

GOVERNMENT OF THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

JUNE 18, 1997

+ + + + +

The meeting took place in Room 220 at 441 Fourth Street, N.W., Fifth Floor, Washington, D.C. at 2:00 p.m., Laura M. Richards, Vice Chairperson, presiding.

PRESENT:

Laura M. Richards, Vice Chairperson
Sheila Cross Reid
John G. Parsons, Representative for
Zoning Commission

ALSO PRESENT:

Reginald C. Lyons, Secretary to the
Board
Tracey W. Rose, Zoning Specialist
Paul Hart, Zoning Specialist
John Nyarku, Zoning Specialist
Beverley Bailey, Zoning Specialist

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WITNESSES:

Sherry Nesbit
Charles Butler
James Garner
Ricardo Chavez
James Carrico
William Lewis
Andrea Cannon
Ed Donohue
Chris Doherty
Patricia Kilby-Robb
Maurice Bryant
Arlette Thompson
Carlos Ostria
Alan Rosner
Raymond Anselmo
Audrey Joan Hendricks
Shebra Simms
Jon Chagnon
Diane Haith

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MS. RICHARDS: I guess the meeting is de facto adjourned and we move to the hearing. The hearing will please come to order.

Good morning, Ladies and Gentlemen. This is the June 16th, 1997 public hearing of the Board of Zoning Adjustment.

Joining me today are Sheila Reid, and representing the National Capital Planning Commission is John Parsons. Copies of today's agenda are available to you. They are located to my right near the door.

All persons planning to testify either for or against our position are to fill out two witness cards located on each end of the table in front of us.

Upon coming forward to speak, please give both cards to the reporter. The order of procedure for special exception variance cases will be as follows.

Statement and witnesses of the applicant, government reports including Office of Planning, Department of Public Works, ANC, et cetera, persons or parties in support, persons or parties in opposition, closing remarks by the

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1 applicant.

2 Cross-examination of witnesses is
3 permitted for persons or parties with a direct
4 interest in a case. The record will be closed at
5 the conclusion of each case except for any materials
6 specifically requested by the board and the staff
7 will specify at the end of the hearing exactly what
8 is expected.

9 The decision of the board in these
10 contested cases must be based exclusively on the
11 public record. To avoid any appearance to the
12 contrary, we request that persons present not engage
13 members of the board in conversation.

14 At this time, the board will consider
15 any preliminary matters, those which relate to
16 whether a case will or should be heard today, such
17 as any request for postponement, continuance, or
18 withdrawal or whether proper and adequate notice of
19 the hearing has been given.

20 If you are not prepared to go forward
21 with the case today or if you believe the board
22 should not proceed, now is the time to raise such a
23 matter.

24 Does the staff have any preliminary
25 matters?

26 MR. LYONS: Staff has none.

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1 MS. RICHARDS: All right. We'll proceed
2 with the first case.

3 MR. LYONS: The first case of the
4 morning, application 16227, will not be heard today.
5 That case was heard on May 7th. The board heard and
6 decided that application.

7 The next case on the agenda is a
8 rehearing in the application of 16208 of Charles
9 Butler. This application, all witnesses to this
10 hearing, it is limited to the parties from the
11 original application.

12 If the applicant would come forward.
13 And I will just remind you that you are still under
14 oath.

15 MS. RICHARDS: You may proceed.

16 MR. LYONS: Please give your name. And
17 if you would, turn the mike on. Press the button in
18 front of the green light.

19 MS. NESBIT: My name is Sherry Nesbit.
20 I'm the architect who represents Mr. Butler. First
21 of all, I would like to request that we submit some
22 additional information that we've been able to
23 obtain in a waiver for the -- you know, the --

24 MS. RICHARDS: The time period? Any
25 objection to waiving?

26 MS. REID: I have none.

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1 MS. RICHARDS: You may give it to the
2 secretary.

3 MS. NESBIT: We requested a rehearing of
4 our case, and you granted it a while ago. And what
5 I'd like to do is start with the letter that we used
6 to request the hearing.

7 And first of all, we just wanted to
8 again summarize what we're trying to do, which is
9 the existing one-story addition is -- exceeds the
10 property lot occupancy by 158 square feet.

11 And what we proposed in our letter to
12 you, the original letter, was that we would delete
13 the covered -- our covered porch. So the original
14 house in the back, a one-story addition, has a roof
15 that covers it, as well as a covered deck.

16 And in our original proposal we were
17 going to build on top of the covered porch as well
18 as put a two-story covered deck on that, you know,
19 on the building.

20 But in looking at it, we decided we
21 could reduce our lot occupancy by deleting our
22 covered deck. So we were reducing the size of our
23 proposal by 32 square feet.

24 And we also included that other, smaller
25 addition. But what we're really here for is to --
26 we would like to do the larger one.

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1 MS. RICHARDS: All right. So the
2 drawings in our file are -- which ones are they, the
3 larger or the smaller?

4 MS. NESBIT: The larger ones.

5 MS. RICHARDS: Those are for the larger,
6 and that's what you're here for.

7 MS. NESBIT: Right.

8 MS. RICHARDS: But you have an
9 alternative plan which we had --

10 MS. NESBIT: Well, in my letter to the
11 board for our first hearing, I said that we would
12 delete our covered deck in the back, which reduced
13 our lot occupancy by 32 square feet.

14 So in the -- you know, when the Zoning
15 Board reviewed it, they said it was 158 square feet
16 over the lot occupancy. So in our proposal to you
17 we were reducing it, you know, down 32 square feet.
18 So that was one effort to, you know, reduce the size
19 of the project.

20 MS. RICHARDS: Excuse me one second.

21 MS. REID: Down? Did you say down,
22 reducing the 115 square feet by 32 or down --

23 MS. NESBIT: Right, 158 -- I think it
24 was 158 by 32.

25 MS. REID: So now the --

26 MS. NESBIT: Addition.

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1 MS. REID: The addition is what?

2 MS. NESBIT: Is 32 square feet less so
3 it's about 130 square feet over the --

4 MS. REID: So now it's about 130 square
5 feet over?

6 MS. NESBIT: Yeah.

7 MS. REID: Okay.

8 MS. NESBIT: So that -- you know, we did
9 make an effort to try to do that at the original
10 hearing. It kind of sort of -- there seemed to be
11 some confusion in listening to the tapes whether you
12 actually thought we were actually increasing, you
13 know, the size of the first floor and we weren't.
14 And we were in fact reducing it a little bit.

15 MS. REID: All right.

16 MS. NESBIT: And so that was on the
17 tapes. By listening to that, I just wanted to
18 clarify that. Does that --

19 MS. RICHARDS: Thanks. That was fine.

20 MS. NESBIT: Okay. Then the second
21 thing we would like to start with is who was
22 responsible for the initial survey.

23 And we submitted a letter from the
24 planning -- I mean, the Department of Housing. And
25 Mr. Butler could talk about the letter and his
26 process to get evidence to back up his claim that

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1 they helped him, that they prepared the drawings.

2 MR. BUTLER: Yeah, well, as I said
3 originally, the -- when -- I'm sorry. My name is
4 Charles Butler and I'm the owner.

5 As I said originally, when I was having
6 this addition put on originally, I -- the Department
7 of Housing was very helpful in helping me get this
8 done.

9 It was a situation where my son had just
10 broken his neck from a skiing accident. He is a
11 quadriplegic. And I was in the process of trying to
12 bring him home from the hospital.

13 And the Department of Housing did a lot
14 of the work for me in their effort to help me.
15 Apparently some things were opened up and they got
16 permits and everything for me.

17 And I really appreciated that because I
18 was at a time where it was very difficult for me to
19 focus on doing a lot of things, and trying to get
20 him home and find a place for him to stay.

21 And then also, having the addition put
22 on the house, I still did not get the addition put
23 on in time enough to -- for him to come home, which
24 means I had to put him in another facility at about
25 \$500 a month.

26 That's just for a place to sleep, and I

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1 had to go take care of him there. So I ran into
2 some problems there.

3 And so that's why I did not have control
4 over the construction, getting permits and
5 everything. Someone did it for me. And I
6 understand that it's my responsibility and when
7 you're having something built it's your
8 responsibility getting permits and things like that.

9 But I was in a situation where I
10 probably never would have gotten it done if the
11 people from Department of Housing did not help me.
12 So --

13 MS. REID: I cannot hear.

14 MS. RICHARDS: Could you speak a little
15 louder, please. Thank you.

16 MS. REID: And could you speak into the
17 mike?

18 MR. BUTLER: Is this better? Is this
19 better?

20 MS. RICHARDS: Yes.

21 MR. BUTLER: Okay, I'm sorry. And then
22 also I had an architect to come out and draw up the
23 plans for me. And he refused to finish the
24 drawings, so I had to get someone from the
25 Department of Housing to finish the plans for me
26 also. That's why we had two different sets of plans

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1 for the drawing.

2 MS. NESBIT: And if I could, I'd like to
3 -- I brought the original drawings for that and I
4 would like to show those to you.

5 MS. RICHARDS: Certainly. Just give
6 them to the secretary.

7 MS. NESBIT: This was the original
8 survey and it has this kind of a title block. There
9 is no name on there. There's no date, and the same
10 with this.

11 MS. RICHARDS: Oh, no. You need to give
12 it to the secretary and then --

13 MR. BUTLER: What she's saying is that
14 on the documents to approve the -- for the permits
15 and things like that, there are no signatures on
16 there. The documents were obtained, but we don't
17 have any signature as to who authorized those
18 permits.

19 MS. NESBIT: Yeah. So that first little
20 set is the permit set and the second, the bigger
21 blueprints were his original architect.

22 And if you look at those, you can see he
23 uses a title block, you know, with his logo, his
24 company's name on it. And the two things are not
25 the same.

26 MS. RICHARDS: All right. So,

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1 basically, you're offering these to support your
2 testimony that you weren't responsible for obtaining
3 the original permits, for what this evidence is
4 worth.

5 MR. BUTLER: Basically, yes.

6 MS. NESBIT: And the letter we submitted
7 in earlier from the Department of Housing
8 unfortunately just says they cannot --

9 MR. BUTLER: I've gone around with the
10 Department of Housing for the past three or four
11 months in getting information concerning the work
12 that they did for me.

13 Finally, yesterday I got the letter
14 stating that the records are not available; they
15 can't find them, but they did say that, give me that
16 much help.

17 MS. RICHARDS: All right.

18 MR. BUTLER: And we talked about the
19 small addition the last time we was here. But we
20 hadn't done our homework in figuring out what it's
21 going to do for us to do the smaller addition.

22 We found out after we left here that in
23 order to do the small addition we would have to tear
24 up my son's room and move him out for a minimum of
25 two weeks, which would cost me anywhere from \$195 to
26 \$205 a day, based on the information that's in the

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1 letter that I sent you, to house him during the time
2 that he's out of that room.

3 Plus, it would take away from him. My
4 son works, but his room is also his office where he
5 works when he doesn't go to work, when the weather
6 is bad or his chair is broken or something like
7 that, he can't go to work, he can work from home.

8 And so it means I would have to -- it
9 would take out his computers. He would not be able
10 to go to work for that period of time and there's no
11 guarantee that it's going to be only two weeks.

12 So it would put us in a tremendous
13 hardship in trying to find, number one, a place for
14 him to stay, and trying to move all of his equipment
15 which he has, you know, the line to his office and
16 everything like that out, and then putting him
17 someplace else for that period of time.

18 MS. RICHARDS: All right.

19 MS. NESBIT: Okay. And then the third
20 thing had to do with looking at other variances that
21 were granted by the board in previous years.

22 And the first sheet had to do with, we
23 had included records where the board granted
24 variances for lot occupancies which, you know, there
25 were -- four were listed.

26 And in the letter, the thing I submit,

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1 it gives a little more information about them. But
2 they were all additions. And one of them was even a
3 garage addition where, you know, somebody was
4 allowed to build a garage and increase their lot
5 occupancy that way.

6 And one of the things we were thinking
7 of, what we could do to do this project -- and he
8 actually has a garage on his property, but it
9 doesn't seem like it makes sense to, you know, tear
10 his garage down to build this addition when people,
11 other people have gotten variances for building
12 garages.

13 So that doesn't seem to make very much
14 sense. And again, in looking at those, no one
15 seemed to have the added hardship of -- you know,
16 that the space was actually designed for a
17 handicapped person and needed to be the size it was.

18 MS. RICHARDS: All right, thank you.

19 MS. NESBIT: Just excuse me.

20 MS. RICHARDS: Yes, certainly. Here you
21 are.

22 Do board members have questions of the
23 applicant?

24 (No response.)

25 MS. RICHARDS: Mr. Parsons, are you
26 anticipating having questions upon review of the

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1 file?

2 MR. PARSONS: I'm actually a little lost
3 here, Madam Chair. Fortunately, I was here at the
4 previous hearing, which is surprising.

5 What was the disposition of this? What
6 are we about this morning? I'm not sure I
7 understand.

8 MS. RICHARDS: It's a rehearing. The
9 board was pretty much prepared to grant a smaller
10 addition, and then the applicant found out that that
11 would not be serviceable, and --

12 MR. PARSONS: Excuse me. Did we vote on
13 that?

14 MS. RICHARDS: Our recollection is that
15 we did vote and that the --

16 MR. PARSONS: That's -- okay.

17 MS. RICHARDS: We voted to approve the
18 smaller addition.

19 MR. PARSONS: So this is a motion for
20 reconsideration.

21 MS. RICHARDS: Well, they already sought
22 rehearing and we've already granted that. So
23 they're back here as a matter of right.

24 MR. PARSONS: Did they do that at the
25 time of the vote, that day?

26 MS. RICHARDS: Shortly thereafter.

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1 MR. PARSONS: Okay, all right. Now I'm
2 not as confused as I was when we started, because I
3 thought we had disposed of this in some fashion.

4 MS. RICHARDS: Yes, we did.

5 MR. PARSONS: Now I understand.

6 MS. RICHARDS: But they came right and
7 said, "This isn't going to work for us after all."

8 MR. PARSONS: Okay.

9 MS. RICHARDS: All right.

10 So, let's see. No one has any questions
11 at this moment, so we'll go to the Office of
12 Planning.

13 MR. LYONS: Madam Chair, Mr. Bastida is
14 not present. In my conversation with him, he said
15 they would still stand by their original report in
16 this case.

17 I believed he was going to be here, and
18 I don't know why, but in my discussion with him he
19 said they would stand by their original report.

20 MS. RICHARDS: All right.

21 MR. PARSONS: And that was to approve
22 the larger addition.

23 MR. LYONS: The smaller.

24 MR. PARSONS: The smaller addition.

25 MS. RICHARDS: The smaller one, yes.

26 MR. PARSONS: Okay.

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1 MS. REID: When we say smaller addition?

2 MR. PARSONS: The one that we approved.

3 MS. RICHARDS: Right.

4 MS. REID: Okay. But now they're asking
5 for a larger one.

6 MS. RICHARDS: This is a larger one, but
7 it's not quite as large --

8 MS. REID: Quite as large.

9 MS. RICHARDS: -- as it originally was.

10 MS. REID: This is a middle -- this is
11 larger than the one that we approved initially, but
12 smaller than the one that they had ultimately asked
13 for.

14 MS. RICHARDS: That's right, yes.

15 MS. REID: Okay. It's a compromise one,
16 basically.

17 MS. RICHARDS: Essentially, yes. And
18 the sticking point for the applicant on the first
19 time around was the first prong, extraordinary
20 circumstances, whose fault it was that the original
21 addition was not in compliance.

22 All right, do you have anything, since
23 you're here on rehearing, the Office of Zoning
24 sticking by its original report, do you have
25 anything new to add with respect to that?

26 MS. NESBIT: Yeah, well, we --

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1 MS. RICHARDS: And you need not.

2 MS. NESBIT: In their report, they sort
3 of said it was because of the owner's -- you know,
4 the owner's representative did the wrong job on the
5 plans. And that was their point, that the owner --
6 and we were trying to prove that it wasn't the
7 owner's representative, it was the Department of
8 Housing.

9 It was not his architect. And that
10 seemed to be -- make a difference whether, you know,
11 in your rulings whether, if somebody does something
12 deliberately, obviously you're not going to give him
13 any break.

14 But if somebody does something under --
15 with some government code --

16 MS. RICHARDS: Inadvertently.

17 MS. NESBIT: -- then you do look at that
18 differently.

19 MS. RICHARDS: There's a written ANC
20 (phonetic) report in the file. Is there an ANC
21 representative? No?

22 We'll just note that the ANC report is
23 favorable and it has all of the appropriate
24 formalities to be entitled to great weight.

25 MR. BUTLER: And I did talk with the
26 representative from the ANC last week and they still

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1 had no problem with the addition.

2 MS. RICHARDS: Yes, okay.

3 MR. BUTLER: And there was also a letter
4 from one of my neighbors in support of the addition
5 also.

6 MS. RICHARDS: Yes. I note that there
7 are at least two letters of support in the file, one
8 from the immediately adjacent neighbor. Are there
9 persons appearing here in support?

10 (No response.)

11 MS. RICHARDS: Are there any persons
12 appearing here in opposition?

13 (No response.)

14 MS. RICHARDS: All right. Board
15 members, do you have any further questions here?

16 MR. PARSONS: No.

17 MS. RICHARDS: No? All right.

18 Do you wish to make a closing statement,
19 or have you given us everything you have on, you
20 know, your argument as to why you're not
21 responsible, or even if you were, why it doesn't
22 matter? We have it all?

23 MR. BUTLER: The one thing I would like
24 to say is that I'm not building this addition just
25 for fun. At my age, I'm too old to be going out and
26 putting a new addition onto my house.

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1 But I'm looking after my son in the
2 future, in terms of when I'm no longer around, that
3 he has enough space that he can have people to come
4 in and take care of him and he won't have to worry
5 about having a place to stay or having help to take
6 care of him.

7 My son's a quadriplegic and he will
8 never be able to live alone. He needs 24-hour care,
9 someone with him 24 hours a day. And so, if I -- I
10 need to have -- number one, if I get to the point
11 where I can no longer take care of him, then I may
12 have to bring someone in the house to take care of
13 him.

14 And I need to make accommodations for
15 that. This is not something that I want to do. I'm
16 getting near retirement and I need to be able to not
17 add more bills on to myself.

18 But I'm trying to make sure that my son
19 can have a decent life after I'm no longer around,
20 or after I'm at a point where I can't take care of
21 him anymore. And now I am his major caregiver.

22 MS. RICHARDS: Good. So that concludes
23 the record on rehearing in this matter. Is there
24 any disposition to be decided today?

25 MS. REID: I would --

26 MS. RICHARDS: Go ahead, I'm sorry. I

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1 think we can probably go forward.

2 MS. REID: Yes. I would move to go
3 forward today.

4 MS. RICHARDS: Would you care to make a
5 motion?

6 MS. REID: Yes, I'd move approval.

7 MR. PARSONS: Go ahead. I was just
8 going to second that.

9 MS. REID: Yeah, of the -- just to be
10 sure I'm clear on, of the application that they're -
11 - resubmitted for the larger space, not the space
12 that they originally -- not the larger space, but
13 the interim.

14 MS. RICHARDS: The plans that are now
15 before us.

16 MS. REID: Yes. I would move approval
17 of that.

18 MS. RICHARDS: All right. Did you want
19 to speak to the standard or --

20 MS. REID: Well, I think that basically
21 as far as the retests are concerned, the first one
22 being extraordinary situation in that it was a
23 practical difficulty that came as a result of there
24 being an error made by someone in the granting of
25 the building permit in the first place.

26 And I think that the applicant has

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1 submitted to us, for my satisfaction, proof that it
2 was not due to fault of his own.

3 And the second one, in regard to
4 negative impact, similarly there is support from the
5 community and the ANC, and I don't think that it
6 impairs the intent of the regulations. So I would
7 vote approval.

8 MS. RICHARDS: I would agree. I thought
9 that the Office of Planning report was reconstituted
10 as the Office of Zoning took a rather unduly harsh
11 position on the first prong.

12 I think certainly this is a case where
13 there is reliance on official bodies for information
14 and action, and we've certainly found that to be an
15 extraordinary circumstance in other cases, where
16 there was reliance to one's detriment.

17 And that test would obtain even in the
18 absence of your compelling personal circumstances.

19 Mr. Parsons?

20 MR. PARSONS: You've said it well.

21 MS. RICHARDS: All those in favor of a
22 motion?

23 (Chorus of ayes.)

24 MS. RICHARDS: Opposed?

25 (No response.)

26 MS. RICHARDS: Thank you. Summary order.

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1 MR. LYONS: Summary order. Staff would
2 record the vote as being 3 to 0 to approve the
3 application: Ms. Reid, Mr. Parsons, and
4 Ms. Richards to approve; Mr. Clarens and Ms. Hinton
5 not present, not voting.

6 MS. RICHARDS: That brings us to the
7 next case of the day.

8 MR. LYONS: The next case is Application
9 16243 of Jean Michael Hood, pursuant to 11 DCMR
10 3107.2 for a variance from the lot occupancy
11 requirements of Subsection 404.1 and a variance from
12 the rear yard requirements of Subsection 403.2 for a
13 rear addition to a detached single family dwelling
14 in an R1B district at premises 2802 Arizona Avenue,
15 N.W., Square 1439, Lot 40.

16 All persons wishing to testify in this
17 application, please rise to take the oath.
18 Whereupon,

19 ALL WITNESSES
20 called for examination, having been first duly
21 sworn, were examined and testified as follows:

22 MR. LYONS: Please be seated.

23 MS. RICHARDS: You may give your name
24 and home address and just state your case.

25 MR. GARNER: Is this still turned on.

26 MS. RICHARDS: Is the green light on?

1 MR. GARNER: Yes.

2 MR. PARSONS: It's on.

3 MR. GARNER: Okay. Thank you. My name
4 is Jim Garner. I'm actually a sales representative
5 for the company doing the work, which is Patio
6 Enclosures. Mr. Hood himself could not be here
7 today. He had a prior meeting that he had to
8 attend.

9 My address is 39547 Lindsey Way,
10 Mechanicsville, Maryland.

11 MS. RICHARDS: Go ahead.

12 MR. GARNER: The purpose of the variance
13 hearing, as far as I know, is the work we're
14 performing or proposed to perform, Mr. Hood's
15 residence, he has the odd-shaped lot, and the
16 enclosure is designed to follow the contour of the
17 house.

18 By doing this at one section, we're
19 encroaching lot coverage by four percent and rear
20 yard setback by 3.7 feet.

21 We've been through the application
22 process. We've been through the advisory hearing,
23 which we had approval on the May the 12th. We have
24 sent letters, obviously, to the neighbors within 200
25 feet.

26 We've posted a variance sign, as

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1 requested, taken pictures of that. And I feel that
2 we've basically done everything that needed to be
3 done up until this point.

4 I would like to say that Patio
5 Enclosures have been in bs 31 years, doing business
6 in the Washington, D.C. area for 17 years, and we've
7 gotten a building permit 100 percent of the time
8 since I've been here.

9 MS. RICHARDS: Thank you. We'll take
10 that as bearing on your credibility, and not as an
11 advertisement.

12 MR. GARNER: Okay.

13 MS. RICHARDS: All right. Is it your
14 opinion that, were the patio not to attempt to
15 follow the contour of the house and to take into
16 account the regular lot, that simply proceeding a
17 matter of right would produce an adverse or less
18 desirable visual impact?

19 MR. GARNER: Absolutely.

20 MS. RICHARDS: Thank you.

21 MR. GARNER: Not only for his house, but
22 for the neighborhood where he lives, you know, very
23 nice homes. I would like to say also, this is at
24 ground level.

