

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

MARCH 3, 1999

+ + + + +

The Public Hearing convened in Room 220, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 2:48 p.m., Sheila Cross Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID, Chairperson  
BETTY KING, Vice Chair  
JERRY GILREATH, Board Member

ZONING COMMISSION MEMBER PRESENT:

JOHN F. PARSONS, Commissioner

STAFF PRESENT:

Sheri Pruitt-Williams, Interim Director, Office of Zoning  
John Nyarku, Office of Zoning  
Paul Hart, Office of Zoning  
Beverly Bailey, Office of Zoning  
Alberto Bastida, Office of Planning

<u>AGENDA ITEM</u> _____	<u>PAGE</u>
PRELIMINARY MATTERS	3
<u>APPLICATION OF METROPOLITAN DAY SCHOOL, INC.</u> 16421 ANC-5A Case postponed from January 29, 1999 to March 3, 1999. Case postponed from March 3, 1999 to March 31, 1999.	3
MADELIENE H. DOBBINS, Esq.	3
<u>APPLICATION OF PROTESTANT EPISCOPAL CATHEDRAL OF THE DISTRICT OF COLUMBIA</u> <u>16433-ANC-3C</u>	38
WHAYNE S. QUIN, Esq.	39
THOMAS DERNOGA, Esq.	40
<u>APPLICATION OF SAM AND R.D. ANSELLEM</u> <u>16432 ANC-3C</u>	51
JAMES OLIVARRI, Rep.	51
<u>WITNESS</u>	
KEVIN FINNERAN	69
SAM ANSELLEM	79
<u>APPLICATION OF HOWARD MORLAND</u> <u>16431 ANC-3E</u>	101
HOWARD MORLAND	102
<u>APPLICATION OF PROTESTANT EPISCOPAL CATHEDRAL FOUNDATION,</u> <u>16433 ANC-3C</u>	111

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

2 2:48 p.m.

3 (Whereupon, the public hearing was convened a few  
minutes prior to the Court Reporter's set-up.)

5 MS. FIRSTER: -- the traffic issue without Dr. Carter.

6 MS. DOBBINS: Madam Chair, Members of the  
Board, my name is Madeliene Dobbins. I'm the attorney for the  
applicant, Metropolitan Day School. We are, for the record, objecting  
to any postponement associated with this case. We came before the  
Board on January 20th and agreed to a postponement or continuance  
of this case to allow us more time and the ANC and the community  
more time for all of us to dialogue. We've done that.

13 At that time the Board recognized the strict time line  
that Metropolitan Day School was under in order to put this school  
in place in September, if it was approved by the Board. So we are on  
record as opposing any postponement of this case. We are prepared  
to go today. We have all our witnesses present and are really  
prepared to go today.

19 VICE CHAIR KING: Do you have the support of the  
ANC?

21 MS. DOBBINS: No, we do not.

22 VICE CHAIR KING: Okay.

23 MS. CURRIE: No, you do not. And on behalf of the  
ANC

25 MS. PRUITT-WILLIAMS: Excuse me, please state  
your name for the record.

1 VICE CHAIR KING: -- the name is Mary Baird-Currie,  
and I am the 5A-06 representative for that particular community.

3 The ANC on two different occasions have gone on  
record in opposition to this request, 10 to 1 at the first public meeting,  
and most recent at a public meeting this week on the 24th, 10 to 1  
again. So the ANC is on record opposing this variance. And therefore  
we support the hearing postponement today before -- until we can  
bring forth a key witness, a very key witness.

9 CHAIRPERSON REID: When do you anticipate  
being able to bring forth this witness?

11 MS. CURRIE: Because of the nature of the illness we  
are unable to share that with you at this time. We will, however, get  
back to you as quickly as possible after talking to his nearest relative.  
I would think that two or three weeks ought to do it, and no more than  
four would be accommodating.

16 MS. DOBBINS: Madam Chair, I'd like to say that the  
Board is no stranger to opposition in cases that it has listened to or  
heard before. We have a time line that we need to meet. We feel that  
we have prepared a case for this Board that will address the issues  
and concerns of the community. And as unfortunate as it is that Dr.  
Carter is not available, we also need for the Board to know that we  
cannot definitely wait for an expert that they have chosen.

23 CHAIRPERSON REID: Ms. Dobbins --

24 MS. DOBBINS: We have a traffic report for the  
Board. We have a DPW report for the Board.

26 CHAIRPERSON REID: Ms. Dobbins?

1 MS. DOBBINS: Yes?

2 CHAIRPERSON REID: You said "wait indefinitely,"  
do you have some parameters in which you'd be able to develop the  
ANC association?

5 MS. DOBBINS: Madam Chair, we have been to the  
ANC, and it's documented in our information. I don't know that we will  
be able to get the ANC support. That's why we want to make the  
presentation and let the Board listen to the evidence, information and  
testimony of all the documents that we will present to see if they have  
been adequately addressed. We have appeared before the ANC  
since January 20th on two occasions, the full ANC, and on one  
occasion to the single member district. We have sent over a thousand  
letters out to the community explaining this project, chronologing what  
we are trying to do in the community.

15 So we have an awful lot to try to make the community  
aware of this. I mean we have done just as much as we possibly can.  
We're not sure that there will be any cooperation or any agreement  
short of this Board looking at the facts associated with this case and  
making some determination that the issues and concerns of the ANC  
and the community have been and are being addressed by the  
applicant as we move through this process.

22 The ANC in fact did a report on the record in January  
where they had voted in December, even before we had the  
opportunity to make a presentation to them, and stated some  
conditions or constraints that they thought the Board may want to put  
on the application, if it were in fact approved. We have gone over

those, we've tried to deal with those and tried to address those, so we are prepared to provide the Board the information related to responding to those concerns. So I'm not --

4 CHAIRPERSON REID: Well --

5 MS. DOBBINS: -- sure -- I'm sorry, I'm not sure that we would be able to come before this Board with some kind of agreement.

8 CHAIRPERSON REID: Well, no, Ms. Dobbins,  
my -- 9

10 MS. DOBBINS: That was --

11 CHAIRPERSON REID: -- my --

12 MS. CURRIE: May I respond to Ms. King, when she asked did we have the --

14 CHAIRPERSON REID: -- my question was,  
notwithstanding the foregoing, is there some parameter of time that you all would feel that would accommodate the request by the ANC and the civic association?

18 MS. DOBBINS: Sitting next to me is Reverend Dr. H. Beecher Hicks with the Metropolitan Baptist Church and the Chairman of the Board of Governors of the Day School. And he's just indicated in terms of getting the renovations completed and getting the school open in a reasonable time, we need a minimum of five months. That would put us into early April, it looks like April 1.

24 MS. CURRIE: May I, Madam Chair?

25 CHAIRPERSON REID: Yes.

26 MS. CURRIE: Madam Chair, this issue is not about a

time line. It is about people, and we must stay people oriented and children oriented. This is supposed to be a school about children, that is requesting a special exemption to go into our community. We cannot get off on a time line that has nothing to do with the issue for people that receive this dwelling for one dollar while the issue here must stay mainstreamed on people, not anyone's time line. Please keep that in mind?

8 CHAIRPERSON REID: Ms. King?

9 VICE CHAIR KING: Yes, this issue arose yesterday regarding Dr. Carter's illness. He is in sole practice, therefore there is no one who can represent him. This identical situation was argued before us yesterday. And as I indicated yesterday, I would tend to side with the community representatives and the ANC in this instance. They do not have the resources to have another traffic expert since that is going to be a significant issue in the case, and I think we have no alternative but to postpone this case or continue this case until at least four weeks from today.

18 CHAIRPERSON REID: I would concur. And I think that just as did yesterday, we can allow accommodation, a one time accommodation for a date certain. And, if in fact Dr. Carter is unable to attend, then we suggested that there be a report submitted or an alternate or someone to get his report if he could not make it at this particular hearing after we have postponed it to a date that everyone is comfortable with. Is there a process, do we have any procedure --

25 MS. DOBBINS: Madam Chair, that was exactly our concern. We would hope that the Board would at least set this for a

date certain and then not continue it again for the same reason.

2 BOARD MEMBER GILREATH: I agree with that.  
And I think that if we were not to postpone this, and we would not  
have complete information from the ANC, so I would --

5 MS. DOBBINS: In all fairness --

6 BOARD MEMBER GILREATH: -- even though  
certainly the applicant has done good work and so forth in -- statement  
-- so I think that we postpone, but have a date certain to deal with this  
as expeditiously as possible.

10 COMMISSIONER PARSONS: Ms. Firster, is there a  
report that Dr. Carter produced or was he going to address us verbally  
or what?

13 MS. CURRIE: He's going to address us verbally.

14 COMMISSIONER PARSONS: So he produced no  
report and he intends to produce no report?

16 MS. CURRIE: Not a complete report to date.

17 MR. FIRSTER: Dr. Carter has done a preliminary  
report for the concerned citizens, but his in-person testimony is very  
key. His report addressed some issues that were in response to his  
review of the written submission by the applicant's transportation  
expert, but there are additional points that it's very important that he  
present in person that are not contained in his preliminary report to our  
client. So we hope to have -- we think his in-person testimony is very  
important.

25 If for some reason he is not available one month from  
now, we will do one of two things. One is we will confer with him and

determine whether or not it is possible to prepare a thorough report that would include everything that he would have presented in testimony, or hopefully we can find out that information early enough so that possibly we can get a substitute expert witness who will be available to testify in person.

6 We think it is important not only for him to testify in person, but to also hear the full presentation by the applicant including the presentation from their transportation expert.

9 BOARD MEMBER GILREATH: So it would be your approach then to start listing a backup traffic expert and not appear here in three weeks saying he's still on the mend?

12 MS. FIRSTER: No, no, we don't intend to do that.  
We, as soon as --

14 BOARD MEMBER GILREATH: So you have no objection to us proceeding with you without a traffic consultant?

16 MS. FIRSTER: That's correct. If Dr. --

17 BOARD MEMBER GILREATH: This is the only basis upon which I'd postpone this. We can't be here crying about this next week.

20 MS. FIRSTER: -- if we're going to confer with Dr. Carter as soon as he is able to find out his post surgery recovery is going, and if he is in fact not going to be available within the date being set, we will indeed try to locate an expert who will be available and do whatever we can to make sure that we can prevent, be able to prevent our opposition case at the date that you set.

26 BOARD MEMBER GILREATH: But in the event you

can do neither, you will not appear here to ask for another  
postponement, is that correct?

3 MS. FIRSTER: That's correct.

4 BOARD MEMBER GILREATH: You will go on your  
own? 5

6 MS. FIRSTER: Or with a written report or whatever  
we can do to present our case --

8 BOARD MEMBER GILREATH: Okay.

9 MS. FIRSTER: -- or with lay witness testimony, yes.

10 MS. DOBBINS: Madam Chairman, we'd like to make  
one request. As your rules require, parties are to make pre-hearing  
submissions, our submission is in the record. We will supplement that  
and make some corrections or changes, but we'd ask that the ANC  
submit their materials. Ms. Firster has just indicated that the traffic  
person has a preliminary report. We'd ask that that be presented, we  
had presented a preliminary report even before our's was final to the  
ANC, and that other written materials be put on the record.

18 It will help the applicant in its case in temps of  
responding to additional criteria that may come up or issues that may  
come up during the hearing process. So we'd ask that they submit  
prior to the hearing date.

22 CHAIRPERSON REID: All right, Ms. Firster?

23 MS. FIRSTER: Firster.

24 CHAIRPERSON REID: Firster, and Currie, are you  
able -25

26 MS. CURRIE: Basically. I want to stay mindful, and I

would like for you all to stay mindful of, that this proposed school, day school, is going into a residential community --

3 CHAIRPERSON REID: No, no, what we don't want to do is to get involved in the case right now.

5 MS. CURRIE: Okay.

6 CHAIRPERSON REID: What we're doing now is just basically addressing your request for a postponement and trying to accommodate the same.

9 MS. CURRIE: We will do the very best we can. If we find out that Dr. Carter is not going to be able to testify for us --

11 CHAIRPERSON REID: No, no, the request, like I say, if there is a preliminary report --

13 MS. CURRIE: There is a preliminary report, and --

14 CHAIRPERSON REID: -- we would like to have that -

15 MS. CURRIE: -- it will be put in the record promptly.

16 CHAIRPERSON REID: Yes, as well as --

17 MS. CURRIE: In fact I might have it today.

18 CHAIRPERSON REID: -- put together additional pre-hearing submission materials which indicates the witnesses that the parties intend to call, and the basis for their opposition. And that's pretty routine.

22 MS. FIRSTER: Can I respond for the concerned citizens? We would be happy to furnish a witness statement within, you know, two weeks of the hearing. However, I don't know of any requirement that requires us to provide an elaborate pre-hearing statement. Quite frankly, the citizens are trying to conserve their

resources, and we would express some concern if they're expecting  
some kind of a legal memorandum.

3 MS. DOBBINS: I'm just asking for the documents and  
the basis for the opposition.

5 CHAIRPERSON REID: Ms. Firster, let me  
understand, are you counsel for concerned citizens and the ANC?

7 MS. FIRSTER: I represent concerned citizens to the -

- 8

9 CHAIRPERSON REID: Only?

10 MS. FIRSTER: -- only concerned citizens.

11 CHAIRPERSON REID: All right.

12 MS. CURRIE: And I'm representing the ANC's  
position, but I am also a member of concerned citizens.

14 CHAIRPERSON REID: Okay.

15 MS. CURRIE: So I'm wearing --

16 CHAIRPERSON REID: Ms. Currie, are you  
representing the whole ANC or your single member district?

18 MS. CURRIE: -- a dual hat -- I beg your pardon?

19 CHAIRPERSON REID: Are you representing the  
whole ANC or your single member district?

21 MS. CURRIE: The whole ANC.

22 CHAIRPERSON REID: Do you have a letter of  
authorization for the record please?

24 COMMISSIONER PARSONS: Madam Chair, it  
seems to me that we should try to get a handle on a time --

26 CHAIRPERSON REID: Yes, right now, as soon as --

1 COMMISSIONER PARSONS: -- it looks like it's going  
to be two days of hearings --

3 CHAIRPERSON REID: -- yes, and one aspect of this,  
Mr. Parsons is that Ms. King is going to be out so we have to look at  
the time frame and see what date would --

6 COMMISSIONER PARSONS: I'm more interested in  
how much time is Dobbins going to take, how much time is Firster  
going to take, how many witnesses there are going to be --

9 CHAIRPERSON REID: Sure.

10 COMMISSIONER PARSONS: -- if we try to sandwich  
this in to a day that we're normally meeting, I think we're on a suicide -  
-

12 CHAIRPERSON REID: Let's get some response  
back to that question.

15 MS. DOBBINS: I think that our presentation will take  
possibly an hour and a half.

17 CHAIRPERSON REID: How many witnesses?

18 MS. DOBBINS: We have I think six witnesses. We  
have one, two, three, four, possibly eight witnesses. All may not  
testify and some may be just available for cross examinations or  
questions that the Board may have.

22 CHAIRPERSON REID: So you anticipate an hour  
and a half, and that's including cross examination?

24 MS. DOBBINS: No, I can't, I don't know about cross  
until such time as they've presented their case.

26 CHAIRPERSON REID: Yes, but at least an hour and

a half? 1

2 MS. DOBBINS: Hour and 15 minutes.

3 CHAIRPERSON REID: Okay.

4 MS. FIRSTER: We were prepared to present approximately eight witnesses including Dr. Carter today. In addition we're aware that a number of members of the community immediately surrounding the proposed school were interested in testifying as members of the public. So for our case, we would say eight witnesses, that would be again probably about an hour and a half to two hours, and that does not include obviously time for cross examination. And then we do understand many members of the community want to testify in the opportunity for members of the public.

13 MS. DOBBINS: We also know that persons will be testifying as persons in support of the application, so I'm not sure of the time associated with that.

16 CHAIRPERSON REID: Right.

17 COMMISSIONER PARSONS: Well, can we have a show of hands of how many people want to testify today?

19 CHAIRPERSON REID: Of those persons who are present here today, how many intend to testify in support of this application by a show of hand?

22 COMMISSIONER PARSONS: 25.

23 CHAIRPERSON REID: Okay, thank you.

24 MS. CURRIE: Madam Chair?

25 CHAIRPERSON REID: One second.

26 Those persons here today, how many people will be

testifying in opposition to the application?

2 MS. FIRSTER: Madam Chair, I believe there are a  
larger number who will be attending. We have basically a telephone  
tree -- 4

5 CHAIRPERSON REID: Okay.

6 MS. FIRSTER: -- that we have formed, and we are  
going to alert people when the time is coming to testify.

8 CHAIRPERSON REID: Ms. Currie?

9 MS. CURRIE: Yes. I wanted to ask you to be  
mindful, and I almost think I lost the thought,  
but -- 11

12 CHAIRPERSON REID: Well, we'll come back.

13 MS. CURRIE: Yes, it will come back to me.

14 VICE CHAIR KING: Let's set a date, and as Mr.  
Parsons said, it's one that will probably have to be an all day, and we'll  
have to have nothing else on that particular day, so.

17 BOARD MEMBER GILREATH: If there is any way of  
having, I think in particular at least today, and if there is an overrun of  
time, we have all the day as a contingency. Is that possible?

20 MD. PRUITT-WILLIAMS: Yes, I mean we can  
schedule two days.

22 BOARD MEMBER GILREATH: I think it would be  
desirable -- one day with all these people --

24 MD. PRUITT-WILLIAMS: There is no available  
Wednesday meeting date available to accommodate that, so that  
you'll have to go off our normal meeting cycle.

1 VICE CHAIR KING: As long as it's after the 20th of  
April, I have no problem with it.

3 MD. PRUITT-WILLIAMS: Right. For the meeting,  
Ms. King, were you speaking of the meeting?

5 VICE CHAIR KING: Pardon? I was talking about a  
hearings

7 MD. PRUITT-WILLIAMS: A hearing date? April 20th,  
that's a Tuesday.

9 VICE CHAIR KING: No, I said anytime after April  
20th 10

11 MD. PRUITT-WILLIAMS: Right. What we may have  
to do +2

13 MD. PRUITT-WILLIAMS: All right.

14 COMMISSIONER PARSONS: Is there not available  
during the month of March?

16 VICE CHAIR KING: I'm going to be coming back two  
weeks from today for the meeting and then I will not be available until  
the 20th of April.

19 COMMISSIONER PARSONS: We'll have to go  
without you then.

21 CHAIRPERSON REID: Yes, we may have to have  
Ms. King do the record so that we can take a day earlier in order to be  
able to 23-

24 VICE CHAIR KING: No, but there are three of you.

25 CHAIRPERSON REID: Yes, we have a quorum.

26 VICE CHAIR KING: But what other date --

1 MD. PRUITT-WILLIAMS: As I said there is no  
Wednesday available unless you want to do the 14th which is not a  
hearing day.

4 CHAIRPERSON REID: The 14th of March?

5 MD. PRUITT-WILLIAMS: Yes. No, no, I'm sorry --

6 CHAIRPERSON REID: Are we out of March? What  
about the last week in March?

8 VICE CHAIR KING: Well, we're talking about four  
weeks, so we're clearly out of March.

10 MD. PRUITT-WILLIAMS: We need to do the 24th  
because I believe Dr. Carter will be available sometime after that,  
which is not a normal hearing date.

