

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

JANUARY 7, 2003

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice, at 1:00 p.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 ZAIDAIN	Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

ANTHONY J. HOOD	Commissioner
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COMMISSION STAFF PRESENT:

CLIFFORD MOY	Office of Zoning
JOHN NYARKU	Office of Zoning

OTHER AGENCY STAFF PRESENT:

STEVEN COCHRAN	Office of Planning
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D.C. OFFICE OF CORPORATION COUNSEL:

LORI MONROE, ESQ.

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

(1:00 p.m.)

CHAIRPERSON GRIFFIS: Good afternoon, ladies and gentlemen. I will call to order the 7th of January, 2003 afternoon Public Hearing of the Board of Zoning Adjustment for the District of Columbia, and wish everyone a happy new year. My name is Geoff Griffis. I am Chairperson. With me today is Vice Chair, Ms. Anne Renshaw. Also, Mr. Curtis Etherly on my right, representing National Capitol Planning Commission is Mr. Zaidain, and representing the Zoning Commission with us on part of the afternoon is Mr. Hood.

Copies of today's hearing are available to you. They are located at the table where you entered into the hearing room. Please give us an indication if we run out of schedules, and we would certainly make more available to you. A couple of very quick things that I need to make sure everyone is clear on.

All of our Public Hearings are recorded. Therefore, we ask that people refrain from making any disruptive noises or actions in the hearing room. Also, in coming forward to speak to the Board, you will need to fill out two witness cards. Those witness cards go to the recorder who sits to my right.

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1 You can take a seat at the table when giving
2 testimony, and make sure that your microphone is on,
3 and we will give you direction if, in fact, it is not.

4 The order of procedure for the special
5 exceptions and variances this afternoon will be,
6 first, we'll have statement and witnesses of the
7 applicant. Second, we would hear any government
8 reports, including the Office of Planning and any
9 other attendant reports to the application. Third, we
10 will hear from the Advisory Neighborhood Commission.
11 Fourth, would be parties or persons in support of the
12 application. Fifth, would be parties or persons in
13 opposition to the application, and sixth, we would
14 closing remarks by the applicant.

15 Cross examination of witnesses is
16 permitted by the applicant or parties. The ANC in
17 which the property is located is automatically a party
18 in the case. The record will be closed at the
19 conclusion of each case, except for any material that
20 this Board specifically requests, and we will be very
21 specific in terms of the information to be submitted,
22 and when it is to be submitted. After which we
23 receive that, the record will be, of course, finally
24 closed, and no other information would be accepted
25 into the record.

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1 The Sunshine Act requires that public
2 hearings on each case be held in the open and before
3 the public. The Board may, however, consistent with
4 its rules of procedure and the Sunshine Act enter
5 executive session during or after a public hearing on
6 a case. This is for purposes of deliberating on a
7 case or reviewing the record.

8 The decision of the Board in contested
9 cases, and in all cases must be based exclusively on
10 the public record. Therefore, we ask that people
11 present today not engage Board Members in conversation
12 so that we do not give the appearance to the contrary
13 of basing our deliberations on the public record.

14 I would ask also if people at this time
15 would turn off any cell phones, beepers or noise
16 making devices so that we don't disrupt anybody that
17 would be testifying in front of the Board, and I will
18 also state that we will conclude our public hearing
19 today at 6:00, if not before. And with that, I think
20 we can move to see if we have any preliminary matters
21 in the afternoon for the Board's consideration.

22 Preliminary matters are those which relate
23 to whether a case will or should be heard today; such
24 as, request for postponements, continuance,
25 withdrawals, or whether proper and adequate notice of

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1 the application has been provided.

2 I will first ask Staff if they know of any
3 preliminary matters, and then I would ask anybody that
4 has preliminary matters that is here today, please
5 approach the Board and have a seat at the table.

6 Mr. Moy. And I should also wish a good
7 afternoon to you, Mr. Moy. Also, Ms. Monroe from
8 Corporation Counsel is with us, and Mr. Nyarku, also
9 from the Office of Zoning.

10 MR. MOY: No, sir. Although there are two
11 preliminary matters with the first case in the
12 afternoon.

13 CHAIRPERSON GRIFFIS: Indeed. Attendant
14 directly to the case. Is that correct?

15 MR. MOY: Yes, it's with the case.

16 CHAIRPERSON GRIFFIS: Very well. We can
17 call that and take it up when the case is called. Is
18 anyone here present that has preliminary matters that
19 need to be addressed by the Board? Not seeing anyone
20 approach the table, I can assume that we can call our
21 first case in the afternoon.

22 MR. MOY: Thank you, Mr. Chair, Members of
23 the Board. The case Application is 16962 of Mr. and
24 Mrs., I believe it's pronounced Aislee Smith, pursuant
25 to 11 DCMR, Subsection 3103.2, for a variance from the

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1 lot occupancy requirements under Section 403, a
2 variance from the rear yard requirements under Section
3 404, a variance from the non-conforming structure
4 provisions under Subsection 2001.3, to allow
5 construction of a three story addition to a row
6 dwelling at premises 2304 1st Street, N.W.

7 I would like to also add that in the case
8 summary in your folder, just as an update, the ANC-5C
9 report was filed on January the 6th, as well as the
10 affidavit which was filed with the Office on January
11 the 2nd. Also with regards to party status, we have
12 Lonzo Shafer who has requested party status, as well
13 as the owners.

14 CHAIRPERSON GRIFFIS: Good. Thank you
15 very much, Mr. Moy. Is Mr. Shafer here? Okay. Good.
16 Let's, Board, if you would, take up the party status
17 application that was submitted and timely filed.
18 While you're again reviewing that for our decision on
19 granting or not granting party status, let me also
20 address that the owner of the building put in an
21 application for a party status which we won't be
22 taking up because you are automatically a party and
23 participant in this as the applicant, and so we won't
24 need to grant that status to you.

25 Any questions, discussion rather on the

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1 party status application by the Board at this time?
2 It is indicated that Mr. Shafer is an abutting owner
3 or resident, possibly both. Questions? Comments?

4 I'm a little concerned. Item 6 on our
5 party status application basically goes to the heart
6 of granting or denying party status; and that is
7 talking about how one party's interest would be more
8 significantly, more is the operative word,
9 significantly, distinctly, or uniquely affected in
10 character or kind by the proposed zoning action than
11 that of other persons in the general public.

12 The addressed answer to that goes to the
13 depreciation value of, I would assume specifically the
14 adjacent property, and drastically changing the
15 neighborhood.

16 VICE CHAIRPERSON RENSHAW: Mr. Chairman,
17 on this party status application, first of all, these
18 questions that must be filled in are very difficult.
19 I just want to set that out. It's no easy task to
20 fill in a party status application, but what
21 interested me, of course, was item number 2, the legal
22 interest. What legal interest does the person have in
23 the property, and Mr. Shafer states that he owns the
24 neighboring property and shares the common, and I
25 wasn't quite sure --

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1 CHAIRPERSON GRIFFIS: Area.

2 VICE CHAIRPERSON RENSHAW: -- area, on
3 which the applicant wants to build, so I take it that
4 Mr. Shafer is the direct abutter to the property.
5 And, therefore, I believe that Mr. Shafer would
6 qualify for party status.

7 CHAIRPERSON GRIFFIS: Okay. Based on
8 that, the distance, that would create it's more
9 significantly, or distinctly, uniquely.

10 VICE CHAIRPERSON RENSHAW: Uh-huh.

11 CHAIRPERSON GRIFFIS: Anybody else?

12 MEMBER ZAIDAIN: Well, not to get too deep
13 in this, because I agree with Ms. Renshaw, but what
14 do you mean by "shares the common area"?

15 VICE CHAIRPERSON RENSHAW: That's to be
16 explained.

17 CHAIRPERSON GRIFFIS: I think that will
18 come out in the case.

19 MEMBER ZAIDAIN: Okay.

20 CHAIRPERSON GRIFFIS: I think the point is
21 that --

22 MEMBER ZAIDAIN: Like I said, I agree with
23 Ms. Renshaw. I was just curious about that.

24 CHAIRPERSON GRIFFIS: Sharing a property
25 line is appropriate. Okay. Let me -- before we move

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1 on, unless there are other comments, let me have the
2 applicant and their representative introduce
3 themselves for the record so that we might address
4 them.

5 MR. MOY: Excuse me, Mr. Chair. We're
6 ready. I need to swear in the --

7 CHAIRPERSON GRIFFIS: Indeed. Let me have
8 them introduce themselves, and then they can stand up
9 and we can swear everybody in.

10 MR. BLANCHARD: Thank you, Chairman
11 Griffis. My name is Lyle Blanchard, and I'm from the
12 firm of Greenstein, DeLorme & Luchs. I'm representing
13 the Applicant, Mr. Aislee Smith and his wife, Mrs.
14 Lauren Smith in this case.

15 CHAIRPERSON GRIFFIS: Very good. Thank
16 you. And then what I would do, I just need the names
17 because I need to ask you a quick question, but if I
18 could have everyone turn their attention to the Office
19 of Zoning Staff Member at this time. Anyone going to
20 testify today in regards to this case can please
21 stand.

22 (Witnesses sworn.)

23 MR. MOY: Thank you.

24 CHAIRPERSON GRIFFIS: Very well. Thank
25 you all very much. Mr. Blanchard, as a representative

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1 of the Smiths, do you have any objection to the party
2 status application?

3 MR. BLANCHARD: No, I do not, Mr. Chair.
4 In as much as the Shafers are abutting neighbors, we
5 stipulate to their status as a party.

6 CHAIRPERSON GRIFFIS: Okay. Any other
7 comments on the application? I would move approval
8 then of granting party status to the Shafers, and ask
9 for a second.

10 COMMISSIONER HOOD: Second.

11 CHAIRPERSON GRIFFIS: Thank you both very
12 much. I'd ask for all those in favor signify by
13 saying aye.

14 (Vote.)

15 CHAIRPERSON GRIFFIS: And opposed? Very
16 well.

17 MR. BLANCHARD: Mr. Chair.

18 CHAIRPERSON GRIFFIS: Yes.

19 MR. BLANCHARD: I apologize. I do have
20 two short preliminary matters --

21 CHAIRPERSON GRIFFIS: Indeed.

22 MR. BLANCHARD: -- with regard to the
23 application. The Smiths self-certified and filed
24 their own application. I was brought into the case
25 later on, and they asked for relief from one provision

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1 where they don't actually need relief, but that
2 provision wasn't advertised in the public notice
3 anyway, so I don't believe there's any --

4 CHAIRPERSON GRIFFIS: Is that 411?

5 MR. BLANCHARD: That's right.

6 CHAIRPERSON GRIFFIS: Okay. Good.

7 MR. BLANCHARD: And then the second issue
8 is, if you'll notice in the plans they filed with
9 their application, one of the plans which shows the
10 basement level of their addition, essentially the
11 garage, indicates a dimension of depth which is one
12 foot shorter than the 19 feet length of a parking
13 space required under Section 2115.1 of the zoning
14 regulations.

15 The parking space they're proposing to
16 have within their garage is actually 18 feet one inch
17 instead of the required 19 feet in length, and I
18 believe that's a minor technical matter, but I wanted
19 to bring it to the Board's attention just in case, so
20 that it could be incorporated in any relief granted.

21 CHAIRPERSON GRIFFIS: Well, what are you
22 saying, that there may, in fact, be a parking relief
23 requirement?

24 MR. BLANCHARD: That's right. That is
25 correct.

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1 CHAIRPERSON GRIFFIS: Is that your
2 opinion?

3 MR. BLANCHARD: Yes, it is.

4 CHAIRPERSON GRIFFIS: It seems to me that
5 the case could also be made that as one does not
6 exist, the parking space doesn't exist there now.

7 MR. BLANCHARD: There was a garage there
8 previously.

9 CHAIRPERSON GRIFFIS: Okay.

10 MR. BLANCHARD: It was torn down.

11 CHAIRPERSON GRIFFIS: I guess the point,
12 in fact, the way I would initially look at this, and
13 we'll be able to flush this out, I'm certain. I would
14 initially look at this as an existing structure. The
15 addition does not require then a parking space to be
16 added.

17 MR. BLANCHARD: Okay.

18 CHAIRPERSON GRIFFIS: And, therefore, I'm
19 not sure why it would preclude you from in the general
20 grand scheme of things adding that dimension of 18
21 feet one inch, but maybe we'll get --

22 MR. BLANCHARD: Maybe not, but I just
23 wanted to --

24 CHAIRPERSON GRIFFIS: Indeed. No, it's
25 well worth bringing it up.

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1 MR. BLANCHARD: -- err on the side of
2 caution.

3 CHAIRPERSON GRIFFIS: We can have
4 corporation counsel put an opinion quickly together on
5 that when they're able. They can let us know.

6 MS. MONROE: Actually, I have a question.

7 CHAIRPERSON GRIFFIS: Yes.

8 MS. MONROE: Is this part of the addition,
9 this parking area, or not?

10 CHAIRPERSON GRIFFIS: Yes.

11 MR. BLANCHARD: Yes.

12 MS. MONROE: Then I would think you would
13 require a variance for that also, since it's within
14 the addition, and not the original structure.

15 CHAIRPERSON GRIFFIS: That is part of the
16 variance.

17 MS. MONROE: Already requested.

18 CHAIRPERSON GRIFFIS: Right. It is -- the
19 structure itself, the extent of it, and correct me if
20 I'm wrong, Mr. Blanchard, but as I read the case, that
21 that is part of the addition that is coming in for the
22 variance.

23 MR. BLANCHARD: That is correct.

24 CHAIRPERSON GRIFFIS: His point in
25 bringing it up is that they're now in the addition,

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1 they have added what will essentially be used as a
2 parking space. And his point is, it does not fulfill
3 the zoning requirement for size of parking space, so
4 his opinion is that they are seeking relief from that.

5 And my point was, does this actually require a
6 parking space that would then put it into making it
7 the zoning regulation size. Does that make sense?

8 MS. MONROE: I think.

9 CHAIRPERSON GRIFFIS: I mean, there's
10 nothing stopping -- my point is in this, they could
11 use it for storage and not park it. Right? What is
12 kicking them off to have a required parking space?

13 MS. MONROE: Because it's a residence.

14 CHAIRPERSON GRIFFIS: Okay. There it is
15 then. WE'll take that, and I think it would be
16 advantageous that we have a motion to amend the
17 application that would include --

18 MEMBER ZAIDAIN: Can we get a citation on
19 the zoning?

20 MR. BLANCHARD: Section 2111.1 is the
21 dimension of the parking space. They're fine as far
22 as width. It's just the length. They're short by one
23 foot.

24 CHAIRPERSON GRIFFIS: So what we're
25 looking at is just amending the application to reflect

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1 the requirement for relief.

2 MEMBER ZAIDAIN: What was the section
3 again?

4 VICE CHAIRPERSON RENSHAW: 2111.

5 CHAIRPERSON GRIFFIS: Dimensions. You
6 know, that's interesting. It's 2115, is it not?

7 MR. BLANCHARD: Right. 2115.

8 CHAIRPERSON GRIFFIS: Okay.

9 MR. BLANCHARD: I'm sorry.

10 CHAIRPERSON GRIFFIS: You may have
11 misspoke.

12 MR. BLANCHARD: I may have misspoke. I
13 apologize.

14 CHAIRPERSON GRIFFIS: That's all right.

15 MEMBER ZAIDAIN: I don't even have a 2111.

16 That's why I was --

17 CHAIRPERSON GRIFFIS: That's right. You
18 don't.

19 MEMBER ZAIDAIN: That's why I had that
20 look on my face.

21 CHAIRPERSON GRIFFIS: 2115.1, except as
22 otherwise provided in this section, required
23 automobile parking space shall be a minimum of nine
24 feet by nineteen feet in length, so it would be relief
25 from 2115.1. Okay. Anything else?

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1 MR. BLANCHARD: No, that's it for
2 preliminary matters.

3 CHAIRPERSON GRIFFIS: Very well. I'm going
4 to turn it over to you to present your case. We will
5 then follow through the order of procedure as outlined
6 at the beginning of this session. We have -- let me
7 ask you, Mr. Blanchard, how long -- how much time you
8 need to present your case this afternoon?

9 MR. BLANCHARD: I believe no more than
10 maybe 20 or 25 minutes.

11 CHAIRPERSON GRIFFIS: Okay. We will look
12 to that on the end of 20, and let you proceed.

13 MR. BLANCHARD: Very good.

14 CHAIRPERSON GRIFFIS: What I'm going to do
15 also, this may be my last interruption, I'm going to
16 ask that we refrain from asking questions during the
17 presentation of the case, and we'll hold our questions
18 to the end. Noting also that we'll allow for cross
19 examination after the Board's questions, so proceed.

20 MR. BLANCHARD: Thank you, Mr. Griffis,
21 Members of the Board and Staff. This application is
22 requesting variance relief, and these are area
23 variances, from the lot occupancy requirements of
24 Section 403, the rear yard requirements of Section
25 404, the extension of a non-conforming structure under

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1 2001.3, and now as amended, relief from the parking
2 space size requirement under Section 2115.1.

3 This application was self-certified by the
4 owners after careful research, and they will be the
5 only witnesses today. Unfortunately, their architect,
6 Mr. Sean Glerum, is unavailable, and I apologize for
7 that. If there are questions that come up that we may
8 have to have him answer, we will certainly submit
9 those as need be, but I did have him prepare both an
10 enlargement of plans that are already in the
11 application file that show both the site plan, and
12 then the elevations in case we need to refer to those.

13 I believe that the Smith's property meets
14 the test for variance relief. Their practical
15 difficulty -- well, their unique condition is that
16 they have an exceptionally small lot, narrow. They
17 have an existing, and very irregularly shaped court in
18 which they do not want to build, but they will go into
19 that, and they had a garage which was structurally
20 unsound, and needed to come down. Essentially what
21 they want to do is, because their lot is narrow and
22 they have a court, they need to extend to the rear.
23 They have a growing family, but the house itself is
24 very modest, and in order to provide for their family
25 they want to add an addition.

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1 This would remain a single-family use. It
2 would promote enhanced residential aspects to the
3 community. It is similar I believe to some of the
4 other additions in the neighborhood, and there are
5 benefits in that the ANC has supported it unanimously.

6 They have gotten numerous letters from their
7 neighbors, and as they will discuss later, it's
8 consistent with some of the Ward 5 objectives in the
9 Comprehensive Plan. And with that, I will turn it
10 over to the Smiths to discuss their project, their
11 existing structure, what they plan to develop.

12 MR. SMITH: Thank you, Lyle. I'd like to
13 say good afternoon, and thank you for the opportunity
14 to come before you in presenting our case. I must say
15 as a preliminary matter, there is one person who was
16 not mentioned that must be mentioned, and that is
17 Andrew.

18 CHAIRPERSON GRIFFIS: Indeed.

19 MR. SMITH: Because if he -- I say that
20 because if things should go awry then one of us may
21 certainly have to step out, and I just wanted to
22 inform you of that.

23 CHAIRPERSON GRIFFIS: We noted on the
24 letter that was submitted to ask that this be
25 expedited on our schedule that you had a baby on the

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1 way, so obviously, our schedule has delayed enough to
2 have them present here today.

3 MR. SMITH: Yes. Yes.

4 MRS. SMITH: We ask your indulgence with
5 our newborn.

6 CHAIRPERSON GRIFFIS: Oh, please. It
7 would be not a disruption.

8 MR. SMITH: Thank you. My wife and I --
9 I'm from Georgia. My wife is from California. Law
10 School actually brought us together, and that's where
11 we met. After getting married, we decided to make
12 Washington, D.C. our home, we decided to purchase a
13 home here in Washington, D.C. In the process, we were
14 not in the financial position to purchase a home that
15 we would like that would fit our needs; hence, it was
16 more economical for us to buy something that was
17 necessary to rehab, and work from there.

18 Like most people, I decided after a very
19 negative experience with a project manager, finding
20 out that I actually knew more than he did, I decided
21 to be the general contractor, and that was for
22 financial reasons. And that was also very
23 challenging, which I have come now to know you let
24 experts do what experts do. Hence, we had a general
25 contractor really complete the rest of the project.

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1 But in the process, we had a letter from the engineer,
2 because I was intelligent enough to have him at least
3 survey the property, and the engineer stated that the
4 property was structurally unsound so far as the
5 garage, and that's what we wanted to replace and build
6 the additions on top of that.

7 In the process of demolishing the garage,
8 I was under the presumption that the building permit
9 included the demolition, and I later found out that
10 that was not the case, that you need a raise permit
11 for that. After discovering that, we immediately --
12 my wife actually went down to DCRA and obtained the
13 raise permit and the other permit for rebuilding it.
14 However, because of challenges with the subcontractor,
15 we were unable to move forward.

16 The proposed addition that we are
17 discussing is essentially replacing the garage which
18 was already there. And as you know, parking is very
19 much of an issue in Washington, D.C. And secondly,
20 above the garage we would like to put a kitchen, and
21 above the kitchen we would like to put a bedroom, and
22 above the bedroom a study.

23 When we first purchased our home, most of
24 the demolition work was done by myself, again for
25 financial reasons, in addition to it's a great way to

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1 relief stress. And I found that the structure, though
2 it was very long, was not very wide, and it was
3 subdivided into very small rooms, as I understand was
4 the case in the Victorian age. And because of that,
5 we were -- we did the best that we could so far as
6 trying to make it as feasible for our needs. Also, we
7 decided to use the basement as a rental unit possibly,
8 what we considered again for financial reasons.
9 However, with that being the case, it substantially
10 took a lot of space away from us that we would
11 normally have for family use. Hence, that was one of
12 the reasons we wanted to extend the kitchen.

13 Essentially, with the basement now being
14 or having to be a rental unit upon completion, the
15 second floor became a family room. It is our goal
16 with God's help to have more than one child, even at
17 our late age. But with that being the case, that
18 essentially took two bedrooms away, so it was
19 necessary for us to partition for an extra bedroom.

20 Being that my wife and I are both
21 attorneys, and I started my own tax practice, because
22 I am a tax attorney, it's necessary for me to have a
23 study because of the fact that paperwork and books are
24 just necessary. It comes along with the practice.

25 MRS. SMITH: And I would interrupt there.

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1 I intend to, with our expanding family, I'm going to
2 work exclusively from home. And that's the -- if
3 you're querying why we're having the study, that's
4 why.

5 MR. SMITH: Right.

6 CHAIRPERSON GRIFFIS: Excuse me. A little
7 direction in terms of for the area variance test, we
8 would not be, unless moved very strongly, entertaining
9 economic argument in order to establish the case.

10 MR. SMITH: Sure.

11 CHAIRPERSON GRIFFIS: And I think you're
12 aware of that.

13 MR. SMITH: Sure.

14 CHAIRPERSON GRIFFIS: Secondly, just a
15 caution and note, the zoning regulations determining
16 home occupation, elements that need to be followed.
17 And I'll leave it at that, as that's not before us
18 today.

19 MR. SMITH: Certainly. And with the birth
20 of our son - thank you very much - we decided to get
21 away from the rental unit and make it actually a
22 mother-in-law suite, so our mother-in-law is going to
23 be moving there.

24 With regards to the test, you want to
25 discuss uniqueness of the property?

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1
2 MRS. SMITH: Sure. As my husband, Aislee,
3 was indicating, when we first moved into, or first
4 purchased the property, I wish we could have just
5 moved into it when we purchased it. When we first
6 purchased it, we were both really impressed with the
7 fact that it was a historical property, and the facade
8 is beautiful. The house is structurally sound with
9 the exception of the garage. But as we proceeded to
10 try to make our plans work and see how the house could
11 work for us, we found that the house was uniquely
12 small in that our lot is only about approximately
13 1,600 square feet. And the lot is extremely narrow in
14 that it's only about 17 feet wide.

15 As such, the property does not even meet
16 the minimum standard for a lot size of 18 square feet.

17 If the house did meet that 1,800 square feet minimum
18 requirement, we've been advised by our architect that
19 basically our plans, including the additions, would
20 only have up to maybe about a 70 percent occupancy of
21 the lot.

22 Since the lot is extremely narrow, the
23 issue became that we wanted to extend the property
24 towards the alley. We didn't want to disrupt again
25 the Victorian architectural value of the property, and

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1 we certainly didn't want to extend over into the right
2 courtyard, because again, that courtyard would be
3 taking away from the architectural structure of the
4 house. So again, we met with our structural engineer
5 who indicated that we needed to tear down the garage,
6 and that it was the only structure that was unsound.
7 And he thought that it was very practical for us to
8 expand the kitchen on top of the garage, once we
9 rebuilt the garage. And we do have a letter from the
10 engineer that we'd like to submit for your review, and
11 as evidence of the condition of the garage.

12 I think overall, the challenge that we're
13 met with is that we love the Victorian home. We've --
14 actually even though it's been challenging, we love
15 the challenge of rehabilitating the property because
16 we really are excited about bringing value back to --
17 contributing to bringing value back to the whole
18 regentification of the community. But the challenge
19 that we're met with again is that, even though we love
20 the 1800 style home, it does not compliment modern
21 life today.

22 The house has large common spaces, but
23 large narrow, when I say large, large and narrow
24 common spaces, but we really do not have room for the
25 practical day-to-day matters of having our family

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1 life, which is centered in the kitchen. From my
2 background, that's the heart of the home, is the
3 kitchen, and that space is very small. As well as, we
4 need an additional bedroom for our children, so again
5 what we'd like to point out is that we intend to
6 maintain the property as a single-family dwelling, but
7 that's a practical difficulty, that the property
8 itself is on a narrow lot. That's what's unique about
9 it. And the practical difficulty is that the lot size
10 in and of itself only left us with one alternative
11 once we purchased it in terms of trying to make it
12 meet our modern needs; and that was to push the house
13 back towards the alley.

14 We think too that from all the support
15 that we've received from day one in purchasing the
16 property from an overwhelming amount of our neighbors,
17 that the neighbors are very excited about what we're
18 proposing to do. Many a weekend we've spent there,
19 especially my husband since he did all of the
20 demolition himself, and cleaning up the debris and the
21 trash, and we understand that indigents were living in
22 the property prior to our purchasing it, that the
23 neighbors have come over weekend after weekend and
24 shared their support.

25 As late as December, we attended an ANC

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1 meeting, this past December, and we were so pleased to
2 have their unanimous support of our application. And
3 I think that you have a copy of their letter of
4 support that was filed with the Board.

5 We also have garnered several letters from
6 our neighbors, once they found out that we were met
7 with this zoning hearing challenge. They kindly
8 stepped up, and actually one of the neighbors has
9 lived in the community for about 45 years, and he says
10 that he's real excited about just seeing this
11 neighborhood turn into the type of neighborhood that
12 it really could be, and that it once was, the whole
13 Adroit Park area.

14 The community also has several other homes
15 in the area that have progressed in this manner, and
16 that's exactly how we got the idea, by driving around.

17 Once purchased the property and we figured out that
18 we had these challenges, we started driving around the
19 area and trying to see how other homeowners in our
20 neighborhood were dealing with the same issues that
21 we're dealing with, because most of these row homes
22 are very similar.

23 Again, maybe our request is a little bit
24 different, but please keep in mind our lot is uniquely
25 different, in that it is very narrow, and it is again

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1 not even meeting the minimum requirement.

2 What we've done is we've taken a couple of
3 pictures of additions that have been built on the
4 property in our area, and they're clearly additions
5 because you can see the contrast between the brick and
6 the siding that's been -- most people what they've
7 done is they've extended their kitchen, or they've
8 extended to have a back room going again out towards
9 the alley.

10 MR. SMITH: If I may interrupt for just a
11 minute, going back to the unique conditions of the
12 property. One thing that we neglected to mention is
13 that if you look at the board, you'll see that our and
14 almost every neighbor has a very unique and irregular
15 shape. The bay area is a front, Victorian front,
16 front of the Victorian house, but as you go toward the
17 back, there is a substantial decrease so far as width.

18 And also, there is an irregular angle that prevents
19 you from actually building on that for structural
20 purposes, we were told by our architect and engineer.

21 In addition, it reduces the amount of kitchen space
22 that you would have.

23 Many of these homes, as my wife mentioned,
24 were not suited for what we would consider to be
25 living in this century. For example, almost everyone

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1 we know had to put a powder room, which we may
2 consider to be just the normal thing on the first
3 floor, but it didn't have that, so once you include
4 the fact that, you know, you don't want to destroy -
5 and that was our goal - not to destroy the structural
6 integrity of the home, especially on the first floor.

7 If you have a living room, a parlor, and then you add
8 a powder room, at that point you already have impinged
9 upon the area in the back.

10 And with regards to the practical
11 difficulties, the proposed addition will maintain the
12 existing height of the structure and roof line, and
13 that's thirty feet and four inches, which are
14 significantly lower than the maximum allowed as a
15 matter of right. And I think you have the ones that
16 are similar that we have provided for you.

17 We think that, and sincerely feel that
18 this will actually enhance the community. As my wife
19 mentioned, and I'll go out on the limb and say
20 regardless of race, regardless of religion,
21 regardless, the kitchen is the majority of the time
22 the heart of the home. And that's one of the primary
23 reasons that we wanted to extend. In addition, as we
24 said, the bedroom, since we purchased the property we
25 found that it has not depreciated in value. Actually,

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1 it has appreciated, and we're very thankful for that.

2 And as my wife stated, many of our letters
3 -- many of our neighbors have supported us very much
4 so, and they were more than willing to provide the
5 letter of support. No one that I approached said no,
6 and I was very pleased with that.

7 Also, we think that our initiatives are in
8 line with the mayor's, in that there's an attempt to
9 revitalize residential neighborhoods, and retaining
10 existing families, and drawing them into the District.

11 I think finally, our proposed application
12 is consistent with the Ward 5 objectives also, and the
13 zoning of the District Columbia Comprehensive Plan.
14 Specifically, our application is supported by Section
15 1629.1(a) and (h), which read in part, "Protect and
16 enhance the stability of residential neighborhoods."
17 And (h), "Preserve, protect, rehabilitate, enhance and
18 nurture the long established integrated middle class
19 residential character of neighborhoods, single-family
20 homes, tree-lined streets, churches, schools and parks
21 all within easy reach of downtown Washington, D.C."
22 And I believe Mr. Blanchard has that for you.

23 It is our goal to stay in Washington. It
24 is our goal to raise our children in Washington. It
25 is our goal to, with our efforts, to make Washington a

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1 better city, because we believe that it starts from
2 within. And this is one of the things, in order for
3 that to occur, it's got to start at home. And that's
4 one of the things that we want to do.

5 MRS. SMITH: Now I just -- we'll stay with
6 your questions if you have an understanding of the
7 kitchen area, but I'm taking a peek over at the
8 drawing, and I think that it drastically shows how our
9 kitchen is much smaller than the living area of the
10 home. And I would just want to reiterate once again
11 that the garage is not an addition, in my view. The
12 garage was existing when we purchased the property,
13 and in proceeding with, first of all to make the
14 garage structurally sound, we had to tear it down, so
15 that's why it's not there. And we can't move forward
16 with rebuilding it at this point, until we have all of
17 these other issues resolved, so I think that's about
18 it. We would welcome your questions.

19 CHAIRPERSON GRIFFIS: Good. Thank you
20 very much. First of all, quick clarification. You
21 mentioned that this is a historical property. Is this
22 a designated property contributing to an historic
23 district?

24 MRS. SMITH: No, it's not.

25 MR. BLANCHARD: No, Mr. Chair. No, it is

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1 not.

2 CHAIRPERSON GRIFFIS: Okay. And I take
3 that as meaning that it has historic -- well, it has
4 age and architectural character. Is that correct?

5 MRS. SMITH: Character. Exactly.

6 MR. SMITH: Right.

7 CHAIRPERSON GRIFFIS: Okay. Just for
8 clarification, because that would put you into other
9 issues. The garage demolition, you just stated at the
10 beginning that there was an existing structure there.

11 On the existing plans, do we have a footprint of
12 that? Or actually, perhaps directly, are you
13 replacing to the same footprint that the existing
14 structure was?

15 MRS. SMITH: Absolutely.

16 MR. SMITH: Yes.

17 CHAIRPERSON GRIFFIS: And do you know how
18 high that existing structure was?

19 MR. SMITH: I do not know how high it was.

20 CHAIRPERSON GRIFFIS: I see.

21 MR. SMITH: But what I do know is that if
22 we were to be permitted to extend the kitchen, then it
23 would require, you know, doing whatever was necessary.

24 But we certainly want to comply with, to the extent
25 possible, the height, width and depth requirements of

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1 the zoning regulations.

