

COMMONWEALTH COURT OF PENNSYLVANIA  
DOCKETING STATEMENT  
NOTICE OF APPEAL

Complete this form and return an original and one copy to the Chief Clerk of the Commonwealth Court within 10 days of the date of the attached notice.

Failure to timely return this docketing statement, with required attachments and certificate of service, may result in dismissal of the appeal.

Attach additional sheets if needed.

Case Caption: Manayunk Weirb - Council et al v. Phda Zoning Ads  
Commonwealth Court Docket No.: 157 CD 2008

**Required Attachments:**

- (1) Attach a copy of all previous opinions, if any, and all pertinent orders in this case (including, for example, the order and adjudication of the Zoning Hearing Board, or similar decision).
- (2) Attach a **Statement of Issues** of no more than *two pages* in length, containing a summary sufficient to explain the case, (*See Order of September 15, 1999, 29 Pa. Bull. 5064, 210 Pa. Code §67.71*) and indicating the relief requested. **NOTE: Information in the Statement of Issues is used to screen cases for the Court's Mediation Program and does not bind appellant. Any issue omitted will not constitute a waiver of the issue on appeal.**
- (3) Attach a **certificate of service** indicating service of the docketing statement, statement of issues, and all attachments on all other parties.

**A. Timeliness of Appeal**

- (1) Date of judgment, order, or decree appealed: September 12, 2007
- (2) Date notice of appeal filed: January 11, 2008

**B. Appealability of Order**

- (1) Is the order appealed a final order?  Yes  No
- (2) Is this matter disposed of as to all parties in the trial court?  Yes  No

If no, what is the status of this case as to the remaining parties?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- (3) If the order is not a final order, pursuant to what Rule of Appellate Procedure is this order appealed, e.g., Pa. R.A.P. 311, 313, 341(c)? \_\_\_\_\_

Please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. Are there any related cases, including cross-appeals, pending in this Court or any other federal or state court?        Yes  No

If yes, please list the court, caption and docket number(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

D. Was there a trial or hearing before the trial court?  Yes        No If yes, have you made arrangements to have the testimony transcribed?  Yes        No

E. Have you paid the required deposit for the transcript?        Yes  No

If no, why not? Estimate of transcript has not yet been reviewed

F. Are there any real parties in interest not appearing in the trial court caption?        Yes  No  
If yes, please list their names and the names and addresses of their counsel, if any: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

G. Have there been any previous efforts to settle this matter?        Yes  No

If yes, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

H. Are you aware of any conflict of interest that may exist with respect to any party, lawyer, or issue in this case that may suggest the need for recusal by any judge of this court?  
       Yes  No

If yes, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature

*Henry L. Schuman Jr.*

Date

*2/9/08*

Name (Printed)

*Henry L. Schuman Jr.*

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*215-257-8733*

Counsel for (Name of Party)

*Manayunk Neighborhood Council*

# NOTICE OF DECISION

APPLICATION #: 060428029

DATE OF DECISION: 11/30/2006

CAL #: 06-0812

**ATTORNEY:** BRETT D. FELDMAN, ESQ.  
260 S. BROAD ST.  
4TH. FLOOR  
PHILADELPHIA, PA 19102

**APPLICANT:** RECTOR STREET ASSOCIATES L.P  
200 S. BROAD ST.  
6TH. FLOOR  
PHILADELPHIA, PA 19102

**OWNER:** RECTOR STREET ASSOCIATES, L.  
200 SOUTH BROAD ST.  
6TH. FLOOR  
PHILADELPHIA, PA 19102

**LOCATION OF PROPERTY:** 3 RECTOR ST

**T H I S I S N O T A P E R M I T**

The Zoning Board of Adjustment, having held a public hearing in the above numbered appeal, after proper public notice thereof, has decided that the request for (a) ZONING VARIANCE(S) is:

**GRANTED**

ALL VARIANCES / CERTIFICATES / SPECIAL USE PERMITS GRANTED HEREIN ARE SUBJECT TO THE FOLLOWING CONDITIONS:

1. A PERMIT MUST BE OBTAINED FROM THE DEPARTMENT OF LICENSES AND INSPECTIONS, PUBLIC SERVICE CONCOURSE, 1401 J. F. K. BLVD., WITHIN ONE CALENDAR YEAR FROM THE DATE OF THIS DECISION.
2. ALL CONSTRUCTION MUST BE IN ACCORDANCE WITH PLANS APPROVED BY THE ZONING BOARD OF ADJUSTMENT.
3. A NEW APPLICATION AND NEW PUBLIC HEARING WILL BE REQUIRED FOR FAILURE TO COMPLY WITH THE FOREGOING CONDITIONS.
4. FURTHER CONDITIONS:

\*\*\*\*\*PROVISO: CENTRAL AIR CONDITIONING; GARBAGE DISPOSAL IN KITCHEN.\*\*\*\*\*

By Order of the ZONING BOARD OF ADJUSTMENT  
ELEANOR M. DEZZI, Sec.

