GOVERNMENT OF THE DISTRICT OF COLUMBIA

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

HISTORIC PRESERVATION REVIEW BOARD

PUBLIC HEARING

Thursday, September 23, 2004

Room 220 South
441 Fourth Street, N.w.
Washington, D.C. 20001

The Board convened the hearing on the subject matters, pursuant to notice, at 10:10 a.m., with Chairman Tersh Boasberg, presiding.

BOARD MEMBERS PRESENT:

GAIL S. LOWE
ANNE LEWIS
KATHY HENDERSON
ROBERT SONDERMAN
RONNIE W. McGHEE
AMY WEINSTEIN
JACQUE PATTERSON
JAMES S. KANE
DENISE JOHNSON

STAFF MEMBERS PRESENT:

LISA BURCHAM
TIMOTHY DENNEE
STEVE CALLCOTT
DAVID MALONEY

C O N T E N T S

AGENDA ITEM PAGE

1. Consent and Denial Calendars; Approval of Previous Meeting's Minutes 6

2. State Historic Preservation Officer's Report 8

OTHER CASES DELETED

BZA
Case No. 17349
Exhibit No. 46

Board of Zoning Adjustment
District of Columbia
CASE NO. 17349
EXHIBIT NO. 46

10. **Takoma Park Historic District**
235 Carroll Street, N.W., HPA
No. 04-184, revised concept/
new construction 317

6919 Sixth Street, N.W., HPA
No. 04-451, demolition, subdivision,
revised permit 326

CHAIRMAN BOASBERG: This is the District of Columbia Historic Preservation Review Board. We meet once a month and this is the meeting for September.

With that, are there any other procedural matters dealing with the Consent Calendar? Any other requests for postponement or change?

[No response.]

CHAIRMAN BOASBERG: Then if there is not, I'll entertain a motion to adopt the Consent Calendar.

CHAIRMAN BOASBERG: All in favor signify by saying Aye.[A chorus of Ayes.]

CHAIRMAN BOASBERG: Then the Consent Calendar is adopted with the addition of 1813 Kenyon Street, Northwest and the removal of 925 North Carolina Avenue, which will be heard on the 30th.

Okay, then what I would like to do is ask the status of our preservation officer, Ms. Lisa Burcham, if she might come forward and give us her monthly report.

MS. BURCHAM: Good morning to all and it's good to see you all again.

TAKOMA PARK HISTORIC DISTRICT

235 Carroll Street, N.W.
HPA No. 04-184

CHAIRMAN BOASBERG: Now, we are going to hear 235 Carroll Street, followed by 6919 Sixth Street. Blah ,blah

CHAIRMAN BOASBERG: You guys have done a great job and you are obviously all together on this. Is there a motion to approve the staff report?
COMMISSIONER PATTERSON: So moved.
COMMISSIONER LEWIS: Second.
CHAIRMAN BOASBERG: Is there any further discussion?
CHAIRMAN BOASBERG: All in favor so signify by saying aye.
[A chorus of Ayes.]
CHAIRMAN BOASBERG: I think everybody thanks Sass for being, you know--fourth time around. Okay, thank you, thanks community.
[Whereupon, the public hearing on the matter concluded.]

TAKOMA PARK HISTORIC DISTRICT
6919 Sixth Street, N.W.
HPA No. 04-451

CHAIRMAN BOASBERG: Okay, next case.

All right, 6919 Sixth Street, 6919 Sixth Street.

Anybody who is going to testify, fill out a witness card and give it to the reporter. Now, this is 6919 Sixth Street, Northwest. Is it in Northwest?

MR. DENNEE: That's correct.

CHAIRMAN BOASBERG: In Takoma Park. This has kind of a mixed history. What I want to do is, I want to make sure we kind of get the history straight of what is going on. A number of us have been out to the site. We have sort of seen it and we walked around the corner. So, we are familiar with it.

I know there are members of the audience who wish to testify. That's fine; this is a public hearing and you are all welcome. We have to give up the room at six o'clock and we need a little time to discuss it before that. So, I want to cut it off at around 5:30. If someone else has a major point, you say agree--because repetitive testimony is just not encouraged. So, I just ask you to kind of restrain yourselves on that point. We are always interested in hearing what you have to say.

Now, Tim, if you would kind of set the context of this---and bring us up to date.

MR. DENNEE: I guess I will go through chronologically sort of the occurrences as I recall them and from my point of view.I guess we begin with the fact that what appears to be the rectangular lot on Sixth Street is actually two lots. There is one fronting the street and then there is one behind it. They are the same width. This did not come to light immediately. So, I guess that is where we begin.

Now, this project came to the board previously as a concept review for a rear addition. It is a one-story bungalow with an attic and the board reviewed a rear addition, which was deeper than or longer than the original main block of the house.

And, sir, I wrote the staff report and I thought that was justified in that situation, given the visibility of the house from public space and in the interest of avoiding, well, demolition of the house or otherwise modifying it so dramatically. The initial proposal to our office was putting a second story on the building. I said the board would never give that serious consideration.

So, as I said, the board did review and you have drawings there of the original iteration of the rear addition.

The applicant got conceptual review and then had working--well, had permanent drawings prepared and contacted me saying he wished to have his--you know, he wanted to make an appointment so that I could look over his working drawings and appeared in our office and, at that time, showed me the drawings.

It turned out that, the addition was longer than what the board had approved. Now, I did approve this addition. At the time, I recall him telling me that it was six feet longer. I honestly didn't scale it. It actually is seven and a half feet longer, to be exact about it.

It was not--the way I characterized it in the report, it was not entirely fair to either Mr. Taylor or myself, because it was not simply I want to make it longer than you guys saw it and I said, oh, gee, okay. It was really that--it was probably based on zoning calculations and I'll get into that later and probably erroneous ones.

The trade off was that the addition itself would get longer, deeper at the expense of a large deck that had been on the back of the house and had been approved. So, I guess Mr. Taylor will probably tell you that he recalls me sort of very begrudgingly granting that modification.

