Government of the District of Columbia

OFFICE OF ZONING

441 4TH STREET, N.W.
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WASHINGTON, D.C. 20001
(202) 727-6311

September 23, 2004

John Bond, Esq.
Foggy Bottom Historic District Conservancy
3251 Old Lee Highway
Suite 516
Fairfax, Virginia 22030-7681

Re: BZA Application No. 17154 (Rear of 935 26th Street, N.W.) Bruno Freschi

Dear Mr. Bond:

The Office of Zoning received your letter (attached) dated September 17, 2004, on September 21, 2004, requesting that the Zoning Commission (Commission) sua sponte determine to review the Board of Zoning Adjustment's decision in the above-cited application. Your letter correctly states that the Commission does have the discretion to review any final order or decision of the Board. However, in the instant matter, the time limit under which such an action can be taken has lapsed. Subsection 3128.1, states that "Within the ten (10) day period set forth in subsection 3125.9, the Zoning Commission may, *sua sponte*, determine to review any final decision or order of the Board." The final date of Board of Zoning Adjustment (Board) Order No. 17154, is September 9, 2004, making Monday, September 20, 2004 (as September 19th was a Sunday pursuant to subsection 3110.2), the deadline for the Commission to have initiated a sua sponte of the subject case.

Please be advised that any material correspondence received by the Office of Zoning after the close of a Board or Commission hearing record that bears upon the substance of an application must be returned and not received into the files of the Board pursuant to subsection 3121.9, of the Zoning Regulations. As such, I am returning your letter to you.

BZA
Case No. 17154
Exhibit No. 51

Board of Zoning Adjustment
District of Columbia
CASE NO. 17154
EXHIBIT NO. 51

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

SINCERELY,

JERRILY R. KRESS, FAIA
Director

Attachment
rsn

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September 17, 2004

District of Columbia Office of Zoning
Zoning Commission
Ms Carol Mitten, Chair
441 4th Street, NW Suite 210 South
Washington, DC 20001

RE Request for *sua sponte* Review of BZA Decision (11 DCMR 3128.7)
BZA Case # 17154, Application of Bruno B. Freschi
Date of Decision: September 9, 2004
Party Making Request: Foggy Bottom Historic District Conservancy

Dear Madame Chair:

I make this request on behalf of my client, the Foggy Bottom Historic District Conservancy, (the Conservancy), a community organization with federal 501(c)(3) tax status. On their behalf, I respectfully request the Zoning Commission invoke its discretion to "review any final order or decision of the Board." (11DCMR 3128.1)

Though the Conservancy opposed this application and takes exception to many components of the decision and order in this matter, **the most important factor for your consideration in determining whether the Commission will invoke review is the invitation by the Chair of the Board of Zoning Adjustment for the Commission to do so.**

One factor in this application is the definition of a "row dwelling" and whether the applicant seeks to construct a "row dwelling", "semi-detached dwelling" or a "detached dwelling." During the presentation of the OP Report, the representative raised the issue of the characterization of the dwelling type and a discussion followed with input from Office of Planning representative, counsel for the applicant and myself as counsel for the Conservancy. **Mr. Griffis stated on the record that more direction or specificity regarding the definition of dwelling types was needed from the Commission.**

In addition to this acknowledgment by the BZA Chair, the Conservancy requests that the Commission invoke its review under 11 DCMR 3128.7 (a), (b) and (c). It is the Conservancy's position that so many variances were granted that the parcel was rezoned, not just granted variance; that the policy of Commission with

respect to dwelling types was misconstrued and misapplied and; that the remarks of the BZA Chair qualifies as "an unusual instance." In support of 3128.7 (a), I point out that every zoning requirement pertaining to the parcel itself was waived and in support of (b), the dwelling was found to be a row dwelling even though it is completely detached and not in a row with any other structure.

The Conservancy thanks you for your consideration of this request and would appreciate an acknowledgement of its receipt. The Conservancy does understand that it has no right to a Commission review or any requirement that the Commission even respond to this request.

Respectfully submitted,
Foggy Bottom Historic District Conservancy

John Bond

By: John Bond, Esq., Counsel

JB:tbm