GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

Application No. 16655 of Delores Flowers, pursuant to 11 DCMR § 3103.2, for a variance from Section 2101.1 for parking of 1 space plus 1 for each 5 units to allow the use as a "Rooming House of 8 rooming units (Assisted Living Facility)" or, alternatively, a community-based residential facility on the first through third floors and basement, in an R-4 District at premises 1313 Harvard Street, N.W. (Square 2854, Lot 85).

NOTE: The Board amended the application. It was approved as a community residence facility - housing for the handicapped for 16 residents and 2 staff.

HEARING DATES: **February 6 and March 6, 2001**
DECISION DATE: **March 6, 2001**

SUMMARY ORDER

The application was accompanied by memorandum from the Zoning Administrator certifying the required relief (Exhibit Nos. 5 and 67).

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, requested that the hearing be rescheduled from February 6, 2001 to another hearing date because the ANC did not have sufficient time to obtain community input (Exhibit No. 66). The Board did not receive any other communiqué from the ANC.

By correspondence dated February 2, 2001, the Office of Planning recommended that the application be referred back to the Zoning Administrator's office for further review because it was mis-filed as a rooming house (Exhibit No. 53). The Board agreed with the Office of Planning's assessment and requested that the Zoning Administrator's office review the application as a community based residential facility (CBRF). The Zoning Administrator's office, by correspondence dated February 22, 2001, indicated that the subject premises could be classified as a rooming house – 8 rooming units, or, alternatively, a community residential

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facility (CRF), housing for the handicapped for 16 residents and 2 staff (Exhibit No. 67). The Board approved the application as a CRF.

Section 2101.1 requires two parking spaces for the rooming house or community based residential facility. However, since one space is grandfathered, the applicant only requires a variance for one parking space.

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

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: 3-0-2 Robert N. Sockwell, Anne Mohnkern Renshaw, Susan Morgan Hinton to approve; Anthony J. Hood not present, not voting; Sheila Cross Reid not voting, not hearing the case.

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

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director

FINAL DATE OF ORDER: MAR 2 9 2001

PURSUANT TO 11 § 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 SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

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 APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

BAB/3.26.01

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

BZA APPLICATION NO. 16655

As Director of the Office of Zoning, I hereby certify and attest that on MAR 2 9 2001 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Delores Flowers
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ATTESTED BY: Jerrily Kress
JERRILY R. KRESS, FAIA
Director