NOTE: All appeals from this decision are to be taken to the Court of Common Pleas of Philadelphia County within 30 days from the date of this decision.

### Findings of Fact

1. On April 28, 2006, Rector Street Associates, L.P. ("Applicant"), applied to the Department of Licenses and Inspection for a Zoning Permit and/or Use Registration Permit to permit the erection of a five (5) story addition above an existing two (2) story building (plus basement) to be used for multi-family dwelling having twenty-two (22) single-family dwelling units on floors one (1) through six (6) with accessory storage on each floor, fifteen (15) accessory parking spaces to be located at the basement level with six (6) additional accessory parking spaces at the first level, a lobby to be included at the first floor, erection roof deck atop the sixth floor, newly constructed seventh floor addition housing elevator penthouse and balconies at floors two (2) through six (6). (See Application for Zoning Permit and/or Use Registration Permit Number 060428029)
2. Applicant maintains a business address at 200 South Broad Street, Sixth Floor, Philadelphia, PA 19102 (See Application for Zoning Permit and/or Use Registration Permit Number 060428029; a copy of the Application; copy of the Petition of Appeal; and a copy of the Notice of Appeal)
3. On June 11, 2006, the Application was refused for Application Number 060428029 by the Department of Licenses and Inspections. (See Notice of Refusal of Permit for Application Number 060428029, dated June 11, 2006)
4. The Subject Property is designated G-2 Industrial and is currently vacant. (See Application for Zoning Permit and/or Use Registration Permit Number 060428029)
5. The Refusal was issued because the proposed use does not conform to the use designated for a G-2 industrial district, specifically that dwellings other than for a caretaker, watchman or custodian on the same lot as the main use are not permitted in this district, the required side yard area is six (feet) minimum (the proposed being nine (9) -inches and required-accessory-parking-of-thirty-four (34)-spaces-(the-proposed-accessory--parking-being-twenty-one (21) spaces. (See Notice of Refusal of Permit for Application Number 060428029, dated June 11, 2006; and see also §14-508 of the Philadelphia Zoning Code)
6. Applicant filed a Petition of Appeal to the Zoning Board on November June 16, 2006. (See Petition of Appeal, dated June 16, 2006, in Calendar No. 06-0812)
7. The Appeal states that Applicant wishes to legalize the use of the Subject Property as a seven (7) story residential building, for twenty-two (22) families, accessory storage, fifteen (15) accessory parking spaces at the basement level and six (6) additional accessory parking spaces at the first level, with a lobby in the first floor, a roof deck atop the sixth floor, a newly constructed, seventh floor addition housing elevator Penthouse, balconies at floors two (2) through six (6) and demolition as per plans. A literal enforcement of the Zoning Code will impose an unnecessary hardship and the limited demolition will not adversely affect the public health, safety, welfare or traffic in the area. (See Petition of Appeal, dated June 16, 2006, in Calendar No. 06-0812)

8. Prior to the Hearing in Calendar Number 06-0812, Manayunk Neighborhood Council drafted an unaddressed letter outlining potential uses of the Subject Property dated August 13, 2006. (See letter of Kevin Smith, President, Manayunk Neighborhood Council dated August 13, 2006)
9. Prior to the Hearing in Calendar Number 06-0812, Manayunk Neighborhood Council sent a letter of opposition with exhibits to the Zoning Board dated August 23, 2006. (See letter from Kevin Smith, President, Manayunk Neighborhood Council to David Auspitz, Zoning Board, dated August 23, 2006)
10. Unmarked exhibits include: color aerial and other photographs of the surrounding area; Lower Venice Island Master Plan Draft Report dated October, 2005; Design Guidelines for the tow path dated January, 2005; an unmarked rendering; and information concerning Thyssen Krupp, elevator manufacturer.
11. Protestant exhibits include: exhibit 1 - Deed from Flora Karasion to Raymond S. Labov dated December 23, 1986; unnumbered Philadelphia Inquirer article dated December 31, 2001 regarding Richards Apex, Inc.; and unnumbered color aerial photograph.
12. A Hearing was held in Calendar No. 06-0812 before the Zoning Board on October 4, 2006 (See N.T. (06-0812) 1)
13. On the day of the October 4, 2006 Hearing, a letter in support of the Application was submitted to the Zoning Board by the Fourth Council District. (See letter from Julia Chapman, Fourth Council District to David Auspitz, Zoning Board dated October 4, 2006)
14. At the Hearing on Calendar No. 06-0812, Applicant submitted an exhibit package which contained the following: a copy of the Application; a copy of the Notice of Refusal; a copy of the Petition for Appeal; photographs of the Subject Property and Surroundings and Interior; Agreement of Sale; Color Renderings; Zoning Plan and Elevations; Floor Plans, Zoning Map/Aerial Photographs; relevant Philadelphia Code Sections (14-508); Hardship Affidavit of Property Owner Raymond Labov; letter of support from City Council Fourth District (formerly Michael Nutter) to Board of Building Standards dated July 20, 2006; support letter of Manayunk Development Corporation dated August 22, 2006; support letter of the Preservation Alliance dated August 21, 2006; Historical Commission Approval Letter and Minutes dated June 21, 2006 and February 24, 2006 (Conceptual Approval and Minutes included as well); Manayunk Development Corporation parking availability letter dated August 22, 2006; and a Memorandum of Law. (See Applicant's Exhibit Packet)
15. On October 4, 2006, Joy L. Griffin, a neighbor to the Subject Property, testified in opposition to the Application on the basis that the addition of more apartments would be

a hardship on the neighborhood. (See Appearance Statement for Joy L. Griffin; and N.T. (06-0812) pages 68-69)

16. On October 4, 2006, Jane Glenn, Manayunk Neighborhood Council testified in opposition to the Application on the basis that the resulting building would be create a blockade to the river. (See Appearance Statement for Jane Glenn; and N.T. (06-0812) page 58)

17. On October 4, 2006, John Hunter, Manayunk Neighborhood Council testified in opposition to the Application on the basis that the resulting building Joy L. Griffin, a neighbor to the Subject Property, testified in opposition to the Application and expressed concern regarding the design and footprint of the planned structure and parking. (See Appearance Statement for John Hunter; and N.T. (06-0812) pages 48-52)

18. Subsequent to the Hearing, Applicant's counsel submitted a Proviso with a Revised Zoning Plan and Elevation and Exterior Elevations Plan. (See letter from Brett D. Feldman, Esq. to Chairman Auspitz, Zoning Board, dated November 3, 2006)

19. The Zoning issued its Decision granting Applicant's variance on November 30, 2006. (See Notice of Decision for Application Number 060428029, dated November 30, 2006).

#### Conclusions of Law

1. Pursuant to §14-1801(l)(c) of the Philadelphia Zoning Code, the Zoning Board of Adjustment may, after public notice and public hearing authorize, upon appeal, in specific cases, such variance from the terms of this Title as will not be contrary to the public interest<sup>^</sup> where-, owing to special-conditions<sup>^</sup>ar literal enforcement-of-the-provisions<sup>^</sup>-of this Title would result in unnecessary hardship, and so that the spirit of this Title shall be observed and substantial justice done, subject to such terms and conditions as the Board may decide.

2. Pursuant to the Zoning code §14-1802(1) and (2), the Zoning Board is required to consider twenty (20) separate criteria prior to granting a variance including, but not limited to, whether a literal enforcement of the provisions of this Title would result in unnecessary hardship; that the conditions which the appeal for a variance is based are unique to the property; that the variance will not substantially or permanently injure the appropriate use of adjacent conforming property; that the special conditions or circumstances forming the basis for the variance did not result from the actions of the applicant; that the grant of the variance will not substantially increase congestion in the public streets; that the grant of the variance will not impair an adequate supply of light and air to the adjacent property; and that the grant of the variance will not adversely affect the public health, safety or general welfare.

3. § 14-508(3)(b) of the Philadelphia Code contains the provisions for allowable uses in industrial districts. The Subject Property is designated G-2, which does not permit dwellings, except such as are used for the residence of a caretaker, watchman, or custodian on the same lot with the principal use and located at least ten (10) feet from any other buildings. The proposed use is for a residential building, disallowed under the Zoning Code. Therefore a variance is required for the proposed use.

