June 12, 2006) (collectively attached as Exhibit L).

There was in fact no emergency that necessitated a change to the minimum-area requirements for public schools. Even a cursory look at the justifications provided by the Zoning Commission suffices to show that it did not meet its obligation to explain "clearly" why an instant tripling of the lot-width and doubling of the lot-area requirements for public schools in R-4 zone districts was "*necessary for the immediate preservation of the public peace, health, safety, welfare, or morals.*" 1 DCMR § 311.4(e) (emphases added). The Commission's public notices for the two emergencies asserted an unsubstantiated (and unlikely) chance that, without such

emergency action, there would have been an “immediate proliferation of Charter Schools in residence districts” that would have some unquantified “potential” for “adverse impacts.” 53 DCR 2017 (Mar. 17, 2006); 53 DCR 5895 (July 21, 2006). That failure to specify the potential adverse impacts — or even to claim that they had any relation to the public peace, health, safety, welfare, or morals — was obviously inadequate to meet the Commission’s obligation to provide a clear explanation of the necessity of an emergency rule. *Cf. Wheelchair Carriers Ass’n, Inc. v. District of Columbia*, Civ. No. 00-1586, 2002 U.S. Dist. LEXIS 4617 (D.D.C. Mar. 12, 2002) (invalidating emergency rulemaking because there was insufficient support in the record for the kind of public health crisis that had supported prior emergency rulemakings).

In addition, the “emergency” rules could not be applied for “longer than 120 days” under § 2-505(c) of the D.C. Code. The Zoning Commission’s “re-adoption” of the “emergency” rulemaking on June 12, 2006 is a legal nullity because the D.C. Code makes no provision for such an extension, because there was still no “emergency” at that date, and because no clear explanation of any “emergency” appeared in the July 21 *D.C. Register* notice.

Finally, even if the emergency amendments were found to apply to AppleTree’s application, they could not be enforced against AppleTree, because doing so would amount to arbitrary and capricious agency action. The amendments themselves were not logically constructed to achieve their stated objectives, and they were adopted (on an emergency basis) specifically to defeat AppleTree’s pending application. As D.C. Council Member Kathy Patterson recognized in an e-mail message when the proposals were first being drawn-up: “[i]f my understanding of possible emergency action is correct . . . the govt would appear to be responding with policy to a particular not a general concern.” E-mail message from Kathy Patterson to Ellen McCarthy,

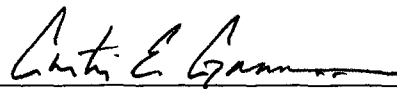
Office of Planning, *Re: charters & matter of right* (Jan. 3, 2006, 8:38 PM) (obtained by AppleTree in response to FOIA request to the Office of Planning) (attached as Exhibit M).

CONCLUSION

Because AppleTree's application complied with all applicable zoning requirements on the date the Zoning Administrator made his decision (or, in the alternative, after the "emergency" text amendment expired on June 13 or October 10, 2006), it should be granted without regard to any future rulemakings, because § 3202.4 of the Zoning Regulations provides that the applicable rules are those "in effect on the date that the permit is issued," and the Board should conclude that the permit should have been issued at one of those times.

Respectfully Submitted,

Dated: November 7, 2006

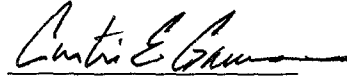


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*Attorneys for Appellant AppleTree Institute for
Education Innovation, Inc.*

PROOF OF SERVICE

On November 7, 2006, I sent a copy of the foregoing Brief of Appellant, with its attached exhibits, by first-class mail, to the Zoning Administrator for the District of Columbia and to Advisory Neighborhood Commission 6A.

A handwritten signature in black ink, appearing to read "Curtis E. Gannon", written over a horizontal line.

Curtis E. Gannon

Appeal No. 17532

List of Exhibits Attached to the Brief of Appellant

Historic Preservation Review Board, Staff Report and Recommendation, <i>Re: 138 12th Street, NE</i> (Dec. 2005)	A
“Zoning Data Summary,” Detail from Cover Sheet of Proposed Design for the AppleTree Early Learning Public Charter School, Submitted to Department of Consumer and Regulatory Affairs with Application for a Building Permit (Feb. 9, 2006).....	B
Letter from Daniel J. deBettencourt, dBF Associates, Architects, to Bill Crews, Zoning Administrator, <i>Re: Building Permit Application for Public Charter School at 138 12th Street, N.E. (Tracking Number 3758-A-6)</i> (Mar. 6, 2006).....	C
Letter from Bill Crews, Zoning Administrator, to Russ Williams, Managing Director, AppleTree, <i>Re: 138 12th St. N.E.</i> (Apr. 28, 2006) (identical to Exhibit No. 13 in this case)	D
BZA Order re Appeal No. 17034 of Advisory Neighborhood Commission 2E (May 12, 2004)	E
BZA Decision and Order re Appeal No. 16830 of Advisory Neighborhood Commission 2A and Richard J. Price (Mar. 5, 2002)	F
BZA Summary Order upon Rehearing re Application No. 16307 of the National Child Research Center (Mar. 3, 1999).....	G
BZA Order re Application No. 16487, Planned Parenthood Federation of America (Oct. 29, 1999)	H
BZA Summary Order re Application No. 17459 of DC Hampton LLC (July 7, 2006)	I
BZA Summary Order re Application No. 17531 of D.C. Office of Aging (Oct. 11, 2006).....	J
Transcript of May 2, 2006 BZA Public Hearing, pages 280–93	K
Letters from Jack McCarthy and Russ Williams, AppleTree, to the Zoning Commission, <i>Re: ZC Case No. 06-06</i> (Feb. 9, May 10, and June 12, 2006).....	L
E-mail message from Kathy Patterson to Ellen McCarthy, Office of Planning, <i>Re: charters & matter of right</i> (Jan. 3, 2006, 8:38 PM) (obtained by AppleTree in response to FOIA request to the Office of Planning).....	M