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September 17, 2002

Mr. Geoffrey Griffis, Chairman
Board of Zoning Adjustment
Room 210
441 4th Street, N.W.
Washington, DC 20001

Re: BZA Case No. 16920
1629 21st Street, N.W. Square 93, Lot 122

Dear Mr. Griffis:

Enclosed is a prehearing statement in this case for a Special Exception for the use of the first floor and a portion of the second floor of the subject apartment building as an art gallery.

Our witnesses will include Andrea Marinkovich, Royce Burton, and William Bass. We may want to call Lindsley Williams as an expert witness in planning.

Please call if there are any questions.

Yours very truly,

Stephen N. Gell

Enclosure
cc: Andrea Marinkovich
William Bass

BZA
Case No. 16920
Exhibit No. 23

Board of Zoning Adjustment
District of Columbia
CASE NO.16920
EXHIBIT NO.23

STATEMENT

OF EXPLANATIONS AND REASONS

SUPPORTING AN APPLICATION

TO THE BOARD OF ZONING ADJUSTMENT

OF THE DISTRICT OF COLUMBIA

FOR A SPECIAL EXCEPTION

PURSUANT TO SECTIONS 361 and 3104

OF THE DISTRICT OF COLUMBIA ZONING REGULATIONS

1629 21st Street, N.W.

(SQUARE 93, LOT 122)

BZA Case No. 16920

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INTRODUCTION

This is a Statement of Explanation and Reasons supporting the application of Andrea Marinkovich and William Bass, (hereinafter "applicants") for a special exception, pursuant to Section 361 of the Zoning Regulations of the District of Columbia, to use the first floor and part of the second floor of the building as an art gallery.

DESCRIPTION OF THE APPLICANT

Ms. Marinkovich will lease three floors of the building, using the third floor and a portion of the second floor for residential purposes, (possibly residing on the premises herself) and the remainder for the art gallery. She and her business partner, Royce Burton, currently operate the Burton -Marinkovich Fine Art Gallery at 1506 21st Street. Mr. William Bass is managing partner of the partnership which owns the building.

THE SUBJECT PROPERTY

A. Location and Description of the Property

The property which is the subject of this Application is located at 1629 21st Street, N.W., Square 93, Lot 122. It is a three-unit apartment building with three separate addresses. The building is in a DC/D/R-5-B Zone, which permits row dwellings and apartments. The property faces both on 21st Street and R Street. A separate basement gallery has its entrance on R Street. It has been in operation since 1987. This application relates only to one of the three units, 1629 21st St. No structural changes of any kind are contemplated for the interior or exterior of the building. The applicant contemplates using a one-square foot permanent sign.

B. Area Surrounding the Property

The Property is on the southeast corner of R and 21st Street one block north of the Phillips Collection. While the predominant uses in the area are residential, there are over 16 galleries in the R-5-B zone, as well as institutional uses, including embassies.

C. Zoning History and Use History

The area is zoned DC/D/R-5-B. The property is in the Dupont Circle Historic District and is subject to the Dupont Circle and Diplomatic Overlay Zones.

D. Operations

It is contemplated that opening events will not exceed 15 per year and will have fewer than 100 guests.

REASONS IN SUPPORT OF THE APPLICATION FOR SPECIAL EXCEPTION

A. Compliance with D.C. Zoning Regulations

The Special exception is needed to permit the installation of an art gallery on the first and a portion of the second floor. The applicant satisfies the requirements for grant of the Special Exception. The Board is authorized to grant special exceptions where, "in the judgment of the Board, those special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property ..." 11 DCMR §3104.1

B. No Adverse Effects

The Burton-Marinkovich Fine Art Gallery is not likely to generate substantial foot or vehicular traffic. This has been the case at their current location near the corner of P and 21st Streets and comports with the nature of their business. The Gallery has "openings" of new shows only occasionally and does not depend on foot traffic for its sales. Rather, business is generated though notifying individual customers of the availability of new offerings. Presentations are usually made by appointment and often off-site. This has been a successful formula and the Applicants intend to continue in the current mode.

More than 16 galleries are housed in the residential buildings within a block or two of this property and have not detracted from the urban residential character of the neighborhood. Moreover, the applicants will not be introducing a new use in the building, since a gallery already is in operation in a portion of the basement. This could be seen as a mere extension of an existing use, except for the fact that the ownership and operation of the two galleries will be separate.

