

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

JULY 31, 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 2:30 p.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
DAVID LEVY	Board Member

ZONING COMMISSION MEMBER PRESENT:

PETER G. MAY	Commissioner
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COMMISSION STAFF PRESENT:

Jerrily R. Kress, Director
Beverly Bailey, Office of Zoning
Paul O. Hart, Office of Zoning

OTHER AGENCY STAFF PRESENT:

Maxine Brown-Roberts, Office of Planning
Jennifer Steingasser, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

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

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(2:30 p.m.)

CHAIRPERSON REID: Good afternoon, ladies and gentlemen. The hearing will please come to order. We do apologize for the delay this afternoon in that our morning cases ran over considerably.

This is the July 31st Public Hearing of the Board of Zoning Adjustment, District of Columbia.

My name is Sheila Cross Reid, Chairperson. Joining me today is Anne Renshaw, Vice-Chair, and Board Member Jeff Griffis.

Representing the National Capital Planning Commission is David Levy, and representing the Zoning Commission is Mr. Peter May, and please join me in welcoming Mr. May to the BZA for the first time. Welcome.

Copies of today's hearings are available to you. They're located to my left near the door. All persons planning to testify in either in favor or opposition are to fill out two witness cards. These cards are located at each end of the table in front of us.

When coming forward to speak to the Board, please give both cards to the reporter sitting to my right. The rules of procedures for the special exception and variances is one: Statement and witnesses of the applicant; two, government reports including Office of Planning, Department of Public

1 Records, et cetera; three, report of the Advisory Neighborhood
2 Commission; four, parties or persons in support; five, parties
3 or persons in opposition; six, closing remarks by the
4 applicant.

5 Cross-examination of witnesses is permitted by
6 the applicant or parties. The ANC in which the property is
7 automatically a party in these cases.

8 The record will be closed at the conclusion of
9 each case except reading materials specifically requested by
10 the Board and staff will specify at the end of the hearing
11 exactly what is expected.

12 The Sunshine Act requires that the public hearing
13 in each case be held in the open for the public. The Board
14 may, consistent with its Rules of Procedures and the Sunshine
15 Act, interject a session during or after the public hearing on
16 a case for the purpose of reviewing the record or deliberating
17 on the case.

18 The (inaudible) in these contested cases must be
19 based exclusively on the public record. Devoiding any
20 appearance to the contrary, the Board requests the person
21 present not engaged move the Board in conversation.

22 Please turn off all beepers and cell phones at
23 this time so as not to disrupt these proceedings.

24 The Board will make every effort to conclude the
25 public hearing as near as possible to 6:00 p.m. If the

1 afternoon cases are not completed at 6:00 p.m. the Board will
2 assess whether it can complete the pending case or case
3 remaining on the agenda.

4 At this time the Board will consider any
5 preliminary matters. Preliminary matters are those that relate
6 to other cases, will or should be heard today, such as requests
7 for postpone, continues or withdrawal, or whether proper and
8 adequate notice of the hearing has been given. We're now
9 prepared to go forward with a case. If anybody believes that
10 the Board should not proceed now is the time to raise such a
11 matter.

12 Are there any preliminary matters?

13 MS. BAILEY: Madam Chair, yes. Good afternoon.
14 My name is Beverly Bailey. With me is Paul Hart and John Niaco
15 (phonetic), and Ms. Marie Sansone I believe is all the way over
16 on the other side.

17 There is a request for continuance of Application
18 No. 16740 of Jacobsen Builders. The applicant and ANC-3D are
19 both requesting that this application be postponed, Madam
20 Chair.

21 CHAIRPERSON REID: Thank you very much.

22 Mr. Brown?

23 MR. BROWN: Good afternoon, Madam Chair, members
24 of the Board. Mr. May, welcome. Patrick Brown from Greenstein
25 Delorman (phonetic), counsel for Mr. Jacobsen and Jacobsen

1 Builders, the applicant.

2 I've requested following up an earlier
3 communication with staff, a continuance of this matter. This
4 is a case where we had a personal situation involving Mr.
5 Jacobsen which delayed or postponed a meeting with the
6 community. The community interest is very significant in this
7 case, and an opportunity I think was missed as a result of that
8 rescheduling to continue work with the community.

9 As I result we're not, I think, in the position
10 to go forward. It would be better to take the time and
11 continue the matter and try to work out some of the details
12 that are of concern to the community, and we've suggested
13 several dates. September 25th, I believe, meets with the
14 approval of the community as well. And I'd leave it at that,
15 and let us go back to work and try to respond to the issues
16 that are front and center in this matter.

17 CHAIRPERSON REID: Thank you.

18 MS. ZIGNER: Good afternoon Madam Chair, members
19 of the Board. Jeannine Rustad Zigner from Robins, Kaplan,
20 Miller & Ciresi. We have filed on behalf of the Chambridge
21 Road University Terrace Preservation Committee and the
22 Palisades Citizen Association a request for party status.
23 We're representing the community members that are going to be
24 meeting within and working -- excuse me -- many of the
25 community members who will be working with the applicant.

1 We take no position on the request for a
2 continuance. We have polled. We have a large group that we're
3 representing. Polled the members as well as several expert
4 witnesses who we will be introducing, and the best date is the
5 September 25th, and we would request if that date is available
6 that that date be the continue date.

7 CHAIRPERSON REID: Thank you very much.

8 Board members, as to the request for a
9 continuance until a date certain which would be,
10 Mr. Hart?

11 MR. HART: Madam Chair, there's a problem here.

12 CHAIRPERSON REID: Okay.

13 MR. HART: The applicant conferred with staff for
14 the new date for the continuance, and we did discuss it quite a
15 bit, of September; is this correct?

16 MR. BROWN: That's correct.

17 MR. HART: I have been told that the 25th is
18 full. The closest date you could have is October 9th.

19 MR. BROWN: Madam Chair, I have no objection to
20 October 9th, but I'd ask Jeannine Zigner.

21 CHAIRPERSON REID: I'm sorry. What did you just
22 say?

23 MR. BROWN: I have no objection to October 9th.
24 The community members and Jeannine Zigner, their counsel, has
25 indicated to me that October is problematic, so I'd like to

1 coordinate that.

2 CHAIRPERSON REID: Okay. Mr. Hart, for that
3 morning of the 25th there's one case and that's a case for the
4 Boy Missions BZA.

5 MR. HART: That's why I gave him the 25th.

6 CHAIRPERSON REID: Do you think that --

7 MR. HART: Excuse me. I've been alerted by
8 Ms. Bailey that in conference with Ms. Kress that she's
9 recommended October 9th.

10 CHAIRPERSON REID: Do you think that that case
11 will take all morning, that one case?

12 MR. HART: My original opinion was that it would
13 not take all morning.

14 CHAIRPERSON REID: Well, maybe Ms. Kress, if
15 someone could ask her to come out please, maybe she can throw
16 some light on this and why she felt that it would not be
17 appropriate. In the meantime why don't we, if the Board
18 members like, we can take up the issue of the parties status
19 and get that done today.

20 All right. Give you name again, ma'am. While we
21 wait as to the date, Mr. Brown, if you don't mind we're going
22 to pick up the issue of party status.

23 MR. BROWN: I'm willing to consent to party
24 status on behalf of the group represented by
25 Mr. Nettler and Jeannine Zigner here.

1 CHAIRPERSON REID: Okay.

2 MR. BROWN: As they've set forth in their filing,
3 which would include the Chambridge Road University Terrace
4 Committee and the Palisades Citizens Association, and we just
5 ask that it be one party.

6 CHAIRPERSON REID: Okay. So you're representing
7 one party, and you're going to be the one to present the case,
8 and you're going to be the one that's going to cross-examine
9 only?

10 MS. ZIGNER: That is correct. I'm working with
11 Richard Nettler of the firm as well.

12 CHAIRPERSON REID: Okay. And your representation
13 will be for the Chambridge Road University Terrace Preservation
14 Committee and the Palisades Citizens Association; right?

15 MS. ZIGNER: Yes.

16 CHAIRPERSON REID: Two organizations?

17 MS. ZIGNER: Yes. That is correct.

18 CHAIRPERSON REID: Okay. And I have no problem
19 with it. Board members?

20 MR. GRIFFIS: I don't have any problem with that.

21 CHAIRPERSON REID: Board members, any objection?

22 All right. I move that we accept -- give me your
23 name again, ma'am?

24 MS. ZIGNER: Jeannine Rustad Zigner.

25 CHAIRPERSON REID: Jeannine Rustad?

1 MS. ZIGNER: Zigner.

2 CHAIRPERSON REID: Zigler.

3 MS. ZIGNER: Zigner.

4 CHAIRPERSON REID: Zigner. As a person
5 representing those two organizations I just mentioned, and that
6 they be granted party status as with her as the representative.

7

8 MS. ZIGNER: It would be myself and Richard
9 Nettler of the law firm --

10 CHAIRPERSON REID: Richard Nettler.

11 MS. ZIGNER: -- Robins, Kaplan, Miller & Ciresi.

12 CHAIRPERSON REID: All right. So there would be
13 two attorneys.

14 MS. ZIGNER: Correct.

15 CHAIRPERSON REID: Why do you need two?

16 MS. ZIGNER: Scheduling conflicts. If one can't
17 make it the other will be able to make it.

18 CHAIRPERSON REID: So it's either or?

19 MS. ZIGNER: Yes. Only one will be presenting.

20 CHAIRPERSON REID: Or Richard Nettler. So we
21 won't have both you and Richard Nettler cross-examining, right?

22 MS. ZIGNER: No. There will be one person cross-
23 examining at the firm.

24 CHAIRPERSON REID: Okay.

25 VICE-CHAIRPERSON RENSHAW: I had so hoped we'd

1 have both of you.

2 MS. ZIGNER: We can do that if you would like.

3 MR. GRIFFIS: I would seconded that with a quick
4 discussion or clarification, because we have another
5 application for party status, if I'm correct, and wanted to
6 know if Carlton and Susan Stoiber is included in that or is
7 that a separate?

8 CHAIRPERSON REID: I think it said they were not
9 included.

10 Ms. Zigner, were they included in yours?

11 MR. ZIGNER: Mr. Stoiber is here and can speak to
12 that.

13 CHAIRPERSON REID: No. Let's first -- right now
14 we're dealing with your request. Is your request inclusive of
15 Mr. and Mrs. Stoiber or not?

16 MS. ZIGNER: No. It does not include Mr. and
17 Mrs. Stoiber.

18 CHAIRPERSON REID: Okay. Well, let us first vote
19 on the first applicant, for Mr. Richard Nettler and Ms.
20 Jeannine Zigner, Rustad Zigner, who is representing Chambridge
21 Road University Terrace Preservation Committee and the
22 Palisades Citizens Association.

23 All in favor? Opposed?

24 Okay. Then we go to Mrs. and Mrs. Stoiber.

25 MR. STOIBER: Yes, ma'am.

1 CHAIRPERSON REID: Go ahead.

2 MR. STOIBER: Madam Chair, I am the immediate
3 neighbor to the property in question. I am also an officer of
4 the Chambridge Road University Terrace Committee. I had filed
5 for party status basically to ensure that any particular
6 interests that I would have that I could represent my own
7 interests in that case. I don't expect that there will be any
8 separate issues, but I do think that because of my particular
9 relationship to the property I would wish to seek party status
10 for the purpose of cross-examination and participation.

11 CHAIRPERSON REID: You are an abutter?

12 MR. STOIBER: Yes, I am.

13 CHAIRPERSON REID: The property is right abutting
14 your property?

15 MR. STOIBER: Yes, ma'am.

16 CHAIRPERSON REID: Okay. I would also move that
17 Mr. Stoiber be granted party status.

18 VICE-CHAIRPERSON RENSHAW: Second.

19 CHAIRPERSON REID: All in favor?

20 MR. BROWN: And I see no objection to that.
21 Madam Chair, if we could, and I understand
22 Mr. Stoiber's position. If we could clarify that the community
23 parties, the two of them, would be acting under the one-hour
24 time limit collectively. I'd like to avoid, if at all
25 possible, duplication.

1 CHAIRPERSON REID: The opposition has -- how much
2 time do you think you need for your --

3 MR. BROWN: We'll be under an hour.

4 CHAIRPERSON REID: An hour, under. Okay. Also
5 the opposition, which would include Mr. Stoiber and Ms.
6 Jeannine Rustad Zigner, combine an hour for the opposition.

7 Are you familiar with the way we operate?

8 MS. ZIGNER: Sure.

9 CHAIRPERSON REID: As long as it divvied up
10 however you wish, then certainly that would be reflected.

11 (Pause on the record)

12 CHAIRPERSON REID: It's problematic because we
13 anticipate your needing a whole morning or whole afternoon, and
14 that's why it's been suggested October 9th and 1:00, and
15 nothing else would be put on the schedule for the afternoon.

16 What is the problem? There's a conflict or
17 something?

18 MS. ZIGNER: We had preferred the 25th. We were
19 unavailable for October 2nd. We can do October 9th.

20 CHAIRPERSON REID: Okay, fine. So October 9th it
21 will be, 1:00 in the afternoon. The entire afternoon is
22 dedicated to yours. It's all yours.

23 MR. BROWN: Thank you very much.

24 CHAIRPERSON REID: You're quite welcome. Thank
25 you.

1 MS. ZIGNER: Thank you.

2 CHAIRPERSON REID: Event though it's dedicated to
3 you --

4 MR. BROWN: That's not a minimum, that's a
5 maximum.

6 CHAIRPERSON REID: Right. If you can wrap it up
7 in a couple of hours, that would be great.

8 MR. BROWN: Have a good August.

9 CHAIRPERSON REID: Thank you.

10 All right. Next case, please, Mr. Hart?

11 MS. BAILEY: Application No. 16750 of Allen and
12 Beverly Jones, pursuant to 11 DCMR 3104.1 for a special
13 exception to allow an addition to a single family dwelling
14 under Section 223, not meeting the side yard requirements from
15 Section 405. The property is located in an R-1-B District at
16 premises 3409 Rodman Street, N.W. It's located in Square 1959,
17 Lot 24.

18 (Witnesses sworn.)

19 CHAIRPERSON REID: Okay. Just give me one second
20 please. Okay. Give your name, please.

21 MR. JONES: Allen Jones.

22 MS. JONES: Beverly Jones.

23 CHAIRPERSON REID: I'm sorry. You've been sworn?

24 MS. JONES: Yes.

25 MR. JONES: Yes.

1 CHAIRPERSON REID: Give your name and address.

2 MR. JONES: Allen Jones, at 3409 Rodman Street,
3 N.W.

4 CHAIRPERSON REID: Okay.

5 MS. JONES: Beverly Jones, 3409 Rodman Street,
6 N.W., Washington, D.C. 20008.

7 CHAIRPERSON REID: All right. Excuse me one
8 second. I just want to see if we received a planning report
9 for your case.

10 MS. BAILEY: Madam Chair, I don't have an office
11 of -- my files indicate that there's not one on this case.

12 CHAIRPERSON REID: And we didn't have one to come
13 in late?

14 MS. BAILEY: Unless someone else has it. I
15 didn't see one.

16 CHAIRPERSON REID: I was wondering because -- is
17 there anyone here who's affiliated with this particular case?
18 Okay.

19 Mr. and Mrs. Jones, that being the case, I don't
20 think that you have any opposition. I don't think that I saw
21 any opposition in the file, and it appears that you have the
22 unanimous support of your ANC, and that we don't have an OP
23 report, so I assume they don't have a problem with it. What
24 I'm getting to is you can expedite your case basically. Just
25 give us the sealant points and we can close it fairly quickly.

1 MR. JONES: Well, the main issue here is that we
2 are looking for a variance in a construction project. This is
3 an extension of our residence where we live. It's enlarging
4 the kitchen and the family room, and it's extending --

5 MS. JONES: The bathroom.

6 MR. JONES: -- and including a bathroom on the
7 ground floor. And it's extending the residence out on the side
8 and out the back.

9 CHAIRPERSON REID: You know, there's a little
10 confusion about that, Mr. Jones. Mr. Hart -- he's not here.
11 Ms. Sansone, this was -- it says variance. Was it a special
12 exception?

13 MS. SANSONE: I believe this is a special
14 exception request under Section 223.

15 CHAIRPERSON REID: Right. I've seen special --
16 I've seen variance somewhere in the file, but this is a simple
17 special exception which is a much easier case to be able to
18 defend than a variance. So are you aware of the difference
19 between the two?

20 MR. JONES: I'm not myself. Are you?

21 MS. JONES: The only -- what I know is that the
22 addition on the side is to be, as we have it now, is to be 8
23 feet and we need an exception for 3 more feet. Side yard.
24 It's not on the back.

25 CHAIRPERSON REID: A variance requires that you

1 meet a three-prong test which is kind of involved. A special
2 exception basically is the fact that you've complied with
3 Section 223, the one that you are coming under, and that
4 there's no adverse impact or any deleterious impact on the
5 neighbors or the community and no imparity or integrity to the
6 zoning regulations that matter.

7 MS. JONES: We have letters from the neighbors on
8 either side, as well as across the street, in support of it,
9 and the ANC voted all for it. And it has been passed by the
10 Historical Review on the first go around, which is not typical,
11 and it doesn't even go to the front of the house. It's set
12 back from the front of the house.

13 In fact, the Historical Board liked it, thought
14 it fit in well with the Cleveland Park Community.

15 CHAIRPERSON REID: Okay. Well, do you have any
16 remarks?

17 MS. JONES: Well, we'd like you to pass it.
18 That's all.

19 MR. JONES: We'd like you to pass it.

20 CHAIRPERSON REID: Well, we're not quite that
21 quick, but pretty much. The ANC -- we do have an ANC report.
22 Ms. Renshaw, do you have that?

23 VICE-CHAIRPERSON RENSHAW: Yes. This is the
24 Allen and Beverly Jones are in ANC-3C, and we have a letter
25 from its chair, Nancy McWood. The letter is dated July 5th,

1 and it's a letter to the Board that ANC-3C had a regularly
2 scheduled meeting in June, and the date was not provided in
3 June, but they unanimously approved Resolution 2001 030
4 regarding finding no objection to BZA Application 16750.

5 And the Resolution states that they express no
6 objection to the Joneses for a special exception, and that they
7 have voted unanimously. It was voice vote at its regularly
8 scheduled meeting on June 25th, 2001, at which a quorum, at
9 least 5 of 9 members, was present.

10 CHAIRPERSON REID: All right. Then they will be
11 certainly afforded the great weight to which they're entitled.

12 We have no other government reports. You did mention that you
13 had been to the Historic Preservation Review Board. Do we have
14 a letter from them?

15 VICE-CHAIRPERSON RENSHAW: I don't think so.

16 CHAIRPERSON REID: And you contend that they did
17 give you approval on a first -- that's really great. There are
18 letters of support contained within the file from it appears to
19 be the neighbors, and there are no letters of opposition.

20 Board members, if you have no questions we can go
21 now to closing remarks. Do you have questions?
22 Okay then, closing remarks by the applicant.

23 MR. JONES: Well, we have nothing further to say
24 except that we hope you will approve our request.

25 CHAIRPERSON REID: A bench decision summary

1 order, which means you'll get a decision today?

2 MS. JONES: Yes.

3 MR. JONES: We'd like that, yes.

4 CHAIRPERSON REID: Okay. Board members' motion?

5 VICE-CHAIRPERSON RENSHAW: Madam Chair, I move
6 that application of Allen and Beverly Jones, and this is
7 Application No. 16750, be approved for a special exception to
8 allow an addition to a single family dwelling under Section
9 223, not meeting the side yard requirements under Section 405
10 in an R-1-B District at 3409 Rodman Street, N.W., Square 1959,
11 Lot 24.

12 There has been no opposition entered into the
13 record. ANC-3C has no objection to the application, and it
14 seems to be in harmony with the general purpose and intent of
15 the Zoning Regulations.

16 MEMBER LEVY: I'll second that.

17 CHAIRPERSON REID: All in favor? Opposed?

18 Ms. Bailey, could you record the vote?

19 MS. BAILEY: Mr. Levy, did you second? Okay.

20 Motion made by Mrs. Renshaw, seconded by
21 Mr. Levy, Mrs. Reid, Mr. Griffis and Mr. May in agreement to
22 approve the application, bench decision summary order.

23 CHAIRPERSON REID: Okay. You should have your
24 order in about three weeks. Don't call, they'll let you know,
25 but you should have it fairly shortly.

1 MS. JONES: So they're send it to us or do they
2 send it to the Permit Office?

3 CHAIRPERSON REID: They will send it to you
4 directly, and that's what you use. You will then use that when
5 you go to get your permit.

6 MS. JONES: So in about three weeks?

7 CHAIRPERSON REID: Uh-huh.

8 MS. JONES: Thank you.

9 CHAIRPERSON REID: Good luck.

10 MR. JONES: Thank you very much.

11 CHAIRPERSON REID: Okay, next case.

12 MS. BAILEY: Application No. 16748 of Educational
13 Organization for United Latin Americans, pursuant to 11 DCMR
14 3103.2 for a variance from the lot occupancy requirements under
15 Section 403, and a variance from the rear yard requirements
16 under Section 404 to allow an addition in an R-5-B District at
17 premises 1842 Calvert Street, N.W., Square 2548, Lot 22.

18 All those wishing to testify please stand. All
19 those persons wishing to testify in this case.

20 (Witnesses sworn)

21 CHAIRPERSON REID: Your name?

22 MR. FONSECA: My name is Gregory Fonseca with
23 Mobius Design, and I'm here representing the Educational
24 Organization for United Latin Americans.

25 CHAIRPERSON REID: Okay. Your name again?

1 MR. FONSECA: Gregory Fonseca.

2 CHAIRPERSON REID: Fonseca?

3 MR. FONSECA: Uh-huh.

4 CHAIRPERSON REID: When you stood no one else
5 stood. Is there anyone else that is with this particular case?
6 Okay.

7 Mr. Fonseca, basically again your case appears to
8 be another one that's pretty straight forward. I don't think
9 there was any opposition. You have the approval of the Office
10 of Planning. You have the approval of -- I don't think we have
11 the ANC. Wait minute -- the Preservation Review Board, but the
12 ANC --

13 VICE-CHAIRPERSON RENSHAW: No ANC.

14 CHAIRPERSON REID: Yes. There was no ANC report.

15 MR. FONSECA: If I may, Madam Chair. We did meet
16 with the ANC-1C, and I did speak to the person, Mr. Schott. He
17 did say that they met in the past 30 days and they did pass a
18 resolution supporting the project, and I asked him to send us
19 the letter of support, but they had not sent it up to today.

20 CHAIRPERSON REID: Okay.

21 VICE-CHAIRPERSON RENSHAW: Perhaps we can ask the
22 applicant to pursue getting a copy of that so we could include
23 it in the record.

24 MR. FONSECA: Sure.

25 CHAIRPERSON REID: Then once that's done then we

1 can have them -- we can give them the weight to which they're
2 entitled.

3 So, Mr. Fonseca, if you'd like you can just give
4 us the sealant points of your case and then we can dispose of
5 this fairly quickly.

6 MR. FONSECA: Okay. This case was actually
7 presented to this Board in 1997, and on the 3rd of December,
8 and was approved then. I think as you suggested we've already
9 presented to the Historic Preservation and we've also gained
10 their support on this project.

11 Essentially we are asking for two -- a variance
12 from the rear setback and the lot occupancy. We're exceeding
13 by about two percent on the lot occupancy and the rear yard
14 about 52 percent.

15 The site sits on the corner of Calvert and
16 Cliffborn and it's an unusual site, and I think that the site
17 lends itself to an in-fill piece from an architectural and
18 urban point of view. It was perhaps years ago the alley
19 accessed to Calvert Street.

20 The organization is in -- currently the reason
21 why they did not get the full permit back in 1997 after this
22 approval was because unfortunately they didn't have the
23 finances to go through with the construction. The project that
24 we've presented in the packet that you have is exactly as it
25 was presented in 1997. Nothing has changed about the project,

1 and we don't believe that anything has changed in the
2 neighborhood that would warrant a different decision as well.

3 The reason that the owner is putting the small
4 addition onto the building is a couple of reasons. One is to
5 make the building ADA accessible, which provides for a new
6 elevator. It's a senior center and it's certainly something
7 that is needed in that. The Educational Organization for
8 United Latin Americans has owned and operated out of that
9 building for the past 20 years, with the exception of the last
10 5 or 6 years it's been vacant waiting for this renovation.

11 I think that in general what we're trying to do
12 is going to be a great improvement to the neighborhood and will
13 not impose any significant or substantial detriment to the
14 public good, and we feel that it's a worthy project based on
15 the folks who own the building and we don't see that the
16 addition itself, its physical parameters are of any significant
17 detriment as well.

18 We've also met with the adjacent neighbors on
19 both sides of the property and have had their support as well,
20 and I'm assuming the reason why they're not here is because
21 we've met them so many times that there's no opposition.

22 So we respectfully request that you grant a bench
23 decision and a summary order for the two variances for the rear
24 setback and the lot occupancy.

25 CHAIRPERSON REID: Thank you. We have an Office

1 of Planning Report that basically reiterates the same position
2 they had with the initial submission. I'm sorry. I didn't see
3 you sitting there. I was really expediting it. So please give
4 us your comments.

5 MS. STEINGASSER: Yes. Jennifer Steingasser with
6 the Office of Planning, and I'll also be very brief. The
7 Office of Planning reviewed the application and agreed that the
8 practical difficulty that existed in 1997 continues today.

9 CHAIRPERSON REID: Which was?

10 MS. STEINGASSER: Which was that there are
11 limitations on the building by virtue of its historic
12 designation that preclude it from adding an additional story to
13 the building that would allow for these improvements, and that
14 the building needs the rear yard to enable to meet the
15 Americans with Disabilities Act and provide for an updated
16 ventilation and AC unit. And based on that, we concluded that
17 the requests would not impact any of the adjacent properties
18 and it would not impair the intent, purpose or integrity of the
19 Zoning Regulations, and we continue to recommend approval.

20 CHAIRPERSON REID: Thank you. And I think you
21 said there was no ANC report?

22 VICE-CHAIRPERSON RENSHAW: No.

23 CHAIRPERSON REID: You did mention that you did
24 speak to the ANC?

25 MR. FONSECA: Yes.

1 VICE-CHAIRPERSON RENSHAW: Yes. And that is
2 going to be provided for the record.

3 CHAIRPERSON REID: Okay. And there was a letter
4 from the Historic Preservation Review Board and it says in
5 pertinent part the design is highly successful. It draws from
6 the original building as its source for bold forms and
7 intricate ornaments and then translated the historic elements
8 into modern details to produce a compatible, harmonious and
9 contemporary addition.

10 The staff has encouraged -- now, they have
11 recommendations. The staff has encouraged the applicant to
12 respond to design to allow for the fire escape to be removed
13 from the front of the historic building. Has that been done or
14 agreed upon?

15 MR. FONSECA: It's possible. We were under the
16 impression initially that that would not be something that they
17 wanted because it was a part of the original building as a
18 historic piece. And so it doesn't necessarily need to remain
19 as a second means of egress since we're putting in a second
20 means.

21 CHAIRPERSON REID: Okay. And that the project
22 may also include window replacement in the historic building?

23 MR. FONSECA: Correct.

24 CHAIRPERSON REID: Are you doing that?

25 MR. FONSECA: Yes.

1 CHAIRPERSON REID: And the staff has encouraged
2 the applicant to retain the original windows. Otherwise the
3 staff recommends only that the sashes be replaced in kind as
4 the curbed windows frames are repairable in rear.

5 MR. FONSECA: Our plans were not to repair the
6 existing windows, but we were going to replace them in kind.

7 CHAIRPERSON REID: Okay. Thank you. We don't
8 have any other government reports. We don't have anyone here
9 in opposition to the case. In support -- let's see, do we have
10 any letters in support? There's no one here in support of the
11 case, so closing remarks by the applicant.

12 MR. FONSECA: We again respectfully request that
13 you issue a bench decision and a summary order for the two
14 issues presented. Again, we think that the project is a much
15 needed renovation to the neighborhood. Currently, because the
16 building's been vacant for so long, it's becoming more of a
17 hindrance than anything, and the sooner that we can get your
18 approval the sooner we can move forward with the renovation.

19 CHAIRPERSON REID: Thank you. Board members, do
20 you have questions? I see none. I move that we approve this
21 application. I feel that the applicant has demonstrated that
22 they meet the burden of proof in regard to the three-prong test
23 as outlined by the Office of Planning Report, and the fact that
24 this case has some liability in regard in sort of loss of funds
25 by the Department of Housing and Community Development as it

1 pertains to this project. So I would move that we approve the
2 application.

3 MR. GRIFFIS: I would second that, Madam Chair,
4 and also add on that I think this is one -- it's a statement to
5 the architect that his design is still valid from 1997. I
6 think that's tremendous, and I think part of the exceptional
7 situation of this site is that, as I'm looking at this aerial
8 photograph, is the side, is the rear yard. And I think this is
9 a fairly successful in-fill, as you had stated, in terms of in-
10 filling that side in an urban design perspective, and I would
11 absolutely support.

12 CHAIRPERSON REID: All in favor?

13 MS. BAILEY: Staff will record the vote as 5 to 0
14 to approve the application. Motion made by
15 Mrs. Reid, seconded by Mr. Griffis, Mrs. Renshaw,
16 Mr. Levy and Mr. May in agreement, and this is the issuance of
17 a summary order.

18 MR. FONSECA: Thank you.

19 CHAIRPERSON REID: Thank you and good luck.

20 It will take about three weeks.

21 Next case.

22 MS. BAILEY: The last case of the day is
23 Application No. 16723 of McKendree-Simms-Brookland United
24 Methodist Church, pursuant to 11 DCMR 3104.1 for special
25 exceptions to allow a private school with 40 students, 1st

1 through 7th grades, and 7 staff, under Section 206, and a child
2 development center, that's with 20 children nursery through
3 kindergarten and 4 staff, under Section 205, and a variance
4 from the off-street parking requirements under Subsection
5 2101.1. The property is located in an R-1-B District at
6 premises 2420 Rhode Island Avenue, N.E., Square 4290, Lots 3
7 through 7.

8 (Witnesses sworn)

9 MS. BAILEY: Members of the Board, this is a case
10 that was continued from July the 10th, and just as a footnote I
11 would ask that the Board waive the ANC report into the record
12 that was received late. The case is now ready to go forward.

13 CHAIRPERSON REID: I have no problem waiving in -
14 - waiving the rules to accept the ANC report late. If there's
15 an objection we can go back -- okay, thank you very much.

16 Is there anyone here in opposition to this case?

17 Okay. Thank you very much.

18 MS. O'LEARY: Good afternoon, Madam Chairwoman
19 and the Board. I'm Trystan Phifer O'Leary of Dorsey and
20 Whitney, representing the Washington Science and Technology
21 Academy. They are seeking zoning approval for this educational
22 facility. it is a facility that will be responsible for 20
23 children as part of a child day care -- sorry -- child
24 development center. Those children will range from preschool
25 to kindergarten beginning at two years of age.

1 Also an elementary school for children up through
2 sixth grade, about the age of 11, and there will be no more
3 than 40 children in that program at any given time.

4 This facility, this church has previously been
5 the location of a school, a day care center.
6 There were 90 students enrolled; 45 students in the morning
7 program, 45 students in the afternoon program in that school,
8 and that was about 30 years ago. So this location has been
9 previously been zoned for this kind of activity. Those
10 children, however, were all of younger ages.

11 The Washington Science and Technology Academy has
12 taken many steps to prevent any foreseeable difficulties with
13 regard to traffic and parking, trash removal, snow removal and
14 any noise control issues that may arise. They seek to
15 establish the school and they are very well organized and have
16 planned this out. As you know, they have the support of the
17 ANC and they would like to seek approval today.

18 CHAIRPERSON REID: Thank you. Next.

19 MS. BURKE: My name is Marjorie Burke and I'd
20 like to say that we do have the authorization from the Minister
21 Reverend Armstrong to occupy the first floor of the Main Bishop
22 Educational Center of McKendree-Simms-Brookland Church and the
23 child development center will occupy two rooms; a nursery for 8
24 children ages two and a half to three years, four teachers and
25 a pre-kindergarten/kindergarten class for 12 children.

1 I might say that our philosophy focuses upon the
2 growth and development of children in a loving, healthy, safe
3 and nurturing environment which will stipulate the learning,
4 and emphasis will be placed upon the emotional, social,
5 physical and intellectual development of the young children.

6 Our hours of operation are from 7:00 a.m. to 6:00
7 p.m. The parents will have four parking spaces on Lawrence
8 Street and an adjoining parking lot will be available, and this
9 will facilitate the dropping off of children and picking them
10 up twice a day.

11 There will be no parking on Rhode Island Avenue
12 due to the volume of traffic on that street.

13 The private elementary school will also be
14 located on the first floor, and we anticipate to have 40
15 children and four staff members. And we also feel there will
16 be little noise from traffic on the Lawrence Street since all
17 of the students will be using the entrance on that street.

18 MS. O'LEARY: We might also add that this
19 facility has gained the approval of the Health and Human
20 Services Department pending approval by the Zoning Board.

21 CHAIRPERSON REID: Let me ask you a couple
22 questions, ma'am. Are you going to be providing any snacks or
23 lunch there?

24 MS. BURKE: No, we will not. The children will
25 be bringing their lunches.

1 CHAIRPERSON REID: In both the school and the day
2 care?

3 MS. BURKE: Yes.

4 CHAIRPERSON REID: Okay. Well, what about trash
5 disposal and pick-up? Do you have any type of plan for timely
6 and adequate disposal of trash and debris?

7 MS. BURKE: I believe that the Reverend Armstrong
8 will be able to answer that question.

9 CHAIRPERSON REID: Okay.

10 REVEREND ARMSTRONG: Yes. Reverend Michael
11 Armstrong, Pastor of McKendree-Simms --

12 CHAIRPERSON REID: Turn your mike on please.

13 REVEREND ARMSTRONG: Reverend Michael Armstrong,
14 Pastor of McKendree-Simms-Brookland United Methodist Church.

15 We have two pick-ups that are presently scheduled
16 that happen on a regular basis. We have not changed that since
17 the former day care center left out of the facility. So that
18 has been adequate for the needs in the past, and we are able
19 also to add an additional time if that is necessary.

20 CHAIRPERSON REID: So as needed or as required?

21 REVEREND ARMSTRONG: Yes, as required.

22 CHAIRPERSON REID: The other one is for the pick
23 up and drop off of the children, what is the plan for that?

24 MS. O'LEARY: The church has generously allocated
25 four parking spots on Lawrence Street that will be available

1 during the pick-up and drop-off hours so the children may be
2 safely dropped off and picked up by parents, and the teachers
3 will be parking in a separate location on Hoover Street, I
4 believe, in which spots have also been allocated by the church.

5 CHAIRPERSON REID: How old are the children?

6 MS. O'LEARY: The children range in age from 2 to
7 11 years.

8 CHAIRPERSON REID: How do the children get from
9 the parking lot to the building?

10 MS. O'LEARY: The parking spaces are on Lawrence
11 Street and they -- the way that I understand the map, they will
12 walk right into the yard of the church and be accompanied into
13 the facility by parents, I would suspect.

14 VICE-CHAIRPERSON RENSHAW: Are these public
15 parking spaces? Are they on the street?

16 REVEREND ARMSTRONG: It's on the street in front
17 of the educational building that we're talking about.

18 VICE-CHAIRPERSON RENSHAW: But that is or is not
19 reserved primarily or completely for your use?

20 REVEREND ARMSTRONG: It has not been completely
21 reserved for our use. We have simply made that available to
22 the school for their use. There are other places that staff
23 have that are able to park.

24 VICE-CHAIRPERSON RENSHAW: So there's just plain
25 public parking?

1 REVEREND ARMSTRONG: Yes.

2 CHAIRPERSON REID: Getting back to my question.

3 The parents will park at the parking lot and then they will
4 bring their children in. Is there someone that will receive
5 the children outside the building or do they have to come all
6 the way in or what?

7 MS. BURKE: Well, our policy is that the parent
8 must escort the child into the school, into the facility. The
9 parking lot will not be used primarily at the beginning. That
10 is only if it is needed. We anticipate having enough parking
11 spaces on Lawrence Street for the picking up and dropping off
12 of children in front of the educational center, which means
13 that they will not be crossing a street.

14 CHAIRPERSON REID: Do you have an accessory lot?

15 REVEREND ARMSTRONG: Yes.

16 CHAIRPERSON REID: Are you familiar with a report
17 from Kenneth Leyden, DPW, of July 9th, the year 2001, a letter
18 that refers to the lack of parking spaces and the
19 recommendation that the adjacent -- that staff use the
20 accessory lot to satisfy parking demands for the site?

21 REVEREND ARMSTRONG: I have not seen that letter,
22 no.

23 CHAIRPERSON REID: All right. Let me make a copy
24 of it. Why don't we allow the applicant to read the letter.

25 MS. O'LEARY: It is our understanding that this

1 letter -- the issue of this letter was raised at a separate
2 meeting and that the representatives of the church had not seen
3 it nor has anyone from Washington and Science -- Science and
4 Technology Academy.

5 It's also relevant, I think, that the pick up
6 will only occur -- I'm sorry -- the drop off rather will only
7 occur between 7:00 and 9:00 a.m. in the morning. The pick up
8 will occur between 3:00 and 6:00 p.m., so the pick up and drop
9 off does not occur throughout the course of the day. It's only
10 at designated times.

11 CHAIRPERSON REID: Okay.

12 MS. O'LEARY: The Academy has also taken measures
13 to scatter the pick up and drop off so that all children will
14 not be being dropped off or picked up at any one time. For
15 example, not everyone will arrive at 7:00 a.m., not everyone
16 will be picked up at 3:00 p.m. They will be staggered.

17 CHAIRPERSON REID: Have you read it?

18 REVEREND ARMSTRONG: Yes. I've read the letter
19 and the Church has no objections to the use of that space for
20 parking.

21 CHAIRPERSON REID: How many parking spaces?

22 REVEREND ARMSTRONG: Presently it is not marked
23 parking, but there are at least 20 cars that can park in that
24 space.

25 CHAIRPERSON REID: Board members, any questions?

1 VICE-CHAIRPERSON RENSHAW: I wanted to ask about
2 -- I was looking at the Office of Planning Report and we have
3 our Office of Planning.

4 Ms. Roberts, I believe, is here with us. And so why don't you,
5 if it's all right, Madam Chair, to have the Office of Planning
6 report and then I can ask my question after that.

7 CHAIRPERSON REID: All right. Ms. Roberts.

8 MS. ROBERTS: Good afternoon, Madam Chair and
9 members of the Board. My name is Maxine Brown-Roberts. I'm
10 from the Office of Planning.

11 The application proposes a child development
12 center for 20 children and a private school for 40 children
13 from grades 1 to 7, with a playground and required parking off
14 site. A private school is subject to the provisions of Section
15 206. The applicant proposes to have an enrollment of up to 40
16 students in three rooms on the first floor of the building.
17 The limited number of students in addition to 20 students in
18 the child development center will not generate any excessive
19 noise in the neighborhood.

20 Noise impact on neighbors will be minimized as
21 the use of the north playground is a dentist's office and to
22 the east is a basketball court. To the rear of the playground
23 is a 15-foot wide alley and single family detached homes.
24 These front a street and therefore the playground is to the
25 rear of the properties. Further, noise from outdoor play will

1 be minimal as all the students will not have outdoor recreation
2 at the same time.

3 The traffic generated in the morning and
4 afternoon from parents dropping off their children should have
5 minimal impact on traffic in the neighborhood. Because Rhode
6 Island Avenue is a very busy street students should be allowed
7 to be dropped off or picked up at -- should be allowed to be
8 dropped off or picked up at that entrance. Instead they should
9 enter and exit the building from the rear of the building along
10 Lawrence Street.

11 Only three homes front on Lawrence Street and
12 they have on-site parking. The dentist's office also has on-
13 site parking and the church has -- there's ample space along
14 both sides of Lawrence Street for parents to park.

15 The 15-foot wide public alley's only used by the
16 church and the outreach house, and therefore when dropping off
17 or picking up children parents will be able to park in the
18 alley in order not to effect traffic movements along Lawrence
19 Street.

20 Section 2101 of the Zoning Regulation required
21 two parking spaces for each three teachers and other employees
22 to be provided on site. The school proposed to have four
23 teachers and therefore three spaces are required. Parking is
24 able to be accommodated on the subject property. However,
25 there are some parking spaces which are available in front of

1 the building along Rhode Island Avenue and Lawrence Street.

2 Approval of the child development center is
3 subject to the requirements of Section 205. The proposed
4 facility has been inspected by staff from the Department of
5 Health and meets all of their requirements. If the application
6 for the special exception is approved the proposal will undergo
7 further review by the Department of Consumer and Regulatory
8 Affairs to obtain its Certificate of Occupancy.

9 Similar drop off for children for the child
10 development center will apply as in the case of the school.
11 The zoning regulation requires one parking space for four
12 teachers and of employees. The child development center will
13 have a total staff of four teachers and aides, and therefore
14 one parking space is required.

15 The limited number of students will not generate
16 any excessive noise in the neighborhood, and again the
17 playground equipment located closest to the house to the west
18 and past the equipment and should help to provide some
19 transition, for the outdoor play will be supervised.

20 The existing outward appearance of the building
21 will not be changed. The building has been a part of the
22 schematic for a very long time and has not been objectionable
23 to the community. The operation of the child development
24 center will not cause any changes, as children will not be
25 allowed to play in the front of the yard and there's a fence

1 along the eastern property line.

2 It is the aim of the Zoning Regulations unmapped
3 to development the area's single family detached units. This
4 endeavor will not be jeopardized as the proposed child
5 development center and school will not detract from the impact
6 of this quiet residential are, and in fact will provide a
7 service to the neighborhood.

8 The child development center and school are uses
9 that are closely related to residential use and can constitute
10 an important service to the residential area. Therefore, the
11 intent and purpose and integrity of the Zoning Regulations and
12 map will be maintained.

13 Regarding the variance request for the parking,
14 the subject property is unique by reason of its shape and other
15 exceptional situation. The property has a shape that is unlike
16 most of the properties in the vicinity that are rectangular.
17 Between the building and the property line is 20-foot building
18 restriction line within which parking spaces cannot be placed.

19
20 Additionally, parking is unable to be placed in
21 the front or rear yard as there is not enough space to
22 accommodate the parking spaces. The space on the west CR that
23 can be accessed through the alley is used to park vehicles
24 associated with church activities.

25 If the church were to be required to provide parking space on

1 the property this would present a practical difficulty as there
2 is no sufficient space on site, and the facility has functioned
3 for many years with parking on the street without any
4 complaints from surrounding residents.

5 The granting of a variance to allow the required
6 three spaces for the school and one space for the child
7 development center can be accommodated on adjacent streets and
8 will not be detrimental to the public good. Curbside parking
9 along Wood Allen (phonetic) Avenue and Lawrence street can be
10 expected to be available when the school and child development
11 centers are in use.

12 The intent and purpose for the on-site parking is
13 to prevent traffic congestion along roadways in the area. The
14 intent, purpose and integrity of the Zoning Regulations and map
15 will not be harmed as the required four parking spaces can be
16 accommodated on adjacent street. As demonstrated, this can be
17 achieved without causing any traffic congestion.

18 The Office of Planning recommends the Board of
19 Zoning Adjustment to approve the special exception and variance
20 request with the following conditions:

21 The enrollment of the child development center be
22 limited to 20 students and the school be limited to 40
23 students.

24 Children will only be allowed to enter or exit
25 through the Lawrence Street door except in emergencies.

1 The special exception will be for a period of 10
2 years.

3 Students will be supervised at all times when
4 they are on the playground.

5 At least two covered trash cans will be placed on
6 the playground.

7 The gates to the playground will be locked when
8 not in use by persons or activities affiliated with the school,
9 the child development center or church.

10 Thank you, Madam Chairperson.

11 CHAIRPERSON REID: Thank you, Ms. Roberts, for a
12 very in depth Office of Planning Report.

13 Are there any questions, Board members, of the
14 Office of Planning?

15 VICE CHAIRPERSON RENSHAW: Just one question, Ms.
16 Roberts. In point number two where you said at least two
17 covered trash cans will be placed on the playground. I
18 wondered if you had discussed with the applicant about a daily
19 clean-up?

20 MS. ROBERTS: This came out in some discussions
21 that went on with the applicant and the community, I think,
22 during the ANC, while the ANC was discussing, and some members
23 of the committee had said that the church were throwing garbage
24 in the alley and they were concerned about that. So it didn't
25 focus on the overall garbage pick-up, but how to alleviate the

1 kids throwing trash into the alley.

2 VICE-CHAIRPERSON RENSHAW: But I think it would
3 be a good idea if it would be the applicant's responsibility to
4 monitor the outside of their area and be sure that it's cleaned
5 up daily. No, wrappers or any debris in the area and in the
6 alley, just in back of your premises.

7 MS. BURKE: Yes, we will be responsible, but in
8 answer to your statement I'd like to say that the children will
9 not have any lunches or any type of food or wrappers or
10 anything on the playground. They will only be left and
11 supervised very carefully for a short period of time during the
12 day.

13 VICE-CHAIRPERSON RENSHAW: How long is the recess
14 period and do you have recess twice a day?

15 MS. BURKE: Well, the recess period for the child
16 development center in the morning will be 45 minutes, and 45
17 minutes for the elementary school.

18 VICE-CHAIRPERSON RENSHAW: So it's two 45-minutes
19 blocks outside in the morning.

20 MS. BURKE: Yes.

21 VICE-CHAIRPERSON RENSHAW: Is that the same in
22 the afternoon, weather permitting?

23 MS. BURKE: Weather permitting on specified
24 occasions. They will not be out there everyday, just on
25 certain days.

1 VICE-CHAIRPERSON RENSHAW: Certain days?

2 MS. BURKE: Yes, at the discretion of the
3 teachers.

4 VICE-CHAIRPERSON RENSHAW: So that's an hour and
5 a half in the morning and possibly an hour and a half in the
6 afternoon. Would they be back-to-back recesses?

7 MS. BURKE: At this point it will be. We'll have
8 the smaller children at 10:00 in the morning.

9 VICE-CHAIRPERSON RENSHAW: So at 10:45 the older
10 children would be out?

11 MS. BURKE: Would be out.

12 VICE-CHAIRPERSON RENSHAW: Until 11:30?

13 MS. BURKE: Yes.

14 VICE-CHAIRPERSON RENSHAW: 10:00 until 11:30.
15 All right. Well, we have some neighbors, I believe, in the
16 audience. Perhaps they'll be reacting to that time period.

17 CHAIRPERSON REID: All right. Any other
18 questions? Now, the ANC report. We do have an ANC report, did
19 you see it? Is there anyone from the ANC here? Okay. Allow
20 them to come up so they can give their report. Are you an ANC
21 member, representative?

22 If you can speak on a mike please, ma'am.

23 COMMISSIONER PAPPANO: I would say yes to help
24 conduct the meeting when she was recovering from her
25 hospitalization.

1 CHAIRPERSON REID: Okay.

2 VICE-CHAIRPERSON RENSHAW: Perhaps our ANC
3 representative would give her name? Would you both give your
4 names?

5 COMMISSIONER GOODWIN: I would like to stand for
6 just a minute, Madam Chair.

7 CHAIRPERSON REID: Okay.

8 COMMISSIONER GOODWIN: I would like to express my
9 personal thanks for the consideration that you gave to this
10 hearing. My daughter had brain surgery, then she had shoulder
11 surgery, and as soon as she got out I went in. I just want to
12 let you know that sometimes we do get good things for good
13 people. Now, I'm going to sit down.

14 CHAIRPERSON REID: Thank you very much.

15 COMMISSIONER GOODWIN: I hope that you have the
16 letter that was sent over or and delivered signed by Ms.
17 Broadnax (phonetic) and myself relative to the action that was
18 taken by the ANC. I would like for you to know that Mrs.
19 Martha Pappano, at the other end, and Mrs. --

20 MS. BAILEY: I'm sorry. I'm very sorry to
21 interrupt you, but for the record would you please give us your
22 name?

23 COMMISSIONER GOODWIN: I'm sorry.

24 CHAIRPERSON REID: And address.

25 COMMISSIONER GOODWIN: My name is Commissioner

1 Ruth Goodwin. My address 3102 20th Street, N.E., Washington,
2 D.C., 20018.

3 I would like to put on the record that
4 Ms. Mary Curry and Ms. Martha Pappano so graciously held the
5 community meeting for which I was not able to be present on
6 July the 18th. There were issues that came before the ANC, I
7 understand, that reflected the community's attitude towards
8 this school.

9 There were 500 fliers disseminated. The
10 attendance was 10, 10 people. When it came time to vote the
11 vote was 3 against the existence of the school and 1 for.
12 Later counting proved that one person was ineligible to vote,
13 so the vote finally was 2 to 1. There was some question as to
14 what or whether this vote actually represented the community,
15 but the two commissioners had to work with what they had.

16 There was another vote taken, and that was at the
17 monthly community meeting. We had so many more people at that
18 community meeting. The motion to support the community's
19 opposition yielded a vote of 3 yes and 4 no. We had 7 people
20 there, commissioners, and 7 constitutes a quorum. So the vote
21 failed and the vote was in favor of the existence of the school
22 and the concerns that attended it.

23 I would like to read into the record this
24 statement: It is true that difficulties mainly due to
25 miscommunications and absence of the duly elected commissioner

1 due to illness exists, but concerns can be addressed by the
2 Board of Zoning conditions process in the final quarter. 5A-
3 10 Commissioner Ruth Goodwin cannot see any adverse impact that
4 cannot be worked out in the BZA order. This facility is needed
5 in this community due to the distance traveled daily by parents
6 who seek child care for their children. In former schools at
7 the same site a large percentage of students were from our
8 community.

9 This is the submission from 5A supporting the
10 existence and the variance for the school.

11 CHAIRPERSON REID: Well, I must say this is
12 rather unusual, to say the least.

13 MS. GOODWIN: Yes.

14 CHAIRPERSON REID: And I think one of the
15 problems that we have is that the vote did not really comprise
16 a quorum. A quorum there is seven and you only had three
17 people that voted.

18 MS. GOODWIN: We had four.

19 CHAIRPERSON REID: I thought one as disqualified.

20 MS. GOODWIN: Pardon? No, we had seven vote.

21 CHAIRPERSON REID: I'm sorry. The ANC did have a
22 quorum and it was three to four, so the opposed the motion to
23 support the school, right?

24 MS. O'LEARY: No.

25 CHAIRPERSON REID: Okay. What happened?

1 MS. O'LEARY: It was four in favor of the motion.

2 CHAIRPERSON REID: The motion to support the
3 community's opposition failed?

4 MS. O'LEARY: Yes.

5 CHAIRPERSON REID: Okay. So they were just the
6 inverse of what the community wanted to do. So therefore, with
7 the quorum present and the motion carrying -- the motion
8 failed, so what does that mean. What does that mean?

9 The motion to oppose failed, so then should there
10 have been another motion to support?

11 VICE-CHAIRPERSON RENSHAW: There should have been
12 another motion to support. It would have been a cleaner way to
13 do it.

14 COMMISSIONER GOODWIN: No. She didn't have to.

15 CHAIRPERSON REID: It would have been better for
16 us, for our edification.

17 COMMISSIONER GOODWIN: I understand, yes.

18 CHAIRPERSON REID: So we're assuming that the ANC
19 does support this application?

20 COMMISSIONER GOODWIN: Yes.

21 VICE-CHAIRPERSON RENSHAW: Or it is not in
22 opposition to it.

23 COMMISSIONER GOODWIN: I'm sorry. Would you like
24 to say something as well? Give your name and your address.

25 COMMISSIONER PAPPANO: Yes. I'm Commissioner

1 Martha Pappano, and I was asked to stand in for Mrs. Goodwin.
2 Mary Curry and I, Commissioner Curry and I were the two
3 commissioners who held the meeting.

4 CHAIRPERSON REID: This Ms. Goodwin?

5 MS. GOODWIN: Yes. You see I was in the
6 hospital.

7 CHAIRPERSON REID: Go ahead.

8 COMMISSIONER PAPPANO: The community, even though
9 it was small, voted against the school. The ANC Commission
10 voted not to support what the community had voted on. I wanted
11 to clarify that. The ANC 5A did not take another vote to
12 support the school. The community at the ANC community meeting
13 was quite upset that the ANC did not support the community. I
14 would be remiss if I did not report the facts.

15 I'm here -- since I was asked to step in, I'm
16 here to speak for the community.

17 CHAIRPERSON REID: Well, the vote that was taken
18 was to not support the community which was against it. That's
19 a round about way of this whole thing, because if they're only
20 taking a vote in favor or not in favor of the application that
21 would have been much simpler and much easier for us.

22 And so, Ms. Sansone, how do we reconcile the way
23 that they did this?

24 MS. SANSONE: Well, Madam Chair, as the Board's
25 all aware, the great weight requirement means that the Board of

1 Zoning Adjustment considers each of the issues and concerns
2 that's specifically brought to the Board's attention. So if
3 the ANC has identified any particular problems or deficiencies
4 the great weight is that the Board recognizes that and
5 addresses whether the application would in fact cause those
6 problems. So I think in this circumstance if they have not
7 identified specific issues they want the Board to take up and
8 make findings about it's very hard to -- it would be very hard
9 to actually fulfill a great weight requirement. Great weight
10 means giving consideration.

11 CHAIRPERSON REID: The problem that I have with
12 it is that the notice to them is for them to weigh in on
13 whether they support or not support the application, but their
14 vote was whether they opposed or supported the position taken
15 by the community, which is not what they need to give us.

16 Do you see what I'm saying? Their vote was about
17 whether they supported the community or not, not the issue of
18 the application on the table.

19 MS. SANSONE: Madam Chair, if the ANC has not --
20 if the ANC as a whole has not identified specific issues or
21 concerns then there really is nothing to give great weight to.

22 I mean, great weight is to go through the issues one by one
23 with findings.

24 CHAIRPERSON REID: The application itself.

25 MS. SANSONE: The ANC's report. Where the ANC

1 does not present specific concerns to the Board there's really
2 nothing you can give great weight to, because great weight
3 simply means to take up those issues and make specific findings
4 about them.

5 CHAIRPERSON REID: So if you were going to write
6 an order on the ANC's position then they do not defend their
7 position as it is germane to this application. They give us
8 information as it pertains to how they regarded the position of
9 the community, which is not what --

10 MS. SANSONE: Unfortunately, in this letter we
11 don't have any outline as to what the problems of the community
12 were, what the community said at this meeting.

13 VICE-CHAIRPERSON RENSHAW: And that's our
14 problem.

15 MS. O'LEARY: I think Commissioner Goodwin can
16 address those. She has most of them.

17 COMMISSIONER GOODWIN: Yes, I do have them, and a
18 letter was written detailing them. But I checked and I was
19 told that that wasn't necessary, but I have them here. I
20 brought that letter with me.

21 VICE-CHAIRPERSON RENSHAW: That would be good to
22 have.

23 COMMISSIONER GOODWIN: And I have --

24 CHAIRPERSON REID: Can you give that to staff so
25 that we can see what in fact --

1 COMMISSIONER GOODWIN: Yes. Who do you wish me
2 to give them to?

3 CHAIRPERSON REID: Mr. Hart. Okay.
4 Mr. Hart will make copies of this and then we'll make a
5 determination as to how we will handle this particular ANC
6 report.

7 COMMISSIONER GOODWIN: May I say also that in the
8 voting -- in fact, in the discussion the variance was
9 adequately discussed and the subject matter of which they were
10 voting on was adequately discussed. It wasn't just the school.

11 It was basically concerns and the variance, and there's a list
12 of concerns that was given by the community.

13 CHAIRPERSON REID: Okay.

14 COMMISSIONER PAPPANO: Madam Chair, and I can
15 address some of the things that were voiced by the community.

16 CHAIRPERSON REID: Well, it's in a letter; isn't
17 it?

18 COMMISSIONER PAPPANO: Oh, it's in there.
19 We're in a very awkward position here because I was asked to
20 come down here by Commissioner Goodwin to come to the hearing a
21 couple weeks ago, and then after the vote was taken I need to
22 support what the community said. So even though we're sitting
23 on the same commission there's slightly different views because
24 I'd be remiss with all the phone calls that Commissioner Curry
25 and I received from the community and people spoke to us in

1 person, not to try to address the community's issues.

2 So it's a very peculiar position that we're
3 trying to deal with.

4 CHAIRPERSON REID: I think this is two different
5 things. You're not representing the ANC, you're representing
6 the community? If you are, let's do it like this. There will
7 be an ample opportunity for you to testify in opposition or in
8 support.

9 COMMISSIONER PAPPANO: Okay.

10 CHAIRPERSON REID: So if you're not representing
11 the ANC, this segment is specifically for ANCs. So we'd be
12 more comfortable for you to do it like that to represent the
13 community once we call on the opposition.

14 COMMISSIONER PAPPANO: That would be fine.

15 CHAIRPERSON REID: Thank you.

16 COMMISSIONER PAPPANO: So would you like for me
17 to step down?

18 CHAIRPERSON REID: Yes. Right.

19 COMMISSIONER PAPPANO: Thank you.

20 CHAIRPERSON REID: So we can deal with the ANC --

21 COMMISSIONER MAY: May I ask -- I want to ask a
22 couple of questions about the community support in order to
23 clarify what that really means.

24 What I've heard described is that there were 500
25 fliers distributed, ten people showed up, and somehow in the

1 end there was a vote of four people. Who were those four
2 people?

3 COMMISSIONER GOODWIN: Four people.

4 COMMISSIONER MAY: There were four people who
5 showed up?

6 COMMISSIONER GOODWIN: No, there were ten that
7 showed up.

8 COMMISSIONER MAY: I know.

9 COMMISSIONER GOODWIN: So four people voted, and
10 then it was brought down.

11 COMMISSIONER MAY: But who were those four people
12 and why did they vote and the other six did not?

13 COMMISSIONER PAPPANO: May I answer that?

14 COMMISSIONER MAY: Yes, please.

15 COMMISSIONER PAPPANO: Because I was the one
16 helping to conduct the meeting. In a single member district
17 meeting the people reside in that single member district.
18 First of all the first criteria is that you must be registered
19 voter in the District of Columbia. The second criteria is that
20 you must reside within that same district. Of the people who
21 were at the meeting there were only four people who lived in
22 the single member -- what we thought lived in the single member
23 district, and it turned out that three of them lived within the
24 single member district and one had a business in the single
25 member district, and that's why later there was a question of

1 one vote.

2 COMMISSIONER MAY: Okay. I'm not sure what the
3 actual standing is of the single member district in this
4 process, but it seems to me that if what we are doing is giving
5 great weight to the ANC, which is composed of elected
6 officials, that it's their action that should be considered.

7 When we talk about the "concerns of the
8 community", that the community spoke in this way, I'm not sure
9 that they really represent something with status in this
10 hearing. I'm not sure about that. I wouldn't mind getting a
11 more legal opinion on whether in fact the single member
12 district vote constitutes something that we have to give
13 consideration to specifically outside hearing the concerns of
14 the community.

15 CHAIRPERSON REID: No. The consideration and
16 great weight goes to the position of the full ANC.

17 COMMISSIONER MAY: Right.

18 CHAIRPERSON REID: And that is the letter that we
19 take into consideration when we give it great weight. The
20 community, certainly they can participate but they're not
21 entitled to great weight.

22 COMMISSIONER MAY: Right. So in effect what we
23 have is an action of the ANC in support of the project. I
24 mean, they were speaking out against what had been expressed at
25 a community meeting, but in effect they are endorsing the

1 variance and the exception, in abstract if not legally.

2 VICE-CHAIRPERSON RENSHAW: Ms. Sansone, do you
3 want to interpret it? My interpretation of this vote which
4 took place on July 25th, where four of the ANC 5A commissioners
5 opposed the community vote and three supported the community
6 vote, that was the vote. And the vote did not speak. From
7 that ANC did not speak specifically of whether or not that ANC
8 was supporting the applicant.

9 COMMISSIONER MAY: Yes. It goes to how they word
10 their motion in essence, but all I'm stating and I don't know
11 whether this has any legal bearing or not, is that in effect we
12 have a four to three vote with a quorum from the ANC in effect
13 supporting the project.

14 VICE-CHAIRPERSON RENSHAW: Or no opposition to
15 the project.

16 COMMISSIONER MAY: Or no opposition, right.

17 MS. O'LEARY: It may be relevant to too you
18 raised some concerns about the community support, and in fact
19 43 people in the community, and some of them immediately
20 surrounding on Lawrence Street and Rhode Island Avenue signed a
21 petition in favor of the school, although only ten people
22 showed up at the meeting. So I think that the ANC is probably
23 acting with broader knowledge of what the community at large
24 may want.

25 VICE-CHAIRPERSON RENSHAW: Do we have that

1 petition?

2 MS. O'LEARY: I believe that you do.

3 VICE-CHAIRPERSON RENSHAW: We do?

4 MS. O'LEARY: I was under the impression that you
5 did have a copy of it. We can give it to you right now.

6 CHAIRPERSON REID: At any rate, I think that the
7 safest thing to do in this instance, because there is so much
8 confusion, is to assume that -- well, I don't want to assume
9 that the ANC took a position either way in regard to this
10 application, because the position of ANC is whether to support
11 or to oppose the position of the community, which is like a
12 round about way of writing to us. But in practice, typically
13 this Board operates under the assumption that if there is no
14 letter to the contrary that there's no opposition, that the ANC
15 does not oppose the application. And as such, we would take
16 their position into consideration but we could not give them
17 the great weight to which they would ordinarily be entitled.

18 Does that make sense?

19 MS. O'LEARY: It was our understanding at the
20 Academy that the ANC disagreed with the community vote. And I
21 understand the problem of semantics here, the confusion that
22 the way the vote was worded has caused. However, what was
23 expressed to us and what we took the vote to mean was that they
24 disagreed with the community vote, and in fact support the
25 Academy.

1 CHAIRPERSON REID: Let's do this. I don't think
2 that -- we probably will not decide on this case today. So
3 then perhaps we can in the interim, now in the time that we
4 actually decide the case I get a letter from the ANC that will
5 clarify as to what their position is.

6 MS. O'LEARY: We would express some concern about
7 that simply because this was put off from July 10. They're
8 trying to open school in the beginning of September. We had
9 discussed that at the time when we moved it to today and
10 whether or not having it today and coming to some sort of
11 decision would allow them enough time to open in September.

12 CHAIRPERSON REID: Okay.

13 MS. O'LEARY: So there is some urgency there.

14 CHAIRPERSON REID: Well, it would be my position
15 that -- Ms. Sansone, I don't know how you feel, but I just
16 don't feel comfortable giving great weight to a vote that was
17 not taken pertaining to the specific case that is before us.
18 Their vote was in regard to whether to support the community or
19 not.

20 MS. SANSONE: Yes, Madam Chair, and I have here a
21 copy of the new ANC Law, the amendments that became effective
22 last year, and I apologize that I don't have the D.C. Code
23 section, but in the new ANC Law in order to be given great
24 weight the commission must have held a public meeting and given
25 appropriate notice and then provide the government agency with

1 a written report.

2 And what the new law says is the issues and
3 concerns raised in the recommendations of the ANC shall be
4 given great weight during the deliberations by the government
5 entity. Great weight requires acknowledgment of the ANC as the
6 source of the recommendations and explicit reference to each of
7 the ANC's issues and concerns. In all cases the government
8 entity -- which in this case is the BZA -- is required to
9 articulate its decision in writing. The written rationale of
10 the decision shall articulate with particularity and precision
11 the reasons why the ANC does or does not offer persuasive
12 advice under the circumstances. In so doing the government
13 entity -- referring here to the BZA -- must articulate specific
14 findings and conclusions with respect to each issue and concern
15 raised by the ANC. The government is required to support its
16 positions on the record.

17 So the great weight is really the ANC report
18 needs to identify issues and concerns that it wishes the Board
19 to bring to the Board's attention so that the Board can be able
20 to address it, and a letter from the ANC is written in a way
21 that does not make that possible.

22 So I think we'd have to in the order state that
23 the Board reviewed the ANC's report but they really were not in
24 a form or provided the information necessary for the Board to
25 be able to give great weight and to take up the issues and

1 concerns.

2 CHAIRPERSON REID: That's what we'll do.

3 MS. GOODWIN: Madam Chair, I reiterated -- I
4 shall reiterate that a very definitive letter was written, and
5 I was told that that was not what you wanted. You wanted
6 basically the vote that was taken. Another letter was written.

7 I think I gave the original one, which is in much detail, has
8 listed the things that the community said and everything.

9 CHAIRPERSON REID: I know, but it still does not
10 speak to whether there was a quorum present or a vote taken.
11 Where's the letter?

12 VICE-CHAIRPERSON RENSHAW: This was the letter
13 dated July 30th, which was a report of the special meeting of
14 the single member District 5A-10 with the community, but not of
15 the full ANC-5A.

16 CHAIRPERSON REID: We're not discounting the
17 letters. We're just saying that because of the confusion we're
18 not giving great weight, but we will take into the
19 consideration the letters that have been presented to us.
20 We'll do that.

21 All right. Any other questions, Board members?

22 Any other government reports?

23 All right, then. Persons or parties in support
24 of the application. Does anybody here want to speak in
25 support? Okay. Persons or -- in support? All right, come on.

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MS. WHITE: My name is Joan White, and I am a member of McKendree-Simms-Brookland United Methodist Church and I have been since 1973. I stand in support because we did have a school in this same site, under the same circumstances for approximately 20 years, maybe a little more, and we just closed that school about two years ago.

To my knowledge there was no opposition from the community during those 20 years concerning our school. Now, this school is under a different directorship, but I had two grandchildren who went to that school. We provided a very good service to the community. It was, in fact, the outreach center for our church, and there's school, a Catholic school down on Rhode Island Avenue, St. Francis DeSalles, and those children would come to McKendree sometimes in the mornings before school and then they would be bussed to the school in the evening for after care, but we also had certain grades there in the school.

And I just want to say that it was always there and I think that's probably part of the reason that many members of the community did not come out to voice any opposition to it because it was an accepted thing in the community, and as certain things happen I guess they had no objections so they did not come out. But probably those that had some objections did make their voices heard. But I just

1 don't feel that the few people who came could really, truly
2 speak for the community.

3 I know that I don't live right in that district.

4 I am in Ward 5, but I am further up on South Dakota Avenue.
5 But that school has provided a very good service. The only
6 reason that that school closed was because the enrollment went
7 down a great deal and so consequently we finally had -- it was
8 not bringing what we needed for the community, so that's why
9 the school closed at that point.

10 Thank you.

11 CHAIRPERSON REID: Thank you very much.

12 COMMISSIONER GOODWIN: Madam Chair, before I
13 leave may I just say this also. I've been an ANC commissioner
14 for five years. I've been in this community 41 years. I've
15 been in Washington 54. The entire time that I have been the
16 commissioner for

17 5A-10 I am also an ordained minister and know that church very
18 well because I have been there many, many times. Never once
19 has anybody in the community come to me until this school --
20 now, this school has not existed there.

21 How do you know that the same things that
22 happened in the prior schools will happen in this one? That
23 looks like you're saddling the person. I listened to this
24 report over here, and actually she answered everything that was
25 listed by the community. I'm concerned because we need this

1 school. We need it. There is not another one between South
2 Dakota Avenue and the Maryland line. We need this school.

3 CHAIRPERSON REID: Okay. And we understand that
4 and you know ANC part -- I'll let you speak but so far we
5 haven't heard any opposition.

6 COMMISSIONER GOODWIN: I'm giving up now.

7 CHAIRPERSON REID: We have not. So let us
8 proceed with the rest of the case to see what in fact the
9 community has to say and then we can better be able to judge
10 which way we need to go with this.

11 COMMISSIONER GOODWIN: Thank you.

12 CHAIRPERSON REID: Any questions, Board members?
13 Persons in opposition? Support or opposition?

14 MS. SULLIVAN: I'm in support as a Board member
15 of the school and as a concerned parent.

16 CHAIRPERSON REID: Your name and address?

17 MS. SULLIVAN: I'm sorry. My name is Martha
18 Sullivan.

19 CHAIRPERSON REID: Were you sworn, Martha?

20 MS. SULLIVAN: Yes.

21 CHAIRPERSON REID: I reside at 2607 12th Street,
22 N.E. I feel as though this school will be in great -- it would
23 help the community out more. I am from this Ward 5 area. I've
24 grown up in there. I've tried to give back to my community, so
25 this is why I am in support of the school.

1 CHAIRPERSON REID: Thank you very much.

2 And also we do have in the file a petition signed
3 by several residents in Ward 5 in support of the application.
4 I think there's something like 50, approximately 50 signatures
5 on this petition. Forty-five?

6 MS. O'LEARY: Forty-three.

7 CHAIRPERSON REID: Forty-three. Thank you.

8 Now, persons in opposition. I don't have any
9 parties in opposition. So how many people? Three? Okay.
10 Please come up.

11 I didn't specify before. Fortunately the people
12 in support only took a few minutes, but the time limit is three
13 minutes apiece. So please try to -- all right. Go ahead.

14 COMMISSIONER PAPPANO: Do we need to identify
15 ourselves again?

16 CHAIRPERSON REID: Again, give your name and your
17 address.

18 COMMISSIONER PAPPANO: Commissioner Martha
19 Pappano. 2711 South Dakota Avenue, N.E., D.C. 20018.

20 Commissioner Curry and I, as I told you earlier,
21 were asked to come and listen to the community and take a vote,
22 and we did listen and we heard a lot about what the community
23 had to say, some of which was said after the meeting, and I'd
24 be remiss if I didn't come and speak.

25 Commissioner Curry privileged me to come and

1 speak for her. She herself is recovering from back surgery.
2 And we speak as one in articulating the concerns of the
3 community.

4 The community said that it didn't understand how
5 the Board could render a decision after the fact some of the
6 things were being said, and I wasn't able to answer that
7 question. That's the Board's decision there.

8 The community didn't understand how the church
9 could speak for the community when the majority live in
10 Maryland and some of the other parts of the district, including
11 the minister who lives in Prince George's County.

12 The community seems not to have had a clear
13 notion that a new school was going to be operating at the
14 church's building for quite some time, although at our meeting
15 with the community the director told the community and the
16 commissioner and myself that they have actually been in
17 operation in that building since March of 2001. I believe she
18 said that they've been teaching ten children in the building.

19 Again, I'm not sure about their Occupancy Permit
20 or anything else, and again that's for the Board of answer.

21 During our meeting with the community
22 Commissioner Curry suggested to the school that they put a
23 banner out, which we both thought was a good idea, saying we're
24 coming, a new school is coming, so the community could begin to
25 see the fact that there is a school coming there that they plan

1 to open and they're developing their plan. Then that could
2 also help open the dialogue which the community feels has not
3 taken place.

4 The community also said that -- and is very
5 concerned of the lack of knowledge of seeing the actual plans.

6 Everything that has been said to the community has been
7 verbiage, but they have never shown the actual plans of the
8 school.

9 They continued to be concerned, the community
10 does, of the safety, traffic, noise and transportation. This
11 does worry the community and they believe it still needs to be
12 addressed pursuant to the guidelines of the Zoning Board.

13 Thank you.

14 CHAIRPERSON REID: Thank you. Okay. Next.

15 MS. MORGAN-LOPEZ: Good afternoon, Madam Chair,
16 Board members. My name is Michelle Morgan-Lopez. I reside at
17 2427 Monroe Street, N.E., Washington, D.C. 20018, in ANC-5A-10.

18 I actually have prepared a handout for you to let you see
19 exactly what the particular area looks like, if I may give that
20 to you.

21 CHAIRPERSON REID: Okay.

22 MS. MORGAN-LOPEZ: In the interest of saving time
23 I'll dispense with the first page which is basically just a
24 little biographical background.

25 CHAIRPERSON REID: Okay.

1 MS. MORGAN-LOPEZ: And go straight into the heart
2 of the matter. I'm referring here to the Title 11 Municipal,
3 Regulations 205.3 and 206.2, which pertain to objectionable
4 traffic conditions unsafe for picking up and dropping off
5 children. And if you would take a look at our Exhibit A, which
6 is photographs of the area, on neither side of the 2400 block
7 of Lawrence Street, N.E. between the school and the playground
8 are there currently sidewalks for the children to use to reach
9 the school from their parents' cars or to play areas.

10 The 3300 block of Hoover Road is a one-lane road
11 where two cars cannot pass each other unless one pulls to the
12 side. This is a very dangerous area for foot traffic, since
13 foot traffic is essentially walking in the street.

14 Driver's fail to stop completely at the Lawrence
15 Street stop sign. Also the conditions of the street are
16 atrocious with patched holes, pot holes. These are small
17 streets that are already overused by through traffic from Rhode
18 Island Avenue. Autos dropping off and picking up students will
19 undoubtedly create a bottleneck in the morning and in the
20 evening.

21 Regarding Title 11, the Municipal Regulations
22 205.4 and 206.3, which pertain to providing sufficient off-
23 street parking to meet reasonable needs of teachers, other
24 employees and visitors, please also look at Exhibits A and B
25 for both of these first two. And I state that granting the

1 requested variance will further increase objectionable traffic
2 conditions. Parents dropping off and picking up students will
3 also need parking spaces. There is simply not enough on-the-
4 street parking available for this.

5 Additionally, the proposed director,
6 Mrs. Burke, indicated at the July 18th, 2001 5A-10 special call
7 meeting that her goal was to double the enrollment of students
8 in the near future. When on-street parking is simply not
9 sufficient to handle the traffic associated with 120 drop-offs
10 and pick-ups per day for the currently requested number of 60
11 students, much less for double that amount.

12 Regarding Title 11, Municipal Regulation 205.5
13 and 206.2, pertaining to no objectionable impacts on adjacent
14 or nearby properties due to noise or activity, visual
15 conditions or traffic, please see Exhibit C. Other
16 objectionable impacts on adjacent and nearby properties will
17 involve the playgrounds. For the 20 or so years that a child
18 development center operated at the proposed site there was a
19 constant problem with loud screaming in the morning, at noon
20 and in the evening. The children were allowed to throw trash,
21 small sticks and other debris into the alley. It was also
22 thrown at my pet dog. Neither the school nor the church, which
23 owns the property, took responsibility each saying the other
24 party should clean the alley or that I should call the city to
25 have the alley swept.

1 The fence along the perimeter's allowed to become
2 overgrown with weeds, providing a hiding place for vagrants,
3 drunks, prostitutes and their clients, and other objectionable
4 persons that leave behind beer, liquor bottles, used condoms
5 and syringes and all manner of items not suitable for
6 children's play area. I've personally swept behind give houses
7 in the alley because the school or the church would not.

8 Property owners across from the playground have
9 and still clean the vegetation from the fence or pay to have
10 someone spray it. Within the last two days vegetation has been
11 cleared from inside the playground and some of the surrounding
12 area, but the fence was not touched, as usual.

13 For these reasons the playground is objectionable
14 due to noise, activity and unsightly visual impacts.

15 The people applying for BZA Case No. 16723
16 apparently operated a school on this site this past school year
17 without proper zoning and permits. I stood at my kitchen door
18 in April of 2001 and watched a child deliberately throw a
19 seven-inch stick and hit my automobile which was parked inside
20 my yard. When I called this to the attention of the attendant
21 she indicated that the child said he didn't do it. The same
22 attendant later told me at the 5A-10 special call meeting that
23 the child would not lie, which could only mean that I was lying
24 on the child. This shows me that the level of cooperation we
25 can expect from the school will be much less than desirable

1 since that attendant turned out to be the proposed director,
2 Mrs. Burke.

3 In summarizing, I find it curious that the 5A-10
4 Commissioner Goodwin, who was not present at her own special
5 call meeting, understandably since she said she was ill, of
6 July 18th, 2001, would recommend for BZA Case No. 16723. At
7 the July 25th, 2001 ANC 5A meeting the exact opposite was in
8 fact the result of the vote by the albeit small number of
9 persons attending the call meeting. We voted against BZA Case
10 No. 16723. At the ANC meeting Commissioner Goodwin blatantly
11 and vehemently advised the other commissioners that she was in
12 favor of the school. The mixed messages seemed to confuse the
13 commissioners enough for Mrs. Goodwin to have her way with the
14 close vote.

15 I find the ethics here to be questionable since
16 Commissioner Goodwin has been involved in the planning stages
17 of this school with Mrs. Burke and others. I am seeking advice
18 regarding that situation.

19 In conclusion, as a resident of the District of
20 Columbia I find it objectionable that teachers and others from
21 Maryland will come into our city and neighborhood and try to
22 create jobs for themselves. This was done without contacting
23 neighbors who would be impacted by the school, as is required
24 by law. It came out in the special call meeting that the plan
25 was to notify neighbors after the school plans had been

1 finalized. The two years or so that the day care center was
2 closed have been very peaceful without the noise and activity
3 we had endured for so long.

4 While I am in support of educating our children
5 to the best of our ability, the recent illegal school activity
6 was enough to allow us to see that we will have the same
7 terrible problems we suffered with for 20 years. We are
8 talking about a residential neighborhood and enough is enough.

9
10 And if you'll check Exhibit C specifically it
11 shows the proximity of the playground to my back yard. As you
12 can see there is very little space separating the two areas.
13 And A and B show that the surrounding streets are not safe.
14 They are not safe. There's no sidewalks, as in indicated on
15 Exhibit A, on Lawrence Street between where the school and the
16 playground is in the corner on either side of the street.

17 Also, Hoover Road. I thought I heard somebody
18 say something about parking on Hoover Road. Hoover Road is a
19 one-lane little torn up. It looks worse than the alley behind
20 my house, and in order for two people to get by somebody's
21 either got to stop at this end or stop at that end or squeeze
22 over to this side or squeeze over to that side, and I'm pretty
23 sure I heard somebody say they were going to be parking on
24 Hoover Road. I don't know how that could be.

25 Thank you.

1 VICE-CHAIRPERSON RENSHAW: Madam Chair, before we
2 go on to our next witness I would like to ask Mrs. Morgan-Lopez
3 on Exhibit C is the car that is pictured down at the bottom
4 your car?

5 MS. MORGAN-LOPEZ: Yes.

6 VICE-CHAIRPERSON RENSHAW: And is that your
7 parking pad?

8 MS. MORGAN-LOPEZ: Yes, it is.

9 VICE-CHAIRPERSON RENSHAW: And across from your
10 parking pad there is a wire mesh fence and that is the school
11 property?

12 MS. MORGAN-LOPEZ: That is.

13 VICE-CHAIRPERSON RENSHAW: The playground?

14 MS. MORGAN-LOPEZ: That is the playground.

15 VICE-CHAIRPERSON RENSHAW: Thank you.

16 CHAIRPERSON REID: Also I'd like to ask, in the
17 same picture you -- the alley which you access your parking
18 slab is in the rear of your car. Is that how you get to your -
19 -

20 MS. MORGAN-LOPEZ: Yes. If you look at the
21 picture to the left in Exhibit C, all the way down at the end -
22 -

23 CHAIRPERSON REID: Oh, I see.

24 MS. MORGAN-LOPEZ: -- where Hoover Road comes
25 through.

1 CHAIRPERSON REID: Okay. That's Hoover Road
2 behind you?

3 MS. MORGAN-LOPEZ: Hoover Road at the end of that
4 wall where that telephone pole is.

5 CHAIRPERSON REID: All right.

6 MS. MORGAN-LOPEZ: In the very left-hand corner
7 in the picture in the left-hand corner. Oh, I'm sorry, let me
8 see. Forgive me. Exhibit C. I'm so sorry.

9 CHAIRPERSON REID: Okay. So where's your house
10 in proximity to where you park your car?

11 MS. MORGAN-LOPEZ: The --

12 CHAIRPERSON REID: Do you walk up the walkway
13 here?

14 MS. MORGAN-LOPEZ: Exactly.

15 CHAIRPERSON REID: Then how far -- after you walk
16 up the walkway then you make a right?

17 MS. MORGAN-LOPEZ: No. It's just right there.
18 As a matter of fact, I was standing in my door when I took the
19 picture at the bottom right.

20 CHAIRPERSON REID: Okay. Now, Hoover Road, did
21 you say that -- is this a thoroughfare or is it --

22 MS. MORGAN-LOPEZ: It is actually a street, but
23 it is in terrible repair. It's one of those streets that I've
24 sent into Bob Levy for the worst pot holes.

25 CHAIRPERSON REID: And this street comes behind

1 the school?

2 MS. MORGAN-LOPEZ: No. This street, Lawrence
3 Street -- which picture are you looking at?

4 CHAIRPERSON REID: Exhibit B.

5 MS. MORGAN-LOPEZ: Okay. Lawrence Street is
6 where that wall is and the stop sign. The street straight in
7 front of you that is Hoover Road, and it's like an alley.

8 CHAIRPERSON REID: You mean the road that comes
9 across?

10 MS. MORGAN-LOPEZ: The road that you're looking
11 now.

12 CHAIRPERSON REID: Where it looks like a school
13 sign?

14 MS. MORGAN-LOPEZ: That's Lawrence Street.

15 CHAIRPERSON REID: Okay. Then this big -- is
16 Hoover. So you're saying that -- how are you saying Hoover
17 Road is used in reference to the school?

18 MS. MORGAN-LOPEZ: I heard someone say something
19 about parking on Hoover Road.

20 CHAIRPERSON REID: Okay.

21 VICE-CHAIRPERSON RENSHAW: There was some
22 reference earlier to parking on Hoover.

23 CHAIRPERSON REID: We can ask the applicant about
24 that, because I --

25 MS. MORGAN-LOPEZ: It's only 26 feet wide.

1 CHAIRPERSON REID: Okay. And so you're
2 contending that the traffic is a safety hazard?

3 MS. MORGAN-LOPEZ: Absolutely.

4 CHAIRPERSON REID: And also your complaint is
5 noise?

6 MS. MORGAN-LOPEZ: Yes.

7 CHAIRPERSON REID: And the child who threw the
8 litter. The child who threw the stick on your car was from
9 that school?

10 MS. MORGAN-LOPEZ: He was in the school yard.
11 What happens is that the floor of the school yard is covered
12 with mulch, bark-like stick materials and I cannot phantom why
13 the children just constantly -- they just throw it out in the
14 alley. They just throw it out in the alley.

15 CHAIRPERSON REID: Throw what out?

16 MS. MORGAN-LOPEZ: The bark, the sticks, the
17 mulch, the stuff that's on the floor.

18 CHAIRPERSON REID: Kids. Are you saying the
19 children do that?

20 MS. MORGAN-LOPEZ: Yes, they do. They did it
21 before with the former school and the children that are there
22 in the school --

23 CHAIRPERSON REID: Are you referring to the
24 former school or are you referring to the school that is before
25 us right now?

1 MS. MORGAN-LOPEZ: I referring the boy that threw
2 the stick was in the school that was supposedly not operating
3 according to them, but once they were questioned a little
4 further it was operating.

5 CHAIRPERSON REID: Now, in reference to you were
6 saying that there was some trash and debris. Where did that
7 come from? You said something about condoms in the --

8 MS. MORGAN-LOPEZ: What happens is --

9 CHAIRPERSON REID: -- in the alley?

10 MS. MORGAN-LOPEZ: Yes. This is right off of
11 Rhode Island Avenue and South Dakota.

12 CHAIRPERSON REID: Now, let me understand. This
13 is in reference to the school or in reference to the area close
14 to the school?

15 MS. MORGAN-LOPEZ: It's in reference to the fact
16 that the school does not maintain the property so that people
17 can come back in the alley and hide back there.

18 CHAIRPERSON REID: Okay. What alley?

19 MS. MORGAN-LOPEZ: The alley behind my house,
20 which is between my car and the playground.

21 CHAIRPERSON REID: Okay, let's go back. Let's go
22 back to Exhibit B. Not Exhibit B, Exhibit A.

23 MS. MORGAN-LOPEZ: Actually it's C.

24 CHAIRPERSON REID: C, okay. So you're saying
25 that --

1 MS. MORGAN-LOPEZ: The alleyway behind my car.

2 CHAIRPERSON REID: That's between you and the
3 school?

4 MS. MORGAN-LOPEZ: Yes. And all the length of
5 that area things are constantly thrown out of the school yard
6 into the alley.

7 CHAIRPERSON REID: Okay, now. But you're saying
8 that this is not the children. This is the people?

9 MS. MORGAN-LOPEZ: No. This is the children
10 throwing the stuff in the alley.

11 CHAIRPERSON REID: No, the condoms.

12 MS. MORGAN-LOPEZ: The condoms come because
13 that's a result of the lack of removing the vegetation. As you
14 can see how the walls is covered, the fence is covered.

15 CHAIRPERSON REID: Oh, okay. So in other words
16 you're saying that some landscaping, cleaning up that whole
17 area back there would dissuade that kind of illicit activity
18 taking place leaving those types of reminders back there?

19 MS. MORGAN-LOPEZ: I would hope so, yes.

20 CHAIRPERSON REID: Okay.

21 VICE-CHAIRPERSON RENSHAW: But is there any noise
22 barrier up there right now?

23 MS. MORGAN-LOPEZ: No.

24 VICE-CHAIRPERSON RENSHAW: No hedges or
25 screening?

1 MS. MORGAN-LOPEZ: What you see is what there is.
2 What you see. These pictures were taken on just this past
3 weekend.

4 CHAIRPERSON REID: Okay. I think I got it.
5 Thank you.

6 MS. MORGAN-LOPEZ: Thank you.

7 MS. THOMPSON: I'm Margaret Thompson. I live at
8 2443 Monroe Street, N.E., Washington, D.C., and may I? I have
9 exhibits also.

10 CHAIRPERSON REID: And Ms. Morgan-Lopez, you also
11 had a petition attached to your --

12 MS. MORGAN-LOPEZ: Yes.

13 CHAIRPERSON REID: The petition had about --

14 MS. MORGAN-LOPEZ: Okay. The first petition was
15 the petition that was taken from neighbors that live within 200
16 feet of the school yard, and that would be all of the people on
17 Monroe Street.

18 CHAIRPERSON REID: Okay. So there are about 70
19 signatures on your --

20 MS. MORGAN-LOPEZ: Yes. A couple of people were
21 not at home and were not able to sign, and I understand that
22 subsequently, although she has not spoken to me in that regard,
23 the minister says that one person changed her mind.

24 CHAIRPERSON REID: Okay. Thank you.

25 MS. MORGAN-LOPEZ: And the other petition is the

1 petition that these people do not live in 5A-10. It was
2 presented at the 5A-10 meeting, but these people do not -- I
3 think there's only one person on here that lives in 5A-10.

4 CHAIRPERSON REID: Okay. But these people are
5 within the 5A ANC area?

6 MS. MORGAN-LOPEZ: No, not necessarily. We have
7 addresses on Colorado Avenue, N.W., 53rd Street, S.E., Lugate
8 (phonetic) Road, N.W. again. 701 Criteton (phonetic), N.E.
9 These are not in this single member district.

10 CHAIRPERSON REID: All right. Go ahead. We have
11 it.

12 MS. THOMPSON: There are quite a few things that
13 Ms. Lopez covered that I also had in mind, so I won't go
14 through that again.

15 CHAIRPERSON REID: Give your name and address,
16 and I did not mention that, but we always ask that you not be
17 repetitive or redundant. Just give us the things that we have
18 not heard before.

19 MS. THOMPSON: Right. Margaret Thompson. 2443
20 Monroe Street, N.E., Washington, D.C. 20018, and I'm a member
21 of the ANC-5A-10.

22 Now, in the past few weeks I've heard a great
23 deal about the previous schools at McKendree Church and I would
24 like to expand on the subject, please.

25 Again, the community was never notified. There

1 was a school that lasted a short time, then a preschool, then a
2 day care center which closed a year or so ago. In '89 the
3 McKendree Church did pass a certain -- on certain neighbors a
4 petition for a parking lot. However, it was never brought to
5 the attention of the entire community.

6 After a while I saw a child playing there
7 occasionally. Later other children and it would be more often.

8 When it changed from a parking lot to a playground I don't
9 know.

10 Again, property assessments lists the land at T
11 Vacant, meaning total vacant, no structures. And if you look
12 at Exhibit 3 and 4 you will see it marked out in color, No. 56,
13 Lot 56. And you will also find that if you look on the tax
14 records that are also in that exhibit they have a address of
15 5000 Lawrence Street listed, and if you check 5000 Lawrence
16 Street you'll find it's all Route 202 east on Cheverly, that's
17 Cheverly, Maryland. Then on the other tax record that is
18 before it you'll find that they put on an address of 2421
19 Lawrence, which happens to be the school/church office or the
20 school and church office. So I don't know where that stands.

21 I have never raised an issue, believing that we
22 could be able to cooperate with each other and solve the
23 problems as they arose. Instead I've been met with hostility
24 and indifference and with no solutions. It's to the point
25 where my husband, who's is 77 and I am 70, cannot enjoy our own

1 backyard when the children are on the parking lot yelling and
2 screaming, and Lord forbid if you're sick and listening from 60
3 feet from your window. And the church has been an unconcerned,
4 very uncooperative neighbor with no regard for a neighbor's
5 rights.

6 Again, the issue of a private school and child
7 development center was never brought to the attention of the
8 community. It was at the end of April this year I just
9 happened to find out by the lady's own admissions they were not
10 going to say anything until the school opened.

11 And then the off-street parking. On Rhode Island
12 Avenue there are six spaces for about a two-hour limit, plus
13 ten other side of Lawrence Street equals 26 spaces, but then
14 the church has about eight activities weekly that take place
15 during the day, plus funerals, dinners, et cetera, which also
16 require parking in the same area. Parking is an a minimum
17 using every space, including streets within one and two blocks
18 within walking distance of the church. There have been times
19 when I've had to even wait hours to park in front of my own
20 house. And if you will look at the map for the lots and
21 sections you'll see parking lot/playground and that's my
22 property adjacent to the parking lot/playground.

23 And with the noise, I always thought they were
24 teaching the kids Screaming 101. Also the
25 off-site playground, the trustees have given their permission

1 to use the Lawrence Street door but there's no sidewalk.
2 There's 76 feet for the children to walk on when they approach
3 the corner of Hoover Road to cross over to Lawrence Street. So
4 the two and a half to five year olds will have to cross the
5 street to reach the playground. Then there's no sidewalk for
6 another 93 feet in order to go into the playground. The
7 property is classified for tax purposes as land use T vacant,
8 totally vacant, no structures. That is also contained in the
9 Exhibit 3 and 4.

10 At the various times of the day they would have
11 the children actually crossing the two streets; that would be
12 Lawrence Street and Hoover Road going into the parking lot
13 area.

14 Now, that is as far as the day care center. For
15 the private school staff I was wondering if it could be
16 clarified if it was going to be a private school and if it's
17 going to be profit and privately run, and also if the profit is
18 in the church building. And I understand that you cannot have
19 a church office in a school building, a private school building
20 under 206.

21 And I also would like to point out that they're
22 asking for this Lot 3, 4, 5, 6 and 7 on 2420 Rhode Island
23 Avenue, and if you look at the plat again -- I think all of
24 them are yellow -- you'll find that those lots were combined
25 quite a number of years ago into one Lot 803, which has an

1 address given to them by the District of 2421 Lawrence Street.

2 2420 Rhode Island Avenue does not exist as an address.

3 Also the playground is the same thing. There is
4 no address given to them by the District. It's Lot 807, but
5 they have put a 2124 Lawrence Street, which is also the school
6 office on that lot also. So I didn't know if the church was
7 going to move their office when the school is in place. I
8 often wonder where.

9 On the noise, I've been having a problem with the
10 children in the past on the parking lot, because as you can see
11 my property actually adjoins the parking lot. And it's a
12 quarter of an acre in size and the children are always put at
13 the adjoining property line 49 feet from my back door. So that
14 is rather close.

15 Now, the church has that basketball hoop where
16 sometime now I can listen to splat, splat, yelling four-letter
17 words and kids trespassing through a hole in the fence. And I
18 spoke to the Reverend Armstrong a few weeks ago, but nothing's
19 been done to fix the fence yet and the basketball hoop is still
20 there.

21 And also you'll find an exhibit of the parking
22 lot, and when it snows, for some unknown reason they -- another
23 exhibit, Picture 1 -- they always seem to push the snow and
24 pile it up right against that fence, which I'm on the other
25 side. And when the snow melts a quarter of an acre is a lot of

1 water.

2 I guess that's about it.

3 CHAIRPERSON REID: All right, thank you. Is
4 there a question?

5 VICE-CHAIRPERSON RENSHAW: Just to ask,
6 Ms. Thompson, Pictures 3 and 4, those were taken from your
7 property, correct?

8 MS. THOMPSON: Let's see.

9 VICE-CHAIRPERSON RENSHAW: Is the fence yours?

10 MS. THOMPSON: No. That belongs to the -- okay.

11 Now, Picture 3 and 4. This is the time when the parking lot
12 was built, that's why I put it in here. The short stakes is my
13 fence; the taller stake pole is the new fence that the church
14 is putting up, and No. 4 is after it's been constructed is what
15 it looks like, and that's where they pile. If you look at 1
16 and 2 you can see the snow, and I put the other one in so you
17 can see about five feet of snow out there.

18 VICE-CHAIRPERSON RENSHAW: Okay. And just
19 turning to Picture No. 5 and 6, No. 5 is Hoover?

20 MS. THOMPSON: Yes.

21 VICE-CHAIRPERSON RENSHAW: And 6 is?

22 MS. THOMPSON: Six is Lawrence Street where the
23 children have to come across for the, what is it, approximately
24 93 feet, and there is no sidewalk on Hoover Road. It's not
25 intended. It was built for horse buggies, Model T's and not

1 even the traffic we have of today.

2 VICE-CHAIRPERSON RENSHAW: And 7 and 8, is 7 the
3 parking lot?

4 MS. THOMPSON: Yes, ma'am, and that shows all the
5 over brush and greenery that is growing. They have started as
6 of yesterday and a little bit today they are starting to cut
7 the outside perimeter anyhow.

8 VICE-CHAIRPERSON RENSHAW: And No. 8 would be the
9 playground equipment and the playground?

10 MS. THOMPSON: Right. And that also shows a
11 little bit of overgrowth along the alley. It's a 15-foot alley
12 and Hoover Road is 26 feet.

13 VICE-CHAIRPERSON RENSHAW: Thank you.

14 CHAIRPERSON REID: Any other questions from Board
15 members?

16 MEMBER LEVY: A couple quick questions, please.

17 CHAIRPERSON REID: Okay.

18 MEMBER LEVY: I see Ms. Thompson's residence on
19 here. If Ms. Morgan-Lopez, could you just --

20 VICE-CHAIRPERSON RENSHAW: Is that hers?

21 MEMBER LEVY: Is it Durham-Lopez on the map?

22 MS. MORGAN-LOPEZ: Yes.

23 MEMBER LEVY: And the playground that's shown on
24 your map in yellow, there's one shown in pink
25 parking/playground and one shown in yellow. Which --

1 MS. THOMPSON: Sometimes I used a different
2 color.

3 MEMBER LEVY: I'm just wondering which of these
4 two -- 807 is in question. So the parking/playground that
5 you're backing up to is the playground that's in use now?

6 MS. THOMPSON: Yes. That's the playground that's
7 in use now.

8 MEMBER LEVY: And this one in pink?

9 MS. THOMPSON: That is a parking lot.

10 MEMBER LEVY: It's a parking lot?

11 MS. THOMPSON: It started out as a parking. I
12 don't think it ever went through. I don't think it ever went
13 any further than a petition. I don't know what the zoning is
14 or if it was every taken through zoning. The same is with the
15 playground.

16 VICE-CHAIRPERSON RENSHAW: Is Hoover one way?

17 MS. THOMPSON: No, ma'am.

18 VICE-CHAIRPERSON RENSHAW: It's a two-way street?

19 MS. THOMPSON: Yes.

20 MEMBER LEVY: I guess I'm confused at this point
21 which of these two playgrounds is the playground that's --
22 because this playground from the applicant, and for that matter
23 which of these --

24 MS. THOMPSON: It would be down here.

25 MEMBER LEVY: It's that one?

1 MS. THOMPSON: With the children's play
2 equipment. The yellow play equipment.

3 MEMBER LEVY: And is that the one that also the -
4 -

5 VICE-CHAIRPERSON RENSHAW: It's identified as 807
6 on this map.

7 MEMBER LEVY: Yes. Is that also the one that's
8 being recommended by Mr. Leyden for use as
9 off-street parking for this project?

10 MS. THOMPSON: No. Number 56 should be.

11 MEMBER GRIFFIS: Fifty-six is. Fifty-six is the
12 parking/playground, and 807 directly across the street is where
13 the play equipment is and where the -- I'm assuming with the
14 layout that we have -- is intended to that.

15 MS. THOMPSON: If I might make a comment, we did
16 that because it started out as a parking lot. It's still being
17 used as a parking lot for the church and occasionally they have
18 children over there playing, even though they don't have it
19 striped out or indicate which is parking lot or which is
20 playground.

21 CHAIRPERSON REID: Okay. Mr. Levy, is that all
22 the questions?

23 MEMBER LEVY: So which is -- this isn't really a
24 question, Madam Chair, for the persons in opposition, but I
25 just want to be clear. In this report that we have from the

1 Department of Public Works from Mr. Leyden where he recommends
2 because of a lack of parking spaces that the applicant use the
3 accessory lot to satisfy.

4 CHAIRPERSON REID: Right.

5 MEMBER LEVY: Which do we know -- is that the
6 pink?

7 CHAIRPERSON REID: I think that we'll have the
8 applicant come back at closing remarks.

9 MEMBER LEVY: Okay.

10 CHAIRPERSON REID: I have questions for them as
11 well, and you can ask them directly to show you.

12 MEMBER LEVY: Thank you.

13 CHAIRPERSON REID: Any other questions of these
14 witnesses? Okay, and thank you very much.

15 Okay. Closing remarks by the applicant.

16 MS. O'LEARY: Unfortunately we were not provided
17 with the hand-outs you just received from the opponents. I
18 think we've got one of them and not the other, so it may be
19 hard to answer questions without one in front of us.

20 CHAIRPERSON REID: Okay. Ms. Thompson, do you
21 have a copy that you can provide to the applicant's attorney?

22 MS. O'LEARY: While we're doing that I think I
23 can dispose of a few of the issues that might have been raised
24 and then well turn back to the playground issue.

25 The school will operate as a non-profit

1 organization. There's been no discussion of any doubling of
2 the size of the school beyond the 60 that is proposed as the
3 maximum now. In fact, the enrollment at this point between now
4 and September, trying to gain that kind of enrollment up to 60
5 is not going to happen for this year, but the maximum will be
6 60 in the planning.

7 The school, it was indicated that the school has
8 been in operation since last fall or since March. That is
9 actually not true. The school has not done any advertising.
10 They have not recruited any students. They have not operated
11 as this academy at all. In fact, they were given the
12 certification by the -- a Certificate of Occupancy on October
13 25th, 2000. It was then indicated to them after that that they
14 needed to get zoning. At that point they stopped mobilizing,
15 they stopped. Parents were bringing their children there and
16 working with their children in the space, but they were not
17 operating as the school at that time. As soon as they were
18 told that they needed to -- there were some zoning issues that
19 they needed to resolve and needed to gain the variance of the
20 special exception they stopped all activity and they have
21 sought that from you within a reasonable amount of time.

22 In addition to that, the safety issues that were
23 raised. They have made provisions to contract with a clean-up
24 facility or a clean-up contractor for any kind of hazardous
25 materials that might be gained from needles or condoms that are

1 found on the property, and that seems to be that it would only
2 benefit the residents around there. They are just as concerned
3 about those safety issues as the residents are, because they
4 certainly wouldn't want children being exposed to those kinds
5 of things. So they have actually made provisions for -- put a
6 procedure and a policy in place for a clean-up, and have called
7 Providence Hospital to find out who they use to contract to
8 dispose of such things and will be employing that kind of
9 contractor.

10 In addition to that, many of the teachers and the
11 parents are actually from the neighborhood, and this is a
12 school that will serve this neighborhood. It will improve the
13 quality of this neighborhood for many of the residents, and
14 that's something that's been expressed to them by many of the
15 parents who will be using the school.

16 We would emphasize that the community was
17 notified. There was 500 fliers sent out for the community
18 meeting. Again, only a couple of people showed up, but many
19 people signed a petition in support of the school from the
20 community, and the Office of Planning and Safety has handled
21 the traffic and the transportation issues with regard to pick
22 up an drop off and parking, and has given some very good
23 suggestions and approve that. So I don't see the issues raised
24 otherwise are relevant.

25 As with regard to the playground and the parking,

1 I think Ms. Burke can clarify what the school intends to use as
2 the playground and how they intend to work the logistics of
3 that.

4 MS. BURKE: At the present time there is a fence
5 around the playground, and if that is objectionable we are
6 certainly willing to put up a wooden fence if they feel that
7 the noise is of such level as to disturb the neighborhood.

8 Also, the children will not go on an area where
9 there is no pavement. They will be able to cross the street
10 directly from the school to the playground where there are
11 steps leading into the playground. So there will be no danger
12 in crossing and no safety hazards.

13 The children will use the playground as indicated
14 in certain hours of the morning and in the afternoon, and
15 certainly not all day, and we certainly feel that this small
16 number of children will not create the noise and disturbance as
17 indicated before by the opposition. I have no knowledge of the
18 previous school and I have no knowledge of how they conduct the
19 school, but certainly these children will be well supervised at
20 all times on the playground, and I feel that there will be no
21 unnecessary noise as to disturb the neighborhood or any trash
22 littering the alley or the playground by this small number of
23 children. We will be able to have trash collections and also
24 more trash containers put on the playground.

25 REVEREND ARMSTRONG: Might I also. Reverend

1 Armstrong, again. My tenure began at McKendree-Simms-Brooklyn
2 Church a year ago, and so my knowledge of the previous school
3 and some of the alleged actions that were taken by the staff at
4 that time. This is an entirely different staff. This is a new
5 administration there as pastor there, and we seek to also hear
6 the community's concerns as it relates to that property and be
7 good neighbors.

8 In addition, we also agree with the community on
9 one thing, and that his for the sidewalks, and we have been
10 seeking as a church, I am told, over three years for some
11 remedy to have some curbs nd sidewalks put in. And on
12 tomorrow, if all continues to hold well, I am due to have
13 someone from Vincent Orange's office, along with an inspector,
14 out to talk about that issue again. It has been three years
15 and no remedy has been to this day.

16 CHAIRPERSON REID: Thank you very much. I do
17 have a few questions. I'm sorry, sir. What's your name again?

18 REVEREND ARMSTRONG: Reverend Michael Armstrong.

19 CHAIRPERSON REID: Reverend Armstrong, as you are
20 aware, there have been several issues that have been raised
21 here today with regard to this child care center and the
22 school, and they all go to adverse impact, and the relief that
23 you're seeking here today with regard to a special exception
24 pertains primarily to the compliance under Section, I think
25 it's 205 and 206 of the Zoning Regulations, and that goes to

1 particularly the aspect of adverse impact. And that does give
2 me pause, because what appears to be happening is on one hand I
3 can certainly appreciate there's a dyer need in this city for
4 child care, a dyer need, and particularly in Ward 5 where it
5 affords people the opportunity to be able to go from welfare to
6 work or to be able to have care for their children to allow
7 them to be able to obtain jobs, which is very important.

8 However, the issues that have been raised in
9 regard to traffic, noise, litter, parking and like are very
10 serious because obviously there has to be some type of co-
11 existence between the two. And my question is -- one of my
12 questions is have you had any meetings with the community, the
13 church itself, to discuss what your plans were and to get any
14 input as to what their concerns might be heretofore?

15 REVEREND ARMSTRONG: Heretofore, no. That did
16 not happen.

17 CHAIRPERSON REID: Okay. Now, that's one thing
18 that needs to happen, and I would also suggest that you create
19 a community liaison person to interact with the community, the
20 ANC and the community to be abreast of the problems that have
21 come up. But before that, there are things that perhaps you
22 can do to mitigate some of the problems.

23 For example, in regard to the -- some of the
24 issues that were raised like the litter that comes from the
25 lack of the keeping of the foliage cutback and the weeds that

1 contribute to illicit activities, needles and syringes and
2 condoms back there, it gives me great pause because this is
3 something that the neighbors have had to contend with, but also
4 that these activities are occurring in such close proximity to
5 a playground, to children, is a very serious matter. So it
6 would appear to me that one of the first things you want to do
7 is to get that alleyway with all the foliage, everything just
8 cleaned up, cleared up so there would not be the opportunity
9 for this. Lighting even in the wintertime to make sure that
10 you discourage that kind of activity. I think that's very,
11 very serious, not to mention the fact that you have dirty
12 syringes which the children can touch those syringes and get
13 all kinds of communicable diseases, which is very serious.
14 That's one thing.

15 The other thing is the noise and the discipline.
16 It seems to me like the discipline -- the noise goes to
17 discipline and certainly we all know that children will be
18 children and they do and say things and they're loud, but a lot
19 of it goes to the way the children are disciplined and the type
20 of mechanism that you have in place so that if you have aides
21 with the children and they're not doing anything to discourage
22 the bad behavior or you don't have rules in place or guidelines
23 to make sure to the greatest extent possible. Of course, like
24 I said, children are children, but it sounds to be that the
25 type of discipline that would be necessary for a child care

1 center to be able to co-exist is not present there, and that's
2 a serious problem.

3 And the other thing, of course, is the safety in
4 regard to the traffic and the parking in the proximity to the
5 playgrounds. Let me understand this. Do you have a picture of
6 the plat map that was given to us by Mrs. Thompson. All right.

7 Now, let me understand the parking. All right. Here's the
8 church right here. Here's the school. I'm sorry. Here's the
9 school in the yellow, right?

10 REVEREND ARMSTRONG: Correct.

11 CHAIRPERSON REID: Now, the playground is across
12 Lawrence Street?

13 REVEREND ARMSTRONG: Correct, which is depicted
14 it blue or purple.

15 CHAIRPERSON REID: Now, how -- the kids go over
16 to the playground, I guess, in staggered times of day,
17 different groups, and how do they get across that street?

18 REVEREND ARMSTRONG: They walk with their teacher
19 across that street, up some steps into that playground area
20 directly in front of it, and there's also a side entrance into
21 it.

22 CHAIRPERSON REID: Okay. So they have to
23 traverse the street to get to the playground. They go with
24 their -- they're accompanied by adults to get across there.
25 The older children too? All the Children?

1 REVEREND ARMSTRONG: All.

2 CHAIRPERSON REID: In other words you just don't
3 say go over across the street to play in the play area. At all
4 times they are --

5 REVEREND ARMSTRONG: At all times.

6 CHAIRPERSON ARMSTRONG: -- accompanied by adults?

7 REVEREND ARMSTRONG: Yes.

8 CHAIRPERSON ARMSTRONG: All children, all times?

9 REVEREND ARMSTRONG: Okay. Then the parking.
10 Why does it say parking/playground, the pink?

11 REVEREND ARMSTRONG: As I am told, the pink as I
12 was told as I came in as pastor, that that had been simply
13 utilized and described down here as a playground, and ever
14 since I have been there that has been known as extended
15 playground. Because of the adverse impact on the community on
16 Sundays as it relates to parking in the area we have opened
17 that gate and allowed persons to park on that extended
18 playground, but it is not to my knowledge zoned as a parking
19 lot but as a playground.

20 CHAIRPERSON REID: Wait a minute.

21 REVEREND ARMSTRONG: Which is blacktopped with --

22 CHAIRPERSON REID: Is that what you were
23 referring to as the accessory parking lot?

24 REVEREND ARMSTRONG: Correct.

25 CHAIRPERSON REID: So do you have ample

1 playground? Do you have an ample playground area to not have a
2 playground area where the parking is?

3 REVEREND ARMSTRONG: Yes, the blue area. There
4 is equipment on that.

5 CHAIRPERSON REID: So then it could be striped
6 parking -- a striped playground just saying this is parking?

7 REVEREND ARMSTRONG: Parking, correct.

8 CHAIRPERSON REID: So then we're saying that
9 there would be no playground on this area?

10 REVEREND ARMSTRONG: Correct.

11 CHAIRPERSON REID: But the parking would be a lot
12 that would help to mitigate some of the problems as far as
13 parking is concerned?

14 REVEREND ARMSTRONG: Correct.

15 CHAIRPERSON REID: Okay. Now --

16 REVEREND ARMSTRONG: And Mrs Thompson's question
17 as it related --

18 CHAIRPERSON REID: Wait. I'm going to
19 let -- it's not zoned for parking?

20 REVEREND ARMSTRONG: As I understand it, it is
21 presently not zoned for parking. I understand it was zoned as
22 a playground extension.

23 CHAIRPERSON REID: It's a playground that you
24 turned into a parking lot?

25 REVEREND ARMSTRONG: What has been utilized on

1 that area has been a basketball hoop, a portable basketball
2 hoop that is used on limited occasions, and presently that is
3 the only thing that sits on that particular area which is
4 blacktopped.

5 CHAIRPERSON REID: Okay. So in order for you to
6 use it as a parking lot --

7 Ms. Sansone, let me ask this. Does this
8 application include the area of the parking/playground as well?

9 REVEREND ARMSTRONG: That was where the request
10 for the variance came for parking.

11 CHAIRPERSON REID: Oh, oh. That's the parking
12 variance.

13 REVEREND ARMSTRONG: Correct.

14 CHAIRPERSON REID: For this lot?

15 MS. O'LEARY: We'd like to emphasize the school
16 has not been parking there, nor -- I think there might be some
17 confusion.

18 CHAIRPERSON REID: No, I understand. But you're
19 asking for -- wait a minute -- a variance.

20 MS. O'LEARY: The school has also yet not been
21 functioning, and so any behavioral problems that are being
22 discussed here are being imputed to the wrong group. They have
23 not had the opportunity to have any problems yet because they
24 have not yet been functioning as a school.

25 CHAIRPERSON REID: Okay. Well, let me

1 understand. The problems that they're talking about was the
2 previous, there was a previous school there.

3 MS. O'LEARY: Yes, the behavioral problems.

4 CHAIRPERSON REID: Then they were saying there
5 was an issue with this school.

6 MS. O'LEARY: There was apparently an incident
7 with a child, that was not necessarily connected to this
8 school, throwing a stick or something over the fence at a car
9 maybe. Is that what it was? It was one child not under the
10 supervision of teachers from the Academy.

11 CHAIRPERSON REID: Okay. Then the variance, the
12 variance for parking to alleviate your having to comply with
13 the parking requirements but it does not necessarily include
14 this lot, right?

15 MS. SANSONE: That's correct, Madam Chair, the
16 variance from the number of parking spaces, not the location of
17 additional parking.

18 CHAIRPERSON REID: Okay. So that would have been
19 -- that's a whole other variance for the subject parking lot,
20 right?

21 MS. SANSONE: It would probably be a special
22 exception.

23 CHAIRPERSON REID: Special exception for
24 accessory parking lot. So if we were to move forward could we
25 include that in this or what?

1 MS. SANSONE: It might be difficult to add that
2 type of additional relief because it would apply to a different
3 lot and really should be subject to public notice.

4 CHAIRPERSON REID: Okay. So they would have to
5 do that to use it then, right?

6 MS. SANSONE: To lawfully use this.

7 CHAIRPERSON: And the reason why I ask is because
8 sometimes we've had schools that have gotten an agreement with
9 another entity to use their parking, their lots for parking if
10 the school got the permission from the church to use the lot
11 for parking would that be acceptable?

12 MS. SANSONE: Madam Chair, as I understand the
13 application the applicant -- let me just back up a little. The
14 Zoning Regulations have certain requirements about the number
15 of parking spaces and here the applicant asked to reduce that
16 by four, so they've asked for a relief from number. Because
17 it's a special exception for use and child development center,
18 however, the Zoning Regulations allow the Board to order
19 additional parking or parking so that there won't be any
20 adverse traffic impacts. So then we would be concerned with
21 another area of Zoning Regulations which deals with location of
22 parking spaces, and typically that is done through special
23 exception located off the site where the main use is being
24 conducted.

25 So most likely if the Board wished to order

1 additional parking at accessory lots or in another location
2 that would need to be separately dealt with.

3 CHAIRPERSON REID: Okay.

4 MS. SANSONE: I don't think it means that this
5 application couldn't go forward. It would just have to --

6 CHAIRPERSON REID: Apply for it separately.

7 MS. SANSONE: -- apply for it separately.

8 CHAIRPERSON REID: Okay. In regard to the trash.
9 There are two things. One was the trash, as far as picking up
10 of the trash on a regular basis, but also litter, and
11 understanding that there is -- notwithstanding the fact that
12 there was a problem before, then these are the things that
13 happened even though it wasn't you --

14 REVEREND ARMSTRONG: Surely.

15 CHAIRPERSON REID: -- and it is a concern to the
16 community that it is not repeated with this school here though,
17 that would be something that would have to be dealt with.

18 REVEREND ARMSTRONG: Madam Chair, may I speak?
19 As aptly stated, because of the community's concern we have in
20 fact included within our contract with our contractor who cuts
21 our grass and our lawn in that area. They had already had that
22 area. They didn't do it as often, but presently they are now
23 tasked to do that on an often basis as they do cutting our
24 grass, and we will also continue that throughout the winter in
25 terms of any kinds of debris.

1 We also have janitorial staff that can also
2 police that area.

3 CHAIRPERSON REID: Okay. And the last thing that
4 I have is in regard to the good neighbor or what we commonly
5 refer to as attitude. It appears that there have been
6 instances where some of the problems have been brought to the
7 attention of whoever at the church. It's been said that they
8 have not responded appropriately, rather indifferent and not
9 really addressed the issues, and that goes to the whole issue
10 of the relationship and the --

11 REVEREND ARMSTRONG: Correct.

12 CHAIRPERSON REID: -- renewal or the
13 establishment of a lines of communication and that giving the
14 community some solace that you are concerned about how the
15 school impacts upon the community, one; and two, if in fact
16 there are complaints that they will be dealt with most
17 adequately.

18 REVEREND ARMSTRONG: Madam Chair, may I speak to
19 that?

20 CHAIRPERSON REID: Sure.

21 REVEREND ARMSTRONG: Both of the persons who have
22 spoke in opposition from the community, I have requested to
23 meet with both of them. One, I was approached about the
24 basketball court and the hole in the fence by Mrs. Thompson and
25 said I would be wiling to meet with her reference any concern.

1 That meeting has not taken place.

2 In addition, after the ANC meeting I did also say
3 to Mrs Lopez, and extended her the same opportunity, that I
4 would be willing to hear and to begin to mitigate any concerns.

5 And so there's a willingness on the part of the church. This
6 pastor's only been there a year. I have not heard the previous
7 concerns. This is the first time at the single district ANC
8 meeting that it was even brought to my attention.

9 CHAIRPERSON REID: And what was the response when
10 you proffered some type of meeting or communication with them?

11 REVEREND ARMSTRONG: I think that at the moment
12 that was offered it was probably not a good time. I would like
13 to also follow-up again in writing, which I have already begun
14 to do.

15 CHAIRPERSON REID: You were -- wait a minute.

16 REVEREND ARMSTRONG: I said that verbally, but I
17 recognize that a verbal doesn't --

18 CHAIRPERSON REID: There was not a good timing,
19 you mean you were--

20 REVEREND ARMSTRONG: After that ANC meeting.

21 CHAIRPERSON REID: Oh, you mean when there was a
22 lot of heated --

23 REVEREND ARMSTRONG: Yes, ma'am. I didn't want
24 to say --

25 CHAIRPERSON REID: Atmosphere was not conducive

1 to --

2 REVEREND ARMSTRONG: It was not conducive to --

3 CHAIRPERSON REID: I do understand that type of
4 thing. Okay. I have no further questions.

5 Board members?

6 COMMISSIONER MAY: I have just a couple of
7 questions. You stated that the operation of the school would
8 be non-profit?

9 MS. O'LEARY: Yes.

10 COMMISSIONER MAY: I saw reference in some
11 material somewhere to the school as a charter school. Is it a
12 charter school or not?

13 MS. O'LEARY: It is not a charter school. It is
14 a non-profit operation.

15 COMMISSIONER MAY: Well, those are not exclusive.

16 MS. O'LEARY: Okay.

17 COMMISSIONER MAY: I assume all the charters are
18 probably non-profits.

19 MS. O'LEARY: It is a private non-profit school.

20

21 COMMISSIONER MAY: Private non-profit, no
22 intention or no application pending with the Charter Board of
23 anything like that?

24 MS. O'LEARY: Correct.

25 Ms. Burke, can you address that, please? You

1 have no application pending as a charter school?

2 MS. BURKE: No.

3 COMMISSIONER MAY: Right. Okay.

4 The second question I had is there was a
5 statement by the persons in opposition that the school has been
6 in operation in some form since March, and you've stated that
7 was not the case and explained that there were parents with
8 some children there trying to -- I don't know, get the place in
9 shape in some way or something like that.

10 I'm wondering how the operation of a school,
11 supposedly with -- I mean, when people see children attended to
12 by aides theoretically, at least that's the way they've
13 described it, how that can be confused with parents doing
14 volunteer work or something like that around the school. I
15 mean, you're saying that there was absolutely no school
16 operation going on or there may have been some kind of informal
17 day care going on or --

18 MS. BURKE: I will address that. There was no
19 students there from the child development center, but pending
20 the approval of the Zoning Board we eliminated the opportunity
21 of the parents to work with us. Initially the founders and the
22 members of the Board of Directors had their children there and
23 I was supervising them or teaching them, because we had
24 obtained in October an Occupancy Permit.

25 MS. O'LEARY: They had not recruited, however,

1 any outside students. They had not advertised as a school.
2 They had not organized as a school, taken tuition. They were
3 not operating as a school. They were doing what she just
4 described.

5 COMMISSIONER MAY: Okay. I don't know how that
6 relates to an ability to operate and whether that use is
7 allowed. Maybe you can --

8 MS. ROBERTS: Maxine Brown-Roberts here. The
9 Zoning Administrator authorized it says here a new Montessori
10 school charter and religious preschool, and that was a part of
11 the Certificate of Occupancy, and you can see there's
12 Attachment 3. And there are students there.

13 COMMISSIONER MAY: And that's permitted, this
14 application notwithstanding?

15 MS. ROBERTS: My understanding is that this
16 should not have been authorized without the Board's approval.

17 VICE-CHAIRPERSON RENSHAW: Ms. Roberts, could we
18 get a copy of that? Is that the C of O?

19 MS. ROBERTS: Yes.

20 COMMISSIONER MAY: Yes. We have that
21 application.

22 VICE-CHAIRPERSON RENSHAW: We do have a copy?

23 COMMISSIONER MAY: I remember seeing it.

24 MS. ROBERTS: Yes. It's an attachment to the
25 Office of Planning's Report, Attachment 3.

1 VICE-CHAIRPERSON RENSHAW: Uh-huh, thank you.
2 Thank you very much.

3 REVEREND ARMSTRONG: Might I also speak. There
4 have been children in the building. I have
5 to -- I have a responsibility to say that, but again the
6 confusion came when we received a Certificate of Occupancy, and
7 that we previously rezoned for that when we found out that we
8 were operating, if you will, or having children there illegally
9 then according to the statute as the arrangement existed.

10 It's clear, the lawyer has stated that
11 appropriately, that we were simply trying to do all that we
12 needed there in preparation. There were board members who had
13 children who wanted to start a school there. As we got along
14 and found out that there was some questions the operation
15 decreased and desisted as a school and never was there any
16 recruitment done. These were persons who were board members of
17 this forming school. But they have been in the building.
18 Parents have worked with them in the building, and that based
19 upon the Certificate of Occupancy, and then the issue of zoning
20 came up and the appropriate applications were then applied for.

21 COMMISSIONER MAY: Okay. I have one other
22 question, but actually I don't know that this can be answered
23 by these parties, and that has to do with OP's recommendation
24 for further conditions with regard to the playground and
25 whether that could be considered addressing the concerns,

1 because we have two reports from OP. One addressed the
2 parking, the other addressed the playground.

3 CHAIRPERSON REID: I think that what we have done
4 previously, Mr. May, is to look at the entire picture. And
5 given there are routinely conditions that we impose for day
6 care centers and schools, which are the ones that -- some of
7 which are the ones that are contained in the Office of Planning
8 report. However, I don't think -- in my opinion I don't think
9 that the Office of Planning report goes far enough, because
10 some of the issues that were raised here today they may not
11 even have been aware of. So then it is our responsibility that
12 if in fact we were to approve the application that we put into
13 place conditions to mitigate to the greatest extent possible
14 adverse impact as we see it, and that's what we have to do.

15 COMMISSIONER MAY: I agree.

16 CHAIRPERSON REID: What I would suggest is that
17 we recess for a few minutes, about 10 minutes, Board members,
18 and make a determination, kind of discuss this before we take
19 it up. I'm assuming that given the time frame that's being now
20 tomorrow is the 1st of August and you have to start in
21 September, that you are looking for a decision today.

22 MS. O'LEARY: Yes.

23 CHAIRPERSON REID: Which is kind of -- it puts a
24 dilemma for us.

25 MS. O'LEARY: Understandably.

1 CHAIRPERSON REID: So let's just take a few
2 minutes and talk among ourselves for a few minutes. Thank you
3 very much. We'll be right back after recess.

4 (Recess)

5 CHAIRPERSON REID: Okay. After having some
6 discussion regarding this particular case, generally the Board
7 feels that the case is not a particularly strong case and that
8 it has holes in it that need to be filled, that there is
9 additional information that we need in order to be able to make
10 a decision, and we have suggestions as to what types of things
11 need to be provided that would give us additional information
12 that we need in order to be able to make a decision that would
13 be one that would take into consideration all that's before us,
14 because right now if we were to take a vote today unfortunately
15 I don't think it would be too favorable.

16 So rather than us taking -- rather than taking a
17 vote today and jeopardizing the possibility of the neighborhood
18 to start the school, unfortunately we feel that it would be
19 better to continue it and give you an opportunity: One, to
20 provide us with additional information; two, to allow the ANC
21 to proffer to us a letter that clearly gives us their position;
22 and also for there to be more interaction with those that are
23 in opposition to try and garner some mitigation of some of the
24 problem areas so that they can be somehow reconciled.

25 And as such the types of things the Board members

1 would like to see come into the record would be -- Board
2 members?

3 VICE-CHAIRPERSON RENSHAW: I'll start,
4 Madam Chair. I would like to have a report from Reverend
5 Armstrong on meetings with the community. I would like to have
6 a definite landscape plan that would address the noise. In
7 other words, there's got to be a buffer between that playground
8 or playgrounds and the community. I'd like a maintenance plan.
9 Exactly how the litter, the trash is going to be handled.

10 There has been no discussion of -- and the
11 applicant can discuss in writing -- whether or not there is
12 going to be any buses used in the operation of this school, and
13 if yes what would be the best plan; where the buses would park,
14 how they would be used, how frequently, and then snow removal
15 plan.

16 CHAIRPERSON REID: Okay. Now, staff will also
17 provide you with that. The snow removal and the maintenance
18 and the landscaping plan all kind of come in the same category,
19 which would handle the little. But also the clean-up, that
20 foliage. What is the plan to remove the foliage and the weeds
21 to discourage the kind of illicit behavior wherein you have the
22 residue there in that alley to ensure that does not continue to
23 occur.

24 And with the community meetings a designation of
25 a community liaison and a schedule of how often they would

1 meet, as well as method of communication, some type of avenue
2 open so if there is problem, complaint. A complaint line or
3 something that would allow the community to be able to
4 communicate with the school.

5 VICE-CHAIRPERSON RENSHAW: And some lighting,
6 whether or not the -- Madam Chair, you spoke about that, I
7 believe. Whether or not the lighting is adequate in the
8 parking lot to discourage the illicit behavior and whether that
9 lighting plan is in agreement with the community, those
10 abutting property owners so the lighting does not infringe on
11 their property.

12 CHAIRPERSON REID: And the alley.

13 VICE-CHAIRPERSON RENSHAW: And the alley.

14 CHAIRPERSON REID: Also a discipline plan. We
15 would very strongly suggest that there be an agreement with the
16 parents as to the mitigation of any parking or traffic
17 problems. Some plan to address the circulation, and by
18 circulation I mean cars coming up to drop off or to pick up the
19 children, so there would not be the bottleneck, there's a
20 traffic mitigation plan.

21 The parking plan and then what I was saying, the
22 discipline. Well, the agreement with the parents wherein there
23 be rules set forth for outside behavior, the way the kids
24 conduct themselves outside, and in the event how are you going
25 to get the rules for the children and then how are they going

1 to be enforced by the day care or by the school itself, and an
2 agreement with the parents to that regard. And I don't know
3 exactly how you can do that, but obviously there needs to be
4 something in place that would govern the manner in which the
5 children conduct themselves.

6 And I'm not saying that we know that children
7 will be children, but when it gets down to damage to other
8 people's property -- I mean, I'm talking about the extreme
9 situations where sometimes kids will make a lot of noise, but
10 as far as mitigating the noise as much as possible and also the
11 aspect of the profane or improper language being spoken by the
12 children, which I'm sure that this being a church, is something
13 that would be addressed.

14 Other things from Board members that you can
15 think of?

16 MEMBER LEVY: Just to add a couple things that
17 you said. Regarding the parking plan and the circulation, you
18 know I'd like to see that the parking -- if the parking plan
19 includes the use of the accessory lot for parking that that's
20 an approved use for that site, if that's a part of your plan.

21 And the other thing is I would just reiterate
22 concern about coordinating with the community and particularly
23 with the community members who have expressed concerns here
24 today.

25 CHAIRPERSON REID: Okay.

1 COMMISSIONER: Madam Chair, can I ask just a
2 couple other things, and this is actually an attempt to take
3 something off the list, if that's possible.

4 The mention of a bus plan. I seem to recall that
5 in the application there was discussion of how students would
6 be coming and going and that they would be using public
7 transportation and not that -- that significant use of buses
8 would not be necessary, I assume except for the occasional
9 chartered trip, but for that number of students it's hard to
10 imagine there's going to be a lot of that. So if we can accept
11 that statement as covering the bus question that's one thing
12 they might not have to provide.

13 VICE-CHAIRPERSON RENSHAW: Well, Mr. May, it may
14 just be a sentence or two that they don't anticipate more than
15 three or four bus trips a year or something like that. But
16 just to have on the record what they do expect and where the
17 buses would park.

18 COMMISSIONER MAY: Okay. And the other thing is
19 to make it clear that getting this report from the ANC is very
20 important to the Board and anything that the applicant can do
21 to make sure that that happens in a timely fashion would help.

22 That came up earlier today in another case, and I'd like not
23 to -- we'd like to make sure we have that when we meet again.

24 MS. O'LEARY: May I ask a question? Does the
25 ANC, is it your recommendation that the ANC needs to meet again

1 and vote in using the sort of language that you had suggested
2 would be more appropriate for what you're trying to do and then
3 generate a report from that? Is that going to be more helpful
4 or just a report on the basis of the vote that's already been
5 taken?

6 COMMISSIONER MAY: I'm not sure if a separate
7 meeting is required, but it doesn't seem like what we have
8 gotten so far indicates that the deliberations are such that we
9 can give this great weight, and that's what we're trying to do.
10 So I don't know.

11 CHAIRPERSON REID: Well, typically we do like to
12 have the ANC input. However, in the event the ANC does meet
13 before our next meeting then we will have it, but I don't want
14 to hold up the child care center and the school if the ANC has
15 not. Because see, some ANCs in the city are not as -- they
16 don't meet as regularly. They're not as organized, so we have
17 to be careful about that as well. But nonetheless, what we're
18 going to do is give you a date certain for the continuation and
19 by that time perhaps we will be able to have in place what we
20 need.

21 Also it's been brought to my attention before we
22 stop today is that the Office of Planning report and the ANC
23 report both were not timely filed and we have to waive the
24 record to accept them into the file, and we can do that my
25 consensus.

1 Now, the date --

2 VICE-CHAIRPERSON RENSHAW: I have another matter
3 that I want to bring up, and that is I was just looking at the
4 C of O, which says in Item 12 that the proposed occupancy load
5 for the school would be 50, and I believe the applicant is
6 looking for 60 at the school, and so I would like to ask does
7 this mean that the C of O has to be altered, to be amended?

8 CHAIRPERSON REID: Ms. Sansone?

9 MS. SANSONE: I'm getting a copy.

10 MS. ROBERTS: It was my impression that if the
11 Board approves this new child development center and school
12 that this C of O would be void.

13 CHAIRPERSON REID: They have to apply for another
14 one, right?

15 MS. ROBERTS: Right. That's correct.

16 MS. SANSONE: I would believe that's correct. I
17 believe that's why the applicant stated they were in front of
18 the Board, one of the incidents that led them here.

19 COMMISSIONER MAY: I believe the C of O letter or
20 the referral back to the BZA states that, they have to reapply
21 for the C of O.

22 VICE-CHAIRPERSON RENSHAW: Thank you.

23 CHAIRPERSON REID: And the time frame -- oh. I
24 was going to say that it appears that in regard to the sections
25 under which you are coming, 205 and 206, the Office of Planning

1 has given approval, recommended approval and said that you are
2 in compliance with those sections which is very important. So
3 that part seems to be okay.

4 The part that seems to be problematic is the
5 adverse impact, and that's where we have the problems. And I'm
6 sorry, ma'am, give me your name again.

7 MS. O'LEARY: It's Trystan Phifer O'Leary.

8 CHAIRPERSON REID: Okay, Ms. O'Leary. And you're
9 acting in what capacity?

10 MS. O'LEARY: I'm representing them as an
11 attorney, their attorney.

12 CHAIRPERSON REID: Okay. And I would suggest to
13 you that the areas we were talking about all go to adverse
14 impact under the Zoning Regulations, and perhaps you can talk
15 to staff and help them to assist you in the types of things
16 that we need to see in order for your case to be presented in
17 such a way that it's more apt to be -- to get approval.

18 MS. O'LEARY: Okay.

19 CHAIRPERSON REID: Now, the date that it would
20 have to be continued to would be what, Mr. Hart?

21 MR. HART: Madam Chair, we do have a decision or
22 continuation?

23 CHAIRPERSON REID: Well, a continuation and
24 perhaps decision if perhaps we are satisfied that what we need
25 has been presented adequately enough for us to make a decision

1 on the same day.

2 MR. HART: Okay.

3 CHAIRPERSON REID: No, not today. We're talking
4 about the day that we're continuing it to.

5 MR. HART: Madam Chair, if we approach it from
6 the point of view that given the submissions requested and that
7 these submissions are made, we could put it on a meeting
8 agenda. But if it's going to be a continuation where the
9 applicants would make additional presentation then we'll have
10 to going to the hearing agenda, and the difference there is a
11 difference of a week.

12 The meeting agenda would allow them October 2nd,
13 the hearing agenda would be October 9th.

14 CHAIRPERSON REID: Say that again. If we did
15 what?

16 MR. HART: If we approach the application as a
17 decision making situation where the applicant submits the
18 submissions requested then we would put it at a meeting date.

19 CHAIRPERSON REID: That's what I thought we were
20 going to do. I'm sorry. Not continue the case, but continue
21 our decision, postpone our decision until we -- October 2nd,
22 which would give time for the things we asked to come into the
23 record.

24 MR. HART: Okay. At that meeting will the
25 applicant also make additions? No?

1 CHAIRPERSON REID: I don't think so. I felt that
2 as long as we received the things that we requested that we
3 could make a decision accordingly, yes.

4 MR. HART: Well, in that case October 2nd is the
5 closest, because the other meeting date is September the 4th,
6 and as you know, that date is --

7 MS. O'LEARY: I mean, obviously we'd prefer as
8 early as possible given the nature of what we're trying to do
9 in getting a school open relatively early in the fall, and were
10 it at all possible --

11 CHAIRPERSON REID: We understand that, and
12 unfortunately what you have in jeopardy is your case being
13 disapproved today.

14 MS. O'LEARY: I understand.

15 CHAIRPERSON REID: Due to the fact that it is
16 incomplete.

17 MS. O'LEARY: I understand that. We're not
18 suggesting something today. I just --

19 CHAIRPERSON REID: In trying to be fair to
20 everyone concerned we have to move in such a way that we feel
21 comfortable and the Board members feel comfortable. At one
22 point it was felt that perhaps we could make a decision today
23 and put conditions. However, we don't have anything to really
24 bolster those conditions. If we had some of the information
25 that we requested today and then we could make a condition

1 predicated upon what we had received, but there's so many holes
2 that we really can't even do that. So we really would not
3 serve you well. We would do you an injustice to try to do it
4 today.

5 MS. O'LEARY: Right.

6 CHAIRPERSON REID: And the closest -- there is
7 just nothing in September. I am sensitive to the fact that two
8 things: One, the dyer need for child care in Ward 5. I know
9 it's very important. Two, the fact that September is the time
10 when people start enrolling the kids into the schools, and I
11 really had great pause to do it in October, but I just don't
12 see where on our calendar we would be able to do it.

13 And what's really hurting is the fact that we are
14 recessed in the month of August, and the only other time -- I
15 mean, in September there's just no time on the calendar at all.

16 I know September 4th is a day that's really full and the rest
17 of the month we couldn't squeeze it in on any day in September
18 to try to not have them wait until October to get started.

19 MS. O'LEARY: I certainly wasn't suggesting that
20 you try to reach a decision today. I understand the reasons
21 for that. I thought I had heard him mention September 4th, and
22 our preference would be for the September date. They feel that
23 they can pull this information together quickly for you and
24 also it's definitely in their interest and they intend to meet
25 with the community as quickly as that can be arranged as well.

1 CHAIRPERSON REID: One second. Mr. Hart, is
2 there any probability of an early meeting, an 8:30 meeting may
3 in September, on one of the September hearing days that we can
4 take it up as a special?

5 MR. HART: There's always a possibility,
6 Madam Chair, if the Board if willing to expedite its actions.
7 September 4th is -- I think you have a schedule in front of
8 you. You see what I'm talking about.

9 CHAIRPERSON REID: Uh-huh.

10 MR. HART: But if you want to attempt an 8:30 or
11 9:00 on the 4th, that's up to the Board.

12 VICE-CHAIRPERSON RENSHAW: No.

13 CHAIRPERSON REID: Not on the 4th. I know the
14 4th is leaning. I was saying another date in September.

15 MR. HART: If you recall, earlier today I
16 attempted to set up a September 25th date that brought the
17 director here to change it, and I think I learned we're just
18 bursting at the seams.

19 CHAIRPERSON REID: On the 18th -- we have three
20 hearings that morning of the 18th. Perhaps we can do an 8:30
21 on that day.

22 MS. BAILEY: Madam Chair, on the 11th, on
23 September the 11th there's a possibility that the Catherine
24 Cannon (phonetic) case --

25 CHAIRPERSON REID: If we can do it on the 18th if

1 we make a decision in the affirmative they still have three
2 more weeks to wait for an order. They still can't function and
3 we've got kids who
4 can't -- I mean it's --

5 MR. HART: Madam Chair, you also want to remember
6 that August is the month in between and traditionally around
7 here the ANCs have -- they take off August, so you've got to
8 think about that also.

9 MS. BAILEY: Madam Chair, on September the 11th
10 there's a possibility that the Catherine Cannon case will not
11 be going forward, and I caution with that, but we haven't been
12 able to get information that we need from the applicant to this
13 date. It doesn't mean it won't come in, but that there's a big
14 question mark there. So I'm not sure if you want to take that
15 chance.

16 CHAIRPERSON REID: On the 11th you're saying that
17 the Catherine Cannon case --

18 MS. BAILEY: May not go forward at that point.
19 That's the second case in the morning.

20 CHAIRPERSON REID: Okay. At what point will be
21 know that?

22 MS. BAILEY: We've been trying to reach her by
23 fax, by phone, by mail, and we have not gotten a response, and
24 we need to know fairly quickly so the case can be re-advertized
25 if it's going to be heard on September the 11th.

1 CHAIRPERSON REID: Well, let me ask you this. Is
2 it possible. Could we possibly -- if we had an 8:30 meeting on
3 the 11th, special meeting for this particular case and then one
4 of the ones that we have in the morning could that be put in
5 the afternoon, since we only have three in the afternoon?

6 VICE-CHAIRPERSON RENSHAW: Madam Chair, could I
7 also ask Commissioner Goodwin or Commissioner Pappano when the
8 ANC-5A is going to be meeting in September?

9 COMMISSIONER GOODWIN: At this time I don't
10 remember the exact date.

11 CHAIRPERSON REID: Speak into the mike, please.

12 COMMISSIONER GOODWIN: At this time I do not
13 remember the exact date for the meeting, but if I understood
14 the dialogue up here it wasn't a necessity for a meeting but a
15 rewriting of the previous findings.

16 CHAIRPERSON REID: Well, I think you have to take
17 a vote. You had to vote.

18 COMMISSIONER GOODWIN: The vote was given.

19 CHAIRPERSON REID: But it wasn't clear to us what
20 the vote was, and --

21 COMMISSIONER GOODWIN: That's why I said a
22 rewriting because you said the wording it was confused.

23 VICE-CHAIRPERSON RENSHAW: Commissioner Goodwin,
24 I think it would be much better if you had a re-vote, you
25 present the material to the Commission in writing, then they

1 vote on it.

2 COMMISSIONER GOODWIN: Then the only thing I can
3 say at this time, and anyone can say, is that I will get back
4 with the Chair and I will notify you in writing.

5 VICE-CHAIRPERSON RENSHAW: But do you remember
6 when in September your next meeting, a regularly scheduled
7 meeting --

8 COMMISSIONER GOODWIN: That's what I just
9 addressed.

10 VICE-CHAIRPERSON RENSHAW: Okay.

11 COMMISSIONER GOODWIN: I don't remember at this
12 time.

13 VICE-CHAIRPERSON RENSHAW: All right. Thank you.

14 COMMISSIONER GOODWIN: I will notify you in
15 writing.

16 COMMISSIONER PAPPANO: Madam Chair, I have it
17 down on my calendar. It's for the committee of the whole
18 meeting it's September 6th, and for a community meeting it's
19 September 26th.

20 CHAIRPERSON REID: Okay. Now, which one do we
21 need for the quorum and to take the vote?

22 COMMISSIONER PAPPANO: September 6th.

23 CHAIRPERSON REID: Okay. So that would give
24 enough time for the ANC to have met and to give us their
25 decision or their vote in the form of a letter in this regard.

1 So anyway, Ms. Bailey, could that be done, the
2 way I had asked earlier as far as like shifting things around a
3 little bit here?

4 MS. BAILEY: Based on the schedule,
5 Mrs. Reid, the September 4th cases have not been advertised as
6 yet.

7 CHAIRPERSON REID: September 11th.

8 MS. BAILEY: I understand. No. I don't believe
9 there would be a problem. I need to double check very quickly,
10 but I don't believe there should be a problem, Mrs. Reid.

11 CHAIRPERSON REID: If we can do that, because it
12 sounds like to me, looking at the very ambitious morning
13 schedule, the United House of Prayer is probably not going to
14 go until 1:00 anyway. So if we can just put them on the
15 afternoon. We only have three so far, and then just try to
16 have an 8:30 meeting on September the 11th. Then we could not
17 hold up a decision until October. And if the school is in fact
18 okay and it's approved with the conditions, if it is then they
19 would only be delayed -- it wouldn't be delayed quite as long.

20

21 Is that going to work, Ms. Bailey?

22 MS. BAILEY: Yes, Madam Chair, it will work.

23 CHAIRPERSON REID: Board members, is there any
24 objection to having a meeting, coming in at 8:30 for a special
25 meeting to make a decision as far as this particular case is

1 concerned on September the 11th?

2 VICE-CHAIRPERSON RENSHAW: That's an awfully
3 ambitious request. I mean, we've got a full agenda without
4 Case No. 16678.

5 CHAIRPERSON REID: What we're going to do is put
6 on 16727 for the afternoon.

7 VICE-CHAIRPERSON RENSHAW: And that just chokes
8 up the afternoon, and you're going to --

9 CHAIRPERSON REID: Well, typically we have four
10 in the afternoon most of the time. Then this would just make
11 it three in the afternoon.

12 VICE-CHAIRPERSON RENSHAW: I just think that that
13 is a mighty ambitious and overloaded schedule, that's all.

14 CHAIRPERSON REID: Well, Mrs. Renshaw, we've done
15 it before. You know, in special situations we have not
16 hesitated to have an 8:30 meeting to try to accommodate.

17 VICE-CHAIRPERSON RENSHAW: I understand that, but
18 what happens is that the fatigue factor works into this and by
19 the end of the afternoon you could jeopardize cases that come
20 at the tail end of the day. I'm just pointing that out.

21 MEMBER GRIFFIS: Why don't we push it to 9:00?

22 CHAIRPERSON REID: Well, we had a preliminary
23 already set for 9:00. Do you want to take that out and just do
24 that at 9:00 and just not have the pre-meeting?

25 MEMBER GRIFFIS: Well, we can do our pre-meeting

1 earlier.

2 CHAIRPERSON REID: Well, 9:00 in fine with me. I
3 don't have any problem with it. Any other comments, any
4 objections?

5 Okay. Well, then that's the best we can do is on
6 the 11th.

7 MS. O'LEARY: Thank you.

8 CHAIRPERSON REID: And please, I'm giving you
9 marginal orders. Meet with staff. They'll make themselves
10 available to you, and try to assist you in providing us with
11 the information that we need to be able to make a decision.

12 MS. O'LEARY: We appreciate your flexibility and
13 your guidance on this matter and your willingness to hold it
14 open to give us an opportunity to respond a great deal.

15 When shall we provide you with our submission?

16 CHAIRPERSON REID: Mr. Hart will give you a time
17 line.

18 MS. O'LEARY: Okay.

19 MR. HART: Yes. Let me do it on the record.
20 Please let us have all your submissions no later than September
21 the -- I was going to say the 5th, but the ANC's the 6th. The
22 5th is good for all submissions except for the ANC.

23 CHAIRPERSON REID: The ANC we'll probably have to
24 waive the record and allow it to come in.

25 MR. HART: Yes.

1 CHAIRPERSON REID: But please, ANC
2 representatives, please impress upon the ANC the importance of
3 taking that vote and getting the letter to us for the meeting
4 on the 11th.

5 Ms. Renshaw?

6 VICE-CHAIRPERSON RENSHAW: Yes. I just want to
7 pick up on something that Ms. O'Leary, the attorney stated.

8 MS. O'LEARY: Yes.

9 VICE-CHAIRPERSON RENSHAW: You were -- this was
10 when we came back from a break I believe. In any case, you
11 were addressing some of the complaints that had been proffered,
12 and you said that the teachers -- there would be a lot of
13 teachers and parents from the neighborhood using the school.

14 If in your material you could outline for us how
15 many teachers and parents from the neighborhood are going to be
16 using this facility.

17 MS. O'LEARY: Okay. Thank you. We'll do so.

18 CHAIRPERSON REID: Okay. Any other questions,
19 comments, Board members?

20 With that, then thank you very much. That will
21 conclude the afternoon session for July 31st.

22 Thank you very much for your indulgence.

23 (The proceedings concluded at 5:54 p.m.)

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