BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application for Special Exception
from R-1 Zoning, Concerning Properties:

Application No.
16974

1670 31st.St. NW, Lot 827; and
1644 31st Street, NW, Lot 830

2003 FEB 14 P 3:57 D.C.

REQUEST FOR POSTPONEMENT

As an interested Party, the undersigned requests the Board of Zoning Adjustment (BZA) postpone the hearing on the above referenced application for 1670 31st.St. N.W. (Lot 827), scheduled for Tuesday, February 18, 2003, because the applicant failed to post adequate notice advising the public about the hearing.

The Tudor Place Foundation (Foundation), the Applicant, has applied for a special exception to conduct non-residential activities on two legally separate and distinct properties.

The Foundation failed to comply with the legal requirement that an applicant post sufficient notice its BZA application on each and all properties affected. Indeed, the Foundation failed to post any notice at 1670 31st Street, also known as Lot 827 (See Declaration of Ronald R. Snider, attached and incorporated herein by reference). The Foundation posted notices only upon the property known as Tudor Place, which consists of Lot 830-commonly known as 1644 31st Street.

Consequently, the hearing must be postponed.

STATEMENT OF LAW AND FACTS

The requirements for notice are specific, and mandatory. Title 11 DCMR requires:

> 3113.14 The applicant shall give additional notice of the public hearing by posting the property with notice of the hearing at least (15) days in advance of the hearing. (Emphasis added).
>
> AND
>
> 3113.15 The applicant shall post notice at each street frontage on the property involved and on the front of each building located on the subject property. Each notice shall be in plain view of the public. (Emphasis added).

BZA
Case No. 16974
Exhibit No. 43

Board of Zoning Adjustment
District of Columbia
CASE NO. 16974
EXHIBIT NO. 43

The District of Columbia Court of Appeals has ruled that an applicants failure to properly post notice is a crucial defect and that such failure negates any subsequent action by the BZA. The court reasoned that actual notice to individuals who did appear cannot remedy the lack of notice to those who were known but not appraised of the rescheduling, or to those who might have seen an "accurate" posting on the premises but did not. The court held that the failure to post prejudiced absent potential witnesses. Gary Kopff v. District of Columbia Alcoholic Beverage Control Board, et al., (D.C.C.A. 1977) 381 A.2d 1372, at 1383 (relevant portions appended as Attachment B).

PROOF OF FAILURE TO POST at 1670 31st Street

The Declaration of Ronald R. Snider and the photographs of 1670 31st Street that he took on February 7 and February 10, 2003, demonstrate and show that the Foundation failed to post an orange "notice" anywhere on Lot 827, a.k.a. 1670 31st Street. No notice was posted on the home located on that property, or anywhere on the frontage of the property, which is bordered by a fence on which notice could have been posted. There was no notice on the front of the building.

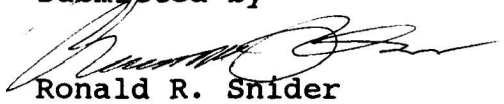
The Foundation did, however, post a "notice" concerning Lot 827. However, the Foundation placed that "notice" on Q Street, which is more than 352 paces or over 800 feet from 1670 31st Street. (See Attachment A). On the attached photograph of that notice, one can read the instructions that say the notice should have been posted on Lot 827. (See Attachment A). The Foundation removed the sign in question, the only sign that mentioned Lot 827, on February 11, 2003, and replaced it with a new notice that referred only to 1644 31st Street.

The approximate locations of the 3 notices that the Foundation did post concerning Lot 830, or 1644 31st Street, are shown on a map (Attachment A) which is apart of the official file and marked as Exhibit 3, the Plat. Not one of the signs was posted on or about the property known as 1670 31st or Lot 827.

DISCUSSION

The Foundation has applied for a special exception for different activities to be carried out on two separate and distinct lots (each assigned it own number, nos. 830 and 827, respectively), each of which has its own address. The Foundation failed to properly post notice of its application on Lot 827. The posting requirement has the force and effect of law and cannot be circumvented. Under the circumstances, the hearing on concerning this property (1670 31st. St. N.W.) must be postponed until the Foundation gives the public proper notice so others yet unknown may appear.

Submitted by



Ronald R. Snider
A Party to the Proceeding

Attachments

ATTACHMENT A

BEFORE THE BOARD OF ZONING ADJUSTMENT

Application Number 16974
1670 31st.St. N.W., Lot 827

Declaration of Ronald R. Snider

I hereby declare as follows:

That my name is Ronald R. Snider and that I reside at 1607 31st. St. N.W. Washington, D.C. 20007

That I have never observed an orange sign (or any other sign) at 1670 31st.St. giving notice of a Board of Zoning Adjustment hearing scheduled for February 18, 2003.

That I prepared the photographs of 1670 which were taken on February 7 and February 10 2003. These show that there was no sign posted. The Date of February 7 is authenticated by the snow that fell that day.

That I prepared the map attached which shows the addresses of the property and locations of signs on the property (Map is also Exhibit 3).

That I have applied for party Status in the above captioned application number.

That the 165 paces from 1670 the nearest sign were measured by me. That I measured the 352 paces from 1670 to the sign on Q street.

That I took all of the attached photographs showing the only posted signs and attached photographs of 1670 31st.St. N.W.

I declare upon penalty of perjury that all of the above facts are true and correct.

Ronald R. Snider
(Party Status)

1607 31st. St. N.W.
Washington, D.C. 20007
202-347-2600