

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC MEETING

+ + + + +

TUESDAY

OCTOBER 23, 2012

+ + + + +

The Regular Public Meeting convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4<sup>th</sup> Street, N.W., Washington, D.C., 20001, pursuant to notice at 1:00 p.m., Lloyd Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson  
NICOLE SORG, Vice-Chairperson  
JEFF HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY HOOD, Chairperson  
MICHAEL TURNBULL, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

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SHERRY GLAZER, ESQ.  
MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

N/A

The transcript constitutes the minutes from the Public Meeting held on October 23, 2012.

T-A-B-L-E O-F C-O-N-T-E-N-T-S

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

2 (1:13 p.m.)

3 CHAIRMAN JORDAN: Good afternoon.

4 Will the hearing please come to order. We're  
5 located at the Jerrilly R. Kress Memorial  
6 Hearing Room at 441 4th Street, N.W. Today's  
7 date is October 23rd, 2012.

8 We're here for the public hearing  
9 in the Board of Zoning Adjustment of the District  
10 of Columbia. My name is Lloyd Jordan,  
11 Chairperson. To my right is Jeffrey Hinkle,  
12 Board member. To my left is the Vice Chair,  
13 Nicole Sorg. To her left is the Zoning  
14 Commission Chairperson Anthony Hood.

15 Please be advised that this  
16 proceeding is being recorded by a court reporter  
17 and also being webcast live. So therefore I'm  
18 going to ask that you refrain from any disruptive  
19 noises or actions here in the hearing room.

20 The Board's hearing procedures are  
21 contained in a pamphlet by the door to my left,  
22 the back door to my left. So if there's any

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1 questions about how we proceed in regards to  
2 applications, please feel free to get the  
3 pamphlet and ascertain our processes and  
4 procedure.

5 This is all public meeting isn't it,  
6 yes, all public meeting. So we're not doing  
7 hearings today, we're doing public meetings and  
8 not having any hearings. We're going to  
9 deliberate and render decisions on the cases  
10 scheduled on today's docket.

11 With that Mr. Moy, is there any  
12 preliminary matters in which we need to address?

13 MR. MOY: The only note for you and  
14 the Board, Mr. Chairman, is that the first item  
15 on the Board's decision meeting agenda is the  
16 Expedited Review Calendar.

17 And I just wanted to note that the  
18 third case on the calendar here has been a filing  
19 for a party status request, which is Case Number  
20 18462, of Karen Sayre.

21 CHAIRMAN JORDAN: 18462?

22 MR. MOY: Yes, sir, 18462.

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1 CHAIRMAN JORDAN: And as required  
2 under the rules then we need to remove that from  
3 the expedited docket and give it a new date?

4 And I think there was a question  
5 about whether or not there had been a waiver  
6 in the file anyway for an expedited review, Mr.  
7 Moy?

8 MR. MOY: Yes, I was going to add,  
9 Mr. Chairman, but I had a momentary pause because  
10 I was looking for my, the regulations, the  
11 language under section 3118.

12 And as you're familiar, under those  
13 regulations, under section 3118.8, if I may read  
14 it for the Board to refresh their memory.

15 "A request to remove made pursuant  
16 to 3118.7 shall be filed with the Office of  
17 Zoning no later than 14 days prior to the date  
18 that the expedited review is scheduled. Be  
19 accompanied by a statement indicating that the  
20 requester or the requester's representative  
21 intends to appear as a witness at the hearing,  
22 and shall include a summary proffer of the

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1 testimony to be given at that time."

2 Let's see, under the 3118.6 it  
3 reads, "An application tentatively placed on  
4 an expedited review calendar will be removed  
5 and rescheduled for a hearing, (a), at the oral  
6 or written request of a Board member made at  
7 any time prior to the vote on the application,  
8 (b), upon the receipt of a timely filed request  
9 for party status in opposition to the  
10 application or, 8 at the written request of the  
11 Office of Planning."

12 CHAIRMAN JORDAN: And the request  
13 for party status was timely, Mr. Moy?

14 MR. MOY: Yes, sir.

15 CHAIRMAN JORDAN: So then as the  
16 record under the regulation, then we will remove  
17 this from the expedited hearing docket.

18 (Off microphone comments)

19 MR. MOY: Let's see, today's  
20 October 23rd. Let's see. We have, I would  
21 suggest next week, October 30th, although in  
22 the afternoon we have one appeal case and one

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1 application.

2 CHAIRMAN JORDAN: Does this matter  
3 have to be re-noticed?

4 MR. MOY: We can do that orally at  
5 this time, Mr. Chairman. The other possible  
6 date then would be November 7th in the afternoon.

7 CHAIRMAN JORDAN: What do we have  
8 in the afternoon on the 7th? How many cases  
9 and what kind?

10 MR. MOY: In the afternoon, we have  
11 two cases in the afternoon.

12 CHAIRMAN JORDAN: Okay. So two,  
13 what was the mix?

14 MR. MOY: Well, two in the  
15 afternoon, they're two variance cases. One is  
16 a conversion to a three-unit flat. The other  
17 is a variance from the alley setback  
18 requirements.

19 CHAIRMAN JORDAN: So let's move it  
20 to November 7th, in the afternoon.

21 MR. MOY: November 7th, in the  
22 afternoon.

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1 CHAIRMAN JORDAN: So Case Number  
2 18462 has been removed from the expedited  
3 docket, and moved to November 7th at 1:00 p.m.

4 MR. MOY: Yes, sir.

5 CHAIRMAN JORDAN: I'm going to  
6 suggest, and I don't know if this happened, if  
7 the parties are here, or persons here in relation  
8 to this case that they at least try to talk and  
9 resolve any issues that might be outstanding  
10 or in conflict. Just a suggestion.

11 And on November 7th, at that time we will  
12 take up the party status request to determine  
13 whether or not we are going to accept that as  
14 a party.

15 MR. MOY: Yes, sir.

16 CHAIRMAN JORDAN: Go to the next  
17 matter, please. The next matter is --

18 MR. MOY: Yes, so that leaves us  
19 with --

20 CHAIRMAN JORDAN: There are two  
21 expedited matters.

22 MR. MOY: Yes, on the calendar we

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1 have two expedited matters, and those cases are,  
2 for the record, for the transcript, Case Number,  
3 or rather Application Number 18457 of Stephen  
4 McCreary and Beth Van Hanswyk, and the other  
5 case is Application Number 18456 of Kevin Plank.

