

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

JANUARY 2, 2001

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 1:00 p.m., Robert Sockwell, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

ROBERT SOCKWELL	Chairperson
SHEILA CROSS REID	Board Member

ZONING COMMISSION MEMBERS PRESENT:

JOHN PARSONS

OFFICE OF ZONING STAFF PRESENT:

Sheri Pruitt,	Secretary, BZA
Beverly Bailey,	Office of Zoning
John Nyarku,	Office of Zoning

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone,	Esq.
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OTHER STAFF PRESENT:

Arthur Jackson	Office of Planning
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C-O-N-T-E-N-T-S

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(1:29 p.m.)

CHAIRMAN SOCKWELL: Joining me today is Shelia Cross Reid, Vice Chair, and John Parsons from the -- representing the National --

MR. PARSONS: No, Zoning Commission.

CHAIRMAN SOCKWELL: Zoning Commission, excuse me. The Zoning Commission. That's right.

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.

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

The order of procedure for special exceptions and variances is, one, statement and witnesses of the applicant; two, government reports, including the Office of Planning, Department of Public Works, et al.; three, report of the Advisory Neighborhood Commission, ANC; four, parties or persons in support; five, parties or persons in opposition; and, six, closing remarks by the Applicant.

Cross examination of witnesses is permitted by the Applicant or parties. The ANC with which the party -- the property is located is automatically a party in the case.

1 The record will be closed at the conclusion of each
2 case except for any material specifically requested by the Board
3 and the staff will specify at the end of the hearing exactly what
4 is expected.

5 The decision of the Board in these contested cases
6 must be made exclusively on the public record. To avoid any
7 appearance to the contrary, the Board requests that persons
8 present not engage the members of the Board in conversation.

9 Please turn off all beepers and cell phones or set
10 them to vibrate at this time so not to disrupt these proceedings.

11
12 The Board will make every effort to conclude the
13 public hearing as near as possible to 6:00 p.m. If the afternoon
14 cases are not completed at 6:00 p.m., the Board will assess
15 whether it can complete the pending case or cases remaining on the
16 agenda.

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

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

25 Does the staff have any preliminary matters?

1 MS. BAILEY: Mr. Chairman, yes, we do. The
2 preliminary matter has to do with application number 16640 of Paul
3 and Marilyn Pearlstein.

4 Mr. Pearlstein, please approach the table and you
5 may have a seat.

6 Mr. Chairman, Mr. Pearlstein is requesting that the
7 hearing on this case be postponed for a later date.

8 CHAIRMAN SOCKWELL: Mr. Pearlstein, would you put
9 your mic on by pressing the button at the front of it and identify
10 yourself and your address and please speak to us about this
11 request?

12 MR. PEARLSTEIN: Good afternoon. I'm sorry I have
13 a cold. My name is Paul Pearlstein. I live at 2928 Ellicott
14 Street, N.W., in Washington D.C. Excuse me.

15 On preparing for the hearing this afternoon,
16 basically the ANC has not objected and no one seriously has
17 objected, but one neighbor has. But in preparing for the hearing,
18 I contacted a counsel. Counsel suggested that there were some
19 questions as to whether in fact a variance was required or not for
20 this particular thing.

21 At least he wanted to review it, and I am asking
22 for at least a 30-day continuance or longer if necessary to give
23 him and opportunity to do so. I've put this in writing, as I was
24 requested, I guess, by Ms. Booth, and prepared some extra copies.

25

1 CHAIRMAN SOCKWELL: So at this point, Mr.
2 Pearlstein, you have retained counsel whose preliminary work is to
3 determine the correctness of your request for relief under the
4 ordinance and you would like to spend time or like to give time
5 for counsel to fully go over your application?

6 MR. PEARLSTEIN: If I may do so, I apologize for
7 doing it at the last minute.

8 CHAIRMAN SOCKWELL: Well, I think that it would be
9 my view that if you are able to provide counsel with your
10 documentation and counsel determines that relief is not necessary,
11 that would make the burden of this panel easier because we would
12 not have to hear your case and at the same time would expedite
13 your achieving the required construction that you seek.

14 So if the Board does not object, I would feel
15 comfortable in granting a continuance to allow time for counsel to
16 review.

17 Is there any discussion, Board members??

18 MR. PARSONS: No objection.

19 CHAIRMAN SOCKWELL: All right. Then I move that
20 Case Number 16640 be continued to a date certain for the purpose
21 of allowing Applicant's counsel to review his materials and make
22 necessary determinations regarding the relief requested.

23 MR. PARSONS: Second.

24 CHAIRMAN SOCKWELL: Yes?

25 MS. REID: Mr. Chair, do we need to get a date?

1 MS. PRUITT: We have a date. We have several.
2 Well, the first available hearing date would be April 3, in the
3 afternoon.

4 MR. PEARLSTEIN: That's okay with me, I have my
5 calendar with me. April 3rd?

6 MS. PRUITT: Yes.

7 MR. PEARLSTEIN: At what one o'clock?

8 MS. PRUITT: Yes. And we will not re-notice
9 anybody so you -- we will send the ANC a notice since they are not
10 here. But typically we don't.

11 CHAIRMAN SOCKWELL: All right. All in favor?

12 (Chorus of ayes.)

13 CHAIRMAN SOCKWELL: Let the record reflect that
14 Case Number 16640 has been rescheduled.

15 MS. BAILEY: Staff will record the vote as four to
16 zero, motion made by Mr. Sockwell, seconded by Mr. Parsons, to
17 reschedule this hearing to April the 3rd in the afternoon.

18 Thank you, Mr. Pearlstein.

19 MR. PEARLSTEIN: Thank you very much.

20 CHAIRMAN SOCKWELL: Thank you very much.

21 MS. BAILEY: That ends our preliminary matter, Mr.
22 Chairman. Should I proceed by calling the first case of the
23 afternoon?

24 CHAIRMAN SOCKWELL: Are there any other preliminary
25 matters?

1 MS. BAILEY: None from staff.

2 CHAIRMAN SOCKWELL: None. Thank you.

3 Then you may call the first case.

4 MS. BAILEY: Thank you.

5 The first case of the afternoon is Application
6 Number 16639 of Larry Origlio, pursuant to 11 DCMR 3103.2, for a
7 variance from the requirements of Subsection 2001.3(a), (b) and
8 (c) to allow an enlargement of an existing nonconforming
9 structure, and under section 3104.1, for special exception to
10 allow a nonconforming rear yard and width of an open court under
11 Subsection 223.1, for a proposed deck addition to a single family
12 dwelling in the R-5-B district at premises 1927 Biltmore Street,
13 N.W. The property is located in Square 2546 and on Lot 82.

14 All those wishing to testify, would you please
15 stand to take the oath? Please raise your right hand, sir.

16 (Whereupon, the witness was duly sworn.)

17 MS. BAILEY: Please come forward and have a seat at
18 the table.

19 CHAIRMAN SOCKWELL: All right. You may begin to
20 present your case.

21 MR. ORIGLIO: Okay. My name is Larry Origlio. I
22 live at 1927 Biltmore St.

23 And I filed an application to obtain a permit to
24 build an outside wooden deck to the rear yard structure of my
25 home. I have some additional information that I brought with me.

1 I have eight copies. Can I -- okay. Who should I give the
2 original to? Okay.

3 (The Board conferred.)

4 CHAIRMAN SOCKWELL: Ms. Sansone, the Board would
5 request that counsel give a reading on the three requests by the
6 Applicant. Two are special exceptions and the third is a variance
7 for the nonconforming structure.

8 The question that I would raise to you is, in this
9 circumstance because the two variances -- single variance is
10 really the follow through from the two special exceptions, does
11 that affect the burdens of proof on the variance since they are
12 actually not -- the variance is not an independent item. It's
13 really a carryover that would follow two special exceptions whose
14 burden of proof is different.

15 MS. SANSONE: Mr. Chairman, that's a good point
16 that you raise. The burden of proof on the variance would be
17 practical difficulty and then it's much less for the special
18 exception.

19 Now the courts have recognized that even though
20 there is a stronger burden of proof in certain situations where
21 it's a great variance or a large deviation is being requested, it
22 can be stronger than in a situation like this for a single family
23 dwelling where the regulations allow special exception relief, and
24 this is just sort of part of that package.

25 There is a necessity though of some demonstration

1 of a practical difficulty.

2 CHAIRMAN SOCKWELL: Thank you Ms. Sansone.

3 All right. It's Origlio?

4 MR. ORIGLIO: Yes.

5 CHAIRMAN SOCKWELL: Yes. Mr. Origlio, you may
6 proceed with your --

7 MR. ORIGLIO: Okay. I thought first I might go
8 through the two special exception points and then the variance
9 issue.

10 MS. BAILEY: Mr. Origlio, excuse me for
11 interrupting you, but you need to identify yourself sir, and give
12 us your home address.

13 MR. ORIGLIO: Okay. I did that earlier. Sorry. I
14 will do it again.

15 MS. BAILEY: I'm sorry. I didn't hear.

16 CHAIRMAN SOCKWELL: For the record.

17 MR. ORIGLIO: Okay. My name is Larry Origlio.

18 CHAIRMAN SOCKWELL: Oh, I'm sorry if you did it.
19 You may have already done it.

20 MR. ORIGLIO: It's okay. My name is Larry Origlio
21 and I live in 1927 Biltmore Street, N.W. And I'm the person who
22 has filed the application.

23 CHAIRMAN SOCKWELL: Thank you.

24 Now proceed.

25 MR. ORIGLIO: I can go through what I have typed up

1 on the special exceptions and the variance and then reference the
2 photograph documents, the neighborhood support, and ANC no
3 objection document that I have also provided you. Would that be a
4 good way to proceed?

5 CHAIRMAN SOCKWELL: That will be fine.

6 MR. ORIGLIO: Okay, okay, okay. The first special
7 exception which I've discussed is the 15 foot requirement from my
8 rear yard. And I'm requesting that the special exception be
9 considered and wanted to stated and document through Photos A and
10 Photo Document B, which are the Biltmore and Calvert Street
11 neighbors to the rear of my yard; I wanted to show that the
12 structure that I'm proposing will continue the like harmony that
13 is already found in the neighborhood.

14 The reason why many of these structures are like
15 this and some even come up to the alleyway line, is that my home
16 has an additional 14 feet that comes out of the main structure.
17 It's part of the original building, and so because of that the
18 rear yards are very, very shallow.

19 And in order to use the yard to its fullest extent
20 with providing shelter for cars and providing the type of deck
21 structure that would be utilized, I would really need the extra
22 space to use it for its fullest extent.

23 Also I did speak with the neighbors and to discuss
24 what they may be planning in their yards if they haven't done
25 anything, and I'm going to take proper caution to make sure that

1 what I do put up really is going to be similar to other neighbors
2 and so it won't impact negatively the neighbors on either side of
3 my property line.

4 Also I've discussed what there future plans may be
5 so if there's any kind of negative impact, and again with that I
6 spoke with some neighbors. Some were able to provide signatories.

7 Some I did a face-to-face presentation and others I just talked
8 to in depth over the phone. And others over the past year, year
9 and a half in the KCA meetings are held monthly, I've also talked
10 to them specifically with respect also historic preservation
11 concerns.

12 And additionally the ANC representative contacted
13 me in August or September, discussed the application. He walked
14 by and then we talked again in December. And that's document D.

15 He also said that he would be more than willing if
16 necessary to write some type of letter if it was necessary. He
17 said that, however, this was not something that he would recommend
18 or that they normally hear at KCA meetings because we did discuss
19 that in September.

20 And then I told him I'd be available to discuss it
21 at a meeting if he thought it should go to a vote, and he said no
22 it's not something they ever consider.

23 Also the Adams Morgan ANC delegate contacted me,
24 and he actually came over and looked at the plans face to face,
25 and looked at the rear yard and observed what other neighbors had

1 put up, and he said he had no objection.

2 And again he said their first meeting of this year
3 was January 3rd and because they have new members he was not able
4 to write any type of letter at that point, but would again be
5 willing to do so if necessary to express any kind of point of view
6 of no objection.

7 CHAIRMAN SOCKWELL: Continue.

8 MR. ORIGLIO: Okay. I can go to number two, the
9 special exception for the six-foot boundary requirement of the
10 open court width.

11 Again because of the narrowness of the rear yard,
12 I'm requesting a special exception so I can have a deck and
13 covering for cars that is reasonable and a utility in width.

14 Again, I've spoken to both neighbors about their
15 property lines and what they may be planning in the future, and
16 again that was part of our discussion, and they had no objection
17 to my going up to their property lines. I think it's within one
18 foot.

19 Let's see. Additionally there are -- the photos
20 will show that other like structures in the neighborhood have also
21 been able to utilize the full width, and they also have rear yards
22 that are like width as mine is.

23 Okay. I can go on to number three?

24 CHAIRMAN SOCKWELL: Please.

25 MR. ORIGLIO: Okay. The variance for number three,

1 I noted that when my building was currently built, it was actually
2 built on about 65 percent of the allowed land. So now with -- so
3 now it's actually not in compliance to the current occupancy
4 requirement of 60 percent.

5 The Photo Document E, which is two photos, it shows
6 the sister property next door. It was built by the same architect
7 and developer. And that property still has its original garage.
8 It's about a car and a half, and that goes out to the alleyway.
9 The wall is still there.

10 And so if my building still had the garage intact,
11 then I would not be requesting such a large request of 506 square
12 feet. It would be much less.

13 Again the property -- the practical difficulties of
14 my property is that it is shallow and it contains a narrow
15 courtyard to the basement. And because of this it's not the type
16 of rear yard that allows someone to utilize it safely on a day-to-
17 day basis. It's the type of rear yard that really needs to be
18 somehow adjusted and reconstructed in some way. And that's what
19 I'd like to do as others have done in my neighborhood.

20 As it is it does provide two off street parking
21 spaces, which is great, but since I have been there two and a half
22 years, the car has been broken into three times. And other
23 vehicles in the neighborhood that don't have coverage or are not
24 in back of a fence have also suffered that.

25 In addition, because of the narrowness of the

1 entryway to the basement, every now and then people will just --
2 you know, will camp out there for an overnight or a day and they
3 will leave things. Then I have also had things stolen in the
4 yard. So really nothing can be left out except garbage pales.

5 Let's see. Additionally, the rear yard is
6 important because the front yards are a very public space. And so
7 to be able utilize any type of outside space, you know, with the
8 house, it's really the rear yard that has to be looked at.

9 And that's why I am asking for a variance, a
10 consideration of a variance. If a variances is provided, again, I
11 am proposing the addition of a completely wooden deck with some
12 type of doors which will face the alleyway or some type of a fence
13 or coverage.

14 That will allow it -- it will transform the yard
15 into some type of a safety space. So if we want to be out there
16 and you want to leave a barbecue grills out there, we can do so,
17 and chances are they will be there the next day.

18 It will also provide a safety point to the windows
19 on the first floor of the building. The deck also will provide a
20 fast access from the second floor which is the main living space.

21 And also the deck, since it's a full northern exposure, will be
22 able to be utilized most of the day. It really never ever gets
23 sun back there. So that's another benefit that will allow us to
24 really use the outside.

25 Second floor also, I've had to move a refrigerator

1 and a few other items in the house, and I've had to send stuff
2 back because the front stairway has twists and turns in it and so
3 appliances and furniture really can't be easily brought in and out
4 of the house.

5 And so by having the deck with the sliding doors,
6 we'll be able to also utilize the house a lot more efficiently.

7 And that's the end of my discussion on variance.

8 And then following the write-up, the neighborhood's
9 support, I spoke with many other neighbors, but I didn't go back
10 for signatures, or didn't ask, you know, could I go over, but I
11 could do that.

12 And I've got the ANC that contacted me and I had
13 discussions with him and met with him actually in person.

14 CHAIRMAN SOCKWELL: Mr. Origlio, it appears that
15 many of the properties within the block which are either on your
16 side of the alley or the opposite side of the ally have
17 construction that in-fills all of the yard area at the ground
18 story, as well as those which have decks that stand over the
19 ground surface at the first story.

20 I'm personally familiar with 1918 Calvert, which is
21 the modern structure on the opposite side of the alley. And the
22 impact of your request on the adjacent properties and the
23 condition of adjacent yards would be minimal, I believe.

24 The two special exceptions that you request
25 certainly don't appear to me to have a particularly negative

1 impact on the rest of the neighborhood, at least in the rear,
2 because there is a lot going on here, and I think that it's sort
3 of an eclectic mix of decks and garages, existing garages, more
4 recent decks, and I'm sure that some of this construction may have
5 required an appearance before this Board at some time in the past,
6 and certainly hopefully all of them which would have required such
7 an appearance did get such an airing.

8 With regard to the variance that you request, I
9 think that from my point of view your property is incumbered in
10 ways that make it a somewhat difficult property to handle with
11 certain kinds of features not considered. Among them, that is,
12 you do park on the lot.

13 But anyway, just looking at it from that
14 standpoint, are there -- do you have any witnesses to testify?

15 MR. ORIGLIO: No.

16 CHAIRMAN SOCKWELL: Are there any -- let's see,
17 first I guess we need to look at government reports. Do we have
18 government reports before our decision?

19 MS. REID: There is no one here in support or
20 opposition? There's no one here in support or opposition, and are
21 the ANC representatives here?

22 (No response.)

23 MS. REID: I had a question Mr. Chair.

24 CHAIRMAN SOCKWELL: Yes.

25 MS. REID: If, in fact, you are to be granted a

1 variance, sir, you realize that must meet a three-pronged test,
2 the first prong of which is uniqueness, something unusual or
3 unique about your property that would cause your practical
4 difficulty not to comply with existing zoning regulations.

5 Can you speak to that? Is there something unique
6 or unusual about your property, sir, something inherent in the
7 land?

8 MR. ORIGLIO: Again, inherent in the way we can
9 utilize the outside space.

10 MS. REID: Well, no, the configuration of your
11 land.

12 MR. ORIGLIO: It's shallow, and there's just a
13 narrow entryway to the basement.

14 MS. REID: I saw that, that you had indicated that
15 it was shallow and narrow, but is it unique in the -- are the
16 other properties that are there -- I didn't see -- we have a
17 Sanborn map where we can look and kind of get an idea as to how it
18 relates the rest of your neighborhood or your neighbors.

19 Is your property unique?

20 MR. ORIGLIO: Yes, because it has a 14 foot -- for
21 the main building they also built 14 feet of structure out towards
22 the ally. So that makes a much more shallow and configured
23 differently. It's not a square like some of the other neighbors
24 and townhouses. So the two sister properties, the two next door -
25 - the next door property is almost identical, shares that same

1 uniqueness in the shape of the land, the shape of the rear yard.

2 So it does confine us from doing something other
3 than what someone else might do. So that extra 14 feet takes up a
4 greater percentage of the space.

5 MS. REID: Okay.

6 CHAIRMAN SOCKWELL: In other words, what you're
7 speaking to is the fact that your property has that deep notch.

8 MR. ORIGLIO: Right

9 CHAIRMAN SOCKWELL: And whereas the other
10 properties' real walls would set back farther from or at least the
11 original brick walls would set back farther into the property than
12 your own.

13 MR. ORIGLIO: Correct.

14 CHAIRMAN SOCKWELL: Yours occupies more of the lot
15 at that point.

16 MR. ORIGLIO: Right.

17 CHAIRMAN SOCKWELL: And I can see what you are
18 saying.

19 MR. ORIGLIO: Does that address?

20 CHAIRMAN SOCKWELL: I think that it tends to
21 address that issue.

22 As the appearance is that your property and its
23 sister are similar in that respect, but the other adjacent
24 properties from your photographs which I know you pieced together
25 as best you could, the other adjacent properties occupy less of

1 their overall lots. That's what you are saying.

2 MR. ORIGLIO: Correct.

3 MS. REID: Mr. Chair.

4 CHAIRMAN SOCKWELL: We don't have a Sanborn that --

5 MS. REID: No, but let me ask this.

6 CHAIRMAN SOCKWELL: Please.

7 MS. REID: Is that your sister -- the sister
8 property and yours are alike, similar? What is it that makes your
9 property different or unique from the sister property? Because
10 that is what we are based this particular case on, how your
11 property is unique from every other property.

12 MR. ORIGLIO: Right. Okay, but it was built by the
13 same builder and architect, and that property still has its
14 existing garage that comes out from that building.

15 MS. REID: I'm sorry. You said what?

16 MR. ORIGLIO: Right. The property I'm speaking of
17 was built by the same builder and architect, and that property
18 still has its existing garage that comes out to the building. So
19 their property actually takes up probably like 75 percent of the
20 land currently because their garage is existing. So mine is gone.

21
22 MS. REID: Okay.

23 MR. ORIGLIO: But again it's just a wooden deck
24 that I want to build.

25 MS. REID: We know. We know. But still we have to

1 apply the same criteria.

2 MR. ORIGLIO: Right.

3 (The Board conferred.)

4 MS. REID: What did you say made your property more
5 unique than the one -- different from the one next door, the
6 sister property?

7 MR. ORIGLIO: Oh, the garage has now vanished from
8 my property. It was there decades ago, but it's gone. It fell
9 down.

10 MS. REID: That one does have a garage there?

11 MR. ORIGLIO: Yes.

12 MS. REID: You can't see it on this.

13 CHAIRMAN SOCKWELL: You can You can see the wall
14 of it.

15 MR. ORIGLIO: I didn't get a good picture. It's
16 1925.

17 MS. REID: Okay.

18 MR. ORIGLIO: Theirs a still there. It's like a
19 garage and a half. And that's what I had originally on my
20 property.

21 CHAIRMAN SOCKWELL: So the brick wall that we see
22 which would be to --

23 MR. ORIGLIO: My neighbors.

24 CHAIRMAN SOCKWELL: -- the west of your window at
25 that ground level is the -- obviously from this flashing has a

1 roof over it. So it's the wall of the adjacent garage. Is that
2 what you are saying?

3 MR. ORIGLIO: Correct, yes.

4 CHAIRMAN SOCKWELL: So your property, you're
5 stating, is unique because although it shares the depth of
6 projection and the width of court notch, it alone among those two
7 does not have the garage to create the base for you to build a
8 surface for living as a deck on top of it.

9 MR. ORIGLIO: Correct, correct.

10 CHAIRMAN SOCKWELL: So you are saying -- so that
11 would present a uniqueness in itself. I can agree with that.

12 MS. REID: Okay.

13 CHAIRMAN SOCKWELL: How long have you owned your
14 house, sir?

15 MR. ORIGLIO: Two and a half years. May of '99,
16 May 1st, '99.

17 CHAIRMAN SOCKWELL: Okay, and the condition that we
18 see was the existing condition two and a half years ago from a
19 physical stand point?

20 MR. ORIGLIO: Yes. I put in a new window.

21 CHAIRMAN SOCKWELL: Okay.

22 MR. ORIGLIO: No changes.

23 CHAIRMAN SOCKWELL: Thank you.

24 All right. What would you say your practical
25 difficulty is?

1 MR. ORIGLIO: Let me just go back to my notes.
2 Would that be in the use of the property? Should I address it
3 that way?

4 MS. REID: Well, if I may, Mr. Chair, we want it to
5 demonstrate what would cause a practical difficulty for you not to
6 comply with existing zoning regulations. I mean, in other words,
7 why can't you, you know, --

8 MR. ORIGLIO: Okay. Well, the current structure,
9 building takes up -- is already in noncompliance. I think it's 63
10 or 64 percent of the land use. So given that, you know, I can't
11 build anything because I'm already not in compliance. So with
12 that in itself --

13 MS. REID: That kind of goes to extending a
14 nonconforming use, doesn't it? Okay.

15 (The Board conferred.)

16 CHAIRMAN SOCKWELL: In that most of the other
17 properties have some sort of porch or deck, is there -- do you see
18 a limitation in your ability to utilize your living space
19 effectively without providing something as an extension like a
20 deck or --

21 MR. ORIGLIO: Again, it's, you know, to have a
22 second floor exit to the rear would provide additional safety to
23 the house. It would also provide access for appliances or
24 furniture and, you know, would allow us to utilize outside space.
25 At this point we don't have private outside space. We just have

1 the public front yard. And the outside space we have is again --
2 it's really not that safe either.

3 CHAIRMAN SOCKWELL: And I guess it's safe to say
4 that from what we see and the fact that one car off-street parking
5 would be a requirement in your zone, that part of the area that
6 you would want to utilize as living space is taken up by the
7 vehicle which would originally have been in a garage, which would
8 have originally provided you with the base for which a deck could
9 have been added. But the car is still there, but the garage and
10 the other supporting structure that you could work with has been
11 removed.

12 MR. ORIGLIO: That's correct. That's true. Both
13 cars are still there in garbage pales.

14 CHAIRMAN SOCKWELL: Do you see any adverse impact
15 in this Board granting you relief as requested?

16 MR. ORIGLIO: Well, I spoke with my neighbors
17 again, and the neighbors looking at my building to the right,
18 they've stated that they want to put a deck on their roof or on
19 that structure that abuts out, and they didn't foresee any type of
20 difficulty that would be opposed to them.

21 And the neighbors to the left of the yard, they
22 have already drawn up plans and will be filing applications to do
23 something with their structure with respect to some type of a
24 deck.

25 MS. REID: You have not received any complaints or

1 no one's been opposed to your application in regard to parking or
2 light or noise or traffic or the like?

3 I note also, Mr. Chair, that he has been in contact
4 with the ANC and that the ANC basically has submitted a letter, a
5 note. I thought I saw one saying that have no opposition to this
6 particular application. I just want to note that for the record.

7 CHAIRMAN SOCKWELL: Okay.

8 MR. ORIGLIO: And like I said, I do attend the KCA
9 meetings, and I've spoken with neighbors.

10 CHAIRMAN SOCKWELL: One question. Regarding the
11 drawings that you presented us, these drawings were filed with the
12 D.C. Permit Office?

13 MR. ORIGLIO: Right. Correct.

14 CHAIRMAN SOCKWELL: And they have not responded to
15 these drawings as of yet because you have been referred to us. I
16 realize that you must have prepared these yourself.

17 MR. ORIGLIO: Correct, and the deck plans were
18 provided by the builder. There's like about six pages of deck
19 plans that were filed.

20 CHAIRMAN SOCKWELL: So you did these isometrics?

21 MR. ORIGLIO: Correct.

22 CHAIRMAN SOCKWELL: Okay. Don't quit your day job.

23
24 (Laughter.)

25 CHAIRMAN SOCKWELL: The deck plans are somewhat

1 less precise than I think you would need. I understood them, but
2 obviously you are builder is more of a builder and not a drafting
3 person. So should you be approved, I would want a stamped set of
4 such drawings somewhere that we could look at because I didn't
5 understand some of the drawings that I saw at all, except that I
6 know what I was looking at, but anyway.

7 MS. PRUITT: So let me get this strait. Well, if
8 you approve this, or rather if you make a decision on this case
9 which then means to approve it he has to go get a building permit,
10 the record is closed. You would have to reopen the record for
11 this admission of the stamped drawings. But you would have
12 already made a decision to grant the relief.

13 MR. ORIGLIO: I did talk to an architect and then
14 he said because I was, you know, under consideration for two
15 variances and -- or a variance and two special exceptions, he said
16 I could really spin around in circles with a lot of drawings. So
17 this was just for a illustrative purposes, but I do have plans to
18 have a builder draw up plans that are very accurate.

19 CHAIRMAN SOCKWELL: I found these to be very
20 deficient as submissions go to this Board. And they show footings
21 that would be on somebody else's property. They show things that
22 are not very precise. The dimensions are not precise, and I'm
23 very concerned about the Board approving things that we cannot
24 refer to as effective documentation.

25 MS. BAILEY: Mr. Chairman, if the Board chooses to

1 approve this application prior to issuance of the order, we could
2 hold the order up until corrected plans have been submitted to the
3 record.

4 CHAIRMAN SOCKWELL: Because the plat that was
5 provided shows the deck sketched, but it does not dimension the
6 deck; it does not relate the deck to the property lines. These
7 are things that are concerns of mine as they do not give us the
8 basis for making an effective decision.

9 Give me just a second.

10 All right. I don't have any more questions or
11 comments.

12 Mr. Parsons or Board members?

13 (No response.)

14 CHAIRMAN SOCKWELL: Then I would ask for closing
15 remarks from you as the Applicant.

16 MR. PARSONS: I have a question, Mr. Chairman.

17 CHAIRMAN SOCKWELL: Just a second.

18 MR. PARSONS: Strictly on looking at your drawing
19 number four.

20 MR. ORIGLIO: Document four or drawing four?

21 MR. PARSONS: Well, it's page number four here. It
22 appears to show a fence.

23 MR. ORIGLIO: Which one?

24 MR. PARSONS: Number four.

25 MR. ORIGLIO: Okay. Let me get that.

1 MR. PARSONS: Now in the exhibits that you sent us
2 which were a series of photographs of the alley, I think the most
3 offensive thing about this tradition that's occurring in this city
4 are the fences on top. That is, you get this canyon-like feeling
5 in my estimation in the alley environment which you don't get with
6 simply a garage addition.

7 So I want to ask you how important this fence was
8 to you, and I see that the top two feet are open in a lattice like
9 design, but it appears as though the rest of the fence will be
10 closed, one by sixes, or four feet high. Is that correct?

11 MR. ORIGLIO: It will be probably closer to three
12 feet high because I will probably lose a foot somewhere.

13 MR. PARSONS: Lose a foot?

14 MR. ORIGLIO: Yes, because you've got to be 15 feet
15 from the ground. So probably with, you know, the timbers that come
16 across, I may lose a foot.

17 MR. PARSONS: I see. Well, see, some of the folks
18 who have done this have an open railing. Some have a lattice.
19 Only a few have, in your exhibits here, the kind of solid wall
20 that you are proposing. I wondered how important that was to you?
21 For ventilation and air during the summer and so forth.

22 MR. ORIGLIO: Yes. Well, I've thought about that
23 and that's why I have the lattice. I could put more lattice
24 versus not having it totally closed in. Some type of fence is
25 important to me versus just the spindles, just for privacy.

1 MR. PARSONS: Oh, sure, and you don't want people
2 to fall off either.

3 CHAIRMAN SOCKWELL: Mr. Origlio, since we're
4 discussing the drawings that you provided, that same drawing shows
5 a distance to the approximate top of the lattice from the ground
6 as 15 feet.

7 MR. ORIGLIO: Correct.

8 CHAIRMAN SOCKWELL: In another drawing, which will
9 be your Exhibit A sheet, there is a note that says, "Deck meets
10 the house line approximately 13 feet from ground."

11 Now if that's the case, that is the floor of your
12 deck, 13 feet off the ground. It cannot be that you're only going
13 to have a two foot wall or fence from that point upward.

14 MR. ORIGLIO: Right.

15 CHAIRMAN SOCKWELL: That's why these drawings made
16 very little sense to me and were very difficult to interpret. So
17 you have dimensions and descriptions that do not match one another
18 and don't make sense.

19 MR. ORIGLIO: Okay, right. At that point they are
20 going to be steps that come down and there will be just the
21 swindles. So it will come down to a nine foot; the steps will
22 actually come down to nine feet.

23 CHAIRMAN SOCKWELL: So what's going to meet the
24 house? The deck meets the house or the steps meet the house?

25 MR. ORIGLIO: Steps.

1 CHAIRMAN SOCKWELL: Steps. And you describe -- you
2 don't describe the steps anywhere in these drawings except these
3 very cryptic isometrics that you've drawn which are not sufficient
4 to submit for a building permit, with exception of Drawing A,
5 which I assume is yours. These other drawings are very, very
6 difficult to understand, and although on this one drawing I see
7 it, there's no detail of that construction nor that attachment
8 shown.

9 So it's up to us to try to figure out what it is
10 you were planning to do. In other words, my problem is that you
11 have not shown enough definition in your submission for me to be
12 comfortable making a decision on what you propose because nowhere
13 in any of these drawings is there a limit, no limiting factors, no
14 limiting dimensions, no place of departure from property lines,
15 house lines, et cetera, et cetera.

16 And I don't think that I would be comfortable
17 voting on this application until I see a more precise set of
18 drawings, and they don't have to be a set of full blown
19 architectural plans, but even the plat doesn't say enough to make
20 it reviewable by Zoning because it doesn't say where the deck is,
21 what extent the deck is. It doesn't say anything. It's just
22 sketched on there.

23 And if others on the Board disagree with me, please
24 let me know.

25 MR. PARSONS: What's your suggestion, Mr. Chairman,

1 that we postpone this?

2 CHAIRMAN SOCKWELL: My suggestion is that we
3 postpone this until we get more definitive drawings, including a
4 plat as would be required for a building permit that is
5 dimensioned effectively as to the size and extent of the deck and
6 its relationship to property lines and things like that.

7 MR. PARSONS: But the signal to the owner is that
8 if drawings came forward that were accurate and complete --

9 CHAIRMAN SOCKWELL: Then we would know what we are
10 voting on.

11 MR. PARSONS: But we are convinced at this point
12 that the special exceptions and variances that he has asked for
13 seem to be along the line of where we are headed to?

14 CHAIRMAN SOCKWELL: I think there's --

15 MR. PARSONS: Is there a preliminary indication?

16 CHAIRMAN SOCKWELL: I think that from myself,
17 having some knowledge of the area and certainly seeing what it is
18 that he is working with, I think that the concept of placing a
19 raised structure in the rear yard would be acceptable to me; that
20 based on the other properties, a special exception for the rear
21 yard and court issues would not be out of line with prevailing
22 conditions; that for the variance there is a uniqueness to his
23 property. The special condition of course I see is him not having
24 the advantage of an existing garage where the sister property does
25 have the advantage, and there probably was a garage for both at

1 one time; that having the parking and no structure above it to
2 build upon is a limiting factor; that the practical difficulty is
3 that he has no other opportunity to utilize effectively an outdoor
4 recreation space at the rear of his property; and that there is no
5 inherent negative effect on the surrounding community by providing
6 this raised structure within parameters that this Board might set
7 for screening and openness.

8 However, I do not feel comfortable voting on an
9 application without the proper documentation being in our records
10 to show exactly what it is we approved.

11 MR. PARSONS: Okay. Well, I share your views, and
12 I just wanted the Applicant to know that so that he's not at risk
13 here of going out into the architectural community and getting an
14 architect and then coming back and say, "Well, gee, now that we
15 see this, we don't think it fits."

16 CHAIRMAN SOCKWELL: He might not even need an
17 architect, but he needs someone who understands that, and the
18 District can assist him in showing him what dimensions he needs to
19 provide to indicate specifically what goes where.

20 MS. PRUITT: Mr. Sockwell, excuse me.

21 CHAIRMAN SOCKWELL: Yes.

22 MS. PRUITT: I understand Mr. Origlio says he does
23 have some architectural drawings. Is that true sir? Do you have
24 some architectural drawings?

