Facsimile Transmittal Sheet

To: Geoffrey Griffis

Wednesday, February 27, 2002

From: Janet Pritchard

10:01 AM

As noted in my phone call to the BZA yesterday, I have secured child care for March 5th, and so our hearing no. 16811 can go forward on that date. I only have child care until 4pm, however, and so will not be able to stay at the BZA beyond 3:30pm. Also, I am attaching a letter brief in support of our appeal. I had planned to submit it following the hearing on 2/26/02. I am filing it now in the hope that it mught be reviewed by the Board prior to the March 5th hearing. Thank you.

TOTAL NUMBER OF PAGES IN BRIEF: 18

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BZA
Case No. 16811
Exhibit No. 27

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Board of Zoning Adjustment
District of Columbia
CASE NO.16811
EXHIBIT NO.27

C

Janet E.M. Pritchard
David J.M. Pritchard
204 11th Street NE
Washington, DC 20002

February 26, 2002

Board of Zoning Adjustment
441 4th Street NW, Room 210
Washington, DC 20001

RECEIVED
D.C. OFFICE OF ZONING
2002 FEB 28 AM 10: 13

RE: BZA No. 16811
1018 Constitution Avenue NE
Zone: CAP/ R-4
Hearing Date: ~~02/26/02~~ Rescheduled for 03/05/02

Dear Members of the Board:

To assist you in your consideration of the above-referenced appeal, Appellants submit the following summary of facts and legal argument.

INTRODUCTION

A building permit (B431591) for "new construction" of a "two story addition on rear of existing home" was issued for 1018 Constitution Avenue NE ("1018 Constitution") on July 5, 2001. On August 7, Appellants requested that the permit be suspended. By letter dated August 20, 2001 ("letter of determination"), the Zoning Administrator issued a formal determination that the permit was "issued correctly, in accordance with Zoning Regulations and previous precedents, as established by past Zoning Administrators." *See* Attachment A. Appellants, Janet and David Pritchard, appeal that formal determination.

Appellants content that permit No. B431591 was granted in error. The proposed building addition does not comply with the side yard requirements of section 405.3 of the Zoning Regulations. Therefore, the Zoning Administrator should not have issued the permit without first determining whether a special exception to section 405.3 was warranted. To correct this error, Appellants ask the BZA to revoke the permit and instruct the applicant that he must first seek and obtain a special exception to section 405 of the zoning regulations before a new permit can be issued. This will require the BZA to interpret the side yard requirements of section 405 of the Zoning Regulations.

BZA
Case No. 16811
Exhibit No. 27

The Administrator's interpretation of a zoning regulation is entitled to deference by the Board of Zoning Adjustment only if it is a reasonable interpretation. In addition, in exercising his responsibility for authorizing or denying building permits in accordance with the zoning regulations, the Administrator must apply the regulations in a fair and consistent manner. The BZA is obligated to overturn any arbitrary or capricious decisions made by the Administrator.

As explained in greater detail below, the interpretation of section 405.3 offered by the

Administrator in the letter of determination is unreasonable in that it does not comport with the plain language of the regulation nor with the regulatory scheme as a whole. In addition, the Administrator has applied regulation 405.3 differently to similar situations in an arbitrary and capricious manner. Moreover, the Administrator's interpretation fails to follow the guiding principles provided in the regulations for resolving ambiguity or conflicts in the regulations. For all of these reasons, the BZA should reject the Administrator's interpretation of 405.3 and revoke the building permit issued to 1018 Constitution under this erroneous interpretation.

SUMMARY OF FACTS

Description of the Proposed Addition

As illustrated by the attached survey drawings, the side yard of 1018 Constitution Avenue NE abuts the rear lot line of Appellants' property, 204 11th Street NE. *See* Attachment B. The proposed addition would be extremely detrimental to Appellants' property, substantially reducing the light and air available to Appellants' home and to neighboring homes. The two-story addition would fill in the rear and side yard of 1018 Constitution where it abuts Appellants' property, resulting in a two-story brick wall running along almost the entirety of Appellants' rear property line -- a mere thirteen feet from the rear wall of Appellants' home.

