

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

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TUESDAY

JUNE 12, 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 9:30 a.m., Sheila Cross Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID	Chairperson
ANNE MOHNKERN RENSHAW	Vice Chairperson
GEOFFREY GRIFFIS	Board Member
SUSAN MORGAN HINTON	Board Member

ZONING COMMISSION MEMBER PRESENT:

CAROL J. MITTEN	Commissioner
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COMMISSION STAFF PRESENT:

Sheri Pruitt, Secretary, BZA  
Beverly Bailey, Office of Zoning  
Paul O. Hart, Office of Zoning  
John K. A. Nyarku, Office of Zoning

OTHER AGENCY STAFF PRESENT:

Maxine Brown-Roberts, Office of Planning  
John Moore, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

<u>AGENDA ITEM</u>	<u>PAGE</u>
PRELIMINARY MATTERS.....	6
<u>APPLICATION OF KATHERINE CANNON:</u>	
<u>16678 ANC-1E</u> .....	6
<u>WITNESS</u>	
KATHERINE CANNON .....	6
<u>APPLICATION OF NATHANIEL BAKER, JR.</u>	
<u>16713 ANC-5B</u> .....	8
<u>WITNESS</u>	
NATHANIEL BAKER .....	9
<u>APPLICATION OF MR. AND MRS. WILLIAM BRANNON</u>	
<u>16709 ANC-6B</u> .....	19
<u>WITNESSES</u>	
KATHERINE SMITH BRANNON .....	21
WILLIAM BRANNON .....	25
JERALD L. CLARK .....	44
DOUGLAS C. DACY .....	62
MARY WEIRICH .....	161
<u>APPLICATION OF PARKLANDS, INC.</u>	
<u>16714 ANC-8B</u> .....	171
<u>WITNESS</u>	
LINDA JACKSON .....	172

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

(9:41 a.m.)

CHAIRPERSON REID: Good morning. The hearing will please come to order. Ladies and gentlemen, this is the June 12 public hearing of the Board of Zoning Adjustment of the District Columbia. My name is Sheila Cross Reid, Chairperson.

Joining me today is Vice Chairperson Anne Renshaw, Susan Hinton representing the National Capitol Planning Commission, Mrs. Minton, representing the Zoning Commission, and Mr. Griffis.

The 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 exception and variances is one, statement of witnesses of the applicant; two, reports including Office of Planning Department, Public Records, et cetera; three, report of the Advisory Neighborhood Commission; four, parties and persons in support; five, parties and persons in opposition; six, closing remarks by the applicant.

Cross examination of witnesses is permitted by

1 the applicant or parties. The ANC within which the party is  
2 located is automatically a party in the case. The record will  
3 be closed at the conclusion of each case except for any  
4 materials specifically requested by the Board, and staff will  
5 specify at the end of the hearing exactly what is expected.

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

12 Decisions of the Board on these contested cases  
13 must be based exclusively on the public record. So the Board  
14 may prevent the contrary, the Board requests that persons  
15 present not engage members of the Board in conversation.  
16 Please turn off all beepers and cell phones at this time so as  
17 not to disrupt these proceedings, or put them on vibrator.

18 The Board will now consider any preliminary  
19 matters. Preliminary matters are those which relate to other  
20 cases but should be heard today such as request for  
21 postponement, continuance or withdrawal, whether proper and  
22 adequate notice of the hearing has been given. If you're not  
23 prepared to go forward with the case today or if you believe  
24 that the Board should not proceed, now is the time to raise  
25 such a matter.

1 Does the staff have any preliminary matters?

2 MS. BAILEY: Members of the Board, good morning.

3 My name is Beverly Bailey. Yes, we do. The preliminary  
4 matter has to do with the first case that's on the agenda,  
5 Application No. 16678. That's the application of Katherine C.  
6 Cannon. There is a request, Madame Chair, members of the  
7 Board, for this application to be postponed. Ms. Cannon is  
8 seated in the audience, and I'm not quite sure if you need to  
9 speak with her, Madame Chair.

10 CHAIRPERSON REID: Yes, please come forward.  
11 Turn your mike on, give your name, and your address, please,  
12 ma'am.

13 MS. CANNON: Okay. My name is Katherine C.  
14 Cannon. I live at 1736 Hobart Street, N.W. in Washington,  
15 D.C., Mt. Pleasant.

16 CHAIRPERSON REID: Okay.

17 MS. CANNON: I had originally met with you guys  
18 in March, and there were a few things that were wrong with my  
19 documentation as well as the drawings that the previous chair  
20 had found. So, I've worked very hard trying to find a  
21 structural engineer to make the drawings, and I think I'm on my  
22 fourth structural engineer right now. So, I knew I wasn't  
23 going to be ready by today's date, so I had requested back in  
24 March to have a stay and to have this review later on. So,  
25 that's why I'm asking for an extension. It looks like the

1 extension is to September 11.

2 CHAIRPERSON REID: Okay. Would members?

3 COMMISSIONER MITTEN: No objection.

4 MEMBER HINTON: No objection.

5 VICE CHAIRPERSON RENSHAW: No objection. I so  
6 move.

7 COMMISSIONER MITTEN: Second.

8 CHAIRPERSON REID: All in favor?

9 (Chorus of ayes.

10 CHAIRPERSON REID: Okay, great. Thank you.

11 MS. BAILEY: Staff will record the vote as five  
12 to zero to postpone the application to September 11, and it's  
13 schedule for the second case in the morning session of  
14 September 11.

15 MS. CANNON: I see. Thank you.

16 MS. BAILEY: Madame Chair, under the next case,  
17 that's the application of Nathaniel Baker, Jr., No. 16713,  
18 pursuant to 11 DCMR 3103.2 for a use variance under subsection  
19 330.5 to allow a beauty salon on the basement level of an  
20 apartment building in an R-4 District at 1706 Trinidad Avenue,  
21 N.E. The property is located in Square 4052, and it's located  
22 on Lot 96.

23 All those wishing to testify, would you please  
24 stand? Mr. Baker, would you please raise your right hand? Do  
25 you swear that the information that you will be given today

1 will be the truth, sir? Please say I do.

2 MR. BAKER: I do.

3 MS. BAILEY: Thanks. Please come forward.

4 Members of the Board, while Mr. Baker is taking his seat at the  
5 table, the property was properly posted and the affidavit of  
6 posting timely filed on this project. This is a referral from  
7 the Zoning Administrator. The Office of Planning is  
8 recommending denial of the application, and a waiver is needed  
9 to accept the OP report. ANC5-B is also recommending denial of  
10 the application, and that report was timely filed, and there  
11 are no requests for party status.

12 The case is now ready to go forward.

13 CHAIRPERSON REID: Okay. Give your name and  
14 address, sir.

15 MR. BAKER: Good morning, Board. My name is  
16 Nathaniel Baker, Sr. I know junior is on there, but it's  
17 senior. I own the property at 1706 Trinidad Avenue, N.E.,  
18 Washington, D.C.

19 CHAIRPERSON REID: All right. Now, what you need  
20 to do is to give us your reasons why you're requesting this  
21 variance this morning, Mr. Baker.

22 MR. BAKER: I purchased this property back in  
23 last summer, renovated it, and looked around at the need of the  
24 neighborhood. We had a lot of visitors coming by the property,  
25 mainly the local people, and what I would do with the basement.

1 I said I hadn't thought about it. They said well, just wanted  
2 to know if we say why not put a salon there.

3 I presently own one on down on H Street. That  
4 building is being sold and closed, so I did some survey in the  
5 neighborhood. In fact, it's attached. You might take a look  
6 at it, those who have it, inquire with some of the needs of the  
7 neighborhood.

8 A salon has always been part of our African  
9 American neighborhood, and it would also provide a chance to  
10 improve the neighborhood, bring service that is needed. There  
11 are many single women in the neighborhood. There are senior  
12 citizens there.

13 I've looked at the traffic problem that was  
14 raised by the commissioners. I would like to point out one  
15 thing, that in that block, the 1700 block of Trinidad Avenue is  
16 restricted so there's no all day parking. It's a one-way  
17 street, so drop off would not be a problem itself as the  
18 Commission has suggested it would be. I've looked at it.

19 Overwhelming, the community only asked me, those  
20 who would be affected directly by the beauty salon. The  
21 question is while you're doing it, why aren't you doing a  
22 barber shop, some other things. Our community needs more  
23 service itself. So, from the community standpoint. You can  
24 look at the signature there. Everybody within walking distance  
25 of the salon that would be affected more by the traffic

1 overwhelming says yes, the beauty salon is needed.

2 I petition you to approve this variance. I spoke  
3 with Mr. Jackson lately, and we were at different views. We  
4 believe that we could work out our differences.

5 CHAIRPERSON REID: Who's Mr. Jackson?

6 MR. BAKER: He's the Commissioner for -- CHAIRPERSON

7 MR. BAKER: ANC.

8 CHAIRPERSON REID: Okay.

9 MR. BAKER: I spoke with him on Saturday.

10 CHAIRPERSON REID: All right, now, Mr. Baker.

11 What we also need to do is to demonstrate how you are able to  
12 meet the three prong test for a variance in order to get the  
13 relief that you're requesting. Do you know about the three  
14 prong test?

15 MR. BAKER: Repeat that again, Madame Chair?

16 CHAIRPERSON REID: The three prong test for a  
17 variance? No one explained that to you?

18 MR. BAKER: No, ma'am.

19 CHAIRPERSON REID: Let me just kind of briefly go  
20 over it. In order to get a variance, basically the reason why  
21 you're here is to try to demonstrate how you meet this three  
22 prong test. One is is there anything unusual and unique about  
23 your particular property that's inherent in the land regarding  
24 the shape, the slope, the topography of the property that makes  
25 it unusual or unique or different.

1 MR. BAKER: Well, it's different because it's a  
2 residential area.

3 CHAIRPERSON REID: No, no, the lot itself, the  
4 property itself.

5 MR. BAKER: Right. You're saying is it unique or  
6 different?

7 CHAIRPERSON REID: Right. Because see, let me  
8 explain something to you.

9 MR. BAKER: Yes, okay.

10 CHAIRPERSON REID: What it is is that you have to  
11 be able to demonstrate that there is something about that  
12 property that makes it unusual and unique. There's something  
13 unique and unusual about the property such that it causes you a  
14 practical difficulty for you to be able to comply with the  
15 existing zoning regulations. This is actually a use, isn't it?

16 MR. BAKER: Right, it's an apartment.

17 CHAIRPERSON REID: This is an undue hardship for  
18 you to comply with the existing zoning regulations because you  
19 want to change the use of that particular property, change it  
20 from what is permitted in that particular district, which is  
21 the R-4.

22 MR. BAKER: Correct.

23 CHAIRPERSON REID: So, you have to be able to  
24 show why this Board should grant you a variance, which is grant  
25 you a special, give you the right to put something there that

1 is not usually permitted.

2 MR. BAKER: Right.

3 CHAIRPERSON REID: Okay, now, did you know that  
4 and are you prepared to do that?

5 MR. BAKER: I'm not prepared to do that today.

6 CHAIRPERSON REID: Okay. Notwithstanding that,  
7 all right, the three prong test is regarding the being unique  
8 and unusual and also the fact that there is an undue hardship.

9 In other words, what would cause you some type of burden to  
10 comply with the existing zoning regulations.

11 MR. BAKER: Right.

12 CHAIRPERSON REID: Then, and the use variance is  
13 the most difficult variance. Then, would there be any adverse  
14 impact as far as the use of that property impacting the  
15 community, the noise, traffic, parking, the like.

16 MR. BAKER: Right.

17 CHAIRPERSON REID: And would it be, would it  
18 impair the integrity of the building regulations and the map.

19 MR. BAKER: Right.

20 CHAIRPERSON REID: Now, the fact of the matter  
21 is, typically what I would do is say well, since you're not  
22 prepared today, then you could go and try to get some input and  
23 talk to staff and let them give you some suggestions and try to  
24 assist you in being able to make your case.

25 MR. BAKER: And postpone it for a later date,

1 you're suggesting?

2 CHAIRPERSON REID: Yes.

3 MR. BAKER: Okay.

4 CHAIRPERSON REID: But, and the other Board  
5 members will also participate in this discussion, but in this  
6 instance, looking at it, I did not see where there was anything  
7 unusual or unique about this particular property, you know. I  
8 understand that your intentions are very honorable that you  
9 want to put something there that people would need or that  
10 would be something good for the community, but nonetheless,  
11 that's not how you make the case for a zoning variance. It has  
12 to be within the auspices of the zoning regulations.

13 MR. BAKER: All right.

14 CHAIRPERSON REID: You can't just put something  
15 anywhere.

16 MR. BAKER: Right.

17 CHAIRPERSON REID: Just because you want to put  
18 it there. Then the Office of Planning also has recommended  
19 denial. We have a letter from the ANC that also recommends  
20 denial, and they have great weight. The way that it looks is  
21 that, quite frankly, it appears you had a very difficult time  
22 making a case for a variance at that particular site for a  
23 beauty salon.

24 Board members, any further discussion, questions?

25 COMMISSIONER MITTEN: Madame Chair, I think Mr.

1 Baker understands that he has some opposition, but I don't  
2 think he's really been given a full opportunity given that he  
3 didn't understand what his burden of proof was to attempt to  
4 make his case. So, I think if he desires to have a  
5 postponement to at least attempt to meet the burden, that we  
6 should entertain that.

7 CHAIRPERSON REID: Okay. Further discussion?

8 MEMBER HINTON: I agree.

9 VICE CHAIRPERSON RENSHAW: I agree also.

10 CHAIRPERSON REID: Okay. I feel that we could do  
11 that, but in this particular instance, I think that to prolong  
12 something that's inevitable doesn't make a lot of sense. I  
13 would not want to have to have him to go through a long and  
14 protracted preparation and time consumption to come back if, in  
15 fact, we felt that in giving him counsel that there was or was  
16 not a possibility. I don't think that there is, but if you  
17 feel that there is a possibility then sure, by all means.

18 I just want to be fair, you know, just to be  
19 honest with you as to what from my read looks like to me.

20 MR. BAKER: I would request the Board to give me  
21 the opportunity to at least present my case more wholly.

22 CHAIRPERSON REID: Okay.

23 MR. BAKER: And we're only talking about three  
24 months, sometime in the fall, I gather.

25 CHAIRPERSON REID: Yes. Well, whatever the next

1 available date is.

2 MR. BAKER: Right.

3 CHAIRPERSON REID: If you want to request a  
4 postponement or continuance to another date in order to be able  
5 to try to see if you can make a case?

6 MR. BAKER: Correct.

7 CHAIRPERSON REID: Okay.

8 VICE CHAIRPERSON RENSHAW: And I'd also, Madame  
9 Chair, like to ask Mr. Baker if he will be going back to the  
10 ANC to try to work out a compromise with the ANC?

11 MR. BAKER: I will do that, right.

12 VICE CHAIRPERSON RENSHAW: Good.

13 MR. BAKER: I've been talking with them. I  
14 talked with him Saturday and yesterday.

15 CHAIRPERSON REID: But what I'm concerned about  
16 is the first prong of that test. If we can get past that first  
17 prong which, unless there's something that I'm not seeing, I  
18 think that's going to be your most daunting task, is the first  
19 prong, and the second.

20 But talk to staff, and certainly if you want to,  
21 I have no problem with it.

22 Did you wish to move, make a motion to grant him  
23 the continuance?

24 MEMBER HINTON: Yes, Madame Chair. I would move  
25 that we grant a continuance for the applicant to have more time

1 to prepare his case.

2 VICE CHAIRPERSON RENSHAW: Second.

3 CHAIRPERSON REID: All in favor.

4 (Chorus of ayes.)

5 MR. BAKER: Thank you, Madame Chair and the  
6 Board.

7 CHAIRPERSON REID: The date would be -- Mr. Hart?

8 MR. HART: The date would be October 16.

9 MR. BAKER: All right. Thank you very much.

10 CHAIRPERSON REID: October 16.

11 MS. BAILEY: And that would be at 9:30 a.m.,  
12 first case in the morning.

13 MR. BAKER: All right.

14 CHAIRPERSON REID: I didn't see, Mr. Baker, when  
15 you come back to talk to counsel or talk to staff, because I  
16 didn't see a sandborn map in your submission. So, talk to them  
17 about that.

18 MR. BAKER: I certainly will. Thank you.

19 CHAIRPERSON REID: Thank you.

20 MR. BAKER: Thank you, Board.

21 CHAIRPERSON REID: Next case.

22 MS. BAILEY: Madame Chair, should I call the next  
23 case?

24 CHAIRPERSON REID: Yes.

25 MS. BAILEY: That's application 16714 of

1 Parklands, Inc., pursuant to 11 DCMR 3104.1 for a special  
2 exception to allow a deli/carryout adjunct to an apartment  
3 house accessory pool area under Section 354 in an R-5-A  
4 District at premises 1931 Savannah Street, S.E., Square 5900,  
5 Lot 20.

6 All those wishing to testify, would you please  
7 stand? Is there anyone in the audience concerning application  
8 of Parklands, Inc., No. 16714?

9 Madame Chair, it seems as if the applicants for  
10 this case have not arrived as yet.

11 CHAIRPERSON REID: All right. We can basically  
12 reverse the order and take the next case and then call them  
13 after taking the next case.

14 MS. BAILEY: Next case is application 16709 of  
15 Mr. and Mrs. William Brannon, pursuant to 11 DCMR 3103.2 for  
16 variances from the side yard requirements under Section 405,  
17 rear yard requirements under Section 404, lot occupancy  
18 requirements under Section 403 and subsection 2001.3 to allow  
19 an addition to a non-conforming structure in the CAP/R-4  
20 District at premises 301 3rd Street, S.E., Square 763, Lot 834.

21 All those wishing to testify, please stand, all  
22 those persons wishing to testify. Raise your right hand,  
23 please. Do you swear that the information that you will be  
24 giving today will be the truth? Please say I do. Thank you.

25 A few brief notes on this application, Madame

1 Chair. The property was posted and the affidavit timely filed.

2 This is a self-certified application. This project is located  
3 in the Capital Interest District, and the architect of the  
4 Capital has indicated that the project would not create any  
5 adverse impacts.

6 In addition, the project is located in ANC 6-B.  
7 The ANC has recommended approval of the application. However,  
8 a waiver is needed to accept their report in the record.

9 There also is a request for party status, and  
10 that request is from Mr. Douglas C. Dacy, D-A-C-Y.

11 Madame Chair, the application is ready to go  
12 forward.

13 CHAIRPERSON REID: Okay. Madame Chair, I'm just  
14 told that the party, Mr. Dacy, has not arrived as yet, and he's  
15 interested, obviously in testifying because he has requested to  
16 be a party.

17 CHAIRPERSON REID: Well, I mean, Mr. Dacy is  
18 requesting party status. Well, if he comes in. We have to  
19 proceed. If he comes in, then we can acknowledge him at that  
20 time.

21 MS. BAILEY: Thanks, Madame Chair.

22 CHAIRPERSON REID: If he gets here before, but  
23 actually, I think that the notification was for 9:30.

24 MS. SMITH BRANNON: Madame Chair, members of the  
25 Board, my name is Katherine Smith. My husband, Bill Brannon,

1 and I have lived on Capitol Hill for only four years, but in  
2 that short time, we have fallen in love with the historic  
3 nature of the neighborhood and the tightness of the community.

4 About a year ago, we realized that we wanted to  
5 remain in Capitol Hill, and particularly in our neighborhood  
6 and raise a family there, but we also realized we'd need a  
7 larger home. With the rising real estate property costs, we  
8 looked to our corner rental property as a very real solution.

9 301 Third Street, also known as 227 and 229 C  
10 Street, could be made into a wonderful single family home.  
11 However, as it is now, it's simply too small to raise a family  
12 in. The proposed addition would give us an additional bedroom  
13 and bath and still maintain a sizeable back yard of 15 by 25  
14 feet.

15 Not only does our proposal provide us with a  
16 large enough house to raise a small family in, but we strongly  
17 believe that by converting this two-unit rental property into a  
18 single family home, we would also be benefitting the  
19 neighborhood as a whole. Like all Capitol Hill communities,  
20 there's a careful balance between owner occupied homes and  
21 rental properties.

22 While rentals play a significant purpose and role  
23 in our community, owners of owner occupied single family homes  
24 have a significant vested interest in the community. They not  
25 only live on the Hill, but they raise their families there, and

1 they actively participate in the neighborhood. They are the  
2 backbone of any small community.

3 When we bought 301 Third Street a year ago, it  
4 was a neglected, termite-ridden two-unit absentee landlord-  
5 owned property, if I may. In that time, it took us  
6 approximately six months in which we changed what was a very  
7 unattractive property. Its poor condition, and its terrible  
8 appearance undermined the value of the neighborhood.

9 We repointed and repainted the entire building.  
10 We made a front yard that was once brick. We changed to grass.  
11 We added sod there. We planted shrubs, a tree, and we  
12 landscaped. We really fell in love with this property, and we  
13 just thought wow, this would make such a wonderful home.

14 Our neighbors have been extremely supportive of  
15 the work we have done, and when we started telling our  
16 neighbors about the idea of making it a single family home and  
17 putting an addition on it, they were even more supportive. The  
18 amount of encouragement we received really helped us move  
19 forward.

20 We have a petition with over 50 signature of  
21 neighbors, including the tenants at both the adjacent  
22 properties of 305 C Street and 225 Third Street -- excuse me,  
23 305 Third Street, 225 C Street. One couple chose not to sign -  
24 - excuse me. Of the residents within 200 feet that we were  
25 able to show our plans to, all except one couple chose to sign

1 the petition in support. That one couple did not oppose the  
2 addition. They just simply at that time chose not to sign.  
3 They actually said they might be here today, but I don't see  
4 them.

5 To date, there has only been one individual, the  
6 owner of 305 Third Street, who currently resides in Texas, who  
7 has expressed objections to the addition. My husband has made  
8 numerous attempts to address his concerns. On the other hand,  
9 we have received numerous letters of support, including one  
10 from the owners of 225 C Street, the property that we will be  
11 directly attaching to.

12 Overall, it is the overwhelming support and  
13 encouragement that we have received from our neighbors that has  
14 really helped motivate us towards doing not only just fixing up  
15 our property because I mean, my husband will work in the yard,  
16 and people will walk by and just be like hey, wow, you know,  
17 what great work you're doing. It really made the neighborhood  
18 feel more like a small town than most small country towns do.  
19 Also, it has helped us pursue our plans for the addition.

20 I'd like to stress that my husband and I are  
21 really committed to Capitol Hill. I'm a federal agent. My  
22 husband works for the Architect of the Capitol and is trained  
23 as an architectural designer. We would not want to do anything  
24 that would adversely impact the neighborhood or the neighbors  
25 we want to have as our friends for many, many years to come.

1 That is why this design and application has taken us more than  
2 just over a year to bring to this point.

3 Last spring, we brought our design to the D.C.  
4 Historical Preservation Review and worked with them to create a  
5 design that would better integrate this rather difficult corner  
6 property with its neighboring buildings. Since then, as you  
7 know, we have received support from the ANC and the Capitol  
8 Hill Restoration Society.

9 Overall, without an addition, it would not be  
10 possible for us to make this property suitable for raising a  
11 family. At this point, I'd like to refer to my husband, Bill  
12 Brannon, who will show you some drawings and a model that he  
13 made that we hope will demonstrate how the property and the  
14 addition will fit with the adjacent structures and  
15 neighborhood.

