GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: AS for Andrew Altman
Director

DATE: July 17, 2003

SUBJECT: BZA Application 17045

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APPLICATION
Neavelle A. Coles, the applicant, is requesting variances from the lot occupancy limitation under Section 403, open court requirements under Section 406, and nonconforming structure provisions under Section 2001.3 for a proposed building addition and to retain a former accessory carriage house on property located at 1215 E Street, N.E. (Square 1008 Lot 188) pursuant to Section 3103 under Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning.

SUMMARY RECOMMENDATION
The Office of Planning recommends approval of a special exception under Section 223 to grant relief needed from the open court requirements under Section 406, and nonconforming structure provisions under Section 2001.3. However, staff recommends denial of the variance from the lot occupancy provision under Section 403 because this application does not rise to the standard required under Section 3103.2.

SITE AND AREA DESCRIPTION
The subject property is a rectangular interior lot approximately 0.03-acre (1,521 square foot) in size along the southern tree-lined frontage of E Street, N.E. The 16 x 95 foot lot abuts a rear alley 10-feet wide. Buildings on the property include a two-story masonry row dwelling (circa 1908) fronting E Street, and a two-story masonry accessory building in poor condition, that formerly served as a garage/carriage house, adjacent to the alley. The rear 14 feet of this dwelling and the adjacent row dwelling to the west are set back from the shared side property boundary forming similar court areas four feet wide. Chain link and wooden fences 4-7 feet tall also extend along both side property lines.

Development in the vicinity mostly consists of 2-3 story masonry row dwellings. This site and the surrounding properties are zoned R-4 (please refer to Exhibit 1). This is also the only property on the square that retains a rear garage/carriage house.

BZA
Case No. 17045
Exhibit No. 25

Board of Zoning Adjustment
District of Columbia
CASE NO. 17045
EXHIBIT NO. 25

APPLICANT'S PROPOSAL

Building Permit No. B451210 was issued on July 17, 2002, for interior renovation of the residence on the subject property, demolition of the rear one-story porch, and construction of a two-story 10 x 15 foot addition (refer to Exhibits 2 and 3). The first floor of the addition extends the kitchen and breakfast area, and the second floor forms a new master bedroom.

The building permit also lists the garage/carriage house for demolition. The applicant indicates that removal of this accessory building was a condition for issuance of this permit because the planned addition would increase the total lot occupancy to 73% according to the application zoning tabulation. This exceeds the maximum 60% lot occupancy allowed as a matter of right, and the 70% allowed by special exception in the R-4 District. Note that Section 199 of the Zoning Regulations includes the following definition:

> **"Building area** - the maximum horizontal projected area of a building and its accessory buildings. The term "building area" shall include all side yards and open courts less than five feet (5 ft.) in width, and all closed courts less than six feet (6 ft.) in width. Except for outside balconies, this term shall not include any projections into open spaces authorized elsewhere in this title, nor shall it include portions of a building that do not extend above the level of the main floor of the main building, if placed so as not to obstruct light and ventilation of the main building or of buildings on adjoining property."

Based on this definition, total lot occupancy calculations for this site must include the open court four feet wide. The court area increases the actual lot occupancy from 73% to 79%.

Since issuance of the building permit, the applicant has decided they would like to retain and renovate the garage carriage/house for use as a garage with second-floor storage space. The subject application was submitted as a result.

EXISTING ZONING AND RELIEF REQUESTED

This application indicates that the proposed addition, currently under construction, requires relief from the open court, and from limitations on the expansion of the nonconforming aspects of structures. In order to retain the garage/carriage house, a variance is also needed from Section 403.2 to allow the needed 80% lot occupancy.

The site is zoned R-4. Section 350.4 (a) of the Zoning Regulations (per Sections 320.3 [a] and 300.3 [c]) allows a single-family row dwelling as a matter of right in this zoning district. The property is also subject to the following zoning provisions:

Standard	R-4 Requirement	Existing	Proposed	Required Relief
Lot Area	1,800 s.f.	1,520 s.f.[1]	Same	N/A
Lot Width	18 feet	16 feet	Same	N/A

[1] District of Columbia land records
[2] Calculations based on land records and plans submitted by the applicant
[3] Estimates include the area of the existing open court 4 ft. wide

