

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

MAY 20, 1998

+ + + + +

The Public Hearing convened in Room 100,
441 4th Street, N.W., Washington, D.C. 20001,
pursuant to notice, at 9:46 a.m., Sheila Cross Reid,
Chairperson, presiding.

PRESENT:

Board of Zoning Adjustment Members:

Sheila Cross Reid, Chairperson
Maurice Foushee
Betty King
Angel Clarens

Staff:

Sheri Pruit-Williams, Director
Beverly Bailey
Paul Hart
John Nyarku

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CHAIRMAN REID: Good morning. I am Sheila Cross Reid, Chairperson, Board of Zoning Adjustment, District of Columbia. Joining me today are Maurice Foushee and Betty King.

Topics of today's agenda are available to you on the table at the rear of the hearing room. There is to be no smoking, eating or drinking in the hearing room.

All persons planning to testify either in support or in opposition are to fill out two witness cards. These cards are located on each end of the witness tables. Upon coming forward to speak to the Board, please give both cards to the reporter, who is sitting to my right.

Notice of today's hearing was given by posting the subject property, publication in the D.C. Register, and various other means.

The order of procedure for special exception of variance cases will proceed as follows: One, preliminary matters; two, statement of witnesses of the applicant; three, government reports, including the Office of Planning, Department of Public Works, or others; four, the advisory neighborhood commission; five, parties or

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1 persons in support; six, parties or persons in
2 opposition; seven, closing remarks by the applicant.

3 Cross-examination of witnesses is only
4 permitted for parties in the case. The Board will
5 adhere to this schedule as strictly as possible.
6 Those presenting testimony should be brief and
7 nonrepetitive. If you have a prepared statement,
8 you should give copies to staff and orally summarize
9 the highlights. Just give us your statement before
10 summarizing.

11 The record will be closed at the
12 conclusion of each case except for any materials
13 specifically requested by the Board. The staff will
14 specify at the end of the hearing exactly what is
15 expected.

16 Decision of the Board in these contested
17 cases must be based exclusively on the public
18 record. To avoid any appearance to the contrary,
19 the Board requests that persons present not engage
20 the members of the Board in conversation.

21 At this time, the Board will consider
22 any preliminary matters. Preliminary matters are
23 those which relate to whether a case will or should
24 be heard today, such as requests for postponement,
25 continuance or withdrawal, or whether proper and
26 adequate notice of the hearing has been given.

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1 If you are not prepared to proceed, now
2 is the time to raise such a matter. Does the staff
3 have any preliminary matters?

4 MS. PRUIT-WILLIAMS: Yes, Madam Chair,
5 we do. On case number 16342, we have not received
6 an affidavit of posting. Would someone
7 knowledgeable about this case come forward, please.

8 MS. KING: This is Place, Inc. Is that
9 right?

10 CHAIRMAN REID: Place, Inc. Yes. The
11 Learning Center.

12 MS. PRUIT-WILLIAMS: 16342.

13 CHAIRMAN REID: Philanthropic Learning
14 Center. Is anyone here that's affiliated with that
15 case?

16 MS. PRUIT-WILLIAMS: Okay. We also have
17 the same issue with case number 16344. Is there
18 anybody here associated with that case?

19 CHAIRMAN REID: 16344, Patricia McDade.

20 MS. PRUIT-WILLIAMS: Patricia McDade,
21 right. But you're not the applicant? Okay.

22 CHAIRMAN REID: Oh, you're in
23 opposition? All right. Is the applicant or anyone
24 who is affiliated with the applicant here? Okay,
25 we'll table this, and take them as they come.

26 MS. PRUIT-WILLIAMS: That concludes

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1 staff's preliminary matters, Madam Chair.

2 CHAIRMAN REID: Staff will call the
3 first case, please.

4 MS. PRUIT-WILLIAMS: All those planning
5 to testify in case number 16341, would you please
6 stand. Would you raise your right hand, please.

7 Do you swear and/or affirm that the
8 testimony you're about to give is the truth, the
9 whole truth, and nothing but the truth?

10 Would the applicant please come forward.

11 CHAIRMAN REID: Would you have a seat.

12 MS. PRUIT-WILLIAMS: If you would bear
13 with us for a minute, we're going to set up this
14 table.

15 Madam Chair, the application of
16 Washington Community Fellowship on behalf of the
17 Urban Family Development, pursuant to 3108.1, for a
18 special exception under the provisions of Section
19 206 to establish a private school for 45 students
20 and three staff, on the basement and second and
21 third floors of an existing structure in an R-4
22 district at the premises of 907 Maryland Avenue,
23 N.E., Squares 937, Lot 85. Thank you.

24 You may proceed.

25 MS. ZEHR: Good morning.

26 CHAIRMAN REID: One second, please,

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1 before you proceed.

2 MS. PRUIT-WILLIAMS: Madam Chair,
3 there's a couple of issues associated with this.
4 First, the applicant will need a waiver of the 14-
5 day filing requirement for the submission -- the
6 applicant's submission. Staff received this
7 submission on May 15th.

8 MS. KING: I'm sorry. For the
9 submission of what?

10 MS. PRUIT-WILLIAMS: For their
11 application. Rather, you know, just their
12 submission of the project. It was received in our
13 office on May 15th, and that's past the 14-day --
14 the rule's boards -- Board's rules, excuse me.

15 MS. KING: I move we waive it. Is there
16 anybody here in opposition? In opposition? Okay,
17 fine. We'll waive it.

18 MS. PRUIT-WILLIAMS: There's also
19 another issue. Because we received the submission
20 late, it also appears that this case was not
21 correctly advertised, and that the center will
22 require a relief for parking under Section 2101.
23 That was not advertised nor was it in the Zoning
24 Administrator's letter that came to us. So this
25 case has to be readvertised. So it really can't be
26 heard at this particular time.

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1 MS. KING: Therefore, the issue of the
2 waiver is essentially moot, because we can't hear it
3 anyway.

4 MS. PRUIT-WILLIAMS: Correct. It's a
5 procedural issue.

6 CHAIRMAN REID: Just for the record, do
7 you understand? Okay.

8 MS. ZEHR: Please explain.

9 CHAIRMAN REID: Okay. What has happened
10 is that your application is for a special exception
11 for a private school. Okay? With that, there is a
12 requirement for parking, because your private school
13 is an elementary school. Is that correct? Okay.

14 When the application was submitted, it
15 was not indicated that it was elementary school. It
16 said private school, because the records that I have
17 say private school. So, therefore, there was no
18 advertisement of the fact that it's a private
19 elementary school, requiring that there be -- that
20 you comply with the parking for an elementary
21 school.

22 So before it can be heard -- this case
23 will be heard -- it has to be properly advertised,
24 and it was not advertised properly because of the
25 fact that we did not have information regarding what
26 type of school it was, so therefore did not have the

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1 stipulation attached thereto regarding the parking.

2 So it has to be postponed so it can be
3 readvertised properly, and then come before us
4 properly.

5 MS. ZEHR: I understand what you are
6 saying, and I see where we are at this point; but on
7 our application it does say private elementary
8 school, 45 students, three staff.

9 CHAIRMAN REID: Which application,
10 because the application that we have says proposed
11 use of property, private school, 45 students and
12 three staff.

13 MS. PRUIT-WILLIAMS: Madam
14 Chair, this is the application that went to the
15 Zoning Administrator's office.

16 CHAIRMAN REID: May I see it, please.

17 MS. PRUIT-WILLIAMS: Sure. Can we get
18 copies of this, please. For the record, under
19 Section 2101 is a listing of what type of parking
20 requirements are needed for various types of
21 schools, and that's what triggers -- that's what
22 would dictate what the parking relief would be
23 required.

24 For an elementary school, for this
25 particular part for what you're requesting, I
26 believe it's one space -- You would be actually
required two spaces, two parking spaces, for every

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1 three teachers.

2 CHAIRMAN REID: One second.

3 Notwithstanding that fact, it did not get translated
4 here to the BZA. Correct?

5 MS. PRUIT-WILLIAMS: Correct.

6 CHAIRMAN REID: Then the fact still
7 remains that it has to be readvertised, because we
8 did not have the correct information regarding the
9 type of school that you were going to -- what type
10 of school that you were initiating, as well as the
11 parking, which is a requirement, which is something
12 that you have to comply with.

13 I apologize for the fact that it was
14 somehow, within the translation of the BA's office
15 to the BZA, it was not picked up, unfortunately.
16 When you applied here, you did not so indicate on
17 the application. So, unfortunately, these things
18 have to be so specific in order to be done properly,
19 and it did not. Then it's going to be problematic
20 in the long run.

21 So it's better to just go ahead and
22 address it here, and then readvertise it, and we'll
23 get you rescheduled as soon as possible. That would
24 be what date?

25 MS. PRUIT-WILLIAMS: Well, that's all
26 dependent upon when -- they need to go back to the

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1 Zoning Administrator and have that come forward to
2 us again. So once we get that back from the Zoning
3 Administrator's -- Actually, why don't you call us
4 after this, and we can work out something. Let's
5 work on how we can help them through that.

6 MS. BAILEY: Madam Chairman, would it
7 expedite the process if our office made the request?

8 CHAIRMAN REID: It would please me very
9 much if that were done. I was about to say that.
10 Under the circumstances, I think that we should do
11 all that we can to try to facilitate this matter, to
12 expedite it as quickly as possible so that you can
13 get back here and to have your hearing for the
14 relief that you're requesting.

15 So we don't know exactly how we can do
16 it, but staff has committed themselves to seeing to
17 it that we will -- the request will come from our
18 office, from the Zoning Office, which will make
19 things a lot quicker and get it back up here in a
20 very expeditious manner.

21 MS. PRUIT-WILLIAMS: And also we will
22 put you on a first-available hearing date as
23 possible.

24 MS. ZEHR: Who should I call after this
25 hearing?

26 CHAIRMAN REID: Sheri Williams-Pruit.

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1 MS. PRUIT-WILLIAMS: Pruit-Williams.

2 CHAIRMAN REID: Sheri Pruit-Williams,
3 the Director, and she will make sure that it's taken
4 care of properly.

5 MS. KING: And could I just say one
6 thing before you leave. I've read over your
7 materials. There are a couple of things that I hope
8 you will address when you come before us.

9 That is the arrangements for safe
10 dropoff and pick-up of your students, particularly
11 during rush hour, and the availability of play
12 space, playground space.

13 CHAIRMAN REID: Also, look at
14 regulations under number 206 and address each point
15 in that regulation specifically when you come back.
16 That's what you're going to have to do, because in
17 206, if you go through the various sections, it
18 refers you to Chapter 21 which then specifies the
19 parking. So you want to make sure that you have all
20 of that in order when you come, and that will get
21 you through much quicker. Okay?

22 MR. FOUSHEE: One other point: If you
23 can include any kind of letter of support or
24 opposition from the ANC. I don't recall --

25 MS. KING: The ANC is very important.
26 There's nothing in there from the ANC.

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1 MS. ZEHR: When you say readvertise,
2 does that mean that same form, the sign out in front
3 of the church?

4 CHAIRMAN REID: She will -- After the
5 hearing, call her, and she will give you the
6 specific instructions as to what you need to do and
7 how you need to do it.

8 MS. BAILEY: Madam Chair, I have a
9 procedural question, if that's okay, please.

10 CHAIRMAN REID: Thank you.

11 MS. BAILEY: The case was opened, and we
12 know that the applicant and the ANC were
13 automatically renoticed of the continuation.
14 However, there is someone here in opposition. Would
15 we notify that person as well and, if so, can we --

16 CHAIRMAN REID: He is an ANC
17 commissioner, he said, but -- I'm sorry, could you
18 come forward, please.

19 MS. PRUIT-WILLIAMS: Excuse me, Madam
20 Chair. The case is not really open. It's not
21 appropriately before us, because we can't take
22 action on it. So it's not a continuance.

23 CHAIRMAN REID: I think he was
24 responding to a question about staff.

25 MS. PRUIT-WILLIAMS: But the staff's
26 question is -- It's not a continuance. We're not

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1 hearing the case. We're not continuing.

2 CHAIRMAN REID: The question -- Just one
3 second. It may be addressed. The question is,
4 should the person in opposition be noticed, because
5 they have to be a party. Right?

6 MS. PRUIT-WILLIAMS: Well, we're not
7 hearing the case. We're dismissing it, because it
8 should not --

9 CHAIRMAN REID: We're not dismissing.
10 We're postponing it.

11 MS. PRUIT-WILLIAMS: No, we should
12 dismiss it, because it's inappropriately before us
13 because it's not asking for the correct relief, and
14 readvertising, the letters to the 200 people will go
15 back out. All parties will be notified. We will go
16 through the whole process all over again.

17 MS. KING: Well, who's the ANC?

18 CHAIRMAN REID: Well, but let's just be
19 clear. We're not postponing it. We are dismissing
20 this case, wiping it out, and starting all over; but
21 it will be just as if it's a new case. In that
22 instance, I think your question will be properly
23 addressed, because it will go out to all the people
24 that it went out to before.

25 PARTICIPANT: All I wanted to say is
26 just put my name and address on the record, because

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1 we have a vacancy in that area, and I wanted mail to
2 come directly to me.

3 CHAIRMAN REID: Staff will handle that,
4 sir. Just talk to staff, please. Thank you.

5 PARTICIPANT: Who will I give it to?

6 CHAIRMAN REID: Well, just go into the
7 Zoning Office, and then you can ask, and they will
8 direct you. Thank you very much.

9 Next case.

10 MS. PRUIT-WILLIAMS: The next case is --

11 MS. KING: Excuse me a moment. Could I
12 just have a private word with you.

13 CHAIRMAN REID: Okay, next case.

14 MS. PRUIT-WILLIAMS: The next case on
15 the morning agenda is 16342, the application of
16 Place, Inc./Philanthropic Learning and Community
17 Center on behalf of Adventure Clubs, Inc., pursuant
18 to 11 DCMR 3101 and 3702 for a special exception
19 under Subsection 201 to establish a child
20 development center for 60 children, ages two to 13,
21 and seven staff on the basement through third floors
22 of an existing structure, and a variance from the
23 provisions of Section 2101 for off-street parking in
24 an R-4 district at premises 414 R Street, N.W.,
25 Squares E509 and Lot 8. All those planning to
26 testify in this, would you please come forward.

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1 CHAIRMAN REID: She went where? Excuse
2 me, is she in the hall? Could you see if she's in
3 the hall. If not, we're going to have to go to the
4 next case and then pick you up after next case. Why
5 don't we just go to the next case.

6 MS. PRUIT-WILLIAMS: The next case is
7 16343, application of D.C. Associates 918, LLC,
8 pursuant to 11 DCMR 3108.1 and 3107.2, for a special
9 exception and a variance under the provisions of
10 Subsection 2514.2 to allow the regulations
11 applicable to a portion of the lot in a less
12 restrictive use district to be extended to that
13 portion of a lot in a more restrictive use district
14 for the establishment of a restaurant on the
15 basement and first floor of an existing structure in
16 a C-4/SP-2 District at the premises of 918 16th
17 Street, N.W., Square 185; Lots 811, 812, and 813.

18 All those planning to testify, would you
19 please stand. Raise your right hand. Do you swear
20 and/or affirm that the testimony you are about to
21 give is the truth, the whole truth? Please be
22 seated. I see the applicant has already come
23 forward.

24 MS. BROWN: Good morning, Madam Chair
25 and members of the Board. My name is Carolyn Brown.
26 I'm an architectural historian with the law firm of

1 Wilkes, Sardis, Hedrick and Lane. John Eptine from
2 our office is also here.

3 We will have two witnesses this morning,
4 Randy Maatta on behalf of the owner, and Mallory
5 Warner of Hickok-Warner Architects. I believe we
6 can get through this presentation in under 15
7 minutes.

8 As a preliminary matter, I'd like to
9 submit the affidavit of maintenance.

10 CHAIRMAN REID: One second. Is there
11 any opposition here for this particular case?

12 MS. BROWN: No.

13 CHAIRMAN REID: Okay. Then we can
14 expedite it, if that's okay with you.

15 MS. BAILEY: Absolutely.

16 MS. BROWN: We are here today requesting
17 relief to extend the C-4 zone into the SP portion of
18 the World Center Building. The expansion will
19 extend 54 feet on the basement and first floor
20 levels, which we propose to use as a restaurant.

21 To accomplish this, we will need a
22 special exception for the first 35 feet and then an
23 area variance for the remaining 19 feet. We will
24 offer testimony today explaining how we meet the
25 standards for both an area variance and special
26 exception.

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1 We are only here because of a problem
2 created when the city underwent its comprehensive
3 rezoning in 1958. The World Center Building was
4 constructed in 1949 as a general office building.
5 In 1958 the zoning line was drawn right through the
6 building, so that the back half is in the C-4
7 district and the front portion on 16th Street is in
8 the SP zone.

9 It's also important to note that the
10 Board has already found that the split zoning of
11 this site has created problems for this building.
12 The Board granted special exception relief in 1973
13 to extend the C-4 zone into the SP portion on the
14 basement level to allow a printing establishment.

15 The Board stated that, because of the
16 layout and location, it is difficult to locate a
17 tenant in the portion of the building zoned C-4 and
18 another tenant in the portion zoned SP. Such an
19 arrangement would be an economical underutilization
20 of the C-4 zone.

21 You will find that order under Tab K of
22 your booklet that we submitted for the record.

23 Likewise, the Board has already
24 determined that the property is affected by unique
25 and exceptional conditions that create practical
26 difficulties in complying with the strict

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1 application of the regulations, which would warrant
2 area variance.

3 At the time the building was
4 constructed, the Board found that the unusual size
5 and shape of the lot created practical difficulties
6 in complying with the parking requirements and,
7 consequently, this building does not have a parking
8 garage in the basement.

9 Finally, I'd like to point out that the
10 building is located on K Street, the city's most
11 significant commercial office building corridor
12 between Mt. Vernon Square and Washington Circle. At
13 the heart of this corridor at 16th and K, this is
14 the only intersection where you can't put a
15 restaurant in a building.

16 So with that in mind, I'd like to turn
17 this over to our first witness, Randy Maatta.

18 MR. MAATTA: Good morning, ladies and
19 gentlemen. My name is Randy Maatta. Excuse me,
20 I've got a bit of a head cold. So I'll try to speak
21 clearly.

22 I am Vice President and Chief Financial
23 Officer for IPG Partners, LLC, who is one of the
24 partners in this particular acquisition.

25 District Associates is a limited
26 liability company who actually is the entity owning

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1 this building comprised of IPG Partners as well as
2 Greenfield Partners. There is a number of
3 precedents for IPG here in the District. We did
4 1401 K Street, which has two restaurants going into
5 it. 2311 M Street is another project that we were
6 involved with, as well as the Westbrook Place at
7 23rd and N Street.

8 Last year we did join with Greenfield
9 Partners to acquire the World Center Building,
10 particularly because of the location. It's only two
11 blocks from the White House and the K Street
12 corridor. It's very, very strategically located,
13 and also because of the age of the building. It
14 lent itself to a tremendous upside.

15 The building had extensive deferred
16 maintenance. The tenant mix could be improved quite
17 a bit, and there was some underutilization of space,
18 and one that we identified was the ground level
19 floor that has approximately 24-foot ceilings, as
20 well as the sub-level.

21 One of the challenges that we found in
22 order to maximize the potential of this building was
23 the fact that the building itself was divided
24 between the SP and C-4 zoning. Unfortunately, the
25 portion of the building that we want to put a
26 restaurant, a real nice, moderate priced restaurant

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1 in is located in the SP zone.

2 So that's why we are coming here today,
3 to ask you ladies and gentlemen of the Board to
4 extend this relief in order to pull that existing C-
5 4 zoning over to the front of the building and to
6 allow us on the ground level and on the sub-level to
7 put a restaurant that we feel will really bring a
8 lot of vitality to that corner, as well as give our
9 building an infusion of real upscale and help us to
10 complete what we set out to do.

11 So anyway, that is basically why we're
12 here, and I'm more than happy to answer any
13 questions that the members might have for me.

14 I will turn it over to our architect,
15 Mallory Warner, who is our expert in the technical
16 aspects of this.

17 MR. WARNER: Good morning, members of
18 the Board. My name is Mallory Reynolds Warner with
19 Hickok Warner Fox Architects. We're an
20 architectural firm of about 40 people here in the
21 District. I'm a Washingtonian, born and raised.

22 I'm here, and I'm lucky, because I get
23 to use POPs. So I want to just demonstrate what the
24 situation is.

25 Our experience in Washington, D.C. --
26 we've renovated -- This is down at K Street and 16th

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1 Street. We renovated catty-corner to this some
2 years ago the Capitol Hilton Hotel, all the public
3 areas in there and all the restaurants which are in
4 there.

5 More recently, up 16th Street we did the
6 American Chemical Society building at 16th and M
7 Streets. We are currently renovating Universal
8 South Building. It's the building up Connecticut
9 Avenue, Connecticut and Florida Avenue, which is a
10 major renovation here in the city.

11 I'm here to show you the building and to
12 explain this 19 feet/35 feet for the special
13 exception, and then the area variance which we are
14 requesting.

15 The building is an L-shaped lot, like
16 this. Currently, this piece of the building is the
17 C-4. In other words, this red line that you see is
18 the C-4 line. Everything on that side running down
19 K Street is C-4 commercial, and everything to this
20 side is the SP-2 zone. That's what's on 16th
21 Street.

22 What we have done is do a proposed
23 restaurant scheme. Currently -- and this is the
24 ground floor plan. The entry to the building itself
25 is off of 16th Street here. It's a precast
26 building, used to be Pan Am's sort of headquarters

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1 here in Washington, D.C.

2 The entry to the building is here. The
3 elevator core is here. The green area is the sort
4 of office building side. That's where you go up
5 through the building. Currently, there's an
6 existing tenant here, which is United Airlines.
7 It's sort of a ticket office for them, and that's
8 the beige area that you see.

9 What we are proposing as part of this
10 application is to put in a restaurant use, an entry
11 off of K Street right next to the C-4 here. That
12 coming in public area, the cross-hatched area that
13 you see would be sort of the kitchen and the back of
14 the house areas, which has access back in the
15 loading area off the alley. There's an existing
16 drive alley here.

17 Then in the basement of the space, what
18 we're proposing is the second floor of the
19 restaurant down in the basement. Again, the green
20 area is sort of the public area for the office
21 building, and then you have the restaurant space
22 down here.

23 In the -- The BZA, as Carolyn explained,
24 in 1973 they granted the special exception to allow
25 35 feet of space in the basement for a printing
26 office. So in other words, existing right now in

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1 the basement here is a printing office in this area
2 here.

3 So that was the special exception which
4 was granted in '73. However, that also leaves --
5 You'll notice here, it leaves this 19-foot strip of
6 space which you sort of can't get into and is
7 underutilized, and we'll go through all the --
8 meeting the standards. I just wanted to explain the
9 problem.

10 So it's this -- What we're asking for is
11 this special exception, and then the area variance
12 for the additional 19 feet of space.

13 The surrounding -- Yes, actually, when
14 the building was constructed in like 1949-1950, the
15 entire area -- the building was located in a
16 commercial zone. It's actually three lots, one,
17 sort of two, and then a third lot in here.

18 The area is characterized by high
19 density sort of commercial uses. You've got the
20 Sheraton Carlton, the Capitol Hilton, the Christian
21 Science Monitor building. We have included copies
22 of all of this in your booklet, and I'll take you
23 through that if you want to. I just thought I would
24 cut it short.

25 CHAIRMAN REID: We've seen it.

26 MR. WARNER: Okay. We do meet the

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1 standards for the special exception, the 35 foot
2 limitation. We meet that requirement. The no
3 adverse effect on the surrounding property -- I'll
4 take you through that, but it's also in your book.
5 And the variance relief -- it is exceptional and
6 unique conditions, and as I say, the Board has
7 already made some degree of determination to this
8 special --

9 This is absolutely marvelous space for a
10 restaurant. This is -- I mean, it is -- It's almost
11 20 feet high in the ceiling space down in there. So
12 I think that -- Also, the variance relief would not
13 adversely affect the neighborhood. I mean, there
14 are other restaurants around. This is sort of the
15 last corner which doesn't have one.

16 If I can answer any questions, I'd be
17 happy to.

18 CHAIRMAN REID: In the basement --

19 MR. WARNER: Yes, ma'am?

20 CHAIRMAN REID: -- there is a printing
21 office down there. Right?

22 MR. WARNER: Yes.

23 CHAIRMAN REID: Now the 19 feet that you
24 referred to that you said was not included in the
25 previous Board order -- what is that being utilized
26 for? Is it unutilized? Is it just sitting there?

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1 MR. WARNER: Right now it's just sitting
2 there. It's sort of dead storage space right now.

3 CHAIRMAN REID: Okay. Then my next
4 question is: The first drawing that you just took
5 down.

6 MR. WARNER: Yes, ma'am?

7 CHAIRMAN REID: The restaurant is going
8 to be in the area that you've designated blue.

9 MR. WARNER: Yes.

10 CHAIRMAN REID: Okay. And is that
11 orange, like a light orange color?

12 MR. WARNER: This one?

13 CHAIRMAN REID: That's going to be a --
14 That's currently a travel office.

15 MR. WARNER: Yes, United Airlines.

16 CHAIRMAN REID: All right. So -- and
17 that blue area in the back, that's kitchen area.
18 Okay.

19 MR. WARNER: Yes.

20 CHAIRMAN REID: Interesting how you can
21 figure.

22 MR. WARNER: Well, a restaurant -- I
23 mean, in some ways it adds to character, but what we
24 do have here, because we're sort of renovating the
25 building right now -- this is the main entry to the
26 office. You don't really want the entry to the

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1 restaurant to be off the office lobby. So this --
2 We're keeping all the green area, because that's
3 what makes the office building function. I mean
4 eight floors of office above, with office workers
5 and professional offices and stuff.

6 So what we had to find was an area where
7 you can have, you know, your back-of-the-house space
8 and your kitchen and your prep areas and your cold
9 storage rooms and things like that, and then find
10 that entry. You're right, it's a very bizarre
11 shape.

12 Then what we have is an interconnecting
13 stair which would take you down to the lower level.
14 We also have sort of a dumb waiter. So this is sort
15 of the main kitchen. We also have two elevators in
16 the building itself. In other words, it could be
17 used for ADA access to the restaurant below also.

18 CHAIRMAN REID: Okay.

19 MR. WARNER: So --

20 MS. BROWN: Excuse me. If I could just
21 make a point of clarification. We are requesting
22 that the C-4 zone be extended through the whole
23 front of the building. The ticket office will stay
24 there for now, but in the future we want the
25 flexibility to also put the restaurant there. I
26 think in our statement on page 4 we point that out.

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1 CHAIRMAN REID: Yes, okay. The last
2 question: Talk to me about the parking. You're
3 going to get valet parking for the restaurant.

4 MR. WARNER: Yes.

5 CHAIRMAN REID: Is there any other
6 parking?

7 MR. WARNER: There is no parking.

8 MS. BROWN: Excuse me. If you note
9 under Exhibit G of our statement, we have a traffic
10 report indicating that the use of the valet for a
11 restaurant will not create any adverse traffic
12 effects on the peak traffic conditions.

13 CHAIRMAN REID: So there's no other
14 parking provided other than the valet?

15 MS. KING: And the valet will only be
16 working in the evening?

17 MS. BROWN: I think that, depending on
18 the needs of the restaurant, it could be during the
19 lunch hour or the evening.

20 MR. MAATTA: There is a lot. I believe
21 it's operated by Colonial or Diplomat directly
22 behind our building that is very substantial. There
23 are a number of parking spaces there.

24 During the daytime, of course, it's
25 full, but in the evenings when the majority of the
26 traffic -- During lunchtime, people are going to

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1 ride the Metro. They're going to walk. You know,
2 they're not going to drive their cars to the
3 restaurant.

4 In the evening, though, the traffic will
5 be coming in through automobiles, and there's more
6 than ample parking right behind the building. So if
7 we choose valet, if we choose to allow the patrons
8 to access the building through the back entrance
9 there, through the lobby or they could walk around
10 to the K Street side, it shouldn't present a
11 problem.

12 MS. BROWN: If I could also point out --
13 remind you that the Board already made the
14 determination that parking wasn't required for this
15 building. That's under --

16 CHAIRMAN REID: I understand.

17 MR. FOUSHEE: And just for the record,
18 following on this issue or question of the parking,
19 you indicated that the Colonial Parking structure or
20 parking surface behind you has spaces. Do you know
21 approximately how many spaces than, say, versus how
22 many patrons you may anticipate during the evening?

23 MR. MAATTA: I am going to -- or someone
24 can verify -- guess half-full or a quarter full
25 during the evening hours. In the evening hours it
26 does empty out substantially. Probably 80 percent

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1 of the lot is empty.

2 I would say as a guesstimate, there is
3 probably in the neighborhood of 250 spaces back
4 there.

5 CHAIRMAN REID: Ms. King.

6 MS. KING: No questions. If you were
7 going to have valet parking at lunch, I want to make
8 my reservations now, because nobody else does in
9 town.

10 MS. BROWN: That concludes our
11 presentation, unless you have any other questions.
12 I believe, based on the testimony you've heard today
13 and the materials we've submitted for the record,
14 we've fully demonstrated that we meet the standards
15 for special exception variance relief, and we hope
16 that you can approve our application. Thank you.

17 MR. MAATTA: Thank you very much.

18 CHAIRMAN REID: Thank you. Government
19 report? I don't think there were any. The ANC
20 report -- Is there anyone from the ANC here? Okay.

21 All right. Parties and persons in
22 support? Parties and persons in opposition?
23 Closing remarks by the applicant.

24 MS. BROWN: We have no closing remarks,
25 just we hope that you can approve our application.
26 Thank you.

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1 CHAIRMAN REID: Okay. Would you -- Are
2 you requesting a bench decision?

3 MS. BROWN: Yes. If you can make a
4 bench decision today, we would certainly be happy to
5 have one. We have a draft order for you, if you'd
6 like that, on a disk and hard copies.

7 MS. KING: I move that we approve this
8 application. It seems to me that there are all
9 sorts of extraordinary circumstances, a great
10 history of there being relief offered for this
11 particular building, how the zoning lines were
12 drawn. It appears very unusual, and it seems to me
13 that relief is seriously indicated.

14 It is an area of the city that is really
15 completely given over to the hospitality industry
16 and commercial endeavors with a great many
17 restaurants. It seems to me, that we should do
18 this, and I recommend that we make a summary order.

19 CHAIRMAN REID: I would second the
20 motion. If there was ever a case that would lend
21 itself to relief, then certainly I think this would
22 be it, in that it is obviously the type of instance
23 where I think the regulations provided a provision
24 for a BZA, because they recognize that there would
25 be some circumstances wherein the regulations, as
26 they were imposed, would not be applicable.

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1 I think that, obviously, this would be
2 the case. The adverse impact does not seem to be an
3 issue, obviously, because of the fact that it's
4 generally a commercial area, primarily commercial,
5 and the traffic report I was pleased with. It
6 indicated that there was not any problem as far as
7 the traffic, and the circulation would be handled by
8 the valet parking.

9 We all know downtown, and we know what
10 types of parking problems arise, but I think that
11 you all have addressed that adequately, in my
12 opinion, and I don't see where it would be a
13 detriment to the zoning regulations or map. So I
14 would, therefore, second it. Mr. Foushee, did you
15 have any comment?

16 MR. FOUSHEE: I concur with the Board.

17 CHAIRMAN REID: Okay. All in favor,
18 aye. Opposed?

19 MS. KING: You should have your order in
20 a couple of weeks.

21 CHAIRMAN REID: Thank you.

22 MS. PRUIT-WILLIAMS: Just for the
23 record, staff would record the vote as three to zero
24 to approve application 16343.

25 Madam Chair, we will recall application
26 16342. That's the application of Place,

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1 Inc./Philanthropic Learning and Community Center on
2 behalf of the Adventures Club pursuant to DCMR 3108.
3 and 3107.2 for special exception under section 205.1
4 to establish a child development center for 60
5 children, ages two to 13, and seven staff on the
6 basement through third floor of an existing
7 structure, and a variance form the provision of
8 Section 2101 for off-street parking in an R-4
9 district at premises 414 R Street, square E509, Lot
10 8.

11 All those planning to testify, would you
12 please come forward. Please stand. Would you
13 please raise your hand, please.

14 Do you swear or affirm that the
15 testimony you're going to give is the whole truth
16 and nothing but the truth. Please be seated.

17 Madam Chair, there are a couple of
18 preliminary items to this. This is one of the items
19 that did not have a posting of affidavit that we
20 talked about earlier, if you want to deal with that
21 first.

22 CHAIRMAN REID: Okay. There was a
23 request to establish a child development center for
24 80 children?

25 MS. PRUIT-WILLIAMS: There's two issues.
26 The first is the posting of affidavits, and then

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1 it's the amendment.

2 CHAIRMAN REID: Okay.

3 MS. PRUIT-WILLIAMS: Did you post an
4 affidavit on the -- We didn't receive a posting --
5 an affidavit of you posting notice of your property,
6 the orange sign.

7 MS. EDWARD: Okay. I'm sorry. I just
8 wasn't aware of --

9 MS. PRUIT-WILLIAMS: You were not aware?
10 Did you put the orange signs up?

11 MS. EDWARD: We put the white signs up.
12 That came in the mail.

13 CHAIRMAN REID: Oh, boy. So you're
14 saying then that you never posted the building. You
15 never put a sign up to advertise, to announce to the
16 public that you were going to have a hearing?

17 MS. EDWARD: The note that we received,
18 we posted.

19 CHAIRMAN REID: No. No, no. In your
20 instructions, the instructions that you received to
21 say that you had to post signs on the building
22 itself.

23 MS. PRUIT-WILLIAMS: It's a large orange
24 billboard.

25 MS. EDWARD: Okay. I apologize. I was
26 out of town, and when I came back and got the letter

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1 and read the letter, it said post; and we put on the
2 door --

3 CHAIRMAN REID: So you didn't understand
4 that --

5 MS. EDWARD: -- and on the window the
6 actual notice of the hearing that we received.

7 CHAIRMAN REID: You didn't get these?

8 MS. EDWARD: No.

9 CHAIRMAN REID: Okay. All right. Well,
10 what we have to do --

11 MS. KING: Excuse me. Would you clarify
12 for me. I don't think I've ever seen. The letter
13 says that she has to come in and pick these up. Is
14 that it?

15 CHAIRMAN REID: The instructions --

16 MS. PRUIT-WILLIAMS: You actually get
17 this when you --

18 MS. KING: How would she have gotten
19 this?

20 MS. PRUIT-WILLIAMS: When she comes in
21 with the application and submission, all that
22 information is given.

23 MS. KING: Uh-huh, and this was not give
24 to you when you came in? Did you come in with the
25 application?

26 MS. EDWARD: Yes, I came in and

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1 submitted the application myself. But I didn't get
2 any signs, but a letter came back notifying us of
3 the hearing and that we should post it, and it was
4 like a notice within there, and that's what we
5 posted.

6 CHAIRMAN REID: I see. In other words,
7 because you didn't get the sign, those signs, you
8 assumed that that's what they meant about posting
9 that little letter that you got?

10 MS. EDWARD: Yes.

11 CHAIRMAN REID: I see. Okay.

12 MS. PRUIT-WILLIAMS: Well, you know, we
13 can't mail the signs out.

14 CHAIRMAN REID: No. I see.

15 MS. PRUIT-WILLIAMS: So, unfortunately,
16 due notice has not been --

17 CHAIRMAN REID: Right. I understand
18 that, but she's saying that she did not receive the
19 signs.

20 MS. PRUIT-WILLIAMS: She has to come
21 pick them up.

22 CHAIRMAN REID: Well, when she came, she
23 said she didn't receive them. That's what I'm
24 trying to determine. When you came in, you did not
25 receive the signs. The instructions that you
26 received stipulated that you had to post the signs.

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1 MS. EDWARD: Yes. Post the notice, but
2 I was under the impression --

3 MS. PRUIT-WILLIAMS: And it says you
4 must pick up a poster.

5 CHAIRMAN REID: You must pick up a
6 posting sign.

7 MS. KING: It says in the letter you
8 must pick up a posting sign from the Office of
9 Zoning and place it on each street front of the
10 property a minimum of 15 days prior to the date set
11 for the public hearing.

12 CHAIRMAN REID: Now did you get this?

13 MS. EDWARD: Yes.

14 CHAIRMAN REID: But you didn't
15 understand what it meant about picking up the sign?

16 MS. EDWARD: When the -- No, I didn't.
17 When the notice was in there, I just assumed that
18 was the notice and that they were including it, and
19 we just made copies and put on the door and the
20 windows.

21 CHAIRMAN REID: That's all right. What
22 we'll do is we'll make sure that you understand the
23 procedure so that you can post your property
24 correctly, but today we cannot have a hearing today
25 because of the fact that it has not been properly
26 noticed, you see.

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1 It has to be noticed, and we have to
2 give notice to the public that you're having a
3 hearing so that anyone who wants to appear in
4 support of opposition may have the opportunity to do
5 so.

6 MS. EDWARD: Okay. So even though we
7 posted the white notice --

8 CHAIRMAN REID: The white notice is not
9 -- You see that sign that staff brought in, that big
10 sign that staff brought in? You saw that, right?
11 The orange sign?

12 MS. EDWARD: The orange sign?

13 CHAIRMAN REID: Yes. Obviously, where
14 people who may be driving by would not be able to
15 see a little piece of paper, they would be able to
16 see that orange sign, and people are accustomed to
17 knowing that, when they see a sign like that, that
18 there's notice that there is going to be a hearing.

19 All right. So what we have to do is --
20 do we dismiss this or do we just postpone it?

21 MS. PRUIT-WILLIAMS: We can postpone it.

22 CHAIRMAN REID: Why do we not handle it
23 the way we did the first one?

24 MS. PRUIT-WILLIAMS: Because the zoning
25 relief is correct.

26 CHAIRMAN REID: Okay.

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1 MS. PRUIT-WILLIAMS: At least that's
2 being requested is correct. It was just -- Notice
3 wasn't given to everyone.

4 CHAIRMAN REID: Okay. We'll postpone
5 this.

6 MS. PRUIT-WILLIAMS: Continue.

7 CHAIRMAN REID: Continue it. I've been
8 informed that the proper thing to do in this
9 instance is to continue this case to --

10 MS. PRUIT-WILLIAMS: We'll have to check
11 the calendar, because we have to put you on a new
12 hearing date.

13 CHAIRMAN REID: Okay. Well, contact the
14 Zoning Office.

15 MS. PRUIT-WILLIAMS: It will not be
16 before September 2. I will tell you that, because
17 by regulations it's a 40-day requirement for
18 posting. So if we get it up as soon as possible,
19 the first available hearing date would be September
20 2, unfortunately.

21 MS. KING: In the meantime, this lady's
22 certificate of occupancy expired last July. What is
23 the impact of this on her operation?

24 MS. PRUIT-WILLIAMS: Well, it's --

25 MS. KING: She applied in February,
26 which was six months after her C of O had expired.

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1 MS. EDWARD: Actually, we were not
2 occupying the space. It was another daycare center
3 in the space, and they moved out when we went to
4 lease the space, and --

5 CHAIRMAN REID: That's when you found
6 out you didn't have a valid C of O?

7 MS. EDWARD: That's when we found out
8 that the exception had expired. I only was aware
9 that it had expired until that time.

10 CHAIRMAN REID: Madam Director, could we
11 not put them on the calendar for the special meeting
12 we're going to have in July? That being the case,
13 could we not?

14 MS. PRUIT-WILLIAMS: Well, if you want
15 to do it, let me look. I don't have the calendar
16 here.

17 CHAIRMAN REID: Okay. Because I know
18 that we had added another --

19 MS. PRUIT-WILLIAMS: A special hearing
20 on the 24th for Papa John's.

21 CHAIRMAN REID: Could we hear this, too,
22 put that on the agenda for the first thing on that
23 date?

24 MS. KING: I thought the special hearing
25 was Howard University.

26 MS. PRUIT-WILLIAMS: No, that's a

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1 regular hearing date.

2 CHAIRMAN REID: Then we put on a special
3 hearing for Papa John. So I think that it would
4 probably be a good idea to put her in, dispose of
5 this first, and then do Papa John. So that's July
6 24th.

7 MS. KING: Do not leave here without
8 your orange notices.

9 CHAIRMAN REID: We can move you up. You
10 know, consult with the Zoning Office so that they
11 can kind of help you to go through the various
12 steps, so that you will make sure when you come in
13 next time, you will have things in order, as well as
14 you need to address the regulations in number 205,
15 Section 205. You need to address each section under
16 that particular regulation when you come, so you'll
17 be prepared.

18 MR. FOUSHEE: If I might add a couple of
19 things while you're doing this. Also, if you can
20 get a letter from the ANC, the advisory neighborhood
21 commission, whether in support of opposition.

22 CHAIRMAN REID: Ask them if they will
23 send a letter. That would be helpful to us.

24 MR. FOUSHEE: The other thing is the
25 issue of parking. I think it's already been alluded
26 to about looking at regulations, but if you can

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1 address the issue of off-street parking, if you can
2 provide that or where it will be provided and how
3 many spaces. That will help your case.

4 MS. EDWARD: Right. That was addressed
5 when they -- when the owner did the original
6 application, and he did put the gate in to provide
7 the two parking spaces that were required.

8 MR. FOUSHEE: Even a picture would
9 certainly help and a drawing, a plat, of that. That
10 will help.

11 MS. KING: And also you need to look
12 into the Department of Human Services requirements
13 for licensure, to make sure that you have your --
14 you know, proper playground space, safe
15 dropoff/pick-up, all those things; because there's
16 no point in your getting something from the --

17 MS. EDWARD: The center was licensed
18 before as well. It was licensed before as a child
19 development center.

20 CHAIRMAN REID: Oh, it was?

21 MS. KING: Well, then we need a copy of
22 that license. I mean, you have a license to operate
23 it? You, your operation.

24 MS. EDWARD: Yes. I have a license. We
25 were located at 222 R Street, and we had a small
26 center there. So when the other program left 414,

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1 they also had a license for a child development
2 center there. We wanted to increase the number of
3 children we serve. So we were moving to this space.

4 MS. KING: Okay. Well, that will be all
5 part of your testimony, and you will support it with
6 copies of your current -- your current license.

7 MS. EDWARD: We don't have a current
8 license.

9 CHAIRMAN REID: But it had been
10 licensed?

11 MS. KING: You don't have a certificate
12 of occupancy? You don't have a license? You're
13 operating a daycare center?

14 MS. EDWARD: No. No, we're not, and
15 this is actually my problem, because we moved from
16 the other space and, when we got here and applied in
17 February and we found out that the zoning was
18 expired, we then had to, because we -- we give care
19 for children through the Department of Human
20 Services, and in moving down you have to have a C of
21 O before the license.

22 So when we applied, we ran into this
23 problem. We had to terminate our children, and
24 that's why, really, we get started as soon as
25 possible.

26 MS. PRUIT-WILLIAMS: So are you

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1 currently operating at all?

