

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

NOVEMBER 28, 2000

+ + + + +

The Public Hearing convened in Room 220 South, 441
4th Street, N.W., Washington, D.C. 20001, pursuant to notice at
9:30 a.m., Robert N. Sockwell, Vice Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

ROBERT N. SOCKWELL	Vice Chairperson
ANN RENSHAW	Board Member

ZONING COMMISSION MEMBER PRESENT:

ANTHONY J. HOOD	Chairperson
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OFFICE OF ZONING STAFF PRESENT:

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

OTHER AGENCY STAFF PRESENT:

John Moore,	Office of Planning
Maxine Brown-Roberts	

D.C. OFFICE OF CORPORATION COUNSEL:

Marie Sansone, Esq.

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

(10:17 a.m.)

VICE CHAIRPERSON SOCKWELL: Good morning. The hearing will please come to order. This is the November 28th public hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Robert N. Sockwell, Vice Chair, sitting in for Sheila Cross-Reid, the Chairperson. Joining me today is Ann Renshaw to my left. 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 on each end of the table in front of us.

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

The order of procedure for special exceptions and variances is (1) statement and witnesses of the applicant; (2) government reports including Office of Planning, Department of Public Works, et al.; (3) report of the Advisory Neighborhood Commission; (4) parties or persons in support; (5) parties or persons in opposition; (6) closing remarks by the applicant.

Cross examination of witnesses is permitted by the applicant or parties. The ANC within which the property is

1 located is automatically a party in the case.

2 The record will be closed at the conclusion of each
3 case, except for any materials specifically requested by the
4 Board. And the Staff will specify at the end of the hearing
5 exactly what is expected.

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

10 Please turn off all beepers and cell phones, or set
11 them to vibrate only, at this time, so as not to disrupt these
12 proceedings. The Board will now consider any preliminary
13 matters.

14 Preliminary matters are those which relate to
15 whether a case will, or should, be heard today as such -- such as
16 requests for postponement, continuance, or withdrawal, or whether
17 proper and adequate notice of the hearing has been given.

18 If you are not prepared to go forward with a case
19 today, or if you believe that the Board should not proceed, now
20 is the time to raise such a matter. Does the Staff have any
21 preliminary matters?

22 MS. BAILEY: Madam Chair -- Mr. -- Mr. Chairman,
23 yes, we do, excuse me. For each of the cases this morning, there
24 is a preliminary matter. And the first one is Application No.
25 16627, Paul and Elaine Anderson. Is there anyone here by that

1 case? Please come to the table.

2 The preliminary matter with this case, Mr.
3 Chairman, has to do with whether -- well, two things: the ANC --
4 ANC-5A is requesting that the hearing be postponed for a later
5 date. The single member District Commissioner has not had a
6 change to hold a hearing in the neighborhood on this particular
7 application. That's one matter.

8 The second matter is we have two letters from the
9 Zoning Administrator. And there -- it appears as if the way it's
10 advertised is not currently how it's being recommended to go
11 forward.

12 So, those are the two matters, preliminary matters,
13 that needs (sic) to be discussed this morning.

14 VICE CHAIRPERSON SOCKWELL: All right, I guess we
15 should take the two preliminary matters --

16 COMMISSIONER HOOD: Mr. Chairman -- you all can
17 have a seat. Mr. Chairman, if you don't mind, I would like to do
18 a disclosure.

19 VICE CHAIRPERSON SOCKWELL: Uh-huh.

20 COMMISSIONER HOOD: While I -- (cough) excuse me --
21 the former owner of this property is a neighbor of mine. I have
22 not even discussed this with him, didn't notice it was going to
23 be coming up until I saw the sign, and also until I was able to
24 read my packet. That would not have any bearing on my
25 participation in this case.

1 VICE CHAIRPERSON SOCKWELL: Thank you, Mr. Hood.

2 Do any of the Board members object to Mr. Hood's participation?

3 UNIDENTIFIED SPEAKER: I do not.

4 VICE CHAIRPERSON SOCKWELL: Thank you. With regard
5 to the request to postpone on this case, we have a letter from
6 the Advisory Neighborhood Commission?

7 MS. BAILEY: Yes, sir, we do. It's Exhibit No. 22
8 of your record. Pardon?

9 MEMBER RENSHAW: Mr. Vice-Chair, it is dated
10 November 13th, and it's signed by Norma Broadnax, who is the
11 Chairperson of ANC-5A. And she is requesting an extension of the
12 hearing scheduled for November 28th.

13 According to ANC procedures, we have to hold a
14 single-member District 5A(09) properly noticed public meeting to
15 get the will of the community. There is not enough time to hold
16 a properly noticed public meeting on this issue. And again,
17 that's Exhibit No. 22.

18 VICE CHAIRPERSON SOCKWELL: Thank you. Is there
19 someone from the ANC here?

20 MR. HENRY: No.

21 SECRETARY PRUITT: Mr. Chairman, just for point of
22 information, Staff referred this to the ANC on September 28th, of
23 19 -- of the year 2000.

