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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

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TUESDAY

APRIL 24, 2001

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The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 10:10 a.m., Anne Renshaw, Acting Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

ANN RENSHAW Board Member

ZONING COMMISSION MEMBER PRESENT:

JOHN G. PARSONS Commissioner

NATIONAL CAPITAL PLANNING COMMISSION MEMBER PRESENT:

SUSAN MORGAN HINTON Commissioner

COMMISSION STAFF PRESENT:

Beverly Bailey, Office of Zoning  
Paul Hart, Office of Zoning  
John Nyarku, Office of Zoning  
Vincent Erondy, Office of Zoning  
John Moore, Office of Planning  
Arthur Rodgers, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL PRESENT:

Marie Sansone, Esq.

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

(10:10 a.m.)

ACTING CHAIRPERSON RENSHAW: The hearing will please come to order. Good morning, Ladies and Gentlemen. This is the April 25th, year 2001 public hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Anne M. Renshaw, and I am Vice Chair, but Acting Chair today, and joining me today is Susan Morgan Hinton, of the National Capital Planning Commission, and representing the Zoning Commission is John Parsons.

Copies of today's hearing agenda are available to you. They are 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 on each end of the table in front of us.

Upon 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 special exceptions and variances is, one, statement and witnesses of the applicant. Two, government reports, including the Office of Planning, the Department of Public Works, et al.

Three, a report of the advisory neighborhood commission, ANC. Four, parties or persons in support. Five, parties or persons in opposition. Six, closing remarks by the applicant.

1                   Cross-examination of witnesses is permitted by  
2 the applicant or parties. The ANC within which the property is  
3 located is automatically a party in the case.

4                   The record will be closed at the conclusion of  
5 each case, except for any materials specifically requested by  
6 the Board, and the staff will specify at the end of the hearing  
7 exactly what is expected.

8                   The Sunshine Act requires that the public hearing  
9 on each case be held in the open before the public. The Board  
10 may, consistent with its rules of procedures and the Sunshine  
11 Act, enter into executive session during or after the public  
12 hearing on a case, for the purposes of reviewing the record or  
13 deliberating on the case.

14                   The decision of the Board in these contested  
15 cases must be based exclusively on the public record. To avoid  
16 any appearance to the contrary the Board requests that persons  
17 present not engage the members of the Board in conversation.

18                   And we ask that you please turn off all beepers  
19 and cell phones, or set them to vibrate at this time, so as not  
20 to disrupt these proceedings.

21                   The Board will now consider any preliminary  
22 matters. Preliminary matters are those which relate to whether  
23 a case will or should be heard today, such as requests for  
24 postponement, continuance, or withdrawal, or whether proper and  
25 adequate notice of the hearing has been given.

1                   If you are not prepared to go forward with the  
2 case today, or if you believe the Board should not proceed, now  
3 is the time to raise such a matter. Does the staff have any  
4 preliminary matters?

5                   MS. BAILEY: Good morning. No, we do not, Madam  
6 Chairwoman.

7                   ACTING CHAIRPERSON RENSHAW: All right. If not,  
8 let us proceed with the first case. Ms. Bailey.

9                   MS. BAILEY: Thank you. Application Number 16692  
10 of Joseph F. and Sandra L. Reid, pursuant to 11 DCMR 3104.1,  
11 for a special exception under Subsection 223.1 to allow the  
12 construction of a wooden deck at the rear of a single-family  
13 dwelling not complying with the open court provisions,  
14 Subsection 403, in an R-5 District at premises 639 A Street,  
15 Northeast, Square 868, Lot 42. All those persons wishing to  
16 testify, would you please stand.

17                   (The witness was sworn.)

18                   MS. BAILEY: Thank you. Please come to the  
19 table. Madam Chair, while the applicant is being seated, the  
20 Office of Planning did not file a report on this project. We  
21 do have a letter of support from the single member district  
22 commissioner of ANC-6A-05. There is no request for party  
23 status.

24                   The property was properly posted, and the  
25 affidavit of posting filed. This project was referred to us

1 from the zoning administrator, and the case is now ready to go  
2 forward.

3 ACTING CHAIRPERSON RENSHAW: All right. Good  
4 morning.

5 MS. REID: Good morning.

6 ACTING CHAIRPERSON RENSHAW: And please introduce  
7 yourself, and if you would speak to the special exception that  
8 is requested.

9 MS. REID: Yes. My name is Sandy Reid, and I  
10 live at the premises that we are seeking a special exception to  
11 build a deck on the rear of our home.

12 The deck is non-compliant with the open court  
13 provisions. The reason that we would like to build a deck is  
14 for outdoor enjoyment, and to allow us to step outside of our  
15 back door.

16 I don't know if you have pictures in front of  
17 you, but the back door is approximately 4-1/2 feet from the  
18 ground below. Rather than rebuild stairs, we thought that we  
19 would enhance the property with a deck.

20 It should have no adverse affect on the  
21 neighborhood. In fact, it is very similar to a deck of the  
22 neighbors right next door. We have met with the ANC Commission  
23 and the Stanton Park Neighborhood Association, and they appear  
24 to be supportive of the project.

25 ACTING CHAIRPERSON RENSHAW: All right. Did the

1 ANC itself send in a letter? It did not?

2 MS. REID: The ANC Commissioner sent a letter.  
3 Apparently, the -- and it is my understanding that there was  
4 some sort of turmoil within the ANC. It was a new chairman, in  
5 effect.

6 They had originally scheduled a meeting and the  
7 commissioner called to tell me that the meeting had been  
8 canceled, and she actually came over to our home and looked at  
9 the property, and had us explain the project to her. She, in  
10 turn, sent a letter in.

11 ACTING CHAIRPERSON RENSHAW: All right. And  
12 Stanton Park?

13 MS. REID: The Stanton Park Neighborhood  
14 Association did not send us a letter. However, we did meet  
15 with them. They were surprised that we actually had to seek a  
16 variance because the existing structure does not comply to  
17 code.

18 The existing structure is only four feet from the  
19 neighbor's property, and the deck would be along that same  
20 property line. So I think they were a little surprised that we  
21 actually had to seek a variance.

22 They had absolutely no problem or no concerns  
23 with the deck. In fact, they were very helpful in providing us  
24 with other information for future projects that we may seek to  
25 do.

1                   ACTING CHAIRPERSON RENSHAW: All right. At this  
2 point, I would like to turn to the Commissioners, and ask them  
3 if they have any questions. Ms. Hinton.

4                   COMMISSIONER HINTON: I don't have any questions.

5                   ACTING CHAIRPERSON RENSHAW: All right. Mr.  
6 Parsons.

7                   COMMISSIONER PARSONS: I am looking at this  
8 photograph with a stepladder in it, which is very telling isn't  
9 it? What existed here prior to this? Was it a stairway down  
10 to the back?

11                   MS. REID: Yes.

12                   COMMISSIONER PARSONS: And in the foreground here  
13 what are we looking at? Our are black and white and not very  
14 good. So what is that?

15                   MS. REID: There was some old flagstone that will  
16 eventually be pulled up.

17                   COMMISSIONER PARSONS: Okay. So that wood in the  
18 photograph are planters or something?

19                   MS. REID: The wood that you see in the  
20 photograph to the left-hand side?

21                   COMMISSIONER PARSONS: Yes.

22                   MS. REID: No, that is what we wanted to start  
23 the deck with, and we didn't realize that we needed a permit,  
24 and we ceased work and started to go through the process.

25                   COMMISSIONER PARSONS: Refresh my memory. What

1 would it take to in elevation to lower this deck to the point  
2 where it would not need a variance or a special exception? Two  
3 feet? Two feet above grade?

4 MS. SANSONE: Mr. Parsons, I believe the problem  
5 in this case is the open court provisions, and the distance to  
6 the side yard.

7 COMMISSIONER PARSONS: Oh, so lowering this to a  
8 different elevation wouldn't help us?

9 MS. SANSONE: No, that would not solve the  
10 problem.

11 COMMISSIONER PARSONS: All right. Thank you.

12 ACTING CHAIRPERSON RENSHAW: Do you have any  
13 further questions, Mr. Parsons?

14 COMMISSIONER PARSONS: No.

15 ACTING CHAIRPERSON RENSHAW: Ms. Reid, I noted  
16 that on your application, number 26 and 27, where it says  
17 number of footings or columns, and size of footings or columns  
18 was not filled in. And yet you are going to be about five feet  
19 off the ground?

20 MS. REID: I may not have completed the  
21 application correctly. We would have the posts in the ground  
22 with cement, and at the proper levels.

23 ACTING CHAIRPERSON RENSHAW: Well, you h have  
24 drawings in here that show that. It's just that it was not  
25 reflected on your application.

1 MS. REID: I must have overlooked that, and not  
2 realized that it needed to be completed. I apologize.

3 ACTING CHAIRPERSON RENSHAW: And do you have a  
4 contractor or are you doing it yourself?

5 MS. REID: We are doing it ourselves, but I did  
6 have a landscape architect draw the design so that we would  
7 comply the designs.

8 ACTING CHAIRPERSON RENSHAW: All right. Do the  
9 Commissioners have any further questions for our applicant?

10 COMMISSIONER PARSONS: No.

11 ACTING CHAIRPERSON RENSHAW: Would you like to  
12 have -- well, we should make a reference for the record that we  
13 do have a letter from Janet Quigley, the Commissioner of ANC-  
14 6A-05, and it was dated January 19th of 2001, and she refers to  
15 the fact that a special exception is needed so that the deck  
16 can be built to the same width as the rear of the house, which  
17 is non-conforming.

18 And without the special exception, the eastern  
19 edge of the proposed deck would have to stop two feet short of  
20 the back door. And she states that there are no objections  
21 from the neighbors, and the applicants have provided the  
22 drawing which illustrates the plan.

23 And that the lot occupancy will remain under 70  
24 percent, the limit in an R-4 district, and the Stanton Park  
25 Neighborhood Association has reviewed the project and supports

1 it.

2 And as the single member commissioner for the  
3 applicant's district, she supports the project, and she signs  
4 it as Janet Quigley, Commissioner, ANC-6A-05.

5 However, she cannot be given great weight. Only  
6 the ANC can be given great weight. She mentions that there are  
7 no objections from your neighbors. Do you have sign-offs from  
8 your neighbors?

9 MS. REID: I have no sign-offs, but before we  
10 even began this project, we did have the courtesy to check with  
11 our immediate neighbors to ensure that they wouldn't object to  
12 anything and that it would not affect the neighborhood. We  
13 certainly did not want to proceed if they had objected.

14 ACTING CHAIRPERSON RENSHAW: All right. Well, I  
15 think at this point -- do you have any further questions, Ms.  
16 Hinton?

17 COMMISSIONER HINTON: I don't have questions,  
18 although I was wondering if maybe someone from the staff has  
19 this section available that we can look at, 223.1. It doesn't  
20 seem to be in the book that I have over here.

21 (Brief Pause.)

22 ACTING CHAIRPERSON RENSHAW: Well, Ms. Quigley's  
23 letter says 70 percent and the lot occupancy will remain under  
24 70.

25 MS. REID: And it will remain actually at 51

1 percent. I have a copy of a letter from the Board of Zoning  
2 Adjustment. If you would like, I can present it.

3 ACTING CHAIRPERSON RENSHAW: Well, we have that.  
4 Thank you. And the lost occupancy is 51 percent.

5 COMMISSIONER HINTON: That's very good.

6 ACTING CHAIRPERSON RENSHAW: All right. I think  
7 we can move to some closing remarks from you if we have no  
8 further questions from the Commissioners. Go ahead.

9 MS. REID: I would request that your support in  
10 this project, and I certainly hope -- well, I guess the only  
11 question that I have is how soon would I find out once you made  
12 your decision?

13 ACTING CHAIRPERSON RENSHAW: So you are  
14 requesting a bench decision?

15 MS. REID: Yes.

16 ACTING CHAIRPERSON RENSHAW: Would you just like  
17 to for the record in your closing statement speak to the  
18 special exception that you have requested for this, and just  
19 articulate for us how your project is going to be in harmony  
20 with the general purpose and intent of the zoning regulations  
21 and map. And, two, that it will not adversely affect your  
22 neighbors' property.

23 MS. REID: I don't understand that, but I think I  
24 can give it an attempted shot. First of all, our property is  
25 only 17 feet wide, and the existing structure does not comply

1 with the zoning regulations.

2 This would just be a continuation on the property  
3 structure itself for the deck. I don't believe other than the  
4 open court provisions, I don't see any other zoning  
5 irregularities.

6 ACTING CHAIRPERSON RENSHAW: And, number two,  
7 speak to that your project would not adversely affect your  
8 neighbor's property.

9 MS. REID: In our neighborhood, we do have quite  
10 a few people that spend a lot of time in their back yards, and  
11 they have beautiful back yards. First of all, we are trying to  
12 improve the appearance so that we can enjoy it, and secondly,  
13 it is consistent as we do have a couple of neighbors that also  
14 have decks out in the back yard, and it would not adversely  
15 affect any of the neighbors.

16 ACTING CHAIRPERSON RENSHAW: And you have  
17 testified this morning that you have received no objections  
18 from your neighbors?

19 MS. REID: That is correct. We have received  
20 absolutely no objections from our neighbors.

21 ACTING CHAIRPERSON RENSHAW: All right. Thank  
22 you very much. And you would like a bench decision; is that  
23 what you would like? You would like an expedited decision?

24 MS. REID: If that is possible.

25 ACTING CHAIRPERSON RENSHAW: Yes, it is possible.

1 So do I have a motion?

2 COMMISSIONER HINTON: Madam Chair, I would move  
3 for approval of the application.

4 COMMISSIONER PARSONS: I second that.

5 ACTING CHAIRPERSON RENSHAW: All right. We have  
6 moved and seconded your application for a special exception  
7 under Subsection 223.1 to allow the construction of a wooden  
8 deck at the rear of a single family dwelling not complying with  
9 the open court provisions of Subsection 403 at the premises of  
10 639 A Street, Northeast.

11 COMMISSIONER PARSONS: Madam Chair, as I  
12 understand this circumstance, if she were to comply with the  
13 existing regulations that the edge of the deck would be in the  
14 middle of her back door.

15 ACTING CHAIRPERSON RENSHAW: Or short of her back  
16 door.

17 MS. REID: It would be about 6 to 8 inches from  
18 the door itself. So, yes, it would come through the back door.

19 COMMISSIONER PARSONS: Thank you.

20 ACTING CHAIRPERSON RENSHAW: All right. All  
21 those in favor?

22 (A chorus of ayes.)

23 ACTING CHAIRPERSON RENSHAW: And it passes  
24 unanimously, and it is a bench decision, and Ms. Bailey, what  
25 would be the time line for the decision?

1 MS. BAILEY: Well, the decision is made, and the  
2 order will be about two weeks, Madam Chairwoman, and I would  
3 just please call the vote if I may.

4 The motion to grant the application was made by  
5 Mrs. Hinton, and seconded by Mr. Parsons, Mrs. Renshaw in  
6 agreement, and Mrs. Sheila Cross Reid not present, not voting.

7 ACTING CHAIRPERSON RENSHAW: All right.  
8 Congratulations.

9 MS. REID: Thank you very much.

10 ACTING CHAIRPERSON RENSHAW: And thank you for  
11 coming this morning.

12 MS. BAILEY: Mrs. Renshaw, should I call the next  
13 case?

14 ACTING CHAIRPERSON RENSHAW: Yes, please.

15 MS. BAILEY: Application Number 16690, of Elijah  
16 B. and W. Jean Rogers, pursuant to 11 DCMR 3104.1, for a  
17 special exception under Section 223 to allow a rear addition to  
18 a single-family dwelling not complying with open court width,  
19 Subsection 406.1, and for a variance pursuant to 3103.2, from  
20 the non-conforming structure provisions, Subsection 2001.3(a)  
21 in an R-3 District, at premises 4016 - 16th Street, Northwest,  
22 Square 2695, Lot 49.

23 (Whereupon, the witness was sworn.)

24 ACTING CHAIRPERSON RENSHAW: Good morning.

25 MR. TOLBERT: Good morning.

1                   ACTING CHAIRPERSON RENSHAW: And would you please  
2 introduce yourself.

3                   MR. TOLBERT: My name is Robert Tolbert, and I am  
4 representing Elijah and W. Jean Rogers.

5                   MS. BAILEY: Mrs. Renshaw, excuse me, but before  
6 you proceed, I just want to add at least two important  
7 housekeeping notes. The first is that the Office of Zoning had  
8 notified the applicants that zoning relief is not required  
9 under 2001.3 because the existing improvements on the lot does  
10 conform to the R-3 District requirements.

11                   That is the first thing, and the second thing and  
12 very important, is that in speaking with the applicant's  
13 representative this morning, he indicated that the property is  
14 located at 4011 - 16th Street, Northwest, and not 4016 - 16th  
15 Street as advertised. I just wanted to put those on the  
16 record.

17                   ACTING CHAIRPERSON RENSHAW: Okay. So it is at  
18 4011 - 16th Street, Northwest. What is done in that case if it  
19 is advertised under a different address?

20                   MS. BAILEY: When we issue whatever the Board's  
21 decision is, we would make sure that that is corrected. There  
22 is no one in the audience in support or in opposition, and so I  
23 am assuming that the property was posted at the proper address.

24                   MR. TOLBERT: That's right.

25                   ACTING CHAIRPERSON RENSHAW: All right. Thank

1 you.

2 MR. TOLBERT: Also, the address was corrected on  
3 the poster.

4 ACTING CHAIRPERSON RENSHAW: All right. So we  
5 have the address correct on the poster as you have testified.  
6 All right. Mr. Tolbert, would you like to go ahead with your  
7 case and present the application for us.

8 MR. TOLBERT: Well, Mr. Rogers would like to have  
9 an addition put on the rear of his house, the same as the  
10 addition next door to him. It already has an addition existing  
11 next door to him, and he wants one just like the one next door.

12 ACTING CHAIRPERSON RENSHAW: Is that the only  
13 addition on that block of houses, rowhouses?

14 MR. TOLBERT: Yes.

15 ACTING CHAIRPERSON RENSHAW: All right. And can  
16 you describe the addition for us, and exactly how it is going  
17 to lay out? It is a two-story addition?

18 MR. TOLBERT: Well, it is a two-story addition,  
19 and I have some pictures here to show, and I assume that you  
20 all have the pictures of the addition, just like next door, and  
21 that is what we want.

22 ACTING CHAIRPERSON RENSHAW: All right.

23 COMMISSIONER HINTON: Can we take a look at the  
24 plans that are in the file?

25 ACTING CHAIRPERSON RENSHAW: All right. We are

1 going to pause a minute to take a look at the plans.

2 COMMISSIONER PARSONS: Mr. Tolbert, are you going  
3 to construct this?

4 MR. TOLBERT: Yes, sir.

5 COMMISSIONER PARSONS: Did you do the other one  
6 as well?

7 MR. TOLBERT: Yes, sir.

8 COMMISSIONER PARSONS: Do you know if they had a  
9 permit to do that?

10 MR. TOLBERT: Yes, sir. We had a permit and we  
11 have a permit, and I also have the drawings.

12 ACTING CHAIRPERSON RENSHAW: And you tell us when  
13 that addition was built?

14 MR. TOLBERT: In '91.

15 ACTING CHAIRPERSON RENSHAW: In '91? Thank you.

16 And also I noted on the application that the top section was  
17 not filled in.

18 MR. TOLBERT: Well, I guess I didn't understand  
19 that then. I don't know why it is not filled in.

20 ACTING CHAIRPERSON RENSHAW: I have just shown  
21 Mr. Tolbert the application for the Board of Zoning Adjustment,  
22 where it says, "Pursuant to Section blank of the zoning  
23 regulations of the District of Columbia, an application is  
24 hereby made for the following action:"

25 And then there are several lines and that has not

1 been filled in, and should be filled in prior to coming to the  
2 BZA, because that describes what you would be doing in this  
3 application. It presents your application to us.

4 MR. TOLBERT: Okay.

5 (Brief Pause.)

6 COMMISSIONER PARSONS: It is not clear to me  
7 whether it is the deck or the addition that is before us. In  
8 other words, the application has two parts, or rather the  
9 project has two parts.

10 ACTING CHAIRPERSON RENSHAW: We are doing the  
11 special exception under 223.1 to allow a rear addition, and  
12 that is a two-story addition.

13 MR. TOLBERT: That's right.

14 ACTING CHAIRPERSON RENSHAW: To a single family  
15 dwelling not complying with the open court width, Subsection  
16 406.1.

17 COMMISSIONER PARSONS: So the deck has nothing to  
18 do with this you think, which extends from there?

19 ACTING CHAIRPERSON RENSHAW: Ms. Sansone.

20 MS. SANSONE: Madam Chair, it wasn't clear to me  
21 from the zoning administrator's memorandum. His memorandum,  
22 which is BZA Exhibit Number 6, indicates that it is for the  
23 proposed addition, and the memorandum doesn't mention the deck.

24 COMMISSIONER PARSONS: So Exhibit Number 4 is an  
25 application for a building permit, and what was applied for was

1 a deck, and I was just wondering if that is what the zoning  
2 administrator was responding to, or was it the whole project.

3 Excuse me. I'm sorry. I had the wrong case in  
4 front of me. I had the prior case. Enough for recycling.  
5 Excuse me. Sorry for the curve ball. I am a little confused  
6 because the existing project at 4013 is built, and has been  
7 there for 10 years, apparently without the similar variance,  
8 and received a building permit.

9 ACTING CHAIRPERSON RENSHAW: So there is a deck  
10 in back of the addition on the second floor.

11 COMMISSIONER PARSONS: Right.

12 ACTING CHAIRPERSON RENSHAW: I see it now on the  
13 plans.

14 MR. TOLBERT: Excuse me, but that is really the  
15 first floor, and there is a basement.

16 ACTING CHAIRPERSON RENSHAW: So the deck goes  
17 over the basement level?

18 MR. TOLBERT: That's right. So the addition is  
19 to the first floor.

20 (Brief Pause.)

21 COMMISSIONER PARSONS: It is an aluminum cover,  
22 and not a deck as we would know it. You don't walk on it. It  
23 is a roof to transition to the garage, I guess.

24 MR. TOLBERT: It is a cover over the walk.

25 ACTING CHAIRPERSON RENSHAW: It is not a deck?

1 MR. TOLBERT: No.

2 ACTING CHAIRPERSON RENSHAW: It is not a deck?

3 MR. TOLBERT: No, it is a cover over the walk  
4 from the garage.

5 ACTING CHAIRPERSON RENSHAW: All right. So we  
6 have satisfied that, that we don't have a deck.

7 COMMISSIONER HINTON: So it is just the addition.

8 ACTING CHAIRPERSON RENSHAW: It is the addition,  
9 right. And you are actually pushing out the basement wall?

10 MR. TOLBERT: Yes.

11 ACTING CHAIRPERSON RENSHAW: You are pushing out  
12 that?

13 MR. TOLBERT: Yes.

14 ACTING CHAIRPERSON RENSHAW: All right. Mr.  
15 Tolbert, we are going to ask you -- we have been examining the  
16 plans, and trying to decipher exactly whether or not there is  
17 going to be a deck, and we see that there is no deck at all.

18 MR. TOLBERT: There is no deck.

19 ACTING CHAIRPERSON RENSHAW: There is a cover  
20 from the back.

21 MR. TOLBERT: It is a cover connected to the  
22 garage. Could I take a look at what you are looking at?

23 ACTING CHAIRPERSON RENSHAW: It is the plans that  
24 have been submitted, that you have submitted on this project.

25 MR. TOLBERT: Well, when you say a deck, I don't

1 --

2 ACTING CHAIRPERSON RENSHAW: No, we have  
3 determined that there is no deck.

4 MR. TOLBERT: There is no deck, right.

5 ACTING CHAIRPERSON RENSHAW: No deck from the  
6 plans, and we have determined that there is no deck from the  
7 plans. But what you have asked for is a special exception, and  
8 if you could articulate for us -- just speak to these two  
9 points as we did with the case before you, that how is your  
10 application in harmony with the general purpose and intent of  
11 the zoning regulations and map.

12 That is number one, and number two, that it will  
13 not tend to affect adversely the use of your neighbors'  
14 property. So, if you would.

15 MR. TOLBERT: Well, I really understand your  
16 first one, but your second one is that it would not have any  
17 effect on the next door neighbor because the way the houses are  
18 built they are kind of back and forth, and they are recessed.  
19 One recesses out and the other one recesses back.

20 And it is only for the first and the basement,  
21 and it don't block no view, and it adds integrity really to the  
22 property.

23 ACTING CHAIRPERSON RENSHAW: All right. And the  
24 fact about being in the harmony with the general purpose and  
25 intent of the zoning regulations and map, you don't feel you

1 can speak to that?

2 MR. TOLBERT: I don't see where or I don't  
3 understand it.

4 ACTING CHAIRPERSON RENSHAW: All right. I  
5 understand. Now, did this application go before the advisory  
6 neighborhood commission?

7 MR. TOLBERT: Yes.

8 ACTING CHAIRPERSON RENSHAW: And there was no  
9 action taken?

10 MR. TOLBERT: No.

11 ACTING CHAIRPERSON RENSHAW: And we do not have  
12 an Office of Planning report, and as far as the neighbors, we  
13 have from the neighbor that already has the addition on her  
14 house.

15 MR. TOLBERT: Right.

16 ACTING CHAIRPERSON RENSHAW: We have a letter  
17 from her, and how about the neighbor on the other side?

18 MR. TOLBERT: Well, she is in complete harmony  
19 with it. As a matter of fact, I am talking to her right now  
20 about doing the same for her.

21 ACTING CHAIRPERSON RENSHAW: All right. Well,  
22 then we will plan to see you again, I'm sure. Would you like  
23 to make -- well, first of all, do our Commissioners have any  
24 further questions?

25 (No audible response.)

1                   ACTING CHAIRPERSON RENSHAW: All right. And I  
2 don't have any further questions. Would you like to make a  
3 closing statement?

4                   MR. TOLBERT: Well, I sure hope that you all  
5 approve it, and that Mr. and Mrs. Rogers would be very happy,  
6 and the lady next door to them that has the addition existing,  
7 she is a very happy lady, and it gives a lot more light into  
8 her living room.

9                   It kind of opens it up and it kind of lights up  
10 her house and gives more lighting to it because we have light  
11 coming through the ceiling of the room also.

12                   So it really just brings it out and Mr. Rogers  
13 loved it, and she loves it, and so I just hope that you all  
14 approve it.

15                   ACTING CHAIRPERSON RENSHAW: All right. With  
16 that, we will make a recommendation at this point. Mr.  
17 Parsons, would you like to move?

18                   COMMISSIONER PARSONS: I would make a motion that  
19 we approve the application.

20                   ACTING CHAIRPERSON RENSHAW: All right. Do I  
21 have a second?

22                   COMMISSIONER HINTON: I will second.

23                   ACTING CHAIRPERSON RENSHAW: All right. Any  
24 further comments or questions?

25                   (No audible response.)

1 ACTING CHAIRPERSON RENSHAW: All those in favor?

2 (A chorus of ayes.)

3 ACTING CHAIRPERSON RENSHAW: And it passes three  
4 to nothing.

5 MR. TOLBERT: Thanks a lot.

6 ACTING CHAIRPERSON RENSHAW: But I would like  
7 though for our files to have you fill in the application and if  
8 you would work with the Office of Zoning staff to make sure  
9 that the application is fully filled out for us.

10 MR. TOLBERT: All right.

11 ACTING CHAIRPERSON RENSHAW: And you would like a  
12 bench decision?

13 MR. TOLBERT: Yes.

14 ACTING CHAIRPERSON RENSHAW: And so it would be  
15 approximately two weeks before you get your order. Do you have  
16 any further questions for us?

17 MR. TOLBERT: No, all I can say is thank you very  
18 much, and hopefully I will be back with Ms. Porter that lives  
19 next door to Mr. Rogers for her addition.

20 ACTING CHAIRPERSON RENSHAW: We will look forward  
21 to seeing you again, and to hear about your progress on the  
22 addition that you are undertaking, and we apologize again for  
23 the delay, and that you had to wait a bit. But in any case it  
24 served you well, and congratulations, and we are very pleased  
25 to have you before us this morning.

1 MR. TOLBERT: Thank you.

2 MS. BAILEY: The staff will record the vote as  
3 three to zero to approve the application. Motion made by Mr.  
4 Parsons, and seconded by Mrs. Hinton, and Mrs. Renshaw in  
5 agreement, with the provision that the property address be  
6 changed to 4011 Sixteenth Street, and in addition that the  
7 variance eliminated, and also that the applicant's agent is to  
8 complete the application.

9 ACTING CHAIRPERSON RENSHAW: And, Ms. Bailey,  
10 would you call the next case, please.

11 MS. BAILEY: Thank you. Application Number  
12 16703, of John Zinsser and Andrea Schenck, pursuant to 11 DCMR  
13 3103.2, for a variance from Subsection 2001.3(a), to allow a  
14 deck on the roof of an existing garage where the existing  
15 single-family dwelling is non-conforming as to the lot  
16 occupancy in an CAPT/R-4 District at premises 308 D Street,  
17 Northeast, Square 780, Lot 84.

18 (Whereupon, the witness was excused.)

19 ACTING CHAIRPERSON RENSHAW: Good morning.

20 MS. SCHENCK: Good morning.

21 ACTING CHAIRPERSON RENSHAW: And please introduce  
22 yourself again.

23 MS. SCHENCK: Hi. My name is Andrea Schenck, and  
24 I reside with my husband, John Zinsser, at 308 D Street,  
25 Northeast.

1                   ACTING CHAIRPERSON RENSHAW:     All right.     And  
2     present your application, please.

3                   MS. SCHENCK:     This morning we are seeking your  
4     approval for a variance from the Subsection 2001.3(a) so that  
5     we can add a garden deck to the existing garage roof.

6                   ACTING CHAIRPERSON RENSHAW:     And would you  
7     describe that, please, for us?

8                   MS. SCHENCK:     We are just about three blocks up  
9     from Union Station, and we are on D Street across from  
10    Massachusetts, and behind us is the Heritage Foundation parking  
11    lot, which is a flat surface parking lot, with very little  
12    landscaping.

13                  In this diagram that we had in the application,  
14    the properties that are marked in yellow are properties that  
15    already have a garage deck, or a deck off of the side of their  
16    house.

17                  So showing that there is a precedent for this  
18    sort of structure in our area.     So simply all that we want to  
19    do is to put a deck on the top of the existing garage so that  
20    it would not be increasing the footprint, thereby extending the  
21    non-conformity.

22                  ACTING CHAIRPERSON RENSHAW:     And we note that the  
23    ANC-6A supports your application.

24                  MS. SCHENCK:     Yes.

25                  ACTING CHAIRPERSON RENSHAW:     We have a letter

1 from the Chair, Evette Bastereacthia, dated March 13th, 2001,  
2 stating that on March 1st, 2001, ANC-6A considered your  
3 application at its monthly meeting and there were seven  
4 commissioners present and a quorum was achieved.

5 MS. SCHENCK: Yes.

6 ACTING CHAIRPERSON RENSHAW: And you presented  
7 your application for the variance and the commissioner for your  
8 single member district stated that he was satisfied with the  
9 application. There were no additional questions from the  
10 community, and the commission voted unanimously to support your  
11 application.

12 MS. SCHENCK: That's correct. We also have the  
13 support of the historic preservation society. Steve Colcutt  
14 has reviewed the plans, and we also went before CHRS, the  
15 Capital Hill Restoration Society, and the Stanton Park  
16 Neighborhood Association.

17 And those groups also fully endorse and support  
18 the project. Additionally, we have letters from three of our  
19 neighbors, the neighbors on either side, at 306 and 310, and  
20 also a letter from the neighbor at 312, who has an existing  
21 garden deck garage roof, which really does screen the parking  
22 lot from her or the back of her house.

23 ACTING CHAIRPERSON RENSHAW: All right. Do the  
24 commissioners or board members have any questions?

25 COMMISSIONER PARSONS: I do. Ms. Schenck, the

1 plans originally apparently indicated a 6 foot high height for  
2 the railing, and there is a change made to 4.0 inches?

3 MS. SCHENCK: Yes.

4 COMMISSIONER PARSONS: Why did you do that?

5 MS. SCHENCK: In meeting with Mr. Colcutt, if you  
6 look at some of the pictures, it is very -- and particularly  
7 this one, it is very boxy to have 6 foot, and Mr. Colcutt  
8 suggested three, and I negotiated to four.

9 So part of his interest in having that changed is  
10 to not have this box like structure behind, and we were happy  
11 to accommodate that so as to get relief.

12 COMMISSIONER PARSONS: So what seems to be  
13 missing is a drawing of what that will look like. Is that  
14 opaque, or is it a railing, or what exactly will it look like?

15 MS. SCHENCK: We initially did not at the point  
16 that we submitted the plans have full plans from our architect,  
17 because we did not want to go to the full expense if it didn't  
18 look like this was going to be approved.

19 But what we are planning on doing is having -- it  
20 will not be totally opaque. We will not have bamboo, but a  
21 cane, which will be tied together. So there will be some light  
22 through it. It won't be like this.

23 ACTING CHAIRPERSON RENSHAW: I was just going to  
24 ask you if it would.

25 MS. SCHENCK: No, and it will not be like that.

1 It will have the support --

2 ACTING CHAIRPERSON RENSHAW: Would you describe  
3 for us and for our record the two pictures that you held up,  
4 and give the addresses of those pictures, please.

5 MS. SCHENCK: This is 312, the back of the 312  
6 structure, which is 6 foot.

7 ACTING CHAIRPERSON RENSHAW: Is there a marking  
8 on the back of your picture to note whether it is --

9 MS. SCHENCK: I believe you have this picture.

10 ACTING CHAIRPERSON RENSHAW: Yes. But for our  
11 public record, because it is hard to determine when we make a  
12 transcript.

13 MS. SCHENCK: This is the rear view taken from  
14 the parking lot looking at the deck specifically of 312 D  
15 Street, Northeast.

16 COMMISSIONER PARSONS: Thank you. And that is  
17 Figure 4 in Exhibit 27 in our record.

18 MS. SCHENCK: And this is 418 - 4th Street,  
19 Northeast, and again it is a rear view of their garage roof  
20 deck from the parking lot.

21 ACTING CHAIRPERSON RENSHAW: And that is marked  
22 Picture Number 4 in our record. Thank you very much.

23 MS. SCHENCK: What we are planning to do is that  
24 there would be beams for support, but there would be this cane  
25 that would run on all three sides. The fourth side is a two

1 story garage next to us. So there would be no safety rail on  
2 that side.

3 COMMISSIONER PARSONS: So it would only be two  
4 sides?

5 MS. SCHENCK: There would be only two sides, and  
6 then there would be a safety rail on the third side facing the  
7 house, but it will not extend as high.

8 COMMISSIONER PARSONS: I think the code would be  
9 42 inches or something like that.

10 MS. SCHENCK: I think it is 36, but I am not  
11 positive, but it would be in code.

12 COMMISSIONER PARSONS: All right.

13 ACTING CHAIRPERSON RENSHAW: Ms. Hinton, do you  
14 have any questions?

15 COMMISSIONER HINTON: I guess I have one  
16 question, and I just want to clarify. We are looking at this  
17 as an area variance -- would that be right -- because the use  
18 is allowed, but it is exceeding the lot occupancy. So it would  
19 be an area variance.

20 MS. SCHENCK: Yes.

21 COMMISSIONER HINTON: I guess I don't have any  
22 questions, but I will note my concern that -- well, I haven't  
23 even seen the big drawings, but I don't think that everything  
24 that the applicant plans to do is on the drawings, and I think  
25 it should be.

1 MS. SCHENCK: Well, I was not under the  
2 impression that you were interested in the exact construction  
3 of it. That is what we had been counseled all along.

4 What we are planning is having a -- we are  
5 working with Gary Hallowell, who is an architect who lives and  
6 works on The Hill. We will have the deck raised off the roof  
7 slightly so that if there needs to be work done on the roof  
8 that that can be accessed.

9 The deck will not be a solid structure, but will  
10 be built in pallets so that those can be lifted off. We do  
11 have some more detailed plans that he had from the date that I  
12 could file things.

13 I would be happy to have him bring it over if you  
14 all would like to see that. But I guess I was under the  
15 impression that how it was actually being constructed was not  
16 an issue that this body was concerned with that extent of  
17 detail. So I apologize for not having that.

18 COMMISSIONER HINTON: No, that's fine. I think -  
19 - I just want to make sure that our record shows how it is  
20 going to look, and that really is our concern, and similar to  
21 the questions that Mr. Parsons with the opaque.

22 MS. SCHENCK: That will not be -- my husband and  
23 I lived in Japan for some time and so we have an interest in a  
24 little bit of a Japanese aesthetic. We do not want the typical  
25 suburban green pine lumber deck. So it will not look like the

1 things that have been cited as examples.

2 COMMISSIONER HINTON: I think we can work around  
3 that. Thank you.

4 ACTING CHAIRPERSON RENSHAW: All right. Fine.  
5 At this point, I think the board members have no additional  
6 questions I take it, and we can move to a closing.

7 But in your closing if you would speak to the  
8 variance requirements that we have on the record. It is a  
9 three-prong test, and whereby reason of exceptional narrowness,  
10 shallowness, or shape of a specific piece of property at the  
11 time of the original adoption of the regulations, or by reason  
12 of an exceptional topographical conditions, or other  
13 extraordinary or exceptional situations, or conditions of a  
14 specific piece of property.

15 And the strict application of any regulation  
16 adopted under the code would result in peculiar and exceptional  
17 practical difficulties to, or exceptional and undue hardship  
18 upon the owner of the property. So if you would speak to that  
19 in your closing remarks, please.

20 MS. SCHENCK: Thank you. In terms of the  
21 project, as you can see from the pictures we have from the  
22 first two levels of our house, a view of that parking lot,  
23 which is a little bit of a hardship to have that as our view,  
24 particularly when I think of what we just paid for our house.

25 So our interest in having the deck is to provide

1 a visual interest to take your eye from the parking lot to  
2 that. Also, our lot is only 18 feet wide, and so it is the  
3 standard to Capital Hill, and it is narrow in terms of the  
4 amount of space that we have for the outside.

5 The project does not increase the footprint, in  
6 terms of extending the non-conformity of the lot. We are only  
7 going up, and we are not adding on.

8 And also we will not adversely affect the light  
9 or air of the neighboring properties. We will not adversely  
10 affect their privacy or their particular enjoyment of their  
11 properties, nor will we have any adverse affects as stated by  
12 Mr. Colcutt and Historic Preservation of the historic integrity  
13 of the area, as the proposed project is not seen from any of  
14 the surrounding streets.

15 And what we are hoping is that this will have an  
16 enhancement and a positive impact on the neighborhood and on  
17 the property. So, in conclusion, because we have the support  
18 of our neighbors, and the civic groups that were previously  
19 cited.

20 We are asking for your approval of this project  
21 and also requesting a bench decision and a summary order this  
22 morning.

23 ACTING CHAIRPERSON RENSHAW: Thank you.

24 MS. SCHENCK: Thank you.

25 ACTING CHAIRPERSON RENSHAW: Well, with no

1 further questions from our board members, I would like to move  
2 for the approval of Application 16703, the Application of John  
3 Zinsser and Andrea Schenck, for a variance from Subsection  
4 2001.3(a), to allow a deck on the roof of an existing garage,  
5 where the existing single-family dwelling is non-conforming as  
6 to the lot occupancy in a CAP/R-4 District at the premises of  
7 308 D Street, Northeast, Square 780, Lot 84. Do I have a  
8 second?

9 COMMISSIONER PARSONS: I second.

10 ACTING CHAIRPERSON RENSHAW: Any further  
11 questions or discussion?

12 (No audible response.)

13 ACTING CHAIRPERSON RENSHAW: All those in favor?

14 (A chorus of ayes.)

15 ACTING CHAIRPERSON RENSHAW: And it passes  
16 unanimously.

17 MS. SCHENCK: Thank you.

18 ACTING CHAIRPERSON RENSHAW: And, Ms. Bailey,  
19 would you call the vote, please.

20 MS. BAILEY: Certainly. A motion was made by  
21 Mrs. Renshaw, and seconded by Mr. Parsons, and Mrs. Susan  
22 Morgan Hinton in agreement, to approve the application, motion  
23 approved three to zero, and Ms. Sheila Cross Reid not present,  
24 not voting.

25 COMMISSIONER HINTON: Could we ask the applicant

1 to submit the revised drawings into the record.

2 MS. SCHENCK: Yes.

3 COMMISSIONER HINTON: Thank you.

4 ACTING CHAIRPERSON RENSHAW: All right. And, Ms.  
5 Bailey, that would be about two weeks for the order?

6 MS. BAILEY: Yes, Madam Chair.

7 ACTING CHAIRPERSON RENSHAW: Thank you. It will  
8 be two weeks, Ms. Schenck, and congratulations, and you are  
9 well on your way to having a pretty space for the summer  
10 season.

11 MS. SCHENCK: Thank you.

12 ACTING CHAIRPERSON RENSHAW: And with that, it  
13 concludes our morning agenda, and we will resume at one  
14 o'clock. Thank you very much.

15 (Whereupon, the hearing was recessed at 11:02  
16 a.m.)

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(1:30 p.m.)

ACTING CHAIRPERSON RENSHAW: Good afternoon, everyone. Ladies and Gentleman, I am Anne Renshaw, the Vice Chair of the Board of Zoning Adjustment, and Acting Chair for this afternoon's proceedings, and I welcome you all.

CHAIRPERSON REID: The hearing will please come to order. Good morning, Ladies and Gentlemen. This is the February 20th, year 2001 public hearing of the Board of Zoning Adjustment of the District of Columbia.

And I welcome you all to the Board of Zoning Adjustment, and we have a hearing announcement which opens the meeting, and for many of you this will be familiar words, but for others, it will be a new reading.

The hearing will please come to order. Good afternoon, Ladies and Gentlemen. This is the April 24th, 2001 public hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Anne Renshaw, Chairperson today.

And joining me are my left, your right, is Susan Morgan Hinton, representing the National Capital Planning Commission, and representing the Zoning Commission is John Parsons.

Copies of today's hearing agenda are available to you. They are located to my left near the door. All persons

1 planning to testify either in favor or in opposition are to  
2 fill out two witness cards.

3 These cards are located on each end of the table  
4 in front of us. Upon coming forward to speak to the Board,  
5 please give both cards to the reporter, who is sitting to my  
6 right.

7 The order of procedure for special exceptions and  
8 variances is, number one, statement and witnesses of the  
9 applicant. Two, government reports, including the Office of  
10 Planning, the Department of Public Works, et al.

11 Three, the report of the advisory neighborhood  
12 commission, ANC. Four, parties or persons in support. Five,  
13 parties or persons in opposition, and six, closing remarks by  
14 the applicant.

15 Cross-examination of witnesses is permitted by  
16 the applicant or parties. The ANC within which the property is  
17 located is automatically a party in the case.

18 The record will be closed at the conclusion of  
19 each case, except for any materials specifically requested by  
20 the Board, and the staff will specify at the end of the hearing  
21 exactly what is expected.

22 The Sunshine Act requires that the public hearing  
23 on each case be held open before the public. The Board may,  
24 consist with its rules of procedure and the Sunshine Act, may  
25 enter into executive session during or after the public hearing

1 on a case for purposes of reviewing the record or deliberating  
2 on the case.

3 The decision of the Board in these contested  
4 cases must be based exclusively on the public record. To avoid  
5 any appearance to the contrary the Board requests that persons  
6 present not engage the Members of the Board in conversation.

7 And please turn off all beepers and cell phones  
8 at this time, or set them to vibrate at this time, so as not to  
9 disrupt these proceedings.

10 The Board will make every effort to conclude the  
11 public hearing as near as possible to 6:00 p.m. If the  
12 afternoon cases are not completed at 6:00 p.m., the Board will  
13 assess whether it can complete the pending case or cases  
14 remaining on the agenda.

15 The Board will now consider any preliminary  
16 matters. Preliminary matters are those that relate to whether  
17 a case will or should be heard today, such as requests for  
18 postponement, continuance, or withdrawal, or whether proper and  
19 adequate notice of a hearing has been given.

20 If you are not prepared to go forward with the  
21 case today, or if you believe the Board should not proceed, now  
22 is the time to raise such a matter. Does the staff have any  
23 preliminary matters?

24 MS. BAILEY: Madam Chair, good afternoon. Yes,  
25 there is a preliminary matter concerning Application Number

1 16687. Is the person who wants to make a preliminary matter,  
2 Ms. Andrea Ferster, present? She wants to put a statement on  
3 the record, Madam Chair.

4 ACTING CHAIRPERSON RENSHAW: All right.

5 MS. FERSTER: Good afternoon.

6 ACTING CHAIRPERSON RENSHAW: Good afternoon, and  
7 please introduce yourself again.

8 MS. FERSTER: My name is Andrea Ferster, and I  
9 represent a group of tenants at 2440 M Street, who had filed a  
10 motion to appear in opposition this application.

11 And I am pleased to inform you that we have  
12 reached an agreement with the applicant, and we are withdrawing  
13 our opposition, and we now support the application.

14 ACTING CHAIRPERSON RENSHAW: All right. Thank  
15 you, Ms. Ferster. I just would like to ask if the Board  
16 Members have any questions for you just at this time? Mr.  
17 Parsons?

18 COMMISSIONER PARSONS: No, Madam Chair.

19 COMMISSIONER HINTON: No, Madam Chair.

20 ACTING CHAIRPERSON RENSHAW: All right. Thank  
21 you very much.

22 MS. FERSTER: Thank you.

23 MS. BAILEY: That is the only preliminary matter  
24 that the staff has, Madam Chair. I am not quite sure if there  
25 is anyone in the audience with any other preliminary matters.

1                   ACTING    CHAIRPERSON    RENSHAW:        Any    other  
2 preliminary matters to come before the Board?

3                   (No audible response.)

4                   ACTING    CHAIRPERSON    RENSHAW:        Well, I want to  
5 state at the top of our agenda that we are going to revamp the  
6 agenda of this afternoon's session, and we are going to take in  
7 order 16689 first, the application of Juanita M. Berry; and  
8 following that we will take Application Number 16693, the  
9 Application of Carroll O. Little; and our last case of the day  
10 will be Application 16687, the Application of JBG/JER 2440 M  
11 Street, L.L.C.

12                   And with that, would you call the first case of  
13 the afternoon, Ms. Bailey.

14                   MS. BAILEY:    The first case is Application Number  
15 16689 of Juanita M. Berry, pursuant to 11 DCMR 3103.2, for a  
16 use variance under Subsection 330.5, to establish the use of a  
17 beauty salon and to re-establish the use of a discontinued  
18 retail grocery convenience store in an R-4 District at premises  
19 963 - 14th Street, Southeast, and that is on the first floor,  
20 Square 1046, Lot 19.

21                   (The witnesses were sworn.)

22                   MS. BAILEY:    Madam Chair, I just wanted to remind  
23 the Board that this is a use variance case.    We do have a  
24 report from the ANC, but the Office of Planning did not file a  
25 report on this case.

1                   The property was properly posted, and the  
2 affidavit of posting filed, and the case is now ready to be  
3 heard.

4                   ACTING CHAIRPERSON RENSHAW: Ms. Bailey, we do  
5 have a report from OP?

6                   MS. BAILEY: The Office of Planning did not file  
7 a report, Madam Chair.

8                   ACTING CHAIRPERSON RENSHAW: I have a report from  
9 OP that was given to us today.

10                  MS. BAILEY: Perhaps it arrived late and I just  
11 didn't have it on my notes. So that would need to be waived  
12 in.

13                  ACTING CHAIRPERSON RENSHAW: All right. And Ms.  
14 Hinton does not seem to have this.

15                  COMMISSIONER PARSONS: Nor do I.

16                  ACTING CHAIRPERSON RENSHAW: Nor does Mr.  
17 Parsons. So perhaps Mr. Hart, perhaps if you could make sure  
18 that the Office of Planning report is made available to our two  
19 board members. One moment, please, while we adjust this  
20 matter.

21                  (Brief Pause.)

22                  ACTING CHAIRPERSON RENSHAW: All right. Let's  
23 proceed, and we will get the Office of Planning report, but  
24 before we consider the Office of Planning's report, at that  
25 point in our schedule we will break for 5 minutes so our board

1 members can read it if that is all right. Would the applicant  
2 like to present the case then. Please go forward.

3 MS. HICKS: Yes. My name is Gladys Hicks, and I  
4 am a zoning consultant, and with me here today is Ms. Juanita  
5 Berry. She is the owner of the property, and also the  
6 applicant.

7 For the record, the street address is 963  
8 Fourteenth Street, Southeast. The Lot Number is 19, in Square  
9 1046. The site is located in an R-4 residential zone, and the  
10 cross-street is 14th Street, Southeast, and K Street,  
11 Southeast. The structure was built in 1870.

12 There is an existing one storage garage to the  
13 rear of the property, large enough for two standard sized cars,  
14 which would be two 9 feet wide by 19 feet long parking spaces.

15 The main structure has three stories, and the  
16 first floor has been used in the past as a retail grocery  
17 store. The certificate of occupancy number B122138 was issued  
18 on September 22, 1980, for a retail grocery store on the first  
19 floor.

20 And according to the records at the Department of  
21 Consumer and Regulatory Affairs, a certificate of occupancy,  
22 Number A29410, was issued on December 22, 1954, for a retail  
23 grocery store on the first floor, which is a non-conforming use  
24 in the R-4 residential zone.

25 There is one residential unit in the main

1 building, which occupies the second and third floor. Ms.  
2 Juanita Berry, the owner and the applicant, lives with her  
3 daughter in the residential unit above the first floor.

4 There is no physical connection between the first  
5 floor and the second floor, and any other part of the  
6 residential unit above the first floor. The retail store is  
7 entered through a door right at the corner of 14th and K  
8 Streets, Southeast.

9 The residential unit, which carries a K Street,  
10 Southeast address, is entered by climbing stairs and then going  
11 through a gate to the side of the property, and then you have  
12 to climb stairs to the second floor to get to a deck to get to  
13 the rear entrance in order to get to that one residential unit  
14 that is on the second and third floor.

15 The structure and the establishment of the former  
16 retail grocery store predates May 12th, 1958, which is the  
17 establishment of the current zoning regulations.

18 Ms. Berry seeks to establish a beauty salon on  
19 part of the first floor, and also a retail convenience store.  
20 She has worked diligently with the ANC Commission in trying to  
21 come to an agreement as to what is to be put into the retail  
22 portion of the store.

23 And through her testimony, she can probably let  
24 you know a little bit more about her encounter about going back  
25 to the ANC about 2 or 3 times. Right now, I would like to ask

1 Ms. Berry some questions. How long have you lived at 1398 K  
2 Street, Southeast?

3 MS. BAILEY: And please identify yourself and  
4 your home address.

5 MS. BERRY: For the record, my name is Juanita  
6 Berry, and I live at 1398 K Street, Southeast.

7 ACTING CHAIRPERSON RENSHAW: And are you the  
8 owner of the property in question?

9 MS. BERRY: Yes, Ma'am, I am the owner of the  
10 property. I have been there since March of '99.

11 MS. HICKS: When was the property purchased?

12 MS. BERRY: March of '99. I have lived there  
13 since May, but I purchased it in March.

14 MS. HICKS: And when did you learn that you  
15 needed a board of zoning adjustment approval for usage on the  
16 first floor?

17 MS. BERRY: Actually, not until after I had  
18 applied for a business loan, and they requested that I have a  
19 business license.

20 MS. HICKS: Okay. And when you went to get a  
21 business license, what happened?

22 MS. BERRY: I kind of assumed that because it had  
23 previously been a grocery store that I could do another  
24 commercial interest, but I wasn't aware that it was two  
25 separate uses.

1                   But then when I went down there, they said  
2 something about a grandfather clause, but when we researched  
3 it, we found out that the last application had passed the limit  
4 to which you could do something like that.

5                   MS. HICKS:   Were there any other records, like  
6 business license records, that were researched?

7                   MS. BERRY:   The only thing we found was I guess a  
8 cigarette license, and that was the last.

9                   MS. HICKS:   And do you recall the date of that  
10 application?

11                  MS. BAILEY:  Not offhand, but I know that it was  
12 a year after the deadline for the grandfather clause.

13                  MS. HICKS:   When did you learn that you needed a  
14 Board of Zoning Adjustment approval?

15                  MS. BERRY:   When I went to apply for the business  
16 or the certificate of occupancy.

17                  MS. HICKS:   Okay.   How has this affected your  
18 plans for the property due to filing for approval before the  
19 Board of Zoning Adjustment?

20                  MS. BERRY:   Well, actually, when I went through  
21 the process with the bank, and they said that I had a  
22 preliminary approval, I set my goal for like 3 to 4 months  
23 after the date, because I have to do renovations on the  
24 property.

25                  So I guess it has been about six months since the

1 loan was approved, and I guess it was approved through the  
2 Small Business Administration, and they have a deadline, and I  
3 guess 3 to 6 months after their approval is when you have to  
4 disperse the funds for renovations.

5 So it has been put on hold for like 6 months.  
6 Actually, probably longer.

7 MS. HICKS: And have you had to apply for an  
8 extension?

9 MS. BERRY: Yes, I guess it has been extended  
10 until the end of this month.

11 MS. HICKS: Have you met with the Advisory  
12 Neighborhood Commissioner?

13 MS. BERRY: I actually have met with my  
14 neighborhood ANC twice, and also the Historic Society zoning  
15 commission.

16 MS. HICKS: And what was the outcome of these  
17 meetings?

18 MS. BERRY: Well, on my first meeting with the  
19 ANC, I was made aware that there were a couple of people that  
20 had opposed the retail part of the store because I guess that  
21 neighborhood has a drug traffic reputation.

22 And they thought that there would be much more  
23 traffic coming in, because I didn't think they realized the  
24 smallness of the retail area, which is about a third of the  
25 property, or a quarter, and I guess they thought that maybe I

1 would try to sell alcohol or things like that, or things of  
2 that nature.

3 And actually up to this day nobody has approached  
4 me personally. I have just heard this through the neighborhood  
5 commission. But we have worked it out that there is not any  
6 opposition except that they have requested my support to remove  
7 the phone, which they think will deter some of the traffic that  
8 is around the area.

9 MS. HICKS: And what part of the first floor will  
10 be used for retail usage?

11 MS. BERRY: About a quarter of the areas. I  
12 believe you probably have a copy of the plan.

13 MS. HICKS: We submitted a plan showing the small  
14 portion right as you walk into the side of the door. I have  
15 also submitted some photos to show the interior.

16 It was dark and the lights have been cut out  
17 because Mrs. Berry has had to pay a commercial rate, and it was  
18 getting very expensive. So the lights were out the Saturday  
19 that I went in to take photos.

20 So as you go into the door, there is a turnstile,  
21 and it looks like a bullet proof glass area on top of a counter  
22 that is enclosed, and that is the area that she wanted to do  
23 the retail sales in. The rest of the store, she wants to use  
24 for a beauty salon.

25 MS. BERRY: Actually, my main purpose for buying

1 the property was to have a beauty salon. But so many people in  
2 our neighborhood asked for a store that I decided to sell a  
3 portion.

4 And now that the idea has pretty much taken  
5 effect in my head, that is something that I would like to do,  
6 just to serve the community.

7 MS. HICKS: Now, would there be any alcoholic  
8 beverages sold, no beer or wine?

9 MS. BERRY: No.

10 MS. HICKS: No alcoholic beverages?

11 MS. BERRY: No.

12 MS. HICKS: And that was agreed upon with the  
13 ANC?

14 MS. BERRY: That was actually something that I  
15 said that I wouldn't do anyway, even before this came about.

16 MS. HICKS: What will be your hours of operation?

17 MS. BERRY: From 9:00 to 6:00, Monday through  
18 Friday.

19 MS. HICKS: And that is during the day?

20 MS. BERRY: During the day. Monday through  
21 Saturday actually, and closed on Sunday.

22 MS. HICKS: And what type of patrons in the  
23 beauty salon will you be taking care of?

24 MS. BERRY: Well, I am going to cater to senior  
25 citizens. I am going to offer discounted prices, and I am also

1 going to cater to the handicapped. I don't know if you can  
2 notice through any of the exhibits that you have there, but it  
3 is already pretty much handicapped accessible.

4 So I don't have to build any partitions in order  
5 to put in wheelchair access and things like that, and the  
6 bathroom will be transformed into handicapped accessible as  
7 well.

8 MS. HICKS: And have you talked with any of your  
9 neighbors within 200 feet?

10 MS. BERRY: I actually have a petition that I  
11 have had and that most of my neighbors signed. I think I have  
12 tried to get an additional three or so that were never at home  
13 when I knocked on their door. But I have a majority of my  
14 neighbors' signatures.

15 MS. HICKS: And what have you observed parking  
16 wise during the day and night? Do you think your business will  
17 have any adverse impact as far as taking the neighbor's parking  
18 spaces?

19 MS. BERRY: Actually, there is not a parking  
20 problem at all during the day. There is always plenty of  
21 parking spaces available. I believe a lot of people probably  
22 drive to work, and even after hours I notice that there is  
23 still available parking.

24 MS. HICKS: And you also have a two car garage to  
25 the rear?

1 MS. BERRY: Yes. So I can fit two inside and if  
2 I needed to, I could fit like two more in the driveway.

3 MS. HICKS: And we have some photos that we can  
4 show as to that.

5 MS. BERRY: And also, excuse me, in the front it  
6 is not zoned, and you can fit about three cars.

7 MS. HICKS: Is there anything else that you want  
8 the Board of Zoning Adjustment to know about your application?

9 MS. BERRY: Only as I said, that my original  
10 purpose was to have a beauty salon, and that the retail part  
11 was at the basic request of the neighbors who kept asking are  
12 you going to have a store, are you going to have a store.

13 So I would like to be able to cater to seniors,  
14 and to children, and handicapped, as well as just the general  
15 public. But I will be offering special services for seniors  
16 and children, and actually my goal is to open for back to  
17 school, and that will be a block party kind of thing and bring  
18 the community together.

19 MS. HICKS: And we would like to just briefly go  
20 over the photos of the existing property. This is the two car  
21 garage that is to the rear and is on the K Street side of the  
22 property.

23 ACTING CHAIRPERSON RENSHAW: Ms. Hicks, you are  
24 going to have to speak into the microphone.

25 MS. HICKS: Okay. This shows the K Street side

1 of the property, and this is the two car garage, and this is  
2 how you get up to her property. You have to go upstairs, and  
3 this is her entrance door to her one unit which is above the  
4 retail grocery store.

5 This is the retail grocery store, and this is  
6 where it ends on the bottom photo. And this is a rear or side  
7 fence, and you enter through a gate. And there are other  
8 photos showing better how to get to the rear.

9 The little photo is showing the gate, and this is  
10 a retaining wall, and this is on the K Street side. This is  
11 the two car garage that is opened. This bottom photo is also  
12 showing the K Street side of the property, and there is always  
13 plenty of parking on this side of the street.

14 ACTING CHAIRPERSON RENSHAW: Some of these  
15 photographs, I will just interject here, are in Exhibit Number  
16 4.

17 MS. HICKS: Yes, some of these are some of the  
18 exhibits. These are the telephones on the corner of K Street,  
19 right at the entrance that the ANC would like moved.

20 And actually people don't congregate on this side  
21 of the street. It is the opposite corner. I noticed the first  
22 day that I was there when I got out of the car with a camera  
23 that people ran, and one person told me that I should ask for  
24 permission before I photographed, and I said I am not out here  
25 to photograph you.

1                   So if you have a problem, it is not on this  
2 corner. It is on the opposite corner where people occasionally  
3 congregate. This is also the same information.

4                   MS. BERRY: There is a door down here between or  
5 like a back exit.

6                   MS. HICKS: There is an exit door on the side.

7                   MS. BERRY: And that is where the bathrooms are  
8 going to be located.

9                   MS. HICKS: Yes, this shows the K Street side,  
10 this top photograph, and this is an exist and this is storage  
11 and also the restroom area on the first floor level. Above is  
12 the one residential unit, and again you enter through the side  
13 into the one unit house. You go up to the steps.

14                   And there is a retaining wall here and her yard  
15 goes from this edge here all the way back to the edge of the  
16 alley, and that is about or over 40 feet.

17                   Her entrance is here to the store, and so there  
18 is two separate entrances, and there is one photo that is  
19 showing separate meters. It has always been separate meters,  
20 and the meters are here, and there is separate meters for the  
21 lower level and for the top level.

22                   I also have a surveyors plat which shows the  
23 intersection of K Street and 14th Street, and I believe this is  
24 what she got when she purchased her property.

25                   MS. BERRY: Yes.

1 MS. HICKS: And this shows the actual boundaries  
2 of the property, and this is the patio that goes up to the  
3 second story, and from here to here is yard, and her garage is  
4 down below.

5 This illustrates the first floor plan, and as you  
6 come in right at the corner of 14th and K Street, Southeast,  
7 there is already an existing spot for a counter, and high  
8 security glass, and there is already a counter here also.

9 So this is the retail portion here that is back  
10 in this area, and the rest of the area is going to be devoted  
11 to the retail beauty salon.

12 MS. BERRY: I think you have pictures of where  
13 the plexiglass is at.

14 ACTING CHAIRPERSON RENSHAW: We do, thank you.  
15 Are you finished with your presentation?

16 MS. HICKS: Yes.

17 ACTING CHAIRPERSON RENSHAW: And we will now have  
18 questions from the Board Members. I will start with asking you  
19 about parking, because you had said, Ms. Berry, that you don't  
20 have any difficulty with parking out in the front of your  
21 establishment.

22 But I noticed that there is a fire hydrant right  
23 in front of your building, and this is in Exhibit 4, and it  
24 shows the fire hydrant. So you will not be able to park in  
25 front of your building.

1 MS. HICKS: That's correct. I think it is on the  
2 14th Street side.

3 MS. BERRY: Yes. I was talking about the K  
4 Street side.

5 MS. HICKS: The K Street side is the longest, and  
6 it is over a hundred --

7 ACTING CHAIRPERSON RENSHAW: Well, one of your  
8 pictures shows a car partially parked and it is this grouping  
9 of Exhibit Number 4, partially parked beyond a no-standing or  
10 parking sign.

11 So how many spaces do you have from the corner to  
12 the sign?

13 MS. BERRY: It is about three.

14 ACTING CHAIRPERSON RENSHAW: About three?

15 MS. BERRY: Yes.

16 ACTING CHAIRPERSON RENSHAW: And are those  
17 parking spaces usually vacant, or are they taken up by  
18 residents in the neighborhood?

19 MS. BERRY: I believe at night. I don't see  
20 people start parking there until like after 7:00.

21 ACTING CHAIRPERSON RENSHAW: All right. Would  
22 you explain to us about emergency exists from your building?

23 MS. BERRY: It is that side there.

24 ACTING CHAIRPERSON RENSHAW: Would you show us on  
25 your photographs.

1 MS. BERRY: It is actually right here, this door  
2 right here.

3 ACTING CHAIRPERSON RENSHAW: And Ms. Berry is  
4 pointing to the street level door that is just beyond the  
5 fence.

6 MS. BERRY: We are going to actually make it  
7 wider.

8 ACTING CHAIRPERSON RENSHAW: You are going to  
9 make it wider for the handicapped?

10 MS. BERRY: Yes.

11 ACTING CHAIRPERSON RENSHAW: And that is the  
12 emergency exit?

13 MS. BERRY: Yes.

14 ACTING CHAIRPERSON RENSHAW: All right. Thank  
15 you. Board Members. Mr. Parsons.

16 COMMISSIONER PARSONS: Well, the answer just  
17 confused me. I thought that was the entrance.

18 MS. HICKS: No, the entrance to the store is  
19 right here. This is the corner of 14th and K Street. This is  
20 a side exit door to the rear. All of this is the first floor  
21 level down here. The entrance to the store is here.

22 COMMISSIONER PARSONS: All right. Thank you.

23 ACTING CHAIRPERSON RENSHAW: All right. Ms.  
24 Hinton.

25 COMMISSIONER HINTON: Could you explain the first

1 prong of the variance test and how you meet that, which is how  
2 is this property unique. What conditions of the property are  
3 you unique that are causing the hardship in using the property  
4 within the R-4 zoning?

5 MS. HICKS: I think the type of construction  
6 makes the property unique. The way that the property has been  
7 used in the past makes it also unique. The age of construction  
8 makes it unique. It has always been used for retail usage, and  
9 it would take quite a bit of bringing it up to par in order to  
10 make it in my opinion come up to par building code wise for  
11 residential usage.

12 Residential usage requirements are always  
13 stricter in some cases than the commercial usage. Plus, you  
14 have -- there is no physical connection between the two floors,  
15 and so she can't use it unless she cuts an opening through her  
16 living room floor, and connects it.

17 But I don't know if she would want to expand with  
18 just her and her daughter into a lower level.

19 COMMISSIONER HINTON: Well, for example, in this  
20 zone would it be permissible to have a two story unit above and  
21 a one story unit below, residential unit?

22 MS. HICKS: A single family dwelling is  
23 permitted, and also two units, and also she probably has enough  
24 square footage to convert it to three units.

25 MS. BERRY: It is actually that just the top two

1 levels is like one. So it would only be two.

2 COMMISSIONER HINTON: And what sort of changes  
3 would have to be made to make that usable for residential or  
4 any other use that is allowed in the  
5 R-4?

6 MS. HICKS: You are going to have to have the  
7 fire rating, and you are going to have to make sure that it  
8 comes up to whatever fire rating the DCRA building codes  
9 require.

10 It is really slab on grade, and also a lot of  
11 gutting is going to have to take place on the interior, because  
12 you still have all the counters and the bullet proof glass on  
13 the interior.

14 The glass front is going to have to be changed.  
15 It is going to be very expensive. I don't know whether the  
16 building codes would allow the bars to be on all of the  
17 windows, and more than likely those bars would have to come off  
18 of the windows. Also, there is still commercial signage up and  
19 all of that is going to have to be taken down.

20 COMMISSIONER HINTON: Are there bars on all of  
21 those first level windows?

22 MS. HICKS: All the way around, yes.

23 COMMISSIONER HINTON: The whole first level?

24 MS. HICKS: Yes, for security reasons when it was  
25 retail.

1 COMMISSIONER HINTON: And are they going to  
2 remain if it is a beauty shop?

3 MS. BERRY: Yes.

4 ACTING CHAIRPERSON RENSHAW: All right.

5 MS. HICKS: Also, it would be hard just looking  
6 at the bathroom area, it is really for a commercial setup, and  
7 it is not set up for a residential unit use.

