Government of the District of Columbia

OFFICE OF ZONING

441 4TH STREET N W
SUITE 210
WASHINGTON, D.C. 20001
(202) 727-6311

November 7, 2002

John W. Finney, Chairman
Advisory Neighborhood Commission 3D
P.O. Box 40846
Palisades Station
Washington, D.C. 20016

Re: BZA Application No. 16710-B (Motion for Reconsideration) Pande

Dear Mr. Finney:

The Office of Zoning received your letter dated November 5, 2002, requesting that the Board of Zoning Adjustment (Board) reconsider its decision in the above-cited matter. Please be advised that your motion has been tentatively scheduled to be considered by the Board at its public meeting on December 3, 2002. Please call Cliff Moy on (202) 727-6311, a week before the meeting date to confirm that this matter will in fact be on the meeting agenda.

SINCERELY,

JERRILY R. KRESS, FAIA
Director, Office of Zoning

Attachment
cc: Howard J. Ross, Esq
John and Elaine Kennedy
Alan Bergstein, Esq
rsn

BZA
Case No. 16710
Exhibit No. 62

Board of Zoning Adjustment
District of Columbia
CASE NO.16710
EXHIBIT NO.62

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

RECEIVED
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2002 NOV -5 PM 2:27

Nov. 5, 2002

Jerrily R. Kress, FAIA
Director, Office of Zoning
441 4th St. NW, Suite 210-S
Washington, DC 20001

Re: Request for Reconsideration of Case No. 16710-B on Basis of Misstatement of Fact

Dear Ms. Kress.

As a party to the case, I hereby request BZA reconsideration of Case No. 16710-B on the basis that the Final Order dated Oct. 28, 2002, is based on a serious factual error.

In the Findings of Facts in this case, the BZA order states (#4 in list) that "the applicant's mother, **who resides in the dwelling**, is debilitated by rheumatoid arthritis." That finding is not correct. The applicant's mother does not reside in the house nor has she or her son resided in the house over the past five years, according to neighbors on Hawthorne Place (Affadavits from neighbors will be supplied attesting that Mr. Vinay Pande has not lived in the house over the past five years but rather has rented out the property.)

This is no small matter of tense. Rather it goes to the motives and intent of Mr. Pande in seeking a special exception to build a "porte cochere" on his property without the normal setbacks. Throughout the lengthy proceedings, Mr. Pande has invoked the illness of his mother in seeking to justify building what amounts to an open-sided garage, replacing an awning that was erected without proper permit. I think it is fair to say that the repeated invocation of his mother's illness struck a sympathetic chord with the majority of the BZA members in influencing their decision, to the point they found that Mrs. Pande was already living in the residence.

By reconsidering the case, the BZA would have an opportunity to clarify Mr. Pande's intent. Does he really intend to occupy the residence with his mother or is he invoking his mother's illness in order to obtain permission to add a car shelter, thus enhancing the rental value of his property but intruding upon and lowering the value of his neighbor's property?

Should the Board still support Mr. Pande's case, reconsideration would permit it to impose certain conditions to its approval, such as a requirement that Mr. Pande and mother occupy the house within three months of the issuance of the final order; otherwise the special exception would expire.

I urge the Board to reconsider its order, dated Oct. 28, 2002

Sincerely yours,
John Finney
John W. Finney
Chair, ANC3D

JK/DR.

BZA Application No. 16710

I, John W. Finney, hereby certify and attest that on Nov 6 a copy of the foregoing request for reconsideration in this case was mailed to each party and public agency, either by first class post or by Fax, to each party and public agency who appeared and participated in the public hearing and who is listed below:

Howard J. Ross
Troutman Sanders Mays & Valentine LLP
1600 International Drive, Suite 600
McLean VA 22102

John and Elaine Kennedy
5538 Hawthorne Place NW
Washington, DC 20016

Ellen McCarthy, Deputy Director
Development Review Division
D.C. Office of Planning
801 North Capital Street NW Suite 4000
Washington, DC 20002

Robert Kelly, Zoning Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs,
941 North Capitol St NE, suite 2000
Washington, D.C. 2002

Alan Bergstein
Office of Corporation Counsel
441 4th St. NW. 6th Floor
Washington, D C 20001

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ATTESTED BY: J. W. Finney

John W. Finney
Chair, ANC3D

John S. and Julia B. Koczela
5525 Hawthorne Place, NW
Washington, DC 20016

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2002 NOV -6 PM 3:07

November 6, 2002

Jerrily R. Kress, FAIA
Director, Office of Zoning
441 4th Street, NW Suite 210-S
Washington, DC 20001

RE: Request for Reconsideration – Case No. 16710-B and Affidavit

Dear Ms. Kress:

We write in reference to the above noted case and hope you grant the request for reconsideration of the BZA's order dated October 28, 2002 filed by Mr. John Kennedy and by Mr. John Finney, the latter on behalf of the ANC 3D, on the basis of an error in the "Findings of Fact".

In the "Findings of Fact" section of the order, Item #4 states: "The applicant's mother, who resides in the dwelling;.." We hereby affirm, as is evidenced by our signatures below, that:

1. We have lived at 5525 Hawthorne Place, NW since 1989.
2. To the best of our knowledge, and as verified with the previous owners (who still live in the general neighborhood) of Mr. Kennedy's house (5538 Hawthorne), the applicant, Mr. Pande, has not resided at 5210 Klingle since 1993 and his mother has *never* resided at 5210 Klingle.

We also note for the record that in Mr. Pande's original communication with neighbors (September 20, 2001), *implied* that he and his mother were living at 5210 Klingle, although we knew otherwise and therefore always questioned his veracity. That same communication requested that he be contacted at a phone number "...at home..." in Connecticut ("203-625-0127"). In addition, Mr. Pande's lawyer, Mr. Ross, *delicately* indicated that, "Mr. Pande makes this application our of necessity, so that he *may* [emphasis added] live at 5210 Klingle Street with his wheelchair-bound mother." Such a statement is clearly intended to be truthful; i.e., an acknowledgement that the applicant and his mother do *not* presently reside there.

We never thought that this matter should rest on the issue of whether an applicant was truthful about his living arrangements or the health of his mother, but if the BZA intends to "hang its hat" on a fabrication, we simply want to set the record straight. We also wonder whether the applicant, who does NOT resided at the house (a single, adult male diplomat is the tenant), has already installed an elevator or other chair lift *inside* the house.

Sincerely yours,

Julia B. Koczela

John S. Koczela

john h. kennedy
5538 hawthorne place, nw
washington, dc 20016

RECEIVED
D.C. OFFICE OF ZONING
2002 NOV -6 PM 3:07

November 6, 2002

Jerrily R. Kress, FAIA
Director, Office of Zoning
441 4th Street, NW Suite 210-S
Washington, DC 20001

RE: Request for Reconsideration – Case No. 16710-B

Dear Ms. Kress:

As a party in the above noted case, I hereby request reconsideration of the BZA's order dated October 28, 2002 on the basis of an error in the "Findings of Fact".

In the "Findings of Fact" section of the order, Item #4 states: "The applicant's mother, who resides in the dwelling, is debilitated by rheumatoid arthritis." I have owned and lived in the property immediately next door to Mr. Pande's house since September 1997 and neither the applicant nor his mother have lived there during that time. Mr. Pande has rented the house for as long as I have lived next door.

I would hope that the BZA would reconsider the case based on this misstatement of fact and I would argue that the Board should retract the order as this erroneous supposition was given weight in taking a decision. Should the Board reconsider the case and still support the application for a special exception, I would encourage the requirement of some sensible provisions, such as:

- that the wheelchair lift be installed prior to the porte cochere,
- that the applicant take occupancy of the dwelling prior to the porte cochere being erected,
- that the special exception be revoked if these conditions are not met.

These conditions should be set forth to ensure that the applicant is indeed installing a permanent structure for the benefit of a handicapped family member, and not to simply enhance the value of his rental property at the expense of the property value of my home and that of my neighbors on Hawthorne Place.

Very truly,

John H. Kennedy

Attachments: (2) Neighbors Affidavits

Cc: Howard J. Ross, Esq.
John W. Finney

AKLD.
RSN

RECEIVED
D.C. OFFICE OF ZONING
2002 NOV -6 PM 3:07

john h. kennedy
5538 hawthorne place, nw
washington, dc 20016

Date: November 6, 2002

To: Jerrily R. Kress
Director, Office of Zoning

Fax #: 202.727.6072

From: John Kennedy

Re: Request for Reconsideration – Case No. 16710-B

Four (4) pages including cover.

Notes:

Please disregard the Andersen's name in the letter signed by Michael M. and William K. Kernan. They were not home in time to sign this letter and have it forwarded to you.

John Kennedy

November 5, 2002

Jerrily R. Kress, FAIA
Director, Office of Zoning
441 4th Street, NW Suite 210-S
Washington, DC 20001

RE: Request for Reconsideration – Case No. 16710-B

Dear Ms. Kress:

We are property owners whose homes are across the street from the proposed porte cochere location at 5210 Klingle Street, NW. We attest that Mr. Vinay Pande, the applicant seeking special exception relief, does not occupy the dwelling at this address.

William Andersen
5529 Hawthorne Place, NW
Washington, DC 20016

Roxanne Andersen
5529 Hawthorne Place, NW
Washington, DC 20016

Michael M. Kernan
5533 Hawthorne Place, NW
Washington, DC 20016

William K. Kernan
5533 Hawthorne Place, NW
Washington, DC 20016