16 COMMISSIONER MITTEN: You need to make sure  
17 you're on a mike.

18 MR. BRANNON: Oh, I'm sorry. I see. How am I  
19 going to do this? Maybe if I can use this mike. Okay, thank  
20 you.

21 MS. SMITH BRANNON: Bill, you have the pointer.

22 MR. BRANNON: That's right. Since I'm so close,  
23 this one might work better. Actually, initially I'd just like  
24 to give a little background as to what the property currently  
25 looks like, the layout of the current property as a two-unit

1 rental, a little bit of history maybe about the property  
2 because it is so unusual. It's a very unusual corner property.

3 This front property here historically reads it's  
4 301 Third Street, was a general store, grocery store, about the  
5 late 1800's. The property behind here, this is Third Street,  
6 S.E., and running along the side here is C Street. The  
7 property directly behind here and attached was a small home  
8 that was built about the turn of the century.

9 Both of these properties, originally  
10 historically, the entrance to this store would have been on  
11 Third Street, S.E. When it was modified to two separate rental  
12 units in 1963, the doorway along Third Street for the store was  
13 closed up. Some modifications were made to the windows, the  
14 lower windows at least. So, it no longer had an entrance along  
15 the Third Street side.

16 What occurred at that point in 1963 when it was  
17 converted to two separate rental units was a door was added  
18 along the C Street side of this property. A door was added to  
19 make it two units, and windows were changed on this front  
20 portion. This remained the same with a door that would access  
21 the upstairs rental.

22 So, what you would have is a -- what we had is a  
23 rental unit that ran, a one-bedroom rental than ran across the  
24 entire portion that was accessed from a stairway in this door  
25 and cut through the main wall here into both sides and this

1 door, which was added, that would access this lower portion.  
2 What we also had was all the plumbing, kitchen, and bathroom  
3 areas on this side here, actually the kitchen to the front of  
4 the street and the bathroom behind.

5 What I also did is a diagram of our property at  
6 301 Third Street in relation to the neighboring properties.  
7 This diagram is to show its relationship to not only in scale  
8 of the properties themselves but the amount of green space or  
9 patio area that we have in relation to some of our neighbors  
10 along Third and C Street. The blue area shows our existing  
11 property, and this black area here shows our proposed addition.

12  
13 All of the areas behind here represent patio  
14 areas, yards, green space. So, what this shows is even with  
15 this addition, we still maintain what would be a very sizeable  
16 green area, a very sizeable yard, particularly for Capitol  
17 Hill, I believe 15 feet by 25 feet exactly.

18 It also shows this area here open to the south  
19 and to the west where there's a lot of open area and green  
20 space and a lot of light, which also can be shown in this  
21 photograph. This photograph here was taken from our property,  
22 looking to the south and west towards each of our adjacent  
23 neighbor. This is a neighbor patio at 305, and this is the  
24 wall along 225 C Street that we would be attaching to.

25 This is probably the best way to show the model.

1 This is a model that I made of our property, showing the  
2 addition. What this shows to the front portion here, this  
3 being Third Street and this C Street, S.E., is this is our  
4 existing property. This is the 15-foot space between our  
5 property and 305 Third Street, S.E. This is the area which we  
6 propose for the addition.

7 We worked to set the addition back from the Third  
8 Street side to solve a variety of issues. One, along the  
9 property line wall of 305 Third Street, there are a number of  
10 windows that we did not want to block. So, we have set the  
11 addition back in an effort to not affect those windows. What  
12 is also does is it creates a less obtrusive addition from Third  
13 Street by setting it back so it is a little recessed from the  
14 streetscape. It also gives us a nice area here for that 15 by  
15 25 foot patio.

16 Other aspect is just that this is a corner lot,  
17 and corner lots, as we've discovered, are incredibly unique for  
18 not only Capitol Hill but throughout D.C. They tend to serve  
19 as an anchor for the entire block, but they also tend to have  
20 very small, if not any, back yards, any yards. What we're  
21 happy about our plan is that we end up having an addition that  
22 meets our needs for a family, but also gives us what would be a  
23 fairly sizeable yard for Capitol Hill.

24 COMMISSIONER MITTEN: I think your wife doesn't  
25 want you to forget that piece.

1 MS. SMITH BRANNON: Don't forget that.

2 MR. BRANNON: Yes, I'm sorry. This, I wanted to  
3 show in terms of the relationship of 305 Third Street so that  
4 you could visualize where this wall comes into play in relation  
5 to our property and where we're proposing for the addition.  
6 There would be attachment on 225 C Street, S.E. for this space  
7 here, but we'd only be attaching by roughly 18 inches to this  
8 property in order to facilitate this addition not having to  
9 obstruct any of those windows along this property line.

10 I also wanted to show the relationship between  
11 the heights of the adjacent properties. I don't have a model  
12 of 225 C Street, but it's a three-story addition.

13 COMMISSIONER MITTEN: Three-story house.

14 MR. BRANNON: I'm sorry, a three-story house at  
15 225 C, three story house at 305 Third, and ours what will be a  
16 not very tall two-story property. We want to follow the same  
17 roof lines of this property, which will roughly be about seven  
18 feet shorter than the adjacent property, actually both adjacent  
19 property.

20 VICE CHAIRPERSON RENSHAW: So, if I may ask, you  
21 are eliminating one of the doorways and putting on the porch?

22 MR. BRANNON: Yes. We would like to keep the  
23 existing store door, which is in the photo here. These are two  
24 separate units, so this reads as 227 and 229 C Street. We'd  
25 like to keep the 227 door, and in meeting with Historic

1 Preservation, this is historically the original door that was  
2 to the property. This simply was historically never there, we  
3 would eliminate and make into a window to pull this window and  
4 to allow light into the property.

5 So, that's shown as this window here, this as  
6 actually modified. This will stay the same as here. This  
7 originally -- we're making changes at the last minute, but this  
8 we had thought to do doors out of there, but in changing the  
9 access to the property, we would just leave this as this window  
10 right here.

11 So, the only thing that would change on this  
12 facade would be this window, and there would be a porch to  
13 unify the whole side of the property.

14 VICE CHAIRPERSON RENSHAW: And you are currently  
15 living where?

16 MR. BRANNON: Currently we live a few houses  
17 down. We don't live in the property. The tenants are now out,  
18 so we live about three houses down the street, on Third Street.

19 VICE CHAIRPERSON RENSHAW: This area right here,  
20 and I'm pointing towards this display. The front area, this  
21 would be Third Street, correct?

22 MR. BRANNON: This is Third Street.

23 VICE CHAIRPERSON RENSHAW: And this would be your  
24 parking area?

25 MR. BRANNON: This is the driveway. There are

1 curb cuts here currently. What we have done in talking with  
2 Nancy Metzger at I believe the Historic Preservation, Capitol  
3 Hill Restoration, is to allow a fence line here that would  
4 enable us to have access for parking behind the property line,  
5 which I know is something that there's a big push to keep cars  
6 and keep parking behind the line of the property. So, what  
7 this does is allows us to have either a patio or a shared use  
8 of a patio and driveway space parking behind the line of the  
9 property. So, the curb cuts remain, but the car could be  
10 concealed behind this fence line as to not impose on the  
11 property.

12 VICE CHAIRPERSON RENSHAW: And that's a locked  
13 gate that you're proposing, and it swings how? Does it swing  
14 against your neighbor's property?

15 MR. BRANNON: We haven't devised how would be the  
16 most effective way. It would probably swing out against both  
17 sides, but only to the line here and here to allow a vehicle  
18 in, but at the same time, we want it to be secure enough,  
19 private enough, that it doesn't disrupt people walking by and  
20 seeing. We also want it to just block the lower portion of  
21 this as well.

22 So, it makes it private for us while keeping it  
23 private for those walking by so that they are not affected. So  
24 this, in a sense, helps solve several issues that we had.

25 MEMBER GRIFFIS: Madame Chair, can I ask a quick

1 question. On the fenestration on the back side, on the  
2 existing building, if you turn it this way, there are actually  
3 no -- actually if you turn it around to look at the rear of the  
4 building existing, there are no current windows in the top  
5 floor, correct?

6 MR. BRANNON: There are no windows along this  
7 wall?

8 MEMBER GRIFFIS: Right. You're proposing that in  
9 the addition to add fenestration along that elevation, the  
10 elevation that looks out --

11 MR. BRANNON: Out onto Third Street.

12 MEMBER GRIFFIS: Right, onto Third Street.

13 MR. BRANNON: Windows along here, and a doorway.  
14 The doorway is going to be here. There's a window currently  
15 here. There is at this point what would be hidden behind this  
16 is where the addition is, at about this point.

17 MEMBER GRIFFIS: So that the connection from --

18 MR. BRANNON: We have a drawing. I'm sorry. I  
19 don't think we have a drawing from --

20 MEMBER GRIFFIS: I have plans.

21 MR. BRANNON: There is a doorway out with metal  
22 stairs going down to access the patio.

23 MEMBER GRIFFIS: Right, from the existing, at the  
24 area that the addition is proposed to attach.

25 MR. BRANNON: What that doorway serves as is

1 access to the upstairs.

2 MEMBER GRIFFIS: Right.

3 MR. BRANNON: The upstairs bedroom.

4 MEMBER GRIFFIS: Fenestration on the addition  
5 side on this elevation, which is actually the elevation on the  
6 building line. My looking at plans, I'm understanding that  
7 that's the bedroom, and you had actually -- and there's a  
8 kitchen on the first level, correct?

9 MR. BRANNON: Kitchen and sunroom area, yes.

10 MEMBER GRIFFIS: The windows on that elevation?

11 MR. BRANNON: Originally we had thought to put  
12 windows there. We are perfectly agreeable to  
13 -- I mean, if it's possible, to put them in. We are perfectly  
14 flexible on that issue. We don't have to have them. It would  
15 be nice to have them because all our light, the majority of our  
16 light comes from that side.

17 MEMBER GRIFFIS: And you say that that actually,  
18 if I look at this correctly, is fairly southern exposure,  
19 correct?

20 MR. BRANNON: We're on the north wall, so  
21 actually, we get light from the south.

22 MEMBER GRIFFIS: Right, exactly. So, it would be  
23 nice to have windows there.

24 MR. BRANNON: It would be.

25 MEMBER GRIFFIS: I just have plans, so I see the

1 openings of it. Has there been any talking with the design at  
2 the Architect on having higher windows, clerestory windows  
3 perhaps that would allow the natural light in? I mean, I  
4 think, frankly, it's fairly important, especially in the family  
5 room perhaps to have, and in the kitchen, the bedroom the same,  
6 but perhaps rather than -- because I noticed in one of the  
7 letters the issue of a visual connection between the adjacent  
8 buildings. Could that be mitigated in terms of placement of  
9 windows and size of windows that would still allow natural  
10 light into the addition?

11 MR. BRANNON: Actually, I think in our original  
12 design we had windows very high up placement on the lower level  
13 and maybe a window or two on the upper level to allow some  
14 light into the kitchen area but also into the upper bedroom.

15 MEMBER GRIFFIS: Right.

16 MR. BRANNON: That I think would be a benefit,  
17 certainly a benefit to us. It may also serve as more  
18 beneficial to neighbors, certainly to most directly affected at  
19 305, to break up that wall.

20 MEMBER GRIFFIS: Yes.

21 MR. BRANNON: It helps us, and I think it could  
22 be beneficial for others as well, but it's --

23 MEMBER GRIFFIS: Well, I tend to agree that it  
24 animates what could be a fairly blank brick wall.

25 MR. BRANNON: And we'd be more than willing to

1 come up with some windows that would be much more appealing.

2 VICE CHAIRPERSON RENSHAW: Madame Chair, I'd like  
3 to ask Mr. Brannon, on the plans, which are  
4 -- they don't have an exhibit number. In any case, I'm looking  
5 at the plans, and the second floor, is that the window that you  
6 are talking about where my mail --

7 MR. BRANNON: This right here, yes.

8 VICE CHAIRPERSON RENSHAW: Might be on that back  
9 wall?

10 MS. SMITH BRANNON: That's the window in the  
11 second story bedroom.

12 MR. BRANNON: It would be right here. In redoing  
13 it in the model, we made it without doing the windows, but the  
14 window would be right there.

15 VICE CHAIRPERSON RENSHAW: So, you are proposing  
16 a window right there, and on the first floor, you are proposing  
17 turning in the plans. You are proposing --

18 MR. BRANNON: We are proposing a window below.

19 VICE CHAIRPERSON RENSHAW: Just one window?

20 MR. BRANNON: Actually, I'm sorry, I believe  
21 there were two. There was one there and one there. Again,  
22 these would be windows that would be raised up so as to not be  
23 too low.

24 CHAIRPERSON REID: Do you or do you not intend to  
25 put the windows there?

1 MR. BRANNON: We originally intended to put the  
2 windows, but we remain flexible on that if it's a --

3 CHAIRPERSON REID: But whatever you submit here  
4 is supposed to be actually what, in fact, you intend to erect.

5 MR. BRANNON: Our original plan was for those  
6 windows.

7 CHAIRPERSON REID: No, not was but what do you  
8 intend to put ?

9 VICE CHAIRPERSON RENSHAW: Do we go by these  
10 plans or by that model?

11 MR. BRANNON: Yes.

12 CHAIRPERSON REID: This doesn't reflect, and Mr.  
13 Griffis just asked you a series of questions regarding --

14 MR. BRANNON: We do intend to have windows.

15 CHAIRPERSON REID: Okay, but you decided not to  
16 reflect that.

17 MS. SMITH BRANNON: Actually, we had specifically  
18 spoken to the architects.

19 COMMISSIONER MITTEN: You need to turn on the  
20 microphone.

21 MS. SMITH BRANNON: Oh, I'm sorry. We had  
22 actually specifically spoken to the architect and said that we  
23 would not put windows on that wall because after talking to ANC  
24 and to the Capitol Hill Historical Society that we were under  
25 the understanding that it's extremely frowned upon to have

1 windows, and even though it would be wonderful for us, we were  
2 like okay. I mean, we don't want to not have the addition just  
3 because we don't have windows, if that makes sense.

4 So, we said okay, we'll get rid of all windows,  
5 but I really feel that the windows would be, you know, as he  
6 said, would be a wonderful benefit, but we don't want to not  
7 have the addition if, you know.

8 MR. BRANNON: Everything we submitted originally  
9 included those windows, and we would --

10 CHAIRPERSON REID: Okay, but the issue is that we  
11 have to -- whatever we approve has to be specifically what is  
12 that what you submitted. So, we have to be very clear on what  
13 you intend to do and not intend to do. So, you're saying now  
14 that you --

15 MS. SMITH BRANNON: That we want the windows. We  
16 want the windows.

17 CHAIRPERSON REID: What you've submitted is what  
18 you are going to actually have?

19 MR. BRANNON: Yes.

20 CHAIRPERSON REID: Basically, it's just not  
21 reflected on this model.

22 MR. BRANNON: Exactly.

23 CHAIRPERSON REID: Which it should have been.

24 MR. BRANNON: Exactly.

25 VICE CHAIRPERSON RENSHAW: Perhaps you could pen

1 in while you're here where the windows might be.

2 MR. BRANNON: Yes, I could do that.

3 CHAIRPERSON REID: Right, and also, the exhibit  
4 that Mrs. Renshaw is referring to is Exhibit No. -- oh,  
5 goodness -- just one second.

6 COMMISSIONER MITTEN: I think it's Exhibit No. 7,  
7 Madame Chair.

8 CHAIRPERSON REID: No, no. Were you referring to  
9 that?

10 COMMISSIONER MITTEN: The plans?

11 CHAIRPERSON REID: No. I'm speaking of the  
12 drawings that were submitted.

13 COMMISSIONER MITTEN: Right.

14 MEMBER GRIFFIS: Right. I think it's under the  
15 cover of seven.

16 CHAIRPERSON REID: Under seven?

17 MEMBER GRIFFIS: Yes.

18 VICE CHAIRPERSON RENSHAW: Would they be that  
19 size, or would they be narrow?

20 MR. BRANNON: We want to keep the historically  
21 correct window, so we would probably maintain somewhat similar  
22 dimensions to this.

23 CHAIRPERSON REID: This is under 26.

24 MR. BRANNON: We would like these to go over what  
25 the line of -- where the windows would be.

1 CHAIRPERSON REID: You're talking about, Carol.  
2 This is under 26.

3 COMMISSIONER MITTEN: Board members, excuse me,  
4 but Board members, we can only have one conversation on the  
5 record at a time.

6 VICE CHAIRPERSON RENSHAW: We're talking about  
7 the windows which Mr. Brannon has pencilled in on this wall.

8 MR. BRANNON: What we'd like is to keep the lower  
9 two windows above what the fence line would be. So, these two  
10 windows would be over five feet, whatever the line of the --

11 MEMBER GRIFFIS: The floor line shows the base of  
12 the model, correct?

13 MR. BRANNON: Yes.

14 MEMBER GRIFFIS: Okay, and so if you turn it  
15 actually for illustration, if you turn it -- right, that angle,  
16 Ms. Renshaw, if you look at the doors, obviously that gives you  
17 a height of about, let's say, six feet, eight. So, those  
18 windows are obviously well above the floor height. In fact,  
19 it's probably close to shoulder height, if not above.

20 MR. BRANNON: Exactly, shoulder height. Since it  
21 is our kitchen, it would be above the line of the lower,  
22 certain of the lower kitchen cabinets.

23 MEMBER GRIFFIS: If I'm not mistaken also, that's  
24 in fact the family room on the first floor, correct?

25 MR. BRANNON: Yes.

1                   MEMBER GRIFFIS: According to the plans we have  
2 submitted -- I thought I saw, yes, indeed, a schematic  
3 furniture plan that would show -- in fact, perhaps seating,  
4 couch, chair on that wall. It would seem to me that in that  
5 case, you would not have people walking up to the wall. It  
6 would then be looking straight out or, in fact, the vision in  
7 from the outside would be limited in terms of the activity and  
8 the objects in the room. Is that correct?

9                   MR. BRANNON: Yes, that's correct.

10                   VICE CHAIRPERSON RENSHAW: I would also like to  
11 ask on the second floor, just out of curiosity, on the same  
12 plans that we can't seem to get a number, what is this middle  
13 space? On your addition I see a bedroom and I see stairs, but  
14 between the stairs and this bedroom in the addition, what's  
15 that?

16                   MR. BRANNON: This space would serve just as a  
17 sitting area or another additional --

18                   VICE CHAIRPERSON RENSHAW: A second floor family  
19 room.

20                   MR. BRANNON: A second floor family room or an  
21 adjacent nursery space for a bedroom. It is a space in between  
22 these, so it was difficult to develop it into a bedroom without  
23 making it so small and awkward that it would make it unusable.

24  
25                   CHAIRPERSON REID: Let me see what you're

1 referring to.

2 MR. BRANNON: So, it becomes an additional space  
3 that kind of serves this. Otherwise you would end up walking  
4 through a bedroom to get to a bedroom. By enclosing it with a  
5 hallway would make this a very small, dark room.

6 VICE CHAIRPERSON RENSHAW: Is this a fireplace  
7 against the --

8 MR. BRANNON: Fireplace.

9 VICE CHAIRPERSON RENSHAW: Fireplace against the  
10 wall. All right, and you have two bathrooms on this floor, one  
11 here.

12 MR. BRANNON: This is in the proposed addition.

13 VICE CHAIRPERSON RENSHAW: With the master suite.

14 MR. BRANNON: This would be a master suite with a  
15 walk-in closet and a master bathroom, and a bedroom set back  
16 from the Third Street side. So, it would also be a little  
17 quieter.

18 VICE CHAIRPERSON RENSHAW: And the patio is right  
19 down here.

20 MR. BRANNON: The patio would be this entire  
21 space here.

22 VICE CHAIRPERSON RENSHAW: I see.

23 MR. BRANNON: With the fence line right here.

24 VICE CHAIRPERSON RENSHAW: And this is the window  
25 that is now drawn in on the model?

1 MR. BRANNON: This right here.

2 VICE CHAIRPERSON RENSHAW: All right, and this is  
3 the front of the house right here.

4 CHAIRPERSON REID: Ms. Renshaw, there's a little  
5 confusion as to exactly what the exhibit number is, and we'll  
6 get that from staff and make sure that that is so indicated.

7 MEMBER HINTON: Madame Chair, I believe it's an  
8 attachment to Exhibit 27, which was a submission by Mr. Brannon  
9 and indicates, "Attached are current photos, plot, and plans  
10 for the addition."

11 CHAIRPERSON REID: Okay, thank you.

12 MR. BRANNON: At this point, I'd now like to turn  
13 it over to our architect to address any issues for the  
14 technical aspects of the plan that I might not have.

15 CHAIRPERSON REID: All right.

16 MR. CLARK: My name is Jerald Clark, architect  
17 representing Mr. and Mrs. Brannon. As you've noticed, this  
18 property is totally nonconforming except with FAR, which is the  
19 only thing that the property meets. The side yard is too  
20 small. The rear yard is too small. Everything about it is  
21 nonconforming. So, any change to this property will have to be  
22 done and approved by you all because you can't do anything  
23 since it's nonconforming.

24 It needs a 20-foot rear yard. It has 15 foot.  
25 It needs an eight-foot side yard. It has 3'11".

1           So, I think in closing, what we really just want  
2 to do is to just -- oh, there's one mistake. I'm sorry, one  
3 mistake on our documents to you on the application form, on the  
4 second page. It originally said that we needed a variance for  
5 the lot occupancy of 22 percent, but there was a mistake in  
6 reading the site plan, and we really only need a 13 percent  
7 variance on that issue.

8           In order to make this a viable project for these  
9 folks to have a nice house, we need from the Board an area  
10 variance under Section 3103, and we need a special exception  
11 under 3104. Under those variances and exception, we need a lot  
12 occupancy, Section 403, the rear yard section, 404, side yard  
13 section, 405, paragraphs A, B, and C. So, we need all these  
14 things in order for this project to reach fruition.

15           I'd like to address one thing that was just said  
16 earlier. Mr. Brannon was talking about the windows. We would  
17 be very happy to do clerestory windows so that they won't be  
18 objectionable to the neighbor next door, even though the  
19 windows in the side of the house next door are all full size  
20 windows facing down on the property. I think it's a good idea  
21 to use clerestory windows to give wall space and privacy for  
22 both neighbor and the Brannons. So, we'd request that. I  
23 think he made it clear, but we would like to use clerestory.  
24 That would be high windows so that you'd have to tiptoe to look  
25 out of them. That would seem to please everybody involved.

1                   That's all I have. We respectfully request that  
2 you consider our request to get these variations so that they  
3 can modify this property and make it a living residence for  
4 them. I think everybody should respect and have appreciation  
5 for that this is two rental properties, and we'll bring it into  
6 on single family residence. As nonconforming as it is, we'd  
7 like to make it conform to a single family residence. Thank  
8 you.

9                   CHAIRPERSON REID: Thank you. Questions, Board  
10 members?

11                   MEMBER HINTON: I have one.

12                   CHAIRPERSON REID: Okay.

13                   MEMBER HINTON: One question, and it has to do  
14 with maintenance of the addition. This long wall that you  
15 would be adding adjacent to your neighbor on Third Street.  
16 That wall is going to be on your property line, is that right?

17                   So, if you need to maintain something from the outside, you  
18 need to paint it or fix the windows or do something, you'll  
19 need to be on your neighbor's property in order to do that. Is  
20 that right?

21                   MR. BRANNON: Yes, that's correct.

22                   MEMBER HINTON: And it seems to me that your  
23 neighbor has a similar condition already existing in that your  
24 neighbor has a wall on your joint property line, and so any  
25 maintenance of that wall would have to be from your property,

1 from the driveway and the yard of your property.

2 MR. BRANNON: Yes, that's correct.

3 MEMBER HINTON: Are there reciprocal agreements  
4 or easements, or how is this handled? I'm not familiar with  
5 how it's handled in the District when this has to happen.

6 MR. CLARK: It's a good neighbor policy, unless  
7 you get a legal variance, and both owners have to go down and  
8 file with the Zoning Department and get a legal area.

9 MEMBER HINTON: Is it easement, a maintenance  
10 easement.

11 MR. CLARK: Easement put on their deeds, on their  
12 deeds for each property. That's one way of doing it.

13 MEMBER HINTON: So, has there ever been a  
14 problem, because you've owned this property for awhile. Has  
15 there ever been a problem with your neighbor pretty much using  
16 your property to access his building and maintain it?

17 MR. BRANNON: No.

18 MEMBER HINTON: No.

19 MS. SMITH BRANNON: No, ma'am.

20 MEMBER HINTON: And you don't anticipate that  
21 that will be a problem in the future for either side?

22 MS. SMITH BRANNON: No, ma'am.

23 MEMBER HINTON: Okay.

24 CHAIRPERSON REID: I have a question. What I'd  
25 like to know is in making your case, I didn't hear how you met

1 the three prong test for a variance. Can you please go into  
2 that?

3 MR. BRANNON: Because of the fact that what we  
4 have is a corner property that was actually historically  
5 started its life as two separate buildings, completely  
6 unrelated buildings that were combined in 1953 to make -- 1963,  
7 I'm sorry, to make two rental units, because of that, it has  
8 created, in addition to the fact that these corner properties  
9 always are peculiar. They're always unique. Just in noticing  
10 our adjacent neighboring corner properties that we have, they  
11 occupy a great percentage of their lot. Sometimes they have no  
12 back yard at all. Sometimes they have very little yard at all.

13 Because of the fact that this corner property was  
14 combined from two separate structures and what has ended up,  
15 and also additionally, because of the fact that the entrance  
16 from 301 Third Street for what was once the commercial part of  
17 the property, is that that entrance is no longer there, and  
18 both entrances now read off of the C Street side. Because of  
19 that, you enter onto a very narrow, very shallow property.

20 We technically are only occupying not even 50  
21 percent of our lot right now, and it is a very small and not  
22 particularly usable space currently to get an additional  
23 bedroom that we need for raising a family.

24 CHAIRPERSON REID: So you're saying that the  
25 property is unique and unusual because it's on a corner and

1 that it was at one time two separate that were combined.

2 MR. BRANNON: Two separate properties, two  
3 separate ages, two separate purposes originally.

4 CHAIRPERSON REID: And then the practical  
5 difficulty is what?

6 MR. BRANNON: I think the practical difficult  
7 comes from the fact that when it was created, it has made an  
8 exceptionally narrow yet long. So, you're entering into a very  
9 narrow property that's exceptionally wide. What is created by  
10 that is what we noticed in the plan, are several middle rooms  
11 that aren't usable for a bedroom unless you make it part of  
12 that far bedroom, but it doesn't gain us an actual usable  
13 bedroom. It just creates this void that we'd like to make a  
14 useful bedroom, but it doesn't work in -- it's just not  
15 possible.

16 CHAIRPERSON REID: Yes. How many bedrooms do you  
17 have now?

18 MS. SMITH BRANNON: One, two. We'll have two  
19 bedrooms, one full bath.

20 MR. BRANNON: Currently, we have two bedrooms.

21 CHAIRPERSON REID: And so you're saying the  
22 practical difficulty is the fact that that's --

23 MR. BRANNON: We need a third bedroom.

24 CHAIRPERSON REID: That third bedroom is so small  
25 that it doesn't -- you can't hardly use it?

1 MR. BRANNON: There really isn't even a way to  
2 construct with the layout of the property, to construct the  
3 third bedroom without having to walk through it in order to get  
4 to another bedroom. So, in order to make a usable bedroom, you  
5 would have to walk through that bedroom in order to get to the  
6 far end bedroom.

7 MR. CLARK: I'd like to add to that, if I may.  
8 The house also, since there's two houses, the floors don't line  
9 up, and that creates a big problem in trying to make anything  
10 work in the plan. The two floors don't line up. You come up  
11 to a landing, and then you go up some stairs to get to part of  
12 the space inside, and it's -- the floor hards aren't the same,  
13 so it makes it really a terrible problem to try to create a  
14 house out of two small houses.

15 CHAIRPERSON REID: I'm sorry, what was the last  
16 thing you said?

17 MR. CLARK: It makes it very much of a problem to  
18 create a nice house or a house period out of two small houses  
19 that are at different elevations, where the second floor is,  
20 anyway.

21 CHAIRPERSON REID: Well, what was it before?  
22 What is it right now? Isn't it a house?

23 MR. BRANNON: Right now it's two rental units.

24 MR. CLARK: A two-family flat.

25 MR. BRANNON: One family on top, or one rental on

1 top and one rental dwelling below.

2 CHAIRPERSON REID: Okay, that's right. So, your  
3 idea is to expand it, open up the space?

4 MR. BRANNON: Exactly. What I think probably  
5 posed the problem, even in the rentals, in getting more than  
6 one rental out of each of these floors, was the fact that it  
7 couldn't be done because you would be walking through a bedroom  
8 to get to that second bedroom. There's no way of even having  
9 it done the way it was currently as two separate units to get  
10 that extra bedroom in each of the units. So, it's extremely  
11 difficult in making a single family home. It's actually  
12 impossible in a single family home.

13 CHAIRPERSON REID: For a single family home, but  
14 as it exists.

15 MR. BRANNON: As it exists, it is two one-  
16 bedrooms.

17 CHAIRPERSON REID: Yes.

18 VICE CHAIRPERSON RENSHAW: I would just like to  
19 ask Mr. Brannon if he would take my marker and the second floor  
20 plan and just draw what is new. I think it is the master  
21 bathroom and the closet space. Would you just highlight the  
22 addition? We are referring to, again, what was submitted under  
23 Exhibit No. 27. So, that -- and this is not a part of your new  
24 addition?

25 MR. BRANNON: This is currently a 3'11" walk in

1 between --

2 COMMISSIONER MITTEN: Mr. Brannon, please speak  
3 in --

4 MR. BRANNON: I'm sorry. This area here is  
5 currently a 3'11" walk in between our property at 301 and 225 C  
6 Street, and we would like to enclose that as a two-story  
7 enclosure as well.

8 VICE CHAIRPERSON RENSHAW: And that affords on  
9 the second floor room for?

10 MR. BRANNON: On the second floor, it allows room  
11 for closet space. On the first floor, it would allow room for  
12 closet space, as well as for a powder room, a bathroom down  
13 there, while making this dining room area a little bit more  
14 usable.

15 VICE CHAIRPERSON RENSHAW: Would you mark on the  
16 first floor plan the new addition with the marker?

17 MEMBER GRIFFIS: I think also, Ms. Renshaw, that  
18 what I have as marked Exhibit 2 is actually the surveyors plat  
19 that shows in a hatch the addition with the existing that we  
20 can refer to also.

21 VICE CHAIRPERSON RENSHAW: Thank you. That makes  
22 a difference. Thanks.

23 CHAIRPERSON REID: I'm sorry, Mr. Brannon, are  
24 you all the contract holders, or did you purchase the property?

25 MR. BRANNON: We purchased the property.

1 CHAIRPERSON REID: With a view toward making a  
2 conversion?

3 MR. BRANNON: Initially, we purchased the  
4 property just as an investment, two-unit rental, to try and  
5 clean it up but also just to get income from it as a rental.  
6 Then we ultimately decided, based on our need for raising a  
7 family in a larger space than what we currently have, we  
8 decided with some changes to the property, it would allow us to  
9 do that.

10 CHAIRPERSON REID: Well, my question was in  
11 regard to the practical difficulty aspect of it, as it exists  
12 now, it is in compliance with the existing zoning regulations,  
13 correct?

14 MR. CLARK: No, it is not. It's a nonconforming  
15 property totally. As I said, there is not a 20-foot rear yard.  
16 There is not a side yard that's eight feet, if there's going  
17 to be a side yard. The only thing that conforms is the FAR,  
18 which is 1.8, and it doesn't cover that, and the proposal  
19 they're making doesn't --

20 CHAIRPERSON REID: It's a nonconforming use  
21 there.

22 MR. CLARK: Yes, it's a nonconforming property.

23 CHAIRPERSON REID: And does it have a certificate  
24 of occupancy?

25 MR. BRANNON: Yes.

1 MR. CLARK: Yes, it does.

2 CHAIRPERSON REID: As it exists?

3 MR. CLARK: Yes.

4 MR. BRANNON: But as it is now as two units, I  
5 think the zoning requirements were for a property of that  
6 nature, for a property in which you would have two rental  
7 units. Each rental unit would have to be a minimum of 900  
8 square feet. What we have is actually around 800 square feet,  
9 or 800 plus square feet per floor, so about 1700 or some square  
10 feet per floor. So, we're already now as a two-unit rental,  
11 under what, by current regulations, is supposed to be required  
12 for the property.

13 CHAIRPERSON REID: I understand that.

14 COMMISSIONER MITTEN: Can I just clarify that,  
15 Madame Chair, which is that there are supposed to be 900 square  
16 feet of land per dwelling unit. It's not a measure of the size  
17 of the dwelling unit. I just want to be clear about that.

18 I also want to be clear about as it exists,  
19 depending on where you interpret the entrance to be from, if  
20 you interpreted the entrance to be from C Street, then it would  
21 have a sufficient rear yard relative to C Street.

22 MR. CLARK: No, that would not be correct.

23 COMMISSIONER MITTEN: I believe there's 25 feet  
24 of depth.

25 MR. CLARK: Yes, but it only has 15 feet. The

1 Zoning Department.

2 COMMISSIONER MITTEN: Oh, you're right. I'm  
3 sorry.

4 MR. CLARK: And D.C. Zoning requires 20 feet, and  
5 you have to read the house from the C Street side.

6 COMMISSIONER MITTEN: You're right. It's 25 feet  
7 in one direction and 15.14 or something like that. You are  
8 correct.

9 MR. CLARK: Yes, and so in that state, it's  
10 nonconforming as it is.

11 COMMISSIONER MITTEN: Okay.

12 MR. CLARK: And also, this whole thing is going  
13 to have to get a new address, a legal address, that will be  
14 given by D.C. government in the zoning  
15 -- I'm not sure what department, but they'll have to give it a  
16 new address because the firemen won't be able to find 301 Third  
17 Street because it doesn't exist. It's only existing from the  
18 earlier documents, from a grocery store. Now that the property  
19 has been turned around to the other street, tax-wise and all,  
20 it still relates to 301 Third Street, but it will have to  
21 change and face the other way.

22 COMMISSIONER MITTEN: Madame Chair, I think I  
23 would still like some clarification on the differences in the  
24 elevations on the second floor in the existing structure, given  
25 that that seems to be driving the practical difficulty. When I

1 look at the second floor plan, it looks like you come up a long  
2 flight of stairs and you hit a landing, and when you hit that  
3 landing, you could then go directly through a door into a  
4 bedroom in the addition.

5 Or, you could turn to your right and go up two  
6 steps, and you would then be on what appears to be the level of  
7 the entire balance of the building. So, I don't understand --  
8 what I thought I heard you say was that the existing structures  
9 that were put together have some difference in elevation  
10 between their floors.

11 MS. SMITH BRANNON: They have a roofline and a  
12 ceiling.

13 MR. BRANNON: The difference between the two  
14 structures is actually in ceiling height and roof lines between  
15 the two properties, between the commercial side, between what  
16 was historically 301 and between 227, the blue portion.  
17 Inside, you're correct, as you walk up the stairs, you have  
18 that landing, and then there's two steps up. From there, it is  
19 level, the entire floor, between the two. Now, I'm not quite  
20 sure how it is, but it is, even though they've opened what was  
21 a supporting wall between these two structures, there is pass-  
22 through, and it's all on the same level.

23 COMMISSIONER MITTEN: Okay, now if you could then  
24 explain again because I must have just not processed what you  
25 were saying, is what is the motivation behind putting the

1 addition for the second floor on a different level?

2 MR. BRANNON: Mainly to allow for the existing  
3 door that, as you walk up those stairs, that existing door  
4 where the landing is, currently opens onto metal steps going  
5 down to the patio. We would like to maintain that floor level  
6 so that you would walk through that doorway into the master  
7 bedroom without having to step down, at least not too  
8 dramatically, into the master bedroom, or a step up, for that  
9 matter.

10 MEMBER GRIFFIS: So, you are re-using the  
11 existing stairs and the existing structure that actually has a  
12 landing that you will access the new addition?

13 MR. BRANNON: Exactly.

14 MEMBER GRIFFIS: Does that also limit or allow  
15 you to have the addition at a lesser height than would be if  
16 you brought it up to match the floor lines of the existing  
17 commercial?

18 MR. BRANNON: What the step into that master  
19 bedroom addition allows is if we step -- it does allow us to  
20 step down in relationship to the lower portion specifically  
21 because as we walk outside from the doorway onto the patio,  
22 there is two steps down to the patio area. So, what we are  
23 expecting is that there will be a step down into the kitchen  
24 area, hopefully not two steps, hopefully one. Maybe two steps,  
25 but hopefully one step down into that kitchen area, which will

1 also affect the upper bedroom, master bedroom, that we will  
2 have a step down. So the roofline will --

3 MEMBER GRIFFIS: If you can clarify, perhaps. By  
4 matching the floor level to the existing landing of the  
5 existing stair, two things happen. One, you don't have to  
6 build an entire new stair. Secondly, does that set the height  
7 of your addition, and if it does, if you had to match the floor  
8 lines, would that, in fact, increase the height of your  
9 addition?

10 MS. SMITH BRANNON: It probably just shortens the  
11 ceiling levels.

12 MR. BRANNON: What it may affect is the ceiling  
13 height. I don't think it will affect the actual height of the  
14 addition itself. What we would like to follow is the same  
15 roofline of the blue portion of the property so that it flows  
16 clear across.

17 MEMBER GRIFFIS: What are your ceiling heights on  
18 the second floor?

19 MR. BRANNON: Ceiling height on the second floor,  
20 right at about eight feet.

21 MEMBER GRIFFIS: And you have how many steps up  
22 across? You have one, two, three risers showing. So, you have  
23 approximately 18 inches. You're saying that you could, in  
24 fact, lose 18 inches on an eight-foot height in the bedroom?

25 MS. SMITH BRANNON: Yes, yes.

1 MR. BRANNON: Yes. Actually, based on what we  
2 have in the middle room, maybe on that middle room right now on  
3 the upstairs unit, we have extremely low ceiling height,  
4 probably under eight feet, really.

5 MR. CLARK: Yes, he needs at least seven feet,  
6 but I think we'll probably raise the floors inside up and down,  
7 whatever we need to do to get it to -- the idea was to try to  
8 keep the roofline the same.

9 MEMBER GRIFFIS: I think that's an absolutely  
10 important point, and I think that's one of the constraints on  
11 the site and the constraints on the building.

12 MR. CLARK: It is a constraint, yes, it really  
13 is.

14 MEMBER GRIFFIS: And perhaps a unique situation  
15 on the site itself, that you have an existing roofline that is  
16 trying to be matched. You also have an existing stair floor  
17 lines that you are trying to accommodate with the new addition.

18 MR. CLARK: Right.

19 CHAIRPERSON REID: Any further questions?

20 MR. BRANNON: I'm sorry.

21 CHAIRPERSON REID: Yes?

22 MR. BRANNON: At this point, if I could turn it  
23 over to David Sheldon, our local ANC.

24 CHAIRPERSON REID: No, not at this time.

25 MR. BRANNON: I'm sorry.

1 CHAIRPERSON REID: Excuse me. I'm going to have  
2 to take something out of sequence because I think Mr. Dacy?

3 MR. DACY: Yes.

4 CHAIRPERSON REID: Okay, usually we in the very  
5 beginning, we take up the matter of party status, but he wasn't  
6 here. So, at this time, we would like to have him come forward  
7 to discuss the request for party status, which would then --  
8 come forward, please, before we get too far into the case.

9 MR. DACY: I'm sorry, Madame Chairman. I didn't  
10 exactly know what you wanted me to do.

11 CHAIRPERSON REID: Okay. You may sit there at  
12 the mike. Sit there at the mike to talk to us.

13 MR. DACY: I don't really need a mike.

14 CHAIRPERSON REID: But the recorder does. Give  
15 your name and address, sir.

16 MR. DACY: My name is Douglas Dacy. My address  
17 is 301 Windy Hill Road, Kyle, Texas. That's a suburb of  
18 Austin, Texas. I have a prepared statement to make.

19 CHAIRPERSON REID: Okay, first of all, you had  
20 requested party status?

21 MR. DACY: I have requested party status.

22 CHAIRPERSON REID: All right.

23 MR. DACY: I've been told that I was granted  
24 party status.

25 CHAIRPERSON REID: You were?

1 MEMBER HINTON: Party status is something that  
2 the Board will decide.

3 CHAIRPERSON REID: You requested it.

4 MR. DACY: Well, I understand I requested it  
5 about three weeks ago.

6 MEMBER HINTON: Yes, sir. You request it in the  
7 file, but then the Board decides at the hearing. So, that's  
8 what we're going to do now.

9 CHAIRPERSON REID: You want to tell us why you  
10 think you should receive party status?

11 MR. DACY: Why should I?

12 CHAIRPERSON REID: Yes.

13 MR. DACY: Because I own the property next door,  
14 at 305 Third Street, S.E., and this will greatly affect my  
15 property.

16 CHAIRPERSON REID: And you think that, just to  
17 help you out some, you think that you'd be more highly affected  
18 than anyone else?

19 MR. DACY: Absolutely. I mean, I'm the main  
20 property affected.

21 CHAIRPERSON REID: All right.

22 MR. DACY: I'm very sorry I didn't know that I  
23 had not been --

24 CHAIRPERSON REID: That's okay.

25 MR. DACY: I'd requested it on May 21.

1 CHAIRPERSON REID: That's all right. It's not an  
2 automatic. You request it and then come to the BZA, and then  
3 we make the determination.

4 MR. DACY: Do I imply that I was turned down?

5 CHAIRPERSON REID: No.

6 MR. DACY: Oh, okay.

7 CHAIRPERSON REID: We're taking it up now.

8 MR. DACY: I'm very sorry.

9 CHAIRPERSON REID: We needed to hear from you the  
10 basis, although you do have it in writing, the basis on which  
11 you feel that you should be granted party status. Party status  
12 is a special category that you request so that you can ask  
13 questions or you can receive information --

14 MR. DACY: That's why I requested party status.

15 CHAIRPERSON REID: Okay, all information that is  
16 submitted by any other party in the case.

17 MR. DACY: There is no one else that I have here.  
18 I have a couple of people with me here, but I haven't  
19 requested party status for them.

20 CHAIRPERSON REID: All right, thank you very  
21 much.

22 MR. DACY: Thank you, ma'am.

23 CHAIRPERSON REID: Board members, I would move  
24 that we grant Mr. Dacy a party status.

25 COMMISSIONER MITTEN: Second.

1 MR. DACY: Thank you very much.

2 COMMISSIONER MITTEN: We have to vote on that  
3 yet.

4 MR. DACY: Oh, I'm very sorry.

5 CHAIRPERSON REID: All in favor?

6 (Chorus of ayes.)

7 CHAIRPERSON REID: Okay. Now, Mr. Dacy, now that  
8 you've been granted party status, you may now cross examine the  
9 applicant if you have any questions.

10 MR. DACY: I don't really have much --

11 MR. HART: Excuse me, Madame Chair.

12 CHAIRPERSON REID: Yes.

13 MR. HART: I believe he has to be sworn in. He  
14 wasn't here when the swearing was done.

15 CHAIRPERSON REID: You weren't here -- okay.  
16 Stand because you have to be sworn.

17 MEMBER HINTON: We also need to have the staff  
18 record the vote, please.

19 MR. DACY: I'm very sorry. I haven't understood.

20 CHAIRPERSON REID: All right, one second. Record  
21 the vote, please, Mr. Hart, first.

22 MS. BAILEY: Motion was made to grant party  
23 status. The motion was made by Mrs. Reid, seconded by Mrs.  
24 Mitten. The vote is five to zero to grant party status to Mr.  
25 Dacy. Mr. Dacy, would you please stand to take the oath?

1 Raise your right hand. I'm over here. Do you swear that the  
2 information that you will be giving today, sir, will be the  
3 truth? Please say I do.

4 MR. DACY: I do swear that.

5 MS. BAILEY: Thank you. Please be seated.

6 MR. DACY: Thank you.

7 CHAIRPERSON REID: Now, do you have any questions  
8 that you'd like to ask of Mr. Brannon?

9 MR. DACY: I will have questions to ask in the  
10 process. Would you prefer for me to ask those questions?

11 CHAIRPERSON REID: At this point, Mr. Brannon and  
12 his wife can respond to any questions that you may have, as  
13 well as the architect.

14 MR. DACY: That's correct.

15 MR. DACY: I must apologize that I came late, but  
16 I was told that my case would be the last on the agenda this  
17 morning, and so I didn't hear everything that the Brannons  
18 stated, but I have a couple of questions to ask the Brannons  
19 based upon what I have heard.

20 CHAIRPERSON REID: Okay.

21 MR. DACY: In the first place, I heard Mrs.  
22 Brannon say that --

23 CHAIRPERSON REID: No, to them. Direct it to  
24 them.

25 MR. DACY: Mrs. Brannon, I heard you state to the

1 Board that your husband had made numerous attempts to address  
2 my concerns?

3 MS. SMITH BRANNON: Yes, sir.

4 MR. DACY: Can you tell me when he made those  
5 attempts? I had two phone calls from him.

6 MS. SMITH BRANNON: Yes, sir.

7 MR. DACY: No attempt was made to --

8 CHAIRPERSON REID: No, no testifying.

9 MR. DACY: I'm very sorry. I understand.

10 CHAIRPERSON REID: Right. At this point  
11 -- you will have an opportunity to testify, Mr. Dacy.

12 MR. DACY: I understand.

13 CHAIRPERSON REID: At this point, just ask the  
14 questions.

15 MR. DACY: Yes. Could you please tell me when he  
16 made attempts to address my concerns, and what my concerns were  
17 at the time that he called?

18 MS. SMITH BRANNON: Yes, sir. On the second of  
19 May --

20 MR. DACY: Yes.

21 MS. SMITH BRANNON: My husband, Bill Brannon,  
22 called you in Texas to inform you of our plans and the BZA and  
23 ANC hearings. He asked if he could send you information  
24 detailing those plans. You said yes. You also at that time  
25 suggested that he contact Mrs. Paula Weaver, your property

1 manager.

2 On the third of May, the first of the year, Bill  
3 Brannon also contacted you in Texas to ask if you had received  
4 the package that he had Express Mailed to you on that day. You  
5 indicated that you had not yet picked it up but asked if my  
6 husband had spoken to Mrs. Weaver.

