VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF ALEXANDRIA

IN RE: JULY 28, 2011 DECISION OF THE BOARD OF ZONING APPEALS FOR THE CITY OF ALEXANDRIA	))))	Civil Action No. CL11004201

FINAL ORDER

This case came to be heard on June 7, 2012, on Petitioners H. Curtiss Martin's and Virginia Drewry's (the "Petitioners") Amended Petition for Appeal of the July 28, 2011 decision of the Board of Zoning Appeals for the City of Alexandria. The Petitioners, respondents James and Christine Garner (the "Garners"), the applicants for the variance approval from which the Petitioners Appeal, and the City of Alexandria, Virginia, appeared by and through counsel. Based on the record filed by the Board of Zoning Appeals, as amended, and the argument of counsel, the Court finds as follows:

IT APPEARING TO THE COURT that the Garners submitted an application for a variance of three feet (3') from the City of Alexandria Zoning Ordinance requirement for a five foot (5') side yard, and an application for a variance of thirteen feet (13') from the Zoning Ordinance requirement for a sixteen foot (16') rear yard setback (the "Variance Application").

IT FURTHER APPEARING that a properly advertised and duly held hearing on the Variance Application was held on July 28, 2011 at which the Board of Zoning Appeals approved the Variance Application in accordance with and pursuant to its authority under City of Alexandria Charter Section 9.18, and in accordance with Zoning Ordinance Sec. 11-1103. Furthermore, the Board of Zoning Appeals granting of the Variance Application was not contrary to law, nor was it was arbitrary and an abuse of discretion. It is therefore,

ORDERED, ADJUDGED and DECREED that the decision of the Board of Zoning Appeals on July 28, 2011 to grant James and Christine Garner a three foot (3') side yard variance and a thirteen foot (13') rear yard variance is UPHELD, and the Amended Petition for Appeal and all counts therein is DISMISSED, with prejudice.

This order is FINAL.

Entered this 7th day of June, 2012.

The Honorable J. Howe Brown,
By designation

WE ASK FOR THIS:

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FOR THE REASON STATED IN OPEN COURT AND IN THE PLEADINGS PREVIOUSLY FILED AND READ HEREIN INCLUDING

1) The decision to exclude testimony of an expert
2) The decision of the BZA was contrary to law and an abuse of discretion

Assignment of Error

1. The trial court erred in upholding the BZA's decision granting variances because the BZA acted unconstitutionally and contrary to and excess of the limited authority granted to it by the General Assembly by considering irrelevant design variables, by failing to find undue or unnecessary hardship if the variances were not granted and substantial detriment if the variances were granted and by granting the variances where an amendment to the Zoning Ordinance or approval of a development application were reasonably practical solutions.