25 MR. ORIGLIO: No.

1 MS. PRUITT: None at all?

2 MR. ORIGLIO: No, all I have is just what the
3 builder provided and then this one illustrative sketch.

4 MS. PRUITT: Do you have any idea how long it would
5 take for you to get any?

6 MR. ORIGLIO: Well, they are quite busy and so
7 probably their backlog is at least four to six weeks.

8 MS. PRUITT: Okay. Because I was wondering if we
9 could then just defer until the next public meeting, but it
10 doesn't appear that will be possible.

11 MR. ORIGLIO: I mean I can try.

12 MS. PRUITT: Our next public meeting is in
13 February.

14 MR. ORIGLIO: I can try.

15 CHAIRMAN SOCKWELL: I believe that it would be my
16 desire that we defer action until we can receive more definitive
17 drawings, including a plat that specifies what should be shown on
18 plats.

19 MS. PRUITT: That was my suggestion, is that you
20 then make your decision at that meeting and leave the record open
21 for the submission of this information, which is what you
22 typically do on, you know, cases like that.

23 CHAIRMAN SOCKWELL: Then I move we defer decision
24 until the next public meeting.

25 MR. PARSONS: Then we won't have another hearing on

1 the materials he submitted.

2 CHAIRMAN SOCKWELL: No, we won't.

3 MR. PARSONS: Good.

4 MS. PRUITT: And just for clarification, you want
5 dimension drawings to be submitted including dimensions on a plat.

6 CHAIRMAN SOCKWELL: Yes, on the plat. He has the
7 plat. He has sketched the deck, but there are no dimensions
8 specifying the relationship of the deck to either the property
9 lines or the existing building.

10 MS. REID: Ms. Pruitt, February 9th? February 7th?

11 MS. PRUITT: Let me check.

12 CHAIRMAN SOCKWELL: And I would want to section
13 showing the relationship of the steps going up the building and
14 coming -- and from the deck surface.

15 MS. PRUITT: And this would be decided at the
16 February 6th public meeting in the morning.

17 MR. ORIGLIO: Here?

18 MS. PRUITT: Yes.

19 MR. ORIGLIO: Okay. February 6. Okay.

20 MS. PRUITT: And it's 9:30 in the morning.

21 CHAIRMAN SOCKWELL: And if you -- any dimensions,
22 any vertical dimensions should be tied down to something, to a
23 surface point, a railing point, a ground line because these are
24 very cryptic, and the footings as described would undermine the
25 wall of the adjacent garage which is probably a wall that is on

1 your property line shared by both properties even though it only
2 effects the one. Things like that I would like to see.

3 MR. ORIGLIO: Okay. I've got some questions about

4 --

5 CHAIRMAN SOCKWELL: And on the framing plan make
6 sure that it shows double joists where double joists are
7 indicated.

8 MR. ORIGLIO: Okay.

9 CHAIRMAN SOCKWELL: It was done in most cases, but
10 not in all cases. It will be better for you, in particular.

11 MR. ORIGLIO: Okay. I just had a few questions in
12 regard to this.

13 CHAIRMAN SOCKWELL: Yes, please.

14 MR. ORIGLIO: Okay. With respect to my providing
15 you with the proper drawings, will I receive before I go after
16 these drawings some type of dimensions I might look at for the
17 yard? For example, setbacks that I might use, you know;, for
18 example, the 15 foot issue.

19 MS. REID: The regulations.

20 CHAIRMAN SOCKWELL: Yeah, those things are
21 specified within the zoning ordinance.

22 MR. ORIGLIO: Okay.

23 CHAIRMAN SOCKWELL: I mean when you came to us, you
24 came with a Zoning Administrator's ruling.

25 MR. ORIGLIO: Right.

1 CHAIRMAN SOCKWELL: So you can look to our staff
2 for some assistance and you can look to DCRA for some assistance.

3 MR. ORIGLIO: Okay.

4 CHAIRMAN SOCKWELL: But we have a copy of the
5 ordinance here that's available for public view and our staff
6 would be glad to assist you in understanding the specifics of the
7 ordinance.

8 MR. ORIGLIO: Okay.

9 CHAIRMAN SOCKWELL: So if it need be made an
10 official motion to defer -- no? It doesn't have to?

11 MS. PRUITT: No, because you haven't made a
12 decision.

13 CHAIRMAN SOCKWELL: Okay, fine.

14 MS. PRUITT: The record is closed with the
15 exception of the additional drawings.

16 CHAIRMAN SOCKWELL: When will those documents be
17 due?

18 MS. PRUITT: Well, we would like to have them at
19 least by February 4.

20 MR. ORIGLIO: Okay, and how many copies?

21 MS. PRUITT: Preferably eight if you could. We'd
22 appreciate that.

23 MR. ORIGLIO: Okay, and should they be stamped?

24 CHAIRMAN SOCKWELL: Not necessarily. They just
25 need to be readable.

1 MR. ORIGLIO: Okay, all right.

2 MS. PRUITT: Excuse me. I gave you the wrong date.
3 February 4 is a Sunday so we can make it the 5th. Actually we
4 would prefer to have it the end of March -- the 2nd of February.

5 MS. BAILEY: Mr. Chairman, will the Applicant
6 consider this on behalf of the ANC?

7 CHAIRMAN SOCKWELL: If the ANC already voted based
8 on what they saw, I would suggest that the ANC be served, but
9 apparently it would merely be for their record to know that you
10 have a more definitive set of drawings. Apparently they've
11 already made their decision.

12 MR. ORIGLIO: I'll contact them if you want me to.
13 I'll contact them.

14 CHAIRMAN SOCKWELL: Did you give them copies of
15 what you proposed?

16 MR. ORIGLIO: I sat down with them and they didn't
17 take copies but they took notes.

18 CHAIRMAN SOCKWELL: Okay.

19 MR. ORIGLIO: Actually they have the full
20 application. They've received something in the mail.

21 CHAIRMAN SOCKWELL: Obviously the ANC has great
22 vision, and he can submit to them for just observation. I think
23 that would be appropriate because then they will know what you
24 will be submitting to us, and it should go that way.

25 Thank you. All right, thank you very much.

1 MR. ORIGLIO: Thank you.

2 Will I receive a letter in the mail or --

3 CHAIRMAN SOCKWELL: No.

4 MS. PRUITT: No, you will not receive anything, but
5 if you have any questions, please feel free to give me a call.

6 MR. ORIGLIO: Okay, great. Okay. Thank you.

7 CHAIRMAN SOCKWELL: At this moment I am going to
8 take a five minute break.

9 (Whereupon, the foregoing matter went off the
10 record at 2:29 p.m. and went back on the record at
11 2:37 p.m.)

12 CHAIRMAN SOCKWELL: All right. We are back in
13 session.

14 Will you call the next case please?

15 MS. BAILEY: Yes, sir. Application Number 16644 of
16 Arabic Baptist Church, pursuant to 11 DCMR 3103.2, for a variance
17 from Section 405 from the side yard setback requirement to build
18 an additional to an existing structure in an R-1-B District at
19 premises 4605 Massachusetts Avenue, N.W., Square 1556, Lot 62.

20 All those wishing to testify would you please stand
21 to take the oath? All those persons wishing to testify please
22 stand and raise your right hand.

23 (The witnesses was duly sworn.)

24 MS. BAILEY: Thank you. Please be seated.

25 Mr. Chairman, we have a report from the Office of

1 Planning. That report needs to be waived into the record. It was
2 submitted a little late.

3 We also have a request for party status. I'm not
4 sure if there's a representative from the Sixth Church of Christ
5 Scientist, at 4601 Massachusetts Avenue. That entity has
6 requested to be a party in this case.

7 This project is in Advisory Neighborhood Commission
8 3E. And as of last Friday, the Office of Zoning did not receive a
9 report from the ANC.

10 Applicant associated with this case, would you
11 please come forward and be seated at the table?

12 CHAIRMAN SOCKWELL: Ms. Bailey, I was somewhat
13 unclear as to whether the letter from the Sixth Church of Christ
14 was a real request for party status. You've spoken with the --

15 MS. BAILEY: No, sir. I have not spoken with
16 anyone. I just reviewed what was indicated in the letter.

17 CHAIRMAN SOCKWELL: The way the first paragraph was
18 written, it stated that they request permission to appear and
19 participate as an interested party. And that was a little
20 different to me from requesting party status as would be an
21 opponent, but they said they should be represented, and they are
22 not here. And this letter is dated December 18.

23 Were they properly notified of the meeting, of the
24 Board hearing?

25 MS. BAILEY: Yes, they were.

1 MS. REID: They're not here?

2 CHAIRMAN SOCKWELL: They're not here.

3 MS. REID: Okay. Well, let's just move on.

4 CHAIRMAN SOCKWELL: All right. Then they are not
5 here.

6 Is there anyone in this room that is here in
7 opposition to the proposed addition?

8 (No response.)

9 CHAIRMAN SOCKWELL: Is the ANC represented today?

10 (No response.)

11 CHAIRMAN SOCKWELL: Then we will try to expedite
12 the hearing. If you can hit the important points of your
13 presentation and abbreviate where you feel its just supportive
14 information that not necessarily needs to be elaborated upon, we'd
15 appreciate it. Please begin.