7 My husband told you yes, that he had set up a  
8 meeting with Mrs. Weaver to show her the property on the 7th of  
9 May. On the 7th of May, he met with Mrs. Weaver at the  
10 property of 301 Third Street to discuss the proposal. He  
11 showed her the plans and the property and the drawings. At the  
12 time, she indicated that it would be a nice improvement and saw  
13 no reason why you might object and would talk to you about it.

14 On the 11th of May, he then spoke to Mrs. Weaver  
15 again to ask if she had had the opportunity to speak with you.

16 She said that she had and that you felt that the addition  
17 would impact your light, air, and insurance rates. She said  
18 she was going to look into the insurance rate issue but at the  
19 time, you did not agree to the proposal.

20 On the 23rd of May, we received a letter from you  
21 stating that you would be unable to sign the letter of approval  
22 we had sent with the package because you felt that the plans  
23 would decrease the value of the house and also increase your  
24 insurance. Since then, we have also received an e-mail from  
25 you, and which my husband did respond to that e-mail. My

1 husband has provided you with not only our home number but also  
2 our e-mail address and in case you had any questions or  
3 concerns.

4 The package that he mailed to you was very  
5 specific in detailing our plans, and also he verbally provided  
6 you with the information in order to clarify any questions you  
7 might have on the proposal.

8 MR. DACY: Might I ask another question in  
9 relation to this, please? I want you to know how he attempted  
10 to address my concerns. You faithfully told me about the  
11 conversations. You faithfully stated that I had objections.  
12 Did he change the plans in order to address my concerns?

13 MS. SMITH BRANNON: This is where I'll turn it  
14 over to my husband.

15 MR. DACY: My question was how did he address my  
16 concerns, not to relate we had conversations. That's not in  
17 question.

18 MR. BRANNON: I tried to provide all the  
19 information we could as to what our design was, what our  
20 proposal was for the addition. I also tried to address it in  
21 terms of not affecting the windows that he has facing the  
22 property wall onto our property. We had initially considered  
23 to build the addition along that front property line of our  
24 property on Third Street, but in doing that, we would directly  
25 impact those five windows along his property wall.

1 CHAIRPERSON REID: You're talking to him.

2 MR. BRANNON: I'm sorry, along your property  
3 wall. We did not want to do that. We do not want to block, in  
4 effect, his light. I recognize with the fact that an addition  
5 where there is not one now on a property wall will change  
6 things. It will affect things. I am certain of that. It is  
7 something where there is a fence now, and I recognize with  
8 that, but you know, our concession was to try and get this  
9 additional room without blocking his windows, and we thought  
10 that was more vitally important to him, to you, those five  
11 windows, than a wall that hopefully would not be obtrusive.

12 We tried to address the issues of light and air  
13 and realized in the process that we actually get more sunlight  
14 from your property, from our back yard and more air from your  
15 back yard than we do from First Street. We just don't. I  
16 mean, it would be more beneficial for us if we could have built  
17 this addition, in some ways, to the front of our property line  
18 because we would have more light and air in our patio, but I  
19 mean, with our addition pushed back, clears those windows for  
20 you, but at the same time, it does make our patio darker and, I  
21 mean, it cuts out on our air. That was our concession.

22 MS. SMITH BRANNON: We talked to our insurance  
23 agent, Mr. Gene Cartwright, from State Farm Insurance because  
24 we were concerned about the mention of raising his insurance  
25 rates. At least according to our State Farm insurance agent,

1 we were told no, it would have no impact on your insurance  
2 rate, unless of course, it increased your value of your  
3 property. In terms of that, it would not increase any  
4 insurance rates in terms of fire, which I had understood was  
5 one of your concerns.

6 In terms of light and air, I know Bill mentioned  
7 that your property is just south, and there is significant open  
8 property area to the southwest, which is where most of the  
9 light and air does come from in D.C., being in the southern  
10 hemisphere.

11 MR. DACY: May I ask a further question, please?

12 CHAIRPERSON REID: Yes.

13 MR. DACY: I guess that I didn't make myself  
14 clear. Was there any significant change in your plans to  
15 address my concerns? You stated what your plans were, and Mr.  
16 Brannon was generous enough to send me the plans, which I did  
17 look at, but my question is did you change your plans at all to  
18 address any of my concerns?

19 MR. BRANNON: Initially in our design, we  
20 addressed not the concerns that he had. We addressed it in  
21 terms of the standpoint of those five windows because we  
22 thought that would be -- I mean, that was in our development  
23 phase.

24 CHAIRPERSON REID: So, you're saying you did?

25 MR. BRANNON: For the past year. That was,

1 indirectly has been addressing his windows.

2 CHAIRPERSON REID: Is the answer yes?

3 MS. SMITH BRANNON: Yes, yes, and we've only  
4 attaching to his building by 18 inches, which we also thought  
5 was his concern about attaching in terms of the insurance  
6 rates.

7 MR. DACY: May I ask another question? In other  
8 words, you thought what my concerns were, and you addressed  
9 those previous to the phone conversation, is that correct?

10 MS. SMITH BRANNON: When you spoke, and Bill, you  
11 can speak to this better, according to what we understand, the  
12 only concerns you directly told us was light and air and your  
13 insurance rates. It was not until much later that we got, or  
14 you told Mrs. Weaver about the insurance rates. It was not  
15 until much later that we received indications that you had  
16 significant other concerns, which we would be happy to address  
17 at this point.

18 The only change that we could make, if you so  
19 wish, is you know, I mean, that we talked about the windows on  
20 the one side. We had initially talked about maybe even not  
21 having those windows altogether because if you do not wish  
22 those windows to be there, even though it would be a  
23 significant impact to our addition, we could, you know, make  
24 that concession if that was something that you felt extremely  
25 strongly about or the Board felt was a significant issue.

1 We've tried very hard to address your concerns.

2 MR. DACY: May I ask another question, please?

3 Once again, I just want to come back. I understand that you  
4 imagined what my concerns were.

5 CHAIRPERSON REID: You're testifying. Just one  
6 second.

7 MR. DACY: I'm very sorry, ma'am.

8 CHAIRPERSON REID: Now, what he keeps asking and  
9 he's not getting an answer, once you were aware of his  
10 concerns, did you make -- now the timing, sequentially, once  
11 you were made aware of his concerns, did you at that time make  
12 any changes to your plans in consideration of the fact that he  
13 had raised those issues?

14 MR. BRANNON: No.

15 CHAIRPERSON REID: Okay.

16 MR. DACY: Thank you very much, Madame Chairman.  
17 You put it much better than I could have.

18 CHAIRPERSON REID: Okay, next question. Is that  
19 it?

20 MR. DACY: Those are my questions.

21 CHAIRPERSON REID: Okay.

22 MR. DACY: Well, I would like to ask -- well, no.  
23 I'll have a statement to make, if I'm allowed.

24 CHAIRPERSON REID: Yes, you will have a statement  
25 to make, but this is your opportunity --

1 MR. DACY: Those are the only questions that I  
2 need to address to them directly?

3 CHAIRPERSON REID: Okay. All right, thank you.  
4 Anyone else? Well, there are no other parties. Okay, thank  
5 you very much. Now we move to government reports. Have a seat  
6 back there. We'll bring you back up at the appropriate time.

7 MR. DACY: Thank you. I'm sorry. I didn't know  
8 the procedure.

9 CHAIRPERSON REID: Office of Planning report, I  
10 think we do have a waive of the Office of Planning report.

11 MEMBER HINTON: Madame Chair, I don't recall  
12 seeing an OP report in the file.

13 CHAIRPERSON REID: Oh, we don't have one for this  
14 case. Okay, sorry about that. No Office of Planning report.

15 MS. BAILEY: Madame Chair, but we do have a  
16 report from the architect or a letter from the Architect of the  
17 Capitol.

18 CHAIRPERSON REID: Yes, we do. I see that, but  
19 no Office of Planning. Okay, the Architect of the Capitol  
20 basically, in a letter to us dated April 12, stated that there  
21 would be no adverse effect on the Capitol Complex or the Master  
22 Plan referring to in DCMR 1201.1 or the other special  
23 objectives for which the Capitol interest was enacted.  
24 Basically that's their position. Obviously they have no  
25 problem with this particular application.

1                   No other government reports? All right, ANC?  
2 Mr. Brannon, could you please sit back and let them come up?

3                   MS. BLACK: I have a question. Do you need the  
4 Chairman's report?

5                   CHAIRPERSON REID: Yes.

6                   MS. BLACK: Or do you have our letter?

7                   CHAIRPERSON REID: I have your letter, but the  
8 chairman, if present, should give the report.

9                   MS. BLACK: Okay.

10                  MS. BAILEY: Madame Chair, just for  
11 clarification, the report was submitted a little too late,  
12 that's one day late. So, a waiver technically is required.  
13 Also, I'm not quite sure if there was an attachment, but the  
14 letter that we have in the file, the cover letter, does not  
15 contain all of the information required to be given great  
16 weight. So, those are two things that the Board may want to  
17 take up prior to getting the specifics of the ANC report.

18                  CHAIRPERSON REID: Okay. What does it not  
19 contain, Ms. Bailey? Ms. Bailey, you're saying that it does  
20 not contain something. What are you referring to?

21                  MS. BAILEY: Excuse me. I'm looking at Exhibit  
22 29, and it does not go into any great specifics about that the  
23 meeting was advertised and so forth. Now, I'm not quite sure  
24 if there was an attachment to it that I just misplaced, but  
25 Exhibit 29 just says the ANC forward proper notice to support

1 the application. It doesn't say that notice was given to the  
2 community, perhaps a little discussions about the reasons why  
3 the ANC is supporting the application. Again, there may have  
4 been an attachment that I'm just missing.

5 COMMISSIONER MITTEN: Madame Chair, if I might,  
6 although it's supposed to state what constitutes a quorum and  
7 whether or not a quorum was present, it does list the number of  
8 commissioners, and it indicates how many people were there.

9 CHAIRPERSON REID: Right, right.

10 COMMISSIONER MITTEN: So by inference, I think --

11 CHAIRPERSON REID: Right, it's there.

12 VICE CHAIRPERSON RENSHAW: It says seven

13 --

14 CHAIRPERSON REID: There are 13 members, and  
15 seven people were present, and the vote was seven to one.

16 VICE CHAIRPERSON RENSHAW: And seven  
17 commissioners constitute a quorum in the footnote.

18 COMMISSIONER MITTEN: Right.

19 MEMBER HINTON: It also says it was a properly  
20 noticed meeting.

21 CHAIRPERSON REID: So, what was it you said that  
22 was not there, Ms. Bailey?

23 MS. BAILEY: It does not identify the reasons why  
24 the ANC is supporting the application and also, it does not  
25 indicate that notices was given to the community.

1 CHAIRPERSON REID: No, it does say that the  
2 meeting was property noticed, that there was a property noticed  
3 meeting. It doesn't say the reasons why they have decided to  
4 support the application. I don't know if that's a requirement  
5 or if that can be just taken care of here this morning.

6 MS. BAILEY: Madame Chair?

7 CHAIRPERSON REID: Yes, Ms. Bailey?

8 MS. BAILEY: If the Board feels as if this is an  
9 appropriate, I just wanted to bring that to your attention, but  
10 if you feel as if it's an appropriate letter, then certainly it  
11 should be given the great to which it is entitled.

12 CHAIRPERSON REID: Sure. Thank you, Ms. Bailey,  
13 for your observation. Nonetheless, as far as I am concerned,  
14 as the record can be supplemented, which I think it will be, I  
15 have no problem with the letter.

16 COMMISSIONER MITTEN: Madame Chair, and I think  
17 another point that Ms. Bailey had made was that it was filed  
18 one day late.

19 CHAIRPERSON REID: We can, unless there is an  
20 objection, then I would move that we would waive the record to  
21 allow this particular letter to come in, even though it's late.

22 VICE CHAIRPERSON RENSHAW: Second.

23 CHAIRPERSON REID: All in favor?

24 (Chorus of ayes.)

25 MS. BLACK: All right, thank you. I'm Ann Black,

1 Chair of ANC6-B Planning and Zoning Committee. So, you've  
2 accepted our letter, I hope. David Sheldon, the SMD from 6-B-1  
3 will be addressing this matter. Thank you.

4 MR. SHELDON: Good morning. My name is David  
5 Sheldon, and I am, as Commissioner Black indicated, the  
6 Commissioner for the Advisory Neighborhood Commission 6-B-1.  
7 As such, Mr. Brannon's variance application falls under my  
8 single member district. The ANC did vote six, or rather by a  
9 vote of I believe seven to one to approve or to recommend the  
10 approval of Mr. Brannon's variance application.

11 In speaking today, I am familiar with both the  
12 vote of the ANC, the discussion that was held, the application  
13 that is presented to you today, Mr. Dacy's opposition, and he  
14 was kind enough to forward a letter to me that he had sent to  
15 the BZA, and most importantly, I can say how this variance and  
16 how this property change will impact upon 6-B-1.

17 In that regard, Mr. Dacy and I have attempted on  
18 a number of occasions to communicate with one another, along  
19 with Mr. Brannon. Mr. Brannon made himself available to meet  
20 with Mr. Dacy before this meeting to resolve concerns, and I  
21 think both parties here have made attempts to communicate with  
22 one another and aren't at fault in terms of not keeping each  
23 other informed.

24 That said, I think that this is a matter where  
25 two parties have differing views, and it's up to this Board to

1 decide what it is going to. I think that there are compelling  
2 reasons why the Board should grant a variance in this case and  
3 why the ANC voted the way it did. This is, as you've already  
4 indicated, an unusual property. It was first designed as a  
5 store. It's similar to the property at the corner of Second  
6 Street and E Street, S.E., which was a store that was very  
7 similar in nature to this store, and how this property then  
8 became modified into a two-dwelling unit establishment and  
9 rental apartment, which is what it is today.

10 I first met Mr. Brannon several years ago when he  
11 started improving this property. This property lies at a very  
12 critical point on Capitol Hill insofar as the avenue between  
13 Pennsylvania Avenue --it's the first block that you come to as  
14 you take a right off of Pennsylvania Avenue on Third Street.  
15 The next block is Folger Park, and then X Park, and then beyond  
16 that Garfield Park.

17 As you walk down Third Street, it's very  
18 important, and Mr. Dacy correctly observed that the property  
19 that Mr. Brannon owns is a nice looking property. He's right,  
20 except if you continue on down the street and reach this kind  
21 of gap, and as I call it, an eyesore, within the block, it  
22 really interrupts it. It's the first interruption, and the  
23 second one is another project I have right now. I'm working  
24 with the American Legion to try to improve the corner of Third  
25 and I believe it's D, S.E.

1                   This is the first kind of eyesore that you get.  
2                   The Brannon's variance application will solve that problem, and  
3                   it will do so by one, improving the property by bringing  
4                   together this street by joining it, which is very common in  
5                   this area of Capitol Hill, and it will also provide for parking  
6                   that's off street, which is critical. We currently have the  
7                   corner of Pennsylvania Avenue and Third Street, Starbucks and X  
8                   and O's.

9                   We're having a lot of traffic. We're having a  
10                  lot of problems on Pennsylvania Avenue in terms of people  
11                  double parking, and I have to confess I sometimes do to drop  
12                  off my laundry. Notwithstanding that, the importance is that  
13                  parking is very important. This application variance solves  
14                  that problem.

15                  What I'm trying to say is that there is not going  
16                  to be an adverse impact. The flow of traffic along Third  
17                  Street and the visual aesthetic appeal of these properties will  
18                  be improved dramatically if this variance application is  
19                  granted.

20                  I believe that this furthers the intent of the  
21                  zoning requirements as well. The one issue before I go there,  
22                  on the intent of the zoning application, is the adverse impact.

23                  The one thing that I would say, and Mr. Brannon and his wife  
24                  and I spoke about this, is this is Third Street here. Mr. Dacy  
25                  says this wall in the back -- let me turn this around. This is

1 Mr. Dacy's property. This is Third Street and C Street. This  
2 wall here is going to be the addition to the house. That will  
3 affront Mr. Dacy's property.

4 I think in what I've read in terms of what Mr.  
5 Dacy has objected to, his concern is the heat that's coming  
6 down on this wall. I'm very familiar. My wife and I live on  
7 Duddington Place, S.E., which is very similar in terms of the  
8 type of structures that you have with depths and walls and  
9 heat. I asked Mr. Brannon and his wife whether they would be  
10 willing to perhaps mitigate the effect of that by either  
11 putting some fountains or something, which is what we do on  
12 Duddington Place, or other some type of design to be able to  
13 offset that and mitigate the heat impact because I think that  
14 may raise a concern. Mr. Brannon said he would be willing to  
15 do that.

16 I think that that's very important. I think that  
17 that addresses a concern that Mr. Dacy has raised that should  
18 be addressed. I think that these individuals are very much  
19 willing to come before this Board and work with Mr. Dacy in  
20 that regard, to address his issues.

21 In terms of the intent of the zoning regulations,  
22 I think that this is very important to kind of build back this  
23 unique property, this unusual property, into a single dwelling  
24 family home. Within this area of Capitol Hill, we're having  
25 continued problems with properties such as this that were

1 essentially modified many, many years ago and change from what  
2 they were originally supposed to be in the beginning, and  
3 that's the nature of stores becoming, you know, different and  
4 becoming residential establishments and whatnot.

5 We're currently, as an aside, having a problem  
6 with renters on the 300 block of A Street. This property  
7 itself was long neglected by the previous owners, and Mr.  
8 Brannon and his wife have worked very, very hard to upgrade the  
9 property. I believe that the addition is consistent. The ANC  
10 voted seven to one to support this.

11 The one objection was by Chairman Jarvoe, and it  
12 was based solely on the issue of whether or not Mr. Dacy's  
13 voice was heard. I can tell you that the ANC very much  
14 considered the views that may have been raised by Mr. Dacy. I  
15 say that because the things that we heard in this letter were  
16 the very things that we discussed at the ANC meeting, how this  
17 would impact on him, how it would impact in terms of light and  
18 air, and on these back walls. The ANC felt that this would very  
19 much improve and further the neighborhood.

20 Last week, and I want to close with this. I'm  
21 certainly open to any questions from either the Board or Mr.  
22 Dacy or Mr. Brannon now that I've committed him and his wife to  
23 possible mitigation efforts. Last week, and I spoke to this  
24 earlier about the flow and the interruption that this places in  
25 this block, and it is dramatic, and I'm not overestimating that

1 or overemphasizing that because I walk through this  
2 neighborhood. I talk to people, and all of the people within  
3 this neighborhood say that this is a very much -- it's a gap  
4 within this street structure. It's important in terms of how  
5 this linkage on Capitol Hill is beginning.

6 I say that because last week, I was at the  
7 rededication of Garfield Park on Saturday. I heard the mayor  
8 speak about how we need to continue Capitol Hill out. With the  
9 Results Gym going on the corner of G and Southeast, you're  
10 going to see more people travelling down these corridors, down  
11 Third Street, down Second Street. These types of gaps, these  
12 kind of eyesores, are the type of things that people don't like  
13 to walk by, and they make people, frankly, it's not improved in  
14 back, and it just doesn't look right.

15 This addition will make it look right. It  
16 completes the streetscape in a way that's profound. I think  
17 for those reasons, you have overwhelming reasons to suggest or  
18 define that this would not pose an adverse impact, and it would  
19 in fact further the intent of the Board and its zoning  
20 regulations.

21 Thank you, and obviously, I'll confer any  
22 questions.

23 CHAIRPERSON REID: Thank you. Board members? No  
24 questions? I did have a question. Looking at the pictures,  
25 now you referred to the property as being an eyesore?

1 MR. SHELDON: Yes.

2 CHAIRPERSON REID: Can you elaborate a little bit  
3 on that for me?

4 COMMISSIONER MITTEN: You need to speak into a  
5 microphone, Mr. Sheldon.

6 MR. SHELDON: Yes. This is probably the  
7 best example, and it's an old example. If you're walking down  
8 here and with the cars parked the way they currently are, as  
9 the cars are currently parked the way they are -- by the way,  
10 it looks a lot better because the Brannons painted this, as you  
11 can see.

12 CHAIRPERSON REID: Right.

13 MR. SHELDON: And they did all of this  
14 landscaping and whatnot.

15 CHAIRPERSON REID: Right.

16 MR. SHELDON: But right here, as you walk --

17 CHAIRPERSON REID: No, no, no. What I'd like you  
18 to speak to is not -- that's the way it was.

19 MR. SHELDON: Right, but it's still that way. If  
20 you look at this --

21 CHAIRPERSON REID: What I want you to speak to  
22 specifically is how it looks now.

23 MR. SHELDON: Right, and that's what I'm saying  
24 to you. Right now, as you walk down here, and I guess this is,  
25 and maybe it's an eyesore. I don't know if it's too much, but

1 if you walk down this street, it interrupts. It's not a flow.

2 In terms of urban planning when you try to bring things  
3 together, it interrupts and it creates a block. I think that  
4 that's important.

5 You have these windows. By putting up this  
6 addition and by filling this in, these three are not here  
7 anymore, but by filling that in and by putting a fence here, it  
8 completes the street in a way that it improves it very much so.

9 It fills in the street. I think that that's important.

10 CHAIRPERSON REID: Okay, thank you. Any other  
11 questions?

12 Mr. Dacy, did you have any questions of the ANC  
13 Commissioner?

14 MR. DACY: Yes.

15 CHAIRPERSON REID: Mr. Dacy, anything you'd like  
16 to say, just make sure you speak into the mike, but you can  
17 take a moment and look at the pictures if you're saying you  
18 haven't seen it.

19 MR. DACY: Thank you. I have not seen the  
20 pictures.

21 CHAIRPERSON REID: All right, then certainly.

22 MR. DACY: So, it's difficult for me to ask a  
23 specific question.

24 CHAIRPERSON REID: Okay.

25 MR. DACY: I would like to address my question,

1 Mr. Sheldon, about the eyesore.

2 CHAIRPERSON REID: Okay, now if you'd like --  
3 these are the pictures over here, like to take a moment and  
4 look at them. You can speak into that mike.

5 MR. DACY: Ladies and gentlemen of the Board --

6 CHAIRPERSON REID: But this is the time to ask  
7 questions.

8 MR. DACY: Oh, I'm very sorry. I have a simple  
9 question to ask Mr. Sheldon.

10 CHAIRPERSON REID: Okay.

11 MR. DACY: When you walk down from Pennsylvania  
12 Avenue to Third Street and you come to the corner of C and  
13 Third Street, and I presume that you say that you see an  
14 eyesore there. That's what I think, and please correct me if  
15 I'm misunderstanding you. Then you say as you continue to walk  
16 down, the space between the Brannon's duplex and my house is an  
17 eyesore. I think that's what you're addressing, is that  
18 correct?

19 MR. SHELDON: That's right.

20 MR. DACY: Would you say that a part of that  
21 eyesore is the fact that four cars are usually parked on the  
22 blacktop between my house and their house and also in the  
23 District property?

24 MR. SHELDON: Well, I think, obviously, that  
25 raises an issue, and it's a good point, and that's why the

1 Brannons are trying to park beyond the property line, within  
2 their property line, I should say. More importantly, I think,  
3 and I asked a number of different residents to kind of walk  
4 around that block, including my wife, who I value her aesthetic  
5 opinion. I have to say that I believe that you may have spoken  
6 with her on the phone. You know, she was taken by how much  
7 you've reached out to try to address the situation.

8 The view that the people, at least that we  
9 canvassed and I canvassed, was that it was an interruption and  
10 that the eyesore, by correcting that, by building in, in  
11 essence a wall by building out, it removed that. I think that,  
12 you know, whether it's the property looked bad before and it  
13 looks a lot better now because of what they did, I think that  
14 this will only enhance it even further, and in fact, I would  
15 suggest that this is going to increase the value of your  
16 property dramatically by filling that in. Rather than be an  
17 eyesore, it's going to be something that will enhance the value  
18 of your property.

19 MR. DACY: But I thought that you were addressing  
20 the issue of what it looked like now, and you refer to that as  
21 an eyesore. I want to ask you the same question. Is it  
22 terribly relevant to, in answering this question, that the  
23 eyesore should be the removal of something which hasn't yet  
24 been granted, or do you refer to the eyesore as what exists  
25 there now? That's my question.

1 MR. SHELDON: I tried to answer it, and I don't  
2 want to repeat myself.

3 MR. DACY: Well, fair enough, if you don't want  
4 to repeat yourself. I just didn't quite understand the answer  
5 because -- I'm sorry. I will ask you then just one more  
6 question. Would you think that it would remove the eyesore  
7 either now or then if, instead of having that blacktop there,  
8 there was grass, just like the Brannons have improved the  
9 property? They've done a tremendous job of improving the  
10 property.

11 Now, suppose you were walking down Third Street  
12 going in a south direction and you come to the corner of Third  
13 and C Street. You look across the street, and you see that  
14 beautiful old home that was built in 1880, I think. It used to  
15 be a grocery store, but it was remodeled to be a duplex.

16 CHAIRPERSON REID: Get to the question.

17 MR. DACY: Yes, my question is when you're  
18 walking down there, do you think that this would look better if  
19 there were grass there rather than a blacktop with four cars  
20 parked there?

21 MS. SMITH BRANNON: Can I just state one thing?  
22 I'm sorry.

23 CHAIRPERSON REID: This question is directed to  
24 Mr. Sheldon.

25 MR. SHELDON: Yes, thank you. I think that one

1 of the issues is that you're keying on is four cars versus  
2 however many. It's clear to me that the Brannons are trying to  
3 upgrade this, and you've identified another way that they could  
4 do it. I'm certainly respectful of that. That said, I still  
5 don't think that it would accomplish the goal because what I  
6 think that you need is you need the type of wall structure  
7 there. You need the type of fencing that they intend to put  
8 up, and you need to further back off that building.

9 One of the things is the kind of -- your building  
10 is very large, and when you look at this smaller building right  
11 next to it, their home, and you look at your building, it kind  
12 of towers over it. By filling that in, by kind of creating a  
13 wall there, from an architectural design sense, you finish it.

14 You complete it, and you mitigate the effect of how much your  
15 building is kind of coming over.

16 That is also true if you bring back that wall of  
17 the Brannons back further as they intend to do because you're  
18 offsetting the amount of kind of if I can, the way your  
19 building kind of rises right up on the property line and bends  
20 over.

21 MR. DACY: I would like to present this question.

22 I just want to show him this.

23 CHAIRPERSON REID: Okay.

24 MR. DACY: You say that my building towers over.

25 This is my building. That's their building.

1 MR. SHELDON: I think it's a matter of the space.

2 MR. DACY: You said considerably?

3 MR. SHELDON: It's the matter of the space. I  
4 walk all the time, and I know that you did as well, and that  
5 you took care of the -- I don't question for a moment your  
6 genuineness in terms of being a resident of Capitol Hill and  
7 providing a good rental home previously and when you lived  
8 there, but aesthetically when you walk down that street, the  
9 sense that you get because of the gap, and that's why I call it  
10 a gap, a kind of void there, it really does seem like it kind  
11 of comes over it.

12 It may not be viewed in the pictures itself. It  
13 may not come out exactly that way, but I can tell you, and from  
14 the people that I asked, would you just go walk around, and I  
15 asked a number of different people to try to get a sense of it.

16 Would you walk around and get a sense for that. That was the  
17 overwhelming view. There was kind of a void. There's an  
18 interruption in that street. This plan will complete that in  
19 both ways, by putting up that fence and by having that other  
20 wall come back out. It will kind of consolidate it.

21 I don't think it does as much. I mean, frankly,  
22 if you really wanted to do it, what you would do is you would  
23 build a complete wall up, but I think the Brannons were very  
24 sensitive to your not losing the windows that you had placed on  
25 the property line.

1 MR. DACY: A final question, sir.

2 CHAIRPERSON REID: You said that two questions  
3 ago, Mr. Dacy?

4 MR. DACY: Can I ask one more question?

5 CHAIRPERSON REID: Yes.

6 MR. DACY: The final question is these people who  
7 you said that you referred to as thinking that it was a gap  
8 there and an eyesore, were they essentially friends of the  
9 Brannons?

10 MR. SHELDON: No, they didn't know them.

11 MR. DACY: They weren't?

12 MR. SHELDON: No.

13 MR. DACY: They didn't know them?

14 MR. SHELDON: No.

15 MR. DACY: Thank you.

16 MR. SHELDON: You bet.

17 CHAIRPERSON REID: Thank you. All right, any  
18 further questions, Board members? Mr. Griffis?

19 MEMBER GRIFFIS: A quick question, Mr. Sheldon.  
20 Just to clarify in my own mind what you're saying in terms of  
21 the gap that you're speaking about, it's actually essentially  
22 urban elements often referred to perhaps as a missing tooth  
23 within a block, is that correct?

24 MR. SHELDON: Yes, yes.

25 MEMBER GRIFFIS: And what you're saying is that

1 it's not necessarily the treatment of this site per se,  
2 blacktop, grass, but rather of the building line --

3 MR. SHELDON: Yes.

4 MEMBER GRIFFIS: -- and holding the building line  
5 together which, in fact, I imagine as you walk further down the  
6 block is the undulation of connected townhouses?

7 MR. SHELDON: Correct.

8 MEMBER GRIFFIS: Okay.

9 MR. SHELDON: Thank you. Better stated.

10 CHAIRPERSON REID: Okay.

11 MR. SHELDON: Don't ask a litigator to try to do  
12 what a zoning lawyer can do.

13 CHAIRPERSON REID: Very well put, Mr. Griffis.

14 VICE CHAIRPERSON RENSHAW: Also very well put,  
15 Mr. Sheldon.

16 MR. SHELDON: It was. Okay, there are no other  
17 government reports. We move now to --

18 MR. SHELDON: Can I be excused then to go?

19 CHAIRPERSON REID: Yes.

20 MR. SHELDON: Thank you.

21 CHAIRPERSON REID: We won't tie you here.

22 MR. SHELDON: The judges always require me to do  
23 that.

24 CHAIRPERSON REID: The persons in support of the  
25 application. Is anyone here to testify? We did receive

1 several letters in support as well as the petitioner's support,  
2 and a letter from Lyle Schauer of the Capitol Hill Restoration  
3 Society in support of this application.

4 Persons and parties in opposition? That's you,  
5 Mr. Dacy. Mr. Dacy, this is the time for you to come testify.

6 MR. DACY: Madame Chairman, I don't hear too  
7 well.

8 CHAIRPERSON REID: Oh, okay. This is the time  
9 for you to be able to testify.

10 MR. DACY: Thank you very much.

11 CHAIRPERSON REID: Okay.

12 MR. DACY: Madame Chairman, I'm not used to  
13 hearings of this sort. This is the first one I have ever  
14 attended. I'm wondering if the Board members are up here, or  
15 the gentleman over here, or the --

16 CHAIRPERSON REID: No, the Board members are just  
17 the five of us.

18 MR. DACY: Just here. I'm sure that the other  
19 members are support people and need to hear what I have to say.

20 CHAIRPERSON REID: Yes, the staff, yes.

21 MR. DACY: So, I would like to address my remarks  
22 to them as well.

23 CHAIRPERSON REID: Sure.

24 MR. DACY: Is that fair?

25 CHAIRPERSON REID: That's okay. Also, on the

1 end, we have Ms. Sansone, who is our counsel from Corporation  
2 Counsel.

3 MR. DACY: I see, thank you. The five of you are  
4 the Board members, sitting behind the high part of the desk up  
5 there?

6 CHAIRPERSON REID: Right.

7 VICE CHAIRPERSON RENSHAW: And Mr. Dacy, right  
8 over here. I just want to say that we have read your material  
9 in the file, so you don't have to duplicate that material.

10 CHAIRPERSON REID: No, don't read it, but give us  
11 your salient points.

12 MR. DACY: I want to say that I want to thank you  
13 very much for permitting me to appear before you today. The  
14 reason that I've written this is because it would be more  
15 expeditious if I did read it instead of just rambling on. If  
16 you don't want me to read it, I'm prepared to give an  
17 extemporaneous defense of my position. I feel that it --

18 COMMISSIONER MITTEN: Mr. Dacy, I think the point  
19 is that if you read it, we've already read it, so we would like  
20 you to emphasize.

21 MR. DACY: Well, but I think I have other things  
22 to say here.

23 COMMISSIONER MITTEN: Yes, emphasize or if you  
24 have new points.

25 MR. DACY: And I'll emphasize those.

1 COMMISSIONER MITTEN: Great.

2 MR. DACY: I feel especially grateful to be  
3 before you today because it shows that some agencies play by  
4 the book and inform interested parties that they can  
5 participate in a process that affects them, in contrast to  
6 today when the ANC met on May 8 to hear the Brannon's request  
7 for support, I had not been notified of any such meeting that  
8 was to take place. Consequently, I had no chance to present my  
9 objection. Thus, I hope that you will understand my gratitude  
10 for allowing me to be here today.

11 I see in a statement that I just received from  
12 Ms. Weaver back there that somehow or another, it seems as  
13 though I was represented at the ANC meeting by Mr. Brannon  
14 himself who told them of my objections. I didn't submit my  
15 brief to you until May 21, but it seems like now that everybody  
16 knew my objections and took those objections into account.

17 I was told by one member of the ANC that much of  
18 the discussion centered on the fact that I was an absentee  
19 landlord. That's why I'm so terribly appreciative of being  
20 here today because I'm not sure that anybody really represented  
21 me at the ANC meeting. I don't even -- well, that's enough for  
22 that.

23 As I understand the process, each of you has had  
24 a chance to read my submission. I hope it's the last one that  
25 I submitted on May 31. Therefore, I shall not waste your time.

1 I've already thought about this in my address, Mrs. Renshaw,  
2 by repeating everything that I wrote in that submission.  
3 Rather, I'll give a kind of summary of my objections to the  
4 variances that the Brannons seek, and then would be happy to  
5 answer any questions that you might want to ask me.

6 Essentially, my case rests upon three  
7 subparagraphs of the zoning regulations. I haven't heard  
8 anything mentioned about zoning regulations here today. My  
9 discussion with you will be everything that's based upon zoning  
10 regulations because I presume that's what we're all here for  
11 today.

12 I'm going to refer to subparagraph 3103.2 which  
13 refers to, and I'm going to quote, "peculiar and practical  
14 difficulties or undue hardship" that the applicant must show.  
15 It provide relief, to my reading at least, that there is no  
16 impairment to, and this is a quote, "to the intent, purpose,  
17 and integrity of the zone plans embodied in zoning  
18 regulations."

19 The same subparagraph implies that a practical  
20 difficult is due to, and this is a quote, "exceptional  
21 narrowness, shallowness, or shape of the property." I hope  
22 that I've quoted everything property and legally.

23 Section 101 of regulations is titled,  
24 "Interpretation and applications." Subsection 101.1 states  
25 some minimal requirements, and specifically mentions in

1 paragraph A, "to provide adequate light and air," and in  
2 paragraph C, "protection of property." I hope that I have not  
3 misread subsection 101.1.

4 Now, after sending my May 31 submission, and this  
5 is going to be new material for all of you, I discovered a  
6 rather remarkable subsection 2000.2. This subsection explains  
7 restrictions on already nonconforming properties. I'm going to  
8 quote, "It shall be the intent of this title that  
9 nonconformities shall not be enlarged upon, expanded, or  
10 extended." Please note that the Brannon's property at 301  
11 Third Street is already nonconforming, and that they are  
12 seeking a variance under 2001.3.

13 I would like to submit for the record an  
14 amendment to my submission of May 31. I hope that all of you  
15 will take it into account as you form your judgments. I would  
16 like to submit this to the record. May I do that, please?

17 CHAIRPERSON REID: Yes. Speak into the mike, Mr.  
18 Dacy.

19 MR. DACY: I'm sorry. You see I'm not used to  
20 this.

21 CHAIRPERSON REID: That's all right. You're  
22 doing pretty well, though.

23 MR. DACY: I'll get used to it. Okay, now I'm  
24 going to  
25 -- well, let's see. So, this subsection -- I've already stated

1 that.

2 Now, I'm going to try to convince you that  
3 granting the variances the Brannons seek will cause significant  
4 injury to my property next door, reducing the amenity value of  
5 my house. Also, it seems evident that any hardship the  
6 Brannons suffer is not one recognized or defined in zoning  
7 regulations but rather based upon their own aspirations.

8 I have identified in my brief to you five  
9 specific ways in which my property will be damaged, and an  
10 additional way in which it will cause potential property damage  
11 to 307 Third Street, the neighbor on my right, the neighbor  
12 just to the south of me.

13 I think that the zoning regulations protect one  
14 against abuses of each of the specific claims I'm going to  
15 discuss with you today. Because my presumption is that I do  
16 not have a lot of time, I shall deal only with four harmful  
17 results of Mr. and Mrs. Brannon's plan, not all six that I had  
18 previously stated to you.

19 The first objection that I have deals with my  
20 patio, and I think that that's the main objection that I  
21 discussed with Mr. Brannon on the phone, but he didn't seem to  
22 mention it at all up here in his discussion with you. It deals  
23 with my patio. This patio is roughly 22 feet by 20 feet.  
24 Almost half of it is earth in which I always had roses and  
25 other flowers. The other half is a brick floor that is set

1 lower than the natural ground level.

2 On the north side, that is the side of concern to  
3 me where the Brannons wish to put their addition. There is a  
4 six-foot privacy fence. Then 15 feet north of the fence is the  
5 left corner of the property as it exists right now. There is a  
6 four-foot passageway between the Brannons property and 225 C  
7 Street, and I think that's shown in their plans up there. It's  
8 actually 3'11".

9 At present, if you sit in my patio, you do not  
10 have the sensation of being totally enclosed, and that's the  
11 point I'm trying to make by stating that there's 15 feet on the  
12 other side of this privacy fence. You don't have the  
13 sensation. Furthermore, when there is a breeze in the area,  
14 the patio is airy, and it's very pleasant to relax there. If  
15 the Brannon's plan is allowed, a 22-foot brick wall will  
16 replace the six-foot privacy fence and blot out all the open  
17 space that's now to the north of that privacy fence.

18 So, in addition to blocking air flow, and if the  
19 air flow, the prevailing winds in Washington are generally from  
20 the south in the summertime, if the air flow is coming up that  
21 corridor to the back of all of the other townhouses facing  
22 Third Street, there are two outlets for the air on my property.

23 One is that it can go around to the left between the C Street  
24 property and the Brannons. The other way it can go through the  
25 natural passageway, the 15-foot passageway between the present

1 duplex and my house.

2 This addition will block that flow of air. Now,  
3 in addition, radiation from the brick wall on a warm day will  
4 turn the patio into a hot box. Now, can anyone really claim  
5 that there will be no destruction to the pleasant environment I  
6 have described? Is not the removal of a major amenity contrary  
7 to Subsection 101.1 of zoning regulations?

8 Two, this is the second objection that I have.  
9 Destruction of property does not end with the patio. Although  
10 classified as a row house because it does not have a side yard,  
11 in fact is semi-detached as you can see from the pictures up  
12 there. It's the end of the row on the north side of Third  
13 Street.

14 Actually, this benefit is the main reason I  
15 bought the house in 1969 instead of other houses I was shown.  
16 One benefit is the house has five windows on the north side,  
17 and one of those windows is a living room window. It's about  
18 three feet. It's a very large living room window. I'll show  
19 it to you on the graphs. You can already see. It's the one to  
20 the rear on my second floor.

21 Now, on the west side of the living room, that is  
22 to say, the side to the back overlooking the patio, there are  
23 French doors which open up into a wrought iron balcony. On  
24 many spring and fall days in Washington, it is pleasant to open  
25 the French doors and the north side living room window to allow

1 a natural flow of air and light from the outside to replace the  
2 air conditioning.

3 The same 22-foot brick wall to which I have  
4 alluded has an east side wall as well. That's the wall that's  
5 going to fill in the space that they talked about. That's the  
6 wall on which the east side of their bedroom is supposed to be  
7 built.

8 If the Brannon's plan is permitted, there will be  
9 no space between a small portion of the side of my house, about  
10 18 inches, as they have stated, and the back of their house.  
11 This will effectively cut off all flow of air and some mid to  
12 early afternoon light. The sun is coming down at an angle from  
13 like this, and I'm sorry, at an angle like this. I'll show you  
14 from their diagram.

15 CHAIRPERSON REID: Yes, come right up.

16 MR. DACY: I'm delighted that they have this  
17 diagram here. I don't know how this works. I think that it's  
18 working something like this. Yes, this is how it is.

19 So, here's the situation.

20 CHAIRPERSON REID: Speak into the mike, now, Mr.  
21 Dacy, so we can pick you up. You can turn that one on, yes.

22 MR. DACY: The east sun will come in from this  
23 direction over here and will have light in this thing. The  
24 west sun will come down from over here. This blocks off this  
25 area and makes it a very dark area in the afternoon, and that's

1 what I'm referring to right now. And my window is in fact over  
2 here. This is -- this scale -- I'm sorry, this is not actually  
3 not drawn to scale, because their house is actually taller than  
4 this and also this window right here is lower than their  
5 bedroom window.

6 COMMISSIONER MITTEN: Mr. Dacy, just hold on.

7 MS. SMITH BRANNON: It's okay.

8 MR. DACY: Are you getting it okay? I'm sorry  
9 that I may be too animated or something like that, but this  
10 concerns me a lot, and I think that I'm referring to these  
11 particular articles in the zoning regulations about air flow  
12 and sunlight, and that's what exactly happens. So, you can  
13 imagine that in the early afternoon, almost at about a 60  
14 degree angle from the ground, the sun will go down, no sunlight  
15 in this area that existed right here before because the  
16 situation is actually like this right now.

17 So, you put this over here, blocks off the  
18 sunlight, blocks off any air flow that I'm getting through this  
19 window. I don't know what this is, I'm going to tell you the  
20 truth. It blocks off all light from that window, some light  
21 from this window right here. It won't really affect this  
22 window right here nor the upper windows, and I certainly  
23 couldn't claim that, but it certainly affects the living room  
24 window that I referred to that's nice to have open on a nice  
25 day in the spring and fall with the French doors to the back of

1 my house also open.

2 CHAIRPERSON REID: Mr. Dacy, let me ask you a  
3 question before you go any further. I was a little confused  
4 about the discrepancy of the height between the two buildings  
5 myself.

6 MR. DACY: Yes.

7 CHAIRPERSON REID: Because on the pictures, it  
8 appears that, and it's like from an angle it looks like the  
9 picture was taken, but it looks like it's about a foot or maybe  
10 two feet. I think that I heard some testimony that it was  
11 seven feet, a seven feet difference between the two heights.  
12 Could you tell me what, in your opinion, the discrepancy is?

13 MR. DACY: Well, I would like to tell you what I  
14 think the discrepancy is by moving over to one of their  
15 diagrams there.

16 CHAIRPERSON REID: Right.

17 MR. DACY: Or perhaps even showing you a diagram  
18 right here.

19 CHAIRPERSON REID: Just make sure you speak into  
20 that mike over there.

21 MR. DACY: These windows you can see right here,  
22 and I would agree with Mr. Sheldon that this is because you're  
23 looking at it in the photograph is taking there, so it looks  
24 like this is much higher than it actually is. What they want  
25 to do is, according to the plan, their bedroom windows, and I

1 was going to get this in my third point, and I'll come back to  
2 it again, will actually be higher than my living room window.

3 So, their house sits up higher than mine because  
4 it sits upon about three feet off the surface. Mine was built  
5 on just a concrete bed. So, that's going to be higher, and it  
6 does, in fact, this is a 22-foot wall. I've measured just from  
7 their own diagrams, and that's how high that will be.

8 So, the sun is coming in from this side over  
9 here, will be blocked off by the addition that they wish to  
10 build in this area right here, and that's what I was trying to  
11 point to. There is no question, if any of you would walk down  
12 Third Street and take a look into this area that Mr. Sheldon  
13 referred to as an eyesore and which I contested by saying it's  
14 an eyesore primarily because there's four cars usually parked  
15 in this so-called patio right there. It's not a patio at all.

16 It's a parking space right now. That's a euphemism. You will  
17 see exactly what I'm saying.

18 Then if you take a look at their plans, you will  
19 see that there will be considerable blockage of both air and  
20 sunlight coming from the west.

21 MEMBER GRIFFIS: Madame Chair, can I ask a  
22 question regarding the height?

23 CHAIRPERSON REID: Yes.

24 MEMBER GRIFFIS: Maybe some clarification. Can  
25 you tell me how many stories or living levels there are in your

1 building?

2 MR. DACY: In my building?

3 MEMBER GRIFFIS: Yes.

4 MR. DACY: There are three.

5 MEMBER GRIFFIS: Three, and the adjacent  
6 property, I'm showing it from the plans, there are two levels  
7 on the commercial property, correct?

8 MR. DACY: There are three stories in my  
9 building.

10 MEMBER GRIFFIS: Correct, three stories in your  
11 building.

12 MR. DACY: But you see, their house starts at a  
13 little bit higher level to begin with.

14 MEMBER GRIFFIS: Right, I understand that the  
15 grade changes.

16 MR. DACY: Yes, sir.

17 MEMBER GRIFFIS: And that's apparent with one of  
18 the photographs that we have.

19 MR. DACY: Yes.

20 MEMBER GRIFFIS: That's all.

21 MR. DACY: Thank you. Is that sufficient, Madame  
22 Chairman?

23 CHAIRPERSON REID: Thank you.

24 MR. DACY: I would just like to conclude my  
25 second point by asking a question. Since this will effectively

1 cut off air flow and some mid to early afternoon light that  
2 naturally seeks this 15-foot passageway, does their plan not  
3 diminish this amenity? This is something that's specially  
4 mentioned in paragraph 31 of the zoning regulations.

5 Let me go to my third objection now, if I might.

6 MEMBER GRIFFIS: Madame Chair, can I bring up a  
7 question regarding the issue number two. You made the  
8 statement that it cuts off air flow. I just want some very  
9 brief clarification. Does the new addition actually cover any  
10 of the existing windows?

11 MR. DACY: It doesn't actually cover the window.

12 MEMBER GRIFFIS: Okay.

13 MR. DACY: It covers the natural air flow that  
14 comes through that channel.

15 MEMBER GRIFFIS: So, in fact --

16 MR. DACY: Because they want to attach it to my  
17 house.

18 MEMBER GRIFFIS: Regarding the code of occupiable  
19 space, I imagine you might have bedrooms, living rooms, there  
20 will be existing windows in your building?

