

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

NOVEMBER 27, 2007

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 9:56 a.m., Ruthanne G. Miller, Chair, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

RUTHANNE G. MILLER, Chairperson
MARC D. LOUD, Board Member
SHANE L. DETTMAN, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

ANTHONY HOOD, Chairman

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
BEVERLEY BAILEY, Sr. Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

LORI MONROE, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

MATT JESICK
STEPHEN MORDFIN
STEPHEN RICE
KAREN THOMAS

The transcript constitutes the minutes from the Public Hearing held on November 27, 2007.

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

9:56 a.m.

CHAIRPERSON MILLER: The hearing will please come to order. Good morning, ladies and gentlemen. This is the November 27, 2007, Public Hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Ruthanne Miller. I'm the Chair of the BZA. Joining me today is Mr. Anthony Hood to my right, on behalf of the Zoning Commission. To my left is Mr. Mark Loud, a Mayoral appointee. To his left is Mr. Shane Dettman all on the Board. And with us today is Ms. Beverly Bailey from the Office of Zoning.

Copies of today's hearing agenda are available to you and are located to my left in the wall bin near the door. Please be advised that this proceeding is being recorded by a court reporter and is also webcast live. Accordingly, we must ask you to refrain from any disruptive noises or actions in the

1 hearing room. When presenting information to
2 the Board, please turn on and speak into the
3 microphone, first stating your name and home
4 address. When you're finished speaking,
5 please turn your microphone off so that your
6 microphone is no longer picking up background
7 noises.

8 All persons planning to testify,
9 either in favor or in opposition, are to fill
10 out two witness cards. These cards are
11 located to my left on the table near the door
12 and on the witness tables. Upon coming
13 forward to speak to the Board, please give
14 both cards to the reporter sitting to my
15 right.

16 The order of procedure for special
17 exceptions and variances is as follows: 1)
18 statement and witnesses of the Applicant; 2)
19 Government reports, including Office of
20 Planning, Department of Public Works, DDOT,
21 and etc.; 3) report of the Advisory
22 Neighborhood Commission; 4) parties or persons

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1 in support; 5) parties or persons in
2 opposition; 6) closing remarks by the
3 Applicant.

4 Pursuant to Sections 3117.4 and
5 3117.5, the following time constraints will be
6 maintained: the Applicant, persons and parties
7 except an ANC, in support, including
8 witnesses, 60 minutes collectively; persons
9 and parties, except an ANC, in opposition,
10 including witnesses, 60 minutes collectively;
11 individuals three minutes. These time
12 restraints do not include cross examination
13 and/or questions from the Board. Cross
14 examination of witnesses is permitted by the
15 Applicant or parties. The ANC within which
16 the property is located is automatically a
17 party in a special exception or variance case.
18 Nothing prohibits the Board from placing
19 reasonable restrictions on cross examinations,
20 including time limits and limitations on the
21 scope of cross examination.

22 The record will be closed at the

1 conclusion of each case, except for any
2 material specifically requested by the Board.
3 The Board and the Staff will specify at the
4 end of the hearing exactly what is expected
5 and the date when the persons must submit the
6 evidence to the Office of Zoning. After the
7 record is closed, no other information will be
8 accepted by the Board.

9 The Sunshine Act requires that the
10 public hearing on each case be held in the
11 open before the public. The Board may,
12 consistent with its Rules of Procedure and the
13 Sunshine Act, enter executive session during
14 or after the public hearing on a case for
15 purposes of reviewing the record or
16 deliberating on the case. The decisions of
17 the Board in these contested cases must be
18 based exclusively on the public record. To
19 avoid any appearance to the contrary, the
20 Board requests that persons present not engage
21 the members of the Board in conversation.

22 Please turn off all beepers and

1 cell phones at this time, so as not to disrupt
2 the proceedings. The Board will now consider
3 any preliminary matters. Preliminary matters
4 are those which relate to whether a case will
5 or should be heard today, such as requests for
6 postponement, continuance, or withdrawal, or
7 whether proper and adequate notice of the
8 hearing has been given. If you're not
9 prepared to go forward with a case today or if
10 you believe that the Board should not proceed,
11 now is the time to raise such a matter. Does
12 the Staff have any preliminary matters?

13 MS. BAILEY: Madam Chair, members
14 of the Board, to everyone good morning. No,
15 Staff does not.

16 CHAIRPERSON MILLER: Okay. Then
17 would all individuals wishing to testify today
18 please rise and take the oath. And Ms. Bailey
19 will administer the oath.

20 (Whereupon, the witnesses were
21 sworn.)

22 MS. BAILEY: Thank you. Ms.

1 Bailey, would you call the first case, please?

2 MS. BAILEY: Thank you, Madam
3 Chair. The first case is Application No.
4 17686, of Burton H. Finkelstein, pursuant to
5 11 DCMR 3103.2 and 3104.1, for a variance from
6 the front yard set back requirements under
7 Section 1543.4, and a special exception to
8 allow an addition to a one family detached
9 dwelling under Section 223, that meet in the
10 non-conforming structure provisions, that's
11 Subsection 2001.3. The property is located in
12 the Wesley Heights Overlay and is zoned R-1-B,
13 and it's located at 4516 Garfield Street, NW,
14 also known as Square 1339, Lot 34.

15 (Whereupon, a short break from
16 10:00 a.m. until 10:02 a.m.)

17 CHAIRPERSON MILLER: Okay. I was
18 just looking at the pictures. It didn't seem
19 to be the property I was thinking about.
20 17686, would you identify yourself for the
21 record please?

22 MS. RODDY: Good morning. My name

1 is Christine Roddy and I'm with the law firm
2 of Pillsbury, Winthrop, Shaw, Pittman. And
3 with me here today is Merle Thorpe of Merle
4 Thorpe Architects.

5 CHAIRPERSON MILLER: Thank you.
6 And you're here for an addition you're doing
7 in the Wesley Heights Overlay. Is that
8 correct?

9 MS. RODDY: Yes. That is correct.

10 CHAIRPERSON MILLER: Okay. I
11 think that the facts are pretty clear to the
12 Board. And we want to deal with the
13 preliminary question of whether you need a
14 variance or not, or whether you can just
15 proceed under 223 --

16 MS. RODDY: Okay.

17 CHAIRPERSON MILLER: -- for
18 special exception. Mr. Epting, are you going
19 to join us in this? Okay. As I understand
20 it, it appears that you've argued that you can
21 proceed under 223, because this is a
22 nonconforming structure that's seeking area

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1 relief.

2 MS. RODDY: That is correct.

3 CHAIRPERSON MILLER: And that's
4 covered by 223. And I believe that the Office
5 of Planning treated this application, pursuant
6 to 223. Why don't we let the Office of
7 Planning just introduce themselves and you can
8 just address that for a moment also.

9 MS. THOMAS: Yes. Good morning,
10 Madam Chair and members of the Board. I'm
11 Karen Thomas with the Office of Planning. We
12 did not have an objection to this special
13 exception request. We did see it as a special
14 exception request under 223, because it was
15 related to the yard -- question of the yard.
16 And, in this case, the front yard, which was
17 established by the Wesley Heights Overlay.
18 Okay. Yes.

19 CHAIRPERSON MILLER: And the yard
20 was made immediately nonconforming by the
21 enactment of the overlay. Isn't that correct?

22 MS. RODDY: That is correct.

1 CHAIRPERSON MILLER: Okay. I
2 think I'm going to ask you if you want to
3 stand on the record, or if you want to add
4 anything to this. Because looking it as a
5 223, it certainly seems that there's a strong
6 case that there's no adverse impact on the
7 neighboring property and that it's in harmony
8 with the Zoning Regulations. But if there's
9 anything you want to add to your filing, feel
10 free.

11 MS. RODDY: No. We're happy to
12 stand on the record. We have the support of
13 the ANC, as well as the neighboring
14 properties.

15 CHAIRPERSON MILLER: Right. Okay.
16 And there is no opposition in the record, that
17 I can see.

18 MS. RODDY: No, there is not.

19 CHAIRPERSON MILLER: Okay. Ms.
20 Thomas, what would you like to do?

21 MS. THOMAS: The Office of
22 Planning will stand on the record. We see it

1 as a fairly straight forward and reasonable
2 special exception request.

3 CHAIRPERSON MILLER: Thank you.
4 Any questions from the Board? Is the ANC here
5 on this case? Is anybody else here in the
6 audience who wishes to testify in support or
7 opposition on this case? Any closing remarks,
8 then?

9 MS. RODDY: No. Like I said, we
10 have the support of the neighbors, as well as
11 the ANC and the Office of Planning. And we
12 believe that we would meet the fairness test,
13 as well as the special exception test. But we
14 are happy to stand on the record.

15 CHAIRPERSON MILLER: Okay. Any
16 final questions from the Board? Okay. Then
17 I would move to approve Application No. 17686
18 for special exception relief pursuant to 223
19 to permit construction of addition to the
20 front of an existing residence, not in
21 conformance with the front yard set back, as
22 prescribed by the Wesley Heights Overlay for

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1 property located at 4516 Garfield Street NW.

2 And do I have a second?

3 MEMBER LOUD: Second.

4 CHAIRPERSON MILLER: I would just
5 comment that this property was made
6 immediately nonconforming when the regulations
7 went into effect for the Wesley Heights
8 Overlay, and therefore it's covered under
9 2001.3, and I think it's appropriate for us to
10 treat it as a special exception under 223.
11 The ANC and the Office of Planning are in
12 support. This is a very large property with
13 a very large yard. It complies with the side
14 yards. The immediately abutting neighbors
15 have no objections. There's no impact on
16 light and air or privacy on their properties
17 and it's in character with the house and in
18 the neighborhood and the overlay within which
19 it's located.

20 I think that we can adopt the
21 findings of the Office of Planning that went
22 through specifically all of the requirements

1 under 223. Any other comments? Okay. All
2 those in favor say aye.

3 ALL: Aye.

4 CHAIRPERSON MILLER: All those
5 opposed? All those abstaining? Would you
6 call the vote please?

7 MS. BAILEY: Madam Chair, the vote
8 is recorded as four, zero, one to approve the
9 application. Ms. Miller made the motion; Mr.
10 Loud seconded; Mr. Dettman and Mr. Hood
11 support the motion; and the fourth BZA member
12 is not in attendance at this time.

13 CHAIRPERSON MILLER: Thank you.
14 And I would suggest that this be a summary
15 order, as there's no opposition in this case.
16 And I believe that's the concurrence of the
17 Board. Okay. Thank you, very much.

18 (Whereupon, a short break from
19 10:07 a.m. until 10:08 a.m.)

20 CHAIRPERSON MILLER: We're ready
21 when you are, Ms. Bailey.

22 MS. BAILEY: The second case of

1 the morning is Application No. 17692, of
2 Robert E. Bradley, pursuant to 11 DCM 3104.1
3 and 3103.2, for a variance from the floor area
4 ratio requirements under Subsection 771.2; a
5 variance from the off street parking
6 requirements under Subsection 2101.1; and a
7 special exception allowing a food delivery
8 service, that's pizza delivery carry-out under
9 Section 734. The property is located in the
10 C-2-A District. The premise is 914 11th
11 Street, S.E., Square 996, Lot 809.

12 Members of the Board, I read the
13 application and it was advertised. But there
14 is particularly two preliminary matters, and
15 they have to do with the Applicant amending
16 the application concerning the lots; whether
17 additional lots are to be associated with this
18 application; and then secondly, there may be
19 a request to withdraw the parking
20 requirements.

21 CHAIRPERSON MILLER: Okay. Well,
22 let's hear it from the Applicant then. It's

1 just you at the table?

2 MR. AGUGLIA: Good morning.

3 CHAIRPERSON MILLER: Would you
4 introduce yourself for the record please?

5 MR. AGUGLIA: Good morning.

6 Richard Aguglia with the law firm of Hunton
7 and Williams, representing the Applicant. And
8 assisting me is Shanon Mohan.

9 We originally filed our
10 application on July 6th. We asked for a
11 special exception for a food delivery service
12 for a Papa John's, a variance from the FAR
13 requirement, and a variance from the off
14 street parking requirement. We only included
15 Lot 809.

16 At the suggestion of the Office of
17 Planning, on October 30, 2007, we amended our
18 application. We still had the special
19 exception for the food delivery service, but
20 we added three lots. We added Lots 810, 814,
21 and 817, again at the suggestion of the Office
22 of Planning. We therefore would provide two

1 onsite parking sites. But because they were
2 in tandem, we needed an exception -- a
3 variance from the requirement that they be
4 accessible separately. And apparently the
5 Office of Planning now has taken the position
6 that, since we've added those lots, we don't
7 need a FAR variance, because when you add all
8 the lots together it's .98, when in fact in
9 that zone, you can go up to 1.5 for
10 commercial. So, if that is the case, if you
11 agree with that, then we'll simply withdraw
12 that request.

13 Now, for notice purposes, we
14 appeared before the ANC's Zoning Subcommittee
15 on November 6th, and we presented the amended
16 application on November 6th. And there were
17 roughly five members of the ANC sitting on the
18 Zoning Subcommittee of ANC 6-B. And they
19 were, again, fully apprised of the amended
20 application. And we presented the amended
21 application.

22 All right, then we then went to

1 the --

2 CHAIRPERSON MILLER: That was a
3 publicly noticed meeting -- a regular meeting?

4 MR. AGUGLIA: Yes. Yes, it was.

5 CHAIRPERSON MILLER: Okay.

6 MR. AGUGLIA: And then, again
7 pursuant to a publicly noticed meeting by the
8 ANC, we met with them a week later, on
9 11/13/07 -- appeared before the full ANC;
10 again presented the amended application; and
11 they voted unanimously to approve it.

12 I have a very short Power Point
13 presentation. It will take about ten minutes,
14 if the Board would like me to make that
15 presentation now.

16 CHAIRPERSON MILLER: I think we
17 just want to ask a few preliminary questions
18 before you get into that.

19 MR. AGUGLIA: Yes.

20 CHAIRPERSON MILLER: With respect
21 to the combining of the lots for the purposes
22 of this application, you've presented them to

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1 us in the file as tax lots, but I believe
2 there may be a process that you need to go
3 through to combine them for record lots. Are
4 you familiar with that, for zoning purposes?

5 MR. AGUGLIA: I am familiar with
6 that. If you would show the -- can you show
7 the plat with the lots, please? One more.
8 Keep going. All right. Here are the -- the
9 subject building is on Lot 809.

10 CHAIRPERSON MILLER: Let me just
11 ask you -- just to be clear, that's tax lot
12 809, correct?

13 MR. AGUGLIA: That is a tax lot.

14 CHAIRPERSON MILLER: Are there any
15 record lots in existence yet, or only tax
16 lots?

17 MR. AGUGLIA: Well, I presume that
18 there was a record lot, from which they made
19 a tax lot. I'm making that presumption. They
20 can combine 814 and 810. So that would be
21 where the tandem parking would be. There
22 would be one -- one parking spot on 814, and

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1 then there would be another parking spot
2 behind it for the employees on 810. But, as
3 you see, 817 is not physically joined. So
4 it's problematic as to whether or not we can
5 consolidate that lot with the rest. And lot
6 817 is the best place to put the dumpster
7 because it's easily accessible from the public
8 alley.

9 CHAIRPERSON MILLER: So what
10 happens to the FAR if 817 is not consolidated
11 with the rest?

12 MR. AGUGLIA: I -- I think we're
13 still within it because we have a point five
14 to go. I've got a -- a note on that. The --
15 the four lots combined come out to 2,174
16 square feet. So we would take away -- could
17 you get my -- I don't think I brought my
18 calculator. Lot 817 I think only has 280
19 feet. So 2174 minus 280 and the -- all right.
20 So the -- the building itself is 2,134 square
21 feet of the building. And that would be
22 divided by 2174 minus 280.

1 MR. BRADLEY: Minus 280?

2 MR. AGUGLIA: Yes. 2174 minus 280
3 fives you what? That doesn't make -- Yes, do
4 it again. 2134 -- I'm sorry. 2174 is the
5 total of all four lots.

6 MR. BRADLEY: 2174?

7 MR. AGUGLIA: Minus 280. 1894.
8 All right. So take -- take 2134 and divide it
9 by 1894. 2134 square footage of the building,
10 divided by the land area 1894, excluding Lot
11 817, and what do you get?

12 MR. BRADLEY: 1.126.

13 MR. AGUGLIA: 1.126. I'm sorry
14 for the delay.

15 CHAIRPERSON MILLER: Oh, that's no
16 problem. Okay. We just wanted to get, you
17 know, in general, what we're dealing with
18 before we get into the specifics.

19 MR. AGUGLIA: Yes.

20 CHAIRPERSON MILLER: So there's no
21 -- there's probably not going to be any issue
22 with respect to the FAR. Then the question is

1 the dumpster on that other tax lot right now.
2 Maybe we can get Ms. Thomas's input on this
3 before we get into the case. You know, and
4 we're just looking at the different -- they're
5 identified as tax lots.

6 MS. THOMAS: Yes.

7 CHAIRPERSON MILLER: I think we
8 have a general understanding, but maybe you
9 can enlighten us further, that they can be
10 joined and become a record lot.

11 MS. THOMAS: A record lot. Yes.

12 CHAIRPERSON MILLER: Is it also
13 possible to join the 817, even though it's
14 separated by a public alley?

15 MS. THOMAS: I am not certain on
16 that one. I can't be sure.

17 CHAIRPERSON MILLER: Okay. I mean
18 we can --

19 MS. THOMAS: That may be something
20 we'll have to find out from the Office of the
21 Surveyor.

22 CHAIRPERSON MILLER: Yes. We may

1 have to hold that question out in abeyance.
2 I don't know. The other question is, though,
3 if they cannot be brought in as one lot, then
4 what happens to the dumpster issue where
5 that's on a different lot?

6 MS. THOMAS: Well then, that in
7 essence becomes a variance, I would believe,
8 to have -- you know, for him to place this off
9 site and -- and we can support that, given the
10 -- the lots' configuration of 809, 814, and
11 810 combined. If that were the case, you can
12 see that to provide the parking and the
13 dumpster, it would not be possible, due to the
14 width of the ray of the lot which is only 12
15 feet wide.

16 CHAIRPERSON MILLER: Okay. Any
17 other preliminary questions? Okay. Then why
18 don't you proceed with your presentation?
19 Okay?

20 MR. AGUGLIA: Thank you. All
21 right. This is the subject property at 914
22 11th Street S.E., in Square 996. It's in the

1 Capitol Hill Historic District. The building
2 itself is the two story. It does not include
3 the building to the right that's roughly one
4 story with a white canopy on it. And it does
5 not include anything to the left of the
6 building, which is an auto repair shop.
7 There's parking -- unlimited parking on that
8 street. Immediately in front of the building,
9 there's unlimited parking. Next slide please.
10 Again, here's another picture of the building.
11 It's currently vacant. My clients -- the
12 tenants have it under lease, but of course
13 they can't use it for the pizza delivery until
14 you give your approval. Next slide please.

15 This is looking towards the
16 freeway and K Street, S.E. Next slide please.
17 Here's the rear of the property where we have
18 the three additional lots that we've added.
19 The dumpsters would go roughly where the
20 garbage containers are now. And then the
21 parking would be in the -- you can see, it's
22 a very narrow lot. I have a google shot and

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1 it will show a little clearer where the lots
2 are fairly narrow. But they would be parked
3 in tandem.

4 I would like to say that -- also
5 that the Applicants -- or the franchisees
6 strongly believe in hiring from the immediate
7 community and they encourage their employees
8 to walk or take public transportation. So,
9 but there would still be two parking spots.
10 Next slide, please.

11 This is immediately across the
12 street on 11th Street. There's a garden store
13 there and there's one hour parking there from
14 7:00 a.m. until 6:30 p.m. Next slide please.
15 This is looking along K Street, and there's
16 two hour parking from 7:00 a.m. until 8:30
17 p.m. And then, after that it's a two hour --
18 it's zoned for that particular -- Zone 6 for
19 that particular ANC only after 8:30 p.m. Next
20 slide please.

21 Now here's the Google shot. And
22 so you see the -- the subject property is

1 roughly a triangle -- roughly rectangular in
2 shape with a wide top. And then you see
3 there's car parked in the back. You can see
4 where that's fairly narrow. There would be a
5 second car parked behind that, if in fact the
6 employees do not walk or take public
7 transportation. And then what we have is what
8 I call the alley lot, where it would be the
9 most simple for the -- for the trucks -- for
10 the garbage trucks to come and pick up the
11 garbage and recycling. Next slide please.

12 All right. Here is the plat. It
13 shows the property is split zoned where the C-
14 2-A zone and the other half of the block is R-
15 5-B. And you can see the -- the boundaries
16 with I Street at the top, K Street at the
17 bottom, 11th Street to the left, and 12th
18 Street to the right. It is not in the Capitol
19 Hill Overlay. It's just straight C-2-A. The
20 next slide please.

21 Again, here -- here's the zoning
22 off the website of that half of the square.

1 Next slide. Again, we go back to -- the
2 subject building was built in 1937. It's on
3 Lot 809. It completely fills the building.
4 We would have one parking spot on Lot 814, one
5 on 810, again in tandem. We then have the
6 alley. And I want to walk over a minute -- I
7 don't know if this is going to be picked up on
8 the mike. Is there an additional mike for me?
9 Can you hear me? Thank you.

10 So again, in keeping with the
11 suggestion of the Office of Planning, as a
12 buffer from the residential area, which is
13 also separated by this alley, we would have a
14 brick enclosure the entire length of this lot,
15 seven feet, nine inches high -- seven feet,
16 nine inches high, which is the height of the
17 highest dumpster, which is the eight yard
18 dumpster. So there would be two dumpsters in
19 here, an eight yard and a four yard. The four
20 yard is needed for recycling to meet District
21 law and the eight yard would be for the trash
22 generated by the pizza carry out.

1 Then this would be -- so we would
2 have -- all of this would be seven feet, nine.
3 So we'd have seven feet, nine the entire
4 length as the buffer -- as an additional
5 buffer. This would come out roughly 13 feet.
6 And this would come out roughly 15 feet. And
7 then we would have an opaque entrance here,
8 not facing the residence district. So the
9 truck would just come here and then come in,
10 unload, pick up the trash, and then leave.
11 And this would be an opaque opening. It does
12 not face the residential district.

13 The Office of Planning has
14 suggested sort of an enclosure within an
15 enclosure. And I had talked with them and
16 that seemed to be inordinately expensive.
17 Essentially, we're going to have a seven foot,
18 nine, three -- three sided brick enclosure,
19 roughly around the whole perimeter of the lot,
20 with the opaque opening. Does that make sense
21 to you?

22 CHAIRPERSON MILLER: Does the side

1 opposite the brick wall -- that's just open?

2 MR. AGUGLIA: It has to have an
3 opaque -- it must have an opaque opening.

4 CHAIRPERSON MILLER: Are there two
5 opaque sides or just one?

6 MR. AGUGLIA: No, one.

7 CHAIRPERSON MILLER: I thought the
8 shorter one was the opaque one. Maybe I'm
9 wrong.

10 MR. AGUGLIA: That's correct.

11 CHAIRPERSON MILLER: Okay.

12 MR. AGUGLIA: So we'll have --
13 we'll have brick the entire length, again as
14 a buffer. We'll have brick here, roughly 13
15 feet; brick here, roughly 15 feet; opaque
16 opening here; and then the garbage trucks will
17 come here. So three sided brick with the
18 opening.

19 CHAIRPERSON MILLER: Thank you.
20 Okay.

21 MR. AGUGLIA: All right. So in
22 summary -- well, let's go to the next picture.

1 So here's the interior of the first floor
2 carry out deli. It will be, based upon their
3 experience, delivery -- carry out delivery; 85
4 percent deliver with only 15 percent carry
5 out. People would walk in the front entrance,
6 which is towards the bottom of the picture.
7 There might be a bench there, but there are
8 not going to be any tables. It's strictly a
9 carry out. And you'll see they have a cut
10 table where they prepare and cut the pizza.
11 They have ovens. They have a small walk in
12 cooler. They have sinks and a bathroom.

13 And then the next picture will
14 show you the second floor. This essentially
15 is just going to be an office for the first
16 floor. And the next slide shows the
17 dimensions of the eight yard containers; the
18 one eight yard container; the one four yard
19 container for recycling. The total square
20 footage of both is roughly 100 square feet,
21 and the lot has 280 square feet. So, with the
22 brick enclosure, there's plenty of room to

1 meet the requirements of the -- of the special
2 exception.

3 And the next picture; now this was
4 simply a picture I took. This is in the
5 Downtown District to show you the height of
6 the eight foot -- eight yard dumpster. Of
7 course, it's going to be surrounded by brick
8 on three sides, with the opaque entrance
9 opening on the other. But this is to try to
10 give you a feel for what it's going to be.
11 And then the next picture; this -- that's what
12 a typical four yard dumpster looks like.
13 Again, it's going to be enclosed. The next
14 picture -- do we have any more.

15 All right. Now, for consistency
16 with the Comprehensive Plan, on the -- on the
17 Future Comprehensive Land Use Map, the
18 property is listed as mixed use. There's the
19 property. And the Office of Planning also
20 pointed out that, in the Comprehensive Plan,
21 that there was a dearth of retail development
22 in this part of commercial -- of Capitol Hill,

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1 and that this was a desired result to get more
2 retail in that particular area. Is that the
3 end of our pictures?

4 So, all right. If we could have
5 the lights up. Thank you. So, by way of
6 summary, our position is that we meet the
7 provisions of Section 734 for a special
8 exception for food delivery service. The
9 actual -- the actual building which will have
10 the pizza delivery and carry out is not within
11 25 feet of a residence district. If we
12 include the dumpsters as part of the use, it
13 is separated by the alley as well as the brick
14 enclosure for buffering.

15 As I have already mentioned, the
16 refuse dumpster will be housed in a three
17 sided brick enclosure with opaque gate not
18 facing the residence district. There is no
19 drive through. There's no objection to the
20 neighbors due to noise, sound, odors, lights,
21 hours of operation, or other conditions. It
22 will be open from 11:00 a.m. to 11:00 p.m.

1 Sunday through Thursday, and 11:00 a.m. until
2 midnight on Friday and Saturday. I believe
3 the Department of Transportation, as well as
4 the Historic Preservation Office have advised
5 the Office of Planning that they have no
6 objection, whatsoever, to this application.

7 There is sufficient off street
8 parking, understanding that only 15 percent of
9 the customers are expected to be on a carry
10 out basis. As I've mentioned, there's
11 sufficient parking along K Street and along
12 11th Street. And there's no dangerous or
13 otherwise objectionable traffic conditions.

14 With respect to our request for
15 the variance, as you noted and as the Office
16 of Planning stated, that the lots immediately
17 behind that we have included in our
18 application are very narrow, which leads to a
19 practical difficulty requiring a variance from
20 the strict application of Section 2117.4,
21 which requires that the access be immediately
22 available to both. And again, I think this is

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1 going to be a minor problem because we're
2 hoping that the employees will either walk or
3 take public transit. And the goal is to hire
4 from the immediate neighborhood. There is a
5 large apartment complex called Potomac Gardens
6 right around the corner. And, since we meet
7 the -- since we're under 1.5, even without Lot
8 817, then we would withdraw that request for
9 a variance from the FAR. If you have any
10 questions, I'll be happy to respond.

11 CHAIRPERSON MILLER: Are you
12 adding a request for variance with respect to
13 the requirement governing the dumpster?

14 MR. AGUGLIA: If, in fact, we
15 determine -- and perhaps we'll -- if we could
16 leave the record open for maybe a week -- if
17 we determine that the surveyor says that we
18 can't consolidate it, then I would have to
19 make an amendment to request that variance.
20 Yes. If the surveyor says they can be
21 consolidated, then I will so inform you.

22 CHAIRPERSON MILLER: Do you have

1 any reason to believe that you wouldn't be
2 able to combine the other lots?

3 MR. AGUGLIA: No. I think because
4 they're adjacent lots and -- and obviously
5 when you combine things, there's virtually no
6 problems. It's when you separate them that
7 you run into -- into the zoning problems. And
8 here it only facilitates the zoning.

9 CHAIRPERSON MILLER: Okay.
10 Because when we look at this application, this
11 is the only thing that's a little bit
12 confusing about it, but not necessarily that
13 confusing. But, for instance, the parking; if
14 they're combined as one lot, the parking's on
15 the property and you don't need any relief
16 from that. But if the parking were not on the
17 property, if it was on a different lot, then
18 you might need relief.

19 MR. AGUGLIA: That would go then
20 back to my original application where I asked
21 for relief from -- from them being on site.
22 So it's -- it's -- it's a catch 22 situation,

1 almost.

2 CHAIRPERSON MILLER: Any other
3 questions right now?

4 COMMISSIONER HOOD: Yes. I just
5 wanted to ask, the use; I know you said you're
6 going to open from 11:00 a.m. to 11:00 p.m.
7 Sunday through Thursday or whatever it was,
8 something like that.

9 MR. AGUGLIA: That's correct.

10 COMMISSIONER HOOD: So, in other
11 words, people won't take -- no one will be in
12 there until 11:00 a.m.? Is that what you're
13 saying? Or are you saying that it just is not
14 open from 11:00 a.m. to 11:00 p.m. -- it's
15 open from 11:00 a.m. to 11:00 p.m.?

16 MR. AGUGLIA: It's open from 11:00
17 a.m. until 11:00 p.m. My assumption is there
18 will probably be an employee in there roughly
19 an hour ahead of time to set things up and
20 perhaps an hour later to close.

21 COMMISSIONER HOOD: So nobody will
22 be there at 7:00 in the morning working?

1 MR. AGUGLIA: No.

2 COMMISSIONER HOOD: All right.

3 Thank you.

4 CHAIRPERSON MILLER: You didn't
5 get any concerns from the community with
6 respect to hours of operation or anything like
7 that, did you?

8 MR. AGUGLIA: None, whatsoever.

9 It was carefully explained.

10 CHAIRPERSON MILLER: Okay.

11 MR. AGUGLIA: And we also
12 submitted a petition by various neighbors who
13 are very much in favor. The ANC was very much
14 in favor because this side of town gets -- has
15 very little retail and it needs a boost.

16 CHAIRPERSON MILLER: Any other
17 questions right now for the Applicant? Why
18 don't we turn to the Office of Planning then?

19 MR. MORDFIN: Good morning. I'm
20 Stephen Mordfin with the Office of Planning.
21 And the subject application is in conformance
22 with the provisions of Section 734 of the

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1 Zoning Regulations for food delivery service
2 within the C-2-A, and that no part of the lot
3 is located within 25 feet of a residence
4 district, unless it is separated by an alley.
5 A continuous brick wall a minimum of six feet
6 in height and 12 inches thick will be provided
7 along the eastern lot line of Lot 817, which
8 abuts an alley containing a boundary line for
9 a residence district; in this case the R4.

10 The larger of the two proposed
11 dumpsters will be 7.9 feet in height and the
12 brick enclosure will be a minimum of 7.9 feet
13 in height and will surround those dumpsters on
14 three sides with the entrance facing into the
15 C-2-A District. No drive through is proposed.
16 Two off street parking spaces will be provided
17 as required, providing the Board approved the
18 variance -- a variance request to Section
19 2117.4 of the Zoning Regulations. And the use
20 is designed so as not to be objectionable to
21 the neighboring properties because all parking
22 access and refuse collection will be from the

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1 alley; all pedestrian access will be from the
2 front of the building; and the use is proposed
3 to be located within an existing commercial
4 strip.

5 Therefore, the Office of Planning
6 has determined that the subject application is
7 in conformance with the criteria necessary for
8 the granting of a special exception for the
9 establishment of a food delivery service
10 within the C-2-A zoned district. The
11 application is also in conformance with the
12 criteria for the granting of a variance to
13 Section 2117.4, a request to permit tandem
14 parking. The subject property is unique in
15 that, as a result of its shape and the
16 location of the existing building on Lot 809,
17 it is not possible to design two parking
18 spaces each with direct access to an alley or
19 street, while also providing truck accessible
20 location for the two dumpsters. The granting
21 of the variance will not substantially impair
22 the intent, purpose, and integrity of the Zone

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1 Plan, as the two parking spaces will be used
2 primarily by employees of the business and it
3 is not anticipated that customer related
4 parking will be necessary. Therefore, the
5 Office of Planning recommends the approval of
6 the requested variance to Section 2117.4, to
7 permit tandem parking.

8 The Applicant has also applied for
9 a variance to Section 771.2 of the Zoning
10 Regulations, floor air ratio in commercial
11 zoning districts. The application requests to
12 increase the FAR from 1.5 to 1.79 to allow for
13 the existing building on Lot 809. However,
14 the FAR is calculated on the entire property
15 associated with the application, which also
16 includes Lots 814, 810, and 817. The
17 combination of these four lots results in a
18 land area of 2174 square feet, reducing the
19 FAR to 0.98, less than the maximum permitted.
20 Therefore, the Office of Planning is of the
21 opinion that no variance to FAR is permitted.

22 The Office of Planning recommends

1 approval of the subject application to permit
2 food delivery service within the C-2-A zone
3 district and to allow tandem parking on site.
4 The Office of Planning also does not believe
5 a variance to FAR is required as requested by
6 the Applicant. Thank you.

7 CHAIRPERSON MILLER: Thank you.
8 I'm not sure if you were here earlier when we
9 were discussing the question of tax lots
10 versus lots of record and combining the lots?

11 MR. MORDFIN: No, I was not here
12 earlier. I don't see a reason why the lots
13 couldn't be combined. I mean, there is that
14 one lot on the other side of the alley. That
15 one, obviously, I don't think could be. That
16 is up to the Office of the Surveyor because
17 there is the alley in between and I don't know
18 that we would support an alley closing to
19 combine all of those lots. I also don't know
20 what's under those tax lots. Usually there
21 are record lots under there that may show that
22 it is combined today. But that would be --

1 the Office of the Surveyor would have to
2 determine just what is the situation there.

3 CHAIRPERSON MILLER: So, do you
4 think it's, I guess, prudent for us to
5 proceed, based on the assumption that at least
6 those three lots can be combined? Because
7 that's what we're doing our analysis on right
8 now, based on the Office of Planning's
9 recommendation, among other things.

10 MR. MORDFIN: Yes. I think it
11 would be. Those three lots -- those first
12 three lots, from 11th Street, could be
13 combined into one larger lot. And perhaps a
14 variance to permit the other lot that's on the
15 other side of the alley to be included as a
16 part of the subject property, even though it's
17 separated.

18 CHAIRPERSON MILLER: A variance to
19 be used for a dumpster, or a variance for
20 something else?

21 MR. MORDFIN: Just in my
22 discussions with Mr. Moy, a variance for

1 something else, if -- if it needs to be
2 combined, somehow, he'd indicated to me that
3 it might need a variance so that it could be
4 a part of it, even though it's not separated.
5 So, if that is the case --

6 CHAIRPERSON MILLER: Okay. I
7 mean, you know, when we do the variances, we
8 could look at a regulation to see what they
9 would get the variance from. Earlier, I think
10 we were looking at the regulations under 774,
11 that were governing the fast food -- not the
12 fast food --

13 MR. MORDFIN: The food delivery in
14 a C-2-A.

15 CHAIRPERSON MILLER: The pizza
16 delivery, and there was a requirement for the
17 placement of the dumpster. And so we thought
18 that they might need a variance from that
19 provision. Do you have another idea in mind?

20 MR. MORDFIN: No, I do not.

21 CHAIRPERSON MILLER: Okay. And,
22 with respect to the exceptional or unique

1 situation that exists there to support that
2 variance, I assume it's that, if I understood
3 your presentation correctly, that 809 is
4 already fully occupied by a building and then
5 it's narrow behind it and there's not enough
6 land there on the lots to accommodate both two
7 cars and the dumpster?

8 MR. MORDFIN: That's correct.

9 CHAIRPERSON MILLER: Okay. And if
10 the lots can't be combined for some reason,
11 then they would need to resort to variance
12 relief for some of these parking provisions.
13 Isn't that correct?

14 MR. MORDFIN: That's correct.

15 CHAIRPERSON MILLER: Okay. And do
16 you think that they would need variance relief
17 under 2216?

18 MR. MORDFIN: Under 2216?

19 CHAIRPERSON MILLER: Yes. That
20 hasn't been mentioned yet, but Staff has
21 brought that to our attention to raise as a
22 possibility if the lots aren't combined. You

1 don't have the regs in front of you?

2 MR. MORDFIN: No. I don't have a
3 copy of the regs here.

4 CHAIRPERSON MILLER: Okay. It's
5 location of parking spots, Mr. Aguglia, do you
6 have your regulations? Okay. Well, it talks
7 about placement of parking spaces in a garage
8 or in a carport or an open area, if it's
9 within a rear yard or a side yard, or
10 elsewhere on the lot. And it wouldn't be on
11 the lot, is basically the point, I think.

12 MR. MORDFIN: Yes. The Office of
13 Planning would support that, because even
14 though -- if, for some reason, they can't be
15 combined and it will remain as separate lots,
16 then these would be off site, but they are
17 contiguous. And so, therefore, I think that
18 the intent of the regulations would be met in
19 that these two parking spaces will be
20 contiguous and there will be easy access
21 between those parking spaces into the
22 building. And the hardship would be that if,

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1 for some reason, they can't be combined, even
2 though they're adjacent, I don't foresee that
3 there would be a problem combining them
4 because I don't -- it doesn't violate, you
5 now, by putting those lots together doesn't
6 violate the C-2-A Zoning District regulations.
7 So, unless there's something there that I
8 don't see.

9 CHAIRPERSON MILLER: Can you
10 enlightening us as to when that happens or how
11 that happens, with respect to combining lots?
12 I mean, Mr. Aguglia would go to the Office of
13 Surveyor, is that it, and ask for the lots to
14 be combined? Or do you know the process?

15 MR. MORDFIN: The way the process
16 works is they would prepare a plat showing all
17 of them combined and submit that to the Office
18 of the Surveyor and pay their fees. And then
19 the Office of the Surveyor would review that
20 and, if it doesn't violate the zoning
21 regulations, would then approve the
22 consolidation of those tax lots into a -- into

1 a record lot.

2 CHAIRPERSON MILLER: Okay. And
3 that can be done prior to our decision in this
4 case, correct?

5 MR. MORDFIN: I don't remember the
6 length of time it takes to get it to go
7 through, but yes.

8 CHAIRPERSON MILLER: Okay.

9 MR. MORDFIN: It's not a difficult
10 process.

11 MR. AGUGLIA: Typically, I've done
12 these -- I mean, typically, it's four to six
13 weeks. It has to be signed off by all of the
14 owners and any mortgagees, although I don't
15 think there are any mortgagees on this
16 property. It has to be signed off by Zoning
17 and it has to be signed off by Office of Tax
18 Revenues that all taxes have been paid in
19 advance. I'm fairly certain that I have
20 combined properties in the past that are tax
21 lots. But then maybe it comes back to Zoning
22 again. But perhaps the best thing is if we

1 talk to the Office of the Surveyor. Do you
2 think that's the best way to proceed at this
3 point or not?

4 CHAIRPERSON MILLER: I'm not sure.
5 I think that's what we're exploring. I mean
6 we certainly could analyze it subject to
7 approval of the combination of the lots. But
8 if they didn't get combined, then that doesn't
9 do you any good. So I don't know. It depends
10 on whether you can get any kind of opinion
11 and/or you want to wait four to six weeks, or
12 you want to --

13 MR. AGUGLIA: No.

14 CHAIRPERSON MILLER: -- I mean, I
15 think we can finish hearing the case and then
16 it will rest with us to deliberate on it. And
17 the question is, when should we do that?

18 MR. AGUGLIA: I'd prefer -- I
19 mean, essentially, my client's been paying
20 rent on this since May and they would like to
21 start a business as soon as possible. So that
22 would be a long time period.

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1 CHAIRPERSON MILLER: Well, the
2 other thing is, we can finish hearing this
3 case today and leave the record open. You can
4 address, either now or later, the variance
5 relief if you want to and have it in the
6 record for us.

7 MR. AGUGLIA: Well, we certainly
8 want to finish today.

9 CHAIRPERSON MILLER: Yes.

10 MR. AGUGLIA: And perhaps then
11 we'd leave the record open to see which way is
12 the easiest way to go for everyone.

13 CHAIRPERSON MILLER: Okay.

14 MR. AGUGLIA: All right? Does
15 that sound reasonable?

16 CHAIRPERSON MILLER: Yes. And we
17 could leave the record open for you to file
18 something to that effect.

19 MR. AGUGLIA: Yes.

20 CHAIRPERSON MILLER: Okay. Any
21 other Board questions?

22 MEMBER DETTMAN: I just have two

1 questions for the Office of Planning. And one
2 deals with the proposed dumpster enclosure.
3 And that, according to the regs, it cannot --
4 the entrance cannot front on the site -- on
5 the lot line that actually faces on the
6 residential district. So that sort of
7 excludes the east side of Lot 817. And I
8 think, in your presentation, I believe it was
9 the north side of 817 that was proposed as the
10 entrance.

11 MR. AGUGLIA: That is correct.

12 MEMBER DETTMAN: The examples of
13 dumpsters that you gave, the eight and the
14 four, just looking at their width, if they
15 were to be lined up next to each other, it's
16 16 feet. And so it looks like you're going to
17 have to stack them, one in back of the other.
18 And I was just wondering, is that something
19 that's commonly done? And so, in order to get
20 at the back dumpster, those that are trying to
21 get to there, are going to have to pull out
22 the front dumpster; get to the back one; empty

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1 it; put it in the back; and then replace the
2 one in front of it. It's sort of a
3 programmatic concern that I have. And it
4 might be done in the city. I'm not sure.

5 MR. MORDFIN: I think that's a
6 question for the Applicant as to how they
7 would do that.

8 MR. AGUGLIA: We just talked about
9 that this morning. I talked about that with
10 my clients and that's what they would do.
11 They would pull out the smaller one first, the
12 recycling, and then they'd have to -- and then
13 -- and then go to the larger one to get it
14 out. So it's --

15 MEMBER DETTMAN: It's a common
16 practice, it sound like. It's done?

17 MR. AGUGLIA: I believe that's
18 correct. Yes.

19 MEMBER DETTMAN: Okay. The second
20 question deals with what it is -- 734 that
21 deals with the lot line. I'll read it. It's
22 734.3, if any lot line of the lot abuts an

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1 alley containing a zone district boundary line
2 for a residential district, a continuous brick
3 wall, at least six feet high and 12 inches
4 thick shall be constructed and maintained on
5 the lot along the length of that lot line.
6 Whether or not these lots are combined or not
7 combined, you essentially have two lot lines
8 that abut that alley. And so, and I'm not
9 saying that this throws a wrench into the
10 whole situation, but I'm wondering if you need
11 to be granted relief for Lot 810. You're
12 constructing the brick wall on the east side
13 of 817, which is the lot line that fronts the
14 residential district, but also the east lot
15 line of 810 also abuts that alley.

16 MR. AGUGLIA: I though it was only
17 pertaining to the building -- you know, a
18 building. For instance, Lot 809, the -- it's
19 built out -- you know, it's built out
20 completely. And then once we included Lot --
21 the other three lots, I -- I just felt that,
22 since Lot 817 was going to have a structure on

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1 it, then we would go the entire --

2 MEMBER DETTMAN: Well, that is
3 addressed in the regs. The last sentence says
4 the brick wall shall not be required in the
5 case of the building that extends the full
6 width of its lot. That is the case in 809;
7 however, if we combine these lots, that's no
8 longer the case.

9 MR. AGUGLIA: Are you reading from
10 734?

11 MEMBER DETTMAN: 734.3.

12 MR. AGUGLIA: Let me see, if we
13 are able to combine all the lots, then the
14 wall on 817 -- let me see if I understand your
15 argument -- the wall on 817 suffices. But if
16 for some reason we can't combine 817, then
17 you're saying that, if you read -- if you read
18 the regulations strictly, we would need the
19 brick wall along the east side of 810. Is
20 that what your point is?

21 MEMBER DETTMAN: No.

22 MR. AGUGLIA: Because if we

1 combine them all, 817 --

2 MEMBER DETTMAN: -- even if you
3 were to combine 809, 814, 810, and 871 into
4 one tax lot, you essentially have two lot
5 lines that abut that alley because of the
6 hammerhead design. I mean, it's -- I'm
7 pointing out it's sort of a technicality. I
8 don't know if it applies here. I'm just sort
9 of wondering.

10 MR. AGUGLIA: Because the alley
11 juts, there's two alley entrances, is your
12 point?

13 MR. MORDFIN: I don't know that
14 it's really the same alley. I mean, if it's
15 -- it doesn't say the alley system, in which
16 case it would pull in everything. It just
17 says the alley, and you've got two separate
18 parallel alleys there. So 810 does not abut
19 an alley that abuts a residential zone
20 district.

21 MR. AGUGLIA: A residential
22 district.

1 MR. MORDFIN: A residential zone
2 district. 817 does. I mean, the entire alley
3 system does, but it doesn't say the alley
4 system, it just says the alley. And that
5 piece of alley that is between 810 and 817
6 does not abut a residential zone district.

7 MEMBER DETTMAN: I would agree
8 with what you just said. I think, if we found
9 it the other way, it wouldn't be that big of
10 an issue to grant relief for Lot 810, the
11 brick wall requirement. But I think your
12 explanation satisfies, as well.

13 MR. AGUGLIA: Okay. And I would
14 say also the intent of this was not so the
15 residence district could not see anything.
16 They're not seeing anything because we have
17 two walls. We've got the wall for the
18 dumpster and we have the wall for the back of
19 the actual building for the delivery service.

20 CHAIRPERSON MILLER: Just so I
21 understand exactly what you all are discussing
22 here, where is the Zone District boundary line

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1 that we're referring to where it says if any
2 lot line of the lot abuts an alley containing
3 a zone district boundary line --

4 MR. AGUGLIA: Go back to the --
5 right there -- right there. See, I think I
6 would agree with Mr. Mordfin that it's the
7 second alley that we're buffering, not the
8 first alley. Because the first alley, which
9 is the closest to our building, does not
10 border the residential district. It's just
11 the second alley. And then we've provided for
12 that border. So you can see it there on the
13 -- on the plan.

14 CHAIRPERSON MILLER: Yes. That's
15 what I thought, but it's good to see it.
16 Okay. Thank you. Other questions? Is there
17 anybody here from the ANC? Is there anybody
18 here who wishes to testify in support or
19 opposition of this application? Okay. Not
20 seeing anyone. Any other questions from the
21 Board, at this point? Mr. Aguglia, do you
22 want to make any closing remarks on the case?