6 I guess for the transcript is I usually actually  
7 read the caption, the advertisement.

8 CHAIRMAN JORDAN: Yes, thank you.

9 MR. MOY: Application Number 18457  
10 of Stephen D. McCreary and Beth Van Hanswyk,  
11 pursuant to 11 DCMR 3104.1, for a special  
12 exception to allow a rear addition to an existing  
13 one-family detached dwelling under section 223,  
14 not meeting the side yard requirements under  
15 section 405, in the R-1-B District at premises  
16 3500 McKinley Street, N.W. Property located  
17 in Square 1996, Lot 814.

18 The second case again, this is  
19 Application Number 18458 of Kevin Plank,  
20 pursuant to 11 DCMR 3104.1, for a special  
21 exception to allow an addition to an accessory  
22 garage under section 223, not meeting the lot

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1 occupancy requirements under section 403, and  
2 nonconforming structure provisions under  
3 subsection 2001.3 in the R-3 District at  
4 premises 1404 35th Street, N.W. Property  
5 located in Square 1247, Lot 847.

6 CHAIRMAN JORDAN: Is anyone here  
7 for Case Number 18457? Would you come forward  
8 please? Are you the applicant?

9 (Off microphone comments)

10 CHAIRMAN JORDAN: Mr. Moy, if you  
11 could swear her in.

12 We have some questions for you  
13 before we proceed.

14 MR. MOY: Do you solemnly swear or  
15 affirm that the testimony you're about to  
16 present in this proceeding is the truth, the  
17 whole truth and nothing but the truth?

18 (Affirmation)

19 MR. MOY: Then you may be considered

20 --

21 (Simultaneous speaking)

22 CHAIRMAN JORDAN: Thank you.

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1 (Off the record discussion)

2 CHAIRMAN JORDAN: All right, will  
3 you please give us your name?

4 MS. VAN HANSWYK: Sure, Beth Van  
5 Hanswyk.

6 CHAIRMAN JORDAN: And you are the  
7 applicant, correct?

8 MS. VAN HANSWYK: Yes.

9 CHAIRMAN JORDAN: We just have a  
10 small inconsistency.

11 We're trying to understand the side  
12 yard calculations. We understand, based upon  
13 the representations in this self-certification  
14 form that the side yard present is 1.6 feet and  
15 10.5 feet, and that the Office of Planning  
16 indicates that the side yard is 1.6 feet across  
17 the board. Can you help us with that?

18 MS. VAN HANSWYK: No. I think the  
19 first calculations are right. On the side where  
20 we're receiving the side variance, we're 1.6  
21 at one point at the existing house. It's a bay  
22 window.

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1           On the other side we're quite a  
2 distance from the property line and 10.6 sounds  
3 about right. I think maybe it's a typo on their  
4 part.

5           CHAIRMAN JORDAN: Okay, what was  
6 the second dimension? You said at one point  
7 is 1.6 and the point is --

8           MS. VAN HANSWYK: It's on the  
9 unaffected side so I can't swear to it.

10          CHAIRMAN JORDAN: But it's bigger  
11 than 1.6?

12          MS. VAN HANSWYK: Absolutely. You  
13 know, it's definitely over ten.

14          CHAIRMAN JORDAN: Okay, thank you.  
15 Any other questions for this  
16 applicant?

17          Thank you.

18          MS. VAN HANSWYK: Thanks.

19          CHAIRMAN JORDAN: Is the Board  
20 ready to deliberate in this matter?

21          I believe the record is full. It  
22 shows that the applicant meets the

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1 qualifications and requirements for special  
2 exception to allow for a rear addition as  
3 requested. And so therefore I would move that  
4 we grant the application.

5 ZC CHAIRMAN HOOD: Second.

6 CHAIRMAN JORDAN: Motion made and  
7 seconded. Seconded by Anthony Hood, because  
8 Ms. Sorg yield to him and gave him the  
9 opportunity to do that.

10 Any unreadiness? All those in  
11 favor of the motion signify by saying aye.

12 (Chorus of ayes)

13 CHAIRMAN JORDAN: Those opposed,  
14 nay. The motion carries.

15 Mr. Moy?

16 MR. MOY: Yes, sir. Staff would  
17 record the vote as four to zero to one. This  
18 is on a motion of Chairman Jordan to approve  
19 the application for the special exception  
20 relief, seconded by Mr. Hood.

21 Also in support of the motion, vice  
22 chairperson Sorg and Mr. Hinkle. No other Board

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1 members participating. Again the motion  
2 carries on a vote of four to zero to one.

3 CHAIRMAN JORDAN: And can we have  
4 a summary order for that please?

5 MR. MOY: Yes, sir.

6 CHAIRMAN JORDAN: Thank you then.

7 (Off microphone comments)

8 (Off the record discussion)

9 CHAIRMAN JORDAN: Mr. Moy, would  
10 you call the next case, please?

11 MR. MOY: Yes. That would be,  
12 we're still on the Expedited Review Calendar,  
13 so that would be 18458 of Kevin Plank.

14 CHAIRMAN JORDAN: We had a bit of  
15 discrepancy, or a reference which we're just  
16 not certain. We understand that the  
17 application asks for a special exception from  
18 section 403 and 2001.3.

19 However, in the OP report it had some  
20 other special exception requests, and since OP  
21 is not particularly, I think we'll go forward  
22 with the request of the applicant. If there's

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1 something that's still outstanding then they  
2 would probably have to come back and deal with  
3 it.

4 But OP is citing some nonconforming  
5 issues that we don't believe is necessary for  
6 this at this point. I believe the file is  
7 certainly full of all the items necessary for  
8 this special exception request as an expedited  
9 matter, so I would be inclined to grant the  
10 request.

11 Anyone else have anything they want  
12 to add into it?

13 VICE CHAIR SORG: I just have a  
14 question, Mr. Chairman. Are you looking to  
15 grant the relief for lot occupancy and  
16 nonconforming structure?

17 CHAIRMAN JORDAN: Yes.

18 VICE CHAIR SORG: And not including  
19 --

20 CHAIRMAN JORDAN: That's correct.

21 VICE CHAIR SORG: -- lot width and  
22 lot area and rear yard and side yard?

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1 CHAIRMAN JORDAN: Yes.

