Government of the District of Columbia
ADVISORY NEIGHBORHOOD COMMISSION 3-D
P.O. Box 40846
Palisades Station
Washington, D.C. 20016

October 18.2001

Ms. Sheri Pruitt
Secretary,
Board of Zoning Adjustment
441 4th St. NW
Washington, DC 20001

RECEIVED
D.C. OFFICE OF ZONING
2001 OCT 19 P 3:15

Re: BZA# 16710—5210 Klingle Street NW

Dear Ms. Pruitt:

ANC3D welcomes the opportunity provided by the Board to restate its position on BZA #16710 in which Mr. Vanay Pande is seeking a special exception with the stated purpose of allowing an existing awning, built without a permit and in violation of zoning restrictions, to remain standing.

It remains the position of the ANC3D, as stated in a letter of Oct. 9 and earlier in a letter of June 18, that the awning should be torn down and that Mr. Pande should then provide neighbors with a plan for a structure protecting a sliding chair for his mother that would be acceptable to his neighbors.

It is true that at ANC3D's meeting on Oct. 3, 2001, Mr. Pande presented conceptual plans for a structure called a Porte Cochere. The plans failed to gain the approval of neighbors on Hawthorne St. most directly affected by the proposed new structure. Contrary to an impression that may have been left with the Board by Mr. Pande's lawyer, the commission did not approve of the proposed new structure. Rather, at the Oct. 3 meeting it deliberately voted against approval of the new structure at that time by taking the position that the awning should be torn down before any plans for a new structure were considered.

Thus, in our letter of Oct. 9, we urged that the awning be torn down and invited Mr. Pande "to return once the present structure has been torn down completely and he can provide the neighbors with a plan to which they will agree." That statement by itself clearly demonstrates that our commission did not approve of the new structure. The minutes of the commission meeting also suggest Mr. Pande understood the commission was not approving the proposed new structure. After recording that Chairman Lewis moved to write a letter to the BZA "stating that after reviewing the new proposals, the ANC3D still stays with our former letter (of June 18) stating that they should tear down the old structure, work with line-of-sight neighbors and affirm that the canopy is a violation," the minutes state that "Mr. Pande said he is willing to do whatever is

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necessary; he will consult with his architect to come up with new plans which will meet the height and length requirements and will not infringe upon the neighbors."

Procedurally, we are concerned that the Board may approve the new structure without first obtaining the required views of our ANC. The Board's notice for the Oct. 16 hearing stated that the purpose was to review an application for a "special exception" to allow construction of a canopy. But as the Oct. 16 hearing progressed, the Board turned to consideration not of a canopy but of a permanent wooden structure whose footprint would violate the required zoning setbacks for side and back yards. The question thus arises in the commission's mind of whether the Board can approve of the proposed new structure under the "special exception" provision of section 3104 of the zoning code or whether the applicant must submit a request for a zoning variance under the "variances" provision of section 3103 of the zoning code, which zoning variance by law would first be reviewed by the ANC.

As we understand the code, a special exception is designed to permit applicants to request alternative use of a property, such as using a residential home for a nursery school. Mr. Pande is not asking for an alternative use. Rather he is asking for relief from rear and side yard setbacks for construction of a new structure and is still going to use his house solely for residential purposes. Should Mr. Pande, therefore, not be required to submit a request for a zoning variance, which as we understand it imposes stricter requirements than a special exception? We would appreciate clarification on this procedural question, which in this case gets to the role of the ANC in the zoning process.

In trying to work out a future agreement on a new structure, we fear that the neighbors, the ANC and the Zoning Board are not starting from a common point in considering plans for the so-called Porte Cochere. At its hearing on Oct. 16, the Zoning Board viewed architectural drawings stamped as received by the Board on Oct. 11. It is unclear whether these were the same drawings viewed by ANC3D at its meeting earlier on Oct. 3. The memory of some in attendance at the Oct. 3 meeting is that the commission was shown conceptual drawings, not the detailed, drawn-to-scale drawings presented to the Board on Oct. 16. Furthermore, shortly in advance of the commission meeting, neighbors were provided by fax by Mr. Pande's lawyer with a set of drawings which were in draft form and with the notation that they were not drawn to scale. It was on the basis of those draft drawings that the neighbors decided to oppose the new plans.

It seems to the commission that if the neighbors, Mr. Pande and the commission could all view the proposed new structure from the same plans presented to the board that it might be possible to reach agreement on an acceptable structure that would conform with zoning restrictions. Or alternatively, our commission would be in a position to pass judgment on whether a zoning variance should be granted in this case.

We respectfully ask, therefore, that the Board delay its decision for a few days so that both sides and the ANC can review the plans at its meeting on Nov. 7. We would promptly report to the Board on the conclusions reached at that meeting.

Sincerely,

Eleanor Roberts Lewis
Chair, ANC3D

Copy to:
Howard Ross
Troutman, Sanders, Mays & Valentine LLP
1660 International Drive
Suite 600
McLean, VA 22102

June 18, 2001

Ms. Sherri Pruitt
Secretary, Board of Zoning Adjustment
441 4th Street NW
Washington DC 20001

Re: BZA # 16710

Dear Ms. Pruitt:

Advisory Neighborhood Commission 3D held its regularly scheduled monthly meeting on Wednesday, June 6, 2001 at Sibley Memorial Hospital. In the absence of Chair Eleanor Lewis, Vice Chair Stephen Griswold presided. There was a quorum (4) present at all times during the meeting.

One of the items on our agenda was BZA #16710- application of Vinay Pande for a special exception to allow the construction of a canopy over a driveway and stairway leading to a single family dwelling that does not comply with the side yard requirements in an R-1-B District at premises 5210 Klingle Street NW.

The owner, Mr. Pande, and his attorney, Howard Ross, explained to the Commissioners that the awning had been built in 1998 as future protection for a motorized chair lift, which would provide transportation for Mr. Pande's severely arthritic mother from the driveway down into the back door of the house. Mr. Pande had failed to determine if a building permit was required for construction of the awning. His backyard neighbor, who said his view was obstructed by the awning, contacted the BZA and found that the awning had been built without a required permit and without a variance. Several suggestions were offered to Mr. Pande including cutting back the awning, lowering it and redesigning it to conform more to the home and the neighborhood. He said he was open to all suggestions and promised he would do whatever was necessary to keep an awning up but make it acceptable to the neighbors.

In support of its recommendation, the Commission makes the following findings and observations:

- The owner failed to make a reasonable effort to determine if a building permit was required for construction of the awning and is now seeking to offset his violation of the zoning code by receiving a special exception that will permit the structure to stand.

- The awning, which extends within a foot of the back property line and extends into the public space reerved for a sidewalk, violates zoning setback requirements on two sides.

- To grant the relief sought by the owner would substantially impair the intent, purpose and integrity of the zoning requirements in the neighborhood.

- In height and length, the awning infringes upon the privacy of use and enjoyment of neighboring properties.

- In height and structure, the awning is unsightly and incompatable with the residential neighborhood.

- If the intent, as stated, is indeed to provide protection for a chairlift for a mother with arthritis, then a question arises as to why such an elaborate structure is needed.

- As demonstrated by a petition signed by 12 neighbors on the block of Hawthorne, neighbors find the awning distasteful and instrusive and wish it removed.

At the same time, ANC3D urges the owners to consult with each other and to come to an amicable agreement.

If such an agreement is reached, the ANC3D invites Mr. Pande to return to another meeting to review the changes.

This recommendation was passed unanimously 4-0-0. We have learned that the July 10 hearing has been postponed until October 16. This should allow all parties to come to a friendly compromise.

We urge the BZA to give our decision the "great weight" to which it is entitled under DC law.

Sincerely,

Stephen Griswold
Vice Chair, ANC3D
(Acting Chair)