

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

JANUARY 5, 2000

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHEILA CROSS REID	Chairperson
JERRY H. GILREATH	Board Member
ROBERT N. SOCKWELL	Board Member

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD	Chairperson
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COMMISSION STAFF PRESENT:

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

OTHER AGENCY STAFF PRESENT:

Mary Vogle, Office of Planning

D.C. OFFICE OF CORPORATION COUNSEL:

Alan Bergstein, Esq.
Marie Sansone, Esq.

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Time: 1:02 p.m.

CHAIRPERSON REID: Good afternoon. This is the January 5th public hearing of January 5, Year 2000, the first hearing of this century of the Board of Zoning Adjustment of the District of Columbia.

My name is Sheila Cross Reed, Chairperson.

Joining me today are Robert N. Sockwell who will be -- who is just arriving, and Jerry Gilreath representing the National Capital Planning Commission, and representing the Zoning Commission is Anthony Hood.

Copies of today's hearing agenda are available to you. They are located to my left near the door. All persons planning to testify either in favor or in opposition are to fill out two witness cards. These cards are located at each end of the table in front of us.

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

The order of procedure for special exception and variance cases is as follows: Statement and witness of the applicant; government reports, including Office of Planning, Department of Public Works, ANC, etcetera; persons and parties in support;

1 persons and parties in opposition; closing remarks by
2 the applicant. Cross-examination of witnesses is
3 permitted, but persons and parties must have direct
4 interest in the case.

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

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

14 Please turn off all beepers and cellphones
15 at this time so as not to disrupt these proceedings.

16 The Board will make every effort to
17 conclude the public hearing as nearly as possible at
18 five o'clock p.m. If the applicant cases are not
19 completed at 5:00 p.m., the Board will assess whether
20 it can leave the pending case or cases remaining on the
21 agenda.

22 At this time, the Board will consider any
23 preliminary matters. Preliminary matters are those
24 which relate to whether a case will or should be heard
25 today, such as requests for postponement, continuance

1 or withdrawal, whether proper and adequate notice of
2 the hearing has been given.

3 If you are not prepared to go forward with
4 the case today or if you believe that the Board should
5 not proceed, now is the time to raise such a matter.
6 Are there any preliminary matters?

7 Does the staff have any preliminary
8 matters?

9 MS. PRUITT: No, Madam Chair. There's no
10 preliminary matters.

11 CHAIRPERSON REID: Then, if not, let's
12 proceed with the first case for the afternoon.

13 MS. PRUITT: I'm sorry. I need to correct
14 myself. I believe that the Board wanted to sort of
15 resume one piece of business from this morning on Case
16 Number 16485 of John and Nancy Kreuth.

17 CHAIRPERSON REID: Okay. In that regard,
18 we just made a motion for the reopening of that
19 particular case in order to receive additional
20 information and further clarify for us the exact nature
21 of that application.

22 BOARD MEMBER SOCKWELL: Under Section
23 3330.2 of Zoning Regulations the Board may on its own
24 motion reopen the record and require further hearing on
25 designated issues.

1 On that particular case, which
2 unfortunately, the number is --

3 CHAIRPERSON REID: Case Number?

4 MS. PRUITT: 16485.

5 BOARD MEMBER SOCKWELL: -- 16485 -- John and
6 I think it's --

7 MS. PRUITT: Nancy Kreuth.

8 BOARD MEMBER SOCKWELL: -- Nancy Kreuth, an
9 application for a special exception to the setback
10 requirements for a penthouse extension.

11 I move that we reopen the record and
12 require further hearing on the elevator -- future
13 elevator areas of the penthouse and the requirements
14 for the setback relief.

15 BOARD MEMBER GILREATH: Madam Chair, I'm
16 not sure we necessarily have to address the elevator
17 part of this. The clarification would be on the
18 stairway. It's a future use. We were going to, as I
19 understand it, require some kind of special exception.

20 MS. PRUITT: My understanding is, just for
21 my clarification and for the record here, you're
22 reopening a further hearing to address the specific
23 items. Is that correct?

24 BOARD MEMBER GILREATH: Yes, specific items
25 of the stairs, specific items as related to the stair.

1 CHAIRPERSON REID: Any second?

2 BOARD MEMBER SOCKWELL: Madam Chair, I
3 second the motion.

4 CHAIRPERSON REID: Okay. All in favor,
5 aye. Opposed?

6 COMMISSIONER HOOD: Madam Chair, I'd like
7 to be recorded as not voting, not having participated.

8 MS. PRUITT: Madam Chair, staff would
9 record the vote as motion made by Mr. Sockwell,
10 seconded by Mr. Gilreath, to reopen the record and
11 schedule a hearing. Based on our calendar, this could
12 be heard on the first hearing date in April. Let me
13 give you an exact date.

14 BOARD MEMBER GILREATH: Madam Chair, is
15 that the best we could do? We have responded to this
16 and took action on it. If indeed the calendar will not
17 allow otherwise -- but it seems to me that we owe the
18 applicant some consideration to make it as early as we
19 reasonably could.

20 MS. PRUITT: Then the earliest would be
21 March. Also, the other --

22 CHAIRPERSON REID: What about the next
23 hearing date on the 19th?

24 MS. PRUITT: It is under this section. You
25 only have to give ten days. So the 19th would be

1 available, if you wanted to add it to the end of the
2 agenda.

3 CHAIRPERSON REID: Well, I think that we
4 are aware of the fact that there is some anxiousness
5 regarding this specific application. So let's try to
6 accommodate him by having it on the 19th. It shouldn't
7 take too long, even though I know that we do have a
8 full calendar for that day.

9 MS. PRUITT: Staff will actually put that
10 on. It will not be on any public hearing notices,
11 because they have already gone out, but ones that will
12 be here for the agenda for that date, we will add it.

13 CHAIRPERSON REID: All right. First case
14 of the afternoon, please?

15 MS. PRUITT: The first case of the
16 afternoon, Application 16520, application of 2125 S
17 Street, LLC., pursuant to 3103.2 for a variance from
18 the maximum height limitation and the minimum court
19 width requirements as required under Subsections 400.1
20 and 406.1 for the construction of a four-story single
21 family dwelling in an R-3 District at 2127 S Street,
22 N.W. (Square 2531, Lot 12).

23 All those planning to testify, would you
24 please stand and raise your right hand? I'm sorry, the
25 correction is -- There is a correction in the square.

1 I believe the square is 2532. So we will amend that to
2 include that.

3 All planning to testify, do you swear or
4 affirm that the testimony you are going to give is the
5 truth? Thank you. Please proceed.

6 (Witnesses sworn.)

7 MR. COLLINS: Good afternoon, Madam
8 Chairperson, members of the Board. My name is
9 Christopher Collins. With me is Dennis Hughes with the
10 law firm of Wilkes, Artis, Hedrick & Lane. Seated to
11 my right are Larry Smith representing the applicant and
12 Rachel Chung of Sorg and Associates, the architect of
13 the project.

14 This is an application for a height
15 variance and a court width variance for the
16 construction of a single family dwelling on the north
17 side of S Street, just west of Connecticut Avenue.

18 The construction will occur on a vacant
19 lot, record Lot 12. Record Lot 12 was created about 95
20 years ago as a record lot. It is the only vacant
21 record lot in the vicinity. It is adjacent to 2125 S
22 Street, which was before the Board in October for
23 approval for the conversion of the former Holton Arms
24 School to an eight-unit condominium. You may recall
25 that case.

1 This is a companion case to that where
2 we're taking the vacant land on the west side of that
3 building and building a single family residence.

4 The property is zoned R-3, and it's also in
5 the Sheridan-Kalorama Historic District. The
6 surrounding buildings surrounding this building are
7 four and five-stories tall.

8 The R-3 zone allows three stories and 40
9 feet in height. The proposed building, proposed home,
10 will be four stories and 49 feet, 10 inches in height.

11 There is a setback at the fourth floor level at about
12 38 foot height which does two things. It meets the
13 spirit of the 40 foot height limit. It also reflects
14 the higher height of the various buildings in the area,
15 in the Historic District.

16 The Historic Preservation Review Board,
17 when they reviewed this application back in the
18 summertime, specifically requested or recommended that
19 this Board approve variance relief for the height. I
20 can point that out to you as we go through the
21 exhibits.

22 There is also a court width requirement.
23 The court width is based upon the height of the court,
24 and as the building rises, so does the width of the
25 court requirement increase.

1 The court that will occur here as a result
2 of this construction is similar in size to the court
3 widths of other adjacent homes in the Historic
4 District, and we'll show that to you when we go through
5 the exhibits. If the building was limited to three
6 stories, we could likely meet the court width
7 requirements.

8 We have met with ANC-1D several times for
9 this project as a whole, including the most recent
10 meeting in December to talk about -- I believe it was
11 December; I may have that date wrong -- to talk about
12 this particular project.

13 We have a written agreement with ANC-1D
14 which applies -- That written agreement applies to both
15 2125 S Street, which was before you previously, and
16 2127 S, which is this project. A copy of that order --
17 of that agreement, I'm sorry, has been submitted to the
18 record. I have additional copies in case you don't
19 have them. If you do not, I'd be happy to find them.

20 CHAIRPERSON REID: Yes, we do. We have a
21 copy of it.

22 MR. COLLINS: Thank you. At this time, I
23 would like to just review the exhibits with you, if I
24 may.

25 Exhibit A is the Baste & Sanborn maps of

1 the site. You can see the first page of Exhibit A
2 shows the subject site outlined in red, and you can see
3 Lot 12. You can see all the other lots in that square,
4 and you can notice the courts. You have the building
5 footprints on the various lots, and the width of the
6 courts, the width and depth of the courts in all those
7 houses.

8 This was a method used for a long, long
9 time to increase the amount of fenestration around the
10 walls of a row dwelling, creating a light court. Our
11 court will be similar in size, shallower in depth than
12 the other courts but similar in width.

13 Exhibit B is zoning map of the site. You
14 can see it's in the R-3 zone.

15 Exhibit C is the architectural plans for
16 the project, which Ms. Chung will go through in more
17 detail during her presentation.

18 Exhibit D is a rendering of the proposed
19 building. It's the same rendering as what's on the
20 easel before you. The building that we're speaking of
21 is on the lefthand side of that drawing.

22 The main building with the five windows
23 across the front on the second and third floors and
24 fourth floor as well is 2125 S, which you previously
25 saw. 2127 is the building to the left of that which

1 has the building face on line on the ground floor, a
2 setback at the second floor level going to the third
3 floor, and then another setback at the fourth floor
4 level with a balustrade that echoes the design of the
5 building adjacent.

6 BOARD MEMBER GILREATH: Are you saying the
7 building in question you want to build is the smaller
8 one sandwiched in between the two larger buildings?

9 MR. COLLINS: It's the one that Ms. Chung
10 is referring to right now. It's set back at the second
11 and third floor levels.

12 BOARD MEMBER SOCKWELL: By the way, just
13 for your information, Mr. Collins, the Exhibit B --
14 Exhibit A happens to indicate 2125 for both addresses
15 at the same time it shows 2127 on the other.

16 MR. COLLINS: You're correct in that, and
17 that is an error in the Bast Atlas map. We received
18 the address assignment from DCRA for 2127 S. The
19 building that's shown on the Bast as 2127 S is actually
20 -- the address is actually 2129 S. That's how that
21 shakes out.

22 BOARD MEMBER SOCKWELL: Okay.

23 MR. COLLINS: But thank you for pointing
24 that out, because I didn't want to have any confusion
25 on that issue.

1 Exhibit E is the Historic Preservation
2 Review Board staff report and recommendation which was
3 adopted by the Board with several changes. At the
4 bottom of the first page of Exhibit E, you can see
5 where the Board -- the staff described the vacant lot
6 at the west of the main house, the main house being
7 2125 which you had before you in October.

8 It talks about the fact that the original
9 garden wall with its stone balustrade will be rebuilt
10 and incorporated into the first story of the house,
11 which it's done. Material of construction will be
12 brick and stone, which the drawing shows.

13 The first full paragraph on page 2, the
14 very last sentence, the staff supports a variance that
15 would allow the building to be four stories high. Then
16 down toward the bottom, the next to last underlined
17 paragraph, actually a one-sentence paragraph, in
18 addition, the staff recommends that the Board recommend
19 that the new construction be four stories tall.

20 The Board adopted this with some minor
21 corrections, which Mr. Smith can talk about during the
22 course of his presentation. But in essence, the Board
23 of HPRB, did recommend to this Board -- They understood
24 the need for variance relief to have a four-story
25 building and recommended it was their preference that

1 this be a four-story building in the Historic District,
2 so it would match the height of its neighbors.

3 CHAIRPERSON REID: I had a question about
4 the last paragraph. It says the staff recommends that
5 the Board find that the addition to be raised to allow
6 for the development of the quad do not contribute to
7 significant and understanding of the structure and, in
8 some cases, their integrity has been compromised.

9 MR. COLLINS: Yes.

10 CHAIRPERSON REID: Can you clarify for me
11 what that --

12 MR. COLLINS: Yes. There is -- On the rear
13 portion of Lot 12, as Ms. Chung will address in more
14 detail, there is an accessory structure, which is
15 actually an appendage that came over from Lot 49 as it
16 continues over.

17 If you look at Exhibit A, the first page of
18 Exhibit A on Lot 12, you'll see written sideways on Lot
19 12, 2125. That's the square footage of the lot. Then
20 there is a building at the rear which you see drawn in
21 there with just a line going probably three-quarters of
22 the way up.

23 The building sits on the alley -- I mean,
24 abuts the alley. It doesn't sit exactly on the alley.
25 It abuts the alley. That's a building, accessory

1 building, in the rear that will be taken down as part
2 of this development project.

3 That also -- That staff report also refers
4 to the entirety of 2125 S and 2121 S and 2127. There
5 are some accessory buildings in there that will have to
6 be taken down in order to allow that development to
7 occur, and that's what those are referring to as well.

8 CHAIRPERSON REID: Okay.

9 MR. COLLINS: But there is a small
10 accessory building. Actually, it's not too small at
11 all.

12 BOARD MEMBER SOCKWELL: Three stories.

13 MR. COLLINS: Three stories tall. That may
14 be coming down. Will be coming down.

15 CHAIRPERSON REID: Okay.

16 MR. COLLINS: We have had discussions with
17 the community resulting in the signed agreement which I
18 referred to, and that's been submitted to the record.

19 Unless you have any specific questions, I'd
20 like to go to Mr. Smith as the first witness.

21 Mr. Smith, could you please identify
22 yourself and proceed with your testimony.

23 MR. SMITH: Yes, thank you. My name is
24 Lawrence Smith, 328 Border Road, Concord,
25 Massachusetts. I am President of Cranberry Hill

1 Associates, a real estate development firm located in
2 Lincoln, Massachusetts.

3 I was hired two years ago by the Ibis
4 Company, which is a Dutch investment firm, to develop
5 the S Street property you have here before you. We are
6 also doing work in Georgetown on the Phillips Row
7 project, which has been before this Board.

8 Regarding the two variances today, the
9 height and the width of the open court, as Chris
10 mentioned, the subject parcel is a vacant lot with a
11 four-story structure on its left and a five-story
12 structure on its right, the existing Holton Arms
13 School.

14 We were before the HPRB last summer, who
15 approved the concept of what you see before you. I
16 might point out that the Board itself agreed with the
17 staff's recommendation on the height. They disagreed
18 with the staff's recommendation -- If you notice, the
19 staff recommended not to allow the setbacks, but the
20 Board as a whole agreed with the plan before you, that
21 the setbacks added to the sort of presence and the
22 dominance of the more important building, the 2125 S
23 Street.

24 We did do a number of studies initially
25 with Sorg and Associates, the architect who designed

1 the three-story structure on the property. We actually
2 presented them to the HPRB, and the HPRB agreed
3 wholeheartedly that the three-story structure looked
4 squat and did not fit within the design elements of the
5 block. They much approved the -- or preferred the
6 four-story structure.

7 With regards to the open court, as Chris
8 mentioned, all the surrounding buildings have them and,
9 essentially, as I interpreted the regulation, it was
10 almost designed around a three-story structure. So the
11 variance almost requires the width of the open court
12 variance as well. But functionally speaking, the open
13 court would allow light in the rear of the residence
14 while still allowing a residence that's wide enough and
15 functional enough to have functional rooms in them.

16 We have met on five occasions with the ANC
17 on this total project, and in particular, last month we
18 met with these two variances presented to the ANC.

19 I was just handed two letters that were, it
20 looks like, in opposition to the height variance on the
21 project. So I just had a chance to skim them, which
22 was a little bit of a surprise, because I had met Bob
23 Hirshberg at one of the meetings, and matter of fact, I
24 have a letter of support from Bob that he sent about a
25 year and a half ago.

1 So I was very surprised to see this. I
2 have not been approached by any of the neighbors in the
3 back to this point.

4 CHAIRPERSON REID: Excuse me. Ms. Pruitt,
5 do we have copies of letters of opposition? I haven't
6 received any. I mean within our packages.

7 MS. PRUITT: No, there were none.

8 CHAIRPERSON REID: So the letters that
9 you're referring to -- you said they were just given to
10 you. They weren't submitted to us, or were they
11 submitted to us? We don't have copies of them.

12 MS. PRUITT: Were there letters of
13 opposition in the package, Ms. Bailey?

14 MS. BAILEY: Sir, the letters that you
15 have, are they addressed to the Board, and when did you
16 receive them? Can we get a little detail, because I'm
17 not familiar with them.

18 MR. SMITH: One letter is dated today to
19 the Board of Zoning Adjustment. It's a handwritten
20 memo from --

21 CHAIRPERSON REID: Was it cc to you?

22 MR. SMITH: No. I just received a copy
23 handed to me.

24 MR. COLLINS: It was just handed to me by
25 Mr. Hirshberg. We can address this in our rebuttal, if

1 that's appropriate.

2 CHAIRPERSON REID: Well, the thing about it
3 is I don't know if you can, because we don't have those
4 letters in our packages. So I don't know if they could
5 be --

6 MS. PRUITT: But the record is open at this
7 point. There's a problem just endemic in the way the
8 process is set up, because people can still present --
9 submit information today. Right now this has come in
10 as written correspondence. You're in the middle of the
11 hearing. It is still very timely until the record is
12 closed at the close of business today.

13 So sometimes there are things that -- You
14 may see additional information when we give you a
15 decision package, because of that, and it's just,
16 unfortunately, the way this is sort of set up.

17 MR. COLLINS: We'd be happy to allow the
18 opposition people to make their presentation.

19 CHAIRPERSON REID: How many people are here
20 in opposition? Okay. Well, you will have an
21 opportunity to speak, sir. No, at the appropriate
22 time. But that's okay. At the appropriate time we'll
23 let you clarify that. Thank you.

