GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16685 of Sherri Fickel. pursuant to 11 DCMR § 3104.1, and under subsection 223.1 for a special exception to allow the extension to non-conforming side yards and pursuant to subsections 3103.2 and 403.2 for a variance to allow the percentage of lot occupancy in excess of that allowed for a single-family dwelling in a CAP/R-4 District at premises 321 4th Street, S.E. (Square 792, Lot 813).

HEARING DATE: March 20, 2001
DECISION DATE: May 1, 2001

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this application 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 the applicant, Advisory Neighborhood Commission (ANC) 6B, and to owners of all property within 200 feet of the property that is the subject of this application. The application was also referred to the Office of Planning (OP) for review and report.

The subject property is located within the jurisdiction of ANC 6B. ANC 6B, 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 required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception under 11 DCMR §§ 3104.1 and 223.1, and a variance under 11 DCMR §§ 3103.2 and 403.2. No person or entity appeared at the public hearing in opposition to this 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 given great weight to the ANC's statement filed in this case, the Board concludes that the applicant has met the burden of proof, under 11 DCMR §§ 3104.1 and 223.1, 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 in accordance with the Zoning Regulations and Zoning Map. The Board also concludes that the Applicant has met the burden of proof under 11 DCMR §§ 3103.2 and 403.2 that there exists an exceptional or extraordinary situation or condition related to the property that 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

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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 the application be **GRANTED.**

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 appropriate in this case.

VOTE: 3-0-2 (Anthony J. Hood, Sheila Cross Reid, and Susan M. Hinton to approve; Anne M. Renshaw, not present, not voting and the third mayoral appointee, not participating in the case, not voting).

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, FAIA
Director, Office of Zoning

Final Date of Order: MAY 10 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.

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.

VCE

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16685:

As Director of the Office of Zoning, I hereby certify and attest that on MAY 10 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 or delivered by inter-agency mail to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Todd Johnson
8545 Edgeworth Dr.
Capital Heights, MD 2074

Julie S. Olson
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Washington, D.C.20003

Thomas Wells, Chairperson
Advisory Neighborhood Commission 6B
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801 North Capital Street, S.E.
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Michael Johnson, Zoning Administrator
Department of Consumer & Regulatory Affairs
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Washington, D. C. 20002

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director

VCE