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June 7, 2005

Via Hand Delivery

Mr. Geoffrey Griffis, Chair
Board of Zoning Adjustment
441 Fourth Street, NW
Suite 210
Washington, D.C. 20001

RE: BZA Application No. 17327, 1812 35th Street, N.W. – Special Exception Under Section 223 of the Zoning Regulations

Dear Mr. Chairman and Members of the Board:

Ms. Stancioff has applied for party status in the above-referenced proceeding. She resides next door to the Applicant and has filed a memorandum opposing the special exception application.

At this time, we are writing on Ms. Stancioff's behalf to address the recently requested continuance of the hearing. By letter dated June 6, 2005, the Applicant's new attorney has asked for a continuance of today's hearing. Less than twenty-four hours before the hearing, the Applicant has filed a letter requesting a continuance of at least sixty (60) days. Although Ms. Stancioff certainly appreciates all efforts by the Applicant to respond to the concerns expressed by the Office of Planning and by Ms. Stancioff, she opposes the continuance for the reasons set forth below.

First, the Applicant has been aware of the zoning issues associated with its project for at least four months. During that entire time period, construction has proceeded. The Applicant should not be allowed to delay this proceeding and concurrently complete the building. The request for continuance references the "as built" structure and implies that revisions to the existing structure may be difficult from an economic and/or cost perspective. These are the risks that the

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Applicant took when it proceeded with construction under a cloud of zoning concerns. Unfortunately, the Applicant has not promised to preserve the status quo with respect to construction activities during the pendency of this special exception process.

In support of its request for continuance, the Applicant notes that an attorney was just retained on June 1, 2005. Although a new attorney has been retained recently, the Applicant has had the benefit of legal representation since at least December of 2004. Mr. Peter Goldman, Esquire, has been involved in this zoning matter for many months, attended the ANC meeting on behalf of the Applicant, and apparently communicated with DCRA officials regarding the zoning issues.

Consideration of the relevant issues already has been unduly protracted. On February 22, 2005, Ms. Stancioff's filed an appeal relating to the applicable building permits for 1812 35th Street, N.W. (Appeal No. 17310). To date, no hearing has been held on that matter. Instead, the hearing on that appeal was scheduled for May 24th and then was continued *sua sponte* by the BZA in order to hear the special exception application first. Now, the Applicant asserts that the *rescheduled* hearing on Ms. Stancioff's appeal will not be impacted by the request for continuance of the special exception application. This argument fails to recognize that the Appeal already has been delayed by four months (from May 24th until September 20th). Under these circumstances, the requested continuance certainly would jeopardize timely consideration of the zoning issues that have been pending before the Board since February 22, 2005. Notably, § 3105.11 of the Rules of Practice and Procedure before the Board of Zoning Adjustment only contemplates short continuances. In fact, Ms. Stancioff contends that the two cases should, at this juncture, be scheduled for expedited consideration, based in part upon the ongoing construction activities at the site. See 11 DCMR § 3116.1.

Applicant's request seeks an unduly long continuance. The Applicant has not articulated any reason why it would need at least two more months in order to complete the referenced evaluation and review process. The architect for the project is a member of the owner's family.

Undersigned counsel stated her opposition to the continuance during telephone conversations with Applicant's attorney on June 3, 2005 and June 6, 2005. During those conversations, undersigned counsel reiterated concerns about the ongoing construction of the building during any such continuance.

Thank you very much for your consideration of this matter.

Sincerely,

Laurie B. Horvitz, Esq.
Attorney for Deidre O. Stancioff

cc: Advisory Neighborhood Commission 2E (via facsimile)
D.C. Office of Planning (via facsimile)
George R. Keys, Jr. , Esq. (via facsimile)