Standard	R-4 Requirement	Existing	Proposed	Required Relief
Floor Area	N/A	1,128 s.f. [1]	1,368 s.f. [2]	N/A
Floor Area Ratio	N/A	0.74	0.90	N/A
Height	40 feet/3 stories	20 feet	20 feet	N/A
Lot Occupancy (max.)	60 %	79 % [3,4] (nonconforming)	80 % [3,4]	Variance/SE
Court	4 in./foot of height, at least 5 ft.	4 ft. [4] (nonconforming)	4 ft.	Variance/SE
Rear Yard	20 feet	37 feet	36 feet	N/A
Side Yard	N/A	0 feet	0 feet	N/A
Parking (on-site)	1 space [5]	1 space	1 space	N/A

Regulations also include the following provisions pertaining to the expansion of nonconforming buildings devoted to conforming uses:

> "2001.3 Enlargements or additions may be made to the structure; provided, that the following requirements shall be met:
>
> (a) The structure shall conform to percentage of lot occupancy requirements; and
> (b) The addition or enlargement itself shall:
> (1) Conform to use and structure requirements; and
> (2) Neither increase or extend any existing, conforming aspect of the structure; nor
> (3) Create any new nonconformity of structure and addition combined." (refer to Exhibit 6)

ANALYSIS

Construction of the referenced addition is nearing completion. Permits were issued in 2002 although the proposal appears inconsistent with open court and nonconforming structure provisions of the Zoning Regulations. This application therefore requests approval of three variances. Staff determined that special exception approval in accordance with the conditions of Section 223 would address expanding the nonconforming aspects of the existing building onto the new addition. However, Section 223 limits increases in allowable lot occupancy to 70% in R-4. The requested 80% lot occupancy still requires approval of a zoning variance.

Section 3104.1 grants the Board of Zoning Appeals (BZA) the authority "to grant special exceptions 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

[4] Indicated amount exceeds maximum 60% lot occupancy and minimum 5 ft. open court under Zoning Regulations
[5] Vehicle space in former garage/carriage house

affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps." Conditions under Section 223 must be also satisfied in this case.

Section 3103.2 grants the Board of Zoning Appeals (BZA) the power to grant variances from regulations set forth under the Zoning Act "[w]here by reason of exceptional narrowness, shallowness or shape of a piece of property at the time of the original adoption of the regulations, or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Code Ann. §§ 5-413 to 5-432 (1981) would result in peculiar and extraordinary practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; Provided the relief can be granted without substantially impairing the intent, purpose and integrity of the zone map as embodied in the Zoning Regulations and Map."

The type of zoning relief needed is an "area" variance, requiring that the circumstances surrounding this request are "unique" and that the usual application of the referenced regulations would result in "peculiar and extraordinary practical difficulties."

Compliance with Section 223
The requirements under this section include:

223.2 The addition shall not have a substantially adverse affect on the use or enjoyment of any abutting or adjacent dwelling or property; in particular;

(a) The light and air available to neighboring properties shall not be unduly affected; The previous one-story porch in the same location had a similar footprint. The new addition essentially replaces the one-story exterior porch with two floors of occupiable interior space. Although the addition extends slightly further into the rear yard than the porch, it is approximately the same depth as the two-story porches of both adjacent row dwellings.

There are no windows along the common eastern wall, and the addition continues the 4-foot setback (court) along the western boundary. As a result, the new construction will have minimal impact on the availability of air and light to neighboring properties.

(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; The addition extends slightly further into the rear yard than the porch approximately the same depth as the adjacent row dwellings. There are no windows along the common eastern wall, and a wooden picket fence approximately 7 feet in height exists along this common boundary line.

Along the western boundary, the rear portions of both row dwellings set 4 feet back from the shared boundary, and the second floor of the new addition faces a second-floor story screened porch on the adjacent property. Based on these observations, it

appears the construction would not unduly compromise the privacy of adjacent properties.

(c) *The addition, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the street frontage; and ...* Staff does not think that the proposed addition "intrudes" upon the existing alley frontage, and no changes are proposed along E Street.

(d) *In demonstrating compliance with (a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs or elevation and section drawings sufficient to represent the relationship of the proposed addition to adjacent buildings and view from public ways.* Sufficient graphical documentation has been provided for staff review and analysis.

223.3 *The lot occupancy of the dwelling or flat, together with the addition, shall not exceed fifty percent (50%) in the R-1 and R-2 districts or seventy percent (70%) in the R-3, R-4 and R-5 Districts.* The requested increase to 80% lot occupancy cannot be addressed under these regulations.

