

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

MAY 24, 2000

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:30 a.m., Sheila Cross Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID	Chairperson
ROBERT N. SOCKWELL	Vice Chairperson
RODNEY L. MOULDEN	Board Member
ANN RENSHAW	Board Member

ZONING COMMISSION MEMBER PRESENT:

KWASI HOLMAN	Commissioner
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OFFICE OF ZONING STAFF PRESENT:

Sheri Pruitt,	Secretary, BZA
Beverly Bailey,	Office of Zoning
Paul Hart,	Office of Zoning
John Nyarku,	Office of Zoning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

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C-O-N-T-E-N-T-S

<u>AGENDA ITEM</u>	<u>PAGE</u>
PRELIMINARY MATTERS .....	4

APPLICATION FOR CASE NO. 16521:

WITNESS:

PATRICK BROWN .....	6
ARTHUR PARKER .....	10
ALLISON PRINCE .....	10

DISCUSSION:

ANN RENSHAW .....	30
ROBERT SOCKWELL .....	33
KWASI HOLMAN .....	42

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P-R-O-C-E-E-D-I-N-G-S

10:28 a.m.

CHAIRPERSON REID: Good morning. Again, we do apologize for being somewhat delayed this morning, but at least we came back when we said, for a change.

The hearing will please come to order. This is the May 24th public hearing of the Board of Zoning Adjustment, District of Columbia. My name is Sheila Cross Reid, Chairperson. Joining us today is Robert N. Sockwell, Ann Renshaw, representing the National Capital Planning Commission is Rodney Moulden and representing the Zoning Commission is Kwasi Holman.

A copy of today's hearing agenda are available to you. They're located to my left near the door. All persons planning to testify either in favor or in opposition are to fill out two witness cards. These cards are located at each end of the table in front of us. Before coming forward to speak to the Board, please give both cards to the reporter who is sitting to my right.

The order of procedure for a special exception and variances is statement and witnesses of the applicant and reports including the Office of

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1 Planning, Department of Public Works, et cetera. The  
2 report of the Advisory Neighborhood Commission,  
3 parties present in support, parties present persons in  
4 opposition and closing remarks by the applicant.  
5 Cross examination of witnesses permitted by the  
6 applicant or parties. The ANC within which the  
7 property is located is automatically a party in the  
8 case.

9 The record will be closed at the  
10 conclusion of each case except for any materials  
11 specifically requested by the Board and the staff will  
12 specify at the end of the hearing exactly what is  
13 expected. Decisions the Board makes on cases must be  
14 based exclusively on the public record. To avoid any  
15 appearance to the contrary, the Board requests that  
16 persons present aren't engaged with the Board in  
17 conversation.

18 Please turn off all beepers and cell  
19 phones at this time, so as not to disrupt these  
20 proceedings.

21 The Board will now consider any  
22 preliminary matters. Preliminary matters are those  
23 which relate to other cases which should be heard  
24 today, such as a request for postponement, continuance  
25 or withdrawal, whether proper and adequate notice of

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1 the hearing has been given.

2 If you are not prepared to go forward with  
3 the case today, or if you believe that the Board  
4 should not proceed, now is the time to raise such a  
5 matter.

6 Are there any preliminary matters?

7 Mr. Brown: Yes, Madam Chairman, there is  
8 actually, and by way of introduction, my name is  
9 Patrick Brown from Greenstein, Delorme and Luchs. I  
10 am counsel for Mrs. Mildred Crary, both in the  
11 underlying appeal case, the pending application here  
12 before us today, and also I represent and filed on  
13 behalf of the Spring Valley Wesley Heights Citizens  
14 Association an appeal of Mr. Nunley's February 29th  
15 Zoning Administrator's decision in this matter.

16 I have before you two matters I think,  
17 resolution favorably, as I believe is mandated, of the  
18 first item, my motion to dismiss and/or deny this  
19 application with prejudice will moot the second issue,  
20 which is the unavailability of both Mrs. Crary this  
21 morning and George Watson, who is the president of the  
22 Wesley Heights Historical Society and who I fondly  
23 refer to as the father of the Westley Heights overlay  
24 district.

25 If I could, I want to refer to this. I

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1 filed the other day with the Board, and these are all  
2 attachments to my motion that was filed the other day.

3 This is a late development, but really is kind of  
4 indicative of this case where --

5 CHAIRPERSON REID: All parties in the case  
6 have been given copies of the drawings that you have  
7 before us.

8 MR. BROWN: Yes, ma'am.

9 CHAIRPERSON REID: Okay.

10 MR. BROWN: And, I assume the applicant  
11 received their copy. I have confirmation that it was  
12 received and the other copies went out and consistent  
13 with the certificate of service on the document.

14 CHAIRPERSON REID: When you say this is a  
15 late development, what specifically are you referring  
16 to?

17 MR. BROWN: Well, we attempted to have a  
18 meeting with the Zoning Administrator on the 18th of  
19 May, I believe. At that time, although the meeting,  
20 at least I was unable to attend the meeting because  
21 after 46 minutes waiting for Mr. Johnson, I was unable  
22 to continue to wait for him. I don't know when he  
23 appeared. But, at that time this information and some  
24 of these documents have been enlarged, and I'll point  
25 to that, but this information was provided, this new

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1 information, as well as information that's been in the  
2 record for awhile. But again, the comparison of the  
3 two was only possible when the newly provided  
4 information occurred on the 18th.

5 That we're here today even having this  
6 discussion, I think, is all the indictment we need of  
7 this application. I don't think the Board has any  
8 clearer idea what they're being asked to rule on, what  
9 the circumstances are of this property.

10 You recall, and I provided relevant quotes  
11 in my motion, the Board in the earlier underlying  
12 appeal made some very detailed findings of fact and  
13 conclusions of law. We can't re-litigate that here  
14 today. We have to live with it. This is application  
15 is clearly not consistent with the Board's order where  
16 they made findings of fact and conclusions of law as  
17 to the property as it was built. We're not talking  
18 speculatively here. This is a property that was, in  
19 fact, built and completed, in fact, was built and  
20 completed in many respects prior to the permits being  
21 issued for it, which was one of the findings of the  
22 Board below.

23 But, we're no closer here today to having  
24 before us a clear sense of the nature of this  
25 application. It's remedial in nature. The applicant

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1 built this property and now seeks to obtain the  
2 Board's approval to keep it as it was built. In that  
3 lies the problem that, in fact, we're still having a  
4 debate of what was actually built, whether in fact  
5 various aspects are properly identified and whether,  
6 in fact, the proper zoning relief to keep this  
7 property as is, which is, in fact, what this  
8 application purports to be, is before us.

9 If I could, starting with the Board's  
10 order. The application here really seeks to ignore  
11 that order and the Board made some specific findings,  
12 the height of the garage, 16 feet. The applicant says  
13 as of May 18th of this year something different. It  
14 says that, in fact, the garage and the driveway access  
15 is not adequate, based on what was built and what  
16 exists there. Specific findings were made, yet that  
17 issue is not part of this application.

18 The front yard set back, which Mr. Nunley  
19 found to be a certain amount, is, in fact, confirmed  
20 in the May 18th information to be almost twice as  
21 large as originally believed, so that the magnitude of  
22 that variance is not accurately portrayed. The lot  
23 occupancy, which is, in fact, a variance in front of  
24 you, it's difficult to tell because the zoning  
25 computations prepared by Mr. Nunley feature the wrong

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1 lot width. He is off by over 7 feet, so that's a  
2 building block of lot occupancy calculations.

3 And, then the off street parking issue.  
4 Based on some field investigation, I made a claim  
5 earlier that, in fact, there was a side yard problem.

6 I was not particularly well-received by my colleagues  
7 representing the applicant, but in fact on the day  
8 they became aware of my claim to that effect, they  
9 handed me information which confirmed the point I was  
10 making. And, I would like to go through, because one,  
11 I can point out, using these drawings, again, which  
12 were produced all by the applicant at various time  
13 frames to show that one, they provided inconsistent  
14 information throughout, based the application on the  
15 original 1998 plans, which the Board went to great  
16 length to find fault with and, in fact, have produced  
17 evidence which confirms or admits additional  
18 violations.

19 So, if I could, I would just like to  
20 briefly --

21 MS. PRINCE: May I object. We are now  
22 getting into a hearing. If Mr. Brown would like to  
23 bring these matters up in the course of the hearing, I  
24 would have no objection.

25 MR. PARKER: For the record, Arthur

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1 Parker, Assistant Corporation Counsel.

2 We are not party to this matter as yet.  
3 We've entered an appearance in an appeal that  
4 counsel's clients have filed against Mr. Nunley's  
5 decision to, as I understand it, transfer this  
6 application to the Board.

7 CHAIRPERSON REID: Yes. We did receive a  
8 request from a Ms. Ray to --

9 MR. PARKER: Right. I'm substituting for  
10 Ms. Ray.

11 CHAIRPERSON REID: Okay.

12 MR. PARKER: She's on vacation for the  
13 next few weeks. Requesting party status, which --

14 MR. PARKER: Right.

15 MR. BROWN: Madam Chair, I -- that comes  
16 as news to me.

17 CHAIRPERSON REID: Okay. Wait. One  
18 second. There are three different things here. First  
19 all let's address Ms. Prince's objection, which I will  
20 sustain.

21 MR. PARKER: And, I was just going to join  
22 that objection. Right.

23 CHAIRPERSON REID: Okay. Before that --  
24 before doing that, however, we have to recognize you  
25 as a party, procedurally.

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1 MS. PRUITT: Madam Chair, I believe Mr.  
2 Parker is a party in the appeal. Today we are dealing  
3 with the application.

4 MR. PARKER: That's right.

5 MS. PRUITT: So, it's inappropriate to --

6 CHAIRPERSON REID: So, you cannot object.

7 MS. PRUITT: Well, it's inappropriate to  
8 deal with him as a party for right now. Yes, we would  
9 just go with his response.