2 MS. EDWARD: No.

3 MS. PRUIT-WILLIAMS: Madam Chair, from
4 looking at the calendar and checking with posting,
5 if we can put it on the June 17th agenda, which is
6 very full --

7 MS. EDWARD: I was hoping to be able to
8 do summer camp when school lets out, to get our
9 children in.

10 CHAIRMAN REID: Okay. Then I have no
11 problem with that, to try to expedite it; but it's
12 very important, ma'am, that you do come prepared.
13 It will make things a lot easier and simpler for you
14 to get the relief that you're requesting, to get
15 your special exception.

16 MS. EDWARD: Right. I'll have all the
17 licenses and things with me. It's just a question
18 of the sign.

19 CHAIRMAN REID: Consult with staff to
20 make sure that you have all your ducks in a row.
21 Okay?

22 MS. PRUIT-WILLIAMS: Which includes
23 addressing parking requirements, those types of
24 issues that are in the code, so that -- so it's very
25 clear when you come to the Board.

26 MS. EDWARD: And that date will be?

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1 MS. PRUIT-WILLIAMS: June 17th. I guess
2 we'll just put it in the afternoon, and somebody
3 will help you with having to post this notice,
4 because you need to do that right away so we can
5 make sure.

6 MS. EDWARD: Okay. I can pick that up
7 nextdoor now.

8 CHAIRMAN REID: Don't forget. In
9 addition to picking up those signs, you need to
10 speak directly to staff so they can help you through
11 this process. Okay? The next case? Thank you very
12 much.

13 MS. PRUIT-WILLIAMS: Okay, the next item
14 for review is application of 16344, application of
15 Patricia McDade, pursuant to 11 DCMR 3108.1, for a
16 special exception under Subsection 205.1 to
17 establish a child care center for 30 children, ages
18 infant to 12, and seven staff on the first floor of
19 an existing structure in an R-5-A District at the
20 premises 554 Malcolm X Avenue, S.E., Square 5985,
21 Lot 813.

22 All those planning to testify, would you
23 please stand. Would you raise your right hand,
24 please.

25 Do you swear or affirm that the
26 testimony you're going to give is the truth, the

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1 whole truth, nothing but the truth? Could the
2 applicant please come forward.

3 CHAIRMAN REID: Sir, are you in
4 opposition or support?

5 PARTICIPANT: Opposition.

6 MS. PRUIT-WILLIAMS: Madam Chair, there
7 is a preliminary matter with this, and that is there
8 was no affidavit of posting with this one either,
9 for this particular case. It doesn't mean it wasn't
10 posted. We just don't have any information on that.

11 Did you post the orange sign?

12 MS. McDADE: I posted the copy. I went
13 around to -- I have the petition here that is for
14 it. That's around my neighborhood in the -- what is
15 it, two foot radius?

16 MS. PRUIT-WILLIAMS: We have the same
17 question which we asked the woman before you, the
18 orange sign.

19 MS. McDADE: Okay. Like the lady before
20 me, when I came down, they did not give me that
21 orange sign, but I did pass the --

22 CHAIRMAN REID: Let's stay with the
23 orange sign.

24 MS. McDADE: Okay, let's stay with the
25 orange sign. All right.

26 MS. KING: Did you get this letter?

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1 MS. McDADE: Yes.

2 CHAIRMAN REID: You heard the previous
3 case. Right?

4 MS. McDADE: Yes.

5 CHAIRMAN REID: So did it sound similar
6 to you, that that was --

7 MS. McDADE: Similar, to me, yes.

8 CHAIRMAN REID: That same situation
9 here?

10 MS. McDADE: Right. That's why I went
11 to everybody's name that was -- That doesn't make
12 any difference?

13 CHAIRMAN REID: These two things are
14 different issues. Okay, now let's just do this, so
15 we can just save time. You heard what we told her.

16 MS. McDADE: Yes.

17 CHAIRMAN REID: The same thing applies
18 to you. We have to have a sign posted before you
19 can appear -- before you can have your hearing. So
20 what we have to do is we'll have to reschedule you.
21 We have to continue the case until another date.
22 You have to post as well as you have to --

23 MS. PRUIT-WILLIAMS: Well, there's also
24 another issue here. This is one of the parking
25 issues. So we don't even know. It may need to be
26 readvertised also.

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1 MS. KING: Yes, because the --

2 MS. PRUIT-WILLIAMS: They didn't address
3 -- We weren't sure if parking requirements were met,
4 if the ZA overlooked it or if that variance was --

5 MS. KING: Because we're talking about
6 ages up to 12 years.

7 MS. PRUIT-WILLIAMS: Right. Well, as
8 part of the -- As a result of the submission, we
9 were unsure -- Staff was unable to assess whether or
10 not parking was provided, and based on information
11 we received from the ZA, we couldn't tell if the
12 variance was not listed because they had met the
13 parking requirement or that the parking requirement
14 was left out, and it should have been asked for.

15 MS. McDADE: Excuse me. Can I say
16 something? There's plenty of public parking --

17 MS. PRUIT-WILLIAMS: It has to be off-
18 street parking.

19 MS. McDADE: It has to be off-street?

20 MS. PRUIT-WILLIAMS: It calls for -- I
21 mean the regs call for off-street parking, and
22 that's the requirement, and that's where it was
23 unclear to us.

24 MS. McDADE: Okay. Can I ask -- Well,
25 may I ask a question, please?

26 CHAIRMAN REID: Certainly.

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1 MS. McDADE: Now I'm on Portland Street.
2 It's called Malcolm X now. That's a very large
3 street. Newcomb has a daycare center on Newcomb
4 Street which is a very small residential street
5 where there is a lot of housing.

6 The street over there is much smaller.
7 Where I am, across the street from the daycare
8 center, no one ever parks over there, but you can
9 park. It's public parking over there. No one ever
10 parks over there. If they do, it's only for a
11 matter of moments.

12 The people that comes to my daycare
13 center, they park temporarily to bring the kids in,
14 and then leave to go to work. Up above there's a
15 liquor store. A lot of cars park from the liquor
16 store on that street. A lot of bus drivers park
17 their cars when they change shifts.

18 MS. KING: The problem is what the
19 regulations say. I know your street very well, and
20 everything you say is correct.

21 MS. McDADE: Oh, all right.

22 MS. KING: But that does not change the
23 fact that the municipal regulations for the District
24 of Columbia say that -- or it's possible that it
25 says, according --

26 MS. PRUIT-WILLIAMS: It says under

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1 Section 205.4 under Child Development Centers
2 sufficient off-street parking shall meet the
3 reasonable needs of teachers and other employees and
4 visitors. Then there's a Section 21 -- I'm sorry?

5 CHAIRMAN REID: One space for every four
6 teachers or employees.

7 MS. PRUIT-WILLIAMS: Right. 2101
8 actually gives you the guidelines of exactly what
9 you need.

10 MS. McDADE: Then why did Newcomb have -
11 -

12 CHAIRMAN REID: Well, Newcomb is not
13 before us. We can only address what is before us
14 today.

15 MS. KING: But what Ms. Pruit is saying
16 is that, if your case is readvertised and you ask
17 for relief from the requirement for off-street
18 parking, that it is within our province to grant
19 that, should we determine that you have a good case
20 for not needing it.

21 CHAIRMAN REID: In other words, you can
22 ask for a variance or you could come before us --

23 MS. PRUIT-WILLIAMS: A variance from the
24 parking requirement. That's what you would need.
25 That's the type of relief you're seeking.

26 CHAIRMAN REID: Do you understand that?

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1 MS. McDADE: All right. Now --

2 CHAIRMAN REID: So do you understand
3 that part?

4 MS. McDADE: I want to ask a question
5 about that part. Do I need to get a piece of paper
6 to have it filled out or something?

7 CHAIRMAN REID: Okay. Again, what will
8 happen -- After today or today, you can talk to
9 staff and get them to explain to you or consult with
10 them so that you can get all the information that
11 you need, so that your application can be properly
12 submitted.

13 What we're saying is that there is a
14 parking requirement. However, there's a possibility
15 of your getting relief on that parking requirement
16 by applying for a variance. It will come to us.

17 MS. KING: Do we have to go back to the
18 Zoning Administrator then?

19 CHAIRMAN REID: But there is a procedure
20 -- there's a procedure to make you qualify for that
21 type of relief. It's not automatic. What you want
22 to do is see whether or not you are able to comply
23 or you are able to meet that particular test for you
24 to be able to receive that relief that you're
25 requesting.

26 Do you see what I'm saying?

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1 MS. McDADE: Yes.

2 CHAIRMAN REID: And you also need to
3 talk to the ANC to get them to support you or to
4 give you some letter or something that would
5 indicate to us what their position is as far as your
6 child development center is concerned, and you need
7 to comply with regulation 205. Are you familiar
8 with that?

9 MS. McDADE: No, I'm not.

10 CHAIRMAN REID: Yes. Well, that is what
11 you're here today for, is to show us how you are
12 complying with the regulations, and that regulation
13 is 205. It's very important that you go through
14 each section of 205 and address each of those
15 sections when you come back, to show us how you are
16 in compliance or how you will comply with that
17 particular section of the regulation.

18 So, you see, there are several little
19 issues and things that you must comply with before
20 you come back, and again, I told the previous
21 applicant, you have to make sure that you have all
22 the information that you need so that, when you come
23 before us, you have the greatest possibility or
24 likelihood of your relief that you're requesting
25 being granted.

26 MS. McDADE: Yes.

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1 CHAIRMAN REID: See, it's a whole
2 procedure, and from talking to you, I kind of garner
3 that you're really not quite sure what or how this
4 procedure -- how you're to proceed with the
5 regulations or compliance or the procedures that we
6 have here. Is that true?

7 MS. McDADE: No, that's not quite true,
8 because I addressed the issue of parking, and I have
9 it in a letter, you know, and I talked to the people
10 that lived in the neighborhood, and I got them to
11 sign a petition. I also got some letters from
12 different clients that comes to my daycare center.

13 MS. KING: But what you need to do is to
14 meet with the staff of the Zoning Office right next
15 door.

16 MS. McDADE: I will.

17 MS. KING: You need to get the sign so
18 it can be posted. You need to clarify this question
19 of whether -- with them, whether the question of
20 parking has to go back to the Department of Consumer
21 and Regulatory Affairs. We have to reschedule this
22 whole thing and redo it from the beginning, and you
23 need to get Section 501, go over it very carefully,
24 and make sure that you can respond to every question
25 there.

26 CHAIRMAN REID: 205, she's saying.

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1 MS. KING: 205, sorry.

2 MS. PRUIT-WILLIAMS: This is a little
3 different than the one before, because you are
4 readvertising. So it's going to require a 40-day
5 period at least. The previous one, the zoning
6 relief did not change. This is, because -- She just
7 forgot the posting of the affidavit. That's a 15-
8 day thing. By regulations, you have to have a 40-
9 day notice.

10 So we're going to have to work with you
11 find a date that we can set for a hearing that would
12 allow the 40-day notice and for it to get into the
13 District register and all that, but we'll work with
14 you to set up the next available date.

15 MS. McDADE: Okay.

16 CHAIRMAN REID: And a question that I
17 had was, when you come back for your next hearing,
18 be sure to show us really the yard, play area and
19 especially the back. I had a question about the
20 back, because the back -- it seemed to be almost no
21 space back there. So you're going to have to make
22 sure you very clearly show us.

23 MS. McDADE: Excuse me. I took
24 pictures. Do you have the pictures?

25 CHAIRMAN REID: I have the picture.

26 MS. McDADE: I have a huge backyard.

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1 CHAIRMAN REID: Well, this is --

2 MS. McDADE: A huge backyard.

3 CHAIRMAN REID: Let me show you what I
4 see in the back.

5 MS. McDADE: Well, see the picture that
6 shows the huge backyard.

7 CHAIRMAN REID: This is all that I have.
8 Looks like -- Can you come forward? I was very
9 concerned about that. That's all I have. Do you
10 have anything else, Mr. Foushee?

11 MR. FOUSHEE: I was going to bring up
12 the same issue, as a matter of fact.

13 MS. McDADE: Where's the original
14 pictures?

15 MS. KING: There are three photographs
16 that we've got, the front, the side --

17 MS. McDADE: Okay, but you also have the
18 original pictures. I can't really --

19 MS. KING: We have the original
20 pictures, but that doesn't really show a very big
21 backyard.

22 MS. McDADE: Okay. Well, see --

23 CHAIRMAN REID: The picture is not a
24 good picture. What you need to show is -- This not
25 appear to us to look like a really big backyard. So
26 you're going to have to show -- This is just from

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1 the side -- a different angle so we can get a better
2 idea, because from looking at this picture, this
3 particular backyard looks very small.

4 MS. McDADE: Oh, no, it's huge.

5 CHAIRMAN REID: Inadequately small. Do
6 you see it right here?

7 MS. McDADE: Okay. See this green part
8 over here? This is one portion of the backyard.
9 Over here where it's brown is even larger than this.

10 CHAIRMAN REID: Again, we need to see
11 it. All I'm saying to you is that, when you come,
12 that it would be in your best interest to make sure
13 that we get the best whole picture so that we could
14 give you the relief that you're requesting. You
15 don't want to be turned down because you did not
16 submit your application properly.

17 What I'm saying to you is just make sure
18 that you have everything lined up, so that when you
19 come to us, you could have the greatest possibility
20 of having your relief granted to you.

21 MS. McDADE: All right. Okay, thank
22 you.

23 MR. FOUSHEE: And added to that, if you
24 have something that shows the measurement of the
25 yard also. You just indicate 14 by 28 or something
26 like that. That also helps people get a perspective

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1 on it.

2 MS. McDADE: Oh, okay.

3 CHAIRMAN REID: Yes, here, this is your
4 site plan, and this doesn't show us -- matter of
5 fact, this doesn't show us the building or anything.

6 MS. KING: No, but the building is on
7 here.

8 CHAIRMAN REID: Well, okay, a plan that
9 shows us the layout of the backyard and the play
10 area and where the building is located, where the
11 area is that the children will be playing, and just
12 the whole space that you have there that you are
13 going to be facing in the child development center.

14 MS. McDADE: All right.

15 CHAIRMAN REID: That will help a lot,
16 because that picture does not really.

17 MS. McDADE: Now can I just ask one
18 question?

19 CHAIRMAN REID: Oh, excuse me. Go to
20 the mike.

21 MS. McDADE: My question is the daycare
22 center is already there, and --

23 CHAIRMAN REID: I'm sorry, I can't hear
24 you.

25 MS. McDADE: The daycare center is a
26 working daycare center. It's already there. All

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1 I'm asking for is to expand for 15 more children.
2 The rules and regulations says I can have 15
3 children in each apartment. I already have a
4 working daycare center with up-to-date license. I
5 just want to expand over into another apartment
6 building for 15 more children.

7 CHAIRMAN REID: Okay, and your point?

8 MS. McDADE: My point is that I'm not
9 asking for 30 additional children.

10 CHAIRMAN REID: I understand. Well,
11 this is not your hearing today. Okay? So before
12 even getting into the meat of the issue, you need to
13 first go back and do things properly, and then when
14 you come before us, these are the kinds of things
15 that you would bring forward at that time.

16 We can't really even address or hear
17 what you're saying right now, because we have
18 inadequate information. It's incomplete, and it
19 would do you a disservice to do it at this point.

20 MS. McDADE: Oh, okay.

21 CHAIRMAN REID: You see what I'm saying?
22 So Madam Director will reschedule a time that would
23 be suitable to have the next hearing, and in the
24 interim you've been given instructions.

25 MS. McDADE: All right. Thank you very
26 much.

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1 CHAIRMAN REID: I thank you.

2 MS. PRUIT-WILLIAMS: Madam Chair, I just
3 wanted to let her know that Beverly Bailey is the
4 project manager for this. She's sitting at the end
5 there. So she will be able to help you through the
6 process. She's very good.

7 MS. McDADE: All right. Thank you.

8 CHAIRMAN REID: So for the purposes of
9 those who are here for this particular case, this
10 case will be rescheduled, and it will be dismissed,
11 and there will be another -- there will be a
12 readvertising of the same case for a subsequent
13 date, and the building will be so posted, for your
14 information.

15 MS. PRUIT-WILLIAMS: And it will include
16 the new zoning relief required.

17 CHAIRMAN REID: We can't take questions
18 from the floor. Sorry. It's not a hearing. You
19 can do that at the hearing. Thank you.

20 All right, next case.

21 MS. PRUIT-WILLIAMS: The next case is --

22 MR. EDWARDS: I'm an ANC. We were not
23 notified.

24 CHAIRMAN REID: Sir, again, would you
25 please talk to staff at the end of this hearing to
26 let them know whatever you have to say, because we

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1 cannot address questions from the floor. Thank you.
2 I appreciate that, but please let them know, and
3 they will make sure that that's taken care of.
4 Thank you.

5 MS. PRUIT-WILLIAMS: The next case on
6 the morning agenda is 16345, application of Elwood
7 Gray, pursuant to 11 DCMR 3108.1, for a special
8 exception under Section 205.1 to establish a child
9 development center for ten children, ages 2 1/2 to
10 14 years, and five staff on the basement through
11 second floor of an existing structure in an R-1-B
12 district at the premises 5500 New Hampshire Avenue,
13 Square 3389, Lot 823.

14 All those who are here to testify, would
15 you please stand and raise your right hand.

16 Do you swear or affirm to tell the
17 truth, and nothing but the truth? Would you please
18 be seated.

19 CHAIRMAN REID: All right.

20 MS. PRUIT-WILLIAMS: Madam Chair, we
21 tend to have a very similar problem as before. It
22 is another child development center where staff was
23 unable to determine by the submission or the ZA's
24 letter if the parking requirement was met.
25 Therefore, no variance from parking was needed, or
26 if it was overlooked by the ZA and must be

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1 readvertised.

2 So I guess we need to just ask the
3 applicant.

4 CHAIRMAN REID: All right. Ask them if
5 they posted or --

6 MS. PRUIT-WILLIAMS: No, no. The issue
7 is whether or not there's off-street parking
8 provided.

9 CHAIRMAN REID: Oh. Is there any off-
10 street parking provided?

11 MR. GRAY: Yes.

12 MS. PRUIT-WILLIAMS: Do you have a site
13 plan or something graphic. Information submitted to
14 us, it was hard for staff to determine whether or
15 not you've met that zoning requirement, and the ZA's
16 letter didn't really adequately address that.

17 CHAIRMAN REID: Do you have a -- You do
18 have a site plan?

19 MR. GRAY: No.

20 CHAIRMAN REID: Basically, to
21 demonstrate to us that you have adequate parking.

22 MR. GRAY: Right. I understand. Right.

23 CHAIRMAN REID: Do you have a site plan
24 for a --

25 MS. KING: How many off-street parking
26 spaces do you have?

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1 MR. GRAY: Seven.

2 CHAIRMAN REID: Where do you show that
3 in your application, in your submission? Do you
4 show where those parking spaces are located on the
5 property, on the site? Sir?

6 MR. GRAY: On the site itself? Well, we
7 -- Well, we are derelict in that, and we did not
8 specifically. We took pictures and everything. We
9 knew we had the seven. There are seven actually
10 marked parking spaces there.

11 Actually prior to us buying the
12 property, whoever the previous owners were, they had
13 actually marked parking spaces with, you know, those
14 -- they're not pillars, but those markers that
15 denotes --

16 CHAIRMAN REID: Marked on the ground?

17 MR. GRAY: Right, yeah.

18 CHAIRMAN REID: Okay, you do have it,
19 but it's not indicated in --

20 MR. GRAY: It's not indicated. It's not
21 clear. I could take a picture, whatever you
22 require.

23 CHAIRMAN REID: We would need to have
24 that. That's one of the things that we would
25 request for a decision.

26 MS. KING: What are the dimensions of

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1 your property? Do you know?

2 MR. GRAY: The dimensions of the
3 property? No, I don't. I had that information, you
4 know, in the plans.

5 CHAIRMAN REID: The dimensions are here,
6 though all you basically need is -- No, this is a
7 traffic. So it's a little different.

8 MS. KING: The thing is that I'm trying
9 to figure out --

10 CHAIRMAN REID: How much of the space
11 does the building occupy?

12 MS. KING: On this, there's a little
13 square over here. Is that where the seven parking
14 spaces are?

15 MR. GRAY: Right. That's right.

16 MS. KING: But that must cut in
17 significantly to the area that you have for play
18 room for the children. Is that correct?

19 MR. GRAY: Well, insofar as the play
20 area is concerned, I would like to have my wife to
21 address that. Is that okay?

22 CHAIRMAN REID: Okay. Well, go ahead
23 and proceed with your case, and then we'll ask
24 questions as you go along.

25 MR. GRAY: Okay. First and foremost, we
26 are asking to have a child development center for

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1 ten children -- ten children. We had in our request
2 ages 2 1/2 to 14, but that would be inclusive of the
3 after-school program, but during the day from nine
4 to four we're asking permission to have children
5 there 2 1/2 to pre-K there, ten, and five staff; and
6 we felt that our seven parking spaces that are off-
7 street, that are actually right there, would
8 adequately take care of our staff and also for a
9 visitor and for dropoff.

10 MS. KING: Ten students, 2 1/2 to pre-K?
11 Is that it?

12 MR. GRAY: Yes.

13 MS. KING: And how many staff?

14 MR. GRAY: Five staff. And we have a --
15 Again, I need to show you on the plans that, you
16 know, it is a bona fide parking lot. In fact, you
17 know, people can come off of Kennedy Street and come
18 right on into our parking lot without interfering
19 with anyone, because we are right on the corner.

