Date: September 11, 1997

To: D.C. Board of Zoning Adjustment
441 4th Street, N.W.
Suite 210
Washington, D.C. 20001

From: Jack and Karen Turton, 3225 Klingle Road

Re: BZA Application No. 16260

'97 SEP 15 AM 10:02
OFFICE OF ZONING
DISTRICT OF COLUMBIA

Application for zoning adjustment on property of David M. Furchgott and Fetneh Askari Fleischmann, located at:

3223 Klingle Road, N.W.
Washington, D.C. 20008
Square: 2098, Lot: 0016

Please note the objection of Jack and Karen Turton to the granting of a zoning variance to allow a structural addition to the property located at 3223 Klingle Road.

Mr. and Mrs. Turton are owners of the adjacent townhouse at 3225 Klingle Road, and are directly and adversely affected by the proposed addition.

Pursuant to I I DCMR §3107.2, David Furchgott and Fetneh Fleischman have applied for a variance to allow an addition to their existing nonconforming property at 3223 Klingle Road.

The proposed addition is not permissible because of violations of §§2001.3a-c. Under §3107.2, the Board may grant a variance from the zoning regulation only where strict application of the regulation will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owners of the property; and only provided that such relief does not cause substantial detriment to the public good and substantially impair the intent, purpose, and integrity of the zoning plan.

For the reasons stated below, the conditions for granting a variance are not met.

First, denial of the variance would not work any undue hardship upon the applicants, or result in any peculiar and exceptional practical difficulties.

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Applicants seek the variance for the stated purpose of making repairs to their flat second story roof to remedy water leakage and runoff. Their plan incorporates the construction and extension of a re-designed roof-top dormer in accomplishing this. The only significant problem for the owners of the property at 3223 Klingle Road is their leaky roof, and the proposed addition to their property is merely an amenity.

Applicants are entitled to resolve their problem by repairing their roof, but not by installing an additional structure.

The issue of whether faulty design or construction of the existing dormer on applicant's roof causes the water problems is distinct from the issues related to their proposal to add significantly to their structure and to extend it by 9.5 feet or so.

While it may be true that the owners would suffer some hardship if they were not allowed to repair and reconstruct their existing roof in the manner they propose, this is not the issue; they have not shown that any "exceptional and undue hardship" would result if they are denied permission to expand their residence.

Second, granting of the variance would cause substantial detriment to the public good.

Applicant's property is the end townhouse of a three unit building. Granting of the variance would cause substantial harm to the present and future owners of the other units in the building. Areas of concern specifically include the following:

1. Extension of the dormer on the third floor will block most of the east and north view from the third floor rear windows of the other two units.

2. Extension of the dormer will reduce access to light and air from the third floor rear windows of the other units.

3. Extension of the dormer may adversely effect the structural integrity and soundness of the middle unit (presently occupied by Jack and Karen Turton) in that:

> The Applicants propose to change the design of the existing structure, and to build an extend peaked-roof structure within several feet of the adjacent unit. The dormer extension will create a wind barrier which will most likely result in the accumulation of large snow drifts on the flat, second-floor, rear roof of the middle unit, and
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> The Applicants' propose a new roof design for the that extension will cause snow accumulations on Applicant's roof line to run off and slide onto the flat, second-floor, rear roof of the middle unit. The combined weight of snow accumulation from these two

sources may result in a snow load which would exceed safe load limits for the middle unit's present flat roof, and

The Applicants' proposal for an extension will increase the probability of roof leaks occurring on the flat, second floor roof of the middle unit as the new design may result in the diversion of water from the end unit's roof to the center unit's roof.

The grant of applicant's variance request at the expense of owners of other units in the building cannot be seen as being in conformity with the public good.

Third, to provide a variance would substantially impair the intent, purpose, and integrity of the zone plan. There presently is class-action litigation regarding the validity of a 1923 neighborhood covenant affecting these properties. That covenant if, applicable to this matter, would itself prevent the proposed addition. One of the arguments against the validity of such covenant is that it is an unnecessary additional burden in view of the protections provided by the zoning regulations. If this argument is found to have any merit, it will only be because of the belief that the zoning regulations will be enforced and that variances will not be routinely granted resulting in substantial impairment of the zone plan.

Finally, the site of the proposed application is within the jurisdiction of Advisory Neighborhood Commission 3C. The Commission has resolved that it will not object to the variance on the condition that Applicants reach an accord with their neighbors at 3225 Klingle Road. To date, this has not occurred, and we remain convinced that the granting of this variance will substantially increase the likelihood of snow and water damage and related harm to our property, all of which is out of proportion to the desire of Applicants to add amenities to their property in the course of making repairs.

For the foregoing reasons, we would kindly request that the request for a variance be denied.

Respectfully submitted

Karen Ransom-Turton

KAREN TURTON

Jack Turton

JACK TURTON