16 MR. McCLOSKEY: My name is Brian McCloskey. I am
17 with Cross Dunning & Associates. We're the architect that's
18 working with Arabic Baptist on this proposed addition.

19 MR. MASSOUD: My name is Alfons Massoud. I am a
20 member -- I live at 12605 Licewood (phonetic) Drive, Fairfax,
21 Virginia. I am member of the Arabic Baptist Church. I am also a
22 professional engineer. And I will be the project engineer for the
23 church extension.

24 CHAIRMAN SOCKWELL: Is that mechanical, plumbing,
25 electrical, or structural?

1 MR. MASSOUD: Yes, I do mechanical, plumbing, fire
2 protection.

3 CHAIRMAN SOCKWELL: All right. Please begin your
4 presentation.

5 MR. McCLOSKEY: Basically what we want to do, the
6 existing church is a three story structure, two stories above
7 ground, one below grade. We would like to do a three story
8 expansion off of the front of the church just to accommodate the
9 current congregation size.

10 The church itself is very small. It's currently
11 only 5,800 square feet. And the congregation has grown in size
12 somewhat since the original certificate of occupancy was issued
13 back in the mid-'60s.

14 So basically what we are trying to do is just
15 accommodate this existing congregation. They are not looking to
16 add any members to the church.

17 And we are trying to also accommodate some of the
18 older members. That's why we are putting in an elevator, adding
19 an exit stair as well, to try to bring the church up to ADA
20 requirements.

21 The reason for this hearing is that the current --
22 the way the property is laid out the church right now is already
23 encroaching on the eight foot side yard setback requirement. The
24 front right-hand corner of the church if you are facing is only
25 six feet, approximately, away from the left side yard. So that's

1 why we have this request for a variance.

2 We would like to come off the front of the church,
3 which is really our only option at this point, and come basically
4 out to the front property line which is allowed with the zero
5 setback requirement there. And that's basically what we are
6 looking at.

7 CHAIRMAN SOCKWELL: No comments?

8 PARTICIPANT: No comments.

9 CHAIRMAN SOCKWELL: All right. Well, then since we
10 don't have -- well, we have the Office of Planning report. We
11 don't have any opposition. So then I would go directly to
12 questions if anyone wishes to question the Applicant now or would
13 we like to wait until the Office of Planning has delivered their
14 report?

15 All right. With the Office of Planning, Mr.
16 Jackson.

17 MS. BAILEY: Mr. Chairman, excuse me, but the
18 Office of Planning report needs to be waived.

19 CHAIRMAN SOCKWELL: Oh, that's right. Procedural
20 matter. Just a moment.

21 We have the Office of Planning report having
22 arrived somewhat later than requested and would need to waive the
23 rules to admit the report. Is there any opposition to that among
24 the Board members?

25 MS. REID: No.

1 CHAIRMAN SOCKWELL: Any questions?

2 MS. REID: No.

3 CHAIRMAN SOCKWELL: Then the Office of Planning
4 report will be deemed accepted.

5 Mr. Jackson.

6 MR. JACKSON: Mr. Chairman, members of the Board,
7 the application from the Arabic Baptist Church --

8 CHAIRMAN SOCKWELL: And you can identify yourself.

9 MR. JACKSON: Oh, sorry. Arthur Jackson with the
10 Office of Planning.

11 We are here today to discuss Application Number
12 16644 submitted by the Arabic Baptist Church for a variance from
13 the side yard setback in order to allow the expansion of the
14 existing building on the east and south sides.

15 The property -- the existing zoning and relief
16 required is as follows.

17 The existing use is a church. It's in an R-1-B
18 district where a church is permitted by right. Therefore, the
19 existing and proposed use is allowed in the zoning district.

20 The subject property at 4506 (sic) Massachusetts
21 Avenue, N.W. is an irregularly shaped lot. My research indicates
22 that if I could show this to the Board, in 1965 a tax lot was
23 created, number 863. That tax lot included portions of two
24 parcels which would currently make up the existing Lot 62.

25 By creating that tax lot, what they did was two

1 portions of lots that were used to create number 62 are in
2 separate ownership. As a result, when Lot 62 was consolidated the
3 two portions that were now made part of Lot 863 in 1985 were not
4 included when Lot 62 was consolidated in 1966. As a result this
5 created the irregular shaped lot that exists today.

6 There is no indication from my research that the
7 creation of this irregularly shaped lot was a result of anything,
8 any action on the part of the Applicant, and in fact, I wasn't
9 able to determine why the lot, Lot 863, which is the adjacent tax
10 lot, was created at all.

11 But that is the existing condition. And the lot
12 was apparently created in line with the existing regulations.

13 The next question that was raised was why would the
14 city allow for the creation of a lot that established a
15 nonconformity. If you will refer to Attachment 1 of my staff
16 report, Attachment 1 is a survey plat from the District of
17 Columbia Surveyor's Office. That plat indicates that Lot 62 is a
18 new lot, formerly a tax parcel Lot 859.

19 However, it is noted that the dimensions in the
20 southwest corner, that is, the corner closest to Massachusetts
21 Avenue, indicate that there is eight feet, eight foot dimension
22 that's measured parallel to the street, and you'll note that in
23 the lower right-hand corner of the page, there's a note saying
24 that this complies with the requirements of the zoning
25 regulations, and its signed by the Zoning Administrator.

1 Based on this information, it appears that at that
2 time the method for measuring setbacks was either to measure them
3 parallel to the street or perpendicular from the side property
4 line or the building. Therefore, the lot that was created, the
5 new 862, and the existing building were not -- sorry. Lot 862 was
6 created, and the existing building was not in violation the zoning
7 regulations because the measurement was made parallel to the
8 street. So the existing building is in conformance, and
9 therefore, it, in effect, summarizes what the dilemma is.

10 The existing lot, still referring to that plat, the
11 Applicant -- just for some directions, if you are looking at the
12 southwest side of the building, let's say that's to the east, and
13 the -- I'm sorry. I'm showing the next thing again.

14 Okay. The side of the building closest to
15 Massachusetts Avenue is the north side. The side of the building
16 closest to the angled property line is the east side.

17 The Applicant wants to extend the building to the
18 east and to the south. Under normal conditions if this was a
19 regular lot as are the rest of the lots on that street, the
20 Applicant would be able to extend the building closer to
21 Massachusetts Avenue, in fact, all the way too Massachusetts
22 Avenue because there is no front yard setback.

23 They would also be able to extend the building
24 eight feet, seven feet, which is they require, to the east because
25 they are more than 16 feet from the property line.

1 However, because of the angled property line, they
2 aren't able to do that without violating the side yard setback.
3 Thereby establishes why they need the variance and that it's not a
4 result of their own actions.

5 Based on that information, we reviewed the
6 application and find that the overall request does meet the
7 standards required under zoning regulations. The only -- we
8 contacted the ANC to ask if there were any community concerns, and
9 we talked directly with the local single member representative,
10 Steve Posniak.

11 Mr. Posniak is stepping down and another person is
12 taking his place. He raised this issue at the last -- at the
13 meeting of the ANC in December and talked with other
14 representatives who indicated that they had no opinion for or
15 against this case, which I believe means they are neutral.

16 They did indicate that they would try to provide
17 some information, and I requested that they send that directly to
18 the Office of Zoning. However, apparently that has not been
19 received as yet.

20 The only other issue that this raises -- oh, I also
21 received a report from the fire department, which I would request
22 the Commission waive into the record. The report principally
23 deals with the issues related to the nursery center, nursery
24 school, nursery school.

25 If there is existing sprinkler system in the

1 building, then it should be expanded to cover the area where the
2 nursery school is. If there isn't, then there should be. But
3 that would be addressed when you apply formally for your
4 application for the building permit.

5 Now, the last issue that I would raise would be
6 that of the sanctuary. That has to do with the possibility of the
7 Applicant having to provide additional parking because they are
8 expanding the sanctuary. I discussed that with the Zoning
9 Administrator's Office, and they indicated that the existing use
10 and existing parking are seen as being approved according to
11 zoning regulations.

12 Obviously with the certificate of occupancy that
13 was issued in 1970, it took into account how many people were
14 going to be using the church and apparently was issued with an
15 understanding of how much parking be on site.

16 Because you are expanding the sanctuary, it may --
17 it will probably trigger a question about what additional parking
18 will be provided. There were general estimates of possibly 30
19 additional seats which are to being put in to address a current
20 need for additional seating. However, that would still be seen as
21 an expansion of the sanctuary, thereby triggering a zoning
22 requirement.

23 So I would suggest that the Board may want to
24 consider whether or not that issue should be addressed at this
25 hearing, and at this point that the Office of Planning did not put

1 any recommendation into the staff report. But I specifically
2 asked that question of Mr. Posniak as to whether or not that is an
3 issue raised by any of their -- any other members. And he did not
4 -- he responded that issue had not been raised.