10 CHAIRPERSON REID: Well, that's what I'm  
11 trying to ascertain procedurally what is the correct  
12 thing to do, because I'm really -- this is, you now --

13 MS. PRUITT: Procedurally what is before  
14 us today is the application.

15 CHAIRPERSON REID: Just one second. Thank  
16 you, Ms. Pruitt. Ms. Sansone.

17 MS. SANSONE: Madam Chair, the Zoning  
18 Administrator is typically not a party in the  
19 application matters.

20 MR. PARKER: All right. Very well.

21 CHAIRPERSON REID: As such you cannot --  
22 you cannot -- wait, wait, wait. The letter from Ms.  
23 Ray requesting -- entering -- they ask to be included  
24 or to --

25 MS. PRUITT: No. She's just stating that

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1 she will be part of the appeal

2 MR. PARKER: Right.

3 CHAIRPERSON REID: Okay.

4 MS. PRUITT: And, that the appeal is not  
5 being heard today. All right.

6 MR. PARKER: And, that's the only purpose  
7 for me to be here, is to clarify what my office's role  
8 is, if any, here today.

9 CHAIRPERSON REID: Okay. But, what would  
10 they --

11 MR. PARKER: Let me just state for the  
12 record. And, to the extent counsel was going to go  
13 into an extended fact based presentation, that issue  
14 wasn't going to be resolved for me to determine  
15 whether I need to be here or not. It seems to me I  
16 don't need to be here, because we're not dealing with  
17 the appeal.

18 MS. PRUITT: Correct.

19 MR. PARKER: And, you know, if he was  
20 going to go into an extended presentation, I just  
21 wanted to note my objection before that took place.

22 CHAIRPERSON REID: Okay. All right.

23 MR. PARKER: Thank you.

24 MS. SANSONE: Madam Chair --

25 CHAIRPERSON REID: Please, just one

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1 second, please. Wait one second.

2 MS. SANSONE: It would be appropriate for  
3 the Zoning Administrator or the Corporation Counsel to  
4 provide a government report in this case and  
5 participate in that manner.

6 CHAIRPERSON REID: Okay.

7 MR. BROWN: Madam Chair, could I --

8 CHAIRPERSON REID: Yes.

9 MR. BROWN: I think I do need to clarify,  
10 the information I provided both in the motion and here  
11 on the boards, I think is relevant to the issue, the  
12 preliminary issue before and whether in fact this  
13 application is in a posture for the Board to even  
14 consider it.

15 CHAIRPERSON REID: Well, Mr. Brown, in  
16 your submission, for your motion to dismiss, you've  
17 laid out for us very succinctly the basis for your  
18 motion and that is what we, in my opinion, should be  
19 dealing with here today, only.

20 MR. BROWN: And, that's what this material  
21 is, but I thinking seeing it and clarifying it --

22 CHAIRPERSON REID: Well, we'll see it, but  
23 nonetheless, I think that the objection that's being  
24 raised is in regard to your going into, you know,  
25 detail at this time. I think that if you just

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1 summarize for us, basically your -- and there is  
2 several -- there are several areas to your motion.

3 MR. BROWN: Yes.

4 CHAIRPERSON REID: The basis for the  
5 motion, and then we will hear from Ms. Prince and then  
6 proceed.

7 MR. BROWN: Okay. Well, I think there are  
8 three broad issues. One is whether, in fact, this  
9 application is premature in itself, given the fact  
10 that the applicant has filed a Court of Appeals  
11 challenge to the Board's underlying decision.

12 CHAIRPERSON REID: Okay. Now, in regard  
13 to that. Let's respond to that. Okay? This is one  
14 of the things we did discuss and it was our  
15 understanding -- Corp Counsel, Ms. Sansone, could you  
16 please speak to that in regard to the timeliness of  
17 whether or not we can proceed prior to getting the  
18 resolution from the Court of Appeals on the appeal  
19 that has been submitted to Court of Appeals?

20 MS. SANSONE: Madam Chair, we believe, the  
21 Office of Corporation Counsel, that the applicant can  
22 proceed with the application for the variance and  
23 special exception relief prior to the Court of  
24 Appeals' decision. However, we would be concerned if  
25 there are inconsistent positions being taken before

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1 the Board in this application from what is being  
2 argued in the Court of Appeals. However, in reviewing  
3 Ms. Crary's motion, I do not see any specific listing  
4 of arguments or positions that might be inconsistent  
5 that would enable us to make a recommendation as to  
6 that. However, I do think the question of whether or  
7 not there are inconsistent positions being taken by  
8 the applicant in the two forums would be important to  
9 resolve. And, perhaps Mr. Brown could outline those  
10 for us, so that we might know if there is, in fact,  
11 inconsistent facts or inconsistent arguments being  
12 made.

13 MR. BROWN: I'm unable to do that,  
14 primarily because there has been no briefing in the  
15 Court of Appeals matter. The notice of appeal makes  
16 some specific allegations to the facts, the law, and  
17 whatnot. What I think you see that's before you today  
18 is the Board's order in the appeal matter is final and  
19 effective. This application, on its face, is  
20 inconsistent with the Board's earlier decision. And,  
21 the Board's earlier decision is binding until such  
22 time as: (1) a stay is issued, which has not occurred,  
23 or; (2) the Court of Appeals says differently.

24 And, in fact, to proceed on an application  
25 involving the exact same matter that is inconsistent

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1 with the Board's earlier findings leads us into kind  
2 of a quandary of where we are now, where essentially  
3 we're being force to re-litigate the appeal decision.

4 Well, the appeal decision is final. It's  
5 effective and the applicant doesn't like it and he's  
6 exercising his rights, but not here before the BZA to  
7 submit an inconsistent application. So, that's the  
8 quandary we're in and the prematurity where it shows  
9 and, I think, defeats proceeding on this application  
10 at this point.

11 CHAIRPERSON REID: Okay. Ms. Prince, can  
12 you speak to this matter?

13 MS. PRINCE: Yes. Thank you.

14 First of all, with respect to the matter  
15 in the Court of Appeals, clearly that petition for  
16 review had to be filed to preserve my client's right  
17 to challenge the original order in the event that we  
18 do not prevail in this application. Obviously, in the  
19 event that we prevail in this application that entire  
20 court case becomes moot and we would like nothing  
21 better than for that entire court case to become moot.

22 But, an applicant has never precluded from  
23 securing a variance relief that would render the  
24 previous denial moot. And, that is what we would like  
25 to do.

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1           We are, in fact, proceeding today pursuant  
2 to instructions that we received from the Board of  
3 Zoning Adjustment in the decisional meeting on this  
4 case. We have the transcript from that proceeding.  
5 I've cited it. Mr. Gilreath stated on the record that  
6 the applicant had the opportunity to go back and seek  
7 a variance; that is precisely what we're doing.

8           This Board did make a decision, very  
9 unfavorable to my client, that the permits had not  
10 been issued properly. We went to the Zoning  
11 Administrator with all information available to the  
12 Zoning Administrator and said, treat us as if we have  
13 no permits. What do we need. It was not in our  
14 interest to get cited incorrectly. It was not in our  
15 interest to not get cited for relief we need. That  
16 will put us in a complete quandary. So, we had to be  
17 sure that we were asking you for the proper relief.

18           So, we met with the Zoning Administrator  
19 several times, secured a zoning memorandum that is now  
20 the basis of an appeal filed by Mr. Brown. We met  
21 with the Zoning Administrator again in the meeting  
22 that Mr. Brown was not able to stay for. In that  
23 meeting the Zoning Administrator once again went  
24 through the plans, went through the issues and  
25 confirmed that we had applied for the appropriate

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1 relief.

2 We went one step farther in that meeting.  
3 Mr. Brown had repeatedly requested as-built drawings.  
4 We had an as-built building plat, but we went one  
5 step farther to respond to his request and we had the  
6 architect go out and do a field measurement, a  
7 registered architect. The original registered  
8 architect for the project went out and did field  
9 measurements and confirmed all the measurements. To  
10 the extent that there were any discrepancies, and  
11 there were some, they effected in no way the areas of  
12 relief that we're seeking from this Board. And, that  
13 is why we're anxious and ready to go forward today.

14 CHAIRPERSON REID: Are you saying that you  
15 do have the finished drawings?

16 MS. PRINCE: I'm saying that the  
17 architect, the architect of record for the project  
18 went out to the site and did a field inspection and  
19 the findings were shared with the Zoning Administrator  
20 and Mr. Brown in the meeting that we had last week.  
21 And, I have copies of those findings here with me  
22 today.

23 MR. BROWN: Well, and just for the  
24 Board's --

25 MS. PRINCE: And, Pat filed them.

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1 MR. BROWN: They are here on this board,  
2 with the exception of the original surveyor's plat.  
3 The problem with that is they try to put their finger  
4 in one hole in the dike and create additional problems  
5 and we go back to the fundamental issue: You start  
6 with the Board's appeal order. It goes in great  
7 length and great detail and spines the violations.  
8 Absolutely Mr. Sisson has the right to file an  
9 application for variance, or whatever else relief, but  
10 he's got -- it's incumbent on him to file one  
11 consistent with the Board's order. This is not  
12 consistent with the Board's order, as I pointed out in  
13 my motion in several critical respects.

14 Additionally, Mr. Nunley, and I don't mean  
15 to disparage Mr. Nunley, but he was working with  
16 drawings which the applicant has now said were  
17 inaccurate. He may have made mistakes. He has told  
18 me on several occasions that he did his calculations,  
19 and it's obvious from them, that he did them without  
20 reference to or relying upon the Board's order in the  
21 appeal case.

22 So, that, you know, we start from  
23 something we all agree on, the Board's order in the  
24 appeal case. And, we've never gotten beyond that,  
25 because this application is inconsistent with it. The

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1 applicant, quite frankly, has provided additional  
2 information which highlights and proves that, (1) the  
3 information previously thought to be as-built is  
4 incorrect, and, (2) has admitted additional violations  
5 of the zoning regulations which do not appear in this  
6 application.

7 So, for those reasons and I could take you  
8 through them. They are on this board. You know,  
9 there are essentially three version of the truth that  
10 had been offered. The as-built drawings back from  
11 1998, which the Board repudiated in its order; the  
12 surveyor's plat, which was August of '99, which you'll  
13 see in the upper right-hand corner; and the May 18th  
14 drawings, they don't agree. And, you'll see that most  
15 notably in the side yard issue, where, in fact, in the  
16 surveyor's plat the garage and the original house, the  
17 1924 house, were shown with the side yard dimension of  
18 6.50 feet. You'll see a line on that drawing showing  
19 that. On May 18th the architect provides new  
20 information which shows the garage at 4.6 feet from  
21 the side yard. Assuming, and I will for the time  
22 being and the Board can, assuming that the surveyor's  
23 plat is correct, the original house has a side yard of  
24 4.6 feet, which violates the side yard restrictions.  
25 It also means that the addition to the rear

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1 constructed, which is shown on the surveyor's plat as  
2 7.87 feet, which in itself would be a violation of the  
3 side yard restrictions, is actually closer to 6 feet,  
4 so that you've got an even greater violation.

5 MS. PRINCE: I obviously object to this  
6 entire line of discussion. That is not what the  
7 letter says from the architect conveying the field  
8 measurements.

9 CHAIRPERSON REID: Okay.

10 MS. PRINCE: This is based on Mr. Brown's  
11 personal site inspection.

12 CHAIRPERSON REID: Okay.

13 VICE CHAIRPERSON SOCKWELL: Ms. Prince,  
14 understanding that your architect did these  
15 dimensions, was he accompanied by a licensed land  
16 surveyor who would have been able to determine the  
17 exact positioning of the side yard and front and rear  
18 yard lot lines or did the architect try to do this as  
19 an unprofessional, but worthy attempt to give you  
20 proper information?

21 MS. PRINCE: The architect conducted the  
22 inspection with someone from his office. There were  
23 two people. I don't believe that a surveyor was  
24 involved, although we filed building plats in  
25 connection with the permit process.

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1                   VICE CHAIRPERSON SOCKWELL:       But, the  
2 location of side walls of a property and front and  
3 rear yard to a building line would not be within the  
4 architect's scope of capabilities.

5                   MS. PRINCE:   He believed that it was.  He  
6 believed he was able to determine --

7                   VICE CHAIRPERSON SOCKWELL:   But, we all  
8 know that as professionals, I mean, you're very well  
9 versed in this and I would think that a land surveyor  
10 would be the proper person to do that.

11                  MS. PRINCE:   We would be happy to leave  
12 the record open.  We have enough confidence in our  
13 findings that we are happy to leave the record open to  
14 submit a land surveyor's findings with respect to the  
15 dimensions.

16                  VICE CHAIRPERSON SOCKWELL:  I believe that  
17 a land surveyor's findings would be the only way to  
18 deal with the property to property line -- property  
19 line to building relationship.  No architect is  
20 capable of doing that unless he's a licensed land  
21 surveyor.

22                  CHAIRPERSON REID:   Okay.  Thank you Mr.  
23 Sockwell.

24                  Mr. Brown, the second point.  You said  
25 there were three -- there were three points that you

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1 wanted to --?

2 MR. BROWN: Well, the first is the  
3 prematurity in the context of the pending appeal.

4 The second was, and I think we've  
5 discussed it at some length, that in fact the current  
6 application is, in large measure, inconsistent, fails  
7 to live up to or pursue the violations noted in the  
8 Board's appeal order.

9 And, the third issue is, in fact, that  
10 there are additional violations that -- based on  
11 information that -- this isn't Pat Brown saying  
12 believe me, this is information that the applicant  
13 submitted, which we'll deem reliable because they  
14 submitted it, that says that there are additional  
15 violations.

16 Mr. Sockwell's point about a land surveyor  
17 is very well taken. I asked Mr. Sisson, prior to the  
18 appeal case back in July, I believe, of 1998, that we  
19 could make a lot of headway if we got an as-built land  
20 survey. He has refused to do so, so we're stuck with  
21 what we're stuck with, but it's clearly inconsistent  
22 with what they've said before and no basis for this  
23 Board to proceed and then let the facts catch up with  
24 the record.

25 MS. PRINCE: I'm sorry, who refused to do

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1 a land survey?

2 MR. BROWN: Mr. Sisson. One of my initial  
3 letters to him says, you know, we have serious  
4 boundary dispute issues.

5 CHAIRPERSON REID: Okay. But, the  
6 assistant who is -- is saying that she will?

7 MR. BROWN: Well, but doing that two years  
8 later and after an application --

9 CHAIRPERSON REID: Okay. I understand  
10 that, but what we're trying to get clear in our heads  
11 is that you're saying that they refused to, but then  
12 we just heard the attorney say that they would do it.  
13 So, I'm trying to reconcile with what you're saying.

14 MR. BROWN: And, I welcome the survey. It  
15 will help me resolve issues that I think are critical  
16 to my client's interest. The problem is we ought to  
17 do that before we sit down and decide an application  
18 case based on zoning relief to be determined when we  
19 get the survey. And while I think this matter ought  
20 to be dismissed or denied, an absolute prerequisite to  
21 this matter coming back to the Board should, in fact,  
22 be that survey, and done by somebody like Lowe Craft  
23 Engineers, whose reputation is first class or somebody  
24 else that we agree on, would solve a lot of problems  
25 that this Board can't answer now and shouldn't proceed

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1 on the application without those answers.

2 CHAIRPERSON REID: Okay. Thank you very  
3 much.

4 Ms. Prince, did you have anything to add  
5 or respond to Mr. Brown?

6 MS. PRINCE: I would like an opportunity  
7 to respond. This whole presentation by Mr. Brown is  
8 part of a continuing request for a postponement,  
9 dismissal, denial with prejudice. This latest one was  
10 served to me, at my office, last night at 5:00 p.m.,  
11 providing me virtually not time to respond to it. It  
12 was anything but timely. It raises the same issues  
13 over and over and over again. I have never seen in my  
14 15 years of practice such an incredible attempt to  
15 prevent a hearing from happening. I'm used to battles  
16 at hearings, but Mr. Brown doesn't want to have a  
17 hearing. And, there is a clear reason why he doesn't  
18 want to have a hearing. The logic is very clear.  
19 Delay and obstruction works only in his client's favor  
20 and does cause my client extreme hardship.

21 He needs to go forward and have a hearing  
22 based on the relief that the Zoning Administrator has  
23 identified, based on the relief that the Zoning  
24 Administration and Edgar Nunley confirmed in a meeting  
25 last week, and based on a meeting that was based on

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1 the type of plans that the Zoning Administrator relies  
2 upon in issuing memoranda. They don't typically  
3 require a land survey to prepare a zoning memorandum.

4 This case has been pending for months. It  
5 was filed months ago, as this Board knows. The  
6 hearing was originally scheduled for December 8th. We  
7 agreed to postpone it so that we would not be relying  
8 on a self-certification. We agreed to postpone to  
9 give the Zoning Administrator time to prepare a  
10 memorandum. That memorandum was, in fact, prepared  
11 and filed with the Board, but instead of going forward  
12 on May 3rd we postponed once again to provide Mr.  
13 Brown with an opportunity to review the memorandum.  
14 He disagrees with it, but he has had an opportunity to  
15 review the memorandum since that time.

16 Then we had a hearing on May 16th,  
17 scheduled for May 16th. We jointly agreed to postpone  
18 that hearing another 8 days so that we could meet with  
19 the Zoning Administrator, a joint meeting involving  
20 Mr. Brown, my client and myself. It was very  
21 difficult to schedule that meeting due to Mr. Brown's  
22 unavailability. When the meeting was finally  
23 scheduled, Mr. Brown left unwilling to wait for the  
24 Zoning Administrator and it was a long wait, although  
25 he did call and say he was en route. I find

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1 interesting that he was concerned about an additional  
2 wait, because he has no reservations about spending  
3 his client's money to file pleadings at the last  
4 minute, as he did last evening.

5 CHAIRPERSON REID: Ms. Prince, I don't  
6 think that that's material to your statement here this  
7 morning.

8 MS. PRINCE: We did make an effort to meet  
9 with the Zoning Administrator. We're prepared and  
10 indeed anxious to proceed today. We would like a fair  
11 and proper hearing based on the memorandum from the  
12 Zoning Administrator. Mr. Brown's continuing efforts  
13 to request postponement, dismissal and denial without  
14 prejudice has been further compounded by an appeal of  
15 the memorandum itself. He just appears to be using  
16 whatever tactics are available to prevent a hearing  
17 from happening. Anything that has been requested, we  
18 have given. We were asked to confirm the measurements  
19 on the plans, we provided that. Now we're being told  
20 that that raises new issues. In fact, it confirmed  
21 all the issues to the Zoning Administrator, the proper  
22 party for making that decision. And, it confirmed in  
23 his mind that we were here seeking the proper relief.

24 We have no interest in seeking less than  
25 the relief that we're required to have to legitimize

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1 the construction that is in place. And, we believe  
2 that by proceeding forward today we will be able to  
3 get that relief. We're very open to having the record  
4 being left open to submit a land survey if the Board  
5 believes that that would be helpful.

6 CHAIRPERSON REID: Thank you. Board  
7 member, discussion?

8 I'm sorry, Mr. Parker, did you wish to  
9 have an opportunity to speak here this morning?

10 MR. PARKER: No. Good morning, again. I  
11 came down for the specific reason in anticipation that  
12 there might be some discussion including the appeal,  
13 in which our office is representing the Zoning  
14 Administrator in this proceeding.

15 CHAIRPERSON REID: Yes.

16 MR. PARKER: I came down here to state our  
17 objection to that, that this proceeding should go on  
18 its own. It seems to me that this proceeding, this  
19 application proceeding, if you proceed, it's going to  
20 deal with the same issues that are in the appeal.  
21 And, it would essentially moot out that appeal if you  
22 resolve the application on its merits.

23 CHAIRPERSON REID: Wait a minute.

24 MR. PARKER: That's the only reason I came  
25 down.

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1 CHAIRPERSON REID: Wait a minute. Your  
2 appearance here this morning, you're saying is -- let  
3 me just be clear.

4 MR. PARKER: Right.

5 CHAIRPERSON REID: Is to object to what?

6 MR. PARKER: It hasn't happened yet. I  
7 was anticipating some sort of an effort to combine  
8 this recently filed appeal with today's application  
9 here.

