GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

**Application No. 16906 of Gerald Schultz**, pursuant to 11 DCMR § 3104.1, for a special exception to allow a roof deck addition to a single-family dwelling under section 223, not meeting the lot occupancy requirements (section 403), minimum lot dimension requirements (section 401), and nonconforming structure provisions (subsection 2001.3), in the R-3 District at premises 1213 34th Street, N.W. (Square 1205, Lot 51).

**HEARING DATE:** September 4, 2002
**DECISION DATE:** September 4, 2002 (Bench Decision)

## SUMMARY ORDER

## REVIEW BY THE ZONING ADMINISTRATOR

The 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) 2E, and to the owners of property within 200 feet of the site. The application was also referred to the Office of Planning for review and report.

The site of this application is located within the jurisdiction of ANC 2E. ANC 2E, which is automatically a party to the application submitted a letter in support of the case. The Office of Planning submitted a report in support of 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 from the strict application of the requirements of 11 DCMR §§ 3104.1, and 223. The Board denied a written request for party status from Jeriahadem deMichaelis by a vote of 3-0-1 (Geoffrey H. Griffis, Curtis L. Etherly, Jr. and David Zaidain to deny, Anne M. Renshaw abstaining). Jeremiah deMichaelis did not appear at the public hearing. No person or entity appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

BZA
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EXHIBIT NO.29

Based upon the record before the Board, and having given great weight to the OP report filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR § 3104.1, for a special exception under subsection 223, which will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. 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 appropriate in this case.

**VOTE:** **5-0-0** (Geoffrey H. Griffis, Anne M. Renshaw, David A. Zaidain, , Curtis L. Etherly, Jr., and John G. Parsons to approve).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**
Each concurring member has approved the issuance of this order.

**ATTESTED BY:** _____
**JERRILY R. KRESS, FAIA**
**Director, Office of Zoning**

**Final Date of Order:** SEP - 9 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 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 14 IN TITLE 2 OF THE D.C. CODE. SEE D.C. CODE SECTION 2-1402.67 (2001). THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THE HUMAN RIGHTS ACT. THE FAILURE OR REFUSAL OF THE APPLICANT TO

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

**BZA APPLICATION NO. 16906**

As Director of the Office of Zoning, I hereby certify and attest that on SEP - 9 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:

Christian Zapatka, AIA
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rsn

**ATTESTED BY:**

**JERRILY R. KRESS, FAIA**
**Director, Office of Zoning**