13 CHAIRPERSON REID: What date is that?

14 MD. PRUITT-WILLIAMS: The 24th.

15 CHAIRPERSON REID: Of?

16 MD. PRUITT-WILLIAMS: March. Or the 31st which  
is not a normal hearing date either.

18 VICE CHAIR KING: The 24th. That would be four  
weeks from today, isn't it?

20 CHAIRPERSON REID: Four weeks? That's  
approximately. How about the 31st of March?

22 MD. PRUITT-WILLIAMS: The 31st is a Wednesday.  
The 24th is four, the 31st is five.

24 VICE CHAIR KING: The 24th is?

25 MD. PRUITT-WILLIAMS: Four weeks.

26 VICE CHAIR KING: Four weeks?

1 MD. PRUITT-WILLIAMS: Yes.

2 VICE CHAIR KING: Okay.

3 MS. DOBBINS: We are available the 29th, 30th or  
the 31<sup>st</sup> of March?

5 CHAIRPERSON REID: Not the 24th?

6 VICE CHAIR KING: You can pick the 24th also.

7 MS. DOBBINS: The 24th?

8 MD. PRUITT-WILLIAMS: I would suggest, Madam  
Chair, the 24th and 25th now? Also the 25th just in case.

10 CHAIRPERSON REID: Okay, let's get the first date.

11 Ms. Firster and Ms. Currie?

12 MS. FIRSTER: I'm just conferring with Ms. Currie.

She informed me that the date --

14 MS. CURRIE: The 24th.

15 MS. FIRSTER: -- the 24th is not good.

16 MS. CURRIE: Right.

17 MS. FIRSTER: -- because that is actually only three  
weeks and -- when does the spring break start? The spring break  
starts on the --

20 MD. PRUITT-WILLIAMS: What about the 25th?

21 COMMISSIONER PARSONS: What about the 25th?

What about the 31st?

23 VICE CHAIR KING: We've agreed to four weeks,  
approximately. I think that if we go on the 31st --

25 CHAIRPERSON REID: April 4 or --

26 MS. FIRSTER: April 31st would be five.

1 VICE CHAIR KING: No, March 31st.

2 MS. FIRSTER: March 31st, I'm sorry.

3 CHAIRPERSON REID: And April 1?

4 MD. PRUITT-WILLIAMS: I will let you  
know -5

6 MS. FIRSTER: April 1, spring break.

7 MD. PRUITT-WILLIAMS: -- there is a Zoning  
Commission hearing that evening at 7:00, so there will be a time  
constraint if it go over to the next day.

10 MS. DOBBINS: But the 31st would be a full day with  
the Board, is that correct?

12 CHAIRPERSON REID: Full day, starting at 9:30 in  
the morning.

14 VICE CHAIR KING: Provided Mr. Parsons is  
available.

16 MD. PRUITT-WILLIAMS: We're checking now.

17 CHAIRPERSON REID: You're what, you're checking  
the 31st?

19 MD. PRUITT-WILLIAMS: The 31st.

20 CHAIRPERSON REID: And that's the last  
Wednesday of the month.

22 MS. DOBBINS: We will make efficient use of time, if  
it's the 31st.

24 MD. PRUITT-WILLIAMS: Madam Chair, would you  
like to set the parameters for time so that people can prepare  
testimony in advance. Generally the Zoning Commission has been

following the rule of thumb that, you know, after the applicant has give you their time that the parties are given about 15 minutes, organizations five, and individuals three. I mean those are general guidelines --

5 CHAIRPERSON REID: But I would think that we could condense it even more --

7 MD. PRUITT-WILLIAMS: Okay.

8 CHAIRPERSON REID: -- to parties five minutes and individuals three.

10 MD. PRUITT-WILLIAMS: What about organizations that aren't given party status? Because there could potentially be quite a few of those.

13 CHAIRPERSON REID: Five minutes.

14 MD. PRUITT-WILLIAMS: Five minutes.

15 CHAIRPERSON REID: So you use those as general guideline parameters?

17 MD. PRUITT-WILLIAMS: General guideline parameters. Maybe you could --

19 MS. CURRIE: Madam Chair, is it possible to do this in early April?

21 CHAIRPERSON REID: Ms. Currie, you see the difficulty is that we have to try to accommodate board members, their schedules, as well as the applicant does have time constraints. And at this point the only reason why we're not going as scheduled is because of the accommodation for the opposition, for the ANC and concerned citizens. So that being the case, then I can try to get the

soonest date possible to be able to move forward in all fairness to all people concerned here today.

3 Now, unless there is a particular reason, we have just about determined that the 31st seems to be the date that everyone can make it.

6 MS. CURRIE: Okay. We appended to our witness having had a rather serious illness, that if he cannot appear, we are going to have to replace. We therefore would like to have as much flexibility in time as possible. And there isn't a lot of difference between the end of March and the first week in April. Also stay mindful of that this is not about a time restraint --

12 CHAIRPERSON REID: But it is, it is.

13 MS. CURRIE: -- this is about people.

14 CHAIRPERSON REID: This is true, but nonetheless -  
- 15

16 MD. PRUITT-WILLIAMS: This issue is a preliminary issue about time.

18 CHAIRPERSON REID: Yes, basically about people, but this issue is about time.

20 COMMISSIONER PARSONS: I think we've been more than fair. You asked for four weeks. If the applicants to proceed this afternoon, it seems to me that they've compromised more than you have. We just ought to get on with this four weeks from today.

24 MD. PRUITT-WILLIAMS: And I'd just like to reiterate for the record so to let you know, that it will not be announced, I mean this will not be printed in the Register, it will not come back out. So,

everybody, please remember that the schedule has been -- I mean that the hearing has been continued to March 31st and possibly April 1st. You'll not get any other notice from us, so I wanted to let you know now.

5 MS. DOBBINS: Time please?

6 MD. PRUITT-WILLIAMS: 9:30 in the morning, both times. And that if you could please limit your time limit on your testimony to five minutes for parties and three minutes for individuals. You also can submit written testimony before and just leave it on the record and we'll not that at the hearing.

11 MS. DOBBINS: Is there a time line when there needs to be submissions already made for the parties prior to the hearing?

13 MD. PRUITT-WILLIAMS: Seven days -- 14, well, the regs say 14.

15 CHAIRPERSON REID: Okay, and be mindful of the times that we are giving for testimony. What did we say five minutes for parties and organizations --

18 COMMISSIONER PARSONS: Well, first she asked for an hour and a half. Are we giving her five minutes?

20 CHAIRPERSON REID: Well, I wasn't including her.

21 COMMISSIONER PARSONS: Well, she's a party.

22 CHAIRPERSON REID: Oh, I'm sorry. We had already ascertained that she has an hour and a half --

24 COMMISSIONER PARSONS: Okay.

25 CHAIRPERSON REID: -- and that the applicant has an hour and a half --

1 MD. PRUITT-WILLIAMS: Excuse me, you mean Ms. Firster has an hour and a half, and ANC are combined, they have an hour and a half?

4 CHAIRPERSON REID: I thought they were together.

5 VICE CHAIR KING: No.

6 MD. PRUITT-WILLIAMS: They're not, that's why I wanted to be clear that up. Department of the Interior

8 MS. FIRSTER: The ANC will be submitting a government report.

10 CHAIRPERSON REID: Okay, well, then let's go back over the time lines again. An hour and a half approximately for the application. You need approximately an hour and a half?

13 MS. FIRSTER: That's right. And that does not include the presentation by the ANC.

15 COMMISSIONER PARSONS: That's five minutes.

16 CHAIRPERSON REID: I thought that the ANC was going separately?

18 VICE CHAIR KING: It is. The ANC is --

19 CHAIRPERSON REID: That does not include ANC?

20 VICE CHAIR KING: No.

21 MS. CURRIE: The ANC is going to request one hour.

22 MS. DOBBINS: Madam Chair, we have the burden in this case.

24 MD. PRUITT-WILLIAMS: Madam Chair, I would suggest what the Zoning Commission has done and it's worked well is that the opposition such as concerned citizens and the ANC, which I

assume will probably have some of the same issues, they kind of  
combine their response within an hour and a half and how they work  
that out--

4 CHAIRPERSON REID: Yes, and that's what I had  
assumed initially, that they, Ms. Currie, said that she was also a  
concerned citizen, that you were going to kind of combine.

7 MS. CURRIE: 15 to 30 minutes.

8 MD. PRUITT-WILLIAMS: Or an hour and a half for  
both of them combined, and they can then work it out between  
themselves as to who gets what.

11 COMMISSIONER PARSONS: Yes.

12 CHAIRPERSON REID: Can you do that?

13 MS. CURRIE: An hour and a half for the ANC and  
the community?

15 CHAIRPERSON REID: Yes. Because in addition --  
concerned citizen, because in addition to that, then we have persons  
in opposition and persons in support.

18 MS. CURRIE: So be it.

19 CHAIRPERSON REID: Okay

20 MS. FIRSTER: Now, the ANC's official will however  
be presented during the government witness time and not come out of  
our time?

23 CHAIRPERSON REID: Right.

24 And the official amount of time that we are going to  
extend to persons is approximately two to three minutes because we  
have found that specifically one person speaks and then the other

people are saying some version of the same type of thing in opposition, so as long as they are not redundant and they state whatever their particular concerns are, it kind of will move this along.

4 COMMISSIONER PARSONS: Ms. Firster, just said something I disagree with, if I understood it. She said "All right, we'll do it in an hour and a half, but the ANC report follows that."

7 Is that what you said?

8 MS. FIRSTER: According to your rule, according to your rules there is an opportunity for the government witnesses, and you'd like to hear the ANC report at that time, not as part of the opponent's case. So I assume you would want to hear the ANC report at the time that's provided for in your rules.

13 COMMISSIONER PARSONS: You mean the ANC report read to us with no other comments, is that what you mean?

15 MS. FIRSTER: That's correct, that's correct.

16 MS. CURRIE: That's about 15 minutes?

17 COMMISSIONER PARSONS: No, that takes about two minutes to read two pages.

19 MS. FIRSTER: Whatever their report is.

20 MS. CURRIE: Whatever it is.

21 VICE CHAIR KING: Is the ANC calling witnesses?

22 COMMISSIONER PARSONS: We've got to get a handle on this.

24 CHAIRPERSON REID: Yes.

25 COMMISSIONER PARSONS: I mean it can be only an hour and a half on either side of this issue.

1 MD. PRUITT-WILLIAMS: That's correct, that's  
correct2

3 COMMISSIONER PARSONS: We're not going to  
have somebody sneaking by here saying "Well now it's my turn, I've  
got another hour because my report is 20 pages thick."

6 MS. FIRSTER: Mr. Parsons, I represent concerned  
citizens7 and our testimony will be, our case will be an hour and a half.

8 MS. CURRIE: So the ANC does not get a chance to  
call witnesses?

10 COMMISSIONER PARSONS: Madam Chair, I  
suggest we just tell them that they're going to have an hour and a half  
between the two of them and that's it. What, do we give the applicant  
three hours?

14 CHAIRPERSON REID: Ms. Currie, you would need  
to -- 15

16 MS. CURRIE: -- ask for more time -- I beg your  
pardon17 Yes.

18 CHAIRPERSON REID: You need to call witnesses?

19 MS. CURRIE: Yes. There are also ANC  
commissioners that would like to make testimony, and I would like to  
call them as witnesses, yes.

22 MD. PRUITT-WILLIAMS: Just to reiterate, Mr.  
Dobbins' statement. The applicant is the one with the burden of proof,  
and they're the ones that have to put on their case.

25 MS. DOBBINS: Madam Chair, we have endeavored  
to be very efficient in presenting our testimony. We can make our  
26

testimony and presentation three hours long, but we understand how this Board works and the time and concern of the Board members and the citizens and everyone else, and we have condensed our presentation to approximately an hour and a half.

5 CHAIRPERSON REID: I think that we do know--

6 MS. DOBBINS: -- and we do have the burden in this  
case. 7

8 CHAIRPERSON REID: -- I understand that, Ms. Dobbins. I think that what we'll do is we're going to stand by our previous decision and that is an hour and a half for the applicant, and an hour and a half for ANC and the concerned citizens combined. In addition that, every party in opposition or party in support will have two or three minutes to testify, and I think that's more than fair.

14 MS. DOBBINS: Madam Chair, I have one more question for this Board. Will there be an opportunity for other persons or organizations to seek party status in this case?

17 CHAIRPERSON REID: Anyone doing so would have had to have done that today, because this is a continuation.

19 MD. PRUITT-WILLIAMS: We only did it for preliminary issues so we can go back and find out if there is any other course.

22 CHAIRPERSON REID: Well --

23 MD. PRUITT-WILLIAMS: -- status --

24 CHAIRPERSON REID: -- they should have done that today. And my understanding is that the parties are ANC and concerned citizens -- party status, and I did not hear any other request

for party status. So if in fact --

2 MS. DOBBINS: I don't think there were any written  
requests on the record.

4 CHAIRPERSON REID: -- other concerns, there are  
other parties who are within 200 feet of the property, they can -- if they  
cannot have their concerns aired through the ANC or through  
concerned citizens, then those parties, those persons can request  
party status which gives you the opportunity to receive all the notices  
or any communication between the applicant and opposition.

10 VICE CHAIR KING: Excuse me, Madam Chair, we  
just earlier today decided that if request for party status was not made  
at the beginning of a proceeding--

13 CHAIRPERSON REID: -- beginning. Like the other  
one was a continuation of a case that had already started. This one in  
this instance was just beginning.

16 VICE CHAIR KING: It appears to be that we've  
begun

18 CHAIRPERSON REID: Yes.

19 VICE CHAIR KING: And if we are going to call it a  
continuance and not advertise it for the date in the future --

21 CHAIRPERSON REID: Today is the date.

22 VICE CHAIR KING: -- the parties are the concerned  
citizens and the ANC, which has automatic party status.

24 CHAIRPERSON REID: I understand that, but Ms.  
Pruitt-Williams raised a point, and that was to make sure that  
everyone here understood what party status meant --

1 MD. PRUITT-WILLIAMS: And this is what we have  
done and --

3 CHAIRPERSON REID: -- so we're clear on that. So  
those are the parties that have been recognized, and they will be the  
only parties we will have on the hearing date.

6 MS. DOBBINS: Thank you, Madam Chair, Members  
of the Board.

8 MD. PRUITT-WILLIAMS: Thank you.

9 CHAIRPERSON REID: Okay, so that will then  
conclude the preliminary matter, and we have all our marching orders  
for the hearing on the 31st, March 31st at 9:30, and a continuance  
date, if needed, for April 1st at 9:30. Thank you very much.

13 We'll now recess for five minutes.

14 (Whereupon, at 3:25 p.m., a recess until 3:48 p.m.)

15 CHAIRPERSON REID: Good afternoon. The  
meeting will please come to order. This is the March 3rd public  
hearing of the Board of Building Adjustment, District of Columbia. My  
name is Sheila Cross Reid, Chairperson.

19 Joining me today are Betty King and Jerry Gilreath  
representing the National Capitol Planning Commission, and  
representing the Zoning Commission is John Parsons.

22 Copies of today's hearing agenda are available to  
you. They are located to my left near the door. All persons planning  
to testify either in favor or in opposition are to fill out two witness  
cards. These cards are located on each end of the table in front of us.  
If you're planning on coming forward to speak to the Board, please

give both cards to the reporter who is sitting to my right.

2           The order or procedure for special exception and  
variance cases will proceed as follows: One, statement of the  
applicant; two, government report including the Office of Planning,  
Department of Public Works, and C, etcetera; three, persons and  
parties in support; four, persons and parties in opposition; closing  
remarks by the applicant.

8           Cross examination of witnesses is permitted for  
persons or parties with direct interest in the case. The record will be  
closed at the conclusion of each case except for any material  
specifically requested. The Board and the staff will specify at the end  
of the hearing exactly what is expected.

13           The decision of the Board in these investigations must  
be based -- on the public record. To avoid any appearance to the  
contrary, the Board requests that persons present not engage  
members of the Board in conversation. The Board will make every  
effort to conclude the public hearing as near as possible to 5:00 p.m.  
If the afternoon cases are not completed as of 5:00 p.m., the Board  
will assess whether it can complete the pending case or cases  
remaining on the agenda.

21           At this time the Board will consider any preliminary  
matters. Preliminary matters -- whether the case will or should be  
heard today. Special requests for postponement, or withdrawal, or  
whether proper and adequate notice of the hearing has been given. If  
you are not prepared to go forward with the case today or if you  
believe that the Board should not proceed, now is the time to raise

such a matter.

2 VICE CHAIR KING: I would like to raise a preliminary matter, if I may, Madam Chair.

4 CHAIRPERSON REID: Okay.

5 VICE CHAIR KING: I would like the consent of my colleagues to change the order of the cases. I understand from the director that case 16435 is not to be heard today, is that correct?

8 CHAIRPERSON REID: Correct.

9 VICE CHAIR KING: I would therefore ask that the order be 16432 which is Mr. and Mrs. Ansellem, then the application of Howard Morland which is 16431, to be followed by the application of Protestant Episcopal Cathedral Foundation?

13 CHAIRPERSON REID: Okay. Is there any objection to that?

15 COMMISSIONER PARSONS: I agree with it.

16 CHAIRPERSON REID: All right. Then we'll take the smaller cases basically first, and then go into the case with is application 16433 because it is a --

19 MD. PRUITT-WILLIAMS: You need to pull your mic closer and turn it on because they can't hear you in the back.

21 CHAIRPERSON REID: Do you --

22 MD. PRUITT-WILLIAMS: We still can't hear you.

23 CHAIRPERSON REID: I was speaking off the record.

24 VICE CHAIR KING: The other issue which I think the preference of the people here today are here for the National Cathedral School of Protestant Episcopal Cathedral Foundation case.

We are going to lose Mr. Parsons at 6:00 o'clock and myself at 6:30, at which point we will not have a quorum. We're not sure, although there doesn't appear to be opposition in the two small cases that we've agreed to take up first and therefore we hope that they will be able to be disposed of fairly rapidly, but it's probably going to take the better part of a day to deal with case number 16433, the National Cathedral athletic facility.

8 Do the parties in appellant and the parties in opposition wish to begin their case today or do you wish us to schedule that for a time when we can hear it from start to finish, in other words devote virtually an entire day to that case?

12 MR. QUIN: Madam Chairperson and Members of the Board, my name is Wayne Quin representing the National Cathedral School and the Foundation in the application.

15 MD. PRUITT-WILLIAMS: Mr. Quin?

16 MR. QUIN: Yes.

17 MD. PRUITT-WILLIAMS: You might pull that mic a little closer.

19 MR. QUIN: The mic is on. Can you hear me?

20 MD. PRUITT-WILLIAMS: Can you pull it closer to you? 21

22 MR. QUIN: Hello. Now? Well, it's on.

23 MD. PRUITT-WILLIAMS: Is everybody's mic up here on? 24

25 MR. QUIN: Now, can you hear better?

26 MD. PRUITT-WILLIAMS: Yes.

1 MR. QUIN: Okay, I will restate, my name is Whyne  
Quin representing the National Cathedral School and the Foundation  
on this application. And we would like to proceed. We have tried to  
be very efficient in organizing our presentation, and are hopeful that  
even though we understand that we may lose a quorum at 6:00 and  
6:30 or somewhere around there, that we are going to try to get our  
case entirely on and completed within inside of an hour for our case.

8 VICE CHAIR KING: Bravo.

9 CHAIRPERSON REID: Okay, all right, that's fine.

10 I call the first case please.

11 MD. PRUITT-WILLIAMS: I believe the attorney in  
opposition had --

13 CHAIRPERSON REID: Oh, I'm sorry. Please?

14 MR. DERNOGA: Thank you, Madam Chairperson.

15 MD. PRUITT-WILLIAMS: Excuse me, sir. You have  
to hold the button down until the green light comes on.

17 MR. DERNOGA: Gotcha. Thank you very much.

18 My name is Thomas Dernoga and I represent the  
National Cathedral Neighborhood Association and a number of  
individuals who filed two letters indicating my representation of those  
individuals. That should be in the file.