223.4 *The Board may require special treatment in the way of design, screening, exterior or interior lighting, building materials or other features for the protection of adjacent and nearby properties.* No additional treatment is recommended because the clapboard construction of the addition is similar to screened porches on neighboring dwellings.

Based on these findings, OP concludes this application meets the requirements of Section 233 for Sections 406 and 2001.3 as they pertain to the principal structure.

Compliance with Section 3104.1:
Based on the findings under Section 233, the addition will be in harmony with the general purpose and intent of the Zoning Regulations, and Zoning Map, and proposed changes will not tend to affect adversely the use of the neighboring properties.

Compliance with Section 3103.2:

- Extraordinary or exception conditions: An undated letter from the applicant states "The shape and size of the property is noncompliant in its potential with current zoning." Staff agrees that the lot width and area do not meet the minimums required in the Zoning Regulations (refer to the above zoning relief table). However, the 54 parcels on the square only range from 1,018 to 1,710 square feet, and lot 204 is the only property as wide as 18 feet. The subject property is the one lot that retains a rear garage/carriage house, however the property is not exceptional within the square due to its shape and size.

- Peculiar and Extraordinary Practical Difficulties: The letter notes "The rehabilitated carriage house/garage will afford to community fabric the continued presence of the

historic building element while affording the applicant with important vehicle storage area." It indicates that failure to obtain the relief will not allow the "applicant to generate a rehabilitation of the property that will be consistent with current market expectation for residential properties in the Capitol Hill area," and concludes that "the applicant's ability to optimally utilize the facility is diminished by the minimalist dimensions of the site with financial hardship."

The applicant secured a building permit to construct the rear addition *because they agreed* to removal of the existing garage/carriage house. Thus, their ability to utilize this property *after the required demolition* would appear to be similar to that of neighboring property owners. Since no other documentation has been provided to substantiate the mentioned financial hardship, staff cannot conclude that the current regulation presents a practical difficulty.

The subject property is located outside the Capitol Hill Historic District so there is no historic element to the garage/carriage house. Based on these circumstances, and the total 20% deviation between the resulting variance and the current allowable lot occupancy of 60%, staff does not think this variance can be granted without impairing the intent, purpose and integrity of the zone map as embodies in the Zoning Regulations and Map.

COMPREHENSIVE PLAN
The Comprehensive Plan Generalized Land Use Map designates this area for Moderate Density residential development characterized by row houses and garden apartments as predominant uses.

COMMUNITY COMMENTS
Advisory Neighborhood Commission (ANC) recommended approval of this request during a regular meeting on July 10, 2003 (refer to Exhibit 4).

During a staff visit to the site, Teresia Bush, owner of the row dwelling at 1213 E Street, N.E. (the adjacent property to the west), expressed support of this application, in particular the effort to retain the garage/carriage house that she referred to it as the last vestige "of a bygone era."

AGENCY COMMENTS
Copies of the application were referred to the Fire and Police Departments for comment. The Fire and EMS Department did not express any objection (refer to Exhibit 5). No other comments have been received.

RECOMMENDATION
The Office of Planning recommends approval of a special exception under Section 223 to grant relief needed from the open court requirements under Section 406, and nonconforming structure provisions under Section 2001.3. However, staff recommends denial of the variance from the lot occupancy requirement under Section 403 because this application does not rise to the standard required under Section 3103.2.

AA/afj

Attachments:

Exhibit 1 Aerial Including Zoning
Exhibit 2 Plat
Exhibit 3 Building Permits
Exhibit 4 Letter from Joseph Fengler, Chair, Advisory Neighborhood Commission (ANC) 6A to The Board of Zoning Adjustment dated July 14, 2003
Exhibit 5 Memorandum from Richard Fleming, Action Battalion Fire Chief, to Andrew Altman, Director, Office of Planning, dated July 3, 2003
Exhibit 6 Pertinent Provisions of the Zoning Regulations