20 We have entrance from the rear of the
21 building, upstairs and downstairs. That would be
22 adequate. So they come right out, and there would
23 not be any danger to the children. Neither would it
24 infringe upon any of our neighbors regarding -- you
25 know, we're not in the middle of the block. We're
26 right on the very corner. So --

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1 MS. KING: And after -- then where are
2 these older children? When do they come, and what
3 are the hours, and how many of them and so forth?

4 MR. GRAY: Okay. We plan to -- Oh, I'll
5 let my wife do this.

6 MS. GRAY: In regards to the after
7 school care program, which is where the older
8 children --

9 MS. PRUIT-WILLIAMS: Excuse me, Madam
10 Chair. The witness would need to identify
11 themselves.

12 MS. GRAY: Hi. My name is Bonnie Gray.

13 CHAIRMAN REID: Address, please.

14 MS. GRAY: The address of the property--

15 CHAIRMAN REID: No, your address.

16 MS. GRAY: My address, my home address
17 is 13114 Holdridge Road, Silver Spring, Maryland.

18 CHAIRMAN REID: Thank you.

19 MS. GRAY: The property in question
20 where we are seeking our daycare permit is at 5500
21 New Hampshire Avenue.

22 The children in question will be the
23 children ages Kindergarten to age 14. They would be
24 the population that would make up our after-school
25 care program.

26 We will seek to have five children in

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1 the after-school care program, the ages varying from
2 kindergarten to age 14.

3 MS. KING: And how many staff?

4 MS. GRAY: The hours of that particular
5 after-care program would be immediately following
6 school, and I believe school dismisses around three
7 o'clock, until six o'clock. So they would be there
8 approximately three hours.

9 CHAIRMAN REID: Your hours are from what
10 time in the morning to what time in the evening?

11 MS. GRAY: Our hours are from seven
12 o'clock in the morning. The parents can actually
13 drop the children off at that point -- until six
14 o'clock in the evening to pick them up.

15 CHAIRMAN REID: So that's what you're
16 requesting?

17 MS. GRAY: I'm sorry?

18 CHAIRMAN REID: So those hours are the
19 hours that you're requesting. Right?

20 MS. GRAY: That is correct.

21 CHAIRMAN REID: Okay. Continue.

22 MS. GRAY: Okay. With those five
23 children in our after-school care program, we will
24 have significant volunteers to have them be tutored,
25 and I believe in our proposal we are asking for five
26 volunteers, and those volunteers would come from our

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1 area university, that university being Howard
2 University.

3 CHAIRMAN REID: Okay.

4 MS. KING: And, surely, there will be a
5 staff person there?

6 MS. GRAY: That is correct. That is
7 correct.

8 MS. KING: How many staff people will be
9 there, in addition to the five volunteers?

10 MS. GRAY: Okay. We have -- Our plan
11 consists of a director, a qualified director --

12 MS. KING: No. What we're talking about
13 is -- You said that you have five staff from seven
14 a.m. to four p.m. From four p.m. until six p.m.,
15 how many staff will be there? Five?

16 MS. GRAY: Okay.

17 MR. GRAY: I'll address it. Thank you.
18 This is Elwood Gray, and I'll respond to that.

19 CHAIRMAN REID: And your address,
20 please, sir, home address?

21 MR. GRAY: Elwood Gray, and same
22 address, 13114 Holdridge Road in Silver Spring,
23 Maryland.

24 From those hours when the older children
25 will be there, I will personally be there during
26 those hours.

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1 MS. KING: One staff person?

2 MR. GRAY: I will also have with me Ms.
3 Rosa Beynard. She will be with me, you know, as
4 well.

5 MS. KING: Two staff people?

6 MR. GRAY: Two staff persons in that
7 regard, and we will have five after school, no more
8 than five. That's the limit. Sometimes we might
9 have two, sometimes we might have three, but the
10 limit will be five.

11 MS. KING: What arrangements are there
12 for dropoff and pick-up of the children? Where will
13 that occur?

14 MR. GRAY: Okay. Again, at the rear of
15 the building we have our own parking lot with ample
16 space for one to pull in off the street, without any
17 encumbrance with traffic or involving our neighbors
18 on this one side.

19 MS. KING: But you have five staff
20 people who are presumably there before the children
21 arrive.

22 MR. GRAY: Yes.

23 MS. KING: Therefore, all but two of the
24 parking spaces could be taken up with the five staff
25 people.

26 MR. GRAY: That's correct.

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1 MS. KING: So my question remains, where
2 will the pickup and drop-off occur?

3 MR. GRAY: Oh, okay.

4 MS. KING: On that alley, on the public
5 alley behind?

6 MR. GRAY: Oh, no. When the five -- the
7 designated parking spaces for the five staff members
8 that are there, it will not encumber -- it will not
9 prevent vehicles from coming in and exiting the
10 area, coming in and dropping off and exiting the
11 area.

12 MS. KING: I think we really need to see
13 where this parking is.

14 MR. GRAY: Of course, and like I said --
15 and I apologize.

16 MS. KING: Where on the -- Is it on the
17 New Hampshire side of the property, on the Kennedy
18 side of the property or on the public alley? On the
19 Kennedy side of the property?

20 MR. GRAY: Okay, give me a chance. Just
21 a moment. It's on the Kennedy side. If you take
22 the Kennedy side and you take the alleyway, and if
23 you make a right angle and move it in, and you have
24 it. That's where the parking lot is. It's actually
25 in the rear of the building.

26 MS. PRUIT-WILLIAMS: Sir, the question

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1 as to where the parking lot is -- it is where will
2 children be dropped off and picked up?

3 MS. KING: In the parking lot, he says,
4 but there's no curb cut -- right? -- on Kennedy
5 Street. Where do people enter the parking lot?
6 Through the alley?

7 MR. GRAY: Right. That's what I'm
8 saying. If I can kind of -- Okay. If this is
9 Kennedy Street here --

10 MS. KING: No. Do it on this.

11 MR. GRAY: This is the alleyway.

12 MS. KING: Do it on this.

13 MR. GRAY: You want me to approach?

14 MS. KING: Yes, would you, please.

15 Okay. There is Kennedy Street. There is New
16 Hampshire Avenue. Where is your parking?

17 MR. GRAY: Okay. This is Kennedy
18 Street. The parking is right here. So what they
19 would have to do is either they would come up
20 Kennedy Street, come in the alleyway and then make
21 an immediate right.

22 MS. KING: Well, not an immediate right,
23 because this is the sidewalk area, but here is your
24 -- this is what you're saying?

25 MR. GRAY: Right.

26 MS. KING: And where do they exit?

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1 MR. GRAY: They can exit the same way.
2 They can come out, you know, the same way.

3 MS. KING: Okay. You have seven parking
4 spaces.

5 MR. GRAY: Yes.

6 MS. KING: And what you're suggesting is
7 that the vehicles that are bringing ten children
8 after at least probably five of those parking spaces
9 are filled -- so the only way that they can drop off
10 is to drive into the parking lot and then back out
11 into the alley. Is that correct ?

12 CHAIRMAN REID: Back out?

13 MS. KING: Well, there's no curb cut.
14 There's no curb cut.

15 CHAIRMAN REID: That's dangerous.

16 MR. GRAY: Wait a minute. Okay. That's
17 all a person would have to do. On Kennedy Street
18 they can drive right up here, parallel. They do not
19 have to drive this way here, head on facing the
20 building. They can pull right in here parallel,
21 drop the children, then cut out this alleyway, all
22 the way through this alleyway, and go right on up
23 here, and then come back out New Hampshire. We do
24 it all the time, neighbors and some --

25 MS. KING: Well, I was confused, because
26 you told us first that the pickup and drop-off spot

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1 was going to be the parking lot, but now you're
2 saying not, that the alley is going to be the pick-
3 up and drop-off.

4 MR. GRAY: No, no, I'm still saying the
5 parking lot. There is room on the parking lot for
6 someone to pull in parallel.

7 CHAIRMAN REID: You really need --

8 MR. GRAY: You need to have a picture,
9 because I have a picture.

10 CHAIRMAN REID: There's no way that we
11 can get an adequate conception of what you're
12 referring to unless we have a plan to be able to see
13 it visually.

14 MR. GRAY: Again, I apologize.

15 CHAIRMAN REID: And that is very
16 important to your case. The next witness?

17 MR. MOSLEY: My name is Richard Mosley.
18 I'm the President of South Manor, and we have a
19 letter here stated from the D.C. traffic branch.
20 Our street is a possible traffic route. The average
21 annual weekday traffic is 48,800 vehicles.

22 New Hampshire is a traffic route. On
23 the annual weekday traffic, 16,00 vehicles. Kennedy
24 Street is a traffic route, and it averages on a
25 weekday of 6,000 vehicles. The total average
26 weekday traffic on the three-way intersection in

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1 front of 5500 New Hampshire Avenue is 70,000 cars.

2 The traffic engineer estimates that each
3 rush hour consisted of twelve to --

4 CHAIRMAN REID: Excuse me, sir. Are you
5 -- You are not with the applicant?

6 MR. MOSLEY: No, I'm against the
7 applicant.

8 CHAIRMAN REID: Okay. All right, sorry.
9 We called for the applicant to come to make their
10 case, and then you'll have an opportunity to make
11 your presentation at the appropriate time, which is
12 not at this time.

13 So if you take a seat, then we'll call
14 you up at the time when I ask for the opposition to
15 come forward. We were wondering. You started to
16 read your information, and it didn't sound like you
17 were part of the application.

18 Okay. Mr. Foushee, do you have a
19 question?

20 MR. FOUSHEE: Related to this also, can
21 you give us information that shows the playground or
22 how much open space you have for the basic plan,
23 because I didn't know we had received a letter, I
24 believe, this morning.

25 CHAIRMAN REID: It was in the file.
26 It's apparently dated -- Well, it was clocked in May

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1 18th.

2 MR. GRAY: Sir, could we address that
3 issue?

4 MR. FOUSHEE: If you would.

5 MS. GRAY: As it relates to playground
6 space, yes, we do have a large yard on the side of
7 the house, but we would not -- since that is a very
8 busy -- extremely busy street, we would not our
9 children play there.

10 What we will do, because we will have
11 adequate staff, and we will have adequate
12 transportation, as weather permits, we will be
13 busing our children on a daily basis to the nearby
14 Takoma Park Recreation Area.

15 I was by there yesterday. There is
16 adequate playground space. There's adequate
17 swimming pool space for them to get adequate
18 exercise, and that would be done on a daily basis,
19 as weather permits.

20 MR. FOUSHEE: So the open space you're
21 referring to is actually on the Kennedy Street side?

22 MS. GRAY: Is on the Kennedy Street
23 side, yes.

24 MS. KING: And that's in addition to the
25 parking, seven parking spaces and play area?

26 MS. GRAY: No. Well, I'm speaking now

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1 specifically, Ms. King, about yard, the yard on the
2 side of the property, which is really separate from
3 the parking spaces. There is a yard.

4 CHAIRMAN REID: Ms. Gray, I understand
5 you to say that you're going to bus the kids back
6 and forth to the play area.

7 MS. GRAY: That's correct.

8 CHAIRMAN REID: Did you provide us with
9 any pictures of that play area that you're referring
10 to?

11 MS. GRAY: No, we did not. I apologize
12 for that as well. We will do that. As I said, I
13 went by yesterday to do an inspection, and it's
14 quite adequate.

15 CHAIRMAN REID: And what is the play
16 area that you were referring to?

17 MS. GRAY: The closest recreation area
18 to 5500 is Takoma Park Recreation Center --

19 MR. GRAY: It's right at Sheraton and
20 Third Street North.

21 CHAIRMAN REID: Have you made provision
22 with the Recreation Department for the --

23 MS. GRAY: I spoke with some personnel
24 at the Recreation Department yesterday. We would
25 not be asking for special permission to come and use
26 the playground, since it is an open facility.

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1 CHAIRMAN REID: Okay. Well, now that's
2 another issue, because in an open play area where
3 you have larger kids who are on the play area and
4 you have the smaller kids coming from the child
5 development center, there has to be some
6 coordination, because it's not always a good idea to
7 have both size kids playing at the same time.

8 MS. GRAY: Okay.

9 CHAIRMAN REID: So we need to have an
10 understanding as to how those kids are going to be
11 best protected on a public play area provided by the
12 Recreation Department. Do you have that
13 information?

14 MS. GRAY: Well, I didn't get any type
15 of formal letter from the Recreation Department at
16 Takoma Park. No, I did not, which is my fault, and
17 I do apologize for that as well; but with adequate
18 staff that we will have going with these children on
19 a daily basis, as weather permits, we will have them
20 well under control as it relates to where they are,
21 who they play with, what they play on.

22 MS. KING: Madam Chair, I'm not visually
23 familiar with the Department of Human Services
24 regulations, but you're going to have to be
25 licensed. Do the DHS regulations require that there
26 be a play area at the child development center or

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1 can it be elsewhere? Have you talked to the D.C.
2 Department of Human Services about their
3 regulations?

4 MR. GRAY: Right, right. Absolutely.
5 That was our first stop, and you know, they veered
6 us all here, because -- regarding the zoning.

7 CHAIRMAN REID: It can be off-site, but
8 they have to demonstrate to the satisfaction of
9 Human Services that the children are going to be
10 adequate protected, that there is no danger, even in
11 the transport back and forth. I don't see any of
12 that in this particular file.

13 MS. PRUIT-WILLIAMS: Ms. King, in the
14 Board's rules under Section 205.7 any off-site play
15 area shall be located as not to result in
16 endangerment to the individuals in attendance at the
17 center in traveling between the play area and the
18 center itself.

19 So our rules and regulations also --

20 MS. KING: Oh, I see. I beg your
21 pardon. Yes, I've reviewed that.

22 MS. PRUIT-WILLIAMS: So you have to deal
23 with that.

24 MR. FOUSHEE: Related to this issue of
25 the playground can be parking. When you submit any
26 information, if you could talk about the bus also,

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1 where the bus would park or idle. This gets back to
2 some of the concerns that were mentioned earlier
3 about safety of the children.

4 MR. GRAY: Absolutely. We will
5 definitely do that.

6 CHAIRMAN REID: You keep saying you
7 will, but this is the time.

8 MR. GRAY: No, no. There's no way now
9 we can -- Madam Chair, with all due respect, there's
10 no way we can take care of issues right now that are
11 coming up that we haven't had -- We cannot get the
12 letter from the Recreation Department. We cannot
13 show you the parking lot.

14 We told you all about the parking that
15 we can.

16 CHAIRMAN REID: Okay. I think, Mr.
17 Gray, that the point that the Board is making to you
18 is that these are the issues that should have been
19 addressed before you came before us to present your
20 case. These are the kinds of things that we look to
21 someone who is considering a child care center to
22 have already taken into consideration to show us
23 that you are capable and that you are skilled,
24 qualified to adequately run a child development
25 center.

26 The other question -- other issue -- Are

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1 you familiar with the letter from the Longfellow
2 Unit Block Club, the petition that was submitted,
3 letter of petition from Jordan Davis?

4 MR. GRAY: No.

5 CHAIRMAN REID: In opposition?

6 MR. GRAY: I checked the file recently.
7 I'm not familiar with that.

8 CHAIRMAN REID: You don't have a copy?

9 MR. GRAY: I do not. I checked the file
10 in Room 210.

11 CHAIRMAN REID: It appears that there is
12 considerable opposition to your application based on
13 several different items. One, there's an item
14 addressing the intersection where you have heavy
15 traffic coming in three directions, and your child
16 development center is kind of on an angle right
17 there. Is that correct?

18 MR. GRAY: Madam Chairman, now let me
19 try to, you know, get something clear to you. We
20 are not -- Activities will not be held on New
21 Hampshire Avenue. The heavy traffic is on New
22 Hampshire Avenue, New Hampshire, North Capitol,
23 Blair Road, where all that comes together. That's
24 where the heavy traffic is at.

25 The heavy traffic is not on the Kennedy
26 Street side. It's not on the Kennedy Street side.

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1 That's what we are talking about there. The
2 children will not be --

3 MS. KING: Is Kennedy Street not a major
4 east-west highway?

5 CHAIRMAN REID: It is.

6 MS. KING: I mean, arterial or whatever
7 the technical word is? It is not a quiet, little
8 residential street. It's a heavily traveled street,
9 Kennedy.

10 MR. GRAY: Let me put it to you another
11 way. Just about every evening, you know where I am?
12 I'm right there at Kennedy and North Capitol. I am
13 physically there, because we also hold services
14 there, you know, in the same building, and I
15 evangelize just about every evening, you know, on
16 that --

17 MS. KING: That doesn't -- The fact that
18 you're evangelizing there doesn't change the fact
19 that it's a major thoroughfare.

20 MR. GRAY: No, I was going to have the
21 chance to view the traffic personally.

22 MS. KING: Well, I've driven on that
23 street often, and it's always been heavily traveled.

24 CHAIRMAN REID: Are you saying that --
25 Are you -- Is your position that Kennedy is not a
26 heavily traveled street?

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1 MS. KING: Yes, that's what he's saying.

2 MR. GRAY: No, no, no. No. I'm saying
3 that Kennedy is not as heavily traveled as New
4 Hampshire and North Capitol.

5 MS. KING: It is, nevertheless, a very
6 heavily traveled street, is it not?

7 MR. GRAY: Not that it would infringe
8 upon the fact of having a child development center
9 there. No, absolutely not. No.

10 MR. FOUSHEE: To clarify some of this, I
11 think you should talk with the Department of Public
12 Works, their traffic section, and they should have
13 some traffic numbers for you. That may help clarify
14 that for you for that entire area, for New Hampshire
15 Avenue, North Capitol Street and Kennedy Street.

16 I think what you might want to do also
17 is to try to focus that information and find out
18 what their traffic is like during the peak hours,
19 giving a count, and they will give you probably
20 what's called a level of service which ranges from A
21 to F. A is good, free flowing. F means there's
22 congestion and breakdown in traffic.

23 They will help go through some of that
24 with you when you contact them.

25 MS. KING: But this is the hearing. He
26 doesn't get a second crack.

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1 MR. GRAY: Okay, praise the Lord. Let
2 me just, you know, say this. It might be in order,
3 might not be in order, whatever; but our intention
4 there at 5500 New Hampshire Avenue is to come and
5 enhance that neighborhood, and the children in that
6 neighborhood and everything that goes on in the
7 neighborhood.

8 We are there to enhance. We're not
9 there to bring down the neighborhood. That is not
10 our intent, and we want to do everything that the
11 Board desires or whoever the powers may be that if
12 we do not hold a -- or have a child development
13 center there, well, then that's the way it will be.
14 However, we will do everything that we can do --
15 everything that we can do -- My wife and I will do
16 everything that we can do to have a small child
17 development center there, whereas at least that we
18 can address the needs of some of the parents in the
19 area, and we can know that that child development
20 center -- I know, if my wife and I are there, there
21 will be, if not the best, but one of the best in
22 this city.

23 So our intent is not to hurt, not to
24 tear down, not to infringe, not to damage, but to
25 help and support and to build up.

26 CHAIRMAN REID: Now, Mr. Gray, one other

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1 question. In regards to the letter from Mr. Davis,
2 there was reference made to that particular --

3 MR. GRAY; Mr. Davis?

4 CHAIRMAN REID: Mr. Davis who represents
5 the Longfellow Unit Block Club.

6 MS. KING: The letter I just gave you,
7 sir.

8 MR. GRAY: Yes. This says Dobbin --
9 Davis, okay.

10 CHAIRMAN REID: -- in regard to that
11 particular site not being a healthy environment for
12 a child development center, in view of all the
13 questionable activities on Kennedy Street. Can you
14 address that?

15 MR. GRAY; Oh, of course. Let me say
16 this to you also. I am -- and praise be to God, and
17 I'm happy that I have just recently retired from the
18 D.C. Department of Corrections. I'm the former
19 chaplain there. I've been there for 20 years.

20 That house there on 5500 New Hampshire
21 Avenue -- it was really God-sent, you know, for us
22 to have that, for that to be placed under our
23 charge, because on New Hampshire Avenue side you
24 have folk who have jobs or who are retired and are
25 doing well, and then on the Kennedy Street side of
26 the property where we are, we have what I consider

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1 or call the least, the last and the lost, because
2 many of those men, many of those women that I have
3 seen them in the prison system, and I know that some
4 of them are still doing the same thing,
5 prostitution, drugs, you have it, whatever the case
6 may be, a myriad of other things, you know, that are
7 going on, you know, down on the Kennedy Street side.

8 CHAIRMAN REID: Why would you want to
9 put a child development center in the midst of all
10 of that?

11 MR. GRAY: Now you asked me why would I
12 want to put a child development center? On Kennedy
13 Street children are there, too. Infants are there,
14 too, as well as it is on New Hampshire Avenue. So
15 the children are not just on New Hampshire Avenue.
16 Okay?

17 I mean, just because drugs and
18 prostitution that are going down on Kennedy Street,
19 it doesn't mean that it's not going on on New
20 Hampshire Avenue. It's just not as overt.

21 CHAIRMAN REID: Okay. The question is
22 why would you want to put a child development center
23 in the midst of all that illicit activity?

24 MR. GRAY: People are not congregating
25 on our property. You know, the drug activity, the
26 illicit activity is not congregated, you know, at

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1 5500 New Hampshire Avenue. It's further down on --
2 you know, in that Kennedy Street corridor.

3 As a matter of fact, I can tell you
4 specifically where it is, as it was there from CVS,
5 the old People's Drug Store, and then comes on to
6 what they call the Universal Church, you know, past
7 -- was it Fonzie the Clown and, you know, the
8 stores, merchandisers, you know, those stores there,
9 and then the Apostolic Church that's over there on
10 the left. Then it abruptly ends.