25 The gentleman has a privacy fence. I've
26 taken some pictures. The only way you can actually

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1 see the enclosure would be standing on top of a
2 hill, looking directly down. And then you can see
3 minimum exposure, at best.

4 MS. RICHARDS: Thank you. I have no
5 further questions.

6 MR. PARSONS: No questions.

7 B: I have none.

8 MS. RICHARDS: Thank you. Yes?

9 X: The applicant is proposing to
10 construct a sun room as a rear addition to an
11 existing detached single-family dwelling in an R1B
12 district.

13 The subject site is located on the
14 northern side of the 2800 block of Arizona Avenue,
15 N.W. The lot's width is 50 feet and its length is
16 72.27 feet on an average.

17 The provisions of this characteristic
18 for the R1B area are intended to stabilize the
19 residential areas and protect suitable environment
20 for family life.

21 For that reason, only a few additional
22 and compatible uses shall be permitted, and it's on
23 the D.C. --

24 MS. RICHARDS: Oh, Mr. Hart, you can
25 give us the -- -- you know, just the basics for this
26 case.

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1 X: All right.

2 MS. RICHARDS: And especially, you know,
3 if you have any concerns about, you know, whether
4 the standards are being met. And I see you're
5 moving approval, so, you know, you can summarize.

6 X: All right. The approval of the
7 variance is predicated on existence of an
8 exceptional situation.

9 The Office of Planning -- of Zoning --
10 believes that the irregular shape of the lot poses a
11 particular difficulty on the applicant. The Office
12 of Zoning does not believe that this proposal would
13 adversely impact the surrounding neighborhood.

14 The proposed addition of the sun room
15 would exceed the allowed lot occupancy and rear yard
16 distance requirements. However, this situation does
17 not significantly impair the intent, purpose,
18 integrity, of the R1 zone.

19 The Office of Zoning is of the opinion
20 that the applicant has met the burden of proof
21 relating to the proposed zoning relief being sought
22 in this case.

23 The applicant has met the requirements
24 of all three tests applied. For these reasons, the
25 Office of Zoning recommends approval of this
26 application.

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1 MS. RICHARDS: Very good. Do you have
2 any views on the concerns raised by the letter in
3 opposition?

4 X: No. I went over there and I looked
5 around myself. In terms of compatibility with
6 what's out there, I didn't have any concerns.

7 MS. RICHARDS: All right. The second
8 concern is about the visibility and the testimonies
9 that it's not going to be visible. And other than
10 that, it's the width of the extension should not
11 exceed the present building lines.

12 X: Yes.

13 MS. RICHARDS: That met?

14 X: Yes, that's met because the house
15 itself has so an irregular shape. And if I'm
16 correct, this is an irregular shape and area that is
17 going to be added still in that shape.

18 So, because it's almost an indentation,
19 the original building line and visibility would not
20 be impaired in that this gap was filled in.

21 MS. RICHARDS: Thanks, Mr. Hart.

22 Any questions?

23 MR. PARSONS: No, not of the office.

24 MS. RICHARDS: Ms. Reid?

25 MS. REID: Not at the moment, I don't.

26 MS. RICHARDS: Do you have any

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1 questions?

2 MR. GARNER: No. I mean, he hit it
3 right on the head.

4 MS. RICHARDS: Okay. Did you have some
5 questions of the applicant at this juncture?

6 MR. PARSONS: Yeah, well, I did because
7 I don't know whether Mr. Schnydman is here, but
8 I wonder if Mr. Garner is familiar with
9 Mr. Schnydman's letter?

10 MR. GARNER: No.

11 MS. RICHARDS: We'll furnish you with a
12 copy.

13 MR. PARSONS: You'll see from that that
14 Mr. Schnydman apparently didn't know enough about
15 the application to know whether to oppose it or
16 support it. So he is asking three questions here.

17 MR. GARNER: For these three statements,
18 he has in writing, is easily met. Now, I was not
19 aware of this particular letter. But I did
20 talk with the homeowner, Mr. Hood.

21 And this gentlemen lives, I believe, at
22 the top of the hill. He said he met with all his
23 neighbors and he had one neighbor that was a little
24 concerned.

25 And he said that he was -- he may write
26 a letter, send something, and in turn, when he

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1 builds his -- because he wants to build something --
2 would he be kind enough to do the same thing. So I
3 guess that's the purpose of the letter. But I will
4 say all these three conditions are easily met.

5 MS. RICHARDS: Thank you.

6 MR. PARSONS: Well, we don't normally
7 get into the business of cutting down trees,
8 instructing you how to -- the owner --

9 MS. RICHARDS: Well, this is the letter
10 we're talking about --

11 MR. PARSONS: -- in those aspects. But
12 is there any proposal to accommodate him, number
13 three? Not proposal, but --

14 MR. GARNER: Well, I think one of the
15 things the gentleman doesn't quite understand is the
16 enclosure for the trees are some distance away.

17 MR. PARSONS: I presumed that was the
18 case. So No. 1 and 2 are really before us. And who
19 cuts what limbs off what trees is somebody else's
20 problem.

21 MR. GARNER: Uh-huh.

22 MR. PARSONS: So what is your response
23 to No. 1 and 2?

24 MR. GARNER: The width of the extension
25 should not exceed? Actually, it's -- I guess you
26 would say the right-hand corner starts at the corner

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1 of the building.

2 Left-hand, which is the other end of the
3 enclosure, actually sets in approximately six feet
4 from the end of the home.

5 MR. PARSONS: All right, then, No. 2?

6 MR. GARNER: That gets designed to be
7 built at eight foot.

8 MR. PARSONS: It is designed to be?

9 MR. GARNER: Yes.

10 MR. PARSONS: Well, this is easy, isn't
11 it?

12 MR. GARNER: I don't want to say too
13 easy, but yes. Hopefully, we've done our homework.
14 The application actually was submitted in October,
15 so we wanted to make sure every step was taken care
16 of before we got to this point, and how valuable
17 this time is.

18 MS. RICHARDS: Thanks. The docket
19 indicates nothing from the ANC. I didn't see any
20 submission from the ANC.

21 All right, so anyone here from the ANC
22 or anyone else in support or in opposition?

23 (No response.)

24 MS. RICHARDS: All right, closing
25 statement? It's discretionary. You need not make
26 one if you have nothing further to say.

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1 MR. GARNER: Nothing further.

2 MS. RICHARDS: Move to dispose?

3 MR. PARSONS: I move approval.

4 MS. RICHARDS: I second. Any further
5 discussion?

6 Reasons set forth on the ground here
7 manifest. All those in favor?

8 (Chorus of ayes.)

9 MR. PARSONS: I just noticed a letter
10 here from the ANC?

11 MS. RICHARDS: Oh, really?

12 MR. PARSONS: The last piece in our
13 packet, dated May 15th from Joseph Murphy, chairman.

14 MS. RICHARDS: I tore up my file. You
15 want to place it on the record?

16 MR. PARSONS: He simply says, we heard
17 no complaints from neighbors and everything was in
18 order. And they voted unanimously to approve the
19 above application.

20 MS. RICHARDS: Well, I guess we ought to
21 take that into account and give it some weight.

22 MS. REID: I didn't hear that. Did you

23 --

24 MS. RICHARDS: No, but I always tear my
25 packet up, so -- good. So that would appear not to
26 alter our outcome, although --

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1 MR. PARSONS: No, enhance.

2 MS. RICHARDS: -- we'll alter the
3 record. Okay, thank you.

4 MR. GARNER: Thank you.

5 MR. PARSONS: We need to vote then?

6 MS. RICHARDS: No, we need to amend.
7 Okay?

8 MR. PARSONS: I thought I interrupted
9 the vote, but go ahead.

10 MS. RICHARDS: I think you -- Mr.
11 Secretary, did you record the vote before Mr.
12 Parsons spoke?

13 MR. LYONS: You didn't call the
14 question.

15 MS. RICHARDS: I didn't call the
16 question? All right. All those in favor?
17 (Chorus of ayes.)

18 MS. RICHARDS: Okay. Opposed?
19 (No response.)

20 MS. RICHARDS: None.

21 MR. LYONS: Staff then would record the
22 vote as being three to zero to approve the
23 application: Mr. Parsons, Ms. Richards and Ms. Reid
24 to approve; Mr. Clarens and Ms. Hinton, not present,
25 not voting.

26 Issuance of a summary order?

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1 MS. RICHARDS: Yes.

2 All right, so next case.

3 MR. GARNER: Thank you.

4 MS. RICHARDS: Thank you.

5 MR. LYONS: If I could just ask the
6 witness if he would fill out the witness cards,
7 please, two of them.

8 The next application is numbered 16244
9 of Ricardo Chavez, pursuant to 11 DCMR 3107.2, for a
10 variance from the use provisions of Subsection 350.4
11 to allow a grocery store and delicatessen on the
12 first floor in an R5B district at premises 2515 17th
13 Street, N.W., square 2576, lot 36.

14 All persons wishing to testify in this
15 application, please rise to take the oath.
16 Whereupon,

17 ALL WITNESSES
18 called for examination, having been first duly
19 sworn, were examined and testified as follows:

20 MS. RICHARDS: You may state your name
21 and home address and go forward with your case.

22 MR. CHAVEZ: My name is Ricardo Chavez.
23 My address 2515 17th Street, N.W., Washington, D.C.
24 and my square, 2575 and lot 36. That's my address.

25 MS. RICHARDS: Thank you. And you wish
26 to open a grocery store?

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1 MR. CHAVEZ: (No response.)

2 MS. RICHARDS: I guess, is there
3 anything you want to tell us about the grocery
4 store, such as why you want to open it there, what
5 you plan to do there, how long you plan to keep it
6 open, that kind of thing?

7 MR. CHAVEZ: I thank you for one grocery
8 store. I had to open 7:00 to 10:00 and Sunday 8:00
9 to 8:00. I think that he open for long time because
10 this is mamorging (phonetic).

11 I think this is good location. That's
12 why I think he open one grocery store.

13 MS. RICHARDS: All right. And the
14 building is vacant now. Just tell us what you know
15 about what was there before and what the building
16 looks like inside. Is it a store building?

17 MR. CHAVEZ: Almost to look, almost in
18 building, he look, the basement he not go this way,
19 he not go this way. He go the street. I look
20 almost same one building.

21 MS. RICHARDS: All right. So it used to
22 be -- it has a commercial history. What's inside?
23 Are the fixtures inside?

24 MR. CHAVEZ: This is one house. For
25 this, he has to four floor. Three floor, this is
26 separate. This he rented, somebody live.

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1 From the basement, that's when I buy, he
2 had one cloppa (phonetic) that somebody play, you
3 know, in downstairs, and drink beer.

4 When I buy, I close because I don't like
5 selling beer, or I don't like there. I think I
6 close and thank you for opening one grocery store.

7 MS. RICHARDS: All right. So you closed
8 it yourself. There was a going commercial business
9 when you bought it, and you closed it.

10 MR. CHAVEZ: (No response.)

11 MS. RICHARDS: Okay. These are pictures
12 of that. Maybe this will go along a little faster.
13 Could you step up here, please.

14 MR. CHAVEZ: Oh, yes. That's my little
15 picture.

16 MS. RICHARDS: Okay. And this is inside
17 your location?

18 MR. CHAVEZ: Yes, this is inside. This
19 the floor. This is a new floor because I buy, he
20 had to damage floor. So I take out and put a new
21 floor.

22 MS. RICHARDS: Okay.

23 MR. CHAVEZ: Yes.

24 MR. PARSONS: Could you just describe
25 what it is you're going to do?

26 MS. RICHARDS: Certainly.

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1 MR. CHAVEZ: Yes, this is the front and
2 this will go inside the location.

3 MS. RICHARDS: Okay. Let the record
4 show that the applicant is reviewing photographs of
5 the property submitted with the application and they
6 show the exterior and the interior of the building.

7 Now, what is this?

8 MR. CHAVEZ: This one is a refrigerator
9 cooler and this one the frosting and this one the
10 cooler. You know, that somebody -- when somebody
11 has to cloban (phonetic), he has this one for
12 putting beer and all merchandise when buy. He put
13 it right here. This is a room cooler.

14 MS. RICHARDS: And that's still in
15 there?

16 MR. CHAVEZ: Yes.

17 MS. RICHARDS: Okay. So other than
18 that, were you planning to keep those in for your
19 business or take those out, or what?

20 MR. CHAVEZ: I think only one, because
21 that's a big room, you know? I open when it's
22 multi, not too big. I don't think so. I need two
23 room, only one.

24 MS. RICHARDS: Okay.

25 MR. PARSONS: Do you plan to sell beer?

26 MR. CHAVEZ: Not really now. I don't

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1 think so, because I don't like it there, you know.
2 I don't drink and smoking. I think I selling there,
3 it's no good for somebody. Anyway, I don't like it
4 there.

5 MR. PARSONS: Okay.

6 MR. CHAVEZ: That's why I need to open
7 one grocery store, you know, because for everybody
8 realize, you know. That's all.

9 MS. RICHARDS: Okay. Did anybody -- you
10 may sit down now. Thank you.

11 MR. CHAVEZ: Okay.

12 MS. RICHARDS: All right, two more quick
13 questions and then the other board members probably
14 have questions. How long was it a bar nightclub?

15 MS. REID: I didn't hear. Can you
16 repeat that?

17 MS. RICHARDS: How long was it a
18 nightclub? How long was the nightclub there? And
19 if you don't know, that's okay, too.

20 MR. CHAVEZ: I don't know. Somebody
21 tell me almost three year. I don't know. Somebody
22 live in the home when I buy it. He tell me that's
23 live before three year or two year and a half. I'm
24 not sure, because I don't know.

25 MS. RICHARDS: Do you know what was
26 there before the nightclub?

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1 MR. CHAVEZ: No.

2 MS. RICHARDS: Thank you.

3 Okay, Ms. Reid, Mr. Parsons?

4 MR. PARSONS: No questions.

5 MS. REID: I had no questions, but I did
6 have a concern regarding the letter of opposition.

7 MS. RICHARDS: We'll get to that.

8 MS. REID: Oh.

9 MS. RICHARDS: Unless you wanted to ask
10 the applicant about the letter now. And I think --
11 are you Mr. Newman, sir?

12 MR. CARRICO: Me?

13 MS. RICHARDS: Yes.

14 MR. CARRICO: No.

15 MS. RICHARDS: You're not.

16 MR. CARRICO: I'm Mr. Carrico. I would
17 like to testify here against.

18 MS. RICHARDS: All right.

19 MS. REID: I'll wait until closing.

20 MS. RICHARDS: All right, good. We'll
21 move to the Office of Planning, Office of Zoning.

22 MR. HART: The area for which the use
23 variance has been requested is on the ground floor
24 of 2515 17th Street, which is on the eastern side of
25 17th between Euclid and Fuller.

26 The building is a four-story brick

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1 building with the ground floor corridor vacant. The
2 site is zoned R5B. The proposed use is clearly not
3 on the DCMR Section 315.4.

4 The use clearance requested in this case
5 must meet three tests for zoning relief. The
6 proposed use would continue a commercial use in a
7 residential district.

8 As a part of the structure at 2515 17th
9 Street, N.W., the subject site does present an
10 exceptional condition. The site was previously used
11 as a bar and club with alcoholic beverages and
12 dancing.

13 On-site ablution facilities consist of a
14 single commode and face basin. The applicant has
15 demonstrated he will experience an undue hardship
16 with zoning regulations as strictly applied.

17 Extensive renovation would be needed to
18 bring the units into conformance with code
19 regulations.

20 The applicant has addressed whether the
21 requested use variance would or would not be
22 detrimental to public good. He has submitted a list
23 of neighbors who support the proposed use of the
24 site.

25 The Office of Zoning is of the opinion
26 that the applicant has met the burden of proof

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1 relating to the relief being sought in this case.

2 The Office of Zoning has determined that
3 applicant has documented that he would suffer an
4 undue hardship if the requested variance is not
5 granted.

6 For these reasons, the Office of Zoning
7 recommends approval of this application.

8 MS. RICHARDS: Board members?

9 MS. REID: I have no questions for the
10 Department of Zoning.

11 MR. PARSONS: Currently, the list you
12 mentioned of neighbors who support this is not in
13 our record.

14 MS. RICHARDS: Here is the petition list
15 that was submitted.

16 MR. PARSONS: Oh, I'm sorry.

17 MS. RICHARDS: It's in the original
18 file.

19 Mr. Hart, could you give us a little bit
20 of the -- I see a vote history of this building. Do
21 you know what it was before it was a nightclub?

22 MR. HART: Yes. I do have the civil --
23 I have a copy of it. I did not go past the last
24 one. The name of the last users, B & M African
25 Club.

26 I know they are on it, being that I

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1 heard that, you know, a social club with drinking,
2 dancing -- this is going out then, stopping the
3 people. And they closed up and they -- when they
4 are gone.

5 Now, this is the exact site that we're
6 talking about. Prior to the last seal (phonetic)
7 though, I didn't go in and inquire about it.

8 MS. RICHARDS: How far back does that
9 seal go?

10 MR. HART: They talk, this is December
11 1995.

12 MS. RICHARDS: Do you have any sense
13 from talking to neighbors or viewing the property
14 about two things? One, even if you don't know
15 precisely what it was used for, do you have any
16 knowledge about whether the prior uses were
17 commercial?

18 And could you help build the record a
19 bit on the suitability or lack of suitability of
20 these premises for matter of right uses?

21 MR. HART: Okay. In terms of a history,
22 there's not much of a history in years ago, 1995. I
23 just didn't try it, right?

24 But in terms of the suitability for that
25 area, about -- I'd say about 300 feet away on -- not
26 that, you know, from the intersection, is another

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1 grocery store.

2 And, you know, it seems like it's well
3 used, for the time I was there, anyway, within
4 vision of the site. The site in which the proposed
5 grocery store is going to be or would like to be,
6 that entire -- that block is entirely residential.

7 I -- let's say I won't go back one seal
8 though. I don't know the history of what was in
9 that particular site.

10 The other three stores are all
11 residential, as is this certain R1B site. In terms
12 of -- and this is a personal -- but in terms of the
13 area and the people, movement that I see around, and
14 there is a big -- a large movement of people in and
15 around that area.

16 On the other end of the block and about
17 150 yards up, there is a Domino's, and that kind of
18 stuff. This street is right off Columbia Road.
19 It's about the second or third road after you come
20 off 16th onto Columbia going West, right by the old
21 Ontario Theatre.

22 MS. RICHARDS: Yes.

23 MR. HART: So that's the general area.

24 MS. RICHARDS: And the property itself,
25 I mean, is it -- did your report mention that there
26 is a single hand-washing facility? What about -- he

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1 has shown us some pictures of some semi-industrial,
2 commercial-type equipment.

3 So what's the rest of the actual
4 premises, the first floor of his building? What's
5 it like inside?

6 MR. HART: I went into the subject site
7 and I must say at this point that some renovation
8 has taken place, which would in a certain way
9 prejudice what is really there. So I don't know
10 what's behind the wall.

11 I looked for the bathroom facilities, to
12 see what they had. And there's just that one
13 commode, as I said in that document.

14 It abuts on an alley, all right? So
15 from that point of view, access in the back -- it's
16 a long unit. And there is a -- I looked for an exit
17 to the back, which I didn't see. It might be there,
18 I just didn't see it.

19 But inside is -- the shape of the
20 formation of the thing is appropriate -- would be
21 appropriate for the kind of use he's talking about.

22 MS. RICHARDS: Is it appropriate for
23 residential use?

24 MR. HART: Yes, because as -- if you
25 look at the building, it's a sort of plan that each
26 floor would be pretty much identical in the

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1 peripheral measurement. The divisions inside, if
2 you rent rooms and so forth, yes.

3 MS. RICHARDS: Why would he be put to
4 hardship by using it for residential use, if it's
5 suitable for such?

6 MR. HART: Right. Whoever used that
7 place before him and the prior use or uses had the
8 place modified for that -- for commercial uses. And
9 for him to put it in a condition for residential,
10 he'd have to do extensive -- you know.

11 MS. RICHARDS: So what are these
12 modifications for commercial use that make it, you
13 know, extensive?

14 MR. HART: For one -- for one, the
15 entire unit, it just wants -- there is nothing
16 there. What struck me and led me to think how I
17 thought was, the plumbing and -- essentially the
18 plumbing.

19 There was no bathroom facilities, which
20 is -- you know, not necessarily some -- make you
21 vote against it or for it. But the one thing I saw
22 there, you know, I was asking, what do you have
23 there, was the one commode.

24 MS. RICHARDS: Is there a kitchen?

25 MR. HART: I didn't see a kitchen.

26 MS. RICHARDS: Do you have any -- wait a

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1 minute. Do you all have any questions for Mr. Hart
2 now at this stage? Do you have any questions of Mr.
3 Hart? Do you want to ask him anything?

4 MR. CHAVEZ: No, I don't have questions.

5 MS. RICHARDS: Okay, sir, appearing in
6 opposition, do you have questions of either the
7 applicant or the Office of Zoning?

8 MR. CARRICO: Not right now. I might
9 have some later.

10 MS. RICHARDS: This is your time. You
11 get a chance to make a statement later, but this is
12 your time to cross examine.

13 MR. CARRICO: Okay.

14 MS. RICHARDS: You must come to a
15 microphone. Okay, thanks. You can use that one if
16 you like, over there at the podium.

17 MR. CARRICO: Your Honor, is that on?
18 All right?

19 MS. RICHARDS: Your name and address?

20 MR. CARRICO: My name is James Carrico.
21 Here's my witness cards, if you want them.

22 MS. RICHARDS: Not yet. Just give your
23 address right now.

24 MR. CARRICO: I'm the owner of the house
25 at 2511 17th Street, two doors away from this house.

26 MS. RICHARDS: And you may ask the

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1 applicant or the office any questions at this time,
2 but that's all. You make a statement later.

3 MR. CARRICO: On what was presented
4 before. Okay. You seemed to be asking questions
5 about what occurred in this building before 1995.
6 First of all, it's a house.

7 MS. RICHARDS: No. You get to ask them
8 questions. You get to say all of that --

9 MS. REID: This is cross-examination.

10 MS. RICHARDS: -- when you make your
11 statement. This is cross-examination.

12 MR. CARRICO: Well, in regard to the
13 question of what occurred in this house before 1995,
14 it's been kind of a crib, if you know what I mean.
15 It's been illegal.

16 MS. RICHARDS: I've got to cut you off.
17 I'll let you make all of that testimony during your
18 prepared statement, but --

19 MR. CARRICO: Well, I'm responding to --

20 MS. RICHARDS: You have to ask him a
21 question or him a question. That's all you can --

22 MR. CARRICO: All right. I understand.
23 I would like to know from Mr. Chavez what kind of a
24 hardship it's going to be now. That came up,
25 something about a hardship.

26 My house two doors away has a basement

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1 that's empty. I do not get any --

2 MS. RICHARDS: You've asked him --

3 MR. CARRICO: -- rent from it --

4 MS. RICHARDS: -- what hardship. Now
5 let him answer.

6 MR. CARRICO: What's your hardship?

7 MR. CHAVEZ: I have to respect for you.
8 I think you know why I talked when somebody asked a
9 question. I thank you open my grocery store. I
10 think the grocery store, I don't think so has to
11 problem for somebody living on other side or live in
12 the front.

13 I think this is very good for everybody.
14 I have to one pay for and I have many people give it
15 to me, say that all people live in this area.
16 Because everybody, he live in very happy.

17 He say I have one store long way. You
18 put one store right here that's good for me because
19 I go to buy right here. I think this. I think is
20 no problem for nobody.

21 MS. RICHARDS: Thank you. That's his
22 answer.

23 MR. CARRICO: What is the hardship
24 though? People would have to walk up a block to
25 Columbia Road? Is that the hardship?

26 MS. RICHARDS: We have to take into

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1 account the degree to which it's responsive to your
2 question, and weigh that and weigh the evidence.

3 MS. REID: And also, sir, Mr. -- the
4 Office of Zoning also responds to that question
5 regarding a hardship. When the chairperson asked
6 him what the hardship was and he discussed the
7 conversion of the property to commercial, and the
8 plumbing and the expense that would be incurred by
9 the applicant were to do so, that is the hardship
10 that he was speaking of.

11 MR. CARRICO: Oh, okay.

12 MS. REID: Primarily.

13 MR. CARRICO: Well, like I say, I have
14 an identical house and my basement is empty. It's
15 for storage of the first floor unit and I find no
16 hardship there, no problem with a hardship.

17 I don't think there's a hardship. I
18 think he just wants to make a lot of money in a
19 grocery store.

20 MS. RICHARDS: Hold on one second.
21 We're going to come to your prepared statement.
22 Stay there, because it's going to be real short,
23 okay?

24 Let's cut off cross-examination. ANC
25 report?

26 MR. PARSONS: I didn't find one.

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1 MS. RICHARDS: I didn't see one either,
2 but I missed it last time. Whoever has the case
3 file, check it and -- check the docket very
4 carefully.

5 MS. REID: I didn't have it in my file.

6 MS. RICHARDS: Then we'll go to docket.

7 All right, the ANC has not spoken on
8 this matter. Does the staff have any additional
9 information or know otherwise?

10 MR. LYONS: The staff is not aware of --

11 MS. RICHARDS: Anything?

12 MR. LYONS: -- the ANC's activity.

13 MS. RICHARDS: Thanks, Mr. Hart. Good.
14 So we've touched that base carefully.

15 Persons in support? Is there anyone
16 appearing in support of this application?

17 (No response.)

18 MS. RICHARDS: We note the petition of
19 names in support. We'll now hear from persons in
20 opposition.

21 Now you may make your statement freely.

22 MR. CARRICO: Okay. Thank you very
23 much. My name is James Carrico, as I said earlier.
24 I'm the owner of a house at 2511 17th Street. It's
25 a duplex house. It has two units in it.

26 It's identical to the house at 2513,

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1 2515 -- all along there. All those houses are
2 identical. The house at 2515 did have -- does have
3 a history of something in the basement unit.

4 It's been busted several times for
5 illegal somethings in the basement unit, cribs we
6 call them. I've been in there, oh, say five, six
7 years ago.

8 They are stand-up card tables, and
9 there's provisions for selling illegal beer. And, I
10 mean, cooling -- cooling the beer. But it's all
11 been illegal.

12 Then the house was -- 2515 was purchased
13 by a Ethiopian woman, a doctor. And she allowed
14 this African Club of some sort. There was a sign
15 African's Men Club or something, Ethiopian Club --
16 something like that.

17 And they apparently got a license of
18 some sort there to sell beer or whatever. But it's
19 really been a crib. You know what I mean? It's a
20 prostitute on the premises. There's always at least
21 one, maybe two prostitutes.

22 Now, this is before your time, of
23 course. You want to make it into a nice grocery
24 store. I'm here because it's a residential street.
25 There are no other businesses on that street except
26 the grocery store, a little Korean grocery at 17th

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1 at Euclid, which has been closed now for some
2 months. I don't know why.

3 But there's also a crack gang operating
4 there, which is just unfortunate, but nothing
5 anybody can do about that, really.

6 But it is a residential street and I'd
7 like -- I'm here because I'd like it to remain a
8 residential street. Columbia Road is a block away.
9 There are all kinds of -- there's Safeway up there.
10 There's Hispanic grocery stores, several of them,
11 three or four of them along Columbia Road.

12 I don't see a need for a grocery store
13 or a delicatessen in here. Yeah, the basement is
14 all wide open and it's perfect for something like
15 that. But it's also good for apartments.

16 I probably the only one on the street
17 there that doesn't have a basement apartment in
18 there. These are kind of three stories. Most all
19 of the houses along that street are a basement
20 apartment, a first floor apartment and a second
21 floor apartment.

22 There's a loft attic. These are not
23 four-story buildings, they're only three. They are
24 only really two stories and one basement.

25 It's residential. I'm here, I came in
26 today. I don't have -- I don't even know

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1 Mr. Chavez. I have no ax to grind. I just don't
2 want the thing -- the street turned into a shopping
3 mall.

4 We don't need a grocery store. We've
5 got plenty of them up on Columbia Road. That's my
6 only opposition. I don't know -- it's zoned
7 residential for a reason, I thought. And I don't
8 understand why Mr. Hart has approved it to be a
9 grocery store.

10 I don't know where -- where does the
11 neighborhood advisor ANC come down on this subject?
12 Are they involved here at all? Do they --

13 MS. RICHARDS: Not on the record. The
14 ANC has not weighed in on the record in this case.

15 MR. CARRICO: Well, I, for one, would
16 like to have the AMC -- ANC -- opinion on this,
17 position on this. I mean, aren't they supposed to
18 do these things?

19 I've heard -- been involved in other
20 areas in the town where they won't even let you put
21 in new windows without their approval and delays and
22 so forth.

23 MS. RICHARDS: The ANC gets -- every ANC
24 gets notice of every proposed application in its
25 jurisdiction and it's up to the ANC to come forward.

26 MR. CARRICO: Well, apparently they

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1 didn't. Anyhow, I don't have -- I don't have much
2 more. I still don't see any hardship in the matter.

3 Like I say, my basement is not rented.
4 It kind of belongs to the first floor unit for
5 storage or whatever. I don't have any hardship. I
6 don't know why there would be a hardship if that
7 basement unit remained empty.

8 Or I see there would be some expense to
9 converting it to an apartment because that's why I
10 haven't done it. I don't have the money to put into
11 an apartment basement unit there.

12 Anyhow, that's my position. It's a
13 residential area. I'd like it to stay residential.
14 I don't want any grocery store in there. Thank you.

15 MS. RICHARDS: Thank you. Wait a
16 minute.

17 Do you have any questions?

18 MR. PARSONS: I did want to ask about
19 the configuration of your basement. Is that
20 subdivided in any way? Was it ever used as an
21 apartment, as you described?

22 MR. CARRICO: My basement was never used
23 as an apartment and it's not subdivided. It's one
24 long -- it's as wide as the house. These houses are
25 like 50 feet long and about 18 feet wide.

26 MR. PARSONS: Yours, you believe, was

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1 built by the same builder as --

2 MR. CARRICO: Oh, yeah. All the houses
3 along there were built --

4 MR. PARSONS: Some people have converted
5 these clear basements, as I'll call them, to
6 apartments.

7 MR. CARRICO: Yes.

8 MR. PARSONS: With partitions and
9 adequate --

10 MR. CARRICO: The next door neighbor --

11 MR. PARSONS: And so forth.

12 MR. CARRICO: The next door neighbor
13 has, and he's got quite a nice unit in there, but
14 the one between me and 2515.

15 MR. PARSONS: So the only thing that
16 stands in the way of you doing that is --

17 MR. CARRICO: Is money.

18 MR. PARSONS: -- is money. Have you
19 ever estimated the cost?

20 MR. CARRICO: Yeah. It's about \$15,000
21 and I just don't have it. I've had a couple of -- I
22 had a builder once told me that he would pay in
23 return for the first three or four years of rent,
24 and I don't -- I don't want to do that.

25 MR. PARSONS: You live there?

26 MR. CARRICO: No, I don't live there. I

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1 live in Southeast Washington. It's two units. I
2 have two units, one on the first floor, one on the
3 second floor.

4 A lot of these other houses along there
5 are more than two units. They have the basement and
6 they have a lot of people in there.

7 MR. PARSONS: Thank you.

8 Other questions?

9 MS. RICHARDS: Mr. Chavez, do you have
10 questions? Do you want to ask him anything?

11 FEMALE VOICE: He said what would be the
12 problem with answer for his grocery in this area,
13 because is how he's different from most of the house
14 around the block. What would be the -- you know --

15 MR. CARRICO: Well, I don't think his
16 house is any different than any of them. His
17 basement is wide open and cleared out, where I have
18 posts and things in my basement, but I have no
19 partitions.

20 Like I said earlier, my objection is, I
21 don't want this to be a shopping mall area. I want
22 it to be a residential area. It's zoned
23 residential. I see no reason to change it. I don't
24 want commercial units on that street. I want -- we
25 have Columbia Road for all that.

26 MR. CHAVEZ: Okay, I have one more

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1 question. I'm sorry. Why you went intopian
2 (phonetic). When I buy, the lady is intopian,
3 right?

4 Why when intopian have license for one
5 club you no talked nothing? Why now I open one
6 grocery store, you say you no need in this area?

7 I don't understand why you talked like
8 this because when somebody has to clo this modendi
9 (phonetic) are then one grocery store?

10 MR. CARRICO: You don't understand why I
11 talk like this, what?

12 FEMALE VOICE: He mean like when the
13 lady have the club in there, you never was against
14 the lady.

15 MR. CARRICO: Oh, yes, I was.

16 FEMALE VOICE: And the grocery, that's
17 food in there, only food. Why are you against now
18 that he want to open that?

19 MR. CARRICO: I was very much against
20 that club there. They got busted several times, or
21 at least prior to the Ethiopian lady owning it.

22 We've had cribs next door to me, 2513,
23 and they got busted and run out of there. 2509 had
24 a bust about a year ago. They had a crib in there.
25 They busted 60 people -- six-zero people got hauled
26 in by the police, about eight policemen.

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1 And the owner came up there one night.
2 She didn't believe what was going on there. When I
3 told her that it was a crib operating in there, she
4 didn't believe it. Well, they got 60 people
5 arrested that night.

6 They let them all go, because they were
7 innocent, but they shut down the crib next door.
8 Now, it seems to be a place where there is a lot of
9 money to be had there.

10 There's all kind of things happen.
11 There's gambling, beer sales, prostitutes, and so
12 forth -- not in your grocery store, naturally. But
13 we're trying to stop these illegal activities.

14 MS. RICHARDS: Let's see if he has any
15 more questions. Do you want to ask him anything
16 else?

17 MR. CHAVEZ: Oh, I don't have no more
18 questions.

19 MS. RICHARDS: Okay. Thank you.

20 MR. CARRICO: Okay. That's all I have.

21 MS. RICHARDS: Is there anyone else in
22 the hearing in opposition in this case?

23 (No response.)

24 MS. RICHARDS: All right, there's a
25 letter in opposition. You raised that earlier. Did
26 you want to ask the applicant anything about it?

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1 MS. REID: Well, yeah. What I -- seeing
2 this letter from Mr. Robert Newman from -- I suppose
3 he lives in New York -- that owns the building at
4 1704 Euclid Street.

5 And he says that prior to that, it had
6 been residentially occupied since 1967. And I was a
7 little confused there, because perhaps obviously he
8 just be referring to the upper units.

9 Because the unit that is downstairs, I
10 have now understood through the testimony, has been
11 used commercially as a club, correct?

12 MR. CHAVEZ: Yes.

13 MS. REID: So this letter is not exactly
14 correct. Are you familiar with the letter?

15 FEMALE VOICE: No, he's not familiar
16 with the letter.

17 MS. REID: It said there was no prior
18 non-conforming commercial use of the premises.
19 Where is Mr. Lyons? He's not in here?

20 MS. RICHARDS: Well, what is --

21 MR. PARSONS: He's going to check and
22 see if there's any certificates of occupancy on file
23 for previous uses.

24 MS. RICHARDS: Okay.

25 MR. PARSONS: Here he comes.

26 MS. RICHARDS: Did you find anything,

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1 Rick?

2 MR. LYONS: No, nothing.

3 MS. RICHARDS: Okay.

4 MS. REID: So what I'm trying to get
5 clear is, as far as we know, the last use was for
6 the club and they had a permit. And that permit was
7 a non-conforming use for a variance?

8 MS. RICHARDS: It was a non-conforming
9 -- it was non-conforming use, yes.

10 MS. REID: Okay. My question for you,
11 Mr. Lyons, is: Once the property has gotten a
12 variance, the variance usually goes with the
13 property?

14 MR. LYONS: Yes.

15 MS. REID: But in this instance --

16 MR. LYONS: Department of Planning --

17 MS. REID: Okay, now, Mr. Parsons and I
18 have discussed it a little, but I wanted to be clear
19 on it. For that specific use. So if the use
20 changes from -- in other words, basically I guess
21 what I'm getting to is that if it was -- if they had
22 a permit to use it as a club and they then got a
23 variance, then it would have to be used only as a
24 club?

25 MR. LYONS: Yes.

26 MS. REID: So if they changed it to a --

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1 MR. LYONS: If there is a change from a
2 public hall to some other use, commercial use, they
3 would still have to come to the board for a change
4 of non-conforming use.

5 MS. REID: Oh, okay.

6 MR. LYONS: Yes.

7 MS. REID: And this is what --

8 MR. LYONS: I could not find in our card
9 file any indication of any action by the board on
10 this property.

11 MR. PARSONS: So anything that's been
12 operating has been --

13 MS. REID: What does that mean?

14 MR. PARSONS: -- without our approval?

15 MR. LYONS: Yeah.

16 MS. RICHARDS: Either grandfathered or
17 off --

18 MR. LYONS: Right.

19 MS. RICHARDS: -- before our regulations
20 or off the books.

21 MR. LYONS: Unless there's been some --
22 we may have to look at the C of O history of the
23 property to see if there was a grandfathering of the
24 commercial -- the non-conforming commercial uses up
25 to the club use.

26 MS. REID: Okay. I thought that --

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1 MR. LYONS: Mr. Hart had a copy of the
2 C of O.

3 MS. REID: Can I ask him a question?

4 MR. LYONS: Sure.

5 MS. REID: Mr. Hart, did you not say
6 that there was a C of O for the club?

7 MR. HART: Yes, dated December 19, '95.

8 MS. REID: So then, we then can assume
9 that that was a legal use?

10 MS. RICHARDS: Well --

11 MR. LYONS: Not necessarily. If it were
12 -- if commercial uses were grandfathered, it may
13 have been since 1958.

14 MS. REID: Okay, okay.

15 MR. LYONS: That's what we would have to
16 determine.

17 MS. REID: Okay, so -- so basically, we
18 don't know.

19 MR. LYONS: That's correct.

20 MS. REID: So before we could actually
21 make a decision, we have to kind of get more
22 information. Because where I am confused is that,
23 if in fact -- I want to know whether or not it is
24 permissible for it to be grandfathered.

25 But then, that being the case, then it
26 shouldn't even be here, should it?

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1 MS. RICHARDS: Well, we need to pull the
2 C of O history here.

3 MS. REID: Okay, all right. Then we can
4 get a clarification on --

5 MS. RICHARDS: Yes.

6 MS. REID: -- exactly what is what there
7 at that particular. Oh, and the other question I
8 had was for Mr. Chavez, was: Do you live in the
9 building? You own the building, right? Do you
10 reside there?

11 MR. CHAVEZ: I live in another house. I
12 don't live in. I buy for, I look the location of
13 that good for business, and so I buy old building.
14 Old building.

15 MS. REID: Okay. The other units above
16 are rented out, residential?

17 MR. CHAVEZ: I rent, yeah.

18 MS. REID: Okay. And when you purchased
19 the building, you purchased it with the intention of
20 using the bottom unit as a grocery store because you
21 knew that there had been a club there before.

22 So you assumed that it was a permitted
23 use?

24 MR. CHAVEZ: Yeah. When I buy it, I not
25 think to for close, I think for opening one grocery
26 store, you know. Because when I look, he have a

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1 club.

2 I say, he have a club. He have for one
3 grocery store. So I buy it. You know, see, I think
4 -- see, I like to selling beer or club, maybe I'm
5 not buy because I don't like it there. Believe me,
6 I don't like it. Because I think for me and my
7 family living good, you know. I look for all mobero
8 (phonetic) for me and for my family.

9 So I buy old house because I look in
10 good location, you know.

11 MS. REID: So the answer is yes, you did
12 buy it with the assumption that since it had been a
13 club that you could put a grocery store there. That
14 was your intention.

15 MR. CHAVEZ: Uh-huh.

16 MS. REID: Yes. That is yes. Okay,
17 thank you.

18 MS. RICHARDS: I think we might just
19 serve everyone better at this point if we closed the
20 hearing and made a request for additional
21 information and took it up again.

22 MR. PARSONS: And I certainly would urge
23 the applicant to seek the views of the advisory
24 neighborhood commission.

25 MS. RICHARDS: Yes.

26 MR. PARSONS: Maybe the staff would make

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1 an inquiry to assist in this matter, but we've
2 certainly got two opinions in the community.

3 MS. RICHARDS: Yeah, I'd like to see it
4 come -- actually, the request from the board, this
5 is one where the board is going to indicate to the
6 ANC what it would like for it to weigh in.

7 MR. PARSONS: All right.

8 MS. RICHARDS: And, Mr. Hart, if you
9 would get the C of O history as far as is feasible,
10 and maybe double-check to see if it looks as if it
11 should have been some action by this board, maybe
12 double-check and see if you can find, you know,
13 anything.

14 And I guess those are the main things.
15 Would you assist the applicant in understanding the
16 showing required of a use variance? Thank you.

17 MS. REID: And contact the ANC and see
18 if -- he may not see --

19 MS. RICHARDS: Oh, we want that to come
20 from the board, not from the applicant. We're going
21 to ask the secretary to ask the ANC.

22 MS. REID: Oh, okay.

23 MS. RICHARDS: And get back to the
24 board. So we're going to need some more
25 information. Mr. Hart will tell you what we need.
26 He'll get some of it and he'll tell you what else we

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1 need.

2 Mr. Carrico, would you come forward for
3 a minute, please. Do you wish to be granted party
4 status in this matter?

5 MR. CARRICO: What is that?

6 MS. RICHARDS: You get to, like, get
7 notice of the decision and you get a right to appeal
8 an adverse decision, et cetera.

9 MR. CARRICO: Yes, I'd like to be that,
10 yes.

11 MS. RICHARDS: All right. Since we're
12 asking additional information from the applicant and
13 from the Office of Zoning, and you'll get an
14 opportunity to respond to that.

15 MR. CARRICO: Okay.

16 MS. RICHARDS: Mr. Secretary?

17 MR. CARRICO: Do you have my address?
18 Is my zip code on that card? Did I put my zip on
19 that card?

20 MR. LYONS: This is the witness card.
21 Yes.

22 MR. CARRICO: Okay, did --

23 MR. LYONS: Madam Chair, the board's
24 next meeting is July 2nd, which is two weeks away.
25 I don't know how soon the ANC might be able to the
26 respond to the board if they have not held a meeting

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1 at which to form a position.

2 MS. RICHARDS: That's not enough time.
3 Mr. Hart has to pour through microfilm.

4 MR. LYONS: Hopefully not, but that,
5 too, might could take a little digging with the C of
6 O office. So you want this on the agenda in
7 September?

8 MS. RICHARDS: I'd like it when -- we
9 have a hearing in July, do we not?

10 MR. LYONS: In July? Yes. The second
11 hearing in July is July 16th.

12 MS. RICHARDS: Don't we have through the
13 hearing the documentary submissions, a new document?
14 I think he might need to get from the parties again
15 what he said, that he would on a paper.

16 MR. PARSONS: I would rely on -- well,
17 depends on what we find.

18 MS. RICHARDS: Right.

19 MR. PARSONS: But rely on the C of O
20 search and the ANC.

21 MS. RICHARDS: Then let's set it down
22 for a 9:00 a.m. meeting on that date. And if it
23 looks as if -- if what we get in raises further
24 questions, we can act appropriately at that time.

25 MR. PARSONS: All right.

26 MS. RICHARDS: The staff will explain

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1 what we've said to you, so talk to them afterwards.

2 MR. LYONS: The submissions by the
3 Office of Zoning and the applicant will be due on
4 July 3rd with service on the parties. And that
5 would be
6 Mr. Carrico.

7 Mr. Carrico would have until July 10th
8 to respond to those submissions. And the board, at
9 a special meeting to be held at 9:00 a.m. July 16th
10 will consider a decision in the application.

11 MS. RICHARDS: Thanks. That concludes
12 the morning agenda and we will resume at 2:00 p.m.

13 (Whereupon, a luncheon recess was
14 taken.)

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

(2:09 p.m.)

MR. LYONS: I believe we are ready,
Madam Chair.

MS. RICHARDS: All right. This is the
June 18th, 1997 public hearing of the Board of
Zoning Adjustment of the District of Columbia.

Joining me today are Sheila Parks Reid
and John Parsons from the Zoning Commission. Copies
of today's hearing agenda are available to you,
located to my left near the door.

All persons planning to testify for or
against a position are to fill out two witness cards
located on the table in front of us.

Upon coming forward to speak, please
give both cards to the reporter, who is seated to my
right.

The order of procedure for Special
Exception Variance cases will be as follows.
Statement and witnesses of the applicant, government
reports, including the Office of Planning,
Department of Public Works, ANC, et cetera, persons
or parties in support, persons or parties in
opposition, closing remarks by the applicant.

Cross-examination of witnesses is
permitted for persons or parties with a direct

1 interest in a case. The record will be closed at
2 the conclusion of each case, except for any
3 materials specifically requested.

4 The board and staff will specify at the
5 end of the hearing exactly what is expected. The
6 decision of the board in these contested cases must
7 be based exclusively on the public record.

8 To avoid any appearance to the contrary,
9 we request that you not engage members of the board
10 in conversation. At this time we'll consider any
11 preliminary matters, those which relate to whether a
12 case will or should be heard today, such as a
13 request for a postponement, continuance or
14 withdrawal, or whether proper and adequate notice of
15 a hearing has been given.

16 If you are not prepared to go forward
17 today, or if you believe the board should not hear a
18 particular case, now is the time to say so.

19 Does the staff have any preliminary
20 matters?

21 MR. LYONS: Staff has none.

22 MS. RICHARDS: Then we will go ahead
23 with the first case.

24 MR. LYONS: The first case is -- Madam
25 Chair, there may be a preliminary matter, I'm sorry,
26 with the last case of the afternoon, application

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1 16245 of the William C. Smith Company. Is there a
2 representative present?

3 MR. ANSELMO: I am.

4 MR. LYONS: Would you please have a
5 seat. Please sit down. Would you turn the mike on,
6 the green light, the button in front of the green
7 light.

8 MR. ANSELMO: The button is on?

9 MR. LYONS: Yes, it appears to be on,
10 yes. If you give the board your name.

11 MR. ANSELMO: I am Raymond Anselmo,
12 general partner of the Anthony K. Anselmo Limited
13 Partnership that owns the property. Reverend Barbie
14 (phonetic) has filed a petition to waive the off-
15 street parking requirement for a church.

16 Mr. Barbie is ill, and he called me
17 about 10:30 this morning. Said he called here for a
18 postponement and they said that was not available,
19 for me to get down here, quick. So that's why I'm
20 here.

21 MS. RICHARDS: All right. Does this
22 mean that you are here to request a continuance for
23 him in person rather than on the phone, or that you
24 are going to go ahead and present the case for him?

25 MR. ANSELMO: I understood from
26 Mr. Barbie that a postponement was not possible.

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1 And I have a limited amount of information I picked
2 up from him at his bedside at 10:30 this morning.

