GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

Office of Zoning

Application No. 16686 of Benjamin Medley, pursuant to 11 DCMR § 3103.2, for a use variance under subsection 300.3 for a rooming house for senior citizens with rooms on the 1st, 2nd and basement floors in an R-2 District at premises 5812 5th Street, N.W. (Square 3203, Lot 73).

HEARING DATE: April 17, 2001
DECISION DATE: April 17, 2001 (Bench Decision)

DISMISSAL ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief (Exhibit No. 6).

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register and by mail to the applicant, Advisory Neighborhood Commission (ANC) 4B, and to owners of all property within 200 feet of the property that is the subject of this application.

The subject property is located within the jurisdiction of ANC 4B. ANC 4B, which is automatically a party to this application, submitted a letter to the Board indicating that it is opposed to approval of the application. The ANC indicated that the commissioners had serious concerns about the ability of the applicant to care for the residents, and that converting the single-family dwelling into a rooming house would have a negative impact on the character of the neighborhood.

The case involves property that is located at 5812 5th Street, N.W., in Square 3203, on Lot 73, in the Manor Park community. The streets surrounding the site are 5th Street to the east, Nicholson Street to the south, 6th Street to the west, and Oglethorpe Street to the north. The rectangular-shaped property is 20 feet wide, 142.75 feet deep, and contains 2,855 square feet. The property is improved with a two-story, plus basement, row house.

The applicant requested to use the building as a rooming house for five middle-aged persons and senior citizens. The site is zoned R-2. A rooming house is not permitted in the R-2 District. Rooming houses are first permitted, as a matter-of- right, in the R-4 District. The applicant needs zoning relief under §§ 300.3 and 3103.2 of the Zoning Regulations to use the premises as a rooming house.

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EXHIBIT NO.32

The Board discussed the application, as a preliminary matter, at its April 17, 2001 public hearing. Neither the applicant nor a designee was present at the public hearing. The record indicates that, on the day of the hearing, the applicant telephoned the Office of Zoning requesting that the hearing be continued. The zoning staff instructed the applicant that the request must be made in person to the Board.

After the applicant's discussion with the zoning staff on the day of the hearing, the applicant visited the Office of Zoning and left a hand-written note. The note asked that the hearing be continued because the case was not ready to go forward, as additional time would be needed by the applicant to seek "proper representation" (Exhibit No. 30).

The Board determined that the applicant had sufficient time to prepare for the hearing and chose not to attend the hearing to discuss the reasons for requesting the continuance. The Board **DENIED** the applicant's request for a **CONTINUANCE** of the hearing.

The applicant did not attend the public hearing on the day and at the time designated. Therefore, the Board exercised its authority under § 3117.3 of the Zoning Regulations and dismissed the application because the applicant failed to attend the public hearing or have a designee present.

In light of the foregoing, the Board hereby **ORDERS** that the application be **DISMISSED.**

VOTE: 3-0-2 (Anthony J. Hood, Susan Morgan Hinton, AICP, and Sheila Cross Reid to dismiss; Anne Mohnkern Renshaw not present, not voting; the third mayoral appointee not present, not voting.)

BY ORDER OF THE DC BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director

FINAL DATE OF ORDER: MAY - 4 2001

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

BAB/5.4.01

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

Office of Zoning

BZA APPLICATION NO. 16686

As Director of the Office of Zoning, I hereby certify and attest that on MAY - 4 2001 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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4th District Police Headquarters
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Sharee A. Brown, Commissioner
Single Member District, ANC-4B05
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JERRILY R. KRESS, FAIA
Director