2 CHAIRPERSON GRIFFIS: All right.

3 MRS. SMITH: Our architect can provide
4 that for you. We wouldn't know off-hand.

5 CHAIRPERSON GRIFFIS: It's more for just
6 my complete understanding. I'm not sure I need
7 additional submissions on it. It's just interesting
8 to note that if that garage was presently there, a lot
9 of these variances would drop off, and the lesson
10 learned, don't knock the darned thing down. But
11 understandably as presented today, also the fact of
12 the emergency nature of having to remove it based on
13 its structural integrity, and the engineer's letter
14 that was submitted speaks to the fact that it was
15 actually a public safety, so I note the importance of
16 moving ahead with that.

17 Height. You gave an indication of the
18 height of the addition. Do you remember, what was
19 that figure that you gave?

20 MR. SMITH: I think I said that it was not
21 going to be any higher than the present roof line,
22 which is I think about thirty feet four inches.

23 CHAIRPERSON GRIFFIS: Okay. Well, that's
24 the interesting piece, and I wanted clarification.
25 The only dimension that we have in terms of height,

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1 and frankly, you're not in for a height variance so we
2 won't investigate it, but the issue is, that is not
3 the proper way to measure height. What's being
4 indicated for our drawings is basically the heights
5 for floors, which is appropriate for the elevations,
6 so this is at the rear, at the height of the building
7 would be established at the front of the building to
8 the top uppermost part of the ceiling. But there that
9 is. I would imagine that just based on those
10 dimensions it's not an issue.

11 Okay. Other questions at this time from
12 the Board? Ms. Renshaw.

13 VICE CHAIRPERSON RENSHAW: Mr. Chairman,
14 the boards have been changed to elevations, which is
15 what I wanted to take a look at.

16 CHAIRPERSON GRIFFIS: Sure.

17 VICE CHAIRPERSON RENSHAW: And it shows
18 that the roof line, from the rear the roof line
19 pitches. Is that the existing slope of the roof line?

20 MR. SMITH: Yes, it is.

21 VICE CHAIRPERSON RENSHAW: All right. And
22 the -- and you have a deck out the back. Is that what
23 you're proposing over the garage?

24 MR. SMITH: Correct.

25 VICE CHAIRPERSON RENSHAW: Is that -- so

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1 in the back you're not coming out to the end of the
2 garage, save the deck.

3 MR. SMITH: No, we're not.

4 VICE CHAIRPERSON RENSHAW: And you're back
5 how far, approximately how many feet?

6 CHAIRPERSON GRIFFIS: From the existing
7 building?

8 VICE CHAIRPERSON RENSHAW: From the edge
9 of the garage to the --

10 MRS. SMITH: How many feet the extension
11 would come out?

12 VICE CHAIRPERSON RENSHAW: No, from the
13 edge of the garage where you have your deck railing,
14 to your -- the door on the second floor.

15 MR. SMITH: It would be four feet ten
16 inches, four feet ten inches.

17 VICE CHAIRPERSON RENSHAW: Thank you.

18 MR. SMITH: The depth of the balcony.

19 VICE CHAIRPERSON RENSHAW: That's it.

20 CHAIRPERSON GRIFFIS: Any other questions
21 from the Board?

22 MEMBER ETHERLY: Mr. Chair, just very
23 briefly.

24 CHAIRPERSON GRIFFIS: Yes.

25 MEMBER ETHERLY: For either Mr. or Mrs.

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1 Smith, or counsel, we have a couple of pictures of
2 some of the rear elevations along the alley. Could
3 you speak a little bit to what is immediately adjacent
4 to the rear of your property in the back?

5 MR. SMITH: Adjacent toward the rear?

6 MEMBER ETHERLY: That's correct, like on
7 either side of the property.

8 MR. SMITH: Okay. Certainly. You're
9 speaking of these.

10 MR. BLANCHARD: The pictures that were
11 submitted with the application.

12 MEMBER ETHERLY: The pictures that came
13 with the application. Correct. They're identified as
14 I believe part of Exhibit number 4 in the BZA file.

15 MR. SMITH: Certainly. It may be a little
16 challenging to see, but the picture on the top is what
17 we were permitted to build. And there is to the left
18 of the top picture is our neighbor, Lonzo Shafer. And
19 to the right of the top picture, on the right of where
20 the current structure is, there's a courtyard as
21 indicated on the prior drawing. And to the right you
22 will see the Crawford's house on the top, on the
23 second floor.

24 MEMBER ETHERLY: Okay. To the best of
25 your recollection, would you say that most of the

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1 properties are extending pretty much to the, I guess
2 the edge of the alley, so to speak? Most of the
3 properties along that rear, are they coming out to the
4 alley?

5 MR. SMITH: On the ones that we submitted?
6 I'm sorry. I understand now. ON the pictures here.

7 MEMBER ETHERLY: Correct.

8 MR. SMITH: Both of them extend all the
9 way to the alley.

10 MEMBER ETHERLY: Okay.

11 MR. SMITH: The Crawfords have a garage
12 that extends all the way back to the alley.

13 MEMBER ETHERLY: Okay.

14 MR. SMITH: And the Shafers have the
15 property, if you look on the bottom picture, you'll
16 see --

17 MEMBER ETHERLY: Okay. It's pretty well
18 pictured there.

19 MR. SMITH: Right.

20 MEMBER ETHERLY: Okay.

21 MR. SMITH: And that's where some
22 challenges we had with the subcontractor that we're
23 currently working on.

24 MEMBER ETHERLY: Okay. This may be a
25 question better put to your architect if he or she

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1 were here, but that's not a big deal. But relative to
2 the plans that we have, do you have a rough sense of -
3 - you identified -- and we'll get some testimony from
4 the Shafers on this, so feel free to just kind of
5 demur on this point, but what I'm interested in is,
6 that's a deck on the rear of the Shafer property.

7 MR. SMITH: Yes.

8 MEMBER ETHERLY: I'm trying to get a sense
9 of what the relationship will be between the deck
10 that will be on the top of the garage portion of your
11 addition, and the Shafer deck.

12 MR. SMITH: Sure. If you look on the
13 picture, towards the left side where the lattice is
14 located, that's where the bottom of their patio is
15 located.

16 MEMBER ETHERLY: Uh-huh.

17 MR. SMITH: And the white part on the
18 right-hand side is where the garage originally was,
19 and at that point, that's where the garage would be
20 built. Would you like for me to point it out to you?

21 MEMBER ETHERLY: Okay. No, I could see it
22 from the picture.

23 MR. SMITH: From that point, the garage
24 would be there.

25 MEMBER ETHERLY: Okay.

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1 MR. SMITH: Then at that point, the
2 addition and the deck will be built above that area.
3 And we did not -- the deck will be in line with their
4 lattice work.

5 MRS. SMITH: With the Shafer's lattice
6 work, our deck would be right in line with that.

7 MEMBER ETHERLY: Okay. So the floor of
8 your deck would begin approximately where, just at the
9 top of the --

10 MRS. SMITH: The bottom of their lattice
11 work.

12 MEMBER ETHERLY: Okay.

13 MR. SMITH: Right.

14 MEMBER ETHERLY: Okay. Thank you. Thank
15 you, Mr. Chair.

16 COMMISSIONER HOOD: Mr. Chair.

17 CHAIRPERSON GRIFFIS: Yes, Mr. Hood.

18 COMMISSIONER HOOD: Sir, let me just
19 follow up on Board Member Etherly's question. I'm
20 still looking for the common area. I'm not following
21 where the common area is that Mr. Shafer wrote on the
22 party status. There's a common area that I'm still
23 looking for in this picture, if you can direct me to
24 it.

25 MR. SMITH: The only thing that's common

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1 is a party wall --

2 MRS. SMITH: Of the garage.

3 MR. SMITH: -- of the garage that used to
4 be there, that white wall on the bottom picture.

5 COMMISSIONER HOOD: Oh, gotcha.

6 MR. SMITH: That's a party wall. And our
7 thoughts were that we would not be impinging upon any
8 light, or any other type of use, primarily because we
9 have pictures. There would be no noise, you know, in
10 the area since it was in the back.

11 MRS. SMITH: That's the only shared common
12 area we know of, is the party wall to the garage, to
13 answer your question.

14 COMMISSIONER HOOD: Yeah, that's fine.
15 You also mentioned the Comprehensive Plan 1629.1(a),
16 "Protect and enhance the stability of residential
17 neighborhoods." Someone may read in that a different
18 way than what you actually enlisted, so if you could
19 give me a little more detail, because when it says
20 "protect", I'm looking at it saying protect the
21 already existing situation which we have, so kind of
22 just give me a little more information or expand a
23 little more on protect and enhance the stability of
24 residential neighborhoods.

25 MRS. SMITH: I would agree with you that

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1 it's all a matter of interpretation, the use of that
2 language, and who truly knows the intent of the
3 language of it, and the author of that. However, our
4 view of protecting the neighborhood, and it seems to
5 be in line with the mayor's initiative, is that what
6 we're trying to do, meaning the D.C. community, we as
7 a collective, is to invite people to come back into
8 the community, and if we don't do that, we're not
9 protecting the existing communities. And there's no
10 appeal to come back into the communities unless you're
11 able to, at least to some extent in areas -- again,
12 our house -- I view it as a historic property because
13 I'm from California. All of this property is historic
14 to me, but it's not truly a historic area where we're
15 preserving the exact original structure. That's not
16 what we're dealing with here.

17 What we think our efforts are doing is
18 protecting the existence and thriving of the community
19 by improving it again. When we first went and visited
20 this property, indigents were in there. There was
21 trash about three to four feet up, almost up to my
22 kneecaps inside of the property, and the neighbors
23 were so excited that someone had come along and
24 decided to take on the task of rehabilitating this
25 property. And in my view, that's protecting the

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1 community, because if people do not take on that task
2 of rehabilitating these communities, they're going to
3 degenerate.

4 COMMISSIONER HOOD: And I guess your
5 neighbors support, a lot of it was based on an
6 improvement. They look at this as an improvement.

7 MRS. SMITH: Absolutely, yes.
8 Aesthetically and economically because the property
9 value is increasing as people come back into the
10 community.

11 COMMISSIONER HOOD: Okay. Thank you.
12 Thank you, Mr. Chair.

13 CHAIRPERSON GRIFFIS: Good. Ms. Renshaw.

14 VICE CHAIRPERSON RENSHAW: Yes. I'd like
15 to get some indication as to how the sun travels
16 around the back of your property. Is this the north
17 side of your property, or the south side?

18 MR. SMITH: It's actually the west side,
19 so it goes -- if this microphone would be our home,
20 like this and the sun would travel here and come this
21 way.

22 MRS. SMITH: Back to the alley.

23 VICE CHAIRPERSON RENSHAW: So it starts
24 out, and you get the morning sun in the front of your
25 property.

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1 MR. SMITH: Correct. And we get the
2 evening sun in the back.

3 VICE CHAIRPERSON RENSHAW: In the back.

4 MR. SMITH: Right.

5 VICE CHAIRPERSON RENSHAW: Now would this
6 addition cut off the light to your neighbor's, Mr.
7 Shafer? The sun light, the evening sun light?

8 MR. SMITH: The evening sun light would
9 still come because of the fact that it comes this way,
10 and they're abutting.

11 MRS. SMITH: They're not behind us in
12 other words.

13 VICE CHAIRPERSON RENSHAW: Right.

14 MRS. SMITH: So we're not cutting off the
15 view of the evening sun, because their property is
16 alongside of us, as opposed to directly behind us.

17 CHAIRPERSON GRIFFIS: Your property is
18 oriented east to west. Is that correct? Or north to
19 south?

20 MRS. SMITH: I'm sorry, sir. I didn't
21 hear you.

22 CHAIRPERSON GRIFFIS: East to west or
23 north to south, is the orientation?

24 MRS. SMITH: East to west.

25 MR. SMITH: The sun is here, and everyone

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1 gets the front sun. It moves this way in steps, and
2 everyone gets --

3 VICE CHAIRPERSON RENSHAW: And during the
4 mid part of the day, the sun would come -- this would
5 be the south side of your house right there?

6 MR. SMITH: In the mid part of the day.

7 VICE CHAIRPERSON RENSHAW: All right. It
8 would be on the -- as we're looking at the plans, it
9 would be on the right hand side.

10 MR. SMITH: It would be directly over.

11 VICE CHAIRPERSON RENSHAW: Well, there is
12 a slant in the winter time too of the sun, so all
13 right. I got the picture.

14 Second question. When you removed your --
15 when you demolished your garage and you shared that
16 garage wall with your neighbors.

17 MR. SMITH: Yes.

18 VICE CHAIRPERSON RENSHAW: Did you have to
19 get permission to take down that wall?

20 CHAIRPERSON GRIFFIS: Actually, before I
21 have you answer, you're going to have to be on a
22 microphone because our recorder is not picking you up.

23 MR. SMITH: Okay. To answer your
24 question, no, we did not have permission because we
25 did not intend to have that wall demolished.

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1 VICE CHAIRPERSON RENSHAW: It just fell
2 down?

3 MR. SMITH: No, the contractor was
4 negligent in demolishing the wall, and that's
5 currently in the process of litigation.

6 VICE CHAIRPERSON RENSHAW: Okay. A third
7 question. How about your neighbors who look out on
8 the back of your house, did you get any support from
9 those folks? What's behind you? What do you look out
10 on if you were out on this proposed deck?

11 MR. SMITH: I look into the side of their
12 -- we look out - excuse me - into the side of their
13 building --

14 MRS. SMITH: Of other row homes.

15 MR. SMITH: Of other row homes.

16 VICE CHAIRPERSON RENSHAW: Of other row
17 homes.

18 MR. SMITH: That are adjacent --

19 MRS. SMITH: The side view.

20 MR. SMITH: Because the alley is in the
21 back, and then the Adam Street runs along the side,
22 and there's --

23 MRS. SMITH: And the properties are built
24 back.

25 MR. SMITH: Right.

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1 VICE CHAIRPERSON RENSHAW: All right. Did
2 you get any support from those neighbors?

3 MR. SMITH: No, I didn't have time.

4 VICE CHAIRPERSON RENSHAW: Thank you.

5 CHAIRPERSON GRIFFIS: I think perhaps the
6 last question you indicated, and the photos are
7 showing new construction. And you indicated that you
8 had a permit for that, and it's all in there.

9 MR. SMITH: Yes.

10 CHAIRPERSON GRIFFIS: What was the extent
11 of that addition at this point? What's the dimension
12 back from the building, or relatively to the plans?

13 MR. SMITH: Relative to the plans.

14 CHAIRPERSON GRIFFIS: Yeah.

15 MR. SMITH: Okay. Where the garage would
16 begin at the house.

17 CHAIRPERSON GRIFFIS: Yes.

18 MR. SMITH: It goes straight up.

19 CHAIRPERSON GRIFFIS: OH, I see. So it
20 was just rebuilding the existing exterior wall.

21 MR. SMITH: Right.

22 CHAIRPERSON GRIFFIS: Oh, I see. Okay.

23 MRS. SMITH: And only three walls were to
24 be -- quote/unquote, "walls" to be demolished.

25 MR. SMITH: Demolished with the garage.

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1 MRS. SMITH: The roof of the garage and
2 then the two supporting walls. But unfortunately,
3 again as my husband mentioned, the party wall was
4 damaged due to the negligent conduct of the contractor
5 who was raising the garage.

6 CHAIRPERSON GRIFFIS: Right. Okay. And
7 the purpose -- the deck when -- getting back to the
8 sunlight, we want to be able to enjoy the sunlight, as
9 well. And that was another benefit of being able to
10 build the deck right on the roof of the garage and
11 watching what other neighbors had done.

12 CHAIRPERSON GRIFFIS: Good. Any other
13 questions by the Board? Very well. Let's move on. I
14 would ask the party in opposition, Mr. or Mrs. Smith
15 or their representative, they'd come forward for cross
16 examination of the witnesses, if there is any. You
17 can have a seat actually. If you want to just pull a
18 chair up around the side. And I would have you -- you
19 can move right in. We're going to be real friendly,
20 and this isn't going to get out of control. And then
21 I'd just have you introduce yourself, name and
22 address, for the record.

23 MR. BERKEBILE: Yes. My name is Robert
24 Berkebile, counsel for Lonzo and Deborah Shafer. And
25 I'm with the law firm of Fazlani and Berkebile,

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1 located at 1722 Wisconsin Avenue.

2 CHAIRPERSON GRIFFIS: Okay.

3 CHAIRPERSON GRIFFIS: Okay. You say that
4 there is exceptional difficulties in the use of your
5 lot because the narrowness. And I just want to know
6 what the other properties, what their width is?

7 MR. SMITH: They're all the same.

8 MR. BERKEBILE: They're all the same?

9 MRS. SMITH: I don't -- I couldn't tell
10 you what the width of the other properties are, but I
11 do know that our property is unique in that we have
12 that side courtyard, and other properties do not have
13 that. So accordingly, that's why the back area of our
14 home is extremely narrow, and it's impractical for us
15 to have an appropriate size kitchen, because the front
16 area, the living room, the parlor, the top portion of
17 that board, you notice how that's much wider than the
18 back portion of our home. And the back portion is
19 exactly where we intend to have our kitchen. Other
20 properties --

21 CHAIRPERSON GRIFFIS: I think that
22 addresses --

23 MR. BERKEBILE: Yeah.

24 CHAIRPERSON GRIFFIS: WE're going to have
25 quick questions and quick answers.

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1 MRS. SMITH: Okay. I'm sorry.

2 MR. BERKEBILE: Okay. Whenever you
3 purchased the house was this currently out, or did you
4 do construction changes to it?

5 MR. SMITH: I'm sorry?

6 MR. BERKEBILE: Was the layout in this
7 format whenever you purchased the house?

8 MRS. SMITH: Meaning the footprint?

9 MR. BERKEBILE: Yeah, with the same floor
10 plan, with the family room, the number of bedrooms.

11 MR. SMITH: From the original, we've had
12 the property for about four years.

13 MR. BERKEBILE: Okay.

14 MR. SMITH: And in that period of time,
15 after walking through the property a number of times,
16 there have been some changes from within.

17 MR. BERKEBILE: Okay. How many bedrooms
18 did you have when you purchased the house?

19 MR. SMITH: Originally?

20 MR. BERKEBILE: Yes.

21 MR. SMITH: It was Victorian age. I would
22 say that each --

23 MRS. SMITH: I don't know.

24 MR. SMITH: I would venture to say that --
25 and bear with me because the rooms were very small.

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1 There were none on the first floor. On the second
2 floor there were probably three small rooms, and there
3 was one on the third floor.

4 MR. BERKEBILE: Okay. And you tore the
5 garage down and it's currently not existing. Right?

6 MR. SMITH: Correct.

7 MR. BERKEBILE: Okay. I have no further
8 questions.

9 CHAIRPERSON GRIFFIS: Thank you. Any
10 redirect?

11 MR. BLANCHARD: No.

12 CHAIRPERSON GRIFFIS: Very well. I noted
13 that Office of Planning did not submit a report on
14 this case. Did you have contact with the Office of
15 Planning? You can have a seat. I'll call you back up
16 in a minute.

17 MR. BLANCHARD: Chairman Griffis, I did
18 talk to the Office of Planning yesterday --

19 CHAIRPERSON GRIFFIS: Okay.

20 MR. BLANCHARD: -- in attempting to find
21 out if they were going to file a report, and I would
22 assume that, you know, they got notice from the Staff.

23 CHAIRPERSON GRIFFIS: Yeah. No, I'm not
24 questioning that. I just wondered whether -- we often
25 get an idea that we're expecting one. I don't have a

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1 note that we're expecting one, and whether you --

2 MR. BLANCHARD: I talked with the third
3 person down from the Director, and she said that for
4 whatever reason, they were not giving a report. They
5 weren't on this particular case.

6 CHAIRPERSON GRIFFIS: Interesting. Okay.
7 Let's move then onto the ANC. That's the only -- I
8 don't have any other record of any other government
9 agency that has reported on this. It looks like the
10 applicant concurs. Ms. Renshaw, do you have the ANC-
11 5C report in front of you? And if so, summarize.

12 VICE CHAIRPERSON RENSHAW: Yes, I do.
13 We're going to waive it in.

14 CHAIRPERSON GRIFFIS: Indeed. Is there
15 any objection to waiving in the ANC report at this
16 time from Board Members? Parties, any objection to
17 waiving our rules for acceptance of the ANC report?

18 MR. SMITH: No objection.

19 MRS. SMITH: No.

20 CHAIRPERSON GRIFFIS: Okay. You want to
21 come forward. Your comment was that you had no
22 knowledge of the ANC report. That's right. You just
23 sit down. I just -- whenever you speak to the Board,
24 I can hear you, but the record cannot, so you have to
25 be in front of a microphone with a microphone on.

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1 Just turn your microphone on, please. Thank you.
2 Okay. And that's, in fact, what I was asking you. We
3 are waiving our rules in order to accept the ANC
4 report. I was getting quick comment. If you were
5 opposed to that, and we might take that under
6 consideration. Are you opposed to that?

7 MR. BERKEBILE: Yes.

8 CHAIRPERSON GRIFFIS: You are.

9 MR. BERKEBILE: We haven't reviewed it at
10 all.

11 CHAIRPERSON GRIFFIS: Okay. Let us get a
12 copy of the ANC report to the parties' representative,
13 and let me hear any other comments from the Board in
14 opposition to waiving a report. Is there any? Not
15 seeing any, I take it as a consensus of this Board to
16 waive in the report and accept it to the record.
17 Therefore, let us get a copy right now to the parties
18 in opposition. One will be delivered to you
19 momentarily. Ms. Renshaw.

20 VICE CHAIRPERSON RENSHAW: This was
21 received by the Board, by the way, on January 6th. The
22 letter from ANC-5C is dated January 2nd and it's signed
23 by James Barry, the Chairperson, James Barry, Jr., the
24 Chairperson of ANC-5C. And he notifies the Board that
25 5C met on December 17th to consider this application.

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1 It was timely filed and proper notice was given to the
2 public concerning this regularly scheduled monthly
3 meeting. A quorum of the membership was in
4 attendance, with Mr. and Mrs. Aislee Smith, as well as
5 their representative, Attorney Lyle Blanchard. And
6 the ANC-5C voted 7-0 to unanimously support the
7 application. Specifically, they had various points to
8 make in the letter, that the plans will allow the
9 Smiths to expand this antiquated Victorian Era home.
10 And secondly, the proposed addition will not change
11 the height of the building, nor as the ANC has been
12 assured, create impacts of traffic or noise in the
13 surrounding neighborhood.

14 Third, the proposed addition seems
15 aesthetically pleasing to the eye, and is consistent
16 with the design of the other homes in the
17 neighborhood. And fourth, the Smiths are severely
18 limited to how they can expand the living space of the
19 home on its narrow and unusually shaped lot, without
20 increasing the height or filling in the side court
21 between their house and the neighbor at 2302, so
22 hence, they must increase the lot occupancy of the
23 residence by expanding into the rear. So ANC-5C is in
24 unanimous support of the application.

25 CHAIRPERSON GRIFFIS: Good. Any comments

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1 or questions from the Board? Does the applicant have
2 any clarifications? It's hard to cross examine a
3 letter, I understand, but does the applicant have any
4 comments about the ANC letter submitted? The ANC
5 letter submitted, any comments from the applicant?
6 Very well. Party in opposition, any comments on the
7 ANC letter that was submitted? Any questions?

8 MR. BERKEBILE: She's reviewing it right
9 now.

10 CHAIRPERSON GRIFFIS: Okay. What I'll do
11 is -- and that's fine. I will give you time to review
12 it today, and then actually we'll -- I anticipate just
13 keeping the record open if there is, in fact,
14 responses that need to be done in written form, if
15 they're not prepared today.

16 With that, let us move on then. Is there
17 anyone here to testify in favor or support of the
18 application this afternoon? Yes? Please, why don't
19 we have all you come forward. I would ask you folks
20 to take your seats and allow for that testimony to
21 proceed. Two. Is there anyone else? Very well.
22 Right. You can give that to the recorder on the right
23 there.

24 MEMBER ETHERLY: Mr. Chair, while we have
25 witnesses coming forward, I'll just note for the

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1 record that we do have in our record approximately by
2 my count, ten letters from neighbors, adjacent
3 property owners in support.

4 CHAIRPERSON GRIFFIS: Good. I appreciate
5 that, and I think those letters are somewhat
6 informative, and talking to the substance. As this
7 Board well knows, but I will also let others here
8 today understand that we don't necessarily run a
9 popularity contest and count up those in support and
10 those opposed, but rather look for personal testimony
11 to speak to the tests required in the zoning
12 regulations for variances. So with that, I will turn
13 it over to either one of you that would like to begin,
14 and you can just give me your name and address for the
15 record, and please proceed. You are allotted three
16 minutes, and we're not going to turn the nasty buzzer
17 on, but I will watch the clock and possibly interrupt
18 you if you go over.

19 MS. CRAWFORD: My name is Harriet
20 Crawford. I live at 2302 First Street, N.W. And I'm
21 in support of the project because our house is
22 designed almost exactly like the Smiths' house. We're
23 next door, and we do have those issues that they're
24 talking about. We bought the house in '84. We
25 renovated the house. In the meantime, our children

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1 have grown up. We've got, you know, things going on
2 in the home. The kitchen is ridiculously small. You
3 have no place to expand, so basically to make it
4 short, we have all the same issues that they have on
5 their property, so we are definitely supporting. You
6 need to do something to expand your space as your
7 family grows, and you have different flows in your
8 house.

9 CHAIRPERSON GRIFFIS: Good. Thank you
10 very much. Any questions from the Board?

11 MR. CRAWFORD: My name is George Crawford.

12 CHAIRPERSON GRIFFIS: If I could interrupt
13 you, just turn your microphone on. Just touch the
14 base there. Perfect.

15 MR. CRAWFORD: Thank you. My name is
16 George W. Crawford. I also reside at 2302 First
17 Street, N.W., Washington, D.C. And I concur in the
18 comments of my wife, that you need additional space in
19 those houses, and the only way to do it is to possibly
20 go up, because you can't expand laterally, or
21 vertically or horizontally. You have to go up, so
22 we're in support of the application.

23 CHAIRPERSON GRIFFIS: Good excellent.
24 Thank you.

25 MS. CRAWFORD: Can I add one point?

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1 CHAIRPERSON GRIFFIS: Of course.

2 MS. CRAWFORD: The garage is absolutely
3 critical because without that parking space, it's
4 unbelievably tight in that area, and it's getting
5 tighter every day as more and more people move into
6 the area. They did have a garage. Unfortunately,
7 they don't have it any more, but definitely you need
8 that.

9 MEMBER ETHERLY: Mr. Chairman, if I may
10 very quickly. Thank you very much for your testimony,
11 Mr. and Mrs. Crawford. Once again, your property in
12 relationship to the applicant's property is where?

13 MR. CRAWFORD: On the south side.

14 MEMBER ETHERLY: On the south side.

15 MS. CRAWFORD: Right.

16 MEMBER ETHERLY: Okay. From the
17 standpoint of -- let me deal with first with kind of
18 the alley access, and kind of egress for vehicles and
19 things like that. How tight is it back there?

20 MS. CRAWFORD: It's a fairly large alley.
21 We park in our garage, so we get -- we've been able
22 to get a Lincoln Continental in that garage. We get
23 the truck in that garage, so there's not a problem
24 with that, because the garage is the entire width back
25 there.

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1 MEMBER ETHERLY: Okay. And in terms of --
2 you heard me ask the applicant about kind of the -- I
3 was trying to get a sense for the flavor of the rear
4 of all of those properties in the back alley, and I'll
5 kind of ask you the same question. Could you speak a
6 little bit to, are most of those rears, is it safe to
7 kind of characterize them as all kind of looking very
8 similar or, you know, is there still some difference
9 back there in terms of some of the properties will
10 have additions, some won't, some have decks in the
11 rear, some don't?

12 MS. CRAWFORD: That's correct. They're a
13 little bit varied back there.

14 MEMBER ETHERLY: Okay.

15 MS. CRAWFORD: The houses with garages,
16 typically not all the houses have garages. These were
17 there when we moved in, so they're brick. They're
18 part of the structure as far as I'm concerned, and
19 they go all the way back to the alley. The houses
20 that do not have garages, because we're on an incline,
21 some of them are lower than others, but they're
22 basically patios but they're all enclosed. Some
23 people have decks. Some people have patios. Some
24 people have pull-in space where they park back there
25 so it's somewhat varied.

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1 MEMBER ETHERLY: Okay.

2 MS. CRAWFORD: But absolutely, everybody
3 goes all the way back to that alley, or within a
4 couple of feet of that alley.

5 MEMBER ETHERLY: Okay. And no concerns
6 with respect to privacy issues as far as site lines
7 from the proposed deck into other adjacent properties
8 or anything like that, as far as you might be able to
9 ascertain?

10 MR. CRAWFORD: I would like to see the
11 drawing. I have not seen the drawing. I know that
12 Mr. Smith has explained it to me, and I concur with
13 what he has explained to me, but I have not visually
14 seen exactly what he's proposing.

15 MEMBER ETHERLY: Okay.

16 MS. CRAWFORD: Basically, the way our
17 houses are situated, because we're at the bottom of
18 the hill, we're like -- it's like an incline like
19 this. We can see, but I mean, I don't know. There's
20 a house directly behind us, so there's just not a
21 whole bunch to see back there.

22 MEMBER ETHERLY: Okay. All right. Thank
23 you very much, Mr. Chairman. Thank you, Mr. and Mrs.
24 Crawford.

25 CHAIRPERSON GRIFFIS: Any other questions

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1 from the Board?

2 VICE CHAIRPERSON RENSHAW: Yes. Mr. and
3 Mrs. Crawford, it looks from the pictures that we have
4 received showing the back-end of the applicant's home,
5 and your's is pictured, you have an addition on your
6 house? You have a two-story addition on your house,
7 or a one-story?

8 MR. CRAWFORD: It's a one-story.

9 VICE CHAIRPERSON RENSHAW: You have a one
10 story addition with a deck?

11 MS. CRAWFORD: Are you talking about above
12 the garage?

13 VICE CHAIRPERSON RENSHAW: Yeah.

14 MS. CRAWFORD: Above the garage there's a
15 deck. We built on top of the garage. There's a deck
16 on top of that garage with a fence going around it, a
17 six foot fence.

18 MR. CRAWFORD: But there is an addition
19 above the kitchen, but our kitchen is not above the
20 garage. Our kitchen is the small area right after the
21 dining room. That's what my wife meant about the
22 kitchen, it's probably I'd say five by ten, five by
23 seven.

24 MS. CRAWFORD: No, it's more like nine by
25 twelve, but it's very cramped. It's very cramped.

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1 You cannot eat in that kitchen easily. If you have
2 multiple appliances, like a refrigerator, double oven,
3 your kitchen is gone.

4 CHAIRPERSON GRIFFIS: Okay. Anything
5 else, Ms. Renshaw?

6 VICE CHAIRPERSON RENSHAW: No, that's it.
7 Thanks.

8 CHAIRPERSON GRIFFIS: Indeed. Thank you
9 very much. Don't go anywhere though. Any cross
10 examination by the applicant? No? Very well. Any
11 from the opposition party? Actually, you need to come
12 forward, have a seat, turn on the microphone.

13 MR. BERKEBILE: Yes. The opponents would
14 like to know whether or not you have a dining room in
15 your house?

16 MS. CRAWFORD: We do have a dining room in
17 the house. However, it is a formal dining room and,
18 therefore, you know, you hate to go in there and eat
19 every day. It is literally a formal dining room.

20 MR. BERKEBILE: Okay. That's the only
21 question.

22 CHAIRPERSON GRIFFIS: Perhaps in your case
23 you can bring out the relevancy of that question. And
24 you don't need to go too far. I would ask you both -
25 thank you very much - to have a seat.

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1 COMMISSIONER HOOD: Excuse me.

2 CHAIRPERSON GRIFFIS: Oh, I'm sorry. Mr.
3 Hood.

4 COMMISSIONER HOOD: Before Mr. and Mrs.
5 Crawford leave, I just want to ask you, Mr. Crawford,
6 you mentioned that you have not seen the drawings.
7 From what you've discussed with Mr. Smith in
8 conversation, if you see the drawings, would that
9 change your support?

10 MR. CRAWFORD: No, it would not.

11 COMMISSIONER HOOD: Okay. So basically in
12 theory, you're in agreement with the concept, you just
13 haven't seen the drawings.

14 MR. CRAWFORD: That's right.

15 COMMISSIONER HOOD: Okay. Thank you.

16 CHAIRPERSON GRIFFIS: A good point, Mr.
17 Hood. And I would say that they could avail
18 themselves easily today. They could take a look at
19 those drawings that are probably present. Therefore,
20 let us move on. Is that all the persons in support to
21 give testimony today? If that is the case, let us
22 hear the party in opposition, presentation of their
23 case, please.

24 MR. BERKEBILE: I'd like to start by just
25 saying a few words on behalf of the opponents. They

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1 oppose the variance in its entirety in relation to
2 Sections 403, 404 and 2001. The applicants fail to
3 meet the burden of proof. The physical
4 characteristics of the property do not make it
5 difficult for the owner to use the property in
6 compliance with zoning regulations. The applicants
7 argue that the property is only 17 feet wide, 14 to 17
8 feet wide, and because of this narrow width, they have
9 difficulty in using the property in compliance with
10 the zoning regulations, and should, therefore, receive
11 a variance to expand the property.

12 Here a variance permitting the addition to
13 the rear of the house is not warranted under statute
14 allowing variances for extraordinary or exceptional
15 situations, on the grounds the house is only 14 to 17
16 foot wide. Several houses in the area are equally on
17 small lots, as was the testimony here by the people
18 who supported the application. And the applicants
19 have enough space currently to make alternative,
20 although maybe more costly plans for improving the
21 quality of their living quarters.

22 The applicants have a house containing a
23 kitchen, separate dining room, master bedroom, a
24 second bedroom, a family room and a sizeable basement
25 and utility room. The house currently provides

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1 sufficient space for the applicants to live without
2 particular exceptional difficulties, and it's hard to
3 see how the zoning regulations would make it difficult
4 for the applicants to use the property in the current
5 condition.

6 Allowing the applicants to expand their
7 house and build a garage would cause detriment to the
8 public good, and substantially impair the intent,
9 purpose and integrity of the zone plan. The
10 applicants argue the additions will cause their
11 property value to increase. However, the addition
12 would be a detriment to the opponents, whose view
13 would be partially blocked from the patio and windows
14 on the back side. This would have a negative impact
15 on property values, and make reselling the opponents'
16 property more difficult.

17 The zoning plan for R-4 row dwellings is
18 not to maximize lot occupancy use as the applicants
19 are attempting to do. Instead, the zoning plan calls
20 for a maximum of 60 percent occupancy, and a minimum
21 depth of 20 feet. The Board's indulgence. And
22 granting the applicants a variance would also be
23 inconsistent with the general intent and purpose of
24 the zoning regulations and map. The general intent
25 and purpose of the zoning map is to prevent over-

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1 utilization of the property lots in R-4 Districts.
2 Towards this end, a plan was devised that calls for a
3 maximum lot occupancy of 60 percent, and a minimum
4 depth in the rear yard of 20 feet. And the rear yard
5 is necessary to provide light, a view, movement of
6 air, and visual privacy. Granting this variance is
7 inconsistent with its intent, and it would allow the
8 applicants an occupancy rate of 79 percent, and permit
9 them to have no rear yard in contra to the general
10 intent and purpose of the map.

11 This outward building would undermine the
12 integrity of the zoning regulations in the community,
13 and open the door for others to maximize lot occupancy
14 and utilize rear yards in contradiction to the zoning
15 plan. The purpose of a variance provision is to
16 prevent a zoning statute from operating to deprive a
17 property owner of all beneficial use of the property.

18 Here the applicants have not shown that
19 the zoning statute operates to deprive them of all
20 beneficial use of the property, and granting the
21 variance would undermine both the integrity and
22 purpose of the variance provisions in the District of
23 Columbia.

24 On behalf of the opponents, I would
25 respectfully request that the applicants' request for

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1 a zoning variance be denied in its entirety. I'll
2 turn it over to them.

3 MR. SHAFER: Good afternoon, Board. My
4 name is Lonzo Shafer.

5 MS. SHAFER: Good afternoon. My name is
6 Deborah Shafer.

7 MR. SHAFER: I'm not a lawyer and I'm down
8 with a little something in my throat, so my tone might
9 be a little gruff. Okay. I live in the house right
10 next door on the north side to the house that the
11 variance is being sought for. I would not have bought
12 my house if I had known -- if there had been a
13 structure there that extended all the way to the
14 alley. None of these pictures here submitted shows
15 any additions that brings it right up to the alley.
16 They all set back. They're talking about coming up to
17 the alley.

18 I still don't know, when I read this thing
19 right here, I don't know what type of additions
20 they're talking about. First I saw, they wanted to
21 rebuild the garage. They didn't get permission to
22 demolish that garage. They didn't ask me anything.
23 Bam. These people right here, who now subsequently
24 became their friends, when it first happened tell me
25 they just torn down your patio. I said whoa, so I

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1 went back there. I had to call the police, because
2 the people they hired all had warrants out on them, so
3 these are the people that I'm concerned about.

4 No one asked me anything about -- here's a
5 letter right here from a structural engineer saying
6 they never did have permission to even touch that
7 wall. And it's my wall, that common wall is my wall.

8 CHAIRPERSON GRIFFIS: That's not in
9 dispute, nor is the circumstances around taking it
10 down. And I'm not sure it has a lot of jurisdiction
11 for us.

12 MR. SHAFER: I'd like to know once they
13 put their -- and I'm told they had to get a raise
14 permit. Now it's ready, so you can't repair the
15 garage because it's raised. Now I guess they need a
16 permit to build a garage there. That brings us all
17 brand new again, doesn't it?

18 CHAIRPERSON GRIFFIS: That's correct.

19 MR. SHAFER: What goes over the garage?
20 Now see, I have a patio back there. And for years, my
21 family has been back there sitting in the patio
22 barbecuing, whatever, relaxing. As Ms. Anne Renshaw
23 said, the sun rises in the east, it comes around to
24 the south, sets in the west. I see it the whole time.

25 I can look over my patio, and I can look down there

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1 and see who's walking up the street. Now I don't know
2 what's coming up over that garage.

3 First I'm thinking they're going to want
4 to build a garage back on my wall. Then they want to
5 come up and put a kitchen over that wall, over the
6 garage, and then they want to put a study over that?
7 I'm going to live next door to a warehouse. I don't
8 want to live next door to a warehouse. I would like a
9 little sun also. I would like it kind of open.

10 Now the neighbors have a garage that was
11 there, I guess grandfathered in, they put a patio in.

12 It didn't stop anything. The view is still there.
13 Every now and then we're looking over the wall and see
14 each other.

15 CHAIRPERSON GRIFFIS: Would it be the same
16 if it was on the common property wall as your's? If
17 you were adjacent to that garage with a patio on top
18 with a six foot fence, as testified?

19 MR. SHAFER: I'm adjacent to that garage.

20 CHAIRPERSON GRIFFIS: No, I mean directly
21 adjacent. You have a property that separates you.

22 MR. SHAFER: No. No, no. This is their
23 garage. Bam, this is my property.

24 CHAIRPERSON GRIFFIS: I understand. The
25 neighbors that testified today live on the other side

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1 of the applicant's property.

2 MR. SHAFER: Live on the other side.
3 Right.

4 CHAIRPERSON GRIFFIS: And you have just
5 said that their garage, and their patio with their
6 fence does not impede your light and air.

7 MR. SHAFER: I can see the sidewalk. I
8 can see everything. I can see the trees, everything.
9 You walk in the back, it's a pretty place.

10 CHAIRPERSON GRIFFIS: Okay.

11 MR. SHAFER: There's only one place there,
12 only one house there, and that's the neighbors. And I
13 believe their house came with the garage, but no one
14 else has a garage back there. In fact, everybody else
15 has yards, and another lady has -- she put a patio
16 similar to mine back there. And when they said my
17 lattice, my lattice is above the patio of my property.

18 CHAIRPERSON GRIFFIS: How high above the
19 patio?

20 MR. SHAFER: That line is -- my property I
21 think is eight foot, my pergola, the wooden thing that
22 goes over it, they're still standing after what
23 happened to it. And my lattice work comes down about
24 four feet, so I think my lattice might be about four
25 feet from the deck of my patio.

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1 CHAIRPERSON GRIFFIS: So you have some top
2 over your patio, over the lattice?

3 MR. SHAFER: Oh, yeah. I have a pergola
4 over it.

5 CHAIRPERSON GRIFFIS: Is that a covered
6 pergola?

7 MR. SHAFER: No, it's open.

8 CHAIRPERSON GRIFFIS: I see.

9 MR. SHAFER: You know, it's nothing --
10 it's just a pergola. If you're familiar what a
11 pergola is.

12 CHAIRPERSON GRIFFIS: Uh-huh.

13 MR. SHAFER: Well, that's it, then they
14 have the boards go across it. That's it, you know.

15 CHAIRPERSON GRIFFIS: I see.

16 MR. SHAFER: Nothing permanent. My patio
17 bricks, because I did not want to put up a permanent
18 structure because I know it was on public property,
19 public property, so I laid my patio bricks in sand,
20 not concrete.

21 CHAIRPERSON GRIFFIS: Okay.

22 MR. SHAFER: All right. And another
23 thing, I like the neighborhood I lived in. All right?
24 It's Victorian. Okay. When they advertise those
25 houses, I don't know what they're talking about. All

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1 right. I feel like I'm a pauper right here. When
2 they advertise the houses in my neighborhood, they
3 advertise them for five to six hundred thousand, some
4 of them going up to seven or eight hundred thousand.
5 These are four level, three story Victorians.

6 CHAIRPERSON GRIFFIS: Uh-huh.

7 MR. SHAFER: All right? They got 16 foot
8 high ceilings on the first floor. They were built for
9 mansions at the time they were built. They were built
10 for very poor people to work in the kitchen. The
11 owner of the house probably was never ever supposed to
12 go in the kitchen. They had servants. When they set
13 dinner out, they pulled the big wooden sliding doors
14 closed. They had a servants entrance where you can
15 come out, open the door for them. These are not
16 shacks by no means. These are not shacks.

17 When they approached me about selling my
18 house, I said you give me eight hundred thousand, you
19 got the place. All right? So I'm not talking about
20 living in some run-down condition. And like I said,
21 these things don't come out to the alley. And again,
22 I'm asking the Board now, what goes over that garage
23 that they're going to try to build on my wall, not
24 common wall. That's my wall, because that wall
25 sustains my patio.

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1 CHAIRPERSON GRIFFIS: Good. I think that
2 would have been appropriate for cross examination, but
3 while you're here with that question, why don't we
4 have the applicants' representative or whoever they
5 want to, describe with the rear elevation or whatever
6 drawing they want, what is the construction that's
7 happening on that common wall.

8 First of all, the direct question is, is
9 there any part of the proposed addition that will
10 cross the property line?

11 MRS. SMITH: No.

12 CHAIRPERSON GRIFFIS: Okay.

13 MRS. SMITH: We're not building -- we're
14 not constructing --

15 CHAIRPERSON GRIFFIS: I'm going to have
16 you turn on that microphone close, and then I think
17 you can get it close enough that you can just stand
18 there.

19 MRS. SMITH: Okay. If I'm understanding
20 the question correctly, we're not building anything on
21 -- any addition on the common wall. What existed
22 when we purchased the property was a garage on that
23 base level, and from when I went down to get the raise
24 permit, I was told that the garage wall is the
25 Shafer's patio wall and, therefore, it was a common

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1 wall. So our plan is to replace the garage that
2 existed at the time that we purchased the house.
3 Again, we tore down the three walls due to safety
4 issues. We didn't want anyone to get hurt back there
5 after the engineer consulted with us.

6 CHAIRPERSON GRIFFIS: Right.

7 MRS. SMITH: Then after that, on top of
8 the garage, our intention is to have -- we also want
9 to be able to enjoy the outside area.

10 CHAIRPERSON GRIFFIS: Yeah, let's get
11 directly to the answer to the question; and that is
12 the addition wall is on your property line. Is that
13 correct?

14 MRS. SMITH: Yes.

15 CHAIRPERSON GRIFFIS: Okay.

16 MRS. SMITH: Yes.

17 CHAIRPERSON GRIFFIS: Is that -- do you
18 have a small set of plans? Actually, show me A-4,
19 please. Sheet A-4. Do you have sheet A-4 on the
20 large -- do you have a large -- do you have a full
21 scale? Okay, that's fine. Can you put that in front
22 of Mr. Shafer, please.

23 Mr. Shafer, I want to call your attention
24 to sheet A-4. There's a labeled drawing there on the
25 right side of the sheet called first floor plan. Are

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1 you with me?

2 MR. SHAFER: No, sir.

3 CHAIRPERSON GRIFFIS: Okay. On the top
4 side of that drawing, that is your property side. Is
5 that correct? You can take my word for it, actually.
6 I think it is.

7 MR. SHAFER: I'm just trying to
8 familiarize myself with it right now because I'm not -
9 - I'm looking at the kitchen here, existing door,
10 existing window. Okay. I'm looking at it now. I'm
11 just not familiar with the way it is.

12 CHAIRPERSON GRIFFIS: Okay. Your property
13 is on the top side of that drawing.

14 MR. SHAFER: Okay. That's the north side
15 then. Right?

16 CHAIRPERSON GRIFFIS: Yes. Exactly.

17 MR. SHAFER: Okay.

18 CHAIRPERSON GRIFFIS: Now there's a line
19 in the center of the existing wall that is kind of a
20 long line and two dashes, and a line. Do you see
21 that?

22 MR. SHAFER: I see that.

23 CHAIRPERSON GRIFFIS: That's the property
24 line.

25 MR. SHAFER: All right.

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1 CHAIRPERSON GRIFFIS: If you go to the
2 left of the existing wall, there is the back portion
3 of the kitchen. That is my understanding of the
4 addition wall which is on the property line, but not
5 over it. Does that make sense to you?

6 MR. SHAFER: I might not be that
7 sophisticated, so right now it's not. You're saying
8 that from the back of the house, I can do it like
9 this. The panel that the -- the panel sitting behind,
10 that's the back of the house and it has steps. That's
11 the kitchen, that's the roof. The second floor has
12 one room, that's the roof. You go to the third floor,
13 that's another roof. Okay. And now -- so that's the
14 kitchen, so you're going to pull it out this way to
15 the garage. Right? Okay. Now are you saying they're
16 going to build the kitchen over that garage?

17 CHAIRPERSON GRIFFIS: Yes, partially over
18 the garage.

19 MR. SHAFER: Well, then that kitchen comes
20 all the way out to the alley.

21 CHAIRPERSON GRIFFIS: The kitchen addition
22 does come almost out to the alley, yes.

23 MR. SHAFER: Okay. That -- now when I
24 come out on my patio, I have a garage here, but now
25 I've got a wall right here that was never there

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1 before, so now what goes over that kitchen, because
2 right now I'm one floor down.

3 CHAIRPERSON GRIFFIS: Uh-huh.

4 MR. SHAFER: You know, I'm sitting on my
5 patio, and hopefully when I'm barbecuing or doing
6 something, you know, I've got a window right there.
7 That's what I'm looking at, and I'm closed in like a
8 box here. All right? Because there's a building
9 across the alley from me that's up. Now they're
10 putting a wall right here, you know, so what's above
11 that kitchen?

12 CHAIRPERSON GRIFFIS: The rest of the
13 addition.

14 MR. SHAFER: The rest of the addition. So
15 now the back of that house is on grade. The back of
16 that house is not subterranean. It's on grade. If you
17 come up four floors, you're talking about four floors.

18 CHAIRPERSON GRIFFIS: Right. NO, I
19 understand that.

20 MR. SHAFER: I mean, there's no sky no
21 more.

22 CHAIRPERSON GRIFFIS: What I was just
23 trying to do is to establish because you made the
24 comment several times in your testimony that in your
25 case presentation that they were building over on your

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1 property, and so I just wanted to get clarification of
2 where the addition --

3 MR. SHAFER: Over on my property. I don't
4 -- excuse me. I'm not familiar with that. I don't --
5 you know, I don't see how they're building over on my
6 property.

7 CHAIRPERSON GRIFFIS: No, that's what I
8 was trying to correct. They are not.

9 MR. SHAFER: Right. They're not building
10 over on my property.

11 CHAIRPERSON GRIFFIS: Okay. I may have
12 misunderstood you.

13 MR. SHAFER: Oh. Are we talking about the
14 common wall, because there is construction going on on
15 my common wall without my permission as I speak.

16 CHAIRPERSON GRIFFIS: Okay. And that's
17 the clarification. All this addition is on the
18 property, on their property.

19 MR. SHAFER: Is it on my wall?

20 CHAIRPERSON GRIFFIS: You own half that
21 wall.

22 MR. SHAFER: I own half that wall?

23 CHAIRPERSON GRIFFIS: You own the portion
24 that's on your property. Anyway, we're digressing a
25 little bit too much here. I think we understand. I

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1 think you understand the massing of what's proposed,
2 so why don't you continue with your case presentation.

3 MR. SHAFER: Okay. Well, right now what
4 I'm looking at is, I'm looking at four floors over my
5 -- three floors over my patio. I'm looking at nothing
6 but brick walls. Also, I have an addition going up on
7 my common wall now from the -- I think it's from the
8 second floor up. When I look out my window now, I
9 used to be able to see the monument. Now I see this
10 wooden structure. I don't see how that's got anything
11 to do with a firewall. That thing catch fire, it's
12 going to fall over and burn my whole house down. But
13 it's on my common wall. No one asked me permission.
14 No one said a word to me about this.

15 CHAIRPERSON GRIFFIS: Okay.

16 MR. SHAFER: In fact, no one is saying a
17 word to me about this thing.

18 CHAIRPERSON GRIFFIS: I understand your
19 concern about that. I also understand you're saying
20 it's going to impede your light, your sight and air,
21 and the use of your -- the rear of your property. Is
22 that correct?

23 MR. SHAFER: I'm going to get
24 claustrophobia when I go out on my patio.

25 CHAIRPERSON GRIFFIS: Okay.

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1 MR. SHAFER: All right?

2 CHAIRPERSON GRIFFIS: Anything else?

3 MR. SHAFER: Well, right now you're
4 telling me that this thing is going up four floors in
5 the alley, right up against the alley. That's what
6 you're telling -- that's what I'm asking the Board.
7 It's going up four floors. Like none of these
8 pictures here --

9 CHAIRPERSON GRIFFIS: You know what I'm
10 going to do --

11 MR. SHAFER: -- show anything up against
12 the alley.

13 CHAIRPERSON GRIFFIS: I'll give you time.
14 We're not going to decide this on a bench decision
15 today, but you should take a copy of the plans and
16 review them. I'm not sure when I get -- the Board
17 will not describe the project to you outside of what's
18 in the record. And what's showing me in the record is
19 there's a garage and three levels above it.

20 MR. SHAFER: That's four floors above.
21 That's right up against the alley, four floors up.

22 CHAIRPERSON GRIFFIS: The Board
23 understands your point. Is there anything --

24 MR. SHAFER: I should buy in the warehouse
25 district now.

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1 CHAIRPERSON GRIFFIS: Sir, if we could
2 just keep focused in the presentation of your case.

3 MR. SHAFER: Sir, I'm just emotional
4 because my house is now ending up like a --

5 CHAIRPERSON GRIFFIS: I absolutely
6 understand your emotions. Is there anything further
7 you'd like to say or, Ms. Shafer, did you have
8 anything else to present for your case?

9 MR. SHAFER: Oh, I'd like one other thing
10 to say before we move on. Since we all are talking
11 about this, we're talking about building an addition
12 onto a common wall where no one seems to need my
13 permission to do so, what is the circumstances of the
14 addition that is now on my common wall on the existing
15 thing that they built on my common wall without my
16 permission?

17 CHAIRPERSON GRIFFIS: Okay. And that's an
18 excellent question, one this Board does not answer. I
19 would refer you to, if you want to make a stop in the
20 Office of Zoning, see if there's any zoning problems
21 with that, or DCRA, the building inspectors would be
22 able to answer that question, and come out and inspect
23 if there is a problem. Ms. Shafer.

24 MS. SHAFER: I would just like to clarify
25 several things that was stated by Mrs. Smith. And I

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1 have a letter here from Hartford of Connecticut law
2 firm, the law firm that represents Hartford of
3 Connecticut. And within this letter --

4 MR. BLANCHARD: I object to this
5 testimony.

6 CHAIRPERSON GRIFFIS: Can you state it on
7 the record, and can you just voice your objection?

8 MR. BLANCHARD: Chairman Griffis, Lyle
9 Blanchard for the applicant. Mrs. Shafer is
10 testifying about a matter which is being reviewed in
11 court, and is not a matter germane. This insurance
12 dispute is not a matter germane to this BZA case.

13 CHAIRPERSON GRIFFIS: I see. Ms. Shafer,
14 are you moving to an insurance issue?

15 MS. SHAFER: No, this not per se an
16 insurance issue. I'm responding to what Mrs. Smith
17 stated to the Board as a truth. And I'm referring to
18 this letter to dispute the truth that she --

19 CHAIRPERSON GRIFFIS: About what?

20 MS. SHAFER: -- stated to the Board,
21 that --

22 MR. SHAFER: The garage wall.

23 MS. SHAFER: That the garage wall was
24 indeed -- that they took down the -- had a contractor
25 come in, take the garage wall down, and went through

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1 the normal procedures, and then came back to -- now
2 they want to rebuild a garage. It is our belief that
3 they had this garage taken down and had it done this
4 way so that they could come back and do what they
5 intend to do, what they're attempting to do right now
6 before the Board.

7 CHAIRPERSON GRIFFIS: Okay.

8 MS. SHAFER: And also, it states here --

9 MR. BLANCHARD: Mr. Griffis, I would
10 continue my objection.

11 CHAIRPERSON GRIFFIS: Okay. Good. Let me
12 address the objection. I would hold, and I'll hear
13 from other Board Members if they disagree, I will hold
14 the objection and not have the attorney's letter, I
15 believe from Hartford Insurance is what you were
16 getting to, submitted into the record. I think the
17 point is already made, that you would disagree with
18 the statement by the applicant that the garage was
19 taken down for the reasons they stated.

20 MR. SHAFER: And that the wall is my wall,
21 not a common wall.

22 CHAIRPERSON GRIFFIS: We're not in a
23 property line dispute here, and nor do we have
24 jurisdiction even to deal with that, whether we wanted
25 to or not, so I don't -- we cannot hear any more on

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1 that. Any other Board Members disagree with holding
2 the objection?

3 MEMBER ZAIDAIN: No. I think the party in
4 opposition has provided some good testimony on light
5 and air with regard to the addition.

6 CHAIRPERSON GRIFFIS: Yes.

7 MEMBER ZAIDAIN: As far as this insurance
8 deal, it's something I don't think it's relevant, and
9 I certainly don't want to get in the middle of it.

10 CHAIRPERSON GRIFFIS: Indeed. Nor could
11 we do anything with it if we wanted to. Anything else
12 then?

13 COMMISSIONER HOOD: Mr. Chairman, let me
14 just ask this. In relationship to what's being
15 proposed, if we could have, and I guess you can clean
16 this up for me, I guess like a 3-D viewing, I guess
17 you call it projectural view of exactly what's being
18 proposed. There may be three different areas, like
19 from behind to the south side to the north side,
20 exactly what's being proposed in relationship to Mr.
21 Shafer's property and to Mr. Crawford's property. I
22 think that would help me, this Board Member out
23 significantly. If my other colleagues don't feel like
24 that's necessary, then that's fine, but I would not
25 want to put more burden on anyone, but I think that

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1 that would clear up a lot of questions, if I can
2 actually see it sitting in there. And I know it's
3 been done on the Commission. I don't know if the BZA
4 requires it, or asks of it, but I think that will help
5 us get a direct view of actually what's being
6 proposed, and actually what's happening.

7 CHAIRPERSON GRIFFIS: Okay. I don't see
8 any -- I don't think we're going to proscribe what
9 type of graphic they submit, but rather the intent of
10 what it should show, and that would be the adjacent
11 properties in relation to the proposed addition to the
12 adjacent properties.

13 COMMISSIONER HOOD: Right. And you
14 understand what I'm saying.

15 CHAIRPERSON GRIFFIS: I do.

16 COMMISSIONER HOOD: One of those
17 projectural views, 3-D views or whatever it's called.

18 CHAIRPERSON GRIFFIS: But sometimes those
19 can be very expensive to create, so --

20 COMMISSIONER HOOD: Oh, see I didn't know
21 that, so I'll withdraw that.

22 CHAIRPERSON GRIFFIS: We'll give the
23 opportunity to the applicant to make representation,
24 and that can be done easily in plan or however they
25 want to do it. Obviously, the more clear, the better

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1 it will be to prove their case.

2 COMMISSIONER HOOD: Let me just say this,
3 Mr. Chairman. I won't ask for that if it's going to
4 be a significant amount of cost, but just show me
5 something --

6 CHAIRPERSON GRIFFIS: Exactly the point,
7 some graphic representation for the adjacent
8 properties to see how the addition, proposed addition
9 would impact those.

10 COMMISSIONER HOOD: And, Mr. Chair, also
11 if I can ask Mr. Shafer, if -- would you be in
12 agreement if maybe there was a setback, because I
13 remember hearing you say that everything comes to the
14 line, if there was more of a setback to where it
15 wouldn't impede all of your light and air? Would you
16 be in agreement with something like that?

17 MR. SHAFER: I would.

18 COMMISSIONER HOOD: Okay. That's all I
19 need to know.

20 MR. SHAFER: Okay.

21 COMMISSIONER HOOD: That's all I need to
22 know. Thank you.

23 CHAIRPERSON GRIFFIS: Ms. Shafer, were you
24 finished with your case presentation?

25 MS. SHAFER: I just wanted to mention to

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1 the Board that in response to the location of all the
2 houses and the alley, all of the houses in the alley,
3 in that particular alley are all consistent. No one
4 has built up from the property. The only property
5 that -- the only difference in that property is that
6 the Crawfords have a garage, and they are at the
7 beginning of the alley. As soon as you make that
8 turn, there is a second house into the alley. That
9 garage has been there -- I don't think it was built,
10 it was there when the house was built, but it's been
11 there a very, very long time.

12 The rest of the houses within that alley
13 are all consistent. They all have backyards, and
14 everything is consistent. There are no additions
15 built out. The only difference now is a big huge
16 wooden structure that the Smiths have built back there
17 right now.

18 CHAIRPERSON GRIFFIS: Okay. Ms. Renshaw.

19 VICE CHAIRPERSON RENSHAW: Yes. Just one
20 quick question. With all the back and forth, I'm a
21 little confused. Mr. Shafer, is your patio eight feet
22 ten inches above the ground? What is the elevation of
23 your deck?

24 MR. SHAFER: Of my -- not the -- I don't
25 have a deck. I have a brick patio.

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1 VICE CHAIRPERSON RENSHAW: Brick patio.

2 MR. SHAFER: It's on the ground.

3 VICE CHAIRPERSON RENSHAW: It's on the
4 ground.

5 MR. SHAFER: It's on the ground.

6 CHAIRPERSON GRIFFIS: How high above the
7 alley is it?

8 MR. SHAFER: Well, the alley slants, and
9 it's on grade with whatever is there. I didn't raise
10 anything. I just -- that's how the ground was. I
11 didn't --

12 CHAIRPERSON GRIFFIS: So you walk directly
13 up the alley into your patio.

14 MR. SHAFER: You go up two steps. The
15 steps were already there.

16 CHAIRPERSON GRIFFIS: Two steps up.

17 MR. SHAFER: Two steps up.

18 CHAIRPERSON GRIFFIS: Okay.

19 MR. SHAFER: It's right there on -- as you
20 come up. It's on grade with my neighbor to the north.

21 VICE CHAIRPERSON RENSHAW: All right.

22 MR. SHAFER: My patio is on grade -- my
23 brick is on grade with his grass to my north.

24 VICE CHAIRPERSON RENSHAW: All right.

25 MR. SHAFER: I didn't come up, I didn't

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1 build up anything.

2 VICE CHAIRPERSON RENSHAW: Well, you see
3 on the drawing that's on the easel that there is an
4 elevated deck. Now that elevated deck as shown would
5 look down into your patio. Is that correct?

6 MR. SHAFER: Yes, but I'm --

7 VICE CHAIRPERSON RENSHAW: It would be
8 eight feet ten inches through the plan above ground,
9 above grade.

10 MR. SHAFER: See, that's the part I didn't
11 understand, Ms. Renshaw. I was told -- I'm
12 understanding that their garage is coming back, and
13 the kitchen is coming over the garage. And then
14 they're coming up three more floors over there.

15 VICE CHAIRPERSON RENSHAW: Well, what you
16 need to do is to study these drawings and get a set of
17 drawings for your review. But as I look at this, I
18 see a garage up to just about the alley. Then I see a
19 deck on top of the garage that is per the plans eight
20 feet ten inches. And, therefore, that would look down
21 into your --

22 MR. SHAFER: Yes.

23 VICE CHAIRPERSON RENSHAW: Okay. That's
24 what I wanted to know.

25 MR. SHAFER: Okay.

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1 CHAIRPERSON GRIFFIS: Indeed. Yes.

2 MEMBER ETHERLY: Mr. Chair, I mean, I
3 think we're heading in the right direction. It's just
4 that clearly we're not going to resolve this case
5 today. I think what we're heading towards is
6 developing a little more clarity as it relates to the
7 look of that back alley.

8 What I might suggest as we move towards
9 trying to identify the information that the Board is
10 going to need as it goes forward in this case, I think
11 it would be very helpful if the Shafers could provide
12 a couple of different pictures. I think it also gets
13 us to where Mr. Hood was going, a couple of pictures
14 of your back patio. I think that will be very
15 helpful, looking towards the Smith residence from the
16 back patio. Perhaps looking north to that neighbor on
17 that side just so we get a better sense for the
18 perspective. The picture that's in the file here that
19 shows the partially demolished common wall is somewhat
20 helpful in terms of giving us a sense of what your
21 perspective is going to be, but I think that would be
22 very helpful, because I feel my colleagues, I know I
23 am, trying to struggle a little bit with your
24 perspective. I think I hear where you're coming from,
25 because it looks like from the picture that you, as

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1 you said, your floor of the patio, so to speak, is
2 only a few feet or only a few inches up from the
3 alley.

4 What I might be interested in asking just
5 very quickly is, when you exit your property, when you
6 exit the building structure to come to the patio, do
7 you walk down steps?

8 MS. SHAFER: We walk down --

9 MR. SHAFER: From the kitchen.

10 MS. SHAFER: From the kitchen.

11 MEMBER ETHERLY: From the kitchen, you
12 open the door and you walk down --

13 MS. SHAFER: Walk down.

14 MEMBER ETHERLY: -- like about two, three
15 steps?

16 MS. SHAFER: Yeah, about four steps.

17 MEMBER ETHERLY: Okay. If you can give us
18 a sense through some pictures of that, of the exit as
19 you come out of your home to your patio, that would be
20 helpful.

21 MS. SHAFER: Right.

22 MEMBER ETHERLY: A couple of pictures
23 heading in the direction upward of the construction
24 structure that now exists on the Smith residence. I
25 think that would be very helpful as we go forward.

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1 MS. SHAFER: Right. Okay. And if it's
2 not too expensive, I'll talk to my husband about it,
3 but I'm very interested in what Mr. Hood proposed, so
4 that you can actually see a visual of what's --

5 MEMBER ETHERLY: Well, I mean, I would
6 hazard a guess that that will be up to the applicants
7 and/or you to determine individually how you want to
8 proceed.

9 MS. SHAFER: Okay.

10 MEMBER ETHERLY: But very typically,
11 picture representations can be very helpful in terms
12 of giving us a better understanding of the
13 relationship of your property as it exists now. And
14 then, of course, the proposed structure relative to
15 any adjacent neighbors, so I would say perhaps the
16 same type of pictorial representation from the Smiths
17 would be very helpful. You can give some thought to
18 what Mr. Hood suggested but, you know, I think a
19 picture perhaps, a little more clarity in terms of the
20 perspective from your property to their's, any
21 pictures that you might be able to obtain from any
22 upper floors looking down out to the rear of your
23 property, and the rear of the Shafer property I think
24 would be very helpful. Thank you.

25 CHAIRPERSON GRIFFIS: WE're in the final

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1 minutes of this case presentation. Have the Shafers
2 finished with the presentation of their case? Mr. and
3 Mrs. Shafer, are you finished?

4 MR. SHAFER: I should be.

5 CHAIRPERSON GRIFFIS: Yes? Very well.

6 MR. BERKEBILE: There are some pictures
7 here. Would these be at all helpful? Have you
8 reviewed these?

9 CHAIRPERSON GRIFFIS: We have those
10 photos.

11 MR. BERKEBILE: Okay.

12 CHAIRPERSON GRIFFIS: Cross examination by
13 the applicants' representative?

14 MR. BLANCHARD: Yes. I'll be brief. I
15 just have a couple of questions. Mr. and Mrs. Shafer,
16 do you know the width of your property, how wide is
17 your lot?

18 MR. SHAFER: No, I don't.

19 MR. BLANCHARD: Okay.

20 MR. SHAFER: I would suspect it's the same
21 width. I think all the properties --

22 CHAIRPERSON GRIFFIS: Okay. They say they
23 don't know definitively. It's not worth talking more
24 about it. I'm sure we're going to get it
25 substantiated. WE'll give you a chance to respond if

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1 you think it's not correct. Mr. Blanchard.

2 MR. BLANCHARD: The widths are varied, and
3 I'd like the opportunity to submit something to the
4 Board later.

5 CHAIRPERSON GRIFFIS: That's fine.

6 MR. BLANCHARD: And I think this
7 photograph of your back patio was in our application,
8 and you were saying that this structure is on the
9 ground?

10 MR. SHAFER: No, it's not.

11 MR. BLANCHARD: No. It certainly doesn't
12 look that way from here.

13 CHAIRPERSON GRIFFIS: And what structure
14 are you pointing to for the record?

15 MR. BLANCHARD: That is the lattice photo.

16 MR. SHAFER: I didn't say it was on the
17 ground.

18 MR. BLANCHARD: Okay.

19 MS. SHAFER: We said their property is on
20 the ground. It's even grade with the alley.

21 CHAIRPERSON GRIFFIS: Right.

22 MS. SHAFER: We're on the patio.

23 CHAIRPERSON GRIFFIS: Okay.

24 MS. SHAFER: Elevated up.

25 CHAIRPERSON GRIFFIS: Okay. We're clear

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1 on that.

2 MR. BLANCHARD: Okay. So you have an
3 elevated -- and when you walk out your back door, is
4 your back door on the same -- from your kitchen on the
5 same elevation as this back patio?

6 MR. SHAFER: No. We just stated there's
7 about three steps down from the kitchen to the patio.

8 MR. BLANCHARD: Okay. And --

9 MR. SHAFER: I say patio because it's
10 bricked.

11 MR. BLANCHARD: And you said this addition
12 would affect your views and light and air. Don't you
13 have a rear window that's been boarded over for about
14 two years?

15 MS. SHAFER: Excuse me?

16 MR. SHAFER: No, no, no, no. It has been
17 broken for about two years. Yeah. It will only cost
18 me about \$50, but it's going to be repaired. It's
19 still a window, you know. I didn't demolish my house.

20 CHAIRPERSON GRIFFIS: Okay.

21 MR. BLANCHARD: Well, I'd like the
22 opportunity to submit some photos, as well.

23 MS. SHAFER: Excuse me.

24 MR. SHAFER: I'm not asking the Board for
25 a variance.

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1 MS. SHAFER: Excuse me to the Board. I'm
2 just curious as to what relevancy that a board up to
3 my broken window has to do with the structure of my
4 house being damaged, the fact that I bought my home.

5 CHAIRPERSON GRIFFIS: I understand your
6 concerns about that kind of project.

7 MS. SHAFER: Well, can I finish, please?

8 CHAIRPERSON GRIFFIS: I think I understand
9 where you're going. The difficulty is, one, we don't
10 have any jurisdiction to get further into the issues
11 that I know are contentious between the two property
12 owners. Even if we wanted to, I'll state it again, we
13 cannot do anything about it. Cross examination
14 questions --

15 MS. SHAFER: That's not where I was going.

16 CHAIRPERSON GRIFFIS: I understand that.
17 The cross examination questions, if you want to object
18 or your representative wants to object to the question
19 in terms of relevancy, we can entertain that. It's a
20 simple issue.

21 MR. BERKEBILE: Yes, I would like to --

22 CHAIRPERSON GRIFFIS: Well, it's a little
23 late because it was asked and answered. The issue --
24 I think the issue went to only speaking on your
25 testimony. Cross examination is questions of your

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1 testimony. Your testimony went to directly your
2 sight, the view, the light and the air. He was
3 establishing an element that he thinks is important in
4 establishing his case. It's our final to decide.

5 MS. SHAFER: A broken window.

6 CHAIRPERSON GRIFFIS: It went to his case.
7 Right. It went to the window.

8 MS. SHAFER: Okay.

9 CHAIRPERSON GRIFFIS: It needs not be a
10 bigger issue than it already is, and it's very small,
11 so if there's no other questions in cross examination.

12 MR. BLANCHARD: No other questions.

13 CHAIRPERSON GRIFFIS: Thank you very much.
14 I thank you all. I appreciate your time being down
15 here. Let us go to rebuttal witnesses and closing
16 remarks by the applicant. You thought you were out of
17 here, didn't you? I saw all you getting up and going.

18 MR. SMITH: In light of time, we'll try to
19 keep definitely brevity is an issue, and we certainly
20 understand that.

21 CHAIRPERSON GRIFFIS: Okay. And you
22 understand the nature of rebuttal testimony. Is that
23 correct?

24 MR. SMITH: Yes.

25 CHAIRPERSON GRIFFIS: I don't have to tell

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1 you. You're a lawyer and I'm not, but just for
2 clarity. Go ahead.

3 MR. SMITH: I'm not a litigator.

4 CHAIRPERSON GRIFFIS: Okay.

5 MR. SMITH: A tax attorney is a little
6 different. The only thing, we have a picture with
7 regard to the light. If there is a contention with
8 regards to light, then we would think that certainly a
9 boarded up window that's been there for at least two
10 years goes to the issue of whether light is truly your
11 concern on your property.

12 CHAIRPERSON GRIFFIS: Okay. Let me
13 clarify one thing, because first of all, we're going
14 to have additional submissions.

15 MR. SMITH: Sure.

16 CHAIRPERSON GRIFFIS: Although that may be
17 the immediate situation, variances run with the land.

18 MR. SMITH: Yes.

19 CHAIRPERSON GRIFFIS: Not necessarily the
20 person or the immediate condition that it's in, so as
21 it is a window, as it is a place where there would be
22 light and air coming in, I think you ought to factor
23 that in in any sort of direction you head with that
24 issue.

25 MR. SMITH: Sure.

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1 CHAIRPERSON GRIFFIS: Okay.

2 MR. SMITH: If I just might --

3 CHAIRPERSON GRIFFIS: Sure.

4 MR. SMITH: That'll be it.

5 MR. BLANCHARD: Just in closing, Mr.
6 Chairman and Members of the Board, we believe that we
7 have met the test for the variances requested. The
8 Smiths' lot is unique, and we will submit something in
9 the record about how different it is from the other
10 lots in the area. It has this unique cut-out and
11 court, which is -- forces them to make any addition to
12 the rear of their property. The garage that was torn
13 down, and but for their own lack of knowledge about
14 the provision in the Code that would allow them to
15 replace when there is a dangerous structure that needs
16 to be torn down for safety reasons, and replace the
17 garage. If they were to replace the garage, it would
18 already exceed the lot occupancy in the same amount
19 that they're requesting in their application.

20 They have set back their addition above
21 the garage almost five feet in an effort to give light
22 and air to the other adjoining property owners, and
23 the Board should also be aware that they are facing on
24 an alley, and I don't know the dimension of the alley,
25 but you heard testimony from the supporting witness,

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1 persons in support, it is a fairly large alley. You
2 can maneuver a Lincoln in that alley, so the alley in
3 itself also provides some light and air to the rear of
4 these properties.

5 There is substantial support from the ANC,
6 other persons in the neighborhood, and there is some
7 language in the Ward 5 Comprehensive Plan about
8 preserving the houses that are there, enhancing the
9 residences, and both retaining and attracting property
10 owners to the area, so we believe that we have met the
11 unique conditions of the property, the practical
12 difficulties, and the benefit to the community, and
13 consistency with zoning and map. And that concludes
14 our --

15 MR. SMITH: If I may just bring up just a
16 couple of things. Mr. Etherly, you brought up the
17 fact about the point of which way, what's directly in
18 back of the addition, and I mentioned the brick wall.
19 I neglected to mention that on the second page of the
20 photographs you have, there's a picture facing that
21 back wall, so that would provide you a better
22 perspective.

23 CHAIRPERSON GRIFFIS: You mean across the
24 alley.

25 MR. SMITH: Exactly, where the garage --

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1 if we were to put the garage, that's the --

2 CHAIRPERSON GRIFFIS: I'll point it out to
3 him. And your alley is twelve and a half feet wide.

4 MR. SMITH: I couldn't tell you.
5 Secondly, as mentioned by the Shafers, I didn't know
6 the historical perspective of the homes. I didn't
7 know that the kitchens were not meant to use as to be
8 cooked by families, and so that indicates that it is
9 extremely small, and times have changed. And that's
10 all that we want to do.

11 Thirdly, our goal is just -- and I will
12 just say personally, my goal is just to provide the
13 best home for my family, and that's all we want to do,
14 and enhance the neighborhood. And that's our only
15 goal.

16 We try to be as reasonable as we possibly
17 can. We try -- we're always approachable, and we will
18 try our best to provide you with all the required
19 documents indicating the perspectives. And, Mr. Hood,
20 I will check into the -- when you said 3-D, did you
21 mention like building the 3-D, or just a perspective?

22 COMMISSIONER HOOD: The Chairman will take
23 care of it.

24 CHAIRPERSON GRIFFIS: I'll make it clear
25 in what we're requiring for the submissions.

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1 MR. SMITH: Okay.

2 CHAIRPERSON GRIFFIS: Anything further?

3 MR. SMITH: Thank you for your time and
4 patience.

5 CHAIRPERSON GRIFFIS: One last question
6 from me. What was the proposed materials for the
7 exterior of the cladding on the building?

8 MR. SMITH: That we're still considering.
9 We were considering either vinyl, stucco or brick.
10 Certainly, cost is an issue, but those are the three
11 that we were considering. If given permission to
12 build the extensions, we certainly will defer to
13 whatever you feel is necessary.

14 CHAIRPERSON GRIFFIS: Boy, that's a lot of
15 latitude for us.

16 MR. SMITH: Yes, it is, within the three
17 alternatives that I mentioned.

18 CHAIRPERSON GRIFFIS: Right. Indeed. I
19 think that's understandable. This is what I have for
20 submissions, and we'll set this for decision-making.
21 Our decision-making, of course, will be the point of
22 Public Meeting where we make a deliberative decision
23 on this. There will be no further testimony in this
24 case. Written submissions will be as follows, as I
25 understand them.

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1 We will request a report from Office of
2 Planning. We will allow a response by the parties in
3 opposition to the ANC report, and that would be based
4 only and exclusively on the one ANC report. We are
5 requesting a graphic representation of the addition
6 showing the adjacent buildings, and impact on the
7 adjacent structures from the applicant.

8 I would also request that some graphic
9 representation or narrative, for that matter,
10 indication of lot widths in the surrounding area be
11 shown, and I would ask of both the party in opposition
12 and the applicant for submission of Findings of Fact
13 and Conclusions of Law in this case. Am I missing
14 anything else?

15 MEMBER ETHERLY: Mr. Chair, I'm sure
16 contained in your list you probably were also thinking
17 about, once again, any photographs that both parties
18 would want to submit that offer a shot at the
19 perspective of the rear of the properties. That would
20 be very helpful. You know, your choosing, doesn't
21 have to be, you know, a high quality professional
22 grade, but just photographs which give us a better
23 sense of what the rear of those properties look like.

24 CHAIRPERSON GRIFFIS: Good.

25 MEMBER ETHERLY: And to the extent you

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1 want to give representation of the entire alley, maybe
2 a picture from the front of the alley just looking
3 down, that would be very helpful.

4 CHAIRPERSON GRIFFIS: And one note of
5 caution with that on both cases in the submission of
6 those photographs, make absolutely sure that we know
7 exactly where those photographs are taken from, and
8 what they are of, so you may want to have a plan that
9 indicates where the photographs are. You may know it
10 very well. We will have not a clue what you're
11 showing us, so make it clear; otherwise, it will be
12 fairly useless. Anything else?

13 All right. Before we conclude this
14 hearing, Staff will give you an indication of when
15 those submissions are to be submitted, and when we
16 will have our decision-making.

17 MR. MOY: Yes, Mr. Chairman. With that, I
18 think that it's appropriate to have the decision
19 meeting on February the 4th. That will allow time for
20 additional information, supplemental information to be
21 submitted on January the 14th. That would give you a
22 week, and then another week for responses, which would
23 be January the 21st. And with draft Findings of Fact
24 and Conclusions of Law, January 28th. Is that doable?

25 MR. SMITH: Certainly.

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1 MR. MOY: I'd also ask to be sure that all
2 those who testified, that be sure you've filled out
3 the witness card and leave it at the desk here. I'd
4 appreciate it.

5 CHAIRPERSON GRIFFIS: Good. Everybody
6 clear on dates? Clear on submissions? No other
7 questions? Very well. Thank you very much. We're
8 going to take a short five minute recess, and we'll be
9 back and call the last case of the day.

10 (Off the record 3:23 - 3:41 p.m.)

11 CHAIRPERSON GRIFFIS: All right. We're
12 back. Why don't we call the next and last case in the
13 afternoon, please.

14 MR. MOY: Yes, sir. The last case of the
15 afternoon is Application number 16896 of Randle
16 Highlands Manor, L.P., pursuant to 11 DCMR, 3103.2 for
17 a variance from maximum number of stories under
18 Section 400, and a variance from the floor area ratio
19 requirements under Section 402, and pursuant to 11
20 DCMR, 3104.1, a special exception to allow the
21 construction of a community residence facility, which
22 is assisted living facility for seniors and other
23 qualified persons, 52 residents and 42 rotating staff,
24 under Section 358, at premises 2700 R Street, S.E.

25 The Board last heard this case -- this is

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1 continued from its October 22nd, 2002 hearing, at which
2 time the Board considered a request for party status
3 from the Randle Highlands Citizen Association, and
4 that was -- that request for party status was granted.

5 Also, at that time, the applicant's representative,
6 Mr. Jerry Moore, requested that the hearing be
7 postponed. And after discussing the request, the
8 Board postponed the hearing and established the
9 following schedule, that the submission of requested
10 information by October 29th, 2002, all responses by
11 November 5th, 2002, and a continuation, of course, of
12 this hearing this afternoon. So when the hearing
13 resumes, the Board is scheduled to hear the remainder
14 of the case, presentation by the Office of Planning,
15 report of other government agencies, testimony of ANC-
16 7B, of persons and parties in support of the
17 application, persons and party in opposition to the
18 application and rebuttal and closing remarks by the
19 applicant. That completes my briefing, Mr. Chairman.

20 CHAIRPERSON GRIFFIS: Very well. Thank
21 you very much. Good afternoon. If you would
22 introduce yourself for the record, with your name and
23 address, please.

24 MR. MOORE: Good afternoon. Jerry Moore
25 for the law firm of Venable, 1201 New York Avenue,

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1 N.W., Suite 1000. I'd like to add to what Mr. Moy was
2 saying. We did submit the documents that were
3 required by the Board in a timely fashion, and the
4 record should reflect that.

5 MR. MOY: Yes. Thank you very much.

6 MEMBER ZAIDAIN: Before we move on, just
7 to -- speaking of reflecting on the record, just to
8 make sure -- I don't remember if this was disclosed
9 when we took up the party status, but I was absent in
10 the original case decided I believe back in July, and
11 I have read the transcripts, and I will be
12 participating, so just to make sure that's on the
13 record.

14 CHAIRPERSON GRIFFIS: Very good. Thank
15 you, Mr. Zaidain. With that, are you prepared to
16 continue and conclude the case presentation today?

17 MR. MOORE: I am, indeed.

18 CHAIRPERSON GRIFFIS: And how long do you
19 need for that, including witnesses?

20 MR. MOORE: One hour.

21 CHAIRPERSON GRIFFIS: Really. Is it
22 possible to do it in 45 minutes?

23 MR. MOORE: We'll try our best, sir.

24 CHAIRPERSON GRIFFIS: Very well. Let's
25 proceed.

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1 MR. MOORE: Mr. Chairman, Members of the
2 Board, the District of Columbia in general, and Randle
3 Highlands, the Randle Highlands area --

4 CHAIRPERSON GRIFFIS: Before you get too
5 far, I'm just going to interrupt you. I seem to have
6 a question from --

7 MR. MOY: Excuse me, Mr. Chairman, if I
8 may interrupt.

9 CHAIRPERSON GRIFFIS: Yes.

10 MR. MOY: In the event that there are new
11 people here who are testifying that did not testify
12 last October, I need to --

13 CHAIRPERSON GRIFFIS: Good. We'll swear
14 anyone in that hasn't been sworn in after -- did you
15 have a point of order question?

16 MS. MARSHALL: Yes, I have a question, Mr.
17 Griffis. I have a young lady here that was not here,
18 that does need to be sworn in. Her name is Ms. Boyd.
19 She has a 6:00 meeting this evening, and I was
20 wondering if she could make her statement and leave,
21 because if Mr. Moore is going to take an hour, we're
22 talking 5:00.

23 CHAIRPERSON GRIFFIS: Okay. Can you give
24 me your name and address, please?

25 MS. MARSHALL: My name?

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1 CHAIRPERSON GRIFFIS: Yes.

2 MS. MARSHALL: Geraldine C. Marshall, 1720
3 27th Street, S.E., Unit 105, Washington, D.C. 20020.

4 CHAIRPERSON GRIFFIS: Very well. And the
5 person present you're speaking of is giving personal
6 testimony today?

7 MS. MARSHALL: Yes. About the ANC
8 records, and things that she knows, but she does have
9 a meeting at 6:00.

10 CHAIRPERSON GRIFFIS: Okay. She's giving
11 testimony for the ANC, or about the ANC?

12 MS. MARSHALL: About the ANC records that
13 were submitted at the July hearing.

14 CHAIRPERSON GRIFFIS: Okay.

15 MR. MOORE: Mr. Chairman.

16 CHAIRPERSON GRIFFIS: Yes.

17 MR. MOORE: I would object to that motion.

18 We have witnesses too who had to leave and do have
19 to leave before they can present their testimony.
20 Everybody waits their turn. There's no reason to take
21 this witness out of turn.

22 CHAIRPERSON GRIFFIS: Okay. What we're
23 going to do is try and get everything in before 6:00.

24 We'll assess after the finalization of the case
25 presentation. I will tell you that we are ending at

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1 6:00, and if we have to have a new date with this,
2 then that's what will happen, so that's why I'm going
3 to push for the substance and directness, and not
4 waste a lot of time with this. We have Board Members
5 present today that also have obligations and very
6 serious as this is, but serious obligations, so we
7 will need to conclude by 6, so see how far along we
8 get. I will give an indication if we can be flexible.

9 Perhaps after the presentation of the case, we'll
10 revisit this issue.

11 MS. MARSHALL: All right. Thank you.

12 CHAIRPERSON GRIFFIS: Thank you very much,
13 Ms. Marshall. Okay.

14 MR. MOORE: Mr. Chairman, Members of the
15 Board, the District of Columbia in general, and Randle
16 Highlands area of the city in particular are woefully
17 short of assisted living residence facilities for
18 senior and other qualified residents. This is
19 particularly true for those in the market for low and
20 moderate income facilities. There's also a shortage
21 of suitable available sites to in-fill community
22 residence facilities due to the size of these
23 structures and the cost of the land.

24 Randle Highlands Manor proposes -- the
25 applicant here proposes to effectively address this

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1 public need for low and moderate income for community
2 residence housing by constructing a 52 unit structure
3 on a corner lot at 27th and R Streets, S.E. This ideal
4 location was acquired from the D.C. government, and
5 it's an abandoned apartment building, in 2000
6 specifically for this purpose.

7 The Homestead Program of the Department of
8 Housing and Community Development has provided a loan
9 specifically for this purpose to the applicant. Since
10 the pre-existing structure has been raised and the
11 site made ready for residence facility, as a practical
12 matter, the record already shows that the minimum
13 structure that can be built to accommodate these
14 purposes require zoning relief. Although the proposed
15 structure, proposed uses permitted in the zoning
16 regulations, a use with the minimum number of units is
17 necessary to serve the public at this location, and it
18 requires a special exception under Section 358.8.

19 Two area variances are also required to
20 bring this much needed facility to the community. A
21 variance from the maximum FAR point 9 that is
22 permissible in the R-5-A zone, and a variance from the
23 maximum number of stories in an R-5-A zone.

24 From a legal perspective, the proposed
25 assisted living facility is consistent with the

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1 District of Columbia Comprehensive Plan generalized
2 land use maps which designate and promote the site for
3 moderate density multi-family uses. The proposed
4 buildings and use are also consistent with the
5 underlying R-5-A zone district, which is mapped over
6 the entire square, and throughout much of the
7 neighborhood.

8 As you know, a community residence is
9 permitted in the R-5-A district with a special
10 exception of this Board. We are pleased that the
11 Office of Planning has written a memorandum in support
12 of this application.

13 Our case consists of five themes, which in
14 some we offer sufficient bases to merit the approval
15 of the zoning relief that is requested. First, the
16 proposed use is in direct response to the dire need
17 for low and moderate assisted living facilities in the
18 Randle Highlands community. Second, the site of the
19 facility that is proposed is the absolute minimum as
20 to the number of units and size of building that a low
21 and moderate income facility requires. Third, is a
22 paucity of suitable sites in the Randle Highlands
23 neighborhood to practically develop a low and moderate
24 income assisted living residence. Fourth, a facility
25 of a lesser size is undevelopable, resulting in

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1 frustration of program goals and objectives of the
2 District of Columbia. And fifth, the property is
3 unique by reason of an exceptional situation or
4 condition, and by reason that the exceptional
5 condition -- this exceptional condition, the strict
6 application of the zoning regulations will result in
7 peculiar and exceptional difficulties.

8 We have had one hearing that was
9 bifurcated in July of this case. In October of the
10 case, the Board had a scheduling difficulty and we
11 weren't going to get on until very late in the
12 afternoon, so there has been testimony in the case,
13 and this case is just about six months old now.

14 In July, Ms. Lisa Bolden testified as to
15 her experience of 12 years in developing hospital,
16 nursing homes and assisted living facilities, that she
17 partnered with the Anacostia Economic Development
18 Corporation to develop a project that will enhance the
19 neighborhood. She also wanted a pleasant open
20 facility for the residents with common areas, exercise
21 room and medical office space, that she'd searched for
22 suitable properties throughout Anacostia but found
23 none but this one, that at that time, the property was
24 owned by the District of Columbia government, and
25 occupied by a rundown boarded apartment house, which

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1 has since been raised, that the City sold the property
2 to the Anacostia Economic Development Corporation to
3 increase the likelihood that a low and moderate income
4 assisted living facility could and would be developed
5 at this site.

6 She presented a letter from the District
7 of Columbia government attesting to this fact. She
8 detailed the primary service market of this facility
9 being the zip codes in the Randle Highlands and
10 Hillcrest communities. She defined affordable housing
11 up to \$2,000 a month. She defined the market standard
12 in the District of Columbia as being from \$3,500 to
13 \$5,000 a month. She detailed the -- she mentioned
14 that Section 8 vouchers are available to assist those
15 who can't pay the minimum, and that there's a huge
16 demand for assisted living units in that bracket in
17 the District of Columbia, and in the Randle Highlands
18 community.

19 Lynne French, who is senior policy advisor
20 to the Deputy Mayor for Children, Youth, Families and
21 Elders, presented testimony that she was formerly the
22 Homestead Program Administrator at the Department of
23 Housing and Community Development, that that
24 department had tried unsuccessfully to market this
25 same property from 1992 to 1998, said she had received

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1 many complaints about the rundown condition of that
2 property during that period, that four or five groups
3 have failed to secure financing for the property after
4 they had won a request, a RFP, that no one could pay
5 the rentals necessary to make the matter of right uses
6 under R-5-A district work, that she and her department
7 were delighted when the Anacostia Economic Development
8 Corporation bid for the property, that it is the goal
9 of the City to see an assisted living facility in
10 Randle Highlands, and there are none there now, which
11 is a frustration of city policy.

12 Ms. French testified further that the City
13 is working this project with tremendous interest,
14 hoping that this is going to be a project worth
15 copying in other neighborhoods of the City.

16 Brenda Turner, the Director of Aging
17 Services for the Greater Washington Urban League,
18 testified that she'd seen thousands of elderly D.C.
19 residents looking for alternative forms of housing,
20 and the proposed Randle Highlands facility is one of
21 the most needy areas in the City.

22 O.V. Johnson, a former ANC Commissioner,
23 testified as the D.C. State Committee for the AARP,
24 testified as to his efforts to address the needs for
25 an assisted living facility in Randle Highlands.

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1 Dr. Marie Aldridge, a neighborhood
2 resident, testified as to the need for the assisted
3 living facility in Randle Highlands. She testified
4 that the resistance to this project come from those
5 who erroneously relate an assisted living facility
6 with a nursing home, which may generate ambulance
7 traffic.

8 Today Ms. Bolden is here to conclude her
9 testimony and to take any cross examination that the
10 party may have, and we'll also offer Mr. Butch Hopkins
11 as the Director of the Anacostia Economic Development
12 Corporation to testify further as to the need for
13 assisted living facility of low and moderate income at
14 this location. Ms. Magda Westerhout, who is the
15 architect for the facility, will testify as to the
16 physical and design characteristics of the facility.
17 And I believe there are others in the audience who
18 will testify in favor of this project. So with all
19 that being said, I would call upon Ms. Lisa Bolden to
20 give her testimony.

21 CHAIRPERSON GRIFFIS: Good. Before we
22 move on, I just want to give a quick note of caution
23 in terms of I'm not seeing how establishing the need
24 for this type of program and facility goes to the
25 tests for the variances that are before us.

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1 MR. MOORE: It goes to the test for a
2 special exception, sir.

3 CHAIRPERSON GRIFFIS: Oh, okay. Indeed.

4 MR. MOORE: Ms. Bolden.

5 MS. BOLDEN: Thank you very much. My name
6 is Lisa Bolden, and I'm the General Partner for the
7 Randle Highlands Manor Limited Partnership, and we are
8 very excited about this project, and about the
9 possibility of bringing something to the community
10 that is extremely needed. As Mr. Moore indicated,
11 I've been working in the area of development and
12 finance for health care facilities for 12 years, and
13 after 12 years of doing this type of work all over the
14 country, it was very apparent that there was no
15 affordable assisted living facility in the Anacostia
16 area of Washington, D.C. And being a resident of
17 Washington, D.C., I'm very aware of the health care
18 providers in the area, as well as the needs in the
19 area. So Butch Hopkins and I talked about three years
20 ago, four years ago about filling that need, and we
21 began to look for properties throughout the area east
22 of the river, and in particular Anacostia, and we
23 found this one site that was large enough to develop
24 an assisted living facility which would be large
25 enough to meet financial requirements to make the

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1 project feasible.

2 Initially we wanted to do about a 39 unit
3 facility, but found that that would not be
4 economically doable, and we worked with our
5 architects, as well as our management team to come up
6 with a number that did work. And 52 units actually
7 barely makes it. Sixty is actually more favorable in
8 terms of economic feasibility, and we were able to
9 scale it back to 52 so that we could meet minimized
10 zoning variances, which initially we would have
11 requested. But we did that because we did want to see
12 this project go forward, and we wanted to make it as
13 palatable to you as possible to increase our chances
14 of getting this project through, and to fulfill the
15 need that is extremely urgent within the community.

16 At this point in time, and we testified
17 about six months ago, and nothing new has changed in
18 the market place to-date. There still is not an
19 assisted living facility east of the river. As far as
20 I know, none is being planned at this point. And
21 definitely there is nothing affordable. And the
22 options for people who are growing older and more
23 frail within the areas east of the river are to, one,
24 stay in their homes which, of course, is the
25 preference. But when the frailty increases to the

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1 point where staying at home is no longer an option and
2 family members cannot take care of their family
3 members, then the only other option is to go to a
4 nursing home. And that has been the favored choice
5 when the frailty becomes so severe that home care is
6 no longer a viable option, so creating an assisted
7 living facility certainly gives a more desirable
8 option as those who are growing older in the area east
9 of the river become more and more frail, and are
10 looking for alternatives.

11 We submitted market study materials. Our
12 market study was conducted by RF&S Realty Advisors
13 several years ago, and it certainly showed that D.C.
14 has living facilities, but again, none east of the
15 river. And also, none as considered affordable.

16 MR. MOORE: Ms. Bolden, I'll ask you a
17 question. You say you've already submitted
18 information into the -- testimony into the record
19 about looking for other sites in the southeast area to
20 meet the needs of that community, and what did you
21 find?

22 MS. BOLDEN: We found that there weren't
23 any. There were some that were smaller, and we could
24 have built a smaller facility. But again, a 52 unit
25 facility is just barely, barely feasible. We will not

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1 be making a lot of money on this project. We are
2 definitely fulfilling a social need.

3 MR. MOORE: And when you met with the
4 government of the District, representatives of the
5 government of the District of Columbia, did they
6 concur with the uses you proposed for this site?

7 MS. BOLDEN: Yes, they did.

8 MR. MOORE: And have they been supportive
9 of your efforts to develop this site as an assisted
10 living facility for the citizens of Randle Highlands?

11 MS. BOLDEN: Exceptionally supportive. We
12 applied for a \$390,000 pre-development grant, and we
13 did receive that as part of the Homestead monies. And
14 we've been using that for development purposes of this
15 project, and that was solely from the District of
16 Columbia.

17 MR. MOORE: And it's your testimony that
18 the standard assisted living facility would be a lot
19 larger, but you have downsized this facility to meet
20 the zoning regulations as best you can.

21 MS. BOLDEN: That's correct.

22 MR. MOORE: And that it is economically
23 impossible to build an assisted living facility in the
24 Randle Highlands neighborhood at a lesser volume than
25 this one that is proposed.

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1 MS. BOLDEN: It is. As I said, the
2 numbers now are just making it. Sixty would have been
3 much better. Fifty-two we're just making it.

4 MR. MOORE: I have no further questions of
5 this witness. I can proceed, or we can do all of our
6 testimony and have the Board ask questions then.

7 CHAIRPERSON GRIFFIS: Yes, let's proceed.

8 MR. MOORE: All right. Also here today is
9 Albert Butch Hopkins with Anacostia Economic
10 Development Corporation who will testify today on the
11 community needs, and his organization's efforts to
12 gain community support.

13 MR. MOY: Excuse me, Mr. Chair. At this
14 point, would you like me to -- do I need to administer
15 the oath?

16 CHAIRPERSON GRIFFIS: Oh, I'm sorry. Did
17 we not swear people in?

18 MR. MOY: No.

19 CHAIRPERSON GRIFFIS: It's been a long day
20 already. Anyone that wasn't sworn in previously,
21 stand please, and give their attention to Mr. Moy.

22 (Witnesses sworn.)

23 MR. HOPKINS: Good afternoon. I'm Albert
24 Butch Hopkins, President and CEO of Anacostia Economic
25 Development Corporation, an organization that was

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1 created in 1969 as a community development
2 corporation, organized to uplift the area east of the
3 river, primarily that area east of the Anacostia River
4 and south of Pennsylvania Avenue to the District
5 Maryland and Virginia line.

6 As Ms. Bolden testified just previously,
7 AADC is tasked with delivering projects in the
8 Anacostia far southeast area that will enhance the
9 community. Shortly after Mayor Barry initiated his
10 first term, it was about I guess March of `99, there
11 was a Ward 7 town meeting at St. Luke's Catholic
12 Church. After the Mayor made --

13 MR. MOORE: I believe you meant to say
14 Mayor.

15 MR. HOPKINS: No, I said Mayor Barry,
16 Mayor Williams. Excuse me. At any rate, Mayor
17 Williams in his first town meeting, one of the
18 questions that he raised was to ask community
19 residents there what their issues were all about, what
20 did they want to see changed or brought to their
21 community.

22 On that particular night, probably in a
23 room of, oh I guess there had to be at least 400-500
24 people, at least 80 to 90 percent of the residents
25 said that the number one concern was having a facility

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1 for seniors, an assisted living facility. And it was
2 then, I guess, that in conversations later with Lisa
3 Bolden, we began to look to try to address that
4 particular need, and we found out after the research
5 was done that there were, in fact, no facilities
6 located east of the river for assisted living
7 facilities for seniors. And we began to explore how
8 we could deliver on that particular need for the
9 community.

10 There also -- we're looking for sites that
11 obviously were readily accessible. Also, that had
12 good access to mass transit, and we're not that far
13 away from a hospital because if a person obviously is
14 in an assisted living facility, if they got ill, just
15 like anyone else, they would be taken to a hospital,
16 to a nursing home if that was the next step in their
17 health care.

18 We've had a number of meetings, probably
19 far too numerous to really count, with every
20 neighborhood association, civic association, church,
21 the Randle Highlands Civic Association, Fairlawn
22 Citizens Association, the ANC-7B, that voted in favor
23 of us by I believe 3-0, two abstentions at the time
24 that they considered this particular matter, and I
25 believe you have that in your file, a letter from

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1 them.

2 We've had staff members, not only myself
3 and my vice president for operations, Michael Wallach,
4 but also Yevaka Young, who is an ANC single member
5 district representative from ANC formerly 6C, who was
6 our community outreach officer. She conducted
7 numerous meetings with community groups, neighborhood
8 groups. We've also utilized the services of Douglas
9 Sloan, who is a consultant with Sloan, I think it's
10 Sloan and Associates. He's also worked extensively on
11 behalf of us to meet and communicate with the various
12 civic associations, church groups, et cetera, as to
13 mainly the distinction of a nursing home and an
14 assisted living facility for seniors, because a lot of
15 people do confuse the two. And we have gained a great
16 deal of community support for this. Even to this
17 date, we get calls, at least two or three calls per
18 week since we began having some advertisements in the
19 East of the River newspaper that is distributed east
20 of the river. And we get calls from people seeking
21 information on the facility because they're looking
22 for quality affordable living quarters for either
23 themselves or for their loved ones who have reached an
24 age where they need -- where they're seniors and they
25 need assistance, so we are constantly sort of

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1 reconfirming our decision to go forth with this.

2 We know we have certain people who oppose
3 it for various reasons, but I don't think there's ever
4 been a time that we've initiated any project, east of
5 the river as a community development project that has
6 not had some opposition. It's the nature of living in
7 an urban environment, but this is certainly a need
8 that is truly desired by the vast majority of our
9 citizens, and I don't think there's any one of us who
10 can say for sure that we won't need that same
11 assistance ourselves.

12 MR. MOORE: I have nothing further for Mr.
13 Hopkins. Perhaps the Board would like to ask either
14 of these two a question. If not, I can move to our
15 next witness.

16 CHAIRPERSON GRIFFIS: Let's take Board
17 questions at this time. First of all, I think Board
18 Members had adequately stated in the prior hearing,
19 but it may well be worth restating here, is I don't
20 think we question the need or the demand for such
21 facilities, and we will look in part to that. But we
22 also have to look directly at the variance special
23 exception tests that are what we will deliberate on,
24 and decide on. Questions from the Board at this time
25 for the witnesses.

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1 MR. MOORE: If there are no questions, I
2 will call my next witness.

3 CHAIRPERSON GRIFFIS: I'll let you know.
4 I think there might be some formulating.

5 VICE CHAIRPERSON RENSHAW: Mr. Chairman.

6 CHAIRPERSON GRIFFIS: Yes, Ms. Renshaw.

7 VICE CHAIRPERSON RENSHAW: A question for
8 Mr. Hopkins. You spoke about the community support,
9 but we have in our packet received on January 3rd,
10 petitions against, urging the Board to deny the
11 application. And I counted some 71 people who signed
12 these applications, or this petition rather. Can you
13 give us a little bit more feeling about the community
14 support, when here we have 71 people against?

15 MR. HOPKINS: I believe we've also --
16 Commissioner Renshaw, I think we've also submitted
17 petitions probably in excess of 200 or so people who
18 have said that they support it.

19 VICE CHAIRPERSON RENSHAW: Well, it's good
20 for a review in the face of this recent submission.

21 MR. MOORE: Ms. Renshaw, I would point out
22 that I have gone through the names of each of these 71
23 people on this list, and only 37 of them live within
24 200 feet of the proposed facility. In fact, there are
25 names in here from 116 Madison Street, N.W., 1014 11th

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1 Street, N.E.

2 CHAIRPERSON GRIFFIS: How far away is that
3 from the subject property?

4 MR. HOPKINS: That's on the west side of
5 the river. If you're west and northeast, you are, you
6 know, you're not even anywhere close to it.

7 VICE CHAIRPERSON RENSHAW: But could they
8 have relatives who might be interested in the facility
9 or not?

10 MR. HOPKINS: Well, I think when you sign
11 a petition, you're signing it on your own behalf. I
12 don't think that we can go to whether or not they have
13 some other people who live in the neighborhood or not.

14 VICE CHAIRPERSON RENSHAW: Well, just to
15 explore your thinking about that. Thank you, Mr.
16 Moore, for clarifying, 37 people living within the
17 subject property.

18 MR. HOPKINS: Yeah. I just also might
19 add, Commissioner, that the ANC after long
20 deliberation on this over the period of the last one
21 or two years, by the time they voted in favor of it,
22 they had certainly canvassed the single member ANC
23 members. They had canvassed the people in their
24 community before they would vote either for or
25 against.

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1 VICE CHAIRPERSON RENSHAW: Thank you.

2 CHAIRPERSON GRIFFIS: The last hearing
3 there were submissions into the record that I don't
4 think the Board had adequate clarification on, so I
5 would ask you, Mr. Hopkins, and I draw your attention
6 to, I think there's two submissions, but the one I
7 have is the August 17th, '98. It's correspondence of
8 the Ward to AADC from the District and their response
9 back. And it lists the requirements of the developer
10 in this site, first being to rehabilitate the
11 property. The second one, to secure it. The third
12 was to sell each unit to first-time home buyers who
13 would live in it for five years. And the fourth, of
14 course, was that homesteaders would enroll in the home
15 ownership training course. Were these provisions of
16 the award of the property revised at any point?

17 MR. HOPKINS: We had to -- you know,
18 sometimes what happens, and we deal with DHCD quite a
19 bit, so a number of times the fact that your direction
20 has changed, or what you are able to accomplish can be
21 done, and then you meet several times with DHCD and
22 you go through what it is you would like to do. You
23 change your focus because of the economic viability,
24 et cetera.

25 When we initially talked about it, we did

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1 think about an apartment complex. The City really
2 wanted the existing facility to be raised.

3 CHAIRPERSON GRIFFIS: But isn't the
4 Homestead Program a home ownership program within
5 DHCD?

6 MR. HOPKINS: And they agreed that a
7 senior assisted living facility that provided
8 residential living and services to seniors would meet
9 that objective.

10 CHAIRPERSON GRIFFIS: So was there a
11 formal revision to the award?

12 MR. HOPKINS: I'm not sure if there was a
13 formal one, because if we didn't submit it, we might
14 not have one, but -- because we weren't able, for
15 example, by the time that we drew the money down,
16 which was in December of '99, yet we were approved in
17 September of '98, so more than a year later when we
18 drew the money down, everyone knew that we were doing
19 the assisted living facility. So, of course, if it
20 wasn't within the realm of what DHCD could do, they
21 would never ever --

22 CHAIRPERSON GRIFFIS: And when you say
23 money draw down, that's \$390,000?

24 MR. HOPKINS: That's correct.

25 CHAIRPERSON GRIFFIS: And that went for

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1 pre-development work?

2 MR. HOPKINS: Pre-development work. Also
3 to raise the facility.

4 CHAIRPERSON GRIFFIS: So it went for
5 demolition, and then what's involved in the pre-
6 development?

7 MR. HOPKINS: Architecturals, legal, the
8 appraisals, the market research, et cetera.

9 MS. BOLDEN: If I could add to Mr.
10 Hopkins' testimony, Ms. French had testified in the
11 last hearing in July that for several years, DCHCD had
12 tried to develop this property as a multi-family
13 housing development. And we also looked at that
14 possibility, and found that we could not economically
15 make it work. We started looking at the assisted
16 living facility as a viable option. That is something
17 that I wanted to do, and talked to Mr. Hopkins about
18 that.

19 It was September 17th, 1998 that we sent a
20 letter confirming the purchase of the property for the
21 development of a 39 unit assisted living facility.
22 And the \$390,000 came about \$10,000 a unit. She
23 subsequently approved that.

24 CHAIRPERSON GRIFFIS: Okay. Any other
25 questions from the Board?

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1 MEMBER ZAIDAIN: Yeah, this may be the
2 best time to bring it up, I'm not sure. But there was
3 some confusion, at least on this side of the dias
4 about some of the submittals that we needed. And I
5 was wondering if the applicant did resolve the issue
6 of how the building height was derived, and the exact
7 correct height of the building. That was an issue in
8 the previous testimony, and there was supposed to be a
9 submittal which may very well have gotten submitted.
10 The way our packets went through this week, it might
11 have been lost from my filings, but they were supposed
12 to be submitted to us and to the Office of Planning,
13 and a supplemental report from OP was supposed to come
14 through, and I was just wondering what the --

15 CHAIRPERSON GRIFFIS: Indeed. Let me draw
16 your attention to October 29, 2002. It's submission
17 number 49.

18 MEMBER ZAIDAIN: Okay. What's the exhibit
19 number?

20 CHAIRPERSON GRIFFIS: Forty-nine.

21 MEMBER ZAIDAIN: Okay. I'll make sure I
22 track that down.

23 CHAIRPERSON GRIFFIS: Is that also the
24 date you have on your submission?

25 MR. MOORE: It is indeed, Mr. Chair.

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1 CHAIRPERSON GRIFFIS: And it does outline
2 the building height, other sites considered, the
3 unsuccessful purchasers. And then we had an
4 additional letter also from Carolyn Graham's office,
5 so I will make sure that that gets to your attention
6 if you don't have copies of that.

7 MEMBER ZAIDAIN: Just playing catch-up.

8 MR. MOORE: Mr. Zaidain, I also have a
9 witness who will talk to the building height issue, as
10 well.

11 MEMBER ZAIDAIN: Okay.

12 CHAIRPERSON GRIFFIS: Good.

13 VICE CHAIRPERSON RENSHAW: Mr. Chairman,
14 if I may ask Mr. Moore at this time just a quick
15 question. Are we talking about -- well, Ms. Bolden
16 talked about 52 units in this facility. How many
17 residents, because we have in our papers 52 residents.

18 MS. BOLDEN: I'm sorry. It's 50 units, 52
19 residents.

20 VICE CHAIRPERSON RENSHAW: Fifty units.

21 MS. BOLDEN: Right.

22 VICE CHAIRPERSON RENSHAW: Fifty-two
23 residents. Okay.

24 CHAIRPERSON GRIFFIS: Any other questions?

25 Very well. Thank you all very much. Oh, actually,

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1 I'm sorry. Is the party in opposition, the Randle
2 Highlands Association representative present to
3 conduct cross examination? If you wouldn't mind
4 coming forward.

5 MS. MARSHALL: Geraldine Marshall. I have
6 some questions for Ms. Bolden. Ms. Bolden, you stated
7 that you have been working on this project for three
8 to four years, and that you looked around in Ward 7
9 and you couldn't find any other sites. Is that
10 correct?

11 MS. BOLDEN: I could not find any other
12 sites large enough to accommodate the size that we
13 need to make it feasible.

14 MS. MARSHALL: Okay. The site that you're
15 building on, do you know exactly or approximately how
16 many units were in that apartment building before it
17 was torn down?

18 MS. BOLDEN: I have to defer to the
19 architect on that.

20 MS. MARSHALL: Do you know, Mr. Hopkins?

21 MR. HOPKINS: I believe it was something
22 like 39 units, 39 or 41, one or the other.

23 MS. MARSHALL: It's stated in Mr. Moore's
24 submission that it was about 22 to 25 units.

25 MR. HOPKINS: I believe it was about 39 to

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1 41.

2 MS. MARSHALL: Okay. You believe that.
3 Well, let me direct you to some sites that the DHCD
4 had in the 1300 Block of 27th Street, S.E.

5 MR. MOORE: I would object. This is
6 testimony, Mr. Chairperson.

7 CHAIRPERSON GRIFFIS: Indeed. It would be
8 more appropriate if you want to bring that up in your
9 case presentation.

10 MS. MARSHALL: Okay.

11 CHAIRPERSON GRIFFIS: You could, in fact,
12 ask it as a question whether they might be familiar
13 with it. However, I can also say that it may be more
14 expeditious and timely for you to present it in your
15 case, if you understand what I'm saying.

16 MS. MARSHALL: I do.

17 CHAIRPERSON GRIFFIS: If there are
18 pertinent sites that are going to be highlighted, it
19 may be appropriate for you to ask if they have
20 familiarity with it.

21 MS. MARSHALL: Okay. To bring that up at
22 the -- well, then I have one more question then.
23 Also, you stated that -- well, I can bring that up in
24 my statement too, and it will cover everything.

25 CHAIRPERSON GRIFFIS: I will restate also

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1 if there's a specific and pertinent piece of property
2 that you're aware of that you would like to elicit
3 whether they're knowledgeable of it, that would be a
4 good point.

5 MS. MARSHALL: Okay.

6 CHAIRPERSON GRIFFIS: But it needs to be
7 presented in a question based on the testimony given.

8 MS. MARSHALL: There is a -- okay. Were
9 you knowledgeable of a unit at Minnesota Avenue
10 covering 28th Street, 29th Street, N Street and
11 Anacostia Street, holding about 62 units?

12 MR. HOPKINS: That's the -- if I recall,
13 it's just beyond the Amoco gas station. Is that the
14 one you're talking about?

15 MS. MARSHALL: No, that's one in the 1300
16 Block of 27th Street. This is down further, and about
17 the 2700 Block of Minnesota Avenue, but all the doors
18 on the property does not actually face Minnesota.
19 Some face 28th, some face 29th, some face Anacostia.

20 MR. HOPKINS: Yeah. We were talking about
21 looking for feasible sites that would make it
22 economically viable for us to be able to develop a
23 facility and make it affordable. There may have been
24 many other sites larger, some smaller, some maybe the
25 same size that they privately own. The Homestead

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1 Program gave us the ability to acquire it basically at
2 a very cheap cost, \$10,000, and on top of that, get a
3 loan for pre-development, a grant for pre-development,
4 was the loan for pre-development, and for the raising
5 of it. So the ability to get a site at a very
6 inexpensive cost, therefore enables us to be able to
7 develop affordable program, as opposed to trying to
8 develop a luxury senior assisted living facility.

9 CHAIRPERSON GRIFFIS: So the question --

10 MS. MARSHALL: These were DHC properties.

11 MR. HOPKINS: They're different programs
12 that DHCD had. They weren't Homestead properties.

13 MS. MARSHALL: The one on 13th and 27th, the
14 one in the 2700 Block -- in the 1300 Block of 27th
15 Street was Homestead. I'm not sure about --

16 MR. HOPKINS: I'm not familiar with it.

17 CHAIRPERSON GRIFFIS: You should ask that
18 question, is it.

19 MS. MARSHALL: Is it?

20 CHAIRPERSON GRIFFIS: Not statements.

21 MS. MARSHALL: Oh, okay. Well, I knew it.

22 MR. HOPKINS: I'm not familiar with that.

23 MS. MARSHALL: Okay.

24 MR. HOPKINS: They didn't tell us about
25 that.

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1 MS. MARSHALL: Okay.

2 CHAIRPERSON GRIFFIS: Let me also
3 underscore the value of cross examination. It is not
4 to elicit what you know, but in order to get
5 information so that we might know it.

6 MS. MARSHALL: Okay. So I have to put it
7 into question form. Okay. And also, Mr. Moore, I
8 reviewed the submission that Ms. Renshaw was talking
9 about, and I only found two names here that were not
10 from exactly our streets, and that was a Ms. Clara
11 Colbert, and a Mr. Leo Taylor.

12 CHAIRPERSON GRIFFIS: So your question is,
13 are there other names that are outside the area on the
14 signed petition?

15 MS. MARSHALL: No. My question is, how
16 did he arrive at the number that he gave for incorrect
17 addresses on the petition?

18 MR. MOORE: Two hundred feet of the site,
19 and I can name each one of them if you like, that are
20 not within 200 feet of the site.

21 MS. MARSHALL: We were told that we could
22 go 500 feet of the site, and most of -- all of these
23 are on 27th Street.

24 MR. MOORE: You're testifying, ma'am.

25 MS. MARSHALL: No. Well, my question is,

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1 show me how you arrived at that figure when most of
2 them are --

3 MR. MOORE: I just told you.

4 CHAIRPERSON GRIFFIS: He did the radius
5 around the property of 200 feet, the names that are
6 inside of --

7 MS. MARSHALL: Yes. That's the radius
8 that you gave me when we first came on here.

9 CHAIRPERSON GRIFFIS: Indeed.

10 MS. MARSHALL: And that covers our street.

11 CHAIRPERSON GRIFFIS: Okay. I think it
12 would be important, and probably more valuable for the
13 Board, rather than bantering back and forth in or out,
14 is if each -- if either applicant or party found it
15 important for their case presentation that they might
16 give us a diagram of where the signers of the
17 petitions are. So if you have, for instance as an
18 example, that map that you're holding, Ms. Marshall,
19 you may want to mark who signed in favor and who
20 signed in opposition, if you feel it's important in
21 the presentation of your case.

22 MS. MARSHALL: Okay. All right. I have
23 nothing else to ask at this time.

24 CHAIRPERSON GRIFFIS: Good. Thank you
25 very much.

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1 MS. MARSHALL: Thank you.

2 CHAIRPERSON GRIFFIS: Okay.

3 MR. MOORE: At this time I'd call Magda
4 Westerhout.

5 MS. WESTERHOUT: These microphones don't
6 move, do they?

7 CHAIRPERSON GRIFFIS: The one on the end
8 you can pick up.

9 MR. MOORE: Mr. Chairman, Ms. Westerhout
10 is an accomplished architect that somewhere in my
11 notebook here I have her resume, and I would seek to
12 ask the Board to consider her as an expert witness.

13 CHAIRPERSON GRIFFIS: Was it submitted
14 prior, or are you looking to submit it now?

15 MR. MOORE: No, I have it here.

16 CHAIRPERSON GRIFFIS: Okay.

17 MR. MOORE: Somewhere.

18 MEMBER ETHERLY: Mr. Chairman, right now
19 if Ms. Westerhout wants to either readjust the easel
20 so other potential witnesses might want to see it, or
21 if anyone wants to just relocate up to the front where
22 they might have a better vantage point, that would be
23 helpful. Thank you.

24 CHAIRPERSON GRIFFIS: Ms. Marshall, do you
25 have a copy of the resume? Ms. Renshaw, I'll give you

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1 a moment to review it and ask if you have any
2 objection to granting expert witness status on Ms.
3 Westerhout.

4 VICE CHAIRPERSON RENSHAW: I'd just like
5 to know where the firm is located. I don't see an
6 address.

7 MS. WESTERHOUT: We are located in
8 Baltimore, Maryland, 2300 North Charles Street.

9 CHAIRPERSON GRIFFIS: Any other questions
10 from the Board? Ms. Marshall.

11 VICE CHAIRPERSON RENSHAW: Mr. Chairman,
12 D.C. experience?

13 MS. WESTERHOUT: D.C. experience, I
14 personally have worked in Washington. It was 15 years
15 ago, but I worked for David M. Schwartz Architects,
16 and my firm has done numerous work. We're actually
17 doing another project in Anacostia with one of my
18 partners, which is the student housing for the Seed
19 School in Anacostia. That's currently under
20 construction.

21 MEMBER ETHERLY: I have no objection, Mr.
22 Chair.

23 CHAIRPERSON GRIFFIS: Any other questions?
24 Any objections? Very well. Then we can take it as a
25 consensus the Board then, and proceed.

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1 MR. MOORE: Thank you. Thank you, Mr.
2 Chair.

3 MS. WESTERHOUT: Would you like me to
4 introduce myself?

5 MR. MOORE: Yes.

6 MS. WESTERHOUT: Okay. Hi, I'm Magda
7 Westerhout. I am an architect in Baltimore, Maryland.
8 I have a lot of experience with a whole variety of
9 elderly housing projects, and I talk better when I
10 stand up, especially because I have boards, so let me
11 know if I'm in your way.

12 I wanted to start, and I will try and be
13 brief and to the point by looking at the original
14 building on the site. These are photographs of the
15 building that was on the site prior to its demolition.

16 It was an abandoned three-story with tall stories,
17 probably built in the 1920s or 30s. I didn't research
18 the date, but just judging by the style of
19 architecture. And then actually, as I'll show you
20 later, occupied more of the lot than our proposed
21 building. It had a flat roof, basically appeared to
22 be a three-story walk-up with an entry here, an entry
23 here, and then entry on the other side. The corner of
24 this is --

25 CHAIRPERSON GRIFFIS: How many units were

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1 in it?

2 MS. WESTERHOUT: I do not know exactly.

3 CHAIRPERSON GRIFFIS: What would be your
4 estimation?

5 MS. WESTERHOUT: I would say between 25
6 and 35, depending whether they had units down here in
7 the exposed fourth floor on the R Street side, or I'm
8 sorry, the exposed lower floor. It would be the third
9 floor here.

10 CHAIRPERSON GRIFFIS: Okay.

11 MS. WESTERHOUT: So that is what --

12 CHAIRPERSON GRIFFIS: Are you going to
13 tell us -- you were saying that it actually has a
14 larger massing. Are you going to give us specific lot
15 occupancy of that current, and that somehow relates to
16 a current application?

17 MS. WESTERHOUT: I'm going to show you a
18 plan, and we do have actually the FAR. Our building
19 is taller, but I'll show you a site plan that gives
20 you the outline of the proposed building, and the
21 outline of the building that was there.

22 CHAIRPERSON GRIFFIS: Okay.

23 MS. WESTERHOUT: Okay.

24 CHAIRPERSON GRIFFIS: Not really clear on
25 the relevancy of that, but let's get through it.

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1 MS. WESTERHOUT: It shows you how far away
2 it is from the adjacent buildings, so it's relevant
3 from a design perspective.

4 CHAIRPERSON GRIFFIS: Okay.

5 MS. WESTERHOUT: I don't know if it's
6 relevant to you. In terms of the context, this is a
7 view of R Street, then a view of 27th Street after the
8 building had been raised. This is the corner. There
9 is right here on 27th Street an existing three-story
10 apartment building. Across the way diagonally there
11 is this building which is a four story building at the
12 corner, but because of the way -- well, I don't know
13 what it's called, but it's actually a four story
14 building that runs caddie corner to this project. Up
15 on 28th Street are two three and three and a half story
16 also apartment buildings, and then right here is this
17 four story building across the street.

18 The alley behind the site backs up to what
19 appear to be some multi-family and single-family
20 townhouses. That is up about 10 feet from 27th Street.

21 And what we are proposing -- let me put down my
22 microphone. This is probably hard to see from all
23 sides, both for you and for anybody in the audience,
24 so I'll pass it around after I'm finished describing
25 it.

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1 This is R Street right here, 27th Street,
2 the four story building I was showing on the
3 photographs is right here. This is our proposed site.

4 The U-shaped original building came up to this piece
5 of the site. Our building is an L-shaped building,
6 that's the dotted line shaded over it. As I said, I
7 can pass this around so you can take a look at it.

8 What you will see is that at the corner,
9 and this is a grading plan. The grade above sea level
10 is 85 feet. As it goes down 27th Street, it slopes
11 down to at the end of the site about 78 feet. As it
12 goes up R Street, it slopes up to 92 feet. And this
13 public alley actually continues to slope up, so the
14 elevation of the alley is 95 feet, so the alley is 10
15 feet above the corner at the entry. This is relevant
16 because I'm specifically going to talk about how the
17 height was calculated for the building.

18 The design that we are proposing and we
19 have a three dimensional rendering, is a four-story
20 building with a sloped roof, and entry feature in the
21 corner. The intention is to enter the building from
22 the corner of 27th and R to give it somewhat of a
23 residential scale, and try and pick up on some of the
24 massing of the single-family homes. If you look at
25 plans for the building, the lower level has some

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1 public functions, mechanical space. This is basically
2 a buried basement. This is 27th Street, R Street.
3 Here's the corner entry. You enter into a lobby.
4 There's public spaces here, and seven units at this
5 point. The second, third and fourth floors are
6 typical, where they have 15 units per floor with a sun
7 room that's a shared public area, and a staff area.

8 The building in terms of height, in the
9 district is measured from the average grade at the
10 curb to the ceiling of the fourth floor. From the
11 first floor floor to the ceiling of the fourth floor
12 is 36 feet. From the corner here, you're at 85 feet
13 above sea level. You slope down essentially between
14 seven and eight feet, depending on whether you take
15 the curb, whether you take the site. If you slope
16 down eight feet, the average grade is four foot in the
17 middle, so right here in the middle of this elevation
18 from the average grade of the curb to the ceiling of
19 the fourth floor, we are approximately 40 feet, 39
20 feet nine and a half inches.

21 If you go along R Street from the average
22 grade of the curb, because we're entering on the
23 corner we took it on both sides, to the ceiling of the
24 top floor, we are at 31 and a half feet, because it
25 slopes up. What this retaining wall does, the dirt is

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1 higher, and this is kind of basically in a hole. Down
2 here you're at 90 feet. Up here you're already at 94
3 feet above sea level. Yes. We always use these
4 absolute points as architects and designers.

5 Basically the intention is to make the
6 building look residential, make it feel homey. We are
7 hoping to incorporate a front porch. There's a small
8 courtyard in the back. We are providing ten parking
9 spaces in the rear that are accessed off the alley,
10 and it's our understanding that nine are required.
11 We're also providing a ramp access down to the
12 courtyard from the parking spaces. Did I miss
13 anything?

14 MR. MOORE: Design features.

15 MS. WESTERHOUT: Basically, the design
16 features of the building are to encourage people to --
17 from the plan perspective there is a multi-purpose
18 room, a kitchen, salon, some physical therapy rooms,
19 an employee lounge on the lower level. And then
20 there's a lobby, family dining, main dining and living
21 area on the first floor plan to encourage community
22 gathering. One of the biggest problems with the
23 elderly that we try and resolve in design is that
24 people stop going out. They're afraid to go out.
25 They might slip on the ice. They don't mingle with

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1 people, and people who interact with each other on a
2 daily basis do much better, so one of the things that
3 we design in these buildings is a lot of places for
4 social activities. Then again, the units are just on
5 typical floors, the public spaces are here.

6 The reason that we chose to have a sloped
7 roof instead of a flat roof is that we feel that that
8 really provides a much more residential feeling. The
9 flat roofs are back in 1920s, 30s, more of a
10 utilitarian form of architecture, and we believe that
11 having a Victorian turret at the entrance picks up on
12 some of the older homes that are in the area.

13 MR. MOORE: Ms. Westerhout, in your
14 professional opinion, is the massing of this proposed
15 structure consistent with the massing of buildings
16 that are in the neighborhood?

17 MS. WESTERHOUT: Yes, it is.

18 MR. MOORE: No further questions.

19 VICE CHAIRPERSON RENSHAW: What is the
20 size of each unit? Is there a standard size?

21 MS. WESTERHOUT: They vary, and I can look
22 it up in my file and get back to you on the exact
23 dimension. They're basically efficiency units, so
24 they're not large units. But I'll check it and get
25 back to you.

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1 MEMBER ETHERLY: Mr. Chair, if I may very
2 briefly. Ms. Westerhout, on your resume there's
3 reference to a number of other projects, similar
4 projects in other jurisdictions. Could you speak a
5 little bit to the, I don't want to say context, but
6 relative to other projects that you've had experience
7 in of a similar nature, how would you characterize
8 this project? Is this a very typical development in
9 terms of size, massing? That might be a hard question
10 to answer because, of course, you're looking at very
11 different communities where they go, but given what
12 we're talking about in terms of the structure, would
13 you say this is a rather typical design, or typical
14 effort?

15 MS. WESTERHOUT: It is typical. There's a
16 couple of things that benefit, and that one is being
17 so close to public transportation. Most of the
18 projects that I work on, and most of the time size of
19 community for an assisted living building tends to be
20 between 50 and 90 people. Once they get a lot larger
21 than that, it feels, and this is not from an
22 operational standpoint, but from an architectural
23 standpoints, they feel less intimate. I have never
24 designed one smaller for, I guess maybe some of the
25 reasons that Ms. Bolden mentioned, that they don't

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1 work that way.

2 This has a very good proportion of public
3 spaces to units, which I think is important, and
4 encourages a very active community. And in terms --
5 people tend -- the projects I've worked on, not
6 always, but they'd like to be on public transportation
7 systems because people also stop driving, which is one
8 of the reasons they stop going out and interacting
9 with other people, so this is similar. The access to
10 public transportation, shopping, things like that is
11 great.

12 MEMBER ETHERLY: Okay. So if -- there was
13 an interesting point that you highlighted a moment ago
14 about the public or common spaces in the structure.
15 If there was an effort to decrease the scale or size
16 of the structure, and you endeavored to maintain the
17 same number of units but decrease the size of the
18 building, maybe one of the first places you would look
19 would be the common areas. But based on your
20 experience, once again your -- typically the desire is
21 to see more common spaces in these facilities than
22 not. A facility that has less common spaces, but
23 perhaps the same concentration of units could
24 conceivably be a little contrary to perhaps what the
25 popular orthodoxy is in terms of an assisted living

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1 facility.

2 MS. WESTERHOUT: That's correct.

3 MEMBER ETHERLY: Okay.

4 MS. WESTERHOUT: That's definitely
5 correct.

6 MEMBER ETHERLY: All right. Thank you.
7 Thank you, Mr. Chair.

8 VICE CHAIRPERSON RENSHAW: Would you just
9 show us the front part of the building, or how the
10 emergencies would be handled? Ms. Bolden has sent
11 some information to Mr. Moore and came to the Board
12 dated October 29, stating that if emergency medical
13 care is required, the residents will be sent to a
14 hospital for care. So how with this frail population,
15 I would imagine the need for medical transports to be
16 at the facility perhaps -- well, let's hope not too
17 often, but how is it going to be handled?

18 MS. WESTERHOUT: We have, and it doesn't
19 show here, but we are quite far from the side yard set
20 back lot right here, and our building ends here, and
21 the intent, and this has not completed design, is to
22 actually have a loading access here, so that an
23 ambulance could pull off of 27th Street. This is not
24 just a trash door, as such. It is actually coming
25 through the main dining so that people could come

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1 through the space and go out in this area, or you
2 could come through the library and the game room. So
3 the intention is that there would be off-street, but
4 we haven't developed that portion of the engineering
5 design, but our idea would be that we have an off-
6 street pull-off to the side of the building, so there
7 would not be ambulance or any kind of delivery traffic
8 on 27th Street or R Street.

9 VICE CHAIRPERSON RENSHAW: All right. So
10 there is no provision in the front of the building for
11 an ambulance to pull up off-street, off-road?

12 MS. WESTERHOUT: No, and you know, we
13 could do that. I think we have enough room on the
14 site. Our feeling was, and this is purely from my
15 design perspective, that you don't want to have a
16 pull-off with ambulances sitting off a main street,
17 that you actually want the ambulance to pull in so
18 that people can be transported in privacy. They're
19 not sitting right there on the street.

20 VICE CHAIRPERSON RENSHAW: Okay. Thank
21 you.

22 CHAIRPERSON GRIFFIS: And you say that th
23 site plan and loading isn't finalized, but do you have
24 the layout for the parking that's to be provided?

25 MS. WESTERHOUT: Yes, I do. The engineer

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1 of record who is designing the actual loading, and I
2 believe that you need to also get permission to put a
3 curb cut in the existing street, and that's a process
4 that will continue after we get through this piece of
5 the process. So the parking in the back has been
6 designed by the civil engineer, and it does work.

7 CHAIRPERSON GRIFFIS: But it's still at 13
8 spaces?

9 MS. WESTERHOUT: I believe we're at ten,
10 but nine is required, and I believe we are at ten.

11 CHAIRPERSON GRIFFIS: And how are you
12 calculating that requirement?

13 CHAIRPERSON GRIFFIS: In the District of
14 Columbia for assisted living, you are required to have
15 one space for every six residents, and that turns out
16 to be eight point something.

17 MR. MOORE: Mr. Chair, if you don't mind,
18 I have a question for Ms. Westerhout.

19 CHAIRPERSON GRIFFIS: Okay.

20 MR. MOORE: Or I can wait.

21 CHAIRPERSON GRIFFIS: Go ahead.

22 MR. MOORE: Ms. Westerhout, in your
23 experience in designing assisted living facilities,
24 have you found that off-street parking is an essential
25 requirement?

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1 MS. WESTERHOUT: No. Very few of the
2 residents drive, and that's actually one of the
3 reasons that the zoning requirements for off-street
4 parking are different than for regular units. We even
5 find independent elderly living, that people take
6 their car there, park it and then never use it again.
7 And so in other jurisdictions, the requirements are
8 very similar to what you have here, and there's not a
9 lot of requirement for parking.

10 MR. MOORE: And is it your experience that
11 these types of facilities do not generate a lot of
12 street traffic?

13 MS. WESTERHOUT: Yes, that is definitely
14 my experience.

15 MR. MOORE: Why?

16 MS. WESTERHOUT: Why? It's not -- as
17 opposed to in family housing where you have a lot of
18 activity, and you have a number of people who have
19 cars in the same family, in the same unit. And that's
20 what we would compare it to, similar residential use.
21 You don't have people who are driving. You have
22 people who come and visit, but they visit on off
23 hours. They don't visit during business hours. And
24 you have people who are generally very much using
25 public transportation, or use sometimes community

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1 group, church group buses. We see that there is not a
2 lot of traffic. We also see that a lot of the staff
3 who works in these facilities come via public
4 transportation.

5 MR. MOORE: In your professional judgment,
6 will this facility as proposed generate a parking or
7 street traffic problem in the neighborhood?

8 MS. WESTERHOUT: No, I do not believe that
9 it will.

10 CHAIRPERSON GRIFFIS: Okay. Of course,
11 you're an expert in architecture, and not
12 transportation engineering. Isn't that correct? But
13 it's good information in terms of the actual program
14 and design for these type of buildings. Any other
15 questions from the Board? Any redirect?

16 MR. MOORE: Just one. Ms. Westerhout, do
17 you recall if there was any off-street parking
18 provided for the pre-existing building?

19 MS. WESTERHOUT: There was -- I was going
20 to say there was definitely not, but I don't know if
21 people parked in the courtyard. Certainly, when I
22 walked around the pre-existing building, there was no
23 paved parking that I could see.

24 CHAIRPERSON GRIFFIS: And was the existing
25 apartment building compliant with current zoning

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1 regulations?

2 MS. WESTERHOUT: No, it was not. It's my
3 understanding that it had a 1.4 FAR and .9 is now the
4 current zoning regulation.

5 CHAIRPERSON GRIFFIS: Okay. Without any
6 parking, it would have not met that test either
7 perhaps, but that again is of limited interest, I
8 think. Mr. Etherly.

9 MEMBER ETHERLY: Mr. Chair, not so much a
10 question, but given the complex nature of what we're
11 looking at, I want to -- I'm trying to keep a running
12 track in my head of some of the additional items I
13 might want to get some follow-up on. To the extent
14 Ms. Westerhout might be able to comment on this now,
15 that would be great. But if not, just as an item of
16 additional follow-up, in your experience with other
17 facilities, it might be helpful to get some type of
18 comparative sense of the ratio between living space
19 and common -- those common areas, be they gathering
20 rooms or dining facilities.

21 I'm trying to get a sense once again,
22 think one of the critical issues here is going to be
23 could this be smaller? And if you start tampering
24 with the size, I want to get -- and you start thinking
25 where do you pull space away from in this structure to

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1 make it smaller, what kind of ratios typically does
2 one have to look at in an assisted living facility in
3 order for it to continue to work?

4 Clearly, I don't think you could have a
5 structure that's all residential and no communal
6 facilities. That probably wouldn't work, but I'd love
7 to get a sense, based on your experience maybe, in
8 terms of some of the other projects you've looked at,
9 what typically does that ratio tend to look like in
10 terms of living space versus common areas?

11 MS. WESTERHOUT: In my experience, and I -
12 - to tell you what the standard of the industry is, I
13 would have to research it, but my experience has been
14 that the ratio goes from 25 percent of the space being
15 common areas, to it being equal, as much common area
16 as you have units. I think we are somewhere in the 25
17 to 30 percent range, but I would like to check.

18 MEMBER ETHERLY: Okay. But in terms of
19 this project, you're thinking maybe 25 to 30 percent
20 range.

21 MS. WESTERHOUT: Yes, that's right.

22 MEMBER ETHERLY: Twenty-five to 30 percent
23 of the overall square footage of the structure being
24 common space. Okay.

25 MS. WESTERHOUT: That's correct.

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1 MEMBER ETHERLY: Thank you.

2 CHAIRPERSON GRIFFIS: Any other questions?
3 We're going to need copies of all the boards that
4 were presented today submitted into the record.

5 MR. MOORE: Mr. Chair, I have one question
6 on redirect for Mr. Hopkins. It's a very quick
7 question, but it answers the question the Board has
8 asked, as well.

9 CHAIRPERSON GRIFFIS: Yes.

10 MR. HOPKINS: Yes, sir. Mr. Chairman, the
11 -- I confirmed with my office. The number of units
12 that were -- the number of living units that were in
13 the former building, the apartment complex, was 39.
14 That's what the calculation for the \$390,000 from the
15 Homestead Preservation Office was -- Homestead
16 Division. It was \$10,000 per unit, so there was 39
17 units, and we were able to get \$390,000.

18 CHAIRPERSON GRIFFIS: I see. Okay. Good.
19 Ms. Marshall, cross examination of the architect?

20 MS. MARSHALL: Yes.

21 CHAIRPERSON GRIFFIS: If I could interrupt
22 you just a minute, you have to be up here on the
23 microphone.

24 MS. MARSHALL: You were talking about a
25 retaining wall. You were talking about 27th Street

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1 going that way, and R Street going that way. And the
2 front of the building would be facing the corner of
3 27th right there.

4 MS. WESTERHOUT: Yes.

5 MS. MARSHALL: Okay. And you said there
6 is a unit, apartment unit behind.

7 MS. WESTERHOUT: Right here.

8 MS. MARSHALL: Yeah, on 27th Street. Could
9 you tell me the dimension that you are going to build
10 that retaining wall to that apartment building?

11 MS. WESTERHOUT: You mean between how high
12 up this is?

13 MS. MARSHALL: Yes.

14 MS. WESTERHOUT: This grade will slope
15 down here, so that retaining wall, it's about three
16 feet. It'll be five feet above the floor of the
17 apartment building, but the grass will slope down to
18 it.

19 MS. MARSHALL: So would you say that five
20 feet would block the whole view of that building?

21 MS. WESTERHOUT: No. The retaining wall
22 is not to block the view of the building. The
23 retaining wall is because the road goes from 85 to 95,
24 and we don't want to step the building up, so the
25 whole floor is at 85. So what we're doing is holding

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1 the dirt back here, so no, it's not blocking the view
2 of the building.

3 MS. MARSHALL: Well, wait just a minute.
4 You said you were out there and you had visited the
5 site. Is that correct?

6 MS. WESTERHOUT: Oh, yes.

7 MS. MARSHALL: Okay. Now I'm talking
8 about on 27th Street where there is no dirt. Now I'm
9 not talking about R Street. I'm on 27th Street.

10 MS. WESTERHOUT: Right here.

11 MS. MARSHALL: There is a parking lot
12 there, if you remember correctly.

13 MS. WESTERHOUT: Right here beside the
14 building, a parking lot for the apartments up here?

15 MS. MARSHALL: No. That's 28th Street.
16 Right?

17 MS. WESTERHOUT: I don't think so. Where
18 is there a parking lot?

19 MS. MARSHALL: Okay. That's the old
20 building. That's --

21 MS. WESTERHOUT: Are you talking across
22 the street?

23 MS. MARSHALL: Where's the best shot of
24 the building. I don't see that building in your shot
25 at all. The building would face -- that would be R

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1 Street in the 2600 Block. This -- no, it's not in
2 your shot. Wait just a minute. Let me make sure.
3 No, I don't see it, but I just want to make sure
4 before I say it's not there. Yeah, it's here. Yes,
5 it is. It's here. That's it.

6 MS. WESTERHOUT: This apartment, the
7 three-story apartment building.

8 MS. MARSHALL: Yes. Well, see, you're
9 looking at with the building being --

10 MS. WESTERHOUT: Oh, I'm sorry.

11 MS. MARSHALL: You're looking at it with
12 the building being demolished. I see it. Yeah,
13 that's the building that I'm talking about. Now this
14 is your lot.

15 MS. WESTERHOUT: Right.

16 MS. MARSHALL: Okay. So you're going to
17 build a retaining wall from what I read, I think going
18 here.

19 MS. WESTERHOUT: The retaining wall is
20 along R Street, not along 27th Street.

21 MS. MARSHALL: Now what separates your
22 building from the building that you're building is
23 going to set on top of that parking lot? And you
24 said, I think, that you're going to use that for
25 pickup trash and all of this?

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1 MS. WESTERHOUT: This building -- the
2 original building was 16 feet from the lot line.
3 We're now about 45 feet from the lot line. This is
4 where their parking lot is, so we believe that we have
5 plenty of room in that 45 feet to put screening, a
6 fence, all those things. We are further away from
7 their existing parking lot than the old building was.

8 MS. MARSHALL: Well, if I'm following your
9 finger, those would be the apartment buildings on 28th
10 Street when you're up here. The apartment buildings
11 I'm talking about would be on 27th Street here.

12 MS. WESTERHOUT: Now this is 27th Street,
13 and those buildings, they don't show, just the lots do
14 but the buildings are right here. So here's where --
15 this is 27th Street.

16 MS. MARSHALL: Uh-huh.

17 MS. WESTERHOUT: Remember how the old
18 building was U-shaped?

19 MS. MARSHALL: Yeah.

20 MS. WESTERHOUT: And this was -- you
21 walked in through the courtyard.

22 MS. MARSHALL: Uh-huh.

23 MS. WESTERHOUT: This was the end of the
24 old building. This is the end of our building, and
25 their parking lot is right here.

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1 MS. MARSHALL: So this is the end of your
2 building here? Okay. And your wall is here?

3 MS. WESTERHOUT: We do not currently have
4 a retaining wall at this point, but I believe that we
5 could put a fence or plant bushes along this edge to
6 shield our property from that parking lot. The
7 retaining wall is on R Street. It's on this side.

8 MS. MARSHALL: It's on R Street.

9 MS. WESTERHOUT: It's on R Street.

10 MS. MARSHALL: That's the only retaining
11 wall you have.

12 MS. WESTERHOUT: That's right. There's
13 one in the back here against our courtyard but that's
14 one that you see --

15 MS. MARSHALL: And that faces what?

16 MS. WESTERHOUT: That is below the alley.

17 MS. MARSHALL: That would be also on R.

18 MS. WESTERHOUT: No, it's on the alley.
19 The other one is on the alley.

20 MS. MARSHALL: The alley is on R.

21 MS. WESTERHOUT: The alley cuts off of R.

22 MS. MARSHALL: Where you're going to come
23 in for the parking lot, where you're going to come in
24 for parking?

25 MS. WESTERHOUT: Right.

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1 MS. MARSHALL: So when you --

2 MS. WESTERHOUT: See how in this drawing
3 it goes uphill.

4 MS. MARSHALL: That's R.

5 MS. WESTERHOUT: It goes around the corner
6 onto the alley from R Street.

7 MS. MARSHALL: Uh-huh. That's R.

8 MS. WESTERHOUT: There is -- off of the
9 alley behind our building is a retaining wall. This
10 is the apartment building you're talking about?

11 MS. MARSHALL: Yes.

12 MS. WESTERHOUT: There is no retaining
13 wall right there.

14 MS. MARSHALL: Okay. Well, where did we
15 say the trash pickup was going to be?

16 CHAIRPERSON GRIFFIS: Actually, it brings
17 up an excellent point. And rather than trying to
18 recreate it with your finger on a site plan, we're
19 going to have the actual site plan and landscape plan
20 submitted by the applicant. That will be served on
21 you also, and you'll have ample time to review it and
22 respond to it. Otherwise, frankly, it's just
23 conjecture, and there's nothing harder than doing
24 anything she says.

25 MS. MARSHALL: Right. But I just -- can I

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1 ask one more question, please?

2 CHAIRPERSON GRIFFIS: Oh, absolutely. I'm
3 not stopping you from doing that.

4 MS. MARSHALL: On 27th Street, how close
5 would your building be coming to the sidewalk that is
6 presently there?

7 MS. WESTERHOUT: Our building, and I can
8 measure it and tell you exactly, would be the same
9 distance from the sidewalk as the existing building
10 was, so that is -- it looks like about 15 feet. It's
11 no closer to the sidewalk than the old building was.
12 IN fact, we're at the same point.

13 MS. MARSHALL: Okay. Thank you.

14 CHAIRPERSON GRIFFIS: Very well.

15 MR. MOORE: Mr. Chair, that concludes my
16 presentation, except I would reserve five minutes at
17 the end.

18 CHAIRPERSON GRIFFIS: Okay. Well, we give
19 you time for closing remarks after we hear the rest of
20 the proceedings. Let us then move quickly onto the
21 Office of Planning's report. I believe we have an
22 updated submission. Well, I should clarify what I
23 mean by that. We do have two submissions. One of the
24 updated happened to be July 11th, 2002. Is that the
25 most current?

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1 MR. COCHRAN: For the record, my name is
2 Steve Cochran. Yes, Mr. Chair.

3 CHAIRPERSON GRIFFIS: Okay. And this was
4 a supplemental submission. Isn't that correct, or am
5 I mistaken?

6 MR. COCHRAN: Mr. Chair, given my age, and
7 it goes back seven months, I really don't remember.

8 CHAIRPERSON GRIFFIS: Yeah, it doesn't
9 really matter, does it. Okay. Let's get into it.

10 MR. COCHRAN: We'll be brief. On the
11 special exception, is it in harmony with the zoning
12 regulations and the maps? Yes. The Office of
13 Planning report goes into several elements in the
14 Comprehensive Plan that stress the need for
15 accommodating the elderly within the community. This
16 is not a nursing home. It's much like a moderate
17 density apartment building, that it would replace a
18 moderate density apartment building as permitted in
19 the existing R-5 zone.

20 As the architect under the previous
21 building at 1.4 FAR already exceeded by approximately
22 50 percent the now permitted FAR, there would be no
23 adverse impact from this building that we can find.
24 And it does seem to meet the special conditions under
25 Section 358.

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1 With respect to Point 2 and Point 3, OP's
2 information, at least as of July, indicated that there
3 were no CBRFs within the same square, or within 500
4 feet, although there were within about a half mile.
5 With respect to Point 4 under Section 358, it does
6 meet the one to six parking regulation, plus one space
7 over and above that requirement. With respect to
8 Section 358.5, again we find no adverse impact from
9 this.

10 Again, we suspect that the concern does,
11 as the applicant has actually noted, relate more to
12 the feeling that this is a nursing home, as opposed to
13 assisted living for the elderly. We've had many other
14 cases that have come through here, most notably the
15 one in Ward 8, whose name I'm forgetting right now,
16 but I can find. It's in the report. Sorry. It's a
17 previous case that you all approved, off of
18 Mississippi Avenue. Yeah, it was the Wayne Place
19 Senior Housing, BZA Application 16792. Now that case
20 also gave OP a bit of context in which to judge what -
21 - whether there would be a hardship and whether the
22 site is unique.

23 With respect to FAR variance, it is unique
24 in the context of the federal policy of wanting to
25 mainstream the housing for the elderly, to make it as

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1 residential as possible, to not in effect stigmatize
2 it by putting it on a commercial site. Given the
3 information that was available to us as of July, and
4 what the applicant has stated today, there are not
5 other sites that would enable the city to mainstream
6 the assisted living for its seniors east of the river,
7 especially in Ward 7, short of the site that's being
8 proposed today. Therefore, there would be practical
9 difficulties for locating an assisted living facility
10 on this site given the type of special communal
11 facilities that need to be provided. This is where
12 you come into the FAR variance being needed, and where
13 the site is rather small for the facility; and,
14 therefore, it is unique.

15 With respect to the height variance, we're
16 satisfied by the applicant's testimony that happened
17 after our submission as to the height, in fact, where
18 we have been saying that in districts limited to 40
19 feet, the height may be measured from the finished
20 grade at the middle of the front of the building to
21 the ceiling of the top story. I believe that,
22 frankly, I neglected to take into the account that the
23 word is "may" and not "must", and that is where our
24 concern had come from. And that's it in a nutshell.

25 CHAIRPERSON GRIFFIS: Board questions of

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1 the Office of Planning? I'm not sure I understand
2 your last statement in terms of the definition of the
3 height of 40 feet. The "may" refers to underside of
4 ceiling. Is that correct?

5 MR. COCHRAN: Right. Well, when we had
6 concern about it, we were looking at the excavation,
7 rather the fact that there will be a retaining wall,
8 that there will be at least 8 feet between the -- I
9 believe it's the south side of the building and the
10 retaining wall that is parallel to R Street. If you
11 have to measure it from the finished grade at the
12 middle of the front of the building to the ceiling at
13 the top story, then you would be measuring from the
14 first floor on the south side, or you'd have to be
15 averaging from the corner of 27th Street and R on up.
16 But, in fact, because that's only an alternate way of
17 measuring, the applicant is, in fact, able to go from
18 the level of the curb opposite the middle of the front
19 of the building to the highest point of the roof or
20 parapet.

21 I still have some questions about whether,
22 you know, roof or parapet, whether the Victorian
23 turret really fits in, but frankly, I have not
24 explored that part of it.

25 CHAIRPERSON GRIFFIS: Okay. Any other

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1 questions? Very well. Any cross examination?

2 MR. MOORE: Yes. Just two quick points.
3 Number one, the -- Mr. Cochran, as far as you know,
4 this was not a self-certified case, was it?

5 MR. COCHRAN: That's correct.

6 MR. MOORE: And this is a case where the
7 zoning administrator determined what relief was
8 necessary.

9 MR. COCHRAN: I'm not positive on that,
10 because there were two different versions of the
11 applications with respect to height, so I'm not sure
12 at what point the zoning administrator determined it.

13 MR. MOORE: Well, would you acknowledge
14 that there is a letter from the zoning administrator
15 in the file with calculations?

16 MR. COCHRAN: Yes.

17 MR. MOORE: All right. Secondly, you
18 mentioned that the variance was for the height of the
19 building. I believe the variance is for the number of
20 stories of the building. This is a four story
21 building, and the zoning regulations limit buildings
22 in R-5-A districts to three stories, so the variance
23 is for the number of stories, but not for the height
24 itself. The zoning administrator has determined the
25 height, and there's been no appeal of that decision.

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1 CHAIRPERSON GRIFFIS: Are you asking them?

2 MR. MOORE: I am asking him, yes.

3 CHAIRPERSON GRIFFIS: Is that your
4 understanding, Mr. Cochran?

5 MR. COCHRAN: I'm not sure what my
6 understanding is on that particular question. Let me
7 refer to the regulations.

8 CHAIRPERSON GRIFFIS: Well, we can cut to
9 the chase. It was advertised not for a height
10 variance, but for the number of stories. And you're
11 not aware of any appeal of the zoning administrator's
12 ruling on that.

13 MR. COCHRAN: No.

14 CHAIRPERSON GRIFFIS: Nor am I as we are
15 here today. We wouldn't be if there was one.

16 MR. MOORE: No further questions.

17 CHAIRPERSON GRIFFIS: Ms. Marshall, any
18 cross examination of the Office of Planning? Do you
19 have the report? Oh, dear. We'll get you a copy.
20 Ms. Marshall, as the time is moving on, what I'll do
21 is deliver a copy of the Office of Planning report to
22 you, and we would gladly take written submission of
23 any response you have based on that, unless on the
24 oral testimony that you just heard Mr. Cochran outline
25 his report, you had any cross examination questions

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1 that might be answered of him currently. Do you have
2 any questions of him? Okay. You've indicated that
3 you would like to receive the report to review it, and
4 also to look at any of the specifics dealing with the
5 height of the project. Is that correct? And the
6 what? Number of stories. Very well.

7 MEMBER ZAIDAIN: Well, just to make sure
8 that I'm clear, from the record from July, it seems
9 like the height according to the ZA's certification in
10 the letter was fine. It's 38 feet, and there's 40 in
11 the zone. Am I correct?

12 CHAIRPERSON GRIFFIS: Yes.

13 MEMBER ZAIDAIN: And the issue is strictly
14 stories.

15 MR. MOORE: Yes, sir, you are.

16 MEMBER ZAIDAIN: Which is an interesting
17 case to me, but that's where we're at, so I guess
18 there's no outstanding issue with OP in regards to
19 that?

20 MR. COCHRAN: Okay. The July report
21 stated, "The Board may wish to consider whether the
22 applicant should have pursued the advertised variance
23 from Section 400's height limits in an R-5-A zone. A
24 variance to exceed the number of stories permitted in
25 an R-5-A zone was advertised; however, neither the BZA

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1 nor the applicant pursued this in correspondence or
2 the pre-hearing statement. See memorandum for Zoning
3 Administrator in the case record."

4 It appeared at that point to OP that the
5 applicant may have been appropriately assumed or been
6 led to believe that in permitting a structure rise to
7 40 feet or three stories, Section 400.1 permits a
8 structure to rise to the less restricted, not as is
9 this case, the more restrictive of these. The
10 applicant had previously described the building as
11 being four stories in its application, but does not do
12 so in its pre-hearing statement. The applicant did
13 describe it as being four stories in the testimony
14 today.

15 The applicant may have measured the height
16 of the building from an inappropriate means. This is
17 where I think OP -- where I was wrong in writing this.

18 The applicant may have measured the height of the
19 building from an inappropriate mean finish grade
20 level, and may therefore require a variance from the
21 R-5-A zone's 40 foot height limit. The building may
22 be measured as closer to 43 feet rather than 38 feet
23 high, depending upon the interpretation.

24 MEMBER ZAIDAIN: Okay. Well, that should lead
25 us to what we requested from the applicant in July,

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1 which you said was Exhibit 49, which I don't believe I
2 have in my file, and I'm going to need to track down.

3 Can anybody find that quickly? The answer is yes.
4 Well, I'm not going to hold things up here in reading
5 this, but we can move on. I mean, I'm just clarifying
6 issues here. I don't think I'm raising anything that
7 should hold up the process here.

8 CHAIRPERSON GRIFFIS: Very well. Let's
9 move on to other government reports. We don't have
10 any official other government reports. We do have a
11 letter of support, Exhibit number 28, from the Office
12 on Aging. Well, I guess that is actually -- just I'll
13 make note of that. Ms. Marshall, do you have a copy
14 of that letter? Okay. I'm going to be going through
15 quite a bit of submissions, formal submissions, and I
16 would suggest we will try and make copies of
17 everything I mention. But I'd suggest before you
18 leave this evening that you stop in and talk to the
19 Office of Zoning Staff and pull the file, and make
20 copies, and make sure you have copies of absolutely
21 everything that's in the file that is pertinent to
22 you. That's it in terms of government reports,
23 outside of the ANC. Is anyone else aware of other
24 government reports or submissions?

25 MEMBER ETHERLY: Did we reference, Mr.

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1 Chair, the letters of support from various and
2 assorted council members? I have as reflected three
3 letters, one from Council Member Catania, one from
4 Council Member Mendelson, one from Council Member
5 Brazil. The Mendelson letter was at Exhibit 29, the
6 Brazil letter was at Exhibit 31, and apparently we had
7 three separate letters from Mr. Catania at Exhibits
8 24, 30 and 40 in the record.

9 CHAIRPERSON GRIFFIS: Very well. Yes?

10 MS. MARSHALL: I did not receive the
11 submission of the 29th from Mr. Moore either. I did
12 not receive that.

13 CHAIRPERSON GRIFFIS: The 29th. What was
14 the submission?

15 MS. MARSHALL: It was -- the submission
16 was supposed to be here --

17 CHAIRPERSON GRIFFIS: Oh, indeed.

18 MS. MARSHALL: -- on the 29th. I called
19 down. They said it hadn't been sent in.

20 CHAIRPERSON GRIFFIS: Perhaps Mr. Moore
21 has copies as we speak.

22 MS. MARSHALL: The last one we had.

23 CHAIRPERSON GRIFFIS: It's Exhibit
24 number --

25 MS. MARSHALL: It was postponed.

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1 CHAIRPERSON GRIFFIS: What's the exhibit
2 number?

3 MR. COCHRAN: Exhibit 49, I believe.

4 CHAIRPERSON GRIFFIS: Okay. Are you
5 finished with it?

6 MS. MARSHALL: So if I could get that
7 today, it would be okay.

8 MR. MOORE: Two things, I'd be happy to
9 supply Ms. Marshall a copy, but page 3 of the letter
10 reflects that a copy was mailed to her first class
11 postage prepaid on that same date.

12 CHAIRPERSON GRIFFIS: Yeah. Well, we're
13 making copies too.

14 MS. MARSHALL: Thank you.

15 CHAIRPERSON GRIFFIS: I lose everything
16 myself. Not that you lost it, I'm just saying --

17 MS. MARSHALL: I didn't lose it because I
18 tried to find Mr. Moore, and he had moved around on
19 me, and I couldn't find him.

20 CHAIRPERSON GRIFFIS: Indeed. Yes?

21 MEMBER ETHERLY: Just as a matter of
22 clarification, Mr. Chair, you wanted clarification on
23 the David Catania communication.

24 CHAIRPERSON GRIFFIS: Yes.

25 MEMBER ETHERLY: We are in receipt of two

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1 separate letters from Council Member Catania, but we
2 have one letter that's duplicated in the record at
3 Exhibit 40 and Exhibit number 30. Those two are both
4 the same July 15th letter, but we do have a June 25th
5 letter from Council Member Catania, as well, also in
6 support.

7 CHAIRPERSON GRIFFIS: Okay. Very well.
8 Thank you for pointing that out. I think that would
9 exhaust the government reports. Let's move on then to
10 the ANC-7B which had filed a memo, which is Exhibit
11 number 3. Do we have an ANC member present? Yes.
12 Did you want to come forward and present --

13 MS. BOYD: Good evening. My name is S.
14 Thetus D. Boyd, and I'm the Commissioner from 7B,
15 specifically 7B-07. It was important for you to
16 understand that we do not object in concept for this
17 facility. It has been for a number of years that
18 we've understood that this community has asked that
19 anything else that goes up in the community would be
20 single family units because this community was dumped
21 on during the commissioner-type era, as was southeast
22 in general, where multiple family apartments, huge
23 monstrosities just tore down and tore up what was a
24 residential beautiful community. And you only have to
25 drive there to see, so it has been, and I've known

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1 this for a long time, that their issue was that
2 anything to go up in that community would be single
3 family homes to bring it back to residential
4 community.

5 Now I do wish to take a couple of moments
6 to speak to the filing of the ANC-7B report. Having
7 become aware of this facility and the community's
8 interest in about 1999, because I then was
9 representing my commission in what was then Y2K. And
10 I have the experience of being in their community. I
11 worked very closely with Mr. Hicks, who at that time
12 was their ANC for that single member district. He and
13 I also shared on one side of the street, on the other
14 side of the street, so I became very familiar with --
15 through Mr. Hicks and through the community what their
16 issues were. And what I wish to say to you today
17 because I'm a stickler for us doing what is right.
18 I'm a stickler that we represent the community's
19 issues, whether or not I agree or disagree, that we do
20 represent their issues.

21 When this came before the commission on
22 whatever given date it was we voted, I knew -- first
23 of all, it was not published. There was no one from
24 Randle Highlands at our meeting, not a single person.

25 It was not on our agenda that day. None of us knew

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1 that this was coming up, none of the commissioners, so
2 when the chair reached back to the single member
3 district person who is different from the one who had
4 been there several years before and asked didn't she
5 have something to present, and she said oh, yes, and
6 came up and presented the motion that we vote on this
7 facility in Randle Highlands.

8 At the point it was necessary, I asked the
9 question because I knew. I said, "Debbie, did the
10 community organization vote on this, what you're
11 presenting to us today"? Because I had real good
12 understanding of what their issues and what their
13 feelings were. And she said, "Yes."

14 I then, at the time we voted, I abstained
15 because there was nobody there. The agenda was not
16 published, and we did not notify this community that
17 this was coming up. Subsequently, an executive
18 meeting after I returned from out of town, I received
19 a packet in my home. I took it to our executive
20 meeting and I brought it up. I thought everybody had
21 gotten one. Comes to find out, I was the only one,
22 and which they again -- I suppose someone informed
23 them that I did abstain. And I abstained clearly
24 because I knew what their feelings were, so I did
25 bring it to their attention.

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1 I said, "Well, this community is against
2 this facility, and they've been against any kind of
3 facility", not the facility, but any kind of multiple
4 building going in their community, because they have
5 so many. And, of course, the past, the immediate past
6 chair said that it had come before us a number of
7 times, and that different persons had presented it a
8 number of times. So I, of course, said to him,
9 "You're saying that it's legal we do it." And I said
10 to him, "Ms. Slagle was legal also, but in my belief
11 is that we go the extra step, when we're bringing up
12 something that is so important to a community, that it
13 is important that we take the extra step to be sure
14 that this community is notified, and duly that it is
15 coming up for us to vote on." That was not the case.

16 That is why I object. They did not know about it.
17 We clearly knew they objected to it.

18 Mr. Hicks who was the former ANC person
19 representing them during most of the time that the
20 meetings and the information was about, clearly
21 understood. He no longer was that person.

22 CHAIRPERSON GRIFFIS: Good. Thank you. I
23 think we're clear on the process. Mr. Etherly.

24 MEMBER ETHERLY: Mr. Chair.

25 MS. BOYD: Also, excuse me one moment.

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1 MEMBER ETHERLY: If I could, ma'am.

2 MS. BOYD: I'm sorry.

3 MEMBER ETHERLY: Just because I think
4 there is a way to address some of the issues that
5 you're raising.

6 MS. BOYD: Okay.

7 MEMBER ETHERLY: You're touching on a
8 number of very critical issues. I'll just -- I'll
9 note for my colleagues that Exhibit number 23 contains
10 the ANC notification to the Board of the ANC's action
11 dated June 26th. Unfortunately, what the communication
12 doesn't contain, however, is specificity as it relates
13 to the actual vote.

14 MS. BOYD: That's right. I noted that
15 too.

16 MEMBER ETHERLY: Which is a component of
17 the submission that needs to be included in the ANC's
18 communication --

19 MS. BOYD: That's right. I was going
20 there just then.

21 MEMBER ETHERLY: -- perhaps to afford it
22 great weight. Also, does not contain the usual
23 language that speaks to due notification, what have
24 you.

25 MS. BOYD: That's right. Thank you.

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1 MEMBER ETHERLY: It could have just been
2 an oversight. We don't know.

3 MS. BOYD: Could have been. It wasn't.

4 MEMBER ETHERLY: Perhaps that might raise
5 the need for, you know, either a return to the ANC for
6 some kind of clarification, or an additional
7 submission which clarifies matters, Mr. Chair. But
8 that, I think, is probably in order.

9 CHAIRPERSON GRIFFIS: Okay.

10 MS. BOYD: And also, sir, I would like to
11 just recommend that when we say we all recognize the
12 importance, that's fine. We do recognize the
13 importance that if it's still to be some place within
14 our community we agree, but we have to have our
15 commission to say we anything. You just don't assume
16 that you're going to write something as
17 representative.

18 CHAIRPERSON GRIFFIS: Okay. Ms. Renshaw.

19 VICE CHAIRPERSON RENSHAW: Just a further
20 point, that the letter from the ANC does not mention
21 the quorum needed, how many commissioners voted and
22 what is the quorum.

23 CHAIRPERSON GRIFFIS: Good.

24 MS. BOYD: We did -- yes, we did have a
25 quorum that day.

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1 CHAIRPERSON GRIFFIS: Well, I think what
2 we're going to is the specific submission, in order to
3 give it great weight it has to be --

4 MS. BOYD: Yes. And as pointed out, how
5 we usually write it, is not written.

6 CHAIRPERSON GRIFFIS: For clarification,
7 you are testifying before us as a single member
8 district commissioner. Is that correct?

9 MS. BOYD: I am as a single member
10 district person who had full knowledge and
11 participated in their meetings.

12 CHAIRPERSON GRIFFIS: I understand. The
13 clarification we're looking for is that you weren't
14 representing the entire ANC.

15 MS. BOYD: No, indeed. No.

16 CHAIRPERSON GRIFFIS: Okay.

17 MS. BOYD: And didn't know you were
18 meeting today. I happened to come down for something
19 else, saw this on the desk and knew that I then had to
20 clear it up.

21 CHAIRPERSON GRIFFIS: Okay.

22 MEMBER ETHERLY: Mr. Chair, if I could.

23 CHAIRPERSON GRIFFIS: Yes.

24 MEMBER ETHERLY: Could you please once
25 again state your name and your single member district?

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1 MS. BOYD: My name is S. T-H-E-T-U-S,
2 Thetus, Initial D as in David, Boyd, B-O-Y-D. And
3 it's 7B-07.

4 VICE CHAIRPERSON RENSHAW: And we note
5 that you are returning to the ANC, so you've been re-
6 elected.

7 MS. BOYD: Yes, ma'am.

8 CHAIRPERSON GRIFFIS: Cross examination?

9 MR. MOORE: Ms. Boyd, when Mr. Grant was
10 here, he testified that single member commissioner for
11 that district, Deborah Davis, was a single member
12 commissioner who represents Randle Highlands has met
13 with the residents on numerous occasions to discuss
14 this particular project, and she in fact voted for
15 that resolution. Is that your recollection?

16 MS. BOYD: I could not tell you
17 specifically whether or not there --

18 MR. MOORE: Is that your recollection, yes
19 or no?

20 MS. BOYD: Is it my recollection that she
21 voted for it?

22 MR. MOORE: Yes.

23 MS. BOYD: I don't remember.

24 MR. MOORE: Thank you.

25 MS. BOYD: I know I abstained.

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1 MR. MOORE: I'll just state on the record
2 that the ANC commissioner was here, testified that the
3 commission did act appropriately, that that letter is
4 in the record, and that the single member commissioner
5 for this particular site was there and supported this
6 application.

7 MS. BOYD: And I said she was --

8 MR. MOORE: That's -- I have no further
9 questions.

10 MS. BOYD: I'd like to answer.

11 CHAIRPERSON GRIFFIS: Well, I give you a
12 moment to address his statement.

13 MS. BOYD: I did state that she was there.
14 She brought the motion to the board at the
15 chairperson's bringing her forward for this
16 presentation or this motion. And I do know that I was
17 one of the persons that abstained.

18 CHAIRPERSON GRIFFIS: Okay.

19 MS. BOYD: For the very simple reason that
20 it was not on the agenda, was not duly notified.

21 CHAIRPERSON GRIFFIS: Right.

22 MS. BOYD: And that the community was not
23 there.

24 CHAIRPERSON GRIFFIS: Okay. Don't go
25 anywhere yet. Ms. Marshall, do you have any cross

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1 examination questions?

2 MS. MARSHALL: Yes. Ms. Boyd, did Ms.
3 Davis ever tell you that she was going to vote no, or
4 that she had voted no?

5 MS. BOYD: No. What Ms. Davis said to me
6 was when I questioned her about this motion, is that
7 you, the community had voted for -- that she had
8 gotten a vote from you for this facility.

9 MS. MARSHALL: Okay.

10 MS. BOYD: Because I specifically asked
11 her, because I knew where you all stood.

12 MS. MARSHALL: Okay. I have another
13 question. When Ms. Davis was at the meeting, did she
14 bring any material there, or any letters, or anything
15 from anyone within our particular site to say that we
16 were against it or for it? Did she present anything
17 when she made the motion on the floor? Any letters
18 from the civic organization, or anyone within that
19 area?

20 MS. BOYD: Nothing.

21 MS. MARSHALL: Did you know that Ms. Davis
22 had received some letters from the civic organization,
23 not against an assisted living facility, but against
24 that type of facility going into a residential area,
25 that we were trying to make a residential area?

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1 MS. BOYD: It was never discussed.

2 MS. MARSHALL: During the period of 1999,
3 when they first purchased this property, were you ever
4 involved in them saying that they were going to have
5 low and moderate single family homes on this site or
6 low and moderate apartment building?

7 MS. BOYD: I don't remember that.

8 MS. MARSHALL: Okay.

9 CHAIRPERSON GRIFFIS: Who is the "they" in
10 that question?

11 MS. MARSHALL: Pardon, what's the
12 significance?

13 CHAIRPERSON GRIFFIS: No. Who is the
14 "they"? You said did they talk to -- did she recall
15 anyone, did they talk about affordable rental units?

16 MS. MARSHALL: I'm sorry. The "they" is
17 the organizations and the neighborhood talking with
18 Ms. Davis, because she was bringing us back the
19 information from the Anacostia -- they were Anacostia
20 then, that they first bought it on their certificate.
21 They said they were going to build --

22 CHAIRPERSON GRIFFIS: So the developer.

23 MS. MARSHALL: Yeah, the developer said
24 they were going to build single family homes. That's
25 what's on their certificate. She was bringing us back

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1 the information to the meeting.

2 CHAIRPERSON GRIFFIS: Good.

3 MS. MARSHALL: And we were going along
4 with them, like she was saying, because that's what we
5 thought.

6 CHAIRPERSON GRIFFIS: Right. No, I
7 understand.

8 MS. MARSHALL: But somewhere along they
9 switched.

10 CHAIRPERSON GRIFFIS: I just wanted
11 clarification of that question.

12 MS. MARSHALL: Okay.

13 CHAIRPERSON GRIFFIS: Very well. Let's
14 move on then to the testimony of people present here
15 today to give testimony in support of the application.
16 Is anyone here in support of the application? If you
17 would come forward, sir. Very well, sir. If you
18 would introduce yourself with your name and address
19 for the record, you can proceed.

20 MR. SLOAN: Good evening, Mr. Chairman and
21 Members of the Board. My name is Ned Sloan, and I
22 reside at 1639 Primrose Road, N.W. in the City. I am
23 the Counsel and the Vice President of D.C. Branch of
24 the NAACP. The NAACP as its meeting of June 27th of
25 2002, unanimously adopted a resolution to support the

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1 proposed Randle Highlands Manor Senior Assisted Living
2 Facility. Many NAACP members and its constituents are
3 elderly citizens in the District of Columbia who would
4 benefit from such a facility. It is NAACP policy and
5 one of our legislative initiatives to support programs
6 for our seniors.

7 Presently, there are no such assisted
8 living facilities in southeast Washington to serve the
9 needs of this group. Thus, the need is great for
10 these under-served senior citizens. This facility
11 will also meet, in part, the need for affordable
12 housing and for low and moderate income citizens in
13 the district.

14 Because there are no assisted living
15 facilities east of Anacostia River, seniors are now
16 living in nursing homes or with relatives. This
17 facility will provide some degree of independence and
18 allow seniors to remain in the area where they have
19 lived, reared their children, where their church and
20 other community resources are located. Without this
21 facility, the NAACP policy of supporting such programs
22 for its senior citizens will be adversely affected, as
23 will the D.C. government's policy for aiding seniors.

24 The Randle Highlands Manor Assisted Living
25 Facility will be the first assisted living facility in

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1 Anacostia. The NAACP supports this facility. The
2 NAACP urges the BZA to approve the proposed Randle
3 Highlands Manor Assisted Living Facility so that it
4 can be brought on line to meet the needs of our senior
5 citizens. Thank you for the opportunity to present
6 the NAACP's views on this matter.

7 CHAIRPERSON GRIFFIS: Good. Thank you
8 very much, Mr. Sloan. Are there questions from the
9 Board Members of Mr. Sloan at this time? Is there any
10 cross examination questions from the applicant, any
11 from the party in opposition?

12 MS. MARSHALL: Yes.

13 CHAIRPERSON GRIFFIS: Please.

14 MS. MARSHALL: Mr. Sloan.

15 MR. SLOAN: Yes, ma'am.

16 MS. MARSHALL: Just some general
17 questions, because you seem to be very active here.
18 Have you ever talked to any of the senior citizens
19 that are couples, husband and wives? Have you ever
20 talked to their children, or their grandchildren of
21 the preference of where they would like to go, or
22 where they would like to see the loved one go?

23 MR. SLOAN: Are you making reference to
24 the people in the particular area, or in the city
25 generally?

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1 MS. MARSHALL: Any elderly person, not --
2 any elderly person. Not Ward 7, it could be anywhere
3 in the United States of America.

4 MR. SLOAN: Yes, I have, as a matter of
5 fact.

6 MS. MARSHALL: And what was their
7 preferences?

8 MR. SLOAN: For a senior assisted living
9 facility. My wife is currently in a nursing rehab
10 facility after a serious operation on her back, and we
11 suspect that her next level of treatment would be a
12 senior living assisted living facility, so yes, I have
13 some familiarity with the assisted living facilities.

14 And to answer your question directly, I have talked
15 to persons about this facility, or about the concept
16 of assisted living facility.

17 MS. MARSHALL: I'm not talking about
18 assisted living facilities. Maybe I didn't phrase my
19 question right. What I would like to know is your
20 honest opinion in talking to individuals that are
21 above 65 years of age, talking with their loved ones,
22 and that's their siblings and everyone, what their
23 preference would be if it had to come to the point
24 that they would have to go to be lived in an assisted
25 living facility or to stay home with their loved ones?

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1 MR. SLOAN: I have talked to a number of
2 people who are over 65, who are considered seniors,
3 and they would prefer if they are able, if they are
4 able to maintain their residence, to remain in their
5 residence. If, in fact, they need some assistance,
6 then they would prefer to go to an assisted living
7 facility in the District of Columbia.

8 MS. MARSHALL: I'm missing something.

9 CHAIRPERSON GRIFFIS: I'm not sure. I
10 think I know where you --

11 MS. MARSHALL: Yeah, either I'm not
12 speaking English.

13 CHAIRPERSON GRIFFIS: I'm not sure that --

14 MS. MARSHALL: I understand that everyone
15 would like to maintain their home, and not getting
16 short with you, so don't look at it that way. But I'm
17 saying, for instance, if a 70 year old husband and
18 wife that had been together for years, and she needed
19 to have assistance in taking a bath, or getting her
20 medications or everything, have you ever spoken with
21 people like that, and asked them what their preference
22 would be? Would they rather be away from their
23 environment, their loved ones, their memorabilia and
24 different things, or would they rather be in a nursing
25 home, in an efficiency room where they don't know

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1 anyone, and waiting for somebody to come visit them,
2 or would they rather stay home?

3 CHAIRPERSON GRIFFIS: That's not a heavily
4 cited question.

5 MR. SLOAN: To answer your question, no, I
6 haven't spoken to anyone specifically about that, and
7 I don't want to speculate.

8 MS. MARSHALL: Okay. Now here, and I
9 applaud because I'm a member of the NAACP.

10 MR. SLOAN: Thank you. Good to know that.

11 MS. MARSHALL: Now being that you have the
12 position that you do have, Mr. Sloan, could you tell
13 me if you have had any experience, other than your
14 wife, and I understand and I'm very sorry, but this is
15 rehabilitation. Have you ever had any experience with
16 anyone that would be willing to live away from their
17 spouse, just for some type of assistance in doing the
18 needs --

19 CHAIRPERSON GRIFFIS: Ms. Marshall, I
20 thought I was following the direction of your
21 question, because it seems to me you're trying to get
22 him to answer the fact that if this is built, then
23 people are taken away from their homes.

24 MS. MARSHALL: No.

25 CHAIRPERSON GRIFFIS: Why don't you maybe

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1 get to the heart of the question what you're trying to
2 elicit.

3 MS. MARSHALL: That's not my -- that's not
4 what I'm trying to ask. What I'm trying to ask here
5 is, why is it that an organization would come forward
6 to support an assisted living facility and not have
7 the experience in talking with individuals to know
8 what they would prefer?

9 CHAIRPERSON GRIFFIS: Okay. I think
10 that's a more direct question. Ms. Renshaw, did you
11 have clarification of that?

12 VICE CHAIRPERSON RENSHAW: No, but I have
13 a question in line with your statement, Mr. Sloan.
14 And that is, you state that at your meeting on June
15 27th, 2002 you adopted this resolution in support.

16 MR. SLOAN: Yes, that's correct.

17 VICE CHAIRPERSON RENSHAW: Was a
18 presentation made by the applicant to request the
19 support of your organization?

20 MR. SLOAN: Yes. There was a presentation
21 made by the consultant to the facility, Douglas Sloan,
22 who made an impressive presentation at the meeting.

23 VICE CHAIRPERSON RENSHAW: Did you invite
24 the community representatives to your meeting to also
25 elicit some input from them, so that you would have a

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1 fully rounded presentation?

2 MR. SLOAN: We did not invite anyone at
3 that particular meeting. We have a regular meeting on
4 a monthly basis, and everyone is invited. In this
5 instance, Douglas Sloan petitioned the Board to make a
6 presentation, and we were open to it. And there were
7 some questions raised at the meeting about were there
8 any other views -- any other persons who would
9 express different views, and there was unanimous
10 support for the project.

11 VICE CHAIRPERSON RENSHAW: But in answer
12 to my question, you did not solicit any information
13 from the community, any presentation from the
14 community that might be on the other side of Douglas
15 Sloan's presentation.

16 MR. SLOAN: No. We did not solicit any
17 other views particularly that would be opposed. The
18 operation or how we handled the situation was to
19 listen to the presentation, after he petitioned the
20 Board to make his presentation.

21 VICE CHAIRPERSON RENSHAW: And he is a
22 member of your organization?

23 MR. SLOAN: At that time, he was a member.
24 I don't know if he's a member any more.

25 VICE CHAIRPERSON RENSHAW: Thank you.

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1 CHAIRPERSON GRIFFIS: Anything else?

2 MS. MARSHALL: Yes. To piggyback on what
3 Ms. Renshaw was saying, when you had this meeting,
4 what age groups were there? Did you have a group of
5 seniors, males, females there? Did you have their
6 spouses and their children there? Did you have anyone
7 to pass an opinion?

8 CHAIRPERSON GRIFFIS: Let him answer.

9 MR. SLOAN: Yes, we had a group of seniors
10 there. We have people who are seniors and people who
11 are younger. This is our regularly scheduled meeting,
12 and we do have people who attend the meeting who are
13 from various age groups. And we did have a lively
14 discussion about the pros and cons of the assisted
15 living facility, and we did have full discussion.

16 VICE CHAIRPERSON RENSHAW: Just one last
17 thing, Mr. Sloan. You said that Douglas Sloan
18 petitioned the Board to make the presentation?

19 MR. SLOAN: Yes.

20 VICE CHAIRPERSON RENSHAW: And you are Ned
21 Sloan.

22 MR. SLOAN: That's correct.

23 VICE CHAIRPERSON RENSHAW: Are you
24 related?

25 MR. SLOAN: He's my son.

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1 VICE CHAIRPERSON RENSHAW: Uh-hah. Thank
2 you.

3 CHAIRPERSON GRIFFIS: Any other questions?

4 VICE CHAIRPERSON RENSHAW: And would you
5 also state the relationship of Douglas Sloan to the
6 project?

7 MR. SLOAN: Douglas Sloan, a I understand,
8 was a consultant to the --

9 VICE CHAIRPERSON RENSHAW: Consultant to
10 who?

11 MR. SLOAN: Butch Hopkins, the Development
12 Center, or Development Corporation.

13 CHAIRPERSON GRIFFIS: He did the public
14 relations. Is that correct?

15 MR. SLOAN: Yes, he does public relations.
16 He's in the audience, if you have any questions for
17 him.

18 VICE CHAIRPERSON RENSHAW: Is he sitting
19 in the back?

20 MR. SLOAN: Yes, I think he is.

21 VICE CHAIRPERSON RENSHAW: He raised his
22 hand. Thank you.

23 CHAIRPERSON GRIFFIS: Should we bring him
24 up here and give him a hard time?

25 VICE CHAIRPERSON RENSHAW: Sure.

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1 CHAIRPERSON GRIFFIS: No, it's too darned
2 late.

3 VICE CHAIRPERSON RENSHAW: His dad did a
4 good job.

5 CHAIRPERSON GRIFFIS: Okay. Anything
6 else, Ms. Marshall? Any questions?

7 MS. MARSHALL: No.

8 CHAIRPERSON GRIFFIS: Indeed. Then thank
9 you again, Mr. Sloan, for being here, being patient
10 all afternoon. Anyone else here to give testimony,
11 persons present in support of the application?

12 MS. ALDRIDGE: Good afternoon, and thank
13 you for this opportunity to speak in support of the
14 project at Randle Highlands Manor. My name is Marie
15 Harris Aldridge. I reside at 1801 30th Street, about
16 three blocks from the 27th and R Street project.

17 I have given written testimony before, and
18 I really just came today to reaffirm that I do support
19 the project. And my husband, as indicated in my
20 written testimony, is here with me who suffered a
21 stroke. And I just wanted to reference for my own
22 understanding of what the project would do. And I did
23 mention earlier that my understanding was that this is
24 not a nursing home. It is an assisted living
25 facility. And I draw that distinction because I know

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1 Calvin Robinson in our church down at 3000
2 Pennsylvania Avenue, Pennsylvania Avenue Baptist
3 Church, who has children, but they -- he's now in a
4 nursing home because they lack the ability to take
5 care of him. He's in my husband's deacon family.
6 This would have been an ideal kind of facility for Mr.
7 Robinson. W.T. and Julia Harris, I hope -- I haven't
8 talked with these people about using their name. This
9 was a couple that moved to the Thomas House. He has
10 since passed, and she moved back to the residence on
11 Texas Avenue, but they were looking for affordable
12 assisted living.

13 Art Hunt, a neighbor. I do not know Art's
14 age, like myself, we're both retired. Art suffered a
15 stroke and is now with a sister. I suspect he would
16 have preferred having an assisted living facility. He
17 was a single person.

18 CHAIRPERSON GRIFFIS: I'm sorry to
19 interrupt you, but you just said that you hadn't
20 talked to these people about?

21 MS. ALDRIDGE: Using their name.

22 CHAIRPERSON GRIFFIS: Oh, mentioning their
23 name.

24 MS. ALDRIDGE: But I know first-hand of
25 the situations that I cite.

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1 CHAIRPERSON GRIFFIS: Okay.

2 MS. ALDRIDGE: And Elizabeth Barber, the
3 late Elizabeth Barber now moved to the Thomas House
4 who lived alone, and she did prefer living in the
5 community because she wanted to come to church, but
6 she has since died.

7 The Montagues were neighbors on 30th
8 Street. Because of health problems, they have moved
9 out into Maryland to be where someone can take care of
10 them. And there is another person in our church that
11 I know her sister was looking for an assisted living
12 facility, did find one, but it's in Maryland. But I
13 am in support of such a facility, given the design is
14 aesthetically pleasing, and I base my -- I'm
15 apolitical. I'm not for -- I'm just for what is best
16 for the community in my opinion, and I am a taxpayer
17 with a home. I'm a homeowner.

18 CHAIRPERSON GRIFFIS: Good. Thanks very
19 much.

20 MS. ALDRIDGE: And that's my testimony.
21 And I thank you for listening to me.

22 CHAIRPERSON GRIFFIS: Any questions from
23 the Board? Cross examination, Mr. Moore.

24 MS. ALDRIDGE: I'm a light member of the
25 NAACP, and I'm a financial member of Randle Highlands.

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1 How do you do, Ms. Marshall.

2 MS. MARSHALL: Yeah, we happen to know
3 each other.

4 CHAIRPERSON GRIFFIS: Indeed.

5 MS. MARSHALL: I was sorry to hear about
6 Ms. Barber, and I'm glad you said she elected to stay
7 home. But there was a name that you called that went
8 to a nursing facility because they said it was
9 affordable. Could you tell us how much that cost? I
10 think it was the third name you called, Dietrich
11 someone?

12 MS. ALDRIDGE: No. I mentioned Ms.
13 Barber, who did move to Thomas House, and the Thomas
14 House is not affordable.

15 MS. MARSHALL: And she passed.

16 MS. ALDRIDGE: She passed. Right.

17 MS. MARSHALL: But there was a name that
18 you read.

19 MS. ALDRIDGE: Julia Harris?

20 MS. MARSHALL: No.

21 MS. ALDRIDGE: Art Hunt?

22 MS. MARSHALL: No, you said some -- well,
23 do you know what the Thomas House cost?

24 MS. ALDRIDGE: No, I don't.

25 MS. MARSHALL: So you don't know if it was

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1 affordable or not.

2 MS. ALDRIDGE: Well, it would not be
3 affordable for me. And I'll tell you, my husband and
4 I looked into an assisted living facility sponsored by
5 Marriott. It is a military out in Virginia, and I
6 know it's a little pricey. But it's nice.

7 CHAIRPERSON GRIFFIS: Okay.

8 MS. MARSHALL: Do you know if it's in the
9 range of this facility's price, \$2,500 in the Thomas
10 House?

11 MS. ALDRIDGE: Oh, no.

12 MS. MARSHALL: Is it cheaper?

13 MS. ALDRIDGE: No.

14 MS. MARSHALL: It's more. It cost more.

15 MS. ALDRIDGE: Sure.

16 MS. MARSHALL: Okay. Do you know the size
17 of the rooms of the Thomas House?

18 MS. ALDRIDGE: They are not efficiencies.
19 They're a little larger.

20 MS. MARSHALL: Okay. And there was
21 something else that you said there. You said that
22 your husband had a stroke and did whatever he did, but
23 someone on the deacon's board, and I couldn't --

24 MS. ALDRIDGE: I mentioned Mr. Robinson.

25 MS. MARSHALL: Yes. Yes, Mr. Robinson.

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1 Did he pass?

2 MS. ALDRIDGE: No.

3 MS. MARSHALL: So he's back home.

4 MS. ALDRIDGE: No. The one I'm referring
5 to is not a 30th Street resident.

6 MS. MARSHALL: Uh-huh.

7 MS. ALDRIDGE: I was just citing seniors
8 who had moved --

9 MS. MARSHALL: You know who I thought you
10 were talking about, I'm very sorry. I thought you
11 were talking about Julia Robinson --

12 MS. ALDRIDGE: Yeah, I suspect you did.

13 MS. MARSHALL: Okay. My error. Yeah,
14 because I was going to say he's on --

15 CHAIRPERSON GRIFFIS: Well, thank goodness
16 we have clarification there. Any other questions?

17 MS. MARSHALL: I'm sorry. No. No, I just
18 -- we had the wrong Robinson.

19 MS. ALDRIDGE: It's all right. I'm
20 thankful for the opportunity to have testified.

21 CHAIRPERSON GRIFFIS: Indeed. Perhaps
22 after this is all over, we'll meet for tea and talk
23 about all that, and have some fun. However, and the
24 late time in the evening, let's move this along. I do
25 thank you for staying and giving testimony today.

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1 We are at about 20 of 6. Oh, anyone else
2 in support to give testimony? Other there persons
3 here in opposition to give testimony? This is what
4 I'd like to do.

5 I'd like to have the persons present to
6 give testimony -- you're all set. Thank you. And
7 then we will conclude the hearings today. That will
8 leave us with, Ms. Marshall, your case to be
9 presented, and we will schedule that as quickly as
10 possible. And then we will have closing. Of course,
11 there might be some objection to that.

12 MR. MOORE: Mr. Chairman, I would beg the
13 Board to end this today. This case was first
14 scheduled for July, and we were for whatever reason
15 put on the last -- we were the last case scheduled in
16 July. At the July hearing, we were told by the Chair
17 that we would be the first case on October the 22nd
18 when we were unable to complete the case in July.
19 Instead of being the first case on October the 22nd, we
20 were the last case on October the 22nd.

21 CHAIRPERSON GRIFFIS: Is that true?

22 MR. MOORE: Yes. But for this case, we
23 were told that we could transfer to -- select the date
24 of January the 7th, because we could be the first case
25 on the agenda so that we could get through. We were

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1 not the first case. We were the second case here. I
2 beg you to please conclude this case today.

3 CHAIRPERSON GRIFFIS: Well, for
4 clarification, I make a lot of promises, but I don't
5 set the direct schedule, so maybe you shouldn't listen
6 to me. Okay. We're going to proceed this evening.

7 MR. MOORE: Thank you.

8 CHAIRPERSON GRIFFIS: I will not hear the
9 ending of the case, but will get the transcripts and
10 read the record for the decision-making, so you will
11 be in the able hands of Ms. Renshaw. I will be
12 leaving in ten minutes, so I would like to stay for
13 the testimony. Yes, Ms. Marshall.

14 MS. MARSHALL: Yes. I would like for it
15 to end today and come back, because I have not had a
16 chance to --

17 CHAIRPERSON GRIFFIS: You're finishing
18 today. You're absolutely finishing.

19 MS. MARSHALL: I haven't had a chance to
20 read his submission or the Planning Board. I didn't
21 even know Mr. Jerry Moore had submitted his
22 submissions.

23 CHAIRPERSON GRIFFIS: Okay. No, just for
24 clarification, what we'll do, the public hearing will
25 finish today, which means anything that you want to

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1 say --

2 MS. MARSHALL: And then I'll come back and
3 wind up.

4 CHAIRPERSON GRIFFIS: And then we will set
5 this for decision-making. We'll have ample time where
6 you will be able to submit written responses and
7 clarifications. We're also going to ask you for
8 findings and conclusions, so you can restate basically
9 your case, and also respond to some of the pieces that
10 have come in, as we've evidenced.

11 MS. MARSHALL: So I won't be able to
12 testify today.

13 CHAIRPERSON GRIFFIS: You're going to
14 testify today, and you're going to also have an
15 opportunity to submit written responses. Is that
16 clear, or am I not being clear?

17 MS. MARSHALL: Yeah, that's clear, but
18 being that we didn't have enough money to have an
19 attorney present here, we pay him so I can go in the
20 office and confer with him about the written things.
21 And, I mean, I think that's kind of hindering me,
22 especially --

23 CHAIRPERSON GRIFFIS: Well, I don't
24 understand. What's hindering you?

25 MS. MARSHALL: The submissions that were

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1 given by Mr. Jerry Moore that you asked for when you
2 postponed us.

3 CHAIRPERSON GRIFFIS: Yes.

4 MS. MARSHALL: I never received those.

5 CHAIRPERSON GRIFFIS: Okay.

6 MS. MARSHALL: Okay. And --

7 CHAIRPERSON GRIFFIS: I'm going to give
8 you time to respond to those.

9 MS. MARSHALL: Okay.

10 CHAIRPERSON GRIFFIS: Not orally. It will
11 be in written form.

12 MS. MARSHALL: Okay.

13 CHAIRPERSON GRIFFIS: Is that clear?

14 MS. MARSHALL: Yeah, that's very clear,
15 but I was just saying I didn't think it was fair.

16 CHAIRPERSON GRIFFIS: What would you like
17 me to do about it?

18 MS. MARSHALL: I would like to be able to
19 go and sit down and confer with him, and come back and
20 testify here like I am doing now.

21 CHAIRPERSON GRIFFIS: OH, I see. You want
22 time to review the submissions and --

23 MS. MARSHALL: Yes, I would love to. We
24 don't have that kind of finance in our organization.
25 That's why Mr. Keyes is not here present with us, but

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1 Mr. Keyes does do our writing for us.

2 CHAIRPERSON GRIFFIS: Okay. That's
3 understandable. All right. We're going to take two
4 minutes.

5 (Off the record 5:46 - 5:53 p.m.)

6 CHAIRPERSON GRIFFIS: Okay. We have
7 looked at the schedule to see how we can accommodate
8 this, and noting the fact that things have gone on for
9 so long, and it is helpful for the Board to finish
10 things up. The Board Members have checked their
11 schedule, and they can't continue tonight. We're
12 going to continue through. They have until about 6:30
13 to 6:35, and we're hoping that we can finish
14 everything in that time. And again, what we'd
15 underscore and absolutely give great importance to is
16 the written submissions, and all written submissions
17 would be accepted from the party, of course. And the
18 Board reads all of those before it deliberates.

19 We will set this off for decision-making,
20 and that will be decided before the end of the
21 evening, but it will be ample time for you to address
22 all of that. So with that, if you want to take a
23 minute or so, we'll go to the persons to testify, and
24 then we can turn to you for your case. Good?
25 Fabulous. Thank you very much.

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1 If you would turn on the mic please, and
2 introduce yourself.

3 MR. HOLMES: Mr. Chair and Members of the
4 Zoning Board and Staff, and audience, Mr. Chair, my
5 name is Idus Holmes. I live at 1720 27th Street, S.E.

6 I am just a couple of hundred feet or so on 27th
7 Street beyond this proposed development site.

8 I come to speak in opposition to the
9 proposed structure. Let me speak very clearly with
10 respect to my position as it relates to assisted
11 living facilities for senior citizens. I am not in
12 opposition to those facilities for senior citizens. I
13 will soon be one myself.

14 CHAIRPERSON GRIFFIS: As we all hope to
15 be.

16 MR. HOLMES: Yes. But I am -- by virtue
17 of what is needed in our city, not only for seniors,
18 but also for other residents regarding low or moderate
19 affordable housing, let me focus just on a couple of
20 major concerns. In my statement, I have written down
21 certain things, and I just want to elaborate on those
22 for a couple of minutes.

23 The proposed facility, Mr. Chair and
24 Members of the Board, this facility is entirely --
25 this is entirely out of character with that historical

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1 community. I have lived at 1720 27th Street since
2 1968. I lived there when the old building was
3 occupied. Certainly, we want to have this type of
4 facility in the city, as well as in Ward 7, as it is
5 in some other wards in the city, but this particular
6 site is not suitable for what is proposed here.

7 The old building had three entrances and
8 it was three levels facing 27th Street. The proposed
9 new structure has been turned around to face our
10 street, which is south. Now there is already a curb
11 cut that's on the eastern side next to the alley.
12 That is going to remain based on the testimony that
13 has been given. In fact, you can only park three cars
14 on R Street in front of this building, because there
15 is an all way stop sign four ways there at that
16 intersection. And according to D.C. law as our
17 understanding, you cannot park a vehicle within 25
18 feet of a parking sign, of a stop signal, so I come
19 out of that alley every morning going to work. The
20 drawing looks very impressive, but when you look at
21 the actual site compared to this drawing, that site is
22 not suitable for that type of facility.

23 Now, Mr. Chair, down the street at 1501
24 27th Street near Pennsylvania Avenue, there is a
25 building there. It's about three stories or better

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1 for sale. I don't know how many units in it, but I'm
2 sure there's 25 or 30, or more units in that building.
3 There is a site at Minnesota and 27th Street.

4 Now the testimony that has been presented,
5 it has been stated that we are concerned about being
6 able to make a profit. Now it seems to me that this
7 is what's driving putting this site, this building on
8 that particular site, being able to make a profit. It
9 is not a not-for-profit venture that's taking place,
10 and I think perhaps there are some of those facilities
11 in this city in the D.C. area that are not-for-profit.

12 In other words, they make money to take care of
13 operating costs.

14 The other issue there is 27th Street coming
15 from the Nealor Road, there is a connection coming
16 down Nealor Road through the park at Texas Avenue. It
17 picks up 27th Street and goes into Pennsylvania Avenue.

18 That is a main thoroughfare. It is heavily traveled
19 every day. At any time, in the mornings out there,
20 during the rush hour traffic is backed up from
21 Pennsylvania Avenue all the way back up to Texas
22 Avenue, and I just don't see. That's Texas Avenue,
23 S.E. I just do not see, you know, that this not
24 having a major negative impact upon traffic and the
25 environment, because cars come there and they park.

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1 They're standing trying to get onto Pennsylvania
2 Avenue, so it's just incredible.

3 Often times when I come out to go to work,
4 I have to -- I do a reverse routing. If I can get
5 across Pennsylvania Avenue, I go out to East Capitol
6 Street and come down, because it would take me much
7 too long to get from my house, my apartment at 27 and
8 R Street just down the street to Pennsylvania Avenue
9 in order to come across the bridge. That's a major
10 concern that we have out there.

11 The other concern I have is, now there are
12 single family houses that are already built on 27th
13 Street. I'm concerned about the impact that this type
14 of structure is going to have on those single family
15 dwellings. You know, we have them on 27th Street
16 opposite of this site, and we also have them on R
17 Street.

18 Now the building that the architect
19 pointed out diagonally across the street, which is
20 Pennview Apartment. Now that building is not, in
21 fact, four stories tall. It is three stories tall,
22 but it has daylight basement apartments. Now I
23 suppose that is being counted as the fourth floor, but
24 it's not. It's really a three story building.

25 CHAIRPERSON GRIFFIS: Okay.

26

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1 E-V-E-N-I-N-G S-E-S-S-I-O-N

2 (6:00 p.m.)

3 MR. HOLMES: And this building here based
4 on what they are purporting to do, is going to be
5 entirely out of the historical character with that
6 immediate neighborhood, and so I am speaking, you
7 know, on my behalf and in terms of some other people
8 that I have spoken to. You know, I am respectfully
9 asking that the Board not approve this application in
10 terms of these variances that the applicant has asked
11 for.

12 Now there is much more that I can say, but
13 in the interest of time, I'm going to stop here. And
14 I thank you very much for receiving my statement.

15 CHAIRPERSON GRIFFIS: Good. And thank you
16 very much for being down here this afternoon. If I
17 heard you correctly, your opposition is based on
18 several aspects. One being that the actual massing
19 and architecture is out of character of the
20 neighborhood. There is other sites that are available
21 that could accommodate something like this. You've
22 also stated that you think that the profit margin is
23 driving the site selection in this project, and that
24 there might well be traffic and environmental negative
25 impacts. Is that correct?

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1 MR. HOLMES: That's correct, Mr. Chairman.

2 CHAIRPERSON GRIFFIS: Very good. Any
3 other -- any questions from the Board? Any cross
4 examination, Ms. Marshall?

5 MS. MARSHALL: No.

6 CHAIRPERSON GRIFFIS: You got off scot
7 free.

8 MR. HOLMES: Thank you.

9 CHAIRPERSON GRIFFIS: Thank you very much.
10 Appreciate your being here. Okay. Ms. Marshall, I'm
11 going to turn it over to you, and also to Ms. Renshaw
12 to continue with this. I wish you all good evening
13 and wish I could stay, but cannot.

14 MS. MARSHALL: Okay.

15 VICE CHAIRPERSON RENSHAW: Please go
16 ahead, Ms. Marshall.

17 MS. MARSHALL: Okay. Geraldine Marshall
18 here. I would like to first ask the Board to take into
19 consideration and deny this application based on the
20 fact that we do have community-based facilities within
21 our area, which you got a copy of the House of Ruth
22 that we submitted, which is at 724 27th Street, S.E.,
23 which is right next door to us. And that is an
24 apartment building. House of Ruth is for men, women,
25 for those families that have children. They also have

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1 drug and alcoholic rehabilitation, violent
2 rehabilitation, and they also, if there are children
3 present, they have counseling for the children, and
4 they have, I guess you would call it psychiatric care
5 if they need it. And that's within. They have made a
6 basement of that. And on their web site they talk
7 about how they deliver services to all of the
8 individuals that come within their facility.

9 So with that, and the two that we have up
10 on R Street, which is in the application also, Maggie
11 McBride runs a six or ten bed for mentally retarded at
12 2620 R Street, S.E. That is within 110 feet of the
13 site. Then right in that same block, we have another
14 nursing home that runs for six to ten people at 2509,
15 or either 2510 R Street, S.E. And those two are in
16 the same block.

17 We have another one which you do not have
18 yet. I just got this today, at 2520 Pennsylvania
19 Avenue, S.E. It's a youth residential care home for
20 ten residents, four residents on the first floor, six
21 residents on the second floor that we have within our
22 facility, so I think that our ward and our little
23 small community has done a lot. And I first would
24 like to request you all to dismiss this based on the
25 fact that we do have those community-based facilities

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1 within 200 feet, except the one on Pennsylvania Avenue
2 which would reach the 500.

3 VICE CHAIRPERSON RENSHAW: Very good. Ms.
4 Marshall, have you submitted any kind of a diagram
5 that shows exactly where those facilities are that you
6 have referenced in relation to the applicant's?

7 MS. MARSHALL: No. All we did was sent
8 you the occupancy permit and the license.

9 VICE CHAIRPERSON RENSHAW: But no visual.

10 MS. MARSHALL: No visual. No, we did not.

11 VICE CHAIRPERSON RENSHAW: All right.
12 Because you will supplying some written material to
13 us.

14 MS. MARSHALL: Yes.

15 VICE CHAIRPERSON RENSHAW: Is that
16 something that you would provide?

17 MS. MARSHALL: Yes, I can get the visual.

18 VICE CHAIRPERSON RENSHAW: Okay.

19 MS. MARSHALL: I can take pictures of it.

20 In fact, I don't know because of where they sit on R
21 Street, if I can actually get -- I can go to the
22 corner of their project --

23 VICE CHAIRPERSON RENSHAW: Say a map that
24 shows here is the applicant and here is the reference
25 of 1724 27th Street, et cetera.

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1 MS. MARSHALL: Okay.

2 VICE CHAIRPERSON RENSHAW: All right.

3 MS. MARSHALL: Okay.

4 VICE CHAIRPERSON RENSHAW: Do you have any
5 additional points to make in your --

6 MS. MARSHALL: Yes, I do.

7 VICE CHAIRPERSON RENSHAW: All right.

8 MS. MARSHALL: I would also like to ask
9 the Board to look at the other facilities or sites,
10 and I haven't reviewed this so I don't know what they
11 submitted when you asked them had they looked at any
12 other sites. You asked the question for them to
13 submit other sites. There was an apartment building
14 in the 1300 Block of 27th Street, S.E., sitting on a
15 corner lot all by itself, much larger.

16 Now I think Mr. - I can't remember his
17 name - stated that it might not have come under the
18 same program as the DCHD program, but it was. The
19 sign is still there saying that that is a DCHD
20 property. Then we have another site, and I guess Mr.
21 Holmes referred to it, at 1501 Pennsylvania Avenue,
22 S.E., with a huge backyard, a building sitting there
23 with 40 some units in it with a huge backyard, with a
24 driveway for parking that has been there.

25 The first building in the 2700 Block, in

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1 the 1300 Block of 27th Street has been there since
2 1993, and they started looking in `99. The building
3 1501 Pennsylvania Avenue had to come up in `97,
4 because we had a bank on the corner, and the
5 substation police came there in May of 1997. And they
6 had a lot of drugs, and they closed the building down,
7 and the building set there, so I would comfortably say
8 it was available when they were looking in `99,
9 because it had to be in `98.

10 There is a monstrosity of apartment
11 building that has been sitting there vacant since the
12 90s, brick that sits -- well, it's a lot of entrances
13 so you can count it as you want. Some face Minnesota
14 Avenue, some face 28th Street, some face 29th Street,
15 and some face Anacostia, with plenty of ground. So I
16 would submit to this Board that Ward 7 and seniors
17 probably, and I'm going to use this word because I
18 want to explain it later on, need an assisted living
19 facility, but that was not the only site.

20 Where they want this site to be is in a
21 developed area already. These areas are isolated, set
22 alone. The apartment building that I'm speaking of
23 that takes up Anacostia, 29th, is isolated. It sits by
24 itself. The one at 1501 Pennsylvania Avenue is
25 isolated, nothing detached around it, nothing behind

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1 it, nothing around the sides of it. The property in
2 the 1300 Block of 27th Street is the same.

3 We now are doing a lot of congestion here
4 with putting this there. We are not opposing, and no
5 one in the organization is opposing an assisted living
6 facility. That's not why we're here. We're just
7 saying right here in that little crowded community, we
8 don't need 52 beds, 50 units.

9 Secondly, I would like to say that I said
10 probably because if you look at the studies that I
11 would hear now, the federal government has a long-term
12 care program. I think everybody in the federal
13 government jumped on for two dollars and some cents,
14 and they're offering us just what an assisted living
15 facility is offering us. Insurance companies are now
16 coming out with long care programs. States are
17 fighting now asking for money to be given to the
18 family so they can stay home and take care of their
19 loved ones, because couples want to be together. They
20 don't want to be divided. They don't want to lose
21 their property.

22 And when you're speaking of this
23 generation of being 65 and 70 years old and black,
24 that's the first generation that was able to buy
25 homes. We have educated children with degrees. Our

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1 children are now making us make informed decisions.
2 They're with us. They're looking at us. They're
3 watching us. They want to come back and give back
4 what we have given to them, because they understand
5 what the struggle was all about, so I say to you that
6 assisted living facilities, in my view of what I have
7 seen and read, will be obliterated in about five years
8 time, because with the long-term care programs, with
9 the kids wanting to come back home and help, or bring
10 mom and dad back home, or bring auntie back home, or
11 bring grandma back home to help to take care of her,
12 this facility will be a waste.

13 And I would like to also say that we, as
14 people, with the world being in the situation that it
15 is now, are becoming more closely knit. I work a lot
16 in the same place that they said they had the meeting,
17 St. Luke's Catholic Church, and Carnation Catholic
18 Church, and St. Augustine's Catholic Church. I do
19 nails for the seniors. I do everything for the senior
20 citizens. I try to keep them worked up so that we
21 have had, I guess it's been about eight or nine years
22 ago, people that were playing this fraudulent game,
23 taking them to the bank and getting their money. We
24 had to coach them through that, how to live through
25 that.

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1 Most of them want to stay in their own
2 homes with their own memorabilia around the things
3 that they know and they're familiarized with. They
4 don't want to go to different strange places. They
5 don't want to be in a strange atmosphere. Yes, we do
6 have some cases, and I will not deny, where all family
7 members have died off, and it's a single person out
8 there that probably would need what they're offering,
9 but it's not enormous enough to say that this building
10 should be there.

11 And I would like to advise the Board of
12 another thing. When you look through all of these
13 records, the site was purchased for \$6,500. And on
14 the original receipt, they stated that they were going
15 to build, and they came to the organization and said
16 they were going to build single family affordable low
17 and moderate income homes, or an apartment building.
18 Somewhere along the line they changed that, and it got
19 -- I think the next report we got, it was going to be
20 a 39 bed. Then it went from a 39 bed to a 42 bed or
21 something like that. I might not be punching the
22 numbers exactly right. Then it got up to 50. And
23 each time we opposed, and we opposed.

24 As I am on the record of saying that we
25 have told Ms. Davis to vote no, Ms. Davis did not do

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1 what we sent her to do. Secondly, if you look at all
2 these documents and you go through them, and I'm not
3 going to take up the Board's time to go through all of
4 these right now, which I was hoping I would have time
5 to do, they state in there that we don't have company,
6 we don't have cars. Then every one around there has a
7 car and everyone has company. I cannot walk up and
8 down the street without speaking to my neighbors, and
9 knowing each and every one of them and their children,
10 so their children are coming back to check on them.

11 My son comes back to check on me every
12 other day, so his car is out there parked, you know.
13 And the snowy weather right now, you'd be surprised.
14 And like Mr. Holmes was saying, the traffic is
15 enormous.

16 Now Mr. Moore pointed out that our
17 petition, and you have our letters in file. My
18 petition does have two northwest I think they are.
19 When I knocked on the door on 28th Street, and that was
20 one of the people that got a letter, so it had to be
21 in the 200 mile radius. They were there, so they
22 signed for their parents, and they asked at the time.

23 I don't live here, so I said well, put your address
24 down, not thinking that the petition was going to be
25 scrutinized so much that they had to live there. I

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1 wasn't going to go all the way up northwest and get
2 two people to sign, so they were there visiting their
3 parents.

4 Now the other ones that he's talking
5 about, I will have to go back and submit to you, and
6 go through the names, because the one 27th Street and R
7 Street, and I thought according to the circle in the
8 map that all of it was in a 200 mile range.

9 This facility is truly, and they stated in
10 here in this document that it's for profit, which I'm
11 not denying anyone to make some money. But what I'm
12 saying to you, why would you want to overcrowd
13 something that's already there to make money, and you
14 have numerous sites somewhere else that you can go and
15 have a nice yard for the people if it becomes
16 necessary to have.

17 Next, I would like to say that the letters
18 that were submitted were submitted from tenants that
19 have been around there 20 and 30 some years. They
20 feel that they're homeowners. They might be rentals
21 paying rent each month, but they're not going anywhere
22 if they've lived there that long. They think it's
23 their community. They think it's their residency. We
24 keep our little corner store together. We don't let
25 anyone come in bother them. We are a close knit

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1 organization family-based community, and we would love
2 to keep it that way. So we would ask Mr. Moore and
3 party to please look around and find another site to
4 build this facility in, where it won't be congesting
5 our area.

6 Then I'd like to say that they also stated
7 in this document that they were going to have some
8 type of shuttle bus to come back and forth through,
9 and pick up the -- see, I had all my pages marked, but
10 I can't do everything I want to do - come through and
11 pick up the residents, and there's not going to be any
12 room for this shuttle bus to get through there. We
13 have constant traffic. And in bad weather, that's a
14 snow emergency route, you know, so how are we going to
15 get there? How is -- we have problems sometimes with
16 the fire truck getting up there. How is an ambulance
17 going to get up there? You know, the site needs to be
18 more conducive to the needs of the people that are
19 going to be in there, because if you're going to take
20 and say assisted living facility is for somebody that
21 needs help bathing, help just taking medication, but
22 you're going to put them in an efficiency room. This
23 is where they're going to live, or a shared room
24 because from what I can understand they're going to
25 have some shared rooms, and something happens and an

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1 ambulance has to get up there, then what are they
2 going to do?

3 Or if they want to go out, what are they
4 going to do? They're in an area that's unfamiliar to
5 them. You know, where are they going to go? Who's
6 loved one is going to come passed and get them to take
7 them somewhere, take them to the museum, take them to
8 the movies? You know, so I would ask this Board to
9 please reconsider this application in the area that it
10 is.

11 The variances that they have asked for in
12 here, the attorney has written up a strong document
13 against the variances in here, and I'd ask you to take
14 consideration and read that, and digest it to the
15 point that you would understand that that site is just
16 too small for that facility.

17 When you look at a structure that's going
18 to be over every structure that you, and I know I
19 would like to have some pictures of that so we can do
20 it. I know that that structure is going to block the
21 screened-in back porches on 28th Street apartment
22 buildings. It's going to block the apartment building
23 that faces it, that's turned sideways.

24 According to what I read, when that
25 building goes up, it's going to come all the way out

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1 to the sidewalk on 27th Street. It's going to meet the
2 sidewalk because when they turn the building around to
3 R Street, according to what little I know about it and
4 understood, they had to meet the eight inches back off
5 of the sidewalk, but they didn't have to do it when
6 the building got turned around on 27th Street, so it's
7 going to come all the way out to the sidewalk. And
8 all of our buildings that are on 27th Street and R
9 Street, and Texas Avenue have that eight inches from
10 the sidewalk, because you could stay in the one
11 building and see all the way up and down the street,
12 because all of them are in a straight line. You know,
13 you can see straight up and down the street because
14 all of them are in a straight line. This is going to
15 be thrown out of the line.

16 And I want to say something about myself
17 here, maybe it's not important. I get emotional
18 sometimes when I think about it. The way I was
19 raised, no family member would ever in our family, I
20 don't care if it was a distant cousin, would go to an
21 assisted living facility. I couldn't have a meal not
22 knowing that my brother didn't have one. I don't
23 truly see the floor ratio and mathematically I
24 couldn't do it, but I looked at the size and walked it
25 off, and it's about the size, I think, of a small

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1 single hospital room. I don't think for \$2,500 you
2 should put anyone in there. And I'm being as frank as
3 I possibly can.

4 I don't think what they're offering is
5 worth \$2,500. When you talk about giving them a small
6 refrigerator, and a microwave, and a place to eat, or
7 a place to have a little company, or have their little
8 parties and everything, you're not talking about 50
9 people being able to have family over for Christmas
10 dinner, the whole family. You're not talking about.
11 You're not giving seniors what they worked for, what
12 they've earned. You're not giving them back the love
13 that they need.

14 They need nurturing at this time in their
15 life, so I'm just saying to you for assisted living
16 facility you need a larger lot where you can give
17 people, like she was talking about the Thomas House,
18 you could give them a larger room. My 94 year old
19 friend, Josephine Chase of St. Augustine's Church,
20 only moved off of 16th Street not because she couldn't
21 take care of herself. It was because she said oh,
22 I've got to go. She called me up and said come up
23 here and get some of my books, anything you want.
24 I've got to go. I can't take them where I'm going. I
25 said, "Ms. Chase, where are you going?"

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1 She left because Hispanic people were
2 there, and she got fearful on the elevator because she
3 couldn't understand what they were saying. And the
4 maintenance men were coming in and she couldn't talk
5 to them, so that's the only reason why she moved away.

6 They don't want to move out of their house.

7 My aunt was an invalid in her home, and we
8 had to go every day. She refused to move, but we went
9 and we took care of her every day because she didn't
10 want to be in a strange place. She wanted to stay in
11 her own home. And I have talked with seniors, and I
12 work with seniors in every program, and I have watched
13 television. And these programs do exist all over the
14 United States, and two or three states have granted
15 them money to pay the families to come in and take
16 care of them. And I'm hoping that we can do this
17 here.

18 And I'm also asking the Board to listen to
19 what the Mayor is saying. The Mayor is saying he
20 wants more affordable living houses in the District of
21 Columbia for low rent people. This is why he's
22 knocking down all the projects. He's going into Barry
23 Farms. He's taking all of that. He's gone up on Eli
24 Place. He's taken all of that. He's pouring money
25 into this city so people can have affordable homes and

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1 live comfortable, so I ask the Board to please not say
2 that this site is not needed, but this site is not
3 needed where it is. And whatever you need me to bring
4 back and answer, I'll do my best to do that.

5 VICE CHAIRPERSON RENSHAW: Thank you.
6 We'll review that. We have approximately ten minutes.
7 We have to have closing remarks by the applicant at
8 this point, but first I want to ask quickly if my
9 colleagues have any questions of Ms. Marshall at this
10 point. No, no questions. Okay. Any questions?

11 MS. MARSHALL: Oh, yes. I forgot one
12 thing. I'm very sorry. This was given to me. There
13 is a young lady named Betty Graham. She has the
14 Graham Home Health Care. I don't know if you all are
15 familiar with it, at 3230 Pennsylvania Avenue which is
16 in the Penn Mars Shopping Center. Her phone number is
17 202-581-5150. She will come into your home for \$10
18 per hour and do whatever is needed, but you must at
19 least sign up for two hours.

20 VICE CHAIRPERSON RENSHAW: Well, Ms.
21 Marshall, we can't give a commercial for this
22 individual.

23 MS. MARSHALL: Oh, no.

24 VICE CHAIRPERSON RENSHAW: But it's good
25 to know that she is available.

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1 MS. MARSHALL: No, what my point is - I'm
2 sorry, maybe it did sound like that. But my point is
3 here, they are making more available things to come in
4 the home and help seniors. That's where I was going.

5 She's a licensed CPR, Food Service and all that, so
6 she has branched out, and she comes -- she's listed in
7 D.C. Employment Service, and she has Medicare and
8 Medicaid. And she has now branched out and started
9 another one on H Street. So what I'm saying to you,
10 that these types of things are popping up all over to
11 help seniors so they can stay in their homes. That's
12 my point. I shouldn't have went on with the address
13 and phone number. I'm very sorry, but in case you
14 wanted to check it.

15 VICE CHAIRPERSON RENSHAW: Your point is
16 well taken.

17 MS. MARSHALL: In case you wanted to check
18 it, that's what I was given.

19 VICE CHAIRPERSON RENSHAW: Well, thank
20 you.

21 MS. MARSHALL: But this is what I'm
22 saying, because people are here and people want to
23 stay home.

24 VICE CHAIRPERSON RENSHAW: Well, thank you
25 for your presentation today, and we take it to heart.

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1 We will review your commentary and also submissions.

2 Now, Mr. Moore, I think it is your time for closing
3 remarks and cross. Do you have any --

4 MR. MOORE: Do I get an opportunity to
5 cross?

6 VICE CHAIRPERSON RENSHAW: I just said
7 that.

8 MR. MOORE: All right. I just have one
9 question. Ms. Marshall, would you be in favor of an
10 assisted living facility that was smaller at this
11 location?

12 MS. MARSHALL: Answering for myself,
13 that's a two-fold question. In speaking for the
14 people that I got the party status for, I would say
15 yes, they would go along with it, if it was in a
16 structure of 20 to 25. And I'm answering you that way
17 because I'm trying to remember exactly what they said,
18 because you know, I am speaking for them also.

19 MR. MOORE: You talked, Ms. Marshall,
20 about buildings being out of line, and buildings
21 having too much traffic, generating too much traffic
22 for that particular location. Are you familiar with
23 th matter of right regulations of the zoning
24 regulations?

25 MS. MARSHALL: No.

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1 MR. MOORE: If I told you that -- wait a
2 minute. If I told you that I could put, or an owner
3 could put an apartment building back at that location
4 with 39 units of apartments, would you be in favor of
5 that?

6 MS. MARSHALL: Well, I can't say whether I
7 would or not, because you said it was --

8 MR. MOORE: Well, that's what I'm asking
9 you.

10 MS. MARSHALL: Well, wait a minute. May I
11 finish? You said it was a 39 unit from the beginning.
12 You said the project was established at 39 units. I
13 was living there. When I moved there, the apartment
14 was dead, so I don't know how many was in there, but I
15 think you said it was 39 units, so I don't see nobody
16 opposing 39 units.

17 MR. MOORE: Apartments at that location?

18 MS. MARSHALL: If that's what you all said
19 was there at first.

20 MR. MOORE: Then you wouldn't have -- you
21 have no opposition to a matter of right apartment
22 house being there. Is that correct?

23 MS. MARSHALL: What do you mean when you
24 say "a matter of right"?

25 MR. MOORE: An apartment house being

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1 there.

2 MS. MARSHALL: No, I have no objection to
3 an apartment.

4 MR. MOORE: Then your objection is to an
5 assisted living facility being there.

6 MS. MARSHALL: No. My objection --

7 MR. MOORE: What's the difference?

8 MS. MARSHALL: Okay. My objection was 50
9 to 52 and four stories. Now according to -- and if
10 you give me a chance to go through here, at the bottom
11 of one of these pages it said 22 to 25 units. Okay?
12 In the record, so now I don't know if it was 39 or
13 not.

14 MR. MOORE: I'm asking --

15 MS. MARSHALL: I just go by what you said.

16 Now on page 4 of your document, "Statement in Support
17 of the Application of the Randle Highlands Manor
18 Limited Partnership", down here at the bottom, the
19 building at 21,057 square feet contains 50 percent
20 more variance of zone envelopes permitted on the
21 information believed. It contained 39 apartment
22 units. So if you say it was 39, it was 39.

23 MR. MOORE: No further questions.

24 VICE CHAIRPERSON RENSHAW: All right.

25 Thank you.

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1 MS. MARSHALL: I don't know. I didn't
2 live there at that time.

3 VICE CHAIRPERSON RENSHAW: Ms. Marshall,
4 Mr. Moore has stated no further questions right at
5 this point. I just want to say that how long -- or
6 ask Mr. Moore how long he is going to take in his
7 closing?

8 MR. MOORE: About seven minutes.

9 VICE CHAIRPERSON RENSHAW: Seven. All
10 right. You're on because we have to --

11 MR. MOORE: Let me start.

12 VICE CHAIRPERSON RENSHAW: You're on.

13 MR. MOORE: Thank you, Madam Chairperson,
14 Members of the Board, this has been a long hearing
15 process and we thank you for your time and close
16 attention to our presentation. The applicant has
17 tried very hard to put a strong case into the record
18 and earn each of your votes to approve this
19 application to facilitate the development of the first
20 low and moderate income assisted living facility in
21 the Randle Highlands neighborhood. The effort to make
22 this facility a reality for the elderly residents of
23 that community has been deliberate and honest, and not
24 easy.

25 Even until today, despite the enormous

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1 efforts on the part of the applicant, there have been
2 an active few who insist they are still unpersuaded of
3 the merits of this wonderful and necessary project.
4 Please know that this result comes in spite of the
5 applicant's continuing efforts to be forthcoming with
6 information responsive to the concerns of the
7 neighborhood as a whole, and an active practitioner of
8 community service.

9 Nonetheless, we are pleased, fortunate and
10 gratified that those who have been persuaded of the
11 merits of this project, including Advisory
12 Neighborhood 7B, including the Mayor, and including
13 the Office of Aging. Those people represent all of
14 the adjacent and nearby property owners, and they have
15 voiced their opinions into this record.

16 Madam Chairperson, there has been a
17 sufficient showing here that the applicant is
18 qualified for the special exception and variance
19 relief that is required, and this showing is
20 consistent with recent cases that the Board has made
21 to grant area variances. I would invite the Board's
22 attention to case numbers 16929, 16940, 16943, 16949,
23 all decided in the last three months of this year in
24 which the Board has decided unanimously to grant lot
25 area and lot occupancy variances to people who come to

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1 the Board and ask for them. Those are on summary
2 orders.

3 On more detailed orders, cases that are
4 contested, I would invite the Board's attention to
5 case number 16815, decided on June the 11th, 2002 by a
6 three to nothing vote, where the Board noted the
7 support of the Office of Planning and the ANC. It
8 concurred that the existing building is not suitable
9 for a matter of right residential use, that the
10 proposed use is consistent with the zoning regulations
11 and city policy, that they heard testimony and
12 credited testimony that developing the site in a
13 manner consistent with the zoning regulations would be
14 extremely difficult, and that the practical difficulty
15 was not created by the property owner. And the Board
16 favorably noted the developer's voluntary reduction of
17 the size of one of the variances.

18 In case number 16930, where area variances
19 were sought for FAR height, off-street parking and
20 loading, the Board decided that there was a practical
21 difficulty in the small size of the lot and the
22 confluence of several factors being the narrow size of
23 the lot, triangular size of the lot was sufficient to
24 grant an area variance. And the Board also noted that
25 the applicant is unable to economically construct any

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1 building on the site due to the size and configuration
2 of that site. And the Board voted five to nothing on
3 October the 22nd, 2002 in case number 16930 to grant
4 the area variances that had been requested.

5 But more important to that, in case number
6 16838, decided April 2nd, 2002, there was an
7 application for a lot area and lot occupancy variance
8 at 717 and 719 Fifth Street, N.W., an R-4 zone. In
9 that case, the Board decided unanimously, citing Tyler
10 versus the Board of Zoning Adjustment, holding that
11 proof of economic burden is relevant to the grant of
12 an area variance where the applicant is not merely
13 seeking the most profitable use, but faces difficulty
14 financing any improvements on the property without a
15 variance.

16 In addition, the Board found that in order
17 to permit an economical development, the proposed
18 development must be allowed to be made, but the
19 development cannot be built without the need of an
20 area variance, then such would justify a practical
21 difficulty supporting the area variances. These are
22 unanimous decisions on the part of this Board to grant
23 area variances in the circumstances that are in the
24 record and before this Board.

25 The record is complete that we have met

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1 the burden for a special exception for an area
2 variance in so far as lot occupancy, for area variance
3 in so far as the stories of the building. And we
4 would ask the Board to rule accordingly, in accordance
5 with its decisions that I have cited in the record.

6 This has been a long case. We thank you
7 for your time and patience in listening to us, and we
8 will submit as the Board has requested.

9 VICE CHAIRPERSON RENSHAW: And you're
10 within time, two minutes to spare. Good work. We
11 thank all of you who have participated in this case.
12 It has been a long period of time, but we are now
13 finished with it.

14 We have some written submissions that are
15 going to be accepted from the parties. Mr. Moy, do
16 you want to go through those, please.

17 MR. MOY: Yes. Staff's listing shows from
18 the applicant some additional information or
19 discussion on the ratio of the interior common space
20 with the living space. From the ANC-7B, clarification
21 on more specifics of how they voted at their ANC
22 meeting with regard to the case application. From the
23 opponent of the party, to provide additional pictures
24 of the site, and I believe there are other requests
25 that the Board --

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1 VICE CHAIRPERSON RENSHAW: Ms. Marshall
2 was going to supply a map showing these other
3 facilities in relation to the applicant. Just kind of
4 bullet where things are located. Anything else?

5 MEMBER ETHERLY: I might suggest, Madam
6 Chair, related to the map that Ms. Marshall will
7 provide of additional or neighboring community-based
8 residential facilities or other types of facilities,
9 there was a reference to that issue in the Office of
10 Planning report that looked specifically at whether or
11 not there were additional facilities within a certain
12 radius. And the Office of Planning report was fairly
13 clear that there were not, so it might be useful for
14 once that submission is made, if the Office of
15 Planning wants to take a look at that just to confirm
16 the assessment that they made in their original
17 report. That might be helpful.

18 So once again, Mrs. Marshall is going to
19 provide a map outlining the additional CVRFs that she
20 identified within a 500 foot radius of the subject
21 property. The Office of Planning's report noted that
22 there were not any additional CVRFs within that
23 radius. There were a couple beyond that radius, so
24 there might be a difference in fact there, that it
25 would be helpful to get the Office of Planning's

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1 response to.

2 MR. COCHRAN: What are the dates again?

3 MEMBER ETHERLY: And Mr. Moy I don't
4 think has gone through the dates yet in terms of the
5 submission.

6 MEMBER ZAIDAIN: Are you clarified on the
7 height issue? Do you need to respond to that, because
8 that was -- I mean, we have the submittal. I just
9 want to make sure you're satisfied.

10 MR. COCHRAN: What was on tonight was that
11 it came up even though we were satisfied.

12 MEMBER ZAIDAIN: Okay.

13 MR. COCHRAN: I was trying to say we
14 didn't have a problem with it any more.

15 MEMBER ZAIDAIN: Okay.

16 VICE CHAIRPERSON RENSHAW: All right. I
17 think several of us need Exhibit number 49. Mr.
18 Zaidain, do you need a copy of 49?

19 MEMBER ZAIDAIN: Yeah, I will.

20 VICE CHAIRPERSON RENSHAW: All right. And
21 so will I, so there are two of us here. Mr. Moy, do
22 you want to give dates?

23 MR. MOY: Yes. Okay. What I have, and
24 I'm going to depend on the Board and Ms. Marshall and
25 the applicant, because I'm going to try and facilitate

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1 this. If we hold a decision meeting on January the
2 28th, the morning of January the 28th, it would require
3 submitting the additional information to the Board by
4 January the 14th. Then allowing time for responses to
5 that information with a deadline of January 21st, so
6 it's very tight because these are one week stagings.

7 MS. MARSHALL: Do I need to furnish one to
8 the Planning Board also of the facility.

9 MR. COCHRAN: Yes.

10 MS. MARSHALL: Okay. I do need to.

11 MR. MOY: And then maybe I think what I'd
12 like to do, if all parties agree to hold the decision
13 meeting on January the 28th, then if there is draft or
14 proposed Findings of Fact and Conclusions of Law that
15 could also come in with the deadline of the 21st, as
16 well.

17 MS. MARSHALL: Okay. And all the
18 documents that I did not receive, I can come in by the
19 21st with those written?

20 VICE CHAIRPERSON RENSHAW: And you can
21 reference those.

22 MR. MOY: Yeah, you can reference those.

23 MS. MARSHALL: Okay.

24 VICE CHAIRPERSON RENSHAW: Are there any
25 questions from Ms. Marshall, Mr. Moore?

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1 MS. MARSHALL: Go ahead.

2 MR. MOORE: I didn't understand. Mr. Moy
3 said additional pictures are expected from the
4 applicant of the site. I'm not sure what he means.
5 Would you go over that again, Mr. Moy. The second
6 thing you -- the third thing you asked for was
7 additional pictures of the site from the applicant.
8 I'm not sure what that is.

9 MR. MOY: No, that was from the opponent.

10 MR. MOORE: What pictures are those? I'm
11 sorry.

12 MR. MOY: She had stated earlier in her
13 testimony that she wanted to provide additional
14 pictures of the site and the surrounding area.

15 MS. MARSHALL: Yes, I did. You mean how
16 close the community-based facilities were to your
17 site.

18 MR. MOORE: Okay.

19 MEMBER ETHERLY: And, Madam Chair, just as
20 a matter of clarification, as far as getting
21 clarification from the ANC, will that be something
22 that Staff will endeavor to do with the ANC, or would
23 we ask the applicant to try to secure that?

24 VICE CHAIRPERSON RENSHAW: I believe that
25 the Staff should attempt to get -- to reach the ANC

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1 and do --

2 MEMBER ETHERLY: Okay. And once again,
3 that would just be -- I would hazard a guess that that
4 would just be an additional letter or documentation
5 with the appropriate date of the vote, notice, quorum,
6 that type of thing. Thank you.

7 MR. MOY: Staff will follow through on
8 that. Thank you.

9 VICE CHAIRPERSON RENSHAW: Mr. Moore,
10 additional questions?

11 MR. MOORE: C'est tout.

12 VICE CHAIRPERSON RENSHAW: C'est tout.
13 All right. Ms. Marshall, anything else? All right.
14 Well, we thank you all.

15 MS. MARSHALL: Oh, yeah.

16 VICE CHAIRPERSON RENSHAW: Oh, yes.

17 MS. MARSHALL: One more question.

18 VICE CHAIRPERSON RENSHAW: Ms. Marshall.

19 MS. MARSHALL: Do I have to furnish him
20 with the pictures and all that, submit it to him and
21 to the Board?

22 MR. MOY: Yes.

23 MS. MARSHALL: Okay.

24 VICE CHAIRPERSON RENSHAW: All right.

25 Everybody clear?

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1 MR. MOORE: Okay.

2 VICE CHAIRPERSON RENSHAW: Everybody is
3 clear.

4 MS. MARSHALL: I'm clear.

5 VICE CHAIRPERSON RENSHAW: And Mr. Cochran
6 from Office of Planning is giving Ms. Marshall his
7 card in case there are questions. We thank everybody
8 for a long sit. You've been very patient. It has
9 been a very good presentation. And we're adjourned at
10 6:42.

11 (Off the record 6:43:35 p.m.)

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