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November 16, 2000

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
'00 NOV 16 PM 1:15

Hand Delivery

Sheri Pruitt
Board of Zoning Adjustment
441 4th Street, N.W.
Room 210
Washington, D.C. 20001

Re: BZA No. 16612

Dear Ms. Pruitt:

Enclosed is a Summary Order and diskette regarding the above matter.

Very truly yours,

Norman M. Glasgow, Jr.

Enclosure

BZA
Case No. 16612
Exhibit No. 36

Board of Zoning Adjustment
District of Columbia
CASE NO.16612
EXHIBIT NO.36

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application of Clifton Terrace Associates, L.P., pursuant to 11 DCMR 3103 and 3104, under Sections 214 and 214.2 for variance and special exception to permit the conversion of a previously approved parking lot to a roof top garden and play area with a four-level below grade parking garage in an R-5-B District at premises 13th and Clifton Streets, N.W. (Square 2868, Lot 109).

HEARING DATE: October 10, 2000
DECISION DATE: October 10, 2000 (Bench Decision)

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) 1B and to owners of property within 200 feet of the site.

The site of this application is located within the jurisdiction of ANC 1B. ANC 1B, which is automatically a party to this application, submitted a letter in support of the application. The ANC chairperson testified in support of the application at the public hearing. The applicant addressed all of the issues raised by the ANC Single Member District Representative at the public hearing. The applicant proffered its intention to maintain the landscaped areas on the plans in a healthy growing condition.

As directed by 11 DCMR 3119.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception and variance from the strict application of the requirements of 11 DCMR 2001.3(a). 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 and 3104.1, 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, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. Additionally, the relief sought will be in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighborhood property. It is therefore **ORDERED** that this application be **GRANTED** and the applicant is to maintain the vegetation in the landscaped areas, as shown on the plans, in a healthy, growing condition.

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 (Anthony J. Hood, Anne Mohnkern Renshaw, Sheila Cross Reid, Robert Sockwell and Rodney L. Moulden to approve.)

ATTESTED BY:_____
JEERRILY R. KRESS, FAIA
Director

FINAL DATE OF ORDER: _____

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 AMMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1999). THIS ORDER IS CONDITIONED UPONFULL 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 § 3130.3, THIS ORDER OF THE BOARD SHALL NOT BE VALID FOR A PERIOD IN EXCESS OF SIX MONTHS UNLESS WITHIN SUCH TIME THE PERMITTED USE IS ESTABLISHED; PROVIDED THAT WHERE THE PERMITTED USE IS DEPENDENT UPON THE ALTERATION OF A STRUCTURE, THE REMAINING PROVISIONS OF § 3130 SHALL APPLY.