22 So far in several previous presentations the Cathedral  
has been unable to complete its presentation in really less than an  
hour and a half. At least -- one at the HPRB, it went on for quite a  
while. They have a number of people in support, as do we.

26 In addition, there have been a number of submissions

into the record which would include the ANC report, the Office of Planning report which came in late, the National Cathedral has submitted some new documentation which came in late recently. And it would appear, it is our understanding, that they may have some modifications to their plan. With all that new material coming in and the unlikelihood that this case could be completed, we would prefer that this would be put off to a reasonable time for all the parties, and that we have the opportunity to look at the documents that have come in recently, and we think that would be fair. And if the cathedral is going to propose modifications to its plans, that we be provided with those 14 days ahead of time.

12           One of the problems that's been going on in this case is that there is an HPRB process running down one track and comments that are coming back and forth and it's really unclear what's going to come before the Board as far as we're concerned, and we don't think that's a fair situation. So if there's going to have to be a postponement anyway or a conclusion of this case, it would make sense to get all the information out in the open before you start and give us the opportunity to review it.

20           COMMISSIONER PARSONS: Madam Chair, it would seem to me that we're going to get through nothing today but the applicant's case.

23           CHAIRPERSON REID: If that.

24           COMMISSIONER PARSONS: We need, without any cross examination of course, and it might serve everybody well given Mr. Demoga's comment to identify a date when we could continue

this. Then we would have the applicant's case before us, the other materials would be in the record and we'd have time to examine it.

3 VICE CHAIR KING: Should we -- excuse me, Mr. Parsons, should we as a preliminary matter waive in the Office of Planning report which came late so that that can be part of the record?

6 CHAIRPERSON REID: Yes.

7 VICE CHAIR KING: Would that be acceptable to my colleagues?

9 COMMISSIONER PARSONS: Yes.

10 CHAIRPERSON REID: Yes, definitely.

11 MD. PRUITT-WILLIAMS: Would you also like to -- 12

13 CHAIRPERSON REID: -- that in --

14 MD. PRUITT-WILLIAMS: -- ANC if they have a request because that's also late?

16 CHAIRPERSON REID: Yes.

17 VICE CHAIR KING: Is the ANC representative avail -  
- 18

19 COMMISSIONER PARSONS: I thought we had identified a date of May 5th.

21 VICE CHAIR KING: We had talked about that before we came in, at 11:00 o'clock on May 5th and with the possibility of a pause for lunch that we would then devote the rest of the day to this case. 24

25 MR. QUIN: Madam Chairperson, we would like to go as much as we can get done today and try to find an earlier date, if we

have to continue it. I'm not completely convinced that we can't move quickly through this.

3           On the other hand I know how cases go and it could take longer. If that's the case, then we will have to have a postponed date. It doesn't prejudice anyone because they will have, if there is a postponement, they have additional to file.

7           But what does happen is, you all may recall that the Beauvoir School had a case where it has construction that will start this summer and we were hopeful, if we can move forward and if we are successful in this case, to have that construction concurrent so it would be less of an impact on the neighborhood. And that's one of the reasons we would like to move more quickly than May. And if we get through a lot today, maybe we'd find that it would only an hour or two hours to complete the case, and you could make that judgement at the time when you reach the point where you lose a quorum.

16           So we'd like very much to proceed. We think on the contrary it actually helps those in opposition to understand the case, and if there is any expression that they don't understand what we're saying, we can certainly give them extra copies of any documents that they would like to have, if there is a necessity to move the case to another date.

22           MR. DERNOGA: I only have one comment which is, while on its face it would appear that there is some benefit to hearing the case, and we have a general idea of what the case is already, where you run into difficulties if last second changes are going to appear it's difficult to absorb that and cross examine in a coherent

fashion, and that is a detriment and that's where my concern really lies. 2

3 MR. QUIN: There are no changes to the plans.  
There have been responses to the ANC's recommendations which we have agreed to which will come out in the testimony.

6 VICE CHAIR KING: I think, and I'm sorry, I don't know your name?

8 MR. DERNOGA: Dernoga?

9 VICE CHAIR KING: I think perhaps you're referring to the gatehouse and the Historic Preservation Board, is that the only --

11 MR. DERNOGA: The gatehouse --

12 VICE CHAIR KING: -- has not that issue been resolved Mr. Quin?

14 MR. QUIN: No, Madam Chair, Ms. King, no it has not been resolved. But as we filed with you, we filed alternative plans A and B

17 VICE CHAIR KING: I know.

18 MR. QUIN: -- A is without it, B is with it, and that way we're in the process of making a decision as to whether we go to the mayor's agent. The HPRB decision is a recommendation to the mayor's agent, not a final determination.

22 VICE CHAIR KING: I understand, I know that. As you know I know that.

24 MR. QUIN: I know very well, right.

25 VICE CHAIR KING: So that there -- you've submitted in the alternative with or without the gatehouse and you don't

anticipate any other changes aside from the changes that have already been made prior to your submission to us, is that correct?

3 MR. QUIN: No. The only thing that might be some changes is in the event the ANC conditions or some conditions that the Board wants to impose --

6 VICE CHAIR KING: I understand.

7 MR. QUIN: -- we would have to change to comply with those conditions.

9 VICE CHAIR KING: I -- either way, I'm going to be here until 6:30, but I can't be here after that.

11 MR. DERNOGA: Madam Chairman?

12 CHAIRPERSON REID: Yes.

13 MR. DERNOGA: Is it my understanding that the proposal is for the applicant to put on its case and then at that point the determination of how much time --

16 VICE CHAIR KING: Begin its case.

17 MR. DERNOGA: -- begin?

18 VICE CHAIR KING: Yes.

19 MR. DERNOGA: They were saying "put on." At that point 6:00, 6:30 we would adjourn and then we would put our case on at a later date?

22 VICE CHAIR KING: Yes.

23 CHAIRPERSON REID: Well, either way, either not even begin the case today and just have the entire case heard at a later date, or in the alternative have the applicant put on their case, begin their case today and continue it to a later date.

1 VICE CHAIR KING: I think perhaps for the benefit of  
the many people who have been standing out in the hall for a very  
long time, and we should apologize for it, we have had two very  
complex and drawn out cases today which necessitated our starting  
so late, otherwise this would not have been an issue, and we  
apologize for that, but it's out of our control as many of you, whom I've  
seen, know what goes on in this room know.

8 BOARD MEMBER GILREATH: Well, a continuation  
date would have to be in May as we're all filled up for April?

10 CHAIRPERSON REID: Ms. Pruitt-Williams, is there  
an earlier date?

12 MD. PRUITT-WILLIAMS: May is the first available  
date that is our normal sequence of Wednesdays. There are of  
course alternative nine BZA hearing dates.

15 VICE CHAIR KING: But we've already put four of  
those in.

17 MD. PRUITT-WILLIAMS: Right.

18 VICE CHAIR KING: Two for one case and two for  
another.

20 MD. PRUITT-WILLIAMS: And Ms. King is not  
available until after April 21st, so that's where the constraint comes in.  
The 24th is a budget hearing for this office, which we can't miss, if we  
want to keep going. The 31st you've just rescheduled Metropolitan  
Baptist. Unless we could do April 14th right now.

25 CHAIRPERSON REID: What date is that?

26 MD. PRUITT-WILLIAMS: That is -- oh, she's not

back, I'm sorry.

2 VICE CHAIR KING: I'm not back. And not only that,  
but you've put in the two, Mr. Parsons was here.

4 MD. PRUITT-WILLIAMS: Right.

5 VICE CHAIR KING: But it will put in two dates for the  
GW Hospital, one of which was the 22nd--

7 MD. PRUITT-WILLIAMS: Correct.

8 VICE CHAIR KING: -- of April, and the other one was  
sometime before the -- so you've got four special meetings between  
now and the end of May.

11 MD. PRUITT-WILLIAMS: Yes.

12 CHAIRPERSON REID: So, is there a date that's a  
possibility?

14 VICE CHAIR KING: I think the 4th of May.

15 MD. PRUITT-WILLIAMS: The 14th and the  
28th -16

17 CHAIRPERSON REID: She's not in.

18 MD. PRUITT-WILLIAMS: Without Ms. King you could  
do it on the 14th. It's a Wednesday, but it's not a normal BZA  
wednesday.

21 CHAIRPERSON REID: Okay. Mr. Parsons is  
available and --

23 COMMISSIONER PARSONS: -- within the realm of  
possibility.

25 MR. QUIN: We would be glad to pay for a transcript,  
an immediate transcript to send to any member that would need that

for deliberation, if that would be helpful, just to speed the process.

2 VICE CHAIR KING: If there is a quorum of three  
people to decide on the case, I think that it's much better than reading,  
you know, a transcript. But it seems, you know, I've got to tell you,  
ladies and gentlemen, you're talking about two ordinary meetings and  
four other meetings between now and the 20th of April, that's six  
meetings in the next six weeks, and all that that entails in terms of not  
only Board time but stop time. I think we should go with the 5th of  
May, start at 11:00 o'clock in the morning and all of us agree just to sit  
here until it's finished.

11 BOARD MEMBER GILREATH: Would that give the  
applicant enough time, this concurrent construction, assuming that we  
rule favorably, would you still be able to start your construction  
concurrent with the other?

15 MR. QUIN: That would be -- it would be very tight,  
Mr. Gilreath, because we assume that the Beauvoir construction, Mr.  
Dirksen, starts in?

18 MR. DIRKSEN: First week of June.

19 MR. QUIN: First week in June, and I just think if we  
get under way, we've got two and a half hours to go. I know you've  
got -- 21

22 VICE CHAIR KING: No, we don't. We've got two  
cases, then whatever time is left.

24 MR. QUIN: -- I understand, but we could, I think --  
well, it depends on what the other cases take, but we could certainly  
put on our case and get going and reduce the time at the other end.

1 MS. MILLER: Madam Chairperson, I just want to  
introduce myself. I'm Ruth Ann Miller, and I'm the ANC Commissioner  
here to testify on this project, and I just want to say that I would be in  
favor of beginning, if we could, since all these people have turned out  
to testify, and it looks like there are severe time constraints on this  
Board. 6 And we would have an opportunity to review the transcript  
between this session and the next. I don't think anyone would be at a  
disadvantage.

9 CHAIRPERSON REID: Well, I have no problem with  
starting the case today and then continuing it until, did we say April  
14th? 11

12 MD. PRUITT-WILLIAMS: April 14th, yes.

13 BOARD MEMBER GILREATH: And John will be  
available too, yes.

15 MD. PRUITT-WILLIAMS: Mr. Parsons will be here. If  
you started today, then Ms. King can read the record.

17 CHAIRPERSON REID: All right.

18 VICE CHAIR KING: Let's call our case.

19 MR. HART: First case, application of Sam and R.D.  
Ansellon, pursuant to 11 DCMR 3107.2, for a variance from Section  
2001.3(c) to allow an addition to an existing non-conforming structure,  
a variance from the minimum side yard requirements, Section 405.9,  
and a variance from the minimum wide of an open court requirement,  
Section 406.1, for addition to an existing non-conforming single family  
dwelling in an R-1-B District at premises 3417 Fulton Street, N.W.  
(Square 1941, Lot 18).

1 VICE CHAIR KING: At the beginning of this I should  
disclose the fact that I live very close to the corner of Garfield and 34th  
Place, therefore, although I did not receive any notice of this case and  
have --4

5 MD. PRUITT-WILLIAMS: Ms. King?

6 VICE CHAIR KING: -- no information aside from the  
information in my file, that I live in the same square block as the  
applicant.

9 MD. PRUITT-WILLIAMS: Can we finish swearing  
people? I mean we were in the middle of opening and swearing them  
in, so we'd like to finish that before you actually get into the merits of  
the case.

13 VICE CHAIR KING: I've said all I have to say.

14 MR. HART: Will those persons planning to testify in  
this case please stand and raise your right hand to be sworn.  
Everyone who is planning to testify in this case.

17 (Whereupon, all persons planning to testify were  
sworn.)8

19 MR. OLIVARRI: Madam Chairwoman, Members of  
the Board, my name is James Olivarri and I reside at 4365 Old  
Rodsberry Road in Brookville, Maryland. I'm here to represent Mr.  
and Mrs. Ansellem in their asking for relief from the issues cited in the  
agenda. And I would like to offer that we had previously --

24 CHAIRPERSON REID: You should actually cite what  
they are requesting because we want it to reflect in the record.

26 MR. OLIVARRI: Pardon me?

1 VICE CHAIR KING: It's in the numbers.

2 CHAIRPERSON REID: You may want to just recite  
what's the relief is that they're requesting so that --

4 MR. OLIVARRI: Okay.

5 CHAIRPERSON REID: -- it will be picked up in the  
record rather than saying in the --

7 MR. OLIVARRI: Okay. We're asking relief for a  
variance from Section 2001.3(c) to allow an addition to an existing  
non-confirming structure, and a variance from the minimum side yard  
requirements, Section 405.9, and a variance from the minimum width  
of an open court requirement, Section 406.1, for an addition to an  
existing non-confirming single family dwelling in an R-1-B District  
located at 3417 Fulton Street, N.W., Square 1941, Lot 18.

14 Before proceeding I would like to offer a letter in  
support that was delivered to us just this afternoon.

16 CHAIRPERSON REID: Thank you.

17 MR. OLIVARRI: I would also like to offer, Madam  
Chairwoman, that in the previous case, in a previous application we  
had made, we received favorable consideration of the application, and  
due to extenuating circumstances the applicants, Mr. and Mrs.  
Ansell, were not able to bring that project to fruition. They had  
some things that happened that prevented them from going forth with  
that. And so when we reapplied, we had to go through the process all  
over again.

25 We're offering to add a two-story addition in an  
existing house that was built around 1925. And the existing addition is

going on the present footprint of the terrace that is presently there. Consequently, if the addition goes forth, we would need to have an extending U terrace, and that is the reason for the variance on the terrace for the minimum non-conforming.

5 It is a two-story addition. It is two bedrooms on the second floor and a family room on the first floor. The two bedrooms do not necessarily -- one bedroom. The bedroom does not necessarily mean that there is going to be additional residents there, it is strictly for the convenience of Mr. and Mrs. Ansellem's daughter who lives out of state, when they come with her family to visit Mr. and Mrs. Ansellem. So there are no additional residents that will be coming into the structure.

13 The other is that because of the fact that the house was built in 1925 and the standards then were not quite what they are today, they were a little bit confined and we're trying to add some, update the bathroom and also to add another small bathroom to accommodate the bedroom that's going in.

18 VICE CHAIR KING: Do you have any plans that you have submitted in the record?

20 MR. OLIVARRI: Any what, ma'am?

21 VICE CHAIR KING: Plans?

22 MR. OLIVARRI: Yes.

23 VICE CHAIR KING: Blueprints, plans?

24 MR. OLIVARRI: Yes, they were submitted for the  
record

26 VICE CHAIR KING: I haven't seen them.

1 MD. PRUITT-WILLIAMS: Who has the office file for --  
2 VICE CHAIR KING: Are there any plans for this  
project?  
3  
4 MD. PRUITT-WILLIAMS: Here we are.  
5 VICE CHAIR KING: I can't tell what's old and what's  
new. 6  
7 MR. OLIVARRI: There will be a two-story addition on  
one side and we'll build on --  
8  
9 VICE CHAIR KING: This is --  
10 MR. OLIVARRI: -- this is the terrace.  
11 VICE CHAIR KING: And this is --  
12 MD. PRUITT-WILLIAMS: You need to talk on the  
record please.  
13  
14 MR. OLIVARRI: Yes, this is where the existing  
terrace is, and that's where the two-story addition will take place. And  
then this is where the new terrace will be.  
15  
16  
17 VICE CHAIR KING: And what is this?  
18 MR. OLIVARRI: That's a sitting room that would be  
built in the existing sunroom. There is an existing sunroom there on  
that end, and they would like to make this space a little bit more  
commu-  
19  
20  
21  
22 VICE CHAIR KING: You mean to build above it on  
the second floor?  
23  
24 MR. OLIVARRI: Yes, on the second floor.  
25 VICE CHAIR KING: So this here from -- now, is this  
an existing structure?  
26

1 MR. OLIVARRI: Yes, yes, yes

2 BOARD MEMBER GILREATH: On the first floor.

3 VICE CHAIR KING: On the first floor only, okay.

4 MR. OLIVARRI: Yes.

5 VICE CHAIR KING: And then this is the footprint of  
the house?

7 MR. OLIVARRI: Yes, ma'am.

8 VICE CHAIR KING: As it exists now?

9 MR. OLIVARRI: Yes.

10 VICE CHAIR KING: With a terrace out here?

11 MR. OLIVARRI: Yes, yes.

12 VICE CHAIR KING: And this is an  
existing--

14 MR. OLIVARRI: Yes, ma'am.

15 BOARD MEMBER GILREATH: Won't this be two  
stories here? This is where you want to put your additional, you have  
your bathroom upstairs?

18 MR. OLIVARRI: Yes, sir, this is a two-story addition.

19 VICE CHAIR KING: Okay, and this is a second story  
addition on top of the present one story?

21 MR. OLIVARRI: Right.

22 So again that is the gist of our presentation in terms of  
we feel that it's there on the plans, and if you have any questions we  
would be more than happy to answer them.

25 BOARD MEMBER GILREATH: I don't know how  
relevant it is, but I think March of 1993 the applicants submitted this

same kind of relief --

2 MR. OLIVARRI: Yes, sir.

3 BOARD MEMBER GILREATH: -- and it was approved, and you represent personal circumstances caused them to reapply. So we don't necessarily have to follow the same logic as the previous BZA Board, but that Board did respond favorably to the submission.

8 VICE CHAIR KING: Did you have any further contact with the Advisory Neighborhood Commission, which I see in the previous application objected, but I see no objection from the ANC or from your neighbors?

12 MR. OLIVARRI: No, I just touched base with them --

13 VICE CHAIR KING: Oh, there is somebody here.

And are you here in opposition?

15 MR. FINNERAN: Yes.

16 VICE CHAIR KING: Were you sworn in?

17 MR. FINNERAN: Yes.

18 MR. OLIVARRI: But, yes, there was no indication there would be any opposition.

20 VICE CHAIR KING: What?

21 MR. OLIVARRI: There was no indication that there would be any objection.

23 VICE CHAIR KING: But you made no presentation of this? 24

25 MR. OLIVARRI: We didn't attend a meeting like we did the previous application.

1 CHAIRPERSON REID: Did you make the initial  
presentation?

3 MR. OLIVARRI: Yes, ma'am.

4 CHAIRPERSON REID: All right. Then we need to,  
for the record, demonstrate how you meet the burden of proof in  
regard to obtaining the variance relief that you're requesting. And, you  
know, there is a three-prong test in which you have to demonstrate  
that there's something about your property that's unique or unusual  
that would prevent you from complying with the existing

10 MR. OLIVARRI: Yes.

11 CHAIRPERSON REID: -- zoning regulations?

12 MR. OLIVARRI: I think basically the restrictions that  
are there in place today were not there when the house was built in  
1925 obviously --

15 CHAIRPERSON REID: The what?

16 MR. OLIVARRI: -- and --

17 CHAIRPERSON REID: -- what was not there?

18 MR. OLIVARRI: -- the side yard restrictions and that  
kind of thing came into being long after that particular house was built.  
We are in excess of the lot area. We are in excess or we are -- on lot  
occupancy, we are way below.

22 CHAIRPERSON REID: Non-complying.

23 MR. OLIVARRI: -- yes --

24 CHAIRPERSON REID: Go ahead.

25 MR. OLIVARRI: -- so that was the attack of our  
presentation before.

1 CHAIRPERSON REID: I understand, but you need to  
reiterate that because this is a different case and you need to reiterate  
it for the record so that -- and also for the staff that will be writing the  
order. 4

5 MR. OLIVARRI: Well, in order to, in order to build the  
two-story addition that is the intent, it works in with the existing floor  
plan, and that is what makes it -- puts the burden on the family in that  
if we conform to the side yard requirements, we would be too far over  
and we would not be able to design the floor plans and the bedroom to  
accommodate a large enough space for the family, and that was on  
the side yard.

12 The one on the terrace, we're within a foot of the  
existing garage, and we are not -- we had the option of tearing down  
the garage, but that was not feasible because it accommodates two  
cars and so that means that they do not have the cars on the street.  
And it has to be, in order for it to be usable, it should be a certain size,  
otherwise it becomes a balcony type terrace.

18 CHAIRPERSON REID: All right, and what about the  
adverse impact aspect of it, is there anything regarding the granting of  
this relief that would cause an adverse impact to the neighboring  
properties with regard to parking, traffic, noise, lights?

22 MR. OLIVARRI: No, no.

23 CHAIRPERSON REID: You've -- the property,  
correct?

25 MR. OLIVARRI: Yes, yes.

26 CHAIRPERSON REID: And you've not received,

talked to or received any letters from the ANC?

2 MR. OLIVARRI: I checked the file on Thursday and  
there was nothing in the file.

4 CHAIRPERSON REID: Because I don't think we  
have anything from the ANC either, which usually means that they  
have no problem with it.

7 MR. OLIVARRI: Right.

8 CHAIRPERSON REID: But what about --

9 MR. OLIVARRI: We didn't feel there was any adverse  
impact because the house is situated on the corner between the alley  
and 35th Street, and on the alley side where the garage is, where the  
addition is going, we have these large, like 40, 50 foot pine trees, so  
really you will not see the addition to that extent. It will not be visible  
because it will be built behind the trees.

15 CHAIRPERSON REID: And you have not received  
any comments from any of the neighbors or people who live around  
there 47

18 MR. OLIVARRI: No,

19 CHAIRPERSON REID: -- regarding any complaints?

20 MR. OLIVARRI: No, no complaints. I got one letter in  
support that was given to us today.

22 CHAIRPERSON REID: Okay, all right, thank you.

23 COMMISSIONER PARSONS: Madam Chairman, I  
am concerned. I have been looking through the drawing.

25 Mr. Olivarri, the decorative balustrade on the top of  
these no additions and over the front entrance, what purpose will

they serve?

2 MR. OLIVARRI: What's that, sir, decoration?

3 COMMISSIONER PARSONS: What purpose will  
they serve?

5 MR. OLIVARRI: Only for the design.

6 COMMISSIONER PARSONS: Well, it adds three feet  
in height and bulk to the structure, and knowing the neighborhood I  
think it's out of scale with the neighborhood. I mean the new additions  
are virtually going to take up the entire lot and now we're adding three  
more feet to the top of each one with this balustrade. There's no  
public access -- is there?

12 MR. OLIVARRI: Well, the fact is, as I've just  
mentioned, is that the trees that almost completely hide the addition,  
because of the trees, that's the side they're on.

15 COMMISSIONER PARSONS: It's two additions,  
right? 16

17 MR. OLIVARRI: Pardon me?

18 COMMISSIONER PARSONS: There's two additions?

19 MR. OLIVARRI: Yes. On the other side it's not as  
bad because it's up on the second floor, so it brings the whole  
massing of the house together really.

22 VICE CHAIR KING: Is there going to be any access  
to those flat roofs of the balustrads there because you're going to be  
using them as entertaining space? So it's just a decorative element --

25 MR. OLIVARRI: Yes --

26 VICE CHAIR KING: -- that adds three and a half feet

-- 1

2 MR. OLIVARRI: -- that's all, yes, that's all.

3 VICE CHAIR KING: -- to the height --

4 MR. OLIVARRI: I think it's about 30 inches or so --

5 VICE CHAIR KING: -- to the house?

6 MR. OLIVARRI: -- yes.

7 COMMISSIONER PARSONS: I'm not sure I  
understand about the trees. We've got some photographs here.

9 MR. OLIVARRI: Yes. That --

10 COMMISSIONER PARSONS: I guess this is on the  
street on the lower side and you can certainly see the sunroom there  
from the street, I guess.

13 MR. OLIVARRI: This is the side we'd be adding the  
other floor.

15 COMMISSIONER PARSONS: And the balustrade on  
top. 16

17 CHAIRPERSON REID: Mr. Parsons --

18 COMMISSIONER PARSONS: The drawings show  
that. 19

20 MR. OLIVARRI: That's where we would be adding  
the one story on top of the existing.

22 COMMISSIONER PARSONS: Yes.

23 MR. OLIVARRI: And then this is just the side, it's --  
side. And then the addition goes on this side.

25 VICE CHAIR KING: Is there a photograph?

26 CHAIRPERSON REID: Would you speak into the

mic, sir

2 MR. OLIVARRI: Okay, yes. Yes, that's where the  
addition will be go right there, behind those trees.

4 VICE CHAIR KING: And the addition would come out  
from here --

6 MR. OLIVARRI: Yes, ma'am.

7 VICE CHAIR KING: -- and then this would be the  
thing that extends further?

9 MR. OLIVARRI: The terrace, the new terrace.

10 VICE CHAIR KING: But you're still at this point going  
up -- 11

12 MR. OLIVARRI: You can see --

13 VICE CHAIR KING: -- three feet higher?

14 MR. OLIVARRI: Right

15 VICE CHAIR KING: At this level you will have --

16 MR. OLIVARRI: It ties into the existing--

17 VICE CHAIR KING: -- right. There's no existing balustrade  
across the front of it?

19 MR. OLIVARRI: Yes, but you can see the --  
elevation.

21 COMMISSIONER PARSONS: Well, I urge my  
colleagues to look at this --

23 VICE CHAIR KING: Were you proposing to put that --  
you're proposing to put those balustrades all across the front of the  
house including over the-- 24 CHAIRPERSON REID: Is the  
balustrade existing, sir? 25

1 VICE CHAIR KING: No.

2 CHAIRPERSON REID: Oh, it's not.

3 VICE CHAIR KING: This is what exists, correct?

4 MR. OLIVARRI: That's what exists, yes.

5 VICE CHAIR KING: Okay. And what you're proposing  
is three feet of balustrade here --

7 MR. OLIVARRI: No, no, no, no, no, no.

8 VICE CHAIR KING: -- up here and puts three feet  
there? 9

10 MD. PRUITT-WILLIAMS: Excuse me, Board  
Members, you need to talk into the microphones so that the recorder  
can actually record this correctly.

13 MR. OLIVARRI: Yes, see, that will go farther, that's a  
section. It only goes on the side.

15 VICE CHAIR KING: On this front elevation?

16 MR. OLIVARRI: See, so the massing of the house  
does go up above the balustrade.

18 COMMISSIONER PARSONS: I'm talking about the  
massing of the addition --

20 MR. OLIVARRI: The roof, yes.

21 COMMISSIONER PARSONS: -- is three feet higher  
in both cases as a result of the balustrade, correct?

23 MR. OLIVARRI: Yes.

24 VICE CHAIR KING: I do too, and I don't like this  
either. It's all -- I mean if we grant this, it is going to significantly  
increase the bulk of the house. And given that I know that area very

well, I think that this becomes --

2 MR. OLIVARRI: Well, if you --

3 VICE CHAIR KING: -- and here it goes across the  
side as well.

5 MR. OLIVARRI: -- if the client agreed to do away with  
that, would that enhance our petition?

7 CHAIRPERSON REID: Was that part of the original  
submission --

9 MR. OLIVARRI: We resubmitted it just --

10 CHAIRPERSON REID: -- to the prior Board?

11 MR. OLIVARRI: -- like it was considered, and --  
favorably.

13 VICE CHAIR KING: But, you know, the fact that  
another Board in another lifetime approved the plans that were, you  
know, you've come to a rehearing.

16 MR. OLIVARRI: Well, that's why we're here because  
it's not the same Board. You have different opinions, different  
viewpoints, and the client was prepared to elaborate on the  
balustrade, and he says it's not that important.

20 COMMISSIONER PARSONS: Madam Chair, I move  
we approve this application with the exception of the balustrade  
shown --

23 VICE CHAIR KING: Wait, wait, wait, we have to hear  
the opposition.

25 COMMISSIONER PARSONS: There's opposition?

26 CHAIRPERSON REID: We have to go through the

other segments of this case, and we're not there yet.

2 MR. OLIVARRI: The clients said we'll eliminate the  
balustrade.

4 VICE CHAIR KING: Okay.

5 CHAIRPERSON REID: All right.

6 COMMISSIONER PARSONS: All right, progress.

7 CHAIRPERSON REID: Is there any testimony by the  
owners? Okay.

9 Any questions, Board Members? Okay, thank you  
very much.

11 Is there any cross examination, ANC?

12 MD. PRUITT-WILLIAMS: There is no parties.

13 CHAIRPERSON REID: Okay. ANC --

14 VICE CHAIR KING: Are you the ANC?

15 MR. FINNERAN: No, I am trying to get party status,  
but I've never done this before. I'm their neighbor, I'm the next door  
neighbor.

18 VICE CHAIR KING: Okay.

19 CHAIRPERSON REID: Okay, you said that you're  
trying to get consideration?

21 MR. FINNERAN: I mean -- record here, I don't --

22 CHAIRPERSON REID: You tried to request party  
status?

24 MD. PRUITT-WILLIAMS: Sir, why don't you go to the  
table and you can sit down, and actually just make sure you turn on  
the mic and pull it closer so we can hear you please?

1 MR. FINNERAN: Okay, you'll have to pardon me, I'm  
an amateur at this. I'm the next door neighbor, and I called this  
morning. I only saw the plans last night --

4 CHAIRPERSON REID: Please give us your name?

5 MR. FINNERAN: -- oh, excuse me, my name is Kevin  
Finneran. I live at 2805 35th Street, N.W., which is the house right  
next door to the property in question.

8 CHAIRPERSON REID: Are you requesting party  
status, sir?

10 MR. FINNERAN: Yes, I am.

11 CHAIRPERSON REID: Okay, as such you have the  
right to cross examine the applicants. Do you have any questions for  
them?<sup>13</sup>

14 MR. FINNERAN: No, I do not.

15 CHAIRPERSON REID: All right, then we will have  
you come up as a time for opposition.

17 VICE CHAIR KING: Well, this is probably is the time  
since we have no further parties in support.

19 CHAIRPERSON REID: Parties in support come first,  
but there aren't any.

21 VICE CHAIR KING: Right.

22 CHAIRPERSON REID: Okay. Let me go through it  
just for the record. Government reports, there are none. No ANC  
report<sup>24</sup>

25 VICE CHAIR KING: No ANC report.

26 CHAIRPERSON REID: All right, present parties in

support of the application?

2 Present parties in opposition to the application?

3 MR. FINNERAN: All right, thank you.

4 I have a brief written statement which I will submit for  
the record. My name is Kevin Finneran, and my wife Kathleen Currier  
and I own the house at 2804 35th Street, N.W, which is next door to  
3417 Fulton Street, N.W., which is the subject of the hearing.

8 I want to make clear from the beginning that we  
consider Jean-Paul and Nicole to be idea neighbors. They have a  
beautiful home, they maintain it in superb condition. The plans for the  
expansion seem to be of high quality and consistent with the  
architectural style of the neighborhood. Nevertheless, I'm here to  
express my serious concerns about the proposed expansion of their  
house<sup>14</sup>

15 The problem is that the expansion of the east side of  
their house will adversely affect the quality and value of our home. In  
the simplest terms, they will be building a structure 30 feet by 20 feet  
wide, three feet from our property line. This wall will be on the south  
side of our garden and will therefore cast a significant shadow over  
most of our yard. The shadow will be a particular problem in the  
critical garden months of March, April and May when the sun's path  
will be relatively low in the sky.

23 Having just spent about \$20,000.00 re-landscaping  
the garden, we are very concerned about what effect it will have on  
the new trees and plants that we have put in.

26 In addition, having a large structure immediately

adjacent to the primary sitting area of the garden will completely change the character of our yard and reduce the value of our property.

3 We understand as Jean-Paul and Nicole had previously proposed an expansion to their house and that the Wyants, who owned our house at the time, objected. It seems to us that anyone living in our house would be upset by the proposed addition.

7 Although one could argue that the expansion would increase the value of their property and therefore perhaps the value of other houses in the neighborhood, there seems to me no doubt that it would decrease the value of our house.

11 As I said, I apologize for the amateurish nature of my response. I only saw the plans for the first time yesterday. I knew of the plans only because of the notice received from the Board. And they were happy to share the plans with us, and in fact gave us a copy when we asked for them, but that was, as I say, my wife saw them on Monday night and I saw them yesterday.

17 I also would add that our concern is primarily with the addition on the east side of the house, the two story addition in the back. The addition going up one floor in the front does not bother us.

20 VICE CHAIR KING: Could you describe your house faces on 35th Street?

22 MR. FINNERAN: That's correct.

23 VICE CHAIR KING: And their house is the house on the corner of 35th of Fulton?

25 MR. FINNERAN: That's correct.

26 VICE CHAIR KING: And has as its entrance an

address on Fulton?

2 MR. FINNERAN: On Fulton Street, that's right.

3 VICE CHAIR KING: All right, okay. And your garden  
therefore is, I see, at the east end of their, okay, I've got the picture.

5 MR. FINNERAN: So the mid day sun would not reach  
our garden.

7 CHAIRPERSON REID: So your objection is primarily  
to the light --

9 MR. FINNERAN: Well, light and also the quality of  
the garden. There's a big difference looking --

11 CHAIRPERSON REID: And also what?

12 MR. FINNERAN: -- the quality, the ambience of our  
garden. When you sit out on our patio, instead of seeing trees and  
sky, you are going to see a structure that is 30 feet high just three feet  
from the property line.

16 I would add though that this is not on the footprint of  
the current terrace, it comes five feet closer than the terrace that's  
there, so it then isn't lined up with the rest of the house. But you'll see  
that the footprint of the terrace is smaller than the footprint of the  
addition.

21 BOARD MEMBER GILREATH: Are there any  
plantings that separate your house from their's, a property line?

23 MR. FINNERAN: We planted five trees, five holly  
trees as part of our landscaping that separates them, but those are  
only at this point five feet tall.

26 BOARD MEMBER GILREATH: What happens over

time when they grow?

2 MR. FINNERAN: They will grow to 10 or 12 feet,  
which would still allow us a good view of the second floor of their  
house. 4 Even right next to them, if you're sitting on our patio, they  
would block only the first ten feet of the 30 feet that would be there.

6 COMMISSIONER PARSONS: If this addition was  
eight feet back from the property line, I believe I have checked the  
record, it would probably be built as a matter of right and we wouldn't  
be here, but what would you think about that?

10 MR. FINNERAN: Eight feet back would make a  
significant difference. As I said, I haven't had time to do a study of  
sun lines and so on, but eight feet is a lot different from three feet.  
Three feet is right on top of us.

14 COMMISSIONER PARSONS: So I assume in the  
afternoon sun, it appears as though these houses are facing east-  
west, is that correct?

17 MR. FINNERAN: Yes, their house is on an east-west  
access

19 COMMISSIONER PARSONS: So during the major  
part of the afternoon the house now blocks sun into your garden as  
well as your own house, is that correct?

22 MR. FINNERAN: No, because the backs of the  
houses are in line, so morning, up until about noon, it doesn't block it  
at all. 24

25 COMMISSIONER PARSONS: All right.

26 MR. FINNERAN: And then after noon as it moves

around, it slowly blocks it. And it does block some sun into the side yard, but not the part that we landscaped in the back.

3 COMMISSIONER PARSONS: So what you're requesting of us is to set this further back from your property line?

5 MR. FINNERAN: Right. I mean --

6 COMMISSIONER PARSONS: You probably don't want it at all, but life is a compromise, isn't it?

8 MR. FINNERAN: Right, right. All I'm just saying is, bringing to your attention the effect it will have on our property.

10 COMMISSIONER PARSONS: I understand.

11 Can we tell from the data before us what a matter of right a side yard is here? I assume it's eight.

13 CHAIRPERSON REID: I think it's eight or nine.

14 VICE CHAIR KING: Side yard, eight feet.

15 MR. OLIVARRI: May I respond to one point that he made 16

17 CHAIRPERSON REID: Not at this moment. But what you can do is, you may cross examine him and then you do have the right for closing remarks at the end, the opportunity for closing remarks at the end. But you can't at this point.

21 BOARD MEMBER GILREATH:

22 MS. FIRSTER: Yes, I've got it.

23 VICE CHAIR KING: You've got it, yes.

24 BOARD MEMBER GILREATH: Eight it is.

25 VICE CHAIR KING: Eight it is, and then of course there is the open court question, which is five foot.

1 CHAIRPERSON REID: Well, that's what the variance  
2 requests. There are three variances requested here.

3 COMMISSIONER PARSONS: So what I want to do  
4 is ask the applicant what their response might be to and eight foot  
5 setbacks. That will come in time.

6 CHAIRPERSON REID: Yes, okay.

7 All right, thank you very much.

8 Closing remarks by the applicant? Oh, excuse me,  
9 do you have any questions?

10 MR. OLIVARRI: Yes, I just wanted to  
11 know

12 CHAIRPERSON REID: Questions to ask of this  
13 applicant, I'm sorry, of this witness?

14 MR. OLIVARRI: Yes.

15 CHAIRPERSON REID: Okay.

16 MD. PRUITT-WILLIAMS: But make sure you're on  
17 the mic

18 MR. OLIVARRI: I wanted to know --

19 MD. PRUITT-WILLIAMS: State your name?

20 MR. OLIVARRI: James Olivarri. And I wanted to  
21 know if he perhaps spoke with the previous owner because at the  
22 previous hearing we had the exact same points that were brought up  
23 by the owner and those were addressed and that was included in the  
24 testimony that we gave at that time. The problem was that because --

25 CHAIRPERSON REID: No, sir, you can just ask a  
26 question.

1 MR. OLIVARRI: Okay.

2 MR. FINNERAN: No, I did not speak to the previous  
owner. 3 This is information I received from neighbors.

4 MR. OLIVARRI: Okay.

5 CHAIRPERSON REID: All right, that's it?

6 MR. OLIVARRI: That's it.

7 CHAIRPERSON REID: Thank you. Now, you might  
as well come back for closing remarks, if you have no more  
questions? Okay, then Mr. and Mrs. Ansellem you can come back up  
if you wish, but this is the time for closing remarks.

11 COMMISSIONER PARSONS: If you could respond  
to the idea of --

13 MR. OLIVARRI: What?

14 COMMISSIONER PARSONS: -- if you could respond  
to the idea of setting it back five more feet, I'd appreciate it.

16 MR. OLIVARRI: It wouldn't work.

17 COMMISSIONER PARSONS: Have you thought of  
the way the bedrooms have to work upstairs in order to get the --

19 MR. OLIVARRI: Well, when the traffic, by coming in  
five feet would be seriously compromised in the plan. And the zenith  
of the sun and the heat, dead of summer and pretty well into July and  
August he is not getting that much shadow off of that --

23 COMMISSIONER PARSONS: No, he was objecting  
to the critical spring period of April and May when the sun is lower in  
the sky

26 MR. ANSELLEM: Well, we took pictures the last time

we had the hearing showing every hour of the day with the shadow.