But what else became apparent at the time, but not fully apparent was, I, of course, knew that there was a hill. There is a drop in grade at the rear of this property, which actually put it on the second lot in the far back portion of the property. And I had somewhere along the line told him, you know, your drawings really have to take into consideration this change in grade. So, when I did get the permanent drawings, they do show a change in grade at the rear. I mean, you can compare them up there.

But as I think you will see from the photographs that are now, that are taken from neighboring properties across fences at the rear of Mr. Taylor's property that, the grade is actually much steeper than what is suggested by the drawings. It really, at the rear of the garage and at the rear of the present construction, it really drops off at a very steep grade. So, I don't think the drawings really showed that terribly accurately.

Construction got underway and there were complaints about the addition, as it was being constructed. This led to--you know, some of the neighbors were exploring the whys and wherefores of this addition. It also led to a discussion of the zoning issues involved here.

It did come to light that it was, in fact, two lots and they had not been subdivided as would be required before construction straddled the property lines. It also came to light that the zoning--apparently, this had been approved under zoning with the understanding that the garage would be demolished for the reason that, with the garage and the new construction, that the entire construction was over the

allowable lot coverage or lot occupancy in this zone, which is 40 percent of the total lot. That is assuming that they are subdivided, too, consolidated.

So, from that point, the applicant has now come back to us to try to rectify these issues by instead of modifying the addition, asking for a raze now of the garage. As the staff report in the original case pointed out, the garage is sort of an important feature. It is worked into the design and now it is an integral feature of the design. It abuts the property and I think it really does, fairly effectively, screen views and sort of break up the massing as you are sighting along the side of the house, looking at the addition.

So, between that and the foreshortening and the, you know, nearby structures and trees that, at least from the Sixth Street side, it really minimizes the mass of the addition. So, the staff really believes that it is important to keep this garage now.

The applicant also--you have a copy of the cover sheet of the application, the permanent application. It also acknowledges that the permit is to rectify the variances--I don't mean zoning variances, but I mean the variances between the drawings and the actual site conditions, including the increased height because of the changing grade, changes in window openings, windows, you know, number and size or exact location of windows differing from earlier drawings and the like.

So, hopefully, that is--I'm happy to answer questions. Oh, but let me get down to sort of recommendations.

I calculated out the lot coverage myself, going to the nearest half foot off the latest drawings we had, which you have there. Assuming now that the construction matches those, what would be required to get the building back into compliance with the lot coverage under Zoning, while keeping the garage, would be bringing the rear wall of the house forward 7.2 feet.

I realize the copy of the report that went to you said something different, because I must have made a keying error when calculating the garage thing. But it is 7.2 feet, which actually puts the wall right back where the board approved it in the first place, at the rear of the garage.

CHAIRMAN BOASBERG: You had said nine and a half feet. Now, it's 7.2.

MR. DENNEE: Yeah, I said nine and a half, yeah.

MR. DENNEE: It's 7.2, right.

CHAIRMAN BOASBERG: So, this comes to us on a permit to subdivide, i.e., to put the two lots together, which he never had permission to do before. And he wants to raze the garage in order to come within the zone occupancy--but that garage had become an integral part of the board's approval before it does offer shield. Then he wants to revise his permit to account for the additional five. In other words--what should have happened before is now after the fact.

MR. DENNEE: In order to ratify what has actually been constructed.

CHAIRMAN BOASBERG: Okay, thank you.You have had a chance to talk with Mr. Taylor about this?

MR. DENNEE: Well, we have talked many times, sure.

CHAIRMAN BOASBERG: He disagrees with this?

MR. DENNEE: Well, I think it is certainly understandable at this point that, he would like to explore his options before tearing down a piece of his building.

CHAIRMAN BOASBERG: Okay, all right.

Now, we will get--we will let Mr. Taylor talk and then I know there are members of the community here and we will have opportunity for members of the community, first, the organized groups and then the individual members of the community to discuss this. Again, let's not be repetitious. Mr. Taylor?

MR. TAYLOR: Yes, sir, good afternoon.

To piggyback on what Mr. Dennee said, I did have a conversation--well, several conversations before this project got started, let's see, to address the issues of subdividing the lots. I wasn't aware of it at first. Obviously, when I applied for the permits, DCRA explained to me that I would have to subdivide it. They walked me through the procedure. They said, however, we will not hold up your permits and they stamped--and I have a copy of that. They stamped my drawings and my permit application and said I would be allowed to proceed.

I did submit the mylar copy to the mortgager and that took a few months to get back and it was kind of difficult to find, get the gentleman's name and Citibank. It went out to Citibank a few times. It came back to me and went out again. I was able to locate the gentleman, the trustee and he did sign off on it and you should have a copy of that.

I did make an attempt to walk that subdivision through Historic Preservation. There are a couple of other places. I think it is the Department of Taxation and Finance that has to sign off on it also. So, I did make that attempt. I was stopped by or I was flagged by Historic Preservation who said, well, we just can't--normally it is a sign off. We would sign it off, but because now it is an issue, we have to send it through the review board. So, my hands were tied on that.

I didn't intentionally--I didn't slow down the process at all. I did what was asked of me and basically that was that.

When I initially asked--again, I did approach Mr. Dennee for permission as to how to proceed with an addition to the second story.

Mr. Dennee referred me to Bonnie Moss of Historic Takoma, Inc. That's where I went.

On August 8th of last year--excuse me, I'm sorry. It was September 5th last year, I had a meeting with Historic Takoma. Bonnie Moss and I submitted plans, conceptual plans for a second story addition to the rear of my home. I was told that a second story would not be acceptable. They indicated to me that a one-story addition would be.

In fact, at that meeting, that's where I met Ms. Faith Wheeler for the first time or Commissioner Wheeler for the first time, as I was leaving the meeting at 808 Aspen Street. No one mentioned to me that I should meet with any other organization.

A day or two later--excuse me--about a week later, I submitted plans to the Historic Preservation and I spoke with Mr. Dennee--oh, I'm sorry. The second story addition plans were rejected as well by Mr. Dennee. I resubmitted the plans September 22nd to Historic Takoma for a one-story addition to the rear and they accepted the proposal.