10 CHAIRPERSON REID: Um-hum.

11 MR. PARKER: Okay. It has not happened.

12 CHAIRPERSON REID: Right.

13 MR. PARKER: Nobody has moved that  
14 forward.

15 MR. PARKER: That was my only purpose, was  
16 to come down and to object to that.

17 CHAIRPERSON REID: Okay. Okay. I don't  
18 think that there was any motion on the floor.

19 MR. PARKER: And, if there isn't, and if  
20 the parties agree that that's not going to be made  
21 today, I would ask to be excused.

22 CHAIRPERSON REID: Okay. If so, I'm not  
23 aware of it. I don't know if that was the intention  
24 of the parties, either Ms. Prince or Mr. Brown.

25 MR. BROWN: To hear the appeal case today,

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1 no.

2 MR. PARKER: Okay. That's all. That was  
3 my only purpose.

4 CHAIRPERSON REID: Okay. All right.  
5 Thank you very much.

6 MR. PARKER: Have a good day.

7 CHAIRPERSON REID: Yes. Okay.  
8 Discussion, Board members?

9 MEMBER RENSHAW: Madam Chair, I'm kind of  
10 caught up in a few wires here. If you'll hold on a  
11 minute.

12 Madam Chair, I just wanted to bring the  
13 Board's attention that a letter from ANC 3D, dated May  
14 14th. The ANC is not with us this morning. The  
15 letter is from the Chair of ANC 3D, Eleanor Roberts  
16 Lewis, and she states that they had a regularly  
17 scheduled meeting on Monday, May 8, 2000 and Allison  
18 Prince, the attorney, and Mr. Sisson were not at that  
19 meeting.

20 And, the Commission voted unanimously, 5-  
21 0-0 to confirm its earlier preliminary position that  
22 further action by the Board on this application is, in  
23 the ANC's opinion, premature for a variety of critical  
24 reasons, and Ms. Lewis cites five different reasons  
25 and they are as follows: That the Commission does not

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1 have the as-built drawings.

2 CHAIRPERSON REID: The Commission meaning  
3 the Board?

4 MEMBER RENSRAW: The Commission meaning  
5 ANC, Advisory Neighborhood --

6 CHAIRPERSON REID: The Commission did not  
7 have --

8 MEMBER RENSRAW: The Commission --

9 CHAIRPERSON REID: The ANC does not have  
10 the --

11 MEMBER RENSRAW: She states that the  
12 Commission and apparently the BZA has yet to be  
13 provided as-built drawings.

14 CHAIRPERSON REID: Okay.

15 MEMBER RENSRAW: Without such drawings the  
16 Commission is unable to meaningfully consider the  
17 various zoning issues to be resolved in the matter and  
18 the Commission is concerned that there not be a  
19 repetition of inconsistent, incomplete and misleading  
20 building permit applications, which were found in  
21 appeal number 16405. And, the Commission goes on to  
22 cite the exact and complete nature of zoning  
23 violations of the improperly constructed improvements  
24 must be identified, based on these as-built drawings  
25 that the Commission does not have, before proceeding

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1 with this BZA application.

2           Number three, that the application is  
3 premature based on Mr. Sisson's Court of Appeals  
4 challenge; that four, the application must be  
5 consistent with the Board's finding of facts and  
6 conclusions of law in appeal 16405, and five, that the  
7 Commission must be provided complete, timely and  
8 accurate information by the applicant in order to make  
9 an informed and meaningful review and decision in this  
10 case.

11           And, so the Commission wants to actively  
12 participate in this application, as so stated in its  
13 letter, but it has not been able to be because it does  
14 not have the requested information and it asks the  
15 Board to continue the application until such time as  
16 the serious procedural and preliminary issues,  
17 including the newly filed appeal, are finally resolved  
18 and that the Commission has an opportunity to review  
19 the final and complete application, including as-built  
20 drawings and receive a presentation from Mr. Sisson.

21           CHAIRPERSON REID: Do they also indicate  
22 therein that there was a quorum present and a vote  
23 taken on the application?

24           MEMBER RENSHAW: Yes, indeed. Yes, there  
25 was a vote.

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1 CHAIRPERSON REID: Okay.

2 MEMBER RENSHAW: A vote unanimously take,  
3 5-0-0.

4 CHAIRPERSON REID: Okay. And, that  
5 statement will be afforded the weight to which they  
6 are entitled.

7 Is there anyone from the ANC here this  
8 morning? Okay.

9 Thank you very much, Ms. Renshaw.

10 All right. Mr. Sockwell.

11 VICE CHAIRPERSON SOCKWELL: One of the  
12 things that I have not seen in the applicant's case is  
13 sufficient drawings for me to determine, and hopefully  
14 if there is something else it just hasn't been  
15 submitted, but I haven't found sufficient drawings to  
16 be able to determine the extent of the addition, the  
17 actual size of that in a mod-occupancy, square  
18 footage. The plat which is part of this is heavily  
19 annotated, but is difficult to read, perhaps partially  
20 because of re-Xeroxing, but I have not seen sufficient  
21 information to be able to make an effective judgment  
22 of some of the merits of the application.

23 CHAIRPERSON REID: Okay. Ms. Prince, in  
24 regard to the aspect of this case that has been raised  
25 by the ANC in regard to an appearance by yourself or

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1 Mr. Sisson --

2 MS. PRINCE: I'm happy to address that.

3 CHAIRPERSON REID: Please.

4 MS. PRINCE: I did talk to Eleanor Roberts  
5 in advance of that meeting and after a lengthy  
6 discussion she told me that my presence at the meeting  
7 would not be beneficial, that the ANC was not going to  
8 be taking action on the merits of the application.  
9 They were going to be going down this road of  
10 continued postponements. She didn't believe that  
11 there was anything to be gained by my client in coming  
12 to the meeting.

13 CHAIRPERSON REID: Yet. But there is a  
14 request --

15 MS. PRINCE: And, for that reason we did  
16 not go to the meeting.

17 CHAIRPERSON REID: Okay. But, there is a  
18 request for you to make an appearance at the meeting.

19 MS. PRINCE: We have been to the ANC  
20 regarding this property a minimum of 5 times. The  
21 ANC --

22 CHAIRPERSON REID: But, again, I think  
23 that they want you to appear again. I think that's  
24 what -- the gist of that letter is saying -- Ms.  
25 Renshaw.

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1 MEMBER RENSHAW: Yes. That's it. You  
2 received a copy of this paper --

3 MS. PRINCE: Oh, yes, I reviewed the  
4 letter and I --

5 MEMBER RENSHAW: And, did you respond to  
6 the letter?

7 MS. PRINCE: No, I haven't responded to  
8 the letter.

9 MEMBER RENSHAW: Because what they are  
10 saying is that they do want you back with Mr. Sisson  
11 and they want those as-built drawings. And, it is  
12 pretty clear to us that this is a very serious request  
13 on the -- it's a vote of the ANC that this is the  
14 course of action that they request be taken.

15 MS. PRINCE: I haven't been invited back  
16 to the ANC other than -- I mean, we have the hearing  
17 today.

18 CHAIRPERSON REID: Do you have a copy of  
19 that letter?

20 MS. PRINCE: There wasn't another meeting.

21 CHAIRPERSON REID: Okay. But, do you have  
22 a copy of this letter, Ms. Prince?

23 MS. PRINCE: I do. I've seen the letter.

24 CHAIRPERSON REID: All right. Did you  
25 glean from the letter that they would like for you to

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1 reappear?

2 MS. PRINCE: Apparently they would like  
3 the as-built drawings, but there was not another  
4 meeting between --

5 CHAIRPERSON REID: No, no. It appears  
6 that they have requested or would like for you and Mr.  
7 Sisson to appear again. Is that a problem?

8 MS. PRINCE: That's not a problem, but  
9 there was no meeting to go to between the one I was  
10 told my presence would not be beneficial and today's  
11 hearing.

12 CHAIRPERSON REID: I understand. No, I  
13 understand perfectly what you're saying and thank you  
14 for clarifying that for us, because the impression  
15 that we had initially was that you had been invited  
16 and just did not appear.

17 MS. PRINCE: It clearly creates that  
18 impression.

19 CHAIRPERSON REID: Yes.

20 MS. PRINCE: But, I had a lengthy  
21 discussion with Ms. Roberts.

22 CHAIRPERSON REID: Well, I am glad that  
23 you are addressing that, because that was a kind of a  
24 vague type of thing which would allow one to speculate  
25 as to what happened. And, so it's always best to get

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1 things clarified.

2 MS. PRINCE: Right.

3 MEMBER RENSHAW: Madam Chair, it would  
4 have been helpful if Ms. Prince had issued an  
5 memorandum to the Board to that effect and sent a copy  
6 to the ANC.

7 CHAIRPERSON REID: Yes.

8 MEMBER RENSHAW: And, also request that  
9 she be on the agenda at the next monthly meeting if  
10 all goes as planned.

11 MS. PRINCE: It seemed moot since I felt  
12 our hearing would be today.

13 MEMBER RENSHAW: Right. Okay. But, to  
14 take action on this is what we would like you to do.

15 CHAIRPERSON REID: Okay. In regard to  
16 this aspect, as it pertains to the drawings, we keep  
17 coming back to that. My understanding was that you  
18 have now set, and let's reiterate it once more, that  
19 the survey, the land survey as plat drawings will be  
20 provided --

21 MS. PRINCE: We will retain --

22 CHAIRPERSON REID: -- at the meeting, the  
23 meeting that -- whatever meeting that you are  
24 scheduled to appear for that ANC, that that would be a  
25 part of that meeting, your presentation.

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1 MS. PRINCE: We can arrange for the  
2 preparation of a survey.

3 CHAIRPERSON REID: And, the presentation  
4 to them, because that seems to be something that they  
5 were very concerned about. And, that is the as-built  
6 finished drawings, as well as making it obviously  
7 available to Mr. Brown and to this Board.

8 MS. PRINCE: That's fine.

9 CHAIRPERSON REID: All right.

10 MR. BROWN: Madam Chair, could I ask that  
11 it be a three-dimensional issue, because, quite  
12 frankly, the height of the garage is very much in  
13 contention. A land surveyor can provide height  
14 dimensions that are accurate, and I think that that  
15 would be well received by the Board, my client, and  
16 the ANC.

