GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16387 of Square 456 Associates, pursuant to 11 DCMR 3108.1 and 3107.2 for a special exception under Section 411.11 to allow roof structures not meeting the normal setback requirements and for a variance from Subsection 1706.22(g) to permit commercial development to proceed, prior to the issuance of the certificate of occupancy for permitted off-site affordable housing, for the construction of an office, arts, retail and housing development in a DD/C-4 District at premises 625-627 E Street, NW., 620 and 626 F Street, N.W. and 501-507 and 511-517 7th Street, N.W. (Square 456, Lots 37, 39, 868, and 869).

HEARING DATE:	September 2, 1998
DECISION DATE:	September 2, 1998
DISPOSITION:	By Order dated December 3, 1998, the Board granted the application with conditions by a vote of 3-0 (Sheila Cross Reid, Betty King and Anthony J. Hood to grant)

MODIFICATION ORDER

By letter dated November 3, 2000, Galapagos II, LLC and Galapagos 456 LLC, the owners of the property which is the subject of this application before the Board and successors in interest to Square 456 Associates, the original applicant, submitted a request for the Board to modify the previously approved plans consistent with Paragraph 2 of BZA Order No. 16387.

THE WAIVER REQUEST

The Applicant, as part of its filing, requested a waiver from the six month limitation for filing requests for modification of plans with the Board, set forth at §3129.3 of the Zoning Regulations. The Applicant has been in continuing consultation with the Historic Preservation Review Board concerning significant design issues related to the historic buildings. This consultation and design refinement involved certain minor modifications to the project as proposed, including revisions to the roof structures.

The design review process took well longer than the six month period provided in Title 11 to seek a modification of plans. The six month period for seeking a modification is also out of consonance with the two year period provided in §3130 for filing an application for a building permit. The Applicant therefore requested a waiver from §3129.3 for the Board to consider the requested modifications.

The Board granted the waiver of the six month filing requirement to consider the requested modification.

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and K Streets, N.W. In approving that variance relief, the Board imposed the following condition:

> Within thirty days after the issuance of the Board's order, the Applicant shall place $500,000 in an escrow account for the benefit of Golden Rule Plaza, Inc., to be made available to Golden Rule Plaza, Inc., at the time of settlement on the financing for the low and moderate income housing project to be constructed on the west side of New Jersey Avenue between New York Avenue and K Street. After placing the $500,000 in escrow, the Applicant may proceed to construct and occupy the development in Square 456. In the event that the Golden Rule Plaza project has not settled on its financing and drawn down the funds in the escrow account within two years of the date of the Board's order, the Applicant shall consult with the Office of Planning to determine an appropriate alternative plan as to how the funds will be used for affordable housing, and shall submit that plan to the Board in an appropriate motion. The submission of such an alternative plan in no manner affects the rights granted by this order enabling the Applicant to proceed with the mixed-use development on the subject site.

Golden Rule has been in negotiations with the Department of Housing and Community Development and with its proposed financing providers regarding the low and moderate-income residential project it is developing. Those negotiations will require additional time, not to exceed six months, to reach settlement on the project financing. While such an extension of time is needed by Golden Rule to finalize the project financing, it will exceed the two-year limitation on the escrow established in the Order. Golden Rule and the agencies with which it is working are confident that a satisfactory financing package will be arranged within the next six months by Golden Rule that will allow it to proceed with its significant housing project. Golden Rule does not believe that an alternative plan for use of the funds toward affordable housing objectives is needed. Working drawings for the project have been completed and an application for a building permit is in the process of being finalized for filing.

The Board received letters from Golden Rule, the Department of Housing and Community Development, the D.C. Housing Finance Agency and Councilmember Jack Evans, Councilmember from Ward 2 which contains the site of the subject development and the Golden Rule site, all explaining the basis for the need for additional time and supporting the proposed extension. Advisory Neighborhood Commission 2C, by letter dated November 3, 2000, also supported the proposed extension.

DECISION

The Board finds that the minor exterior modifications to the penthouse continue to exceed the setback required along 7th and F Streets and do not diminish the roof structure setbacks for which relief was required. The changes do not materially affect the view of the project from the

adjacent public streets and the proposed infill of the court has no negative consequences. In all other respects, the provision of preferred uses continues to be met and the 56,240 square feet of on-site housing has not been reduced.

The Board further finds that the proposed extension of time should be granted. The additional time will allow a significant housing project for low and moderate-income persons to be built within the Downtown housing priority areas. The Board further finds that there is no good reason to look for an alternative use of the funds at this time when a short extension of time will likely enable the Golden Rule project to move forward.

In light of the foregoing, it is therefore hereby ORDERED that the motion for waiver of the rules to consider the request is granted, the modification of plans for the roof structure is approved and the time for Golden Rule to settle on its construction financing and draw down the funds held in escrow is extended for an additional six months beyond December 3, 2000.

VOTE: 3-0 (Robert Sockwell, Anne Renshaw and Sheila Cross Reid to approve, Rodney Moulden not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____
Jerrily R. Kress, FAIA
Director

FINAL DATE OF ORDER: NOV 16 2000

PURSUANT TO D.C. CODE § 1-2531 (1999), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2038, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1999). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6 OF THE DISTRICT

OF COLUMBIA BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROCEDURE AND UPON ITS FILING IN THE RECORD AND SERVICE ON THE PARTIES.

PURSUANT TO 11 DCMR § 3130, THIS ORDER OF THE BOARD SHALL NOT BE VALID FOR A PERIOD IN EXCESS OF TWO YEARS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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As Director of the Office of Zoning, I hereby certify and attest that on NOV 16 2000 a copy of the order entered on that date in this matter was mailed first class, postage prepaid, to each party who appeared and participated in the public hearing concerning the matter, and who is listed below:

Norman Glasglow , Jr. Esquire
Wilks Artist
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Terrell Junior High School
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Councilmember Jack Evens
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Building & Land Regulation Administration
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