24 MR. SMITH: Just finally, we are all geared
25 up for construction. We have the construction drawings

1 finished, and the contractor has been hired. We've
2 gotten demolition permits for the property next door,
3 and we're anxious to get under construction right away
4 on it -- as a matter of fact, this month, if possible.

5 So we are anxious to get going on improving
6 the area.

7 CHAIRPERSON REID: Do we have a copy of
8 your testimony? Did you submit a copy of your
9 testimony to the staff?

10 MR. COLLINS: No. His outline of testimony
11 is in the package at Tab 12 -- I'm sorry, at Tab F. We
12 don't have a specific written statement.

13 CHAIRPERSON REID: Okay. So he doesn't
14 have anything to -- Okay. Ms. Chung?

15 MS. CHUNG: Good afternoon. My name is
16 Rachel Chung. I'm with Sorg and Associates, 7500 Buena
17 Vista Terrace, Derwood, Maryland 20855.

18 Sorg and Associates is the architect and
19 engineer of this project, 2127 S Street. As Mr.
20 Collins has stated, the property is located on Lot 12,
21 Square 2125. It is a 25 feet wide by 85 feet long lot.

22 It was created about -- This was the only vacant --
23 record vacant lot that was created 90-95 years.

24 All currently that it has is an existing
25 retaining wall in the front on S Street, and an open

1 area towards the back, and there is an appendage
2 towards the rear face on line attached to the 2125 S
3 Street, which is a three-story brick and wood
4 structure.

5 The existing site is surrounded by, on the
6 right, as you can see in the drawing, the Holton Arms
7 School. That is a five-story building which we've
8 gotten zoning approval from this Board for a use
9 variance, and to the left I believe it's a four-story
10 structure for the Institute of Modern Languages.

11 So in the immediate vicinity it is
12 surrounded with four and five-story structures, either
13 rowhouses or schools.

14 I'd like to go over the plans with you
15 right now.

16 MR. COLLINS: Rachel, turn your microphone
17 toward you.

18 MS. CHUNG: What we tried to do: Because
19 it was originally an open space area that was used by
20 the school on that first level, we maintained that
21 brick wall on the first level. We had to rebuild it,
22 because it was water damaged and such. But what we did
23 was we kept the balustrade. We're reusing the cast
24 stone balustrade and creating a terrace, and that's a
25 stepback from that first level.

1 The second level will be mainly living
2 areas, living and dining and kitchen areas, and it
3 would face onto S Street with a terrace, mimicking that
4 open area that was originally there.

5 On the third level there are bedrooms on
6 either side, and it has a small balcony. On the fourth
7 level we set the building back again to carry the line
8 of the cornice of the adjacent property, as well as try
9 to find a compromise between the zoning requirements --
10 I mean, like Mr. Collins has said, it's around 38 feet,
11 and we set the building back so it's not coming too
12 close to the front and the streetscape of S Street, and
13 provided dormers and another terrace on the fourth
14 level.

15 We had met with the HPRB staff and the
16 Board there, and we presented two schemes: A three-
17 story scheme to meet the requirements of zoning, and
18 this four-story scheme that you see here.

19 They were adamant about choosing the four -
20 - or are proponents of choosing the four-story scheme.

21 It related very much contextually around the
22 neighborhood. There are only four and five-story
23 buildings and over 40 feet tall, and it looked like a
24 large void with a three-story structure.

25 Back to the plan: Regarding the court

1 variance that we are looking for, again around the
2 surrounding areas there are numerous courts that are
3 created that are less than the requirements for zoning,
4 which is four inches per foot, which actually -- It
5 would require us to have a 16 feet by 7 inch court, and
6 that would leave us about eight feet left of building.

7 With a court, a hallway and the usable
8 space, that amount of footage is not enough to provide
9 a useful space. It would take up about this much area.

10 The reason for the court is primarily for
11 light and getting natural light as much as possible
12 into the internal core, because as you know, with a row
13 dwelling with houses or structures on either side, the
14 only place where you can get light is from the front
15 and rear. Now with a three-sided exterior, you have --
16 you are able to get light from three sides.

17 We are not proposing any difficulty on the
18 adjacent properties. One, the adjacent property to the
19 right is 2125, which is owned by the same applicant,
20 the applicant that we have here, and they have no
21 windows facing into that court, regardless.

22 So it doesn't propose any difficulty to the
23 adjacent property. If we were to provide a three-story
24 structure, which the HPRB Board and staff recommended
25 not to do, because it was not contextual with the

1 neighborhood and did not fit, then we would probably
2 meet the court width variance for zoning.

3 Just briefly again, this would mimic the
4 original retaining wall that's there. We would use the
5 original cast stone balustrades here. There would be
6 another setback on the third level on the rear. This
7 is the court, and the grade changes dramatically almost
8 one story from the front to the rear, as you can see.
9 These are on the correct elevation mark.

10 What I'd like to also show you right now is
11 -- This is a sketch of the existing property that's an
12 appendage to Lot 2125 and the height that is there.
13 It's about 40 feet, ten inches, and this is our
14 proposed rear elevation, which is 44 feet, 6 inches.
15 So it's approximately -- I mean, it's a little less
16 than five feet difference in height.

17 I also would like to hand out some
18 photographs.

19 CHAIRPERSON REID: Give it to staff,
20 please.

21 MS. CHUNG: And to wrap up, basically, I
22 think, our proposed design fits very nicely and
23 contextually within the site and the surrounding
24 buildings. We are utilizing very similar materials and
25 construction methods as with the adjacent properties

1 and to provide light and habitable, usable spaces for
2 the tenant for 2127.

3 Also, I'd like to mention that the
4 appendage, this rear appendage, sits face on line,
5 which is directly on the property line to the alley.
6 So that 40 feet plus appendage is directly on the alley
7 side.

8 Our proposed building sets back about 29
9 feet from the property line. So there is that kind of
10 garden space or -- We're proposing two parking spaces
11 there, but there would be landscape in that area.

12 The structure would be set back. So the
13 neighbors would have a chance for more vista than they
14 would otherwise with the existing building.

15 CHAIRPERSON REID: Thank you.

16 MR. COLLINS: That ends our presentation.
17 Any questions?

18 CHAIRPERSON REID: Board members?

19 BOARD MEMBER GILREATH: Yes. In looking at
20 that, certainly, it strikes me as the greater height
21 makes it more compatible. I'm puzzled why you didn't
22 have more expansion so you wouldn't have so much
23 setback to start on the second level.

24 It seems to me, if that had been filled in
25 more fully, it would have even been better. I guess

1 you were trying to stay within the zoning requirements.

2 Is that -- minimizing that? Why couldn't you come out
3 a little further?

4 MS. CHUNG: Well, we do meet the rear
5 setback requirements there. I think we're in excess of
6 -- It's 20 feet is the setback requirement.

7 BOARD MEMBER GILREATH: Well, I was just
8 thinking in terms of esthetics. It seems to me that
9 the main picture you have there, you've got quite a
10 bit of brick wall there, just raw wall there. From the
11 second floor up, if that had been pushed out --

12 MS. CHUNG: Oh, the front?

13 BOARD MEMBER GILREATH: -- further this
14 way, then why -- Had I been on the Historic
15 Preservation Board, I think I'd be inclined to say fill
16 it out more.

17 MS. CHUNG: Well, the main reason we did
18 that, we wanted to keep the sense of the main mansion,
19 2125 S Street. That was more the prominent building
20 structure. Also, the sense of that open space that was
21 originally designed.

22 We have some photographs of the original
23 structure, and actually, the main mansion, 2125, was
24 built with terraces on either side, that side and this
25 side. Then they built that addition later on. I think

1 it was about ten years after 2125 S Street.

2 BOARD MEMBER GILREATH: Then the building
3 on the right side there -- does that come all the way
4 out to the -- flush with the wall of the new building?

5 MS. CHUNG: Yes.

6 BOARD MEMBER GILREATH: Okay. Certainly,
7 it looks much better by going up higher, as far as I'm
8 concerned, at this point anyway. Thank you.

9 MS. CHUNG: Thank you.

10 BOARD MEMBER SOCKWELL: I have a couple of
11 questions. First, was there a particular reason why
12 you didn't supply us with this drawing which you had
13 supplied for the previous project, which is very
14 descriptive of the site and would be very helpful to
15 us?

16 MS. CHUNG: No, there wasn't a reason why
17 we didn't submit the existing site plan, but --

18 BOARD MEMBER SOCKWELL: A second question:
19 The building to the left, on the wall that would be
20 perpendicular to your front wall, are there windows in
21 that wall?

22 MS. CHUNG: I'm not really sure.

23 MR. SMITH: No.

24 BOARD MEMBER SOCKWELL: To the left, left
25 there. That perpendicular wall, there are no windows?

1 MR. SMITH: No.

2 BOARD MEMBER SOCKWELL: I didn't see a
3 photograph that gave me any indication of what the
4 existing condition of that wall was, and I was
5 interested in knowing.

6 The reason for the -- The principal reason
7 for the setback at the second floor is, again, what ?

8 MS. CHUNG: We wanted to -- Two reasons.
9 One basically was to maintain the presence of the main
10 mansion, which was what was originally designed. Like
11 I was saying earlier, on either side it was vacant lots
12 with retaining walls originally when it was designed.

13 The second, we wanted to maintain the
14 presence of that open garden that currently exists on
15 that second level. We had spoken with members of the
16 Holton alumni of the Holton Arms School, and they were
17 very pleased and supportive of the fact that we were
18 setting the building back and leaving that area open,
19 and the thought of an open play area for the children
20 was very pleasing to them.

21 BOARD MEMBER SOCKWELL: And one last
22 question: The drawings that you provided for this
23 don't represent fully the court condition that is being
24 developed in the adjacent building.

25 MS. CHUNG: There is a site plan. I don't

1 know if -- That was submitted. It's a small site plan.

2 BOARD MEMBER SOCKWELL: Yes. Because your
3 court is going to converge upon the court of --

4 MS. CHUNG: Lot 2125?

5 BOARD MEMBER SOCKWELL: Yes.

6 MS. CHUNG: Yes.

7 BOARD MEMBER SOCKWELL: And it would be
8 very helpful to the Board to have access to drawings
9 that show what that total court condition is, because
10 one actually does bear upon the other, when one
11 considers contextually light, ventilation, court size,
12 etcetera.

13 Your presentation for the other building
14 was actually a more complete presentation for us.

15 MS. CHUNG: There is a party wall between
16 the two lots that separate --

17 BOARD MEMBER SOCKWELL: Right, and I can't
18 tell how tall that is, because there's nothing that
19 really indicates what's going on there. I mean, it
20 shows as a thick line, and that's all. There's nothing
21 that defines the height of that wall, where the courts
22 converge, where the courts separate, things like that,
23 that I'd like to see.

24 It leaves a piece of that sort of
25 unresolved.

1 MS. CHUNG: I can -- if I took a look at
2 that site plan that you have, that existing condition
3 site plan, I can give you the width of that entire
4 court.

5 The height of the wall will extend up eight
6 feet, at a minimum eight feet above the second floor.
7 But you're not going to see the wall going all the way
8 up, dividing the two lots.

9 BOARD MEMBER SOCKWELL: All right. That's
10 fine. Thank you.

11 BOARD MEMBER GILREATH: Do I understand
12 that that interior court there, one of the reasons you
13 need a variance is because -- to go higher, that if you
14 kept it at a lower level you wouldn't have that much
15 difficulty.

16 MS. CHUNG: Yes. Because the building --
17 we're proposing a four-story building instead of the
18 zoned three-story building, and our height is 49 feet,
19 10 inches, and the requirements is four inches per
20 foot. I would need a 16 feet by 7 inch court width out
21 of 25 width -- 25-foot width lot, which creates
22 basically a useless space for an interior space.

23 If I was three-story, which we're not
24 proposing, I would probably meet -- or the court width
25 would meet that requirement.

1 BOARD MEMBER GILREATH I'm not the
2 architect in terms of how it's configured, the interior
3 and the court, but to me, it strikes me as a reasonable
4 tradeoff. I think it would be inappropriate to keep
5 the height of that building down. Would create kind of
6 a jagged tooth there.

7 So it's just a question of whether or not
8 the configuration seems to be appropriate. I'll be
9 glad to listen to Mr. Sockwell if he wants more
10 clarification on that.

11 BOARD MEMBER SOCKWELL: I'm not going to
12 ask anymore questions.

13 CHAIRPERSON REID: Okay. Mr. Hood, any
14 questions?

15 COMMISSIONER HOOD: No questions.

16 CHAIRPERSON REID: All right. Thank you
17 very much.

18 MS. CHUNG: Thank you.

19 CHAIRPERSON REID: Now the ANC report -- Is
20 there an ANC representative here? There is not. Well,
21 we received a letter from the ANC in which it's
22 stipulated that they would not be opposed to the
23 application if, in fact, there were certain conditions
24 that were met.

25 In the interim, apparently that was -- an

1 agreement was drawn up, and we have an agreement for
2 the file. But basically, the ANC letter, ANC-1D,
3 states that, with a duly noticed public meeting in
4 which there was a quorum present and a vote taken,
5 that -- To make a long story short, they have agreed
6 that if, in fact, the conditions in regard to hours of
7 construction and noise abatement, parking, rat
8 abatement, dumpster construction, the removal of
9 several trees and closing the alley were met, that they
10 would be in support of this application.

11 Then they say, to further expand on
12 condition 2, the ANC would like at the time of contract
13 negotiation with various contractors that developer
14 give written notice on behalf of the ANC to see a
15 contract, subcontract, for on-street parking at the
16 work site is extremely limited and so forth and so on.

17 Now within the agreement it does stipulate
18 the hours of construction would be from 7:00 a.m. to
19 7:00 p.m., that the residential parking would be
20 reduced by -- construction workers be encourage to park
21 off-site at Universal Garage on Florida Avenue, that
22 the owner will begin rat abatement, that they will
23 provide dumpsters to be placed within the fenced area
24 in front of the project; five, that tree removal and
25 replacement will take place. They removed several

1 trees and replace six bare trees, and that the alley
2 will be closed during construction, including removal
3 of an existing brick wall, sewer and water work, and
4 construction of a garage, among other things.

5 Telephone service -- There's a Bell
6 Atlantic telephone relay box located inside the
7 building at 2125 S Street, and that serves the building
8 located at 2119, 2121 and 2129. Owner will take all
9 necessary steps to see that there is no disruption of
10 service.

11 These conditions, should this application
12 be approved, I would suggest or recommend that they be
13 included within any order that is issued, any order of
14 approval that's issued by this Board.

15 MS. PRUITT: Madam Chair, I have a
16 question. In the ANC letter, they ask that the record
17 be corrected. In fact, when I did the research, it was
18 correct. So I just wanted to let you know that it was
19 sent out, and it was noticed that it was in ANC-1D, but
20 the adjacent ANC-1C and -2B were also affected. So it
21 was noticed correctly.

22 CHAIRPERSON REID: Okay.

23 MS. PRUITT: The second part is: In this
24 previous Holton Arms order that was approved, you had a
25 very similar agreement that was submitted; and because

1 a lot of these are not enforceable by DCRA, such as the
2 telephone and those types of things, the Board had
3 decided to make that -- to note in the order that there
4 was a formal agreement between the applicant and the
5 ANC and that it would be part of the record but not a
6 condition.

7 I just wanted to bring your attention to
8 how you had handled it previously.

9 CHAIRPERSON REID: Read that again.

10 MS. PRUITT: Because a lot of these
11 conditions cannot be enforced by DCRA, we have no
12 enforcement power. So DCRA is our only way of allowing
13 these things to be enforced.

14 If you have a condition that can't be
15 enforced, it doesn't help the community or the
16 applicant. So it becomes a -- They have to build in an
17 enforcement mechanism in their agreement or else it
18 goes through a legal litigation to have them enforced.

19 But we can't do it.

20 Since we can't enforce them, we have no
21 enforcement power over Bell Atlantic to help them deal
22 with that, it would have to be done through a legal
23 litigation versus DCRA enforcement, and the rat
24 abatement would have to be done through Health and
25 Human Services, those types of things.

1 So it's not something that we can control.

2 CHAIRPERSON REID: Well, I mean, that's
3 different in any situation. However --

4 MS. PRUITT: Your mike.

5 CHAIRPERSON REID: I was saying that that
6 is the case in any of the situations -- I'm still
7 getting feedback. Oh, mine is not working?

8 Okay. I note that this is an application
9 for a variance, and as such we don't usually condition
10 variances.

11 MS. PRUITT: And that is why it was done
12 that way on the previous one.

13 CHAIRPERSON REID: So we'll --

14 MS. PRUITT: Do it the same. If you decide
15 to choose to approve this, I would suggest that you
16 would follow the same course, which was that it's noted
17 in the record, but it's not a condition.

18 CHAIRPERSON REID: Okay, right. And also
19 it will be -- It can't be part of the record? It can
20 be included in the record?

21 MS. PRUITT: It will be included in the
22 file, but not a condition in the order.

23 CHAIRPERSON REID: All right, that's fine.
24 All right. So the ANC will be afforded the great
25 weight to which it's entitled.

1 BOARD MEMBER SOCKWELL: Madam Chair, I just
2 have a question. I'm not following -- Forgive me. I'm
3 not following the conditions, and maybe I can ask
4 staff. If there's agreement between the applicant and
5 also the ANC, then I know that this Board does not have
6 jurisdiction for enforcement, but is there any recourse
7 if some of these actions are not followed through?

8 MS. PRUITT: That has been part of the
9 problem. Zoning Commission has for a long time
10 required that agreements build in some type of
11 enforcement power so that, if they aren't done, there
12 is a way to enforce them. There's either some type of
13 penalty or something that has already been preapproved.

14 The recourse here would be litigation to
15 have them go through attorneys. What we are trying to
16 do is resolve or help the community and attorneys,
17 because if we put it in as a condition, community
18 people may call us and say, well, they've broken this,
19 why can't you enforce it. We don't have that
20 jurisdiction nor does DCRA, and it kind of sets them in
21 a kind of quandary.

22 So if they know up front that there's
23 nothing that the government can do to help them enforce
24 it, they need to build into their agreements a
25 mechanism for dealing with that. So right now the only

1 recourse would be for a litigation, for them to sue for
2 a breach of an agreement. There is recourse, but just
3 --

4 CHAIRMAN HOOD: Well, I'm going to put on
5 the record that I really hope that, if this is
6 approved, that the applicant will go through with the
7 good faith agreement that they worked out with the
8 community. Thank you.

9 CHAIRPERSON REID: Okay, thank you. All
10 right. Persons or parties in support of the
11 application? Oh, I'm sorry. You can go and sit back
12 in the chairs, and then we'll have -- The applicant
13 will be given an opportunity for closing remarks, but
14 at this time that's the ANC's segment, and now it's
15 persons and parties in support of the application.

16 All right, persons or parties in opposition
17 to the application can come up now. I know there are
18 two people. Okay, come up, please. This is your
19 opportunity, sir, and you have some clarifications for
20 the letters that you were going to give to us.
21 Correct?

22 MS. PRUITT: Excuse me, sir. You have to
23 turn on your mike, please. Push the button in front of
24 you.

25 MR. HIRSHBERG: As far as the status of

1 that memorandum --

2 CHAIRPERSON REID: Sir, give your name and
3 the address.

4 MR. HIRSHBERG: Okay. My name is Robert L.
5 Hirshberg. My address is 2122 Bancroft Place, N.W.,
6 D.C., which is directly north of the subject project.

7 Before I start my prepared testimony, let
8 me just clarify a little bit the status of my
9 memorandum that Mr. Collins referred to and also Mr.
10 Smith.

11 That is an advance copy of a memorandum I
12 want to read into the record which I gave to Mr.
13 Collins as a matter of courtesy so he could look it
14 over and not have to take voluminous notes, and also I
15 have no objection at all to his commenting on it in his
16 opening testimony. I just wanted to let you know that
17 it's a memorandum that, under the ground rules Ms.
18 Pruitt mentioned, I'm submitting right now for the
19 record.

20 MS. PRUITT: Mr. Hirshberg, do you have a
21 written copy for the Board we can copy?

22 MR. HIRSHBERG: Yes, I do.

23 MS. PRUITT: We can do that.

24 MR. HIRSHBERG: And the other -- There are
25 a couple of other points that were brought up

1 procedurally. One of them was that Mr. Smith said that
2 I gave him a letter approving the project, which is
3 certainly true. I strongly support the project in
4 principle as an alternative to the abandoned building
5 that we had behind us.

6 As a matter of fact, at the time this
7 project was discussed, I believe in that same letter
8 and I know at the ANC, I voiced a strong preference for
9 an office building rather than a residential because of
10 the alley and parking congestion. But the project as a
11 whole is perfectly okay with me and, I think, with the
12 neighbors and with the ANC.

13 The other point that I'd like to clarify,
14 which was mentioned both by Mr. Collins and yourself,
15 Madam Chair, is the nature of the ANC position. Mr.
16 Collins stated that there was an agreement, and you,
17 Madam Chair, amplified on this six-point agreement.

18 The existence of that agreement and the
19 fact that it would be signed by both the developer and
20 ANC are two of the conditions that the ANC placed on
21 supporting the application. However, I'd like to call
22 your attention to the final paragraph of the ANC letter
23 of December 22 which states: "It was motioned and
24 passed to support the application only if (1)" -- and I
25 emphasize this -- "the issue is resolved about whether

1 any existing views will be blocked."

2 That is a reservation under which the ANC
3 withholds its approval, and I discussed this with Ms.
4 Bumbalo last evening to find out whether she was
5 coming. She confirms that that was a correct
6 interpretation of the ANC position.

7 I will get into this in more detail in my
8 prepared testimony. Let me give the Board a copy of my
9 prepared testimony and also --

10 MS. PRUITT: Excuse me, sir. You have to
11 hand it to me. Thank you.

12 MR. HIRSHBERG: Now included in what I
13 handed over was a note that was sent to me by Mr.
14 Yoshikazu Ikeda who owns 2124, immediately nextdoor to
15 our property at 2122. He thanks me for my letter on
16 the subject where I state that I'm going to testify in
17 opposition and says, if it is all right, I will
18 authorize you for this in case you can attend the
19 January 5 hearing.

20 For that reason, I've made the memorandum
21 to the Board both from myself and my wife as owners of
22 2122 Bancroft and I state also on behalf of Yoshikazu
23 Ikeda, 2124 Bancroft Place, and the subject is "Protest
24 Against Proposed Variance as to Height and Court
25 Width."

1 My prepared statement is as follows: (1)
2 My wife, C. Marian Hirshberg, and I are co-owners of
3 2122 Bancroft Place. (2) In relation to the proposed
4 construction, our property is two 25-foot lots east
5 directly north across the alley. 2126 Bancroft, which
6 would be two doors west of our property, is directly
7 north of the proposed construction.

8 The view that we currently enjoy from our
9 third floor is at eye level across the roof of the
10 structure now on 2127 S Street, which means that that
11 structure, the top of that structure, is roughly ten or
12 12 feet below the roof line of our three-story
13 residence.

14 Our grounds for objection to the proposed
15 variance -- This is point 3 -- is that a four-story
16 structure without a 16-foot, 6-inch courtyard on the
17 east side would deprive us of a view and also would
18 degrade our access to light and air from the south.

19 Number 4: We site Mr. Ikeda's December 24
20 letter to BZA stating similar objections.

21 Number 5, which I referred to at some
22 length in my preparatory remarks is the ANC position on
23 this matter stated on the fourth page of the December
24 22, 1999, letter to BZA from Linda K. Bumbalo,
25 Chairperson, is, quote: "To support the application

1 only if (1) the issue is resolved about whether any
2 existing views will be blocked."

3 Number 6: Ms. Bumbalo's letter, second
4 page, the first paragraph, states -- and this refers to
5 the ANC meeting on November 30th on the subject:
6 "Concerns were raised about whether the new four-story
7 dwelling would block any views currently enjoyed by
8 occupants of residences on the north side of the alley.

9 The applicant was asked to investigate this, because
10 he did not know the exact height of the existing
11 building in relation to the new building, and which
12 neighbors' roof decks and windows might be affected."

13 Ms. Bumbalo told me last evening that she
14 had heard nothing from the applicant in reply to this
15 request nor have we as adjacent property owners been
16 contacted by the applicant about our concerns in this
17 matter.

18 Number 8: As to the Historic Preservation
19 Review Board recommendation cited as justification in
20 the 10/3/99 application, our views are as follows:
21 First, we bought 2122 Bancroft in October 1967, long
22 before Sheridan-Kalorama was designated an Historic
23 District, in reliance on zoning regulations which
24 restricted building heights.

25 Second, we were given no opportunity to

1 appear before the HPRB to protest this recommendation.

2 Three, the fact that the applicant, as I
3 mentioned in this quote from Ms. Bumbalo's letter, did
4 not know the exact height of the existing building in
5 relation to the new building -- that's number 6 on the
6 memo -- and has shown no evidence of any efforts to
7 resolve the issue of, quote, "whether any existing
8 views will be blocked" casts substantial doubt on
9 whether HPRB was apprised of this concern affecting
10 neighboring property owners at the time the Board made
11 their recommendation, which is cited by the applicant
12 as the sole basis for requesting variances as to height
13 and court width.

14 In summary, we respectfully request the
15 Board to deny this application Number 16520 in light of
16 (1) ANC denial of support in accordance with the
17 quotation that I read which is in Item 5, support the
18 application only if the issue is resolved about whether
19 any existing views will be blocked; (2) our standing as
20 long term property owners faced with deprivation of
21 views, light and air and detrimental impact on property
22 values; and (3) defects in the procedure for arriving
23 at the HPRB recommendation, as mentioned before,
24 namely, first we were given no notice. Second, there's
25 no evidence that the question of the obstruction of

1 views was discussed or, if it was, that it was
2 discussed by the applicant in a way where the applicant
3 had any clear knowledge of what effect on the views and
4 the light and air of adjoining properties would be.

5 That concludes my statement. I would like
6 to add, if I may, a couple of comments, particularly
7 directed to the discussion about the HPRB
8 recommendation.

9 In the first place, the statement made by
10 Mr. Collins in his opening remarks that the initial
11 tier of the building would be at the third story level
12 in order to comply with the spirit of the height limits
13 does not seem to be completely consistent with the HPRB
14 recommendation that it be built to a height of four
15 stories, quote, "in order to be consistent with
16 surrounding buildings."

17 In the second place, the HPRB
18 recommendation and decision is, obviously, based on
19 their judgment and esthetics and their view of what
20 benefits the Historic District as a whole. I have no
21 quarrel with that.

22 I'm not a professional architect or
23 architectural historian, but I think that bringing in
24 testimony from people like the alumni of a school that
25 was there 20 or 30 years ago is a little marginal in

1 comparison to the interests of the adjacent property
2 owners.

3 So that concludes my testimony in
4 opposition on this, and I'd be happy to answer any
5 questions that the Board may have.

6 CHAIRPERSON REID: Here's where I'm a
7 little confused. There was a letter from the ANC.

8 MS. PRUITT: Use your microphone, please.

9 CHAIRPERSON REID: Here's where I'm a
10 little confused. There was a letter from the ANC in
11 which the Chairperson Bumbalo stipulated the conditions
12 under which the ANC would be willing to approve this
13 application.

14 Then there was an agreement drawn up, and
15 the agreement set forth the terms under which the ANC
16 would be willing to support the application, and it's
17 signed by both the applicant, the Vice President of
18 Ibis USA, and it's also signed by Linda Bumbalo, the
19 Chairperson of the ANC.

20 Now in that agreement it does not speak to
21 the issue of the view, and where my confusion comes in
22 is why did -- When the agreement was drawn up, if that
23 was an issue that was important to some of its members,
24 then I don't understand why that was not contained
25 therein, in the agreement; because the agreement, it

1 appears to me, is the final document that was drawn up
2 to reflect the views of the ANC.

3 MR. HIRSHBERG: Well, may I draw your
4 attention to the final page of Ms. Bumbalo's December
5 22 letter. I think that will --

6 CHAIRPERSON REID: Well, that's exactly
7 what I'm talking about.

8 MR. HIRSHBERG: I mean, that letter says--

9 CHAIRPERSON REID: It is the letter, and
10 then it does refer to that in the last paragraph or the
11 paragraph next to last in regard to the existing views
12 being blocked, and then it says that there should be an
13 agreement signed by both the ANC and developer.

14 Well, the agreement that has been drawn up
15 has in it all the pertinent aspects of the meeting of
16 the minds between the developer and the ANC, and that
17 particular clause is not in there.

18 MR. HIRSHBERG: Well, I don't know
19 precisely the time sequence of these documents, but
20 what I would infer -- and I think the way the record
21 clearly stands -- is as follows: That the six-point
22 agreement was drawn up in relation to the project as a
23 whole, and that that was done prior to the November 30
24 meeting when the applicant presented the present
25 variance proposal to the ANC. But whether or not --

1 whatever the time sequence was, whether that's the
2 explanation, I think the record clearly is that, yes,
3 the six conditions plus having them in a signed
4 agreement --

5 CHAIRPERSON REID: Well, there are eight
6 conditions in here, sir, and again the issue about the
7 view is not -- was not made a part of that agreement,
8 for some reason.

9 COMMISSIONER HOOD: Madam Chair, if I may
10 add, the letter in which Mr. Hirshberg's reference is
11 dated December 22. So when I look at the two, the
12 agreement is dated December 23. So it appears -- and
13 I'm also on target with your comments. It appears as
14 though the agreement was reached.

15 What I'm hearing, a piece, as far as he's
16 concerned, has been left out. I would -- My view in
17 it, and I would look -- give this more -- the agreement
18 more, because it's not like it's a meeting, like you
19 said, of the minds.

20 CHAIRPERSON REID: Well, it's a legal
21 document. It's been drawn up, and it's been signed by
22 both entities. My thinking is that it's proffering to
23 us what, in fact, the meeting of the minds concurred in
24 regard to this particular project, and that was what
25 was proffered to us.

1 Now this is subsequent to the ANC letter,
2 and I just don't see why, if in fact that was an issue,
3 it was not contained in the agreement; because the
4 agreement appears to have emerged from the letter and
5 the concerns of ANC.

6 COMMISSIONER HOOD: Also, Madam Chair, if I
7 may, my concern also is that Ms. Bumbalo also signed
8 this agreement.

9 CHAIRPERSON REID: Yes.

10 COMMISSIONER HOOD: And she signed this
11 agreement. So, you know -- and again, this is dated
12 the 22nd and this is dated the 23rd.

13 CHAIRPERSON REID: Well, I think, Mr. Hood,
14 that your point is well taken, and then if in fact
15 there is a discrepancy or some ambiguity, then prudence
16 would dictate that we go with the latest document that
17 has been submitted to us.

18 MR. HIRSHBERG: Well, can I make two
19 comments.

20 CHAIRPERSON REID: Well, excuse me. Yes,
21 you can, sir. Also, the ANC letter is a unilateral
22 position taken by the ANC, where the agreement is a
23 bilateral agreement drawn up that reflects the position
24 of both entities. I think that that would take
25 precedence over the letter of the 22nd. That's my

1 view. I'd like to hear from other Board members.

2 MR. HIRSHBERG: Well, may I make just two
3 points on that. One is that, because of a possible
4 change of heart, I did call Ms. Bumbalo last evening at
5 eight o'clock. She assured me that this item number
6 one resolving the issue about existing views being
7 blocked was still a condition. Unfortunately, she
8 cannot make -- could make it to the hearing, and so you
9 just have to take my word for it.

10 The second point is that I was an ANC
11 commissioner. I know very well that what she said is
12 exactly the situation, that all this Board has to do is
13 to give great weight to the ANC. You don't have to
14 conform to the ANC recommendations, if you see reasons
15 not to.

16 So I would say that, even if it were clear-
17 cut that the ANC as a whole went along with the whole
18 thing, including variance, I still feel that as
19 individual adjacent property owners we have standing to
20 protest it, because it affects our properties quite
21 directly, whereas the ANC is broadly concerned with the
22 whole neighborhood.

23 I must say that, if -- I was commissioner
24 about three years ago. So I am on very good terms with
25 Mr. Collins, have known him as a capable and honest

1 attorney for his clients. So this is not any bitter
2 dispute. But I would just say that maybe if I was ANC
3 commissioner, I would have been forced to say, well,
4 maybe for the neighborhood as a whole it's better to
5 allow this in order to allow the project to go forward.

6 The only thing I wonder about is just how
7 crucial this is for the project to go forward. That's
8 the reason I say that I think that we ought to get a
9 chance as adjacent property owners to enter into a
10 discussion again with HPRB and see whether, in view of
11 these objections, the HPRB is not going to literally
12 ask the developers to go back to the drawing board.

13 So that's my position on this, and I
14 appreciate your hearing my case. Thank you.

15 CHAIRPERSON REID: Thank you, sir. Next,
16 please.

17 MS. TUCKERMAN: My name is Jane Tuckerman,
18 and I'm the Center Director of the ELS Language
19 Centers. We occupy 2129 S Street and have been at that
20 location since 1975.

21 I have not a written statement to submit.
22 I am here. I saw the notice, and I wanted to come. My
23 purpose here is twofold: One, to get more information
24 -- very, very specific information; and two, pending
25 that, basically, I believe to be in opposition to the

1 variance.

2 I have worked at the location this current
3 time since 1975. In the early Seventies I worked at
4 what was then called the Institute of Modern Languages,
5 which occupied both the buildings in the drawing plus
6 the current one that I'm in, 2129 S Street.

7 I at times have thought to myself, I know
8 more about these buildings that I want to know. After
9 the fire with the Scientologists and the subsequent
10 problems with rats and telephones, I have had to deal
11 with numerous problems, because 2129 and the structures
12 shown in the drawings are, in fact, connected and were
13 designed to be so initially.

14 The real concern at this point is that what
15 I believe was referred to earlier as the party wall has
16 windows. These windows are part of classrooms. From
17 what I can see or what actually I cannot see in detail,
18 I believe that those -- we would lose those windows.

19 If that is true, then we lose the
20 classrooms, which means we can accommodate fewer
21 students, which means a loss in revenue, which means we
22 lay off teachers, which means they go on unemployment.

23 That may sound a little drastic, but that
24 is a very real possibility.

25 CHAIRPERSON REID: Excuse me. Have you met

1 with the applicant? Have you had any discussions with
2 them?

3 MS. TUCKERMAN: No. One reason I'm here is
4 that I have tried on occasion through real estate
5 agents to find out who the architects were, who the
6 owners were, to get a much better sense of what the
7 plans were, and have not been able -- No one has been
8 successful in getting that information to me.

9 Again, if we could keep our windows and
10 keep some sort of a courtyard, this would not be a
11 problem. But currently that is my concern.

12 CHAIRPERSON REID: Okay. Thank you very
13 much. Closing remarks by the applicant? Mr. Collins,
14 approximately how long do you think you'll need to wrap
15 up?

16 MR. COLLINS: Probably about ten minutes or
17 so.

18 CHAIRPERSON REID: Okay. I am going to
19 have to -- I have an engagement that I have to leave
20 for, and we have a quorum, and I'll read the record for
21 the remainder of this particular case.

22 MR. COLLINS: All right, fine. Thank you.

23 I think on the issue -- I'd like to take
24 these one at a time, if we could. On the issue of the
25 blockage of the windows -- I'm sorry, on the blockage

1 of the view that was referred to in the ANC letter, we
2 had a response to that, and we'd like to just give that
3 at this time, even though in sequence it may have
4 appeared that we didn't have to address that. I just
5 want to make sure that there's no lingering issues.

6 VICE CHAIRPERSON SOCKWELL: Mr. Collins,
7 just for your information, as Vice Chair of the Board,
8 I will be acting as Chair in Ms. Cross Reid's absence.

9 MR. COLLINS: Fine, thank you. Would you
10 care to address that issue?

11 MR. SMITH: Sure. I have not been
12 approached by -- I believe ELS is a tenant of the
13 building.

14 MS. TUCKERMAN: That's correct.

15 MR. SMITH: We were approached by the
16 owner, I believe, in California of the ELS to see if we
17 wanted to buy the property, and we actually viewed it
18 with a broker and looked at the property, and we did
19 not purchase the ELS building. But that was the only
20 discussions that I had had, and that was with the
21 property owner.

22 So the property owner certainly knew who I
23 was, who the applicant was. There is a door -- To my
24 knowledge, there's a door at ground level that goes out
25 onto that side, but as the -- You know, the D.C. party

1 wall regulations, you know, allow, the door was
2 constructed at their own risk. If the neighboring
3 house was built, doors and windows, you know, it would
4 get bricked up. That's part of the D.C. regulations.

5 So I know that, because we just did the
6 Phillips Row where we built windows on a side wall, and
7 if the property owner ever built the structure next
8 door, we would lose our views.

9 If I can respond first to the agreement,
10 you know, we have already started the rat abatement
11 immediately. We did that, actually, back in November
12 prior to the agreement even being executed on December
13 23rd.

14 I guess, if I go right to the heart of
15 Bob's question, you know, how crucial is this to the
16 developer on a four-story versus a three-story? I'd
17 like to put on the record that the three-story
18 structure really looked terrible on this facade. It
19 was significantly out of scale with the entire block,
20 in fact with the entire district. The district is four
21 and five-story buildings.

22 I feel it's -- you know, this is crucial.
23 It's significantly better. I would disagree with his
24 concern of detriment to property values. I think this
25 is going to enhance property values in the area

1 significantly.