Timeline of Steps Taken to Protest the Permit, Leading Up to this Appeal

Since first learning of the proposed building plans, Appellants have taken timely steps to research relevant factual and legal issues, contact responsible government entities, and otherwise take the necessary steps to protest the permit that Appellants believe was granted in error. These efforts have culminated in this appeal. While Appellants have been unable to obtain a formal stop-work order pending this appeal, we have, at every step along the way, informed the owners of 1018 Constitution of our on-going concerns and legal objections to their building addition and of our unyielding intent to continue our protest until the matter can be authoritatively resolved by the BZA. A timeline detailing contacts made and steps taken is provided in attachment C.

ARGUMENT

Section 199.1 of the zoning regulations defines a one-family, semi-detached dwelling as "a one-family dwelling, the wall on one side of which is either a party wall or a lot line wall, having one side yard." 11 DCMR sec. 199.1. 1018 Constitution meets this description. Section 405.3 of the zoning regulations provides that where a building "does not share a common division wall with an existing building or a building being constructed together with the new building, then it shall have a side yard on each free-standing side." 11 DCMR sec. 405.3. Section 405.2, read together with section 405.9, of the zoning regulations requires that a semi-detached dwelling in an

R-4 district maintain a side yard of at least eight feet. 1018 Constitution "does not share a common division wall with an existing building or a building being constructed together with the new building" on its east side. Therefore, under these regulations, it is required to maintain a side yard of at least eight feet on its east side unless the requirements for a special exception to section 405 are satisfied.[1]

In his letter of determination, the Zoning Administrator argued that a property owner in an R-4 district is entitled to convert a semi-detached dwelling into a row dwelling as a matter of right, and thus is not bound by the side yard requirements of section 405. The letter further argues that section 405.3 was "intended to ensure . . . a common division wall between each two adjacent properties," implying that section 405.3 simply does not apply to cases such as 1018 Constitution, where there is no possibility for a common division wall along one side of the property.

I. The Administrator's Interpretation of Section 405.3 Does Not Comport with the Plain Language of Section 405.3

The meaning and intent of section 405.3 appears to be plain on its face: where a one-family dwelling "does not share a common division wall with an existing building or a building being constructed together with the new building then it *shall* have a side yard on the resulting free standing side." 11 DCMR sec. 405.3 (emphasis added). Given the configuration of 1018 Constitution and its relationship to the row of houses facing 11th Street, there is no possibility that 1018 Constitution could share a common division wall on its east side. Therefore, it must maintain a side yard on the resulting free-standing side.

Instead, the Administrator attempts to read section 405.3 to mean that, where two buildings are adjacent, they must share a common division wall. *See* Letter of Determination Attachment A (arguing that section 405.3 was "intended to ensure . . . a common division wall between each two adjacent properties" and that 1018 Constitution Avenue NE "has met that requirement by sharing a common division wall with an adjacent structure" (apparently referring to the adjacent row house on its *west* side)). Clearly, the Administrator's interpretation of section 405.3 fails to comport with the plain language of section 405.3. While the regulation does support a ruling that adjacent properties should share a common division wall, it is primarily concerned with those circumstances where a building is *not* adjacent to another building and therefore does *not* share a common division wall with an adjacent building. In such circumstances, the regulation plainly states, the building " *shall have a side yard on each resulting free-standing side.*" 11 DCMR sec. 405.3 (emphasis added).

[1] A special exception may be applied for and granted pursuant to section 223 of the regulations. Section 223, in turn, provides that an exception shall be granted only if "the addition shall not have a substantially adverse affect on the use or enjoyment of any abutting or adjacent dwelling or property," in particular, on the light and air available to, or the privacy and enjoyment of, neighboring properties. 11 DCMR sec. 223.

II. The Administrator's Grant of the Permit at Issue Without Requiring a Special Exception to the Side Yard Requirements of Section 405.3 Contrasts with the Treatment of a Similarly Situated Property.

Even if the Administrator's justification for his decision in this case -- that a semi-detached dwelling can, as a matter of right, convert to a row dwelling notwithstanding the requirements of section 405.3 -- was based upon a reasonable interpretation of section 405.3, Appellants are aware of at least one circumstance where the Office of Zoning has failed to apply the same interpretation in a situation substantially similar to the one at issue in this appeal.

In the case of 220 5th Street SE, the Zoning Administrator required the owners of a semi-detached, single-family dwelling to obtain a special exception to section 405.3 in order to build an addition to their existing building where the resulting building would not share a common division wall with an adjacent building. *See* BZA Case No. 16755. Prior to the proposed addition, the building at 220 5th Street had a 8'5" side yard on its south side. The property owner sought to construct a two-story addition in the side yard. The adjacent property owners' house, 222 5th Street SE, is located 3'7" away from the property line. Thus, the proposed addition would not be able to share a division wall with the neighboring property.

Accordingly, the owners of 220 5th Street applied for a special exception to sections 405.2 and 405.3 of the zoning regulations. In their application, the owners asked for relief from Sections 405.2 and 405.3, which respectively require a side yard for any one-family semi-detached dwelling and a side yard when a one-family dwelling does not share a common division wall with an existing building. The Zoning Administrator confirmed that the proposed addition required BZA approval to obtain a special exception pursuant to Section 223 because the addition would not comply with the requirements of Sections 405.2 and 405.3.

The situation of 220 5th Street is substantially similar to the situation at 1018 Constitution . 1018 Constitution shares a division wall with a row house on its west side and has a side yard on its east side. The existing side yard is 7 feet wide along the front 32.4 feet of the house and 12.33 feet wide along the rear 16 feet of the house. The property owner seeks to construct a two-story addition in the existing side and rear yards. The adjacent property owners' homes (200, 202, 204, 206, and 208 11th Street NE) all face 11th Street. Thus, the proposed addition would not be able to share a division wall with the neighboring properties.

Notwithstanding their obvious similarities, the Zoning Administrator has inexplicably treated these two situations differently. The only difference between the 220 5th Street and 1018 Constitution is that, in the Constitution Avenue case, the existing side yard abuts the rear yards rather than the side yards of the adjacent properties. There is nothing in the letter of determination that suggests it should matter whether the side yard of the property seeking to build an addition abuts the side yard or the rear yard of neighboring property. The letter simply asserts that an owner may convert a semi-detached dwelling to a row dwelling as a matter of right, and section 405.3 is not intended to compromise this right. *See* Letter of Determination, Attachment A ("The intention of Section 405.3 is not to compromise the right of a property to establish the type of structure/use that is allowed as a matter of right by requiring a side yard and

therefore forcing upon a property owner a semi-detached or detached structure. However, it is intended to ensure the establishment of a common division wall between each two adjacent properties. The referenced property [1018 Constitution] has met that requirement by sharing a common division wall with an adjacent structure.") (emphasis in original).

The Administrator rightly held that the owners of 220 5th Street could not fill in their existing side yard where the resulting addition would not share a common division wall an adjacent structure without first obtaining a special exception to section 405.3. In order to obtain this special exception, the owners of 220 5th Street had to first demonstrate to the BZA that the building addition would not interfere with the light and air to neighboring properties.[2] Likewise, the owners of 1018 Constitution should be required to seek and obtain a special exception to section 405.3 before being permitted to fill in their existing side yard. There is no substantive basis for treating the permit applications for 220 5th Street and 1018 Constitution differently.

III. The Administrator's Interpretation of Section 405.3 Does Not Comport With the Overall Regulatory Scheme.

Even if the Administrator were able to offer a coherent explanation for treating 1018 Constitution and 220 5th Street differently, his interpretation of section 405.3 must nevertheless be overruled because it does not comport with the regulatory scheme as a whole.

A. The Administrator's Interpretation of Section 405.3 Renders Section 405.5 Superfluous.

The Zoning Administrator's interpretation is that the regulations allow, as a matter of right, an owner of a semi-detached house to convert to a row house with no side yard. Under this interpretation, section Section 405.5, which exempts corner lots from the side yard requirements of 405.3 -- is superflous. *See* 11 DCMR 405.5 ("A side yard shall not be required along a side street abutting a corner lot in a Residence district."). Section 405.5 makes sense under Appellants' interpretation of section 405.3, however. Appellants argue that 405.3 requires a side yard where a dwelling cannot share a common division wall with an adjacent building. Without section 405.5, this would mean that any house on the end of a row would be required to have a side yard. Most end-row houses abut an alley or a street. Pursuant to section 405.5, such homes would not be required to maintain a side yard. However, in the relatively rarer circumstance -- such as in the present case -- where the end-row house abuts another property rather than a street or an alley, section 405.3 serves to protect neighboring properties' concerns for air and light by requiring a side yard.

[2] The owners of 220 5th Street were granted a special exception following a BZA hearing at which no neighbors protested the permit. Indeed, the neighbors most affected, 222 5th Street SE, provided a statement in support of the proposed addition. *See* BZA Case No. 16755.

B. The Administrator's Interpretation of Section 405.3 is Incongruous With Other Parts of Section 405.

The Administrator seeks to rely on section 405.6 of the zoning regulations to support his contention that the owner of an existing semi-detached dwelling in an R-4 district can convert the property to a row dwelling as a matter of right, notwithstanding the side yard requirements set forth in section 405.3. In his letter of determination, the Administrator states as follows:

> The provision of Section 405.6 of DCMR Title 11 is instructive. In summary, Section 405.6 reiterates that with the exception of the provision of Sections 405.1 and 405.2: "A side yard shall not be required in an R-3, R-4, R-5-B, R-5-C, R-5-D or R-5-E zone." If, however, a side yard were provided, at the discretion of the owner, it shall be no less that eight (8) feet.

See Letter of Determination, Attachment A.

Section 405.6 is indeed instructive, but it favors Appellants' interpretation of section 405.3, not that of the Administrator. The Administrator fails to note that section 405.2 -- which provides an express exception to section 405.6's provision that side yards are not generally required -- requires the owner of a one-family semi-detached dwelling to maintain a side yard of at least eight feet. 11 DCMR sec. 405.2. The suggestion that the owner of an existing semi-detached dwelling can escape the requirements of section 405.2 (and 405.3) by converting his dwelling into a row house effectively strips these regulations of any real meaning. If regulations *requiring* side yards in the case of semi-detached dwellings are not intended to apply to the owners of existing semi-detached dwellings, then to whom could they have been intended to apply?

The logical way to reconcile these side yard requirements with the Administrator's contention that a row dwelling is allowed in an R-4 district as a matter of right is to recognize that section 405 was adopted on May 12, 1958 and imposed upon the already-developed (and historically preserved) neighborhood of Capital Hill. Although those acquiring undeveloped properties may be able to build a row house as a matter of right, those possessing or acquiringexisting semi-detached dwellings remain subject to the side yard requirements of section

405.[3] This interpretation is consistent with section 405.8 which provides that, for semi-detached buildings "existing on or before May 12, 1958 with a side yard of less than eight feet wide, an extension or addition may be made to the building, *provided that the width of the existing side yard shall not be decreased.*" 11 DCMR 405.8 (emphasis added).

C. The Administrator's Interpretation of Section 405.3 Does Not Make Sense In Light of Section 223's Provisions For Granting Exceptions to Section 405.3's Side Yard Requirements.

Any reasonable interpretation of section 405.3 should also be evaluated in light of the governing principles stated in section 223, the provision by which a property owner may seek an exception to section 405's side yard requirements.

The interpretation of section 405.3 offered by Appellants is fully consistent with section 223. Section 405 specifies those circumstances in which side yards are required. Side yard requirements provide for open spaces between buildings and thus for the flow of air and light between neighboring buildings. Accordingly, section 223 allows a building addition to be permitted notwithstanding its failure to comply with section 405's side yard requirements only if the "addition shall not have a substantially adverse affect on the use or enjoyment of any abutting or adjacent dwelling or property; in particular; (a) The light and air available to neighboring properties shall not be unduly affected; (b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; . . . ." 11 DCMR sec. 223.2. Thus, section 223 ensures that the purpose and spirit of section 405 shall be preserved even where an owner obtains an exception to strict application of section 405's specific requirements. Conversely, exceptions to section 405 may be made where such exceptions would not, in practical effect, be contrary to the regulation's purpose.

Under the Administrator's interpretation, however, section 223 is *more* restrictive than section 405. To obtain an exception to section 405.3, an owner needs to demonstrate that the proposed building addition would not interfere with the light, air, privacy, or enjoyment of neighboring properties. However, the Administrator's interpretation of 405.3 appears to have little to do with protecting the rights of neighboring properties. Thus, under the Administrator's interpretation, the exception is stricter than the rule, which is clearly absurd.

[3] The Administrator also expresses concern that, under Appellants' proposed interpretation of the regulations, a newly created 1800 square foot lot could subsequently be required to have an eight foot side yard set back. *See* Letter of Determination, Attachment A. However, if the regulations, enacted in 1958, are properly understood to be imposed on an already-developed neighborhood, then the hypothetical impact of this interpretation on an undeveloped parcel of land are inapposite. A semi-detached dwelling built prior to 1958 on a lot adjoining other occupied parcels can be assumed to have reasonable value as a semi-detached dwelling, even without any further additions. While limitations on building additions do, of course, burden regulated properties, the Board need not worry that its adoption of this interpretation would render any properties worthless. Rather, Appellants' interpretation is consistent with the goal of balancing the desire of property owners to improve their existing properties with the potentially negative impact such improvements might have on neighboring properties. *See also* 11 DCMR sec. 101.2(c) (stating that the zoning regulations should be interpreted in a manner that encourages "the *stability* of districts and of land values in those districts") (emphasis added)).

IV. The Administrator's Interpretation of Section 405.3 Does Not Adhere to the Guidelines for Interpreting and Applying the Regulations.

The Administrator admits that "there seemingly is ambiguous or contradictory language between section 405.3" and his contention that the owner of a semi-detached dwelling located in an R-4 district may build an addition converting it into a row dwelling as a matter of right. *See* Letter of Determination, Attachment A. The Administrator chooses to resolve this apparent conflict by allowing the purported right to a row dwelling in an R-4 district to trump the side yard requirements of section 405.3. This choice violates section 101 of the zoning regulations. Section 101, entitled "Interpretation and Application" sets forth principles to guide those authorized to interpret and apply the regulatons in the case of seeming ambiguity or apparent conflicts with other laws or regulations.

As these guidelines make plain, any ambiguity in the regulations should be resolved in favor of the interpretation that would best "provide light and air" and/or " encourage[] the stability of districts and of land value." 11 DCMR sec. 101.1(a), 101.2(c). Nowhere do the guidelines favor the improvement of an individual residential property owner's property at the expense of these principles. While the owners of 1018 Constitution seek to improve their own property, the regulations' guiding principles are more concerned with the *stability* of land value. *See* 11 DCMR sec. 101.2(c). While the proposed addition would presumably increase the value of 1018 Constitution, it would undoubtedly *decrease* the value of Appellants' property at 204 11th Street and neighboring properties facing 11th Street.

Significantly, the guidelines do not set down any arbitrary rule to govern potential conflicts of law between the zoning regulations and other statutes or municipal regulations. Rather, the guidelines provide a substantive principle expressly favoring whichever rule provides for larger yards and more open spaces. *See* 11 DCMR 101.3, 101.4. The same principle should apply to favor the preservation of existing side yards to the extent that section 405's side yard requirements conflict with any purported right to increase the density of buildings by converting an existing semi-detached dwelling into a row dwelling.

Finally, the BZA should, of course, be mindful of the precedential impact of the decision in this case. If the BZA were to decide to uphold the Administrator's interpretation and application of section 405.3 in this case, it would create an unfortunate precedent for a new tenement-style standard of building density. Rather than preserve some sense of space, order, and air-flow in Capital Hill's historic neighborhood, such a precedent would would abandon the guidelines' values of air and light, open spaces, and stability of land values and cause the homes on blocks such as Appellants' to feel like tenement-style buildings found in much more densely built cities such as New York, where residential buildings are essentially closed in by brick walls on three sides, rather than only two.