11 They don't come -- I mean it cuts off.
12 When you come to -- they used to have a Chinese
13 restaurant there, and the building just before,
14 adjacent to the Chinese restaurant, it abruptly cuts
15 off, you know. Their activity just stops right
16 there. They don't come any further than that.

17 So they're locked in there, and then
18 they go up some, you know. The reason why I know
19 the neighborhood so well is because I'm there. The
20 morning, I'm there. The evening, I'm there. I walk
21 the neighborhood. I talk to people on both sides,
22 the Kennedy Street side and the New Hampshire Avenue
23 side.

24 They are different folk. They're
25 different folk. I know that, but all of them are
26 still God's children.

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1 CHAIRMAN REID: Any questions?

2 MR. FOUSHEE: No.

3 MS. KING: No, none.

4 CHAIRMAN REID: Thank you. Thank you
5 very much. Those who are in -- Oh, we don't have
6 any government reports. Right? No ANC report?

7 MR. GRAY: The President of the ANC was
8 here.

9 CHAIRMAN REID: Okay. Allow him to come
10 up, please.

11 MS. PRUIT-WILLIAMS: Sir, you need to
12 fill out a witness card, please.

13 MR. TAYLOR: Madam Chair, my name is
14 Vannie Taylor III. I'm currently the duly elected
15 ANC Commissioner for 4B07, which is the area in
16 which this child care development center has made
17 application.

18 I would also like to bring to the table
19 at this time, if I may, Mr. Edwards, who is
20 President of the Longfellow Block Association.

21 CHAIRMAN REID: Okay. Now this
22 particular segment is for ANC.

23 MR. TAYLOR: Mr. Davis. I'm sorry, Mr.
24 Davis.

25 CHAIRMAN REID: All right, Mr. Davis.
26 Is he affiliated with the ANC?

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1 MR. TAYLOR: Well, he's here because he
2 works closely with the ANC.

3 CHAIRMAN REID: Is he in opposition or
4 support?

5 MR. TAYLOR: He is in opposition.

6 CHAIRMAN REID: Then we'll allow him to
7 come up at the segment for the opposition. This is
8 particularly for the ANC. Could you give your home
9 address, please?

10 MR. TAYLOR: My home address is 5615 1st
11 Street, N.W., Washington, D.C.

12 CHAIRMAN REID: And did you have a
13 written report for us?

14 MR. TAYLOR: We would request that the
15 record remain open to give us time to submit a
16 written report. We had not prepared one, and the
17 reason why a written report has not been prepared is
18 that, when this application came to my attention, I
19 requested or spoke with Reverend Gray pursuant to
20 returning his call to me.

21 I indicated or suggested to him that he
22 should seek an opportunity to appear before our
23 commission to address the issue. I didn't receive
24 any additional return telephone calls. I understand
25 that Rev. Gray has met with some members of the
26 South Manor Civic Association, which this area

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1 includes -- or some members of that association.

2 However, he has not appeared before the ANC.

3 I appear here as Chair of that ANC 4B,
4 as well as the ANC Commissioner of the area that is
5 directly affected herein. Okay? My Commission area
6 includes south to Missouri, east to North Capitol,
7 west to Third Street, and north to Sheridan. That's
8 in the E area.

9 The ANC commission area goes south to
10 Missouri, north basically to Silver Spring, bounded
11 on the west side by Georgia Avenue, and on the east
12 side, Eastern Avenue.

13 I'm very, very familiar with this area.
14 I mean this location that Rev. Gray has selected to
15 make application for a child development center is
16 within two and a half blocks of my home. So I know
17 the area. I've lived there 15 years.

18 In all due respect, I think it's
19 probably one of the worst locations to even be
20 considered for a child development center. First of
21 all, the facility itself does not lend itself in any
22 way to accommodate a development center.

23 There's inadequate parking for staff.
24 The grounds -- there's a house there. There's a
25 garage in the rear of that house. There's
26 absolutely no yard area or rear of the house. The

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1 yard area that was there was paved for parking.

2 There are approximately sufficient
3 parking there for probably three vehicles. I don't
4 see seven cars being able to park there. There is a
5 side yard area along the side of the house, on the
6 Kennedy Street side of the house, which is narrow.
7 It's totally inadequate for a play area, as might
8 have been suggested earlier.

9 So the only way that this facility would
10 be able to address adequate play area is off-
11 location. I don't think they can -- They could
12 probably address the need for staff parking with the
13 three spaces, I guess, that they have available if
14 all their staff is not driving.

15 There is -- In terms of dropoff, it's --
16 That's one of the reasons why this is just a totally
17 inept location. Kennedy Street is a very heavily
18 traveled street. It feeds directly into New
19 Hampshire Avenue at that location.

20 Eastbound traffic coming from across
21 town is moving across Kennedy Street, trying to take
22 a shortcut to get to New Hampshire Avenue. There
23 are approximately 66,000 cars that travel that
24 street daily.

25 So there is -- It is a heavily
26 trafficked street. It would be virtually --

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1 tremendously risky for children to be dropped on
2 Kennedy Street to enter a child development center
3 at that location.

4 You know, this does not involve just
5 Kennedy Street and New Hampshire Avenue. It
6 involves traffic that passes -- You see, because
7 this house really sits on the intersection of
8 Kennedy, North Capitol and New Hampshire Avenue. So
9 there are three major arteries that cross there.

10 The property which, I guess, has a New
11 Hampshire Avenue address, is because New Hampshire
12 Avenue as it comes south zigzags a little across
13 North Capitol. Well, there is also the major
14 intersection of North Capitol south and northbound
15 traffic that affronts this property.

16 Because of the heavy traffic and just
17 the totally inadequate dropoff, no place to really
18 drop children, even if he chose to use the alley
19 rear of the property, which is a public alley,
20 properly paved, newly paved, in fact, it would still
21 be inadequate in that that alley is frequently
22 traveled by the residents that live on the North
23 Capitol -- the west side of North Capitol, a number
24 of which have businesses that they operate out of
25 the rear of that alley.

26 I'm concerned -- Let me just state one

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1 thing about our Commission. Our Commission is
2 frequently requested to make references regarding
3 applications of this nature, and perhaps some of you
4 may recall our response to them, either in person or
5 by formal correspondence, as we will do in this
6 case, as a matter of fact.

7 Your record remains open on an
8 application at 801 Rittenhouse, which we aired at
9 our last public meeting on the second Thursday of
10 this past month, and it was decided by our
11 Commission to approve that application and to
12 support it, and correspondence will be forwarded to
13 indicate that.

14 We're not opposed to -- and recognize
15 the need, the enormous need that is being created
16 for child development centers, particularly in light
17 of the Federal legislation that is requiring that
18 people return to work, and regarding the welfare
19 area. Children are going to have to be kept and
20 housed somewhere.

21 There is a tremendous need for these
22 kinds of facilities. However, these facilities must
23 be placed in situations that are appropriate and
24 that are in the best interest of the children that
25 wills be attending them.

26 We do not think -- As the ANC

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1 Commissioner for that specific area, I am indicating
2 to you now officially that I do not feel that this
3 location is a good location to even consider placing
4 a child development center there.

5 This matter, having not formally come
6 before the Commission as a whole, I cannot sign off
7 on a letter as Chair of that Commission to you until
8 such occurs. However, if it should be an item that
9 comes before the entire Commission, I would doubt
10 seriously whether the Commission, ANC 4B, would
11 support this application.

12 If it is aired, I would not prejudge it,
13 but -- and if Rev. Gray would like to appear before
14 the Commission, he's certainly welcome. However,
15 given the circumstances and the factual information
16 that I have about this situation, I doubt seriously
17 that my co-Commissioners would be willing to support
18 this application.

19 If you have any questions of me
20 regarding the matter that I have, in my haste to get
21 this information out, overlooked, I'd be happy to
22 accommodate you.

23 MS. KING: When is your next -- does the
24 ANC meet next?

25 MR. TAYLOR: Our next ANC meeting is the
26 second Thursday of June. We meet every second

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1 Thursday.

2 MS. KING: Oh, second Thursday of June
3 would be approximately in a month, three weeks.

4 MR. TAYLOR: It's about three weeks.
5 The specific date, second Thursday of June, is our
6 next scheduled meeting. We meet every second
7 Thursday at the 4th District in the community room.

8 MS. PRUIT-WILLIAMS: Yes, and that would
9 work fine for us.

10 CHAIRMAN REID: Would they still need a
11 waiver to permit the letter?

12 MS. PRUIT-WILLIAMS: Well, you can leave
13 the record open until July -- I mean, excuse me,
14 until June 19th.

15 CHAIRMAN REID: So they don't need a
16 waiver.

17 MS. PRUIT-WILLIAMS: So it would fall
18 within the time frame.

19 CHAIRMAN REID: Even though it was due
20 today. It was due seven days before today.

21 MS. PRUIT-WILLIAMS: Well, you're
22 leaving the record open now.

23 MS. KING: I would suggest we do that,
24 because I think it's important in this case to have
25 the ANC. Can you get us a letter by the 19th of
26 June?

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1 MR. TAYLOR: I certainly could. I
2 certainly could.

3 CHAIRMAN REID: Okay.

4 MR. TAYLOR: And I -- The letter --
5 Unless Rev. Gray indicates to me that he would like
6 to appear before our Commission, then it will not be
7 on our agenda, and our letter will follow basically
8 from the Commission, as my testimony has indicated.
9 If Rev. Gray appears before our Commission and
10 chooses to appear before our Commission, which he is
11 certainly welcome to do --

12 CHAIRMAN REID: You said that you had
13 invited him.

14 MR. TAYLOR: Oh, certainly, I've invited
15 him.

16 CHAIRMAN REID: And he has not --

17 MR. TAYLOR: I indicated to him that it
18 would be -- when I spoke with him, that it would be
19 important for him to bring his application before
20 the Commission.

21 CHAIRMAN REID: I think so.

22 MR. TAYLOR: That's the procedure, and
23 he did not follow up in that regard. Consequently,
24 we've not -- the Commission itself has not had an
25 opportunity to address the issue.

26 MS. KING: But in any event, you will

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1 address it on the 11th of June and have -- make sure
2 that you say in your letter whether or not you had a
3 quorum and what the vote was and so forth, so that
4 whatever you come forward with, we can give it great
5 weight.

6 MR. TAYLOR: Thank you. I understand
7 the procedure, and we'll do that.

8 CHAIRMAN REID: Point of order. I'm
9 sorry. We did not have cross-examination for the
10 applicant, and I'm sorry about that. Did you have
11 any cross-examination questions?

12 MR. TAYLOR: Well, I was concerned. I
13 did have a couple of concerns.

14 CHAIRMAN REID: Okay. Well, let me have
15 them come up. Could you just please come here? I'm
16 sorry. We should have done that, and it's just an
17 oversight on my part. You can just come to this
18 mike right here. Either one of you can respond.
19 Please.

20 MR. TAYLOR: I would just -- You see,
21 I'm a resident of this area for 15 years, and I
22 would just like the Commission to be aware, not --

23 CHAIRMAN REID: No, this now is cross-
24 examination. So this time is for you to ask them
25 questions based on their testimony.

26 MR. TAYLOR: Rev. Gray, can you indicate

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1 when you purchased this property? Approximately
2 when you purchased the property?

3 MS. KING: Would you switch on the mike?

4 MR. TAYLOR: Are you the owner of that
5 location, the property at that location?

6 CHAIRMAN REID: Turn your mike on, sir.
7 You can hold it, if you like.

8 MR. GRAY: Testing. Yes, I am the
9 owner.

10 MR. TAYLOR: And when did you purchase
11 that property, Rev. Gray?

12 MR. GRAY: Approximately a year ago.
13 Yes, approximately.

14 MR. TAYLOR: But that is not a
15 residence. Is that correct? That's not where you
16 reside?

17 MR. GRAY: No, no, sir.

18 MR. TAYLOR: And you've been located
19 there for approximately a year?

20 MR. GRAY: Approximately, yes, sir.

21 MR. TAYLOR: Are you licensed as a
22 daycare center currently?

23 MR. GRAY: No, sir. When we down, you
24 know, to become licensed and everything, right away
25 they told us that the zoning -- that we need to
26 address the zoning issue first before we would, you

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1 know, do any renovation, you know, to the house or,
2 you know, gain any occupancy permit and that kind of
3 thing. They told us our first step would be to go
4 before the zoning board first.

5 MR. TAYLOR: Have you ever operated a
6 licensed daycare center in the past?

7 MR. GRAY: No, sir.

8 MR. TAYLOR: Who do you plan on using as
9 staff members?

10 MR. GRAY: Okay. We plan to hire the
11 staff members.

12 MR. TAYLOR: You have not yet done that?
13 Have you interviewed?

14 MR. GRAY: Oh, we have already
15 interviewed, but, no, we have not hired them
16 inasmuch as, again, we haven't even met the zoning.

17 MR. TAYLOR: The persons that you're
18 interviewing, are they trained persons in daycare?

19 MR. GRAY: Yes, sir.

20 MR. TAYLOR: I really don't have any
21 other questions, Madam Chair.

22 CHAIRMAN REID: Okay, thank you.

23 MS. KING: Do the Grays get an
24 opportunity?

25 CHAIRMAN REID: Yes, they do, but before
26 that I just want to be sure that there are any other

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1 parties here who would like to cross-examine? Okay.
2 Now you have an opportunity to cross-examine the ANC
3 Commissioner, if you have questions based on his
4 testimony. Do you?

5 MR. GRAY: I do, if you don't mind.

6 Sir -- do I have to speak in the mike?
7 Okay.

8 CHAIRMAN REID: Yes, you must, because
9 it has to go on the record.

10 MR. GRAY: Oh, okay, praise the Lord.
11 First and foremost, I wanted -- you know, just
12 wanted to say to you --

13 CHAIRMAN REID: I'm sorry. See, this is
14 cross-examination. So you have to ask questions
15 based on his testimony.

16 MR. GRAY: I was. This is a question.

17 CHAIRMAN REID: But you cannot testify.

18 MR. GRAY: Can't testify about anything.
19 Just ask the question.

20 CHAIRMAN REID: Ask the question.

21 MR. GRAY: Okay. All right. Sir, when
22 we talked on the telephone, you know, when I called
23 you, I did not -- we did not receive, you know, an
24 invitation, you know, to come to your meeting,
25 because if we had received an invitation, we would
26 have been there, just as we received an invitation

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1 from the community --

2 CHAIRMAN REID: Is there a question?

3 MR. GRAY: -- association. When did you
4 send the invitation out?

5 CHAIRMAN REID: Thank you.

6 MR. TAYLOR: We don't send out
7 invitations, Rev. Gray. I did indicate to you when
8 our Commission met, I believe, as I've indicated to
9 this commission here, and advised you that it was
10 important, since the ANCs were given great weight
11 with reference to this issue, that you make a
12 presentation. I urged you to make a presentation
13 with reference to your center before the ANC, did I
14 not?

15 MR. GRAY: No, sir. You know, just one
16 question. Why do you think that we would not only
17 attend the community meeting, but also submit to
18 them -- I hand carried personally -- our proposal to
19 the President. Why do you think that's so, and we
20 did not respond to you?

21 MR. TAYLOR: Well, the reason why -- I
22 don't know why you did not do that. I certainly
23 can't respond as to why you did not do something,
24 Rev. Gray. However, let me point out to you what
25 the procedure is that generally is followed by
26 applicants.

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1 Applicants who are pursuing an interest
2 or something that they want make an effort to
3 contact the appropriate associations and
4 organizations to gain their approval. I have not
5 the responsibility to pursue you regarding your
6 application. You have an obligation and
7 responsibility to pursue my organization to make
8 arrangements to appear and to present your
9 application, just as you are doing it here.

10 You know, we're a publicly elected
11 government officials with a responsibility and a
12 duty to do just that. However, we were certainly
13 put on notice of your application. I certainly
14 returned your call and discussed the same with you.
15 We did have a conversation about it, and I'm certain
16 in that conversation, during the course of that
17 conversation, I indicated the importance that you
18 raise this issue before the full Commission, and I
19 feel it's your responsibility to do that.

20 CHAIRMAN REID: Okay.

21 MR. GRAY: Of course. We're finished.
22 Thank you.

23 CHAIRMAN REID: Thank you. Are there
24 other parties who have cross-examination questions
25 for the ANC commissioner?

26 MS. PRUIT-WILLIAMS: Ma'am, this is for

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1 the ANC commissioner.

2 PARTICIPANT: I'm not the ANC
3 commission.

4 MS. PRUIT-WILLIAMS: No. Do you want to
5 ask the Commissioner a question?

6 PARTICIPANT: Yes.

7 CHAIRMAN REID: Just a moment. You have
8 to do it on the mike. Identify yourself, and --
9 Okay? All right, thank you, sir, for your
10 testimony.

11 MR. TAYLOR: Thank you. It's a pleasure
12 to appear before you, Ms. Reid, Ms. King, Mr.
13 Foushee.

14 CHAIRMAN REID: Now it's the persons and
15 parties in support. Please come forward. Persons
16 and parties in opposition, please come forward.

17 MR. MOSLEY: My name is Richard Mosley.
18 I'm the President of South Manor neighborhood
19 association. I live at 37 Milmarson Place, N.W.

20 CHAIRMAN REID: Could you bring the mike
21 closer to you, because we're having a little
22 difficulty hearing you. You can pull it up.

23 MR. MOSLEY: I have a letter here that
24 we had Rev. Gray meet with the members of the South
25 Manor, and we discussed our concern about the
26 preschool arrangements. We inquired about the

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1 physical plant, where is the building, and the
2 program to operate, basement or through the house.

3 Young children, in particular, need
4 sunlight, natural care. How many will be served in
5 the future by this program? If they begin with ten,
6 how many more children will be added?

7 It seemed to me that, to be called
8 sufficiency, more than ten children would have to be
9 served. How many more children can safely be
10 maintained in this house? He never gave us an
11 answer.

12 Young children need a safe outside place
13 to play. In the 13 days that we had rain this
14 season, just imagine 13 kids in a house, or ten in a
15 house that couldn't get outside.

16 I have a report here from Traffic
17 Division. It says that on an average weekday, the
18 traffic is 48,800 vehicles.

19 CHAIRMAN REID: Did you give that to us?
20 Do we have that?

21 MR. MOSLEY: Yes. I submitted data.

22 CHAIRMAN REID: Sir, did you cite in
23 that document that you just gave to the Director the
24 source of your information?

25 MR. MOSLEY: Yes.

26 CHAIRMAN REID: And it was from?

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1 MR. MOSLEY: The Traffic Division.
2 CHAIRMAN REID: Of the D.C. Government?
3 MR. MOSLEY: D.C. Government, yes.
4 CHAIRMAN REID: Thank you.
5 MR. MOSLEY: And for that 48,000, 6,000
6 travels Kennedy Street, and it's a total of about
7 74,000 people that travels North Capitol, New
8 Hampshire Avenue and Kennedy Street.

9 As far as your parks are concerned, the
10 only place that they could use as a park is Shogren
11 Park. That Shogren Park is not park that's
12 sufficient for youngsters, because they only have
13 one -- in Shogren Park and one spot just for hotdogs
14 or hamburgers. So we at South Manor, we cannot see
15 where that Rev. Gray can do anything with these kids
16 with the space that he has.

17 His house sits on a lot about 55,000
18 square feet. So as far as the parking, he stated
19 that he had seven parking spaces. We cannot see
20 seven parking spaces, because he has a garage there,
21 and he also has his church in the garage. So it's
22 impossible for him to have seven parking spaces.

23 As far as redepositing the children in
24 the mornings, that's bad, because he would have to
25 let the kids off at Kennedy Street and making a
26 righthand turn from North Capitol Street onto

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1 Kennedy Street, and the space is only about 30 feet.
2 So it's impossible.

3 CHAIRMAN REID: Okay. Next. Thank you,
4 sir.

5 MS. LITTLEJOHN: My name is Grace
6 Littlejohn. I live at 41 Kennedy Street, N.E.,
7 which is very close to the property where he is
8 located. I am ANC commissioner. I was President of
9 South Manor Neighborhood Association located in that
10 area about eight or ten years.

11 I have worked very, very closely in the
12 area with the drug problem. We established an
13 orange hat patrol there at First and Kennedy Street,
14 which is one block almost from where he's going to
15 locate, and I am also an educator 42 years, and
16 children are very, very dear to me.

17 Realizing that the first six years are
18 the most important years of their lives almost, I
19 want the best; and because of that, I don't see
20 where he's going to be able to give the best there.

21 When I think in terms of a child care
22 center, I would like to see some outside equipment
23 where the children can go and develop their motor
24 skills and do that type of thing.

25 Another thing that is disturbs me, that
26 this probably is going to be used in conjunction

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1 with the church. So the church is going to demand
2 some part of that building, and not only that. On
3 the other side of that alley, you have two
4 businesses that's going to demand some of that
5 space.

6 You have an iron concession behind the
7 video place there on Kennedy Street. They make iron
8 gates. So that's pollution. Over on the other side
9 of Kennedy Street, you have a filling station, which
10 was a Precision Tune, but now I think it has turned
11 into a car repair, plus the sales of cars on the
12 side. So you have a whole lot of traffic coming in
13 there.

14 Just before the present owners came into
15 that place, it used to be Bergman's Laundry, I
16 think, or Dupont Laundry. As Commissioner, we
17 petitioned them not to let them put up a pay
18 telephone in that area within less than half of a
19 block or a fourth of a block. There is a pay
20 telephone there that is being used by the drug boys.

21 Now there has been a steady traffic from
22 that area -- we call it First Street, N.W. -- to the
23 middle block of Kennedy Street, N.E. where I live,
24 the unit block. We have had a traffic problem. We
25 have had a drug problem there.

26 Last night or night before last, we

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1 heard almost five gunshots. I do not think that
2 that is the kind of environment that I would want
3 for my children. I have nothing against the
4 church. I support churches, but I do want the best
5 for those young children, and I have a problem with
6 an age span of 2 1/2 years to 14. I have a problem
7 with that.

8 I don't know how you are going to be
9 able to adjust that type of problem. Now I have not
10 seen the true proposal. I don't know if I've seen
11 the true proposal that was submitted or not, because
12 when he came to the South Manor Neighborhood
13 Association, I was the one who asked him, show us a
14 proposal. He did not have a proposal that night.

15 We got a proposal about three or four
16 days ago, and we had to have a special meeting to
17 study that proposal. I looked at that proposal.
18 That proposal did not come up to the type of
19 proposal that I have been required to work with, and
20 I had some questions about the proposal, and I don't
21 know if it's all complete. I noticed that with
22 yours you had parking area. That was not submitted
23 with his proposal.

24 So likewise, when we had to work with
25 proposals, we had to have fundings. We had to have
26 the staff and the salaries and that type of thing.

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1 I did not see that in that proposal. So I had a
2 question about the proposal and how well it was
3 developed.

4 I saw no curriculum there. A child is
5 going to have to do something other than play. So I
6 don't know how you are going to work into the
7 curriculum and what those children are going to be
8 exposed to. From ages 2 1/2 years to 14 and the
9 time that they're going to work with them, that gave
10 me some problems. I did not see the answer there.

11 So for that particular reason, I do wish
12 that -- I would like -- They're interested in
13 children. I'd like for them to be able to work with
14 children, but I don't think that's the right spot.

15 CHAIRMAN REID: Thank you. Next.

16 MR. DAVIS: Yes. My name is Jordan
17 Davis. I am the sender of the letter that you
18 received. We have a --

19 CHAIRMAN REID: Your home address,
20 please, MR. Davis.

21 MR. DAVIS: My home address is 53
22 Longfellow Street, N.W.

23 We have a unit block club which was
24 organized in the area for the protection of all of
25 the members of the neighbors in that area. So the
26 Unit Block Club includes the unit block of

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1 Longfellow, the 5500 block of North Capital, 5500
2 New Hampshire Avenue where his church or building is
3 located, and around Kennedy Street up to -- that is
4 the whole circle there of houses.

5 Now that house on that corner, that
6 traffic is 24 hours a day. There is no such thing
7 as a rush hour, because the traffic there is heavy
8 all the time. I drew just a diagram here of this
9 street. This is North Capitol Street here. Yes?

10 CHAIRMAN REID: We can't see that.

11 MR. DAVIS: Okay, I'm sorry.

12 CHAIRMAN REID: You want to approach the
13 bench.

14 MR. DAVIS: This is North Capitol Street
15 here. This is New Hampshire Avenue here. This is
16 Kennedy Street here. That is the church. That is
17 the house that we is in question. This land that
18 this lady is referring to is the front yard of this
19 property. There is no fence around that house, and
20 the traffic is constantly running through there all
21 the time.

22 Now when the traffic comes off New
23 Hampshire Avenue into New Hampshire Avenue again,
24 there's a turnoff. You see the turnoff into North
25 Capitol. Then there's a right turn into New
26 Hampshire.

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1 We have -- Over our efforts over the
2 years, we have been fighting to get lights, stop
3 signs, "do not block intersection," anything we can
4 to provide safety for the community and for the
5 neighborhood. So this is the problem that you're
6 having here.

7 Now this is the alley beside this house.
8 Okay? In the back of this house. That is the
9 alley. Now when he has parking, three spaces there.
10 When those spots were put there prior to his being
11 there, I think the man owned a business of some
12 kind, and he had a truck, and he paved that spot
13 there for the use of his truck to have somewhere to
14 go.

15 Now for dropping off, you can't stop on
16 New Hampshire Avenue, because of the traffic. You
17 can't stop on North Capitol Street because of -- I
18 said stop. You can't even stop, much less unload.
19 Okay. Now when you make your right turn on Kennedy
20 Street, you can't stop unless you go in the alley.
21 This is the alley.

22 Now if you come in the alley, like you
23 said, we have a iron factory or something in the
24 back what makes gates. If this man chooses to come
25 out of here with the truck, he can't get through.
26 When the trash men come on Tuesday, they can't get

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1 through because there's a possibility that the
2 children are being unloaded in the alley here.

3 So we don't have -- There's no space for
4 a child development center in this block at all. So
5 now the names that I sent to you are the petition of
6 all of the members.

7 CHAIRMAN REID: You may sit back, and
8 also you may want to submit a copy of that diagram
9 for our record.

10 MR. DAVIS: Now the names of the
11 petition that I sent to you, I have a copy, are the
12 names of the members of that neighborhood. They're
13 the members that live around in that whole block,
14 the whole circle there -- are the signatures of all.
15 So we have that in protest of that child development
16 center, because it poses a serious safety problem,
17 not only for children, but for adults.

18 We have had serious problems with
19 accidents on that corner.

20 CHAIRMAN REID: Does that conclude your
21 testimony, sir?

22 MR. DAVIS: Yes.

23 CHAIRMAN REID: Thank you.

24 MS. LITTLEJOHN: May I say that the
25 South Manor Neighborhood Association covers the area
26 around the B&O Railroad up to -- northeast up to --

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1 What street is it? Do you remember the street
2 northwest? I think it's up to about 4th Street,
3 N.W. I am saying that this is within our area, the
4 reason why he came to our association to ask about
5 it.

6 I do wish you would consider pollution
7 when you think in terms of placing these homes with
8 a used car lot and the filling station across the
9 street with all the banners and the high barbed
10 wire. We don't know what's coming into what used to
11 be the Dupont Library. It was closed, I understand,
12 because of drugs, and so we don't know what's going
13 to come in there, but that business shares the same
14 alley where he's going to be -- where parents are
15 going to be leaving their children. It's going to
16 shared by two businesses, in addition to his.

17 CHAIRMAN REID: Thank you very much.
18 Mr. Gray, would you like to cross-examine the
19 opposition?

20 MR. GRAY: Yes, I would. My question --
21 I guess, you know, probably any of you could answer,
22 you know, this question. You know, the question is
23 regarding the -- you know, the size of the parking
24 lot.

25 I guess that's -- You know, that seems
26 to be quite an issue. All of you seem to be very

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1 familiar with the parking lot. At least, we've
2 established the fact that there is, in fact, a
3 parking lot. So now it's just a question of spaces.

4 So my question is this. If there are
5 three parking spaces there, what about the other
6 four? Because you have seen the three, and so
7 therefore, I'm assuming that, if you've seen the
8 three, you've seen the parking lot. Well, then how
9 about the other four?

10 CHAIRMAN REID: Let them answer.

11 MR. DAVIS: What about the other four?
12 There are no other four there or, if you care to
13 show them to us. Show me the other four parking
14 spaces that you have, that you are saying that you
15 have.

16 MR. GRAY: Yes, sir. Well, I will
17 submit that information, with the permission of the
18 Chair.

19 CHAIRMAN REID: Any further questions?

20 MR. GRAY: The other question is this,
21 is that -- for the young lady on the end, of course
22 -- regarding the proposal. When you read -- Did you
23 read the proposal?

24 MS. LITTLEJOHN: Oh, yes. We had a
25 meeting. We had a special meeting last Wednesday at
26 the Congregational Church to discuss this. You gave

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1 us one proposal, but we read it. I did read it.

2 MR. GRAY: Okay.

3 MS. LITTLEJOHN: And we discussed it. I
4 told you that -- and I said at the meeting that this
5 proposal does not tell me what I want to know.

6 MR. GRAY: Praise the Lord. The other
7 question is that, you know, regarding the proposal
8 for a proposed --

9 MS. KING: Excuse me. Could I
10 intervene, Madam Chair? We're talking about a
11 proposal which I don't believe is part of the record
12 in this case. Is there a proposal that we have not
13 seen?

14 CHAIRMAN REID: I think that he was
15 referring to a proposal that she spoke to in her
16 testimony, and he asked her about that proposal.

17 MS. KING: I see.

18 CHAIRMAN REID: She did reference that
19 proposal.

20 MS. KING: But this is something that
21 has not been part of the record of this case.

22 CHAIRMAN REID: Not part of this record.
23 So she referenced the proposal. He's asking her
24 about it.

25 MS. KING: I understand. But it's not
26 something that I should have read? I haven't seen

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1 it.

2 CHAIRMAN REID: Did you submit it,
3 ma'am?

4 MS. LITTLEJOHN: I did not -- No, I did
5 not submit it.

6 CHAIRMAN REID: The proposal that you're
7 referring to is the proposal that he submitted to
8 your organization?

9 MS. LITTLEJOHN: That he submitted to
10 our organization, and we asked for a proposal.

11 CHAIRMAN REID: And if you would like
12 for us to see it, then you may submit it to us so
13 that we can look at it as well, for the record.
14 We're not going to look at it right now, but we will
15 have it in our material.

16 MS. LITTLEJOHN: All right.

17 CHAIRMAN REID: Rev. Gray?

18 MR. GRAY: Okay. Fine. That's all the
19 questions I have. Thank you very much.

20 CHAIRMAN REID: Thank you very much.

21 MR. DAVIS: May I just make a statement?
22 If you remember, the Reverend said that --

23 CHAIRMAN REID: See, this is cross-exam
24 time. So, really, you've had your statement. You
25 see, everything is done in a sequential order. So
26 I'm sorry, sir, we can't allow that. This is the

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1 time for cross-examination.

2 MR. DAVIS: Very good.

3 CHAIRMAN REID: Thank you for your
4 presentation, and now we'll have the closing remarks
5 by the applicant.

6 MS. PRUIT-WILLIAMS: Are there anymore
7 in opposition?

8 CHAIRMAN REID: Is there anyone else in
9 opposition?

10 MS. PRUIT-WILLIAMS: Who wants to
11 testify?

12 CHAIRMAN REID: There are two other
13 persons here in opposition -- three other persons
14 here in opposition who are not testifying but just a
15 show of your presence here in support of the
16 opposition, for the record, people who live within
17 200 feet of the property. Okay, thank you. So we
18 have so noticed the record.

19 Now we'll have the closing remarks by
20 the applicant.

21 MS. KING: I would suggest that these
22 people return to their seats so the Reverend Gray
23 could resume his seat at the table, if he would like
24 to.

25 CHAIRMAN REID: Sure. Would you please
26 allow him to sit.

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1 MS. KING: Madam Chair, before we have
2 closing remarks, I'd like to ask a question of
3 Reverend Gray, if I may.

4 CHAIRMAN REID: Sure.

5 MS. KING: Reverend Gray, what is the
6 property used for at present?

7 MR. GRAY: A church.

8 MS. KING: The building in which you're
9 going to have a child care center is the church at
10 the moment?

11 MR. GRAY: Well, the house, which is a
12 very large house, we use one room for sanctuary, and
13 that's all the use. The other rooms are not being
14 used.

15 MS. KING: And what use are you making
16 of the garage?

17 MR. GRAY: Nothing. It's vacant.

18 MS. KING: I see.

19 MR. GRAY: Everything else is vacant.
20 It's just that one room we're using for a sanctuary.

21 MS. KING: Thank you.

22 CHAIRMAN REID: Mr. Foushee, do you have
23 any questions?

24 MR. FOUSHEE: Looking at the application
25 that was submitted to us and following up on Ms.
26 King's question about present use of property, we

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1 have it residential, and you're telling us -- we're
2 hearing now that it's a church. Could I get
3 clarification here whether it's a church or
4 residential or some combination thereof?

5 MR. GRAY: We're using a portion of the
6 building, you know, for the sanctuary, you know, for
7 worship services, Bible study.

8 MR. FOUSHEE: Does anyone reside there
9 now?

10 MR. GRAY: No.

11 MR. FOUSHEE: No one resides there?

12 MS. PRUIT-WILLIAMS: Do you have a
13 certificate of occupancy for a church?

14 MR. GRAY: Yes I have it.

15 MS. PRUIT-WILLIAMS: You have a
16 certificate of occupancy for using that premise for
17 a church?

18 CHAIRMAN REID: Excuse me one second.
19 Point of clarification. Madam Director, doesn't the
20 zoning category for churches require a SP
21 designation?

22 MS. PRUIT-WILLIAMS: That's why I was --
23 I mean, this is a residential use. So that's why
24 you can have a church in there, but I just --

25 MS. KING: But you have to have a C of
26 O.

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1 CHAIRMAN REID: Ms. Bailey, can you
2 clarify for us?

3 MS. BAILEY: Just referring with the
4 Director's response, you can have a church in a R-1-
5 A, I think, R-1-B District, and --

6 MS. KING: Does not have to be SP
7 designated?

8 MS. PRUIT-WILLIAMS: No, it's a matter
9 of right, but it's the certificate of occupancy that
10 I was referring to.

11 MS. KING: But it does require a
12 certificate of occupancy for a church, and you have
13 that?

14 CHAIRMAN REID: Do we have a copy? If
15 not, would you please -- That's another one of the
16 things that we would require.

17 MS. KING: There's a long list of things
18 that we need.

19 CHAIRMAN REID: All right. I'm sorry,
20 Reverend Gray. Continue, please.

21 MR. GRAY: Closing statement from me?

22 CHAIRMAN REID: Yes. Yes, definitely.

23 MR. GRAY: First and foremost, I want to
24 thank each of you. This has certainly been a
25 learning experience for me and my wife, and I just
26 want to assure everyone, our neighbors and just

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1 everyone, the ANC leaders and everyone that's here
2 that is concerned about the children and the welfare
3 of the children, you can rest assured that my wife
4 and I -- we certainly hold those same values.

5 Again, after leaving 20 years of working
6 for the Department of Corrections and seeing the
7 young men and young women come in and out like a
8 rotating door, it really just lays an impression
9 upon you that you want to -- at least I want to do
10 something to help the children early on.

11 The other thing is this in my closing
12 statement. Those persons who are drug addicts and
13 those persons who are prostitutes and those persons
14 who are alcoholics, they are not only our neighbors,
15 but they are in our families, if we really took a
16 poll about this, and sometimes we like to push them
17 away in a closet, but we cannot do that.

18 This is our -- and the question was
19 raised regarding why ten, and then the 15 later on
20 and that type of thing like that. Well, the reason
21 is because we feel as though this is our
22 contribution back to society.

23 I know that we cannot turn the whole
24 city around or the whole metropolitan area around,
25 but if we can just have an impression upon the lives
26 of ten children or even one child, that is our

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1 intent. You know, that's our intent, and that's why
2 I'm so happy now that I retired, and I can spend the
3 time and be there and stop individuals, for young
4 men and for young women, to making that road and
5 that trip, you know, to Lorton, Virginia.

6 That's my main -- That's my personal
7 reason, you know, for making this petition for the
8 child development center.

9 Then finally, it is my prayer that we
10 come up to par, that we are able to satisfy, you
11 know, the government, that we are able to satisfy
12 the citizens in that area, and certainly we pray
13 that we will be able to satisfy God Almighty, you
14 know, in what we are doing.

15 So we're here, you know, just to be
16 servants and just to do all that we can do, and we
17 pray that clarity comes to us, and whatever we need
18 to do, we will set the task to do it, whatever
19 papers we need to do. We want to keep on doing it
20 until we do it right, because we, too -- we don't
21 want, you know, the children to suffer as a result
22 of any derelict or negligence of duty on our part.
23 So we want the best for our children. We want the
24 best for the neighborhood and best for the city.

25 Again, I want to thank you all, because
26 in any experience, and especially in this

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1 experience, that my wife and I, we have certainly
2 gained an awful lot, and I certain appreciate your
3 all indulgence, because you all are experts at this,
4 and we are certainly not; but again, I want to thank
5 you all.

6 CHAIRMAN REID: Thank you very much.

7 MS. PRUIT-WILLIAMS: The record is now
8 closed on this, except for the following items, and
9 I'd like to make sure we all have the same items: A
10 letter from the ANC; certificate of occupancy --
11 copy of certificate of occupancy for the church; a
12 site plan; and I wasn't sure what the other items
13 were. Photos of the parking.

14 CHAIRMAN REID: A show of the pickup and
15 dropoff plan for the children.

16 MS. PRUIT-WILLIAMS: Pickup and dropoff.

17 CHAIRMAN REID: I had requested some
18 pictures or diagrams or some type of plan for the
19 play area that you had stipulated would be at Takoma
20 recreation department, and --

21 MS. PRUIT-WILLIAMS: So you want the
22 plans of the remote play area?

23 CHAIRMAN REID: Well, I'd like to see,
24 number one, what type of arrangement has been made
25 with that facility for the children to play there,
26 one. Two, the layout of that play area; and three,

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1 what type of equipment, what type of -- well, not
2 activities but the equipment that would be provided
3 there or that is provided there that the children
4 would be -- would be available to the children.

5 MS. KING: The facility is going to be
6 providing food. Do we need to look into that at all
7 or does the Department of Consumer and Regulatory
8 Affairs? They will take care of that?

9 MR. FOUSHEE: Also we talked about
10 traffic in the area, and I think part of that has
11 been addressed by the information given to us by, I
12 believe it was Mr. Davis -- Mr. Mosley, I'm sorry.
13 Mr. Mosley gave us that.

14 I would suggest maybe that you contact
15 Mr. Mosley and the Department of Public Works, and
16 the two of you may even work together on that to
17 look at this information, first of all, what has
18 been provided and to see how you can tailor it to
19 address the specific concerns of the operation or
20 intended operation of this use.

21 MS. PRUIT-WILLIAMS: Traffic analysis?

22 MR. FOUSHEE: Yes, traffic analysis
23 about where you would park. We talked about the
24 buses, where a bus would park or idle, for instance,
25 the traffic, when you expect people to come by and
26 drop off kids versus the peak hours in that area

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1 when traffic is normally heavy in the afternoon and
2 in the morning.

3 MS. KING: And another thing, part of
4 the staffing is predicated on volunteers, which
5 Reverend Gray said was going to come from Howard
6 University. Do you have an agreement with the
7 Howard University volunteer office?

8 MR. GRAY: Yes, we do.

9 MS. KING: Will you submit a copy of
10 that, please?

11 CHAIRMAN REID: Is this it? Are there
12 any other requests?

13 MS. KING: And all of this information
14 to be in by the 19th of June. Is that my
15 understanding?

16 MS. PRUIT-WILLIAMS: Actually,
17 submissions are due on the 19th of June. Responses
18 and proposed findings are due in July, and this will
19 all be for the July 8th meeting. All parties must
20 be served, and a certificate of service must be
21 provided to the BZA.

22 That means all this information you have
23 to also provide to the parties. You need to provide
24 with us a certificate stating that you have provided
25 this information.

26 MS. KING: And the parties are the ANC

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1 and -- did we do party status of the three people
2 who testified?

3 CHAIRMAN REID: No.

4 MS. KING: So you have to submit --
5 everything you submit to us has to be submitted to
6 the ANC.

7 MR. GRAY: ANC?

8 MS. KING: Yes, to Mr. Taylor.

9 CHAIRMAN REID: However, I think that --
10 I'm sorry. The South Manor is a party in this case,
11 would they not be?

12 MS. KING: We haven't granted party
13 status to them or to the Longfellow Unit Block Club
14 or anything.

15 CHAIRMAN REID: Okay. Then we should.
16 Okay. We would then grant party status to the South
17 Manor organization, as well as to the Longfellow
18 Unit Block Organization. This simply means that you
19 will be noticed. You will receive all publications,
20 all correspondence to this particular case at this
21 point.

22 MS. LITTLEJOHN: The name of the --

23 CHAIRMAN REID: Okay. I can't allow you
24 to speak from the floor, ma'am, but you may give
25 information to the secretary. Appreciate it. Okay.

26 I think that concludes this case.

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1 MS. PRUIT-WILLIAMS: Yes, it does, Madam
2 Chair.

3 CHAIRMAN REID: Ms. King, Mr. Foushee?
4 Okay. Thank you. This hearing is now ended for
5 today -- for the morning. Afternoon hearing will
6 start at one o'clock.

7 (Whereupon, the foregoing matter went
8 off the record at 12:07 p.m.)

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

(1:14 p.m.)

CHAIRMAN REID: Good afternoon. I'm
Sheila Cross Reid, Chairperson of the Board of
Zoning, District of Columbia. Joining me today are
Maurice Foushee, Angel Clarens and Betty King.

A copy of today's agenda are available
to you on the table at the rear of the hearing room.
There is to be no smoking, eating or drinking in the
hearing room.

All persons planning to testify either
in support or in opposition are to fill out two
witness cards. These cards are located on each end
of the witness table. Upon coming forth to speak to
the Board, please give both cards to the reporter
who is sitting to my right.

Notice of today's hearing was given by
posting the subject property, publication in the
D.C. Register, and various other means.

The order of procedure for a special
exception and variance cases will proceed as
follows: One, preliminary matters; two, statement
and witnesses of the applicant; three, government
reports, including the Office of Planning,
Department of Public Works, or others; four, the
advisory neighborhood commission; five, parties or

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1 persons in support; six, parties or persons in
2 opposition; seven, closing remarks by the applicant.

3 Cross-examination of witnesses is only
4 permitted for parties in the case. The Board will
5 adhere to the schedule as strictly as possible.
6 Those saying testimony should be brief and
7 nonrepetitive. If you have a prepared statement,
8 you should give copies to staff and orally summarize
9 the highlights. Please give us your statement
10 before summarizing.

11 The record will be closed at the
12 conclusion of each case except for any materials
13 specifically requested by the Board. The staff will
14 specify at the end of the hearing exactly what is
15 expected.

16 Decision of the Board in each contested
17 case must be based exclusively on the public record.
18 To avoid any appearance to the contrary, the Board
19 requests that persons present not engage the members
20 of the Board in conversation.