5 That concludes a brief summary of the staff report,
6 and I'm available for any questions.

7 CHAIRMAN SOCKWELL: Yes. Mr. Jackson you said that
8 -- what is their current capacity?

9 MR. JACKSON: Seating capacity?

10 CHAIRMAN SOCKWELL: Yes.

11 MR. JACKSON: I do not know.

12 CHAIRMAN SOCKWELL: Okay.

13 MR. McCLOSKEY: I have that. In the sanctuary the
14 existing capacity is about 95.

15 CHAIRMAN SOCKWELL: Is that fixed seats, bench
16 seats, or --

17 MR. McCLOSKEY: It's fixed bench.

18 CHAIRMAN SOCKWELL: Fixed bench.

19 MR. McCLOSKEY: Yes.

20 CHAIRMAN SOCKWELL: And did you base that on seven
21 -- 18 inches of linear bench per actual human body, which is what
22 would be the requirements under zoning? I beg your pardon?

23 MR. McCLOSKEY: I'm sorry. I based it on 24
24 inches. I did not know about the 18 inch.

25 CHAIRMAN SOCKWELL: Yes. Zoning ordinance requires

1 you to take it on the basis of 18 inches per seat if it is a fixed
2 bench.

3 MR. McCLOSKEY: Right.

4 MS. REID: Mr. Chairman, if he did 24 inches, then
5 that would be more than adequate, would it not?

6 CHAIRMAN SOCKWELL: No, if he does 24 inches, he
7 has not used the zoning ordinance's requirement.

8 MS. REID: I thought it was 18.

9 CHAIRMAN SOCKWELL: Yes, it is. He used 24, which
10 means that he would show fewer --

11 MS. REID: It was too much?

12 CHAIRMAN SOCKWELL: -- would show fewer seats.

13 MS. REID: Oh, right, okay. Sorry.

14 CHAIRMAN SOCKWELL: So in order to meet the
15 requirements of zoning you have to use the more conservative or
16 less conservative.

17 MS. REID: Did you get 95?

18 CHAIRMAN SOCKWELL: Yes, he got 95. So it's
19 probably going to be -- you are going to have 25 percent more. So
20 you are probably going to be around 121 seats.

21 MR. JACKSON: Mr. Chairman.

22 CHAIRMAN SOCKWELL: Yes.

23 MR. JACKSON: I just wanted to clarify. Are you
24 talking about existing capacity or the capacity after the
25 expansion?

1 MR. McCLOSKEY: That is what is there now.

2 MR. JACKSON: Okay, existing.

3 MS. REID: And so that would then driving the
4 parking spaces, right?

5 MS. PRUITT: Excuse me. I just wanted to clarify.

6 CHAIRMAN SOCKWELL: Yes.

7 MS. PRUITT: The existing capacity is also what you
8 are proposing. You are not proposing any increase, are you?

9 MR. McCLOSKEY: That is correct.

10 CHAIRMAN SOCKWELL: The Office of Planning report
11 appears to state and, Mr. Jackson, I thought that I detected -- I
12 wasn't following word for word -- that it was your understanding
13 that the Applicant was going to increase the size of the sanctuary
14 to meet existing capacity.

15 MR. JACKSON: Yes, my understanding is that the
16 Applicant is increasing the size of the sanctuary to allow for the
17 seating of the existing -- for the number of members they have
18 now.

19 However, it was also my understanding that by
20 increasing the size of the sanctuary, they raised the issue of
21 additional parking requirement, just because of area, not
22 necessarily seating capacity.

23 CHAIRMAN SOCKWELL: If they are going to use
24 benches, then their capacity will be based upon bench seating
25 requirements as opposed to area.

1 MR. JACKSON: Correct.

2 CHAIRMAN SOCKWELL: And that will be based upon the
3 area devoted to seating and the linear footage of actual seat area
4 in the bench.

5 MS. PRUITT: Excuse me, Mr. Chairman. One
6 question. The physical addition that you are putting on does not
7 -- the sanctuary doesn't extend into that, correct?

8 CHAIRMAN SOCKWELL: No, no.

9 MS. PRUITT: So the addition you are dealing with
10 really is for access, stairs and elevator.

11 MR. McCLOSKEY: For the most part that is true.

12 MS. PRUITT: Okay. I just wanted to be clear.

13 CHAIRMAN SOCKWELL: They could physically have more
14 persons in the church without increasing the size of the sanctuary
15 itself, and that wouldn't trigger the parking requirement based
16 upon what is used for churches.

17 MS. PRUITT: Right, but what's before the Board
18 today is strictly that addition.

19 CHAIRMAN SOCKWELL: Yes.

20 MS. PRUITT: And not the increase in the sanctuary
21 because it's not in this part.

22 CHAIRMAN SOCKWELL: So since we assume that the
23 sanctuary will be staying the same size as per the drawings, the
24 additional population is going to be in the children of church
25 members and staff to operate those things, but those aren't what

1 we are dealing with.

2 So we'll assume that you meet the requirements for
3 whatever seating capacity you have then.

4 MR. McCLOSKEY: Okay.

5 CHAIRMAN SOCKWELL: I think that would be safe to
6 do. So we'll leave that alone.

7 MR. McCLOSKEY: Okay.

8 CHAIRMAN SOCKWELL: And let's see if I had any
9 other questions.

10 Board members, questions? Right now I'm looking
11 for something.

12 MS. REID: Let's see. I had one question with
13 regard to an extension. Will there be food served?

14 MR. MASSOUD: No. It's precooked, if any.

15 MS. REID: I'm sorry?

16 MR. MASSOUD: It's going to be precooked, if any.

17 MS. REID: Okay, but precooked and brought to the
18 premises.

19 Do you have adequate trash facilities?

20 MR. MASSOUD: Yes, we do.

21 MS. REID: Okay.

22 CHAIRMAN SOCKWELL: Because you will be including a
23 nursery type facility, that means diapers and --

24 MR. MASSOUD: I would correct that. It's not a
25 nursery. Its mislabeled in our drawing. It is a -- basically a

1 classroom for the youngsters.

2 MS. REID: Right, because the nursery will be 205,
3 I think.

4 CHAIRMAN SOCKWELL: Well, I was thinking of it not
5 as a nursery school, but as a --

6 MR. MASSOUD: No. It is not a nursery school.
7 It's just going to be --

8 CHAIRMAN SOCKWELL: I wasn't thinking of it as a
9 nursery school. It was stated as a nursery school by the Office
10 of Planning, and if that wording is incorrect in their report,
11 then I would want to correct all of it so that we correct the OP
12 report to be reflective of the fact that it is not a nursery in
13 that sense.

14 MR. MASSOUD: No, it is not a nursery.

15 CHAIRMAN SOCKWELL: Because I saw it as nursery. I
16 just thought of it as a place for the children to be during
17 services.

18 MS. REID: Yeah, is that what it is?

19 MR. MASSOUD: It is basically. That's true. The
20 children will be there during the services. But it's not going to
21 be everyday use.

22 CHAIRMAN SOCKWELL: No, I understand that. But
23 it's there. Your saying it's more of a teaching classroom.

24 MR. MASSOUD: Teaching classroom.

25 CHAIRMAN SOCKWELL: Than a place where they are

1 going to be bouncing around.

2 MR. MASSOUD: That's right.

3 CHAIRMAN SOCKWELL: Sunday school.

4 MR. MASSOUD: Sunday school, right.

5 MS. REID: May I?

6 CHAIRMAN SOCKWELL: I prefer bouncing around
7 myself.

8 MS. REID: Just in regard to adverse impact, as far
9 as you know there's not -- in your submission you indicated that
10 there would not be additional traffic or noise or trash or
11 anything that would be considered detrimental to the community or
12 neighborhood, and have you not received any complaints?

13 MR. MASSOUD: No, we never had any complaint.
14 We've been in that premises for 38 years. We have no problem with
15 any of the neighbors.

16 MS. REID: All right.

17 CHAIRMAN SOCKWELL: All right. Then let's see.
18 There isn't any additional traffic anticipated with this? Oh, I'm
19 sorry.

20 You're ministry is both within the immediate
21 community and the larger community?

22 MR. MASSOUD: Basically it is in the larger
23 community because this ministry is for the Arabic speaking people
24 only. It's not for the English speaking. We have our kids there,
25 but it's not basically open for the public from around the church

1 to come in.

2 Of course, if they want to come in they will, but
3 they wouldn't understand because our preaching, our singing, all
4 in Arabic.

5 CHAIRMAN SOCKWELL: Which encompasses many, many
6 countries and races and nationalities.

7 MR. MASSOUD: Well, okay. Let me explain that.

8 CHAIRMAN SOCKWELL: It's very, very open.

9 MR. MASSOUD: The Arab countries, they are -- the
10 majority are Muslims. I would say about 98 percent are Muslim.
11 There is only about two percent Christian. The Christian majority
12 in their site, either Catholic or Catholic Orthodox. And we are
13 Baptist. So we are the minority of the minority then.

