GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 16941 of Gustavo M. Ventura and John Malone, pursuant to 11 DCMR § 3104.1 for a special exception to allow the construction of a rear addition to a single family dwelling under section 223, not meeting the open court (section 406), lot width (section 401) and nonconforming structure (subsection 2001.3) provisions in an R-4 District at premises 1336 Fairmont Street, N.W. (Square 2861, Lot 37).

HEARING DATE: **November 12, 2002**
DECISION DATE: **November 12, 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 the public hearing on this application by publication in the D.C. Register and by mail to the applicant, Advisory Neighborhood Commission (ANC) 1B, and to owners of all property within 200 feet of the property that is the subject of this application.

The subject property is located within the jurisdiction of ANC 1B. ANC 1B, which is automatically a party to this application, did not participate in this application. Also, the D.C. Office of Planning did not file a report in the review of this 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. No person or entity appearing as a party to this case at the public hearing testified in opposition to this 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, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR § 3104.1, for a special exception under sections 223, 406, 401, and 2001.3, 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. Also, the Board recommends that the Applicant hire an arborist. It is therefore **ORDERED** that this application be **GRANTED**.

BZA
Case No. 16941
Exhibit No. 28

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Board of Zoning Adjustment
District of Columbia
CASE NO.16941
EXHIBIT NO.28

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: **4-0-1** (Geoffrey H. Griffis, David A. Zaidain, Anne M. Renshaw, and Anthony J. Hood to approve; Curtis L. Etherly, 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: DEC 0 3 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 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. cwm

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16941

As Director of the Office of Zoning, I hereby certify and attest that on DEC 0 3 2002, a copy of the foregoing Notice of Final Rulemaking and Determination and Order in BZA Application No. 16929 was mailed first class, postage prepaid, or delivered via inter-agency mail to each person and public agency who appeared and participated in the public hearing and who is listed below:

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ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning