

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

JUNE 2, 1999

+ + + + +

The Public Meeting convened in Room 220
South at 441 4th Street, N.W., Washington, D.C.
20001, pursuant to notice at 9:30 a.m., Sheila Cross
Reid, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY HOOD	Commissioner
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COMMISSION STAFF PRESENT:

John Nyarku, Office of Zoning
Paul Hart, Office of Zoning
Beverly Bailey, Office of Zoning

D.C. OFFICE OF CORPORATION COUNSEL:

Alan Bergstein, Esq.

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JOHN PATRICK BROWN, Esq.52
Greenstein, DeLorme & Luchs, P.C.
1620 L Street, N.W.
Suite 900
Washington, D.C. 20036-5605
(202) 452-1400

ANTHONY M. RACHAL, III, Esq. 52
903 D Street, N.E.
Second Floor
Washington, D.C. 20002-0009
(202) 393-7000

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JACQUES B. DePUY, Esq. 118
Greenstein, DeLorme & Luchs, P.C.
1620 L Street, N.W.
Suite 900
Washington, D.C. 20036-5605
(202) 452-1400

WITNESSES

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CHAIRPERSON REID: The hearing will please come to order. Good afternoon, ladies and gentlemen. This is the June 2nd public hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Sheila Cross Reid, Chairperson. Joining me today are Betty King and Jerry Gilreath representing the National Capital Planning Commission, and representing the Zoning Commission is Mr. Hood.

The topics of today's hearing agenda are available to you. They're 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 are located on each end table in front of us.

When coming forward to speak to the Board please give both copies to the reporter sitting to my right. The order of procedure for special exception in variance cases will proceed as follows: 1) statement of witnesses of the applicant; 2) government reports, including Office of Planning, Department of Public Works, ANC, etc.; 3) person or parties in support; 4) person or

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1 parties in opposition; 5) closing remarks by the
2 applicant.

3 Cross examination for witnesses may are
4 permitted for persons and parties with direct
5 interest in the case. The record will be closed at
6 the conclusion of each case except for any material
7 specifically requested. The Board and its staff
8 will specify at the end of the hearing exactly what
9 is expected.

10 The decision of the Board in these
11 contested cases must be based exclusively on the
12 public record. To avoid any appearance to the
13 contrary the Board requests that persons present not
14 engage the members of the Board in conversation.

15 The Board will make every effort to
16 conclude the public hearing as near as possible to 6
17 o'clock p.m. If the afternoon cases are not
18 completed at 6 o'clock p.m. the Board will discuss
19 whether it can complete the pending case or cases
20 remaining on the agenda.

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

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1 If you're not prepared to go forward
2 with a case today or if you believe that the Board
3 should not proceed, now is the time to raise such a
4 matter. Does the staff have any preliminary
5 matters?

6 MR. HART: Yes, Madam Chair. The third
7 case, number 16467; there's no record of an
8 affidavit to posting.

9 CHAIRPERSON REID: Are persons who are
10 involved with that case here? Could you please come
11 forward?

12 VICE CHAIRPERSON KING: Could we have
13 your name and home address, please?

14 MR. PREDDIE: My name is Keith D.
15 Preddie. My address is 3925 Georgia Avenue, N.W.,
16 Washington, D.C.

17 VICE CHAIRPERSON KING: Was the property
18 posted? Did you put up a green or orange poster?

19 MR. PREDDIE: I put up an orange poster
20 and I took pictures, and I also turned in the
21 affidavit, I believe either the 27th or 28th of last
22 month.

23 CHAIRPERSON REID: Mr. Hart, you're
24 saying that you don't have it -- the affidavit of
25 posting?

26 MR. HART: Staff doesn't have any record

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1 of receiving it -- the affidavit of posting, yes.

2 CHAIRPERSON REID: Sir, did you have a
3 copy of the affidavit that you submitted?

4 MR. PREDDIE: Not with me. When she
5 took it I think she stamped it and that was it.

6 CHAIRPERSON REID: You came in
7 personally?

8 MR. PREDDIE: I came in personally, yes.

9 CHAIRPERSON REID: You said that you
10 submitted pictures of the actual posting?

11 MR. PREDDIE: Yes, I took three pictures
12 of the posters and I submitted that along with --

13 CHAIRPERSON REID: Would that have been
14 submitted with the affidavit?

15 MR. PREDDIE: Yes, I did.

16 CHAIRPERSON REID: We don't have that.

17 VICE CHAIRPERSON KING: Is there anybody
18 here in opposition on this case?

19 CHAIRPERSON REID: I don't have any --
20 we have no record of the affidavit being in the
21 file.

22 VICE CHAIRPERSON KING: Do you have a
23 copy of the affidavit, did you say?

24 MR. PREDDIE: No, I don't have a copy.

25 VICE CHAIRPERSON KING: But you have
26 copies of the photographs?

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1 MR. PREDDIE: I have one photograph
2 probably in my office. I don't have that with me.

3 VICE CHAIRPERSON KING: One with you
4 now?

5 MR. PREDDIE: No, I don't have it with
6 me but I do have one -- I took four photographs;
7 three I attached to the affidavit and I turned it in
8 here. Yes, I had it notarized. No, I didn't get it
9 here. There was a neighbor next to me who is a
10 notary. I don't know his last name; his first name
11 is Jimmy. But I could get all that information if
12 you need it. And I can also bring the pictures that
13 I did take.

14 CHAIRPERSON REID: I am sorry, give me
15 your name again.

16 MR. PREDDIE: Keith Preddie.

17 CHAIRPERSON REID: Okay, Mr. Preddie,
18 what we could do is, we could, in order not to hold
19 this case up, we could have you to swear and affirm
20 that you did in fact, post the property --

21 MR. PREDDIE: That's no problem.

22 CHAIRPERSON REID: -- and submitted an
23 affidavit and that you also have pictures.

24 MR. PREDDIE: Yes, I do. I have one
25 picture.

26 CHAIRPERSON REID: Okay, now if we can

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1 do that and then provide us with that picture that
2 you do have, submit that -- we'll hold the record
3 open so that you can submit that, and then that
4 would then -- it should satisfy that requirement
5 that you --

6 MR. PREDDIE: That I did file. That's
7 no problem.

8 CHAIRPERSON REID: -- that you did post
9 the property. And with an absence of anything else
10 in this file that we don't have any other way of
11 knowing. That's the only way that we could possibly
12 go forward today.

13 MR. PREDDIE: Okay, that's fine.

14 (Mr. Preddie sworn and affirms that
15 subject property was posted.)

16 CHAIRPERSON REID: Are there other
17 preliminary matters?

18 All right, call the first case please,
19 Mr. Hart.

20 MR. HART: First case of the afternoon
21 is Applications No. 16465 of Willie Hayes Lisane,
22 pursuant to 3107.2, for a variance from Subsections
23 403.2 from the allowable percentage of lot
24 occupancy; Subsection 404.1 from the rear yard
25 requirements and Subsection 405.9 from the side yard
26 requirements for the proposed construction of a

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1 garage addition to a dwelling in an R-1-B District
2 at premises 1616 Lawrence Street, N.E. (Square 4145,
3 Lot 800).

4 Will persons planning to testify in this
5 case please step forward? Please raise your right
6 hand to take the oath.

7 (Mr. Lisane sworn.)

8 CHAIRPERSON REID: Give me your name and
9 your address please, sir, and then proceed to give
10 your case.

11 MR. LISANE: My name is Willie Hayes
12 Lisane.

13 CHAIRPERSON REID: Speak loudly. For
14 those of you who are here, we do not have our sound
15 system operating properly so everyone has to like,
16 just amplify your voice and kind of project it so
17 that the reporter can pick it up and everyone in
18 here can hear you.

19 MR. LISANE: My name is Willie Hayes
20 Lisane, 1616 Lawrence Street, N.E., Washington, D.C.
21 20018.

22 CHAIRPERSON REID: What?

23 MR. LISANE: What else do you want to
24 know? My name and address.

25 CHAIRPERSON REID: Okay, you're here --
26 Mr. Lisane?

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1 MR. LISANE: Right.

2 CHAIRPERSON REID: You're here because
3 you're asking for a variance --

4 MR. LISANE: Yes, ma'am.

5 CHAIRPERSON REID: -- from the allowable
6 percentage of the lot occupancy as well as the side
7 yard requirement, and you have to basically
8 demonstrate to us that you are entitled to the
9 relief that you're asking for. Are you familiar
10 with this procedure and how to do that?

11 MR. LISANE: No, not really.

12 CHAIRPERSON REID: Okay. All right,
13 well then what we try to do is see if we can assist
14 you in making your case. Do you not have any
15 information or anything to discuss with us? Did you
16 not bring anything to defend your -- the relief that
17 you're asking for?

18 MR. LISANE: What I'm doing -- okay, is
19 zoning for 40 percent of your property, and I'm
20 building -- if I built a garage it would be about 45
21 percent of the property. And the Commissioner went
22 around and she asked the neighbors and everybody and
23 she said she was going to fax it over. She come
24 around and she said all the neighbors said go; you
25 know, everyone she had talked to.

26 CHAIRPERSON REID: Well, we didn't get

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1 anything from the ANC that was -- we got no letter
2 from the ANC. We assume then that they're not
3 opposing your application. So you did talk to them?
4 You talked to the ANC?

5 MR. LISANE: Yes, she come by Saturday.

6 CHAIRPERSON REID: Who is "she"?

7 MR. LISANE: Miss -- I forgot her name.
8 but she said she's just been elected.

9 COMMISSIONER HOOD: Was her last name
10 Banks -- Mercel Banks?

11 MR. LISANE: Yes, I think so. She said
12 she won't be able to make the meeting because she
13 has a daycare or something she does during the
14 daytime. And she said it was a non-paying job; you
15 know what I mean.

16 COMMISSIONER HOOD: Is she an older
17 lady?

18 MR. LISANE: Yes.

19 COMMISSIONER HOOD: Glasses?

20 MR. LISANE: Yes.

21 MEMBER GILREATH: Madam Chair, there are
22 letters from two individual people. I think they're
23 neighbors.

24 CHAIRPERSON REID: Neighbors to the
25 garage being built? Okay, Mr. Lisane, this is your
26 plat of the lot that you're actually going to be

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1 building your garage in?

2 MR. LISANE: Yes.

3 MR. LISANE: And I give some pictures
4 and everything.

5 CHAIRPERSON REID: You've got to show
6 that -- well, a variance you'd have to show that
7 there's something unique and unusual about your
8 property inherent in the land that would prevent you
9 from complying from existing zoning regulations.

10 MR. LISANE: Right.

11 CHAIRPERSON REID: Is there something
12 that you want to tell us about this?

13 MR. LISANE: Okay see, I want to build a
14 garage for -- okay, I built the house and it don't
15 have anyplace for like for my lawnmowers and cars,
16 you know, out of the weather. I don't have a little
17 shed or nothing like that. There's a lot of houses
18 there do have garages.

19 CHAIRPERSON REID: You built the house
20 on the lot?

21 MR. LISANE: Yes. You had the pictures
22 of it.

23 CHAIRPERSON REID: Well, I don't have
24 pictures -- well, wait a minute. Let me look in the
25 office file.

26 MS. BAILEY: Did you get your project

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1 approved by the Board previously? Were you here
2 previously?

3 MR. LISANE: No. I have some pictures.

4 CHAIRPERSON REID: Okay. This is the
5 existing house and this garage -- this is the
6 proposed garage, right?

7 MR. LISANE: Right.

8 CHAIRPERSON REID: And it's going to be
9 adjoining the house?

10 MR. LISANE: Yes, right.

11 CHAIRPERSON REID: Board members looking
12 at this -- if you can kind of give some assistance
13 as to whether or not you deem this to be a situation
14 where we have an unusual or unique property or site
15 inherent in the land. Have you seen the pictures?

16 VICE CHAIRPERSON KING: Yes, I saw the
17 xerox of the pictures.

18 MEMBER GILREATH: Could you build a
19 single-car garage and have enough room for your
20 lawnmower and so forth, if it got permitted? You
21 want a 2-car garage, right?

22 MR. LISANE: Yes, that's what I'd like
23 to have; a 2-car garage.

24 MEMBER GILREATH: Well, these other
25 garages in the neighborhood, are they 2-car garages
26 or single --

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1 MR. LISANE: Yes, two.

2 MEMBER GILREATH: Were those houses

3 built recently?

4 MR. LISANE: No, not recently.

5 VICE CHAIRPERSON KING: What you want to

6 do I gather, Mr. Lisane, is to enclose the area

7 where you presently have an apron for parking, is

8 that it?

9 MR. LISANE: Well, I'm going to enclose

10 this right up against the house. It's going to be

11 joined onto the house.

12 VICE CHAIRPERSON KING: Oh, it's going

13 to be very large?

14 MR. LISANE: No, it's not going all the

15 way. It's just going to be joined onto the house.

16 VICE CHAIRPERSON KING: Yes, but I mean,

17 it's larger than the area that --

18 MR. LISANE: No, smaller than the area -

19 -

20 VICE CHAIRPERSON KING: -- you now have

21 an apron --

22 MR. LISANE: Smaller than the concrete

23 area.

24 VICE CHAIRPERSON KING: Pardon?

25 MR. LISANE: It would be smaller than

26 the concrete area you see.

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1 VICE CHAIRPERSON KING: But it would be
2 attached to the house?
3 MR. LISANE: To the house.
4 CHAIRPERSON REID: How far is that
5 driveway area from the house?
6 MR. LISANE: Probably 18 feet.
7 CHAIRPERSON REID: So you want really a
8 garage that's going to go from the lot line up to
9 the house itself?
10 MR. LISANE: Okay, the concrete there is
11 temporary. Down here is the garage --
12 VICE CHAIRPERSON KING: According to
13 this it's going to be four feet from the street and
14 then it's going to be 26 deep and -- how wide is it,
15 20 feet wide?
16 MR. LISANE: It's 26 by 30.
17 VICE CHAIRPERSON KING: So 26 by 30.
18 This is 30.
19 MR. LISANE: It's got to have a set of
20 steps in there --
21 VICE CHAIRPERSON KING: This is really a
22 3-car garage, isn't it?
23 MR. LISANE: It's two. In the back of
24 it I want to have a storage area for the lawnmowers,
25 shovels, wheelbarrows, stuff like that, you know;
26 stuff you have around the house. Right now, you

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1 know, you see I don't have no shed or nothing like
2 that. My lawnmower is kind of like in the basement,
3 stuff like that.

4 VICE CHAIRPERSON KING: Is there
5 anything unique at all about your property? Is your
6 lot the same size as your neighbors on both sides?
7 Front and back, side?

8 MR. LISANE: All of them are close to
9 the same.

10 VICE CHAIRPERSON KING: Oh look, here's
11 the photographs of the posting. Oh no, it wasn't
12 him. I'm sorry. I mean, are the lots in your
13 neighborhood all the same size?

14 MR. LISANE: Not all of them but, you
15 know, a lot of them are the same size.

16 VICE CHAIRPERSON KING: In fact, your's
17 is one of the larger lots, isn't it?

18 MR. LISANE: It kind of looks that way
19 because it's on the corner. You know what I mean?

20 VICE CHAIRPERSON KING: Oh, I see.
21 There's some that are deeper.

22 MR. LISANE: Yes. It looks that way
23 because it's on the corner.

24 COMMISSIONER HOOD: Let me ask you a
25 question. Do you have a -- I'm sorry Ms. King, were
26 you finished?

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1 VICE CHAIRPERSON KING: Yes, go ahead,
2 Mr. Hood.
3 COMMISSIONER HOOD: At the corner, is
4 there a stop sign?
5 MR. LISANE: Yes.
6 COMMISSIONER HOOD: A 4-way stop sign?
7 MR. LISANE: No, one way.
8 COMMISSIONER HOOD: Two stop signs?
9 MR. LISANE: Two stop signs, yes.
10 COMMISSIONER HOOD: And your garage is
11 going to come out so many feet -- 18 feet back from
12 the street, am I correct? Did you say 18 feet?
13 MR. LISANE: It's not on the stop sign
14 side.
15 COMMISSIONER HOOD: Okay, so you
16 wouldn't obstruct the view --
17 MR. LISANE: Of the stop sign, right.
18 COMMISSIONER HOOD: -- of traffic?
19 MR. LISANE: Right. The stop sign is
20 here, the house is over here. You know what I mean?
21 VICE CHAIRPERSON KING: You're coming
22 out on the alley? Your garage will exit onto the
23 alley, would it?
24 MR. LISANE: Yes, it could exit on the
25 alley.
26 VICE CHAIRPERSON KING: Is that your

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1 intention?

2 MR. LISANE: Either way, you know, it's
3 alley or the street, but it's still 80 feet from the
4 -- it's 80 feet from the stop sign.

5 CHAIRPERSON REID: Mr. Lisane, is there
6 anything that's unusual or unique in regards to
7 shallowness or the regular lot size, or topography,
8 or sloping, or something that makes your property
9 unique or different from other properties that are
10 in your neighborhood?

11 MR. LISANE: It's, you know, new
12 dwelling on the corner, you know, and it ain't a
13 whole lot different. You know, other houses are
14 older but this house was a vacant lot and I bought
15 the lot and built a house and you know, I would like
16 to build a garage, you know, on it.

17 CHAIRPERSON REID: There's a 3-prong
18 test and the first test is that there has to be
19 something unique and unusual about your property
20 that will keep you from being able to comply with
21 existing zoning regulations. And the second test is
22 with regard to the adverse impact.

23 So let's leave the first test for a
24 minute and come to the second test. Have you had
25 any complaints from any of your neighbors regarding
26 your application and what you posted in regard to

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1 whether or not it would adversely impact the parking
2 or traffic or noise or any type of nuisance in your
3 community, your neighborhood?

4 MR. LISANE: Okay, all the houses close
5 to me -- you know, I'm talking about three houses or
6 four houses -- me being on the corner, everybody
7 thumbs up. And the Commissioner talked to -- she
8 hasn't talked to all of them because they wasn't
9 home, but everyone she talked to she come back and
10 told me said, no opposed, you know.

11 That's all she said. She said she was
12 going to fax it in, you know. And the ones that
13 wasn't home, you know, she left a note for them to
14 call her or something. I don't know what the note
15 said but she said she left a note for them.

16 CHAIRPERSON REID: And a third one is
17 whether or not it would impair the intent and
18 integrity of the zoning map or regulations.

19 VICE CHAIRPERSON KING: This is a very
20 massive (inaudible).

21 CHAIRPERSON REID: And that one I'm not
22 sure of either. What were you saying Mrs. King?

23 VICE CHAIRPERSON KING: This is a very
24 large garage; very large. Isn't it? I mean, you
25 have an 8-foot opening which -- you've got two feet
26 between them, two feet on one side and then you must

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1 have 12 feet on the other side, is that right?

2 Could that be right?

3 MR. LISANE: No, see I've got a set of
4 steps in there -- steps in the house. They are four
5 feet. I don't know if that picture shows it or not.

6 VICE CHAIRPERSON KING: And it's 26,
7 almost 27 feet deep.

8 MR. LISANE: Twenty-six.

9 VICE CHAIRPERSON KING: Twenty-six-
10 eight-inches according to the plans that you
11 submitted. How long is an average car --

12 MR. LISANE: No, it's 26 --

13 VICE CHAIRPERSON KING: -- or even van?
14 Nothing like 26 feet. I mean, this is massive.
15 Look, it's almost as big as the house.

16 CHAIRPERSON REID: Mr. Lisane, let me
17 ask you something. The concrete car --

18 MR. LISANE: Pad.

19 CHAIRPERSON REID: -- pad that you have
20 now?

21 MR. LISANE: Yes.

22 CHAIRPERSON REID: Did you think about
23 maybe -- now, with that you're in compliance with
24 the zoning regulations. Did you think about putting
25 a garage there?

26 MR. LISANE: No, I wanted it attached to

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1 the house, you know.

2 CHAIRPERSON REID: You'd like to have it
3 attached but --

4 MR. LISANE: Right.

5 CHAIRPERSON REID: -- that may be a
6 little difficult. But in the alternative, since you
7 would be in compliance with the zoning regulations
8 with that pad --

9 MR. LISANE: The pad is bigger than the
10 garage I'm proposed to build -- I'd like to build.

11 CHAIRPERSON REID: But was that pad
12 counted into the calculation for the lot occupancy?

13 MR. LISANE: No.

14 CHAIRPERSON REID: It was not?

15 VICE CHAIRPERSON KING: No, it doesn't
16 because the pad is not part of the lot occupancy
17 because there's nothing built on it. I mean, just
18 the concrete is not -- that doesn't count.

19 CHAIRPERSON REID: Oh, I thought it was
20 like surface that was used.

21 MEMBER GILREATH: Well, if he removed
22 this concrete apron --

23 MR. LISANE: Yes, I'm going to move that
24 --

25 MEMBER GILREATH: Can you recalculate it
26 then?

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1 VICE CHAIRPERSON KING: The concrete
2 apron doesn't count towards the calculation --

3 MEMBER GILREATH: What I'm saying, if
4 that were hypothetically removed it wouldn't affect
5 the lot occupancy?

6 VICE CHAIRPERSON KING: Not at all; not
7 at all. What is the hardship? What about the test
8 for hardship, Madam Chair?

9 CHAIRPERSON REID: Well, the first test
10 would have to be satisfied to get to hardship -- it
11 would not be hardship, it would be -- yes, it would
12 be a --

13 VICE CHAIRPERSON KING: More practical
14 difficulty.

15 CHAIRPERSON REID: Practical difficulty.
16 So once you advocate that it is in fact, unique or
17 unusual, then that's the basis by which you then are
18 able to proffer your argument for the fact that it
19 would cause practical difficulties to comply with
20 existing zoning regulations. If you can't get past
21 the unique and unusual first test then you can't
22 really get to the second test.

23 Okay, Mr. Lisane, typically I would have
24 you to go back and then go to the other segments of
25 the case. So if you'll sit right there. Is this
26 gentleman right here with you?

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1 MR. LISANE: Yes.

2 CHAIRPERSON REID: And he is?

3 MR. LISANE: He drew up my plans and
4 we went through the submit --

5 CHAIRPERSON REID: Your architect?

6 MR. LISANE: Yes.

7 CHAIRPERSON REID: Is he going to
8 testify?

9 MR. LISANE: Do you want to testify?

10 VICE CHAIRPERSON KING: If you do you
11 have to be sworn in.

12 CHAIRPERSON REID: You have to be sworn
13 in if you want to speak, sir.

14 (Mr. Patterson is sworn.)

15 CHAIRPERSON REID: Your name and your
16 address, sir?

17 MR. PATTERSON: Edward Patterson; 4675 H
18 Street, S.E. 20019. Now, the way the house is
19 built, he had a gable on this side and a gable on
20 this side to balance it. And he could come in from
21 the street, from Lawrence Street, and put a driveway
22 to go into two doors, or he could come in from the
23 alley and do the same thing. The gable looked to
24 balance each other on each side and a space in the
25 middle. And it's not too much different from the
26 rest of the houses in the block. His is different

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1 but it doesn't change things far as like, messing up
2 the block.

3 CHAIRPERSON REID: And you are the
4 architect who drew -- you rendered the drawings for
5 the garage?

6 MR. PATTERSON: I didn't draw the house
7 but I drew the garage -- the addition.

8 CHAIRPERSON REID: And were you aware of
9 the fact that that garage would require a variance?

10 MR. PATTERSON: Yes.

11 VICE CHAIRPERSON KING: When you drew it
12 you were aware of that? When you first designed
13 this?

14 MR. PATTERSON: Oh yes, yes.

15 VICE CHAIRPERSON KING: You knew in
16 advance that you were filling up much more than what
17 was permitted at the time?

18 MR. PATTERSON: Yes.

19 VICE CHAIRPERSON KING: Are there any
20 other garages in that block or anywhere near that
21 are so large and fill up so much of the property?

22 MR. PATTERSON: Well, I didn't really
23 look through the neighborhood. I've been to a
24 couple of hearings like this quite a while ago.
25 I've been doing this since 1939 and they all worked.

26 MR. LISANE: My name is Willie Hayes

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1 Lisane. There is a house three blocks from me on
2 Lawrence Street and it's built more than 40 percent
3 of his property. I know for a fact.

4 VICE CHAIRPERSON KING: And the same
5 size plot as yours on a corner and everything is the
6 same?

7 MR. LISANE: It's not on a corner. It's
8 by an alley but it's not on a corner. And I'm
9 positive he built 60 percent of his lot. And it's
10 been built since mine. Mine was built in '93. He
11 was working on his in '94 and '5.

12 CHAIRPERSON REID: Any questions from
13 the Board members?

14 MEMBER GILREATH: To comply with the lot
15 occupancy and so forth, without the variance, you
16 could at least get about a one-car garage plus a
17 shed area in there. Is that feasible?

18 MR. LISANE: No, it's not feasible.

19 MEMBER GILREATH: Well, you're only 484
20 feet over with the 2-car garage, so you're only that
21 over. It seems to me you'd only have to give up 482
22 square feet, so that would give you a one-car garage
23 plus a substantial storage area, I would think.

24 MR. LISANE: Well, as you figured up I
25 probably could build 10 X 10; somewhere in that area
26 -- 12 X 10 the biggest.

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1 MEMBER GILREATH: Well, you're only 482
2 feet over so if you gave that up you would be within
3 the zoning regulations. To build this 2-car garage
4 you need 482 additional square feet.

5 CHAIRPERSON REID: So in other words, if
6 you built a one-car garage you would be all right?

7 MR. LISANE: No, because 5000 square
8 feet, that's what the lot is. And I've got 17-
9 something with the house.

10 VICE CHAIRPERSON KING: According to
11 this you've got 1,683 and some change.

12 MEMBER GILREATH: But he's permitted
13 2000.

14 VICE CHAIRPERSON KING: Right, and he's
15 proposing almost 2500. So if you cut -- you know,
16 you can have 2000 square feet without having to
17 violate your lot occupancy.

18 CHAIRPERSON REID: You can have a one-
19 car garage -- a nice-sized one-car garage.

20 MEMBER GILREATH: Plus storage, I
21 believe.

22 MR. LISANE: No, it's not big enough for
23 storage under 2000. It would be like 15 X 15. See,
24 I've got a set of steps in there 4-foot, and they're
25 attached to the house. It would be difficult to cut
26 them out to walk into the house. You've got a set

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1 of steps -- as you look at it -- you've got a set of
2 steps that's four feet out from the house. To walk
3 into the --

4 MEMBER GILREATH: I'd like to be
5 accommodating but I just don't see anything unique
6 about the lot, so I don't know what to do.

7 CHAIRPERSON REID: You say that it would
8 be difficult because of your steps?

9 MR. LISANE: Yes, I've got a set of
10 steps four feet, you know, brick; steps that are
11 concrete and brick steps, four feet, to walk into
12 the house.

13 VICE CHAIRPERSON KING: How many risers
14 are there?

15 MR. LISANE: Five.

16 VICE CHAIRPERSON KING: And each one is
17 almost a foot high.

18 MR. LISANE: A foot high? No, they
19 ain't no foot high.

20 VICE CHAIRPERSON KING: Well, you said
21 it was four feet.

22 MR. LISANE: I said four feet out; four
23 feet wide.

24 CHAIRPERSON REID: It would come into
25 the -- and that would --

26 MR. LISANE: That would be inside the

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1 garage.

2 CHAIRPERSON REID: Would that pose a
3 problem for you?

4 MR. LISANE: Well, I'm saying, I was
5 making this bigger so it wouldn't be no problem.
6 You know what I mean?

7 CHAIRPERSON REID: Why would it be a
8 problem? If you have the steps that have been built
9 go right down into your -- oh, you think that with
10 the steps you'd have --

11 MR. LISANE: More space. The steps take
12 up four feet of space.

13 VICE CHAIRPERSON KING: I don't see that
14 there's a unique and unusual circumstance involved
15 here.

16 CHAIRPERSON REID: Any other questions?
17 Mr. Hood, did you have any questions?

18 COMMISSIONER HOOD: I have quite a few.
19 I'm just trying to make sure I understand before I
20 ask, so I'll -- unless you all are finished -- I'll
21 ask them later.

22 CHAIRPERSON REID: Is there anyone else
23 here that's here for this particular case? First
24 with the parties -- no, first the ANC and the
25 government reports. We don't have any government
26 reports and the ANC has not submitted a report, so

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1 the assumption will be that they are okay with your
2 application and not in opposition to it.

3 So the next persons as far as the Board,
4 is first parties in opposition. Closing arguments
5 by the applicant. It's your opportunity for closing
6 remarks.

7 COMMISSIONER HOOD: Madam Chair, before
8 he does that, can I ask --

9 CHAIRPERSON REID: Well, yes.

10 COMMISSIONER HOOD: I'm trying to
11 visualize the structure that I see on your diagram
12 in your house here. This is your house?

13 MR. LISANE: Right.

14 COMMISSIONER HOOD: Now, the structure
15 you're trying to build is going to come up on the
16 side here, right?

17 MR. LISANE: Right, it's going to go
18 onto the house.

19 COMMISSIONER HOOD: And your concrete
20 exists well out into your front?

21 MR. LISANE: Right, but that's coming
22 up; all of the concrete is coming up.

23 COMMISSIONER HOOD: So the structure is
24 going exactly about the house?

25 MR. LISANE: Right.

26 COMMISSIONER HOOD: Same length, size,

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1 and everything. It's going to be the same width --
2 VICE CHAIRPERSON KING: Slightly wider
3 than the rear of the house.
4 COMMISSIONER HOOD: So it's going to be
5 wider?
6 VICE CHAIRPERSON KING: Slightly wider.
7 You can see it on the blueprint.
8 COMMISSIONER HOOD: How many feet wider
9 is it going to be?
10 MR. LISANE: Four feet out. Okay, the
11 other part sticks out seven feet on the other end,
12 and this part is going to stick out four feet.
13 COMMISSIONER HOOD: Do you have any
14 other intentions of just parking cars and a little
15 storage? You don't have any intentions on renting
16 it out or anything?
17 MR. LISANE: No; parking space.
18 COMMISSIONER HOOD: Because I see here
19 you have three cars.
20 MR. LISANE: Right, in that particular -
21 - I've got two now. I sold a couple.
22 COMMISSIONER HOOD: Okay, thank you.
23 CHAIRPERSON REID: Closing remarks?
24 MR. LISANE: If the Board would let me
25 build a garage it wouldn't take from the
26 neighborhood, it would add to the neighborhood. It

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1 wouldn't be doing nothing, you know, that the
2 neighbors thumbs-up for me to do it. You know, I
3 talked with all of them and all of them know because
4 they got the letter from the zoning board.

5 And you know, a lot of people walk, and
6 when they seen the sign and I'd be cutting the grass
7 or washing a car and they don't oppose. I haven't
8 heard one yet oppose, you know. And most of the
9 people say, go ahead, go for it, you know. And the
10 neighborhood, close around -- I don't know if that
11 picture shows -- but most of the houses around there
12 do have garages.

13 CHAIRPERSON REID: All right. Thank you
14 very much. Do you want to close this today or do
15 you want to do it at the next meeting?

16 VICE CHAIRPERSON KING: No, I'd just as
17 soon do it now. Do you want to make a motion?

18 COMMISSIONER HOOD: I was going to make
19 a motion to approve.

20 MEMBER GILREATH: I'll be willing on
21 something like that because I think -- certainly
22 (inaudible) appropriate.

23 CHAIRPERSON REID: Was there a second?

24 VICE CHAIRPERSON KING: Yes, I'll second
25 that motion. Well, I guess -- well, wait a minute.
26 Let me withhold. Let's discuss it a bit. This is

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1 bloody big. This is a 3/4-car garage is what we're
2 talking about, attached to a house taking up all of
3 its backyard. I don't see on the Sanborn map,
4 Anthony, that there's another garage in the
5 neighborhood -- even though some of them may be 2-
6 car garages -- that is anything as massive as this.
7 This is huge.

8 CHAIRPERSON REID: I don't see where the
9 applicant has met his burden of proof for a
10 variance. I see nothing unusual or unique about the
11 particular property. The applicant can put a garage
12 there. It's asking for a 2-car garage that's
13 causing the problem. And I can't justify, I can't
14 defend an approval of this particular application.

15 VICE CHAIRPERSON KING: It's much bigger
16 than a 2-car garage. It's 26 X 30.

17 MEMBER GILREATH: And storage.

18 VICE CHAIRPERSON KING: Well, and a
19 great deal of storage.

20 MEMBER GILREATH: Yes, absolutely.

21 COMMISSIONER HOOD: But I think he does
22 meet undue hardship if I'm --

23 CHAIRPERSON REID: You can't get -- to
24 prove undue hardship is in regards to a use
25 variance. This is an area variance and so it has to
26 pose a practical difficulty. But to get to that you

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1 have to first look at, if there's something unique
2 or unusual about the property in regard to its
3 topography, is it a regular lot size, sub-standard
4 lot, is it shallow?

5 Or something inherent in the land that
6 would justify there being some type of practical
7 difficulty to comply with existing zoning
8 regulations. And as I see it, in this regard, the
9 only aspect of it is the fact that there is
10 permissible, a garage as a matter of right, but it's
11 just the size that I can't defend approving based on
12 the application of the regulations of this
13 particular case.

14 VICE CHAIRPERSON KING: I am afraid -- I
15 agree with you. I think that he can -- you're only
16 talking about -- if his plan was 452 feet smaller he
17 wouldn't be here -- 482.9, 483 square feet smaller.
18 He's proposing almost 2500 square feet and all he
19 has to do is knock off about 500 square feet. He
20 has four-fifths of his space and he doesn't have to
21 be here.

