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November 25, 2002

By Hand Delivery

Ms. Jerrily Kress
Office of Zoning
441 4th Street, N.W.
Second Floor
Washington, DC 20001

Re: BZA Appeal No. 16879 - NANA Motion for Reconsideration of Dismissal of Appeal No. 16879 – Failure to Satisfy Zoning Regulations' Filing Deadline

Dear Ms. Kress:

We are in receipt of the latest filing by the Nebraska Avenue Neighborhood Association ("NANA") received by the Office of Zoning on November 22, 2002 (see attached first page of the NANA filing) which requests reconsideration of the Board of Zoning Adjustment's ("BZA or Board") Dismissal of BZA Appeal No. 16879 and a motion for a further hearing in that case. Since the motions for reconsideration and for an additional hearing do not satisfy the filing requirements of 11 DCMR §§ 3126.2 and 3110.3, the Office of Zoning should return these to NANA.

The Order in BZA Appeal No. 16879 was finalized and signed on November 8, 2002 and was mailed to all parties on November 8, 2002, (See attached certificate of service from the Office of Zoning.) Pursuant to 11 DCMR §§ 3126.2, any party may file a motion for reconsideration of the Board's decision within 10 days of the date of issuance of the written order. In addition, 11 DCMR § 3110.3 provides that whenever service of a decision of the Board is made by mail to a party to the case, three days are added to the prescribed period.

Therefore, NANA was required to file its motions for reconsideration and request for a hearing by November 21, 2002, which is 13 days after the date the Board's decision in BZA Appeal No. 16879 was mailed to NANA. Since the motions were filed after that deadline, the Office of Zoning should return the motions since they were not filed in a timely manner. The Zoning Regulations do not include different filing deadlines depending on whether an applicant, appellant, or party is a community organization, a non-profit organization or a for-profit entity. The Zoning Regulations should be applied consistently to all applicants, appellants, or parties.

Based on its significant history of appeals to the Board in this case, NANA should have been fully aware of the clear filing deadlines. NANA not only missed the deadline but failed to provide a basis for the Board's waiver of that deadline. As a result, the Board is entirely without a basis for a waiver and must return these motions.

For the foregoing reasons, we believe that it is imperative to the integrity of the Zoning Regulations that NANA be held to the same filing requirements as all other applicants, appellants,

BZA
Case No. 16879
Exhibit No. 51

Board of Zoning Adjustment
District of Columbia
CASE NO.16879
EXHIBIT NO.51

and parties that appear before the Board. Therefore, the Office of Zoning should return the motions filed on November 22, 2002 to NANA.

Respectfully submitted,

Maureen E. Dwyer

Allison C. Prince

Paul A. Tummonds

Attachments

November 22, 2002

BEFORE THE BOARD OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA

IN RE: 5111 Connecticut Ave. N.W.	)	
Square 1989, New Lot 162	)	**BZA Appeal No. 16879**
Previous Lots 49-57 & 161	)	**Motion to Dismiss to Appeal**
	)	
Appeal of	)	
	)	
The Nebraska Avenue	)	
Neighborhood Association and	)	
Advisory Neighborhood	)	
Commission 3G	)	

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MOTION FOR RECONSIDERATION
OF
DISMISSAL OF APPEAL No. 16879
AND
MOTION FOR HEARING IN APPEAL No. 16879

The Nebraska Avenue Neighborhood Association ("NANA") finds substantive errors in the appeal process and in the Decision of the Board of Zoning Adjustment (the "Board") to dismiss appeal No. 16879. Further, in a recent communication, Sunrise Assisted Living, Inc. ("Sunrise") contradicts testimony presented to the Board. NANA hereby moves for reconsideration of the decision to dismiss Appeal No. B16879 and further moves to for a public hearing in Appeal No. 16768.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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BZA APPEAL NO. 16879 – FINAL ORDER DISMISSING APPEAL

As Director of the Office of Zoning, I hereby certify and attest that on NOV - 8 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:

Page Chiapella, President
Nebraska Avenue Neighborhood
Association
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cm

ATTESTED BY: Jerrily Kress

JERRILY R. KRESS, FAIA
Director, Office of Zoning

ShawPittman LLP

Certificate of Service

I hereby certify that on November 25, 2002, a copy of the foregoing letter was mailed first class, postage prepaid, to the following:

Anne Paige Chiapella
President, Nebraska Avenue Neighborhood Association
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