

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

TUESDAY

NOVEMBER 5, 2002

+ + + + +

The Public Meeting was convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 11:00 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
ANNE RENSHAW	Vice Chairperson
CURTIS ETHERLY, JR.	Board Member
DAVID ZAIDAIN	Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

JOHN G. PARSONS	Commissioner
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COMMISSION STAFF PRESENT:

Sheri M. Pruitt, Secretary, BZA
Beverly Bailey, Office of Zoning
Clifford Moy, Office of Zoning

D.C. OFFICE OF CORPORATION COUNSEL:

Lori Monroe, Esq.

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

3

16880 - Endale Terefa..... 4
16863 - S&P Properties..... 23

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

11:20 a.m.

CHAIRMAN GRIFFIS: Good morning, ladies and gentlemen. I'd like to call to order the public meeting of the 5th November 2002.

On the Board this morning -- I am Jeff Griffis. I am Chairman. With me also is Ann Renshaw, Vice Chair. Mr. Curtis Etherly; Mr. Zaidain, on my left, representing National Capital Planning Commission. And on my far right, Mr. Hannaham, representing the Zoning Commission for our public meeting today.

We are ably assisted by the Office of Zoning staff that's with us -- Ms. Bailey, Ms. Pruitt and Mr. Moy. With that, let us get down to business.

MR. MOY: Good morning, Mr. Chair, members of the Board. The first application of the public meeting is application number 16880 of Endale Terefa, pursuant to 11 D.C.M.R. 3104.1 for a special exception to allow a change of non-conforming use from retail grocery to retail grocery and deli -- no seats -- under Section 2003 in an R-4 district at premises 434 Shepard Street, N.W., Square 3237, lot 79.

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1 We also have -- the Board may consider
2 waiver of deadlines for the following items --
3 requested information from the Office of Planning
4 because it contains a proposed list of conditions
5 that the Office of Zoning received late. And number
6 2, information from the application, that is a motion
7 to waive filing time for findings of fact and
8 conclusions of law, which the office received on
9 November 4.

10 The last three items, the Board may
11 consider reopening for the record to include
12 additional items, which was not requested by the
13 Board. The first one are the attachments to the
14 applicant's evidentiary submission, which includes
15 statement by two neighbors, a police officer and a
16 businessman.

17 Number two, a statement of a meeting
18 between the application and Mr. Ron Austin, who
19 represents the council member Adrian Fenty's office.

20 And third, finally, attachments to the
21 Council member Fenty's letter, which includes two
22 letters from residents of Randolph.

23 That completes my report, sir.

24 MR. GRIFFIS: Thank you, Mr. Moy. Okay,

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1 Board members, first, I would like to hear any
2 objections to waiving -- or for opening the record to
3 waive acceptance of the listed items that Mr. Moy
4 went through. One is the Office of Planning, of
5 course, information from the applicant. We also had
6 additional statements and a letter from Council
7 member Fenty's office.

8 (No response.)

9 CHAIRMAN GRIFFIS: Not hearing any
10 objections, then I would take it as a consensus of
11 the Board. We can waive our rules and accept those
12 into the record.

13 Board members, I'm certain we all recall
14 this case and have reviewed the additional and the
15 entire record in preparation for today. There was
16 substantial community input on this application that
17 is to increase the -- I would say; clearly it's
18 advertised as changing the use. But it's to add to
19 an existing non-conforming use.

20 What's before us is this special
21 exception to be able to serve what is defined as deli
22 products to an existing retail grocery store. I
23 think the record clearly substantiates for the Board
24 that this is a neighborhood-serving facility. It has

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1 been in this location for some time period, and
2 perhaps even documented a use that pre-dates the '58
3 zoning regulations.

4 Its location is clearly serviced for the
5 neighborhood and the adjacent residents. There was
6 no evidence, nor would it give me an indication, that
7 this was a destination shopping spot, which again, I
8 believe, goes to establishing as a neighborhood
9 servicing facility. To that, though, in servicing
10 the neighborhood, a lot of the input that we heard
11 went to the negative or detrimental impact of this
12 facility.

13 I think there's an important point, in my
14 looking at this. I do not believe, first of all -- a
15 lot of testimony revolved the illegal drug sales on
16 that corner. And what I would say in my words is the
17 facilitating and essentially making it more
18 convenient for drug dealers on the corner to pop into
19 a store if there was, in fact, some police presence,
20 or to feed them and keep them warm in the cold
21 weather -- what was, I think -- a moving point for me
22 is when the police officers who came to testify were
23 asked, if this store closed or didn't serve hot food,
24 would the drug activity leave? And they said no.

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1 Clearly, they also talked about other areas in the
2 neighborhood that had the same type of activity.

3 So, I have taken under great
4 consideration that the community has raised, and I do
5 believe that this Board, and full jurisdiction in
6 2003.7, has the oversight of design, and any issues
7 that would mitigate the adverse impacts that have
8 been very strictly and specifically raised by the
9 community -- and I do believe that we should go to
10 that level and address those issues.

11 I do not believe, however, that we're
12 prepared to make a final decision on this today, and
13 I would like to defer it. I would like to defer it
14 for this reason. I would like to lay out the
15 conditions that we can specifically define at this
16 point. Give the applicant time because I do believe
17 there will be additional submissions that will be
18 required in that, and have an opportunity for the
19 community to respond. I would like to somehow define
20 how the community responds so this can be an
21 efficient and expedited process.

22 With that, I'd like to open discussion,
23 Board members, of certain conditions that arose out
24 of the testimony in the record in terms of the

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1 adverse or the negative impact that this addition of
2 use may make. I believe probably the clearest one --
3 well, first of all, let me also say that the facility
4 itself selling groceries on a corner, a retail
5 market, does not, in fact, create drug activity on a
6 corner. However, I think the condition or the
7 environment may not deter illegal or illicit
8 behavior, and I think we have an opportunity,
9 especially with a retail facility, to deter that type
10 of activity. So, with that, I think -- as I've
11 stated under our jurisdiction of the regulations, I
12 think we can make specific conditions.

13 One of which, if it's not scientifically
14 documented, it should be -- litter. The presence of
15 litter and the presence of disheveled public areas
16 and also private foster illegal activity. I would
17 think that, clearly, we have a condition on a motion
18 that would talk about keeping the area around a store
19 free of litter and debris. That would be a defined
20 area. That would be the defined area, clearly, of
21 the private property. But it would also include the
22 public space that abuts the store property, going all
23 the way out to and including the curb at the street.

24 I think part of -- also, facilitating

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1 that clean environment would be the inclusion of
2 trash receptacles there. We do have a submission
3 that indicates that there were two put. The Office
4 of Planning had indicated that they wanted industrial
5 size trash receptacles. The operative word there was
6 appropriate industrial size. I think should not
7 include "industrial," as that makes me shiver on a
8 neighborhood location. But clearly, we would have
9 appropriate sized, affixed trash receptacles.

10 We do have in the record the fact that
11 there are two trash pick ups per week. There was a
12 request for a third; I think, clearly, it would not
13 be appropriate to have overflowing trash receptacles.

14 And that goes to the first issue I brought up, that
15 it's free and clear of litter and debris.

16 I think the other issues -- and I'll run
17 them down and let someone else speak -- the other
18 issues go to the site and the site maintenance. We
19 had testimony about how perhaps illegal or alleged
20 illegal activity -- people could come and go out of
21 the store. There were undefined areas. They could
22 basically take off in every direction if they needed
23 to. We will require to be submitted by the applicant
24 a landscape plan that specifically defines softscape

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1 and hardscape on the property. And I would suggest
2 that the applicant look at putting a defining fence
3 around the property that clearly indicates there is
4 one entrance and one exit out of the retail space.

5 I think it would be absolutely
6 inappropriate and unacceptable to this Board member
7 to have a chain link fence, but rather have what may
8 look more to be like an iron fence appropriate to the
9 neighborhood. That may be of aluminum material; it
10 could well be steel or iron, if they wanted to. I do
11 believe the Board's correct in looking at that and
12 having a fence on or close to the existing masonry
13 wall that's there, although that may be beyond the
14 building restriction line. I believe if it's kept
15 under a certain height that it would be allowable.