22 MEMBER GILREATH: And I --

23 CHAIRPERSON REID: Did you say you agree
24 with Mr. Hood or disagree?

25 VICE CHAIRPERSON KING: I disagree. I
26 mean, I'm trying to convince him that --

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1 MEMBER GILREATH: And I think if your
2 architect were to go back and look at the steps and
3 so forth, there may be some way of getting some
4 relief whereby you will not take as much space. If
5 you build it with the zoning --

6 VICE CHAIRPERSON KING: I mean, turn the
7 steps sideways.

8 MR. PATTERSON: His lot runs from 17th
9 Street up the alley. And from the alley, it's a
10 regular alley --

11 MR. LISANE: It's a dead-end alley.

12 MR. PATTERSON: It's a dead-end alley,
13 but the other houses is row houses.

14 MEMBER GILREATH: I don't think we're
15 opposed to you having a garage there, those having
16 support; it's just the size of it and to my mind
17 it's a bit excessive. And if you could have your
18 architect and maybe consult other people, to go back
19 and see what you come up with within the 2000 square
20 feet, you might be able to come up with a -- are you
21 going to get two cars in there? I don't know. But
22 you certainly can get one car in and a lot of
23 storage space. So you might want to go back and
24 look at that again.

25 MR. LISANE: See, you're supporting me
26 to build 300 square feet, roughly.

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1 VICE CHAIRPERSON KING: Pardon?
2 MR. LISANE: It's 300 square feet.
3 VICE CHAIRPERSON KING: Is what? A one-
4 car garage?
5 MR. LISANE: No, 300 square feet -- if
6 that thing is 2000 square feet I could build. I'm
7 17 -- 16 right at 17. I can go up to 2000.
8 VICE CHAIRPERSON KING: That's what I
9 said. You can --
10 MR. LISANE: Right, but that's about 300
11 square feet.
12 VICE CHAIRPERSON KING: You can have
13 2000 square feet without having to come before the
14 BZA.
15 MR. LISANE: Right, but that's 15 X 15.
16 And that's just enough space for one car; no sheds,
17 no nothing.
18 VICE CHAIRPERSON KING: It's four-fifths
19 of what you have now; four-fifths.
20 MR. LISANE: Four-fifths?
21 VICE CHAIRPERSON KING: Of what you have
22 now. It's one-fifth smaller than what you've
23 proposed now.
24 MR. LISANE: No.
25 VICE CHAIRPERSON KING: Yes. It's 2500
26 -- you're proposing 2500. We're saying can't you

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1 take 500 off? That leaves you four-fifths.

2 CHAIRPERSON REID: It's a nice size

3 garage that you could have as a matter of right.

4 MR. LISANE: Well, but 2000?

5 VICE CHAIRPERSON KING: Yes, 2000 square

6 feet you can have as a matter of right.

7 MR. LISANE: The house is 16 -- right at

8 17 right now. See, I'm not having but 300 square

9 feet.

10 VICE CHAIRPERSON KING: Is that -- oh, I

11 see.

12 COMMISSIONER HOOD: Let me pose a

13 question. If you downscaled from what the

14 recommendations are would you be able to get two

15 cars --

16 MR. LISANE: No, and no storage area

17 neither.

18 CHAIRPERSON REID: Oh, I think -- what

19 were you saying that the lot occupancy with the

20 house -- with the house is 2000.

21 MR. LISANE: See what I'm saying?

22 CHAIRPERSON REID: Yes, so you're right.

23 That not only give --

24 MEMBER GILREATH: How is it he can get

25 all this -- I mean the rest of it for 482 square

26 feet? His structure is going to be more than 700-

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1 some-odd square feet in area.

2 CHAIRPERSON REID: It says existing lot
3 occupancy of approximate 1700. So he's saying that
4 he would only have 300 square feet for the garage.

5 MEMBER GILREATH: But if he had this 400
6 you still aren't going to have 700 square feet.

7 CHAIRPERSON REID: What?

8 MEMBER GILREATH: If you took the 300
9 plus this 482 extra, that's not going to give him
10 about a 30-foot size 2-car garage.

11 VICE CHAIRPERSON KING: Thirty by 26,
12 no.

13 CHAIRPERSON REID: That's not enough
14 space, anyway.

15 MEMBER GILREATH: I understand that.

16 MR. LISANE: Of the lot space where I
17 was proposing I would like to build, it would give
18 me like, 45 percent of the property; 46.

19 MEMBER GILREATH: What's the size of
20 your lot overall?

21 MR. LISANE: The lot is 100 X 50.

22 VICE CHAIRPERSON KING: It's 5000 square
23 feet. You're negotiating now for us to -- well did
24 you want to change your plans or --

25 MR. LISANE: Let me build five or six
26 more percent added to it. That's what I would like.

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1 CHAIRPERSON REID: So you're saying now
2 that you want to amend you --

3 MR. LISANE: This is the size I'm --

4 CHAIRPERSON REID: You want to amend
5 your application for a lesser amount?

6 MR. LISANE: Okay, my application is,
7 right now when you look at it it's still, I want to
8 build five or six percent more than I can build
9 normally. I just want to --

10 VICE CHAIRPERSON KING: Instead of 24
11 percent more?

12 MR. LISANE: Excuse me?

13 VICE CHAIRPERSON KING: Instead of 24
14 percent more? So you --

15 MR. LISANE: No, no. Okay --

16 CHAIRPERSON REID: Now you're asking for
17 24 percent.

18 MR. LISANE: Excuse me?

19 CHAIRPERSON REID: Okay. Do you have
20 your comp sheet? Do you have this?

21 MR. LISANE: Not on me.

22 CHAIRPERSON REID: Okay, come forward
23 sir. You can kind of look at this. This is what
24 we're looking at. This is what you're asking for.
25 This amount is 24 percent. You can take that.

26 Mr. Lisane, perhaps if your garage is

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1 not attached -- if it was a detached garage then
2 that would give you additional space that you needed
3 from your one-car garage.

4 VICE CHAIRPERSON KING: And for storage.

5 MR. LISANE: Okay, this 24 percent is
6 like -- it's not 24 percent over building. It's 24
7 percent opposed, you know, what I'm building.
8 Because I'm not building but six percent over the
9 property.

10 CHAIRPERSON REID: How do you calculate
11 that, Mr. Lisane? I don't see that. I see 24
12 percent is what you need, what you're asking for.

13 MR. LISANE: No. Okay, the property is
14 5000 square feet --

15 VICE CHAIRPERSON KING: And 84 percent
16 of the rear yard.

17 MR. LISANE: The property is 5000 square
18 feet. If I build the house and the garage it's
19 would still be like 24-something percent square
20 feet. It's still not half of the property. It's
21 still under half of the property. If I build the
22 garage and the house it still would be less than
23 half of the property.

24 CHAIRPERSON REID: You mean the lot
25 occupancy would be less than half?

26 MR. LISANE: Yes. Okay, the lot

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1 occupancy is 40 percent of the property.

2 CHAIRPERSON REID: Right. And like I
3 said, for the whole 5000 square feet. And you can
4 add the garage and the house to it, it still would
5 be less than 50 percent of the property.

6 VICE CHAIRPERSON KING: It's proposed to
7 do about 2500.

8 MR. LISANE: Yes, 24-something.

9 VICE CHAIRPERSON KING: So 2482.92.
10 That still doesn't, you know -- and how are you
11 going to cope with -- you've got a requirement for a
12 25-foot rear yard and you want an 84 percent
13 variance from that.

14 MR. LISANE: Okay, from the rear yard to
15 the alley it would be 20 foot instead of 25.

16 VICE CHAIRPERSON KING: No, it says here
17 that what you're proposing is four feet.

18 MR. LISANE: No, it --

19 VICE CHAIRPERSON KING: It shows on the
20 plan.

21 MR. LISANE: The property is 100-foot
22 deep, the house is 56 feet and I'm coming out 26
23 feet.

24 VICE CHAIRPERSON KING: According to the
25 plan that you gave -- to this.

26 MR. LISANE: That plan on the house --

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1 that house is --

2 VICE CHAIRPERSON KING: You show that
3 there's four feet between the back of the garage and
4 the alley; four feet. And the requirement, the
5 zoning requirement is for 25 feet per rear yard.

6 MR. LISANE: Yes, that part is wrong. I
7 don't know why it's wrong, but it's wrong.

8 VICE CHAIRPERSON KING: There's no way
9 in the world that --

10 MR. LISANE: The house -- see, I got the
11 plan of the house. The house is 56 feet from the
12 property and you add 26 to it, and that would give
13 you close to 80 --

14 VICE CHAIRPERSON KING: You did this,
15 did you not? You created this? Your friend did?

16 MR. LISANE: Right.

17 VICE CHAIRPERSON KING: And it shows
18 that there's four feet between the back of the
19 garage and the alley. That means that your rear
20 yard, which the zoning requires to be 25 feet deep,
21 is going to be four feet deep.

22 MR. LISANE: No, it will be 20 feet
23 deep. That's wrong. It's 20 feet deep. I
24 measured, I looked at it.

25 CHAIRPERSON REID: Where did these
26 figures come from?

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1 MR. LISANE: What?

2 CHAIRPERSON REID: These figures that we
3 have for the comp sheet. Did you submit this?

4 VICE CHAIRPERSON KING: The comp sheet
5 from the Department of Consumer and Regulatory
6 Affairs is based on the plan that they submitted.

7 CHAIRPERSON REID: That's your plan.

8 MR. LISANE: Yes, but it's --

9 VICE CHAIRPERSON KING: Could I have
10 that back, sir? You created this, did you not? You
11 drew this? Did you draw this?

12 MR. PATTERSON: Yes.

13 VICE CHAIRPERSON KING: And it shows
14 four feet between the back of the garage and the
15 alley? Does it not? Four feet? Is that your
16 handwriting?

17 MR. PATTERSON: No, this is four feet
18 from the face of the building to the property --

19 VICE CHAIRPERSON KING: To the alley?

20 MR. LISANE: No, to the front of the
21 house -- property line.

22 VICE CHAIRPERSON KING: Pardon? It's
23 four feet from the back of the garage, the proposed
24 garage, to the street; four feet.

25 MR. LISANE: That isn't at the front.

26 MR. PATTERSON: Not even on that. Let

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1 me see that again.

2 VICE CHAIRPERSON KING: Well look, it
3 says there's four feet right here -- marked there --
4 between the back of the garage and the alley. Four
5 feet. It's 20 feet wide, but the back of the garage
6 -- when you open the garage door you're four feet
7 from the alley according to the plan that you gave
8 to us and to the Department of Consumer Regulatory
9 Affairs.

10 MR. PATTERSON: The garage door is going
11 to open on the front.

12 VICE CHAIRPERSON KING: Pardon?

13 MR. PATTERSON: The garage door is going
14 to open on the front.

15 VICE CHAIRPERSON KING: The garage is
16 going on the front of the house?

17 MR. PATTERSON: Yes --

18 MR. LISANE: No. I'm talking about this
19 door could be the front or the alley.

20 VICE CHAIRPERSON KING: And how much
21 distance is there from the front of your house to
22 the front street?

23 MR. PATTERSON: The front -- the garage
24 doors is going to open from Lawrence Street, and
25 that four foot is from the building line to the face
26 of the lot, the lot line.

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1 VICE CHAIRPERSON KING: At the rear of
2 the building.

3 MR. PATTERSON: Yes. No, not on the
4 back end. That 4-foot is from the -- on Lawrence
5 Street side to the building line. And then the
6 building line is 25 feet from the street back to
7 that line -- back to that four feet. So when you
8 come in off of Lawrence Street you've got 25 feet
9 (unintelligible) --

10 COMMISSIONER HOOD: I withdraw my
11 motion.

12 MR. PATTERSON: -- back to his lot line.
13 He has a setback of four feet.

14 VICE CHAIRPERSON KING: I move that we
15 deny this application. I don't feel that the
16 applicant has met the burden of proof.

17 MEMBER GILREATH: I second the motion.
18 I really feel that the garage 30-foot wide is a
19 little bit excessive for the property. Hopefully
20 you can look, the architect --

21 MR. PATTERSON: It's 29 feet from the
22 curb back to his building.

23 MEMBER GILREATH: Well, hopefully, work
24 with this architect. Maybe you can pull this down a
25 bit to a single car garage and adequate storage; and
26 the other cars just to follow it, if there was a

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1 problem we really can't accommodate it, sorry.

2 CHAIRPERSON REID: I'll agree. I think
3 that we'd like to and the application of the zoning
4 regulations is very difficult to defend for this
5 application because of the fact that you have not
6 met the written proof in regard to the first step
7 with regard to uniqueness or unusual conditions
8 that's inherent in the land itself that would
9 justify your having some type of practical
10 difficulty for plans in existing zoning regulations
11 which would allow you to be able to have a single
12 car garage as a matter of right.

13 And even though there does not appear to
14 any adverse impact per se, the third prong of the
15 test is the impairment of the integrity of the
16 zoning regulations and map, which I feel this --
17 granting the application would impair the integrity
18 of the zoning regulations in that the intent of the
19 zoning regulations is to provide for a certain
20 amount of open space within the neighborhoods, the
21 communities.

22 And in the absence of any reason to do
23 otherwise, I think that we would be hard-put to be
24 able to approve this application. Mr. Hood?

25 COMMISSIONER HOOD: Madam Chair, while I
26 was prone to move to approve, after further study I

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1 see on the survey, the plat that they have provided
2 us, that it's an extremely large garage and I -- I
3 understand wanting to put two cars in the garage but
4 you also have to keep the regulations intact to a
5 certain extent.

6 And I think that this supersedes our
7 zoning regulations. So I agree also to deny.

8 CHAIRPERSON REID: All in favor?

9 (Chorus of ayes.)

10 Opposed?

11 (No response.)

12 COMMISSIONER HOOD: Staff will record
13 the vote as four to zero to deny this application:
14 Mrs. King, Mr. Gilreath, Mr. Hood, and Mrs. Reid.

15 COMMISSIONER HOOD: Madam Chairman,
16 would it be inappropriate to maybe -- I think
17 they've heard our concerns. Maybe if they could
18 scale back the size of the garage, was that -- quote
19 to that, you know, is that inappropriate?

20 MEMBER GILREATH: They don't need to do
21 -- if they meet -- if he scales back it's a matter
22 of right. You don't need relief.

23 COMMISSIONER HOOD: But his argument is,
24 he's not able to put in two cars -- in storage.

25 CHAIRPERSON REID: That's the gist of
26 this particular application; the fact that what

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1 you're asking for we can't legitimately grant. He
2 can have a one-car garage as a matter of right, and
3 perhaps even a space for storage. It's just the
4 attempt to get a 2-car garage which is so massive,
5 to take up so much space in the yard, that it would
6 render the zoning regulations impaired in order to
7 do so.

8 VICE CHAIRPERSON KING: He's heard us
9 and he can do whatever is necessary, which is to
10 take --

11 COMMISSIONER HOOD: Right, and that's
12 what I want to make sure.

13 VICE CHAIRPERSON KING: -- with or
14 without our encouragement.

15 COMMISSIONER HOOD: Okay, thank you.

16 CHAIRPERSON REID: Thank you.

17 MR. LISANE: If I build a one-car garage
18 then if I want to build a shed that would overdo my
19 zoning.

20 VICE CHAIRPERSON KING: You need to talk
21 to the zoning staff.

22 CHAIRPERSON REID: Yes. And Mr. Lisane,
23 even though -- you build a garage and then if you
24 want to build a shed, I don't know if that would
25 take you over it, so you'd have to check with --

26 MR. LISANE: Yes, see it would. A

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1 garage 15 X 15 --

2 CHAIRPERSON REID: But I don't know, and
3 I hope I'm not treading on dangerous soil when I say
4 that -- people have temporary sheds in their yards.
5 I don't think that has the impact on the zoning,
6 does it not? People that put these temporary sheds
7 up?

8 VICE CHAIRPERSON KING: Let's not advise
9 him to do something that may not be --

10 CHAIRPERSON REID: No, I prefaced it by
11 saying I hope I'm not treading on dangerous soil --

12 VICE CHAIRPERSON KING: You are, you
13 are.

14 MR. BERGSTEIN: If I may? What the
15 Board has said is that because he hasn't met his
16 burden of the first part of this test which is
17 there's nothing exceptional about this piece of
18 property, that he's going to have to figure out a
19 way to build what he wants within a permitted use
20 criteria.

21 And so because he hasn't passed the
22 first test he won't be able to get a variance
23 regardless of how he configures this.

24 CHAIRPERSON REID: Thank you, Mr.
25 Lisane. The next case, please.

26 MR. HART: The next case, Application

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1 16466, application of D.C. Teachers Federal Credit
2 Union, pursuant to 2107.2, for a variance from the
3 use provision of Subsection 330.5 to allow the
4 continued use of general offices in an R-4 District
5 at premises 901 to 903 D Street, N.E. (Square 938,
6 Lot 809).

7 Would those persons planning to testify
8 in this case please come forward and raise your
9 right hand for the oath?

10 (Witnesses sworn.)

11 VICE CHAIRPERSON KING: Madam Chair, can
12 I ask if there's any opposition in this case? Is
13 there anybody here to testify against this? We
14 could have an expedited hearing.

15 CHAIRPERSON REID: Mr. Brown, this case,
16 based on the fact that there does not appear to be
17 any opposition --

18 MS. GADDIS: I'm not sure you'd classify
19 what I have to say is opposition, but I think there
20 is a possibility of meeting some conditions.