2 VICE CHAIR KING: Well, those aren't part of the  
record in this case.

4 MR. ANSELLEM: Well, we can redo it, that's not a  
problem.

6 CHAIRPERSON REID: And what did it show?

7 MR. ANSELLEM: It wouldn't show any more shadow  
at all during the hours, because the morning, from morning to noon we  
have a lot of sun, and afternoon we have the sun is on the top of the  
house. It doesn't make any shadows at all.

11 VICE CHAIR KING: You're talking about April, May  
and June?

13 MR. ANSELLEM: Yes, existing house makes shadow  
that doesn't cover the whole yard. It only covers a small piece of yard.

15 VICE CHAIR KING: I would like very much to see  
those photographs since I live in exactly the same neighborhood.

17 MR. ANSELLEM: I know.

18 VICE CHAIR KING: And I know exactly what  
happens to my house because of the shadow of my neighbor's house,  
who is to the south. I sincerely doubt what you are saying.

21 MR. ANSELLEM: Well, we can take pictures -- and  
send it to Kevin --

23 CHAIRPERSON REID: What about the --

24 MR. ANSELLEM: -- who would be happy to see it.

25 CHAIRPERSON REID: -- for post hearing  
submission.

1 VICE CHAIR KING: How many bedrooms are there  
in your house?

3 MR. ANSELLEM: We have four bedrooms, and we  
have one and a half bathroom.

5 VICE CHAIR KING: And you want to add a fifth  
bedroom?

7 MR. ANSELLEM: We want to put a fifth bedroom with  
two others, there would be three bathrooms upstairs instead of one  
and a half.

10 VICE CHAIR KING: Three bathrooms up stairs and  
five bedrooms?

12 MR. ANSELLEM: Yes. Because my daughter and  
her husband who lives in California, they just have a baby and they  
love to live with us when they come to visit. And they come often  
because he has a business in Washington too and they like to come  
and visit. And we've be happy to have them at least once a month at  
home.<sup>17</sup>

18 BOARD MEMBER GILREATH: Madam Chair, the  
question as I see it is the shadow factor. If they were to agree to be  
continued and they would come in showing the shadow studies, and if  
it demonstrates that indeed for most of the year, even with this  
addition, there would not be an impact on the neighbor's garden --

23 VICE CHAIR KING: The shadow studies are taken  
with a film that records the date and time when the photographs are  
taken.<sup>25</sup>

26 MR. ANSELLEM: We can buy a camera to show it --

but -- 1

2 VICE CHAIR KING: Because I've got to tell you  
candidly, I live there, I'm at the other end of the block --

4 MR. ANSELLEM: Yes.

5 VICE CHAIR KING: -- and I know what the shadows  
are in April, May and June, and there are significant shadows cast by  
the southern structures on my house --

8 MR. ANSELLEM: Yes.

9 VICE CHAIR KING: So why they shouldn't be on this  
-- 10

11 MR. ANSELLEM: -- we face south on Fulton Street,  
we are facing south.

13 VICE CHAIR KING: -- I beg your pardon?

14 MR. ANSELLEM: We're facing south, the south and  
the sun comes east --

16 MR. OLIVARRI: It's almost directly overhead.

17 MR. ANSELLEM: -- and it's overhead of the house.

18 VICE CHAIR KING: In the summer, in the high  
summer it is, not in the spring.

20 MR. ANSELLEM: Yes.

21 VICE CHAIR KING: In the spring it is closer to the  
southern --

23 MR. ANSELLEM: A little bit more, but it doesn't make  
that much shadow. Their house is not that big, so --

25 BOARD MEMBER GILREATH: I think we can see it's  
east and west, the alignment of this house is east and west, and he's

saying his house is south and north alignment.

2 VICE CHAIR KING: You know, also I would like, uniqueness and unusual situation is one of the criteria for this kind of relief, is it not? I'm looking at the map of Fulton Street and 35th Street, and it seems to me that there is nothing even remotely unique about your house except that perhaps it is a little wider to the north than the other houses. What is the unique or unusual situation that sets you apart from the other houses in that block?

9 MR. ANSELLEM: We are the only, on this block, we are the only house facing Fulton Street.

11 VICE CHAIR KING: But you've got to look at all of the houses that march up here.

13 MR. ANSELLEM: Well, then the one on the next block, they're all facing the sun, the sun --

15 VICE CHAIR KING: They all seem to be identical in size, Mr. Ansellem.

17 MR. ANSELLEM: Which one, the one that's on -- 18

19 VICE CHAIR KING: All of the houses on 35th Street -  
- 20

21 MR. ANSELLEM: -- may I --

22 VICE CHAIR KING: -- and your house seemed to be identical in size.

24 MR. ANSELLEM: May I see it please?

25 VICE CHAIR KING: Surely.

26 CHAIRPERSON REID: May I also interject

something here that may be helpful. On the other Board order -- the property is affected by special condition or situation in that it was developed prior to the adoption of 1958 zoning regulation as non-conforming with respect to the northern side yard -- that the existence of the building restriction lines and existing configuration of the building on the site and -- within a -- upon the owner in developing an addition to the property in accordance with the existing zoning regulation.

9 VICE CHAIR KING: But that is true of every single house in that entire block, square block. They're all the same size, all the lots are the same size, the houses are the same size. This appears already to be slightly wider.

13 CHAIRPERSON REID: Yes, this house appears to be -- 14

15 MR. ANSELLEM: No, this one is being remodeled, the one next to us, at least I think that's the one --

17 VICE CHAIR KING: That's your house.

18 MR. ANSELLEM: -- and this one is being remodeled. They have two lots. They have another addition in the front, but it doesn't show on this plan, and they have a swimming pool --

21 VICE CHAIR KING: But they have two lots?

22 MR. ANSELLEM: Yes.

23 CHAIRPERSON REID: All right, well one issue is the sun, and the other issue was aesthetics, the fact that this addition was going to be three feet away from your neighbors --

26 MR. ANSELLEM: It's always been three feet away.

1 CHAIRPERSON REID: No, the addition.

2 MR. ANSELLEM: But the house is already on the  
same side.

4 CHAIRPERSON REID: Okay, the house itself, but  
then the addition, which is going to be on top of that portion that's right  
there -- from the neighbor's house is going to then increase.

7 MR. ANSELLEM: Well, it will be a continuation of the  
house.

9 CHAIRPERSON REID: Right.

10 MR. ANSELLEM: It would be on the same level.

11 CHAIRPERSON REID: Well, again that seems to be  
an issue. Is that your response that it's always been there?  
Presumably the addition --

14 MR. ANSELLEM: Madam Chair, we have been there  
for two years.

16 CHAIRPERSON REID: Yes, assuming the addition is  
what is causing the problems --

18 MR. ANSELLEM: We've been there for two years  
and we've never added, we never did anything structural and is the first  
time that we are doing it, and --

21 CHAIRPERSON REID: Okay, well then you think that  
the issue in regard to the sun, you would be able to provide a full  
submission pictures showing the shadows?

24 MR. ANSELLEM: Oh, sure, I'd be happy to.

25 CHAIRPERSON REID: Now, as Ms. King said, they  
are dated because obviously it changes year round?

1 MR. ANSELLEM: Well --

2 CHAIRPERSON REID: What would tell us that was --

- 3

4 MR. ANSELLEM: -- we are not in May or June now,  
only March, first week of March, and the garden is invisible now.  
Garden is visible in April, May, June.

7 CHAIRPERSON REID: Okay.

8 BOARD MEMBER GILREATH: I think it might be  
more costly than you would prefer or want to sustain, but I think you  
probably ought to get a consultant who can extrapolate  
mathematically, taking the house parameters and so forth, and he can  
do these different times of the year knowing what angle the sun would  
be. That's another way of doing it.

14 MR. ANSELLEM: One thing we can avoid is the  
balustrade on the top. That will give less height to the house because  
it's a flat roof, it's not like the house have, how do you call it, a hip. it  
would be a flat roof, doesn't get any height and it would be much lower  
than the existing house now. It would -- all of the roof would be like  
this, the flat roof would here, flat like this, three to five feet lower than  
the existing house now.

21 VICE CHAIR KING: I still can't get over this unique or  
unusual circumstances. I haven't heard any unique or unusual  
circumstances?

24 MR. ANSELLEM: I'm sorry, pardon?

25 VICE CHAIR KING: I have not heard -- sorry, I have  
not heard any unique or unusual circumstances with relationship to

your plot of land or to your structure to, as you know, or as your advisor must know, a unique or unusual situation is part of the three-prong truth that you need to bring forward to justify a variance. I mean and to the detriment of the public good, if you can show that there will be no detriment to your neighbor because of the shadows cast by this addition to your house, but that still doesn't get over the unique or unusual situation in that your house is identical to all of the houses marching at Fulton Street --

9 MR. ANSELLEM: It's nice to be different.

10 VICE CHAIR KING: -- or up 35th Street.

11 MR. ANSELLEM: Well, why not being different, make it a little --

13 MR. OLIVARRI: He has a different need I think than -  
- 14

15 VICE CHAIR KING: A different need is not the legal issue as I understand it. Somebody correct me if I'm wrong, but my reading is that unique or unusual situation as part of the land --

18 MR. ANSELLEM: But anyway we have very large tree --  
19

20 VICE CHAIR KING: -- not your desire to have a larger house.

22 MR. ANSELLEM: -- covers the lot anyway.

23 VICE CHAIR KING: I can't understand you.

24 MR. ANSELLEM: My trees are like 50 feet high, and they cover the lot anyway. They cover most of the lot.

26 VICE CHAIR KING: I suggest that --

1 COMMISSIONER PARSONS: The prior Board came  
to this conclusion, the Boards find the applicant suffers a practical  
difficulty in complying with the zoning regulations. The structure was  
built with a three foot side yard prior to the adoption of present eight  
foot side yard requirement per the zoning regulations. Further  
contributing to the applicant's practical difficulty are the 15 foot  
building restrictions lines. I'm not reading that to try to persuade you --

8 VICE CHAIR KING: No, no, no --

9 COMMISSIONER PARSONS: -- that's where they  
were. 10

11 VICE CHAIR KING: -- But I mean that's true for  
everybody on that block.

13 COMMISSIONER PARSONS: I understand. But  
that's as far as they went with --

15 VICE CHAIR KING: But I mean it's true for everybody  
on that block.

17 COMMISSIONER PARSONS: I understand.

18 CHAIRPERSON REID: That is the thing.

19 VICE CHAIR KING: Madam Chair, can I suggest that  
we ask the applicant to supply us with some kind of verifiable  
information about the shadows that will be cast by his suggested  
addition.

23 CHAIRPERSON REID: Okay. And so -- since you  
had request regarding the balustrade -- I think they've already  
agreed to remove the balustrade. I've done a number of shadow  
studies at times, and I think what this is going to tell us is that if they

set back to a matter of right distance of eight feet, we'd probably gain one week of sun in the month of June coming into the neighboring garden. In other words, the way the sun is going to rise, my point is, if you move it back, if we move it back eight feet, and we're not asking him to do that, that's about all he would gain.

6 CHAIRPERSON REID: He would gain one week --7

8 COMMISSIONER PARSONS: Yes. If I understand the regulations, they could not build without the other two variances, but if they came in with an eight foot side yard, we wouldn't be discussing shadow. So I just wanted to -- I'm not sure it's going to prove anything. It will certainly be helpful to the neighbor to know what his circumstance is, but I'm not sure what will be achieved --

14 CHAIRPERSON REID: I see what you're saying.

15 COMMISSIONER PARSONS: -- if we say well, no you can't do that, but he can build at eight feet. It probably won't be as looming, if you will to the ambiance of the garden, as he mentioned, but I'm not sure how instructive it may be.

19 MR. ANSELLEM: They just use the back of the garden anyway. They don't use close to my house. They use the back of their garden. They have the table and terrace further back.

22 BOARD MEMBER GILREATH: It's not clear to me, the alignment of this house, originally we were thinking east to west, with the sun coming from the east, and then the applicant, as I understood him, said that the house was aligned from the north to the south direction which means you can get a lot more sun.

1 VICE CHAIR KING: The entrance is --

2 BOARD MEMBER GILREATH: -- faces south as I  
understand.

4 MR. OLIVARRI: It faces south.

5 BOARD MEMBER GILREATH: So the 70 feet long is  
-0 6

7 MR. OLIVARRI: East and west, yes.

8 BOARD MEMBER GILREATH: -- east/west?

9 MR. OLIVARRI: Yes.

10 BOARD MEMBER GILREATH: And the neighbor  
lives on the --

12 MR. OLIVARRI: On the back. He lives on the north  
side. 13

14 CHAIRPERSON REID: Okay, well we will have to  
decide this case at our next scheduled meeting, which will be on the  
4th of April, is it? Mr. Hart, what date is that?

17 MR. HART: Next scheduled meeting is April 7th.

18 CHAIRPERSON REID: The 7th of April. And in the  
interim if you could submit the material that was requested by Ms.  
King regarding the shadow --

21 MR. ANSELLEM: Yes, this is March.

22 CHAIRPERSON REID: -- that would be most helpful?  
Huh? 23

24 MR. ANSELLEM: This is March. Oh, the survey?

25 VICE CHAIR KING: And also, if you would make a  
statement with regard to the removal of the balustrades on either side

and over the front door.

2 MR. ANSELLEM: Yes, okay, that's no problem.

3 CHAIRPERSON REID: The balustrades will be  
removed?

5 MR. ANSELLEM: Yes.

6 CHAIRPERSON REID: Okay.

7 MR. ANSELLEM: What I need is a bedroom available  
my daughter?

9 CHAIRPERSON REID: Huh?

10 MR. ANSELLEM: What I need is a bedroom for my  
daughter when she comes to Washington.

12 CHAIRPERSON REID: Okay, that's the most  
important thing.

14 MR. ANSELLEM: -- too.

15 CHAIRPERSON REID: All right.

16 COMMISSIONER PARSONS: Did you want more  
clarification on the practical difficulty issue?

18 VICE CHAIR KING: I certainly do. I mean he's got  
four bedrooms, he wants a fifth. I can understand the additional  
bathroom. But I think the unique and unusual situation is, I don't  
know, I'm not sure that --

22 MR. ANSELLEM: The thing is I cannot put two  
bathrooms standing on air. We need some support, and we need to  
build to put bathroom, you know.

25 CHAIRPERSON REID: I'm sorry, what are you  
saying?

1 MR. ANSELLEM: I said I have to build to put some  
bathrooms for the children. And it's --

3 CHAIRPERSON REID: Oh, you're saying that's the  
reason why you --

5 MR. ANSELLEM: -- yes, bathroom and a bedroom,  
you know, is mostly what we need. Because our bedrooms are very  
small and bathroom, I only have one and a half bathroom upstairs.

8 CHAIRPERSON REID: Okay.

9 MR. ANSELLEM: And by adding we eliminated the  
half bathroom to put two bathrooms, you know.

11 VICE CHAIR KING: But what we need is, and it  
would be very helpful to me at any rate in making my decision, for you  
to file in writing some argument that would try to convince me that  
there are unique or unusual circumstances that require our looking  
favorably on this request. So far I haven't heard any because you're  
identical to all the other houses --

17 MR. OLIVARRI: The statement that Mr. Parsons read  
that was submitted before does not show need?

19 CHAIRPERSON REID: It does, but not to the  
satisfaction of this Board.

21 VICE CHAIR KING: Actually everything that is said  
there is true of every other house in the entire square block.

23 MR. OLIVARRI: We're only pleading this on case,  
ma'am

25 VICE CHAIR KING: Pardon me?

26 MR. OLIVARRI: I mean we're only pleading this case,

we're not pleading the neighborhood.

2 VICE CHAIR KING: But then you're not saying --  
you're saying that you aren't unique, there are no unusual  
circumstances.

5 CHAIRPERSON REID: The point is, is that the first  
burden of proof is that you have to be able to demonstrate that there is  
something that's unique and unusual that's inherent in the land of the  
property that would prevent you from being able to comply with the  
existing, we call it the "practical difficulty" to comply with the existing  
zoning regulations. And this is what she's saying, that she is not  
satisfied. And the reference to the neighborhood was simply to  
indicate that you have to show predicated upon the entire  
neighborhood, how this property is different or unique.

14 MR. ANSELLEM: I don't know how to make it look  
unique, you know, but we tried.

16 BOARD MEMBER GILREATH: Well, there are  
several law firms here in Washington who have a land use  
competent, who are very knowledgeable, and if I were in your  
situation, I think I'd be inclined to consult with one of them. I think they  
might be able to develop an argument for you. At least I think that  
would be the most constructive course to take.

22 CHAIRPERSON REID: Or also we have staff here  
that you can consult with and perhaps they can give you some better  
insights to how you can better prepare a presentation to submit for  
us to have prior to deliberations on April the 7th, okay?

26 MR. OLIVARRI: We can try. Is that open meeting or

executive session?

2 CHAIRPERSON REID: There is our meeting date  
where we will deliberate and decide on the cases, and you're welcome  
to attend. You cannot participate, but it's open to the public who  
certainly can attend.

6 MS. CURRIE: Madam Chair, is there -- if I'm not  
mistaken, this -- is located in the Woodland Normal Stone overlay  
district &

9 MR. OLIVARRI: No.

10 MS. CURRIE: -- it's not?

11 MR. OLIVARRI: No, ma'am.

12 MS. CURRIE: Okay, because the previous one said -  
- 13

14 MR. OLIVARRI: No. We went through route before  
and it was determined that it's not in the Norman --

16 MR. ANSELLEM: No, it's in Massachusetts Avenue  
Heights.

18 MS. CURRIE: -- overlay? It is in the overlay district.

19 VICE CHAIR KING: Is the Massachusetts Avenue  
Heights an overlay district?

21 COMMISSIONER PARSONS: No.

22 VICE CHAIR KING: I don't think so. Norman Stone  
and Woodland is the other side, is east of 34th Street. And this is  
between 34th Street and Massachusetts Avenue.

25 CHAIRPERSON REID: All right, does that conclude  
this particular case, I think?

1 MR. HART: Madam Chair.

2 CHAIRPERSON REID: yes.

3 MR. HART: Do we need a statement about --

4 CHAIRPERSON REID: Yes, yes, that's been  
requested and they have agreed to do so. And they will submit that  
prior to -- do you want to give them a date they should have it in by?

7 MR. HART: Yes. The 2nd of April.

8 CHAIRPERSON REID: Okay.

9 VICE CHAIR KING: The 2nd of April, and the  
meeting is on the 7th?

11 CHAIRPERSON REID: A week ahead of time, is that  
enough time?

13 MR. HART: Yes.

14 VICE CHAIR KING: You know that I'm not going to  
be here, can you're going to have to FedEx it to me?

16 MR. HART: In that case

17 VICE CHAIR KING: -- that's not a week before.

18 MR. HART: -- it's possible -- the 3rd, how about the  
24th of March?

20 MR. OLIVARRI: I'm sorry?

21 MR. HART: The 24th of March.

22 MR. ANSELLEM: Well, I think I will have time to find  
a lawyer to --

24 CHAIRPERSON REID: An agenda -- you stole it from  
me. 25

26 COMMISSIONER PARSONS: I have one --

1 MR. ANSELLEM: -- screw me up.

2 MR. OLIVARRI: I didn't mean to.

3 MR. ANSELLEM: Of course you do.

4 CHAIRPERSON REID: All right, then that concludes  
this case, and we will decide on the 7th of April.

6 Okay, Paul?

7 MR. HART: Yes.

8 CHAIRPERSON REID: We'll move now to the  
second case that we have.

10 BOARD MEMBER GILREATH: The meeting will be  
April 7th when we decide this case?

12 CHAIRPERSON REID: Huh?

13 VICE CHAIR KING: April the 7th.

14 BOARD MEMBER GILREATH: Also the 24th, so  
what date do they get?

16 MD. PRUITT-WILLIAMS: The 7th.

17 VICE CHAIR KING: The date that they get --

18 MR. OLIVARRI: We have to --

19 BOARD MEMBER GILREATH: Okay --

20 MR. OLIVARRI: -- on April 2nd for the 7th meeting.

21 BOARD MEMBER GILREATH: All right, okay. Does  
that give you more time than in early April?

23 VICE CHAIR KING: -- submissions by March 24th.

24 MR. ANSELLEM: Yes, 7th meeting.

25 VICE CHAIR KING: 24th of March for the  
submission.

1 MR. OLIVARRI: Oh, okay, that's what you're saying.

2 MR. ANSELLEM: You changed it?

3 BOARD MEMBER GILREATH: No. Your

submission, your statement and so forth will have to be submitted to  
the BZA by 24th of March. And our meeting will not be until early  
April. 6

7 CHAIRPERSON REID: And then you can consult  
with staff and they will make sure that you are apprised of exactly  
what the time lines are and the date of submission.

