GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 16712 of Barbara K. and Donald P. Heffernan, pursuant to 11 DCMR § 3103.2 for a variance from subsection 2001.3 to allow the enlargement (rear yard addition) of an existing nonconforming single family dwelling and pursuant to 11 DCMR § 3104.1 for a special exception under section 223 as said enlargement does not comply with the closed court requirements under section 406 in an R-4 District at premises 231 9th Street, S.E, (Square 923, Lot 27)

HEARING DATE: May 29, 2001
DECISION DATE: May 29, 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) 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, submitted a letter in support of the application. At the public hearing, OP offered a verbal report recommending approval 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 variance under § 3103.2, and for special exception under § 3104 .1. 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 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 2001.3 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

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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: (John G. Parsons, Susan M. Hinton, Geoffrey H. Griffis, and Anne M. Renshaw to approve; Sheila Cross Reid, not voting, not having participated in the case).

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 19 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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BZA APPLICATION NO. 16712

As Director of the Office of Zoning, I hereby certify and attest that on JUN 19 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:

Barbara and Donald Heffernan
231 9th Street, S.E.
Washington, D.C. 20003

Alan Bergstein
Office of Corporation Counsel
441 4th Street, N.W.
Washington, D.C. 20001

Kenan P. Jarboe, Chairperson
Advisory Neighborhood Commission 6B
901 Pennsylvania Avenue, S.E., Suite 108
Washington, D.C. 20003

Mary Wright, Commissioner
Single Member District Commissioner 6B03
649 C Street, S.E., Suite 401
Washington, D.C. 20003

Sharon Ambrose, Councilmember
Ward Six
441 4th Street, N.W. Room 710
Washington, D.C. 20001

Michael D. Johnson, Zoning Administrator
Department of Consumer & Regulatory Affairs
941 North Capitol Street, N.E., Suite 2000
Washington, D. C. 20002

Ellen McCarthy, Deputy Director
Office of Planning (4TH floor)
801 North Capital Street, N.E.
Washington, D.C. 20002

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director, Office of Zoning

ATT/16712anc6B