2 In regard to the HPRB, we had Susan
3 Gauschinietz from the HPRB staff -- we met on the
4 property. We walked the alley. We looked at the
5 structures that were going to come down, the additions
6 to the structures. That went into her consideration as
7 well.

8 Matter of fact, if I can just point out on
9 this picture that was pointed to you, I just want to
10 make sure you understand where the two neighbors are
11 that are concerned with this. We did not hear from the
12 neighbor that does directly abut the rear of the
13 property, which is 2126 Bancroft.

14 Now I'll just submit this for the record,
15 so I show the views of the two property owners that the
16 letters are, I guess my point being that, although I've
17 never been up on their roof deck or looking out the
18 window, the fact that we're building this structure 29
19 feet back into the property, just in perspective alone,
20 I would consider, yes, it's five feet taller than the
21 existing alley structure; but I would say that we're
22 not, you know, a detriment to their views.

23 Matter of fact, the existing roof line,
24 which we're not altering, the slate roof which you see
25 in the picture, you know, will continue to be there.

1 So I guess in closing, you know, we're
2 ready to go. We think it's a significant improvement
3 to the area, and we will live to the terms of the ANC
4 agreement, and we'd like to see things go forward.

5 MR. COLLINS: If I could ask you a few
6 questions, Mr. Smith. Referring to Exhibit A on the
7 statement of the applicant and locating Mr. Hirshberg's
8 property, 2122 S, in relation to Lot 12 and looking at
9 the lines of sight that would be possible from that
10 property across Lot 12, and given the fact that the
11 existing building on Lot 49 will remain all the way
12 back at the alley, what can you say about the vista,
13 the lines of sight, that Mr. Hirshberg would have from
14 his property?

15 MR. SMITH: Well, if you draw the sight
16 line, you would see that, you know, the roof of Lot 49,
17 the slate roof which you see in the picture, is going
18 to be the first structure that he's going to see.
19 Matter of fact, it's such an obtuse angle from Bob
20 Hirshberg's property, I question whether it will even
21 be visible from that point.

22 MR. COLLINS: And that's because of what?
23 Because of the setback?

24 MR. SMITH: Because of the setback to the
25 new structure plus the existing roof on Lot 49.

1 MR. COLLINS: The difference in height
2 between the existing building that sits on the rear of
3 Lot 12 and the new building that is to be built on Lot
4 12.

5 MR. SMITH: This is the existing alley
6 building, which was originally a carriage house and now
7 it's a lab that was built on top of the carriage house.

8 MR. COLLINS: And that's face on the alley?

9 MR. SMITH: This is face on the alley, and
10 the new structure, which is 29 feet back, is five feet
11 taller in height.

12 MR. COLLINS: So it's 29 feet south of the
13 alley?

14 MR. SMITH: Correct.

15 MR. COLLINS: Thank you.

16 VICE CHAIRPERSON SOCKWELL: Before -- Oh,
17 go ahead, Ms. Chung.

18 MS. CHUNG: One thing I'd like to add
19 regarding Mr. Hirshberg's statement about HPRB. When
20 we met with staff as well as Board, and if that people
21 were not notified, I believe Ms. Bumbalo was at that
22 Board meeting, and I was not -- At that time, I was not
23 aware of her concerns about any views from the
24 neighbors. But what I'm basically saying is I believe
25 ANC was represented at that meeting. Thank you.

1 VICE CHAIRPERSON SOCKWELL: Ms. Chung, I
2 have a question. When I asked you if there were
3 windows in that adjacent wall, you categorically said
4 no.

5 MS. CHUNG: That was my mistake. I thought
6 there were no windows.

7 VICE CHAIRPERSON SOCKWELL: But you've been
8 to the site, and you're the designer for the project.
9 You have to know.

10 MS. CHUNG: That was my mistake.

11 VICE CHAIRPERSON SOCKWELL: You can't make
12 those mistakes.

13 MR. SMITH: I took it as the top -- I mean,
14 with this structure there, there would be no windows.

15 VICE CHAIRPERSON SOCKWELL: That wasn't the
16 question that I asked.

17 MS. CHUNG: That was my mistake.

18 VICE CHAIRPERSON SOCKWELL: Because in
19 particular, regardless of what Mr. Smith has said,
20 which is correct, about the closure of windows, there
21 are other issues of natural light and ventilation and
22 things like that that exist with the preexisting
23 building, and something has to be done about those
24 things.

25 What happens is something that we don't

1 deal with here at this Board, but I am somewhat
2 concerned; because I had noticed deficiencies in the
3 architectural presentation which were not deficiencies
4 in your last submission before the Board, and I was
5 very concerned that you would not know that certain
6 specifics of the site either do or do not exist.

7 You have to be very cautious not to make
8 these answers without thinking carefully, because as an
9 architect they make me concerned that there's something
10 else that's missing here. There's something else that
11 I don't see, that there may be issues that are not
12 being shown to us for a reason, that the court is not
13 shown completely with its contiguous neighbor for a
14 reason.

15 I'm not asking for an answer here. I'm
16 just making a statement.

17 With regard to Mr. Hirshberg and his loss
18 of view, I do believe that his porch or his roof deck
19 is far enough back from the face of the existing three-
20 story building with its hip roof that there may not be
21 a significant loss of view in real terms, based on his
22 angle of view.

23 I think that there will be a perceived
24 difference in what's there, because instead of having
25 that nice slate roof, you're going to have to look at

1 the face of the adjacent building which is pushed quite
2 a distance back into its own site, and you will not be
3 looking at the more private condition that you had in
4 the past. But I don't think that you're going to lose
5 a vista per se.

6 I don't think you're going to lose a park
7 view or a view downtown or a rooftop view of the city
8 that was significantly more important than what's going
9 to be there now, but I do think it represents change,
10 and a significant change to that which you are used to
11 seeing and enjoying the privacy of that, basically,
12 unused structure that preexisted.

13 I'm not sure that, if you think about it,
14 your loss is as much that of real view as it is of
15 continuity, and continuity is very important to all of
16 us. But it cannot necessarily be a basis for decision
17 making by this Board when that continuity may not
18 realistically be a significant aspect of change.

19 So that ends my dissertation.

20 BOARD MEMBER GILREATH: Mr. Vice Chair, in
21 terms of the vista or view lost, unless there are
22 compelling circumstances, this would preclude any kind
23 of building. He could build this as a matter of right
24 anyway, and I think they went to the Historic
25 Preservation Review Board and that it's appropriate it

1 be extended up a bit.

2 Not being an architect, I'm not prepared --
3 From what I've heard, this interior court there strikes
4 me as reasonable, and they could meet that if they were
5 not going up another nine feet.

6 So from what I've heard at this point,
7 particularly when you take into account the agreement
8 between the developer and the ANC, that when you weigh
9 all the factors, it seems to me that this is basically
10 a positive project.

11 VICE CHAIRPERSON SOCKWELL: One thing that
12 I will say, and this is in response to you directly,
13 Mr. Gilreath, is that the building that has been
14 proposed has a flat roof on it. At least, the rear
15 facade roof is flat, and where it goes forward and does
16 what it does, it's irrelevant from the rear of the
17 property.

18 The existing design, if you whack the floor
19 off, would actually increase the gentleman's view
20 significantly, because as a flat roofed structure, to
21 knock off, let's say, ten feet of it would lower it to
22 a point that would be below the peak of the roof of the
23 existing building that's on the site by a significant
24 amount, which then would present you with a much more
25 wonderful opportunity to see the street across. But

1 that's not where we are here.

2 Architecturally, the two buildings and
3 their relative relationships at the number of stories
4 really are like, again, apples and oranges, because of
5 the design differences between those two.

6 So I want you to be aware of that fact,
7 that this existing three-story building is nearly the
8 equivalent of a four-story building because of the
9 height, and that the proposed four-story building would
10 be significantly more obtrusive if it didn't have a
11 flat roof on it; and a hipped roof would actually be
12 allowed by the direction that the code runs in terms of
13 height, because you can take that height to the
14 underside of the ceiling of the top story and jack the
15 roof up beyond that.

16 It would be a matter of right under certain
17 circumstances, and with this, because it's before the
18 Board, it would require some decision making on that,
19 but as a matter of a building, a three-story building
20 could have a roof that would make it the equivalent of
21 a four-story building in height.

22 Do I have any objections to that?

23 MS. CHUNG: No.

24 VICE CHAIRPERSON SOCKWELL: All right.

25 Let's see. We have --

1 MR. COLLINS: Should I do my closing at
2 this point?

3 VICE CHAIRPERSON SOCKWELL: Yes.

4 MR. COLLINS: In closing, members of the
5 Board, as has just been pointed out in this discussion,
6 the applicant could build a three-story, 40 foot tall
7 building as a matter of right, a row dwelling on this
8 property. Under the Code provisions, the party walls
9 could be used for support, and the building could be
10 built up to the party walls.

11 Removing the three-story building that
12 faces on the alley and building what is essentially,
13 because of the grade change from front to back, a
14 three-story building in the rear 30 feet away from the
15 alley is a benefit, as far as I'm concerned. It
16 increases the light and ventilation in the alley. It
17 doesn't decrease anybody's light and ventilation.

18 We're removing a building face on the
19 alley, building one in its place five feet taller 30
20 feet away.

21 The building at the rear of 2125 S Street
22 will remain. I understand Mr. Hirshberg's concern, and
23 it's a valid concern for people living in the
24 neighborhood, but I do believe that he will not likely
25 be able to see the majority of the building, in any

1 event, because of the existence of the building at the
2 rear of 2125 S that's there. He would have to see
3 around the corner to get a full picture of the rear of
4 the building that we're proposing at 2127. The new
5 building is less than five higher than the existing
6 building.

7 Turning to the Historic Preservation Review
8 Board, the HPRB certainly was aware -- if you look at
9 their staff report, they were aware that the building
10 was proposed to replace an open space, to fill in an
11 open space with a new building.

12 Their meeting was -- You can also tell by
13 looking at their staff report, it was an agenda item on
14 the July public meeting, not a consent calendar item.
15 So it was -- there was an opportunity for public
16 discussion, as Ms. Chung mentioned, and it was duly
17 noticed in accordance with their procedures.

18 There has been discussion with the building
19 owner, as Mr. Smith mentioned, for 2129 S about the
20 project. The ANC letter of December 22 was before the
21 date of the agreement on the 23rd. It's true that the
22 view issue was not part of that 23rd agreement, but I
23 believe that here we have addressed that issue to the -
24 - as requested in the ANC's letter.

25 I think, with that, I would close and

1 respectfully request your favorable decision at the
2 earliest possible date. Thank you.

3 VICE CHAIRPERSON SOCKWELL: Thank you, Mr.
4 Collins. Now with regard to Ms. Tuckerman and the ELS
5 center, you did say that -- I think Mr. Smith said that
6 the owners of that property, who are not the lessees,
7 had been in contact with your organization.

8 MR. SMITH: Through a broker.

9 VICE CHAIRPERSON SOCKWELL: Through a
10 broker.

11 MR. SMITH: Yes, through Paul Prevost of
12 Randall-Hegg.

13 VICE CHAIRPERSON SOCKWELL: All right. Now
14 with regard to that, was the discussion centered around
15 the windows?

16 MR. SMITH: Not at all. We did look at the
17 property, but we didn't discuss the windows at all.
18 They were aware that there was going to be a closing up
19 of a door, an egress door from the -- rather, I should
20 say the owner was aware, but I don't even remember --
21 and maybe you can help me -- how many windows there are
22 on that facade or how big they are.

23 VICE CHAIRPERSON SOCKWELL: Well, I think
24 that there are two issues. One, of course -- These are
25 issues that may not be aspects of the Board's charge,

1 but if -- and you did use the term egress with the term
2 door.

3 MR. SMITH: Yes.

4 VICE CHAIRPERSON SOCKWELL: So that means
5 that there is a significant fire and life safety issue
6 that might be compromised by your construction.

7 MR. SMITH: Actually, no. I shouldn't have
8 said egress door. The door is blocked off. They have
9 no -- I mean, there was, I think, even nailed shut from
10 their side. They have no access into our court.

11 VICE CHAIRPERSON SOCKWELL: Okay. So I
12 mean, it shouldn't be an egress door, but these older
13 buildings, one does not always know.

14 The other thing is with regard to the
15 windows. I don't know that Ms. Tuckerman has the force
16 of agency with regard to the owner and the owner's
17 needs and wants, and not being such a representative,
18 her interest is one of the lessee and the benefit of
19 those windows to the lessee's use.

20 So it seems that there may need to be a
21 coordination between ELS, the owner, and your group
22 regarding who is going to pay for what when it comes to
23 those windows and bringing that party wall up to the
24 required level of fire safety.

25 As well, if the school operates at a time

1 when daylight is the primary source of illumination,
2 then there is going to have to be some discussion about
3 upgrading the interior illumination levels, and that
4 might be a discussion between ELS, the property owner,
5 and your group, because you're making a significant
6 change to their ability to do business perhaps.

7 I'm just raising those issues, because
8 those issues come up every day in our business.
9 Apparently, the owner is an absentee owner who could
10 care less or knows nothing of the particulars of the
11 operation of his own tenant, and may not have made any
12 assertions to you with regard to that, because those
13 weren't the direction that the discussion was taking.

14 So I'm just suggesting that perhaps there
15 is more to this, but it won't affect the Board's
16 decision.

17 MR. SMITH: Right. I mean, it is part of
18 the permitting process that the application for the
19 building permit on underpinnings and party wall issues
20 either needs to get signed by the co-owner or we have a
21 certain right to go forward and build if they don't --

22 VICE CHAIRPERSON SOCKWELL: Well -- and Mr.
23 Collins might be able to attest to the fact that I'm
24 somewhat aware of those procedures.

25 MR. SMITH: Right.

1 VICE CHAIRPERSON SOCKWELL: So what
2 actually takes place, I know quite well. I know who to
3 call, where to call, what time to call, and I can call
4 them at times that you can't call them. But I'm just
5 bringing that up, because it is important for you to
6 realize that someone else is directly involved with the
7 decision to build, and that kind of coordination is
8 expected and certainly appreciated by those parties,
9 and one cannot operate in a vacuum, assuming that one's
10 property is independent of everyone else's property,
11 and we do not want that to happen.

12 MR. SMITH: Right.

13 VICE CHAIRPERSON SOCKWELL: So at this
14 point, barring any other discussion items, I would ask
15 my fellow Board members to ask any questions that they
16 may have so that we may move forward.

17 You have asked for a summary order on this?

18 MR. COLLINS: And a bench decision.

19 VICE CHAIRPERSON SOCKWELL: Bench decision.
20

21 BOARD MEMBER GILREATH: Mr. Vice Chair, I
22 have no further comments. I'm ready to offer my own
23 view on this.

24 COMMISSIONER HOOD: Mr. Chair, I, too,
25 believe we have discussed this thoroughly, and I guess

1 we can proceed.

2 VICE CHAIRPERSON SOCKWELL: Now the
3 Advisory Neighborhood Commission's points have already
4 been agreed upon in writing, and that would be --
5 should we approve this bound into the record and become
6 part of the order, I presume. Is that correct?

7 MS. PRUITT: No, Mr. Sockwell. It would be
8 part of the record, but not part of the order.

9 VICE CHAIRPERSON SOCKWELL; Not part of the
10 order. Okay. Because we don't have the -- Okay.

11 COMMISSIONER HOOD: Again, though, Mr.
12 Chair, I will say that I would hope that the applicant
13 again, like I stated earlier, would use the good faith
14 effort; because a lot of times that doesn't happen. So
15 I would put on the record again that I would hope, and
16 I'm sure Mr. Collins is hearing me, that they would use
17 the good faith effort with what they've worked out with
18 the ANC.

19 VICE CHAIRPERSON SOCKWELL: And,
20 fortunately, the owner in this case is not developing
21 just one property but is really changing significantly
22 a fairly large portion of that face of S Street. So
23 they are committed to a relationship with the
24 community.

25 MR. COLLINS: The agreement does go to all

1 three properties, and Mr. Hood, we would have no
2 objection to a reference to the existence of the
3 agreement in the part of the summary order that deals
4 with the ANC's decision.

5 VICE CHAIRPERSON SOCKWELL: In that case,
6 any other questions?

7 BOARD MEMBER GILREATH: Are you ready for a
8 motion, Mr. Vice Chair?

9 VICE CHAIRPERSON SOCKWELL: I believe that
10 we are.

11 BOARD MEMBER GILREATH: Having heard the
12 various aspects of the proposed application and the
13 project, I have to give great weight to the citizens,
14 to the ANC response, and so forth. The view from the
15 alley -- it is of some significance, but to me the
16 overriding aspects of the citizens, the agreements and
17 so forth, that the real greater good of the community
18 is served and so forth, that I make a motion that we
19 approve the application as presented, with the
20 references in the record about the agreement with the
21 ANC.

22 COMMISSIONER HOOD; Mr. Chair, I will
23 second that motion, also just saying that I would note
24 it does not impair the zoning ordinance. I wanted to
25 put that in.

1 VICE CHAIRPERSON SOCKWELL: That there are
2 -- As I can see, there are no significant detrimental
3 effects from the issuance of this variance -- of these
4 variances. It appears that the court, while deficient
5 by specific statutory requirement, is sufficient for
6 the purpose, and it does again bleed over into the
7 adjacent court for the adjacent property, which makes
8 it not as visually or realistically small as it could
9 be, were there a blank wall going straight up adjacent
10 to it.

11 It appears that, from the front of the
12 building and from its major roof facade, it sets back
13 significantly enough that it is not unattractive, while
14 at the same time it matches the height of the adjacent
15 structures on both sides, and in the rear, because it
16 does set deeply into the site, it presents, as Mr.
17 Collins stated, a probably better condition for light
18 and ventilation for the neighbors across the alley than
19 did the existing structure which is to be removed.

20 On the basis of any other issues that I
21 have seen presented, there is nothing to make us unsure
22 that this project will enhance the neighborhood in
23 which it is to be constructed.

24 So I call for the vote. All in favor?

25 MS. PRUITT: Staff would record the vote as

1 three to zero to one to approve. Motion made by Mr.
2 Gilreath, seconded by Mr. Hood, Ms. Reid not present at
3 the vote. Thank you.

4 VICE CHAIRPERSON SOCKWELL: Thank you.

5 MS. PRUITT: The next item on the agenda is
6 application 16534, application of Catholic University
7 of America, pursuant to 11 DCMR 3104.1, for a special
8 exception under Section 210 of an existing campus plan
9 for the construction of two new dormitories to be used
10 as residences by the University in an R-5-A District at
11 620 Michigan Avenue, N.E. (Square 3821, Lot 44.)

12 All those planning to testify, would you
13 please stand and raise your right arm.

14 Do you swear and/or affirm that the
15 testimony that you give will be the truth? Thank you,
16 please be seated.

17 (Witnesses sworn.)

