DISTRICT OF COLUMBIA COURT OF APPEALS

PERMANENT PETWORTH VOTERS,

*Petitioner*,

v.

DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT,

*Respondent*.

No. 05-AA-000003

RECEIVED
D.C. OFFICE OF ZONING
2005 FEB 15 AM 11:00

**NOTICE OF INTENTION TO INTERVENE**

Pursuant to Rule 15(f) of the Rules of the District of Columbia Court of Appeals, Donatelli & Klein, Inc., hereby gives notice of its intention to intervene, in support of the Order appealed from in the above-captioned case. Donatelli & Klein, Inc. was the applicant and a party to the proceedings before the District of Columbia Board of Zoning Adjustment in this matter.

Respectfully submitted,

HOLLAND & KNIGHT, LLP

By: _____
Paul J. Kiernan (#385627)

_____
Kathleen F. Teale (#475986)
2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006
(202) 955-3000
*Attorneys for Intervenor*

BZA
Case No. 17246
Exhibit No. 44

Board of Zoning Adjustment
District of Columbia
CASE NO. 17246
EXHIBIT NO. 44

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Notice of Intention to Intervene were mailed first class, postage pre-paid, this 8th day of February, 2005, to:

Permanent Petworth Voters
c/o Marlo Johnson
829 Quincy Street, N.W.
Washington, DC 20011

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

Chairperson
Advisory Neighborhood Commission 4C
801 Shepherd Street, N.W.
Washington, DC 20039

Commissioner 4C06
Advisory Neighborhood Commission 4C
801 Shepherd Street, N.W.
Washington, DC 20039

Adrian Fenty, City Councilmember
Ward Four
1350 Pennsylvania Avenue, N.W.
Suite 506
Washington, DC 20004

Toye Bello, Zoning Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
941 N. Capitol Street, N.E.
Washington, DC 20002

Ellen McCarthy, Deputy Director
Office of Planning
801 North Capitol Street, N.E.
4th Floor
Washington, DC 20002

Alan Bergstein, Esq.
Office of the Attorney General
441 4th Street, N.W., 6th Floor
Washington, DC 20001

Kathleen F. Teale

# 2581688_v1

DISTRICT OF COLUMBIA COURT OF APPEALS

| | | |
|---|---|---|
| PERMANENT PETWORTH VOTERS,<br><br>*Petitioner*,<br><br>v.<br><br>DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT,<br><br>*Respondent.* | ) | No. 05-AA-000003 |

RECEIVED
D.C. OFFICE OF ZONING
2005 FEB 15 AM 11:00

**INTERVENOR'S MOTION FOR SUMMARY AFFIRMANCE**

Pursuant to Rule 27(c), Intervenor Donatelli & Klein, Inc., moves for entry of an order summarily affirming the December 2, 2004, Order of the District of Columbia Board of Zoning Adjustment.

As detailed in the attached Memorandum of Points and Authorities in Support of Summary Affirmance, the Order granted an unopposed application for several variances from parking requirements in connection with the proposed multi-use project located on the west side of the 3700 block of Georgia Avenue, N.W. The Petition for Review raises the single question of whether the Board gave "great weight" to the report of the Advisory Neighborhood Commission ("ANC") but it is undisputed that the ANC did not submit a report. The face of the Order itself demonstrates why the Petition is not sustainable. There is no need for extended briefing. Moreover, prolonged delay in resolving the appeal would be unfairly prejudicial to the

Intervenor, because the filing of the Petition creates a de facto stay of the project, without any requirement of bond or showing of irreparable harm.

For these reasons, Intervenor asks this Court to summarily affirm the Board's Order.