21 CHAIRPERSON REID: And you are, ma'am?

22 MS. GADDIS: Virginia Gaddis. I'm an
23 ex-ANC Commissioner who served in this area for 15
24 years.

25 CHAIRPERSON REID: Do you want to
26 testify?

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1 MS. GADDIS: Yes.

2 VICE CHAIRPERSON KING: Have you read
3 the file?

4 MS. GADDIS: Yes.

5 VICE CHAIRPERSON KING: All that we're
6 suggesting is that he expedite the presentation of
7 his case; then we'll argue it and ask questions and
8 so forth. If you're familiar with the proposal then
9 he can short-circuit his presentation a bit.

10 MS. GADDIS: When I saw the case I did
11 not see any additional materials than the case they
12 are putting out.

13 MR. RACHAL: I'd like to say for the
14 record that Mrs. Gaddis attended the ANC meeting --

15 CHAIRPERSON REID: Give your name and
16 address.

17 MR. RACHAL: Certainly. My name is
18 Anthony M. Rachal, III, counsel to the Credit Union;
19 co-counsel in the case.

20 CHAIRPERSON REID: Okay, you were
21 saying?

22 MR. RACHAL: I was saying that Mrs.
23 Gaddis attended the ANC meeting where we appeared
24 before the entire ANC to give a presentation
25 regarding this application. And she voiced her
26 concerns during that meeting and the ANC voted

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1 unanimously to support the application.

2 MS. GADDIS: It wasn't unanimous.

3 CHAIRPERSON REID: Oh, okay, well two
4 have an opportunity to speak -- as I was saying, we
5 have read the submission of the applicant and much
6 of it you can stand on record, and for the most part
7 expedite your -- give just the highlights, the
8 salient points of this application. It appears to
9 be pretty straightforward.

10 MR. BROWN: Absolutely. And
11 notwithstanding the distinguished group I've brought
12 here, they will by-and-large, be available to answer
13 a whole range of questions. I would like to, since
14 they have taken the time, just briefly introduce
15 myself and each one of them and let you know their
16 role and the resources we have here.

17 First for the record, my name is Patrick
18 Brown. I'm with the law firm of Greenstein, DeLorme
19 & Luchs. I'm special zoning counsel for the D.C.
20 Teachers Credit Union. Next to me is Mr. Anthony
21 Rachal. He is the general counsel of the Credit
22 Union and my co-counsel on this case.

23 Also we have with us Mr. Jerome Shelton
24 who is Chairman of the Board of the Credit Union.
25 We have Mr. Harris Taylor, currently a director and
26 a long-time former chairman who is available to

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1 testify to the history of this site and the Credit
2 Union's use of it.

3 We have Mr. David McWilliams who's the
4 chief executive officer of the Credit Union who's
5 able to testify as to current operations. We have
6 Joseph Brown, the secretary and member of the Board.
7 We have Mr. Jerome Davis who's chairman of the
8 Building Committee, which is intimately familiar
9 with the physical building and its limitations.

10 We have Officer Kimberly Freeman from
11 the Metropolitan Police Department. The Credit
12 Union houses a police substation which is an
13 important aspect, and she's available to testify.
14 And we have Mr. Roscoe Love, a neighbor living
15 across the street on 9th Street, N.E. to give you a
16 neighbor's perspective.

17 We have Reverend Alphonzo Brooks. He's
18 the Pastor of The Way of the Cross Church of Christ
19 which is located across the street on D Street. The
20 church regularly uses the parking facilities of the
21 Credit Union to accommodate its parishioners.

22 I would note for the record that ANC-6-A
23 did vote in favor of this proposal and a letter
24 should have arrived sometime mid-day today. Stanton
25 Park Citizens Association voted in favor and
26 submitted a letter for the record, as well as the

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1 Capitol Hill Restoration Society voted in support,
2 and also a very complimentary letter in support that
3 reached the record I believe, yesterday.

4 VICE CHAIRPERSON KING: Madam Chair,
5 could I ask staff if those have arrived? The only
6 one we have is the Stanton Park Neighborhood
7 Association letter. Could someone check and see if
8 the ANC and the Capitol Hill Restoration Society --
9 or, do you have copies?

10 MR. BROWN: I can provide Capitol Hill
11 Restoration Society.

12 VICE CHAIRPERSON KING: We have Stanton
13 Park. Do you have the ANC?

14 MR. BROWN: No, I talked to them this
15 morning and they were -- I had to remind them that
16 today was the hearing and they were supposed to be
17 faxing it in.

18 That's Advisory Neighborhood Commission
19 6-A. Mr. Pinnell is the chair who I spoke to this
20 morning.

21 If I could just briefly, this is a use
22 variance to allow the continued use of the former
23 Edmunds School building, which is shown there on the
24 corner of 9th and D Streets -- it's a circa 1900
25 elementary school -- to allow the continued use of
26 that building by the D.C. Federal Teachers Credit

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1 Union.

2 Without belaboring it, the use variance
3 standard to be imposed by the Board as you're well
4 aware, is that there's some unique physical or other
5 condition of exceptional nature inherent in the
6 property itself that would make strict application
7 of the strict zoning regulations -- and in this case
8 the R-4 restriction -- inappropriate and create an
9 undue hardship to the property owner, and that in
10 fact, the variance can be granted without any
11 negative impact on the community or the integrity of
12 the zone plan that exists for the area.

13 I think on all three points we meet the
14 test. It is a unique, one-of-a-kind elementary
15 school building that has not been used for that
16 purpose for a long period of time and doesn't
17 readily fit into any of the permitted uses given the
18 nature of the building, when it was built, how it
19 was built, and the fact that it's further limited by
20 being in the historic district on Capitol Hill.

21 The Credit Union as a user, there's a
22 particular symbiotic relationship between the school
23 system, which is the former owner of this building,
24 and the Credit Union.

25 Additionally, when looking to take care
26 of or dispose of this surplus property, the school

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1 system imposed upon itself restrictions on how and
2 who would use this property, and that the property
3 be used for -- I use the term, a school-related use
4 -- which in fact, a Credit Union for the teachers
5 and staff of the school system fits within.

6 The Credit Union -- and I've circulated
7 pictures that hopefully will give you a better feel
8 -- if this looks and feels like a school,
9 notwithstanding its current use, and will always
10 look like a school -- this variance can be granted,
11 not only without a negative impact but in fact, the
12 credit union has made a positive impact on the
13 community.

14 Not only on the day-to-day lives of the
15 people in the school system, but also in the day-to-
16 day lives of the people there and will continue to
17 do so through activities of restoring this building
18 and the police substation and ongoing efforts to
19 make this a better place. You'll notice a
20 playground on the site plan which is there,
21 available for the community.

22 What I'd like to do is briefly call Mr.
23 Taylor, the past chairman of the Board. In very
24 short order I think, he can give you a flavor for
25 where the Credit Union came and where they came into
26 use and ownership of the property.

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1 MR. TAYLOR: Good afternoon. My name is
2 Harris Taylor and I live at 3114 Central Avenue,
3 N.E. I will give you a very short, some background.
4 It will take just about a minute-and-a-half.

5 The D.C. Teachers Federal Credit Union
6 was incorporated about 65 years ago to provide
7 school teachers and administrators and support staff
8 with quality financial services at an affordable
9 rate. The D.C. Public Schools are also our sponsor.
10 We have been housed at several rent-free school
11 buildings, the last of which was the Edmunds --
12 before we came to Edmunds Building was in the
13 basement of the Magruder Building in Northwest
14 Washington.

15 The school system had other plans for
16 the Magruder Building and approached us about moving
17 to another school location. The school system had
18 declining enrollment and needed monies to renovate
19 existing facilities. They offered to lease the
20 Edmunds Building to use with another educational
21 tenant, which the Edmunds Building was closed in the
22 early '70s and the kids were moved to the Lovejoy
23 Elementary School.

24 The Edmunds School was built in 1903 and
25 was used for an elementary school for approximately
26 80 years. When we leased the building it was in

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1 deplorable condition with termites, the roof needed
2 repairs, windows, all the doors needed replacing,
3 the furnace needed replacement, painting inside and
4 out, and we put over a million dollars into the
5 renovation of the Edmunds Building.

6 In late 1997 the building was declared a
7 surplus and we were invited to enter a bid to
8 purchase the building. Since we had put already
9 over a million-two into the building we entered into
10 a purchase agreement with the school system and
11 that's where we are now.

12 We feel that we have been good neighbors
13 for both the immediate area and also the broader
14 Capitol Hill area that other people will explore,
15 and I'm available for any questions you may have.

16 VICE CHAIRPERSON KING: I have a
17 question. Sir, the Stanton Park Neighborhood
18 Association talks about there being approximately
19 three parking spaces which appear to be on public
20 space at the driveway on D Street, N.E. They say
21 that they believe that they were placed illegally in
22 public space when the building was used as a school
23 and they wonder if -- does your institutional memory
24 go back far enough to know whether those were -- how
25 long those three spaces in the driveway on D Street
26 have been there and --

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1 MR. TAYLOR: That area was incorporated
2 in our building area when we leased the building,
3 but I'd like the counsel if he can, do address that.

4 MR. RACHAL: Yes, if I could.

5 VICE CHAIRPERSON KING: Tony?

6 MR. RACHAL: The three spaces to which
7 they are referring are these. I'm pointing to the
8 space which is outside the building line that runs
9 along through here. There's just one space here.
10 There's a space here and this partial space here.

11 Now, I also need to clarify for the
12 record that there's also a retaining wall here, here
13 to the driveway, and then again here to the corner
14 of the property. This retaining wall is
15 approximately two-and-a-half feet high on the inside
16 of the property. On the outside it's approximately
17 three feet.

18 The topography of the property slopes
19 down towards D Street. And this space here is
20 somewhat landlocked by the retaining wall. But
21 here's a space and it is outside the property line.

22 VICE CHAIRPERSON KING: It's outside the
23 property line?

24 MR. RACHAL: Outside the property line.
25 This dotted line here represents the property line.

26 VICE CHAIRPERSON KING: So some spaces

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1 are in fact, located in public space?

2 MR. RACHAL: Yes, not --

3 VICE CHAIRPERSON KING: And do you have
4 a public space permit from DCRA or whoever you have
5 to get it from?

6 MR. RACHAL: No, that would be our next
7 step after the zoning process, to apply to the
8 Department of Public Works, Public Space committee,
9 to get a public space permit for the two spaces that
10 are outside the --

11 VICE CHAIRPERSON KING: Do you need
12 those spaces?

13 MR. RACHAL: We may not. We're looking
14 at that issue right now. It's being reviewed by the
15 Board to come to the determination of whether or not
16 we need to retain these two spaces.

17 VICE CHAIRPERSON KING: Let me just see
18 if there wasn't -- I don't believe Stanton Park is
19 represented here. They go on to say, "the entire
20 area between the building and the sidewalk was paved
21 at some point and results in a harsh, un-residential
22 appearance. We would request that Mr. McWilliams
23 investigate the possibility of removing the concrete
24 and replacing it with landscaping".

25 Has some thought been given to that?

26 MR. BROWN: Some thought has. One of

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1 the problems -- and if I could just point out --

2 VICE CHAIRPERSON KING: Again, talking
3 about the D Street side?

4 MR. BROWN: Well, we're talking about
5 both -- Ms. King and the other Board members, I've
6 submitted some photographs that hopefully have made
7 their way that will show. But again, you have the
8 property line here and here. Everything you will
9 see in the photograph -- there is no green space
10 because this has all been made into concrete.

11 What the school system did -- and this
12 is prior to the Credit Union -- is they had a great
13 problem in flooding, and so they created a slope
14 down towards the street in concrete. One of the
15 problems that's inherent is that most of the
16 concrete is public space, which will require public
17 space approval.

18 Also, you have the cost involved and
19 also in an historic district, just about anything of
20 -- certainly of this magnitude which will be
21 removing the concrete -- would require historic
22 preservation approval. And so there are all kinds
23 of impediments.

24 But there is -- and I think Mr.
25 McWilliams and others can testify -- an ongoing plan
26 to, if not remove the concrete which serves an

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1 important purpose, but to move beyond it in a
2 beautification process. But it's an inherently
3 difficult problem involving not just the BZA -- in
4 fact, it probably doesn't involve the BZA --

5 VICE CHAIRPERSON KING: Probably it
6 doesn't, you're right.

7 CHAIRPERSON REID: Can you buffer it
8 with some landscaping or --

9 VICE CHAIRPERSON KING: No, if it's all
10 concrete built on a slope to get the water away from
11 the basement, I suspect the answer is no.

12 MR. BROWN: There are some public space
13 tree boxes here which again, have been enhanced and
14 kind of adopted by the Credit Union. There are
15 things that can be done, but again, it's in public
16 space and there are views toward the future which
17 I'd best let other people -- you can put things on
18 top of the concrete, a plant or something like that,
19 rather than removing it, and you obtain the same
20 effect.

21 CHAIRPERSON REID: I think the objection
22 is the aesthetic aspects of it, so if you can do
23 whatever can be done to make it more aesthetically
24 attractive I'm sure would be appreciated.

25 MEMBER GILREATH: The costs not
26 withstanding, I can't see why the concrete could not

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1 be removed. You can have sloped soil which will
2 shunt the water away just as well as the concrete.
3 You've got a grassy cover there. Just as long as
4 it's soaked the water will run downhill as opposed
5 to running uphill.

6 MR. RACHAL: I think the D.C. Public
7 School System had it grassed, had a problem with the
8 water seeping into the basement, and that's why they
9 went with the concrete.

10 MEMBER GILREATH: Well, does it soak the
11 same way?

12 MR. RACHAL: Well, I think the
13 saturation of the grass went down along the side of
14 the building and got into the walls and required
15 them to do repair work. So they're --

16 MEMBER GILREATH: If engineers looked at
17 that and said that's an enduring problem, of course
18 you've got a case. It seems to me that assuming
19 that could be done and you -- it should be
20 investigated as a possibility, anyway.

21 VICE CHAIRPERSON KING: But also, Mr.
22 Gilreath, if you'll note where the property line --
23 we're talking about two-thirds of this being public
24 space. Two-thirds of the concrete is on public
25 space, is that not correct?

26 MR. BROWN: At least, if not more. I

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1 mean, you're looking at probably a very small -- on
2 the 9th Street side -- a very small band; probably
3 in the 5- or 6-foot range, and a little bit more on
4 the D Street side. So that certainly, there's more
5 public space than private space.

6 MEMBER GILREATH: Well, this could be
7 explored by DPW as part of a beautification program.
8 They might very well be interested in doing this
9 too. So it would be something to explore to what
10 have you, discuss.

11 I have a question. It says the --
12 sorry.

13 CHAIRPERSON REID: Excuse me. Mrs.
14 King, did you raise the issue also in the letter
15 from the Stanton Park Neighborhood Association in
16 regards to the screening of the heat pump?

17 VICE CHAIRPERSON KING: Oh no, I missed
18 that. Do we have plans to screen the heat pump?
19 You need to come forward and identify yourself; give
20 us your name and address.

21 CHAIRPERSON REID: What they're asking
22 is that the exterior appearance of the building be
23 further improved by relocating or screening the heat
24 pumps on the north side of the building and
25 replacing the window security as being a more
26 aesthetic design. How do you feel about that?

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1 MR. SHELTON: Well, when we receive --
2 I'm sorry, Jerome Shelton, current chairman of the
3 D.C. Teachers Federal Credit Union.

4 VICE CHAIRPERSON KING: Could we have
5 your home address please, Mr. Shelton?

6 MR. SHELTON: It's 2403 Lackawanna
7 Street, Adelphi, Maryland. I apologize to you all
8 for that indiscretion as a child of D.C.

9 The recommendations that came from our
10 community we took very seriously and it's been our
11 process throughout the years to as to put it before
12 committee to get some realistic cost factors and to
13 make a decision based on a committee recommendation.

14 The committee has been charged to look
15 at that and make suggestions. We had some ideas on
16 the books about putting some planters out there. We
17 haven't had (unintelligible) we just have not
18 approved them.

19 But the intent is to work with our
20 community to make sure there is aesthetic -- make
21 viable until we can get a real determination about
22 the technical aspects from the ANC and all of that
23 concrete. But it would be something that is there.
24 We took it very seriously.

25 VICE CHAIRPERSON KING: If you have the
26 endorsement of the Capitol Hill Restoration Society

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1 I suspect you're in like Flynn with the Capitol Hill
2 Neighborhood; that's almost never (inaudible).

3 MEMBER GILREATH: If I can ask another
4 question I'm having a little difficulty. Could you
5 clarify me why you're here? You said the Credit
6 Union operated and would like to continue the use.
7 So when you leased the property it had the
8 institutional zoning or no-zone, and when you bought
9 it the R-4 zone came into play? Is that what
10 happened? Is that why you're here -- for the use
11 variance?

12 MR. BROWN: What happened is, when they
13 originally began their use of the property they did
14 so under the auspices of the D.C. Public Schools.
15 Probably -- and I don't want to give it an opinion -
16 - but there was certainly the view I think, of some
17 that no independent approval was necessary.