18 MS. PRINCE: Good afternoon, Vice Chairman
19 Sockwell and members of the Board. I'm Allison Prince
20 with Wilkes, Artis, Hedrick & Lane. I'm here today on
21 behalf of The Catholic University of America.

22 The University is here to request special
23 exception approval for the construction of two new
24 residence facilities in the northeastern portion of the
25 campus along McCormick Road.

1 The buildings will provide housing for
2 approximately 348 students. The need for additional
3 housing was recognized in the current approved campus
4 plan that is currently in effect.

5 The majority of The Catholic University
6 campus, including the subject site, is zoned R-5-A.
7 The main portion of the campus is bounded by Michigan
8 Avenue to the south, Harewood Road to the west, Taylor
9 Street to the north, and McCormick Road to the east.

10 The University has appeared before this
11 Board in connection with three cases in recent years.
12 The University has secured approval for the
13 construction of a storage and grounds maintenance
14 building, the expansion of the north dining hall, and
15 most recently over the summer, the installation of
16 temporary housing units to accommodate 100 students.
17 All cases involved unanimous approval, bench decisions,
18 summary orders, and no opposition from the community.

19 The proposed student residence facilities
20 will be set back 47 feet from McCormick Road.
21 McCormick Road and the Metrorail tracks result in a
22 natural buffer between the proposed dormitories and the
23 adjacent property owners. Due to this buffer, any
24 noise resulting from the new residence facility should
25 have no impact on neighboring property owners.

1 As our traffic engineer, Bob Morris, will
2 report, the current parking capacity on campus will be
3 adequate to meet the needs associated with the new
4 dormitory. The new dormitory does not involve any
5 increase in enrollment. Rather, it simply will provide
6 additional on-campus housing opportunities for
7 students.

8 The total student enrollment at the
9 University is currently at 5,597, which is well below
10 the cap of 7500 students set forth in the plan. In
11 addition, the campus is developed to a density level
12 far below the maximum of .49 FAR approved in the most
13 recent plan.

14 The proposed construction will add
15 approximately 107,000 square feet of gross floor area
16 to the campus, which will result in a total FAR of only
17 .36 after the completion of the construction. I should
18 note that in the 1975 plan, 25 years ago, the maximum
19 density allowed at that time was .49. So we are well
20 below what was approved 25 years ago, not just what was
21 approved ten years ago.

22 On two occasions ANC-5C has voted to
23 support this request. The letter is in the record. We
24 secured a copy yesterday. It's accompanied by a
25 waiver, because it was not filed timely.

1 We are not aware of any opposition to the
2 application and, if the Board has no questions, I would
3 like to proceed with the testimony of our first
4 witness, Susan Pervi, Vice President of Administration
5 for the University.

6 She will be followed by Beth Buffington,
7 the project architect with Einhorn Yaffee Prescott.
8 Our final witness is Robert Morris, our traffic expert.

9 In addition, we have two members of the University
10 staff who may be helpful in answering any questions,
11 Father Robert Friday, who is the Vice President for
12 Student Life, and Dr. Megan Broone, who is the Director
13 of Housing and Residential Services.

14 If the Board has no questions, I'd like to
15 proceed with Ms. Pervi's testimony.

16 VICE CHAIRPERSON SOCKWELL: Ms. Prince,
17 there is one question. The notice of not having used
18 the review functions of the Zoning Division of DCRA
19 lacks a signature by the Zoning Administrator.

20 MS. PRINCE: The form that was accompanying
21 the -- Form 2?

22 VICE CHAIRPERSON SOCKWELL: Yes.

23 MS. PRUITT: Mr. Sockwell, I may be able to
24 help clear that up.

25 MS. PRINCE: Right.

1 MS. PRUITT: There's been an ongoing battle
2 between our office and the DCRA Zoning Administrator.
3 They keep sending them to us stating -- They keep
4 telling the applicant that they don't need a signature.

5 We have discussed this with Mr. Lourenco who is head
6 of BLRA, and they are supposed to be signing them.

7 So we can still get that signed, but it
8 puts the applicant in a very awkward position, because
9 for some reason DCRA is not signing them, even though
10 they are supposed to, and they have been told to do so.

11 VICE CHAIRPERSON SOCKWELL: It just means
12 we will have to get that signature at some point.

13 MS. PRUITT: Correct, yes.

14 VICE CHAIRPERSON SOCKWELL: We do have to
15 decide or make them decide that --

16 MS. PRUITT: Well, the decision has been
17 made. They just aren't enforcing it, for some reason.

18 Both Mr. Lourenco and Michael Johnson met with Jerrily
19 Kress and myself to discuss this issue specifically;
20 because this came up at a couple of other projects. so
21 it was actually addressed in September. So we were
22 Hoping that we would see some improvements, but we are
23 still calling back again asking them to continue to
24 sign.

25 VICE CHAIRPERSON SOCKWELL: So we'll just

1 have to get chairs for Ms. Herndon and others so they
2 can sit down there and -- All right, thank you.

3 Proceed, please.

4 MS. PERVI: Thank you. Thank you, Vice
5 Chairperson Sockwell and members of the Board. My name
6 is Susan Pervi, 1045 Rustling Oaks Drive, Millersville,
7 Maryland, and I am the Vice President for
8 Administration.

9 As a member of the University senior
10 leadership team, I have the responsibility for planning
11 and developing campus facilities to enable the
12 University to pursue scholarship, research and teaching
13 in service to society, the nation and the church.

14 The Catholic University of America is a
15 national institution committed to a strong local
16 presence, and is proud to be in the well established
17 neighborhood in the District of Columbia.

18 The University requests that the Board of
19 Zoning Adjustment approve this application for the
20 construction of campus residences to accommodate
21 students for the academic year beginning in August
22 2001.

23 This housing project has been identified as
24 the next priority in the collaborative planning efforts
25 of the University and local community. A status report

1 of this project was provided during the approval
2 processes for the very successful interim housing that
3 we installed this past summer in the heart of our main
4 campus.

5 It was a prior BZA case. However, this
6 time sensitive next phase of our coordinated enrollment
7 and housing management initiative will continue our
8 intensive efforts to ensure that we have appropriate
9 quality and quantity of campus student life facilities.

10 The quality of an institution's physical
11 environment contributes significantly to the
12 recruitment and retention of faculty, students and
13 staff. The Catholic University of America seeks to
14 provide facilities that support the intellectual,
15 cultural and spiritual life of the campus community,
16 but through improvements that are also respectful of
17 our neighborhood environment.

18 The University has a strong tradition of
19 collaboration on facility issues of common concern to
20 the campus and local community. The current master
21 plan, which was approved on May 22, 1992, has provided
22 the framework for institutional preservation and change
23 while respecting and supporting the local neighborhood.

24

25 It was developed through a campus and

1 community partnership, subsequently recognized as a
2 regional model for early and effective inclusion of
3 neighborhood representation on the University's core
4 planning group.

5 Since then, area Advisory Neighborhood
6 Commissions, civic groups, local and planning agencies
7 are provided campus briefings and continued
8 opportunities to participate in our campus planning
9 initiatives. Council Member Orange, ANC-5-C, ANC-5-A
10 and the Michigan Park Civic Association have all
11 formally supported the ongoing efforts to expand
12 student life facilities, especially campus housing.

13 Even though we're officially in one ANC, we
14 border on at least one other. So we include them in
15 our discussions.

16 My colleagues and I have provided regular
17 briefings to the community, focusing on projects of
18 mutual concern and benefit. During the recent hearings
19 to help us obtain financing to proceed with this
20 project, we've received formal letters and testimonies
21 provided by the community and local government
22 agencies; and has been reported, we do have on record
23 support for this project.

24 In fact, they officially voted on June 15th
25 and again on December 20, 1999, just to be sure that

1 everything was in order. We're very grateful for the
2 fruitful work we've been able to accomplish together
3 with our own ANC.

4 A quality residential living experience is
5 a critical element of the student life program. The
6 University is committed to responsible student growth
7 supported by the renewal and expansion of prominent
8 campus facilities, the preservation of our healthy mix
9 of open landscape, and campus access.

10 We are fortunate to have a campus setting
11 with generous land area. So critical campus
12 development can be accomplished without adverse impact
13 on the environment.

14 We are aggressively completing the design
15 phase of the new residences in conjunction and in
16 anticipation of a critical construction schedule to
17 coincide with our academic calendar. The architectural
18 professionals we have chosen are well versed in
19 residential and institutional community needs.

20 I want to assure you that this residential
21 project is being designed to respect the existing
22 facilities in the area, to preserve and enhance green
23 space, to develop a tasteful, functional and safe
24 housing complex, and to provide greater links to the
25 other essential programs and services already located

1 in the project area.

2 Existing parking facilities are generous in
3 the project area. The University, however, also
4 promotes the use of public transportation as part of an
5 institutional transportation management initiative
6 introduced during the campus master plan process, and
7 continued in conjunction with the Metropolitan Council
8 of Governments' effort to reduce vehicular traffic in
9 the area.

10 The new residences are close to the newly
11 dedicated section of the Metropolitan Bike Trail and
12 the Brookland COA Metrorail station.

13 The Catholic University of America has
14 strengthened its ability to enroll and retain a diverse
15 student population, including graduate, professional,
16 nontraditional and undergraduate students. We are just
17 recovering from a cycle of declining enrollment.

18 The University received an unprecedented
19 number of positive responses from those students who
20 are offered admissions for the current academic year.
21 In anticipation of continuing this trend, the
22 University is performing responsible enrollment
23 management and coordinating facility construction and
24 renovation projects in partnership with admissions
25 process managers and our student life leaders.

1 The University's mission and traditions
2 attract students and employees who contribute to the
3 many well established and meaningful outreach programs
4 we offer regularly. Enthusiastic students, faculty and
5 staff contribute more than 40,000 hours of volunteer
6 services each year.

7 The University serves the underserved in
8 educational, social, health and spiritual health, to
9 the sick, elderly, homeless, disabled and poor of the
10 community. In fact, we produce a guidebook each year
11 describing the wide range of outreach services and
12 school partnerships we generate, so the community and
13 University can actually coordinate and share in current
14 and future volunteer program development.

15 I'd like to thank you for the opportunity
16 to appear this afternoon. The University believes that
17 this residential project has been planned in a manner
18 consistent with the University's approved master plan
19 an with broad University and local community input and
20 support.

21 On behalf of the University, I'd like to
22 assure you of our continued commitment to responsible
23 facility improvement and to recruitment of a campus
24 student and employment population that continues to be
25 dedicated to the educational, cultural, spiritual,

1 volunteer and economic development in our community;
2 and we respectfully request your approval of this
3 application. Thank you.

4 VICE CHAIRPERSON SOCKWELL: Thank you very
5 much.

6 MS. PRINCE: If the Board has no questions,
7 I'd like to proceed with the testimony of Beth
8 Buffington, project architect with Einhorn Yaffee
9 Prescott.

10 MS. BUFFINGTON: My name is Beth
11 Buffington. I am an architect with Einhorn, Yaffee,
12 Prescott, 1000 Potomac Street, N.W. in Washington, D.C.

13 This first drawing is basically just to
14 orient you all to the campus and location of the new
15 construction on campus. This is Michigan Avenue over
16 here, Harewood Road, the Shrine. I'm sure people know
17 where that is.

18 The existing Metro station is right over
19 here at this corner of the campus. This edge of the
20 campus is bordered by the Metro track, and there are
21 recreational facilities over on this side of Taylor
22 Street, it comes across and it crosses the Metro tracks
23 on a raised access road.

24 This is the location of the new buildings.
25 You'll see it in more detail later, but you can see it

1 is right on McCormick Road, which is along this edge of
2 the campus, and it's adjacent to existing housing here
3 and in this area, and it's the center of the new
4 housing complexes for the campus. That is where the
5 new housing is located in the master plan.

6 Here are some site photos, which are also
7 included in the information that you've already been
8 given. You can see here, as I mentioned, this is the
9 two adjacent buildings which are Ryan and Regan, which
10 are existing residence halls, the St. Vincent DePaul
11 Chapel which is in the center of those. You'll see
12 those in a second.

13 You see Taylor Street coming across the
14 Metro tracks here. Here you're looking down towards
15 across the lawn in front of these existing buildings at
16 the Metro tracks, and you can see the construction on
17 the other side of the Metro tracks, which is the back
18 of a bunch of commercial type buildings.

19 This is looking down along the front of the
20 property, and you see the new residence halls here, and
21 here's the side view of the Chapel.

22 This is a slightly larger scale view of the
23 plan. We think of it as one building. It's really two
24 separate structures, but they are completing this
25 existing -- this is a residence hall and a residence

1 hall, and here's the Chapel. There's an existing
2 residence hall here, Blather Hall.

3 As I mentioned, this existing residential
4 complex up here called Centennial Village, and there's
5 the North Dining Facility which was recently enlarged.

6 So you can see that this is intended to be
7 the residential section on campus. The master plan
8 does indicate that this area would be residential, as
9 Allison pointed out. The FAR allowed on campus is .49.

10 The existing FAR is .35, and these two new structures
11 will bring it up to .36.

12 The buildings are set back significantly
13 from McCormick Road. They are also set back 20 feet
14 from the property line. You can see the property line
15 in this area is 27 feet from McCormick Road. So
16 McCormick Road, obviously, has a wide right-of-way for
17 its increase. It was recently, however, upgraded and
18 repaved. It doesn't have a lot of traffic on it,
19 because it doesn't serve much of anything except the
20 University.

21 The buildings are 51 feet high, which would
22 require that they be set back from the property line 11
23 feet, but in order to maintain the edge along this edge
24 of the campus, we are setting them back 20 feet, 4
25 inches. They are set 30 feet from the existing

1 residence halls.

2 The design concept for these buildings is
3 to create new little residential clusters in this area,
4 a little complex of residential buildings that also,
5 incidentally, frames the Chapel and gives it a nice,
6 new front yard.

7 The existing condition has a roadway coming
8 through this area, which is used for parking, and Bob
9 is going to talk about that in a minute, how that's
10 affected by this scheme. But it's really very
11 appropriate, we believe, to have these new buildings in
12 these complexes with these existing residence halls,
13 which are for undergraduate use.

14 These new buildings are designed and
15 intended for upper classmen and graduate student use,
16 since they are suites and apartment type units, the
17 idea being the University feels very strongly that it's
18 a good policy to mix undergraduate and graduate and
19 upperclassmen, because it seems to improve the behavior
20 of the undergraduates, which is certainly a laudable
21 goal from everyone's point of view.

22 The plans -- The buildings are -- Well, let
23 me just point out this elevation here, because you can
24 see this here. The existing buildings are a little
25 taller than -- I mean, the new buildings are a little

1 taller than the existing buildings, but there's a
2 natural grade that comes down here to the street.

3 So although they are taller, they are set
4 lower, so that the eave line of the four-storied
5 building is almost exactly the same as the eave line of
6 the three-story building behind it. The roofs are a
7 little taller, because we've used a higher roof pitch,
8 and that has to do with the design of the buildings
9 themselves.

10 We'll see the elevations in a little bit
11 more detail in a minute. I guess what I should have
12 also mentioned when I was showing you the campus plan
13 is that this is the location of the new law school
14 here, and I don't know if you are at all familiar with
15 it.

16 This part of the campus, for the most part,
17 is stone or it's a light colored brick or stone precast
18 kind of mix on these buildings in here, in terms of
19 just the general -- The original buildings are kind of
20 a Tudor or Gothic character.

21 The residential part back in here -- and
22 you can see that in the photographs -- is these
23 existing buildings are -- They're red brick, and they
24 have -- They do have limestone trim, and they have
25 slate bricks.

1 So part of the design of the new buildings
2 is to frame the new buildings to sort of tie together
3 the context of the new law school, which is right
4 adjacent to the site over here, but it's quite a
5 distance away, with the residential facilities. So
6 these buildings would be a mixture of the materials.
7 They would have probably cast stone, red brick and trim
8 that would be consistent with that.

9 The floor plans, as I mentioned, are suites
10 and apartments. On the ground floor in the site plan
11 you may have noticed that there were patios being
12 developed outside, inside the courtyards between the
13 two buildings.

14 The idea is that in each building there
15 would be some recreational space, and the idea would be
16 that that would allow for outdoor activities, bring a
17 sense of life into those courtyards, bring people down
18 and bring them together in using these spaces for, you
19 know, kind of social aspects of residential life.

20 Besides the office kind of functions on the
21 ground floor and these recreational spaces, there are
22 computer labs and laundry rooms, and again the kind of
23 spaces, you know, that bring students together and
24 would be shared by the whole communities bordering on
25 these courtyards.

1 The unit -- There are a couple of staff
2 type units also on these lower floors for housing
3 staff, and other than that they are typical apartment
4 and suite type units. But typical floors of the
5 buildings, the apartments are in this area, and the
6 suites are in this area laid out, you know, basically
7 like an apartment building.

8 The idea is most of the bedrooms are single
9 bedrooms, and the purpose of this project is not only
10 to provide additional housing on campus but to provide
11 an additional kind of housing on campus. The idea with
12 a lot of colleges and universities these days, and I
13 think that Catholic is particularly interested in
14 carrying this through, is to encourage older students
15 to stay on campus.

16 They find that, if students stay on campus,
17 living on campus, that they participate much more in
18 the life of the university, and both the students and
19 the university benefit from that. So having these
20 units as apartments allows students to stay on campus,
21 to stay part of the life of the university, and yet
22 live much more independently.

23 So the focus in this building is on
24 providing in both the suites and apartments single
25 bedrooms, which would be much more appropriate for

1 upper class students who are looking for more housing
2 opportunities on campus.

3 Just to give you an idea of the elevations,
4 which I'm sure you can see -- you couldn't see the
5 other ones at all -- there's an entrance off of the
6 street side and an entrance off of the courtyard side,
7 which would serve -- We think most of the students will
8 be coming down through the campus and into those
9 courtyards, because that's how the existing buildings
10 are entered. But there will be some traffic coming
11 from the Metro and for move-in day.

12 There's an entrance off of the outside, and
13 this is sort of the outside side of the building, and
14 this other elevation gives you an idea of what the
15 building would look like on the courtyard side.

16 So I think that's pretty much my
17 presentation. If you have any questions, I'd be glad
18 to answer them.

19 VICE CHAIRPERSON SOCKWELL: The appearances
20 that you're creating, basically a narrow quadrangle.

21 MS. BUFFINGTON: That's basically true,
22 yes.

23 VICE CHAIRPERSON SOCKWELL: And I can see
24 where the relationship of the site contours or the
25 basic elevation change as you go toward the McCormick

1 Road does sort of tie the buildings of different
2 heights together effectively from the outside at least
3 and on the inside you're going to get the gradual slope
4 up.

