Kathleen B. Beckwith
4428 Faraday Place, NW
Washington, DC 20016
October 22, 2002

Board of Zoning Adjustment
441 4th St. NW
Washington, DC 20001

To Whom It May Concern:

Re: Case # 16921

Pursuant to the Board's request at the hearing conducted on October 8, 2002, I am providing comments on the applicant's follow-up submissions. These consist of a letter from the applicant and one from their architectural firm.

Lot Occupancy

The applicant failed to respond to the Board's request for information clarifying the side lot measurements and the lot occupancy calculations.

The transcript was not available as of yesterday, but as I understand it, the Board raised a question of whether the sunroom and deck on the west side of the applicant's property encroached within 5 feet of the side lot line. A Board Member pointed out that Exhibit 29, which states that it is drawn to scale, indicates less than a five-foot distance to the lot line on the West Side of the applicant's property. There was discussion that if true, this area would have to be included in the lot occupancy calculation. The applicant was asked to clarify this. The applicant's recent submission is totally silent on the side lot issue. It provides no explanation for what is included in the square footage calculation of the existing house.

The applicant and the architect state in their recent letters that the lot occupancy percentage is approximately 33.7% -- this is *below* the 40% limit that would necessitate a waiver of lot occupancy requirements. The applicant does not explain the discrepancy between the original application (Exhibit 1) that requested a waiver of Sec. 403.2 lot occupancy requirements, and these new calculations.

The applicant's latest unexplained lot occupancy information is inconsistent with their application, with information provided by the Zoning Office, and with the Exhibits in this case. There is no explanation of why their latest calculation for the existing structure is approximately 320 square feet less than the calculation prepared by the Zoning Review Branch (Exhibit 6). There is no explanation of their 33.7% lot occupancy calculation as

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compared with the 43.13 % computed by the Zoning Branch (Exhibit 6) and reiterated in the Zoning memorandum (Exhibit 10) and Exhibit 24.

If the applicant's plans (Exhibits 7 and 29) are not to scale on the side lot issues, they could be inaccurate on other significant facts. If they are to scale, other areas may need to be included in the lot occupancy calculations.

I urge the Board to reject the application for basic internal inconsistency, failure to adequately document the proposed lot occupancy, and failure to respond to the Board's request for clarification.

Timeliness

In addition to failure to address the question raised by the Board, the applicant has again failed to comply with a deadline established by regulation or Board request. The Board requested that the information from the applicant and myself be submitted by October 15, 2002. Although both the applicant's and the architect's letters are dated October 15, both were apparently faxed to the Office of Zoning on October 17th. The letter from the applicant has fax information at the top indicating it was transmitted at 11:40 AM on 10/17; the Office of Zoning receipt date stamp is 12:48 PM on October 17th. The Office of Zoning date stamp for the architect's letter is 11:23 am on October 17th.

Failure of the applicant to submit the requested material by the 7 day deadline established by the Board shortened the time I had for reviewing the material and preparing my response. It continues the pattern of failure to adhere to zoning requirements previously evidenced by the applicants when they failed to post their property at least 15 days before the hearing, and then failed to replace the sign for at least a week after it came down. I believe this is reflective of the applicant's failure to take seriously the whole zoning exemption process. I ask that the Board consider this record in its decision making process.

I would like to add that there were additional photographs I could have included in my submission last week had I had an additional two days to prepare, particularly since it rained for most of the week prior to the submission date.

ANC

With respect to the applicant's comments concerning the ANC, I also had several conversations and exchanged voice mail messages with Tad DiBiase, Commissioner of Single Member District 3E03. I also spoke with ANC 3E Chairwoman Jill Diskan. They both indicated, as the applicant stated, that the 7-day notice requirement would prohibit the ANC from taking a vote on this matter at its October meeting. Commissioner DiBiase also offered to both the applicant and me, that if either of us requested placing this on the agenda, he would write a letter to the Board indicating that this matter had not come before the ANC through no fault of either party and that it would be scheduled for the November 14th meeting. At this point, I am not requesting a delay in the Board's

proceedings. Should the Board be forced to reschedule it's October 29th decision hearing, or should it for any reason accept additional information after that hearing, I would reconsider presenting my case at the ANC meeting on November 14th.

(One of the reasons I have not so far requested an ANC hearing is that the design of the planned renovations for my house, which includes a first floor powder room, is on hold pending a decision in this case. My 87 year old Mother fell 3 weeks before the first hearing in this case and sustained multiple injuries including two fractures. My need for the first floor powder room has increased. Because of this, I have not to date requested a delay in these proceedings for an ANC vote, although I do not want to give up any of my due process rights.)

I believe the Board has sufficient information to make the fair and appropriate decision in this case.

There is a related ANC issue I would like to comment on. In Exhibit 26, Commissioner DiBiase had indicated that although ANC3E does not usually vote on this type of application, it had voted to approve one application on Faraday Place last fall. During one of our subsequent conversations, he verified that his letter was referring to the unopposed application for 4417 Faraday Place, and that the ANC vote was a vote to Not Oppose (Exhibit 24, BZA case # 16845). I mention this only to clarify the record. This property is shown in Exhibit 24, the Office of Planning Report and referenced in my photo submission of October15th.

Summary of response

The applicant has failed to respond to the Board's request and has provided unexplained information that is inconsistent with their application and the record in this case. They have once again been late in complying with zoning procedures. I believe the latest submission is consistent with a decision to deny the request for exemption.

I would be happy to respond to any other inquiries the Board may have.

Sincerely,

Kathleen B Beckwith

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cc: Tad DiBiase, ANC3E