November 8, 2005

Mr. Geoffrey Griffis
Chairperson
District of Columbia Board of Zoning Adjustment
441 4th Street, NW Room 210
Washington, DC 2001

Subject: BZA Case # 17385, 936 N Street NW

Dear Mr. Griffis:

Thank you for allowing me to express my views regarding the above application. I am the owner and reside at 1239 10th Street NW that is within 200 feet of the 936 N Street NW. My property is one of several on 10th Street NW that would be adversely impacted if the Board of Zoning Adjustment (BZA) grants a variance in the above BZA case.

I support the rehabilitation of vacant properties such as 936 N Street NW. However, I am requesting that the BZA deny the application as submitted because the applicant has not met the burden of proof as required by the applicable zoning regulations. Additionally, the building can be put back in service without expanding the nonconforming use. Granting the variance would adversely affect my property and the historic Blagden Alley neighborhood and would impair the intent, purpose and integrity of the R-4 District.

Attached are my written comments that support my request to deny the application. Thank you again for your consideration.

Sincerely,

Donna Clarke

BZA
Case No. 17385
Exhibit No. 31

Board of Zoning Adjustment
District of Columbia
CASE NO. 17385
EXHIBIT NO. 31

**Comments submitted by Donna Clarke**
**1239 10th Street NW**
**Washington, DC 20001**

**November 8, 2005**
**BZA Case # 17385, 936 N Street NW**

**Issue:** Applicant is requesting approval of variances to the number of stories and to permit enlargement of an existing nonconforming structure.

**Request:** The Board of Zoning Adjustment (BZA) should deny the applicant's request for zoning relief.

**Reason:** The applicant has not met the burden of proof:

(1) **The applicant has not met the burden of proof that the property exhibits specific uniqueness with respect to exceptional shape, narrowness, shallowness, topography or other extraordinary or other exceptional situations or conditions.**

The applicant has not submitted documentation relating to the condition, size or shape of the land or the building to substantiate its burden. The property is rectangular in shape and does not have a significant slope or other unique natural characteristic. Additionally, the applicant has not provided sufficient evidence that the building is "in an extraordinary or exceptional situation or condition". The building can be rehabilitated without expanding its nonconforming use.

(2) **The applicant has not met its burden of proof that the zoning regulations result in a practical difficulty or undue hardship.**

The applicant has not provided evidence of practical difficulty or undue hardship. The applicant has not submitted a construction analysis to prove that the construction of an additional floor at 936 N Street NW is necessary and integral to the completion of the rehabilitation and use of the building. The proposed architectural plan and documentation submitted does not support the practical difficulty or undue hardship alleged. The proposed plan could be easily modified and the rehabilitation of the building could be completed to comply with zoning requirements without expanding the nonconforming use.

The applicant has not provided evidence of detailed plans and permits for plumbing, electric and mechanical work and approvals by DCRA for the work completed to date to prove that the construction of the addition has been substantially completed. Removal of a plywood frame that contains no windows, doors or roof does not meet the burden of an undue hardship.

Additionally, the applicant has not submitted financial data to verify financial hardship that was not within the applicant's control. The original stop work order was issued due to non compliance with the construction codes.

The applicant has not met its burden of proof regarding practical difficulties. since litigation is pending in Superior Court between the applicant and the City, 936 N St. LLC v. District of Columbia, No. 05-6559 (D.C. filed August 18, 2005) The facts and circumstances relating to issuance of construction permits has not been determined. Therefore, there is no evidence that relief should be granted on this basis.

**(3) If relief were granted there would be a substantial detriment to the public good.**

The relief requested would impair the intent, purpose and integrity of the Zoning Regulations and Map because the variances are contrary to the intent of the R-4 District. Increasing the size and density of the buildings sets precedence for expansion of non-conforming uses that will be a detriment to the historic area

The addition as proposed negatively impacts the surrounding properties. In this specific instance, expanding the non-conforming use significantly blocks the light and obstructs the view of the alley dwellings and surrounding historic district from the 10th street properties. Other environmental concerns include the impact of the need for additional parking spaces and trash. The applicant did not provide sufficient evidence as to how it would mitigate negative impacts to the 10th Street properties. The height and location of the set back of the addition does not mitigate the negative impact to the 10th Street properties.