4. § 14-508(4)(c)(2) of the Philadelphia Code provides for the minimum side yard area requirements, specifically that if a side yard is used, there must be a minimum of six (6) feet. The proposed use is for nine (9) inches, in contravention of the Code. Therefore a variance is required for the proposed use.

5. §14-508(3)(b) of the Philadelphia Code contains the provisions for allowable uses in industrial districts. The Subject Property is designated G-2, which does not permit dwellings, except such as are used for the residence of a caretaker, watchman, or custodian on the same lot with the principal use and located at least ten (10) feet from any other buildings. The proposed use is for a residential building, disallowed under the Zoning Code. Therefore a variance is required for the proposed use.

6. § 14-508(9) of the Philadelphia Code provides with every building erected in this district there shall be provided one off-street parking space for each 1,000 square feet in such building, amounting to thirty-four (34) spots at the Subject Property. The proposed use calls for twenty-one (21) spots in contravention of the Code. As such, a variance is required.

7 The Supreme Court of Pennsylvania has defined a variance as,

"... a departure from the exact provisions of a zoning ordinance... granted where a strict enforcement of the literal terms of the ordinance will result in unnecessary - hardship upon a particular-property over- and above the- hardship that may be-imposed... on all properties in that community." Brennen v. Board of Adjustment, 409 Pa. 376, 187 A.2d 180 (1963).

8 Zoning ordinances are presumed valid. The burden is upon the party challenging such an ordinance to show otherwise. Lantos v. Zoning Hearing Board of Haverford Township, 621 A.2d 1208, 153 Pa. Cmwlth. 591 (1993).

9 The burden of proof in obtaining a variance is upon the landowner. Evidence in support of the variance must be presented showing a hardship unique or peculiar to the property. Valley View Civic Association v. Zoning Board of Adjustment, 501 Pa. 550, 462 A.2d 637 (1983); Yeager v. Zoning Hearing Board of the City of Allentown, 779 A.2d 595 (Pa. Cmwlth. 2001).

10 The hardship, underlying the request for a variance, must not be self-created. Manavunk Neighborhood Council v. Zoning Board of Adjustment, 815 A.2d 652 (Pa.

Cmwlth. Ct. 2002); N. Pugliese, Inc. v. Palmer Township Zoning Hearing Board, 140 Pa. Cmwlth. 160, 592 A.2d 118 (1991). -

11 An adverse economic impact alone is not sufficient to grant a variance. SCRUB v. Zoning Board of Adjustment, 814 A.2d 847 (Pa. Cmwlth Ct. 2003).

12 After a review of the record and the consideration of the evidence presented, the Zoning Board finds that the Applicant has met its burden in support of the variance. Granting a variance in the instant matter would not create an overuse of the property and overall not pose a threat to the health, safety and welfare of nearby residents in contravention of §14-101. Applicant has provided ample indicia of hardship. Therefore, the Zoning Permit and/or Use Registration Permit is granted.

Respectfully Submitted,

Administrator, Zoning Board of Adjustment

Vote of the Board on Application No. 060428029

David L. Auspitz	Yes.
Eleanor M. Dezzi	Yes.
William E. Hall	Yes.
Judith Eden	Yes.
Samuel Staten, Jr.	Yes.



DEC 04 2007

IN THE  
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
CIVIL TRIAL DIVISION

FIRST JUDICIAL DISTRICT OF PA  
US 111111

MANAYUNK NEIGHBORHOOD : COURT OF COMMON PLEAS  
COUNCIL, Inc. and KEVIN SMITH : PHILADELPHIA COUNTY

Appellants

v.

ZONING BOARD OF : DECEMBER TERM, 2006  
ADJUSTMENT, CITY OF : No.: 3448  
PHILADELPHIA, and RECTOR :  
STREET ASSOCIATES, L.P. :

Appellees/Intervenors

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ORDER & OPINION

GREENSPAN, J.

DATED: December 4, 2007

Manayunk Neighborhood Council, Inc. and Kevin Smith have appealed from the November 30, 2006, decision of the Philadelphia Zoning Board of Adjustment ("Board") in which the Board granted variances to Rector Street Associates, L.P. to construct a residential addition to an historic industrial warehouse.

The relevant facts are as follows. The building at issue is a warehouse located at 3 Rector Street in the Manayunk section of Philadelphia. (N.T. 10/04/06: 3).<sup>1</sup> 3 Rector Street is an historic structure situated along the river and pedestrian tow path. (N.T. 10/04/06: 4). Originally a mill, the building dates back to the late 1800's. (N.T. 10/04/06: 4, 54). Today, the building is a vacant warehouse with G-2 industrial designation. (N.T. 10/04/06: 5, 39, 44, 75). G-2 industrial zoning prohibits residential

<sup>1</sup> N.T. refers to the notes of testimony from an October 4, 2006, hearing before the City of Philadelphia Zoning Board of Adjustment.

use. While zoned for industrial use, the building housed a plumbing and heating supply business (Labov's) from 1946 to 2001.<sup>2</sup> (N.T. 10/04/06: 4-5). Due to the combined effects of the inability to compete with large, super-store competitors and the increasing difficulties resulting from the age of the building, mounting maintenance costs and lack of loading areas for customers and deliveries, the failing business vacated the premises in 2001. (N.T. 10/04/06: 4-6, 44). The vacant building was then placed on the real-estate market where, despite the great heights of the economic real estate boom, it remained unsold for several years. (N.T. 10/04/06: 5, 28-29).

The owners of the building were unable to secure a serious purchase offer for the property, which was being sold as is. (N.T. 10/04/06: 5). Several factors contributed to the undesirability of the structure. Significant repairs would have been required in order to operate an industrial or commercial enterprise from 3 Rector Street. Even if the historic building had undergone the necessary repairs, the building still would have been unfit for modern manufacturing as the property lacks a loading dock for deliveries, parking for customers, and room for horizontal expansion. (N.T. 10/04/06: 5-6, 44).

Any debate over the building's fitness for industrial use is irrelevant as, following local and national trends, industry has not returned to Manayunk. (N.T. 10/04/06: 75). The building, and its surrounding neighborhood, is no longer suited for industry. Moreover, the building is ill-suited for a commercial business because the location has no frontage on the main street and substantial renovation would be required for a commercial or retail venture. (N.T. 10/04/06: 8). Finally, the ultimate failure of the prior

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<sup>2</sup> While the Labov family owned the property and originally owned the business, the business was sold in the late 1990's. Under new ownership, the business continued to operate under the Labov family name. The new business owner relocated the business and vacated 3 Rector Street in 2001. (N.T. 10/04/06: 4-5).

required to prove that a property is valueless without a variance in order to prove unnecessary hardship. Hertzberg v. Zoning Bd. of Adjustment of City of Pittsburgh, 721 A.2d 43, 48 (Pa. 1998). Nor is it mandatory for an applicant to prove that it would be impossible to develop a property in conformity with the applicable zoning ordinance in order to prove unnecessary hardship. Talkish v. Zoning Hearing Bd. of Harborcreek Twp., 738 A.2d 50, 52 (1999). Hardship can be established where the applicant demonstrates that the property has no value or distressed value if used only for one of the permitted purposes. Eighteenth & Rittenhouse Assoc. v. Zoning Bd. of Adjustment, 26 Pa. Cmwlth. 554, 557, 364 A.2d 973, 976 (1976).

Here, the physical features of the property, namely its state of disrepair, large size, historical significance, lack of loading area, lack of parking and location are such that the warehouse cannot be used for a permitted G-2 purpose without unnecessary hardship.

The facility at 3 Rector Street could conform to G-2 permitted uses, but only at a prohibitive cost as conformity would require extensive renovation. Conformity would also require substantial investment in industry or business while local economic trends indicate that such permitted G-2 uses are no longer viable ventures in Manayunk.

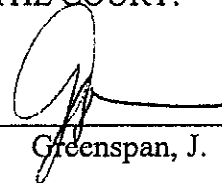
Moreover, to wait until a buyer for such a limited G-2 use appears would leave this property vacant and hence subject to the many ills that befall vacant properties. Clearly the neighborhood and community would suffer in such an event.

At the hearing below, the property owners established unnecessary hardship by presenting substantial evidence to the Board. Only after consideration of the substantial evidence, the Board granted the variances. The Board recognized that the "as is" sale of the structure presented unnecessary hardship and that the Manayunk neighborhood trend

was against demolition and toward preservation of otherwise unusable historic sites by conversion to residential uses. As such, the Board granted variances allowing for a conversion from G-2 industrial use to residential use.<sup>3</sup> The Board's findings of unnecessary hardship were supported by substantial evidence. As such, the adjudication of the Board is affirmed.

For the foregoing reasons, this Court affirms the November 30, 2006, decision of the Board.

