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September 5, 2007

**Ms. Ruthanne Miller, Chair
Board of Zoning Adjustment of the
District of Columbia
441 4th Street, N.W.
Washington, DC 20001**

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**Re: Appeal of Minshall Stewart Properties, LLC,
2175 K Street, NW Washington, DC 20037, BZA Case No. 17667**

Dear Ms. Miller:

We wish to inform you that Intervenors, Florence Harmon, Tom Scholz, The West End Plaza Condominium, The Foggy Bottom Association, and ANC 2A, in the above styled appeal intend to call the following witnesses at the hearing scheduled for September 11, 20007.

Mr. William J. Hasselman, Associate Mid Atlantic Regional Manager and Mr. Charles Becht, P.E., President, Becht Engineering BT, Inc. for Becht Engineering BT, Inc., 10717 Birmingham Way, Woodstock, MD 21163 will be called as expert witnesses with regard to the construction of the Office and Condominium Buildings.

Mr. Chris Labas, Manager of the West End Plaza Condominium.

Ms. Florence Harmon

Mr. Tom Scholz

Architectural drawings and pictures will be submitted under separate cover.

Thank you.

Yours very truly,

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 17667

EXHIBIT NO. 21

Board of Zoning Adjustment
District of Columbia
CASE NO. 17667
EXHIBIT NO. 21

Cornish Hitchcock

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Counsel for Advisory Neighborhood
Commission 2A ("ANC 2A"),
West End Place Condominium
Association ("WEP Condo") at
1099 22nd Street, N.W.

Stephen N. Gell

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Fifth Floor, 1101 30th Street, N.W.
Washington, DC 20007 Counsel for
Florence Harmon (unit 1011),
and Tom Scholz (unit 1010), 1099
22nd Street N.W.

The Foggy Bottom Association
joins in this intervention.

cc: John T. Epting, Esq.
David M. Avitabile, Esq.
Matthew LeGrant, ZA
Dennis Taylor, Assistant Atty. Gen.
Travis Parker, OP
Jennifer Stingasser, OP
Joy Howell, FBA
John Ridgely Shuman
David Jenks
Michael D. Wascom

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

**In Re: Appeal of Minshall Stewart Properties, LLC of Zoning Administrator's
Determination Regarding Lot 83 in Square 73 (2175 K Street, NW)**

BZA Appeal No. 17667

JOINT OPPOSITION TO APPLICANT'S APPEAL IN CASE NO. 17667

September 5, 2007

For the reasons set forth below, the proposed development at 2175 K Street, N.W. should not be given matter-of-right status. The Zoning Administrator properly determined that the office building and residential building at issue are two separate buildings. Therefore, court, loading, and setback controls, are applicable and variances must be sought in order to develop the property under the plans submitted by Minshall Stuart Properties, LLC, ("Applicant").

Background

Applicant filed plans with the District to add three (3) stories and an elevator penthouse to the office building at 2175 K Street, N.W. ("Office Building") using Transferable Development Rights ("TDR's"). The condominium building ("Condominium Building") is an adjacent building which makes the requirements of Section 1709.20 applicable. The Section provides as follows:

If the height of a receiving *building* exceeds the height that the provisions of this title allow as a matter of right for a building located on an abutting lot, including a lot that is separated from the receiving lot by an alley, no part of the receiving building shall project above a plane at a forty-five degree (45) angle from a line that is as follows:

- (a) Directly above the zone district boundary line between such abutting lot and the receiving lot; and
- (b) Above such boundary line by the distance of the matter-of-right height that this title allows for such abutting lot.

Section 1709.20 requires that the proposed new floors of the Office Building be set back so that it would provide a 45 degree slope to preserve sunlight and air circulation of the Condominium Building. A variance from this requirement was sought in the original application. Applicants now contend that the condominium building is part of the office building, not a separate building, thus the construction of three more stories would be matter-of-right. We contend that the Applicants must seek variances from

Section 1709.20 as well as from the loading requirements for the Office Building, and the court requirements. (BZA Case No. 17594). Following a decision by the Zoning Administrator to the effect that there were two buildings, not one building, the Applicant filed this appeal contending that there is only one building and none of the provisions requiring variances apply.

For the Two Structures To Be Considered One Building There Must Be an Above-grade Connection

When Applicant filed its application with the BZA in December, 2006, it considered the two structures as two buildings. It referred to the "subject property (Square 73, Lots 883 and 884) as an eight –story commercial building" and described the property as a separate Office Building. See p. 2 of Statement of Applicant filed in BZA Case No. 17594. Then in the next paragraph, the Applicant described a separate residential building, the "Condominium Building." In the succeeding 16 pages of the Application, Applicant stated that it needed loading dock, courtyard, and forty-five degree (45%) angle setback variances because the buildings function as two buildings, an Office Building and a Condominium Building.

When neighborhood opposition grew to this project, the Applicant suddenly switched its position and now seeks to build as a matter-of-right on the ground that the project comprises one building. In our view, the Applicant has yet to meet its burden of proving that it does not need the zoning relief it originally requested. Section 3119.2 (11 DCMR § 3119.2)

The requirement for two structures to be considered a single building are quite clear. Section 199 of the Zoning Regulations (11 DCMR §199) defines building as follows:

A structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or chattel. When separated from the ground up or from the lowest floor up, each portion shall be deemed a separate building, except as provided elsewhere in this title. The existence of communication between separate portions of a structure below the main floor shall not be construed as making the structure one (1) building.

Therefore, for the project to be one building for zoning purposes, there must be a connection between them at or above the level of the adjacent grade of the curb.

In his letter dated April 20, 2007, to John Epting and David Avitabile, Esqs., the Zoning Administrator determined that "for the purposes of the applicability of section 1709.20 ... [2175 K St. NW and West End Place] are two buildings for the purposes of section 1709.20". He stated that "[w]hile the two *buildings* were permitted on one building permit, this is not controlling." He went on to explain that "the controlling aspect is the definition of building which requires an above grade connection for structures to be considered one building. These two buildings have no above grade

communication. The alleged communication that you showed me is below grade and below the main floor of both buildings contrary to your representation. In addition “either building could be razed without affecting the other”. He further stated that “Section 1709.20 was adopted after these buildings were built. I believe it is exactly this situation that the Zoning Commission was addressing in adopting Section 1709.20.” Finally, he found that “Section 101 of the Zoning Regulations require me to consider the provisions of the regulations to the minimum requirements and mandate a strict interpretation of the regulations.” He might have quoted Section 101 *in toto* since it specifies that the “minimum requirements” it refers to are the “minimum requirements adopted for the promotion of the public health, safety, morals, convenience, ... general welfare to:

- (a) **Provide adequate light and air;**
- (b) **Prevent undue concentration of populations and the overcrowding of land; and**
- (c) **Provide distribution of population, business and industry, and use of land that will tend to create conditions favorable to transportation, protection of property, civic activity, and recreational, educational, and cultural opportunities; and that will tend to further economy and efficiency in the supply of public services.”** (*Emphasis supplied*)

The Zoning Administrator’s conclusion is supported by the decision in Zoning Commission Case No. 03-05C (DOT Building in the Southwest Federal Center), which found as follows:

“The project visually presents itself as two buildings that share no above ground connection. The Applicant contends that, notwithstanding this appearance, there is but one building. To reach this conclusion, the Applicant relies on § 3202.3 of the Zoning Regulations, which states in part that:

[A] building permit shall not be issued for the proposed erection, construction, or conversion of any principal *structure* ... unless the land for the proposed erection, construction, or conversion has been divided so that each *structure* will be on a separate lot of record Any combination of commercial occupancies separated in their entirety, erected, or maintained in a single ownership shall be considered as one (1) *structure*. (*Emphasis added*).

This provision does nothing more than require, subject to certain exceptions, that a record lot may include no more than a single structure. The provision also provides a narrow circumstance where occupancies, separated in their entirety, may be nevertheless be considered a single structure. It does not, however, provide that those single structures are also single buildings. That issue is resolved with the definition of “building”... [*see § 199 above*]

Thus, a single structure can include more than one building. But if the portions of that single structure have no above ground “communication,” the structure cannot

be a single building. Thus, even if under § 3202.3 this project were considered a single structure, it could not be considered a single building. However, the Commission does not believe that this project can even be viewed as constituting a single structure to the extent permitted under § 3202.3.

* * * *

The east and west Office Buildings are two separate buildings and each building has its own measuring point pursuant to the Zoning Regulations and the Height Act of 1910. Therefore, the height of each building must be determined and measured separately.”

Thus, Zoning Commission Case No. 03-05C shows that separate “buildings” within the meaning of the zoning regulations may exist as one “structure” on one record lot.

There Is No Above-Ground Connection

The Applicant does not dispute that an above ground connection is required to make the two structures one building for zoning purposes. It argues, rather, that such a connection exists. However, it has not demonstrated connections that meet the strict requirements of the statute. Applicant refers to the 1980 hearing transcript where there is mention of a balcony extension that it claims qualifies as a connection. Without conceding that such an extension was intended in 1980 to qualify as a connection, we simply point out that the balcony extension was never built, and, regardless of whether it existed, it would not be a ‘communication’ within the meaning of Section 199 and 1709.20 because it does not provide an above ground means of access between the two buildings for the occupants.

Other proffered connections are equally lacking. In fact, the two buildings are physically separated. An approximately 20 inch above ground separation exists between the Office Building and Condominium Building that is visible from the Office Building loading area. This separation continues where the Office Building underground garage and the Condominium Building underground garage abut—here the 20 inch separation contains an expansion joint between the two buildings. Finally, the door from the underground Condominium parking garage appears to be simply an emergency fire escape door, which if opened, would trigger a fire alarm. Even if it would allow access, it is not above-grade. The grade from which height is determined is on K Street which is nearly a floor above the entrance to 1099 22nd Street.

Even if the 1980 BZA Considered These Two Structures to be “One Building” for Zoning Purposes, Using TDR’s to Enlarge the Office Building Requires a Variance.

In approving the project in 1980 in BZA Case No. 13848, the BZA sought to protect the residential building from the harmful effects of commercial development. It

was very specific as to the nature and design of the buildings to be built therein. It thought it essential to preserve the residential character, light and air space, and privacy so as to protect the property rights of residential owners. See the 1980 BZA Order No. 13848 attached hereto as Exhibit A. For instance, the Order approved separate penthouses to service separate elevator cores of the two buildings. The BZA also made note of the fact that more than five feet of unnecessary height and an additional ten feet of unnecessary wall space from the Office Building penthouse hanging over the Condominium Building roof terraces would have a "negative aesthetic impact and increase shadows to the detriment of the proposed roof garden use." They were concerned that the two buildings architecturally complement each other. See paragraph 18 of 1980 BZA Order:

18. The architect testified that the standardization of the height of the roof structure in the residential portion of the project with that in the commercial portion would involve the addition of approximately five feet of unnecessary height or dead space to the residential elevator core. Additionally, approximately ten feet of unnecessary wall would have to be added to the covered walkways, which would have a negative aesthetic impact and increase shadows to the detriment of the proposed roof garden use.

19. The applicants' proposal for more than one roof structure and roof structures of unequal height will not substantially restrict the light and air or otherwise adversely affect the surrounding uses.

It is very important to remember that the Downtown Development District, the Receiving Zones and Transferable Development rights postdate the BZA approval that gave rise to the project involving the two buildings. In 1980, the BZA could not have anticipated the imposition of the Downtown Development District that contemplates the use of Transferable Development Rights ("TDRs"). The Zoning Commission adopted Ch. 17, which permitted the use of TDRs, in 1990.

The legislative history and language of Ch. 17 show that in using TDRs development was intended to foster and preserve complementary residential and office development. Such purpose would be thwarted if the clear language of Section 1709.20, which compels a forty-five (45) degree angle setback, were not given effect. It would be myopic to assert that newly adopted zoning regulations could not affect development on pre-existing buildings. However, just as continued use of non-conforming buildings is guaranteed under the grandfather clauses of Chapter 20 of the Zoning Regulations, similarly, the protections intended for the Condominium Building in the Board's Order in 1980 may not be ignored. One might consider them "grandfathered in." Given the extraordinary care the BZA took to preserve the light, air, ambiance, and privacy of the condominium building, it is ludicrous to suggest that it would have ignored the potential for harm if TDR's had existed at the time. At the very least, it would have adopted conditions to protect the condominium. In deciding whether section 1709.20 applies to this proposal, the current Board should regard this as a changed circumstance which can justify arriving at a different conclusion than that adopted by the 1980 Board. Nor is this

somehow breaking faith with the 1980 applicant. Clearly, whatever advantages the Applicant was granted by the BZA in 1980 have been realized. One might even term it outrageous for them to attempt to add floors to the Office Building without having to show that such a change will not negatively impact the condo owners.

Moreover, the public policy underlying Chapter 17 militates for a finding of two buildings, thus requiring a forty-five degree (45) angle setback from the Condominium Building. Chapter 17 of the Zoning Regulations defines and regulates the Downtown Development Plan, including the use of TDR's. It states that its purpose is to "guide and regulate office development, which is generally favored by market forces over the other desired uses, so as to further the land use objectives for retail, hotel, residential, entertainment, arts, and cultural uses." Section 1700.3(b) (11 DCMR § 1700.3(b)). Chapter 17 also states that its purpose is to "guide the *design of buildings* to be generally consistent with the urban design, street orientation and design, and historic preservation policies of the Downtown Plan Element of the Comprehensive Plan." Section 1700.3(e) (11 DCMR § 1700.3(e)). Accordingly, the clear intent and public policy of Chapter 17 is to foster and preserve complementary residential and office development. However, in the instant case, a change in the height of the office building will have a devastating effect on the livability of the condominium units.

Even if the BZA Had Treated These Structures as One Building, It Is Not Required to Do So Now.

Even if the BZA did consider the proposed building as one building for zoning purposes, the current Board is under no obligation to follow suit. In his brief, Mr. Epting concedes that the two structures might not be considered one building by today's standards. The former BZA acted based on the facts it was presented with at the time. We need not assume a mistake had been made to grant that the current Board can find differently given (1) the changed circumstances, (2) a different factual base, and (3) the subsequent modification of the regulations. The 1980 BZA may not have considered this one building if it had suspected that three more stories might be added. Given its expressed concern for the light, air, and views available to the condominium owners, it is almost certain that it would have added conditions to protect the condominiums.

Applicants cannot show equitable estoppel since they gained all the benefits available at the time of the 1980 BZA Order. The mere passage of the TDR regulations made applicable to the West End as a receiving zone does not estop the District from denying further advantages. The Applicants suffered no losses, no mistake has been made by the District, and they have expended no funds in reliance on a clear right granted by the District. Finally, there is no showing that the Applicants cannot profitably use the building as it exists, a necessary ingredient in seeking a variance.

Other Support for the "Two Building" Conclusion.

The two buildings have always operated and have been historically treated as two buildings. The Office Building was separately constructed before the Condominium

Building as evidenced by the separate certificates of occupancy. The commercial certificate of occupancy is dated June 28, 1982, is for an "office building," and a prominent notation of "New Bldg" is on the application. The residential certificate of occupancy is dated several months later on October 15, 1982, is for an "apartment building 67 units," and again a prominent notation of "New Bldg" (and not "existing building" or "addition") is on the application.

Moreover, the certificates of occupancy and architectural plans bear out that there were three separate parts to the project in the early '80s that were separately constructed: the Office Building, the Condominium Building, and a below ground parking garage, whose Office Building portion and Condominium Building portions are physically separated. The Office Building portion and the Condominium Building portion of the parking garage are separately owned and were built directly below the two separate buildings that they serve.

The architectural drawings of the two buildings show there is no above ground walkway or entrance joining the two buildings that provides "communications" between the two buildings with two separate entrances. Owners of the Condominium Building cannot gain access to the Office Building by internal means. Similarly, tenants of the Office Building cannot gain access the Condominium Building by internal means.

The fact that the two buildings are separate is further reinforced by the easements that the Office Building has granted the Condominium Building and visa versa. If the Office Building and Condominium Building were one building, no easements would be necessary. The Reciprocal Easement Document clearly shows that there were two different owners of two different parcels of land that were contemplating building a separate "Apartment" Building and a separate "Office Building":

- A. Corporation is the owner in fee simple of the Apartment Building Parcel ... located at the southeast corner of 22nd & L Streets, N.W., Washington, D.C. upon which it is constructing an eleven-story, 67 – unit residential apartment building.
- B. Partnership is the owner in fee simple of part, and the lessee of part of the Office Building Parcel ... located at the northeast corner of 22nd & K Streets, N.W., Washington, D.C., up which it is constructing an eight-story office building.

Moreover, the definitions in the Reciprocal Easement state that plural "Buildings" "shall mean the Office Building and the Apartment Building," while the singular "Building" shall mean *either of the Buildings.* " Hence, separate owners contemplated separate buildings.

Finally, the Condominium Building is in a residential (R-5-E) zone. The Office Building is the C-3-C Zone District.

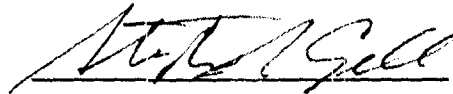
Conclusion

Accordingly, Applicant's appeal of the Zoning Administrator's determination should be denied and the Zoning Administrator's common sense determination that two buildings exist should be upheld. Applicant should be required to show that the Office Building's proposed development respects the 45 degree set back and other requirements or obtain the appropriate variances.

Respectfully submitted,



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5301 Wisconsin Ave, N.W. #350
Washington, DC 20015-2022
Counsel for Advisory Neighborhood
Commission 2A ("ANC 2A"),
West End Place Condominium
Association ("WEP Condo") at
1099 22nd Street, N.W



Stephen N. Gell, Esq.
Fifth Floor, 1101 30th Street, N.W.
Washington, DC 20007 Counsel for
Florence Harmon (unit 1011),
and Tom Scholz (unit 1010), 1099
22nd Street, N.W.

The Foggy Bottom Association
joins in this letter.

Certificate of Service

John T. Epting, Esq.
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2300 N Street, NW
Washington, DC 20037

Travis Parker
Office of Planning
801 North Capitol Street, NE, 4th Floor
Washington, DC 20002

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Foggy Bottom Association
2560 Virginia Ave, NW #195
Washington, DC 20037

Jennifer Steingasser
Office of Planning
801 North Capitol St., NE 4th Floor
Washington, DC 20002

Advisory Neighborhood Comm'n 2A
West End Branch Library
1101 24th St, NW
Washington, DC 20037

John Ridgely Shuman
1004 22nd Street, NW
Washington, DC 20037

Michael David Wascom
1010 22nd Street, NW
Washington, DC 20037

David Jenks
1008 22nd Street, NW
Washington, DC 20037

Vincent Micone
Former Vice Chair, ANC 2A

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13148, of Thaddeus A. Lindner et al., pursuant to Paragraph 8207.11 and Sub-section 8207.2 of the Zoning Regulations, for a variance from the use provisions of the R-5-D District (Sub-section 3105.3) to allow access to a parking garage serving an office building in a C-3-B District and a special exception under Sub-section 3308.2 to allow two roof structures on the same roof in an R-5-D and C-3-B Districts at the premises 1015 - 22nd Street, N.W. (Square 73, Lot 81 and alley proposed to be closed).

HEARING DATE: January 23, 1980
DECISION DATE: February 2, 1980

FINDINGS OF FACT:

1. The application was amended at the public hearing to include a special exception under Paragraph 3308.2 to permit roof structures with enclosing walls of unequal height.
2. The subject property is located on the east side of 22nd Street, N.W., between K and L Streets and is known as 1015 - 22nd Street, N.W. The K Street frontage is in a C-3-B District and the L Street frontage is in an R-5-D District.
3. The subject lot is approximately 33,113.26 square feet in land area. A service lane runs in front of the K Street frontage of the subject site.
4. The subject site is presently utilized as a parking lot.
5. The applicants propose to construct an office building, with office and/or retail uses on the first floor and first cellar, on that portion of the site presently zoned C-3-B. The R-5-D portion of the site will be developed as a condominium as part of the same project as the office building.
6. The applicants have applied for a closing of a portion of the public alley in Square 73, (S.O. No. 77-309) to effectuate the proposed development.

7. In connection with the alley closing application, the applicants have reached an agreement with the District of Columbia signing on behalf of the ANC-2A Commissioners regarding development of the subject site. A covenant has been executed by all parties which restricts development of the site and the number of parking spaces provided in a manner acceptable to the ANC-2A Commissioners. The number of residential parking spaces on the site is to be one for each dwelling unit or sixty-seven spaces and the number of commercial spaces is to be limited to the minimum number required, or fifty-six spaces.

8. The apartment and office uses of the project are designed to function as separate and distinct entities for purposes of security, convenience and energy conservation.

9. The applicant's architect testified that a separate elevator core is required for efficient servicing of the separate residential and office/retail functions of the proposed structure.

10. The architect testified that separate penthouses are required to enclose the lift mechanisms for each elevator core.

11. While it would be possible to connect each of these separate penthouses by a wall twenty feet in length so as to create a single roof structure in compliance with Section 3308.12, such a solution would involve additional design cost and complexity and detract from the use of the proposed roof garden areas of several of the apartment units.

12. The separate uses within the proposed structure have different floor to floor levels at the top floor.

13. The roof structure for the commercial portion of the project is of conventional design with height being dictated by the elevators. Applicants intend for this portion of the roof structure to be 18.5 feet in height.

14. Applicants propose that the roof structure for the residential portion of the structure be thirteen feet eight inches in height, or four feet ten inches lower than that for the commercial area.

15. The architect testified that the residential elevator core area is lower than the commercial area because the duplex units in the apartment structure do not require elevator service to the top floor.

16. The architect testified that the mechanical equipment to be located on the roof for the apartment building takes up far less space than that for the commercial portion because of the individual servicing of the apartment units for utilities.

17. The proposed height of the roof structure in the residential portion of the structure is suggested by the dimensions of the accessways to the roof gardens. Access to the roof garden areas from the apartments below requires an enclosed roof structure for each access stair.

18. The architect testified that standardization of the height of the roof structure in the residential portion of the project with that in the commercial portion would involve the addition of approximately five feet of unnecessary height or dead space to the residential elevator core. Additionally, approximately ten feet of unnecessary wall would have to be added to the covered walkways, which would have a negative aesthetic impact and increase shadows to the detriment of the proposed roof garden use.

19. The applicants' proposal for more than one roof structure and roof structures of unequal height will not substantially restrict the light and air or otherwise adversely affect the surrounding uses.

20. The site has a difference in elevation between its K Street and L Street frontages of approximately ten feet.

21. The grade change and inconvenience of ingress and egress from the service road at the K Street frontage makes access to the proposed parking garage from L Street most practical.

22. Single access to the parking garage from L Street is also necessary to allow for better security control of the building.

23. The architect testified that garage access from a point other than the lower grade point at L Street would impose needless design difficulties and a loss of rentable area.

24. The proposed access from L Street to the commercially zoned portion of the parking garage is not inconsistent with existing surrounding land uses and is more compatible with such uses than requiring access either from 22nd Street, K Street or the public alley at the rear of the site.

25. Advisory Neighborhood Commission - 2A made no recommendation on the application.

26. There was no opposition to the application.

27. At the public hearing the Board requested that an alternative roof structure plan be submitted for its consideration prior to the public meeting.

28. The applicants submitted an alternative roof structure plan approved by the Board at its February 6, 1980 public meeting and marked as Exhibit No. 25 of the record.

CONCLUSIONS OF LAW:

Based on the record and the findings of fact contained herein, the Board concludes that due to conditions relating to the building, the size of the building lot, architectural design and the type uses to which the site will be devoted, full compliance with Section 3308.2 of the Zoning Regulations, relating to the number of roof structures, would be unduly restrictive and unreasonable. Similarly, strict compliance with Section 3308.12 relating to uniformity of roof structure height would involve needless additional expense and have a negative aesthetic impact. The Board concludes that the applicants have basically satisfied the requirements of Sub-section 3308.2 and Paragraph 3308.12 of the Zoning Regulations and that the special exception can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property in accordance with said Regulations and Maps.

As to the requested variance, the applicant must establish a hardship inherent in the property itself. The Board concludes that a combination of factors affecting the subject site, including its split zoning, frontage on a service lane, and frontages on both L and K Streets at a grade differential of ten feet, constitute an extraordinary or exceptional situation or condition affecting the subject site. Strict application of the Zoning Regulations proscribing access to the commercially zoned and utilized portion of the garage from the R-5-D District would impose peculiar practical design and security difficulties upon applicants. The requested relief will not adversely affect surrounding land uses. The Board concludes that the applicants have met the prerequisites for variance relief, and that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zoning plan. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the CONDITION that the ROOF STRUCTURE PLANS shall be as APPROVED by the Board and Marked as Exhibit No. 25 OF THE RECORD.

VOTE: 4-1 (Theodore F. Mariani, Charles R. Norris, Connie Fortune
and Leonard L. McCants to GRANT; William F. McIntosh
opposed as to the roof structures ONLY).

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

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

FINAL DATE OF ORDER: 19 MAY 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

CHARLES BECHT, P.E., P.P.

CAREER SUMMARY:

In more than thirty-five years of private practice following positions as chief engineer in private industry, Mr. Becht has established a distinguished career in facilities planning and engineering. He is a recognized expert in the development of state-of-the-art designs and is a frequent speaker at seminars and technical meetings. He has received awards for engineering excellence and he has lectured on engineering economics and engineering management at New Jersey Institute of Technology.

As a consulting Professional Engineer, he has been responsible for the work done in the planning, engineering, and construction of major facilities. The engineering firm, which he founded in 1964, has established an excellent reputation as engineering generalists applying interdisciplinary disciplines to a wide range of complex engineering projects. It is recognized for the development of state-of-the-art designs that retain their modernity.

He is currently a Member of the New Jersey State Infrastructure Security Advisory Committee to the State Department of Community Affairs, whose objective is to establish generalized Best Standards and Best Management Practice for building security in terms of terrorist attack.

EDUCATION:

Implementing Anti-Terrorism Design Standards Society of American Military Engineers – May, 2003

Cook College - New Brunswick - Short Course on Environmental Law - 1988

Cook College - New Brunswick - Short Course on Storm Water Management and Sediment Control - 1980

Courses in Civil and Structural Engineering A.S.C.E. - 1955

Newark College of Engineering MSMgmtE - 1953

Newark College of Engineering BSME - 1949

U.S. Navy – 1945 – Electronics Technicians Mate

Electrical and Electronic Primary and Secondary Schools

AWARDS:

He has been active in energy engineering since 1973. Recognition has been received from the engineering community for the work, being awarded Energy Engineer of the Year for the Northeast region in 1982. Also, national honors for advancement in the state-of-the-art was recognized by receipt of the Professional Development in Energy Engineering Award in 1982.

LICENSES:

Licensed Professional Engineer - by written examination in Civil and Structural Engineering State of New York, No. 30281 - 5/19/55

By comity the following:

State of Michigan, No. 044124 - 6/98

State of Massachusetts, No. 42892 - 1/01

State of Maryland, No. 20376 - 6/94

State of Florida, No. PE 0042331 - 1/5/90

District of Columbia, No. PE 5933 M - 6/7/58

State of New Jersey, No. 8942 - 11/30/55

Licensed Professional Planner:
State of New Jersey, No. L102309 - 8/18/80

ORGANIZATIONS/SOCIETIES:

Member of New Jersey and National Society of Professional Engineers
Current Member of the Homeland Security Task Force
Current Member of the Professional Conduct Committee
Current Liaison to the New Jersey State Board
Past Member Code Review Committee
Past Chairman/Professional Engineers in Private Practice Division
Past President/Director of Morris County Chapter
Past Trustee New Jersey Society
Past Chairman of Environmental Management Committee
Past Chairman of Energy Committee
Past Chairman College Liaison Committee
Order of the Engineer
Society of Energy Engineers
Charter Member International Association of Concrete Repair Specialists
Roof Consultants Institute
Morristown Rotary - Past President and Director
Society for the Advancement of Management - Past President and Director

PAPERS & SEMINARS:

New Jersey Society of Professional Engineers - Seminar on Concrete Repair
1996 Conference
Community Association Institute - Technical Sessions Seminar 1990
Speaker - Managing Capital Improvements - Speaker, Panelist
Repairs, Replacements, and Improvements 1990
Construction Specifications Institute - Technical Seminar 1989 - Speaker
Restoration & Mechanical Equipment
New Jersey Department of Energy - 1987 - 12th Annual Energy Exposition
Speaker - Corrective Maintenance - Energy Management Workshops
January 1983 and October 1983
American Institute of Plant Engineers - Technical Seminar 1985
Incineration Design
Macaroni Manufacturer's Association - Technical Seminar 1983 - Speaker
Dryer Design
Energy Expos
October 1983 - 9th Annual - Technical Session Moderator - Building
Envelope, Cost and Energy Savings
March 1983 - 8th Annual - Technical Sessions Moderator - Energy
Management for Small Business
March 1982 - 7th Annual - Moderator and Speaker - Selling Your Program
Speaker - Accounting for Energy Costs

EXPERIENCE:

2/64 to Present - Becht **Engineering Company, Inc.**

Substantial structural analysis in steel trusses and building steel as well as reinforced concrete, and timber member analysis has been done under his supervision since the firm's founding.

Review of site plans for housing and commercial uses for drainage, paving, wetland, and zoning for more than 15 years. Engineering of stormwater drainage systems including problem solving corrective work including use of botanicals in erosion control.

More than thirty five years of mechanical and electrical systems engineering including projects for new construction, troubleshooting and rehabilitation in residential, commercial, municipal, institutional, educational, and industrial in high-rise and low-rise applications.

Heating systems utilizing steam, hot water, and air.

Air conditioning systems utilizing split and unitary configurations, making use of hydronic and air distribution methods, water source, and air source heat pumps, humidification and dehumidification control.

Control systems for individual system, distributed system and overall energy management.

Ventilation designs for comfort, smoke control and sick building syndrome issues.

Plumbing including sanitary, stormwater, domestic hot and cold water systems for buildings of all types including high-rise.

Fifty years of engineering for fire protection, control and alarm systems including wet and dry sprinkler piping.

Electrical power systems including primary and secondary transformer configurations. Single phase and multi phase distribution systems in delta and Y configurations. Industrial bus duct and commercial and industrial distributed systems for motor control in four wire arrangements. Lighting systems for retail, commercial and industrial use both internal by the zonal cavity methodology and for site use by isolux analysis.

Served as expert witness before the Public Utility Commission on solid waste matters in 1971 and as engineering expert on solid waste at the hearings conducted by this agency regarding the Bergen County landfills. Engineered a significant number of modern solid waste handling facilities with attendant environmental approvals.

Has testified as an energy expert at a rate hearing at the Bureau of Public Utilities in July 1984. Consulted with NJDOE on energy workbook; also, organized DOE workshops. State certified for Energy Audit and Technical Audit report preparation.

Has been recognized as an authority in the economics of engineering projects, economics, and financing. Served as Adjunct Professor at Newark College of Engineering in the Department of Management Engineering. Has spoken frequently to engineering groups and at seminars on Life Cycle Costing.

CHARLES BECHT, P.E., P.P. (cont.)

Provided expert witness services for condominium clients in achieving correction and associated funds for heating and air conditioning, structural, drainage, landscaping and fire code deficient conditions.

Has actively participated in the Community Association Institute (CAI) chapters in New Jersey, Pennsylvania, New York, Maryland and New England as well as the Building Owners and Managers Association (BOMA) and the Council of New York Cooperatives providing engineering and economic guidance in seminars, panels and special event situations.

10/60 to 2/64 **Congoleum Nairn, Inc.**

Supervised 2 engineers, 2 designers, 3 foremen, and 58 hourly workers in engineering, maintenance, and construction activities for a 60-acre plant. Operated a power house facility of 3,500 boiler horsepower and 3,000 K.V.A. generating capacity.

1/60 to 10/60 **The Austin Company**

Supervised all mechanical trades in the field, coordinated these with the other construction activities and was responsible in the field of other construction problems involving the mechanical trades.

7/53 to 1/60 **C. F. Muller Company**

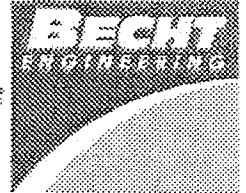
Supervised 3 engineers, 2 draftsmen, 2 foremen, and 34 hourly workers in engineering maintenance, and construction activities for a 250,000 square foot plant operating \$10,000,000 of facilities 24 hours a day.
and

7/50 to 7/53 **Nopco Chemical Division of Diamond Shamrock and
General Aniline & Film**

Responsible assignments in industrial engineering, safety engineering, and sprinkler systems with

6/49 to 7/50 **Newark College of Engineering**

Assistant Instructor - Department of Management Engineering



WILLIAM J. HASSELMAN

(Updated 2008)

CAREER SUMMARY:

Over 34 consecutive years of involvement in residential construction and construction project management. This experience includes a 12 year career experience as a respected independent contractor, specializing in both residential and commercial construction.

During the 12 years as an independent contractor, projects included principal responsibilities for the comprehensive construction of individual new homes and numerous whole house modification / renovation projects for individual clients in the private sector, as well as renovations and rehabilitation projects on several historic homes. As this Master Builder level experience requires; skills include full Mastery of Structural Wood Framing, Concrete and Masonry, all aspects of Rough and Finish Carpentry, Fine Woodworking, Cabinetry, Interior and Exterior Finishes and Facing Systems, as well as fundamental expertise and first-hand physical competence in all related construction trades, as well as expertise in construction materials and technical facets of this industry.

More recent experience includes the past nine years in the management of engineering projects for residential and commercial clients. This experience includes building and construction inspections for design compliance, Construction Code compliance and inspections, both pro-actively in new construction, as well as investigative work in post construction inspections for defect issues. Experience also includes involvement as a corrective design and trouble shooting team member, cost estimating for architectural, structural, mechanical, electrical and plumbing systems redesign and replacement, agency project management, and liaison roles with clients.

Additionally, within the past nine years in engineering, Mr. Hasselman has provided expert consulting in the fields of water infiltration investigations and

related corrective design, as well as provided expertise in construction materials, including the design / usage of materials and related product technologies. Responsibilities and services for Becht Engineering have also included extensive technical reporting, including concentrated involvement in construction defect resolution and engineering legal support for Community Association clients.

EDUCATION:

Montclair State University, Upper Montclair, N.J.

Batchelor of Arts Degree, with two Education Certifications (1973 – 1978)

Teacher Certification in Industrial Technologies - concentrations in Wood Technology and Residential Construction

Teacher Certification in Foreign Language - German

Industrial studies course work includes wood and material technologies, residential construction, metal working, power and energy, design, architectural and mechanical drafting, as well as fine woodworking furniture design, construction and finishing.

LANGUAGES :

English (Native), German (functionally fluent)

PROFESSIONAL EXPERIENCE:

2003 to Present

Becht Engineering Company, Inc.

Associate

2000 to 2003

Becht Engineering Company, Inc.

Mid-Atlantic Regional Office Manager

1997 to 2000	Becht Engineering Company, Inc. Senior Project Manager
1984 to 1997	W. and W. Hasselman, Inc. Owned and operated independent residential construction business.
1977 to 1983	Public Educator Taught in the Public Schools at the high school level in the N.J. Public School Systems. Curriculum development in Foreign Language and Black and White Photography. Worked summers as a carpenter/ renovator.
1971 to 1977	General Carpentry, Residential Part time work through schooling, seasonal apprentice work, in residential construction, single family home renovations and additions.

