GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

Memorandum

TO: Board of Zoning Adjustment

FROM: JLS for Andrew Altman, Director
Office of Planning

DATE: September 17, 2002

SUBJECT: BZA Application #16916 (Friends Committee on National Legislation)
245 2nd Street, N.E.

APPLICATION
The application by the Friends Committee on National Legislation requests approval of a variance, pursuant to 11 DCMR §3104.1, from the prohibition on enlargement of non-conforming uses under 11 DCMR §2002.5 to allow the enlargement of an existing non-profit use at 245 2nd Street, N.E. (Square 757, Lot 844).

PROPOSAL
The applicant proposes to enlarge its current facility from 7,056 square feet to approximately 10,524 square feet for continued use as a non-profit office in order to upgrade the subject building to meet all applicable building and fire codes and the Americans with Disabilities Act (ADA). The enlargement and upgrades will conform to all matter-of-right bulk and area requirements. However, the non-profit office use of the property is a non-conforming use and in order to perform the construction, must receive a variance.

SUMMARY RECOMMENDATION
The Office of Planning recommends that the application be APPROVED.

SITE AND AREA DESCRIPTION
The subject property is located in the Ward Six neighborhood of Capitol Hill at 245 2nd Street, N.E. The site is situated on the southeast corner of 2nd and C Streets, N.E. in the Capitol Hill Historic District and the Capitol Hill Overlay District. The subject property is surrounded by row houses to the east; a mixture of churches and other institutional uses to the north; the Hart Senate building and parking lot to the west and northwest; and other non-profit, institutional, and residential uses to the south. There is a public alley adjacent to the rear of the building.

The subject property was built in the late 1870s as two adjacent row house dwellings. The original entrances to the buildings were at 201 and 203 C Street, N.E. The use was later changed

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to storefront commercial with residential use on the upper floors. A third floor was added to the subject building sometime in the 1950s. The existing building is approximately 7,058 square feet. The lot is developed with one three-story and one two-story buildings. There are seven (7) non-conforming off-street parking spaces in the rear of the building.

The applicant owns the buildings and has occupied them as a non-profit office since 1958. Non-profit office use was approved by the Board of Zoning Adjustment pursuant to Orders #5239 and #5240 on September 10, 1958. The applicant leases space to another non-profit office at 203 C Street, N.E. According to the applicant, a 1998 building assessment gave the building five more habitable years. The assessment revealed serious structural problems, outdated systems, significant maintenance concerns, and inability to comply with building, fire, and ADA requirements. The proposed changes to the building will meet all building, fire, and ADA requirements by partial demolition and constructing a new addition. For example, changes will include installation of ADA compliant bathrooms and stairs and upgrades to mechanical/electrical space. The renovations will increase the square footage of the building to 10,524 square feet and make the building handicapped accessible.

The applicant received conceptual approval of its design from the Historic Preservation Review Board. The proposed changes will also restore important historical architectural features to the exterior of the building.

ZONING REQUIREMENTS

The subject site is zoned CAP/R-5-B and office use is not permitted. The R-5-B zone permits matter-of-right development of single-family residential uses, churches and public schools. The R-5-A development standards require a maximum lot occupancy of 60%, maximum height of 40 feet, and a FAR of 1.8 or less. The proposed building will comply with all applicable zoning requirements as shown on Table 1.

Table 1

	Required	Existing	Proposed
Lot Area	**N/A**		
Lot Width	**N/A**	**210 ft.**	**210 ft.**
Lot Occupancy	**60% max.**	**7,058 sq. ft. or 56%**	**10,524 sq. ft. or 60%**
Floor Area Ratio	**1.8 max.**	**1.38**	**1.8**
Height	**40 ft.**	**40 ft.**	**40 ft.**
Side Yard	**N/A**	**N/A**	**N/A**
Rear Yard	**N/A**	**N/A**	**N/A**
Parking	**2**	**7**	**5**

The CAP District was adopted to provide a transition zone between the monumental U.S. Capitol precinct and the historic residential sector. The CAP District was further established to promote and protect the public health, safety and general welfare of the U.S. Capitol precinct and the area adjacent to this jurisdiction, in a manner consistent with the goals and mandates of the United States Congress as set forth in the Act, Master Plan for Future Development of Capitol Grounds

and Related Areas (Public Law 94-59, July 25, 1975; 89 Stat. 299 and in accordance with the plans submitted to Congress in accordance with the Act. 11 DCMR § 1200.1. The CAP District is intended to provide particular controls adjacent to properties having an obvious and well recognized general public interest. 11 DCMR §1200.4.

ANALYSIS
Section 3103

The applicant has requested a variance from the Zoning Regulations. Section 2002.5, which states,

> **A structure devoted to a nonconforming use shall not be enlarged, except if the enlargement is devoted to a conforming use.**

The standard by which the BZA should approve a variance is set forth in Section 3103.2 of the Zoning Regulations. The following demonstrates how these standards are met:

> **The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;**

The property is subject to an extraordinary situation or condition for the following reasons:

1. The commercial use of the building predate the Zoning Regulations;
2. The building has a history of continued use as an office building for non-profit organizations since 1958; and
3. The building does not comply with existing code and legal requirements for building, fire, and handicap accessibility.

The commercial use of the building predates the Zoning Regulations.

The subject buildings were built in the 1870s as adjacent row house dwellings. However, prior to 1958, the buildings have been continuously used for some form of commercial activity. In addition, there is significant other commercial activity and uses in the area such as the Hart Senate building and parking lot directly adjacent to the site. OP believes that presence of the senate building, parking lot, and commercial use that predates the Zoning Regulations presents an exceptional situation in support of the applicant's request for variance relief. Moreover, the age of the building further supports the applicant's need to modernize and update its mechanical systems and ensure the structural integrity of the building.

The building has a history of continued use as an office building for non-profit organizations since1958.

Pursuant to Orders #5239 and #5240, the applicant has occupied the subject building since 1958. The applicant's use of the building has continued the commercial use approved by this Board at

this location. The applicant fully intends to continue office use at this location and does not intend to increase its staff or make any change to its operations. OP believes that the continued use of the building as an office since 1958 presents an exceptional situation for consideration by this Board.

The building does not comply with existing code and legal requirements for building, fire, and handicap accessibility.

In OP's opinion, another exceptional situation will exist if; the applicant can perform all the renovations and updates to the building as a matter of right (See Table 1), and yet not be allowed to continue to occupy the building. An architectural assessment done for the applicant found that, without improvements, the useful life of the building was at most five (5) years. The assessment found significant damage to the structure, roof, and floors. Further, the subject building is not handicap accessible, does not meet relevant building and fire codes, and has antiquated and outdated systems. Again, an exceptional condition exists because, without the variance, the applicant could perform the renovations and continue to use the building for its office.

OP acknowledges that the applicant will gain additional useable office space contrary to the general prohibition of enlarging a non-conforming use. However, the increase in building size is necessary for the renovation and modernization of an aging building. Because the changes to the building will involve, for example, the installation of an elevator, the square footage of the building will increase from 7,058 to 10,524. As a result, the renovations needed for code compliance account for 73% of the increase in square footage. The applicant has stated that it does not plan to increase the size of its staff or change its operations.

In OP's opinion, the types of changes proposed by the applicant are the customary and necessary changes needed for modern-day office use. Moreover, OP is concerned that without the proposed renovations, the applicant will continue to occupy a building that is in non-compliance with existing laws.

By reason of the aforementioned unique or exceptional condition of the property, the strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulties or to exceptional and undue hardship upon the owner of the property.

The applicant states that it will suffer undue hardship if it were unable to renovate its building and bring it up to modern building code standards. OP agrees that the applicant would suffer undue hardship if it were allowed to modernize the building as a matter of right and then could not occupy the building as an office. As proposed, the building would comply with all applicable zoning requirements such as lot occupancy and FAR. Finally, the applicant would also suffer undue hardship if it were prevented from making the changes necessary to bring the building into compliance with all applicable laws.

The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

The subject site has been used continuously for commercial activity since prior to 1958. The site is located adjacent to the Hart Senate building and parking lot. There are a number of institutional and other office uses in the same vicinity. The applicant has occupied the site for its non-profit use since 1958 without substantial detriment to the public good or impairing the intent or purpose of the zone plan. Further, the renovations to the building will support the public good by making the building safe, handicap accessible, and compatible with the historic character of the neighborhood. In OP's opinion, the relief requested will not cause a substantial detriment to the public good nor impair the intent of the zone plan.

COMMUNITY COMMENTS

The subject property is within ANC-6A. The applicant is scheduled to present the application at the ANC meeting on September 11, 2003, and the Capitol Hill Restoration Society on September 12, 2003.

SUMMARY AND RECOMMENDATION

The Office of Planning recommends that the application to renovate and update the existing systems to comply with building and fire codes and ADA guidelines and allow the enlargement of an existing non-profit use at 245 2nd Street, N.E. be **APPROVED**.

Attachments
Aerial Map
Photographs

AA/vr



Feature Key

- Zoning Boundaries
- Square Index

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DC Office of Planning
April 29, 2002

Scale 1:992

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Attachment 1



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