10 MD. PRUITT-WILLIAMS: You need to put on the  
record, if you're going to take this up in April, you should have your  
submission in by the 7th so that -- I'm sorry, the 24th so that whoever  
is in opposition, if someone is in opposition wants to respond, and  
they will have a week then to respond. And that's why we have it that  
way. So if you have it in on the 24th, they can respond seven days  
later and we can put it together to go to the Board on April 7th, okay?

17 MR. ANSELLEM: Okay, thank you.

18 CHAIRPERSON REID: All right, next case please,  
Paul. 19

20 MR. HART: The next case is application number  
164312 of Howard Morland, pursuant to 11 DCMR 3107.1, for a special  
exception under Subsection 2001.3(c) for the construction of an  
elevator addition (for handicapped accessibility) which extends a non-  
conforming side yard (Subsection 405.9) and encroaches on a non-  
conforming structure to the rear under (Subsection 404.1) for a church  
located in an R-3 District premises 3133 Dumbarton Avenue, N.W.,

(Square 1243, Lot 39).

2           Would all persons planning to testify please stand and  
raise your right hand.

4           MR. MORLAND: I appear to be the only one.

5           (Whereupon, all persons planning to testify were  
sworn.)

7           BOARD MEMBER GILREATH: Madam Chair, can  
this case be fast track or something or expedited? For me personally,  
I have no problem with it.

10          VICE CHAIR KING: Second.

11          MR. MORLAND: My name is -- can you hear me  
correctly?

13          CHAIRPERSON REID: Yes.

14          MR. MORLAND: My name is Howard Morland. I am  
a trustee of the Dumbarton United Methodist Church, and as a trustee  
I am a title holder for the property. I'm the applicant in this case. I  
reside at 4805 North 2nd Street, Arlington, Virginia.

18          I am pleased to present to you your only non-  
controversial case today.

20          CHAIRPERSON REID: And as such you are the only  
person or party here. Usually in situations like that, we have received  
no letters of opposition regarding your case. So basically why not,  
they give us a salient point to highlight this because we have read the  
submission. You could stand on the submission as much as possible  
and just basically accelerate the presentation and then we could kind  
of get done with the case in a fairly short amount of time.

1 MR. MORLAND: Thank you very much. I submitted  
one of these things. I've got some extra copies which will eventually  
go to the Fine Arts Commission and Historic Preservation, but I could  
loan the extra copies, if you would like. Would that be helpful?

5 CHAIRPERSON REID: We have our copies, and it's  
pretty straight forward.

7 MR. MORLAND: Okay, right. Okay, I'll just give you  
our basic sales pitch.

9 CHAIRPERSON REID: Well, we have to go through  
the same --

11 COMMISSIONER PARSONS: No, you don't. You've  
got an ANC report in here, we've got no opposition, we've read the  
report --

14 CHAIRPERSON REID: Well, still, I don't know if he  
wanted to say a few words. We don't want --

16 COMMISSIONER PARSONS: All right.

17 CHAIRPERSON REID: -- allow him to at  
least --

19 COMMISSIONER PARSONS: As brief as possible.

20 CHAIRPERSON REID: -- yes, at least give us -- well,  
what you want to do, not so much a sales pitch, but just to tell us how  
you comply with the -- how you have met the burden of proof to seek  
relief, at least the special exception that you're requesting.

24 MR. MORLAND: Okay. The unique character of the  
building is that it was built 150 years ago --

26 CHAIRPERSON REID: No, you don't have to do that.

That's for a variance. Your relief is --

2 VICE CHAIR KING: -- what the purpose is and the  
intent of the zoning regulations to the map and no adverse impact on  
the neighboring property.

5 CHAIRPERSON REID: What you do is show how  
you comply with the Section 2001.3, 405.9 and 404.1.

7 MR. MORLAND: Okay. Without reiterating what we  
have in our printed material, I will say that the purpose is to make this  
historic structure accessible to people for whom stairs are a barrier.  
And what we want to do is simply build a two-story elevator shaft on  
the outside of a three story building. It's on the northeast corner so  
that from any angle that you look at it, the building behind it looms  
over it, so it will not cast a shadow, it will not change the skyline from  
any neighbor's point of view.

15 We have gotten specific permission from all of the  
property owners that you see on this diagram, which is on the front of  
your brochure. Particularly Mr. Frank Lorsen who has an L-shaped  
piece of property with the largest, one of the largest houses in the  
neighborhood, and his backyard would abut the property. He looked  
at our plans, the same plans that you have, and we went out into his  
backyard together, saw how the area was screened by evergreen  
foliage, told us that he very much appreciated hearing the sound of  
chamber music concerts coming through our stained glass windows in  
the evening. He thought it was a fine thing that we were doing, and he  
had no objection to it.

26 All the other neighbors, most of whom can't even see

the building site from their property, thought it was a commendable thing and recommended us for it. So to make sure that everybody got fully notified, I have some papers that I would like to give you. We have 75 people within 200 feet of our property, and two weeks before you sent out your notice, we sent out this one-page summary of this brochure showing graphics of how the thing would happen. The only response we got back was positive and supportive.

8           And here is another style section Washington Post review of one of our recent chamber music concerts in the area in the building. I will just say that it's one of the great chamber music venues of this area and it's one of the few places where a full hall can hear four violins as if they were three feet away when you're sitting at the very back of the balcony, has unique acoustics, and we regard the inside of the building for aesthetic and acoustic reasons to be equally historic as the outside.

16           And we were lucky that we have a corner of the property which seems almost tailor made for an elevator which would not alter the inside of the sanctuary in any way, and which would have minimal impact on the neighborhood and which has a plan which has the support of all of our neighbors.

21           VICE CHAIR KING: At what point do you go to the Old Georgetown Committee and the Fine Arts Committee and the Historic Preservation Review Board -- that project?

25           MR. MORLAND: We have been so far, this is the second hearing we've come to, the first one was the ANC. And we're

going here and then go to all the rest of them next.

2 VICE CHAIR KING: Okay.

3 Madam Chair, whatever we do does not preempt the  
decisions of those other bodies?

5 MD. PRUITT-WILLIAMS: No, they run concurrently  
or -- 6

7 VICE CHAIR KING: And, you know, no matter what  
we do, if the Fine Arts or HPRB says nix to it -- MD. PRUITT-  
WILLIAMS: Then it's a no go.

10 CHAIRPERSON REID: Could you, the regulation  
2001.3, do you have that?

12 MR. MORLAND: Let me mention something first, I  
believe what he read from the agenda, I believe there is a typo in it. It  
says "Pursuant" in the letter that you sent me, "Pursuant to 11 DCMR  
3108.1 for a special exception," and in your agenda it says "3107.1." I  
believe 3108.1 is the correct.

17 MR. QUIN: That is correct, sir. 3107 is the variance.

18 MR. MORLAND: Yes. I mean to mention that earlier.

19 CHAIRPERSON REID: And we'll reflect that if an  
order is granted.

21 MR. MORLAND: Yes. I'm sorry, go ahead.

22 CHAIRPERSON REID: It is a special exception,  
correct?

24 MD. PRUITT-WILLIAMS: Correct. It's a typo  
because the relief that is correct, it just should be 3108 instead of  
3107. 26

1 CHAIRPERSON REID: I believe in Section 2001.3  
just for the record just look at it and just tell us how you comply with  
that particular section?

4 MR. MORLAND: It does conform to the percentage  
of lot occupancy requirement, as I state on I think the second page of  
this brochure. We calculate the percentage. Well, the enlargement  
itself, I'm not sure what you mean "to conform to use and structure  
requirements," it will not -- the building is out of conformance by the  
fact that it's four feet from the property line on the east and three feet,  
four inches on the north.

11 What we've proposed to do is simply extend those  
non-conforming walls and fill the intersect at the corner of the property  
and fill in the building footprint and make it a solid rectangle instead of  
a rectangle with a corner missing. Is that what you want? So we're  
just extending the wall, we're extending the east wall to the north and  
the north wall to the east until they intersect.

17 CHAIRPERSON REID: Okay. And is that number 3,  
2? 18

19 MR. MORLAND: Yes, that's item (c) "The addition or  
enlargement itself shall conform to use and structure requirements.

21 VICE CHAIR KING: Well, your use continues the  
same? 22

23 MR. MORLAND: The use continues the same,  
exactly? 24 All we're trying to do is to make ourselves accessible to  
people with handicaps. 25

26 CHAIRPERSON REID: Okay, all right. Questions?

1 VICE CHAIR KING: Madam Chair, I move the  
granting of this application -- oh, sorry.

3 CHAIRPERSON REID: I just want to make sure for  
the record, government reports, there are none. No ANC report?

5 MR. MORLAND: There is an ANC letter.

6 CHAIRPERSON REID: There is an ANC letter?

7 MR. MORLAND: Yes.

8 VICE CHAIR KING: I don't have it in my file.

9 MR. MORLAND: I have a copy of it. I can have it  
photocopied for you.

11 COMMISSIONER PARSONS: "February 9th at it's  
regularly schedule duly announced meeting on February 2nd the  
quorum of ANC -- ANC-3E supports Dumbarton United Church's  
proposal to provide access to the handicapped sector, the equivalent  
or construction program by its neighbors." It's signed by John  
McFarland.

17 VICE CHAIR KING: All right, does it say that there  
was a quorum, there was a quorum present?

19 COMMISSIONER PARSONS: Yes.

20 VICE CHAIR KING: Okay.

21 MR. MORLAND: It was unanimously approved.

22 CHAIRPERSON REID: Persons and parties in  
support? Being none. Persons or parties in opposition? Being none.

24 Closing remarks by the applicant?

25 MR. MORLAND: Thank you very much.

26 CHAIRPERSON REID: Would you like to get a bench

decision, summary order?

2 MR. MORLAND: Okay.

3 COMMISSIONER PARSONS: Three times we've  
made a motion and her's is the most recent.

5 CHAIRPERSON REID: Okay.

6 COMMISSIONER PARSONS: And I'll second the  
motion.7

8 CHAIRPERSON REID: Did you make the motion?

9 VICE CHAIR KING: I move that we grant this  
application. It is clear that he has met the burden of proof, and I think  
that we should dispose of this matter immediately with a bench  
decision and a summary order.

13 COMMISSIONER PARSONS: And I second the  
motion.14

15 CHAIRPERSON REID: Okay, all in favor?

16 CHORUS: Aye.

17 CHAIRPERSON REID: Opposed?

18 (Whereupon, the motion was unanimously carried.)

19 ARBITRATOR MURPHY: -- as Ms. King, Mr.  
Gilreath, Ms. Reid and Mr. Parsons to grant four to zero -- so noted.

21 MR. MORLAND: Thank you very much.

22 CHAIRPERSON REID: Thank you.

23 Next case?

24 ARBITRATOR MURPHY: The next application is  
1643125 application of the Episcopal Cathedral Foundation of the  
District of Columbia, pursuant to 11 DCMR 3108.1, for a special

exception under Section 205 for the construction of an athletic facility with below grade parking and to establish two surface athletic fields to an existing private school located in an R-1-B District at premises 3500 Woodley Road, N.W. (Square 1944, Lot 39.)

5           Would the persons planning to testify in this case please stand and raise your right hand for the oath.

7           (Whereupon, all persons planning to testify were sworn.)

9           VICE CHAIR KING: Madam Chair, I live essentially across the street from the larger lot in which this proposal -- I live at 34th Place and Garfield Street, which is across from the St. Albans tennis courts which is quite close to the site. I have read nothing about this except what is in my file. Without objection I think it is not necessary to recuse myself at this time.

15          CHAIRPERSON REID: -- could --

16          VICE CHAIR KING: I see no reason to recuse myself unless anybody objects.

18          CHAIRPERSON REID: Unless there is an objection from anyone here, then we will concur with that position.

20          A question to Mr. Hart on the agenda. It states that it's under Section 205. Isn't that 206? Is it supposed to be 206? 205 is town development center.

23          MD. PRUITT-WILLIAMS: We can verify that and amend the application if need be.

25          CHAIRPERSON REID: Okay, all right.

26          MD. PRUITT-WILLIAMS: And because there is such

a large crowd we might like to briefly go over what the procedure is, because I'm not sure if everyone has been here before.

3 First, you will identify party status for people, so if you're requesting party status, now is the time to come up.

5 The applicant will give their report, then we go to government report, people in favor and then opposition. So that's the sequencing of the hearing.

8 CHAIRPERSON REID: The sequencing was in the opening remarks --

10 MD. PRUITT-WILLIAMS: Well, it's been a while and I just wanted to reiterate.

12 CHAIRPERSON REID: Nonetheless, if there is anyone here requesting party status, now is the time to do that. Party status is people who live within close proximity to the property who would like to receive all communication and also like to have the right to cross examine.

17 MR. DERNOGA: Madam Chair?

18 CHAIRPERSON REID: Yes.

19 MR. DERNOGA: I believe a number of my clients, or all my clients actually filed for party status and that should be in the record. In addition, I understand that a fair number of neighbors apart from my clients have filed for party status.

23 CHAIRPERSON REID: Well, let's see. Is there anyone here who requested party status?

25 AUDIENCE: We don't know how to request party status  
26

1 CHAIRPERSON REID: Well, okay, if you requested  
party status -- is there anyone here who has already requested party  
status?3

4 MD. PRUITT-WILLIAMS: If you have submitted for  
the record part status or you'd like to do it now, please come forward  
because this is the time the Board will determine whether or not you  
will be granted party status? We have to hear your case individually  
please.8 Actually just hit the points of why you think -- moreso than the  
general public?

10 CHAIRPERSON REID: All right, now the persons  
who are standing are requesting party status? Okay, now let me also  
say that party status is for those who are aggrieved in such a manner  
that their concerns cannot be put forth by the ANC? Do all of you fall  
in that category, that your ANC could not represent or to give in their  
presentation whatever your concern is?

16 AUDIENCE: Yes.

17 CHAIRPERSON REID: Cannot?

18 AUDIENCE: Yes.

19 CHAIRPERSON REID: All right. Are you -- okay,  
let's just start with each individual. Your name please and why you're  
requesting party status?

22 MD. PRUITT-WILLIAMS: Excuse me, ma'am, excuse  
me, ma'am. Can you turn your mic on, it's not on. Hit the switch.

24 CHAIRPERSON REID: I don't think that's been  
working today.

26 MD. PRUITT-WILLIAMS: It does work if you put you

switch 4

2 CHAIRPERSON REID: Okay, pick it up.

3 COMMISSIONER PARSONS: Do you want to help  
her with that?

5 MS. CUTAN: Ann Cutan, and I live at 3412 Lowell  
Street which is approximately one short block for the facility that's  
being contemplated.

8 CHAIRPERSON REID: And the reason why you're  
requesting party status?

10 MS. CUTAN: Because I'll be affected by the traffic  
and the parking that will be the result of this facility.

12 CHAIRPERSON REID: And your concerns can't be  
addressed through your ANC?

14 MS. CUTAN: I didn't know about this, whether it was  
a concern, and there hasn't been an ANC meeting since I learned  
about the size and scope and use of this facility.

17 CHAIRPERSON REID: All right. I have no problem  
with that.

19 VICE CHAIR KING: Well, I'd like to hear everybody. I  
mean we are now looking at 20 people, plus the people who have  
already filed. You know, we're going to have 20 people cross  
examining under every -- I mean, come on, we're talking about, I  
mean we're going to be until 6:30 just getting through all of this. I  
mean there are groups --

25 CHAIRPERSON REID: Let's determine --

26 VICE CHAIR KING: -- in opposition --

1 CHAIRPERSON REID: -- let's determine --

2 VICE CHAIR KING: -- and there are organized  
groups in support --

4 CHAIRPERSON REID: -- let's determine --

5 VICE CHAIR KING: -- and then we have 20  
additional people who are not associated with the ANC with the  
groups, the organized groups in opposition with the organized groups  
in support who also want the ability to cross examine every witness in  
this case. Is that what we're saying?

10 MD. PRUITT-WILLIAMS: I would suggest maybe you  
identify first --

12 CHAIRPERSON REID: Also, everyone will have the  
opportunity to testify. If you want to testify as an individual, then that's  
a little different status.

15 MS. CUTAN: Okay, well then it's totally unclear to all  
of us what the roles are.

17 MD. PRUITT-WILLIAMS: Okay, all right --

18 MS. CUTAN: I want the right to testify essentially.

19 MD. PRUITT-WILLIAMS: Okay.

20 VICE CHAIR KING: Then you don't need party  
status

22 MS. CUTAN: -- don't need --

23 MD. PRUITT-WILLIAMS: You want the right to  
status, you want the right to testify. You  
will --

26 CHAIRPERSON REID: Any person who wants to

testify in support or in opposition has that right and we'll grant the opportunity without party status. Party status is specifically for, mostly for organizations, groups or persons who are particularly aggrieved by the relief that's being requested in the application.

5 MS. CUTAN: Okay.

6 COMMISSIONER PARSONS: Madam Chairman? Is Mr. Edward Burger here --

8 MR. BURGER: I am.

9 COMMISSIONER PARSONS: Mr. Burger, you sent us a letter on February 26th with a list of, I don't know, maybe 25, maybe 15 people. You signed on their behalf. And you are Chairman of the National Cathedral Neighborhood Association?

13 MR. BURGER: That is correct.

14 MR. HART: Microphone please.

15 COMMISSIONER PARSONS: Excuse me, thank you. 16

17 Isn't it your intent then to conduct cross examination on behalf of these people as a party? Or maybe you're not familiar with our procedures. We're obviously trying to avoid chaos here with the people you represent on this piece of paper, all coming up to ask questions of these witnesses here.

22 MR. BURGER: With respect, we did want to reserve the opportunity for persons who are on that list to cross examine the witnesses.

25 COMMISSIONER PARSONS: The normal process in an organization like this is you are the focal point, or you elect

amongst yourself one spokesperson that would come forward with a list of questions. Is that possible?

3 MR. DERNOGA: Madam Chairman, if I may? I think there is obviously some confusion. A number of people have expressed a strong interest in being parties. They felt that there is a higher level of status attached to being a party. In spite of that concern on some people's part, you know, I represent the National Cathedral Neighborhood Associate. I represent Mr. Burger. I think it's the general intent that I will do the cross examination --

10 CHAIRPERSON REID: Okay.

11 MR. DERNOGA: -- unless there is a party, and I have a list of who I do actually represent. It's not this whole group, it's maybe eight or nine of the people in this group. It's possible somebody may have a different question, but I tend to think I'll ask all the questions.