QUALIFICATIONS:

Extensive experience, both hands-on and theoretical, in the following trades and related facets of residential construction.

- Comprehension of Architectural, Structural and MEP Design Drawings
- Excavation and Structural Concrete
- Masonry and Foundation Systems
- Drainage Systems and Waterproofing
- Structural Framing (wood and light gage steel)
- Siding and Building Envelope Facing Systems
- Roofing Material Systems (sloped shingling and flat membrane systems)
- Flashing and Weatherproofing, Materials and Details
- Building Insulation Systems and Materials
- Interior Surface Materials and Finishes (drywall and painting)

Trim Carpentry and Cabinetry - Design, Construction and Installation
Electrical Systems Basics
Plumbing Systems Basics
Mechanical (HVAC) Systems Basics

Code Compliance within Residential Construction
Construction Materials Usage and Wood Technology

REPRESENTATIVE PROJECTS:

Becht Engineering Company, Inc.

Construction Projects and Corrective Work

Involvement in the initial investigations and trouble shooting for corrective work, design and specification for replacement, bid management and construction oversight on numerous large and small projects. Project types include the following.

Flat and sloped roofing replacements, membranes, asphalt shingling and wooden shakes.

Plaza Deck Membrane Repairs and Replacements

Vinyl and wooden siding replacements.

EIFS facade system repairs and rehabilitation.

Masonry facade repairs and rehabilitation. Specialty flashing detailing.

Window and door replacements.

Roof-top greenhouse construction frame and glazing, high rise.

Fire Code construction improvements, fire walls, FRT roof decking, fire safing.

Structural wood frame failure corrections, trusses, beams, and wall systems.

Concrete replacement, walkways, patio slabs, footings and foundation walls.

Wooden balcony deck replacements.

Staircase and landing replacements, steel, wooden and concrete

Guard railing replacements.

Exterior repainting.

Grading and drainage improvements.

Asphalt paving.

Retaining wall replacements - wooden, CMU, modular block and cast concrete.

HVAC equipment system replacements.

Mold abatement / remediation.

Construction cost estimation.

Involvement in the following engineering items for numerous Community Associations.

- Capital Reserve Studies
- Deficiency Studies and Transition Engineering
- Corrective Work Scope Development and Cost Estimating
- Water Infiltration, Expert Problem Solving
- Plan Review, Architectural and Building Envelope Detailing
- New Construction Inspections for Structural Frame Design Compliance
- New Construction Inspections for MEP Systems Design Compliance

Engineering Legal Support Services (including the following)

- Negotiation Support for Corrective Work Settlements
- Case Building - Research and Inspections
- Construction Expert, Consulting
- Professional Witness Testimony, (Trials, Arbitrations and Mediations)

Legal Support and Casework Involvement History - (1998 to 2006)

- Talbots of Fredericktowne – Construction Defect
- McEnroe Residence, Staircase Design - Accident / Injury
- Wallace Residence, Construction Defect
- Albanese Residence, Construction Defect
- Whitebridge Condominium, Construction Defect
- Cambridge Heights Condominium, Construction Defect
- Meadows at Roxbury Condominium, Construction Defect
- Summerfield at Covington, Construction Defect
- Falls Gable, Construction Defect, Wooden Balconies
- Bozzuto Kentlands, Construction Defect
- Largo Town Center, Construction Defect
- Decoverly Balcony Decks, Construction Defect
- Churchill View Condominium, Construction Defect
- The Lincoln Condominium, Construction Defect
- Fountain Hills Balcony Decks, Construction Defect
- Edson Park Condominium, Construction Defect
- Avalon Courtyard Homes Condominium, Construction Defect
- Kentlands Condominium, Construction Defect
- Gramercy Lofts Condominium, Construction Defect

Whitney Town Center Condo, Construction Defect
Perry Hall Farms Condominium, Construction Defect
The Pavilion Condo, Construction Defect, Trial
Southbridge Home Owners Association, Construction Defect
Wellfleet Mews Condo, Construction Defect
Falls Grove Condo, Construction Defect
Windsor Condominium – Construction Defect
Coach Houses Condominium, Construction Defect
Park Place Condominium, Construction Defect
The Broadway Condominium, Construction Defect
Boston Street Town Homes Condominium, Construction Defect
The Pier at North Shore, Construction Defect
Bowie Town Center, Construction Defect
The Tecumseh Condominium, Marina Reconstruction
Tedesco Residence, Construction Defect
Bayly Residence, Construction Defect
Town Home Village, Water Infiltration Defect
Fallston Residence, Construction Defect
Summerfield at River Hill, Construction Defect
Fieldstone at River Hill, Construction Defect
The Villages at Woodholme, Construction Defect

ADDITIONAL :

8 years of membership and volunteer administrative involvement in the Community Associations Institute (CAI)

Technical educational presentations offered on numerous construction topics, including the following.

- Modern Construction Methods and Materials
- Building Envelope Systems and Issues
- Transition Engineering
- Construction Defect Case Building
- Mold in Buildings
- Capital Reserve Studies, Fundamental Logics

Community Associations Institute of America (member)

Chesapeake Region Chapter Board Member (CAI) – 2001 through 2006

Chesapeake Region Chapter Vice President (CAI) for year 2002

Chesapeake Region Chapter President (CAI) for year 2004