21 MR. DACY: The existing windows will be there.  
22 It just reduces the amenity value of those windows.

23 MEMBER GRIFFIS: And so an amenity value of the  
24 windows is affected rather than the blockage.

25 MR. DACY: But the amenity value both from the

1 standpoint of the way you look out and also from the standpoint  
2 of light and also from the standpoint of air.

3 MEMBER GRIFFIS: I just want to be clear in terms  
4 of actual air flow. The windows are not actually being covered  
5 up?

6 MR. DACY: No, the windows are not actually being  
7 covered up, but if you have a U-shaped thing in there, and the  
8 wind is coming from the south, there's not going to be any air  
9 over there.

10 MEMBER GRIFFIS: Right, I understand your point.

11 CHAIRPERSON REID: Am I understanding that the  
12 issue that you're raising that while now it's open --

13 MR. DACY: It's open.

14 CHAIRPERSON REID: And the air flows through that  
15 little passage breezeway, passageway or whatever --

16 MR. DACY: That's correct.

17 CHAIRPERSON REID: And when it's closed in --

18 MR. DACY: That will be blocked off.

19 CHAIRPERSON REID: That will obstruct, okay.

20 MR. DACY: It not only will block off air from my  
21 patio. It will also block off air from that passageway.  
22 That's my point.

23 MEMBER GRIFFIS: My understanding, though, and  
24 I'm not an expert, Madame Chair, however, part of the turn of  
25 the century housing regulations and then incorporated into the

1 zoning regulations, you know, like in Washington, D.C. and New  
2 York, came to the fact that dwelling units actually were built  
3 and occupied without windows. That was part of a public health  
4 initiative so that the air flow quality and the light speaks to  
5 actually operable windows within bedrooms, and in fact, our  
6 building codes will speak to that.

7 So, I just want to be clear that we don't all  
8 have ocean views necessarily. That's not what's being stated  
9 in the zoning but rather the actual pure function of light and  
10 air coming into structures.

11 MR. DACY: But, sir, I have that actual amenity  
12 now. It exists there now. It won't exist if this goes  
13 through.

14 MEMBER GRIFFIS: No, I clearly understand your  
15 point.

16 CHAIRPERSON REID: Ms. Renshaw?

17 VICE CHAIRPERSON RENSHAW: Yes, Mr. Dacy, I have  
18 a question. I wanted to know if you are protesting the  
19 attachment of the addition to your wall, the wall of your  
20 house, or is that not an issue in building in that area?

21 MR. DACY: That's a minor issue. I'm protesting  
22 the whole thing.

23 VICE CHAIRPERSON RENSHAW: No, I understand that,  
24 but I also wanted to know, and perhaps the architect can  
25 explain it or Mr. Griffis can explain it. What is the

1 requirement for attaching one house to another house?

2 MR. DACY: I don't know the requirement for  
3 attaching, but I do think, you know, if you permit me to  
4 speculate, and you don't want me to do that perhaps.

5 CHAIRPERSON REID: Wait one second.

6 MR. DACY: Even if there's a three-inch split  
7 between what they do without physically attaching is still  
8 going to have the same effect.

9 CHAIRPERSON REID: Ms. Renshaw's question,  
10 clarification regarding the attachment of one building to the  
11 other, do you know what the specifications or regulations are  
12 in that regard?

13 MEMBER HINTON: I do not, but the architect is  
14 indicating that he does, and I think maybe he could enlighten  
15 us on that.

16 MR. DACY: I just -- oh, okay. The architect  
17 knows this.

18 MR. CLARK: If you're going to attach, you either  
19 attach or you have to be five feet back. You have to attach  
20 because you can't have three inches or four inches or anything.  
21 You're either five feet off, or you're attaching.

22 MEMBER HINTON: I think the questions goes to,  
23 though, does one property owner have the right to say that they  
24 don't want the other property owner to attach?

25 MR. CLARK: No, they do not.

1 MEMBER HINTON: They don't?

2 MR. CLARK: They don't.

3 MEMBER HINTON: When it's of common property  
4 line?

5 MR. CLARK: They can have a party wall if they  
6 both agree and if it's done in the beginning, but both owners  
7 have the right to build to the face on line, absolutely. And,  
8 windows built face on line, the developer takes a chance on  
9 those windows being closed by the next addition coming up.

10 MEMBER HINTON: That's true.

11 MR. CLARK: That's the way it is.

12 CHAIRPERSON REID: Okay, thank you very much.

13 MR. DACY: Thank you, and I understand what the  
14 architect just said, but pretty soon I'll get to the back yard  
15 requirement. There's no way that they can attach without  
16 removing the back yard requirements given in zoning  
17 regulations.

18 Then I would just simply like to state about my  
19 third point is -- we're through with the wind and the air and  
20 the windows. Then there's the major issue of privacy. Their  
21 plan calls for the placement of their bedroom eastern wall only  
22 four feet from my living room window. If my drapes are drawn  
23 open and their bedroom curtains are open, there is no question  
24 that they can look into a corner of my living room, and my  
25 renters can look into their bedroom and possibly more than

1 that.

2 Ladies and gentlemen, this is six feet. This is  
3 four feet. As I look out my window, their wall would be right  
4 there. They want to put windows right there, and my window is  
5 right here. I can look through that window into their bedroom  
6 if their curtains are open. If my drapes are open, they can  
7 look from their bedroom into my living room. Can anyone deny  
8 that the reduction of privacy does not constitute a destruction  
9 of property?

10 Four, the 22-foot brick wall has another  
11 pernicious effect. For much of the year, the prevailing wind  
12 in the District is from the south. In heavy rainfalls, the  
13 water falls at an angle from south to north. With a 22-foot  
14 wall replacing the privacy fence, there will be considerable  
15 water run-off from the wall. Where will this runoff water go?  
16 Right into my patio.

17 I do not wish to exaggerate this problem, ladies  
18 and gentlemen, because most rains would not be heavy enough to  
19 cause damage, and indeed, they would not always come from the  
20 south. There is some probability that at some point in time, a  
21 very heavy rain would blow in from the south. I shall call  
22 this an event with low probability. I'm not exaggerating,  
23 maybe once every few years. In such an event, my patio would  
24 be flooded.

25 Now, I want you to know that there's only one

1 step up from my patio to a back door to the den in the back of  
2 my house. I lived in this house for 12 years and observed  
3 first-hand during driving rain storms from the south water  
4 rising in the patio up to the back step, even when there was no  
5 22-foot wall to deflect additional water in the patio.

6 Well, while there's definitely a potential for  
7 water damage, let me state that such an event carries a low  
8 probability. I'm aware of that, but if I do not worry about  
9 such events, who in the neighborhood will?

10 I'm through with my four objections, and now I  
11 would like to go to some general remarks if the Chairman would  
12 allow me to do this.

13 CHAIRPERSON REID: All right.

14 MEMBER GRIFFIS: Madame Chair, could I have a  
15 quick question on that point?

16 CHAIRPERSON REID: Sure.

17 MR. DACY: Certainly. Please ask questions. I  
18 love questions.

19 MEMBER GRIFFIS: First, I believe it was in your  
20 statement. I don't recall specifically, but you have currently  
21 an area drain in your patio, correct?

22 MR. DACY: A what?

23 MEMBER GRIFFIS: An area drain? You have a  
24 drain?

25 MR. DACY: I have a drain.

1                   MEMBER GRIFFIS:    Okay, and you're saying that  
2 you've had flooding happen before on that?

3                   MR. DACY:    Yes, never to the extent that I could  
4 imagine with additional water coming into the patio, but I have  
5 seen water come up to the back step.  I think once in 12 years  
6 I actually saw any water damage in my house.

7                   MEMBER GRIFFIS:    I see.

8                   MR. DACY:    I'm saying now that we're going to add  
9 about 50 percent or 100 percent, you know, double the amount of  
10 water.

11                  MEMBER GRIFFIS:    Right.  In terms of rain, you  
12 don't see the fact that a roofed structure with adequate  
13 drainage is actually removing the load?

14                  MR. DACY:    Sir, I'm not thinking about roofing.  
15 I'm thinking about the wall is up there and the rain just --

16                  MEMBER GRIFFIS:    Right.  However, but if you make  
17 the statement that, in fact, you're increasing the amount of  
18 water that's coming onto the patio based on the rain, rain will  
19 accumulate and run to your patio based on surfaces that it  
20 hits.  If we actually have a roof that is filling in a grade  
21 surface that would have amounted to the amount of water flowing  
22 into your patio, is it not reduced by having a roof that  
23 actually takes the water and runs it away?

24                  MR. DACY:    I suppose that you might say that if I  
25 change my roof in some sense or --

1                   MEMBER GRIFFIS: No, no, I'm not talking about  
2 your roof. I'm actually talking about the proposed addition  
3 that we're discussing today.

4                   MR. DACY: But I'm not talking about their roof,  
5 sir. I'm talking about the fact that there's a 22-foot wall  
6 and not coming on the roof but hitting here and running down  
7 the wall.

8                   MEMBER GRIFFIS: Right. No, I understand that.  
9 My point is if you have two squares that fill with water and  
10 that water you're saying both run into your patio, if I capture  
11 the water that happens on half of that area and remove it from  
12 the site, isn't that reducing, in fact, the amount of water  
13 that's coming into your --

14                  MR. DACY: I would suggest that, if they plan not  
15 to build on the property itself, you know, on the land and had  
16 a gutter someplace down at the bottom which captured the water  
17 so it wouldn't run into my patio, yes, I think that what you're  
18 saying is correct.

19                  MEMBER GRIFFIS: Well, if it wasn't on the ground  
20 and it was on the roof, would it not do the same thing?

21                  MR. DACY: But the roof is not the problem.

22                  MEMBER GRIFFIS: Okay.

23                  MR. DACY: The side wall is the problem.

24                  MEMBER GRIFFIS: Very good. Thank you.

25                  MR. DACY: As I'm trying to express, it's the

1 side wall that's the problem. It's not the roof.

2 MEMBER GRIFFIS: I understand.

3 MR. DACY: Now, in my closing minutes, well, I  
4 think it's evident that the depredations I have mentioned  
5 translate into a loss of property value. I've talked about  
6 amenity values, but I think there's a direct translation into  
7 property damage. Although I'm an economics professor who has  
8 studied the subject most of his life, I am aware that the Board  
9 needs some corroboration of how loss of amenity value  
10 translates into property destruction. I wouldn't want you to  
11 take my word for it because I'm an interested party.

12 Therefore, I sought a more specifically  
13 professional opinion. I called Southeast Realty located in  
14 Capitol Hill, and they referred me to Mr. Pete Vidi. He and  
15 his father are very well known on Capitol Hill. They've been  
16 there for years. I would like to submit for the record Mr.  
17 Vidi's appraisal of the value of my house, and his estimate of  
18 the extent of damage to it if the Brannons were to prevail at  
19 this hearing. I just received this this morning because Mr.  
20 Vidi, I actually got late. I decided well, you know, the  
21 Board's not going to trust my judgment because I'm an  
22 interested party, so I'd better get professional help on this.

23 CHAIRPERSON REID: Mr. Dacy, let me understand.

24 MR. DACY: May I submit this?

25 CHAIRPERSON REID: Yes, well, one second. Just

1 let me understand what you're submitting. An appraisal that  
2 does what?

3 MR. DACY: Mr. Vidi is an appraiser.

4 CHAIRPERSON REID: Right.

5 MR. DACY: And I called him, and I asked him to  
6 do two things for me. One, to make an appraisal of the value  
7 of my house as it stands right now.

8 CHAIRPERSON REID: Yes.

9 MR. DACY: And two, to give his empirical, or  
10 expert opinion about what the damage to my house might be if  
11 the variances requested by the Brannons were granted. So, we  
12 really have two of these, and please believe me, this is not my  
13 estimate. This is a professional estimate. I paid good money  
14 for this, and he has a reputation to protect.

15 CHAIRPERSON REID: I've not seen an appraisal of  
16 that nature before.

17 MR. DACY: No, it's not there because I just --

18 CHAIRPERSON REID: No, no, I understand that, but  
19 I don't know if that's even something that we can acknowledge.

20 COMMISSIONER MITTEN: Madame Chair, I think to be  
21 fair, if we're going to take this information into the record,  
22 that the applicants should have the opportunity to cross  
23 examine Mr. Vidi on the nature of the report.

24 CHAIRPERSON REID: On the nature or the specifics  
25 of that appraisal.

1 COMMISSIONER MITTEN: Yes.

2 MEMBER HINTON: Madame Chair, I think we also  
3 need to know what information the appraisal was based on. Was  
4 there something in writing that you gave him?

5 MR. DACY: He has a whole thick stack of  
6 information that it was based upon.

7 CHAIRPERSON REID: If it's an appraisal, then it  
8 would be based upon what the appraisal had accumulated, not  
9 anything that Mr. --

10 MEMBER HINTON: What I was referring to is he was  
11 given information about the proposal, and I want to know what  
12 he understood about the proposal that he used to base his  
13 decision on.

14 CHAIRPERSON REID: Okay.

15 MR. DACY: He got a copy of the plans that they  
16 proposed. He looked at that.

17 CHAIRPERSON REID: If we're going to --

18 MR. DACY: He looked at them. I sent him a copy  
19 of their plans.

20 MEMBER HINTON: Okay.

21 CHAIRPERSON REID: Okay. All right, go ahead.

22 MR. DACY: Can I submit it?

23 CHAIRPERSON REID: Yes.

24 MR. DACY: Would the Board be --

25 CHAIRPERSON REID: Also, did you -- Mr. Brannon

1 has not received a copy of it.

2 MR. DACY: No. He can have a copy.

3 CHAIRPERSON REID: Make sure to also give him a  
4 copy of it as well and his architect.

5 MR. DACY: I'll be happy to give him a copy.

6 CHAIRPERSON REID: Okay.

7 MR. DACY: I'll be happy to give him a copy.

8 CHAIRPERSON REID: All right. Please do so  
9 quickly.

10 MR. DACY: But for the record here, I would like  
11 to tell you what he stated. I don't think that anyone here  
12 will --

13 CHAIRPERSON REID: Okay. Why not give it to  
14 staff so they can look at copies of it while you talk to us.

15 MR. DACY: I'm very sorry, ma'am.

16 CHAIRPERSON REID: You only have one copy?

17 MR. DACY: I have three copies.

18 CHAIRPERSON REID: Okay.

19 MR. DACY: I'm sorry that only received this this  
20 morning. Ms. Weaver brought it to me because he started on  
21 this. He went to my house last Wednesday and looked at the  
22 house and looked around, studied similar properties in the  
23 District, made an appraisal of the value of my house. Then he  
24 gave a professional opinion about what he thought these -- what  
25 injury these variance might actually have to my house.

1                   His estimate is fairly modest. He said he  
2 thought that it would be between five and ten percent of the  
3 property value. I would have thought more, but this is his  
4 estimate, between five and ten percent, and that amounts to  
5 something like, on to his estimate, something like between 20  
6 and \$40,000.

7                   VICE CHAIRPERSON RENSHAW: Would you repeat that?

8                   CHAIRPERSON REID: I'm sorry, what was the last  
9 thing you said?

10                  MR. DACY: Pardon?

11                  CHAIRPERSON REID: What was the last thing you  
12 said?

13                  MR. DACY: I said that in his opinion, based upon  
14 what he considered the best empirical evidence available in the  
15 District, that he thought that the main effect of it would be  
16 what he called fenestration, and the air flow and the light  
17 that comes there now, would result in property damage of, say,  
18 from five percent to ten percent of the current market value of  
19 my property, and that came to something like 20 to \$40,000.  
20 This is his estimate. I didn't have a chance to write that in  
21 my brief because I didn't have that at the time, and that's why  
22 I wanted to submit that to the Board for your study.

23                  CHAIRPERSON REID: Okay, and fenestration, what  
24 is the fenestration? What's that?

25                  MR. DACY: That means cutting off air and light

1 flow from windows.

2 CHAIRPERSON REID: Oh, okay.

3 MR. DACY: The fenestration refers to a window,  
4 and I think the real estate term for that is that if you cut  
5 off air and light flow, that is to say, light and air flow from  
6 the windows. For example, like bringing the next door house up  
7 to my windows and actually closing them off, that would also be  
8 fenestration, to my knowledge.

9 MEMBER GRIFFIS: A fenestration is an opening in  
10 a wall.

11 MR. DACY: It's an opening.

12 MEMBER GRIFFIS: So, it's a door, it's a window.

13 VICE CHAIRPERSON RENSHAW: I have a question for  
14 Mr. Dacy. Exhibit No. 28 is your statement of May 31, and you  
15 state on page three, number six, about after checking with my  
16 insurance company, Mrs. Paula Weaver has informed me that my  
17 insurance rate would increase if the house were no longer  
18 situated at the end of the road.

19 MR. DACY: Yes.

20 VICE CHAIRPERSON RENSHAW: Open to the north  
21 side. Then in Exhibit No. 27, submitted by Bill and Kate  
22 Brannon, they state that they had spoken to your real estate  
23 agent, who was very supportive of the plan. So what, I'm  
24 wondering about the conflict here.

25 MR. DACY: I think, Ms. Renshaw, that the

1 Brannons talked to all the neighbors, including Ms. Weaver, as  
2 I understand it, and Ms. Weaver didn't know my views of it. As  
3 soon as she talked to me, she certainly said yes, this is  
4 terrible. This is something that none of us considered. This  
5 was also true of some of the other people whom I've contacted  
6 who had previously supported their petition.

7 VICE CHAIRPERSON RENSHAW: And is Paula Weaver  
8 your real estate person or your insurance?

9 MR. DACY: She's my property manager. She  
10 collects the rents and so forth for me. She works for Reuters  
11 Real Estate. She's in the audience right now if you'd like to  
12 question her. I can't question her, but if you would like to,  
13 I'd be happy to let you question her.

14 She also attended the meeting of the Capitol Hill  
15 Restoration Society because unlike ANC, I did talk to Mr.  
16 Schauer, and he allowed me to submit a statement for his  
17 meeting. I was not given that opportunity for ANC.

18 COMMISSIONER MITTEN: Madame Chair, could I just  
19 follow up on Ms. Renshaw's question?

20 CHAIRPERSON REID: Yes.

21 COMMISSIONER MITTEN: Do you have any written  
22 documentation from your insurance agent that your rates would  
23 actually increase?

24 MR. DACY: I don't have written documentation,  
25 I'm sorry. This was a -- I think this was a telephone

1 conversation she had with my insurance company, you know, the  
2 company that insures my property.

3 COMMISSIONER MITTEN: Right. I mean, given that  
4 we have your agent's representation that your insurance company  
5 said your rates would increase and then we have Ms. Smith.

6 MR. DACY: I understand that.

7 COMMISSIONER MITTEN: So, if you could get us  
8 some written documentation, then we could resolve

9 --

10 MR. DACY: I'll attempt to do that, and one of  
11 the reasons why I didn't mention this in my presentation today  
12 is because I understood that other insurance companies might  
13 have different views of this, depending upon whom they  
14 represented. I understand that, and that's why I didn't bring  
15 that up to date, because I understood that this might be a  
16 contentious point, and I really wanted to make the strongest  
17 case that I could and leave out all the contentious points  
18 because I don't think that anything that I've stated up to this  
19 point is really contentious. It just seems to be factual.

20 I don't have a written statement. I do have a  
21 written estimate from the appraisal, and so I was happy to  
22 submit that, but I don't have a written statement from the  
23 insurance company.

24 COMMISSIONER MITTEN: I just wanted to follow up  
25 on it because it was in your original statement.

1 MR. DACY: I understand exactly the point of your  
2 comment.

3 COMMISSIONER MITTEN: Okay, thank you.

4 MR. DACY: And it was part of the reason why I  
5 didn't even bring it up.

6 CHAIRPERSON REID: All right.

7 MR. DACY: Let me finish quickly.

8 CHAIRPERSON REID: Can you start to summarize  
9 because we are waiting for the appraisal piece of come in, and  
10 then we'll look at that, but in the meantime, can you just give  
11 us your closing remarks?

12 MR. DACY: Now I would like to state that in my  
13 closing minutes, I would like to state a few facts about  
14 noncompliance with zoning regulations and to address the issue  
15 of peculiar and practical difficulties that appear to be  
16 important in Subsection 3103.2 in zoning regulations.

17 The Brannons property contains, and this is going  
18 to give information about a number of questions that were  
19 raised previously. The Brannons property contains 1712 square  
20 feet. The present footprint is 918 square feet, and the  
21 percentage of lot occupancy is about 54 percent, 53.6 percent.

22 The Brannons want to raise this ratio to 74.7  
23 percent, by my estimate. This number is considerably above the  
24 60 percent maximum. Even if we were to consider that they wish  
25 to occupy a two-family dwelling, in R-4 district for a single

1 family dwelling that is totally detached, the ratio is 40  
2 percent, given the zoning regulations.

3 But, since it's now a duplex, the ratio is 60  
4 percent. So, it's certainly conforming in that respect right  
5 now because it's considered to be a flat because it's a two-  
6 family dwelling rather than a one-family dwelling.

7 Now, what do the Brannons want to do? They want  
8 to change this to a single family dwelling, and the only relief  
9 that they can get is somehow or another, if they were to  
10 violate other zoning regulations by attaching that by asking  
11 for help under the 400 number regulations, which are stated  
12 something like the following. There is a back yard  
13 requirement. The minimum is 20 feet. Presently, the duplex is  
14 15 feet. It's out of conformity.

15 There is a side yard requirement of eight feet for such a  
16 property. It's 3'11". That's out of compliance presently.

17 Now, what they would like to do is to take a  
18 structure that's already noncomplying and make it even more  
19 noncomplying than it is today, even under the assumption that  
20 they would be granted the 60 percent for a single family house,  
21 because now it becomes the end of the row. It becomes now a  
22 single family townhouse dwelling because it's connected to my  
23 property. So, in order to do that, they have to get a variance  
24 from the back yard requirement, and also a side yard  
25 requirement.

1                   Okay, now let me make my point. In doing this, I  
2 want to repeat a part of the operative sentence of Section  
3 2000.2. This is a quote, ladies and gentlemen. "It shall be  
4 the intent of this title that nonconformities shall not be  
5 enlarged upon, expanded, or extended." I don't know how the  
6 language could be any clearer than that. At least that's my  
7 reading of it. I saw nothing in Chapter 20. I heard no  
8 testimony on any regulation in zoning regulations that what the  
9 Brannons want to do satisfied zoning regulations. I only heard  
10 that they want to change an already nonconforming structure  
11 into a single family house, and that's their desire, but it's  
12 not the law as I see it.

13                   Now, to give them relief requires that they prove  
14 that there is some peculiar and exceptional practical  
15 difficulty. That's subsection 3013.2. The same subsection  
16 implies that such a difficulty would be due to some  
17 peculiarities of a lot. There are none. It's a rectangle.  
18 It's not a cone. It's not irregularly shaped. It's a nice  
19 rectangle on the corner of Third and C Street.

20                   Even if there were some peculiar and exceptional  
21 practical difficulty according to the law, according to zoning  
22 regulations, subsection 3101.6 states that the Board can grant  
23 relief, "if in the judgment of the Board the waiver will not  
24 prejudice the rights of any party." They have the burden of  
25 proof to show that they have practical difficulties defined by

1 the law, and that relief will not come at the expense of  
2 someone else. From what I've heard, they have provided  
3 neither.

4 Well, I hope that you will agree that I have at  
5 least made a plausible case, and that I would significantly be  
6 injured if you were to grant the variances that the Brannons  
7 seek. If you have any questions, I'm through with my  
8 presentation. Now, if you have any questions, I would be  
9 delighted to try to answer them.

