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January 27, 2000

HAND DELIVERED

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

'00 JAN 27 P3:19

Re: BZA Case No. 16544
Steven & Cecile Simone
12 - 16 7th Street, N.E.

Dear Ms. Kress:

Enclosed please find an original and eight (8) copies of a Prehearing Statement to be submitted into the record for the above referenced case. We are filing this Statement today, as the Office of Zoning was closed yesterday, January 26, 2000, due to inclement weather. A copy of the Statement has been sent by first-class mail, postage prepaid to:

Mr. Lyle Schauer, Zoning Chair
Capitol Hill Restoration Society
P.O.Box 15264
Washington, D.C. 20003

and

Mr. Peter J. Waldron, Chair
ANC 6B
218 2nd Street, S.E.
Washington, D.C. 20003

BZA
Case No. 16544
Exhibit No. 24

Board of Zoning Adjustment
District of Columbia
CASE NO.16544
EXHIBIT NO.24

and by hand delivery to:

Ms. Janet L. Schmidt
14 4th Street, N.E.
Washington, D.C. 20002

If you have any questions regarding this submittal, please give me a call.

Sincerely,



Jeannine Rustad

Enclosures
cc: Mr. Peter Starbuck (w/encl.)
Jacques B. DePuy, Esq.
John Patrick Brown, Jr., Esq.
130417

DISTRICT OF COLUMBIA
OFFICE OF ZONING
'00 JUN 27 P 3:20

PRE-HEARING STATEMENT OF
STEVEN AND CECILE SIMONE
B.Z.A. APPLICATION NUMBER 16544
12 – 16 7TH STREET, N.E.

The Pre-Hearing Statement is submitted on behalf of Steven and Cecile Simone, for the Simone-Starbuck Joint Venture (the "Applicant"), by and through its counsel, Greenstein DeLorme & Luchs, P.C., by Jacques B. DePuy, Esq. and Jeannine Rustad, Esq.

NATURE OF RELIEF SOUGHT. This is an application pursuant to 11 DCMR §3103.2 for a variance from the maximum allowable percentage of lot occupancy (11 DCMR §403.2) to allow construction of two garages at Lots 72 and 73 in Square 868 in an R-4 district. In order to construct the proposed garages, variances of fifteen percent (15%) for Lot 72 and fourteen percent (14%) for Lot 73 are required.

PROPERTY DESCRIPTION. The Property, which has a premises address of 12 and 16 7th Street, N.E. consists of two (2) irregularly shaped, narrow lots which were very recently improved with two (2) single family row houses.[1] The Property is located on the west side of 7th Street, N.E., midway between A Street, N.E. to the north and East Capitol Street to the South. The Property is located in the R-4 zone district and is included in the Capital Hill Historic District. A public alley abuts the rear of the Property. See Exhibit 1. [The Property is highlighted in blue].

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[1] As of the filing of this Statement, the construction of the house at Lot 73 (12 7th Street, N.E.), is substantially complete.

Lots 72 and 73 are each twenty-seven (27) feet wide along 7th Street, N.E. and decrease in width to only nineteen (19) feet along the alley. The rear portion of each lot is also set off in an irregular direction from the remainder of the lot. This set off is approximately sixteen (16) feet for Lot 73 and eight (8) feet for Lot 72. See Exhibit 2.

SURROUNDING NEIGHBORHOOD. The area along 7th Street, N.E., A Street, N.E. and East Capitol Street, N.E. is characterized primarily by residential rowhouses. There is a single family dwelling that abuts the subject property to the south and a commercial (nonconforming) use on the north side.

The majority of the properties located along the alley in Square 868 are improved with garages or carriage houses.[2] In fact there are thirty-five (35) properties which abut the alley that are improved with carriage houses, garages or other buildings. See Exhibit 1 (alley buildings are highlighted in pink). This represents 81% of the improved properties in Square 868 (excluding the Property) that abut the alley. See Exhibit 1.

