GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16779 of Capitol Hill Investors LLC, pursuant to 11 DCMR § 3103.2 for a variance from the floor area ratio requirements under section 771, a variance from the rear yard requirements under section 774 and a variance from the lot occupancy requirements under section 772 to allow the construction of a two story commercial building in a C-2-A District at premises 407 8th Street, S.E. (Square 902, Lot 34).

NOTE: The Board determined that variance relief is not be required from the lot occupancy requirements of section 772.

HEARING DATE: October 16, 2001
DECISION DATE: October 16, 2001 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self- certified, pursuant to 11 DCMR § 3113.2.

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) 6B, 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 6B. ANC 6B submitted a letter in support of the application. The OP also submitted a report in support 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 pursuant to 11 DCMR §§ 3103.2. No person or entity 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 and having given great weight to the ANC and Office of Planning reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 771, and 774,

BZA
Case No. 16779
Exhibit No. 35

Board of Zoning Adjustment
District of Columbia
CASE NO.16779
EXHIBIT NO.35

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 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.**

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, Anne M. Renshaw, David W. Levy and James H. Hannaham 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, FAIA
Director
Office of Zoning

FINAL DATE OF ORDER: OCT 24 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.

rsn

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16779

As Director of the Office of Zoning, I hereby certify and attest that on OCT 2 4 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:

Maurice Kreindler
7101 Wisconsin Avenue
Suite 1203
Bethesda, Maryland 20814

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

Julie O. Olson
Single Member District Commissioner 6B04
Advisory Neighborhood Commission 6B
320 G Street, S.E.
Washington, D.C. 20003

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

Ellen McCarthy
Deputy Director
Office of Planning
Suite 400
801 North 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