EXHIBIT D

Board of Zoning Adjustment
District of Columbia
CASE NO. 21553
EXHIBIT NO. 12

Mr. Kooness:

I move that the following Order be entered:

ORDERED:

That the appeal of Robt. T. and Evelyn O. Dowd to continue operation of a parking lot at the rear of 4419-20 Connecticut Ave. N.W., lot 825, square 1971, be granted for the following reasns and subject to the condition hereinafter set forth:

(1) This parking lot was originally granted by the Board on September 19, 1956, and has been renewed from time to time by the Board. We find that the continued use of this parking lot is reasonably necessary and convenient to the neighborhood and is so located and all facilities thereof are so designed that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionble conditions, being located immediately to the rear of the commercial fronta e of Connecticut Avenue and providing off-street parking for the electrical supply store immediately across the alley f cing Connecticut Ave.

(2) The Department of Highways and Traffic offers no objection to the granting of this appeal.

(3) There was no objedtion to the granting of this appeal re istered at the public hearing.

This Order shall be subject to the following condition:

(a) Permit shall issue for a period of five years, but shall be subject to renewal in the discretion of the Board upon the filing of a new appeal in the manner prescribed by the Zoning Regulations.

Mr. McIntosh: I second the motion. Motion unanimously carried.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 16078 of 4418-20 Connecticut Avenue Limited Partnership, pursuant to 11 DCMR 3108.1, for a special exception under Section 214 to re-establish an accessory parking lot in an R-1-B District at premises Rear 4418-20 Connecticut Avenue, N.W. (Square 1971, Lot 825).

HEARING DATE: October 11, 1995
DECISION DATE: October 11, 1995 (Bench Decision)

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) 3F and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 3F. ANC 3F, which is automatically a party to the application, submitted written a written statement indicating that it would not object to the application if the approval period does not exceed five years.

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 a special exception pursuant to 11 DCMR 214. No person or entity appeared at the public hearing in opposition to the 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 3108, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. It is therefore **ORDERED** that the application is **GRANTED, SUBJECT** to the following **CONDITIONS:**

1. Approval shall be for a period of five years.

2. Eighteen parking spaces shall be provided on the site.

3. The hours of operation shall not exceed 8 a.m. to 9 p.m.

Board of Zoning Adjustment
District of Columbia
CASE NO.17527A
EXHIBIT NO.7D

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

5. Wheel stops shall be installed.

6. All parts of the lot shall be kept free of refuse or debris and shall be paved and landscaped.

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

8. Landscaping shall be provided as identified on the site plan. The landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.

9. No other use shall be conducted from or upon the premises and no 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.

10. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.3 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 (Angel F. Clarens, Maybelle Taylor Bennett, Susan Morgan Hinton and Craig Ellis to grant; Laura M. Richards not present, not voting).

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

ATTESTED BY: Madeliene H. Dobbins
MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: OCT 27 1995

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 SIX MONTHS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ord16078/TWR/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 16078

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on OCT 27 1995 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Jacques B. DePuy, Esquire
Greenstein, Delorme & Luchs, P.C.
1620 L Street, N.W., Suite 900
Washington, D.C. 20036

Douglas Mitchell, Chairperson
Advisory Neighborhood Commission 3F
3400 International Drive, N.W., #2J21
Washington, D.C. 20008

Madeliene H. Dobbins

MADELIENE H. DOBBINS
Director

DATE: OCT 27 1995.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

Application No. 16659 of John R. Klein pursuant to 11 DCMR § 3104 .1, for a special exception under sections 214, and 2303 to continue the use of an accessory parking lot in an R-1-B Districts at the rear of premises 4418 – 4420 Connecticut Avenue, N.W. (Square 1971, Lot 825).

NOTE: The application was amended at the public hearing to indicate that the zoning relief required was under section **213** instead of section 214 as originally requested by the Applicant.

HEARING DATE: February 6, 2001
DECISION DATE: March 6, 2001 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

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) 3F, and to owners of property within 200 feet of the site. The application was also referred to the Office of Planning (OP) for review and report.