17 CHAIRPERSON REID: I have no problem with  
18 that, unless you do.

19 MS. PRINCE: We had a registered architect  
20 measure the height of the garage and I do have those  
21 findings for the Board. It's not even a close call,  
22 but --

23 MR. BROWN: Is Mr. Brown's exhibit board,  
24 primarily made up of drawings that you provided or  
25 were provided through the client -- to your client,

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1 Ms. Prince?

2 VICE CHAIRPERSON SOCKWELL: I believe  
3 you're referring to these two drawings.

4 MR. BROWN: I'm referring to everything on  
5 that board.

6 MS. PRINCE: These have all been provided  
7 by my client. When we asked the architect to do a  
8 field inspection and confirm all the measurements,  
9 that generated these final three drawings.

10 VICE CHAIRPERSON SOCKWELL: The drawing  
11 that is shown as the garage plan, Ms. Prince. No, not  
12 the section, the plan, the top center, that. That  
13 would have been much more appropriate had it had  
14 dimensions of the square itself, of the garage shape  
15 itself. By the same token, the house is presented as  
16 a block but isn't dimensioned to show the difference  
17 between the existing house and the addition to the  
18 house. So, the drawings leave a lot to be desired.

19 It's very difficult to make judgments when  
20 you don't have enough information. As well, the plat,  
21 which is heavily annotated and apparently is signed by  
22 someone from Architectural Design Associates, all that  
23 gibberish on there should have been either re-stated  
24 so that it was clear, or something, because it's very  
25 difficult to read that.

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1 I mean, we're being asked to evaluate  
2 information, some of which is very unclear. Let me  
3 say, if it was done to give us information, each  
4 element should have been indicated as to what it is,  
5 elements removed, elements added so that this became a  
6 working document. Now, I really do know what I'm  
7 looking at, but I would challenge some of my fellow  
8 Board members to understand this drawing.

9 MS. PRINCE: The reason why it was done  
10 this way, just to explain, is we had the working  
11 drawings that were done to construct the addition.

12 VICE CHAIRPERSON SOCKWELL: Yes.

13 MS. PRINCE: We were repeatedly asked to  
14 produce as-built drawings. Rather than have an entire  
15 new set of documents produced, we had an architect  
16 confirm the dimensions on the working drawings. So,  
17 the only drawings that were generated were the three  
18 simple sketches that did, in fact, provide information  
19 that was not on the working drawings.

20 The working drawings contained an  
21 elevation of the garage taken from the alley  
22 elevation, when for zoning purposes the relevant  
23 dimension is the elevation from the house. So, that  
24 was an important piece of information that wasn't  
25 included in the original set of drawings and we

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1 concede that.

2 The garage dimensions are not indicated  
3 because we stand by the dimensions shown on the plat.

4 The architect said they were correct. However, the  
5 setback was not correct. So, we provided that  
6 information.

7 The same with respect to the porch.

8 VICE CHAIRPERSON SOCKWELL: If a surveyor  
9 does work, he will show or should show any easement  
10 information that might be pertinent. He would show  
11 accurately the relationship between true side lot  
12 lines and rear lot lines and buildings and front lot  
13 lines as well. The architect just isn't normally able  
14 to do that. I mean, we can do it as a -- we can come  
15 close but if we don't know for sure, we might be using  
16 a reference point that is incorrect just based on the  
17 location of some site feature. And, that's why the  
18 civil survey is the only appropriate mythology for  
19 providing the kinds of information we need for side  
20 and front and rear lot lines.

21 CHAIRPERSON REID: Thank you very much,  
22 Mr. Sockwell. Mr. Holman, did you have any comments  
23 or questions?

24 COMMISSIONER HOLMAN: No. I think I would  
25 be prepared to proceed with the motion when you felt

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1 you were ready.

2 CHAIRPERSON REID: Okay. You can go  
3 ahead, if you would like.

4 COMMISSIONER HOLMAN: All right. I guess  
5 in light of the discussion, even though it's been  
6 clarified by Ms. Prince in terms of the ANC issue,  
7 that still concerns me somewhat and I would like to  
8 see that resolved. So, I guess we propose that we  
9 consider a brief continuance so that the ANC can have  
10 the opportunity to consider the issues and give us  
11 their opinion.

12 CHAIRPERSON REID: Okay. Ms. Sockwell.

13 VICE CHAIRPERSON SOCKWELL: Just to add to  
14 Mr. Holman. The ANC has given great weight by the  
15 Board of Zoning Adjustment and to eliminate that  
16 opportunity I think would be something that we should  
17 not do with our charge.

18 CHAIRPERSON REID: Okay. Also, the issue  
19 of the letter from the Zoning Administrator as to the  
20 type of relief, that there is some question about  
21 that.

22 MS. PRUITT: Excuse me, Madam Chair.

23 CHAIRPERSON REID: Yes.

24 MS. PRUITT: Could we handle this one  
25 motion to continue first and do them separate motions,

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1 because we found in the past when we jumbled them all  
2 up the transcripts get very confusing.

3 CHAIRPERSON REID: Do what?

4 MS. PRUITT: Well, right now, Mr. Holman,  
5 my understanding, has made a motion to continue this  
6 hearing.

7 CHAIRPERSON REID: Yes.

8 MS. PRUITT: Can we finish that off before  
9 you go to --

10 CHAIRPERSON REID: Well, what I was making  
11 was in relation to that motion.

12 MS. PRUITT: Was it additional information  
13 that may be required? Is that what you were going  
14 to --

15 CHAIRPERSON REID: Exactly.

16 MS. PRUITT: Okay. I would just suggest  
17 we do it separately, but --

18 CHAIRPERSON REID: The basis for the  
19 continuation, as posed by Mr. Holman, being one aspect  
20 of it, however, there were additional elements to that  
21 thought that spoke to the need for the continuation as  
22 well. Just one second please. All right. Yes, I  
23 thought that that -- are you saying, Ms. Pruitt, that  
24 that should not be brought up at this time?

25 MS. PRUITT: I think it's just -- in the

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1 past, when you go back to look at our transcripts,  
2 when we jumble a lot of information or a lot of issues  
3 in one, it often gets confusing, even with reading the  
4 transcription, exactly what the Board is requesting.  
5 So, I thought if we just did it --

6 CHAIRPERSON REID: So, just take the  
7 motion and then --

8 MS. PRUITT: And, then go back and tell --  
9 and say if the motion passes for a continuance, then  
10 indicate what you want.

11 CHAIRPERSON REID: Okay. All right. I  
12 second it. All in favor -- any further discussion.

13 MS. PRUITT: I'm sorry. I thought Mr.  
14 Sockwell seconded it. I just want to make sure I have  
15 it straight.

16 CHAIRPERSON REID: Did you?

17 VICE CHAIRPERSON SOCKWELL: No, actually,  
18 I --

19 CHAIRPERSON REID: He did not.

20 VICE CHAIRPERSON SOCKWELL: I hadn't, but  
21 I will.

22 CHAIRPERSON REID: All right. The motion  
23 was made by Mr. Holman, seconded by Mrs. Reid. And,  
24 if there is no further discussion I will ask for the  
25 vote.

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1 MEMBER RENSHAW: Aye.

2 VICE CHAIRPERSON SOCKWELL: Aye.

3 MEMBER MOULDEN: Aye.

4 MEMBER HOLMAN: Aye.

5 CHAIRPERSON REID: Aye. Any opposed?

6 MS. PRUITT: Staff will record the vote as  
7 5 to 0 to continue. We need to set a date now, I  
8 would suggest and then we can go into what --

9 CHAIRPERSON REID: All right. What's  
10 available?

11 MS. PRUITT: Unfortunately --

12 MR. BROWN: Madam Chair, this may double  
13 back into some of the issues. Surveyors are hard  
14 people to get out in the field. They're very busy.  
15 The survey is a critical issue for everybody.

16 CHAIRPERSON REID: How long does it take?

17 MR. BROWN: Receiving that, getting to the  
18 ANC and then coordinating it with their schedule, are  
19 things that we need to be aware of, because to have  
20 this matter go back to the ANC prior to the survey and  
21 the -- and what we hope is an agreeable as-built --

22 CHAIRPERSON REID: Well, what's a  
23 reasonable time frame, Mr. Brown, can you suggest?

24 MR. BROWN: I don't know.

25 MEMBER RENSHAW: Well, the ANC will be

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1 meeting next month. It will be meeting about the 8th  
2 or so of June.

3 MR. BROWN: I think it's Monday the 5th.

4 MEMBER RENSHAW: Monday, the 5th.

5 MR. BROWN: But, I mean, unless Allison is  
6 a miracle worker, the ability to get a survey prepared  
7 in the kind of detail that Mr. Sockwell and I think  
8 everybody expects, between now and then is, I think,  
9 slim to none.

10 MS. PRUITT: Well, first I would like to  
11 state, you all have your meeting and building schedule  
12 before you. Please refer to that. Unless you want to  
13 do a hearing in August, there is no room until  
14 October, because you have also talked to me about the  
15 level of cases that we have on. We have very full  
16 agendas.

17 CHAIRPERSON REID: I don't, for myself,  
18 that is a recess month and I -- that's completely  
19 absorbed for me. I cannot.

20 MS. PRUITT: I'm just letting you know  
21 what the options are.

22 CHAIRPERSON REID: Okay.

23 MS. PRUITT: Particularly if you look at  
24 the hearing schedule as what has been determined.

25 CHAIRPERSON REID: That's for me, unless

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1 other Board members want to meet in August.

2 VICE CHAIRPERSON SOCKWELL: I'm not  
3 looking forward to it.

4 MEMBER RENSHAW: No.

5 CHAIRPERSON REID: Okay. So, we can't --  
6 they are consistent not to meet in August, so the next  
7 time is when?

8 MS. PRUITT: October.

9 CHAIRPERSON REID: October what?

10 MS. PRUITT: 3rd.

11 CHAIRPERSON REID: Ms. Prince.

12 MS. PRINCE: That obviously causes extreme  
13 prejudice to my client. The case has been postponed  
14 four times. I would like to remind the Board that at  
15 the last postponement the whole idea was to provide  
16 the ANC with an opportunity to take up the merits of  
17 the application at its meeting in May. They elected  
18 not to take up the application, based on the merits,  
19 because they had fallen into the same pattern that Mr.  
20 Brown is in to avoid the merits and postpone and  
21 postpone and postpone.

