GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16768 of Jerome Bauman, pursuant to 11 DCMR § 3104.1 for a special exception to allow a change of nonconforming use from a grocery to a grocery/deli, basement and first floor, under section 2003 in an R-4 District at premises 1452 D Street, N.E. (Square 1053, Lot 90).

HEARING DATE: October 9, 2001
DECISION DATE: October 9, 2001 (Bench Decision)

SUMMARY ORDER

REVIEWED BY THE 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 public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 6A, the Office of Planning (OP) and to owners of property within 200 feet of the site. The site of the application is located within the jurisdiction of ANC 6A. ANC 6A and OP did not participate in the application.

As directed by 11 DCMR § 3119.2, the Board has required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a special exception pursuant to 11 DCMR § 3104.1. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party to this 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 its burden of proof, pursuant to 11 DCMR §§ 3104.1 and 2003, and that the requested relief can be granted as 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. It is therefore **ORDERED** that the application is **GRANTED** subject to the following conditions:

1. There shall be a maximum of three full-time persons employed on the site.

2. No additional signage shall be erected on the site.

BZA
Case No. 16768
Exhibit No. 24

Board of Zoning Adjustment
District of Columbia
CASE NO.16768
EXHIBIT NO.24

3. The applicant shall make every effort to locate the trash receptacles on his private property.

4. Trash shall be collected at least once per week.

5. Outdoor lighting shall be so arranged that all direct rays of light are confined to the site, so as not spill over onto neighboring property.

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 not prohibited by law.

VOTE: **4 – 0 –1** (Geoffrey H. Griffis, Anthony J. Hood, Anne M. Renshaw and David W. Levy to Approve, the third Mayoral Appointee not present, not voting)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring Board member has approved the issuance of this order.

ATTESTED BY: Jerrily R. Kress

Jerrily R. Kress, FAIA
Director
Office of Zoning

FINAL DATE OF ORDER: OCT 18 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 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.
rsn

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16768

As Director of the Office of Zoning, I hereby certify and attest that on OCT 18 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:

Adam L. Oliphant
1452 D Street, N.E.
Washington, D.C. 20002

Ivette Basterrechea Chairperson
Advisory Neighborhood Commission 6A
P.O. Box 76680
Washington, D.C. 20013

Ronald T. T. Nelson
Single Member District Commissioner 6A11
Advisory Neighborhood Commission 6A
337 10th Street, N.E.
Washington, D.C. 20002

Sharon Ambrose
City Councilmember
Ward Six
Suite 102
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Michael Johnson
Zoning Administrator
Building and Land Regulation
Administration
Department of Consumer and Regulatory Affairs
941 N. Capitol Street, N.E.
Washington, D.C. 20002

Alan Bergstein, Esq.
Office of Corporation Counsel
441 4th Street, N.W., 6th Floor
Washington, D.C. 20001

ATTESTED BY:

JERRILY R. KRESS, FAIA
Director
Office of Zoning