8 There are a number of code differences and I  
9 don't know if you would also have to sprinkle the first floor.

10 It would be more expensive more so than keeping it commercial  
11 and just putting some beautician or shampoo bowls in and a few  
12 outlets and so forth, and then the beautician chairs.

13 It would probably break the bank, and she is  
14 really gone back so many times to the SBA, and their loan has  
15 been put in for a commercial usage, and it has been approved.  
16 So that is a hardship.

17 COMMISSIONER HINTON: So you are anticipating  
18 using it as a beauty shop and a convenience store and they are  
19 mostly cosmetic; that is, you will be putting in the furniture  
20 that you need, and --

21 MS. BERRY: Yes, and electricity, and we don't  
22 have to build any additional plumbing because you have a  
23 commercial use sink and you have the plumbing for that.

24 MS. HICKS: And you have some old refrigeration  
25 there and which was left there and existing. But the

1 refrigeration things are empty, and vacant, and so all of that  
2 will have to go, and that will have to be gutted and bring it  
3 up to par, which in my opinion the vacant residential is going  
4 to be more expensive than to convert just a small part of it to  
5 retail usage, and convert it to a beauty shop.

6 MS. BERRY: The only other use would be for like  
7 meetings or having something that would still be commercial  
8 based. I don't think it is really liveable in terms of that.

9 COMMISSIONER HINTON: Thank you.

10 ACTING CHAIRPERSON RENSHAW: Ms. Berry, you  
11 mentioned that the store decided to sell a portion. You were  
12 using those words. And I wondered if your store operation, the  
13 25 percent of the floor space, was going to be sold to someone  
14 else or sublet to someone else.

15 MS. BERRY: It is probably going to be sublet.

16 ACTING CHAIRPERSON RENSHAW: Sublet to someone  
17 else. So you will have a tenant running that operation?

18 MS. BERRY: Yes. I will still have the major say  
19 on what is going to be sold out of there. That will be a  
20 condition, and somebody will maybe just lease it, but will be  
21 in partnership to what basically the use is going to be and how  
22 it is going to be used.

23 ACTING CHAIRPERSON RENSHAW: All right. Mr.  
24 Parsons, do you have any further questions?

25 MS. BERRY: Excuse me, but that will also be a

1 gradual thing. It is not automatic that it will be leased,  
2 because the beauty shop, that is the major thing, and then the  
3 store part will be a gradual thing.

4 ACTING CHAIRPERSON RENSHAW: All right. Ms.  
5 Hinton, do you have any more questions at this point?

6 COMMISSIONER HINTON: No.

7 ACTING CHAIRPERSON RENSHAW: The next aspect of  
8 your application hearing is going to be the Office of  
9 Planning, and I would like to take approximately five minutes  
10 for the board members to read the Office of Planning's report.

11 So we will just break for five minutes, and we will be back.

12 (Whereupon, at 2:12 p.m., the hearing was  
13 recessed and resumed again at 2:17 p.m.)

14 ACTING CHAIRPERSON RENSHAW: All right. We will  
15 now have the Office of Planing report, and we have John Moore  
16 from the Office of Planning. Mr. Moore, welcome.

17 MR. MOORE: Good afternoon. First of all, did  
18 everyone get a corrected page 3? Shall I just read that into  
19 the record, the corrections?

20 ACTING CHAIRPERSON RENSHAW: Yes, please.

21 MR. MOORE: As a matter of fact, with my report,  
22 I was going directly to the variance testing, and under number  
23 one, under the old one first, there is a no that should be a  
24 yes.

25 The subject property does meet the test, and on

1 the bottom part of the answer to number two, if we look at the  
2 answer to question number two, that last paragraph should be  
3 moved up, and that was the correction to be made.

4 And that is what it says according to the  
5 applicant, that the floor was specifically designed for retail  
6 purposes, and it has all the trappings of retail usage with  
7 respect to the refrigeration and shelving and all.

8 And it would be a hardship if the owner would  
9 have to reconvert that or retrofit it back to residential usage  
10 purposes. So, the first one should be yes, and then the  
11 explanation is at the bottom of the answer to question number  
12 two. Have I confused anyone yet?

13 ACTING CHAIRPERSON RENSHAW: No, we are following  
14 you with your original OP report. We can see the changes.  
15 Thank you.

16 MR. MOORE: And under question number two, the  
17 answer again is yes, and there is a documented history of the  
18 first floor of the subject premises was used as a meat market  
19 and a retail store for most of the period between 1954 and the  
20 '90s.

21 Several certificates of occupancies are on the  
22 property to support that. And if I can now direct you to the  
23 top of page four. There is a foyer to the front entrance of  
24 the door to separate the two uses that has been proposed in the  
25 building, and as the applicant has already mentioned,

1 approximately one-quarter of that floor, which is actually set  
2 on the north side of the building right at the front, will be  
3 used for retail purposes, and it will be a definite separation  
4 between it and the rest of the floor, the 75 percent that will  
5 be the beauty shop function.

6 There is what I would call a plexiglass partition  
7 that separates the two uses; that is, the store and the wall  
8 that separates it from the beauty salon. So you can enter  
9 either one of the two without disturbing traffic in the other.

10 Can it be granted without substantial detriment  
11 to the public good? Yes. Since the site has a history of  
12 neighborhood serving commercial uses on the first floor, to  
13 reestablish such use has no negative impact on the community,  
14 and could happen without substantial detriment to the public  
15 good.

16 Additionally, the comprehensive plan and the  
17 intent of the comprehensive plan is the service is necessary to  
18 support the quality of life in the neighborhood to be  
19 conveniently located in the proximity to neighborhoods.

20 When I actually did my site visits, and I am  
21 saying that plural, because I did go at different intervals to  
22 make sure that there was adequate parking on the public space  
23 for this function.

24 And by the way, I didn't find any heavy use even  
25 at nighttime. The closest commercial to this site is at

1 Potomac and Pennsylvania Avenue, and it is on the north side of  
2 Pennsylvania Avenue.

3 And the concern is for those who may be up in age  
4 and having to travel that distance, and then try to travel  
5 across Pennsylvania Avenue to get to convenient goods and  
6 services. That is normally okay in the proximity to houses and  
7 most neighborhoods in the District.

8 It was noticed that there were many young people  
9 walking the distance back and forth across Pennsylvania Avenue  
10 as I was there earlier. By the way, I didn't get any  
11 challenges when I took pictures.

12 I did want to mention that there was an issue  
13 when I talked to the ANC Commissioner, and I talked to her at  
14 least on two separate occasions, a single member district  
15 commissioner on two occasions.

16 At that time, she did raise the issue that the  
17 broader ANC had a concern about the telephone and asked the  
18 applicant to have the telephone removed. That telephone is in  
19 public space and it was legally put there.

20 I did talk to the applicant and if the community  
21 wanted it out, how they could petition the public space  
22 community to have that phone removed, but it is not the  
23 applicant's responsibility. It was there before she took the  
24 site.

25 So the Office of Planning believes that the

1 applicant has met the test and passed it, and we are  
2 recommending that the application be approved. There are some  
3 proposed conditions on the bottom of our recommendation that I  
4 would like to read.

5 First, the applicant has already agreed that  
6 there should not be any alcoholic beverages sold there, and  
7 there shouldn't be any perishable goods according to the  
8 applicant. She would not be selling grocery goods.

9 And the retail function should not consume more  
10 than 25 percent of the floor, and we were a bit more liberal in  
11 our hours of operation, but we would be glad to modify them to  
12 reflect your 9:00 to 6:00.

13 MS. BERRY: Well, we are not going to be open  
14 that late, but I would like an open option.

15 MR. MOORE: Given the fact that we are going  
16 through this process, the Office of Planning believes that  
17 there should be a renewal of the certificate of occupancy for  
18 every two years for a period. With that, I will entertain any  
19 questions.

20 ACTING CHAIRPERSON RENSHAW: All right. Now is  
21 the time for the Board Members to ask questions of Mr. Moore.  
22 Ms. Hinton.

23 COMMISSIONER HINTON: Well, I have just read  
24 through the ANC report, and the ANC report talks about the  
25 groceries and emphasizes milk and fresh vegetables to serve the

1 senior citizens, rather than chips and sodas, and things that  
2 would more serve teenagers.

3 So that seems to be inconsistent with this  
4 recommendation. I am wondering which came first. Were you  
5 aware that that was the recommendation?

6 MR. MOORE: No. My only conversation was with  
7 the -- as I said, I talked to the single member district  
8 commissioner, and I did discuss with her the proposed  
9 conditions that we wanted to put on the application. And she  
10 is aware that we did not want perishable goods.

11 MS. BERRY: I think that with the size of the  
12 retail, I don't think that I could even do perishable goods  
13 according to the license, because in order to have perishable,  
14 you have to have like sinks and certain sanitary procedures.

15 So I would have to determine what things that I  
16 can sell. I mean, I would like to do milk and fresh  
17 vegetables, and things like that, but I would have to go  
18 according to I guess the use.

19 ACTING CHAIRPERSON RENSHAW: Yes, the license.  
20 All right. Mr. Parsons, do you have any questions?

21 COMMISSIONER PARSONS: No.

22 ACTING CHAIRPERSON RENSHAW: All right. So you  
23 were, Mr. Moore, more liberal in your hours of operation here.  
24 But the applicant has stated that her hours would be Monday  
25 through Saturday, 9:00 to 6:00, although she would like to have

1 an open option, and we will take that under consideration later  
2 in our hearing.

3 All right. Moving along, other agency reports.  
4 We have none. We are down to the Advisory Neighborhood  
5 Commission, and Ms. Hinton had previously read, and would you  
6 like to go further and just mention the date of the ANC  
7 meeting, and who has sent the letter, please.

8 COMMISSIONER HINTON: The letter is from ANC-6B,  
9 over the signature of Keynan Jerbo, Chairperson. The ANC voted  
10 to support both uses with a condition on the convenience store,  
11 and that the applicant would not seek a liquor license appears  
12 to be the condition.

13 And then the ANC understands that the applicant  
14 will joint the ANC in petitioning to have the outside pay  
15 phones removed. The ANC adopted this recommendation at its  
16 properly noticed meeting of April 10th, 2001, by a vote of ten  
17 to zero, and a quorum of 13 members is 6 commissioners.

18 ACTING CHAIRPERSON RENSHAW: All right. Thank  
19 you very much. And there is no one here from the ANC to  
20 question. So we will give that ANC report great weight as it  
21 is sent by the chairperson, Keynan Jerbo. Thank you.

22 If there are no other questions for the  
23 applicant, I do have one other matter. You had mentioned the  
24 petition with your neighbors. Do you have a copy of that to  
25 enter into the file?

1 MS. BAILEY: Ms. Renshaw, a packet was handed out  
2 at the start of the hearing. It looks like this, and it was  
3 placed by each board member.

4 ACTING CHAIRPERSON RENSHAW: And this is it.  
5 Thank you very much for drawing it to our attention. So this  
6 will be entered into the file and we will review this. Thank  
7 you for submitting it.

8 And just a question for Ms. Hicks. The back door  
9 of this residence is the front door for the residential unit  
10 upstairs. Is that a legal front door?

11 MS. HICKS: It has a legal street address of 1398  
12 K Street, and to my knowledge, it has always been that way over  
13 the years. And I would say, yes, that is the legal entrance of  
14 that residential unit to the rear.

15 ACTING CHAIRPERSON RENSHAW: When I first looked  
16 at Exhibit Number 4 , the photographs, I thought that there was  
17 a door to the right, which on closer scrutiny with one of your  
18 larger photographs of that front area, it looked to be where  
19 two meters, 1 or 2 meters are located.

20 MS. HICKS: In the front, yes.

21 ACTING CHAIRPERSON RENSHAW: Was that ever a  
22 doorway?

23 MS. BERRY: Not that I know of.

24 ACTING CHAIRPERSON RENSHAW: And no stairs behind  
25 that have been enclosed?

1 MS. BERRY: No.

2 MS. HICKS: No, the property line is really right  
3 here, and it sits about six inches off of the side property  
4 line, and so there was nothing ever on that.

5 ACTING CHAIRPERSON RENSHAW: But as you are  
6 looking at the front of that building, it looks as if there are  
7 two doorways, one on the corner for the lower residence, and  
8 then one of the right-hand side that might access the upper two  
9 floors.

10 And I thought when I looked at the photographs in  
11 Exhibit 4, I thought that that is or would be your official  
12 doorway into your unit. So when I also saw that you had put  
13 entrance in the rear, I wondered whether that was a legitimate  
14 entrance to your second and third floors.

15 MS. HICKS: When I looked back into the records,  
16 as far as we could find, that has always been a legitimate  
17 entrance to the rear and that no modifications have been made  
18 over the years to the building, and when you look at the roof  
19 slab, there has never been any connection on the interior  
20 between the floors.

21 ACTING CHAIRPERSON RENSHAW: All right.

22 MS. BERRY: We even looked in the back where the  
23 bathroom is to see if possibly there were stairs, and we didn't  
24 see any of them there.

25 MS. HICKS: And, Madam Chair, whatever codes that

1 were in effect back in 1890.

2 ACTING CHAIRPERSON RENSHAW: Well, at this point,  
3 if there are no further questions from Board Members, Ms.  
4 Hicks, would you like to move to closing? A few remarks,  
5 please, and if you would address the use variance that you are  
6 requesting in your summary remarks.

7 MS. HICKS: Yes. Ms. Berry, the applicant, is  
8 requesting a small retail usage, which would occupy  
9 approximately one-quarter of the first floor. The remaining  
10 part of the first floor, she wishes to have a retail and  
11 service use of a beauty salon.

12 The retail portion of the store initially is  
13 going to be under her exclusive control and it will eventually  
14 be leased out to someone close to her that she can trust, and  
15 that it is not going to be advertised on the open market.

16 She wants to have somewhat close control over it.  
17 Plus, she is going to be on the premises every day. We feel  
18 like the use has always been there, retail, and the structure  
19 has been constructed for retail use, and we feel that it would  
20 be beneficial to the neighbors to have retail use back there  
21 again.

22 And we thought that this was also a unique  
23 property, and in that the way that it is constructed, and in  
24 the way that it has separate entrances, and no connection  
25 between the first and second floors.

1                   And she wishes to keep it that way, and to live  
2                   on the upper two floors, second and third floors, with her  
3                   daughter, and maintain a retail community service use on the  
4                   first floor.

5                   ACTING CHAIRPERSON RENSHAW:     And the undue  
6                   hardship?

7                   MS. HICKS:     The undue hardship.     That would come  
8                   under construction, and codes, and it would be very difficult  
9                   to convert the property to residential usage.     It would be much  
10                  more expensive, and much more work is going to be required to  
11                  convert it from what has been previously there, the retail use,  
12                  into a residential use.

13                  Also, there is a hardship, an economic hardship,  
14                  in that Ms. Berry is about to lose a Small Business  
15                  Administration loan, which has been approved for the first  
16                  floor, and even though she lives there, the retail store would  
17                  hopefully generate enough tax base to return back to the City,  
18                  and also would be of benefit to the surrounding neighborhood.

19                  ACTING CHAIRPERSON RENSHAW:     And address the  
20                  point of no detriment to the public good.

21                  MS. HICKS:     We feel like the application will not  
22                  be detrimental to the public.     She is limiting the hours of  
23                  operation, and she does not wish to have any adverse impact as  
24                  far as traffic.

25                  She wants to only have people coming during the

1 daytime hours, and basically during the week and on weekends  
2 when people are away from this particular area.

3 And she does not want to keep the store open 24  
4 hours, but only on a limited basis during the day. So she can  
5 try to mitigate any impact as far as parking and also foot  
6 traffic in the area.

7 MS. HICKS: Yes.

8 ACTING CHAIRPERSON RENSHAW: All right. Thank  
9 you. Are you requesting a bench decision and summary order?

10 MS. HICKS: We would like to have one, because  
11 she is in jeopardy of losing her 8-A Loan. She has requested  
12 extensions a number of times, and I believe at the end of the  
13 month, which is the 26th, she would have to go back and ask for  
14 another extension, and she does not know whether they will  
15 continuously extend the loan from the SunTrust Bank.

16 ACTING CHAIRPERSON RENSHAW: I will ask my Board  
17 Members if they are willing to vote this afternoon on a bench  
18 decision. Ms. Hinton?

19 COMMISSIONER HINTON: Yes.

20 ACTING CHAIRPERSON RENSHAW: And Mr. Parsons?

21 COMMISSIONER PARSONS: Yes.

22 ACTING CHAIRPERSON RENSHAW: All right. Ms.  
23 Hinton, would you like to move, please.

24 COMMISSIONER HINTON: I move approval of  
25 Application Number 16689, for the use variance, given the

1 condition of the property with the separated first level and  
2 separated from second and third levels, and the clear  
3 commercial nature of the construction, making an undue hardship  
4 on the applicant to use that lower level for anything other  
5 than a commercial retail space.

6 COMMISSIONER PARSONS: I second.

7 ACTING CHAIRPERSON RENSHAW: All those in favor?

8 COMMISSIONER PARSONS: Aye.

9 COMMISSIONER HINTON: Aye.

10 ACTING CHAIRPERSON RENSHAW: Aye. And any  
11 conditions that we would like to put on this? I do want to  
12 recognize in the order the hours of operation from 9:00 until  
13 6:00, Monday through Saturday, and no perishable goods, and no  
14 liquor. Is there anything else?

15 COMMISSIONER PARSONS: The Office of Planning had  
16 also said that the retail should not consume more than 25  
17 percent.

18 ACTING CHAIRPERSON RENSHAW: All right.

19 COMMISSIONER PARSONS: I don't think the plans as  
20 shown occupy 25 percent, but I agree that this should not turn  
21 into a retail establishment because of its success; rather that  
22 the use remain as we have approved it.

23 MS. BAILEY: Mr. Parsons, just for clarification,  
24 that is the retail grocery convenience store, not to occupy  
25 more than 25 percent, sir?

1 COMMISSIONER PARSONS: Yes.

2 ACTING CHAIRPERSON RENSHAW: All right. And what  
3 is the Board's feeling about the applicant required to renew  
4 the certificate of occupancy every two years?

5 COMMISSIONER PARSONS: That seems an unusual  
6 requirement isn't it?

7 COMMISSIONER HINTON: Yes, it seems very short to  
8 me.

9 ACTING CHAIRPERSON RENSHAW: Short to you? Would  
10 you propose 3 years?

11 COMMISSIONER PARSONS: I don't see the necessity  
12 for that.

13 ACTING CHAIRPERSON RENSHAW: All right. Ms.  
14 Hinton, what is your feeling?

15 COMMISSIONER HINTON: You know, normally the  
16 Board would put a time limit on the approval of the variance  
17 rather than the condition of the time frame and of the CFO.

18 COMMISSIONER PARSONS: Right.

19 COMMISSIONER HINTON: And since this is a new  
20 use, I think we would be wise in maybe making it a condition of  
21 5 years, and have the applicant come back at that time to  
22 examine whether there have been impacts on the community, or if  
23 there is any way to help mitigate what has happened due to the  
24 reestablishment of these two uses.

25 ACTING CHAIRPERSON RENSHAW: Mr. Parsons, is that

1 in agreement? Can you concur with that?

2 COMMISSIONER PARSONS: I guess. I just don't  
3 find this use that risky. I don't see the need for that.

4 COMMISSIONER HINTON: You would prefer no time  
5 limit?

6 ACTING CHAIRPERSON RENSHAW: I agree with Ms.  
7 Hinton that with a new operation -- and we wish the best for  
8 the applicant -- that a 5 year period is not undue hardship,  
9 and that it would be good to have the applicant revisit the BZA  
10 in that time frame.

11 COMMISSIONER PARSONS: All right.

12 ACTING CHAIRPERSON RENSHAW: Oh, good. We won  
13 that one.

14 MS. BERRY: And that maybe my morning hours may  
15 be extended, and maybe to 8:00. I want to kind of just play it  
16 by ear.

17 ACTING CHAIRPERSON RENSHAW: Well, we have  
18 suggested -- we picked up your statement earlier that your  
19 hours of operation would be from 9:00 to 6:00, Monday through  
20 Saturday. Now, let me speak to the Board Members as to that,  
21 and ask for opinions, and then we will make a decision.

22 COMMISSIONER HINTON: I have no problem with 8:00  
23 a.m.

24 COMMISSIONER PARSONS: Nor do I.

25 ACTING CHAIRPERSON RENSHAW: All right. Then

1 8:00 it is, 8:00 until 6:00. That's good. And with that, I  
2 want to ask if you are requesting then again, Ms. Hicks, a  
3 summary order?

4 MS. HICKS: Yes, the bank is asking for something  
5 in writing before they will release the monies for her to go  
6 into the building permit section to get a permit, the building  
7 permit to make renovations. Renovation work has to be done to  
8 the building.

9 ACTING CHAIRPERSON RENSHAW: Well, a summary  
10 order is an expedited order, and it takes about two weeks,  
11 versus a longer period for a full order. And if that would be  
12 better for a summary order would you please acknowledge that?

13 MS. HICKS: Yes.

14 ACTING CHAIRPERSON RENSHAW: All right. Thank  
15 you. And, Ms. Bailey, would you read back the results of the  
16 vote, please?

17 MS. BAILEY: Certainly. The Board has voted  
18 three to zero to approve the application; motion made by Mrs.  
19 Hinton, and seconded by Mr. Parsons, and Mrs. Renshaw in  
20 agreement. Mrs. Sheila Cross Reid not present and not voting.  
21 And there are five conditions to accompany the order.

22 ACTING CHAIRPERSON RENSHAW: Would you read those  
23 conditions, please.

24 MS. BAILEY: There shall be no alcoholic  
25 beverages sold in the retail establishment. The retail

1 establishment shall not sell perishable goods. The retail  
2 grocery store shall not consume more than 25 percent of the  
3 subject floor area. The hours of operation shall be Monday  
4 through Saturday, 8:00 a.m. to 6:00 p.m., and the approval is  
5 for 5 years.

6 ACTING CHAIRPERSON RENSHAW: All right.

7 COMMISSIONER HINTON: Can we change those hours  
8 not to exceed, rather than requiring that it be open all those  
9 times, so it can't be before 8:00 or after 6:00?