The subject property is located within the jurisdiction of ANC 3F. ANC 3F, which is automatically a party to this application, filed a written statement 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 special exception under 11 DCMR §§ **213** and 2303 to continue the use of an accessory parking. No person or entity appeared at the public hearing 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 and having given great weight to the ANC and the OP reports, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 213 and 2303, that the requested relief will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning

Regulations and Zoning Map. It is therefore **ORDERED** that the application be **GRANTED**, subject to the following **CONDITIONS:**

1. Approval should be for a period of five years.

2. Nineteen (19) parking spaces shall be provided on the site.

3. The hours of operation shall not exceed 7:00 a.m. to 9:00 p.m.

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

5. Wheel stops shall remain installed.

6. All parts of the lot shall be kept free of refuse and debris, and shall be paved and landscaped.

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

8. The garbage container/dumpster shall remain at the location identified on the site plan.

9. Landscaping shall be provided as identified in the landscaping proposal, dated February 13, 2001, contained in Exhibit 29.

10. Landscaping shall be maintained in a healthy, growing condition, and in a neat and orderly appearance.

11. No other use shall be conducted from or upon the premises, and no structure other than an attendant 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 parking lot or its accessory building shall be so arranged that all direct rays of such lighting be confined to the surface of the parking lot.

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.

VOTE: 3-0-2 (Susan M. Hinton, Robert N. Sockwell and Anne M. Renshaw to approve; Anthony J. Hood, not present, not voting, the third Mayoral appointee not participating, 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 MAY 16 2001

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 SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

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.

As Director of the Office of Zoning, I hereby certify and attest that on MAY 16 2001, a copy of the order entered on that date in this matter before the Board of Zoning Adjustment was mailed first class, postage prepaid or sent by inter-agency mail, to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Leslie A. Nettleford, Esq.
1050 17th Street, N.W., Suite 1100
Washington, D.C. 20036

Alan Bergstein
Office of Corporation Counsel
441 4th Street, N.W., 6th floor
Washington, D.C. 20001

David J. Bardin, Chairperson
Advisory Neighborhood Commission 3F
3400 International Drive, N.W.
Washington, D.C. 20008

David J.Bardin, Commissioner
Single Member District 3F04
4701 Connecticut Avenue, N.W. #501
Washington, D.C. 20008

Kathleen Patterson, Councilmember
Ward Three
441 4TH Street, N.W., Room 709
Washington, D.C. 20001

Michael D. Johnson, Zoning Administrator
Department of Consumer & Regulatory Affairs
941 North Capitol Street, N.E., Suite 2000
Washington, D. C. 20002

Ellen McCarthy, Deputy Director
Office of Planning (4TH floor)
801 North Capital Street, N.E.
Washington, D.C. 20002

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

VCE

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

★ ★ ★

CORRECTED ORDER

Application No. 16659 of John R. Klein pursuant to 11 DCMR § 3104 .1, for a special exception under sections 214, and 2303 to continue the use of an accessory parking lot in an R-1-B Districts at the rear of premises 4418 – 4420 Connecticut Avenue, N.W. (Square 1971, Lot 825).

NOTE: The application was amended at the public hearing to indicate that the zoning relief required was under section **213** instead of section 214 as originally requested by the Applicant.

HEARING DATE: February 6, 2001
DECISION DATE: March 6, 2001 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFICATION

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

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) 3F, and to owners of property within 200 feet of the site. The application was also referred to the Office of Planning (OP) for review and report.

The subject property is located within the jurisdiction of ANC 3F. ANC 3F, which is automatically a party to this application, filed a letter indicating that it voted not to object to the application provided that the trash on the premises is picked up and placed inside a dumpster with a lid that is kept closed.

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 special exception under 11 DCMR §§ **213** and 2303 to continue the use of an accessory parking. No person or entity appeared at the public hearing 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 and having given great weight to the ANC and the OP reports, the Board concludes that the applicant has met the burden of proof,

pursuant to 11 DCMR §§ 3104.1, 213 and 2303, that the requested relief will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Map. It is therefore **ORDERED** that the application be **GRANTED**, subject to the following **CONDITIONS:**

1. Approval should be for a period of five years.

2. Nineteen (19) parking spaces shall be provided on the site.

3. The hours of operation shall not exceed 7:00 a.m. to 9:00 p.m.

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

5. Wheel stops shall remain installed.

6. All parts of the lot shall be kept free of refuse and debris, and shall be paved and landscaped.

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

8. The garbage container/dumpster shall remain at the location identified on the site plan.

9. Landscaping shall be provided as identified in the landscaping proposal, dated February 13, 2001, contained in Exhibit 29.

