BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 17310
EXHIBIT NO. 36

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Geoffrey Griffis, Chairman
District of Columbia Board of Zoning Adjustment
441 Fourth Street, N.W. - Room 210 South
Washington, D.C. 20001

Re: Board of Zoning Adjustment Application No. 17310 - 1812 35th Street, N.W. - Appeal of Zoning Administrator's Decision

Dear Mr. Griffis:

This firm represents 1812 35th Street Associates LLC ("Associates"), the owner of the real property located at 1812 35th Street, N.W., for which the Zoning Administrator approved the issuance of the building permit that is the subject of this proceeding. The Appellant has filed her Motion to Amend Appeal To Include New Revision to Prior Building Permit with this Board on October 11, 2005 (the "Motion to Amend"). The Motion to Amend contains several misstatements of fact which we wish to correct.

First, Associates has indeed obtained a further building permit (No. B477090), dated September 5, 2005; however, no construction pursuant to that permit has occurred. The subject property is built in accordance with the original permit and the roof overhang shown in Appellant's photographs is constructed as depicted in those plans, which is, as disclosed in the permit application attached to the Motion to Amend, projects approximately sixteen inches (16") from the structure.

Second, Appellant implies in her footnote 2 on the second page of the Motion to Amend that Associates and the District intentionally misled the Board by failing to disclose the existence of such a permit. Quite simply, the issue never arose in any colloquy with the Board and, moreover, the existence of such a permit was immaterial to the issue being decided by the Board which

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was whether or not the appeal was timely filed in the first instance.

Third, the Motion to Amend is patently disingenuous in concealing the fact that Appellant learned of the additional permit when the undersigned volunteered the permit's existence and provided her with a copy of the permit, the front elevation and the floor plan filed with the permit application. This omission is an not accidental one, but a calculated concealment intended to impugn Associates' good faith in dealing with Appellant.

Finally, the Appellant omits from her citation to 11 DCRM §§ 2502.1 and 2502.2, the fact that only a projection "over any required yard" is limited to two (2) feet. In an R-3 zoning district, there is no required side yard.

Respectfully submitted,

George R. Keys, Jr.

cc: Laurie B. Horvitz, Esq.
Stephanie Ferguson, Esq.
Andres Dan
Gisela G. Garcia Tuñon