LINDA MUSSER SHINER 5655 MORELAND STREET NW WASHINGTON DC 202 364 4076

August 11, 2001

Ms. Jerrily R. Kress, FAIA
Director, Office of Zoning
Government of the District of Columbia
441 4th Street, NW Suite 210 South
Washington, DC 20001

Re: Record of BZA Appeal No. 16646
5655 Moreland Street, NW

Dear Mr. Kress:

Please find enclosed a letter addressed to Zoning Administrator Michael Johnson asking for his concurrence with the following: that referral of Building Permit Nos. B426044 and B428648 to the Department of Public Works resulted in finding that no condemnation of the property had been begun, that minor discepancies in gross floor area measurements and siting constitute no violation, and that the building permits revoked by the order from the above-referenced appeal may now be reinstated. The letter describes Mr. Johnson's actions in following the order and, with his countersignature reinstates building permits. It is my understanding that it should be included in the record of the BZA appeal.

Thank you.

I'd like to state once again my appreciation for your staff, who treated me with kindness and professionalism during the appeal process. I would also like to comment on the process in general, but I will save that for another letter.

Yours sincerely,

Linda Musser Shiner

BZA
Case No. 16646
Exhibit No. 42

Board of Zoning Adjustment
District of Columbia
CASE NO.16646
EXHIBIT NO.42

ARNOLD & PORTER

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May 29, 2001

Mr. Michael Johnson
Zoning Administrator
Department of Consumer & Regulatory Affairs
941 North Capital Street, N.E.,
2nd Floor
Washington, D.C. 20002

Re: Decision and Order in BZA Appeal No. 16646;
5655 Moreland Street, N.W.

Dear Mr. Johnson:

The purpose of this letter is to seek closure to the above-referenced appeal. As you know the BZA granted the appeal with respect to the appellant's assertion that your office should have referred Permit Nos. B426044 and B428648 (authorizing the garage addition to 5655 Moreland Street, N.W.) to DPW for a determination as to whether the City had initiated condemnation proceedings against the highway plan area. The BZA's decision dated March 28, 2001 (the "BZA Order") (a copy of which is attached hereto for your convenience) states: "[W]hen the Zoning Administrator invokes the highway plan exception to approve a building permit application involving an assessment and taxation lot, the Zoning Administrator must, in the absence of reliable information provided by the applicant, refer the application to DPW to determine whether condemnation proceedings have been authorized and actually begun."

In response to the BZA decision, you recently referred the matter to DPW. We have received a copy of DPW's response in an April 23 letter to you from Michelle Pourciau regarding Decision and Order in Appeal No. 16646 which states the following: "With respect to the issue of condemnation, please be advised that the D.C. Office of the Corporation Counsel has determined that although condemnation of a portion of the subject property was clearly contemplated in 1965, proceedings did not actually begin."

We forwarded a copy of DPW's response to Jerrily Kress, Director, Office of Zoning, with whom I recently discussed the need for any follow-up action on the part of your office. Ms. Kress and I agreed that although it may not be technically necessary, it would be helpful to complete the record in the case with a letter from your office to the BZA documenting the referral to DPW, with DPW's response, and the subsequent

reinstatement of Permits B426044 and B428648. We believe that your countersignature on this letter will provide such documentation and we ask your assistance in providing it.

We note that the BZA decision and order also states: "[T]he Zoning Administrator's review should also address the discrepancies that came to light during the hearing involving the gross floor area of the building and its siting on the lot." We have carefully calculated the gross floor area of the house, garage, and footprint under glass: For the record, it is 5,321.94 square feet. For zoning purposes, a more relevant measure is the total footprint of the house, since that is the basis on which percentage of lot occupancy is calculated. The total foot print is 2,278.08 square feet or 20.61 percent of the total square footage of lots 801 and 802.11 11,054 square feet. At 20.61 percent, the requirements are well under the 40 percent maximum lot occupancy. In regard to the siting of the building on the lot, you have the result of the three wall checks performed during inspections at the site that indicate the siting of the building. There is no building restriction line on the lot.

Your confirmation as to the reinstatement of Permit Nos. B426044 and B428648 by countersigning this letter in the space provided below is greatly appreciated. Please don't hesitate to call me if you need any additional information or if you need to discuss this matter further. Thank you for your continued assistance in this matter.

Sincerely,

Cynthia Giordano

I agree and concur with the foregoing zoning conclusions and I hereby reinstate Permits B426044 and B428648 approving an addition to 5655 Moreland Street, N.W.:

Michael Johnson
Zoning Administrator

Date

cc: Jerrily Kress, Director, Office of Planning
Tom and Linda Shiner