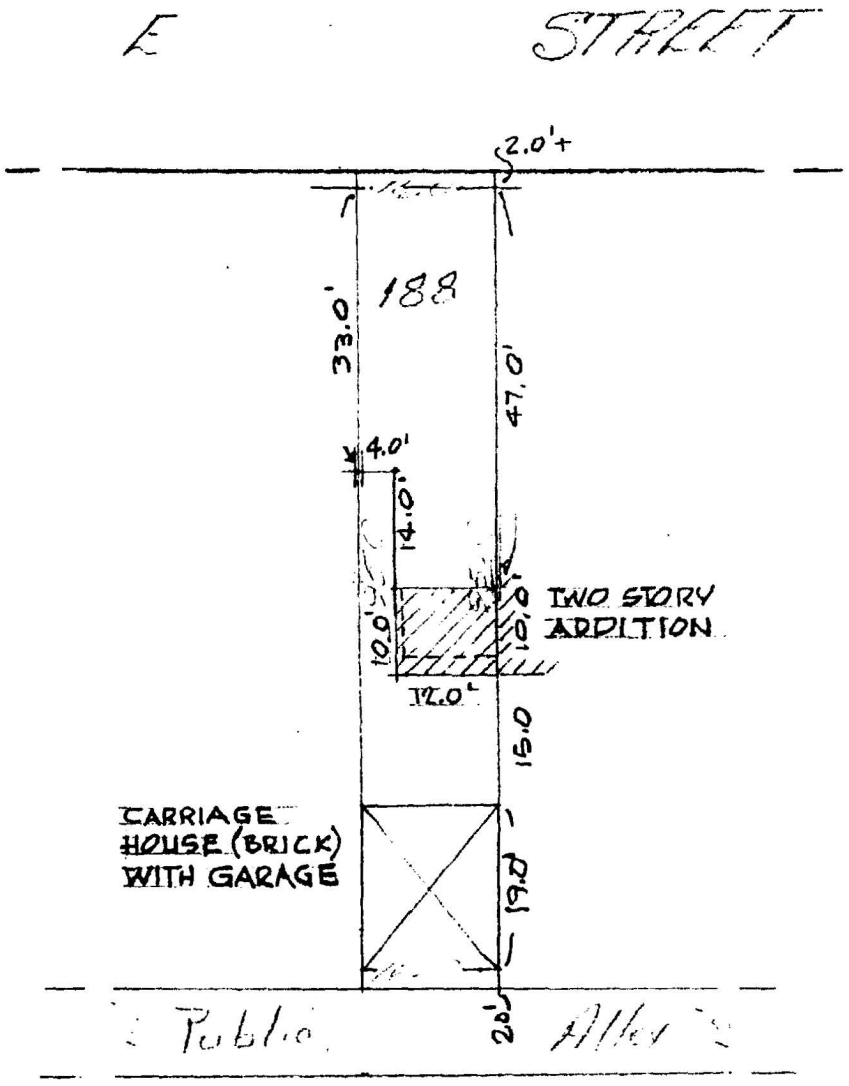
Exhibit 1

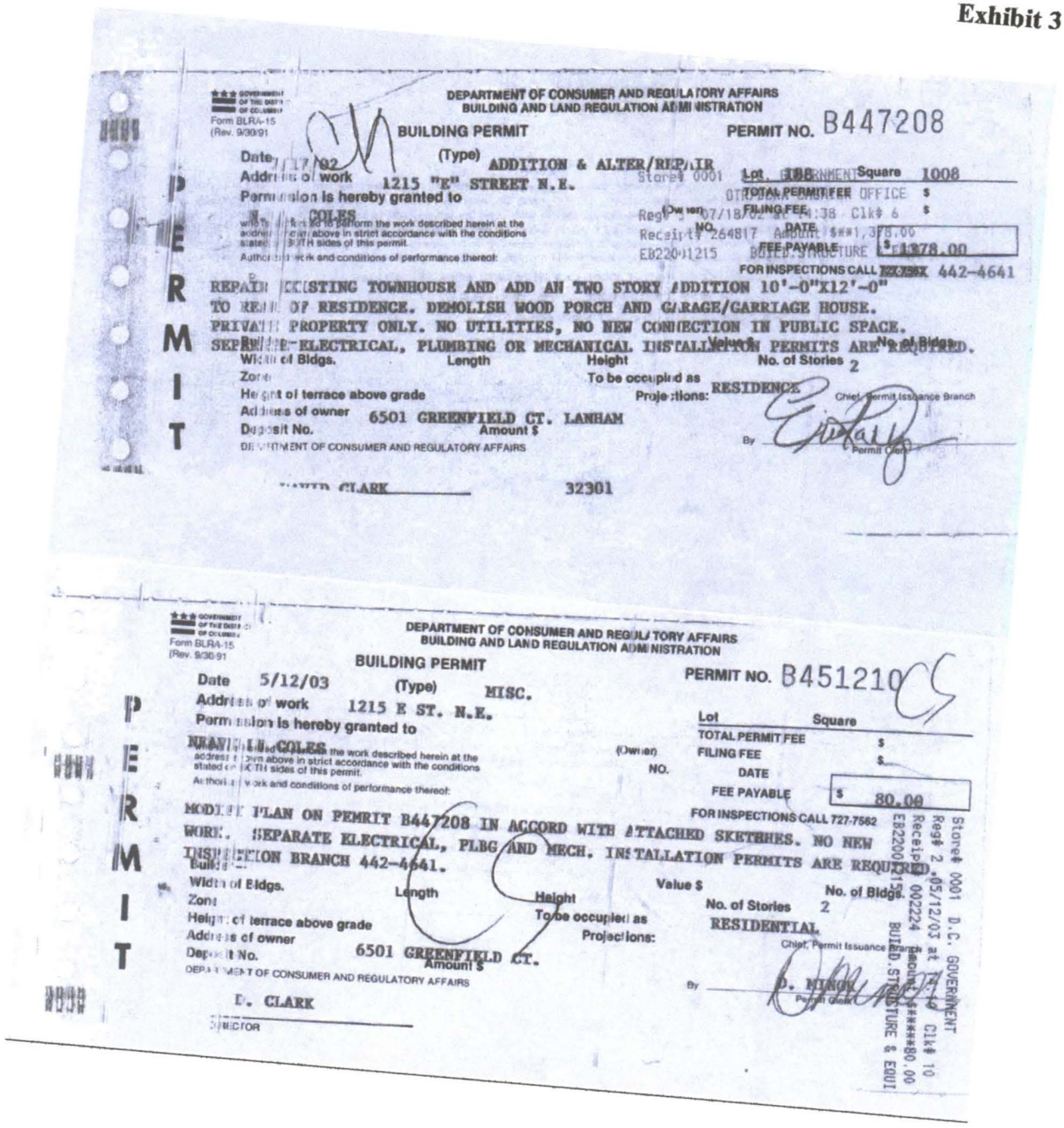

R-4
E St. NE
SITE
Duncan Place NE
Board of Zoning Adjustment
Application No. #17045
Scale 1:600
DC Office of Planning
25 0 25 Feet

Exhibit 2

By: _____ (Signature of owner or his authorized agent)

OTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.





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. B447208

PERMIT

Date 7/17/02 (Type) ADDITION & ALTER/REPAIR
Address of work 1215 "E" STREET N.E. Lot [illegible] Square 1008
Permission is hereby granted to
N. COLES (Owner)
who is authorized to perform the work described herein at the address given above in strict accordance with the conditions stated on BOTH sides of this permit.
Authorized work and conditions of performance thereof:

REPAIR EXISTING TOWNHOUSE AND ADD AN TWO STORY ADDITION 10'-0"X12'-0" TO REAR OF RESIDENCE. DEMOLISH WOOD PORCH AND GARAGE/CARRIAGE HOUSE. PRIVATE PROPERTY ONLY. NO UTILITIES, NO NEW CONNECTION IN PUBLIC SPACE. SEPARATE ELECTRICAL, PLUMBING OR MECHANICAL INSTALLATION PERMITS ARE REQUIRED.

Width of Bldgs. Length Height Value $ No. of Bldgs.
