GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

Office of Zoning

Application No. 16689 of Juanita M. Berry, pursuant to 11 DCMR § 3103.2, for a use variance under subsection 330.5 to establish the use of a beauty salon and re-establish the use of a discontinued retail grocery convenience store in an R-4 District, first floor, at premises 963 14th Street, S.E. (Square 1046, Lot 19).

HEARING DATE: April 24, 2001
DECISION DATE: April 24, 2001 (Bench Decision)

SUMMARY ORDER

REVIEWED BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief (Exhibit No. 13).

The Board provided proper and timely notice of 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 subject property is located within the jurisdiction of ANC 6B. ANC 6B, which is automatically a party to this application, submitted a letter of support (Exhibit 30). The ANC indicated that the applicant has agreed to work with the Commission to remove the adjacent outdoor pay telephone and recommended that the Board condition the Order accordingly.

The record indicates that the Board considered the ANC's request. However, because the public telephone is in public space, the ANC would have to petition the public space committee of the Department of Public Works to have the telephone removed. The Board is not able to condition the application on this matter because the public telephone is not on the applicant's property. The applicant did agree to work with the ANC to have the telephone removed.

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 from the strict application of the requirements of 11 DCMR § 330.5. No person or entity appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this

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EXHIBIT NO.39

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proceeding. 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, under 11 DCMR § 3103.2 and 330.5, that there exists an exceptional or extraordinary situation or condition related to the property that creates undue hardship 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, SUBJECT** to the following **CONDITIONS:**

1. Approval shall be for **FIVE (5)** years.

2. The hours of operation shall not exceed 8:00 a.m. to 6:00 p.m., Monday through Saturday.

3. There shall be no alcoholic beverages or perishable goods sold in the grocery store.

4. The grocery store shall not occupy more than 25 percent of the premises.

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: 3-0-2 (Susan Morgan Hinton, John G. Parsons, and Anne Mohnkern Renshaw to approve; Sheila Cross Reid not present, not voting; the third mayoral appointee not hearing the case, not voting.)

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

MAY 15 2001

FINAL DATE OF ORDER:

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

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.

BAB/5.11.01

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As Director of the Office of Zoning, I hereby certify and attest that on MAY 15 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:

Juanita Berry
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Building and Land Regulation Administration
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Ken Jarboe, Chairperson
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JERRILY R. KRESS, FAIA
Director