10. Landscaping shall be maintained in a healthy, growing condition, and in a neat and orderly appearance.

11. No other use shall be conducted from or upon the premises, and no structure other than an attendant 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 parking lot or its accessory building shall be so arranged that all direct rays of such lighting be confined to the surface of the parking lot.

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.

VOTE: 3-0-2 (Susan M. Hinton, Robert N. Sockwell and Anne M. Renshaw to approve; Anthony J. Hood, not present, not voting, the third Mayoral appointee not participating, 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: JUN 13 2001

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 SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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BZA APPLICATION NO. 16659

As Director of the Office of Zoning, I hereby certify and attest that on JUN 13 2001, a copy of the order entered on that date in this matter before the Board of Zoning Adjustment was mailed first class, postage prepaid or sent by inter-agency mail, to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Leslie A. Nettleford, Esq.
1050 17th Street, N.W., Suite 1100
Washington, D.C. 20001

Alan Bergstein
Office of Corporation Council
441 4th Street, N.W., (6th floor)
Washington, D.C. 20036

David J. Bardin, Chairperson
Advisory Neighborhood Commission 3F
3400 International Drive, N.W.
Washington, D.C. 20008

David J.Bardin, Commissioner
Single Member District 3F04
4701 Connecticut Avenue, N.W. #501
Washington, D.C. 20008

Kathleen Patterson, Councilmember
Ward Three
441 4TH Street, N.W., Room 709
Washington, D.C. 20001

Michael D. Johnson, Zoning Administrator
Department of Consumer & Regulatory Affairs
941 North Capitol Street, N.E., Suite 2000
Washington, D. C. 20002

Ellen McCarthy, Deputy Director
Office of Planning (4TH floor)
801 North Capital Street, N.E.
Washington, D.C. 20002

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

VCE

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

Application No. 17527 of John R. Klein, pursuant to 11 DCMR & 3104.1 for a special exception to continue the use of an accessory parking lot under sections 213 and 2303 (the parking lot was last approved under BZA Order No. 16659, dated June 13, 2001), in the R-1-B District at premises 4418-4420 Connecticut Avenue, N.W. (Square 1971, Lot 825).

HEARING DATE: October 17, 2006
DECISION DATE: November 14, 2006

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

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) 3F and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3F, which is automatically a party to this application. ANC 3F submitted a report in support of the application. The Office of Planning (OP) also submitted a report in support of the 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 pursuant to § 3104.1, for special exception under sections 213 and 2303. No parties appeared at the public hearing 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 and having given great weight to the OP and ANC reports, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1, 213 and 2303, that the requested relief can be granted being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. The parking lot's hours of operation shall be from 7 a.m. to 9 p.m.

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. It is therefore **ORDERED** that this application be **GRANTED, SUBJECT to the following CONDITIONS:**

1. Approval shall be for **TEN (10) YEARS.**

2. Nineteen (19) parking spaces shall be provided on the site.

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

4. Wheel stops shall be installed.

5. All parts of the lot shall be kept free of refuse and debris, and shall be paved and landscaped. All signage at the parking lot shall be maintained and damaged and bent signs shall be repaired and/or replaced.

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

7. The garbage container/dumpster shall not be permitted to project over any lot or building line, or on or over the public space.

8. Landscaping shall be provided as identified in the landscaping proposal, dated February 13, 2001, Exhibit 39 of the record. The landscaping shall be maintained in a healthy, growing condition, and in a neat and orderly appearance.

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

10. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting be confined to the surface of the parking lot.

VOTE: **5-0-0** (Ruthanne G. Miller, John A. Mann II and Geoffrey H. Griffis to grant; Michael G. Turnbull and Curtis L. Etherly, Jr. to grant by absentee ballot)

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

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

FINAL DATE OF ORDER: NOV 20 2006

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 SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN SIX MONTHS AFTER IT BECOMES EFFECTIVE UNLESS THE USE APPROVED IN THIS ORDER IS ESTABLISHED WITHIN SUCH SIX-MONTH PERIOD.