3 You're saying we do have the option to
4 postpone?

5 MS. RICHARDS: Well, we can continue if
6 necessary. We just don't like to do things over the
7 phone at the last minute. You could be defaulted.
8 But why don't we go ahead with the hearing and then
9 if we find it's improvident to continue in light of
10 the state of your knowledge we could consider a
11 continuance or an adjournment for further hearing
12 then.

13 MR. ANSELMO: I leave it up to you.

14 MS. RICHARDS: Okay. So we'll call you
15 again after the first two cases.

16 MR. ANSELMO: You said something about
17 filling out a card, which I did not hear.

18 MS. RICHARDS: About what?

19 MR. ANSELMO: Filling out a card.

20 MS. RICHARDS: Oh, filling out -- oh,
21 you fill out two of those and then when you come
22 back, you give them to the reporter.

23 MR. ANSELMO: Thank you.

24 MR. LYONS: The first case then is
25 Application 16242 of Andrea Cannon under Section 205
26 to increase an existing child development center

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1 from 15 to 29 children, ages 2 to 6, and 4 staff in
2 an R5A district at premises 541 Newcomb Street,
3 S.E., Square 5985, Lot 818.

4 All persons wishing to testify in this
5 application, please rise to take the oath. Please
6 raise your right hand.

7 Whereupon,

8 ALL WITNESSES
9 called for examination, having been first duly
10 sworn, were examined and testified as follows:

11 MR. LYONS: Please be seated. Will the
12 applicant come forward.

13 MS. RICHARDS: You may proceed.

14 MS. CANNON: My name is Andrea Cannon.
15 I am the owner of Newcomb Day Care and I want to
16 expand the day care from 15 to 29 children, as
17 stated, on the second floor.

18 MS. RICHARDS: All right. You said that
19 you had earlier sought 28 children. And you have a
20 certificate of occupancy for 28 and then a
21 subsequent certificate for only 15.

22 Could you sort of explain your history?

23 MS. CANNON: Okay, I have a occupancy,
24 but they are separate. One has 15 and one that has
25 14, and the second one was what's ran basically as a
26 separate unit. They want us to combine them

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1 together for licensing, basically.

2 They say they want it, instead of two
3 occupancy, should be on one.

4 MS. RICHARDS: All right. So you want
5 to just maybe briefly describe your operations.

6 MS. CANNON: Okay. We have the first
7 floor's occupied. It's from ages zero to two years
8 old, and I wanted to expand it.

9 It operates from 6:00 to 6:00 p.m., 6:00
10 a.m. to 6:00 p.m. We have a total of basically the
11 first floor has six staff members and the second
12 floor basically the same.

13 We have programs there, which is a
14 community program basically. The primary, most of
15 our children are in the community. Most of the
16 people that work in the day care are in the
17 community.

18 And we have a excellent program. We
19 deal with the cognitive skills. We deal with
20 social, emotional. Our staff is qualified. We have
21 a great staff.

22 We have been there for basically going
23 on six years and we've had no problems. And I have
24 letters from the parents and people in the community
25 talking about the program, the excellent program we
26 have at Newcomb Day Care Center.

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1 MS. RICHARDS: Thank you. Are there
2 questions of this applicant?

3 MS. BAILEY: Thank you. Members of the
4 board, good afternoon. My name is Beverley Bailey
5 with the D.C. Office of Zoning.

6 I'd like to state in a nutshell what
7 this project is about. There are currently a day
8 care center that has the same name that's operating
9 on the first floor and one on the second floor.

10 The one on the first floor is operating
11 under B.Z. Application No. 15755. That was approved
12 by the board back in 1992 for 28 children and 4
13 staff.

14 That particular portion of the center
15 has -- the order is for five years and that -- the
16 order will expire next year, next May, on the first
17 floor for 28 children.

18 Ms. Cannon has been operating another
19 center on the second floor. I believe she was given
20 a license to operate it for 15 children, which is
21 the maximum you can do in an R5A district without
22 the approval of the board.

23 However, the number of children were
24 exceeded on the second floor from 15 to 29. She is
25 thus seeking relief to accommodate those additional
26 children on the second floor.

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1 Does that make any sense to the board?

2 MS. RICHARDS: All right, so we are
3 going from matter of right to special exception on
4 the second floor, and leaving the first floor
5 untouched.

6 MS. BAILEY: Right, exactly.

7 MS. RICHARDS: Although that will be
8 back next year.

9 MS. BAILEY: Exactly. What we're
10 recommending is that they both expire concurrently
11 at the same time. That is, the order for this one,
12 which is on the second and also the one for the
13 first floor, which will expire next year.

14 And thus she would -- when she comes in,
15 hopefully the next time, it will be for the entire
16 facility. Because currently she has two C of Os,
17 two license, and would have two BCA (phonetic)
18 orders if it's approved.

19 The conditions that we are recommending
20 in the report, and that's basically the hours of
21 operation is as you have now, 6:00 a.m. to 6:00 p.m.
22 Monday through Friday, four staff on the second
23 floor.

24 There should be four on the first floor.
25 Two parking spaces must be maintained for the staff,
26 and all outdoor activities shall take place under

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1 staff supervision.

2 The only thing that isn't listed is a
3 repeat of the number of students, which shall be 29,
4 and the number of staff, which shall be 4. That's
5 the only thing that's not repeated in the
6 conditions.

7 MS. RICHARDS: All right. Any
8 questions?

9 MS. REID: No.

10 MR. PARSONS: I have none.

11 MS. BAILEY: Finally, we attempted to
12 contact a representative of the community ANC, but
13 we were unable to do so, so we aren't quite sure
14 what the sentiments of the community is on this
15 project. And with that, we're recommending
16 conditional approval.

17 MS. RICHARDS: Okay. Do you have any
18 questions of Ms. Bailey, ma'am?

19 MS. CANNON: No.

20 MS. RICHARDS: You're quite sure? All
21 right.

22 MS. CANNON: Yes.

23 MS. RICHARDS: The persons appearing
24 here, is there a representative of the ANC? Would
25 you come forward and give us your name, sir.

26 MR. LEWIS: Good afternoon, Madam

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1 Chairman. My name is William C. Lewis. I'm
2 chairman of Advisory Neighborhood Commission 8C.

3 I received the notice from the Board of
4 Zoning in reference to this particular R5A request
5 for expansion for the day care center on Lot 5985 --
6 Square 5985, Lot 128.

7 We had a meeting on the -- our regularly
8 scheduled meeting was on June the 4th, and we
9 presented it to the community. A number of
10 questions were posed to me from the members of the
11 ANC in reference to space, parking facility, how it
12 would interrupt the tranquility of the neighborhood.

13 And I -- we never were able to meet with
14 Ms. Cannon here. But the usual procedures a lot of
15 times is, they contact us as well. But nothing had
16 been done there.

17 And so, I looked at the facility. I did
18 a visual look at the facility and I checked the
19 front and the back. And our main concern was as far
20 as space, parking space and things of that nature.

21 And a few questions we would like to --
22 you know, we would like to have a meeting with her
23 and get some kind of clarification on a few of these
24 matters before we can make a decision.

25 However, at this present time, we are
26 not ready to okay this matter.

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1 MS. RICHARDS: Do you want to ask her
2 any questions now?

3 MR. LEWIS: Yes.

4 Ms. Cannon, I checked out the back of
5 your facility. How are you planning to -- where are
6 you planning to put your parking space?

7 MS. CANNON: Mr. Lewis, we've been here
8 basically --

9 MS. REID: Can't hear.

10 MS. RICHARDS: Louder.

11 MS. CANNON: We've been here for a while
12 and --

13 MS. REID: Excuse me.

14 MS. CANNON: I'm sorry?

15 MS. REID: Please, can you speak into
16 the mike. We missed the first part of what you were
17 saying.

18 MS. CANNON: Okay.

19 MS. REID: Thank you.

20 MS. CANNON: We have a quite a bit of
21 parking space up front, in front of the day care,
22 and also --

23 MR. LEWIS: Are you talking about on the
24 street?

25 MS. CANNON: Yes.

26 MR. LEWIS: Because you have residents

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1 there also.

2 MS. CANNON: Uh-huh. But the majority
3 of my -- the parents and the people that work at the
4 day care live in the area. A lot of them catch the
5 bus or -- but there's -- reference to cars, there's
6 never been a problem. Just never been a problem.

7 MR. LEWIS: Well, I noticed quite a few
8 there one morning. I observed and I noticed you
9 have quite a few Maryland residents coming in there
10 also.

11 MS. CANNON: Well, we do have a few
12 people that work that comes from Maryland that does
13 work there.

14 MR. LEWIS: I mean, that drop the
15 children off.

16 MS. CANNON: Well, that tells you we
17 have a good center. We've got people coming from
18 all around.

19 MR. LEWIS: I understand.

20 MS. CANNON: But basically, this has
21 never been a problem, this parking. And we have
22 really -- the first time they had controversy
23 concerning the day, people had concerns.

24 But after we've been there for a while,
25 we have worked with the neighborhood and they saw
26 that it wasn't a threat in any form or fashion. In

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1 fact, we keep our property -- we try very hard.

2 We work to try to keep our property
3 looking good and we're hoping a lot of the people in
4 the area would basically do the same thing. It's
5 never been a problem. Basically all we've had so
6 far has been praise.

7 MR. LEWIS: Now, do you own that
8 property next door, that abandoned apartment --

9 MS. CANNON: I'm working on getting it
10 straight. No, I don't, but I'm working on getting
11 it straightened out.

12 MR. LEWIS: Because to me, that presents
13 a problem, you know, with --

14 MS. CANNON: We've called the D.C.
15 government about getting that building corrected and
16 there's several people I have talked to and I even
17 talked to people this morning concerning that
18 building next door.

19 MR. LEWIS: Because the police have
20 quite a few problems on that street with that house
21 across the street and the loitering up on the corner
22 there.

23 MS. CANNON: Yeah. That's what we
24 basically need to work on.

25 MR. LEWIS: And that's a big problem.

26 MS. CANNON: We definitely -- we need to

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1 talk after this.

2 MS. RICHARDS: Is this building part of
3 the day care operation?

4 MR. LEWIS: I don't know, ma'am. I
5 don't believe so.

6 MS. RICHARDS: Well, we could only --
7 this board only has jurisdiction to address the day
8 care operation.

9 If you wish to make -- you know, a --
10 well, you're not taking a position. There
11 conceivably could be a nexus, but it's not
12 established on this record.

13 MR. LEWIS: Yes, Madam Chair. But our
14 main concern is with space when you increase from 15
15 to 28 children. And we're looking at that, and four
16 staff, we're looking at that as a -- you know,
17 expansion of space, and what the fire marshals will
18 say about that, and things of that nature.

19 MS. CANNON: Well, the fire marshals has
20 already approved everything. Everything we have has
21 been pre-approved.

22 MR. LEWIS: Okay, because we need to get
23 the report, to look at that as well.

24 MS. RICHARDS: All right. Do you have
25 any other questions? I'll give you two more
26 questions of her.

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1 MR. LEWIS: Not at this time.

2 MS. RICHARDS: Does any member of the
3 board have a question of the ANC?

4 MR. PARSONS: Did you plan a follow-up
5 meeting of your ANC to deal with this matter, or do
6 you feel you've given us the concerns of the
7 community today?

8 MR. LEWIS: The answer to that, no, we
9 haven't. We were in the middle of an election and
10 we had quite a few other community concerns. But we
11 -- they basically left it in my -- you know, up to
12 me to get back to them and give them a report on it.

13 MR. PARSONS: I see. So how do you
14 feel, now that you've heard the testimony and had
15 this exchange? Do you feel the community would
16 support this?

17 MR. LEWIS: Fifty-fifty. Like I said,
18 we still have concerns about the parking problem and
19 the condition of the neighborhood. But, you know,
20 we'd like to talk with her.

21 We wish she had come to us and -- you
22 know, the ANCs, we're trying to get more into the
23 community and have people come out and, especially
24 when they're dealing with zoning and things like
25 that and talk with us.

26 MR. PARSONS: Thank you.

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1 MR. LEWIS: But a lot of times that
2 doesn't happen. But we're trying to get that,
3 through no fault of her own.

4 MR. PARSONS: Okay.

5 MS. RICHARDS: Ms. Reid, any questions
6 of the ANC representative?

7 MS. REID: No, I just -- my
8 understanding -- let me make sure I understand that.
9 Once they -- we can -- they can forward a report to
10 us --

11 MS. RICHARDS: Come again?

12 MS. REID: Once they have had a chance
13 to meet and have a quorum, they will then report
14 that report to us.

15 MS. RICHARDS: Possibly. They're not --

16 MR. LEWIS: That's correct.

17 MS. REID: You said possibly?

18 MS. RICHARDS: Well, I mean -- yeah. I
19 mean, they have -- if we keep the record open.

20 MS. REID: Is that your desire?

21 MR. LEWIS: Excuse me? Once we have a
22 quorum, we get back to you? Yes.

23 MS. CANNON: May I say one thing?

24 MS. RICHARDS: In a moment.

25 MS. REID: Go ahead.

26 MS. CANNON: Mr. Lewis, we tried to get

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1 in contact with you, but we had a problem getting in
2 touch with you, the ANC.

3 MR. LEWIS: What was the problem?

4 MS. CANNON: The ANC -- you want to
5 speak on the --

6 MS. RICHARDS: Well, we'll take your
7 representation. We can't open this up to an open
8 polity.

9 MR. LEWIS: Because we put flyers out
10 and we have voice mail on our -- you know, our
11 phone.

12 MS. CANNON: Well, my husband made the
13 call, so --

14 MS. RICHARDS: I simply wanted to say --

15 MR. LEWIS: I'm there just about every
16 day after 12:00.

17 MS. RICHARDS: -- about the procedural
18 and factual posture of this case, sir. This is the
19 hearing and the ANC and any other party is supposed
20 to sort of like come either prepared or have a
21 pretty good reason --

22 MR. LEWIS: Yes.

23 MS. RICHARDS: -- for not being able to
24 go forward. And, I guess, second, this case is
25 really more or less about creating a valid paper
26 record for what they're doing.

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1 They're not really increasing people.
2 So I guess we're particularly interested in hearing,
3 like, reactions or concerns about the community as
4 to vis a vis the operations of the center, you know.

5 But it's not as if they're increasing
6 kids and they need to get additional parking or
7 whatever, additional space. They've got the kids
8 and they need to, you know, clean up the paperwork.

9 So I guess, you know, how is it going
10 now? What's the history of the community with this
11 facility as you see it?

12 MS. CANNON: Me?

13 MS. RICHARDS: No, him.

14 MR. LEWIS: Oh, with me? We haven't had
15 any problems with this particular facility. We
16 haven't had any complaints. And so the only concern
17 we have is the space because we are having -- we're
18 having problems in the community with day care
19 centers and parking facilities.

20 A lot of the residents are complaining
21 about the morning traffic and having to get to work
22 and cars double-parked. But we haven't had any
23 problem with this particular facility.

24 MS. RICHARDS: Okay, thank you.

25 Are there persons who are appearing here
26 in support of the application?

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1 (No response.)

2 MS. RICHARDS: Are there persons
3 appearing here in opposition?

4 (No response.)

5 MS. RICHARDS: That would appear to kind
6 of conclude the record. Do you wish to make final
7 reports. You need not do so.

8 MS. CANNON: Well, Ms. Chairman, I am
9 hoping that you would give me the chance to operate
10 the facility as I have in a very successful way.
11 And the last one was for five years on the bottom
12 floor. And I'm hoping that you would at least give
13 me another 10 years to continue the good work that
14 we are all doing at Newcomb Day Care Center.

15 MS. RICHARDS: You want 10 years? Okay.
16 I'm sorry, go ahead.

17 MS. CANNON: I'm finished.

18 MS. RICHARDS: Board members, given our
19 statutory mandate to accord great weight to the ANC,
20 even though they are like a day late and a dollar
21 short, I'd be inclined to give them until -- some
22 time to put in a written report and confer and then
23 decide this in July?

24 MS. REID: All right.

25 MR. PARSONS: Uh-huh.

26 MS. RICHARDS: We'll do that. So that's

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1 what we'll do. We'll put this down for decision at
2 our July meeting. The ANC will have an opportunity
3 to address its concerns and its ultimate views in
4 writing to us and you will have a chance to respond.

5 MR. LEWIS: Thank you, Madam Chairman.

6 MS. REID: I have a question.

7 MS. RICHARDS: One second. Ms. Reid has
8 a question.

9 MS. REID: You were requesting approval
10 for 10 years?

11 MS. CANNON: Yes.

12 MS. REID: Okay. And the zoning office
13 recommended one year. So are you saying that you
14 want to -- you're recommending -- you're requesting
15 the one year until the expiration for next year, and
16 then 10 years after that, or nine years? Or is it
17 10 years altogether, one and nine? I'm not really
18 clear on that.

19 MS. CANNON: I'm just dealing with the
20 one today. I was just saying they gave me five
21 years on before and they said it expired.

22 But I think they were doing it based on
23 the fact that the one downstairs expires in one
24 year.

25 MS. REID: Exactly. That's what I'm
26 saying. In order for you to have just one C of O

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1 and for everything to be basically combined, then
2 the recommendation is that you receive approval for
3 one year. And then after that, the request would be
4 for how many years. Well, are you --

5 MS. CANNON: Does it have to be a
6 limitation placed on it?

7 MS. REID: Okay, well, let me just try
8 to summarize this. If you have approval for one
9 year today, I mean, this time your approval is for
10 one year. Then it expires next year. And then
11 after that you would want to have so many years,
12 right?

13 MS. CANNON: You're saying nine?

14 MS. REID: Yeah, yeah. So basically,
15 you are requesting this board one year and then when
16 you will then, what, make a request for the
17 additional year?

18 MS. RICHARDS: Do we need to hear from
19 Ms. Bailey on this point?

20 MS. BAILEY: It's pretty much as you've
21 stated, Ms. Reid. I don't see the point in
22 approving the second floor for 10 years when she has
23 to come back next year.

24 It seems to me that the logical thing to
25 do would be to combine everything into one: one
26 C of O, one order, one license.

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1 MS. REID: Do you understand that?
2 MS. CANNON: I understand it.
3 MS. REID: Is that what you want to do?
4 MR. LYONS: Madam Chair, if I could.
5 Ms. Cannon isn't licensing, looking for you to apply
6 for one --
7 MS. CANNON: No, they didn't --
8 MR. LYONS: -- one license or one
9 certificate of occupancy?
10 MS. CANNON: Well, the -- for the second
11 floor. For the second floor they want it combined
12 just like I have on the first floor, see.
13 But since it was did separately and now
14 here today testifying concerning this one, I was
15 just saying since they did it like five years for
16 downstairs, upstairs I won't deal with it again.
17 I'll just go basically to downstairs the next time.
18 MR. LYONS: So licensing is not asking
19 you to have one C of O?
20 MS. CANNON: They asked me to have,
21 yeah, for right now because it was two C of Other's.
22 They want it combined.
23 MS. RICHARDS: Well, to be honest with
24 you --
25 MR. LYONS: For one C of O?
26 MS. CANNON: For one C of O.

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1 MR. LYONS: Well, then --

2 MS. CANNON: For upstairs and one for
3 downstairs. But they didn't ask me to combine both
4 of them, but I could. I guess I could, because I do
5 have to come back, as Ms. Bailey said, in a year.

6 MR. LYONS: And that's the thrust of her
7 recommendation. Excuse me.

8 MS. CANNON: Yes. I understand it.

9 MS. RICHARDS: But, Ms. Cannon, your
10 license, which is attached to our report, members of
11 the board it is attached to the -- your license has
12 expired.

13 MS. CANNON: I understand that. But
14 they were waiting for the zoning to get that
15 straight first. She had given me the paper saying
16 everything had been approved, but she was concerned
17 about the zoning, the different occupancy license on
18 the second floor.

19 MS. RICHARDS: The mechanics of this --
20 you know, I don't see where she is prejudiced or our
21 procedure is prejudiced. If it is granted for a
22 longer time for this floor, then she could still
23 come back next year and get a single order to cover
24 all of them.

25 MS. CANNON: All of it.

26 MS. RICHARDS: And then the extant one

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1 that we're acting on now would sort of become a
2 nullity. But, you know, just a one-year approval
3 seems, I guess, a little, like, short, given the
4 vagaries of application fees --

5 MS. CANNON: Yes.

6 MS. RICHARDS: -- at times, and hearings
7 and whatnot.

8 MS. CANNON: Yes.

9 MS. RICHARDS: You know, you have to
10 spend a year looking over your shoulder.

11 MS. BAILEY: It's at the board's
12 discretion.

13 MS. RICHARDS: Okay. Well, why don't we
14 just take that up at our meeting and we'll bear all
15 that in mind, that you're asking for 10 years.
16 Okay.

17 MS. CANNON: Thank you.

18 MR. LYONS: Madam Chair, the board's
19 July meeting is July 2nd, which is two weeks away.

20 MS. RICHARDS: Uh-huh.

21 MR. LYONS: Can the ANC provide a report
22 in one week?

23 MR. LEWIS: Yes.

24 MR. LYONS: You can? Then the ANC's
25 report will be due June 24th. And that report must
26 be served on the applicant and the applicant has an

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1 opportunity to respond to that report by July 1st.

2 MR. LEWIS: Then you want us to prepare
3 the report by June 24th?

4 MR. LYONS: Yes, and submit it to the
5 board. And also served on the applicant the same
6 day.

7 MR. LEWIS: I don't think we can do
8 that.

9 MR. LYONS: That's what I wanted to
10 know.

11 MR. LEWIS: No, sir.

12 MS. RICHARDS: We've already got --

13 MR. LYONS: Special meeting.

14 MS. RICHARDS: -- special meeting on
15 that second --

16 MR. LYONS: The 16th.

17 MS. RICHARDS: Uh-huh.

18 MR. LYONS: Yes.

19 MS. RICHARDS: All right, let's do it
20 then.

21 MR. LYONS: Can you furnish the report
22 by July 3rd?

23 MR. LEWIS: Yes, sir.

24 MR. LYONS: Okay, the same July 3rd,
25 then submit it to the board, serve it on the
26 applicant. The applicant will have until July 10th

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1 to respond to that report. And on July 16th at 9:00
2 a.m., the board will hold a special public meeting
3 to consider a decision in the application.

4 MR. LEWIS: Now, you want me to prepare
5 the report, serve it to you, and give a copy to --

6 MR. LYONS: To the applicant the same
7 day.

8 MR. LEWIS: The applicant. And that's
9 by July 3rd.

10 MR. LYONS: That's correct.

11 MR. LEWIS: Yes, sir. Okay, I'd like to
12 also state that she has at present -- she has an
13 elected ANC representative now. She didn't at
14 first. So more than likely, that person will be
15 doing it.

16 MS. RICHARDS: Well, however the ANC --

17 MR. LEWIS: It will come from the
18 commission.

19 MS. RICHARDS: -- wishes to handle it.
20 We've given you the time. You know where she lives.
21 So we'll look for your report.

22 MR. LEWIS: Yes, Madam Chair.

23 MS. RICHARDS: Thank you.

24 MR. LEWIS: Thank you.

25 MR. LYONS: The next case is application
26 16255 of the District of Columbia Public Schools,

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1 pursuant to 11 DCMR 3108.1 for a special exception
2 under Section 212 to allow the erection of an
3 antenna other than commercial broadcast in an R5A
4 district at premises 2435 Alabama Avenue, S.E.,
5 Parcel 215 over 32.