21 At this time the Board will consider any
22 preliminary matters. Preliminary matters are those
23 which relate to whether a case will or should be
24 heard today, such as requests for postponement,
25 continuance or withdrawal or whether proper and
26 adequate notice of the hearing has been given.

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1 If you're not prepared to proceed, now
2 is the time to raise the matter. Does the staff
3 have any preliminary matters?

4 MS. PRUIT-WILLIAMS: Staff doesn't.
5 Madam Chair, the public has preliminary matters.

6 CHAIRMAN REID: All right. Does anyone
7 here have any preliminary matters? If so, come
8 forward, please.

9 MR. SIMON: Good afternoon, Madam
10 Chairperson. My name is Gottlieb Simon. I'm the
11 Executive Director for ANC 6-B, and I came today
12 with regard to case 16336.

13 I understand, however, that staff has
14 made a determination that, as I understand it, the
15 case is not properly before the Board today with
16 regard to the way in which it was labeled. So I'm
17 trying to facilitate that, and that is why I'm
18 bringing this up as a preliminary issue.

19 CHAIRMAN REID: Okay. Do you have a
20 request?

21 MR. SIMON: The request would be that
22 the case be renoticed appropriately.

23 MS. McCARTHY: Richard Neddler is stuck
24 at a hearing on Capitol Hill and couldn't be here to
25 address this, but he asked me to address it for him,
26 to first of all apologize that he wasn't here, and

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1 to indicate that we agreed that this should be heard
2 as a special exception, because that is what Section
3 203.10 of the zoning regs requires, that if you are
4 -- We have a valid home occupancy permit for that
5 house, and with having only one employee in addition
6 to Mr. Fields, but Mr. Fields wishes to have two
7 additional employees; and since he is exceeding the
8 number of employees permitted under 203.4, then
9 203.10 provides that, with a special exception, he
10 could exceed that requirement.

11 We filed as a special exception. As you
12 can see from the package I just handed out, the
13 first page is a copy of the first page of our filing
14 where we had applied for a special exception under
15 203.1 for the home occupation.

16 Below that is the application that we
17 had originally made as an application for a special
18 exception, but when I brought this to the counter
19 here at the Board of Zoning Adjustment, I was told
20 that -- at the Office of Zoning, I was told that it
21 had to be filed as an appeal and given an appeal
22 form. So I refiled it as an appeal, which as you
23 can see from the third page, is sort of confusing
24 based on a letter from the Zoning Administrator.

25 You have the letter from the Zoning
26 Administrator, December 16, 1997, which actually

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1 cites an incorrect section of the zoning regs,
2 203.11, that says if the ZA determines that we have
3 not met the conditions of 203.4 -- I mean that we've
4 met the conditions, but we're inconsistent with the
5 general purpose and intent.

6 I believe that what they intended to say
7 was that we did not meet the conditions of 203.4,
8 but we were consistent with the general purpose and
9 intent of the zoning regulations. But at any rate,
10 you'll see in the last paragraph of that letter, it
11 does couch this in terms of an appeal by requesting
12 a special exception.

13 I think that's where the confusion came
14 from. Then it continues to cite -- to use the word
15 appeal throughout the letter.

16 Just for completeness of the record,
17 behind that was our original application for -- I
18 mean our application for the home occupancy permit.
19 The letter of rejection from the Zoning
20 Administrator cites our answer to question 17 which,
21 as you can see, we had indicated how many persons do
22 you plan to employ other than yourself, and the
23 answer was three.

24 I'm introducing that into the record,
25 just because there was an error somehow in the
26 sorting of the papers for this case, and at some

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1 point -- I don't know whether this suit is on the
2 administrator's office or somehow the application
3 that was on file was the original application that
4 had been filed for an occupancy permit, which had
5 the answer, number one, to question 17.

6 So just to clear up the confusion, this
7 is the application that we filed with the Zoning
8 Administrator, and based on the answer to number 17,
9 it was rejected.

10 So I guess the short of it is, because
11 this was an error made by the staff at the Office of
12 Zoning and not by my client, you can imagine that my
13 client, since we are actually engaged by Cassidy and
14 Associates, which is attempting to sell this house
15 to Mr. Fields who wants to buy it and use it as his
16 residence and his office, my clients are not happy
17 about the delay.

18 They already had to wait and file the
19 application before the Zoning Administrator and wait
20 for that to be rejected, even though we knew that it
21 was going to be rejected, and then they waited the
22 40 days, and we submitted the mailing label so that
23 everybody within 200 feet could be notified; but
24 apparently, everybody within 200 feet wasn't
25 notified, because it was treated as an appeal and
26 not a special exception.

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1 So when we spoke with Ms. Pruit-Williams
2 yesterday, she had indicated that, because it was
3 the District's error, we could be accommodated with
4 a special meeting, but the earliest date that could
5 be found -- that there was a possibility of doing it
6 through a special meeting, but that the earliest
7 date was July 22nd, which is beyond the 40-day time
8 limit that would be required for readvertising this.

9 So I guess we have two requests. One is
10 that we either be permitted to refile the original
11 application or at least to redo this application,
12 updating it with a different date, and get that in
13 immediately, which we would be prepared to do, but
14 that we not have to file a new filing fee and, in
15 fact, I believe, in subsequent conversations with
16 the staff here, I've learned that instead of
17 requiring the \$800 which we had paid for appeals,
18 now for special exceptions for home occupancy
19 permits you are only requiring \$250. So maybe we
20 can even get the refund.

21 That would be our first request, at any
22 rate, that we be able to file immediately again with
23 no new fee, and then secondly, if it were possible
24 to have the hearing earlier than July 22nd, that we
25 be able to do that so that we could proceed
26 expeditiously to be able to execute the sale.

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1 CHAIRMAN REID: I have a question
2 regarding the application. Here's where I'm
3 confused. The application that was prepared and
4 which we received and then the one that you
5 submitted just a few minutes ago, and then the one
6 that we already had that was in our material, it's
7 spaced with number 17, one.

8 In this one, it's space three under 3
9 under number 17. So when it was submitted
10 initially, what did it say?

11 MS. McCARTHY: The one that you have
12 before you that has 3, that is what was submitted to
13 the Zoning Administrator.

14 CHAIRMAN REID: Wait, wait, wait. But
15 what about the one that's in our materials that has
16 one?

17 MS. PRUIT-WILLIAMS: That's the one that
18 we have in our records that came from the ZA.

19 MS. McCARTHY: Right. I think what
20 happened was, because we had originally filed a
21 request for one employee, thinking that was all that
22 the purchaser of the house wanted, and got that home
23 occupancy permit granted, and then found out, no, he
24 needed two additional employees, and so we had to
25 come and do the special exception -- I think what
26 happened was the Zoning Administrator, since they

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1 were both at the same address, 434, New Jersey
2 Avenue, S.E., just mixed up the application and sent
3 the one that had been granted initially instead of
4 the one that had been denied. That was the basis
5 for the confusion.

6 CHAIRMAN REID: Was it made clear to the
7 Zoning Administrator that you all were making a
8 change?

9 MS. MCCARTHY; Yes.

10 CHAIRMAN REID: When you submitted the
11 second application, was it made clear that --
12 because, obviously, there was a potential for a
13 problem there, confusion in the two applications,
14 one saying one thing, one saying the other, and
15 knowing this, did you all indicate to them that the
16 second submission was the one that you wanted to be
17 the actual one that will be --

18 MS. MCCARTHY: Well, see, we submitted
19 the first one, and it was processed and it was
20 granted. When I came back, I indicated to the clerk
21 up at the Zoning Administrator's office that we were
22 refiling for 434 New Jersey Avenue, S.E., because it
23 turned out that we needed the three employees.

24 CHAIRMAN REID: I would think then that,
25 under these circumstances, perhaps what you would
26 want is for us to dismiss the appeal, and then you

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1 can proceed to process a request for a special
2 exception.

3 MS. PRUIT-WILLIAMS: Madam Chair, excuse
4 me. I think I have just a question here. What you
5 submitted today, Ms. McCarthy, this is not the same
6 record we have on our application, what we have as
7 record.

8 MS. MCCARTHY: Oh, I know. That was
9 what I brought to the office to file, but I was told
10 by the person at the counter -- and I really can't
11 remember who was on the counter that day -- no,
12 you're filing an application, and you really should
13 have --

14 MS. PRUIT-WILLIAMS: A handwritten one?

15 MS. MCCARTHY: Right.

16 MS. PRUIT-WILLIAMS: And I'm just trying
17 to understand. There appears to be a lot of
18 confusion.

19 MS. MCCARTHY; Right. It was just by
20 virtue of saying we did ask for this to be an
21 application, and we're just misinformed about what
22 it should be.

23 MS. PRUIT-WILLIAMS: Okay, thank you.

24 MS. KING: What's the proper thing for
25 us to do, to dismiss this, refund their fee that
26 they paid, and --

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1 CHAIRMAN REID: Well, the dismissal
2 would allow the fee -- return of the fee. That's
3 why I was asking what she wanted to request.

4 MS. McCARTHY: The dismissal would allow
5 or would not allow?

6 CHAIRMAN REID: It would.

7 MS. McCARTHY: Okay.

8 CHAIRMAN REID: We can dismiss it on the
9 grounds that there was some confusion, and there was
10 -- it's properly before us as an appeal.

11 MS. PRUIT-WILLIAMS: The Board would
12 dismiss it on the grounds that this appeal is
13 improperly before them. It should never have come
14 here as an appeal. So, therefore, they shouldn't
15 even review it. It should be dismissed, and suggest
16 that you refile.

17 MS. McCARTHY: And that's the most
18 expeditious way to do that?

19 MS. KING: I move dismissal.

20 MS. McCARTHY: I should add that, in
21 terms of notice, the placard that was posted did say
22 that it was an appeal seeking a special exception,
23 and this issue was very obvious, and that we had a
24 specific discussion about this issue at the ANC
25 meeting, as Mr. Simon can testify.

26 CHAIRMAN REID: Unfortunately, that

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1 notice to the D.C. Register and on the hearing
2 doesn't cover that, which is very important, and
3 particularly since the 200 -- people within 200 feet
4 weren't noticed.

5 MS. McCARTHY: Right. I have actually
6 dropped a letter off to several of them but not to
7 everyone within 200 feet, I must admit.

8 CHAIRMAN REID: We have a motion and a
9 second on the floor. All in favor, aye. Opposed?

10 MS. PRUIT-WILLIAMS: Who made the
11 motion? I'm sorry.

12 CHAIRMAN REID: Ms. King.

13 MS. PRUIT-WILLIAMS: The staff will
14 record the vote as made by Ms. King, seconded by Mr.
15 Foushee, four to zero to dismiss the motion.

16 MS. KING: Now the second request was.

17 CHAIRMAN REID: For the fee.

18 MS. KING: No, no, the fees are taken
19 care. But the request was for expedited hearing on
20 the proper request.

21 MS. PRUIT-WILLIAMS: We don't vote on
22 that. We just look and see --

23 CHAIRMAN REID: Madam Director, but we
24 don't have --

25 MS. PRUIT-WILLIAMS: When I was looking
26 at this yesterday, this is based on doing notice for

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1 the record, D.C. record, and -- I mean Register,
2 excuse me -- which would have to go in next Friday,
3 the 29th. We're too late to get in for this Friday.
4 It would allow you to -- You have to count 40 days
5 from there, which means I believe we could actually
6 have a meeting on the 24th.

7 MS. KING: Twenty-fourth of June?

8 MS. PRUIT-WILLIAMS: No, July. That
9 could actually be the 15th or 22nd. Just remember,
10 the 15th of July is Howard University. So I didn't
11 know if you wanted to do that with them or if you
12 wanted to put it on a special hearing date on the
13 22nd. That's why the 22nd date came about.

14 CHAIRMAN REID: Meaning that there is
15 no--

16 MS. PRUIT-WILLIAMS: There is no hearing
17 currently scheduled for that time.

18 CHAIRMAN REID: But the 24th?

19 MS. PRUIT-WILLIAMS: Twenty-second.

20 CHAIRMAN REID: No, what about the 24th?

21 MS. PRUIT-WILLIAMS: That's June.

22 CHAIRMAN REID: Okay. July 22nd?

23 MS. PRUIT-WILLIAMS: Correct.

24 MS. KING: Would that be an extra
25 meeting?

26 CHAIRMAN REID: I thought we've already

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1 scheduled something for that date.

2 MS. PRUIT-WILLIAMS: No, we haven't.

3 CHAIRMAN REID: Not yet?

4 MS. PRUIT-WILLIAMS: No. That date is
5 never scheduled for a meeting.

6 CHAIRMAN REID: Okay. All right.

7 MS. KING: So that we'll have three
8 meetings in July.

9 CHAIRMAN REID: If we add another date.
10 I have no objection to that.

11 MS. KING: I have none. Maurice will be
12 gone.

13 CHAIRMAN REID: Okay. Then we can go
14 with that date.

15 MS. PRUIT-WILLIAMS: It could also be
16 heard on the same day as Howard, and you would have
17 this hearing. I would suggest, if you do that, to
18 do this first and then to do Howard.

19 MS. KING: But if it's going to be -- We
20 have a whole day for Howard?

21 MS. PRUIT-WILLIAMS: Correct.

22 MS. KING: Well, let's do it on the same
23 day as Howard, don't you think?

24 CHAIRMAN REID: Do you know -- Do you
25 have any idea about how long you think with respect
26 to your case?

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1 MS. McCARTHY: Well, you know, the only
2 issue for a special exception for a home occupation
3 permit is impact on the neighborhood. So I -- We
4 have one support from, I think, seven neighbors of
5 our -- I know the ANC and Capital Restoration. The
6 ANC has passed a resolution opposing it. Capital
7 Restoration Society hasn't officially considered it
8 yet; but at any rate, I'm not expecting a huge
9 parade of neighbors, and our case is just going to
10 be me as the expert witness and the Congressman.

11 MS. PRUIT-WILLIAMS: I believe the
12 concern that was originally voiced was over not --
13 community not receiving notice as opposed to -- I'm
14 not sure if it was actually over the case, but more
15 on the notice end of it. So with it being properly
16 advertised and proper notice, we may not have as
17 many people interested as we did before. Is that a
18 fair and accurate assumption or am I way off base?

19 You guys would know better what type of
20 community involvement or --

21 MR. SIMON: We had not anticipated a
22 large number of witnesses, if that's what the
23 question is.

24 MS. PRUIT-WILLIAMS: Yes. So we can put
25 this on for the first thing in the morning of July
26 15th.

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1 MS. KING: Which is our regular meeting
2 date?

3 MS. PRUIT-WILLIAMS: Correct.

4 CHAIRMAN REID: So, basically that's
5 9:30 on the 15th. Thank you.

6 MS. PRUIT-WILLIAMS: I think there's
7 another preliminary matter, Madam Chair.

8 MR. AGUGLIA: My name is Richard
9 Aguglia. I'm an attorney with Hunton & Williams,
10 representing Liberty Limited Partnership. It's
11 number 2 on your calendar this afternoon.

12 CHAIRMAN REID: Case number, please.

13 MR. AGUGLIA: 16347. We're prepared,
14 and I have my witnesses here, to go forward today if
15 we have to, but we respectfully request continuance.

16 We met with the Zoning and Planning
17 Committee of ANC-6-A on April 8th, and they
18 expressed some concerns, but they could not vote
19 because they didn't have a quorum.

20 On the very next day, we sent them a
21 memo -- I'll give some copies to the -- three copies
22 to the transcriber. We sent them a memo addressing
23 their concerns. Here's a few more copies.

24 We then met with the full Commission on
25 May 7th, and they voted against the proposal, our
26 proposal for a use variance for this building. We

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1 have since been meeting with various members of the
2 Commission and asking them what needs they thought
3 they -- what needs they had and how we could address
4 those needs.

5 For instance, the single member district
6 Commissioner, Susan Orndorf, said she would like to
7 see a police substation in the building for security
8 purposes. So we would need to discuss this further
9 with her, the commission, as well as with the police
10 department to see if that was permissible, as well
11 as the prospective owner of the property, upon which
12 the use variance -- obtaining the use variance
13 rests.

14 Also, there was some question about a
15 traffic study and a marketing study. We have a
16 marketing study, and we're willing to address the
17 traffic impact today with you; but we would prefer
18 to do that with members of the Commission and the
19 neighborhood.

20 So for those reasons, we would request
21 to extend this until those July dates that you have
22 available. September? All right, we would go into
23 September if that was permissible and if you're
24 inclined to grant us our continuance.

25 CHAIRMAN REID: Unless there is an
26 objection with the other Board members, I have no

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1 problem with granting the continuance.

2 MS. PRUIT-WILLIAMS: Madam Chair, the
3 letter also from Councilman Ambrose asking for
4 denial.

5 CHAIRMAN REID: Denial?

6 MS. PRUIT-WILLIAMS: Yes.

7 CHAIRMAN REID: He's asking for denial,
8 not continuance?

9 MS. PRUIT-WILLIAMS: Right.

10 MR. AGUGLIA: I would say, with respect
11 to that, Council Member Ambrose has suggested that,
12 if we do get a continuance, then she's asked me to
13 call her tomorrow. Another reason for a
14 continuance.

15 CHAIRMAN REID: All right.

16 MR. PERNELL: I have no problem with a
17 continuance, but I'm getting mixed information.
18 They're talking to one single member district ANC
19 who just got on board. That person consults with me
20 at the 6-A commission and the body of the 6-A
21 commission.

22 CHAIRMAN REID: Excuse me. Would you
23 give your name and home address?

24 MR. PERNELL: I'm sorry. Yes, I got all
25 that.

26 CHAIRMAN REID: Please, give it for the

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1 record.

2 MR. PERNELL: Okay. Daniel Pernell III,
3 representative for the 6-A commission in Ward 6.

4 MS. KING: What's your home address?

5 MR. PERNELL: 1132 4th Street, N.E. I'm
6 here in behalf of Ms. Susan Orndorf and the
7 conversation from the body of the 6-A.

8 This company met with us. We voted at
9 the civic group that same day. That meeting is 5 to
10 7 on May 7th. We voted unanimously against the
11 facility, if they would continue to have a storage
12 facility.

13 Seven o'clock to nine o'clock and
14 sometimes longer at the ANC, we voted, I think,
15 seven to two against the storage facility. The
16 community feels that we don't -- we will go along
17 with the mixed use of the building, but we don't
18 want one year down the road they decide to put in a
19 storage place.

20 We have a problem with traffic on H
21 Street. It's 24 hours a day, extremely --

22 CHAIRMAN REID: Excuse me, sir. We're
23 not hearing the case today. These are only
24 preliminary matters, and if you --

25 MR. PERNELL: Well, okay. I'll just end
26 it by saying we oppose the continuance. Schaeffer

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1 and his company had enough time. They had a ANC
2 from 5-B going around lobbying for them. They had
3 enough time. The community had just been jumped
4 with this a month and a half ago, and the civic
5 group and the ANC has said our word.

6 We voted against it, and we oppose the
7 continuation of this case.

8 CHAIRMAN REID: Did you submit a report
9 from the ANC, because I didn't have one in my
10 package.

11 MR. AGUGLIA: It was not in the jacket
12 this morning.

13 CHAIRMAN REID: So that the Board would
14 be aware of what position you all were taking, did
15 you all submit a letter?

16 MR. PERNELL: Yes, we did. Mr.
17 Schaffer's lawyer, Mr. Aguglia, had told us that we
18 would go over the mixed use in the building, but the
19 storage facility they want there was not negotiable,
20 and that's what they discussed with the community.

21 CHAIRMAN REID: Okay. But are you
22 saying then -- You're saying that you're in
23 opposition, but are you -- Let me ask you this. Are
24 you in support with conditions?

25 MR. PERNELL: With conditions, that if
26 it's for mixed use and not for storage area.

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1 CHAIRMAN REID: Okay. But you have
2 conditions that --

3 MR. PERNELL: Right, and that's what we
4 conveyed at both meetings.

5 CHAIRMAN REID: I understand that. So,
6 basically, what you're saying is that, if your
7 conditions are adhered to, then you would not be in
8 opposition.

9 MR. PERNELL: Right.

10 MS. PRUIT-WILLIAMS: Madam Chair, there
11 is no letter in our file.

12 CHAIRMAN REID: We don't have any
13 letter. We haven't received the letter from your
14 ANC that indicates to us what your position is, so
15 that you could be afforded the great weight which
16 you are entitled with the vote and the fact that
17 there was a quorum that was present that day.

18 So you may want to make sure that that
19 gets in.

20 MR. PERNELL: I definitely will, and
21 also the letter from the Northeast Citizens Against
22 Crime and Drugs. The Chairman of that, Ms. Laura
23 Murray, is here today, and we have that letter also.

24 CHAIRMAN REID: I appreciate it, if you
25 would get that, for the record.

26 MR. PERNELL: I will.

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1 MR. AGUGLIA: I would simply say in
2 conclusion, I'd rather work this out with the
3 community, if possible, than have a tirade before
4 the Board.

5 MR. PERNELL: But you can't do it when
6 you're talking to one commissioner.

7 CHAIRMAN REID: We're not hearing it
8 today. You have ample time to discuss the matter.
9 Board members, did you have any -- Okay then. We
10 will continue the case, and in the interim we always
11 like to encourage that there be some type of
12 mediation between opposing sides so that perhaps you
13 can come to some meeting of the minds or some type
14 of resolution in which you are all amenable prior to
15 coming back. We'd appreciate that.

