GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 13187 of 1100 Eighteenth Street Associates, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Sub-section 3308.2 to allow construction of a roof structure which does not meet the noraml setback requirements of Paragraph 5201.24 and for a variance from Sub-section 5303.5 to allow a closed court in lieu of a rear yard, such court not meeting the required width for a proposed office, retail and parking garage building in a C-4 District at the premises 1801 L Street, N.W. (Square 140, Lot 872).

HEARING DATE: March 12, 1980
DECISION DATE: April 2, 1980

FINDINGS OF FACT:

1. The subject property is located on the northwest corner of the intersection of L and 18th Streets, N. W. and is known as 1801 L Street, N. W. It is in a C-4 District.

2. The subject property is a corner lot of irregular shape which is intended to be developed with an adjacent companion building to be known as 1811 L Street, Northwest. The companion building is the subject of BZA Application No. 13124 and is on lot 873. The hearings on both applications were held on the same day.

3. Both lots are improved with a six story parking garage which is to be demolished. Lots 872 and 873 are held on different ownership but each lot is under a long term lease by the same applicant. In both applications it is proposed to construct a ten story office, retail and parking garage building.

4. Adjacent to the combined sites on the west is a two story structure which houses two restaurants. This structure is adjoined by a ten story hotel. North of the subject property along 18th Street, are a group of smaller structures which house a number of retail shops, restaurants, and service establishments. Most of these are housed in converted row structure. There are also a number of restaurants to the rear of the site and other establishments which are housed in one and two story structures. This section of the city has undergone significant development in the past ten to fifteen years. Ten and twelve story commercial buildings have in large part replaced the row structures, parking lots and auto dealerships which formerly populated the area.

Board of Zoning Adjustment
District of Columbia
CASE NO. 17221
EXHIBIT NO. 30A2

Nineteenth Street, at this location, forms the western boundary of the C-4 district. West of 19th Street C-3-B zoning is in place.

5. The applicant requests a special exception to allow construction of a roof structure which does not meet the strict setback requirements of paragraph 5201.24. Under that paragraph the roof structure is required to be setback 18.5 feet from the lot line. The applicant proposes to construct the roof structure against the west property line.

6. In all other respects the roof structure strictly complies to all other C-4 Zoning Regulations. The penthouse is enclosed in a single enclosure and contains stairway, mechanical equipment including cooling tower, water pumps, fans and water heater, and elevator override. The material of the roof structure blends harmoniously with the facade of the main building.

7. Strict compliance with the setback requirements would require that the lobby be put in the center of the building, thus chopping up the available commercial space and creating operating difficulties.

8. The subject property and its relationship to the surrounding property, make it a practical and economic requirement to join the elevator cores of the two buildings. If the two were to be required strictly to meet the regulations, the functional space would be impaired for both buildings.

9. The subject property will not have a roof structure on a property line abutting a street or alley. Rather, the roof structure will be an interior penthouse not visible except from elevated or distant viewpoints. When built with the adjoining penthouse, the penthouse will be less visible and more compact than having separate nodules on each of the buildings. The effect created will be a single roof structure which straddles the two proposed office buildings.

10. The requested variance relief from the closed court width requirements of paragraph 5303.5 is necessary due to the irregular shape of the lot. There is a jog in the rear portion of the lot which has the effect of removing a five foot by twelve foot corner of the lot. Accordingly, the width of the closed court is reduced from twenty feet in width to only fifteen feet in width for a distance of twelve feet at the rear lot line.

Were it not for the jog in the lot, the closed court would measure twenty feet in width at all points and no variance would be required. The area of the closed court provided is greater than that required by the Zoning Regulations.

11. The "missing corner" of the lot is devoted to public alley use. Thus, even though the width of the closed court is less than that required by the Zoning Regulations, the same amount of open space is provided.

12. The light and ventilation of the adjacent buildings will not be affected.

13. The Office of Planning and Development by report dated February 13, 1980 considered Application Nos. 13187 and 13124 simultaneously. The OPD recommended that both applications be approved. The Office of Planning and Development noted that in these cases because of the nature of the ownership of this site and the long term lease agreements, one building will be constructed on each lot. Both buildings will however, appear as one from the exterior. The roof structures will be architectually coordinated and also appear as one from the exterior. The combined structure will be centered over the two buildings, overlapping both lots. The need for the relief from the roof structure setback requirements arises from the fact that technically these are two buildings, which should have separate roof structures and each enclosing wall should be setback from all property lines. Itwas OPD's opinion that combining the roof structure into one enclosure is consistent with the intent and purpose of Section 3308 of the Zoning Regulations which encourages roof structures to be in one enclosure.

As to the variance requested the OPD reported that it results from the short portion of the alley to the rear of the property which extends into the site approximately five feet. As a result the lot is rectangular except for the five foot by fifteen foot piece at the northwest corner of Lot 872. It is that portion of the closed court adjacent to the small extension of the alley which is non-conforming. The Office of Planning and Development did not believe that the redesign of the court to conform to the requirements of Section 5303.5 of the Zoning Regulations is warranted in this case. The OPD did not believe that the grant of this variance will result in any adverse impacts on nearby or adjoining properties nor will it affect the use of this building. The Board so finds.

14. The Dupont Circle Citizens Association objected to the application on the grounds that it would object to any penthouse being on a property line and that the builder had not given serious consideration to any energy utilization program. The Board finds that it is sufficient if the applicant addresses itself to the requirements of the sections of the Zoning Regulations under which it seeks relief. The energy utilization program is not a proper issue before this Board in this application.

15. Advisory Neighborhood Commission 2B made no recommendation on the application.

16. There was a letter on file from a neighboring property owner in support of the application.

CONCLUSIONS OF LAW:

Based on the record the Board concludes that the applicant is seeking a special exception and a variance. As to the special exception the Board concludes that the applicant has substantially complied with the requirements of Sub-section 3308.2 of the Zoning Regulations. The Board concludes that because of operating difficulties and the lot's relationship to surrounding properties, full compliance with the setback requirements would be unduly restrictive and unreasonable. The Board further concludes that the special exception can be granted as in harmony with the intent and purpose of the Zoning Regulations and that it will not affect adversely the use of neighboring property.

As to the variance, the Board concludes that this is an area variance the granting of which requires a showing of a practical difficulty upon the owner of the property which is inherent in the property itself. The Board concludes that the irregular shape of the lot creates such a practical difficulty. The Board further concludes that the variance can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the application is GRANTED in its entirety.

VOTE: 4-0 (William F. McIntosh, Charles R. Norris, Connie Fortune to grant, Theodore F. Mariani to grant by proxy, Leonard L. McCants not voting, not having heard the case).

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

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 18 JUN 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "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 AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.

LB

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 13449, of American Security Bank, N.A. and Albert C. Borglie, Trustees, under the will of Elmer J. Payne, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-section 3308.2 to allow the construction of a roof structure which does not meet the normal set-back requirements in a C-4 District at the premises 1819 L Street, N.W., (Square 140, Lot 876).

HEARING DATE: March 18, 1981
DECISION DATE: March 18, 1981 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located on the north side of L Street between 18th and 19th Streets, N.W., in a C-4 zone district at premises known as 1819 L Street, N.W.

2. The subject site is improved with a three story brick structure that is currently vacant. The site is 5,500 square feet in area, with an L Street frontage of fifty feet.

3. The lot is bounded on the north by an alley, on the west by the Anthony House Hotel, which is ninety feet high, and on the east by a parking garage that has an L Street frontage of 110 feet, and extends to the corner of 18th and L Streets.

4. The immediate area of the site has been the subject of substantial re-development within the past ten years, as ten and twelve-story commercial buildings have been constructed to replace many of the row structures and vacant lots that were used for commercial and retail purposes, including parking. Recently, in application No. 13124 and 13187 this Board granted the applications of the owners of the garage located on the land adjacent to the subject site on the east to permit the development of that site by two complementary 110 foot office structures.

5. The proposed building on the subject site is to be 110 feet in height, the maximum height permitted by the Zoning Regulations, with a roof structure that rises the permissible eighteen feet, six inches above the top story. The roof structure has been designed so that its area of 1,528 square feet does not exceed the permitted allowance of one-third of the total roof area of 4,617.64 square feet. It will enclose a cooling tower area, mechanical equipment, the stairway to the roof, and the elevator shaft. The facade of the new building will be brown granite, and the roof structure will be constructed with brick of a color that is compatible with the building's facade.

6. Paragraph 5201.24 of the Zoning Regulations provides that a roof structure is to be set back from all lot lines a distance equal to its height, in this instance eighteen feet, six inches. Because of the narrow width of the subject site, it is impossible to locate the roof structure for the proposed building this distance from the east and west lot lines, respectively. The applicant therefore seeks a variance, permitting it to locate the eastern wall of the roof structure along the eastern property line, with a resulting set back on the west side that is two feet and six inches less than that ordinarily required. There will be no encroachment of the set-back requirements on the north or south. Thus the application seeks the same relief which this Board granted in BZA 13124 for the adjacent site to the east, in permitting a slightly greater deviation pursuant to Section 3308.2 of the Zoning Regulations in respect to a lot of substantially identical dimensions.

7. The applicable 8.5 FAR permits a gross floor area, per floor- of only approximately 4,600 square feet. As a consequence, the placement of the elevator core along other than the east or west property line would render the building unsuitable for office or commercial use as approximately 1,500 square feet would be required, on each floor, for just corridor access alone to the elevators. Thus the need for elevators, stairways, and rest rooms dictate the location of the roof structure as proposed by applicant. Moreover, because of the small size of the site, the cost of construction on it may be as much as thirty percent greater than would be incurred in developing a larger site.

8. The proposed roof structure will not materially impair the light and air of either adjacent building. It will be located sixteen feet from the property line of the lower ninety-foot building on the west. Not only is the parking garage on the adjacent lot to the east also twenty feet lower in height than the proposed building, it is scheduled to be replaced with a building of the same height as that proposed by this applicant.

9. The Office of Planning and Development by report dated March 12, 1981, recommended approval of the application on the grounds that given the small size of the lot, if the strict compliance with the roof set-back requirements is imposed, the applicant will be faced with an unduly restrictive, and unreasonable floor plan, which would reduce substantially the amount of useable commercial floor space, thus, reducing the marketability of the building. The OPD noted that the practical difficulties arise from the size and width of the lot, and that the application can be granted without impacting the light and air of adjacent structure nor spoiling the appearance of the L Street frontage. The Board agrees with the findings of the OPD. The Board notes, however, that the applicant is not seeking an area varian and is thus not required to meet the "practical difficulty" test.

10. Advisory Neighborhood Commission - 2B, by letter dated March 10, 1981, voted unanimously not to object to the relief requested in this application.

11. There was no opposition to the granting of this application.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is seeking a special exception which requires that the applicant meet the requirements of Sub-section 3308.2. The Board concludes that the applicant has substantially complied with Sub-section 3308.2. Due to the narrow width of the lot and its relationship to surrounding properties, the Board concludes that full compliance with the setback requirements would be unduly restrictive and unreasonable. The Board further concludes that the relief can be granted as in harmony with the intent and purpose of the Zoning Regulations and will affect adversely the use of the neighboring property. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 3-0 (Charles R. Norris, William F. McIntosh and Connie Fortune to GRANT; Douglas J. Patton not voting, not present at hearing of the application).

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

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 23 APR 1981

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "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 AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA Application No. 13528, of AVG Exploitatie VI B.V. (AMFAS), pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-section 3308.2 permitting construction of a roof structure which does not meet the normal setback requirements for a proposed new office, retail and garage building in a C-4 District at the premises 801 - 18th Street, N. W. (Square 127, Lots 44, 45 and part of 15).

HEARING DATE: August 5, 1981

DECISION DATE: August 5, 1981 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located at the northeast corner of the intersection of 18th and H Streets, N. W., and is identified as 801 - 18th Street, N. W. It is in a C-4 District.

2. The site is vacant and is "L" shaped, with 5,689 square feet in area. It has 120.5 feet of frontage on 18th Street on the west, and slightly more than thirty-five feet of frontage on H Street on the south. The northern property line extends to a depth of approximately eighty-five feet from 18th Street.

3. The site is totally within a commercial zone and is predominantly surrounded by commercial uses. Immediately to the east of the property is a five-story, forty-five foot wide office building designated as a Category II historic landmark and identified as the Baronet Building. Across 18th Street to the west of the subject site is a six-story office building with ground floor retail uses. To the north is an unimproved lot and an eight-story apartment building with ground floor retail uses, which is slated for demolition as part of an office building project. Diagonally across the intersection of 18th and H Streets is Edward R. Murrow Park. To the south, directly across H Street, is a ten-story office building.

4. The applicant proposes to construct a ten-story office building with a roof structure to accomodate elevator machinery, cooling tower, exit stairs and air conditioning fans, pumps and related equipment. The ground level will contain retail space with support amenities, plus building lobby and common area space. There will be a below grade parking garage with eighteen compact

car parking spaces. The office portion of the building will be occupied in its entirety by the Paralyzed Veterans of America, a national association that represents the interests of Americans who were disabled in the military service of the United States.

5. The proposed building meets all the requirements of the Zoning Regulations with the exception of the set back requirements for roof structure. The applicant seeks a special exception pursuant to Sub-section 3308.2 of the Zoning Regulations to allow construction of a roof structure that will not be set back from all lot lines a distance equal to its height, as required under Paragraph 5201.24 of the Zoning Regulations.

6. The height of the roof structure will be fifteen feet, which is less than the maximum permitted height. The roof structure will conform to the setback requirements of the Zoning Regulations on the north, west and south sides, and a portion of the east side, of the building. The roof structure will be placed so that there is no setback on a portion of the east lot line. The roof structure will comply with the Zoning Regulations on all sides of the building which abut public streets and alleys.

7. The same exterior materials will be used on the roof structure as will be used on the building itself.

8. Strict adherence to the setback requirements of the Regulations would be impracticable because of the peculiar shape and narrow size of the lot. Because of the location of adjacent and nearby buildings, including the ten story building to the east of the Baronet Building, the roof structure will not be visible from most places on the street. To the extent that it is visible, the impact is minimal due to the use of the same materials for the exterior of the building and the roof structure.

9. Placement of the roof structure as proposed is the most reasonable and economic placement possible which would accomodate the goals of both the applicant and the Zoning Regulations. The light and air of adjacent buildings will not be impaired by the granting of this special exception. Strict compliance with the regulations would allow a roof structure only five feet in width, which would be inadequate to serve a modern office building of this size, and would require a substantial reduction in the usable square footage of the building without achieving any significant amenity from the standpoint of the purposes of the setback requirements.

10. The Office of Planning and Development, by memorandum dated July 31, 1981, and by testimony at the hearing, recommended that the application be approved. The OPD reported that in order to bring the elevator to the tenth floor, a penthouse height of fifteen feet is required, with a penthouse minimum width of

car parking spaces. The office portion of the building will be occupied in its entirety by the Paralyzed Veterans of America, a national association that represents the interests of Americans who were disabled in the military service of the United States.

5. The proposed building meets all the requirements of the Zoning Regulations with the exception of the set back requirements for roof structure. The applicant seeks a special exception pursuant to Sub-section 3308.2 of the Zoning Regulations to allow construction of a roof structure that will not be set back from all lot lines a distance equal to its height, as required under Paragraph 5201.24 of the Zoning Regulations.

6. The height of the roof structure will be fifteen feet, which is less than the maximum permitted height. The roof structure will conform to the setback requirements of the Zoning Regulations on the north, west and south sides, and a portion of the east side, of the building. The roof structure will be placed so that there is no setback on a portion of the east lot line. The roof structure will comply with the Zoning Regulations on all sides of the building which abut public streets and alleys.

7. The same exterior materials will be used on the roof structure as will be used on the building itself.

8. Strict adherence to the setback requirements of the Regulations would be impracticable because of the peculiar shape and narrow size of the lot. Because of the location of adjacent and nearby buildings, including the ten story building to the east of the Baronet Building, the roof structure will not be visible from most places on the street. To the extent that it is visible, the impact is minimal due to the use of the same materials for the exterior of the building and the roof structure.

9. Placement of the roof structure as proposed is the most reasonable and economic placement possible which would accomodate the goals of both the applicant and the Zoning Regulations. The light and air of adjacent buildings will not be impaired by the granting of this special exception. Strict compliance with the regulations would allow a roof structure only five feet in width, which would be inadequate to serve a modern office building of this size, and would require a substantial reduction in the usable square footage of the building without achieving any significant amenity from the standpoint of the purposes of the setback requirements.

10. The Office of Planning and Development, by memorandum dated July 31, 1981, and by testimony at the hearing, recommended that the application be approved. The OPD reported that in order to bring the elevator to the tenth floor, a penthouse height of fifteen feet is required, with a penthouse minimum width of

twenty feet. If full compliance with the set back provision on the east side were enforced, a penthouse width of only five feet could be achieved, which would not accomodate the mechanical equipment, stairs, etc., necessary for the building to function effectively. The narrow width and irregular shaped site is at the base of the practical difficulty facing the applicant. The Office of Planning and Development was of the view that there are conditions relating to the shape and width of this property which create an unduly restrictive and unreasonable situation. These conditions would create operating difficulties if the strict compliance with the penthouse set back provisions were enforced. The proposed penthouse design complies with the other provisions relating to its location and bulk and would not, in OPD's opinion, adversely affect the light and air of surrounding properties, nor cause detriment to the present and future streetscape at this location. The OPD recommended approval of this application as being in harmony with Section 3308 and meeting the purpose and intent of Sub-section 8207.2 of the Zoning Regulati The Board concurs with the findings and recommendation of the OPD.

11. Advisory Neighborhood Commission 2-B submitted no report on this case.

12. There was no opposition to the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception allowing construction of a roof structure that does not meet the setback requirements on a portion of one side of the proposed structure. In order to be granted such an exception, the applicant must demonstrate that it has complied with the requirements of Sub-section 3308.2 and Sub-section 8207.2 of the Zoning Regulations.

The Board concludes that the applicant has met the requirements of Sub-section 3308.2 and Sub-section 8207.2. Because of the small size and narrow configuration of the lot, it would be unduly restrictive and unreasonable to require strict compliance with the roof structure setback regulations on all four sides of the building. The setback requirements are met on all sides, except for a portion of the east side. Due to screening by adjacent buildings, most of the east side of the roof structure will not be readily visible to persons at street level. The Board further concludes that requiring a fifteen foot setback on the east side of the building would require a substantial reduction in the usable square footage of the building without achieving any corresponding amenity intended by such setback requirements.

Based on the evidence, the Board further concludes that the granting of the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and map and will not tend to adversely affect either the use of neighboring property or the light and air requirements of adjacent buildings, nor will the intent and purpose of the Zoning Regulations be materially impaired.

Accordingly, it is hereby ORDERED that the special exception for the roof structure under Sub-section 3308.2 is GRANTED, subject to the condition that the exterior materials of the proposed building conform in brick courses, mortar, color and texture to the greatest possible extent to that of the existing Baronet Building located immediately to the east at 1737 H Street, N. W.

VOTE: 5-0 (William F. McIntosh, Charles R. Norris, Connie Fortune, Douglas J. Patton and Lindsley Williams to grant).

BY ORDER OF THE DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT

ATTESTED BY: Steven E. Sher
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 3 SEP 1981

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "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 AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

WILKES & ARTIS CHARTERED
RECEIVED
JUN 22 1982

Application No. 13716, of 1023 Fifteenth Street, Inc., pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-section 3308.2 to construct a roof structure which does not meet the setback requirements of Paragraph 5201.24 for a proposed new office, retail and garage building in a C-4 District at the premises 1023 - 15th Street, N.W., (Square 216, Lot 806).

HEARING DATE: March 24, 1982
DECISION DATE: March 24, 1982 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located on the east side of 15th Street between K and L Streets, N.W. It is in a C-4 District and is known as 1023 15th Street, N.W.

2. The subject property consists of 5,960.79 square feet and is generally rectangular in shape. The site has fifty-four feet of frontage along 15th Street and measures 118 feet on the north and 102.75 feet on the south. A fifteen foot wide public alley abuts the rear of the site. The site is vacant.

3. To the north of the subject property is an existing nine story office building. To the south is an existing twelve story office building which extends to the intersection of 15th and K Streets. To the east and west are also office buildings. The subject site and surrounding properties are in a broad area of C-4 zoning extending north to M Street, to the south as far as Lafayette Square, to the east as far as 14th Street, and as far west as 16th Street.

4. The applicant proposes to construct a twelve story commercial office building containing a gross floor area of approximately 58,703.51 square feet. A below-grade parking garage and ground level retail space are provided as well as the required loading docks.

5. The applicant seeks a special exception from the penthouse provisions of the C-4 District which require that the penthouse be set back from all lot lines a distance equal to the height of the penthouse above the roof of the top story.

6. The applicant proposes to construct a penthouse of sixteen feet in height, thus requiring a minimum setback of sixteen feet from all lot lines. From the northern property line a setback of sixteen feet is provided. From the eastern property line a set back of 29.35 feet is provided. From the western property line a set back of 20.96 feet is provided. On the south, the penthouse is located adjacent to the lot line and no set back is provided.

7. The penthouse would contain elevator machinery, cooling tower, exit stairs and air conditioning fans, pumps and related equipment.

8. Strict application of the Zoning Regulations would be unreasonable in that it would allow a penthouse of twenty-two feet in width due to the narrowness of the lot. Ten feet of width is necessary for the elevators, and the mechanical equipment would have to be squeezed into the remaining twelve feet. In addition, it would require placement of the elevator core in the center of the structure, which would be an inefficient and unreasonable use of space. It would significantly reduce the availability of parking spaces in the garage, would require the commercial retail space to be divided in half, and would adversely impact the amount of usable floor area on each floor.

9. The location of the penthouse on the southern property line will provide appropriate setbacks from adjacent streets, alleys and other buildings. There would be little impact on surrounding uses because the adjacent building to the south, where the penthouse will abut the lot line, is of the same height as the proposed structure.

10. The applicant proposes to blend the material of the penthouse with the facade of the main building.

11. Section 3308.2 of the Zoning Regulations provides that where impracticable because of operating difficulties, size of building lot or other conditions relating to the building or surrounding area which would tend to make full compliance unduly restrictive, prohibitive costly or unreasonable, the Board is impowered to approve the location and design of any or all of such structures even if such structures do not meet the normal set back requirements of the respective zone district, provided the intent and purpose of the section is not materially impaired thereby and the light and air of adjacent buildings are not affected adversely.

12. The Office of Planning and Development, by report dated March 19, 1982, stated that there are conditions relating to the width of the lot in question which create an unduly restrictive and unreasonable situation. These

conditions would create operating difficulties if strict compliance with the penthouse set back provisions were enforced. The proposed penthouse location and bulk will not adversely affect the light and air of surrounding properties, nor will the plan cause detriment to the present and future street-scape at this location. The OPD recommended approval of the proposed applications as being in compliance with Section 3308 and meeting the purpose and intent of Paragraph 8207.2 of the Zoning Regulations. The Board concurs with the findings and recommendation of the OPD.

13. There was no report from Advisory Neighborhood Commission 2C.

14. By letter dated March 19, 1982, the adjoining property owners to the south of the subject lot, upon which lot line the penthouse is proposed to be placed, advised the Board that they had reviewed the proposed plans and had no objection to the application.

15. There was no opposition at the hearing or in the record.

CONCLUSIONS OF LAW AND OPINION:

Based upon the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception to construct a roof structure which does not meet the setback requirements. The Board concludes that because of operating difficulties and narrowness of the building lot, full compliance with the strict requirement of the Zoning Regulations would be unduly restrictive and unreasonable. The location of the proposed roof structure abuts a structure of similar height. Because of its height and bulk, the proposed roof structure will not affect adversely nor will it impair the light and air of adjacent buildings. The Board concludes that granting the requested relief will not impair the intent, purpose or integrity of the Zoning Regulations.

Further, the Board concludes that the proposed roof structure will be in harmony with the general purpose and intent of the zone plan. Accordingly, it is ORDERED that the application is GRANTED.

VOTE: 4-0 (Walter B. Lewis, William F. McIntosh, Connie Fortune and Douglas J. Patton to GRANT; Charles R. Norris not present, not voting).

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

ATTESTED BY: Steven E. Sher

STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: JUN 21 1982

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "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 AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 13788, of 1111 Associates, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-section 3308.2 to permit construction of a penthouse not meeting the setback requirements for a proposed office, retail and garage building, in a C-4 District at the premises 1111 14th Street, N.W., (Square 247, Lots 808 and 809).

HEARING DATE: July 14, 1982
DECISION DATE: July 14, 1982 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located on the east side of 14th Street between L Street and Massachusetts Avenue, N.W. and is known as premises 1111 14th Street, N.W. It is zoned C-4.

2. The subject property contains 6,976 square feet of land area, and is generally rectangular in shape. It is presently unimproved and used as a parking lot. The site has 54.5 feet of frontage along 14th Street. A ten foot wide public alley known as Green Court abuts the northern boundary of the site.

3. Surrounding uses include two and four-story commercial buildings and a twelve-story hotel to the north, a newly constructed twelve-story office and retail building to the south, eleven-and twelve-story office and retail buildings to the west across 14th Street and several unimproved lots presently used for parking to the east. The subject site and all abutting properties are zoned C-4.

4. The applicant proposes to construct a 12-story commercial office building containing a gross floor area of approximately 69,000 square feet. A below-grade parking garage is provided, as well as a required loading dock.

5. The applicant seeks a special exception from the provisions of the C-4 District which require that a roof structure be setback from all lot lines a distance equal to the height of the structure above the roof of the top story.

6. The applicant proposes to construct a roof structure of eighteen feet in height, thus requiring a minimum setback of eighteen feet from all lot lines. From

the northern property line abutting the alley, a setback of 14.75 feet is provided. From the eastern property line, a setback of 20.83 feet is provided. From the western property line, a setback of 40.33 feet is provided. On the south, the roof structure is located adjacent to the property line and no setback is provided.

7. The roof structure would contain elevator machinery, cooling tower, exit stairs and other mechanical and related equipment.

8. Strict application of the Zoning Regulations would be unreasonable in that it would allow a roof structure of less than twenty feet in width due to the narrowness of the lot. The project architect testified that it would be impractical to reduce the overall height of the roof structure since the most reliable, efficient, and maintenance-free type of elevator requires a roof structure height of eighteen feet. The project architect further testified that virtually the entire 39.75 foot width of the roof structure as shown on the plans is necessary to contain all of the mechanical equipment. In addition, strict compliance with the setback requirements would require placing the elevator core in the center of the structure, which would be an inefficient and unreasonable use of space. The project architect testified that the normal "doubleloaded" corridor system in a C-4 office building would utilize a 100-foot-wide lot with forty feet of rental space on either side of a central elevator bank measuring twenty feet in width. Here the subject lot is approximately half that width, and according to the project architect's testimony, designing marketable commercial retail space is only viable if the elevator banks are set to one side of the building. The Board concurs with the architect's findings.

9. The location of the roof structure on the southern property line, setback over forty feet from the 14th Street frontage, will assure that the roof structure is only partially visible from the street level. There would be little impact on surrounding uses. The adjacent buildings on the north are separated from the subject site by a ten-foot-wide alley, in addition to the 14.75 foot setback of the roof structure from the north property line. The adjacent structure to the south is approximately of equal height and the portion of that building immediately abutting the roof structure is itself an area housing mechanical equipment covering the entrance to an underground garage.

10. The applicant proposes to use the same precast material to face the roof structure as will be used to face the facade of the main building. The roof structure is

proposed to be constructed according to the plans marked as Exhibit No. 9 of the record.

11. Sub-section 3308.2 of the Zoning Regulations provides that, where impractical because of operating difficulties, size of building lot or other conditions relating to the building or surrounding area which would tend to make full compliance unduly restrictive, prohibitively costly or unreasonable, the Board is empowered to approve the location and design of any or all of such structures, even if such structures do not meet the normal setback requirements of the respective zone district, provided the intent and purpose of the section is not materially impaired thereby, and light and air of adjacent buildings are not affected adversely.

12. Advisory Neighborhood Commission 2C, by letter dated July 12, 1982, advised the Board that it was unaware of any opposition to this application.

13. There was no opposition at the public hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception to construct a roof structure which does not meet the setback requirements of Paragraph 5201.24. The Board concludes that because of operating difficulties and the narrowness of the building lot, full compliance with the strict requirement of the Zoning Regulations would be unduly restrictive and unreasonable. The location of the proposed roof structure abuts a structure of similar height. Because of its height and bulk, the proposed roof structure will not affect adversely, nor will it impair the light and air of adjacent buildings. The Board concludes that granting the requested relief will not impair the intent, purpose or integrity of the Zoning Regulations. Further, the Board concludes that the proposed roof structure will be in harmony with the general purpose and intent of the zone plan. Accordingly, it is ORDERED that the application is GRANTED:

VOTE: 5-0 (Connie Fortune, William F. McIntosh, Douglas J. Patton, Charles R. Norris and Lindsley Williams to GRANT).

