GOVERNMENT OF THE DISTR
BOARD OF ZONING ADJUSTMENT

Application No. 16335 of the Estate of Daniel Terra on behalf of Brodsky Real Estate Partners, LLC, pursuant to 11 DCMR 3107.2, for a variance from the floor area ratio limitation of Subsection 1307.7, for construction of a building with retail and office space in a WP/C-2-A District at premises 2519 Connecticut Avenue, NW (Square 2202, Lots 813, 114, 115 and 112).

D.C. OFFICE OF ZONING
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HEARING DATE: April 15, 1998
DECISION DATE: April 15, 1998 **(BENCH DECISION)**

SUMMARY ORDER

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 Advisory Neighborhood Commission (ANC) 3C and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 3C. ANC 3C, which is automatically a party to this application, submitted a written report after the seven day filing deadline and requested that the Board waive its rules to accept the report late. Upon discussion of the waiver request, the Board decided not to accept the ANC's report. Therefore, the report was not made a part of the record.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for variances from the strict application of the requirements of 11 DCMR 3107. 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.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3107, that there exists an exceptional or extraordinary situation or condition related to the property which creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that this application be **GRANTED, SUBJECT** to the following **CONDITION**:

BZA
Case No. 17011
Exhibit No. 13

Board of Zoning Adjustment
District of Columbia
CASE NO. 17011
EXHIBIT NO. 13

.The terms of the Agreement made between Brodsky Real Estate Partners, LLC and the Woodley Park Community Association on April 13, 1998 shall be honored (Exhibit 32 of the record).

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.1 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 (Sheila Cross Reid, Betty King, Maurice Foushee and Jerrily R. Kress to grant)

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

ATTESTED BY: Sheri M Pruitt-Williams
SHERI M. PRUITT-WILLIAMS
Interim Director

FINAL DATE OF ORDER: APR 30 1998

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

Ord16335/BAB

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16335

As Interim Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on APR 30 1998 a copy of the order entered on that date in this matter was mailed first class postage prepaid to each party who appeared and participated in the public hearing concerning the matter, and who is listed below:

Richard B. Nettler, Esq. (Attorney for the Applicant)
Robins, Kaplan, Miller & Ciresi
1801 K Street, NW, Suite 1200K
Washington, DC 20006

Joel Brodsky
15950 Perwood Road
Rockville, Maryland 20855

Phil Mendelson, Chairperson
Advisory Neighborhood Commission 3C
2737 Devonshire Place, NW
Washington, DC 20008

Alan Blevins, President
Woodley Park Community Association
2929 Cathedral Avenue, NW
Washington, DC 20008

Sheri M Pruitt-Williams

SHERI M. PRUITT-WILLIAMS
Interim Director

DATE: APR 30 1998

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 16335 of the Estate of Daniel Terra on behalf of Brodsky Real Estate Partners, LLC, pursuant to 11 DCMR 3107.2, for a variance from the floor area ratio limitation of Subsection 1307.7, for construction of a building with retail and office space in a WP/C-2-A District at premises 2519 Connecticut Avenue, NW (Square 2202, Lots 813, 114, 115 and 12).

HEARING DATE:	April 15, 1998
DECISION DATE:	April 15, 1998
DISPOSITION:	The Board granted the application by a vote of 4-0 (Sheila Cross Reid, Betty King, Maurice Foushee and Jerrily R. Kress to grant).
FINAL DATE OF ORDER:	April 30, 1998

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ORDER ON REQUEST TO SUPPLEMENT RECORD

The Board granted the application, by bench decision, at its April 15, 1998 public hearing.

By letter dated March 25, 1998, Advisory Neighborhood Commission (ANC) 3C requested that the Board waive its rules to permit the late filing of the Commission's report. The ANC indicated that it had planned to consider the application at its regular monthly meeting held on March 23, 1998. However, pending an agreement between the applicant and the Woodley Park Community Association, the ANC decided to hold a special meeting on April 8th to consider the matter.

By letter dated April 9, 1998, ANC 3C submitted a report to the Board recommending denial of the application. The Board decided not to waive its rules to accept the late ANC report and instructed staff to return the document. The rationale for returning the document was:

- The issues identified in the ANC's report were resolved;
- The applicant and the Woodley Park Community Association signed an Agreement, which the residents felt protects the neighborhood from potential adverse impacts. The Agreement would be attached to the deed as a covenant running with the land; and
- The BZA order would be conditioned to reinforce the Agreement.

By letter dated April 29, 1998, Advisory Neighborhood Commission 3C wrote to the Board stating that the Commission had reconsidered its decision and was withdrawing its opposition to the application. The Board reviewed the ANC's April 29, 1998 correspondence at a public meeting.

The Board noted that the ANC's request to reopen the record (because it had withdrawn its opposition to the application) was a benign request. The Board indicated that the request was moot and does not change any aspect of the record in the case. The Board thanked the ANC for the information. Accordingly, the Board hereby **ORDERS** that the ANC's request to supplement the record with the ANC's **RECONSIDERED POSITION BE DENIED**.

VOTE: 3 – 0 (Betty King, Sheila Cross Reid and Maurice Foushee to deny)

DECISION DATE: June 3, 1998

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____
JERRILY R. KRESS
Director

FINAL DATE OF ORDER: JUN - 9 2000

UNDER 11 DCMR § 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA."

16335/VCE/3-31-2000

BZA APPLICATION NO. 16335

As Director of the Office of Zoning, I hereby certify and attest that on JUN - 9 2000 a copy of the proposed Reconsideration Order was mailed first class, postage prepaid, to each party who appeared and participated in the public hearing concerning the matter, and who is listed below:

Ann Hume Loikow, Chairperson
Advisory Neighborhood Commission 3C
2737 Devonshire Place, NW
Washington, DC 20008

Richard B. Nettler, Esq. (Attorney for Applicant)
Robins, Kaplan, Miller & Ciresi
1801 K Street, NW, Suite 1200
Washington, DC 20006

Joel Brodsky
15950 Perwood Road
Rockville, Maryland 20855

Alan Blevins, President
Woodley Park Community Association
2929 Cathedral Avenue, NW
Washington, DC 20008

ATTESTED BY: _____
JERRILY R. KRESS
Director

DATE: JUN - 9 2000