16 MR. AGUGLIA: Thank you.

17 CHAIRMAN REID: Thank you.

18 MR. AGUGLIA: We will get a notice of
19 the hearing date?

20 CHAIRMAN REID: Yes, unless, Madam
21 Director, do you have a hearing date today?

22 MS. PRUIT-WILLIAMS: Yes. We can put
23 this on for the September 2nd agenda in the morning
24 -- I'm sorry, in the P.M., because you have a public
25 meeting in the morning.

26 CHAIRMAN REID: September 2nd. Does

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1 that date work for everyone involved? September
2 2nd.

3 MS. PRUIT-WILLIAMS: You will not
4 receive notice again.

5 CHAIRMAN REID: This is the notice.

6 MR. AGUGLIA: What time?

7 MS. PRUIT-WILLIAMS: In the afternoon,
8 one.

9 CHAIRMAN REID: One o'clock. Do you
10 have a question of preliminary matters, sir? You
11 have a question of a preliminary matter? Come
12 forth, please.

13 MR. JOHNSON: Robert
14 Johnson, 1156 5th Street, N.E., Washington, D.C.

15 Now my question is about the
16 continuance. Now how can we get them to have the
17 hearing today, if some of us are opposed to the
18 continuance? I mean, I'm new to this whole process,
19 and you guys are going to have it in September. I
20 might be in Florida or in no telling where. I
21 travel a lot for my job.

22 CHAIRMAN REID: I don't understand your
23 question.

24 MR. JOHNSON: My question is I'm opposed
25 to the continuance on the fact that I was all geared
26 up for the hearing to be done today, and they've had
ample enough time to prepare their case. So I mean,

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1 there are a number of people here expecting to be
2 heard today. Now we're told we have to wait until
3 September because they're not ready.

4 CHAIRMAN REID: We received a request to
5 us requesting a continuance based on the fact that
6 there had been some discussion with the ANC for an
7 unreadiness, that they need additional time to be
8 able to prepare their statement that will be
9 presented to us.

10 MR. JOHNSON: The ANC or these --

11 CHAIRMAN REID: And it was from the
12 applicant, stipulating that the ANC had so
13 requested. So we had that in the material before us
14 already, before today.

15 Then once we hear the reasons for the
16 request for a continuance, then we base our decision
17 accordingly, and this is what we've already done.

18 MR. JOHNSON: So it's a done deal,
19 basically.

20 MS. KING: The continuance is a done
21 deal but, you know, appearing in person is not the
22 only way that you can register your opinion. I
23 mean, you know, you can submit it in writing. You
24 can participate in the negotiations that will go on
25 over the next couple of months with regard to what
26 will be done with that property.

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1 CHAIRMAN REID: So you have opportunity
2 to participate.

3 MR. JOHNSON: All right. Thank you.

4 CHAIRMAN REID: Thank you. Next case,
5 please.

6 MS. KING: First case.

7 MS. PRUIT-WILLIAMS: The first case for
8 the afternoon is case number 16346, application of
9 William Herbert, pursuant to 11 DCMR 3107.2, for a
10 variance from the rear yard setback requirement
11 (Subsection 404.1) to construct a deck addition to a
12 single-family detached dwelling in an R-1-B District
13 at premises 1337 Locust Road, N.W., Square 2771, Lot
14 35.)

15 All those planning to testify, would you
16 please stand and raise your right hand.

17 Do you swear or affirm that the
18 testimony you're about to give is the truth, the
19 whole truth, and nothing but the truth? Please be
20 seated.

21 MR. HERBERT: The variance that I --

22 MS. KING: Your name and home address,
23 please.

24 MR. HERBERT: My name is William
25 Herbert, 1337 Locust Road, N.W.

26 The variance that I believe is being

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1 requested is because it's nonstandard and the
2 alleyway -- I think the clearance between the
3 alleyway and the deck, and it's my understanding
4 that the deck that is constructed out there,
5 although it's nonstandard, it is in compliance with
6 the other decks and the other clearances in the
7 neighborhood.

8 CHAIRMAN REID: You're saying that you
9 want to break the law if everybody else is breaking
10 the law.

11 MR. HERBERT: Well, no, it was that the
12 deck started -- the construction started. The
13 application was being filed, and the previous
14 owner's son is a little bit mentally imbalanced, and
15 he thinks that he still lives there. He came by. I
16 filed some paperwork, and this started the whole
17 process.

18 I have gone through about two or three
19 hearings, and I think Judge Quanders finally entered
20 something in the record to stop taking complaints
21 from this person, and it was borderlining on
22 harassment; but this part came out of it.

23 The paperwork is filed. Everything was
24 being complied with, and --

25 CHAIRMAN REID: And now you're trying to
26 do the right thing.

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1 MR. HERBERT: Yes. Well, we were
2 trying. It just got in the grist mill, and it just
3 arrived at this point here.

4 CHAIRMAN REID: Okay.

5 MR. HERBERT: But all the neighbors --
6 and we canvassed the neighbors, and they said that
7 that's fine; it's been an addition to the
8 neighborhood, and they welcomed it.

9 MS. KING: Do you have letters from your
10 neighbors about that?

11 MR. HERBERT: No, I don't. I believe a
12 couple did call in, and some were polled. Some
13 people came by and polled them.

14 MS. KING: There's no record in our file
15 that anybody in your neighborhood has supported you
16 -- or in my file. Nothing. What about the Advisory
17 Neighborhood Commission. Have you been in touch
18 with your ANC?

19 MR. HERBERT: No, I haven't. I don't
20 know the process. I just filed --

21 MS. KING: When was the deck actually
22 installed?

23 MR. HERBERT: In -- I believe it was May
24 or June of last year.

25 MR. CLARENS: And was a permit issued?

26 MR. HERBERT: Yes, it was.

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1 MR. CLARENS: A building permit was
2 issued by the District of Columbia?

3 MR. HERBERT: Yes. I got -- The permit
4 came as we were building the deck.

5 MR. CLARENS: You have a copy of that
6 permit?

7 MR. HERBERT: No, I don't.

8 MR. CLARENS: The drawings were
9 presented to the Department of Consumer and
10 Regulatory Affairs, and they approved the deck?

11 MR. HERBERT: Yes, it was.

12 MS. KING: Then why is he here?

13 MR. HERBERT: Well, that's what I said.
14 I have been part of this process, and I've just been
15 -- Every stop that I have made they said, well, you
16 shouldn't be here, but some kind of way your file
17 got here. It should have been stopped at the
18 previous point.

19 MS. KING: No. I mean, there is -- I
20 mean, you are in violation. I mean, it's too close
21 to your -- but if you could produce a copy of your
22 building permit from the Department of Consumer and
23 Regulatory Affairs, it would be very helpful, I
24 mean, because then it's not your fault that you
25 built a deck that was -- You know, it was their
26 fault that they didn't refer it to us before you

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1 built.

2 MR. CLARENS: Well, Ms. King --

3 MS. KING: Is that not so?

4 MR. CLARENS: Well, yes, I think so.

5 Furthermore, I think it would put the burden on the
6 people who are against the deck to appeal the
7 decision of the Zoning Administrator to grant the
8 permit in the first place.

9 The Zoning Administrator might have
10 erred in allowing this deck to go through. That
11 would be the burden of the people who are opposed to
12 your deck to appeal the decision of the Zoning
13 Administrator that that permit was done erroneously,
14 in which case then he would be a defendant against
15 the appeal.

16 MR. HERBERT: Yes, but I tried to locate
17 the person who was in opposition to it. It was the
18 previous owner's son, who no longer lives in the
19 neighborhood, who isn't anyplace around. He was off
20 of his medication that day. He drove through,
21 thought he lived there, and wanted to know why are
22 you putting up a deck.

23 He's turned in several complaints of
24 which now they are dismissing it, and not paying
25 attention to him calling in.

26 CHAIRMAN REID: I don't have any letters

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1 or any opposition in my file. Does anyone else?
2 No, we did not receive -- Whoever you're referring
3 to, we don't have it. So you don't have to even
4 refer to that.

5 MR. HERBERT: Okay.

6 CHAIRMAN REID: We don't have any such
7 materials or petitions from anyone of that caliber
8 or any other caliber, for that matter.

9 All right now. Would you like to make
10 your case? Do you understand the process that
11 you're involved in here?

12 MR. HERBERT: No. All I know is that --

13 CHAIRMAN REID: You're asking for a
14 variance, which means that coming to us to ask for
15 relief for the zoning that you are presently under
16 in order to build your deck, in order to do that,
17 there's a three-prong test.

18 You have a burden of proof that there is
19 something unusual or irregular about your particular
20 property. Now you follow my drift?

21 MR. HERBERT: Yes.

22 CHAIRMAN REID: Okay. So do you have
23 your file, information there with you?

24 MR. HERBERT: No, I don't. Everything
25 that I had was in the file that was --

26 CHAIRMAN REID: You didn't bring

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1 anything with you?

2 MR. HERBERT: No.

3 CHAIRMAN REID: You're not prepared to
4 make a presentation today?

5 MR. HERBERT; No. All I was told was to
6 appear and, if there was any opposition --

7 CHAIRMAN REID: Okay. Let's just try to
8 get through this. On your plat map that you
9 submitted, and looking at this, I think that we can
10 all agree that this appears to be an irregular
11 shape.

12 MR. HERBERT: Yes.

13 CHAIRMAN REID: This is where the prongs
14 of test that, if it's some kind of exceptional
15 condition, if the land is shallow or irregular or
16 substandard, then it would be a practical difficulty
17 for you to be able to use it.

18 MR. CLARENS: Madam Chairperson, I hate
19 to -- I think that the Board would be ill advised to
20 proceed with this case, as it is presented to us,
21 and to try to make the case for the applicant.
22 That's not either our responsibility nor it should
23 be our task.

24 I think that the applicant needs to
25 inform himself what the regulations required. We
26 have a staff that is able to assist him in doing

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1 that, and there are issues that are not clear,
2 because we have a letter from Mr. Nunnely requesting
3 the variance from the area requirements, the
4 setback requirement, and yet there is a claim that
5 a permit was issued.

6 So there are things that need to be
7 clarified before this Board can proceed, and for us
8 to sit here and try to make a case for the
9 applicant, I think, would be -- I would advise
10 against that. I mean, it's your call, but I would
11 advise against trying to make the case.

12 There are elements of exceptional and
13 unique conditions to this site, but I think that,
14 whether they do represent a practical difficulty for
15 the construction of a deck, that's the question.
16 It's the linkage between the two, and there doesn't
17 appear to be much adverse impact, at least in the
18 form of opposition, to the deck beyond what is
19 already there; but my recommendation would be that
20 we also postpone this case and allow the applicant
21 to work with staff in developing their case, and
22 then come back to the Board, and then with a more
23 cohesive -- I think that it would be ill advised in
24 saying that he just had to show up here.

25 You have to show up here with a case
26 that you have to make, why we should grant the

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1 variance, and it is based on three points, and you
2 should be advised by somebody -- and the staff, I'm
3 sure, will be glad to talk to you about it -- as to
4 what you should be preparing and bringing to the
5 Board.

6 MS. KING: Mr. Clarens, if there is a
7 bona fide and valid construction building permit for
8 the deck, and if Mr. Herbert can produce it for us,
9 what impact does that have on the case?

10 MR. CLARENS: Well, I'm not sure what
11 impact it has, but I think that that would have to
12 be clear with Mr. Nunnely first, and I think that
13 our staff should be able to establish communication
14 with Mr. Nunnely to find a contradiction.

15 If the Zoning Administrator is revoking
16 his building permit because he has found that it did
17 not meet the zoning regulations, then that should
18 also be clarified.

19 CHAIRMAN REID: Wouldn't they need a
20 correct procedure?

21 MR. CLARENS: Well, if in fact this deck
22 is noncompliant, which doesn't appear -- It appears
23 that it is noncompliant -- then the permit should
24 not have been granted, to begin with.

25 If it was granted, it was an error on
26 the part of the Zoning Administrator. Now only he

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1 needs to clarify that condition, but if you're not -
2 - you know, by revoking the permit, of course, that
3 has a problem; but we should know that, because then
4 that creates, in fact, a practical difficulty at
5 this point for the applicant. But we don't know any
6 of that. We're speculating.

7 CHAIRMAN REID: Basically, you're saying
8 that we need to get a clarification of the position
9 of the Zoning Administrator.

10 MR. CLARENS: We need to get it at the
11 beginning of this case. This case -- I don't think
12 it's ready.

13 CHAIRMAN REID: Because if he has a
14 building permit, a valid, bona fide, then there's no
15 reason for them to have him here in the first place.

16 MR. CLARENS: Absolutely.

17 CHAIRMAN REID: Since they did send him
18 here, then you're saying that --

19 MR. CLARENS: And I suspect that the
20 Zoning Administrator is reviewing this case for some
21 reason or filing a complaint or something like that,
22 in which case it's a different thing. They are
23 backing away from it. You follow me, Ms. King?

24 MS. KING: I do follow. I just think,
25 you know, the thought of the Zoning Administrator
26 giving a building permit, something is built, and

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1 then saying, oops, I've changed my mind -- What is
2 Mr. Herbert going to -- I mean, if Mr. Herbert did
3 the construction without a building permit, and if
4 we decide to deny him, then he has to tear it down.
5 That's his responsibility.

6 If he went to the trouble and expense of
7 building something for which there was a valid
8 building permit --

9 MR. CLARENS: That might be the grounds
10 then for granting a variance.

11 MS. KING: That would be ample grounds
12 for us to --

13 MR. CLARENS: Correct. I would have no
14 problem --

15 MS. KING: -- allow his variance.

16 MR. CLARENS: I would have no problem
17 with thinking along those lines, but I think that we
18 need to know that.

19 MS. KING: I agree with you entirely. I
20 agree with you entirely, and I think that's the
21 first thing. Given -- Either Mr. Herbert produces
22 for us the valid building permit or we work through
23 the Administrator.

24 MR. CLARENS: Well, and my suggestion
25 would be that Mr. Herbert can work with our staff to
26 do whatever leg work there needs to be done and

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1 clarify things with Ms. Hicks and Mr. Nunnely and
2 get all that resolved, so that the case comes to us
3 a little bit -- it looks to me like it's a little
4 bit uncooked.

5 CHAIRMAN REID: And to be sure, whatever
6 evidence you have that your deck has been built
7 within the compliance of the building permit that
8 you have been granted from DCRA. That would go a
9 long way.

10 MR. HERBERT: When I hired the
11 architect, he submitted some stuff down to the
12 permit board, all of that.

13 CHAIRMAN REID: It would have been a
14 good idea to have had your architect appear with
15 you.

16 MS. KING: Did you get a pink slip about
17 this size, and you've still got it?

18 MR. HERBERT: I think I have at home.

19 MR. CLARENS: You should have gotten a
20 pink slip and a set of drawings, plan.

21 MS. KING: The owner's copy.

22 MR. CLARENS: Even these things that
23 appear to have been drawn in here like that -- there
24 should have been an approved set of drawings like
25 this, and those need to be produced; because those
26 might be different. I'm not saying that they are,

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1 but what's presented to the permit branch might have
2 been different from what was built. We don't know
3 that.

4 So there's all kinds of questions. All
5 I'm saying is that I don't think that you are ready
6 to proceed, and I don't think we're ready to hear
7 this case, based on what we have in front of us.
8 There are too many questions, and I think that you
9 need to be better sort of advised or informed.

10 MR. HERBERT: I'm understand what you're
11 saying.

12 CHAIRMAN REID: Mr. Herbert, we are
13 sorry that you've been kind of gotten enthralled in
14 this bureaucracy, this weird case; but nonetheless,
15 for you to be able to enjoy your deck possibly, then
16 if you could just indulge us a little further and
17 provide us with what we need to be able to properly
18 grant you the relief that you're asking for.

19 What Mr. Clarens is saying makes a lot
20 of sense, in that you're not prepared. You don't
21 have anything, and what I was attempting to do was
22 to go through questioning you to the extent that
23 perhaps you could provide us with information that
24 we need, but even that appears to be, from Mr.
25 Clarens' vantage point, inadequate.

26 So that in mind, it would behoove you to

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1 meet with the staff and have them to advise you and
2 to counsel you as to what you need to do to get it
3 before us in proper fashion.

4 MS. PRUIT-WILLIAMS: Excuse me, Madam
5 Chair. Do you want then -- Staff would like some
6 guidance on do you want to leave the record open and
7 give Mr. Herbert the opportunity to try to get this
8 information in to us by June 19th so that possibly
9 you can make a decision on the 9th, or do you want
10 to reschedule him for another hearing in September?

11 CHAIRMAN REID: Well, it still, I think,
12 would be inadequate, because he has got to make a
13 case, and he has not been able to. He doesn't have
14 anything from which to base making the case.

15 So for us to reach a decision, it would
16 be predicated upon what has been entered into the
17 record, what we have.

18 MS. PRUIT-WILLIAMS: Well, we can leave
19 it open until June 19th. That's what I'm saying.

20 CHAIRMAN REID: We're having to make his
21 case in writing?

22 MS. PRUIT-WILLIAMS: Yes.

23 CHAIRMAN REID: After having consulted
24 with you.

25 MS. PRUIT-WILLIAMS: Right, and
26 providing the building permit, the staff drawings

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1 and the other items that -- there are several
2 options. I'm just asking you which one you --

3 MS. KING: I mean, if he's got a valid
4 building permit, then that's a viable option; but if
5 he doesn't have a valid building permit or, for some
6 reason, he strayed from what he was permitted to
7 build, then we wipe out an opportunity for him to
8 make his case before us and for us to question him.
9 I don't think we should do that.

10 MS. PRUIT-WILLIAMS: Okay. So you want
11 --

12 MS. KING: I mean, we just --

13 CHAIRMAN REID: Why don't we just go
14 ahead and reschedule it.

15 MS. KING: We have probably inadequate
16 information, and we're certainly not going to be
17 holding up a project, since the project is
18 completed.

19 MS. PRUIT-WILLIAMS: The next available
20 hearing date would be September 16th.

21 CHAIRMAN REID: What day?

22 MS. PRUIT-WILLIAMS: September 16th.

23 MR. HERBERT: I'll be getting ready to
24 change jobs to a consulting position with Andersen
25 Consulting, and I'm going to be on the road quite a
26 bit, and I don't know my schedule. If it's

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1 conflicting, can I call in?

2 MS. PRUIT-WILLIAMS: Certainly. We'll
3 try.

4 MS. KING: Well, we certainly didn't --

5 CHAIRMAN REID: Seems that -- Now in the
6 interim, there are things that you need to do. You
7 need to contact the ANC and make sure we have their
8 report.

9 MS. KING: Excuse me. This is if he
10 doesn't have a building permit, you're saying? If
11 he does not have a building permit.

12 CHAIRMAN REID: If he doesn't have the
13 building permit and he has to come back to a
14 hearing--

15 MS. KING: He has to make a case.

16 CHAIRMAN REID: -- and he has to make
17 his case.

18 MR. CLARENS: Ms. King, I think it
19 should be -- I think the process should go through
20 all the way. I think he should contact the ANC,
21 even if he has a permit. If he has a permit, then,
22 obviously, the rationale for granting a variance
23 might be higher, but I think that he has to go
24 through variance process, nevertheless.

25 We have not established how this deck
26 came to pass. How did it get there? Who said what

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1 to who? MS. KING: Okay, but the ANC
2 was duly noticed for this meeting.

3 MR. CLARENS: And then if they were,
4 then that's all the notice they require.

5 CHAIRMAN REID: ANC was noticed on
6 4/1/1998. So they did not respond.

7 MR. CLARENS: Correct. That's all the
8 notice they require.

9 MR. HERBERT: And I understand -- I
10 thought someone from one of the boards were
11 canvassing the neighborhood and at least polling the
12 neighbors. There is no opposition. There was no
13 opposition, and I think Mr. Crockett called in, gave
14 his support. The other neighbors did.

15 CHAIRMAN REID: But we don't have any
16 letters of support here.

17 MS. PRUIT-WILLIAMS: Unfortunately, we
18 don't take support over the phone, sir.

19 CHAIRMAN REID: Oh, well, then you may
20 want to have them send letters, so that -- or appear
21 the day that you have the hearing in support of you,
22 or a letter would be okay.

23 MS. KING: Or circulate a petition
24 amongst your neighbors, whatever.

25 CHAIRMAN REID: Just let us know what
26 kind of support you do have that would come forth.

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1 MR. CLARENS: But, remember that zoning
2 is not a popularity contest. It is -- they could
3 all be in favor of it, but if in fact the
4 regulations are not met or if the rationale for
5 granting a variance is not provided, then, you know,
6 regardless of how lack of opposition you might have,
7 the Board cannot grant variance.

8 MR. HERBERT: I thought all of that was
9 filed with Carl Robinson, my architect, was down
10 with the permit board on 6th Street.

11 CHAIRMAN REID: Mr. Herbert, you may
12 want to have the architect come with you to help you
13 to make your presentation, because your architect
14 has done the permitting process, gone through many
15 processes, as well as when he has done all the
16 plans, and he's intimately knowledgeable about the
17 deck, the questions that you can't answer.

18 So you need to have him with you so that
19 he could assist you in making your case, I would
20 think.

21 MR. CLARENS: Or at least he should
22 assist you, and he should be familiar with the
23 regulations. So between him and the staff, you
24 should be able to build up a case.

25 MS. PRUIT-WILLIAMS: Mr. Herbert, the
26 gentleman at the corner, Mr. Hart there, is a

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1 project manager who will be taking care of your
2 case. So if you have any questions, call and direct
3 them to him, and he should be able to help you.

4 MR. HERBERT: H-a-r-t ?

5 MS. PRUIT-WILLIAMS: Yes.

6 CHAIRMAN REID: Thank you. Other
7 questions?

8 This will close the hearing for today.

9 (Whereupon, the foregoing matter went
10 off the record at 2:08 p.m.)

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