Respectfully submitted,

HOLLAND & KNIGHT, LLP

By: _____
Paul J. Kiernan (#385627)

_____
Kathleen F. Teale (#475986)
2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006
(202) 955-3000
*Attorneys for Intervenor*

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the Intervenor's Motion for Summary Affirmance, and Memorandum of Points and Authorities in Support thereof, were mailed first class, postage pre-paid, this 8th day of February, 2005, to:

Permanent Petworth Voters
c/o Marlo Johnson
829 Quincy Street, N.W.
Washington, D.C. 20011

Jerrily R. Kress, FAIA
Director, Office of Zoning
D.C. Board of Zoning Adjustment
441 4th Street, N.W., Suite 210-S
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Chairperson
Advisory Neighborhood Commission 4C
801 Shepherd Street, N.W.
Washington, D.C. 20039

Commissioner 4C06
Advisory Neighborhood Commission 4C
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1350 Pennsylvania Avenue, N.W.
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Washington, D.C. 20002

Alan Bergstein, Esq.
Office of the Attorney General
441 4th Street, N.W., 6th Floor
Washington, D.C. 20001

Kathleen F. Teale

# 2581691_v4

DISTRICT OF COLUMBIA COURT OF APPEALS

| | | |
|---|---|---|
| PERMANENT PETWORTH VOTERS,<br><br>*Petitioner*,<br><br>v.<br><br>DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT,<br><br>*Respondent*. | ) | No. 05-AA-000003 |

**CERTIFICATE REQUIRED BY RULE 28(a)**

The undersigned, counsel of record for Intervenor Donatelli & Klein, Inc., certifies that the following entities were parties in the agency proceeding:

Donatelli & Klein, Inc.

District of Columbia

Advisory Neighborhood Commission 4C (automatically a party)

Intervenor Donatelli & Klein, Inc. is a real estate development company. It does not have any parent or subsidiary companies and does not have any stock which is publicly traded.

Respectfully submitted,

HOLLAND & KNIGHT, LLP

By: _____

Paul J. Kiernan (#385627)

Kathleen F. Teale (#475986)
2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006
(202) 955-3000
*Attorneys for Intervenor*

DISTRICT OF COLUMBIA COURT OF APPEALS

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|---|---|---|
| PERMANENT PETWORTH VOTERS,<br><br>*Petitioner,*<br><br>v.<br><br>DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT,<br><br>*Respondent.* | ) | No. 05-AA-000003 |

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF INTERVENOR'S MOTION FOR SUMMARY AFFIRMANCE**

## I. STATEMENT OF FACTS

In this agency appeal, Petitioner Petworth Permanent Voters ("Petworth Voters") challenges the Order of the District of Columbia Board of Zoning Adjustment ("BZA") entered December 2, 2004, which granted several parking-related variances and special exceptions to Intervenor Donatelli & Klein, Inc. ("D&K") pursuant to D&K's Application No. 17246 (the "Application").[1]

The Application was submitted in connection with a mixed-use project to be developed on property owned by the District of Columbia Government at the Georgia Avenue -- Petworth Metro station and to be developed with D&K through an entity chosen as the result of a

[1] The BZA issued an Order dated December 1, 2004 but issued its final Corrected Summary Order on December 2, 2004. The Petition for Review incorrectly states that the Order was issued on December 10, 2004.

competitive process.[2] The BZA held a public hearing regarding the Application on November 30, 2004, and issued a final "Summary Order" on December 2, 2004 (the "Order"). (A copy of the Order is attached as Exhibit 1).

The Order identifies the several parties who submitted reports weighing in on D&K's Application. Order at 1. Notably, each and every party who appeared at the hearing, or filed a report, *supported* the Application. See id. The BZA did not receive a report from Advisory Neighborhood Commission 4C. The Board did receive a report from the ANC 4C06 Single Member District Commissioner, but as the report was not an ANC report within the meaning of D.C. Mun. Regs. tit. 11 § 3115.1, the BZA noted that the report did not receive "great weight." See id. In any event, the Single-Member District Commissioner supported the Application. See id.