1 MR. AGUGLIA: Do you mean as to
2 how the Board should handle this in its
3 decision making or --

4 CHAIRPERSON MILLER: Anything in
5 general. This is your opportunity if you want
6 to, you know, make any final remarks about the
7 substance of the case. And then we can talk
8 about process if you want.

9 MR. AGUGLIA: No. I'll stand on
10 the record on the substance of the case. And
11 then, if you want to talk about procedure,
12 then we'll do so.

13 CHAIRPERSON MILLER: Okay. Okay.
14 Yes. I mean, it seems like, with respect to
15 the basic facts in this case, there's no
16 opposition and only support for granting
17 relief for the operations here. And then the
18 question is though the procedure. I mean I've
19 heard Office of Planning say that, well,
20 they'd even support a variance, you know, if
21 you need it. But I think the question is, you
22 know, should we try to pinpoint the exact

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1 relief that you need with the combination and
2 have less relief granted to you, and then
3 postpone this for decision making; leave the
4 record open for you to file something further
5 on this? And the other alternative would just
6 be to, you know, treat the question marks as
7 variances.

8 MR. AGUGLIA: Well, if we treat
9 the question marks as variances, since you're
10 ready to approve them, then I would prefer to
11 go that route. Because then we could get a
12 decision and we could get business started.
13 These are small businessmen.

14 CHAIRPERSON MILLER: I guess I can
15 hear from others on this. I mean it seems to
16 me though that these orders, you know, are in
17 existence for a long time and we do set
18 decision meetings, you know, within the next
19 few weeks. So therefore, I don't think we
20 would delay your decision very much. And
21 perhaps it would, in my opinion, may be better
22 to get the most appropriate relief than to

1 start, you know, getting variance relief where
2 it's not needed.

3 MR. AGUGLIA: All right.

4 CHAIRPERSON MILLER: But do others
5 have comments on that?

6 MEMBER LOUD: Just a question on
7 whether it would change the notice
8 requirements at all to the ANC if we were to
9 add a variance test for the noncontiguous, I
10 guess, Lot 817. And that's just a question.
11 I don't know the answer.

12 MR. AGUGLIA: It's a fair
13 question. For -- for -- let's -- if we leave
14 the record open, I will go to the surveyor
15 this week and see if Lot 817 can be combined.
16 If it can be, then I don't see any need for
17 any further notice requirements because the
18 ANC and the subcommittees and everyone was on
19 notice that we had amended it and this was
20 what we were planning to do. If, in fact, he
21 says we can't add 817 and you feel that we
22 then need to apply for a variance from that,

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1 then I'll have to address the notice issue in
2 my supplemental brief to you.

3 CHAIRPERSON MILLER: Well, the
4 facts won't change though. I mean, where you
5 want to place the dumpster; where you want to
6 place the cars; all that wouldn't change.

7 MR. AGUGLIA: No. Nothing would
8 change.

9 CHAIRPERSON MILLER: So I don't
10 think that we would need further notice to the
11 ANC. But Mr. Mordfin, do you have a comment?

12 MR. MORDFIN: I tend to agree with
13 you. But I don't think that that's really the
14 purview of the Office of Planning.

15 CHAIRPERSON MILLER: Okay.
16 Actually what I mean is, whatever you file
17 with the Board, you would file with the ANC.
18 So if you file your intent to combine the
19 lots, etc., and how you see us proceeding in
20 the case, you should file that with the ANC as
21 well. I mean, I don't think they have to have
22 another public meeting and vote on this

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1 application again because it seems to me they
2 voted on the variance relief to begin with;
3 the uniqueness, the exception condition, etc.,
4 that doesn't really change at all.

5 MR. AGUGLIA: Nothing is really
6 changing.

7 CHAIRPERSON MILLER: Nothing
8 really changes.

9 MR. AGUGLIA: The question is do
10 we include the lots or not include the lots.

11 CHAIRPERSON MILLER: Yes.

12 MR. AGUGLIA: Substantially,
13 everything was the same.

14 CHAIRPERSON MILLER: Exactly. So
15 I think the only thing that changes is how we
16 phrase what kind of relief you need or would
17 be granted. So I don't know, it just seems
18 maybe the more prudent thing is just to leave
19 the record open and for us to come back and
20 issue a decision based on the material you get
21 from the surveyor's office?

22 MR. AGUGLIA: Yes. All right.

1 And then give me roughly an idea when you
2 would make your decision so that I can have
3 the supplemental report to you at least two
4 weeks in advance or at least a week in
5 advance?

6 CHAIRPERSON MILLER: Okay. First
7 of all, I think that we don't -- you would
8 want this decided this month. Is that
9 correct?

10 MR. AGUGLIA: If possible.

11 CHAIRPERSON MILLER: We do have a
12 decision meeting next week, but that's really
13 pretty soon. So I'm not sure whether you
14 could make that. We could do a special
15 meeting on the 11th or the 18th. I mean, I
16 think that this is pretty straight forward.
17 We've heard the case. There's no opposition.
18 And we're just waiting for that word, which
19 way we're going to go, special exception,
20 variance, you know, .

21 MR. AGUGLIA: I'll do my best to
22 have a supplement to you by the end of this

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1 week.

2 CHAIRPERSON MILLER: So you would
3 like us to put in on the agenda for the 4th?

4 MR. AGUGLIA: Yes, please.

5 MR. AGUGLIA: Okay.

6 MEMBER LOUD: A question for
7 clarification. So what we're looking for from
8 the surveyor is not the action that takes four
9 to six weeks? I think some of your testimony
10 earlier was that the process takes four to six
11 weeks, I guess to get an application -- I
12 don't know if it's decided or approved, or I
13 don't know what the specific action is, but
14 the time line was four to six weeks.

15 MR. AGUGLIA: Well, I think that
16 can -- that can run any time after the Board's
17 decision. If the Board decided -- if we find
18 a) that they can be consolidated and then b)
19 you approve it, then the onus is on the owner
20 to consolidate -- we had talked about this
21 before -- consolidate the lots before he
22 applies for his building permit, because

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1 that's consistent with the Board's decision.

2 MEMBER LOUD: And so what we're
3 looking for from the Office of the Surveyor is
4 what?

5 MR. AGUGLIA: An initial decision
6 that yes, we can --

7 MEMBER LOUD: So like a
8 preliminary?

9 MR. AGUGLIA: A preliminary
10 decision that yes, they can be combined.

11 MEMBER LOUD: Okay. Okay. And
12 you think that would take about how long?

13 MR. AGUGLIA: As soon as I can
14 track Mr. Driest down.

15 MEMBER LOUD: Okay.

16 MR. AGUGLIA: This week. I'm sure
17 he'll meet with me this week.

18 MEMBER LOUD: Okay. All right.

19 COMMISSIONER HOOD: Mr. Aguglia,
20 we're talking about all lots? We're even
21 talking about 817? Are we trying to combine
22 it, even though the separation of the public

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1 alley, we're still -- the history shows --
2 you've been around a while -- history shows
3 that normally doesn't happen though, does it?

4 MR. AGUGLIA: Well that's
5 originally why I did not include them in the
6 -- the original application.

7 COMMISSIONER HOOD: Right.

8 MR. AGUGLIA: The Office of
9 Planning thought it was necessary in order for
10 you to approve.

11 COMMISSIONER HOOD: I think I've
12 seen that before and I can't remember what the
13 issue was, streets and public alleys, and
14 typically that does not happen. So I don't --
15 it will be interesting to find out how this
16 goes.

17 MR. AGUGLIA: Okay.

18 CHAIRPERSON MILLER: Okay. Before
19 we end this, let's just see if we can get
20 clear on what's at issue, depending on the
21 combination of the lots or not. Okay? So one
22 is whether you would need a variance from the

1 FAR. And I understand that that's highly --
2 you think that that's pretty highly unlikely
3 because you won't need it if 809, 814, and 810
4 can be combined. And we think that's very
5 likely.

6 MR. AGUGLIA: Correct.

7 CHAIRPERSON MILLER: But you're
8 going to double check on that?

9 MR. AGUGLIA: Yes.

10 CHAIRPERSON MILLER: Okay. And
11 then a variance with respect to parking on
12 another lot if they can't be combined, right?

13 MR. AGUGLIA: Correct.

14 CHAIRPERSON MILLER: Okay. We
15 were looking at the regulations just now on --
16 wait a second -- I just want to check whether
17 this dumpster issue, whether you're going to
18 need a variance for that or not. Let's just
19 look at the regs quickly. We're in 734, I
20 believe, food delivery service in C-2-A
21 districts. 734.4 talks about how it's to be
22 housed, which you've addressed, the brick

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1 enclosures. I'm not sure if it says it has to
2 be on the lot or not. It may or may not be
3 assumed. I don't know. Well, you know, we
4 can also -- you can take time to look at that.
5 I'll leave the record open for you to address
6 that in your filing, whether or not you need
7 any additional variance relief, based on what
8 you find out from the surveyor's office, with
9 respect to the combination of the lots.

10 MR. AGUGLIA: Yes. I agree.

11 CHAIRPERSON MILLER: Okay.

12 MR. AGUGLIA: So, if I've got --
13 is that -- I've got three issues then, a
14 variance from the FAR, whether or not that's
15 required. If we could combine Lots 809, 814,
16 and 810 we wouldn't need it because --

17 CHAIRPERSON MILLER: Right.

18 MR. AGUGLIA: -- even if we cannot
19 include 817, we still don't need it because
20 we're 1.12, or whatever we figured out.

21 CHAIRPERSON MILLER: Right.

22 Provided we you can combine those three.

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1 MR. AGUGLIA: Yes.

2 CHAIRPERSON MILLER: Okay.

3 MR. AGUGLIA: Yes. And that's
4 what I'm looking at with the -- as Mr. Hood
5 said, I think it's probably the more likely
6 scenario.

7 CHAIRPERSON MILLER: Yes.

8 MR. AGUGLIA: All right. So then
9 we still would need the same variance, since
10 the parking is on 814 and 810, we would still
11 need the same variance for the tandem because
12 we supply the two, and that's already in our
13 application. So then, if the -- if the
14 dumpster -- if -- if we could read -- and I --
15 and I will try to find some history on this,
16 but if we can read this regulation to say that
17 there's not requirement that the dumpster be
18 on the site, then I don't need a variance for
19 that. We're there. We're basically there.
20 So we -- we make sure that the surveyor says
21 we can combine 809, 814, and 810; I ask for
22 approval of the special exception on Lot 809

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1 for the pizza delivery with the tandem parking
2 on 814 and 810; and then 817 does not require
3 a variance -- a variance is not required. I'm
4 there. That just sort of summarizes it. And
5 then so I'll supplement the record there.

6 CHAIRPERSON MILLER: Okay. And
7 also take a look at 2116, location of parking
8 spaces.

9 MR. AGUGLIA: Okay.

10 MS. MONROE: It's 2116.5. That's
11 the one that we just want to make sure we get
12 taken care of.

13 CHAIRPERSON MILLER: Okay.

14 MR. AGUGLIA: Are you saying that
15 we would have to have special exception
16 approval for that?

17 MS. MONROE: Well, I guess it's
18 more a question. I'm trying to figure out if
19 the lots are not combined -- I assume they
20 will be, but if they're not right now you
21 would need that special exception for the two
22 parking spaces because they're not on 809.

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1 MR. AGUGLIA: Okay.

2 MS. MONROE: You must first have
3 to go to 809. If you get combined, you don't
4 need it. It's just all the other ones.

5 MR. AGUGLIA: Okay. To fall back.
6 To fall back. Thank you. All right.

7 CHAIRPERSON MILLER: Okay. Then,
8 if we're going to decide this on the fourth,
9 Ms. Bailey, when would we need the papers in?

10 MS. BAILEY: I though I heard Mr.
11 Aguglia say that he could get the information
12 to us by the end of this week?

13 MR. AGUGLIA: I will.

14 CHAIRPERSON MILLER: Okay.
15 Terrific? Okay. By Friday at 3:00 p.m or
16 something like that?

17 MR. AGUGLIA: Yes.

18 CHAIRPERSON MILLER: Okay. Good.

19 MS. BAILEY: Madam Chair, if it's
20 okay, the slide presentation, it is possible
21 to get a hard copy of the slide presentation?

22 MR. AGUGLIA: Yes. It is

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1 possible. Yes.

2 MS. BAILEY: Thank you.

3 CHAIRPERSON MILLER: Some of
4 that's in our record, but not all of it. Is
5 that right?

6 MR. AGUGLIA: I think virtually
7 everything in there is in the record. I was
8 very careful to make sure that was in the
9 record.

10 CHAIRPERSON MILLER: Yes. Okay.

11 MR. AGUGLIA: It's not in one nice
12 tidy --

13 CHAIRPERSON MILLER: Right.

14 MR. AGUGLIA: But we can give you
15 that. It's not a problem.

16 CHAIRPERSON MILLER: Do we need
17 that, Ms. Bailey, then?

18 MS. BAILEY: It would be nice to
19 just have everything in one composite.

20 CHAIRPERSON MILLER: Okay.

21 MR. AGUGLIA: We'll do that.

22 CHAIRPERSON MILLER: Okay. Are

1 there any other final questions or comments?
2 Okay. If you do have some questions, you can
3 always call Mr. Moy.

4 MR. AGUGLIA: Thank you.

5 CHAIRPERSON MILLER: All right.
6 Then I guess that concludes this case. Thank
7 you. Ms. Bailey, do we have anything else on
8 the agenda for this morning?

9 MS. BAILEY: No, Madam Chair.

10 CHAIRPERSON MILLER: Okay. Then
11 this hearing is adjourned and we'll return at
12 1:00 p.m.

13 (Whereupon, the hearing was
14 adjourned from approximately 11:05 a.m. until
15 approximately 1:18 p.m.)

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A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

1:18 p.m.

CHAIRPERSON MILLER: The hearing will please come to order. Good afternoon, ladies and gentlemen. This is the November 27, 2007, afternoon Public Hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Ruthanne Miller. I'm the Chair of the BZA. Joining me today is Mr. Anthony Hood to my right, on behalf of the Zoning Commission. To my left is Mr. Mark Loud, a Mayoral appointee. To his left is Mr. Shane Dettman representing NCPC on the Board. And with us today is Clifford Moy from the Office of Zoning, Lori Monroe from the Office of the Attorney General, and Beverly Bailey from the Office of Zoning.

Copies of today's hearing agenda are available to you and are located to my left in the wall bin near the door. Please be advised that this proceeding is being recorded by a court reporter and is also webcast live.

1 Accordingly, we must ask you to refrain from
2 any disruptive noises or actions in the
3 hearing room. When presenting information to
4 the Board, please turn on and speak into the
5 microphone, first stating your name and home
6 address. When you're finished speaking,
7 please turn your microphone off so that your
8 microphone is no longer picking up sound or
9 background noises.

10 All persons planning to testify,
11 either in favor or in opposition, are to fill
12 out two witness cards. These cards are
13 located to my left on the table near the door
14 and on the witness tables. Upon coming
15 forward to speak to the Board, please give
16 both cards to the reporter sitting to my
17 right.

18 The order of procedure for special
19 exceptions and variances is as follows: 1)
20 statement and witnesses of the Applicant; 2)
21 Government reports, including Office of
22 Planning, Department of Public Works, DDOT,

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1 and etc.; 3) report of the Advisory
2 Neighborhood Commission; 4) parties or persons
3 in support; 5) parties or persons in
4 opposition; 6) closing remarks by the
5 Applicant.

