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February 19, 2002

Geoffrey H. Griffis, Chairman
Board of Zoning Adjustment
Room 210
441 4th Street, NW
Washington, D.C. 20001

Re: Lot 818, Square1236, 1324 27th Street, NW-- BZA Case NO. 16810

Dear Mr. Griffis,

Attached is a Statement in Opposition to the Request for Variance in Case Number 16810, filed on behalf of Virginia B. Giese. I can be contacted at the above number if you have questions or comments concerning the document. Thank you for your consideration.

Sincerely,

Robert B. Giese

BZA
Case No. 16810
Exhibit No. 44

Board of Zoning Adjustment
District of Columbia
CASE NO.16810
EXHIBIT NO.44

Statement in Opposition to the Request for Variance
Case Number 16810

I am writing on behalf of Virginia B. Giese and in response to Mr. Gell's filing of February 12, 2002. Mrs. Giese owns 1322 27th Street NW which is located directly south of and shares a wall with 1324 27th Street NW, the subject property. Widowed in 1956, Mrs. Giese has leased the property on her own for almost 50 years.

The house at 1322 27th Street NW is a brick row house the same size as that at 1324 27th Street NW, but with a small wood structure on the rear that contains a galley kitchen on the first floor and a bathroom on the second floor. The footprint of the wood structure was in place when Mrs.Giese and her husband purchased the property in 1944.

1322 27th Street NW is one of seven row houses constructed in 1900. Since that time no structure has been constructed behind any of the seven houses except at 1322 27th' Street NW and, as stated, the footprint of that small wood structure was in place prior to 1944.

After months of activity on this project, four appearances before the ANC and one before this body, the most basic and necessary information on this project remains clouded. Ownership of the property, who the architect is, and the boundaries of the property are unclear.

We ask that this Board reject this request for a variance because of insufficient information on the proposed project. It appears that the only hardship suffered by the applicants in this matter is self-induced.

First as to the question of ownership, Miss. Trautwine is the sole name on the deed for the property and same on the note. The record in this matter, however, from the start is littered with statements that suggest other ownership. On the Application for Construction Permit dated 8/15/01, Jeff Joyner signed as the owner certifying that construction will comply with the applicable laws and regulations of the District. The 10/23/01 letter to Ms. Kress, signed by Lori Trautwine and Jeff Joyner starts, "We have owned our future home..." The 10/26/01 BZA application lists Jeff Joyner and Lori Trautwine as owner of the property. The 11/26/01 authorization of representation by Mr. Gell is signed by "Jeff Joyner, Owner." The 11/16/01 and 1/10/02 BZA notices of hearing refer to the application of Jeffrey Joyner and Lori Trautwine. Mr. Joyner was introduced and spoke to this Board as an owner and has been the point person for resolving issues relating to the project. The notice placed on the property 2/11/02 cites the application of Jeffrey Joiner and Lori Trautwine, but Mr. Gell's latest filing dated

the same lists Lori Trautwine as the Applicant. Who is the owner? The applications and supporting materials do not appear accurate.

Second, to the question of who the architect is, Mr. Zapatka was introduced to Mrs. Giese's representative as the architect for the project. Mr. Joyner and Ms. Trautwine refer to Mr., Zapatka as their architect. Mr. Gell's documents for this Board copy Mr. Zapatka as "Christian Zapatka, Arch." (See Gell letter dated December 19, 2001). The most recent filing by Mr. Gell dated 2/11/02 specifies Mr. Zapatka as the architect. The problem however is that Mr. Zapatka is not licensed to practice architecture in this city or, for that matter, any other jurisdiction. None of the plans for the project, which have been submitted to this Board, are stamped or signed by a licensed architect. Who is taking official responsibility for the design of this small but complicated project?

