ANDREA C. FERSTER
LAW OFFICES
1100 SEVENTEENTH STREET, N.W., 10TH FL.
WASHINGTON, D.C. 20036

TEL.(202) 974-5142 FAX (202) 331-9680

September 30, 2002

Jerrily R. Kress, Director
Office of Zoning
441 4th Street, N.W., Suite 201
Washington, D.C. 20001

Re: BZA Appeal # 16935, Father Flanagan's Boy's Home

Dear Ms. Kress:

On behalf of the Appellant Southeast Citizens for Smart Development, Inc. ("SCSD"), I am writing to respond to your letter dated August 12, 2002, requesting additional information needed in order to process the above-referenced appeal.

1. Certificate of Service. Please find, attached, a new certificate of service indicating that a copy of the appeal has been served on the Zoning Administrator.

2. Certified building plat. You requested a copy of a "certified plat illustrating how the building(s) in question fail to comply with the sections of the Zoning Regulations cited in your appeal. I was informed by Mr. Richard Nero in your office that such a certified plat could be obtained from the D.C. Department of Consumer and Regulatory Affairs ("DCRA"), Building and Land Regulation Administration ("BLRA"). However, despite repeated telephone requests and e-mails, the BLRA has failed to respond to our requests for such a certified plat.

Since SCSD is not the owner of the buildings in question, SCSD is not in possession of such a building plat. Presumably, this information was submitted to DCRA by the owner, Father Flanagan's Boys Home, in connection with the owner's application for building permits, since it is obviously necessary for permitting officials to review this information in order to determine whether the building permits conform to the zoning requirements applicable to single family dwellings, including the set-back and parking requirements that we believe have been violated here. Accordingly, we request that you direct the Zoning Administrator, as a party to this proceeding, to provide this information, and further request that service of such a building plat be made upon Appellants.

You also requested that SCSD provide a detailed explanation of each and every exception you have to the administrative decision being appealed." SCSD identified the following exceptions in its appeal: (1) three of the four buildings lacked the 8-foot side yard required by zoning regulations 11 DCMR §§ 405.9 and 775.2; (2) none of the lots have access to their required parking spaces from a public street or alley, or from a private driveway under the ownership or control of the

BZA
Case No. 16935
Exhibit No. 6

Board of Zoning Adjustment
District of Columbia
CASE NO.16935
EXHIBIT NO.6

particular lot, as required by 11 DCMR § 2117.4, and (3) some of the buildings are not on the same lot with the residences that they are intended to serve, as required by 11 DCMR § 2116.1.

SCSD also notes, in response to this request, that neither SCSD nor this Board have the benefit of the views of the Zoning Administrator concerning the zoning violations identified in this appeal. To the contrary, the BLRA has refused to provide an explanation of why it believes these building permits to be matter-of-right, given this Board's finding in Appeal No. 16791 that the residences that are the subject of the above-referenced permits do not comply with the zoning requirements applicable to single family detached dwellings. See attached letter from Mr. J. Gregory Love, BLRA Administrator (Aug. 19, 2002) (stating he is "unable to respond" to this request because this issue is before the Board of Zoning Adjustment).

On August 26, 2002, SCSD appealed this "non-response" to DCRA Director David Clark, in which letter (copy enclosed) SCSD again requested that the interests of all the parties (including the government) would be served by having the benefit of the written rationale of the permitting agency, particularly in light of the findings in BZA Decision and Order in Appeal No. 16791 (page 24), that three of the four buildings lacked the 8-foot side yard required by the zoning regulations for single family dwellings by zoning regulations, and that none of the lots have access to their required parking spaces from a public street or alley, and only one of the houses had access to a private driveway under the ownership or control of the particular lot. See 11 DCMR § 405.9 and 775.2. DCRA has yet to respond to SCSD's request for a written decision by permitting officials reconciling the issuance of the above-referenced building permits with this Board's decision in Appeal No. 16791.

DCRA's continuing failure to provide such a written rationale places nonprofit neighborhood groups such as SCSD in an untenable position of being forced, by virtue of this Board's strict rule requiring that appeals be filed within 60 days of a challenged action (here the building permits), to proceed with such an appeal without the benefit of the permitting agency's opinion on the zoning questions involved. Obtaining the views of the permitting officials on the issues raised in this appeal is particularly warranted here, since the buildings at issue are the subject of a previous order by this Board specifically finding that the subject buildings do *not* conform to the zoning requirements applicable to matter-of-right construction as either Community Based Residential Facilities or single family dwellings. Accordingly, SCSD hereby requests that the Zoning Administrator, as a party to this proceeding, be directed to provide this information, and that this information be served upon SCSD and other parties to this appeal.

3. Copies of building permits in question. Copies are enclosed.

Finally, SCSD notes that Advisory Neighborhood Commission ("ANC") 6B has now joined this appeal. Accordingly, SCSD requests that SCSD be reimbursed its $800 filing fee for this appeal.

Please feel free to contact me, at (202) 974-5142, if you have any questions or need any additional information.

Sincerely,



Andrea C. Ferster

Enc.

cc: Phil T. Feola, Esq.
Kenan Jarboe, Chair, ANC 6B
Mr. Denzil Noble, Acting Zoning Administrator

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Form BLRA-15
(Rev. 9/30/91)

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

BUILDING PERMIT

PERMIT NO. B446917

Date 7/8/02 **(Type)** NEW BLDG.

Address of work 1308 POTOMAC AVENUE, S.E.

Lot 137 **Square** 1045

Permission is hereby granted to

(Owner) FATHER FLANAGAN'S BOYS HOUSE

who is authorized to perform the work described herein at the address shown above in strict accordance with the conditions stated on BOTH sides of this permit.