Lot 68 (18 7th Street, N.E.), which abuts the Property to the north, is improved with a two-story structure along the alley. Lot 68 has a lot occupancy of 100%. See Exhibit 1. Lot 833 (10 7th Street, N.E.), which abuts the Property to the south, is improved along the alley with a two story carriage house. Lot 833 has a lot occupancy of approximately 85%. Id. Lots 54 and 53, which abut the south end of the alley to the southwest of the Property, are each improved with garages. Id. These garages are adjacent to the carriage house at Lot 833. Id.

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[2] The Applicant resides in a two-story carriage house at 20 7th Street, N.E., just two (2) lots north of the Property. See Exhibit 1.

ZONING OF THE PROPERTY. The Property is zoned R-4. This zone district is designed for development primarily with row dwellings. The maximum lot occupancy allowed in an R-4 district is sixty percent (60%).

PRIOR CONFIGURATION AND USE OF THE PROPERTY. The Property, until recently, was comprised of three (3) lots -- Lots 832, 46 and 45, in Square 868. See Exhibit 1. Two of the lots, Lots 832 and 46, did not contain the minimum lot area of 1,800 square feet and were, therefore, nonconforming. 11 DCMR §401.3. Specifically, Lot 832 had a lot area of only 1,258 square feet and Lot 46 had a lot area of 1,728 square feet. See Exhibit 1. Additionally, Lot 832 did not meet the minimum lot width requirements for the R-4 district of 18 feet, as it had a lot width of only 16.04 feet. Id. By subdividing the three Lots, the Applicant created two (2) conforming lots which have a lot area of 2,424 square feet (Lot 72) and 2,482.50 square feet (Lot 73) and lot widths of 27.04 and 27.00, respectively. Exhibit 3.

Prior to the consolidation of the three (3) lots, the Property was improved with a nonconforming one (1) story structure. This building was used as a Safeway supermarket for many years. See Exhibit 4. After Safeway discontinued its use, a number of nonresidential uses occupied the building.

PROPOSED USE OF THE PROPERTY. The Applicant has improved the Property with two, single family dwellings (see Exhibit 5), both of which are currently under contract for sale to purchasers who reside in the immediate neighborhood.

At present, two (2) surface parking spaces have been established in conjunction with the construction of the two new rowhouses. These parking "pads" abut the alley in the rear. These two parking spaces are surrounded on the east by a ten (10) foot high brick wall and by the walls of adjacent structures which abut to the north and the south. See Exhibit 4. The walls of the abutting structures to the north and the south are blank (i.e., they have no windows facing the Property) and are approximately twenty-two (22) and eighteen (18) feet high, respectively. Id.

By proposing to construct two (2) garages, the Applicant seeks merely to place a roof over the existing enclosing walls. In so doing, the Applicant will create structures with a design that is more compatible with other historic structures in the Capitol Hill Historic District. The design of the two garages has been approved by the Historic Preservation Review Board.

The proposed garages will be constructed of brick with Flat-Lock Seam copper roofs. The garages will be similar in design to those located at Lots 53 and 54. The brick to be used in the garages is the same as is currently used for the walls of the parking courts. See Exhibit 4 and 5. The roofs of the garages will be similar in design to that of the carriage house located at 10 7th Street, N.E. (Lot 833). See Exhibits 5 and 6. Entrances to the garages will be from the public alley to the west.

The proposed garages are compatible in design and consistent with the large number of similar carriage houses, garages and other structures along the public alley in Square 868. The garages will serve to "fill in" the existing gap caused by the lack of improvements along the alley at the Property, providing visual continuity along the alley.

These new garages will enhance the security and safety of residents of the Property and surrounding residences along the alley. In addition, the garages will provide storage space and protection from the weather.

JUSTIFICATION FOR THE VARIANCE SOUGHT. An application for an area variance must meet the following conditions:

1. The property suffers from exceptional narrowness, shallowness or shape or from exceptional topographical conditions or other extraordinary or exceptional situation or condition;

2. These exceptional circumstances result in peculiar and exceptional practical difficulties to the owner unless he or she can obtain a variance;

3. The variance relief will not create substantial detriment to the public good or substantially impair the intent, purpose and integrity of the zone plan, as embodied in the zoning regulations and map.