6 All persons wishing to testify in this
7 application, please rise to take the oath.

8 Whereupon,

9 ALL WITNESSES

10 called for examination, having been first duly
11 sworn, were examined and testified as follows:

12 MR. LYONS: Please be seated.

13 MS. RICHARDS: Before the applicant
14 begins its presentation, could we see how many of
15 the persons who raised their hands are here in
16 opposition.

17 All right, you may proceed. Oh, I need
18 to mention that Mr. Parsons has to leave us
19 temporarily at 3:15 So, in the event we have not
20 concluded, we perforce will have to recess until he
21 becomes available to make up a quorum.

22 MR. DONOHUE: Madam Chair, Edward
23 Donohue from the law firm of Margolius, Mallios,
24 Davis, Rider and Tomar. For the board's scheduling
25 purposes, my expectation is approximately 20-minute
26 presentation.

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1 MS. RICHARDS: You have a 20-minute
2 presentation?

3 MR. DONOHUE: Yes, ma'am. I'm not aware
4 of any position by the ANC.

5 MS. RICHARDS: You mean just for your
6 case in chief?

7 MR. DONOHUE: Yes, ma'am.

8 MS. RICHARDS: Okay.

9 MR. DONOHUE: Madam Chair, members of
10 the board, Ed Donohue. With me this evening -- this
11 afternoon, is Mr. Chris Doherty, director of
12 external affairs for AT&T Wireless Services in the
13 Washington, D.C. and Baltimore market.

14 Also with us from AT&T is Mr. Hugh
15 Bailey, whose responsibilities for site acquisition
16 are D.C. and Baltimore and was responsible for
17 identifying the Garfield site.

18 On behalf of the schools, Ms. Robb,
19 Ms. Patricia Kilby-Robb, the vice principal of
20 Garfield, is with us. Also, Mrs. Thomasina Costly
21 (phonetic), who is the coordinator of the Title 1
22 program, and two of our special friends, Arlette
23 Thompson and Maurice Bryant, two of the students at
24 Garfield are with us today.

25 The project architect is Mr. Carlos
26 Ostria. He's here with us the afternoon. Also the

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1 consulting engineer, Mr. Alan Rosner.

2 Very briefly, as will be explained by
3 Mr. Doherty, this is an application for the
4 construction of a free-standing structure monopole,
5 the antennas and equipment cabinet, at the Garfield
6 Elementary School, which is located at 2435 Alabama
7 Avenue, S.E. near the intersection of Alabama Avenue
8 and Jasper Street.

9 Mr. Doherty will explain the uses
10 permitted by special exception in accordance with
11 section 3108.2, sections 212 and sections 2520. No
12 variances are requested or required.

13 Mr. Doherty will also explain that this
14 is the AT&T Wireless or PCS System, that the
15 facility that we're proposing for Garfield is an
16 unmanned facility, that it will be in compliance
17 with all federal and local guidelines.

18 Finally, Mr. Doherty will explain in
19 detail, as will Ms. Robb and her two students, the
20 relationship between AT&T and the school. It's a
21 very special one, and we look forward to the board's
22 hearing what we're proposing to do there.

23 MS. RICHARDS: Thank you.

24 MR. DONOHUE: Just for your purposes,
25 sort of mechanics, you have before you the affidavit
26 of posting?

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1 MS. RICHARDS: Yes.

2 MR. DONOHUE: In addition to the
3 posting, you should be aware that on May 21st we
4 conducted a community meeting at the school and the
5 school was the coordinator of that event.

6 And we had, of course, a large
7 representation from the student body. In addition,
8 they invited members of the community and council
9 member Allen, who did join us. And you have a
10 letter from her in support in the record.

11 There are a couple of clarifications on
12 the Office of Zoning report, but it may be
13 appropriate to handle it at that time. I've spoken
14 with Mr. Niyock (phonetic), who we have no problems
15 with the conditions or recommendations.

16 So perhaps we'd do that when it was he
17 gives his report.

18 MS. RICHARDS: That will be fine.

19 MR. DONOHUE: Finally, at the time the
20 prehearing statement was filed, we had a report from
21 the consulting engineers, Denny and Associates. It
22 was done for another site. It was very similar in
23 its application, but it is for a different site.

24 We have none. Now we've done one for
25 the site specific. I'd like to enter it at that
26 time -- at this time, and ask Mr. Rosner to explain

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1 if there are any differences in the report.

2 MS. RICHARDS: All right. Well, shall
3 we waive and let it be admitted?

4 All right, you may give it to the
5 secretary.

6 MR. DONOHUE: I will. If there are no
7 questions, I'll ask Mr. Doherty to begin.

8 MS. RICHARDS: All right.

9 MR. DOHERTY: Madam Chair, members of
10 the board, for the record, my name is Christopher
11 Dougherty and I am director of public affairs for
12 AT&T Wireless Services for the Baltimore-Washington
13 region.

14 AT&T Wireless is licensed by the FCC to
15 provide a new form of wireless communications to the
16 Washington-Baltimore major trading area, as defined
17 by the FCC.

18 We will be operating at 1900 megaHertz
19 and we expect to be offering commercial service to
20 the region later this year. In order to establish
21 our coverage, we need approximately 300 radio links
22 in order to provide wireless coverage both for
23 wireless mobility, people travelling to and from
24 places, as well as for people who are using our
25 technology in business and residential areas.

26 Specifically, in the District our

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1 objective is to provide seamless coverage to all
2 parts of the city. That requires that we place
3 approximately 38 radio links city-wide.

4 In 37 cases, because of some of the
5 unique architectural characteristics of the city,
6 we've been able to place our antennas on rooftops or
7 other additional structures which give us the height
8 that we need in order to provide seamless radio
9 coverage.

10 In the area immediately around Garfield
11 Elementary, we were able to secure sites to the
12 north at D.C. General Hospital and at Eastern Market
13 on rooftops, to the south and west at Saint
14 Elizabeth's and Southeast Community Hospital on
15 rooftops, and to the east, just over the Maryland
16 line on two different apartment complexes in Prince
17 George's County.

18 We were unable to find an existing
19 structure that had the height we needed to reach our
20 coverage objective of Suitland Parkway and Alabama
21 Avenue and the residences in that immediate
22 proximity, so we began to conduct an analysis of the
23 immediate area to provide an appropriate property to
24 propose for a radio link that we would actually
25 construct to give us the height that we would need
26 for the antennas to cover those areas.

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1 During our analysis, we noted that the
2 neighborhood has mixed uses of institutional, retail
3 and residential nature.

4 Specifically, we evaluated the Seventh
5 District Police Station, Engine Company No. 32 for
6 the fire --

7 MS. RICHARDS: You can condense that
8 part of it and deal with where we are now.

9 MR. DOHERTY: Sure. We looked at also
10 two elementary schools and one junior high school.
11 And this is one of the two elementary schools that
12 we had evaluated for the appropriateness of a radio
13 link.

14 None of the structures, as I mentioned,
15 had the height that we needed, which was
16 approximately 80 feet in order to reach that
17 coverage objective.

18 Therefore, we moved forward with a
19 proposal for Garfield Elementary School and that
20 site is desirable to us for several reasons. One,
21 it's a institutional property in nature and the
22 revenue would be derived by the D.C. Public School
23 System.

24 Two, it's an unmanned facility so there
25 would be no traffic impact by our presence. The
26 third was that it was a 2-1/2 acre lot, so we

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1 wouldn't require any variances.

2 The site wouldn't give off any odor or
3 noise, by its nature as a radio facility. As a
4 report that we just put into the record, we'll state
5 that there are no harmful emissions from the
6 facility of radio waves.

7 We were able to find a spot on the
8 property that wouldn't interfere with either the
9 recreational or educational or parking functions of
10 the facility, i.e., the pole is right up in a nook
11 that was unused previously.

12 And this past winter, we began to work
13 with the school to identify ways in which our
14 company's technology could provide specific benefits
15 to the school and the community around in the areas
16 of computing, Internet access and wireless
17 technology, both to enhance the educational mission,
18 as well as the physical security of the school.

19 As Mr. Donohue mentioned, we held a
20 meeting in May with the students, faculty,
21 administration, community members, and council
22 member Allen, where we explained the technology we
23 were proposing.

24 We fielded questions and provided
25 answers about our specific proposal for the
26 facility, and we went into some detail on the

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1 partnership in technology that we are seeking to
2 establish with Garfield Elementary.

3 One of our major considerations before
4 you today is that in order to construct our
5 facility, and one of the concerns from the community
6 that we responded to, was our construction time
7 schedule coinciding with the school recess for the
8 summer time so that we could be finished the
9 construction phase of the project prior to the start
10 of the school year.

11 And I'll let Ms. Robb go into more
12 detail about what we spoke with the school about.

13 MS. RICHARDS: Thank you.

14 MR. DOHERTY: Thank you.

15 MS. KILBY-ROSS: Good afternoon, Madam
16 Chair and to the Zoning Board members. On behalf of
17 Dr. James Peel, principal, the local school
18 restructuring team, teachers, staff, parents and
19 students, I present to you some support, or support
20 for this program.

21 I am Patricia Kilby-Robb, the assistant
22 principal. And the reason I started to say some
23 support is because I have two students from
24 Garfield, and together we make up a team.

25 So just representing administration and
26 teachers and staff is not enough. We are unified at

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1 Garfield. And when we had the session on May 21st,
2 our students asked the most questions.

3 And the questions were answered. So
4 they are here today to let you know what their needs
5 are.

6 MS. RICHARDS: Thank you.

7 MS. KILBY-ROSS: The students at
8 Garfield will reap maximum benefits in the area of
9 technology with the partnership with AT&T Wireless
10 Services.

11 We are looking at moving into the 21st
12 century and I would just like to read the vision for
13 Garfield Elementary School.

14 The Garfield Elementary School will
15 become a leading provider of instruction and
16 services for elementary grade students,
17 significantly contribute to the field of education
18 through the development of innovative curriculum
19 concepts, create instructional techniques and
20 strategies, and collaborative educational
21 partnerships and prepare our students for the 21st
22 century by incorporating state-of-the-art technology
23 into all phases of curriculum.

24 As a formal partner with AT&T Wireless
25 Services, we will move into the 21st century with
26 our plan.

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1 We would like to open up three computer
2 labs at Garfield: math, science and technology, a
3 computer-assisted lab dealing with Title 1.

4 Ms. Costly, our coordinator is in the audience, and
5 we would like to have our students enhance their
6 reading and mathematics skills through a success
7 master program or the Josten's learning program.

8 This is all to increase academic skills.
9 We have also proposed a third lab, and that third
10 lab is called our multimedia research and literacy
11 center.

12 And we would like for our children to
13 use the Internet to research various topics and be
14 able to create camera-ready copy reports from using
15 the multimedia technology that we are requesting
16 from AT&T.

17 And the reason I say requesting is this.
18 When they come into our school, they will become a
19 part of the Garfield family, and as such we will ask
20 them at any time to support any of our needs.

21 Because our motto is children first.
22 And therefore we will ask on behalf of our children.
23 So we deem that this effort is a win-win situation,
24 not only for our students but for our teachers.

25 We are proposing that we have a wireless
26 telephone in every classroom. And for our parents

1 we would like training and information about future
2 employment prospects.

3 So we're looking at the total family of
4 parents, students and teachers. And in emergency
5 situations, we will be able to contact the families
6 of our students at any time.

7 So we are thoroughly excited about
8 becoming the technology center, the
9 telecommunications center in southeast Washington.
10 Now today I would like for Maurice Bryant to tell
11 you what his needs are.

12 MR. BRYANT: Good afternoon. My name is
13 Maurice Bryant. I am here to speak on behalf of the
14 lower grade students at Garfield Elementary School.

15 I just want you to know -- I just want
16 you to -- I just want to let you know that it is
17 very important for us, the students in grades K
18 through 3 to have up-to-date computers for our use.

19 We are hoping that AT&T will be able to
20 help us improve our computer program. We want to
21 improve our ability to use computers and understand
22 how computers work.

23 This will support our future education
24 and our careers beyond the year 2000. We need the
25 help of AT&T to make our school the best in the
26 city.

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1 Thank you.

2 MS. RICHARDS: Thank you very much. We
3 may have questions for you. And now we'll hear from
4 the young lady.

5 MS. THOMPSON: Good afternoon. My names
6 is Arlette Thompson. I am a fifth grade student at
7 James A. Garfield Elementary School, located in the
8 southeast section of Washington, D.C.

9 I appreciate this opportunity to speak
10 to you on behalf of my fellow schoolmates about the
11 importance of improving and upgrading technology in
12 our school.

13 As we approach the 21st century, it is
14 important for students on all grade levels to
15 develop knowledge and skills that would allow us to
16 effectively use computers to improve learning and
17 prepare us for the future.

18 In order to accomplish this goal,
19 schools must be equipped with modern, multimedia
20 computers and educational software packages.
21 Students must have access to on-line services and
22 classrooms connected to the Information
23 Superhighway.

24 At Garfield School, students are using
25 the computers that are available. However, many of
26 them are old and outdated.

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1 For example, the computer system in the
2 computer-assisted instruction lab is 10 years old.
3 Equipment in the math-science technology lab is
4 approximately seven years old.

5 The multimedia center has only nine
6 fairly up-to-date computers for a student population
7 of 610. Computers in many of the classrooms need to
8 be upgraded in order to use current software, and
9 printers are few in number.

10 As you can see, there is a lot that is
11 needed in our school to be more in line with current
12 technology.

13 We have been fortunate in that the
14 community has been helpful in the efforts of our
15 principal to improve technology at our school.

16 As we are aware of the financial
17 problems of the school system, therefore, outside
18 help is needed and always welcome.

19 Thanks to the planned partnership with
20 AT&T Wireless Services, many of our needs in the
21 area of computer technology will be met. My fellow
22 students and I are excited about the first-class
23 technology program being provided by AT&T.

24 This is a true example of the community
25 playing an active role in our education. As we
26 leave school for our summer vacation, we leave with

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1 the hope that when we return for the new school year
2 we will find that Garfield School is ready to
3 prepare its students for the 21st century with a new
4 and improved technology program and a new
5 partnership in education: AT&T.

6 Thank you.

7 MS. RICHARDS: Thank you. Before you go
8 to your next witness, let me see if board members
9 have any questions of this panel.

10 Mr. Parsons?

11 MR. PARSONS: I just wanted to ask about
12 the location on the property. In looking at the
13 Exhibit C, it shows a large parcel of land somewhere
14 in the playgrounds and so forth, why you wanted to
15 locate it this close to the school, as opposed to
16 elsewhere on the grounds.

17 MS. KILBY-ROSS: The area, the proposed
18 area, is right behind the school. And it's almost
19 isolated because the children -- the playground is
20 in front of the school and this is in back.

21 So it's right on the side of the parking
22 lot. Do you have the pictures to see?

23 MR. PARSONS: Yes. Uh-huh.

24 MS. KILBY-ROSS: Okay.

25 MR. PARSONS: Okay, so there isn't an
26 appropriate location somewhere away from the school?

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1 MS. KILBY-ROSS: Well, this is a good
2 location for the security.

3 MR. PARSONS: Are you aware the staff is
4 recommending -- our staff is recommending a chain
5 link fence be placed around the base of the pole.
6 Do you have any objection to that?

7 MS. KILBY-ROSS: No. We would like
8 that.

9 MR. PARSONS: I was going to recommend
10 maybe something a little more esthetic than chain
11 link.

12 MS. KILBY-ROSS: Okay.

13 MR. PARSONS: But is chain link of
14 some --

15 MR. DONOHUE: It was chain link back
16 there in the entire parking area. It's chain link
17 fence.

18 MR. PARSONS: Yes. I wasn't going to
19 suggest you redo the parking lot.

20 MS. KILBY-ROSS: Well, that would be
21 fine. That would be fine.

22 MR. PARSONS: All right.

23 MS. KILBY-ROSS: But we wanted to make
24 sure that it was appropriate, so the director of
25 safety came to Garfield and he checked the fence
26 out. And he said that the chain link fence would be

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1 quite appropriate.

2 It's a little higher than what we have
3 now. We have 8 feet in some areas and 10 feet. And
4 he said a 10-foot would be the most appropriate
5 fence. But now, a new fence, we would love it.

6 MR. PARSONS: Okay. thank you.

7 MS. RICHARDS: Ms. Reid.

8 MS. REID: I have no questions. I have
9 a comment. I'd like to commend the two students for
10 your most educational and informative presentation.
11 You did a very good job.

12 MS. THOMPSON: Thank you.

13 MS. KILBY-ROSS: And you see that's why
14 I said with the students it's 100 percent. Thank
15 you.

16 MS. RICHARDS: I had a question for the
17 young man. Some people think that antennas put out
18 radio waves that can hurt your health. Is this a
19 concern of yours?

20 MS. REID: What's his name?

21 MS. RICHARDS: Maurice.

22 MS. KILBY-ROSS: Maurice, she's asking a
23 question.

24 MR. BRYANT: Huh?

25 MS. RICHARDS: Some people think that
26 antennas put out radio waves that can hurt your

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1 health. Is this a concern of yours?

2 MR. BRYANT: I think.

3 MS. RICHARDS: Okay.

4 MR. DONOHUE: I think he wants to defer
5 to the next witness.

6 MS. RICHARDS: Defer to the next
7 witness. Do you want to --

8 MS. KILBY-ROSS: We did discuss that.
9 The children asked questions about health issues and
10 they seemed very satisfied with the responses that
11 they were given from AT&T.

12 MS. RICHARDS: Okay. And separate
13 question for Ms. Thompson. Are you satisfied that
14 the amenities package the school is receiving is
15 adequate for what -- you know, what it's giving up?
16 Is the price right?

17 MS. THOMPSON: Yes, I think the price is
18 perfect because a lot of kids don't get the
19 opportunity to do stuff like that in their schools.
20 And some don't even learn at home. So I think it's
21 perfect for our school.

22 MS. RICHARDS: It's enough. Okay, so
23 the school's had sufficient advice on the health,
24 from what you've said, and independent advice and in
25 negotiating you're satisfied with what you've
26 negotiated.

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1 MS. KILBY-ROSS: Yes.

2 MS. RICHARDS: Good. Next witness.

3 MR. DONOHUE: Thank you, Ms. Robb,
4 Arlette and Maurice. I'm going to ask Mr. Ostria to
5 pull up a site plan, copies of which have been filed
6 with you.

7 MS. RICHARDS: All right.

8 MR. DONOHUE: And just go over the
9 nature of the site and how it relates to the
10 programmatic. Probably, Mr. Parsons, responsive to
11 your question, this is probably the best location in
12 that we are not taking away any parking, green
13 space, or recreational space.

14 It's literally a nook in the rear of the
15 school building. It's almost unusable.

16 Carlos, I hope I didn't steal your best
17 line.

18 MR. OSTRIA: No, no, no. That's quite
19 all right. My name is Carlos Ostria. I'm a
20 registered professional engineer in the District of
21 Columbia, work with KCI Technologies on behalf of
22 AT&T on this particular property.

23 In essence, we are placing -- or we are
24 planning on placing a facility at the rear of the
25 building. We are not going to take any parking
26 spaces or any paved area.

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1 It will be a minimal disruption or no
2 disruption at all to the everyday function of the
3 school. The nook that we've talked about is
4 approximately 24 feet by 36 feet wide.

5 We're planning on fencing that area with
6 10-foot high chain link fence. Within that
7 compound, there is an existing concrete shed as you
8 face the rear of the building.

9 The facility in essence will consist of
10 a 12 x 20 concrete pad that will support the
11 equipment cabinet, as well as adjacent to that will
12 be an 80-foot high monopole.

13 The monopole is a steel pole, 42 inches
14 in diameter at the base. I think that was in -- the
15 report was in error -- and tapers to 18 inches at
16 the top. It's premanufactured and gets assembled at
17 the site and it sits on a concrete caisson anywhere
18 from five to six foot in diameter.

19 The caisson goes into the ground. In
20 essence, that's the foundation for the pole. At the
21 top of the monopole, antennas will be placed.

22 The antennas are 54 inches tall by
23 6 inches wide and about 2-1/2 inches deep. And in
24 essence, the report was also in error regarding the
25 size of the antennas.

26 Construction should take approximately

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1 three weeks from beginning to end. It could
2 possibly go a little longer, but the time to put up
3 a facility is fairly short.

4 And I guess it's the hope or the intent
5 to do this during the summer with no disruption
6 during the school year.

7 MS. RICHARDS: Questions?

8 Have you considered whether or not
9 there's going to be any effect on, like, light and
10 air because the antenna panels are, like, 54 inches
11 tall, even though ours is going to be just sort of
12 like so far away that it's not going to affect the
13 school?

14 MR. OSTRIA: It won't affect the school.
15 The antennas are at the top of the pole.

16 MS. RICHARDS: Okay.

17 MR. OSTRIA: It's above the height of
18 the highest point in the school.

19 MS. RICHARDS: Have you shown any school
20 representatives what an 80-foot pole looks like?
21 Have you toured any of your other facilities?

22 MR. DONOHUE: Why don't you explain to
23 the chair the nature of the computer-generated
24 photographs, which is actually site-specific, and
25 how it relates to the school.

26 MR. OSTRIA: The computer-generated, I

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1 think they are part of the record. In essence,
2 what's been done, we've taken the height of the
3 pole, the height of -- you know, an actual
4 photograph of the rear of the school, the front of
5 the school, et cetera, and superimposed a monopole
6 of the appropriate height to the appropriate scale
7 of what the photographs, you know, were taken.

8 MR. DONOHUE: And in the prehearing
9 statement.

10 MR. OSTRIA: And that, in essence, gives
11 you --

12 MS. RICHARDS: This one? Okay.

13 MR. DONOHUE: And the relationship to
14 the height of the pole vis a vis the height of the
15 school.

16 MR. OSTRIA: The height of the school at
17 its tallest point is 60 feet and the pole will only
18 protrude another 20 feet above that. From the front
19 of the school, if you're from Alabama Avenue, you
20 would only see 20 feet of the pole, if any, at
21 street level.

22 MS. RICHARDS: Okay.

23 MR. PARSONS: I don't know if this is
24 the right witness. Is there any potential that a
25 taller pole would be required in the future, or is
26 this it?

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1 MR. DONOHUE: Typically, the question
2 is: Why can't you reduce the height of the pole?
3 That's why I'm smiling. We're not envisioning
4 asking for any increase in height.

5 MR. PARSONS: Is there any possibility?

6 MR. DONOHUE: The caveat would be if the
7 public schools were to say, "We need a facility up
8 there." Or if, for example, the D.C. government
9 were to require an extension for its facilities.
10 We're not envisioning that at this time.

11 MR. PARSONS: Any possibility you might
12 have to share this facility with another carrier?

13 MR. DONOHUE: We have not been asked to
14 share the facility with any other carrier. We don't
15 even know of any other carrier who's interested.

16 MR. PARSONS: If you were asked, do you
17 have an obligation to accommodate them?

18 MR. DONOHUE: Yes. Typically, when we
19 do that, we ask that the second carrier come in at a
20 height somewhat below ours, typically 10 to 15 feet,
21 so they would be down at around the 70-foot height.

22 MR. PARSONS: On the same pole?

23 MR. DONOHUE: Yes, sir.

24 MS. RICHARDS: How far down do you go
25 from the top before it doesn't work anymore?

26 MR. DONOHUE: It really depends on the

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1 nature of the carrier's service and the adjacency of
2 their site. In other words, for example, if it's
3 somewhat typically they're at a much greater height
4 than us.

5 But they may, for this particular site,
6 be agreeable to a 70-foot height because it works in
7 relation with their grid. I'm not aware of a need
8 for any of the other carriers. We've not been
9 approached by any of them.

10 MS. RICHARDS: But, I mean, generally,
11 an antenna has to be a certain minimum height off
12 the ground. That's --

13 MR. DONOHUE: It's really dependent upon
14 the surrounding topography and the adjacent sites,
15 the distance from their next hookup. So it's hard
16 to say.

17 MR. OSTRIA: It varies from carrier to
18 carrier.

19 MR. DONOHUE: Our heights are typically
20 in the 80- up to 150-foot height.

21 MS. RICHARDS: Okay.

22 MR. DONOHUE: This is the lowest, just
23 so they were proposing in the entire market,
24 actually.

25 MS. RICHARDS: I have no further
26 questions.

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1 MR. PARSONS: I just want to make the
2 point that I think we ought to restrict this to one
3 carrier. But that's for a decision later. I think
4 if we started stringing -- just looking at the
5 stipulation -- started stringing antennas down this
6 pole, my instinct is to make it so low that nobody
7 else could use it.

8 But you're at an 80-foot height because
9 of your frequencies and lowering it wouldn't serve
10 your purposes. You're saying somebody else might
11 need it or may desire something at the 70- or 65-
12 foot height.

13 So we could have something we're not
14 seeing in this picture if we don't restrict it
15 somehow.

16 MS. RICHARDS: I think that raises an
17 interesting prospect. And, yeah, I'd like to talk
18 about that at the -- I guess maybe, I guess it
19 really raises issues.

20 Do you know offhand whether any such
21 proposal would be preempted by the federal
22 regulation?

23 MR. DONOHUE: Would your conditioning
24 this approval on a single carrier --

25 MS. RICHARDS: Right.

26 MR. DONOHUE: -- run you afoul of the

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1 Telecom Act? Is that --

2 MS. RICHARDS: Yeah, or any federal
3 preemption statute. I mean, we might do it anyway
4 and take the risk, but do you know of any?

5 MR. DONOHUE: We have obtained other
6 approvals in a number of other markets that are --
7 in some cases they're requiring that there be two
8 carriers or three carriers.

9 And the reverse is also true. It's been
10 limited to no more than two, that kind of thing.

11 MS. RICHARDS: So there's like global --

12 MR. DONOHUE: Yeah.

13 MS. RICHARDS: Okay, thanks. Go ahead
14 with your panel.

15 MR. PARSONS: May I just interrupt, ask
16 Mr. Doherty something that I had forgotten,
17 actually.

18 MR. DOHERTY: We actually notify all the
19 other carriers who have FCC licenses when we intend
20 to construct a new structure, and they do the same
21 for us.

22 And so, we've had no interest from our
23 competitors. Typically, we'd propose a multicarrier
24 pole if we knew there were other interests in there.

25 MS. REID: Just for -- speak to us about
26 how -- I know that it was in your report. You had

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1 an analysis of the exposure issue in regards to the
2 children.

3 Can you speak to that as far as what
4 precautions you've taken or what -- any concerns
5 that you feel would be generated from the community
6 to basically defuse any, you know, basically any of
7 the concerns.

8 Because that's always an issue when you
9 talk about antennas and you talk about --

10 MR. DONOHUE: Sure.

11 MS. REID: -- radio waves and the like.

12 MR. DONOHUE: Our next witness, who is
13 Alan Rosner from Denny and Associates --

14 MS. REID: Okay, good.

15 MR. DONOHUE: -- will speak to that and
16 actually --

17 MS. REID: That's what I want to hear.
18 Thank you.

19 MR. ROSNER: Good afternoon. My name is
20 Alan Rosner. I am with the firm of Denny and
21 Associates, P.C. We are a consulting engineering
22 firm located here in Washington, D.C.

23 I am a registered professional engineer
24 here in the District of Columbia. The report you
25 have in front of you was prepared by Robert W.
26 Denny, the president of our firm, also a registered

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1 professional engineer.

2 His schedule has prevented him from
3 being here today, so I'm here to testify in his
4 absence. The report that you should have in front
5 of you is a site-specific evaluation of this
6 proposed facility.

7 And it compares it with existing federal
8 guidelines on human exposure that were adopted by
9 the Federal Communications Commission last year.

10 If you want the quick summary of the
11 results or engineering study, if you turn to Figures
12 1 and 2, which are the last two pages of the report,
13 there are two tabulations.

14 And we've done two calculations here.
15 One is at the base of this monopole, which would be
16 the closest point that really someone could come
17 before actually climbing the pole.

18 And the second point assumes that
19 someone is standing on top of the roof of the
20 building -- an unlikely situation. But again, there
21 would be a scenario there where they could get
22 within I think what was estimated here, 14 feet of
23 the antennas.

24 Under the condition where they're
25 standing on the ground at the base of the antenna,
26 the exposure is less -- is on the order of .15

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1 percent of the maximum that's permitted by the FCC.

2 And for the case where an individual is
3 assumed to be standing on the roof of the building,
4 it's on the order of 4 percent of the maximum that's
5 permitted. So you can see that the exposure levels
6 are typically quite low.

7 Going to a little background on what
8 those maximum permitted exposures are and how they
9 were arrived at, the FCC was mandated by part of the
10 Telecommunications Act to revise its exposure rules.

11 And as part of that docket case and
12 revising those rules, they looked at two well-known
13 nationally-recognized exposure standards.

14 One was developed by the IEEE and was
15 adopted by the American National Standards Institute
16 and has been recognized as a national standard. The
17 second was developed by the National Council on
18 Radiation Protection, NCRP.

19 The commission adopted essentially a
20 hybrid of these two standards, adopting the most
21 restrictive exposure standard.

22 The exposure standard sets up two
23 exposure criterias, one being occupational exposure
24 and the second being general public or general
25 population exposure.

26 The latter is approximately five times

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1 more restrictive than the occupational exposure and
2 that is the criteria that we've applied here today,
3 the general population or general public exposure.

4 So, to go back over, those guidelines
5 have been adopted or federal guidelines have been
6 adopted by the FCC and as illustrated in the
7 Telecommunications Act, the facility complies with
8 those federal guidelines.

9 And it's -- I guess could be described
10 as being well within compliance at exposure levels
11 that are predicted to be extremely low. And there's
12 a couple reasons to provide you with a sense of
13 assurance as to why the exposure levels are so low.

14 This goes back to how the antennas are
15 designed and what the site is designed to do. The
16 site is designed to communicate with hand-held
17 wireless phones within a given radius of the site.

18 The objective is to get most of the
19 energy out toward the horizon or the far edge of
20 that site. As a result, the antennas that they put
21 up on this monopole direct most of their energy
22 straight out in the horizontal direction and very,
23 very little of it straight towards the ground.

24 If someone were standing on the ground
25 near the base of the antenna, they are only about 80
26 feet away from the antenna, so very, very little

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1 energy is needed to communicate with a wireless set
2 near the base of the antenna.

3 But more energy is needed to communicate
4 with a wireless set that might be on the order of a
5 mile or two away at the far edge of the service area
6 for that site.

7 And that is why the antennas are
8 designed to concentrate all of that energy, or as
9 much of it as possible, in a horizontal direction.
10 The result is that very, very little energy is
11 directed downwards towards the school or the grounds
12 in the vicinity of the school.

13 And actually, it's typically on the
14 order of 1/100th of the energy that is directed out
15 in the horizontal is directed towards the ground.
16 In the case it would be towards the grounds of the
17 school or the school building itself.

18 So, typically, when asked to come up
19 with an analogy to describe what this type of
20 facility is like, I tell people to think a little
21 bit about a lighthouse.

22 A lighthouse, you can stand at the base
23 of it and look up and tell that the light is on.
24 But it's not blinding for you if you're standing at
25 the base of a lighthouse.

26 However, if you're the same distance out

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1 horizontally from the lighthouse, you'd have a
2 difficult problem looking at it, because a
3 lighthouse uses a specific lens to control where the
4 light goes.

5 A lighthouse needs to have its light
6 directed towards the horizon so ships can see it.
7 And in a similar fashion, this is how these
8 facilities work here as well.

9 MS. RICHARDS: Okay, we're going to have
10 to go into recess now. So when we resume, we'll be
11 asking you questions and we'll stand in recess.

12 What else do you have in your case?

13 MR. DONOHUE: We have no further
14 witnesses.

15 MS. RICHARDS: This is your final
16 witness?

17 MR. DONOHUE: Yes, ma'am.

18 MS. RICHARDS: Okay. Mr. Parsons had no
19 questions of you, but why don't you stick around
20 anyway for a while, because something may come up
21 that requires your expertise.

22 So people are free to get Cokes, go
23 downstairs. Sorry, but sometimes it happens. He
24 estimated that his call might last about 20 minutes
25 or so, so if you start filtering back in 20 to 25
26 minutes, that might be okay.

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1 (Whereupon a recess was taken.)

2 MS. RICHARDS: I guess -- does anyone

3 have any questions of Mr. Rosner? I know

4 Mr. Parsons did not.

5 MS. REID: I do.

6 MS. RICHARDS: Mr. Rosner, come right

7 up.

8 MS. REID: No, Mr. Rosner is --

9 MR. DONOHUE: He's the engineer.

10 MS. RICHARDS: The gentleman, the

11 technical person.

12 MS. REID: No, not necessarily --

13 MR. DONOHUE: The architect?

14 MS. REID: Before you.

15 MS. RICHARDS: Before whom?

16 MS. REID: What's his name?

17 MS. RICHARDS: He's the attorney.

18 MR. DONOHUE: My name is Donohue.

19 MS. REID: Sorry? Your name again?

20 MR. DONOHUE: Donohue, Ed Donohue.

21 MS. REID: Yes, for Ed Donohue.

22 MR. DONOHUE: Yes, ma'am?

23 MS. REID: What I'd like to know is,

24 what was it that caused you to select this

25 particular site as Garfield School? What was the

26 criterion that you utilized to make your selection?

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1 Or the applicant, if you can speak for the
2 applicant.

3 MR. DONOHUE: If you don't mind, okay.
4 What we do when we begin to establish what we --
5 establish the need for site, obviously, we want to
6 cover the entire area.

7 So we begin, and in this case we
8 identified a number of structures where we were able
9 to locate on rooftops. And Mr. Doherty explained to
10 you, for example, Saint Elizabeth's Hospital, a
11 couple of the apartment buildings east of the site,
12 et cetera.

13 When you develop the grid in that
14 respect, we covered 37 of the 38 sites in the
15 District on existing structures, thereby not
16 requiring us to come in for monopole.

17 We came to this vicinity and said could
18 we find the structure that would accommodate the
19 height that we needed, and also fit within the grid.
20 When we found that there were no structures that
21 would accommodate us, we began saying if we're going
22 to be in an area like this, what's a use? Where
23 could we be compatible?

24 In other words, it's an R5A zone. Our
25 preference would be into a use that is perhaps
26 institutional. We began looking at Garfield. It

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1 obviously -- it sits in a nice geographic location
2 for us.

3 We looked at the size of the site, the
4 institutional nature of the site, and then we were
5 able to work with the school to develop the
6 partnership that Ms. Robb explained to you.

7 MS. REID: Okay. And --

8 MR. DONOHUE: We began -- just by
9 clarification, we actually looked at the school
10 first as a rooftop location. It is a 60-foot
11 structure, and we thought perhaps we were going to
12 be able to go on the roof.

13 Unfortunately, two things. One it is
14 only 60 feet and that was just below where we needed
15 to be. In addition, that height, that 60-foot
16 height is a pitched roof, and it's also a slate
17 roof.

18 So we began thinking about, it's about
19 an 80 or so year-old structure going on a rooftop,
20 on a pitched rooftop. It just wasn't going to work
21 for us.

22 So our last resort, which truly is the
23 case when we have to propose a new structure, is to
24 come in with -- for the monopole. And that's where
25 we are here today.

26 MS. REID: Okay. And my last question

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1 is: Is it common to put these antennas at school
2 sites?

3 MR. DONOHUE: In many cases it is.

4 MS. REID: Just give me an example of
5 how many schools in this area have accommodated
6 that?

7 MR. DONOHUE: In the District of
8 Columbia, this is the second school. In Fairfax
9 County it's actually a priority of the county to
10 look at public lands, including schools.

11 And we have four, and soon to be five
12 schools where we're going to be doing some sort of a
13 location, whether it's an athletic standard, a
14 rooftop, or something along those lines.

15 The surrounding jurisdictions are a
16 little more proactive in saying if you're going to
17 be coming into the community and you're going to be
18 proposing a facility like this, make it on county-
19 owned, make it on municipal-owned property in order
20 that things like this can be realized. So it is in
21 many cases on schools and on parks.

22 MS. REID: So it's fairly common --

23 MR. DONOHUE: Yes, ma'am.

24 MS. REID: -- to have it on the school
25 site. Okay, I have no more questions.

26 MS. RICHARDS: Okay. I guess that takes

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1 us -- you're finished, right?

2 MR. DONOHUE: Yes, ma'am.

3 MS. RICHARDS: To the Office of
4 Planning, Office of Zoning.

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1 MR. NYARKU: Good afternoon, Madam
2 Chairperson and members of the board. My name is
3 John Nyarku, a zoning specialist at the office of
4 zoning.

5 Before you is application No. 16255.
6 requesting a special exception on the section 212 of
7 the general regulations concerning the construction
8 of an antenna on the grounds of a school.

9 Before we go into it, I would like to
10 make little corrections on the dimensions of the --
11 put forth on the announcement on page 2, line 4.
12 Line 4, the project announces a description of
13 measurement 42 inches at base, not 10 feet.

14 And line 6, they were to really ship
15 antennae each measuring 30 inches high, 5 inches
16 wide and 5 inch deep -- vertical, thank you for
17 that.

18 The special exception request
19 this application must comply, as I say with section
20 212 and also observe that the applicant has complied
21 with the requirements of the section

22 The Office of Zoning is of the opinion
23 that a special exception in this case will not
24 substantially impair the intent and the integrity of
25 the zoning regulations on the map. Accordingly, we
26 are recommending approval of this application
27 subject to the conditions enumerated in the report.
28 This really concludes the report and I will be glad

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1 to answer questions that you may have.

2

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1 MS. RICHARDS: Any questions for
2 Mr. Nyarku?

3 (No response.)

4 MS. RICHARDS: You asked pertaining to
5 the length of the lease.

6 MR. NYARKU: For three years, three
7 years.

8 MS. RICHARDS: And what happens if
9 this came up in your research to uphold that the end
10 of their lease term -- is that the end of the useful
11 life?

12 MR. NYARKU: Yes I'll check, with
13 antennae not of this nature, but similar to that
14 with a reasonable amount of time.

15 MS. RICHARDS: Do you have any questions
16 of him?

17 MR. DONOHUE: I guess just by
18 clarification so that the board is absolutely clear
19 that a number of antennas, there are three antennas
20 per side.

21 And it's a three-side configuration.
22 The total then is nine. And I forgot to go over
23 that with Mr. Nyarku. But otherwise, the dimensions
24 are correct and we have no problems.

25 MS. RICHARDS: I guess if there are no
26 further questions, we go to the ANC. Is there an
27 ANC representative here?

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1 All right, I didn't see an ANC report in
2 my package. I did -- that takes us to persons in
3 support. We've heard considerable community
4 support. There's a letter in support from the
5 Ward 8 council member.

6 Are there other persons in support who
7 wish to be heard? None.

8 Are there persons in opposition?
9 Someone may have come in or have changed their mind.

10 That concludes the hearing on this
11 matter. Do you care to make a concluding statement?

12 MR. DONOHUE: May I, very briefly?

13 MS. RICHARDS: Yes.

14 MR. DONOHUE: Madam Chair, members of
15 the board, thank you very much for the opportunity
16 to participate this afternoon. I have taken a good
17 deal of your time.

18 We believe we have satisfied the burden
19 of proof imposed by Section 3108.1, 212, and 2520 of
20 the zoning regulations, specifically that the
21 proposed facility will be in harmony with the
22 general purpose and intent of the zoning regulations
23 and maps, and will not tend to affect adversely the
24 use of neighboring property.

25 You have heard from the applicant and
26 the very eloquent representatives from Garfield

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1 Elementary describe the commitments made in
2 connection with this application.

3 And with all due respect, we would like
4 to urge you to proceed with all due diligence in
5 order that these things can go forward during the
6 summer recess, both the construction and the
7 commitments to the school.

8 MS. RICHARDS: Well, it's either a very
9 good project or you've beaten everyone into
10 submission.

11 MR. DONOHUE: Thank you, I think.

12 MS. RICHARDS: Let's see. Why don't we
13 do this at our July meeting. And the reason -- I
14 guess the reason I want to do it at the July meeting
15 instead of now is, I would like to ask the applicant
16 to prepare a draft order with findings and facts
17 that we can vote upon at that meeting.

18 I don't want to necessarily do a summary
19 order on this because I think we need to perhaps
20 make a record of this kind of proceeding, since
21 these sorts of antennas are still relatively new.

22 MR. PARSONS: Oh, I think that's a good
23 point. Is there any way we can give an indication
24 of a favorable decision today?

25 MS. RICHARDS: Let's see. I guess that
26 what we can say is that we make our decisions based

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1 on the weight of the evidence and the scale seems to
2 be tilted.

3 MS. REID: Could we then request that
4 they do it to a draft order?

5 MS. RICHARDS: Yes. Would you do a
6 draft order?

7 MS. REID: As a part of the decision.

8 MR. DONOHUE: I took the liberty of
9 preparing a draft order, but I did prepare a summary
10 order. And the reason, time is fleeting. In order
11 for us to get a draft order to you for you to go
12 through the findings, be comfortable, and for staff
13 that should issue it, we won't be able to pull a
14 building permit until mid summer.

15 MS. RICHARDS: This is for July. If you
16 give us a draft order in the next couple of weeks,
17 we can like vote on the order on July 2nd, and that
18 will be the order.

19 That's one of the new things, I guess
20 techniques we've been undertaking to try to speed
21 up.

22 MR. DONOHUE: I appreciate that. I
23 guess my concern is that after the board is through,
24 we then have to go and get the order actually
25 issued.

26 MS. RICHARDS: No, that's --

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1 MR. DONOHUE: And then pull the permit.

2 MS. RICHARDS: Under our new system, we
3 vote -- the board votes on an order, and then that's
4 the order of the board. And it becomes -- in fact,
5 it's not -- I know what you mean under the old
6 system where you go to the end of the line after you
7 get a vote. Now, that's not what we're doing
8 anymore.

9 MR. LYONS: The board would be issued
10 shortly after whatever corrections are made to the
11 order that the board might require. It's then
12 finalized and we issue it. It doesn't go back to
13 the board.

14 MS. RICHARDS: Okay. It really does
15 not. And I really think we need a couple of well-
16 reasoned orders in this area. And, you know, 5 to
17 10 pages will be quite sufficient. You don't have
18 to write a book.

19 MR. DONOHUE: I'll keep it short.

20 MS. RICHARDS: Okay, thank you.

21 That concludes the hearing.

22 MR. DONOHUE: When would you like the
23 findings?

24 MR. LYONS: The findings would be due
25 next week, June 25th. In a week. And at the
26 board's July 2nd meeting, they will consider a

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1 decision in the application.

2 MR. DONOHUE: Thank you for your time.

3 MS. RICHARDS: Uh-huh. Thank you.

4 MR. LYONS: The last case of the
5 afternoon is application 16245 of the William C.
6 Smith Company pursuant to 11 DCMR 3107.2, for a
7 variance from the off-street parking requirements of
8 Subsection 2101.1 for a church seating 100 in the
9 basement and first floor of a structure in a C2A
10 district at premises 5517 Colorado Avenue, N.W.,
11 Square 2801, Lot 94.

12 All persons wishing to testify in this
13 application, please rise to take the oath.

14 Whereupon,

15 ALL WITNESSES

16 called for examination, having been first duly
17 sworn, were examined and testified as follows:

18 MR. LYONS: Please be seated.

19 MS. RICHARDS: Which persons are here in
20 opposition to the application? All right.

21 Are you appearing in support, sir?

22 MR. ANSELMO: Yes.

23 MS. RICHARDS: The one back there. Are
24 you here to support the application? Two to four.

25 All right, why don't you give us your name and
26 address again.

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1 MR. ANSELMO: I am Raymond Anselmo of
2 3611 Cardiff Road, Chevy Chase, Maryland. I am the
3 general partner in the partnership that holds the
4 property, which is managed by William C. Smith and
5 Company.

6 Mr. Barbie is the tenant that has a
7 church at 5517 Colorado Avenue.

8 MS. RICHARDS: Excuse me one second,
9 sir.

10 (Off the record.)

11 MS. RICHARDS: It's been suggested that
12 with the level of opposition that is here for this
13 application it might be unfair to the applicant to
14 go forward until their principal representative is
15 here.

16 Could I hear from -- yeah, you're the
17 ANC, aren't you?

18 MR. CHAGNON: Yes.

19 MS. HENDRICKS: We have two ANC
20 representatives. I represent that single-member
21 district which the church is actually in.

22 MS. RICHARDS: All right. Could you
23 come forward and maybe give some idea as to the
24 nature and scope of your opposition so we can see
25 where the equities lie.

26 MS. HENDRICKS: Right. He didn't know

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1 he could.

2 MR. CHAGNON: Madam Chair, I'm John
3 Chagnon. I'm ANC commissioner for 4A07 and
4 representative of ANC 4A. You should have in your
5 file a letter of May 30th that identifies me as the
6 representative for 4A.

7 I would suggest that the applicant,
8 being William C. Smith, the corporate representative
9 should be prepared to get up.

10 MS. RICHARDS: Uh-huh. All right. And
11 you've set forth your views in your submission.
12 What about the scope of the opposition from the
13 other individuals? Multi-issue?

14 MS. HENDRICKS: My name is Audrey Joan
15 Hendricks. I'm the advisory neighborhood
16 commissioner for single member district 4C01.

17 And I have spoken with Commissioner
18 Chagnon regarding this zoning and I have also been
19 asked by members of my commission, 4C, to talk about
20 this issue because of the density in the
21 neighborhood.

22 Right now, we don't have space for those
23 who are taxpayers. And to bring in more cars, it's
24 just almost -- it's too congested. It's not stable.

25 MS. RICHARDS: So that's the parking
26 issue then, that's the primary --

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1 MS. HENDRICKS: Yes. And the people who
2 live -- the people who live in that area, that
3 single-member district, we're talking about this is
4 affecting people on Longfellow Street, Colorado
5 Avenue, and 14th Street.

6 MS. RICHARDS: Okay.

7 MS. HENDRICKS: Okay.

8 MS. RICHARDS: And the scope of your
9 opposition?

10 MS. SIMMS: My name is Shebra Simms and
11 I'm the president of the Longfellow Cooperative
12 Association. This building is located at 5521
13 Colorado Avenue, which is right next to the church
14 in question. And I'm here also in opposition of the
15 parking in the area.

16 MS. RICHARDS: All right. Now let's ask
17 the applicant's representative. Are you familiar
18 with the parking situation in the neighborhood?

19 MR. ANSELMO: Yes. As the owner of the
20 property, the property was previously leased to an
21 accounting firm.

22 MR. LYONS: Mr. Anselmo, could you bring
23 the mike closer.

24 MR. ANSELMO: Yes. The property was
25 previously leased to an accounting firm that had far
26 more traffic than this church.

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1 The church operates three nights a week,
2 Tuesdays and Fridays --

3 MS. RICHARDS: Okay. We don't need to
4 get into the details now. The other board members
5 think you might want to renew your motion to
6 continue at this time, rather than go forward with
7 the hearing. We're asking you what you want to do.

8 MR. ANSELMO: As I told you, I picked
9 this up at 10:30 this morning. If you could have a
10 later date when Mr. Barbie would be here, I would
11 appreciate it.

12 MS. RICHARDS: You really don't want to
13 do it.

14 MS. HENDRICKS: Excuse me, Madam Chair.
15 Mr. Barbie is the tenant. This is the owner. Mr.
16 Barbie is not really responsible for the zoning. He
17 has the lease agreement.

18 MS. RICHARDS: Right.

19 MS. HENDRICKS: And I have another issue
20 here, the fact that my commission, my single-member
21 district will not meet until July 27. And at that
22 hearing, we want to put this on our agenda to
23 discuss since it's there in the immediate area, as
24 well as we have another issue to discuss. But you
25 want to discuss this issue?

26 MS. RICHARDS: You wanted to discuss

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1 this at your July meeting?

2 MS. HENDRICKS: My June 27th meeting.

3 MS. RICHARDS: Your June 27th.

4 MS. HENDRICKS: Now, I have spoken with
5 Bishop Barbie -- that was the evening that he was
6 going to your meeting -- and told him that I wanted
7 him to get back in touch with me. To date, he has
8 not gotten back in touch with me.

9 MS. RICHARDS: Well, does that mean you
10 are in favor of a continuance so that you can --

11 MS. HENDRICKS: No, no. I think for a
12 -- since we border.

13 MS. RICHARDS: Uh-huh.

14 MS. HENDRICKS: We border. You have
15 the --

16 MR. CHAGNON: At the east -- at the west
17 side --

18 MS. HENDRICKS: And I have the east
19 side. So we're on the border.

20 MR. ANSELMO: Madam Chairperson, I don't
21 understand what the objection is. Again I'll repeat
22 what I found out, that the numbers, maximum in the
23 place, can be 100 by fire marshal.

24 His membership is 80; his attendance is
25 50. And he told me this morning -- correct me if
26 he's right or wrong -- that he's required to have

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1 one off-street parking place for every 10
2 attendants. Is that right or wrong? I don't know.

3 MR. CHAGNON: For every 10 seats in the
4 church.

5 MR. ANSELMO: And he has a lease on the
6 corner down the street for 17 parking places, which
7 more than qualifies. So I do not understand what
8 any objection could possibly be, since he more than
9 qualifies.

10 MS. HENDRICKS: Ma'am --

11 MS. RICHARDS: Hang on one second.
12 We're going to decide now if we're going to, like,
13 go forward or not.

14 MR. CHAGNON: Madam Chair, we would
15 oppose any motion to continue, if that's what's
16 before the board at this time.

17 There was adequate notice. They
18 certainly had notice. You have a corporate
19 representative. As the applicant, Bishop Barbie's
20 attendance here is inconsequential.

21 William C. Smith is the applicant.

22 MS. RICHARDS: Well, we often hear from
23 a real party at interest. But -- okay, we're going
24 to go forward and the secretary will formally call
25 the case.

26 MR. LYONS: The last case is application

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1 16245 of the William C. Smith Company, pursuant to
2 11 DCMR 3107.2 for a variance from the off-street
3 parking requirements of Subsection 2101.1 for a
4 church seating 100 in the basement and first floor
5 of a structure in a C2A district at premises 5517
6 Colorado Avenue, N.W., Square 2801, Lot 94.

7 All persons wishing to testify in this
8 application, please rise to take the oath.

9 Whereupon,

10 ALL WITNESSES

11 called for examination, having been first duly
12 sworn, were examined and testified as follows:

13 MR. LYONS: Please be seated.

14 MS. RICHARDS: So now you can just tell
15 us everything you know about this.

16 MR. ANSELMO: To repeat, according to
17 the regulations, I am told he should have off-street
18 parking for one car for every 10. He has secured a
19 lease for 17 parking spaces and I assume we wouldn't
20 object if he used the front of his building, which
21 more than qualifies in accordance with the
22 regulation.

23 I don't know what any objection could be
24 other than some personal conflict with Reverend
25 Barbie. However, I don't know why that should be
26 required because it's in the middle of a commercial

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1 zone.

2 There are two bars in the block.
3 There's a liquor store in the block. There's
4 constant traffic in the block, around the clock.
5 There's no reason why his limited use, three days a
6 week, in a area where he pays the commercial real
7 estate tax he should not be granted permission to
8 use it without the off-street parking.

9 I'll show you a map of the area.

10 MS. RICHARDS: Thank you. You may give
11 it to the secretary.

12 MR. LYONS: I could take it, sir. And
13 you may also want to address the issue of the board
14 describing the church site, the property, and why
15 the church cannot provide the parking spaces on
16 site.

17 MR. ANSELMO: The area was built in
18 1930. Everything is really wall-to-wall. There is
19 no room for any off-street parking.

20 The lady representing the apartment next
21 door is probably aware of the fact the apartment
22 next door used to have basement parking, but for
23 reasons unknown, several years ago they sealed it
24 off.

25 So that did force the people in the
26 apartment next door out on the street. And again,

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1 the apartment was built when the place was
2 commercial.

3 So when you have an apartment in a
4 commercial zone, you have to expect commercial
5 traffic because the people have a right to use the
6 commercial property that is zoned that way and built
7 that way.

8 MS. RICHARDS: Do you have any
9 documentation about the lease?

10 MR. ANSELMO: Yes, yes.

11 MS. RICHARDS: And the church is going
12 to be used three times a week, but what were you
13 told about the level of those uses?

14 MR. ANSELMO: The church is used on
15 Tuesdays and Fridays from 8:00 to 10:00 p.m and on
16 Sunday from 10:00 to 2:00.

17 MS. RICHARDS: All right. And the
18 seating capacity is 100. That's with the basement
19 and first floor. That's the entire seating
20 capacity.

21 MR. ANSELMO: The entire seating, and
22 the fire marshal limit. And the attendance is
23 usually 50.

24 MS. RICHARDS: What's the attendance to
25 the best of -- on Sunday and then on the two weekday
26 events?

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1 MR. ANSELMO: Fifty. Fifty is the
2 general average.

3 MS. RICHARDS: Fifty. Okay. Is the
4 church -- those are church services. Is that the
5 sole activity?

6 MR. ANSELMO: Yes, that's the sole
7 activity.

8 MS. RICHARDS: That's it? Okay.
9 Any questions?

10 MR. PARSONS: Yes. How long have you
11 owned this property, you and your partners?

12 MR. ANSELMO: Well, starting with my
13 father, 1930.

14 MR. PARSONS: And what has it been used
15 for over time?

16 MR. ANSELMO: It was a accounting
17 office, a laundry, a carry-out most of the time.
18 It's been there a long period of time.

19 MR. PARSONS: And most recently it was
20 used before this use?

21 MR. ANSELMO: Accounting. Accounting
22 office. And it does -- his traffic was heavy, but
23 it was all 9:00 to 5:00. It was not weekends or I
24 guess the people living next door didn't know it,
25 because he had a lot of accounting, doing accounting
26 for small businesses.

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1 Had a lot of traffic 9:00 to 5:00;
2 nothing on weekends except time to time. And this
3 is zero during the day. This is just two evenings.

4 MR. PARSONS: And how long has it been
5 used for church?

6 MR. ANSELMO: About nine years.

7 MR. PARSONS: Nine years. And that's my
8 confusion. Why is it you're now coming to us?

9 MR. ANSELMO: Mr. Barbie had a place on
10 Upshur Street with a occupancy permit. And when he
11 moved up to Colorado Avenue, he got the fire marshal
12 approval and soon his occupancy permit was
13 transferred. And he just discovered this spring it
14 was not transferred.

15 MR. PARSONS: So Mr. Barbie has been
16 there --

17 MR. ANSELMO: For nine years.

18 MR. PARSONS: -- conducting services for
19 nine years?

20 MR. ANSELMO: Yes.

21 MR. PARSONS: And you have not had any
22 special parking facilities?

23 MR. ANSELMO: No.

24 MR. PARSONS: You're only doing that now
25 in response to this application.

26 MR. ANSELMO: Right.

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1 MR. PARSONS: Has there been any traffic
2 problems in the neighborhood as --

3 MR. ANSELMO: No one has objected on
4 Sundays. I know the area, used to live at the 5500
5 block of 14th Street. There's plenty of parking
6 place. I showed the map. The whole square across
7 the street is commercial.

8 There is very little traffic there
9 except the liquor store and the bar. So around on
10 14th Street, which on the triangle is only half a
11 block away, there is always parking.

12 MR. PARSONS: Okay, thank you.

13 MS. REID: May I ask a question?

14 MS. RICHARDS: Oh, yes. By all means.

15 MS. REID: Now, to the member, the
16 District representative, Ms. Hendricks.

17 MS. HENDRICKS: Yes?

18 MS. REID: With the parking being
19 provided there, which is in compliance with the off-
20 street parking requirement for the zoning
21 regulations of one space for every 10 seats, I'm not
22 clear on the issue that you're raising in regard to
23 the parking.

24 Are you saying it's not adequate, or
25 have you experienced it being --

26 MS. HENDRICKS: We -- it's not -- we

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1 have -- it's too congested in that area as -- right
2 now, okay?

3 We have a commercial area there, and
4 just around the corner on 14th Street, there is
5 another church. And then there is another church
6 that Bishop Barbie admitted to me in our phone
7 conversation had come into that building or the
8 building -- you rented someone else a church, sir?

9 MR. ANSELMO: Yes.

10 MS. HENDRICKS: Yeah, okay. And he's
11 saying that this other church is causing the
12 problem. But right there within 500 feet, would you
13 say?

14 MS. REID: Less.

15 MS. HENDRICKS: Less. And we don't even
16 do that with group homes, at least we used to not do
17 that. We have two churches.

18 MS. REID: Well, my question --

19 MS. HENDRICKS: And we have the
20 residents there. And it's not -- it's not space
21 enough, it's just not good enough. It's limited
22 street parking.

23 MS. SIMMS: Could I -- ?

24 MS. RICHARDS: Yes.

25 MS. SIMMS: I know what you're saying,
26 congested. I mean, we live right there. If you

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1 don't mind, I have something that was prepared on
2 behalf of all the tenants in the building that I'd
3 like to read, if it's okay.

4 MS. RICHARDS: Okay. We'll get to that
5 in a minute. We've jumped a little bit out of order
6 here.

7 MS. SIMMS: But it concerns the parking
8 congestion.

9 MS. REID: Okay. But in the interim,
10 just -- I'd like an answer to the question. Are you
11 saying that the parking that is now being provided
12 by the church is inadequate?

13 MR. CHAGNON: Ms. Reid, the parking
14 plan, or if there is a parking plan, it was not in
15 the file --

16 MS. REID: No plan?

17 MR. CHAGNON: -- when I reviewed it
18 before I came here. I don't know when the parking
19 plan --

20 MS. REID: You're saying that you don't
21 have --

22 MS. HENDRICKS: No.

23 MR. CHAGNON: I have not seen a parking
24 plan of any kind, ever.

25 MS. HENDRICKS: Never.

26 MS. REID: All right. Well, seemingly

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1 this parking plan of parking space having been
2 acquired, and do we --

3 MS. HENDRICKS: What's the address on
4 that?

5 MS. REID: It is on the corner of
6 Kennedy and Colorado, 5427 14th Street.

7 MS. HENDRICKS: Where the art gallery is
8 located, where the old Safeway store --

9 MS. REID: I suppose.

10 MS. HENDRICKS: A supermarket was there.

11 MS. REID: I suppose, but --

12 MS. HENDRICKS: That's the children's
13 physician's --

14 MS. REID: Okay, well, what appears to
15 have happened is that in response to the concerns of
16 the community, in order to mitigate the adverse
17 impact the church has now contracted or released or
18 -- did it buy? -- a parking lot.

19 MS. HENDRICKS: Do you have a copy of
20 that lease?

21 MS. REID: -- which provides, is it 17
22 spaces?

23 MS. HENDRICKS: Is there a copy of that
24 lease with you -- with --

25 MR. LYONS: We can make copies.

26 MS. HENDRICKS: Okay, there is an actual

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1 agreement saying that this person has the right to
2 park 17 cars in that lot?

3 MS. REID: Uh-huh.

4 MS. HENDRICKS: And that was done on
5 what date?

6 MS. RICHARDS: Wait a second. We need
7 to return, to restore some order to the hearing. We
8 brought you all up at one time for the preliminary
9 matter and then we sort of went forward out of
10 order.

11 So let's come back into order now. Do
12 you have anything else to say, sir? The applicant?
13 You've said what you knew about this issue. Do you
14 have anything else --

15 MR. ANSELMO: To repeat.

16 MS. RICHARDS: -- additional to offer?
17 But don't repeat. Okay, if you've said everything
18 that you have to say and we've asked you questions,
19 okay. You don't have anything to add?

20 MR. ANSELMO: Ask the lady next door why
21 don't they open up their basement garage?

22 MS. RICHARDS: Okay. That's fine.
23 That's sort of outside the scope of the showing
24 required. And we'll now go to the Office of Zoning
25 and hear their report.

26 MR. CHAGNON: He would need to be cross-

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1 examined, allowed -- stood for cross-examination.

2 MS. RICHARDS: Do you have any questions
3 you want to ask him?

4 MR. CHAGNON: Madam Chair, I would
5 object to the document being styled as a parking
6 plan as being admitted. It's late for this to be
7 coming in. It wasn't presented to us in a timely
8 manner to review, or to even bring back to our
9 constituents.

10 This is extremely unfair and puts us in
11 a very bad position.

12 MS. RICHARDS: I'll tell you what. Do
13 you have another copy of this document, sir, that
14 you gave us today?

15 MR. ANSELMO: I have the original.

16 MS. RICHARDS: Why don't we let the
17 secretary make copies of the lease and the schematic
18 drawing that you gave us, and then we'll all have a
19 level playing field and you will be the same
20 position we are in.

21 And we just got it today. You'll just
22 get it today. And I suggest we are going to waive
23 our rules to admit it because it will make for
24 decisional efficiency.

25 MS. SIMMS: And I was going to ask, can
26 I read -- is there a chance of me reading --

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1 MS. RICHARDS: Yes, there is a chance,
2 right. We're going to --

3 MS. SIMMS: Okay.

4 MS. RICHARDS: Uh-huh. We're just going
5 to follow our normal procedure, which we had
6 abandoned. And it was okay till it got out of hand.

7 Now, do any of you have further -- any
8 questions of the applicant?

9 MS. SIMMS: Yes. I would like to say to
10 you that there is no -- we do not -- our building do
11 not have an underground parking. I have been in
12 there for 15 years. There is no underground
13 parking.

14 There is a building across the street
15 that has underground parking -- that used to have
16 it. We do not have it.

17 MS. RICHARDS: Please save declarative
18 statements for --

19 MS. SIMMS: Declarative.

20 MS. RICHARDS: Right. Ask him questions
21 now, something that really ends with a question
22 mark. And there will be adequate opportunity for
23 you to make a statement and to rebut anything he
24 says which is incorrect.

25 MS. SIMMS: Okay.

26 MR. CHAGNON: Mr. Anselmo. Is it true

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1 that Bishop Barbie and the church were fined for
2 failing to have a certificate of occupancy?

3 MR. ANSELMO: I believe so.

4 MR. CHAGNON: And is it not true that
5 you are here today because you were fined for
6 operating without a certificate of occupancy?

7 MR. ANSELMO: I was not fined.

8 MR. CHAGNON: Or that the owner or the
9 operator of the church was fined?

10 MR. ANSELMO: True. I would like to add
11 to your previous statement, not being aware of the
12 lease. I have a copy of this notice I picked up May
13 21st, today, that was sent here in which he --
14 Barbie states that he has a lease.

15 This is May 21st. So I don't know
16 whether this went to the zoning specialist. Did you
17 get your information from the office? It's dated
18 May 21st, he notified he has the lease.

19 MS. RICHARDS: All right, fine. Are
20 there any additional questions? All right, there
21 are none.

22 MR. CHAGNON: I'm sorry, just one last
23 question. Mr. Anselmo, is there any on-site parking
24 at the church facility?

25 MR. ANSELMO: No.

26 MS. RICHARDS: All right. Now we'll

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1 hear from the Office of Zoning.

2 MR. NYARKU: Madam Chair, for the
3 record, my name is John Nyarku of the Office of
4 Zoning. And before you is application No. 16245.

5 The applicant through the application is
6 requesting a parking variance to continue the use of
7 the site for the Michael's Temple Pentecostal Church
8 of God, Incorporated, with a seating capacity of 100
9 persons.

10 As indicated, the building was
11 constructed prior to the enactment of the 1958
12 zoning regulations. The present congregation
13 consists of approximately 50 persons.

14 While the Sunday prayer services and
15 other services held throughout the week attract less
16 than 50 persons, the applicant anticipates that the
17 church's maximum seating capacity of 100 will be
18 achieved in a number of years.

19 The church, as a matter of regulation,
20 exists in a situated zone. The applicant faces a
21 practical difficulty in this case in providing the
22 required number of on-site parking spaces for the
23 church.

24 The applicant said it, that a large
25 portion of the congregation of the church resides
26 within walking distance of the site. Accordingly,

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1 no negative traffic and parking effects are
2 anticipated.

3 In the Office of Zoning's opinion, the
4 requested parking variance would not impair the
5 intent, purpose, and integrity of the zoning
6 regulations.

7 Accordingly, the Office of Zoning
8 recommends approval of this application.

9 MS. RICHARDS: All right. And this
10 report had been prepared before you saw the proposed
11 parking diagram that was submitted today?

12 MR. NYARKU: No, there was a sketch of
13 the -- no --

14 MS. RICHARDS: Different from the
15 document that he gave us today.

16 MR. NYARKU: Correct.

17 MS. RICHARDS: All right. Just one
18 second. We get to ask questions first. I have no
19 further questions. Do you have questions?

20 All right, now you may ask questions.

21 MS. HENDRICKS: Would you just tell,
22 repeat again how many of his congregants or
23 parishioners are within that neighborhood?

24 MR. NYARKU: No, I didn't say that.
25 Some, they walk to the place, many of them walk.

26 MS. HENDRICKS: They walk to the --

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1 MR. NYARKU: Yeah, they walk to the
2 church.

3 MS. HENDRICKS: That means that they
4 live in the vicinity, the neighborhood? Is that
5 what I'm hearing? Because I'm confused.

6 MR. NYARKU: No, I don't --

7 MS. HENDRICKS: Do they park their cars
8 and then walk to the church or --

9 MR. NYARKU: It's possible, but I --
10 they didn't tell me. The applicant didn't state
11 that. They live in the area, so they walk from some
12 point to the church.

13 MS. HENDRICKS: But to me, for example,
14 if I go to People's Congregational Church from where
15 I live --

16 MS. RICHARDS: Ask him -- you have to
17 ask him questions. And you may say all of that when
18 you have your opportunity to make a direct
19 statement.

20 MS. HENDRICKS: All right.

21 MS. RICHARDS: Any more questions?

22 MR. CHAGNON: Yes. You've indicated that
23 the parishioners are in walking distance of the
24 church. How is it you concluded that?

25 MR. NYARKU: The applicant said that
26 many of them walk to the church, but maybe they may

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1 park their cars somewhere on 14th street.

2 MR. CHAGNON: So am I correct in
3 understanding that it's purely the representations
4 of the applicant that you're basing this testimony
5 on?

6 MR. NYARKU: Not -- part -- not totally,
7 because this is a parking variance, so they can't
8 park.

9 MR. CHAGNON: Okay, then would you
10 identify

11 MR. NYARKU: Because there's no space
12 for parking.

13 MR. CHAGNON: -- on what you are basing
14 this position upon?

15 MR. NYARKU: Because of the practical
16 difficulty involved, because the congregants cannot
17 park in the area. There is no space for parking.
18 So that's why they are seeking a variance.

19 And the congregants can park somewhere
20 on 14th Street or --

21 MR. CHAGNON: With all due respect, sir,
22 I am asking you on what basis did you determine that
23 these parishioners were within walking distance of
24 this church?

25 MR. NYARKU: From the information I
26 gathered, partially from the applicant.

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1 MR. CHAGNON: Okay. Would you identify
2 what information you gathered other than the
3 information from the applicant.

4 MR. NYARKU: Well, I went to the site
5 and I saw the parking difficulty involved in this
6 case.

7 MR. CHAGNON: Would you have gone in the
8 evening or on a Sunday?

9 MR. NYARKU: I went there one evening
10 and also one Sunday.

11 MR. CHAGNON: Would it have been at the
12 period where services were being performed?

13 MR. NYARKU: Yes, because I go to my
14 church in the morning, about 8 o'clock. I think I
15 was there one Sunday and one evening when nobody was
16 there, too.

17 MR. CHAGNON: Would you have any reason
18 to believe that Bishop Barbie, in identifying that
19 no parishioners came from the community at an ANC
20 meeting, why that he would tell you something
21 different?

22 MR. NYARKU: I wasn't at your meeting,
23 so I can't answer that question.

24 MR. CHAGNON: Would you identify
25 specifically how many on-site parking spaces you
26 identified at that facility?

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1 MR. NYARKU: No. I couldn't see
2 anything because I couldn't get access to even the
3 rear.

4 MR. CHAGNON: So your inspection is
5 incomplete?

6 MR. NYARKU: It was. I mean, I went to
7 the front, to the back from Longfellow Street, tried
8 to get access to the rear of the property. I
9 couldn't even get there.

10 So I couldn't -- that constitutes one of
11 the practical difficulties. There is no space where
12 they can have adequate parking.

13 MR. CHAGNON: So are you stating that
14 you do not know whether there are any parking spaces
15 on that site?

16 MR. NYARKU: No, I didn't say, except, I
17 mean, the street -- street spaces where -- along
18 Colorado Avenue. That's Colorado, yes.

19 MR. CHAGNON: Now, in your observation
20 of parking, was it your opinion that there was
21 adequate street parking?

22 MR. NYARKU: Yes. There were cars there
23 and there was no congestion. So I think that it was
24 -- no cars were in violation of parking at the time
25 I went there. They had parked correctly. And I do
26 not know where the other persons have parked their

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1 cars.

2 MR. CHAGNON: Okay. So it's your
3 testimony you do not know where the parishioners
4 parked and you do not know where these parishioners
5 come from.

6 MR. NYARKU: Correct.

7 MR. CHAGNON: And I ask you if you
8 contacted anyone -- anyone -- within the local
9 community at all relative to this application?

10 MR. NYARKU: No.

11 MR. CHAGNON: Were you aware that ANC 4A
12 sent a letter both to the Zoning Commission and to
13 the Board of Zoning Adjustment, inviting them to be
14 present at the ANC meeting in 4A?

15 MR. NYARKU: No.

16 MS. RICHARDS: I think that that's
17 really the kind of material you might want to bring
18 out in your statement, rather than trying to put in
19 information through questions he wouldn't reasonably
20 be expected to know, okay?

21 So do you have any other sort of
22 relevant questions on his testimony?

23 MS. SIMMS: I just want to ask him, you
24 said it was 8 o'clock in the morning? About
25 8 o'clock in the morning you were going, right?

26 MR. NYARKU: No, I go to my church for

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1 8 o'clock in the morning.

2 MS. SIMMS: And did Mr. Barbie tell you
3 the time that services are over there?

4 MR. NYARKU: No, he didn't tell me that.

5 MS. RICHARDS: All right?

6 MS. HENDRICKS: Your church services
7 begin at 8 o'clock and you were there at what time?
8 What time were you at Colorado Avenue?

9 MR. NYARKU: In the afternoon.

10 MS. HENDRICKS: Afternoon?

11 MR. NYARKU: Right.

12 MS. HENDRICKS: About 1 o'clock or noon
13 or 2:00?

14 MR. NYARKU: Yeah, around that time. I
15 didn't actually -- I went there right -- sometime
16 after my church. My church ends at 10 o'clock.

17 MS. HENDRICKS: Okay. Well, did it seem
18 congested to you at all? 14th Street, Colorado
19 Avenue, did those streets -- or did you -- did you
20 look around on the 14th Street side?

21 MR. NYARKU: Yes, I did.

22 MS. HENDRICKS: And it didn't appear to
23 be congested to you at all?

24 MR. NYARKU: No, because there are --
25 that's not the only church. There is the Church of
26 God in Christ also at --

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1 MS. HENDRICKS: On the corner of 14th
2 and Madison?

3 MR. NYARKU: That's correct.

4 MS. HENDRICKS: Yes, uh-huh.

5 MR. NYARKU: And there was no -- I
6 didn't see any congestion. Also, 14th Street is a
7 major arterial road and I didn't see the congestion.
8 Cars were moving properly and I didn't see any
9 congestion.

10 MS. SIMMS: Can I ask you, what is your
11 definition of congested?

12 MR. NYARKU: Congestion, when cars move
13 slowly and cars --

14 MS. RICHARDS: I think -- thanks. Why
15 don't we go ahead to the ANC testimony now and you
16 can elaborate when you speak individually, okay?

17 MS. HENDRICKS: I'll go first. I'll go
18 first.

19 Madam Chairperson?

20 MS. RICHARDS: Yes.

21 MS. HENDRICKS: And other members of the
22 Zoning Commission, I don't know -- I will state my
23 name again. It's Audrey Joan Hendricks and I am the
24 advisory neighborhood commissioner for single member
25 district 4C01.

26 This zoning issue was brought to my

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1 attention by one of my commissioners, a commissioner
2 in 4C -- actually 4D brought this to my attention
3 because she had attended a meeting.

4 And during that time, my mother-in-law
5 had passed away, so a lot of things were going on.
6 And the concern was the parking.

7 And I know that we have so many other
8 things, so many activities going on in that area.
9 We have about two or three co-op buildings in that
10 area and people need parking.

11 Parking is actually premium around
12 there. We have people who come from 16th Street and
13 will park in that area as well. And to add more
14 people, more cars, it's just -- it's too congested.

15 It's not stable. And I can say that as
16 a person who lived there for about 40 years on and
17 off, in the same house that I'm in now. So I sort
18 of grew up in that area.

19 And it is congested, and on Sundays it's
20 very congested. It's not -- it's congested with
21 cars being in the street at 16th Street. But when
22 you look car for car, parked, it is congested.

23 MS. RICHARDS: All right.

24 MS. HENDRICKS: And the people, the
25 people there -- it's my understanding -- the other
26 thing, is my -- it's my understanding that the

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1 people who live -- who come to worship there are not
2 from the city.

3 Which, you know, I understand you can
4 worship wherever you choose to worship. But it's
5 just that, you know, we come into the city and we
6 just sort of move the property owners out, you know.
7 We make people feel disgusted. They wanted to
8 relocate.

9 We're trying to keep people in the
10 District right now, as we speak. So there's a lot
11 of issues here. And I'm going to turn it over to
12 the person who has the adjacent -- has the adjoining
13 -- we're on the same boundaries -- and let him
14 speak, because I've spoken with him.

15 You want to speak? Okay.

16 MS. SIMMS: Good afternoon again. My
17 name is Shebra Simms. I am the president of the
18 Longfellow Cooperative Association located at 5521
19 Colorado Avenue, N.W.

20 I appear before you today on behalf of
21 the cooperative to argue against application
22 Nos. 16245, which would allow the specified number
23 of parking spaces for the sole purpose of Michael's
24 Pentecostal Church.

25 As you are aware, the Longfellow
26 cooperative is located in the same block as

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1 Michael's Church. To be more specific, it is
2 located right next to the building.

3 I'm sorry -- the allowing of special
4 parking spaces for this church is not beneficial to
5 this block or to this neighborhood. Rather, it
6 would cause undue hardship and stress for both the
7 residents and merchants of this community.

8 The Longfellow cooperative is a 69-unit
9 complex occupied by a significant number of
10 individuals who own their own vehicles. Parking in
11 this area is already seriously congested, and the
12 removal of any parking spaces for special purpose
13 would only exacerbate the situation.

14 In addition, the immediate surrounding
15 area surrounding the church also includes several
16 commercial businesses whose clientele often have
17 short-term parking needs.

18 As such, the allocation of several
19 needed parking spaces for the sole use of Michael's
20 Church appears to be patently unfair to those
21 businesses.

22 Indeed, the allocation of spaces could
23 negatively impact the entire community by forcing
24 our small business owners to relocate to more
25 customer-friendly areas.

26 We are all well aware of the property

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1 depreciation and decay that can result from forcing
2 small businesses out of our community. Let me
3 assure you that the Longfellow cooperative does not
4 discriminate based on race, color, creed, religion,
5 or otherwise, when considering whether they will
6 support or object to neighborhood initiative.

7 It is important to note, however, that
8 the Longfellow Cooperative has been advised that
9 neither Michael's Church nor two other churches that
10 have recently opened their doors on this same block
11 of Colorado Avenue have obtained the certificate of
12 occupancy required for their operations.

13 If this is true, the granting of a
14 special parking variance for Michael's Pentecostal
15 Church would seem fully inconsistent with public
16 policy.

17 In making its determination, the panel
18 is asked to consider the already depleted supply of
19 parking spaces in the area and the desire of the
20 long-time residents of this community to park
21 reasonably close to their homes.

22 The needs of the other small business
23 men and women in this community must also be waived
24 during the decision-making process, as well as
25 Michael's Church's own failure to comply with local
26 ordinances be established to be true.

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1 Based on the individual and the
2 aggregate factors presented, this panel is urged to
3 deny application 16245.

4 Thank you for your time.

5 MS. RICHARDS: Okay.

6 MS. REID: I have a question.

7 MS. RICHARDS: I thought maybe we'd just
8 hear from them all to avoid a colloquy. Then we
9 could -- all right?

10 MR. CHAGNON: My name is John Chagnon.
11 Once again, I'm ANC commissioner for A07,
12 representing Commission 4A. As you know, ANC 4A
13 voted to oppose the variance request on a number of
14 issues specifically involving parking, but it also
15 involved quality-of-life issues within the
16 community.

17 The community has got both commercial
18 and residential. R5B, I believe is the residential
19 zone. The strip in front of the church is a
20 commercial zone.

21 However, there has been a change of use.
22 Any grandfathering provisions are gone. These folks
23 do not get grandfather provisions for parking.

24 They had a change in use. It's clearly
25 a change in use. I'm not sure what the zoning
26 office has identified as why they would support this

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1 variance when the community has held their hearing
2 and objected to it strenuously.

3 Bishop Barbie testified before the ANC
4 commission that not one -- and I repeat, not one --
5 of his parishioners come from the Brightwood or 16th
6 Street community. Not one.

7 Bishop Barbie identified that every one
8 of his parishioners do not drive. They take the bus
9 or they find some other means of transportation.

10 Mr. Anselmo was there. I would
11 certainly ask that you direct those questions to him
12 as well. I have no idea what the zoning office has
13 done in their investigation of this variance
14 request.

15 As far as I know, they have not
16 contacted anyone within the community. It's clear
17 that whatever was done was done in a limited
18 capacity, that he doesn't even know whether there is
19 or is not parking on site.

20 I can assure you, there is not one space
21 on site. Mr. Anselmo has already testified that
22 there is not one space on site.

23 I believe the rules require on-site
24 parking. At this late hour they've identified that
25 they've got a lease for parking spaces. As you'll
26 note, it's a month-to-month lease.

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1 This is a not a document that should be
2 given any kind of weight. It's a document that was
3 identified specifically for a purpose, to come
4 before you and identify parking spaces.

5 This is not a long-term lease. It is
6 not an obligation that the landlord has to live with
7 beyond a month. I would ask that this document
8 again not be allowed into the record and not be
9 given any weight at all.

10 Again, the ANC gave Bishop Barbie the
11 opportunity to come forward and bring forth a
12 parking plan. He never sent anything to the ANC.
13 He had suggested that he would identify a parking
14 plan and get back with the ANC.

15 He did not. These are things that he
16 had the opportunity to do and chose not to. He
17 chose a position of surprise, to come here, identify
18 a parking plan that no one's seen, including the
19 panel.

20 I think that's patently unfair. The
21 community already feels, as Mr. Anselmo has
22 identified, we have restaurants, we have bars. We
23 have community-based residential facilities.

24 We have great stress in the community.
25 We have problems with litter, we have problems with
26 noise, we have problems with congestion. This is

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1 just another one added on to the total of problems
2 experienced within the city.

3 This is part of the reason the middle
4 class is moving out of the city. We live in a
5 middle-class neighborhood. We are not wealthy
6 people.

7 We have problems that we try and deal
8 with. We're trying to work within the system and
9 the system has let us down quite a few times. We're
10 coming to this panel.

11 The community has spoken. I ask that
12 you respect the community's decision and decide that
13 this is not an appropriate variance to act upon, and
14 that you should deny it.

15 MS. RICHARDS: There's one other person
16 here in opposition. Do you wish to testify?

17 MS. HAITH: Yes, please. Good
18 afternoon, Madam Chairperson, and the board. My
19 name is Diane Haith. I'm a resident of 5521
20 Colorado Avenue, N.W. I've lived in the building
21 for the past 20 years.

22 I'd like to thank you for not continuing
23 this case, specifically because I'm a private
24 citizen. But this issue was important enough for me
25 to take off from my job the whole afternoon and come
26 in.

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1 I don't have a lot of vacation time, so
2 I really appreciate it. And I did want to be heard
3 this afternoon.

4 I have to kind of reiterate some of the
5 other things that have already been said. Our block
6 is -- has a lot of commercial businesses on it, but
7 we also have my apartment building, which has
8 approximately 60 units in it.

9 There is another apartment building
10 adjacent across the street. It has residents that
11 live in it, and there's also another large
12 cooperative on the other end of the block, on the
13 corner of Colorado Avenue and Kennedy Street.

14 And all of us are people who live there.
15 Quite a few of us have cars, and we all have to
16 compete for parking.

17 And the parking situation is getting
18 really out of hand. In terms of, I remember the
19 gentleman making the statement that the only
20 activities that this church conducted are services.
21 Well, that's not true.

22 They've had sidewalk sales. They've had
23 barbecues where they've been barbecuing out on the
24 sidewalk. And people are coming up, driving up, and
25 it's created a situation of double-parking.

26 There have been times when I've come out

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1 and not been able to move my car because people have
2 double-parked in front of my car. And it happens on
3 a frequent basis.

4 There are no parking spaces that can be
5 allotted to any of those businesses, because there
6 are no sites for them to park on. We're all
7 competing for parking spaces in a very short space,
8 distance of space of a one-block area, actually.

9 As was stated before, there are three
10 store-front churches now operating in that one
11 block, and it has made it extremely difficult. Some
12 of them conduct services every night.

13 And there are many times when I come
14 home that I cannot find a place to park until after
15 10 o'clock at night. Sometimes I have had to go
16 someplace else and come back home because there is
17 nowhere for me to park.

18 And it's too dangerous for me as a
19 single woman to park two and three blocks away from
20 my house and try to walk back to my apartment
21 building.

22 So the congestion is there. For the
23 gentleman to state that there is no congestion,
24 obviously, you know, you may have been there one or
25 two times. But I live there. I've been there for
26 20 years and I see it continually, on a day-to-day

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1 basis.

2 So I just wanted to state that -- oh,
3 and other thing, there is no underground parking in
4 our apartment building. And as far as I know, there
5 has not been any since I've lived in that building.
6 And as I stated before, I've been there since 1976.

7 I don't have anything against churches.
8 I think everyone has the opportunity -- and should
9 -- to worship. But it really is impacting on the
10 residents in our building to have to fight
11 continuously to try to find a place to park on the
12 street.

13 So that's where my opposition lies, and
14 I'm just hoping that there's something that can be
15 done to alleviate the situation and make it a little
16 bit more tolerable for the residents who actually
17 live on the block and in my apartment building.

18 Thank you.

19 MS. RICHARDS: Thank you.

20 Questions of any of the witnesses?

21 MS. REID: In regard to the parking lot,
22 you're the president of the Longfellow Citizens
23 Association?

24 MS. SIMMS: Cooperative.

25 MS. REID: Cooperative, okay. In your
26 testimony, did I hear you say that provision of

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1 additional parking would not alleviate the parking
2 problem there?

3 When you were reading your testimony, is
4 that what you said?

5 MS. SIMMS: Yeah, I mentioned that in
6 allowing spaces.

7 MS. REID: What do you mean by that?

8 MS. SIMMS: That the problems that we
9 already -- we already have enough problems there
10 with the parking now.

11 MS. REID: Okay. Now what I'm trying to
12 understand is, you have -- I'm trying to understand
13 two things. One, that this church has been there
14 for nine years.

15 MS. SIMMS: Right. I don't --

16 MS. REID: And so --

17 MS. SIMMS: I'd have to check that,
18 because I don't believe it's been there for nine
19 years.

20 MS. REID: Okay, well, a number of
21 years.

22 MS. SIMMS: I mean, but it's been there
23 for years.

24 MS. REID: Let's just say a few years.

25 MS. SIMMS: Okay.

26 MS. REID: And there's a problem with

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1 parking. And are you saying that if there was off-
2 street parking provided for the church it would not
3 alleviate the parking problem? That's what I
4 thought I heard you say in your testimony, in the
5 very beginning of your statement.

6 MS. SIMMS: Okay, you're asking me --
7 you're saying I said that it would not affect it.

8 MS. REID: Yeah. Yeah. Did you -- is
9 that what you were saying?

10 MS. SIMMS: I was saying that in
11 allowing this, it would only make parking worse, is
12 what I was saying.

13 MS. RICHARDS: Other questions?

14 MR. PARSONS: Madam Chair, I think it
15 would benefit all of us if these folks took the
16 proposal for parking back to their organizations and
17 gave us another opinion.

18 I really don't want to engage them in a
19 conversation, because they have new information and
20 we have new information.

21 MS. RICHARDS: I think that's a fair
22 statement.

23 MR. PARSONS: Because asking them what
24 they now think, they're here on behalf of the
25 organizations, and I don't think it's worth putting
26 them on that spot.

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1 MS. RICHARDS: All right. That's a good
2 idea. So why don't we do that.

3 The gentleman who said he was here
4 supporting, did you want to testify, sir, or are you
5 just lending moral support to the cause?

6 A PARTICIPANT: I can answer a few
7 questions.

8 MS. RICHARDS: No, we have no
9 questions. I am asking you if you came here to
10 testify.

11 A PARTICIPANT: No.

12 MS. RICHARDS: All right, thanks.

13 So we're going to continue hearing on
14 this matter.

15 MR. PARSONS: Either that or get written
16 reports from the two ANCs and --

17 MS. REID: Based on the additional
18 information.

19 MR. LYONS: Did you want a report from
20 DPW?

21 MS. RICHARDS: No, not really. I find
22 them to be a limited --

23 MR. PARSONS: I think the Office of
24 Planning might want to revise its report, based on
25 what's here.

26 MS. RICHARDS: All right.

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1 MR. PARSONS: But that's up to them.
2 There's new information that's come forth at the
3 hearing.

4 MS. REID: Take that back, yeah.

5 MR. PARSONS: So anybody of the Office
6 of Zoning --

7 MS. RICHARDS: Perhaps we could also
8 advise the applicant that -- I don't know how the
9 other board members feel about it, but perhaps a
10 more detailed lease might be in order.

11 MS. REID: Maybe.

12 MR. PARSONS: Certainly a month-to-month
13 lease is something we can't basically --

14 MS. RICHARDS: I mean, if you want the
15 lease to be given weight in your burden to show that
16 there are no adverse impacts, then I think the lease
17 should probably specify how many cars could be
18 accommodated, you know, what the precise hours,
19 evenings and weekends.

20 Are you going to be -- you know, if it's
21 going to be really just your space, you know,
22 indicate that. Some of the -- are we taking away or
23 would such a lease take away, you know, existing
24 parking.

25 If it does, I mean, it's okay. It is
26 what it is, but are we just sort of shuffling the

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1 deck chairs on the Titanic. Like, what's the space
2 used for now?

3 And also, for a parking plan, a drawing
4 of a parking plan to be given appropriate weight, it
5 needs to be more than sort of a few lines casually
6 drawn on a piece of paper.

7 The staff is able to show you what a
8 proper parking plan looks like. You're not required
9 to submit it. It's just that it's your burden to
10 make your case against adverse impacts.

11 MS. REID: And the lease, as Madam Chair
12 was saying, needs to be a long-term lease to be
13 taken seriously. And what other -- the whole point
14 was, in your testimony you gave -- you showed a
15 statement that you said had been put on record that
16 indicated that there was a lease in place. What
17 were you referring to?

18 MR. PARSONS: I just picked up the copy
19 of this letter.

20 MS. REID: Well, what is that that you
21 have? And has that been entered into the record?

22 MR. PARSONS: It's May 13th, sent to
23 this counter.

24 MS. REID: Well, you have to show it to
25 the secretary. But if went to the counter,
26 Mr. Secretary, if it was sent to the counter, would

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1 that not have been made available for the public?

2 MR. LYONS: If it was submitted in the
3 case, yes. I don't know when this may have come in.

4 MS. REID: Well, should we not also make
5 sure that the opposition has copies of that, or
6 what?

7 MR. LYONS: We can. This is the first
8 time I've seen this. I don't know if Mr. Nyarku --
9 it's addressed to him -- has seen this.

10 MS. REID: Have you seen it, Mr. --

11 MR. LYONS: This is Bishop Barbie's
12 reply to the variance test requirements.

13 MS. RICHARDS: Why don't you put that in
14 the package of supplemental material that you send
15 us and make sure it gets served on everybody.

16 MR. LYONS: Yeah.

17 MS. RICHARDS: So do you want to give
18 the parties dates? Do you desire party status, the
19 ANC representatives are automatic parties.

20 Would you like party status, ma'am?

21 A PARTICIPANT: Yes.

22 MR. ANSELMO: Can I respond to their
23 remarks?

24 MR. CHAGNON: Madam Chair, I, for the
25 record, would like to have the record identify that
26 we oppose the record being held open for anything

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1 that they were not prepared to present today.

2 This was a hearing that was supposed to
3 be on the issues, what was in the record as the
4 official time when it closed, which I believe was
5 seven days ago.

6 It seems to me it's highly irregular and
7 very prejudicial to us, as the panel opposing, to
8 have him get two bites at the same apple. He's got
9 another opportunity to come back here.

10 We've come here prepared to state our
11 case and have done so. He is here to state his
12 case, and he has done so. I think holding the
13 record open is highly prejudicial and it is issues
14 that the community has already spoken upon.

15 MS. RICHARDS: The board needs to make
16 sure that its decision is, I think, fair to both
17 parties. And, you know, an applicant who -- let me
18 just take 10 seconds.

19 This is a request for variance. Now,
20 someone who wants variances, I just don't want to
21 like, you know, be required to meet a certain
22 obligation because of XYZ.

23 Now, should such a person who says,
24 well, I'm going to try to ameliorate the effects of
25 my potentially being excused then be, you know,
26 penalized if they can't get such relief together,

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1 you know, until the day of the hearing?

2 I'm not sure that's the right public
3 policy message to send. And, you know, you would be
4 prejudiced if we took it at face value and said,
5 "Oh, boy, a parking plan, a lease."

6 But because you are going to be able to
7 take this material back to your organizations and
8 react, then we still are working on a level playing
9 field.

10 MR. CHAGNON: Well, our ANC -- and I
11 believe this may be true for all -- do not meet in
12 July and August. We do not have any meetings at
13 all.

14 This operator is still operating with
15 impunity. He does not have a C of O. He is still
16 holding services every period that he has services.
17 He has been fined. I believe he was fined \$500.
18 Perhaps the zoning people can identify that this is
19 the case.

20 They are still operating out of that
21 facility without a C of O. They have been operating
22 illegally for years. It should not be to their
23 benefit that they have violated the law over that
24 period of time.

25 MS. RICHARDS: Well, I'm certainly not
26 going to defend anyone -- you know, I'm not going to

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1 defend any purported flagrant breach of any law.
2 Nobody will do that.

3 So at any rate, the board feels it's
4 acting, you know, in the fairest way it can to all
5 parties. But your objections are certainly noted.

6 I think, Mr. Secretary?

7 MR. LYONS: The record is being left
8 open, Madam Chair, for -- and the board is looking
9 to decide this case.

10 MS. RICHARDS: I guess at that rapidly
11 growing special meeting in July.

12 MR. LYONS: Special meeting.

13 MR. PARSONS: The one at 8 o'clock in
14 the morning.

15 MR. LYONS: Yeah. It seems like it
16 might be.

17 MR. CHAGNON: With all due respect,
18 Madam Chair, there is no way that our ANC -- it does
19 not have meetings in July and August.

20 MR. LYONS: I thought you indicated that
21 there was a meeting later in June, this month.

22 MR. CHAGNON: June meeting is first
23 Tuesday of the month. That's gone.

24 MS. RICHARDS: This is meeting that
25 we're contemplating is in the middle of July.

26 I would suggest that if group meeting

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1 schedules do not allow you to consort with the full
2 group, that if there are any provisions for
3 executive committee actions or any -- any other
4 provision you have for acting, absent, you know, the
5 full body, or simply that you continue in your
6 representative party capacities.

7 I mean, you're all very able witnesses
8 and you've been authorized to speak for your groups,
9 so you can continue to do so.

10 MR. LYONS: The submissions requested by
11 the board would be due July 3rd with service on
12 other parties to the case. And any response by any
13 party to those submissions will be due July 10th.

14 And the board at 9:30 a.m. on July 16th
15 will consider a decision in the application.

16 MR. CHAGNON: Madam Chair, with all due
17 respect, I do have to object again that this is
18 unduly burdensome on the community. The community
19 has spoken.

20 The community cannot have prepared and
21 have any reasonable chance of bringing this to the
22 community again. We can only come back with the
23 same answer we had before.

24 I am not going to go against the
25 community. As far as I know, a month-to-month
26 agreement has no weight to me whatsoever. And I can

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1 only conclude that my colleagues would see it the
2 same way. So the answer would be no different today
3 than it would be on July 3rd.

4 MS. RICHARDS: That's good. And if we
5 have not heard otherwise from you by then, then your
6 remarks of today will be given their full weight.
7 They will.

8 MS. SIMMS: Excuse me. July 3rd, is
9 that a date that we would have to appear here?

10 MR. LYONS: No, it is not. July 16th is
11 a public meeting of the board. It's not a hearing.
12 The public can come and observe the board's
13 proceedings.

14 MR. ANSELMO: I have one remark. The
15 lady mentioned about all the apartment houses and
16 all their parking on the street. It's true that
17 when the apartment was built, off-street parking was
18 not required. Today --

19 MR. LYONS: The hearing is concluded.

20 MR. ANSELMO: I'm sorry.

21 MS. RICHARDS: Sir, you can put it in
22 any further admission if you decide it's still
23 relevant.

24 Thank you all.

25 (Whereupon, at 5:06 p.m., the hearing
26 was concluded.)

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