Parking is unlikely to be a problem for the neighborhood. As noted, this business is not a high volume business. It does not depend on significant walk-in traffic for its clientele. Many customers live out of town and are likely to arrive at the gallery by taxi or Metro. We should note that the Dupont Circle Metro Station is within two blocks, which will encourage visitors to use Metro rather than bring cars into the area. In addition, there are two outdoor parking spaces in addition to a one-car garage, a rarity for residential buildings in the area.

Often the introduction of a commercial use in a residential neighborhood means the loss of residents. That would not be the case here. There will be living quarters for three persons, roughly the size of the average family that would otherwise occupy the leased space.

There are approximately 16 galleries in the residential neighborhood district. Neither the quality of life, nor property values have suffered as a result. On the contrary, it could be argued that the presence of these galleries lends a desirable ambience to the residential district. The Dupont Circle area is noted for its variety of uses, its excitement

and its artistic orientation. It is an ideal urban setting for those seeking an alternative to suburban lackluster. The gallery use of the subject property will add positively to that vibrancy.

COMPLIANCE WITH THE COMPREHENSIVE PLAN

A. Appropriate Residential Use

The Zoning Commission recognized the benefits of art galleries in high-density residential neighborhoods in the District such as Dupont Circle. Moreover, in the Comprehensive Plan District agencies are exhorted to take the following actions in support of the arts, cultural and educational land use objectives:

> 1336.1(d) Encourage existing and new arts and cultural facilities and activities in the Dupont Circle, Logan Circle, and the 14th Street Uptown Arts District areas, linking with arts and cultural institutions in Ward 1. (46 DCR 1763, Feb. 19, 1999)

B. Historic Preservation

Section 804.1 of the Comprehensive Plan calls on the District and Federal Governments to

> (f) Provide sufficient administrative flexibility in building codes and other related codes and regulations to permit maximum preservation and protection of historic resources while still ensuring the health and safety of the public. (46 DCR 1562, Feb. 19, 1999)

Among the objectives of Section 1319.1 of the Comprehensive Plan are the following:

> (b) to preserve and reuse historic landmarks and buildings in historic areas in Ward 2, and
>
> (d) to preserve and protect existing buildings and small scale and open spaces in historic areas in Ward 2. (46 DCR 1752, Feb. 19, 1999)

The subject property is a contributing building in the Dupont Circle Historic District. Latitude in the use of the property for an art gallery, as permitted by the Zoning Regulations, can serve to enhance its preservation.

CONCLUSION

The Applicants should be granted a Special Exception to allow the use of a portion of the first floor for an art gallery. Such a use is unlikely to have any negative

effects on the neighborhood and will enhance the likelihood of preservation. Moreover, such a use will be in harmony with the purpose and intent of the Zoning Regulations.

Respectfully submitted



Stephen N. Gell, Esq.

List of art galleries within a block or two of the subject property and within the same R-5-B Zone District:

R Street:

Street No.

2010 Africa and Gallery K (2 galleries)
2012 Mateyka
2030 Robert Brown (basement of subject property)
2025 Haslem
2106 Alex
2108 Anton and Studio (2 galleries)
2112 Fondo del Sol
2114 Burdick

21st Street

1600-18 Phillips
1621 Pinto
1730 Diner Gallery

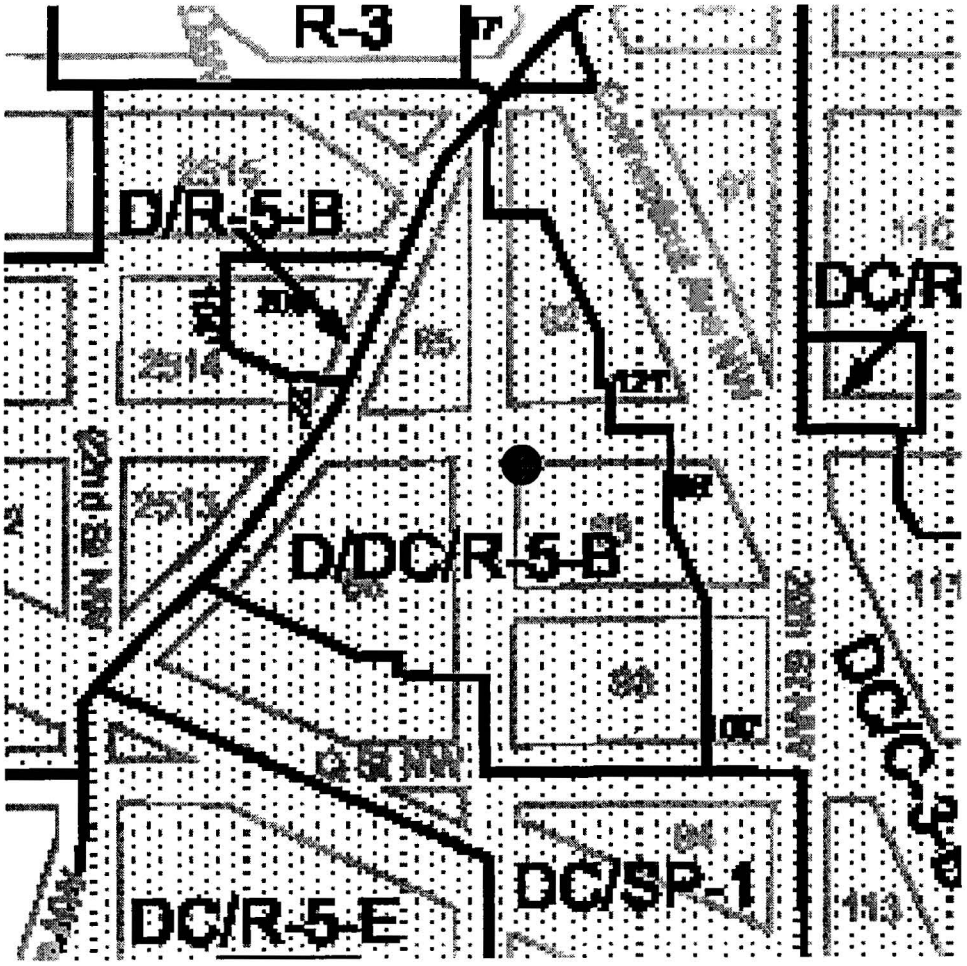
Q Street:

2023 Tartt
2029 Pensler

Hillyer Court:

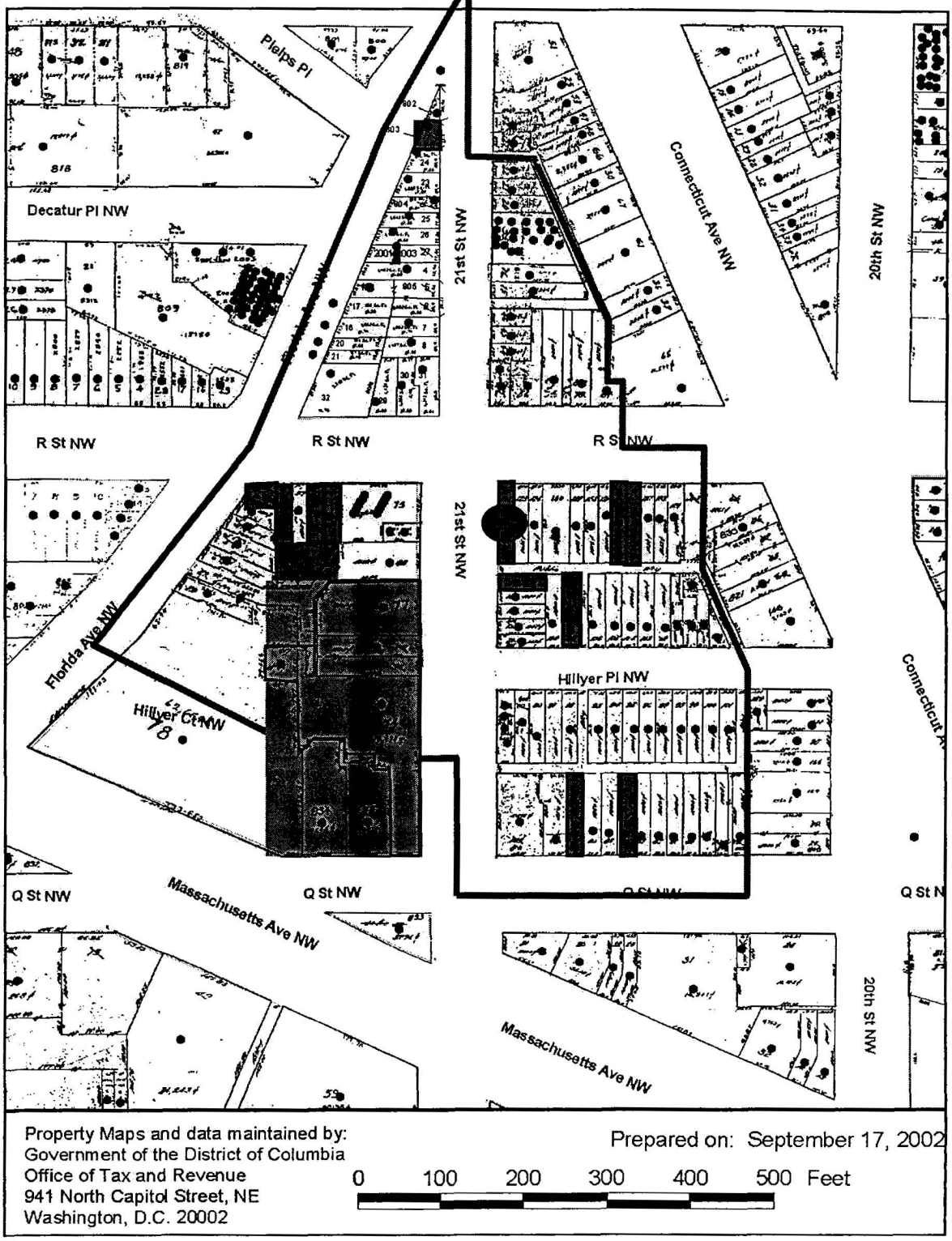
9 Foundry Gallery

Burton – Marinkovich Gallery

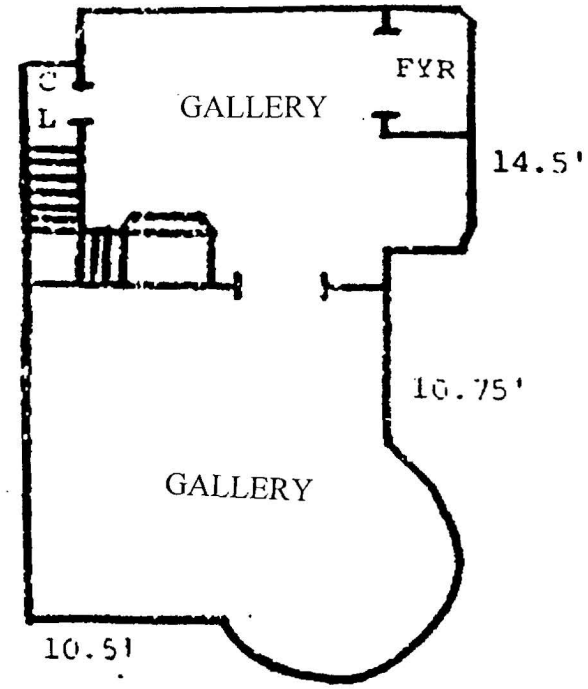


Marinkovich Report

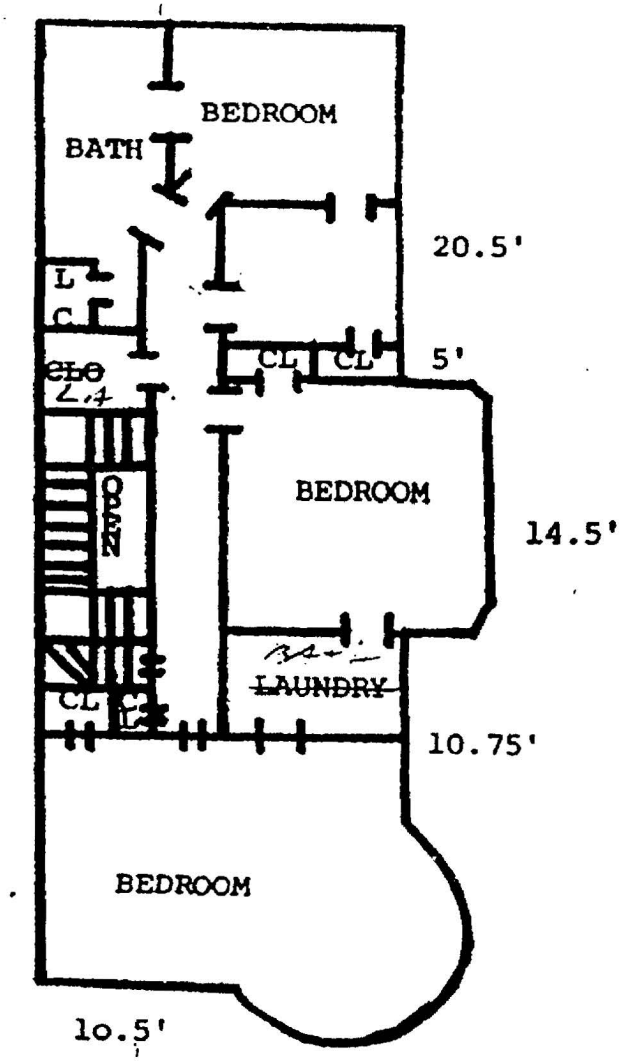
Galleries shaded



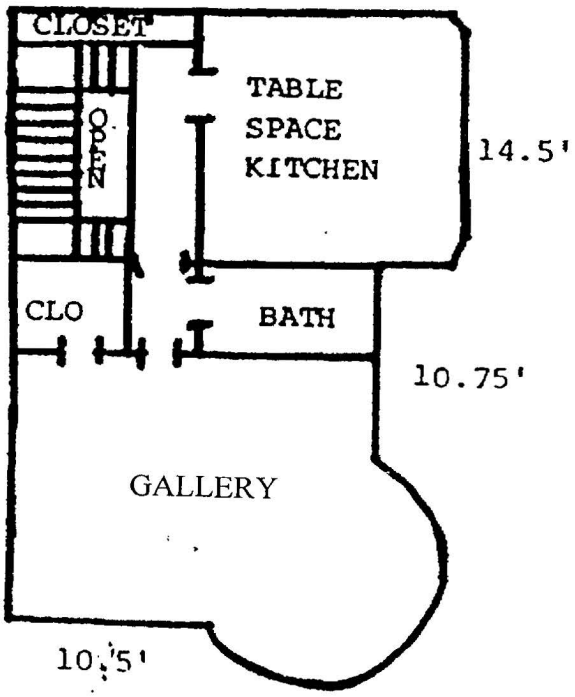
The portion of 1629 21 St. Street, N.W. which is the subject of the application



FIRST FLOOR



THIRD FLOOR



SECOND FLOOR