Draude v. BZA, 527 A.2d 1242, 1254 (D.C. 1987); Roumel v. BZA, 417 A.2d 405, 408 (D.C. 1980); Carliner v. BZA, 412 A.2d 52, 53 (D.C. 1979); Capitol Hill Restoration Society v. BZA, 398 A.2d 15, 16 (D.C. 1979).

The requested variances are justified on two bases: first, by the exceptional narrowness of the lots, and second, by the irregular shape of the lots. Although the subdivision of the previous three (3) lots eliminated nonconformity as to lot area and width, the resubdivision could only be accomplished with an irregularly-shaped set off in the rear of each lot. See Exhibit 2. This unusual lot configuration and the location of the public alley to the west discourages the use of the rear yard for anything other than parking. Thus, the Applicant suffers a practical difficulty regarding the use of the Property due to its narrowness and irregular shape along the public alley.

Improvement of the Property with two garages will not adversely affect the character of the neighborhood or the light, air or view of neighboring properties. To the contrary, the granting of the variances to allow for construction of the garages will enhance both the appearance and utility of the lots, as well as enhance the appearance of the neighborhood surrounding the Property along the alley. Furthermore, the two (2) new garages will not be visible from Seventh Street, N.E. (or any other street) or from the structures located on the two abutting properties. [If any properties were to be adversely affected, it would be the two properties that abut the proposed garages. However, both abutting properties are improved with structures that have blank walls (i.e., no windows) which face the garages. Hence, there is no impact on light, air, view or privacy on neighboring properties as a result of the construction of the garages.] In addition, the garages will face the public alley, thereby allowing access without affecting traffic circulation on the street and without requiring any curb cuts. Finally, the requested variance to allow increases of lot occupancy of fifteen percent (15%) and fourteen percent (14%) is consistent with the lot occupancies of the lots which abut the Property to the north (100% lot occupancy) and south (approximately 85% lot occupancy) and with many other properties in Square 868.

CONCLUSION

The Applicant has benefitted the Property and the surrounding neighborhood by resubdividing the previously existing three (3) lots into two (2) conforming lots and by demolishing the previous non-residential, nonconforming one-story building on the Property and replacing the one-story building with two (2) residential rowhouses compatible with the

surrounding neighborhood in both use and design. The addition of two garages at the rear of the Property will provide security to the Property and surrounding neighborhood and improve the appearance and utility of the Property. The construction of two garages will be compatible with the development of garages and carriage houses in the block and will cause no adverse impacts to adjacent properties or the neighborhood.

The evidence will show that the relief sought by the Applicant can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan.

For the foregoing reasons, and on the basis of the evidence submitted with the application, it is respectfully submitted that the subject application satisfies the legal requirements applicable to the requested relief and that it therefore should be granted.

Respectfully submitted,

GREENSTEIN DELORME & LUCHS, P.C.

By: _____
Jacques B. DePuy

By: _____
Jeannine Rustad

Counsel for the Applicant

[130133]

EXHIBIT LIST

Exhibit 1	Baist's Atlas Map, Vol. II, p. 15 (1967 ed.).
Exhibit 2	Site Plan dated August 12, 1998, prepared by Grina-Lavie Architects .
Exhibit 3	Photographs of previous existing improvement to the Property.
Exhibit 4	Context elevation of houses facing 7th Street, N.E.
Exhibit 5	Photographs of the Property (view from alley).
Exhibit 6	Elevations prepared by Grina-Lavie Architects .