5 MS. BUFFINGTON: Yes.

6 VICE CHAIRPERSON SOCKWELL: I really don't
7 have any questions. It's nestled neatly sort of
8 between the railroad tracks and the --

9 MS. BUFFINGTON: We like to think that
10 noise won't be a problem, I must say.

11 VICE CHAIRPERSON SOCKWELL: It's a short
12 walk to the Pizza Hut.

13 MS. BUFFINGTON: Yes.

14 VICE CHAIRPERSON SOCKWELL: Anyway, I have
15 no questions. We can proceed with our traffic
16 consultant.

17 MR. MORRIS: Thank you, Mr. Vice
18 Chairperson. I'm Robert L. Morris, traffic engineer,
19 transportation planner. My home address, 9109 Rouen
20 Lane, Potomac, Maryland 20854.

21 At the request of The Catholic University
22 of America, I have prepared principally a parking study
23 which is included under Tab E of the material before
24 you, and I will just touch on the highlights of that
25 report, if that's appropriate, and then I'll be happy

1 to answer any more detailed questions.

2 I've made a comprehensive survey of parking
3 as it would pertain to the proposed improvements here,
4 the existing use, the availability of spaces at various
5 times of the day.

6 I picked four specific times of the day,
7 seven o'clock in the morning, eleven o'clock in the
8 morning, two in the afternoon, and four in the
9 afternoon, and I made measurements of the utilization
10 of spaces where they would be available for the future
11 occupants of these buildings at those particular times.

12 I made the point -- I did it throughout a
13 week, on four different days during that week made at
14 least two measurements at each of those particular
15 times and took the lowest measurement in terms of
16 available spaces. So, if anything, my data are
17 conservative.

18 I determined the auto ownership of the
19 students who live in the three existing residential
20 facilities at this time, and it works out to
21 approximately one car per five students, actually .19
22 which I round off to .2 cars per bed in the existing
23 three residential facilities.

24 Then using that as a measurement to expand
25 to the future parking needs based on the future number

1 of residents at the new facilities, I determined that
2 the total future demand would be for 85 -- I'm sorry,
3 for 155 spaces.

4 Now we're going to lose the parking spaces
5 along the service drive, which is 70 spaces, I believe
6 -- I'm sorry, 35. There are 35 spaces on the service
7 road. Those will be lost. So we will have a need for
8 a total of 155 spaces at the times of peak demand.
9 There are available 85 spaces. So there is a need for
10 an additional 70 spaces.

11 If you'll notice on page 1 of my report, in
12 the parking garage, which is a hop, skip and a jump
13 down McCormick Road, it connects directly with the
14 Columbus School of Law, and there are -- I should say,
15 there is a plethora of available spaces in that garage
16 at all times, and during the peak accumulation time,
17 which is seven o'clock in the morning, there are more
18 than 550 available spaces. So there is no question but
19 what there would be available parking for the students
20 at the convenient locations to where they will be
21 living.

22 As far as traffic is concerned, the only
23 comment I would note, Mr. Vice Chairperson, is that the
24 more people who live on the campus, the fewer cars can
25 be brought to the campus, and the result would be, if

1 anything, an improvement in existing traffic operating
2 conditions on the surrounding streets.

3 I have made a number of studies for The
4 Catholic University of America in the past, and I have
5 measured levels of service and traffic operating
6 conditions all around the campus, and the conditions
7 during peak hours have always been within the
8 acceptable level of service as defined by the
9 Department of Public Works.

10 So as I say, if anything, those levels of
11 service would be improved as a result of the proposal
12 that's before you. So my bottom line is that there
13 would clearly be no adverse impact in terms of traffic
14 and parking, and there would be adequate parking --
15 there is adequate parking available and will be
16 adequate parking available with the elimination of the
17 service road spaces to serve the new facilities.

18 VICE CHAIRPERSON SOCKWELL: Mr. Morris,
19 with the change of the service road to a -- it's really
20 not a through road anymore. It sort of courses through
21 a parking area that's behind the two existing dorms, or
22 does it just die off in there?

23 MR. MORRIS: It's a one-way road, Mr. Vice
24 Chairperson. It just comes in off of McCormick Road.
25 It goes past the two existing residence facilities and

1 comes back onto McCormick Road.

2 VICE CHAIRPERSON SOCKWELL: In the
3 proposal, not in the --

4 MS. BUFFINGTON: I think what you're
5 looking at is the --

6 VICE CHAIRPERSON SOCKWELL: I'm looking at
7 both.

8 MS. BUFFINGTON: Right. What's currently -
9 - There's currently a road between -- that would be to
10 the east of the residential buildings between the east
11 of the residential buildings and McCormick Road.

12 VICE CHAIRPERSON SOCKWELL: And that's
13 where the spaces would be lost?

14 MS. BUFFINGTON: That's going to be
15 eliminated. Then we're upgrading what is now basically
16 a walkway, which is to the west of the residential
17 buildings for fire access along that side, but they
18 wouldn't -- Normal vehicular traffic wouldn't be
19 allowed back in there. It's a pedestrian way.

20 VICE CHAIRPERSON SOCKWELL: So where the
21 entrances from McCormick Road have a left or right turn
22 toward the new buildings, that is not a general use
23 roadway.

24 MS. BUFFINGTON: Right. It's like a
25 service area for those buildings.

1 VICE CHAIRPERSON SOCKWELL: Because it
2 looks like these widen up sort of to the east and west
3 of the two halls, Ryan and -- what's it, Beson? Regan,
4 Ryan and Regan Hall, it looks like for some service
5 access to those.

6 MS. BUFFINGTON: Yes. We're going to have
7 -- because we'll have to get a fire truck through
8 there. So they wouldn't be able to park there, but
9 there's parking --

10 VICE CHAIRPERSON SOCKWELL: Within the
11 Columbus School --

12 MS. BUFFINGTON: -- right behind the law
13 school, right here is an underground parking structure.

14 MR. MORRIS: No, no, no, no.

15 MS. BUFFINGTON: It's right there.

16 MR. MORRIS: Right, exactly. Sorry.

17 VICE CHAIRPERSON SOCKWELL: And Mr. Morris,
18 you're saying that that parking structure is adequate
19 to house the parking requirements that would be
20 created by the new dormitories?

21 MR. MORRIS: Yes, it's more than adequate.
22 There's substantial excess space in that garage, and
23 especially on the lower level. Of all times of the
24 day, at the lower level there are a lot of spaces.

25 VICE CHAIRPERSON SOCKWELL: Are there going

1 to be any new on-ground spaces?

2 MR. MORRIS: In conjunction with this
3 project?

4 VICE CHAIRPERSON SOCKWELL: Yes.

5 MR. MORRIS: No, sir. That's my
6 understanding.

7 MS. BUFFINGTON: No.

8 VICE CHAIRPERSON SOCKWELL: Okay. So these
9 buildings are essentially slab on grade going up.

10 MS. BUFFINGTON: Yes.

11 VICE CHAIRPERSON SOCKWELL: And all the
12 parking will be accommodated in existing facilities
13 that are underutilized at this time. That's what
14 you're saying?

15 MS. BUFFINGTON: That's correct.

16 VICE CHAIRPERSON SOCKWELL: All right. Are
17 there any questions?

18 BOARD MEMBER GILREATH: I have no
19 questions, Mr. Chair.

20 VICE CHAIRPERSON SOCKWELL: All right.
21 Then we will proceed to government reports, and we do
22 have a report from the D.C. Office of --

23 COMMISSIONER HOOD: I'm sorry, Mr. Chair.
24 I do have a question, and I don't know if this is the
25 right time to ask it. Maybe one of my colleagues can

1 help me.

2 I was trying to understand this letter from
3 the -- and I know you're going to get into that --
4 Department of Health. I was wondering if you could
5 respond to the letter from Ms. Ellen Fatah.

6 MS. PRINCE: We checked the record as
7 recently as 4:00 p.m. yesterday and did not get a copy
8 of the letter from the Department of Health. So I have
9 not seen such a letter.

10 COMMISSIONER HOOD: I just didn't see what
11 -- Mr. Chair, I didn't see where this had any
12 correlation with the case, but maybe -- To some degree,
13 I can, but --

14 VICE CHAIRPERSON SOCKWELL: There was no
15 discussion. The letter responds to a child development
16 center issue. Is there a child development center
17 being -- I mean, it references this application.

18 MS. PRINCE: There's an existing child
19 development center on the campus. However, that's not
20 in any way involved with the subject application.
21 Sounds like a document that was misfiled.

22 BOARD MEMBER GILREATH: Mr. Vice Chair, I
23 interpret that to be simply there was an error on their
24 part in identifying a child development center there
25 which has no relevance in this case.

1 VICE CHAIRPERSON SOCKWELL: Yes. It
2 appears that something is wrong, because I didn't see a
3 wedding chapel described in here.

4 COMMISSIONER HOOD: The only thing that
5 kind of threw me for a loop, Mr. Chair, because they
6 did have the correct BZA application number, but I just
7 again didn't see any reference to what we were talking
8 about, what this case is even about.

9 VICE CHAIRPERSON SOCKWELL: Well, I
10 appreciate that, Mr. Hood, because I noticed the
11 letter, and I figured that the applicant would get to
12 the discussion of a child development center at some
13 point, but apparently it would not have been part of
14 Mr. Morris' discussion since they don't drive.

15 I guess this -- We'll figure this one out.

16 COMMISSIONER HOOD: Well, the other way,
17 Mr. Chair, to look at it is maybe kids are really
18 starting college a lot earlier.

19 VICE CHAIRPERSON SOCKWELL: That's true,
20 because we have a very well educated group of students
21 in there. They're all 170 and higher IQs. They will
22 be proliferating in the graduate school. They'll
23 probably pass undergrad completely.

24 All right. So let's go to the Office of
25 Planning report. We have a report dated December 29.

1 Essentially, the Office of Planning recommends that the
2 application be approved.

3 If the representative from the Office of
4 Planning would like to elaborate on the specifics
5 briefly, we would certainly appreciate it.

6 MS. VOGEL: Certainly.

7 VICE CHAIRPERSON SOCKWELL: Mary Vogel from
8 the Office of Planning.

9 MS. VOGEL: Thank you. Yes. Well, first
10 of all, I guess we have largely three major points:
11 First, that this is, in fact, part of an approved
12 campus plan. The need was established, the basically
13 location of the buildings and even bulk was established
14 in the approved campus plan.

15 As has already been documented by the
16 applicant, the FAR, floor area ratio, is within the
17 established limit, in fact, well under the established
18 limit.

19 In terms of the zoning regulations and the
20 planning policies, the site characteristics make it
21 unlikely to cause concern to neighboring property
22 owners. As has already been pointed out, the Metrorail
23 which is at that point above ground and parallels
24 McCormick Avenue and all it, and to the west the wooded
25 buffer before Taylor Avenue really set the property off

1 from any neighboring uses that it would cause objection
2 to.

3 In fact, the ANC, as the University pointed
4 out, unanimously supports the application. It seems to
5 the Office of Planning that Catholic University's
6 example here has been quite exemplary in terms of their
7 association with the neighboring ANCs, in fact.

8 I hope it was not my fault that the letter
9 from the ANC was late. I had been playing phone tag
10 with the ANC representative, and by voice mail we
11 established with each other the results of the most
12 recent ANC meeting. I told him I thought that, no, he
13 didn't necessarily need to send me a copy of the letter
14 as long as he got it into the Zoning Commission, and
15 perhaps I should not have done that.

16 In any case, as you've already noted, the
17 Office of Planning recommends that this application be
18 approved.

19 VICE CHAIRPERSON SOCKWELL: Thank you very
20 much. Any questions of the Office of Planning report?

21 All right. Then let's go to ANC reports, and we do
22 have a letter from Advisory Neighborhood Commission 5C.

23 Is there anyone representing ANC-5C here today?

24 Then the ANC letter is given a cover letter
25 that asks that the seven-day filing requirement for

1 written reports be waived in order that the report
2 become part of the record. That's been done. Correct?

3 COMMISSIONER HOOD: No, Mr. Chair. We're
4 going to have to do that. I think, Mr. Chair, we can
5 just do it be general consensus.

6 VICE CHAIRPERSON SOCKWELL: Yes. Fine.
7 Well, then it becomes part of the report.

8 I'll go to the second paragraph. In brief,
9 ANC-5C would like to extend its unanimous support for
10 the applicant's request for a special exception to
11 construct two new dormitories to be used as residences
12 by the University on its interior campus located at 620
13 Michigan Avenue, N.W.

14 It goes into other discussions, says it
15 will have the net effect of easing the existing
16 pressure on the University to find additional off-
17 campus housing to meet the needs of its, again, growing
18 student population. "We thank you in advance," dah-
19 dah-dah.

20 The question to be raised -- let's see
21 here. Quorum of the membership was present at the time
22 the issue was discussed, and subsequently voted upon by
23 the body. So this is an official endorsement by a
24 quorum of ANC-5C entered into the record as supporting.

25

1 There was no -- Apparently, from the Office
2 of Planning report, there was no Department of Public
3 Works input.

4 MS. VOGEL: No, and actually, between this
5 morning and this afternoon, I got a call from the
6 Metropolitan Police Department saying they were FAX'ing
7 their comments over. However, I didn't receive them
8 before I left. I did indicate that I'd be leaving
9 shortly, and I'm not sure what happened. Perhaps they
10 used the wrong FAX number.

11 The Department of Public Works indicated
12 that, because of the regularly assigned staffperson is
13 out on sick leave and shortness of staff during the
14 holidays, they weren't able to get a report in, and I
15 haven't heard from the Fire Department.

16 VICE CHAIRPERSON SOCKWELL: All right. I
17 assume that the Police Department would have no
18 comments different from the ones that have been
19 reported in the Washington Post over the last six
20 months or so.

21 Anyway, then I would request that we
22 receive input from parties in support of this
23 application -- closing remarks, I guess we need, from
24 you at this point.

25 MS. PRINCE: I believe we have presented a

1 well planned and greatly needed project that's entirely
2 consistent with the approved campus plan. All the
3 relevant sections of Section 210 have been satisfied
4 regarding noise, traffic, number of students, and other
5 objectionable conditions.

6 We request your approval immediately, like
7 today. We need to file for a building permit by
8 February 1 to meet the fall of 2001 occupancy schedule,
9 and fall for Catholic University is August, which
10 creates some time constraints.

11 So not only do we need immediate approval,
12 but we need an expedited order, if possible. Thank
13 you.

14 VICE CHAIRPERSON SOCKWELL: Thank you. You
15 need to apply for the building permit by when?

16 MS. PRINCE: February 1.

17 VICE CHAIRPERSON SOCKWELL: And you'll have
18 it by February 1. That's if all goes well.

19 All right. Then I would ask for parties in
20 support of the application. Are there parties here in
21 support that would like to testify that have
22 registered?

23 I don't see any hands. All right. Persons
24 or parties in opposition? You three? Okay. I didn't
25 see any faces that looked like they were in opposition.

1 All right. Then are there any questions
2 that my fellow Board members have at this point? Then
3 I will take another very brief closing by the
4 applicant, just to say do it.

5 MS. PRINCE: We'd appreciate your action
6 today and an expedited order, summary order. Thank
7 you.

8 COMMISSIONER HOOD: Mr. Chair, with that,
9 if it's in order, I will make a motion that we approve
10 application Number 16534, Catholic University, noting
11 that the special exception is in harmony with the
12 general purpose and intent of the zoning regulations
13 and zoning maps, and it does not adversely affect the
14 surrounding neighborhood.

15 BOARD MEMBER GILREATH: Mr. Vice Chair, I
16 second that motion. Frankly, I think it enhances the
17 neighborhood as well by reducing the number of students
18 living off campus, the number of cars that would be
19 needed to arrive at the campus. So, to me, it's a
20 win/win situation for both the University and the
21 surrounding community.

22 VICE CHAIRPERSON SOCKWELL: Thank you. I
23 believe that the special exception request would be in
24 harmony with the general purpose and intent of the
25 zoning regulation and maps, would not tend to adversely

1 affect the use of neighboring property in accordance
2 with the zoning regulations and zoning maps, and in
3 particular, this particular project is located on the
4 east edge of the principal campus.

5 It is bordered either by other campus
6 facilities or to the east the rail and Metro tracks
7 across which is primarily the back side of commercial
8 property, and actually the distance to any residential
9 property is significant. I know of one shopping
10 center. D.C. Cablevision is somewhat to the south. My
11 favorite bridge is to the south. My parents live in
12 the general neighborhood.

13 I think that it is tastefully designed.
14 Although that is not exactly the charge of this Board
15 to look at design specifically, I think it will create
16 a very pleasant environment for the students to
17 interact on a somewhat self-contained quadrangle with
18 good access, of course, to the rest of the campus, to
19 that awful intersection at Michigan Avenue and
20 McCormick.

21 I would agree that, along with the reports
22 that we have, there is no opposition, and for a college
23 campus applicant to come in without opposition, with
24 coordinated responses from the Office of Planning, the
25 Advisory Neighborhood Commission, and no negatives from

1 the Police Department that we know about is a very good
2 thing.

3 It appears to meet the requirements of the
4 campus plan without overburdening in any way the
5 maximum allowable FAR, without causing any detrimental
6 effects, and I would then call for a vote.

7 All in favor? Opposed? None opposed?
8 Then it is approved, and you will need something from
9 us as quickly as possible. Does that mean that you
10 will -- Let's see.

11 MS. PRUITT: We'll be happy to provide you
12 with a draft summary order.

13 VICE CHAIRPERSON SOCKWELL: Yes.

14 MR. HART: Staff would record the vote as
15 three to zero to one. Mr. Hood, Mr. Gilreath, Mr.
16 Sockwell, and Ms. Reid not present, not voting.

17 VICE CHAIRPERSON SOCKWELL: Thank you very
18 much. Call the next.

19 MR. HART: The next case is Number 16526,
20 1717 Massachusetts Avenue Associates/The Johns Hopkins
21 University, pursuant to 11 DCMR 3104.1, the conversion
22 of an office building under Section 507 to classrooms
23 and office space to be used by the University in a
24 DC/SP-2 District at premises 1717 Mass. Avenue, N.W.
25 (Square 157, Lot 850).

1 Persons planning to testify, please stand
2 and raise your right hand for the oath. Do you swear
3 or affirm that the testimony you are about to give will
4 be the truth?

5 (Witnesses sworn.)

6 VICE CHAIRPERSON SOCKWELL: Mr. Quin, how
7 are you?

8 MR. QUIN: Mr. Chairman, for the record, my
9 name is Whayne Quin with Sarah Shaw of the law firm of
10 Wilkes, Artis, Hedrick & Lane. We represent the Johns
11 Hopkins University in this matter. Shall I just
12 proceed?

13 VICE CHAIRPERSON SOCKWELL: Yes.

14 MR. QUIN: This is an application for a
15 special exception under Section 507 of the zoning
16 regulations to permit the use of an existing office
17 building at 1717 Massachusetts Avenue by Johns Hopkins
18 University which is, of course, an academic institution
19 of higher learning in the District of Columbia.

20 The building is presently used in its
21 entirety for offices. Originally, it was approved by
22 this Board in 1962, and there have been a number of
23 approvals since then for various office uses under the
24 old regulations, which then was required.

25 No variances are requested. We have

1 unanimous support of the ANC, and we are following the
2 precedent of the last case, we hope. We are not aware
3 of any opposition.

4 The property -- I'm sure you know it -- is
5 on the north side of Massachusetts Avenue. It's about
6 mid-block between 17th and 18th Street in an area zoned
7 Dupont Circle overlay SP-2. The lot contains about
8 20,000 square feet, and it's developed with an eight-
9 story building which contains about 110,000 square feet
10 of gross floor area.

11 The current owner is 1717 Massachusetts
12 Avenue Associates, and Johns Hopkins University has
13 entered into a seven-year lease with an option to
14 purchase at the end of that lease, contingent, of
15 course, on the Board's approval.

16 We are hoping for expeditious decision
17 today. We assume that you read the statement and,
18 therefore, I'll be brief.

19 As will be described in more detail by Dean
20 Steven David, the University plans to use the building
21 for classrooms, administrative office space and other
22 support space in phases, to house graduate programs of
23 its Arts and Sciences school, its School of Public
24 Health and School of Professional Studies.

25 Initially, and this is the first phase, the

1 first floor and the fourth floor would be used for
2 their Arts and Science program, and that's presently --
3 that program is presently located across the street at
4 1776 Massachusetts Avenue, and the initial occupancy
5 would be for about 150 students, and the classes would
6 be on weekdays, evening classes, and on weekends mid-
7 day classes, eventually reaching a total enrollment
8 figure of about 300 students. That's the first phase.

9 The second phase would begin in 2005 after
10 the existing leases under their present terms expire
11 with the programs of the Public Health and Professional
12 Studies. They will occupy the building in its entirety
13 ultimately. The latter two uses are now at 1625
14 Massachusetts Avenue, essentially.

15 As Johns Hopkins phase-in occurs, the
16 office uses in the building will phase out over that
17 extended period.

18 Ultimately, the cumulative total enrollment
19 will be 825 students, and with a population at any
20 given one time, the maximum of any one time of
21 students, faculty and staff of a little under 400
22 students -- people, that is. That's with all three
23 categories.

24 So it's roughly comparable to the same
25 number of people that are in the building today, except

1 under the existing use today there's occupancy at peak
2 hours in the morning, in the afternoon, and it's full
3 occupancy during the day and, of course, offices can
4 stay open as long as they want.

5 A large percentage of students in the
6 school live in the District of Columbia, about 40
7 percent, and the rest are from nearby areas. The
8 majority of students walk to school or take Metro, and
9 only about 20 percent drive.

10 The building itself contains 83 parking
11 spaces, self-parked, and the school has also made
12 arrangements for parking for students at 1225
13 Connecticut Avenue where up to 400 spaces are
14 available. Traffic report -- Bob Morris will give a
15 little bit more detail about that.

16 Before calling our witnesses, and there
17 will just be two today, I assume that you've looked at
18 the report. There's a summary of how we meet all the
19 requirements of Section 507 on pages 7-10 of our
20 statement, and I would ask you to refer to the exhibits
21 and again ask if there is any question about the
22 exhibits.

23 Essentially the first three talk about the
24 usage, location, etcetera, of the project. Exhibit D
25 is the original order approving the office building.

1 The next one is approval of the School of Advanced
2 International Studies across the street, at another
3 location as well.

4 Exhibit F is the certification from
5 Licensure Commission for Johns Hopkins University, and
6 then Mr. Morris' report is attached as Exhibit H.

7 If there are not any questions -- or if
8 there are any questions, I'd be glad to receive them
9 now -- I'd like to call our first witness, Dean Steven
10 R. David.

11 BOARD MEMBER GILREATH: I have no
12 questions.

13 VICE CHAIRPERSON SOCKWELL: One thing. The
14 request that -- the actual form did not state special
15 exception in it.

16 MR. QUIN: It should say the section number
17 507.

18 VICE CHAIRPERSON SOCKWELL: It does. I'd
19 just like to make it clarified. I just thought I'd
20 bring that up. Go ahead, please.

21 MR. DAVID: I'm Steven David, Associate
22 Dean of Academic Affairs at Johns Hopkins. I'm also a
23 professor of international relations. My home address
24 is 3010 Lightfoot Drive in Pikesville, Maryland.

25 I'd like to thank the Board for this

1 opportunity to speak on behalf of Johns Hopkins'
2 request to lease and possibly purchase the building at
3 1717 Mass. Ave. I'm going to be brief.

4 I'll talk less than five minutes in support
5 of this request, talk a bit about Johns Hopkins
6 University, our intended use of the building, and just
7 touch briefly on some of the issues of parking, taxes,
8 and alterations of the building.

9 First, a bit about Johns Hopkins. As many
10 of you probably know, Johns Hopkins is a preeminent
11 research and teaching institution. Its main campuses
12 are in Baltimore, but what you might not know is that
13 we have campuses throughout the world, and indeed in
14 this area as well.

15 We have campuses in Italy, in China, in
16 Montgomery County, and in the neighborhood in which we
17 hope to move into. SAIS, our sister school, the School
18 of Advanced International Studies, has been in the
19 Dupont Circle neighborhood for about 50 years, and in
20 addition, we have part-time programs in two buildings
21 in the Dupont Circle neighborhood, as well as scattered
22 sites in that area.

23 Indeed, it's our part-time programs, our
24 adult education programs, which is why we seek to lease
25 and perhaps purchase the building at 1717 Mass. Ave.

1 These programs cover a wide range of areas, including
2 writing seminars, government, environmental issues,
3 biotechnology issues, economic issues.

4 What we're hoping to do is consolidate our
5 students, who again are scattered throughout the
6 neighborhood, into one building. What I'd like to
7 emphasize is that this consolidation does not mean that
8 -- it will not produce any increase in the numbers of
9 students in itself. What we aim to do is facilitate
10 the teaching of our students in this area.

11 In terms of the issues that came up in our
12 several meetings with the ANC, parking has already been
13 addressed, but let me at least reaffirm that. It's our
14 belief that, by acquiring the property at 1717 Mass.
15 Ave., the parking situation will be eased rather than
16 exacerbated.

17 The reason is there are 83 parking spaces
18 at 1717 Mass. Ave. which will become available in the
19 evening and on Saturday when our students will be
20 attending Johns Hopkins. This number will easily
21 accommodate the number of students who use cars to come
22 to these classes.

23 Another issue that's come up in our
24 discussion with the neighborhood had to do with taxes.

25 Some members of the ANC were concerned about removing

1 a building from the tax rolls and the broader community
2 impact of that.

3 Let me just say a couple of words about
4 that. First of all, obviously, in the seven years in
5 which we lease the building, Johns Hopkins will
6 continue to pay taxes. In addition, Johns Hopkins will
7 pay taxes on uses of the building which are not
8 strictly academic and, of course, our students will pay
9 taxes when they park, when they buy items in the
10 neighborhood, when they purchase food, etcetera.

11 More importantly and more broadly, getting
12 to the whole question of the contribution of Johns
13 Hopkins to the neighborhood, we think it's a very
14 significant one. If it's not in taxes, it's in
15 services in kind.

16 We expect to be good neighbors. We expect
17 to have public lectures which will be open to residents
18 of the neighborhood. We hope, as is the case now, that
19 many members of the neighborhood will avail themselves
20 of the courses we offer.

21 We hope to have concerts with our sister
22 school, bringing people in from the Peabody
23 Conservatory, perhaps exhibit the artwork of neighbors
24 in the area.

25 It's this kind of thing that I think will

1 enhance the quality of life in the neighborhood, and I
2 was very glad to see that the ANC agreed to this as
3 exhibited by their unanimous approval and enthusiastic
4 approval of us moving in.

5 One final note dealing with the alteration
6 of the buildings. We do not expect to make any
7 significant exterior alteration. The building will
8 stay essentially as is. Any changes that will occur
9 will occur in the interior to accommodate it for
10 classroom use.

11 So in sum, we intend to be good neighbors.

12 We will not be objectionable to neighboring properties
13 due to noise, traffic, number of students or other
14 objectionable conditions, and we hope you will give us
15 every consideration when making your final decision.
16 Thank you for your time.

17 VICE CHAIRPERSON SOCKWELL: Any questions?

18 COMMISSIONER HOOD: No questions at this
19 point.

20 MR. QUIN: I'd like to call our next
21 witness, Mr. Robert Morris, traffic consultant.

22 MR. MORRIS: Good afternoon, Mr. Vice
23 Chairperson, members of the Board. I'm Robert L.
24 Morris, traffic engineer and transportation planner.
25 My home address is 9109 Rouen Lane, Potomac, Maryland

1 20854.

2 I have prepared a traffic analysis which is
3 included in the material before you, Tab H, and I'll
4 just touch briefly on the highlights of that report
5 and, of course, I'd be happy to respond to any
6 questions you may have regarding it.

7 I have indicated the location and,
8 particularly, its proximity to public transportation,
9 the Red Line Metrorail Dupont Circle station a short
10 walk away, and six Metrobus lines. The adjacent
11 intersections at either end of Massachusetts Avenue
12 both operate well within acceptable levels of service,
13 as defined by the Department of Public Works.

14 Then I have gone into some detail as to who
15 would be using the new building, when they would be
16 using it, the number of faculty members, the number of
17 students, and so forth; and I have taken the good
18 information that we have based on current travel
19 patterns by students with not more than 20 percent
20 using their own cars, to see what the implications
21 would be with regard to the proposed use of this
22 property.

23 My analysis shows that, first of all, there
24 would not be an adverse impact. As a matter of fact,
25 comparing the trips that will result from the new use

1 of this building with the use to which it was
2 previously put shows that there would be a substantial
3 reduction in peak hour trips. So that as far as
4 traffic generation is concerned, this represents an
5 improvement in the conditions in the area.

6 You have heard from Dean David about the
7 parking situation, and I just want to underscore the
8 fact that the availability of these 83 spaces in the
9 building means that up to 83 parked cars will be
10 removed from the neighborhood and brought into this
11 building, thereby improving the parking conditions in
12 the neighborhood.

13 There is well in excess of the potential
14 demand for parking, not just with the 83 spaces in the
15 building which, as Dean David has already noted, will
16 be used in the off-peak hours during the evening and
17 weekends, but there is an agreement for up to 400
18 available spaces at the PMI garage up at 1225
19 Connecticut Avenue.

20 So the bottom line is that, clearly, there
21 would be no adverse impact. There would only be
22 beneficial results as a result of the proposed new use
23 of this building.

24 MR. QUIN: Mr. Chairman, members of the
25 Board, that completes our direct presentation unless

1 there are questions. Yes?

2 VICE CHAIRPERSON SOCKWELL: Mr. Morris --
3 and let me first as Mr. David. The actual hours of use
4 for the student body will be?

5 MR. DAVID: Will be primarily in the
6 evenings from about five to about ten o'clock, and
7 Saturday mornings.

8 VICE CHAIRPERSON SOCKWELL: Okay. And the
9 parking spaces available at 1225 Connecticut Avenue,
10 the duration of that agreement and/or any other
11 agreements to provide additional parking would be
12 important to the continued reduction or lack of an
13 increase in impact on street parking in a neighborhood
14 that is significantly impacted at present.

15 So I would think that, if we were to
16 approve this request, that we would want some
17 assurances that parking -- additional parking as
18 required for the student body capacity would be made
19 available in perpetuity for the use, because that's an
20 important aspect, that a negotiated parking agreement,
21 of course, at this time with 1225 Connecticut Avenue is
22 at an agreed upon rate. That rate is going to be
23 subject to escalation over a period of years.

24 The second question -- second thing I
25 wanted to say is that I assume that -- You said you

1 have seven years lease with option to purchase.

2 MR. DAVID: To purchase.

3 VICE CHAIRPERSON SOCKWELL: And I assume
4 that that option to purchase can be exercised anytime
5 within that seven year period

6 MR. DAVID: No. I believe we wait for the
7 full seven years, and it's only after the seven years
8 that the option to purchase can be acted upon.

9 VICE CHAIRPERSON SOCKWELL: All right. So
10 that would say that the city would at least be able to
11 borrow money from the University for tax purposes for
12 seven years.

13 MR. DAVID: That's my understanding.

14 VICE CHAIRPERSON SOCKWELL: At which time
15 you would, for the next seven years, get the benefit of
16 not having to pay it, and after that then we've lost
17 all. All right.

18 That's all I wanted to raise. So we can
19 assume that the building will remain on the tax rolls
20 for at least the immediate future, seven years.

21 MR. DAVID: That's correct.

22 VICE CHAIRPERSON SOCKWELL: All right. Any
23 other questions?

24 COMMISSIONER HOOD: No questions.

25 MS. BAILEY: Mr. Chairman, I have a

1 question, if that's okay.

2 VICE CHAIRPERSON SOCKWELL: Yes, Ms.
3 Bailey, please.

4 MS. BAILEY: Mr. Quin, help me to just kind
5 of work through this. One of the requirements is for a
6 campus plan, specifically, 507.3. Now you have
7 indicated that, because this is only one building, then
8 a campus plan is not required.

9 The reason I'm asking is because the format
10 that this is presented is not necessarily the way I
11 would normally see campus plans. So can you help me
12 with that a little bit?

13 MR. QUIN; Yes. I was waiting for that
14 question. What the Board has done in many cases, and
15 including this precise case -- that is, the School of
16 Advanced International Studies case, the Cornell case,
17 and I have copies of the BZA orders here, expecting you
18 to ask that question, and the University of Southern
19 California and the National Graduate University case --
20 I have each BZA, a copy which I can file in the record.

21 Basically, where there's a single building,
22 they have deemed that the application and the
23 description that's set forth in the application
24 constitutes the campus plan; because we don't have --
25 like Catholic University, you don't have the items that

1 you normally have in a campus plan, such as interior
2 street circulation, a utility package, recreation
3 areas, administrative buildings, residence and dorms or
4 support buildings or aggregating FAR.

5 All of those are things that go with
6 universities that have larger areas. Where there's
7 been a single building, and I've been involved in at
8 least four personally, the Board has simply said that
9 what you file with the Board -- and here we've
10 specifically filed, if you notice, with the application
11 a list of uses and the operation of the school. It was
12 attached to our application -- that that would
13 constitute our campus plan.

14 The Board also has the ability to waive
15 provisions in certain situations, but I don't really
16 think it's a waiver. See, I think what this is is
17 really making common sense out of the regulations,
18 because the plan that's submitted is, in fact, the
19 campus plan for this building.

20 MS. BAILEY: So, in fact, you would want
21 the Board to approve this for the next seven years, and
22 then you would come back again after that?

23 MR. QUIN: No. We would ask for permanent
24 approval, because otherwise you would place the whole
25 contract in jeopardy. I mean, you basically would not

1 have the ability to purchase unless the Board approves
2 the use, as Mr. Sockwell said, in perpetuity.

3 I'll file for the record, just so you'll
4 have it in the file, copies of those BZA orders.

5 VICE CHAIRPERSON SOCKWELL: Does Corp.
6 Counsel have anything?

7 MS. SANSONE: No, Mr. Vice Chairman.

8 VICE CHAIRPERSON SOCKWELL: Ms. Bailey,
9 thank you very much. Do the other Board members have
10 anything to say about this? I'm just talking about the
11 campus plan issue.

12 BOARD MEMBER GILREATH: It makes perfectly
13 good sense to me to say this does constitute a campus
14 plan.

15 COMMISSIONER HOOD: Mr. Chair, I'm not
16 going to exactly speak to this specific issue, but I
17 will let you know -- the BZA know that the Zoning
18 Commission will be looking at the whole issue about
19 campus plans, and this may be something that may come
20 up at that time.

21 VICE CHAIRPERSON SOCKWELL: We have had
22 some discussions about single buildings and campus plan
23 issues.

24 In that case, then we will go to government
25 reports. Mr. Quin, you've closed your --

1 Do we have an Office of Planning report on this? I
2 didn't see one.

3 COMMISSIONER HOOD: No, we don't.

4 VICE CHAIRPERSON SOCKWELL: No OP report.
5 That means we don't have anything from Public Works,
6 nothing from the Police Department, and then we would
7 go to the Advisory Neighborhood Commission report, ANC-
8 2B. Is there anyone here representing ANC-2B?

9 In that case, ANC-2B had a meeting at which
10 issues were discussed pertaining to the special
11 exception for the conversion of the existing office
12 building to classrooms and office use to be used by the
13 University.

14 Issues raised during the discussion
15 centered on the nature of the programs, catering
16 primarily to evening and weekend graduate users;
17 parking needs for the students and faculty, taking into
18 account expected enrollment growth, and virtually no
19 available on-street parking; loss of tax revenue to the
20 city once the University owns the building, and it says
21 in paren (after seven year lease); and community
22 benefits for the Dupont Circle neighborhood.

23 Following discussion, ANC-2B unanimously
24 approved the following motion: Supporting the request
25 for the special exception, conditioned on: (1) campus

1 plan presented, copy attached, indicating that the
2 programs being offered are primarily evening and
3 weekend graduate courses, not day courses; (2) the use
4 of the 83 underground parking spaces at 1717
5 Massachusetts Avenue for student and faculty use in
6 addition to the existing contract arrangements for off-
7 street parking at 1225 Connecticut Avenue, N.W.; and
8 (3) development of a plan with the University to make
9 available meeting space for community and neighborhood
10 groups in the 1717 Massachusetts Avenue building.

11 Now that meeting and community availability
12 was not discussed in your presentation, Mr. Quin. How
13 do you respond to that ?

14 MR. QUIN: We agree to that.

15 VICE CHAIRPERSON SOCKWELL: Okay. You have
16 identified the groups that would be initially having
17 access to that. Are the times available for that
18 compatible with their needs?

19 MR. QUIN: We haven't been asked yet, but
20 we have made a pledge to them to allow meetings to take
21 place at mutually convenient times. So it will be as
22 they request it. There is ample space, we believe, to
23 allow meetings to occur.

24 VICE CHAIRPERSON SOCKWELL: And there will
25 be caretakers available within the building during

1 those times to be able to service those community
2 groups?

3 MR. DAVID: Yes, there would be.

4 VICE CHAIRPERSON SOCKWELL: Thank you. And
5 the ANC report has a detailed statement of existing and
6 intended use and campus plan which, I assume, was
7 submitted.

8 MR. QUIN: Yes, and that's what I was
9 referring to earlier. That was submitted with the
10 application.

11 VICE CHAIRPERSON SOCKWELL: Okay. So we
12 give great weight to the Advisory Neighborhood
13 Commission reports.

14 Are there persons or parties in support of
15 this application who would wish to be heard at this
16 time?

17 Are there persons or parties in opposition
18 who wish to be heard at this time?

19 Then any closing remarks by the applicant
20 would be appreciated.

21 MR. QUIN: We believe that we've met all
22 the requirements of Section 507 and the generic
23 provisions for special exception, as indicated in the
24 evidence of record and testimony today, and we would
25 request and do request your bench decision and a

1 summary order.