CONCLUSION

The Zoning Administrator's interpretations of the zoning regulations are only entitled to deference by the BZA if the interpretation offered is reasonable. As explained above, the interpretation of section 405.3 offered by the Administrator cannot be considered reasonable because it fails to comport with the plain language of section 405.3 or with the regulatory scheme as a whole. Therefore, the BZA should reject the Administrator's interpretation of section 405.3.

The BZA is also obligated to overturn arbitrary and capricious rulemaking on the part of the Zoning Administrator. The rule offered to justify the Administrator's decision to grant a permit in this case was not invoked in a similar case; the different treatment of the two cases appears to be arbitrary. Therefore, the permit decision in this case should be overturned.

Respectfully Submitted By

Janet E.M. Pritchard, Appellant

David J. M. Pritchard, Appellant

ATTACHMENT A

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Building and Land Regulation Administration
Office of the Zoning Administrator

RECEIVED
D.C. OFFICE OF ZONING
2002 FEB 28 PM 3:40

August 20, 2001

16811

David E. M. Pritchard & Janet Pritchard
204 – 11th Street, NE
Washington, DC 20002

Re: 1018 Constitution Avenue, NE (Request for Suspension of Permit # B431591)

Dear Mr. David Pritchard and Ms. Janet Pritchard:

I am in receipt of your August 7, 2001 letter and email message regarding the above referenced matter. After careful consideration and reevaluation of staff's review of the application for building permit and the review/ approval process regarding this matter, I have concluded that there is no basis to issue a Stop Work Order. My rationale is explained below:

Section 199 of District of Columbia Municipal Regulations (DCMR), Title 11 (the Zoning Regulations) define a Row Dwelling as a one family dwelling having no side yard. The Zoning designation for the subject property is R-4. DCMR Title 11, Section 330.5(a) permits any use permitted in the R-3 districts. DCMR, Title 11, Section 320.3(b) permits row dwellings as a matter of right, hence, by extension; a row dwelling is also permitted in the R-4 zone.

Title 11, Section 403.2 allows row dwellings to cover up to 60% of their lot area. I concede the accuracy of your observation that a semi-detached structure is limited by Section 403.2 to a maximum of 40% lot occupancy, however, the right of a property in the R-4 zone to convert, through an addition, to a row structure is not abrogated by that Section.

I recognize that there seemingly is ambiguous or contradictory language between Section 405.3 and the allowance of a row dwelling in the R-4 district as a matter of right. The intent of Section 405.3 is not to compromise the right of a property to establish the type of structure/use that it is allowed as a matter of right by requiring a side yard and therefore forcing upon a property owner a semi-detached or detached structure.

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Exhibit No.

However, it is intended to ensure the establishment of a common division wall between each two adjacent properties. The referenced property has met that requirement by sharing a common division wall with an adjacent structure.

Furthermore, your interpretation would be illogical if applied to the minimum lot area and minimum width requirements of Section 401.3. Surely the regulations intent cannot be to allow the creation of 1800 square foot lots as prescribed under Section 401.3 in the R-4 Zone, and then subsequently require an eight (8) foot side yard setback. The provision of Section 405.6 of DCMR Title 11 is instructive. In summary, Section 405.6 reiterates that with the exception of the provision of Sections 405.1 and 405.2: "A side yard shall not be required in an R-3, R-4, R-5-B, R-5-C, R-5-D or R-5-E zone." If however, a side yard were provided, at the discretion of the property owner, it shall be no less than eight (8) feet.

Accordingly, my conclusion is that the permit for the subject property was not issued in error, but was issued correctly, in accordance with the Zoning Regulations and previous precedence, as established by past Zoning Administrators. Because this is a Zoning Administrator formal determination, you may appeal this decision before the Board of Zoning Adjustment pursuant to DCMR, Title 11, Section 3100.2. For specific instructions on filing an appeal, please contact the Office of Zoning at 727-6311.