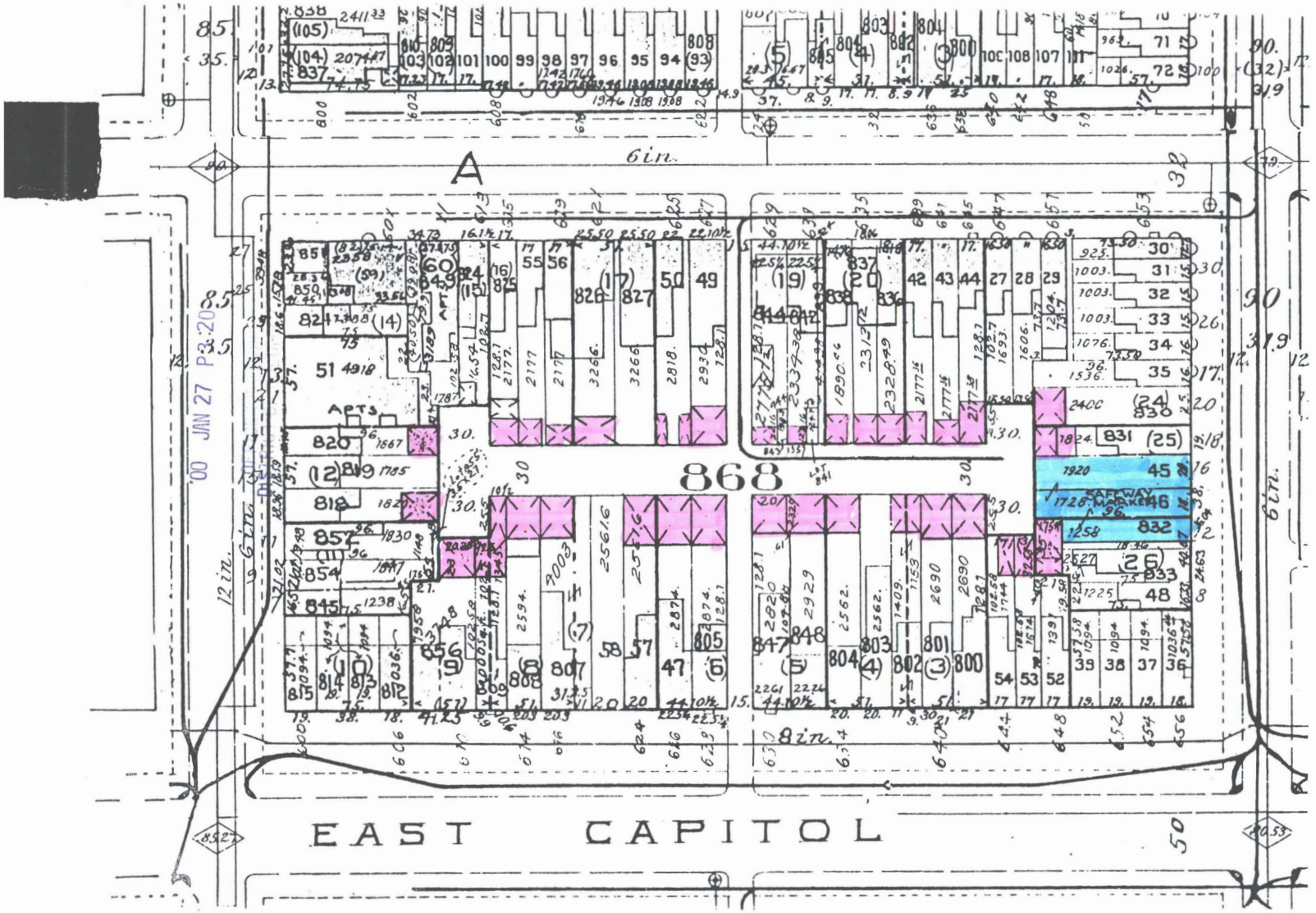


EXHIBIT 1

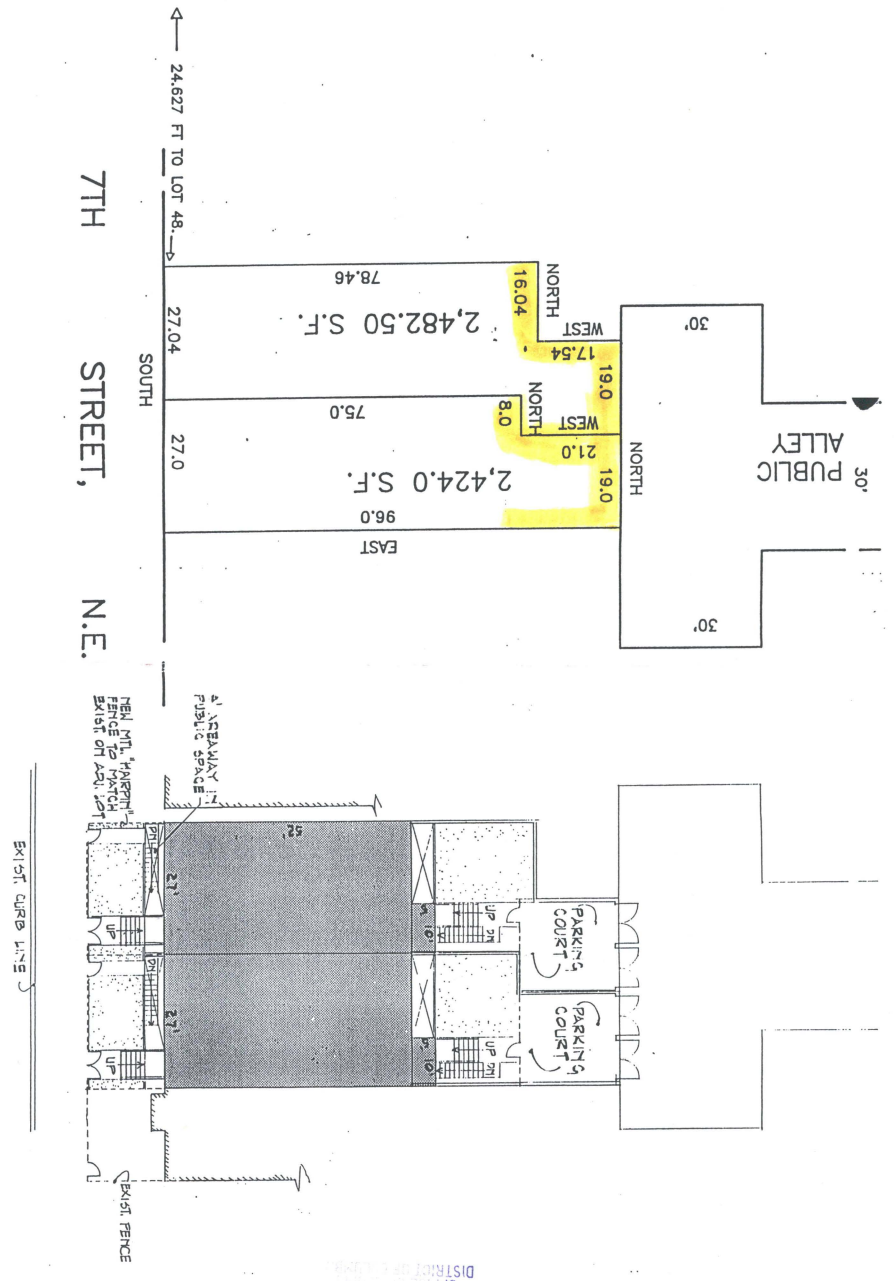


EXHIBIT 2

DISTRICT OF COLUMBIA
OFFICE OF ZONING
'00 JAN 27 P3:20

PROJECT: SQUARE 868
DRAWING: Site Plan
DATE: August 12, 1998

GRINA-LAVIE ARCHITECTS
4626 GREENE PLACE, NW WASHINGTON, DC 20007
TEL 202 625-2300 FAX 202 625-0726





'00 JAN 27 P 3:20
DIST



EXHIBIT 3



Lots 72 and 73 (Lot 68 to left and 833 to right).



Lot 68 (left) and Lot 72 (right).



Carriage house at Lot 833 and garage at Lot 53.



Carriage house at Lot 833 and garages at Lots 53 and 54.



Lots 72 and 73 and carriage house at Lot 833.



Carriage house (Lot 833), garages at Lots 53 and 54 and building at Lot 800.

00 JAN 27 P3:20

EXHIBIT 4

GRINA-LAVIE ARCHITECTS
4626 GREENE PLACE, NW WASHINGTON, DC 20007
TEL 202 625-2300 FAX 202 625-0726

PROJECT: SQUARE 868
DRAWING: Context Elevation
DATE: August 12, 1998