GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 16921-B of Celia Berg and Jack Benson pursuant to 11 DCMR § 3104.1 for a special exception to allow a rear addition to a single-family dwelling under section 223, not meeting the lot occupancy (section 403), rear yard (section 404), and nonconforming structure (subsection 2001.3) requirements in the R-2 District at premises 4432 Faraday Place, N.W. (Square 1582, Lot 190).

HEARING DATE:	October 8, 2002
DECISION DATE:	October 29, 2002
ORDER DATE:	March 24, 2003
RECONSIDERATION DECISION DATE:	May 6, 2003
ORDER ON RECONSIDERATION DATE:	October 6, 2003
MODIFICATION DECISION DATE:	April 6, 2004

ORDER ON MODIFICATION

Preliminary matters. By order dated March 24, 2003, the Board granted a special exception under section 223 of the Zoning Regulations requested by the owners of the property that is the subject of the application, Celia Berg-Benson and Jack Benson (collectively, "Applicant"), to allow construction of a one-story addition to the rear of their single-family detached house at 4432 Faraday Place, N.W. (Square 1582, Lot 190). In addition to the Applicant, the parties in this proceeding are Advisory Neighborhood Commission 3E and Kathleen Beckwith, the owner of property abutting the subject property, who opposed the application.

Kathleen Beckwith submitted a timely motion for reconsideration and request for a stay of the Board's order. No party filed an answer in opposition or in support of the motion. At a public meeting on May 6, 2003, the Board denied the motion (Order No. 16921-A, October 6, 2003).

On February 23, 2004, the Applicant submitted a motion for modification of approved plans, along with a request to waive the six-month requirement set forth in § 3129.3 of the Zoning Regulations. The Board granted the waiver, finding good cause and no prejudice to any party. The Applicant also submitted letters from the immediate neighbors of the subject property – at 4428 and 4436 Faraday Place, and at 4423 and 4425 Fessenden Street, NW., which share an alley with the subject property – indicating no objections to the Applicant's proposed modification. In her letter, dated February 23, 2004, Kathleen Beckwith stated that the proposed modification reflected less

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 16921-B
EXHIBIT NO. 48

Board of Zoning Adjustment
District of Columbia
CASE NO.16921
EXHIBIT NO.48

encroachment into the rear lot setback and a lower roof height than in the plans approved by the Board.

Modification of Plans. The Applicant's proposed revised plans provide for a 16-foot rear yard setback, rather than the setback of eight feet, six inches from the addition (and five feet, six inches from the rear stairs) in the original plans. Other changes affect the stairway, which would be moved from the southern (rear) edge of the addition to the west side, providing better access to the driveway; and the roof line of the new addition, which would be pitched and fall away from the main structure to a lower level at its deepest point in the rear yard, presenting a less imposing structure visually and improving the flow of light and air. The modified design is consistent with the architectural and aesthetic integrity of the house's original construction.

The Board concludes that the Applicant's proposed modification of plans is consistent with the requirements of § 3129.7 of the Zoning Regulations in that the revisions represent a minor modification that does not change the material facts the Board relied upon in approving the original application. The requested modification improves the design of the planned addition and addresses the concerns expressed by the party who opposed the initial application.

Accordingly, it is therefore **ORDERED** that the motion for modification of plans, as shown on Exhibit No. 46 of the record, is **GRANTED**.

VOTE: **3-0-2** (Geoffrey H. Griffis, Curtis L. Etherly, Jr., and David A. Zaidain to approve; Carol J. Mitten, not present, not voting; Ruthanne G. Miller, not voting, not having heard the case).

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

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

FINAL DATE OF ORDER: MAY 20 2004

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.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. MN/RSN

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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BZA APPLICATION NO. 16921-B

As Director of the Office of Zoning, I hereby certify and attest that on MAY 20 2004 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:

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rsn

ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning