GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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September 16, 2004

Alejandro Soriano
1300 New York Avenue, N.W.
B708
Washington, D.C. 20577

Re: BZA Application No. 17244 (1555 9th Street, N.W.) Soriano

Dear Mr. Soriano:

The Office of Zoning (OZ) received the above-cited application on September 15, 2004. OZ has determined that your submitted statement does not specifically address how your application meets the specific test for special exception relief under sections 3104.1 and 223, of the Zoning Regulations. I have enclosed a copy of section 223 for your convenience as well as a copy of the OZ hand-out entitled "Applicant's Burden of Proof for Variance and Special Exception Applications" to assist you in this regard. Please file an amended burden of proof statement as soon as possible so that your application may be scheduled for hearing expeditiously.

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, Office of Zoning

Attachments
rsn

BZA
Case No. 17244
Exhibit No. 12

Board of Zoning Adjustment
District of Columbia
CASE NO. 17244
EXHIBIT NO. 12

222 [RESERVED]

223 ADDITIONS TO ONE-FAMILY DWELLINGS OR FLATS (R-1)

223.1 An addition to a one-family dwelling or flat, in those Residence Districts where a flat is permitted, that does not comply with all of the requirements of §§ 401, 403, 404, 405, 406, and 2001.3 shall be permitted as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

223.2 The addition shall not have a substantially adverse affect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

(a) The light and air available to neighboring properties shall not be unduly affected;

(b) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;

(c) The addition, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street frontage; and

(d) In demonstrating compliance with paragraphs (a), (b) and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition to adjacent buildings and views from public ways.

223.3 The lot occupancy of the dwelling or flat, together with the addition, shall not exceed fifty percent (50%) in the R-1 and R-2 Districts or seventy percent (70%) in the R-3, R-4, and R-5 Districts.

223.4 The Board may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties.

223.5 This section may not be used to permit the introduction or expansion of a nonconforming use.

SOURCE: Final Rulemaking published at 45 DCR 1146, 1447 (March 13, 1998); as amended by Final Rulemaking published at 48 DCR 8979, 8983 (September 28, 2001).

Form 121 – Side 2
(Revised 03/15/02)

Case No._____

APPLICANT'S BURDEN OF PROOF FOR VARIANCE AND SPECIAL EXCEPTION APPLICATIONS

Subsection 3104.1:

Pursuant to authority contained in the Zoning Act, the Board is authorized to grant special exceptions, as provided in this Title, 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 Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Maps, subject in each case to the special conditions specified in Title 11 DCMR.

In addressing these standards the applicant must address the following:

☐ 1). How the proposed special exception will be consistent with the general intent and purpose of the Zoning Regulations and Map; and

☐ 2). How allowing the use will not adversely affect the use of the neighboring property – ie. traffic, noise, lighting, etc.

In addition, as all special exceptions are of a specific type, each type is represented in a certain section of the Zoning Regulations. Section 3104.1 sets forth the general standards that must be met for all types of special exception relief, while the other provisions cited in the Zoning Administrator's memorandum detail the remaining standards that must be met.

For example, a special exception for a private school in a residential district involves two Sections of the Zoning Regulations – 3104.1 (regulating special exceptions in general) and 206 (regulating private schools). To meet the burden of proof one would provide evidence to address the general standards of Section 3104.1, as well as the more specific standards of 206. Beware the provisions sometimes overlap, but generally one would prepare their case as follows:

☐ 1). **206.1 - Refers applicant to 3104.1**
Indicate how granting a special exception for the private school will be in harmony with the general purpose and intent of the Zoning Regulations; and present evidence demonstrating that the private school will not tend to adversely affect the use of the neighboring property.

☐ 2). **206.2**
Indicate how the location of the private school will not be objectionable to adjoining and nearby property because of noise, traffic, number of students or otherwise objectionable conditions;

☐ 3). **206.3**
Indicate the number of parking spaces being provided and whether the required number of spaces will be provided.

If relief is being sought for a special exception and a variance, be sure to address all of the applicable special exception provisions, then address the variance standards for each variance.

NOTE:
For further information on the Board of Zoning Adjustment public hearing process, please visit the Office of Zoning website at http://www.dcoz.dc.gov. All applications are referred for review and recommendation to the D.C. Office of Planning (OP) and the Advisory Neighborhood Commission within which the affected property is located. Their reports are given "great weight" in the BZA decision-making process. Applicants are strongly recommended, at the time of filing a Form 120 application, to make contact with these agencies to discuss the merits of their application. OP can be reached at (202) 442-7602.