Immediately to the west is the Interstate Federal Savings and Loan office at the southeast corner of the intersection of Pennsylvania Avenue and 2nd Street, S.E. Across 2nd Street is the Madison Annex of the Library of Congress which occupies all of Square 732. Abutting the site to the south at the rear lot line is a Chinese laundry and carryout shop followed by residential uses further south.

6. The northern third of Square 762 with frontage along Pennsylvania Avenue and 2nd Street, including the subject property, is in the C-2-A District. The remaining southern two-thirds of Square 762 is zoned R-4.

7. The lessee, Stuart J. Long, representing the applicant, proposes to use all of the second and third floors for commercial uses. The gross floor area on the ground floor consists of 2,344 square feet. There is 1,964 square feet on each of the second and third floors, and 151 square feet in the "roof room."

8. The lessee leased the subject property from Interstate Federal Savings and Loan in the Spring of 1981. At that time, all floors of the building were being used commercially and the lessee assumed that the proper certificates of occupancy had been obtained. After cosmetic renovation work to the interior of the building, the lessee filed for the required certificates of occupancy and discovered that the former lessee had not obtained the required certificate of occupancy for full commercial use of the building.

9. The proposed use is permitted in the C-2-A District as a matter-of-right and a use variance is not being sought. The C-2-A District permits a total floor area ratio not to exceed 2.5, with non-residential use limited to a floor area ratio of 1.5. The proposed use of the second and third floors will produce a total FAR approximately 2.68. The building would thus exceed the maximum permitted non-residential floor area by 1.18 FAR or approximately 2,800 square feet

10. One parking space is required for the proposed office use. None is provided, requiring a 100 percent variance.

11. If residential units were provided, approximately 560 square feet of residential recreation space would be required under Sub-section 5302.2, which requires twenty percent of the floor area devoted to residential use to be provided for recreation space.

12. The subject property is located on one of the prime commercial corridors in Ward 6. Pennsylvania Avenue between 2nd Street and Barney Circle is a mix of restaurants, taverns, specialty shops and offices. Seven of the

businesses in the 200 and 300 blocks of Pennsylvania Avenue are open until 2:00 A.M. during the week and until 3:00 A.M. on weekends. The avenue is characterized by heavy car, bus and pedestrian traffic at all hours of the day and most of the night. Directly across from the subject lot is the Library of Congress which generates a great deal of night-time activity with its lecture and concert series, in addition to the activities generated by the nearby U.S. Capitol and House and Senate Office buildings.

13. The subject property and another structure in the process of being converted were the only structures facing Pennsylvania Avenue within the subject square not completely devoted to commercial use. The subject structure was converted to full commercial use in 1975 even though no certificate of occupancy was ever obtained.

14. The layout of the building is not conducive to residential use in that it would be substandard with numerous Building Code violations if used for residential purposes. Conversion to residential use would require substantial structural alterations to load bearing walls at extreme cost. Provisions of the D.C. Building Code would require the following structural improvements: (A) installation of a Class B interior enclosed stairway; (B) an exterior fire stair on the Pennsylvania Avenue frontage of the building; (C) one-hour fire separation walls between apartments; (D) removal of interior partitions and structural changes to the loadbearing walls to meet the minimum room sizes; (E) separate electrical and heating systems for all individual apartments; and (F) the installation of new kitchens and bathrooms.

15. To divide the space in compliance with the FAR requirements would create commercial and residential uses on the same floor which would require extraordinary measures to comply with the Building Code as well as security and egress problems cited above. The Building Code requirements are in addition to the zoning requirements such as the residential recreation space required under Sub-section 5302.2.

16. Because of the size and shape of the structures with ninety-five percent lot occupancy, it is impossible to locate the required one parking space on the lot. There is also no access to the rear of the lots either from the street or through an alley in the square.

17. The requested FAR variance relief would enable the property to be devoted entirely to commercial use, in keeping with the character of the adjacent buildings and the character of the surrounding area. In addition, the continued commercial use would promote the public good by helping to meet the demand for office space close to the Capitol Buildings to serve the needs of small lobbying

groups and other organizations whose work demands proximity to the political center of activity. This would not be an intrusion into a residential neighborhood and it would provide needed space in a building already zoned commercial and located along a prime commercial corridor.