14 And so it's not going to -- we are not going to
15 grow right all of a sudden. We have 20 extra family within a year
16 or so. Our number of members probably will stay the same for the
17 last I would say 20 years.

18 CHAIRMAN SOCKWELL: So your--

19 MR. MASSOUD: I've been a member of the church for
20 21 years.

21 CHAIRMAN SOCKWELL: You are unique.

22 MR. MASSOUD: Not that much of an increase, anyway.
23 We hope that will happen one day, but it's not that easy.

24 CHAIRMAN SOCKWELL: All right. Then I don't think
25 I have any additional questions. Let me just go through my notes

1 real quick.

2 And you are going to have accessibility and that's
3 part of your issues as well.

4 MR. MASSOUD: That's right.

5 CHAIRMAN SOCKWELL: If there aren't any more
6 questions, then I would ask for closing remarks from the
7 Applicant.

8 MR. JACKSON: Mr. Chairman.

9 CHAIRMAN SOCKWELL: By the way, let me read into
10 the record -- go ahead.

11 MR. JACKSON: I had a quick question. I wondered.
12 You were asking me to revise the report to reflect what the
13 actual use would be. Would it be sufficient to mark through the
14 quoted original and initial it and insert the term "kindergarten"?

15 MR. MASSOUD: Classroom?

16 MR. JACKSON: "Classroom"?

17 CHAIRMAN SOCKWELL: Yes, I would say "child's
18 classroom" or something like that.

19 MR. JACKSON: All right. I can do that to the
20 master that's in the record.

21 CHAIRMAN SOCKWELL: All right. I think that would
22 be fine.

23 MR. JACKSON: All right.

24 CHAIRMAN SOCKWELL: Then was I -- I had a question
25 and I couldn't remember what it was, but just a second. I just

1 want to make sure.

2 Oh, what I wanted to say was that just so that they
3 are recognized since they wrote in, the
4 Sixth Church of Christ Scientist just stated that their property
5 adjoins the property of the Applicant; that they own said
6 property; and that they are immediately adjacent; that they didn't
7 understand or know what the environmental, economic, or social
8 impacts of your proposal would be; and that the board of the Sixth
9 Church of Christ Scientist is charged with responsibility of
10 monitoring what goes on for their congregation, and yet they did
11 not chose to appear at this hearing.

12 So my assumption, and I think the Board's
13 assumption should be, that if they were properly notified as Ms.
14 Bailey or as staff has stated, that they are comfortable enough
15 with what you are doing not to feel that their participation at
16 this hearing was necessary.

17 So if you will give closing remarks.

18 MR. McCLOSKEY: Okay. I just hope you guys will
19 take into consideration again the unusual configuration of the lot
20 and where the building is currently situated on the lot, being
21 right at the setback limits on two sides already.

22 And this really leaves no other alternative for the
23 church to expand other than going in this direction and requesting
24 this variance.

25 CHAIRMAN SOCKWELL: Thank you.

1 And you would want this Board to grant you a bench
2 decision which would be the most expedited to get you done?

3 MR. McCLOSKEY: Sure.

4 MS. REID: And a summary order.

5 CHAIRMAN SOCKWELL: And a summary order. So you
6 won't have to ask me what all of that exactly means, but it sounds
7 good, right?

8 MR. McCLOSKEY: Yes, it does.

9 CHAIRMAN SOCKWELL: All right. As far as I can
10 see, this lot is a unique lot created --

11 MS. REID: Wait, wait, wait.

12 CHAIRMAN SOCKWELL: I'm sorry.

13 (The Board conferred.)

14 CHAIRMAN SOCKWELL: All right. Then I would
15 request a motion.

16 (The Board conferred.)

17 CHAIRMAN SOCKWELL: Oh, I'm sorry. Is there anyone
18 else who wants to testify on behalf of this Applicant? Because I
19 think a number of you did stand up and suggest that you wanted to
20 speak. If you could, the most appropriate spokes person, if you
21 feel that way would be appreciated, or if many of you -- yes?

22 MS. REID: I thought you asked was anyone here
23 opposed.

24 CHAIRMAN SOCKWELL: No.

25 MS. REID: No, you did.

1 CHAIRMAN SOCKWELL: I did, but there wasn't
2 anybody.

3 MS. REID: Okay. I see.

4 CHAIRMAN SOCKWELL: But then a number of people
5 said they wanted to testify.

6 MS. REID: Oh, I didn't see that. Okay. I'm
7 sorry. If there are people in support, ask that they come
8 forward.

9 REV. AJAJ: I suggest that we have --

10 CHAIRMAN SOCKWELL: Come forward and speak from the
11 mic.

12 MS. PRUITT: You have to speak from the mic so that
13 we can get you on the record.

14 CHAIRMAN SOCKWELL: And give you name and address
15 and then make your statement. Thank you.

16 REV. AJAJ: My name is Esper Ajaj. I am the pastor
17 of the Arabic Baptist church.

18 CHAIRMAN SOCKWELL: Welcome.

19 REV. AJAJ: We have a gentleman who is next to us
20 on the right. That church, the Sixth Science Church is on the
21 left, and he's on the right of the church.

22 CHAIRMAN SOCKWELL: So you are the existing
23 resident. Have a seat and speak. Please give your name and
24 address, sir.

25 MR. HAMARUEH: Sami K. Hamarueh.

1 CHAIRMAN SOCKWELL: And your address?

2 MR. HAMARUEH: 4631 Massachusetts Avenue, N.W.,
3 Washington, D.C. 20016.

4 CHAIRMAN SOCKWELL: Thank you.

5 And please make your statement. It would probably
6 be appropriate for you to state that the expansion of the Arab
7 Baptist Mission, Arabic Baptist Mission -- excuse me -- would not
8 effect your negatively, or something to that nature.

9 MS. REID: Excuse me. Excuse me.

10 CHAIRMAN SOCKWELL: Just give us your feelings
11 about the expansion of the --

12 MS. REID: We can help you, sir. Let me understand
13 this. You are here in support, and you're the pastor?

14 MR. HAMARUEH: Yes.

15 REV. AJAJ: Yes.

16 MS. REID: Okay, and you have a witness that wants
17 to say something on your behalf.

18 REV. AJAJ: No, he is living on the right of the
19 church.

20 MS. REID: Okay, but he's here today to identify
21 his presence?

22 REV. AJAJ: Yes.

23 MS. REID: To support your project?

24 REV. AJAJ: Yes.

25 MR. HAMARUEH: Yes.

1 MS. REID: So he does not want to speak. He's just
2 here to show support.

3 MR. HAMARUEH: Support.

4 MS. REID: Is that what it is?

5 REV. AJAJ: I mean, he is just next to the church,
6 exactly.

7 MS. REID: Right, but does he wish to speak?

8 REV. AJAJ: It is in a position -- I mean, he is
9 the closest to the church. So he should oppose it if he wants to
10 oppose it.

11 MS. REID: Okay, but does he? Would you like to
12 say something?

13 REV. AJAJ: Me?

14 MS. REID: Him.

15 REV. AJAJ: No, I don't have to say anything. I'm
16 --

17 MS. REID: Okay. So he's just going on record as
18 being in support.

19 MR. HAMARUEH: Yes.

20 MS. REID: Okay. Now we understand.

21 Was there anyone else?

22 CHAIRMAN SOCKWELL: Is there anyone who would like
23 to make any statement in support?

24 PARTICIPANT: I'd just like to say we all approve.

25 MS. REID: Okay. Just --

1 CHAIRMAN SOCKWELL: Okay. If one of you would act
2 as the --

3 (The Board conferred.)

4 MR. PARSON: Mr. Chairman, I move we approve this
5 application.

6 CHAIRMAN SOCKWELL: Yeah. We can just note that
7 there were eight people, seven people or eight people aside from
8 the Applicant's representatives who are in support and came forth
9 to represent that support by participating as members of the
10 audience.

11 And then I would ask for a motion from our Board.

12 MS. PRUITT: There's a motion on the floor.

13 CHAIRMAN SOCKWELL: Is the motion on the floor?

14 MS. REID: Mr. Parsons made a motion, and I would
15 second it.

16 MS. PRUITT: We were waiting for a second.

17 MS. REID: I second.

18 CHAIRMAN SOCKWELL: Seconded, and any discussion on
19 the motion?

20 (No response.)

21 CHAIRMAN SOCKWELL: then all in favor of approving
22 this application say aye.

23 (Chorus of ayes.)

24 CHAIRMAN SOCKWELL: Opposed?

25 (No response.)

1 CHAIRMAN SOCKWELL: Then you will receive your
2 order in about ten days or two weeks or so. We're coming right
3 off of Christmas. So you'll probably have it before the end of
4 the month, and we thank you very much for coming, and we wish you
5 great luck with your project and the future of your congregation.

6 PARTICIPANTS: Thank you.

7 CHAIRMAN SOCKWELL: This hearing is now adjourned.

8 (Whereupon, at 3:10 p.m., the public hearing was
9 concluded.)
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