ANC Commissioners 8D

Robin Adams, 8D01

O.V. Johnson, 8D02
Chairperson

Absalom Jordan, 8D03
Treasurer

Soisette Lumpkins, 8D04

James M. Jones, 8D05
Secretary

Maria Powell, 8D06
Vice Chairperson

Theresa Jones, 8D07

Telephone (202) 561-0774
Fax: (202) 561-3078

GOVERNMENT OF THE DISTRICT OF COLUMBIA
ADVISORY NEIGHBORHOOD COMISSION 8D

4601 Hadley Memorial Hospital
Washington, DC 20032
ANC8D@VERIZON.NET

February 3, 2005

RECEIVED
D.C. OFFICE OF ZONING
2005 FEB -4 PM 2:37

Mr. Jerrily Kress
Director
Office of Planning
441 4th Street, N.W.
Suite 210 South
Washington, D.C. 20001

Re: Case No. 17281

Dear Ms. Kress:

This letter is submitted regarding Case No. 17281. A public meeting of this Commission was held on January 27, 2005 at which the matter was considered. Notice of the meeting was provided to the public on January 18, 2005. The Commission consists of seven (7) members six of which were present and voting at the meeting. The vote was a unanimous six (6) votes for the Resolution 2005-03 and issues of concern. The persons authorized to present the report for the Commission are Absalom Jordan and O.V. Johnson.

A copy of the resolution and issues of concern are attached.

Sincerely,

O.V. Johnson Chairperson

BZA
Case No. 17281
Exhibit No. 28

Board of Zoning Adjustment
District of Columbia
CASE NO. 17281
EXHIBIT NO. 28

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Ms. Jerrily R. Kress
Director
Office of Zoning
441 4th Street, N.W.
Suite 210 South
Washington, D.C. 20001

Dear Ms. Kress:

I am requesting that the waiver of rule 3115.1 in Case No. 17281 so that the submission of this ANC can be afforded "great weigh." This Commission was unable to meet the requirement for the submission of it's report due to ongoing attempts to gain clarification from the Department of Consumer and Regulatory Affairs regarding it's refusal to provide notice of applications for building or raze permits in the instant case.

Thank you for your assistance in this matter.

Sincerely,

O.V. Johnson, Chairman

Advisory Neighborhood Commission 8D
Resolution No. 2005-03
Opposition to Application in BZA Case No. 17281

Whereas, on December 13, 2004, The District of Columbia Board of Zoning Adjustment notified Advisory Neighborhood Commission of Case No. 17281 in which an application for a zoning variance was filed for a gas station to be located at 4675 South Capitol Street, S.W. in the District of Columbia;

Whereas, the Department of Consumer and regulatory Affairs is required by the Official D. C. Code Title 1 § 309.10 (c)(3) to "...provide at least twice a month by first class mail with a current list of applications for construction(building) and demolition(raze) permits within the boundaries of the Advisory Neighborhood Commission;"

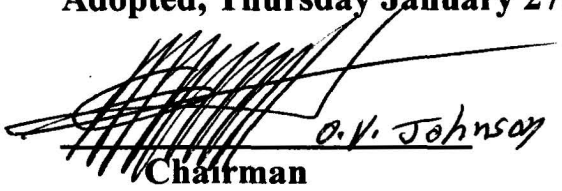
Whereas, the Official D.C. Code Title 1 § 309.10 (d) (2)and (3) (A) requires DCRA to hold in abeyance the processing of the permit pending a 30 day period and requires that any issues or recommendations submitted by the ANC to DCRA be given "great weight;"

Whereas the Department of Consumer and Regulatory Affairs failed to provide ANC-8D with proper written notice of the application for licenses or permits needed to accomplish ANC 8D's obligations under the ANC law thus denying the Commission its "great weight" consideration;