10 ACTING CHAIRPERSON RENSHAW: That is what we have  
11 agreed to. All right. Well, congratulations. Your  
12 application has been approved, and we wish you well on your new  
13 venture, and we hope that there are a lot of very pleased  
14 constituents at your new beauty shop operation.

15 MS. HICKS: We thank the board members very much.

16 Thank you.

17 ACTING CHAIRPERSON RENSHAW: Thank you again.

18 Ms. Bailey, would you call the next case, please.

19 MS. BAILEY: The next case is Application Number  
20 16693, of Carroll O. Little, pursuant to 11 DCMR 3103.2, for a  
21 variance under Subsection 3203.3, to allow the construction of  
22 a second story addition where more than one principal building  
23 exists on a single lot of record in an R-1-B District at  
24 premises 904 Ridge Road, Southeast, Square 5383, Lots 60 and  
25 61.

1 (The witness was sworn.)

2 ACTING CHAIRPERSON RENSHAW: Good afternoon.

3 Please introduce yourself.

4 MR. LITTLE: My name is Carroll Little, and I am  
5 the owner of the subject property at 904 Ridge Road, Southeast.  
6 I am filing for a permit to put a second floor on an existing  
7 dwelling.

8 Unfortunately, I purchased the property like 38  
9 years ago, and the house or the property was constructed in the  
10 early 1920s, and that is how the two houses came to be on one  
11 lot. At that time apparently they didn't have the rules and  
12 regulations as they have them now, and the smaller of the two  
13 houses, I want to renovate it completely.

14 My intent is to make space because I have a  
15 daughter that has a couple of kids, and she is the victim of a  
16 bad marriage and everything, and she lives out in P.G. County,  
17 and I am trying to fix the house so I can move her next door so  
18 that my wife and I can keep track on the grandkids, and her as  
19 well.

20 So that is my real intent of what I wanted to do.

21 But in the process of filing for a permit, I was informed that  
22 the subject house on one side is bordered by an unavailable  
23 house on the east side, and on the west side, it is next to the  
24 property that I live in, and I that is under the required code  
25 now.

1                   The rear of the house, the yard does not meet the  
2 minimum requirements for today's regulations. So that is why  
3 this all came to be.

4                   ACTING CHAIRPERSON RENSHAW: All right. And at  
5 this point, we will ask some questions of the applicant. Ms.  
6 Hinton, do you have any questions of the applicant?

7                   COMMISSIONER HINTON: No.

8                   ACTING CHAIRPERSON RENSHAW: Mr. Parsons, any  
9 questions of the applicant?

10                  COMMISSIONER PARSONS: No.

11                  ACTING CHAIRPERSON RENSHAW: Well, we are going  
12 to move right along, and we are then going to go to the Office  
13 of Planning, which has submitted a report, and our Office of  
14 Planning representative is Mr. Rodgers from t.v. fame.

15                  MR. MOORE: I'm afraid that you have got John  
16 Moore again.

17                  ACTING CHAIRPERSON RENSHAW: I am sure that you  
18 have had a t.v. career at some point.

19                  MR. MOORE: Madam Chair, the Office of Planning  
20 looked very hard and diligently at this application. We do not  
21 wish to be obstructious with respect to residential  
22 development, especially in the neighborhood as nice as the one  
23 the applicant lives in.

24                  However, when we are bound by what the test is,  
25 if the applicant does not pass the test, then we must decide

1 that way. I have met with the applicant over at the zoning  
2 administrator's office with a staff member to discuss with him  
3 why we did what we did.

4 I have talked to the ANC and I have explained to  
5 them why we did what we did, and if I can refer you to page two  
6 of the report. At the bottom of page two is a photograph of  
7 both properties, the smallest one being, of course, the subject  
8 property; and the second one being a photograph of the house  
9 that the applicant lives in now.

10 I have discussed these and shown these to Mr.  
11 Little, and is it permissible that he get a copy of what we are  
12 looking at now?

13 ACTING CHAIRPERSON RENSHAW: Yes, of course. If  
14 we could give Mr. Little a report, a copy of this. Mr. Little,  
15 we have a copy for you.

16 MR. MOORE: If I could now direct your attention  
17 to page four, and in fact Mr. Little in his statement has  
18 already covered what the photograph reveals. The top  
19 photograph on page four reveals the distance between the two  
20 structures.

21 If you will look, you will notice that there is a  
22 faint roof on the subject property. We have imposed the  
23 massing of a second floor just to show you what it would look  
24 like if a second floor were to be built on that property.

25 The second photograph shows the unimproved public

1 space between his property and the property to the east, and  
2 those are markers are basically where the alley would be if it  
3 were there.

4 And what we have done in the bottom photograph is  
5 to impose an alley so that you can see the proximity to where  
6 the house would be. But under the first test the applicant  
7 does not meet the test.

8 The lot width, the minimum lot width required in  
9 an R-1-B is 50 feet up front, and this property has 117.49 feet  
10 of space up front. The lot itself is 7,800 square feet, and I  
11 think the minimum in an R-1-B is like 5,000 and so it far  
12 exceeds it.

13 And again as the applicant has already expressed,  
14 the side of the subject structure on the east is between 2 and  
15 6 feet at various intervals, depending upon how the house is  
16 built to the alley, and on the west side, it is within 6 feet  
17 of the property that he lives in now.

18 And on the back side of the house, there is only  
19 8 feet of clearance and you need a minimum of 25. If I can now  
20 refer you to page 5 of the report and with respect to the  
21 strict application, the answer again is no.

22 According to the applicant the property was  
23 constructed in the '20s as a dwelling unit. The age of the  
24 structure and the visible maintenance or lack of maintenance  
25 suggests that the structure is unsafe for human habitation

1 right now.

2 And where we do agree that something should be  
3 done to it, it simply can't be done at that particular site.  
4 If you look at the first photograph on page five, and I am  
5 trying to direct your attention now to page six, where we have  
6 alternative solutions suggested, on page five again, you see  
7 the mass on the bottom photograph.

8 That is the mass of what would happen if you were  
9 to build a second floor and roof on the existing structure.  
10 The top photograph shows a lot adjacent to the affected lot.  
11 The applicant owned the lot of the north side, Lot 61, north of  
12 Lot 60, and what we are suggesting in the alternative is that  
13 the applicant could seek either a theoretical lot change  
14 subdivision, since Lot 61 there and not the subject lot, is 25  
15 by 100, and probably take the same structure that he was going  
16 to put on the existing site, and flip over to that site.

17 The second option of course would be that the  
18 applicant could also seek to get a subdivision, and try to  
19 build on Lot 61, with the understanding that Lot 61 is only 25  
20 feet in width. And therein lies a portion of what he would use  
21 as a hardship.

22 And by the way, I did discuss these and showed  
23 both options to the applicant when I met with him. Where these  
24 are options -- and by the way, one more thing. Under the  
25 alternative use, you will see where we have also imposed if a

1 house were to be built on Lot 61, approximately what it would  
2 look like.

3 That big tree would probably have to go, but it  
4 would help to make this case. We talked to as I mentioned the  
5 ANC, and I explained that although we didn't want to do this in  
6 this case, the regulations that we are governed by dictated  
7 that we recommend that this application be denied. With that,  
8 I will be glad to answer any questions.

9 ACTING CHAIRPERSON RENSHAW: All right. Thank  
10 you, Mr. Moore. Are there questions from the Board to Mr.  
11 Moore?

12 COMMISSIONER PARSONS: I would just like to  
13 congratulate Mr. Moore on this report. It is a new standard in  
14 the Office of Planning with the color photographs and the  
15 alternative solution. I think it is very persuasive.

16 ACTING CHAIRPERSON RENSHAW: Ms. Hinton. Do you  
17 have any questions?

18 COMMISSIONER HINTON: Well, I just have one  
19 question. The proposal then is to have two separate houses on  
20 Lot 60?

21 MR. MOORE: Correct. Well, there is two houses  
22 on the lot right now, but to continue it.

23 COMMISSIONER HINTON: You're right. And your  
24 alternative is to put a house up on Lot 61?

25 MR. MOORE: I am saying take down the subject

1 property as is, because I think he just admitted that what he  
2 is going to do would amount to new construction, and so I am  
3 saying that as opposed to putting that new construction in an  
4 area that is precarious at best, since this is a unique  
5 situation, and since you own the lot north of where you are at  
6 right now, it may be a better deal to try to put it on that  
7 lot, as opposed to putting it in the existing location.

8 COMMISSIONER HINTON: Okay. Thank you. I don't  
9 have any other questions. At this point, let's recognize the  
10 report of ANC-7E, dated April 13th, and signed by the  
11 Chairperson, Mary D. Jackson.

12 And she states in her letter to the Board that  
13 they held a meeting on April 10th, 2001, and a public notice of  
14 the meeting was sent to the members of the 7E area, and the  
15 number of members at the ANC to constitute a quorum is five and  
16 the number of members present was six.

17 And she states that there are no issues with Mr.  
18 Little receiving a permit to improve his property, and 7E  
19 agrees with this request for a permit to Mr. Carroll O. Little  
20 for a variance to the building located at 904 Ridge Road,  
21 Southeast.

22 And Commissioner Johnnie Scott Rice has been  
23 given permission to submit the report. Is Johnnie Scott Rice  
24 here this afternoon? No, Johnnie Scott Rice is not in  
25 attendance. Mr. Moore, had the Commission ANC-7E received a

1 copy of your report?

2 MR. MOORE: No. I told them that I would mail  
3 them a copy, but I discussed with her the substance of the  
4 report, but I have not provided it to her yet.

5 ACTING CHAIRPERSON RENSHAW: All right. But you  
6 will send her a copy of the report?

7 MR. MOORE: Oh, yes.

8 ACTING CHAIRPERSON RENSHAW: Thank you.

9 MS. SANSONE: Madam Chair, I noticed possibly the  
10 applicant might want to cross-examine the Office of Planning.  
11 I don't believe he was given the opportunity to ask any  
12 questions.

13 ACTING CHAIRPERSON RENSHAW: Yes.

14 MR. LITTLE: I would like to say one thing in  
15 reference to the alley on the east side of the property. It is  
16 an undeveloped alley, and a while back my neighbor -- and he  
17 has since passed, but about 8 or 10 years ago, he canvassed the  
18 people that is affected by this alley about the possibility of  
19 buying the alley, because chances are they will never improve  
20 the alley at all.

21 And the majority of the people in the community  
22 said no, because for instance on the Chapin Street side, they  
23 have retaining walls that are about 4 feet high.

24 If they were to buy half the alley, that means  
25 that the wall would have to come down and be moved over, and

1 dirt put into it, and these people are like 70 or 80 years old,  
2 and they are not going to spend that kind of money.

3 Plus, if they have access to the yard on both  
4 sides of the house, because they can walk all the way around  
5 the house and some of them have driveways on the side of their  
6 houses. So there is no need for the alley.

7 But we had talked about the possibility of buying  
8 it, but they don't want to get into that. Now that alley will  
9 never be used, and I have been living there like I said for 38  
10 years, and to give you some background on this thing.

11 When the people moved there before, and before I  
12 even purchased the property, and I bought the house in 1963,  
13 but in 1963 when I purchased the property there was a family  
14 living there, and I was told at the time of settlement that  
15 that house went with my house, and I didn't know it at the  
16 time.

17 And I moved into my property and people stayed in  
18 there for another year or so and I got rent from them for  
19 another year or so, and then they finally decided to move out.

20 But that house is self-contained. It has its own  
21 water, gas, and all independent utilities, and an old gentleman  
22 told me, and who has since passed, but that when they first  
23 moved out there years ago that they built their house and that  
24 is the house that they lived in first, the man and his wife.

25 And then when they got a little better off 2 or 3

1 years later, they built the big house that I live in. His son  
2 and his wife moved into the smaller house. Now, my mother-in-  
3 law lived in that house for about 15 years, and we have always  
4 rented the property out.

5 But it just got so bad and it deteriorated to the  
6 point that I have got to make major repairs on it. In  
7 reference to putting a house on the other side over there, my  
8 neighbor and I -- he is like a brother of mine, and we have bee  
9 living there for a number of years.

10 And Mr. Lewis said whatever you do, don't put  
11 anything on this side. Try to stay with the house on the other  
12 side, because we don't want that to block our view of the  
13 traffic going up and down, and the kids, and plus I have a  
14 garden.

15 That alley for a number of years or ever since I  
16 have been living there, I have been cutting the grass because  
17 the City won't do anything with it. I have got to maintain  
18 that and keep the grass cut, and the lower portion of the alley  
19 I have been using for a garden for a number of years.

20 And my neighbor next to me, where the sit is that  
21 he proposes to put the house, that area there of that part of  
22 the alley, he keeps a garden up there. That is what we have  
23 been doing for a number of years.

24 So you go through the trouble of putting a house  
25 up on the other side, it just messes up the whole works really.

1 As a matter of fact, if I had to go that route -- and I told  
2 Mr. Moore, my wife and I would just step out and move out of  
3 the District.

4 Now, if it gets to that point, and we can't put  
5 the house up for my daughter, then we are just going to move  
6 out where I can get a good piece of land out in Virginia or  
7 Maryland somewhere, and where I can put a nice house up and  
8 have plenty of yard, and won't have to go through this hassle.

9 But that is the way that I feel about it, but I  
10 can't understand that all these years the house has been there  
11 that there has not been a problem. And all the people in the  
12 neighborhood are so happy that I want to make an improvement to  
13 that house, because anything that I do to it will be a great  
14 improvement of what I have there now.

15 ACTING CHAIRPERSON RENSHAW: We understand that,  
16 but as Mr. Moore stated, we are governed by regulations as you  
17 know.

18 MR. LITTLE: Yes, I know.

19 ACTING CHAIRPERSON RENSHAW: And we must follow  
20 those regulations until those regulations are changed.

21 MR. LITTLE: May I say one additional thing? The  
22 house is governed by the regulations in the early 1900s, and  
23 now I am being caught overhead with the regulations in 2001,  
24 and there is nothing now that you have that would compliment or  
25 agree with what happened in the early 1920s. I am just a

1 victim of circumstances, that's all.

2 ACTING CHAIRPERSON RENSHAW: But your Lot 61 as I  
3 understand it is now your garden arrangement?

4 MR. LITTLE: Well, it is part of the garden, and  
5 my neighbor. But, you see, that means we have to tear the  
6 other house down, and tear up the yard and all, and we just  
7 don't want to do that. Based on the outcome of today, that is  
8 what we decided to do.

9 ACTING CHAIRPERSON RENSHAW: I understand. All  
10 right. Any further discussion that the Board Members would  
11 like to entertain at this point? If not, Mr. Parsons, would  
12 you like to make a motion?

13 COMMISSIONER PARSONS: Yes. I am persuaded by  
14 the Office of Planning's report that this proposal, at least I  
15 feel, is ill-advised, and therefore would move that we deny the  
16 application.

17 COMMISSIONER HINTON: I second.

18 ACTING CHAIRPERSON RENSHAW: Any further  
19 discussion on that?

20 (No audible response.)

21 ACTING CHAIRPERSON RENSHAW: All right. We will  
22 call the vote. All those in favor of the motion?

23 (A chorus of ayes.)

24 ACTING CHAIRPERSON RENSHAW: Ms. Bailey.

25 MS. BAILEY: The staff will record the vote as

1 three to zero to deny the application; motion made by Mr.  
2 Parsons, and seconded by Mrs. Hinton, Mrs. Renshaw in  
3 agreement, and Ms. Sheila Cross Reid not present and not  
4 voting.

5 ACTING CHAIRPERSON RENSHAW: Thank you, Mr.  
6 Little, though for coming.

7 MR. LITTLE: Thank you.

8 MS. BAILEY: Madam Chairperson, are you ready for  
9 the last case of the afternoon?

10 ACTING CHAIRPERSON RENSHAW: Yes, please call the  
11 last case.

12 MS. BAILEY: Application Number 16687, of JBG/JER  
13 24440 M Street, L.L.C., pursuant to 11 DCMR 3104.1, for a  
14 special exception under Subsection 411.1 to allow a roof  
15 structure not meeting the enclosure provision of 411.3, and  
16 variances under Subsections 3103.2 and 773.3 from the  
17 residential recreation space requirements and Subjection 774.1  
18 from the year yard requirements, and Subsection 771.2 from the  
19 floor area ratio requirements to allow the construction of a  
20 138-unit apartment house with parking in a C-2-C District at  
21 premises 2440 M Street, N.W., Square 25, Lot 20.

22 (All witnesses were sworn.)

23 ACTING CHAIRPERSON RENSHAW: I wish to state at  
24 the opening of the hearing that my dentist has an office in  
25 this building. However, my dentist has not approached me, and

1 I have not known of his involvement in any case. I have no  
2 interest in this particular matter, and I wanted to put that on  
3 the record.

4 And if it is necessary to give the dentist's  
5 name, I will do so, and in fact his name is Dr. Eugene  
6 Gadairre, G-A-D-A-I-R-R-E.

7 MS. BAILEY: Ms. Renshaw --

8 ACTING CHAIRPERSON RENSHAW: I think that Mr.  
9 Quin had a comment that he wanted to make and by his smile I  
10 could tell.

11 MR. QUIN: Yes. I was just going to say that on  
12 behalf of the applicant that we have objection.

13 ACTING CHAIRPERSON RENSHAW: Thank you very much.

14 MR. QUIN: Especially since there are three  
15 people on the Board.

16 ACTING CHAIRPERSON RENSHAW: Your observation is  
17 well taken. Thank you. Would you like to proceed?

18 MR. QUIN: Yes. Madam Chairperson and Members of  
19 the Board, my name is --

20 MS. BAILEY: I'm sorry, Mr. Quin, for  
21 interrupting, but I just wanted to take care of a housekeeping  
22 matter before Mr. Quin starts. As we heard at the beginning,  
23 the tenants of the building have withdraw their opposition.

24 However, we did have two other requests for party  
25 status, and I am not quite sure if there is anyone in the room

1 representing the other parties, or have requests for party  
2 status.

3 The Night Bridge Court Condominium Association,  
4 Michael P. Ryan, and Wanda Rapport. This is a Dr. Rapport, who  
5 is a clinical psychologist. Are any of those persons here?

6 (No audible response.)

7 MS. BAILEY: No one has indicated an interest at  
8 this point to be parties, and we just needed to take care of  
9 that.

10 ACTING CHAIRPERSON RENSHAW: All right. Thank  
11 you very much.

12 MR. QUIN: Thank you, Madam Chair. May I  
13 proceed?

14 ACTING CHAIRPERSON RENSHAW: You may proceed.

15 MR. QUIN: For the record, my name is Wayne  
16 Quin, a partner with the law firm of Holland and Knight, with  
17 Steven Sher, Director of Land Use and Zoning Services, and  
18 Christy Shiker, an associate with our firm, and we represent  
19 the applicant.

20 This application that is before you is somewhat  
21 unusual, in that it is a matter of right project with regard to  
22 use and bulk, and it proposes to construct an apartment house  
23 at the rear of M Street, an existing medical office building,  
24 in the C-2-C zone, fully complying with the height and use as I  
25 indicated before.

1                   There will be 142 units added to the site where  
2 there is a medical office building. This use was proposed when  
3 the building was built as the testimony will show, and the  
4 structure that was put in place was put there so that it could  
5 be built out to the full C-2-C in the mixed use zone.

6                   The overall FAR and height will meet the  
7 requirements, and in fact the overall FAR will be about a 5  
8 FAR, or .1 FAR below the maximum that is permitted.

9                   So that we will have approximate commercial FAR  
10 of about two, and the residential above that taking it to five.

11                  But because of the existing configuration of the improvements,  
12 we are not able to build more residential, and it also brings  
13 about certain problems in meeting a couple of areas, and  
14 actually three areas instead of four, and I will come to that  
15 in just a moment.

16                  The zoning regulations on parking, just for the  
17 record, we are over twice the number of required parking  
18 spaces, with valet parking, which we will be able to  
19 accommodate about 2.75 times the required parking.

20                  And our witnesses will describe our project in  
21 more detail. We are very pleased with the support of the  
22 Advisory Neighborhood Commission for the area and other  
23 residential support. We are also very peculiarly pleased with  
24 the fact that the persons who had requested party status in  
25 opposition have now withdrawn. The tenants who were in

1 opposition have now withdrawn that opposition.

2 We believe that this -- and also we are pleased  
3 with the Office of Planning Report. It helps the fulfillment  
4 of a comprehensive plan goals for the West End, which many of  
5 you will remember was industrial for many years, and then with  
6 a new plan in the late '70s, a proposed mixed use.

7 And now we are seeing residential and commercial  
8 coming forward, which I think fulfills many goals. There are  
9 four limited areas of relief which were advertised.

10 All are very minor, but are all required because  
11 of the configuration of the existing improvements, which bring  
12 about practical difficulties which will be described by our  
13 witnesses.

14 And we will have only two witnesses, and so we  
15 will try to be brief. The first is a special exception, and  
16 the first area of relief is for a roof structure setback. As  
17 you know under the zoning regulations, the setbacks for roof  
18 structures are supposed to be one for one from the edge of the  
19 building.

20 And in this case I am just going to point -- Mr.  
21 Dove is the architect, and he will later describe in more  
22 detail, but the building that is presenting existing consists  
23 of the whiter lighter color, going back all the way across --  
24 and this is being refinished at that point.

25 But everything that has been built to date was

1 commercial. That is, for a medical office building, with twice  
2 the required parking from the normal standard, and in fact  
3 about four times the parking in anticipation of the new  
4 residential use that we are proposing today.

5 So that if we were to build a penthouse or an  
6 elevator and stair penthouse roof structure in the center, or  
7 set back from the rear, we would be coming down through office  
8 space and parking, and that does not make a lot of sense.

9 So we have moved the penthouse as the architect  
10 will describe to the rear of the building, where it is face on  
11 line with the rear building line, which is still 15 feet from  
12 the property line, and there is a private alley that goes for  
13 another 15 feet.

14 So we are in fact 30 feet from any other usable  
15 area at the present time, and so that is basically the first  
16 area of relief. The second area of relief is the residential  
17 recreation space, which I am sure the Board has had a lot of  
18 experience with reduction in that area.

19 It is a 15 percent requirement in this zone, and  
20 there have been a number of cases before the Board where 5  
21 percent has been granted, or approximately 5 percent. In this  
22 case, because of the inability to use the roof as a terrace, we  
23 are restricted in the area in which we can provide the  
24 residential recreation space.

25 But nevertheless we are still providing over 10

1 percent. So that is even twice what recently this board has  
2 been approving in similar situations. There was a condition in  
3 the Office of Planning report which said that we should file  
4 with the Board a statement of the engineer regarding the  
5 inability of the roof to bear additional recreation space, and  
6 we have a copy of that letter which we would like to file for  
7 the record.

8 This is in response to the Office of Planning  
9 report, and unless there is an objection, we would like to file  
10 that now with the Board. The third area -- and I might also  
11 point out that on the residential recreation area, as the Board  
12 probably knows, the zoning commission -- and certainly Mr.  
13 Parsons knows -- recently approved a reduction in the downtown  
14 more urban areas for residential recreation space.

15 The third area of relief is a variance from the  
16 rear yard requirements to permit seven projections along the  
17 rear lot line, and the building line, and the architect will  
18 describe that in more detail.

19 But that is the normal configuration for an  
20 apartment to have either a bay window or a balcony, and in this  
21 case, because we already have columns and the rear wall in  
22 place, if we were to try and provide that and still meet the  
23 regulations, we would have to have an entirely new support  
24 system or structural system set back from the wall.

25 And that does not make any sense either. So as

1 the architect will describe, the wall or the main wall of the  
2 apartment house will continue the existing wall that is in  
3 place going straight up at the rear on the south side.

4 And there will be in seven places a bay or  
5 balcony for the apartments to make it more market acceptable,  
6 better configuration, and also aesthetically more pleasing and  
7 that will be described by the architect.

8 The fourth -- and I would also point out that  
9 there is plenty of space at the rear with the alley that goes  
10 beyond the existing rear yard. The final area of relief which  
11 we had requested initially involves the removal of a berm on  
12 this side, on the 25th Street side of the property, which  
13 resulted initially when we did our calculations of additional  
14 FAR.

15 And not that we were changing any commercial, but  
16 the mere fact that you take that wall away under the perimeter  
17 wall method for calculating FAR resulted in a higher FAR.

18 Well, we didn't really split initially the ratio  
19 of residential to commercial. So what we have done recently is  
20 to make sure and to recalculate that FAR by allocating the  
21 appropriate amount of space between residential and commercial.

22 And when we do that, we actually come out with an  
23 FAR for commercial below 2 FAR. And we met with the zoning  
24 administrator, who has now confirmed that, and so we at this  
25 point, pursuant to Section 3113.10 of the zoning regulations,

1 remove or withdraw that particular application for relief.

2 And so we are not seeking any FAR variance with  
3 regard to the commercial. And I would like to hand in that  
4 letter for the record, with the permission of the Board.

5 ACTING CHAIRPERSON RENSHAW: Yes, please.

6 MR. QUIN: Before calling the witnesses, I just  
7 want to go through the prehearing statement to make certain  
8 that there are no questions, or if there are, you can address  
9 them to me if I am the right person to answer it.

10 On pages 1 to 4 of our statement, we describe the  
11 background of this building, and talked about the phasing of  
12 construction. That originally it was a medical office  
13 building, and we would be adding the apartment building.

14 You should know just for the future that there  
15 will be a third phase that will build up and go over to 24th  
16 Street in full compliance with the zoning regulations.

17 But that will be a third phase, and it will add  
18 more residential units and some more commercial, too, in  
19 accordance with the existing zoning. But I just wanted you to  
20 know that so that if you hear about it that you would not be  
21 surprised.

22 Pages 4 to 14 describe in detail the basis for  
23 each area of relief, which will be covered briefly here.  
24 Again, the building itself, the use and density is all a matter  
25 of right and we are talking about those three fairly minor

1 areas of relief.

2 And unless there are questions, I would like to  
3 call our first witness.

4 ACTING CHAIRPERSON RENSHAW: At this point do any  
5 board members have questions? If not, go ahead and call your  
6 first witness.

7 MR. QUIN: I would like to call as our first  
8 witness, Stewart Bartley, of JBG Companies, and ask him if he  
9 brought his resume with him.

10 MR. BARTLEY: Yes, I did.

11 MR. QUIN: And if that could be submitted to the  
12 Board, I would like to qualify Mr. Bartley as an expert in real  
13 estate development, with specialty in housing as his resume  
14 will show. Maybe if you could pass those up to the Board.

15 MR. BARTLEY: Thank you, Madam Chair, and Members  
16 of the Board --

17 MR. QUIN: Did you want to rule initially, or --

18 ACTING CHAIRPERSON RENSHAW: We have to first  
19 see.

20 MR. QUIN: Okay.

21 (Brief Pause.)

22 ACTING CHAIRPERSON RENSHAW: Do board members  
23 have any questions about Mr. Bartley's qualifications?

24 COMMISSIONER PARSONS: As an expert in?

25 MR. QUIN: Real estate development, with

1 specialty in housing, multi-family housing.

2 ACTING CHAIRPERSON RENSHAW: All right. If there  
3 are no objections by Board Members, please proceed, Mr.  
4 Bartley. But I would ask that Exhibit G in your outline is  
5 your testimony; is that an outline of your testimony?

6 MR. BARTLEY: Yes.

7 ACTING CHAIRPERSON RENSHAW: I would ask that you  
8 skip down to Number 2(c), and start your testimony, and the  
9 previous listing of areas that you might want to address in  
10 writing, and have that as part of the record.

11 But if you would start with a description of the  
12 residential component of 2440 M Street, I think that would be a  
13 place to start.

14 MR. BARTLEY: Thank you, Madam Chair. You would  
15 like for me to skip to 2(c)?

16 ACTING CHAIRPERSON RENSHAW: Yes, please.

17 MR. BARTLEY: Okay. I will be happy to do that.

18 ACTING CHAIRPERSON RENSHAW: And then go on to  
19 3(b), and at the end of your outline, where you talk about the  
20 advisory neighborhood commission -- I am looking at 4(a) and  
21 4(b), the Office of Planning -- those two components can be  
22 addressed by the Office of Planning itself.

23 And I believe we have a statement from the ANC-  
24 2A. So if you would just condense your presentation. Thank  
25 you.

1 MR. BARTLEY: Okay. I will be happy to keep it  
2 brief then, and I am honored to be here and considered an  
3 expert. I will have to be sure to make my mother know.

4 ACTING CHAIRPERSON RENSHAW: And The Wharton  
5 School.

6 MR. BARTLEY: And The Wharton School. So,  
7 beginning with the description of the residential component at  
8 2440 M Street, as our counsel has described, this building is a  
9 matter of right building, per se, and it came about as a part  
10 of a complex transaction which our firm did, which effectively  
11 recapitalized the Columbia Hospital for Women.

12 We purchased this professional office building,  
13 as well as the garage and the unbuilt development rights, from  
14 them a little over a year ago, with the intention of building  
15 this second phase to the project.

16 And as our counsel has indicated, the zoning  
17 would permit approximately a 200,000 square foot building. In  
18 our design studies, we determined that the existing  
19 configuration which we will present to you today, of something  
20 less than 150,000 square feet was all like we felt that we  
21 could fit on this site, given that we had to deal with the  
22 existing conditions.

23 And basically we are building the new portion of  
24 the building on top of existing columns that are in some cases  
25 part of the existing medical office building, as well as the

1 existing parking garage.

2 So that became one of the limiting factors, and  
3 certainly the most limiting factor of the existing conditions.

4 So we have designed a building in which our architect will  
5 describe in more detail, but we will have about 142 apartment  
6 units, and again built on top of the existing conditions.

7 These existing conditions again are requiring us  
8 to be before you today to seek these three what we hope will  
9 agree are relatively minor areas of relief. But nevertheless  
10 they are substantial improvements over the alternatives which  
11 we have studied.

12 As you may know, we always try to exhaust the  
13 possibilities and build our new improvements within the  
14 regulations. The first area that I would like to describe is  
15 the roof structure. One of the most challenging aspects of  
16 this design was determining how to access the building and how  
17 to access the upper floors.

18 We considered a variety of alternatives, and some  
19 as radical as actually putting the elevators through the  
20 existing low rise portion of the professional office building.

21 In addition to the obvious drawbacks to that, and  
22 significant technical obstacles, one of the things that we  
23 determined that it would do is create a substantial loss of  
24 parking.

25 And again as our counsel indicated, although we

1 are certainly not here seeking any relief from parking, it is  
2 clear in our discussions with the community and other  
3 stakeholders that parking is certainly an issue.

4 So one of our goals was always to preserve and  
5 provide as much parking as possible in the new development.  
6 That has ultimately led us to the design that we are proposing  
7 today, which puts the elevator penthouse on the rear yard line,  
8 and basically the alley side of the building.

9 This actually involves some compromises within  
10 the building. It is generally preferred from our point of view  
11 in the building itself to have the elevator core in the  
12 interior courtyard where the building makes a corner.

13 Again, locating it in that location would have  
14 caused us substantial loss of parking, in that it would  
15 effectively cut off a complete bay of parking with the garage,  
16 and that would be so true also for all levels of the parking  
17 garage.

18 Again, in our meetings with the community and  
19 other constituents, no one has raised any objection to the  
20 aesthetics associated with this. And again considering that it  
21 is on the alley, and fairly high in the air compared to the  
22 existing improvements, and  
23 he second area is the existing recreation space requirement.

24 And as I have testified before the Board in the  
25 past, our view is certainly from a market standpoint of 5

1 percent or so is certainly adequate for the quality of  
2 development that we are proposing to put here.

3 And really throughout downtown D.C., and we are  
4 very pleased that the zoning commission saw fit to change those  
5 regulations in the downtown development district.

6 We think that the arguments are equally  
7 applicable here in the West End, where the amenities that our  
8 residents, our customers, are seeking are not so much the on-  
9 site amenities, but the various amenities that the District of  
10 Columbia has to offer.

11 Nevertheless, we again, because of the design and  
12 the existing conditions, we are able to provide a generous  
13 landscaped courtyard in the center of the property, which will  
14 provide a substantial amount of -- and again relative to the 5  
15 percent requirement, a substantial amount of recreation space.

16 Additionally, in the building we will have  
17 amenities that would be expected at a level of this quality, a  
18 fitness center and meeting rooms, and party rooms, and that  
19 type of amenity.

20 We would certainly liked to have had the  
21 opportunity to provide a roof top terrace, but again as we have  
22 submitted into evidence, our structural engineers tell us that  
23 that would require substantial additional reenforcing of the  
24 existing columns, and we would not be allowed to place that  
25 live load on the roof structure.

1           The third area of relief that we are seeking is  
2           from the rear yard requirement.    On the alley side of our  
3           building, we believe that it is absolutely crucial that this  
4           level of quality of unit to provide either bay windows or  
5           balconies, some sort of connection to the outside world for the  
6           units.

7           And again we are limited by building the building  
8           on the existing columns.    And in looking at alternatives, such  
9           as an inward projecting balcony, for example, that would result  
10          in a unit that is unacceptable shallow, and Mr. Dove, our  
11          architect, can explain that in more detail on what I mean by  
12          that.

13          But basically the distance from the hallway to  
14          the outside wall of the building would be too short.    It is  
15          already a little bit on the short side for our tastes, even  
16          working with the existing conditions.

17          And we also think that the result will be much  
18          more aesthetically pleasing than what would otherwise be a flat  
19          wall on this alley.    And again in meeting with the various  
20          stakeholders, no one has raised any objections to that, and in  
21          fact there seems to be strong support for some architectural  
22          relief of that facade of the building, as well as all facades  
23          of the building.

24          And then again as our counsel indicated, we are  
25          withdrawing our request for the commercial FAR variance.

1       However, I would like to say that again in our meetings with  
2       the community that we found substantial support for the removal  
3       of the berm.

4               And as I indicated I believe in the resolution  
5       that the ANC has provided to you, there are many benefits, and  
6       the obvious aesthetic benefits, and we have yet to talk with  
7       anyone who thinks that the berm is an attractive feature.

8               It will more than double the width of the  
9       sidewalk, and enable us to provide a building that will really  
10      provide some architectural separation from the existing  
11      building. And I believe that you wanted me to leave the rest  
12      for others. Thank you.

13              ACTING CHAIRPERSON RENSHAW: Thank you very much,  
14      and your second witness?

15              MR. QUIN: Our second witness is Mr. George Dove,  
16      of W.D.G., and George has been accepted as an expert in the  
17      field of architecture here many times, and we have his resume  
18      if you would like that and would submit it for the record.

19              ACTING CHAIRPERSON RENSHAW: I would ask that you  
20      do so, please, and hand it down to Ms. Bailey. And, Mr. Dove,  
21      if you would on your outline, Exhibit H, if you would start at  
22      2(a)(2), please, which is the description of the building  
23      design.

24              MR. DOVE: And continue from there?

25              ACTING CHAIRPERSON RENSHAW: And continue from

1 there down.

2 MR. DOVE: For the record, my name is C.R. George  
3 Dove, and I am a principal in my design group practicing in  
4 Washington, D.C., at 1025 Connecticut Avenue.

5 MR. QUIN: May I first inquire if he has been  
6 accepted as an expert in the field of architecture.

7 ACTING CHAIRPERSON RENSHAW: Yes, he is.

8 MR. QUIN: Thank you.

9 MR. DOVE: Thank you. This is an interesting  
10 design opportunity for us, basically filling in the missing  
11 pieces, which is expanding the density of the site, to include  
12 the planned residential FAR.

13 The existing tower that you are probably mostly  
14 aware of, is on M Street, and it contains the bulk of the  
15 space, although there is a two story wing that goes south from  
16 and is attached to the main building along 25th Street, to an  
17 alley which abuts the building at the rear.

18 It is important to note that that alley is a  
19 private alley on properties owned by the applicant, as well as  
20 by Columbia Hospital, which is immediately to the south.

21 In designing the complex the objective was to  
22 keep in place the tenants of the first building, meaning the  
23 high rise, as well as the low rise, structure.

24 As you can see in the far perspective, which is a  
25 massing study of the site, from the top of the arches along

1 25th Street down, is existing space which is now occupied by  
2 two levels of medical office space, plus some parking which is  
3 now concealed by the berm, which goes all the way along 25th  
4 Street, from roughly 30 feet off the corner with M Street, and  
5 all the way down to the alley.

6 In designing the building, at this particular  
7 portion of the building, we had decided that we wanted to  
8 create the main entrance to the building, which would require  
9 pulling back the berm partially, and creating a pleasant  
10 entrance to the new apartment building.

11 As was discussed earlier, we would probably have  
12 normally put that elevator from the lobby going up through the  
13 existing levels to the new residential levels in this location.

14 However, that would have meant displacing or penalizing  
15 existing tenants.

16 And so we took the opportunity to put it back in  
17 this location, which is adjacent to the rear yard and at this  
18 location allows for circulation to continue within the below  
19 grade garage.

20 So, the building has been designed aesthetically  
21 to reflect a transitional level of design. Immediately across  
22 the street are some very pleasant historic -- well, not  
23 historically designated, but historically designed townhouses,  
24 which will remain in place.

25 And in transitioning from the modernist to the

1 office building, to the residential component and adjacencies  
2 on the other side of the street, we felt that a more  
3 traditional orientation of the design development, in terms of  
4 urban residential housing, was appropriate.

5 We did in fact retain, however, some of the arch  
6 forms that are on the existing building, and we are replanning  
7 that phase of the building, and building from here on up with  
8 five levels of apartment buildings, apartments.

9 And then behind this, once it gets beyond the two  
10 story level, we are building seven levels on an existing  
11 parking structure which is at the back of the site.

12 In other words, the existing medical is here, and  
13 two stories, and all of this is now a parking deck, surface  
14 parking deck, with parking below it.

15 What we will be doing in the seven level area and  
16 the five level area is surrounding a new landscaped park or  
17 courtyard, which will serve the residents facing on to that, as  
18 well as enhancing the views of the existing tenants of the  
19 office building.

20 The total number of apartments that are being  
21 provided is approximately 142, and the parking required for  
22 them would be 36 parking spaces. The total remaining office  
23 building space would be approximately 105,000 square feet, and  
24 approximately 114 parking spaces will be required for those.

25 It is fortunate that remaining after we do all of

1 our renovations and new construction that 344 cars will remain,  
2 which means that with the 150 basic requirements, we will  
3 exceed that by roughly 194 spaces, to be allocated to other  
4 uses on the site.

5 I think that probably adequately describes the  
6 architecture and design of the building. I think once more  
7 that it is important to note that the special exception is the  
8 elevator, and the penthouse will be located on the property  
9 line, as other witnesses have suggested.

10 It is difficult to put it anywhere else on the  
11 site, and as you can see on the perspective, it really becomes  
12 a part of the architectural design of the building, and is not  
13 really a negative on any of the adjacencies.

14 Additionally, the residential recreation space, I  
15 mentioned that just a moment ago, and the courtyard is  
16 providing a significant amount of the outdoor recreation space.

17 In addition, at the first floor level, roughly in  
18 this area of the plan, are an exercise room, lounge areas, and  
19 a party room which will split the normal amenities spaces for  
20 this size building.

21 That reduction is going from 15 percent to 10.36  
22 percent, or from a technically required 21,493 down to 14,849.

23 The third area of variance relief that we are talking about is  
24 in fact a projection into the 15 foot rear yard. I apologize  
25 here.

1           The 15 foot rear yard is from here to here, and  
2 along that area in seven locations vertically we are applying  
3 either in two locations enclosed bay windows, and in the other  
4 locations open balconies.

5           They are projecting no more than 2.5 into the  
6 required rear yard. However, once again as stated previously,  
7 I think that the aesthetic value of the architectural  
8 implications are the projections at the rear of the building,  
9 as well as the efficiency of having some open space for each  
10 apartment justifies this.

11           One of the critical things about this project is  
12 the difficulty of designing over existing structure, which is  
13 fortunately designed to take the load, but can't be moved  
14 laterally one direction or the other, and which implies a rear  
15 yard in this location.

16           MR. QUIN: If I may impose one question. The  
17 bays are how far above the ground level, the grade level?

18           MR. DOVE: The minimum point of any bay is 20  
19 feet above the sloping ramp, which goes from here up about 20  
20 feet to this point. So the closest would be 20 feet above the  
21 highest point of the adjacent alley.

22           MR. QUIN: We do have just for the record, this  
23 is a newly rendered landscape plan that we would like to file  
24 for the record, and copies of that rendered plan.

25           ACTING CHAIRPERSON RENSHAW: All right. Go

1 ahead.

2 MR. QUIN: And I have no other questions.

3 ACTING CHAIRPERSON RENSHAW: All right. Do you  
4 have any other witnesses at this point?

5 MR. QUIN: We have no other witnesses and they  
6 are certainly available for questions.

7 ACTING CHAIRPERSON RENSHAW: All right. Our next  
8 phase will be questions from board members, and the landscape  
9 plan is being handed to us. Mr. Parsons, do you have any  
10 questions?

11 COMMISSIONER PARSONS: No, I don't.

12 ACTING CHAIRPERSON RENSHAW: All right. Ms.  
13 Hinton, do you have any questions?

14 COMMISSIONER HINTON: I have one. On the alley,  
15 where does that go through to?

16 MR. DOVE: The alley is a through alley going  
17 from 25th Street through to 24th Street, and it provides access  
18 primarily to the emergency entrance to the Columbia Hospital,  
19 which is roughly where my hand is at this point. It is 30 feet  
20 wide.

21 COMMISSIONER HINTON: Someone said it is a  
22 private alley?

23 MR. DOVE: Yes.

24 COMMISSIONER HINTON: So it is not a public  
25 alley?

1 MR. DOVE: No.

2 MR. BARTLEY: I might add that we have a  
3 reciprocal easement agreement with the hospital. Again, we  
4 purchased this property from the hospital, and so it guarantees  
5 access through the alley for both of our uses, and obviously  
6 their use is access for their ambulances.

7 COMMISSIONER HINTON: So the zoning regulation  
8 that allows you when you have a building on three sides with a  
9 through alley and allows you to use to the center of the alley  
10 as the rear yard, does that include a private alley, or is that  
11 a public alley?

12 MR. QUIN: It is private property, and so you  
13 measure to the property boundary, which would be 15 feet out.  
14 So it is treated as private property.  
15 In other words, in this case, it wouldn't really make any  
16 difference.

17 If it were a public alley, you would be able to  
18 count to the center line, and if it were a private, you would  
19 count to the property line.

20 COMMISSIONER HINTON: Okay. The only other thing  
21 is that because you need a variance to have these bay windows  
22 and little balcony projections, I am sure they are very nice  
23 amenities. I am having trouble understanding how they are  
24 required.

25 I mean, the burden for a variance is not that we

1 would really like this and this is great, and it is sort of  
2 like we need this to make reasonable use of our property.

3 MR. QUIN: Well, let me address that first, and  
4 then turn it over to mr. Bartley. But what you have in the  
5 zoning regulations as you probably know is that you have a  
6 whole series of projections that are permitted.

7 For example, chimneys, and other projections that  
8 can go out four feet. There is no specific provision that  
9 allows a projection for a bay window or for a balcony.

10 The standard, as Mr. Bartley will explain, in  
11 this type of unit for this type of construction, is to have a  
12 balcony or a bay. And that configuration itself is something  
13 that is expected and is normally part of the market.

14 And he will address that in more detail, and the  
15 only way as Mr. Dove had indicated that they had considered it  
16 was possibly as an inverted balcony, which then decreases the  
17 amount of space and the distance between the inverted space and  
18 the corridor, which again I guess Mr. Dove could answer that  
19 first, and which gives too shallow of a depth for a unit at  
20 this market.

21 COMMISSIONER HINTON: What is the depth of those  
22 units because I don't see any dimensions on these drawings.

23 MR. DOVE: Roughly 28 feet.

24 MR. BARTLEY: I would reiterate that I do believe  
25 that I used the word absolutely essential. At this level of

1 quality and for this target market, we do believe in new  
2 construction, and some sort of a connection to the outside  
3 world.

4 You can probably tell that we are not really sure  
5 if it has got to be balconies, or if it has got to be bay  
6 windows, because we do a mix, and so we can offer a choice.  
7 But we do believe that that is something that is absolutely  
8 expected.

9 And I might add that the 28 foot depth, I think I  
10 also testified earlier that it was a little too shallow for our  
11 tastes. It is acceptable, but we would prefer 32-1/2 feet if  
12 we could get it if we had a blank sheet of paper to deal with.

13 And the other answer to it, Ms. Hinton, is that  
14 if you look at this building, it was constructed with a column  
15 grid, and you can see the black marks which are the columns,  
16 using the ones along the property line.

17 And if you were starting over again, you could  
18 set back 2-1/2 feet. We are only talking about 2-1/2 feet  
19 here, and you could set the building back 2-1/2 feet for the  
20 rest of the design, and then you could project over and restart  
21 without your -- you know, you would have a fresh start.

22 The real problem is that they built an office  
23 building with the expectation that the an apartment building  
24 would be built, but it was not carefully thought out as to  
25 projections and setbacks.

1                   And so we have sort of come in to a situation  
2 where we have an existing condition which is recognized by the  
3 variance clause where it causes a practical difficulty in the  
4 normal construction, which we think we fall squarely within.

5                   And certainly it is a benefit of design and it is  
6 a benefit to the unit owner and so we don't see any adverse  
7 impact on any other property owners.

8                   COMMISSIONER HINTON:     Now, in that 28 foot  
9 dimension, you have two rooms; is that right? You have -- we  
10 don't have the same plans that you are showing there on your  
11 board. Are those like kitchen and bathroom things that are  
12 drawn on there?

13                  MR. DOVE:     Well, as an example, this is a two  
14 bedroom unit. These are bedrooms on either side, and there is  
15 a kitchen in the back, and living room here, and bathroom,  
16 bathroom, and closets.

17                  COMMISSIONER HINTON:    Okay.

18                  MR. DOVE:     And adjacent to that is a single one  
19 bedroom, with the bath, and living, dining and kitchen behind.

20                  And obviously with the kitchen depth, and the depth of the  
21 living and dining area, being able to not intrude into that is  
22 very helpful, particularly in an urban environment.

23                  COMMISSIONER HINTON:    Okay.

24                  MR. DOVE:     And where we might get larger units  
25 and not smaller.

1 COMMISSIONER HINTON: Thanks.

2 ACTING CHAIRPERSON RENSHAW: Anything else at  
3 this point, Ms. Hinton?

4 COMMISSIONER HINTON: Well, I would like a little  
5 bit of testimony about the building height and how the  
6 projection over the elevator, I guess. I understand the height  
7 and the way that you are measuring it for zoning, but as far as  
8 the building height, how does that work out?

9 MR. QUIN: Well, we have had this discussion  
10 before, but the 1910 Hyatt Act addresses the setbacks from  
11 public thoroughfares and like the Garfinkel Building, for  
12 example, is a classic one.

13 COMMISSIONER HINTON: Right. It is a private  
14 alley, that's fine.

15 ACTING CHAIRPERSON RENSHAW: All right. I would  
16 like to zero in on what Mr. Bartley talked about, that parking  
17 is certainly an issue. And I would like to hear from you how  
18 the garage is now utilized, and then get from you, because I  
19 couldn't find it, the square footage calculation of the  
20 parking, and how you arrived at the number of spaces.

21 So, Mr. Bartley, would you like to address that,  
22 and how the garage is now utilized?

23 MR. BARTLEY: Well, we will certainly address the  
24 issue because you have asked it, but there is no request before  
25 the Board for parking relief in the area.

1                   ACTING CHAIRPERSON RENSHAW: I know that.

2                   MR. BARTLEY: But we will answer all your  
3 questions.

4                   ACTING CHAIRPERSON RENSHAW: Right. Again, the  
5 traffic, I looked in this and here comes a new building with  
6 142 units. And also I might add that in your statement that  
7 you talked about 138 units, and I wanted to ask about the  
8 difference in the numbers.

9                   But here is a new big building being proposed,  
10 and 25th Street is not that wide, and I was surprised that  
11 there is no traffic study being asked for in regard to the  
12 building of this unit.

13                  MR. QUIN: Well, I guess the reason that no  
14 traffic study is --

15                  MR. BARTLEY: We have done a traffic study as  
16 part of the permit process, but it is not presented again as  
17 part of this proceeding. But the traffic study has been  
18 completed, and I don't know if it has been submitted yet.

19                  I am told that it has been submitted, and it  
20 indicates that it is an acceptable traffic study. There is no  
21 negative impact, I guess. May I introduce Chris Todd, who is a  
22 colleague at JBG Residential, who is a project manager here,  
23 and he can probably better answer your question.

24                  ACTING CHAIRPERSON RENSHAW: Has he been sworn  
25 in?

1 MR. TODD: I have. My name is Chris Todd, and I  
2 am a vice president of JBG Companies. We did perform a traffic  
3 analysis as part of your initial building permit application.  
4 It was done by a traffic engineer.

5 It was submitted at the time that we submitted  
6 for building permits originally on this, and we have had a  
7 letter from the Department of Transportation saying that they  
8 have reviewed our traffic report, and find that there is no  
9 adverse impact to the neighborhood from this new addition.

10 ACTING CHAIRPERSON RENSHAW: Was this traffic  
11 study that you did submitted to the ANC?

12 MR. TODD: It was not submitted to the ANC. We  
13 made reference to the fact that we were having a traffic study  
14 done that checked for intersections in the immediate area. It  
15 was not something that the ANC requested to see specifically.

16 ACTING CHAIRPERSON RENSHAW: It was not requested  
17 by the ANC. At the time that you met with the ANC was that  
18 report available?

19 MR. TODD: It was available at our last meeting,  
20 but it was not available at the first two meetings we had with  
21 the ANC.

22 ACTING CHAIRPERSON RENSHAW: But the last meeting  
23 was the vote?

24 MR. TODD: Yes, it was.

25 ACTING CHAIRPERSON RENSHAW: All right. I would

1 like to request that that traffic report be part of our record.

2 I would certainly like to read it myself. I read the DPW  
3 report, but I feel as though to balance this report that I  
4 would like to see the actual traffic study since that is  
5 something that you did.

6 MR. TODD: All right. I have one copy with me  
7 that we can submit now, or we can submit multiple copies later  
8 this week or tomorrow.

9 ACTING CHAIRPERSON RENSHAW: Perhaps we could  
10 take it from you and get some copies made, and then give you  
11 back your copy. Now, Mr. Bartley, would you talk about the  
12 parking though, because as I understand it, you are not adding  
13 on to parking for this residential building, this apartment  
14 building.

15 You are taking from the garage that exists right at this  
16 moment?

17 MR. QUIN: Yes. The parking garage was overbuilt  
18 initially, and I can give you the calculations quickly if you  
19 want to know them. They were 102,922 square feet at the rate  
20 of -- well, that was after subtracting 2,000, and divide that  
21 by 1,800, which is the requirement for office, and that yields  
22 114 spaces. So that is the legal requirement.

23 And for the apartments, it is 142 units, and you  
24 had to double the requirement for the -- well, it was already  
25 doubled when I gave my figures to you. In other words, you take

1 your area and divide by 1,800, and then multiple by two.

2 Or if you want to do it a different way, you can  
3 divide by 900, because it is a medical office building. And  
4 that yields 114 spaces required for the commercial.

5 ACTING CHAIRPERSON RENSHAW: All right.

6 MR. QUIN: For the residential, 142 units divided  
7 by four, which is the one for four count, gives you 36 spaces.

8 So your total number of spaces is a maximum of 150 requires.

9 And we are providing 344 spaces; is that correct?

10 MR. BARTLEY: That is correct. Actually, I have  
11 a simple sheet, and I understand certainly from talking with  
12 many folks in the community that this can be complex to keep  
13 all these numbers straight.

14 And we will be happy again to submit this for the  
15 record. To summarize again, we are required to have 150  
16 spaces, and we will have 344 in the garage when we are  
17 completed.

18 In terms of the capacity that translate into  
19 total garage capacity of approximately 447. That is 344  
20 striped spaces. There is always a vacancy factor of 10  
21 percent, which is included in calculating that approximate  
22 total capacity.

23 And then the valet capacity, which is something  
24 that is not currently being maximized. One of the themes that  
25 we -- well, we had some very positive meetings with our tenants

1 in the professional office building, and got some good feedback  
2 on how their customers, mainly the daily visitors, perceived  
3 the parking.

4 And we have come up with some ideas to improve  
5 the operational side, specifically of the valet capacity; with  
6 things like adding to the valet stuff and substantially  
7 improving the signage, and perhaps even relocating the drop off  
8 point for the valet.

9 But of that total capacity of approximately 447,  
10 again we think that the valet capacity listed in calculating  
11 that, as we think is a conservative number, and we are hopeful  
12 that we can actually improve that.

13 But in terms of allocating that capacity amongst  
14 the various perspective customers for that when we are done,  
15 the professional office building -- as I said, we are required  
16 to provide 114.

17 And the tenants and their employees in the  
18 professional office building are currently leasing 182 monthly  
19 parking permits. We have assured them that we will continue to  
20 provide them with at least that 182 permits.

21 I should also add that by the terms of their  
22 leases -- and I don't recall the exact number, but it is  
23 substantially lower than that, and pursuant to leases, you  
24 know, we have committed to provide approximately 130 I want to  
25 say per the terms of the leases.

1           So in any event, we are substantially increasing  
2           our commitment to our tenants in the professional office  
3           building, and the residents on this refers to our proposed name  
4           for the residential building, the Sovereign House Residence.

5           We want to allocate a minimum of 80 spaces for  
6           their exclusive use or for their exclusive use with only  
7           potential valet access.

8           ACTING CHAIRPERSON RENSHAW:   What is Sovereign  
9           House?

10          MR. BARTLEY:   As I said that is our prospective  
11          name for the development.   This is called premarketing, I  
12          suppose.   The Sovereign House will be the name of the  
13          residential building.

14          In the Columbia Hospital for Women, as I  
15          mentioned, this was part of a complex transaction with Columbia  
16          Hospital for Women, and we purchased this property from the  
17          hospital.

18          And in that transaction, we negotiated to provide  
19          at discounted rates 80 monthly parking permits to the hospital,  
20          and for them to allocate amongst their employees, visitors,  
21          doctors, and as they see fit.

22          And we are currently providing those parking  
23          permits to the Columbia Hospital and will continue to do that.

24          And that commitment is basically for as long as the Columbia  
25          Hospital continues to operate as a hospital, which hopefully

1 will be a long time.

2 And finally as I mentioned, there is the daily  
3 visitors, which again is very important to our customers in the  
4 professional office building, being parking for their  
5 customers.

6 We are currently handling an average daily volume  
7 of approximately 320 daily visitors during normal business  
8 hours to the parking garage, and we have committed -- that  
9 translates into the need for approximately 85 spaces to put a  
10 car, whether it is a valeted space, or a striped space, at the  
11 peak times, 85.

12 So we have assured our customers that we will  
13 continue to accommodate at least that level of daily visitors  
14 to the garage, and again with targets of hopefully more. And  
15 that is how the garage will be operated in the future.

16 You know, currently, in the current status lease  
17 more monthly parking permits to third parties that work  
18 elsewhere, and we are actually leasing some more to -- more  
19 than our requirement, to the Columbia Hospital.

20 And of course we will have to cut back on our  
21 commitments to those third-parties on an as needed basis in  
22 order to accommodate the priorities that I just outlined namely  
23 our customers and visitors.

24 ACTING CHAIRPERSON RENSHAW: Has this post-  
25 construction parking space sheet that you have just handed in,

1 one page, been shown to the ANC? Has this been shared with the  
2 ANC also?

3 MR. BARTLEY: Not this sheet of paper, per se,  
4 but again this was -- well, we have actually been before the  
5 ANC, I believe, three times, and we have discussed this in  
6 concept. We didn't have it down to this level of detail  
7 certainly in those earlier meetings.

8 The professional office building tenants again  
9 were the ones that were the most concerned, and the most vocal  
10 about the priorities, and again we assured them that we would  
11 be able to meet their needs.

12 ACTING CHAIRPERSON RENSHAW: All right. How  
13 would you describe the parking arrangement now before your  
14 building is constructed? In other words, is it at capacity  
15 now?

16 MR. BARTLEY: As I said, I am pleased to report  
17 that I -- well, I don't know that we are maximizing the valet.  
18 In fact, let me say that the other way around.

19 We have determined that we are not necessarily  
20 maximizing the valet capacity, and so it is not clear that we  
21 will have to cut back on the number of permits that we sell to  
22 third parties to the general public.

23 But we are attempting to see as much parking as  
24 we can now certainly. I mean, we probably seem to be  
25 competitive in the market as if we were or are trying to lease

1 all the space that we can.

2 ACTING CHAIRPERSON RENSHAW: Of the comments made  
3 by the tenants in the building right now, what have they said  
4 about the parking arrangements? Have there been complaints  
5 from those who are visiting the medical offices about the  
6 parking arrangement as it is now?

7 MR. BARTLEY: Yes. As I think I mentioned, there  
8 were some complaints which really first came to light -- well,  
9 they have now been passed on to us, but we were able to meet  
10 with a fairly large group of the professional office building  
11 tenants, and they indicated and probably the primary complaint  
12 is they spend time looking for a space, and then they become  
13 frustrated and finally turn their car over to the valet.

14 It seemed that the professional office building  
15 tenants would prefer that we go to a more visible and perhaps  
16 even a required valet parking system.

17 So I think what we are going to do is begin  
18 implementing different policies and procedures and see how they  
19 work. Currently, the valets are actually at the bottom of the  
20 garage. That actually has some benefits in some people's view.

21 It does allow a visitor the option of self-  
22 parking their car and not having to turn over their car to the  
23 valet. But again through our meetings with the professional  
24 office building tenants, it seems like that they would prefer  
25 to make that service more visible, and perhaps relocating it to

1 the top of the ramp.

2 And perhaps simply improving the signage, and  
3 that is perhaps our first step, and also making it clear that  
4 the valet service is at no extra charge.

5 ACTING CHAIRPERSON RENSHAW: Would you then be  
6 reserving one level of the garage for the residential tenants?

7 MR. BARTLEY: Yes.

8 ACTING CHAIRPERSON RENSHAW: In other words, they  
9 would self-park?

10 MR. BARTLEY: Yes. Yes, that's true. The 80  
11 spaces, in terms of our allocation of capacity, that actually  
12 occurs in a logical break in the garage. So there will be an  
13 area that only the residents or the valet could have access to,  
14 but not the general public, and not a tenant of the  
15 professional office building.

16 ACTING CHAIRPERSON RENSHAW: All right. How  
17 would you categorize the street parking? Is street parking  
18 available?

19 MR. BARTLEY: That is an issue that has a number  
20 of the members of the community -- and in fact I was just  
21 speaking with a woman earlier today, who had expressed some  
22 suggestions about trying to make more of the street parking  
23 that is currently dedicated to metered space, available to  
24 residents of the neighborhood.

25 And that is an idea that we think may have some

1 merit, although I am not sure that this is the forum or that we  
2 are even really the ones to lead that effort.

3 ACTING CHAIRPERSON RENSHAW: Had you discussed  
4 that with the Department of Transportation?

5 MR. BARTLEY: We have not. Again, that was an  
6 idea that was put forth this afternoon to us.

7 ACTING CHAIRPERSON RENSHAW: All right. Because  
8 parking down there is very tight, and I know from firsthand  
9 experience, and I know from firsthand experience that that  
10 garage is very tight, even early in the morning.

11 And the frustrations of going back to ones car  
12 and finding that you are blocked in, and having to wait for a  
13 valet to move a van that is in front of your car.

14 So hence my concerns about the parking  
15 arrangement and the questions.

16 MR. QUIN: May I just pursue that one line of  
17 questioning?

18 ACTING CHAIRPERSON RENSHAW: Yes.

19 MR. QUIN: I think it would be helpful. The  
20 Board saw the statements that were submitted with the  
21 registration in opposition that was earlier filed by the  
22 tenants relating to parking, and most of these are the same  
23 issues that you have been addressing.

24 And I would like to ask, and I will ask Mr.  
25 Bartley, have you reached an agreement with the tenants as to

1 these issues as to how it should be treated?

2 MR. BARTLEY: Yes. Yes, we did. Again, we  
3 executed an agreement with the tenants of the professional  
4 office building to memorialize this ideas. And We certainly we  
5 don't intend to limit the ideas.

6 But it is our goal to provide a good and positive  
7 experience so that their practices flourish and we can raise  
8 their rents when their leases are due.

9 MR. QUIN: And on that basis, they withdrew their  
10 objections.

11 MR. BARTLEY: Yes, they did. They withdrew their  
12 objections and that was the reason why they withdrew their  
13 objections. I should add just in the interest of disclosure on  
14 that point that there was another group of our tenants, the  
15 mental health care professionals, who were concerned about  
16 noise.

17 And we have addressed that in a separate manner with those  
18 tenants.

19 ACTING CHAIRPERSON RENSHAW: And we have a letter  
20 from one of the parties I believe from across the street who  
21 had mentioned the parking situation, and have you discussed  
22 these parking arrangements with that party?

23 MR. QUIN: Yes. Was that the Night's Bridge  
24 Condominium; is that the one that you are referring to?

25 ACTING CHAIRPERSON RENSHAW: I was just looking

1 through the -- well, hold on a minute.

2 MR. QUIN: Well, I will just describe our  
3 meeting. We have tried to meet with as many of the  
4 stakeholders and neighbors, and constituents as possible.  
5 Again, we have been to the ANC I believe three times.

6 We have met with Ms. Garner, who is in the  
7 audience today, who is one of our neighbor's across the street  
8 on 25th Street.

9 ACTING CHAIRPERSON RENSHAW: That is the letter  
10 to which I was referring. Is Ms. Garner here with us today?

11 MR. QUIN: Yes, she is here today, and she has  
12 expressed her concern about parking in the neighborhood  
13 generally. We also met with the Night's Bridge, which is also  
14 across the street, on the corner of 25th and M.

15 They were another one of the letters, and they  
16 had indicated -- well, we addressed their concerns, and they  
17 indicated that they were going to send in a letter withdrawing  
18 their objections if you will.

19 I don't know if that has been received or not  
20 yet. But we did talk about a whole variety of issues with  
21 them. They really wanted to see the design, and understand who  
22 our target market was, and issues like that.

23 And again as I said earlier today, I just met  
24 with another woman who is also a neighbor across 25th Street,  
25 and she indicated some interest in seeing if we were support an

1 effort to try to perhaps improve the on-street parking  
2 regulations for the benefit of the neighborhood and the members  
3 of the community. And we will certainly be happy to support  
4 that in any way that we can.

5 ACTING CHAIRPERSON RENSHAW: I would like to ask  
6 that we require plans showing the parking size, the layout of  
7 the garage, and the square footage of those parking spaces, and  
8 I would like to request that for the record.

9 MR. QUIN: I would just emphasize for the Board  
10 that we are not asking for any relief in that regard.

11 ACTING CHAIRPERSON RENSHAW: I know that you are  
12 not.

13 MR. QUIN: We will furnish the information that  
14 we have that backs this up if you would like us to.

15 ACTING CHAIRPERSON RENSHAW: That is what I am  
16 requesting.

17 MR. QUIN: Okay.

18 ACTING CHAIRPERSON RENSHAW: Thank you.

19 MR. QUIN: Thank you.

20 ACTING CHAIRPERSON RENSHAW: All right. Are  
21 there further questions from Board Members?

22 (No audible response.)

23 ACTING CHAIRPERSON RENSHAW: All right. Moving  
24 on, we have an Office of Planning report, and now it is Mr.  
25 Rodgers of t.v. fame. Thank you.

1 MR. RODGERS: For the record, my name is Art  
2 Rodgers, and I am with the D.C. Office of Planning, and I was  
3 the staff assigned to review the case.

4 And I will just try to be as brief as possible.  
5 And I will basically skip with the Board's permission, and --

6 ACTING CHAIRPERSON RENSHAW: Mr. Rodgers, I am  
7 going to interrupt because we have to waive the rules for the  
8 late submittal of your report. Do the board members have any  
9 objections?

10 COMMISSIONER HINTON: No.

11 COMMISSIONER PARSONS: No.

12 ACTING CHAIRPERSON RENSHAW: All right. Go  
13 ahead, please.

14 MR. RODGERS: I guess to walk you through the  
15 report, I will skip to where it covers the comprehensive plan,  
16 and how the comprehensive plans state supporting of mixed use  
17 developments in the area.

18 We would like to try to refer all our work back  
19 to the comprehensive plan, and we found that this case, even  
20 though it is a mixed-use development, is fulfilling the goals  
21 of the comprehensive plan.

22 And then on to analyzing the site, we found that  
23 given that it is an existing building that they will be adding  
24 on to, it did meet the test for uniqueness and that it offers  
25 challenges that normal sites would not usually see.

1           And so that was the first test for both the  
2 special exceptions and the variances, and I guess again very  
3 briefly that I think the applicant has outlined everything  
4 fairly clearly.

5           And with regards to the special exception on the  
6 elevator, the language is similar to a variance for this sort  
7 of special exception. And we felt that in general that this  
8 had met the test. It is similar to a project that the  
9 applicant had proposed on 12th and Mass, which the Board also  
10 approved.

11           And so that was also weighed into our analysis.  
12 With regard to the variances, initially we were concerned about  
13 the commercial FAR. However, we did feel that it did meet the  
14 test of practical difficulty.

15           But we are happy to note that the applicant has  
16 withdrawn that, and that they were able to reallocate the space  
17 so that it still fits the spirit of the zoning regs, but we had  
18 approved that also.

19           The recreation space we were also concerned  
20 about, and as I said in my report, I dug a little bit and I  
21 contacted the building and land regulation administration to  
22 get their thoughts on the applicant's claims.

23           And after talking to them, it was suggested to me  
24 that it would be necessary to get a statement from the  
25 structural engineer regarding the structural supports of the

1 existing building, and that they would need it to be reinforced  
2 if rooftop recreation space was going to be added.

3 And so therefore we thought that meant that upon  
4 that letter that that met the practical difficulty test. And  
5 then finally with the rear yard and the bay windows and  
6 balconies, we also agreed with the applicant that it does meet  
7 the practical difficulty, and it also provides aesthetic  
8 quality to the building.

9 And as we also pointed out in our report, it also  
10 provides additional or better eyes on the street for better  
11 security in the neighborhood. Balconies like that offer the  
12 residents the ability to keep a better eye out.

13 We contacted the ANC and confirmed that they were  
14 going to support the project, and we also tried to contact at  
15 the time of the report -- I think only one of the letters of  
16 the tenants had been filed, and we tried to contact that  
17 tenant, but our calls were not returned.