18 The property that I'm aware of has
19 always been zoned R-4. At such time as the Credit
20 Union purchased the property and where they were now
21 independent of the Public School system -- and a
22 public school is a matter of right use in an R-4 and
23 even an R-1 zone -- but at the point where they
24 became independently the owner of the property,
25 realized that they needed to, in effect, go back and
26 get the appropriate zoning approvals.

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1 And that's what motivates -- what
2 brought us here today; to in effect, catch up the
3 paperwork with the reality: that the Credit Union's
4 been there, first under the school system and then
5 independently since the early 1980s.

6 MR. RACHAL: And if I could just add,
7 just to supplement the record, that the property was
8 not declared surplus until recently. There was the
9 view that it might always come back into the school
10 system -- not maybe as a school but as an
11 administrative office building for the school's use.

12 MEMBER GILREATH: Did you occupy -- when
13 you leased the building -- are you occupying most of
14 the building except for the police station there,
15 right?

16 MR. RACHAL: Well, we created the police
17 substation a few, what, months ago -- years ago now
18 -- with regard to the stairwell, one of the
19 stairwell areas. There was another school-related
20 tenant in the building when we first took over the
21 leasing of the building. That tenant --

22 MEMBER GILREATH: So you kind of recall
23 it being part of the school system -- the
24 (unintelligible) was there?

25 MR. RACHAL: That's correct; that's
26 right. And then there was always the anticipation

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1 as the owner, absolute owner, the D.C. School System
2 could not lease to us but could lease to someone
3 else, or to bring in another tenant with an
4 education-related nexus to the school system.

5 MEMBER GILREATH: I see. Okay, thank
6 you.

7 COMMISSIONER HOOD: I just have a
8 question. Did I understand you correctly to say
9 you created the police substation because of a
10 stairwell?

11 MR. RACHAL: We created it in -- given
12 the uniqueness of the building the stairwells are
13 rather wide, and there are two large landing areas
14 on which we placed a desk and other office support
15 furniture -- a fax machine, computers, file cabinets
16 -- on these two landings within the stairwells.

17 COMMISSIONER HOOD: They use that quite
18 a bit -- the substation? Are the police using the
19 substation quite a bit?

20 MR. RACHAL: There's a representative of
21 the police station to testify as to their use
22 presently and in the future.

23 MS. BAILEY: If I can have Dave
24 McWilliams introduce himself. He's chief executive
25 officer of the Credit Union. he's prepared to
26 testify to the current operations. They've been

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1 laid out in some detail in the pre-hearing
2 statement. So without objection -- and my apologies
3 to stealing Mr. McWilliams' thunder, but to open it
4 up to questions from the Board members?

5 VICE CHAIRPERSON KING: I have no
6 questions, Madam Chair.

7 MEMBER GILREATH: Nor I do I have. I
8 think it's a perfectly credible use.

9 VICE CHAIRPERSON KING: It's very clear.

10 COMMISSIONER HOOD: I have no questions.

11 CHAIRPERSON REID: Mr. Brown, do you
12 have anyone else that you wanted to say a few words
13 that have come here this afternoon?

14 MR. BROWN: Well, if I could ask
15 Reverend Brooks, Mr. Love, and Officer Freeman, if
16 you could just come up and --

17 CHAIRPERSON REID: Now, they're not a
18 part of the case; they're testifying in support of?

19 MR. BROWN: Yes -- well they're
20 witnesses as part of our case.

21 CHAIRPERSON REID: Okay. All right.

22 MR. BROWN: And they were listed in my
23 pre-hearing statement. If I could just ask each one
24 of them to come up and they could just -- and
25 identify themselves and say two words.

26 VICE CHAIRPERSON KING: Do you want to

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1 start, sir?

2 REVEREND BROOKS: Alphonzo Brooks, 2483
3 Alabama Avenue, S.E., Washington, D.C. I'm a senior
4 minister at The Way of the Cross Church on the
5 corner of 9th and D adjacent to the former Edmunds
6 School. We've been there since May of 1962. And we
7 developed a relationship with the renewal and
8 education when Nixon was there, and of course the
9 D.C. Credit Union was a part of that.

10 The school's been quite an asset to our
11 church with a large congregation. Parking has been
12 a tremendous problem at Capitol Hill. They've
13 opened up the parking lot for us to use the parking
14 grounds when they're not occupied. Also, it's been
15 an asset when they lit the grounds up and made the
16 neighborhood much brighter.

17 We were having a problem with
18 undesirables hanging around and selling drugs.
19 That's kind of cleaned up the neighborhood,
20 especially when the Police Department came as a
21 substation; that's been quite an asset. The members
22 don't feel intimidated by walking out there in the
23 evening for services. And we appreciate the fact
24 that the school has been a complement to our church.
25 Quite a few members of my church are in the D.C.
26 Credit Union and teachers in the city, the District

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1 of Columbia.

2 So I mean, I'm excited about the fact
3 that they came and took up that space before it
4 became a vacant building. And of course, what
5 happens then? So it has been a complement to our
6 church that they are there and I'm hoping that all
7 things that are necessary to keep them operating
8 will be under consideration.

9 CHAIRPERSON REID: Thank you.

10 MR. LOVE: My name is Roscoe Love. I'm
11 at 403 9th Street, N.E., which is across the street
12 from the Credit Union. I'm speaking on behalf of
13 the neighbors. The Credit Union has been a credit
14 to the neighborhood. The hours in which they are
15 open causes no problem at all to the neighbors,
16 which basically most of them are at work.

17 Is no parking problem. They are
18 completed their services by 4 or 4:30 every day
19 before people come home. The building is beautiful.
20 It's better than it ever looked as a school, and
21 it's just a credit to the neighborhood.

22 They post our monthly PSA-511 meeting,
23 which is every second Tuesday in the month. The
24 neighbors can use the facility for anything they
25 like. Mr. McWilliams has just been just great as
26 far as being nice to the neighbors in the

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1 neighborhood and it's a credit that they want to
2 purchase the building.

3 VICE CHAIRPERSON KING: They have an
4 auditorium, right?

5 MR. LOVE: Yes, they have an auditorium.

6 VICE CHAIRPERSON KING: How convenient
7 for the neighborhood.

8 MR. LOVE: It's a beautiful building. I
9 mean, it's never looked so pretty. Thank you.

10 CHAIRPERSON REID: I understand that
11 from the pre-hearing Commission that the Credit
12 Union was also made available to the community for
13 granting meetings?

14 MR. LOVE: Yes, yes. I mean, anything
15 other than -- I mean, the PSA-511 meeting kind of
16 ties in with the police substation. That's our
17 monthly meeting which the police and the neighbors
18 get together. But I mean, we could use it for
19 something else if it was something we needed -- to
20 have an emergency meeting for the neighborhood or
21 something.

22 They would more than likely host it for
23 us. And it's just open for anything and it helps
24 the church with their parking on Saturdays and
25 Sundays when they have a large congregation. And
26 it's just been a plus for the neighborhood. It's no

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1 problem at all.

2 OFFICER FREEMAN: Officer Kimberly
3 Freeman. I work out of the 5th District; 1805
4 Bladensburg Road, N.E. I'm here to say that the
5 substation that they have at 9th and D provides the
6 officer of PSA-511 with a safe place to do their
7 reports and if there was anything to happen in the
8 Credit Union we would be right there to help out.

9 And the space that they have provided
10 for us is a good space because we can see anything
11 that's coming up the steps. We're right there on
12 the landing. Thank you.

13 CHAIRPERSON REID: Thank you. Questions
14 from Board members? Mr. Brown, did you have any
15 other witnesses?

16 MR. BROWN: I don't think we've left
17 anybody out. Obviously, the whole group is
18 available and I'd like to reserve very brief closing
19 remarks to the end and make anybody else available
20 for questions.

21 VICE CHAIRPERSON KING: Did you give us
22 a copy of the -- no, you don't have the ANC.

23 CHAIRPERSON REID: We have it --
24 verbally, Mr. Brown, verbally just share with us
25 what they have discussed with you as far as what
26 their position is concerned, because we have not yet

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1 received that fax.

2 MR. BROWN: Yes, they met the latter
3 part of April in their Zoning and Licensing
4 Subcommittee. There were six commissioners present.
5 A detailed presentation was given and they voted, by
6 my count, six to zero in favor of the application.

7 I was not aware, and certainly when I
8 talked with Mr. Pinnell this morning, that there
9 were anything associated with it in the form of
10 conditions or anything like that; that is was just
11 approval.

12 CHAIRPERSON REID: We have informed the
13 president of the unanimous decision. I expect that
14 some time today we will receive it and we can still
15 have it entered for the record.

16 MR. BROWN: I understand you have been
17 having some difficulties with your fax machine. If
18 it arrives at my office I'd be happy to provide it
19 for the record.

20 CHAIRPERSON REID: Thank you. We'd
21 appreciate that. If we have no government report
22 we'll hear a report from -- there was a report from
23 the Historic Preservation, was it not?

24 VICE CHAIRPERSON KING: No, nothing from
25 the Historic Preservation --

26 CHAIRPERSON REID: Well, the Capitol

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1 Hill Restoration Society.

2 VICE CHAIRPERSON KING: Yes, who were in
3 support.

4 CHAIRPERSON REID: They're in support of
5 the application.

6 VICE CHAIRPERSON KING: But the Historic
7 Preservation Review Board wouldn't enter into this
8 since there's no proposal to make any exterior
9 changes in the building. Mrs. Gaddis is here from
10 the ANC, however.

11 CHAIRPERSON REID: Wait a minute, Mrs.
12 King. I have in my notes that the Zoning and Land
13 Association Historic Preservation Office, there was
14 a letter from them.

15 VICE CHAIRPERSON KING: That's from the
16 extent of our -- isn't it?

17 CHAIRPERSON REID: No. There's a
18 government report. There's an Historic Preservation
19 -- that's what -- I don't see it but I --

20 VICE CHAIRPERSON KING: I didn't get it.

21 CHAIRPERSON REID: Okay. It was
22 determined that -- they supported the application
23 and the -- because of the --

24 VICE CHAIRPERSON KING: What is the date
25 of this?

26 CHAIRPERSON REID: August 6, 1998, and

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1 because of there being an historic -- the building
2 is an historic landmark and so therefore the parking
3 requirement has been waived, I think. Yes. Thank
4 you.

5 Persons and parties in support of the
6 application please come forward. Is anyone else is
7 here other than the witnesses that you brought?
8 Okay.

9 MS. GADDIS: Well, as I said, my name is
10 Virginia Gaddis and I'm a former ANC commissioner
11 there for 15 years -- up until two years ago and
12 I've continued to go to all of the meetings, so I
13 feel very much -

14 VICE CHAIRPERSON KING: Could we have
15 your home address, Mrs. Gaddis?

16 MS. GADDIS: I beg your pardon?

17 VICE CHAIRPERSON KING: Could we have
18 your home address?

19 MS. GADDIS: Yes, I filled out the card.

20 VICE CHAIRPERSON KING: If you could
21 just speak it into the machine.

22 MS. GADDIS: I live at 238 11th Street,
23 N.E. That's about two or three blocks away. And I
24 was pleased to see that Stanton Park did make a note
25 of my remarks at the hearing and incorporated them
26 in their testimony to you in regard to parking on

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1 the public space.

2 That's one of the concerns and if you
3 read their application you will see they say they
4 have more than enough parking. More than enough
5 should be a removal, if possible, and I'm sure it is
6 possible -- or at least it should be open to
7 discussion with the Historic Preservation Review
8 Board and the Public Space Administration.

9 I have a letter here from Mr. Del Robey
10 who was in charge of Public Space for some years,
11 and he sent me a copy of the regulations, which I
12 think back up what I'm saying there. That in front
13 of the building, between the building line and the
14 sidewalk, are these four, painted-in spaces.
15 Frequently, they are occupied -- I won't even say
16 frequently -- but sometimes they are occupied by
17 automobiles; which is not the best viewing for the
18 homes across the street.

19 And I have pictures taken of the
20 neighborhood and I have them all labeled if you'd
21 like me to pass them down. But that is one of the
22 important things that I thought needed to be
23 addressed.

24 VICE CHAIRPERSON KING: If you enter
25 them in the record we need to keep the photographs,
26 Mrs. Gaddis.

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1 MS. GADDIS: That will be all right.
2 And I think I did want them -- I hoped that sometime
3 they would address the matter of the concrete. I
4 think they have somewhat addressed most of my
5 concerns. And the one that everybody is bypassing
6 is the doors -- what appears to have been a
7 substantial change in the doorway facing 9th Street.
8 This is 901 D Street, incidently.

9 I think if they had ever been before
10 Historic Preservation review on the doorway changes
11 they might have come up with something else. There
12 is a blank space up over the door and I think they
13 could find a very much better door if they worked on
14 it a little bit. And I don't fault them because I'm
15 sure they have a great many concerns and have had
16 over the last few years.

17 We've had -- this area has been a drug
18 haven over the last several years and it has come
19 under control recently, and I may have had a part in
20 that in that -- yes, these are all of the pictures
21 and they're all labeled. And these are the doors
22 that I'm speaking of; that's the door in particular
23 that I'm speaking of.

24 And I think both doors on both sides
25 that face the public are -- I do not believe they
26 pass muster with Historic Preservation review. And

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1 otherwise I think -- let me see what other concerns
2 I had; if there were some unaddressed.

3 Yes, the parking that is shown on their
4 -- this sheet shows it going right out into the
5 street, over the sidewalk. Do you have this copy of
6 this thing? It doesn't show any sidewalk at all and
7 there is a fairly wide, newly bricked I believe,
8 sidewalk out there.

9 And the curb cut has either been -- I
10 don't believe it's new so it must have been just
11 refurbished recently. Made perhaps, when the
12 sidewalk was bricked, is that what happened? But
13 anyway, I guess I would like somebody to explain why
14 the parking is shown going right up over the
15 sidewalk.

16 VICE CHAIRPERSON KING: I think what
17 we're operating from at the current time, Mrs.
18 Gaddis, is this one where Mr. Rachal showed that all
19 of one and part of two additional parking spaces
20 were behind that retaining wall.

21 MS. GADDIS: Anyway, I think all of
22 those things -- since this is a commercial operation
23 and no doubt it's probably profitable, very
24 profitable, I think it needs to pay special
25 attention to the fact that it is in the historic
26 district and be especially careful because all of

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1 the people around are kind of forced to be careful
2 of what they do relative to the Historic
3 Preservation principle.

4 And we have some very bad examples of
5 people who did not follow it, in the close area
6 also. But I suspect this group would not in that
7 group; that they would like to participate in the
8 historic district with the rest of us.

9 And I believe that unless I see
10 something else here -- oh, I see the one showing the
11 places -- I'm going to give you this one. It shows
12 the three parking places. And what was a
13 preponderance of concrete the three marked-off
14 parking places might suggest that at any moment they
15 wanted to they might just spread them all across the
16 concrete.

17 I don't suppose they will do that but
18 it's just a thought. I think we're trying to cover
19 some ground here that we won't get a chance to cover
20 again until perhaps they take some of the parking
21 and the aesthetics of the doorways to the Historic
22 Preservation Review Board.

23 And again, I am pleased that Stanton
24 Park did reflect my concerns about that. This has
25 been a very troubled area now for years with the
26 drug people, and this has now at this time -- and it

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1 may be because of the new substation -- has become
2 considerably calmer. And I have seen some good
3 repairs along the sidewalk recently, too, that I
4 suspect this group has been responsible for.

5 So I think that --

6 VICE CHAIRPERSON KING: They're nodding,
7 so I think you're right.

8 MS. GADDIS: So I think that maybe I
9 don't need to say any more here.

10 VICE CHAIRPERSON KING: Thank you very
11 much, Mrs. Gaddis.

12 CHAIRPERSON REID: Any questions? Thank
13 you. Persons and parties in opposition.

14 VICE CHAIRPERSON KING: No, that's what
15 we've done.

16 CHAIRPERSON REID: No, she was a
17 support. She came up in support.

18 VICE CHAIRPERSON KING: No, she came up
19 in opposition but --

20 CHAIRPERSON REID: Let's be clear on
21 that. Mrs. Gladdis? Gladden?

22 MS. GADDIS: Gaddis, G-A-D-D-I-S.

23 CHAIRPERSON REID: You came up in
24 support of the application, is that not correct?

25 MS. GADDIS: Well, I wasn't totally
26 because I was fearful that they wouldn't tend to

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1 some of my concerns, but at the same time I don't
2 think they are terribly -- they are serious enough
3 to say "no" to the project. I think that what
4 they're doing -- they have been possibly, maybe one
5 of the best tenants we could get there; although
6 I've also had a feeling when a business becomes
7 successful enough, maybe it ought to occupy
8 commercial space.

9 CHAIRPERSON REID: So basically you're
10 saying you're in support but with reservations --

11 MS. GADDIS: Right, with reservations --

12 CHAIRPERSON REID: -- and you aired to
13 us what your reservations were?

14 MS. GADDIS: And the conditions about
15 the parking. Because if everybody decided they were
16 going to park in their front yard you can just
17 envision what would happen on Capitol Hill. And
18 that is essentially what they're doing.