On January 10, 2005, the last possible date for filing, the Petition for Review was filed. (A copy of what was filed with this Court is attached as Exhibit 2). The hand-written Petition for Review identifies the Petitioner as: "Permanent Petworth Voters, named party(s) attached to body of Petition proposed by Marlo Johnson." The text of the Petition states: "I, Permanent Petworth Voters/Marlo Johnson, wish to appeal . . . ." while, at the bottom of the page, the "Printed Name Petitioner or Attorney" block lists only Marlo Johnson. It is unclear whether the Petitioner is Petworth Voters, an organization, or Marlo Johnson, an individual. But neither Petworth Voters nor Ms. Johnson was a party to the administrative proceeding before the BZA and neither made an appearance at the public hearing. See Order. In fact, the alleged members of Petworth Voters appear to have signed the Petition in January 2005, *after* the conclusion of

[2] Because the project is being developed by the D&K entity but on property owned by the District, the Application was submitted by "Donatelli & Klein, on behalf of the D.C. Government."

the BZA proceeding. Petition for Review at 2. There are considerable questions regarding the identity of the Petitioner – and its standing – that would have to be resolved if this matter proceeded on the merits. Accord York Apartments Tenants Ass'n v. D.C. Zoning Comm'n, 856 A.2d 1079 (D.C. 2004) (finding tenant's group lacked standing to bring appeal when it alleged only generalized grievances that the Commission failed to act in accordance with its rules and regulations). However, as discussed below, because the Petition fails to state any basis for relief, the appeal does not need to await resolution of the identity and standing issues.

The Petitioner ("Petworth Voters") filed the instant Petition for Review on January 10, 2005, citing the requirement that the BZA shall give "great weight" to the written report filed by the Advisory Neighborhood Commission ("ANC"). The Petition cites D.C. Mun. Regs. tit. 11 § 3115.2 (2000). The Petition also states:

> The ANC Report is given "great weight" by the Zoning Agency And the report is incomplete of the following:
>
> (1) Proof that proper notice of the meeting was given by the ANC
> (2) A vote on the motion to adopt the report
> (3) The issues and concerns of the ANC majority about the case as related to the Zoning Regulations including opposition to:
>  a. aggressively going underground to get space
>  b. accessory parking serving commercial uses in a residential only zone
>  c. rezoning boundaries to extend beyond the residential zone character
>  d. crossing over the commercial limits
>  e. reducing spaces for retail parking
>  f. increasing pressure upon the community residential parking.

## II. STANDARD OF REVIEW

As "the basic facts are both uncomplicated and undisputed," and the BZA's ruling rests on "a narrow and clear-cut issue of law," summary affirmance is appropriate and warranted. Oliver T. Carr Mgmt, Inc. v. National Delicatessen, Inc., 397 A.2d 914, 915 (D.C. 1979). Although D&K need not show that the expedited relief sought by summary affirmance is necessary, see id., expedited relief is certainly warranted here. Petworth Voters' Petition prevents D&K from moving forward with the development of the property and causes expensive and needless delay.

The Court of Appeals gives deferential review to the BZA's factual determinations. See George Washington Univ. v. D.C. Bd. of Zoning Adjustment, 831 A.2d 921, 931 (D.C. 2003). The Court "will not reverse the BZA's conclusions 'unless they are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'" Lovendusky v. D.C. Bd. of Zoning Adjustment, 852 A.2d 927, 932 (D.C. 2004) (citing George Washington Univ., 831 A.2d at 931).

The Court of Appeals conducts de novo review of questions of law. See Logan v. Providence Hosp., Inc., 778 A.2d 275, 278 (D.C. 2001).

## III. ARGUMENT

### A. Petitioner's Assertion that the BZA Did Not Give "Great Weight" to the Written Report of the ANC Does Not State a Claim When the ANC Does not Submit a Report.

In its Petition for Review, Petworth Voters quotes Section 3115.2, stating, "[t]he Board shall give 'great weight' to the written report of the ANC." Petition at 1. This is the only statement in the "Grounds Relied On" section in the Petition. See id. It is not entirely clear what claim is being asserted but assuming that Petworth Voters is arguing that the BZA failed to appropriately consider the report of the ANC, that argument does not state a claim where *the*

*ANC did not file a written report.* Alternatively, if Petworth Voters' argument relates to the conduct of the ANC itself, that is not a proper subject for appellate review in a Petition from the actions of the BZA.