6 Pursuant to Sections 3117.4 and
7 3117.5, the following time constraints will be
8 maintained: the Applicant, persons and parties
9 except an ANC, in support, including
10 witnesses, 60 minutes collectively; persons
11 and parties, except an ANC, in opposition,
12 including witnesses, 60 minutes collectively;
13 individuals three minutes. These time
14 restraints do not include cross examination
15 and/or questions from the Board. Cross
16 examination of witnesses is permitted by the
17 Applicant or parties. The ANC within which
18 the property is located is automatically a
19 party in a special exception or variance case.
20 Nothing prohibits the Board from placing
21 reasonable restrictions on cross examinations,
22 including time limits and limitations on the

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1 scope of cross examination.

2 The record will be closed at the
3 conclusion of each case, except for any
4 material specifically requested by the Board.
5 The Board and the Staff will specify at the
6 end of the hearing exactly what is expected
7 and the date when the persons must submit the
8 evidence to the Office of Zoning. After the
9 record is closed, no other information will be
10 accepted by the Board.

11 The Sunshine Act requires that the
12 public hearing on each case be held in the
13 open before the public. The Board may,
14 consistent with its Rules of Procedure and the
15 Sunshine Act, enter executive session during
16 or after the public hearing on a case for
17 purposes of reviewing the record or
18 deliberating on the case. The decisions of
19 the Board in these contested cases must be
20 based exclusively on the public record. To
21 avoid any appearance to the contrary, the
22 Board requests that persons present not engage

1 the members of the Board in conversation.

2 Please turn off all beepers and
3 cell phones at this time, so as not to disrupt
4 the proceedings. The Board will make every
5 effort to conclude the Public Hearing as near
6 as possible to 6:00 p.m. If the afternoon
7 cases are not completed at 6:00 p.m., the
8 Board will assess whether it can complete the
9 pending case or cases remaining on the agenda.

10 The Board will now consider any
11 preliminary matters. Preliminary matters are
12 those which relate to whether a case will or
13 should be heard today, such as requests for
14 postponement, continuance, or withdrawal, or
15 whether proper and adequate notice of the
16 hearing has been given. If you're not
17 prepared to go forward with a case today or if
18 you believe that the Board should not proceed,
19 now is the time to raise such a matter. Does
20 the Staff have any preliminary matters?

21 MS. BAILEY: Madam Chair, members
22 of the Board, to everyone good afternoon.

1 Yes, we do. And it concerns Application No.
2 17687, Taiwo Demuren. That application, Madam
3 Chair, was withdrawn.

4 CHAIRPERSON MILLER: Thank you.
5 And there's no action required of the Board.
6 Is that correct?

7 MS. BAILEY: None is required.

8 CHAIRPERSON MILLER: Okay. If
9 there's nothing else then, would all
10 individuals wishing to testify today please
11 rise and take the oath. And Ms. Bailey will
12 administer the oath.

13 (Whereupon, the witnesses were
14 sworn.)

15 MS. BAILEY: Thank you. Ms.
16 Bailey, would you call the first case, please?

17 MS. BAILEY: Thank you, Madam
18 Chair. The first case is Application No.
19 17688, of Taiwo Demuren, pursuant to 11 DCMR
20 3104.1, for a special exception to allow the
21 construction of a four unit apartment building
22 under Section 353 in the R-5-A District. The

1 premise is 5323 D Street S.E., Square 5300,
2 Lot 6.

3 CHAIRPERSON MILLER: Thank you.
4 Would the parties please come forward? Good
5 afternoon. And whenever you're ready, would
6 you introduce yourself for the record, please?

7 MR. AGBIM: Good afternoon. My
8 name is Ike Agbim of 9611 Cedar Hollow Lane,
9 Largo, Maryland 20774, for the Applicant.

10 CHAIRPERSON MILLER: Okay. And
11 you're here for relief pursuant to 353, is
12 that correct?

13 MR. AGBIM: That's correct.

14 CHAIRPERSON MILLER: And do you
15 want to briefly address how your project meets
16 353?

17 MR. AGBIM: Yes. Thank you. This
18 project was designed with all the -- with --
19 in view of all of the requirements of D.C.
20 Zoning Regulations. It's for a four unit
21 apartment building. And what has been done
22 with the design is that there's -- from the

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1 past application, the design has basically
2 conformed to the side yard requirements and
3 we've made every effort to make the design to
4 fit into the community without imposing any
5 compromise on the existing structures.

6 CHAIRPERSON MILLER: Okay. Are
7 there any questions from Board Members?

8 MEMBER LOUD: Very briefly, did
9 you -- were you able to discuss or submit the
10 revised plan to the ANC?

11 MR. AGBIM: Yes.

12 MEMBER LOUD: Okay. And what was
13 the result of that?

14 MR. AGBIM: Well, the ANC received
15 the revised plans and deliberated on it in a
16 special session. And they voted and voted to
17 support the -- the reduced design of the
18 project. And they ask me that they were going
19 to send in a letter of support for it.

20 MEMBER LOUD: Okay. Thank you. I
21 believe I'm looking at it now.

22 COMMISSIONER HOOD: Madam Chair, I

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1 just wanted to ask Ms. Monroe if she could
2 kind of walk me through why we're even hearing
3 this case. Even though I know the Zoning
4 Commission had a text amendment that's already
5 been set down, if she could just help me
6 understand again why I'm even sitting here
7 even hearing this case.

8 MS. MONROE: Yes, Mr. Hood. I
9 know that the Zoning Commission has already
10 set down certain map amendments. I think it
11 includes this square and it's going to be
12 changed, I think, from R-5-A to either R-2 or
13 R-3. And the question is basically, because
14 the application was filed before the set down,
15 would it be treated like -- as it was treated
16 -- in other words, I don't know how to explain
17 this. 3202.5 is what they call the Set Down
18 Rule. And when the Zoning Commission sets
19 down a map amendment, if the building permit
20 or an application is filed thereafter, it is
21 automatically treated as if it's the new zone
22 that would be coming up under the map

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1 amendment. Because this application was filed
2 before set down, we don't think it should fall
3 under that rule. We think, instead, it would
4 go up to 3202.4, and we would analogize it to
5 a building permit. And 3202.4 says any
6 construction authorized by a building permit,
7 and you could say application there, may be
8 carried to completion pursuant to the
9 provisions of this title in effect on the date
10 that the permit is issued or the application
11 is filed. Because there is no actual
12 regulation dealing with this particular
13 instance, where the application is filed
14 before the set down. It all deals with
15 building permits, but the analogy was 3202.4,
16 which we thought -- the OIG thought, and we
17 discussed this with the Office of Planning,
18 that it removed it from the set down or the
19 3202.5 rule, which would make it go with the
20 new -- the new zone, as opposed to the old
21 zone.

22 COMMISSIONER HOOD: Thank you, Ms.

1 Monroe.

2 MEMBER LOUD: Okay.

3 CHAIRPERSON MILLER: Any other
4 questions?

5 MEMBER DETTMAN: Just one question
6 about the submitted plans. There are a couple
7 of sets of submitted plans. And the last set
8 of plans that we received, I think, were
9 received by the Office of Zoning on November
10 13th. What is the proposed height of the
11 building? I've see a few different heights,
12 as the design sort of went through some
13 modifications.

14 MR. AGBIM: Thank you. The
15 proposed height of the building is 30 foot, 11
16 inches.

17 MEMBER DETTMAN: 30 feet, 11
18 inches?

19 MR. AGBIM: That is correct.

20 MEMBER DETTMAN: Thank you.

21 CHAIRPERSON MILLER: Any other
22 questions? Okay. Then we can turn to the

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1 Office of Planning.

2 MR. RICE: Good afternoon, Madam
3 Chair and Board. My name is Stephen Rice with
4 the Office of Planning. The Office of
5 Planning does stand on the record in support
6 of the application. As noted, this was a case
7 reviewed under the R-5-A, as submitted before
8 the set down for the Zoning Commission case,
9 which was held last week, on the 19th of
10 November.

11 The Applicant has met the burden
12 of proof. The unit has been -- well, the
13 structure has been reduced in size. The
14 original application was for a 22 foot wide
15 structure, which needed also not only special
16 exception relief, but a variance relief from
17 the side driveway, which was nine feet at the
18 time wide. That driveway has been increased
19 to 14 feet wide, which is what's required.
20 And also, the units -- each unit had two
21 bedrooms and those units have been reduced to
22 one bedroom units now. It's still four units,

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1 but slightly smaller.

2 The parking spaces are -- the
3 requirements are met for parking spaces, one
4 per unit. And all of the other requirements
5 have been met. Thank you.

6 CHAIRPERSON MILLER: Are there any
7 questions from Board members?

8 MEMBER LOUD: I don't have a
9 question, Madam Chair, but I just wanted to
10 commend OP. Their reports are always well
11 done. But I am particularly partial to the
12 reports where the pictures are dropped in, in
13 the text in the narrative, are usually
14 adjacent to the part of the narrative that
15 describes something. And I notice that, with
16 Mr. Rice, he has a pattern of doing that. And
17 I just wanted to commend him. It's really a
18 big aid for me in reviewing it, not to have to
19 flip through the whole thing and look at
20 attachments. So I really appreciate it, Mr.
21 Rice, and keep up the good work.

22 COMMISSIONER HOOD: I would agree

1 with my colleague's comments. The only thing
2 I would say though, I notice I never get a
3 color copy. I always get a black and white
4 copy. And the same thing happens on the
5 Zoning Commission. So I'm trying to figure
6 out what's going on with OP. But, other than
7 that, I would agree with my colleague's
8 comments.

9 MR. RICE: I could -- I could
10 speak to that too. Well, we make eight copies
11 in color and seven in black and white. I
12 don't know how they're distributed, but we try
13 to make those color copies.

14 CHAIRPERSON MILLER: I just want
15 to pick up on the new text amendment. Under
16 that amendment, this area would only allow
17 single family dwellings? Or what would it be?

18 MR. RICE: It would be -- this
19 area is being considered for rezoning from R-
20 5-A to R-3, which includes single family homes
21 and flats, but not multi-family unit uses.

22 CHAIRPERSON MILLER: Okay. Thank

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1 you. Anything else? Do you have a copy of
2 the Office of Planning report?

3 MR. AGBIM: No.

4 CHAIRPERSON MILLER: No? Okay.

5 MR. AGBIM: I did read that from
6 the file, but I don't have a copy in front of
7 me.

8 CHAIRPERSON MILLER: Oh, you've
9 seen it though?

10 MR. AGBIM: Yes.

11 CHAIRPERSON MILLER: Okay. Do you
12 have any questions for the Office of Planning?

13 MR. AGBIM: No. I've worked very
14 well with them and enjoyed their work in the
15 designs to meet everybody's demands.

16 CHAIRPERSON MILLER: I don't
17 believe anyone's here from the ANC. Are they,
18 in this case? Okay. We do have a report from
19 the ANC, dated October 11, 2007. And it
20 appears that they considered this at their
21 regular monthly meeting and there was a quorum
22 present and they say on here that they didn't

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1 have any concerns related to the application
2 and they didn't make any recommendation. And
3 the vote to adopt the report was 6-0.

4 Were you at the ANC meeting?

5 MR. AGBIM: Yes. I attended one
6 meeting and then there was a special meeting
7 and the vote was made for -- for this.

8 CHAIRPERSON MILLER: This October
9 11th meeting that we have, this report, was
10 this before that revision or after?

11 MR. AGBIM: It was after the
12 revision.

13 CHAIRPERSON MILLER: When was the
14 application revised?

15 MR. AGBIM: The actual revision to
16 -- the -- to the Office of Zoning occurred, I
17 believe, on the 12th of November, the actual
18 submission. But we did was, when we'd worked
19 it out with the Office of Planning, we went
20 ahead and presented a revised plans to the ANC
21 for their consideration. And then, after
22 that, we went ahead and filed it with the

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1 Office of Zoning.

2 CHAIRPERSON MILLER: Okay. Mr.
3 Dettman?

4 MEMBER DETTMAN: If you wouldn't
5 mind, could you just briefly describe to me
6 the perimeter fencing, and in particular the
7 masonry wall that screens the open parking
8 spaces?

9 MR. AGBIM: Yes. This side is
10 fairly level, except for in the rear. There
11 is a rapid change in elevation in the rear of
12 the property. So, in order to accommodate the
13 parking areas, to make it fairly level, we had
14 to devise a retaining wall. As you can see on
15 the site plan, we show a retaining wall,
16 especially in the rear, about four to five
17 feet high. And then on the flanks, on the two
18 sides of the property, it then tapers off to
19 ground level. So this was really done in
20 order to shield the parking area and also to
21 articulate that change in elevation from the
22 property in the rear to this property so we

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1 can get a fairly level parking area.

2 MEMBER DETTMAN: Yes. Does the
3 retaining wall sort of mimic the exact
4 boundary of the masonry wall, the 36 inch high
5 masonry wall that you've indicated on your
6 plans?

7 MR. AGBIM: Are you referring to
8 the wall in the rear of the property?

9 MEMBER DETTMAN: Yes. I'm looking
10 at -- I don't think it's labeled with a
11 drawing. It's your site plan.

12 MR. AGBIM: The site plan, right.

13 MEMBER DETTMAN: Yes. And your
14 site plan is labeled with a few things. One
15 is a six foot high site type fencing.

16 MR. AGBIM: Right.

17 MEMBER DETTMAN: Which I think is
18 the wood fencing that you show in your detail.

19 MR. AGBIM: Right. Right.

20 MEMBER DETTMAN: Another one is a
21 36 inch high masonry wall.

22 MR. AGBIM: Right.

1 MEMBER DETTMAN: Which -- is that
2 there to sort of satisfy the screening
3 requirement of the parking?

4 MR. AGBIM: Well, it's -- it's a
5 combination of the two. What happens is that
6 part of the design of the retaining wall -- we
7 need the retaining wall more in the rear of
8 the property, but also on the sides, close to
9 where there is a sudden drop in elevation. So
10 what happens is that, from that maximum height
11 of four to five feet, our retaining wall then
12 tapers down. So the average height on the
13 side, on the flanks, is about 36 inches. So
14 the masonry wall and retaining wall are really
15 the same.

16 MEMBER DETTMAN: Okay. I guess
17 I'm asking these questions only because the
18 requirement under 2117.12 is that the open
19 parking spaces need to be screened with a 42
20 inch high masonry wall.

21 MR. AGBIM: Yes.

22 MEMBER DETTMAN: And I'm seeing on

1 your drawings that it's 36 inches.

2 MR. AGBIM: The -- on the -- on
3 the right side of the building, if you're
4 looking at the site plan, there is two methods
5 that we've used to screen the parking areas.
6 One is using the vegetation, which you see
7 clouded around the parking. And then the
8 other method is the -- the retaining wall.
9 And then, on top of the retaining wall is the
10 site type fence. So if I understand your
11 question, the two are doing the same thing.

12 MEMBER DETTMAN: That's right.
13 Okay.

14 MR. AGBIM: But, you know,
15 complimenting each other.

16 MEMBER DETTMAN: Okay. Thank you.

17 CHAIRPERSON MILLER: Okay. Any
18 other Board questions? The ANC is not here.
19 Is there anyone here in the audience who
20 wishes to testify, either in support or
21 opposition, to this application? Okay. Not
22 hearing from anyone, are there any closing

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1 remarks from the Applicant?

2 MR. AGBIM: No, thanks.

3 CHAIRPERSON MILLER: Okay. Okay.

4 Then I think that the Board may be ready to
5 deliberate. Do we have a motion on this?

6 MEMBER LOUD: Madam Chair, I would
7 like to move approval of BZA Application No.
8 17688, request for a special exception to
9 allow the construction of a four unit
10 apartment building in the R-5-A District,
11 pursuant to Section 353 of the Zoning
12 Regulations. Is there a second?