Zone To be occupied as No. of Stories 2
Height of terrace above grade Projections: RESIDENCE
Address of owner 6501 GREENFIELD CT. LANHAM
Deposit No. Amount $
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

DAVID CLARK 32301

Chief, Permit Issuance Branch
By _____ Permit Clerk

TOTAL PERMIT FEE $
FILING FEE $
NO. DATE
FEE PAYABLE $1378.00
FOR INSPECTIONS CALL [illegible] 442-4641

Store# 0001 D.C. GOVERNMENT OFFICE
Reg# 2 07/18/02 at 14:38 Clk# 6
Receipt# 264817 Amount $##1,378.00
EB220011215 BUILD. STRUCTURE & 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. B451210

PERMIT

Date 5/12/03 (Type) MISC.
Address of work 1215 E ST. N.E. Lot Square
Permission is hereby granted to
NEAL COLES (Owner)
who is authorized to perform the work described herein at the address given above in strict accordance with the conditions stated on BOTH sides of this permit.
Authorized work and conditions of performance thereof:

MODIFY PLAN ON PEMRIT B447208 IN ACCORD WITH ATTACHED SKETHHES. NO NEW WORK. SEPARATE ELECTRICAL, PLBG AND MECH. INSTALLATION PERMITS ARE REQUIRED. INSPECTION BRANCH 442-4641.