Third, is the question of the subject property's boundaries. A BZA application requires a plan that shows both dimensions and property lines. The record of this matter contains a plan with dimensions, but no property lines. Where a project is intended to span the full width of a property, boundaries are particularly important in determining any harm that might occur from implementation of the project. The Applicants have shuffled the proposed lines of their project but without showing where exactly the addition will be built. The rules of the BZA should be followed, and no consideration should be given to this project until property lines are shown and Mrs. Giese has had a reasonable period of time to determine whether the project violates the property line.

Applicants filed an application dated 10/26/01 for a special exemption for an eight foot rear projection pursuant to Section 223 of the Zoning Regulations of the District of Columbia. Supporting material described as an "application for special exemption" dated 12/19/01 was filed with the Board by Mr. Gell on behalf of the applicants. A hearing was held before the BZA on 1/2/02 where it was determined that applicants' latest proposal required variances and could not be considered under the lesser standard of a special exception. At that hearing applicants were offered the opportunity to either pare back their proposal and continue the special exception proceeding or apply for necessary variances. The applicants chose the latter and a new hearing date was set for 2/26/02 on the variances. By notice dated 1/10/02, BZA provided its notice required by rule directing the public to the application of Jeffrey Joyner and Lori Trautwine for various variances. No application for a variance or variances for this project was on file at the time

of notice. Additionally, Mr. Gell's most recent filing on 2/12/02 provides supporting material for an application that does not exist. Mrs. Giese requests that this project not be considered by the BZA until the public has been given proper notice of an actual application for variances and that whoever the owners of the 1324 27th Street are that they follow the rules and procedures established by the BZA.

In regard to the variances, the relief sought by the owner of 1324 27th Street NW must be denied. The owner has not met the burden of proving the demanding standards required for this Board to grant such exceptional relief.

Nothing in the record demonstrates that the "extraordinary or exceptional condition" test for a variance has been met for this project. For a variance to be granted, the reason for the variance must be specific to the property, not the general condition of the neighborhood. The subject property is a small house on a small lot, which has a sideline that lies perpendicular to the rear yards of other houses. Add to that, it is an old house with exterior brick walls that require repair and a combination develops that is not unusual for Georgetown. Even Mr. Gell recognizes that small houses are endemic to the neighborhood. In his filing to this Board dated 12/19/01 he states, "Like many parts of Georgetown, this immediate neighborhood suffers from undersized houses." The solution to a general problem is legislation and not relief meted out by a non-legislative body through variance.

Nothing in the record demonstrates that application of the zoning laws will be unduly burdensome for the owner. Three doors down from the one bedroom subject property is another one bedroom house at 1316 27th Street NW of the same size, 562 square feet. That property was reconditioned and has a year 2000 assessed value of $205,995. That valuation does not take into account the steep rise in Georgetown real estate values during the last two years. Granting the five variances in the instant case and thereby gaining the second bedroom for the subject property will set a precedent that any one bedroom house in Washington may, as a matter of right, gain as many variances as necessary to attain that second bedroom. As demonstrated by the property three doors down, the owner has the option without variance to create a very livable and, judging by the year 2000 assessed value of the other home, desirable house in the East Village of Georgetown. No economic data on repair of the rear wall or for that matter any other economic impediment to pursuing this alternative has been introduced into the record. Although not dispositive, it should also be taken into account that judging from a time frame of a July purchase and August construction permit application, the owner was well aware that zoning relief would **be** necessary to pursue the owner's aggressive plans.

The requested variances should be denied because of harm that the proposed project would cause to the property at 1322 27th Street NW. Mrs. Giese has numerous concerns about the physical affects of the owner's planned addition, which have not been satisfactorily addressed. They are the following:

1. Excavation - The owner proposes a basement under the addition 10'9" wide or exactly the width of the owner's lot, according to the plan submitted (once again, it should be emphasized that it is unclear where the lO'9" is because no boundaries have been presented as required by BZA rules). The depth would be at least 10 feet and the length would be that of the addition or 12 feet. The layout of the lot in the block will not allow earthmoving equipment in the backyard area, so any excavation must be done by hand. This means that the owner will be digging within inches or right at, depending upon the property line, the side of the wooden structure at the rear of Mrs. Giese's house. This presents great danger to the foundation upon which Mrs. Giese's structure sits.

   Additionally, roots from a large tree in the back of 1324 27th Street NW that was removed this fall, migrated under and around 1322 27th Street NW. The presence of these roots adds to the potential of settling damage to 1322 27th Street NW upon any excavation.

   Aside from the basement to be dug, part of the project also contemplates creating a sunken garden and thorough excavation of the present garden area. This has the potential of depressing the bricked in garden area of 1322 27th Street NW and increasing drainage problems described below.

2. Potential Wall Damage - The addition contemplated at 1324 27th Street NW will run parallel to and, as shown on the latest plan, 9 inches from the north wall of the rear structure at 1322 27th Street NW. This north wall is painted tongue and groove wood. The addition's wall will be stone. This 9-inch gap created by the addition will accelerate deterioration of the wood wall due to trapped moisture accumulation. Mrs. Giese will be unable to maintain or repair the wall once the addition goes in. The 9-inch gap will also provide a haven for infestation of the vermin that are pervasive in Georgetown.

3. Drainage - Drainage in the garden of 1322 27th Street NW runs from west to east (back to front) with drains located on the southeast corner of the garden. No drains exist on the north side where the 9-mch gap will be. Under the plans submitted, water will run into that 9-inch gap with nowhere to go. Any settling of the garden at 1322 27th Street NW from excavation will only magnify the problem.

4. Privacy - The plans submitted for the addition show the second floor back as being comprised mainly of one large window that will look down right into the garden at 1322 27th Street NW. This small garden, which as presently situated is uniquely private for such a congested area of Georgetown, will lose that quality of privacy and thereby diminish its use and enjoyment if the proposed plan is constructed.

5. Air - The north side of Mrs. Giese's garden, which consists of a wood fence, receives significant sun because of its southern exposure. The other two sides are a brick wall to the west and the back of the wood structure to the east. Within this enclosed area there is little opportunity for movement of air.

   The plan provides for a brick wall to be placed along the north side where the wood fence now sits. If the brick wall is put in place, during the late spring, summer, and early fall months, the sun heating up the wall and the reduction of breathability between the properties will turn Mrs. Giese's garden into an oven. One might note that all the fences along this row of houses on 27& Street NW are wood and breathable, just for this reason.

   Additionally on the subject of air, the addition of 12 feet proposed will protrude almost 2 feet beyond the wood structure at 1322 27th Street NW and nearly 2 feet above the same. This will further limit airflow in a very compacted area.

6. Roof water runoff - The plans for the addition do not provide any protection of 1322 27th Street NW against roof water runoff from the addition at 1324 27th Street NW. This will exacerbate the 9-inch gap problem and if the water were to flow over to the roof of 1322 27th Street NW that will further laden an already overburdened wastewater release system.

7. New chimney or flue - The plans submitted include a fireplace in 1324 27th Street NW. There is no flue available for such a fireplace in the chimney located between the houses. It is unclear where such a fireplace would be located and, depending upon the location, what harm might occur from its installation.

8. General demolition and construction - Both 1322 and 1324 27th Street NW are over 100 years old and share a brick wall between the buildings. The plans contemplate the demolition of the rear wall of 1324 27th Street NW which is attached to the shared wall. The owner of 1324 27th Street NW has neither explained how this will be done without damaging the shared wall nor received Mrs. Giese's permission for such an undertaking that structurally touches upon the shared wall.

9. Historic Preservation - 1324 27th Street NW is a contributing structure to the Georgetown Historic District. There has been no showing that the rear exterior wall is structurally or economically unsound to save nor has the Old Georgetown Board determined that it would consent to removal of the original wall.

As stated above, this application fails to meet the standards for variance relief. There is nothing exceptional about this piece of property or topography that justifies relief. Any difficulties with this proposal are self created and any hardship is self-imposed.