GOVERNMENT OF THE DISTRICT OF COLUMBIA

BOARD OF ZONING ADJUSTMENT

PUBLIC HEARING

WEDNESDAY

DECEMBER 2,1998

The Board met in Hearing Room 220, 441 4th Street, N.W., Washington, D.C., at 1:00 p.m., Sheila Cross Reid, Chairperson, presiding.

PRESENT:

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

STAFF PRESENT:

TRACEY WITTEN ROSE, Office of Zoning
PAUL HART, Office of Zoning
JOHN NYARKU, Office of Zoning

C-O-N-T-E-N-T-S

Case Number 16394

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Case Number 16395

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

(1:04 p.m.)

CHAIRPERSON REID: Good afternoon, ladies and gentlemen. My name is Sheila Cross Reid, Chairman of the Board of Zoning Adjustment. This is the December 2 Public Hearing of the Board of Zoning Adjustment of the District of Columbia. Joining me today are Betty King and Mr. Gilreath representing the National Capitol Planning Commission. 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 procedures for special exceptions and variances cases will proceed as follows: statement and witnesses of the applicant, government reports including Office of Planning and Department of Public Works, ANC, et cetera, persons and parties in support, persons and parties in opposition, closing remarks by the applicant. Cross examination of witnesses is permitted by persons or parties with a direct interest in the case. The

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

The decision of the Board in these contested cases must be based exclusively on the public record. To avoid any appearance to the contrary, the Board requests that persons present not engage the members of the Board in conversation. The Board will make every effort to conclude the public hearing as near as possible to 6:00 p.m. If the afternoon cases are not completed at 6:00 p.m., the Board will assess whether it can complete the pending case or cases remaining on the agenda.

At this time, the Board will consider any preliminary matters. Preliminary matters are those which relate to whether a case will or should be heard today, such as a request for postponement, continuance or withdrawal, or whether proper and adequate notice of the hearing has been given. If you are not prepared to go forward with the case today or if you believe that the Board should not proceed, now is the time to raise such a matter. Does anyone here have any preliminary matters.

MS. KING: In Case 16413, ANC 5B had requested a postponement.

CHAIRPERSON REID: Yes. But I think that we got a subsequent --

MS. KING: We got a letter from one member of the ANC.

CHAIRPERSON REID: Let us address that at the time that we call that case.

MS. KING: Okay.

CHAIRPERSON REID: And by that time, perhaps someone will be here from that particular district. Does the staff have any preliminary matters?

MS. ROSE: Yes, Madam Chair. In case 16395, staff would indicate that posting was received three days late and they would need a waiver for that.

CHAIRPERSON REID: 16395?

MS. ROSE: Yes.

MS. KING: That is the Benedictine Foundation?

MS. ROSE: Yes.

CHAIRPERSON REID: Okay. I have no objection to granting them a waiver.

MS. KING: Is there anyone here in opposition in the case of the Benedictine -- in opposition who wishes? Then I have no objection.

CHAIRPERSON REID: Okay. All right.

Then please call the first case. Oh, you have another preliminary matter?

MS. ROSE: One more matter -- 16413, the National Children Day Care Association. We don't have an affidavit of posting for that property.

MS. KING: We also have a letter from a Mr. Williams saying that although he lives within 200 feet, he never received any notice.

CHAIRPERSON REID: Is there anyone here who is affiliated with that case? If so, please come forward. Case 16413, National Child Day Care Association.

MR. COLLINS: I believe that is a case that we are assisting with, but there is no one here for that case right now.

CHAIRPERSON REID: All right.

MS. KING: Should we postpone consideration until they arrive?

CHAIRPERSON REID: All right. Let us then address these issues when they come just before their hearing -- the case is actually heard.

MR. COLLINS: Thank you.

CHAIRPERSON REID: Thank you. The first case, please?

MR. HART: The first case is 16394, Application of Olive Street Limited Partnership,

pursuant to 11 DCMR 3107.2 for a variance from Subsection 404 from the rear yard requirements for the construction of a row dwelling in an R-3 District at premises 2705 Olive Street, N.W. (Square 1215, Lot 80).

(ALL WITNESSES SWORN.)

MR. COLLINS: Good afternoon, Madam Chairperson and members of the Board. My name is Christopher Collins with the law firm of Wilkes, Artis, Hedrick and Lane. Seated behind me is Sarah Shaw of our office. Seated to my right is Larry Smith, who is here on behalf of Olive Street Limited Partnership, and to my far right is Suman Sorg, a principle with Sorg and Associates, the architect of the project that we are going to describe to you today.

This is an application for a rear yard variance in order to allow the construction of a row dwelling in Georgetown. This is an area variance, and we believe that our documents that we submitted and the testimony that we will describe today indicates how we meet the three parts of that variance test. The site, as you can see from the attachments to the statement of the applicant is one block north of M Street, between 27th and 28th Streets. The project includes 14 row

dwellings. All of the lots in that project, or the row dwelling lots, conform to all the zoning requirements. The configuration of one of those 14 lots is unusual, with the result that the strict application of the zoning regulations would result in a very wide and shallow row dwelling, which would be a practical difficulty. That is what we are here to describe today. We believe that there would be no adverse impact on the public good.

The applicant has met on several occasions with the ANC, most recently last evening, and we understand that they have communicated to this office in writing their unanimous vote for no objection to this application. We understand that it was either hand-delivered or faxed down to the Board.

CHAIRPERSON REID: We do have it.

MR. COLLINS: Oh, good.

CHAIRPERSON REID: Mr. Collins, let me just query and see whether or not there is any opposition here. Is there any opposition to this particular case? Anyone here? Then this is the type of case that we could very easily expedite and you can rely on the record. We have read the record. Just kind of like hit the salient points and just go through your case as expeditiously as

possible.

MS. KING: Madam Chair --

CHAIRPERSON REID: Just giving us the highlights.

MR. COLLINS: All right.

MS. KING: Can I ask one question? This is part of the project that is going to in-fill the school? There are going to be condos and then they are going to in-fill the playground or parking lot that was in front of the school?

MR. COLLINS: That is correct.

MS. KING: The whole rest of the project is a matter of right? You are not coming -- this isn't just one piece of something that is going to keep coming back to us?

MR. COLLINS: That is also correct. This one particular lot is unusual and requires a variance.

CHAIRPERSON REID: Of the 17 or 16?

MR. COLLINS: 14 lots.

CHAIRPERSON REID: 14, and only one is in question?

MR. COLLINS: That is correct.

MS. KING: It is a former -- it is a school property at the corner of Olive and 28th?

MR. COLLINS: 27th and 28th and Olive.

MS. KING: Between 27th and 28th. And they are going to infill with a whole bunch of townhouses and turn the school building into a condo?

MR. COLLINS: That is correct.

CHAIRPERSON REID: Okay.

MR. COLLINS: Thank you. You have seen the exhibits. They are tabbed and attached to our statement. They go through identifying the location of the property, the zoning area and the plat indicating the particular lot. The tabs D and E have drawings on them that are also on easels in front of you to our right, your left, and they will be described briefly by Suman Sorg when it is her turn to make her presentation.

Unless there are any further questions, I would like to proceed with the two witnesses. First, to make a brief introduction to Olive Street Limited Partnership is Larry Smith.

MS. KING: Very brief.

MR. COLLINS: Very brief.

MS. KING: We read it.

MR. SMITH: Thank you. I will try to keep it brief. Related to this, but on a different BZA case --

CHAIRPERSON REID: Sir, you need to give

your name and your address, please.

MR. SMITH: Okay. My name is Lawrence P. Smith, 328 Border Road, Concord, Massachusetts.

MS. KING: That is your home address?

MR. SMITH: That is my home address.

CHAIRPERSON REID: And you are the architect?

MR. SMITH: I am the President of Cranberry Hill Associates, the developer that was hired by Olive Street Limited Partnership to develop the parcel.

CHAIRPERSON REID: Oh, all right. Thank you.

MR. SMITH: Before I talk about this case, I just wanted to report back the best news I have had in years that the BZA Case 16071, that dealt with the D.C. Court of Appeals, the Kashir Israel Synagogue and the neighbors appealing the variance that was before this Board previously. We have just yesterday received the memorandum and opinion of judgment from the D.C. Court of Appeals that upheld that this Board's variance for the condominium or the apartment complex variance.

MS. KING: Where is that located? Did I hear that case?

CHAIRPERSON REID: When did that case

come before us?

MR. SMITH: It was 1995.

CHAIRPERSON REID: I don't think you were here.

MS. KING: No, I wasn't.

MR. SMITH: 1995.

CHAIRPERSON REID: What month was it?

MR. SMITH: The decision was December of 1995 that was written up in March of 1997. So the BZA Case 16071. That was great news for us. And this Board as well. We were the intervener and you were the respondent.

Pertaining to this case, I will very briefly tell you how this one lot is before you. The Olive Street Limited Partnership purchased this subdivision from a previous developer. We did not partake in the subdivision. That was done in 1995. We purchased the property in April of 1996. It wasn't until we were well down the road in the architectural design and review with the community's input, and in fact all the Board's input -- the Old Georgetown Board, the Commission of Fine Arts, the Advisory Neighborhood Commission, and the Citizens Association of Georgetown -- but it wasn't until we were well down the design process that we realized that there was a problem with this one lot, which

Suman is going to talk a lot more about. This is the only lot that we have a zoning variance. This will be the only one that will be before this Board.

CHAIRPERSON REID: What about Historic Preservation? Did you guys go to them?

MR. SMITH: Historic Preservation has reviewed this project and they have been at every one of the Commission of Fine Arts. We did not have to have a full HPRB review.

MR. COLLINS: How many times to the CFA?

MR. SMITH: We have been four times before the CFA. All four times, Eve Larson has been in attendance. She has been very supportive of our project. The ANC, in fact, has written a letter of support of the project previously as well as the no opposition to this variance.

I guess finally before I turn it over to Suman, I just wanted to state that really we have gotten the neighborhood's no opposition and there really is no -- it serves the public good. There is no detriment to light encroachment or rear yard encroachment or anything that would affect the public interest. With that, I will turn it over to Suman to talk about the design issues.

CHAIRPERSON REID: Okay.

MS. SORG: Good afternoon. My name is

Suman Sorg, and I live at 2027 Kalorama Road, N.W., and I am the architect for this project.

MR. COLLINS: And we would like Ms. Sorg to testify as an expert in architecture, specifically urban residential in-fill architecture in historic districts in Washington, D.C.

CHAIRPERSON REID: Has she testified here before?

MS. SORG: Yes, but not as an expert.

MR. COLLINS: Not as an expert.

CHAIRPERSON REID: Oh, okay. Do you have a resume or some background information on her to pass up to us?

MR. COLLINS: Okay. She does not have a resume with her, but we can go through -- perhaps you could just describe your education, your practice area, the awards that you have received, the memberships in boards and commissions and your specialty.

MS. SORG: I have an undergraduate degree in architecture from Howard University, and I went to Cornell University for historic preservation. When I came back to Washington, I worked for the National Park Service in the Historic American Building Survey and the Technical Preservation Department. In my practice, we won 3

AIA preservation awards, the Lincoln Theater, the Georgetown Post Office, and the Coolidge Auditorium, two of them in this year alone. I am working for this project in the historic Georgetown area as well as on an in-fill housing project for Howard University in the LeDroit Park area. The practice has a considerable number of historic preservation projects currently ongoing.

CHAIRPERSON REID: Okay. I have no problem with admitting her as an expert witness.

MS. KING: No more do I.

MR. GILREATH: Nor do I.

MR. COLLINS: Thank you.

MS. SORG: Just to get back to this situation, I will very briefly explain the exceptional situation that we have. We have a lot that is mid-block. It is not on the corner. It is in the middle of the block. It is 40 feet deep and 50 feet wide, and the wide side is the one that is on the street side. This is totally unique for not only this development, but also for about a six or seven block area around the development. There aren't any lots that are that size or that configuration. That makes a very exceptional situation for the design. In order to design a townhouse on that, it creates a practical difficulty

in the layout of the interior of the townhouse. Normally when you design a townhouse, the front and back are what are open to light and windows. You come in the front door and there is usually a stair on the right and then rooms on the front and back of all the floors. But in this case, what would happen is you would have to enter on the long side of the townhouse if you were to design one that was 20 feet wide and 50 feet long, and you would have to use the window wall area for the stairwell and the hallway. So it wouldn't be very practical. Either you would have a very dead wall on the front side or totally block light and air on the back side of the townhouse. So in that sense, because we can't enter this townhouse from its natural and shorter end, it would be very difficult to layout.

The other problem that this sets up is how the parking works. If you put the parking in the back coming in from the year yard, which I can show you on this diagram --

MS. KING: You may take the microphone with you.

MS. SORG: Oh, okay. I can pull this over here. If you --

CHAIRPERSON REID: I don't think that one works. If you can kind of hold that one.

MS. SORG: Okay. Here you go. This is the lot in question. I hope you can see that -- this lot. And the problem is that if you -- the parking can either come from behind or from front.

MS. KING: Excuse me, what is that behind -- what are those apparent stripes? Are those garages?

MS. SORG: These two are parking spaces that belong to lot 82.

MS. KING: They are what?

MS. SORG: They are two parking spaces for lot 82.

MS. KING: I see. Okay.

MS. SORG: So what would have to happen is -- here is the lot itself, this is the lot. And this is the house right now. The parking difficulty is as follows. Either you provide parking in the front, and the townhouse, if you had the 20-foot setback that is required, this would be the townhouse. So this would be the townhouse. We would be entering here and then the problem is normally you enter a townhouse there and either the stairwell would be here or there, which would block or make the layout of the interior very difficult, the point I just made. But as far as parking is concerned, we would have to come in over here and

then park in the backyard over here. That would obliterate this parking and make this parking very difficult to back out and then turn around. You would be backing around a number of parking spaces.

So those are two real difficulties as far as the site plan and the layout is concerned. The third is when you have a townhouse that is 20 feet deep and has to have a 20-foot backyard, then 50 x 20 feet of the whole site is taken up by backyard, which is approximately 50 percent of the land. But a normal townhouse, which is one of these other ones that we are planning, only 20 percent of the backyard is really necessary for backyard, because only a 20 x 20 foot on a 100 x 20 foot lot is required. So this configuration affects the footprint of the building and also the amount of land that has to be given over to parking.

The other problem also is a design problem, which is the townhouses right across the street from these, the existing townhouses -- and you have pictures of them in your notebook -- are very small buildings. So we have to try and not create a very long building here, but to try and break it up with the facades that we have designed right now which match somewhat the facades that are across the street. So that forces us to push these

buildings -- make cutouts in this building and push it back in some areas so that the facade isn't one long one. So if the building is only 20 feet wide, that is very hard to do in a floor plan situation. So that is another problem or practical difficulty.

If we do design the house the way we have it with the smaller rear yard, it has absolutely no adverse effect on the entire development because there is no building behind this townhouse. There is a courtyard here and all the light and air can come in from there. From an urban design and design standpoint, it also helps the neighborhood. It is to the scale that we want. It is not a wall-like building on that corner. And the design of this development is such that we consciously went about it and some of those renderings over there show you that we didn't design this project as one cookie-cutter building and then place it on 14 different lots. The idea was to design four buildings at the most at a time indicating sort of a development over time rather than an instant development. So the corner two lots here are actually a pair, even in their architecture and even in their urban design. So that would be helped actually -- the design would actually be helped and the neighborhood and the entire

development would not have an adverse effect.

MS. KING: So the area -- going back to the previous one that you had marked up in red - on ours there is shading on what I believe is the houses, is that correct?

MS. SORG: Correct.

MS. KING: And this area is all open space that provides parking for the houses?

MS. SORG: That is right. Behind the houses are a parking courtyard.

MS. KING: How marvelous. So there is absolutely no impediment to light and air.

MS. SORG: No.

MS. KING: Do you have to get a permit for this curb-cut or is it an existing curb-cut?

MR. SMITH: We do, and it is in process. No, it is not an existing curb-cut.

MS. KING: It is not existing?

MR. SMITH: It is not an existing curb cut.

MS. KING: And Historic Preservation hasn't objected?

MR. SMITH: No.

MS. SORG: No.

MS. KING: Because they have made life miserable for some people over these curb-cuts.

MR. SMITH: This project has been through the --

MS. KING: In historic districts.

MR. COLLINS: We have been through the Fine Arts Commission as well as HPRB for the entire project including the curb-cuts.

MS. KING: Oh, they have.

MR. SMITH: Yes.

MS. KING: Okay.

MR. SMITH: By the way, it is actually an advantage to have lot 80 with a -- you notice we share a curb cut between lot 80 and 81, the one next to it, as opposed to having a sort of 14-lot -- two curb-cuts for more cars. So from a curb-cut standpoint, and we have met with public space officials, they prefer this to an alternative where we had a second curb-cut for more traffic.

MS. KING: Yes.

CHAIRPERSON REID: I am going back to the site plan. I am trying to get clear on exactly -- the parking spaces that are in the rear of that building, lot 80, those go to which houses?

MS. SORG: These two parking spaces go to lot 82.

CHAIRPERSON REID: Okay. And then where did you say the parking would be for lot 80?

MS. SORG: For lot 80, it would be right here.

MS. KING: They have a carport. It is that sort of shaded area.

CHAIRPERSON REID: Oh, the area that has the stripes?

MS. SORG: That is right. That is a trellis over --

CHAIRPERSON REID: That is where -- okay. One car or two car?

MS. SORG: Actually one car behind another, stacked parking.

CHAIRPERSON REID: Okay. It is almost -- it is not a garage.

MS. SORG: No. It is an open carport.

CHAIRPERSON REID: Oh, it is a carport.

MS. SORG: A carport.

CHAIRPERSON REID: Okay. And is that the only carport there on that development?

MR. SMITH: Yes, it is.

MS. SORG: Yes, it is.

CHAIRPERSON REID: Because of the difficulty.

MS. SORG: That is right.

CHAIRPERSON REID: Okay.

MS. KING: And then the parking for lot

81 is just open with no cover, is that it?

MR. SMITH: Correct.

MS. SORG: That is right. That is in their backyard as well.

CHAIRPERSON REID: Okay.

MS. SORG: Something the neighborhood really wanted was cars off the street.

CHAIRPERSON REID: Sure. Georgetown?

MS. KING: Listen, anybody who has lived there.

MR. GILREATH: If the increased lot coverage is granted, are you going to have a normal walk -- I was reading this and I got the impression that if you did not get that, you would have such narrow entrance ways and so forth that it was impractical, or did I understand you correctly. You said they would be 4 feet wide in some instances.

MS. SORG: We are talking about that on the inside of the house.

MR. GILREATH: Well, if you have the extra lot coverage, will you be able to make this so the inside will have a normal width?

MS. SORG: That is right. We need that extra depth to accommodate for that internal stair that you need.

MR. GILREATH: If you didn't get that,

you would have what, a 4-feet wide, I think you said, did you not?

MS. SORG: That is right. That would be very narrow.

MR. GILREATH: That is a bit narrow. Okay.

CHAIRPERSON REID: Okay.

MS. KING: You wouldn't be able to have a bed on the second floor.

MR. COLLINS: That concludes our presentation. I do have with me -- I brought down a draft of -- if this is the appropriate time to hand it in during our case in chief.

CHAIRPERSON REID: At the point of your closing remarks you may do that.

MR. COLLINS: All right.

CHAIRPERSON REID: Now, Mr. Collins, stay right there. Because I don't think that we saw anyone else that was here for this particular case. Are there any government reports?

MS. KING: Except for the ANC.

CHAIRPERSON REID: No government reports. Okay. And then the ANC did submit a report.

MS. KING: With a quorum present they voted unanimously not to oppose the developer's

request for a rear yard variance on lot 80. So we give that great weight.

CHAIRPERSON REID: Yes.

MR. GILREATH: I also think, as I understand it, the CFA has reviewed this several times and concurred. I presume the reason for that is because of the proximity to Rock Creek Park, where they have jurisdiction, or is this Historic Preservation.

CHAIRPERSON REID: And Georgetown.

MS. KING: It is Georgetown. It is part of Georgetown.

MR. GILREATH: Oh, a historic district.

CHAIRPERSON REID: Anything in Georgetown.

MR. GILREATH: Okay. I give that great weight, CFA.

CHAIRPERSON REID: Yes. Okay. So there are no members from the ANC here today. Persons and parties in support of the application? Persons and parties in opposition to the application? Closing remarks by the applicant.

MR. COLLINS: Thank you, Madam Chairperson and members of the Board. You have heard the reasons why we believe that we meet the three parts of the variance test for rear yard

relief in this case. We are very interested in moving forward as quickly as possible with this project now that we do have the Court's approval for the conversation of the school to condominium apartments. I do have with me two versions of a draft order, a full order and a summary order, that I would like to hand in to the Board at this time.

MS. KING: Why don't you just hand in the summary order.

MR. COLLINS: All right.

CHAIRPERSON REID: Are you asking for a bench decision in your summary order?

MS. KING: Yes. And I would like to move that we grant this application. It seems to me that they have well met the burden of proof. It clearly is a unique and unusual situation. They have gone through all the steps that are necessary with the CFA, the HPRB, the Historic Georgetown -- you know, they have gone through all the hoops, and I think it would be -- clearly, there is no adverse impact on the community, in fact to the contrary. And I think that they have well demonstrated the practical difficulty and this certainly won't impair the intent, purpose or integrity of the zoning regulations and map. So I would move that we grant this application and issue a summary order as

quickly as possible.

MR. GILREATH: I second the motion.

CHAIRPERSON REID: Okay. All in favor?

ALL BOARD MEMBERS: Aye.

CHAIRPERSON REID: All opposed?

MR. COLLINS: Thank you.

MR. SMITH: Thank you.

MS. ROSE: Staff will report the vote as three to zero with Ms. King, Mr. Gilreath and Ms. Reid to grant the application and to issue a summary order.

MR. HART: The second case is 16395, Application of the Benedictine Foundation, pursuant to 11 DCMR 3108.1, for a special exception from the Subsection 206 to convert an existing gymnasium to a theater/fine arts building and construct a new gymnasium, and to connect both with a new cafeteria/common lobby in an R-2 District at premises 4501 South Dakota Avenue, N.E. (Square 3977, Lot 133).

(ALL WITNESSES SWORN.)

MR. BOASBERG: Good afternoon, Madam Chairperson and members of the BZA. My name is Tersh Boasberg, and I am the counsel for the St. Anselm's School, the applicant in this matter. The key test for a special exception under 3108 and 206,

that is for a private school in a residential district, is first that the project is not likely to become objectionable to nearby properties because of noise, traffic, or number of students. And second that there be ample parking. We will show that the school's project clearly meets both of these tests and is in harmony with the general purposes and interests of the zoning regulations.

First, there will be no increase in the number of students, faculty or administrative size occasioned by the project. Although the school, as noted in our application, since we are here before you would like to increase its current BZA-limited number of students from 240 to 260. That would be going from 240 to 260, and also to increase the current number of 42 full-time faculty members, 8 of whom are monks living in the Abbey next to the school, to 50, that is, from 42 to 50, as long as we are before you.

MS. KING: Does that encompass the entire staff or are there other staff people employed?

FR. WEIGAND: That is the entire teaching staff.

MS. KING: The teaching staff.

FR. WEIGAND: Yes. It does not include

janitorial staff or some of the maintenance people that come and go.

MR. BOASBERG: And we will show this. Secondly, we will show that the total required parking places is 76 spaces, and we will be providing 136 spaces, that is 60 more than required. Third, we will show that the project will have little impact on the surrounding residential neighborhood, as the school sits well back on its 40-acre wooded campus and the new construction will be set back approximately 200 feet from South Dakota Avenue and will be well treed and landscaped. Indeed, your folders contain a unanimous vote in favor of the project by ANC 5A, which recognizes the series of community school meetings and notes that the ANC is not aware of any opposition. The school has worked and will continue to work hard and cooperatively with its neighbors and very much values the mutual sense of community which highlight their excellent relationship.

Now in an effort to keep this very brief, I would like to introduce our two witnesses, Fr. Peter Weigand, O.S.B. and Headmaster of St. Abbey's, who will say just a few words about the school's need for the project and its relationship with the community, and second, architect David Cox,

who will describe the project briefly and show just how, in the words of the regulations, it will not adversely affect the neighboring properties. If there are no further questions, I would like to introduce Fr. Weigand.

CHAIRPERSON REID: Is there any opposition here today for this particular case? Okay. Mr. Boasberg, just as the previous case, there does not appear to be any opposition. Therefore, we have read the record primarily. You can then expedite and hit the salient points. Just as long as you show or demonstrate how you meet the regulations under Section 206, we should be able to have this case wrapped up in very short order.

MR. BOASBERG: Brevity is our motto.

FR. WEIGAND: My name is Father Peter Weigand, 4501 South Dakota Avenue. It is where I live and also where the school is located. I have been at the Abbey since 1964 and teaching since 1968. As you know, the original school buildings have been since 1942, so we are over our 50th year in operation. What we are planning to do is really build a new gymnasium, because at the moment academically and from the point of view of the scholastic side of the school, we are doing very, very well. Our biggest need is to have adequate

athletic facilities for the boys for basketball and wrestling and for all the indoor sports. We have ample ground for the outdoor sports, but our gymnasium was designed in 1946 and is not even a legal basketball size court. We definitely need a basketball court that meets the regulations for all the leagues that we belong to.

We also have outgrown the space in the original school building auditorium. It seats 160 boys and we have 240 boys with a faculty of 40-some at the moment. I have no place for convocation for the whole student body and I have no place for liturgies or mass -- any suitable space for that. When we contacted the architects, their decision was that it would be best to convert the old gymnasium into a theater that would meet these needs that we have plus building a new gymnasium approximately 35 feet from the existing building to give us a new cafeteria space between the existing gym and the new gym, so that in the main school building, we will obtain some extra classroom space and reallot spaces so that we can carry on the academic program for as many students as we have.

I think briefly that is what we are doing. If there are any questions, I will be very happy to answer them. But in the name of brevity,

is that enough?

CHAIRPERSON REID: Yes. Thank you.

MR. BOASBERG: David Cox?

MR. COX: My name is David Cox. I am a principle with Kress Cox Associates. My address is 5115 Cathedral Avenue, N.W., Washington, D.C. I would like to just do a quick orientation of the materials that I have brought. I don't know if I can carry this with me. The entire campus is 39.5 acres outlined in red as you see here. The existing 1946 building is this gray area close to South Dakota Avenue. The area shown in yellow is the proposed new gymnasium. We have also shown a blow-up of the area immediately surrounding the proposed building here. The existing gymnasium is shown with this wood portion of the model. The white portion is the proposed new building.

It is, as Fr. Peter said, much more than just a gymnasium. It is a student activity center that will combine two major assembly functions for the school. We are trying to be very careful with the resources that the school has. Rather than to tear down anything, as you see here in the site plan the old gymnasium will be adaptively reused and converted into a 400-seat theater. We have just done such a project at Georgetown Visitation.

Gymnasiums lend themselves very well to this. At the same time, by building the new facility immediately to the north, it will confront the existing playing fields. This space in-between will then act as a reception hall, a lobby for both of these assembly uses, and daily as a cafeteria for the students.

So truly with all these activities in one facility, we will be able to do all the parking and all the servicing off of South Dakota Avenue without affecting any other parts of the street network. I think there is a lot of built-in efficiency with this scheme. These just show the existing old gymnasium as it is now. It is quite outmoded. With this rendering and the model, you see the general character. We are trying to be harmonious and consistent with the architectural quality of the existing building. It will be built of masonry and pre-cast concrete with a metal roof. We are providing a curving metal roof to keep the height down, a very shallow kind of curving element, and just touching the edge of the old building.

The parking situation and service will be in an improved and slightly enlarged existing parking lot entered right now off South Dakota Avenue. It currently has 45 cars. We are expanding

that to 68 cars right here. The total parking issue, just to address parking -- the campus has a combined parking of 113 spaces between these two lots. The zoning regulations -- for this new facility, just focusing on this for a moment -- the zoning requirement for parking is that we provide 2 spaces for every three teachers and staff. There are 50 staff people and that yields 34 parking spaces. In addition, because it is an assembly use, there will be a 400 seat bleacher capability, and that will be figured at one space per 10 seats, which will require another 40 spaces. Although, there is the conversion of the old gym into 412. We took the worst case of the two. So that is 42 spaces for that. It is a combination requirement of 76 spaces. Proposed with the 68 spaces here and 68 in the existing lot, it gives us 136, which is 60 spaces more than the requirement. Another way of looking at it is that we could have both of these assembly uses in use at the same time and still have adequate parking to meet the zoning regulations.

So I think we have met the requirements for that. The impact of the building in terms of the residential use on South Dakota Avenue, there are two and three-story townhouses along both sides of South Dakota. We have been in constant contact

with all of these folks and had a series of presentations and meetings with them. What we are doing with improving this parking lot with buffering and screens all along these edges, low-level security lighting angled downward at night, and then the noise issue -- the noise was another factor that we talked to them about. There will be an internal mechanical chiller, a basement mechanical room, for the portion of the machinery that makes the most noise, and associated with that is an outdoor cooling tower which will be located in a recessed walled-in area just off this parking lot for the cooling tower. So we have tried to be very careful about not imposing noise or any other kind of impact on the adjacent neighborhood.

MS. KING: And these wooden structures over there, that is all residential properties?

MR. COX: Correct.

MS. KING: Apartment houses and townhouses?

MR. COX: All rowhouse type single family with small garage structures.

MS. KING: Oh, I see.

MR. COX: Facing an alley in the back.

MS. KING: Oh, so I see. So you are separated by their backyards, their garages, and the

alley?

MR. COX: Correct.

MS. KING: That seems well buffered.

MR. COX: Currently the gymnasium is serviced with a service driveway off the alley which we are removing, so that all of the service will happen off the parking lot. I think there is some sensitivity to any kind of truck activity or service activity off of this alley because of the presence of these garages.

MS. KING: And what are the gray areas over here on the hill side? No, no, on the model? Are those paths or are those roads?

MR. COX: This is the existing entry driveway coming up the hill to the main part of the campus.

MS. KING: I see.

MR. COX: And to the monastery. This gray area is a new footpath that will connect the main campus with this student activity center.

MS. KING: So to get to -- I am just curious because I have some theater in my background and with all the sets and costumes and stuff, you are going to have to go through the cafeteria area in order to move materials and equipment and so forth into the theater area?

MR. COX: That is a good question. Just looking at this larger plan, here is the existing old gymnasium which will be converted to the theater. The stage will be located at this end and we will put in a raised floor for seating here. The entrance points will be off this cafeteria area.

MS. KING: No, I was wondering about deliveries.

MR. COX: The back of the house area is -- currently this area that is paved right now, we see as being a receiving area for the back of the stage, but it will have to be brought in across the parking lot through this entryway and then into the theater itself.

MS. KING: So there will be vehicular access to the old gymnasium when it becomes an art center?

MR. COX: From the parking lot rather than from the alley.

MS. KING: Okay, fine. It just looked to me as if there weren't, but there is.

MR. COX: Right.

MS. KING: So that is fine.

CHAIRPERSON REID: And where would the dumpsters -- where are they located?

MR. COX: The dumpsters will be located

immediately next to that mechanical area that I just mentioned also in an enclosed area for direct truck access. So all the truck and automobile access will be off this existing curb-cut on South Dakota, independently happening from the curb-cut at the alley. There are two curb-cuts existing here which we are not affecting.

CHAIRPERSON REID: The cafeteria is being added within a new segment.

MR. COX: This space, yes.

MS. KING: Where is the kitchen?

MR. COX: The kitchen will be located at this end and related to service. There will be a small service drive and a small loading dock. We will have to provide one loading dock. Now all of that activity on the model is right in here off this. This will be the service drive into an enclosed -- it is a semi-interior loading dock. In other words, the roof will overhang it. This is not like -- Fr. Peter might be able to address this. This is more a prepared, prepackaged kind of food for lunch -- soft drinks and that sort of thing.

FR. WEIGAND: It is a catering kitchen because we do not have a hot lunch program. All the boys bring their lunches from home which use the bank of microwave ovens, and then we have only

prepackaged foods that they have. At the moment, it works out very, very well. The present cafeteria is in the existing building, and we want to make that -- when we move the cafeteria, we want to make that a library reading room. It is a magnificent, well-lit room.

CHAIRPERSON REID: So your provisions for trash pick-up and delivery --

FR. WEIGAND: Is already existing, yes.

CHAIRPERSON REID: Already planned contracts and the like.

FR. WEIGAND: Yes, it is all contract.

CHAIRPERSON REID: With the increased space that would be allocated for the cafeteria, you would then perhaps have to increase the trash pick-up, do you think?

FR. WEIGAND: Because we are not increasing the enrollment that much, at the most 20 boys if that.

CHAIRPERSON REID: Oh, okay.

FR. WEIGAND: You see, we take in a unit of 40 boys in grade 6 and we are only graduating 23. So we barely get to 240.

MR. GILREATH: Do you envision any potential conflicts, say if there is some kind of activity in the theater section and students are

eating at the cafeteria where you will have people coming in to go to the theater and the cafeteria people eating? Is that separated so that they would be eating in one separate place and people could go into the theater or the gymnasium without interfering with the eating activity or at least creating crowding? How is it you handle that?

MR. COX: Well, the way I envision this happening is the theater use will likely be either an all-school assembly that will take place during school hours during the day or in the evening or late afternoon presentation. I think we would see this being used as a kind of pre-function or reception space in association with that, not as a -- - when the cafeteria is used during the lunch hour during the week, it would be very unlikely that you would have a formal thing going on here. It is one or the other.

MR. GILREATH: I see. Okay.

MR. COX: Father Peter, correct me if I am wrong.

FR. WEIGAND: Yes. The lunch period is from 11:30 to 1:00 every day, and that is really a scheduling thing.

MR. GILREATH: There is no gymnasium activity or theater activity?

FR. WEIGAND: No. The gym is totally not used during the lunch periods, except for the boys who just want to themselves practice.

MR. BOASBERG: Madam Chair, that concludes our presentation. We would be happy to answer if there are any additional questions.

CHAIRPERSON REID: Basically, under 206 it relates to there not being any objectionable noise or traffic in regard to the number of students or any other objectional conditions. So my question becomes have you had any complaints or has there been any opposition to the plans that you know of to date?

MR. BOASBERG: There has been none from our neighbors closest to the alley. The only complaint they had in that was where is the water going to go, and I think our architects really can address that because that is one of the concerns. At the moment, all of our fields drain to the north, and the neighbors who live way on the other side of the next complex are wondering if more water would end up in their alley on Gallatin Street, and I think our architects can solve that.

MR. COX: The question or the concern that we have heard has to do with an underground spring apparently that was closed in by the city at

some point running in a sort of north/south line, and partly that has had some impact on some of the city streets up in this area and some of the property. And there was concern expressed to us as to whether this project would add to those water problems. Our response was that by code to get the Building Department permit, we have to take care of all of the storm water as part of the storm water management plan, and it will have to all be piped directly to the existing storm water in South Dakota Avenue. We are simply not permitted to introduce new water runoff, either from the parking lot or the building onto the landscape. So it is all going to be very carefully managed and routed into the sewer system.

CHAIRPERSON REID: Okay. So basically you addressed that problem or that issue.

MS. KING: That doesn't mean it is going to cure their problem with the existing underground stream, but it is not going to be worse.

FR. WEIGAND: It is not going to be worse.

MR. BOASBERG: There is a letter from the ANC, Madam Chair. We have, since May, met with the neighbors and at two or three meetings with ANC commissioners. The school and the neighborhood are

very close to each other. There is a lot of interchange and a lot of use of the property, for example, for cheer-leading crew and they use it for picnics and so forth. The letter I think is an excellent letter and it explains the number of meetings and concludes with the ANC writing that they are not aware of any opposition.

CHAIRPERSON REID: Yes. We do have that. It was very exhaustive. The other issue under 206 is pertaining to the parking and obviously that has been more than adequately met. I have no other questions. Mr. Gilreath or Ms. King?

MS. KING: No.

CHAIRPERSON REID: Okay.

MR. GILREATH: I have one. You say the ANC and some neighborhood groups have looked at your plans and so forth, and they feel that the red brick and everything is compatible with the other surrounding structures and so forth?

MR. COX: Yes.

CHAIRPERSON REID: All right. Government reports? I don't think there were any.

MS. KING: No, none.

CHAIRPERSON REID: All right. ANC report?

MS. KING: The ANC 5A at a meeting in

which quorum was present voted to support the application. So that can be given great weight.

CHAIRPERSON REID: All right. Persons or parties in support of the application? Persons or parties in opposition to the application? Closing remarks by the applicant.

MR. BOASBERG: Thank you, Madam Chair. We would like to ask for a bench decision and a summary order, and I think that we have satisfied the tests of the special exception.

CHAIRPERSON REID: I would move that we approve this application. I think that they have demonstrated most adequately that they comply with Section 206 and that they have more than adequately provided for parking and that there is no adverse impact other than having addressed the issue regarding the water drainoff. It does not appear to impair the intent or integrity of the zoning map or the zoning plan. All in favor?

MS. KING: Wait a minute. I think we should include in our order that the present limits on students of 240 should be raised to 260 and on faculty to 50 persons.

CHAIRPERSON REID: Oh, that is right. The number of students 260.

MS. KING: Students 260 and faculty 50.

MR. BOASBERG: Yes. Thank you.

CHAIRPERSON REID: Should we -- hours of operation?

MS. KING: I don't think we have to.

CHAIRPERSON REID: That is not necessary?

MS. KING: No. This isn't a childcare center. I don't think it creates that kind of thing.

CHAIRPERSON REID: No. This is already existing.

MS. KING: So I just -- Tersh, do you have the present order? Are there any conditions other than the number of students in the present order?

MR. BOASBERG: I don't think so. I don't have a copy. It was 1986. I have the date of it. But I would certainly say that whatever conditions were there could carry over to this one except for the increase in students.

MS. KING: Could we as part of our motion instruct the staff to check what the conditions were that were imposed by the existing order and to carry them over with the amendment as to the number of students and faculty?

CHAIRPERSON REID: No term?

MR. BOASBERG: Thank you.

CHAIRPERSON REID: No term?

MS. KING: No.

CHAIRPERSON REID: Okay. All in favor?

ALL BOARD MEMBERS: Aye.

MS. ROSE: Staff would record the vote as 3 to 0 with Ms. Reid, Ms. King, and Mr. Gilreath to grant the application with conditions as in the original summary order.

MR. BOASBERG: Thank you very much.

MR. HART: Case 16400. Application of Association of Concerned Veterans, pursuant to 11 DCMR 3107.2, for a variance from the off-street parking requirements (Subsection 2101.1) to reduce the number of parking spaces required for a non-residential use to allow a public hall for 300 seats on the first floor in a C-M-1 District at premises 1350 Okie Street, N.E. (Square 4038, Parcel 142/103).

(ALL WITNESSES SWORN.)

MS. JORDAN: Good morning, ladies and gentlemen -- or good afternoon, rather. I am Laura Jordan on behalf of the applicant. Mr. Semper has prepared a statement and I would like at this time to request a waiver so that you can be allowed to read his statement and consider it in your decision.

I have given it to Ms. Rose.

(Whereupon, the Board reads the statement.)

CHAIRPERSON REID: Okay.

MS. JORDAN: Mr. Semper will testify first.

MS. KING: Is he now going to read the statement that we have just read?

MS. JORDAN: No, ma'am. He is going to kind of summarize and add some things to it. Go ahead.

MR. SEMPER: Good afternoon. My name is Joseph Semper. I live at 337 Rittenhouse Street, N.W., Washington, D.C. The reason we are here is that we have, in fact, in place a private club license or a license for a private club. The problem is with that that you can't function properly if you can't -- most people will ask you when you are putting on an event, are you going to have beer and wine and stuff like that. We did a few events last year and apparently there is a limitation as to how many of these licenses one can obtain. I think we had three and we were told when we applied in February of last year that we needed to get a public hall license or some other license because they were not in the position to keep

issuing the one-day licenses. The problem with that is that if you cannot guarantee people than an event is going to take place, they are not going to buy tickets in advance. With a private club, you have to sell your tickets in advance. You can't collect any money at the door. You can't advertise properly except by word of mouth, and this limits your ability to function. This is why we are here asking for relief so that we can function in a proper manner and make this thing a viable operation.

The thing is we looked at the folder yesterday and saw some opposition from the ANC. Personally, the area is a veritable wasteland when the garages and other businesses close around there in the evenings. The activity around there is not what one would want their children or their neighbors or friends or anyone to know what goes on. It is strictly activity which the police frown on and which everyone frowns on. People dump garbage. As a matter of fact, I was trying to bring some photographs today. Right across from 1350 there are probably 200 or 250 tires which they have dumped there. The market vendors sometimes when they can't sell all of their produce for whatever reason, they go up there and just dump it in the street. They vandalize cars. Cars are stripped. Just about

everything. And discussing the matter with some of the police officers who work with us, they assured us that if we had something going on there at night and there was activity, they know for sure that people wouldn't try to strip cars at night and they wouldn't come with garbage to dump at night and this would prohibit that sort of activity.

All we are trying to do -- I don't see how it is going to negatively impact anybody. We are trying to do something to bring some economic relief and a viable operation and we ask for your indulgence.

MS. KING: In your written testimony that we have just read, you say that Officer Stevenson was going to file something with the BZA. But as far as I know, we have received nothing.

MS. JORDAN: I can address that, ma'am. He is expected to file something by the end of the week.

MS. KING: Oh, so you don't want a decision today?

MS. JORDAN: Well, in that regard, I think if you felt that you could make a decision based on the record before you with the representations as to what Officer Stevenson's testimony or statement would contain, then a

decision today would be acceptable. However, if it is necessary for his statement to be in the record and you feel that it would tip the balance, then we can certainly wait until his statement is submitted.

MS. KING: What kind of entertainments are you holding from 9:00 p.m. until 4:00 a.m.?

MR. SEMPER: We try to do some dances. None of the young generation stuff. We do oldies but goodies.

MS. KING: It depends upon how old you are what the younger generation is, sir.

MR. SEMPER: Well, I talk about those who are younger than I am.

MS. KING: For you and me, the younger generation might be considerably older than for your attorney.

MR. SEMPER: No, we are looking for light entertainment -- stuff that more mature people would be interested in. Not the hip-hop sort of stuff. Not that kinds of stuff.

MS. KING: And what kinds of alcoholic beverages are served?

MR. SEMPER: Beer and wine.

CHAIRPERSON REID: No liquor?

MS. KING: No hard liquor?

MR. SEMPER: It depends. Sometimes if

the people ask for hard liquor, we get a license for hard liquor. If they say they don't want it, there is no point in getting it.

MS. KING: Now if you get this parking variance from us or whatever it is you need in order to do this, then you have to go and apply for a liquor license from the Alcoholic Beverage Control Board?

MR. SEMPER: Yes, ma'am.

MS. KING: Or do you get a one-day license every time you have an event?

MR. SEMPER: For starters, we will get the one-day licenses, and later on we will get a license from the Control Board.

MS. KING: So and once you got a liquor license, this could be an activity that goes on 7 days a week?

MR. SEMPER: Oh, no, no, no. It could but we wouldn't function 7 days a week, no. I have no interest in functioning 7 days a week. For the record, I am an electrical contractor by occupation, and there is no way I would want to give up what I am doing.

MR. GILREATH: How many people can be seated there now? You said that you have got --

MR. SEMPER: 300.

MR. GILREATH: Well, 300 -- you already have 300 there and you are wanting this variance to make it legitimate so you can get a license?

MS. KING: If you get a special events permit, which is I presume is what you have been getting, there are a limited number you can get in every year.

MR. GILREATH: Oh, I see.

MS. KING: And what he wants to do is have this two nights a week year round more or less or be able to, whereas under the DCRA regulations, when you get a special events permit, you have to do various things and you can't apply over and over and over again. There is a limited number. Am I not correct?

MR. SEMPER: That is correct, yes.

CHAIRPERSON REID: It is a one time for an event, not for a continuance.

MR. GILREATH: So we are not increasing the capacity.

CHAIRPERSON REID: No.

MS. KING: The issue is under the --

CHAIRPERSON REID: Under the parking aspect of it.

MS. KING: Under 2101.1, it is parking. And for a capacity of 300, you would have to have

one parking space for every 10 seats or 30 parking spaces.

MR. SEMPER: That is correct, yes.

MS. KING: And where -- can you describe -- is there a residential area --

MR. SEMPER: There is no residential area contiguous to this property. The residential area is about two blocks away and half of those houses are abandoned right now as it is. The block between us and going back towards West Virginia, there is nothing. It used to be an old school.

CHAIRPERSON REID: So where then are the people who attend your facility going to park?

MR. SEMPER: Right there on Okie Street. There is more than enough space for 30 or 40 cars.

CHAIRPERSON REID: Well, I think that the reason why you are here is because that has to be provided.

MS. KING: You have to prove that. Where is your proof?

MS. ROSE: It has to be on-site. That is what the variance is from, on-site parking.

MR. SEMPER: We are asking for a variance from the on-site parking.

CHAIRPERSON REID: Oh, okay. I understand.

MS. KING: I understand. But I mean instead of this vague -- the residential community is two blocks away and there is plenty of -- I mean, you know, not to --

CHAIRPERSON REID: Where? Where is the parking?

MS. KING: Where? Give us details. Where are the maps and the plans?

MR. SEMPER: There is Okie Street --

MS. KING: Where are you going to put the people?

MR. SEMPER: For the events we had, they parked on Okie Street. A few parked on Kendall Street.

MS. KING: Do you have an inventory of available parking at different times? Do you have a traffic study? I mean, you are just saying there is plenty of parking. Do you have any documentary proof that there is plenty of parking?

MR. SEMPER: The only proof I have is that I have been by there in the evenings after 6:00 when the garages around there close and there is absolutely nothing around there after that time -- nothing. This is why people find it convenient to dump garbage.

MS. KING: And that is the sum and

substance of your case? Madam, do you have anything to add? Is this your entire presentation?

MS. JORDAN: Well, in terms of the availability of the parking, it is possible to submit a parking inventory and so forth. But Mr. Semper's testimony, which is apparently uncontradicted, is that the premises in the neighborhood are vacant in the evening hours. Finding on-street parking for 30 cars in that area should not be a problem given that the entire neighborhood is industrial. The closest residential parking is two blocks -- the closest residence --

MS. KING: Do you have any plans or maps or anything that you want to submit as part of the record?

MS. JORDAN: No. No plans or maps.

CHAIRPERSON REID: Well, the purpose of your being here is to meet your burden of proof for the relief that you are seeking, which is a variance. Are you familiar with the three-prong test for a variance?

MS. JORDAN: Yes, ma'am, I am.

CHAIRPERSON REID: All right. Well, can you address that?

MS. JORDAN: Well, in terms of the application before the Board, the variance is

requested so that Mr. Semper can use the public hall license to sustain a more viable economic activity. Now I would ask the body to take notice of the fact that there are no residences within two blocks of the area. It is an industrial neighborhood --

CHAIRPERSON REID: Well, let me just interrupt you for a second. You must show how there is a unique and unusual characteristic or situation inherent in the land that would cause a practical difficulty for the applicant to comply with the existing zoning regulations. Can you do that?

MS. JORDAN: I think Mr. Semper is better equipped to address the availability of on-site parking. Something inherent in the land, meaning the existing structures and so forth, to my understanding there is no on-site lot.

CHAIRPERSON REID: You have 100 percent lot occupancy?

MR. SEMPER: Yes. The Greyhound Building occupies from the corner of Kendall to where it abuts onto 1350 Okie Street, and 1350 goes from there to the alley. So there is no off-street parking at all.

MS. KING: Is there any parking lot nearby where you could acquire 30 parking spaces for the use of your clientele?

MR. SEMPER: Well, the Greyhound has a lot at the top. I don't know who owns the place now. It is where Greyhound used to be.

MS. KING: But what I mean is if you can't provide -- if there is some unique and unusual circumstance that you can't provide the 30 parking spaces on your property, is there in the immediate neighborhood property where you could provide the required parking spaces?

MR. SEMPER: There is, but I would have to negotiate with the owners of the property and I have never attempted to do that because from the events that we held, the people who came were able to park right there on Okie Street and we didn't require any additional parking. But if additional parking becomes a necessity, I am prepared to negotiate with the people who own the lot for the use of the property for the specific purpose of parking.

MR. GILREATH: Well, if you could work out an arrangement with a nearby property owner that had the vacant land, you would not need a variance.

MS. KING: Well, he would need our approval of that.

MR. GILREATH: That is right. Something granted.

MS. KING: The test for a variance is very strict and it goes with the land in perpetuity, and therefore it is very difficult to get. If you can prove that you can provide 30 parking spaces elsewhere, that would be -- you know, if you have a contract with somebody to permit 30 parking spaces, that would be perhaps --

MR. SEMPER: Well, I know the lot they have vacant and looking at it it could hold more than 30 cars, that is for sure. So we could try --

MS. KING: But you are looking at it -- you are saying, oh, I have looked at it or to the street, there is plenty of parking on the street.

MR. SEMPER: No, I am saying I would have to negotiate with them.

MS. KING: What we need is you need to provide us with proof, not opinion.

MR. SEMPER: Okay.

MS. KING: Proof. You have to meet the burden of proof in your application for a variance.

MR. GILREATH: And for the use of nearby property, you would not necessarily have to negotiate for 24-hour use of it. You would only want use of that land for the time your club operates and what time it closes.

MR. SEMPER: That is correct.

MR. GILREATH: And if the lot were not used for anything else, you might be able to work out some kind of arrangement perhaps at a reasonable cost or a nominal cost.

MR. SEMPER: There is that possibility. We could work on that.

CHAIRPERSON REID: What percentage of the lot does your building occupy? Because looking at the site plan or the plat, it appears that there is some additional -- the part that is outlined in yellow -- you see, I am a little confused here, because I see two different --

MS. KING: Do you have a plan of your site to --

CHAIRPERSON REID: Excuse me, if I may. Yes, there is one here. But these two site plans or these plat maps, they look like two different configurations. One is almost like a square and the other is almost like a rectangle. Can you explain that?

MR. SEMPER: Well, I didn't draw those. The one in your right hand is the one I think I recognize.

CHAIRPERSON REID: This one?

MR. SEMPER: Yes. And the building occupies 100 percent of the lot.

CHAIRPERSON REID: Oh, it does.

MR. SEMPER: 100 percent of the lot.

CHAIRPERSON REID: I needed to hear that. And what about this one?

MR. SEMPER: I don't know what that is. You know, you apply for documents and they give you documents. Some are irrelevant.

CHAIRPERSON REID: This is not you?

MR. SEMPER: No, we didn't do that. We applied for the documents and they give us what they have on record.

CHAIRPERSON REID: That is very confusing. Okay, so this one then --

MR. SEMPER: That represents --

CHAIRPERSON REID: That represents you?

MR. SEMPER: Yes, that does.

CHAIRPERSON REID: And this yellow -- the yellow covering represents the full lot coverage?

MR. SEMPER: That is correct, yes.

MS. KING: And you did not submit this with the identification of the surrounding properties?

MR. SEMPER: Can I take a loot at that?

MS. KING: Tracy, where did we get this?

MR. SEMPER: This is the same thing.

This is the alley right here. This is the building.

CHAIRPERSON REID: No, no, no. That --

MS. KING: What she is pointing out -- and speak into the microphone if you would be so kind -- what she is pointing out is the size of this property in chartreuse or green/yellow or whatever. And the size of this, I am not --

MR. SEMPER: I see what has happened here. They are showing shaded here just a part of the property.

MS. KING: And what goes on in the rest of the property?

MR. SEMPER: No, no, no. This is incorrect. The entire property is occupied by the building.

MS. KING: So this, whatever this is, is part of the same building?

MR. SEMPER: This is part of the same building. Everything is part of the building. Right next door here, this adjacent building, this is the old Greyhound Building which comes from Kendall Street right through.

MS. KING: And is it vacant? Is the Greyhound Building vacant?

MR. SEMPER: It is vacant.

MS. KING: And this Community Correction

Center, does that still exist?

MR. SEMPER: The old one on New York Avenue, yes.

MS. KING: So that -- this whole block is empty of any operating business except yours?

MR. SEMPER: There are two garages here and a restaurant on the corner.

MS. KING: And then the rest of the places are boarded up or --

MR. SEMPER: Vacant -- boarded up.

CHAIRPERSON REID: Okay. I think that what Mrs. King and I are both saying to you, sir, is that in the absence of your being able to provide parking and you are here for a variance because you can't provide parking, but in that you will have the capacity of 300, then I would think that you would be able to demonstrate to us where those cars would park -- the areas that you --

MR. SEMPER: Can I show you on there?

MS. KING: You need to have a traffic study or you need to have parking provided elsewhere. Just your saying this, this, this and this is not proof.

CHAIRPERSON REID: You say on the street, but are there signs up that say what the parking parameters are, hours of parking or

whatever?

MS. KING: Do you have photographs taken with a camera that shows the date and time so that we can see that the streets are empty? Do you have photographs of the parking signs in the immediate vicinity? I mean, we don't have any photographs, we don't have anything. We have a letter of opposition from four ANC commissioners. Therefore, this is not an uncontested case. Even if there was not a quorum present and therefore we do not have to give it great weight as an official action of an Advisory Neighborhood Commission, there are still four people in that area who are in opposition to your proposal. So you can't just come in and say I don't think there is a problem, therefore grant me a variance for which the burden of proof is very strict and severe. Madam Chairwoman, on the basis of what has happened so far, I feel that this gentleman has failed to meet the burden of proof. Now whether we want to continue this so that he can provide us with proof.

CHAIRPERSON REID: Right. I think that what has happened here, Mrs. King, is that the applicant has not been adequately advised or counsel as to the preparedness that is necessary for coming before this Board, and as such has not done so.

Rather than to risk your being disapproved, I would suggest that you meet with staff and let them counsel you as to what you need to prepare to make your case so that you can then provide to us the information and data, whatever we need, to meet your burden so that you can then be granted your variance. Because at this point, we don't have anything to go on. In addition, there is adverse impact that has been represented by the ANC Commissioners, so that is not taken lightly. We have to take that into consideration. You need to meet with them and see how you can reconcile whatever difficulties you may have and come up with some solutions to the parking issue.

Is there anyone from the ANC here?

UNIDENTIFIED SPEAKER: Yes, we are.

CHAIRPERSON REID: Okay. Then they will have an opportunity to present to us what their opposition is in this case. Do you have anything else to day right now?

MR. SEMPER: No, I don't think so.

MS. JORDAN: Madam Chairwoman, as to the ANC's opposition, it doesn't reflect an official action of the ANC, and as such it becomes merely the opinions of four individuals who presumably live in the neighborhood, although whether they live within

the 200-foot boundaries is open to question. Therefore, it is not properly in the record. I would make that argument.

MS. KING: I beg your pardon. It is properly in the record. They have not said that it was an official act with a quorum present of the ANC. It is, however, properly in the record that there are four citizens of that part of the city who are in opposition. This is not an adversarial hearing where either you win or they win because one of you or the other -- your client has not met the burden of proof. But there is opposition and it is to be considered, as it would be if you or I came before as individuals. Four people have come forward as individuals. They have not pretended that it is an official act of an ANC with a quorum present and a majority voting. So it is properly part of the record and it will not be excluded from our consideration.

MS. JORDAN: Well, yes, ma'am. I appreciate your comments. I would note that the comments are on ANC Commission letterhead. So I think it is advanced as being an official ANC action.

MS. KING: On the contrary. They have made it quite clear that there was not a quorum

present and therefore they could not take official action. Individual members, let alone four members of an ANC, are entitled to use the letter paper of the ANC in order to write to this Board or to carry out any kind of correspondence. There is no attempt to deceive on behalf of that ANC.

CHAIRPERSON REID: And if you are the representative for the application, it is incumbent upon you to insure that when you come before this Board that you come prepared. In addition, the position of the ANC members or citizens who are abutting or who live in that immediate jurisdiction, their opinions are not -- we don't take it lightly and their position, whatever position they take, is not trivialized. This is part and parcel of what this hearing is about. It is to insure that if, in fact, there is a variance that is granted that it is done in such a way that it will not adversely impact on the people who live there. So is there anything else that you have to add to this? Because you will have a chance to come back after we complete this case. Do you have anything else to say at this time?

MS. JORDAN: Not at this time.

CHAIRPERSON REID: All right. Government reports? Oh, I am sorry, Mr. Gilreath?

MR. GILREATH: I would like to say -- I presume this is the appropriate time for this. I would like to suggest to the applicant that in regard to these citizens who are concerned, if you can meet with him -- you say in your statement that you will have additional police and proper monitoring. If you can meet with him and they become convinced you are going to be able to take sufficient measures to deal with some of these problems and so forth. Secondly, you identify the parking situation on the street. Thirdly, if you can negotiate with someone who is willing to allow you to have this off-street parking, from what I have heard, I would be much more predisposed or inclined toward responding favorably. But you really need to touch those bases before I could really help you on this.

MS. KING: In other words, do you wish to have a continuance?

MS. JORDAN: Yes.

CHAIRPERSON REID: Well, when we get to the closing remarks --

MS. KING: No, no. I mean, they are asking for a continuance in order to complete their case.

CHAIRPERSON REID: I understand that.

But also I want to hear from the folks that are here. When they have the closing remarks, they can ask for a continuance rather than being heard today. But other than that, if we have a continuance, that will just close it out right now. Okay, government reports? I don't think we have any. Now you are to sit back into the audience and then we will have people who come up. ANC?

MS. KING: If you have something to give us, give it to staff, please.

CHAIRPERSON REID: Staff, please. Is that in addition to what you have already submitted, sir? MS. ROSE: This is a statement, Madam Chair.

CHAIRPERSON REID: So do we need a waiver?

MS. ROSE: No. It is not a report, it is a statement.

CHAIRPERSON REID: Oh, okay.

MR. BOYD: Madam Chairman and members of the Zoning and Adjustment, my name is George E. Boyd, Chairman of Advisory Neighborhood Commission 5B -- ANC 5B. And I state on behalf of my constituents in ANC 5B, especially those in our city. Several months ago, ANC 5B representatives met with Mr. David R. Horeman, who was a

representative from Mike's Home, the Michael E. Cerrakov Veterans Center, to establish an expansion of the ongoing efforts of the National Association of Concerned Veterans to help veterans in need on the premises at 1350 Okie Street, N.E. The Center would enhance NACV's ability to provide employment opportunities for its members by creating jobs and housing and rehabilitation and environmental clean-up work, a small business incubator which would create jobs and businesses that members may earn and provide training and counseling service to those willing to help themselves. In addition, services to be offered included remedial education, vocational training, computer-related skills, personal and career counseling, and a preventive plan.

After the presentation, ANC 5B representatives were impressed with the concept to give those veterans who had risked their lives for the security of our nation and shared the feeling that we owe our veterans a second chance to develop to their fullest potential and to become productive citizens in our society. While ANC 5B was impressed with the National Association of Concerned Veterans' effort to establish a center at 1350 Okie Street, N.E. to help veterans in need of employment

opportunities, we are not sympathetic with NACV's efforts to file BZA application #16400. Seeking a variance from off-street parking requirements to reduce the number of parking spaces required for a non-residential use to allow a public hall of 300 seats for a private club on the first floor in a C-M-1 district at premises 1350 Okie Street, N.E., Square 4038, parcel 142/103. Our opposition to BZA application #16400 for a variance from the off-street parking requirements is attributed to the potential adverse impacts such as significant increase in an existing parking problem associated with numerous small businesses. The safety and security for inmates, over 250 at times, who reside in the Department of Corrections Community Correction Center #4, as well as the delivery of goods and services to the center.

Next, public safety for neighborhood residents. Next, problems such as loitering, trash, crime, and misconduct by club members. And next, inadequate street lighting and public parking spaces as well as the lack of police patrol and protection.

In addition, the requested use for a variance is not in keeping with the initial use of the premises for a facility to help rehabilitate veterans in distress. Also, the private club would

not provide any community services to help revitalize the local neighborhood. Furthermore, our city does not need a private club to provide opportunities for outsiders to party and destroy an old established neighborhood. Thank you for the opportunity to make these comments, and I am available to respond to any questions you may have.

MS. KING: Mr. Boyd, did you give us your home address in your opening statement?

MR. BOYD: Yes. It is on the card.

MR. GILREATH: I don't believe you read it orally into the record, though.

MS. KING: Perhaps if you would put it in the record, if you would be so kind, Mr. Boyd. Your home address?

MR. BOYD: My home address is 1264 Owen Place, N.E.

MS. KING: How close are you to this Okie Street address?

MR. BOYD: I am -- well, when I am home, I am about I guess 7 or 8 blocks. But one of the reasons we have a halfway house in our neighborhood -- because you know most people don't want them -- is because we talked to the Department of Corrections and our ANC office is located in the halfway house, Community Corrections Center #4.

MS. KING: So that is just catercorner behind --

MR. BOYD: Exactly.

MS. KING: So Mr. -- the gentleman who testified before said that this was vacant, but it is not. It is a halfway house, is that correct?

MR. BOYD: It is vacant, but the National Veterans Association has plans for that place. In fact, they were the first ones who came to us. We was shocked when we found out that they were planning for this 300-seat private club, because we didn't see where they had fit it in any of their plans that we had talked to the National Veterans Association.

MS. KING: So they have not had any discussion with anybody from the ANC about -- with either of you about their plans for the private club to operate Friday and Saturday nights from 9:00 p.m. until 4:00 a.m.?

MR. BOYD: No.

UNIDENTIFIED SPEAKER: Ms. King, you --

CHAIRPERSON REID: You must give your name and your address, sir.

MR. BOOZE: Oh, I am sorry. I am Jimmy Booze, Vice Chairman, ANC 5B. My address is 1724 Lang Place, N.E. When this first came about, he met

-- what is his name? He met with Mr. Boyd and myself because this was going to be for homeless veterans. Nothing else but for homeless veterans.

CHAIRPERSON REID: What was it going to be? What was it?

MR. BOOZE: It was a warehouse, they was going to have it for homeless veterans.

CHAIRPERSON REID: For what use to the homeless veterans? What was going to be the use of it for the homeless veterans?

MR. BOYD: To rehabilitate veterans that have problems.

CHAIRPERSON REID: A medical facility?

MR. BOYD: No.

MR. BOOZE: It was for sleeping overnight.

MR. BOYD: No.

CHAIRPERSON REID: For housing?

MR. BOYD: It was going to be a training -- as my statement states, an incubator where you start new jobs. To help these veterans in distress to get up on their feet through counseling or whatever they needed, they were going to provide it there.

CHAIRPERSON REID: Okay. So that is what you mean by rehab. There at that facility, it was

going to be like a multi-purpose kind of facility for these --

MR. BOYD: For veterans only.

CHAIRPERSON REID: Just veterans.

MR. BOYD: Right.

CHAIRPERSON REID: Okay.

MR. BOOZE: Then about two weeks later --

MS. KING: Excuse me, Jimmy. Was it Mr. -- who is the owner of this place? Mr. Semper?

MR. BOOZE: We was under the impression that the National Association of Concerned Veterans had purchased it.

MS. KING: And so Mr. Semper is not the owner?

MR. BOOZE: I don't know.

MR. SEMPER: No, I am.

MR. BOOZE: You know, when the first --

MR. BOYD: I have never seen him before.

CHAIRPERSON REID: Could you please just come forward and just answer the question as to who actually owns that particular facility? You must come to the microphone. Give your name so that the reporter can have it for the record.

MS. KING: There is a microphone right there on the table that you can hook up.

MR. SEMPER: The building is owned by the National Association of Concerned Veterans.

MS. KING: And do we have a letter of authorization from them allowing you to make this application?

MR. SEMPER: In the filings, there is a letter showing that there is a lease between the association and myself for the use of the space of the first floor.

CHAIRPERSON REID: Are you a member of that organization?

MR. SEMPER: I am not a member of the organization, no.

CHAIRPERSON REID: You are not a veteran?

MR. SEMPER: My relationship with them with reference to this particular building is for the lease of the space for use --

CHAIRPERSON REID: So they are your landlord.

MR. SEMPER: They are the landlords.

CHAIRPERSON REID: Okay. All right. Thank you.

MS. KING: Okay. And there is a letter from the National Association of Concerned Veterans authorizing Mr. Semper to apply for -- to use the

first floor as a nightclub. That is correct. Okay, thank you very much.

CHAIRPERSON REID: That sheds some light on the situation.

MS. KING: Okay. Now that helps with that. Excuse me gentlemen.

MR. BOOZE: This was turned down for this building being used as a nightclub. This neighborhood is not the place for a nightclub. This neighborhood needs -- we are trying to rehabilitate this neighborhood and bring it up. We are bringing weed and seed in the neighborhood to upgrade the neighborhood. We have a school down there that is rundown and we really -- but the point that really gets back is when they came to George and I about this building, about three weeks later the next thing we knew there was this Congressman from Maryland and the owner standing there shaking hands on what they were going to do in the building and we hadn't been contacted since. This Congressman -- do you recall what Congressman it was, Mr. Boyd? They had it in the Washington Post where they were shaking hands on what they were going to do for the homeless veterans -- what they were going to do for veterans that would need to be rehabilitated in the neighborhood. That was the next thing we saw after

the meeting and he was going to get back with us.

Then I was using the building to bring food in the building to feed people in the neighborhood. I would bring food in from the Food Bank supplying people and it was being used like that. And all at once the people were saying all at once we are hearing about this club. That was something that didn't set with us too well.

MR. GILREATH: Well, the other floors are used for helping -- providing services for the veterans and it is this first floor where this activity occurs?

MR. BOOZE: It is nothing being used in the building right now for anything.

MR. GILREATH: Where did you bring food in? Is the other building adjacent --

MR. BOOZE: Oh, no. I brought food in there. I was given the key to the building to back up the trucks to bring food in on the first floor so that it could be distributed in the neighborhood.

MR. GILREATH: This is kind of a storage area?

MR. BOOZE: Yes, a storage area.

MS. KING: So, in fact, the Concerned Veterans aren't using the building at all?

MR. BOOZE: I haven't seen the first

Concerned Veterans in there.

CHAIRPERSON REID: Because the impression that I got was that Mr. Semper was a member of that organization and it was going to be as a part of that whole operation. It would be leased to him for the nightclub component. But now I am understanding you to say that the Concerned -- the NACV, the National Association of Concerned Veterans is not using the building at all. So where did the idea -- what happened to the concept of the rehabilitation center or the services for the veterans in that building?

MR. BOOZE: That is the question we have too. We haven't heard any more about that.

MR. BOYD: We do know that they had a press conference in front of that building by the United College Fund representative and the National Council of Negro Women, and they were supposed to put some type of programs for rehabilitation in that area to make them productive citizens.

CHAIRPERSON REID: So basically what you are saying -- and I am very familiar with that area -- that you all were welcoming that type of operation because it would then help to alleviate some of the problems in the area and provide some services to some of the people who are now without?

MR. BOYD: Exactly. But this private club really caught us by surprise that they would even want to do something like that. And there are no members even in our vicinity. I don't know who are members, but I guarantee you that no members in our city are a member of that club.

CHAIRPERSON REID: The club or the Association of Concerned Veterans?

MR. BOYD: I mean for about the private club. We can stand the veteran assistance. That is why we are able to sit here today and discuss these matters because of the sacrifice that they made. So we strongly feel that they should have a second chance. We have no opposition to that. But the use of this other place as a private club is totally against our wishes.

MS. ROSE: Madam Chair, I was looking at the Zoning Administrator's memorandum, and with all respect to the ANC, it indicates that this is a permitted use. There has been a lot of discussion about the use of the property. This is a C-M-1 zone and the use is for -- they have a certificate of occupancy for a private club that says 440 seats. So the only issue before the Board in this application would be whether the applicant can or cannot provide parking on his site. And if he

cannot, if not providing that parking would have an adverse impact on the community. We shouldn't -- addressing whether the use is wanted in the community or is appropriate for the community is not an issue for the Board today.

CHAIRPERSON REID: Well, that may be true, Ms. Rose. However, the use has a bearing on the impact, and this is what we were discussing. How that use impacts the community.

MS. ROSE: But it would have to be in terms of just the parking.

CHAIRPERSON REID: I think that the ANC in their written report, one of the --

MS. ROSE: One of the issues is the parking.

CHAIRPERSON REID: One of the issues that they raised was the fact that -- I think that was the first one they raised was the issue of parking problems. Existing parking problems associated with small businesses. And I think we are very clear on that being what we are addressing here today as to whether or not us granting the variance will cause an adverse impact on the community in regards to the parking. And this is what the ANC is raising, is that not correct? And not withstanding the fact that they are raising some

other issues. But we are clear on the fact that the parking is what we are dealing with here today, and the parking is predicated upon -- the impact of the parking is predicated upon the use is what they are saying.

MR. BOYD: In the past, we have had problems unloading the food for those inmates in that building because of, like I said, there are a lot of little small shops -- garages where they work on cars. The alleys are filled up with illegally parked cars. And they had a time getting the food in to that shelter to feed 200 and some people. You know, those prisons are not going hungry but for so long and then they are going to start a riot and they are going to cause other problems. There are no spaces on that facility for no parking. It is right on the alley and it is right on the street.

CHAIRPERSON REID: The halfway that you were showing us is right in back of this building.

MR. BOYD: Right on New York Avenue.

CHAIRPERSON REID: Oh, it is on New York.

MR. BOYD: Yes.

CHAIRPERSON REID: Oh, okay. All right.

MR. BOYD: But that is still in the back of it.

CHAIRPERSON REID: And you are saying that the trucks or the vehicles bringing the food --

MR. BOYD: We have had problems just getting them in there.

CHAIRPERSON REID: Okay.

MS. KING: You see, they share an alley. There is an alley and there is the corrections facility.

CHAIRPERSON REID: So if there is a bottleneck up in here, then it is going to be difficult getting back in there.

MS. KING: Well, and if there are illegally parked cars back here, and according to Mr. Semper, these are garages and there is a restaurant too.

CHAIRPERSON REID: Okay.

MR. GILREATH: But only if the parking is a result of the activity in the evening that is causing the unloading. If the unloading occurs during the day when this is closed for operation, it has nothing to do with it.

MS. KING: Yes, but Mr. Semper is required under the zoning regulations to provide 30 -- a minimum of 30 off-street parking spaces.

MR. GILREATH: But if he comes back and says that he has worked out an arrangement with some

property down there to provide 20 parking spaces --

MS. KING: 30.

MR. GILREATH: 30. Then if that takes care of all of his parking requirements and there is all this congestion of other people parking there, I don't feel that he has to be held responsible for the others. Maybe there is a parking problem, but the parking that results from his activity is what he would be accountable for.

MS. KING: Well, he is required by the zoning regs to have 30 off-street parking spaces. If he can provide that, we can't fault him for what may happen during the daylight hours.

MR. GILREATH: And in terms of the use, I understand that you would like perhaps a different kind of development. But it seems to me that if this club activity is causing nuisances, there should be other legal recourse for you. Perhaps you require more police or if it becomes a public nuisance, close it down. But I am not sure that we have the authority to say that we want certain kinds of uses to occur in that neighborhood, only activities --

MS. KING: The only issue that is before us is this question of parking.

CHAIRPERSON REID: And impact thereof.

MR. BOYD: We have the responsibility to revitalize New York Avenue and those type of clubs is not a part of New York Avenue. I worked on the task force and we developed it, and one of the things we was trying to do was get rid of some of those unsightly nuisance businesses. We meet every month in the 5th police district and we have always got problems there. There are several other large nightclubs out in that area that the commander does not have police people to patrol that and give them protection, and they have become a nuisance to the neighborhood.

MR. GILREATH: Well, I think you've got legal recourse if they become a public nuisance. But we just don't have that kind of authority. We can only deal with the parking.

MR. BOYD: But if we don't provide the variance to create this nuisance, then we will use our time doing something more beneficial to support and help the community and the city. You would be surprised. People don't want to become ANC commissioners. I have been a commissioner since the inception and I can understand why. Because the harder you work, the more the government officials work against you. We spend all our time not for the problems in the neighborhood, but trying to get the

District Government to understand that we are tired of debris, we are tired of nuisance, we are tired of these problems. We want to clean up our neighborhoods. This is what we are trying to do. Make sure that those outsiders don't come in and create more problems for us.

MS. KING: Mr. Boyd, you know we have told Mr. Semper -- or at least I have told him unequivocally that I don't feel that he has met his burden of proof. I think we do, in all fairness, have to give him an opportunity perhaps to perfect his -- between now and the meeting at which we will decide his case to perfect or to add more documents to the record, which he will have to provide to you and to Mr. Booze so that you can comment on them and so forth. But I mean we are not in a position under our legal -- I am totally sympathetic with you, you know that. We have known each other for so long. But the authority of the Board of Zoning Adjustment in this case relates only to 30 off-street parking spaces. But Mr. Semper has, so far as I am concerned, not met his burden of proof. He may be able to do it or he may not. But as Mr. Gilreath says, if this is creating a -- if -- big if -- we grant him his variance and it is a very difficult burden of proof to meet, and if he does open his

nightclub and if it becomes a problem in the community, then there are other recourse. But we cannot say whether or not -- as long as he goes about it -- you know, he has to meet his burden of proof. He hasn't done it yet. We are proposing, I think, to give him an opportunity to add more information to the file. But so far, he has not met his burden of proof as far as I am concerned.

MR. BOYD: Okay. I am just saying that if it were in some other part of the city and those people said they didn't want it and we see what these private clubs bring into the neighborhood, I was always told that an ounce of prevention is worth a pound of cure. And I think that still stands.

MS. KING: I understand.

MR. BOYD: If you keep these undesirable facilities out of your neighborhood, then you don't have to put up with them. You can do work that is going to be constructive to improving the quality of life of the people in your neighborhood.

CHAIRPERSON REID: Well, I think that you certainly have done your part. You appeared here today and you testified and you made it very clear to us what the position was and you gave a lot of light to us regarding the situation there in that particular community. And as I had said earlier, we

don't take lightly the position of the ANC. We welcome their input and we do give great weight to their position, particularly when there is a quorum and there is a vote been taken. We don't take that lightly.

MS. KING: When is your next meeting?

MR. BOYD: Our next meeting is --

MR. BOOZE: Thursday.

MR. BOYD: Thursday.

CHAIRPERSON REID: Well, would you be able to then take it up at that particular meeting?

MR. BOYD: Yes, we will take it up again.

CHAIRPERSON REID: And to have a quorum and to have a vote so that it would give greater weight -- the great weight that you are entitled to to this Board. Have that and then submit it before we make the decision, which would be at our next meeting. MR. BOYD: Okay.

CHAIRPERSON REID: I highly recommend that that be done.

MR. BOOZE: What about the president of our city association?

CHAIRPERSON REID: What -- you mean as far as --

MR. BOOZE: She -- when this came up

once before, she was opposed to a club coming in there.

CHAIRPERSON REID: We don't have anything from her at this time.

MR. BOOZE: Yes. So I say, would you like something from her?

MS. KING: We are going to keep the record open until when, Tracy?

MS. ROSE: For submissions, it would be December 18, if you are deciding it in January.

CHAIRPERSON REID: And another thing too is if in fact this is such a big hot potato, then I would think that there would have been more participation from opposition to talk to us about or testify about the situation and their position. That would have been helpful too.

MR. BOYD: Well, I think you've got to realize that in poor neighborhoods, people have to work.

MS. KING: Yes.

MR. BOYD: And the notice that we got was the hearing -- be down here sometime between 1:00 and 6:00.

CHAIRPERSON REID: No, I understand that, sir. However, there is no reason why they could not submit a letter.

MS. KING: Letters and petitions.

CHAIRPERSON REID: Letters and petitions. I mean, everyone does that. So I can understand people not being able to take off from work. Like I said before, I know the neighborhood very well.

MR. BOYD: Okay.

CHAIRPERSON REID: And I understand that. But if you are trying to effectuate some type of change and to be effective in your position, then you do so by the submissions and communicating to us what the community wants, and it is our job to see what we can do to try to ameliorate any problems and to be able to serve you better. But you have to give us the equipment to do it with.

MS. KING: But bear in mind that the issue before us is the parking issue.

MR. BOYD: Sure.

MS. KING: You know, so you and anybody else who is going to be in opposition and Mr. Semper and his attorney who are going to be supporting his application, we need to have bona fide information regarding parking.

CHAIRPERSON REID: Adverse impact.

MR. BOYD: Now I am going to state one more thing and I am going to shut up. One of the

things that we -- we know it is parking, but there is a spinoff and these ramifications have negative impacts on the area. In order to make a decision to me on the parking problem, you have got to tell what negative impact it is going to have in the neighborhood. And rather than just say just parking, but that parking creates other problem.

CHAIRPERSON REID: Well, that is it.

MS. KING: That is right.

CHAIRPERSON REID: That is exactly what we are saying.

MS. KING: I mean, you are talking about 300 people. If they all came as couples, which they may not do, that is 150 cars.

MR. BOYD: Right.

MS. KING: Because there is not a lot of public transportation, if any, in that area at 4:00 a.m., right?

MR. BOYD: Well, probably not. Not that early in the morning. Because there is nobody over there but the indigent.

MS. KING: So what we are talking about people either having to get out of there on foot at 4:00 a.m. or up to X number of cars. Now the zoning regulations only require him to have 30 off-street parking spaces, but there is still going to be

additional, probably additional cars, so you can talk about the impact of if he doesn't. Because what he is asking is that he doesn't have to have the 30 spaces. So what you need to deal with is the fact that there are going to be a large number of cars, 30 of which should be off-street but won't be if we grant this variance.

MR. BOYD: The other concern is fire safety. Those are real small narrow streets. And if the fire trucks can't get through there -- we have had fires in the halfway house.

CHAIRPERSON REID: That would be a part of the parking issue.

MR. BOYD: Right. And that could have a real adverse impact. Because if those inmates get burned up, as somebody just said, we will have some problems to answer.

CHAIRPERSON REID: Well, when you meet with the ANC, then certainly all of these areas that you are discussing now that pertain to the parking and negative impact, just make sure that you include it in your submission.

MR. BOOZE: This is the last thing I want to say. I guess the reason we feel a little betrayed is when the landlord met with George and myself and we went to the office on Saturday and

talked with him and the agreement we made about the homeless veterans, nothing else -- no club was nowhere talked about. And he was working a deal. We didn't go to the other ANC's. We just said okay we worked through it and we are glad to see that you are interested in putting homeless vets in this warehouse.

MS. KING: Why don't you go back -- have you talked to him recently?

MR. BOOZE: I haven't seen him -- the next time I saw him was in the newspaper shaking hands with a Congressman from Maryland about he was going to have this building for the homeless vets.

CHAIRPERSON REID: Okay. Thank you very much for your testimony. And you will see to it that we get the results of your vote on -- what is it, Thursday?

MR. BOYD: Okay. Tomorrow.

CHAIRPERSON REID: We would appreciate that. Persons and parties in support of this application? Persons and parties in opposition to the application? Closing remarks by the applicant.

MS. JORDAN: In light of what has taken place here today, the applicant would request a continuance to supplement his record so that additional documents, reports and other information

can be added, and we would hold any further argument until consideration of that material has been made.

CHAIRPERSON REID: I think that what we would rather do so that we don't have to have another hearing per se is to keep the record open and to allow time for you to submit additional information to us and to give the opposition a chance to respond to that before our determination is made at the next meeting. After that time period has passed, each of you have a certain time period to be able to get things in and then the next meeting after that.

MS. KING: Well now Tracy has said that the deadline for any submissions from any interested parties -- that would be the applicant or any opposition -- would be the 18th of December for us to hear it at our meeting on January --

CHAIRPERSON REID: Not hear it, but to decide.

MS. KING: To make a decision, I mean, at our meeting on January 6.

MS. ROSE: Yes. The meeting would be January 6. The submissions would be due on December 18. The only parties we have in this case would be the applicant and the ANC.

CHAIRPERSON REID: Right.

MS. ROSE: And they are to serve each other with the documents that they submit to our office and to submit to our office a certificate of service indicating that they have served the other party. And responses can be filed to those submissions by December 28.

MR. GILREATH: Does that give the applicant adequate time?

MS. KING: It just seems to me that with the Christmas season intervening and their having to file the papers with each other and then have time to respond to each other that maybe we should push this back to the first meeting in February for decision so that there is adequate time for all parties to respond. What would the -- we would keep the record open until -- what would be the date for new submissions if it were --

MS. ROSE: January 15.

MS. KING: January 15.

MS. ROSE: And responses by January 25.

MS. KING: That seems to me to be more reasonable.

CHAIRPERSON REID: Is that a good time frame for all parties involved?

MS. JORDAN: When is the February meeting, Madam Chairwoman?

MS. ROSE: February 3, 9:30 a.m.

MS. JORDAN: That is acceptable to the applicant.

CHAIRPERSON REID: Okay. What about the ANC? Is that acceptable? Could you come forward please? Come forward to the microphone for me, please. You have to speak to the microphone. Is that time frame that the secretary just spoke of suitable to you? Are you agreeable to that?

MR. BOYD: February what?

MS. ROSE: The 3rd.

MS. KING: The meeting would be February 3, but your submission would be due on the 15th of February --

MR. BOYD: 7 days before.

MS. KING: You would then have to file with Mr. Semper or his attorney and they would have to file with you and then you would each have an opportunity to respond. Whatever they file, you will get and you can respond to it. And whatever you file, they can get and they can respond to it.

MR. BOYD: And that is February 3?

MS. KING: The 15th would be your submission date.

MR. GILREATH: The 15th of January, would it not?

MS. KING: The 15th of January.

MR. GILREATH: For your submission.

MS. KING: For both their submissions and responses by the 25th of January.

CHAIRPERSON REID: And decide on February 3.

MS. KING: And would you all exchange addresses if you don't have them already.

MS. ROSE: Madam Chair, the only documents that you are requesting would be the applicants additional information and the ANC report?

CHAIRPERSON REID: The applicant's additional information as to how --

MS. ROSE: They meet the burden of proof.

CHAIRPERSON REID: Right.

MS. ROSE: Yes.

MS. KING: The burden of proof in other words.

MS. ROSE: Yes. All right. The record is closed except for those documents with the dates that have been indicated. The Board will consider a decision in this application on February 3, 1999 at 9:30 a.m. Are you ready for the next case?

CHAIRPERSON REID: No. We will have a

five minute recess.

MS. ROSE: Okay.

(Whereupon, at 3:02 p.m. off the record until 3:10 p.m.)

CHAIRPERSON REID: This hearing will please come to order.

MS. ROSE: The next application is 16413, application of National Children Day Care Association, pursuant to 11 DCMR 3108.1, for a special exception under Section 205 to establish a child development center for (100 children, ages 0 months to 12 years, and 20 staff persons) offering a health care and transitional program for the children and their parents in an R-5-B District at premises 2229 M Street, N.E. (Square 4465, Lot 39).

(ALL WITNESSES SWORN.)

MS. ROSE: Madam Chair, originally at the beginning of the hearing we indicated that an affidavit of posting had not been filed in the application. But we do have evidence that an application has been submitted to the office. It was stamped November 18, and apparently was overlooked by staff originally.

CHAIRPERSON REID: Okay.

MS. ROSE: So that we may proceed.

MS. KING: Also, the ANC had requested a

postponement, but I notice that they have since filed a letter of support. So I gather that their request for a postponement is aborted. Was there not a letter from ANC 5B requesting a postponement because they had not been consulted? Is this not superseded by a letter dated November 30, which supports this application?

MR. BOYD: No, we didn't send no letter of support.

CHAIRPERSON REID: It was James Booze. That is a different -- is this the same case? This is ANC 1D.

MS. KING: Oh, I am sorry. What case are we hearing? Is this the National Child Day Care Association?

CHAIRPERSON REID: No, we are now --

MS. KING: Yes, it is.

MS. ROSE: Mrs. King, I think you are correct. Both of the documents that I have say ANC 5B. One is signed by Mr. Boyd where the request for postponement is --

CHAIRPERSON REID: Wait a minute. What is the case number? This is 163 --

MS. KING: No, no. It is the National Child --

CHAIRPERSON REID: What is the case

number?

MS. ROSE: 16413.

CHAIRPERSON REID: 16413. Okay. I am straight now.

MS. KING: We have a letter signed by George Boyd dated November 10 saying that he -- that NCDCA has not consulted with him and that they would request a postponement of this hearing. Under Mr. Booze's signature, we have a letter of November 30 saying that the ANC would -- supports the application. Do you want a postponement? Are you still asking for a postponement, Mr. Boyd?

MR. BOYD: I am still for a postponement.

MS. KING: Do we have to handle that as a preliminary matter?

CHAIRPERSON REID: I think we need to address this issue. Ms. Glasgow, could you shed some light on the issue regarding the ANC and them not having been involved in any discussion about this case?

MR. GLASGOW: Well, I think there are two items, Madam Chair. You have got two letters in the file, one from one member of the ANC indicating the request for a postponement and a subsequent letter stating support of the application. I think

Mr. Hardman and other persons that are involved in the case have had contact with the ANC over some period of time, including Ms. Beverly Dugger with the D.C. Public Schools, who has had conversation concerning this matter with the ANC for some period of time. So it seems that there may be some internal issues with respect to the ANC as to the level of the involvement that they have had with the case as opposed to how the applicant views involvement with the ANC.

In addition, I would indicate or direct your attention in the November 10 letter it says, "Unfortunately, the application was not received in ANC 5B office until October 27, 1998." And here we are, we are December 2. It is unfortunate that no one could schedule a time when we could get in front of the ANC, but I don't know that that is the applicant's fault. The ANC has had significant notice of this application.

CHAIRPERSON REID: Would you repeat that? You said that in the letter of November 10, it says that they had a meeting when?

MS. KING: No, that they received the -- they received the notice on the 27th of October. After the notice had been distributed for their November public meeting. Therefore, they are

requesting a postponement -- to postpone the scheduled hearing for at least a month to allow ANC 5B to meet and discuss the matter.

CHAIRPERSON REID: Okay. Why don't we just wait until the ANC portion of it.

MS. KING: Well -- I mean we can't have a postponement if we have already heard the appellant's case. That isn't a postponement. So, I mean, could we ask Mr. Boyd to speak to this issue?

CHAIRPERSON REID: Is Mr. Booze here too?

MS. KING: Yes, Mr. Booze is here too.

CHAIRPERSON REID: Oh.

MS. KING: Yes, it is the same ANC.

CHAIRPERSON REID: Come forward and let us -- give us some clarity as to how we arrived to this place.

MS. KING: Mr. Boyd, Mr. Booze has a microphone in his hand that you can use if you would like, if it is switched on.

MR. BOOZE: First, I am Jimmy Booze, Vice Chairman of ANC 5B. Also, I am the executive director for the Langston Carver Coalition. And it seems that there is a little mix-up here now. We didn't even function for a while now. I will agree that they went through me. I would sit in on all

their meetings wearing two hats.

CHAIRPERSON REID: Who is they?

MS. KING: The applicant.

CHAIRPERSON REID: Okay.

MR. BOOZE: I sat in on all their meetings and dealt with Ms. Dugger for years, the whole group. I was well aware of what was going on all the time. But I did inform Mr. Boyd at times what was also taking place. But actually they wasn't coming the right way to come before the ANC for a hearing because they didn't bring anybody to the ANC. But I will say this. There has been so much money spent on this daycare center thus far, which is something I want to bring to your attention. There has been so much money spent. This neighborhood, we just got a $20 million grant from Fannie Mae to bring this neighborhood up. This neighborhood really needs that daycare center. And like I say, I will admit that we didn't exactly go about it the way they should, but they were just dealing with one ANC, which was me, and wasn't coming before the full body. But I hope that -- I wish that we can sort of work this out in some kind of way. But we need this daycare center. We have been working on it since 1990. We just didn't start a couple of years ago. This has been in the

pipeline for some length of time. So at this time, I will let Mr. Boyd say what he will say on the subject.

MR. BOYD: My name is George Boyd. Unless the Commission gives Mr. Booze permission to speak for the ANC commission, they have to come to me to give them the authority. If we are going to send those messages down here, we have to tell who is going to represent the ANC. So when Mr. Booze as over there representing that other group, he was not representing the ANC.

The reason that we requested the delay was so that the system could work. This is why you have a hard time getting qualified ANC commissioners to serve in a non-pay status. It is because they feel that their work is not honored and is not respected and that you don't give the ANC the dignity that they deserve. I not only have a gripe with the National Day Care Association, but I have a gripe with the Board of Zoning because they didn't give us appropriate notice about this hearing. I got the notice here that was written from the Board of Zoning dated 11/9/98, and it was received in the office on 11/13/98. And the notice says, "In accordance with 11 DCMR 3315.6 and 3316.5, you are hereby advised that the above numbered applications

which fell within the boundaries of your ANC was filed with BZA on October 15, 1998. A copy of the application form is attached for your information and use." This is not a notice of public hearing on the application. "You will receive notice of the hearing by mail and through the D.C. Register approximately 40 days in advance of the hearing. In accordance with 13 DCMR 3307, the written report of an ANC shall be filed at least 7 days before the date of the hearing and shall contain certain information specified in that section."

CHAIRPERSON REID: What is the date of the letter that you received from --

MR. BOYD: The date of this letter is 11/9/98.

MS. KING: What is it? I am sorry, I can't hear you. You have got to speak into the microphone.

CHAIRPERSON REID: 11/9/98.

MR. GILREATH: November 9.

MR. BOYD: This is the memorandum notice telling us about the application and what we are supposed to do in response to this application.

CHAIRPERSON REID: Okay. Our record reflects that there was a letter that went out to the ANC on the 22nd of October.

MR. BOYD: This is the copy of mine. And the office manager --

CHAIRPERSON REID: Which would have then given ample time.

MS. ROSE: I think this is from the file that he has, the original referral. And it has an approximate hearing date of 12/2/98.

CHAIRPERSON REID: Is a referral the same as a notification?

MS. ROSE: That I am not sure about. I would have to check and compare the two. I think we do send a letter out --

CHAIRPERSON REID: Notifying --

MS. ROSE: Right, notifying all the parties of the exact relief that is requested, and it is a letter form. This is more of a memo.

CHAIRPERSON REID: Right. These letters -- letters to all the residents within 200 feet, the ANC appointment, all went out on the 22nd of October according to the in-house record.

MR. GILREATH: What is the stamped in date of receipt of that?

MS. ROSE: November 13.

MR. GILREATH: Was this processed immediately when it came in or does it sit in the hamper for a few days until a volunteer --

MR. BOYD: No, this is processed when it comes in.

CHAIRPERSON REID: But still the date that that record shows is November 10?

MS. ROSE: It is dated November 9. It shows that it was received by I guess the ANC on November 13.

MR. GILREATH: That is a reasonable mail time.

MS. ROSE: But these referrals -- my understanding is that the referral normally goes out right after the application is filed. So I would have to talk with the staff that handles this to find out what the discrepancy is.

CHAIRPERSON REID: Mr. Boyd, did you receive the hearing notice of October 22? The ANC didn't receive that?

MR. BOYD: That is the one that the office manager gave me.

MS. ROSE: That must be the thing that he received on October 22.

CHAIRPERSON REID: So you did receive that?

MR. BOYD: Which one?

CHAIRPERSON REID: The notice of the hearing.

MS. ROSE: The letter.

MR. BOYD: I don't know. This is what the office manager gave me.

MR. GLASGOW: Madam Chair, if I may interject for just one minute. Because the dates that are being talked about, November 13th for this notice. The ANC's own letter says that they got it October 27. So I am having some difficulty following that. Plus the D.C. Register publication is October 23 and this case was in the D.C. Register.

CHAIRPERSON REID: Oh, okay. I momentarily -- in trying to get this together, I was unclear. So, Mr. Boyd, you did receive the letter. Your letter says that you received the letter.

MR. BOYD: Even if the office manager did get the letter, when you get another notice --

CHAIRPERSON REID: Excuse me, it is not from the office manager. This letter comes from you. This is your letter.

MR. BOYD: Well, do you write every letter that you sign off on?

CHAIRPERSON REID: I read it.

MR. BOYD: Well, I --

CHAIRPERSON REID: Maybe you signed it and you just forgot that you signed it.

MR. BOYD: No. Maybe there was a mistake on the dates of it and I didn't -- but if my signature was on it, okay. But what I am saying is that this other letter came in afterwards.

CHAIRPERSON REID: Yes. This was a referral letter.

MR. BOYD: Yes. And it says that you have at least 45 days. Now there is something wrong with this. Because if you send me a letter that supersedes another letter and you tell me I have 40 days, I expect to have those 40 days.

CHAIRPERSON REID: She is checking right now, Mr. Boyd.

MR. BOYD: And while she is still searching, I have got some prepared statements here of concern in this matter.

CHAIRPERSON REID: Okay. But this would not be the time.

MS. KING: Concerning postponement or the issue itself?

MR. BOYD: Say what?

MS. KING: Concerning the postponement or the issue itself?

MR. BOYD: Well, I called -- I had the office manager call down here and say what was the status of the postponement. Because I thought for

the sake of time and effort and coming down here and volunteering your time and putting your car on the parking lot that it would be better to call down here and see if the hearing had been postponed. And the office manner were informed that you all don't postpone hearings until the scheduled hearing. I thought that was a little much to put on people who volunteer their time to have to make --

MS. KING: We are not here between meetings. We are not here. You know, we are not full-time government employees. We serve only on the days on which there are BZA meetings.

MR. BOYD: But we don't get nothing, no compensation for our efforts.

CHAIRPERSON REID: Okay. All right.

MS. KING: I understand that, Mr. Boyd.

CHAIRPERSON REID: Let's not get into who gets paid what right now. Let's deal with the issue as to you are contending that you want to postpone it because you were not timely notified. But now we have determined that you were notified and you responded.

MR. BOYD: But you sent another letter stating that I had 45 days.

CHAIRPERSON REID: Okay, now, Ms. Rose --

MR. BOYD: I --

CHAIRPERSON REID: Wait one second.

MR. BOYD: What is the difference between your notices, I don't know.

CHAIRPERSON REID: Let's get some clarity on that. The second -- a referral that gave him 45 days to respond, did you say you were going to check with staff to see?

MS. ROSE: Yes, that is what I am doing.

CHAIRPERSON REID: Okay. So you are saying that that time has not run?

MR. BOYD: I am saying you put out misleading information. You led me -- I am volunteering my time and you led me to believe that I had more time. And then all at once, you are saying I have got to be here for the hearing for the 2nd. You misled me.

CHAIRPERSON REID: We are getting that clarified. There must have been a misunderstanding. I don't think there was any deliberate attempt to mislead you.

MR. BOYD: I didn't say it was deliberate. It is a fact.

CHAIRPERSON REID: There may have been a misunderstanding or something, but we are getting that clarified right now.

MR. BOYD: And while we are doing this, in my prepare report, in accordance --

CHAIRPERSON REID: No, no, you can't go into your prepared report.

MR. BOYD: Oh.

CHAIRPERSON REID: You can do that if we go forward today. That is what we are determining now.

MR. BOYD: Oh, okay.

MR. WILLIAMS: Madam Chairman, I have something relevant to what you are talking about.

CHAIRPERSON REID: All right. Then come forward to the microphone and give your name.

MR. WILLIAMS: My name is James Williams. I own property at 2209 M Street, which is within 200 feet of the proposed facility. I was not notified in any respect of the meeting and did not know this matter was ongoing until I saw the public notice on the building.

CHAIRPERSON REID: Well, it said that -- our records reflected that the notice had been sent out to the 200 people that lived in the immediate vicinity at the same time, October 22.

MR. WILLIAMS: Well, I am here to tell you that I was --

CHAIRPERSON REID: And you live?

MR. WILLIAMS: 2209 M Street.

CHAIRPERSON REID: Which is how close?

MR. WILLIAMS: Which is within 200 feet.

MS. KING: You are the owner of the property?

MR. WILLIAMS: I am the owner of the property and I have owned the property for over six months.

CHAIRPERSON REID: Okay. Thank you.

MR. BOYD: I just want you to know that our objection is that the National Day Care Association said -- we have been talking and they have been working on this project since 1990, and they haven't felt the need to contact the ANC commissioner.

CHAIRPERSON REID: Well, that is not true because the other ANC commissioner --

MS. KING: Well, they have contacted Mr. Booze.

CHAIRPERSON REID: The other ANC commissioner said that he has been working with them.

MR. BOYD: No, he hasn't because he --

CHAIRPERSON REID: He just testified --

MS. KING: Are you calling Jimmy a liar?

MR. BOYD: What?

MS. KING: Are you calling your friend a liar?

MR. BOYD: If he lied, he lied. I don't care who he is. But he did not represent the ANC. He will tell you that. And he will tell you right now that all those officials over there that he was not representing the ANC.

CHAIRPERSON REID: Well, maybe he -- maybe the applicant was laboring under the assumption that that was the ANC representative that she was talking with.

MR. BOYD: Well, you should be able to tell your people that you make assumptions on facts and not figures. Everybody in a professional position knows that you do your documentation and he should have some letters or something that he sent to the ANC trying to get them to get involved, but we don't have nothing in our record.

CHAIRPERSON REID: Okay, wait one second, please.

MS. ROSE: Madam Chair, from my understanding the Board has given or the Office of Zoning has given adequate notice in this case. Mr. Boyd mentions 45 days --

MR. BOYD: 40 days.

MS. ROSE: Well, this letter says that a

copy of the application form is attached for your information and use. This is not a notice of public hearing on the application. You will receive notice of the hearing by mail and through the D.C. register approximately 40 days in advance of the hearing. The letter of October 22, 1998 was 40 days in advance of this hearing. And as indicated in his request for a postponement, the ANC office received that letter. And I think that the Board has done its duty in terms of notice to the applicant -- or to the ANC in this case. The referral letters did come about after that, but I don't know of anything that would prevent the Board from hearing the case because a referral didn't go out at a certain point. So the notice was proper. The ANC had the notice. At any rate, once they receive the notice, they can contact the office to get more information on the case.

CHAIRPERSON REID: All right, Mr. Boyd --

MR. BOYD: Wasn't that notice of when the application was filed and not when you sent it to me? That October date? Wasn't that when it was filed?

MS. ROSE: No.

CHAIRPERSON REID: Okay. Thank we can

assume that the notice was adequate. All right.

MR. BOYD: So another assumption. And we could go on and on, but these are assumptions.

CHAIRPERSON REID: Okay, Mr. Boyd, this is not a venue for us to debate. What we did was establish for the benefit of this Board whether or not you had been given adequate notice. Don't misinterpret the word assumption. We are taking the position that there was adequate notice given.

MS. ROSE: You are making a finding.

CHAIRPERSON REID: Yes, we are making a finding that there was adequate notice given. And we took considerable time to do that -- to establish that for your benefit. Now, we must go to the applicant so they can start their case.

MR. BOYD: I am going to say one more time that there are things here that have filed --

CHAIRPERSON REID: But we have already --

MS. KING: We have made a determination on that.

MR. BOYD: The application was filed with the BZA on October 15.

CHAIRPERSON REID: But we have already made a determination as to the timeliness of the notification, sir. So we ask now that you would

take your seat and then we can proceed. When the ANC segment comes up, you do have an opportunity to express yourself and testify.

MR. BOYD: But there was a reason we wanted a postponement because it hasn't been before the ANC.

CHAIRPERSON REID: Well, what we can perhaps do is leave the record open to have a submission by the ANC full board just like you did in the previous case and continue today.

MR. BOYD: Okay. We will see.

CHAIRPERSON REID: Okay.

MS. KING: Do you want to turn off the microphone and put it on the stand?

CHAIRPERSON REID: Mr. Glasgow, please.

MR. BOOZE: Could I go before Mr. Glasgow? MS. KING: No.

CHAIRPERSON REID: Can you do what?

MS. KING: The applicant hasn't started his case.

MR. BOOZE: No, I am with him.

CHAIRPERSON REID: What is the request?

MR. BOOZE: I would like to add some more on to what they are about to say.

CHAIRPERSON REID: Well, you will have an opportunity during in the ANC segment to speak

again.

MS. KING: Or to speak in favor. I mean, the lawyer for the applicants is the first person who speaks for the applicant unless he calls upon you to speak first.

CHAIRPERSON REID: We have taken considerable time addressing the issue as to whether or not there was adequate notice to the ANC, and we have determined that there was. So, therefore, Mr. Glasgow, please.

MR. GLASGOW: Thank you, Madam Chair and members of the Board. For the record, my name is Norman M. Glasgow, Jr. of the law firm of Wilkes, Artis, Hedrick and Lane here on behalf of the applicant, whom you already know now. Mr. Travis Hardman is here with me, seated on my right, and Mr. Rick Nero, who will be witnesses. Mr. Phil Davis is here. Ms. Beverly Dugger of the D.C. Public Schools is here and will be a witness on behalf of the applicant and also Ms. Stephanie Tindall is here, who is the staff director. We will call three of these people as witnesses unless there are other questions by the Board as to this application.

Also, with respect to -- not to specifically reopen the issue, but to say that we had no problem with giving the ANC opportunity to

comment on this case, except that some of their time frames do not jive with the time frames that we have with respect to a grant that we have from the Department of Housing and Community Development for $300,000.00, which expires on December 17. Mr. Hardman and Mr. Davis can go into that in some detail. Otherwise, we don't have any problem with allowing them to comment on the case. It is just their time frame does not jive with our time frame and it is unfortunate that people's notices and who they all thought they were talking to at the time have caused some confusion. But we do have some time constraints on our part. We also will be submitting for the record a letter in support from the Carver Terrace Tenant and Civic Association from Veronica Hartsfield, who is the president of that association in support of this application. So there has been a lot of contact within the community with respect to --

MS. KING: We have received that.

MR. GLASGOW: Yes. Okay. So that is in the record. Thank you. This is a case to establish a new child development center for ages infant to 12 years old for 100 children and 20 staff with healthcare and transitional living programs. The healthcare and transitional living programs are

matter of right uses within the building, but the child development center will occupy about 8,000 square feet of a 12,000 square foot building, which is owned by the National Child Day Care Association. We have submitted a statement for the applicant, which you have in the record. The applicant's plans are to rehabilitate and renovate the existing structure. There will be no building additions to that structure. It will be interior work only. So that with respect to the nature of the structure as it physically sits on the property, that will remain the same. And we have as Exhibit D, a site plan that shows the fence play area and 8 parking spaces for the use of the building, which is a three-story. On that plat, it shows a three-story apartment building. I would classify it as a three-story plus basement apartment building when you look at any of the photographs of the site.

We believe that the statement of applicant sets forth how it is that we make the burden of proof. Unless there are any preliminary questions, I would like to proceed forward with the statement of applicant's witnesses and their testimony. Mr. Hardman, will you please identify yourself for the record and proceed with your testimony?

MR. HARDMAN: Good afternoon. I am Travis Hardman, the Executive Director of the National Child Day Care Association. We are located -- our offices are located at 1501 Benning Road, N.E. The National Child Day Care Association --

MS. KING: Excuse me, could we have your home address, please?

MR. HARDMAN: My home address?

MS. KING: Home address.

MR. HARDMAN: Yes. My home address is 1513 28th Street, S.E. Again, I am the executive director of the organization. NCDCA has been a provider of childcare in the District of Columbia for 34 years, providing daycare and childcare related services to children and families. This afternoon, we are seeking approval of a special exception application to allow the renovation of a boarded up and derelict 4-story apartment building in the Carver Terrace community. The approval of this application will make way for operation of a state of the art child development center which will service 100 children and 20 teachers and staff.

The National Child Day Care Association was invited by the Carver Terrace community in 1993 to develop this childcare center in partnership with the Carver Terrace Tenant Association along with the

ANC and the D.C. Public Schools Headstart Program. Although not specifically a part of this application, the renovation of the building will also permit its matter of right use as a health clinic and apartment units for use by families moving from Welfare to self-reliance. The community demographics are such that approximately 77 percent are unwed mothers. There is an infant mortality rate of about 20 percent and 38 percent of the families live in poverty. A Washington Post article in last Sunday's paper called this area Little Vietnam due to the high incidence of violence. We are positive that approval of this case will help to change the state of affairs in this community.

The approval of the special exception for the child development center is needed in order to receive a time sensitive $300,000.00 grant from the Department of Housing and Community Development needed to renovate the property. As you can see from the photographs in our submission booklet, the property is in urgent need of repair and we are hoping that the renovation and use of the property will act as a catalyst for positive physical as well as social change for the rest of the community.

As is spelled out clearly in the statement of support booklet, our application

complies with each of the special exception conditions contained in section 205. The proposed center is capable of meeting the applicable licensing and code requirements. The Child Development Center will operate Monday through Friday, including a before and after school program. The center will be open from 7:00 a.m. to 6:00 p.m. The children attending the center will range in age from infancy to 12 years old. There will be 20 teachers and other staff. The remaining floors of the building will be devoted to the other NCDCA programs including the health center for parents of the children enrolled in the daycare center as well as four apartment units for low-income families. The apartment use and the health care center are permitted as a matter of right and are not part of the instant application.

The proposed child development center is located and designed as not to create an objectionable traffic condition and unsafe condition from the picking up and dropping off of children. The center will enforce a strict safety procedure for dropping off and picking up of children by automobile. Automobile dropping off of children will occur off of M Street. There is unrestricted curb parking allowed on M Street at this location.

Each child will be escorted into the center by his or her parent or guardian, received by a designated center staff person and signed in. The procedure will be reversed during pick-ups. We anticipate that the majority if not all of the parents will walk with their children to the center. The demographics of the population served as well as the information from the Carver Terrace Tenant Association indicate that the majority of the parents utilizing the center will not own automobiles.

The center is designed to include a large fenced outdoor play area. Supervised classroom sized groups of children will utilize the outdoor play area during scheduled shifts. The building in which the center will be located, including the play area, will be attractively landscaped for the betterment of the neighborhood. The proposed center will be landscaped. The center will utilize a tastefully sized and designed sign near the entrance of the building to identify itself. The accessory parking area is located to the rear of the subject property. Exterior security lighting will be installed at strategic locations all around the building and the proposed center will be a vast improvement over the site's present vacant and

boarded up status. Blown trash and debris will be removed from the exterior of the property on a daily basis.

MR. NERO: Thank you, Mr. Hardman. For the record, my name is Rick Nero. I am an urban planner with the law firm of Wilkes, Artis, Hedrick and Lane. I have visited the site on several occasions, at different times of day, and I am familiar with the applicant's proposed site plan. The center has been designed to provide sufficient off-street parking spaces to meet the reasonable needs of its teachers and other employees and visitors. The center is required by the zoning regulations to provide five off-street parking spaces for its 20 employees. The applicant's site plan shows the location of 8 parking spaces to the rear of its property. These spaces are accessed via a 16-foot public alley.

As Mr. Hardman mentioned, M Street, which will be the primary entrance to the building, provides two-way traffic. The north side of M Street is occupied by the National Arboretum, so there is no demand for parking on the entire north side curbside of M Street at that location.

There are no other child development centers located within the same square within 1,000

feet of this property. In fact, the nearest child development center located to the property is at 15th and Benning Road in the Pinnacle Apartment Building, and it just so happens that the applicant operates that child development center as part of its program. The Office of Zoning made a referral to DPW, the Office of Planning and DHS on August 26, 1998, and to date to our knowledge there hasn't been any response from those agencies.

The child development center, in my opinion, will be in harmony with the general purpose and intent of the zoning regulations and maps. The proposed child development center will be located so as to be convenient to nearby residential community and nearby public transportation. The center will not tend to adversely affect the use of neighboring property. The center services have been designed to meet the particular needs of the parents and children living in the Carver Terrace community. If you have any questions, I will be happy to respond.

MR. GLASGOW: Madam Chair, Mr. Nero's testimony is offered as an expert witness in land planning, and he has been accepted by this Board as an expert on several occasions.

CHAIRPERSON REID: Well, we are very familiar with Mr. Nero and we will accept him as an

expert witness.

MR. GLASGOW: Thank you.

MR. GILREATH: I have a question, Madam Chair. As I understand it, most of the people or parents will simply walk to the facility with their children. But presumably there will at least be a few who will bring the children in their cars. Do they pull up on M Street and stop and get out and they are escorted? Where do they pull up and stop and let their children out?

MR. NERO: Yes, there is plenty of room along the frontage of the subject property along the south side of M Street where we anticipate within an hour to hour and a half time frame in the morning and the evening that parents could pull up, take a few minutes to park, and walk their child. For those who are driving, which would be very few, walk their children up a walkway and down a ramp to the basement level entrance where the child development center will be operated. That would be the normal course of events. The other option would be to go to the parking lot and use one of the three extra parking spaces located there or to park and walk the children in. But it is more likely that they would park on Q or on M Street.

MR. GILREATH: Well, as I understand it,

the parent presumably should pull up to the curb there. She will, depending on which way the car is positioned, either she or the child would have to get out on the traffic side.

MR. NERO: The child would get out on the curb side actually.

MR. NERO: Okay. That means that the parent would have to get out -- unless they can slide all the way across -- is the traffic such that they can get out?

MR. NERO: There is absolutely no traffic on M Street. I have been out there many, many times a day at different hours of the day. M Street deadends at 21st Street at that location. Exhibit D

-- no, maybe one of the other exhibits -- let me see. Which one is that?

MR. GLASGOW: It is Exhibit B.

MR. NERO: Exhibit B will give you a clear example of how we are sort of at the end of the community there. Most of the traffic proceeds along Maryland Avenue, Commissioner Booze has informed me. It is a very quiet neighborhood type street. We are at the very end and there is no traffic impact on anyone else.

MR. GILREATH: So you are satisfied that

there will be no significant danger to the parent getting out on the traffic side? The traffic is so diminished or low that that would not be a problem?

MR. NERO: Absolutely not. Up at that end is the Arboretum. There are no curb cuts leading in and out of there. You have the Anacostia Golf Course to the southeast of the site. Right in front of the site is a public garden and there is absolutely no traffic in that area.

MR. GILREATH: Okay. I accept that.

MR. NERO: It is very safe.

MS. KING: There appears to be a triangular park which presumably --

MR. NERO: There is. They --

MS. KING: That doesn't generate any traffic of its own. Therefore, it looks as though there would be plenty of space.

MR. NERO: That is right.

MR. GLASGOW: If there are no further --

CHAIRPERSON REID: I have a question regarding -- what about food service?

MR. HARDMAN: The National Child Day Care Association has a central kitchen and all food is prepared at the central kitchen and delivered to each one of our centers. So the food is brought in daily to each site. So there is no significant food

preparation done on site.

CHAIRPERSON REID: And where are the dumpsters located for trash disposal?

MR. HARDMAN: Actually, that would be in the rear of the building.

CHAIRPERSON REID: And how often is the trash picked up?

MR. NERO: I have been informed that trash will be stored inside of the building and picked up on a daily basis.

CHAIRPERSON REID: By a contractor?

MR. HARDMAN: Yes. Currently, the National Child Day Care Association has janitorial service for all of its sites with one company that removes the trash daily, and this site would be done the same way.

CHAIRPERSON REID: Okay. And as for the drop-off and pick-up, I think I read that the children will be escorted to the center by parents. When they are dropped off in cars, then a staff person will accompany them to the building?

MR. HARDMAN: No, they have to bring them into the building and actually sign the child in.

CHAIRPERSON REID: The parent will then park the car and bring the child in?

MR. HARDMAN: Right. Correct.

CHAIRPERSON REID: There will be no staff person there?

MR. HARDMAN: No, inside --

CHAIRPERSON REID: No, at the front of the door.

MR. HARDMAN: Yes, at the front of the door, there would be a staff person. But we still have a requirement that the parent sign the child in even though the staff person is there to receive the child.

CHAIRPERSON REID: Okay. So parking is adequate or more than adequate.

MS. KING: They have got half again as many parking spaces as they need.

CHAIRPERSON REID: And the play area is right there reflected on the site plan, this play area. Do you have any questions?

MR. GILREATH: Not really, unless we want to consider the ANC, that I presume is going to have an opportunity to respond. That will come later?

CHAIRPERSON REID: Yes, that will come later.

MR. GILREATH: Okay. Fine.

CHAIRPERSON REID: Okay. Then we will

have you go back and have a seat and have the -- are there any government reports?

MR. GLASGOW: We have one more witness, Madam Chair.

CHAIRPERSON REID: Oh, I am sorry.

MR. GLASGOW: The representative that is here that is with the D.C. Public Schools.

CHAIRPERSON REID: Okay.

MR. GLASGOW: Could you please identify yourself for the record and proceed with your testimony?

MS. DUGGER: Yes, I will. I am Beverly Langford Dugger, and I am the Director of the D.C. Public School Headstart Programs. I am a partner with the National Child Day Care Association in the development of this facility at the request of the community. Prior to Mr. Hardman's becoming Director of National Child Day Care Association, the Carver community began to organize itself. They worked with the Department of Health and Human Services Community Services Administration and the Headstart Bureau and indicated that they had some needs and we were essentially directed by our regional office in Philadelphia to attend the meeting with the members of this community, and that included Patsy Hartsfield, who is the president of the Carver Civic

Association, now the Carver Langston Coalition. Both ANC's representing the Carver Terrace, which was Mr. Booze and Elaine Bush. The United Planning Organization was invited to that meeting and at that time already had a presence on the property with the Hypothermia Program and the Bridges Program. So we went in and heard the need and one of the primary needs was for childcare and for healthcare. And at that time, the Headstart Programs here in the District, which are National Child Day Care Association, D.C. Public Schools and UPO, did not have funds to support a childcare program at that time, but we made a commitment to the community that when funds became available that could be used to address their needs that we would certainly direct them to them. And National Child Day Care applied for and received some program improvement dollars, because it needed not only operating dollars but renovation money at that time, and they needed more so they had to wait. In the meantime, the Mattel Foundation wanted to increase its corporate giving, and so they made available to D.C. Public Schools a grant for $250,000.00 to support the development of a health education and prevention center at Carver, which is the health center that is referenced in this application. When that money became available,

I brought the representative from Mattel to the community and met with Mr. Booze, Ms. Bush, Ms. Hartsfield and other members of the community and said this is available, do you want it, and what do you think we ought to do with it. And we began to plan. So from the very beginning, we were both in contact with the ANC commissioners representing those single member districts and were acting in concert with the desires of that community to create a more wholesome environment for its residents.

Since that time, we did begin work at the site, and we have spent somewhere near $80,000.00 beginning the work at that site, and of course we needed more dollars, which the National Child Day Care Association has been successful in attracting from the DHCD. They got the money. You know, when you are in partnership sometimes the movement is like that. Mattel did its initial expenditure, but it is at this point that we are in a desperate situation actually because it looks terrible that we have held this Mattel money for four years now. We have not been able to deliver. We have jeopardized our opportunities to get additional dollars, and they sponsored a program called "Free To Grow" and they provided funding in five cities in the country -- Atlanta, Los Angeles

and I don't remember the others and Washington, D.C. And we have not been able to produce. We need this variance so that the dollars from Department of Housing and Community Development can kick into this project and we can move ahead, not only just to develop the facility, but to provide desperately needed childcare. In this city, the greatest need for care is infants and toddlers and before and after school. And as described, the facility that National Child Day Care Center will run will provide care for both of those age groups of children. Additionally, the health center that is operating there not only will serve the 80 to 100 children in that facility, but other children and adults in the community. There are Headstart Programs in the schools nearby at Young. So we will be able to bring children into that facility. It is going to be an interactive facility, so both adults and children can learn about good health. We are in desperate need of this variance so that we can proceed, both to demonstrate our capability -- exception, I am sorry -- our capability to produce this place. It is really exciting, but because we have all of these partners, it is almost like a new thing. Some of the plans do not come in -- you know, the funding streams don't come right when you

need them. So you have to wait, and we are learning in this process. But at all times, from the very beginning, we have been in concert with what the Carver Langston community had designed for themselves. What they said they wanted and did what they had to do to get us into a room and say this is what this community needs. You are the government and you are the school system, what are you going to do about it. And this has been a part of our response. We became members of the coalition as well and participated in regular meetings. For a while, we were meeting almost every week to just share our progress.

CHAIRPERSON REID: I am glad to hear that because you have been actively involved in a series of meetings with the community and the ANC.

MS. DUGGER: When we got the money from Mattel, as a matter of fact their representative came and we were not even at this facility at the time, but sat and met with the ANC -- the two ANC's that were involved in that community and Mrs. Hartsfield and other members of the community and just talked about what they needed so that as a corporate giver, they understood the total concept that was being dealt with here.

CHAIRPERSON REID: What was the other

ANC?

MS. DUGGER: Elaine Bush.

CHAIRPERSON REID: No, the other ANC.

MS. KING: No, she is referring to the ANC as an ANC commissioner.

MS. DUGGER: The commissioner, yes. We had two commissioners involved, Mr. Booze --

CHAIRPERSON REID: Oh, okay.

MS. DUGGER: And then on the other side of the street it was --

CHAIRPERSON REID: Sometimes we have a case that abuts two ANC jurisdictions. So that is what I thought you were referring to.

MS. DUGGER: Oh, okay. What we had was two SMD's, I think, two single member districts.

CHAIRPERSON REID: Okay.

MS. DUGGER: And there was Mr. Booze on one side of the street and Ms. Bush on the other. But they were both always in these meetings together and working through these plans and making decisions with us.

CHAIRPERSON REID: Okay. Thank you very much for your testimony.

MS. KING: Now there was some talk about funding being in jeopardy if this were not to move forward. Is that the Mattel money or is that the

HCD money?

MS. DUGGER: Both.

CHAIRPERSON REID: Both.

MS. KING: Oh, okay.

MS. DUGGER: The more critical right now is that DHCD money because --

MS. KING: What is the deadline?

MR. GLASGOW: December 17.

MS. KING: I see.

MS. DUGGER: You see, we thought we were going to get more Mattel money. As a matter of fact, we planned on it. We were going to do this renovation and --

MS. KING: I understand that. I just wanted to know what your deadline was.

MS. DUGGER: Yes, we are on it.

CHAIRPERSON REID: Okay. Thank you very much for your testimony.

MS. DUGGER: Okay. Thank you.

CHAIRPERSON REID: Now, Mr. Glasgow, were there any other witnesses before --

MR. GLASGOW: No other witnesses in the applicant's direct testimony.

CHAIRPERSON REID: Okay. Government reports? I don't think we had any.

MS. ROSE: Madam Chair?

CHAIRPERSON REID: Yes.

MS. ROSE: Do we have public parties in this case?

CHAIRPERSON REID: Are there any other parties to this case?

MS. KING: Mr. Williams.

MS. ROSE: He had asked for party status.

CHAIRPERSON REID: Is Mr. Williams here?

MR. WILLIAMS: Yes, I am.

CHAIRPERSON REID: All right. And you requested party status?

MR. WILLIAMS: Yes, I did.

CHAIRPERSON REID: Okay.

MS. ROSE: He would need to stand the applicant's cross examination.

CHAIRPERSON REID: Okay. All right. Thank you. Mr. Williams, we should have recognized you in the beginning. I had your letter in the file, but I didn't realize that you were the one requesting the party status. You do live within the radius for it to be so granted.

MR. GLASGOW: Madam Chair, I don't think Mr. Williams lives at that property, I think he owns that property.

MR. WILLIAMS: I do reside at the

property. I do both.

MS. KING: You own it but don't live there?

MR. WILLIAMS: I own it -- it is a quad. I live in one of the apartments, yes.

CHAIRPERSON REID: You own and live there?

MR. WILLIAMS: I own and live there.

CHAIRPERSON REID: Mr. Williams, come forth, please. Your concerns cannot be addressed by the ANC representative?

MR. WILLIAMS: No. Because the ANC does not have a unified position.

CHAIRPERSON REID: Okay. All right. Thank you.

MR. WILLIAMS: Obviously.

CHAIRPERSON REID: We will come to you in a moment.

MR. WILLIAMS: All right. Okay.

MS. KING: But the question is are we granting him party status?

CHAIRPERSON REID: Yes.

MS. KING: And if so, do you want him to cross examine?

CHAIRPERSON REID: Was there any cross examination of the applicant?

MR. GLASGOW: I am going to ask them a few questions since it is going on.

CHAIRPERSON REID: All right. Who would you like to ask?

MR. GLASGOW: Anybody that is associated with that group.

MS. KING: He is not officially representing anybody.

CHAIRPERSON REID: Ms. Rose, the ANC commissioner, can that be a party?

MS. ROSE: The ANC itself is a party to the case, and we don't --

CHAIRPERSON REID: But they have not taken an official position in this matter.

MS. ROSE: Right. And he would have to be representing the ANC.

CHAIRPERSON REID: Okay. Mr. Boyd, do you hear the response?

MR. BOYD: What?

CHAIRPERSON REID: The ANC would -- you would have to be representing the ANC.

MR. BOYD: Yes.

CHAIRPERSON REID: But you are not because the ANC is not united in their position. You don't have a -- we do not have a position from the ANC. Ordinarily if you were, then you could.

But in this instance I have been advised by the secretary that you cannot because of the fact that you are not representing the entire ANC.

MR. BOYD: This is why we wanted the hearing rescheduled --

CHAIRPERSON REID: You can speak but not as a party.

MR. BOYD: Because we hadn't had an opportunity.

CHAIRPERSON REID: Okay. You may speak, but not as a party to the case. Which means that you would not be given the opportunity to cross examine. But you will be able --

MR. BOYD: Why am I here?

CHAIRPERSON REID: You will be able to testify.

MR. BOYD: I can't ask no questions?

CHAIRPERSON REID: No.

MS. ROSE: Madam Chair, the only way he can ask questions is if he were to be granted party status in his individual capacity.

CHAIRPERSON REID: Do you live within -- where do you live?

MR. BOYD: I live in Trinidad.

CHAIRPERSON REID: But you don't live close -- you don't live within the proximity.

MR. BOYD: I don't live half as far as Mr. Booze do. Mr. Booze is all the way across 17th Street.

CHAIRPERSON REID: Well, he is not asking for party status. Let me do this. Let me take care of the cross examination first and then have you come back up and testify as an ANC single member district.

MR. BOYD: I am the chairman elected by all of the people in that ANC area. I am chairperson of ANC 5B.

MS. KING: But the ANC is not -- we don't have anything on record saying that you are representing the position of the ANC.

MR. BOYD: That is why we asked you to reschedule because we hadn't had time to hold a meeting on the issue.

CHAIRPERSON REID: Okay, but -- now, let's do this today. I will allow you to testify and we will give the full ANC an opportunity to be able to submit their position to us. But we cannot allow you to speak on behalf of the ANC in that we don't have anything to justify doing so.

MR. BOOZE: Could the Vice Chairman speak?

CHAIRPERSON REID: Sure. You can speak

but not cross examine. You, Mr. Williams, were you desiring cross examining the applicant?

MR. WILLIAMS: I want to make a statement first.

CHAIRPERSON REID: Okay. All right. You will have an opportunity to do that. All right, so there is no cross. Now, ANC -- the ANC can come forward and testify at this time.

MS. KING: As individuals.

CHAIRPERSON REID: As individuals -- single member districts.

MR. BOYD: You are the oldest, so you can go first.

MR. BOOZE: One thing I will start off by saying is that Mr. Boyd really is not opposed to the daycare center. I am so happy to know that really. He is opposed to the way we went about it, I guess.

CHAIRPERSON REID: I understood that.

MR. BOOZE: During this course of time, I have been the chairman. I don't know whether I was the chairman or vice chairman at this time when this little mix-up occurred. But I was well aware all the time, whether I was chairman or vice chairman, and we have been together for 15 years plus. I just hope later on tonight -- we talk just

about every day together -- we can be able to resolve this. I was briefing him on everything that was going on. Like I said before, I was keeping him briefed on everything that was going on as far as this was concerned -- about the money and about the building, and he even wanted to go down there and look at it. So it wasn't something that we were keeping secret. Like I said, I wear two hats in that area, and it was like they were briefing me and I couldn't see bringing the whole ANC together. But the Office of Planning was well aware of what we was doing. Ms. Mona Clark is the one who flagged the Office of Planning. So everyone was in support of this 100 percent.

This area was rundown. This building had been sitting there for I don't know how long, empty, with windows all busted out. Some houses a few doors up the street on Elm Street was all ransacked and they had been rundown and we was trying to get them to do something about those houses. So this has brought the neighborhood up. In the front, we have our neighborhood garden that the Department of the Interior comes out and assists us with every year. So this is what you call beautification on what we are doing in the neighborhood and for this area. And like I

mentioned earlier, we got a $20 million grant from Fannie Mae to renovate the rest of the buildings and all in the area. Incidentally, I am going to make sure I get to them just as quick as I can to tell them to get to the ANC before we proceed any further with that. Because we are moving every day. We have got men working there now and they will be working until 5:00. So Mr. Boyd and I, we are going to get together on this. But we have learned something from it. So where I was thinking that I was representing the ANC by telling them what was going on, but I think my good old buddy pulled a technicality on me where I really wasn't. But don't think this is the first time we have been on the opposite side of each other. We have done this several times before. Mr. Boyd, it is all yours.

CHAIRPERSON REID: Thank you, Mr. Booze.

MR. BOYD: Well, first of all, Mr. Booze --

CHAIRPERSON REID: We need your name and your address.

MR. BOYD: Oh, my name is George Boyd. I reside at 1264 Owen Place, N.E., Washington, D.C. 20002. Now let's get back to Mr. Booze's comments. Mr. Booze told me at the end of this what was going on, but it was confidential. He would make you

think that he was just keeping me informed. But what we were talking about was on a confidential basis. And for me to keep on going and getting information, I had to hear and don't hear and keep it confidential. So there was no real outright display of what was going on up there. And for those ANC commissioners that are supposed to be in that area, I have my annual report here. And it tells you the attendance records of the ANC commissioners, and one of them that was mentioned was Ms. Bush. We never saw her during her two-year term. I don't see how she could have put in so much for not representing the ANC, because she never attended a meeting. I will give you a copy of it so you will have it for the record to show that she was not a good participant.

Members of the Board of Zoning Adjustment, my name is George A. Boyd, Chairman of Advisory Neighborhood Commission 5B, ANC 5B, and I am the commissioner for ANC 5B-06. My comments are made on behalf of my constituents. On November 10, 1998, I forwarded a letter to Ms. Sheri Pruitt-Williams, Interim-Director of the Board of Zoning Adjustment, requesting at least a one-month delay for the scheduled hearing on BZA application 16413. However, to date I have not received an official

response to my request. I did have my office manager call to your office, and she was informed that such a request could not be granted until the time of the scheduled hearing. The decision making process makes it difficult to prepare a statement, costly for parking, time consuming, and inconvenient for those involved in attempting to meet the requirements according with 11 DCMR 3315.6 and 3316.5. While the ANC would like to meet your requirements in a timely manner, we would also like you to return the same courtesy to our ANC. BZA memorandums to inform ANC 5B of the hearing schedule on December 2, 1998 dated November 9, 1998 was received in the ANC office on November 13, 1998. Also, the memorandum states this is not a notice of public hearing on the application. You will receive notice of the hearing by mail and through the D.C. Register approximately 40 days in advance of the hearing. In accordance with 11 DCMR 3307, the written report of an ANC shall be filed at least 7 days before the date of a hearing and shall contain certain information specified in that section. Due to the time frame, ANC 5B could not meet these requirements. In accordance with the Neighborhood Commission manual, Chapter 1, Advisory Neighborhood Commission General Provision of the D.C. Code

Section 1-251, Section 100.6, which states, "In the manner provided by the act or the council in addition to any other notice required by law, timely notice of 30 days shall be given to each ANC on requested or proposed zoning changes, variances, public improvements, licensing or permit of significance to neighborhood planning and development within its neighborhood commission area for its review, comments, and recommendations. See also Section 301 of this manual for more specific information on notice requirements that include proposed District government actions covered by the Act, shall include but not limited to the act of the Council of the District of Columbia, the Executive Branch, or independent agencies." It should be noted that the National Day Care Association has taken no official action to involve ANC 5B in its planning process for the child development center at 2220 M Street, N.E., as required by law. As a matter of fact, the NCDCA has attempted to circumvent the involvement of ANC 5B with any type of oversight during the planning. As a result, it appears that there may be some mismanagement of resources. It also appears that NCDCA has put the cart before the horse in that they have already spent an estimated one half million dollars on the

rehabilitation of the property. Now it requests a special exception and the use of public funds from the Department of Housing and Community Development.

While ANC 5B endorses the concept of the project, it is time --

MS. KING: On what basis -- on what do you base that statement?

MR. BOYD: What?

MS. KING: On what do you base that statement. You have just said that the ANC endorses the project. On what do you base that statement?

MR. BOYD: We endorse the concept.

MS. KING: Who is we?

MR. BOYD: Well, when I wrote this, I wrote it for the ANC 5B commission. Since you said that --

MS. KING: So you can represent the ANC in toto, but Mr. Booze cannot? Is that correct?

MR. BOYD: I am chairperson.

MR. BOOZE: I am vice chair.

MR. BOYD: Yes, but a chairperson supersedes the vice chair.

MS. KING: Are you personally opposed to this project? Are you testifying in opposition to this project? Are you opposed to the project yourself personally?

MR. BOYD: I see it that I am -- we are not opposed to the concept. What we are opposed to is the way they did it.

CHAIRPERSON REID: The procedure.

MR. BOYD: Yes. The principle behind it.

CHAIRPERSON REID: Okay. Well, we understand that.

MR. BOYD: If we are going to be some government officials with integrity and respect, then we should go through the process.

CHAIRPERSON REID: Okay.

MR. BOYD: If not, then we don't need them. You should stop spending the money on the ANC's and making them think that they have some duties and responsibilities which they don't have.

CHAIRPERSON REID: Okay. Well, go ahead and finish with your testimony, sir.

MR. BOYD: That is it. While the ANC -- while I endorse the concept of the project, it is time for the District Government officials -- the boards, commissions and agencies -- to give ANC officials the respect and dignity they deserve and demand. Therefore, we request that you postpone the hearing until NCDC and ANC 5B commissioners can meet and carry out the duties and responsibilities they

were elected to perform. Thank you for the opportunity to make this comment, and I will attempt to answer any questions you may have.

MR. BOOZE: I would like to make a correction. The last Friday of each month, I have a meeting in my office from the various department heads, including Mr. Boyd. This daycare center has come up in the meetings on several occasions on how they were progressing and how they were going about. It has been discussed in the office at the meetings that we have in my office on Fridays. Do you recall hearing any of them?

MR. BOYD: I have attended one or two meetings, but very seldom. One of the things I wanted to know is how long has this project been in planning?

MR. BOOZE: Since 1993.

MR. BOYD: Since 1993. And they still haven't seen fit to come to the ANC? How much money have you spent? You say you communicate with me. That is where I got that over half a million dollars being spent.

MS. KING: I would suggest, Madam Chair, that the hour is getting late and we understand the issue here and that we have talked -- we have still got other people in opposition to hear -- another

gentleman. I think that we understand the issue that Mr. Boyd and Mr. Booze have brought before us, and I think that there is a remedy for it if we can get on with the hearing and then allow the ANC a certain number of days in which to file --

CHAIRPERSON REID: I agree.

MS. KING: -- a unified opinion. And rather than having this wrangle go on about who said what to whom.

CHAIRPERSON REID: I agree. Are you -- have you completed your testimony, Mr. Boyd?

MR. BOYD: Yes, I am complete. But I would say I am disturbed by some of the things that have gone on up there. Some of the robbery and some of the misconduct and stuff. I think one of the reasons the ANC hasn't been involved is because the ANC is attempting to have an effective and efficient government and to cut out any undesirable management practice that might be involved. And I think that is only reason we have been left out. You would be surprised to know how much stuff has been stolen in those facilities.

CHAIRPERSON REID: Well, Mr. Boyd, I think that we have gotten the gist of your testimony and we understand and we appreciate your bringing to our attention the fact that as a result of the

procedure not being followed, you were not properly notified and that has been noted for the record.

MS. KING: Although, however, in justice to our staff, they did mail out the notice which was duly received by you on the 27th of October. There was a misunderstanding about a subsequent mailing, but nevertheless, the reason that we went forward with the hearing today was because we were convinced that due notice was given so that it could be legal -- this meeting could be legally held.

CHAIRPERSON REID: I was referring specifically to the issue regarding the ANC notification and the meetings and the fact that Mr. Boyd contends that he was not properly notified or included. But I think that is going to be remedied.

MS. KING: Okay. Great.

MR. BOOZE: I am going to let you know from now on.

CHAIRPERSON REID: Is there any cross, Mr. Glasgow, for the ANC?

MR. GLASGOW: I think I will save that for any closing argument, because there was an allegation about thefts or something going on and the facility isn't in operation, so it couldn't have been with respect to our property.

CHAIRPERSON REID: Okay. Persons and

parties in support of this application? Persons and parties in opposition to the application?

MS. KING: That is Mr. Williams.

CHAIRPERSON REID: Mr. Williams, what is your position?

MR. WILLIAMS: Do you want me to make our statement?

CHAIRPERSON REID: Are you in support or opposition?

MR. WILLIAMS: As things sit today, I am in opposition.

CHAIRPERSON REID: Okay. Well, then this is your time to come up and have your say.

MR. WILLIAMS: For the record, my name is James H. Williams, Sr. I both reside and own the property at 2209 M Street. And I note that my name should have been forwarded to this Board in accordance with your regulations. All the owners, not occupants, of all property within 200 feet of the proposed facility, and my property is located within 200 feet of that facility.

It is obvious to me as a new resident of this area or a new property owner in the area that probably this facility is needed, the daycare center. I am not sure about the other. And so not borrowing Mr. Boyd's terminology, but I certainly in

all honesty can't sit here and say that I am opposed to the concept. However, I live in the area and I walk that street daily every day for the last six months, and I have some specific concerns about the impact that that facility will bring on the neighborhood. First of all, I point out that the north side of M Street is not improved. There is no curb. There is no gutter. There is no sidewalk. So any children disembarking on that side of M Street are going to get out in the bushes. Because the Arboretum simply refuses and has refused to maintain that right of way. I am separately attempting to deal with that situation. I have tried to solicit support along those lines. But as things stand today, it is like Third World on the north side of M Street.

It has been mentioned that there is adequate parking on M Street. There are 7 quad apartments between the rear of the property in question and 22nd Place. There is only about 16 parking spaces available in that block -- it is not a whole block, that half block. Those parking spaces are certainly required by the occupants of those apartments once they are occupied. I currently own one. I am in the process of buying a second one. That is why I am here really. I am in

the process of buying a second one. So there is no adequate parking on M Street for either parking or disembarking of children as far as I am concerned. The space in front of the building, immediately to the north of the building, is only about 40 feet. Because completely around the park area there is no parking. You can't park on the north side of the park on either side -- on either the Maryland Avenue side or the M Street side.

MS. KING: Excuse me, could I --

MR. WILLIAMS: Okay.

MS. KING: Could you say that again? I have got a map and maybe you can take the hand microphone and show us what you mean. For the record, this is the map that was -- now here is M Street. Here is the facility. Now there is a triangular park there.

MR. WILLIAMS: There is no parking on any of that.

MS. KING: You mean parking is forbidden. There are no parking signs?

MR. WILLIAMS: Parking is forbidden. There are no parking signs all along that run and up that run.

CHAIRPERSON REID: But this is the parking that they are providing.

MR. WILLIAMS: Right now we are talking about off-street parking.

MS. KING: But we are talking about drop-off and pick-up, which they testified was to take place here at the north on M Street. Is parking permitted in front of the building?

MR. WILLIAMS: Just that short section there, parking is permitted.

MS. KING: There you say? That is on M Street on the north side of the building. And what he is saying is that there are no parking signs along the remainder of M Street until it intersects with Maryland Avenue.

CHAIRPERSON REID: But are the people being dropped -- are the kids being dropped off in front or here? If this is the parking lot --

MS. KING: And what is the parking situation?

MR. WILLIAMS: You can park along there, but this is obviously required for the --

MS. KING: No, no, I understand. But it is public parking. It is not reserved parking.

MR. WILLIAMS: It is public parking, yes.

MS. KING: So, I mean, if there were nobody parked there, they could stop and park there

just like you or me.

MR. WILLIAMS: Yes, but that --

MS. KING: No, I understand what you are saying, but it is not forbidden to park there.

MR. WILLIAMS: No, it is not forbidden.

MS. KING: But you say it is forbidden to park from east of the building to the intersection.

MR. WILLIAMS: Right. And also the other slope on that triangle. And on the other side --

MS. KING: And this side.

MR. WILLIAMS: There is no parking there also. And over here, there is sidewalk -- no curb and no sidewalk. So if anybody parked over there and disembarked, the kids would get off in the bushes.

MS. KING: Unless they came out with their parents on the driver's side.

MR. WILLIAMS: And that is unsafe. There is lots of traffic on M Street. As I said, I live there. As a matter of fact, there is a bus route. As a matter of fact, the X-8 bus run downs that street. MS. KING: So you figure that two or three cars could park in front of the facility if the parking was not already taken up?

MR. WILLIAMS: Oh, a couple of cars could stop in front of the facility, yes. But, again, I hear the statement that everybody is going to walk. There are lots of cars over there. I find that hard to believe that there are going to be so few cars that you can just trivialize the parking concern to the degree that I have heard it trivialized here. I think parking is a real problem here. On the side of the facility off the alley where parking is shown, I hope there is money in their budget to do this. That is on an elevation of about 4 feet, and there is a wall -- there is a retaining wall there that is crumbling. Again, I mean I looked at the plans and there isn't enough information in what has been presented here or that is in the record for one to intelligently feel comfortable that this thing can come off without some more homework being done. I am basically saying I am not opposed to the concept, but there is a lot of homework -- there are a lot of unanswered questions here that I think need to be addressed.

The play area -- the area that was penciled in for play, that is less than 20 feet. There is less than 20 feet between the rear of that building and the adjacent property. I mean, we are talking about --

MS. KING: Between the rear or the front?

MR. WILLIAMS: Between the rear of the existing facility that is going to be used for the childcare center and the property -- the first property on M Street, the first quad on M Street. There is 20 feet between those two.

MS. KING: Okay. So what you are saying is that the northwest corner of the building is 20 feet away from the nearest neighbor to the west?

MR. WILLIAMS: Yes. And I have real concerns --

MS. KING: But you notice that it is a triangular shaped play area. It is 20 feet at the top is what you are saying.

