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**Outline of Testimony**
**before the Board of Zoning Adjustment**

**BZA Application No. 16775**

**1012 10th Street, N.W.**

**Steven E. Sher**
**Director of Zoning and Land Use Services**
**Holland & Knight LLP**

**October 23, 2001**

I. Site location and description

A. Location

1. West side of 10th Street between K Street and Massachusetts Avenue, N.W.

2. Site also fronts on twelve foot wide east-west alley connecting 10th and 11th Streets and an 11.75 foot north-south alley connecting to Massachusetts Avenue

3. Project site consists of lot 57 in Square 342

4. Site located one block west of Mt. Vernon Square

B. Size

1. Total site area is approximately 3,259 square feet

2. Frontage of 34.67 feet on 10th Street

C. Existing site condition – improved with a four story, 13,000 square foot building constructed in 1983 for the National Medical Association

BZA
Case No. 16775
Exhibit No. 28

Board of Zoning Adjustment
District of Columbia
CASE NO.16775
EXHIBIT NO.28

II. Description of surrounding area (see aerial photograph, attached)

A. Mt. Vernon Square/Convention Center area

B. Area contains mix of building types mostly devoted to commercial use

C. Little significant new development in recent years

D. Major new project underway is the new convention center in the blocks bounded by 7th, 9th, K and N Streets

E. Remainder of Square 342 (see aerial photograph attached):

1. Cato Institute office building at the corner of 10th Street and Massachusetts Avenue

2. American Road and Transportation Builders Association office building at the corner of 11th Street and Massachusetts Avenue

3. Parking lot and hostel on the east side of 11th Street north of K Streets

4. Small buildings (mostly vacant or used for offices) along the north side of K Street

5. Carpenter's union office building at the corner of 10th and K Streets

F. Uses to the northwest and north: Federal triangular park reservations

G. Uses to the northeast in Square 370 (bounded by Massachusetts Avenue and 9th, 10th and L Streets)

1. Pepco substation at the corner of 10th and L Streets

2. Plumber's union office building at the corner of 9th Street and Massachusetts Avenue

3. Parking lots on the remainder

H. Uses to the east in Square 371 (bounded by Massachusetts Avenue and 9th, 10th and K Streets)

1. Henley Park Hotel at the corner of Massachusetts Avenue and 10th Street

2. Mt. Vernon Place United Methodist Church on the eastern side of the square

3. Parking lot at the corner of 10th and K Streets

I. Use to the southeast in Square 372 (bounded by New York Avenue and 9th, 10th and K Streets): parking lot (site of an approved planned unit development for office use)

J. Uses to the south in Square 343 (bounded by New York Avenue and 10th, 11th, I and K Streets)

1. Vacant lot on the east half of the square (site of an approved planned unit development for office or hotel use)

2. Vacant lot at the corner of 11th and K Streets

3. Hertz rental car facility at the corner of 11th and I Streets

K. Uses to the west in Square 316

1. Large office building at 1100 K Street

2. Rental car and parking lots on the north side of K Street

II. Existing zoning: DD/C-2-C

A. Uses (§§720 – 734)

1. Commercial use permitted as a matter-of-right, including retail, service and office use

2. Residential use permitted as a carry-over from the Special Purpose and Residential Districts

B. Height - maximum of ninety feet (§770.1)

C. Density - maximum of 6.0 FAR, with nonresidential uses limited to 2.0 FAR (§771.2)

D. Lot occupancy - 80 percent permitted (§772.1)

E. Rear yard – fifteen feet (§774.11)

F. Side yard - not required (§775.5)

G. Parking (§2101.1): for office use, minimum of one space for each 1,800 square feet of gross floor area in excess of 2,000 square feet

H. Loading (§2201.1): for office use between 20,000 and 50,000 square feet of gross floor area, one thirty foot loading berth and one service/ delivery loading space

I. Downtown Development (DD) Overlay District

1. Applies to new buildings and alterations or additions to existing buildings involving more than 100 percent of assessed value of building in any twelve month period

2. Height is maximum permitted under the Act of 1910 (105 feet for subject site)

3. Housing Priority Area B

a. Maximum FAR is 8.0

b. Minimum of 4.5 FAR required to be devoted to residential use (3.5 FAR available for commercial)