October 3rd, I resubmitted plans to DCRA as well as Historic Preservation and the plans were placed on the calendar for review by the Historic Preservation Board. I received approval for those plans October 28th. That's when I was told the board approved it.

Again, when I initially met Mr. Dennee with this project, he asked me to do three things. First, cooperate fully with Historic Takoma and that is what I did. It was not my idea to go out to the real [sic] with my addition. I was told that was the only thing they would do. If they had told me none of this would have been approved, I would never would have took this on. Trust me, I didn't plan for any of this.

So, I followed his suggestions and his instructions. He asked me two other things he asked me not to do; don't touch the windows and don't touch the doors without discussing that with us. So, again, I followed those instructions. I believe I followed it to the letter.

I addressed the issue of the subdivision. You know, when I first purchased the property in August, I met with my next door neighbor, Joe Harris, for the first time. He congratulated me on the purchase of it. I explained to him what my plans were for it.

The first thing I did with the property was, I spruced up the front. I kept mister--I mentioned to Mr. Harris that, yeah, we are eventually going to go out with the addition. Historic Takoma wouldn't approve the second-story addition and, you know, he congratulated me again.

The other neighbors--and I see them in the back of the room here--it's not like I don't know them. These are the people who approached me almost on a weekly basis. Congratulations, you're doing a fine job.

I didn't have any problems until, I believe, it was the second week of May. It was right before the stop work order was given. I spoke with Mr. Harris. Let's see, I believe it was May. The stop work order was given the 14th of May. So, that was a Friday. So, it was a Tuesday, because we had building inspectors out there Monday.

I talked with Mr. Harris, my next door neighbor and I asked him--he seemed to know what the--he's been there for a number of years and I felt he knew the neighborhood a heck of a lot better than I did. I mentioned to him that I had quite a few unscheduled visits from building inspectors. I know by law I was allowed to start work at seven o'clock, but I would start work at 7:30, quarter to eight, eight o'clock. I felt I was doing everything I could do to appease the neighbors, not to cause a problem.

When I spoke with Mr. Harris, you know, I was concerned. I said, listen, I'm having all of these unscheduled visits from the building inspector. Is there something that--did we tick off a neighbor or something like that? Is there something I am not doing right? Can you, you know, let me know. And he says, yeah; he says I know you had building inspectors, because I called them.

And I asked why and he says, well, I just want to make sure you're doing everything to code. I said, well, okay, thanks a lot.

Then he did mention to me that he had a concern about the addition. He said his concern was now that I--because you have an addition, it's gone out so far. You can now look into my rear yard. And he said, now, I have to plant trees to screen it. From that point on, things kind of went downhill.

Let me just think. That was a Tuesday. So, Wednesday, Thursday, Friday I got a stop work order and I spoke with--or at least, I attempted to speak with Mr. Harris and every time I called, at that point, I met--

COMMISSIONER McGHEE: A stop work order for what?

MR. TAYLOR: A stop work order--I didn't understand it at first. It just had a bunch of numbers and codes on it. I had no idea. I had to hire a consultant just to figure out what it was. But when I did go downtown, I was told that it was over the occupancy.

I tried to meet with a Mr. Denzel Noble and actually I made an appointment with him. When I did show up for the appointment that following Monday, he referred me to another gentleman. I believe he was a deputy director and he explained what the problem was.

On Monday, when the inspectors were out there, they were measuring. They did explain to me that there was an overage. They explained to me what that was. They also explained to me there is a very simple

solution. When I asked what the simple solution was, they--she explained to me that you can tear down a part of your garage to come into compliance.

I said, I hate to do that and she says, but are you willing. I said, yes, I am willing to do that if it will bring me into compliance. She says, well, fine. We don't have to give you a stop work order. I said, well, what do you mean, give me a stop work order? She says, yeah, well, we can stop you, because you're out of compliance. But because you are willing to come into compliance--and I got a couple of issues on this property. Her name is Faye.

She explained to me, she said, well, what I can do is, I can do a compliance letter and I can give you 30 to 60 days to come into compliance. I was out of town. I was on my way out of town the following week, so what I asked for--she said, the first thing I will do first thing tomorrow morning is--that was on a Monday. So, I guess, I'm assuming that was the 11th of May.

I will speed it up a little bit.

She stated to me that, I got to get this off my desk. I'll send this letter to you. Sign it, send it back to me and you will be in compliance. You will have 30 to 60 days to come into compliance. I was on my way out of town a week later or, at least, I was scheduled to and she stated to me--oh, I explained to her. I said, why don't you just fax it to me, you know, just in case the U. S. Postal Service doesn't come through. She says, fine, that's what I'll do.

For a couple of days, I didn't hear from her and I left her several messages. She didn't call me either. I never received nothing, fax or otherwise. Friday, someone, a building inspector paid me a visit and I explained to him. Well, listen, you're a little early. And the woman says to me, the inspector says to me, she says, early for what? I said, well, you're here for the framing inspection, aren't you and she said, no, sir. I'm here to give you a stop work order.

CHAIRMAN BOASBERG: Okay, let me ask you one question. The drawings were not accurate that you originally submitted to get the plans? Otherwise, you wouldn't be correcting them. So, they were not accurate?

MR. TAYLOR: What do you mean accurate, in what sense?

CHAIRMAN BOASBERG: They didn't say what the grade was.

MR. TAYLOR: Well, yes, there was a problem with the grade.

CHAIRMAN BOASBERG: Okay, okay, that's all I want to know.

MR. TAYLOR: The difference was about--excuse me--12 to 14 inches at one point in the plans. It was just the rear.

MR. DENNEE: Mr. Chairman, if I may, I will just add one other thing. Whatever my instructions, according to Mr. Taylor were, my main instruction from him was to talk to his neighbors,because that was significant. He did tell me that he had discussed it with the next door neighbors.

CHAIRMAN BOASBERG: We understand there is a dispute. It's unpleasant. He needs this like a visit to the dentist, but there is a little self-infliction here.

MS. GERSON: Yes. Hi, Mr. Chairperson and members of the board. My name is Samara Gerson. I'm an associate with the law offices of Griffin, Farmer and Murphy and I represent Mr. Taylor. Going to the issue of the change in plans, the plans that you have that show--they are the two-page plans, correct?

MR. TAYLOR: Correct.

MS. GERSON: They are the revisions and these are what we consider to be the final plans for the grading on the building, also for the windows and what is coming in--

CHAIRMAN BOASBERG: The plans that were submitted to get the permits were not accurate; right, counsel?

MS. GERSON: As far as the grade goes, correct.

CHAIRMAN BOASBERG: Is there anything else you wanted to add on that? What we are all saying here is that, all of this work was done based on a faulty plan. So--

MS. GERSON: Kind of. We're not saying all this work was done based on faulty plans. We are saying the work that, after the fact it was noticed that it wasn't in zoning compliance. The grade matter doesn't have to do with the zoning compliance here.

CHAIRMAN BOASBERG: We are understanding that. The point is, we approved this large addition. Mr. Dennee approved the extension based on faulty information. That is what everybody is objecting to.

MS. GERSON: Okay.

CHAIRMAN BOASBERG: Let me get the other testimony. You stay right near by and you can--

MS. GERSON: Before we listen to the other testimony, I would just like to say something--

--about the garage and its historic value.

CHAIRMAN BOASBERG: We know the garage is not a contributing building. The structure itself is not a contributing building. What has been alleged is that the structure is sitting in such a way that it shields the great bulk of this building from the corner and from the properties on what ever that street is around the corner. That is why it was an important element of our approval, because the extension, the addition

itself was so large, which it was just sticking out there. We probably would not have approved it. But because it was hidden partially by the garage--I take it, that was your reasoning that it was proper.
So, we understand that it is not a contributing structure.
All right, other people again, because I would like to get the rest of the testimony.
COMMISSIONER KANE: So, would I. Mr. Taylor?
MR. TAYLOR: Yes, sir.
COMMISSIONER KANE: Have you been before us before? Have you been before this board before?
MR. TAYLOR: A couple of years back.
COMMISSIONER KANE: And that project was in Mount Pleasant?
MR. TAYLOR: Yes, sir.
COMMISSIONER KANE: If I remember right, could you give me just the background for a little--just real quickly refresh my memory on that?
MR. TAYLOR: Well, it's kind of a long story.
COMMISSIONER KANE: Two seconds, because we have a short time. If I remember, there was a stop work order and that there was an excavation of the front yard of a historic structure over a weekend.
MR. TAYLOR: No, sir, that is not accurate.
COMMISSIONER KANE: Was there a stop work order?
MR. TAYLOR: Eventually, it was placed.
COMMISSIONER KANE: Excuse me, sir?
MR. TAYLOR: It was eventually placed.
COMMISSIONER KANE: The stop work--you were given a stop work order on your other project; is that correct?
MR. TAYLOR: Yes, sir.
COMMISSIONER KANE: Okay, thanks.
CHAIRMAN BOASBERG: Okay, thank you, Mr. Kane. Good memory.
Okay, groups, organized groups first and then individuals. We have about 15 minutes here and then we are going to have discussions. So, again, let's not be too repetitive. Who would like to start?
MR. HARRIS: I'll start.
CHAIRMAN BOASBERG: Okay.
MR. HARRIS: I'm Joe Harris.
CHAIRMAN BOASBERG: All right, Mr. Harris.
MR. HARRIS: The Mr. Harris that was referred to previously.
CHAIRMAN BOASBERG: Right, I understand. I don't want to get into who-struck-John.
MR. HARRIS: I don't plan to.
CHAIRMAN BOASBERG: We're talking about historic preservation. Go ahead.
MR. HARRIS: I'm speaking on behalf of neighbors who signed a petition. Do you classify that as an organized group? I can wait until the historic--
CHAIRMAN BOASBERG: I mean, even the Democratic Party is an organized group. [Laughter.]
MR. HARRIS: I'm going to be very brief because we have presented what we think are the key issues in the handout that we submitted previously. Clearly, we have some serious concerns and some differences in our views of the way Mr. Taylor has reported the set of activities.
The bottom line is, it is not about a garage. It's not about inches or feet. It's about a very large structure that has appeared in the middle of a historic neighborhood and stands out not only from the street itself and from our
neighboring backyards, but stands out from Cedar Street. I call your attention to, in our testimony, our presentation. I believe it is page 13.
Page 13 shows you a view of the structure from Cedar Street. Cedar Street is a main thoroughfare of the Takoma historic district. This is a modest view, because in a few weeks when the leaves drop, it will be even more prominent. Page 13 is a picture of the view standing on the sidewalk on Cedar Street, around the corner from the structure.
I also would call your attention to the picture on page 8, which is also a listing of some of the characteristics of what we are calling an addition, but what we in the neighborhood refer to as a three-story house grafted on the back of a historic bungalow. This is what it looks like. It is not a matter of inches in grade. It's a matter of standing about eight or ten feet above ground. If he were to go through what he promised to do in the plans, he would be walking literally on all of
our fence lines that are seven to eight feet above ground, because he will have to fill in the entire backyard to achieve what he has asked for an approval from the Zoning Commission.
Yes, we were all welcomed him to the neighborhood [sic]. Yes, we all thought it was a great opportunity, because he was appearing to renovate a house. Where we started to fall apart was when he started to add the addition. We started to fall apart as we started to see this thing grow and grow.

The differences in the windows is the difference between what he showed in the drawing and then putting in full-sized windows in the
so-called basement, which sits above ground and different placement of all the windows. He's asking you to validate what he did incorrectly by saying it's okay to change the windows, because he's already built them. They are already there in the pictures. If you look at the picture I have referred to, you see full-sized basement windows.
That deck that he was allegedly talking
about being four feet above ground, even in a reduced capacity, sits about ten feet above ground right now. That's the line. That's the line of where the deck is, right there.
The bottom line is that, it is not an issue about just this piece of property and we are very concerned that you look at it from the perspective of the impact of this precedent on our neighborhood. This is the first intrusion in an attempt in a historic district to massively change a bungalow by adding an addition that is one and a half times the size of the original bungalow and doing that in a way that shows little respect for the historic character of the neighborhood that we have all struggled to deal with and brought our houses into compliance.
Yes, we were supportive when he said he was going to put an addition on, because we thought it was like all the other additions that are pictured in our handout; that sit around that house. There is usually a bedroom or possibly a sun room, a kitchen addition. None of them are six
additional bedrooms, baths, master bedroom suites and storage rooms. None of them comprise a full house.
So, we are asking--and we agree and we support the recommendation of the staff report to oppose the razing of the garage. We would like to ask that the board also defer any decisions about the joining of the property or the changing of the windows and deal with it as one issue and that is, what is he going to do to help create an addition that complies with the neighborhood's historical character, that is not overtly visible from Cedar Street and deal with it? If you approve even the subdividing of the two properties, then that gives him the opportunity to go over and try to deal with Zoning and negotiate variances.
There is another issue. When he joined the garages--I mean, when he joined the garage to the house, he lost all of his easement or set back on the north side of the property. That is another issue that no one has raised. That's another zoning issue that has to be dealt with.
The garage sits on the property line and now the house is attached to the garage. There is no north set back on the--
COMMISSIONER WEINSTEIN: The side yard?
MR. HARRIS: No, no north side yard set back. And the south side yard set back, which borders my property is eight feet wide and it is 44 feet long from the back of the property to the back of the addition.
CHAIRMAN BOASBERG: Are you on the corner? Are you on the corner? You're one down?
MR. HARRIS: I'm on 6915 Sixth Street. The gentleman on the corner is right here.
CHAIRMAN BOASBERG: Okay.
You're on the other side?
MR. HARRIS: I'm on the other side. If you look on page--excuse me--on page 6, I'm the addition that looks like, the one on the top that looks like a Victorian version of a barn, which is what it really does look like. [Laughter.]
CHAIRMAN BOASBERG: We won't get into it, but thanks--
MR. HARRIS: Theirs is the one below there.
CHAIRMAN BOASBERG: Thanks, Mr. Harris.
MR. HARRIS: So, we thank you for your consideration of this and ask that you defer any judgements beyond opposing the razing of the garage.
CHAIRMAN BOASBERG: Okay, thanks.
The next group, yes, ma'am.
MS. GIANCOLA: My name is Alice Giancola and Joe and I prepared the proposal that you saw. I just want to make one additional statement. That is, I think some factual events were sort of--
CHAIRMAN BOASBERG: I don't want to--if we can avoid the factual events, that would be helpful.
MS. GIANCOLA: Well, let me just put it this way. When I start to investigate the property and the reason the stop work order was brought, I found out that it was, indeed, too lots that had not been subdivided. I called the zoning administrator. She was not aware of that fact. I tracked all this down.
Mr. Taylor had taken out an application to subdivide the lots, but he had never completed the--he had taken it out in January. I have copies of all of this at home. I didn't think we were going to have this kind of testimony, but I just wanted to state that his version of the events are not quite accurate and I do have facts to prove that--
CHAIRMAN BOASBERG: We understand. There will be a disagreement over this. Let's get back to the design. Yes, ma'am.

MS. GIANCOLA: Okay.
MS. PEARSALL: My name is Elaine Pearsall, Vice President of Historic Takoma. I just want to say that we very much support the neighborhood in their concerns, every one of them. Very quickly, we do not want to see the garage demolished. We think it is premature to join the lots at this time. We think there are far too many problems with this project. You must not let it go forward as it has been going forward.
We think this should come back to the board for review. This is a very complicated and controversial project in our community. It didn't have to be this way, but it has turned into this. I must say, I am somewhat amazed to hear the attorney say that it was noticed after the fact that the project was not in compliance. I really don't understand how that could happen. So, we are pretty upset about this.
I just want--I'm here to lend all of our support to the neighborhood on this. Thank you.
CHAIRMAN BOASBERG: All right, thanks, Ms. Pearsall.
We have a letter from Bonnie Moss and, I take it, you support that fully as well?
MS. MOSS: Absolutely.
CHAIRMAN BOASBERG: Thank you and thanks for the work that you do in Takoma. Thanks for coming down. You got a two-for, at least, today. Yes, sir?
MR. MITCHELL: I am Daryl Mitchell. I am he neighbor on the other side.
CHAIRMAN BOASBERG: You're on the corner?
MR. MITCHELL: My house is on the corner of Cedar and Sixth. I don't want to waste a lot of time. I agree with everything that Mr. Harris said, but I do want to add that, as the saying goes, it is better to ask for forgiveness than permission. I would hate to see him benefit from that. This thing should have been done right to begin with. A lot of things have slipped by and I'd hate to see us have to end up dealing piece by piece with these violations, when it wasn't done right to begin with.
CHAIRMAN BOASBERG: Okay, thanks, Mr. Mitchell for taking the time to come down here.
Ms. Wheeler.
MS. WHEELER: Yes, I'm Faith Wheeler.
CHAIRMAN BOASBERG: Well, you have to put your mic on.
MS. WHEELER: I'm sorry, thank you.
Faith Wheeler, ANC commissioner in this singlemember district in which the house is located.
I'm surprised also to hear that the attorney from Mr. Taylor indicated that they were not aware beforehand. Mr. Taylor--I think the drawings were done by MITA, Mr. Taylor's remodeling company. I asked him myself how long he had been in business. He said, I've been working since I was seven.
At the ANC meeting at which he presented this, I brought up the issue of the grade, the difference of grade of some eight to ten feet in the back, which was not indicated at all in the drawings that were presented to the ANC. The drawings that were presented showed a flat, level lot.
When I asked that of his representative who was presenting the case for him at the ANC commission, I asked what do you plan to do about the difference in grade and he said, well, Mr. Taylor will fill in, will back fill all of that ot. I said, oh, back then over the height of the basement windows, half the height of the basement windows or three-quarters of the way up the basement windows or what? He said, yes, he will back fill.
CHAIRMAN BOASBERG: Okay, well, that is sort of hearsay.
Do you have any disagreement with what has been presented so far?
MS. WHEELER: I totally agree with Mr. Harris and support my neighbors' position.
CHAIRMAN BOASBERG: Okay, now, Mr. Payton.
MR. PAYTON: Yes. I am affected commissioner and my singlemember district begins a block away, a half block away actually, right across Piney Branch. I would like to speak on behalf of my single--the residents in my singlemember district.
My singlemember district is extremely diverse. It includes not only the historic district, part of the historic district of Takoma, it stretches north to the border of Maryland, which
has a lot of subdivisions that are from the '50s and the '60s. My residents in my singlemember district, upon viewing this edifice, are outraged. It's across my whole singlemember district, but most of my residents are fearful that this is going to happen to them, too.
That is kind of the feeling that I wanted to express to you, what is happening in my singlemember district and how threatened people in my neighborhood feel.
I'm totally in support of what Mr. Harris said.
CHAIRMAN BOASBERG: Okay, Mr. Payton.
CHAIRMAN BOASBERG: Anybody else who has come here who has to say something that hasn't been said before?
Yes, ma'am and then we will go--
MS. BATTLE: Hi.
CHAIRMAN BOASBERG: Hi.

MS. BATTLE: I'm Commissioner Battle and I'm in support of Mr. Taylor. We voted on it about several months ago, in reference to this. And it
was agreed upon that we were in support of Mr. Taylor.
CHAIRMAN BOASBERG: Can you tell me what ANC this is?
MS. BATTLE: I am 4B09.
CHAIRMAN BOASBERG: What is the ANC that voted in support of it.
MS. BATTLE: This is ANC 4B.
CHAIRMAN BOASBERG: ANC 4B and is the house located there?
MS. BATTLE: Yes, it is.
MS. GERSON: We have a copy of the letter in support--
CHAIRMAN BOASBERG: I would like to see that letter.
Who is testifying here on behalf of ANC 4B or who is the single member--yeah, Mr. Payton?
MR. PAYTON: I would like to add--
CHAIRMAN BOASBERG: It gets confusing.
Go ahead. Obviously, the ANC is important here.
MR. TAYLOR: Yes, sir.
I would like to add that the vote for the ANC--there were two commissioners absent. There is a total of nine commissioners. So, the vote was five to two in favor of this. I would like to note that, the two commissioners who did not vote to support this were Commissioner Wheeler and myself, both the Takoma ANCs.
CHAIRMAN BOASBERG: But nevertheless, the ANC, knowing all of what had been said before--
MS. BATTLE: Yes.
CHAIRMAN BOASBERG: --had voted to support this project, right?
MS. BATTLE: Yes.
CHAIRMAN BOASBERG: And your name again is?
MS. BATTLE: Sandra Battle.
CHAIRMAN BOASBERG: Ms. Battle.
MS. BATTLE: Uh-huh.
CHAIRMAN BOASBERG: You don't happen to have any letter or anything like that from your ANC?
MS. BATTLE: No, I don't.
MS. GERSON: Yes, yes, Sandra.
CHAIRMAN BOASBERG: You do have a letter.
Okay, great, okay, I got it.
MS. WHEELER: My Chair?
CHAIRMAN BOASBERG: Yes.
MS. WHEELER: I'd like to simply make one clarification about the ANC 4B meeting at which that vote was taken. The neighbors, my constituency of my singlemember district were not present to testify at that time and the had not testified. Mr. Taylor lied--
CHAIRMAN BOASBERG: All right, well, it was a five to two vote. We will accept it for what it is. We will accept it for what it is.
Yes, ma'am.
MS. BUTLER: I'm Dodie Butler.
In this case, testifying on my own behalf, you have a letter from Planned Takoma--
CHAIRMAN BOASBERG: Right.
MS. BUTLER: --in opposition of this. You got it a week ago.
CHAIRMAN BOASBERG: Right.
MS. BUTLER: I live directly across from the Takoma Branch Library, which is directly behind this property and what I think is really stunning about the timing today is, that you had seen how Takoma can work with people who want to do things in the community. This is not a community that just tries to shut people out, refuses to work with them, tries to manipulate things and keep everything frozen in time. You can tell that by what just happened in the previous hearing.
I had to say that I'm kind of stunned to see Mr. Turner, who I had not met before, because I've seen Mr. Turner on the street all the time. I'm known as being friendly. Takoma is known as being friendly. I've never spoken with him or had eye contact. I find it remarkable that he
is--considering the building that was built, that he appears to be so unsophisticated about building practices and rules and so forth.
The people who live right around there and who are most directly affected are a very diverse and very friendly and welcoming and talented and
connected group of long term neighbors, who welcome new neighbors. That's essentially what I wanted to say. Thank you.
CHAIRMAN BOASBERG: Okay, anybody else?

Yes, ma'am. You have to come forward and we are going to lose this room--
MS. STEIN: Yes, this will be a minute. I can do this real fast.
CHAIRMAN BOASBERG: Great.
MS. STEIN: Okay, I've lived at my--
CHAIRMAN BOASBERG: You have to tell us who you are.
MS. STERN: Gail Stern.
I have lived diagonally across the street from this house for the last 34 years. It has always been a question in my mind how that house came to be there, because it is so completely different, although all the house, of course, are different, from the other houses on that street. It has been a historic, history lesson and a surprise to learn that this house was there,
because two other houses lobbed off parts of their backyards, so that house could be squeezed in there, maybe in the '20s, '30s, '40s, I'm not sure.
I think even if that house now, if this were going to happen and permission were being asked, if that house could be built now by the lobbing off of these backyards, you guys would say no.
All right, now we are down to the addition. If I came and asked you if I could build a house in my backyard and, by the way, it's going to be a house that is bigger than my house now, again, you would say, no, I don't think so. That's my perspective.
I have dealt with bringing back four houses in this neighborhood. In 34 years, I have many friends who have really made an effort and the residential area has been very supportive. We, of course, we all greeted Mr. Taylor. I mean, it was wonderful that he was going to make this effort.
If you've come to see this, you know what it looks like.
CHAIRMAN BOASBERG: Okay, thank you, Ms. Stern.
MS. GERSON: I just wanted to kind of state here that, the house, the addition here is of a comparable size square footage-wise with the other houses in the neighborhood. Plus, Mr. Taylor is willing, if he is able to raze this garage, to put up more trees in order to shade any affecting views that may possibly be a further shield--
CHAIRMAN BOASBERG: Thanks, thanks.
MS. GERSON: If I may, please.
CHAIRMAN BOASBERG: Yes.
MS. GERSON: I do ask that you consider great weight to ANC 4B.
CHAIRMAN BOASBERG: Yes, we certainly will give great weight to the ANC.
Okay, board members, who would like to start off?
CHAIRMAN BOASBERG: Okay, Mr. Sonderman.
COMMISSIONER SONDERMAN: Mr. Dennee, I'm trying to understand, at least, part of this package in terms of the height of the addition and
the slope in the back.
MR. DENNEE: Okay.
COMMISSIONER SONDERMAN: So, if I'm looking at this image right here, am I assuming that, if one were to look at the slope and the building would have been built along the slope, it only would have been this high, correct?
MR. DENNEE: Fairly close, you could move your finger down slightly, but it's fairly close. The bungalow is built on a higher base than usual, I think. But yeah, the basement would be concealed in the grade.
COMMISSIONER SONDERMAN: So, if the slope would have been included in the drawings or, at least, addressed in the drawings, the addition size would have been approximately this high?
MR. DENNEE: Yeah, a little bit more than that, but close to that.
COMMISSIONER SONDERMAN: A little bit more, okay.
So, as I count the cinderblocks on here, it is about ten feet, maybe a little less than
that, from here to where I had my finger; is that correct?
MR. DENNEE: Well, to be honest with you, yeah, it probably is fairly close to that. I wanted to gain entrance to the property to measure it, but as of yet, I haven't received permission from the owner.
COMMISSIONER SONDERMAN: So, in theory, as we are looking at this picture without exact drawings, the approvable height that you likely would have approved would have been roughly in this--
MR. DENNEE: Well, I mean, you have drawings that show what I did, in fact, approve.
COMMISSIONER SONDERMAN: Correct.
MR. DENNEE: But I am saying they are at variance with what is there, yeah.
COMMISSIONER SONDERMAN: They are at variance with this additional whatever number of feet that is from here to here?
MR. DENNEE: No.
MS. GERSON: Commissioner Sonderman, if I
may. I have a photograph here. It's probably not part of your record, but it shows that the slope is not as dramatic as you might think. If I may come up and show this to you.

COMMISSIONER SONDERMAN: That's fine.
MR. DENNEE: Yeah, I mean, the point is, the slope from the front, as seen in this picture, is not great, but once you get to the rear of the garage, it drops off substantially.
COMMISSIONER SONDERMAN: Once you get to the rear of the property, it drops significantly.
CHAIRMAN BOASBERG: Wait, wait, wait, counsel. These are being recorded. You have to sit down on your seat. You have to talk into your microphone so it can be recorded. I think these side bar conversations--what we are talking about is, what was submitted and the accuracy of what was submitted upon which all the decisions were based, whether it is one foot or six inches. Obviously, we are talking about more than that. I think that is the point that you were making, is that right?
COMMISSIONER SONDERMAN: Correct.
CHAIRMAN BOASBERG: Okay, is there anything else?
COMMISSIONER SONDERMAN: No.
CHAIRMAN BOASBERG: Bob?
Okay, other comments of board members?
Ms. Henderson?
COMMISSIONER HENDERSON: Thank you, Mr. Chairman.
Briefly, I just want to say, you know, this is really a disturbing matter. We have a situation where new construction was constructed outside of regulations. Then we have a petition of 32 neighbors against a new neighbor. Then we have ANC commissioners pitted against each other.
What is wrong with this? This is really, really not a good situation to be in. We are in here ten minutes to six fighting.
I suggest that we all retract from our positions. Let's start to embrace one another. I don't ever want to see a situation where we have this level of opposition, including public officials. I must particularly admonish the ANC
commissioners. We don't go to other people's singlemember districts and fight with them. We find some common ground.
With that, I'll rest.
CHAIRMAN BOASBERG: Okay.
Other comments about what to do with this particular case?
Yes?
COMMISSIONER McGHEE: Am I clear that it is seven feet longer than was represented to us and three or feet deeper in the back, right? That's about what it is?
MR. DENNEE: No, it's more than that.
COMMISSIONER McGHEE: More than that?
MR. DENNEE: Yes.
COMMISSIONER McGHEE: I mean, the drawings seem to--
MR. DENNEE: Oh, yes, it's more than that. The thing is, I don't have the as-built dimensions.
COMMISSIONER McGHEE: Okay, because the drawings seem to--
MR. DENNEE: I would love to take them
myself, but I don't have them.
COMMISSIONER McGHEE: The drawing is about four feet taller. The progress looks like it is about ten feet taller.
MR. DENNEE: Right.
COMMISSIONER McGHEE: But the drawings look like seven feet longer, three or four feet taller.
You have an ANC approving a drawing that is illegal. That's pretty interesting. So, I guess my concern is, you are saying that the garage should stay, even if by contributing--why is that a factor, just to mitigate the--
MR. DENNEE: Yes, it is. It was always presented as part of the design and it abuts the house. The zoning question with side yards is sort of extraneous and I'm not entirely sure--
COMMISSIONER McGHEE: The only way this works is to move the house back seven feet?
MR. DENNEE: That's correct and to come into compliance, as I measure it and calculate it, while keeping the garage.
COMMISSIONER McGHEE: I mean, compliance with our approved plans?
MR. DENNEE: To come in compliance with what you saw and with what the zoning permits, with the garage still being there.
COMMISSIONER McGHEE: Okay.
MR. DENNEE: I mean, the garage was--I have the reference to the original staff report about the garage.
MS. GERSON: Commissioner McGhee, if I may. The only--
CHAIRMAN BOASBERG: Counsel, excuse me. I'm running this hearing, not you, okay. If you want to talk, but your hand up, say something and talk.
COMMISSIONER McGHEE: I understand.

CHAIRMAN BOASBERG: I understand you are in the midst of an argument here.
COMMISSIONER McGHEE: Well, my point is--
CHAIRMAN BOASBERG: We have ten more minutes and then we lose our room, okay.
Thank you.
COMMISSIONER McGHEE: My point is that, you misrepresented the plans to us and whether it was purposeful or not or incompetence or, you know, an error or whatever, we approved this based on the massing of a building--
CHAIRMAN BOASBERG: Right.
COMMISSIONER McGHEE: --based on a certain size. So, I don't see why we should allow that mistake to stay in place. It sounds to
me--and unfortunately, three or four years being here, people come here all the time and represents themselves as, well, I accidentally put up four buildings and had stop work orders and can you give me a break this time.
So, I'm not--you haven't presented anything to me that says why we should let you keep this error when clearly the drawings you showed, they are either--it's total lack of competence to show what was really there or you did it intentionally. I don't see any--there's no--it seems like there's no reason why you should be that far off.
You know how much it is going to take to build this building. If you are a builder, you had to know it is a ten-foot drop there, but you drew it as a two-foot drop. What is your explanation of that?
MR. TAYLOR: Sir, there is no ten-foot drop. Everyone is here. I don't know who mentioned ten feet. You're exaggerating. I can take you out there right now. There is no ten-foot drop. I mean--
COMMISSIONER McGHEE: I submit you let Mr. Dennee measure it. Come back, tell us what actually you have back there, but it sounds to me like you need to lose seven feet off the back of your building, because you misrepresented the length, too. So, how is the length misrepresented?
MR. TAYLOR: Sir, you asked me a question. Let me answer it.
These are the plans that were approved. If you look at the plans, there was no misrepresentation. I was informed--
COMMISSIONER McGHEE: But there are two
sets of plans here. One is seven feet longer than the other. How do you--
MR. TAYLOR: What two sets of plans?
COMMISSIONER McGHEE: This set right here and this other set.
MR. DENNEE: Yes, the second is the working drawings that he came back with. He did modify them and I did approve them, as I said.
COMMISSIONER McGHEE: Are you saying they are the same size?
MR. TAYLOR: Okay, I did come--one was conceptual and the second set were these that were, to my knowledge, that are approved.
COMMISSIONER McGHEE: But it is seven feet longer.
MS. GERSON: But they were approved.
CHAIRMAN BOASBERG: I would like to make a motion. I think this is just a mess. I don't think we can deal with whether it is 7.2 feet or seven and a half feet. I think we have an experienced person here, who has obviously been before us before for illegal work, improper work.
I'm very unsympathetic. I think that you have to go back to the drawing board and come back with the kind of addition which would be allowed by this board, based on accurate plans. I also think you need to allow our staff to go back there and take a look at what you have.
MR. TAYLOR: Sir, the staff member asked for permission and I granted him permission to come to the property--
CHAIRMAN BOASBERG: I'm just saying this. So, to my--
MR. TAYLOR: Do you have a copy of the
e-mail?
CHAIRMAN BOASBERG: So, my motion--excuse me. My motion is that we not adopt the staff report at this time, which does put the two properties together and approves the subdivision and talks about lopping off 7.2 feet. Maybe that is what it is going to eventually be, but I think he has to go back to the drawing board; come up with an addition that is going to satisfy this board.
I think that we should clearly deny, at this point, the raze application, which is part of the whole thing that we believed in and see if you can work out with the community first and with Mr. Dennee an acceptable solution, which will include the planting of trees, but that is the minimum.
COMMISSIONER WEINSTEIN: He also needs to also include when he comes back a certified land survey showing all the elevations on his property as well as his neighbors' rear yards, yes, at least 20 or 30 feet into all the neighbor properties, so that we can really see what is accurate here.
CHAIRMAN BOASBERG: Okay.
Is there--go ahead, Ms. Lewis.

COMMISSIONER LEWIS: I have one comment, too. That is, I don't know logistically whose responsibility this is, but there needs to be some coordination here between this office and the Zoning Office. It is hard to believe that, Zoning, on three different counts, at three different times allowed this project to slip through. That is very
hard to believe.
CHAIRMAN BOASBERG: They didn't have the information either. They didn't have the accurate information.
Go ahead, Mr. Patterson.
COMMISSIONER PATTERSON: I move the motion.
CHAIRMAN BOASBERG: All right, Mr. Patterson is moving the motion, which is not to approve the staff report, but to go back to the drawing boards and come back with accurate drawings and accurate plans on something that might be allowable to work with the community, work with the ANC and to work with Mr. Dennee.
I think, frankly, Mr. Taylor, I am not sympathetic, because there has been a lot of past record here before. You know what you're doing.
MR. TAYLOR: I don't know what you mean by that, sir.
CHAIRMAN BOASBERG: Well.
Okay, the motion has been moved. Is there a second?
VOICES: Second.
CHAIRMAN BOASBERG: Is there further discussion?
[No response.]
CHAIRMAN BOASBERG: All in favor, signify by saying aye.
[A chorus of Ayes.]
CHAIRMAN BOASBERG: Opposed?
[No response.]
CHAIRMAN BOASBERG: It is unanimous.
Thank you, thank you all. I hope that we get a better resolution.
[Applause.]
CHAIRMAN BOASBERG: No, no, no clapping.
I hope we get a better resolution when we come back. I think to the extent, counsel, that you can be of assistance here, that would be very helpful.
Thank you.
This meeting is adjourned.
[Whereupon, at 5:55 p.m., the public hearing adjourned.]