Gerald A. Fitzgerald & Julianne Byrne
1656 Newton Street, NW
Washington, DC 20010

Jerrily R. Kress FAIA
Director
D.C. Board of Zoning Adjustment
441 Fourth Street NW, Suite 210-S
Washington, DC 20001

May 1, 2001

RECEIVED
D.C. BOARD OF ZONING ADJUSTMENT
2001 MAY -7 AM 12:32

RE: Application # 16706

Dear Ms/r. Kress:

We are sending you this letter since I and my husband Gerald A. Fitzgerald will be abroad when the hearing in this case is held. We are therefore unable to testify in person. We strongly oppose the request for a use variance at 1708 Newton Street NW, BZA case # 16706. We live directly across the street from the side of the building and have owned our house for 15 years. We would be adversely affected by a ruling that would grant such a variance as requested. This request does not comply with the basic legal standard set out in D.C. Code §5-4234(g)(3) (1981). It should be turned down for the following basic reasons:

The application does not comply with requirements for a use-variance, or for allowing a non-conforming use within a structure in a residential zone.
The Board of Zoning Adjustment has the authority to grant non-conforming uses when they comply with certain conditions. The granting of a use variance for an office in an apartment building would be a non-conforming use. It would (2003.2) "adversely affect the present character or future development of this area," and this would clearly affect the residential area–all residentially zoned–within 300 feet of the property. The proposed use would create parking problems and possibly exacerbate already existing loading problems (2003.3). In a residential district the proposed use "shall be either a dwelling, flat, apartment house or a neighborhood facility" (2003.5) and not, by definition, an office.

This is an R-4 district, which is totally residential, except for a minor use of a corner store a block away from the applicant's property which is long-standing and grandfathered. The applicant's building is surrounded by residences on all sides and across the street. The streets bounding the corner where the building is located are exceptionally narrow and unsuitable for substantial traffic, and parking is at a premium. The location is separated by a wide margin in all directions from the commercial area of Mount Pleasant, and there is nothing about the building and its lot to justify the notion that non-residential uses are appropriate. The integrity of the zone itself as residential would be abridged if a non-residential use, including a possible office, were allowed.

BZA
Case No. 16706
Exhibit No. 18

Board of Zoning Adjustment
District of Columbia
CASE NO.16706
EXHIBIT NO.18

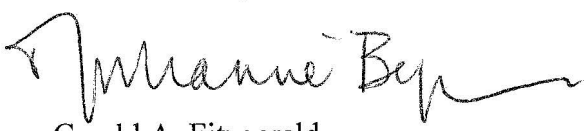
A convenience store on a route used by commuters (that is, 17th Street into and out of Rock Creek Park and Piney Branch Parkway) is likely to cause special problems. All convenience stores sell beer, wine and lottery tickets. This proposed store may be expected to do the same. Commuters will double park and block traffic causing much anger and horn-honking, as they do already. The neigborhood already suffers greatly from commuter traffic pressures and granting the requested variance can only aggravate these traffic problems.

Additionally, a non-conforming use as an office would increase the non-conformity of the building. This building is not a conversion complying with the R-4 lot size requirements, nor a house complying with the R-4 lot size requirements. It is grandfathered into the R-4 District as an apartment house containing 17 units sitting on a small lot with small front, side, and rear yards. Additionally, since the Zoning Regulations require 1 parking space for every 3 units for apartment houses in the R-4 zone, the building is currently non-conforming as to parking since it has none. It has no alley and no loading area and a very inadequate trash receptacle at the sidewalk which overflows and is already a feeding trough for rats leading to rodent infestation in the entire block. This last visual, odoriferous as well as unhealthy intrusion into the neighborhood replaced a basement trash room which the owner or owners converted to four more apartments some 14 years ago. It is unfortunate that the Zoning Regulations permit apartments to replace indoor trash rooms in situations where there is no logical place for a trash facility or pickup.

There is no sustainable argument about hardship. Under 3107.2, which is the regulation which restates the Zoning law at the beginning of this letter, the property itself must be so highly unusual in its physical configuration or topography as to justify the granting of a variance to prevent hardship. Large apartment houses in residential zones are not an unusual feature in the city, and there is nothing about the physical nature of the property to prevent its being used for its designated use as housing. If this variance were granted in direct contradiction to this standard, thousands of units of housing all over the city in residential zones could be lost. Such an action would seem to us and to many other District residents to be perverse at the very moment when the city is launching a campaign to arrest the decline in affordable rental and ownership housing opportunities in our city (Washington Post, 10 April 2001).

For all of these reasons, we urge the BZA to turn this application down.

Yours sincerely,



Gerald A. Fitzgerald
&
Julianne Byrne