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., June 12, 2002

Plat for Building Permit of SQUARE 93 LOT 122

Scale: 1 inch = 20 feet Recorded in Book 15 Page 46

Receipt No. 009259

Furnished to: STEPHEN N. GELL

Surveyor, D.C.

By: L.E.S.

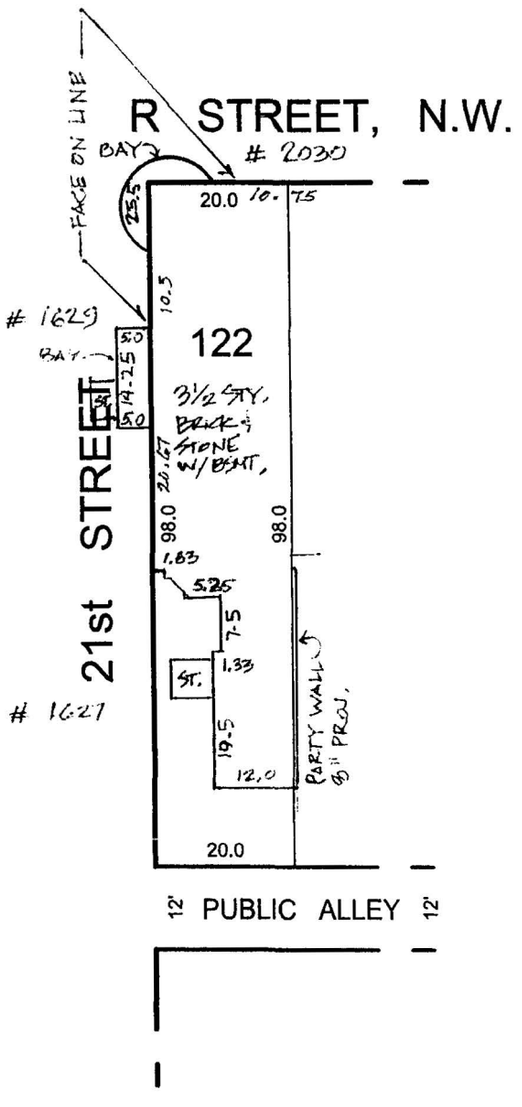
I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat;and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