Width of Bldgs. Length Height Value $ No. of Bldgs.
Zone To be occupied as No. of Stories 2
Height of terrace above grade Projections: RESIDENTIAL
Address of owner 6501 GREENFIELD CT.
Deposit No. Amount $
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

D. CLARK
DIRECTOR

Chief, Permit Issuance Branch
By D. MINOR Permit Clerk

TOTAL PERMIT FEE $
FILING FEE $
NO. DATE
FEE PAYABLE $ 80.00
FOR INSPECTIONS CALL 727-7562

Store# 0001 D.C. GOVERNMENT
Reg# 2 05/12/03 at 14:10 Clk# 10
Receipt# 002224 Amount $######80.00
EB220011215 BUILD. STRUCTURE & EQUI

Exhibit 4

District of Columbia Government
Advisory Neighborhood Commission 6A
Box 75115
Washington, DC 20013

July 14, 2003

Government of the District of Columbia
Board of Zoning Adjustment
441 4th St NW, Suite 210
Washington, DC 20001

Re: BZA Case 17045 (1215 E St, NE)

Dear Board Members,

At a regularly scheduled and properly noticed meeting on July 10, 2003, ANC 6A voted unanimously (6-0 with 5 Commissioners required for a quorum) to support the application of Neavelle A. Coles for a variance from the lot occupancy requirements under section 403, a variance from the open court requirements under section 406, and a variance from the nonconforming structure requirements under subsection 2001.3 to construct a two-story addition to an existing single-family dwelling in the R-4 District.

With respect to lot occupancy, the applicant wishes to retain an existing brick carriage house/garage although doing so would cause lot occupancy requirements to be exceeded. Not being in an officially designated historic district, the carriage house/garage has no special protections despite its age and possible historical significance. In the course of the ANC's deliberations, residents expressed support for retaining this structure. ANC 6A asks that BZA give consideration to the neighborhood's desire to retain the carriage house/garage in considering the application.

Retaining the carriage house/garage would result in lot occupancy of 73.7%. This is only 1.7% higher than the lot occupancy prior to construction of the addition, and 3.7% higher than the lot occupancy that could be allowed through special exception. ANC 6A requests that BZA consider the pre-existing carriage house/garage as an "extraordinary or exceptional situation or condition" in that there are few other structures of similar construction and age on similar nearby lots. Demolishing this valued structure would be a detriment to the public good by removing an historic building element. Furthermore, its removal would result in lot occupancy of only 53.7% for the owner.

Considering the area and width of the lot, ANC 6A also supports the variances from the open court requirements and the nonconforming structure requirements. Granting these variances would not create substantial detriment to the public good, and the structure would continue to be used as a single-family dwelling as specified in the zoning regulations.

If you have questions or need further information, please contact Commissioner Rice, chair of ANC 6A's Economic Development and Zoning Committee at 544-3734.

Respectfully yours,

Joseph Fengler

Joseph Fengler
Chair, Advisory Neighborhood Commission 6A

Exhibit 5

GOVERNMENT OF THE DISTRICT OF COLUMBIA
FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT
WASHINGTON, D.C. 20001

MEMORANDUM

TO: Andrew Altman
Director
Office of Planning

FROM: Richard Fleming
Acting Battalion Fire Chief RF

DATE: July 3, 2003

SUBJECT: BZA Application No. 17045

The D.C. Fire and EMS Department has revicwed the above request.

The home has adequate access to the rear of the property from the alley. Therefore, we have no objection to this request.

If you have any questions concerning this review, please contact my office at 727-3659.

Pertinent Zoning Regulations

2001 NONCONFORMING STRUCTURES DEVOTED TO CONFORMING USES

2001.1 The restrictions set forth in this section shall apply to a nonconforming structure devoted to a conforming use.

2001.2 Except as provided in §§2001.11 and 2001.12 of this title, ordinary repairs, alterations, and modernizations to the structure, including structural alterations, shall be permitted.

2001.3 Enlargements or additions may be made to the structure; provided, that the following requirements shall be met:

(a) The structure shall conform to percentage of lot occupancy requirements; and
(b) The addition or enlargement itself shall:
    (1) Conform to use and structure requirements; and
    (2) Neither increase or extend any existing, conforming aspect of the structure; nor
    (3) Create any new nonconformity of structure and addition combined.