BEFORE THE BOARD OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA

Appeal of David and Janet Pritchard, pursuant to 11 DCMR §§ 3100 and 3101, from the administrative decision of Michael D. Johnson, Zoning Administrator, for the issuance of Building Permit No. B431591 allowing the construction of an addition to a single-family dwelling allegedly not complying with the side yard requirements (section 405) in a R-4 District at premises 1018 Constitution Avenue, N.E. (Square 964, Lot 46).

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BZA CASE NO.: 16811
HEARING DATE: March 5, 2002

DISTRICT OF COLUMBIA'S PROPOSED
FINDINGS OF FACT AND CONCLUSIONS OF LAW

PROPOSED FINDINGS OF FACT

1. On July 5, 2001, the Department of Consumer and Regulatory Affairs issued Building Permit No. B431591 (the "building permit"), thereby granting permission to the owner, Philip Sedlak, to build a two-story addition to the dwelling at 1018 Constitution Avenue, N.E. (the "dwelling"). The lot at 1018 Constitution Avenue, N.E. (Square 964, Lot 46) is in an R-4 district. [Building Permit; Appeal, BZA Form 1 and Attachment C; Transcript of March 5, 2002 hearing ("Tr.") at 72-73.]

2. At the time the building permit was issued, the dwelling was a one-family dwelling that had one side yard and that shared a common division wall with a structure on an adjacent lot. The proposed addition would remove the side yard, which runs along the rear property line of a lot owned by Janet Pritchard, Esq. and David Pritchard ("Appellants") at 204 11th Street, N.E. [Appeal, Attachment C; Tr. at 74-75]

3. By letter dated August 7, 2001, Appellants and others requested that the Zoning Administrator suspend the building permit because, they alleged, the proposed addition

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did not comply with (1) the "percentage of lot occupancy" limitation set forth in 11 DCMR § 403.2 for "All other structures" in an R-4 district, and (2) the side-yard requirements of 11 DCMR §§ 405.2, 405.3, and 405.9. [Appeal, Attachment C]

4. By letter to Appellants dated August 20, 2001, the Zoning Administrator made a formal determination that the building permit was not issued in error. [Appeal, Attachment E]

5. In this Appeal, Appellants contend that because the proposed addition would remove a side yard, the Zoning Administrator should not have issued the building permit without a special exception. For purposes of this Appeal, Appellants have not relied on the "percentage of lot occupancy" limitation of 11 DCMR § 403.2. [Appeal, BZA Form 1; Tr. at 12-19, 24, 139-43]

6. 1018 Constitution Ave., N.E., is within ANC-6A. ANC-6A, by letter dated January 7, 2002, supports this Appeal. [Tr. at 5, 138]

PROPOSED CONCLUSIONS OF LAW

1. 11 DCMR § 405.3 states:

> In R-2, R-3, R-4, and R-5 districts when a one-family dwelling, flat, or multiple dwelling is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, then it shall have a side yard on each resulting free standing side.

The one-family dwelling at 1018 Constitution Avenue, N.E., as "erected," does share "a common division wall with an existing building" and, therefore, is not subject to the side yard requirement set forth in 11 DCMR § 405.3.

2. In an R-4 district, side yards with a minimum depth of eight feet are required for one-family detached and semi-detached dwellings. 11 DCMR §§ 405.2 and 405.9.

3. A "one-family semi-detached" dwelling is defined as "a one-family dwelling, the wall on one (1) side of which is either a party wall, or lot line wall, having one (1) side yard." 11 DCMR § 199.1. At the time that Building Permit No. B431591 was issued, the dwelling at 1018 Constitution Avenue, N.E., was a one-family semi-detached dwelling.

4. A "row" dwelling is "a one-family dwelling having no side yards." 11 DCMR § 199.1 ("Dwelling, row"). By removing the only side yard on the lot, the proposed addition to the dwelling at 1018 Constitution Avenue, N.E., would convert the dwelling from a one-family semi-detached dwelling to a row dwelling.

5. The side-yard requirements applicable to semi-detached dwellings under 11 DCMR §§ 405.2 and 405.9 are not applicable to row dwellings. 11 DCMR § 405.6. A row dwelling is permitted as a matter of right in an R-4 district. 11 DCMR §§ 330.5(a) and 320.3(b). Therefore, the conversion of the dwelling at 1018 Constitution Avenue, N.E., to a row dwelling – i.e. to "a one-family dwelling having no side yards" – is permitted as a matter of right and does not require a special exception.

6. Given that the proposed addition is permitted as a matter of right, the Board need not consider the standards for granting exceptions to the side-yard requirements of 11 DCMR §§ 405.2, 405.3, and 405.9.

7. The Zoning Administrator correctly concluded that Building Permit No. B431591 was not issued in error.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on this 22nd day of May, 2002, copies of the foregoing District of Columbia's Proposed Findings of Fact and Conclusions of Law were mailed, first class postage prepaid, to each of the following:

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