CAPITOL HILL RESTORATION SOCIETY
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23 February 2004

Jerrily R. Kress, FAIA
Director, Office of Zoning
Suite 210
441 4th Street, N.W.
Washington, D.C. 20001

RE: BZA #'s 17085 and 17108

Dear Director Kress.

This letter is in support of BZA appeal # 17085 and in opposition to the BZA variance application # 17108. The Capitol Hill Restoration Society believes that these two cases are inextricably linked and we are submitting this one letter for both cases.

The CHRS Zoning Committee considered both the cases at a meeting on 8 January 2004. All parties were present and represented. After all the parties presentations, the Committee voted unanimously to support #17085 and to oppose #17108. The reasons for the decision are outlined below.

The applicant in #17108, Folger Park North (Folger), seeks a variance from the lot width and lot area requirements. Our opinion is that applicant does not meet the test for a variance. Under the three-part test for variances an applicant must demonstrate that: (1) the property is unique, (2) that there is practical difficulty created by the Zoning Regulations, and (3) the variance will not be substantially detrimental to the public good or the zone plan. The applicant has failed to establish that it has met this three-part test for a variance.

1. The applicant has not demonstrated that there are any conditions that are unique to the property that necessitates a variance.

The property (lot 4) is generally a regular shaped rectangle with 48 feet of frontage on D Street, S.E., and contains 4,505 square feet in a single ownership. This property can easily be divided into two lots that meet the zoning requirements and do not require any variances. There is no "exceptional narrowness, shallowness, or shape" that would qualify this property for a variance.

2. The applicant has not demonstrated any practical difficulty caused by the Zoning Regulations.

The applicant can easily subdivide the property into two lots and build two, two unit row dwellings. This has been done elsewhere on Capitol Hill, notably the unit block of 7th Street N.E. and the 400 block of East Capitol Street, S.E. Denial of the variance will not result in any practical difficulty that will prevent the applicant from using the property.

BZA
Case No. 17108
Exhibit No. 36

Board of Zoning Adjustment
District of Columbia
CASE NO. 17108
EXHIBIT NO. 36

3. The applicant has failed to demonstrate that granting the variances will not be substantially detrimental to the public good or the zone plan.

The purpose of the lot area and lot width requirements is to establish the minimum desirable standard. That applicant wishes to treat these as a maximum. The zoning plan recognized that there were substandard lots when the plan was created and determined that for future development lots must be a minimum of 18 feet wide and contain 1800 square feet. The fact that there are substandard lots in the area has already been considered in the plan. This does not preclude lots of larger dimensions. Granting a variance here would do violence to the plan and unduly increase the density in the area.

Folger has also asserted that it was misled by the DCRA and will become bankrupt if not allowed to proceed. Folger's bankruptcy would be regrettable, but this does not qualify them for a variance. It will have to look to other remedies to solve its financial problems. Granting variances every time an applicant alleges being misled by DCRA is a bad precedent to establish.

For the reasons stated above CHRS supports the appeal in #17085 and opposes the requested variances in #17108.

Respectfully,

Gary M. Peterson, Chair
Capitol Hill Restoration Society
Zoning Committee