

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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SPECIAL PUBLIC MEETING

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TUESDAY

JULY 13, 2004

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:32 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS,	Chairperson
RUTHANNE MILLER,	Vice Chairperson
JOHN A. MANN II,	Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

CLIFFORD MOY,	Acting Secretary
BEVERLEY BAILEY,	Zoning Specialist
JOHN NYARKU,	Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL:

JANICE SKIPPER, ESQ.

I-N-D-E-X

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

2 9:32 a.m.

3

4 CHAIRMAN GRIFFIS: Good morning, ladies
5 and gentlemen. Let me call to order the 13 July
6 2004 Special Public Meeting of the Board of Zoning
7 Adjustment of the District of Columbia. My name is
8 Geoff Griffis. I am chairperson. Joining me is
9 Vice Chair Ms. Miller, and also representing
10 National Capitol Planning Commission is Mr. Mann.

11 This is a special public meeting which
12 indicates to you that we have some business to take
13 care of prior to calling the hearing. I appreciate
14 everyone's patience with us. I imagine we'll get
15 to the hearing very quickly. We have three cases
16 to decide. In public meetings, of course, this is
17 the time for the board to deliberate. There is no
18 testimony. These are cases that we have already
19 heard.

20 I'm going to dispense with a lot of the
21 openings on this because I will inform everybody in
22 my opening of the hearings of those specifics that
23 they should be aware of. But I will say this,
24 several times perhaps. There is an agenda
25 available on the wall where you entered the hearing

1 room. You can pick that up and see what we're
2 going to get through this morning.

3 Also, I would ask that people turn off
4 cell phones and beepers at this time. We are
5 recorded. Whether a special public meeting or a
6 hearing, we're recorded in two fashions and it is
7 important not to disrupt those recordings. Of
8 course, the court reporter is creating the
9 transcript, and we are being broadcast live on the
10 Office of Zoning's website.

11 With that, let me go to Mr. Moy from the
12 Office of Zoning and wish him a very good morning,
13 and ask him to call the first case for decision in
14 the morning.

15 Mr. MOY: Yes, good morning Mr. Chairman,
16 members of the board. The first case for decision
17 in the morning is Application Number 17175 of
18 Douglas Development Corporation/Jemal's Wheel, LLC,
19 pursuant to 11 DCMR § 3104.1, for a special
20 exception from the roof structure requirements
21 under Section 411, and a special exception to
22 increase the building height to 50 feet pursuant to
23 Section 1402, and pursuant to 11 DCMR § 3103.2,
24 variances from the lot occupancy requirements under
25 Section 772, the residential recreation space

1 requirements under Subsection 773.7, the side yard
2 requirements under Subsection 775.5 and 2001.3, and
3 the parking aisle with requirements under
4 Subsection 2117.5, to permit the development of a
5 four-story apartment house in the RC/C-2-B District
6 at premises 1701 Kalorama Road, Northwest (Square
7 2566, Lot 90).

8 On June 29, 2004, the board completed
9 public testimony on the application, and scheduled
10 its decision on July 6, 2004. And subsequently the
11 board rescheduled to July 13, 2004. The board had
12 requested post hearing documents which was
13 submitted by the applicant on June 30, 2004. And
14 that is in your case folders under Exhibit 31. And
15 that completes the status briefing, Mr. Chair.

16 CHAIRMAN GRIFFIS: Thank you very much,
17 Mr. Moy. I appreciate that. It seems more
18 complicated than it actually is, all the variances
19 that we have before us. I think, board members,
20 let's get into this very quickly.

21 Obviously we are very familiar with the
22 application and the requested relief. We have an
23 existing structure. And let me first state, in my
24 deliberation I see a very strong case for the
25 variance from the parking aisle requirement with

1 the relief there. Also, the side yard and the lot
2 occupancy. I think they're very straightforward.
3 The special exception also, attendant to the
4 overlay, which allows a certain amount of height
5 increase based on the provision of a certain
6 product of housing, I think was also very well put
7 together and straightforward, and does meet the
8 test of 1402.1, I believe the section is.

9 As you recall, we did ask for additional
10 submissions in regard to the roof deck as it went
11 to the residential recreation requirement.
12 Clearly, residential recreation requirement in the
13 broad sense is very familiar to this board, and
14 sometimes the difficulty of providing that. We
15 have essentially a unique case made before the
16 board to grant relief of the residential rec. And
17 the submission that we did ask for is the building
18 code analysis, the comparison.

19 What was relayed to us was that the
20 assembly for the roof deck would have been
21 classified in the building code as an 83, an
22 assembly of an 83. And there was some concern by
23 the board that that was possibly not the correct
24 assembly in order to do a code analysis, which
25 would directly impact, first of all, the

1 construction type of the building, or the
2 classification. It would certainly impact the fire
3 rating, and some of the other code provisions.
4 Looking at the code analysis that was submitted,
5 and also the plan, I still have concern, and I
6 think we should say that the board has looked at
7 the building code, the IBC 2000 and also the 2000
8 D.C. Supplemental attendant to it. And at this
9 point, I believe that there is still some question
10 in my mind as to whether the roof terrace would be
11 classified as an assembly A-3 or an assembly A-5.
12 I think if the analysis was to find that it was an
13 A-5, it would be a different scenario in terms of
14 what could be provided regarding the total square
15 footage.

16 So what I'd like to do is first of all
17 put on the record my own deliberation. I think
18 this is a very strong case. However, I would like
19 to give the opportunity to leave the record open
20 for a response from the applicant to this issue of
21 whether the roof terrace is properly classified as
22 A-3 or as an A-5. A-5 of course would allow much
23 more unlimited aspects as it goes to type of
24 construction and requirements.

25 Now, attendant to that is the other

1 issue. If it was provided -- and I'll throw it
2 general -- the specific square footage, if as
3 required in the residential rec this was to be a
4 9,400 plus or minus square feet, the occupancy is
5 calculated by 15 square feet per person. Would be,
6 as I recall, over 600 occupancy for a building
7 that's providing 48 condo units. Clearly there's a
8 balance between building code and reality, let's
9 say. And what the impact of that, of course, is
10 whether the stairs that would access the roof would
11 have to be enlarged to accommodate a population
12 egress of over 600. That seems to me to be a
13 practical difficulty. One could even say a --
14 well, I won't say that.

15 There was in the record, and the
16 applicant was -- put into the record the aspect of
17 if they brought two stairs to the roof on the size
18 that was accommodating the rest of the building,
19 there was an occupancy for that roof deck that
20 could be accommodated in the egress stairs. And it
21 was in the range of the 400. That, as quickly
22 calculated very loosely in my own mind, would
23 provide a roof deck of upwards of 6,000 square
24 feet, maybe 6,400 plus or minus. That seems to be
25 a much more reasonable reduction in the residential

1 rec as here we have a roof that is perfectly, in
2 terms of size, able to accommodate.

3 I know we had talked about whether there
4 would be the possibility of posting an occupancy on
5 it, so you would provide the 9,000 square foot roof
6 deck and then post an occupancy that would limit.
7 That seems to bridge a little bit of, you know,
8 kind of granting based on a building code waiver.
9 I have some hesitancy of doing that. So perhaps
10 specifically and directly to say let's keep the
11 record open. I'd like the applicant to respond to
12 the discussion of whether the assembly A-3 or the
13 assembly A-5 is the proper category for the roof
14 deck. In doing that, if it is found that it in
15 fact is an A-3, we have our record. If it is in
16 fact an A-5, then I think it changes somewhat the
17 relief that's being requested, and I would keep the
18 record open to receive a roof plan that would
19 illustrate the square footage of the roof deck that
20 would be provided.

21 Again, I think as we go into this, of
22 course, if we go for an occupancy above a certain
23 amount as they've talked about, a second means of
24 egress off the roof would be required. I think the
25 special exception for the setback of the roof

1 structure under 411 is easily met here, and I
2 think it is part and parcel of balancing the other
3 requirements of the regulations.

4 So, that being said, we'll keep the
5 record open for address of the board's code
6 analysis comparing the A-3/A-5 use group and
7 occupancy, and allow information attendant to that
8 discussion, and perhaps a roof plan indicating the
9 square footage and the roof deck to be provided or
10 proposed. And I'd like to do this as quickly as
11 possible, but I think we ought to set this for our
12 August 3. And let's put this first on the
13 morning's agenda. I'll take comments from anybody
14 else if there are any.

15 MS. MILLER: Mr. Chairman, I'd like to
16 concur with your assessment of the other variances
17 at issue in this case. I think that they met the
18 test with respect to them, though we need to
19 address that in our final meeting on this case.
20 And the only issue really is the residential
21 recreation requirement.

22 My impression is that we're sending this
23 out one more time because although the applicant
24 made a case in the hearing that the assembly
25 requirements were what was driving the residential

1 recreation space, it wasn't until they filed
2 their submission that we noticed, or certainly
3 focused, on the fact that they were analyzing this
4 as an A-3 assembly, and the board is of the opinion
5 that this may be A-5.

6 Also, I just want to know if we can leave
7 the record open for them to address the issue of
8 posting an occupancy limit, if they so choose to
9 address that issue. That was one of the -- I know
10 that's tied up with a waiver question, a DCRA.

11 CHAIRMAN GRIFFIS: Right. Right, I think
12 that's an excellent point. I think the board is
13 clearly saying that there's an opportunity here
14 without a lot of practical difficulty to provide a
15 large roof deck. And so the record's open for them
16 to explore how they would be able to provide that.
17 But I think it ought to be clear the fact that we
18 fully understand that if they go beyond a certain
19 occupancy it does create a practical difficulty of
20 resizing or increasing the size, one, of an
21 existing stair, two, of increasing the size of a
22 new stair that would just accommodate a roof deck
23 which would be substantial. And that may create a
24 very strong practical difficulty, but certainly not
25 enough to reduce the residential rec requirement

1 from over 9,000 square feet to 750 square feet.

2 MS. MILLER: And my last point is if they
3 go with the A-5 analysis, might we be seeing a
4 revised application as well as a revised roof plan?

5 CHAIRMAN GRIFFIS: What would be revised
6 in the application?

7 MS. MILLER: I'm not sure. I'm posing
8 the question whether --

9 CHAIRMAN GRIFFIS: No, I think there's
10 still the possibility of having a reduction of the
11 residential rec. I mean, if they decide to provide
12 it and they don't need the relief, then that's an
13 amendment to the application that is quickly done.

14 MS. MILLER: That's right. Okay. That's
15 all the comments I had.

16 CHAIRMAN GRIFFIS: Okay. Others?

17 MR. MANN: No, I think you're exactly
18 right. We need to clarify that ambiguity on
19 whether or not it's an A-3 or A-5, and then I think
20 we can make the decision correctly.

21 CHAIRMAN GRIFFIS: Excellent. Okay.
22 Then Mr. Moy, if you wouldn't mind, we'll put that
23 on the schedule.

24 MR. MOY: Yes, sir. This would be
25 scheduled for its decision on August 3 in the

1 morning.

2 CHAIRMAN GRIFFIS: Good. Let's call the
3 next case.

4 MR. MOY: The next case is Application
5 Number --

6 CHAIRMAN GRIFFIS: I'm sorry, Mr. Moy.
7 Before we go into that, let's just set a date for
8 the submission, which would be the Wednesday 3
9 o'clock before the August 3. Or Tuesday, whatever
10 you want.

11 MR. MOY: Would July 27, Tuesday, be
12 fine? Let's do that. Submission is due July 27
13 for the August 3 meeting.

14 CHAIRMAN GRIFFIS: Very well. Let's move
15 ahead.

16 MR. MOY: Okay, good. Application Number
17 17179 of Heritage Foundation, pursuant to 11 DCMR §
18 3104.1 for a special exception to continue an
19 accessory parking lot (last approved under BZA
20 Order 16250) serving single-family dwellings under
21 Section 214, and pursuant to 11 DCMR § 3103.2, a
22 variance to allow accessory parking spaces located
23 elsewhere than on the same lot as the dwellings
24 under Subsection 214.1, a variance to allow the
25 accessory parking spaces to be located more than

1 200 feet from the area to which they are
2 accessory under Subsection 214.3, and a variance to
3 allow the accessory spaces not being contiguous to
4 or separated by an alley from the area to which
5 they are accessory under Subsection 214.4, in the
6 CAP/R-4 District at premises 415, 416, and 424
7 Fourth Street, Northeast (Square 780, Lots 43, 62,
8 and 810).

9 On June 29, 2004, the board completed
10 public testimony on the application and scheduled
11 its decision on July 6, 2004. Subsequently the
12 board rescheduled this decision to July 13, 2004.
13 The board had requested the applicant submit a
14 proposed order, and that was submitted on July 2,
15 and is identified in your case folders as Exhibit
16 38. That completes the status briefing.

17 CHAIRMAN GRIFFIS: Thank you, Mr. Moy.
18 Okay. Quite a mouthful, but we're talking about a
19 surface parking lot here. Let's just jump into it.
20 I think it's very straightforward. We did send it
21 out for a couple of things. I think we got the
22 submission, in terms of clarification, of how the
23 landscaping would be, which is under the provision
24 of our parking lots and how they are to be
25 provided, and the requirements for them.

1 I'd also like to look at and amend the
2 application for the relief which I think has been
3 discussed in the record, but to include 12002,
4 which goes to any special exceptions in the CAP
5 overlay. This is, of course, in the CAP/R-4
6 District.

7 A couple of very specific things as we go
8 through this: that we did have some concern with
9 the fact of allowing the -- let's call it the swing
10 use of this. Once Heritage Foundation was not
11 utilizing it during what has been established as --
12 or we can establish as business hours. They have,
13 in their testimony and in their prior orders,
14 pleasantly allowed residents to park on the surface
15 lot. Of course, in order, and as was testified by
16 the applicant, this would be providing spaces for
17 residents within a 200-foot radius. And we can
18 call those residents or community members. And I
19 think it's certainly a viable use. I think the
20 variances that were put forth have also been met.

21 I'm going to expeditiously get through
22 this due to the lack of time. But clearly we have
23 a unique situation in terms of the center lot.
24 Also in terms of the adjacency of the existing
25 structure. The existing and continued use of this

1 has been set forth. The practical difficulty of
2 utilizing this for anything else has also been
3 presented, and the fact that it is an alley lot,
4 our zoning regulations are very strict in terms of
5 development and how development can happen within
6 an alley lot situation. The access to this would
7 preclude that from happening.

8 In terms of impairing integrity of the
9 zone plan, there was absolutely no evidence that it
10 in fact would. I think although the CAP is fairly
11 stringent on parking lots being established, the
12 accessory of course, which this is, fulfills the
13 restrictions and requirements for the CAP overlay.

14 I'll open it up to anyone else for any
15 comments that they might have, landscaping,
16 anything else of that nature.

17 MS. MILLER: I would just note that the
18 applicant did respond to our concerns about the
19 landscaping on this lot, and came back with a
20 condition for more improved landscaping, and I
21 found that satisfactory.

22 CHAIRMAN GRIFFIS: Anything else?

23 MS. MILLER: I think it also meets the
24 variance test as you articulated it.

25 CHAIRMAN GRIFFIS: Good.

1 MR. MANN: I have a couple of questions
2 about the conditions, though, as proposed. I mean,
3 I don't have any problems with these, but like
4 Proposed Condition Number 4, all parts of the lot
5 shall be kept free of trash and debris. I thought
6 that we were trying to get away from conditions
7 like that because they were already covered by our
8 regulations?

9 CHAIRMAN GRIFFIS: Excellent. That
10 brings up an interesting point. Why don't we make
11 a motion, put it in the action, and we go through
12 the conditions and craft those as well.

13 MR. MANN: Okay.

14 CHAIRMAN GRIFFIS: Let me, before you do
15 the motion, of course, amend and include in the
16 application the discussion that we've had in the
17 hearing, and I believe we will include it in our
18 own deliberation, as 2116.5. 2116.5 says
19 exceptions that are provided in 2117.9, if approved
20 by the Board of Zoning, pursuant to 3104, special
21 exceptions, open parking spaces accessory to any
22 building or structure may be located anywhere on
23 the lot upon which the building or structure is
24 located or elsewhere, except in the case of one-
25 family dwellings, in accordance with 2116.6 through

1 2116.9. Kind of reads like poetry, doesn't it?

2 So smooth.

3 This situation of course isn't under due
4 caution. Of course, we've had the discussion in
5 terms of the community and residents of one-family
6 dwellings utilizing this. And I think the record
7 will show sufficiently that it's appropriate, and
8 that this falls within the test that has been
9 presented in this application.

10 Good. All right. Is there action
11 proposed by the board?

12 (No response.)

13 CHAIRMAN GRIFFIS: Indeed. I would move
14 the approval of Application 17179 of the Heritage
15 Foundation for the special exceptions and the
16 plethora of variances of which we have, including
17 from Sections -- we've got a heck of a list here.
18 And 214.1, 2116.5, 11202 -- actually, I'm just
19 going to add 214, and include 0.3 and 0.4 in that.
20 And I think we'll pick up all the rest in the
21 actual order. I think it's very clear in terms of
22 the sections the variances that we're looking at in
23 regards to this.

24 I think it's appropriate to condition --
25 to add conditions to the motion for second and

1 deliberation. First of all, I would add
2 Condition Number 1 that this would be approval for
3 a period of 10 years from the effective date of the
4 order. And the second would be the number of
5 parking spaces shall not exceed 55. Third would be
6 the lots would be cleaned daily.

7 I'm going to lay all these out and we can
8 of course have discussion on all of them. It
9 should be said also that a lot of these are
10 incorporated from a previous order that has been
11 ongoing. All parts of the lot shall be kept free
12 of trash and debris. Again, a redundant condition
13 in terms of our regulations would require that. I
14 would adopt the Proposed Condition Number 5 by the
15 applicant which would create a liaison person to
16 ensure the lot's operation with a minimal impact on
17 the community. And it continues on, community
18 residents must be able to reach the contact person
19 to express any concerns about operation of these
20 lots. 6, I would include the lots shall be
21 available for use by community members within 200
22 feet after 7 p.m. till 8 a.m., and on the weekends
23 and holidays. Wheel stops should be maintained at
24 the top of each parking space. 8, the landscaping
25 condition, I would include also. I will not read

1 it all here. 9, all areas devoted to driveways,
2 access lanes, should be maintained with material.
3 Of course, that would be all-weather impervious. I
4 think we have the definition of that somewhere. I
5 would also adopt 10, 11, and 12. 13 I think is a
6 critical one, and it is an adoption from a
7 proffered condition of a previous order that
8 signage shall be maintained on the property to
9 include telephone number identifying the Heritage
10 Foundation as the point of contact.

11 And I would ask for a second.

12 MS. MILLER: Second.

13 CHAIRMAN GRIFFIS: Thank you. Discussion
14 on the motion and conditions?

15 MS. MILLER: Mr. Chairman, as I
16 understand, all the conditions are in as of now
17 unless we take any out. And I just want to address
18 the question about whether conditions should be in
19 that are redundant to our regulations. And I think
20 in several cases we have decided to leave them in,
21 in any event, because it's easier for the public to
22 know what the conditions are without having to go
23 back to the regulations. So I would be in favor of
24 leaving them in.

25 CHAIRMAN GRIFFIS: Okay.

1 MR. MANN: I don't have any problem
2 with that. I was just curious as to the direction
3 that we were trying to take with these things.

4 CHAIRMAN GRIFFIS: Right. Yes, and I
5 think the board always is balancing the fact of two
6 things: one, when you have a prior order, do you
7 fundamentally change it when the conditions haven't
8 changed and a lot of the relief hasn't changed.
9 When conditions are proffered by an applicant it
10 puts it into a different light for the board. If
11 we were creating something new, I think our
12 conditions on this order would be substantially
13 different. I think it would serve the same and
14 exact purpose. But that being said, if -- let me
15 take in any other comments. I understand the board
16 as saying that they would move ahead to maintain
17 the conditions as stated. Is that correct?

18 MS. MILLER: Yes.

19 CHAIRMAN GRIFFIS: Excellent. Okay, we
20 have a motion before us. It has been conditioned
21 and seconded. And if there's no further
22 deliberation, I'd ask for all those in favor to
23 signify by saying 'Aye.'

24 (Chorus of Ayes.)

25 CHAIRMAN GRIFFIS: And opposed?

1 (No response.)

2 MR. MOY: The staff would record the vote
3 as 3-0-2 on the motion of the chair, Mr. Griffis,
4 seconded by Ms. Miller, I believe.

5 MS. MILLER: Yes.

6 MR. MOY: Okay, Ms. Miller. We have a
7 board member and a Zoning Commission member not
8 participating on this case. The motion also
9 includes an amendment to include Section 2116.5 and
10 also the conditions as stated in the previous BZA
11 order, except for that the approval period would be
12 for a 10-year period, and also that the number of
13 parking spaces shall not exceed -- was that for 65
14 or 55?

15 CHAIRMAN GRIFFIS: Fifty-five, I recall.

16 MR. MOY: Okay. Good. Would the board
17 care for a summary order?

18 CHAIRMAN GRIFFIS: And a side salad.
19 Yes, I see no reason why we wouldn't waive a
20 regulation to issue a summary order on this. Okay.

21 MR. MOY: All right, thank you.

22 CHAIRMAN GRIFFIS: Let's move on.

23 MR. MOY: The next case is Application
24 Number 17150 of First Baptist Church, Southwest,
25 Inc, pursuant to 11 DCMR § 3103.2 for a variance

1 from the number of stories requirements under
2 Subsection 400.6, a variance from the lot occupancy
3 requirements under Section 403, and a variance from
4 the nonconforming structure provisions under
5 Subsection 2001.3 to allow the construction of a
6 four-story addition, church offices and classrooms,
7 to an existing church building in an R-4 District
8 at premises 710 Randolph Street, Northwest (Square
9 3131, Lots 41 and 833).

10 The staff notes for the board that the
11 board previously amended the application to include
12 relief that would be required from Section 406,
13 which is the open court requirements. On June 29,
14 2004, the board completed public testimony on the
15 application, and scheduled its decision on July 6,
16 2004. Subsequently the board rescheduled its
17 decision to July 13. The board requested -- or
18 rather granted the request of the applicant to
19 provide a letter from a next door neighbor at 708
20 Randolph Street, Northwest. There have been no
21 filings to the record on this. And that completes
22 the status briefing, Mr. Chairman.

23 CHAIRMAN GRIFFIS: Thank you very much,
24 Mr. Moy. This has been a difficult case, I think,
25 looking at this, I can say in my own opinion. I

1 really came at this trying to make this work.
2 There is an awful lot that's being asked of this
3 site, and within this application. And I think the
4 burden, of course, is on the applicant to make the
5 tests. Whether we like the project or not, we have
6 to look directly to that.

7 I want to hear from other board members
8 on this, but I think we really ought to talk
9 specifically about the uniqueness, and also the
10 practical difficulty that is raised. This is
11 clearly a corner existing structure that is coming
12 in above the allowable lot occupancy to begin with,
13 and is requesting additional variance from the lot
14 occupancy. It looks -- well, let me have others
15 discuss and I will jump in, because it also goes
16 down to the fact of whether it would -- well, every
17 prong of the test I think can be addressed in this,
18 and needs to be. Ms. Miller?

19 MS. MILLER: I mean, this case appears to
20 me to be one where the applicant has come forward
21 with a proposal that clearly works for them to meet
22 their needs, but it just does not make the variance
23 test at all. And Office of Planning did a good
24 analysis of this, but I think it's pretty
25 straightforward. With respect to the first prong

1 being uniqueness or exceptional condition,
2 basically the property is irregularly shaped. It's
3 not a rectangle, so perhaps they get that far. But
4 then when you get to the practical difficulty test,
5 they are -- the test is a practical difficulty to
6 use the property in accordance with the
7 regulations. And they're already above the lot
8 occupancy standard. And they are using the lot in
9 accordance with the regulations now. So they don't
10 meet that practical difficulty test. They don't
11 need to do this expansion in order to use the
12 property in accordance with the regulations.

13 And then the third prong is if approval
14 of the application would impair the intent,
15 purpose, and integrity of the zone plan. And in
16 accordance with OP's report, basically they want to
17 add another story and they want to connect to
18 another building. And it creates a massing that
19 could be seen as out of character with the zone
20 plan. This is in an R-4 District, which is also
21 residential. And this type of massing would
22 detract from the residential character, I believe,
23 of the area. So basically that's how I see this
24 case, unfortunately for the applicant.

25 CHAIRMAN GRIFFIS: Others?

1 MR. MANN: I agree. I think the
2 applicant just didn't make the test, and I was
3 unconvinced that there was anything particularly --
4 there was nothing that pushed me over the edge to
5 make a decision otherwise.

6 CHAIRMAN GRIFFIS: Okay. As has been
7 noted, the Office of Planning did recommend denial
8 on this, and actually gives a very persuasive
9 argument of how the uniqueness, practical
10 difficulty, is not met on the several variances
11 that are requested, and also the fact of how it
12 would impair the intent and integrity of the zone
13 plan. That's a difficult hurdle to get over, and
14 clearly I think the board was open to having a very
15 strong case that refuted that.

16 The ANC also was not in support of the
17 application. It was recommending denial. The ANC
18 was open to revisiting all the issues, and of
19 course we did have -- although it's been clearly
20 said before, we don't count votes in terms of who
21 opposes and who supports applications, but the
22 letters of opposition that did come into the report
23 did bring light to several aspects that were of
24 jurisdiction and import to the board, a lot of
25 which were not, and were outside of our concern or

1 jurisdiction. But I do think it's there to
2 inform the entire application, and obviously our
3 deliberation on it.

4 Very well. Others? Anything else? Is
5 there action proposed by the board?

6 MR. MANN: I'd move that we deny the
7 Application 17150. And I don't suppose that you
8 need me to go through the entire thing, do you?

9 CHAIRMAN GRIFFIS: How about -- is there
10 a second to the motion?

11 MS. MILLER: Second.

12 CHAIRMAN GRIFFIS: Thank you, Ms. Miller.
13 Mr. Mann, you have spoken to the motion, we are
14 perfectly open to speaking more on the motion if
15 you are so moved. If not, we can hear from others
16 or move on. Anything in addition? Ms. Miller,
17 anything to add?

18 MS. MILLER: No.

19 CHAIRMAN GRIFFIS: Very well. I think at
20 last, then, we have a motion before us to deny the
21 application. It has been seconded. I think it has
22 shown, the board, in its own deliberation has given
23 -- has looked to the Office of Planning's report,
24 and also been persuaded substantially by a lot of
25 the findings that they have in their analysis. And

1 I think that's all I need to say on this. If
2 there's nothing further, then we have a motion to
3 deny before us that's been seconded. I ask for all
4 those in favor to signify by saying 'Aye.'

5 (Chorus of Ayes.)

6 CHAIRMAN GRIFFIS: And opposed?

7 (No response.)

8 MR. MOY: Staff would record the vote as
9 3-0-2 on a motion of Mr. Mann to deny the
10 applicant, seconded by Ms. Miller. We have also in
11 favor of a motion is the chair, Mr. Griffis. And
12 we have a board member and a Zoning Commission
13 member not participating on this case.

14 CHAIRMAN GRIFFIS: Mr. Moy, is there any
15 other business to conduct in the special public
16 meeting?

17 MR. MOY: No, sir, not today.

18 CHAIRMAN GRIFFIS: Very well, then we can
19 conclude our special public meeting.

20 (Whereupon, the foregoing matter went off
21 the record at 10:08 a.m.)

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