Date: JUNE 14, 2002

- OWNER

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.



Form 120 – Exhibit 1
(Revised 04/29/02)

Case No._____

BEFORE THE BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA

APPLICATION

Notice: See other side of application form for instructions

Pursuant to Sections §3103.2 - Use Variance, §3103.2 - Area Variance and/or §3104.1 - Special Exception of Title 11 DCMR- Zoning Regulations an application is hereby made, the details of which are as follows:

Address	Square	Lot No.	Zoning District	Relief Sought (Variance(s) and/or Special Exception)	Section No.(s)
1629 21st St. NW	93	122	R-5-B	Special Excep	361
1627 21st St NW	93	122	"	—	—
2030 R St. NW	93	122	"	—	—

Present Use of Property: Apt house and one gallery

Proposed Use of Property: Apt house and two galleries

Name of Owner: William Bass Telephone No.: 301-937-4383

Mailing Address of Owner: 10722 Tucker St. Beltsville MD 20705

Briefly describe the proposal and state why you believe there is a need for this variance/exception: This will serve as the Public

Hearing Notice: Special Exception to use premises for an art gallery on the first floor and a portion of the second floor.

Estimated Cost of Construction: $ 0

Name of Neighborhood Commission and Single Member District: 2B02

Date: June 20, 2002 Signature: Applicant* Stephen Gill

* The Owner of the Property for which the application is made or his/her authorized agent. In the event an authorized agent files an application on the behalf of the Owner, a letter signed by the Owner authorizing the agent to act on his/her behalf shall accompany the notice of application.

To be notified of hearing and decision:
(Owner or Authorized Agent*)

Name:

Address:

Telephone No.: Fax No.: E-Mail:

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

BZA Certification Form 1 (Revised 03/30/00)

ZONING SELF-CERTIFICATION FORM

Project Address(es)			
1629 21st ST. NW WASHINGTON DC			
Square 93	**Lot(s)** 122	**Zone District(s)** DC/D/R-5-B	**Case No.**

CERTIFICATION

The undersigned agent hereby certifies that the following zoning relief is required from the Board of Zoning Adjustment in this matter pursuant to:

☐	[illegible]	☐	[illegible]	☑	[illegible]

which is provided for by DCMR Title 11 Section No(s).:

Pursuant to 11 DCMR 3113.2, the undersigned agent certifies that:

(1) the agent is duly licensed to practice law or architecture in the District of Columbia;
(2) the agent is currently in good standing and otherwise entitled to practice law or architecture in the District of Columbia;
(3) the applicant is entitled to apply for the variance or special exception sought for the reasons stated in the application.

The undersigned agent and owner acknowledge that they are assuming the risk that the owner may require additional or different zoning relief from that which is self-certified in order to obtain, for the above-referenced project, any building permit, certificate of occupancy, or other administrative determination based upon the Zoning Regulations and Map. Any approval of the application by the Board of Zoning Adjustment does not constitute a Board finding that the relief sought is the relief required to obtain such permit, certification, or determination.

The undersigned agent and owner further acknowledge that any person aggrieved by the issuance of any permit, certificate, or determination for which the requested zoning relief is a prerequisite may appeal that permit, certificate, or determination on the grounds that additional or different zoning relief is required.

The undersigned agent and owner hereby hold the District of Columbia Office of Zoning and Department of Consumer and Regulatory Affairs harmless from any liability for failure of the undersigned to seek complete and proper zoning relief from the Board of Zoning Adjustment.

The undersigned owner hereby authorizes the undersigned agent to act on the owner's behalf in this matter.

