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December 20, 2001

Mr. Geoffrey Griffis, Chairman
Board of Zoning Adjustment
Room 210
441 4th Street, N.W.
Washington, DC 20001

Dear Mr. Griffis:

Re: BZA Case No. 16793

Enclosed is an application for a variance from the regulation governing the enlargement of a nonconforming structure and for a special exception to permit the increase from two to six guest rooms in a Bed and Breakfast at 1604 16th Street, N.W., zoned R-5-B.

Our witnesses will be Michael Beidler, Architect, (as an expert witness), Alan Skvirsky, Anexora Skvirsky, and Zelda Zeldin.

Please call if there are any questions.

Yours very truly,

Stephen N. Gell

Enclosure
cc: Anexora Skvirsky
Vince Micone, ANC 2B

BZA
Case No. 16793
Exhibit No. 26

Board of Zoning Adjustment
District of Columbia
CASE NO.16793
EXHIBIT NO.26

REVISED STATEMENT

OF EXPLANATIONS AND REASONS

SUPPORTING AN APPLICATION

TO THE BOARD OF ZONING ADJUSTMENT

OF THE DISTRICT OF COLUMBIA

FOR A SPECIAL EXCEPTION

PURSUANT TO SECTIONS 203.8(c), and 3104

AND FOR A VARIANCE PURSUANT TO SECTION 2001.3 AND 3103

OF THE DISTRICT OF COLUMBIA ZONING REGULATIONS

6104 19th Street, N.W.

(SQUARE 111, LOT 53)

BZA Case No. 16793

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A. Plans

B. Testimony of Zelda Zeldin, Owner of 1610 19th Street in Case No. 16688 (Michael Kain - Wrapworks)

C. Board's Order of June 14, 2001 in No. 16688 (Michael Kain - Wrapworks)

D. Letter of July 25, 2001 from Allan W. Marquardt, Vice President of Chevys to Vincent Micone.

E. Recent pictures of the alley showing trash containers, etc.

F. Inspection Records of the Department of Health from 1999 to the present.

G. General Pictures of the Property

Revised memorandum

INTRODUCTION

This is a Statement of Explanation and Reasons supporting the application of Anexora Skvirsky for a variance to permit construction of an addition to a single family house which will not comply with the requirements of §2001.3, and a special exception to provide 6 guest rooms in a Bed and Breakfast at 1604 19th Street N.W. (Square 111, Lot 53) pursuant to Sections 2001.3, 203.8(c), 3103 and 3104 of the Regulations of the Zoning Commission, (11 DCMR §§203.8(c), 3103 and 3104) (hereinafter, "Regulations").

DESCRIPTION OF THE APPLICANT

The applicant/owner of the house to be used as a Bed and Breakfast is Anexora Skvirsky, who resides at the house. Ms. Skvirsky has been a DC public high school teacher for 20 years. She and Alan Skvirsky are active members of the Dupont Circle Citizens Association and the Kalorama Citizens Association. Together they rescued the building from its use as a tenement. It was brought from a state of neglect and dilapidation to a fine example of restoration and preservation.

THE SUBJECT PROPERTY

A. Location and Description of the Property

The property which is the subject of this Application is at 1604 19th Street, N.W., Square 111, Lot 53. It is a single family house in an R-5-B Zone, which permits moderate density, general residence. This will be operated as a bed and breakfast in conjunction with the adjacent house at 1606 19th Street, N.W. (Lot 52). The property is a contributing building in the Dupont Circle Historic District. In a historic district, up to 6 guest rooms are permitted in a bed and breakfast if approved by the BZA. (11 DCMR §203.8(c))

B. Area Surrounding the Property

Surrounding the property are commercial and residential uses as follows: South of the building is commercial. North of the building and across the street are brownstones used as residences. The building immediately adjacent on the North is a townhouse which is operated as a bed and breakfast. On the West side, bordering the alley at the rear of the subject dwelling are commercial buildings with Connecticut Ave addresses.

C. Zoning History and Use History

The area is zoned R-5-B. The house was built in 1883 and has always been a Residence, although, before it was purchased by the Applicant, the property was a rooming house.

REASONS IN SUPPORT OF THE APPLICATION FOR A VARIANCE

A. Compliance with D.C. Zoning Regulations

Because this single family house is a nonconforming structure, which was built prior to the revision of the Zoning Regulations in 1958, a variance is necessary to build the enclosure shown in the attached plans. The new addition will not add any new sleeping areas, and will add only marginally to the living areas of the house. Technically, the only variances needed are for FAR and lot occupancy. Elimination of the rear yard can be considered a special exception under §223. However, FAR requires a variance and lot occupancy above 70 per cent is a variance matter under §223.3.

Extraordinary or exceptional conditions creating practical difficulties

More important, grant of the variance will solve two problems brought about by the proximity of the building to commercial buildings across the alley. An extraordinary condition is engendered by the proximity of this residential property to the very loud HVAC system directly across the 15 foot alley (at the rear of a restaurant at 1601 Connecticut Ave, called "the Wrapworks"). The noise is offensive and disagreeable. It makes sleeping very difficult in the bedrooms which are mostly at the rear of the house. Please refer to testimony of Zelda Zeldin, owner 1610 19th Street at the hearing on May 8, 2001, pp 167-171, Case No. 16688, Michael Kain, attached here as Exhibit B.