22 VICE CHAIRPERSON SOCKWELL: Ms. Prince, I  
23 think one of the reasons that postponement is  
24 considered here is because we don't have enough  
25 information. If I don't have enough information, I

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1 don't want to hear the case.

2 MS. PRINCE: I'm simply asking you to  
3 consider if in anyway possible a date prior to  
4 October. Perhaps another hearing will be rescheduled.

5 CHAIRPERSON REID: What would you suggest?

6 MS. PRINCE: We would make ourself  
7 available any date.

8 CHAIRPERSON REID: No, no. I mean what  
9 month?

10 MS. PRINCE: Okay. We will get a survey  
11 done in a week if we need to. I'll take that  
12 challenge.

13 CHAIRPERSON REID: So, again, as I  
14 remember it, there is another case, an unrelated case,  
15 that you had some -- there was some concern about your  
16 vacation time in July, was there not?

17 MS. PRINCE: Right. I'll have to have  
18 someone else handle it.

19 MEMBER RENSHAW: But, Madam Chair, we have  
20 to remember --

21 MS. PRINCE: Whatever date is available.

22 CHAIRPERSON REID: Just a moment, please.  
23 One at a time.

24 MEMBER RENSHAW: Madam Chair.

25 CHAIRPERSON REID: Yes.

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1                   MEMBER RENSHAW: We have to remember that  
2 this has got to go back before the ANC, so its  
3 schedule has to be considered.

4                   CHAIRPERSON REID: Certain. Okay. Mr.  
5 Brown.

6                   MR. BROWN: Well, and also, I suspect it  
7 may make sense to take this back to Mr. Johnson and  
8 Mr. Nunley as well, because they've been equally  
9 handicapped with the lack of information. I certainly  
10 haven't had a chance to meet with them jointly. If I  
11 can help matters, and I've got three myself, my  
12 client, Ms. Crary, and George Watson, one of my expert  
13 witnesses, and based on the dates Ms. Pruitt gave me  
14 yesterday, I've gone through and the earliest I can  
15 get all three of those people on -- in one place here  
16 before the Board, between now and the October time  
17 frame you're saying, is I believe the earliest would  
18 be September 19th or the 26th. And, that would be  
19 based --

20                   CHAIRPERSON REID: Why would it take you  
21 that long?

22                   MR. BROWN: Because --

23                   CHAIRPERSON REID: This is May.

24                   MR. BROWN: Well, because -- and again,  
25 I've gone through all the dates and between my

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1 activities, Mr. Watson's activities and Ms. Crary's  
2 activities and travel, the period from the middle of  
3 July through the middle of September she's out of the  
4 country.

5 CHAIRPERSON REID: From what date?

6 MR. BROWN: From the middle of July to  
7 the middle of September. Her estimated return date  
8 from abroad is the 15th of --

9 CHAIRPERSON REID: Now, heretofore she has  
10 not -- has she --

11 MS. PRINCE: She has not attended most or  
12 all of the hearings.

13 MR. BROWN: She was here on the 3rd.

14 CHAIRPERSON REID: She was here?

15 MR. BROWN: Yes, she was.

16 CHAIRPERSON REID: So, you're saying that  
17 she desires to be at attendance at the hearing, for  
18 the next time.

19 MR. BROWN: Absolutely. Absolutely.

20 CHAIRPERSON REID: Okay.

21 MR. BROWN: Absolute.

22 MS. PRINCE: Ms. Crary did not  
23 participate, however, in the hearings involving the  
24 appeal.

25 CHAIRPERSON REID: I did not think that --

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1 he said that she was here.

2 MS. PRINCE: On the appeal.

3 CHAIRPERSON REID: He didn't say she  
4 participated.

5 MR. BROWN: The appeal is old news. I  
6 mean, Ms. Crary wanted to, but, again, that matter --

7 CHAIRPERSON REID: Okay. All right.  
8 Let's go now to looking at the possibility of June,  
9 late June or early July.

10 MS. PRINCE: We'll take any date.

11 MS. PRUITT: Excuse me, Madam Chair.  
12 Please look -- refer to this. You have six and seven  
13 cases on each day. It's very full. You have  
14 Georgetown campus plan in June.

15 MR. BROWN: Madam Chair, as I've said  
16 before, I've gone in a three person matrix and I can't  
17 get my people together until that September time frame  
18 at the earliest.

19 MS. PRUITT: And, the only date I could  
20 absolutely see, because we just got a letter  
21 indicating that Dunbarton Oaks would like a  
22 continuance.

23 CHAIRPERSON REID: When is Dunbarton Oaks?

24 MS. PRUITT: On June 20th. I haven't  
25 gotten a letter. I got a verbal confirmation, but I

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1 need to get a letter to really confirm that.

2 MS. PRINCE: This is Dunbarton Oaks?

3 MS. PRUITT: Yes.

4 MS. PRINCE: That will be postponed.  
5 That's the only place I can see, because given  
6 everything else the schedule, unfortunately, is just  
7 very tight.

8 MR. BROWN: And, that's not an available  
9 date for either myself or Mrs. Crary. You know, I've  
10 got the dates she's going to be in Georgia, at that  
11 time period.

12 CHAIRPERSON REID: Wait, wait, wait. Mr.  
13 Brown.

14 VICE CHAIRPERSON SOCKWELL: Mr. Brown,  
15 your client is subject to the convenience of the  
16 others involved and this Board. Just because your  
17 client wants to be out of the country, needs to be in  
18 Georgia, does not mean this case cannot go forward.  
19 If your client cannot be available on a reasonable  
20 date, then we'll go without her.

21 MR. BROWN: Well, I think --

22 VICE CHAIRPERSON SOCKWELL: And, you won't  
23 have a choice.

24 MR. BROWN: I understand your point. I  
25 take exception to it.

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1 VICE CHAIRPERSON SOCKWELL: That's  
2 acceptable.

3 MR. BROWN: Also, if you look at the 20th  
4 date, I think that does not -- that sets us up for  
5 another problem because the level of information being  
6 requested, that's has got to go -- be provided to and  
7 go to the ANC and then the suggestion that I think is  
8 well-taken --

9 CHAIRPERSON REID: Mr. Brown. Mr. Brown,  
10 okay, let's operate under the auspices of  
11 reasonableness.

12 MR. BROWN: I'm trying to.

13 CHAIRPERSON REID: Now, for one thing your  
14 client has -- you say that your client cannot appear  
15 late July into September. So, that's a two month  
16 period of time, which we are conceding to. Okay.  
17 However, in deference to the Board as well as Mr.  
18 Sisson and his attorney, Ms. Prince, then we have to  
19 try to come to some type of resolution as to a date.  
20 Now, the June 20th date appears to be becoming  
21 available, because one of the other cases is being  
22 continued. Now, as I understand it, what has to  
23 happen is that the ANC is meeting -- what date was  
24 that, the 8th of June?

25 MR. BROWN: I think they're meeting the

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1 5th, I believe.

2 CHAIRPERSON REID: The 5th of June.

3 MEMBER RENSHAW: Isn't it the second  
4 Monday. They meet on the second Monday of the month.

5 MR. BROWN: Is it the second. I thought  
6 it was the first.

7 MEMBER RENSHAW: Well, if they met on the  
8 8th --

9 CHAIRPERSON REID: Nonetheless, that gives  
10 the ANC time for a meeting. One, what they've asked  
11 for is an appearance by Ms. Prince and Mr. Sisson, as  
12 well as the drawings. Now, the question becomes, can  
13 the drawing be obtained between now and then?

14 MS. PRINCE: Yes.

15 VICE CHAIRPERSON SOCKWELL: Madam Chair,  
16 may I --

17 CHAIRPERSON REID: Wait. Excuse me one  
18 second.

19 VICE CHAIRPERSON SOCKWELL: It's very  
20 important.

21 CHAIRPERSON REID: Before the ANC, to be  
22 presented to the ANC, can that be accomplished?

23 MS. PRINCE: We will take all action  
24 necessary to procure an as-built survey prior to that  
25 time.

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1 CHAIRPERSON REID: Okay. Because I know,  
2 being in the real estate business myself, that  
3 sometimes if you need things in a certain amount of  
4 time, then you just have to make the necessary  
5 arrangements and sometimes you may have to pay  
6 additional fees in order to get it done. But, if this  
7 is what this whole thing is going to be driven by,  
8 then I would be prepared to recommend, based upon Mr.  
9 Holman's motion, that it be on June the 20th, all  
10 other things considered.

11 Yes, Mr. Sockwell.

12 VICE CHAIRPERSON SOCKWELL: Madam Chair,  
13 because we wanted to leave the month of August open  
14 for sort of a Board recess.

15 CHAIRPERSON REID: It's a recess month.

16 VICE CHAIRPERSON SOCKWELL: It seems to be  
17 that because the first two available dates in August  
18 are the first or the second, we could do the meeting  
19 August 1st or August 2 and not incumber the month of  
20 August.

21 CHAIRPERSON REID: Mr. Brown, he says that  
22 Ms. Crary wants to be there.

23 VICE CHAIRPERSON SOCKWELL: Okay.

24 CHAIRPERSON REID: And, she's not going to  
25 be in the country.

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1 VICE CHAIRPERSON SOCKWELL: Right. So,  
2 she's leaving when?

3 CHAIRPERSON REID: The last two weeks of  
4 July until September.

5 VICE CHAIRPERSON SOCKWELL: Okay. Never  
6 mind then.

7 MR. BROWN: We face that same problem.  
8 I've got to tell you and I'm not -- and I understand,  
9 but I'm not very happy about June 20th, because she's  
10 purchased tickets to go to Georgia.

11 CHAIRPERSON REID: Oh, okay. Okay. Well,  
12 not withstanding that, I would like to be here and I  
13 won't be able to be here for that date in August. So,  
14 the June 20th date I would recommend to be the date  
15 that we move the continuance to.

