Mrs. Virginia Smith
206 10th Street NE
Washington DC 20002

July 24, 2002

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D.C. OFFICE OF ZONING
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Mr. Toye Bello
Acting Zoning Administrator
Department of Consumer and Regulatory Affairs
941 North Capital Street NE
Washington, DC 20002

RE: Request for the revocation of building permit No. B445856 for 922 Constitution Avenue NE, due to violations of DC Zoning Regulations

Dear Mr. Bello:

I write to ask your immediate action to revoke Building Permit No. B445856, a "foundation only" permit for 922 Constitution Avenue NE, because it was erroneously issued. Although the current permit is for "foundation only," the permit application indicates that the owner, John Casey, intends to eventually construct a three-story, single-family dwelling extending the entire width of the lot at 922 Constitution Avenue NE.

I own and reside at 206 10th Street NE. The rear property line of my property abuts the side property line of 922 Constitution Avenue NE. Mr. Casey has already begun digging to lay the foundation for a three-story single-family dwelling at 922 Constitution Avenue. Clearly, he intends to erect a building with a face-on-line wall along the side property line -- i.e., along my rear property line. Indeed, in a letter delivered to my home by the builders hired by Mr. Casey, the Project Manager indicated that the foundation work would entail the removal of my existing retaining wall and that "the foundation of the new house will become your new retaining wall."

The property at 922 Constitution Avenue is not currently occupied by any buildings. Prior to the proposed construction, the only building between my home and a row house at 916 Constitution Avenue was a small, two-story historic single-family dwelling at 920 Constitution Avenue. It is my understanding that Mr. Casey owns the lots located at 920 and 918 as well as 922 and that he intends to construct new three-story single family dwellings in lots 918 and 922 and to convert the historic building at 920 into a three-story single-family dwelling.

The permit application for 922 Constitution Avenue appears to be flawed and incomplete because it fails to provide any diagrams indicating the scope of the proposed foundation or its relationship to and impact upon neighboring properties. In fact, the intended building would result in the erection of a face-on-line wall running the entirety of my rear property line and those of my neighbors on 10th Street NE ("the 10th Street properties"). The 10th Street properties

BZA
Case No. 16934
Exhibit No. 7

Board of Zoning Adjustment
District of Columbia
CASE NO.16934
EXHIBIT NO.7

have very shallow rear yards. The proposed foundation wall would be situated only a few feet from the rear wall of my home. If the anticipated three-story dwelling is completed, the three-story face-on-line wall would severely shadow my home. The other 10th Street properties would be similarly affected.

Because the side lot line of 922 Constitution Avenue abuts the rear yards of the 10th Street properties, it is not possible for the three-story building proposed for 922 Constitution Avenue to share a common division wall where it abuts these properties. Therefore, the proposed three-story building will be in violation of section 405.3 of Title 11 of the District of Columbia Zoning Regulations. Section 405.3 provides that "when a one-family dwelling . . . is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, then it shall have a side yard on each resulting free-standing side." See 11 DCMR sec. 405.3.

The Board of Zoning Adjustment was recently required to interpret section 405.3 in a similar case, BZA Appeal No. 16811. On June 4, 2002, the BZA decided in that case that a building permit granted to 1018 Constitution Avenue NE for the construction of a building addition resulting in a face-on-line wall running along the rear lot lines of a row of houses facing 11th Street was issued in error, in violation of section 405.3.

I attended a hearing before the Historic Preservation Review Board pertaining to the proposed buildings for 918-922 Constitution Avenue on June 21, 2002. At that hearing, I stated that the proposed building at 922 Constitution Avenue would violate section 405.3 of the Zoning Regulations as interpreted by the BZA's recent decision in BZA Appeal No. 16811. In response, representatives from the Zoning Division stated simply that the present case is "different from 1018 Constitution Avenue" and therefore that the BZA's decision in Appeal No. 16811 does not apply. However, no one was able to specify *how* the present case differs significantly from the case in BZA Appeal No. 16811 or *why* the BZA's recent decision should not apply. Apparently, this is because the two cases cannot be distinguished in any meaningful way. Therefore, you should promptly revoke the permit granted to 922 Constitution Avenue.

In the 1018 Constitution Avenue case, the building addition at issue was completed before the BZA reached its decision nullifying the permit in question. This has resulted in the unfortunate situation in which the owners at 1018 Constitution Avenue will need to tear down a completed building addition which they constructed in reliance on an erroneously granted permit issued by the Zoning Division. In that case, the proper interpretation of 405.3 was somewhat uncertain, as the BZA had not had occasion to consider this specific regulation previously. In light of the BZA's recent decision in Appeal No. 16811, however, it is irresponsible for the Zoning Division to grant permit No. B445856 to 922 Constitution Avenue. Construction to implement the work specified in the permit is already underway. On July 11, 2002, ANC 6A voted to appeal permit No. B445856 on the grounds that it is inconsistent with the BZA's decision in Appeal No. 16811. *In order to protect the interests of all sides*, you should, at the

very least, suspend the building permit until the relevance and application of 405.3 in this case can be clarified by the BZA.

Thank you for your consideration of this matter and I look forward to your prompt response.

Sincerely,

Virginia Smith

Virginia Smith

cc. Chairperson
Area Neighborhood Commission 6A
P.O. Box 76680
Washington, DC 20002

John Casey
JFC Builders, LLC
2458 Sandburg Street
Dunn Loring, VA 22027