18 And so therefore to summarize very quickly, we  
19 recommend approval on the request of the applicant.

20 ACTING CHAIRPERSON RENSHAW: All right. Thank  
21 you very much, Mr. Rodgers. Questions by Board Members of Mr.  
22 Rodgers? Mr. Parsons, no questions?

23 COMMISSIONER PARSONS: No questions.

24 ACTING CHAIRPERSON RENSHAW: Ms. Hinton, any  
25 questions?

1 COMMISSIONER HINTON: No questions.

2 ACTING CHAIRPERSON RENSHAW: All right. Very  
3 good. Does the applicant have any questions?

4 MR. QUIN: No questions.

5 ACTING CHAIRPERSON RENSHAW: All right. Thank  
6 you. We have a report from the Department of Public Works. We  
7 do have a representative of DPW with us?

8 (No audible response.)

9 ACTING CHAIRPERSON RENSHAW: Well, Ms. Hinton,  
10 would you like to review that?

11 COMMISSIONER HINTON: The Department of Public  
12 Works' letter, dated April 13th, 2001, from Ken Laden. "The  
13 proximity to public transportation and parking spaces provided  
14 will adequately serve the proposed additions and will not  
15 negatively affect the parking supply on neighboring streets.  
16 The proposed addition will not cause a negative impact on  
17 traffic, and will not create dangerous or otherwise  
18 objectionable traffic conditions or cause a large increase in  
19 the traffic volume for neighboring streets.  
20 Accordingly, DDOT has no objection to the application."

21 ACTING CHAIRPERSON RENSHAW: All right. And we  
22 take note that we had not read the applicant's traffic report,  
23 which is going to be submitted, and so we just have to balance  
24 that report against or with Mr. Laden's report. Are there any  
25 questions that any of the Commissioners would like to raise at

1 this point about the D.C. DOT's letter?

2 (No audible response.)

3 ACTING CHAIRPERSON RENSHAW: All right. Thank  
4 you. Moving on, we have the Advisory Neighborhood Commission  
5 2-A. We have a letter in the file, Ms. Miller, sent by the  
6 secretary of your association. Do we have to swear Ms. Miller  
7 in?

8 (Whereupon, Ms. Miller was sworn.)

9 MS. MILLER: I just want to say that our main  
10 concern at ANC more than traffic was whether they were building  
11 for G.W. students, and that took up most of our conversation.  
12 And they were kind enough to enlarge the one bedroom apartments  
13 and cut back on the efficiencies. That was our main concern.  
14 Thank you very much, and you have our approval.

15 ACTING CHAIRPERSON RENSHAW: Yes. We have a  
16 letter signed by James E. Patterson, the Secretary of ANC-2A,  
17 and it is dated March 23rd 2001. And it states that at its  
18 regularly scheduled monthly public meeting on March 21st, 2001,  
19 properly noticed, and with a quorum of 5 of the 6 commissioners  
20 present, ANC-2A passed a resolution, 013A6 to support the  
21 request for variances and an exception to build an apartment  
22 building 141 units for permanent residents.

23 The fourth variance, removal of the berm, which  
24 has been withdrawn at this point, but the letter states that it  
25 will increase the commercial space in excess of the allowed

1 amount, but will improve the appearance of the building, and  
2 the applicants have stated that they will not use this as a  
3 precedence for future construction. Therefore, ANC-2A supports  
4 this request.

5 MS. MILLER: Our Chair was out of town for that  
6 hearing and I chaired the meeting and the Secretary or the  
7 Chair can sign it, and he signed it.

8 ACTING CHAIRPERSON RENSHAW: Thank you very much  
9 for clarifying that. You stated in your resolution that be it  
10 further resolved that ANC-2A does not intend by its support for  
11 a variance, and that the commercial FAR for this project that a  
12 precedent be established for allowing more commercial FAR than  
13 the permitted law for a C-2-C site.

14 MS. MILLER: They agreed.

15 ACTING CHAIRPERSON RENSHAW: Very good. And is  
16 there anything else, Ms. Miller, in the resolution that you  
17 would like to point out or is that pretty straightforward?

18 MS. MILLER: No, but I was pleased to see you  
19 bring up the parking, because we were not given copies of that,  
20 and I would like to have a copy.

21 ACTING CHAIRPERSON RENSHAW: All right.

22 MS. MILLER: And I will see that it goes to  
23 everybody else.

24 ACTING CHAIRPERSON RENSHAW: Very good. You will  
25 be given a copy of that report.

1 MS. MILLER: Thank you.

2 ACTING CHAIRPERSON RENSHAW: We will make sure of  
3 that. All right. Any further questions concerning the ANC  
4 matter?

5 (No audible response.)

6 ACTING CHAIRPERSON RENSHAW: All right. Any  
7 other cross-examination of the applicant?

8 (No audible response.)

9 ACTING CHAIRPERSON RENSHAW: No? All right.  
10 Then therefore, Mr. Quin, you may --

11 MS. BAILEY: Madam Chair, I think there may be  
12 someone in the audience who would want to speak.

13 ACTING CHAIRPERSON RENSHAW: Would you like to  
14 come to the table, please.

15 (Whereupon, the witness was sworn.)

16 ACTING CHAIRPERSON RENSHAW: Please sit down, and  
17 we will get the mike on, and introduce yourself, please.

18 MS. GARNER: I am Christine E. Garner, and I live  
19 directly opposite, and I own the property and live in the  
20 property on the opposite side of the street from this project.

21 ACTING CHAIRPERSON RENSHAW: On 25th Street?

22 MS. GARNER: On 25th Street, yes. And that is  
23 why I am here. I don't know anything about technical terms and  
24 so forth, but I am speaking from a human aspect.

25 If this property is going to be extended from the

1 roof tops of the building that is already there, and up to the  
2 level of the professional building which is on the corner, it  
3 is going up about 6 or 8 stories more.

4 And it is going to extend all the way up the  
5 block to the very end, where they would come into the garage or  
6 whatever that they are providing for their clients.

7 And that means no space for the sun to shine  
8 through for our side of the side of the street, because the  
9 street is very narrow, very narrow, and we can't get the fresh  
10 air that this building would block.

11 And we need that because now we can see over the  
12 building that they have built at the top of the garage, and we  
13 can see over that because it is not too high. But when they  
14 build up on top of that roof and go up to the extent that the  
15 professional building goes up, all of that is going to be  
16 blocked out.

17 And we will be like in sort of a valley, and we  
18 will be the lower end of the valley. Now, we would like to see  
19 if they have some means of opening some part of their project  
20 so that the sunshine can come through, and the light, and the  
21 air.

22 Now, when it gets dark in the winter and in those  
23 months when darkness begins to fall, we will have to pay higher  
24 electric bills because we will have to keep the electricity  
25 going for lighting and nearly all day, and that will be an

1 extra expense to us.

2 Also, another thing that I want to speak about is  
3 that I am not worried about the electricity as much as I am  
4 about the sunshine shining in and the air coming through,  
5 because we always need air.

6 And you go up further in the block, and I think  
7 it is has been planned that their main entrance will be on the  
8 25th Street side out of the buildings that they are going to  
9 place there.

10 And that means that there will be lots and lots  
11 of traffic. There is traffic, traffic, traffic. When we first  
12 moved to 25th Street years and years ago, it was a quiet, tree-  
13 lined street that people loved, and people got along well  
14 together.

15 But recently it has become a thoroughfare because  
16 the traffic comes from all directions, all directions. We have  
17 all types of traffic -- buses, automobiles, all types of  
18 vehicles that come up and down that street all day long back  
19 and forth, and back and forth.

20 But now when they get the apartments built, it is  
21 going to be more than that added to it, and not only that, but  
22 there will be an entrance there on 25th Street, and people will  
23 enter whichever part of the project that they are going to, and  
24 they will mostly enter that from what I understand.

25 Now, they will enter that particular entrance,

1 and go to wherever they want to do with in the setup, and that  
2 is going to mean that people will be dropped off at the doorway  
3 maybe, and people will come out of the that doorway maybe and  
4 add to the traffic that is already there going up and down.

5 And it will just be more and more congestion,  
6 unless they regard us as human beings on the opposite side of  
7 the street and try to look out for us when it comes down to  
8 that. But as far as I can see, I don't think they have done  
9 much thinking about people who are already there on the other  
10 side of the street.

11 We almost feel as though we can reach out and  
12 touch their buildings as they are going to project along there,  
13 but that is the feeling that we all have. And most of the time  
14 the traffic lights stop the traffic that is coming up, because  
15 there is this big  
16 -- well, at the corner of 25th and L, and leading into  
17 Pennsylvania Avenue, there is always a lot of traffic there  
18 going to Virginia, and going in all kinds of areas.

19 And then there is the traffic at M Street, which  
20 is also 25th and M, and they have to stop there for lights, and  
21 most of the time they stop on that block where we are living,  
22 and the fumes from the exhaust or whatever it is, they  
23 accumulate.

24 And with no place for them to escape like they  
25 had before, you know, in a lower area to go over, that may

1 cause problems for the people who live or have been living on  
2 25th Street in the area of the breathing and those types of  
3 illnesses that you may have.

4 ACTING CHAIRPERSON RENSHAW: You have some health  
5 concerns?

6 MS. GARNER: Yes.

7 ACTING CHAIRPERSON RENSHAW: Your letter, Ms.  
8 Garner, to the BZA was very succinctly put. You listed all of  
9 your concerns and we appreciated having this review of your  
10 comments in advance so that we could read and consider.

11 And having you today take the time to appear  
12 before the Board is -- we hope that it is rewarding on your  
13 behalf. In other words, to speak directly to us, and emphasize  
14 those points which are of concern to you. We appreciate that.

15 MS. GARNER: I was going to say just one more  
16 thing and I wanted to speak about the social aspects. It is  
17 hard now to have visitors or even your relatives come even now  
18 before they do this project, because sometimes they have to go  
19 around the block 3 or 4 times before they can even find a spot  
20 anywhere around the whole block or the whole area to come to  
21 your house.

22 And if they have anything to bring to you or  
23 anything, as soon as they get down from the steps where they  
24 have been to the door and delivered, the meter maid is there  
25 with a ticket already made out before they can get back to

1 where they came from.

2 And so it is not going to be good, and it will  
3 seem as though the street is owned by the building, the  
4 professional building, the apartments, and the entry and exit,  
5 and we don't stand a ghost of a chance of really living the way  
6 that we would love to live.

7 ACTING CHAIRPERSON RENSHAW: What is the name of  
8 your building across the street? Are you in a hi-rise building  
9 across the street, or is it a low-rise? You stated in your  
10 letter that you are an owner and resident of a property across  
11 the street. Is it a townhouse?

12 MS. GARNER: It is just houses. Some of them are  
13 condominiums in them.

14 ACTING CHAIRPERSON RENSHAW: They are row houses?

15 MS. GARNER: Well, from the house that was there.

16 ACTING CHAIRPERSON RENSHAW: I understand. Well,  
17 we appreciate this. Did you appear before the ANC? Did you go  
18 to the ANC meeting and give your complaints, your concerns, to  
19 the ANC?

20 MS. GARNER: I went once and that is when I began  
21 to hear about the parking that they were going to need for this  
22 new project, but Mr. Bartley, he let me see the plans and he  
23 showed them to me, and he talked to me about them and we  
24 talked.

25 And I could see that something else might be

1 going on besides just the parking that we would object to, and  
2 would like to have them look at again in their planning. He  
3 did that very well.

4 ACTING CHAIRPERSON RENSHAW: All right. Mr.  
5 Bartley, I would like to give you a chance to respond to some  
6 of these concerns of Ms. Garner. Would you, please, and Mr.  
7 Quin.

8 MR. BARTLEY: Well, I did appreciate the  
9 opportunity to meet with Ms. Garner and discuss her concerns.  
10 Again, some of the social issues are certainly not unique to  
11 the West End, and are much broader issues than I feel like I  
12 have an answer for.

13 As to the traffic issues, we have submitted a  
14 traffic study. Again, we will be glad to provide more  
15 information if you need it. There is one potentially minor  
16 improvement in the traffic arrival possibilities at the  
17 building.

18 Currently, you can get into the parking garage by  
19 approaching up 25th Street from the south to the north, and  
20 going through the alley. That entrance will in fact be closed  
21 as part of the construction process.

22 So at least the arrival traffic will no longer  
23 have the opportunity to come up 25th Street. I don't honestly  
24 know how many people utilize that entrance at this point in  
25 time. So that may in some small way alleviate some of the

1 traffic on 25th Street.

2 But certainly 25th Street is a very good  
3 opportunity to cut over from M Street down to Pennsylvania  
4 Avenue. We did discuss in some detail the specific relief that  
5 we are here asking for today, and I don't want to put words in  
6 Ms. Garner's mouth, and I don't think that she had any  
7 objections to the specific issues that we are here before you  
8 today on.

9 But again I don't want to put words in her mouth,  
10 but at least that was the indication to me. It was more the  
11 broader issues of traffic.

12 ACTING CHAIRPERSON RENSHAW: Did you submit a  
13 shadow study to the ANC that shows with the hi-rise building  
14 how it is going to affect light wise the buildings across the  
15 street on the townhouses?

16 MR. BARTLEY: I don't believe that we submitted a  
17 shadow study to anyone.

18 MR. QUIN: There are some other points that I  
19 think that ties right into that one though, and that is this is  
20 to the east and not to the south, and it is the area from the  
21 alley going north.

22 So the impact is not the same as being on the  
23 south side or southeast side which Mr. Parsons and I'm sure  
24 that other people know, and that is where your major impact is  
25 in terms of the sun.

1           But on that side you are already have Columbia  
2 Hospital and all the zoning permits at 90 feet. But the one  
3 thing that I wanted to say is that as I heard Mrs. Garner  
4 speak, it seemed to me that she was thinking that there is a  
5 vehicular access to the project from 25th Street.

6           And as Mr. Bartley said, there not only is no  
7 proposed access from 25th Street, but they are also terminating  
8 the access from the alley. So all traffic will be coming in  
9 from M Street, the furthest point away from 25th Street  
10 residents.

11           The point is that the berm that is there now  
12 provides because of its construction only allows a 10 foot  
13 sidewalk on a 90 foot right-of-way. And what this proposal  
14 will do is to move that back 14 feet so that you have a 24 foot  
15 depth, which you don't have today.

16           So that massiveness that is on 25th Street now,  
17 which is that sloped up berm will be removed, and that will be  
18 as the other diagram showed, the facade of the residential  
19 facility will be set back more than it is today, and that  
20 should be of some benefit.

21           ACTING CHAIRPERSON RENSHAW: Again, the entrance  
22 to the apartment house will be on 25th Street?

23           MR. QUIN: Yes.

24           ACTING CHAIRPERSON RENSHAW: Now, have you made  
25 provisions for any kind of a circular driveway so that cars

1 dropping or picking up residents can pull off the street and  
2 get out of the lane of traffic?

3 MR. QUIN: No, we have not.

4 MR. BARTLEY: I might add on that point that  
5 although we have not posed that possibility directly, I have  
6 the sense from discussing with the members of the community --  
7 but again there may be varied views on this point -- that the  
8 preference would be to maintain the existing level of street  
9 parking, rather than take away from street level parking for  
10 some sort of a drop-off.

11 And we are certainly open-minded on the issue,  
12 but I am hearing that more street parking would be better than  
13 less.

14 ACTING CHAIRPERSON RENSHAW: All right. Any  
15 further questions for Ms. Garner?

16 (No audible response.)

17 ACTING CHAIRPERSON RENSHAW: Ms. Garner, thank  
18 you so much for coming down to day and being with us, and we  
19 hope that some of the answers from Mr. Quin and Mr. Bartley  
20 have satisfied some of your concerns.

21 MS. GARNER: Except the one about the light and  
22 the air coming from where their building is blocking the whole  
23 block and blocking it all out from that side.

24 If there was something they could do, some little  
25 split somewhere or other as they went along and the air could

1 come through, and light could come through, that would be  
2 helpful. But to have an all blank wall facing you every day  
3 and night, with no possibility of air coming in for those fumes  
4 that are trying to rise up and get up out of the street, it is  
5 still there day and not.

6 ACTING CHAIRPERSON RENSHAW: All right. Thank  
7 you.

8 MR. QUIN: And maybe if you could look at Exhibit  
9 A that is attached to the plan, which shows the location of the  
10 property with regard to 25th Street, because that shows right  
11 now that Columbia Hospital is on one side, and I think it does  
12 provide some openness there.

13 I am sure that I can't answer Ms. Garner's  
14 concerns unless the zoning were something else, you know, and  
15 that was a zoning commission decision as to all of the West  
16 End.

17 ACTING CHAIRPERSON RENSHAW: That is the case,  
18 Mr. Quin. Unfortunately, we can't slice the building at this  
19 time, and this has been reviewed, Ms. Garner, by a number of  
20 officials, and has come to the BZA for these special exceptions  
21 and variances, and if there had been a health emergency, it  
22 would have been flagged. I am sure of that.

23 But I am glad that you put this down in writing,  
24 and that you have come before the Board to express your  
25 opinion, and that is very valuable, and very helpful, and I am

1 sure that the applicant and the applicant's attorney has heard  
2 your complaints, and if there is a way of doing in, like  
3 putting a fan in a window and pointing it right to Ms. Garner's  
4 townhouse, that you will do that.

5 And I don't make light of it because it is a  
6 problem when across the street from a large development there  
7 are smaller townhouses. But I only wish you had done a shadow  
8 study to show the residents across the street, who have  
9 invested in properties, how the light is going to change.

10 This is a major factor in their lives, because  
11 they have lived with openness for these many years, and then  
12 when there is a matter of right development, it is going to  
13 change their environment.

14 And it is a way of easing the transition if you  
15 could show them and show the ANC how there is going to be this  
16 change. It could be a subtle change and it could be a major  
17 change. But they have a right to know in advance of a  
18 decision. That is my opinion.

19 Thank you very much, Ms. Garner.

20 MS. GARNER: Thank you.

21 ACTING CHAIRPERSON RENSHAW: All right. Mr.  
22 Quin, would you like to --

23 MR. QUIN: I think we have pretty well described  
24 everything that is involved in this case. I did have a  
25 question for you, Madam Chairperson, with regard to our

1 submissions.

2 One, we are to file the traffic report, and I  
3 understand that, and that has been filed. And the other is  
4 your request for parking plans. We did file and you have in  
5 the record the floors, the two affected floors in effect,  
6 namely from level one to level two.

7 What you do not have is the floors below, the 2-  
8 1/2 floors below, and I just want to make clear what it is that  
9 you wanted us to do.

10 ACTING CHAIRPERSON RENSHAW: I wanted to get a  
11 parking plan showing the dimensions of those spaces.

12 MR. QUIN: Right. They are all to scale at this  
13 point.

14 ACTING CHAIRPERSON RENSHAW: To scale, to square  
15 footage?

16 MR. QUIN: Yes.

17 ACTING CHAIRPERSON RENSHAW: That's what I want.

18 MR. QUIN: I mean, the two levels that we have  
19 given you are to scale today that have been in the record since  
20 we filed our prehearing statement. So the question is do you  
21 want the same thing with regard to the other 2-1/2 floors?

22 ACTING CHAIRPERSON RENSHAW: Yes.

23 MR. QUIN: Okay.

24 ACTING CHAIRPERSON RENSHAW: All right.

25 MR. QUIN: I guess that's everything. We would

1 like you to approve this as soon as possible. You have asked  
2 us for some additional exhibits, and I am not sure whether you  
3 want that as a matter just to complete the record or whether  
4 this is necessary before your decision, but we would love to  
5 have your decision as soon as possible. Thank you.

6 ACTING CHAIRPERSON RENSHAW: Thank you, Mr. Quin.

7 All right. To the Board Members, we have a choice of making a  
8 bench decision or to refer this to our public meeting at the  
9 top of May. What is your request?

10 COMMISSIONER HINTON: I am ready to decide today.

11 COMMISSIONER PARSONS: Yes, I am ready.

12 ACTING CHAIRPERSON RENSHAW: All right. We are  
13 ready to decide today, and let me see. Who did I call on the  
14 last time?

15 COMMISSIONER HINTON: I think it is your turn.

16 Madam Chair, I would move for approval of  
17 BZA Case Number 16687, for the relief that has been discussed  
18 and note that the relief for commercial FAR is no longer  
19 needed. So we are looking at variances for the residential  
20 recreation space and the rear yard, and a special exception for  
21 the roof structure.

22 COMMISSIONER PARSONS: I second.

23 ACTING CHAIRPERSON RENSHAW: All right. Any  
24 further discussion?

25 (No audible response.)

1 ACTING CHAIRPERSON RENSHAW: All those in favor?

2 COMMISSIONER HINTON: Could we just say that we  
3 adopt the reasoning in the Office of Planning report for the  
4 variances?

5 ACTING CHAIRPERSON RENSHAW: All right. All  
6 those in favor?

7 (A chorus of ayes.)

8 ACTING CHAIRPERSON RENSHAW: And, Ms. Bailey,  
9 would you call the vote, please.

10 MS. BAILEY: The application is approved by a  
11 vote of three to zero; motion made by Mrs. Hinton, and seconded  
12 by Mr. Parsons, and Mrs. Renshaw in agreement, Mrs. Sheila  
13 Cross Reid not present and not voting. And the applicant is to  
14 submit a floor plan for the 2-1/2 floors below level two.

15 ACTING CHAIRPERSON RENSHAW: All right. And I  
16 would like to ask the applicant are you requesting a summary  
17 order?

18 MR. QUIN: Yes, if that would be permissible.

19 ACTING CHAIRPERSON RENSHAW: All right. So  
20 therefore your summary order will be available -- Ms. Bailey,  
21 is it about two weeks?

22 MS. BAILEY: Yes, Mrs. Renshaw, about two weeks.

23 MR. QUIN: And we will submit a draft.

24 ACTING CHAIRPERSON RENSHAW: All right.

25 MR. QUIN: Thank you.

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ACTING CHAIRPERSON RENSHAW: Very good. Any further items for the applicant? If not, you are excused, and congratulations.

MR. QUIN: Thank you very much. We appreciate your time.

ACTING CHAIRPERSON RENSHAW: All right. And that concludes our hearing today at the time of 4:30.

(Whereupon, the hearing was concluded at 4:30 p.m.)