16 CHAIRPERSON REID: If they are being represented by counsel, then by all means you would be the one to do the cross examination on their behalf.

19 MR. DERNOGA: Right, and that's why I wanted to jump in and clear that part up.

21 CHAIRPERSON REID: And leave all the questions up to you.

23 MR. DERNOGA: I think what Mr. Burger was doing and people in the neighborhood were doing, they're going around collecting petitions and some people really wanted to express I'm a party because I am aggrieved, and they wanted to let it be known that

they felt aggrieved and that they were not really being represented by the ANOC in this matter, so --

3 VICE CHAIR KING: That can be accomplished through just testifying in the -- what their position is. And by you representing the National Cathedral Neighborhood Association.

6 MR. DERNOGA: I understand that, and nonetheless I think there was some confusion and they were wondering how best to accomplish getting that point across.

9 CHAIRPERSON REID: This is why we wanted to clarify it at this point so we won't have that problem later.

11 Are there any other persons who are affiliated with the Cathedral --

13 MR. BURGER: National Cathedral Neighborhood Association.

15 CHAIRPERSON REID: National Cathedral --

16 MR. BURGER: Neighborhood Association.

17 CHAIRPERSON REID: -- Neighborhood Association? Okay, then all those persons will be, those, whatever questions or concerns you have will be represented by counsel, and whatever concerns you have, but nonetheless, it does not eliminate your opportunity and right to be able to testify on your behalf. So you really don't need party status, it's taken care of.

23 MR. BURGER: But what about our right to appeal?

24 VICE CHAIR KING: You always have that right.

25 CHAIRPERSON REID: Oh, well, that's a given, that's a given.  
26 Okay, all right, just a moment.

1 Ma'am?

2 MS. NELSON: My name is Judith Nelson. I live at  
3432 New York Street, and I just have a question. Would you repeat  
again how we can testify? I know we fill out this card, but what do we  
do with it if we wish to testify? Do we have to do it right this minute?

6 VICE CHAIR KING: No, no, at the appropriate -- are  
you in opposition or support?

8 MS. NELSON: I have an open mind. I'm trying to  
listen. 9

10 VICE CHAIR KING: Well, either opposition or support  
will be towards -- first the applicant will make their case --

12 MS. NELSON: I just want to make certain that I fill in  
the form, I mean I can fill in the form, but to give it to the right person  
at the right time.

15 CHAIRPERSON REID: The witness card, why don't  
you give the witness card to the recorder.

17 MS. NELSON: Who is the reporter?

18 VICE CHAIR KING: Since you have spoken on the  
record, you should hand it in now?

20 MS. NELSON: Okay, who is the reporter?

21 VICE CHAIR KING: He's sitting over there, the  
recorder.

23 MS. NELSON: Oh, the recorder. The woman in the  
striped shirt?

25 CHAIRPERSON REID: Yes.

26 VICE CHAIR KING: Terrific, give it to her now.

1 MS. NELSON: I need to fill it out.

2 CHAIRPERSON REID: You must come to the mike.

3 MR. JENKINS: Hi. My name is Robert Jenkins. I live  
on Lowell Street, a block away. I just want to be sure to be  
able to ask questions, and I'm not sure what status I need for that.

6 CHAIRPERSON REID: Okay, now, you're not  
affiliated with the National Cathedral Neighborhood Association?

8 MR. JENKINS: No, I'm not.

9 CHAIRPERSON REID: All right. And you live within?

10 MR. JENKINS: Within a block.

11 CHAIRPERSON REID: And you want to cross  
examine?

13 MR. JENKINS: Ask questions, yes.

14 CHAIRPERSON REID: And you want to request  
party status?

16 MR. JENKINS: Well, that's what I'm not sure of.

17 CHAIRPERSON REID: Well, that's what you would  
have to have in order to be able to cross examine. And I have no  
problems with --

20 MD. PRUITT-WILLIAMS: I'm sorry, could I get your  
name again?

22 MR. JENKINS: Yes. Robert Jenkins.

23 VICE CHAIR KING: And where do you live?

24 MR. JENKINS: On 3415 Lowell Street which is one  
block from the proposed structure.

26 VICE CHAIR KING: The corner of what?

1 MR. JENKINS: It's between 34th and 35th.

2 VICE CHAIR KING: There is no 34th --

3 MR. JENKINS: No, I'm not sure where that is.

4 VICE CHAIR KING: It's not on that block?

5 MR. JENKINS: No.

6 COMMISSIONER PARSONS: I object. I don't see  
how he would possibly at a block away from this facility be --

8 CHAIRPERSON REID: Is it too far?

9 COMMISSIONER PARSONS: -- be more aggrieved  
than anybody else in this room.

11 VICE CHAIR KING: I agree.

12 CHAIRPERSON REID: Mr. Gilreath?

13 BOARD MEMBER GILREATH: We'll certainly take  
your testimony. It's just a matter of --

15 MR. JENKINS: Right, that's all I was asking, was how  
I could be involved in the questioning.

17 CHAIRPERSON REID: Well, the Board, the  
consensus seems to be that you are being where you live, wherever,  
that you would not be more aggrieved than some of the parties who  
live closer. Now, what you might want to do is to talk to your ANC or -

- 21

22 VICE CHAIR KING: Well, the ANC -- conditional  
approval, so if he intends to oppose --

24 CHAIRPERSON REID: Are you in opposition?

25 VICE CHAIR KING: -- he probably needs to talk to  
the National Cathedral Neighborhood Association.

1 MR. JENKINS: So they would be the spokesperson  
for -- 2

3 CHAIRPERSON REID: Sure. And have them ask  
the questions, their counsel --

5 VICE CHAIR KING: There are people involved in that  
as far away as McConnell Street.

7 CHAIRPERSON REID: -- so that counsel, have him  
to -- 8

9 MR. JENKINS: And if I'm not necessarily not in  
opposition, they may not voice my concerns, that's why I questioned  
the procedure.

12 CHAIRPERSON REID: Well, are you in opposition or  
are you in support?

14 MR. JENKINS: I may be in opposition or support as I  
learn more about it.

16 VICE CHAIR KING: Well, why don't you just testify as  
an individual?

18 MR. JENKINS: Okay, thank you.

19 CHAIRPERSON REID: And if you have any special  
questions, then once you've determined which way you're going to go,  
then you could file your questions to either the ANC or the National  
Cathedral Neighborhood Association.

23 MR. JENKINS: Thank you.

24 CHAIRPERSON REID: Thank you.

25 MR. BOULEY: My name is George Bouley. I live at  
3438 34th Place, which is not within 200 feet of the proposed

development, but I am a long time member of the St. Albans Tennis Club which utilized the ten courts at the southern end of the property under an arrangement with applicant or one of its affiliates, and I have a significant financial stake in whether or not I renew my membership, and I would like to be able to ask Mr. Quin questions on the record regarding the plan with respect to those tennis courts.

7 CHAIRPERSON REID: Are you in --

8 MR. BOULEY: I realize that I can testify without having party status, but I want the opportunity to ask questions on the record.

11 CHAIRPERSON REID: -- are you in support of or in opposition to --

13 MR. BOULEY: I don't know yet. I want to ask questions before making up my mind.

15 VICE CHAIR KING: Now, the St. Alban's Tennis Club utilizes not only the tennis courts at the northern end of the plot of land, but also --

18 MR. BOULEY: At the southern end.

19 VICE CHAIR KING: -- the southern end?

20 MR. BOULEY: The National Cathedral School utilizes the existing courts in the center of the property or toward the northern --

23 VICE CHAIR KING: The St. Alban's courts are on Garfield Street, are they not?

25 MR. BOULEY: Correct.

26 VICE CHAIR KING: It is my understanding that this

proposal has no impact on the St. Alban's courts which --

2 MR. BOULEY: Mr. Quin can answer that for the  
record.

4 MR. QUIN: I really -- I'm sorry, in an attorney role I  
can't answer the question. It's a factual question. I can, as far as I  
know it doesn't, but I'd be glad to meet with Mr. Bouley and --

7 MR. BOULEY: I'd like the opportunity to ask a  
question on the record please?

9 MR. QUIN: -- and I certainly will have witnesses that  
could answer his question. And I have no objection by the way --

11 CHAIRPERSON REID: Again, you don't live within  
200 feet of --

13 MR. BOULEY: No, but I have a significant financial  
stake, and I'm being asked to renew a membership at over \$1,000.00  
a year.

16 CHAIRPERSON REID: Is there any objection to this?

17 VICE CHAIR KING: I object, because his  
membership is in the St. Alban's tennis courts which are in my front  
yard. I'm not noticed on this case because I live too far away. I don't  
think -- I think your questions are properly addressed to the people  
who are asking you to spend \$1,000.00 on your membership, not to  
somebody who is --

23 MR. BOULEY: They are lessees or have an  
operating arrangement, which as I understand it profits the applicant  
or one of its affiliates. I don't know, but the --

26 VICE CHAIR KING: Well, I think that needs

-- his financial arrangements with St. Alban's School need to be worked out with St. Alban's School and not in this arena.

3 MS. MILLER: I just have some information I'd like to offer. The application does involve the elimination of the NCS tennis courts, which are five tennis courts on Woodley Road. And that will have an impact perhaps on the NCS students playing on the St. Alban's tennis courts.

8 VICE CHAIR KING: Give your name and your --

9 MS. MILLER: My name is Ruth Ann Miller, I'm the ANC Commissioner for 3C.

11 VICE CHAIR KING: -- and your address.

12 MS. MILLER: And I would say that --

13 VICE CHAIR KING: And your address?

14 MS. MILLER: My address, my personal address is 3305 35th Street, N.W.

16 VICE CHAIR KING: Okay.

17 MS. MILLER: I would be happy to put forth a question with respect to the St. Alban tennis courts, if you would like, or I would have no objection to his raising that issue.

20 VICE CHAIR KING: Well, I object to his raising it because it's a financial arrangement with a completely different entity. I don't think it is appropriate here.

23 CHAIRPERSON REID: Well, in that objection to you're becoming a party, would it be all right with you to have that question or the questions you want funnelled through the ANC?

26 MR. BOULEY: That's fine, so long as it's answered

on the record.

2 CHAIRPERSON REID: So it gets answered on the  
record.<sup>3</sup> Well, my understanding from the ANC representative is that  
that will be done.

5 MR. BOULEY: Great, all right.

6 CHAIRPERSON REID: Thank you.

7 MR. QUIN: Madam Chairperson, I just wanted to  
make one point for the record. I have no objection to the individuals  
that you've listed before as parties for purposes of Mr. Dernoga asking  
questions on their behalf, but I do have an objection. I do not think  
that the association, the National Cathedral Neighborhood Association  
qualifies under the Gotow case, and I just make that point for the  
record.<sup>13</sup> I'm not --

14 VICE CHAIR KING: Under the what?

15 MR. QUIN: The Tycho Gotow case in the D.C. Court  
of Appeals which sets the standard for establishing party status.

17 VICE CHAIR KING: You have no objection to the  
individuals who are --

19 MR. QUIN: No, I do not.

20 VICE CHAIR KING: -- he is representing?

21 MR. QUIN: Right, I have no objection to that. And I  
just make this for the record.

23 CHAIRPERSON REID: What is the basis for your  
objection?

25 MR. QUIN: The objection is that I do not know -- well,  
you have an association here that is an unincorporated association

and it must show that it itself is aggrieved or potentially aggrieved rather than on the basis of its individual members. And I have no objection on the members being made parties and having the right through Mr. Dernoga to ask question. So I'm not depriving him of any right, I just want to make certain that I make the objection as it relates to the association.

7 VICE CHAIR KING: The association, the association is an unincorporated association you feel created for the purposes of this case, is that what you're saying?

10 MR. QUIN: Yes.

11 MR. DERNOGA: It is an incorporated association.

12 VICE CHAIR KING: It is incorporated?

13 MR. DERNOGA: As I've been told by the chairman. I didn't incorporate it myself, but it's my understanding that it's incorporated.

16 VICE CHAIR KING: Mr. Quin, if they provided for the record a copy of their incorporation papers, would that --

18 MR. QUIN: Really the issue is not whether it's incorporated or unincorporated, the issue is whether they have standing separately and apart from the citizens.

21 VICE CHAIR KING: Okay.

22 CHAIRPERSON REID: Separately and apart from?

23 VICE CHAIR KING: From the citizens that they represent.

25 CHAIRPERSON REID: I find that puzzling because the association is made up of the citizens.

1 MR. DERNOGA: Madam Chairman, what is even  
more puzzling, I actually agree with Mr. Quin.

3 MR. QUIN: I find that even more puzzling.

4 CHAIRPERSON REID: It's late in the day too.

5 MR. DERNOGA: I've been down this road before,  
and I can see the argument that the association itself as an entity  
does not own property and is not a person in that regard, that's  
agreed; it doesn't own property within 200 feet. The only thing that I  
want to make clear, and I think Mr. Quin already stated this, is that the  
individuals who live on Woodley Road directly across from this project,  
live on 34th Street directly across from it, and I have something else to  
say about that, as long as they are treated as parties and I'm  
representing them and there's only one person asking questions, I  
don't have any objection to that.

15 I'll also point out though, the property in this case is lot  
25. It's 57 acres. And I think the grievant issue doesn't go to 200 feet  
from the tennis courts, it's 200 feet from the property. And I don't think  
that changes anything, but I think that's going to be something that the  
Board will need to understand throughout this case. It's a 57 acre  
parcel; it's not a couple acre athletic facility.

21 CHAIRPERSON REID: Then you're saying that you'd  
rather have the individuals be granted party status and have them to  
funnel their questions through the counsel --

24 MR. QUIN: Yes, I think that's --

25 CHAIRPERSON REID: -- rather than to recognize  
the association as a party?

1 MR. QUIN: -- yes, I think that's what the law requires,  
but it doesn't deprive anyone of any right to cross examine. And I  
don't think there is any -- I do find it interesting that we agree on that  
point. 4

5 CHAIRPERSON REID: I have no problem with that  
as long as we don't have -- we have one person who is doing the  
cross examination. However it's represented, as long as one person  
is doing all of the cross examination on behalf of the persons who  
make up the entities of the National Cathedral Neighborhood  
Association.

11 VICE CHAIR KING: Or the individuals who are  
recognized as parties banded together under that rubric?

13 CHAIRPERSON REID: Right.

14 VICE CHAIR KING: The representation is not of the  
organization, but of the individuals as a group?

16 MR. QUIN: Who have party standards.

17 VICE CHAIR KING: Who have party standards.

18 CHAIRPERSON REID: Individuals -- and  
represented through the counselor.

20 MR. DERNOGA: I hate to belabor this, but I want to  
make something clear. I have letters that say who I specifically  
represent. I cannot represent other opponents. And I have been in  
this situation and for those of you who don't know me, I am a  
Maryland attorney. I practice in Maryland. And I've been through the  
situation, and the rules are essentially the same --

26 CHAIRPERSON REID: Yes, okay --

1 MR. DERNOGA: -- I believe those people are in  
concern with us, but just so I can't take the position that I represent  
someone that I don't.

4 MD. PRUITT-WILLIAMS: Could you provide, and I  
believe we had it for the record, could you provide me a list of the  
people that you represent so we can be sure we have it correct?

7 MR. DERNOGA: I have it in my car, it will take me  
one second.

9 BOARD MEMBER GILREATH: Well, based on this  
logic, wouldn't that young man who was -- through the association  
have to be accorded party status then?

12 COMMISSIONER PARSONS: That's my next  
question. It seems like this organization is a restricted group. It's not  
as I thought it was, the Woodley Street, whatever it is, Homeowners  
Association.

16 CHAIRPERSON REID: The National Cathedral  
Neighborhood Association.

18 COMMISSIONER PARSONS: That's what I wanted  
to ask if its members could join as part of this effort.

20 MR. DERNOGA: Yes, I've seen this. Oh, I haven't  
seen this one.

22 VICE CHAIR KING: Maybe we should ask Mr. Burger  
while we're getting the paper, Mr. Burger, are you represented by this  
council as an individual?

25 MR. BURGER: I am.

26 MR. DERNOGA: Yes, he is.

1 MR. BURGER: I am, yes.

2 VICE CHAIR KING: Okay. And my question was  
whether you as an individual are represented by counsel?

4 MR. BURGER: The answer is yes.

5 VICE CHAIR KING: And there are other people who  
have sought party status who were also represented by the same  
counsel?

8 MR. BURGER: That's correct.

9 VICE CHAIR KING: And would you be willing to  
absorb into your group of parties who are represented by this counsel  
additional party should they wish to join, or is the group closed?

12 MR. BURGER: No, the group is not closed. We  
would be pleased to have --

14 VICE CHAIR KING: Like minded folks?

15 MR. BURGER: -- yes.

16 MR. QUIN: May I follow up on that? That question  
goes to the point of whether anyone in this association has the  
freedom to support the application. And if the gentleman, there were  
two people that said they wanted to be parties, that indicated they had  
not made up their minds, and I think to force them to go through that  
association would be not fair to them. They need to have the freedom  
to make the decision either way.

23 CHAIRPERSON REID: Well, one was going through  
the association, and the other was going through the ANC.

25 MR. QUIN: That's fine.

26 MS. LEISNER: Well, I'd like to speak to this point, if I

may? 1

2 CHAIRPERSON REID: All right.

3 MS. LEISNER: My name is Margaret Leisner. I don't  
know if I live within 200 feet.

5 COMMISSIONER PARSONS: What's your address?

6 MS. LEISNER: I live at 3501 Lacombe Street. I have  
been a resident of the cathedral neighborhood all my life, and I have  
been involved in various activities having to do with the cathedral and  
the neighborhood, and on various other organizations like the -- and  
organizations that no longer exist, but for specific reasons often  
having to do with the relationship between the cathedral and the  
neighborhood.

13 I know that there are many, many, many people who  
live within the larger cathedral neighborhood who are very concerned  
about what happens at the cathedral. They are not all in opposition to  
everything that goes on there by any means, but they are very  
interested in this issue. I think that their interests thought are not  
specifically the same as those of the people who live on Woodley  
Road directly across from the site of this particular project.

20 In addition I know that the cathedral has been  
undertaking a master plan process for the entire 59 acres. This  
particular question that is before you today having to do with the girl's  
school athletic facility is one part of a great deal of other things all of  
which impact upon one another.

25 So the point that was made about, you know, the  
whole lot, it's not just that corner, I don't know if I want to be officially a

party or not, I don't know that I want to cross examine, I do know that I want to have full access to the records and to be considered a person who has a real interest in what goes on in this proceeding as I did in previous proceedings, and as I will in future ones, all involving the cathedral in our neighborhood. It has an enormous impact which is not limited to this simple perhaps specific matter.

7 CHAIRPERSON REID: So are you --

8 MS. LEISNER: I don't know, I'm asking you. You said earlier that it involved not just cross examining, but also being, receiving records, so I don't know if I've got --

11 MD. PRUITT-WILLIAMS: Excuse me, ma'am, maybe I can clarify this for you. Anybody who wants to, the record is open to the public. And until the Commission closes it, things can come in. It still doesn't mean that you can't read it, so you can always have access to our record during business hours.

16 MS. LEISNER: But in the last case I received documents from you. I didn't know that I had requested party status, but somehow I got them. Was that because I was a party?

19 MD. PRUITT-WILLIAMS: Do you live within 200 feet? If you received information from us as to the notification of this, that was because you do live within 200 feet and the applicant is required to send that to us. But if you're concerned about getting information, the record is always open to the public and you're more than welcome to always come down. You also will be able to testify, and your testimony will be on the record. So if those are your concerns, you don't need party status.