19 CHAIRPERSON REID: Well, Mrs. Gladdis,
20 you did hear the testimony that they presented in
21 regards to that particular issue that was raised --

22 MS. GADDIS: I think they're going to
23 deal with it.

24 CHAIRPERSON REID: Okay.

25 MS. GADDIS: Sure. Thank you very much.

26 CHAIRPERSON REID: Thank you.

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1 VICE CHAIRPERSON KING: Thank you, Ms.
2 Gaddis.

3 CHAIRPERSON REID: No persons or parties
4 in opposition appears -- there does not appear to be
5 anyone here in opposition. So closing arguments
6 from the applicant. Mr. Brown?

7 MR. BROWN: Very briefly, and I said
8 that a week ago and I wasn't true to my word. I
9 will be today. The remarks that Ms. Gladdis made
10 are important and are part of -- the Credit Union
11 inherited this property: the doors, the concrete,
12 the parking. And they're in the process of moving
13 forward, and whether they come from Ms. Gaddis, the
14 ANC or others, they're listening, and her support
15 and her comments are welcome -- both now and in the
16 future.

17 Briefly, they've met the 3-part test for
18 the variance. The record is complete. I would ask
19 first for the Board to issue a bench decision. The
20 circumstances are appropriate for that. And also I
21 think in a case like this, a summary order would
22 also be appropriate and help out both the applicant
23 and the Board and its staff.

24 So I close with asking for a bench
25 decision of approval and the summary order. Thank
26 you.

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1 CHAIRPERSON REID: Board members, I
2 would move approval of this application.

3 MEMBER GILREATH: I second the motion.

4 CHAIRPERSON REID: I think that the
5 applicant has certainly met his burden of proof, and
6 in regards to variances there would be no doubt that
7 this is a particularly unusual property, very unique
8 in this particular community, and that obviously to
9 be able to apply its existing zoning regulations
10 would impose an undue hardship.

11 I think that the adverse impact aspect
12 of it has been demonstrated that, there's no one
13 here in opposition to the property. There were some
14 concerns raised by Stanton Park Neighborhood
15 Association and another witness here. But they I
16 think, have been addressed and mitigated to the best
17 of the applicant's ability.

18 I don't feel that it would impair the
19 intent or integrity of the zoning regulation or map
20 in that effect; just the opposite. I think that
21 this particular facility serves a great purpose for
22 the community. The community seems to be very much
23 in support of its existence.

24 The fact that they allowed a church to
25 park on that parking lot, and that type of traffic
26 and parking problem away from the community, as well

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1 as the fact that it allows the community to meet --
2 use the facility as a meeting place and they have
3 also placed the police substation which is of help
4 to ameliorate some of the problems with the drug
5 trafficking in that area, has indeed in my opinion,
6 been an asset to the community. And I therefore
7 would move that we approve the application.

8 VICE CHAIRPERSON KING: Could I make
9 just one suggestion, Madam Chair? I totally support
10 this. I would like to impose upon them the
11 requirement that they check with the government
12 authorities on the question of the possible illegal
13 use of public space for parking on the D Street,
14 N.E. side of the building.

15 I mean, they've made a commitment to do
16 what they can with the beautification and I
17 understand the financial considerations that that
18 involves, but I do think that the question that's
19 been raised about the possible historical misuse of
20 public space needs to be clarified. And I would ask
21 that that be imposed as a condition; that they
22 clarify the use of public space for parking on the D
23 Street side if that's acceptable to my colleagues.

24 COMMISSIONER HOOD: Yes, that's fine.

25 MEMBER GILREATH: Fine.

26 CHAIRPERSON REID: Is there a second?

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1 MEMBER GILREATH: I second.

2 VICE CHAIRPERSON KING: It was seconded
3 before.

4 MEMBER GILREATH: I don't think it
5 should be a condition but I think perhaps I heard
6 that you were going to pursue this. Hopefully, you
7 could take a look at those doors. I looked at the
8 pictures and perhaps as overtime, as you refurnish
9 and add to and improve here and there, that you take
10 a look at those doors. That maybe indeed a more
11 historically compatible door might be provided.

12 CHAIRPERSON REID: Mr. Hood, comments?

13 COMMISSIONER HOOD: No, no comments. I
14 could talk just to hear myself, but I won't.

15 CHAIRPERSON REID: There was one other
16 thing that was requested by the Stanton Park
17 Neighborhood Association and that was a request that
18 if we granted the application that the approval be
19 only for the use of the Credit Union. And I don't
20 think we can do that. I think that the use goes
21 with the land.

22 MR. BROWN: That's correct.

23 CHAIRPERSON REID: So that's not
24 something within our purview to be able to do. I
25 just wanted to address that request that we cannot
26 do that.

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1 All in favor?

2 (Chorus of ayes.)

3 Opposed?

4 (No response.)

5 MR. HART: Madam Chair, before I read
6 this, the request by the Board to check with the
7 government on the possible illegal use of public
8 space, is that going to be a condition or leave the
9 record open for some kind of verification?

10 CHAIRPERSON REID: Mr. Bergstein has
11 left. I'm not sure we can condition a use variance.

12 MR. BROWN: One of the problems there
13 is, it's a public space issue and whether you have
14 jurisdiction to it. Something in the nature of --
15 and it may not rise to the level of condition -- but
16 indicating that, you know, is the Board's preference
17 -- and this probably wouldn't appear in an Order --
18 is that they pursue investigation and appropriate
19 action with it.

20 It could be included in an Order. You
21 do get into problems about your jurisdiction ending
22 at the public space line.

23 VICE CHAIRPERSON KING: You're quite
24 right. But you all look like downright, upright,
25 forthright people and you said you'll do it so we'll
26 take your word for it. Besides which, I know a

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1 whole bunch of you.

2 CHAIRPERSON REID: All right. Mr.

3 Brown, you will provide us with a draft of --

4 MR. BROWN: I'd be happy to do so.

5 VICE CHAIRPERSON KING: Oh, for a

6 summary order? I don't think we need it. Summary

7 order, bench decision?

8 CHAIRPERSON REID: Oh, that's right --

9 MR. BROWN: I would be happy to assist

10 in --

11 CHAIRPERSON REID: No, that's right.

12 VICE CHAIRPERSON KING: It's in the

13 machine.

14 CHAIRPERSON REID: She's correct.

15 VICE CHAIRPERSON KING: You just have to

16 put the numbers in.

17 CHAIRPERSON REID: This will not require

18 -- oh, excuse me.

19 MR. HART: But we will include some

20 language referring to what I just spoke about,

21 somewhere in the summary order.

22 MR. BROWN: In the text of it, rather

23 than in the conditions?

24 MR. HART: Yes, yes.

25 VICE CHAIRPERSON KING: About what?

26 MR. HART: What we just discussed about

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1 the use of public space.

2 VICE CHAIRPERSON KING: No, no. It's
3 not within -- Mr. Brown has quite rightly pointed
4 out that it's really not within our jurisdiction
5 because it's public land not private land. So it's
6 just a straightforward summary order and we're
7 relying on their good faith, of which I believe they
8 have an abundance, that they will check it out.

9 MR. HART: Okay. Staff will record the
10 vote as four to zero to grant: Mrs. Reid, Mr.
11 Gilreath, Mrs. King, Mr. Hood. This will be a bench
12 decision and summary order.

13 CHAIRPERSON REID: You should have your
14 order in approximately two weeks.

15 MR. BROWN: Thank you very much.

16 CHAIRPERSON REID: Thank you. We'll
17 recess for approximately five minutes.

18 (Whereupon, the foregoing matter went
19 off the record at 3:12 p.m. and went
20 back on the record at 3:22 p.m.)

21 CHAIRPERSON REID: We will resume the
22 afternoon session, and Mr. Hart, would you please
23 call the next case?

24 MR. HART: Application No. 16467, of
25 Emma Salter, pursuant to 11 DCMR 3107.2, for a
26 variance from Subsections 403.2 and 404.1 from the

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1 lot occupancy requirements for a second-story
2 addition to a single-family dwelling in an R-4
3 District at premises 1011 Maryland Avenue, N.E.
4 (Square N-962, Lot 3).

5 Madam Chair, the applicants have already
6 been sworn in.

7 MR. PREDDIE: Good afternoon. Let me
8 introduce first, this is Mrs. Emma Salter. She is
9 the owner of the property, and my name is Keith D.
10 Preddie and I'm at 3925 Georgia Avenue, N.W.,
11 Washington, D.C. 20011. I'm the agent acting for
12 the owner.

13 What it is, we have a single family
14 dwelling --

15 CHAIRPERSON REID: Excuse me one second.
16 Mr. Hart, did you say that the applicant has been
17 sworn in -- both parties have been sworn in? I know
18 he has.

19 MR. HART: Just the -- no, you have not
20 been sworn in.

21 MR. PREDDIE: No, she hasn't.

22 MR. HART: Do you plan to testify?

23 MS. SALTER: Yes.

24 MR. HART: Please stand.

25 (Ms. Salter sworn.)

26 MR. PREDDIE: What it is, we're applying

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1 for a second-story addition, 20-wide by eight feet
2 deep. The addition comes out to -- basically takes
3 up the full lot occupancy use and also comes all the
4 way to the rear yard.

5 I'm going to let Mrs. Salter explain to
6 you the reason why she wants the addition. It's
7 just a second-story addition. It's going to be on
8 metal columns, and I'm going to let her take it from
9 here.

10 MS. SALTER: My name is Emma L. Salter.
11 I live at 1011 Maryland Avenue, N.E., Washington,
12 D.C. 20002. The reason we would like to go with
13 this second story addition is, I take care of my
14 mother which is 84 years old. I've had to relocate
15 her with me. She is -- her health has failed. So
16 consequently, I don't have the facilities that I
17 need to take care of her -- like a bath, a walk-in
18 shower, space to use proper equipment.

19 I had to move her here in an emergency
20 so I had to do with what I had, so I'm trying to
21 make provisions for her as comfortable as I can in
22 her last years. Her health is really down now. She
23 doesn't eat, she's had surgery on the 6th of April
24 and she doesn't walk now. So she's really just
25 laying there and I need this space to help to take
26 care of her.

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1 Any questions?

2 CHAIRPERSON REID: Yes. Mr. Preddie,

3 what is your role?

4 MR. PREDDIE: I am the agent. I'll be

5 getting the permit once this has been approved.

6 CHAIRPERSON REID: In other words,

7 you're the facilitator?

8 MR. PREDDIE: Yes.

9 CHAIRPERSON REID: You're the permit

10 facilitator, basically?

11 MR. PREDDIE: Yes.

12 CHAIRPERSON REID: Oh, okay. Mr.

13 Preddie, as a facilitator you are familiar with the

14 procedures here as to the grant variance?

15 MR. PREDDIE: Yes, ma'am.

16 CHAIRPERSON REID: Okay, so you are

17 prepared to demonstrate how you are able to meet the

18 burden of proof for the 3-pronged test for a

19 variance?

20 MR. PREDDIE: Yes. Well, the first

21 part, the burden of proof, the lot that she has

22 right now, it's a small lot. The house takes up

23 over 60 percent of the lot already. If you look at

24 the plans that you should have in front of you

25 that's in the package you can see the size of the

26 lot compared to the house.

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1 With the rear addition, the second-floor
2 addition, because it's not that much out it's
3 coming. There's already a porch there that they're
4 going to be removing and they're going to come out
5 with that rear addition. So they really don't have
6 any space to do any other addition but that. It's
7 not like we have -- there's not even a 20-foot rear
8 yard.

9 CHAIRPERSON REID: So you're saying that
10 the house already occupies in excess of the --

11 MR. PREDDIE: The required --

12 CHAIRPERSON REID: -- required lot --

13 MR. PREDDIE: Yes, ma'am.

14 CHAIRPERSON REID: -- occupancy?

15 MR. PREDDIE: Yes, it does.

16 MEMBER GILREATH: So it's a non-
17 conforming use right now?

18 MR. PREDDIE: Yes.

19 CHAIRPERSON REID: Now, you want to add
20 to a non-conforming use?

21 MR. PREDDIE: Yes, ma'am.

22 MEMBER GILREATH: I would think that lot
23 unique in that there are simply no -- it occupies so
24 much of the area that there's no place for
25 expansion. One could make, to my mind, an argument
26 of saying that if it covers most of the lot already

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1 that it's a hardship there's no place to go unless
2 you get some kind of relief.

3 CHAIRPERSON REID: Someone -- is that a
4 copy there? Just a moment.

5 VICE CHAIRPERSON KING: While you're
6 checking that, do you live in an historic district?

7 MS. SALTER: Yes.

8 VICE CHAIRPERSON KING: And do you not
9 have to get the --

10 MR. PREDDIE: She already got the
11 historic approval.

12 VICE CHAIRPERSON KING: You have
13 Historic Preservation Review Board approval?

14 MR. PREDDIE: Yes, we have. It should
15 be on that -- the copy of the application they
16 signed. I've been in front of this Board already
17 for that. So if you look at the copy of the
18 application, on the back, it's had historic approval
19 already.

20 VICE CHAIRPERSON KING: Now, have you
21 appeared before ANC Commission 6-A?

22 MR. PREDDIE: No, I didn't meet with
23 them.

24 VICE CHAIRPERSON KING: Why was that?
25 Because Mr. Preddie, they wrote to you twice. Mr. -
26 -

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1 MR. PREDDIE: I only got one --

2 VICE CHAIRPERSON KING: -- Pinnell, Dave

3 --

4 MR. PREDDIE: I got one letter from the

5 ANC and when I received the letter I had already

6 missed the date.

7 VICE CHAIRPERSON KING: April 19th and

8 May 13th they wrote to you and you still haven't had

9 a chance to meet with them?

10 MR. PREDDIE: Well, the date that they

11 had was for May 12th.

12 VICE CHAIRPERSON KING: Pardon?

13 MR. PREDDIE: The date that they had for

14 me to meet with them was May 12th.

15 VICE CHAIRPERSON KING: Does anybody

16 have anything from the Historic Preservation review

17 Board in their files?

18 COMMISSIONER HOOD: It wasn't in my

19 file.

20 VICE CHAIRPERSON KING: I don't see

21 anything in my file either, Mr. Preddie.

22 MEMBER GILREATH: I didn't get anything

23 either.

24 MR. PREDDIE: Do you have a copy of the

25 application?

26 VICE CHAIRPERSON KING: You mean this

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1 application form?

2 MR. PREDDIE: No, the building permit
3 application. Because I came here with Steve Calcut.
4 I think that should be the last sheet. That should
5 be page 4, I believe.

6 COMMISSIONER HOOD: Historic
7 Preservation is Number 15 and they checked off 16,
8 which is structural engineering.

9 MR. PREDDIE: Right.

10 COMMISSIONER HOOD: Am I reading that
11 correct? If anyone wants to --

12 CHAIRPERSON REID: I'm sorry, what did
13 you say?

14 COMMISSIONER HOOD: That he's referring
15 to Historical Preservation (inaudible) and as you
16 can see, that would be 15. That's 16 they've signed
17 off. Unless I'm --

18 CHAIRPERSON REID: That is correct. I
19 found --

20 VICE CHAIRPERSON KING: Wait a minute.
21 Here's restrictions of the permit. Historic
22 Preservation clearance conforms with mayor's agent
23 approval under D.C. Law 2-144.

24 CHAIRPERSON REID: Read that out loud,
25 please, Ms. King.

26 VICE CHAIRPERSON KING: It says,

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1 "Restrictions of the permit: DCRA" --

2 CHAIRPERSON REID: And that's reading
3 from the application.

4 VICE CHAIRPERSON KING: -- "Building and
5 Land Regulation Administration, Historic
6 Preservation Division. Historic Preservation
7 clearance conforms with the mayor's agent approval
8 under D.C. Law 2-144."

9 But there's nothing from the Historic
10 Preservation Review Board.

11 CHAIRPERSON REID: What does that mean?

12 VICE CHAIRPERSON KING: I don't know.
13 Beverly or Paul, can you tell us? Help us. What
14 does this mean? They mayor's agent apparently
15 approves, but what about the Historic Preservation
16 Review Board? Don't they have to pass on the plans?

17 MS. BAILEY: What did you say sir, you
18 went to the Historic Preservation before?

19 MR. PREDDIE: Yes, I came before with
20 Steve Calcut.

21 MS. BAILEY: Steve Calcut is not on the
22 Historic Preservation --

23 MR. PREDDIE: He's not on the Board, but
24 he is a Historic Preservation reviewer down at DCRA.
25 And I came here with him and what happened was, I
26 was approved with changes that he recommended, and

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1 it was said that I didn't have to return back to the
2 Board. You could verify this with Steve Calcut
3 himself.

4 VICE CHAIRPERSON KING: You've never
5 been before the Historic Preservation --

6 MR. PREDDIE: Yes, I came to this Board.

7 VICE CHAIRPERSON KING: This --

8 MR. PREDDIE: To this same hearing room,
9 yes.

10 CHAIRPERSON REID: Oh, no, don't they
11 meet in the same room? There's another Board that
12 meets in this same hearing room but not us.

