GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

Office of Zoning

Application No. 16728 of John S. Cogswell, pursuant to 11 DCMR § 3104.1 for a special exception to allow the construction of a carport under section 223, not meeting the lot occupancy requirements (section 403) in a DCOD/R-5-B District at premises 2105 N Street, N.W. (Square 69, Lot 214).

NOTE: The Board amended the application and approved zoning relief under subsection 2300.8 of the special exception provision (relating to the location of a carport), and a variance under sections 3103.2 and 403 (relating to lot occupancy).

HEARING DATE: **July 10, 2001**
DECISION DATE: **July 10, 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. 5).

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) 2B, 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 2B. ANC 2B, which is automatically a party to this application, filed a report dated May 16, 2001 in support of the application (Exhibit No. 20).

As required by § 3113.14 of the Zoning Regulations, the property was not posted for 15 days; it was posted for 13 days. The applicant posted the property on June 27, 2001, whereas it should have been posted on June 25, 2001. The Board waived the posting requirement.

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 and area variance pursuant to 11 DCMR §§ 3104.1, 3103.2, 403 and 2300.8. No person or entity

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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, the Board concludes that the applicant has met the burden of proof, under 11 DCMR §§ 3103.2 and 3104.1, 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 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 that granting 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.**

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: 5-0-0 (Sheila Cross Reid, Geoffrey H. Griffis, Susan Morgan Hinton, Anthony J. Hood, and Anne Mohnkern Renshaw 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: AUG 15 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.

BAB/8.8.01

GOVERNMENT OF THE DISTRICT OF COLUMBIA
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As Director of the Office of Zoning, I hereby certify and attest that on AUG 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:

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JERRILY R. KRESS, FAIA
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