100 Fifth Street, SE
Washington, D.C. 20003
July 15, 2004

Jerrily R. Kress, Director
Office of Zoning and
Geoffrey H. Griffis, Chairman
Board of Zoning Adjustment
441 Fourth Street, NW
Washington, D.C. 20001

Re: Request for reconsideration of BZA Case #17079, Mark Lee Phillips

Dear Ms. Kress and Mr. Griffis:

In accordance with Ms.Kress' request for a certificate of service on the parties, and per Richard Nero's advice, I am certifying the following:

On July 15, 2004, copies of this letter and Attachments 1 and 2 were hand delivered to 417 A Street, SE, Washington DC, 20003, separately addressed to both Mark Phillips, owner and Keith Wilkinson, proprietor of said B & B.

On July 15, 2004, copies of this letter and Attachments 1 and 2 were mailed to Richard B. Nettler, Esq., and Jeannine Rustad, Esq., c/o Robins,, Kaplan, Miller & Ciresi LLP, 1801 K Street, N.W. Suite 1200, Washington, DC 20006.

On July 15, 2004, copies of this letter and Attachments 1 and 2 were delivered to Chris Anders, Aaron Schuham, William Martin, and Jacqueline Eiting.

On July 15, 2004, copies of this letter and Attachments 1 and 2 were faxed to BZA at 202-727-6072,

Thank you for your consideration of this matter.

Sincerely,

Gene Berry

Encl:
Attachment 1 dated July 9, 2004
Attachment 2 dated April 29, 2004

cc: Mark Phillips, Keith Wilkinson, Richard B. Nettler, Esq., and Jeannine Rustad, Esq., Chris Anders Esq., Aaron Schuham, William Martin, and Jacqueline Eiting



BZA
Case No. 17079
Exhibit No. 88

Board of Zoning Adjustment
District of Columbia
CASE NO. 17079
EXHIBIT NO. 88

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

July 9, 2004

Eugene E. Berry
100 5th street S. E.
Washington D.C. 20003

Re: BZA Application No. 17079 (417 A Street, N.W. – Mark Lee Phillips) Motion for Reconsideration

Dear Mr. Berry,

On Tuesday, July 6, 2004, the Board of Zoning Adjustment (Board) at its regularly scheduled public meeting on Tuesday, July 6, 2004, considered your motion for reconsideration of the decision in the above referenced matter. Please be advised that the Board was unable to act on your motion because you did not serve the motion on the other parties as required by subsection 3126.3, of the Zoning Regulations. The Board will only reschedule a new public meeting date on your motion once you provide evidence through a certificate of service that the parties were in fact served the motion. Proof of service on the parties must be received by the Office of Zoning by July 30, 2004, so as to give the other parties time to respond to your motion. The motion and any responses would then be placed before the Board for consideration at its Tuesday, September 14, 2004, public meeting.

Please contact Richard S. Nero, Jr., Chief, Support Services and Quality Control at (202) 727-6311, if you have any questions relevant to the foregoing.

**SINCERELY,**

**JERRILY R. KRESS, FAIA**
**Director, Office of Zoning**

rsn

100 Fifth Street, SE
Washington, D.C. 20003
April 29, 2004

Jerrily R. Kress, Director
Office of Zoning and
Geoffrey H. Griffis, Chairman
Board of Zoning Adjustment
441 Fourth Street, NW
Washington, D.C. 20001

Re: Request for reconsideration of BZA Case #17079, Mark Lee Phillips

Dear Ms. Kress and Mr. Griffis:

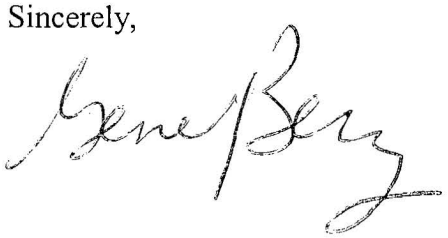
The Board of Zoning Adjustment issued its Decision and Order regarding this case on April 19, 2004. This letter is a formal request that the Board of Zoning Adjustment reconsider the aforementioned case and rescind the order.

The Board of Zoning Adjustment correctly decided that a special exception is required to increase the use of the subject Bed & Breakfast from two to four rooms. The Board of Zoning Adjustment did not, however, accord the ANC 6B decision opposing the special exception (7-1-1 vote) the "great weight" required under the statute, but instead merely paid lip-service to that statutory requirement. The BZA likewise ignored the Capitol Hill Restoration Society's unanimous decision to oppose the special exception, as well as the wishes of 156 tax payers and voters in the contiguous neighborhood opposing the special exception, and Ward 6 Councilmember Sharon Ambrose's opposition to this special exception. The Board of Zoning Adjustment admitted they gave great weight to the recommendation of the Office of Planning, but that decision was a reversal of their earlier opposition to the special exception, did not address any concerns other than parking, and was based on inconclusive information since the Capitol Hill Planning Officer in that very office was not even consulted during the process.

Furthermore, the applicant did not satisfy the burden of proof with respect to the application. Testimony on the day of the public hearing and information submitted for the record established the adverse impact on the neighbors if this special exception was granted. The Board of Zoning Adjustment chose to ignore that information, and instead of giving great weight to the ANC recommendation, *as they are required to do*, BZA "credited" the disputed, uncorroborated and self-serving testimony of the applicant that the expansion would not affect parking and noise, or otherwise adversely affect the neighbors.

The BZA also chose to disregard information brought to its attention concerning misrepresented and false information submitted by the applicant and his attorney in order to influence the outcome of a quasi-judicial proceeding. We ask that you consider the entire record, rescind this order, and deny the special exception.

Sincerely,



100 Fifth Street, SE
Washington, D.C. 20003
July 15, 2004

Jerrily R. Kress, Director
Office of Zoning and Suite 210-S
Geoffrey H. Griffis, Chairman
Board of Zoning Adjustment
441 Fourth Street, NW
Washington, D.C. 20001

Re: Request for reconsideration of BZA Case #17079, Mark Lee Phillips

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Thank you for your consideration of this matter.

Sincerely,

Gene Berry

Encl:
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cc: Mark Phillips, Keith Wilkinson, Richard B. Nettler, Esq., and Jeannine Rustad, Esq., Chris Anders Esq., Aaron Schuham, William Martin, and Jacqueline Eiting

BZA
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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

July 9, 2004

Eugene E. Berry
100 5th street S. E.
Washington D.C. 20003

Re: BZA Application No. 17079 (417 A Street, N.W. – Mark Lee Phillips) Motion for Reconsideration

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Please contact Richard S. Nero, Jr., Chief, Support Services and Quality Control at (202) 727-6311, if you have any questions relevant to the foregoing.

**SINCERELY,**

**JERRILY R. KRESS, FAIA**
**Director, Office of Zoning**

rsn

To: Jerrily Kress, Director
Office of Zoning FAX 202-727-6072

From: Gene Berry
100 ~~Fifth~~ St SE
202-547-3503

RE: BZA Case # 17079
Mark Phillips

Thank you!

4 pages