Response to 21 February 2018 BZA hearing Case 19683 by Clayton Chilcoat (211 3rd St SE)
as requested by the board

Ladies and Gentlemen of the Board of Zoning Adjustment:

Per your request, I would like to respond to the testimony given by the applicants for case 19683 on 21 February, 2018.

1. The board queried the applicants regarding their intended use of the lot at the time of purchase. The applicants initially responded that they had intended to use the lot for parking, and if in the future favorable changes in regulations allowed, potentially build a dwelling on the lot. This shows they were aware of, and accepted, the limitations on the lot at the time of purchase. While changes to the regulations have been made, they are not sufficient to allow construction at this time; hence the applicant's request for relief.
2. The applicants are real estate professionals practicing in Capitol Hill. As such, I hold that it is a reasonable belief that they understood the regulatory requirements impacting the lot when they purchased it. The applicants testified to the board that their architect informed them at the time of purchase that construction on the lot would be permitted. The board joked that the applicants should replace their architect, and the applicants replied that they had. Given the statement made by the applicants in my first point (above) in combination with their status as real estate professionals, I do not believe that the applicants were unaware of the limitations on the lot. I believe the applicants purchased the lot as an investment for future development at such time as the regulations allowed construction of a dwelling, which they currently do not. Investments are admirable, but I contend that this one is not ready to pay off yet.
3. The applicants pleaded that the board approve their requests for exceptions to the building regulations so that their family could live in the Capitol Hill neighborhood, their child could continue to go to her school, and they could continue to enjoy the local parks. The applicants already own, and reside in, a beautiful historic home in the neighborhood (approximately 70 feet from the lot in question). Their request has no bearing on their ability to live in the neighborhood, since they already live in the neighborhood.
4. The applicants testified acknowledgement that construction on the lot may likely kill our Magnolia tree, and they stated they are willing to pay any associated fines and replace the tree in kind. My wife and I do not want a replacement tree. We want our tree. From a practical standpoint, how do the applicants propose to replace a mature Magnolia tree that has a 70 inch circumference?
5. The board noted that the applicants had (at the time of the hearing) only retained counsel two weeks earlier. The applicants testified that they has previously retained other counsel and had needed to change representation. While this may be the case, prior to their current representation:
    a. the applicants never informed us that they had representation
    b. the applicants interacted with us and other parties directly in all matters
    c. the applicants were never obviously accompanied by representation at BZA and ANC meetings.
6. The applicants' current architect testified that the alley and the lot were almost always in the shadow of larger structures in the area (specifically the Capitol Hotel). While providing this testimony, the applicants displayed a picture of the lot in full sunlight (as could be distinguished by the shade present under our Magnolia tree). While I disagree with their subjective quantification of the illumination of the alley and lot, I can definitively state that our rear yard

receives substantial and welcomed afternoon sunlight during most of the year. Until I receive objective studies for my property of the existing sunlight and comparison studies impacted by the proposed construction, I will maintain my opinion that any multi-story construction, especially if the rear yard setback is excused, will decrease the sunlight on my property.

7. The applicants testified that they sent us an offer to sell us the lot in 2015. I have no recollection of receiving this offer. To be fair, we have been required to move frequently for work so it is possible that the applicants attempted to reach us and the offer was lost in the mail.

As I testified before, I cannot conceive of any structure that could be built on the lot in question that would not negatively impact the financial, esthetic, and emotional value of our property. After the conclusion of the hearing on 21 February, I received an email from our current tenants informing me of the potential for construction on the lot and how they believe it will decrease the value and rental potential of our property.

Much as the applicants professed, my wife and I love our neighborhood. We spent countless weekends wandering around DC and dreaming of being able to live in a beautiful historic community. On Valentine's Day of 2008, our dream came true. Ironically I received a call 72 hours later informing me of orders to deploy to South Korea. We have not been able to dwell in our home for any long stretch of time over these past 10 years – never for more than a handful of months at a time between assignments, and we do not currently reside in our home. But 211 3rd ST SE is our HOME. This is where we want to be, and this is where we plan to retire and grow old.

As I stated in previous written testimony, I understand that the zoning requirements exist to protect the safety, welfare, and existing property of the neighborhood and the property owners. I also completely support the rights of my neighbors to do what they want on their properties within these existing requirements, as well as the rights of my neighbors to request relief from these requirements through the empowered authorities. I understand when the BZA grants relief from the requirements for the greater good of the neighborhood. But in this case, granting relief from the zoning requirements specifically harms abutting properties to provide an investment windfall for the applicant. Granting relief in this case does not "right a wrong" done to the applicant since the applicant knowingly purchased a vacant lot in hopes of future changes to the regulations. Granting relief in this case does not provide the applicant a chance to live in the neighborhood since they already own a home 70 feet away.

Thank you for allowing us to express our concerns in this matter, and thank you for considering the impact your decision will have on our home. We truly appreciate your thoughtful deliberation.

Sincerely,

Clayton D. Chilcoat