It is undisputed that the relevant Advisory Neighborhood Commission, ANC-4C, did not file a report. Under the ANC law, it is not required to file such a report but, if it does file a report, the BZA is required to give it "great weight." D.C. Code Ann. § 1-309.10 (d) (2001); D.C. Mun. Regs. tit. 11 § 3115.2 (2000).

The report filed by a Single-Member District Commissioner is not required to be filed and is not required to be given the statutory "great weight." While it is possible that Petworth Voters confuses the report filed by the ANC 4C06 Single Member District Commissioner with the "written report of the ANC" for purposes of Section 3115.2, the fact remains that the District Commissioner's report was *in support* of the Application. Even if the District Commissioner's report were entitled to "great weight," and even if the BZA afforded the report that measure of deference, such facts would only strengthen D&K's Application which, as noted, was unopposed.

The BZA carefully outlined the reports it had received and considered, and finding that they unanimously supported the Application, the BZA granted the requested variances. Moreover, "no party appeared at the public hearing in opposition to this application." Order at 2. There is no suggestion that the BZA acted inappropriately. The Petitioner's allegation regarding "great weight" is simply inapposite when the ANC has not filed a report.

The only other possible argument which the Petition may be trying to raise is a complaint about the way in which the ANC conducted its business. The second page of the Petition contains a list of issues which apparently pertain to the internal conduct of the ANC itself. Petition at 2. Among other things, Petitioner states that an ANC report was "incomplete," that

there was not proper notice of the ANC meeting and that there were unspecified problems regarding an ANC vote. Even assuming that this Petitioner has standing to complain about the way in which the ANC conducted its business and even assuming that the Petition is raising issues about the conduct of the ANC, that complaint cannot be brought as an initial matter to the Court of Appeals through an administrative appeal. Moreover, the BZA would not be the proper defendant in such an action.

In sum, any claim based on a failure to give an ANC report "great weight" must fail because there was no ANC report in this case. Regardless of the precise identity of the Petitioner, it is clear that, based on a "great weight" argument, the Petition is not sustainable and should be denied.

**B. Intervenor is Prejudiced by the Delay Occasioned by this Appeal.**

While it is not necessary for a party seeking summary affirmance to demonstrate a special need for expedited relief, it should be noted that D&K cannot proceed with construction while Petworth Voters' Petition is pending. This Court has warned that parties that build during the pendency of a zoning appeal do so at their own risk. Draude v. D.C. Board of Adjustment, 582 A.2d 949 (D.C. 1990). The pendency of the appeal therefore acts as a de facto stay of the Project.

The Project is the result of a multi-year process through which the District of Columbia has tried to foster development around Metro stations. Since being awarded the project in February 2004, D&K has secured approvals and incurred substantial costs. Both D&K and the District have made considerable efforts to get the project up and running. Extensive delays are costly to D&K, which has no source for recovery of such delay costs. Moreover, the delay deprives the public of access to the planned development.

## IV. CONCLUSION

Though Petitioner is obviously unhappy with the BZA's decision and may be unhappy with the conduct of ANC 4C, the Petition is not proper under the law. The Court should summarily affirm the BZA's Order.

Respectfully submitted,

HOLLAND & KNIGHT, LLP

By: _____
Paul J. Kiernan (#385627)

_____
Kathleen F. Teale (#475986)
2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006
(202) 955-3000
*Attorneys for Intervenor*

# 1

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

**Application No. 17246-A of Donatelli & Klein, on behalf of the D.C. Government,** pursuant to 11 DCMR § 3103.2, for a variance from the residential recreation space requirements under section 773 and pursuant to 11 DCMR § 3104.1, for special exceptions to extend the provisions of a less restrictive zone district into a more restrictive zone district under subsection 2514.2, to permit a 25 percent parking reduction for the retail uses under subsection 2108.2, and to permit accessory parking spaces serving residential and commercial uses in the R-4 zone district under section 214, in order to construct a multi-family residential development with ground level retail in the R-4/C-3-A District at premises west side of the 3700 block of Georgia Avenue, N.W. (between Rock Creek Church Road, N.W. and Quincy Street, N.W.)(Square 2900, Lots 42, 43, 805, 806, 812, 816, 817, 818, and 819).