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

ATTESTED BY: Steven E. Sher

STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: SEP 30 1982

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "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 AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

RECEIVED
DEC 5 1984

Application No. 14176, of Connecticut Way Limited Partnership, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Sub-section 3308.2 to permit construction of a roof structure which does not meet the normal setback requirements of Paragraph 5201.24, a special exception under Paragraph 5303.11 to waive the rear yard requirements and a variance from the roof structure floor area ratio requirements (Paragraph 3308.14) to construct a retail and office building in a C-4 District at premises 816 Connecticut Avenue, N.W., (Square 165, Lot 17).

HEARING DATE: September 19, 1984
DECISION DATE: October 3, 1984

FINDINGS OF FACT:

1. The subject property is located on the west side of Connecticut Avenue, between H and I Streets and is known as premises 816 Connecticut Avenue, N.W. It is zoned C-4.

2. The subject property has a frontage along Connecticut Avenue of 28.5 feet and a depth of approximately ninety-four feet. The total lot area of the site is 2,667 square feet.

3. The subject site is currently improved with a three-story vacant structure. At the time of the public hearing, the applicant had obtained demolition permits and razing of the existing structure was in process.

4. The applicant proposes to construct a twelve-story office building on the subject site with possible retail use on the first floor. The gross floor area of the proposed structure would be approximately 26,670 square feet.

5. The subject site is abutted on the north and south by office buildings 130 feet high, with roof structures above that level. There is an SP-2 District approximately 200 feet to the south. Lafayette Square is half a block to the south. The subject site is served by a Metrorail station on the northwest corner of the subject block, as well as several bus lines within three blocks of the subject site. No off-street parking spaces are required.

7. The applicant is seeking special exception relief pursuant to Sub-section 3308.2 and Paragraph 5303.11 and a variance from Paragraph 3308.14.

8. Sub-section 3308.2 of the Zoning Regulations provides that where impracticable because of operating difficulties, size of building lot or other conditions relating to the building or surrounding area which would tend to make full compliance unduly restrictive, prohibitively costly or unreasonable, the Board is empowered to approve the location and design of any or all of such structures even if such structures do not meet the normal setback requirements of the respective zone district, provided the intent and purpose of the section is not materially impaired thereby and the light and air of adjacent buildings are not affected adversely.

9. Paragraph 5201.24 of the Zoning Regulations provides that housing for mechanical equipment, or a stairway or elevator penthouse may be erected to a height in excess of that authorized in the district in which located, provided such housing or penthouse is set back from all lot-lines a distance equal to its height above the roof of the top story.

10. The applicant proposes to construct a twelve-story building, 130 feet in height, with a penthouse structure measuring 18.5 feet in height. The roof structure will contain elevator machinery, cooling tower, exit stair, and air conditioning fans, pumps and related equipment required to meet building, elevator and other code requirements.

11. The proposed roof structure will conform to the 18.5 foot setback requirement on the east and west sides of the building facing Connecticut Avenue and a public alley. No setback is proposed for the north and south sides of the property where the proposed building will abut existing twelve-story structures with similar roof structures.

12. Due to the narrow width of the lot, compliance with the 18.5 foot setback requirements on the north and south sides would exceed the width of the lot. If the specified 18.5 foot setback were provided on one side, the roof structure would be limited to a width of ten feet.

13. The applicant's architect testified that the roof structure requires a width of eighteen feet for the elevators and machine room and that additional width is required for mechanical equipment and stairs. An 18.5 foot setback on one side of the building is, therefore, not feasible.

14. The subject lot is abutted on the north and south sides by existing large office buildings, on the east by

Connecticut Avenue and on the west by a public alley. The applicant is, therefore, unable to increase the size or width of the subject lot to eliminate the need for the requested special exception.

15. There will be little or no impact on surrounding uses because the adjacent buildings to the north and south, where the roof structure will abut the lot lines, are of similar height as the proposed structure.

16. The subject site will not have a roof structure on a property line abutting a street or alley. Because of the location and height of the adjacent structures to the north and south, the noncomplying sides of the subject roof structure will be only as visible from the street as the roof structures on the adjacent building. The roof structure will meet the setback requirements on the east side, facing Connecticut Avenue, and on the west side adjoining a public alley.

17. Paragraph 5303.1 requires a rear yard of twenty-seven feet for the subject building in the C-4 - District. An average rear yard of 22.8 feet is proposed. A variance of only 4.2 feet or 15.5 percent is required.

18. The proposed building will provide windows in the front and the rear of the structure. These windows will be separated from facing buildings so as to provide sufficient light and air and to protect the privacy of building occupants. Specifically, the front windows will be approximately 130 feet away from the building directly across Connecticut Avenue and the rear windows will be approximately thirty-eight feet away from the building across the public alley.

19. Pursuant to Sub-sections 7202.1 and 7302.1 of the Regulations, the subject structure does not require any parking spaces or loading berths. The project architect testified, however, that the rear of the building is serviced by a fifteen foot alley which will provide adequate off-street service functions. Commercial parking is available nearby.

20. The proposed use will be in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to adversely affect the use of neighboring property because the subject site is located in a C-4 District and is surrounded by twelve-story office buildings.

21. The roof structure, as proposed, exceeds the permitted floor area ratio of 0.37. A variance from Paragraph 3308.14 is, therefore, required.

22. Due to the size of the subject property, the requirements of Paragraph 3308.14 would permit a roof structure of 987 square feet. The proposed roof structure is 1,272 square feet in size. The additional floor area requested for the roof structure will accommodate essential mechanical equipment. There will be no occupiable or rentable space in the roof structure.

23. The narrowness of the subject site in conjunction with the inability to increase the lot size due to existing adjacent structures creates an exceptional situation for the applicant, which is inherent in the land, and causes practical difficulties for the applicant since the building could not be redesigned to take advantage of the permitted floor area ratio while still complying with all other aspects of the Zoning Regulations.

24. The proposed roof structure will be compatible in terms of materials and design, with the facade of the proposed structure and adjacent roof structures.

25. The Office of Planning, by memorandum dated September 12, 1984, recommended approval of the application. The Office of Planning was of the opinion that the applicant met the special exception criteria pursuant to Sub-section 3308.2 and 5303.11. The Office of Planning was further of the opinion that the narrowness of the subject site, coupled with the applicant's inability to increase the lot size due to existing improvements, creates an exceptional condition inherent in the property, thus justifying the granting of the requested area variance. The Board concurs with the recommendation of the Office of Planning.

26. Advisory Neighborhood Commission 2B made no recommendation on the application.

27. A representative of the owner of the property immediately north of the subject site appeared at the public hearing in opposition to the application. That opposition was based on the following:

a. The proposed roof structure, if not set back as required, will adversely impact on the light and air to neighboring buildings and the public alley and will expose neighboring buildings to noise, heat and exhaust emissions.

b. The special exception from the rear yard provisions will directly affect the light and air of the building to the north of the subject site by cutting off approximately four feet of the westernmost tier of windows and will encroach upon the narrow, crowded condition of the public alley at the rear of the site.

c. The applicant has not demonstrated that it would encounter exceptional practical difficulties as a result of strict application of the Zoning Regulations.

d. There is no extraordinary or exceptional condition of the property which would justify the requested area variance.

28. In rebuttal, the applicant offered an alternate design at the public hearing, marked as Exhibit No. 23 of the record, which would provide more light and air to the adjacent building to the north, by leaving the last tier of windows uncovered. However, the alternate plan creates a greater projection into the rear yard and the resulting configuration results in less functional interior space at the rear of the building.

29. The applicant's proposal does not cover any windows of either adjacent building which cannot be covered as a matter of right.

30. If the applicant constructs a building in strict compliance with the Zoning Regulations, the resulting structure would be eight stories in height. The roof structure would not be subject to set back requirements. The cornice lines of the proposed structure would not match those of the adjacent structures. The roof structure would be at the same level as the ninth and tenth stories of the adjacent buildings and would, therefore, be clearly visible to the occupants of adjacent buildings and would subject those occupants more directly to any noise, heat or exhaust emissions from the roof structure.

CONCLUSIONS OF LAW AND OPINION

Based on the foregoing findings of fact and the evidence of record, the Board concludes that the applicant is seeking two special exceptions and an area variance. In order to be granted the requested special exception relief, the applicant must demonstrate, through substantial evidence, compliance with the requirements of Sub-section 3308.2 and Paragraph 5303.11. The Board concludes that the applicant has met the burden of proof.

The Board concludes that because of operating difficulties and narrowness of the building lot, full compliance with the strict requirement of the Zoning Regulations would be unduly restrictive and unreasonable. The location of the proposed roof structure abuts structures of similar height and with similar roof structures. Because of its height and bulk, the proposed roof structure will not affect adversely nor will it impair the light and air of adjacent buildings. It will be barely visible from the street. The proposed

building is sufficiently separated from other buildings so as to provide sufficient light and air and protect the privacy of occupants of facing buildings. The building will have adequate off-street service functions although no parking or loading spaces are required.

With regard to the area variance, the granting of which requires a showing of a practical difficulty inherent in the property itself, the Board concludes that the narrowness of the site coupled with the inability to increase the lot size due to existing adjacent structures creates such practical difficulties. The proposed roof structure is in harmony with the main facade and is compatible with adjacent roof structures. The Board concludes that granting the requested relief will not impair the intent, purpose or integrity of the Zoning Regulations.

Further, the Board concludes that the proposed roof structure will be in harmony with the general purpose and intent of the zone plan. Accordingly, it is ORDERED that the application is GRANTED subject to the condition that the construction shall be in accordance with the plans marked as Exhibit No. 20A of the record.

VOTE: 4-0 (Douglas J. Patton, Maybelle T. Bennett, William F. McIntosh and Carrie L. Thornhill to grant; Charles R. Norris not present, not voting.)

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

ATTESTED BY: _____
STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: [illegible] 12/3/84

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "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 AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

14176order/BJW6

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 15159 of Robert O. and Richard W. Carr, Trustees, as amended, pursuant to 11 DCMR 3108.1 for special exceptions under Section 411.11 and 770.7 to allow a roof structure that will not be set back from all exterior walls a distance at least equal to its height above the roof upon which it is located, to allow two mechanical equipment enclosures, and to allow two mechanical equipment enclosures which are not of equal height for the proposed construction of a retail/office building with accessory parking in a SHOP/C-4 District at premises 555 11th Street, N.W., (Square 347, Lots per subdivision 10, 20, 17, 802-809 and 811-817 and 827).

HEARING DATE: December 13, 1989
DECISION DATE: December 13, 1989 (Bench Decision)

SUMMARY ORDER

At the public hearing, the applicant requested an amendment to the application to eliminate the variance relief under Sub-section 411.5. The applicant stated that the appropriate relief should be a special exception in accordance with Sub-section 411.11. The Board agreed and the application was amended to eliminate the variance under Sub-section 411.5.

The Board duly provided timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to ANC 2C and to owners of property within 200 feet of the site.

The site of the application is located in Advisory Neighborhood Commission ("ANC") 2C. ANC 2C, which is automatically a party to the application, did not submit written issues and concerns relative to the application.

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 411.11 and 770.7. No person or entity appeared at the hearing 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, and that the requested 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 maps. It is therefore ORDERED that the application is GRANTED.

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 not prohibited by law.

VOTE: 4-0 (William F. McIntosh, Paula L. Jewell, Charles R. Norris and Carrie L. Thornhill to grant; Tersh Boasberg not present, not voting).

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

ATTESTED BY: _____
EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: DEC 26 1989

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 AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

15159order/LJP55

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 15169 of the Copper Beach Valley Company, N.V., pursuant to 11 DCMR 3108.1 and 3107.2, for a special exception under Sub-section 411.11 to allow a mechanical penthouse which does not meet the setback requirements, and a variance from the rear yard requirements (Sub-section 774.1) for construction of a retail/office building with an accessory parking garage in a C-4 District at premises 1430 K Street, N.W., (Square 218, Lots 808 and 823).

HEARING DATE: November 8, 1989
DECISION DATE: November 8, 1989 (Bench Decision)

FINDINGS OF FACT:

1. The property is located on the south side of K Street between 14th and 15th Streets and is known as premises 1430 K Street, N.W. It is zoned C-4.

2. The site consists of two lots and is irregularly shaped with a frontage of 80 feet along K Street and a depth of varying dimensions ranging from 80 feet, 7 inches to 93 feet, one inch. The site has a total lot area of 7,196.4 square feet.

3. The site is located between McPherson and Franklin Squares in an area characterized by office development with ground floor retail. To the east of the site is a six-story office/retail structure known as the Orme Building. To the west of the site is a twelve-story office structure known as the Carry Building. The remaining frontages of the subject square are generally developed with 10 to 12-story office/retail structures consistent with the C-3 zone district.

4. The site is currently improved with two structures: (a) a 13-story office building with ground floor retail at 1430 K Street, and (b) a 15-story concrete structure originally built as a parking garage which was later converted into a record storage facility at 1426 K Street.

5. The applicant proposes to raze the two existing structures and construct a 12-story office building with ground floor retail. The proposed office building will be 130 feet in height and have a floor area ratio of 10.0. The project will include 35 parking spaces, one loading berth, one service delivery space, and one loading platform. Access to the parking garage and loading facilities will be via the public alley which deadends at the rear of the site.

6. The facade treatment and massing of the proposed building has been designed to relate to the neo-classical style of the surrounding buildings.

7. The C-4 District requires a rear yard of 2.5 inches per foot of vertical height but not less than twelve feet commencing twenty feet above the mean finished grade. The required rear yard may be measured from the middle of an alley abutting the rear property line. The proposed structure requires a rear yard of 27.08 feet. The applicant proposes to provide a rear yard of 16.23 feet measured from the rear property line. A variance from the rear yard provisions is therefore required.

8. The C-4 District provides for a maximum height of roof structures of 18.5 feet, set-back from the exterior walls of the structure a distance at least equal to the roof structure's height. The applicant is seeking special exception approval pursuant to Sub-section 411.11 in order to deviate from the 18.5 feet setback requirements at the sides and rear of the proposed structure.

9. As to the rear yard variance, the applicant testified that the property is affected by an exceptional condition based on the following:

a. The shallowness and irregular depth of the site limit the amount and configuration of useable office space on the site. The provision of a 27.08 feet rear yard would result in an office building with a depth ranging from 53 to 65 feet. The internal configuration of space which could be provided in a structure of those dimensions would be functionally impractical and would force the applicant to abandon plans to redevelop the site.

b. The subject site is the only non-corner lot in the subject square and within the 13 surrounding squares which lacks public alley access running the length of its rear property line, therefore, the rear yard must be measured from the rear property line instead of from the middle of the adjacent alley.

10. The applicant further testified that the proposed 16.23 foot rear yard is consistent with the 12 to 19 foot rear yards provided by other structures in the square. The building diretly east and west of the site occupy 100 percent of their lots. The proposed reduced rear yard will, therefore, not adversely impact immediate adjacent buildings in terms of reduced light and air.

11. As to the special exception, the applicant testified that the small in-fill nature of the site renders full compliance with the roof structure setbacks impractical. Efforts to locate the

roof structure the requisite 18.5 feet from all exterior walls produced an inefficient internal layout of office space and the proximity of the roof structure to the front of the site would result in increased visibility from K Street. The proposed roof structure would be setback 32 feet from K Street to the north, 16.33 feet on the east and west, and 4.5 feet to the south. In order to minimize the impacts of the penthouse on adjacent properties, the applicant reduced the floor area ratio of the roof structure from .37, which is permitted as a matter-of-right, to .25. In addition, the proposed location of the penthouse would preserve the sightlines from K Street, the only public street on which the site has frontage.

12. The Office of Planning (OP), by memorandum dated November 1, 1989, recommended approval of the application. The OP was of the opinion that the size and shape of the site produced a practical difficulty for the owner. The OP was further of the opinion that the proposed project would improve the urban fabric of the Franklin Square subarea and contribute towards meeting the goals and objectives of the Comprehensive Plan.

13. Advisory Neighborhood Commission (ANC) 2C, by letter dated November 6, 1989, supported the granting of the application. The ANC was of the opinion that the small size of the lot resulted in the need for the requested relief in order to provide a viable floor plan and to minimize the visibility of the roof structure from K Street.

14. One person appeared in opposition to the application at the public hearing. The opposition consisted solely of concerns related to treatment of and notification to the tenants of the existing building based on the proposed demolition and redevelopment. The Board notes that such concerns are beyond its jurisdiction.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing facts and the evidence of record, the Board concludes that the applicant is seeking an area variance and a special exception.

The granting of the requested rear yard variance requires the showing of an exceptional or extraordinary condition inherent in the property which creates a practical difficulty upon the owner. The Board concludes that the property is affected by an extraordinary condition by virtue of its irregular shape, shallow depth, and the lack of a public alley along the length of the rear property line. The Board further concludes that the strict application of the Zoning Regulations would create a practical difficulty upon the owner in that the design constraints imposed by the size and shape of the lot would result in a shallow,

As to the special exception, the applicant must demonstrate that it has complied with the criteria set forth in Sub-section 411.11 and 3108.1. The Board concludes that the applicant has so complied. The shallow and irregular depth of the lot renders full compliance with the roof structure setback requirements unduly restrictive. The setbacks, as proposed by the applicant, allow for a fairly reasonable and effective internal configuration of office space, minimizes any visual impacts on K Street and does not adversely impact on the light and air of the adjacent buildings.

The Board therefore concludes that the application can be granted without substantial detriment to the public good and as in harmony with the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Maps. It is therefore ORDERED that the application is **GRANTED.**

VOTE: 4-0 (Paula L. Jewell, Lloyd D. Smith, William F. McIntosh and Carrie L. Thornhill to grant; Charles R. Norris not present, not voting).

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

ATTESTED BY: Edward L. Curry
EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: MAY 17 1991

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHT 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 ODER 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 AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ord15169/LJP

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 16681 of Square 456 Associates pursuant to 11 DCMR § 3104.1 for a special exception from the roof structure requirements of subsection 411.11 not meeting the set back provisions of subsection 770.6(b), and 11 DCMR § 3103.2 for variances from the residential recreation space requirements of subsection 773.3, and the court area requirements of subsection 776.4, to allow construction of a residential building containing 33 units with ground floor arts and retail space in a DD/C-4 District at premises 501-507 7th Street, N.W. (Square 456, Lots 37 and 39).

HEARING DATE: March 13, 2001
DECISION DATE: March 13, 2001 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case is 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) 2C and to owners of all property within 200 feet of the property that is the subject of this application..

The subject property is located within the jurisdiction of ANC 2C. ANC 2C, which is automatically a party to the application, did not participate in this 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 for a special exception pursuant to 11 DCMR § 411.11 and a variance from the strict application of the requirements of 11 DCMR §§ 770.6(b), 773.3 and 776.4. No person or entity appeared as a party at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board received certain requested corrections to the architectural drawings and closed the record at the conclusion of the hearing, except to allow the applicant to submit the resume of David Mayhood, expert witness in residential development testifying on behalf of the applicant. The Board received the resume into the record.

Based upon the record before the Board and having given great weight to the Office of Planning's report filed in this case, the Board concludes that the applicant has met the burden of proof under 11 DCMR § 3104.1, and that the requested relief can be granted as being 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 Map. The Board also concludes that the applicant has met its burden of proof pursuant to 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property which creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested 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. It is therefore **ORDERED** that the application be **GRANTED, SUBJECT** to the following **CONDITIONS:**

1. Prior to the issuance of the building permit, the applicant shall record a combined lot development covenant, pursuant to § 1709 of the Zoning Regulations, for the properties within Square 456 known as Lots 37, 39, and that portion of Lot 40 previously known as Lots 868 and 869, as adjusted, to achieve a composite floor area ratio for the entire development.

2. The applicant shall provide a minimum of 708 square feet of residential recreation space on the first cellar level of the building.

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 appropriate in this case.

VOTE: 4-0-1 (Robert N. Sockwell, Susan Morgan Hinton, Sheila Cross Reid and Anne M. Renshaw to grant a special exception from the roof setback provisions of 11 DCMR § 770.6(b); John Parsons not present, not voting);

VOTE: 4-0-1 (Robert N. Sockwell, Susan Morgan Hinton, Sheila Cross Reid and Anne M. Renshaw to grant a variance from the court area requirements under 11 DCMR § 776.4; John Parsons not present, not voting);

VOTE: 3-1-1 (Robert N. Sockwell, Sheila Cross Reid, Susan Morgan Hinton, to grant a variance from the residential recreation space provisions of 11 DCMR § 773.3; Anne M. Renshaw to deny; John Parsons not present, 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

Jerrily R. Kress, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: APR 18 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 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.

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 APPLICANT TO COMPLY SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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BZA APPLICATION NO. 16681

As the Director of the Office of Zoning, I hereby certify and attest that on APR 18 2001, 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 who appeared and participated in the public hearing concerning the matter, and who is listed below:

Norman M. Glasgow, Jr. Esq.
Holland & Knight, LLP
2100 Pennsylvania Avenue, N.W., Suite 400
Washington, D.C. 20006 – 6801

Doris L. Brooks, Commissioner
Single Member District 2C03
612 Emmanuel Ct, N.W., #204
Washington, D.C. 20001

Lawrence L. Thomas, Chairperson
Advisory Neighborhood Commission 2C
First and Pierce Streets, N. W.
Terrell Junior High School
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

Jack Evans, Councilmember
Ward Two
441 4TH Street, N.W., Room 703
Washington, D.C. 20001

Ellen McCarthy, Deputy Director
Development Review Division
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

Att/VCE

HAMMELL CRIW
026799.6170

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

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Application No. 17186 of TC MidAtlantic Development, Inc. on behalf of Avalon Bay Communities, Inc. and 777 6th LLC, pursuant to 11 DCMR § 3103.2, for a variance from the rear yard requirements under section 774, and pursuant to 11 DCMR § 3104.1, for a special exception from the roof structure provisions under section 411 (770.6), to permit the construction of a eleven story office building with ground floor retail in the DD/C-2-C District at premises 777 6th Street, N.W. (Square 486, Lots 10 through 13, 36, 804 through 808).