13 MEMBER DETTMAN: Second.

14 MEMBER LOUD: This is an
15 application, as stated, for BZA approval to
16 build a new four unit dwelling in the R-5-A in
17 the Marshall Heights area, on a currently
18 vacant land. It's a revision to an earlier
19 plan, in that the Applicant has now made the--
20 the dwelling -- reduced the size of the
21 dwelling from -- I'm sorry, reduced the size
22 to 18 feet wide, from an original 22, and

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1 reduced the side yard to eight feet. Sorry.
2 By doing so, the site now has a required 14
3 foot wide two way circulation on the west,
4 which was originally nine feet. There are
5 four parking spaces in the rear, per the
6 required Section 2101.1. The ANC supports
7 this project, as evidenced by both the October
8 11th report and the testimony this morning of
9 the Applicant, that they were briefed
10 regarding the revisions to the plan. OP has
11 submitted a very detailed and thorough report,
12 which is our Exhibit 27, and I won't go
13 through it element by element, but
14 essentially, they have concluded that there's
15 no substantial impairment to light and air on
16 neighboring properties and the various other
17 elements of Section 353. So, in light
18 thereof, I'm fully in support of approving
19 this application.

20 CHAIRPERSON MILLER: Are there
21 other comments? I would like to note for the
22 record that we also did receive a memorandum

1 from the Department of Housing and Community
2 Development in support of the application, and
3 that's our Exhibit 24. And the Department of
4 Housing and Community Development made a few
5 comments which I think are pertinent to the
6 special exception standard. We're addressing
7 no adverse impact on neighboring properties
8 and in harmony with the Zoning regulations and
9 map. They say just a couple of things, it is
10 adjacent to a neighboring town house, but the
11 front facade has a six foot set back on the
12 property line and the FAR of the proposed
13 building does not exceed the allowable FAR.
14 They talk about the veneer and the roof and
15 that they are compatible with existing brick
16 wall construction use throughout the
17 neighborhood and that they note that it is
18 consistent with the scale of the neighborhood.
19 And also, that the Applicant has made
20 representations that they will market the
21 apartments as affordable units -- affordable
22 condominium units.

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1 I think that, as Mr. Loud said,
2 the Office of Planning has gone through very
3 thoroughly the analysis under 353, and I think
4 we can adopt their findings in their report,
5 that this application meets those criteria.
6 Also, it does meet all the Zoning regulations
7 that's been revised so that no other relief
8 would be needed.

9 Other comments? Okay. All those
10 in favor, say aye?

11 ALL: Aye.

12 CHAIRPERSON MILLER: Okay. All
13 those opposed? All those abstaining? Okay.
14 And would you call the vote, please?

15 MS. BAILEY: Madam Chair, the vote
16 is recorded as 4-0-1 to approve the
17 application. Mr. Loud made the motion; Mr.
18 Dettman seconded; Ms. Miller and Mr. Hood
19 supported the motion. The fourth BZA member
20 is not present at this time.

21 CHAIRPERSON MILLER: Okay. And I
22 think that this can be a summary order as

1 there is no opposition in this case.

2 MS. BAILEY: Thank you, Madam
3 Chair.

4 CHAIRPERSON MILLER: Thank you,
5 very much.

6 MR. AGBIM: Thank you, very much.

7 CHAIRPERSON MILLER: That
8 concludes this case. And we'll be ready for
9 the next case when you are, Ms. Bailey.

10 MS. BAILEY: I'm not able to see
11 around this pole. Is the Applicant here for
12 No. 176 -- okay. Thank you. Madam Chair and
13 members of the Board, Application No. 17665 of
14 Jamal Kadri, pursuant to 11 DCMR 3103.2 for
15 variances from the lot width and lot area
16 requirements under Section 401 and a variance
17 under subsection 2500.5, to allow the
18 construction of a two story accessory private
19 garage with second story live-in quarters for
20 a domestic employee that's an au pair, at
21 premises 654 Independence Avenue, S.E. That's
22 how the application was originally advertised,

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1 but the application has been revised and I
2 will leave the Applicant to discuss with the
3 Board what those revisions are.

4 CHAIRPERSON MILLER: Good
5 afternoon. Whenever you're ready, you can
6 introduce yourself for the record. I'm having
7 trouble hearing you. Are you on mike? No, I
8 don't think you are. It lights up red when
9 it's working.

10 MS. MONROE: Push the button at
11 the base of the mike.

12 CHAIRPERSON MILLER: There you go.

13 MR. KADRY: Sorry. My name's
14 Jamal Kadri. I'm the owner. I -- the plan
15 was that I wasn't supposed to do any of the
16 talking. Cynthia Giordano was supposed to
17 present this and my architect was going to be
18 up here. But I can -- I -- I guess I can go
19 over any of the things that you have questions
20 on.

21 CHAIRPERSON MILLER: Let me ask
22 you, are they on their way?

1 MR. KADRY: I assume so. I -- I
2 turned my cell phone off. I mean, I talked to
3 Stephen earlier today and I know Cynthia was
4 sick. But -- but I think most of what they've
5 put together is essentially on the record and
6 I'm very familiar with it.

7 CHAIRPERSON MILLER: Okay. Let me
8 just ask you your preference. We can either
9 take a five minute break or so for you to call
10 and see if they're coming or, if you're
11 comfortable going forward, that's fine with us
12 too. It's a well put together case.

13 MR. KADRY: Okay. Yes. I'm --
14 I'm comfortable going -- going forward.

15 CHAIRPERSON MILLER: Okay.

16 MR. KADRY: I mean, at this point
17 there's no opposition to these plans. And --
18 and if you see, I don't know how much is in
19 the record, but I've been at it for well over
20 a year. And -- and the reason that we revised
21 what we had put together was that I think
22 there was a strong feeling in favor of the

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1 idea of doing an addition that takes the mass
2 of the new building and moves it towards
3 Brown's Court. But there were a lot of people
4 who liked the spirit of that design, who had
5 issues with the letter of the law and whether
6 or not it would meet the hardship test for a
7 -- a variance. And so, working with Cynthia,
8 we came up with this amended scheme which
9 reduces the size of the -- the -- the rear
10 addition and -- and incorporates a walkway.
11 So it's essentially one rear addition, as
12 opposed to a -- a separate unit. You're late,
13 actually.

14 MR. DUPONT: You're early.

15 MR. KADRY: I'll let -- I'll let
16 Stephen -- and I guess the -- well, the only
17 thing that I was going to add in terms of --
18 of a value added to the -- the presentation is
19 that I have the luxury of being able to think
20 full time, during my work day, about the
21 intersection of the built environment and
22 water. I lead a smart growth team at -- at

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1 EPA and so this project is an opportunity for
2 me to kind of walk the talk and practice what
3 I -- I preach. The house, locationally, is --
4 it really is smart growth. I've got
5 transportation options. I can Metro to work.
6 It's in a pretty dense neighborhood. But the
7 site itself, right now, has storm water
8 running off of the roof and into the combined
9 sewer. And the rear yard also has two area
10 drains which take -- it's entirely bricked.
11 And all of that run off goes into our sewer
12 system. So one of my objectives for this
13 project was to really have it be regenerative
14 development where I'm improving its
15 environmental performance and looking at the
16 footprint and taking the -- the downspout out
17 of the sewer in the front yard; putting that
18 into a little rain garden; and doing something
19 similar in the back; taking the down spout out
20 of the rear part of the shed roof and putting
21 into sort of a plunge pool or storm water
22 planter and then having a green roof for the

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1 rear addition, itself.

2 MR. DUPONT: Sorry I'm late.

3 CHAIRPERSON MILLER: You need to
4 get on mike. It's okay.

5 MR. DUPONT: Does this work? No.

6 CHAIRPERSON MILLER: It's one of
7 the ones that doesn't.

8 MR. DUPONT: Sorry I'm late. I
9 checked in and didn't think you would get to
10 us this early.

11 CHAIRPERSON MILLER: I know. It's
12 one of those rare days, right. I guess you
13 need to be sworn in, correct?

14 MR. DUPONT: My name's Stephen
15 Dupont. I'm the architect.

16 CHAIRPERSON MILLER: Ms. Bailey is
17 going to swear you in. Okay?

18 (Whereupon, the witness was sworn
19 in.)

20 MR. DUPONT: Jamal, I think,
21 probably gave you a fairly complete overview.

22 CHAIRPERSON MILLER: As do your

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1 papers. I mean, they're very detailed, and so
2 was the Office of Planning. We were just
3 beginning with -- I think Ms. Bailey was
4 asking about the revision, though. Did you
5 officially amend your --

6 MR. DUPONT: Yes.

7 CHAIRPERSON MILLER: Okay. So
8 you've amended it and you've noticed it?

9 MR. DUPONT: And I posted the
10 sign, as amended.

11 CHAIRPERSON MILLER: Okay. I have
12 a question, just in general, about the
13 connection.

14 MR. DUPONT: Yes.

15 CHAIRPERSON MILLER: Honestly, was
16 that made in order to come under 223 at the
17 time?

18 MR. DUPONT: Yes.

19 CHAIRPERSON MILLER: Okay. And so
20 -- and 223 has changed now as to not require
21 that kind of connection. Are you aware of
22 that?

1 MR. DUPONT: No.

2 CHAIRPERSON MILLER: Okay.

3 MR. DUPONT: I'm not sure that it
4 would work in this case. Can you clarify?

5 CHAIRPERSON MILLER: Well --

6 MR. DUPONT: I mean, we went to
7 the Office of Planning --

8 CHAIRPERSON MILLER: -- used to
9 require -- used apply only to additions to the
10 primary house.

11 MR. DUPONT: Yes.

12 CHAIRPERSON MILLER: And it has
13 been amended now by text amendment to also
14 apply to an accessory structure.

15 MR. DUPONT: But we're in an R-4.

16 CHAIRPERSON MILLER: You're in an
17 R-4? Maybe. I don't know whether --

18 MR. KADRY: He actually -- it
19 turns out that the requirement actually
20 proposed something that sort of --

21 COMMISSIONER HOOD: You probably
22 need to speak in mike though.

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1 MR. KADRY: You know, I don't -- I
2 don't know that, at this point -- when we
3 initially did the design, we -- we tried to do
4 it to be simple and to also pay tribute to
5 what used to be on that lot. But the
6 requirement to have it tie together is -- is
7 pretty elegant because it keeps the horse walk
8 going through the house continuing to the --
9 I mean, it actually functions better. We
10 initially had tried just to do like a pergola.
11 And OP told us that it had to be covered. And
12 then they said it had to be enclosed. But I
13 was able to see stuff at the Solar Decathlon
14 with these Nana doors, where during the summer
15 you can fold them out of the way. I mean, I
16 think -- I think that what we would up with,
17 through a long and torturous and very
18 expensive process is actually something better
19 than what we initially dreamed up. My only
20 regret is that we have to count that against
21 our lot occupancy, because I was hoping to
22 have a shop in addition to a parking spot, you

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1 know. But I've got a truck that is barely
2 going to fit in there now, because we had to
3 reduce the footprint from 25 feet to 22. I've
4 got twins and a Honda Odyssey. You know, not
5 it becomes just a parking area. There's no
6 room in it for a shop. And it's because we
7 have to have a three foot wide by 30 foot long
8 covered passage way count against our total of
9 70 percent.

10 CHAIRPERSON MILLER: Okay. But
11 for what you're here for today, you fall
12 within the requirements for --

13 MR. DUPONT: 70 percent.

14 CHAIRPERSON MILLER: Right.

15 MR. KADRY: Right. That's why it
16 is the way it is.

17 MR. DUPONT: I am curious about
18 the change to 223 and I've heard inklings of
19 it. But I kind of don't think it applies in
20 this case.

21 CHAIRPERSON MILLER: Well, maybe I
22 can ask the Office of the Attorney General,

1 because I know that it amended 223 to add
2 accessory structures. But then when you said
3 you're in R-4, whether or not this applies in
4 R-4 -- Ms. Monroe, do you know?

5 MS. MONROE: I think it would
6 apply. It depends on whether you want it to
7 apply, because it sounds like you want the
8 connection.

9 MR. DUPONT: Well, we --

10 CHAIRPERSON MILLER: Does 223
11 apply in R-4, because it amended 223?

12 MS. MONROE: Well, 223 says an
13 addition to a one family dwelling or flat in
14 those residence districts where a flat is
15 permitted, that does not comply, etc., etc.
16 And I think it's been conditionally applied
17 across residence zones, all residence
18 districts.

19 MR. DUPONT: But an addition, do
20 you mean an addition that's not attached to
21 the main house?

22 MS. MONROE: That's the change.

1 It used to be that you could only get a
2 special exception to 223 if it was an attached
3 addition, like you were extended the back of
4 the house -- knocking down the walls and
5 extending.

6 MR. DUPONT: Oh. And a special
7 exception can apply when something's not
8 attached to the back of the house.

9 MS. MONROE: Now. That's the
10 change.

11 MR. DUPONT: The problem we have
12 is different. This would have become a two
13 story carriage house, which is only allowed in
14 R-1.

15 MS. MONROE: Right. Okay. That's
16 different. Right. That would need a
17 variance.

18 MR. DUPONT: Right. So it had to
19 be an addition to the house. It cannot be a
20 separate structure.

21 CHAIRPERSON MILLER: We were just
22 talking about under 223. Right.

1 MR. DUPONT: By making it a single
2 house, it all falls into 223. There's no
3 other -- there's no --

4 CHAIRPERSON MILLER: We were just
5 saying that there's been a text amendment that
6 allows you to have an accessory structure
7 count.

8 MR. DUPONT: But the two-story --

9 CHAIRPERSON MILLER: The two-story
10 is probably different.

11 MR. DUPONT: -- in R-4 is not
12 allowed.

13 CHAIRPERSON MILLER: Okay.

14 MS. MONROE: Unfortunately,
15 everybody is right. Because actually Mr.
16 Dettman and I discussed this earlier because
17 the way the new 223 reads, it says an
18 accessory structure is allowed, but it doesn't
19 get into the height and all of those other
20 things that you would have -- the 15 foot
21 requirement --

22 MR. DUPONT: But those are gotten

1 into in Chapter 25, every explicitly.

2 MS. MONROE: Right. I think
3 you're right. I mean, accessory structures
4 still fall under the 25 --

5 MR. KADRY: Wait. Can I ask just
6 a clarifying question then? If I said well,
7 what I'd like to do is keep this the way it
8 is, except have a pergola that will have
9 wisteria or some kind of a green fabric as the
10 roof and I get back those three feet on the
11 garage, then could I -- you would allow that?

12 MS. MONROE: I can't -- we don't
13 know.

14 CHAIRPERSON MILLER: We can't
15 really deal with speculation that way. But
16 I'm not exactly sure what --

17 MR. DUPONT: We're here today for
18 something else and I think that we'd have to
19 start all over regarding those, so it's not
20 worth asking.

21 CHAIRPERSON MILLER: Okay.

22 MR. KADRY: We'll find out the

1 answer to all of that, because I'm paying
2 somebody \$500 an hour to give me guidance on
3 it and nobody can give me an answer. I mean,
4 from where we were before until today, I spend
5 an additional \$10,000 to try to figure out
6 what is permissible. There needs to be like
7 an easier path to having that figured out.

8 MR. DUPONT: Well, the Office of
9 Planning told us what was permissible,
10 actually. And they were pretty explicit. I
11 mean, I understand, but --

12 CHAIRPERSON MILLER: I mean, I
13 hear your frustration, but actually the Board
14 really can't go that far in a hearing and
15 start speculating what maybe you could do to
16 change your plans that might be permitted.

