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2004 JUL -2 PM 2:03

July 2, 2004

By Hand Delivery

Mr. Geoffrey Griffis, Chairman
District of Columbia Board of Zoning Adjustment
441 4th Street, N.W.
Suite 210
Washington, DC 20001

Re: BZA Application No. 17179 – The Heritage Foundation

Dear Chairman Griffis and Members of the Board:

On behalf of The Heritage Foundation, the applicant in the above-referenced matter, please find enclosed the applicant's Draft Order. We understand that the BZA will decide this case at its public meeting on July 6, 2004. If you have any questions or concerns, please feel free to call me.

Very truly yours,

Allison C. Prince

Allison C. Prince

Enclosure

cc: ANC 6C

Document #: 1412813 v.1

BZA
Case No. 17179
Exhibit No. 38

Board of Zoning Adjustment
District of Columbia
CASE NO. 17179
EXHIBIT NO. 38

D.C. [illegible]

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DRAFT ORDER

Application No. 17179 of the Heritage Foundation, pursuant to 11 DCMR §3104.1 for a special exception under Section 214 to continue accessory parking spaces and 11 DCMR §3103.2 for variance relief for a variance to allow accessory parking spaces for single-family dwellings to be located elsewhere than on the same lot as the dwellings (Subsection 214.1), a variance to locate the accessory parking spaces more than 200 feet from the area to which they are accessory (Subsection 214.3), and a variance to allow accessory spaces that are not contiguous to or separated by an alley from the area to which they are accessory (Subsection 214.4) for accessory spaces on alley lots in a CAP/R-4 District at premises Rear 415 3rd Street, N.E., Rear 416 and 424 4th Street, N.E. (Square 780, Lots 43, 62, and 810).

HEARING DATE: June 29, 2004
DECISION DATE: June 29, 2004

SUMMARY ORDER

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) 6C and to 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 the application is located within the jurisdiction of ANC 6C. ANC 6C, which is automatically a party to the application, filed a written statement expressing its unanimous support for the application for a seven year term. The Office of Planning submitted a report and testimony in support of the application. In addition, both the Capitol Hill Restoration Society and the Station Park Neighborhood Association supported the application, the former for a term of 10 years and the latter for a period of seven years.

As directed by 11 DCMR §3119.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for variance relief and a special exception from the strict application of the requirements of 11 DCMR §214. No person or entity appeared at the public hearing in opposition to this application. As a result, a party request by a neighbor was denied. 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 its burden of proof, pursuant to 11 DCMR §3103.2 and 11 DCMR §3104.1, for a special exception under Section 214, 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 subject to the following CONDITIONS:

1. Approval shall be for a period of ten (10) years.

2. The number of parking spaces shall not exceed 55.

3. The lots shall be cleaned daily.

4. All parts of the lots shall be kept free of trash and debris.

5. The applicant shall maintain a liaison person to ensure that the lots operate with minimal impact on the community. Community residents must be able to reach the contact person to express any concerns about the operation of the lots.

6. The lots shall be available for use by community members after 7 p. m. and on weekends and holidays.

7. Wheel stops shall be maintained at the top of each parking space.

8. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance. The Applicant shall plant a minimum of one additional tree in the landscaped area at the center of each lot. In addition, the Applicant shall consult with a landscape expert to identify a hearty ground level vegetation suitable for the alley lot location. The Applicant shall then install such vegetation in each of the three primary landscaped areas. The Applicant may also install additional landscaping, if feasible.

9. All areas devoted to driveways, access lanes and parking areas shall be maintained with a material forming an all-weather impervious surface.

10. No vehicle or any part thereof shall be permitted to project over any lot or building line, or on or over the public space.

11. No other use shall be conducted from or upon the premises and no other structure other than an attendant's shelter shall be erected or used upon the premises unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.

12. Any lighting used to illuminate the accessory parking spaces shall be arranged so that all direct rays are confined to the surface of the parking lot.

13. Signage shall continue to be maintained on the property, to include a telephone number, identifying the Heritage Foundation as the point of contact.

Pursuant to 11 DCMR §3100.5, 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 not prohibited by law.

VOTE: 4-0-1 (Geoffrey H. Griffis, Curtis L. Etherly, Jr., Ruthanne G. Miller, John Mann, II, to Approve, a Zoning Commission Member not present, not voting).

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: _____

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 §3130.4, THIS ORDER IS VALID IMMEDIATE SINCE THE USE CONTEMPLATED IN THE APPLICATION WILL BE ESTABLISHED WITHIN A PERIOD OF SIX MONTHS AFTER THIS ORDER.

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 (1999).

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.

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