GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

Office of Zoning

Application No. 16538 of Capitol Hill Investors, pursuant to 11 DCMR 3103.2, for a variance under Section 774.1 from the rear yard setback requirements for construction of a one-story structure on the lot which will house neighborhood-serving retail uses in a C-2-A District at premises 407 8th Street, S.E. (Square 908, Lot 826).

NOTE: Two corrections were made to the Public Hearing Notice. The building is to contain two floors, not one. The correct Square is 902, not 908.

HEARING DATE: October 3, 2000
DECISION DATE: October 3, 2000 (Bench)

SUMMARY ORDER

The zoning relief requested in this case is self-certified, pursuant to 11 DCMR 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, by mail to Advisory Neighborhood Commission (ANC) 6B and to owners of property within 200 feet of the site.

The site of this application is located within the jurisdiction of ANC 6B. ANC 6B, which is automatically a party to this application, submitted a written statement in support of the application. The ANC's support is contingent on the Applicant providing trash collection five days per week, in the event a food establishment occupies the site (Exhibit No. 28 of the record). The Applicant agreed to this provision.

As directed by 11 DCMR 3119.2, the Board required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a variance from the strict application of the requirements of 11 DCMR 3103.2. No person or entity appearing as a party to this case testified in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property which creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent,

Board of Zoning Adjustment
District of Columbia
CASE NO.16538
EXHIBIT NO.35

#35

purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that this application be **GRANTED** subject to the provision of this Order.

Pursuant to 11 DCMR 3101.6, the Board waived the requirement of 11 DCMR 3125.3 that findings of fact and conclusions of law accompany the order of the Board. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 5 – 0 (Robert Sockwell, Anne Renshaw, Rodney Moulden, Sheila Cross Reid and Kwasi Holman to approve.)

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

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director

FINAL DATE OF ORDER: OCT 26 2000

PURSUANT TO D.C. CODE SEC. 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 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO 3125.6."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

BAB/10-11-00

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

Office of Zoning

BZA APPLICATION NO. 16538

As Director of the Office of Zoning, I hereby certify and attest that on OCT 26 2009 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:

Cynthia A. Giordano
1150 17th Street, N.W., Suite 302
Washington, DC 20036

Peter J. Waldron, Chairperson
Advisory Neighborhood Commission 6B
921 Pennsylvania Avenue, S.E.
Washington, DC 20003

Tommy Wells
ANC Commissioner 6B04
921 Pennsylvania Avenue, S.E.
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Councilmember Sharon Ambrose
Ward 6
441 4th Street, N.W., Suite 710
Washington, DC 20001

Michael Johnson, Zoning Administrator
Building & Land Regulation Administration
Department of Consumer and Regulatory Affairs
941 North Capitol Street, N.E., Suite 2000
Washington, DC 20009

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director