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.

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, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON

ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

TWR

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

BZA APPLICATION NO. 17527

As Director of the Office of Zoning, I hereby certify and attest that on **NOVEMBER 20, 2006**, 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:

Richard P. Schmitt, Esq.
Kass, Mitek & Kass
1050 17th Street, N.W., Suite 1100
Washington, D.C. 20036

John R. Klein
117 Grafton Street
Chevy Chase, Maryland 20815

Chairperson
Advisory Neighborhood Commission 3F
4401-A Connecticut Avenue, N.W., Box 24
Washington, D.C. 20008

Single Member District Commissioner 3F01
Advisory Neighborhood Commission 3F
4401-A Connecticut Avenue, N.W., Box 24
Washington, D.C. 20008

Bill Crews
Zoning Administrator
Dept. of Consumer and Regulatory Affairs
Building and Land Regulation Administration
941 North Capitol Street, N.E., Suite 2000
Washington, D.C. 20002

Councilmember Kathleen Patterson
Ward Three
1350 Pennsylvania Avenue, N.W., Suite 107
Washington, D.C. 20004

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

Alan Bergstein
Office of the Attorney General
441 4th Street, N.W., 7th Floor
Washington, D.C. 20001

Jill Stern
General Counsel
941 North Capitol Street, N.E., Suite 9400
Washington, D.C. 20002

ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning

TWR

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment

Application No. 17527-A of John R. Klein, II, as amended,[1] pursuant to 11 DCMR § 3103.2[2] and § 3104.1, for variances from the parking space requirements under §§ 2115.1 and 2117.5, and a special exception from the parking lot requirements under § 213, to permit the continued operation of an accessory parking lot in the R-1-B District at premises (rear) 4418-4420 Connecticut Avenue N.W. (Square 1971, Lot 825).

HEARING DATES: July 19, 2016, and September 13, 2016
DECISION DATE: September 13, 2016

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Revised – Exhibit 45; Original - Exhibit 5.) In granting the certified relief, the Board of Zoning Adjustment ("Board" or "BZA") made no finding that the relief is either necessary or sufficient. Instead, the Board expects the Zoning Administrator to undertake a thorough and independent review of the building permit and certificate of occupancy applications filed for this project and to deny any application for which additional or different zoning relief is needed.

[1] The original application did not include the request for variances from parking space dimension and drive aisle width requirements, which were added to the application by revised self-certification form on September 7, 2016. (Exhibit 45.) The Applicant provided notice of the amendment by posting notice on the property on August 29, 2016, in advance of the continued hearing date. (Exhibit 42.) The caption has been revised accordingly.

[2] This and all other references in this Order to provisions contained in Title 11 DCMR, except those references made in the final all-capitalized paragraphs, are to provisions that were in effect on the date this Application was heard and decided by the Board of Zoning Adjustment ("the 1958 Regulations"), but which were repealed as of September 6, 2016 and replaced by new text ("the 2016 Regulations"). The repeal of the 1958 Regulations has no effect on the validity of the Board's decision or the validity of this order. Pursuant to Subtitle A § 104 of the 2016 Regulations, the construction authorized by this Order is vested as to the area requirements contained in 1958 Regulations as of September 5, 2016.

Board of Zoning Adjustment
District of Columbia
CASE NO.17527A
EXHIBIT NO.50

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") 3F and to owners of property located within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 3F, which is automatically a party to this application. The ANC submitted a report on June 24, 2016 indicating that at a duly noticed and regularly scheduled public meeting on June 21, 2016, at which a quorum was in attendance, ANC 3F voted unanimously (7-0-0) in support the application, subject to 11 conditions. (Exhibit 29.) At the public hearing on September 13, 2016, ANC 3F Commissioner Malachy Nugent also testified in support of the ANC's proposed conditions, which included a four-year time limit on any relief approved by the Board.

The Office of Planning ("OP") submitted a timely report, dated July 12, 2016, recommending approval of the special exception under § 213, subject to conditions consistent with those proposed by the ANC. (Exhibit 35.) OP also testified at the hearing in support of the original application. After the Applicant amended its application to add a request for variances from the parking dimension requirements of § 2115.1 and the drive aisle requirements of § 2117.5, OP submitted a supplemental report recommending approval of the amended application, subject to conditions. (Exhibit 43.)