Respectfully,

Michael D. Johnson
District of Columbia
Zoning Administrator

Cc: Dave Clark, DCRA Director
Theresa Lewis, Deputy Director for Operations
J. Gregory Love, BLRA Administrator
Denzil Noble, Deputy BLRA Administrator
Toye Bello, Zoning Review Chief
Jerrily Kress, OZ Director

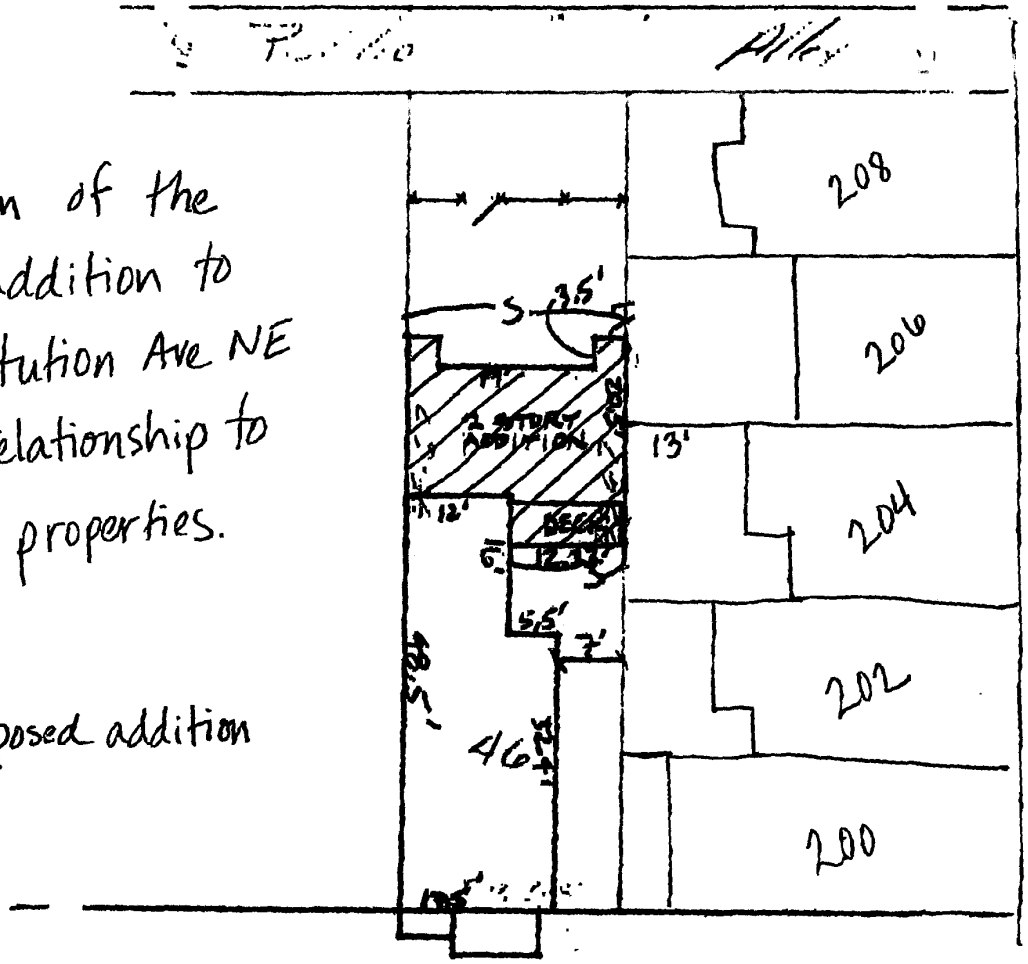
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ATTACHMENT B

006
KINKO'S CAPITOL HILL

Diagram of the Proposed addition to 1018 Constitution Ave NE and its relationship to 11th Street properties.