18. The subject property is within two blocks of Metrorail service and there is frequent Metrobus service on Pennsylvania Avenue, with a bus stop directly in front of the building. None of the present tenants drive and there is every indication that this pattern will continue since many Capitol Hill residents live and work in the neighborhood. To meet the occasional parking needs of visitors to the buildings there is metered parking on-street as well as a public parking lot for all-day parking at 316 Pennsylvania Avenue.

19. Advisory Neighborhood Commission 6B, by report dated November 28, 1982, recommended that the application be approved. The ANC reported that its members had voted unanimously to support the application. The ANC was of the opinion that the property is now designed and has been used since 1975 for commercial use. It would impose undue hardship upon the applicant to now reconvert the property to residential use. The ANC further pointed out that Pennsylvania Avenue has changed considerably in the past few years and is active almost twenty-four hours a day, which does not lend itself to residential uses. As to the requested parking variance, the ANC reported that the applicant has no place to provide parking due to the shape of the lot and the location of the building. The ANC further indicated that Metro is available nearby and metered parking exists on Pennsylvania Avenue and Second Street. The ANC heard no neighborhood opposition to the application and felt that the granting of these variances would in no way impair the intent, purpose and integrity of the zoned plan. The Board concurs with the recommendation and reasons of the ANC.

20. The Capitol Hill Restoration Society, Inc., by letter dated December 7, 1982, stated its support for the application, citing the existence of the structures, traffic and noise in the area, the lack of accessibility for parking on the site and the existing C-2-A zoning, all of which factors contribute to an inappropriate environment for residential uses and the existence of the practical difficulty inherent in the site for providing the off-street parking. The Board concurs with the Society's recommendation.

21. The Office of Planning and Development, by report dated November 22, 1982, recommended that the application be denied. The OPD was of the opinion that the applicant had not demonstrated a practical difficulty as specified in Paragraph 8207.11 and the Palmer case. The OPD reported

that the mixed commercial/residential character of the neighborhood and the cost of renovating the second and third floors should not be considered an acceptable basis for a waiver of the FAR provisions. The certificate of occupancy documents and the past and recent residental usage of the second and third floors support the site's suitability for residential use. The OPD noted the need for housing in the city and offered the recent trend of renovating buildings such as stables, warehouses and closed schools into dwellings as evidence of feasibility. The location of the site in the Capitol Hill neighborhood, close to good public transportation and the Capitol complex/employment area would, in OPD's opinion, be an attraction to one seeking a residence meeting those logistical requirements.

22. The Board does not concur with the OPD recommendation. The Board notes that the OPD had no knowledge of any vertical circulation problems throughout the buildings nor was it aware of the full Building Code requirements effecting the proposed structures. The Board further notes that the ANC and the CHRS, both knowledgeable community representatives, demonstrated more familiarity with this site and its suitability for residential uses than the OPD.

23. No one appeared in opposition at the public hearing or of record.

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 area variances, the granting of which requires the showing of an exceptional or extraordinary situation or condition causing a practical difficulty inherent in the property itself. The Board concludes that there are practical difficulties unique to the subject property. The structures were built prior to the adoption of the current Zoning Regulations. Strict application of the Zoning Regulations regarding the FAR provisions of the C-2-A District would pose a practical difficulty for the applicant. There would be extensive structural and costly renovation work to bring the structure into compliance with the Building Code, creating an inefficient and impractical use of space if the upper floors were converted to residential use. Further hardships would be imposed by the strict application of the provisions of Sub-section 5302.2 requiring twenty percent of the floor area devoted to residential use to be provided as residential recreation space which is safe, secure, and suitability equipped and/or landscaped.

As to the variance request regarding the off-street parking, the Board concludes that there is a specific condition of the property preventing the applicant from providing the one required off-street parking space. The existing

structure occupy over ninety percent of the lot and there is no alley access at the rear.

The Board further concludes that the requested relief can be granted without causing substantial detriment to the public good. The adjoining and nearby properties are commercial uses as well as those properties which abut the subject site at the rear. The environment created by adjoining commercial uses and the immediate area are not conducive to residential living. The Board is further of the opinion that the relief can be granted without substantially impairing the intent, purpose and integrity of the zone plan. The Board concludes that it has accorded to the ANC the "great weight" to which is is entitled.

Accordingly, it is ORDERED that the application is hereby GRANTED.

VOTE: 5-0 (Carrie L. Thornhill, William F. McIntosh, Lindsley Williams and Charles R. Norris to grant; Douglas J. Patton to grant by proxy).

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

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

FINAL DATE OF ORDER: APR 27 1983

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.

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