GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 16708 of Terence L. Pinckney, pursuant to 11 DCMR § 3104.1 for a special exception under section 223 and a variance from subsection 2001.3 to allow a rear addition to a nonconforming single-family dwelling not meeting the side yard requirements under section 405 in an R-2 District at premises 1015 48th Street, N.E. (Square 5153, Lot 9).

HEARING DATE: May 8, 2001
DECISION DATE: May 8, 2001 (Bench Decision)

SUMMARY ORDER

REVIEW BY ZONING ADMINISTRATOR

This application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

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) 7C, 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 7C. ANC 7C, which is automatically a party to this application, submitted a letter in support of the application. The OP did not submit a report.

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, and for a variance under 11 DCMR §§ 3103.2 and 2001.3. 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, the Board concludes that the Applicant has met the burden of proof, under 11 DCMR §§ 3104.1 and 223 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 Map. The Board also concludes that the Applicant has met the burden of proof, under 11 DCMR §§ 3103.2 and 2001.3 that there exits an exceptional or an extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the

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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 zoning 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: 4-0-1 (Sheila Cross Reid, Carol J. Mitten, Susan M. Hinton, and Anne M. Renshaw to approve; the third mayoral appointee, not having participated 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: JUN 13 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.

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As Director of the Office of Zoning, I hereby certify and attest that on JUN 13 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 sent by inter-agency mail, 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

JERRILY R. KRESS, FAIA
Director, Office of Zoning

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