Mr. Permit

November 25, 2003

Ms. Jerrily Kress, Director
District of Columbia Office of Zoning
441 4th Street, NW
Room 210
Washington, DC 20001

Attention: Rick Nero, Esq.

Re: Case number 16863, Application of S & P Properties for a variance located at 420 M Street, NW, Washington, DC

Dear Ms. Kress:

Attached herewith please find the final order and a letter submitted by me to the record for the above referenced case. Please note that the letter asked for a correction to the record, in that I had made a typographic error in this case and asked that to be corrected. The Board did hear this matter as a preliminary matter, and agreed that this was to be corrected. When the final order was published, I did not notice that the five unit language was repeated and the correction was not noted that there are six units instead of five units.

Leon Paul, a technician at DCRA who has been assigned by Acting Zoning Administrator Denzil Noble, is holding up the issue of our permit until the language can be corrected, or in the alternative that we can show him that the six unit apartment building, not a five unit one, was what was approved. A review of the final motion on the record will reflect that a six unit apartment house was approved by the Board of Zoning Adjustment. Mr. Paul will accept a letter from the Board of Zoning noting the correction.

Sincerely,

James F. Smith
"Mr. Permit"

6 Logan Circle, N.W., Suite 3
Washington, D.C. 20005
E-mail: MrPermit@aol.com
202-462-7662
Fax: 202-328-1333

BZA
Case No. 16863
Exhibit No. 41

Board of Zoning Adjustment
District of Columbia
CASE NO.16863
EXHIBIT NO.41

Mr. Permit

April 29, 2002

Ms. Jerrily Kress, Director
District of Columbia Office of Zoning
441 4th Street, NW
Room 210
Washington, DC 20001

Re: Case number 16863, Application of S & P Properties for a variance located at 420 M Street, NW, Washington, DC, request for consideration if a preliminary matter by the Board of Zoning Adjustment on the date of the hearing due to a typographical error.

Dear Ms. Kress:

On our original application, we mistakenly listed the proposed use being "5 Unit/Residential Apartment/Condominium This is a typographical error, the actual property is to be a six unit apartment house, since it is all on one lot. The number 5 should be substituted with the number 6.

In addition, this error was repeated on Attachment B of the application in the last paragraph, the word five should be stricken and in its place the word and number 6 should be inserted.

It is not believed that this is a material change to the advertising, since there is no limitation to the number of permitted units in an R5B zone. The plans submitted with the application clearly show we have six units, one of which is located in the carriage house, one in the existing historic house, and four units in the new addition on the west side of the lot.

Sincerely,

James F Smith
"Mr Permit"

6 Logan Circle, N.W., Suite 3
Washington, D.C. 20005
E-mail: MrPermit@aol.com
202-462-7662
Fax: 202-328-1333

420 M Street, NW

BZA Case Number 16863

Additional Information Supplied to the Board of Zoning Adjustment

Summary of Testimony by Witnesses

At the hearing, four witnesses will provide oral testimony, James F. Smith, Brad Sligh, the Applicant, Gregory Zahn, AIA, the Project Architect, and Gladys Hicks, Zoning Consultant.

Altogether, the Applicant's presentation will require approximately 30 minutes.

James F. Smith will testify as to the condition of the property, the zoning history of the property, the character of the surrounding neighborhood and the compatibility of the proposed addition within the surrounding neighborhood. He will discuss the Historic hardship of the property, which is in the Mount Vernon Square East Historic District.

Brad Sligh, (the Applicant) will testify as to the circumstances which led to his purchase of the property, and the circumstances which led to his desire to construct a six unit apartment house.

Gregory Zahn of Zahn Design Architect, PLLC, will discuss his designs and the hardships placed upon the design by the Historic Preservation Review Board.

Gladys Hicks, Zoning consultant, will testify about the zoning issues related to this case. Specifically, among other issues, discussing the fact that due to the carriage house being at the rear of the lot and being oversized, consisting of two stories, that any use of the carriage house and any use other than single family residence would trigger an instant action before the Board of Zoning Adjustment. She will further discuss the percentage lot occupancy portion of the variance, and the reason why the Applicant seeks a variance in the amount of 8.8 percent of the lot occupancy, due to the limitations placed upon the project by the Historic Preservation Review Board, and the variance request for Section 2001.3..

James F. Smith will provide a conclusion and summary statement.

The oral presentation will be accompanied by an architectural board(s) to assist the presentation.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16863 of S & P Properties, LLC, pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under section 403, and a variance from the nonconforming structure provisions under subsection 2001.3, to allow the conversion of a single-family dwelling and carriage house into a 5 unit apartment house in the DD/R-5-B District at premises 420 M Street, N.W. (Square 514, Lot 863).