BY THE COURT:



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Greenspan, J.

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<sup>3</sup> Appellants argue that appellees failed to obtain a height variance, however, appellants waived this issue when they did not make this argument before the Board. Issues that are not raised at the board level are waived and may not be addressed on appeal. Sherwood v. Elgart, 383 Pa. 110, 115, 117 A.2d 899, 901 (1955); Myers v. State College Zoning Hearing Board, 108 Pa. Cmwith. 624, 627, 530 A.2d 526, 527 (1987). In any event, given the fact that the appellees requested that the Board grant "any other variances, use certificates or special use permits that are necessary," in their original variance application, the claim is meritless; the term "any other variance" necessary includes a height variance.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

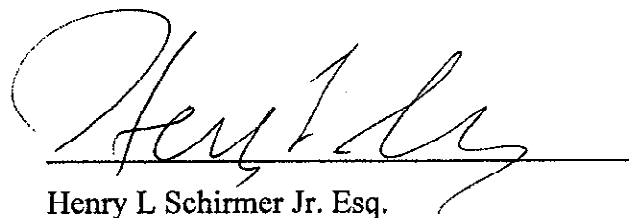
MANAYUNK NEIGHBORHOOD : COMMONWEALTH COURT  
COUNCIL ET AL., :  
APPELLANTS : DOCKET NO. 157 CD 2008  
: :  
V. :  
: :  
ZONING BOARD OF ADJUSTMENT :  
OF THE CITY OF PHILADELPHIA, ET :  
AL., :

APPELLANT'S STATEMENT OF ISSUES

1. Did Judge Greenspan err in affirming variances despite no findings of fact on fundamental issues?
  - a. Was there an actual finding of unnecessary hardship?
  - b. Was there a finding that these were the minimum variances necessary for relief?
  
2. Did Judge Greenspan err in affirming the variances when the findings of fact do not support the grant of a variance?
  - a. Where the findings of fact reflect substantial testimony in opposition to the variance, can that testimony be used to support a variance?
  - b. Where the findings of fact omit any reference to testimony by the applicant on behalf of the variance, can the lack of findings of fact be used to support a variance?
  - c. Where the findings of fact omit all reference to testimony by the applicant's hired experts on behalf of the variance, can the lack of findings of fact be used to support a variance?

3. Did Judge Greenspan err in considering a self imposed hardships, including the deterioration and lack of maintenance caused by the applicant, in upholding the variance?
4. Did Judge Greenspan err by failing to address the issue of use variances?
  - a. Were there permitted uses to which the land could feasibly be put?
  - b. When there is a specific legislative finding of fact that G-2 industrial uses are appropriate for buildings such as the subject property, may the court uphold a use variance without consideration of the alternate uses identified in the statement of legislative intent?
5. Did Judge Greenspan err by finding that the zoning board had granted variances regarding an issue which was never discussed at the zoning hearing, and that appellants waived issues which were outside the scope of issues raised by the applicants at the Zoning Board?
  - a. When a zoning board grants relief regarding three specific sections of a zoning code, are those three variances interpreted so broadly as to include relief from any and all other sections of the zoning code?
  - b. When an applicant asks for variances from three specific sections of a zoning code as well as "any other variance" and the testimony is limited to three enumerated issues, may the zoning board grant variances regarding sections of code about which no evidence was presented and no findings of fact were made?
  - c. Must attendees opposing variances from specific sections of the zoning code go further and raise all objections to all possible variances from all sections of the zoning code at the zoning board hearing at the risk waiver?

Respectfully submitted



Henry L. Schirmer Jr. Esq.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 4<sup>th</sup> day of February 2008, I cause a true and accurate copy of the foregoing Statement of Issues and attachments to be served by first class mail, postage prepaid on the following persons:

Cheryl L. Gaston, Esquire  
City of Philadelphia Law Dept.  
1515 Arch St 16<sup>th</sup> Floor  
Philadelphia PA 19102

The Honorable Jane C. Greenspan  
Philadelphia Court of Common Pleas  
1206 Criminal Justice Center  
1301 Filbert Street  
Philadelphia, PA 19107

Richard C. DeMarco Esquire  
Klehr, Harrison, Harvey,  
Branbug & Fullers  
260 South Broad Street  
Philadelphia PA, 19102

Commonwealth Court  
100 South Broad Street  
2<sup>nd</sup> Floor (Appeals)  
Philadelphia, PA 19107

  
Henry L. Schirmer Jr. Esq.