HEARING DATE: July 13, 2004
DECISION DATE: July 13, 2004 (Bench Decision)

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 public hearing on this application by publication in the D.C. Register and by mail to the Applicant, Advisory Neighborhood Commission (ANC) 6C, and to owners of all property within 200 feet of the property that is the subject of this application. The application was also referred to the Office of Planning (OP). The OP submitted a report in support of the application. The subject property is located within the jurisdiction of ANC 6C. The ANC submitted a letter in support of the application at the public hearing.

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 special exceptions pursuant to 11 DCMR §§ 3104.1 and 411 (770.6), and variances under 11 DCMR § 3103.2 from the strict application of the requirements of § 774. No party appeared at the public hearing in opposition to this 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.

The Board closed the record at the conclusion of the hearing. Based upon the record before the Board, and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the applicant has met the burden of proof pursuant to 11 DCMR § 3104.1, for a special exception under § 411

(770.6), that the requested relief can be granted as 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 Map.

The Board also concludes that the applicant has met its burden of proof under 11 DCMR §§ 3103.2 and § 774, 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 requested 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. It is therefore **ORDERED** that the application is **GRANTED.**

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 appropriate in this case.

VOTE: 3-0-2 (Ruthanne G. Miller, Curtis L. Etherly, Jr., and John A. Mann, II to approve, Carol J. Mitten not present, not voting, Geoffrey H. Griffis recusing himself).

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

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

FINAL DATE OF ORDER: JUL 14 2004

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 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 PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 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, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. 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, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

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OUTLINE OF TESTIMONY
GAIL MONTPLAISIR
REPRESENTATIVE OF THE APPLICANT
MONTROSE, LLC

I. INTRODUCTION

II. DESCRIPTION OF SITE

III. DESCRIPTION OF CONDOMINIUMS

IV. NEED FOR SPECIAL EXCEPTION RELIEF

V. SPECIAL EXCEPTION IS NEEDED

VI. CONCLUSION

OUTLINE OF TESTIMONY,
NORMAN SMITH
NORMAN SMITH ARCHITECTS

I. INTRODUCTION AND PROFESSIONAL QUALIFICATIONS

II. SITE AND LOCATION DESCRIPTION

III. PROJECT DESIGN

- A. Design Considerations for Condominiums
- B. Need for Roof Access
  1. Maintenance and Repair
  2. Roof Deck if Deck Allowed to Remain

IV. SPECIAL EXCEPTION IS NEEDED FOR ROOF STRUCTURE SETBACK

- A. Compliance with Regulations Impractical
  1. Building Lot Size
  2. Operational Difficulties
  3. Existing Conditions – Construction Completed Under Valid Permits
- B. Full Compliance Unduly Restrictive, Prohibitively Costly and Unreasonable
- C. Light and Air of Adjacent Properties Unaffected
  1. Description of Adjacent Rooftops
  2. Solar Studies
- D. Intent and Purpose of Chapter 400 and Zoning Regulations Not Materially Impaired

V. CONCLUSION

OUTLINE OF TESTIMONY OF STEVEN E. SHER
DIRECTOR OF ZONING AND LAND USE SERVICES
HOLLAND & KNIGHT LLP

I. INTRODUCTION

II. SUBJECT PROPERTY

A. Location

B. Size and width

C. Improvements

III. THE 1910 HEIGHT ACT

A. Maximum Height Permitted on Residential Streets – Street Width Minus 10 feet

B. Improvements Permitted Above Height Limit

1. "Spires, towers, domes, minarets, pinnacles, penthouses over elevator shafts, ventilation shafts, chimneys, smokestacks, and fire sprinkler tanks may be erected to a greater height than any limit prescribed in this subchapter when and as the same may be approved by the Mayor of the District of Columbia;"

2. "... provided, that penthouses, ventilation shafts, and tanks shall be set back from the exterior walls distances equal to their respective heights above the Adjacent roof"

C. Requirement for 1:1 Setback Ratio from "exterior walls"

IV. MEANING OF "EXTERIOR WALLS" UNDER HEIGHT ACT

A. Historical Interpretation of "Exterior Walls" as Street Frontage

1. 1958 Zoning Advisory Committee Report – "exterior walls" was construed by the Zoning Commission to mean exterior walls from the street sides only, an interpretation considered in harmony with the Act and not in violation thereof.

2. 1986 Letter to the Zoning Secretariat – "exterior walls" means frontage facing streets; intent to hide and screen penthouses from street views

a. 1993 Zoning Administrator Memorandum to the Office of Zoning – Height Act "always interpreted by the Zoning Division as being required to set back from the property line which adjoins a street."

B. Zoning Commission and BZA Authorized to Grant Relief from Setback Requirements for Penthouses Exceeding 1910 Height Act Limitations

1. Relief May Be Granted from Non-Street Frontage Walls Only

2. Long-Standing Interpretation as Evidenced by Precedents of ZC and BZA

V. PRECEDENTS

A. 2004 – recent case at 777 6th Street, N.W., BZA Case No. 17186

B. Other BZA Cases:

1. BZA Order No. 11917 (1627 K Street)

2. BZA Order No. 12798 (1100 15th Street)

3. BZA Order No. 13061 (2301 Washington Circle)

4. BZA Order No. 13124 (1811 L Street)

5. BZA Order No. 13187 (1801 L Street)

6. BZA Order No. 13449 (1819 L Street)

7. BZA Order No. 13528 (801 18th Street)

8. BZA Order No. 13716 (1023 (15th Street)

9. BZA Order No. 13788 (1111 14th Street)

10. BZA Order No. 14176 (816 Connecticut Avenue)

11. BZA Order No. 15159 (555 11th Street)

12. BZA Order No. 15169 (1430K Street)

13. BZA Order No. 17186 (777 6th Street)

14. BZA Order No. 16681 (Square 456)

15. BZA Order No. 16641 (1210-16 Massachusetts Avenue)

16. BZA Order No. 17030 (911-19 E Street)

17. BZA Order No. 16778 (1108 K Street)

18. BZA Order No. 16700 (300 Massachusetts Avenue)

C. Zoning Commission Cases:

1. Z.C. Order No. 961 (1700 K Street, N.W.)

2. Z.C. Order No. 594 (1111 20th Street, N.W.)

3. Other examples

VI. INTERPRETATION STILL VALID: no changes to Zoning Regulations or 1910 Height Act to disturb these holdings

VII. STANDARDS FOR THE ROOF STRUCTURE 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 FOR ROOF STRUCTURE

A. Size of building lot and other conditions:

1. Lot is exceptionally narrow

B. Unduly restrictive and unreasonable

1. Stair tower re necessary for access to the roof

2. No stair tower could meet the setback requirements of the Regulations

C. Impact on light and air of other buildings

1. Roof structure is setback from street wall and alley wall by substantial distances

2. Shadow studies demonstrate no adverse impact

3. Adjoining buildings to east and west are party walls with no windows

IX. CONCLUSIONS

A. Board has jurisdiction to hear and decide the case

B. Application meets the standards of Section 411.11

C. Application should be approved

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