GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16818 of Arman Brick, pursuant to 11 DCMR § 3104.1 for a special exception for a community center (boxing training) under section 209 in an R-4 District at premises 518 10th Street, N.E., second floor (Square 936, Lot 52).

HEARING DATE: January 22, 2002
DECISION DATE: January 22, 2002 (Bench Decision)

SUMMARY ORDER

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief (Exhibit No. 6).

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, by mail to Advisory Neighborhood Commission (ANC) 6A, and to owners of all property within 200 feet of the site. The application was also referred to the Office of Planning for review and report. The Office of Planning, by report and testimony at the public hearing, recommended approval of the application (Exhibit No. 25).

The property is located within the jurisdiction of ANC 6A. The Zoning and Licensing Subcommittee of ANC 6A filed a report with the Board (Exhibit No. 26). The subcommittee voted, unanimously, to recommend support of the application to the full ANC. Commissioner Daniel M. Pernell, III presented the report on behalf of the subcommittee. Although, the Board considered the views of the subcommittee, the Board was unable to give the ANC the great weight to which it is entitled because the requirements of section 3115.1 of the Zoning Regulations were not met.

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 pursuant to 11 DCMR § 3104.1 The Stanton Park Neighborhood Association, by correspondence dated January 8, 2002, requested to participate in the hearing as a party. No one from the organization attended the public hearing. No other 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 on testimony presented at the public hearing by the Office of Planning and Advisory Neighborhood Commission 6A, the Board determined that the Applicant should be attentive to the facility's hours of operation. The Applicant testified that the facility would operate Monday through Friday from 6:00 a.m. to 8:00 p.m., and on Saturdays from 7:00 a.m. to

Case No. 16818 Exhibit No. 29

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2:00 p.m. Additionally, the Board instructed the Applicant that the facility's Certificate of Occupancy, along with any required license, should be maintained on the premises at all times.

Based upon the record before the Board, and having given great weight to the OP report, the Board concludes that the applicant has met the burden of proof, under 11 DCMR §§ 3104.1 and 209. The Board determined that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. 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 (Anne Mohnkern Renshaw, Curtis L. Etherly, Jr., James H. Hannaham, Geoffrey H. Griffis and David W. Levy to approve).

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

Each Board member approved the issuance of this Order.

JERRILY R. KRESS, FAIA
DIRECTOR

FINAL DATE OF ORDER: FEB - 4 2002

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 (2001). 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/1.28.02

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16818

As Director of the Office of Zoning, I hereby certify and attest that on FEB - 4 2002 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:

Robert Simon, III
931 Newington Court
Capitol Heights, Maryland 20743

Arman Brick
8500 Connecticut Avenue
Chevy Chase, Maryland 20815

Toye Bello, Acting Zoning Administrator
Dept. of Consumer and Regulatory Affairs
Building and Land Regulation Administration
941 North Capitol Street, N.E., Suite 2000
Washington, DC 20009

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

Commissioner Marvin F. Fields, Jr.
Single Member District 6A07
604 12th Street, N.E.
Washington, DC 20002

Councilmember Sharon Ambrose
1350 Pennsylvania Avenue, N.W.
Suite 102
Washington, DC 20004

Attestation Sheet – Case 16818

Ellen McCarthy, Deputy Director
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JERRILY R. KRESS, FAIA
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