**HEARING DATE:** November 30, 2004
**DECISION DATE:** November 30, 2004 (Bench Decision)

## CORRECTED SUMMARY ORDER

Note: This order corrects Order No. 17246. Order No. 17246 incorrectly cited variance approval under section 330.5, and omitted the Board's approval of a special exception under section 214.

**SELF-CERTIFIED**

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register and by mail to the Applicant, Advisory Neighborhood Commission (ANC) 4C, and to owners of all property within 200 feet of the property that is the subject of this application. The application was also referred to the Office of Planning (OP) and Department of Transportation (DDOT). OP submitted a report in support of the application. DDOT submitted a report having no objection to the application. The subject property is located within the jurisdiction of ANC 4C. The Board received a report in support of the application from the ANC 4C06 Single Member District Commissioner. The report did not receive great weight, not meeting the requirements of 11 DCMR § 3115.1.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception pursuant to 11 DCMR §§ 3104.1, 214, 2108.2 and 2514.2, and a variance under 11 DCMR § 3103.2 from the strict application of the requirements of § 773.

No party appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party. The Board closed the record at the conclusion of the hearing. Based upon the record before the Board, and having given great weight to the OP report filed in this case, the Board concludes that the applicant has met the burden of proof pursuant to 11 DCMR § 3104.1, for a special exceptions under sections 214, 2108.2 and 2514.2, that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

The Board also concludes that the applicant has met its burden of proof under 11 DCMR §§ 3103.2 and 773, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that the application is **GRANTED.**

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

**VOTE: 4-0-1** (Geoffrey H. Griffis, Gregory Jeffries, Ruthanne G. Miller, and John A. Mann II to approve , Curtis L. Etherly, Jr. not present, not voting,).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**
Each concurring member has approved the issuance of this Order.

**ATTESTED BY:** _____
**JERRILY R. KRESS, FAIA**
**Director, Office of Zoning**

**FINAL DATE OF ORDER:** December 2, 2004

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

**BZA APPLICATION NO. 17246-A**

As Director of the Office of Zoning, I hereby certify and attest that on DEC 0 2 2004 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Norman M. Glasgow, Jr., Esq.
Holland & Knight LLP
2099 Pennsylvania Avenue, N.W., Suite 100
Washington, D.C. 20006

Chairperson
Advisory Neighborhood Commission 4C
801 Shepherd Street, N.W.
Washington, D.C. 20039

Commissioner 4C06
Advisory Neighborhood Commission 4C
801 Shepherd Street, N.W.
Washington, D.C. 20039

Adrian Fenty, City Councilmember
Ward Four
1350 Pennsylvania Avenue, N.W.
Suite 506
Washington, D.C. 20004

Toye Bello, Zoning Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
941 N. Capitol Street, N.E.
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Ellen McCarthy, Deputy Director
Office of Planning
801 North Capitol Street, N.E.
4th Floor
Washington, D.C. 20002

Alan Bergstein, Esq.
Office of the Attorney General
441 4th Street, N.W., 6th Floor
Washington, D.C. 20001

rsn

**ATTESTED BY:**

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

# 2

# DISTRICT OF COLUMBIA COURT OF APPEALS

## PETITION FOR REVIEW

RECEIVED
JAN 13 2005

01-10-05

APPEAL NO. 05AA3

Permanent Petworth Voters,
Your Name(named party(s) attached to body of Petition proposed by Marlo Johnson) PETITIONER,

v. 17246 ANC-4C
Agency No.

Board Zoning Adjustment,
Agency Name

RESPONDENT.

I, Permanent Petworth Voters/Marlo Johnson, wish to appeal to the District of Columbia Court of Appeals from the decision or order of the BZA entered on the 10th day of December, 2004.

