GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

**Application No. 16682-A of W.F. Equipment Corporation,** pursuant to 11 DCMR §3104.1 for a special exception to allow new residential development consisting of five (5) row dwellings under section 353 and pursuant to subsection 3103.2 for variances under sections 401 and 405 from the lot area, lot width, and side yard requirements for one semi-detached dwelling (Lot 36), and a variance under section 402 from the FAR requirements for the five (5) new dwellings in the R-5-A District, at premises 5516 – 5526 Hunt Place, NE (Square 5204, Lots 31-36).

**Note:** The Board amended the application and approved variance relief from the section 2117.8(d) requirement for a distance of 28 feet between driveways and a variance from section 2117.9(a) requirement for a single driveway opening between driveways on adjacent lots.

**HEARING DATE:** January 8, 2002
**DECISION DATE:** January 8, 2002

## SUMMARY ORDER

A memorandum from the Zoning Administrator initially accompanied the application certifying the required relief. On May 8, 2001, the Board heard the initial application. It was denied on June 5, 2001. The Order denying the application was issued on August 22, 2001. Subsequently, the Applicant revised the project, filed new plans, and filed a motion for reconsideration or rehearing. The Board approved the Applicant's motion for rehearing. The new hearing was held on January 8, 2002.

The Board provided proper and timely notice of the rehearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 7C, the Office of Planning (OP) and to owners of property within 200 feet of the site. The site of the application is located within the jurisdiction of ANC 7C. ANC 7C submitted a letter in support of the application (Exhibit No. 55). The OP recommended approval of the application (Exhibit No. 57).

As directed by 11 DCMR § 3119.2 , the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance and special exception pursuant to 11 DCMR §§ 3103.2 and 3104.1. 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, and having considered the views of ANC 7C and the Office of Planning, the Board concludes that the applicant has met the burden of proof under 11 DCMR §§ 3103.2, 3104.1, 401, 405, 402, 353, 2117.8(d), and 2117.9(a), that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical

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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. The Board further concludes 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. It is therefore **ORDERED** that this application be **GRANTED,** subject to the following **CONDITIONS:**

1. The applicant shall, in the front yards, provide two retaining walls which will be up to 18 inches each so as to terrace the 4-foot grade change between 5522 and 5524 Hunt Place, N.E. and, two retaining walls which will be up to 18 inches each so as to terrace the 4-foot grade change between 5518 and 5520 Hunt Place, N.E.

2. The applicant shall secure one-year warranties for the evergreens and Red Maple tree proposed in the front yard of each lot. Landscaping shall be provided as identified on the project's landscape plan, Exhibit 59.

Pursuant to 11 DCMR § 3101.6, the Board waived 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 appropriate in this case.

**VOTE: 5-0** (John G. Parsons, Anne Mohnkern Renshaw, Geoffrey H. Griffis, David W. Levy and Curtis L. Etherly, Jr. to approve.)

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

Each concurring Board member approved the issuance of this order.

**JERRILY R. KRESS, FAIA**
**Director**

**FINAL DATE OF ORDER:** JAN 23 2002

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 (2001). 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.

**BAB/1.16.02**

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

**BZA APPLICATION NO. 16682-A**

As Director of the Office of Zoning, I hereby certify and attest that on JAN 2 3 2002 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:

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**Attestation Sheet – BZA Case No. 16682-A**

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**JERRILY R. KRESS, FAIA**
**Director**