# Government of the District of Columbia

OFFICE OF ZONING

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441 4TH STREET, N.W.
SUITE 210
WASHINGTON, D.C. 20001
(202) 727-6311

## FACISMILE TRANSMISSION COVER SHEET

**TRANSMITTAL FAX NUMBER:** (202) 727-6072
**TELEPHONE NUMBER:** (202) 727-6311

**DATE:** 9/17/02

**TIME:** 8:45 AM

**TO:** NICHOLAS PERRINS

**LOCATION:**

**SUBJECT:** BZA APPLICATION NO. 16948

**FAX NO:** (703) 518-6122

**NUMBER OF PAGES INCLUDING COVER:** 3

**FROM:** RICHARD NERO

**COMMENTS:** PER MY TELEPHONE MESSAGE EARLIER THIS MORNING, ATTACHED IS A HAND-OUT EXPLAINING THE BURDEN OF PROOF FOR A VARIANCE CASE & MEMO TO THE BZA RE: YOUR CASE. PLEASE SUBMIT YOUR PRE-HRG. STATEMENT EXPLAINING HOW YOU MEET THE TEST FOR THE VARIANCE (S) THAT YOU ARE ASKING FOR ASAP. (727-6311)

BZA Case No. 16948 Exhibit No. 16

Board of Zoning Adjustment
District of Columbia
CASE NO.16948
EXHIBIT NO.16

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**MEMORANDUM**

TO: Board of Zoning Adjustment

FROM: Richard S. Nero, Jr. RSN
Chief, Support Services

THRU: Jerrily R. Kress, FAIA
Director

DATE: September 16, 2002

RE: BZA Application No. 16948 (Perrins) 1830 S Street, N.W.

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The applicant filed the above-cited application accompanied by a Zoning Administrator's letter seeking variance relief from subsection 2001.3, to permit construction of an addition upon an existing rear deck serving a single family dwelling. The existing development on the site is nonconforming as to side yard (section 405), rear yard (section 404), and lot occupancy (section 403). Accordingly, the OZ has amended the application to require variance relief from these area requirements in addition to the variance from subsection 2001.3.

Form 121 – Side 2
(Revised 03/15/02)

Case No._____

# APPLICANT'S BURDEN OF PROOF FOR VARIANCE AND SPECIAL EXCEPTION APPLICATIONS

***Subsection 3104.1:***

*Pursuant to authority contained in the Zoning Act, the Board is authorized to grant special exceptions, as provided in this Title, 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 Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Maps, subject in each case to the special conditions specified in Title 11 DCMR.*

In addressing these standards the applicant must address the following:

☐ 1). How the proposed special exception will be consistent with the general intent and purpose of the Zoning Regulations and Map; and

☐ 2). How allowing the use will not adversely affect the use of the neighboring property – ie. traffic, noise, lighting, etc.

In addition, as all special exceptions are of a specific type, each type is represented in a certain section of the Zoning Regulations. Section 3104.1 sets forth the general standards that must be met for all types of special exception relief, while the other provisions cited in the Zoning Administrator's memorandum detail the remaining standards that must be met.

For example, a special exception for a private school in a residential district involves two Sections of the Zoning Regulations – 3104.1 (regulating special exceptions in general) and 206 (regulating private schools). To meet the burden of proof one would provide evidence to address the general standards of Section 3104.1, as well as the more specific standards of 206. Beware the provisions sometimes overlap, but generally one would prepare their case as follows:

☐ 1). **206.1 - Refers applicant to 3104.1**
Indicate how granting a special exception for the private school will be in harmony with the general purpose and intent of the Zoning Regulations; and present evidence demonstrating that the private school will not tend to adversely affect the use of the neighboring property.

☐ 2). **206.2**
Indicate how the location of the private school will not be objectionable to adjoining and nearby property because of noise, traffic, number of students or otherwise objectionable conditions;

☐ 3). **206.3**
Indicate the number of parking spaces being provided and whether the required number of spaces will be provided.

If relief is being sought for a special exception and a variance, be sure to address all of the applicable special exception provisions, then address the variance standards for each variance.

*NOTE:*

***For further information on the Board of Zoning Adjustment public hearing process, please visit the Office of Zoning website at http://www.dcoz.dc.gov. All applications are referred for review and recommendation to the D.C. Office of Planning (OP) and the Advisory Neighborhood Commission within which the affected property is located. Their reports are given "great weight" in the BZA decision-making process. Applicants are strongly recommended, at the time of filing a Form 120 application, to make contact with these agencies to discuss the merits of their application. OP can be reached at (202) 442-7602.***