

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY, NOVEMBER 14, 2006

+ + + + +

The Public Hearing convened in Room 220 South, 441 4<sup>th</sup> 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  
RUTHANNE G. MILLER Vice Chairperson  
JOHN A. MANN, II Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

ANTHONY J. HOOD Vice Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY Secretary  
BEVERLY BAILEY Sr. Zoning Specialist  
JOHN NYARKU Zoning Specialist  
ESTHER BUSHMAN, ESQ. Gen. Counsel

D.C. OFFICE OF THE ATTORNEY GENERAL:

SHERRY GLAZER, ESQ.

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OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN  
ARTHUR JACKSON

This transcript constitutes the minutes from the Public Hearing held on November 14, 2006.

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

2 3:05 p.m.

3 CHAIRPERSON GRIFFIS: Good  
4 afternoon, ladies and gentlemen. Let me call  
5 to order our afternoon Public Hearing of the  
6 14<sup>th</sup> of November 2006. My name is Geoff  
7 Griffis, Chairperson. Joining me today is the  
8 Vice Chair, Ms. Miller. Representing the  
9 National Capital Planning Commission with us  
10 is Mr. Mann and representing the Zoning  
11 Commission with us this afternoon is Mr. Hood.  
12 We are anticipating our other Member and I  
13 will announce him when he arrives.

14 However, we're going to move  
15 forward very quickly and deliberately. We do  
16 have an agenda available for you. It is  
17 located on the table where you entered into  
18 the hearing room. You can pick it up and see  
19 what we will be accomplishing in our afternoon  
20 and where you are on that chronology.

21 I would ask that everyone turn off  
22 their cell phones, beepers, blackberrys,

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1 etcetera, at this time, so that we don't have  
2 a disruption of the transmission and/or  
3 attention span of the people giving testimony.  
4 It is very important, actually, to understand  
5 the fact that we have two means of being  
6 recorded and all our proceedings are being  
7 recorded.

8 First is the Court Reporter  
9 sitting to my right on the floor and also we  
10 are being broadcast live on the Office of  
11 Zoning's website. Attendant to the Court  
12 Reporter, I would ask that people take this  
13 time to fill out two witness cards if you are  
14 going to present evidence/testimony to the  
15 Board. Those two witness cards go to the  
16 Court Reporter prior to coming forward.  
17 Obviously, that is to get your name on the  
18 record and spelled correctly.

19 The order of procedure for special  
20 exceptions and variances is as follows:  
21 First, we hear from the applicant, the  
22 presentation of their case. Secondly, we will

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1 hear any attendant Government reports. Third,  
2 we will hear from the Advisory Neighborhood  
3 Commission. Fourth, we will hear persons or  
4 parties in support of an application.

5 Fifth would be persons or parties  
6 in opposition to an application. Sixth,  
7 finally, we will return to the applicant for  
8 any rebuttal witnesses and/or closing remarks  
9 and conclusions.

10 Cross examination of witnesses is  
11 permitted by the applicant and parties in the  
12 case. The ANC within which the property is  
13 located is automatically a party in the case.  
14 I won't go into all of the requirements for  
15 cross examination and the limits. I will  
16 address that specifically, if required, in  
17 each case.

18 The record will be closed at the  
19 conclusion of the hearing on each case. It's  
20 important to understand all of which I'm about  
21 to say and say it very quickly. But we are  
22 creating an official record here. We are

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1 doing so in the open and before the public.  
2 When we close today, finish our hearing, no  
3 other information is accepted into that  
4 record, unless the Board makes specific  
5 provisions to keep the record open.

6 And we will be very specific at  
7 the end of the hearing of what is to be  
8 submitted and when it is to be submitted, if  
9 that record is kept open. The basis of which  
10 this record that we're creating will be of  
11 what we make our decisions on.

12 The Sunshine Act requires us to  
13 have all our hearings in the open and before  
14 the public. We do enter into Executive  
15 Session both during and after hearings on  
16 cases. We utilize these Executive Sessions  
17 for review of the record and at times,  
18 limitedly, to deliberate on cases. That is in  
19 accordance with our rules, regulations and  
20 procedures. It's also in accordance with the  
21 Sunshine Act.

22 Attendant to that, however, we do

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1 ask that if you see Board Members on a break  
2 or in the hall this afternoon during hearings,  
3 please, do not engage us in private  
4 conversations. We certainly don't want to  
5 give the appearance that we are, in fact,  
6 receiving information outside of the public  
7 record and that of which we are embarking on  
8 at this point.

9 We will make every endeavor to  
10 conclude today by 6:00. If we get close to  
11 that, I'll update you on our schedule and I do  
12 appreciate everyone's patience with the Board  
13 as we run way over on the morning schedule.  
14 We had some technical difficulties in getting  
15 started this morning and then we had a huge  
16 caseload.

17 I'll take just a brief moment so  
18 everyone leaves with an understanding. Our  
19 decision days, our Public Meetings are the  
20 first Tuesday on every month, are those  
21 mornings where we deliberate and decide cases,  
22 so it's not totally under our control how many

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1 cases will be put onto the decision.

2 That being said, I won't take any  
3 more time, except to say a very good afternoon  
4 to Ms. Bailey, who is with the Office of  
5 Zoning, on my very far left. Mr. Moy is also  
6 with the Office of Zoning who will be with us  
7 shortly. And let me just say now, let's move  
8 to preliminary matters.

9 Actually, why don't I have  
10 everyone be sworn in by Ms. Bailey. If you  
11 are planning to provide testimony for the  
12 Board today, I would ask you to stand and give  
13 your attention to Ms. Bailey. She is going to  
14 swear you in.

15 MS. BAILEY: Would you, please,  
16 raise your right hand?

17 (Whereupon, the witnesses were  
18 sworn.)

19 MS. BAILEY: Thank you.

20 CHAIRPERSON GRIFFIS: Excellent.  
21 Thank you all very much. At this time, let's  
22 consider any preliminary matters. Preliminary

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1 matters are those which relate to whether a  
2 case will or should be heard today, whether  
3 proper and adequate notice has been provided  
4 or elements of that. If you are not prepared  
5 to go forward with a case today or you think  
6 that a case on our schedule should not  
7 proceed, I would ask you to come forward at  
8 this time and have a seat at the table as an  
9 indication of having a preliminary matter.

10 I'm going to ask Ms. Bailey if she  
11 is aware of any preliminary matters for the  
12 Board's attention.

13 MS. BAILEY: Mr. Chairman, Members  
14 of the Board, to everyone, good afternoon.

15 CHAIRPERSON GRIFFIS: Good  
16 afternoon.

17 MS. BAILEY: Staff does not have  
18 any, at this time, sir.

19 CHAIRPERSON GRIFFIS: Very well.  
20 Not noting any other preliminary matters  
21 attendant to this, why don't we call the first  
22 case?

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1 MS. BAILEY: Mr. Chairman, I will  
2 call the case, but I also would like to say  
3 that the applicant, Craig and Ann Goodman, did  
4 amend the application, so it's under section  
5 223 meeting the rear yard and court width  
6 requirements and so, therefore, I will call it  
7 accordingly.

8 Application No. 17535 of Craig and  
9 Ann Goodman, pursuant to 11 DCMR 3104.1, for  
10 a special exception to allow the construction  
11 of an addition, that's a covered walkway,  
12 connecting an existing single-family detached  
13 dwelling to an existing accessory garage under  
14 section 223, not meeting the rear yard  
15 requirement, that's section 404, and court  
16 width requirements, section 406.1. The  
17 property is located at 3254 O Street, N.W. It  
18 is Zoned R-3 and the property is also known as  
19 Square 1230, Lot 125.

20 CHAIRPERSON GRIFFIS: Excellent.  
21 Thank you very much. Is the applicant here?  
22 Are you ready to proceed? Come forward and

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1 have a seat at the table. Let me also note  
2 and say a very good afternoon to Ms. Bushman  
3 with the Office of Zoning, who is with us, and  
4 also Ms. Glazer with the Office of the  
5 Attorney General, who is on the dias with us.

6 MS. BAILEY: Mr. Chairman?

7 CHAIRPERSON GRIFFIS: Oh, let's  
8 take up the --

9 MS. BAILEY: Party status.

10 CHAIRPERSON GRIFFIS: -- party  
11 status. Is Mr. Thomas present? Would you  
12 mind coming forward? Oh, I'm sorry. Have a  
13 seat at the table. You have two names on the  
14 request for party status. Is that correct?  
15 Are you both here? Excellent.

16 If you would both -- you're  
17 representing. Excellent. Have a seat. And  
18 then is it Mr. Carter? Ms. Carter.  
19 Excellent. If you wouldn't mind coming  
20 forward? Exhibit No. 23 and also Exhibit No.  
21 22. Of course, in preliminary matter, we need  
22 to establish whether we grant party status or

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1 not.

2 We have a request for party status  
3 and there is two forms. I ask everyone at the  
4 table, at this point, you're just going to  
5 state your name and address for the record.  
6 I'm going to start with the applicant, if you  
7 wouldn't mind. You just need to turn your  
8 microphone on also which is right in front of  
9 you. Perfect.

10 MS. GOODMAN: Ann Goodman and my  
11 address is 3256 O Street, N.W.

12 CHAIRPERSON GRIFFIS: Excellent.  
13 Thank you.

14 MS. GOODMAN: And my mother is a  
15 witness.

16 CHAIRPERSON GRIFFIS: Excellent.

17 MS. CARTER: Mary Carter, 1317 33<sup>rd</sup>  
18 Street, N.W.

19 CHAIRPERSON GRIFFIS: Good.

20 MR. VOGT: And Thomas Vogt, 3258 O  
21 Street, N.W.

22 CHAIRPERSON GRIFFIS: Thank you.

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1 Let me ask a couple of quick questions. Of  
2 course, for me and I think fundamentally, the  
3 most critical aspect of granting party status  
4 is establishing that there is some significant  
5 unique distinct impact to you if this was  
6 granted. That's actually the last paragraph  
7 and question on the party status application.

8 Mr. Thomas, would you just  
9 reiterate briefly, quickly what distinct,  
10 unique or significance, more so than the  
11 general public, you would have if this was  
12 granted? How are you uniquely and distinctly  
13 impacted?

14 MR. VOGT: I'm sorry, were you  
15 addressing that to me?

16 CHAIRPERSON GRIFFIS: Huh?

17 MS. GOODMAN: Yes.

18 CHAIRPERSON GRIFFIS: Yes.

19 MR. VOGT: Oh, well, Mr. Griffis,  
20 there is a history behind this case that needs  
21 to be explained.

22 CHAIRPERSON GRIFFIS: No, not now

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1 it doesn't. This is just specifically the  
2 request for party status.

3 MR. VOGT: Well --

4 CHAIRPERSON GRIFFIS: So I'm just  
5 establishing --

6 MR. VOGT: -- we live immediately  
7 next door to the Goodmans.

8 CHAIRPERSON GRIFFIS: Okay. So  
9 the impact on you would be based on the  
10 adjacency to this property?

11 MR. VOGT: That's correct.

12 CHAIRPERSON GRIFFIS: Ms. Carter?

13 MS. CARTER: The same.

14 CHAIRPERSON GRIFFIS: And you --

15 MS. CARTER: Our property is  
16 adjacent.

17 CHAIRPERSON GRIFFIS: So you are  
18 both the flanking adjacent properties. You  
19 about the property lines?

20 MR. VOGT: Yes.

21 MS. CARTER: Yes.

22 MS. GOODMAN: She does not.

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1 CHAIRPERSON GRIFFIS: Okay.

2 MR. VOGT: Oh, you do.

3 CHAIRPERSON GRIFFIS: There it is  
4 then.

5 MS. CARTER: I do.

6 CHAIRPERSON GRIFFIS: Ms. Goodman,  
7 you have comment on that position on each of  
8 these?

9 MS. GOODMAN: Mary Carter does not  
10 abut the property. She abuts a separate piece  
11 of property that is another lot that we own.  
12 So her property does not directly abut the  
13 property at issue.

14 CHAIRPERSON GRIFFIS: Do we have a  
15 site plan that shows this?

16 MS. GOODMAN: Yes, it's on the --  
17 do you have the sheet? I have no idea, the  
18 site plan.

19 CHAIRPERSON GRIFFIS: Ms. Carter,  
20 you're on 33<sup>rd</sup> Street. Is that correct?

21 MS. GOODMAN: Okay.

22 CHAIRPERSON GRIFFIS: And Mr.

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1 Thomas, you're on D Street?

2 MR. VOGT: O Street.

3 CHAIRPERSON GRIFFIS: O Street,  
4 rather. No, if you're going to put anything  
5 in, you've got to give it to Ms. Bailey.  
6 Where is that from? Right. I know, but you  
7 can't approach me. If it's coming in, you've  
8 got to give it, provide it to Ms. Bailey.  
9 Okay. Have a seat and then we'll figure it  
10 out. We'll all grab what we need then. It's  
11 on file in your submission. Is that correct?

12 MS. GOODMAN: Yes, sir. I mean,  
13 it has a site plan in my submission, I think.

14 CHAIRPERSON GRIFFIS: Okay.

15 MS. GOODMAN: Well, she abuts Lot  
16 825 and at issue is Lot 125. I own both lots.  
17 She does not abut the lot at issue. And Bob  
18 the 16 feet 5 inches away from the addition.  
19 Maybe I should submit it over there?

20 CHAIRPERSON GRIFFIS: Are you  
21 finding that? Well, I'm going to use it. So  
22 825 is that sliver lot?

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1 MS. GOODMAN: It's 4 feet wide.

2 CHAIRPERSON GRIFFIS: Okay. Ms.  
3 Carter, based on the location of that, the  
4 elements that you are bringing up you would be  
5 uniquely or distinctly impacted, how so?

6 MS. CARTER: Are we still just  
7 involved with the covered walkway? Is that  
8 what we're involved with now?

9 CHAIRPERSON GRIFFIS: As far as I  
10 know.

11 MS. CARTER: Well, visually, I  
12 wouldn't be impacted, but my concern is that  
13 if one is aware of the history of this case,  
14 the intentions of the Goodmans have always  
15 been to put an apartment over this garage  
16 which is directly in my sight line.

17 CHAIRPERSON GRIFFIS: I see.

18 MS. CARTER: Which would  
19 severely --

20 CHAIRPERSON GRIFFIS: Mr. Thomas,  
21 do you share that concern, that element?

22 MR. VOGT: Absolutely, sir. There

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1 is very definitely a history here that is  
2 important --

3 CHAIRPERSON GRIFFIS: Okay.

4 MR. VOGT: -- for all the Members  
5 of the Board to hear today.

6 CHAIRPERSON GRIFFIS: Ms. Carter,  
7 is there anything that Mr. Thomas or, Mr.  
8 Thomas, is there anything Ms. Carter is  
9 bringing up that is different than what your  
10 concerns are?

11 MR. VOGT: No, our concerns are  
12 the same.

13 MS. CARTER: Concerns are the  
14 same.

15 MR. VOGT: And, Mr. Griffis, my  
16 last name is not Thomas. My last name is  
17 Vogt.

18 CHAIRPERSON GRIFFIS: Oh, I'm  
19 sorry.

20 MR. VOGT: That's okay.

21 CHAIRPERSON GRIFFIS: It's listed  
22 -- I'm reading it down that way.

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1 MR. VOGT: That's okay. I just  
2 wanted to clear it up for the record.

3 CHAIRPERSON GRIFFIS: Say it  
4 again, Vogt?

5 MR. VOGT: Vogt, yes.

6 CHAIRPERSON GRIFFIS: As in --

7 MR. VOGT: Good. Yes.

8 CHAIRPERSON GRIFFIS: Okay. Good.

9 MR. VOGT: Okay.

10 CHAIRPERSON GRIFFIS: Forgive me.

11 MR. VOGT: That's okay.

12 CHAIRPERSON GRIFFIS: All right.  
13 Good correction early on. Is there any reason  
14 why you wouldn't join in a party status then?

15 MR. VOGT: Why we wouldn't join in  
16 a party status?

17 CHAIRPERSON GRIFFIS: Join in a  
18 single request for party status.

19 MR. VOGT: I don't know what  
20 limitations that would place on us. Perhaps  
21 you could explain that.

22 CHAIRPERSON GRIFFIS: Limitations

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1 would be we would ask that there be a single  
2 person conducting cross examination, it be a  
3 one point person of which would present the  
4 issues and elements in the case presentation.

5 On reverse, one might say if there  
6 are two requests for party status that each  
7 have to show unique or distinct aspect, but  
8 each are identical. They may both fail  
9 because of not showing any uniqueness or  
10 distinction.

11 And the other is just for, I  
12 think, administrative clarity and  
13 persuasiveness. Obviously, we won't allow  
14 redundant testimony or case presentation, so  
15 it might be best just to be -- to look at as  
16 a joined party. Add?

17 VICE CHAIR MILLER: I just want to  
18 add. There is not a big difference in this  
19 case, as I would see it, if you join together.  
20 You would just coordinate your participation  
21 in this hearing, so that only one of you would  
22 be cross examining on an issue, for instance.

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1                   You would both be preserving your  
2 rights to a motion for reconsideration,  
3 because you would be both a party. You would  
4 just be joined parties.

5                   MR. VOGT: I think, and correct me  
6 if I'm wrong, Dr. Carter, I think that we  
7 would agree for one person to ask, you know,  
8 cross examination questions, but I think that  
9 we both have statements here today that should  
10 be read.

11                   CHAIRPERSON GRIFFIS: That's --  
12 yes, you wouldn't be precluded from that.

13                   MR. VOGT: And this is catching us  
14 a little off guard. Pardon?

15                   CHAIRPERSON GRIFFIS: You wouldn't  
16 be precluded from that.

17                   MR. VOGT: Okay.

18                   CHAIRPERSON GRIFFIS: I mean, we  
19 can get to that.

20                   VICE CHAIR MILLER: Can I add  
21 something also, because sometimes people  
22 request party status and all they intend to do

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1 really is to make a statement and you don't  
2 need party status to make a statement in a  
3 case. Persons can just make a statement for  
4 the record.

5 MR. VOGT: Okay.

6 VICE CHAIR MILLER: So if you are  
7 given party status, that means you are  
8 entitled to cross examine and put on witnesses  
9 and things like that.

10 CHAIRPERSON GRIFFIS: And you're  
11 also required. It's a full participation  
12 equal to that of the applicant. You're  
13 required to submit anything that the Board  
14 requires of the parties and participants, so  
15 that may even be legal briefings or additional  
16 filings and a full case presentation. As  
17 opposed to just participating as a person, you  
18 provide your testimony, you're crossed  
19 examined and you're done.

20 Is there any change in position?

21 MR. VOGT: I don't know. You have  
22 caught me off guard and, frankly, I'm not --

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1 you know, this is a new experience for me.

2 CHAIRPERSON GRIFFIS: Sure, sure.

3 MR. VOGT: So, you know, I'm  
4 really not familiar.

5 CHAIRPERSON GRIFFIS: Well, just  
6 ask questions if you don't understand anything  
7 that's happening.

8 MR. VOGT: I think both Dr. Carter  
9 and I would like the opportunity to speak  
10 today. We have a whole row of neighbors here.  
11 Not all of them are going to speak, but are  
12 here in our support. Can we reserve the right  
13 to have a joint party status a little later on  
14 or is has to be now?

15 CHAIRPERSON GRIFFIS: No, we're  
16 deciding party status now.

17 MS. CARTER: Questions?

18 CHAIRPERSON GRIFFIS: Really what  
19 is before you is a couple of things. I think  
20 there is a first threshold. Let's step back  
21 a little bit, a first threshold question and  
22 each of you need to answer this.

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1           Do you want to continue to request  
2 party status or do you want to reconsider and  
3 be just a person, the difference being just  
4 very generally put is as a person, you will be  
5 afforded time to give your testimony and then  
6 you're done.

7           As a party, you will be called up  
8 to cross examine all witnesses. You will be  
9 then called to present a case and then, if  
10 there are other requirements by the Board of  
11 additional filings or anything of that nature,  
12 you will also be required or be able to do  
13 that. In the reverse -- well, that's pretty  
14 much it.

15           MR. VOGT: Well, I'm not sure what  
16 the answer is on that.

17           VICE CHAIR MILLER: Can I -- let  
18 me just try to help, you know, just a little  
19 bit further. You can think about what is it  
20 you really want to do, be able to do. Okay.  
21 You are next door neighbors.

22           MR. VOGT: Yes.

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1                   VICE CHAIR MILLER: You are in a  
2 special situation where we would consider  
3 granting you party status. Okay. You can --  
4 if all you want to do is present testimony,  
5 you don't need party status. If you get party  
6 status, you will have the -- you would be then  
7 in the position where you cross examine, where  
8 you could submit filings afterwards, etcetera.

9                   MR. VOGT: That part I don't know  
10 about.

11                   VICE CHAIR MILLER: So it's what  
12 is it that you want to do in this case?

13                   MS. CARTER: We don't have legal  
14 advice here today.

15                   CHAIRPERSON GRIFFIS: You don't  
16 need legal advice.

17                   VICE CHAIR MILLER: No, just what  
18 do you want and then what --

19                   CHAIRPERSON GRIFFIS: What do you  
20 want?

21                   MR. VOGT: We need to present a  
22 history here. We need to be -- we simply need

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1 to be heard out. We need this today. And I  
2 think that should we need to cross examine,  
3 ask any questions, I think we should reserve  
4 that right then.

5 CHAIRPERSON GRIFFIS: Okay.

6 VICE CHAIR MILLER: Okay.

7 MS. CARTER: Okay.

8 CHAIRPERSON GRIFFIS: Good enough.  
9 And you don't have any difficulty in joining  
10 in a single request for party status?

11 MS. CARTER: No.

12 MR. VOGT: No.

13 CHAIRPERSON GRIFFIS: Okay. Ms.  
14 Goodman, position on the now joined party  
15 status? Are you in favor or in opposition?

16 MS. GOODMAN: I would like to be  
17 able to cross examine Mary Carter.

18 CHAIRPERSON GRIFFIS: Right, but  
19 we're just dealing with the party status  
20 application at this point. Do you have a  
21 position on that?

22 MS. GOODMAN: Just that are you

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1 granting party status based on this  
2 application or a former application?

3 CHAIRPERSON GRIFFIS: Okay. We're  
4 just entertaining now the request for party  
5 status for this application.

6 MS. GOODMAN: Well, I don't --  
7 this application has no impact on anyone. I'm  
8 16.5 feet from the closest, from neighbors on  
9 both sides and this application, as it stands,  
10 was about her alleged three story apartment  
11 building being built behind her does not have  
12 any impact on any neighbor, no building,  
13 population density, no light and air issues,  
14 no city services issues, no parking issues.  
15 There are no code issues that this would --  
16 that the current application would have an  
17 impact on anybody.

18 CHAIRPERSON GRIFFIS: Okay.

19 MS. GOODMAN: In fact, most people  
20 can't even see it.

21 CHAIRPERSON GRIFFIS: Understood.

22 Comments?

1                   VICE CHAIR MILLER: I'm wondering  
2 if you two can address the impact of this  
3 application on you.

4                   CHAIRPERSON GRIFFIS: No, we don't  
5 need to --

6                   VICE CHAIR MILLER: No?

7                   CHAIRPERSON GRIFFIS: -- go into  
8 the merits of the impact or go into the  
9 substance of the case. And, in fact, what we  
10 need to do is decide whether, as to the  
11 application that is before us, they would  
12 somehow be uniquely positioned to have impact.  
13 Whether there is impact or not we'll get to,  
14 but I'm not going to hear the case just to  
15 decide party status.

16                   BOARD MEMBER MANN: Mr. Chairman?

17                   CHAIRPERSON GRIFFIS: Yes, Mr.  
18 Mann?

19                   BOARD MEMBER MANN: I'm not  
20 certain that I fully understand your previous  
21 comment there, but what I do have a problem  
22 with or difficulty comprehending is on both of

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1 these party status applications, they seem to  
2 address a project that is not before us.

3 So I don't actually find, from the  
4 information that is presented right here, that  
5 I would be in favor of granting party status.

6 COMMISSIONER HOOD: Mr. Chairman,  
7 I, too, have that same concern and I keep  
8 hearing Ms. Goodman, this application, that  
9 application. What application? The one that  
10 I'm working with is the one, Application  
11 17535. So maybe I'm getting confused here.  
12 Are we talking about two different  
13 applications or is it -- anyway, I don't know.

14 CHAIRPERSON GRIFFIS: I think  
15 there is a previous application that has been  
16 referenced. Okay.

17 VICE CHAIR MILLER: That is why I  
18 wanted them to address it, because what I am  
19 gleaning from the record is that these two may  
20 be in a position where relief granted in this  
21 case may have other ramifications that they  
22 want to address in this case, and that is why

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1 they would be uniquely impacted.

2 But I wanted them to be able to  
3 just address that, because the party status  
4 regulation says how they will be uniquely  
5 affected in character and kind by the proposed  
6 zoning relief.

7 CHAIRPERSON GRIFFIS: Okay.

8 VICE CHAIR MILLER: Okay. Could  
9 you?

10 MR. VOGT: That's very true.

11 CHAIRPERSON GRIFFIS: How so  
12 though? She wants to know details.

13 VICE CHAIR MILLER: Just broadly  
14 speaking that --

15 MS. GOODMAN: They were denied  
16 party status on the first case.

17 CHAIRPERSON GRIFFIS: Okay.

18 VICE CHAIR MILLER: Broadly  
19 speaking, I think that you believe that you're  
20 going to be impacted by the relief --

21 MR. VOGT: Yes.

22 VICE CHAIR MILLER: -- that might

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1 be given in this case. Can you just put that  
2 on the record?

3 MR. VOGT: Can we -- I believe  
4 Mrs. Goodman speaks first with that and then  
5 because --

6 CHAIRPERSON GRIFFIS: No.

7 VICE CHAIR MILLER: No, we're not  
8 going to the whole merits of the case.

9 CHAIRPERSON GRIFFIS: We're not in  
10 the case yet.

11 VICE CHAIR MILLER: Just how --

12 CHAIRPERSON GRIFFIS: We're just  
13 in the party status.

14 VICE CHAIR MILLER: -- you were in  
15 a unique position from the general public to  
16 be impacted by the relief that is at issue in  
17 this case.

18 MR. VOGT: If --

19 MS. GOODMAN: Could you read that  
20 out loud, please?

21 MR. VOGT: If this is granted,  
22 Mrs. Goodman argues that she will have a row

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1 house plus 60 percent occupancy.

2 VICE CHAIR MILLER: From what I  
3 understand, is it that if this is granted,  
4 then it could lead to other things that  
5 would --

6 MR. VOGT: Yes, yes.

7 VICE CHAIR MILLER: -- directly  
8 impact you?

9 MR. VOGT: Yes.

10 VICE CHAIR MILLER: Okay.

11 CHAIRPERSON GRIFFIS: Does that  
12 answer your question?

13 VICE CHAIR MILLER: That answers  
14 my question.

15 CHAIRPERSON GRIFFIS: Mr. Mann?

16 BOARD MEMBER MANN: Isn't that  
17 true of every application that we hear?

18 CHAIRPERSON GRIFFIS: Yes.  
19 However, we still have the same basis of  
20 establishing party status and not -- we don't  
21 need to find whether there is impact, but we  
22 need to find that there is a reason to believe

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1 that there is a distinct and unique impact on  
2 that.

3 So any variance we grant obviously  
4 impacts everyone in the entire city somehow,  
5 whether it be the person that prints it or has  
6 to run the paper, looks at it for -- you know  
7 what I mean? I mean, but it -- phew. I don't  
8 know why this one is so complicated. Mr.  
9 Hood, did you have a comment?

10 COMMISSIONER HOOD: As soon as I  
11 figure what application we're doing, I'm --  
12 that would help.

13 CHAIRPERSON GRIFFIS: Yes, right,  
14 right.

15 COMMISSIONER HOOD: No, I don't  
16 have any comments, but --

17 CHAIRPERSON GRIFFIS: Okay.

18 COMMISSIONER HOOD: -- I'll  
19 reserve mine. Thank you.

20 CHAIRPERSON GRIFFIS: That's good.  
21 Ms. Goodman, I'm going to return to you. Your  
22 position, if I understand you correctly, on

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1 the record is opposing establishing the party  
2 status based on the fact that there is no  
3 impact of the requesting parties?

4 MS. GOODMAN: Well, for Mr. Vogt,  
5 he requested party status for the other case.  
6 He was denied and then this, now he is asking  
7 for party status on this case based on the  
8 other case that he was denied on. So that is  
9 a little confusing to me.

10 CHAIRPERSON GRIFFIS: Well, can we  
11 -- let me set a little bit of the ground rules  
12 here.

13 MS. GOODMAN: Okay.

14 CHAIRPERSON GRIFFIS: First of  
15 all, we don't have the other case in front of  
16 us.

17 MS. GOODMAN: Okay.

18 CHAIRPERSON GRIFFIS: As you are  
19 hearing, there are Members here that have no  
20 idea, knowledge, understanding or might I say  
21 care about the last case.

22 MS. GOODMAN: Okay.

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1                   CHAIRPERSON GRIFFIS: We have been  
2 through no less than 200 cases probably. No,  
3 my God, since that was done, who knows,  
4 hundreds of other cases. The details wouldn't  
5 even be connected. We cannot talk about the  
6 past case.

7                   MS. GOODMAN: Okay.

8                   CHAIRPERSON GRIFFIS: Right now  
9 what we have in front of us is the case.

10                  MS. GOODMAN: Okay. The current  
11 case, I would say as it's 16 feet away from  
12 him, it's only 7 feet high and there is a row  
13 of trees blocking her and him, that it would  
14 have no impact on him at all as the current  
15 case stands and/or as the other case stands,  
16 it was determined that that had no impact on  
17 him at all either.

18                  So I would request that he not be  
19 granted party status.

20                  CHAIRPERSON GRIFFIS: Okay.  
21 Because based on the fact that there is  
22 actually no impact at all.

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1 MS. GOODMAN: On either case.

2 CHAIRPERSON GRIFFIS: On this  
3 case.

4 MS. GOODMAN: Okay.

5 CHAIRPERSON GRIFFIS: All right.  
6 Comments? Where are we?

7 VICE CHAIR MILLER: I would move  
8 to grant party status. The way I understand  
9 it is that this case might involve, without  
10 getting into the merits too much, a conversion  
11 to a row house which would then put that  
12 building in a different category, which would  
13 then possibly allow matter-of-right  
14 development that these neighbors are concerned  
15 about, if I understand this correctly.

16 So I think that they are in a  
17 position in which they are uniquely impacted  
18 by the relief that might be granted.

19 CHAIRPERSON GRIFFIS: Is there a  
20 second?

21 AUDIENCE MEMBER: Yes.

22 CHAIRPERSON GRIFFIS: Sorry, that

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1 would be our role. Mr. Hood?

2 COMMISSIONER HOOD: I'll second.

3 CHAIRPERSON GRIFFIS: Excellent.

4 We have a motion before us. It has been  
5 seconded. Is there further discussion,  
6 deliberation? I note that the motion is to  
7 grant the joined party status, do a single  
8 party and to grant that party.

9 If there is no other further  
10 comments or deliberation, I would ask for all  
11 those in favor to signify by saying aye.

12 VICE CHAIR MILLER: Aye.

13 COMMISSIONER HOOD: Aye.

14 CHAIRPERSON GRIFFIS: Aye. And  
15 opposed?

16 BOARD MEMBER MANN: Opposed.

17 CHAIRPERSON GRIFFIS: Thank you.  
18 Any abstentions? Very well. Mr. Moy, if you  
19 wouldn't mind just quickly recording that vote  
20 or, I'm sorry, Ms. Bailey?

21 MS. BAILEY: Mr. Chairman, the  
22 vote is 3-1-1 to grant party status to the

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1 joint party. Mrs. Miller made the motion, Mr.  
2 Hood second, Mr. Griffis is in agreement. Mr.  
3 Etherly is not present and Mr. Mann is opposed  
4 to the motion.

5 CHAIRPERSON GRIFFIS: Thank you  
6 very much. Okay. That is our preliminary  
7 matter. Now, we will get right into the case.  
8 I'm going to ask you both to have a seat in  
9 back, make yourselves comfortable. This is --  
10 I'm going to run through the chronology again  
11 just so we're all of the full understanding.

12 Ms. Goodman is going to present  
13 her case and all her witnesses. After she is  
14 finished with that -- you folks really need to  
15 pay attention to this, because at the end I  
16 don't want to have questions of time or what  
17 have you.

18 So we're going to have the case  
19 presentation, then witnesses. You're going to  
20 be brought up to do cross examination after  
21 which then we'll go to the Government reports.  
22 The Office of Planning is here. They will

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1 present. They are also able to be crossed by  
2 the applicant and the parties.

3 Then we will go to persons to  
4 provide testimony in favor, persons and  
5 parties in opposition. That's the time where  
6 you will come up and do your case  
7 presentation. Now, you give your case  
8 presentation. You give your opening, your  
9 body and your conclusions and you're done.  
10 You are then crossed.

11 Then, last, the applicant does  
12 their closings. Just so we understand,  
13 because a lot of times people think they are  
14 going to get closings after closings and we  
15 have found that that lends itself to endless  
16 hearings.

17 That being said, a very good  
18 afternoon. It's all you.

19 MS. GOODMAN: I would -- I am  
20 proposing to connect the house to the garage  
21 with a corridor to keep the -- a porte-cochere  
22 to keep the rain and the weather off. It's a

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1 long distance. It's difficult and my mother  
2 is out there, frequently stays in the guest  
3 room as today.

4 The porte-cochere would be 3.5  
5 feet wide, 7 feet high. It would not block  
6 the light and air. It would not be seen from  
7 public way. It would not impact the use or  
8 privacy of any neighboring properties nor the  
9 light and air. It would remain -- despite the  
10 fact that my property would be converted to a  
11 row house, it would remain under the 40  
12 percent lot occupancy even with the  
13 attachment, so I'm still not even meeting.

14 If I put -- as I told the ANC, if  
15 I put another story on my house, two more  
16 stories, made the corridor three stories, put  
17 three stories on my accessory structure  
18 garage, carriage house, I would still not meet  
19 the 40 percent lot occupancy building density  
20 for my area, so I'm like -- only like half  
21 there even with this.

22 CHAIRPERSON GRIFFIS: I'm sorry,

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1 let me just get some clarification on that  
2 comment. Two points.

3 MS. GOODMAN: Okay.

4 CHAIRPERSON GRIFFIS: First of  
5 all, are you proposing at some point to put  
6 additional stories --

7 MS. GOODMAN: No.

8 CHAIRPERSON GRIFFIS: -- on your  
9 house and garage?

10 MS. GOODMAN: Oh, no, no, no.

11 CHAIRPERSON GRIFFIS: Okay.

12 MS. GOODMAN: I'm just pointing  
13 out that I'm way below the building density.

14 CHAIRPERSON GRIFFIS: But why  
15 would adding stories impact the lot occupancy  
16 at all?

17 MS. GOODMAN: Well, not the lot,  
18 the building density. Building density is  
19 like the size of the structure, how many  
20 stories it is. The lot occupancy is just the  
21 footprint and the building density is how it  
22 involves the height and --

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1 CHAIRPERSON GRIFFIS: Yes, I know  
2 all that, but you were talking about stories  
3 and then you weren't changing the lot  
4 occupancy.

5 MS. GOODMAN: Okay. I need to say  
6 building density then.

7 CHAIRPERSON GRIFFIS: Okay.

8 MS. GOODMAN: Is that correct?

9 CHAIRPERSON GRIFFIS: Right, yes.  
10 Okay.

11 MS. GOODMAN: Okay. Well, I am  
12 still under the lot occupancy and about close  
13 to half of the building density. Is that  
14 okay?

15 CHAIRPERSON GRIFFIS: Yes, I guess  
16 so.

17 MS. GOODMAN: Okay. The special  
18 screening, my property is totally surrounded  
19 by trees, so it would not be seen. I have  
20 also planted a row of trees on the little lot  
21 between the corridor and my current lot, Lot  
22 125, so that even if I -- I'm confused.

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1 I'm not sure whether I am  
2 addressing this application or the former  
3 application or the potential to put a second  
4 story on the garage, so I'm not even sure what  
5 I'm addressing here, because --

6 CHAIRPERSON GRIFFIS: Well, I  
7 would start with what you're here for.

8 MS. GOODMAN: Okay.

9 CHAIRPERSON GRIFFIS: Which is the  
10 223.

11 MS. GOODMAN: So no one would be  
12 able even to see this. It is not a  
13 nonconforming use. The house is currently  
14 used as a single family home. The garage is  
15 for parking and cars and it would continue to  
16 be for parking cars.

17 And the lot now is viewed as a  
18 detached home in an R-3 District. It is  
19 nonconforming because it's only 36 feet wide.  
20 This would bring it into conformity. As a row  
21 house it would be in the -- it would be 20  
22 feet then and my minimum width would be 20

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1 feet, so it would bring it into conformity as  
2 a row house. As a detached home, it's too  
3 narrow. It's 36 feet wide. It's supposed to  
4 be 40 feet wide.

5 So that is -- I comply with  
6 everything on the requirements and my -- I  
7 would like to address the second story on the  
8 garage of the first application, although I'm  
9 not totally prepared to do that, but I feel  
10 like I'm going to get this barrage.

11 I would also like to say that I  
12 have had enormous problems with neighbors  
13 trying to get use easements onto my property.  
14 Mary Carter had a fence post on my lot, other  
15 lot, and she was furious when I made her get  
16 it off the lot. I had -- am I allowed to show  
17 you a picture?

18 CHAIRPERSON GRIFFIS: I don't know  
19 if it has --

20 MS. GOODMAN: Okay.

21 CHAIRPERSON GRIFFIS: -- any  
22 pertinence to the case.

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1 MS. GOODMAN: I'm addressing the  
2 other case, but all of these neighbors here  
3 tried to get legal use easements onto my  
4 property with the except of one of them. This  
5 lady over here recently tried to --

6 CHAIRPERSON GRIFFIS: No, wait.  
7 I'm not sure where this is going --

8 MS. GOODMAN: Okay.

9 CHAIRPERSON GRIFFIS: -- in terms  
10 of the special exception that we need to hear.

11 MS. GOODMAN: Well, these people  
12 who are sitting here, each one of them tried  
13 to get an illegal use easement on my property  
14 and they all can't stand me because I would  
15 not give it to them. I made her vent her  
16 dryer onto her own property.

17 CHAIRPERSON GRIFFIS: I see.

18 MS. GOODMAN: And not onto my  
19 property.

20 CHAIRPERSON GRIFFIS: You have  
21 that in writing, too, which we all read.

22 MS. GOODMAN: Yes, okay, okay,

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1       okay.

2                   CHAIRPERSON GRIFFIS:  So you don't  
3       need to spend time on it here.

4                   MS. GOODMAN:  Okay.  That's all,  
5       and then I don't think I have anything else to  
6       say.

7                   CHAIRPERSON GRIFFIS:  Okay.

8                   MS. GOODMAN:  Although, may I  
9       address the ANC, something --

10                  CHAIRPERSON GRIFFIS:  Absolutely.

11                  MS. GOODMAN:  Okay.  Well, when I  
12       went before the ANC, Carter said there was a  
13       petition with 50 signatures.  I was totally  
14       dead at the ANC at that point.  They  
15       definitely unanimously opposed it.  I asked  
16       them for -- I asked the ANC where that  
17       petition was.  Nobody could find it.

18                  I'm assuming she meant a petition  
19       from the first application wherein she  
20       admitted under oath, and I think I have just  
21       recently submitted that, that she had told  
22       neighbors I was building a three story multi-

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1 unit apartment building in the alley and she  
2 said she had to do that, so they would sign  
3 the petition.

4 The petition that she has  
5 submitted repeatedly, and is probably going to  
6 mention again today, was never a valid  
7 petition to any of my applications. And a  
8 neighbor just north of me recently this -- was  
9 permitted to go put a two story, second story  
10 on his library up to 24 feet with plumbing and  
11 air conditioning.

12 The ANC let them do that. They  
13 voted it. The Old Georgetown Board let them.  
14 He was on a row house exceeding the 60 percent  
15 lot occupancy. How did he get a 24 foot high  
16 library second story on his garage? He did  
17 not have a Mary Carter --

18 CHAIRPERSON GRIFFIS: Okay.

19 MS. GOODMAN: -- saying that he  
20 was building a rental unit. I have never  
21 tried to build a rental unit.

22 CHAIRPERSON GRIFFIS: Okay.

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1 MS. GOODMAN: And I can't seem to  
2 get that albatross from around my neck.

3 CHAIRPERSON GRIFFIS: I wouldn't  
4 project on how someone else did something.

5 MS. GOODMAN: What?

6 CHAIRPERSON GRIFFIS: I wouldn't  
7 project on how someone else was allowed to or  
8 didn't allow.

9 MS. GOODMAN: It's in the record.  
10 I have in the record of the first case and I  
11 have a copy of the record right here. I just  
12 submitted it to Ms. Bailey where she admitted  
13 that she described my -- that as a three story  
14 apartment building, multi-unit rental  
15 apartment building.

16 And when she tells the neighbors  
17 I'm building a rental unit, I can't get the  
18 library like my neighbor did on a much smaller  
19 lot, because she characterizes it as a rental  
20 unit and she has no grounds. She is the only  
21 one renting. No, there's two renters in the  
22 whole square.

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1 CHAIRPERSON GRIFFIS: Right.

2 MS. GOODMAN: She is one of them.

3 CHAIRPERSON GRIFFIS: I'm getting  
4 confused.

5 MS. GOODMAN: It's vastly  
6 confusing, but I think you were on the first  
7 case if you recall.

8 CHAIRPERSON GRIFFIS: Yes, I was.

9 MS. GOODMAN: But I'm just saying  
10 this 50 signature petition has never been  
11 valid.

12 CHAIRPERSON GRIFFIS: Okay.

13 MS. GOODMAN: And it has squelched  
14 the case from the beginning.

15 CHAIRPERSON GRIFFIS: What else?  
16 What are the other elements in the ANC that  
17 was brought up that you want to address --

18 MS. GOODMAN: They said --

19 CHAIRPERSON GRIFFIS: -- in terms  
20 of substantive points?

21 MS. GOODMAN: The ANC said that I  
22 should not be permitted to go from a detached

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1 home to a row house. They opposed that and  
2 they also said the neighborhood was -- the  
3 corner --

4 CHAIRPERSON GRIFFIS: I don't  
5 know. Go ahead.

6 MS. GOODMAN: They also said the  
7 corner was "fragile" and, yet, within I think  
8 the last month or two, the same ANC approved  
9 a row house that was a five story row house  
10 with a two story garage to exceed 60 percent  
11 and they approved that on this "fragile"  
12 corner.

13 So I am questioning why they would  
14 call my area fragile when they let the guy who  
15 is even closer to the corner exceed 60 percent  
16 when he already has five stories and a two  
17 story garage on a row house. So I'm  
18 questioning why they are calling it fragile.  
19 I think the neighborhood personalities are  
20 fragile.

21 CHAIRPERSON GRIFFIS: Well, why  
22 don't you ask them?

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1 MS. GOODMAN: Not the  
2 neighborhood.

3 CHAIRPERSON GRIFFIS: Is the ANC-  
4 2E here? Is the ANC present? Is anyone  
5 representing the ANC? Right. Go ahead.

6 MS. GOODMAN: Okay. I don't think  
7 I have anything else to say, but I would just  
8 ask you to, please, look at the facts. The  
9 petition with 50 signatures said that I  
10 blocked her light and air. The Office of  
11 Planning -- on the first petition, the Office  
12 of Planning said I did not block her light and  
13 air.

14 She is not getting it. She is not  
15 understanding that that is not a valid  
16 petition and I have been fighting that invalid  
17 petition all of these years and I'm still  
18 fighting it. Those people have even moved  
19 away by now.

20 CHAIRPERSON GRIFFIS: Okay.

21 MS. GOODMAN: Thank you.

22 CHAIRPERSON GRIFFIS: Sure.

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1 Questions?

2 VICE CHAIR MILLER: Could you tell  
3 me when your house was constructed?

4 MS. GOODMAN: As best -- it's  
5 somewhere, I know, it's like between 1800 and  
6 1830. I think the house was constructed in  
7 1860.

8 VICE CHAIR MILLER: Before 1958?

9 MS. GOODMAN: Oh, yes.

10 VICE CHAIR MILLER: Okay.

11 MS. GOODMAN: The garage was added  
12 and carriage house, I believe, we added in  
13 1860 and the house was extended to the front  
14 in 1860, and I have spent many years restoring  
15 it.

16 CHAIRPERSON GRIFFIS: Any other  
17 questions? Yes?

18 COMMISSIONER HOOD: Mr. Chairman,  
19 I don't necessarily have a question, but I  
20 have a comment. You know, I'm looking at  
21 impacts to the surrounding area, which you  
22 have already heard some of the neighbors

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1 mention preliminarily, but I'm trying to see  
2 if there is a view and maybe my colleagues can  
3 help me, a view showing the relationship of  
4 what is being presented in its place.

5 I'm not sure what you call it,  
6 perspective or an aerial view. I'm not trying  
7 to cause Ms. Goodman any more financial money,  
8 but I think that would be beneficial for my  
9 review.

10 MS. GOODMAN: I gave them --

11 COMMISSIONER HOOD: To be able to  
12 see exactly. Do we have something?

13 CHAIRPERSON GRIFFIS: I haven't  
14 seen it. Do you have a plan or two  
15 dimensional?

16 MS. GOODMAN: Well, I just gave  
17 her the site, the overall site plan, I guess,  
18 but you mean did I get an aerial view of the  
19 whole property?

20 COMMISSIONER HOOD: No, not an  
21 aerial view, just a view showing what you're  
22 proposing, something similar to this, what you

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1 are proposing in place and I'm not sure,  
2 because I would like to see how that --

3 MS. GOODMAN: There are pictures.  
4 I submitted pictures. Do you have the  
5 pictures yet?

6 COMMISSIONER HOOD: You submitted  
7 pictures? Are these the pictures you  
8 submitted?

9 MS. GOODMAN: Yes, okay. So do  
10 you want me to show you?

11 COMMISSIONER HOOD: Okay. No, no,  
12 you can keep your seat.

13 MS. GOODMAN: Okay.

14 COMMISSIONER HOOD: Well, let's go  
15 over this. I have been looking at this.  
16 Let's look at number -- I guess it's No. 1.  
17 Now, this is the back of your house, the rear  
18 of your yard, right?

19 MS. GOODMAN: Uh-oh. Okay. I'm  
20 not sure I have that. Okay. Go for it. Yes.

21 COMMISSIONER HOOD: Okay. I can  
22 hold it up.

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1 MS. GOODMAN: Okay.

2 COMMISSIONER HOOD: I mean, I  
3 don't know what exhibit this is, Mr. Chairman.

4 MS. GOODMAN: I have it someplace.

5 COMMISSIONER HOOD: I guess it's  
6 No. 6.

7 MS. GOODMAN: Okay. Yes, sir?

8 COMMISSIONER HOOD: And what I'm  
9 asking for, and maybe my colleagues might be  
10 able to help me, I'm asking for something to  
11 show me the relationship.

12 First of all, where does Mr. Vogt  
13 -- he lives at 32?

14 MS. GOODMAN: He lives to the left  
15 of that picture you just showed me.

16 COMMISSIONER HOOD: His house is  
17 directly next door?

18 MS. GOODMAN: That way. Right,  
19 right. Yes, sir.

20 COMMISSIONER HOOD: Okay. And I  
21 guess what I'm -- I can't see because of the  
22 nice --

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1 MS. GOODMAN: It would go right  
2 down the middle. The corridor would go right  
3 down the middle.

4 COMMISSIONER HOOD: It would go  
5 down, the same dimensions as the house?

6 MS. GOODMAN: Right down the  
7 middle. No, no, no. It's only 3 feet wide.  
8 It's on the --

9 COMMISSIONER HOOD: It's even  
10 less.

11 MS. GOODMAN: It's just a porte-  
12 cochere.

13 COMMISSIONER HOOD: What is the  
14 height, 60?

15 MS. GOODMAN: 3 feet -- 7 feet.

16 COMMISSIONER HOOD: What is the  
17 height?

18 MS. GOODMAN: 7 feet and it would  
19 be ivy covered. There is a picture of  
20 elevation, back yard with the -- wait a  
21 second. Coming down through the middle of it.  
22 That's floor plans. Where is my application?

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1 Office of Planning.

2 PARTICIPANT: Did you take it out  
3 of that?

4 MS. GOODMAN: ANC letter,  
5 neighbors, I don't see letters. Let me see.

6 PARTICIPANT: Look in your  
7 briefcase.

8 MS. GOODMAN: Okay. I know,  
9 Mother, I know, Mother. I don't know where it  
10 is.

11 PARTICIPANT: Is this it?

12 MS. GOODMAN: No, that's not it.  
13 I do have it someplace here, but it's not  
14 here.

15 COMMISSIONER HOOD: All right.  
16 Thank you, Mr. Chairman, thank you.

17 CHAIRPERSON GRIFFIS: Any other  
18 questions from the Board, clarifications?

19 BOARD MEMBER MANN: Yes.

20 CHAIRPERSON GRIFFIS: Yes, Mr.  
21 Mann?

22 BOARD MEMBER MANN: Does this

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1 structure have a roof?

2 MS. GOODMAN: Yes.

3 BOARD MEMBER MANN: Hello?

4 MS. GOODMAN: Yes, yes.

5 BOARD MEMBER MANN: The proposed  
6 structure will have a roof?

7 MS. GOODMAN: Yes. Oh, I'm sorry.  
8 Yes, sir.

9 CHAIRPERSON GRIFFIS: So it's  
10 fully covered?

11 MS. GOODMAN: For the rain, yes,  
12 sir.

13 CHAIRPERSON GRIFFIS: Okay. What  
14 is the material that covers it?

15 MS. GOODMAN: I have a tin roof on  
16 the garage and the house and it would just  
17 match that, and then I probably would be  
18 wrapping it in ivy, so I would make like ivy  
19 arches. Like you can see in the back picture  
20 there is like a little ivy arch thing, so it  
21 will just kind of look like that all the way  
22 down, but it would be a tin roof and wood and

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1 tin to match the house.

2 CHAIRPERSON GRIFFIS: Questions?

3 VICE CHAIR MILLER: And how would  
4 it be attached to each of the existing  
5 structures?

6 MS. GOODMAN: Well, it would just  
7 butt right into the garage without removing  
8 any historic material and it would go up to  
9 the house, and I was thinking the Old  
10 Georgetown Board would probably weigh in on  
11 how they wanted it to connect, so I didn't  
12 really work those details out.

13 It could butt right into the house  
14 and a door could be put right there. There is  
15 also a door there already, so it could L over  
16 and go downstairs and go into the house and be  
17 right at her bedroom.

18 VICE CHAIR MILLER: Okay. So you  
19 haven't worked out exactly how it's going to  
20 attach. Is that correct?

21 MS. GOODMAN: There's multiple  
22 ways, so I thought maybe the Old Georgetown

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1 Board would probably have something to say  
2 about it, because I know they, you know, go  
3 back and forth on that.

4 VICE CHAIR MILLER: And do you  
5 have a date that you're presenting to the Old  
6 Georgetown Board?

7 MS. GOODMAN: Not that I'm aware  
8 of.

9 VICE CHAIR MILLER: And then you  
10 would present to HPRB as well?

11 CHAIRPERSON GRIFFIS: No.

12 VICE CHAIR MILLER: No? Just Old  
13 Georgetown Board? Oh, okay. Right.

14 MS. GOODMAN: Old Georgetown  
15 Board.

16 VICE CHAIR MILLER: Right, right.  
17 Excuse me.

18 MS. GOODMAN: Yes. Then I go to  
19 the Fine Arts Commission, I would assume,  
20 after that.

21 VICE CHAIR MILLER: Okay.

22 CHAIRPERSON GRIFFIS: Have you

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1 requested a hearing?

2 MS. GOODMAN: I'm sorry?

3 CHAIRPERSON GRIFFIS: Have you  
4 requested to go to the Old Georgetown Board or  
5 you just haven't --

6 MS. GOODMAN: I think it's  
7 automatic. If it's defeated here, then it  
8 doesn't go anywhere I don't think. I don't --

9 CHAIRPERSON GRIFFIS: Okay.

10 MS. GOODMAN: I think  
11 automatically it goes from -- if it's approved  
12 from here, it goes to the OGB and then the  
13 design gets kind of passed around a bit. But  
14 here I would be -- is just to get permission  
15 to do -- go to the next step, I guess.

16 CHAIRPERSON GRIFFIS: Any other  
17 questions? Okay. Any other questions or  
18 clarification from the Board? If there is  
19 nothing at this time, let's do cross. Oh, I'm  
20 sorry, did you -- are you finished?

21 MS. GOODMAN: I think so.

22 CHAIRPERSON GRIFFIS: Okay.

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1 Questions?

2 MR. VOGT: I have a question for  
3 Ms. Goodman in terms of how she got the  
4 measurements for her lot occupancy. I  
5 understand that they are 39.6 percent, which  
6 is less than half a percent away from  
7 violating the permissible.

8 MS. GOODMAN: I'm not violating  
9 what is permissible.

10 CHAIRPERSON GRIFFIS: No. The  
11 question is how did you calculate your lot  
12 occupancy?

13 MS. GOODMAN: Well, the city  
14 calculated it, also, so he came up with the  
15 same figures I did, which is the lot occupancy  
16 is in an R-3 District, because I'm allowed a  
17 40 percent.

18 CHAIRPERSON GRIFFIS: But the  
19 question is how did you arrive at your  
20 calculation for what you have on your site?

21 MS. GOODMAN: You mean the size of  
22 the house?

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1                   CHAIRPERSON GRIFFIS: I don't know  
2                   how else to say it.

3                   MS. GOODMAN: You take the size of  
4                   the -- the footprint of the house and the  
5                   footprint of the corridor and the footprint of  
6                   the garage and add them together and you --  
7                   then you just divide that by the 5,400 square  
8                   foot of land that is there on that lot and  
9                   that's how you get the lot occupancy. And I'm  
10                  under, I'm a hair under. I'm not at 40  
11                  percent, but I'm still a hair under even  
12                  though under -- if I am granted a special  
13                  exception --

14                  CHAIRPERSON GRIFFIS: Understood.  
15                  Okay.

16                  MS. GOODMAN: -- it would be 60  
17                  percent.

18                  CHAIRPERSON GRIFFIS: Follow-up  
19                  questions? Next question?

20                  MR. VOGT: It's also my  
21                  understanding that there is a Form 130 that  
22                  was supposed to have been filed.

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1 CHAIRPERSON GRIFFIS: The question  
2 is?

3 MR. VOGT: Where is it?

4 CHAIRPERSON GRIFFIS: The question  
5 is did you file a Form 130? What is a Form  
6 130? I mean a zoning file?

7 MR. VOGT: It has -- it was in the  
8 notes for this thing.

9 CHAIRPERSON GRIFFIS: For the  
10 application?

11 MR. VOGT: Yes, for the  
12 application.

13 CHAIRPERSON GRIFFIS: Ms. Bailey,  
14 what's a 130? Do you know?

15 MS. BAILEY: I believe they are  
16 talking about a computation sheet.

17 MR. VOGT: It's the certification.

18 CHAIRPERSON GRIFFIS: Oh, the  
19 self-cert sheet. This is not self-certified.  
20 You put a permit request in, didn't you? You  
21 were referred here by the Zoning  
22 Administrator, were you not?

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1 MS. GOODMAN: Yes.

2 CHAIRPERSON GRIFFIS: It's not a  
3 self-cert. So I would have your attention to  
4 Exhibit 4, which is the referral memo from  
5 Faye Ogunneye, who is the Chief Zoning Review  
6 Branch, who is indicating that special  
7 exception to allow minimum rear yard setback  
8 for the single-family row dwelling structure,  
9 R-3 Residential Zone, needs to be approved by  
10 the Board of Zoning Adjustment.

11 MR. VOGT: There was one --

12 CHAIRPERSON GRIFFIS: Doesn't help  
13 you?

14 MR. VOGT: There was a form that  
15 was supposed to be filed that was not.

16 CHAIRPERSON GRIFFIS: Okay. But  
17 that's not the case. What's the next  
18 question?

19 MR. VOGT: Could I -- I would like  
20 to make my opening statement then, at this  
21 point.

22 CHAIRPERSON GRIFFIS: This is

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1 cross.

2 MR. VOGT: All right.

3 CHAIRPERSON GRIFFIS: This is  
4 cross. If you don't have any questions,  
5 that's fine. We'll move on.

6 MR. VOGT: Yes, let's move on  
7 then, at this point.

8 CHAIRPERSON GRIFFIS: You're going  
9 to be up and down a lot.

10 MR. VOGT: All right.

11 CHAIRPERSON GRIFFIS: Now, you can  
12 go back to your seat.

13 MR. VOGT: All right.

14 CHAIRPERSON GRIFFIS: We'll go to  
15 the Office of Planning.

16 MR. MORDFIN: A very good  
17 afternoon, Chair, Members of the Board. I'm  
18 Stephen Mordfin with the Office of Planning.  
19 And the subject application conforms with the  
20 provisions of section 223, because the  
21 proposed addition is to a one-family dwelling.  
22 Light and air will not unduly affect

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1 neighboring properties, because it is only 7  
2 feet in height and set back 17.2 feet on the  
3 west side and 15.25 feet on the east side.

4 Privacy and use of enjoyment of  
5 neighboring properties will not be unduly  
6 affected, because the minimum width on the  
7 east side will be reduced from 6 feet to 5  
8 feet and will be a continuation of the  
9 existing situation. The proposed addition  
10 will not be visible from any public way.

11 The applicant submitted  
12 photographs and architectural drawings in  
13 support of the application and the proposed  
14 lot occupancy is 39.67 feet less than the  
15 maximum 70 percent permitted in the R-3 Zone  
16 District. Therefore, the Office of Planning  
17 recommends approval of the application as  
18 submitted by the applicant. Thank you.

19 CHAIRPERSON GRIFFIS: Thank you  
20 very much. Questions from the Board? Ms.  
21 Miller?

22 VICE CHAIR MILLER: Good

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1 afternoon, Mr. Mordfin. I wonder if you can  
2 enlighten me as to how this was analyzed under  
3 223, because it seems like there is a  
4 discrepancy. If you look at page 1 of OP's  
5 report, and actually the same situation exists  
6 with the Exhibit 4 the referral from Faye  
7 Ogunneye, but that is that you say that the  
8 subject is a BZA application request filed by  
9 Ann Goodman for special exception to permit a  
10 building addition to the rear of an existing  
11 detached dwelling.

12 So it's a special exception for an  
13 addition. But then, you go down below and  
14 then it says "Special exception relief  
15 pursuant to 223 to permit the construction of  
16 a building addition to the rear of an existing  
17 row house not in conformance with 404.1 rear  
18 yards and 406.1 courts."

19 And my question is I don't think  
20 it's an existing row house yet and therefore  
21 it was described in the first instance as an  
22 addition to an existing detached dwelling. So

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1 I was wondering if you can address that?

2 MR. MORDFIN: Okay. It is to an  
3 existing detached dwelling. That's an error  
4 in our words as row house. It should say  
5 detached dwelling in the second one.

6 VICE CHAIR MILLER: And then can  
7 you explain what was happening with the side  
8 yard analysis? I mean, it sounded like the  
9 rear yard was all of a sudden becoming a side  
10 yard or I didn't really understand it,  
11 obviously, so can you explain it?

12 MR. MORDFIN: Okay. Because the  
13 application proposes to connect the existing  
14 detached dwelling with the existing detached  
15 garage making them into one building, what  
16 happens then is the side yards for the  
17 existing detached dwelling become open courts  
18 on each side, because they are not side yards  
19 any longer, because a row house that extends  
20 out to both sides, if this were approved the  
21 building height, it would extend that to both  
22 side lot lines, because that's what the

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1 existing garage does.

2 The whole thing there on each side  
3 becomes two side yards. I'm sorry, two open  
4 courts.

5 VICE CHAIR MILLER: And that is  
6 because the existing garage or carriage house  
7 goes from lot line to lot line? Is that  
8 correct?

9 MR. MORDFIN: Yes.

10 VICE CHAIR MILLER: Okay. Thank  
11 you.

12 CHAIRPERSON GRIFFIS: Other  
13 questions?

14 BOARD MEMBER MANN: When you were  
15 doing your analysis, did you have any reason  
16 or opportunity to talk to the Historic  
17 Preservation Office or any other Historic  
18 Preservation Review Agency?

19 MR. MORDFIN: Yes. I did speak  
20 with the Historic Preservation Office and they  
21 have not yet reviewed this application.

22 BOARD MEMBER MANN: Were they able

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1 to provide any input or guidance regarding  
2 this type of proposal?

3 MR. MORDFIN: Well, before they  
4 formally said anything, they were awaiting to  
5 have the application before them.

6 BOARD MEMBER MANN: Okay.

7 VICE CHAIR MILLER: The applicant  
8 said that she didn't have any set plans yet  
9 with respect to how the corridor was going to  
10 be attached to each of the existing buildings.  
11 Did you consider that in your analysis?

12 MR. MORDFIN: In my analysis? I  
13 just assumed it was going to attach as shown  
14 on the plat from the Office of the Surveyor,  
15 which just shows it going into the center of  
16 the existing garage and into the center of the  
17 existing house. The specifics as to how it  
18 connects, I just assumed it was just going  
19 right into the middle of each.

20 MS. GOODMAN: That is possible, so  
21 I presented it that way.

22 CHAIRPERSON GRIFFIS: Anything

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1 else? Any other questions? In your analysis  
2 of the 223 and also then generally the special  
3 exception requirement, did you see any, a I  
4 read the special exception, reason to believe  
5 this wouldn't be in harmony with the general  
6 purpose or intent of the Zoning Regulations or  
7 Map or would it in any way tend to affect  
8 adversely the use of neighboring properties?

9 MR. MORDFIN: As for the use of  
10 neighboring properties, no. We determined  
11 that it would not because it is set back  
12 significantly from each of the side lot lines.  
13 It is only 7 feet in height. And the sides of  
14 each of the properties is landscaped. The  
15 sides, I'm sorry, of the subject property is  
16 landscaped and, therefore, we felt that it  
17 would not be viewed from the adjoining  
18 properties.

19 CHAIRPERSON GRIFFIS: Okay. And  
20 even in the element of, essentially, changing  
21 the designation of this structure to a row  
22 dwelling, you wouldn't find that that in any

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1 way would not be in accordance with or would  
2 be in accordance with the regulations in the  
3 Zone Maps or have any sort of impact on the  
4 surrounding area?

5 MR. MORDFIN: No, because as a row  
6 dwelling or as a detached dwelling, it's in  
7 conformance with the generalized Land Use Map.

8 CHAIRPERSON GRIFFIS: Okay. Any  
9 other questions of the Board?

10 VICE CHAIR MILLER: I just want to  
11 follow-up on that. In the recommendation in  
12 the Office of Planning report it says that  
13 although the proposal does result in a form of  
14 development that is not entirely in character  
15 with typical row house development and then  
16 you go on to conclude that it doesn't have a  
17 detriment. In what ways is it not in  
18 character with typical row house development?

19 MR. MORDFIN: Well, typical row  
20 house development runs down both side property  
21 lines, usually from the front to the back or  
22 for the most part maybe there is an L in the

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1 back. This would be something unusual in that  
2 it would only connect with the side lot lines  
3 at the rear of the property and not for the  
4 majority of the side lot lines.

5 VICE CHAIR MILLER: Thank you.

6 CHAIRPERSON GRIFFIS: Excellent.  
7 Thank you. Any other questions from the  
8 Board? Ms. Goodman, cross of OP? Do you have  
9 any questions of the Office of Planning? You  
10 have their report, correct?

11 MS. GOODMAN: Oh, yes, sir, I do.

12 CHAIRPERSON GRIFFIS: Excellent.  
13 Cross of OP?

14 MR. VOGT: Mention was made that  
15 the garage goes from lot line to lot line, but  
16 it needs to be understood that Mrs. Goodman  
17 erected a brick wall illegally without a  
18 permit or approval.

19 CHAIRPERSON GRIFFIS: Let me just  
20 interrupt you. I'm full of directions today.  
21 But this is the time for questions of Office  
22 of Planning. Hard hitting --

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1 MR. VOGT: All right.

2 CHAIRPERSON GRIFFIS: --  
3 questions. Make him sweat. He is up here to  
4 -- do you want to ask him that question? Were  
5 you aware of why the garage isn't on the lot  
6 line?

7 MR. VOGT: Yes, sir. Were you  
8 aware that the brick wall was illegally  
9 erected without approval or permits being  
10 pulled?

11 MR. MORDFIN: No, I am not.

12 MR. VOGT: Well --

13 MR. MORDFIN: Aware of that.

14 CHAIRPERSON GRIFFIS: Okay.

15 MR. VOGT: -- that was the case.  
16 And there are also some -- well, I'll --  
17 that's my point at this point. So that the  
18 garage really is not lot line to lot line.

19 CHAIRPERSON GRIFFIS: Well, for  
20 his analysis physically it is.

21 MR. VOGT: Well --

22 CHAIRPERSON GRIFFIS: Okay. Any

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1 other questions?

2 MR. VOGT: No, sir.

3 CHAIRPERSON GRIFFIS: Okay. Thank  
4 you.

5 MS. GOODMAN: Also, I might make a  
6 comment that -- may I make a comment?

7 CHAIRPERSON GRIFFIS: Briefly.

8 MS. GOODMAN: I would have the  
9 option of joining the other property to the  
10 garage and extending the garage to cover that  
11 whole property.

12 CHAIRPERSON GRIFFIS: Okay.

13 MS. GOODMAN: In which case it  
14 would be lot line to lot line.

15 CHAIRPERSON GRIFFIS: All right.  
16 Why do we need to know that?

17 MS. GOODMAN: I mean, that's just  
18 an option. So it would remain -- whether I  
19 include that property and this door that he is  
20 talking about --

21 CHAIRPERSON GRIFFIS: Sure, sure.

22 MS. GOODMAN: -- whether that's

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1 included or not included, I can still make it  
2 lot line to lot line. So it's irrelevant.  
3 What he is saying was irrelevant.

4 CHAIRPERSON GRIFFIS: Okay. Let's  
5 move ahead. Let me ask again, is the ANC  
6 present? Anyone representing the ANC, ANC-2E?  
7 I would note that it is Exhibit No. 26. It  
8 has been submitted in opposition to approve  
9 the application. Ms. Miller, have you  
10 reviewed it and can we afford it great weight  
11 at which it is wanting?

12 VICE CHAIR MILLER: Let me look.  
13 Yes, it does meet the great weight  
14 requirements.

15 CHAIRPERSON GRIFFIS: Excellent.  
16 However, there is a petition attached to the  
17 back, but is there not? I've just misplaced  
18 mine, of course. And I would make note that  
19 it says it is from an attempt to bypass. I  
20 don't know what all this paragraph is, but it  
21 indicates Application 16696 of February 4,  
22 2002. I don't think that's this case that

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1 we're hearing. Is that correct?

2 MS. GOODMAN: One says -- that was  
3 the first case.

4 VICE CHAIR MILLER: It does  
5 address the walkway. They are just saying  
6 that it's an attempt to bypass that previous  
7 piece.

8 CHAIRPERSON GRIFFIS: Oh, I see.  
9 I see that. Pay attention to detail, that's  
10 why I put it to you. Good. Okay. Any other  
11 comments on that for the Board? Ms. Goodman,  
12 any other additional comments that you haven't  
13 already provided regarding the ANC?

14 MS. GOODMAN: I don't believe so.

15 CHAIRPERSON GRIFFIS: Okay. Yes,  
16 comments on the ANC report?

17 MR. VOGT: No.

18 CHAIRPERSON GRIFFIS: Okay. There  
19 we are then. I don't have any other attending  
20 Government reports to this application. I  
21 believe we would be ready for your  
22 presentation of your case in opposition.

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1           MR. VOGT: Okay. My feeling with  
2 this and what's so important for everyone here  
3 to know is that this issue is not about a  
4 covered walkway. It's about an attempt to  
5 circumvent at the unanimous BZA denial and  
6 unanimous Court of Appeals' denial from 2001  
7 and 2002 that denied the Goodmans permission  
8 to build up their garage.

9           Mrs. Goodman wants a detached  
10 walkway. If she attaches it to the house and  
11 the garage, she can bypass the decision and  
12 build. It should be noted Mrs. Goodman  
13 already has a walk in place that goes from her  
14 house to her garage. A covered walkway does  
15 nothing more than create a long umbrella.  
16 It's not going to protect anyone from snow or  
17 ice and she should probably just buy a shovel  
18 and ice melt.

19           If it's so important to have a  
20 covered walkway, I would suggest that it be  
21 free-standing and self-supporting not  
22 attached. Actually, there is a much closer

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1 route to the front of the Goodman's house,  
2 which is from the street. Also, Mrs. Goodman  
3 says that the walkway will connect to the  
4 center of the house. But the center of the  
5 house in the back happens to be up a complete  
6 flight of stairs. So to get there, the height  
7 of this covered walkway has to be taller than  
8 7 feet.

9 She claims that none of the  
10 neighbors will be affected by it and though  
11 she has planted trees, they are all deciduous  
12 trees. They all lose their leaves in the  
13 fall. So six months out of the year, we can  
14 look right in at what's going on there.

15 We have -- you know, Ms. Goodman  
16 made mention of the petitions that we had  
17 signed before, but the signatures that you  
18 have before you, I believe that the ANC  
19 provided, these are 58 new signatures from  
20 neighbors in the immediate area who do not  
21 want this to go through. We have a long  
22 history of problems with our neighbors next

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1 door and everyone knows about it and we have  
2 full support on this issue.

3 I think that pretty well covers  
4 what I had to say. The point is to, please,  
5 not allow this to be an attached connection.  
6 There is no reason why it can't be free-  
7 standing.

8 CHAIRPERSON GRIFFIS: Okay. Did  
9 you want to call Ms. Carter, your witness?

10 MR. VOGT: Yes, I guess I would  
11 like to call Dr. Carter.

12 VICE CHAIR MILLER: Let me just --

13 MS. CARTER: Can I present what I  
14 want?

15 CHAIRPERSON GRIFFIS: It's all  
16 you.

17 MS. CARTER: Okay. Thank you.

18 CHAIRPERSON GRIFFIS: You are his  
19 witness.

20 MS. CARTER: Oh, do you want to  
21 ask me questions?

22 MR. VOGT: Well, I --

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1                   CHAIRPERSON GRIFFIS:    Go ahead.  
2                   No, no, no.  Just I'm sorry, I didn't mean to  
3                   confuse you.  Go ahead.  Just provide your  
4                   statement.

5                   MS. CARTER:        Sorry.        As you  
6                   gather, I'm here to oppose this latest move of  
7                   the Goodmans to create this walkway, because  
8                   I see it as the first step toward the eventual  
9                   plans that they have long held.  On the  
10                  surface, this appears innocuous.  A walkway  
11                  which connects their home with their garage.

12                  MS. GOODMAN:  My mother can't hear  
13                  her.  Can she use the speaker over there?

14                  CHAIRPERSON GRIFFIS:  Oh, okay.  
15                  Yes, if you wouldn't mind just pulling it a  
16                  little closer?

17                  MS. CARTER:        Yes, right.  It  
18                  appears a very innocent request that there be  
19                  a covered walkway between the house and the  
20                  garage.  That, as we have all said, is not  
21                  going to make that much of an impact on any of  
22                  the neighbors.  However, if one is aware of

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1 the history of this case, one knows that Craig  
2 and Ann Goodman have tried to put this  
3 addition to their garage for many years.

4 This is my retirement home and  
5 I've been there since 1995. I have been  
6 involved actively in opposing the Goodmans for  
7 almost that whole time. This has cost money,  
8 thousands of pages of documentation, legal  
9 advice that we had to hire. I'm really sorry  
10 that my daughter, who is an attorney isn't  
11 here with me today, because I do feel somewhat  
12 -- she is very, very acquainted with this case  
13 and knows all the regulations. And I'm really  
14 sorry. I feel a disadvantage without her.

15 But I just ask you to realize that  
16 there is a very long history here. And that  
17 the neighbors have always, always been  
18 negative to these plans. And if they are  
19 permitted, the house and garage would be  
20 subject to height and use restrictions,  
21 thereby circumventing the need for dual  
22 variances to establish a garage apartment,

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1 which was the original plan.

2 And I believe that if one is aware  
3 that this was negatively assessed by the ANC  
4 before and again, by the BZA and by the Court  
5 of Appeals to ignore that past history would  
6 be to permit other applicants in the area who  
7 want to do the same thing. I would certainly  
8 be very impacted, height and air and --

9 MR. VOGT: Privacy.

10 MS. CARTER: Huh? Oh, privacy,  
11 yes, right.

12 CHAIRPERSON GRIFFIS: Okay. Thank  
13 you very much.

14 MS. CARTER: Thank you.

15 CHAIRPERSON GRIFFIS: Closings?

16 MR. VOGT: Yes, there are.

17 CHAIRPERSON GRIFFIS: I'll get to  
18 persons. I figured I would have your case  
19 presentation. We're going to take questions  
20 from the Board and then I'll -- believe me, if  
21 you're here to address the Board, you'll be  
22 allowed. But these are the parties in this

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1 case presentation.

2 COMMISSIONER HOOD: Mr. Chairman?

3 CHAIRPERSON GRIFFIS: Yes, Mr.  
4 Hood?

5 COMMISSIONER HOOD: I have a  
6 question for Ms. Carter. Ms. Carter, you said  
7 you would be impacted. Would you be -- and I  
8 don't want to get into the other case. Would  
9 you be impacted if it was presented to us  
10 today, not what if or what possibly may result  
11 later. My question is what is presented in  
12 this case to us today would you be impacted?  
13 Light and air?

14 MS. CARTER: I would have to say  
15 no.

16 COMMISSIONER HOOD: Okay. Thank  
17 you.

18 MS. CARTER: It's the specter of  
19 the future though that I'm concerned about.

20 COMMISSIONER HOOD: Maybe. I  
21 understand that part. Thank you.

22 CHAIRPERSON GRIFFIS: Anyone else?

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1                   VICE CHAIR MILLER:     Just as a  
2 follow-up. I thought that Mr. Vogt, is that  
3 correct?

4                   MR. VOGT:    Vogt.

5                   VICE CHAIR MILLER:   Had said that  
6 there was some impact, because of the  
7 deciduous trees. Is that that you would be  
8 able to see this structure?

9                   MR. VOGT:    Right.

10                  VICE CHAIR MILLER:   Is that --

11                  MS. CARTER:   Well, yes.

12                  MR. VOGT:    Well, and it's also  
13 taller than our -- the fence that divides our  
14 properties, which is 6 feet. And she is  
15 asking for something that's going to be 7 feet  
16 high.

17                  VICE CHAIR MILLER:   So it's an  
18 aesthetic impact?

19                  MR. VOGT:    Yes.

20                  VICE CHAIR MILLER:   Is that what  
21 you are saying?

22                  MR. VOGT:    Yes, sure.

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1 VICE CHAIR MILLER: Okay.

2 CHAIRPERSON GRIFFIS: Any other  
3 questions?

4 VICE CHAIR MILLER: It's not got  
5 anything to do with light and air.

6 CHAIRPERSON GRIFFIS: Okay. Ms.  
7 Goodman, questions, cross?

8 MS. GOODMAN: Okay. Let's see.  
9 The covered walkway would be for rain, for --  
10 yes, I can -- sometimes --

11 CHAIRPERSON GRIFFIS: Can you just  
12 ask him questions of them, based on their  
13 testimony that they have just provided?

14 MS. GOODMAN: Okay.

15 CHAIRPERSON GRIFFIS: You may not  
16 have any, but now is your opportunity to ask  
17 any cross examination.

18 MS. GOODMAN: Okay. I would like  
19 to ask Mary Carter how much money she spent on  
20 this case. That she personally has spent.

21 CHAIRPERSON GRIFFIS: Not  
22 relevant. Let's get to the next question.

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1 MS. GOODMAN: Okay. I have asked  
2 repeatedly to get a copy of the 58 signatures  
3 and I have not seen that. I would like to  
4 know what that petition is saying, because so  
5 far she has been telling neighbors I was  
6 building a rental unit and getting/garnering  
7 signatures on that.

8 CHAIRPERSON GRIFFIS: Okay.

9 MS. GOODMAN: And then also that I  
10 was blocking her light and air.

11 CHAIRPERSON GRIFFIS: Right, but  
12 questions.

13 MS. GOODMAN: And it doesn't block  
14 her light and air.

15 CHAIRPERSON GRIFFIS: Just  
16 questions. Just questions.

17 MS. GOODMAN: Oh, I'm sorry.

18 CHAIRPERSON GRIFFIS: So the first  
19 question is?

20 MS. GOODMAN: What does the top of  
21 the petition say? What does the petition say?

22 MR. VOGT: "We, the undersigned,

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1 hereby oppose the application of Craig and Ann  
2 Goodman to construct a covered walkway linking  
3 their home to their garage. We view it as an  
4 attempt to bypass the BZA decision of February  
5 4, 2002, BZA Application 16696, which  
6 unanimously denied their request to add height  
7 and occupancy."

8 CHAIRPERSON GRIFFIS: To their  
9 garage.

10 MR. VOGT: To their garage.

11 CHAIRPERSON GRIFFIS: It's in the  
12 record.

13 MS. GOODMAN: So it's based on --

14 CHAIRPERSON GRIFFIS: It's in the  
15 past ANC report.

16 MS. GOODMAN: Okay. I didn't get  
17 -- no, I didn't get that sent to me actually.  
18 Okay.

19 CHAIRPERSON GRIFFIS: Okay.

20 MR. VOGT: And this is -- this was  
21 a new petition.

22 CHAIRPERSON GRIFFIS: It's her

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1 questions though. Next question.

2 MS. GOODMAN: The fence that you  
3 are now constructing, you are saying that my  
4 7 foot walkway would be higher than the fence?  
5 Are you aware that there is a slope between  
6 the middle of my property and then there is a  
7 berm up, so that your 7 foot fence -- your  
8 fence which measures 6 feet from your side  
9 will be measuring 7 feet and will actually  
10 align with the top of the structure, which is  
11 16 feet 7 inches away from the fence that you  
12 are now constructing. So that is not a valid  
13 argument.

14 MR. VOGT: I'm not sure.

15 CHAIRPERSON GRIFFIS: What's the  
16 question? This is just questions. It's  
17 cross.

18 MS. GOODMAN: Oh, questions. I  
19 asked him if he was aware of the fence that he  
20 is claiming --

21 CHAIRPERSON GRIFFIS: Okay.

22 MS. GOODMAN: I'm sorry.

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1 CHAIRPERSON GRIFFIS: Are you  
2 aware of that?

3 MR. VOGT: No, I'm not aware of  
4 that.

5 CHAIRPERSON GRIFFIS: Okay. Next  
6 question.

7 MR. VOGT: But I would also  
8 question the calculations.

9 CHAIRPERSON GRIFFIS: All right.  
10 Next question.

11 MS. GOODMAN: Also, are you aware  
12 that on the first case when I applied for the  
13 second story, all of the neighbors approved  
14 it, except for Mary Carter.

15 CHAIRPERSON GRIFFIS: See, we're  
16 not --

17 MR. VOGT: Oh.

18 MS. GOODMAN: And you yourself  
19 approved it up to 31 feet.

20 CHAIRPERSON GRIFFIS: But we're  
21 not --

22 MS. GOODMAN: -- until --

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1 CHAIRPERSON GRIFFIS: I don't want  
2 to reargue a case that's not in front of us.

3 MS. GOODMAN: Okay. Okay.

4 MR. VOGT: That's not true.

5 MS. GOODMAN: Yes. Okay. They  
6 are saying that's not true. It is true.  
7 Okay. I have a copy.

8 CHAIRPERSON GRIFFIS: Next  
9 question.

10 MS. GOODMAN: In the other record.  
11 I guess, are you aware that there is no place  
12 to park in the front, so that I often have to  
13 carry the groceries in the rain 67 feet up to  
14 the house, because there is no parking? And  
15 a bus comes by if you double park, so it makes  
16 it very difficult to get the groceries to the  
17 house 67 feet away.

18 MR. VOGT: I don't see how that  
19 pertains to this in any way at all.

20 MS. GOODMAN: I didn't ask that.  
21 I asked if you were aware that there is a huge  
22 parking problem with a bus and that it's very

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1 difficult?

2 CHAIRPERSON GRIFFIS: I mean, is  
3 it difficult to park in front?

4 MR. VOGT: No, no, Mrs. Goodman,  
5 I'm really not.

6 MS. GOODMAN: Okay.

7 MR. VOGT: Because I park on the  
8 street 365 days a year.

9 CHAIRPERSON GRIFFIS: Okay.

10 MS. GOODMAN: In front of your  
11 house? No. Three blocks away maybe.

12 CHAIRPERSON GRIFFIS: Right.  
13 Other questions?

14 MS. GOODMAN: That's all.

15 CHAIRPERSON GRIFFIS: Very well.  
16 Follow-up from the Board, questions? Mr.  
17 Vogt, you mentioned in your presentation  
18 somehow the difference that a free-standing  
19 self-supporting structure would make?

20 MR. VOGT: Yes.

21 CHAIRPERSON GRIFFIS: What was the  
22 pertinence to that?

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1                   MR. VOGT: That by not having --  
2                   that by attaching the two, Mrs. Goodman can  
3                   claim the garage as part of the house and that  
4                   giving her rights to develop that were denied  
5                   before. What is the reason why it has to be  
6                   attached?

7                   CHAIRPERSON GRIFFIS: There's two  
8                   questions of clarification. One that why  
9                   would it need to be attached to both  
10                  structures and the other is there was an  
11                  assertion that would need to rise to the  
12                  second level. Do you want to address that?

13                  MS. GOODMAN: What does that mean?  
14                  Well, of course, to keep the rain off. I  
15                  would say I can go up like 1 inch before the  
16                  house or something like that. Is that what he  
17                  is saying? So it's not like physically  
18                  attached.

19                  MR. VOGT: Yes, but there is also  
20                  a stairway that leads from the back yard.

21                  CHAIRPERSON GRIFFIS: Right,  
22                  right. I understand that.

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1 MS. GOODMAN: We would be  
2 attaching at the base of that, but not on the  
3 stairs. Not the upper stairs.

4 CHAIRPERSON GRIFFIS: There's  
5 two --

6 MS. GOODMAN: Oh, I wanted to say  
7 he also said that if I run it into the house,  
8 it would have to go up 7 feet. No, I can --  
9 there is -- put steps right down. There are  
10 steps there already. It would not go to the  
11 upper floor. It would go down to the lower  
12 floor.

13 CHAIRPERSON GRIFFIS: So you have  
14 an entrance into the lower floor?

15 MS. GOODMAN: Right. I do,  
16 existing. And if it goes straight in, I could  
17 put a stair. It would go downstairs not up.

18 CHAIRPERSON GRIFFIS: Okay.

19 MS. GOODMAN: So, okay.

20 CHAIRPERSON GRIFFIS: I mean,  
21 there has just been some testimony, case  
22 presentation on the functionality of a 3 foot

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1 wide cover, in terms of just protection  
2 against rain or the elements. And one has to  
3 question at 7 feet high, at 3 feet wide how  
4 much cover it's actually providing.

5 But then the direct question which  
6 I want to explore with you is what then is  
7 demanding that each of these connect to each  
8 of the structures? Because one would think if  
9 you are proposing 3 foot wide, which is about  
10 like this, 7 feet high, if the wind is  
11 blowing, you're getting wet.

12 MS. GOODMAN: Right.

13 CHAIRPERSON GRIFFIS: So why  
14 wouldn't you pull it away from the house or  
15 for that matter, let me ask you.

16 MS. GOODMAN: Go ahead.

17 CHAIRPERSON GRIFFIS: When I look  
18 at your photographs, and this is just for an  
19 understanding of all the elements that we have  
20 that are presented before us.

21 MS. GOODMAN: Uh-huh, okay.

22 CHAIRPERSON GRIFFIS: You have got

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1 two brick walkways that maybe it's kind of a  
2 fish island, but it seems to bow around quite  
3 nice. Why not cover those and just add  
4 elements? I guess then the point is is what's  
5 mandating that it is going from one end to the  
6 other as an understanding of the project that  
7 we're looking at?

8 MS. GOODMAN: Covering the  
9 existing walkways would be -- I thought about  
10 doing that, but then I would have to like  
11 cover both of them or it would look awkward.

12 CHAIRPERSON GRIFFIS: Sure, sure.

13 MS. GOODMAN: So that --

14 CHAIRPERSON GRIFFIS: Okay.

15 MS. GOODMAN: -- seemed  
16 irrational.

17 CHAIRPERSON GRIFFIS: So that's  
18 out of the picture. I shouldn't have brought  
19 that up.

20 MS. GOODMAN: They are 3 feet  
21 wide. If I go wider than 3 feet, then I'll  
22 exceed the 40 percent and I was trying to stay

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1 under the 40 percent. However, if it doesn't  
2 succeed, if I find I'm getting too wet at 3  
3 feet wide, that I could, at that point,  
4 without having to come back to the BZA, fill  
5 it in or, you know, close it off a little bit,  
6 add glass to it, beef it up a little bit more.  
7 This is just -- I would be starting out with  
8 the minimum to see if it works.

9 But I would not have to come back  
10 to the BZA again to beef it up to make it --  
11 I mean, I could like actually fill it in and  
12 heat it if I get, you know, the permit and  
13 keep it, you know, air conditioned, at which  
14 I probably wouldn't go into that extreme. But  
15 this is just like a start to take care of that  
16 problem.

17 MR. VOGT: May I say something?

18 MS. CARTER: No, don't say  
19 anything.

20 MR. VOGT: May I ask a question,  
21 at this point?

22 CHAIRPERSON GRIFFIS: No.

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1 MR. VOGT: Okay.

2 CHAIRPERSON GRIFFIS: Questions?

3 VICE CHAIR MILLER: Ms. Goodman, I  
4 just want to cut to the issue that I think is  
5 in this case, that is that your neighbors  
6 don't seem to be that concerned about the  
7 walkway. What they are concerned about is the  
8 fact that if you attach the walkway to both  
9 structures, you may be converting it to a row  
10 dwelling which would -- which might allow you  
11 to build this apartment that was denied in an  
12 order, denying this area.

13 MS. GOODMAN: I did not apply for  
14 an apartment.

15 VICE CHAIR MILLER: I understand.

16 MS. GOODMAN: That's been  
17 confusing.

18 VICE CHAIR MILLER: I understand  
19 that.

20 MS. GOODMAN: Why the neighbors  
21 are opposing is an apartment.

22 VICE CHAIR MILLER: No.

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1 MS. GOODMAN: I was never -- I was  
2 doing what my neighbor did. He wanted a  
3 library.

4 VICE CHAIR MILLER: Can I just ask  
5 you is there any assurance that you want to  
6 put on the record that you would not be  
7 building an apartment above the garage?

8 MS. GOODMAN: Yes, I would not  
9 build an apartment above the garage. I never  
10 was building an apartment above the garage.  
11 I was never intending to rent it out. That is  
12 a falsehood that she keeps --

13 VICE CHAIR MILLER: No, I  
14 understand that.

15 MS. GOODMAN: -- perpetuating.

16 VICE CHAIR MILLER: My next  
17 question is I think that the line of  
18 questioning with respect to the attachment is  
19 why does it have to be attached, because if  
20 it's not attached, then the neighbors would  
21 not have that concern.

22 MR. VOGT: Right.

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1 MS. GOODMAN: Well, I am entitled  
2 to attach it under the code. I am entitled to  
3 convert from a detached home to a row house.  
4 I am entitled at that point to make the porte-  
5 cochere three stories high and the accessory  
6 structure three stories high. But I don't  
7 think that that would pass through the Old  
8 Georgetown Board, even if I wanted to do that,  
9 and I'm just doing what the codes are telling  
10 me to do.

11 And I would respect it. I  
12 appreciate it. When she is telling you that  
13 she is opposing it, she has no visual easement  
14 over my property. That's not her view.  
15 That's my property. She is telling the  
16 neighbors before in the other case that when  
17 she bought her house, she bought that view  
18 over my property. So that's how they are  
19 getting all this opposition. That's not her  
20 property. And that view aside from that was  
21 cut off with trees anyway. It became  
22 completely blocked with trees.

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1                   VICE CHAIR MILLER: Can I ask you  
2 one other question?

3                   MS. GOODMAN: Okay.

4                   VICE CHAIR MILLER: It's  
5 speculative, I think, but you just made a  
6 reference to you didn't think that the Old  
7 Georgetown Board would approve an apartment  
8 above.

9                   MS. GOODMAN: Three stories, an  
10 apartment or three stories. I don't think so.

11                  VICE CHAIR MILLER: Why do you  
12 think that they would approve this structure?  
13 You haven't gone to see them yet. Do you have  
14 reason to believe that they would approve  
15 this?

16                  MS. GOODMAN: A porte-cochere? I  
17 don't see any reason why they wouldn't. They  
18 are common. I had one on my last house and it  
19 keeps you dry.

20                  VICE CHAIR MILLER: You had a  
21 connecting corridor to two structures on your  
22 last house?

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1 MS. GOODMAN: Yes.

2 VICE CHAIR MILLER: And where was  
3 that located?

4 MS. GOODMAN: In Houston, Texas.

5 VICE CHAIR MILLER: Was that in a  
6 Historic District?

7 MS. GOODMAN: No. But, I mean,  
8 Historic Districts have porte-cocheres. Mount  
9 Vernon has one, so this is not -- they are all  
10 over the world. This is not something I  
11 created for, you know, me. They are common.  
12 And it would not affect the historicity of the  
13 house at all. And I would just appreciate it  
14 if these neighbors oppose the second story not  
15 -- I have no intention of building a rental  
16 unit.

17 But if and when I decide to put a  
18 second story, which I might be allowed to  
19 under the codes, that they would oppose it at  
20 that time and not at this time, because they  
21 will have plenty of time to go for another ANC  
22 if I were to do that. And at this point, I

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1 don't have plans to do that.

2 CHAIRPERSON GRIFFIS: Excellent.  
3 Any other questions from the Board?

4 MS. GOODMAN: And before opposing  
5 this, if you would --

6 CHAIRPERSON GRIFFIS: Okay.

7 MS. GOODMAN: -- need to stipulate  
8 to --

9 CHAIRPERSON GRIFFIS: I think we  
10 understand.

11 MS. GOODMAN: -- restrict me to  
12 putting -- to a 15 foot high accessory  
13 structure, then I would prefer not to have  
14 that restriction. But rather than rejecting  
15 the application, you could do something like,  
16 I guess, I don't know if you even can do that.  
17 Do you know what I'm saying? Like I'm allowed  
18 15 feet.

19 CHAIRPERSON GRIFFIS: Yes.

20 MS. GOODMAN: So if you -- I would  
21 rather than throwing the whole application  
22 out, just limit the accessory structure to 15

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1 feet, which is what is permitted in an R-3  
2 District.

3 CHAIRPERSON GRIFFIS: Okay.

4 MS. GOODMAN: But I would prefer  
5 not to have that regulation.

6 CHAIRPERSON GRIFFIS: Understood.

7 MS. GOODMAN: Okay.

8 CHAIRPERSON GRIFFIS: Understood.  
9 And yes, we do have the jurisdiction to  
10 condition special exceptions.

11 MS. GOODMAN: Okay.

12 CHAIRPERSON GRIFFIS: Let's move  
13 ahead. We don't have any other questions on  
14 cross examination?

15 MR. VOGT: No. I would like to  
16 ask Barbara Zartman to speak, please.

17 CHAIRPERSON GRIFFIS: You don't  
18 need to ask.

19 MR. VOGT: I have no other  
20 questions.

21 CHAIRPERSON GRIFFIS: Okay. Thank  
22 you very much.

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1 MR. VOGT: I don't know the  
2 protocol, I apologize.

3 CHAIRPERSON GRIFFIS: I noticed  
4 that. I understand. Have a seat. And I'll  
5 ask them to come up.

6 MR. VOGT: Okay.

7 CHAIRPERSON GRIFFIS: If you are  
8 here to present testimony in support of the  
9 application and/or in opposition to the  
10 application, you can come forward now. Let's  
11 fill out the seats that are available. I'm  
12 just going to have you state your name and  
13 address for the record and then, if you would,  
14 start your comments with whether you are in  
15 support or in opposition to the application.

16 Ms. Zartman, a very good  
17 afternoon.

18 MS. ZARTMAN: Good afternoon to  
19 all of you.

20 CHAIRPERSON GRIFFIS: It's been a  
21 long day, hey?

22 MS. ZARTMAN: It has been that.

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1 CHAIRPERSON GRIFFIS: Okay.

2 MS. ZARTMAN: Rather longer than  
3 planned, but it has been that long for you,  
4 too. My name is Barbara Zartman. I live at  
5 1642 35<sup>th</sup> Street. I'm here representing the  
6 Citizens Association of Georgetown. I chair  
7 its Historic Preservation Planning and Zoning  
8 Committee.

9 And my argument is not about what  
10 may have been proposed in the past at all. It  
11 is about what the consequence of what you're  
12 being asked to do several times today are.  
13 This is going to sound like an echo of earlier  
14 discussions, I'm afraid.

15 Georgetown is not the only -- not  
16 only the first Historic District in the city  
17 predating the enactment of D.C. Zone  
18 Preservation legislation enacted by Congress  
19 in 1950. As you know, I have pointed out it  
20 is also a national historic landmark, one of  
21 only 2,000 such properties in the country  
22 recognized as deserving the highest possible

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1 level of protection.

2 The existing open space and with  
3 it light and air are critical to a fully built  
4 community, like Georgetown. Aggressive  
5 efforts week in and week out to add to  
6 existing buildings seek approval not just up  
7 to the allowable envelope, but beyond through  
8 special exceptions and variances requested of  
9 you. These requests threaten to change the  
10 character of historic Georgetown and our  
11 quality of life. It is a priority for the  
12 Citizens Association to provide pressure to  
13 resist these requests.

14 The rear yards that are required  
15 by the Zoning Regulations to maintain a family  
16 life environment in residential zones under  
17 320.1, in R-3, this establishes a rear yard  
18 requirement of 20 feet. Waiving the rear yard  
19 requirement would open the expectations for  
20 homeowners and speculators alike to push for  
21 more and greater invasion of this protection  
22 intended to preserve the quality of life.

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1           In this regard, I would depart  
2           from Mr. Mordfin's conclusions about impact  
3           and consistency with the Zoning Code. This  
4           would harm the neighboring communities and  
5           violate the purpose of the Zoning Regulations  
6           and Code.

7           The reason given for the  
8           application for special exception is to  
9           provide "dry, ice-free access" between the  
10          garage and the house. Actually, as has been  
11          said, an open-sided walkway provides little  
12          protection from ice under foot. It is little  
13          more than what would be provided by an  
14          umbrella that you would get from the  
15          structure.

16          I hesitate to even cite section  
17          2001.3 about enlarging an addition --  
18          enlargements and additions to historic  
19          structures built before 1958. I question  
20          whether, in fact, this application wouldn't  
21          create new nonconformity of structure and  
22          addition combined.

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1           It is also my understanding that  
2           the practice to measure lot line to lot line  
3           entitlement of the residential structure, not  
4           of garages, to use garages in a community like  
5           Georgetown, which accompany very many semi-  
6           detached and detached houses, would be to  
7           establish a new threshold for invasion of the  
8           -- or evasion of the 40 percent lot occupancy  
9           threshold and really encourage the push to 60  
10          foot -- 60 percent lot occupancy.

11           Certainly, not a development we  
12          would in any way be pleased to see. You know  
13          the number of cases you are seeing just this  
14          season on conversion of semi-detached to row  
15          houses. The additional 50 percent increase in  
16          development rights is not something that we  
17          think is helpful. We hope that it will be  
18          resisted except where it is so essential to  
19          the use of a property.

20           This request can't ever be  
21          justified as essential to the use of a  
22          property and yet, it would trigger,

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1 potentially, that 60 percent lot occupancy  
2 allowance. I would be happy to answer any  
3 questions you might have.

4 CHAIRPERSON GRIFFIS: Excellent.  
5 You're not asserting the fact that the 223  
6 needs to establish that the use is -- or the  
7 proposed addition is essential to the use of  
8 the property though, are you?

9 MS. ZARTMAN: No. I think you use  
10 balancing tests very often when requests are  
11 made of you for variances and special  
12 exceptions. You do it with -- the other body  
13 does it with plats. I think you are dealing  
14 with that sort of saying here. When an  
15 applicant asks for relief from the otherwise  
16 valid requirements, I think you have a right  
17 to inquire whether doing so and triggering  
18 this 50 percent greater development option is  
19 justified by the nature of the request.

20 CHAIRPERSON GRIFFIS: Okay. Other  
21 questions?

22 VICE CHAIR MILLER: You made

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1 reference to 2001.3. Is there a new  
2 nonconformity or an expansion of a  
3 nonconformity that you see if relief were  
4 granted in this case?

5 MS. ZARTMAN: In coverage of the  
6 lot, yes. You currently have a proper rear  
7 yard. You would now have a 6 foot rear yard  
8 behind a garage, if I understand the report of  
9 OP correctly. And, of course, the two -- of  
10 course, one of which would be nonconforming.

11 VICE CHAIR MILLER: Okay. So you  
12 are saying there would be a creation of a  
13 nonconformity with respect to the rear yard?  
14 Okay. Thank you.

15 CHAIRPERSON GRIFFIS: What else?  
16 Any other questions?

17 VICE CHAIR MILLER: And also, is  
18 it your position that this corridor would be  
19 out of character with the historic character  
20 of the neighborhood or the district?

21 MS. ZARTMAN: I would expect we  
22 would make that argument before the Old

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1 Georgetown Board. It is not what is expected.  
2 The collected open space and rear yards is  
3 characteristic of Georgetown properties,  
4 gardens. It's one of the great treasures.  
5 And dividing up those spaces is not a positive  
6 development.

7 I'm not saying that in some  
8 unusual circumstance it wouldn't be  
9 appropriate. I believe that Ms. Goodman  
10 herself attempted to establish that there was  
11 a civil war cistern on the rear of her  
12 property that deserved protection, I believe.

13 MS. GOODMAN: That's true. It  
14 would be protected. That's why I have to go  
15 down the middle and I can't go anywhere else,  
16 because I don't want to break that.

17 MS. ZARTMAN: I believe it was  
18 found not to be such a structure.

19 VICE CHAIR MILLER: Okay. And my  
20 last question, I think, is I mean in your  
21 capacity, have you seen corridors of this type  
22 connecting the main structure with the garage

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1 in Georgetown properties?

2 MS. ZARTMAN: I have seen them  
3 proposed, never approved on an architectural  
4 basis.

5 VICE CHAIR MILLER: Never approved  
6 by Old Georgetown Board?

7 MS. ZARTMAN: Correct.

8 VICE CHAIR MILLER: Thank you.

9 CHAIRPERSON GRIFFIS: Any other  
10 questions? Ms. Goodman, cross? Any questions  
11 of Ms. Zartman?

12 MS. GOODMAN: Who is the secretary  
13 for CAG? What is that? I'm drawing a blank.  
14 She lives two -- about three doors down from  
15 me.

16 MS. ZARTMAN: Betsy?

17 MS. GOODMAN: Yes. She has a  
18 porte-cochere connecting her two story garage.  
19 It has two bedrooms upstairs, the kitchen  
20 downstairs and it's connected to her house  
21 with a porte-cochere. Hers is filled in with  
22 glass. So I -- you have never been to Betsy's

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1 house?

2 MS. ZARTMAN: It has never been up  
3 for approval during my tenure at the Citizens  
4 Association.

5 MS. GOODMAN: Have you seen  
6 Betsy's house?

7 MS. ZARTMAN: No.

8 MS. GOODMAN: Oh, okay. Well,  
9 it's right there a half block away from me.

10 CHAIRPERSON GRIFFIS: Okay.

11 MS. GOODMAN: Also, are you aware  
12 that I'm not moving the garage or moving the  
13 house and that this will have no impact on the  
14 neighborhood whatsoever from public property  
15 and does your jurisdiction, as a CAG, have to  
16 do with what is not visible to the public?  
17 Because this would not be visible in the  
18 public and the nature of the historic  
19 character of the area, which you are concerned  
20 about, in the rear yard, etcetera, would not  
21 change at all from public way.

22 MS. ZARTMAN: On the presumption

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1 this is not visible from public space, it  
2 would be reviewed by the Historic Preservation  
3 Review Board and not the Old Georgetown Board,  
4 but that doesn't change the impact. We are  
5 concerned about what it is, in effect, up  
6 zoning of this property. And we want to  
7 protect our residential neighborhoods and the  
8 spaces they contain to the greatest extent  
9 possible.

10 CHAIRPERSON GRIFFIS: Cross? Any  
11 follow-up? Thank you very much. Others? We  
12 have got four available seats. Anyone else?

13 MS. GOODMAN: Someone in the back.

14 MR. CASARTELLI: My name is  
15 Giovanni Casartelli. I live in 1319 33<sup>rd</sup>  
16 Street, N.W. And my little garden just  
17 borders with the fence of Mr. Goodman. And I  
18 have a brief statement.

19 CHAIRPERSON GRIFFIS: Sure.

20 MR. CASARTELLI: My wife and I  
21 moved into 1319 33<sup>rd</sup> Street in over 2002.  
22 Buying the house, the three lots in a

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1 neighborhood that we love. From the very  
2 beginning of our time in Georgetown, we have  
3 had to deal with being harassed by Mr. and  
4 Mrs. Goodman.

5 The Goodmans want to build an  
6 extension over their garage, which would look  
7 over our backyard directly. This extension  
8 would destroy both of our privacy and the  
9 light our house receives it does. Their  
10 proposal to do so has been rejected repeatedly  
11 and yet, they continue to try to find  
12 loopholes in the system to commit an act that  
13 is both unfriendly to their neighbors and  
14 against the Historical Preservation Laws of  
15 Georgetown.

16 In their latest proposal, they  
17 have torn down what they want to do, but the  
18 extension -- but the extension they are  
19 proposing is meant to resurrect an area  
20 project. This is a project that they know to  
21 be wrong and that has been deemed so legally.  
22 Just as an example of their disregard for the

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1 neighbors, I would like to say that they have  
2 blocked the rear exit of our house by planting  
3 trees in the path that would enable us to  
4 leave the house from the back.

5 Yet, they blocked our exit, our  
6 fire exit. This act is illegal and we will  
7 contest it. It is imperative that we let the  
8 Goodmans know that their persistence here will  
9 not be rewarded and they will not succeed in  
10 changing the face of our neighborhood, both  
11 architecturally and ethically. I thank you  
12 for your patience.

13 CHAIRPERSON GRIFFIS: Thank you  
14 very much. Follow-up, questions, rather, from  
15 the Board? Don't go too far, sir. Sir?

16 MS. GOODMAN: May I make a  
17 question?

18 CHAIRPERSON GRIFFIS: If you  
19 would, yes, cross?

20 MS. GOODMAN: Are you aware that I  
21 own that lot next to you and that you have no  
22 right to cross onto that whatsoever? And the

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1 fact that you have a gate there is totally  
2 irrelevant. I plan -- I have a right to plant  
3 trees on my property.

4 CHAIRPERSON GRIFFIS: Let's be  
5 succinct with questions and even succinct to  
6 answer.

7 MS. GOODMAN: Well, he is  
8 complaining.

9 CHAIRPERSON GRIFFIS: Are you  
10 aware about -- I understand the question.

11 MR. CASARTELLI: I am aware that I  
12 have a right to fire escape.

13 MS. GOODMAN: No, you don't. You  
14 -- that's wrong.

15 CHAIRPERSON GRIFFIS: Okay. It's  
16 beyond our scope here, but she is bringing  
17 some clarification. Any other questions?  
18 Cross?

19 MS. GOODMAN: The trees, I planted  
20 the trees.

21 CHAIRPERSON GRIFFIS: Okay.

22 MS. GOODMAN: Before he went

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1 there.

2 CHAIRPERSON GRIFFIS: But the  
3 trees aren't germane to what we're doing here.

4 MS. GOODMAN: And also --

5 CHAIRPERSON GRIFFIS: I  
6 understand.

7 MR. CASARTELLI: It is not true.  
8 It is not true. They were planted after.

9 MS. GOODMAN: Well, I could be  
10 wrong, but my mother --

11 CHAIRPERSON GRIFFIS: Let me not  
12 rise.

13 MS. GOODMAN: Okay.

14 CHAIRPERSON GRIFFIS: Raise your  
15 hopes that I can do anything about these  
16 trees. So outside of taking up our time, we  
17 really don't need to continue the discussion.

18 MR. CASARTELLI: It is about the  
19 axis of the relationship between --

20 CHAIRPERSON GRIFFIS: I understand  
21 your point, believe me.

22 MR. CASARTELLI: That is part of

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1 the --

2 CHAIRPERSON GRIFFIS: We're very  
3 quick on this Board. There is no need to tell  
4 us things three times. One time we usually  
5 get it. Additional cross?

6 MS. GOODMAN: I'm not going to  
7 take more time.

8 CHAIRPERSON GRIFFIS: Okay.  
9 Cross? Excellent. Thank you very much. We  
10 do appreciate it. If you have your written  
11 statement, you can obviously put that into the  
12 record today. Yes. If you wouldn't mind,  
13 I'll just have you move that microphone close  
14 to you, that way you can -- I'm sorry, you can  
15 put it down by Ms. Bailey.

16 MS. JONES: My name is Leonore  
17 Jones and I am the neighbor on the other side  
18 of the Goodmans' property.

19 CHAIRPERSON GRIFFIS: On O Street?

20 MS. JONES: Yes.

21 CHAIRPERSON GRIFFIS: What's your  
22 address?

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1 MS. JONES: 3252 O Street.

2 CHAIRPERSON GRIFFIS: Okay.

3 MS. JONES: And just to be brief,  
4 I simply want to reiterate my concern, which  
5 is similar to that of my neighbors. I think  
6 that the setting of the precedent that by  
7 covering the walkway you change this to a row  
8 house, I think it makes me feel extremely  
9 vulnerable to further development of her  
10 property for height and occupancy. And I just  
11 wanted to make that statement, that's all.

12 CHAIRPERSON GRIFFIS: Excellent.  
13 Thank you very much. Questions, cross?

14 MS. GOODMAN: Lee, didn't you  
15 testify before the ANC that you were opposing  
16 my application, because I would not let you  
17 vent your toilet and your dryer onto --  
18 illegally onto my side yard and that was the  
19 purpose, the reason that you were opposing me?  
20 Didn't you tell that direct to the ANC?

21 CHAIRPERSON GRIFFIS: Okay. We  
22 got the question. Is that the basis of your

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1 testimony to the ANC?

2 MS. JONES: No, it is not. I have  
3 a written copy of my testimony to the ANC with  
4 me.

5 CHAIRPERSON GRIFFIS: Okay.

6 MS. JONES: But that is not the  
7 basis.

8 MS. GOODMAN: I could get a tape  
9 recording of that and show it to you, if  
10 necessary.

11 CHAIRPERSON GRIFFIS: It has  
12 really no relevancy here.

13 MS. GOODMAN: Okay.

14 CHAIRPERSON GRIFFIS: Any other  
15 questions?

16 MS. GOODMAN: For Lee, no. I'm  
17 just --

18 CHAIRPERSON GRIFFIS: Okay. Not  
19 to worry. It's a lot to get through, but we  
20 get through it. Not to worry. Cross?

21 MR. VOGT: We don't have --

22 CHAIRPERSON GRIFFIS: If you

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1 wouldn't mind, just turn the microphone on.

2 MR. VOGT: Sure. I just wanted to  
3 ask Mrs. Jones if she thinks that she would  
4 have bought her house knowing the history of  
5 what we have all experienced with the  
6 Goodmans?

7 MS. JONES: I certainly would have  
8 thought twice about it.

9 MS. GOODMAN: I would not have  
10 bought.

11 MR. VOGT: Thank you.

12 CHAIRPERSON GRIFFIS: Okay.  
13 Indeed. There it is. Anything else? Any  
14 other follow-ups? Questions, clarifications?  
15 Is there anyone that's here present in  
16 Application 17535 that would like to provide  
17 testimony before the Board in opposition,  
18 support? Very well.

19 Ms. Goodman, we'll turn it over to  
20 you for any closings you might have.

21 MS. GOODMAN: I would just request  
22 that the Board look at the facts and look at

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1 what I'm entitled to on my property and allow  
2 me to have what I'm entitled to on my  
3 property. And notice that these neighbors  
4 have -- I put it in the file that they each  
5 have, each one of these neighbors, a personal  
6 grudge against me. They are trying to take my  
7 property rights away from me.

8 They have no standing in the codes  
9 with respect to light and air, building  
10 density, population density. Dr. Carter has  
11 repeatedly and also the neighbor over there  
12 light and air, light and air. From the very  
13 onset, even at 31 feet, the Office of Planning  
14 said there are no light and air issues.

15 My whole lot is basically like a  
16 huge park. I mean, my house is only 21  
17 percent of the lot occupancy. How -- I don't  
18 see how these neighbors who are enjoying their  
19 R-3 status as row houses at 60 percent have  
20 the nerve to complain when I build something.  
21 I'm only asking only for 40 percent, you know,  
22 even though I would be allowed 60 percent. I

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1 don't even mind if you limit it to 40 percent.

2 I'm just asking for slightly under  
3 40 percent. So I don't -- I'm sorry, I don't  
4 understand how they can have the nerve to  
5 complain. I'm like a mini central park for  
6 the neighborhood.

7 CHAIRPERSON GRIFFIS: Okay.

8 MS. GOODMAN: Even with a second  
9 story addition on the garage.

10 CHAIRPERSON GRIFFIS: Understood.  
11 Anything else? Any other questions? Follow-  
12 up? Very well. Let me say a couple of  
13 things. Ms. Goodman, thank you very much for  
14 your presentation of your case. I think the  
15 record is full on this. I don't see any  
16 reasoning for additional information, unless  
17 any other Board Members see any reasoning to  
18 take more information in to the Board.

19 I just want to clarify. I fully  
20 understand exactly your case presentation, but  
21 I want to correct you that, obviously, you are  
22 here for approval, so you are not entitled to

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1 everything that you are now proposing.

2 MS. GOODMAN: Oh, I'm sorry.

3 CHAIRPERSON GRIFFIS: No, that's  
4 okay. Just a little item. And let me also  
5 assure everyone that although we hear a lot  
6 and there is a lot of issues and there's a lot  
7 of passion, there's a lot of history involved  
8 in this, believe me, we understand. All of us  
9 live in neighborhoods. All of us live in  
10 different neighborhoods in different housing  
11 types with different neighbors and we have  
12 probably been in all of this.

13 But when we get this and we close  
14 the file, we go back to our own spaces and we  
15 deliberate and you will hear us deliberate  
16 when I set this for, it will be on the basis  
17 of the facts in this case. It will also be  
18 based on the regulations in Title 11. We're  
19 under a special exception here in 223.

20 We, obviously, have different  
21 opinions from the ANC, which take a different  
22 view, and also from the Office of Planning.

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1 All of that will come into our deliberation.  
2 I would like to set this for our next Public  
3 Meeting for decision and that is going to be  
4 on the Tuesday in December. Ms. Bailey, are  
5 we at --

6 MS. BAILEY: December 5<sup>th</sup>, Mr.  
7 Chairman.

8 CHAIRPERSON GRIFFIS: The 5<sup>th</sup> of  
9 December.

10 MS. BAILEY: December 5<sup>th</sup>.

11 CHAIRPERSON GRIFFIS: Very well.  
12 We will call this case on our chronology. Our  
13 meetings begin at 9:30. At that point, there  
14 would be no additional opportunity for any  
15 persons or parties to address the Board, but  
16 you are welcome to be here to hear the  
17 deliberation or you can watch on the web.

18 Is there any questions of  
19 procedure I can answer for you, Ms. Goodman?

20 MS. GOODMAN: Thank you.

21 CHAIRPERSON GRIFFIS: Okay. Mr.  
22 Vogt, anything?

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1 MR. VOGT: No.

2 CHAIRPERSON GRIFFIS: Very well.  
3 Thank you all very much. We appreciate you  
4 being here this afternoon. We will see you,  
5 possibly, on the 5<sup>th</sup> when we will call this  
6 case for decision.

7 That being said, let's move ahead  
8 and call the next case for the afternoon.

9 MS. GOODMAN: Someone stole my  
10 chair back there.

11 MS. BAILEY: The next application  
12 is No. 17534 of 1024 Pennsylvania Avenue, LLC,  
13 pursuant to 11 DCMR 3103.2, for a variance  
14 from the residential recreation space  
15 requirements under section 773, to allow the  
16 development of a multi-family residential  
17 building in the CHC/C-2-A District at premises  
18 1022 Pennsylvania Avenue, S.E., Square 972,  
19 Lot 67.

20 CHAIRPERSON GRIFFIS: Excellent.  
21 Thank you very much. Why don't we have you  
22 introduce yourself for the record? If you

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1 wouldn't mind turning that microphone on.

2 MR. GHARAI: My name is Sassan  
3 Gharai. I am the architect on the project and  
4 also part of the development team.

5 MS. PETERSEN: And my name is  
6 Susan Petersen and I'm the project architect  
7 as well.

8 CHAIRPERSON GRIFFIS: Excellent.  
9 A couple of preliminary matters that I see.  
10 First of all, Office of Planning, Mr. Jackson,  
11 a very good afternoon to you, is present. But  
12 they had brought up to our attention, I  
13 believe it was Office of Planning, that there  
14 is additional relief that is required. Are  
15 you aware of that?

16 MR. GHARAI: I am. I don't agree  
17 with it though.

18 CHAIRPERSON GRIFFIS: Really?

19 MR. GHARAI: Well --

20 CHAIRPERSON GRIFFIS: Okay.

21 That's fine.

22 MR. GHARAI: -- the reason we

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1 don't agree with it is well --

2 CHAIRPERSON GRIFFIS: Well, we'll  
3 get into it. As long as you're aware of it.  
4 Let me ask another thing I wonder if you're  
5 aware of. The preliminary actions by the  
6 Zoning Commission to remove the requirements  
7 of the residential recreation space. Does  
8 that at all impact your application today?

9 MR. GHARAI: Yes, it would, but --

10 CHAIRPERSON GRIFFIS: But they  
11 haven't finished their business, so you are  
12 pursuing.

13 MR. GHARAI: Exactly.

14 CHAIRPERSON GRIFFIS: Okay.

15 MR. GHARAI: I didn't think this  
16 would be a long discussion we would have  
17 today, I mean.

18 CHAIRPERSON GRIFFIS: I don't know  
19 if I should take that as a compliment or not,  
20 frankly.

21 MR. GHARAI: Take it as a  
22 compliment.

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1                   CHAIRPERSON GRIFFIS: Okay. Well,  
2 let's get into it. As long as you are aware  
3 of all the preliminary matters.

4                   MR. GHARAI: Yes.

5                   CHAIRPERSON GRIFFIS: That's  
6 what's important. So I'll turn it over to you  
7 and you can address it.

8                   MR. GHARAI: Very briefly I'm  
9 going to give you a very quick short history  
10 of why we're here. Arthur Jackson has done a  
11 really excellent presentation of the facts and  
12 I agree with almost everything he says, with  
13 the exception of the structure in the back and  
14 we'll get into that in a moment.

15                   CHAIRPERSON GRIFFIS: Okay.

16                   MR. GHARAI: First of all, when we  
17 presented to the ANC and the neighborhood and  
18 the HPRB, this was the design that we had. We  
19 didn't have a second stairwell on the roof.  
20 And we also had four parking spaces in the  
21 back. Once we got through that whole process  
22 and we went through the permitting process, we

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1 lost the four parking spaces in the back and  
2 we had to add a second stairwell to the roof.

3 With the removal of the rec space  
4 requirement, the second stairwell would come  
5 out and the parking spaces would come back.  
6 And basically, we have gone to the ANC, the  
7 HPRB and also Capitol Hill Restoration Society  
8 and they would like, all of them -- I think  
9 there are a couple of letters in there from  
10 those organizations that would basically  
11 support it going back to the way it was.

12 However, in order to do that, we  
13 need relief from the residential rec space  
14 requirement.

15 CHAIRPERSON GRIFFIS: How are all  
16 of those connected? How do you lose the stair  
17 to the roof and gain parking?

18 MR. GHARAI: Well, the thing about  
19 the stair is that once -- if the residential  
20 space requirement is on the roof, the code  
21 requires us to have two exits.

22 CHAIRPERSON GRIFFIS: Okay.

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1 MR. GHARAI: And also, we had a  
2 slight disagreement with DCRA about the  
3 amounts of residential rec space. And in  
4 order to rectify that, we needed to lose the  
5 parking spaces.

6 CHAIRPERSON GRIFFIS: I see.

7 MR. GHARAI: So when we took the  
8 parking spaces out and we added the second  
9 stair, everything was okay until we got our  
10 building permit.

11 CHAIRPERSON GRIFFIS: I see.

12 MR. GHARAI: Only now after that,  
13 we're coming back and trying to get it changed  
14 back to the way we had it when the ANC  
15 reviewed it and HPRB reviewed it and Capitol  
16 Hill Restoration Society.

17 CHAIRPERSON GRIFFIS: Okay.

18 MR. GHARAI: So that in a nutshell  
19 is the rec space issue. There is the rear  
20 yard setback relief issue. This has actually  
21 been permitted and we treated this as a fact.  
22 This is a stair that goes down to the

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1 underground level of the parking. So the only  
2 thing that is above ground here is a canvas  
3 covering that covers this and also a brick  
4 wall that surrounds the stair for enclosure.

5 So that's the issue on the rear  
6 yard setback in a nutshell.

7 CHAIRPERSON GRIFFIS: Lot of  
8 nutshells. Okay.

9 MR. GHARAI: Then we can go to  
10 Arthur now, unless you guys have any  
11 questions.

12 CHAIRPERSON GRIFFIS: Boy,  
13 everyone is trying to control proceedings  
14 today, aren't they? Let me just jump right in  
15 here and be involved. Let's get a couple of  
16 questions. I think, first of all, let's go  
17 back to the residential recreation space.

18 MR. GHARAI: Sure.

19 CHAIRPERSON GRIFFIS: If you could  
20 just outline succinctly, there is some in the  
21 record, but it needs filling out, the  
22 uniqueness and practical difficulty in

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1 complying with the residential recreation  
2 requirements.

3 MR. GHARAI: The residential rec  
4 space required in this building is 5,492  
5 square feet. This works out to be about 200  
6 square feet per residential unit. Our  
7 position is that providing that much  
8 residential rec space is excessive and  
9 burdensome, both to us and the condominium  
10 owners.

11 Furthermore, as we were working  
12 with HPRB and the ANC and Capitol Hill  
13 Restoration Society, they have -- they wanted  
14 constraints on the potential locations for  
15 residential rec space. They specifically  
16 wanted minimal roof structure height,  
17 continuity in streetscape and maximum on-site  
18 parking.

19 Parking, as you know, in any  
20 development is a big deal. The neighbors were  
21 very worried about the amount of parking that  
22 we were providing and when we had the parking

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1 in the rear, we were up to 23 parking spaces,  
2 which for a 28 unit building in D.C. is  
3 actually very good.

4 CHAIRPERSON GRIFFIS: And what is  
5 unique about this?

6 MR. GHARAI: The shape of the  
7 site. It's -- the shape of the site is a  
8 triangular site and it has -- I think this is  
9 all written in our practical difficulties.  
10 There is like a page that I could read through  
11 for you if you wanted, which I will do.

12 So due to the prominence and  
13 visibility of the site from all angles, the  
14 Capitol Hill Restoration Society specifically  
15 requested that the residential recreation  
16 space not be located on the roof, which is  
17 otherwise the most viable and logical location  
18 for the majority of the required residential  
19 recreation space.

20 The ANC and DCHRB have also  
21 requested minimal roof structure height. The  
22 problem with locating residential recreation

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1 space on the roof was that we would need two  
2 means of egress, which would have to be  
3 located a sufficient distance from one  
4 another. The two enclosures would then have  
5 to be connected with a wall of equal height in  
6 order not to create the need for roof  
7 structure special exception relief.

8 Rooftop residential recreation  
9 space would also have to be accessible by  
10 wheelchair just requiring the elevator access  
11 roof, which would create a 14 foot high  
12 elevator enclosure in addition to the stairway  
13 enclosures.

14 This can all be achieved in a way  
15 that would accommodate most of the residential  
16 recreation space requirement. However, this  
17 configuration would increase the total height  
18 and perceived mass of the building contrary to  
19 the direction of the Capitol Hill Restoration  
20 Society, HPRB and the ANC. I think that sort  
21 of --

22 CHAIRPERSON GRIFFIS: Okay.

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1 MR. GHARAI: -- sums up practical  
2 difficulty.

3 CHAIRPERSON GRIFFIS: Understood.  
4 Now, bring me back because you are providing  
5 surface parking off of the alley?

6 MR. GHARAI: Correct.

7 CHAIRPERSON GRIFFIS: With the  
8 removal?

9 MR. GHARAI: Yes.

10 CHAIRPERSON GRIFFIS: Okay. Very  
11 well. And your assertion that the relief that  
12 OP thinks that you need in terms of, what,  
13 it's the rear yard? Where is your rear then?

14 MR. GHARAI: There is a rear yard.  
15 I guess our --

16 CHAIRPERSON GRIFFIS: So it's off  
17 the public alley?

18 MR. GHARAI: Yes, it's off the  
19 public alley. I guess what -- when we  
20 originally submitted this, we looked at this  
21 as a fence and not as a structure and I think  
22 that, depending on how you interpret the

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1 codes, it could go either way.

2 CHAIRPERSON GRIFFIS: Okay.

3 MR. GHARAI: I mean, we currently  
4 have a building permit for what we have at the  
5 moment.

6 CHAIRPERSON GRIFFIS: Interesting  
7 point. Okay. Anything else? Any other  
8 questions? Ms. Miller?

9 VICE CHAIR MILLER: I'm sorry, I  
10 can't remember this. Are you seeking to  
11 totally eliminate residential rec or are you  
12 reducing?

13 MR. GHARAI: No, we're not. We're  
14 reducing it to 956 square feet.

15 VICE CHAIR MILLER: And where is  
16 it going to be?

17 MR. GHARAI: It is -- if you turn  
18 to page 2 of your BZA variance application, it  
19 is the area that is hatched on, I think it's,  
20 the site plan. It says BZA variance  
21 application site plan.

22 CHAIRPERSON GRIFFIS: That's on

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1 the ground level. Is that correct?

2 MR. GHARAI: It's on the ground  
3 level, correct.

4 CHAIRPERSON GRIFFIS: Right around  
5 the parking.

6 MR. GHARAI: Yes.

7 VICE CHAIR MILLER: And what was  
8 the reasoning behind the Capitol Hill  
9 Restoration's objection to seeing rec space on  
10 the roof?

11 MR. GHARAI: They feel that if we  
12 put rec space on the roof, people will put  
13 umbrellas and chairs and furniture up there  
14 and it will -- and perhaps plants, and it  
15 would basically clutter up the look of what a  
16 roof looks like, so there would be this sort  
17 of living clutter up there.

18 VICE CHAIR MILLER: Okay. Thank  
19 you.

20 CHAIRPERSON GRIFFIS: You didn't  
21 submit an elevation that shows what it would  
22 be if you had the residential, if you had the

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1 two stair towers and connected them, is that  
2 right, or do we have that elevation?

3 MS. PETERSEN: No, we would  
4 connect that.

5 CHAIRPERSON GRIFFIS: We have what  
6 is being proposed.

7 MS. PETERSEN: We showed the two  
8 stair towers, however.

9 MR. GHARAI: No, we didn't show  
10 you what it would like if it was connected.

11 CHAIRPERSON GRIFFIS: Okay. Okay.  
12 Anything else?

13 BOARD MEMBER MANN: I have a  
14 question.

15 CHAIRPERSON GRIFFIS: Yes, Mr.  
16 Mann.

17 BOARD MEMBER MANN: On the site  
18 plan that you just directed us to with the  
19 hatched area indicated in the residential rec  
20 area.

21 MR. GHARAI: Yes.

22 BOARD MEMBER MANN: In the

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1 southern portion of that, there is nine  
2 squares indicated.

3 MR. GHARAI: Those aren't included  
4 in the 956 square feet.

5 BOARD MEMBER MANN: What are they?

6 MR. GHARAI: Oh, they are HVAC  
7 condenser units.

8 BOARD MEMBER MANN: So there's  
9 condenser units in the residential rec area?

10 MR. GHARAI: There are condenser  
11 units in the residential rec area.

12 BOARD MEMBER MANN: Do you have  
13 fun with them? I mean, what do you do about  
14 that?

15 MR. GHARAI: I don't think you can  
16 really do anything with them. I see your  
17 point, but we didn't include it. We didn't  
18 include the area that they cover.

19 BOARD MEMBER MANN: You did or did  
20 not?

21 MR. GHARAI: We did not.

22 BOARD MEMBER MANN: Because I

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1 thought you said everything in the hatched  
2 area was included in residential rec.

3 MR. GHARAI: It is, yes, but, I  
4 mean, that is like a physical object in it, so  
5 that area that it sits on isn't -- can't be  
6 included.

7 BOARD MEMBER MANN: I see. So  
8 it's actually the hatched areas are greater  
9 than 900 and whatever square feet?

10 MR. GHARAI: Correct.

11 BOARD MEMBER MANN: It just goes  
12 around the nine condenser units.

13 MR. GHARAI: That's correct, yes.

14 BOARD MEMBER MANN: I see.

15 CHAIRPERSON GRIFFIS: Any way to  
16 get those on the roof?

17 MR. GHARAI: We have some on the  
18 roof. The problem is that when you have a  
19 five story building and you use a certain type  
20 of HVAC unit, it goes a certain distance and  
21 it loses an incredible amount of efficiency,  
22 and I think the distance is something like it

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1 can go three floors, but it can't go -- when  
2 you push it to four or five floors, the loss  
3 of efficiency is very significant. So we kept  
4 them to a minimum.

5 BOARD MEMBER MANN: There is also  
6 areas indicated on here where there are --  
7 there is a stair and it says up that's within  
8 the hatched area. Was that also included  
9 within the 900 and something square feet?

10 MR. GHARAI: No, that is not  
11 included.

12 MS. PETERSEN: That was included?

13 MR. GHARAI: That was included.  
14 That's included.

15 BOARD MEMBER MANN: Okay.

16 CHAIRPERSON GRIFFIS: Anything  
17 else?

18 BOARD MEMBER MANN: Well, I don't  
19 have any questions. I have some observations  
20 about that.

21 CHAIRPERSON GRIFFIS: Sure. I'm  
22 not clear on the answer to the question of

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1 this area where the condensers are. Those --  
2 just the 3 by 3 footprint is removed from the  
3 calculation of the total 956 square feet or is  
4 that entire area where they --

5 MR. GHARAI: I think it's the  
6 entire area, I think, because then otherwise  
7 it would -- I guess, you know, there is --  
8 this is one of those sort of silly things  
9 where we're claiming that the area in between  
10 a condenser unit is recreation space.

11 CHAIRPERSON GRIFFIS: We have seen  
12 those.

13 MR. GHARAI: Which is I think the  
14 point that you're getting at.

15 CHAIRPERSON GRIFFIS: The silly  
16 areas. Okay. But you include the stairs?

17 MR. GHARAI: I did include the  
18 stairs.

19 CHAIRPERSON GRIFFIS: Okay. Okay.  
20 I mean, we're just trying to get clarity in  
21 what we're looking at here, and so that  
22 pathway also, of course, that concrete area.

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1 And then you come out and there is a small  
2 little plaza and it's mostly hardscape. Is  
3 that what is being proposed or --

4 MR. GHARAI: No, there is actually  
5 some --

6 CHAIRPERSON GRIFFIS: I see.

7 MR. GHARAI: There is actually  
8 some green.

9 CHAIRPERSON GRIFFIS: Okay.

10 MR. GHARAI: There are some plants  
11 there.

12 MS. PETERSEN: There is a sidewalk  
13 there, but --

14 MR. GHARAI: There is a sidewalk  
15 along the edge of it.

16 CHAIRPERSON GRIFFIS: Right.  
17 Okay. Any other questions?

18 VICE CHAIR MILLER: I don't know  
19 if you addressed this or not, but could you  
20 just articulate? You said that one of the  
21 uniquenesses about this is its irregular  
22 shape.

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1           Can you articulate how the  
2 practical difficulty in complying with the  
3 residential recreation requirements is related  
4 to that irregular shape?

5           MR. GHARAI:     Well, one of the  
6 requirements of the irregular shape is that  
7 you -- the residential space has to be a  
8 minimum of 25 feet wide. And so, you know,  
9 when you have an irregular shape like this,  
10 you get into situations where the recreation  
11 space is less than 25 feet wide. So,  
12 therefore, it doesn't comply.

13           CHAIRPERSON    GRIFFIS:        Okay.  
14 Anything else? Any other questions? Very  
15 well. Let's move ahead then. Mr. Jackson?

16           MR. JACKSON:     Mr. Chairman,  
17 Members of the Board, my name is Arthur  
18 Jackson. I am the development review  
19 specialist with the District of Columbia  
20 Office of Planning and I'm going to repeat  
21 some of the Office of Planning report.

22                           Essentially, staff used extensive

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1 time to research the status of the project,  
2 what was or was not approved and what with  
3 regard to the building permit and with regard  
4 to the HPRB review.

5 We were not actually able to  
6 determine exactly what would have been  
7 approved as far as the building permit, but we  
8 were able to determine that based on the files  
9 and the records from the HPRB meeting, there  
10 did not seem to be a concern about the  
11 recreation space during that approval.

12 However, I think there was a  
13 significant discussion about the height of the  
14 building and it seemed like there was  
15 acceptance of the height as it currently  
16 exists, and the inference being that there  
17 could be some major concerns about adding  
18 additional height.

19 Now, the question of additional  
20 height goes to actually making any  
21 recreational space on the roof useable, which  
22 is to say for it to qualify as recreation

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1 space there would have to be an elevator that  
2 went up to that level. An elevator would  
3 require an overrun. An overrun would add  
4 significantly to the height of the existing  
5 building.

6 (Whereupon, at 5:00 p.m. the  
7 Public Hearing continued into the evening  
8 session.)

9  
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22

1 E-V-E-N-I-N-G S-E-S-S-I-O-N

2 5:00 p.m.

3 MR. JACKSON: On the approved  
4 plans, on the plans that were on the  
5 construction site, there was a plan that  
6 showed the two buildings, two enclosures on  
7 the roof being connected by one structure, but  
8 essentially that was just a longer structure  
9 of the same height. There wasn't any  
10 additional height.

11 Of course, if they would run the  
12 elevator up, then we would have to have some  
13 sort of additional structure on top, which  
14 would be very -- a significant departure from  
15 what was approved by the HPRB. So,  
16 essentially, we went back to the Board and  
17 asked the applicant what actually -- what  
18 resulted in the changes that had resulted  
19 since the HPRB approval and that information  
20 was to provide a new report.

21 Essentially, the shape and  
22 location of the lot and building lends the

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1 ability to put recreation space in the  
2 building in terms of location. It has to be  
3 in certain areas and, in fact, we were in  
4 talking to the assistant to the architect or  
5 the architect --

6 MS. PETERSEN: I'm a project  
7 architect.

8 MR. JACKSON: Project, sorry,  
9 okay, project architect, we were able to  
10 determine that there was some space on the  
11 roof where recreation space could be located,  
12 which is in the front corner at the  
13 intersection of 11<sup>th</sup> and Pennsylvania Avenue.

14 However, because in both  
15 directions the dimension is over 25 feet, but  
16 you still have to have an elevator to make it  
17 useable or to make it suitable under the  
18 Zoning Regulations.

19 Then we talked about how, although  
20 the original approval anticipated providing  
21 recreation space on the roof, the additional  
22 demands under the Building Code and the

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1 requirements with regard to providing access,  
2 a second means of access to the roof,  
3 providing HVAC systems, providing an emergency  
4 generator and providing additional access to  
5 the underground garage resulted in these  
6 nonconformities developing in the site.

7 With regard to the suggested --  
8 well, first of all, given those facts, we felt  
9 that this presented a practical difficulty for  
10 the applicant to meet the requirements under  
11 the regulations. We don't think that granting  
12 this variance, these variances, would impair  
13 the intent, the purpose or integrity of the  
14 Zone Plan or the Zoning Regulations and will  
15 not affect the air and light available to  
16 adjacent residences.

17 We think the impacts will be  
18 minimal and I think to some degree,  
19 particularly with regard to the enclosure,  
20 they would still address some of the issues  
21 that were raised by the HPRB with regard to  
22 screening the parking that would be provided

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1 along that rear property line from 11<sup>th</sup>  
2 Street.

3 We also found that the Advisory  
4 Neighborhood Commission had voted for the  
5 original proposal for the demolition of the  
6 garage, of the service station, and erection  
7 of a five story building. And they also voted  
8 to support the required variance, the  
9 requested variances.

10 A further explanation of the  
11 additional relief that we identified. Looking  
12 at the Zoning Regulations, there is a  
13 stipulation under 2503 that a rear yard has to  
14 be clear from its -- clear of any structure in  
15 order to be considered. In this case, we have  
16 a second structure sitting in the rear yard  
17 that is not connected to the building. As  
18 such, it invalidates the rear yard that  
19 currently exists.

20 Since they have a suitable rear  
21 yard for their building, we are suggesting  
22 that we waive the requirement that that rear

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1 yard be free of additional structure and just  
2 -- and then waive the requirement for that  
3 additional structure, which is the stair, to  
4 be the required setback from the middle of the  
5 alley. So that is where the additional relief  
6 comes from. Again, that is the OP's  
7 perspective and we're open to suggestions on  
8 that, too.

9 So with that in mind, the Office  
10 of Planning supports approval of the requested  
11 variances, the rear variance from the  
12 residential recreation space and we would  
13 support variances from the rear yard  
14 requirement and section 2503 with regard to  
15 structures in required open space.

16 That concludes the Office of  
17 Planning report and I'm available to answer  
18 your questions.

19 CHAIRPERSON GRIFFIS: Excellent.  
20 Thank you very much. Follow-up questions,  
21 clarification? Cross? Any questions? Let's  
22 address that right away. I mean, you're here.

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1 You're already in a variance scenario. It  
2 seems like it's pretty --

3 MR. GHARAI: I would be happy to  
4 accept relief on it, I mean.

5 CHAIRPERSON GRIFFIS: Yes, who  
6 wouldn't? We hand it out like it's candy.

7 MR. GHARAI: I mean, you know,  
8 it's one of those things where --

9 CHAIRPERSON GRIFFIS: Let's not.  
10 I think you're here.

11 MR. GHARAI: Yes.

12 CHAIRPERSON GRIFFIS: There is no  
13 reason not to.

14 MR. GHARAI: Yes.

15 CHAIRPERSON GRIFFIS: And it seems  
16 to me I follow Mr. Jackson's analysis much  
17 more clearer than it's a fence.

18 MR. GHARAI: Okay.

19 CHAIRPERSON GRIFFIS: Frankly, it  
20 is a structure. I imagine it has a cover on  
21 it and it has a door, it's enclosed and you go  
22 down.

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1 MR. GHARAI: It doesn't have a  
2 door.

3 MS. PETERSEN: It has a gate.

4 MR. GHARAI: It has a gate though,  
5 I mean.

6 CHAIRPERSON GRIFFIS: Okay.

7 MR. GHARAI: And it --

8 CHAIRPERSON GRIFFIS: Does it have  
9 a roof over it?

10 MR. GHARAI: It has a canvas  
11 covering. It doesn't have a permanent roof.

12 CHAIRPERSON GRIFFIS: Someday the  
13 association will have enough equity to put a  
14 roof on the darn thing. So, nonetheless,  
15 you're here. It seems to me that if I'm not  
16 mistaken just looking at the documents, we  
17 have a unique condition based on the fact  
18 that, one, you have this oddly shaped and  
19 three-sided lot of which to access your  
20 parking.

21 I imagine that stair on the  
22 exterior is one of the egress from the below

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1 grade parking.

2 MR. GHARAI: It is, it is for the  
3 parking.

4 CHAIRPERSON GRIFFIS: That perhaps  
5 would have to have some separation and  
6 distance from the other access into the  
7 building. The open area location of which you  
8 would provide a stair seems to be limited in  
9 terms of, one, your residential recreation  
10 requirements, two, the other parking  
11 requirements that you're trying to make  
12 handicap accessible off the alley.

13 The drive aisle and ramp that goes  
14 beneath the building, it seems like you have  
15 a practical difficulty in locating it any  
16 other way. Correct me if I'm wrong on any of  
17 this.

18 MR. GHARAI: No, you're correct.

19 CHAIRPERSON GRIFFIS: And as it  
20 is, it doesn't seem to be in any way in  
21 disregard to the Zone Plan, Map or the public  
22 good. It's separated, which is an interesting

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1 point, from the building, which would make it  
2 more to Mr. Jackson's analogy of a structure  
3 in an open area.

4 Is there a reasoning to have that  
5 passageway from the sidewalk into the  
6 property?

7 MR. GHARAI: There is actually a  
8 gate there as well, I believe. I think there  
9 is a gate there, so that wall -- I think we  
10 have that elevation drawing.

11 CHAIRPERSON GRIFFIS: Yes, so it's  
12 -- I don't know what sheet it's called, but  
13 it's the second to the last in our stuff.

14 MR. GHARAI: Yes. It's connected  
15 with -- there is a gate that connects the  
16 building. It's the --

17 MS. PETERSEN: 11<sup>th</sup> Street  
18 elevation.

19 MR. GHARAI: It's this 11<sup>th</sup>. I  
20 don't know if you had it. I'm sure you do  
21 have this in your package.

22 CHAIRPERSON GRIFFIS: Okay.

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1           MR. GHARAI: But it is. I mean,  
2 we could argue that it's connected, and I  
3 don't know if that would change Mr. Jackson's  
4 analysis.

5           CHAIRPERSON GRIFFIS: Do you know?  
6 Was that meant for a permanent connection to  
7 that?

8           MR. JACKSON: We in the past have  
9 not considered a gate a permanent connection.

10          CHAIRPERSON GRIFFIS: Yes. No, I  
11 don't think a fence would make a structural  
12 permanent connection.

13          MR. JACKSON: Mr. Chairman, just  
14 one point I forgot to mention. We think that  
15 given the fact that the plan does not seem to  
16 exactly reflect what they are proposing for  
17 recreation space, it may be pertinent to have  
18 a plan put in the record that actually shows  
19 where the recreation space is and how much it  
20 is, because my thinking is the numbers would  
21 go down, may go down significantly.

22          CHAIRPERSON GRIFFIS: Okay.

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1 Comment on that?

2 MR. GHARAI: No, I'll check that  
3 for you. I'm all for checking things twice.  
4 I'm fine with that. I mean, if the number  
5 does go down, it will be good if we get the --  
6 if there is a mistake there, it would be good  
7 to catch it now if there is a mistake.

8 CHAIRPERSON GRIFFIS: Right, and  
9 that's what you're addressing, is whether the  
10 hatched area is all calculated.

11 MR. JACKSON: Well, yes, if you  
12 probably subtract out all the HVAC, make sure  
13 you don't need to make any other changes,  
14 subtract out the stairs, subtract out the  
15 parking spaces that may have been -- that may  
16 be included, because that -- no, I'm sure most  
17 of that has been done.

18 MR. GHARAI: Yes.

19 MR. JACKSON: But, again, to make  
20 sure that number, the number that you're  
21 requesting or are going to provide is actually  
22 there.

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1 CHAIRPERSON GRIFFIS: Okay.

2 MR. GHARAI: The stair is in the  
3 number though, the stair that goes up to the  
4 back door. We had included that.

5 CHAIRPERSON GRIFFIS: You had  
6 included it?

7 MR. GHARAI: We had included it,  
8 yes.

9 CHAIRPERSON GRIFFIS: Right. I  
10 think he is saying that you probably  
11 shouldn't.

12 MR. GHARAI: Then we won't.

13 CHAIRPERSON GRIFFIS: Okay. What  
14 else? Question?

15 VICE CHAIR MILLER: Well, I just  
16 want to raise the issue of if we're adding  
17 additional variance relief and it wasn't  
18 advertised for that variance relief why it  
19 might not be necessary.

20 And I'm wondering if the applicant  
21 can just address the extent to which the ANC  
22 and the community was on notice to the project

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1 and, you know, whether this is something  
2 pretty minor that wouldn't require further  
3 notice.

4 MR. GHARAI: I think let me just  
5 address that in saying that I think we have  
6 had about 10 community meetings both with the  
7 neighbors who live in the immediate  
8 neighborhood. I have gotten to know some of  
9 our neighbors very well there.

10 We have been very considerate of  
11 their needs and desires. We have tried to  
12 accommodate everybody as much as we can. We  
13 have had three meetings with the ANC and I  
14 have gotten to know Scott Cernich reasonably  
15 well, and we have had three meetings with the  
16 Capitol Hill Restoration Society and one with  
17 their Zoning Committee.

18 Unfortunately, I didn't bring a  
19 model of the project, but we have actually  
20 built three models of the project as it has  
21 progressed in its different stages. So the  
22 neighbors are very well-aware of this little

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1 structure in the back.

2 CHAIRPERSON GRIFFIS: Did they see  
3 this elevation in your presentations?

4 MR. GHARAI: They did, they did.

5 CHAIRPERSON GRIFFIS: So the  
6 elevation that showed that structure?

7 MR. GHARAI: Yes.

8 CHAIRPERSON GRIFFIS: That  
9 connection and the non-connection.

10 MR. GHARAI: And we also had a  
11 model of -- a model that looks like a  
12 children's doll house built. It's in color  
13 and I wish we had brought that. We pared this  
14 down for you because, you know, I was under  
15 the impression that you wouldn't care about  
16 this stuff.

17 CHAIRPERSON GRIFFIS: We care  
18 about everything.

19 MR. GHARAI: So --

20 MS. PETERSEN: But that stair has  
21 been in the project since the initial  
22 development.

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1 CHAIRPERSON GRIFFIS: Okay. Good.  
2 And I think that's what Ms. Miller has just  
3 pointed to and, of course, we're required to  
4 have notice for all these things. I mean,  
5 based on the fact that I -- as I understand  
6 it, not as I understand it, as I know, there  
7 is a variance or relief already advertised.

8 Therefore, everyone was on notice.  
9 So she is just making sure that, in fact, the  
10 substance of which we're all discussing now  
11 was also vetted, which is an important aspect.  
12 Okay.

13 And, certainly, with the other  
14 groups and associations and the community,  
15 they were aware and obviously reviewed it and  
16 would have no problems voicing their concerns.

17 MR. GHARAI: If they didn't like  
18 it, they would be here right now.

19 CHAIRPERSON GRIFFIS: Don't we  
20 know it. Okay. And it's important to have  
21 them here. Let's move ahead. Anything else?  
22 Anything else for Office of Planning? Very

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1 well.

2 I would note, and I just want to,  
3 maybe for my just notes, but the section we're  
4 talking about in terms of the relief, which I  
5 concur with the Office of Planning's analysis,  
6 is 2503, which goes to allowable structures in  
7 open areas. Okay.

8 That being said, let's move ahead  
9 and do we have any ANC representatives here  
10 today from 6B, ANC?

11 Not noting any ANC members with us  
12 and not noting any other designees of agencies  
13 here on this case, I would make reference to  
14 the other submissions. We have Exhibit No. 26  
15 from the Capitol Hill Restoration Society.  
16 The ANC did, Exhibit No. 24, submit their  
17 position.

18 Let me ask then if there is anyone  
19 here present in Application 17534 to provide  
20 testimony, persons to provide testimony? Not  
21 noting any other persons to provide testimony,  
22 let's turn it over to you for any closing

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1 remarks that you might have. Anything? Any  
2 last requests? Any concluding remarks?

3 MR. GHARAI: I don't have any  
4 concluding remarks.

5 CHAIRPERSON GRIFFIS: Okay. Very  
6 well.

7 MR. GHARAI: A Bench decision?

8 CHAIRPERSON GRIFFIS: Well, and  
9 that's from the peanut gallery who asked for  
10 an additional filing, so there is no Bench  
11 decision happening, but that can all be on the  
12 record, right? No.

13 MS. PETERSEN: I guess the other  
14 thing --

15 CHAIRPERSON GRIFFIS: Let's go  
16 directly to it. How long can you -- how long  
17 does it take you to recalculate and submit a  
18 plan drawing that shows the proper calculation  
19 for --

20 MR. GHARAI: Friday, Friday  
21 morning?

22 CHAIRPERSON GRIFFIS: Okay.

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1 MR. GHARAI: I mean, it's not --

2 CHAIRPERSON GRIFFIS: By 3:00 on  
3 Friday?

4 MR. GHARAI: Yes.

5 CHAIRPERSON GRIFFIS: Okay.

6 MR. GHARAI: End of business,  
7 Friday.

8 CHAIRPERSON GRIFFIS: In which  
9 case we'll set this for a decision making.  
10 Unfortunately, that puts us to the 23<sup>rd</sup> if we  
11 do a Special Public Meeting or we just move  
12 this to the 5<sup>th</sup>, which is our regular Public  
13 Meeting, which would be the 5<sup>th</sup> of December.  
14 Is there any major concern on that?

15 MR. GHARAI: No.

16 CHAIRPERSON GRIFFIS: Excellent.

17 MR. GHARAI: Not really.

18 CHAIRPERSON GRIFFIS: Then you're  
19 set.

20 MR. GHARAI: I mean, it doesn't  
21 affect us.

22 CHAIRPERSON GRIFFIS: We don't ask

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1 for clarification on that.

2 MS. PETERSEN: Is there any  
3 information that's -- I know that in Mr.  
4 Jackson's report he had mentioned being  
5 unclear on whether or not we had obtained  
6 building permit zoning approval. We're good  
7 with that? Okay, because I thought --

8 CHAIRPERSON GRIFFIS: No, I think  
9 he -- for clarification, what he started off  
10 by saying was he didn't go in and analyze what  
11 was permitted or not permitted.

12 MS. PETERSEN: Okay.

13 CHAIRPERSON GRIFFIS: He looked  
14 straightforwardly at the submission and did  
15 his zoning analysis, which was exactly what he  
16 should have done, and came up with this. So  
17 it didn't matter to him whether that enclosure  
18 or stair was permitted or not. He found that  
19 it didn't comply with the regulations. Is  
20 that correct? Excellent. Okay.

21 MR. JACKSON: Correct.

22 CHAIRPERSON GRIFFIS: So in which

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1 case we're going to have by close, 3:00 on  
2 Friday, no later, a new plan submission that  
3 will clearly designate the area of which  
4 you're calculating in for the residential rec  
5 and the actual square footage of calculation  
6 for that residential recreation area. Very  
7 well.

8 MR. GHARAI: Is there any --

9 CHAIRPERSON GRIFFIS: Anything  
10 else then?

11 MR. GHARAI: Any additional  
12 information that you require? It seems that  
13 we're doing the rear yard relief.

14 CHAIRPERSON GRIFFIS: Right.

15 MR. GHARAI: Is there any  
16 additional information you need for that?

17 CHAIRPERSON GRIFFIS: No, I think  
18 you really succinctly stated it already.

19 MR. GHARAI: Okay. All right.

20 CHAIRPERSON GRIFFIS: I don't  
21 think we need any additional, do we,  
22 additional filings? Focus on the drawings.

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1 I think we understand exactly the  
2 issue behind it and I think we'll be able to  
3 address it unless anyone has any concerns on  
4 that now, which I'm not seeing any voicing of  
5 that and I think we'll be all right.

6 MR. GHARAI: Okay. Thank you very  
7 much.

8 CHAIRPERSON GRIFFIS: Thank you  
9 very much. We'll look for that filing and  
10 then we'll look to call this for a decision  
11 making on the 5<sup>th</sup> of December.

12 That being said, thank you. We  
13 have one more case before us. I'm going to  
14 take a five minute break before we get this  
15 going, but if I could have those persons here  
16 as part of that for clarification.

17 Hello. Can I just have you all  
18 introduce yourselves? Are you representing  
19 the ANC?

20 MR. ALBERTI: Yes.

21 CHAIRPERSON GRIFFIS: Okay.  
22 That's what I wanted to make sure. Give us

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1 five minutes, stretch your legs. We're going  
2 to get some blood. We'll be right back.

3 (Whereupon, at 5:15 p.m. a recess  
4 until 5:23 p.m.)

5 CHAIRPERSON GRIFFIS: Very well.  
6 Let's resume. Let's call the next case.

7 MS. BAILEY: Mr. Chairman, the  
8 last case of the day is an appeal and it's No.  
9 17526 of Advisory Neighborhood Commission 6A,  
10 pursuant to 11 DCMR section 3100 and 3101,  
11 from the administrative decision of the Zoning  
12 Administrator, Department of Consumer and  
13 Regulatory Affairs, to issue a building permit  
14 allowing conversion of an existing single-  
15 family row dwelling into a flat that is a two-  
16 family dwelling.

17 Appellant alleges that issuance of  
18 the permit violates the off-street parking  
19 requirements under sections 2100.4, 2100.6,  
20 2100.7, 2100.9, 2101.1 and 2115.6 of the  
21 Zoning Regulations. Appellant also alleges  
22 that a rear addition violates several R-4 area

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1 requirements, including sections 403 and 404.

2 The property is located in the R-4  
3 District at Premises 1411 Ames Place, N.E.,  
4 Square 1056, Lot 39.

5 CHAIRPERSON GRIFFIS: Excellent.  
6 Thank you. It would be my understanding,  
7 noting who is in front of me, that the owner  
8 of the property is not present. Is that your  
9 understanding?

10 MR. GREEN: That is our  
11 understanding, Mr. Chairman.

12 CHAIRPERSON GRIFFIS: Okay. Very  
13 well. Then let's move ahead. If there aren't  
14 any preliminary matters for the Board, it's  
15 your case presentation.

16 MR. ALBERTI: Okay. Thank you for  
17 letting me speak. My name is Nicholas  
18 Alberti. I am representing ANC-6A in this  
19 matter. I'm going to argue that the building  
20 permits should not have been issued because  
21 the plans do not meet the parking requirements  
22 or the Zoning Regulations.

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1 I'm going to show first that for  
2 this conversion from a single-family to a two  
3 unit flat that one on-site parking is required  
4 for matter-of-right use for this development.  
5 I'm also going to show that at the time that  
6 the permits were issued, DCRA and the Zoning  
7 Administrator were aware that the plans did  
8 not show any plan for construction of parking  
9 nor -- it was obvious that the owner did not  
10 intend to put parking there.

11 Okay. As the summary of the case  
12 stated, this property is in an R-4 District.  
13 It is a conversion from a single-family to a  
14 two unit dwelling. I will note that section  
15 2100.4, this section of the zoning laws  
16 requires additional parking if the use of a  
17 structure is changed to another use that  
18 requires more parking, and that parking must  
19 conform to the parking requirements of 2101.

20 And if you look at 2101, when you  
21 go from a single to -- well, for the proposed  
22 use, which is a flat, two units, the parking

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1 requirements are one on-site parking spot per  
2 two units. So in this case, it would be one,  
3 one space is required.

4 I will note, and you can do the  
5 math, I mean, this is obvious, that the number  
6 of units is increasing from one to two, which  
7 is either a 50 percent or 100 percent increase  
8 depending on how you do the calculations, and  
9 I'm not sure what you use as your denominator.

10 But, in any case, that's moot  
11 because 2100.6 says that when the intensity of  
12 use of a structure that existed prior to May  
13 1958, which is the case for this structure,  
14 when that intensity of use is increased by the  
15 addition of dwelling units, parking shall be  
16 provided for the addition.

17 And the only exception to that  
18 rule is that if the increase in the number of  
19 units is less than 25 percent, then no parking  
20 is required. But in this case, the increase  
21 is 50 percent or 100 percent, depending on how  
22 you calculate it, so the parking is required

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1 even though the structure existed prior to May  
2 1958.

3 I will plan out, point out, and  
4 you have this in the permits that are part of  
5 your package that the permits do not show, do  
6 not mention, any parking, construction of a  
7 parking pad. And the plans -- I'm going to  
8 defer to you.

9 Should I submit the plans, the  
10 large plans, because I -- my contention is  
11 that these do not show the planned  
12 construction of a parking pad for this  
13 structure?

14 CHAIRPERSON GRIFFIS: Okay. They  
15 may concede to that element and then we'll see  
16 if we need the plans.

17 MR. ALBERTI: Okay.

18 MR. GREEN: Mr. Chairman, we'll  
19 stipulate to that.

20 CHAIRPERSON GRIFFIS: Okay.

21 MR. ALBERTI: Okay. Okay. So  
22 that summarizes my first point, which is that

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1 the Zoning Requirements clearly show that one  
2 on-site parking spot is required for this  
3 proposed use.

4 My second point is that DCRA and  
5 the Zoning Administrator knew at the time that  
6 these permits were issued. They knew the  
7 intent of the owner not to provide parking and  
8 they knew from the plans that no parking was  
9 planned. And I will just very quickly go  
10 through the chronology.

11 It was on May 24<sup>th</sup> that I first  
12 alerted the Zoning Administrator of this fact.  
13 On May 25<sup>th</sup> I sent a follow-up email, which --  
14 and let me give you some of those exhibits  
15 unless they want to stipulate to this also,  
16 but here is a package. One exhibit for you.  
17 I have three more and, actually --

18 MR. GREEN: Mr. Chairman, we will  
19 stipulate to those facts.

20 MR. ALBERTI: That the Zoning  
21 Administrator knew of the owner's intent?

22 MR. GREEN: Yes.

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1           MR. ALBERTI:  And -- okay.  And I  
2 will just note that the intent was obvious  
3 because, at that point in time, the owner had  
4 occupied a 20 foot deep rear yard.  Almost  
5 half of that was occupied by the construction  
6 of an addition at that point in time.  So  
7 there was obviously no room for parking.

8           Okay.  I mean, this is going  
9 quickly.  That really is my case and I would  
10 ask that the building permits be revoked, that  
11 you deny any pending Certificate of Occupancy  
12 for this structure and that you require the  
13 owner to seek zoning relief if they want to go  
14 forward with the proposed use as a flat.

15           CHAIRPERSON GRIFFIS:  Excellent.  
16 Very well presented, very well organized.  Let  
17 me ask two questions.  First, your  
18 understanding.  This is an existing structure  
19 and there is an addition that has been put on  
20 the rear.  Is that correct?

21           MR. ALBERTI:  Well, at the time  
22 that the permits were issued, there was a

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1 partially constructed addition.

2 CHAIRPERSON GRIFFIS: Okay.

3 MR. ALBERTI: Since that time, I  
4 will note that the Zoning Administrator has --  
5 I believe it was. Well, anyway, the addition  
6 has been taken off and my understanding is  
7 that it was at the request of DCRA.

8 CHAIRPERSON GRIFFIS: I see.  
9 Okay. Okay. That's a good clarification.

10 MR. ALBERTI: Because that was a  
11 separate issue.

12 CHAIRPERSON GRIFFIS: Sure, sure.

13 MR. ALBERTI: That was an  
14 enforcement issue.

15 CHAIRPERSON GRIFFIS: Might be.  
16 So we have now -- we have an existing  
17 structure though in the R-4 Zone?

18 MR. ALBERTI: Yes.

19 CHAIRPERSON GRIFFIS: Okay. And  
20 what is the requirement to your understanding  
21 of parking in the R-4 for a single-family or  
22 a flat, number of spaces?

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1 MR. ALBERTI: 2101.4 or 2101, that  
2 section says that a flat in all other  
3 districts requires one parking spot for each  
4 two dwelling units. That is on page 21-7 of  
5 the Zoning Regulations, 2101.1.

6 CHAIRPERSON GRIFFIS: Okay. Let  
7 me -- flat, all other districts, one for each  
8 two dwelling units. That's what you're  
9 looking at?

10 MR. ALBERTI: That's what I'm  
11 looking at, yes.

12 CHAIRPERSON GRIFFIS: Okay.

13 MR. ALBERTI: That's correct.

14 CHAIRPERSON GRIFFIS: And why  
15 wouldn't it be --

16 MR. ALBERTI: I will point out  
17 that if this was a new construction, that  
18 would, I think, apply very clearly.

19 The only question is is that this  
20 was a preexisting structure in 1958 and, as I  
21 pointed out, because of the amount of increase  
22 in the density measured in dwelling units,

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1 which is a measurement used in 2100.6, and  
2 then 2100.7 says when the -- essentially says  
3 that when you have -- when the increase in the  
4 number of dwelling units is more than 25  
5 percent, you must provide parking for that  
6 addition.

7 CHAIRPERSON GRIFFIS: Okay. Yes,  
8 I understand that.

9 MR. ALBERTI: I mean, I can read  
10 the -- read it to you, but --

11 CHAIRPERSON GRIFFIS: No, I  
12 don't -- I understand that.

13 MR. ALBERTI: Okay.

14 CHAIRPERSON GRIFFIS: And then you  
15 are also relying on the provision that talks  
16 about the change of intensity of use.

17 MR. ALBERTI: Yes, in 2100.6.  
18 When the intensity of use of a building or  
19 structure existed before 1958 is increased by  
20 addition of employees' dwelling units,  
21 etcetera, parking spaces shall be provided for  
22 the addition subject to 2100.7 through 2100.9.

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1 CHAIRPERSON GRIFFIS: Phew. Okay.

2 Questions?

3 VICE CHAIR MILLER: Is this  
4 building in an Historic District?

5 MR. ALBERTI: No, it's not.

6 VICE CHAIR MILLER: Okay. Thank  
7 you.

8 CHAIRPERSON GRIFFIS: Anything  
9 else? Cross?

10 MR. GREEN: We have no questions.

11 CHAIRPERSON GRIFFIS: Okay. Good.  
12 Well, let's move right along then.

13 MR. GREEN: Good afternoon or I  
14 should say good evening, Mr. Chairman and  
15 Members of the Board. My name is Matthew J.  
16 Green, Jr. and I am with the Attorney  
17 General's Office stationed at the Department  
18 of Consumer and Regulatory Affairs.

19 I call as my first witness Mr.  
20 Bill Crews who will explain his position as  
21 the Zoning Administrator as to why he ruled  
22 the way he did. Mr. Crews?

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1                   ZONING ADMIN. CREWS: Thank you.  
2           Mr. Chairman and Members of the Board, what I  
3           would like to explain here is how all of these  
4           sections need to be read together and present  
5           what I think is the issue from the  
6           commissioner here that I have the utmost  
7           respect for and for the work that he and his  
8           commission do in their area.

9                   And it may very well be that you  
10          might provide clarification and we're always  
11          glad to receive clarification from you like we  
12          apparently did this morning, but the way I  
13          read this and why there is not an off-street  
14          parking provided is that the -- we all agree  
15          that the building predates 1958 and so,  
16          therefore, it comes grandfathered with a  
17          parking space.

18                  And then we read the -- and I  
19          think we all agree on that, that in 2100.4,  
20          that subsection indicates that if the use of  
21          the building is changed to another use and it  
22          is being changed from a single-family dwelling

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1 to a flat, if the other use requires more  
2 parking spaces than was required for the  
3 existing use, then the parking shall be  
4 provided.

5 Again, we have brought up that  
6 2101, the chart there, indicates that for a  
7 flat in an R-4 Zone, only one space is  
8 provided. So there is not increase or more  
9 parking spaces are not required. And then to  
10 me that seems fairly clear on its face, but  
11 then how do we look at how that fits in with  
12 2100.6 and the preceding or the successive  
13 subsections.

14 And I think you need to read these  
15 together as best we can, and so that in 2100.6  
16 where it says parking spaces shall be provided  
17 for the addition, I think we have to read that  
18 if the addition of the intensity of the use,  
19 employees' dwelling units or gross floor area  
20 would require additional parking and,  
21 otherwise, they are somewhat in direct  
22 conflict and I think we can read them

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1 together.

2 And then 2100.8 makes it  
3 relatively clear that parking spaces for the  
4 addition -- again, this addition is the  
5 additional unit not any structural additions  
6 since we did nip that in the bud, so that the  
7 parking spaces for the addition need not  
8 exceed the amount of parking spaces that would  
9 be required for the entire structure as  
10 proposed if constructed new.

11 The entire structure as proposed  
12 is a flat. If it was constructed new, only  
13 one parking space would be required and that  
14 parking space in this case has been  
15 grandfathered in since it predates 1958.

16 CHAIRPERSON GRIFFIS: Questions?  
17 And where do you read the grandfathering? Is  
18 it in section 2100.1?

19 ZONING ADMIN. CREWS: Yes, 2100.1.

20 CHAIRPERSON GRIFFIS: Right.

21 ZONING ADMIN. CREWS: That  
22 subsection, all buildings and structures

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1 erected on or after May 12<sup>th</sup>.

2 MR. GREEN: 1958.

3 CHAIRPERSON GRIFFIS: Yes, right.

4 ZONING ADMIN. CREWS: Excuse me.

5 COMMISSIONER HOOD: Mr. Crews, if  
6 I could ask you to help me. I'm going to  
7 follow you. First, when you read, it was  
8 2100.1, which took you to 2100.1. I'm just  
9 trying to -- since you're talking about  
10 reading it together, I'm trying to formulate  
11 it so I can read it together. And then we  
12 ended up with 2100.4 and we concluded with  
13 2100.8.

14 ZONING ADMIN. CREWS: Right.

15 COMMISSIONER HOOD: Okay.

16 CHAIRPERSON GRIFFIS: Now, if I  
17 follow the argument at all, it follows fairly  
18 directly and it should no matter what amount  
19 or intensity or size we're talking about.

20 However, in this specific case,  
21 what I see is 2100.1, as I understand the  
22 argument, sets out that one parking space is

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1 required for a single-family or flat in the R-  
2 4 Zone, but 2100.1 says, look, you have a  
3 credit for one because it's an existing  
4 building that was built without the parking  
5 prior to 1958, May, when our zoning was  
6 adopted.

7 Then you go to 2100.4, which talks  
8 about if there is a change of use, and I think  
9 there was an address of because of the appeal  
10 that is being brought, what is being asserted  
11 is this is a change of use and intensity. So  
12 the Zoning Administrator is addressing that.

13 If you read 2100.4, what it is  
14 charging you to do is to calculate the change  
15 to another use. I'm sorry, I need to read  
16 this for the additional requirement. Well,  
17 yes, I mean, it's complex in its simplicity  
18 because 2100.4 says one is provided for a  
19 single-family and if you make a flat, one is  
20 still provided, so it's the same number,  
21 right?

22 ZONING ADMIN. CREWS: Right.

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1                   CHAIRPERSON GRIFFIS:     But that  
2                   number is grandfathered in.   And then we go  
3                   to, as I understand, 2100.8, parking spaces  
4                   for the addition need not exceed the amount.  
5                   So, essentially, what then it's saying is you  
6                   don't add onto.

7                   If you have one grandfathered, and  
8                   let's for a hypothetical discussion say that  
9                   this is a change of use to the flat or  
10                  intensity of use, number of dwellings in all,  
11                  you don't add on another parking space making  
12                  it a total of two that would be, essentially,  
13                  calculated in in the zoning analysis.

14                  You still have that one, which is  
15                  credited, which satisfies .8, right?

16                  ZONING ADMIN. CREWS:     Pretty  
17                  close, pretty close. I think what the ANC is  
18                  suggesting is that 2100.6 talks about that  
19                  parking spaces shall be provided for the  
20                  addition. In this case the addition of the  
21                  unit, but I think you have to read that in  
22                  connection with 2100.4 that says if that

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1 additional use doesn't -- you know, requires  
2 the same amount of spaces, it doesn't increase  
3 the number of spaces required.

4 CHAIRPERSON GRIFFIS: Right.

5 ZONING ADMIN. CREWS: And I think  
6 that's definitely clear in 2100.8, that if you  
7 built this new, you would only need one space  
8 and so you have to read 2100.6 to say that,  
9 no, it doesn't mean the unit standing -- the  
10 addition standing alone, whatever its  
11 requirement would be, gets added. It's just,  
12 again, reading it together.

13 CHAIRPERSON GRIFFIS: Right.

14 Okay. Others, questions, clarifications?  
15 Cross?

16 MR. ALBERTI: Yes, yes. Okay.  
17 Mr. Crews, I'm going to draw your attention to  
18 the pictures that I have given you in the  
19 document, and I'm going to submit these to the  
20 Board.

21 CHAIRPERSON GRIFFIS: Excellent.

22 MR. ALBERTI: So you all can see.

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1 In the documents, there are three originals  
2 with --

3 CHAIRPERSON GRIFFIS: Hold on.  
4 We're going to have you talk into a mike, so  
5 you --

6 MR. ALBERTI: -- in black and  
7 white, if we need more, please, let me know.  
8 I have more of the black and whites.

9 CHAIRPERSON GRIFFIS: Okay.

10 MR. ALBERTI: Okay. Mr. Crews,  
11 can you describe what you see in those? First  
12 of all, are these the pictures that -- to your  
13 recollection that I sent you in the email on  
14 March 24<sup>th</sup>?

15 ZONING ADMIN. CREWS: I would have  
16 to say that I don't necessarily recollect that  
17 these are the exact same pictures, but, first  
18 of all, I have no reason to doubt you and,  
19 second of all, if they are not the same  
20 pictures, they are very, very close.

21 MR. ALBERTI: Okay.

22 ZONING ADMIN. CREWS: And so --

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1 yes, but just --

2 MR. ALBERTI: And can you describe  
3 what you see there, please?

4 ZONING ADMIN. CREWS: I see an  
5 illegal addition to the rear of 1411 Ames  
6 Place, N.E., because the building -- and I say  
7 -- yes. Oh, good, an illegal addition.

8 MR. ALBERTI: Okay. Do you see  
9 any parking spaces?

10 ZONING ADMIN. CREWS: No.

11 MR. ALBERTI: Okay. I'm trying to  
12 understand your argument. Are you saying that  
13 this unit gets credit for one parking space  
14 that doesn't exist or are you saying that the  
15 current use a single-family gets credit for  
16 one parking space that doesn't exist, and so  
17 that gets included in your count, or are you  
18 saying that that parking spot is existing?

19 ZONING ADMIN. CREWS: No, I'm  
20 saying that the building, the single-family  
21 dwelling, gets credit for a parking space that  
22 did not exist because it predated. And, to my

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1 knowledge, I don't know that there was a  
2 parking space there.

3 MR. ALBERTI: Okay.

4 ZONING ADMIN. CREWS: I mean --

5 MR. ALBERTI: Okay. That  
6 clarifies my understanding of your argument.  
7 Actually, well, never mind. I don't want to  
8 pull on this.

9 MR. GREEN: Mr. Chairman? Mr.  
10 Chairman, I'm not trying to be obstreperous,  
11 but these pictures are pictures of something  
12 that just does not now exist. I would,  
13 therefore, ask that the Board, A, strike them  
14 as evidentiary material because they only show  
15 what was taking place in the past and the past  
16 is not what we are dealing with.

17 CHAIRPERSON GRIFFIS: Right.

18 MR. ALBERTI: Mr. Chairman?

19 MR. GREEN: We're dealing with  
20 what is present.

21 CHAIRPERSON GRIFFIS: Okay.

22 MR. ALBERTI: Mr. Chairman?

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1 CHAIRPERSON GRIFFIS: Yes?

2 MR. ALBERTI: May I address that?

3 CHAIRPERSON GRIFFIS: Yes.

4 MR. ALBERTI: I think the issue is  
5 what the past is, because the issue is at the  
6 time that the permits were issued, and that is  
7 what we're judging here, is whether those  
8 permits were issued in violation of the zoning  
9 laws or issued appropriately.

10 CHAIRPERSON GRIFFIS: Okay. Well,  
11 help me understand then --

12 MR. ALBERTI: Whether or not they  
13 should have been issued.

14 CHAIRPERSON GRIFFIS: -- how these  
15 pictures help you make that point.

16 MR. ALBERTI: Well, my point is  
17 that is what existed on March 24<sup>th</sup> and 25<sup>th</sup>.

18 CHAIRPERSON GRIFFIS: But this  
19 wasn't permitted.

20 MR. ALBERTI: Yes, and the permits  
21 were issued 10 days after those pictures were  
22 taken on April 7<sup>th</sup>.

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1                   CHAIRPERSON GRIFFIS:     For this  
2 work?

3                   MR. ALBERTI:     And those -- and I  
4 will attest that those -- that was the  
5 condition of the property at the time that the  
6 permits were issued.

7                   CHAIRPERSON GRIFFIS:     Okay.

8                   MR. GREEN:        But, Mr. Chairman,  
9 don't forget that the pictures depict what  
10 might have been, but they do not depict what  
11 is, which is nothing.

12                   CHAIRPERSON GRIFFIS:     Well --

13                   MR. GREEN:        They have been  
14 removed.

15                   CHAIRPERSON GRIFFIS:     This whole  
16 back piece was the illegal addition that  
17 you're talking about?

18                   MR. ALBERTI:     Right, the --

19                   CHAIRPERSON GRIFFIS:     So this is  
20 no longer -- was that permitted work?

21                   ZONING ADMIN. CREWS:     No, the  
22 permit that was issued on April 7, 2006 was

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1 for a two unit single-family conversion,  
2 complete interior alteration.

3 CHAIRPERSON GRIFFIS: Okay.

4 ZONING ADMIN. CREWS: Renovation  
5 entirely, basement excavation for a height  
6 increase, including plumbing, HIV, converting  
7 a single-family dwelling to a two-family flat  
8 and the application is -- for addition is not  
9 marked, and so that is why these pictures show  
10 an illegal structure --

11 CHAIRPERSON GRIFFIS: I see.

12 ZONING ADMIN. CREWS: -- that has  
13 been removed. I think we can --

14 CHAIRPERSON GRIFFIS: Okay.

15 ZONING ADMIN. CREWS: -- stipulate  
16 that or else I have pictures from this  
17 morning.

18 MR. ALBERTI: But I would like to  
19 point out it was removed after the permits  
20 were issued.

21 CHAIRPERSON GRIFFIS: Right, but  
22 that's not really the basis of your appeal.

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1                   MR. ALBERTI: Well, it goes to the  
2 basis of my appeal because whether or not you  
3 credit parking that didn't exist, the owner --  
4 it shows the intent of the owner at the time  
5 of those permits and to the knowledge of the  
6 Zoning Administrator, this was the intent of  
7 the owner, was even if you buy the argument  
8 that you can give credit for a parking spot  
9 that doesn't exist, which I don't think you  
10 can, but even if you buy that argument, the  
11 intent of the owner was to subtract that and  
12 bring it back to zero by taking up the full  
13 backyard, which the backyard could accommodate  
14 a parking spot.

15                   And so to say that this was  
16 grandfathered in with no parking is not valid.

17                   CHAIRPERSON GRIFFIS: Right. It's  
18 an interesting piece. I think fundamentally  
19 you do need to understand that if there was  
20 not one provided, that it is grandfathered in.

21                   I mean, it's a direct premise of  
22 the regulations and how when we adopted things

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1 and we made things nonconforming based on just  
2 the adoptions of existing conditions, the  
3 Zoning Regulations deal with an existing  
4 nonconforming issue in numerous ways and  
5 parking is one of them. I don't know. Well,  
6 there that is but --

7 MR. ALBERTI: I will save my  
8 arguments for later.

9 CHAIRPERSON GRIFFIS: Irregardless  
10 of whether you will walk out of here with that  
11 fundamental understanding or not, you bring up  
12 the next point as how are we supposed to judge  
13 this in terms of having provided a parking and  
14 meeting that requirement or not.

15 Now, these photographs don't help  
16 you make that case, because it's not really  
17 actually even showing the backyard or most of  
18 it, so I can't even picture it.

19 MR. ALBERTI: Well, I can just --  
20 I will just -- I can --

21 CHAIRPERSON GRIFFIS: That's fine.  
22 But my --

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1 MR. ALBERTI: -- give clarity  
2 there if you would like.

3 CHAIRPERSON GRIFFIS: My question  
4 is --

5 MR. ALBERTI: On what you're  
6 seeing.

7 CHAIRPERSON GRIFFIS: What do you  
8 believe that the Zoning Administrator should  
9 have known about this property that showed  
10 that it provided a parking space and that one  
11 was then removed from?

12 MR. ALBERTI: Well, my argument is  
13 at the time that the permits were issued,  
14 there was no possibility for a parking spot in  
15 the rear.

16 CHAIRPERSON GRIFFIS: Why?

17 MR. ALBERTI: Because of the rear  
18 yard is, approximately, just short of 20 feet  
19 deep. That addition that you're seeing there  
20 and the cones that you see at the rear of the  
21 property --

22 CHAIRPERSON GRIFFIS: Okay. That

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1 I understand.

2 MR. ALBERTI: -- take up about 9  
3 feet.

4 CHAIRPERSON GRIFFIS: I understand  
5 that part, right, and built into an area.  
6 Okay. But before that addition, forget the  
7 addition, was there a possibility of parking  
8 there or was there a parking provided? Was  
9 there a pad? What is the condition that  
10 we're --

11 MR. ALBERTI: Well, my contention  
12 is -- okay. Maybe you can clarify it for me,  
13 please. But if the backyard was nonconforming  
14 and was only, let's say, 8 feet,  
15 hypothetically, okay, I would argue that a  
16 special exception would be needed to put in to  
17 increase the number of dwelling units to two,  
18 because there was no -- because in the end  
19 there is not the one parking spot.

20 CHAIRPERSON GRIFFIS: Okay.

21 MR. ALBERTI: I mean, the  
22 grandfathering applies --

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1 CHAIRPERSON GRIFFIS: No, no.

2 MR. ALBERTI: -- to the original  
3 use and I understand that.

4 CHAIRPERSON GRIFFIS: Let's go to  
5 my question, because --

6 MR. ALBERTI: And it wasn't  
7 required to have a parking spot, because it  
8 was grandfathered in. But when you change the  
9 use --

10 CHAIRPERSON GRIFFIS: Right.

11 MR. ALBERTI: -- it now must  
12 conform.

13 CHAIRPERSON GRIFFIS: Right. Mr.  
14 Alberti, believe me, I 100 percent understand  
15 your argument.

16 MR. ALBERTI: Okay.

17 CHAIRPERSON GRIFFIS: And you have  
18 made it very articulately. No, it has been a  
19 very articulated argument. There is no need  
20 to tell me again it.

21 MR. ALBERTI: Okay.

22 CHAIRPERSON GRIFFIS: Because I

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1 fully understand it and I do not agree with  
2 it. However, you're raising now a different  
3 question that I'm trying to get an answer to,  
4 is the existing condition, the access to the  
5 rear. What leads you to believe that there  
6 was not a parking space provided there in  
7 1960, in '61, in '72, in '85?

8 MR. ALBERTI: Well, I'm not  
9 arguing that prior to the application for  
10 permits that there -- well, I can't say  
11 whether there was a parking spot there or not,  
12 because parking spots require certain  
13 conditions and I am not familiar with the  
14 conditions of the backyard prior to that.

15 But I will grant, I will concede,  
16 that there is -- I will concede the point that  
17 there was parking there prior to the  
18 application or permits.

19 CHAIRPERSON GRIFFIS: Well, you  
20 wouldn't concede it, because no one is  
21 asserting that there was. In fact, they are  
22 asserting the opposite.

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1 MR. ALBERTI: No.

2 CHAIRPERSON GRIFFIS: Is there a  
3 grade change off the alley?

4 MR. ALBERTI: There is a grade.  
5 There is public -- there is vehicle access off  
6 the alley.

7 CHAIRPERSON GRIFFIS: Uh-huh.

8 MR. ALBERTI: And the yard is 20  
9 feet deep and 17 or 18 feet wide. And my  
10 contention is that the -- at the time that the  
11 permits were issued, and the reason I'm  
12 arguing that they were issued in error, is  
13 that the owner had taken away that existing  
14 parking spot and the Zoning Administrator and  
15 DCRA knew that that parking spot was being  
16 taken away.

17 CHAIRPERSON GRIFFIS: So there was  
18 an existing parking spot there?

19 MR. ALBERTI: Yes, and so these  
20 permits should not have been issued on April  
21 7<sup>th</sup>.

22 CHAIRPERSON GRIFFIS: Mr. Crews,

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1 there is an existing parking spot?

2 ZONING ADMIN. CREWS: We have no  
3 evidence from the plans submitted to us that  
4 there was an existing parking spot there.  
5 Granted, neither the plans nor the application  
6 nor the plat along with this show a parking  
7 space.

8 CHAIRPERSON GRIFFIS: So they  
9 don't show a parking pad or surface that would  
10 be required for that parking shown in the  
11 apron into the alley?

12 ZONING ADMIN. CREWS: No.

13 CHAIRPERSON GRIFFIS: Is there --  
14 was it hardscaped?

15 ZONING ADMIN. CREWS: We don't  
16 know if there was a parking space or not.

17 CHAIRPERSON GRIFFIS: Just on the  
18 existing documents, was there a fence or an  
19 enclosure on here?

20 ZONING ADMIN. CREWS: We don't  
21 know that either.

22 CHAIRPERSON GRIFFIS: Okay.

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1 MR. ALBERTI: I will tell you  
2 there was a fence in the back. I am familiar  
3 that much with that alley.

4 CHAIRPERSON GRIFFIS: So there was  
5 a fence enclosure with no vehicle access into  
6 it?

7 MR. ALBERTI: I don't know. I  
8 don't remember if there was a gate, but I do  
9 remember a fence there.

10 CHAIRPERSON GRIFFIS: Okay.

11 MR. ALBERTI: I mean, whether or  
12 not there was vehicle access, whether or not  
13 they had the enclosure there, that came after  
14 1958. The existing -- I mean, if the owner --  
15 the law doesn't say that the owner has to keep  
16 the parking space open to the alley. It just  
17 says that it has to be built.

18 CHAIRPERSON GRIFFIS: Yes, it  
19 does.

20 MR. ALBERTI: Okay.

21 CHAIRPERSON GRIFFIS: If they  
22 built it today, it would.

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1 MR. ALBERTI: Okay. Well, then  
2 they could have been in violation, but with  
3 the rear yard --

4 CHAIRPERSON GRIFFIS: But not in  
5 this regulation where it would go before --

6 MR. ALBERTI: Okay. I guess my  
7 point is that the rear yard could accommodate  
8 a parking space.

9 CHAIRPERSON GRIFFIS: Could  
10 accommodate.

11 MR. ALBERTI: It could  
12 accommodate.

13 CHAIRPERSON GRIFFIS: I'm not  
14 going to argue with that.

15 MR. ALBERTI: So --

16 CHAIRPERSON GRIFFIS:  
17 Dimensionally, it could accommodate, because  
18 if --

19 MR. ALBERTI: So it was a  
20 nonconforming use in that regard.

21 CHAIRPERSON GRIFFIS: No, see,  
22 that's not exactly correct. Okay. Other

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1 questions?

2 VICE CHAIR MILLER: I just want to  
3 be clear. Do you have any evidence that there  
4 was a parking space there?

5 MR. ALBERTI: I don't have any  
6 evidence to say that there was.

7 VICE CHAIR MILLER: Okay.

8 CHAIRPERSON GRIFFIS: Okay.

9 MR. GREEN: Mr. Chairman?

10 CHAIRPERSON GRIFFIS: Yes?

11 MR. GREEN: I would begin to pose  
12 my --

13 CHAIRPERSON GRIFFIS: Ask that  
14 these pictures --

15 MR. GREEN: Yes, ask that they be  
16 stricken from the record, please.

17 CHAIRPERSON GRIFFIS: Comments?

18 VICE CHAIR MILLER: Well, I don't  
19 think the pictures are relevant really --

20 CHAIRPERSON GRIFFIS: No.

21 VICE CHAIR MILLER: -- to my  
22 deliberation at all, whether they are struck

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1 or not. I mean, I think they are irrelevant.  
2 I don't think they are helpful to a decision.

3 CHAIRPERSON GRIFFIS: Right. I  
4 tend to agree.

5 COMMISSIONER HOOD: Also, let me  
6 just say, Mr. Chair, corresponding with what  
7 Board Member Miller mentioned, 2100.6 then  
8 would be -- the way I see it would then be --  
9 2100.6 would then not be germane to our  
10 discussions anymore, because if these are not  
11 germane to our deliberations, then 2100.6 is  
12 not germane the way I see it. Am I correct?

13 VICE CHAIR MILLER: No, I don't  
14 think so, because I think that we're still  
15 talking about the intensity of use changing  
16 from a single-family to a --

17 COMMISSIONER HOOD: Flat.

18 VICE CHAIR MILLER: -- flat, so  
19 2100.6 I think is relevant. I think the  
20 addition doesn't do anything, especially since  
21 it was taken down. It just doesn't seem to  
22 have a relevance, I don't think, to any of

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1 these regulations.

2 CHAIRPERSON GRIFFIS: But even if  
3 you said it did, then you would have to  
4 calculate the parking for it, for the addition  
5 or the addition of a unit to make it a flat.  
6 So even say it counts, still one is required.  
7 So the total count doesn't change even if you  
8 say it does or it doesn't impact this, so it's  
9 still one.

10 VICE CHAIR MILLER: Yes.

11 CHAIRPERSON GRIFFIS: Right.

12 VICE CHAIR MILLER: This was  
13 amended.

14 CHAIRPERSON GRIFFIS: That's  
15 correct. Okay. For the sake of the fact that  
16 you have actually presented these into the  
17 case, we'll just keep it in the record. We'll  
18 mark it as an exhibit.

19 I think Ms. Miller has stated it,  
20 and I would absolutely agree, that it led to  
21 some questions, but doesn't lead us directly  
22 on point to what we're here for in the appeal.

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1 MR. ALBERTI: Can I ask a general  
2 question?

3 CHAIRPERSON GRIFFIS: Of course.

4 MR. ALBERTI: I mean, but it goes  
5 to the nature of this case, I mean.

6 CHAIRPERSON GRIFFIS: Yes.

7 MR. ALBERTI: Aren't we addressing  
8 -- at this point, the appeal is the issuance  
9 of the permits.

10 CHAIRPERSON GRIFFIS: Right.

11 MR. ALBERTI: So aren't we  
12 addressing the validity of those permits that  
13 were issued at that time, at that point in  
14 time? And so the condition of the property  
15 that existed at that point in time I think is  
16 germane to your deliberations.

17 CHAIRPERSON GRIFFIS: Not unless  
18 you can easily point us to that, because yes,  
19 the existing condition universally is germane,  
20 but you're asserting a specific error that the  
21 Zoning Administrator when reviewing the  
22 permits to provide them -- you assert that

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1 there is a specific error that he created by  
2 accepting those permits.

3 And the fact that there was an  
4 addition, of which he is saying was not part  
5 of the permitted documents or the approved  
6 permit, I don't see how they tie and I don't  
7 see further how it ties to the parking, except  
8 for the intent, which is where we were trying  
9 to explore, was it actually a removal of an  
10 existing space or not.

11 And I haven't heard persuasive  
12 argument that there was actually an existing  
13 space, which is now being removed, which would  
14 be a differing element of which Mr. Crews is  
15 saying that wasn't presented to me in my  
16 review of documents and I'm not hearing it  
17 presented again.

18 So that seems to not be fruitful.  
19 So, I guess, directly said, I don't know how  
20 it ties to it.

21 VICE CHAIR MILLER: And my point  
22 was with or without the addition, the issue is

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1 still the same. It's a conversion to a flat.  
2 It's triggering, I thought, your allegation of  
3 your --

4 MR. ALBERTI: Yes, that is  
5 correct.

6 VICE CHAIR MILLER: Okay. I have  
7 a question for Mr. Crews, and that is when you  
8 get these kind -- well, with respect to this  
9 type of permit that you had before you to  
10 approve, do you get information with respect  
11 to parking?

12 ZONING ADMIN. CREWS: Well, we --  
13 yes, we do, and we also get -- in this  
14 particular application, we got a plat that  
15 does not -- you know, of the lot with the  
16 structure built on it, but it does not show  
17 any parking.

18 It actually shows, you know, grass  
19 and then it has a construction entrance drawn  
20 in on it, but it doesn't show any existing  
21 parking. I think if there had been existing  
22 parking, they would not be able to get rid of

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1 it.

2 VICE CHAIR MILLER: Would that  
3 show up on the plat?

4 ZONING ADMIN. CREWS: It should  
5 have showed up on the plat if there was  
6 existing parking, right.

7 VICE CHAIR MILLER: Okay.

8 ZONING ADMIN. CREWS: And, again,  
9 we do not do inspections routinely before we  
10 grant. Obviously, now it's -- and this was  
11 done in April. We didn't have the access to  
12 the Citrix GIS system, but we do now have the  
13 advantage of the GIS system and use aerial  
14 photos to, you know, try and make sure that  
15 what is drawn accurately reflects it.

16 That's most notable in terms of  
17 making sure that public space is not included  
18 in the plat, you know, in the lot itself which  
19 is, you know, for a lot of people hard to  
20 understand. But, anyway, at this point --  
21 excuse me. At this point, we had no  
22 indication that there was an existing parking

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1 space there.

2 CHAIRPERSON GRIFFIS: Excellent.  
3 I think, you know, it's interesting when you  
4 look at the fabric of the city in the R-4 and  
5 the row dwelling neighborhoods, of which there  
6 are numerous ones, and you look at the  
7 convention of when they were built prior to  
8 1958, mostly turn of the century, most, let's  
9 talk generally, had rear yards that extended  
10 out to a small alley. Some are 10 feet, some  
11 are 12 feet.

12 There was never a provision in  
13 those when they were built for vehicle  
14 parkings. And here we come along in all our  
15 great glory wisdom in the 1950s and we say we  
16 need to require some things that are now more  
17 modern.

18 And so with that, the Zoning  
19 Regulations say from here on out when you  
20 build your town house in a matter-of-right in  
21 an R-4, as long as you have your dimensional  
22 requirements and your site requirements, 18

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1 by 100, 1,800 square feet, you can have a  
2 single-family or two units, a flat, right?

3 But in order to do that, you have  
4 to provide one parking space. Now, they  
5 looked around the city and they said, my gosh,  
6 we have got all these neighborhoods, all these  
7 existing structures. Some have carriage  
8 houses that are beautiful. Some don't have  
9 anything. Some have grade changes off the  
10 alley. Some have no access at all.

11 We have to accommodate those guys,  
12 so from here on out once we adopt this in  
13 1958, on the 13<sup>th</sup> of May we'll say, well,  
14 whoever is here now, consider yourself as  
15 counted in as being conforming and that  
16 conformity means we give you, essentially, a  
17 credit.

18 So in all those row dwellings that  
19 have these beautiful backyards that have  
20 fences or walls or whatever it is that never  
21 accommodated a vehicle, they have that credit  
22 of one. So as I understand the Zoning

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1 Administrator's case today is when he was  
2 presented this permit document, that is  
3 exactly what was assumed to be, because the  
4 reverse was not shown.

5 The reverse of a provision of a  
6 parking space was not shown. Therefore, he  
7 proceeded on his calculations and not having  
8 to calculate or require additional parking,  
9 because there is nothing in the regulations in  
10 Chapter 21 or other chapters that require more  
11 than two, more than one I should say, two or  
12 more, for the single-family or flat.

13 And so we're faced today with does  
14 this make sense, and I can fully understand  
15 your reading and sensibility. However, my  
16 understanding of the regulations disagrees  
17 with the premise and the basis of the appeal.

18 Let me let you conclude and tell  
19 us anything else that you would like us to  
20 understand before we move ahead with this.

21 MR. ALBERTI: Well, I will point  
22 out that, you know, these were never built.

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1 These were row houses and they were not built  
2 to be two units. They were built to be  
3 single-family units. So that is the history  
4 of this neighborhood and that is the history  
5 that we're trying to preserve, and that is the  
6 history that the zoning laws are trying to  
7 preserve.

8 And you're correct, I don't agree.  
9 I will tell you I don't agree with the fact  
10 that it gets credit for one unit. My  
11 interpretation of the zoning laws are that it  
12 was -- it allows -- it is allowed to exist,  
13 despite the fact that there is no parking,  
14 because it is grandfathered in.

15 But when you then change the use,  
16 when you operate on the property, you then  
17 have to conform to the new, to the modern  
18 zoning laws. And they were put there for a  
19 reason, because when you do have two unit  
20 buildings in an R-4 District, you do create an  
21 intensity of traffic and parking problems and  
22 density of people.

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1           So, you know, it becomes sort of a  
2 stop gap for allowing this conversion of all  
3 of these places into two units and, certainly,  
4 that is what the zoning laws -- the intent of  
5 R-4 Districts is to keep it as single-family  
6 row homes.

7           And so I don't agree that you give  
8 it credit for one. I say that it was allowed  
9 despite the fact that it had no parking and  
10 then when you change its use, when you change  
11 its intensity, it must conform to the current  
12 zoning laws which say one spot must exist.  
13 One parking spot must exist.

14           CHAIRPERSON GRIFFIS: Okay. Thank  
15 you. Others, last comments? Let me just  
16 bring up one issue, because you say the intent  
17 of the R-4 is for single-family and the  
18 difficulty in my understanding with that is,  
19 in fact, not only the intent, but the  
20 specifics of the general provisions and the  
21 use for the R-4 allows for flats.

22           So I don't disagree with single-

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1 family, but single family and flats. So we're  
2 not talking as if the R-4 --

3 MR. ALBERTI: So, I mean, yes, you  
4 take me -- I mean, it's a little bit too  
5 liberal here, but R-4 is intended -- I mean,  
6 it limits the density by putting parking  
7 restrictions, mitigating the density issues  
8 beyond single-families by putting parking  
9 restrictions on, and that is the intent of the  
10 restrictions in R-4 as I read them.

11 CHAIRPERSON GRIFFIS: Okay. Okay.  
12 I won't take a lot of time with that. I don't  
13 disagree that the parking is actually the  
14 regulator of density, because there are  
15 numerous provisions even in the R-4 that  
16 actually regulate density and even though that  
17 doesn't have an FAR calculation, it is  
18 regulated by height, number of stories. Those  
19 are density-regulating aspects.

20 Out of that density there is a  
21 provision that is a requirement for the  
22 parking. But, believe me, I fundamentally

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1 understand your position. Unfortunately, I  
2 think the regulations don't agree with it.  
3 There it is. Other items, questions?

4 VICE CHAIR MILLER: Well, I guess  
5 I just want to comment that you could agree  
6 with it. You could agree that an increase  
7 might be required by 2100.6, but I am of the  
8 view only if more spaces were required. I  
9 think what Mr. Crews did was look at 2100.8  
10 and saw that only one space was required and,  
11 therefore, one space was credited.

12 I think if, in fact, four spaces  
13 were required by the change, that he might  
14 have come to a different conclusion.

15 MR. ALBERTI: How so?

16 VICE CHAIR MILLER: Because this--

17 MR. ALBERTI: I mean, if he  
18 credits one space, then it gets credited under  
19 all conditions, under any situation.

20 VICE CHAIR MILLER: One space.

21 CHAIRPERSON GRIFFIS: One space.

22 VICE CHAIR MILLER: But, I mean,

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1 one space.

2 MR. ALBERTI: Yes. So you're  
3 saying if the law said four spaces, Mr. Crews  
4 could credit one and only require three?  
5 That's what you're saying?

6 VICE CHAIR MILLER: Right, I'm  
7 saying that --

8 MR. ALBERTI: That's what you're  
9 saying.

10 VICE CHAIR MILLER: That's what  
11 I'm saying.

12 MR. ALBERTI: Okay.

13 VICE CHAIR MILLER: I'm saying  
14 that. I mean, that's kind of like dicta. I  
15 don't want to just -- I'm just saying that you  
16 don't have to disagree with your view totally  
17 that there could still be an increase  
18 required, but in this particular case the  
19 number was the same.

20 MR. ALBERTI: I understand  
21 perfectly.

22 VICE CHAIR MILLER: Okay.

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1 MR. ALBERTI: It's just, I know,  
2 in this particular case we're only dealing  
3 with two versus one, two units.

4 VICE CHAIR MILLER: Two units  
5 would still only --

6 MR. ALBERTI: Right.

7 VICE CHAIR MILLER: -- require one  
8 space, the same as before.

9 MR. ALBERTI: Right, but your  
10 argument gets -- it's a little clearer when  
11 you're dealing with four and five. Okay.

12 CHAIRPERSON GRIFFIS: Good. Are  
13 we ready to proceed today?

14 VICE CHAIR MILLER: Um-hum.

15 CHAIRPERSON GRIFFIS: Very well.  
16 We're going to proceed today. The last thing,  
17 I think, I would just mention before we go  
18 into our deliberation is perhaps some -- and  
19 I don't want to have discussion on it, but it  
20 would seem to me that perhaps some discussion  
21 with the owner that is doing this renovation  
22 of the advantages of providing parking on the

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1 rear, certainly nothing precludes him from  
2 doing that.

3 MR. ALBERTI: Okay. Thank you.

4 CHAIRPERSON GRIFFIS: And so, you  
5 know, thinking of that, I'm sure you have  
6 thought of that. I don't need to say it, but  
7 it seems to make sense, you know, in this day  
8 and age, in all day and ages, but to have that  
9 and in terms of an amenity or a product that  
10 would be part of this. Very well.

11 I think the record is completely  
12 full on this. I think we have had some  
13 excellent discussion that actually challenges  
14 our own reading of our assumptions and the  
15 reading of the regulations with this, so it's  
16 always good to do this now and again, and I  
17 think we ought to move forward.

18 At this time, I would move for the  
19 denial of the Appeal 17526 of the ANC-6A. I  
20 won't read through all of the elements. I  
21 would just ask for a second.

22 VICE CHAIR MILLER: Second.

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1                   CHAIRPERSON GRIFFIS: Thank you.  
2           I will just make a clarification, of course,  
3           for the premises of 1411 Ames Place, N.E.  
4           Having been through this today, not having any  
5           intervenors, it has been, I think, direct and  
6           succinct in terms of the appellant's  
7           presentation of their case relying on the  
8           requirements of Chapter 21 and DCMR Title 11  
9           for the parking.

10                   We have an existing building as an  
11           existing single-family structure or, well,  
12           actually, that hasn't been exactly defined,  
13           but an existing structure in an R-4 District.  
14           It was established as a matter of fact in the  
15           regulations that in an R-4 District, single-  
16           family and flats are a matter-of-right.

17                   There are no other elements that  
18           were discussed today in terms of  
19           nonconformities, except that which whether the  
20           parking space was required as part of the  
21           permit that was issued. As stated, the Zoning  
22           Administrator indicated that the permit that

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1 was reviewed and approved was for interior  
2 alterations only and looking at that it was a  
3 conversion to a matter-of-right designation of  
4 a flat.

5 In reading 2100.1, one looks at an  
6 existing structure built before 1958 of which  
7 it was established in this case that this was.  
8 It would note that no parking would be  
9 provided or, in reverse, parking is to be  
10 provided for those spaces that were built  
11 after 1958.

12 Reading further, and as the Zoning  
13 Administrator I would agree with as you read  
14 the entire section together, it would note  
15 that no provision kicks this into requiring  
16 more than one parking space in the R-4  
17 District for a single-family or a flat and  
18 having had a building built before 1958, that  
19 is essentially credited or grandfathered in in  
20 terms of its requirement.

21 And, therefore, I believe in the  
22 evidence that is presented today that the

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1 Zoning Administrator did not err in issuing  
2 the permit as it has been illustrated for us  
3 today. Others?

4 VICE CHAIR MILLER: I would agree  
5 that the Zoning Administrator correctly  
6 interpreted the regulations and I think they  
7 do need to be read together, that often if  
8 someone tries to read one of these regulations  
9 by itself that often that does lead to an  
10 incorrect inclusion, unfortunately.

11 And I think these regulations are  
12 confusing in general to many, so that it's not  
13 uncommon, as we have seen, in our proceedings  
14 for people to have trouble with these  
15 regulations.

16 I also think it's key that in this  
17 case we heard on the record that there was no  
18 evidence that a parking spot ever existed in  
19 this place so that, therefore, the  
20 grandfathering provisions would apply.

21 CHAIRPERSON GRIFFIS: Mr. Hood?

22 COMMISSIONER HOOD: I would also

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1 agree, Mr. Chairman, with your comments and  
2 Ms. Miller's, but when I looked at it I played  
3 with 2100.6, and I agree with Mr. Crews'  
4 fashion as far as reading things together, and  
5 what trumped it was when I looked at the  
6 regulations, I see three regs that would trump  
7 2100.6.

8 And I don't want to go into too  
9 much explanation of how I reached my final  
10 conclusion, but I would also be voting to deny  
11 this appeal.

12 CHAIRPERSON GRIFFIS: Thank you.  
13 Others? Further deliberation, comments? Very  
14 well. We have a motion before us. It has  
15 been seconded. Let me ask for all those in  
16 favor to signify by saying aye.

17 ALL: Aye.

18 CHAIRPERSON GRIFFIS: And opposed?  
19 Abstaining? Very well. Why don't we record  
20 the vote?

21 MS. BAILEY: Mr. Chairman, the  
22 vote is 4-0-1 to deny the appeal. The motion

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1 was made by Mr. Griffis, seconded by Ms.  
2 Miller. Mr. Mann and Commissioner Hood  
3 support the motion, and Board Member Etherly  
4 is not here at this time.

5 CHAIRPERSON GRIFFIS: Excellent.  
6 Thank you very much. Thank you very much.

7 MR. ALBERTI: I thank you for your  
8 time.

9 CHAIRPERSON GRIFFIS: Of course.

10 MR. ALBERTI: And I admire your  
11 stamina.

12 CHAIRPERSON GRIFFIS: Thank you.  
13 We appreciate it. If there is nothing  
14 further, is there any further business for the  
15 Board? Very well. Let's adjourn.

16 MR. GREEN: Thank you, Mr.  
17 Chairman. Good evening.

18 (Whereupon, the Public Hearing was  
19 concluded at 6:14 p.m.)

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