13 COMMISSIONER HOOD: He understands that.
14 He's just saying that he's already been to Historic
15 Preservation --

16 MR. PREDDIE: Right --

17 COMMISSIONER HOOD: -- in this room.

18 MR. PREDDIE: Right.

19 VICE CHAIRPERSON KING: And did they
20 supply you with a letter?

21 MR. PREDDIE: No, I didn't get a letter.

22 VICE CHAIRPERSON KING: When did you
23 appear before them?

24 MR. PREDDIE: I think it was in March or
25 April of last year; I'm not sure.

26 VICE CHAIRPERSON KING: Of last year?

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1 MR. PREDDIE: Yes, it was last ---
2 VICE CHAIRPERSON KING: You mean 1998?
3 MR. PREDDIE: Yes, 1998.
4 VICE CHAIRPERSON KING: In 1998?
5 MR. PREDDIE: Yes. I mean, it might
6 have been --
7 VICE CHAIRPERSON KING: And you never
8 got a letter from them?
9 MR. PREDDIE: No, I never got a letter;
10 not from the Historic Preservation.
11 CHAIRPERSON REID: Okay. In regard to
12 the non-conforming structures, the regulation says
13 that -- 2001.3 states, "enlargements or additions
14 may be made to the structure provided that the
15 following requirements shall be met: a) the
16 structure shall conform to concerns of lot occupancy
17 requirements; b) addition" --
18 VICE CHAIRPERSON KING: And this --
19 CHAIRPERSON REID: "The addition or lot
20 itself to conform to use and structural
21 requirements; and c) the addition or enlargement
22 itself shall not increase or extend any existing
23 non-conforming aspect of the structure and shall not
24 create any new non-conformity of structure and
25 addition combined."
26 VICE CHAIRPERSON KING: But that's why

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1 he's here, because he wants a variance from that.

2 Right?

3 CHAIRPERSON REID: He's not asking for a
4 variance from that. He's asking for a variance from
5 the setback -- from the lot occupancy requirement.

6 MEMBER GILREATH: It says from the lot
7 occupancy requirements.

8 CHAIRPERSON REID: He's not asking --

9 MEMBER GILREATH: I guess the percentage
10 of the occupancy of the lot is what he's --

11 CHAIRPERSON REID: Yes, I'm really not
12 sure of -- I've asked the Corp Counsel be called to
13 answer this question because I'm really not sure as
14 to what the regulations state clearly. I'm not
15 quite sure to the interpretation of the regulations
16 as to a non-conforming structure.

17 And my understanding, my read on this,
18 is that you are not allowed to add to or to extend
19 the non-conformancy of an already existing non-
20 conforming structure. So I think that was what we
21 would have to do; is to when he comes down --

22 MS. SALTER: Is this what your manual
23 says?

24 CHAIRPERSON REID: Yes, that's what the
25 regulations state.

26 MEMBER GILREATH: It's hard to believe

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1 that if all non-conforming structures you can never
2 make any kind of change to them, it would be kind of
3 really --

4 CHAIRPERSON REID: Remember when we had
5 the restaurant -- the Florida Avenue Associates?
6 Noors? And that was the contention in that
7 particular case; that allowing that --

8 MEMBER GILREATH: Additional room or
9 whatever.

10 CHAIRPERSON REID: The additional room
11 was added to a non-conforming use, and that was --

12 MEMBER GILREATH: But we approved it and
13 I think Corporation Counsel gave us guidance on
14 that.

15 CHAIRPERSON REID: Yes, I know that we
16 did but what I'm saying is that it seems that there
17 was some loophole or something and I'm just not sure
18 and that's why I wanted to get a read from Corp
19 Counsel.

20 MR. PREDDIE: Saying this is a hardship,
21 it doesn't matter? In Mrs. Salter's case.

22 CHAIRPERSON REID: We have to go back
23 to, what is unique -- the uniqueness is for the non-
24 conformity --

25 MR. PREDDIE: Right.

26 CHAIRPERSON REID: -- and then in order

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1 to comply with the existing zoning regulations there
2 would be a practical difficulty. Because -- in the
3 first place, it's already in excess of the lot
4 occupancy requirements. So the other -- let's just
5 kind of go through some of the other aspects of the
6 case and then we'll come back.

7 MR. PREDDIE: Okay.

8 CHAIRPERSON REID: And that is, adverse
9 impact. To your knowledge, has there been anyone
10 who complained about the fact that you wanted to add
11 the addition? Any neighbors or abutting property
12 owners, in regard to traffic noise, parking, lights,
13 or anything like that? We don't have anything in
14 our files indicating otherwise.

15 Also, with regard to the intent and
16 integrity of the zoning regulations and map, do you
17 feel that there would be an impairment?

18 MR. PREDDIE: A --

19 CHAIRPERSON REID: An impairment --

20 VICE CHAIRPERSON KING: Why would there
21 not be an impairment?

22 MR. PREDDIE: Excuse me?

23 VICE CHAIRPERSON KING: It seems to me
24 that there is an impairment. Why would it not be an
25 impairment?

26 CHAIRPERSON REID: You're asking why

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1 would it not impair?

2 VICE CHAIRPERSON KING: Yes. Why would
3 it not impair the intent and purposes of the zoning
4 map and regulations?

5 MR. PREDDIE: Why would it not
6 interfere?

7 VICE CHAIRPERSON KING: Yes.

8 MR. PREDDIE: I can't say that it
9 wouldn't, but in her case what happens with the
10 property going with that addition -- there's an
11 existing porch there now. It's an enclosed porch?

12 MS. SALTER: No, it's open.

13 MR. PREDDIE: It's an open porch. But
14 it's not taking up that much more space than that
15 porch is taking.

16 CHAIRPERSON REID: Wait, wait. Let me
17 understand, Mr. Preddie. You're saying that the
18 addition is going to go into the same space where
19 the --

20 MR. PREDDIE: Right, there's an existing
21 porch there --

22 CHAIRPERSON REID: -- existing porch is
23 now?

24 MR. PREDDIE: Right.

25 CHAIRPERSON REID: Oh, okay, well I
26 didn't understand it was that way.

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1 MR. PREDDIE: The porch is going to be
2 removed, but it's not taking up that much more
3 space.

4 CHAIRPERSON REID: In other words, this
5 is going to replace?

6 MR. PREDDIE: Right, you know, and just
7 taking up some --

8 CHAIRPERSON REID: Oh, okay. I didn't
9 have an understanding on the way that that -- yes,
10 Mr. Hood.

11 COMMISSIONER HOOD: I just wanted to
12 piggy-back. So the porch is already on the second
13 level?

14 MR. PREDDIE: Yes, the porch --

15 VICE CHAIRPERSON KING: On the first and
16 second level?

17 MR. PREDDIE: No, it's the second level.

18 VICE CHAIRPERSON KING: What's on the
19 first level?

20 MS. SALTER: There was a porch on the
21 first level and I just never put it back. I took it
22 down because it was wooden and I never, you know,
23 placed it back there. But on record it's supposed
24 to be there because I never, you know, showed that I
25 took it down.

26 VICE CHAIRPERSON KING: And what you're

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1 adding on, is it the exact same size as the porch?
2 MS. SALTER: No.
3 VICE CHAIRPERSON KING: It's bigger?
4 MS. SALTER: It's a little larger.
5 VICE CHAIRPERSON KING: How much larger?
6 how large is the porch?
7 MS. SALTER: I would have to ask him.
8 MR. PREDDIE: The porch right now comes
9 out 4 X 20, I believe. So it's going to be four
10 feet larger than the porch.
11 VICE CHAIRPERSON KING: Four feet
12 larger?
13 MR. PREDDIE: Yes, because the addition
14 is going to be eight.
15 VICE CHAIRPERSON KING: Do we have any
16 plans?
17 MR. PREDDIE: Yes, you should have plans
18 in --
19 VICE CHAIRPERSON KING: Oh, I'm sorry.
20 CHAIRPERSON REID: Mr. Preddie, let me
21 ask you this. Can you come forward? This says,
22 existing -- I think it says -- does that say
23 entrance or existing porch?
24 MR. PREDDIE: It says existing porch.
25 CHAIRPERSON REID: Okay, but it's
26 crossed out.

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1 MR. PREDDIE: Okay, that's the front.
2 This is where the new addition is going --
3 CHAIRPERSON REID: So you're taking this
4 --
5 MR. PREDDIE: No, this is staying there.
6 Just this portion -- we're not touching that.
7 CHAIRPERSON REID: Well, why is that
8 crossed out?
9 MR. PREDDIE: Well, it's just crossed
10 out at -- well, it's just that's not existing and
11 it's not in --
12 CHAIRPERSON REID: Okay, that's there?
13 MR. PREDDIE: Right.
14 CHAIRPERSON REID: Okay, so then --
15 MR. PREDDIE: That's the new addition.
16 CHAIRPERSON REID: The new addition is
17 going to go almost all the way to the lot line?
18 MR. PREDDIE: Right, right.
19 CHAIRPERSON REID: But this porch is
20 here. That's on the other side; it's not here.
21 MR. PREDDIE: Can I show you? Here is
22 an existing porch here. This is going to be moved;
23 it's going to come out to almost right here.
24 CHAIRPERSON REID: Where's the lot line?
25 MR. PREDDIE: This is the lot line here.
26 CHAIRPERSON REID: Here?

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1 MR. PREDDIE: Right.

2 CHAIRPERSON REID: Okay, so it's going
3 to come all the way to about here?

4 MR. PREDDIE: Yes, ma'am.

5 VICE CHAIRPERSON KING: And there will
6 be no rear yard whatsoever?

7 MR. PREDDIE: No, there isn't any rear
8 yard there now, really.

9 CHAIRPERSON REID: So the existing --
10 that porch that you had is showing that this porch
11 is here --

12 MR. PREDDIE: That front porch is there.

13 CHAIRPERSON REID: Okay, I thought you
14 said if you took the porch down this is --

15 MS. SALTER: We're talking about the
16 alley in the back.

17 MR. PREDDIE: The back porch.

18 MEMBER GILREATH: She took the lower
19 porch in the back down. The first floor.

20 CHAIRPERSON REID: Oh, so you're saying
21 that when you took this down then --

22 MS. SALTER: The first level. I did not
23 replace or put back the porch on the first level.

24 MR. PREDDIE: That's in the rear.

25 MEMBER GILREATH: The second floor of
26 the porch is held up by posts or columns of some

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1 kind?

2 MR. PREDDIE: Yes, steel columns. It's
3 all implanted.

4 MS. SALTER: By steel columns, yes.
5 It's a steel porch itself now.

6 MEMBER GILREATH: And your addition, the
7 second floor, you would look something like that to
8 support it then?

9 MR. PREDDIE: Right, it will be steel
10 columns supporting aluminum siding.

11 VICE CHAIRPERSON KING: And will there
12 be anything on the first floor?

13 MR. PREDDIE: No.

14 VICE CHAIRPERSON KING: What are you
15 going to put underneath it on the first floor; just
16 pillars?

17 MS. SALTER: Yes, the steel posts.

18 VICE CHAIRPERSON KING: And are you
19 going to fill it in with anything?

20 MR. PREDDIE: We're going to block it
21 off.

22 VICE CHAIRPERSON KING: So that will be
23 enclosed also?

24 MR. PREDDIE: Right, but the steel
25 columns will be enclosed.

26 VICE CHAIRPERSON KING: Will there be a

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1 room on the first floor below the room that you're
2 building on the second floor?

3 MR. PREDDIE: No, ma'am. No.

4 MEMBER GILREATH: Will you have grass or
5 plantings -- if you're going to enclose the columns
6 I'd get some kind of planting, but the rest of it's
7 just going to be vacant?

8 MR. PREDDIE: Right, it will be -- and
9 there's no grass below there. It's all concrete.

10 MS. SALTER: It's all concrete right now
11 with the exception of one little area to the right.
12 Do you see the wall on the right? The brick wall?

13 COMMISSIONER HOOD: What are your plans
14 in that little --

15 MS. SALTER: What are my plans there?
16 Eventually I would like to put a porch back there.

17 COMMISSIONER HOOD: I'm talking the
18 second level.

19 MS. SALTER: What are my plans for the
20 second level?

21 COMMISSIONER HOOD: No, for the --
22 you're building on the second level. But beneath
23 that you have another area.

24 MS. SALTER: Right. Just an open area.

25 COMMISSIONER HOOD: Just an open area?

26 MS. SALTER: Yes, we just use it for

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1 general -- barbecues. You know, just what you would
2 use a yard for. Patio. On the first level, it's
3 not going to be enclosed. It's going to be an open
4 area. Even if I added a porch there it's going to
5 be an open porch.

6 MR. PREDDIE: Just railing.

7 CHAIRPERSON REID: We'll go to a second
8 session break.

9 (Whereupon, the foregoing matter went
10 off the record at 3:45 p.m. and went
11 back on the record at 4:14 p.m.)

12 CHAIRPERSON REID: There was no ANC
13 report and no government report --

14 VICE CHAIRPERSON KING: So the ANC tried
15 -- has sent us copies of two letters that Mr.
16 Pinnell says he sent to Mr. Preddie and got --

17 CHAIRPERSON REID: Requesting he come to
18 a meeting --

19 VICE CHAIRPERSON KING: Inviting him to
20 come and meet with them; that there was --

21 CHAIRPERSON REID: There's no letter
22 submitted by the ANC --

23 VICE CHAIRPERSON KING: No, because they
24 haven't met.

25 CHAIRPERSON REID: They have not met --

26 VICE CHAIRPERSON KING: Mr. Preddie was

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1 invited in the letter of April 19th to a meeting on
2 the 12th of May. Apparently, he says he did not
3 receive that letter.

4 MR. PREDDIE: No, that one --

5 VICE CHAIRPERSON KING: A second notice
6 was sent on the 13th of May inviting him to a
7 meeting on Wednesday the 12th of June -- which of
8 course, is ten days from today.

9 CHAIRPERSON REID: Okay, we didn't get a
10 report from the Historic Preservation on this case.
11 Persons and parties in support the application?
12 Person and parties in opposition to the application?
13 Seeing none, closing remarks by the applicant.

14 MR. PREDDIE: Well, the only thing I can
15 say right now, that Mrs. Salter is applying for this
16 variance for her mother because of her mother's
17 decreasing health. And if -- I would put it on the
18 Board that if we could grant her at least an
19 opportunity to do that because we don't know how
20 much longer her Mom has.

21 CHAIRPERSON REID: Board members, I
22 would suggest that we take this up at our next
23 regularly scheduled meeting.

24 VICE CHAIRPERSON KING: I don't see any
25 reason not to put Mrs. Salter out of her agony right
26 now. I mean, have we not concluded that it is --

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1 I'm prepared to make a motion, regretfully, but --

2 COMMISSIONER HOOD: I agree with Mrs.
3 King.

4 CHAIRPERSON REID: All right. You want
5 to vote for --

6 VICE CHAIRPERSON KING: I make a motion
7 that we disapprove this application because it does
8 not meet the uniqueness standard.

9 MEMBER GILREATH: I second the motion.
10 We do this regretfully. The --

11 VICE CHAIRPERSON KING: Very
12 regretfully.

13 MEMBER GILREATH: -- zoning regulations
14 are such that -- well, there's no uniqueness on your
15 property. Now conceivably, working through your
16 Ward, how that works, you and the other property
17 owners could make a request through your -- I guess
18 your Ward chairman, however that works -- to perhaps
19 have your block rezoned whereby the rezone, perhaps
20 you would have greater lot occupancy and so forth.
21 But BZA is really -- we're not in a position to do
22 that.

23 COMMISSIONER HOOD: What happens I
24 believe, a lot of times, you do a petition to the
25 Office of Planning. You may want to start that
26 route so the Zoning Commission can look at the

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1 overall area, to piggy-back on what Commissioner
2 Gilreath was saying. That's how it works.

3 CHAIRPERSON REID: Regrettably, when we
4 looked at the entire picture we were not able to
5 determine that there was something unique about that
6 particular property. It appears that all the
7 properties right there in that strip had the same
8 problem. And so we could not in isolation, do
9 something that was to the benefit of one property
10 owner without giving the same accommodation to the
11 others.

12 And it's beyond our purview. That would
13 be something that would have to be taken up with the
14 Zoning Commission. And so we were not able to come
15 up to the conclusion of being able to grant the
16 relief that you requested.

17 All in favor?

18 (Chorus of ayes.)

19 Opposed?

20 (No response.)

21 VICE CHAIRPERSON KING: You know, you
22 might, if you and your neighbors were to meet with
23 your Advisory Neighborhood Commission, they might be
24 willing to support you in asking for a zoning change
25 for that whole block.

26 MS. SALTER: Let me ask you a question

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1 then. I have a porch, as I said earlier, open porch
2 on the second level that's there now. What -- could
3 I possibly have that enclosed? Would that also
4 change the --

5 VICE CHAIRPERSON KING: I think they
6 need to talk to the Department of Consumer and
7 Regulatory Affairs about that.

8 CHAIRPERSON REID: That's true, that's
9 very true.

10 VICE CHAIRPERSON KING: I mean, it's an
11 open porch now?

12 MS. SALTER: Yes.

13 CHAIRPERSON REID: So that is already in
14 there?

15 MR. PREDDIE: Right.

16 MS. SALTER: Yes.

17 CHAIRPERSON REID: And so then that --
18 perhaps that may be a better approach to it.

19 VICE CHAIRPERSON KING: But ask the
20 Department of Consumer and Regulatory Affairs if
21 that would create a problem. You've got your --

22 MR. PREDDIE: The porch is there.

23 VICE CHAIRPERSON KING: -- plans and
24 photographs and so forth. You can consult them.

25 CHAIRPERSON REID: You would not be
26 adding to a non-conforming use.

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1 MR. PREDDIE: It would just be an
2 enclosure.

