ROBINS, KAPLAN, MILLER & CIRESI L.L.P.
ATTORNEYS AT LAW

ATLANTA
BOSTON
CHICAGO
LOS ANGELES
MINNEAPOLIS
NAPLES
ORANGE COUNTY
SAINT PAUL
WASHINGTON, D.C.

SUITE 1200
1801 K STREET, N.W.
WASHINGTON, D.C. 20006-1301
TELEPHONE (202) 775-0725
FACSIMILE (202) 223-8604
TELEX 4931197 RKMC
www.rkmc.com

**RICHARD B. NETTLER**
**JEANNINE RUSTAD ZIGNER**
**(202) 775-0725**

April 29, 2002

**BY HAND**

RECEIVED
D.C. OFFICE OF ZONING
2002 APR 29 PM 3:54

Mr. Geoffrey Griffis
Chairperson
Board of Zoning Adjustment
441 Fourth Street, N.W., Room 201
Washington, D.C. 20001

Re: BZA Application No. 16854; 315 East Capitol Street, S.E. (the "Property")
Our File No. 092207.0000

Dear Mr. Griffis and members of the Board of Zoning Adjustment:

This letter responds to the Hollidays' April 22, 2002 request that the Board waive the rule under Section 3121.5 of the Zoning Regulations to allow the Hollidays to file revised building plans for the Board's consideration. The Joneses and Mr. Warlick were pleased to see the revised plans, which they view as a good starting point for addressing their concerns regarding the effect of the proposed construction on the light and air to their respective properties. However, for the reasons set forth below, the Joneses and Mr. Warlick object to the request for the waiver of the rule under Section 3121.5 of the Zoning Regulations.

1. Background of Hearing. Section 3121.5 of the Zoning Regulations provides that:

> The record shall be closed following the public hearing, except that the record may be kept open for a stated period for the receipt of specific exhibits, information or legal briefs, as may be directed by the presiding officer.

At the conclusion of the hearing in the instant matter, the record was kept open for the following items:

BZA
Case No. 16854
Exhibit No. 60

Board of Zoning Adjustment
District of Columbia
CASE NO.16854
EXHIBIT NO.60

a. Input of ANC 6B on the revised plans submitted with the Hollidays' prehearing submission;
b. Clarification of the Office of Planning Report;
c. Written testimony of Margaret Crenshaw; and
d. Submission of maps for 315 East Capitol Street depicting the previous improvements to that property.

Significant to the Hollidays' current request, the record was left open for the ANC to comment on the plans submitted by the Hollidays with their prehearing statement, as the ANC had not received such plans in time to review the plans and to hold a public meeting to discuss the revisions. Likewise, the ANC has not had an opportunity to hold a public meeting to review and discuss the current revised plans. Consequently, if the Board were to accept the current plans, the community would be deprived of the opportunity to provide its input on the plans.

2. Inadequate Time Has Been Provided for the Parties to Review the Revised Plans. As mentioned above, the plans submitted by the Hollidays do appear to begin to address the communities' concerns regarding the proposed construction. Additionally, Mr. Holliday met with the Joneses on or about April 20, 2002 to review the revised plans. As a result of this meeting the Joneses are cautiously optimistic with regard to the proposed construction at 315 East Capitol Street, as revised. However, additional time is needed to receive information requested at the conclusion of the April 20 meeting, as well as to further study the impact of the proposed revised plans on the light and air to surrounding properties.

At the conclusion of the April 20, 2002 meeting, the Jones requested drawings to see how high the proposed revised building would be. Specifically, Mr. Holliday indicated that he may regrade the property so as to further reduce the height of the building. Additionally, Mr. Holliday indicated that he would consider putting a real mansard on the roof, thus sinking the top floor into the roof. The Joneses showed Mr. Holliday several examples of mansards that they considered consistent with the surrounding neighborhood. To date, the Joneses have not received revised plans but, rather, only the marked up plans submitted with the Hollidays' April 22, 2002 submission.

3. The Matter Is More Appropriate for a Limited Hearing on the Revised Plans. Section 3124.2 of the Zoning Regulations provides that:

> Prior to the filing of a final decision, the Board may, on its own motion, reopen the record and require further hearing on designated issues before the Board.

In such event, notice of the hearing, plus a designation of the issues to be addressed, must be

forwarded to the parties to the matter at least ten (10) days prior to the date set for further hearing. 11 D.C.M.R. § 3124.3. Given the significance of the revision of the plans, this is the more appropriate action for all parties involved.

A hearing limited to the issue of the revised plans will allow both the Board and the parties to hear, first hand, how the revised plans will affect the surrounding properties. Additionally, it will afford both the Board and the parties an opportunity to question the applicants and their architect on the revised plans, as well as the opportunity to the parties to submit testimony regarding any changes in their position.

Finally, given the additional time to discuss this matter, the parties may be able to resolve their differences. Thus, in the event that the Board does not believe that a limited hearing on the issue of the revised plans is warranted, the Joneses and Mr. Warlick request that the Board defer its decision scheduled for May 7, 2002, for thirty days to allow the applicant sufficient time to submit the requested information to the parties and the parties, including the ANC, sufficient time to submit their comments to the Board.

We appreciate your consideration.

Sincerely,

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

Richard B. Nettler
Jeannine Rustad Zigner

cc: Jacques B. DePuy, Esquire (by facsimile)
Mr. Jim Warlick
Mr. and Mrs. James R. Jones
Kenan P. Jarboe, Chairperson, ANC 6B
Mr. John Moore, Office of Planning (by facsimile)