10 CHAIRPERSON REID: Okay. Board members, any  
11 questions of Mr. Dacy? Okay.

12 MR. DACY: Thank you very much, Madame Chairman.

13 CHAIRPERSON REID: Thank you very much.

14 MR. DACY: And once again, I just must tell you  
15 that I really am appreciative of this opportunity to appear  
16 before you because I think that I've been shut out in all other  
17 discussions of this matter.

18 CHAIRPERSON REID: Okay, Mr. Dacy. Hold one  
19 second.

20 MEMBER HINTON: I do have one question, actually.  
21 At any time while you've owned this property or lived at this  
22 property, was part of this adjacent property operated as the  
23 commercial facility, or has it been residential that whole  
24 time?

25 MR. DACY: No, ma'am. I'll give you some history

1 on this, and I'll -- I bought this property in 1969. Mrs. Jean  
2 Robisher owned the corner property. I think they purchased it  
3 from her recently, as a matter of fact. They owned the empty  
4 lot next to it, which is my house. It was an empty lot. Then  
5 they owned the property at 307 Third Street also. That had  
6 once been a Chinese laundry.

7 When Mrs. Robisher bought that property, she  
8 remodeled all of these places. She remodeled the property at  
9 307 Third Street where Jerry Freedman and Bill Ayers lived for  
10 a long time. They were my neighbors. She also built my  
11 townhouse. She, too, had a Georgetown builder. She also had  
12 other properties in the neighborhood. She also -- I suppose  
13 that was at the time that the property that used to be a  
14 grocery store was turned into a duplex. I'm guessing that.

15 But at no time that I lived there was there any  
16 difference from what exists today.

17 MEMBER HINTON: Thank you.

18 MR. DACY: Thank you, ma'am.

19 CHAIRPERSON REID: Thank you very much. Now, Mr.  
20 Brannon -- excuse me, Mr. Dacy, stay there for one second. Did  
21 you have any questions of Mr. Dacy?

22 MR. BRANNON: I have questions.

23 MS. SMITH BRANNON: Do you want to ask? I have a  
24 couple of questions also.

25 CHAIRPERSON REID: Well, just one. Can one of

1 you ask?

2 MR. CLARK: Okay. I have to ask questions and  
3 rebut what he said, correct? I rebut what he said?

4 CHAIRPERSON REID: Well, no, you can just ask him  
5 if you have any questions right now, but you do have closing  
6 remarks at which point you can rebut.

7 MR. CLARK: No, I'd just rather have closing  
8 remarks.

9 CHAIRPERSON REID: Okay, all right.

10 MR. CLARK: Do you want to rebut?

11 MS. SMITH BRANNON: I just have two questions.

12 CHAIRPERSON REID: If you have questions, you can  
13 ask questions, but then right after this, you will have closing  
14 remarks that you can then rebut anything that he said if you'd  
15 like.

16 MS. SMITH BRANNON: I just have two questions.  
17 You on several occasions said we had four cars parked there.  
18 What are those four cars? I only know of two.

19 MR. DACY: I didn't take the license plates. I'm  
20 sorry, but I've seen four cars parked there.

21 MS. SMITH BRANNON: We have one car, and then I  
22 have a --

23 MR. DACY: I think you have a Jeep.

24 MS. SMITH BRANNON: We have a Ford Explorer, and  
25 then I have a government car that as of about four months ago,

1 I've started parking there because I can't park it on the  
2 street because it is a police vehicle. It's a federal agent  
3 vehicle. Those are the only two cars that we have parked in  
4 our driveway.

5 The other item I was just concerned with is, and  
6 forgive me if this is --

7 MR. DACY: This is important to you.

8 MS. SMITH BRANNON: I'm a little concerned with  
9 your stress of financial loss. Are you looking to sue us or  
10 receive some financial action from us, because I do not know if  
11 that will be, you know. Is that something that can be done  
12 after a Board meeting?

13 MR. DACY: That's a fair question. I understand  
14 your question. No, I'm not looking for any reclaiming of  
15 financial damage. I wouldn't come to you and say, you know,  
16 please give me X dollars or something like that.

17 I'm hoping that the other point about suing you  
18 would never come up, and the reason for that is because I hope  
19 the Board will think that my arguments were persuasive and  
20 provide by the zoning regulations, Mrs. Brannon, rather than  
21 your aspirations of have a single family house.

22 MS. SMITH BRANNON: And my final question is do  
23 you truly believe in your heart that by our renovation of this  
24 property, and by making this a single family home instead of a  
25 two-unit property in the movement of the neighborhood towards

1 revitalization, that that will damage the value of your  
2 property?

3 MR. DACY: Yes, ma'am, I certainly do truly  
4 believe in my heart, and mainly in my brain. I would like to  
5 elaborate on my answer.

6 You and your husband have done a marvelous job in  
7 repainting the property on the corner. You've planted grass  
8 there, and you are to be commended for that. But, I would  
9 challenge any member of the zoning board, the Board of Zoning  
10 Adjustment, to come down from Pennsylvania Avenue, walking  
11 south on Third Street, on the west side of Third Street, and  
12 approach that corner. Then I would like to ask them the  
13 question, what do you think is the most beautiful structure in  
14 this neighborhood? They would say 301 Third Street, S.E.

15 CHAIRPERSON REID: That --

16 MR. DACY: I'm sorry, I'm just trying --she asked  
17 me in my heart.

18 CHAIRPERSON REID: Exactly. Thank you very much,  
19 and you did respond to her.

20 Okay, now, we do, Mr. Dacy, have the appraisal  
21 that you gave us. We do for the record.

22 MR. DACY: Am I through now?

23 CHAIRPERSON REID: Yes.

24 MR. DACY: Once again, I want to thank you very  
25 much for listening.

1 CHAIRPERSON REID: Unless there are any questions  
2 from Board members regarding this appraisal that was submitted  
3 to us.

4 COMMISSIONER MITTEN: The only person I would  
5 want to ask questions of is the person who prepared it. I  
6 don't know if he's here. Is Mr. Vidi here?

7 MR. DACY: Who?

8 COMMISSIONER MITTEN: Mr. Vidi, who did the  
9 appraisal?

10 MR. DACY: No, he's not here. You know, could  
11 you address questions in writing or something, if you would  
12 like to do that? He's not here because I really didn't --  
13 that's a mistake I made. I didn't really think he would be  
14 necessary for him to be here because I thought that the  
15 submission that he gave had all of his explanations why he had  
16 made the appraisal that he did. I think it's pretty standard.  
17 The appraisal form is pretty standard.

18 I have not had much opportunity to look at it  
19 myself, but I also know that he has a two-page explanation  
20 about why he thought it would cause property damage. These are  
21 his words, not mine. I'm sorry, he is not here.

22 COMMISSIONER MITTEN: All right.

23 MR. DACY: I didn't deliberately tell him --

24 COMMISSIONER MITTEN: It's not my thought that  
25 you did. It's just that I have several questions that I would

1 want to pose to him, and I'm sure that the applicant do, too.  
2 So, they're at a disadvantage. We're at a disadvantage in that  
3 regard.

4 MR. DACY: They had an opportunity to do the same  
5 at this hearing.

6 COMMISSIONER MITTEN: They would be able to if  
7 you had presented Mr. Vidi.

8 MR. DACY: No, they did have an opportunity  
9 before the hearing came up. They had an opportunity to get an  
10 appraisal.

11 COMMISSIONER MITTEN: No, but given that you are  
12 presenting this as evidence, in fairness, they should have the  
13 opportunity to pose questions to the appraiser.

14 MR. DACY: I agree with that.

15 CHAIRPERSON REID: Okay, thank you very much.

16 MEMBER GRIFFIS: Madame Chair, can I just make --

17 CHAIRPERSON REID: Do you have a question?

18 MEMBER GRIFFIS: Well, not a question, just a  
19 quick comment on the appraisal, and I haven't read through all  
20 of it, but going through, I have a major concern just based on  
21 the fact that we don't have another one, perhaps, for  
22 comparison. Also the fact that what I would understand a  
23 strong argument for an appraisal to be is a current valuation  
24 and then a future valuation. It's clearly stated here that  
25 there is a current valuation done as in condition, but the

1 direct question was to estimate the economic damage. It seems  
2 to prejudice what the actual report is going to tell us.

3 MR. DACY: Well, could I --

4 MEMBER GRIFFIS: It's just a comment, not a  
5 question.

6 MR. DACY: Could I address that, please? I mean,  
7 I understand that there's an opinion that I could make. I just  
8 hope that the arguments that I've given you about amenity  
9 values somehow or another translate into economic values. If  
10 you don't believe that, of course, well then I don't have an  
11 argument.

12 MEMBER GRIFFIS: No, I'm not saying belief or  
13 non-belief. I'm just addressing the factual information of the  
14 two things that are apparent to me in just reviewing this  
15 report. You paid the appraiser, and you asked a direct  
16 question to be answered that would support your case.

17 MR. DACY: Two questions.

18 MEMBER GRIFFIS: That's absolutely fine. I just  
19 want to make it clear that we're not actually looking at an as  
20 is condition appraisal, market value today, and then the  
21 projected future value of the property.

22 CHAIRPERSON REID: Well, Mr. Griffis, on the last  
23 page of that appraisal, page three, he does go into basically  
24 stipulating that the addition would result in a devaluation of  
25 property in the range of five to ten percent.

1 MR. DACY: But there's also a two-page  
2 explanation about why that comes about.

3 CHAIRPERSON REID: Well, he defends his position.

4 MR. DACY: That's right. That's exactly what  
5 he's saying.

6 CHAIRPERSON REID: But that's his conclusion.

7 MR. DACY: This is not just based upon, you know,  
8 an off-the-cuff comment. He's been in this business for a long  
9 time, not only in the appraisal business but the real estate.  
10 His firm was located on Capitol Hill, still is, until his  
11 father had a heart attack recently. He's an appraiser in  
12 Maryland right now, but he's part of Capitol Hill real estate.

13 I'm just thinking that -- this is kind of  
14 irrelevant.

15 CHAIRPERSON REID: That's okay. That's all  
16 right. Thank you very much. We've got the appraisal and we  
17 have --

18 MR. DACY: I didn't mean that what he asked me is  
19 irrelevant. I meant what I was going to say was irrelevant.

20 CHAIRPERSON REID: His certification. Sure,  
21 sure, and also in here, he has some assumptions. In the back,  
22 he does have the resume.

23 MR. DACY: That's right.

24 CHAIRPERSON REID: Which is something I wanted to  
25 see.

1 MR. DACY: That's right.

2 CHAIRPERSON REID: He has a resume and his  
3 professional affiliations as well as the clients he's served.

4 MR. DACY: Yes. Thank all of you Board members  
5 for hearing me.

6 CHAIRPERSON REID: Thank you, Mr. Dacy. All  
7 right, closing remarks by the applicant? Are you okay?

8 MR. CLARK: Okay. In the closing remarks, am I  
9 allowed to cover the negatives of what have been put forth?

10 CHAIRPERSON REID: In rebuttal, sure.

11 MR. CLARK: Okay, rebuttal, okay. I'm going to  
12 take just a few points that I don't agree with and I think have  
13 absolutely no bearing on this whole thing.

14 It's my understanding that rain water falls  
15 vertically most of the time, and I think it's about 99 percent  
16 of the time. So, I don't think rain water is going to be a  
17 problem for Mr. Dacy, I really don't. I think one could prove  
18 that.

19 The passageway on the side that adjoins the  
20 neighbor, the passageways on Capitol Hill and other places are  
21 generally eyesores of trash and whatever. They contribute  
22 absolute zero to both neighbors because both of them have to  
23 heat the space between them. Aesthetically, they're frequently  
24 unpleasing. If they're for passage to carry out trash, they're  
25 needed, and that's the way it is. This one is not. The

1 passageway will not hurt the neighbors or Mr. Dacy, in my  
2 opinion, at all.

3 Wind, to address the issue of wind, air moves by  
4 convection. If it's hot outside, cold air comes in. It sweeps  
5 in and takes away the hot air. I don't think it's going to  
6 impact him so much to create, with the large space that he has,  
7 to create dead spaces as much as he's expressed.

8 The windows that were put on the side, the  
9 windows were put on the developer, as I said before, and it was  
10 a Hail Mary. He knew and others knew that when they put the  
11 windows on there, that the next person could build an addition,  
12 and those windows would be history. They have to be history.  
13 That's the way the construction code, zoning code, everything  
14 works.

15 His windows also look down into their privacy, so  
16 I think that's a moot issue of his complaining about being  
17 looked at from their perspective.

18 There was a complaint also about how they can see  
19 into his living room. A lot of houses on Capitol Hill and  
20 other places, the houses dance back and forth from the property  
21 line, and this conditions gets -- it happens all over. Now,  
22 you have to have three feet for the fire code so that fire  
23 doesn't jump around the corner. You're supposed to have three  
24 feet, and that's also the way it is.

25 Insurance, that I can't -- if you were to get ten

1 companies, first of all, it depends on how you'd phrase the  
2 question when you put it to them as to how they should be  
3 addressing it. I could see nothing in the way of insurance  
4 increase from my history of being in this city since 1964 and  
5 doing about 500 renovations in D.C. alone. I see nothing in  
6 that.

7 Property values, generally when your neighbor  
8 puts money in a house and improves the property, it improves  
9 your property. That's the general way it happens. I've  
10 developed property on Capitol Hill and in Glover Park and  
11 Georgetown and American University Park, and sold properties.  
12 I haven't had that happen where, unless it's something really  
13 to the detriment, you generally get an increase when you raise  
14 the values of a neighborhood.

15 He addressed a zoning issue about why they had --  
16 they were supposed to show that there was difficult with the  
17 site. Part of the difficulty is that it was a site property  
18 that they got that is nonconforming. That's part of it. The  
19 whole thing is nonconforming, and as I said before, you have to  
20 decide, you know, whether you approve these changes, but the  
21 issue is the nonconformity and the fact that the property is so  
22 difficult to make anything out of.

23 You have a family that wants to make a nice house  
24 out of this. The ANC agrees with it. Most of the neighbors  
25 agree with it. I would submit, in closing, that the Board take

1 all of this in careful consideration and very strong  
2 consideration to approve their plan for this property.

3 Thank you.

4 CHAIRPERSON REID: Thank you very much. Are  
5 there any questions, comments?

6 VICE CHAIRPERSON RENSHAW: I do have a question  
7 for the architect. If you would put the model together and  
8 attach Mr. Dacy's house at the appropriate point. Thank you.

9 You had mentioned -- we were talking about the  
10 attachment, and you said either the specifications called for  
11 attach or be five feet back?

12 MR. CLARK: That's correct.

13 VICE CHAIRPERSON RENSHAW: And if it were five  
14 feet back, where would the addition be?

15 MR. CLARK: Effectively, there wouldn't be an  
16 addition because by the time you --

17 VICE CHAIRPERSON RENSHAW: What is the length of  
18 that? I can't seem to find it on the -- the length of the  
19 addition?

20 MR. CLARK: It's 25 feet from the front of it to  
21 the attaching to the wall in the rear, the other neighbor's  
22 property line.

23 MS. SMITH BRANNON: Twenty-five feet.

24 VICE CHAIRPERSON RENSHAW: Twenty-five feet.

25 MR. CLARK: Twenty-five feet, yes. If it comes

1 off the wall, it has to be five feet. It either attaches, or  
2 it has to be five feet on either side.

3 VICE CHAIRPERSON RENSHAW: Five feet back.

4 MR. CLARK: On either side.

5 MEMBER HINTON: And the depth of that, what's  
6 going to be left as the patio is 15-1/2 feet, is that right?

7 MR. CLARK: That's correct, 15 by 25 feet.

8 MEMBER HINTON: If you stayed back five feet,  
9 then you could put an addition in there. That's about 10.5  
10 feet. That would still be five feet back from Mr. Dacy's  
11 property line. Is that correct? I can show you. We have it  
12 drawn up.

13 MR. BRANNON: That is right.

14 MR. CLARK: Approximately that. It would be a  
15 very narrow, narrow addition, which would be pretty difficult  
16 to live with with a bedroom. By the time you had the thickness  
17 of the wall, you would end up with an eight foot, ten wide  
18 bedroom or something, and the same for the family room and the  
19 same for the kitchen, which would make it pretty difficult.

20 I'm not sure it would do anything on the other  
21 side of the line.

22 MEMBER GRIFFIS: If I can, I'm trying to  
23 understand what you're saying. If you set that wall back five  
24 feet, looking at their plans in the file, that would  
25 essentially eliminate the closet if we moved the bathroom back

1 in, correct? So, you're moving that wall back towards the  
2 existing property five feet.

3 VICE CHAIRPERSON RENSHAW: So, it would remove  
4 two basins. See what I mean?

5 MEMBER GRIFFIS: Roughly, it's estimates with a  
6 jog in here, it's about 5'8" for a walk-in closet there. So,  
7 if this set back, the proposed --I guess this on plan, south  
8 wall move up towards the existing structure five feet, and you  
9 moved the bathroom with it, you would essentially do away with  
10 a closet there. My understanding of building code  
11 requirements, a closet would be required in the bedroom, so it  
12 would actually then have to be fit somewhere else.

13 CHAIRPERSON REID: Is there room?

14 VICE CHAIRPERSON RENSHAW: Where is it now?

15 CHAIRPERSON REID: Is there room? I mean, does  
16 it have dimensions?

17 VICE CHAIRPERSON RENSHAW: That's an existing  
18 bedroom in the front. So, where is the closet right now?

19 MEMBER GRIFFIS: There's a new walk-in closet as  
20 part of the addition.

21 VICE CHAIRPERSON RENSHAW: Right, I've got that,  
22 but where is the closet now?

23 MEMBER GRIFFIS: Well, the existing, on the front  
24 of the townhouse bay, the closet is adjacent to the bathroom,  
25 but I don't think that's -- that's not part of the new -- well,

1 I guess that is part of the new addition.

2 VICE CHAIRPERSON RENSHAW: It is part of the new.

3 MEMBER GRIFFIS: No, good point. In fact, the  
4 new addition on the second floor would then be adding a closet  
5 to that front bedroom.

6 MEMBER HINTON: I think, Mr. Griffis, we were  
7 looking at the outside, and we hadn't really gotten to what  
8 that would require as a redesign on the inside.

9 MEMBER GRIFFIS: Yes, I was just trying to  
10 understand, because you're trying to move that wall. You're  
11 not trying to move the common wall between, if we're looking at  
12 project plan north south, we have a party wall that's being  
13 created, correct?

14 VICE CHAIRPERSON RENSHAW: Right, it's just this  
15 wall.

16 MEMBER GRIFFIS: You're talking about connections  
17 of buildings, and then we also have on east west the connection  
18 with the structure there, which is fairly minimal. Now, it's  
19 my understanding also that there will be fire ratings based on  
20 the building type, which I would not be familiar with, and the  
21 adjacency at an angle less than 180 degrees. So, I think it's  
22 not necessarily a zoning question but obviously a building  
23 construction question about what the fire rating and what would  
24 be appropriate and not appropriate to do there.

25 MR. CLARK: Well, the window that I think is the

1 concern, maybe by setting the addition back at an angle, it can  
2 be made sure that it's three feet for the fire requirement for  
3 fire not being able to jump from one building to the other. As  
4 I mentioned before, the windows were a Hail Mary from day one  
5 because you're not really supposed to put windows in a side  
6 wall. So, that was

7 --

8 MEMBER HINTON: Now, I have another question for  
9 you.

10 MR. CLARK: A builder stretch. Yes?

11 MEMBER HINTON: Rather than moving that entire --  
12 I want to get the directions on this -- the entire wall of the  
13 addition that would be on the common line between Mr. Dacy and  
14 the Brannons, what if you moved just enough of it so that there  
15 would be five feet in both directions? So, basically you're  
16 taking out a chunk of that addition. I mean, there would still  
17 be -- the buildings wouldn't touch, and there would be some  
18 opportunity for air to move through there. Have you looked at  
19 that?

20 MR. CLARK: No, we haven't.

21 MEMBER HINTON: I guess that's the bigger  
22 picture. Have you looked at all --

23 MR. CLARK: I think, though, we have to touch.  
24 By the zoning, we have to touch in order to be a townhouse  
25 situation. Then we fall into some other zoning restriction.

1 MEMBER HINTON: But you're going to be touching  
2 the other building. You're going to be attaching to the  
3 building on --

4 MR. CLARK: Right, on the other block, yes.

5 MEMBER HINTON: On C Street.

6 MR. CLARK: Yes.

7 MEMBER HINTON: So, that makes you semi-detached,  
8 right?

9 MR. CLARK: Right.

10 MEMBER HINTON: That already puts you in that  
11 category.

12 MR. CLARK: So, you're talking about taking a  
13 bite out of the corner?

14 CHAIRPERSON REID: Yes.

15 MR. CLARK: It could work.

16 MR. BRANNON: If I could address that. I mean,  
17 certainly it is possible that we could shorten the depth of the  
18 property to Third Street and also pull it away five feet from  
19 Mr. Dacy's property at 305. What that does, however, is I  
20 think it will end up creating perhaps more problems. Certainly  
21 for us it creates the problem of a smaller room. That in  
22 itself is one.

23 Aside from that, it creates a five-foot walkway  
24 that runs 25 feet long between the two properties, which is  
25 just dead space. Additionally, it's still a two-story addition

1 that goes up 22-feet, as Mr. Dacy says, which still is just as  
2 impactive as the wall current would be if we ran it to the  
3 property line. So, I don't know whether or not it would impact  
4 it any more positively. It actually may be more of a  
5 detriment.

6 Also, from the streetfront, what you would see is  
7 a property setback from the property line in between the two,  
8 with this basically dead space, five feet by 25 feet, in  
9 between the two properties, which I don't think would be,  
10 personally don't think that would be a very positive.

11 I think also, it came up when we addressed it  
12 with Historic Preservation early on, in the sense that it is a  
13 dead space. It was one of the reasons that we wanted to  
14 develop that area to the parameters of this lot, because in  
15 talking with Historic Preservation, our original design was  
16 actually pulled away from all adjacent properties. What that  
17 created was a very long, dead space around, which was  
18 definitely frowned upon, at least early on in the planning  
19 stages of this by Historic Preservation.

20 Thank you.

21 CHAIRPERSON REID: Okay. One last question.  
22 Again, I still have not gotten a definitive answer as to the  
23 differences in the height of the two buildings. What exactly  
24 is that height?

25 MR. BRANNON: The difference, I think it was

1 perhaps lost during the last argument. In terms of the fact  
2 that what we have is a two-story addition. The property at 305  
3 as well as the property at 225 C Street are both three-story  
4 properties, very much like ours where we currently live where  
5 we might have even ceiling height that is greater than eight  
6 feet, or eight feet something that we have in the two-story  
7 property now.

8 Taking that into account, we actually went to the  
9 property, physically counted and did the math to determine how  
10 many bricks went up the entire stretch of the property and  
11 formulated that it would be not exactly seven feet, but it will  
12 be roughly around seven feet difference between the roof line  
13 of our property and the roof line of Mr. Dacy's property. That  
14 was the only ones we were comparing it to. We are not sure  
15 about the roof line difference between 225 C Street. We didn't  
16 count those bricks, but with reference to 305 C Street, we did.

