GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

D.C. OFFICE OF ZONING
2003 MAY 23 AM 10:59

In re: Kathleen Peoples and Philip Sedlak
Case #17007
1018 Constitution Avenue, N.E.

POST-HEARING SUBMISSION OF APPLICANT

COMES NOW the Applicant, Kathleen Peoples and Philip Sedlak, by and through undersigned counsel, Jackson & Campbell, P.C., Robert Clayton Cooper, and submits this Post-Hearing Submission. At the conclusion of the Hearing on the above referenced matter, the Board requested that the parties submit, by Friday, May 23, 2003, a list of alternatives or options each is willing to consider with respect to finishes and treatments of the structural wall which separates the subject property from those to the East. It is important to note that the subject wall was built entirely on Applicant's property, and does not project over the property line or unto the properties located on the 200 block of 11th Street, N.E.

In furtherance of that request, the Applicant states as follows:

1. Applicant would agree not to build, erect or install any fencing along the West side property line (on either side of the addition wall) that is more than 50% solid.

2. Applicant would agree to re-parge the entire surface of the lot-line building wall, which faces the Pritchard's property, at least those areas above the Pritchard's existing fence. The Capitol Hill Restoration Society, and the D.C. Historic Preservation Review Board approved the original plans submitted for the Building Permit, which showed the wall as being parged in a cement finish. The reason that the wall remains in its current esthetic condition is that the Pritchard's refused access to the Applicant to cross their property in order to properly complete the parging process. Any new parging will require not only access to the Pritchard property, but perhaps other neighbors facing the 200 block of 11th Street, N.E. as well. The new coat of parging will require that "concrete link" (a bonding liquid) be applied on the existing material. Correct parging is critical to the waterproofing of the cement block walls underneath.

3. Applicant would agree to paint the balance of the wall above the Pritchard's existing fence, a light color (light gray or beige) that will reflect sunlight. However, Wentworth-Levine Designers say that it is not recommended that the wall be painted white, as it could possibly be too light on sunny days.

BZA
Case No. 17007
Exhibit No. 41

#41

Board of Zoning Adjustment
District of Columbia
CASE NO. 17007
EXHIBIT NO. 41

4. Applicant would agree to give the Pritchards and all other affected property owners on the 200 block of 11th Street, N.E., authority to add a uniform brick veneer to the subject wall. In the event the neighbor(s) desire, they may affix, at their own expense, a brick veneer, which would project approximately 4" beyond the Applicant's property line, thus utilizing the wall as if it were a shared wall, or "party wall". A brick veneer, not exceeding seven (7) to eight (8) feet in height could add an attractive resemblance to a brick fence-wall, as opposed to their existing wood fences. It is also possible to create recessed niches for trellises on the brick façade, to allow for ivy or other spreading growth. Any such brick veneer, which projects over the property line, would be installed by the adjacent neighbors at their own cost and expense, and without harm to the integrity of the wall. Applicant would, however, agree to paint the balance of the wall as set forth above. Any plans for this wall must be reviewed and approved by the Applicant, to ensure that any penetrations do not hinder or harm the wall or surface. Applicant will be responsible for only the cost of the parging and painting. Applicant shall not be responsible for any other costs or payments to either the neighbors or to their contractors, if any.

5. There was some discussion by the Board and the parties about the possibility of removing or lowering the parapet wall to perhaps provide some additional direct sunlight to the neighboring properties. Testimony was provided by Mr. Bruce Wentworth of Wentworth-Levine Architects and Builders, that the parapet wall had an ascending height of 10"-30", as the roof sloped toward the front of the structure. The parapet wall cannot be lowered or removed for a number of reasons. First, Section 705.6 of the BOCA Code requires that the exterior wall be continuous to a height of 30" above the roof for fire separation. Second, DCRA required that the water runoff from the roof drain toward Constitution Avenue, so the roof sloped towards a gutter and drain at the Southeast corner of the addition (See the gutter reflected on Exhibit No. 10, A-6). Third, without the parapet wall, water would stream off the subject roof, directly unto, and potentially flooding the neighboring property. The flashing is also affixed to the parapet as required by code to control storm water runoff. Fourth, the sloping roof rises along the masonry parapet wall from front to rear, creating an impracticable condition for lowering the wall evenly. The resulting saw-tooth effect from a stepped lowering would not increase the available sunlight to a significant degree over the course of the day. In addition, any adjustment to the approved parapet wall design may require resubmission to the Capital Hill Restoration Society and the Historic Preservation Office. An order of removal could create conflicting decisions in the event this Board required removal of the parapet, yet either of the reviewing agencies could prohibit its removal.

There is one additional note that must be made regarding the Special Exception Application. An interesting circumstance would develop from the conversion of this property from semi-detached to what would be, in effect, a row dwelling. Several non-conformities would actually be corrected by such a change, as follows:

- The minimum required lot size for a row dwelling in the R-4 District would now be exceeded: Required = 1,800 SF, provided = 2,352 SF.

- The minimum required lot width for a row dwelling in the R-4 District would now be exceeded: Required = 18 feet, provided = 24.64 feet.

- The maximum percentage of lot occupancy for a row dwelling in the R-4 District is 60 percent. Even with this modest addition, the house only occupies 52 percent of its lot, nowhere near the 70 percent allowed for R-4 District Special Exceptions under §223.3 of the Code.

Rarely would the enlargement of a dwelling in the R-4 District bring it into conformance. In this case it eliminates the need to seek an exception to the maximum matter-of-right percentage of lot occupancy altogether.

Finally, as set forth at the Hearing on May 20, 2003, the Applicant has always been willing to discuss potential, reasonable solutions and to integrate such proposed changes into the development plan. Although amicable discussions were held with other neighbors (and meaningful resolutions reached with each) prior to any construction, the Pritchards refused to discuss any issues about the wall, based on their demand that it not be built at all. The Applicant remains willing to discuss and accept reasonable "special treatments in the way of (additional) design, screening, exterior or interior lighting, building materials or other features for the protection of adjacent or nearby properties" from the Board or other minor alterations, as suggested by the Office of Planning. However, major structural, or other unreasonable demands or suggestions which have the purpose, intent, or result of inflicting additional financial hardship on the Applicant, is not acceptable.

Respectfully submitted,
Jackson & Campbell, P.C.

Robert Clayton Cooper
Counsel for the Applicant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing POST-HEARING SUBMISSION OF APPLICANT was mailed first-class, postage prepaid, this 23rd day of May, 2003, to Janet and David Pritchard, 204-11th Street, N.E., Washington, D.C. 20002.

Robert Clayton Cooper