3 CHAIRPERSON REID: Yes.

4 MR. PREDDIE: I'll talk to Zoning
5 because it might still be a BZA issue, but I'm not
6 sure.

7 CHAIRPERSON REID: I don't think so.

8 MR. PREDDIE: Well, okay, if he says --

9 VICE CHAIRPERSON KING: Well, I'm not
10 certain --

11 CHAIRPERSON REID: We're not sure but I
12 think there will probably be a more practical and
13 efficient approach then even having to do through
14 the process of getting a zoning change.

15 MR. PREDDIE: Yes, because that takes a
16 long period of time.

17 CHAIRPERSON REID: Since you already do
18 have that porch there that can probably give you
19 some relief that you asked for.

20 MR. PREDDIE: Have you ever had a zoning
21 change done and can you tell me the approximate time
22 that took?

23 MEMBER GILREATH: It can take months.
24 It's got to go OP, Office of Planning, they submit
25 it to the City Council --

26 CHAIRPERSON REID: Yes, you may not want

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1 to go that route. You may want to go -- just like
2 you said, you know you have that porch, so I'd work
3 with that porch.

4 MEMBER GILREATH: Yes, that's your best
5 bet in the short run.

6 COMMISSIONER HOOD: But even if you
7 pursue it the other way I would think you would
8 start with the Office of Planning.

9 MEMBER GILREATH: And the other would
10 be, you get the neighbors together and get support;
11 working through the ANC.

12 COMMISSIONER HOOD: Right, right.

13 MEMBER GILREATH: I would start at that
14 level and then eventually go to OP and if they
15 accept this it goes to City Council to be reviewed,
16 and then it's circulated to the National Capital
17 Planning Commission. You have to change the
18 comprehensive plan, I believe.

19 COMMISSIONER HOOD: It doesn't go to the
20 City Council, I believe. I think what happens, and
21 Mr. Bergstein can correct me, you go to Office of
22 Planning and they'll petition the Zoning Commission.
23 The Zoning Commission will then decide. From that
24 standpoint it will go, once the Zoning Commission
25 makes their decision and if it's favorable it would
26 then go to the National Capital Planning Commission

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1 and it will come back and then it will be adopted.

2 MEMBER GILREATH: That's probably a year
3 or two endeavor.

4 MS. SALTER: Thank you.

5 MR. HART: The staff will record the
6 vote as four to zero to deny: Mrs. King, Mr.
7 Gilreath, Mr. Hood, and Mrs. Reid.

8 The next case --

9 CHAIRPERSON REID: Thank you. Before
10 you call the next case I need a 2-minute recess.

11 (Whereupon, the foregoing matter went
12 off the record at 4:21.p.m. and went
13 back on the record at 4:24 p.m.)

14 MR. HART: The final case, Application
15 16468, of Washington International School, pursuant
16 to 11 DCMR 3108.1, for a special exception under
17 Section 206 to continue the use of trailers for
18 temporary classroom use on the campus of the
19 existing private school in an R-1-A District at
20 premises 3100 Macomb Street, N.W. (Square 2084, Lot
21 837).

22 Persons planning to testify in this case
23 please stand and raise your right hand to take the
24 oath.

25 (Witnesses sworn.)

26 MR. DePUY: Madam Chair, members of the

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1 Board, for the record I'm Jacques DePuy, attorney
2 with Greenstein, DeLorme & Luchs representing the
3 applicant, the Washington International School.
4 This is an application for extension of authority
5 which this Board granted four years ago.

6 The authority is due to run out at the
7 end of this month. As our pre-hearing submission
8 indicated, the school intends to use the trailer for
9 a year or perhaps even less, but because of the
10 construction of another building on the campus, is
11 back before this board to ask that it extend the
12 authority which was previously granted.

13 When we checked the record there was no
14 report from the Advisory Neighborhood Commission 3-C
15 or from Friends of Trigaran Foundation, and we have
16 copies of those letters. I wanted to ask the chair
17 if those letters have gotten into the file or not?

18 CHAIRPERSON REID: I don't have them in
19 my file. Does anyone else have them?

20 MR. DePUY: With permission of the chair
21 I'll submit both of these letters for the record,
22 and while I'm at it I'll also submit a copy of the
23 testimony of Anne-Marie Pierce, the Head who is
24 going to testify this morning. Ms. Pierce?

25 CHAIRPERSON REID: Mr. DePuy, first of
26 all let me thank you for your patience this

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1 afternoon and the delays. Also, this appears to be
2 a very straightforward case and we don't -- there
3 doesn't appear to be any opposition. So therefore
4 rely primarily on your written submission which
5 we've read, and expedite your case by giving us
6 salient points. And I think that this will be a
7 fairly simple case.

8 MR. DePUY: Thank you. We recognize
9 that ourselves and also recognition of the lateness
10 of the hour I instructed both witnesses to be very
11 brief and they will in fact, be brief and just cover
12 the highlights of the case.

13 CHAIRPERSON REID: Okay, thank you.

14 MR. DePUY: Thank you.

15 MS. PIERCE: Good afternoon, Madam
16 Chairperson and members of the Board. I'm Anne-
17 Marie Pierce, Head of the Washington International
18 School and I live at 1334 22nd Street, N.W.

19 I am accompanied by our counsel who you
20 have met, and by Tim Lovett, AIA, our architect, of
21 the architectural firm of Bowie Gridley. I appeared
22 before you with respect to the application 16189
23 which sought approval of an increase in student
24 enrollment and the authority to construct a new Arts
25 and Athletic Center on our Trigaran campus.

26 You were kind enough to grant it in

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1 February '97. Unfortunately, because of delays
2 associated with the issuance of bonds for the
3 construction of the new facility we were not able to
4 instruct our architect to proceed with final plans
5 and drawings until very recently, and construction
6 is slated to start in two weeks.

7 It is therefore essential for us to
8 extend the use of the temporary classroom for the
9 time of the construction, and immediately after
10 construction which should end in the spring of 2000,
11 I would be more than happy to see those classrooms
12 go and move into the new building.

13 We have, as you have heard, support of
14 the ANC-3-C and the Friends of Trigaran, and we have
15 worked with our neighbor on a regular basis. The
16 trailer is sited on the Trigaran campus in such a
17 location as to be virtually invisible to the
18 surrounding residential community. It is well
19 screened and buffeted by virtue of the distance
20 between the trailer and the closest residences,
21 which is approximately 300 feet.

22 There is no noise emanating from within
23 the trailer classroom and this application doesn't
24 constitute any additional student, teachers, staff,
25 visitors, or any changes. We do not expect to need
26 the classroom trailer for longer than 10 to 12

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1 months, but just in case we're asking for two years.

2 And I would be very happy to answer any
3 questions. Thank you for your consideration.

4 MEMBER GILREATH: Madam Chair, John
5 Parsons is one of our BZA members. He sits on the
6 Zoning Commission. And before he left today he
7 indicated he had no concern, any problems with the
8 continuation of these temporary classrooms.

9 He said however, that -- he asked if I
10 could bring your attention. He says that there is a
11 significant water runoff problem over there and it's
12 running into Klinge Park. And he would like to
13 have this brought to your attention.

14 Something perhaps you could study and
15 see if perhaps as you maintain and improve your site
16 if this could be looked at and see if some kind of
17 reasonable measure could be taken to mitigate this
18 storm water runoff and reduce the amount of, I
19 guess, the pollution of the park. He said the Park
20 Service is very concerned --

21 MS. PIERCE: It's part of the plan of
22 the Arts and Athletic Center is to have -- may I ask
23 our architect to explain what it is that would be
24 there for water runoff?

25 MR. LOVETT: My name is Tim Lovett. My
26 address is 2211 N. Quantico Street, Arlington,

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1 Virginia. I'm with the architectural firm of Bowie
2 Gridley Architects.

3 In answer to your question, Ms. Pierce
4 was correct in that in contemplating the Arts and
5 Athletic Center we have gone before the District and
6 have secured necessary permits to provide stormwater
7 management control, which has to be done in a
8 structure to be constructed on the site to control
9 quantity and quality control of the water runoff.
10 During the construction we'll also follow the D.C.
11 regulations for sediment and erosion control.

12 MEMBER GILREATH: That's good to hear
13 and I will certainly convey that to Mr. Parsons.

14 VICE CHAIRPERSON KING: Does that mean
15 that there will no longer be that constant drip of
16 water across Klinge Street, or does this just deal
17 with your new construction?

18 MR. LOVETT: This deals primarily with
19 the water runoff to the Macomb Street side.

20 VICE CHAIRPERSON KING: From the new
21 construction or from the entire Trigaran Estate?

22 MR. LOVETT: The stormwater management
23 systems we're putting into place takes care of the
24 new impervious areas we're creating on the campus,
25 which is the parking --

26 VICE CHAIRPERSON KING: It does nothing

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1 about what's been going on for the 20 years that
2 I've lived in that neighborhood?

3 MR. LOVETT: No ma'am, not across
4 Klingle Street.

5 VICE CHAIRPERSON KING: So I'm afraid
6 that's only a part that's going to make John partly
7 happy.

8 MEMBER GILREATH: Well, is it possible
9 you could study that and see to what degree maybe,
10 you could do some additional work on this that would
11 be within reasonable cost limits? It is a concern
12 of the Park Service and they are hoping that you
13 could take a look at that.

14 MS. PIERCE: Yes, I would like to
15 attract your attention that the runoff that you are
16 speaking of is not on the property we own.

17 VICE CHAIRPERSON KING: It's from the
18 property you own onto Klingle Street, is it not?

19 MS. PIERCE: The school -- we own the
20 part that is at the top of the hill and the runoff
21 we're talking about is going to Macomb. This part
22 outside of the second line and this runoff to
23 Klingle, is part of the -- it's owned by a
24 developer, Trigaran Property.

25 VICE CHAIRPERSON KING: I see.

26 MS. PIERCE: And we're not even allowed

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1 to do anything to it.

2 VICE CHAIRPERSON KING: So you have
3 nothing to do with the Klinge Road. Which is your
4 property?

5 MS. PIERCE: Our property is right here
6 within the first line.

7 VICE CHAIRPERSON KING: I see, okay.

8 MS. PIERCE: And the second line is the
9 green buffer zone between -- that was required by an
10 original zoning. It's sort of a no man's land right
11 here.

12 VICE CHAIRPERSON KING: I see. But who
13 owns it? You own it?

14 MS. PIERCE: We have it on a 200-year
15 lease.

16 VICE CHAIRPERSON KING: I see.

17 MS. PIERCE: So, I guess so.

18 VICE CHAIRPERSON KING: And where does
19 the slope begin from the Trigaran -- I presume that
20 --

21 MS. PIERCE: This is the very top of it,
22 here.

23 VICE CHAIRPERSON KING: Okay, and I
24 presume that thing with the lovely bump at the end
25 is the original mansion, is that correct?

26 MS. PIERCE: That's the mansion.

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1 VICE CHAIRPERSON KING: And where does
2 the slope begin?

3 MS. PIERCE: All those lines represent a
4 10-foot drop.

5 VICE CHAIRPERSON KING: Okay, so the
6 slope does begin on your property? If each of those
7 lines is a 10-foot drop the first line -- top over
8 three lines, are on your property?

9 MS. PIERCE: The water runoff comes from
10 a wetland park which is -- oh, it's right here.

11 VICE CHAIRPERSON KING: And that's your
12 driveway going down to Klinge Road?

13 MS. PIERCE: We don't own the driveway.

14 MEMBER GILREATH: Are you saying that --

15 MS. PIERCE: It's a common driveway.

16 MEMBER GILREATH: -- none of the
17 stormwater runoff drains -- the soil from your
18 property, it drains in the other direction. It
19 doesn't go out to Klinge?

20 MS. PIERCE: Right. And the water
21 runoff which has destroyed Klinge rolls on several
22 occasions --

23 VICE CHAIRPERSON KING: On numerous
24 occasions.

25 MS. PIERCE: -- comes from here.

26 MEMBER GILREATH: Okay, well I will

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1 discuss it with Mr. Parsons and explain your
2 explanation to him. Thank you.

3 VICE CHAIRPERSON KING: I can't believe
4 that -- I mean, this has been a thorn in everybody's
5 flesh for 30 years, maybe. At least 20 years,
6 wouldn't you say? And I can't believe that someone
7 on John's staff doesn't have information about all
8 of this.

9 But it's a terrible problem and
10 Klinge's been closed for 12, 15 years, hasn't it?
11 Maybe not that long, but a lot time. People who
12 live on it love it being closed.

13 MS. PIERCE: The Army Corps of Engineers
14 did a study so that there should be a file. The
15 Army Corps of Engineers did a study relatively
16 recently; you know, maybe six years ago. And
17 determining that it is wetland, Chesapeake Bay
18 wetland.

19 CHAIRPERSON REID: The ANC report --

20 VICE CHAIRPERSON KING: The ANC has
21 voted --

22 CHAIRPERSON REID: I suppose we have to
23 waive our rules to allow it to be entered into the
24 record.

25 VICE CHAIRPERSON KING: I move that we
26 do so.

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1 MEMBER GILREATH: Second the motion.
2 CHAIRPERSON REID: All in favor?
3 (Chorus of ayes.)
4 Opposed?
5 (No response.)
6 VICE CHAIRPERSON KING: At a meeting on
7 the 26th of April, a quorum being present and duly
8 they voted. Now be it therefore resolved the ANC
9 has no objection to the continued use of the
10 trailers for temporary classrooms on the school
11 campus. But they want them to continue to be
12 screened, which since they're not going to be moved,
13 they would be just as they are at the present time.
14 You're not moving them until you take them down
15 altogether?
16 MS. PIERCE: They are now completely
17 covered with landscaping.
18 CHAIRPERSON REID: Okay. I don't have
19 any government report.
20 VICE CHAIRPERSON KING: Not that I'm
21 aware of.
22 CHAIRPERSON REID: Persons or parties in
23 support, seeing none; persons or parties in
24 opposition, seeing none. Closing remarks by the
25 applicant.
26 MR. DePUY: Madam Chair, we'd waive our

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1 closing remarks and simply ask the Board to grant a
2 bench decision affirmatively and a summary order.

3 CHAIRPERSON REID: Mr. DePuy, there was
4 a letter submitted by the Friends of Trigaran that
5 was in support and I forgot to say that when I asked
6 for it. The only portion of the letter that they
7 conditioned their --

8 VICE CHAIRPERSON KING: Screened from
9 view.

10 CHAIRPERSON REID: -- saying that the
11 trailers are kept from the view of the residential
12 community to the best of the school's ability. If
13 you could do that; and the new construction to
14 proceed in agreement with the January 8th, 1997
15 contract between the Friends of Trigaran and the
16 school. Do you agree with that and you are in
17 compliance with that?

18 MR. DePUY: Yes, that is in force and
19 effect and we intend to fully comply with that and
20 will continue to work with that organization on the
21 construction.

22 CHAIRPERSON REID: Okay, okay,
23 excellent. All right, then --

24 VICE CHAIRPERSON KING: Madam Chairman,
25 I move that we grant an extension of two years under
26 the present conditions of the Order that permits the

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1 International School to have trailers while they're
2 constructing new classrooms.

3 The use of the trailers to cease as soon
4 as the construction is complete, because I've
5 understand you've built into that 2-year request a
6 little wiggle room. But the trailers go when the
7 new classrooms open, is that correct?

8 MS. PIERCE: Yes.

9 VICE CHAIRPERSON KING: Whether or not
10 it's two years or less?

11 MS. PIERCE: It should be much less.

12 VICE CHAIRPERSON KING: Yes, that's
13 great.

14 MEMBER GILREATH: I second the motion.

15 CHAIRPERSON REID: I agree. I concur
16 with my colleagues and I feel that they have
17 complied with the zoning regulations and that they
18 should be granted the relief that they have asked;
19 that in no way is there any adverse impact currently
20 from this application being approved, nor is it
21 impairing the intent and integrity of the zoning map
22 and regulations.

23 Mr. Hood, do you have anything?

24 COMMISSIONER HOOD: No, I concur with my
25 colleagues.

26 CHAIRPERSON REID: All in favor?

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1 (Chorus of ayes.)
2 Opposed?
3 (No response.)
4 MR. HART: Staff will record the vote as
5 four to zero to grant the request and extension:
6 Mrs. King, Mr. Gilreath, Mr. Hood, and Mrs. Reid.
7 This will be a summary order with conditions.
8 CHAIRPERSON REID: Thank you. Good
9 luck. And that concludes the June 2nd hearing
10 before the Board of Zoning Adjustment.
11 (Whereupon, the hearing was concluded at
12 4:40 p.m.)
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