Government of the District of Columbia
ADVISORY NEIGHBORHOOD COMMISSION 3-D
P.O. Box 40846
Palisades Station
Washington, D.C. 20016

December 3, 2004

Mr. Geoffrey Griffis
Chair
Board of Zoning Adjustment
441 4th Street, NW
Suite 210-S
Washington, DC 20001

RE: Application #17259
Hearing Date: 12/21/04

Dear Mr. Griffis:

Advisory Neighborhood Commission 3D held its regularly scheduled meeting December 1, 2004, at Sibley Memorial Hospital's Ernst Auditorium. While a quorum was not present, a meeting was held and the commission voted 3-0-0 to oppose the application of Clark Place LLC and Ted and Mary Tschudy for a special exception to allow a rear addition to an existing single-family detached dwelling under Title 11, § 223, not meeting the rear yard requirement at premises 4641 Clark Place, NW. The commission feels strongly that their findings will be of help to the Office of Planning who will also present findings in this case.

Nathan Gross, Zoning and Land Use Specialist with Arnold & Porter, presented the case on behalf of the Tschudys and Mr. Bloom. Mr. Gross noted that the Tschudy put an addition on the rear of their home in 1979 and believed that all land extending to a fence behind the home was theirs. The rear yard of their 4646 Greene Place home abuts the rear yard of 4641 Clark Place. A survey was not done by the Tschudys at the time of their 1979 application to the BZA for Special Exception and subsequent Order #12997. In fact, three feet of land they have been enjoying for years, belongs to 4641 Clark Place, NW and therefore this Special Exception Application was filed to permit them to purchase the additional three feet of land from Mr. Bloom, owner of 4641 Clark Place. According to Mr. Gross, the sale of the three feet would put the property at 4641 Clark Place out of compliance with the rear yard setback requirement. Mr. Gross noted, that under section 223 of Title 11, "the zoning regulations contemplate variations in area requirements and for that reason grant special exceptions in cases like this one."

Of immediate concern to the commission was the fact that a special exception under Section 223 of Title 11 presumes the request will be submitted prior to the commencement of construction. This request is being submitted at the completion of construction. In addition there were several irregularities on the Self-Certification Form

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and supporting documents including the Application Form, Surveyor's Plat and Permit Application for resulting permit #B462371. It was noted that an earlier submission to the BZA was returned to the applicant for "deficiencies," however, the document received by ANC 3D contained notable irregularities.

- Page One of the Self-Certification Form: The section of Title 11 under which the Special Exception is listed indicates that the special exception is for Section 203, *Home Occupation*. In fact, the application is under Section 223, *Additions to One-Family Dwellings or Flats (R-1)*;

- Page Two of the Self-Certification Form: The side yard setbacks are noted to be eight feet but the *corrected* surveyor's plat indicates they are seven feet and includes a fireplace that protrudes further into the side yard.

- The Surveyor's Plat shows the proposed new rear addition to the dwelling but fails to show a proposed deck on the rear of the house that is seven feet above ground and extends to within 16 feet of the rear lot line. The plat shows a 25 foot rear yard setback.

- Permit #B462371 indicates that the existing permit was revised to "show approved deck on DC Surveyor's plat." The plat submitted did not show a deck.

- The Application for Construction Permits (revised), dated 6/8//04, indicates two stories existed at the time of the application and that two stories were proposed. The finished house at 4641 Clark Place has three stories. Further, the Statement of applicant, page 2 states, "The Clark Place house is a three-story, detached single-family dwelling."

Single Member District Commissioner, Ann Haas, led the commission through the application and noted the complexity of the application that affects two abutting properties, neither of which has the required rear yard setback of 25 feet.
In addition to the form and application irregularities, overall height and massing of the house were noted in relation to Section 223 of Title 11 -- *The light and air of the neighboring properties as well as privacy of use and enjoyment of neighboring properties shall not be unduly affected.* The house is neither compatible in scale nor does it suit the general character of adjacent and nearby houses. These two principles should guide additions and are designed to prevent the "*overbuilding of land.*" The deck at the rear of 4641 Clark Place towers over the back of the Tschudy's Greene Place property and places parties from either premise in very close proximity to one another. The loss of privacy is not minor as stated on page 7 of the applicant's statement. Section 223 is meant to prevent this very situation. If a high stockade fence were the easy solution to overbuilt lots it would be required by Title 11. It is the commission's finding that Section 223 has been exceeded in this particular case to mask questionable building practices.

Sympathy was extended to Mr. and Mrs. Tschudy that the vote was a disappointment for them. The decision reached was not the outcome they anticipated. It was further suggested that Mr. Bloom remove the deck to allow the required rear yard set back and then return to the ANC and BZA. It was noted that the Tschudy's have been responsible for all expenses related to this application for a special exception.

The Commission thanks the BZA and Office of Planning for consideration of its findings. We regard the irregularities listed above as substantial and sufficient to require additional investigation by the Zoning Administrator. A copy of this letter will be forwarded to Toye Bello for his review. The ANC also requests that any action on this application be postponed until the Zoning Administrator has conducted a thorough investigation into the means by which the irregularities were permitted to occur.

Sincerely,

Alma H. Gates

Alma H. Gates
Chair, ANC 3D

Cc: Mr. and Mrs. Ted Tschudy
Nathan Gross
Lewis Bloom
Toye Bello
David Clark