

JORDAN & KEYS, PLLC

ATTORNEYS AT LAW

SUITE 710

1400 SIXTEENTH STREET, N.W.

WASHINGTON, D. C. 20036-2217

(202) 483-8300

FACSIMILE (202) 328-6153

gkeys@jordankeys.com

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GEORGE R. KEYS, JR.†

†Also Admitted in Maryland

March 11, 2010

OF COUNSEL:

HAROLD E. JORDAN

HAND-DELIVERED

Marc D. Loud, Chairman

District of Columbia Board of Zoning

441 4th Street, N.W. - Room 210 South

Washington, D.C. 20001

Re: BZA Application No. 17337 - Application of N Street Follies LP

Dear Mr. Loud:

This firm represents N Street Follies LP (the "Applicant") in connection with the remand of the case from the D.C. Court of Appeals to the Board. Pursuant to §§ 3105.11 and 3117.3(e) of Rules of Practice and Procedure, the Applicant respectfully moves for a continuance of the public hearing scheduled for March 16, 2010, until a future date as determined by the Board. The reasons for this request arise from the outcome of the most recent proceedings before the District of Columbia Historic Preservation Review Board ("HPRB") at its December 16, 2009 public meeting. At this meeting, representatives of the Tabard Inn, a party opponent in the instant special exception application (the "Tabard"), appeared and asserted that there were discrepancies in the Applicant's plans, then being presented to HPRB. In particular, it was alleged that: the relative heights of the subject property and the Tabard Inn were inaccurately depicted in the Applicant's plans, the Applicant failed to note the existence of a party wall on the eastern property line of the subject property in setting forth its demolition and construction plans and the Applicant utilized a lot width for Lot 835 that was six inches (6") larger than shown on the D.C. Surveyor's Plat.

As a consequence of the Tabard's assertions, many of which may be correct as stated but of *de minimis* impact on the Applicant's plans, the HPRB instructed the parties to confer and agree on a common set of dimensions for the existing buildings on the subject property and for the Tabard Inn. The process of attempting to reach agreement on these basis facts has been protracted. It may be useful to provide the Board with a chronology of these efforts as a context for the request for continuance:

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 17337
EXHIBIT NO. 107

Board of Zoning Adjustment
District of Columbia
CASE NO. 17337
EXHIBIT NO. 107

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- December 16- HPRB instructs the Applicant and Tabard to confer and charges Steven Callcott of the Historic Preservation Office staff to supervise the collaboration. The Applicant, Tabard and HPO representatives met immediately following the HPRB meeting and the applicant Agreed to provide a method to resolve measurement issues.
- December 18- The Applicant proposes in writing to Tabard that the parties engage a single surveyor (the Applicant suggested using the Tabard's surveyor) and attaches diagrams showing about 50 data points for which spot elevations and/or horizontal dimensions should be determined on the Applicant's and the Tabard's property and such determinations would be conclusive and binding.
- December 21- Tabard rejects Applicant's proposal and advises that a counter-proposal will be forthcoming.
- December 22- The Applicant requests HPO assistance in mediating an agreement on a process to arrive at the common facts requested by HPRB. HPO expresses an inability to mediate and suggests that each party develop facts separately as best they can.
- January 6 - Tabard makes an alternative proposal that the Applicant engage a surveyor and share the survey results with Tabard. Tabard provides the results of its survey with about 30 spot elevations of the Tabard Inn and neighboring property, some of which respond to the Applicant's request for information.
- January 22- The Applicant again requests HPO intervention to obtain data from Tabard; HPO passes along the request.
- February 1- The Applicant provides HPO with a memorandum detailing the 100 exterior and interior data points required.
- February 2- Tabard provides a surveyor's product roughly equivalent to what was requested on December 18 without preamble or advance notice.
- February 2- The Applicant's architect requests a proposal for a survey and requests that the surveyor obtain remote measurement of the Tabard Inn without entering that property.
- February 22- The Applicant enters into a contract for surveying services with Snider & Associates.

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March 3 - Due to weather conditions in February, survey work does not begin until this date with full results not expected until March 19, 2010.

As a consequence of this chronology, the Applicant's architects cannot now certify to HPRB or this Board that they know the exact spot elevations and horizontal dimensions of all of the complex roof structures and profiles of all existing buildings on the subject property and on the Tabard property. To the best of the architects' knowledge, the likely results of the survey will not significantly alter the conclusions to be derived from the relationship of the adjoining properties or have any effect on the zoning relief required. With the delivery of the survey results, the Applicant intends to make any necessary adjustments to the plans and appear before the HPRB at the April 22, 2010 meeting. The Applicant believes that the issues before this Board will be informed and simplified if the HPRB has made its determination regarding the Applicant's proposed modifications to the subject property based upon plans which respond to the Tabard's allegations of dimensional error. To do otherwise would have this Board and HPRB expressing judgment on what potentially may be two different sets of plans.

For all of the foregoing reasons, the Applicant moves that the Board continue this public hearing at a time following the HPRB meeting on April 22, 2010.

Very truly yours,


George R. Keys, Jr.

cc: Kinley R. Bray, Esq.
Science Services, Inc.
Karen Thomas (OP)
Advisory Neighborhood Commission 2B
Morton A. Bender