2 VICE CHAIRPERSON SOCKWELL: Thank you. I
3 then think that, barring any other items for this
4 discussion, we would move toward motion.

5 BOARD MEMBER GILREATH: Mr. Vice Chair, I
6 move that we approve this application. I think that it
7 will not be -- to the existing office use, and there is
8 classroom somewhat similar, and the fact that they will
9 be able to provide parking in the basement plus the
10 additional parking to be provided. There will not be a
11 parking problem.

12 So that I see no objectional conditions
13 that will emanate from this and, therefore, I recommend
14 we approve it.

15 COMMISSIONER HOOD: Mr. Vice Chair, I would
16 echo the comments of my colleague, Mr. Gilreath, and
17 second the motion.

18 VICE CHAIRPERSON SOCKWELL: All right. We
19 have a motion made by Mr. Gilreath and seconded by Mr.
20 Hood. Any discussion further?

21 Then I would say that, without an Office of
22 Planning report, with a set of conditions agreed upon
23 by the applicant and accepted by the Advisory
24 Neighborhood Commission and a unanimous approval by a
25 duly constituted meeting, six of seven Commissioners

1 present at ANC, and feeling that the issues of greatest
2 importance have been addressed, the neighborhood is
3 presently being used for similar University functions
4 and other -- including as mixed residential and
5 institutional and organizational, there's all sorts of
6 stuff going on in the neighborhood that is primarily
7 significantly similar to the intended use in its
8 density and what-not, that the neighborhood appears not
9 to be significantly impacted.

10 The parking will be actually improved by
11 the availability of spaces in significantly underused
12 garage facilities at 1225 Connecticut at the time of
13 the intended use, and the 83 spaces within the building
14 itself will be available to the students at the time
15 that they would need those spaces.

16 So beyond that, I don't see any issues that
17 would make negative impacts upon the community
18 significant. I believe that it appears that the most
19 important aspect is that, after seven years, it's free.

20 From that I would feel that we are prepared to take a
21 vote on this matter and issue a bench decision.

22 All in favor of the motion before the
23 Board, say Aye.

24 MR. HART: Staff would record the vote as
25 three to zero to one, Mr. Gilreath, Mr. Hood, Mr.

1 Sockwell, Ms. Reid not present, not voting. Was a
2 summary order requested?

3 VICE CHAIRPERSON SOCKWELL: Yes.

4 MR. QUIN: We will submit for the record
5 documentation for both the order -- for the order,
6 summary order.

7 VICE CHAIRPERSON SOCKWELL: Thank you very
8 much for your presentation and your time waiting for
9 your turn. We will try to have this taken care of as
10 quickly as possible.

11 Mr. Quin, one thing, and I apologize for
12 not picking this up. The ANC conditions will have to
13 become a part of this, either by record --

14 MR. HART: Yes. The ANC conditions -- will
15 you have it already attached to your --

16 MR. QUIN: We will include those in the
17 draft order. That's fine. Thank you.

18 VICE CHAIRPERSON SOCKWELL: We will call
19 the next case.

20 MR. HART: Application Number 16528 of
21 Linda Greens Felder; pursuant to 11 DCMR 3103.2, for a
22 variance from the rear yard requirements under
23 Subsection 404.1 for an addition to the rear of an
24 existing dwelling in an R-1-B District at premises 2940
25 Newark Street, N.W. (Square 2082, Lot 853).

1 Those people planning to testify, please
2 stand, raise your right hand for the oath.

3 Do you swear or affirm that the testimony
4 you are about to give will be the truth?

5 (Witness sworn.)

6 MR. CARROLL: I am Dickson Carroll, the
7 architect for Linda Greens Felder, who is on my left,
8 the owner.

9 I wanted to start by showing you drawings.
10 Can I move this microphone?

11 VICE CHAIRPERSON SOCKWELL: Yes.

12 MR. CARROLL: You may have seen these
13 drawings, but starting with a vicinity plan to show you
14 our location -- Linda, you might help by holding this
15 for me. Thanks.

16 This is our lot here. We're on Newark
17 Street. It's a single family residence. This is the
18 plat, and our proposal is to build a deck at the rear
19 of the property, which is shaded in red.

20 I'm going to show you more detail on the
21 plan and then go back and make our case for why we need
22 the variance.

23 The lot slopes from the street down and
24 quite precipitously to the rear. So the basement is at
25 grade at the back, and hence the need for a deck off

1 the main living level.

2 I don't know that you all can see this, but
3 these are the same documents that we submitted with our
4 application. Here, actually, the plan is now reversed.

5 This is the rear of the property. This is Newark
6 Street here, and here is the deck.

7 We have -- We are proposing a 12-foot rear
8 yard, which would give us an 11-foot deck, which is the
9 minimum we feel we need to make it functional. We
10 would like to have outdoor living space at the main
11 level. Currently, we only have a side porch, which is
12 quite narrow. So we feel like we need to have the
13 deck.

14 There is an existing deck over on our
15 neighbor to the west which projects out actually
16 further than we're proposing to go out. The existing
17 rear yard is about 18 feet deep, and I'll show you one
18 more. The side yard is seven feet, which doesn't
19 require a variance, because we're extending an existing
20 seven-foot side yard.

21 I'll show you one other drawing which shows
22 you the topography. This is the rear of the building.

23 This is the deck, which is two steps down from the
24 main floor, and then the lot drops quite precipitously
25 at the back. So the basement is down here, and this s

1 the first floor.

2 So our deck is about 6-8 off the ground at
3 the rear. Now I also have some photographs which I
4 submitted with an application. Should I pass these up?

5 BOARD MEMBER GILREATH: We saw those in
6 Xerox form. They were clear enough to me unless --

7 VICE CHAIRPERSON SOCKWELL: I'd like to see
8 those.

9 MR. CARROLL: Okay. There is a view --
10 There are actually three views here. One is a view of
11 the property from the street for which you actually
12 don't see the deck from the street, because it's
13 entirely at the rear.

14 There is a view -- These are labeled --
15 actually, these are not labeled. But this is a view
16 looking west at the rear of the property. You can see
17 behind the bushes in this photograph just barely the
18 other deck, which is to the west of us.

19 This is the view to the east of us and the
20 neighbor in the stucco house. We are planning on
21 removing the stair that you see here in the landing,
22 and the deck would start from where that existing porch
23 is.

24 Do I give these to you?

25 VICE CHAIRPERSON SOCKWELL: No. Pass them

1 to the staff at the end of the counter, please.

2 MR. CARROLL: Now our case for hardship in
3 this instance -- let me go back. Linda, you might help
4 again here.

5 We have an exceptionally shallow lot for
6 this vicinity. We have a common lot with the neighbor
7 to the west who has the deck already in place, which is
8 actually the shortest dimension of any in this row. We
9 also have a lot that is about 50 square feet under the
10 minimum size, although it meets the minimum width.

11 As I mentioned before, we have about an 18-
12 foot existing rear yard because of the position of the
13 house on the lot. So we don't really have a choice of
14 putting a deck anywhere else.

15 Then the topography: Because the land
16 slopes down to the rear, we can't really put a
17 practical deck less than four feet off the ground,
18 which we'd be allowed to do by the code, because that
19 would give us six steps down and would mean that we
20 would not have a functioning -- a practical deck.

21 So those are our reasons that we feel we
22 have an exceptional condition here. We tried to design
23 the deck in a curved shape so as to have minimum impact
24 on neighboring houses, and we don't believe that it
25 affects the light and ventilation or obstructs in any

1 way the neighbors.

2 My client has talked to all the surrounding
3 property owners, the five on this side and two on the
4 other side of the street, and they have expressed no
5 objection to this. We have a letter, I think, in the
6 file from the ANC giving approval of this project, and
7 also from one of the neighbors expressing approval.

8 I think that's pretty much it. I can
9 answer questions, and we would request a bench decision
10 on this unless you think - advise otherwise.

11 VICE CHAIRPERSON SOCKWELL: Let me ask. We
12 have a procedural situation here. There would not be
13 any government reports on this except for the Advisory
14 Neighborhood Commission, and the ANC at its regular
15 monthly meeting of November 22 considered the
16 application submitted by Linda Greens Felder for a
17 variance from the rear yard requirement of an R-1-B
18 District to build the deck at 2940 Newark.

19 The meeting was properly noticed, and a
20 quorum was present, a quorum being five, and nine
21 Commissioners being present when the issue was
22 considered. The ANC unanimously approved the attached
23 resolution stating that it supports the application,
24 and that has been submitted to us and has been entered
25 into the record.

1 It seems that they have comprehensively
2 looked at it and have no objection to your application.

3 Are there any persons or parties in
4 support? Any persons or parties in opposition?

5 All right. I have a couple of questions.
6 Your front porch or front entrance is how many steps up
7 from the yard from your front yard?

8 MS. FELDER: I believe it's four.

9 COMMISSIONER HOOD: Mr. Chairman, the young
10 lady will not be able to testify, because she was not
11 sworn in.

12 VICE CHAIRPERSON SOCKWELL: Oh, that's
13 right.

14 COMMISSIONER HOOD: So if she wants to
15 testify, she can be sworn in. If not, the architect
16 will have to do the speaking.

17 MR. CARROLL: I'm happy to answer that. I
18 think it's four.

19 VICE CHAIRPERSON SOCKWELL: All right.
20 Which means that, even if they are eight-inch steps,
21 that would be about 32 inches.

22 MR. CARROLL: At the front of the house.

23 VICE CHAIRPERSON SOCKWELL: At the front of
24 the house. And because of the slope-off at the rear of
25 the house, you cannot have 32 inches of step-up.

1 your question.

2 VICE CHAIRPERSON SOCKWELL: It's an issue
3 of the fact that your house is served by a patio, and
4 she can't respond to this because she's not sworn in.
5 Her house is served by a patio at the rear, which is a
6 walkout patio to the yard.

7 The first floor requires -- or a deck is
8 being requested for the first floor, and it is because
9 of the slope of the lot that a deck is being requested
10 as a variance because the deck by nature has to be
11 elevated that high.

12 MR. CARROLL: To serve the first floor. I
13 think the basement is unfinished, if I'm correct, and
14 there are no plans to use that as a living --

15 VICE CHAIRPERSON SOCKWELL: That's not
16 relevant here.

17 COMMISSIONER HOOD: Excuse me. Mr. Chair,
18 she can be sworn in, and that way you can go directly
19 to Ms. Felder.

20 VICE CHAIRPERSON SOCKWELL: That's fine.
21 Just swear her.

22 MR. HART: Do you swear or affirm that the
23 testimony you are going to give will be the truth?

24 (Witness sworn.)

25 MS. FELDER: Should I give my name and

1 address now?

2 VICE CHAIRPERSON SOCKWELL: Yes, you may.

3 MS. FELDER: I'm Linda Greens Felder. I'm
4 the homeowner who lives at 2940 Newark Street, N.W.

5 VICE CHAIRPERSON SOCKWELL: Thank you.
6 What I'm stating is that, if one looked at a deck as an
7 extension of your desired finished living space and you
8 had a house that's first floor, that's ground floor was
9 the bottom floor, then that deck would likely not have
10 to rise more than 32 inches. Let's say, if you put it
11 on the front, it would be simple.

12 MS. FELDER: Right.

13 VICE CHAIRPERSON SOCKWELL: But in the
14 back, your house does have a basement. The side slopes
15 off, and in order for you to have a deck that serves
16 the first floor, by all rights, it has to be elevated.

17

18 MS. FELDER: Correct.

19 VICE CHAIRPERSON SOCKWELL: And the
20 hardship for that particular situation is that you
21 don't have the ground floor at a level where you can
22 reach -- or you don't have the first floor at a level
23 where you can reach it with just a short --

24 MS. FELDER: Correct. Those are very -- I
25 don't know if you can tell from the drawing. They are

1 very steep.

2 VICE CHAIRPERSON SOCKWELL: Yes, I can tell
3 very easily what's going on. It's not much different
4 from my parents' home.

5 MS. FELDER: Right. I feel a little sorry
6 for them. The other thing is that, as the drawing
7 shows, there is a side porch there, and there's this
8 back stoop. So the logical thing and the thing that
9 our Historical Society liked about my plan, and they
10 endorsed it, too, which is in the ANC letter, is that
11 it connects. So that it's really more like a wrap-
12 around -- would be more like a wrap-around -- modest
13 wrap-around porch.

14 VICE CHAIRPERSON SOCKWELL: And I prefer to
15 look at it as an extension of the side porch, because
16 realistically it's a bit more valid to assess the
17 hardship, since it's an extension of an existing side
18 porch and would connect, I assume.

19 MS. FELDER: With the back stoop.

20 VICE CHAIRPERSON SOCKWELL: Yes. So that
21 all sort of ties the package together. Your rear yard
22 would then be reduced to -- I think it's 17 feet. Is
23 that correct?

24 MR. CARROLL: No, 12 feet. The existing
25 is, I think, 17, 8.

1 VICE CHAIRPERSON SOCKWELL: And this will
2 not in any way impair the use of the patio below.

3 MS. FELDER: Actually, I probably will take
4 that out. That was there for the previous owner, so
5 that kids would have a place to rid their tricycles.

6 VICE CHAIRPERSON SOCKWELL: You would
7 rather cut grass? Okay. Well, I don't really see --
8 In this instance, I don't see a problem with this from
9 the standpoint of its intruding significantly into the
10 yard area. You've used as little as possible of the
11 yard space.

12 By the way, I don't know that your
13 neighbor's deck could necessarily be used as an example
14 unless you are sure that the neighbor had a permit to
15 do it, and that's a piece of documentation that's
16 sometimes helpful in these proceedings; because we know
17 that we are not asking -- that you're not asking the
18 Board to review by comparison with an unapproved or
19 illegal structure that your neighbor might have.

20 We may have some problems with that
21 sometimes, because just because they have it and you
22 see it, you assume that you can get it, and they may
23 not have gotten it the way they should have, and that
24 is through the permit process. But you have come to us
25 with your request, and I think that certainly the shape

1 of your lot dictated the design of the house in that it
2 has a basement that is a walkout basement, that if you
3 wanted a deck or an extension of the porch, it would
4 intrude in the yard and becomes part of the occupancy
5 of the lot by Zoning Code statute.

6 I don't have a problem with this. I don't
7 see it as an extreme extension, but I'm trying to make
8 sure that I can fully justify the hardship. The
9 shallowness of your lot -- I mean, it's the adequate
10 width. It's 50 square feet short. That's not a lot,
11 but it was what you had, and the slope is an obvious
12 situation.

13 I guess I can accept this as being as an
14 extension to the existing porch and providing you with
15 a better use of the rear of the house. Obviously, you
16 have a very nice view in the back, lots of nice trees
17 anyway.

18 MS. FELDER: Yes, because there's -- I have
19 -- Even though I look over the roofs of my neighbors,
20 it's different from the gentleman who lived on Bancroft
21 Place. That's a very steep dropoff there. No view.

22 VICE CHAIRPERSON SOCKWELL: I don't have
23 any other questions on this. I just wanted to sort of
24 clarify for myself a few things. That's all. Thank
25 you.

1 Are there any other questions on this
2 application?

3 BOARD MEMBER GILREATH: I don't have any
4 questions.

5 COMMISSIONER HOOD: No.

6 VICE CHAIRPERSON SOCKWELL: Well, we've
7 gone over the particulars of the ANC report. There was
8 no Office of Planning report on this, of course, no
9 other reports, no witnesses either for or against. So
10 we give great weight to the Advisory Neighborhood
11 Commission. In this case, they are the requisite
12 authority for having reviewed and made a decision on
13 the specific impacts on your neighbors and on the
14 community.

15 In order to approve a variance whereby
16 reason of exceptional narrowness, shallowness or shape
17 of a specific piece of property at the time of the
18 original adoption of these regulations or by
19 exceptional topographical conditions or other
20 extraordinary or exceptional situation or condition of
21 a specific piece of property, the strict application of
22 the regulation would not be appropriate here.

23 You have shown that the lot does have a
24 steep dropoff. Were it a flat lot, there would not be
25 a question of the appropriateness of your application,

1 because the porch and extension would be less than four
2 feet above grade.

3 Because of that slope, there is no way that
4 you can provide such a porch without being
5 significantly higher in the air. Again, the lot is
6 somewhat undersized for its zone, and the house has
7 existed previous to 1958, May 12th which was the date
8 of the adoption of these regulations. That is a
9 grandfathered condition.

10 I believe that you have met the burden of
11 proof for the addition of this raised deck. That does
12 not intrude tremendously into the yard, but seems
13 sufficient to provide you with a degree of comfort that
14 is acceptable and does not reduce the yard to less than
15 -- you said 12 feet and some change.

16 All right. So I would request that a
17 motion be offered for the approval of this application.

18 COMMISSIONER HOOD; Mr. Chair, I make a
19 motion that we approve Case Number 16528 with the
20 comments -- I believe you've already expounded enough
21 with the comments, and we'll just take those comments
22 and put that into the record. So I make a motion that
23 we approve it.

24 BOARD MEMBER GILREATH: Mr. Vice Chair, I
25 second the motion.

1 VICE CHAIRPERSON SOCKWELL: Thank you. We
2 have a motion. I don't think there's any need for
3 discussion further. I think I've taken care of that.
4 So it's probably the three and a half hours of sleep I
5 got last night that by this time of the day I can
6 ramble.

7 So I would ask for a vote on the motion.
8 All in favor of motion for application Number 16528,
9 say Aye. Opposed? Abstentions?

10 CHAIRPERSON REID: For the record, I am not
11 voting, not having heard the case.

12 VICE CHAIRPERSON SOCKWELL: The Board
13 Chairperson not having been present is not voting. So
14 we have approved you. Thank you very much. This will
15 be a bench decision, and your order shall be prepared
16 within what period of time?

17 COMMISSIONER HOOD: Three weeks.

18 MS. BAILEY: A couple of weeks.

19 COMMISSIONER HOOD: Mr. Chair, I think
20 before we move forward, we need to record the vote.

21 VICE CHAIRPERSON SOCKWELL: Oh, I'm sorry.

22 MR. HART: Staff would record the vote as
23 three to zero to one, Mr. Hood and Mr. Gilreath, Mr.
24 Sockwell; Ms. Reid not voting, not having heard the
25 case.

1 COMMISSIONER HOOD: And Mr. Chair, let me
2 just add -- When I said how you had expounded, it was
3 not that you were rambling. What I was saying was I
4 could not have addressed it anymore eloquently than
5 what you did.

6 CHAIRPERSON REID: All right. Then that
7 then concludes today's hearing.

8 (Whereupon, the foregoing matter went off
9 the record at 4:37 p.m.)

10