1 MS. LEISNER: But I think that in terms of this  
question whether or not the lawyer for those individual homeowners  
actually represents the entire neighborhood, I think he's right, that he  
knows he doesn't and there's a lot of other people who have a lot of  
interest and that you should know that as well.

6 CHAIRPERSON REID: Well, that's in regard to the  
cross examination aspect of it, if you have questions, and we were just  
allowing the --

9 MS. LEISNER: No, I understand that.

10 CHAIRPERSON REID: -- the --

11 MS. LEISNER: and it may be that the point we have  
to assume is that everybody else in the neighborhood has to funnel  
their questions through the ANC.

14 CHAIRPERSON REID: Well, everybody, everyone  
else who had questions. We're not assuming that everyone else in  
the neighborhood will be here to ask questions. Some people just  
want to make a statement on the record, and listen to the full case as  
it's being presented.

19 VICE CHAIR KING: And, you know, when in the  
course of -- I mean first the proponents put on their case and then we  
have the government report, then people testify in support and then  
people testify in opposition, and then the applicants come back again.  
It would be extremely unusual if this panel of members of the Board  
didn't raise any, again with the applicants, any issues that were  
unresolved in everything that went before during that final summation  
because we need all of that information in order to make our decision.

So there are lots of ways that questions get answered. I mean I'm famous for interrupting in the middle of a presentation to ask for clarification.

4 MS. LEISNER: I think that's helpful for a lot of people who have been inquiring about whether or not they're supposed to ask for party status, but I think we probably won't, and instead we'll just hope that there is enough illumination in the process that -- 8

9 CHAIRPERSON REID: That's the whole idea.

10 MS. LEISNER: Okay, thank you.

11 VICE CHAIR KING: Because I mean when people testify as individuals either in support or in opposition, they can request that the Board ask questions of the applicants during the summation of the proceedings.

15 MS. LEISNER: Thank you.

16 MS. NELSON: Could I make a statement to Margaret Leisner's point? I think that many, many people in this room exactly mirror what she said, that is that we are concerned about the whole greater cathedral. We're not necessarily opposed or in favor of this, but that we are part of the whole neighborhood and feel very, very close, well in what we can do for the cathedral and what the cathedral can do to us or with us. And so if you could just ask for a show of hands I think that Margaret's position is one that many people in the room share.

25 CHAIRPERSON REID: Excuse me, a show of hands for?  
26

1 MS. NELSON: Margaret was saying that there is a group of people that have a larger interest in the whole cathedral master plan, etcetera, not just this, and not just this part. And that if you just had a show of hands, you would get a sense of the fact that there are people here that feel very closely related to the cathedral and are concerned about this, but also concerned about other issues.

7 VICE CHAIR KING: Well, just because things aren't complicated enough, and when Margaret Leisner raised the question of the master plan, there is in our documents a request that we ask the Zoning Commission to impose upon institutions such as the National Cathedral the requirement that they put forward a program "Campus Plans" just as we require that of universities. And I'm not sure, I would be interested to hear from someone like Mr. Parsons who is seasoned in matters like this or our director or Mr. Bastida, if there is some kind of precedent for this and how this all fits into this particular case.

17 MD. PRUITT-WILLIAMS: Excuse me, Madam Chair, before you go to that question, there are still about three people who are not represented by Mr. Burger -- I'm sorry, Mr. --

20 MR. DERNOGA: Dernoga.

21 MD. PRUITT-WILLIAMS: -- Dernoga, who have requested party status.

23 CHAIRPERSON REID: in writing --

24 MD. PRUITT-WILLIAMS: Yes.

25 CHAIRPERSON REID: -- or are they here?

26 MD. PRUITT-WILLIAMS: I don't know, that's what I

wanted to find out.

2 VICE CHAIR KING: Excuse me, Madam Director,  
even though it may be out of sync, I mean it seems to me that what  
we're dealing with is the question of those people who have said what  
their interests are interested in is not just this particular case, but the overall master  
plan for the cathedral close and the enormous piece of property --

7 MD. PRUITT-WILLIAMS: Well, I understand this case  
is -- 8

9 VICE CHAIR KING: -- and I would like to have some  
feedback from Mr. Bastida or Mr. Parsons as to, is there any  
precedent or impasse on an institution like this, the requirement that  
they submit a ten year plan or something like that?

13 COMMISSIONER PARSONS: No. The only  
regulation that requires that is the university.

15 VICE CHAIR KING: The university college campus  
plans? 16

17 COMMISSIONER PARSONS: Right. Or somebody  
who is developing in R-5, but R-5 which --

19 MR. BASTIDA: 8.

20 COMMISSIONER PARSONS: -- A. This is R-1, is it  
not? 21

22 MR. QUIN: R-1-B.

23 COMMISSIONER PARSONS: So no there is no way  
we could impose that.

25 VICE CHAIR KING: But I mean what is in our papers,  
you've no doubt saw it, was a request that we ask the Zoning

Commission to institute such a --

2 COMMISSIONER PARSONS: Well, we can always  
do that, but not in a sense that we would continue this case until the  
Zoning 4-

5 VICE CHAIR KING: No, no, I understand that. But I  
mean that is an option that we had or that you as the Zoning  
Commission representative could take back to the Zoning  
Commission and go through the whole elaborate process of  
rulemaking that would require large institutions such as this who are  
not colleges or universities to go through a campus plan or a master  
plan kind of operation, is that correct?

12 COMMISSIONER PARSONS: I'm sure by the time  
we get to the end of this case I'll probably be properly persuaded.

14 MR. BASTIDA: There is a further step, the person  
whose report is requesting a master plan process can request that  
right to 6-

17 VICE CHAIR KING: You mean the cathedral could  
request it itself?

19 MR. BASTIDA: Well, they can either request it or  
some of the neighbors can request that.

21 VICE CHAIR KING: Go in --

22 MR. BASTIDA: Directly, directly.

23 VICE CHAIR KING: -- directly instead of coming  
through us.

25 MR. BASTIDA: That's their choice, what Mr. Parsons  
has said is correct. I was just trying to explore exhaustively all the

possibilities.

2 VICE CHAIR KING: Okay, so that those people who are interested in the master plan and want it to be an integrated operation under District regulation and laws and so forth can go directly to the Zoning Commission to request that that be imposed upon. It would presumably not be just on the National Cathedral but, you know, there would have to be some definition of the size or shape or something of the institution that was required to have.

9 MR. BASTIDA: That is correct.

10 MR. DERNOGA: My clients had a concern now the issue is raised about the Neighborhood Association not being a party that any documents that may have been filed under that name, will they still be valid documents in the file?

14 COMMISSIONER PARSONS: Yes.

15 MR. DERNOGA: Okay, I just wanted to clarify that.

16 MD. PRUITT-WILLIAMS: There is also two other people - I'm sorry.

18 CHAIRPERSON REID: Can you call their names out please?

20 MD. PRUITT-WILLIAMS: That's what I was going to do. Barbara Taft, Charles and Helen Steele, Cathy and Thomasina Briggan, and Serele Noremsef. They're all under Mr. Burger's, but I stand by they are not represented by the attorney, so I wanted to be sure.

24 MR. BURGER: Well, Madam Chairman, the delay in the proceeding this afternoon I'm afraid has led some parties to leave the hall. Serele Noremsef for example is one of those. So I think their

intention was to be on that list, but they are not here --

2 MD. PRUITT-WILLIAMS: Well, there is a list in your  
file. I mean this is where I got it --

4 MR. BURGER: Yes.

5 MD. PRUITT-WILLIAMS: -- there is a list that they  
requested policy status and stated their reasons why.

7 CHAIRPERSON REID: All right.

8 MD. PRUITT-WILLIAMS: You still have to grant it on  
them and then they can I guess join, if they'd like, either join with an  
agreement or their attorney to represent them, but he doesn't have  
that agreement yet.

12 VICE CHAIR KING: Are they located on Woodley?

13 MR. BURGER: Woodley on 34th Street.

14 MR. BURGER: And they are also affiliated with your  
association?

16 MR. BURGER: Yes.

17 CHAIRPERSON REID: Oh, okay, then we can  
handle their request as we did the other, when they submit their letter  
-- 19

20 MD. PRUITT-WILLIAMS: They have submitted a  
letter. 21

22 CHAIRPERSON REID: No, no, no, to change things.  
Remember now we don't have --

24 MD. PRUITT-WILLIAMS: So they resubmit a letter  
with these people's names on there?

26 CHAIRPERSON REID: -- exactly.

1 MR. DERNOGA: For me to represent them?

2 MD. PRUITT-WILLIAMS: Yes, that's my question.

3 MR. DERNOGA: If my clients don't object to it, you  
know, just a conflict of interest question, I presume we don't have a  
conflict<sup>5</sup>but --

6 MD. PRUITT-WILLIAMS: And we can't make that  
decision<sup>7</sup>.

8 MR. DERNOGA: -- somebody would have to --

9 CHAIRPERSON REID: These are the workers who  
are affiliated with Mr. Burger?

11 CHAIRPERSON REID: It's now been determined that  
your association -- parties, so now you are a group or organization  
and have an attorney who --

14 VICE CHAIR KING: Was not an organization.

15 MD. PRUITT-WILLIAMS: A group of concerned  
citizens<sup>16</sup>who have hired an attorney to represent your needs.

17 CHAIRPERSON REID: And so the question that  
would be<sup>18</sup>ask routinely by the other persons who have submitted their  
letters<sup>19</sup>with you would then join this group that would formulate and be  
able to<sup>20</sup>ask questions through the attorney I suppose.

21 MR. BURGER: Would they be willing to be  
represented by the attorneys when --

23 CHAIRPERSON REID: Well, that, but also whether  
or not<sup>24</sup>the attorney can or will represent them in the cross examination  
segment<sup>25</sup>.

26 MR. DERNOGA: I got this law changed in Prince

Georges County.

2 CHAIRPERSON REID: Well, can you work on it in  
the District? That would be helpful.

4 MR. DERNOGA: Mr. Quin is correct, but  
unfortunately it creates more problems than it's worth. I will, you  
know, my clients, existing clients, will, you know, I'm sure they would  
like those people to all be together and join in. I mean the National  
Cathedral Neighborhood Association still exists, it's just not a party,  
you know, so I don't think we need to split too many hairs over that.

10 CHAIRPERSON REID: Okay.

11 MR. DERNOGA: But the thought that I have at the  
moment is it's getting on 6:00 o'clock, my clients had said, while we  
were waiting for the other two cases, it's really a bad idea as far as  
we're concerned, and we're just really opposed to going forward with  
the substance of the case under this type of setting where there is  
going to be a brief presentation, some of the Board members have to  
leave, then it is going to be disjointed, brought back later for another brief  
presentation and it's going -- we believe that the wisest and the fairest  
thing for the people who are closely, the closest neighbors, the most  
affected, is to set this case in for a full time frame and have the whole  
case heard in context.

22 During the intervening time, we'll straighten out who I  
represent. I mean I think I know who I represent now, in terms of  
other people and getting them covered, you know, we can clear that  
up. And I think a couple of points that my clients made in the interim,  
the desire of the cathedral to coordinate its construction plan, the one

construction plan that they're talking about is a 90 day, a relatively brief construction plan, this project is a year and a half to two year construction process. It's really apples and oranges, and regardless of what happens, we're not going to finish tonight.

5 CHAIRPERSON REID: No.

6 MR. DERNOGA: This thing will have to be continued anyway, and it would be best to do it in a coherent fashion.

8 And in addition, my clients have made the point, I mean this has been a freight train rolling down the track, the people, as you've heard, there's a lot of people who showed up here today who don't feel that the ANC is representing their interest in this particular case. There are concerns they have that have not been addressed. It is our position that the cathedral has not attempted to engage in a dialogue with the most affected people. And those affected people have asked on several occasions to enter into a dialogue, you know, a real discussion about the issues. In the intervening time --

18 MR. QUIN: Madam Chairperson --

19 MR. DERNOGA: -- in the intervening time--

20 MR. QUIN: -- let me just interrupt one second.

21 MR. DERNOGA: -- you can respond to that, but if I could finish. In the intervening time --

23 MR. QUIN: Well, I wanted just to make sure I understood what you were saying, because right now, as I understand it, there is no request for party status, and you can make all the arguments you wish when your time comes for your case. Right now

we are trying to get the preliminaries out to identify the parties and then to move forward.

3 I happen to agree with Mr. Dernoga, at this stage it would be a mistake to start our presentation, and so I'm prepared to --

5 CHAIRPERSON REID: Yes. Please, there should not be that kind of sound noise coming from the audience.

7 In the lateness of the hour, and again we apologize for the fact that the early morning case was delayed, and it's a very lengthy case as this one is obviously going to be, and that it took a large amount of time just establishing party status, but it gives you some idea as to the length of this case.

12 I agree with both counsel that at this point it would probably be best that we commence the case fresh on --

14 MR. QUIN: The 14th, right.

15 CHAIRPERSON REID: -- the given date, the 5th of May, starting --

17 MD. PRUITT-WILLIAMS: 14th?

18 CHAIRPERSON REID: Of April --

19 MD. PRUITT-WILLIAMS: 14th of April.

20 MR. DERNOGA: Yes.

21 VICE CHAIR KING: No, I'm not going to be here.

22 MD. PRUITT-WILLIAMS: I understand, but they decided that they could go on.

24 VICE CHAIR KING: I move that we do it on the 4th of May starting at 11:00 o'clock in the morning.

26 MR. DERNOGA: Madam Chair, I and some of my

clients have a conflict on the 14th and would prefer that this would be in May.2 We discussed --

3 CHAIRPERSON REID: May 5th?

4 MR. DERNOGA: -- what our schedules permitted

5 CHAIRPERSON REID: That's what I thought we had said, and I think everyone was in agreement with that.

7 Mr. Parsons, had you cleared your schedule to see whether or not you could be present then?

9 COMMISSIONER PARSONS: On the 14th, yes.

10 CHAIRPERSON REID: What about the 5th of May?

11 VICE CHAIR KING: The 5th of May --

12 COMMISSIONER PARSONS: Maybe we just booked for somebody else.

14 VICE CHAIR KING: No, we have a meeting in the morning. We will start at 9:00 o'clock, so that we can dispose of everything by 11:00 and devote the rest of the day to this, it's a regular meeting.

18 CHAIRPERSON REID: Can you make that?

19 COMMISSIONER PARSONS: I don't know.

20 CHAIRPERSON REID: You can't call --

21 COMMISSIONER PARSONS: We didn't establish May 5~~th~~.

23 MR. QUIN: We established, the date that was set was April the 14th for a continuation date. That's what you said earlier.

25 CHAIRPERSON REID: Okay, all right, then let's go back to April 14th. Did you just say that that was a conflict for you?

1 VICE CHAIR KING: yes.

2 CHAIRPERSON REID: Had we established it  
already?

4 COMMISSIONER PARSONS: It was still being  
kicked around. I think we were talking about a half day at that point, a  
carryover session.

7 MD. PRUITT-WILLIAMS: No, actually the April 14th,  
it's not part of the regular BZA sequence, and that's why it could be  
given a full day. If it comes on May 5th, we have a meeting in the  
beginning and then you could start after that. May 5th is the first BZA  
day in the regular sequence that is available.

12 MR. BURGER: Madam Chairman, I think a brief poll  
of our actual members suggest that April 14th you're going to be a  
number of us absent that  
day -- 15

16 MR. QUIN: On the other hand we can say May the  
5th. Mr. Thompson has just indicated that he's going to be out of the  
town for the federal government on that date.

19 MR. THOMPSON: Out of the country.

20 MR. QUIN: Out of the country.

21 MR. BURGER: I apologize.

22 VICE CHAIR KING: What's the next date after May  
5th? 23

24 MR. QUIN: No.

25 CHORUS: No.

26 MR. QUIN: -- the 14th for the rest of them, the

original thinking.

2 VICE CHAIR KING: Yes, but the --

3 CHAIRPERSON REID: April 14th --

4 VICE CHAIR KING: -- that we've gotten through is  
what we're going to get through today?

6 CHAIRPERSON REID: Yes, April 14th was the day  
that we set for, I think it was 9:30 to begin.

8 MR. QUIN: Right.

9 CHAIRPERSON REID: If in fact there are persons  
who are unable to attend, the people who are concerning for the  
opposition or support of, then perhaps they could submit their  
testimony to be proffered to us by other persons who are on their  
particular side of this particular issue.

14 So are we in agreement with that, April 14th at 9:30.

15 MD. PRUITT-WILLIAMS: Okay.

16 MR. DERNOGA: Thank you.

17 CHAIRPERSON REID: Now, one other thing, and  
that is in the interim, honestly the reason why we have such a full  
house and this is so lengthy, is because of the degree of the  
differences between the two sides, if in the interim you could kind of  
get together, talk and see if you can reconcile some of the differences  
and determine if in fact there is some mutual meeting point that you all  
can get to, to present. Coming in here and having a long lengthy  
drawn out case, we find that when that happens, when the two sides  
get together and talk, that invariably they find that there are some  
differences that can be ameliorated rather easily just from the

communication aspect of it. We always like to see that.

2 MR. QUIN: Thank you, Madam Chair.

3 MR. QUIN: We have no problem with that, but I  
should state that I've never had a case that's had more outreach than  
this case. We had three meetings on the ANC alone. So we will  
again try to move forward.

7 CHAIRPERSON REID: It would have to come from  
both sides.

9 MR. QUIN: I agree, it has to come from both sides.

10 CHAIRPERSON REID: Ms. King, any comments?

11 VICE CHAIR KING: No. I of course will not be here  
on the 14th.

13 BOARD MEMBER GILREATH: Well, I have a  
question. Some of the persons in the audience mentioned they were  
not truly concerned or mainly concerned about this particular project,  
the larger picture and the master plan and so forth. Our responsibility  
would be simply we don't have to poll for a master plan, we have to  
focus on the merits of this project.

19 CHAIRPERSON REID: Right, what is before us.

20 BOARD MEMBER GILREATH: And those people  
who said they wanted to ensure interest, they're still free to bring up  
the master plan aspect, but we won't have any way to relate to that as  
I understand it, is that correct?

24 CHAIRPERSON REID: -- in our purview.

25 VICE CHAIR KING: Any reference to the master plan  
would be inappropriate or out of order in this case because it doesn't,

it's not before us.

2 BOARD MEMBER GILREATH: Well, several of the  
persons mentioned that, and it just occurred to me that we really can -

- 4

5 VICE CHAIR KING: And I've already --

6 BOARD MEMBER GILREATH: -- respond to the  
master plan part --

8 VICE CHAIR KING: -- spoken about it and all the  
recourse to the Zoning Commission ought to  
be -- 10

11 BOARD MEMBER GILREATH: -- okay.

12 MD. PRUITT-WILLIAMS: I'd also just like to state that  
you will not get another notice in the mail, this will not be re-  
advertised, so please put it on your calendars. This is going to be  
your only notice.

16 MR. QUIN: And we have filed, a affidavit of posting  
we have filed --

18 MD. PRUITT-WILLIAMS: Right --

19 MR. QUIN: -- I just want to make certain that's in the  
record 20

21 MD. PRUITT-WILLIAMS: -- just for the record we  
have that you have filed an affidavit of post.

23 CHAIRPERSON REID: And any other person that  
you feel should be here or have interest in being here, please let them  
know because we will not, as Mr. Pruitt-Williams has stated, not be  
giving any further notice. 26

1           Okay, is that it?

2           MR. QUIN: Thank you very much.

3           CHAIRPERSON REID: This hearing is adjourned for  
today. 4

5           (Whereupon, at 6:00 p.m., the hearing was  
adjourned.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20