Owner's Signature	Owner's Name (Please Print)
[signature]	WILLIAM J. BASS
Agent's Signature [signature] Gell	**Agent's Name (Please Print)** STEPHEN N. GELL
[illegible]	or [illegible]

OFFICE OF ZONING DETERMINATION

(DCMR Title 11 3113.2)

[illegible]

☐	Accepted for filing.
☐	Referred to the Office of the Zoning Administrator, Department of Consumer and Regulatory Affairs, for determination of proper zoning relief required.
☐	Rejected for failure to comply with the provisions of ☐ DCMR Title 11 - 3113.2; or ☐ DCMR Title 11 Zoning Regulations. Explanation _____

Date: _____ Signature: _____

441 4th Street, N.W. Ste. 210-S, Washington, D.C. 20001 — Jerrily R. Kress, FAIA - Director of the Office of Zoning

Side 2

INSTRUCTIONS

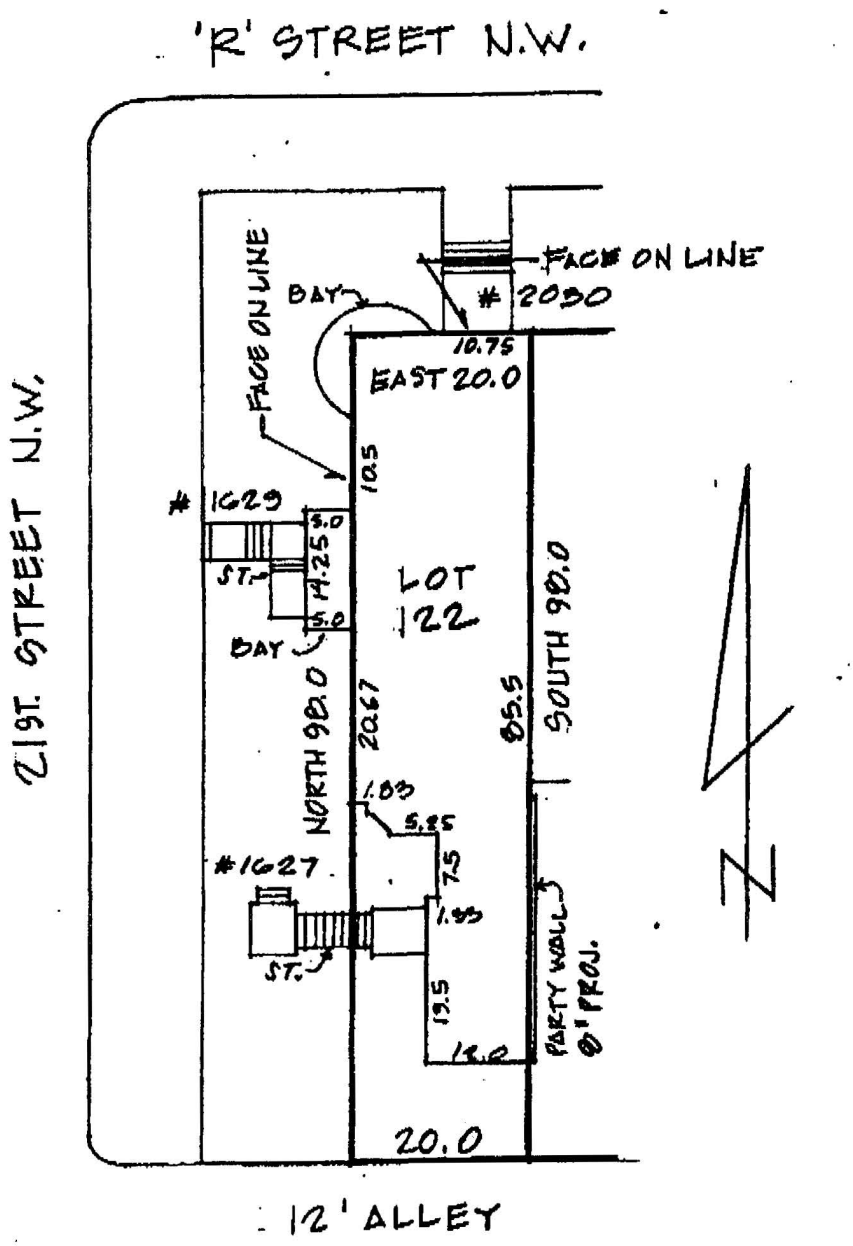
Any request for self-certification that is not completed in accordance with the following instructions shall not be accepted.

