CAPITOL HILL RESTORATION SOCIETY
PO BOX 15264 • WASHINGTON, DC 20003-0264 • 202•543•0425

BZA No. 16854
315 East Capitol Street, SE
Square 787, Lot 35
Zone: CAP/R-4
Hearing Date: 04/09/02

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April 5, 2002

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

The Capitol Hill Restoration Society OPPOSES the above referenced application.

The Capitol Hill Restoration Society is a civic association representing 1,000 members. The subject premises are located within the Society's interest district, as defined in its bylaws, and in the Capitol Hill Historic District.

The Zoning Committee of the Capitol Hill Restoration Society considered the application on March 7, 2002. A quorum was present. Appearing in support: Charles Holliday, Applicant. Eleven neighbors appeared in opposition. The Committee unanimously voted to oppose. Under standing rules of the Board of Directors, this committee action becomes the position of the Society.

Statement of Facts

Mr. and Mrs. Holliday propose to build a flat on a vacant lot at 315 East Capitol Street, SE. The lot fronts along the south side of East Capitol Street; it is rectangular in shape and measures 16 feet wide and 128 feet in length.

The building as proposed is a flat with a three-story unit above a cellar apartment. The three-story unit will be the principal residence of Mr. and Mrs. Holliday; the apartment will be rented. The building will be 77 feet in length and will be built to the maximum height allowed (40 feet). A 49-foot rear yard will contain a 22-foot garage. The third story is 61 feet in length, with a 16-foot long deck at the rear.

The property abuts two public alleys: a 15-foot alley on the east and a 30-foot alley on the south. To the west is a row house (313 East Capitol) that will have a 34-foot long common division wall with the proposed building. The house at 313 East Capitol has a 26-foot rear wing that consists of three stories above a basement. The wing has 10 windows and 3 doors that will be separated from the proposed building by a court, which will be approximately 4 feet wide.

At the meeting, Mr. Holliday offered to eliminate the garage and replace it with a parking pad secured by a roll-up door. (Mr. Holliday has since made that offer in writing.) Without the garage, lot occupancy drops to 60 percent, eliminating the need for a variance.

Eleven neighbors attended the meeting to oppose the application; there were no neighbors in support. The owner of the abutting property to the west of the site (313 East Capitol) is most directly affected. The present unobstructed view to the east from the rear wing will be replaced by view of a 40-foot wall across a 4-foot court. Other neighbors across the public alleys to the east

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and south of the site also expressed concern about adverse effect on light and air to their properties.

Many of the neighbors were concerned with design issues that should have been presented to the Historic Preservation Review Board (HPRB). Owners of neighboring properties are not notified of HPRB cases. This, the neighbors felt, was unreasonable and unjust. The Society will place a list of pending HPRB cases on its web site, but that did not occur in time to notify these neighbors.

Description of Variances

Two area variances are sought:

1. Lot occupancy. Maximum lot occupancy is 60 percent; the building and accessory garage as proposed will occupy 76.7 percent.

2. Lot width. Lots must be at least 18 feet wide; this lot is 16 feet wide. It is not possible to buy additional land because the lot abuts an alley on the east and a residential structure on the west.

The requested area variances can be granted if three conditions are met:

1. The property is unique because of its size, shape, or topography;

2. The owner would encounter practical difficulties if the zoning regulations were strictly applied;

3. The variances would do no harm to the public good or to the zone plan.

Applicants assert that the three conditions are met:

1. The property is unique because the site, which is only sixteen feet wide, "is exceptionally narrow and deep", particularly when compared with other lots in the same square that front on East Capitol Street.

2. Because of the narrowness of the lot, the building loses living space, creating a practical difficulty. In order to provide the desired living space, the house has been extended toward the rear property line so that it occupies 60 percent of the lot. Inclusion of an accessory garage would increase lot occupancy to 76.7 percent.

3. "The variances can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zoning plan."

Practical Difficulty Not Shown

Applicants argue that, because of the narrowness of the lot, a disproportionate amount of floor space is lost to stairwells and halls, causing a practical difficulty. To secure desired living space, it is

necessary to extend the building to the rear. After examining the plans, we are not convinced. By redesigning halls and stairwells it should be possible to produce the same amount of useable space in a smaller footprint. Ironically, adding a partial third story in order to get additional floor area increases the amount of space that must be devoted to stairs and hallways. In conclusion, the committee believes that the applicants have failed to demonstrate why the proposed building needs to be as high or as long as proposed.

Applicants have offered to replace the garage with a parking pad, thus reducing lot occupancy to 60 percent and eliminating the need for a variance. The committee does not believe this is the best solution -- consideration should be given to reconfiguring the interior space with the goal of shortening the house enough to allow an accessory garage. However, the applicants surely have the right to decide to forego a garage.

Harm to the Public Good and the Zone Plan Will Result

Because applicants are seeking an area variance, they must show that granting the variances sought will have no adverse impact on neighboring properties. But the proposed building will have a severe adverse effect on the neighboring property at 313 East Capitol and a substantial adverse effect on 317 East Capitol. "Adverse effect on light and air to neighboring property can constitute a reason for denying a variance under the zoning regulations." *Draude v. District of Columbia Board of Zoning Adjustment*, 527 A.2d 1242, 1252 (D.C. 1987). Therefore, the Committee believes that the applicants fail to meet the third test for a variance: "relief can be granted without substantial detriment to the public good and without substantially impairing the extent, purpose, and integrity of the zone plan."

Further, the stated intent of the zoning regulations are opposed to granting these variances. The regulations state that provisions for lot coverage and building height are minimum requirements to provide adequate light and air (Sec. 101.1(a)).

The Committee believes that a structure could be built at 315 East Capitol that does not have such severe adverse impacts on neighboring properties. If a residence were proposed that is not as high, or does not extend as far to the rear, the Committee and, we believe, the neighbors would be eager to support a variance.

We are pleased to submit these views for your consideration.

Lyle R. Schauer
Zoning Committee Chair