GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16641 of The JBG/Twelfth and Massachusetts, L.L.C, pursuant to 11 DCMR § 3104.1, for a special exception from the roof structure requirements of section 411 and 11 DCMR § 3103.2 for variances from the residential recreation space requirements of § 773.3, the court width requirements of § 776.3, the closed court area requirements of § 776.4, the building setback requirements of § 1701.7, and the record lot requirements of § 3202.3, to allow construction of a 145 unit apartment house with retail space in a DD/C-2-C District at premises 1210-1216 Massachusetts Avenue, N.W. (Square 283, Lot 50).

NOTE: The Applicant withdrew the request for variance relief under § 3202.3 (record lot requirements) and § 1701.7 (building setback requirements) at the public hearing.

HEARING DATE: February 27, 2001
DECISION DATE: February 27, 2001 (Bench Decision)

SUMMARY ORDER

SELF – CERTIFIED

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, and by mail to Advisory Neighborhood Commission (ANC) 2F, and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 2F. ANC 2F, which is automatically a party to this application, filed a written statement in support of the application.

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 under 11 DCMR § 411, and for a variance from the strict application of the requirements of 11 DCMR §§ 773.3, 776.3, and 776.4. No person or entity appeared at the public hearing in opposition to this application. Peter N. Schwartz withdrew as a party in opposition by letter dated February 22, 2001. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board closed the record at the hearing, except to allow the applicant to submit the following: (1) a conceptual landscape plan; and (2) a site plan.

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EXHIBIT NO.52

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 3103 .2, and that the requested relief will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property. The Board also concludes 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 in accordance with the Zoning Regulations and Map. It is therefore **ORDERED** that the application be **GRANTED, SUBJECT** to the following **CONDITIONS:**

1. The building plans in the record shall be revised to reflect that the cornice does not project above 110 feet.

2. A minimum of 4.47 percent of the project's total square footage shall be provided for recreation space.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: 3-0-2 (Sheila Cross Reid, Susan Morgan Hinton, Anthony J. Hood to approve, Anne M. Renshaw present, but abstaining and; Robert N. Sockwell, not present, not voting, having recused himself).

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

Each concurring member has approved the issuance of this Order.

Attested by: _____
Jerrily R. Kress
Director, Office of Zoning

Final Date of Order: APR 4 2001

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-

YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

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

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16641

As Director of the Office of Zoning, I hereby certify and attest that on APR 4 2001, a copy of the order entered on that date in this matter before the Board of Zoning Adjustment was mailed first class, postage prepaid, to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director