2 VICE CHAIR SORG: Being that it's  
3 self-certified?

4 (Simultaneous speaking)

5 CHAIRMAN JORDAN: That it's going  
6 to change. The nonconforming is going to stay  
7 the same.

8 VICE CHAIR SORG: Okay, I was just  
9 asking. I can be in support of that.

10 CHAIRMAN JORDAN: Yes, we normally  
11 don't take testimony but who are you?

12 (Off microphone comments)

13 CHAIRMAN JORDAN: Please come  
14 forward, please.

15 Mr. Moy, would you --

16 MR. MOY: Yes, sir.

17 Do you solemnly swear or affirm that  
18 the testimony you're about to present in this  
19 proceeding is the truth, the whole truth and  
20 nothing but the truth?

21 MR. BARNES: I do.

22 MR. MOY: Thank you.

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1 CHAIRMAN JORDAN: Thank you. And  
2 would you please state your name?

3 MR. BARNES: Yes. Anthony Barnes.

4 CHAIRMAN JORDAN: And you are  
5 representing the --

6 MR. BARNES: Representing the  
7 applicant, Mr. Plank. I'm his architect. And  
8 just a small discrepancy.

9 The staff report notes that we're  
10 requesting 65 percent of the total lot coverage.

11 It's actually 65.14 percent, very slightly  
12 different, which is what we applied for. I just  
13 wanted to ask you if, indeed, you consider  
14 approving this that you approve it for the full  
15 amount.

16 CHAIRMAN JORDAN: Well, if we're  
17 going to give you relief from it you'll be okay.

18 MR. BARNES: Thank you.

19 CHAIRMAN JORDAN: You're saying 65  
20 --

21 MR. BARNES: .14 is the actual  
22 correct dimension.

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1 CHAIRMAN JORDAN: Yes, go ahead,  
2 Ms. Sorg, again.

3 VICE CHAIR SORG: Thank you, Mr.  
4 Chairman.

5 While you're here and talking to us,  
6 perhaps you have an opinion about these other  
7 areas of relief. You read obviously the OP  
8 report?

9 MR. BARNES: It puzzles me a little  
10 bit but I think OP just wants to, well, let's  
11 say we're not seeking any change in any of those  
12 factors. I think you're correct in saying it  
13 doesn't really affect the application that we're  
14 asking for today which is just lot coverage.

15 I'm not sure if they felt it was  
16 necessary to recognize relief for these other  
17 nonconforming aspects at the same time, but I've  
18 not had any questions or discussions with them  
19 on this regard. I don't really have anything  
20 useful to add, I'm afraid.

21 VICE CHAIR SORG: Okay. Yes, I  
22 think it's the procedure.

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1 (Simultaneous speaking)

2 CHAIRMAN JORDAN: Also why it's  
3 there.

4 MR. BARNES: I got you.

5 CHAIRMAN JORDAN: Okay, thank you.

6 MR. BARNES: Thank you.

7 CHAIRMAN JORDAN: So I would move  
8 that we grant the special exception of a 3104.1  
9 and section 223 for an enlargement of an  
10 accessory structure that does not meet the  
11 requirements of section 403 and 2001.3. My  
12 motion.

13 VICE CHAIR SORG: Second.

14 CHAIRMAN JORDAN: Motion made and  
15 seconded. Any unreadiness? Seeing none, all  
16 those in favor signify by saying aye.

17 (Chorus of ayes)

18 CHAIRMAN JORDAN: Those opposed,  
19 nay. The motion carries.

20 Mr. Moy?

21 MR. MOY: Yes, sir. The staff will  
22 record the vote as four to zero to one. This

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1 is on the motion of Chairman Jordan to approve  
2 the special exception relief under section 223.

3 Seconded by Vice Chairperson Sorg.

4 Also in support of the motion, Mr.  
5 Hood and Mr. Hinkle. No other Board members  
6 participating. So again the motion carries  
7 four to zero to one.

8 CHAIRMAN JORDAN: Thank you.

9 We've dealt with 18462. That's  
10 been moved to November 7th.

11 MR. MOY: That's correct.

12 CHAIRMAN JORDAN: Will you call the  
13 next case, please.

14 MR. MOY: The next case before the  
15 Board for decision making is a request for a  
16 second two-year time extension of Application  
17 Number 17809-A of Jemal's Uline, LLC, pursuant  
18 to Section 3130 of the Zoning Regulations.

19 As the Board will recall, the  
20 original application was approved on September  
21 16th, 2008, and that application was pursuant  
22 to 11 DCMR 3104.1 for special exception relief

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1 from parking requirements for historic  
2 structures under section 2120 and a special  
3 exception from the roof structure number and  
4 setback requirements under section 411, to  
5 permit the expansion and renovation of the  
6 existing Uline arena and ice house in the C-M-1  
7 and C-M-3 Districts at premises 1130-1150 3rd  
8 Street, N.E. Property located in Square 748,  
9 Lots 8-11, 42, 43, 802, 808-812.

10 The applicant filed their request  
11 on August 31st, 2012, and that filing is in your  
12 case folders under Exhibit 38. The Board should  
13 act upon the preliminary matter to waive the  
14 requirement that grants one extension of time  
15 periods, which is subsection 3130.1 for good  
16 cause shown.

17 CHAIRMAN JORDAN: Is that an  
18 all-encompassing motion, so if we were to grant  
19 the, it's not Step 1 to hear it, because is it  
20 not, here is it not a question of jurisdiction  
21 to hear it or is not?

22 MS. GLAZER: No, I don't believe

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1 it's a question of jurisdiction. Just one of  
2 the issues that has to be resolved.

3 CHAIRMAN JORDAN: But if we grant  
4 it then we've waived it. We've done it in one  
5 swoop. Otherwise, to me it's jurisdiction  
6 because the rules --

7 MS. GLAZER: I'm not sure I  
8 understand. But the initial question, I guess,  
9 is whether you will waive the provision in 3130.6  
10 which limits the extensions to one after the  
11 order is issued. But then assuming you can  
12 waive that there's still other issues to  
13 resolve, whether the criteria has been met.

14 CHAIRMAN JORDAN: Yes, and that's  
15 why I'm saying it's all one act. Because if  
16 we were to do this then we would make a motion  
17 to waive the grant. Because otherwise, why  
18 would we waive it, you know.

19 Okay, I'm clear. Thanks.

20 ZC CHAIRMAN HOOD: Mr. Chairman,  
21 Ms. Glazer, does the Board have the authority  
22 to waive this rule?

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1 MS. GLAZER: I believe it does.  
2 OAG has advised the Board in the past that they  
3 do although the standard is unclear. The Board  
4 has waived that provision in a few instances  
5 that I'm aware of.

6 CHAIRMAN JORDAN: Mr. Hood, we  
7 were, I guess one of the first, a year or so  
8 back when I first joined the Board was one of  
9 the biggest questions, and I thought it was an  
10 issue. However, OAG advised to the contrary  
11 and also one of your colleagues on the Zoning  
12 Commission also advised to the contrary.

13 You might already have an amendment  
14 in front of you regarding that or you're about  
15 to vote on it, and that takes away that question,  
16 and I think it's something else --

17 (Off microphone comments)

18 ZC CHAIRMAN HOOD: Because I'm  
19 looking at the date that this was dealt with  
20 in 2009, June 5th, and I just noted, when I read  
21 the Board may grant one extension over the time  
22 periods.

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1           And maybe that is something. We've  
2 got a lot on our plate. Maybe that is something  
3 that's coming forward. Because if you all have  
4 been waiving it then we do need to correct it,  
5 if the Zoning Commission sees fit. Because the  
6 way I read it we don't have authority to do more  
7 than one waiver, but obviously if you all have  
8 already done it.

9           I know my former colleague, years  
10 ago used to always say, and I don't want to relate  
11 this to a time extension for PUD, but sometimes  
12 they were lasting for 25 and 30 years. And that  
13 was one of the things we were trying to get away  
14 from.

15           But I don't know who my colleague  
16 was that was here and said that first, but I'll  
17 follow their course for this moment in this case.

18           CHAIRMAN JORDAN:       And that's  
19 certainly one of the concerns of this Board.  
20 And one of the things that we've been trying  
21 to do is build in some consistency in our  
22 application.

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1           So I suggest that we do entertain  
2 it, but entertain it that we do have the  
3 authority to do so because it's one of the  
4 provisions which is waivable by us. However,  
5 we had discussion at great length and it was  
6 resolved by vote, I think I was the odd man out,  
7 whatever, but at great length.

8           But it was also as I said with going  
9 on the advice of OAG and also one of your  
10 colleagues and that this thing has been moving  
11 forward. So I think it's in the Commission  
12 somewhere.

13           ZC CHAIRMAN HOOD: Okay, we'll deal  
14 with it there. I just think, the way I read  
15 it now, I don't think that there's jurisdiction  
16 there but if you all have done it in the past  
17 we'll follow precedent.

18           CHAIRMAN JORDAN: Okay, thank you.

19           VICE CHAIR SORG: I just wanted to  
20 make one other comment to Mr. Chairman too, to  
21 Mr. Hood.

22           I think the chairman is correctly

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1 referring to a discussion that was ongoing. And  
2 also, I think, we did put on the record that  
3 it was something that we did feel was something  
4 that we certainly wanted the Zoning Commission  
5 to weigh in on based on the language that was  
6 there.

7           And I believe, if I'm not incorrect,  
8 that the way that we came down on setting the  
9 precedent with regard to waiving this portion  
10 of this regulation and finding the ability to  
11 potentially grant second time extensions was  
12 based upon the fact that this regulation was  
13 not among those that are unwaivable under the  
14 rules they have on the Board. If that helps  
15 at all.

16           ZC CHAIRMAN HOOD: Actually it  
17 didn't help me, but thank you very much. I  
18 appreciate the attempt.

19           CHAIRMAN JORDAN: All right, moving  
20 right along, because we've beat this dead horse.  
21 That horse is just dying.

22           We have the file. We have the

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1 affidavit. I'm inclined to grant this  
2 extension for a second time based upon the  
3 filings and the affidavit indicating that  
4 there's a downturn.

5 We do know that there's a financial  
6 downturn, the market's still not as strong.  
7 However, that being said I'm also not inclined  
8 to do this again. As we've talked about, these  
9 orders being continued and continued for a  
10 number of years becomes problematic. But this  
11 one I stand in support. Any other  
12 thoughts? Any other thoughts?

13 MEMBER HINKLE: Yes, Mr. Chair,  
14 thank you. I just wanted to add that we have  
15 been requesting affidavits from these  
16 applicants in terms of their efforts to move  
17 these projects forward.

18 And the one before us I'm supportive  
19 of the extension, but it would be nice, and I  
20 just want to put this on record, to have a little  
21 more in terms of the efforts that the applicant  
22 has made since the first extension of time.

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1 I think that would help the Board in future cases  
2 in terms of second extensions. Thank you.

3 CHAIRMAN JORDAN: Anyone else?  
4 Seeing none, I move that we waive the provision  
5 for the one-time extension in order to grant  
6 this two-year extension. That' my motion.

7 MEMBER HINKLE: I'll second it.

8 CHAIRMAN JORDAN: Motion made and  
9 seconded. Any unreadiness? All those in favor  
10 signify by saying aye.

11 (Chorus of ayes)

12 CHAIRMAN JORDAN: Those opposed,  
13 nay.

14 ZC CHAIRMAN HOOD: Opposed.

15 CHAIRMAN JORDAN: Motion carried.

16 MR. MOY: Staff would record the  
17 vote as three to one to one. This is on the  
18 motion of Chairman Jordan to approve the  
19 application and waiving the one-time extension  
20 rule. Second the motion, Mr. Hinkle.

21 Also in support, Vice Chairperson  
22 Sorg. Mr. Hood is opposed, and we have no other

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1 Board members participating. So again motion  
2 carries, three to one to one.

3 CHAIRMAN JORDAN: Thank you. Call  
4 our next case please.

5 MR. MOY: Summary order, sir?

6 CHAIRMAN JORDAN: Yes.

7 MR. MOY: Thank you.

8 CHAIRMAN JORDAN: And again I just  
9 want to emphasize Mr. Hinkle's standpoint. We  
10 normally want more information here, something  
11 showing that various financial houses have been  
12 contacted and they've declined, or their  
13 opinions in these type of matters.

14 Mr. Moy?

15 MR. MOY: The next action for the  
16 Board is a request for a first two-year time  
17 extension of Application Number 18109. This  
18 is of the Washington Metropolitan Community  
19 Development Corporation, pursuant to Section  
20 3130 of the Zoning Regulations.

21 The original application as the  
22 Board will recall was approved on October 5,

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1 2010, and that was pursuant to 11 DCMR 3104.1  
2 and 3103.2, for a variance from the floor area  
3 ratio requirements under subsection 771.2, in  
4 a variance from the nonconforming structure  
5 provisions under subsection 2001.3, and a  
6 special exception from the parking requirements  
7 for a historic resource under subsection 2120.6,  
8 to allow the construction of a retail and  
9 commercial office building in the C-1 District  
10 at premises 5127-5131 Nannie Helen Burroughs  
11 Avenue, N.E. Property located in Square 5196,  
12 Lots 801 and 805.

13 The applicant filed on September  
14 5th, 2012, and that document is identified under  
15 Exhibit 33. There are no responses to the  
16 request for a time extension.

17 The only other filing in the record,  
18 Mr. Chairman, is a report from the Office of  
19 Planning which is identified under Exhibit 34.

20 That completes the presentation, Mr. Chairman.

21 CHAIRMAN JORDAN: Thank you, Mr.  
22 Moy.

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1                   Now this request for extension gives  
2 me great pause. There's not enough here in the  
3 file, I believe, to grant this extension. I'm  
4 inclined to say that we need to continue the  
5 matter and give applicant notice to provide us  
6 additional information to support their  
7 request.

8                   This request maintains some blanket  
9 statements, some testimony that was given not  
10 by the applicant themselves or anyone related  
11 to the applicant, in one case two years ago and  
12 in another case a year ago. There's not an  
13 affidavit here in support. That there's no  
14 financials in support.

15                   So that's my thought. Anybody else  
16 want to weigh in please?

17                   VICE CHAIR SORG: Thank you, Mr.  
18 Chairman. I don't have much to add but I will  
19 say that I agree with your analysis there.

20                   CHAIRMAN JORDAN: So Mr. Hood?

21                   ZC CHAIRMAN HOOD: I would also  
22 agree with you, Mr. Chairman. But I think once

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1 that's provided I would be more inclined in  
2 dealing with this one as opposed to the previous  
3 one because it reads to the letter of law. Okay,  
4 thank you.

5 CHAIRMAN JORDAN: Yes, this has  
6 been a particular point, and then Mr. Hood, if  
7 I can ask, if the Zoning Commission would  
8 expedite that matter for us because --

9 ZC CHAIRMAN HOOD: I'm actually  
10 going to find out where that is very soon.

11 CHAIRMAN JORDAN: Because we  
12 thought it was coming, coming, coming, but okay.

13 ZC CHAIRMAN HOOD: Not that I'm in  
14 agreement with it, I just think we need to change  
15 the language. I know the Board has to do what  
16 it has to do, but believe me, it will be, I'm  
17 going to find out where it is. With the help  
18 of Mr. Moy, we'll find out where it is.

19 CHAIRMAN JORDAN: And I understand  
20 you have some inroads because you might know  
21 the chair of the Zoning Commission.

22 ZC CHAIRMAN HOOD: When he shows up.

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1 CHAIRMAN JORDAN: So can we say by  
2 consensus that we would continue this and have  
3 the Office of Zoning make a request that this  
4 applicant submit further support, is that okay?

5 MR. MOY: Yes, sir. Staff --

6 (Simultaneous speaking)

7 CHAIRMAN JORDAN: By consensus  
8 please.

9 MR. MOY: The staff can follow up  
10 with that with the applicant, Mr. Chairman.  
11 In the interim, what is the Board's desire to  
12 --

13 CHAIRMAN JORDAN: What date?

14 MR. MOY: Because the next decision  
15 meeting is November 7th.

16 CHAIRMAN JORDAN: That's fine with  
17 me.

18 MR. MOY: Okay.

19 CHAIRMAN JORDAN: Thank you, Mr.  
20 Moy.

21 And we're going to take just a brief,  
22 60-second change of players. We're going to

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1 do some substitution here.

2 (Off the record discussion)

3 CHAIRMAN JORDAN: Are you going to  
4 call the next one? Let's rock and roll.

5 MR. MOY: Yes, sir. The next  
6 application before the Board for decision making  
7 is Application Number 18393.

8 This is of Marina Martin, pursuant  
9 to 11 DCMR 3104.1 and 1202.1 for a special  
10 exception to allow a rear deck addition to an  
11 existing flat, two-family row dwelling, under  
12 section 223, not meeting the lot occupancy  
13 requirements under section 403 in the CAP/R-4  
14 District at premises 149 D Street, S.E.  
15 Property located in Square 734, Lot 74.

16 On September 11, 2012, the Board  
17 completed public testimony, closed the record  
18 and scheduled its decision on October 23rd,  
19 2012. The Board requested additional  
20 information to supplement the record.

21 The applicant made a filing of  
22 revised plans which is Sheet A-3, on September

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1 25th, and that document is identified in your  
2 case record under Exhibit 33.

3 So with that, Mr. Chairman, the  
4 Board must act on the merits of the requested  
5 special exception relief.

6 CHAIRMAN JORDAN: Okay, thank you.

7 I think we're ready to move forward on this.

8 Is there any other questions about  
9 the plans that were subsequently submitted?  
10 Are we ready to get out of the cold? No.

11 This is a matter in which we had a  
12 lot of testimony and there was a party in  
13 opposition in this case. We have a  
14 recommendation from the Office of Planning that  
15 supports this special exception request to which  
16 we would give great weight.

17 We also have ANC-6B recommended  
18 approval which meets the criteria for great  
19 weight. The Department of Transportation  
20 issued a letter of no objection as well as the  
21 architect of the capital. It submitted a letter  
22 of not inconsistent.

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1 I believe this matter probably meets  
2 the qualifications for a special exception for  
3 403, lot occupancy, and 401, lot area, and 2001.3  
4 for nonconforming structure. I think they show  
5 that there's no impact to light and air.

6 The deck is being built with a cable  
7 guardrail, allows the passage of air through  
8 it. What becomes a little bit more challenging  
9 is the next step of whether or not it intrudes  
10 upon the character of the property of the area.

11 However, based upon the credible  
12 weight of the evidence and OP's independent  
13 view, I believe that the character of the  
14 neighborhood and the property's area will not  
15 be unduly compromised because the deck will not  
16 extend beyond the privacy fencing. The rear  
17 yard to the west is developed and already has  
18 a patio and a parking pad, and then the adjoining  
19 rear yard, I think, already does have a deck.

20 It's developed for a landing and stairway for  
21 the adjacent row house.

22 And the question about, I believe,

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1 again is a close call regarding, but falls, in  
2 my view, in favor of the applicant of no  
3 substantial intrusion to the neighbors.

4 The deck would not be visible from  
5 most of the streets except from the alley that  
6 provides access to 1st Street. But the material  
7 being used is compatible with the neighborhood,  
8 I think.

9 And I believe the representation  
10 submitted by the graphics here properly show  
11 what the build-out would be and that it does  
12 not exceed the 70 percent limit in R-4. That's  
13 my thought.

14 Anybody else want to weigh in?

15 Ms. Sorg?

16 VICE CHAIR SORG: Thank you, Mr.  
17 Chairman. I would say actually I'm fairly  
18 heavily in favor of this application now that  
19 we've received supplemental information.

20 I think that for me much of the test  
21 to meet the special exception relief criteria  
22 was met as of the first hearing, and I'm pleased

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1 to see that what I think is actually really a  
2 quite nice-looking design here, it's modern and  
3 fairly scaled down.

4 And I would also note that, you know,  
5 one of the reasons I think that we put this off  
6 for decision was based of course upon some of  
7 the concerns that were voiced by the adjacent  
8 neighbors. And I think we can all say that we  
9 take great care in hearing the concerns of  
10 neighbors of applicants from every community  
11 here, and certainly we give credence to those  
12 concerns.

13 In this case though, I think what  
14 we find is that those concerns are not, that  
15 what the neighbors shared with us in this case  
16 are not under the jurisdiction potentially of  
17 this Board. So with regard to the standard of  
18 this application I feel that it met. Thank you.

19 CHAIRMAN JORDAN: Anyone else?

20 COMMISSIONER TURNBULL: I would  
21 concur with the Vice Chair's comments, I think,  
22 that the drawing that we had is very simple.

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1 I think it fits in with the neighborhood. I  
2 mean from a character standpoint I think it fits  
3 in.

4 And as she mentioned there was some  
5 side issues which really don't get to the heart  
6 of the zoning as a zoning issue, and I think  
7 that's really beyond our jurisdiction. And so  
8 I'm in favor of this.

9 CHAIRMAN JORDAN: Anyone else?

10 Well, hearing that I then move that  
11 we grant the special exception under 403, 401,  
12 2001.3 for this application.

13 VICE CHAIR SORG: Second.

14 CHAIRMAN JORDAN: Motion made and  
15 seconded. Any unreadiness? All those in favor  
16 signify by saying aye.

17 (Chorus of ayes)

18 CHAIRMAN JORDAN: Those opposed,  
19 nay. The motion carries.

20 Mr. Moy?

21 MR. MOY: Staff would record the  
22 vote as four to zero to one. This is on the

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1 motion of Chairman Jordan to approve the special  
2 exception relief under section 223. Second the  
3 motion is Vice Chairperson Sorg.

4 Also in support of the motion, Mr.  
5 Turnbull and Mr. Hinkle. We have no other  
6 sitting Board member. So again the motion  
7 carries on the vote of four to zero to one.

8 CHAIRMAN JORDAN: And thank you,  
9 Mr. Moy. We need a full order here.

10 MR. MOY: Thank you.

11 CHAIRMAN JORDAN: We don't have to  
12 use it, but I think we need a full order here.

13 MR. MOY: The next Board action is  
14 Application Number 18394 of Eric Schultz,  
15 pursuant to 11 DCMR 3104.1.

16 This is for a special exception to  
17 allow a rear deck and trellis addition to an  
18 existing one-family row dwelling under section  
19 223, not meeting the lot occupancy requirements  
20 under section 403, rear yard requirements under  
21 section 404, and court requirements under  
22 section 406 in the R-4 District at premises 58

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1 Rhode Island Avenue, N.W. Property located in  
2 Square 3111, Lot 24.

3 On September 11th, 2012, the Board  
4 completed both testimony, closed the record and  
5 scheduled its decision on October 23rd.

6 The Board allowed two filings in the  
7 record. The first is from a Ms. Bertha  
8 Holliday, a person in opposition who provided  
9 testimony at the public hearing, and ANC-5C to  
10 respond to the applicant's revised plans.

11 The post hearing document from Ms.  
12 Holliday is identified in your folders as  
13 Exhibit 33. ANC-5C response letter is  
14 identified as Exhibit 34.

15 So with that the Board must act on  
16 the merits of the zoning relief, merits of the  
17 zoning relief requested.

18 CHAIRMAN JORDAN: Thank you, Mr.  
19 Moy.

20 This case is one which I know I lost  
21 some sleep over. We kind of went through a lot  
22 regarding this.

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1 We did get the ANC letter which voted  
2 in support, but it wasn't anywhere near  
3 overwhelming, and we can see that they also were  
4 wrestling with this application. The ANC vote  
5 was four to three to two in support of the  
6 application. Of course we would give great  
7 weight to the ANC in rendering this, but it just  
8 by a vote of four to three to two it shows a  
9 how difficult this decision is.

10 I believe that the applicant has  
11 done a lot in regards to trying to conform this  
12 deck in such a way that it does not impact the  
13 neighbors. There are a lot of letters in  
14 support from other neighbors for this particular  
15 deck.

16 However, Ms. Holliday, who is a  
17 neighbor and who testified here and has provided  
18 supplemental information has shown that she  
19 would be greatly impacted. And I just don't  
20 see how, even with the greatest cooperation in  
21 the world by the applicant that this deck is  
22 not going to affect Ms. Holliday and the property

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1 in the area.

2 I mean we can't, I guess we have to  
3 kind of resolve that even though if we want to  
4 help people and applicants and they meet other  
5 criteria, that its effect upon the general  
6 nature of the neighbors is something we have  
7 to consider.

8 And this is such a tight spot. I  
9 mean I think using the cabling and the posts  
10 you still have to have a floor. That's going  
11 to have an effect upon the light and air, the  
12 light particularly, of the unit next door.

13 The floor of the deck is right above  
14 the apartment. No way that that deck doesn't  
15 darken the next door, plus the privacy issues  
16 being overseen, standing on that deck and how  
17 it relates to that building next door. And then  
18 the security issues, you can just probably reach  
19 out and touch her hand.

20 Those are the things that's greatly  
21 leaning me to a decision that we have to deny  
22 this application. Even with all the

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1 cooperation of the applicant, I just don't see  
2 how it's going to work. That's just my thought.

3 Anybody else, please? Ms. Sorg?

4 VICE CHAIR SORG: Thank you, Mr.  
5 Chairman. I agree with you. To me this is in  
6 a way a little bit less about specifically Dr.  
7 Holliday and the specific players. To me this  
8 is a little bit more a case of, from my  
9 perspective, trying to stick a square peg in  
10 a round hole.

11 And one of the things that we are  
12 tasked with doing is, you know, with looking  
13 at how the relief that we grant whether it's  
14 a special exception or whether it's a variance,  
15 how that affects properties and groups of  
16 properties and communities going forward in the  
17 future.

18 And I think that there are some  
19 properties that cannot support, because of their  
20 configuration, this type of construction. And  
21 to me based upon the record, this is one of those  
22 properties.

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1           Two more small points that I will  
2 make is that in the OP report, Office of Planning  
3 indicates that they can only be supportive of  
4 the applicant if satisfied that the privacy,  
5 and I would add security as the Chair pointed  
6 out, of the adjacent neighbor would not be unduly  
7 compromised.

8           And here this is to me a case where  
9 regardless of whether the current tenants'  
10 agreement is there or not, which based upon the  
11 post hearing filings it has not yet been, that  
12 I don't see how this construction in this  
13 configuration with this degree of relief could  
14 protect against, or could not compromise privacy  
15 and security for the surrounding neighbors.

16           And the other point that I would make  
17 is that I think that if there were no existing  
18 elements of this, which is of course how we're  
19 tasked to look at these things, I think that  
20 we would find this area to be quite tight.

21           So, you know, I think, can this  
22 applicant build something there?       Yes,

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1 certainly. But I can't be in support of the  
2 application in its current state. Thank you.

3 CHAIRMAN JORDAN: Thank you.  
4 Anyone else? Mr. Hinkle?

5 MEMBER HINKLE: Yes, thank you, Mr.  
6 Chair. I tend to agree with both yourself and  
7 the Vice Chair. As you stated this is a really  
8 tight site.

9 And, you know, one of the things  
10 we're supposed to look at as the Board in terms  
11 of reviewing this application is the light and  
12 air issue, and will this affect the light and  
13 air of the neighboring properties as well as  
14 their privacy and use?

15 And I understand and I appreciate  
16 the work that the applicant has done to try to  
17 resolve these issues, but I just think the plan  
18 as it is today still negatively impacts the light  
19 and air and the privacy of the adjacent  
20 structure.

21 And so as much as I would like to  
22 support something like this, I think it's, you

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1 know, great for everybody to have a deck to be  
2 able to go out and enjoy, I don't think this  
3 design is the right design for this site, and  
4 so I can't support this.

5 CHAIRMAN JORDAN: Thank you.  
6 Anyone else? Mr. Turnbull?

7 COMMISSIONER TURNBULL: Yes, thank  
8 you, Mr. Chair. Well, I think I struggled with  
9 this as all of you did. I think the design has  
10 a lot going for it in the sense that the applicant  
11 was trying to keep it as light and open as  
12 possible, and trying to deal with some issues.

13 I find it interesting that the  
14 applicant submitted pictures of the old deck  
15 which sort of showed this fortress-like element  
16 which was, I can't even imagine how that this  
17 thing got built in the first place, the previous  
18 deck. But it really is a fortress around there,  
19 and I think more than anything else sort of shows  
20 the impact of a worse case scenario.

21 And although I don't think that this  
22 deck will be like that there are some, I would

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1 agree with all of you in your concerns about  
2 security especially the ability to be able to  
3 reach out, and the applicant's not going to have  
4 control over somebody sneaking up on his deck  
5 or somehow getting close to the site and using  
6 the deck as an entrance into the buildings.

7 I guess I'm a little bit, I'm just  
8 surprised that the neighbor didn't, Ms. Holliday  
9 didn't show up at the ANC meeting. I guess this  
10 whole case between the applicant and Ms.  
11 Holliday, I think we had sort of been hoping  
12 that there would have been some further meetings  
13 to get together to try to resolve this, and I  
14 think we've often done that on the Zoning  
15 Commission, get applicants to come together and  
16 talk with neighbors and try to resolve these  
17 things before they come back. And  
18 unfortunately that has not happened.

19 But I would agree with all of you  
20 that I think right now, I think the deck cannot  
21 be approved. It needs some work that would make  
22 it acceptable for me to approve it.

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1 CHAIRMAN JORDAN: With that I would  
2 move that we deny the application for relief.

3 VICE CHAIR SORG: Second.

4 CHAIRMAN JORDAN: Motion made and  
5 seconded. Any additional discussion? All  
6 those in favor of the motion signify by saying  
7 aye.

8 (Chorus of ayes)

9 CHAIRMAN JORDAN: Those opposed,  
10 nay. The motion carries.

11 Mr. Moy?

12 MR. MOY: Staff would record the  
13 vote as four to zero to one. This is on the  
14 motion of Chairperson Jordan to deny the special  
15 exception 223 request. Second the motion, Vice  
16 Chairperson Sorg.

17 Also supporting the motion, Mr.  
18 Turnbull and Mr. Hinkle. The motion carries,  
19 Mr. Chairman.

20 CHAIRMAN JORDAN: And our last case  
21 for this afternoon, I believe, is it?

22 MR. MOY: Yes, sir.

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1 CHAIRMAN JORDAN: And that's a full  
2 order, Mr. Moy.

3 MR. MOY: Yes, sir. Absolutely.

4 The next and last action for the  
5 Board is Application Number 18391.

6 This is the application of St.  
7 Mary's Missionary Baptist Church, pursuant to  
8 11 DCMR 3103.2 for a variance from the lot  
9 occupancy requirements under section 403, a  
10 variance for the rear yard requirements under  
11 section 404, and a variance from the off-street  
12 parking requirements under subsection 2101.1,  
13 to allow an addition to an existing church in  
14 the R-1-B District at premises 2811 14th Street,  
15 N.E. Property located Square 4020, Lot 29.

16 Again, on September 11, 2012, the  
17 Board completed public testimony, closed the  
18 record and scheduled its decision on October  
19 23rd. The Board requested that the applicant  
20 provide additional information to supplement  
21 the record. The applicant made its filing on  
22 October 2nd, 2012, and that document is

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1 identified as Exhibit 35.

2 With that the Board is to act on the  
3 merits of the request for a variance relief,  
4 Mr. Chairman.

5 CHAIRMAN JORDAN: Thank you. I'm  
6 glad that the applicant submitted the additional  
7 drawings with a more clear explanation of the  
8 space and how it's going to be used. This was  
9 one of the issues that the Board had. And  
10 because of that I can support this application.

11 I think their use of the space  
12 becomes a necessity for how as an institution  
13 it's necessary for them to provide the services  
14 which they provide to their community and their  
15 congregation. This is one of the applications  
16 I could support.

17 Anyone else --

18 (Off microphone comments)

19 CHAIRMAN JORDAN: Ms. Sorg?

20 VICE CHAIR SORG: Thank you, Mr.  
21 Chairman. Yes, I agree. I think that the post  
22 hearing submissions by the applicant really went

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1 towards answering the questions that we had  
2 satisfied with the evidence that they presented  
3 regarding the institutional necessity and I can  
4 also be in support of this application.

5 CHAIRMAN JORDAN: Anyone else?  
6 Mr. Turnbull?

7 COMMISSIONER TURNBULL: I just  
8 wanted to maybe talk a little, just to make sure.  
9 We're basically granting relief, a variance  
10 relief under the first prong. That's the main  
11 key prong. And we're basically saying that it's  
12 the institutional need of the church is the  
13 exceptional situation.

14 And I guess my only concern is some  
15 point, at what point does the institutional need  
16 become, when is it going to become too far before  
17 you say the property is just not big enough to  
18 support your institutional need? I guess  
19 that's what I struggle with.

20 I mean I have great respect for the  
21 mission of churches and what they do, and my  
22 only concern at times is at what point do you

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1 say that's true but you can't put 30 pounds on  
2 a five-pound site?

3 And so here I can, I think I can get  
4 to the relief, but I'm just wondering as we go  
5 down the road, where's the point that you tip  
6 the scales too far and say, well, we understand  
7 your need but you really are asking for too much  
8 for this site, and you take away the character  
9 of the neighborhood?

10 CHAIRMAN JORDAN: Yes, that's kind  
11 of, and I understand that. That's kind of what  
12 we talked about this morning, our role as a Board  
13 of doing that wane and that balancing, and what  
14 point is it tipping too much?

15 And that was in the issue about  
16 economic feasibility of meeting the  
17 requirements and using that as one of the prongs.  
18 How much of a return on an investment is, you  
19 know, but yes, I understand and I would agree.

20 COMMISSIONER TURNBULL: Okay.

21 CHAIRMAN JORDAN: Yes, Ms. Sorg?

22 VICE CHAIR SORG: Thank you. Yes,

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1 I hear what you're saying, Mr. Turnbull. I  
2 agree, and with your caution in proceeding in  
3 cases like this. And I think, there's sort of  
4 two things that I think about it.

5 Number one, I think that when you  
6 look at the actual topography and setting that  
7 this particular building is in, I think despite  
8 their need for zoning relief that the addition  
9 as it's proposed, which basically a little bit  
10 more than doubles the size of their building,  
11 is something that in an urban context, I think,  
12 does fit on this site.

13 And I think that we've established  
14 as a Board, at least since I have been here,  
15 the precedent of ensuring that when we're  
16 looking at cases like this where the  
17 institutional necessity argument, you know, can  
18 reasonably come into play that it's a very  
19 specific weighing that happens.

20 And I think that's why for me I found  
21 the additional filings to be more compelling.

22 You know, they're saying, here's the number

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1 of tables and the number of chairs that we're  
2 putting out. Here's the number of people that  
3 are going to be served. Here's the handicapped  
4 restrooms. Here's this or that.

5 And so I think they get over that  
6 specific standard for me here. But I do agree  
7 that the way for us to look at these is from  
8 a very individual standpoint. Because, you  
9 know, as you're looking at institutional  
10 necessity for these types of organizations they  
11 are different in different areas.

12 You know, we heard from the  
13 applicants here that they had a real necessity  
14 to provide community space for the surrounding  
15 community and their parishioners who come in  
16 for learning, and particularly to feed the  
17 community. And, you know, we've seen other  
18 applicants who are also churches whose  
19 necessities run in very different areas of  
20 programming.

21 So I think even from that standpoint  
22 it's quite unique. Thanks.

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1                   COMMISSIONER TURNBULL:     Well, I  
2     guess I would go back and just say that I mean  
3     in the urban neighborhood, I mean all of  
4     Washington could be considered urban, but some  
5     of it's, are more suburban with single-family  
6     homes.

7                   And when lot coverage gets to be that  
8     much, as I say, my one fear is that we do run  
9     the risk of changing the neighborhood by  
10    allowing some of the links to have so much lot  
11    coverage that it does change the neighborhood  
12    a bit is, I guess, my concern.

13                  CHAIRMAN JORDAN:    With that I would  
14    move that we grant the relief, the variance  
15    relief requested under 403, 404 and 2101.1 for  
16    this application.

17                  VICE CHAIR SORG:    Second.

18                  CHAIRMAN JORDAN:    Motion made and  
19    seconded.    Any other, further unreadiness?  
20    Hearing none, all those in favor signify by  
21    saying aye.

22                                        (Chorus of ayes)

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1 CHAIRMAN JORDAN: Aye. Those  
2 opposed nay. The motion carries.

3 Mr. Moy?

4 MR. MOY: Yes, sir. Staff would  
5 record the vote as three to one to one. This  
6 is a motion of Chairman Jordan to approve the  
7 application for the relief cited. Second the  
8 motion, Vice Chairperson Sorg.

9 Also in support of the motion, Mr.  
10 Hinkle. Mr. Turnbull votes in opposition to  
11 the motion to approve. We have no other Board  
12 members sitting. So again, the motion carries  
13 three to one to one.

14 CHAIRMAN JORDAN: Thank you.  
15 There wasn't any party in opposition, and no  
16 party status is granted in this case, was it?  
17 I don't believe so.

18 MR. MOY: That's correct.

19 CHAIRMAN JORDAN: Then let's have  
20 a summary order, please.

21 CHAIRMAN JORDAN: Is there anything  
22 else for this afternoon docket?

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1 MR. MOY: Not from the staff, sir.

2 CHAIRMAN JORDAN: Anyone? Then I  
3 will adjourn us. Thank you. Thank you, all.

4 (Whereupon, the foregoing matter  
5 went off the record at 2:19 p.m.)

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