MR. WILLIAMS: Yes. And I have concerns about that being adequate. I mean, I don't know what kind of play things they propose to put in there, but I think if somebody would do a playground layout of what kind of equipment you are going to put in there, you are going to be hard pressed for enough space. So I guess I am simply saying that -- I don't want to carry this thing on and on. There are other things also, but this concerns me. I will say this while I am sitting here. As a grandparent and a father, I don't know the source for the

transitional parents that they are talking about putting in that apartment building. I have some concerns about families in distress being co-located with young impressionable children. These two things just might be incompatible. I don't know that they are, but that concerns me. That area is a troubled area. There are a lot of troubled families in there. And I am not so sure that putting possible troubled families in with children is in fact good.

Back to the parking thing, there is no place available for trucks to pull up to offload or to service. There just isn't any. So there is some homework to be done, I think, here.

CHAIRPERSON REID: Okay.

MR. WILLIAMS: Now also let me say this. The streets are in terrible shape. I note that Public Works did not respond. M Street is not maintained. On the north side of M Street, there is no sewer, for instance. So the water just runs down the street when it rains. Those are the kinds of concerns I have, and they are concerns that would come out in I think people sitting down and looking at the mechanics and the up and down lifting of what goes on, and obviously this should not be done here. And that is why I say that whereas I cannot oppose this thing in concept, I don't think it is ready to

go.

CHAIRPERSON REID: Okay. Thank you very much for your testimony. Do you have any questions?

MR. GILREATH: I'd like to comment on some of the things he said later on, I guess, when we start drawing conclusions.

CHAIRPERSON REID: Okay. Ms. King, do you have questions for Mr. Williams?

MS. KING: No. Don't go yet. Mr. Glasgow, did you have any cross examination of Mr. Williams?

MR. GLASGOW: We will save it for rebuttal.

CHAIRPERSON REID: Okay. Now, Mr.Williams, have a seat. Sit back down so he can then cross examine you. You can't question him. You have to go --

MR. BOOZE: No. I would just call his attention to Maryland Avenue. I keep hearing about M Street.

CHAIRPERSON REID: Excuse me. This discussion has to take place outside of this particular arena. Persons -- where are we. Closing remarks by the applicant.

MR. GLASGOW: Madam Chairman, just with respect to a couple of the things that have been

raised. One is there is no testimony in the record other than in support or that there is no opposition to the concept of the child development center. That has been established on the record.

CHAIRPERSON REID: Right.

MR. GLASGOW: There have been a number of questions raised, one with respect to procedure, which is just not something the applicant can deal with with respect to the ANC's own inner-workings. The second is a number of questions that were raised by a nearby property owner, and we will just submit for the record a photograph of the property. I am not going to dispute as to whether or not Mr. Williams lives there, but the building is in some state of disrepair.

MS. KING: Is this Mr. Williams' building you are submitting?

MR. GLASGOW: Yes, this is Mr. Williams' building.

MR. WILLIAMS: I am entitled to notice because I own the property.

MR. GLASGOW: I didn't raise a notice issue, sir.

CHAIRPERSON REID: There is no speaking from chairs. You have to discuss -- from the audience, you have to discuss that with Mr. Glasgow

outside of this room.

MR. WILLIAMS: May I raise a question? I am perfectly happy --

MS. ROSE: Madam Chair, this is improper.

MR. WILLIAMS: I am perfectly happy to be cross examined by Mr. Glasgow, and I --

CHAIRPERSON REID: Mr. Williams, wait one second. I cannot allow you to speak from the audience. You had a -- there was a segment where you were given an opportunity to speak which you did. Now we go to closing remarks by the applicant since this is his segment.

MR. WILLIAMS: Is it improper for me to address you?

CHAIRPERSON REID: Yes.

MR. WILLIAMS: It is improper?

CHAIRPERSON REID: Because you have had an opportunity to speak. What is this?

MR. GLASGOW: That is a photograph of Mr. Williams' property.

CHAIRPERSON REID: Why is this being entered?

MR. GLASGOW: With respect to him talking about the area and the condition of the area, we thought that it just may be helpful for the

Board to see the property of a person who has indicated that they testified -- while they have testified no opposition to the concept, they raised a number of questions and issues with respect to our development of the property, and we thought it would be interesting and relevant that the Board see the condition of that piece of property.

CHAIRPERSON REID: I don't see the relevance.

MR. GLASGOW: All right. Well, we would like it --

CHAIRPERSON REID: I don't see the relevance.

MR. GILREATH: I am not sure what it tells me either in context.

MS. KING: I mean, the pictures are not revealing of anything.

MR. GILREATH: It is in disrepair, if that is what you mean.

MS. KING: It shouldn't be entered into --

CHAIRPERSON REID: We are not -- the application is not pertaining to that property. It is pertaining to --

MR. GLASGOW: We agreed, Ms. Reid. We are ready to proceed with the hearing.

CHAIRPERSON REID: Proceed.

MR. GLASGOW: And we are ready to proceed with our case. With respect to -- there was an issue raised by the Board potentially with respect to the ANC. If it wasn't for our December 17 deadline, we wouldn't have any issue with that. But we do have a DHCD grant that it has been testified that we need to be able to proceed forward on in the amount of $300,000.00. And since there has been no one who has testified in opposition to the concept and we have submitted testimony -- significant testimony in support of the application and why it is that it should go forward and we believe that we have met our burden of proof --

CHAIRPERSON REID: Mr. Glasgow, would you have any objection to making contact with the proper ANC body, be that as it may, and to go on record as having done so? Because, again, I don't think that there is any problem with the concept. We are talking about principle and procedure, if you can understand that. And it would probably behoove you to just make that little extra effort. There is a meeting, I understand, on Thursday, regarding another application, and perhaps they could take this matter up and also rule on it as well.

MR. GLASGOW: We are happy to go to the

ANC. I told them during these proceedings, that we would be pleased to go to them on an informational basis.

CHAIRPERSON REID: The impression that I got very clearly was that attempts had been made and there had been meetings and there had been coalitions even that had emerged as a result of it. However, that apparently did not get communicated to the full ANC body, and that is what the objection is. So I think that if you would put forth the effort to do that, that would take care of that problem.

MR. GLASGOW: We are happy to do that.

CHAIRPERSON REID: And to give all due respect to the persons who are in charge or involved with the ANC.

MR. GLASGOW: Certainly. We are happy to do that. The issue that we have is our December 17 date.

CHAIRPERSON REID: We understand that.

MR. GLASGOW: We need to get a decision from the Board before that.

MS. KING: Are you suggesting, Mr. Glasgow, that if we don't give you a bench decision and a summary order today that you -- and this whole matter is not settled by the December 17, you are

going to lose your DHCD grant?

MR. GLASGOW: I do not believe we will lose the grant because we will go back to DHCD to do whatever it is that we need to do to try to protect ourselves. One, I don't think that we have to have an order today. If we did have a decision today, obviously we would communicate that to DHCD and that the paperwork would be coming later. That is a matter -- that would be a matter of record.

CHAIRPERSON REID: In regard to the issues that were raised by Mr. Williams, are there any plans to improve that section of the building or the grounds that abut entry?

MR. GLASGOW: I am sorry, what was that question?

CHAIRPERSON REID: In regard to the concerns raised by Mr. Williams, do you have any plans or the intention to improve the curb side where M Street abuts the property lines?

MR. GLASGOW: The Arboretum side? No, we do not. That is on the other side of the street from us.

MS. KING: They don't have the power to do that. I am a former hearing for sidewalk and alley improvements and I know that they can't do it.

CHAIRPERSON REID: This is not on your

property line?

MR. GLASGOW: No.

CHAIRPERSON REID: Oh, okay. My understanding is that it was the back of your property line.

MS. KING: There is an elaborate process of applying for the installation of sidewalks and who pays for them, and I suspect that the Arboretum, which is I believe is federal property, is probably exempt from all that. So if the Arboretum don't want it, I don't expect it is going to be done.

CHAIRPERSON REID: Okay. That addresses that issue.

MS. KING: But the developers of any project can't simply go and build sidewalks.

CHAIRPERSON REID: I know without going to DPW. I was referring to what appeared to be -- it sounded like kind of a hazard to the children. But now that I understand it is on the other side of the street, it is a moot point. Okay, parking concerns. Can you address that?

MR. GLASGOW: Yes, parking -- we have about one and a half times as many spaces as we are required to have.

CHAIRPERSON REID: The drop-off and pick-up aspect of it was raised.

MR. GLASGOW: The drop-off and pick-up, since it is not parking per se, there is not an issue there we don't believe. One is if something thinks that it is going to take enough time -- if you look at our site plan where the concrete sidewalks are, you can park in the back space and walk with your child up along the sidewalk and get into the building.

CHAIRPERSON REID: But everyone who comes to bring the children in a car will come into the parking lot and park?

MR. GLASGOW: Some will come in the parking lot and some will come in the front door.

CHAIRPERSON REID: In a car?

MR. GLASGOW: Yes. Those that come in a car. But we found from experience with NCDCA that we have a lot of the people are living right in the area and walk with their children to the daycare center.

CHAIRPERSON REID: I understand that. But specifically those people, would there be persons who would be pulling up in front of the building to drop off children?

MR. GLASGOW: Yes. Yes, some will.

CHAIRPERSON REID: Now those people would have to park in front to be able to bring the

children into the building?

MR. GLASGOW: Well, they are there for a minute or two. They get out of their car with their child, they walk up, they sign them in.

CHAIRPERSON REID: But there is parking -- ample parking there to accommodate that?

MR. GLASGOW: Yes.

CHAIRPERSON REID: Without there being traffic problems?

MR. GLASGOW: Yes. Because there is no significant traffic.

MR. GILREATH: Can some of the people bringing their children by car if necessary park along this triangular park there? Is there any sign that parking is prohibited or just no sign at all.

MS. KING: What Mr. Williams has testified to is that there is no parking on either side of that triangular park.

MR. GILREATH: But there is a curb there and a sidewalk, is there not? Doesn't the triangular park have a sidewalk so they can get off there and walk back up?

MR. WILLIAMS: There is no sidewalk and it is posted no parking.

CHAIRPERSON REID: Mr. Williams, if you continue to outburst, then we would have to ask you

to go out into the hallway because we can't have that.

MR. NERO: I am Rick Nero of Wilkes and Artis. Yes, you can park along that triangular piece. There is no sidewalk. Parents would have to take their kids out on the street side and walk down to the center. But there is plenty of queuing space right along the frontage of the property, enough for two or three cars. Which since it is very temporary, they will park, walk in, get their kids, take them away, and the next car will pull up over an hour and a half period in the morning and the evening. That should suffice.

CHAIRPERSON REID: So that should not be a problem?

MR. NERO: No. And you can also park on the north side of M Street. Again, there is no sidewalk on the Arboretum side, but you could take your kids out on the street side and walk them across. You just have to be vigilant to traffic, but there is none.

MS. KING: And you are saying that Mr. Williams is mistaken in saying that there is no parking -- there are no parking signs at that triangular park?

MR. NERO: I don't -- I did not

personally observe those signs. That park is tilled up and used for a community garden. I don't know why they would post no parking along it. I didn't observe that.

MR. GILREATH: The queuing space in front of the building, you said about three cars could park at one time?

MR. NERO: Yes, on the south side of M Street.

MR. GILREATH: What happens if say every once in a while that 5 cars pull up at the same time? Do the two other cars have to wait until the others drop their children off and leave?

MR. NERO: Or they could simply make a U turn and park on the other side of M Street.

MR. GILREATH: And when you said that there is no sidewalk and the children have to walk across the street?

MR. NERO: Yes. That occurs all over the city every day.

MS. KING: And they have to be escorted by a parent or guardian into the daycare center. They don't walk on their own.

MR. NERO: That is correct.

MS. KING: They have to be checked in by a parent or guardian before the daycare center will

accept them. That is my understanding. Is that not correct?

MR. NERO: That is my understanding as well.

MR. GILREATH: Is this triangular park a public park?

MR. NERO: It is owned by the Park Service, the Department of Interior.

MS. KING: It is a community garden. You have seen them. They till it out. It is a victory garden is what it is. Are you old enough to remember victory gardens the way I do? This is a parrotage of the Second World War when we had victory gardens. People liked them so much that they have gone on war after war after war, even in peace time.

CHAIRPERSON REID: Now the other issue was in regard to the play area. What is the approximate square footage of that play area?

MR. NERO: Very close to 2,000 square feet. Again, the play area will have to be inspected and licensed by the Child Care Licensing Branch. It is really an issue that they deal with.

CHAIRPERSON REID: And there is an area for the play apparatus that you have out there.

MR. GLASGOW: Right. And NCDCA has

hundreds of daycare centers and they are very capable of anticipating the need for a play area. 17, I am sorry.

CHAIRPERSON REID: All right. Go ahead, Mr. Glasgow, with your closing remarks. I have no more questions. Mrs. King?

MS. KING: No, I have nothing.

MR. GLASGOW: I am glad, Ms. Reid, that you took the time to go through the issues that were raised, the questions to put it that way. Because they were framed as questions. Because we believe that we have answered those appropriately. With respect to our plans and how we improve the parking lot, we are going to have to improve that according to DCRA regulations. If the Board approves the application, we have to have the site plan approved as we have shown it with respect to the parking spaces and with respect to the play area. So we believe that we have met all the requirements for the special exception and the use is predeemed to be compatible with the area provided that we have met the conditions that are set forth in the special exception requirements, which we think that we have done. We are happy to go to meet with the ANC. We would like to be able to report to DHCD that we do have the approval and we can be in a position where

we can work with them. I think that the applicants, until today or shortly before today, would have been under the understanding that they were working with the ANC. That was the applicant's understanding. Unfortunately from what we saw here today, there was even miscommunication within the ANC that we were not working with the ANC. So I think we have shown our good faith in that standpoint and we have no objection to continue that effort.

CHAIRPERSON REID: Okay. Are you requesting --

MR. GLASGOW: We would like to get a bench decision today so that we could report that to DHCD.

CHAIRPERSON REID: Okay. Board members?

MR. GILREATH: Can we do something less -- make it a kind of proviso kind of thing so they can report back to this funding agency that we are in general agreement, however, we would like to hear something more from the ANC?

CHAIRPERSON REID: I think that if we make a decision today that before the order is issued that we get a submission from the ANC.

MS. ROSE: Generally, you don't make a decision while the record is open.

MS. KING: Yes. It is awkward to make a

decision while the record is open.

CHAIRPERSON REID: I understand that. However, in this particular situation, it is -- what I am trying to do is come up with a solution to a rather complicated problem. And obviously we have got some time constraints and I am attempting to see how we could accomplish both. I don't think that there is any disagreement with anyone in this room that the project is a good project and that there is no opposition based on concept. The only problem was with the actual procedure that took place, and that too was a misunderstanding. And I don't think that --

MS. KING: Well, Mr. Williams does have opposition. Whether we deem it to be disqualifying of this project or not is another issue. But I mean there is no summary order going to be involved in this, is there? Because there is opposition.

CHAIRPERSON REID: What I was saying was that even with the opposition, Mr. Williams -- and I am sure he will correct me -- he said that he did not disagree with the concept.

MS. KING: No. Nobody wants to stop a daycare project from going forward in this day and age.

CHAIRPERSON REID: But he had some

concerns and that could be addressed with a full order, correct?

MS. ROSE: Yes.

CHAIRPERSON REID: Those concerns could be addressed with a full order. And that is what I was getting to as to how to best accomplish the objective of letting the daycare go forth with the issues and concerns perhaps being addressed with conditions or something.

MR. GLASGOW: Ms. Reid, I recall the Board in the past in its orders granting approval of applications directing the applicant to meet on a certain time frame and basis with the ANC, whether it is biannually or whatever.

MS. KING: Oh, you mean to establish a sort of community --

CHAIRPERSON REID: A liaison.

MR. GLASGOW: Yes.

MS. KING: With the ANC and the surrounding civic association?

MR. GLASGOW: That is correct. We have been instructed to do that before, and I don't see why we couldn't do that now. In fact, in our view we are doing it right now. So we could continue that with the approval and then go forward with that being a directive from the Board to continue those

efforts.

MR. GILREATH: Madam Chair, I think the difficulty with the ANC is a procedural thing, and that really would not justify holding up the project. So even though it is a little bit untidy and so forth that --

CHAIRPERSON REID: Absolutely. I think that we would be remiss in our obligation to the communities and citizens to do that. I think that they have basically entrusted us with the ability to be able to work this out to the extent that it would be amenable to all concerned. I think that that is possible, but let's just make sure we do it correctly. May I get a motion?

MS. KING: I move that we approve this application on condition.

CHAIRPERSON REID: And I second it.

MS. KING: Okay.

CHAIRPERSON REID: Now, let's try to sort of clean it up with the condition --

MS. KING: The principle condition is that the National Child Day Care Association will meet immediately and on a continuing basis with representatives of the entire Advisory Neighborhood Commission 5B.

CHAIRPERSON REID: Well, again --

MS. KING: Well, I mean will meet with the Advisory Neighborhood Commission 5B, extending an invitation to every single member of the ANC to attend the meeting with interested neighbors within the 200-foot area and with the local members of the local citizens association to discuss any concerns they may have about the building and on a continuing basis the operation of this daycare center.

CHAIRPERSON REID: How often. Should we specify how often they should meet? Quarterly or --

MS. KING: At least quarterly.

CHAIRPERSON REID: Okay.

MS. KING: The daycare center shall be permitted to have 100 children between the ages of 0 and 12, 20 staff members --

CHAIRPERSON REID: At least how many parking spaces?

MS. KING: At least 5 parking spaces.

CHAIRPERSON REID: What about time?

MS. KING: Off-street parking spaces. And the time is Monday through Friday or is it 7 days a week? Monday through Friday -- the daycare center shall operate Monday through Friday from 7:00 a.m. to 6:00 p.m. Parents are required to accompany their children into the building and to check them in with authorized staff of the daycare center.

CHAIRPERSON REID: Mr. Gilreath, do you have any other?

MR. GILREATH: And the operational facility -- if a queuing problem develops, they should make arrangements whereby there is the back parking lot -- a subsidiary parking lot will be used and instruction will be accorded to the parents bringing in their children so there would not be a safety problem.

CHAIRPERSON REID: Okay. And they have already contracted to have trash picked up daily.

MS. KING: Right.

CHAIRPERSON REID: Continue that. Are there any others that you can think of?

MS. KING: I think those are our usual things.

CHAIRPERSON REID: All right. All in favor?

ALL BOARD MEMBERS: Aye.

CHAIRPERSON REID: Mr. Glasgow, would you submit to us a proposed full order so that it could be expedited?

MR. GLASGOW: All right.

CHAIRPERSON REID: And we can get it out quicker. I don't know how long. Ms. Rose, if he submits a proposed full order maybe on disk --

MS. KING: I think the fact that we have taken the action today on the record is sufficient for DHCD, is it not?

MR. GLASGOW: We believe, yes.

CHAIRPERSON REID: But still --

MS. ROSE: They would still like to have the order expedited.

CHAIRPERSON REID: Yes.

MR. GLASGOW: Thank you.

MS. ROSE: Staff will record the vote as three to zero with Ms. King, Ms. Reid, and Mr. Gilreath to grant the application with conditions.

MR. GLASGOW: Thank you.

MR. HART: The next case is 16396, application of Stephen and Katherine McGregor, pursuant to 11 DCMR 3107.2, for a variance from subsection 2001.3 and Subsection 405.9, from the side yard requirement, and Subsection 406.1, from the open court requirement to allow an addition to a non-conforming structure in an R-1-B District, at premises 2329 California Street, N.W. (Square 2520, Lot 36).

(ALL WITNESSES SWORN.)

MS. MCGREGOR: My name is Katherine McGregor. I live at 2329 California Street, N.W. My husband and I are applying for a zoning variance so

that we may convert an already existing structure to a screened porch. This is Anne Lewis, our architect, who is a more expert testifier on the subject.

MS. LEWIS: Thank you. I would like to add some documents to the record. Can I do that?

CHAIRPERSON REID: Okay.

MS. LEWIS: Also, Madam Chairperson, may I ask a question? One of the people who wanted to testify had to leave. He is an obstetrician. So I gave his card here and he wrote out his statement.

CHAIRPERSON REID: Oh, good.

MS. LEWIS: What should I do with that?

CHAIRPERSON REID: Give it to staff and they will make copies for us.

MS. LEWIS: Okay.

CHAIRPERSON REID: And if you would like to read his statement into the record, you may do so. MS. LEWIS: Maybe I better hang onto it.

CHAIRPERSON REID: Okay. You can do both.

MS. LEWIS: Pardon me?

CHAIRPERSON REID: Give it to staff so that staff can make copies of it. Then we will give it back to you and you can read it into the record.

MS. LEWIS: Thank you. I will try to be

brief because I know there is another case. But I will trust that if I don't hit something you want to know, you will ask me a question about it.

CHAIRPERSON REID: We certainly will.

MS. LEWIS: There are two sets of documents here. One starts with photographs and the other is a written document. The photographs are just an attempt to update some of the information we provided. There are more recent photographs. We have outlined on the plans a little bit more clearly the comparison between what exists there now and what we are proposing. What exists on the first rear composite is the back wall of the house that we have altered substantially in the last year. To the right, you will see the green corrugated structure that exists. The second page shows more photographs of that structure, and from the front you will see that a little bit of it is even visible from California Street.

I should point out that the photograph on the second page marked side is the view that the neighbor who is submitting this testimony in favor of the project sees. That photograph was taken from his yard.

MS. KING: Was this structure built legally?

MS. LEWIS: Well, we just learned from the neighbor that it was built by the OAS. The Organization of American States was the previous owner of this property. And although we didn't remember who built the structure, he says that the OAS built it.

MS. KING: Was it done with a building permit?

MS. LEWIS: Well, I don't think foreign missions -- my understanding is they either don't need a building permit or they don't have to go through the same process. So I think the simple answer is probably no. But they are a foreign mission, so I don't know what they are required to do. Then the next -- the first floor plan shows the perimeter of what we are proposing, which are the black columned areas relative to the red outline that shows what exists now. And then the next one shows --

MS. KING: Excuse me just a second. The red outline is what is enclosed in the sort of turquoise plastic --

MS. LEWIS: The green thing. The red line always indicates what exists now. The green, yes.

MS. KING: I see. You want to remove

all of the red line and then build --

MS. LEWIS: Something smaller.

MS. KING: I see.

CHAIRPERSON REID: And more attractive.

MS. LEWIS: Hopefully.

MR. GILREATH: On the next page, does that show your design and what you have replaced this green stuff with?

MS. LEWIS: Yes. You should have that as part of the packet. That is the side view that this neighbor would see.

MS. KING: And again, the red is what exists?

MS. LEWIS: The red is what exists.

MS. KING: I see.

MS. LEWIS: And then the final plat adaptation shows again in red what exists. Then the hatched area is what we are proposing. And then as an explanation for what we think is the modesty of our request, we have indicated in blue on the east side what could be built as a matter of right in zoning.

MS. KING: Oh, I see.

MS. LEWIS: Showing that what we want is really substantially less than the site could hold. I think we need to address these three criteria that

you all need to know about, and I hope I have the criteria right. Uniqueness of the property --we believe the property is unique because of this green thing that exists on it. It is a pre-existing condition. Whether it is legal or not, I can't speak to. But nevertheless, it is an existing structure. And we were told by zoning staff that if we saved the roof -- I asked if we couldn't simply fill in the walls of the existing structure in the same -- you know, just screen them. And we were told as soon as you remove the roof, you need the variance. In other words, it is the roof that seems to kick it in to whether it needs a variance or not. But obviously we didn't want to retain this particular roof for aesthetic reasons. I think it would be hard to enclose it in any case. Half of it has blown off.