16 MR. BROWN: Yes. We can do the time. All  
17 right. Fine.

18 CHAIRPERSON REID: All right.

19 MR. BROWN: Madam Chair, I understand  
20 that, but that gives me great concern because of my  
21 client.

22 CHAIRPERSON REID: We understand that.

23 MR. BROWN: She's either got to forfeit  
24 her --

25 CHAIRPERSON REID: We've already given --

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1 we've already given your client all of August, the  
2 last part of July and most of September. And, that's  
3 the best we can do, Mr. Brown. I'm sorry.

4 VICE CHAIRPERSON SOCKWELL: Mr. Brown,  
5 your client paid for the BZA process, I assume.  
6 Georgia is a very inexpensive round trip, really is  
7 very expensive round trip. If it is more important  
8 for her to be in Georgia, with the expenses to date,  
9 than to be here, then she will be in Georgia. I can  
10 certainly understand her being out of the country and  
11 not wanting to come back, but I don't think that  
12 George should be our problem.

13 CHAIRPERSON REID: Mr. Brown, we --  
14 notwithstanding that and also just -- I think that we  
15 don't have to get into who is going to fool with what,  
16 the fact of the matter is that that is the best date  
17 that we can come up and anything that your client can  
18 do to be here, or as has happened previously, you  
19 represent her, as you always do, as you usually do and  
20 very adequately, I might add.

21 MR. BROWN: Thank you, Madam Chair.

22 CHAIRPERSON REID: All right. Now --

23 MS. PRUITT: Madam Chair, I was just going  
24 to say it's June 20th in the afternoon. It will be  
25 the last case on the agenda. There are two others

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1 before you in the after. So, it will be the third  
2 case.

3 CHAIRPERSON REID: Okay. Thank you very  
4 much, Ms. Pruitt. Okay. Now in regard to the  
5 continuance, what I was saying earlier, there was some  
6 question as to the relief that was put forth to us by  
7 the Zoning Administrator and we had some discussion  
8 about that and the consensus, I think at that time,  
9 was that we would ask the Zoning Administrator -- thee  
10 was some request for an appeal of that decision or  
11 some request -- and the appeal could not be an appeal  
12 without us having the issue -- the appeal could not  
13 take place until after the fact. And, this is a  
14 request for before we make a decision or hear the  
15 case. And, as such we then have to determine whether  
16 or not we could ask the Zoning Administrator to  
17 revisit the relief that he's requesting and give us a  
18 more definitive final letter of relief. Was that  
19 correct? Is that what we decided?

20 Ms. Sansone, could you speak to that,  
21 please?

22 MS. SANSONE: Madam Chair, I don't think  
23 I'm going to be very helpful. I don't recall if -- I  
24 think we can clearly go back to the Zoning  
25 Administrator and get an additional memorandum or

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1 additional report, even request him to be present if  
2 needed, to present that report.

3 CHAIRPERSON REID: And, to be questioned  
4 if there is a --

5 MS. SANSONE: Yes. Yes. Or one of the  
6 parties could also ask the Zoning Administrator to be  
7 present as a witness. That would also work.

8 CHAIRPERSON REID: Okay.

9 MS. PRUITT: Madam Chair, staff can write  
10 a letter to the Zoning Administrator asking him to  
11 explain how he got the zoning relief that is coming in  
12 reference to the previous appeal.

13 CHAIRPERSON REID: Yes. Because there was  
14 -- now --

15 MS. PRUITT: Because it may not mean -- it  
16 may change, it may not, but at least you would  
17 understand the logic as to how they got there.

18 CHAIRPERSON REID: Two things --

19 MR. BROWN: Shouldn't he have access, he  
20 being the Zoning Administrator, have access to this  
21 as-built survey?

22 CHAIRPERSON REID: Yes, he would.

23 MR. BROWN: I'm just --

24 CHAIRPERSON REID: Remember, earlier we  
25 said when we were talking about the as-built survey

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1 being submitted, that all the parties and the Board  
2 and the Zoning Administrator, if I didn't, let me  
3 state it now. Everyone who needs to have it, have it  
4 so that when we do have a hearing it will be with all  
5 the appropriate information that we need to have in  
6 order to make a decision. Also --

7 MEMBER RENSHAW: Madam Chair.

8 CHAIRPERSON REID: Just one second. Let  
9 me finish this thought.

10 MR. BROWN: Can I -- can I interject  
11 something here?

12 CHAIRPERSON REID: Just one second. I  
13 have three people trying to talk to me at the same  
14 time. In fact, just let me just finish this one  
15 thought. In regard to the relief that's being  
16 requested, there has been some question as to whether  
17 or not additional relief should be requested and  
18 whether or not the relief that has been submitted to  
19 us thus far is reflective of the situation that we're  
20 going to be dealing with at the hearing.

21 Now, if in fact the Zoning Administrator  
22 sends up back basically the same thing and it is not  
23 agreed upon, then at some point after the hearing then  
24 there can be an appeal filed, correct?

25 MS. PRUITT: Once a decision has been

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1 rendered.

2 CHAIRPERSON REID: That's what I mean,  
3 after the hearing and the decision has been rendered,  
4 then -- that's the only point that there can be an  
5 appeal. Okay. All right. That's what I wanted to be  
6 clear on.

7 MR. BROWN: Madam Chair, can I just --

8 CHAIRPERSON REID: Just one second. Ms.  
9 Sockwell, was it for you --

10 VICE CHAIRPERSON SOCKWELL: No.

11 CHAIRPERSON REID: Mr. Holman.

12 MEMBER HOLMAN: No. It was --

13 CHAIRPERSON REID: Ms. Renshaw.

14 MEMBER RENSHAW: Yes. Yes, I did.

15 CHAIRPERSON REID: Okay.

16 MEMBER RENSHAW: I wanted to suggest that  
17 the Zoning Administrator be invited to attend our  
18 meeting.

19 CHAIRPERSON REID: Yes. Yes. I think so.

20 MEMBER RENSHAW: In order to answer  
21 questions that the Board may have.

22 CHAIRPERSON REID: Yes. We said that.  
23 Yes.

24 MS. PRUITT: In fact, he was invited  
25 today, and he said he was going to try.

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1 CHAIRPERSON REID: Okay.

2 MS. PRUITT: We'll include that in the  
3 letter, the time and date and everything.

4 CHAIRPERSON REID: We've had that problem  
5 before and quite frankly since that relief that he's  
6 requesting -- is recommending is so important, I don't  
7 think that -- I think that we have to have him to be  
8 able to question.

9 MS. PRUITT: I agree, Madam Chair. We  
10 will send a letter urging him. I mean, we don't have  
11 subpoena power, so we will do everything we can to  
12 urge them and encourage them to come.

13 CHAIRPERSON REID: Okay. Does he have to  
14 be here or can it be someone who is familiar with the  
15 case, who is handling the case there at DZRA?

16 MS. PRUITT: Madam Chair, it could be the  
17 individual that's handling the case and is familiar.

18 CHAIRPERSON REID: Either he or a  
19 representative.

20 MS. PRUITT: Okay.

21 CHAIRPERSON REID: All right. Now, Mr.  
22 Brown, I'm sorry.

23 VICE CHAIRPERSON SOCKWELL: Madam Chair,  
24 I'm not too sure when the ANC meets. It's either the  
25 5th or the 12th. If it's the 12th and I just looked

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1 at my schedule, I wasn't thinking of this, I'm going  
2 to be away that day. I'm going to be -- and one, I  
3 think you ought --

4 CHAIRPERSON REID: On what day are you  
5 going to be away?

6 MR. BROWN: The day -- the next ANC  
7 meeting on the --

8 CHAIRPERSON REID: Did they ask that you  
9 attend, too? Well --

10 PARTICIPANT: It's best that he does.

11 MR. BROWN: I'm Mrs. Crary's counsel and  
12 they're expecting to hear a presentation from us.  
13 Now, we may be wrong on the date. I can call and,  
14 with the Board's permission I can call right this  
15 second and find out when that date is.

16 CHAIRPERSON REID: Well, why don't we ask  
17 staff to call? Can we find out when the ANC meetings?

18 MS. PRUITT: We can call. I'm not sure if  
19 we'll be able to find out. Offices aren't manned 24  
20 hours -- I mean, they don't have --

21 CHAIRPERSON REID: Well, we'll do the best  
22 we can.

23 MS. PRUITT: We can do that.

24 MR. BROWN: I have a number that I  
25 think --

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1                   MEMBER RENSHAW: Yes. Also, you can check  
2 with Elections and Ethics. They keep an updated list  
3 of ANC meeting dates and places, and that's here in  
4 this building on this floor.

5                   CHAIRPERSON REID: Okay. Now, if in fact  
6 that's a problem, is it possible for the ANC to have a  
7 -- given the circumstances, do you think they would be  
8 amenable to having a special meeting or something in  
9 order to accommodate.

10                  MEMBER RENSHAW: The ANC can always be  
11 requested to have a special meeting, but it's up to  
12 the ANC commissioners to decide whether it's going to  
13 be a yes or no. But, we could make the request.

14                  CHAIRPERSON REID: Mr. Brown, is it  
15 possible for you to have someone to represent you  
16 there at the meeting that can handle it?

17                  MR. BROWN: I have other people. I don't  
18 work by myself, but I've been involved in this case  
19 for now two years and I don't feel comfortable sending  
20 anybody else.

21                  CHAIRPERSON REID: I understand that, but  
22 if in fact, what we can do to accommodate you is to  
23 ask, if it is on that date, that the ANC consider  
24 having a special meeting and if they cannot do that,  
25 then the only other thing that I can think of is for

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1 you to have someone represent you at the meeting.

2 MR. BROWN: In fairness, I know we're  
3 trying to do the best we can, but now the Board is  
4 asking, in circumstances beyond all our control,  
5 asking my client to take two major hits. And, I just  
6 don't think it's fair.

7 CHAIRPERSON REID: No, not -- that's not  
8 true. That's not true. In the first place we don't  
9 know what the date is. And, secondly, we're asking  
10 the ANC if there is a date to consider having a  
11 special meeting. That's what we're doing. We don't  
12 know yet, so before you can complain about, let's see  
13 what we're dealing with. We don't know.

14 MR. BROWN: Okay. All right. I still  
15 think in -- and I've got to say this and in all  
16 respect to Mr. Sockwell, my client is the 75 year old  
17 woman who has lived in her house for 30 plus years.  
18 And, her only -- that's her only offense in this  
19 matter. And, I think she's suffered quite remarkably  
20 in this matter. So, I think the balance of sympathy  
21 should more go to her than to anybody else. And, so I  
22 just put that out. I will find out immediately on the  
23 ANC meeting. That does raise a problem for me. And,  
24 again, we're trying to force something and I think  
25 we're going to have problems at various levels, so I'm

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1 concerned.

2 CHAIRPERSON REID: Okay, Mr. Brown. We  
3 appreciate that. Thank you very much for your  
4 comment.

5 So, that's what we're going to try to do,  
6 is to have the meeting for June the 20th and we're  
7 going to try to work with the ANC. If that's a  
8 problem as far as the June 12th meeting is -- their  
9 June 12th meeting is concerned. The continuation also  
10 would be predicated upon talking Mr. Nunley or Mr.  
11 Johnson.

12 MS. PRUITT: As far as Mr. Johnson, I  
13 don't know who actually did the calculations.

14 CHAIRPERSON REID: Okay. To try to get  
15 some clarification. Just a second. Okay. There was  
16 a recording that -- staff just talked to the ANC and  
17 determined that there was a recording that came on  
18 that said that the next ANC meeting was Monday, June  
19 the 12th. So, with that being the case then, Ms.  
20 Pruitt, we can then talk to them about the situation  
21 and ask if they can have a special meeting.

22 And, Mr. Brown, is that the only day you  
23 would be out of town?

24 MR. BROWN: No. I'm leaving I think the  
25 10th and I'm coming back the 14th.

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1 CHAIRPERSON REID: Okay. So --

2 MEMBER RENSHAW: Can you fly back for the  
3 12th?

4 MR. BROWN: I'm going to be in Florida  
5 with my soon to be seven year old. No, I don't think  
6 that's -- my marriage and my relationship with my  
7 daughter -- and, that's --

8 MS. PRINCE: I have an idea, a creative  
9 idea.

10 CHAIRPERSON REID: All right.

11 MS. PRINCE: I am so confident of the  
12 ANC's decision on this matter that I will agree that  
13 we will postpone the June 20th meeting if Pat's client  
14 comes out the wrong way at the ANC meeting. If his  
15 failure to attend to the ANC meeting --

16 CHAIRPERSON REID: Now, repeat that again.  
17 Now, what were you saying?

18 MS. PRINCE: We will postpone our June  
19 20th hearing.

20 CHAIRPERSON REID: Okay.

21 MS. PRINCE: If the ANC supports the  
22 application.

23 CHAIRPERSON REID: Okay.

24 MS. PRINCE: I believe so strongly that  
25 Mr. Brown's presence at that meeting will not change

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1 the outcome. That I am very willing --

2 CHAIRPERSON REID: Okay. Is that  
3 acceptable?

4 MR. BROWN: No, it's not. I mean, that's  
5 -- we're playing -- we're not playing a game and I  
6 think it's unfair to my client and so --

7 MS. PRINCE: Do you want the ANC to have a  
8 chance to consider it? I'm available. I'll make  
9 myself available. I'm confident that Pat has done a  
10 very good job with the ANC and the ANC will agree with  
11 his client's position. And, I'll take the risk that  
12 they're going to change their mind and if they do, we  
13 will postpone.

14 CHAIRPERSON REID: Okay. Well --

15 MR. BROWN: I think we've gone too --

16 CHAIRPERSON REID: Okay. All right. Mr.  
17 Brown, I think what we need to do is to bring some  
18 closure to this whole issue and keep the June 20th  
19 meeting date and try to work out some way your  
20 appearance at that June 12th meeting, obviously you  
21 can't, so that particular meeting, perhaps a staff  
22 member can, if they're not able to have a special  
23 meeting. And, that's all we can do. And, with that  
24 let's just kind of move on with this, because we can  
25 beat this to death.

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1           Okay. Now, the other thing I was going to  
2 say is we were moving to the ANC -- I'm sorry, the  
3 Zoning Administrator, be it Mr. Johnson or Mr. Nunley  
4 or someone who is familiar with this case to appear  
5 and to discuss with us the type of relief that's  
6 necessary and to question them and I want to also  
7 reiterate that -- I'm glad that Ms. Prince brought  
8 this up, that at the appeal Mr. Gilreath had  
9 instructed his client to seek a variance. And, that's  
10 very important to note. And, I do remember him saying  
11 that, you know, we -- well, then if we deny this  
12 particular appeal, then the other recourse available  
13 would be to seek the relief through the regular  
14 channels.

15           Now, the other thing that we had to deal  
16 with was the dismissal. The vote was for a  
17 continuation, but also we had a motion to dismiss.  
18 And, that particular motion we had some discussion  
19 about -- okay. I'm sorry. Excuse me. Before we go  
20 to dismissal and, not only that, but also I want you  
21 to keep --

22           VICE CHAIRPERSON SOCKWELL: I wanted to  
23 request that we get copies of the plans, any plans  
24 that were submitted with any of the five building  
25 permits, which we do have copies of, because that will

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1 establish the base line under which the building  
2 permits were issued, which I don't have sufficient  
3 data on.

4 CHAIRPERSON REID: Now --

5 MS. PRUITT: Mr. Sockwell, I guess I'm a  
6 little confused because the building permits, the ones  
7 that were issued, are --

8 CHAIRPERSON REID: We denied, but we did  
9 not --

10 MS. PRUITT: Well, but, they're not part  
11 of this application.

12 CHAIRPERSON REID: Right.

13 VICE CHAIRPERSON SOCKWELL: Well, they're  
14 in -- they're in the case folder.

15 CHAIRPERSON REID: But, that would be  
16 confusing --

17 MS. PRUITT: That was just background  
18 information, but it really --

19 VICE CHAIRPERSON SOCKWELL: Well, the  
20 plans would then be background information.

21 CHAIRPERSON REID: This is like starting  
22 anew.

23 MS. PRUITT: Right. Exactly. This is  
24 like starting -- what type -- as Ms. Prince said, what  
25 type of relief would I need to get if I were to build

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1 this house today, this way.

2 VICE CHAIRPERSON SOCKWELL: True.

3 MS. PRUITT: And, that's what you really  
4 need to be focusing on.

5 VICE CHAIRPERSON SOCKWELL: Well, I will  
6 be.

7 MS. PRUITT: Okay. I just wanted to be  
8 clear that we're not -- we really shouldn't be  
9 bringing in a lot of old stuff from the appeal.

10 CHAIRPERSON REID: Well, no, I agree. I  
11 don't think that we need those, because I think that  
12 would further confuse -- well, it would confuse me,  
13 anyway, as to --

14 VICE CHAIRPERSON SOCKWELL: Well, I  
15 apologize. I don't think that I would be confused by  
16 it anymore than I would be confused by the plat  
17 information or anything else.

18 CHAIRPERSON REID: But, what you want to  
19 be assessing at this point, Mr. Sockwell, is the  
20 merits of the application for the relief that is being  
21 asked for and as such I remember those other plans,  
22 were those plans to be built, some of them?

23 MS. PRUITT: Well, it's really just not  
24 relevant to this particular case. That's the bottom  
25 line.

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1 VICE CHAIRPERSON SOCKWELL: Well, I can  
2 understand your not understanding why it would be  
3 relevant to me, but --

4 MS. PRUITT: Well, Mr. Sockwell, I'm an  
5 architect, too, so I think I do understand that. But,  
6 you need to base it on what's before the Board today.

7 CHAIRPERSON REID: Aren't they -- isn't it  
8 in the file? Isn't it in the file?

9 MS. PRUITT: Yes, there is, the appeals  
10 file, that you're more than welcome to look at.

11 VICE CHAIRPERSON SOCKWELL: So, we won't  
12 get into the fact -- we won't start getting into whose  
13 licensed and who isn't and all that other kinds of  
14 things?

15 CHAIRPERSON REID: And, moving right  
16 along, the last thing we want to deal with is the  
17 dismissal.

18 Mr. Sockwell, can you speak to that,  
19 according to our discussion?

20 VICE CHAIRPERSON SOCKWELL: Yes. With  
21 regard to the dismissal, I believe that we should not  
22 rule on the motion to dismiss at this time, that we  
23 should wait until we have all the information in hand  
24 for the case that will be presented on June 20th and  
25 then I would feel more confident in correctly ruling

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1 on the motion at that time.

2 CHAIRPERSON REID: The preliminary matter.

3 VICE CHAIRPERSON SOCKWELL: As a  
4 preliminary matter.

5 MS. PRINCE: I'm not sure where we left  
6 off though on the old drawings, whether I am to submit  
7 those or not.

8 VICE CHAIRPERSON SOCKWELL: All right.

9 CHAIRPERSON REID: He will review the file  
10 himself.

11 VICE CHAIRPERSON SOCKWELL: Yes. If  
12 they're in the file then --

13 CHAIRPERSON REID: Yes.

14 VICE CHAIRPERSON SOCKWELL: They're  
15 already in the file, okay.

16 CHAIRPERSON REID: So, is there a motion?

17 VICE CHAIRPERSON SOCKWELL: I move that we  
18 table the motion for -- postpone acting on the motion  
19 for a dismissal until June 20th, at which time we will  
20 do it as a preliminary matter.

21 CHAIRPERSON REID: Okay.

22 MEMBER RENSHAW: Second.

23 CHAIRPERSON REID: Okay. All in favor.

24 PARTICIPANTS: Aye, by all.

25 CHAIRPERSON REID: Opposed.

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1 MS. PRUITT: Staff will record the vote as  
2 5 to 0 to defer the decision on the dismissal until  
3 June 20th, a motion made by Mr. Sockwell and seconded  
4 by Ms. Renshaw.

5 CHAIRPERSON REID: Okay. Are there any  
6 other questions, comments, discussions? If not, then  
7 that will conclude this morning's hearing. Thank you  
8 very much.

9 MR. BROWN: Thank you very much.

10 MS. PRINCE: Thank you.

11 (Whereupon, the hearing was concluded at  
12 11:48 a.m.)

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