District of Columbia Court of Appeals
500 Indiana Avenue, N.W.
Washington, D.C. 20001

GARLAND F. PINKSTON
CLERK OF COURT

Telephone: 879-2700
Area Code 202

March 21, 2005

05-AA-208 Carrie E. Cooper, et al vs. District of Columbia Board of Zoning Adjustment

District of Columbia Board of Zoning Adjustment
Jerrily Kress, Director
441 4th Street, N.W.
Suite 210S
Washington, D.C. 20001

Dear Sir/Madam:

Pursuant to the rules of this Court I am transmitting, herewith, a copy of the petition for review filed on March 18, 2005, in the above-entitled case.

Yours very truly,

Garland F. Pinkston
Clerk of Court

By: _____
Information Center Supervisor

cc: Edward Schwab, Esq.

BZA
Case No. 17284
Exhibit No. 37

Board of Zoning Adjustment
District of Columbia
CASE NO. 17284
EXHIBIT NO. 37

DISTRICT OF COLUMBIA COURT OF APPEALS

RECEIVED
MAR 18 2005
DISTRICT OF COLUMBIA
COURT OF APPEALS

PETITION FOR REVIEW

MAR 18 2005

05AA208

APPEAL NO. _____

Carrye E. Cooper, Elizabeth J. Hoare ~~(see attached list)~~,
Your Name **PETITIONER,**

v.

7276311
Agency No.

Board of Zoning Adjustment,
Agency Name

RESPONDENT.

FILED
2005 MAR 18 PM 3:56

I, Carrye E. Cooper, Elizabeth J. Hoare, ~~(see attached)~~, **wish to appeal to the District of Columbia Court of Appeals from the decision or order of the** Board of Zoning Adjustment **entered on the** 16th **day of** February, **20**05.

Statement of the Nature of the Proceedings and Grounds Relied On (continue on reverse side if needed):

Miranda R. Brown sought a modification of application #16929 in order to convert plans for a four story detached dwelling to a three story building with a mezzanine. The Board erred in finding that the building as built contained a mezzanine rather than an unlawful fourth story. This is because the fourth story area of the building is larger than one third of the area of the floor immediately below, which is the legal limit of the size of a mezzanine.

Name, address and telephone number of all other parties and counsel (continue on reverse side if needed):

Miranda R. Brown

3122 Pennsylvania Avenue, S.E., Washington, D.C. 20020 Tel: (202)583-5177

Carrye E. Cooper
Signature of Petitioner or Attorney

by Elizabeth J Hoare

Elizabeth J. Hoare

Carrye E. Cooper, Elizabeth J. Hoare (see attached)
Printed Name Petitioner or Attorney

3150 Pennsylvania Ave, S.E., Washington, D.C. 20020
Address

(202)581-1030
Telephone

NOTE: Attach a copy of the decision/order issued by the District of Columbia agency from which this appeal is taken.

Petition for Review, Appeal No:_____

Supplementary List of other Parties to the hearing in question

Chairperson
Advisory Neighborhood Commission 7B
3200 S Street, S.E.
Washington, D.C. 20020

Single Member District Commissioner 7B04
Advisory Neighborhood Commission 7B
3200 S Street, S.E.
Washington, D.C. 20020

Vincent C. Gray, City Councilmember
Ward Seven
1350 Pennsylvania Avenue, N.W.
Suite 506
Washington, D.C. 20004

Toye Bello, Zoning Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
941 N. Capitol Street, N.E.
Washington, D.C. 20002

Ellen McCarthy, Interim Director
Office of Planning
801 North Capitol Street, N.E.
4th Floor
Washington, D.C. 20002

Alan Bergstein, Esq.
Office of the Attorney General
441 4th Street, N.W., 6th Floor
Washington, D.C. 20001

PETITION FOR REVIEW, D.C. COURT OF APPEALS

Appeal No._____

As a Petitioner in the foregoing Petition for Review, I hereby certify and attest that on March 18, 2005, a copy of said Petition was mailed first class, postage prepaid, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below.

Miranda R. Brown
3122 Pennsylvania Avenue, S.E.
Washington, D.C. 20020

Chairperson
Advisory Neighborhood Commission 7B
3200 S Street, S.E.
Washington, D.C. 20020

Single Member District Commissioner 7B04
Advisory Neighborhood Commission 7B
3200 S Street, S.E.
Washington, D.C. 20020

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801 North Capitol Street, N.E.
4th Floor
Washington, D.C. 20002

Alan Bergstein, Esq.
Office of the Attorney General
441 4th Street, N.W., 6th Floor
Washington, D.C. 20001

Attested by: Elizabeth J. Hoare

Elizabeth J. Hoare
Petitioner

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

Application No. 17284 of Miranda R. Brown, pursuant to 11 DCMR § 3103.2, for a modification of plans under subsection 3125.8, for a four story single-family detached dwelling, that was approved under BZA Application No. 16929, dated November 22, 2002. The requested modification will allow the construction of a three-story single-family detached dwelling with mezzanine, in the R-1-B District, at premises 3120 Pennsylvania Avenue, S.E. (Square 5545, Lot 3).

HEARING DATE: February 15, 2005
DECISION DATE: February 15, 2005 (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) 7B, the Office of Planning (OP) and to owners of property within 200 feet of the site. The site of the application is located within the jurisdiction of ANC 7B. The ANC submitted a report in support of the application. The OP submitted a report in support of the application

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to 11 DCMR §§ 3103.2. No parties appeared at the public hearing in opposition to the 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 and having given great weight to the OP report filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2 and 3125.8, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the 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.

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 not prohibited by law. It is therefore **ORDERED** that this application be **GRANTED.**

VOTE: **4-0-1** (Curtis L. Etherly, Jr., Geoffrey H. Griffis, Ruthanne G. Miller and John A. Mann II to approve, Gregory Jeffries not hearing all of the case, 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: February 16, 2005

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. RSN

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 17284

As Director of the Office of Zoning, I hereby certify and attest that on February 16, 2005, 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:

Miranda R. Brown
3122 Pennsylvania Avenue, S.E.
Washington, D.C. 20020

Chairperson
Advisory Neighborhood Commission 7B
3200 S Street, S.E.
Washington, D.C. 20020

Single Member District Commissioner 7B04
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4th Floor

Washington, D.C. 20002

Alan Bergstein, Esq.
Office of the Attorney General
441 4th Street, N.W., 6th Floor
Washington, D.C. 20001

rsn

ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning