

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

JANUARY 29, 2002

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

|                       |                     |
|-----------------------|---------------------|
| GEOFFREY H. GRIFFIS   | Chairperson         |
| ANNE MOHNKERN RENSHAW | Vice Chairperson    |
| CURTIS ETHERLY, JR.   | Board Member        |
| DAVID LEVY            | Board Member (NCPC) |

ZONING COMMISSION MEMBER PRESENT:

|                 |              |
|-----------------|--------------|
| CAROL J. MITTEN | Commissioner |
|-----------------|--------------|

COMMISSION STAFF PRESENT:

BEVERLY BAILEY, Secretary, BZA  
PAUL O. HART, Office of Zoning  
JOHN K.A. NYARKU, Office of Zoning

D.C. OFFICE OF CORPORATION COUNSEL:

MARIE SANSONE, ESQ.

OFFICE OF PLANNING:

ARTHUR JACKSON  
DAVID McGETTIGAN  
MAXINE BROWN-ROBERTS  
KAREN THOMAS

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

(9:35 a.m.)

CHAIRPERSON GRIFFIS: Good morning, ladies and gentlemen. The hearing will please come to order. This is the January 29<sup>th</sup>, 2002 Public Hearing of the Board of Zoning Adjustment. This is the District of Columbia. My name is Geoff Griffis, Chairperson.

Joining me today is Ms. Anne Renshaw, Vice Chair, Curtis Etherly, David Levy, Representing the National Capital Planning Commission, and Carol Mitten, representing the Zoning Commission.

Copies of today's hearings are available to you.

They are located to my left near the door, the door you did come in, at the table. All persons planning to testify, either in favor or in opposition are to fill out two witness cards. These cards are located on each end of the table in front of us, also on the table where you came in. Upon coming forward to speak to the Board, please give both cards to the reporter, who is sitting to my right.

The order of procedure for special exceptions and variances is first, we will hear statements and witnesses of the Applicant. Second, will be government reports, including Office of Planning, Department of Public Works, et cetera. Third, will be reports from the Advisory Neighborhood Commission. Fourth, parties or persons in support. Fifth, would be parties or

1 persons in opposition. And sixth finally, we'll have closing  
2 remarks by the applicant.

3 Cross examination of witnesses is permitted by  
4 the applicant or parties. The ANC within which the property is  
5 located is automatically a party in the case. The record will  
6 be closed at the conclusion of each case, except for any  
7 material specifically requested by the Board, and Staff will  
8 specify at the end of the hearing exactly what is expected.

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

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

20 At this time, I'd ask everyone to turn off their  
21 beepers or cell phones so as not to disrupt the proceedings.  
22 The Board will now consider any preliminary matters.  
23 Preliminary matters are those which relate to whether a case  
24 will or should be heard today, such as a request for  
25 postponement, continuance or withdrawal, or whether proper and

1 adequate notice of the hearing has been given. If you are not  
2 prepared to go forward with the case today, or if you believe  
3 the Board should not proceed, now is the time to raise such a  
4 matter.

5 I would first ask Staff, Ms. Bailey, good  
6 morning, if there are any preliminary matters for us.

7 SECRETARY BAILEY: Mr. Chairman, Members of the  
8 Board, good morning. There is a preliminary matter. It has to  
9 do with the first case of the morning, Stanley B. Greenberg.  
10 The Applicant in that case is requesting that it be taken up  
11 later this morning, or later in the day.

12 CHAIRPERSON GRIFFIS: Oh, thank you very much.  
13 Is Mr. Greenberg or anyone representing that application here at  
14 this time? Very well. We will move it until they come in.

15 SECRETARY BAILEY: The first case of the morning  
16 is Application Number 16825 of Albin V. and Linda H. Javarone,  
17 pursuant to 11 DCMR 3104.1, for a special exception to construct  
18 an addition to a semi-detached flat under Section 223, not  
19 meeting the side yard (Section 405) requirements in an R-4  
20 District, at premises 600 G Street, S.E., Square 877, Lot 96.

21 All those wishing to testify, please stand. Raise your right  
22 hand.

23 WITNESS SWORN

24 SECRETARY BAILEY: Thank you. Please come to the  
25 table.

1 CHAIRPERSON GRIFFIS: Good morning. I hope  
2 you're ready to be bumped up the schedule. If you wouldn't  
3 mind, just give me your name and address for the record. And  
4 what I'm going to have you do is turn on the mike when you  
5 speak.

6 MR. DuPONT: My name is Stephen DuPont at 5159  
7 Fulton Street, N.W., Washington, D.C.

8 CHAIRPERSON GRIFFIS: Thank you. And when you're  
9 ready you can give us your opening remarks and witnesses.

10 MR. DuPONT: First I would like to submit this  
11 correct.

12 CHAIRPERSON GRIFFIS: Okay. You're going to have  
13 to submit it down to Staff, if you don't mind. Do you have  
14 copies available, or is that just one ?- two copies? Okay. And  
15 you are aware that as it's submitted, we won't return those.

16 MR. DuPONT: No, that's fine.

17 CHAIRPERSON GRIFFIS: Okay. This is why the  
18 copies were black.

19 MR. DuPONT: The original set had a misprint in  
20 the guest suite showing a double exposure. It showed an old  
21 kitchen in the new closet, and that was completely incorrect.

22 CHAIRPERSON GRIFFIS: Okay. Well, I think we'll  
23 get to that as you walk us through that.

24 MR. DuPONT: Well, it's really not relevant to  
25 what we're talking about particularly, but Mr. Nero asked that I

1 bring it down.

2 CHAIRPERSON GRIFFIS: Uh-huh. Okay. Did you  
3 want to have any sort of opening remarks, or do you want us just  
4 to barrage you with questions?

5 MR. DuPONT: The reason for the request is the  
6 side yard setback, the Zoning Code says that if the building ?-  
7 the existing building is 5 feet from the property line, then a 5  
8 foot set back on the addition is available by right. The  
9 existing building is only three foot one or so from the property  
10 line, and therefore, a variance is required. To my knowledge,  
11 that's the only variance that would ?-or special exception that  
12 would be requested or required to do this work.

13 CHAIRPERSON GRIFFIS: Okay.

14 MR. DuPONT: The courtyard is completely ?-  
15 almost completely enclosed. It is invisible from the street,  
16 and has a miserable connection to the interior part of the  
17 house. The purpose of the addition is to provide a large glass  
18 expanse viewing the courtyard, bringing the courtyard into the  
19 house.

20 The house is currently eight units. It is being  
21 converted back to a single unit with a flat, a single family  
22 residence with a flat.

23 CHAIRPERSON GRIFFIS: So currently it has a C of  
24 0 for eight units.

25 MR. DuPONT: Eight small units.

1 CHAIRPERSON GRIFFIS: Right. Well, it's a big  
2 place.

3 MR. DuPONT: It is a big place. It's also very  
4 old, 1830s, something like that.

5 CHAIRPERSON GRIFFIS: Okay. Do you have ?- you  
6 don't have any plans in front of you now then.

7 MR. DuPONT: No.

8 CHAIRPERSON GRIFFIS: Do you want to continue, or  
9 do you want to have questions?

10 MR. DuPONT: I think you should ask questions.

11 CHAIRPERSON GRIFFIS: Fabulous. Okay. Jump  
12 right into it. The first question I have is can you explain ?-  
13 and units was important in terms of whether this is a flat, or  
14 whether it's an apartment. If it has obviously more units than  
15 two, designated as a flat, it could not come under 223.

16 MR. DuPONT: No, it's a flat.

17 CHAIRPERSON GRIFFIS: Okay. Can you talk  
18 briefly, and just explain to me then how the circulation happens  
19 within if ?- the apartment unit is two levels and it's basically  
20 on the back side. Is that correct?

21 MR. DuPONT: The apartment is on the upper level.  
22 The first level is a guest room for the main house, and  
23 connects through the foyer to the dining room. There are only  
24 two bedrooms in the house the way it's designed, and there are  
25 several children with grandchildren that will be visiting, so

1 there are ?- on the third floor of the house is the master  
2 suite, and the guest room. And then the first floor in the  
3 annex there's another guest room, which might also become a  
4 master suite when the stairs become untenable.

5 The second floor of the annex remains an  
6 apartment in case they want a house sitter or something like  
7 that. And the annex lay out is unchanged from the existing.  
8 That's why it's sort of awkward, but it just doesn't make sense  
9 to gut the whole thing out and rebuild it. It was really built  
10 as a separate building at one time.

11 CHAIRPERSON GRIFFIS: Right. Did you just say  
12 that the second floor of that will remain a unit?

13 MR. DuPONT: That's the second ?- that is the  
14 flat unit.

15 CHAIRPERSON GRIFFIS: Okay. So the first floor  
16 is ?-

17 MR. DuPONT: The first floor is the guest suite.  
18 It has a bathroom, a bedroom, and a sitting room.

19 CHAIRPERSON GRIFFIS: So how would you access the  
20 second floor unit?

21 MR. DuPONT: Up the stairs.

22 CHAIRPERSON GRIFFIS: Up which stairs? Well,  
23 hold on a second. That's not going to work. Can you actually  
24 just step back for a minute? What I'm going to do is give you  
25 back this, and what you can do is ?- okay.

1 MR. DuPONT: At the bottom of the sheet center is the  
2 door to the outdoors, and that rectangular space just inside  
3 that door is a foyer with a door to the right, which is the  
4 house dining room. The door to the left, which is the guest  
5 suite, and straight ahead takes you up the stairs to another  
6 apartment. Those are existing stairs.

7 CHAIRPERSON GRIFFIS: Right. And so in order to  
8 access the first bedroom, which on the ?- you're calling it now  
9 in the new submission Guest First Bedroom, you would have to  
10 walk through a common foyer.

11 MR. DuPONT: That's correct. You see the left  
12 wall of the dining room is indicated as masonry construction.  
13 That's existing construction.

14 CHAIRPERSON GRIFFIS: Right.

15 MR. DuPONT: Everything to the left of that is  
16 already existing.

17 CHAIRPERSON GRIFFIS: Right. No, I understand  
18 that. Okay. Board Members, do you understand what is being  
19 said in terms of circulation? Okay. And so if I understand  
20 correctly, someone forgot to turn off the kitchen layer in the  
21 new closet.

22 MR. DuPONT: Exactly.

23 CHAIRPERSON GRIFFIS: Which would actually then  
24 make it more towards the unit and not the bedroom.

25 MR. DuPONT: Well, you know, I'm not denying the

1 fact that it looks like it could easily be a unit. In fact,  
2 I've often suggested to the owner that he might want to leave it  
3 that way. But he has specifically said he needs that to be for  
4 his children, and he does not want the kitchen in there, so it  
5 is going out.

6 CHAIRPERSON GRIFFIS: Okay.

7 MR. DuPONT: And the fact that the house exists  
8 like that, I can't really do much about it.

9 CHAIRPERSON GRIFFIS: Right. Yeah, I think ?-  
10 frankly, I'm just trying to get to the bottom of what we're  
11 looking at so that we have a clear understanding of this before  
12 we go much further. Let's walk ?-

13 MR. DuPONT: Well, you also notice that the first  
14 floor unit is quite a lot smaller than the second floor.

15 CHAIRPERSON GRIFFIS: We're not sure that  
16 matters, does it?

17 MR. DuPONT: It's really small. You don't want a  
18 kitchen in there. It's just too damn small. It's tiny.

19 CHAIRPERSON GRIFFIS: Yeah. I think I've lived  
20 in studios smaller than that.

21 MR. DuPONT: Yeah.

22 CHAIRPERSON GRIFFIS: And no fireplace.

23 MR. DuPONT: It is an existing condition, and the  
24 kitchen is coming out.

25 CHAIRPERSON GRIFFIS: Right. I understand.

1 That's submitted on A-2.2 which is the revised plan. It is  
2 showing that the Guest First Sitting Room has a new closet. The  
3 kitchenette is removed, and I would imagine that's all that's  
4 needed in terms of definition.

5 All right. Let's go into ?- quickly, I just want  
6 to go through, first of all, this is a self-certification on  
7 your sheet that you filled out for existing required, allowed  
8 provided pieces here. There was some corrections, and maybe I'm  
9 wrong, but lot area required is 3,000. You had no minimum.  
10 You're fine with that. That's not an issue. Lot width is not  
11 an issue. What I want to talk about briefly is just your  
12 calculations on lot occupancy.

13 MR. DuPONT: Uh-huh.

14 CHAIRPERSON GRIFFIS: Do you ?- you don't have  
15 them in front of you.

16 MR. DuPONT: No, but I remember them rather well.

17 CHAIRPERSON GRIFFIS: Okay. Let me get my notes  
18 on the same plan. The one issue that came up, I believe Ms.  
19 Mitten is well aware of the issue, and that is ?- what is the  
20 cite on that in terms of the side yard going towards lot  
21 occupancy?

22 COMMISSIONER MITTEN: Oh, that's the definition  
23 of building area.

24 CHAIRPERSON GRIFFIS: Right.

25 COMMISSIONER MITTEN: And I can give you a page

1 number. And that's not ?- that's on page 1-12.

2 CHAIRPERSON GRIFFIS: Right.

3 COMMISSIONER MITTEN: And if I could, Mr. Chair,  
4 while you're reading that, I would just like to correct the  
5 statement that you made earlier about the minimum lot size and  
6 so on. As you said, it's not ?- it doesn't make ?- it doesn't  
7 cause a problem in this case. But given that this is a flat,  
8 the minimum lot area would be 1,800 square feet, and a minimum  
9 lot width of 18 feet.

10 CHAIRPERSON GRIFFIS: See, I can make mistakes in  
11 lot ?-

12 COMMISSIONER MITTEN: And just while we're  
13 clarifying the chart.

14 CHAIRPERSON GRIFFIS: Right. Well, go to 401.3.  
15 I'm looking at R-4. Not only is it flat, but it's also one  
16 family ?- that's right. I'm sorry. That is my total mistake.

17 COMMISSIONER MITTEN: Okay.

18 CHAIRPERSON GRIFFIS: Very well.

19 COMMISSIONER MITTEN: Perhaps on the lot  
20 occupancy, we could ask Mr. DuPont to walk us through his  
21 calculation ?-

22 CHAIRPERSON GRIFFIS: Uh-huh.

23 COMMISSIONER MITTEN: ?- so we can be certain  
24 whether or not he included the non-conforming side yard in  
25 there.

1 MR. DuPONT: I did not.

2 COMMISSIONER MITTEN: All right. Did you revise  
3 that for us?

4 MR. DuPONT: I don't have the numbers in front of  
5 me, but it's three feet one inch wide, and if you do not  
6 include that, my recollection is that the lot occupancy was  
7 60.01 percent. And adding 300 - not 300 - 120 feet roughly to  
8 that is not going to bring it even more than 2 percent, so it's  
9 within the purview of, I believe, the Zoning Administrator, is 2  
10 percent leeway. And then when I spoke to the people down here  
11 at this office, they weren't even really aware that the side  
12 yard would have to be calculated. They were puzzled by that.  
13 Thirdly, in the Special Exception Rules, I'm allowed 70 percent  
14 coverage.

15 COMMISSIONER MITTEN: Right. We just want to  
16 make sure that we have an accurate representation on the chart  
17 that shows the existing condition ?-

18 MR. DuPONT: All right. If I ?-

19 COMMISSIONER MITTEN: ?- and what the proposed  
20 condition would be.

21 MR. DuPONT: If I add ?-

22 COMMISSIONER MITTEN: And you want to add the  
23 existing side yard as well as the side yard that you would be ?-  
24 oh, if it's five feet you don't have to add that, so you just  
25 have the existing non-conforming side yard.

1 MR. DuPONT: I can do this without being too  
2 nervous. So it's ?-

3 CHAIRPERSON GRIFFIS: Well, what was the width of  
4 the side yard, the existing? Did you say it was three feet?

5 MR. DuPONT: It's thirty-seven, thirty-six and a  
6 half inches.

7 CHAIRPERSON GRIFFIS: Okay. So it's three times  
8 33 is what it comes out to, if I'm correct.

9 MR. DuPONT: Ninety-nine added to 1939, plus 99,  
10 is 2,038 over the lot area of 3293, is 61.8 percent, which is  
11 still less than the Zoning Administrator's right of adjustment.

12  
13 COMMISSIONER MITTEN: And then, Mr. Chairman, I  
14 don't know if you had gotten down to rear yard yet.

15 CHAIRPERSON GRIFFIS: No. Why don't you go to  
16 that?

17 COMMISSIONER MITTEN: All right. The minimum  
18 rear yard in the R-4 Zone, notwithstanding the height is 20 feet  
19 as a minimum, and then the issue as a function of height would  
20 make it the 12.26, but we have a minimum of 20 feet.

21 MR. DuPONT: The 12.26 is between the annex and  
22 the ?-

23 COMMISSIONER MITTEN: Oh, okay. The relationship  
24 with the height is not relevant in this case, but you have a  
25 minimum in any case of 20 feet.

1 MR. DuPONT: Well, 20 feet, I've got way more  
2 than that from the new work. It's the little alley on the left  
3 side of your sheet which is 12.26, and that doesn't change.

4 COMMISSIONER MITTEN: Right. But you have a  
5 building that as it exists ?- what we're trying to get is  
6 documents ?-

7 MR. DuPONT: Well, I don't know. It's a corner  
8 lot. It's a street frontage on the left and bottom line, so is  
9 that a rear yard on the left there?

10 COMMISSIONER MITTEN: Well, it's the option of  
11 the owner to select which side of the building becomes the  
12 front.

13 MR. DuPONT: Okay. If that's the rear, then you  
14 have a non-conforming condition at the end of the annex which  
15 I'm not increasing.

16 COMMISSIONER MITTEN: Right. We're just trying  
17 to document the existing non-conformity.

18 MR. DuPONT: Uh-huh.

19 COMMISSIONER MITTEN: And you actually have two  
20 existing non-conformities.

21 MR. DuPONT: Okay.

22 COMMISSIONER MITTEN: A side yard and a rear  
23 yard. That's all we're trying to do, is just get an accurate ?-

24 MR. DuPONT: No, no. I'm sorry.

25 COMMISSIONER MITTEN: ?- representation.

1 MR. DuPONT: All right. Okay.

2 CHAIRPERSON GRIFFIS: And what was the dimension  
3 from the annex back to the lot line? Did you say 12 feet?

4 MR. DuPONT: From the existing annex at the lower  
5 left of the drawing to the left lot line, which is the north, is  
6 existing 12.26. The information on this sheet is correct. The  
7 12.26, and then I said 15 foot minimum, plus 4 feet per foot of  
8 height for the required. And I acknowledge that it provided  
9 this 12.26, but I'm not asking for any increase on that, so the  
10 variance that I'm asking for is zero, I think. I have 15 feet,  
11 not 20.

12 COMMISSIONER MITTEN: It's 20. I can give you  
13 the cite if you like.

14 MR. DuPONT: That's fine.

15 COMMISSIONER MITTEN: I think there may have been  
16 some confusion about what the actual zoning of the property was  
17 in the beginning. Is that true?

18 MR. DuPONT: There was.

19 COMMISSIONER MITTEN: Okay. So in R-4, which is  
20 what this is, it's a 20 foot minimum rear yard.

21 MR. DuPONT: Okay.

22 COMMISSIONER MITTEN: Notwithstanding what's  
23 permitted under a special exception, could you explain to the  
24 Board why it's necessary to have the 5 foot minimum side yard on  
25 the addition as opposed to having the 8 foot that's normally

1 required? What is it about the configuration that necessitates  
2 that?

3 MR. DuPONT: Well, it allows you to have a more  
4 symmetrical, better relationship between the kitchen and the sun  
5 room on the first floor, and the den and the sun room on the  
6 second floor. Instead of losing another 3 feet of opening, it  
7 also brings the opening more in line with existing window sides.

8 It's just a ?- and the real problem is that you end up with an  
9 8 foot space, which is an awkward, do nothing space. It just  
10 isn't very ?- it isn't very good design.

11 COMMISSIONER MITTEN: But 5 feet is better?

12 MR. DuPONT: Yes. Less ?- there's ?- well, there  
13 happens to be a window in the neighbor's house there as well.  
14 Three feet is too small, eight feet is too big. It's just an  
15 awkward dimension. I don't really think there's any reason to  
16 push right up against the neighbor's window.

17 COMMISSIONER MITTEN: There's a window on which  
18 level, each level?

19 MR. DuPONT: Just about ?- no, only one, in their  
20 party wall, just about where it says, "Area of Addition."

21 COMMISSIONER MITTEN: On which level?

22 MR. DuPONT: Ground floor.

23 COMMISSIONER MITTEN: Okay.

24 MR. DuPONT: Neighbor's ground floor.

25 COMMISSIONER MITTEN: All right.

1                   MR. DuPONT:       I'm not sure whether it's a  
2 bathroom, or a pantry or what, but it's a small high window.  
3 The other reason for not going to three feet is that I needed  
4 the brick return at the side of the opening for structural  
5 reasons. It does not make sense to take the brick wall back all  
6 the way to the party wall, because then it doesn't have any  
7 stiffness.

8                   COMMISSIONER MITTEN:   Okay.

9                   MR. DuPONT:       So you need a bearing for beams, and  
10 you need the stiffness at the corner, and an eight foot side  
11 yard is just a waste of space. It would never be used for  
12 anything.

13                   CHAIRPERSON GRIFFIS:   Any other questions, Board  
14 Members? Okay. Can you just talk briefly, the elevations at A-  
15 4-3, materials, existing materials of the house. It's masonry  
16 construction, and the addition it appears to be wood frame.

17                   MR. DuPONT:       Wood frame.

18                   CHAIRPERSON GRIFFIS:   Okay. It is on the rear.  
19 It seems to have been, from my quick view of this, picking up  
20 some of this, the style that's probably apparent on the  
21 existing. It looks fairly classic.

22                   MR. DuPONT:       It's an early Federal, 1830s or so  
23 Federal.

24                   CHAIRPERSON GRIFFIS:   Uh-huh.

25                   MR. DuPONT:       I think, with small punched

1 openings. This is the north side of the house, a courtyard. It  
2 doesn't get very good light, but in the summer in the heat, it  
3 will be a very nice connection in relation to the courtyard.

4 CHAIRPERSON GRIFFIS: Right.

5 MR. DuPONT: With a lot of ventilation in the  
6 house.

7 CHAIRPERSON GRIFFIS: Indeed. And I've noticed,  
8 you did just mention the fact that there was an adjacent  
9 neighbor that had a window off that. Two things, did you have  
10 any conversation with the neighbor, and have they submitted  
11 anything for the record? Okay. Secondly, I would just ?-

12 MR. DuPONT: The window is not very clean, and it  
13 doesn't look like it's been opened for a long time.

14 CHAIRPERSON GRIFFIS: That's fine. I think my  
15 second point goes to that. The fact of the matter is that  
16 you're putting a spiral stair right there, meaning that people  
17 won't be having functional use or standing in that window  
18 looking into the neighbor's.

19 MR. DuPONT: Right.

20 CHAIRPERSON GRIFFIS: There's obviously a  
21 distance that will be created.

22 VICE CHAIRPERSON RENSHAW: Mr. Chairman, I wasn't  
23 quite clear with that last remark about the neighbors, whether  
24 you have talked to them about the plans?

25 MR. DuPONT: No.

1 VICE CHAIRPERSON RENSHAW: You have not.

2 MR. DuPONT: No.

3 VICE CHAIRPERSON RENSHAW: So, therefore, they do  
4 not have any information about this addition.

5 MR. DuPONT: Oh, I'm sure they have lots of  
6 information. They live right there. They know the owner.  
7 There's been some demolition done on the early other part of the  
8 house on an existing permit. They know that work is going on,  
9 but they haven't approached me. I don't know who they are.

10 CHAIRPERSON GRIFFIS: Well, then they would have  
11 gotten notified also about this hearing, but ?-

12 MR. DuPONT: Yes, and the signs have been posted  
13 so ?-

14 CHAIRPERSON GRIFFIS: Right. I think Ms.  
15 Renshaw's point goes directly to the fact of whether you made  
16 communication or got any sort of feedback from them.

17 MR. DuPONT: I did not, but the owner has been  
18 living there, and has been talking to a number of his neighbors,  
19 and it's not an unknown project at all.

20 CHAIRPERSON GRIFFIS: Okay. Well, then there's  
21 not much we can do if we don't have anything, so another piece.  
22 Talk to me about where you are in terms of Historic  
23 Preservation Review. This is in the ?-

24 MR. DuPONT: It's been signed off.

25 CHAIRPERSON GRIFFIS: ?- Capitol Hill District.

1 And it was submitted today, I believe, or I just got a copy of  
2 it today. You ?- what exhibit is that? It would have been  
3 Exhibit Number 22, and it looks like it's what, page 4 of the  
4 permit application.

5 The difficulty that we have with this, although  
6 we believe you 100 percent ?-

7 MR. DuPONT: Okay.

8 CHAIRPERSON GRIFFIS: ?- is there's no  
9 identification of the property on this. There's absolutely no  
10 identification of anything on it, except for a sign-off on ?-

11 MR. DuPONT: I'm sorry. I brought the whole  
12 package down with me. That's Mr. Young's, C. Luke Young's  
13 signature. I can get you a copy of the ?- I don't have a copy  
14 of the receipt from them back to the Permit Branch.

15 CHAIRPERSON GRIFFIS: Okay.

16 MR. DuPONT: But I can get that for you.

17 CHAIRPERSON GRIFFIS: Okay. And your  
18 conversation with Mr. Young was such that he did not think it  
19 needed to be presented, even on a consent calendar HPRB.

20 MR. DuPONT: It was presented on the Consent  
21 Calendar.

22 CHAIRPERSON GRIFFIS: Oh, it was.

23 MR. DuPONT: Yes.

24 CHAIRPERSON GRIFFIS: Oh, that would be ?- that's  
25 all we need, frankly.

1 MR. DuPONT: It was. And I don't have the  
2 receipt for that. It goes back to the Permit Branch.

3 CHAIRPERSON GRIFFIS: But it would have shown ?-  
4 was ?- and there would have been some sort of memo, based on the  
5 fact that it was approved.

6 MR. DuPONT: Yeah, and I don't have that. That's  
7 what I'm trying to say.

8 CHAIRPERSON GRIFFIS: Oh, I see. All right.

9 MR. DuPONT: I can get it, but I don't have any  
10 record from them, because I walked it back myself.

11 CHAIRPERSON GRIFFIS: Right.

12 MR. DuPONT: He signed off on the permit, and I  
13 walked it up.

14 CHAIRPERSON GRIFFIS: Right. Okay. Okay. There  
15 it is. What else? Anything else right now? Indeed. Okay. Do  
16 you want to have ?- are you calling any witnesses or anything  
17 this morning?

18 MR. DuPONT: No.

19 CHAIRPERSON GRIFFIS: Okay. We'll run down. I  
20 know I have the ?- I'm sure you're very familiar, but let us  
21 move on down the schedule of the six things that we will  
22 accomplish in each of these cases, the second being the  
23 government reports. And do we have an Office of Planning report  
24 for this? Indeed, so we will move quickly by that one, and go  
25 to the ANC report. And I think Ms. Renshaw has it in her hand.

1 VICE CHAIRPERSON RENSHAW: Mr. Chairman, we have  
2 a report from Kennon B. Charbow, the Chair of ANC 6-B. It's  
3 dated January 24<sup>th</sup>, 2002, and stated that the ANC 6-B met on  
4 January 8<sup>th</sup>, 2002. Ten Commissioners were present, seven are a  
5 quorum, and the ANC voted unanimously to support this  
6 Application Number 16825, as it was presented to the ANC.  
7 Again, it was signed by Kennon B. Charbow, the Chairman.

8 CHAIRPERSON GRIFFIS: Good. Thank you very much.

9 I don't have record of any other government reports at this  
10 time. Is anyone else here for this application, people in  
11 support, people in opposition? Not seeing a flood of hands  
12 shooting up in the air, I would assume that no one else is here  
13 for this application.

14 Board Members, other questions on this ?-

15 COMMISSIONER MITTEN: I'd just like, just to make  
16 the record complete, because the Applicant does have the burden  
17 of proof. I'd just like to ask Mr. DuPont if, in his opinion,  
18 if we grant this special exception that it will be in harmony  
19 with the general purpose of the zoning ordinance and map, and  
20 will not tend to adversely affect neighboring properties.

21 MR. DuPONT: Oh, I absolutely believe that. I  
22 think simply going from eight units to two with a single family  
23 major occupancy is a tremendous lessening of the density burden  
24 of that intersection.

25 COMMISSIONER MITTEN: Uh-huh.

1 MR. DuPONT: I think the house is incredibly well  
2 built, and the work that will be done on it will only improve  
3 that. I just think it will be a great asset. The owners are  
4 lovely people. Everything that is going on there is a good  
5 thing for that part of town. There's an awful lot of work going  
6 on down there anyway. There's a housing development that was  
7 built around the corner several years ago. There's the new  
8 health club. There's a great deal of improvement, all the  
9 highway work. It's entirely in keeping with all of that. The  
10 600 Block of G Street has been a very nice block for many years.

11 COMMISSIONER MITTEN: I used to live there. I  
12 know.

13 MR. DuPONT: My sister-in-law's parents-in-law  
14 live there also, and it's a great block ?-

15 COMMISSIONER MITTEN: Uh-huh.

16 MR. DuPONT: ?- and has been. And I think that  
17 this will only maintain that trend. I apologize also, I'm not  
18 terribly familiar with this process, that I don't do very many  
19 variances. I've tried not to, and so I'm being a little clumsy  
20 with this.

21 COMMISSIONER MITTEN: Well, hopefully we've  
22 helped you through and gotten the record fairly complete, and  
23 will have maybe a few additional submissions before ?-

24 CHAIRPERSON GRIFFIS: Right.

25 MR. DuPONT: I did submit pictures showing the

1 relationship of the courtyard to the neighbor's. And I think  
2 it's fairly clear that the courtyard is almost entirely boxed  
3 in.

4 CHAIRPERSON GRIFFIS: Yes. Okay. Do we want to  
5 ?- Board Members, give me a ?- actually, I will give you an  
6 opportunity to say more in terms of a closing statement if you'd  
7 like. Otherwise, that was very well said and eloquent, if you  
8 want to leave it at that.

9 MR. DuPONT: I do.

10 CHAIRPERSON GRIFFIS: Okay. Not that I'm pushing  
11 you in one direction or not, but we may have additional  
12 questions anyway, so we'll get this going.

13 Give me a quick understanding of the schedule of  
14 this project, if you wouldn't mind. You have permits now.  
15 You're ready to go.

16 MR. DuPONT: We have a permit for the demolition  
17 and renovation of the existing part of the house.

18 CHAIRPERSON GRIFFIS: Uh-huh.

19 MR. DuPONT: This addition was a separate permit.

20 CHAIRPERSON GRIFFIS: Right. But that permit is  
21 in.

22 MR. DuPONT: Because frankly ?- I'm sorry?

23 CHAIRPERSON GRIFFIS: The permit documents are  
24 in, correct? They're waiting for ?-

25 MR. DuPONT: Oh, for this, for the addition?

1 CHAIRPERSON GRIFFIS: Yeah.

2 MR. DuPONT: Actually, they're back in my office  
3 ready to go back up there as soon as I have a memo from you.

4 CHAIRPERSON GRIFFIS: Okay. And we're the last  
5 stop.

6 MR. DuPONT: Yes. Well, you're the first of what  
7 I hope is the end of it. I mean, it hasn't been through  
8 structural and mechanical ?-

9 CHAIRPERSON GRIFFIS: Oh, no, no. The normal  
10 permitting process, I understand, but that's fine. Okay. Well,  
11 this is my reading of the Board, and frankly I concur, that  
12 first let's ?- we'll get everything together. We would like to  
13 see submitted the documentation from HPRB. Right. We're going  
14 to need the corrected zoning calculations for ?- as part of the  
15 application.

16 Now if I'm not mistaken, we just estimated that  
17 ?- or perhaps accurately calculated the lot occupancy as 61  
18 percent. Isn't that what you said?

19 MR. DuPONT: It's 61.88.

20 CHAIRPERSON GRIFFIS: 61.88, so we'll call it 62  
21 to round off. That would put us out of the 60 percent, but  
22 under 223, if I'm not mistaken, we can go up to 70 percent,  
23 which just means we need to amend the relief sought, and can  
24 perhaps do that within a motion.

25 Let me get some comments from the Board. I would

1 suggest that we proceed with whichever way we go on this with a  
2 motion, and would hold the order issuance based on the  
3 submission of the HPRB report, because quite frankly, we can  
4 grant a special exception without, in fact, HPRB's approval. It  
5 is important for us, just in the terms of the process and all,  
6 to know that we're approving the special exception that has been  
7 approved. It won't be changing, is really what it comes down  
8 to.

9 MR. DuPONT: Well, for your help, I did bring the  
10 entire permit application down here yesterday ?-

11 CHAIRPERSON GRIFFIS: Uh-huh.

12 MR. DuPONT: ?- and the xerox was made here by  
13 your Staff.

14 CHAIRPERSON GRIFFIS: Why does that help me?

15 MR. DuPONT: Because it was the application for  
16 this project. It had the identifiers for this project on the  
17 front of it, pages 1, 2 and 3.

18 CHAIRPERSON GRIFFIS: Oh, so you're saying they  
19 only copied the one.

20 MR. DuPONT: They only copied the one page.

21 CHAIRPERSON GRIFFIS: Okay. So it helps me in  
22 saying it's not your fault, it's our fault.

23 MR. DuPONT: No. Just in feeling comfortable  
24 that it's true.

25 CHAIRPERSON GRIFFIS: Yeah.

1 MR. DuPONT: And I'll go see Mr. Young and get  
2 you the memo as well.

3 CHAIRPERSON GRIFFIS: Okay. Comments, Board  
4 Members?

5 COMMISSIONER MITTEN: I think that everything  
6 that Mr. DuPont said about the improvement that this will make,  
7 that this overall renovation will make to that area is true.  
8 And I also don't think that this addition is going to in any  
9 way, you know, impair the neighboring property. And I guess I  
10 just wanted to emphasize the fact that our order will specify  
11 that this is for a flat. And in R-4, there's no going back to  
12 multi-family after this, so this will be exclusively for a flat,  
13 and I guess that's it. I'm in favor of granting the special  
14 exception.

15 CHAIRPERSON GRIFFIS: Is that a motion?

16 COMMISSIONER MITTEN: I could make it a motion.

17 CHAIRPERSON GRIFFIS: Indeed, why don't you  
18 proceed with that.

19 COMMISSIONER MITTEN: Okay. I move that we grant  
20 the special exception applied for in Application Number 16825 to  
21 construct an addition to a semi-detached flat under Section 223,  
22 for a property that's non-conforming due to the side yard, and  
23 rear yard existing condition.

24 VICE CHAIRPERSON RENSHAW: Second.

25 CHAIRPERSON GRIFFIS: Thanks. Motion is for,

1 seconded. A couple of things. First of all, I concur with Ms.  
2 Mitten, and would go even further to say that the design is  
3 quite nice in terms of how it integrates with an existing  
4 building, and actually performs its function for the client, but  
5 also aesthetically pleasing on the exterior.

6 Now a quick clarification though. Are we not  
7 needing to amend your motion to deal with lot occupancy?

8 COMMISSIONER MITTEN: That's true.

9 CHAIRPERSON GRIFFIS: Okay.

10 COMMISSIONER MITTEN: Yeah, so it would be the ?-  
11 what was the ?- what is included in the application, as well as  
12 relief from the lot occupancy requirement.

13 CHAIRPERSON GRIFFIS: Okay.

14 COMMISSIONER MITTEN: Thank you. And also ?- and  
15 I guess, to incorporate the rest of what you had said earlier,  
16 is that we would hold the order pending receipt of the HPRB  
17 Certification and the corrected zoning calculations.

18 CHAIRPERSON GRIFFIS: Very good. Second is okay?  
19 Then I would ask, any other comments? All those in favor.

20 (Vote.)

21 CHAIRPERSON GRIFFIS: Opposed? And Staff will  
22 record the vote for us when they're ready.

23 SECRETARY BAILEY: The vote is recorded as 5-0-0  
24 to approve the application. The motion was made by Mrs. Mitten,  
25 Mrs. Renshaw second. Mr. Griffis, Mr. Levy, and Mr. Etherly is

1 in agreement. Items to come into the record are the approvals  
2 from the HPRB, and also the corrected zoning calculations. The  
3 order is to be held until these items are approved. It is to be  
4 clear that the premises is to be used as a flat. And Mr.  
5 Chairman, is this the issuance of a summary order?

6 CHAIRPERSON GRIFFIS: Are you interested in a  
7 summary order on this? Do you know what that is?

8 MR. DuPONT: No.

9 CHAIRPERSON GRIFFIS: To just be clear, that we  
10 can have a summary order or a full order. Now on a bench  
11 decision with no opposition, we could do a summary order, which  
12 is let's just say an abbreviated order. It obviously cuts down  
13 the time in terms of writing the whole order. Is that something  
14 you'd be interested in?

15 MR. DuPONT: Yes, please.

16 CHAIRPERSON GRIFFIS: Okay. In which case,  
17 obviously the faster you get your information in, the faster the  
18 summary order is done. I would estimate though, it would not be  
19 before two weeks, and you can probably within two weeks check in  
20 with the office and see where it is, but don't bug them.

21 MR. DuPONT: No. I will try to have all your  
22 paperwork by tomorrow.

23 CHAIRPERSON GRIFFIS: Fabulous. I think that's  
24 important, and if there's not anything else, we thank you very  
25 much for being here this morning. And hopefully, it wasn't too

1 rough.

2 MR. DuPONT: No, I appreciate it. Thank you very  
3 much.

4 CHAIRPERSON GRIFFIS: Yes. Good. Okay. I'm  
5 going to need 30 seconds before the next case, and you've got  
6 the clock running. Okay. Why don't we call the next case.

7 SECRETARY BAILEY: Application Number 16828 of  
8 Augustana Evangelical Lutheran Church, pursuant to 11 DCMR  
9 3103.2, for a variance from the lot occupancy requirements under  
10 Section 403 ?-

11 CHAIRPERSON GRIFFIS: I'm sorry, Ms. Bailey. Can  
12 I interrupt you for a second. I believe the first case has  
13 shown up this morning, which is Mr. Greenberg, 16824. Is that  
14 correct? Okay. I think we should go back to that, and we'll  
15 call 16825, if that's okay with you, Ms. Bailey.

16 SECRETARY BAILEY: That's fine, Mr. Chairman.

17 CHAIRPERSON GRIFFIS: Thank you.

18 SECRETARY BAILEY: Application Number 16824 of  
19 Stanley B. Greenberg, pursuant to 11 DCMR 3104.1, for a special  
20 exception to construct an addition to a single family row  
21 dwelling under Section 223, not meeting the lot occupancy  
22 (Section 403), and open court (Section 406) provisions in an R-4  
23 District, at premises 816 East Capitol Street, N.E., Square 919,  
24 Lot 41.

25 Please stand to take the oath.

1 WITNESS SWORN

2 SECRETARY BAILEY: Thank you.

3 MR. GREENBERG: Good morning.

4 CHAIRPERSON GRIFFIS: Good morning, sir. And if  
5 you wouldn't mind, just me your name and address for the record.

6 MR. GREENBERG: Stanley B. Greenberg, 816 East  
7 Capitol Street, N.E.

8 CHAIRPERSON GRIFFIS: Thank you very much, and  
9 welcome. Glad you could make it.

10 MR. GREENBERG: Thank you.

11 CHAIRPERSON GRIFFIS: You were not here for  
12 opening remarks, and I'm assuming that you haven't presented  
13 before this Board before. Is that correct?

14 MR. GREENBERG: This is true.

15 CHAIRPERSON GRIFFIS: Okay. Let me just  
16 reiterate. You are under a special exception. I think we'll  
17 have some questions. This should not be lengthy. However, the  
18 official and formal format for this is that we start with your  
19 statement, and you can call any witnesses that help your  
20 statement.

21 We will go to government reports, which include  
22 the Office of Planning, and any other submissions. Also, with  
23 the ANC. WE go to people and parties in support, people and  
24 parties in opposition, and then we have you give closing  
25 remarks.

1 MR. GREENBERG: Uh-huh.

2 CHAIRPERSON GRIFFIS: There is no one else, as I  
3 can see, here in terms of support or opposition.

4 MR. GREENBERG: Right.

5 CHAIRPERSON GRIFFIS: So we should get right to  
6 ?- oh, I am so sorry. Oh, forgive me. See that, a terrible  
7 assumption. You all are here for this case then this morning.  
8 Okay, great. We have had a show of hands, so there are people  
9 interested in this case.

10 There has been no request for Party Status,  
11 however. Is that correct? I mean, I know that's correct, but  
12 are any of you under the understanding that you are coming in as  
13 a party? Okay. The comment is that they don't know what that  
14 means, and that's perfectly fine and appropriate. And let me  
15 just answer quickly, and we'll take this up as a brief  
16 preliminary matter.

17 Party status is ?- a Request for Party Status  
18 needs to come in 14 days before the hearing. What that ?- as  
19 the regulations show, there's a certain amount of things that  
20 you need to show for that. Party status gives you the  
21 opportunity to cross examine any of the witnesses, or any of the  
22 testimony. It puts you as a very integral and important part of  
23 the case. However, having not had a submission for party  
24 status, we would not be able to grant party status at this time  
25 anyway, but you are all very free and urged to give testimony as

1 persons. And that's, I'm assuming, why you're here. Is that  
2 clear? Very good.

3 Okay. In which case let's start, and we will  
4 turn to you to give opening remarks, and put together your case.

5 MR. GREENBERG: Okay. Thank you very much. I've  
6 worked ?- this project has worked with my general contractor,  
7 Stephen Alexander, and I've been represented in preparing the  
8 documents by Rick Gangloff, neither of whom could be present  
9 this morning, so that I'm here without much experience in this,  
10 other than as the owner of the property, and the person who  
11 initiated the nature of the construction and variance that we're  
12 looking for.

13 I view this as a fairly, and apparently it's not,  
14 but I viewed it as a fairly simple project, in that the ?- we  
15 are simply screening in an existing deck, and the proposal  
16 maintains the lines of the existing construction. It does not  
17 push out the building beyond where the current line of the  
18 building is on the property. It does not go any closer to the  
19 building on the right. I'm sure you could go to the letter from  
20 one of the neighbors which I'm ?- which I regret, and which I  
21 believe is my fault, and which I'll talk to you about it at some  
22 point, because she didn't see the drawings, and there's no  
23 reason why she should have known that it was not going to, in  
24 any way, be visible from her property in any case. So I viewed  
25 it as something that was minimal, enhanced the ?- first of all,

1 our house, but also enhanced the house externally, and I think  
2 you have the drawings. That there is ?- I think the area where  
3 the variance is, the way the deck comes down at a height above  
4 what's allowed, and that's why we've asked for the variance.

5 The ?- it could be done as a straight staircase,  
6 but I think this is physically attractive, and makes better use  
7 of the back space, open space, and does not extend the building.

8 I'm anxious to hear what others are saying in response to the  
9 proposal, because I didn't realize that we were proposing  
10 anything very ambitious in terms of this construction.

11 It does ?- you know, this is not major  
12 construction. It doesn't make for much better internal use in  
13 the house, and the design that was prepared is consistent with  
14 existing construction, tried not to push any closer to the  
15 building, closer to the neighbors either in front, or back, or  
16 side, on either side. So I'm anxious to ?- I'm happy to answer  
17 any questions about the proposal, and I'm willing to entertain  
18 amendments that might make this work better for others who are  
19 looking at it.

20 CHAIRPERSON GRIFFIS: Good. Thank you very much.

21 First of all, you indicated that we have plans to look at, and  
22 I'm not showing any plans. I have an elevation. Do you have  
23 more complete ?-

24 MR. GREENBERG: I'm not sure what you have. I  
25 can give you what I have here, which I presumed you have.

1 CHAIRPERSON GRIFFIS: Take it down to the Staff  
2 on that end, if you don't mind. What I have is elevations.

3 MR. GREENBERG: Right. It hasn't moved to the  
4 stage of the drawings for the actual construction, because we  
5 didn't know whether we were going to get the approval.

6 CHAIRPERSON GRIFFIS: So you're saying you don't  
7 have plans as of yet.

8 MR. GREENBERG: I was advised that this was  
9 sufficient to go through this process. And then if approved, to  
10 then, you know, go to the more detailed ?-

11 CHAIRPERSON GRIFFIS: Not that it matters, but  
12 who advised you on that?

13 MR. GREENBERG: Rick Gangloff.

14 CHAIRPERSON GRIFFIS: Pardon me?

15 MR. GREENBERG: Rick Gangloff, who has been  
16 represent ?- who has carried this application ?-

17 CHAIRPERSON GRIFFIS: Okay. So someone from your  
18 end. That's fine. And the only reason why I'm going there is  
19 this.

20 MR. GREENBERG: Uh-huh.

21 CHAIRPERSON GRIFFIS: When we're dealing with  
22 this case, what we're looking at is specific, depending on the  
23 category, but specific square feet and square inches which will  
24 impact.

25 MR. GREENBERG: Right.

1 CHAIRPERSON GRIFFIS: So if I'm looking at  
2 something that's basically kind of a nice idea of proposed work  
3 ?-

4 MR. GREENBERG: Uh-huh.

5 CHAIRPERSON GRIFFIS: ?- it's very difficult for  
6 us to be as precise as the regulations are telling us we have to  
7 be.

8 MR. GREENBERG: Uh-huh.

9 CHAIRPERSON GRIFFIS: And in most cases that  
10 probably hurts the Applicant, because we either don't take  
11 action, or we deny, or we would approve a special exception that  
12 would then need to be changed based on the fact of how the  
13 design develops.

14 MR. GREENBERG: Right.

15 CHAIRPERSON GRIFFIS: And so the burden may be  
16 created that, you know, an Applicant ?-

17 MR. GREENBERG: Uh-huh.

18 CHAIRPERSON GRIFFIS: ?- talking about  
19 specifically your case, would have to come back, which we don't  
20 want to see happen.

21 MR. GREENBERG: Right.

22 CHAIRPERSON GRIFFIS: And I'm sure you don't  
23 either. Okay. That being said, we have ?- it's ?- what was  
24 currently submitted any different than what we have?

25 SECRETARY BAILEY: No.

1 CHAIRPERSON GRIFFIS: Okay.

2 MR. GREENBERG: Okay.

3 CHAIRPERSON GRIFFIS: You had mentioned also  
4 materials briefly. You said you wanted, or were trying to match  
5 and incorporate into the existing building. Do you want to tell  
6 me what you are proposing?

7 MR. GREENBERG: The existing building is brick.

8 CHAIRPERSON GRIFFIS: Uh-huh.

9 MR. GREENBERG: And it has ?- and it's a wood --  
10 and there's an existing wood deck.

11 CHAIRPERSON GRIFFIS: Uh-huh.

12 MR. GREENBERG: This construction would be ?- and  
13 there is a slight drop. I think it's about three or four inches  
14 when you step down to the deck from the ?- either the dining  
15 room or the living room which form an L. This would be at the  
16 same level, so that the kitchen and living room ?- kitchen and  
17 dining room all were at the same ?- are all at the same level in  
18 the screened-in area, so it's wood and screen. It has a roof  
19 which will have a glass portion for light to come through, but  
20 it's a screened in porch. It's not winterized.

21 MEMBER LEVY: Mr. Chair.

22 CHAIRPERSON GRIFFIS: Yeah, hold on just a  
23 second, Mr. Levy, and I'll get to you. But did you ?- and I'm  
24 sorry, there's a lot happening here. You said the existing  
25 building is brick, and you have that back what's called a bay

1 that comes off that building, and that is ?- it looks to be a  
2 stucco construction. Do you know what that material is?

3 MR. GREENBERG: It is ?- I'm sorry. It is on the  
4 ?- this building is brick. On the chimney that is there for the  
5 fireplaces on the two floors, there is ?- that's stucco on top  
6 of the chimney, but the building is brick, except for the  
7 chimney going up.

8 CHAIRPERSON GRIFFIS: All right. I clearly admit  
9 not to be the brightest person in this room, but I ?-

10 MR. GREENBERG: I couldn't do it ?-

11 CHAIRPERSON GRIFFIS: What I'm going to do is  
12 point to the pictures here ?-

13 MR. GREENBERG: Okay.

14 CHAIRPERSON GRIFFIS: ?- that I'm holding up,  
15 that are part of the official record. And I don't ?- Exhibit  
16 Number 4.

17 MR. GREENBERG: Okay.

18 CHAIRPERSON GRIFFIS: The top photograph, and can  
19 you see this if I hold it up?

20 MR. GREENBERG: If you don't mind my walking to  
21 see it.

22 CHAIRPERSON GRIFFIS: Okay. Why don't you come  
23 up briefly, and then I'll just ?- I'm going to ask him a few  
24 questions.

25 MR. GREENBERG: Right.

1 CHAIRPERSON GRIFFIS: This is your existing  
2 property.

3 MR. GREENBERG: This is the existing property.  
4 This is right. Actually, I'm wrong in my recollection. This is  
5 stucco on the ?-

6 CHAIRPERSON GRIFFIS: Okay. So that ?-

7 MR. GREENBERG: The white piece that we're  
8 seeing, the whole front of the house is brick.

9 CHAIRPERSON GRIFFIS: Right. And so what we have  
10 is at that, I call it a bay, the white portion that comes out.  
11 And that's actually stucco construction.

12 MR. GREENBERG: Right.

13 CHAIRPERSON GRIFFIS: Okay. Good. Board  
14 Members, let me just walk you through what I have seen now then,  
15 and I think understand. Go ahead. You can sit down. Thank  
16 you. Is this piece here, which I'm pointing to the bay, which  
17 is a white ?- that's a stucco piece, and it's clearer on this  
18 picture, in terms of the relation. And we're just going to  
19 materials here, but this is half of the house. The other half  
20 is the bay here, and that's what comes wrapping around. That  
21 goes to the plan, though, if you look. We only have a site plan  
22 that has your proposed addition drawn on, and it is actually  
23 labeled two story stucco with basement on the site plan, and it  
24 shows how this piece is going to connect with that.

25 COMMISSIONER MITTEN: Mr. Chairman.

1 CHAIRPERSON GRIFFIS: Yeah.

2 COMMISSIONER MITTEN: If you flip to the second  
3 page of photographs in Exhibit Number 4 ?-

4 CHAIRPERSON GRIFFIS: Uh-huh.

5 COMMISSIONER MITTEN: ?- and look at the new  
6 survey that shows the new construction, not that ?- the one that  
7 was in the record already, Exhibit Number 2.

8 CHAIRPERSON GRIFFIS: The site plan.

9 COMMISSIONER MITTEN: Okay.

10 CHAIRPERSON GRIFFIS: Is that what you're looking  
11 at?

12 COMMISSIONER MITTEN: Yes.

13 CHAIRPERSON GRIFFIS: Yeah. Okay.

14 MEMBER LEVY: Did you not say Exhibit Number 4?

15 COMMISSIONER MITTEN: 2.

16 CHAIRPERSON GRIFFIS: Okay.

17 COMMISSIONER MITTEN: They can read it back if  
18 you want to check me.

19 CHAIRPERSON GRIFFIS: Let's rewind the tape.

20 COMMISSIONER MITTEN: All right. The top  
21 photograph on Exhibit Number 4 on the second page.

22 CHAIRPERSON GRIFFIS: Uh-huh.

23 COMMISSIONER MITTEN: And then what's shown as  
24 the new wood deck ?-

25 CHAIRPERSON GRIFFIS: Uh-huh.

1 COMMISSIONER MITTEN: ?- on the site plan is ?-

2 CHAIRPERSON GRIFFIS: Right.

3 MR. GREENBERG: Which ?-

4 COMMISSIONER MITTEN: Are you following me, Mr.  
5 Greenberg?

6 MR. GREENBERG: No, if you could point me to what  
7 ?-

8 COMMISSIONER MITTEN: Okay. Exhibit Number 2.

9 MR. GREENBERG: Yeah, mine aren't marked by  
10 exhibits numbers.

11 COMMISSIONER MITTEN: Okay. There was a single  
12 sheet from the Office of the Surveyor showing your new  
13 construction.

14 MR. GREENBERG: This piece here?

15 COMMISSIONER MITTEN: No, that's the old survey.  
16 That's the existing.

17 MR. GREENBERG: Right.

18 COMMISSIONER MITTEN: This would show the new  
19 construction. It's not part of the packet that you just  
20 submitted.

21 MR. GREENBERG: Okay. Then I need to see it.

22 COMMISSIONER MITTEN: And if you wouldn't mind  
23 just taking a seat back, and I'll share mine with Mr. Etherly  
24 now. Is the exist ?- is the ?- what's labeled "New Wood Deck"  
25 on that site plan actually in place now?

1 MR. GREENBERG: Yes, though it's being replaced  
2 by a new wood deck. There is a deck there in that same position.

3 COMMISSIONER MITTEN: Okay. So there's nothing  
4 that's going to change in terms of that configuration.

5 MR. GREENBERG: Right.

6 COMMISSIONER MITTEN: You're just replacing  
7 something that's there.

8 MR. GREENBERG: Correct.

9 COMMISSIONER MITTEN: And is that measurement  
10 that's indicated, 2.3 feet high, is that accurate as it relates  
11 to the ?-

12 MR. GREENBERG: As the existing or proposed? AS  
13 the new? I mean, I ?-

14 COMMISSIONER MITTEN: Well, if it's not going to  
15 change other than you're just replacing what's there, is there  
16 anything that's going to change about the height of the deck?

17 MR. GREENBERG: No, no. The deck is slightly  
18 higher because right now it drops. When you walk out the door  
19 it drops about three inches.

20 COMMISSIONER MITTEN: Okay.

21 MR. GREENBERG: And it's going to ?- so because  
22 the screened-in porch and the doors would then open, it would  
23 all be the same level, so the deck rises, I believe ?- I don't  
24 know what the exact measurement will be, but rises probably  
25 three inches or so.

1 COMMISSIONER MITTEN: Okay. And then ?- so the  
2 height when complete of the new wood deck unenclosed will be  
3 what above the ground?

4 MR. GREENBERG: I don't know the answer.

5 COMMISSIONER MITTEN: Okay. That's an important  
6 question as far as zoning goes.

7 MR. GREENBERG: Right. Right.

8 CHAIRPERSON GRIFFIS: Anything else, Ms. Mitten?

9 COMMISSIONER MITTEN: Well, I guess I'll just  
10 finish my thought, just for my own clarification. And I know  
11 that this has been said. I just want to make sure.

12 CHAIRPERSON GRIFFIS: Yeah.

13 COMMISSIONER MITTEN: Where it says new screen  
14 porch on that site plan, 8 foot by 16 foot.

15 MR. GREENBERG: Uh-huh. Correct.

16 COMMISSIONER MITTEN: That is where there is an  
17 existing deck. Correct?

18 MR. GREENBERG: Correct. The only difference  
19 would be that the staircase moves the ?- that the ?- where the  
20 ?- there is currently ?- the staircase starts before the back ?-  
21 the end of the building, the stucco portion of the building.  
22 That would now be deck. Let me see if any of the exhibits allow  
23 me to show you that.

24 COMMISSIONER MITTEN: I think the second  
25 photograph on the second page of Exhibit 4.

1 MR. GREENBERG: Yeah, on the photographs. Let me  
2 see if I can ?- yes. Correct. The photograph ?- the stairs  
3 begin back from the end of the building. The deck comes to the  
4 end of the building which would move ?- would either move the  
5 staircase out or allow the deck steps down, so the only change  
6 in this deck is the ?- this line stays the same. This line  
7 stays the same, but it brings ?- comes out to the end of the  
8 deck before it goes down the stairs.

9 COMMISSIONER MITTEN: Thank you. And this is not  
10 going to be very easy to look at when we read the record, but  
11 what Mr. Greenberg was just pointing out is, on a photograph he  
12 was just explaining the change that will take place, and is  
13 illustrated on the site plan.

14 CHAIRPERSON GRIFFIS: Okay. And I think we're  
15 putting our thumb on the fact of why more detailed drawings are  
16 important here, as we're spending some time trying to figure  
17 this out.

18 I need to just note for the record that the eight  
19 and a half by eleven sheets, four of which total that were just  
20 submitted will be Exhibit Number 22. Board Members, this is not  
21 ?- at least it's not what totally was in my record. We have a  
22 rear yard plan. WE have a rear elevation.

23 Now quite frankly, I was looking at the one that  
24 was in our case file. I was assuming this was a rear yard  
25 elevation. It is not. It's a side yard. Of course, you guys

1 are all smarter than I am, so you probably knew that, but I'll  
2 just mention that. And I think this helps clarify the ?- which  
3 I'm looking at this piece here, is the fact of the relationship  
4 of that bay with the chimney.

5 Now quick question, and then I want to go to Mr.  
6 Levy because I cut him off. But you're showing on the third  
7 level it straddles your chimney on the ?- it's called the rear  
8 bay. Is that existing screening? Is that proposed new work?

9 MR. GREENBERG: The ?- which drawing is that?

10 CHAIRPERSON GRIFFIS: It's on this one.  
11 Basically, the answer is the scope of work of this project is  
12 what, totally on the first floor?

13 MR. GREENBERG: There is no existing screening.  
14 There is no ?- there is a deck, and this changes the deck, but  
15 there's no existing screening now on the current ?- are you  
16 talking about on the third level?

17 CHAIRPERSON GRIFFIS: I am.

18 MR. GREENBERG: That's ?- I'm sorry. That's  
19 simply lattice work ?-

20 CHAIRPERSON GRIFFIS: Right.

21 MR. GREENBERG: ?- that blocks view on the third  
22 floor deck.

23 CHAIRPERSON GRIFFIS: Is that existing or not?

24 MR. GREENBERG: Yes.

25 CHAIRPERSON GRIFFIS: It's existing.

1 MR. GREENBERG: Existing.

2 CHAIRPERSON GRIFFIS: There today. Okay. So ?-  
3 this is exterior space. Okay. I'm sorry. Mr. Levy.

4 MEMBER LEVY: Actually, at this point, you and  
5 Ms. Mitten have asked the questions I had in mind, so we're  
6 covered.

7 CHAIRPERSON GRIFFIS: Next time we're just going  
8 to let ?-

9 MEMBER LEVY: Thank you.

10 CHAIRPERSON GRIFFIS: ?- you do it.

11 MEMBER LEVY: It's all right.

12 CHAIRPERSON GRIFFIS: Okay. Board Members, other  
13 questions, clarifications?

14 COMMISSIONER MITTEN: If you wouldn't mind  
15 waiting a moment, Mr. Chairman, before we move from that  
16 subject.

17 CHAIRPERSON GRIFFIS: I don't mind waiting at  
18 all. Another question has just come up from a member. Looking  
19 at your rear elevation, you're showing a unique guardrail around  
20 the deck. Is ?- and am I correct that that's what I'm looking  
21 at?

22 MR. GREENBERG: Yes.

23 CHAIRPERSON GRIFFIS: This is actually the  
24 guardrail on the deck.

25 MR. GREENBERG: Correct. There's currently a

1 guardrail existing now.

2 CHAIRPERSON GRIFFIS: Yeah. Just a standard wood  
3 picket.

4 MR. GREENBERG: Right.

5 CHAIRPERSON GRIFFIS: Right. And it looks like  
6 the designer is having some fun with ?-

7 MR. GREENBERG: Yes.

8 CHAIRPERSON GRIFFIS: There was many pieces  
9 there. Okay. Just for ?-

10 COMMISSIONER MITTEN: Yes.

11 CHAIRPERSON GRIFFIS: I think what we need to do  
12 is put in the calculation, because I'm looking at this. You  
13 have estimated, or someone has for you, that the addition is 128  
14 square feet which goes to the lot occupancy. What it neglected  
15 to do was to count the side yard or court that's created that's  
16 less than five feet, and it's indicated as four feet. Are you  
17 following what I'm saying? Perhaps not.

18 MR. GREENBERG: No.

19 CHAIRPERSON GRIFFIS: Okay.

20 COMMISSIONER MITTEN: He'll just have to trust us  
21 on this.

22 CHAIRPERSON GRIFFIS: Yeah, indeed. What my  
23 estimation then is, I need a dimension.

24 COMMISSIONER MITTEN: It's 16 feet. The screen  
25 porch is ?-

1 CHAIRPERSON GRIFFIS: Oh, indeed. I'm sorry.  
2 Yeah. The new screen porch which is measuring on the site plan  
3 as 8 feet by 16, equals 128 square foot in terms of its  
4 footprint. Now by definition of the building area, we have the  
5 leftover space between the property line and this that needs to  
6 count towards lot occupancy, so that puts us at 16 times 4, if  
7 I'm correct. Which adds 64 square feet, which would put us up  
8 to 192 total. Does that make sense? And that would be plus the  
9 1,282.

10 COMMISSIONER MITTEN: Mr. Greenberg, we're just  
11 recalculating your lot occupancy with the proposed addition.

12 CHAIRPERSON GRIFFIS: So I'm showing 1,474 square  
13 feet.

14 COMMISSIONER MITTEN: Which is 67.7 percent.

15 CHAIRPERSON GRIFFIS: Just off the top here. And  
16 how much is allowed?

17 COMMISSIONER MITTEN: Seventy under the ?- well,  
18 60 is the minimum, and you can go as high as 70 percent under  
19 223, which is what you come in under as a special exception. If  
20 you exceeded 70 percent you'd be in a variance category.

21 CHAIRPERSON GRIFFIS: Right.

22 MEMBER LEVY: Mr. Chair.

23 CHAIRPERSON GRIFFIS: Yeah.

24 MEMBER LEVY: I'd like to ask Ms. Mitten, are you  
25 including the ?- I mean, how are you considering the deck, of

1 which we don't know the height.

2 COMMISSIONER MITTEN: So far, the deck is not  
3 included. If we got information that the deck was higher than 4  
4 feet off the ground, then it would be included, and we'd have to  
5 recalculate it yet again. And we would have to revise the  
6 calculation on the rear yard as well, if that were the case.

7 MEMBER LEVY: Right. And I think it's important  
8 that we have a clear understanding of that, because I think it  
9 might make a difference.

10 COMMISSIONER MITTEN: Oh, absolutely.

11 MR. GREENBERG: I mean, I'm content to do this  
12 without the deck, with the stairs down if that what it requires  
13 for approval.

14 COMMISSIONER MITTEN: Right.

15 MR. GREENBERG: I think it will look better with  
16 a graduated

17 COMMISSIONER MITTEN: We just need an  
18 understanding of, you know, what the measurements are, because  
19 the measurements are important for zoning purposes.

20 MR. GREENBERG: Right.

21 COMMISSIONER MITTEN: So given the incomplete  
22 information, that's why we're asking these questions.

23 MR. GREENBERG: Right.

24 CHAIRPERSON GRIFFIS: And you calculated the lot  
25 occupancy to be 67 point something?

1 COMMISSIONER MITTEN: 67.7.

2 CHAIRPERSON GRIFFIS: Okay. And that is without  
3 that back porch. Oh, boy. Okay. Any other questions of the  
4 Applicant at this time? Okay. Why don't we proceed on, and go  
5 to the Office of Planning, and I believe they are with us.

6 MS. THOMAS: Good morning, Mr. Chairman, Members  
7 of the Commission.

8 CHAIRPERSON GRIFFIS: Good morning.

9 MS. THOMAS: I'm Karen Thomas with the Office of  
10 Planning, and the Applicant is requesting a special exception  
11 relief from the requirements of Section 403 and 406 under  
12 Section 223, as was presented to us by the application  
13 presented to us. Okay.

14 Given what we just discovered, without a height  
15 ?- not knowing the height requirement, we calculated it on the  
16 2.3. After having spoken to Mr. Rick Gangloff, he made us aware  
17 that it was the 2.3 height and not 4 feet.

18 CHAIRPERSON GRIFFIS: Okay.

19 MS. THOMAS: But if this has changed, then we  
20 would like to know about it. But given that, we would ?- we had  
21 accepted the application under 223, because it did fall within  
22 the 70 percent max requirement. And we proceeded to use the  
23 test under 223 for our review, that being, continuous light and  
24 air circulation, and privacy of use and enjoyment by abutting  
25 neighbors, in addition to visual intrusion from the public right

1 of way.

2 We reviewed it under these tests, and we  
3 determined that the screen porch should not affect the light  
4 source to the neighboring properties, but only reduce the amount  
5 of light in the immediate porch area. The reduction in size of  
6 the court yard should have no adverse affect on the light source  
7 to the neighboring property, since the court yard remains open  
8 with no solid walls created along any property line. There is  
9 no expansion that would prevent any circulation of air, and the  
10 screen itself maintains air circulation within the property.

11 With respect to comprising the privacy of use and  
12 enjoyment of neighboring properties, the screen-in enhances  
13 privacy of use for both the neighbors and the Applicant. There  
14 seems to be a wooden fence separating the two properties on the  
15 eastern side of the lot. The porch is not visible from the  
16 alley, or from the neighboring property to the west.

17 With respect to the addition viewed from the  
18 street, and the property street frontage, we determined that the  
19 proposed addition should not cause any visual intrusion from the  
20 street frontage since it is at the rear of the alley, and the  
21 completed structure should not visually intrude on the character  
22 of the neighborhood as viewed from the alley.

23 The Applicant provided photos, and what we used  
24 as his elevation drawings and, however, we did not accept that  
25 site plan as provided. We concluded that the Applicant seemed

1 to have met the burden of proof pursuant to 11 DCMR, and Section  
2 223 for the granting of a special exception, and we recommended  
3 approval of the special exception from the lot occupancy and  
4 code requirements.

5 CHAIRPERSON GRIFFIS: All right. Thank you very  
6 much. Board Members, question of OP? Do you have any questions  
7 of Office of Planning?

8 MR. GREENBERG: No.

9 CHAIRPERSON GRIFFIS: Okay.

10 MR. GREENBERG: That's fine.

11 CHAIRPERSON GRIFFIS: Or I might say cross  
12 examination of the Office of Planning representative.

13 VICE CHAIRPERSON RENSHAW: Mr. Chairman.

14 CHAIRPERSON GRIFFIS: Yes.

15 VICE CHAIRPERSON RENSHAW: Mr. Chairman, to ask  
16 our Office of Planning representative, on page four you state  
17 that the Historic Preservation Office of OP reports that this  
18 addition is atypical of the area. What is typical of the area?

19 MS. THOMAS: Well, conferring with Mr. T. Luke  
20 (phonetic) at Historic Preservation, he ?- that was his comment  
21 made to me, and I quoted it verbatim. He said that he observed  
22 there were a number of similar type decks in the back there,  
23 along those properties at the rear of the alleys, so he said it  
24 was atypical in that respect, but not ?- since the houses were  
25 ?- these houses were newer than the older historic structures.

1 VICE CHAIRPERSON RENSHAW: I just wondered if  
2 atypical means that it is screened in?

3 MS. THOMAS: Not necessarily.

4 VICE CHAIRPERSON RENSHAW: Oh, that's curious.  
5 You also have a comment about ANC 6-A, that the Applicant was  
6 not present, and therefore, a decision was not rendered on this.

7 MS. THOMAS: Yes.

8 VICE CHAIRPERSON RENSHAW: And I would like to  
9 hear from the Applicant whether you were invited to appear at  
10 this ANC meeting?

11 MR. GREENBERG: I believe this is the call I  
12 received on the ?- at my house on the 2<sup>nd</sup> of ?- I think on the  
13 2<sup>nd</sup> of January. I was in Morocco at the time of this call. And  
14 since it didn't go to my office, I was unable to respond to the  
15 request. I believe that's the ?- what was the date of the  
16 meeting?

17 VICE CHAIRPERSON RENSHAW: The meeting was  
18 January 17<sup>th</sup>.

19 MR. GREENBERG: Again, I thought these meetings  
20 ?- except we knew they were being covered, you know, by Mr.  
21 Gangloff.

22 VICE CHAIRPERSON RENSHAW: So you were not ?-

23 MR. GREENBERG: I was not.

24 VICE CHAIRPERSON RENSHAW: ?- there.

25 MR. GREENBERG: I was not there, and I'm not sure

1 I knew.

2 MS. AMAR: I would just like to add that ?-

3 CHAIRPERSON GRIFFIS: Wait. If you're going to  
4 speak, you're going to have to introduce yourself for the record  
5 and speak on the mike, so you have to come up to the table, if  
6 you don't mind. And were you sworn in?

7 MS. AMAR: No.

8 WITNESS SWORN

9 SECRETARY BAILEY: Thank you.

10 MS. AMAR: My name is Freda Amar, and I work with  
11 Mr. Greenberg. I intercepted the phone call from the  
12 Neighborhood Association for that meeting, and was in contact  
13 with the gentleman on four or five occasions, letting him know  
14 that Mr. Greenberg was out of the country and not able to attend  
15 that meeting. But we had a person who was the permits  
16 consultant, Mr. Gangloff, who was able to speak with him by  
17 phone and answer any questions that he had. And I understood  
18 that meeting did ?- that phone conversation did take place.  
19 They spoke by phone.

20 VICE CHAIRPERSON RENSHAW: All right. But  
21 officially, the ANC 6-A, of course, did not render a decision as  
22 is stated in OP's report.

23 CHAIRPERSON GRIFFIS: Right. And haven't  
24 submitted anything, if I am correct. Okay. Anything else for  
25 Office of Planning? Thank you very much, and I do not show any

1 other reports at this time, so why don't we go to ?- let's get a  
2 quick assessment. Who is here in support, persons in support of  
3 this application, and in opposition? Well, then why don't we  
4 take the opposition first, as I'm not seeing any other persons.

5 And if you wouldn't mind, I think we have four. If you  
6 wouldn't mind just giving the table to them.

7 MR. GREENBERG: Sure.

8 CHAIRPERSON GRIFFIS: And we're going to try and  
9 do this quickly and efficiently. We're going to need one more  
10 chair at the table. I'm going to have you all come up, please.  
11 And let me see. We have ?- good, four chairs. We have three  
12 mikes, so you will share. I'm going to give you a couple of ?-  
13 please, sit and make yourself comfortable.

14 MR. ETHERLY: Mr. Chair, if I may. Pardon me.  
15 Mr. Greenberg, I'd like to ask if you could return the sheet.  
16 Thank you very much, sir. Appreciate it.

17 CHAIRPERSON GRIFFIS: Okay. A couple of quick  
18 technical things. Have you all put in witness cards to the  
19 reporter? Okay. Good. Also, what I'm having you do, of  
20 course, is to state your name for the record, and address.  
21 We're going to go straight down first. Secondly, you're going  
22 to have to share the mike at this end. Thirdly, I need one mike  
23 on at a time if you can juggle that. Otherwise, we get horrible  
24 feedback, being the high tech nature that we are. And then  
25 fourthly, when you give me your name and address, can you give

1 me an indication of how long you will be speaking. Persons  
2 usually are allotted in this, if I'm not mistaken, about three  
3 minutes, so if you wouldn't mind just giving me an indication of  
4 whether you think you fit within that, and we'll start on this  
5 side.

6 DR. MIRANDA: Okay. I'm Dr. Fernandez Miranda.  
7 I live at 818 East Capitol Street, N.E., and I have prepared  
8 some documents to give to the Board. And I'm going to need a  
9 little bit more than three minutes.

10 CHAIRPERSON GRIFFIS: How much time do you think?

11 DR. MIRANDA: Let's say that maybe under ten. I  
12 will make it as expeditious as possible.

13 CHAIRPERSON GRIFFIS: Okay. Good. And what  
14 we'll do ?- I'm going to get, obviously, all of that from all of  
15 you. I will interrupt you if I think that information is being  
16 repeated that's already been said, that we are fully aware of,  
17 so that we can gain some time. It's ?- that's enough said.

18 MR. RODMAN: My name is Michael Rodman. I live  
19 also at 818 East Capitol Street.

20 CHAIRPERSON GRIFFIS: Uh-huh.

21 MR. HUMBER: My name is Jeffrey Humber. I live  
22 at 820 East Capitol Street, N.E.

23 MS. HUMBER: And my name is Willa Humber, and I  
24 also reside at 820 East Capitol Street, N.E.

25 CHAIRPERSON GRIFFIS: Okay.

1 MR. HUMBER: And we ?- only one of us will be  
2 speaking, and it will be three minutes or under.

3 CHAIRPERSON GRIFFIS: Okay. Great. And do you  
4 want to just give me an indication, are you ?-

5 MR. RODMAN: It would be less than three minutes.

6 CHAIRPERSON GRIFFIS: Okay. Great. Have you  
7 guys decided on an order on how you want to proceed? Okay.

8 DR. MIRANDA: They put me first.

9 CHAIRPERSON GRIFFIS: You're welcome to it. You  
10 have submissions. Is that correct?

11 DR. MIRANDA: Yes.

12 CHAIRPERSON GRIFFIS: Okay. What you need to do  
13 is bring them down to staff, and they'll distribute. We're shy  
14 a copy it seems. How many copies did you submit?

15 DR. MIRANDA: Eight.

16 CHAIRPERSON GRIFFIS: You submitted eight copies?  
17 Well, you need one at the table, don't you?

18 DR. MIRANDA: We have one here. WE'll share that  
19 one.

20 CHAIRPERSON GRIFFIS: Okay. And the Applicant  
21 has a copy?

22 MR. GREENBERG: Yes.

23 CHAIRPERSON GRIFFIS: Okay. Indeed, whenever  
24 you're ready, take us through it.

25 DR. MIRANDA: Okay. Good morning again, Chairman

1 and Members of the Board. I'm Dr. Fernandez Miranda, and I'm  
2 the owner of a house located at 818 East Capitol Street. I'm  
3 appearing to testify in opposition of the proposed zoning  
4 exception sought by the owners of 816 East Capitol Street, N.E.

5 You've met the rest of my party here. They're my  
6 neighbors, so I'll go to the next paragraph. I need to say that  
7 Congressman and Mrs. Lowery had seen the plans, and they live at  
8 812 East Capitol Street, and wanted to be here, but were not  
9 able to, due to previous work related commitments in California.

10 As explained below, the structure will clearly  
11 limit light and air, and create a total lack of privacy in my  
12 only outdoor living space and back garden. The zoning exception  
13 is the subject of this hearing, and involves two, or possibly  
14 three types of variances. One variance involves the issue of  
15 the open court. The second, the percentage of the lot  
16 occupancy. And the last one, the issue of the side yard.

17 I am co-owner with Mr. Rodman, sitting to my  
18 left, and there would be several adverse affects to my property  
19 should these variances be granted. The first one is, it would  
20 clearly have an adverse impact on my light and air. There is no  
21 doubt that the proposed screen porch would greatly limit the  
22 amount of air and light that would reach my deck, and my back  
23 garden. Since the back garden and deck are both on the north  
24 side of the house, there is already a limited amount of light.  
25 The creation of an enclosed porch will block this light and

1 airflow, particularly in the afternoon when the sun enters the  
2 garden from the west. This is my only outside living space to  
3 my house, as opposed to 816 East Capitol Street, which has  
4 existing large decks. One on the first floor, two on the third  
5 floor, one of which is covered, and there's also a large balcony  
6 on the third floor. This proposed construction will negatively  
7 affect my only outside living space, where I spend a great deal  
8 of time, particularly in the spring and summer months.

9           Number two, it would adversely affect the privacy  
10 not only in my house, but also on my deck and in any part of my  
11 garden. The present deck at 1816 East Capitol Street is used  
12 regularly as the setup catering area for entertaining, and this  
13 enclosed porch will serve the same purpose, with the  
14 accompanying noise and catering staff.

15           My dining/kitchen area, deck and garden will be  
16 in full view of my neighbors, their visitors, staff and caterers  
17 with the proposed porch looming closely over my property. The  
18 structure will make it impossible for me to enjoy my only  
19 outside living space.

20           According to the drawings, the proposed porch  
21 will be at least twice the size of the present porch. Half of  
22 the present porch is stairs, and this will further invade my  
23 privacy. If additional square footage is allowed to the house,  
24 two to three floors could be built above, as allowed by law.

25           In addition, they're planning to extend the deck

1 in the back of the house from its current three feet to eight  
2 feet. This, along with the other negative affects listed above,  
3 will have a deleterious impact on the enjoyment of my house, and  
4 have a negative impact on the value of my property.

5 The three houses at 816, 818, and 820 East  
6 Capitol Street were completed in 1992, and are very large  
7 residence for this segment of the Capitol Hill Historic  
8 District. Each has four floors, 10 to 12 foot ceiling, and are  
9 27.5 feet wide, and approximately 40 feet deep, except for 816  
10 East Capitol Street, which has an additional 15 by 18 extension  
11 wing on the back.

12 The denial of this variance in this case would  
13 not represent a hardship to the owners of this house, as this  
14 house is already by far the largest of the group of the row  
15 houses, which has no less than four existing living areas.

16 Regarding the zoning issue of the open court, I  
17 would like to state that because of the home's accessory  
18 apartment that has been rented for many years, as seen in the  
19 tax and assessment records, it is not a single family dwelling.

20 I believe, therefore, that it would fall under the Zoning  
21 406.1, that requires the width of open court of 4 inches per  
22 foot of height, but no less than 10 feet. We do not know  
23 whether the entire garden side of the back wing is considered a  
24 court, as it applies to the four inch rule. We do know that the  
25 back wing is in excess of 20 feet, because the house is not on

1 the ground level at the back. And if one includes the panels on  
2 the roof deck, it is over 30 feet. For example, 20 feet times 4  
3 inches requires by regulation 80 inches or 6.6 feet court.  
4 Thirty feet would be 120 inches, or 10 feet, which is close to  
5 what it is presently.

6 I have prepared some attachments, and  
7 photographs, and drawings in order to recap our points of  
8 contention regarding the requested zoning relief. The owners of  
9 812 East Capitol Street, Congressman Lowery and his wife, as I  
10 mentioned, requested that I make their letter part of my  
11 presentation, so I have included it here as Attachment 1. They  
12 regret they cannot be here, as they have to travel to California  
13 at this time.

14 Attachment 2 of my presentation is the letter  
15 from the owners of 816 East Capitol Street, Mr. Greenberg and  
16 Mrs. DeLauro, delivered on January 15<sup>th</sup>, 2002. In my opinion,  
17 this letter misrepresents what is planned by stating that they  
18 wish to simply enclose an existing deck. The deck is being  
19 doubled in size.

20 According to plans, they intend to almost double  
21 the size of the existing deck to build a porch. In addition,  
22 please note another apparent misrepresentation is that the porch  
23 would barely be visible from public space. My Attachment 11 has  
24 clear photographs that denote otherwise.

25 I would like to emphasize here that the plans

1 also indicate that there's an 8 foot extension of the deck on  
2 the back of the house, doubling the length and almost tripling  
3 the size. Attachment 3 has original house plans, which show the  
4 four -- for 816 East Capitol Street that show the four outdoor  
5 living spaces; that is, two decks, one covering the third floor,  
6 one large balcony, plus the deck on the back of the house.

7 Attachment 4, the plan showing that the enclosed  
8 porch will abut my house contrary to what's in the drawings.  
9 Attachment 5 covers Attachment 4, plans showing an enclosed  
10 porch will not abut the house contrary to plan in Attachment 3.

11 This also clearly shows that the existing deck would be  
12 extended 8 feet into the remaining back yard.

13 The submitted roof plan of the proposed enclosed  
14 porch does not show that the porch will abut my house. I have,  
15 therefore, drawn the property line to demonstrate how the  
16 enclosed porch will abut my house. Attachment 7, there are two  
17 photographs that show that any one of the porch stairs or the  
18 porch itself can see directly into my dining/kitchen area, my  
19 deck and my garden. The screen porch will greatly limit my  
20 light, and the air flow to our deck, and a good portion of our  
21 garden.

22 Attachment 8 is a photograph looking eastward  
23 from the back yard of 812 East Capitol Street. This is the  
24 Lowery's home, and shows the area where the enclosed -- that the  
25 enclosed porch will cover. It will be higher at the top edge of

1 the photograph. I have a dot in there so respectively, you  
2 know.

3 Attachment 9 is a photograph of the rear third  
4 floor deck at 816 East Capitol Street. This is approximately  
5 14.6 by 16 feet, and with direct access to air flow and light.  
6 The white light is privacy paneled, are high enough to afford  
7 complete privacy in that area in that very large deck.

8 Attachment 10, it's a photograph in our garden,  
9 taken from our garden that shows that the proposed porch will  
10 occupy standing 8 feet from their house, and as high as  
11 indicated. The photograph demonstrates how the enclosed porch  
12 will substantially affect light and air in my garden.

13 Attachment 11 ?- we're almost finished. These  
14 two photographs taken from the alley show how clearly visible  
15 the porch will be from the public space, contrary to their  
16 statement and their request of the Board of Zoning Adjustment.

17 In Attachment 12, these two photographs taken  
18 from the door of my dining/kitchen area at the back of my house  
19 show the view that we will lose if the proposed porch is  
20 constructed. Except in winter months, the trees will cut out  
21 all of the remaining view. Thank you.

22 CHAIRPERSON GRIFFIS: Thank you very much.

23 DR. MIRANDA: Yes, sir.

24 CHAIRPERSON GRIFFIS: Okay. And Mr. Rodman, is  
25 that correct?

1 MR. RODMAN: Yes.

2 CHAIRPERSON GRIFFIS: Did ?- are you speaking to  
3 the same issues?

4 MR. RODMAN: Yeah, I wanted ?- I just wanted to  
5 say, number one, the importance of the deck ?- this is our only  
6 outside living space.

7 CHAIRPERSON GRIFFIS: Okay. Hold on. Before you  
8 go into it, you need to say ?-

9 MR. RODMAN: Sure.

10 CHAIRPERSON GRIFFIS: Mr. Greenberg, let me just  
11 get your attention for a second. You have the ?- you will have  
12 the opportunity to cross examine, ask questions. What I need  
13 indication is do you want to do that after each individual  
14 person, or would you like to do it ?-

15 MR. GREENBERG: I'm happy to do it at the end.

16 CHAIRPERSON GRIFFIS: You're happy to do it at  
17 the end. Okay. Then let's proceed, Mr. Rodman.

18 MR. RODMAN: Again, just a few statements. One,  
19 is that this is our only outside living space, and therefore, is  
20 very important to us. We spend a great deal of time out there.

21 Extending this porch, which it is, and bringing  
22 it up close to my fence would mean that our privacy would be  
23 non-existent, and it would certainly also block in our garden,  
24 which we do a lot of, a good percentage of the current light  
25 that comes from the east, which isn't that much now, but it will

1 be certainly blocked, particularly on the deck and in the  
2 garden. That's all I have to say.

3 CHAIRPERSON GRIFFIS: Okay. Thank you. Board  
4 Members, let's take ?- have questions of these two gentlemen now  
5 and there was a substantial amount of information submitted.

6 My first question is, you're talking about this  
7 addition as abutting your fence, actually coming up to it. Is  
8 that ?-

9 DR. MIRANDA: Abutting the house on the back.

10 CHAIRPERSON GRIFFIS: Right.

11 DR. MIRANDA: If you will please take a look at  
12 Exhibit 4, and then Exhibit 5. Okay. Exhibit 4, we're looking  
13 into what this proposed construction will be, and it covers the  
14 ?- it shows that it only covers part of the side of the wing.  
15 Excuse me. That would be Exhibit 5. WE're going to shift back  
16 and forth.

17 CHAIRPERSON GRIFFIS: Right.

18 DR. MIRANDA: If you look at 5, you'll see that  
19 this massive structure with the skylights on the top, it's only  
20 supposed to cover from a part of the wing. You could see on the  
21 left side of the picture, there's the door which will go into  
22 the large family room. Now if you go back to Exhibit 4, and  
23 we're looking directly into the back of the house, it shows that  
24 that proposed porch, it's not rectangular. It's rectangular  
25 with a piece on the back that comes right next ?- on the left

1 side to abut my house. Maybe the drawings are not clear enough,  
2 or complete enough.

3 COMMISSIONER MITTEN: Mr. Chairman, I think this  
4 ?- part of ?- this is just exacerbating the problems that we had  
5 when Mr. Greenberg was trying to describe this to us. The plans  
6 that we have, I think are insufficient in their level of detail  
7 to really grasp the full nature of what's being proposed, and  
8 so, you know, we have everyone sort of trying to show us a  
9 picture and cobble together some description, that I think it's  
10 very hard to proceed without better drawings.

11 MR. GREENBERG: If I could ?-

12 CHAIRPERSON GRIFFIS: Yeah. Hold on, Mr.  
13 Greenberg, just two seconds. I concur, because although it's  
14 very well said, and I think that's exactly correct, that we're  
15 going to need a little bit more refined.

16 Technically speaking, if we take the elevation,  
17 the rear elevation that we're looking at, and in your Attachment  
18 Number 4, Dr. Miranda, there is a dimension of 8 feet off. It  
19 looks to me that ?- conceivably, that this elevation stopped at  
20 the point where the addition stopped, which doesn't make a lot  
21 of sense, because if you go to the site plan then, if the 8 foot  
22 dimension is on that, that would make that footprint correct,  
23 and relate to the elevation, except that part of it's not  
24 showing.

25 MR. GREENBERG: That's correct.

1 CHAIRPERSON GRIFFIS: So then we would have the  
2 stairs ?-

3 DR. MIRANDA: Mr. Chairman, are you talking about  
4 Attachment 6? No, you've got ?- I want it clear in my mind.

5 CHAIRPERSON GRIFFIS: Oh.

6 MEMBER LEVY: Mr. Chair, before you move on. I  
7 mean, Attachment 4 and Attachment 5, are those being represented  
8 as the same elevation?

9 CHAIRPERSON GRIFFIS: No. Attachment 5 is the  
10 side elevation.

11 MEMBER LEVY: Okay. That's clear. Okay. All  
12 right.

13 COMMISSIONER MITTEN: I believe Mr. Greenberg  
14 wanted to ?-

15 CHAIRPERSON GRIFFIS: Yeah, I'm sorry. Excuse  
16 me. You're going to need to come up and speak into a mike if  
17 you want to respond.

18 VICE CHAIRPERSON RENSHAW: Could I ?- Mr.  
19 Chairman, if I may. Dr. Miranda, I'm holding up Exhibit Number  
20 2, the surveyor's map, and are you right here where my finger  
21 is?

22 DR. MIRANDA: Yes, ma'am.

23 VICE CHAIRPERSON RENSHAW: You are to the right.

24 DR. MIRANDA: I'm the house to the right or east.

25 VICE CHAIRPERSON RENSHAW: Very good. Thank you.

1 CHAIRPERSON GRIFFIS: Mr. Greenberg, did you have  
2 just a clarification to make?

3 MR. GREENBERG: I just want to ?- yeah, I just  
4 want to respond on the specific, not in general, which was ?-  
5 and again, this is on ?-

6 CHAIRPERSON GRIFFIS: All right. Hold on. We're  
7 not getting you.

8 COMMISSIONER MITTEN: You'll have to come forward  
9 to the table.

10 MR. GREENBERG: Because that's cumbersome, why  
11 don't I wait until the end.

12 COMMISSIONER MITTEN: Okay.

13 CHAIRPERSON GRIFFIS: Okay. Great. Thanks.

14 DR. MIRANDA: Mr. Chairman, if I just may mention  
15 one more point. On Attachment 7, the photographs - okay - show  
16 that, indeed, it's not an existing deck that's being built upon,  
17 but doubled in size with the porch, and then stairs on back of  
18 it. Some structures that were presented in one of Mr.  
19 Greenberg's exhibits. These were taken from my window upstairs.

20 CHAIRPERSON GRIFFIS: Right.

21 DR. MIRANDA: Thank you.

22 COMMISSIONER MITTEN: While we have ?- while  
23 we're looking at Attachment Number 7.

24 DR. MIRANDA: Yes, ma'am.

25 COMMISSIONER MITTEN: There's a ?- between the

1 existing deck and your fence, or your ?- or the common property  
2 line, there is the ?- what will ?- there is a stairwell that  
3 goes down.

4 DR. MIRANDA: To the apartment downstairs.

5 MR. GREENBERG: It's a basement apartment.

6 COMMISSIONER MITTEN: Okay. Which we'll talk  
7 about the basement apartment a little bit. On the drawings as  
8 it has been presented to us so far, those stairs aren't going to  
9 go away. Is that your understanding, that those stairs are not  
10 going to ?- those stairs to the basement are not going to be  
11 eliminated.

12 DR. MIRANDA: No, they're not going to be  
13 eliminated. No.

14 COMMISSIONER MITTEN: All right.

15 DR. MIRANDA: Not according to what I see here.

16 COMMISSIONER MITTEN: Okay. So then given that  
17 that's sort of the buffer between the proposed construction and  
18 your property, where is it that it's going to attach?

19 DR. MIRANDA: It's going to attach ?- please look  
20 at my Exhibit 6, and this is their own drawing. You see how  
21 this ?-

22 COMMISSIONER MITTEN: So there's going to be some  
23 kind of cover over a portion of the stairs? Is that ?-

24 DR. MIRANDA: Yes. Yes.

25 COMMISSIONER MITTEN: Okay, because that's not

1 being shown either on our ?- on the site plan that we have. And  
2 again, that would go to ?- Mr. Chairman, that would go to lot  
3 occupancy, as well. So again, we need better drawings.

4 CHAIRPERSON GRIFFIS: Indeed. Any other  
5 questions, Board Members? Okay. Let's proceed on then.

6 MR. HUMBER: Mr. Chairman, we have just a brief  
7 statement in support of the package that you have.

8 CHAIRPERSON GRIFFIS: Let me be clear. In  
9 support of Dr. Miranda's package ?-

10 MR. HUMBER: That's correct.

11 CHAIRPERSON GRIFFIS: ?- that was just submitted?

12 MR. HUMBER: That's correct.

13 CHAIRPERSON GRIFFIS: Okay.

14 MR. HUMBER: We share the issues in that ?- in  
15 his analysis, and would add to it only that as long time  
16 residents of Capitol Hill, more than 30 years, and 8 year  
17 occupants of this house, my wife and I were attracted to this  
18 property in no small part because of the opportunity for outside  
19 space, and outside living, because of its openness, and the  
20 openness of this block.

21 With the additions already made at 812 East  
22 Capitol, substantial additions through variance, I believe, the  
23 property at 822, the former Bank property, we are concerned that  
24 ours is becoming ever more a canyon of enclosed properties.

25 We are equally concerned that in order to keep

1 some perspective here, each of us will now be forced to add to  
2 the property, creating not only an unsightly, we think, set of  
3 additions, but also destroying the very openness and outside  
4 living opportunities that we bought the houses to acquire.

5 CHAIRPERSON GRIFFIS: Okay. Thank you very much,  
6 Mr. Humber. Can you just give me an indication on where your  
7 property is in relation to this?

8 MR. HUMBER: Yes. I'm at 820, which would put me  
9 to the east of Dr. Miranda and Mr. Rodman's property.

10 CHAIRPERSON GRIFFIS: Okay. So you're adjacent  
11 ?- facing the subject property, you'd be on the left.

12 MR. HUMBER: No, I would be to the right of ?- I  
13 would be two houses in.

14 CHAIRPERSON GRIFFIS: Oh, two houses.

15 MR. HUMBER: Two houses to the right, two houses  
16 to the east of that property.

17 CHAIRPERSON GRIFFIS: Okay.

18 MR. HUMBER: And I would add that because of the  
19 Bank, our only visual opportunity, our only openness is in that  
20 westerly direction. We're facing a solid wall. The bank  
21 occupies 100 percent of its property, the former bank, now a  
22 residence at 822, occupies 100 percent of its lot, and so the  
23 only visual, the only openness, the only air, the only light  
24 that we enjoy comes from the direction of the subject property.

25 CHAIRPERSON GRIFFIS: Do you know where this bank

1 is?

2 MR. HUMBER: It's the old American Securities  
3 Bank at 9<sup>th</sup> and East Capitol. It's 822 East Capitol.

4 CHAIRPERSON GRIFFIS: It doesn't show me on this  
5 though.

6 MR. HUMBER: It's now a residence, a two story  
7 residence.

8 CHAIRPERSON GRIFFIS: Is it on there?

9 COMMISSIONER MITTEN: It's the northwest corner  
10 of 9<sup>th</sup> and East Capitol. It's not going to show as a bank.

11 CHAIRPERSON GRIFFIS: No, I know but ?-

12 MR. GREENBERG: This photo might help. I mean,  
13 this is a ?-

14 COMMISSIONER MITTEN: That's good, and the ?-

15 MR. GREENBERG: Do you have ?- you have this up  
16 there.

17 COMMISSIONER MITTEN: The Office of Planning  
18 report.

19 CHAIRPERSON GRIFFIS: Oh, right.

20 MR. GREENBERG: The building ?-

21 CHAIRPERSON GRIFFIS: Good. I have it. Okay.  
22 That kind of helps. I've not seen the building footprint. All  
23 right. But be that as it may, thank you very much. I would  
24 then have Mr. Greenberg come up. I'm going to need you all to  
25 stay at the table, so we're going to add another chair. Mr.

1 Greenberg is going to be asking you questions based on the  
2 testimony you've just given, in order to bring clarification.  
3 If you want to, you can just bring a chair down at the end.  
4 Thank you, Mr. Humber. I appreciate that. And we will move on  
5 momentarily.

6 Okay. Mr. Greenberg, just to reiterate. Cross  
7 examination, of course you're asking questions based on the  
8 testimony that they've given, in trying to bring light to what  
9 they have said, and perhaps, what you would ?- what your  
10 understanding is. And bottom line, what you'd like us to  
11 understand for our own deliberations, so you're welcome to  
12 proceed.

13 MR. GREENBERG: Okay. Thank you. I don't ?- I  
14 mean, I don't think I'll be cross examining my neighbors or  
15 using the Zoning Board as a vehicle for that, you know, kind of  
16 communication. And it would obviously be better if neighbors  
17 communicated about these issues directly.

18 The ?- on the ?-

19 COMMISSIONER MITTEN: Mr. Greenberg.

20 MR. GREENBERG: Yes, I'm sorry.

21 COMMISSIONER MITTEN: The distinction that the  
22 Chair was trying to make is that at this moment in time is ?-

23 MR. GREENBERG: Yes.

24 COMMISSIONER MITTEN: ?- your time to ask  
25 questions.

1 MR. GREENBERG: I understand.

2 COMMISSIONER MITTEN: And you'll get an  
3 opportunity to rebut them in a moment.

4 MR. GREENBERG: Okay. I'm going to have a  
5 general observation about, you know, what ?- about the project,  
6 and my intent in that is more to clarify what my intention was  
7 in the design of this project, and how it was characterized, so  
8 that ?- because I'm more interested in the good relations with  
9 my neighbors than I am in doing the project.

10 The ?- just first on the truthfulness of the, you  
11 know, of the submission and the intention. In the ?- in my  
12 instructions to the general contractors, architects and others,  
13 for me, there are two separate issues. One is the issue of the  
14 porch, screened-in porch, and the other is the deck, which I  
15 also indicated earlier were separable issues for me in terms of  
16 going forward, the deck being important, the deck being nice.

17 I, actually, thought that the deck was not  
18 obtrusive because it's even with the zoning regulations, low in  
19 terms of visibility and appearance to neighboring properties, so  
20 I didn't ?- I thought it might raise legal zoning issues.

21 CHAIRPERSON GRIFFIS: So you ?-

22 MR. GREENBERG: But I thought it would not ?-

23 CHAIRPERSON GRIFFIS: Can I interrupt you for a  
24 second.

25 MR. GREENBERG: Yeah.

1 CHAIRPERSON GRIFFIS: A little direction here.

2 MR. GREENBERG: Yeah.

3 CHAIRPERSON GRIFFIS: You will have plenty of  
4 time to give closing remarks ?-

5 MR. GREENBERG: Fine.

6 CHAIRPERSON GRIFFIS: ?- which will be testimony.

7 If you want to end one of those sentences with an upbeat  
8 question ?-

9 MR. GREENBERG: Okay.

10 CHAIRPERSON GRIFFIS: ?- that's what we need to  
11 do. To be direct, you need to be asking questions.

12 MR. GREENBERG: Okay.

13 CHAIRPERSON GRIFFIS: And we are trying to get to  
14 their testimony, and this is your cross examination. And I will  
15 give you ample time to say everything you need to in your  
16 closing remarks.

17 MR. GREENBERG: Okay. Then it may well be since  
18 I will state ?- make clarifications in my ?- I wish to ?-  
19 essentially, what I wish to do is make clarifications rather  
20 than to cross examine, some of which ?- and some of which raise  
21 questions about what is believed is being proposed. But I don't  
22 ?- I think I would best present that by stating that, rather  
23 than posing that as a question to the other peoples giving  
24 testimony.

25 CHAIRPERSON GRIFFIS: Well, that would go to your

1 closing remarks then. I think you would actually be better off  
2 if you asked the questions in terms of their ?-

3 MR. GREENBERG: I'll try to figure out a  
4 question.

5 CHAIRPERSON GRIFFIS: ?- understanding.

6 MR. GREENBERG: Okay.

7 CHAIRPERSON GRIFFIS: For instance, one question  
8 might be, is it the testimony their understanding that you are  
9 abutting their property with your new construction.

10 MR. GREENBERG: Okay. On this question of  
11 abutting the property, since the intention, which may not be  
12 well communicated through the drawings, was to follow the line  
13 of the existing deck as it ?- including the roof of this, is to  
14 follow the line of the existing deck and stairwell. If you  
15 thought that were true, would you still believe this abutted  
16 your property? If there was no change in the existing deck  
17 railings, other than to extend the stairs, the deck over the  
18 stairs down? Yeah, if this were to be ?- if this were to be  
19 maintained, which is what my intention was, if this were to be  
20 maintained exactly as it exists, would you still believe that  
21 that abutted your property.

22 MR. RODMAN: Well, we do ?-

23 COMMISSIONER MITTEN: Mr. Rodman, would you put  
24 your mike on so we can get you on the record when you respond.

25 MR. RODMAN: We do realize that it does about the

1 property, and that there would be a small ?- this small area  
2 would continue, I believe. I think the drawings that have been  
3 submitted are very confusing. We do understand that currently  
4 your deck ends here, and your proposed porch is going to extend  
5 out to here.

6 MR. GREENBERG: The line of the house.

7 MR. RODMAN: Which is basically doubling that  
8 level, which looks right into my kitchen, because it stops right  
9 here, and it goes over to here. So it's certainly raising up  
10 the ability, almost doubling that higher level of your deck.  
11 And that would allow you ?- I ?- this is where I do all my  
12 gardening and sit out all the ?- this is ?- and with the many  
13 parties and staff, you could certainly see directly in there.

14 Besides that, I know there's going to be a porch  
15 back here which will elevate people, again, to look directly  
16 into my back yard. That's what I have a problem with.

17 CHAIRPERSON GRIFFIS: Okay. Let me just set out  
18 the rules again here, because obviously, we can raise passions  
19 quite a bit and get on with this. Let me ?- two things. First  
20 of all, in your testimony right now there was a lot of from here  
21 to here. That won't read well in the testimony, so I will just  
22 point out that you were pointing to Attachment 7 of your  
23 submission.

24 MR. RODMAN: Correct.

25 CHAIRPERSON GRIFFIS: And trying to outline the

1 extent of the proposed addition of screened in porch.

2 MR. RODMAN: Right.

3 CHAIRPERSON GRIFFIS: Mr. Greenberg was ?- you  
4 don't need to correct me. I'm stating it for the record. Mr.  
5 Greenberg was, in fact ?- I kind of lost that thought, but  
6 perhaps was ?- well, there it is.

7 VICE CHAIRPERSON RENSHAW: Mr. Chairman.

8 CHAIRPERSON GRIFFIS: Yes.

9 VICE CHAIRPERSON RENSHAW: What I heard was that  
10 Mr. Greenberg said to Mr. Rodman that yes, he was bringing the  
11 deck, in other words, the level surface of the deck ?-

12 CHAIRPERSON GRIFFIS: Right. Okay.

13 VICE CHAIRPERSON RENSHAW: ?- out to the line of  
14 the house.

15 CHAIRPERSON GRIFFIS: Yeah. Indeed, extending  
16 the stairs out so it would be an ?- now the point in fact, now  
17 we have that on the record of that discourse. What I need is  
18 very quick answers to a question, and I'm assuming none of you  
19 are lawyers, and neither am I, so I'm new at this too. But this  
20 is the situation, in terms of cross examination, you want to ask  
21 a quick question and we get a quick response, and then we will  
22 move on to closing remarks. So any other kind of clarification  
23 that you can elicit through questions, Mr. Greenberg, I urge you  
24 to continue.

25 MR. GREENBERG: I think I'd rather do this by

1 closing statement, rather than questions.

2 CHAIRPERSON GRIFFIS: Okay. No other questions  
3 then? Okay. Board Members, just so that we can throw the  
4 routine off balance. Any other questions of the witnesses at  
5 this time?

6 COMMISSIONER MITTEN: Mr. Chairman, I don't have  
7 any questions for the neighbors that have come down, but I do  
8 have some follow-up questions for Mr. Greenberg that arise out  
9 of the information that's presented.

10 CHAIRPERSON GRIFFIS: But can I just ?-

11 COMMISSIONER MITTEN: Whenever you'd like to.

12 CHAIRPERSON GRIFFIS: Yeah, let me turn that to  
13 you, after I have a quick question in terms of the neighbors  
14 that have come down. There was testimony today about the noise  
15 impact of caterers and entertaining on the back, which currently  
16 happens.

17 My question would be, first of all, we have no  
18 regulation off of that or not. But my question would be, would  
19 you not anticipate as you have brought that up as an adverse  
20 affect on the privacy of your house, would it not be lessened or  
21 mitigated by the fact of enclosing an area on the back porch  
22 where caterers would be setting up and being occupying it?

23 MR. RODMAN: Well, I would say two things. If  
24 indeed it's going to be screened, no, that would not lessen the  
25 noise. Number two, you have to remember that the present porch

1 is ?- that is half the size. They're doubling the size of the  
2 porch.

3 CHAIRPERSON GRIFFIS: I understand that, and  
4 you've stated that.

5 MR. RODMAN: They will enclose this, meaning that  
6 there will be people at the current length, and going out  
7 another four to five feet close to my fence, so there will be a  
8 lot more noise at least closer to my property, which before  
9 would have to have been down in the back yard, six feet under,  
10 so to speak. So I would say the noise would be much greater,  
11 much closer. And that a screen porch wouldn't reduce it.

12 CHAIRPERSON GRIFFIS: I see. Okay. Thank you.  
13 Ms. Mitten.

14 COMMISSIONER MITTEN: This is for Mr. Greenberg.  
15 Do you have a Certificate of Occupancy as a flat for your  
16 property, which is a two unit dwelling?

17 MR. GREENBERG: I presume. I bought the house  
18 two years ago, and I'm presuming that was part ?- that was all  
19 ?- I mean I haven't recently checked it, but I presume that was  
20 all dealt with as part of the sale of the property to us, and  
21 the provision for an apartment in the basement.

22 COMMISSIONER MITTEN: Well, as Dr. Miranda had  
23 pointed out, there is a different standard for open courts for  
24 flats, so I think you're going to need to submit your  
25 Certificate of Occupancy for the record.

1 MR. GREENBERG: I'm quite sure we have it.

2 COMMISSIONER MITTEN: Terrific. Thank you.

3 MR. GREENBERG: Though it's not occupied as an  
4 apartment.

5 COMMISSIONER MITTEN: It's not occupied as an  
6 apartment.

7 MR. GREENBERG: Right. We use it for other  
8 things.

9 COMMISSIONER MITTEN: So it's your own ?- there  
10 is no renter.

11 MR. GREENBERG: It's there ?- no, there is no  
12 renter. It could be ?- we presumed it could be a rental  
13 property, but there is no renter.

14 COMMISSIONER MITTEN: Well, if you ?- I think  
15 submitting the Certificate of Occupancy would be helpful.

16 MR. GREENBERG: Okay.

17 COMMISSIONER MITTEN: Because the standard is  
18 different for a flat than it is for a ?-

19 CHAIRPERSON GRIFFIS: No, I totally agree. Let  
20 me just point ?- well ?-

21 DR. MIRANDA: Excuse me. May I make a comment  
22 too? The Office of Tax and Assessment has that property listed  
23 as a two family ?- two unit home. I don't know if that's  
24 important or not.

25 CHAIRPERSON GRIFFIS: That won't make any

1 difference. I mean, I think ?-

2 COMMISSIONER MITTEN: They probably got that  
3 information from the Certificate of Occupancy.

4 DR. MIRANDA: And the apartment was ?- has been  
5 rented. We've been there almost nine years, had been rented up  
6 to one year ago.

7 CHAIRPERSON GRIFFIS: Okay. Well, I think the  
8 pertinent point is ?- I mean, we can hear a lot ?-

9 DR. MIRANDA: That's all right.

10 CHAIRPERSON GRIFFIS: ?- but the issue is ?- the  
11 documentation will show not ?- you know, that's not that  
12 cumbersome. It's pretty easy to get, if you don't already had a  
13 copy, and so we would ask for that to be submitted.

14 Okay. Board Members, other questions,  
15 clarifications at this time?

16 MEMBER LEVY: Mr. Chair.

17 CHAIRPERSON GRIFFIS: Yeah, Mr. Levy.

18 MEMBER LEVY: Mr. Greenberg, do you know ?- it  
19 appears to me from the drawings ?- well, we talked about the  
20 height of the deck, the narrow deck at the rear of the house.  
21 Do you know the height of the deck that you intend to screen in?

22 MR. GREENBERG: The intention ?- I don't have it.  
23 I'm sure it ?- I know they measured. I thought it would be  
24 part of the drawings I submitted. I know the intention was to  
25 be about three inches higher than the existing deck. It could

1 be done with the existing ?- you could keep it at the current  
2 level if you wanted, but in design terms it was better three  
3 inches higher. But if the requirement was to stay at existing  
4 level, that's fine.

5 MEMBER LEVY: It appears to be seven steps up  
6 from the patio now. Would you say that's correct, the  
7 photographs?

8 MR. GREENBERG: Based on the photographs?

9 MEMBER LEVY: This is Attachment 7 of ?-

10 MR. GREENBERG: The submittal?

11 MEMBER LEVY: No, of your neighbors' testimony.

12 MR. GREENBERG: Yeah.

13 MEMBER LEVY: Perhaps it's 6. Six.

14 MR. GREENBERG: I think 6. It could be 5.

15 MR. GREENBERG: Okay. And ?-

16 MEMBER LEVY: Okay. But you don't know the  
17 height.

18 MR. GREENBERG: I don't know.

19 MEMBER LEVY: Thanks.

20 CHAIRPERSON GRIFFIS: I mean, it looks like even  
21 on the elevations that were submitted, Mr. Levy ?- I understand  
22 where you're going with that. We have seven risers to get to  
23 the highest point on the rear porch.

24 MR. GREENBERG: On the proposed porch?

25 CHAIRPERSON GRIFFIS: Yeah, I was mis ?- in my

1 own look at this, I was counting up just to the main portion  
2 where it would be screened, which would give us one, two, three,  
3 four, five risers. If they're to code, of course, there would  
4 be, you know, roughly 7 inches, possibly smaller, so it is right  
5 in the line there in terms of ?- I'm sorry. Did someone say ?-  
6 okay. Right. But what we're talking about is in terms of  
7 dimensions, but we're estimating and speculating, so we aren't  
8 going to continue with that.

9 MEMBER LEVY: Well, if I could, Mr. Chair.

10 CHAIRPERSON GRIFFIS: Yeah.

11 MEMBER LEVY: AT this point, I'd just like to  
12 highlight Ms. Mitten's remarks, and just state that I echo her  
13 remarks. That I have a growing concern over the completeness,  
14 and possibly the accuracy of the drawings that we're using to  
15 consider this case, the Applicant's drawings.

16 CHAIRPERSON GRIFFIS: Okay. Any other questions  
17 of the Applicant at this time? Clarifications that we can bring  
18 on this? Okay. Not seeing any, Mr. Greenberg, we'll ?- well,  
19 actually ?- all right. Board Members, let's ?- let me get a  
20 quick read, and I am proposing two courses of action.

21 One, we continue this, and actually set a new  
22 hearing ?- a continued hearing date, whereby we would have  
23 submission of the information, and then decide the specifics on  
24 what the record is kept open to take. The other is we set this  
25 for decision making and ask for all that pertinent information.

1 And I would imagine we could probably fit the decision making  
2 in in a month, not March, but the ?- not the February, but the  
3 March, which means we might be able to fit a hearing in,  
4 although it's ?- all right. Well, you understand what I'm  
5 saying.

6 COMMISSIONER MITTEN: Mr. Chairman, I think your  
7 ?- the ?- your first suggestion is a good one. And also, in  
8 fairness to the neighbors who have a concern, I still think that  
9 they don't even full ?- they don't have any better grasp of the  
10 project in terms of its specifics than we do ?-

11 CHAIRPERSON GRIFFIS: Okay.

12 COMMISSIONER MITTEN: ?- because of the  
13 information hasn't been fully developed. So I think in fairness  
14 to them, they need ?- they will need an opportunity to weigh in  
15 on the additional submissions, so I think that having ?-  
16 continuing this, and having an opportunity for further testimony  
17 would be in order.

18 CHAIRPERSON GRIFFIS: Right. I mean, the one  
19 point is whether we hear oral testimony again, or whether we  
20 have written submissions, but ?- and I understand you're saying  
21 that you think it would be important to have a continued  
22 hearing. Okay.

23 MEMBER LEVY: Mr. Chairman, I'd like to associate  
24 myself with my colleagues remarks in that regard, as well.

25 CHAIRPERSON GRIFFIS: Okay.

1 MEMBER LEVY: Thank you.

2 MR. GREENBERG: Can I make an observation which  
3 may bear on that?

4 CHAIRPERSON GRIFFIS: In two seconds.

5 MR. GREENBERG: Okay.

6 CHAIRPERSON GRIFFIS: Anybody else have feelings  
7 on that?

8 MEMBER LEVY: No, I ?- Mr. Chairman, I'd prefer  
9 to have a continued hearing.

10 CHAIRPERSON GRIFFIS: Okay.

11 MR. ETHERLY: I do, as well.

12 CHAIRPERSON GRIFFIS: Okay. You see what ?-  
13 okay. Mr. Greenberg.

14 MR. GREENBERG: I was going to say that I will  
15 not ?- I mean, I will not proceed unless my immediate neighbors  
16 find these plans acceptable.

17 CHAIRPERSON GRIFFIS: I think that's ?-

18 MR. GREENBERG: So that the ?- and I don't know  
19 what that ?- I mean, we'll ?- so whether ?- what happens will  
20 obviously bear on that.

21 CHAIRPERSON GRIFFIS: Okay. Well, I appreciate  
22 that, and I hope that your neighbors also appreciate that. It's  
23 obvious that there are open opportunities for communication  
24 this, and I would suggest then that we reschedule this for a  
25 continued hearing. I will then ?- we will ?- I won't have you

1 give closing remarks today, because we could do that later. Let  
2 us check our schedule. Let us check everyone else, or your  
3 schedule, Mr. Greenberg, as we have persons not parties present.

4 And I would ?- as they are pulling the calendar up for us, I  
5 would over-emphasize the fact that based on your statement of  
6 this not going ahead without the, let us say the under ?- the  
7 excitement of your neighbors about the project, I would say that  
8 you take the time to do that. And thereby, when we come back in  
9 for the hearing, we will have all the documentation we need.  
10 And it should not be a problem to see which way this goes.

11 Obviously, from your statement, and I'm not  
12 saying anything, but from your statement, if you cannot get  
13 concurrence with your neighbors, I don't imagine we'd see this  
14 again.

15 MR. GREENBERG: Correct.

16 CHAIRPERSON GRIFFIS: However, if we do see it,  
17 I'm certain it will all be ?- what's the technical term, honkey  
18 dory I believe it is, so ?-

19 MR. HUMBER: Mr. Chairman, one question.

20 CHAIRPERSON GRIFFIS: Yes. If you wouldn't mind  
21 just ?-

22 MR. HUMBER: Sorry.

23 CHAIRPERSON GRIFFIS: We can have you ?-

24 MR. HUMBER: I just wanted to be sure that as ?-  
25 not ?- I guess we're not ?- since we're not parties to this.

1 CHAIRPERSON GRIFFIS: Correct.

2 MR. HUMBER: Is there a process in the  
3 continuation for notification, so that we would know when this  
4 is rescheduled?

5 CHAIRPERSON GRIFFIS: There is not a process for  
6 notification of persons. What I would ask the Applicant in the  
7 spirit of what he has said, and in the spirit of what I think  
8 we're trying to do, is that he make direct contact and  
9 coordination with you, anything that he's receiving or  
10 submitting.

11 MR. GREENBERG: I will do that.

12 CHAIRPERSON GRIFFIS: Okay.

13 MEMBER LEVY: Mr. Chair.

14 CHAIRPERSON GRIFFIS: Yeah.

15 MEMBER LEVY: Just to clarify, I believe the ?-  
16 Mr. Humber was asking about a hearing date notification?

17 MR. HUMBER: That's correct.

18 MEMBER LEVY: And I think we'll set that today.  
19 Is that not correct?

20 CHAIRPERSON GRIFFIS: Oh, I'm sorry. I thought  
21 ?- I was getting ahead. Yes, that's what I'm kind of stalling  
22 with here, is waiting for the schedule to be reviewed by the  
23 Staff, so that we can see when this might be able to fit in. We  
24 will not leave today without knowing what date that is.

25 MR. HUMBER: Okay.

1 MEMBER LEVY: Also, Mr. Chairman, do we need a  
2 revised Office of Planning report?

3 CHAIRPERSON GRIFFIS: Why don't we ask the Office  
4 of Planning?

5 VICE CHAIRPERSON RENSHAW: Office of Planning?

6 MS. THOMAS: Yes, we will provide a supplement  
7 after we get correct plans for review.

8 CHAIRPERSON GRIFFIS: Okay. Good. And I don't  
9 think that would be that cumbersome, it seems like it will only  
10 bring ?-

11 MEMBER LEVY: Mr. Chair.

12 CHAIRPERSON GRIFFIS: Yeah.

13 MEMBER LEVY: While we're looking at dates, could  
14 I suggest something else?

15 CHAIRPERSON GRIFFIS: We're ready for dates, but  
16 you can suggest anything you want.

17 MEMBER LEVY: Oh. I just want to state that what  
18 I would need to consider this case is, at the very least, a  
19 simple plan and elevation drawings that are fully dimensioned,  
20 existing and proposed.

21 MR. GREENBERG: Since I don't know the meaning of  
22 any of those words, I will write them down exactly.

23 MEMBER LEVY: I want to see what the project ?- I  
24 want to see a plan view from the sky down, what's there now and  
25 what's proposed, with dimensions. And I want to see views

1 standing basically looking to the west, and looking to the  
2 south, I guess. So looking in the back yard ?-

3 CHAIRPERSON GRIFFIS: The rear and the side.

4 MEMBER LEVY: Yeah, the rear and the side.

5 CHAIRPERSON GRIFFIS: The elevation.

6 MEMBER LEVY: Rear and side, and fully dimension  
7 with existing conditions, and what you propose to do, including  
8 heights of all the decks from the ground.

9 CHAIRPERSON GRIFFIS: Yeah. And I think the  
10 issue, Mr. Greenberg, in terms of the ?- there are several Board  
11 Members that are going to the height of your back deck ?- it was  
12 probably said, but I will reiterate the fact that, if it's below  
13 a certain dimension, or above a certain dimension will go  
14 towards lot occupancy, which of course, changes the parameters  
15 of what we're looking at.

16 Let us ?- I think we have potential dates. Is  
17 that correct?

18 VICE CHAIRPERSON RENSHAW: Mr. Chairman, also if  
19 Mr. Greenberg would give an indication of materials and some  
20 specification on those skylights, which look to be pyramids.  
21 How far up do they project? Are they plexiglass? What are  
22 they?

23 MEMBER LEVY: Mr. Chair.

24 CHAIRPERSON GRIFFIS: Yeah.

25 MEMBER LEVY: Both Mr. Greenberg, the Applicant,

1 and some of the neighbors who provided testimony may also do  
2 well to keep in mind that we still have an outstanding issue of  
3 ANC view ?-

4 CHAIRPERSON GRIFFIS: Oh.

5 MEMBER LEVY: ?- or look at the project, so there  
6 may also be some additional opportunity during that proceeding  
7 to have some more dialogue prior to revisiting us here at the  
8 BZA.

9 CHAIRPERSON GRIFFIS: Yeah, that's an excellent  
10 point, and thanks for bringing that up in terms of a reminder.  
11 It only substantiates a case when we have a letter from the ANC,  
12 so as much as that can be facilitated, it would be important.

13 MEMBER LEVY: Mr. Chair, I'm sorry, before we  
14 move on too far. I wanted to clarify how you characterized my  
15 concerns. I'm concerned not only about the issue of the height  
16 of the deck, and the lot occupancy, but I'd also like a clear  
17 indication of how far the new deck will extend beyond where the  
18 ?-

19 CHAIRPERSON GRIFFIS: Oh, no, no, no. I'm sorry.  
20 I was just picking up on a very specific small point. I think  
21 it is very well said, the fact that we are looking for full  
22 plans. They can be ?- they will be of ?- well, we're looking  
23 for plans that indicate the accurate dimensions of the proposed  
24 and new, and everything that you've said, which I totally agree  
25 with. My only point was the fact that trying to go just to the

1 specific issue of the height of the deck, one might wonder why  
2 we were so concerned with it.

3 MEMBER LEVY: Right. Appreciate it.

4 CHAIRPERSON GRIFFIS: And Ms. Renshaw also  
5 reminds me of the fact of the Historic Preservation review,  
6 whether there has been any contact with a staff member there,  
7 and what ?- and where that is in the process, will also be  
8 important for the case.

9 Let's look to dates.

10 SECRETARY BAILEY: Mr. Chairman, the first  
11 available date would be March 19<sup>th</sup>, and that would be the last  
12 case of the afternoon that day. Another option would be March  
13 26<sup>th</sup>, and that would be in the morning.

14 CHAIRPERSON GRIFFIS: Okay. WE have March ?-  
15 these are all Tuesdays.

16 MR. GREENBERG: Right.

17 CHAIRPERSON GRIFFIS: March 19<sup>th</sup> is an afternoon  
18 case. March 26<sup>th</sup> ?-

19 SECRETARY BAILEY: Morning.

20 CHAIRPERSON GRIFFIS: ?- is in the a.m.

21 SECRETARY BAILEY: April 2<sup>nd</sup>, first case in the  
22 afternoon.

23 CHAIRPERSON GRIFFIS: Okay. Let's start with  
24 those and see ?-

25 SECRETARY BAILEY: April ?-

1 CHAIRPERSON GRIFFIS: I'm sorry.

2 MR. GREENBERG: What were the March dates? I'm  
3 sorry.

4 CHAIRPERSON GRIFFIS: 19<sup>th</sup> and 26<sup>th</sup>.

5 SECRETARY BAILEY: March 19<sup>th</sup>, March 26<sup>th</sup>, April  
6 2<sup>nd</sup>, and April 9<sup>th</sup>.

7 CHAIRPERSON GRIFFIS: And April 9<sup>th</sup> is in the  
8 morning or afternoon?

9 SECRETARY BAILEY: April 9<sup>th</sup>, sir, is in the  
10 morning.

11 CHAIRPERSON GRIFFIS: Thank you.

12 MR. GREENBERG: The 26<sup>th</sup> works. Is that okay?  
13 And was that a.m. or p.m.?

14 CHAIRPERSON GRIFFIS: That's morning, yeah. The  
15 26<sup>th</sup>. Does that work for you, Mr. Greenberg?

16 MR. GREENBERG: Yes, it does.

17 CHAIRPERSON GRIFFIS: Okay. It's going to be  
18 March 26<sup>th</sup> in the a.m. Okay. Let us now ?-

19 SECRETARY BAILEY: Mr. Chairman, just before yo  
20 continue.

21 CHAIRPERSON GRIFFIS: Yeah.

22 SECRETARY BAILEY: I just wanted to let ?- if  
23 it's March 26<sup>th</sup>, then the submission should be in by at least  
24 March 11<sup>th</sup>. And that would give time for the persons in  
25 opposition to respond, and that response would be due March

1 18<sup>th</sup>.

2 CHAIRPERSON GRIFFIS: Does everyone understand  
3 that? Mr. Greenberg, do you understand that? Okay. So we're  
4 continuing so the record will be totally open. We have one  
5 further thing, and then I think we'll try and reiterate  
6 everything that we're looking at from you, Mr. Greenberg. But,  
7 of course, I want to reiterate the fact of a copy of the C of O  
8 for the property, we are looking for existing and proposed  
9 plans, elevations with dimensions. We will have a revised OP  
10 report once that information is submitted, and what am I  
11 missing? Right. Indication of the HPRB process, and ?- yeah,  
12 and of course, the ANC would be helpful to have. We don't put  
13 that on ?- a burden of your's, Mr. Greenberg, because you cannot  
14 force them to do it. However, communications can be made, and  
15 there's now ample time, perhaps, that some action can be taken  
16 by them. Anything else?

17 COMMISSIONER MITTEN: To the extent that the  
18 Office of Planning would want to submit a supplemental report of  
19 the additional information that's been provided, we would just  
20 welcome that.

21 CHAIRPERSON GRIFFIS: Yeah, indeed. And I stated  
22 that, but just to reiterate ?-

23 COMMISSIONER MITTEN: I'm sorry.

24 CHAIRPERSON GRIFFIS: ?- that's important. We  
25 will have a revised OP report. That's fine.

1                   SECRETARY BAILEY:    Mr. Chairman, did you ?- I  
2 remember there being a request for the C of O. Did you mention  
3 that, and I missed it?

4                   CHAIRPERSON GRIFFIS:    Uh-huh.

5                   MEMBER LEVY:    You mentioned it.

6                   SECRETARY BAILEY:    Sorry.

7                   CHAIRPERSON GRIFFIS:    That's perfectly fine.  
8 That's why I repeat things five or ten times, because I can't  
9 get them straight all the time. But, Mr. Greenberg, are you  
10 clear? That's the most important thing, on what we're putting  
11 in.

12                   MR. GREENBERG:    Yes.

13                   CHAIRPERSON GRIFFIS:    Okay. And if there are any  
14 questions, of course our Staff is incredibly able, and is ?-  
15 will be able to answer those questions for yo. I appreciate you  
16 all coming down here this morning. I'm sorry this has to  
17 continue, but I think it's important that it does, so that we  
18 bring this to a correct and logical ?- and we will see you all,  
19 perhaps, on the 26<sup>th</sup> of March. Thank you very much.

20                   MR. GREENBERG:    Thank you very much.

21                   CHAIRPERSON GRIFFIS:    At this time, I want to  
22 just take five minutes, and we will return and call the last  
23 case of the morning and move through it.

24                                    (Off the record at 11:39 a.m.)

25                                    (On the record at 11:47 a.m.)

1                   SECRETARY BAILEY: The last case of the morning  
2 is Application Number 16828 of Augustana Evangelical Lutheran  
3 Church, pursuant to 11 DCMR 3103.2, for a variance from the lot  
4 occupancy requirements under Section 403, and a variance from  
5 the non-conforming structure provisions under Subsection 2001.3,  
6 to allow an addition to an existing church ?- I'm sorry. From  
7 the non-conforming structure provisions under Subsection 2001.3,  
8 to allow an addition to an existing church in R-5-D District, at  
9 premises 2100 New Hampshire Avenue, N.W., Square 188, Lot 807.

10                   Please stand to take the oath.

11 WITNESSES SWORN

12                   SECRETARY BAILEY: Thank you. Please come  
13 forward. Mr. Chairman, the Applicant had not submitted ?- the  
14 architect had not submitted a statement indicating that he would  
15 be representing the church. I think they have that with them  
16 today.

17                   CHAIRPERSON GRIFFIS: And it looks like it's  
18 coming towards you. Indeed, the letter submitted January 28<sup>th</sup>,  
19 2002, and I will set an exhibit on that as soon as I get my  
20 hands on the case file. In the meantime, while I'm waiting for  
21 that, I want to welcome you here this morning. Sorry we've been  
22 a little delayed getting to you this morning, and I would ask  
23 you just to both introduce yourselves for the record, and we  
24 will proceed.

25                   MS. COX: I'm Marcia Cox, Pastor and President of

1 the Augustana Lutheran Church, 2100 New Hampshire Avenue, N.W.

2 CHAIRPERSON GRIFFIS: Thank you.

3 MR. HOUSTON: And I'm Andre Houston, architect.

4 COMMISSIONER MITTEN: You need to turn on the  
5 microphone.

6 CHAIRPERSON GRIFFIS: Oh, yes.

7 MR. HOUSTON: I'm Andre Houston, the architect  
8 for the project. My office is at 1053 31<sup>st</sup> Street, N.W.

9 CHAIRPERSON GRIFFIS: Thank you, Mr. Houston.  
10 You are going to be putting together the presentation and case  
11 today. Is that correct?

12 MR. HOUSTON: I'm going to be leading the  
13 presentation, yes.

14 CHAIRPERSON GRIFFIS: Okay. Very good. I would  
15 welcome you to step right into it.

16 MR. HOUSTON: Okay. Very good.

17 CHAIRPERSON GRIFFIS: Let me, I'm sorry,  
18 interrupt you briefly. Exhibit Number 23 will be the letter  
19 indicating Mr. Houston's role in this. Thank you.

20 MR. HOUSTON: First of all, I want Ms. Cox to  
21 briefly describe what the church is, what this institution is.

22 MS. COX: Augustana is a congregation that's been  
23 in the city for 84 years as of next month, 1918. WE have been  
24 on the corner of New Hampshire and V since 1939. We serve  
25 Columbia Heights, Shaw, Adams Morgan, DuPont Circle

1 neighborhoods, and incorporate all of those neighborhoods into  
2 our church. We are a place that's open for absolutely  
3 everybody. The only problem we have now is you have to climb a  
4 flight of stairs to join the membership class, so we are in the  
5 process of trying to make ourselves accessible, and that's why  
6 we are here today.

7 MR. HOUSTON: Let me add that there ?- that's  
8 getting into the church sanctuary, you have to climb a flight of  
9 stairs. There are eight levels. I had written seven, but  
10 Pastor Cox corrected me. There are actually eight in the whole  
11 complex, so that even if you could get to the sanctuary level,  
12 you still can't get around the complex at all, because there are  
13 eight different levels. It was constructed ?- the first part  
14 was constructed in the 1920s, and then there is a second part,  
15 the classroom wing, which was added in the 50s and the 60s. And  
16 this was before there was any awareness, as you probably know,  
17 of accessibility.

18 CHAIRPERSON GRIFFIS: Do you need a ?- do you  
19 want to put that on an easel?

20 MR. HOUSTON: I can hold it.

21 CHAIRPERSON GRIFFIS: You know what, probably  
22 it's going to be easier to set it up on an easel because we  
23 usually have questions that are referred to those, so why don't  
24 we ?- there are easels right behind the monitor there. We'll  
25 take a minute and ?- oh, thank you Ms. Mitten.

1 MS. COX: If you are familiar with the Roosevelt,  
2 that's where ?- we share the alley with the Roosevelt.

3 CHAIRPERSON GRIFFIS: Yeah, how is that  
4 construction going?

5 MS. COX: It's a mess. I couldn't hear myself  
6 think.

7 CHAIRPERSON GRIFFIS: Oh, wait a minute. We  
8 can't go into that.

9 MS. COX: It's going well, but it is loud. I  
10 can't hear myself think. The neighbors will be placed we're not  
11 doing 15 stories or 3,500 rooms.

12 MR. HOUSTON: This is the footprint of the  
13 church.

14 COMMISSIONER MITTEN: He's not on the mike.

15 CHAIRPERSON GRIFFIS: Okay. Yeah, that's our  
16 other detail piece. You can pick this one up off the table.  
17 Yeah. How's that?

18 MR. HOUSTON: All right. Is this okay?

19 CHAIRPERSON GRIFFIS: Perfect.

20 MR. HOUSTON: This is the footprint of the  
21 church. This is the 1920s sanctuary. This is the classroom  
22 addition which was added in the 50s.

23 MEMBER LEVY: When was it ?-

24 MR. HOUSTON: In the 50s.

25 CHAIRPERSON GRIFFIS: `58 was in the record.

1 MR. HOUSTON: Yes. And the classroom addition  
2 goes like this. The floors between ?- there are essentially two  
3 floors and three levels of this part. There's an undercroft and  
4 another level, sort of the undercroft and then the sanctuary.  
5 And then there are three main levels with another level, a half  
6 level in this one here, and another half level over here, and  
7 they don't line up so it's like this.

8 The only way to make the church ?- we were asked  
9 by the church to ?- for handicapped accessibility, to make it  
10 accessible. The ?- after studying a number of relationship in  
11 levels, it became evident that the only way to make it  
12 accessible is with an elevator. There's simply too many levels,  
13 and they're too far apart to link them with ramps.

14 The different levels come together essentially  
15 along this line here, which means that the elevator, in order to  
16 feed all these levels, has to be somewhere along this line here.

17 If you have an elevator here, it's not going to work, and one  
18 of there, it simply isn't going to work. It's not going to pick  
19 up all the levels. Even if you had two elevators, you'd have to  
20 get out of one and go down and get the other to get around.  
21 It's not ?- so you'd have to have it here.

22 We looked at a number of different locations,  
23 here, here, and here for the elevators, primarily, as well as  
24 some other locations which were sort of variations on that. All  
25 of the locations that we looked at would require an addition

1 because an elevator has an overrun to begin with, and so it  
2 sticks up slightly higher than the existing building around it.

3 And secondly, this third floor doesn't ?- was never built, the  
4 top three floors here, so it would have to stick out as an  
5 addition here. It would have to stick out as an addition here,  
6 and here it would have to stick up above, because this only goes  
7 up two floors instead of three floors.

8 One of the ?- what we want to do is make an  
9 elevator addition that would functionally serve the complex  
10 well, that would be obvious to everyone when they came into the  
11 complex. I've seen elevators added to complexes that it isn't  
12 clear where they are. They're in the back somewhere, and that  
13 doesn't really accomplish anything, because no one uses it. And  
14 the handicapped have to be sort of led over there, and it  
15 doesn't really work.

16 And third, we wanted to make this within the  
17 footprint of the building. We knew that there would be an  
18 addition required, but we didn't want to make the building  
19 footprint any bigger just in principle.

20 The solution was to put the elevator right here,  
21 and now at the bottom floor, this is the entrance here. And  
22 I'll show you that, and you can see it in photographs and  
23 perspectives, so the elevator on the bottom floor would be right  
24 here. This facade would then be brought up, and this would be  
25 an atrium fitting into the building as it comes around here. So

1 we're not increasing the footprint of the building at all, but  
2 we are adding an addition up.

3 Perhaps the best way to understand this is with a  
4 photograph which I'll pass around, showing where the facade of  
5 the addition is located, and you can see the sort of jumble of  
6 the structures behind it where the elevator will be located, and  
7 where the facade will be located, then enclosing an atrium which  
8 will have the elevator in it.

9 CHAIRPERSON GRIFFIS: Is that picture in the  
10 record, or you're indicating ?-

11 MR. HOUSTON: No, I'm submitting it now actually.

12 CHAIRPERSON GRIFFIS: Okay. Great. Ms. Bailey  
13 will take that.

14 MR. HOUSTON: These are all the same picture. In  
15 the record, there is this sketch of the proposed addition.  
16 Right now the existing entrance is right down here, so we're  
17 going up over it like that. There's also in the record, as part  
18 of a community statement which was distributed throughout the  
19 community, and I think you have a copy of this sketch with the  
20 existing and the proposed so that you can see what's being done.

21 CHAIRPERSON GRIFFIS: Yeah. Let me just speak to  
22 that quickly, if I can interrupt you.

23 MR. HOUSTON: Yes.

24 CHAIRPERSON GRIFFIS: Reading that letter and  
25 then looking at the attachment, I think you really ought to be

1 commended. It is Exhibit Number 22 in the record, in terms of  
2 ?- well, the disclosure of information, but obviously, eliciting  
3 support or information from the adjacent. And I think this case  
4 will evidence itself that we have very little, if no opposition  
5 to it, and I think an awful lot can be said to just asking  
6 people around whether they have anything to say about it.

7 MR. HOUSTON: We felt that was very important,  
8 obviously being a church, and I've been before BZA a number of  
9 times, and of course, that's important. It's a neighborhood  
10 with apartment buildings around it, so the idea of going around  
11 to houses and getting a petition didn't make sense because  
12 they're huge apartment buildings. So we circulated this  
13 announcement, posted them in the apartment buildings, and held a  
14 meeting to which no one actually came, but for any questions and  
15 so forth. And there were members of the church ?- there was a  
16 member of the church who is in one of the apartment buildings,  
17 and he talked to people and so forth.

18 CHAIRPERSON GRIFFIS: Yeah.

19 MR. HOUSTON: And exactly as you had said, we  
20 tried to make it clear what we were doing, and if anyone had any  
21 problems, we wanted to know about it. Okay. There are several  
22 members in the church who are living in the apartment buildings.

23 CHAIRPERSON GRIFFIS: Right. Okay.

24 MR. HOUSTON: So we're quite sure that there is  
25 no adverse impact on the neighborhood. In fact, we believe that

1 this addition will improve what the church looks like because it  
2 will sort of put a facade in front of a bunch of sort of junky  
3 things that are all coming together.

4 Incidentally, that addition, if you can believe  
5 it, won an architectural award in 1958.

6 CHAIRPERSON GRIFFIS: And they show the value of  
7 those awards.

8 MR. HOUSTON: I often say that there are many  
9 sins which we architects need to apologize for. This certainly  
10 is one of them. It was given an award.

11 CHAIRPERSON GRIFFIS: Who was it by?

12 MR. HOUSTON: I don't know. I don't want to  
13 know.

14 CHAIRPERSON GRIFFIS: It was probably by the  
15 Steel and Glazing Curtain Wall ?-

16 MR. HOUSTON: Anyway, this is, incidentally,  
17 inside of the atrium space.

18 CHAIRPERSON GRIFFIS: The proposed atrium.

19 MR. HOUSTON: The proposed atrium space. This is  
20 now kind of the exterior of the building.

21 CHAIRPERSON GRIFFIS: Right.

22 MR. HOUSTON: Those facades that you see. This  
23 is the elevator, and it will be enclosed with glass. And this  
24 facade here will then be in front of it.

25 CHAIRPERSON GRIFFIS: Indeed. While you have

1 that, actually the interior perspective, there ?- I have some  
2 questions in my mind that it's been said seven, and possibly  
3 eight levels in this.

4 MR. HOUSTON: That's right.

5 CHAIRPERSON GRIFFIS: We're showing three  
6 stories, if I'm not mistaken.

7 MR. HOUSTON: That's right.

8 CHAIRPERSON GRIFFIS: The point is, and tell me  
9 if I'm right, the point is the addition and the existing  
10 structure are at different levels, so we don't have eight  
11 stories. We have eight levels.

12 MR. HOUSTON: That's right.

13 CHAIRPERSON GRIFFIS: Three stories.

14 MR. HOUSTON: That's right.

15 CHAIRPERSON GRIFFIS: Okay.

16 MR. HOUSTON: There are essentially three  
17 stories, but they ?-

18 CHAIRPERSON GRIFFIS: Right.

19 MR. HOUSTON: And some of them can be joined with  
20 ramps, and they are being joined.

21 CHAIRPERSON GRIFFIS: Okay. If you're going to  
22 talk, you're going to need your mike on.

23 MS. COX: It's built on a hill ?-

24 CHAIRPERSON GRIFFIS: Right.

25 MS. COX: ?- so it's two different times zones,

1 50s and the 1920s, and then ?-

2 CHAIRPERSON GRIFFIS: Right.

3 MS. COX: ?- the additions that ?- they put three  
4 steps here, and five steps there, and seven steps there, and ?-

5 CHAIRPERSON GRIFFIS: There's a little bit of the  
6 Twilight Zone in there, and mixes it all up.

7 MR. HOUSTON: Yeah.

8 MS. COX: So eight levels is ?-

9 MEMBER LEVY: Mr. Chair, could I, just to clarify  
10 since you brought that up.

11 CHAIRPERSON GRIFFIS: Sure.

12 MEMBER LEVY: I'd like to ask Mr. Houston, more  
13 out of curiosity maybe then anything.

14 CHAIRPERSON GRIFFIS: Uh-huh.

15 MEMBER LEVY: Is that elevator going to stop at  
16 all eight levels?

17 MR. HOUSTON: No, it's going to stop at four  
18 levels, and the other four are being connected with ramps  
19 because they're close enough to other levels.

20 MEMBER LEVY: Okay. Great. Thank you.

21 MR. HOUSTON: But it will ?- there will be an  
22 intermediate stopping to get as many as it can. Interesting  
23 problem.

24 The practical difficulty which this church faces,  
25 obviously, is it's not accessible to the handicapped at all.

1 And from the studies, there's no way possible to make it  
2 accessible without an elevator, and an elevator requires an  
3 addition. And this is the simplest, most straightforward way to  
4 ?- we've studied all the options of putting this addition on.

5 CHAIRPERSON GRIFFIS: Good. And that is two of  
6 the tests which I appreciate you evidencing. Do you want to  
7 just talk ?- you have touched on it, but just speak directly to  
8 the uniqueness.

9 MR. HOUSTON: Oh, yes. Thank you. Thank you.

10 CHAIRPERSON GRIFFIS: Uh-huh.

11 MR. HOUSTON: It's a corner site. It's a  
12 triangular site. It's a site which has a building, a complex  
13 built in two different sections. There are no other properties  
14 remotely like it in Washington. I'm sure certainly no  
15 properties like it around the area. It's a unique site in the  
16 true meaning of the word.

17 CHAIRPERSON GRIFFIS: Good. Thank you very much.

18 And on this scope, is there any proposed work that is being  
19 done on the addition's facade that is on, currently I think it's  
20 New Hampshire. It's just off ?- it's just adjacent, obviously,  
21 to the main scope of this.

22 MR. HOUSTON: This is a new facade.

23 CHAIRPERSON GRIFFIS: No, I understand that.

24 MR. HOUSTON: Right.

25 CHAIRPERSON GRIFFIS: I'm going around the corner

1 now to the ?-

2 MR. HOUSTON: Oh, to the V Street?

3 CHAIRPERSON GRIFFIS: No, New Hampshire.

4 MS. COX: You mean in terms of repair or  
5 additions?

6 MR. HOUSTON: This is New Hampshire and V Street  
7 goes like this.

8 CHAIRPERSON GRIFFIS: Yes.

9 MR. HOUSTON: So it actually front V Street. The  
10 address is New Hampshire because people tend ?-

11 MS. COX: They mix us up with St. Augustine.

12 CHAIRPERSON GRIFFIS: Actually, just pick up a  
13 mike. This is a bit of a digression so we're not going to spend  
14 a lot of time on it, but pick up that mike.

15 MR. HOUSTON: I'm sorry.

16 CHAIRPERSON GRIFFIS: And my question is this.

17 MR. HOUSTON: Yes.

18 CHAIRPERSON GRIFFIS: I understand that it's in  
19 the elbow which is yellow, which is labeled on that board ?-

20 MR. HOUSTON: Right.

21 CHAIRPERSON GRIFFIS: ?- vestibule.

22 MR. HOUSTON: Right.

23 CHAIRPERSON GRIFFIS: I understand, that's the  
24 scope. The elevator is being tucked in there.

25 MR. HOUSTON: Okay.

1 CHAIRPERSON GRIFFIS: It's a nice elevation  
2 that's happening that's actually reminiscent of the existing  
3 church structure.

4 MR. HOUSTON: Precisely.

5 CHAIRPERSON GRIFFIS: Okay. So follow me now.  
6 Come down around the corner.

7 MR. HOUSTON: Come here?

8 CHAIRPERSON GRIFFIS: Exactly.

9 MR. HOUSTON: Oh. If there is enough money in  
10 the budget ?-

11 CHAIRPERSON GRIFFIS: Uh-huh.

12 MR. HOUSTON: ?- it would be nice to cover this  
13 facade, which did get a prize.

14 CHAIRPERSON GRIFFIS: Right.

15 MS. COX: If you all need a tax write-off, my  
16 address is on that letter.

17 MR. HOUSTON: It is a curtain wall.

18 CHAIRPERSON GRIFFIS: Nothing shameful about fund  
19 raising at the BZA. We'll mark that down. Anyway, just ?-

20 MR. HOUSTON: It is a curtail wall which the  
21 church would dearly like to soften.

22 CHAIRPERSON GRIFFIS: Good. And I bring it up  
23 because Office of Planning, and it may have been my reading, but  
24 had indicated ?- there was some touching on that, and they  
25 wanted to get clarification.

1 MR. HOUSTON: Yeah.

2 CHAIRPERSON GRIFFIS: And, of course, I would  
3 love to support that, but there it is.

4 MR. HOUSTON: Good.

5 CHAIRPERSON GRIFFIS: It's out of scope, so ?-

6 MS. COX: Do you live at the Brittany?

7 CHAIRPERSON GRIFFIS: No.

8 MS. COX: You obviously live in the neighborhood.

9 CHAIRPERSON GRIFFIS: Well, you know, I suppose I  
10 should disclose that I do. I live in Columbia Heights which is  
11 up the hill.

12 MS. COX: Sure.

13 CHAIRPERSON GRIFFIS: It's not adjacent to this.  
14 That, in my past office, was part of commute, let's say.

15 MS. COX: Yes.

16 CHAIRPERSON GRIFFIS: But I know a lot of people  
17 around there. I mean, it's a very prominent building. AS you  
18 indicated, it's adjacent to the Roosevelt, which is another very  
19 prominent building. Meridian Hill is just to the north.

20 MS. COX: Yes.

21 CHAIRPERSON GRIFFIS: There's no way you don't  
22 know this building if you live near one, or frequent U Street  
23 for that matter.

24 MS. COX: Yeah.

25 CHAIRPERSON GRIFFIS: Okay.

1 MR. HOUSTON: Incidentally, it is not in the  
2 historic district.

3 CHAIRPERSON GRIFFIS: Right.

4 MR. HOUSTON: I talked to the historic district  
5 people. It's right on the border. It's not in the historic  
6 district.

7 CHAIRPERSON GRIFFIS: Right.

8 MR. HOUSTON: They're happy with it anyway.

9 CHAIRPERSON GRIFFIS: Yeah. Sure.

10 VICE CHAIRPERSON RENSHAW: I'd just ask the  
11 Chairman if I could digress. I'm looking at your color  
12 photograph where you have penned in the new facade arrangement,  
13 and it abuts the 1950s award winning addition.

14 MR. HOUSTON: Yes.

15 VICE CHAIRPERSON RENSHAW: So I'm just curious as  
16 to architecturally, how are you going to marry the older ?-

17 MR. HOUSTON: Yes.

18 VICE CHAIRPERSON RENSHAW: ?- 1920s look with  
19 this ultra 1950s blank white wall?

20 MR. HOUSTON: Well, certainly at a minimum we'll  
21 paint it so that it's the same color. Ideally, if we have the  
22 money, the brick would be continued around there as a thin  
23 facade, but fortunately, it ?- and also, that window that you  
24 see, the sort of modernistic, that's been covered. And that's,  
25 in a sense, the most obvious in your face piece of modernism, is

1 that kind of vertical window. That is not going to be visible.

2 That's ?- the facade will cover that up, so all you will see of

3 the ?- in this elbow of the 50s building will be that blank

4 wall, which can be at least pulled in ?-

5 VICE CHAIRPERSON RENSHAW: Oh.

6 MR. HOUSTON: ?- in color to the church.

7 VICE CHAIRPERSON RENSHAW: All right. Thank you

8 for that description. I was just a little bit mixed up that the

9 windows that are then part of this ?- what do you want to call

10 it, this extension. Those will remain.

11 MR. HOUSTON: Unfortunately. Well, again it's a

12 question of money. These windows will be covered.

13 VICE CHAIRPERSON RENSHAW: Covered.

14 MR. HOUSTON: If we have money, certainly we

15 would like to cover them. We would like to continue the

16 treatment, shall we say ?-

17 VICE CHAIRPERSON RENSHAW: Treatment.

18 MR. HOUSTON: ?- around there.

19 VICE CHAIRPERSON RENSHAW: All right. Thank you.

20 MR. HOUSTON: But at least we will ?- the

21 treatment will take care of the elbow.

22 CHAIRPERSON GRIFFIS: Okay. Any other questions

23 at this time for the Applicant? Understanding of the project.

24 Okay. Let us move on then to Office of Planning, which has a

25 timely filed report, we should take note. Good afternoon.

1 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman  
2 and Members of the Board. I'm Maxine Brown-Roberts from the  
3 Office of Planning.

4 The application requests a variance from the  
5 provisions of Section 403.2 with ?- that requires a 75 percent  
6 lot occupancy in the R-5-D District, and from Section 2001.3,  
7 regarding the enlargement of a non-conforming structure.

8 The subject property is developed as a church  
9 that is not ?- that is conforming use in the R-5-D District, and  
10 is non-conforming and it does not meet a number of the yard  
11 requirements. The zoning regulation allows expansion of a non-  
12 conforming structure if the requirements of Section 2103 are  
13 met. And the enlargement does not meet ?- which says the  
14 structure shall conform to percentage of lot occupancy  
15 requirements.

16 Regarding the requirements for approval of this  
17 variance, the subject property is unique due to an exceptional  
18 situation as the building was originally constructed over 63  
19 years ago, which is prior to the current zoning regulation, and  
20 does not meet many of the current requirements.

21 The strict application of providing a lot  
22 occupancy of 75 percent will be an exceptional practical  
23 difficulty to the applicant, as the existing building exceeds  
24 this requirement. The existing lot occupancy could only be  
25 remedied by demolishing a portion of the building. Such an

1 action would reduce the building space, and their efforts to  
2 bring the building into compliance.

3 The variance requested will not cause substantial  
4 detriment to the public good, as it will allow the church  
5 members and others who come to the complex for other services to  
6 have complete access to the entire complex.

7 Externally, the renovation and addition will  
8 improve the facade of the complex, and the addition and  
9 renovation of the educational wing will compliment the facade  
10 and historic architecture of the church and surrounding  
11 buildings.

12 Granting this variance will, therefore, not  
13 impair the integrity of the zoning regulations and map. The  
14 Office of Planning, therefore, recommends approval of the  
15 variances. Thank you, Mr. Chairman.

16 CHAIRPERSON GRIFFIS: Thank you very much. Board  
17 Members, questions of the Office of Planning? Does the  
18 Applicant have any questions of the Office of Planning or the  
19 report? Do you have copies of the report?

20 MR. HOUSTON: Yes, we do.

21 CHAIRPERSON GRIFFIS: Okay. Surveying the room  
22 and not seeing other folks that might be here in terms of  
23 opposition or support ?- oh, I'm sorry. I'm zipping right on by  
24 because I've read it so much. Let's go to the ANC report, which  
25 did have a timely filed recommendation of approval. Do you want

1 to summarize, Ms. Renshaw?

2 VICE CHAIRPERSON RENSHAW: Yes. Mr. Chairman, we  
3 have in our file a report from ANC 1-B, dated December 12<sup>th</sup>,  
4 2002, and signed by Glenn J. Melcher, the Chairman. And he is  
5 advising the Board that at its regularly scheduled meeting on  
6 December the 6<sup>th</sup>, 2001, at which time a quorum was present,  
7 seven members required and eight were present. The Members of  
8 the ANC voted unanimously to support Application Number 16828,  
9 the Augustana Evangelical Lutheran Church for the variances  
10 necessary for the construction of a structure of an elevator to  
11 permit wheelchair access. And they ask that the report be given  
12 great weight.

13 CHAIRPERSON GRIFFIS: And so it shall, as it's  
14 been timely filed, and it seems to have all the information that  
15 we require. I don't have any indication of other government  
16 reports, so we can move on, in fact, to ?- unless Board Members  
17 have questions or need for further information, closing remarks  
18 by the Applicant.

19 MR. HOUSTON: We would request a bench decision,  
20 since there's no opposition.

21 CHAIRPERSON GRIFFIS: And summary order?

22 MR. HOUSTON: And summary order. Thank you.

23 CHAIRPERSON GRIFFIS: Okay. Anything else you  
24 want to add to that?

25 MR. HOUSTON: No.

1 CHAIRPERSON GRIFFIS: Okay. Great. Well listen,  
2 I absolutely appreciate you coming today. Let me make one quick  
3 comment. One, as you sat through the morning cases, which were  
4 special exceptions, variances, the only point I bring those up  
5 is documentation. And we had a heck of a time understanding  
6 others.

7 I believe we have two sets from you, which are  
8 actually kind of very schematic ?-

9 MR. HOUSTON: Yes.

10 CHAIRPERSON GRIFFIS: ?- and then design  
11 developed piece. I want to just be clear on the fact that one,  
12 because this happens within the envelope of the building, it was  
13 understanding to this Board what was happening. And it is not  
14 as critical at this point in terms of the dimensions because the  
15 envelope was being held. The elevations, of course, were most  
16 important.

17 Secondly, Ms. Renshaw has indicated that her  
18 concern with the adjacent, and how it ?- the new addition fits  
19 in with the old and existing. I think that's a critical point,  
20 one that will take some time. And let me just reiterate, and  
21 correct me if I'm wrong, the new elevation that is being  
22 proposed actually is of similar material, masonry or stone, as  
23 the existing original church. Is that correct?

24 MR. HOUSTON: Yes, that's the idea.

25 CHAIRPERSON GRIFFIS: Okay. And it certainly is,

1 in terms of stylization ?-

2 MR. HOUSTON: That's right. Certainly.

3 CHAIRPERSON GRIFFIS: Actually, I have a note  
4 here that I may need clarification. Do we have a roof plan that  
5 was submitted as part of this?

6 MR. HOUSTON: Well, you have a site plan ?-

7 CHAIRPERSON GRIFFIS: Yeah.

8 MR. HOUSTON: ?- which amounts to a roof plan.  
9 This ?- it shows the in-fill, so to speak. It shows the  
10 footprint and what is ?-

11 CHAIRPERSON GRIFFIS: Are there any other  
12 penthouses on this building, mechanical penthouses?

13 MR. HOUSTON: That exist now?

14 CHAIRPERSON GRIFFIS: Yeah.

15 MR. HOUSTON: There's mechanical equipment. It's  
16 not in a penthouse, but there is an exterior HVAC unit, and some  
17 condenser compressors that are located on these. These are at  
18 one story.

19 CHAIRPERSON GRIFFIS: On top of the 50s ?-

20 MR. HOUSTON: On top of the 50s, yes. But there  
21 actually are no enclosed penthouses.

22 CHAIRPERSON GRIFFIS: Let me step back for a  
23 minute here. Ms. Sansone, are we needing to look at 411?

24 MR. HOUSTON: 411?

25 CHAIRPERSON GRIFFIS: I'm sorry. Section 411,

1 which would go ?- how high up is your penthouse override?

2 MR. HOUSTON: It's ?- it does not ?- there's no  
3 problem with the height. We're not asking for height variation.

4 It will go up maybe two or three feet beyond the height of the  
5 existing ?- that area of the existing building. The existing  
6 building in other areas goes up higher, and the height of the  
7 addition is below the require ?- the maximum height of the ?-  
8 required by the code.

9 CHAIRPERSON GRIFFIS: Yeah, it's not really a  
10 height issue that I'm concerned with.

11 MR. HOUSTON: Oh, sorry.

12 CHAIRPERSON GRIFFIS: I mean, it is the roof  
13 plan, and I'm concerned with Section 411, which happens to be  
14 one of my favorite, looking to the treatment of ?- and I say  
15 that facetiously.

16 MR. HOUSTON: Uh-huh.

17 CHAIRPERSON GRIFFIS: It happens to deal with the  
18 housing of mechanical equipment, stairway, elevator, penthouses,  
19 their location.

20 MR. HOUSTON: Uh-huh.

21 CHAIRPERSON GRIFFIS: Their setbacks, et cetera.

22 MR. HOUSTON: Uh-huh.

23 CHAIRPERSON GRIFFIS: I just want to be clear  
24 that we don't need to step into that.

25 MR. HOUSTON: No. There will be no penthouses

1 and so forth as part of this addition.

2 CHAIRPERSON GRIFFIS: Okay. Yeah, Mr. Levy.

3 MEMBER LEVY: I would just ?- I mean, the  
4 elevator itself will have what amounts to a penthouse.

5 MR. HOUSTON: Well, it's an overrun. It has to  
6 have a 12 foot overrun, which will run ?-

7 MEMBER LEVY: Right.

8 MR. HOUSTON: ?- a foot or so above the existing  
9 parapet.

10 MEMBER LEVY: And there are no other existing  
11 stair or elevator, or mechanical penthouses.

12 MR. HOUSTON: As part of this addition?

13 MEMBER LEVY: No, on the building now.

14 MR. HOUSTON: Well, there's stairs that ?-

15 MEMBER LEVY: Go to the roof?

16 MR. HOUSTON: No, they don't go to the roof.  
17 There's no stairs that go to the roof, because there are no  
18 penthouses.

19 MEMBER LEVY: Right.

20 MR. HOUSTON: That's correct.

21 MEMBER LEVY: Mr. Chair, is that what you're  
22 getting at, whether there were multiple penthouses?

23 CHAIRPERSON GRIFFIS: Yeah.

24 MR. HOUSTON: No, no. There ?-

25 CHAIRPERSON GRIFFIS: I don't want to cause

1 controversy, but after all, we're here to make sure all the  
2 regulations ?-

3 MR. HOUSTON: That's true.

4 CHAIRPERSON GRIFFIS: ?- are in ?- I'm looking at  
5 your Section A, and I think Ms. Mitten may give us some further  
6 information. But Section A shows me that the override is in  
7 line with what, a skylight which is part of the atrium?

8 MR. HOUSTON: That's right.

9 CHAIRPERSON GRIFFIS: And it's above the roof  
10 that is ?- and that's the current roof level?

11 MR. HOUSTON: That's correct.

12 CHAIRPERSON GRIFFIS: Okay. Ms. Mitten.

13 COMMISSIONER MITTEN: All I was going to do, Mr.  
14 Chairman, is just put you at ease, and perhaps the Applicant as  
15 well; is to call your attention to Section 411.17, which is,  
16 "Roof structures less than four feet in height above a roof or  
17 parapet wall shall not be subject to the requirements of Section  
18 411." So given that Mr. Houston has said that the override is  
19 only two or three feet above the parapet, I think we're all  
20 right as it relates to the elevator penthouse ?-

21 CHAIRPERSON GRIFFIS: Good. No, I actually  
22 appreciate you bringing that out. I was going there. What I  
23 wanted, the establishment of when we have a 12 foot override,  
24 but we're 2 feet above the roof, it doesn't make sense to me,  
25 which is why I've gone to this section. I think that is what's

1 being said.

2 MR. HOUSTON: Yeah.

3 CHAIRPERSON GRIFFIS: So all that, we will not  
4 have to delve into 411, and hope it's rewritten sometime  
5 shortly. And we can move on then, and I would also commend the  
6 Applicant for putting together their case in terms of  
7 establishing the uniqueness. I think it's fairly clear looking  
8 at the plans that one, the corner lot. Two, the additions, the  
9 additions that happen at different times, and the construction  
10 before '58. Of course, peculiar or exceptional practical  
11 difficulties were well stated also by the Applicant, and I think  
12 by Office of Planning in terms of one, you need to update this  
13 building directly to facilitate the ADA requirements for  
14 accessibility, not being able to do that based on the lot  
15 occupancy, because this was built prior to '58. And of course  
16 lastly, not substantially impairing the intent, purpose of  
17 integrity of the zone plan. I think it was very clearly stated  
18 that, in fact, as a matter of right use, this was actually  
19 bringing this building up to compliance with one of our federal  
20 and local building regulations, in terms of accessibility. And  
21 I think also it was stated, which I absolutely agree with, that  
22 this will be, in fact, a benefit to the area, and the R-4 zone  
23 in terms of how this building is able to be used, but also in  
24 terms of its, let's say impression or view from the street, and  
25 from the surrounding neighborhoods. And I would, therefore,

1 then move to approve Application Number 16828 pursuant to 3103.2  
2 for a variance from the lot occupancy requirements under Section  
3 403, and a variance from the non-conforming structure provisions  
4 under Subsection 2001.3, to allow this addition to the existing  
5 church at premises 2100 New Hampshire Avenue, N.W.

6 MEMBER LEVY: Second that.

7 CHAIRPERSON GRIFFIS: Thank you, Mr. Levy.  
8 Motion is there, seconded. Any comments or discussions? Not  
9 seeing any indications, I would ask for all those in favor.

10 (Vote.)

11 CHAIRPERSON GRIFFIS: And opposed? Staff would  
12 record the vote, please.

13 SECRETARY BAILEY: The vote is recorded as 5-0-0  
14 to approve the application. Mr. Griffis made the motion. Mr.  
15 Levy second. Mrs. Renshaw, Mrs. Mitten and Mr. Etherly in  
16 agreement. Summary order, Mr. Chairman?

17 CHAIRPERSON GRIFFIS: I believe it was requested,  
18 and I think the Board, in its unanimous vote, would concur.  
19 Okay. I think that's it then. Thank you all very much. Good  
20 luck. We look forward to hearing good news about this, and  
21 we'll look for those fliers posted around the city for the fund  
22 raising efforts. Thanks very much.

23 VICE CHAIRPERSON RENSHAW: Dr. Cox, do you speak  
24 those languages?

25 MS. COX: No, I have ?- I should be ?- I delegate

1 this ?-

2 CHAIRPERSON GRIFFIS: And with that, I'll call  
3 this morning session to an end.

4 (Off the record at 12:23 p.m.)

5 (On the record at 1:28 p.m.)

6 CHAIRPERSON GRIFFIS: The hearing will please  
7 come to order. Good afternoon, ladies and gentlemen, and thank  
8 you for your patience in allowing us to continue our Executive  
9 Session and business this afternoon. This is the 29 January  
10 2002 Public Hearing of the Board of Zoning Adjustment for the  
11 District of Columbia. My name is Geoff Griffis, Chairperson.  
12 With me today is Vice Chairperson, Ms. Anne Renshaw. Also, our  
13 third Mayoral Appointee, Curtis Etherly. Representing the  
14 National Capital Planning Commission is Mr. Levy, and  
15 representing the Zoning Commission this afternoon with us is Ms.  
16 Carol Mitten.

17 Copies of today's hearing agenda are available to  
18 you. They are located on the table at the door that you did  
19 enter into. All persons planning to testify either in favor or  
20 in opposition are to fill out two cards. These witness cards  
21 are, indeed, on the table in front of us. Also on the table, as  
22 you came in the door. Upon coming forward to speak to the  
23 Board, please give both cards to the reporter, who is sitting to  
24 my right.

25 The order of procedure for special exceptions and

1 variances this afternoon will be first, we'll have statements  
2 and witnesses of the applicant. Second will be government  
3 reports, including Office of Planning and any other submissions  
4 we have. Third, we will go to the Advisory Neighborhood  
5 Commission report. Fourth, parties or persons in support. And  
6 fifth would be parties or persons in opposition. And finally,  
7 sixth, we will have closing remarks by the Applicant.

8 Cross examination of witnesses is permitted by  
9 the Applicant or parties. The ANC within which the property is  
10 located is automatically a party in the case.

11 The record will be closed at the conclusion of each  
12 case, except for any materials specifically requested by the  
13 Board, and the Staff will specify at the end of the hearing  
14 exactly what is expected.

15 The Sunshine Act requires a Public Hearing on  
16 each case be held in the open before the public. The Board may,  
17 consistent with its Rules of Procedure and the Sunshine Act,  
18 enter an Executive Session during or after a Public Hearing on a  
19 case for purposes of reviewing the record, or deliberating on  
20 the case.

21 The decision of the Board in these contested  
22 cases must be based exclusively on the public record. To avoid  
23 any appearance to the contrary, the Board requests that persons  
24 present not engage the Members of the Board in conversation, and  
25 I would ask you all to turn off your cell phones and beepers at

1 this time so as not to disrupt these proceedings.

2 The Board will make every effort to conclude the  
3 Public Hearing as near as possible to 6 p.m., and that certainly  
4 looks doable this afternoon. If the afternoon cases are not  
5 completed, however, at 6 p.m., the Board will assess whether it  
6 can complete the pending case or cases remaining on the agenda.

7 At this time, the Board will consider any  
8 preliminary matters. Preliminary matters are those that relate  
9 to whether a case will or should be heard today, such as request  
10 for postponement, continuance or withdrawal, or whether proper  
11 and adequate notice of the hearing has been given.

12 If you are not prepared to go forward with the  
13 case today, or if you believe the Board should not proceed, now  
14 is the time to raise such a matter. However, before I go to the  
15 open, I would ask if Staff have any preliminary matters for us.

16 SECRETARY BAILEY: Mr. Chairman, Members of the  
17 Board, good afternoon. There is a preliminary matter. It has  
18 to do with the last case of the day, Application Number 16823 of  
19 Humerto Gonzalez. There is a request from both the Applicant  
20 and the ANC for the case to be rescheduled to another date.

21 CHAIRPERSON GRIFFIS: Thank you, Ms. Bailey. Are  
22 the Applicant and the ANC representative here? You want to come  
23 up to the table, briefly. And good afternoon. I would just ask  
24 you to turn on the mikes when you speak, of course, and give me  
25 your name and address for record identification.

1 MR. HOPP: My name is Jeff Hopp, H-O-P-P. I'm  
2 ANC Commissioner, in the single member district this property  
3 resides in. My address is 1507 Church Street, N.W., Washington,  
4 D.C. 20005.

5 CHAIRPERSON GRIFFIS: Okay. And you have  
6 requested the hearing be postponed to allow additional time for  
7 you to work with the Applicant. Is that correct?

8 MR. HOPP: Yes, sir.

9 CHAIRPERSON GRIFFIS: Okay. Anything else you  
10 want to say to that?

11 MR. HOPP: No, sir.

12 CHAIRPERSON GRIFFIS: Okay. Does the Applicant  
13 have a response to that?

14 MR. GELL: Mr. Chairman, my name is Stephen Gell.  
15 I'm the attorney for the Applicant. I came in very recently  
16 into the case, and when I saw that there was an opportunity to  
17 discuss the matters with the ANC and neighbors, I felt that it  
18 would be reasonable to accede to their request that there be a  
19 postponement, so we are joining in that request.

20 CHAIRPERSON GRIFFIS: So you don't have any ?-

21 MR. GELL: With me is Mr. Humerto Gonzalez, who  
22 is the owner of the property.

23 CHAIRPERSON GRIFFIS: Indeed. Thank you. So  
24 you're not objecting to the ANC's request, and in fact, are  
25 making your own request for a postponement.

1 MR. GELL: That is correct.

2 CHAIRPERSON GRIFFIS: Well, gosh, we've really  
3 got to weigh both sides of that one then. (Laughter). What ?-  
4 let's look at our calendar date. Is there anyone else here  
5 involved in this case this afternoon? Oh, indeed. Have any of  
6 you made request for party status? My record does not show.  
7 You have requested party status? Okay. Hold on just a second.  
8 Let me just check.

9 (Off the record)

10 CHAIRPERSON GRIFFIS: All right. Two things. We  
11 also have ?- oh, in addition, we don't have an Affidavit of  
12 Posting that was filed for this case.

13 MR. GELL: That's right. We made the decision,  
14 since there was significant opposition, I believe the Applicant  
15 thought that going for a postponement might be a reasonable  
16 thing to do, and did not post.

17 CHAIRPERSON GRIFFIS: Okay. Kind of hedging your  
18 bet there. Okay.

19 MR. GELL: It didn't ?- it wasn't done for that  
20 reason.

21 CHAIRPERSON GRIFFIS: Let me be clear, and I just  
22 need a show of hands. And I ask for a show of hands from the  
23 audience, only because anything you say isn't on the record  
24 because at the mike, and you haven't been introduced. So the  
25 question is this, has anyone here submitted a letter 14 days

1 prior to this hearing, or any time, requesting to be a party in  
2 this case? We have two hands. Okay. I tell you what. Why  
3 don't we have the hands raised come up to the table briefly.

4 Okay. I'm going to recap here, and state for,  
5 maybe my own clarification. We have two motions before us to  
6 postpone this. Now what I want to do is wait on those, and get  
7 clarification, so why don't I have you, starting on this side,  
8 just introduce yourself. You're going to turn the mike on for  
9 me. Just push it on the center button there. Perfect.

10 MS. HAYS: My name is Donna Hays. I live at 2234  
11 Q Street, N.W. I'm a representative of DuPont Circle Citizens  
12 Association, and I did send ?- we did send a letter two weeks  
13 prior. And we have no objection to a postponement at this time.  
14 We feel it would give a very good opportunity for both  
15 neighbors, organizations, and ?-

16 CHAIRPERSON GRIFFIS: Okay. Before you go any  
17 further ?-

18 MS. HAYS: Okay.

19 CHAIRPERSON GRIFFIS: ?- I'm going to need to  
20 turn mikes off because we get feedback on the recorder.

21 MS. HAYS: Okay.

22 CHAIRPERSON GRIFFIS: Secondly, what I need to  
23 do, I need to find that because I do not have that letter. And  
24 I now have the official case file, and will look for that  
25 letter. So before I get into ?- before you get into responding

1 to any of the motions, that would be grand if you could give it  
2 to Staff. What we'll have to do is take up as a preliminary  
3 matter whether we grant party status, and who we grant it to.  
4 And then it would be appropriate for you to speak to the  
5 motions, so let's continue down. Madam, if you wouldn't mind  
6 doing the same, giving me your name.

7 MS. ECKLES: I'm Katherine A. Eckles. I'm  
8 President of the Residential Action Coalition. You have a  
9 letter of opposition on file.

10 CHAIRPERSON GRIFFIS: Okay. That's fine. A  
11 letter of opposition, that's clear. However, what ?-

12 MS. ECKLES: However, regarding party status, I  
13 reside at 1524 T Street, N.W.

14 CHAIRPERSON GRIFFIS: Uh-huh.

15 MS. ECKLES: It's owner-dweller since November  
16 1973.

17 CHAIRPERSON GRIFFIS: Okay.

18 MS. ECKLES: However, I think the regulation  
19 would point out in the letter for us having party status would  
20 be based on the placarding and the notice. We would respond.  
21 We feel that that has not been giving us the opportunity. We  
22 would like party status.

23 CHAIRPERSON GRIFFIS: I see. Okay. So without  
24 the posting, you didn't think that you actually had time, or  
25 knew when you could, in fact ?-

1 MS. ECKLES: That's right, Mr. Chairman.

2 CHAIRPERSON GRIFFIS: All the more supporting,  
3 perhaps, the motions that are before us. And thirdly?

4 MS. ALVAREZ: Anne Alvarez. I faxed a letter in  
5 14 days, January 15<sup>th</sup>, requesting party status, and I have a  
6 receipt that it went through. Requesting party status for one,  
7 two, three, four families on S Street.

8 VICE CHAIRPERSON RENSHAW: Do you have a copy of  
9 your letter with you?

10 MS. ALVAREZ: Yes.

11 VICE CHAIRPERSON RENSHAW: Very good. Could you  
12 hand that in at the end?

13 MS. ALVAREZ: Now you mean, or ?-

14 VICE CHAIRPERSON RENSHAW: Yes.

15 COMMISSIONER MITTEN: Mr. Chairman.

16 CHAIRPERSON GRIFFIS: Yes, Ms. Mitten.

17 COMMISSIONER MITTEN: I think that given that  
18 there's at least two requests for party status that appear to  
19 have been timely filed and seem not to have made their way into  
20 the case file, I think we should be concerned about what else  
21 might not be in the case file.

22 CHAIRPERSON GRIFFIS: Yes. Probably so.

23 COMMISSIONER MITTEN: I'm sorry? I don't know  
24 how to solve that problem, but I just ?- I mean, we don't know  
25 what's not there.

1 CHAIRPERSON GRIFFIS: Okay. Give me just one  
2 second. Okay. I'm sorry. I've taken in the DuPont Circle  
3 Citizens Association. I was trying to review it quickly to see,  
4 in fact, if it was fulfilling the requirements for requesting  
5 party status, and I'll take up in a second. It is Exhibit  
6 Number 25 in the case, Mr. Gell.

7 MR. GELL: Yes, Mr. Chairman. I reviewed the  
8 case file, and I didn't see the letters. It could be that I  
9 just flipped over them, but I would suggest that it might be  
10 good if we had some opportunity look at the addresses, and the  
11 character of the requests for party status so we'll have an  
12 opportunity to comment. We may want to approve it, or you know,  
13 go along with it. We may have some objection.

14 It's quite common for the Board to wait ?- hold  
15 that decision until the beginning of the hearing, and so I would  
16 ask that you do so.

17 CHAIRPERSON GRIFFIS: Yeah, and I concur. I  
18 mean, I think the facts of the matter Ms. Mitten has brought  
19 gives me some pause about dealing with any preliminary matters  
20 beyond which the motions we have right now, because we may have,  
21 in fact, information that is not in this. I am not sure why  
22 these letters were not added to the case file, and so I think we  
23 need to get to the bottom of that. Okay.

24 All that being said, Board Members, can you  
25 speak, if so moved, on the motion before us for granting a

1 continuance, or a postponement of this case?

2 COMMISSIONER MITTEN: I think given that the  
3 request is coming both from the Applicant and the ANC, and that  
4 the additional time, I think, would allow the ?- if there remain  
5 issues of contention, certainly allow them to be narrowed  
6 significantly, that would be time well spent, and the Board  
7 would be well served by giving the additional time.

8 CHAIRPERSON GRIFFIS: Thank you. Others?

9 MEMBER LEVY: Mr. Chair.

10 CHAIRPERSON GRIFFIS: Yeah, Mr. Levy.

11 MEMBER LEVY: Additionally, that would give the  
12 Applicant time to post the property properly, or at all.

13 CHAIRPERSON GRIFFIS: Good point.

14 MR. ETHERLY: And, Mr. Chair, after the  
15 rescheduled date, that would be the appropriate time at which we  
16 would deal with the preliminary issue of party status, or are  
17 you looking to resolve party status this afternoon?

18 CHAIRPERSON GRIFFIS: Well, I mean conceivably,  
19 we could have taken it up right now, today. We could call this  
20 case and deal with it. I would suggest that we do not, and  
21 flush out what else we have.

22 I also want to give instructions to those that  
23 are here today in terms of what is actually required to request  
24 party status as ?- and I have not read this word for word, but  
25 just quickly summarizing the letters, I should say one letter of

1 the DuPont Circle Association. They may well be able to achieve  
2 party status. I don't think this letter addresses all that, so  
3 ?-

4 MR. ETHERLY: Thank you very much, Mr. Chairman.  
5 I'd agree with the prudence for a postponement ?-

6 CHAIRPERSON GRIFFIS: Okay.

7 MR. ETHERLY: ?- and a resolution of the party  
8 status issues after that date.

9 CHAIRPERSON GRIFFIS: Good. Thank you.

10 VICE CHAIRPERSON RENSHAW: I concur.

11 CHAIRPERSON GRIFFIS: Okay. In which case, I  
12 would say that we postpone this, and it looks like we ?- well, I  
13 would accept a motion. Unless I see any sort of opposition from  
14 the Board Members, I would take that as a consensus move. Why  
15 don't we call schedules up and see what we have available so  
16 that we can get everybody while they're here on the same page.

17 SECRETARY BAILEY: Mr. Chairman.

18 CHAIRPERSON GRIFFIS: Yes.

19 SECRETARY BAILEY: The Applicant has proposed  
20 February 26<sup>th</sup> or March 12<sup>th</sup>. And prior to this meeting, those  
21 dates were checked, and it was ?- it's believed we can  
22 accommodate them on either one.

23 CHAIRPERSON GRIFFIS: And the ANC is available?  
24 I'm sorry, on the 26<sup>th</sup> and the 12<sup>th</sup>? Can you just come a little  
25 closer to the mike?

1 MR. GELL: The request was for some time between  
2 those dates.

3 CHAIRPERSON GRIFFIS: Oh, between, not on.

4 MR. GELL: Right. February 26<sup>th</sup>, that was a  
5 Tuesday. I believe there's another week in between. Either day  
6 in March would probably be ideal. Either day in March would be  
7 fine for us. I think February 26<sup>th</sup> may squeeze us a bit on  
8 trying to reach some sort of an agreement, but if March 2<sup>nd</sup>.  
9 Let's see. I'm not sure which. March 5<sup>th</sup> or March 12<sup>th</sup> would be  
10 okay.

11 CHAIRPERSON GRIFFIS: Ms. Bailey, how is March 5<sup>th</sup>  
12 or the 12<sup>th</sup>?

13 SECRETARY BAILEY: Mr. Chairman, March 12<sup>th</sup>.

14 CHAIRPERSON GRIFFIS: Right, you said was okay.

15 SECRETARY BAILEY: Right.

16 CHAIRPERSON GRIFFIS: And to the ANC, is March  
17 12<sup>th</sup> also acceptable?

18 MR. HOPP: Yes, sir. The ANC is flexible.

19 CHAIRPERSON GRIFFIS: Good to know. And what are  
20 we looking at on the 12<sup>th</sup>, is that a morning or afternoon?

21 MR. GELL: Excuse me, Mr. Chairman. I've been  
22 persuaded that the 26<sup>th</sup> is really an ideal time for us. It  
23 seems to be good for everybody else, and I'm willing to go along  
24 with that, so please consider that as well.

25 CHAIRPERSON GRIFFIS: Okay. This is why we just

1 hate postponements. The 26<sup>th</sup> is absolutely packed. It was  
2 available at a time. I do not see ?- I can put you in in the  
3 afternoon, and conceivably you won't be heard, which is a waste  
4 of time for everybody, so the 26<sup>th</sup> -- I think we need to move  
5 back to looking at the 12<sup>th</sup>.

6 MR. HOPP: Mr. Chairman.

7 CHAIRPERSON GRIFFIS: Yeah.

8 MR. HOPP: The ANC would also agree with the  
9 Applicant, the statement that the 12<sup>th</sup> would give us time not to  
10 feel squeezed also.

11 CHAIRPERSON GRIFFIS: Good. Thank you. All  
12 right. In order to have adequate time, I think, to deal with  
13 this case, the 12<sup>th</sup> is also shoehorning into a fairly large  
14 schedule, so I would propose that we have it on the afternoon of  
15 the 19<sup>th</sup>. Is that still acceptable to the Applicant? And the  
16 ANC being flexible, are you still flexible with the 19<sup>th</sup>? Okay.  
17 I'm sorry, yes. March 19<sup>th</sup>, 2002, in the afternoon.

18 It looks like at this point, as we put it in, it  
19 would be the third case in the afternoon. That is, obviously,  
20 subject to change up until the time we call it.

21 Okay. If that is the case, then we will move on,  
22 but not before ?- I just want to stress, and I have not read the  
23 second letter. Right. Exactly. Right. Ms. Alvarez, correct?  
24 Okay. Your letter is in.

25 Now what I would suggest you do is before you

1 leave, go to the desk and ask for Staff give you the regulation,  
2 one sheet on party status and what's required, and just ?-  
3 you're more than welcome now, of course, to submit what you feel  
4 you want to, or update what has already been submitted. And I  
5 think you'll bring some very clear ?-

6 MS. ALVAREZ: May I ask a question?

7 CHAIRPERSON GRIFFIS: Yes.

8 MS. ALVAREZ: We will not know that we have party  
9 status until we show up, or ?-

10 CHAIRPERSON GRIFFIS: Oh, good. And I'm glad you  
11 say that. No, you will not.

12 MS. ALVAREZ: Because I had that sheet of paper,  
13 and as far as I'm concerned I have party status, but I would  
14 like to know if I would have party status.

15 CHAIRPERSON GRIFFIS: Right, and I appreciate  
16 that. And it brings up an interesting issue, and there may be  
17 changes happening with this, but as it stands now, this is the  
18 procedure for party status. You do put a request in, and that  
19 request comes in a timely fashion, 14 days before the hearing.

20 At the hearing, as a preliminary matter, we  
21 review and then grant or deny party status, so you will not know  
22 until the day of the hearing whether you have it or not.

23 MS. ALVAREZ: Well, it's a shame because probably  
24 people could improve upon their letter of request if they knew  
25 what they needed to do, so I think that's a shame that ?-

1 CHAIRPERSON GRIFFIS: Oh.

2 MS. ALVAREZ: ?- because I have it in now 40  
3 days, or 45 days or so before ?-

4 CHAIRPERSON GRIFFIS: Right.

5 MS. ALVAREZ: ?- this hearing.

6 CHAIRPERSON GRIFFIS: Right.

7 MS. ALVAREZ: I'm not going to get any guidance  
8 from anybody.

9 CHAIRPERSON GRIFFIS: Two things. I think the  
10 regulations in terms of granting party status, what is required  
11 are fairly clear.

12 MS. ALVAREZ: Yeah.

13 CHAIRPERSON GRIFFIS: So additional time for you  
14 to update that letter, I don't think would be needed. You're  
15 either going to make it or not.

16 MS. ALVAREZ: Just to know or not, so ?-

17 CHAIRPERSON GRIFFIS: Right. And that ?-

18 MS. ALVAREZ: If you called me and said you  
19 didn't approve this or that, then I don't have a chance.

20 CHAIRPERSON GRIFFIS: That's an excellent point.  
21 And as I indirectly indicated, there may be some changes  
22 regarding that.

23 MS. ALVAREZ: Right.

24 CHAIRPERSON GRIFFIS: But at this present, we are  
25 under the regulations, I guess, forced to do that. And that's

1 the procedure up until now, so that being said, I think we have  
2 nothing else to take care of with this case. I thank you for  
3 being here today.

4 COMMISSIONER MITTEN: Mr. Chairman, I'm sorry to  
5 interrupt.

6 CHAIRPERSON GRIFFIS: Yeah.

7 COMMISSIONER MITTEN: Just for clarification,  
8 given that the property was not posted ?-

9 CHAIRPERSON GRIFFIS: Uh-huh.

10 COMMISSIONER MITTEN: ?- and there may be other  
11 individuals or groups that would like to request party status, I  
12 just want to make it clear that the deadline for requesting  
13 party status will be 14 days prior to March 19<sup>th</sup> now that we are  
14 postponing. I just want to make that clear.

15 CHAIRPERSON GRIFFIS: Which would be around the  
16 5<sup>th</sup>?

17 COMMISSIONER MITTEN: I believe so.

18 CHAIRPERSON GRIFFIS: Okay. So spread the word,  
19 that's what it is. But absolutely, I would pick up the sheet  
20 and, obviously, xerox them all, and you can pass it around, and  
21 it's very clear. So we will see you all, perhaps ?-

22 MEMBER LEVY: Mr. Chair, just to further clarify.

23 We are, I'm assuming, requesting that the Applicant post the  
24 property at this point. I just want to be clear about that.

25 CHAIRPERSON GRIFFIS: Well, we don't have to

1 request that. That's the regulation.

2 MEMBER LEVY: I mean, I just want to make sure  
3 the Applicant understands that the property should ?-

4 CHAIRPERSON GRIFFIS: I'm certainly Mr. Gell will  
5 fully advise ?-

6 MEMBER LEVY: ?- will be posted.

7 CHAIRPERSON GRIFFIS: ?- but we will reiterate  
8 that frankly, if we see this on the 19<sup>th</sup> and it's not posted,  
9 there will be major repercussions to that. And so, we will look  
10 to see that sign. And we won't, but the Committee will. Okay.

11 Anything else? To just reiterate, March 19<sup>th</sup>, 2002. It will  
12 be in the afternoon, and I thank you for coming down here today.

13 And I'm sorry we didn't proceed, but I look forward to seeing  
14 and hearing all of you on that date. All right.

15 (Off the record)

16 CHAIRPERSON GRIFFIS: And, Ms. Bailey, no rush,  
17 but when you are ready we can call the first case of the  
18 afternoon.

19 SECRETARY BAILEY: Application Number 16827 of  
20 Stuart Building LLC, pursuant to 11 DCMR 3104.1, for a special  
21 exception under Section 508, and pursuant to 11 DCMR, Section  
22 3103.2 for a variance from the floor area ratio provisions under  
23 Section 531, to allow an addition to and conversion of an  
24 existing building for office use in the DuPont Circle Overlay  
25 District, the property zoned SP-1 as well, at premises 1750 N

1 Street, N.W., Square 159, Lot 70.

2 All those wishing to testify, would you please  
3 stand to take the oath.

4 WITNESSES SWORN

5 SECRETARY BAILEY: Thank you.

6 CHAIRPERSON GRIFFIS: Good afternoon. I would  
7 ask you just to ?- okay. Good. You can just state your name  
8 and address for the record. And then you can proceed with your  
9 opening statements, and calling of witnesses.

10 MS. STUART: Thank you, Mr. Chairman. My name is  
11 Pamela Stuart, and I am the Managing Member of the Stuart  
12 Building LLC. Not to put too fine a point on this, I am the  
13 only member of the Stuart Building LLC, and I'm pleased to  
14 appear before the Board this afternoon to discuss my concept for  
15 renovating what I think is a jewel of a building in a very  
16 interesting area of the city.

17 By way of background, I have been a resident of  
18 the District of Columbia since 1975. I've practiced law here  
19 since 1973. First, for 15 years I was a government attorney,  
20 first in the Bureau of Consumer Protection of the Federal Trade  
21 Commission. Then I was an Assistant United States Attorney for  
22 the District of Columbia, serving under five U.S. Attorneys  
23 here. I then went to the Department of Justice, in the Office  
24 of International Affairs, and entered private practice in 1987.

25 In 1992, I decided to do what many lawyers

1 consider to be the most wonderful thing you can do, and I sort  
2 of hung up my shingle as a solo practitioner here in the  
3 District. And I serve clients from all walks of life in a  
4 variety of different subject areas.

5 I have been active in the community, both in Bar  
6 Organizations and in community organizations. My community  
7 involvement has largely, for the last 10 years or so, been in  
8 the Anacostia neighborhood, where I serve on the Board of the  
9 Anacostia Economic Development Corporation. And in that  
10 capacity, I have watched with interest as the AEDC has strived  
11 to bring back some of the historic buildings in old historic  
12 Anacostia, and to bring economic development to that area of the  
13 city.

14 I, myself, reside in upper northwest, and have  
15 been there in three different locations over the nearly 30 years  
16 that I've lived here, but I also have been working downtown, and  
17 had offices until recently on 16<sup>th</sup> Street, and that prompted  
18 this move.

19 I had sublet from a large law firm, and that law  
20 firm merged. And it came to me that it would be a good idea to  
21 not only invest in the community, but also find a place where I  
22 would never have to move again because I am a pack rat.

23 Anyway, I discovered that this building at 1750 N  
24 Street was for sale, and this is a building on the south side of  
25 the 1700 Block of N Street, which contains a mix of uses at the

1 current time. There are two hotels with restaurants. There's a  
2 restaurant. There are numerous row houses very similar to 1750  
3 N Street. Most of them are presently occupied by professional  
4 associations or lawyers using the building as office space, as I  
5 propose to do.

6 As far as I can tell, there is no current  
7 residential use on that block, but perhaps someone else may have  
8 other information. But I have been unable to discern any  
9 residential use.

10 The building that I purchased, I was told by the  
11 inspector, was probably built sometime in the 1880s, and it was  
12 built originally for residential use. As a result, and it must  
13 have been a very lovely residence at that time. It has 12 foot  
14 ceiling, fireplaces in virtually all of the existing rooms at  
15 this time, and hardwood floors, and a beautiful central  
16 staircase which will become in many ways, I think, the focus of  
17 our presentation, because our efforts to preserve the character  
18 of the building, and to preserve as much of the original  
19 character envisioned by the architect of this building, we think  
20 will require a small addition that moves us beyond the FAR  
21 regulations.

22 By way of introduction, I should say that the  
23 submission that I made was, in part, based upon an appraisal  
24 that was done of the building prior to the time that I purchased  
25 it. And I have discovered in consultation with my architect,

1 who is here with me as a witness, Mr. Jeffrey Stoiber of Stoiber  
2 and Associates, that the figures that were used in the appraisal  
3 for the floor area of the building that exists included a figure  
4 for the fifth floor of the building, which currently is an  
5 attic, and would not have been usable space under its current  
6 configuration, other than for storage.

7           Apparently, I was mistaken in that respect, and  
8 so I would ask in terms of your consideration of our  
9 application, that you rely upon the figures that Mr. Stoiber  
10 supplies with respect to the existing floor area of the  
11 building, and the proposed floor area of the building. And I  
12 apologize for any inconvenience that caused. While I am  
13 personally an attorney, I am not a zoning attorney, so I'm  
14 learning the process. And in that respect, I would like to say  
15 great thanks to the members of the Staff who have been  
16 extraordinarily helpful, and accessible, and I would  
17 particularly like to recognize Mr. Arthur Jackson, who came over  
18 and went through the building with me, and has been available at  
19 all sorts of hours when I've left messages, and he's been very  
20 helpful. And also, Ms. Sansone from the Corporation Counsel's  
21 office, and Ms. Bailey called in an effort to make sure that I  
22 was ready for today's hearing. And I would like to compliment  
23 all of them on the assistance they provided to me in my citizen  
24 capacity.

25                           CHAIRPERSON GRIFFIS:       Good.       Let me just

1 interject here quickly, and I would not cut off any sort of  
2 praise that goes to Staff, because they are incredibly capable  
3 and helpful, and help us out as Board Members. Can you in a  
4 matter of information, I'm not sure you stated your current  
5 resident address.

6 MS. STUART: Oh. My residence is 5115 Yuma  
7 Street, N.W., Washington, D.C. 20016.

8 CHAIRPERSON GRIFFIS: Okay. Thank you. And I  
9 think you've testified quite a bit in terms of FAR, and probably  
10 going to a lot of the questions that we have, so I say we jump  
11 into the meat of the case, and turn it back over to you.

12 MS. STUART: Okay. The first issue that is  
13 before the Board is whether the building meets the requirements  
14 for a special exception within a Special Purpose-1 Zone to be  
15 used for general office purposes, and we submit that it does  
16 meet those requirements.

17 By way of history, apparently this building, as I  
18 mentioned earlier, was constructed originally for residential  
19 use. And it carried up until the present day, I understand, a  
20 Certificate of Occupancy that permits its use as a rooming  
21 house. However, I know as a matter of historical accuracy, that  
22 prior to my acquisition of the building, it was used by the Phi  
23 Delta Phi Legal Fraternity that owned it as a headquarters  
24 office. And I believe, but I'm not absolutely certain, that  
25 that use began some time in 1973, and continued until the

1 fraternity moved to a new office in Maryland, which occurred in  
2 the spring of this year.

3 I examined, for purposes of this hearing, some of  
4 the tax records of the Assessor's Office, and actually I had  
5 copied them. And I somehow left my office without them, so if  
6 necessary, I would be prepared to submit them as an addition  
7 after the hearing. But for approximately the past five years of  
8 records, the building has been assessed as a commercial  
9 structure, and so taxed. And indeed, I brought with me a copy  
10 of the building tax record that I paid, and it contains a  
11 similar classification, 51 I believe it is. So that at least as  
12 far as the Assessor's Office has been concerned, this building  
13 has been continuously in commercial office use for quite some  
14 time.

15 The ?- as I mentioned earlier, there are quite a  
16 number of buildings on the block that have the same use that I  
17 am proposing for the building. And in reviewing applications  
18 for this type of special exception, the Board's discretion is  
19 limited to determining whether the proposed exception satisfies  
20 the requirements set forth in the appropriate section of the  
21 zoning regulations, so I turn then to Section 31 point ? excuse  
22 me - 3104.1, which sets forth the general provisions for special  
23 exception relief. And we would submit that the application is  
24 in harmony with the zoning regulation and maps.

25 Although the property has a Certificate of

1 Occupancy for a rooming house, it has been occupied as offices  
2 for quite some time. Office use in an SP Zone of a pre-1958  
3 building; that is, a building that predates the current zoning  
4 regulations, was permitted at that time as a matter of right, so  
5 we would submit that with our proposed change there will be, in  
6 effect, no real significant change in the use of the building,  
7 with the exception that if you do permit us to expand the  
8 building slightly as we propose, there would probably be about  
9 five additional people who would be able to work in the  
10 building.

11 CHAIRPERSON GRIFFIS: Can I interrupt you, and  
12 just get some clarification about your last statement. You  
13 indicated that the building was built, obviously, before 1958  
14 where the current zoning were adopted. But then you indicated  
15 that prior to that, a commercial building would have been  
16 allowed, and therefore ?-

17 MS. STUART: I believe that before that, as a  
18 matter of right, this type of use would have been permitted in  
19 an SP Zone.

20 CHAIRPERSON GRIFFIS: Did the SP Zone exist  
21 before the zoning regulations were then adopted in 1958? I  
22 understand where you're going with this. I just ?-

23 MS. STUART: Yeah, it's a small point. I'm not  
24 sure it's necessary for purposes of the application, but that  
25 was my understanding. My point was that this type of use, at

1 least in this block, has been of longstanding duration.

2 CHAIRPERSON GRIFFIS: Right. And therefore,  
3 you're saying that ?- and if I can ?- because there is an  
4 extensive amount of similar use on this block, you see that as  
5 not being in any sort of way a detriment to the zone plan.

6 MS. STUART: That's right.

7 CHAIRPERSON GRIFFIS: Okay.

8 MS. STUART: And to the extent that we are  
9 bringing the building up to code, making it accessible to  
10 handicapped individuals, some of whom are my clients, some of  
11 whom are my friends, we are increasing the harmony with the  
12 neighborhood. At the moment, frankly, the building is something  
13 of an eyesore in comparison to others on the block that have  
14 been renovated.

15 CHAIRPERSON GRIFFIS: Well, that's an interesting  
16 comparison, since you might want to ?- well, I ?-

17 MS. STUART: Well, in the sense ?-

18 CHAIRPERSON GRIFFIS: You could probably find  
19 worse.

20 MS. STUART: Yes, right across the street.

21 CHAIRPERSON GRIFFIS: Perhaps even across the  
22 street. Right. Okay.

23 MS. STUART: I understand Mr. Bender is still  
24 having a fight with ?- he's not done anything to his buildings.

25 CHAIRPERSON GRIFFIS: Okay.

1 MS. STUART: There ?- we believe that there will  
2 be no adverse impact by the proposed use on neighboring  
3 properties. There probably will not be any increase in the  
4 hours use of the building, at least on an official basis. I can  
5 tell you that I keep very bizarre hours, so I'm likely to be  
6 there late into the night, as Mr. Jackson has discovered. And I  
7 believe that would be an advantage to the neighborhood, because  
8 since it is mostly offices, it tends to empty out at night. And  
9 I'm told that there's been a problem of people breaking into  
10 cars and so forth, so to the extent that there is any difference  
11 in the hours, I think it would be an advantage.

12 We also will be working with the Historic  
13 Preservation Review Board, and so any changes to the building  
14 would be with their approval.

15 CHAIRPERSON GRIFFIS: Can you speak to where that  
16 is in the process?

17 MS. STUART: We have talked informally to Members  
18 of the Board, and when I say "we", myself, and also Mr. Stoiber  
19 and his office, and Mr. Richard Piper who will be the builder,  
20 have talked with the office. The formal application has not  
21 been submitted yet, simply because I haven't had time, and I'm  
22 trying to serve my clients, as well as do this, but it will be  
23 done very shortly.

24 CHAIRPERSON GRIFFIS: Quick clarification. Do  
25 you mean to say that you've informally talked to the Historic

1 Preservation Staff?

2 MS. STUART: Yes.

3 CHAIRPERSON GRIFFIS: Okay.

4 MS. STUART: And they ?-

5 CHAIRPERSON GRIFFIS: You might run into trouble  
6 if you've informally talked to the Board Members.

7 MS. STUART: Oh, no, no, no.

8 CHAIRPERSON GRIFFIS: Okay.

9 MS. STUART: Just the Staff. In further  
10 compliance with the regulations, this application was referred  
11 to the Office of Planning, which has recommended that the  
12 special exception be granted. And as I mentioned, has been most  
13 helpful in assisting the Applicant.

14 Also, that the use, height, bulk, and design of  
15 the building will be in harmony with the existing uses and  
16 structures on neighboring property. In that respect, our plan  
17 is that the only work being done on the facade of the building  
18 will be to bring back the sandstone facade as best can be done,  
19 so that it looks the way it did originally. We will remove the  
20 unsightly window air conditioning units, put in central air  
21 conditioning, and so forth.

22 The rear of the building, which we are proposing  
23 to expand, will be in harmony with the rest of the design of the  
24 building, and will not, as best as we can tell, be visible from  
25 either the alley behind the building or from the street.

1                   Our design for the fifth floor of the building,  
2                   which as I mentioned is presently an attic, would be to build  
3                   out by increasing the height of that floor six feet on the rear  
4                   two-thirds portion, so that the sight lines of the building do  
5                   not change from street level on N Street. So when you walk down  
6                   the street, you will have no idea that this addition has gone  
7                   onto the building. And for that, I thank Mr. Stoiber who has  
8                   done work on a number of buildings on this block, and is very  
9                   sensitive to the historic and aesthetic needs of the  
10                  neighborhood, so we do believe it would be in harmony with  
11                  existing uses and structures.

12                  The use that we propose will not create dangerous  
13                  or other objectionable traffic conditions. I have, at Mr.  
14                  Jackson's suggestion and out of an abundance of caution,  
15                  requested a variance from the present three parking spaces to  
16                  two. And the reason for that is that the life safety  
17                  regulations in the District of Columbia will require us to spend  
18                  \$35,000 on something that I've always wanted in life, which is a  
19                  metal fire escape on the rear of the building, which will  
20                  encroach somewhat on the parking area. And while the parking  
21                  area now is adequate for three cars, I ?- and Mr. Stoiber  
22                  believes that it will still be adequate for three cars when we  
23                  get done, I am dubious, looking at it from an eyeball  
24                  standpoint, so I've asked for that variance.

25                  There will not be a tremendous amount of traffic

1 generated by this building, who ?- that will house, I believe,  
2 mostly solo practitioner lawyers. Typically in my practice, I  
3 get one client coming to see me in a given week. Those who are  
4 occupying the building will have available to them not only the  
5 parking in the rear of the building, but also within a stones  
6 throw, I think approximately 100 feet, there are two commercial  
7 parking lots available. And I checked with the management of  
8 one of them who said there would be plenty of room.

9 There is also street parking on N Street, metered  
10 street parking during the day. And while the entire area  
11 suffers from a lack of adequate parking, I don't think that our  
12 building will contribute greatly to that problem which exists  
13 generally in the area.

14 We are certainly open to any design, screening,  
15 accessory uses, signs or facilities that the Board might deem  
16 necessary to protect the value of the neighboring property. We  
17 intend to coordinate our finishes so that they are appropriate  
18 with respect to design details, and materials to be in keeping  
19 with the neighborhood, and the current buildings.

20 So in summary, we believe that the application  
21 satisfies the requirement which would permit a special exception  
22 for office use in this building, and would request that the  
23 Board authorize it so that we can get a Certificate of  
24 Occupancy, and begin our project.

25 If there are any questions on that aspect of the

1 application, I would be willing to entertain them at this time,  
2 or I will continue on with my presentation on the variance, and  
3 then introduce Mr. Stoiber.

4 CHAIRPERSON GRIFFIS: Board Members, questions?

5 MR. ETHERLY: Thank you very much, Mr. Chairman.

6 Good afternoon.

7 MS. STUART: Hi.

8 MR. ETHERLY: Could you speak a little bit again  
9 to the ?- and we'll probably get into a little bit of the detail  
10 once we reach the government report component, but you mentioned  
11 the metal fire escape. Talk a little bit about that  
12 construction, and perhaps Mr. Stoiber can also lean in with  
13 respect to the thinking about still being able to get a third  
14 car back there. I just want to get a little more information  
15 about that, please.

16 MEMBER LEVY: Mr. Etherly, if I could just,  
17 before they answer your question, add in that the Applicant  
18 spoke of a metal fire escape, but the drawings show an enclosed  
19 fire stair, so in answering that question, if you could clarify  
20 that, I'd appreciate it. Thanks.

21 MS. STUART: This is the problem when you have a  
22 lawyer speaking and not an architect. Mr. Stoiber tells me it  
23 is an enclosed stair.

24 MR. STOIBER: It's not enclosed, but it's a full  
25 stair, not a fire escape.

1 CHAIRPERSON GRIFFIS: It's a covered exterior  
2 stair.

3 MEMBER LEVY: Okay.

4 CHAIRPERSON GRIFFIS: Correct?

5 MEMBER LEVY: I appreciate that. I didn't mean to  
6 draw attention away from my fellow Board Member's question. I  
7 just wanted to clarify.

8 CHAIRPERSON GRIFFIS: Parking. Let me ask, you  
9 said the ?- if it isn't appropriate to continue with the  
10 variance notion, and then do the architect, or move to the  
11 architect right away. I think the Board obviously will go  
12 quickly and obviously quickly and easily to those drawings.

13 MS. STUART: Okay.

14 CHAIRPERSON GRIFFIS: So as soon as you can get  
15 that, there's probably a lot of questions that are mounting  
16 here, unless you want to dive into that right now.

17 MR. STOIBER: I'd be more than happy to forego it  
18 right now.

19 CHAIRPERSON GRIFFIS: Okay. And the first thing  
20 we can pick up then as we walk through the project is the  
21 parking in the rear.

22 MS. STUART: Okay. Now turning to the variance  
23 relief that we've requested, we believe that the application  
24 satisfies the requirements for variance relief under Section  
25 531.1, which establishes the permitted building density in SP

1 Districts in the city.

2           Because the proposed addition will increase the  
3 total density of the building somewhat over the permitted  
4 building density in the district, we are requesting this  
5 variance. The authority of the Board to grant variances is set  
6 forth at Section 3103 of the regulations, and 3103.2 provides  
7 and I quote, "Where by reason of exceptional narrowness,  
8 shallowness, or shape of a specific piece of property at the  
9 time of the original adoption of the regulations, or by reason  
10 of exceptional topographical conditions, or other extraordinary  
11 or exceptional situation or condition of a specific piece of  
12 property, the strict application of any regulation adopted under  
13 D.C. Code Annotated, Sections 5-413 to 5-0432, 1981, would  
14 result in peculiar and exceptional practical difficulties to, or  
15 exceptional and undue hardship upon the owner of the property,  
16 to authorize upon an appeal relating to the property a variance  
17 from th strict application, so as to relief the difficulties or  
18 hardship, provided that the relief can be granted without  
19 substantial detriment to the public good, and without  
20 substantially impairing the intent, purpose, and integrity of  
21 the zone plan as embodied in the zoning regulations and maps."

22           CHAIRPERSON GRIFFIS: I bet some of our Board  
23 Members can recite that from memory if you want to ?- no, no  
24 volunteers.

25           MS. STUART: I understand. You do this more

1 often than I do.

2 In our view, the subject property is affected by  
3 an exceptional situation or condition, stemming from its  
4 location, the land and the existing improvements on the  
5 property. These exceptional conditions directly relate to our  
6 inability to comply with the building density requirement of  
7 Section 531.1, and make this a functional and economically  
8 possible building.

9 This particular property is among the shallower  
10 buildings within this particular SP-1 District. It shares that  
11 characteristic with others on the south side of the block of N  
12 Street, and also across the street, which are in Square 151.

13 There is a building that was constructed without  
14 the input of the Office of Planning next door to my building,  
15 which is occupied by the Association of Microbiology. And they  
16 somehow managed to get approval to build a building that  
17 essentially comes in an L shape, and cuts off the rear access of  
18 1750 N Street, both to the public alley that previously existed  
19 there, and certainly, I guess, to some area that could have been  
20 used for parking. And unless the Association tears down that  
21 building, I'm going to have to live within the boundaries that  
22 presently exist.

23 The physical existing building at 1750 N Street,  
24 as I mentioned, was originally constructed for residential use.

25 If one were building something on that site for use as offices

1 today, you would not build them with 12 foot ceilings. You  
2 would not build it with a large central staircase that occupies  
3 a substantial portion of the building. You would have to put in  
4 an elevator to reach up to five floors, all ?- not to mention  
5 the outside fire stair egress that is required today.

6 My point is that a substantial part of the usable  
7 space within the walls of this building is taken up by core  
8 factors, so that the area that you can actually put furniture  
9 in, and have a desk and a computer is, as presently configured,  
10 very limited. There is, in that respect, an exceptional  
11 situation or condition that should be sufficient for purposes of  
12 the three prong test for variance relief. And I believe that  
13 Mr. Stoiber will speak more particularly to that in terms of the  
14 floor area ratios involved, but it would, in my view, be totally  
15 disrespectful to the harmony of the building and the area to  
16 tear down that stairwell, which would have to be done in order  
17 to make the interior space more useful, and spatially efficient.

18 So the strict application of Section 531.1 would  
19 result in a practical difficulty to the Applicant. We have  
20 proposed simply extending the upper floors of the building in a  
21 manner that would be consistent with the footprint of the first  
22 floor of the building. In other words, as constructed the  
23 building had set back, and what we want to do is simply mirror  
24 the first floor of the building which would increase the floor  
25 area, and add space for one office on the ?- on each of the

1 upper three floors. It also would permit the construction that  
2 we have planned for an ADA accessible bathroom on the first  
3 level, and for preserving the historic character of the  
4 building.

5 If we were to be required to meet the FAR  
6 regulations, we would not be able to do these things, which are  
7 either required by law, or certainly make good sense. We  
8 believe that the relief in question can be granted without a  
9 substantial detriment to the public good, and without impairing  
10 the intent, purpose, and integrity of the zone plan.

11 As I mentioned, if you're walking down the street  
12 in another year or so, you won't know that this building's  
13 interior space has been increased, and that the function has  
14 been brought up to date. And it is certainly the intent of the  
15 District of Columbia Comprehensive Plan that this type of use be  
16 encouraged, and permitted in this area, and it is incumbent upon  
17 those of us who want to do it, to try to do it in a fiscally  
18 responsible, as well as historically responsible manner.

19 Because of the specific physical characteristics  
20 of the building, the only way that this can be done consistent  
21 with the public good, and without impairing the intent, purpose,  
22 and integrity of the zone plan, is to proceed as planned with  
23 the small increase to the floor area ratio, and giving us  
24 permission to have only two, or maybe two and a half --- I  
25 mostly drive a Fiat. It's 20 years old, and it's very small, so

1 that may help our parking problem, but it's currently in the  
2 shop.

3 But anyway, that in sum and substance would be my  
4 presentation. I'd like to also --- I didn't mention earlier,  
5 and I wanted to also recognize Mr. Richard Nero as having been  
6 also very helpful in the work that we did to prepare for this.

7 I'd like to now call upon Mr. Jeffrey Stoiber of  
8 Stoiber and Associates. I had prepared a copy of his very  
9 impressive curriculum vitae, which I'm afraid I left on my desk  
10 along with the Assessor's records. Ah, he brought one with him,  
11 and I'd like to submit it for the record. He is a graduate in  
12 architecture of the Ohio State University. He has been working  
13 in this area for many years, and has a number of very  
14 interesting buildings to his credit, the most notable of which I  
15 think is the Optical Society of America building, which is at  
16 the corner of Massachusetts Avenue and 20<sup>th</sup> Street. But he  
17 also, notably, has been the Project Manager on buildings on the  
18 block in N Street where my building is, 1716, 1714, 1751 N  
19 Street, and also buildings within a very short distance on  
20 Connecticut Avenue. So I don't think there is anybody who is  
21 more experienced with trying to comply with the zoning  
22 regulations of the District in this area, and trying to maintain  
23 the historic preservation values of this type of a building.

24 CHAIRPERSON GRIFFIS: Are you requesting that he  
25 be an expert witness today?

1 MS. STUART: Yes, I'd ask -- I'd proffer Mr.  
2 Stoiber as an expert witness. He is --

3 CHAIRPERSON GRIFFIS: Could you pass that up  
4 then? I don't think we have the information. We'll need to  
5 look at that briefly before we entertain that. Oh, here. Take  
6 that. Okay. Our only copy disappeared. Four copies. We need  
7 to take a minute on that. But while the copy of that is being  
8 made for us to review, can I just ask you specifically what type  
9 of expert witness are you proffering today?

10 MS. STUART: Mr. Stoiber is an expert in the  
11 field of architecture.

12 CHAIRPERSON GRIFFIS: Uh-huh.

13 MS. STUART: And the field of architecture  
14 encompasses the design of buildings, and building systems to be  
15 in compliance with the zoning and building codes applicable in  
16 the District of Columbia. And also, bringing to bear his  
17 particular expertise in spacial efficiency, and ?-

18 CHAIRPERSON GRIFFIS: I think we get the point.  
19 I think that's well said in terms of an architectural expert  
20 witness. I ?-

21 COMMISSIONER MITTEN: What we can do is proceed  
22 with the testimony, and then we can designate him on the back  
23 end, if you like.

24 CHAIRPERSON GRIFFIS: That's true. I thought I'd  
25 delay moments and have it show up, but it looks like it's taking

1 longer than I thought, so ?-

2 MS. STUART: I do apologize.

3 CHAIRPERSON GRIFFIS: That's okay. I ?- you  
4 know, I don't anticipate a problem, so why don't we just  
5 continue on.

6 MS. STUART: All right. I'd like to introduce  
7 Mr. Stoiber then, and ask him first to speak to the character of  
8 the neighborhood, and the SP District in which we are working,  
9 in terms of how this impacts on the project.

10 MR. STOIBER: My name is Jeffrey Stoiber. I'm an  
11 architect in the District of Columbia, licensed in the District,  
12 and the President of Stoiber and Associates, Architects, which I  
13 founded in 1983.

14 My business address is 1621 Connecticut Avenue,  
15 N.W. My residential address is 5704 33<sup>rd</sup> Street, N.W., so I'm  
16 both working and reside in the District. And my office is a  
17 brownstone townhouse that I renovated for Michael Kane  
18 Properties several years ago.

19 CHAIRPERSON GRIFFIS: Okay. And I have copies of  
20 your impressive resume. I think it's all clear here. I have  
21 absolutely no problem in bestowing the honor of architectural  
22 expert witness on Mr. Stoiber. You can see he has active  
23 registration in the District of Columbia, Virginia, Maryland,  
24 New Jersey, Mass, Pennsylvania. And I think the pertinent point  
25 is, in fact, commissioned on this block and in the District that

1 have similar nature, so Mr. Stoiber, it's all your's.

2 MR. STOIBER: Okay. As has been discussed, we  
3 have worked on renovating numerous buildings similar to 1750 N  
4 Street. My offices at one time were in 1751 N Street, right  
5 across the street. I was evicted by Mr. Bender because his  
6 building was unsafe, and I refused to stay in it. I have  
7 renovated 1714, 1716 N Street, which are very similar. Same  
8 side of the block, just down the block. I've renovated several  
9 buildings on Jefferson Place. As I mentioned, my current  
10 offices are at 1621 Connecticut Avenue. We're right now  
11 renovating 1609-1611 Connecticut Avenue, so we have a lot of  
12 experience with townhouse offices.

13 CHAIRPERSON GRIFFIS: Yeah, you don't need to go  
14 into that at all.

15 MR. STOIBER: All right.

16 CHAIRPERSON GRIFFIS: Let's get to the project.  
17 I think that's what we're all very excited to see.

18 MR. STOIBER: Well, a common problem which this  
19 building, as much as any I've ever worked on exhibit of a single  
20 townhouse, is their narrowness, and their difficulty ?- the  
21 difficulty in renovating them, and making them usable for office  
22 use, which is the use that has evolved in this neighborhood.

23 Because of the need to provide adequate fire  
24 egress, which allows for exit from two different means of  
25 egress, getting around one stair to get to another. Now a lot

1 of the building owners, 1714 N Street which we renovated, which  
2 it had had renovations in the past, most owners who aren't as  
3 enlightened as Ms. Stuart will tear out a beautiful old stair  
4 like the one she has in this building because they take up an  
5 incredible amount of space, and they're not very efficient. But  
6 to her credit, Pam has really insisted from day one, and we  
7 concur completely, that one of the most beautiful features of  
8 this building is the stairway. In addition, other features, the  
9 beautiful fireplaces. All of these take up space and make it  
10 very difficult to meet the egress requirements, meet the current  
11 building code requirements. And in this case, even meet the ADA  
12 requirements, which again Pam insisted on, even though we  
13 probably could have gotten a waiver for them because of the  
14 historic nature of the building, so she has insisted that we put  
15 in an elevator, that we put in handicapped assessable toilets,  
16 and that we make all the corridors wide enough. If I can step  
17 to the plans, I assume this will flow.

18 MS. STUART: May the record reflect that the  
19 witness is stepping toward plans that were included in the  
20 submission.

21 CHAIRPERSON GRIFFIS: Yeah, we don't need that.  
22 Actually, I call attention to any of the boards that are done.  
23 This is not a full fledged judicial hearing, but I appreciate  
24 that. Now the other folks that are here, can you see the boards  
25 adequately enough, because we can move them out and closer.

1 Just let me know. Give some sort of indication if you can't see  
2 what's happening.

3 Okay. Now we have a question from Mr. Etherly  
4 about parking, so I would like to start there. Do you have a  
5 site plan that shows that?

6 MR. STOIBER: Don't have a site plan that's  
7 mounted. Is there one in the submission?

8 MS. STUART: There is one in the submission.

9 CHAIRPERSON GRIFFIS: On the full size set or on  
10 the reduced?

11 MS. STUART: On the reduced.

12 MR. STOIBER: I apologize this is so small, but I  
13 do have a site plan with me.

14 CHAIRPERSON GRIFFIS: You don't have a site plan  
15 in the full size set?

16 MS. STUART: No, it was submitted, I believe, in  
17 the second submission.

18 CHAIRPERSON GRIFFIS: I would say on A-1, your  
19 cover sheet, that's probably the best thing to look at. Yeah,  
20 that's going to be it. Is that reduced?

21 MR. STOIBER: Okay. I think this will work a  
22 little better. This is our site plan from the A-1 cover sheet.

23 And you can see that the area that we're adding for the  
24 exterior fire stair that's required for building egress does  
25 project into the area that's currently used for parking.

1                   Currently, one car parks here, another car parks  
2 here, and a third car pulls in at the back and block those two  
3 in. It's our feeling, and again, these are not going to be  
4 zoning legal parking spaces, but given the small cars that Ms.  
5 Stuart has indicated would be used here, that one car can pull  
6 in next to the stair, and another car can pull it at an angle  
7 because the stair starts up from the building, and the landing,  
8 the first landing will be cantilevered, so it's our expectation  
9 that a second car can pull in with its nose underneath the  
10 stair, and a third car pull in behind it. And that we should be  
11 able to get three compact cars into the same space. But again,  
12 we did everything we could on a very tight site to maximize the  
13 parking, while meeting the building requirements.

14                   CHAIRPERSON GRIFFIS: Right. And in terms of the  
15 parking, in terms of three parking spaces, you've indicated that  
16 they wouldn't be legal according to zoning, which would have to  
17 be 9 by 19, which would also have to have access way to it.  
18 Clearly, that's not happening here.

19                   Can you speak to that, of how you actually get  
20 there? It's been stated, but you have to cross private  
21 property.

22                   MR. STOIBER: Yes.

23                   MS. STUART: Perhaps I could speak to that. The  
24 access to the parking area is over both a public alley that has  
25 been closed off, and I do not know the history of this, but it

1 is ?-

2 CHAIRPERSON GRIFFIS: Closed off from where? You  
3 mean, you can't access ?-

4 MS. STUART: The entrance from St. Matthews  
5 Court, goes between two old carriage houses, and then one makes  
6 a turn to the left toward the rear of my building.

7 CHAIRPERSON GRIFFIS: Okay. But when you say  
8 there's a closed off alley, you mean you can't even drive up to  
9 your property on that alley?

10 MS. STUART: Well, I drive it every day.

11 CHAIRPERSON GRIFFIS: Okay. So it's not a closed  
12 off alley.

13 MR. STOIBER: Well, it is closed. It has ?-

14 MS. STUART: It has an electric gate on it ?-

15 MR. STOIBER: ?- an overhead door.

16 MS. STUART: ?- so that only those buildings  
17 facing on that courtyard, as a practical matter, have people  
18 parking there.

19 COMMISSIONER MITTEN: Is there some kind of legal  
20 arrangement that you have to drive over what appears to be  
21 private property that you don't own?

22 MS. STUART: Not at the present time. I was told  
23 ?- I had lunch with Mr. Larry Oaks, who's a lawyer who has his  
24 office in the building next door, and he tells me that his two  
25 sons own a company called Black Rock something LLC, which owns

1 that building. And unbeknownst to me when I purchased my  
2 building, the boundary lines of his lot encroach upon the  
3 entrance to my parking area.

4           Apparently, the arrangement for some time,  
5 according to him, was that he permitted the Phi Delta Phi  
6 fraternity people to park on that lot, and there was an  
7 agreement between the fraternity and a previous owner of his  
8 building, so that when the fraternity sold the building, that  
9 they would give an option to buy the building to that previous  
10 owner. And in fact, he was the one who sold the building to me.

11           I was unaware of all this history. All I saw is  
12 that there is an adequate space between the end of the garage  
13 that Mr. Oaks has on his property, and my property to drive cars  
14 in. And that's how it's been used for years.

15           CHAIRPERSON GRIFFIS: Do you have ?-

16           COMMISSIONER MITTEN: But is there ?- I'm sorry.  
17 Is there ?-

18           MS. STUART: There is ?- to answer your question  
19 specifically, there is no easement.

20           CHAIRPERSON GRIFFIS: Right.

21           MS. STUART: At the present time, there is no  
22 agreement particularly. He hasn't thrown me out. If he does, I  
23 will have to take legal action.

24           CHAIRPERSON GRIFFIS: Okay.

25           MS. STUART: Because obviously, there has to be

1 access to that parking area.

2 CHAIRPERSON GRIFFIS: Well, there doesn't have to  
3 be, actually.

4 COMMISSIONER MITTEN: There doesn't have to be.

5 CHAIRPERSON GRIFFIS: And in fact, you do not  
6 have access to that. But there's been ?- I mean, can you give  
7 us some direction on where you want to go with this, because I  
8 see two things happening here. One, being historic in a  
9 historic overlay, we're looking at a condition that has no  
10 parking.

11 MS. STUART: Right.

12 CHAIRPERSON GRIFFIS: And none would be required  
13 in historic, and that's one avenue to do. The other is that we  
14 look to maintaining, as been stated by the Applicant, that there  
15 are three current parking spaces there, so I don't know if  
16 that's where you're going.

17 COMMISSIONER MITTEN: Well, I think there's  
18 actually ?- I mean, everything that you stated is correct, and I  
19 think we need to establish what the actual legal existing  
20 condition is.

21 CHAIRPERSON GRIFFIS: Yeah.

22 MS. STUART: And it may be that legally speaking,  
23 which would then play into what we would be concerned with, that  
24 you don't have any legal parking spaces, which would put you at  
25 zero for your existing condition. And then as Mr. Griffis said,

1 because there's evidence in the record, but we'll need to have  
2 the certification that this is a contributing structure in a  
3 historic district, which would then give you the waiver from  
4 having the additional parking requirement, there wouldn't be any  
5 additional requirement. And that, I think, is important as far  
6 as the special exception goes, and the conversion to office use.

7 But then we have the additional issue when we get to increasing  
8 the FAR, and I think we might revisit parking in that context,  
9 which is the waiver notwithstanding, you're talking about  
10 creating a more intense use than was anticipated, and that is  
11 really a function of historic structure, so there may be issues  
12 there. And I believe that DPW has raised some concerns about  
13 that, so it's really a two-pronged issue as it relates to the  
14 parking.

15 MS. STUART: Oh, well I received no notice that  
16 DPW had raised any issues concerning this.

17 CHAIRPERSON GRIFFIS: Have you seen their report?

18 MS. STUART: No.

19 CHAIRPERSON GRIFFIS: Okay. While we're moving  
20 on, we're going to get you a copy of that report so you can look  
21 at it.

22 I would suggest ?- and let me just state, it's  
23 2:45 right now. I think we have a lot to get through here, so I  
24 would like, if it's at all possible, to pick up the pace a  
25 little bit, and walk through the program inside the building

1 that goes to your case as you've well outlined at this point in  
2 terms of the variance, but also in terms of a special exception  
3 if it's a variance being ?- the practical difficulty being  
4 outfitting historic building with access and circulation and  
5 such.

6 MR. STOIBER: Okay. The real crux of the matter  
7 is the stairway that's here. This is the first floor existing  
8 plan that is on your left. The stair starts up here. Where you  
9 can really see its full impact is on the second floor. You can  
10 see how much floor space it takes up. What you can't see is  
11 that on the first floor it reduces head room, so that it is very  
12 difficult on each floor, particularly the first couple, to get  
13 egress around that stairway for the front offices, which are  
14 some of the most beautiful in the building, have great views out  
15 onto N Street, and still maintain that stair. So that is really  
16 the crux of the issue, so what we proposed in order to maintain  
17 that stair, and insert an elevator right next to that stair that  
18 runs up through, is simply to fill in on the third and the  
19 fourth floors the area that's already built on the first and  
20 second floors, and then on the fifth floor, which is currently  
21 attic space, to increase the head height beyond what's visible  
22 from the street so that it doesn't adversely impact the  
23 neighborhood or the historic character of the building.

24 We have discussed this with the HPRB Staff, and  
25 they're in agreement with our approach to solving this, to add

1 enough space up here to make this building economically viable.  
2 And this is very consistent with approaches we've taken on  
3 other buildings, the way other properties on the block and in  
4 this zone are developed. And we've tried to do the absolute  
5 minimum necessary to make it functional.

6 There is some discrepancy on square footage. We  
7 had a discussion before the hearing with Mr. Jackson, because  
8 apparently the numbers that were used in the report on the  
9 existing square footage, which make it seem like we're already  
10 over the FAR requirement, were from an appraisal, which counted  
11 the fifth floor. Apparently we haven't had all the numbers to  
12 look at them, as a full floor which currently does not  
13 contribute to the FAR at all. So according to our calculations,  
14 the current building square footage is only 3,880 square feet,  
15 and the current lot area is 1,816 square feet. Therefore,  
16 current FAR is only 2.14. With the addition of 907 usable  
17 square feet, or 970, excuse me, usable square feet on the third,  
18 fourth, and fifth floors, we come to a total of 4,850 square  
19 feet, which brings our FAR to 2.67.

20 Now in discussing it with Mr. Jackson, there is a  
21 bit of a discrepancy about one other element of the building,  
22 and that is the first floor alley way that is open to the  
23 street. It's got a gate on it. Most of it does not have six  
24 foot six head height because it goes underneath this stairwell  
25 landing, so there's probably a discrepancy of 60 to 70 square

1 feet that we probably need to work out. And so from our  
2 standpoint in designing this project, looking at this  
3 renovation, we felt that we were only exceeding the FAR of 2.5  
4 by one point ?- by .17, and so we thought that that was a  
5 relatively minor increase in order to save a historic building  
6 and bring it up to current building code.

7 COMMISSIONER MITTEN: Let me just ask you, what's  
8 the head height or head clearance on the attic level currently?

9 MR. STOIBER: It varies because it's a sloped  
10 roof, but the maximum is probably about six feet.

11 COMMISSIONER MITTEN: Okay. And so how do you  
12 propose to make that occupiable space in the future?

13 MR. STOIBER: What we're doing is raising the  
14 roof ?-

15 COMMISSIONER MITTEN: You're raising it. Okay.

16 MR. STOIBER: ?- on the back two-thirds of the  
17 fifth floor where it's not visible from the street. It's got a  
18 mansard (phonetic) roof on the front, and we actually modified  
19 our original design after consultation with Tim Denay of HPRB,  
20 and so we ?- at a very gradual slope behind the mansard we  
21 increased the height enough to gain some additional square  
22 footage on the fifth floor.

23 COMMISSIONER MITTEN: I think what would be  
24 helpful for us is to have drawings with dimensions depicted as  
25 opposed to just a scale. You show us existing conditions, and

1 then you show us the proposed, and then we could have confidence  
2 that we agree with your measurement of the floor area, gross  
3 floor area of the building.

4 MR. STOIBER: Okay.

5 COMMISSIONER MITTEN: And I take it there's no  
6 lower level, no basement level there.

7 MR. STOIBER: No.

8 COMMISSIONER MITTEN: Okay.

9 MS. STUART: Well, maybe you can speak to those  
10 floor areas, or the measurements now.

11 CHAIRPERSON GRIFFIS: Well, speaking to it and  
12 actually showing documentation are probably going to be two  
13 different things. I think documentation would be good. What I  
14 think Ms. Mitten is asking for specifically is a section of the  
15 entire building with the proposed heights, and then did you want  
16 plans also? We have (inaudible) here. We get reduced for our  
17 own reading.

18 MS. STUART: Okay. Well, then ?-

19 CHAIRPERSON GRIFFIS: I've just looked through.  
20 I don't see, and tell me if I'm wrong, I don't see a full  
21 section in there.

22 COMMISSIONER MITTEN: There's a section of what  
23 ?- for what's proposed, but I don't think it has measurements on  
24 it. But there's not a section for existing. I think I saw  
25 something. Yeah.

1 MR. STOIBER: I believe you're correct. We  
2 submitted a section of the proposed ?-

3 CHAIRPERSON GRIFFIS: Right.

4 MR. STOIBER: ?- but not the existing.

5 CHAIRPERSON GRIFFIS: Okay.

6 COMMISSIONER MITTEN: I think we'd like to see  
7 the existing, as well.

8 MR. STOIBER: We can easily dot that in, the line  
9 of the existing on the Section A on A-6. But I think the more  
10 important thing is to demonstrate, which we can do on the plan,  
11 what the actual both existing and square footage is.

12 COMMISSIONER MITTEN: Okay.

13 CHAIRPERSON GRIFFIS: Yeah. I think, frankly, it  
14 would be ?- maybe this is redundant, but in the building Section  
15 A-6, as you said, you're showing an existing dormer. This,  
16 Board Members, I think we all ought to look at actually, and  
17 I'll pass it down because this shows, I think fairly well, the  
18 extent and scope of the addition as we're in-filling on the  
19 third, and fourth, and fifth floors. And then the suspended  
20 ceiling which is being proposed at 8 feet with the roof built up  
21 at its highest point an additional 4 feet. But the point is to  
22 then have a dash line of existing, and show us that roof line as  
23 it drops. And then it will be very clear, I think, to  
24 everybody, occupiable space or not, or you know, what's being  
25 removed. Okay.

1 COMMISSIONER MITTEN: Mr. Chairman, if I ?-

2 CHAIRPERSON GRIFFIS: Yes.

3 COMMISSIONER MITTEN: Could I just ask another  
4 question in terms of getting some clarification in the drawings,  
5 and now I've misplaced the section. But I think what we're  
6 going to need as well is the roof structure plan.

7 CHAIRPERSON GRIFFIS: Right.

8 COMMISSIONER MITTEN: Because there's clearly  
9 some kind of projection related to the elevator, and depending  
10 on the height of the above the existing roof, there may be a  
11 setback requirement.

12 CHAIRPERSON GRIFFIS: Do you have an override on  
13 the elevator? Is there an elevator penthouse?

14 MR. STOIBER: No. It's an electric elevator, so  
15 it ?-

16 CHAIRPERSON GRIFFIS: Hydraulic elevator?

17 MR. STOIBER: No, I believe it is electric, but  
18 the equipment is all down below.

19 CHAIRPERSON GRIFFIS: Really. Oh, it is?

20 MR. STOIBER: Yeah. And it's within, but we can  
21 demonstrate that.

22 COMMISSIONER MITTEN: Okay.

23 CHAIRPERSON GRIFFIS: In which case, in terms of  
24 penthouse ?-

25 COMMISSIONER MITTEN: Well, the roof structure

1 plan is ?- should be submitted anyway.

2 CHAIRPERSON GRIFFIS: Right. No, I totally  
3 understand. What I want to do is try and give you even more  
4 direction. What we're showing in the site plan, which is  
5 actually a roof plan with the site on it, we have four  
6 mechanical units, so we're just going to need to know ?- well, I  
7 would ask you that you review 411 and make sure those aren't  
8 very tall. Okay.

9 VICE CHAIRPERSON RENSHAW: Mr. Chairman.

10 CHAIRPERSON GRIFFIS: Yes, Ms. Renshaw.

11 VICE CHAIRPERSON RENSHAW: Just a quick question.  
12 Mr. Stoiber, would you give me the definition of a landing that  
13 is shown on Exhibit Number 13, your plans, right by the  
14 vestibule? What is a landing?

15 MR. STOIBER: By which vestibule?

16 VICE CHAIRPERSON RENSHAW: It's shown on the  
17 first floor existing. There is a landing right next to the  
18 vestibule. Is it an exterior space?

19 MR. STOIBER: Yes. That's ?- the space right  
20 here is an exterior space.

21 VICE CHAIRPERSON RENSHAW: And what is it used  
22 for?

23 MR. STOIBER: It's just the entrance to the  
24 building. You come up a walkway up the front onto that landing.  
25 It's like a stoop.

1 VICE CHAIRPERSON RENSHAW: Like a stoop, and then  
2 you turn and go into the building.

3 MR. STOIBER: Right. That's the ?-

4 VICE CHAIRPERSON RENSHAW: Okay. Thank you.

5 CHAIRPERSON GRIFFIS: It's actually covered.  
6 It's within the building. If you see on the north elevation ?-

7 MR. STOIBER: Right.

8 CHAIRPERSON GRIFFIS: ?- it's kind of a  
9 fascinating architectural piece on that picture, a thousand  
10 words.

11 VICE CHAIRPERSON RENSHAW: Thank you.

12 CHAIRPERSON GRIFFIS: WE're done. Wait. Is that  
13 ?- and that is the coverage of the main entrance of the  
14 building. Correct?

15 MR. STOIBER: Yes, it is.

16 CHAIRPERSON GRIFFIS: Okay. And I think what Ms.  
17 Renshaw is looking at, if I'm overhearing correctly, is that  
18 you're actually looking at the adjacent property entrance. Is  
19 that correct? Okay.

20 VICE CHAIRPERSON RENSHAW: Or is this the alley  
21 way? That goes into the alley, that covered alley way?

22 CHAIRPERSON GRIFFIS: I don't think so. I think  
23 that's ?-

24 VICE CHAIRPERSON RENSHAW: Is the arch a covered  
25 alley way ?-

1 CHAIRPERSON GRIFFIS: Oh, interesting.

2 MR. STOIBER: No, the covered alley way is back  
3 in here behind that iron gate. There's our landing. No, you  
4 are absolutely right. That's the window in the vestibule.

5 CHAIRPERSON GRIFFIS: This is it.

6 MR. STOIBER: Yes.

7 CHAIRPERSON GRIFFIS: If we look at the color  
8 photographs ?-

9 MR. STOIBER: Yes.

10 CHAIRPERSON GRIFFIS: We have the ?-

11 MR. STOIBER: That's the window in the vestibule.  
12 That is this window.

13 VICE CHAIRPERSON RENSHAW: Yeah.

14 CHAIRPERSON GRIFFIS: Okay. Did you see that?  
15 So that's the alley.

16 MS. STUART: If I may be helpful, I believe the  
17 area that Ms. Renshaw is referring to, I was told by the  
18 inspector, was used in the early days of the building by  
19 servants who would bring the coal through that entrance way back  
20 to the rear kitchen area, so that they did not have to go  
21 through the main entrance of the house.

22 CHAIRPERSON GRIFFIS: Do you still use coal?

23 MS. STUART: No.

24 CHAIRPERSON GRIFFIS: Okay. Then we don't need  
25 to go any more into that. I once had a ?- well, no. Okay.

1 Yeah, Ms. Mitten.

2 COMMISSIONER MITTEN: Part of the argument that's  
3 being made in favor of the variance is the fact that you have a  
4 desire to save this interior staircase. And you made mention of  
5 the fact that others who have done renovation to their  
6 properties of this type, perhaps lacking in the same kind of  
7 sensitivity have taken those out. And if we were to grant this  
8 variance, what guarantee do we have that some person coming  
9 after you wouldn't decide to have their cake and eat it too,  
10 which would be to ?- they would then have the larger building  
11 that was premised ?- and that permission would have been  
12 premised on retention of the interior stair, and then that  
13 interior stair would be eliminated.

14 MS. STUART: Well, I can tell you that I'm not  
15 planning to leave the building until I retire, if you allow me  
16 to go forward with this plan.

17 COMMISSIONER MITTEN: Well, on that point ?-

18 MS. STUART: I think perhaps the Board could put  
19 conditions. I don't know, whether ?- but I would think that the  
20 Historic Preservation people would be very unhappy if anyone  
21 decided to take the ?-

22 COMMISSIONER MITTEN: They only concern  
23 themselves with the exterior of the building.

24 CHAIRPERSON GRIFFIS: Or they only have control  
25 over the exterior.

1 MR. STOIBER: Yeah. I think I'd phrase the  
2 question another way. If you allow this additional space, it's  
3 far more likely that that stair will be maintained because the  
4 building can then work. If no additional space is permitted,  
5 and the building becomes somewhat unusable, unless all those  
6 fine architectural features are torn out, then someone will be  
7 forced to do that.

8 COMMISSIONER MITTEN: Well, I mean, one of the  
9 things that often happens, particularly before the BZA, is  
10 people come down and say well, this is what I want to do. And  
11 I'm going to ?- I will protect it, and I only drive a small car  
12 so it's not a problem. And then you go away, you know, and  
13 there's no guarantee. You don't know what your circumstances  
14 will be, and this is something that is ?- will go on in  
15 perpetuity, so you know, we have to look very carefully beyond  
16 the individual who's making the request, and discern whether or  
17 not this is really in the best interest of the city in the long  
18 term.

19 Now I'd like to ask you a follow-up question  
20 about the internal workings of the building and so on. I  
21 understand the desirability of adding the elevator, of adding  
22 the stair at the rear so that you can maintain this interior  
23 stair. How does adding the space on the fifth floor serve those  
24 ends? Why do you need to have the fifth floor?

25 MR. STOIBER: It really just makes the building

1 economically viable, because otherwise for the purchase price of  
2 the building and the cost to renovate it, there's just far too  
3 little usable rentable space to make it economically viable.

4 COMMISSIONER MITTEN: And now we have a very ?-  
5 the way that we treat economics as it relates to the variance  
6 test, you mentioned the fact that, you know, given the purchase  
7 price. Well, that is something that is very much a function of  
8 private parties negotiating, and presumably with full knowledge.

9 And it doesn't guarantee that you will get permission from this  
10 Board to do anything, so economic viability driven by how much  
11 you invested is not going to meet the variance test. So I'd ask  
12 you to, perhaps, rethink the necessity for the fifth floor, or  
13 at least your argument in favor of it.

14 MS. STUART: Well, let me speak to that because,  
15 of course, I was involved in the negotiations and so forth. And  
16 we had an appraisal done, and the fact of the matter is, thanks  
17 to the good work of your Board and others, the value of  
18 properties like this has gone up very dramatically. And I'm not  
19 a wealthy person. I'm just a person. I'm just somebody who has  
20 lived and worked in the District for 30 years, but I went  
21 through a lot to get a bank to loan money on this project. And  
22 the only way they would loan money is with the expectation that  
23 it was going to be fully occupied as proposed.

24 As a practical matter, that fifth floor that  
25 we're proposing is going to be where I have my office, and

1 another lawyer who is of counsel to me. And that is so that the  
2 more desirable lower level offices will be able to rent at a  
3 pretty hefty rent in order to carry this building. I think ?-

4 CHAIRPERSON GRIFFIS: Let me interrupt you,  
5 because I think you're going a little astray on what Ms. Mitten  
6 is trying to direct you to, and that is the fact that what  
7 you're indicating, which we're all well aware of, and in fact,  
8 is part of the submission, is the cost of the building, and then  
9 obviously, the financial responsibilities that that entertains.

10 However, that being said, it is often phrased as a self-created  
11 hardship, if we go to you bought it for a certain amount, and  
12 now you have to do. What we need to see more to is why this  
13 couldn't be used in an economically feasible way of something  
14 that is a matter of right, without asking for the variances that  
15 are before us.

16 MS. STUART: Well, I do not think as presently  
17 configured, it could be turned into a rooming house again, for  
18 example.

19 CHAIRPERSON GRIFFIS: But to be direct ?- I mean,  
20 rooming house and residential are not identical. So if you have  
21 additional FAR for residential use, where the 2.5 is commercial  
22 use, the combination a total of 6 FAR, if I recall correctly,  
23 what we need to see is why is it now having to go for an  
24 increase of whatever it is, and we'll need to get the exact  
25 amount, but why is it needed? What is the argument for that

1 move to all commercial?

2 MS. STUART: The argument is that this is the use  
3 that is compatible with the neighborhood, that is the use that  
4 is the highest and best use of this property at this time, and  
5 frankly, I have a nice house in Washington. I like visiting it  
6 occasionally when I leave my office. I don't want to move my  
7 residence into my office. I already work around the clock as it  
8 is. It's not something that is desirable for me personally.  
9 Maybe there might be someone later on. But frankly, I'm hoping  
10 when I pass on that this building may become the headquarters of  
11 maybe the Bar Association of the District of Columbia which  
12 needs a building, or might be used by my college to house  
13 interns. I don't know. That's why I wouldn't preclude some  
14 residential use at some future date, but I think for the  
15 foreseeable future, that is going to be the use that either I,  
16 or anyone else who might purchase this building, and invest the  
17 kind of money that you have to do that in order to buy a  
18 townhouse on this block, is going to use it for.

19 MR. STOIBER: One other point in response to  
20 that, is that there is a ?- I think there is a hardship in the  
21 configuration, the shape and the size of the footprint of making  
22 it useful for a mixed use, for residential and commercial use  
23 because of the narrowness of the property, and the limitations  
24 in trying to keep the stair and keep the fireplaces. It's  
25 difficult enough making it a single use, but making it a mixed

1 use building is far more difficult from a space standpoint. If  
2 you had two townhouses, or three townhouses that you could  
3 combine, like the Microbiology building next door with the large  
4 addition at the rear, that certainly could be done. But on this  
5 small footprint, and trying to keep the historic character, it's  
6 just ?- you would eat up far too much space, and circulation  
7 space to make it viable.

8 CHAIRPERSON GRIFFIS: And to that, which I think  
9 has some great substance, with a mixed use building, if you were  
10 to say ?- look at this as residential/commercial, whichever.  
11 Commercial make more sense on the first level, residential up  
12 above, as you said you don't have space circulation. If I'm  
13 understanding you correctly, that means perhaps two cores in  
14 this, because you would have segregated entrances circulation.  
15 You wouldn't have commercial offices using the same stairs as  
16 residential. The times of use would be different. And what  
17 you're pointing out here is that the width of this hardly  
18 accommodates the current circulation. Adding to that might just  
19 create all core circulation.

20 MR. STOIBER: Right. Exactly.

21 CHAIRPERSON GRIFFIS: Okay.

22 MS. STUART: I should perhaps add that one of the  
23 things that we've been required to add to the plans is the rest  
24 room facilities on each floor, so when you add the space for the  
25 elevator, the space for the stairwell, the space for the rest

1 rooms ?-

2 CHAIRPERSON GRIFFIS: But let me stop you there,  
3 because when you go to commercial, then you're rest room count  
4 and fixtures are going to go up.

5 MS. STUART: Uh-huh.

6 CHAIRPERSON GRIFFIS: Again, that goes back to  
7 what you're proposing. It doesn't help us, and you can't use  
8 that as a hardship saying I want to do this, and look, now I've  
9 got all this building code to do, if that makes sense to you.

10 MS. STUART: It does make sense, but I think the  
11 hardship here is trying to meet the needs of the Comprehensive  
12 Plan; that is, to be sensitive to the historic character of the  
13 building, while at the same time making it an economically  
14 viable process.

15 Now Bill Gates might buy this building, but I'm  
16 not Bill Gates, and I don't think most people who want to do  
17 what I am doing, and there are many who've done it on the block,  
18 but they got in earlier than I did, so the ?- I think the Board  
19 needs to be cognizant of the particular structural difficulties  
20 that create this hardship for this particular building. But I  
21 think you also have to be aware of the realities of the  
22 economics in the neighborhood, and this is going to affect  
23 anybody who comes before you in any similar project.

24 CHAIRPERSON GRIFFIS: Okay. And it's an  
25 interesting point. I think the Board is very aware of the

1 financial impact with all of our backgrounds doing different  
2 things. WE probably have excellent experience in that.

3 What we need on a case by case basis, which is  
4 how we deliberate at the BZA, we need it in this record.

5 MS. STUART: Yes.

6 CHAIRPERSON GRIFFIS: We can't go based on other  
7 experiences, anything other than what you say, what you submit.  
8 That's what we're dealing with here today.

9 MS. STUART: Uh-huh.

10 CHAIRPERSON GRIFFIS: So if I'm hearing you  
11 correctly, you're saying that this is not economically feasible  
12 to do as, let's say, a single family residence, or however other  
13 residential units and product that you want to create. Is that  
14 correct? Let me just ?- I don't need an answer because you  
15 can't answer that, but that's what I'm hearing in where you're  
16 going.

17 What I would suggest is that's something that  
18 ought to be argued with some sort of documentation, even if it  
19 is ?- I mean, I can give ?- well, even if it was a market  
20 analysis on this building for a single family, that may give us  
21 some sort of basis ?-

22 MS. STUART: But ?-

23 CHAIRPERSON GRIFFIS: ?- to go to your argument.  
24 I'm not saying that's the direction you should take. That's  
25 what I'm hearing you say, but I don't have anything, other than

1 what I'm reading as speculation.

2 MS. STUART: Well, you know, really what we're  
3 dealing with is the application for this particular use, which  
4 is a permitted use, and then the next level, I think, is how to  
5 make that use work for the District, and for the property owner.

6 Now in theory ?-

7 CHAIRPERSON GRIFFIS: It's a little more  
8 complicated than that though.

9 MS. STUART: ?- in might be nice to have ?-

10 CHAIRPERSON GRIFFIS: Even if we assume the  
11 special exception goes through for the use, we still have this  
12 split FAR that looks at residential and commercial.

13 MS. STUART: Uh-huh.

14 CHAIRPERSON GRIFFIS: So even if the use was  
15 accepted, I still have a hard time ?- it's all very connected.  
16 I still have a hard time not having a full blown argument on now  
17 why do we encroach on the residential FAR, or why do we increase  
18 the commercial FAR? It may be something that I absolutely want  
19 to see happen. I just need to see it lined, and I'm not ?-  
20 maybe other Board Members feel differently, but I'm not seeing  
21 that right now.

22 MS. STUART: Well, I think Mr. Stoiber can speak  
23 to the amount of square footage taken up by the core factors,  
24 vis a vis the usual ?- I used usual, I'm sorry ?- usable space,  
25 and that may put it in more graphic terms that would be the

1 evidence that you need.

2 CHAIRPERSON GRIFFIS: Okay. And I agree. Let me  
3 do this though. Board Members, do we have questions on the  
4 plans for Mr. Stoiber at this time? Is there anything we want  
5 to walk through?

6 MR. ETHERLY: Mr. Chairman.

7 CHAIRPERSON GRIFFIS: Yeah.

8 MR. ETHERLY: A question for Mr. Stoiber.

9 CHAIRPERSON GRIFFIS: Uh-huh.

10 MR. ETHERLY: I'm one of the newer members, or  
11 not one of the newest, the newest member here, so I'm in the  
12 process of getting my sea legs under me. I understand where  
13 some of the difficulty is coming with regard to the variance  
14 test here, and trying to get at this, either the uniqueness or  
15 the peculiarities, or the undue hardship.

16 Mr. Stoiber, can you speak a little bit to ?- and  
17 please for my colleagues, let me know if I'm kind of getting too  
18 far afield here, the character of some of the surrounding  
19 properties in terms of your experience you've spoken to, your  
20 experience with other kind of similar properties, and maybe  
21 helping me understand the peculiarity, or the undue hardship  
22 aspect of this. Give me a little more information about some of  
23 the other properties that have faced maybe a similar type of  
24 challenge.

25 MR. STOIBER: Okay. Yeah, I ?- quite simply, the

1 choice is very simple from an architectural standpoint. And I'm  
2 not sure I quite understand what tests are necessary to show  
3 economic viability. But I know with all the plans that I've  
4 worked with on renovating townhouses, that there needs to be a  
5 certain amount of critical mass space to make the project work.

6 And one can gain that one of two ways in a property like this,  
7 and obviously, all townhouses are different and they're unique.

8 But I can say on this one, as with many others, if we went in  
9 and gutted this building, which we could do, and without adding  
10 any square footage. If we went in and gutted it, I can assure  
11 you that we can create enough rentable, usable square footage in  
12 this building to make it economically viable. And there are  
13 probably those out there that would lease that space, even  
14 though it wouldn't have nearly the character that the building  
15 that Pam has envisioned, and we've executed, is going to have.  
16 But in order to keep the architectural character, the elements  
17 that make this building such a great piece of the fabric of the  
18 neighborhood, the stairs, the fireplaces, those sorts of things,  
19 we feel like we need a little bit of relief from the burden that  
20 those have placed on us in terms of space, in terms of square  
21 footage limitations. And that's what we're asking. We felt  
22 that what we were asking for was a fairly minor, and this gets  
23 back to, you know, pinning down the square footages, but going  
24 from 2.5 to 2.67 to make that happen, we thought was a very  
25 reasonable, modest, minimal request on our part.

1 MR. ETHERLY: But you acknowledge that there ?-  
2 it is conceivable, as you said, you could eliminate the central  
3 stair. You could do some elimination with regard to fireplaces,  
4 and that would possibly leave you with a commercially viable  
5 property. But once again, it's the Applicant's position that  
6 that's really not what you envision in terms of the project.

7 MS. STUART: I would have a terrible time doing  
8 that.

9 MR. ETHERLY: Okay.

10 MS. STUART: I grew up in a town where there wa a  
11 beautiful old hotel built in the late 19<sup>th</sup> century. And my high  
12 school class was the last class to have its prom at that hotel.  
13 They tore it down. They built something that looks like a  
14 Holiday Inn. It's awful, and I could never do that.

15 CHAIRPERSON GRIFFIS: No, nor do I think we would  
16 want to see that happen, but I think that's the investigation we  
17 need, and we're getting to where we need to go.

18 I would propose this at this point, we move on to  
19 Office of Planning report. We will have ample time to come  
20 back. Let me also get clarification, the other folks that are  
21 here are not being called as witnesses. Is that correct? Are  
22 you here to testify?

23 MS. STUART: Not for me. I don't know.

24 CHAIRPERSON GRIFFIS: Okay. All three are  
25 testifying today? Oh, just one. Okay. Good. Let's move on to

1 Office of Planning, because I think that it will get us focused  
2 on a couple of more issues. Mr. Jackson I believe is with us  
3 today.

4 MR. JACKSON: Yes. Thank you, Mr. Chairman. Mr.  
5 Chairman, I would note that I do have one request. The  
6 Applicant was kind enough to call me last night and make me  
7 aware of an error in my original report, a critical error having  
8 to do with the area of the lot. What I ?- the numbers that I  
9 used for the area of the lot were incorrect, and the resulting  
10 recalculation really changes the type of relief that's required  
11 for this application.

12 In response to that, I drafted an addendum to the  
13 report that restates some of the same issues, but it's done in  
14 light of the correct area of the lot. However, I also based  
15 this report on the submission which included a particular floor  
16 area for the building, which is 5,200 feet. But as you've heard  
17 today, the architect has come up with a different number based  
18 on actually his dimensions. So I will proceed with my report,  
19 but my report is based on the submitted square footage of the  
20 building, which is 5,221 feet. And as I noted in the report,  
21 the Assessor's Office had a different number, but we went with  
22 the most current numbers and the Assessor was wrong. And how  
23 foolish we were to have doubted the District of Columbia  
24 Assessor's Office, so I do have ?-

25 MS. STUART: Just so I can apologize to the Board

1 and to Mr. Jackson, the figures that I had were based on the  
2 appraisal which counted the fifth floor, and I did not realize  
3 that that should not be included in the FAR ratio calculation,  
4 so I apologize for any confusion.

5 CHAIRPERSON GRIFFIS: That's fine. Mr. Jackson,  
6 have you given in that updated report?

7 MR. JACKSON: No. I was told the correct  
8 procedure would be for me to ask for waiver of the rules and  
9 acceptance of the report when the time came to present, and  
10 therefore, I ask for that waiver.

11 CHAIRPERSON GRIFFIS: Yeah, that is the correct  
12 procedure, but I'd rather have it in front of me then go through  
13 that procedure, so let's pass it down, please. And then do you  
14 have ?- I know you went through the lo dimensions and FAR. Do  
15 you have that right in front of you to read off again?

16 MR. STOIBER: Yes, I do. The existing lot size  
17 is 1,816 square feet.

18 CHAIRPERSON GRIFFIS: Okay. And change, right?  
19 Okay.

20 MR. STOIBER: Yes. We calculate the existing  
21 floor area based on computer generated drawings that we surveyed  
22 ourselves at 3,880 square feet. Our ?- which results in a  
23 current FAR of 2.14.

24 CHAIRPERSON GRIFFIS: So the existing total  
25 square footage, FAR square footage of the building is 3,880?

1 I'm sorry, is ?-

2 MR. STOIBER: Yes. The existing ?-

3 CHAIRPERSON GRIFFIS: The existing square footage  
4 of the building to calculate the FAR is 3,880.

5 MR. STOIBER: Right. And we have ?-

6 CHAIRPERSON GRIFFIS: Okay.

7 MR. STOIBER: ?- added 970 square feet of usable  
8 space in the building on the back of the third, back of the  
9 fourth, and fifth floor combined, for a total of 4,850, which  
10 brings our FAR to 2.67.

11 CHAIRPERSON GRIFFIS: Okay. You see where I'm  
12 going with this? Mr. Jackson, didn't you just indicate that you  
13 had 5,221 square feet?

14 MR. JACKSON: Yes, this is based on the ?- what  
15 was included in the Applicant's report. I would state though,  
16 however, based on the definition of FAR, floor area ratio ?-

17 CHAIRPERSON GRIFFIS: Right.

18 MR. JACKSON: ?- that it's not usable square  
19 footage that you have to add, it's total square footage. So in  
20 that regard, if the addition is 1,500 square feet, what you have  
21 to add is 1,500 square feet.

22 MR. STOIBER: No, I'm sorry. I used usable.  
23 It's total square feet.

24 CHAIRPERSON GRIFFIS: Okay.

25 MR. STOIBER: The square footage was 970.

1 MR. JACKSON: So it's not the 1,500 as was  
2 originally stated by the Applicant.

3 MS. STUART: I did state that because that was my  
4 understanding, but I ?-

5 MR. JACKSON: Okay. I just wanted to clarify  
6 that.

7 MS. STUART: ?- apparently was in error. That's  
8 why I said please rely on him for the numbers. I apologize.

9 CHAIRPERSON GRIFFIS: All right.

10 MR. STOIBER: And I would point out ?-

11 COMMISSIONER MITTEN: I think, didn't we agree  
12 earlier that you were going to make an addition submission about  
13 ?-

14 CHAIRPERSON GRIFFIS: Right. We definitely are  
15 getting that. Thank you.

16 MR. STOIBER: And one thing in our analysis was  
17 that a lot of the buildings on this block in this neighborhood,  
18 in the same zone are much larger than this building, so even  
19 with this minor small addition that we're requesting, this would  
20 still be one of the smaller buildings in the neighborhood.

21 MR. JACKSON: Mr. Chairman.

22 CHAIRPERSON GRIFFIS: Yeah.

23 MR. JACKSON: Irrespective of the numbers, I  
24 think the principal issues that I think are raised by this  
25 application, and the ones that we would address, can be properly

1 addressed with my report.

2 CHAIRPERSON GRIFFIS: That's fine. My last piece  
3 on this is just, obviously, the FAR. I'm sure Mr. Stoiber knows  
4 this very, very well, is based on the gross square foot. And if  
5 you look at the definition, you can subtract out lower than 6.6  
6 inches for attic space, and there are other exemptions to it, so  
7 we will rely on your numbers, as you are the expert witness in  
8 architecture, to be submitted. I'm sorry.

9 MR. JACKSON: All right. I'll walk you through  
10 this, but it's essentially the same format as my original  
11 report. There are just some changes. On page 1, note that  
12 under "Addendum", I include that ?- I note that the original  
13 report submitted by the Office of Planning on January 22<sup>nd</sup> was  
14 based on an incorrect lot area. AS such, I am changing ?- this  
15 report reflects the changes in that lot area. And I took the  
16 lot area this time from the on-line database for the Chief  
17 Financial Officer, and that shows the lot area as being 1,817  
18 feet.

19 Okay. The ?- based on the information that we  
20 had available, the Office of Planning recommend ?- well, I'll go  
21 through the report. Okay. The Applicant's proposal as  
22 originally stated would add an additional ?- would like to use  
23 the entire building for office, and add additional 1,500 square  
24 feet. This, based on the information that's available, that  
25 this would increase the lot area to 6,700 square feet.

1           The Applicants indicated that they had submitted  
2 a request for a Certificate of Occupancy, but were told by the  
3 Zoning Administrator that it needed a special exception for the  
4 proposed office use. As a result, they submitted this  
5 application.

6           In the ?- under "Existing Zoning Relief  
7 Requested", I went through and listed the lot area, the width,  
8 the floor area and the FAR which is the key issue. On the  
9 calculations ?- under those calculations, the SP-1 allows 4.0  
10 total which could be all residential, or 2.5 of other permitted  
11 uses. The 5,221 square feet would have exceeded the 2.5 for  
12 non-residential uses, and the proposal would have increased the  
13 total to 3.7 FAR.

14           Then there's also the issue on the next page of  
15 the parking. If the existing parking spaces were three, and  
16 they reduced it by one, then that could raise the specter of a  
17 variance. Now note ?- if you'll note in your packets, the  
18 submission from the appraiser, page number 6 are photographs.  
19 Those two photographs show ?- the lower photograph shows the  
20 rear of the property, the bay window and the garage. What the  
21 photograph shows is three vehicle parked in the rear yard, which  
22 verifies what the Applicant is saying. Two are perpendicular to  
23 the building, and one is parallel to the rear wall.

24           I also note that the building that seems to drape  
25 ?- there's a building that drapes around the property from the

1       ?- attached to the ?- there's an addition that was created for  
2       the Microbiology Association, Microbiology Society. As such,  
3       the property is completed walled off to the west and south, and  
4       the opening you see between the wall to the right and the garage  
5       to the left is where the cars come in. And as the Applicant  
6       indicated, it appears from all plans that we have, that the cars  
7       entering that lot would cross private property.

8               This photograph actually appears to be taken ?-  
9       have been taken from one of the carriage houses that's south of  
10      that alley. And then the entrance, of course, to the alley is  
11      further east and off the photograph.

12              As a result of our review, we noted that the  
13      application as the use ?- the office use as proposed requires a  
14      special exception. There needs to be a variance to beyond 2.5  
15      if the applicant was to use the entire building for office based  
16      on the numbers we had. There would need to be a further  
17      variance to allow the proposed addition to be used for office.  
18      And since this house is declared as contributing, that no  
19      additional parking spaces will be required for a change in use.

20              However, it also appears that the Applicant would be reducing  
21      the number of parking spaces on site, that exist on site.

22              We felt that the ?- it is our opinion that  
23      reducing the existing parking spaces for a change in use would  
24      trigger a requirement for a variance, so basically, this is ?-  
25      we calculated that the type of relief that will be required

1 would be a special exception and two variances.

2 As per the special exception, that would have to  
3 be reviewed in light of Section 508. In reviewing the site,  
4 visiting the Applicant on-site, and eliciting their description  
5 of what they propose to do, we would concur that the uses of  
6 surrounding property are primarily office, hotel, and vacant.  
7 There is a lot of vacant property not being used at this time.

8 The changes to the building as proposed have been  
9 discussed with the Historic Preservation Staff, and as such,  
10 they would not be visible from the street or the alley. Of  
11 course, can't be seen from the alley because you can't see the  
12 building from the alley, but based on the use, height, bulk and  
13 design, we think that the use as proposed would be consistent  
14 with the harmony ?- would harmonize with the existing uses and  
15 structures in the area.

16 The office uses, as such, do not appear to  
17 require special deliveries. What would be occasioned when the  
18 Applicant moves in, or the tenant moves in and there would be a  
19 moving van and such, but it seems like most of the deliveries  
20 and services would be done by step vans; therefore, we don't  
21 think that that would dangerous, other objectionable traffic  
22 conditions. And since the site will remain essentially as it  
23 has appeared for years, except it would be actively used, we  
24 think that there wouldn't be any special treatment needed to  
25 protect surrounding neighboring properties. Therefore, we

1 thought proposal to use the site for office uses is consistent  
2 with Section 508. And therefore, that part of the request is  
3 consistent with Section 3104.1 of the zoning regulations.

4 Now with respect to the variances, I must admit  
5 we're a little conflicting with that in the office, so ?- but  
6 we're coming forward with out best shot. We think that there  
7 are ?- the zoning relief required is partially use, and  
8 partially area. And the reason we thought it that way, because  
9 one, they want to use the existing building, the rest of the  
10 existing building for office uses, as opposed to having an FAR  
11 split between office and residential. And then they want to  
12 expand the building to allow additional office uses.

13 To make a long story short, we thought that ?- we  
14 considered the idea of locating residential within the building  
15 along with office uses. I think our determination was it seemed  
16 like it would be fairly difficult to ?- the normal pattern would  
17 be, of course, there would be downstairs office, and upstairs  
18 residential. It seemed like in this instance, since the  
19 building was purchased for the specific reason of providing  
20 office as the primary use, putting a couple of apartments on the  
21 second floor, second or third floor, to provide office use for a  
22 residential use, seemed to be rather difficult given the current  
23 state of the building, the uses that they've already proposed,  
24 and the additional needs that would require for office uses. So  
25 we have decided to support a variance that will allow them to

1 use the rest of the existing building for office uses, because  
2 we think this is a rather unique situation, because of the  
3 factors stated by the Applicant.

4           However, we did not find that there was  
5 sufficient justification to allow expanding the existing  
6 building to also provide office uses. For that reason, we did  
7 not think that the additional variance would ?- it could be done  
8 without substantially impairing the intent, purpose, integrity  
9 of the zoning map as embodied in the zoning regulations and map.

10  
11           The available parking in the back is, as you've  
12 seen on the photograph, fairly tight. It appears from the plans  
13 that were submitted that there may not be space for three  
14 vehicles. Now I think there is a point that was raised by the  
15 BZA, that these are not legal parking spaces. I think the  
16 intent of the zoning regulations, and particularly with respect  
17 to the historic part of it, is that the existing conditions with  
18 regard to this parking should be maintained. If they're not  
19 maintaining the existing conditions about the parking, then they  
20 would have to address the variance.

21           We think any reduction in the automobile parking  
22 in the area would require a variance, and we suggested to the  
23 Applicant if they thought they would lose a space, that they  
24 should apply for this variance.

25           The architect seems to feel that they can still

1 put three spaces back there, and so if they can ?- they're not  
2 illegally parked now. If they can continue to get three cars  
3 back there with the conditional improvements, then that would be  
4 good. Otherwise, I think we need to have a final determination  
5 as to exactly what's going to be required based on the final  
6 action by the BZA. If the BZA approves the addition, then this  
7 ?- maybe the fire marshal can just say yes, you're going to have  
8 to have this. However, if the additional square footage is not  
9 approved, maybe this fire stair could be handled another way  
10 within the existing perimeter of the building. But that's a  
11 question I don't think has been asked, and can be verified by  
12 talking to the fire marshal. So we'd say that that variance  
13 should be ?- action on that variance should be deferred until a  
14 final determination is made.

15 The community comments were such that we did  
16 receive a letter, a copy of a letter from ANC 2-B, saying they  
17 do support the application. And we referred it to the  
18 Department of Public Works, the police department, the fire  
19 department, and the Historic Preservation Office. The Historic  
20 Preservation Office said they did support the proposal in its  
21 conceptual stage. And, of course, as I said, they said it was  
22 contributing to the DuPont Circle Historic District. No other  
23 comments were received from the other agencies, so at this  
24 point, our ?- the Staff recommends that approval of the special  
25 exception for office uses, and approval of a variance to allow

1 the Applicant to use the entire building for office uses.  
2 However, we do not feel we have justification at this point to  
3 recommend ?- make a recommendation on the additional variance to  
4 expand the existing building specifically for office uses.

5 That's the report as it stands at this point.  
6 Are there any questions?

7 CHAIRPERSON GRIFFIS: Thank you, Mr. Jackson.  
8 Excellent report. Forgive me if I missed it, but are you aware  
9 of the condition of the private alley behind and access to it?

10 MR. JACKSON: Yes.

11 CHAIRPERSON GRIFFIS: It is a private alley?

12 MR. JACKSON: Oh, I do not really notice that as  
13 of that alley.

14 CHAIRPERSON GRIFFIS: Okay.

15 COMMISSIONER MITTEN: On that point actually, I  
16 think this is an area that perhaps the Office of Planning can  
17 help us explore. We have on the surveyor's plat, the alley is  
18 indicated as a public alley. And then on the drawings submitted  
19 by the Applicant, it's called a private alley, but I'm fairly  
20 familiar with that whole alley system, and there is a gate, as  
21 Ms. Stuart testified. And if it is a public alley, then it  
22 should be open to the public, so can you help us, Mr. Jackson,  
23 sort this out, because if it isn't ?- if it is not a public  
24 alley, then I think there may be issues related to, and Mr.  
25 Griffis or Mr. Levy, who are the architects can correct me, or

1 Mr. Stoiber too, about having some kind of fire exit that  
2 doesn't go into ?- that does not lead to public space.

3 CHAIRPERSON GRIFFIS: I want to find out how I  
4 can gate my alley actually, so whatever information we can find  
5 out about that.

6 MR. JACKSON: I would note, Mr. Chairman, that we  
7 have had applications that have come through, particularly for  
8 alley closings, where the alley has been gated, but no one knows  
9 how it got that way, so ?- but I will contact ?-

10 CHAIRPERSON GRIFFIS: So you're saying I can just  
11 go ahead and do that. Wait a minute. WE're digressing.

12 MR. JACKSON: I'm not advising you in that  
13 regard, no.

14 MS. STUART: Maybe I can be somewhat helpful on  
15 that. In doing some research yesterday in the files, I saw that  
16 there apparently had been applications from the group of  
17 townhouses to establish a parking area. Now I was not able to  
18 look at those files, because they're apparently old. But  
19 apparently in the past, there has been some activity along those  
20 lines, and ?-

21 CHAIRPERSON GRIFFIS: Well, how do you ?- I think  
22 this would be ?- how do you get in?

23 MS. STUART: I get in because the person who sold  
24 me the building gave me a little clicker.

25 CHAIRPERSON GRIFFIS: Okay.

1 MS. STUART: And I punch in a code.

2 CHAIRPERSON GRIFFIS: So you have an opener for  
3 the gate.

4 MS. STUART: Yeah, if I'm walking.

5 CHAIRPERSON GRIFFIS: Okay.

6 COMMISSIONER MITTEN: Well, I actually think this  
7 is a very important issue to sort out.

8 CHAIRPERSON GRIFFIS: I think so too.

9 COMMISSIONER MITTEN: Because if public property  
10 has been taken over by agreement of the adjacent owners that  
11 they ?- you know, they just decide to, that's really not  
12 something that we should condone. And if it's impairing an  
13 Applicant's ability to fully utilize their property through no  
14 fault of their own, then we need to ?- you know, we need to sort  
15 that out.

16 CHAIRPERSON GRIFFIS: Right. And Mr. Jackson,  
17 you can be helpful on that?

18 MR. JACKSON: I will check into it, yes.

19 CHAIRPERSON GRIFFIS: Okay. Great. Any other  
20 questions for ?-

21 MEMBER LEVY: Mr. Chair, I don't want to lose  
22 sight of the point that Ms. Mitten brought up, which is whether  
23 or not it's acceptable for that fire stair to empty into a yard  
24 that has no public access.

25 CHAIRPERSON GRIFFIS: But it does have egress

1 access off of the lot. I mean, you have an acceptable ?- well,  
2 I should let Mr. Stoiber talk about his project, but whatever  
3 that dimension, three or four, you can access an alley and get  
4 away from a distance from the building.

5 COMMISSIONER MITTEN: But what if it's over  
6 someone else's property? Is that still ?-

7 CHAIRPERSON GRIFFIS: But they still have a  
8 connection to, whether it private alley or public. I was ?-  
9 well, and that's where it goes to the ?-

10 COMMISSIONER MITTEN: That's what I'm trying to  
11 understand.

12 CHAIRPERSON GRIFFIS: No, exactly. I mean, if  
13 it's a private alley, what does it mean? Is it in common  
14 control of the property owners? That would make total sense,  
15 and certainly not one townhouse has usurped the alley, and then  
16 ?-

17 COMMISSIONER MITTEN: But that would be a legal  
18 document. There would be an easement, and then it could be  
19 produced ?-

20 CHAIRPERSON GRIFFIS: Right.

21 COMMISSIONER MITTEN: ?- so that we would have  
22 it.

23 CHAIRPERSON GRIFFIS: My point is going to fire  
24 egress, and path of travel which the marshal is going to look  
25 at. They're going to look at, and add to this if you will,

1 they're going to look at it as you dump people out of the  
2 building in the back yard, are you trapping everyone in that  
3 back yard as the building burns and falls on them, or are they  
4 getting away, and having enough distance in getting out. Now ?-

5 COMMISSIONER MITTEN: Well, if they don't have a  
6 key to the gate, they are trapped.

7 CHAIRPERSON GRIFFIS: Well, I was just going to  
8 go there. It would go to the fact of depending on how far a  
9 distance, and gates and all that, that that would have to be  
10 panic hardware on any of the gates that got you back out onto  
11 the sidewalk, which would be off this property, but it's a  
12 fascinating problem.

13 MR. STOIBER: We have had a preliminary plan  
14 review. The fire marshal did review it and approve it. Now I  
15 can't say that they were aware ?- I actually can't say that we  
16 were aware at the time that we started on this building, because  
17 as Ms. Mitten is familiar, it's a very odd configuration back  
18 there, so it's not immediately apparent that this has been  
19 closed off, until you try to get to the building from behind.

20 VICE CHAIRPERSON RENSHAW: Well, just to say that  
21 the fire department has tools that it will cut through just  
22 about anything to get back. But also, the access, the size of  
23 that alley back there may not accommodate large vehicles, you  
24 know, apparatus of the fire department, so I would ?-

25 MR. STOIBER: I don't believe they rely on that

1 for fighting the fire. I think the only issue is whether  
2 tenants in the building can escape from that ?-

3 VICE CHAIRPERSON RENSHAW: Can exit the building.

4 MR. STOIBER: ?- stairwell.

5 CHAIRPERSON GRIFFIS: Right.

6 MR. STOIBER: And it is a very large courtyard  
7 type alley in the back that is fully accessible, so I don't  
8 think there's any issue of anyone being trapped, because there  
9 are a lot of situations where there is no alley for firefighting  
10 in these sorts of situations, and the fire department doesn't  
11 rely on that.

12 VICE CHAIRPERSON RENSHAW: But what you did say  
13 is that this business of the locked gate didn't really come up  
14 in the review ?-

15 MR. STOIBER: No.

16 VICE CHAIRPERSON RENSHAW: ?- by the fire  
17 department?

18 MR. STOIBER: No, it did not.

19 MEMBER LEVY: Mr. Chair.

20 CHAIRPERSON GRIFFIS: Uh-huh.

21 MEMBER LEVY: If ?- I have two other points I'd  
22 like to touch on, two questions for Mr. Jackson, if we're ready  
23 to move on from that.

24 CHAIRPERSON GRIFFIS: No. Complete. Ask.

25 MEMBER LEVY: Mr. Jackson, the photographs on

1 page 6 that you mentioned in giving your report, the lower  
2 photograph, looking at the building that sits immediately west  
3 of the subject property, given that you've done a site visit,  
4 could you describe ?- is that actually a solid wall on the  
5 building line?

6 MR. JACKSON: Yes.

7 MEMBER LEVY: With glazing in it.

8 MR. JACKSON: Yes. It appears that there's an  
9 atrium in the back of that building, but the actual ?- the wall  
10 ?- the vertical wall at the far left corner side of the  
11 photograph is the actual office space.

12 MEMBER LEVY: Okay.

13 MR. JACKSON: So you'd have a solid office space.  
14 It's almost like they have an atrium or some lighted way  
15 connecting this addition to the original building, and then  
16 there's additional construction behind that to the west.

17 MEMBER LEVY: Okay. And that sits on the  
18 property line, that wall?

19 MR. JACKSON: It appears to.

20 MEMBER LEVY: Okay. Another question, going back  
21 to your calculations, your FAR calcs. I'm a little confused.  
22 You talk about that the Office of Planning supports using the  
23 entire building, a variance for using the entire existing FAR  
24 for office space. But the calculations that are given by the  
25 Applicant show that the total existing FAR is within the

1 allowable for non ?- for other permitted uses.

2 MR. JACKSON: Well, see the ?- if the existing  
3 square footage is 5,221 square foot, that's an FAR of 2.87. The  
4 elevator uses are allowed up to 2.5.

5 MEMBER LEVY: Okay. So that reflects your ?-  
6 that's the revision in your report?

7 MR. JACKSON: Right. So that would be a .17  
8 difference that they'd have to make up, which amounts to around  
9 1,900 square feet. If you take ?- that would, at most be two  
10 units, apartment units in the building, so it would take up  
11 maybe the existing fourth floor and part of the third. I think  
12 900 and something square feet per floor. Okay. So that just  
13 appears to be ?- it just appears to be a difficult proposition  
14 if your principal use on the site is office, to waggle two  
15 decent units on the top floors of the existing building.

16 However, if it was the reverse, and you have  
17 three floors of residential and one floor of office, then of  
18 course, it seems as if that would be a more practical approach.

19 But given the fact that their ?- the whole purpose of buying  
20 the building was to achieve this office, and the office use  
21 appears to be a suitable use for this site, at least up to the  
22 2.5 FAR, the introduction of residential in that remaining .37  
23 FAR with the existing building code requirements appear to  
24 create certain practical difficulties.

25 MEMBER LEVY: So you're going with the existing

1 square footage as 5,221 ?-

2 MR. JACKSON: Right. Now that would ?-

3 MEMBER LEVY: ?- as opposed to the 4,850 that the  
4 Applicant ?-

5 MR. JACKSON: Right.

6 MEMBER LEVY: 4,850, is that a number ?-

7 MR. STOIBER: What we saying is that (inaudible).

8 MS. STUART: 5221, if I might interject, is the  
9 figure that was in the appraisal that was used to get the loan  
10 for the building.

11 MEMBER LEVY: Okay.

12 MS. STUART: And that included the space in the  
13 attic, which I am now learning should not be included in the FAR  
14 calculation.

15 MR. JACKSON: I would note on the first page of  
16 my addendum, and I guess in the original report, I noted that  
17 the documented size of the building in the District of Columbia  
18 records. Now this is from the original assessor cards was 4,351  
19 for the entire building. And the Applicants' analysis from  
20 their assessor was 5,221. We thought it ?- well, we frankly  
21 thought that the building had changed over time, and the  
22 assessor's records were just wrong, so we decided to use what  
23 the appraiser's records. But it appears, now that the architect  
24 has gone back, that the assessor's records were ?- the city  
25 records were correct. But the ?- I guess the only issue now is

1 what actually is the square footage gross floor area of the  
2 building, not usable floor area. And that, I guess, has to be  
3 determined.

4 MEMBER LEVY: Okay. Thank you.

5 VICE CHAIRPERSON RENSHAW: Mr. Chairman.

6 CHAIRPERSON GRIFFIS: Yeah.

7 VICE CHAIRPERSON RENSHAW: Just a quick question  
8 to the Office of Planning. Mr. Jackson, on page 4 of your  
9 original report, you talk about deliveries, panel trucks could  
10 park along N Street. N Street is one way?

11 MR. JACKSON: Yes.

12 VICE CHAIRPERSON RENSHAW: All right. Is there  
13 parking on both sides of the street?

14 MR. JACKSON: Yes.

15 VICE CHAIRPERSON RENSHAW: Were these panel  
16 trucks ?- when you did a site visit, I assume you did a site  
17 visit to that location.

18 MR. JACKSON: Yes.

19 VICE CHAIRPERSON RENSHAW: Was there commercial  
20 traffic on the street, and were the trucks ?- were there enough  
21 spaces to park trucks at the curb, or were the trucks double  
22 parked?

23 MR. JACKSON: Well, during the time that I was  
24 there, and ?- okay. If you can picture the lot - okay - 18<sup>th</sup>  
25 Street is to the west, so you go a block or so and there's an

1 alley that runs next to the ?- in fact, in the aerial that I  
2 provided in your packet ?- let's go to the aerial. It's the  
3 last of the old report, the first report submitted by Office of  
4 Planning.

5 VICE CHAIRPERSON RENSHAW: Uh-huh.

6 MR. JACKSON: Okay. You see 18<sup>th</sup> Street, and then  
7 there's a large office building at 18<sup>th</sup> and N. That office  
8 building ?- the west ?- the eastern end of that building ?- of  
9 course, the map is oriented to north/south, north and south.  
10 The eastern end of that building is a big parking garage.  
11 There's an alley just along the border that bounds that SP-1 and  
12 the SP-2 areas. Okay. That alley ?- while I was there, I saw  
13 trucks pull into that alley and pause to deliver. I saw trucks,  
14 vans parked on the street, but I also did see vans, such as  
15 Federal Express, double park.

16 VICE CHAIRPERSON RENSHAW: Okay.

17 MR. JACKSON: So I saw all three conditions on  
18 that street.

19 VICE CHAIRPERSON RENSHAW: All right. Now if a  
20 van is double parked along N Street, then it makes it difficult  
21 to pass. We have a big problem in downtown Washington with  
22 commercial vehicles double parking.

23 MR. JACKSON: The ?- my ?- as I observed, the  
24 vehicles that were parked ?- there are two lanes that travel in  
25 the direction, and there are two parking lanes, so I did not see

1 a problem when I was there of vehicles running into problems.  
2 And this was ?- I think we were on the site about 2:00 in the  
3 afternoon, so it was afternoon. And now you have a significant  
4 amount of traffic on 18<sup>th</sup> Street, and 17<sup>th</sup> Street, and of course  
5 all kinds of traffic on Connecticut Avenue.

6           However, the traffic along this stretch did not  
7 appear to be that frequent. And I'm not sure if it was just the  
8 time of day. I didn't go back out there at rush hour, but  
9 during the regular work day, it appeared to be the usual  
10 traffic. In the morning ?- well, I wasn't there in the morning,  
11 but in the afternoon there were Federal Express trucks, one or  
12 two deliveries. People were coming out of the restaurants that  
13 are along there, and so the ?- most of the facilities would be  
14 serviced probably in the early morning, early afternoon except  
15 for regular deliveries. And I think under those circumstances,  
16 this additional use should not be that ?- should not create that  
17 much of a problem.

18           VICE CHAIRPERSON RENSHAW:       And it's metered  
19 parking along N Street?

20           MR. JACKSON:   Yes.   There's metered parking along  
21 ?- in front of the building, and to the east. There did appear  
22 to be a delivery zone across the street in front of another  
23 existing office building, but again, the metered parking ?-  
24 well, I didn't see anybody leave the metered parking, so  
25 apparently it's pretty well used.

1 VICE CHAIRPERSON RENSHAW: Yeah. I note on this  
2 map that there are some spaces on this street which is so  
3 unusual. It must have been taken on a Sunday. I don't know.

4 MR. JACKSON: Could well have been.

5 VICE CHAIRPERSON RENSHAW: Anyway, you also  
6 mentioned trash collection. Now if the Applicant increases the  
7 number of renters in this building, there would be additional  
8 trash. Now is there a dumpster? How is trash going to be  
9 handled?

10 MR. JACKSON: Well, I believe ?- now I'm just  
11 guessing here, but the ?- my experience in working with  
12 attorneys is that they shred a lot of their trash. As such, you  
13 get bags of paper, and you still could ?- the walkway that's  
14 underneath on the site plan, on the building elevation, you see  
15 this walkway, the service corridor that goes to the front of the  
16 building. My experience, looking at the service corridor when  
17 we were visiting there, we noted that people were storing  
18 building supplies and some trash in that corridor, so I would  
19 think that would continue to be the place where they'd store  
20 trash to take out to the front, because they can't access the  
21 rear of the property.

22 CHAIRPERSON GRIFFIS: Where is the pickup ?-

23 VICE CHAIRPERSON RENSHAW: So trash pickup is how  
24 ?- how is it taken care of?

25 MR. JACKSON: Actually, I would defer to the

1 Applicant. I was assuming it's taken care of in the front.

2 MS. STUART: I confess that my plan was just to  
3 hire the same trash company that services other buildings in the  
4 immediate area.

5 CHAIRPERSON GRIFFIS: And where do they pick up  
6 trash? Is it out the rear? So somehow they have access into  
7 that alley, private or public.

8 MS. STUART: Yeah. I confess I have never seen  
9 it. I now currently use that space for parking, and I have not  
10 seen a trash truck there, so I am guessing, but the arrangement  
11 may be that it is left in some location where it's picked up.  
12 There are quite a number of dumpsters in the adjacent alley that  
13 goes between Rhode Island Avenue and N Street, and it may be  
14 that by agreement in the neighborhood that that's where trash is  
15 dumped. But my expectation was just as Mr. Jackson mentioned,  
16 that the area which is now used really only as secondary access,  
17 and also for storage, would be the place where trash would be  
18 left and collected.

19 VICE CHAIRPERSON RENSHAW: I think, Mr. Chairman,  
20 we need to have some definite trash pickup, and whether or not  
21 the Applicant is going to be required to position a dumpster on  
22 her property.

23 MS. STUART: Well, I ?-

24 CHAIRPERSON GRIFFIS: That's going towards ?-

25 MS. STUART: I think as a practical matter,

1 because of the shape of that entrance way, that it would have to  
2 be not dumpsters, but rather, you know, like super cans or  
3 things like that, that ?-

4 CHAIRPERSON GRIFFIS: Right. I think her point  
5 just is what is the hauling policy, and I think it goes to what  
6 Ms. Renshaw ?-

7 VICE CHAIRPERSON RENSHAW: What are the  
8 requirements.

9 MS. STUART: Yeah

10 CHAIRPERSON GRIFFIS: ?- is stating, is if you  
11 have to have some sort of ?- it won't be super cans because  
12 that's a District pickup. This would be commercial and larger.

13 MS. STUART: Well, I ?-

14 CHAIRPERSON GRIFFIS: But some sort of container  
15 has to be ?-

16 MS. STUART: Barrels or something.

17 CHAIRPERSON GRIFFIS: ?- provided for. If it's  
18 in the rear, does that then impact one of the issues we're  
19 talking about, is parking. If it's in the front, we just need  
20 to know what it is, and then we can go from there.

21 MS. STUART: Yeah. I can only tell you ?-

22 CHAIRPERSON GRIFFIS: Okay.

23 MS. STUART: ?- that during the time when I was  
24 looking at the building and the Phi Delta Phi folks were still  
25 there, that I did not see any dumpsters in the rear of the

1 building, so my expectation ?-

2 CHAIRPERSON GRIFFIS: Okay.

3 MS. STUART: ?- is that they had an arrangement  
4 where the garbage was picked up in the front, and I would  
5 continue that.

6 CHAIRPERSON GRIFFIS: Well, irregardless of what  
7 they did, and how successful and unsuccessful, we're interested  
8 in what you're proposing to do, so we'll look for that also.

9 COMMISSIONER MITTEN: And maybe just to add on to  
10 that, which is to show where the trash will be accumulated,  
11 because ?-

12 CHAIRPERSON GRIFFIS: Right.

13 COMMISSIONER MITTEN: ?- that service corridor is  
14 being eliminated.

15 CHAIRPERSON GRIFFIS: And that's what I mean with  
16 trash program, is it stored inside and then removed out at  
17 collection days? What sort of collection days there are? The  
18 whole program, because that does impact on adjacent properties.

19 MS. STUART: Maybe I could clarify for Ms.  
20 Renshaw that the service corridor will not entirely be taken up.  
21 It will be the area where the elevator goes, but there still  
22 will be an area in front that will be accessible for electrical  
23 panels. And I'm assuming also for the daily trash pickup.

24 CHAIRPERSON GRIFFIS: Okay. Any other questions?

25 COMMISSIONER MITTEN: Mr. Chairman, I had a

1 question for Mr. Jackson.

2 CHAIRPERSON GRIFFIS: Yes.

3 COMMISSIONER MITTEN: Which is you mention, but  
4 don't elaborate at all on the fact that this property is located  
5 in the DuPont Circle Overlay District. And I know there's  
6 specific provisions in the overlay related to PUDs, but there's  
7 also in the purposes of the overlay district, elaborated I think  
8 some guidance for the Board in terms of making decisions about  
9 preserving the scale of existing buildings, and you know,  
10 providing that we ?- providing for an environment that is  
11 conducive to the mix of uses that are common in DuPont Circle.  
12 And I wondered if you had given any thought to the overlay  
13 district, and whether that bears on your view on the variances  
14 at all?

15 MR. JACKSON: I did review those sections. In  
16 fact, I'll turn to them now.

17 COMMISSIONER MITTEN: It's 1501 if you need help  
18 finding it.

19 MR. JACKSON: All right. Thank you. Okay. The  
20 Section ?- page 53. Yes, the ?- we looked ?- I looked through  
21 these. Now certain things I had to take into account when I did  
22 this review regarding these regulations. First, although the  
23 use ?- the authorized use is residential, I think it's clear  
24 that it's been a while since the property was used for  
25 residential, because one of the concerns was this overlay

1 intended to encourage retention of residential space. So this  
2 ?- there had to be a judgment call as to whether or not we would  
3 consider this to be a change. It's a change in legal use,  
4 however it's a change in use. We decided to say that this is  
5 not really a change in use, so that there isn't an issue of  
6 preserving residential use in this area on this application.  
7 But when it talks about effective evaluation, just general  
8 evaluation standards concerning alleys and service areas, street  
9 impeded by service stops, architectural design, intentional  
10 fabric, there will be very little change to the building except  
11 for the use. And given the fact that use is one that's  
12 consistent with the zoning regulations, we felt that as such  
13 there were no issues raised under the DuPont Circle Overlay that  
14 were ?- raised our concern relative to this project.

15 COMMISSIONER MITTEN: Okay. Thank you.

16 CHAIRPERSON GRIFFIS: Anything else for Mr.  
17 Jackson at this time? Does the Applicant have any questions of  
18 the Office of Planning?

19 MS. STUART: No, I don't believe so, not at this  
20 time. Let me just amend that. Am I right that the Office of  
21 Planning is making no recommendation then with respect to the  
22 request for a variance on the FAR requirements, going from the  
23 existing 2.14 to 2.67?

24 MR. JACKSON: Okay. With respect to a variance  
25 that would be required to expand the existing building, we're

1 recommending against that. With respect to a variance that  
2 would be required to use the existing building, the entirety of  
3 the existing building for office uses, that we support.

4 MS. STUART: Okay. Now your recommendation  
5 against the expansion of the building is based on the fact that  
6 you did not have available to you the information about how much  
7 of the core of the building was not usable for office space. Is  
8 that correct?

9 MR. JACKSON: Well, we ?- in particular, we just  
10 did not have any documented justif ?- any documents justifying  
11 the additional FAR, other than the statement that you needed the  
12 additional square footage to make the property pay for itself.

13 MS. STUART: Okay. In reviewing the matter now  
14 with the consideration of the space taken up by the stairwell,  
15 the elevator, the additional rest room facilities that are  
16 required, and the areas of the building that have to be  
17 dedicated for ?- if you're going to have handicap access, and  
18 fire egress and so forth, would it be your view, if not the  
19 Office of Zoning, or Office of Planning's view that a small  
20 increase in the FAR to accomplish the goals and objectives of  
21 the project would be consistent with the zoning regulation and  
22 maps of the District of Columbia?

23 MR. JACKSON: I object. No, I'm just kidding. I  
24 think that, again what we want is documentation. And I think  
25 the issues that have been raised by the Board, particularly with

1 getting on paper all the measurements that the architect has  
2 done, since we don't have a good set of architectural numbers,  
3 and looking at all the proposals and suppositions addressing the  
4 questions raised by the BZA, would go a long way toward  
5 addressing the issues relative to use itself. And I think it  
6 will go to the practical difficulty that needs to be addressed,  
7 that at this point what I think needs to happen is that the  
8 statements that have been made today, and any additional  
9 supporting documentation, and statements should be very well  
10 documented and submitted, so we can actually evaluate it in a  
11 proper light. So at this point, I'm not in a position to make a  
12 statement on what I've heard. Again, they're going in the right  
13 direction. However, I think it needs to be documented.

14 CHAIRPERSON GRIFFIS: Any other?-

15 MS. STUART: I'm left somewhat without guidance,  
16 because we've submitted plans showing these various factors that  
17 we have discussed today, and there have been some requests for  
18 additional graphic representations of the roof lines and so  
19 forth.

20 CHAIRPERSON GRIFFIS: Well, I think we're going  
21 to be able to provide more guidance also, so if it's not clear  
22 as this wraps up today, we will certainly make our best effort  
23 to make it precisely clear. But I appreciate Mr. Jackson's  
24 directness in that, that he thinks this is going in the right  
25 direction for their review, and perhaps for their support. But

1 documentation is needed, and there it is.

2 Do we want to move ?- did you have other cross  
3 examination of the Office of Planning at this point?

4 MS. STUART: No.

5 CHAIRPERSON GRIFFIS: Okay. Let's move on to  
6 Public Works, which I just had in front of me. Have you seen  
7 this letter?

8 MS. STUART: I received it today, yes.

9 CHAIRPERSON GRIFFIS: Okay, as did we. Dated  
10 January 28<sup>th</sup>. Exhibit Number 30 in the case. To cut to the  
11 quick, I would say we go to the last paragraph, "The location of  
12 the parking spaces is not shown" - I'm starting in the middle of  
13 the paragraph - "on existing or proposed site plan submitted by  
14 the Applicant. On the submitted surveyor's plat, a 10 foot wide  
15 alley" - he calls it a public alley - "is shown providing access  
16 to the rear of the site. However, the rear of the site was  
17 inaccessible to staff conducting the site visit to verify the  
18 location and design of the off-street parking spaces.  
19 Accordingly, DDOT", or D-DOT as some might refer, "does not  
20 support the application until further information is provided by  
21 the Applicant regarding on-site parking." Again, I think it's  
22 just a question of providing further clarification on that  
23 proposal.

24 MS. STUART: I do not think that we can provide  
25 any more clarification, other than what is in the record and

1 what we have discussed this afternoon. It is on the surveyor's  
2 plat that it is a public alley, as Ms. Mitten has noted. One  
3 hardship with respect to the parking area that may not be  
4 apparent from the plans, is that part of the area that is black  
5 topped behind my building is, I am told, encroaches upon the  
6 property line of the building next door. They constructed a  
7 garage which is seen in the pictures, that apparently did not  
8 take up the full area. And so I gather it has been the practice  
9 over these many years, of the cars to utilize that space. But  
10 hypothetically at some point in the future, if the owners of the  
11 adjacent property were to build out to the property line, that  
12 would make it even more difficult to use that space for the full  
13 three cars that you would want to have there.

14 CHAIRPERSON GRIFFIS: Right. And I think we  
15 walked through that. I mean some of the ?- when you say you  
16 can't provide any additional information, again I would  
17 reiterate the fact that we will give you direction on what we're  
18 going to need. And the simplest matter is what we're already  
19 investigation, the alley. OP is going to take care of that. I  
20 would ask for dimensions in the back in terms of that distance  
21 from the lot to lot line, the access in. Simple specific things  
22 that I don't think are going to be that cumbersome.

23 Okay. I don't have any other government reports.  
24 ANC report.

25 VICE CHAIRPERSON RENSHAW: Mr. Chairman, we have

1 a letter from ANC 2-B signed by Vince McCullen, the Chairperson.

2 It's dated January 22<sup>nd</sup>, 2002, and stated that, "ANC 2-B met on  
3 January 16<sup>th</sup>, 2002, and considered the Application 16827. Five  
4 of six commissioners were in attendance, a quorum at a duly  
5 called public meeting. And they voted unanimously to support  
6 Application 16827 by Pam Stuart, for a variance to allow an  
7 addition to, and conversion of a building for office use at 1750  
8 N Street, N.W."

9 CHAIRPERSON GRIFFIS: Thank you.

10 VICE CHAIRPERSON RENSHAW: That's Exhibit Number  
11 28.

12 CHAIRPERSON GRIFFIS: Indeed, and it was timely  
13 ?- no, it was one day late. Well, I would look at my Board and  
14 see if there's consensus to waive that in. I think it would be  
15 appropriate, and give it the great weight to which it is  
16 afforded. And that is, again underscored, ANC recommending  
17 approval to that. Okay. Government ?-

18 COMMISSIONER MITTEN: You know, I was just  
19 reminded of something when you were speaking of the waiver of  
20 the timing for the ANC report, which is that the ?- and I don't  
21 think we covered this in the beginning, which is that the  
22 property was not posted for the required amount of time.

23 MS. STUART: I would ask for a waiver on that,  
24 and I have an explanation. The property was posted on, I  
25 believe, Friday the 18<sup>th</sup>. And I had been intending to pick up

1 the sign on that Monday. On Sunday night, I was a victim of  
2 what I'm now finding out is the tow truck scam in the District  
3 of Columbia, and my car was basically stolen out from under my  
4 nose by a towing company. And I spent all day Monday, frankly,  
5 trying to resolve that issue, and the need to go pick up the  
6 sign went completely out of my head.

7 I note that there have been no ?- to my  
8 knowledge, nobody opposing this application. I appeared  
9 personally before the ANC, and it was unanimously approved.  
10 Including, I might add, there was a discussion of the parking  
11 issue at the meeting, and I would ask that the Board waive  
12 strict adherence to that requirement.

13 CHAIRPERSON GRIFFIS: Okay. And I'm going to  
14 consider that, and not act on that right now. Ms. Mitten, you  
15 are responsible for reminding me to take that up towards the  
16 end, but I'd like to move on, because we do have other people  
17 here. And I think that may factor into some of the things that  
18 happen now.

19 Let us go and call for ?- any other ?- just for  
20 clarification, any other government reports that I am not seeing  
21 right now? I don't have any submissions, record of? Very well.

22 Okay. We have one person to testify today. Is that correct?

23 Okay. And if you wouldn't mind just come up. Yeah, come up to  
24 the table. Have you filled out a witness card? Okay. And I'm  
25 going to have you just turn on the mike, and if you would, just

1 give me your name and your address.

2 MS. SHANKLE: Certainly. My name is Kim Shankle,  
3 and I'm here representing the American Society for Microbiology.

4 CHAIRPERSON GRIFFIS: I see, yeah.

5 MS. SHANKLE: We are located at 1752 N Street,  
6 N.W.

7 CHAIRPERSON GRIFFIS: Good. And you did submit a  
8 letter. Correct?

9 MS. SHANKLE: Yes, sir. It was hand-delivered to  
10 the office yesterday.

11 MS. STUART: I have not received that letter.

12 CHAIRPERSON GRIFFIS: You have or have not?

13 MS. STUART: Have not.

14 CHAIRPERSON GRIFFIS: Okay. Let's get a copy  
15 out. Okay. How long do you think you need to give testimony?  
16 Often ?- well, let me know.

17 MS. SHANKLE: Five minutes, ten minutes.

18 CHAIRPERSON GRIFFIS: Five minutes.

19 MS. SHANKLE: I can be pretty brief.

20 CHAIRPERSON GRIFFIS: Okay. I'm not rushing you.  
21 I'm balancing something here. We have to recess and what I'm  
22 wondering is whether we'd recess now, and then come back and get  
23 to you. And then it won't be for long. It's a matter of  
24 probably 15 minutes. Okay. Let's move ahead, and let's do  
25 that, and we'll run through then.

1 MS. SHANKLE: Okay. Very briefly, the American  
2 Society for Microbiology is a membership organization. It has  
3 45,000 members worldwide. The organization moved its  
4 headquarters here in the mid-60s, purchasing a building at 1913  
5 I Street. Then in the late 80s purchasing another building,  
6 1325 Massachusetts Avenue as its headquarters, renovating that  
7 building. And then in 1999 purchased its current headquarters  
8 at 1752 N Street.

9 The current building that we occupy is adjacent,  
10 and if you stood in front of the buildings you would think they  
11 were on 1750 and 1752, sharing a facade. And then behind our  
12 building is an office tower that was constructed in the mid-80s.

13 We came before this Board after our purchase of  
14 the building when we were going through a renovation process,  
15 significantly adding life safety, upgrading, et cetera, for the  
16 atrium that we added to that building. And that resulted in a  
17 pretty nice structure as far as we were concerned.

18 We learned about the proposed plan. We are very  
19 excited actually to get neighbors next door. Last Tuesday or  
20 Wednesday when we noticed the posting had gone up, we have  
21 scrambled to get a copy of the application, and we have learned  
22 about the addition that has been planned on the rear. And we're  
23 concerned about that from two standpoints. One, is the  
24 obstruction that this addition would cause, as well as the value  
25 to our property as a result of this.

1 I do not have any type of documentation at this  
2 point on those issues. I did bring some photographs for you to  
3 help illustrate our concerns, and these are also, again,  
4 assumptions being made based on the plan and the application.  
5 It doesn't necessarily have dimensions as far as how far out  
6 this addition would be coming, so we're making assumptions.

7 Again, it looks like the addition would be  
8 sitting right on our property line, and would come to right in  
9 the middle of where our atrium doors are at the present time.

10 CHAIRPERSON GRIFFIS: Okay. And you said you  
11 have pictures?

12 MS. SHANKLE: I have pictures. I'd be happy  
13 to ?-

14 CHAIRPERSON GRIFFIS: Okay. And you understand  
15 if you submit those, you're not getting them back.

16 MS. SHANKLE: Yes, I have copies.

17 CHAIRPERSON GRIFFIS: Okay. If you would, hand  
18 them to Ms. Bailey, and she can pass them down to us.

19 So for clarification, your letter is dated ?- and  
20 I think you reiterated the fact ?-

21 MS. SHANKLE: The date actually is missing, I  
22 noticed today. It was generated yesterday.

23 CHAIRPERSON GRIFFIS: That's fine. I mean, it's  
24 stamped in so we can try ?-

25 MS. SHANKLE: Yes.

1 CHAIRPERSON GRIFFIS: But the point is you came  
2 today, not necessarily knowing whether you were for or against,  
3 but a little investigative in terms of ?-

4 MS. SHANKLE: Yes, we're just concerned.

5 CHAIRPERSON GRIFFIS: And do you still have  
6 questions on the impact, or you are now convinced one way or the  
7 other?

8 MS. SHANKLE: From what I'm gathering from this,  
9 I'm concerned very much about the impact that this will have on  
10 our property, yes.

11 CHAIRPERSON GRIFFIS: Okay. Let's take a moment.  
12 We'll look at pictures. I would ?- Board Members, questions?  
13 I'm assuming that we're going to see the adjacency of your  
14 property with relation to the proposed addition in some of  
15 these. I would give the Applicant opportunity to cross examine.

16  
17 MS. STUART: Ms. Shankle, we've not met before  
18 today.

19 MS. SHANKLE: No, ma'am.

20 MS. STUART: And did your organization receive  
21 the mailing that was sent out to all of the property owners  
22 within a 200 foot radius of 1750 N Street, advising of the  
23 pendency of this application and the hearing date?

24 MS. SHANKLE: No, ma'am. As I said, we did not  
25 become aware of it until the posting went up.

1 MS. STUART: Is there someone else in the  
2 association who would have received correspondence directed to  
3 the association about this matter, other than you, yourself?

4 MS. SHANKLE: Quite possibly, yes.

5 MS. STUART: All right. Now when your  
6 association built its building, which essentially wraps around  
7 the lot that is for 1750 N Street, you did not go to the Office  
8 of Planning for its review and approval. Is that right?

9 MS. SHANKLE: We bought the building in 1999, and  
10 the office tower behind that was built in '83, so it was part of  
11 the existing structure that we purchased.

12 MS. STUART: I see.

13 MS. SHANKLE: What we looked into was the  
14 addition to the atrium that we built out. We went two stories  
15 up, where it was before one story, and moved 10 feet closer to  
16 the wall. And I know there's property line issues because had  
17 we had our wish list, we'd have gone to the property line with  
18 it, but we were advised we were not able to do that.

19 MS. STUART: And it's true, is it not, that in  
20 the past, the association had sought to purchase 1750 N Street,  
21 to add to its space. Is that right?

22 MS. SHANKLE: That's correct.

23 CHAIRPERSON GRIFFIS: Can you help me figure out  
24 where you're going with some of this?

25 MS. STUART: Well, I think that there may be a

1 sort of bias issue here, in that the association wanted to  
2 acquire my building. Apparently, the previous owner refused to  
3 sell it to them, so they have an interest in trying to make my  
4 building unusable.

5 CHAIRPERSON GRIFFIS: Uh-huh. Okay. I'll take  
6 your word for that.

7 MS. STUART: I'm assuming that that is an issue.  
8 The atrium in question is surrounded on the other side of your  
9 building by a rather tall and steep brick wall. Is that  
10 correct?

11 MS. SHANKLE: Are you referring to the party  
12 wall?

13 MS. STUART: No, on the opposite side of your  
14 lot. In other words, cutting off your light and air to the  
15 atrium, there is a very tall brick wall with offices that was ?-  
16 that is part of your office complex. Is that right?

17 MS. SHANKLE: That's correct.

18 MS. STUART: So that if my building were to  
19 expand approximately 15 feet to the rear, and only to the top of  
20 the property within the permitted regulation, permitted height  
21 regulations in the District of Columbia, it would not have  
22 nearly the same affect in cutting off light and air to your  
23 building as your own building does.

24 CHAIRPERSON GRIFFIS: Is that a question?

25 MS. STUART: Yes.

1 MS. SHANKLE: I can't speak to that, because the  
2 atrium was designed based on the current light that comes  
3 through there. The glass was selected based on certain UV  
4 content, et cetera, so I'm not an expert in that area. And as I  
5 indicated, I don't have documentation to support that. Right  
6 now, it's a concern.

7 MS. STUART: Okay.

8 CHAIRPERSON GRIFFIS: Anything further?

9 MS. STUART: I would like to take a look at the  
10 pictures.

11 CHAIRPERSON GRIFFIS: Oh, indeed. We should have  
12 shown them to you. Well, now we've tossed them around up here,  
13 and I'm not sure we can get them organized. Well, actually, let  
14 me get them down to Mr. Levy, and then back out, and then we'll  
15 put them down on the table. I haven't put them in as an  
16 exhibit. I need someone to count them up for me, and we'll put  
17 them in as Exhibit Number 34. Do you know off-hand how many  
18 there were totally? Twenty-five? Twenty-six. Excellent.  
19 Thank you. Twenty-six photos. Okay.

20 For my clarification, the portion that you had  
21 indicated in your testimony that you are concerned about is your  
22 atrium. That atrium actually walks out onto a small courtyard.

23 MS. SHANKLE: A very small courtyard.

24 CHAIRPERSON GRIFFIS: Right. Very minimal.

25 MS. SHANKLE: Right.

1 CHAIRPERSON GRIFFIS: That actually is below the  
2 level of the grade of the adjacent property. Is that correct?

3 MS. SHANKLE: Yes.

4 CHAIRPERSON GRIFFIS: If you're standing in your  
5 court yard, you actually have a large retaining wall.

6 MS. SHANKLE: Yes, sir.

7 CHAIRPERSON GRIFFIS: Okay. But that atrium is  
8 actually double height spaced, so it then projects passed the  
9 site.

10 MS. SHANKLE: Yes, sir.

11 CHAIRPERSON GRIFFIS: Okay. Now you're aware of  
12 ?- in fact, the proposed plans at this point is to fill in the  
13 mass of the volume that starts at the first floor, second and  
14 third.

15 MS. SHANKLE: Yes.

16 CHAIRPERSON GRIFFIS: And then the stairway that  
17 looks like it has impact further out, still would be stepped  
18 away from the atrium, but actually is open. It's covered in  
19 order ?- so that there isn't snow accumulation and such, but  
20 it's open in terms of getting light and air through it. Is that  
21 your understanding?

22 MS. SHANKLE: Okay. Yes.

23 CHAIRPERSON GRIFFIS: Okay. Have you seen the  
24 full size plans?

25 MS. SHANKLE: No, sir.

1 CHAIRPERSON GRIFFIS: Well, let's look at them.  
2 Do you have ?- I think I saw in your's ?- well, in the full size  
3 set.

4 MR. STOIBER: The plans or ?-

5 CHAIRPERSON GRIFFIS: I'm sorry, not the plans.  
6 I was thinking of the ?- I'm not sure if it's a section or an  
7 elevation of the ?- yeah, the section of the rear stairs, just  
8 to show. Just making sure that everyone is looking at the same  
9 thing as I.

10 COMMISSIONER MITTEN: You need to be on a mike.  
11 There you go.

12 MR. STOIBER: Here is the front elevation of the  
13 building, and there's the rear elevation showing the existing  
14 bay on the second floor, new bays on the third, fourth and fifth  
15 floor. That's the ?- a section elevation of the stair, and the  
16 rear elevation of the stair there.

17 CHAIRPERSON GRIFFIS: Right. Thank you. That's  
18 helpful. So in fact, that ?- have you seen that before? Okay.  
19 And so what we're looking at is A-4, which is actually part of  
20 the submission. It's part of the case file, the full size set.  
21 That, in essence, is what would be projecting out from the  
22 addition. You could see it's not a solid mass it might read,  
23 perhaps in the plans, but it is a mass nonetheless. But that's  
24 what's being proposed.

25 Okay. Board Members, any other questions on the

1 testimony? Nothing at this time? Yeah, Mr. Etherly.

2 MR. ETHERLY: Real briefly, Mr. Chairman. Your  
3 testimony is real helpful because it does help us address this  
4 issue of the special exception, which raises the point about the  
5 design, harmony, use of the property regarding neighboring  
6 properties, so your presence is helpful.

7 Just real briefly, give me a sense again. The  
8 atrium area is primarily used on your property for office space  
9 at this point in time?

10 MS. SHANKLE: It's basically ?- acts as our lobby  
11 ?-

12 MR. ETHERLY: Okay.

13 MS. SHANKLE: ?- during the day. It also is an  
14 area that is used for meetings, social functions, et cetera.

15 MR. ETHERLY: Okay. And in terms of the outside  
16 court yard space that's visible from some of the pictures that  
17 have been submitted, is that used frequently throughout the day,  
18 smoking area, lunch area, anything along those lines?

19 MS. SHANKLE: No, it is seldom used.

20 MR. ETHERLY: Okay.

21 MS. SHANKLE: It's used at night as a smoking  
22 area if there's a social function going on, to be quite honest.

23 MR. ETHERLY: Okay. And you've probably heard a  
24 little bit of conversation regarding this issue of the private  
25 or secured alley. Is there an access point on ?- into your

1 property from that back way. We notice that there is a door  
2 from the atrium into that small court yard area. Is that area  
3 entirely contained, or is there an exit point that continues  
4 into the alley from your property?

5 MS. SHANKLE: It's all a bricked wall.

6 MR. ETHERLY: Okay. So it's completely enclosed.

7 MS. SHANKLE: No access or egress.

8 MR. ETHERLY: No access, ingress or egress.

9 Okay. Thank you very much. Thank you, Mr. Chairman.

10 CHAIRPERSON GRIFFIS: Uh-huh. Anything else?

11 Okay. We're going to break for 10 minutes. WE'll be back at 25

12 of. I'm going to have the pictures delivered. You can have 10

13 minutes to take a look at that, and we will reconvene.

14 (Off the record at 4:23 p.m.)

15 (On the record at 4:40 p.m.)

16 CHAIRPERSON GRIFFIS: Okay. WE can get going

17 when you folks are ready again. I appreciate you indulging us

18 for that technical interruption. You can turn on your mike. He

19 will be joining us shortly and as we maintain a quorum, we can

20 proceed.

21 You have had the luxury of not having another

22 case in the afternoon, as one was moved, and we've had quite a

23 bit of time. However, we will be closing this fairly shortly.

24 And I think as we have now had testimony, and just to reiterate,

25 we have testimony at this point in opposition, although cautious

1 I might say, but opposition to this. We will set this for  
2 decision making before we do that, and go through everything  
3 that we think we will need before we go to that. I will turn it  
4 to you for any closing remarks.

5 MS. STUART: All right. I'd like to thank the  
6 Members of the Board for the careful consideration that they  
7 have given to this project. I think the issues are fairly  
8 clear. One is whether the special exception should be granted  
9 for office use, a use consistent with the character of the  
10 block, the neighborhood, and permitted and encouraged within  
11 that district. And I think that we have clearly met the  
12 requirements for that.

13 In terms of the configuration of the building,  
14 which I think is ultimately the one of most concern. I think  
15 we've demonstrated through the plans, and our testimony, and the  
16 submissions, that because of the construction of this building  
17 originally as a residential structure, because it has very high  
18 ceilings, because it has this extraordinary staircase in the  
19 middle, and because it is in a very narrow lot with no room to  
20 expand, that a small increase in the FAR in order to simply bump  
21 out the building to meet the footprint of the existing building,  
22 and to bump it up six feet, to add additional usable space would  
23 relief the hardship that is presented by the shape and  
24 configuration of the building as it exists.

25 I noted when I was looking through the pictures

1 supplied by Ms. Shankle, that the rear of most of the other  
2 buildings in that row come out to the lot line that were ?- or  
3 come out to the footprint line that we're proposing. In other  
4 words, my building at 1750 N Street was not built out as most of  
5 the other buildings were to accommodate that additional space.  
6 And perhaps it was the original residential design, I don't  
7 know. But either those other buildings had been built that way  
8 originally, or as Mr. Stoiber has informed me, they all have  
9 gotten variances from this Board in order to do that, and to  
10 come out as far as they have.

11                   Yesterday, I went and looked at some of the files  
12 and looked at the cards in the Office of Zoning, and discovered  
13 that indeed there had been quite a number of variances granted  
14 on the block, not the least of which was to the Association for  
15 Microbiology, because their building is eight stories tall,  
16 extends ?- has well over 11,000 square feet, and you know,  
17 greatly overshadows all of the other buildings in the area. And  
18 the idea that a small addition to the rear of the adjacent  
19 building would cause them any kind of hardship is something  
20 that, quite frankly, I think I would not have imagined. But I  
21 certainly hope to be a good neighbor, and work out anything ?-  
22 any issues that might arise. But I think that if they were  
23 worried about the light, and air, and so forth coming to their  
24 atrium, that they should have been worried about it on their  
25 side of the property where they could do something about it.

1 And obviously, they couldn't rely upon the configuration of an  
2 adjacent building remaining the way it was out into the end of  
3 time. That's just not possible.

4 In short, I think that we have demonstrated that  
5 the proposed use and configuration of the building will be in  
6 harmony with the character of the neighborhood, and the adjacent  
7 properties. There will be no adverse affect on the neighboring  
8 property that has been documented that would overshadow, or need  
9 any kind of burden of proof that there's a problem. And we've  
10 demonstrated compliance with submitting to the Office of  
11 Planning, the use, height, and bulk and design of the building  
12 is going to be harmonious. The ?- those who have weighed in do  
13 not believe there will be dangerous or other objectionable  
14 traffic conditions. And so, we believe that the application  
15 satisfies the requirements for variance relief for permitted  
16 density, and for the possible parking variance that we do  
17 believe would be appropriate under the circumstances presented.

18 But I do stress that this ?- these variances may be granted  
19 without detriment to the public good, and without impairing the  
20 intent, purpose, and integrity of the zone plan.

21 To do otherwise, would be to suggest that all the  
22 neighboring properties could get a variance, but somehow we  
23 could not. And I think it is perhaps a problem unique to this  
24 block, or to this property, but at the moment, 1750 N Street is  
25 one of the few that is set back in the way that it is.

1           If we are allowed to build out, obviously there  
2 will no adverse impact on the street. You won't be able to see  
3 it. It will make for a much nicer view from the neighbors  
4 because we will have nice bay windows, and no ugly wall air  
5 conditioners. And Mr. Stoiber assures me that the fire  
6 staircase that we have to have will be tasteful.

7           CHAIRPERSON GRIFFIS: Good. Thank you. Okay.  
8 What we're going to do now is look at some dates. And while  
9 Staff starts to pull those together, there are quite a few  
10 things that I want to go through, just to reiterate, and a  
11 couple of questions.

12           First, it just strikes me in your closing  
13 comments, well said. However, it is a delicate balance looking  
14 at adjacent properties saying they did it, why can't we?  
15 Especially when we're looking at a variance, and the BZA  
16 specifically looks at the specific case, and the proving of the  
17 case on the merits of the property, and what's before us.

18           That goes to a larger issue, and I think it's  
19 been, this has been very helpful, which is why we have the  
20 public hearings, is to have discourse and information gathering.

21           I still feel, and I think other Board Members, and Office of  
22 Planning also feels two things. We need a little bit more  
23 documentation, and most importantly, that documentation is going  
24 to what you've been speaking to, but going to the test. And  
25 that's the variance test which, of course, is much more

1 burdensome than the special exception.

2 I would note some emphasis be placed on  
3 identifying the uniqueness of the property. I think you have  
4 touched on some very substantive pieces that go to any sort of  
5 peculiar or practical difficulties of this. Again, inform us as  
6 you will, based on some of the information that we're about to  
7 request. And, of course, the impact has been, I think,  
8 adequately done for the variance.

9 To the special exception, I ?- well, there that  
10 is. Let's start off, first of all, we're looking at just  
11 finding some sort of documentation of whether that's actually  
12 legal parking back there. Office of Planning is in charge of  
13 tracking down the alley, and its present condition, being  
14 privately or publicly accessed. Part and parcel of that will be  
15 just a very quick dimension on that access into the back piece  
16 of the lot.

17 We're looking for the trash pickup and trash  
18 storage plan.

19 MS. STUART: How does that go into whether or not  
20 a variance would be granted?

21 CHAIRPERSON GRIFFIS: Well, that's an excellent  
22 point. I think it goes to ?- and it came up with the fact of as  
23 we look at the back portion of the site, and the use for  
24 parking, as that will then tie into the variance. Are we  
25 looking at having to occupy space for pickup there for storage.

1 Is there going to have to be dumpster access? I think it goes  
2 to the larger issue of also just the layout of the site.

3 COMMISSIONER MITTEN: Mr. Chairman.

4 CHAIRPERSON GRIFFIS: Yes.

5 COMMISSIONER MITTEN: If I could also add that in  
6 the test in Section 508 for conversion of an existing property  
7 to office use in the SP Zone, there is a requirement that the  
8 conversion not be adverse to neighboring properties. And the  
9 treatment of trash also bears on the special exception test for  
10 the office conversion.

11 CHAIRPERSON GRIFFIS: All right. Thank you. The  
12 other piece will be the calculations. Once again, we've kind of  
13 written it down. It is part of the record, but if we could have  
14 a redone chart, that would be incredibly informative.

15 Thirdly, or ?- thirdly, who knows what number it  
16 is now. If you could give me some indication on the Historic  
17 Preservation schedule that's being reviewed. You said you have  
18 informally talked to staff. You, I imagine, have a Staff Member  
19 that's assigned to this now. If you have it at the time for  
20 submittal, it would be important for us just to figure out where  
21 that is in the process. That's somewhat more limited in terms  
22 of our own deliberations, but it's an important factor that we  
23 roll in.

24 I will just indicate, and I'm sure Mr. Stoiber  
25 knows this quite well, the issue comes more on the burden to the

1 Applicant, in that if, in fact, Staff Member wants to change  
2 this or move certain things, it could impact then the zoning,  
3 and you could, in fact, be showing up again for some sort of  
4 relief based on that. I don't anticipate that, but that's often  
5 why the process goes to Historic first, and those essential  
6 design issues are worked out, and then it comes to Zoning. But  
7 be that as it may, just some update on that, whether you're  
8 going on consent calendar, or you may get through it.

9 That's what I have in my notes, folks. Do you ?-  
10 is there other information?

11 MEMBER LEVY: Mr. Chair.

12 CHAIRPERSON GRIFFIS: Yeah.

13 MEMBER LEVY: You mentioned ?- one of the things  
14 you mentioned was calculations, and I assume you were referring  
15 to square footage, and FAR calculations specifically.

16 CHAIRPERSON GRIFFIS: Right. Exactly.

17 MEMBER LEVY: Okay.

18 CHAIRPERSON GRIFFIS: Yeah. Thank you.

19 COMMISSIONER MITTEN: Mr. Chairman.

20 CHAIRPERSON GRIFFIS: Uh-huh.

21 COMMISSIONER MITTEN: We also need a roof  
22 structure plan.

23 CHAIRPERSON GRIFFIS: Oh, right.

24 COMMISSIONER MITTEN: And we ?- although I have  
25 no doubt that this is the case, but we need ?- just for the ?-

1 to complete the record, we need certification that the building  
2 is a contributing structure in the DuPont Circle Historic  
3 District, so that it is entitled to the parking space waiver  
4 under 2100.5.

5 MS. STUART: As a technical matter, I am not  
6 seeking a waiver of the parking space requirement. I had  
7 understood from your comments, Ms. Mitten, that you might be  
8 going in the direction, looking at it as a contributing property  
9 that would not be required to have parking. I do not want to  
10 end up with a building that does not have legal parking.

11 COMMISSIONER MITTEN: Well, that's an issue that  
12 we're going to explore with the Office of Planning. But to the  
13 extent that we're going to establish what the base number of  
14 legal spaces that you have, and then if the building, in fact,  
15 is certified as contributing in a Historic District, there will  
16 be no further legal requirement, if there is one that is  
17 triggered for additional spaces above what you legally have now.  
18 But we need the actual certification from the Historic  
19 Preservation Division that it is a contributing structure.

20 CHAIRPERSON GRIFFIS: And let me just say, I  
21 think it's to your utmost benefit to do that, because if we come  
22 back, and by basis of, you know, an addition, and we're so  
23 gleeful, we want you to add 10 stories on this. And the parking  
24 requirement comes in that you actually have four or five  
25 required, I mean, you're stuck. And even more so, I don't see

1 how you get around making these legal to begin with, because you  
2 just ?- you can't get drive access in there, so I think it would  
3 be advantageous.

4 Use is one other thing. If you want to stock  
5 cars back there on your own, and make arrangements, informal or  
6 not, you know, we're not going to have control over that. But  
7 in terms of regulations, I don't think you want to be bound by  
8 what parking calculations might come up with. And it will go  
9 to, you know, recalculating based on the square footage, the  
10 amount that's actually required. Okay. What else?

11 MR. ETHERLY: Mr. Chairman, I apologize for  
12 stepping in a little late.

13 CHAIRPERSON GRIFFIS: Yeah.

14 MR. ETHERLY: Will the Office of Planning review  
15 also be looking at the issue of easements as they relate to the  
16 private or secured alley?

17 CHAIRPERSON GRIFFIS: Well, it's an interesting  
18 point. I'm not sure they have the access to do that. Mr.  
19 Jackson can speak to it.

20 MR. JACKSON: Well, I inferred from your  
21 direction that we're supposed to verify just what the status is  
22 of that alley, and see if we can ?- if it's not public, to see  
23 if we can find any type of documentation that an easement does  
24 exist.

25 MR. ETHERLY: Okay.

1                   CHAIRPERSON GRIFFIS: Right. And I would ?- you  
2 know, the Applicant has stated the fact that she does not have  
3 any sort of formal arrangement or easement on that. I think as  
4 you investigate, obviously, if there's any legal easements that  
5 you'll come up with that as it across the lots, and that would  
6 be helpful. I can't imagine you wouldn't find that in title  
7 searches and such.

8                   MR. JACKSON: Right.

9                   MR. ETHERLY: And I would also hazard a guess  
10 that, you know, even if there's nothing in the paper trail that  
11 rises to the level of an easement, you know, perhaps at least  
12 some conversation with the appropriate property owner, that may  
13 result in some type of written understanding. You know,  
14 anything to help, once again, clarify the status of ingress and  
15 egress in that alley I think will be very, very helpful. So  
16 just as a suggestion, not as a binding thing. Just as a  
17 suggestion.

18                  MS. STUART: Well, following up on your  
19 suggestion, I did have conversation with Mr. Oaks at one point  
20 about he would be willing to grant me a year to year license.  
21 That was unsatisfactory to me.

22                  MR. ETHERLY: Okay. And I can understand that. I  
23 mean, once again it's totally within your wherewithal, you know,  
24 and discretion to make a determination of what's going to best  
25 suit your needs, but anything to help clarify. And from this

1 Board Member's standpoint, once again we're speaking right to  
2 one of the critical issues regarding the special exception, is  
3 looking at that parking, and looking at whether or not we're  
4 creating any unreasonable or objectionable traffic condition, so  
5 that's the reason why I suggest that.

6 There had been some mention about the fire  
7 department coming out to take a look at the back portion of that  
8 building, regarding the stair. And I know we've had some  
9 discussion about access for emergency vehicles. Once again, I  
10 don't know whether or not this falls with the purview of OP, or  
11 whether it's just a matter of waiting for additional feedback  
12 from the fire department, but there might be some utility in  
13 seeing whether or not there's anything that can be gleaned from  
14 them in writing to --- once again, speaking to the issue of the  
15 creation of traffic, unreasonable or objectionable traffic  
16 condition down there, access. You know, and it may be the case  
17 that it's not an issue, but I'd like to get some guidance on  
18 that.

19 MEMBER LEVY: Well, if I could just chime in on  
20 that, Mr. Etherly. In my mind, the issue of the status of the  
21 alley goes not only to parking, and movement of cars, but also  
22 to whether or not occupants of the building can leave that  
23 property in case of a fire once they come down that fire stair.

24 And I need to know that there's some access to public space  
25 from the Applicant's property, so that those occupants are not

1 trapped in the back yard at some point in the future, should the  
2 neighbors decide to build on their property.

3 CHAIRPERSON GRIFFIS: Okay. And all involved in  
4 that also is just a little further specific documentation of the  
5 back site, which will be referred over to D-DOT, and hopefully  
6 they will have a revised memo also, because they have ?- I mean,  
7 basically we have government reports which we have to take with  
8 great weight and seriousness in our deliberations, that are  
9 asking for more information, so that doesn't help us at all.  
10 And so we'll get that to them, and look with the revised OP  
11 report, also a revised Transportation report, which I think will  
12 go to a lot of that. They, hopefully, are ?- may speak to it.

13 MR. ETHERLY: Thank you very much, Mr. Chair.

14 CHAIRPERSON GRIFFIS: Yeah. Is that enough?

15 MR. JACKSON: Mr. Chairman.

16 CHAIRPERSON GRIFFIS: Yeah.

17 MR. JACKSON: The Office of Planning would  
18 appreciate some additional documentation, but really all we want  
19 are some annotated drawings. We've got the existing conditions  
20 and proposed conditions. It would be good to have those  
21 drawings with dimensions on them, and the addition of what you  
22 think the square footage is on each of those drawings. And then  
23 one that shows the existing first floor, the existing site with  
24 the property line showing the building, and the proposed site  
25 with the property line showing the building. I've seen the

1 small versions, but something about the same scale will be  
2 useful.

3 MS. STUART: I'm happy to give you a copy of my  
4 large set of drawings, if that would be of assistance.

5 MR. JACKSON: Do they ?- are they dimensioned?

6 MS. STUART: Yes.

7 MR. JACKSON: Okay.

8 MS. STUART: They're to scale.

9 MR. JACKSON: Okay.

10 COMMISSIONER MITTEN: We also needed a section  
11 with the existing ?- of the existing ?-

12 CHAIRPERSON GRIFFIS: Oh, right. Just the  
13 updated section, that was going to illustrate. Thank you. I  
14 would suggest if you do submit something it will get to OP, but  
15 submit it into the record, and then we can have ?- and frankly,  
16 it's great if we can get half-sized set or smaller.

17 MR. STOIBER: What I would suggest is if we can  
18 submit diagrams showing ?-

19 CHAIRPERSON GRIFFIS: Right.

20 MR. STOIBER: ?- how we've determined our  
21 calculations, I think that would work for everyone.

22 CHAIRPERSON GRIFFIS: I think so.

23 MR. STOIBER: As long as they're to scale.

24 CHAIRPERSON GRIFFIS: Exactly.

25 MR. STOIBER: The only advantage to full scale is

1 if someone else wants to measure them, but ?-

2 CHAIRPERSON GRIFFIS: And in fact, we don't  
3 necessarily want full size sets, so smaller diagrammatic, I  
4 think, is excellent. Well noted. Okay. There was something  
5 else, but ?- oh, yeah. All right. So let's see what dates what  
6 we have for decision making, and let me just ?-

7 COMMISSIONER MITTEN: And we have to waive the  
8 posting, if we are going to. Remember the posting was not ?-

9 CHAIRPERSON GRIFFIS: Yeah, indeed.

10 MS. STUART: There should be in the file evidence  
11 that the notice of the hearing was mailed to property owners  
12 within ?-

13 CHAIRPERSON GRIFFIS: Yeah, that's ?-

14 MS. STUART: ?- 200 feet, and that's why I asked  
15 Ms. Shankle, because I'm quite certain that the Association was  
16 placed on the mailing list. So the fact that she may have  
17 learned about this ?-

18 CHAIRPERSON GRIFFIS: Right.

19 MS. STUART: ?- in a timely manner from the  
20 posting ?-

21 CHAIRPERSON GRIFFIS: Well, and let me explain  
22 why the Office of Zoning has two forms of notification. And we  
23 find in our experience that more people see the sign, than read  
24 the letter. And that is one of the biggest reasons why there is  
25 two forms of notification.

1 I would err on the side of losing the letters and having it  
2 posted, if one was going to be deleted. But that being the  
3 case, it's an important point.

4 How long was it ?- has it ?- when was it posted?

5 MS. STUART: It was posted on Friday, the 18<sup>th</sup>. I  
6 think that's right, or Friday ?- let me see. Today is the 29<sup>th</sup>.

7

8 SECRETARY BAILEY: Mr. Chairman, if I can help a  
9 little bit.

10 CHAIRPERSON GRIFFIS: Yeah.

11 SECRETARY BAILEY: The property was posted for 11  
12 days, and 15 days are required, so it was short about four days.

13 COMMISSIONER MITTEN: Are the signs still on the  
14 property now?

15 MS. STUART: Yes.

16 COMMISSIONER MITTEN: Well, one thing that we  
17 could do is just have ?-

18 CHAIRPERSON GRIFFIS: Keep them up.

19 COMMISSIONER MITTEN: Keep them up, and then  
20 leave the record open for any additional ?-

21 CHAIRPERSON GRIFFIS: Right.

22 COMMISSIONER MITTEN: ?- information.

23 CHAIRPERSON GRIFFIS: I think that's perfect.  
24 Yeah. Indeed. Microbiology was listed, as Ms. Renshaw has  
25 indicated, as one of the addressees to the mailings. Okay.

1 MEMBER LEVY: Quick comment regarding the  
2 posting.

3 CHAIRPERSON GRIFFIS: Yeah.

4 MEMBER LEVY: Given that it was just indicated  
5 we're going to leave the record open, the ?- and that probably  
6 the most affected property owners are represented here today,  
7 they could submit additional information if they choose to do  
8 so.

9 CHAIRPERSON GRIFFIS: That's true.

10 MEMBER LEVY: I just want to point that out.

11 CHAIRPERSON GRIFFIS: Yes, if we're ?- yes, I  
12 would say we maintain the posting, and that the entire record  
13 stays open, so whatever comes in will be dealt with.

14 Okay. The other piece of this is ?- and it has  
15 been easily said, and ?- or often said in this, and I think  
16 we've all very concerned about it, is not delaying this unduly.

17 Where are you in the permitting process? You've submitted  
18 documents?

19 MS. STUART: We're waiting for this.

20 CHAIRPERSON GRIFFIS: Right.

21 MS. STUART: And just so you have a sense, and I  
22 realize this may not be terribly relevant, but every month of  
23 delay that ?-

24 CHAIRPERSON GRIFFIS: The cost for carrying  
25 something ?-

1 MS. STUART: The cost of carrying it with no  
2 tenants is killing me.

3 CHAIRPERSON GRIFFIS: Believe me, we take that  
4 very, very seriously, and so I want to extradite this as quickly  
5 as possible. But now we have a certain amount of time that will  
6 be mandated on this, unless we set it for ?- okay. All right.  
7 All the whisperings in my ear are saying ascertain how long it's  
8 going to take for you guys to put together this documentation.  
9 And I totally agree, I don't think ?- first of all, we have  
10 decision makings on the first of the month, so we're looking at  
11 a month's schedule, and that's my thought process here. There's  
12 no way we're going to make the February. I am proposing the  
13 March 5<sup>th</sup>. I think that is ample time to make ?- for decision  
14 making. OP can certainly turn around a revised piece on that,  
15 and I would assume that you can turn around the documentation on  
16 that also.

17 MS. STUART: Are you sure there's no possibility  
18 we can get on the February calendar? I mean, if ?- I'm looking  
19 at the list of things that you've asked, and ?-

20 CHAIRPERSON GRIFFIS: No, we can't. It's not  
21 even a question, because if we keep the posting open, we have to  
22 keep the record open. We have to have a turn around that sets  
23 the clock when the record closes. We way passed the February  
24 decision making, so the fastest it could come is March.

25 MS. STUART: Just as an observation, and I may

1 not be right about this, but the kinds of things that you have  
2 asked us to do are things that would be illustrating things that  
3 are basically already in the record. In other words, that the  
4 property is unique in terms of its configuration, that there is  
5 a place for trash to be maintained and picked up off the street,  
6 that the ?- we've given you the figure ?- the facts and figures  
7 on the square footage and the FARs. We have testified about the  
8 plan for the roof structure, and Mr. Stoiber has talked about  
9 the site lines and so forth. We have ?- I don't think there's  
10 any question in anybody's mind that this building would be found  
11 to contribute to the character, the historic character of the  
12 neighborhood. And going from three cars to two, probably would  
13 not create an unreasonable or objectionable traffic condition.

14 The conditions that you're interested in are  
15 already there, and were there at a time predating my involvement  
16 with the property, and ?-

17 CHAIRPERSON GRIFFIS: Well, let me interrupt you.

18 We have two problems. One, I have two government agencies that  
19 are asking for more information that has to be provided. I have  
20 three problems. Second is the posting. I ?- it is very  
21 difficult for us. We hardly ever get away from that, because it  
22 so important. And the fact of the matter is people, as I've  
23 stated, don't necessarily read the mail. They look at the  
24 posting. I think your adjacent neighbors are here because of  
25 the posting. That's an important piece. On that time line, we

1 cannot make the February.

2 The next and the most important piece of it is,  
3 is that substantiation that's being asked by the government  
4 reports I think is also being asked by this Board. And it is ?-  
5 maybe as you're saying, maybe you just need to reiterate your  
6 arguments for the case. We're looking at having more  
7 substantiation to those, so I think that's all I can say on  
8 that. Let me just verify with Staff that we have March 5<sup>th</sup>  
9 available to shoehorn this one in.

10 SECRETARY BAILEY: Mr. Chairman, yes. There are  
11 three cases scheduled, so this would be the fourth for the  
12 morning session, the Public Meeting.

13 CHAIRPERSON GRIFFIS: Okay. And I can let you  
14 know, and you may see it on the March 5<sup>th</sup> schedule, the ?- we  
15 have an incredible schedule on that morning, and should not take  
16 another case, but will in this, so that we don't postpone it  
17 even further.

18 SECRETARY BAILEY: Mr. ?-

19 CHAIRPERSON GRIFFIS: I would ?-

20 SECRETARY BAILEY: I'm sorry. Excuse me.

21 CHAIRPERSON GRIFFIS: Yeah, no ahead.

22 SECRETARY BAILEY: I just wanted to remind you  
23 that in order for ?- there's no party in the case, but just in  
24 order to have everyone review the file so they can respond if  
25 they choose to do so, February 18<sup>th</sup> deadline for filing the

1 information would be useful, in addition to getting to the Board  
2 Members in a timely manner.

3 CHAIRPERSON GRIFFIS: Good. Thank you. Okay. I  
4 think that'll do it for this today, unless there's last quick  
5 questions that we can answer, or directions. Is everyone clear  
6 on the dates, decision makings, information that's required.  
7 Okay, then this will conclude the afternoon session of 29<sup>th</sup>  
8 January, 2002.

9 (Off the record at 5:10 p.m.)

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