= proposed addition



ATTACHMENT C

BZA Appeal No. 16811

TIMELINE

Actions taken to Appeal the Zoning Administrator's Decision to Grant a Permit for a Building Addition at 1018 Constitution Ave NE

late April 2001	Owner of 1018 Constitution Ave NE (Kathleen Peoples) notifies Janet Pritchard (in person and in writing) that she and her husband, Philip Sedlak, are planning a building addition to their home.
May 2001	Pritchards learn from other neighbors that the planned addition would result in a two-story brick wall running along almost the entirety of their rear property line -- a mere thirteen feet from the rear wall of their home.
June 2001	Janet Pritchard contacts Sedlak's architect (by phone), who confirms and further describes the scale of the planned addition. Following discussions with the Chair of the Zoning Committee for the Capital Hill Restoration Society and attorneys knowledgable about land use law, Pritchards advise architect (by phone) that they believe the proposed building addition would violate section 405 of the zoning regulations and that they intend to protest the addition, filing formal appeals with the Zoning Administrator and the BZA if necessary.
June 2001	Pritchards contact (by phone) officials at the Zoning Division, including Toye Bello, to advise them that they believe the proposed addition is inconsistent with section 405 of the Zoning Regulations, that a permit should not be issued without a special exception.
July 5, 2001	A permit for the planned two-story addition is granted by DCRA.
late July	Pritchards inquire at DCRA and learn that the permit has been granted.
late July	Kathleen Peoples notifies Pritchards (by phone) that the permit has been granted and that building will soon commence. Janet Pritchard advises Peoples that she believes the permit was issued in error and will protest the permit to the Zoning Administrator and, if necessary, to the BZA, to seek its revocation. Janet Pritchard cautions that construction of the planned addition would proceed at the owners' risk, in the event that the permit is revoked as a result of the appeal.

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August 7, 2001	Pritchards, together with their neighbors at 206 and 208 11th Street, write to Michael D. Johnson, the Zoning Administrator, asking him to revoke the permit. A copy of this letter is sent to Sedlak/Peoples and the Chair of ANC 6A.
August 20, 2001	Zoning Administrator Michael Johnson issues a letter of determination declining to revoke the permit.
September 2001	Pritchards request that ANC 6A consider the matter at the earliest possible date, in the hope that the ANC will appeal the permit decision. The issue is placed on the agenda for the ANC's next Zoning and Licensing Committee Meeting, scheduled for October 11th.
October 11, 2001	David Pritchard presents case for appeal to the Zoning and Licensing Committee for ANC 6A. The Committee votes 11-1 in favor of supporting the appeal. The one no vote is based on concern that Peoples/Sedlak were not timely notified that this matter would be addressed at the October 11 Zoning Committee meeting.
late October 2001	The Zoning and Licensing Committee chairperson's failure to properly notify Peoples/Sedlak that the matter was on the agenda for the October 11 meetings presents due process concerns. It is suggested that the matter could be considered by the ANC as a whole at its November 1 meeting. However, the Pritchards have long-standing plans to be out of town on that date, and so they provide ANC 6A members with a written summary of their proposed arguments for appeal and request that the matter be postponed until their next meeting (December 6), when all concerned parties can be present.
October 30, 2001	Not wanting to delay filing the appeal until after the ANC's December meeting, Pritchards go ahead and file the appeal on their own.
October 30, 2001	Pritchards write to David Clarke, Director of the DCRA, explaining their reasons for appealing to BZA. A copy of this letter is provided to Peoples/Sedlak, the Chair of ANC 6A, and the local ANC representative.

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December 6, 2001 After hearing presentations by both Janet Pritchard and Kathleen Peoples, ANC 6A votes to support the Pritchards' appeal. (Quorum: 8 of 14 Commissioners present; vote: 5 in support of the Pritchards, one against, two abstentions).

January 8, 2002 The matter is scheduled for a hearing before the BZA. On a preliminary motion, Peoples seeks and obtains a continuance of the hearing until February 26, 2002, arguing that she was unaware that she could and should be represented by counsel at the hearing.

Fax Cover Sheet

kinko's

317 Pennsylvania Ave, SE
Washington, DC 20003
Tel: (202) 547-0421
Fax: (202) 543-8393

Date: 2/28/02

To: Attention: Cathy Wright

Company: Board of Zoning Adjustment

Fax: 727-6072

From: Janet Pritchard

Company: BZA Docket # 16811

Tel: 202-546-3213

Number of pages including this one: 10

Comments:
Please ~~attached~~ attach these attachments to the letter brief dated 2/27/02 that I faxed for case # 16811 earlier today. Thank you very much. Jan Pritchard

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