Government of the District of Columbia
ADVISORY NEIGHBORHOOD COMMISSION 3-D
P.O. Box 40846
Palisades Station
Washington, D.C. 20016

October 7, 2002

Ms. Sheri Pruitt, Secretary
Board of Zoning Adjustment
441 4th Street NW
Washington DC 20001

RE: BZA 16928 – Disapproval by ANC3D of a request by owner of house at 5115 Rockwood Parkway NW for a special exception from setback and height restrictions under Section 2500.6 to construct a two-story detached building with a two-car garage on ground floor and an apartment for domestic employees on second floor.

Dear Ms. Pruitt:

Advisory Neighborhood Commission 3D held its regularly scheduled monthly meeting on October 2, 2002 in Sibley Memorial Hospital's Ernst Auditorium. Advance notice of this meeting was given at least seven days through the Northwest Current newspaper, signs placed around neighborhoods and by fax and e-mail. A quorum (3) was present at all times.

One of the items on the Commission's agenda was the request for a special exception (see above) at 5115 Rockwood Parkway. The owners, Mr. and Mrs. Paul C. Dougherty and their attorney, Mr. Patrick Brown, came before the Commission to discuss their request. The Commission also heard from the next-door neighbor at 5135 Rockwood Parkway, Ms. Blythe Lyons, who opposed the granting of the special exception.

The Dougherty's argued that the sitting of the garage within five feet (instead of the eight-foot setback required under 2.500.6) of the side yard was necessary to permit direct access into the garage and that otherwise a driver would have to make difficult maneuvers to get into the right bay of the two-car garage. Originally there was a two-car garage attached to the house, but that was enclosed and converted into living quarters several years ago by the Dougherty's with the intention, according to Mr. Dougherty of eventually building a separate garage. On the request that an exception be granted so that the proposed building be 25 feet high, rather than the 20-foot height required under 2500.6, the Dougherty's argued that the additional height was necessary to provide the headroom so that the second floor could be made into an apartment for domestic servants. They argued that since the garage/apartment was built into a rising slope, it would not obscure the light or impose upon the privacy of the adjoining property. They also argued

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that the topography dictated that the building be sited within five feet of the side boundary.

In summary, the Dougherty's argued, as in the petition to the BZA, that because of the configuration and topography of their lot and the location of the existing driveway, failure to grant the special exceptions would "impose substantial practical difficulties and undue hardship upon them."

In opposition to the granting of the special exceptions, Ms. Lyons argued that the proposed building would block her morning sunlight, invade her privacy (for example, she said the proposed window on the second floor apartment would allow direct view into her bedroom) and would possibly cause harm to an old poplar tree on her property.

After discussion, Chairman Finney made a motion to disapprove the Dougherty application. The motion was duly seconded and approved by the commission by a 4-0 vote. Among the reasons cited by the commission in opposing the application are the following:

1. The Dougherty's did not make a convincing case that failure to grant the special exceptions would cause "substantial practical difficulties and undue hardship" upon them.
2. As for the "practical difficulties," the commission found that there was paved parking area to the rear of the house (now used for outdoor parking) large enough to permit drivers to make the small turning maneuver required to enter and leave the right-hand garage from the existing driveway. Furthermore, the driveway could be moved three feet closer to the house with the relocation of air conditioning units. Since the Dougherty's decided to convert an existing garage into living quarters and have used outdoor parking for several years, it is difficult to argue that failure to grant them permission to build a new garage would impose an "undue hardship" upon them. An inconvenience perhaps, but not a hardship.
3. The proposed upstairs apartment for domestic servants represents a convenience not a necessity. Therefore, failure to grant a height exception would not impose an "undue hardship" upon the Dougherty's.
4. The proposed size and height of the proposed two-story building (25 feet by 25 feet in size and 25 feet high) is more in line with a small house than a garage.
5. The 25-foot height and location within five feet of the side yard boundary would intrude upon the privacy of the next-door neighbor. (Commissioners urged that the application be withdrawn so that the Dougherty's could return to the drawing board with their architect and see if a less obtrusive building, with lower roofline could be designed. The suggestions did not elicit a favorable response.)
6. When a next-door neighbor objects, the presumption must be--in the absence of a convincing counter-argument—that restrictions on side yard setbacks and building height should be observed.

ANC3D requests that the BZA give the views of ANC3D the "great weight" to which they are entitled by law.

Sincerely,

John W. Finney bpn
Chair, ANC3D