16 I also think that keeping the storefront
17 windows for vision, and to be maintained by vision
18 glass, into the retail area also would be a
19 successful.

20 The lighting has been talked about quite
21 a bit. I think we'd need to have submissions on
22 lighting. I think it's more appropriate to have some
23 sort of retail lighting at the entrance; that is,
24 some sort of wall sconce that will have a lower lumen

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1 or lower transmission of light that announces the
2 storefront and have the higher floodlights that
3 illuminate the site itself. I think there are two
4 types of lighting that is needed for this type of
5 facility.

6 I also think that the storefront area
7 that looks to be white clapboard or wood or some sort
8 of material cladding needs to be well kept. I think
9 that would include painting.

10 Signage, we've talked about in the
11 record. Signage clearly is also regulated by
12 regulations, and I believe other -- I think it's
13 inappropriate to plaster the entire building with
14 signage. I think, in fact -- well, there it is. Let
15 me leave it at that and let others speak.

16 MR. ETHERLY: Mr. Chairman, I'm in
17 agreement with the preliminary course that you've
18 outlined. Most certainly, when you look at 2003.2
19 and .3, we're obviously concerned about some of
20 deleterious impacts that have been alleged in the
21 record regarding the store's operation.

22 But I think this is a situation that can
23 be addressed with some very careful and crafted and
24 specifically directed language in the way of

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1 traditions. So, without the need to prolong dialog,
2 Mr. Chairman, I would be prepared to support that
3 direction. Thank you.

4 MS. RENSHAW: Mr. Chairman. I am
5 skeptical, but I am willing to support deferring this
6 for another opportunity for the community -- that
7 means the ANC -- and Council member Fenty's office to
8 gather together additional comments and support from
9 the community, if that is possible.

10 I just want to point out that what we are
11 putting forth in the way of proposed conditions for
12 the applicant should have been in place in any case,
13 in order to win the respect of the community and to
14 come before this Board with that kind of support.
15 However, we are doing the housekeeping here, and
16 perhaps it's appropriate, at least at this point, to
17 do it.

18 I just want to point out for the record
19 that we have several agencies involved in this.
20 We've got a Clean Cities program that obviously has
21 not been addressing itself to the problems on this
22 corner and at this location. We have DCRA, which
23 obviously has licensed this establishment but has not
24 enforced any problem areas -- clean-up of any problem

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1 areas. And now, if we get into any kind of food
2 operation, we're going to have the Department of
3 Health involved.

4 So, it will be a major enforcement
5 opportunity with a lot of agencies coming to grips
6 with the problems at this one store. Now, perhaps
7 that's going to work; we hope so. But at least we
8 are giving the community another opportunity, and the
9 ANC and Mr. Fenty, another opportunity to bring
10 comments to this Board and let us know whether those
11 conditions are going to be enough to turn this
12 establishment around to be a positive force in the
13 community.

14 CHAIRMAN GRIFFIS: Thank you, Ms.
15 Renshaw. So, what you're indicating is that when we
16 give the applicant time to submit what we will
17 outline, you would like to hear from Council member
18 Fenty's office, and it would be your anticipation
19 that the council member would pull the ANC and
20 community together for discussion and review of this.

21 MS. RENSHAW: Yes. I think that is the
22 appropriate way to handle it. And I am hopeful that
23 between the ANC and Council member Fenty's office,
24 there can be some reply from the fourth district

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1 police department regarding the opportunity for
2 police people to stop into the store on a frequent
3 basis; kind of like a stop-in center, if you will.

4 CHAIRMAN GRIFFIS: Right.

5 MS. RENSHAW: And also, to get some reply
6 from the Department of Public Works on that tree
7 cutback or tree removal, because there was that issue
8 of the tree shading the front entrance.

9 CHAIRMAN GRIFFIS: I see.

10 MS. RENSHAW: And so, those are two areas
11 where we do not have any feedback, where I think it's
12 crucial for us to get some feedback. And I also
13 think it's crucial for the community, the ANC and Mr.
14 Fenty's office to have that kind of response from DPW
15 and the police.

16 CHAIRMAN GRIFFIS: Okay. Well, hopefully
17 we won't have a tree removal there. I think the
18 photographs that, actually. Yeah, if it can be
19 maintained and trimmed, and then appropriate
20 lighting, I think it can cover that.

21 MR. ZAIDAIN: Mr. Chairman, not to
22 reiterate everything else that has been said by other
23 Board members, but I am in support of the direction
24 we're going in. I think if you look under 2003.7, it

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1 specifically gives us the ability to address, design,
2 screening and landscaping issues when deliberating on
3 this. And I think that if we're going to move in a
4 positive manner with the special exception, those
5 issues need to be addressed. So, I'll be looking
6 forward to seeing some additional submissions the
7 next time we see this.

8 CHAIRMAN GRIFFIS: Excellent.

9 MS. RENSHAW: And we might point out that
10 it's not just responding to these, but we want to see
11 the applicant put forth a schedule of when these
12 conditions are going to be in place.

13 CHAIRMAN GRIFFIS: Good point. Others?

14 MR. ZAIDAIN: I'll just -- I'll just
15 defer to my colleague, Mr. Hannaham and Mr.
16 (inaudible).

17 MR. HANNAHAM: In line with that, in
18 terms of a schedule, I concur, as well as the general
19 tenor of the comments that have been made by my
20 colleagues. Should we then be satisfied with the
21 response, I would hope that we also have some
22 condition that limits the time. Give us a time
23 limit, a short period of maybe two or three years, to
24 revisit this particular situation and see whether

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1 there's been a substantial improvement or not.

2 CHAIRMAN GRIFFIS: Good, I think that's
3 an excellent point, Mr. Hannaham, and clearly, I
4 think that will be part of our further deliberation
5 and perhaps added to a motion. I would agree with
6 you in terms of your comment that this is -- as we
7 have heard from the community, it's been a long-term
8 problem. Now, this is a new owner, but I think it is
9 absolutely appropriate in a special exception perhaps
10 to limit the time of approval so that there might be
11 a time for review.

12 Okay. Anything else?

13 (No response.)

14 CHAIRMAN GRIFFIS: Very well. Then, if I
15 understand correctly, we're looking for the applicant
16 to submit what let us call a landscaping, and I think
17 that will go to how the area behind the stone wall,
18 basically to the sidewalk line and to the store, will
19 upgraded. And our firm feeling and direction would
20 be the addition of some softscape, and perhaps an
21 enclosed fencing that's appropriate to the
22 residential area. We're clearly not looking at a
23 chain link fence.

24 I think in that plan we can also include

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1 our issue -- well, rather, let's do -- I think we
2 were also looking for lighting, lighting location,
3 and then lighting fixture cut sheets that might
4 indicate what and how they will illuminate the area.

5 With that, I think we're also looking at how the
6 storefront would be long-term maintained, short-term
7 upgraded, in terms of painting. And then I think
8 that we would be looking for the base understanding
9 of the applicant of how he will maintain his
10 storefront window.

11 I hear from the Board that we're looking
12 at clear-vision glass that would be unobstructed into
13 the retail area.

14 In the landscape plan, I think, as the
15 record shows, we're also looking at the maintenance
16 of the existing hardscapes -- the sidewalks that lead
17 to the store, and also the stone masonry wall that is
18 there. Am I forgetting anything else?

19 MS. RENSHAW: Signage.

20 CHAIRMAN GRIFFIS: Oh, signage. I'm
21 sorry. We should -- let me lump that all into basic
22 elevation and the storefront windows and the
23 upgrading. What we're looking for is a plan for how
24 the applicant proposes to display signage, which

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1 clearly we understand is an appropriate piece. But
2 we'll displace signage under our regulations and the
3 state regulations that limit the signage. So, we're
4 looking at location size, etc.

5 MR. ETHERLY: Mr. Chair, I would also
6 suggest, while not specifying in the condition itself
7 but at the very least, some language which directs
8 the applicant to work very closely with officers from
9 the local PSA. My colleagues will recall that we did
10 have some discussion from the Office of Planning
11 regarding the interior layout of the store and sight
12 lines from the register area to some of the rear
13 portions of the commercial space.

14 And I think it would be very helpful to,
15 in some manner at least, direct that the applicant
16 work closely with the police officers to perhaps
17 review the way out and make any changes that may be
18 recommended, as a result of that dialog, to the
19 interior of the store to assist in mitigating or
20 discouraging any loitering or other types of
21 undesirable activity.

22 CHAIRMAN GRIFFIS: Excellent point. I
23 think that's a very good direction.

24 MS. RENSHAW: And it wouldn't hurt to

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1 encourage the applicant to get in touch with the fire
2 marshal's office to have a review of the interior of
3 the store, vis-à-vis, now that they are putting in
4 some equipment for hot food, just to make sure that
5 everything is set up for that electrically.

6 CHAIRMAN GRIFFIS: Also a good direction.

7 Okay. And then the last thing that we're
8 looking for in submission is that, if appropriate or
9 -- well, yes, if appropriate -- a letter from Council
10 member Fenty's office. And our anticipation would be
11 that the council member could coordinate the
12 community's response to these conditions. And we
13 will provide his office, once submitted, all the
14 information that will be needed.

15 Very well. Let's look at schedule, then
16 and see --

17 MS. RENSHAW: Well, in addition, Mr.
18 Chair, if the ANC wishes to submit a separate
19 statement, that is its right, but it may go through
20 Council member Fenty's office and work from there.
21 And again, we are looking for some response from the
22 4th District Police Department and the Department of
23 Public Works on the letters that have been sent to
24 them. But there has been no response.

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1 CHAIRMAN GRIFFIS: Good, okay. How are
2 we on the schedule?

3 MS. BAILEY: Just a moment, Mr. Chairman.
4 Mrs. Pruitt went to check on something and she'll be
5 right back.

6 CHAIRMAN GRIFFIS: Excellent.

7 MR. ETHERLY: Mr. Chair, perhaps as we
8 wait for staff, it would be useful, I think, just to
9 reiterate -- not as a condition but just as we fill
10 out the record here -- that while we did hear
11 substantial testimony from the community, and in
12 particular with police officers familiar with the
13 site, this was a very close case for me because I
14 think it's important to balance the need for small
15 business here in the District of Columbia as well as
16 access on the part of residents to facilities that
17 are in near proximity to their residential homes.

18 And so, for me, I am heartened by the
19 Board's efforts to balance those two needs and, I
20 think, work out a compromise that's going to help
21 maintain a valuable community resource for this
22 community, while at the same time assuring that
23 public safety concerns are satisfactorily addressed.

24 Thank you, Mr. Chair.

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1 CHAIRMAN GRIFFIS: I think that's an
2 excellent comment.

3 How are we on schedule?

4 MR. PRUITT: Right now, I'm looking at
5 our schedule. We can request submissions for --
6 first of all, a decision for January 7, 2003, with
7 submissions due on the 22nd, responses on the 6th of
8 December and draft findings on the 16th December.

9 CHAIRMAN GRIFFIS: Does that seem doable
10 by Board members? Very well.

11 MR. PRUITT: And as soon as -- the 22nd,
12 of course, would be October. I just want to be sure
13 everyone's clear on that.

14 CHAIRMAN GRIFFIS: What was the date?
15 November, you --

16 MR. PRUITT: November.

17 CHAIRMAN GRIFFIS: Let's run them down
18 again.

19 MR. PRUITT: Okay, just to reiterate,
20 submissions would be due October -- excuse me,
21 November 22nd. Responses due on December 6th, with
22 findings on the 16th, for a January decision.

23 CHAIRMAN GRIFFIS: Does that work?
24 Fabulous. I think it's a good point.

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1 Last, Board members, let me just
2 reiterate so that we can get total clarification
3 here. Clearly, we understand that the Council
4 member's office not a party in this case. However, I
5 think what the Board is looking for is a reliance on
6 the Council member's office to facilitate the
7 discussion and basically direct it. Whether the
8 council member's office takes a stand, if they have
9 already, they can certainly maintain that stand.

10 What we're looking for is them just to be
11 able to focus working, obviously, with the ANC and
12 with the community so that we can get one response,
13 although, as stated, we can have an additional
14 response from the ANC, if they find that they differ
15 substantially. Or even if they don't differ, they
16 can do whatever they want. We'd love to hear from
17 them separately. However, clearly, we're trying to
18 get it focused so that this doesn't run on and it
19 facilitates everyone involved for the best, for this
20 great city.

21 Mr. Zaidain?

22 MR. ZAIDAIN: To follow that up, I was
23 just curious as to the dates again. The final
24 submissions are due on the 16th, and for our -- /

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1 MR. PRUITT: January.

2 MR. ZAIDAIN: January? That's an awful
3 lot of dead time. Are you sure you want to give
4 them --

5 MR. PRUITT: Well, the reason there's a
6 lot of dead time is because of the holidays between
7 and meetings. So, we're trying to give the community
8 as much time as possible for responses, to get drafts
9 in, notwithstanding Christmas and New Year's

10 MR. ZAIDAIN: Okay. When's our January
11 decision meeting?

12 MR. PRUITT: The January decision meeting
13 is on the 7th.

14 MR. ZAIDAIN: The 7th, okay. Thanks.

15 MR. GRIFFIS: Everybody okay?

16 MR. ZAIDAIN: Yes.

17 CHAIRMAN GRIFFIS: Yes. Then, let's move
18 on.

19 MR. MOY: The next case is application
20 number 16863 of S&P Properties, LLC, pursuant to 11
21 D.C.M.R. 3103.2 for a variance from the occupancy
22 requirements under Section 403 and a variance from
23 the rear yard requirements under Section 404, and a
24 variance from a non-conforming structure provisions

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1 under subsection 2001.3, to allow the conversion of a
2 single-family dwelling and carriage house into a six-
3 unit apartment house in the DDR5B District, at
4 premises 420 M Street, N.W., Square 514, lot 863.

5 The Board may also wish to waiver the
6 deadline for requested information from the applicant
7 and the OP supplemental report, which were submitted
8 late.

9 MR. ETHERLY: Mr. Chair, just as a
10 preliminary matter, I did not participate in the
11 September 17th hearing of this case. And as a
12 result, I am not a participating member on this case.

13 CHAIRMAN GRIFFIS: We could give you ten
14 minutes and have you read the entire record. Okay.
15 That, of course, is a joke. We do have a quorum to
16 facilitate our deliberations on this. And I'm
17 prepared to move forward, unless there's any
18 objections. I would think that we first need to take
19 up waiving in the late submissions, and I'd hear
20 objections on that. As indicated by Mr. Moy, there
21 was the list of the findings of facts, and also the
22 Office of Planning. Any objections?

23 (No response.)

24 CHAIRMAN GRIFFIS: Very well. Then it is

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1 consensus of the Board to waive and accept into the
2 record the two items.

3 Then I do believe we need to get to,
4 first, the rear yard issue. What has been submitted
5 to us is the-- well, what's before us is to decide
6 whether a variance to the rear yard requirement under
7 Section 404 is actually needed.

8 And that goes to -- as we heard in the
9 testimony, and as is shown in the new submissions of
10 plans by the applicant, I think we need to look at
11 2001.2, which goes to modifications. And that's
12 ordinary repairs, alterations, modifications to the
13 structure, including structural alterations, are
14 allowed. As it states, "shall be permitted." And
15 this does go to the issue of the structure that ties
16 the carriage house to the main structure. It's all
17 part of the same -- similar -- with modification,
18 which is an allowed matter of right, then the relief
19 would not be required.

20 If this was beyond the scope as indicated
21 in 2001.2, then the relief would be required. So, I
22 would hear from anybody and all that would like to
23 speak to that.

24 (No response.)

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1 CHAIRMAN GRIFFIS: Very well. I do not
2 believe, and I will hear any objections, that the
3 required (inaudible) yard is needed by this Board,
4 based on the fact that 2001.2, although fairly
5 generally written, alterations and modifications to
6 the structure shall be permitted. Clearly, what we
7 have here is a maintenance -- maintaining of an
8 existing party line wall or lot line wall, and there
9 is a structural modification or alteration to it that
10 allows, frankly, just a little bit more transition of
11 light into the area. I think it clearly falls well
12 within 2001.2, and I don't believe that relief is
13 required for the rear yard.

14 MS. RENSHAW: Sir.

15 CHAIRMAN GRIFFIS: Yes.

16 MS. RENSHAW: Did you make a motion?

17 CHAIRMAN GRIFFIS: I don't know if we
18 need to move that, do we?

19 MS. RENSHAW: Why don't you?

20 CHAIRMAN GRIFFIS: I don't think you do.

21 I think it could be a matter of -- this is your
22 analysis as you're going through it. So ultimately,
23 when you vote on it, the vote would only be on the
24 relief that's left, based upon your analysis, which

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1 would be the lot occupancy. You could take a vote,
2 if you want, but --

3 CHAIRMAN GRIFFIS: Okay. Yeah, there's
4 nothing precluding us from doing a motion that would
5 amend the application, correct?

6 MR. BERGSTEIN: No.

7 CHAIRMAN GRIFFIS: In which case I would
8 so move.

9 MS. RENSHAW: Second.

10 CHAIRMAN GRIFFIS: Thank you very much.
11 Any discussion?

12 (No response.)

13 CHAIRMAN GRIFFIS: All those in favor?

14 (Unanimous ayes.)

15 CHAIRMAN GRIFFIS: And opposed?

16 (No response.)

17 CHAIRMAN GRIFFIS: Very well. I wish we
18 could break for lunch, but we've got more to do on
19 this.

20 Now that that's all cleaned up, we still
21 have the issues, as indicated in red, of the lot
22 occupancy requirements and the variance from a non-
23 conforming structure.

24 This is -- I found it a very interesting

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1 case in terms of the historic wood structure -- oh.
2 Let me clear another issue. We have -- the Board has
3 some issue with the parking. And that was, first of
4 all, how much parking was required, how much was
5 provided, and how it was to be provided; and how it
6 was to be provided went to the dimensions and then to
7 the drive aisle that was coming in.

8 The dimension of the parking space that
9 was outside the structure, I think that has all been,
10 to my satisfaction -- I'll hear others if it's not
11 the case -- to my satisfaction cleared up in the new
12 submissions of the plans and also in the submission
13 of the narratives. They are talking about having a
14 widened mouth drive aisle in. It exceeds the minimum
15 required in the regulations, and I think it is fairly
16 clear, fairly illustrated, that the uncovered parking
17 space is appropriately sized.

18 I think that one of the advantages of
19 what is being proposed to the rear yard area is --
20 and I hope that this would be implemented -- the
21 pavers that allow growth so that it may, in fact, be
22 utilized more as a green space, but also is sound
23 enough to have driving on top of it.

24 Going to the variance test, I think there

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1 are several extraordinary or unique conditions. As I
2 was starting to state, this wood structure -- first
3 of all, its size, its lot, its orientation with the
4 carriage house, is, in fact, in evidence to be
5 different. The proposed project is clearly within
6 the matter of right zoning use, and it's in fact
7 appropriate for the block, being that residential.

8 They also have the issue of how to access
9 for fire and life safety the rear portion, which
10 again takes away from the -- let me call it usable
11 space on the first-floor area of the lot. The
12 restriction of building on top of the two-story
13 structure, which happens to be if not the smallest,
14 one of the smallest elevations on the block -- all of
15 which, in my mind, speak to the fact of how you re-
16 mask this site, how you accommodate not impeding on
17 the structure but masking it out, still within, I
18 say, the general intent -- well, it is -- the general
19 intent of the overall zoning in the area. I think
20 that does create the practical difficulty in how you
21 make this usable and how you accommodate the project
22 itself.

23 In terms of the detrimental impact, I
24 really -- I don't believe there was strong evidence

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1 to show that there may well be some. I know there
2 was an issue on the height of the structure. I think
3 there was an issue in the record about parking and
4 the street parking and the lack of parking. Parking
5 is being provided beyond -- I think the applicant has
6 certified -- beyond the required -- I think the
7 height is not outside the context. In fact, I think
8 it's a fairly eclectic lot, and it seems like this is
9 continuing the eclectic nature of the elevation,
10 which is evidenced by the submission.

11 I must say, I don't think I was fooled --
12 well, I think of particular importance was the
13 elevation of the street frontage, and showing the
14 mass of what may be proposed behind it was daunting.

15 It kind of looks like a tidal wave is going to crash
16 down on it. But not having us looking at and what's
17 actually happening there, clearly, the important
18 piece is the M Street elevation. But I can hear from
19 others.

20 MS. RENSHAW: Mr. Chairman, you've summed
21 it up very, very well -- just to point out the HPRB
22 and its reading of what it will not permit, and that
23 is the demolition of the two-story frame house, nor
24 the carriage house. And that is significant.

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1 CHAIRMAN GRIFFIS: Yes, indeed. Others?

2 (No response.)

3 CHAIRMAN GRIFFIS: Very well. Then --
4 clearly, I know that we all went through all this,
5 but I want to put it on the record that we had asked
6 for several things. We had asked for some of the
7 cases that were referenced, submissions. Those cases
8 were submitted. There was an update of some of the
9 dimensions and percentages of relief required, and
10 they actually were a reduction in the lot occupancy.

11 And I think it just goes to strengthen the case that
12 was already heading in a good direction.

13 Good. If there's nothing further, then I
14 would move for approval of application 16863 of S&P
15 properties for the variance from the lot occupancy
16 under 403 and a variance from non-conforming
17 structure provisions under Section 2001.3, to allow
18 its conversion to a single-family dwelling and
19 carriage house into a six-unit apartment in DDR5B
20 district premises for 20 M Street, N.W.

21 MR. ZAIDAIN: I'll second that.

22 CHAIRMAN GRIFFIS: Thank you very much,
23 Mr. Zaidain. You know, it's an interesting point --
24 perhaps I'll do this after the motion. Any

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1 discussion?

2 MR. ZAIDAIN: I will say I was very happy
3 with the submissions we received both from OP and
4 from the applicant. I think they were clear and gave
5 us some good direction in resolving issues.

6 MS. RENSHAW: And very good background.

7 MR. ZAIDAIN: Yes.

8 CHAIRMAN GRIFFIS: Good. Then I would
9 ask for all those in favor to signify by saying aye.

10 (Unanimous ayes.)

11 CHAIRMAN GRIFFIS: Opposed?

12 (No response.)

13 CHAIRMAN GRIFFIS: Very well.

14 MR. MOY: The staff would record the vote
15 as 4-0-0 on Chairman Griffis' motion and David
16 Zaidain's second.

17 CHAIRMAN GRIFFIS: Excellent. Mrs. --

18 MR. ZAIDAIN: 4-0-1, Curtis Etherly not
19 present, not voting, not hearing the case.

20 CHAIRMAN GRIFFIS: Very good. Thank you
21 all very much. My point was -- and it goes more to a
22 nomenclature, let us say. That is, is it a carriage
23 house if it's actually -- as we have and was
24 substantiated -- it's joined to the existing

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1 structure, we actually have -- and I don't think it
2 goes to the substance of the case that we were
3 looking at, and I think clearly we looked at the rear
4 yard. But I think it's something that I will have
5 answered off the record.

6 So, with that, let us move to the last
7 item on our public meeting agenda, and that would be
8 minutes, if I'm not mistaken.

9 MS. RENSHAW: Mr. Chairman, I just got a
10 copy of these today.

11 CHAIRMAN GRIFFIS: Oh, dear.

12 MS. RENSHAW: So, I am involved in these
13 cases. But I would like to have a moment to review
14 the minutes before voting.

15 CHAIRMAN GRIFFIS: Excellent. Let us,
16 then, recess the meeting for lunch and we'll review
17 the minutes. And we'll convene at one o'clock, or
18 perhaps we'll try a little bit early and then go into
19 our public hearing. I think that's perfectly
20 appropriate.

21 (Whereupon, a lunch recess was taken, to
22 reconvene at 1:00 p.m.)

23

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