17 MR. KADRY: I understand. It's
18 not necessary. I'm ready to go with this.
19 Believe me.

20 CHAIRPERSON MILLER: Okay. Okay.

21 MR. KADRY: It's just that if
22 there was an opportunity to have this clarify

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1 it, I'd throw that out there. I mean, if it
2 was an opportunity to have the Board kind of
3 make clear what the position was.

4 MS. MONROE: The only thing I can
5 say is the Board can't.

6 MR. KADRY: Okay.

7 MS. MONROE: You guys would have
8 to come in to us with something new --

9 MR. KADRY: Right.

10 MS. MONROE: -- and then the Board
11 would look at that as something new.

12 MR. KADRY: Yes. That's a very
13 expensive risk I'm not willing to take.

14 MS. MONROE: Obviously, you're
15 not. Okay.

16 CHAIRPERSON MILLER: Okay.

17 MR. DUPONT: Well, I'm lots.

18 CHAIRPERSON MILLER: Well, here we
19 are. I mean, basically you have a great
20 application before us. We have looked at it.
21 We have very few questions. I think it's
22 pretty much in order. So you can stand on

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1 your record. If there are any questions, we
2 can ask questions. And you can always -- we
3 haven't ruled on it yet. If you wanted to
4 pull it and revise it, that's something
5 different. But we're prepared to consider
6 your application that's before us.

7 MR. DUPONT: Okay. If there are
8 any questions, I'd like to answer them. I'd
9 like to be sure that you understand everything
10 that -- everybody got either an explication
11 from Jamal or got the material.

12 MR. KADRY: I don't know if they
13 have copies. We have letters of support from
14 the -- the ANC, both adjacent neighbors, and
15 Tony Gallo, who owns 125 7th. I'm not sure --
16 I've got the originals of those.

17 CHAIRPERSON MILLER: We do have
18 the ANC report. That's our Exhibit 31. We do
19 also have in the record and I think we'll get
20 to Mr. Peterson, but we have a copy of Capitol
21 Hill Restoration Society's letter.

22 MR. DUPONT: We have both adjacent

1 neighbor's also.

2 CHAIRPERSON MILLER: What are
3 their names?

4 MR. KADRY: Helen Ward owns 652,
5 which is sort of the sister property to -- to
6 mine. They're kind of twins. And -- and Mary
7 Jane Lenz owns 656. And then immediately kind
8 of behind the house on Brown's Court, Anthony
9 Gallo owns 125 7th Street.

10 MR. DUPONT: That's over here.

11 MR. KADRY: He has a garage that's
12 kind of a studio.

13 CHAIRPERSON MILLER: We're not
14 seeing those letters in our plan.

15 MR. DUPONT: No. They're recent.

16 CHAIRPERSON MILLER: Oh, they're
17 recent. Don't give them to me, but you can
18 give them to Mr. Moy.

19 MR. DUPONT: He has the original
20 hard copy.

21 CHAIRPERSON MILLER: Do you have a
22 copy of a letter from Scott Wilson Langill

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1 dated November 26, 2007?

2 MR. KADRY: No.

3 CHAIRPERSON MILLER: Do you know
4 who that is?

5 MR. KADRY: No. Scott Wilson
6 Langill? I'm sorry, what's the name?

7 CHAIRPERSON MILLER: It's a Mr.
8 Langill. Scott Wilson Langill, 664
9 Independence Avenue, S.E.

10 MR. KADRY: Oh, 664.

11 MR. DUPONT: 664?

12 MR. KADRY: Oh, yes. Yes. He's
13 at the very end of -- yes. Yes. I know
14 Scott, I think.

15 CHAIRPERSON MILLER: Where is that
16 -- where is he in relation to your property?

17 MR. DUPONT: If you look at the
18 board, he's the last one.

19 CHAIRPERSON MILLER: Okay.

20 MR. KADRY: He's at the end of the
21 small homes that were all built by the --

22 CHAIRPERSON MILLER: You have to

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1 go talk on the mike, because it's important
2 it's in the transcript.

3 MR. DUPONT: It would be this one
4 -- the second to the last one. Did he write
5 a letter?

6 CHAIRPERSON MILLER: He did write
7 a letter. I thought that Ms. Bailey just gave
8 you all a copy of it.

9 MR. KADRY: I mean, I guess it's
10 interesting, the letter sort of speaks to my
11 motives. I bought the house knowing that it
12 had approved plans to do a rear addition that
13 would be suitable. So -- and actually,
14 Scott's seen the plans. He's kind of a
15 curious character. But I think, in terms of
16 the intent of his letter, preserving the
17 house, this does it. This house was going to
18 essentially get a facadomy. And I'm saving it
19 in perpetuity. So yes, you know, it was a
20 house that I could afford. And -- and I -- I
21 bought it knowing that I'd be able to build it
22 out, and kind of fell in love with it the way

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1 it is, and tried to figure out a way that
2 could keep all of my neighbors happy. And,
3 you know, if he had issues with it, I kind of
4 wish he would have --

5 MR. DUPONT: Well, he wrote the
6 letter yesterday.

7 MR. KADRY: He wrote the letter
8 yesterday and he's never -- I mean, he's seen
9 plans for over a year.

10 MR. DUPONT: I'd also like to
11 comment on his second paragraph very briefly.
12 The reason I've gotten involved in this and
13 given so much heart to it is that I think that
14 the architecture of the existing structure
15 actually is important. It's extremely
16 unadorned. It has a unique roof shape. It's
17 virtually complete in its original form,
18 stairs and everything. And these structures
19 -- it's one of the very first structures built
20 on the block, one of the -- in the -- in the
21 first group that were built by the first
22 builder. And therefore, they marked the

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1 beginning of the block. It's across from the
2 Eastern Market, and I think it's a structure
3 that should be maintained and kept. And
4 that's why I've been involved in this project
5 twice now. I didn't like the first solution,
6 even though it made a very nice house. I
7 thought it did something damaging to the Hill.

8 CHAIRPERSON MILLER: What's the
9 story with the last approval? It was
10 approved, but then never implemented?

11 MR. DUPONT: The owner sold it to
12 her daughter who was engaged. And the
13 daughter and her husband remodeled the kitchen
14 and the bathroom and sold the house and moved
15 out to the 'burbs.

16 MR. KADRY: Tripled their money.

17 CHAIRPERSON MILLER: And the
18 approval was to take off some of the back? Is
19 that what it would have done?

20 MR. DUPONT: Basically, what we
21 did was we took the room off from the ridge
22 back and took off the back half of the house

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1 and rebuilt it 29 feet longer. And I think I
2 have -- this is the plan. And the original
3 house was here. And this would be --

4 CHAIRPERSON MILLER: You need to
5 get on mike. Can you? Do you have one there?

6 MR. DUPONT: I don't know how to
7 work it.

8 MS. BAILEY: Mr. Dupont, just
9 bring it to me and I can help you with it.
10 Just bring it to me. It's adjusted.

11 MR. DUPONT: I think we're
12 working. This was the original house, this
13 ground floor plan. It involved -- this was
14 the second floor plan. But it involved taking
15 over most of the horse walk and extending the
16 house back. This is the neighbor's house. It
17 actually went back beyond the neighbor, almost
18 ten feet, leaving this house with a wall back
19 to here, three stories high. She's back in a
20 hole. And this neighbor didn't like it for
21 fear of underpinning. And also it puts her
22 kind of back in the shadow, because the sun is

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1 coming from that side, back this way. So they
2 were both much happier. The house was much
3 bigger. It blew out half the historic
4 structure and, on the other hand, it made a
5 very nice house, I have to say. I just didn't
6 think it was ideal for the circumstance.

7 And I -- and I think that most
8 users would have gone for the addition. I
9 don't think this opens a lot of doors to
10 people doing things that you're not going to
11 like. Its -- its -- its age and its position
12 on the block is unique. Its tininess is
13 unique. And the way he chooses to handle that
14 tininess is quite unusual, I suspect.

15 CHAIRPERSON MILLER: Any other
16 questions? The connection, is that just a
17 walkway, or what's in that area connecting the
18 two?

19 MR. DUPONT: It's a walkway.

20 CHAIRPERSON MILLER: Yes.

21 MR. DUPONT: But besides, it opens
22 fully to the garden, so it allows -- it allow

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1 an atrium, essentially, inside a house. It's
2 kind of an old world way of doing it. We have
3 the parking here and a bedroom above -- a
4 bedroom and bathroom above. And the walkway
5 is glass roofed. So it's glass roofed and
6 glass sided to the garden. And the wall to
7 the neighbor is the original wall or an
8 improved fence. And then we've sloped it up
9 from the neighbor, so that as she looks at it,
10 there's less obstruction, but it still sheds
11 water back to a gutter, and the gutter takes
12 the water out to a kind of a rain chain, and
13 down to the garden feature.

14 COMMISSIONER HOOD: Madam Chair,
15 let me just do this for the record. I see Mr.
16 Kadry works in the Environmental Protection
17 Agency, which I work at. Actually, I've never
18 seen him a day in my life. So I wanted to
19 make sure that I put that on the record. By
20 the way, what program office are you with?

21 MR. KADRY: I'm in OL, Wetness,
22 Oceans, and Watersheds.

1 COMMISSIONER HOOD: Okay. Okay.

2 I'm in OERM. Okay. Thank you.

3 CHAIRPERSON MILLER: Thank you.

4 Any concerns out there? Okay. Any other
5 questions for the Applicant right now? Okay.

6 Thank you. Good afternoon, Office of
7 Planning, Mr. Jesick.

8 MR. JESICK: Good afternoon Madam
9 Chair and members of the Board. My name is
10 Matt Jesick. The Board was originally
11 scheduled to hear this application on
12 September 25th and, as we've discussed here
13 today, there have been design revisions since
14 then. Originally, the application consisted
15 of two separate structures, the main house and
16 the carriage house. And since that time, the
17 hallway has been added to the design to
18 connect the two. And OP considers this a
19 meaningful connection between the two
20 structures. And what that means is that the
21 carriage house can be considered an addition.
22 And as an addition, would fall under Section

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1 223.

2 So OP reviewed the application
3 against the criteria of that second. The
4 addition will not have an undue impact on
5 light and air. There will be some additional
6 shadow on the back yard of the home to the
7 east in the afternoon. There will be no undue
8 impacts on privacy for neighbors and the
9 carriage house will match the character of
10 Brown's Court, which has many detached
11 carriage houses and alley dwellings on it.

12 So, with the design revisions, OP
13 can recommend approval of the special
14 exception. And I'd be happy to take any
15 questions.

16 CHAIRPERSON MILLER: Can you
17 elaborate just a little bit as to why this is
18 a meaningful connection?

19 MR. JESICK: Well, basically, it
20 allows us to pass the red face test when we
21 say this is one structure. It's a hallway
22 that is enclosed and has a roof and walls and

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1 it's not -- it's not something that is
2 insignificant or is just a -- it's a -- it is
3 an enclosed space that could be considered a
4 building or part of a building.

5 MR. DUPONT: I might add, it's
6 also not inconsequential to build. It's a
7 substantial investment on the part of the
8 owner in resources.

9 CHAIRPERSON MILLER: And you said
10 that there's some effect on light or shadows
11 in one of the neighbor's properties, but it's
12 not undue?

13 MR. JESICK: Yes. I --

14 CHAIRPERSON MILLER: I mean, I
15 assume if it were undue, the neighbors would
16 object.

17 MR. JESICK: Right. I think maybe
18 the easiest way to see this is on the last
19 page of the Applicant's most recent set of
20 plans, which is sort of a bird's eye
21 perspective view. I think this really shows
22 well what the addition will look like in

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1 relation to the neighbor's properties. And
2 you can see that the new structure will extend
3 a little bit farther south than the neighbor's
4 garage. So, in the afternoon, there will
5 likely be some shadow coming across the corner
6 of their back yard, but we didn't feel that it
7 was an undue impact.

8 MR. KADRY: There's actually a big
9 apple tree there, which Mary Jane Lenz --

10 CHAIRPERSON MILLER: Wait. Wait.
11 Wait. We are being very informal here, but
12 basically, this is the Office of Planning's
13 time. And then I can turn to you for
14 additional comments, if that's okay. So hold
15 that thought.

16 MR. JESICK: So yes. I was
17 finished.

18 CHAIRPERSON MILLER: Okay. Go
19 ahead.

20 MR. KADRY: I mean, in terms of
21 like air and light impacts, if you compare
22 this to taking that same mass and butting it

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1 up against the house, there's no contest.
2 And, in terms of the shading to Mary Jane
3 Lenz's garage, which she doesn't use for
4 anything but storage, there is kind of right
5 at the border here a large mature apple tree,
6 which I'm committed to work with her to save,
7 since a lot of it is over on my side of the --
8 but that's her concern. It's not air and
9 light. It's whether or not we can do this in
10 a thoughtful way, that we'll be able to trim
11 those roots and branches and keep that tree.
12 But she -- and she says in her letter, she --
13 she far prefers this alternative and actually
14 thinks that it's an addition and an amenity
15 that she likes.

16 CHAIRPERSON MILLER: I just see
17 that we have copies of the letters now. This
18 was Ms. Lenz you were talking about?

19 MR. KADRY: Yes.

20 CHAIRPERSON MILLER: Okay.

21 MR. DUPONT: If I may, the best
22 proof of adverse impact would be from the

1 individuals themselves, and they both support
2 this version better than the other version.

3 CHAIRPERSON MILLER: Exactly. And
4 that's Ms. Lenz and Ms. Ward? Okay.

5 MR. DUPONT: May I introduce Ms.
6 Giordano?

7 MS. GIORDANO: Hi. I'm sorry I'm
8 late. I guess the first two cases in the
9 morning -- or afternoon didn't show up. I'm
10 sorry our timing was off. Are you just
11 starting, or --

12 MR. DUPONT: No. We're about to
13 close.

14 CHAIRPERSON MILLER: We're just
15 operating very efficiently today, Ms.
16 Giordano. Your team's doing a great job,
17 though.

18 MS. GIORDANO: Oh good. Do you
19 need to hear anything from me then on the
20 standards or -- apparently not.

21 CHAIRPERSON MILLER: You might do
22 the wrap up. Was there anything else for the

1 Office of Planning? Any other questions for
2 the Office of Planning? Okay. I don't
3 believe there's anyone here from the ANC. But
4 if you are here, hiding behind this whatever
5 -- okay. I will say that we have a report
6 from ANC 6-B, dated November 21, 2007,
7 reflecting that they had a properly noticed
8 public meeting with a quorum present and they
9 voted unanimously 8-0 to support the
10 application. They do -- they say if there are
11 variances from lot width and area requirement.
12 Ms. Giordano, maybe you can answer that.

13 MS. GIORDANO: I'm sorry. What
14 was the question?

15 CHAIRPERSON MILLER: Was this
16 originally presented to them as variances?
17 I'm looking at the ANC's report.

18 MS. GIORDANO: Yes. The ANC -- it
19 was originally presented. And -- and they
20 supported it originally as variances. The
21 Capitol Hill Restoration Society did not until
22 we revised the application.

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1 MR. DUPONT: Well, they did in the
2 Historic Committee, but not in the Zoning and
3 Planning Committee.

4 CHAIRPERSON MILLER: I see. And
5 also here actually, as I read further along,
6 it says that that they support -- it appears
7 that they then support the special exception,
8 saying that the test for variance is more
9 strenuous. And since they supported that,
10 they support this. Okay. In any event, it's
11 a letter of support. Okay. And were you at
12 the meeting?

