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January 26, 2004

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Mr. Geoffrey Griffis, Chairman
Board of Zoning Adjustment
441 4th Street, N.W.
Suite 210 South
Washington, D.C. 20001

Re: Request for Postponement of Hearing
***Appeal of Henry Sailer, et al.*, BZA Appeal No. 17054**

Dear Chairman Griffis,

Appellants recently engaged us to represent them in the above-referenced matter which is set for hearing at 1:30 p.m. tomorrow, January 27. For the following reasons, Appellants respectfully request that the Board of Zoning Adjustment (the "Board") continue the hearing of their appeal until its next scheduled meeting:

1. Just last Friday, June 23, Intervenor, through his counsel, served a detailed Statement in Opposition to the appeal which offers new evidence and raises new legal theories, which in the interests of justice and in fairness to Appellants require a brief continuance to allow Appellants the opportunity to prepare and file with the Board an appropriate Reply.

2. Today's inclement weather and the resulting disruption in transportation made it effectively impossible to meet with and prepare Appellants' representative, Steven S. Wolf, M.D., or their expert arborist, Mr. Edward P. Milhous, to testify tomorrow.

3. We contacted Intervenor's counsel this morning who stated that his client did not agree to the requested continuance. However, Intervenor cited no unfair prejudice that would befall him were the Board to grant Appellants' request for the short continuance. Indeed, Appellants respectfully submit that any inconvenience to Intervenor attendant with the short delay would be outweighed by a) the benefit to the Board of receiving an appropriate Reply and hearing from witnesses who have had an adequate opportunity to prepare; and b) considerations of fairness to Appellants.

BZA
Case No. 17054
Exhibit No. 40

Board of Zoning Adjustment
District of Columbia
CASE NO. 17054
EXHIBIT NO. 40

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We greatly appreciate the Board's consideration of this important matter. Pursuant to the Clerk's Office's instructions, we will be present for the Board's hearing of preliminary matters tomorrow (Tuesday) morning at 9:30 a.m. to formally present Appellants' request for a postponement. Please do not hesitate to contact us at (202) 457-6015 if you have any questions.

Very truly yours,

Benjamin G. Chew
Andrew Zimmitti

cc: John T. Epting, Esq.
Shaw Pittman LLP
Counsel for Intervenor Brian Logan

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