1. All self-certification applications shall be made on BZA Certification Form 1. All certification forms must be completely filled out (front and back) and be typewritten or legibly printed. All information shall be furnished by the applicant. If additional space is necessary, use separate sheets of paper to complete this form.

2. Complete one self-certification form per each application filed. Present this form with the BZA Form 2 application to the Office of Zoning, 441 4th Street, N.W., Suite 210, Washington, D.C. 20001.

ITEM	EXISTING	REQUIRED	ALLOWED	PROVIDED	VARIANCE Deviation/Percent
Lot Area	1960 ☐				
Lot Width	20'				
Lot Occupancy	81.38%				
Floor Area Ratio (FAR)	2.08				
Parking Spaces	3				
Loading Berths	0				
Front Yard	none				
Rear Yard	12.5' by 20'0				
Side Yard	none				
Court, Open	8' by 27'				
Court, Closed	none				

HEIGHT 4 stories



HOUSE LOCATION

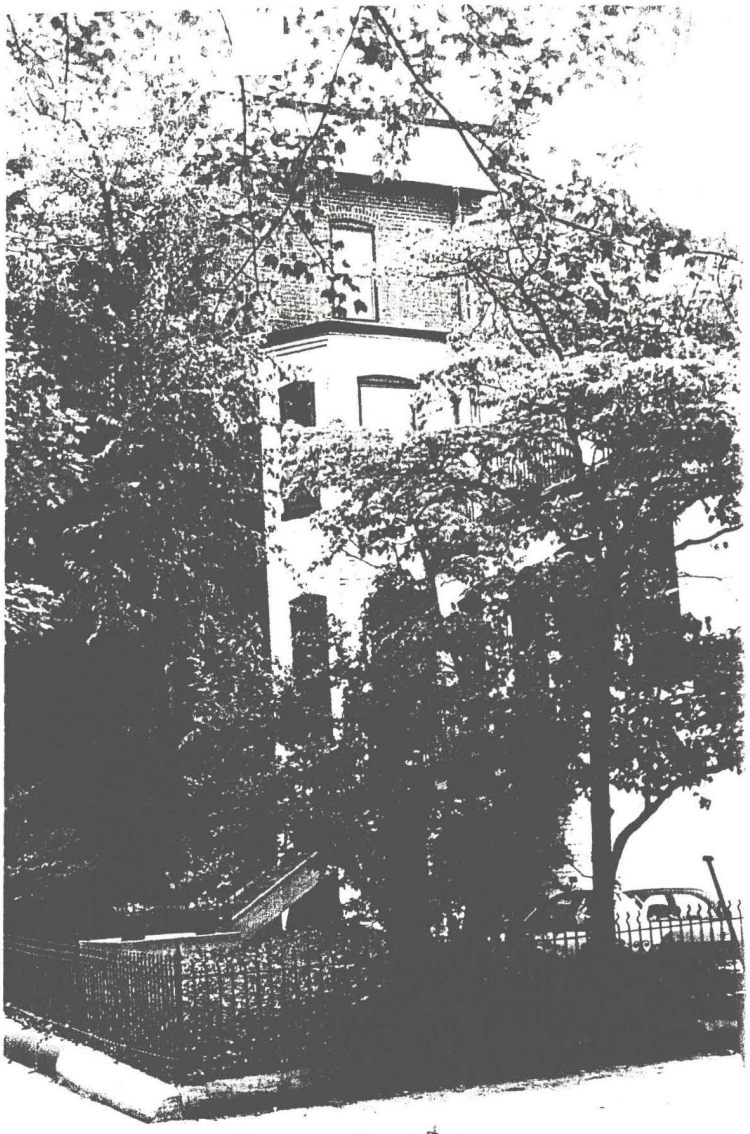
LOT 122 SQUARE 93

[illegible], Faulkner, Jenkins and Bos[illegible]
1147 Twentieth Street, N.W.
[illegible]shington, D.C. 20036

SCALE: 1" = 20' 8.15.86



FROM "R" STREET



FROM 21ST ST AND PUBLIC ALLEY



S.E CORNER 21ST + R STS

1629 21ST ST.