WILKES, ARTIS, HEDRICK & LANE
CHARTERED
ATTORNEYS AT LAW
SUITE 1100
1666 K STREET, N. W.
WASHINGTON, D. C. 20006-2897
(202) 457-7800

STEVEN E. SHER
DIRECTOR OF ZONING SERVICES
VOICE: 202-457-7326
EMAIL: ssher@wahlone.com
FAX: 202-457-7814

ANNAPOLIS, MARYLAND
BETHESDA, MARYLAND
FAIRFAX, VIRGINIA
GREENBELT, MARYLAND
WALDORF, MARYLAND

Outline of Testimony
before the Board of Zoning Adjustment

BZA Application No. 16536
14th and N Streets, N.W.

Steven E. Sher
Director of Zoning Services
Wilkes, Artis, Hedrick & Lane, Chartered

January 19, 2000

I. Site location

A. Square bounded by 14th, 15th and N Streets, Thomas Circle and Massachusetts Avenue, N.W.

B. Thomas Circle/Logan Circle area

II. Site description

A. Southwest corner of the intersection of 14th and N Streets, N.W. (Square 212, lot 123)

B. Part of larger site having frontage on 14th and N Streets, Thomas Circle and Massachusetts Avenue, N.W.

C. Site contains National City Christian Church

D. Overall site contains 79,595 square feet

E. Portion of site to be developed contains approximately 19,630 square feet and is currently used as a surface parking lot for fifty-seven cars

BZA
CASE No. 16536
EXHIBIT No. 26

Board of Zoning Adjustment
District of Columbia
CASE NO.16536
EXHIBIT NO.26

III. Description of surrounding area

A. Remainder of subject square

1. High-rise ninety foot apartment houses along N Street to the west (Town Terrace East and West)

2. Heatherington apartments (ninety feet in height) along Massachusetts Avenue to the west

3. Extended stay suites hotel (ninety feet in height) under construction along Massachusetts Avenue to the west

4. Vacant site for additional apartment or hotel construction with a permitted height of 130 feet at the corner of Massachusetts Avenue and 15th Street

5. Three three-story townhouse type structures at the corner of 15th and N Streets

B. North of Massachusetts Avenue is predominantly high-rise, ninety foot apartment house development

C. South of Massachusetts Avenue is the central employment area with predominantly commercial development

IV. Existing zoning: SP-2

A. Uses:

1. Residential use permitted as a matter-of-right (§501.1(a))

2. Office use permitted as a special exception (§508)

B. Height

1. Maximum of 90 feet (§530.1)

2. No limit on the number of stories (§530.1)

C. Density

1. Maximum of 6.0 FAR for residential use (§531.1)

2. Maximum of 3.5 FAR for office use (§531.1)

D. Percentage of lot occupancy

1. Maximum of eighty percent (§532.1)

2. Applies only to residential use (§5321.)

E. Residential recreation space

1. Minimum of ten percent of the gross floor area for residential use (§533.4)

2. May be interior or exterior, including on the roof (§533.5)

F. Rear yard

1. Minimum requirement of 2½ inches per foot of height (§534.2)

2. May be measured from centerline of street at rear for building on corner lot fronting on three or more streets (§534.3(c))

G. Side yard - not required (§535.4)

H. Courts

1. Not required

2. If provided, minimum width of three inches per foot of height, but not less than twelve feet (§536.1)

I. Parking

1. For apartment house, minimum of one space for each four units (§2101.1)

2. For office, minimum of one space for each 1,800 square feet of gross floor area in excess of 2,000

3. None required for an addition to a historic landmark (§2100.5)

V. Proposed development

A. Addition to the existing Church

B. Apartment house with approximately 175 to 180 units

C. Twelve stories, 110 feet in height

D. Gross floor area of approximately 175,000 square feet

1. Approximately 2.2 FAR on the entire site

2. Total FAR on the site will be approximately 3.3, including the existing church facilities

E. Three levels of underground parking with a total of 156 spaces (104 for the apartments, 52 for the Church)

VI. Variance required: proposed height (110 feet) exceeds the ninety feet permitted

VII. Standards for a variance (§3103.2)

A. Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,

B. the strict application of any regulation adopted under D.C. Code §§5-413 to 4-432 (1981) would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship;

C. Provided, 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.

VIII. Compliance with the variance standards

A. Exceptional or extraordinary situation or condition

1. Existence of landmark Church occupying a disproportionate share of the footprint of the property

a. Inability to use the permitted FAR on the site (proposed 3.3 FAR vs. permitted 6.0 FAR)

b. Previous BZA cases

(1) Corcoran Gallery of Art - 500 - 530 17th Street, N.W. (BZA #14703)

(2) 2501 Pennsylvania Avenue, N.W. (BZA #15461)

c. Decision of the D.C. Court of Appeals in *United Unions, Inc. v. District of Columbia Board of Zoning Adjustment*, 554 A.2d 313 (D.C. App. 1989)

2. Need for parking for the Church

B. Practical difficulty

1. Extra cost required for the lowest level of parking

2. Need for a critical mass of housing to share operating costs for the apartment house

C. No detriment to the public good

1. Residential use is favored in the SP District by being accorded a higher density than nonresidential use

2. Building is set back at the top two floors with strong architectural recognition of ninety foot height

3. Zoning Commission has changed zoning to allow a 130 foot height in this square

4. Architect's shadow studies demonstrate that the building does not have a substantial impact on adjoining property

IX. Conclusions

A. Subject property is affected by an exceptional condition, because of the existence of a landmark structure

B. Strict application of the Regulations, limiting development to ninety feet, would cause a practical difficulty for the owner

C. The variance can be granted without substantial detriment to any surrounding properties

D. The application should be granted