13 MS. GIORDANO: No, I was not.

14 CHAIRPERSON MILLER: Okay. Anyone
15 here who wishes to testify in support of the
16 application, come forward.

17 MR. PETERSON: Yes. I'm Gary
18 Peterson. I live at 810 Massachusetts Avenue,
19 NE, and I'm here to testify on behalf of the
20 Capitol Hill Restoration Society. I'd like to
21 note first of all that you should have two
22 letters from us in your file; one letter in

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1 opposition, which using a Washington term, is
2 now inoperative, and a second letter which was
3 filed yesterday in support of the application.
4 So I want to make sure that you ignore our
5 first letter because that was for what was
6 originally posted as what was happening. And
7 our committee was able to review these plans
8 that you have before you and the committee
9 voted 5-1-1 in support of the current
10 application.

11 CHAIRPERSON MILLER: What's the
12 date of the letter in opposition?

13 MR. PETERSON: Oh.

14 CHAIRPERSON MILLER: Was it a long
15 time ago?

16 MR. PETERSON: It was September
17 10th.

18 CHAIRPERSON MILLER: Okay. Okay.

19 MR. PETERSON: I just wanted to
20 make sure you don't pay any attention to that.

21 CHAIRPERSON MILLER: Okay.

22 MR. PETERSON: I call these the

1 dumbbell houses because you have that nice
2 little thing you grab a hold of in the middle.
3 We support this one, but we don't always
4 support this type of trick. And so I just
5 wanted to go on the record to make sure that
6 the BZA understands that we support these only
7 in very rare and unique circumstances. And we
8 believe that this is one of those
9 circumstances. It's a -- it's an extremely
10 small house with a little over 400 square feet
11 on each floor, which in modern times makes it
12 very unlivable and makes you question how
13 people could live in houses like that and have
14 eight children. But anyway, they did somehow.

15 But we support this because the
16 house is uniquely small. It's a very old
17 house. And we'd like to preserve as much of
18 the old house as we possibly can, and that
19 plan does that for us. Also, in this case,
20 the property backs onto Brown's Court, which
21 is one of the few inhabited alleys in Capitol
22 Hill. There are some others, but it's one of

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1 a few. And Brown's Court must have oh 15-20
2 residences back there. And so this is a fine
3 addition to Brown's Court. I spell out other
4 reasons in my letter.

5 But, in future cases, if the
6 property isn't unique and isn't unusual, we
7 may not support the application. We had one
8 a few years ago up in Northeast where we
9 opposed the -- it was on Fourth Street NE,
10 where we opposed the application and, in fact,
11 the BZA turned them down in that particular
12 case. So we're going to take them on a case-
13 by-case basis. But we would urge you to
14 support -- support this one.

15 CHAIRPERSON MILLER: So are you
16 referring to the connection concept?

17 MR. PETERSON: Yes.

18 CHAIRPERSON MILLER: Okay.

19 MR. PETERSON: Yes. As one of our
20 members of our committee said, it seems like
21 you're cheating somehow. And -- but of
22 course, they're not. But -- but we want to

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1 limit this to circumstances where it is really
2 essential for both the land owner and the
3 community to see something like this happen.
4 And we believe that's the case here.

5 CHAIRPERSON MILLER: Also, this is
6 before us now under 223. So do you still
7 think though that this uniqueness aspect is
8 important to your analysis of this case?

9 MR. PETERSON: Yes. And I don't
10 mean uniqueness in the terms of a variance
11 uniqueness. I just mean it in terms of it's
12 got to be something -- it's got to be
13 something different to let this happen. But
14 I think even in the way of 223, I think we're
15 going to ask for something unusual with the
16 property before we would approve it.

17 CHAIRPERSON MILLER: Do you think
18 that aspect actually made it better, with
19 respect to the criteria under 223, with
20 respect to impact on neighboring properties,
21 than if it were an addition from the house?

22 MR. PETERSON: I think not having

1 the addition to the house helps both of the
2 neighbors on either side; is visually much
3 better for the neighborhood; and secondly as
4 a bonus, also preserves the rear facade of
5 that structure, which of course we're
6 interested in doing, as well.

7 CHAIRPERSON MILLER: Any other
8 questions? I just want to ask you a question,
9 since we have a little time here. I guess
10 this gets dangerous, but just your opinion in
11 general. When we were talking about the
12 revision to 223, which may or may not be
13 applicable in this case, which now extends the
14 223 to accessory structures that don't
15 necessarily have to be attached, do you think
16 on the Hill or there are many situations like
17 this where that was a good idea so that
18 individuals didn't have to attach it to a
19 house and could have it set back without the
20 passageway?

21 MR. PETERSON: Right. I think it
22 sort of revolves around how large the property

1 is, from our perspective. If it's a big piece
2 of property and you can have an accessory
3 building without cramping up the property, I
4 don't really have any trouble with that. I
5 still think, however, the standards for an
6 accessory building in a R-4 zone would still
7 apply. And so, they would -- if they wanted
8 to do two stories, they'd have to come in for
9 a variance for that purpose.

10 You may not recall, but about 15
11 years ago, the Restoration Society and the
12 Capitol Hill Merchants Champs tried to get an
13 amendment through the Zoning Commission to
14 allow the development and usage of carriage
15 houses. But that failed because there were
16 other parts of the city that weren't too
17 enamored with that amendment. But -- but
18 we've always supported use on the alley where
19 appropriate. So we're not just blindly
20 opposed to uses on the alley.

21 CHAIRPERSON MILLER: Okay.
22 Thanks. I was just curious, since we're here.

1 MR. PETERSON: Right.

2 MR. KADRY: Can I make a comment
3 on that?

4 CHAIRPERSON MILLER: Wait a
5 second. Let me just -- wait. I'll get to
6 you. Are there any other Board questions?
7 Yes?

8 COMMISSIONER HOOD: Madam Chair,
9 not that this is relevant, because I think the
10 vote speaks for itself. Mr. Peterson, I'm
11 looking here. It says the committee voted 5-
12 1-1. Are there only seven members on the
13 committee?

14 MR. PETERSON: We have a total of
15 ten.

16 COMMISSIONER HOOD: Okay.

17 MR. PETERSON: But we never have a
18 full house, because of course it's an all
19 volunteer group and we meet in the evenings
20 and people have other things.

21 COMMISSIONER HOOD: So how many
22 members do you have on the Society itself?

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1 MR. PETERSON: We have around 900
2 members. And that's memberships.

3 COMMISSIONER HOOD: Memberships?
4 Participating members, is that 900?

5 MR. PETERSON: Right. Yes. But
6 the number of members is probably higher,
7 because you could have a family membership and
8 we don't now how many people that's for, if
9 it's just for the person and their spouse. So
10 we have 900 memberships, but there's probably
11 more members.

12 COMMISSIONER HOOD: And you just
13 had ten on this particular committee?

14 MR. PETERSON: That's right.
15 Right.

16 COMMISSIONER HOOD: Okay. Okay.
17 And the one person who voted, obviously did
18 not vote in favor, do you know what their
19 rationale or what their reason was?

20 MR. PETERSON: No. I do not know.

21 COMMISSIONER HOOD: All right.
22 Thank you. Thank you, Madam Chair.

1 CHAIRPERSON MILLER: Any other
2 Board questions? Does the Applicant have any
3 questions for Mr. Peterson?

4 MS. GIORDANO: No questions.

5 CHAIRPERSON MILLER: Okay. Thank
6 you.

7 MR. PETERSON: Yes.

8 CHAIRPERSON MILLER: Is there
9 anybody here in the audience who wishes to
10 testify against this application? Okay. Not
11 hearing from anyone then, I think that brings
12 us to closing remarks.

13 MS. GIORDANO: I just wanted to
14 say, on the connection issue, this Board has
15 upheld these types of connections. I had one
16 case where there was an appeal from a Zoning
17 Administrator approval of a connection and the
18 Board upheld the connection as creating one
19 building. So I know that, you know, this
20 whole concept has been somewhat controversial,
21 but this BZA has upheld it and there hasn't
22 been any rewrite of the Zoning Regulations

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1 that have changed the status of that.

2 So -- and in -- in this particular
3 case, again, I think Mr. Peterson said it very
4 well, and I'm sure our team did before I got
5 here, that in this particular case, this
6 solution of putting the addition to the rear
7 of the lot is definitely preferable from an
8 impacts standpoint on the abutting neighbors'
9 property and just the land use pattern in this
10 whole square in general. So I think it's
11 completely justified in this sense. And I
12 think we've met the criteria of 223. So I
13 would hope the Board would approve it.

14 CHAIRPERSON MILLER: Thank you.
15 Any final questions? Okay. Then I think that
16 we will deliberate on this. Does anyone have
17 a motion that they would like to put forward
18 at this time?

19 MEMBER LOUD: Madam Chair, I would
20 like to move approval of BZA Application No.
21 17665, for property identified at 654
22 Independence Avenue S.E., Square 870, Lot 63,

1 for a special exception relief for an addition
2 to a single family dwelling in R-4. Is there
3 a second?

4 CHAIRPERSON MILLER: Second.

5 MEMBER LOUD: I'll start us off
6 here and colleagues, feel free to chime in as
7 appropriate. This project is a rear two story
8 addition. A garage is going to be on the
9 first floor and a one bedroom, living room,
10 and bath will be on the second floor. It's to
11 a single family row house in Capitol Hill in
12 the R-4. A one story hallway, bounded on the
13 west property line will connect the two
14 structures, the existing single family
15 dwelling with the improvement to the rear.
16 It's going to create a closed court from the
17 hallway structure to the east line. However,
18 with the addition, the lot occupancy will
19 exceed the 60 percent allowable in the R-4,
20 but it will be under the 70 percent allowed
21 under Section 223.

22 The Historic Preservation Review

1 Board has approved; the ANC by Exhibit 31,
2 which has been references throughout our
3 proceeding this afternoon, has also approved,
4 particularly with the special exception
5 revision that we have been discussing. The
6 Office of Planning has submitted a very
7 detailed report outlining the elements of
8 Section 223. In the report, they go over each
9 of the elements with some level of detail,
10 essentially concluding that there is not a
11 substantial effect on the use or enjoyment of
12 abutting dwellings or properties. In addition
13 to which, the neighbors at 652 Independence
14 Avenue, Ms. Ward at 656 Independence Avenue,
15 Ms. Lenz, have both also expressed support for
16 the project as revised, noting as a number of
17 witnesses who testified this afternoon noted,
18 that it matches the character of the Brown's
19 Court, which already has many alley dwellings
20 and carriage houses. Interestingly enough,
21 there's a meaningful connection between the
22 two structures, as represented in the

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1 testimony this afternoon, noting that the
2 hallway is both enclosed; it has a roof; it
3 has walls; it involves a substantial amount of
4 dollar investment; and also that it has -- it
5 serves a function of preserving the historic
6 nature of the neighborhood, in that it pushes
7 the addition back to the rear of the property
8 line, instead of connecting it to the existing
9 house, which is favored in that community.

10 The Capitol Hill Restoration
11 Society testified this afternoon. They also
12 support it because they believe it's a good
13 addition to Brown's Court, noting also that
14 the size of the property is very small, about
15 400 square feet on each floor, making it
16 virtually impossible as living quarters for
17 modern families, and again supporting the rear
18 addition, as opposed to tampering with the
19 existing historic structure.

20 In light of that, I'm fully
21 supportive of this application. Colleagues,
22 feel free to chime in.

1 CHAIRPERSON MILLER: Excellent.

2 Excellent. Other comments?

3 MEMBER DETTMAN: Just a couple
4 comments. And I guess I'll start off by
5 saying that you know I do support the project
6 and I very much appreciate the Applicant's
7 attention to using environmentally sustainable
8 practices. And I think the city needs more of
9 that. However, I just wanted to sort of for
10 the record get my concerns out there related
11 to this idea of recognizing these types of
12 connections to allow what's typically viewed
13 as an accessory structure to be viewed as an
14 addition to a single family dwelling.

15 I think, in this case, it works
16 because of the scale character and the built
17 environment of Brown's Court. I mean, we have
18 a number of two story dwellings back there.
19 But I'm afraid of sort of what could happen in
20 the future if we continue to allow these types
21 of connections. And I know that the
22 definition of a connection is a little bit

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1 ambiguous, but I think it's an issue that
2 needs to be addressed.

3 Secondly, I have concerns with the
4 recent text amendments that were passed to
5 allow again, what's typically viewed as
6 accessory structures, to allow additions or
7 enlargements to these accessory structures to
8 be reviewed by the BZA as special exceptions.
9 In my view, it sort of lowers the standards.
10 It allows us to look at these as special
11 exceptions, as opposed to what's typically
12 viewed as a use variance. And I think that
13 there is adequate history out there that the
14 city no longer wanted alley dwellings and
15 wanted to do away with them. And so, by
16 looking at them as special exceptions, it's
17 essentially easier to get a dwelling unit onto
18 an alley. And so, just again, I support this
19 project. I think it's a very elegant design.
20 These are just my concerns with how the regs
21 are currently written.

22 CHAIRPERSON MILLER: Okay. With

1 respect to this application right here, I
2 would say that we have looked at these
3 connections in the past and they're not -- it
4 hasn't been that common. But certainly in
5 this case I think, as the Office of Planning
6 noted, it was at least a meaningful connection
7 and it's very well done. And what it does do
8 is actually make for a better project --
9 better neighbor, in that it does take the
10 massing away from the middle of the yard and
11 puts it at the end. And, as we can see, both
12 abutting neighbors find that there would not
13 be an adverse impact on their property with
14 respect to light and privacy, which is the
15 standard we're looking at today.

16 And, with respect to, this is just
17 a side comment about, you know, we may notice
18 different things about that new amendment with
19 respect to 223 applying to accessory
20 structures, but I would note that in many
21 instances the special exception standard
22 should really apply, that it makes much more

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1 sense, that we noted with respect to a lot of
2 garages in the back. But that's something to
3 be debated in looking at the regulations, you
4 know. And there is this whole Zoning Review
5 Task Force that could be looking at
6 regulations. And maybe there will be a much
7 better solution. It's not like one or the
8 other. We'll come up with something that
9 really works in reality and it may be neither
10 of those solutions.

11 So I just want to say the Office
12 of Planning did a very thorough job of going
13 through all of the elements. It is within the
14 lot occupancy required to come under 223.3, at
15 69.6 percent. And I would say also, yes, if
16 Capitol Hill Restoration Society seems to be
17 taking, you know, a look at these one by one,
18 it is kind of an unusual configuration when
19 you do those passageways. But it sounds like
20 it was done very well, in this case.

21 So, okay. I think that it, in my
22 vies, meets the 223 standards as well. Any

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1 other comments? Okay. Then all those in favor
2 say aye.

3 ALL: Aye.

4 CHAIRPERSON MILLER: All those
5 opposed? All those abstaining? And would you
6 call the vote please, Ms. Bailey?

7 MS. BAILEY: Madam Chair, the vote
8 is recorded as 4-0-1 to grant the application
9 as amended, and the amended application is
10 approved, special exception under 223,
11 specifically relief from the lot occupancy and
12 rear yard requirements for the construction of
13 the addition. Mr. Loud made the motion; Ms.
14 Miller seconded; Mr. Hood and Mr. Dettman
15 support the motion; and the fourth BZA member
16 is not present at this time.

17 CHAIRPERSON MILLER: And this can
18 be a summary order as there is no opposition
19 in this case.

20 MS. BAILEY: Thank you.

21 MS. GIORDANO: Thank you, very
22 much.

1 MR. KADRY: Thank you.

2 CHAIRPERSON MILLER: Thank you,
3 very much. Good luck to you. Ms. Bailey, do
4 we have anything else on the agenda for this
5 afternoon?

6 MS. BAILEY: No, Madam Chair.
7 That's it.

8 CHAIRPERSON MILLER: Then this
9 hearing is adjourned.

10 (Whereupon, the hearing was
11 adjourned at approximately 2:32 p.m.)

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