INTRODUCTION

This is a Statement of Explanation and Reasons supporting the application of Kenneth and Susan Rosenau, (hereinafter "applicants") for two special exceptions, pursuant to Sections 203.4(b) and (d), and 203.10(b) of the Zoning Regulations of the District of Columbia, to use the first floor and part of the second floor of their home at 1304 Rhode Island Ave, N.W. as a law office under the rules for home occupations. Exceptions are needed to allow the use of 1125 square feet of the subject property, and the employment of two (2) paralegals or clerks by the Rosenaus.

DESCRIPTION OF THE APPLICANT

The Rosenaus purchased the building in May, 2003, believing the office that existed there at the time was legal and that their use of part of the building as a law office was legal. It was not until they attempted to get a certificate of occupancy that they realized they would need a special exception. In addition, Mrs. Rosenau suffers from severe disabilities, including obesity, arthritis, orthopedic problems affecting her knees, back and ankles, and severe depression. Accordingly, in order for her to conduct a normal practice she needs the additional assistance of associates and paralegals. The District has recognized her handicap by granting her a disability parking placard.

THE SUBJECT PROPERTY

A. Location and Description of the Property

The property which is the subject of this Application is located at 1304 Rhode Island Ave, N.W., Square 242, Lot 65. It is a row dwelling on four floors with basement. The building is in an R-5-B Zone, which permits row dwellings and multiple dwellings. No structural changes of any kind are contemplated for the interior or exterior of the building. The applicant contemplates using a one-square foot permanent sign, as permitted by law.

B. Area Surrounding the Property

The property is a couple of doors from Logan Circle. While the predominant uses in the area are residential, there are numerous commercial or non-residential uses on and near the block. For example, TRC Real Estate operates out of a residential building at 1314 Rhode Island Avenue NW. Next Door Realty is located at 6 Logan Circle Apt. 3. In addition, bed and breakfast facilities operate at corner of 13th & P Street and at 1310 Q Street.

C. Zoning History, Use History, and Historic Preservation

The area is zoned R-5-B which permits multiple dwelling structures.

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The property is in the Logan Circle Historic District. It was built in 1875 and enlarged in 1892, and is, in all likelihood, a contributing building.

D. Operations

The law firm operated by the Rosenaus is concentrated in medical guardianship, probate, and elder law and does not involve a volume of clients coming through the door. Many clients of the Rosenaus are patients at hospitals or residents at group homes for whom Mr. Rosenau serves as guardian *ad litem.* In virtually every instance, the Rosenaus or their staff go to the patient, whether at a hospital, nursing home, apartment or elsewhere. The Rosenaus' firm is on a very short list of firms and attorneys called upon by the D.C. courts and by local hospitals (for example, Children's Hospital, Georgetown University Hospital, Washington Hospital Center, National Rehabilitation Hospital) to serve in cases involving individuals in need of emergency health care who are not mentally competent to consent to their own treatment, and who do not have competent family available to consent on their behalf. In such cases, an attorney is appointed by the courts to make decisions for the patient and, if necessary, to handle the patient's property and affairs, either temporarily or permanently. Many of these cases involve senior citizens. Frequently, Mr. Rosenau is called upon during non-business hours, including the middle of the night, when someone is needed to authorize medical treatment for an incapacitated person for whom he has been made responsible. Mr. Rosenau's appointments in these cases can last for several years, or for only a few days, depending on the circumstances, but particularly in the early stages of the case crises are likely to arise at any time. This also makes it necessary for Mr. and Mrs. Rosenau to have their files at hand at all hours, especially when – as is frequently the case – the patient is in a critical or fragile condition and an important decision may need to be made at any time.

REASONS IN SUPPORT OF THE APPLICATION FOR SPECIAL EXCEPTION

A. Compliance with D.C. Zoning Regulations

Two special exceptions are needed to permit the operation of a law firm as a home occupation at the subject property. First, an exception is needed to §203.4(d) which permits one employee who does not live on the premises. The law firm employs two employees (para-legals) who do not live on the premises. Secondly, the office portion of the house is 1124.7 square feet, which is greater than the 250 feet allowed by §203.4(b). The area devoted to the business is 22.2% of the residential unit, which is less than the 25% allowed for a home occupation.

Mr. and Mrs. Rosenau reside on the third floor and one associate resides on the fourth floor.

The applicant satisfies the requirements for grant of the Special Exception. The Board is authorized 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 Maps and will not tend to affect adversely the use of neighboring property ..." 11 DCMR §3104.1

B. No Adverse Effects

The office use in this house is not likely to generate substantial foot or vehicular traffic. Relatively few of the clients of this law firm need to come to the premises. Rather, consultations are usually made by appointment and often take place off-site. In the type of case which calls for an on-site consultation, the consultation lasts for an hour or less.

As noted above, numerous businesses are housed in the residential buildings within a couple of blocks of this property and have not detracted from the urban residential character of the neighborhood,

Parking is unlikely to be a problem for the neighborhood. As noted, this business does not depend on walk-in traffic. Moreover, the U street and Shaw Metro Stations are each within five blocks of the subject property, and numerous bus routes have stops just steps away on 14th Street or on Logan Circle. This will encourage visitors to use Metro rather than bring cars into the area.

COMPLIANCE WITH THE COMPREHENSIVE PLAN

A. Appropriate Residential Use

Home occupations are a recognized permitted use in all zones. An R-5 Zone with its greater density is likely to see less impact than other R Zones.

B. Historic Preservation

Section 804.1 of the Comprehensive Plan calls on the District and Federal Governments to

> (f) Provide sufficient administrative flexibility in building codes and other related codes and regulations to permit maximum preservation and protection of historic resources while still ensuring the health and safety of the public. (46 DCR 1562, Feb. 19, 1999)

Among the objectives of Section 1319.1 of the Comprehensive Plan are the following:

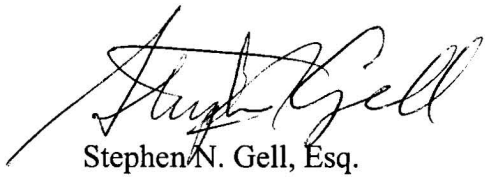
> (b) to preserve and reuse historic landmarks and buildings in historic areas in Ward 2, and
>
> (d) to preserve and protect existing buildings and small scale and open spaces in historic areas in Ward 2. (46 DCR 1752, Feb. 19, 1999)

The subject property is a contributing building in the Logan Circle Historic District. Latitude in the use of the property for a law office as a home occupation, as permitted by the Zoning Regulations, can serve to enhance its preservation.

CONCLUSION

The Applicants should be granted the Special Exceptions to allow the use of 1125 square feet of the subject property, and the employment of two (2) paralegals or clerks by the Rosenaus in the operation of their law firm as a home occupation. Such special exceptions are highly unlikely to have any negative effects on the neighborhood and can serve to enhance the likelihood of preservation. Moreover, such a use will be in harmony with the purpose and intent of the Zoning Regulations.

Respectfully submitted,



Stephen N. Gell, Esq.