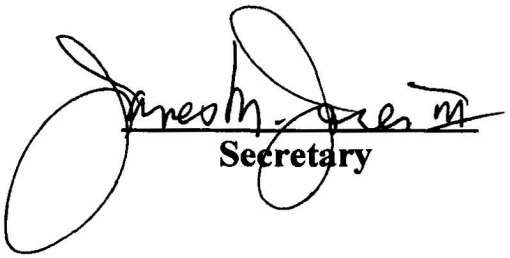
Whereas, Advisory Neighborhood Commission has not been afforded the opportunity to assess the impact that the proposed building permit would have on the neighborhood and has caused irreparable harm to the rights of ANC-8D and the citizens it represents;

BE IT THEREFORE RESOLVED, that Advisory Neighborhood Commission 8D opposes the approval of the application in BZA Case No. 17281 until the permit from the Department of Consumer and Regulatory Affairs has been submitted to the Commission as provided by law.

Adopted, Thursday January 27, 2005



Chairman



Secretary

ANC 8D ISSUES CONCERNING BZA CASE NO. 17281

ISSUE	ANC RECOMMENDATION
Failure of DCRA to notify ANC 8D of the application for the building permit as required by Title 1 § 309.10. (c) (3) of the Official D. C. Code.	**Deny application: because DCRA refused to notify the ANC of the application and in doing this violated the law.**
Whether building permit issued for gas station was valid. Title 1 §309.10(c)(3) requires notice and §309.10(d) (2) prohibits action on the license or permit until the 30 day period for ANC review has passed. The building permit in question was issued on the same day it was applied was not delayed for the 30 day period. Permit is not valid	**Deny application**
Zoning Notice issue Date posted may not comport with the zoning regulations.	
706.4 placed burden of proof on applicant. Applicant has not submitted data or a study which shows, on an hourly basis, the amount of traffic which will be generated by the gas station and why this amount of additional traffic will not be dangerous or objectionable. Our contention is that the station will during certain hours create dangerous traffic conditions, but at a minimum the traffic conditions which will be created will be objectionable.	**Deny application: The applicant, who has the burden of proof in this matter, can not demonstrate that the operation of a gas station at the site will not create dangerous or other objectionable traffic conditions.**

2005 Discontinuance: There has been a break in service of the gas operations at the site for more than 3 years.	**Deny application**
Application lists the address for operations as 4675 South Capitol Street, S.W., which is not the address for the actual operation. The gas station will be operated from 4665 South Capitol Street, S.W.	**Deny application because the address 4675 South Capitol Street, S.W. is that of a bank and if the address for the convenience store , 4665 South Capitol Street, S.W., is to be used then this would constitute and enlargement of the gas station.**
The Plat of for building permit issued by the Office of The Surveyor May, 5, 2004, and C of O 81569, indicates that the Square for the site of the gas station is 6274. The Cof O issued in 1963 (B42799) for a used car lot and the one issued in 1976 (B100638) indicate that the square on which the gas station existed was Square No. 6275. This is not the same square and there is no evidence that a gas station ever existed on Square 6274, thus the issue of zoning on that site for a gas station can not be established. Also the lots on the various C of Os do not agree.	**Deny application**
Issuance of Building Permit and construction of gas station on site prior to action by the Board of Zoning Adjustment on the "special exception" application. There is the presumption, in the issuance of the building permit, that the Board has no authority to deny the special exception.	**Deny the application**

ADVISORY NEIGHBORHOOD COMMISSIONED 8D TOWN HALL MEETING

ST. THOMAS MORE AUDITORIUM
4275 4TH Street, S. E.
Washington, D. C., 20032

THURSDAY, JANUARY 27, 2005
7:00 P.M.

A G E N D A

* ANC 8D Nomination and Election of Officers for 2005.
* Treasurer Reports.
* ANC 8D Security Fund for 2005.
* Reading of The Minutes.
* Southeast Brandywine Development Issues.
* Construction Issues of New Gas Station at 4600 Block South Capitol.
* Community Citizenry Concerns.

COMMISSIONERS: Robin Adams 8D01, O. V. Johnson 8D02, Absalom Jordan 8D03, Soisette Lumpkin 8D04, Jimmy Jones 8D05, Maria Powell 8D06, Theresa Jones 8D07.