The other thing that is unique about the property, and you can't really see this too clearly, but beneath that structure on the lower level, there is a system of showers and storage that is probably original to the main house. And the green structure provides essentially a roof for those showers. If we removed the green thing and didn't put anything there, we would have to tear open the slab and rebuild it to provide waterproofing for those

showers below. So it isn't simply as easy as saying take the green thing off and put your porch elsewhere.

The practical difficulty in complying with the zoning requirements are that if we put the addition on the west side, which is where we are showing it, and complied with zoning, we would only get a porch which would be 7 feet wide, which is barely usable. And moreover, one of the main reasons that the owner wants this porch is that Katie has four children -- four active children, and there is a pool behind this house and the deep end of the pool is on the west side of the building, as is the kitchen. So what makes more sense just from a family point of view is to have the kitchen adjacent to the porch and the porch in such a way that you can see the deep end of the pool. Therefore, a 7-foot porch wouldn't give as good a view of the pool as the porch going completely over to the side property line.

CHAIRPERSON REID: Okay. You are contending that the practical difficulty is that you are not able to view the pool?

MS. LEWIS: No, the pool exists. It has existed --

CHAIRPERSON REID: No, I understand

that. It sounds like you are saying that the practical difficulty is the inability to be able to view the children in the pool.

MS. LEWIS: No. The real practical difficulty is that 7-feet isn't enough of a porch to sit on.

CHAIRPERSON REID: What you maybe want to do is address why not complying with existing zoning regulations would cause you a practical difficulty. I think you did it when you talked about the showers. MS. LEWIS: Yes, that is the second reason. The first reason is that 7 feet is, in our opinion, too narrow to be a usable porch.

CHAIRPERSON REID: Okay. But the second is --

MS. LEWIS: And the second is that if we did a 7-foot porch, it would still leave half of a shower area exposed to the element.

CHAIRPERSON REID: And that is what I am hearing as the real practical difficulty.

MS. LEWIS: Okay.

MS. KING: How wide is the porch going to be?

MS. LEWIS: 15 feet.

MS. KING: I see.

CHAIRPERSON REID: Okay. Go ahead. I

just wanted to point that out to you.

MS. LEWIS: Well, those are the two practical difficulties. That the porch is too narrow and that we would have to reconstruct the slab to protect the showers. Addressing why we are not building it on the east side of the house, again, there is no view of the deep end of the pool from that side, but the primary difficulty with building on that side is that it would dramatically adversely effect the neighbor's use of their yard. They have a sunroom that overlooks Katie's yard on that side. It is also not adjacent to the kitchen.

The hardships that -- and again, I hope I have these points right. I believe we have to show hardship.

CHAIRPERSON REID: You don't have to show hardship.

MS. LEWIS: We don't?

CHAIRPERSON REID: No. It is an area variance. Only with the use variance.

MS. LEWIS: Okay. Just don't even go into it?

CHAIRPERSON REID: Just don't even go into it.

MS. LEWIS: Okay. Don't go there. And then the last point is not -- is really the real

reason that we want to do what we are doing, which is that it is the least amount of mass to achieve the ends, and it is going to be built out of good materials, so that when you look down from the street, you are seeing white painted wood in harmony with the historic character of the neighborhood. So I believe that the criteria are met.

CHAIRPERSON REID: Well, what you want to speak to is ad verse impact. Speak to --

MS. LEWIS: On the neighborhood?

CHAIRPERSON REID: Yes. Whether or not you are -- if we were to grant the relief you are requesting, whether or not it would have any impact on the abutting neighbors or the community or the neighborhood in regards to parking, traffic, lighting, noise.

MS. LEWIS: No. We are not changing anything from what exists now in terms of function. There is no extra light. There are no more people in it. There is no more parking. And maybe the time is to read that -- the neighbor who has written this letter, is the guy who is right next door to it. And he would be the one who would suffer the impact if there were any.

CHAIRPERSON REID: Okay. And then does it impair the integrity or intent of zoning maps or

regulations?

MS. LEWIS: No, I don't believe so.

CHAIRPERSON REID: Okay. That is the other test.

MS. LEWIS: Right.

CHAIRPERSON REID: I think there was a letter here from Dr. Shapiro.

MS. KING: Do you want to let her enter it into the record?

CHAIRPERSON REID: I was going to let her -- at the segment for the people in support.

MS. KING: Right. And there is a letter of opposition from Dr. and Mrs. Shapiro.

CHAIRPERSON REID: Right. If you could address that.

MS. KING: Have you seen that letter?

MS. LEWIS: Yes, we have.

MS. KING: Do you want to address the issues that they have put forward?

MS. LEWIS: I believe she made two points. One was that she thought that it would aesthetically compromise the project. She said she didn't like what we had done so far and didn't want more of it. That is why we put in the photographs that we did in front. The rear composite in 1998 shows what we have done to the back of the house.

And if you compare it to the rear composite in 1997, you will see that what we changed -- we removed an aluminum screen door to the kitchen with an awning over it, and we removed a through the wall air conditioner and we removed a window. And then in the place of those three elements, we put a pair of french door systems that match each other. We didn't add any space to the building. So it is not --

CHAIRPERSON REID: Well, I don't understand why she is objecting to your having improved the exterior appearance of the building.

MS. LEWIS: Well, we don't either. But I think more to the point, it is not a zoning issue. We didn't add any space at all. And I think her second point was that she thought it would set a precedent. And again -- and her precedent was for all the embassies in the area. I am not really up on this, but it is my understanding that they don't go through the same process that --

CHAIRPERSON REID: Similar, but not the same.

MS. LEWIS: Is it you all? Is it the same body?

CHAIRPERSON REID: We are the same body. We just sort of change our hats and then we are

Foreign Missions Board of Zoning Adjustment.

MS. LEWIS: Okay. Well, I can't really speak to the precedent issue. The precedent, it seems to me, has already been set by the green thing. It is there. And we are allowed to keep that. I think that is the real issue here.

CHAIRPERSON REID: Do you have any questions, Mr. Gilreath?

MR. GILREATH: Is this property within the historic district?

MS. LEWIS: Yes.

MR. GILREATH: It is a contributing building?

MS. LEWIS: Pardon me?

MR. GILREATH: Is it a contributing building within the historic district?

MS. LEWIS: Oh, I don't think so. Is it a contributing building? No, I don't think so.

MR. GILREATH: Well, you didn't have to run this by the Historic Preservation people?

MS. LEWIS: Well, all of the work on this has gone through Suzanne and HPRB. But it is not -- I don't think this is particularly a contributing building. I think it is because we are in the Kalorama District that it has to go through.

MR. GILREATH: Well, did you receive any

kind if sign-off from Suzanne or whoever who said we think this is fine? Is there any kind of response saying this building or what you are doing is very compatible with the existing character of the area?

MS. LEWIS: I have talked to Suzanne about it, and she is aware of what --

MS. KING: Suzanne who?

MS. LEWIS: Gatchiness of the Historic Preservation Review Board staff at 614 H Street. I don't think we -- did we receive a copy of that or do you receive a copy?

MR. GILREATH: If this is a contributing building within an historic district, I believe you would get some kind -- there would be some kind of official document. Do you see what I am saying? We have reviewed this and --

MS. LEWIS: Yes, well we have it then. I don't have it here. But we have done everything we are supposed to do to get to this point. Yes, I think we do have it and I should have brought it, but I don't have it here. I can get it.

MR. GILREATH: Well, the improvements you are making takes care of any kind of Historic Preservation submissions as far as I am concerned.

MS. KING: Yes, I am sure it does.

CHAIRPERSON REID: Okay. I think you

should just sit right there because I don't think that we have -- persons -- no, Government reports.

MS. KING: None.

CHAIRPERSON REID: None. ANC report?

MS. KING: I don't think --

CHAIRPERSON REID: Is there any ANC representative here?

MS. KING: We have nothing from the ANC. It is 1D, and we don't have anything from them.

CHAIRPERSON REID: They did not submit a report. So if they were in opposition, they would definitely do so. Can you please speak in the microphone?

MS. MCGREGOR: A representative of the ANC, Linda Bumbalow came and looked at what we were doing and said she was not going to submit a report.

CHAIRPERSON REID: Okay. Persons and parties in support of this application? Persons or parties in opposition?

MS. KING: We have Dr. Roberts letter saying he is the immediate abutter to the property in question and has the misfortune to look out the window or stand in his rear yard to look at the green corrugated prison camp like sheets of an unknown substance. "The changes proposed in my opinion are not only architecturally and

aesthetically pleasing to the eye, but a tremendous improvement to what is presently there. I wholeheartedly support this plan."

CHAIRPERSON REID: I think that is very clear and very succinct. All right, persons or parties in opposition to this application? All right, seeing none, closing remarks by the applicant.

MS. LEWIS: I have no closing remarks unless --

MS. KING: Just say please.

MS. LEWIS: Please.

CHAIRPERSON REID: Okay. Can I get a motion?

MS. KING: I move we approve this application.

MR. GILREATH: I second the motion. I feel they have more than adequately met the burden of proof for this change.

CHAIRPERSON REID: Okay. Mrs. King, will you speak to your motion?

MS. KING: As soon as I get a throat lozenge.

CHAIRPERSON REID: We feel the applicant has met her burden of proof and demonstrated that the property is unique and unusual and the fact that

there was a preexisting condition and they demonstrate a practical difficulty in being able to comply with the existing zoning regulations. There does not appear to be any adverse impact, although we did note there was a letter from one of the neighbors in opposition, but that letter appeared to be primarily in regard to setting a precedent. The other issue that he raised, we were not really able to substantiate. In regard to the integrity of the zoning map and the zoning plan, we did not feel that this application was adverse thereto. Neither was there any other adverse impact. So, therefore, we feel that this application should be granted. All in favor?

ALL BOARD MEMBERS: Aye.

MS. KING: Thank you for saying what I think.

CHAIRPERSON REID: After while, it is pretty routine. We should just push a button.

MS. KING: Congratulations.

MS. MCGREGOR: Thank you.

CHAIRPERSON REID: You will receive a summary order. You should have it in about two weeks.

MR. HART: That is right. Staff would record the vote as three to zero, Ms. King, Mr.

Gilreath and Ms. Reid to grant, summary order. The next case is 16398, application of the New Mount Olive Baptist Church pursuant to 11 DCMR 3108.1, for a special exception under Section 205 to establish a child development center, basement and lower auditorium, for 40 children, ages 2 to 5, and four staff persons in an R-2 District at premises 710 58th Street, N.E. (Square 52445214, Lot 880).

(ALL WITNESSES SWORN.)

CHAIRPERSON REID: I don't think that there is any opposition to this case or this application. Is there anyone in the room that is in opposition to this case? Okay. So, therefore, you can basically stand on your record or on the submission and expedite this particular case in that we don't have any opposition. Give us the salient points in making the case for the special exception, which should not be too difficult.

MR. COLLINS: Thank you, Madam Chairperson and members of the Board. My names is Christopher Collins with Wilkes, Artis, Hedrick and Lane. With me is Richard Nero of our office. Seated to my right is Reverend Luke Mitchell, who is pastor of New Mount Olive Baptist Church, and seated to my far right is Dr. Leah Humphrey, who is the director of the child development center that we

will be speaking about today. This is a special exception for a child development center for 40 children, ages 2 through 5, four teachers, and four assistants.

The statement that you have details how we believe that we meet the requirements for special exception relief for the child development center. I have personally spoken to the office of planning and I understand that they will not be or have not done a report in this case. They indicated they would not be participating. We understand from the record that all the necessary referrals were made to the various agencies, and that the Department of Public Works has responded, and we understand there is a DPW report in support of the application.

MS. KING: They have no objection.

MR. COLLINS: No objection. Thank you. We have -- the church representatives have met with the ANC. They have met and voted to support the application. I have a copy of the ANC letter here. If you don't, I would like to --

CHAIRPERSON REID: I don't.

MS. KING: I don't either.

MR. COLLINS: In addition, we have several other letters of support. Council Member Chavis has indicated his support in writing as has

Reverend Childs, who is the at-large representative of the D.C. Board of Education. In addition, although we are simply operating as the messenger here, we have petitions with over 550 signatures in support of this application. We would like to submit all that to the record.

MS. KING: It has been a long afternoon.

MR. COLLINS: Yes, it has. If we can proceed quickly, the exhibits that you have attached to the statement of the applicant show -- and I won't go through each of them, but they indicate where in the community that we are located, a half block south of the District line at the corner of 58th and Nannie Helen Burroughs. The site plan at Tab D is the same as the site plan that is on the easel to our right and your left, which sets forth the location of the church building. The child development center will be within the church and located a very short distance away, two doors down, is another property owned by the church, and the rear of that property will be used for the play area for the children.

There is also a Tab F of the statement, some photographs of the church building itself and the surrounding area, the church parking lot specifically and the play area that is just a short

distance away. Actually in the photo of the play area, you can see the church building. It is very close by.

MS. KING: Excuse me, Mr. Collins?

MR. COLLINS: Yes.

MS. KING: What is the building where the play area is to be located -- what is the building going to be used for?

MR. COLLINS: Reverend Mitchell can talk about that in a bit.

MS. KING: Okay.

MR. COLLINS: But it is -- it will be used for church programs. It currently vacant and it is part of the long-term plan to renovate that building for church programs. So unless there are any questions of me at this time, I would like to turn it over to Reverend Mitchell and ask that he identify himself and briefly review his testimony with you.

REVEREND MITCHELL: Madam Chair and members of the Board, good evening. I am pastor Luke Mitchell Jr. of the New Mount Olive Baptist Church located at 710 58th Street, N.E. We basically are a ministry or a family of faith that is about the business of encouragement and personal empowerment and enablement. Part of that has been

our 10-year broadcasts of encouragement, years of teaching in the community, and we have evolved to the point now that we are trying to provide a service for the immediate community that is basically predominantly single family dwellings and public housing. To this end, we will be able to provide a service of not only childcare but child development. Our long-term goal is to continue to be a viable part of the community, and to this end a childcare center would do just that. In short, because of time, please.

CHAIRPERSON REID: Were you going to testify?

DR. HUMPHREY: Yes.

MR. COLLINS: Dr. Humphrey, before you get into the substance of your testimony, after you identify yourself and give your home address, could you also please summarize your training and expertise in child development?

CHAIRPERSON REID: Are you requesting a --

MR. COLLINS: Not necessarily, no. I just want you to understand.

CHAIRPERSON REID: All right.

DR. HUMPHREY: Dr. Leah Humphrey. I live at 3404 Summit Court, N.E., in Ward 5. But we

are operating in Ward 7. I am a retired former employee of D.C. Public Schools. I have my E.D.D. in education. I have operated preschool through high school programs as a supervisor and as an instructor. I am teaching now at Bowie State Teacher's College, Early Childhood Programs. And I do work with those who are being certified in the area. I am now also working with a project where we are providing programs for parents through the Department of Housing at Mary Elementary School for Children three nights a week.

This is a very exciting project. I am sorry that it is late in the evening, so my enthusiasm might have been dampened a bit at this point. But looking at the record, we were to show that we have complied with the criteria that was set forth. And as you have seen in the evidence that we have presented, we have complied with 205.2 by letting you know that the program will operate from 7:00 a.m. to 7:00 p.m. daily, five days a week, Monday through Friday. The children will range in ages from 2 to 5 years old. There will be 4 teachers and 4 assistants serving 40 children. We are very concerned about the safety element. And as you can see by the site plan, we have already an existing parking lot that has 27 off-street parking

spaces.

CHAIRPERSON REID: Let me ask you a question.

DR. HUMPHREY: Yes.

CHAIRPERSON REID: Is that 27 spaces -- how many?

DR. HUMPHREY: 27.

MS. KING: They are required to have two spaces and they have got 27.

DR. HUMPHREY: Well, those are our regular church parking spaces.

CHAIRPERSON REID: On the area where the play area will be, you have an additional six spaces.

DR. HUMPHREY: We have additional spaces there for staff parking.

CHAIRPERSON REID: Okay, that green area right there, Mr. Nero, what is that?

MR. NERO: This area here?

CHAIRPERSON REID: No, between the parking spaces and the play area.

MR. NERO: This is simply a rear yard. This is the parking area.

CHAIRPERSON REID: What is that green? Is it a buffer between the play area and the parking lot? That is what I am --

MR. NERO: Maybe I will start from the top. This is a public alley. The parking area. This green area is simply a yard area. The play area is this area fenced in.

CHAIRPERSON REID: Oh, that area is completely fenced in?

MR. NERO: It will be.

CHAIRPERSON REID: Okay. That is what I was --

MR. NERO: That is the play area. It is going to have an appropriate surface like chips or something like that. This is a sidewalk leading to the fenced play area.

CHAIRPERSON REID: Thank you.

MS. KING: What is -- just while you are there, what is this -- this is the property -- the church in the triangular one -- the church and its parking?

MR. NERO: This part of the exhibit is a blow-up of this right here.

MS. KING: What is this? Is that a lot?

MR. NERO: That is a lot.

MS. KING: Two and a half feet wide or something?

MR. NERO: No, it is more than that. It is maybe -- I can get you the dimensions.

MS. KING: No, it doesn't matter. But I mean it is so curious shaped and such a funny little building. Is that a residence?

MR. NERO: That is a residence. It separates the two church properties.

MS. KING: Isn't that -- and somebody is living there?

MR. NERO: Oh, yes.

MS. KING: It looks like my first house in Georgetown, 13 feet wide and 35 feet long.

DR. HUMPHREY: For the reason -- with that very thin lot next door, it is easy for us to have access to come out the back yard of the church and walk to the play area without going into the street. There is an alley there that is very seldom used. So we walk right out. And there will be small groups of children. There will not be the entire group of 40 children there at one time. Maybe groups of from 4 to 6 children with two adults at all -- whenever they go to the play area. In dropping off children by automobile, there is certainly adequate space, and the children will be escorted into the center with the parent or guardian and signed in during the designated pick-up times, and of course in the evening that will be reversed. They will come in, park on the lot and then pick up

their children.

Subsection 205.4 relates to having the spaces for teachers, and this is why we specifically designated those spaces for staff and teachers on our supplementary lot because we want to make sure that they do have reserved spaces. There should be no interference with the daily operation. We have no other day programs there at the church. If there is a funeral, it is usually during the day when the program is operating and by the time that is over, the parents will not need any parking.

Section 205.5 relates to the outdoor play space. Now what we have shown you is exactly where it is and how we plan to develop that will be through parent and staff input in terms of the regulations that are required by the daycare association in approval for the play area and its surfaces and so forth and the play implements.

We feel that there are no really visible deficits to be gotten from this design because the lot that is used for play will be screened from the adjacent property by a 6-foot stockade fence, and also there will be fencing around the parking spaces that will protect the children from vehicles or from play implements from the cars.

Off-site play safety -- we feel that

that is a very safe area for the children to be in since they do not have to specifically walk on public sidewalks or cross any streets to get to the area. There is no other child development center within 1,000 feet. And we really say please.

MS. KING: Will you be serving meals?

DR. HUMPHREY: Yes, we will have meals brought in -- catered meals brought in.

MS. KING: Catered meals?

DR. HUMPHREY: Yes.

MS. KING: Where is the trash disposal area?

DR. HUMPHREY: We have a private trash contractor and we have a dumpster in the back. But it isn't really a tall dumpster. We know about that.

CHAIRPERSON REID: And the trash is collected how often?

REVEREND MITCHELL: Right now it is just satisfying the present needs of the church and it is once a week. But when the daycare center starts, we will be picking it up every day.

CHAIRPERSON REID: As need -- well, daily?

REVEREND MITCHELL: Daily, yes.

CHAIRPERSON REID: Okay. You have 4 teachers and 4 staff members?

DR. HUMPHREY: Yes.

CHAIRPERSON REID: And the kids are age 2 to 5?

DR. HUMPHREY: Yes.

REVEREND MITCHELL: 40 of them.

CHAIRPERSON REID: You have 40.

MS. KING: 7:00 a.m. to 7:00 p.m. Monday through Friday.

DR. HUMPHREY: Yes.

CHAIRPERSON REID: All right. Questions? Government reports?

MS. KING: DPW has no objection.

CHAIRPERSON REID: All right. Then the ANC report? We had --

MS. KING: We got something from the ANC. They met on November 19th. There is no indication as to whether there was a quorum or as to what the vote was. However, the commissioners agreed to support the New Mount Olive Baptist Church request and asked that the zoning adjustment grant this request of the church in their favor. It is signed by Mary Gaffney, Chairperson. Since they haven't indicated that it was a properly called meeting and that there was a quorum present and what the vote was, we can't give it great weight. But, nevertheless, they have supported it.

CHAIRPERSON REID: We note that they did not oppose it, which is all you really want to know. That it is not being opposed by them. Persons and parties in support of the application? We have several letters. One from Council Member Chavis, who very wholeheartedly supports the application.

MS. KING: One from Reverend Childs of the School Board.

CHAIRPERSON REID: Okay. Then we have a -- we have 500 signatures on a petition. So I think that we do have adequate support of this particular application. Persons and parties in opposition to the application? Closing remarks by the applicant.

MR. COLLINS: Thank you. I would be remiss if I didn't point out that we do have a number of people who have come down and spent a good part of the afternoon to show their support for this.

CHAIRPERSON REID: Okay. Thank you for doing that for the record. And thank you for coming and please, I would like to thank you for your indulgence, because we know that it has been drawn out this afternoon and you were the last ones. But this is good in a way because then you get to get through very quickly at the end.

REVEREND MITCHELL: Yes.

MS. KING: You get to see your government at work.

CHAIRPERSON REID: You notice that staff kind of started disappearing.

MR. COLLINS: You can tell there is a lot of interest in getting this up and running as quickly as possible. So accordingly, we would request a bench decision and a summary order.

CHAIRPERSON REID: Okay.

MS. KING: I move that we grant this application.

CHAIRPERSON REID: And I second?

MR. GILREATH: Did you second?

MS. KING: For 40 children ages 2 to 5, 4 teachers and 4 assistants or a total of 8 people in staff. Adequate parking -- two parking spaces are required and more than that is provided. The hours of operation are from 7:00 a.m. to 7:00 p.m., Monday through Friday. Trash collection will be made on a daily basis. The pick-up and drop-off the children will be secure and it is clear that they have, I believe, met the burden of proof in their application for the special exception. Therefore, as moved, I urge my co-members to vote in favor of this.

CHAIRPERSON REID: As there does not

seem to be any adverse impact --

MS. KING: None.

CHAIRPERSON REID: And it does not seem to impair the integrity or intent of the zoning map or plan.

MS. KING: Correct.

CHAIRPERSON REID: All in favor?

ALL BOARD MEMBERS: Aye.

CHAIRPERSON REID: Opposed?

MR. HART: Staff would record the vote as three to zero, Ms. King, Ms. Reid, and Mr. Gilreath to grant.

CHAIRPERSON REID: A summary order. You should have it in about three weeks. Thank you.

MS. KING: Good luck with your project.

(Whereupon, at 5:35 p.m., the public hearing was concluded.)