Authorized work and conditions of performance thereof:

TWO STORY AND CELLAR RESIDENCE.
REVISION TO PERMIT B 438335.

TOTAL PERMIT FEE $

FILING FEE $

NO. **DATE**

FEE PAYABLE $ 150.00

FOR INSPECTIONS CALL WARD 2 442-4647

FILE COPY

Builder—

Value $ **No. of Bldgs.**

Width of Bldgs. **Length** **Height** **No. of Stories** TWO

Zone **To be occupied as** SFD

Height of terrace above grade **Projections:**

Address of owner BOYS TOWN, N.E. 68010

Deposit No. **Amount $**

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Chief, Permit Issuance Branch

By _____
Permit Clerk

D. CLARK
DIRECTOR

32301

PERMIT

Store# 0001 D.C. GOVERNMENT
OTR/DCRA CASHIER OFFICE
Reg# 0 07/08/02 at 16:08 Clk# 11
Dept# 2600 2 Amount $150.00
0001215 BUILD STRUCTURE & EQUI

PERMIT

★★★ GOVERNMENT OF THE DISTRICT OF COLUMBIA
Form BLRA-15
(Rev. 9/30/91

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

BUILDING PERMIT **PERMIT NO.** B446919

Date 7/8/02 (Type) NEW BUILDING
Address of work 1310 POTOMAC AVE. S.E.
Permission is hereby granted to FATHER FLANAGAN'S BOYS HOME (Owner)
who is authorized to perform the work described herein at the address shown above in strict accordance with the conditions stated on BOTH sides of this permit.
Authorized work and conditions of performance thereof:

TWO STORY & CELLER RESIDENCE WITH DRIVEWAY.
REVISION TO PERMIT # B438338.

Lot 136 Square 1045
TOTAL PERMIT FEE $
FILING FEE $
NO. DATE
FEE PAYABLE $ 150.00
FOR INSPECTIONS CALL [redacted] 442-4641

Builder—
Width of Bldgs. Length Height No. of Stories 2
Zone To be occupied as SFD
Height of terrace above grade Projections:
Address of owner BOYS TOWN, NE. 68010
Deposit No. Amount $
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Value $ No. of Bldgs.

Chief, Permit Issuance Branch
By Permit Clerk

D. CLARK
DIRECTOR

FILE COPY

32301

S.O.P.# 0001 D.C. GOVERNMENT
OTR/DCRA CASHIER OFFICE
Ofc# 0 07/08/02 at 6:07 Clk# 11
Pt# 26002 Amount $***150.00
20001215 BUILDING TRUCK & EQUI

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Form BLRA-15
(Rev. 9/30/91

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

BUILDING PERMIT PERMIT NO. B446918

PERMIT

Date 7/8/02 (Type) NEW BUILDING

Address of work 1312 POTOMAC AVENUE, S.E.

Permission is hereby granted to FATHER FLANAGAN'S BOYS HOME (Owner)

with authorized agents named and work described herein at the address shown above in strict accordance with the conditions stated on BOTH sides of this permit.

Authorized work and conditions of performance thereof:

TWO SOAKY & CELLAR RESIDENCE
REVISION TO PERMIT #B438337.

Lot Square

TOTAL PERMIT FEE $

FILING FEE $

NO. DATE

FEE PAYABLE $150.00

FOR INSPECTIONS CALL 727-7562 XXXXX3422464[illegible]

Builder—

Value $ No. of Bldgs.

Width of Bldgs. Length Height No. of Stories TWO

Zone C-2-B To be occupied as SFD

Height of terrace above grade Projections:

Address of owner BOYS TOWN, N.E. 68010.

Deposit No. Amount $

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Chief, Permit Issuance Branch

By Permit Clerk

D. CLARK
DIRECTOR

32301

FILE COPY

Store# 0001 D.C. GOVERNMENT
OTR/DCRA CASHIER OFFICE
Register# 0 07/08/02 a 16:08 CLK# 11
Receipt# 266282 Amount $***150.00
B2001215 BUILD STRUCTURE & EQUI

PERMIT

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Form BLRA-15
(Rev. 9/30/91

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BUILDING AND LAND REGULATION ADMINISTRATION

BUILDING PERMIT PERMIT NO. B446916

Date 7/8/02 (Type) (MISC.) NEW BLDG.

Address of work 1314 POTOMAC AVE. S.E.

Lot 134 Square 1045

Permission is hereby granted to

FATHER FLANAGAN'S BOYS HOME (Owner)

who is authorized to perform the work described herein at the address shown above in strict accordance with the conditions stated on BOTH sides of this permit.

NO.

DATE

TOTAL PERMIT FEE $

FILING FEE $

FEE PAYABLE $ 150.00

FOR INSPECTIONS CALL [redacted] 842-4641

Authorized work and conditions of performance thereof:

TWO STORY AND CELLAR RESIDENCE.
REVISION TO PERMIT NO B438336.

Builder—

Value $ No. of Bldgs.

Width of Bldgs. Length Height No. of Stories 2

Zone C-2-B To be occupied as SFD.

Height of terrace above grade Projections:

Address of owner BOYS TOWN, NE. 68010

Deposit No. Amount $

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

FILE COPY

Chief, Permit Issuance Branch

By

Permit Clerk

D. CLARK
DIRECTOR

32301

Store# 0001 D.C. GOVERNMENT
OTR/DCRA CASHIER OFFICE
Register 07/08/02 at 6:07 Clk# 11
Acct# 260002 Amount $***150.00
20201215 BUILD STRUCTURE & EQUI