The District Department of Transportation ("DDOT") submitted two reports. On July 12, 2016, DDOT submitted a report indicating that additional information was needed from the Applicant before it could provide a recommendation on this application. (Exhibit 36.) On September 1, 2016, DDOT submitted a supplemental report indicating that it had no objection to the granting of the application, with conditions. (Exhibit 44.)

At the public hearing on September 13, 3016, the Applicant testified that it accepted the conditions proffered by the ANC, OP, and DDOT, except that the Applicant proposed a ten-year time limit on the relief, while the ANC, OP, and DDOT proposed a four-year time limit. The Board determined to impose a ten-year limit on its order granting relief, finding that a longer term is appropriate because the conditions include an annual reporting requirement to the ANC and because the ten-year term allows for the Board to impose a condition requiring pervious paving between the eighth and ninth year of that time period, if not sooner.

Special Exception Relief

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 pursuant to § 3104.1, for a special exception from the parking lot requirements under § 213, to permit the continued operation of an accessory parking lot in the R-1-B District. No parties appeared at the public hearing 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 and having given great weight to the ANC and OP reports

filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to §§ 3104.1 and 213, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Variance Relief

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, pursuant to 11 DCMR § 3103.2, for variances from the parking space requirements under §§ 2115.1 and 2117.5, to permit the continued operation of an accessory parking lot in the R-1-B District. No parties appeared at the public hearing 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 and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking a variance from §§ 2115.1 and 2117.5, the Applicant has met the burden of proving under 11 DCMR § 3103.2, 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 § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.5, 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.

It is therefore **ORDERED** that the application is hereby **GRANTED, AND PURSUANT TO § 3125.8, SUBJECT TO THE APPROVED PLANS AT EXHIBIT 41 AND THE FOLLOWING CONDITIONS:**

1. The Board's approval shall be valid for a period of **TEN (10) YEARS** beginning on the effective date of this order.

2. The Applicant shall provide up to 19 parking spaces, including one accessible space, in compliance with the American with Disabilities Act requirements and guidelines, on the site.

3. All areas, except the landscaped area, shall be maintained with a paving of material forming an all-weather impervious surface. The existing impervious material shall be replaced with pervious material between the eighth and ninth year of approval, or sooner, if major repaving activities are required.

4. All parts of the lot shall be kept free of refuse and debris. All wheel stops and signage shall be maintained, and damaged and bent wheel stops and signs shall be repaired and/or replaced.

5. No vehicle or any part of a vehicle shall be permitted to project over any lot line or into the public space.

6. The garbage container/dumpster shall not be permitted to project over any lot line or into the public space.

7. Landscaping shall be provided as identified on the landscaping plan, Exhibit 7E of the record. The landscaping shall be maintained in a healthy, growing condition and in a neat and orderly appearance.

8. No other use shall be conducted from or on the premises.

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

10. The Applicant shall provide to the ANC-3F an annual report demonstrating compliance with the conditions of this order.

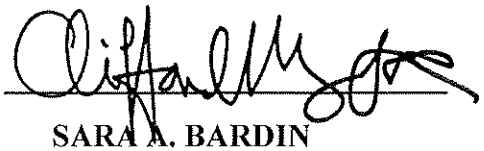
11. The Applicant shall post a "Compact Vehicles Only" sign at the entry to the parking lot and shall also mark the parking spaces as "Compact Vehicles Only."

12. The Applicant will preserve a potential future pass-through space for a possible drive aisle connection to the adjacent parking lot as shown on the Revised Parking Plan. (Exhibit 41.) The Applicant shall have flexibility to modify the plans approved by the Board for the purpose of creating a drive aisle connection to the adjacent parking lot.

VOTE: **3-1-1** (Anita Butani D'Souza, Jeffrey L. Hinkle, and Frederick L. Hill to APPROVE; Peter G. May[3] to DENY; Marnique Y. Heath not participating.)

[3] Commissioner May did not participate in the original hearing of this case on July 19, 2016, but indicated that he had read the record in order to participate on the continued hearing and decision.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

ATTESTED BY: 
SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: September 22, 2016

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, 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 PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, 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. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. 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.

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, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.