This extraordinary and exceptional condition can only be alleviated by the installation of a glass addition to act as a buffer for the sleeping areas. Despite many protests to the Wrapworks owners and numerous requests for the HVAC system to be moved to the roof or screened with sound-deadening materials, there has been no effort to correct the problem. An agreement with Advisory Neighborhood Commission 2B and conditions written into the Board's Order in BZA Case Number 16688 granting Wrapworks the right to build adjacent to the alley, (Exhibit C) is not binding because it only encourages the Wrapworks to give consideration to the problem. Moreover, Mr. Kain only agreed to look at the feasibility of moving the air conditioners, not to move them. To our knowledge, nothing has yet been done. More to the point, a letter of July 25, 2001 to Vincent Micone from Allan W. Marquardt (Exhibit D) indicates that Chevys, the former owner of the property has no intention of moving forward on the air conditioners. Also, please see recent pictures of the alley (attached hereto as Exhibit E) showing that the air conditioners are still in place.

The second exceptional situation is created by the fact that the house is located between the Wrapworks and the Firehook Bakery. Rats, which are attracted by the garbage generated by the Wrapworks Restaurant, the Firehook Bakery, and other commercial buildings, find refuge in the rear yard of the subject property. Only constant watchfulness and heavy maintenance has prevented rats from entering the house. Please see Exhibits B, C, and D, described above, and Exhibit F, records of the Department of Health for the past three years evidencing a serious rat problem and inadequate attention to alleviating it. Also see Exhibit E, recent pictures showing that no effort has been made by the businesses to correct the trash and rodent problem, except the placement of a few rodent traps.

By substituting a solid garage door for a metal picket fence, the owners will be able to prevent rats from entering the rear yard of the subject building. At the same time, the garage doors will preserve the existing parking spaces at the rear.

It should be noted that the Skvirsky's bought their properties before Connecticut Ave became the commercial success it is today. It was the investment and hard work of the Skvirsky's and their neighbors that improved the neighborhood and attracted new businesses incuding the Wrapworks and the Firehook Bakery. They will be prevented from enjoying their improvements and recouping their investment at sale if noise and rats are permitted to continue to affect their property.

Latitude is generally granted to non-conforming buildings predating 1958 and contributing buildings in a Historic District. Buildings built before 1958, when the current zoning regulations were adopted, face an extraordinary problem in adapting to current needs. Often they are non-conforming structures and any alteration is likely to encounter FAR, lot occupancy, and rear yard limitations.

Moreover, this property is a contributing building in the Dupont Circle Historic District. Because it has an obligation to maintain its façade and appearance under strict controls, additional latitude should be given when a problem of this nature and magnitude arises. (Please refer to Boardmember statements such as can be found on page 25 of the hearing on May 8, 2001 regarding BZA Case No. 16697 (Property of Yates).

B. No Adverse Effects

No part of the addition will be visible from historic 19th Street. There will be no alteration of the look or historic character of the building or the neighborhood. The glassed-in addition will only be visible from the alley and from the commercial part of Q Street at Conn. Ave.

REASONS IN SUPPORT OF THE APPLICATION FOR SPECIAL EXCEPTION

A. Compliance with D.C. Zoning Regulations

The applicant satisfies the requirements for grant of the Special Exception. The Board is authorized to grant special exceptions where, "in the judgment of the Board, those special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property ..." 11 DCMR §3104.1

The proposed use as a single family house with a home occupation as a bed and breakfast is a matter-of-right use for the property if limited to two rooms. The Special exception is needed to increase the number from 2 to 6 in an Historic District.

B. No Adverse Effects

ANC 2B and neighbors concluded that the Special Exception will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. The Dupont Circle neighborhood is a busy, vibrant, part of the city. Residential and commercial activities blend well and complement each other. Moreover, adding a six-room bed and breakfast to the two room bed and breakfast in the house next door will not add appreciably to the traffic and parking situation. Many guests will take advantage of the Dupont Circle Metro Station a block away. Those guests who need to garage cars may take advantage of the applicant's offer to provide parking at 11 Dupont Circle, a nearby facility, for any guests who desire it so that guests cars need not compete for space on the street.

C. Section 203.4 representations

Under Section 203.4 of the Zoning Regulations, the applicant must make certain representations, as follows:

(a) Given the nature of the home occupation and location, the home occupation is secondary to the use of the dwelling unit for residential purposes

(b)+(c) Not applicable

(d) No more than one (1) person who is not a resident will be engaged in the home occupation.

(e) The residential character and appearance of the structure and lot shall be maintained.

(f) No interior structural alteration will be performed which will make it difficult to return the premises to a use which is exclusively residential.

(g) There will be no operations or storage or other unsightly condition outside the structure.

(h)-(j) Not applicable

(k) No more than two vehicles will be used in the practice of the home occupation.

(l)-(n) Not applicable

BENEFITS OF PROPOSED USE

By designing the Bed and Breakfast addition so that no part of it is visible from 19th Street, the historic character of this residential area is preserved. In addition, Dupont Circle, which is a significant Washington tourist draw, benefits from a range of housing options. Today, many tourists prefer the homey ambiance and convenience of a bed and breakfast to the less personal and more institutional character of a hotel. Finally, the greenhouse enclosure will help to protect the fabric of the rear of this contributing building.

COMPLIANCE WITH THE COMPREHENSIVE PLAN

A. Appropriate Residential Use

The provision of guest rooms in private houses is an appropriate residential use where there is no substantial negative impact on the neighborhood.

B. Historic Preservation

The subject property is a contributing building in the Dupont Circle Historic District. The plans for this addition have been presented to and tentatively approved by the Dupont Circle Conservancy and the Historic Preservation Review Board.

CONCLUSION

Ms. Anexora Skvirsky should be granted a variance to allow an addition at the rear of the property on the alley. Moreover, she should be granted a special exception to operate six guest units as provided for in the Zoning Regulations. Permitting the use of four additional guest rooms in the Dupont Circle neighborhood will have no negative effects and will be in harmony with the purpose of the Zoning Regulations. We ask that the issues of variance an special exception be considered separately so that denial of one will not prevent the grant of the other.

Respectfully submitted,



Stephen N. Gell, Esq.