Note: The Board during the course of the public hearing concluded that variance relief from the rear yard requirements was not needed, and amended the application accordingly.

HEARING DATE(S): May 21, 2002, November 5, 2002
DECISION DATE: November 5, 2002 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2C, the Office of Planning (OP) and to owners of property within 200 feet of the site. The site of the application is located within the jurisdiction of ANC 2C. ANC 2C submitted a letter in support of the application. The OP submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to 11 DCMR § 3103.2. No person or entity appearing as a party to this case testified in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 403 and 2001.3, that there

exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that this application be **GRANTED**.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: **4-0-1** (Geoffrey H. Griffis, David A. Zaidain, Anne M. Renshaw, and James H. Hannaham to approve, the third mayoral appointee not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring Board member has approved the issuance of this order.

ATTESTED BY: Jerrily R. Kress
JERRILY R. KRESS, FAIA
Director
Office of Zoning

FINAL DATE OF ORDER: NOV - 7 2002

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16863

As Director of the Office of Zoning, I hereby certify and attest that on NOV - 7 2002 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Jim Smith
Mr. Permit, LLC
6 Logan Circle, N.W.
Washington, D.C. 20005

Leroy Thorpe, Jr., Chairperson
Advisory Neighborhood Commission 2C
Terrell Junior High School
First & Pierce Streets, N.W.
Washington, D.C. 20001

Lydia Goring, Commissioner 2C04
Advisory Neighborhood Commission 2C
Terrell Junior High School
First & Pierce Streets, N.W.
Washington, D.C. 20001

Jack Evans, City Councilmember
Ward Two
1350 Pennsylvania Avenue, N.W.
Suite 106
Washington, D.C. 20004

Robert Kelly, Zoning Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
941 N. Capitol Street, N.E.
Washington, D.C. 20002

Ellen McCarthy, Deputy Director
Office of Planning
801 North Capitol Street, N.E.
4th Floor
Washington, D.C. 20002

Alan Bergstein, Esq.
Office of Corporation Counsel
441 4th Street, N.W., 6th Floor
Washington, D.C. 20001

rsn

ATTESTED BY: Jerrily Kress
JERRILY R. KRESS, FAIA
Director, Office of Zoning

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

Government of the District of Columbia
Advisory Neighborhood Commission 2C
Terrell Junior High School - Shaw/Terrell Community Center
First & Pierce Streets, NW
Washington, DC 20001
Leroy Thorpe, Jr., Chairman
(202)387-1596
May 11, 2002

RECEIVED
D.C. OFFICE OF ZONING
2002 MAY 13 AM 4:10

Mr. Geoffrey Griffis, Chairman
District of Columbia Board of Zoning Adjustment
441 4th Street, NW, Second Floor
Washington, DC 20001

Re: BZA Case Number 16863, Application of S and P Properties, LLC, to construct a six unit apartment house in the R5B zone at 420 M Street, NW.

Dear Chairman Griffis:

At its regularly scheduled and duly noticed monthly meeting of Advisory Neighborhood Commission, held at 6:30 PM Wednesday, May 1, 2002, held at Tony Cheng's Mongolian Restaurant, Second Floor, 619 H Street, NW, Washington, DC, their being a total of six individual single member district commissioners and all were present, which constitutes a quorum, the above matter was discussed in open session.

The applicant's Agent, James F. Smith, explained the project to the Commission, and the variances required to allow the project to move forth. He further explained the mistake in typing 5 units instead of 6 units in the application and notes to the satisfaction of the Commission.

At the conclusion the presentation, and following a brief comment period by Commissioners, a motion was made by Commissioner Lydia Goring (2C04) and seconded by Commissioner Alexander M. Padro, as follows: **"Advisory Neighborhood Commission 2C supports the Applicant, S and P Properties, LLC, for the Board of Zoning Adjustment Case as follows: 'Application of S & P Properties, LLC, pursuant to 11 DCMR ss 3103.2, for a variance from the lot occupancy requirements under section 403, a variance from the rear yard requirements under section 404, and a variance from the nonconforming structure provisions under subsection 2001.3, to allow the conversion of a single -family dwelling and carriage house into a 6 (six) unit apartment house in the DD/R5B District at premises 420 M Street, N.W., (Square 514, Lot 863).'"**

The Commissioners, upon voice vote, voted unanimously to support the motion with six commissioners voting in favor, none opposed, no abstentions (6-0-0).

Respectfully submitted,

Leroy J. Thorpe, Jr., Chairman

BZA
Case No. 16863
Exhibit No. 22