**Statement of the Nature of the Proceedings and Grounds Relied On (continue on reverse side if needed):**

Regulation 3115.2 The Board shall give "great weight" to the written report of the ANC

**Name, address and telephone number of all other parties and counsel (continue on reverse side if needed):**

As attached to the body of the Petition proposed by Marlo Johnson 3124.3 representative parties pursuant to designation made under 3112.5

Signature of Petitioner or Attorney

Marlo Johnson
Printed Name Petitioner or Attorney

859 Quincy St. NW
Address

202-722-2453
Telephone

**NOTE: Attach a copy of the decision/order issued by the District of Columbia agency from which this appeal is taken.**

**Permanent Petworth Voters**
**OPPOSE**
**Special Exception Relief**
**to the Georgia Avenue-Petworth Site Development**
**(17246 ANC-4C)**

**The ANC Report is given "great weight" by the Zoning Agency**
**And the report is incomplete of the following:**

**(1) Proof that proper notice of the meeting was given by the ANC**
**(2) A vote on the motion to adopt the report**
**(3) The issues and concerns of the ANC majority about the case as related to the Zoning Regulations including opposition to:**
**(a) aggressively going underground to get space**
**(b) accessory parking serving commercial uses in a residential only zone**
**(c) rezoning boundaries to extend beyond the residential zone character**
**(d) crossing over the commercial limits**
**(e) reducing spaces for retail parking**
**(f) increasing pressure upon the community residential parking**

*WARNING: ONLY DULY REGISTERED ELECTORS OF THE DISTRICT OF COLUMBIA MAY SIGN THIS PETITION*

| | SIGNATURE & ADDRESS OF PETITIONER | PRINTED NAME OF SIGNER | DATE SIGNED | WARD |
|---|---|---|---|---|
| 1 | SIGNATURE Shakmin Evans<br>ADDRESS Philip A Cephas | PRINTED NAME OF SIGNER 99 2387<br>SHAKMIN EVANS | | |
| 2 | SIGNATURE [illegible]<br>ADDRESS | PRINTED NAME OF SIGNER<br>Philip A Cephas | 1/6/05 | 4 |
| 3 | SIGNATURE Beverly Johnson<br>ADDRESS 3706 9th St NW | PRINTED NAME OF SIGNER<br>BEVERLY Johnson | 1/6/05 | 4 |
| 4 | SIGNATURE [illegible]<br>ADDRESS 3912 9th St. N.W. | PRINTED NAME OF SIGNER<br>Andrea Jones | 1/6/05 | 4 |
| 5 | SIGNATURE Stella Lucas<br>ADDRESS 3946-9th St NW | PRINTED NAME OF SIGNER<br>Stella Lucas | 1/6/05 | 4 |
| 6 | SIGNATURE John T Critchfield SR.<br>ADDRESS 3942 9th Street NW. | PRINTED NAME OF SIGNER<br>John Thomas Critchfield | 1-6-05 | 4 |
| 7 | SIGNATURE Ada Pollard Ada Pollard<br>ADDRESS 3738 9 St. N.W | PRINTED NAME OF SIGNER<br>Ada Pollard | 1/6/05 | 4 |
| 8 | SIGNATURE Richard Smith<br>ADDRESS 3731 9th St NW | PRINTED NAME OF SIGNER<br>Richard Smith | 1/6/05 | 4 |
| 9 | SIGNATURE Barbara A Hawkins<br>ADDRESS 3744 9th St NW | PRINTED NAME OF SIGNER<br>BARBARA A HAWKINS | 1-8-05 | 4 |
| 10 | SIGNATURE Barbara J Driver<br>ADDRESS 911 Quincy St NW | PRINTED NAME OF SIGNER<br>Barbara J. Driver | 1-8-05 | 4 |

Affidavit of Certification

Marlo Johnson, 859 Quincy St. NW WDC 20

Marlo Johnson

Certificate of Service to: Steven Sher
Holland & Knight
2099 PA Ave WDC
20006

on this 10th day of January, 2005
a true copy of the foregoing
pleading was mailed postage
Marlo Johnson