4. On-site residential may be satisfied by combined lot development with another site in Housing Priority Area B

III. Proposed development

A. Use: office building for National Medical Association

B. Gross floor area of approximately 25,275 square feet (7.75 FAR)

C. Height: 105 feet

D. One handicapped parking space and one service/delivery loading space will be provided at grade in the rear

IV. Relief required

A. Variance from the rear yard requirement (§774.1)

1. Minimum required: 15 feet

2. Proposed: 10 feet

3. Variance: 5 feet

B. Variance from the off-street parking requirement (§2101.1)

1. Minimum required: 13

2. Provided: 1

3. Variance: 12

C. Variance from the loading berth requirement (§2201.1)

1. Minimum required: one thirty foot berth

2. *Provided: none*

3. Variance: one thirty foot berth

D. Variance from the requirement that residential development precede the nonresidential development in a combined lot development (§1706.13)

E. Special exception to permit a roof structure not meeting the 1:1 setback from the edge of the roof (§411.11)

V. 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.

VI. Compliance with the variance standards

A. Exceptional or extraordinary situation or condition

1. Property is exceptionally narrow, only thirty-four feet, eight inches wide

2. Property is exceptionally small for any use

a. Only 3,259 square feet

b. Landlocked lot, surrounded by street, alleys and developed property, cannot be expanded

c. Smaller than other lots in the square or the area

3. Site generates a requirement for only 14,666 square feet of residential

a. Owner has agreement with Douglas Development to provide the residential in Square 517 (bounded by Massachusetts Avenue and 4th, 5th, H and I Streets) in Housing Priority Area B

b. Douglas has agreed to allow the housing to be provided without cost to the Association

c. Square 517 site is dedicated to housing by virtue of approval of the PUD for the former Woodward and Lothrop department store building

d. Zoning Commission understood that the Square 517 site would be developed when market conditions would allow

e. Amount of residential required is not large enough by itself to make any linked residential project proceed

B. Practical difficulty

1. Even as proposed, development cannot use the full zoning envelope, providing only for 7.75 FAR

2. Needs of the owner cannot be met with a smaller building

3. Additional five foot setback over the ten feet provided for the rear yard adversely impacts the interior footprint of the building

4. Site is not wide enough to allow parking or loading in the building or to accommodate ramps or spaces within a feasible configuration

5. Site is too small to be developed with both office and required residential use, so combined lot development is only option

6. Development cannot proceed without variance on timing of the linked residential development

7. Not aware of any projects that have proceeded in this manner in the more than ten years that the Regulations have been in effect

C. No detriment to the public good

1. Adjoining building to the north is set back

2. Site is bordered by alleys, providing effective width of more than fifteen feet at the rear

3. Parking and loading demands for the building are small

4. Are sufficient off-street parking facilities available in the area

5. Service can be provided from the rear, loading can be accommodated through the front

6. Covenant in place assures that residential use will be provided on Square 517

7. Applicant is agreeable to condition requiring combined lot development covenant to be recorded before permit is issued

VII. Standards for the special exception (§411.11)

A. Where impractical because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area

B. that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable

C. the Board of Zoning Adjustment shall be empowered to approve the location, design, number and all other aspects of such [roof] structure ...

D. Provided that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.

VIII. Compliance with the special exception standards

A. Size of building lot

1. Lot is only 34.67 feet wide

2. Requiring an eighteen foot, six inch setback from the north and south sides is a total of thirty-seven feet, leaving no room left for a roof structure