17 CHAIRPERSON REID: Okay. Any other questions?

18 Ms. Hinton?

19 MEMBER HINTON: That just brings up one other  
20 question then. Have you looked at adding an additional story  
21 on to this building? Would that be matter of right, and what  
22 would that do as far as giving, providing the space that you're  
23 --

24 MR. CLARK: I think we would be caught by the  
25 setback. You can go from the edge of the roof, you can go

1 vertically, or from the edge of the property. I think we'd get  
2 caught by a setback requirement on that. Historic would have a  
3 heartburn, I'm sure. The main thing is the floor plan would be  
4 exacerbated into a problem worse than it is now.

5 MEMBER HINTON: You'd then have three levels of  
6 this long, skinny floor plan.

7 MR. CLARK: Right, and it just would be difficult  
8 to make it work.

9 MEMBER HINTON: Although you would be gaining  
10 some more space.

11 MR. CLARK: Right.

12 CHAIRPERSON REID: What happens if you don't get  
13 the variance? What do you do with the building?

14 MS. SMITH BRANNON: Well, we can speak to that.

15 MR. CLARK: Back to a rental.

16 MS. SMITH BRANNON: In all honesty, ma'am, we'd  
17 make it probably at this point just make it into a two-bedroom  
18 rental unit, two-bedroom, one bath rental unit. In all  
19 honesty, we were making good income, as you can probably guess,  
20 good income with a yard and parking and two one-bedroom rental  
21 units.

22 CHAIRPERSON REID: So, that's what the current  
23 zoning regulations allow?

24 MS. SMITH BRANNON: Right.

25 CHAIRPERSON REID: So --

1 MS. SMITH BRANNON: But we really want to live in  
2 this neighborhood. We want to raise a family here. We are  
3 within an easy walk of three parks. We are within an easy walk  
4 of three schools. We have looked at the neighboring properties  
5 and the prices, and in all honesty, right now, the prices of  
6 property is huge. For us to raise a family in the house we  
7 live in right now, the house is a two-bedroom, one-and-a-half  
8 bath house. That's what this will be.

9 CHAIRPERSON REID: Or, you could buy another  
10 house.

11 MS. SMITH BRANNON: Or we could, yes, ma'am.  
12 Yes, ma'am, but we cannot, if we wish to live in Capitol Hill,  
13 we cannot afford to buy a bigger house right now in the  
14 neighborhood that we have felt like a family in, in which we  
15 know people who have kids in the local schools right in that  
16 area, in which I walk the dog. I feel comfortable walking the  
17 dog at 10:00 at night down to those parks.

18 This is a fantastic neighborhood, and the  
19 revitalization that's occurring within Capitol Hill is  
20 magnificent, and we should all be very proud of that fact. I  
21 just feel, though, that you know, I don't want to move to the  
22 suburbs. I don't want to buy a house in the suburbs.

23 My husband works on the Hill. My headquarters  
24 building is right in the Navy yard, and their renovating M  
25 Street right there. It's a fantastic time to be part of this

1 community, and we don't want to leave it.

2 MEMBER HINTON: Okay.

3 CHAIRPERSON REID: Thank you. All right. Let's  
4 see, that now concludes today -- I'm sorry, that concludes this  
5 particular hearing.

6 I'm sorry, you said you had?

7 MR. BRANNON: We had a witness that was sworn in  
8 that was not called.

9 CHAIRPERSON REID: At what point, because the  
10 hearing is -- we've concluded the hearing. We've asked for  
11 everyone. We asked people to come forward who were in  
12 opposition, people to come forward who were in support, and no  
13 one came forward.

14 MS. WEIRICH: I guess that invitation wasn't  
15 clear to me in the back.

16 MS. BAILEY: We need to be able to pick you up on  
17 the microphone.

18 CHAIRPERSON REID: All right. Come forward and  
19 tell us what you're trying to say.

20 MS. WEIRICH: Thank you, and I know it's long,  
21 and I appreciate it. I have been a long-term resident --

22 CHAIRPERSON REID: First of all, you must give  
23 your name and your address, and you didn't come up when you  
24 were extended the invitation to come up.

25 MS. WEIRICH: I didn't hear it as an invitation.

1 CHAIRPERSON REID: So, you didn't understand it?

2 MS. WEIRICH: I'm sorry, I didn't understand that  
3 that was the time for me to come up. I was listening to the  
4 arguments.

5 CHAIRPERSON REID: Are you in support or  
6 opposition?

7 MS. WEIRICH: I'm in support.

8 CHAIRPERSON REID: All right, just a few minutes.

9 MS. WEIRICH: Just a few minutes. My name is  
10 Mary Weirich, and that's spelled W-E-I-R-I-C-H. You do have a  
11 letter of support from me.

12 CHAIRPERSON REID: Okay.

13 MS. WEIRICH: I have lived my entire, with the  
14 exception of four years, I've lived just about my entire life  
15 on Third Street, first across the street from this development  
16 and now on the 200 block of Third Street. I care about this  
17 neighborhood, and I care about the changes.

18 I actually was one of the people that the  
19 opposition had talked to. He inferred that oh, yes, and I've  
20 talked to other people subsequent to this, and he did. I have  
21 talked to him, and what he said did give me pause. I think a  
22 lot of the conversation has been about air, has been about the  
23 impact on his property. When I talked to him, he gave me pause  
24 because I, too, had considered this. I thought you know, I  
25 really hadn't thought about this. This is a marvelous

1 structure, a wonderful addition to this neighborhood because we  
2 need single family dwellings.

3 Now, I work with a bunch of scientists, so I'm a  
4 very hands-on sort of person though I'm not a scientist. So, I  
5 went to the property, and I said okay, I want to feel this. I  
6 want to see it, because I can't support something that really  
7 is going to be a considerable problem for another neighbor,  
8 just because he's a minority, just because everybody else in  
9 the neighborhood supports this. It does impact his property.  
10 I want to really evaluate that, hands-on.

11 So, I looked at the condition of air. I should  
12 tell you that the vantage point that I looked at was from  
13 within the existing structure and from the landing on the  
14 second floor. So, you get a really good view, almost an aerial  
15 view from that landing. I mean, talk about privacy, right now  
16 there's not a whole lot of privacy in the existing structure.  
17 It must be very difficult from your point of view to get a  
18 sense of what it feels like.

19 So, if you look at 305's property from that top  
20 landing, you will see a really very, very large yard, a nice  
21 yard, that is not blocked in at all on two sides. The air  
22 comes from that direction to the Brannons. So, the Brannons  
23 won't have air, but he will. That's a non-issue.

24 Secondly, he talks about light. The light comes  
25 from the west. That's where the sun is coming from as it's

1 sinking down. The Brannon's property and the addition is all  
2 on the north. It does -- I'm a gardener. These things are  
3 important to me, and I'm not a scientist. I don't know where  
4 the sun is. I mean, when the owner of 305 finished talking to  
5 me, my head was so entangled, I couldn't see the forrest  
6 through the trees because it's so logical, and he's so  
7 passionate.

8 So, I went there, and I got -- this is not a  
9 considerable -- it does impact it. It is a change, but it's  
10 not a considerable change. The deal about the big brick wall -  
11 - I live on Capitol Hill. In fact, I live on the west side now  
12 of Third Street, and I would have far less open space. I have  
13 less open space in my back yard than he does because I have a  
14 two-story carriage house, and I also have a two-story back. I  
15 have no problem with air. I have two huge trees. No problem  
16 with air. I love to grow things.

17 My neighbor has a similar brick wall which  
18 happens to be the old extension on my house, which would be  
19 very similar to theirs. It makes for a very lovely courtyard  
20 on his part because he has covered it with plantings. It's  
21 lovely.

22 So, I think that it would truly enhance his  
23 property, although it's a change, and the change I think is  
24 what's anxiety provoking. It is not the reality.

25 Secondly, he has argued about privacy, and I

1 think you need to consider, yes, you know, if you were in a  
2 suburban area, this is clearly, you have people so close to one  
3 another, privacy is clearly an issue. But you have to realize  
4 he doesn't have privacy now. If you stand here in this part,  
5 you can look straight into that already, that living room  
6 window that he's concerned about. You can already do that.

7 There is no big change. I wouldn't have known  
8 that had I not been -- marched over there and said hey, you  
9 know, is this a serious concern or not because we can't do this  
10 if it is. I mean, I gave you a letter of support. I'd have to  
11 take it back.

12 The other thing is the Baxters, who are over  
13 here. Their window looks directly into his property already.  
14 The stoop that's right back here, you can look right into it.  
15 I mean, the things that he is concerned about in terms of  
16 privacy are already there. That's why people have shutters.

17 That's all I really want to add to the mountain  
18 of information you already have. It's sort of a hands on. I  
19 went, I saw, I looked, and I said hey, what is the big deal  
20 here. I don't get it.

21 Thank you.

22 CHAIRPERSON REID: Thank you. Mr. Dacy? One  
23 moment, ma'am, please. Did you have any questions of this  
24 witness?

25 MR. DACY: Can I question the witness?

1 CHAIRPERSON REID: Yes. Unfortunately you do  
2 have that right. I'm sorry, you have to stay here and allow  
3 him to ask you questions.

4 MR. DACY: My name is Douglas Dacy. Ms. Weirich,  
5 did you call me on the phone at one point?

6 MS. WEIRICH: I did.

7 MR. DACY: What was the phone conversation about?

8 MS. WEIRICH: That phone conversation was about  
9 the purchase of your property.

10 MR. DACY: Right. Did you say that you at some  
11 point in the future would like to purchase my property?

12 MS. WEIRICH: That we might consider it.

13 MR. DACY: Right. Did I ask you a question? Did  
14 I then bring up the issue about the variances that were  
15 requested by the Brannons?

16 MS. WEIRICH: Yes, and you mentioned --

17 MR. DACY: Did you then talk very favorably about  
18 those variances?

19 MS. WEIRICH: I said that I hadn't considered  
20 that, which is exactly what I told this Board.

21 MR. DACY: Do you remember the question that I  
22 asked you? This is verbatim. Ms. Weirich, now that we know  
23 that the Brannons want to seek variances, would you still then  
24 be interested in buying my property under those conditions? Do  
25 you remember what your answer was?

1 MS. WEIRICH: I don't. I believe what my feeling  
2 is I do remember.

3 MR. DACY: No, I asked you what was your answer.

4 MS. WEIRICH: That I'd have to consider it.

5 MR. DACY: May I give the verbatim answer?

6 MS. WEIRICH: If you could remember it.

7 CHAIRPERSON REID: You can't, but you can say did  
8 you say.

9 MR. DACY: Did you say something like that, which  
10 is I think what you've already stated, well, under those  
11 conditions, I would have to reconsider it?

12 MS. WEIRICH: Right, and that's why I did. I  
13 went over there, and I reconsidered it, and I looked at it, and  
14 I said, what's the big deal here. In fact, given that this is  
15 an incredible improvement to the neighborhood, it would  
16 probably make me consider the property more, having actually --  
17 when I spoke to you on the phone, it did give me pause, just as  
18 I'm sure it gave the members here pause because it's a very  
19 logical argument, and it really takes a person going over there  
20 to take a look at it and say is this a real concern or is it  
21 any different than any other yard that we have here.

22 I don't think that it would take away from the  
23 property. In fact, I think that improving this property would  
24 clearly improve that property. If we decided not to pursue,  
25 and this is, as I said, kind of a five-year plan on our part.

1 We were just sort of looking at properties, and since you  
2 hadn't really been -- you had been basically an absentee  
3 landlord for such a great long time, I thought maybe this might  
4 be a property that we might want to consider. If we decided  
5 not to consider it, it would not be because of the Brannon's  
6 addition.

7 MR. DACY: I don't have any other questions. I  
8 thank you very much.

9 MS. WEIRICH: Sure.

10 CHAIRPERSON REID: Thank you very much.

11 COMMISSIONER MITTEN: You need to turn on your  
12 mike, Madame Chair.

13 CHAIRPERSON REID: Thank you very much. Let's  
14 see. It's now a little after one. Just one second.

15 Would you call the last case of the morning,  
16 please?

17 COMMISSIONER MITTEN: Perhaps you should tell  
18 these folks what's going to happen next.

19 CHAIRPERSON REID: Okay, sorry. What we're going  
20 to do is we have one more case. Who are the people here for  
21 that particular case, the Parkland case?

22 MEMBER HINTON: This current applicant, they  
23 don't understand when we're going to decide their case.

24 CHAIRPERSON REID: Oh, I'm sorry. I forgot that.  
25 I'm sorry.

1 All right, before going on -- I'm sorry. I was  
2 looking at the time and got kind of carried away about that.  
3 Your case, because of the fact there was a party in opposition,  
4 we will then give you your decision on the next meeting date,  
5 which would be July 3? Can we get that on July 3?

6 MR. HART: July 3, yes, ma'am.

7 CHAIRPERSON REID: Okay, on the July 3 decision  
8 date, meeting date.

9 MEMBER HINTON: Can I ask the staff, was there  
10 any additional information that anyone had asked to come into  
11 the record? I don't recall any.

12 CHAIRPERSON REID: Ms. Mitten, did you need  
13 anything from the appraiser?

14 COMMISSIONER MITTEN: Well, I mean, to the extent  
15 that we're going to give it any weight, there's questions that  
16 remain, and I just don't know how much weight we can give it  
17 without talking to the appraiser.

18 CHAIRPERSON REID: All right.

19 MEMBER HINTON: Madame Chair, there was at one  
20 point in the hearing where Ms. Renshaw had highlighted some  
21 plans, and that highlighted copy should be placed into the  
22 record. Also, I think we'll need some way of keeping these  
23 photographs and perhaps a photograph of the model should be  
24 placed into the record so that we do have a complete record in  
25 this case.

1 CHAIRPERSON REID: Okay. All right, thank you  
2 very much. That completes this hearing.

3 COMMISSIONER MITTEN: I think Mr. Hart might have  
4 a date.

5 CHAIRPERSON REID: All right.

6 MR. HART: You already have it.

7 COMMISSIONER MITTEN: Oh, you already gave it,  
8 okay.

9 CHAIRPERSON REID: Yes, we've already said that.  
10 I think we're all clear on that. Questions?

11 MR. BRANNON: Are we supposed to be here?

12 CHAIRPERSON REID: You don't have to. It's a  
13 public meeting. You're welcome to come, but you're not  
14 required. It's not obligatory.

15 MS. SMITH BRANNON: Will there be discussion  
16 where we'll be asked to re-present everything?

17 CHAIRPERSON REID: You will not have any  
18 participation whatsoever.

19 VICE CHAIRPERSON RENSHAW: It's just us.

20 CHAIRPERSON REID: It's public. People do come  
21 to our decision meetings to just listen, observe, and to hear  
22 how the discussion is going, what have you, but you don't have  
23 to be here. Right here, same place.

24 There will be no questioning. There's no reason  
25 for him to come because we take no testimony or no questioning

1 during that time unless it's something exceptional.

2 Someone did ask him about the insurance. I can't  
3 hear you.

4 MEMBER HINTON: Mr. Dacy, you need to be on the  
5 record if you're going to talk to us. Could you come up to a  
6 microphone?

7 CHAIRPERSON REID: Who was it that asked a  
8 question about the insurance? Did you want anything from the  
9 insurance agent?

10 COMMISSIONER MITTEN: Well, I mean, the sense I  
11 got from the discussion was that you could get different  
12 answers from different agents. So, I don't know how helpful  
13 that would be.

14 CHAIRPERSON REID: Okay. No, that's okay. We're  
15 fine. We don't need it. We're all right.

16 So, that's it? All right, now, we had one other  
17 case for the morning, and that was the Parklands case, No.  
18 16714, and there was no one here for that case this morning, so  
19 we basically took it out of turn and put it at the end. Is  
20 there anyone here for it now?

21 All right, this case we feel is pretty  
22 straightforward. Come forward, please. I think we can dispose  
23 of it within just a few minutes. Given the lateness of the  
24 hour, could you please call the case, Mr. Hart, and then we can  
25 perhaps just go ahead.

1 MR. HART: This is Application No. 16714, of  
2 Parklands, Incorporated, pursuant to 11 DCMR 3104.1 for a  
3 special exception to allow a delicatessen carry-out adjunct to  
4 an apartment house accessory pool area under Section 354 in an  
5 R-5-A District at premises 1931 Savannah Street, S.E., Square  
6 5900, Lot 20.

7 CHAIRPERSON REID: Okay.

8 MS. BAILEY: Would you please stand, ma'am, to  
9 take the oath? Do you swear the information that you'll be  
10 giving to day will be the truth? Please say I do. Thank you.

11 CHAIRPERSON REID: Okay. Give your name and your  
12 address, please. No, push the button. The red light will come  
13 on.

14 MS. JACKSON: My name is Linda Jackson. I'm with  
15 Parklands, Inc. and William C. Smith and Company. The property  
16 address is 1931 Savannah Street, S.E., in Ward 8, Washington,  
17 D.C.

18 CHAIRPERSON REID: Okay now, Ms. Jackson?

19 MS. JACKSON: Yes.

20 CHAIRPERSON REID: This particular case appears  
21 to be one that has great support from the community from the  
22 Office of Planning, who has recommended approval, and also from  
23 the ANC 8-B and several letters of support, Metropolitan Police  
24 Department, Jack Patterson, a single member district  
25 representative.

1           It appears that everyone there is in support of  
2 your application. What you can do -- this will be really a  
3 short hearing. What you can do is stand on record. We've read  
4 it. We've read about the importance of the concession for the  
5 pool and how there is very little other opportunities to be  
6 able to purchase these small items in that particular  
7 neighborhood. It seems that you're in compliance with Section  
8 354.2, which was spelled out through the Office of Planning for  
9 us very succinctly.

10           That being the case, if you stand on record, I  
11 think we can dispose of this fairly quickly.

12           MS. JACKSON: Okay.

13           CHAIRPERSON REID: Now, Mr. Moore, would you like  
14 to stand on record or would you like to say a few words since  
15 you've been kind enough to be here so long this morning?

16           MR. MOORE: I'd like to stand on record.

17           CHAIRPERSON REID: All right. Board members, are  
18 there any questions?

19           VICE CHAIRPERSON RENSHAW: Yes, I have a  
20 question. I have in my file the letter from the single member  
21 district commissioner Jack Patterson, and I wanted to know  
22 whether or not we have a letter in the file from ANC 8-B signed  
23 by the chair?

24           MS. JACKSON: There should be a letter.

25           VICE CHAIRPERSON RENSHAW: In support?

1 MS. JACKSON: Yes, dated May 15.

2 VICE CHAIRPERSON RENSHAW: I don't have this one.  
3 I only have April 4.

4 MS. JACKSON: I'm sure I have it here. I'm  
5 sorry, it's dated May 29. I have it here.

6 VICE CHAIRPERSON RENSHAW: I don't have a copy of  
7 that.

8 MS. JACKSON: Should I give this to someone?

9 VICE CHAIRPERSON RENSHAW: Do you have a copy?

10 CHAIRPERSON REID: What does the office file -- I  
11 don't see my ANC letter. I remember a letter in support. Do  
12 we have a letter from the ANC? Oh, maybe we don't.

13 VICE CHAIRPERSON RENSHAW: Maybe yours is the  
14 copy?

15 MS. JACKSON: Well, there was one dated -- I'm sorry,  
16 there was one dated, I think, April 4.

17 VICE CHAIRPERSON RENSHAW: That's the one from  
18 Jack Patterson, the single member district commissioner 8-B-06.

19 CHAIRPERSON REID: I'm sorry, we had the letter  
20 of the single member district representative. We did not have  
21 one -- where is the office file? Do we have one in the office  
22 file? We didn't receive one from the full ANC. If you have a  
23 copy, perhaps we can look at that. Just hand it to me, and  
24 I'll just kind of briefly peruse it and see the position of the  
25 ANC.

1 All right. A duly publicized ANC 8-B meeting on  
2 May 15

3 -- first of all, do we have to weigh the records? We have to  
4 weigh the records because we did not receive it 14 days  
5 beforehand or seven days beforehand.

6 COMMISSIONER MITTEN: No objection, Madame Chair.

7 CHAIRPERSON REID: Okay. We'll waive the record  
8 to receive the letter.

9 MS. JACKSON: Okay.

10 CHAIRPERSON REID: A duly publicized ANC 8-B on  
11 May 15 with a quorum present, the commission unanimously voted  
12 to support the Splash Park's BZA request, and I guess that is -  
13 - they're referring to the deli carry-out adjunct to the  
14 apartment house.

15 It says that our form consists of, and it talked  
16 about the commissioners. The Splash Park has played a  
17 significant role in decreasing delinquent activity during  
18 summer months by providing the community children with a safe  
19 pool and recreational alternative. By allowing this facility  
20 to operate a concession stand, Splash Park can further this  
21 community building activity and so forth and so on.

22 Basically, the gist of it is that they are in  
23 support of the application. There's no one here in opposition  
24 or in support. So, closing remarks.

25 MS. JACKSON: I've never done this before.

1 CHAIRPERSON REID: Just say please. Just say  
2 please.

3 MS. JACKSON: Please.

4 CHAIRPERSON REID: Okay.

5 MS. JACKSON: Can I ask for a bench decision of  
6 this?

7 CHAIRPERSON REID: Bench decision.

8 MS. JACKSON: Oh, thank you.

9 CHAIRPERSON REID: That's right, okay. Board  
10 members?

11 COMMISSIONER MITTEN: Madame Chair, I've had the  
12 pleasure of actually visiting the Splash Park, and it is a  
13 wonderful amenity for the neighborhood, wonderful facility, and  
14 the proposed concession stand, I think, is exactly the kind of  
15 adjunct use that was anticipated by the regulations in Section  
16 354. As outlined in the Office of Planning report, this  
17 proposal meets all of the requirements of Section 354.

18 There will be no adverse impact that is created  
19 as a result of this, and I would move approval of this  
20 application.

21 VICE CHAIRPERSON RENSHAW: Second.

22 CHAIRPERSON REID: All right. All in favor?

23 (Chorus of ayes.)

24 MS. JACKSON: Thank you.

25 CHAIRPERSON REID: Record the vote.

1 MS. BAILEY: Staff will record the vote as five  
2 to zero to approve the application, motion made by Mrs. Mitten,  
3 seconded by Mrs. Renshaw. Mrs. Reid, Mrs. Hinton, and Mr.  
4 Griffis in approval, in support.

5 CHAIRPERSON REID: Ms. Jackson, you made a  
6 record.

7 MS. JACKSON: Thank you very much.

8 CHAIRPERSON REID: Good luck to you. That is a  
9 wonderful Splash Park over there.

10 MS. JACKSON: One question. What do I do next?  
11 Do I get a letter?

12 CHAIRPERSON REID: You will receive in about two  
13 to three weeks, and don't call them.

14 MS. JACKSON: They're so sick of me, I won't  
15 call.

16 CHAIRPERSON REID: Right, don't call them, but  
17 they will, in about two to three weeks, you'll receive your  
18 order.

19 MS. JACKSON: Okay.

20 CHAIRPERSON REID: And at that point, once you  
21 receive the order, then you'll be approved officially.

22 MS. JACKSON: Okay.

23 CHAIRPERSON REID: Okay, thank you.

24 MS. JACKSON: Thank you very much.

25 CHAIRPERSON REID: Good luck, and that concludes

1 this morning's hearing.

2 (Whereupon, the above-entitled hearing was  
3 adjourned at 1:16 p.m.)

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