3. Even with fifteen foot roof structure, required setback leaves less than five feet available

4. Only feasible internal floor plate is to locate elevator core on one side or the other

B. Unduly restrictive and unreasonable: is no feasible way to provide a conforming roof structure

C. Impact on other buildings

1. Property is surrounded by streets or alleys on all sides except for the north

2. Building on north is set back

3. Roof structure meets the setback requirements from three of the four sides, including the street frontage

4. There are limited areas from where the roof structure can be seen

IX. Conclusions

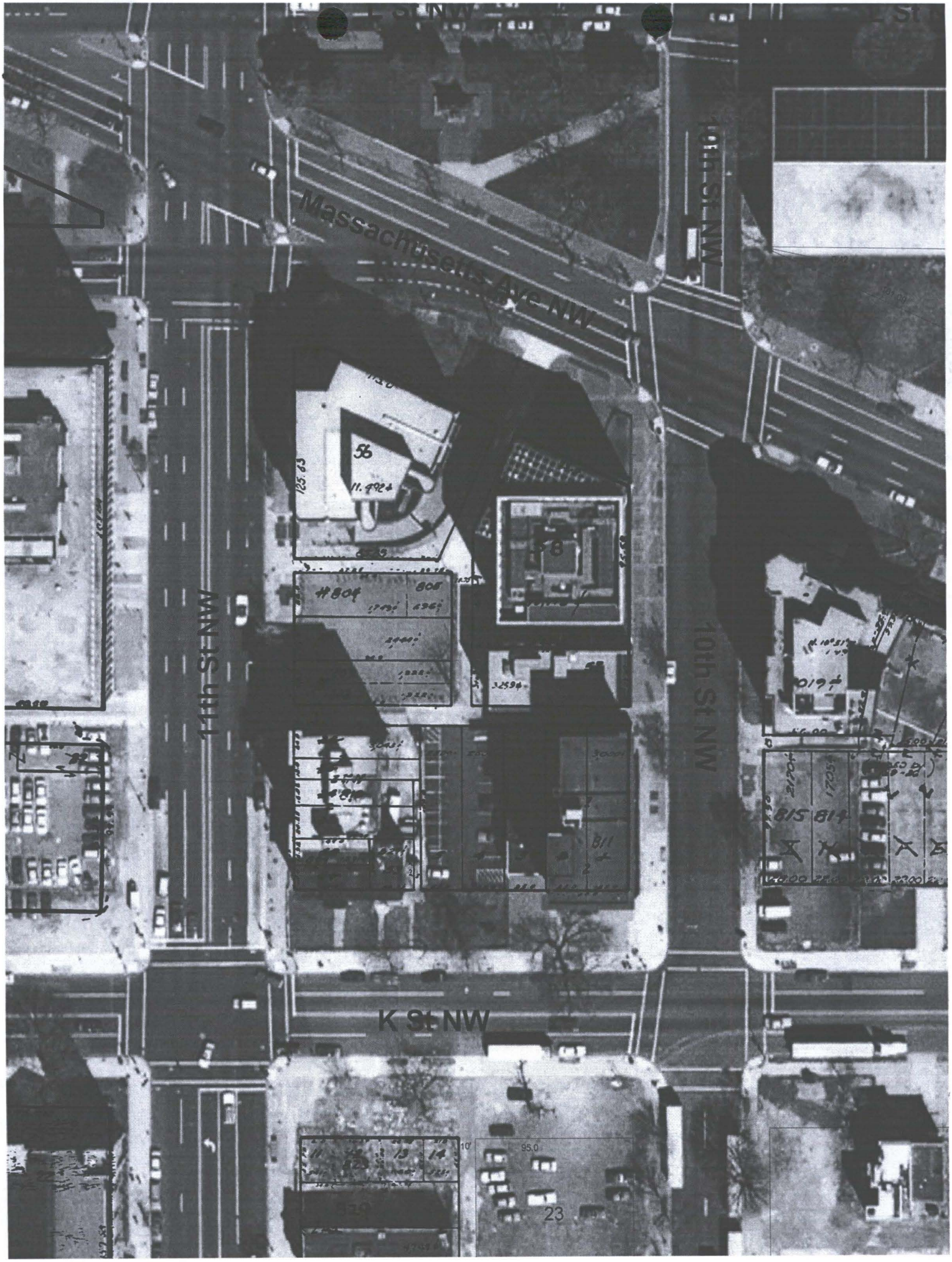
A. Subject property is affected by exceptional conditions, because of the small size, narrow width and the small amount of residential required

B. Strict application of the Regulations would prevent any development of the site for any use in an area where little new construction has occurred and where city policies encourage new development

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

D. The roof structure meets all the setbacks except one, and no roof structure could be constructed without relief in some fashion

E. The application should be granted


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11th St NW
10th St NW
K St NW
#804
805
811
815
814
23