24 VICE CHAIRPERSON SOCKWELL: Okay, and that was the
25 date of our mailing?

1 SECRETARY PRUITT: Correct. That's the date we
2 mailed out to the ANC overall, the single-member district, the
3 Councilperson -- and the Councilperson, and of course, the people
4 within 200 feet. So, all of those mailings go at the same time.

5 VICE CHAIRPERSON SOCKWELL: Okay, and we've
6 confirmed the ANC received the mailing at --

7 SECRETARY PRUITT: Well, we didn't get a return
8 message. And I've -- I didn't get a return notice. And I have
9 tried to call, but unfortunately, you can't always get through to
10 ANCs.

11 VICE CHAIRPERSON SOCKWELL: Uh-huh. Well,
12 normally, we like to give the Advisory Neighborhood Commission
13 the opportunity to review applications and present them before a
14 public forum and respond with either an acceptance, objections,
15 or comments on the applicant's proposals.

16 Apparently, at this point, we don't have -- we
17 haven't had an ANC meeting, and they're requesting additional
18 time.

19 SECRETARY PRUITT: Mr. Sockwell, I will note that
20 the letter is from the single-member district --

21 VICE CHAIRPERSON SOCKWELL: Uh-huh.

22 SECRETARY PRUITT: -- which will not get great
23 weight even if they have their meeting. It's only the overall
24 ANC.

25 VICE CHAIRPERSON SOCKWELL: Uh-huh.

1 COMMISSIONER HOOD: But the --

2 SECRETARY PRUITT: However --

3 COMMISSIONER HOOD: -- this letter is from the
4 Chairperson.

5 SECRETARY PRUITT: However, I thought it was --
6 it's not single-member district?

7 COMMISSIONER HOOD: No, this is from the
8 Chairperson.

9 SECRETARY PRUITT: I understand.

10 COMMISSIONER HOOD: This is from --

11 SECRETARY PRUITT: Thank you.

12 COMMISSIONER HOOD: -- a district person. I don't
13 want to say it's dysfunctional, but it's not participating.

14 VICE CHAIRPERSON SOCKWELL: Uh-huh.

15 SECRETARY PRUITT: I stand corrected then. Then,
16 this would be a great weight.

17 VICE CHAIRPERSON SOCKWELL: Yeah, because -- yeah,
18 in fact, I think in some other descriptions that I've read on
19 this case, the single-member district representative may have
20 been inactive for a period of time.

21 Board members, do you have any thoughts on this?

22 MEMBER RENSHAW: Mr. Vice Chair, I would like to
23 give great weight to ANC 5A if there has been some difficulty
24 with a single-member district to being duly represented. I think
25 that the SMD deserves a bit of extra time to try to hold this

1 community meeting. After all, they are the affected parties.

2 And perhaps, a postponement for a month would not
3 be untoward.

4 VICE CHAIRPERSON SOCKWELL: It seems to me that
5 with the single-member district in the affected -- in the area
6 that's immediately affected by the project not being active, as
7 it has been stated in some documentation, that it leaves the
8 immediate community without its most effective voice.

9 And in not having that effective voice, the larger
10 ANC-5A may not have had the impetus to meet on the proposal, not
11 being prompted by the single-member district representative.

12 And on those -- under those circumstances, it may
13 be a disservice to the community not to allow the Advisory
14 Neighborhood Commission an opportunity to review this case
15 because the circumstances are somewhat different from typical.

16 And I would -- I would want for us to reschedule
17 this case to a date certain, at the most appropriate available
18 time if -- if my Board members -- yes?

19 SECRETARY PRUITT: Excuse me, Mr. Chair; may I make
20 a suggestion? One other thing you may want to consider is having
21 the hearing and leaving the record open for the ANC report to
22 come in.

23 VICE CHAIRPERSON SOCKWELL: Uh-huh.

24 SECRETARY PRUITT: The reason I state that is that,
25 as you know, our agenda is really very full. And we probably

1 would not be able to hear this again until March.

2 VICE CHAIRPERSON SOCKWELL: All right. And that
3 would probably do significant harm to the applicant based on
4 information that has been provided. Board members, do you think
5 that if we -- if we hear the case and allow the Advisory
6 Neighborhood Commission an opportunity to come in with their
7 report and -- and findings, we could vote on the case at a later
8 date?

9 SECRETARY PRUITT: Vote on a later date.

10 MEMBER RENSHAW: Mr. Vice Chair, I would agree to
11 hear the case, but I will not vote on the case until the AND-5A
12 has made its determination after holding a community meeting in
13 the affected area.

14 VICE CHAIRPERSON SOCKWELL: Okay.

15 COMMISSIONER HOOD: I would also like to weigh in
16 on that. I think I heard you right, Mr. (sic) Renshaw, that you
17 would wait until the ANC weighs in.

18 MEMBER RENSHAW: Yes.

19 COMMISSIONER HOOD: I would agree because of the
20 issues. I do have some issues, and I would ask Staff to make
21 sure that I'm sitting on this case. Again, like I said, I don't
22 have any weighs in or out on it, and I did notice those even
23 before since I saw it.

24 But I think there are some issues that need to be
25 brought out, and I would like to hear from the community first.

1 MR. HENRY: Mr. Chairman?

2 VICE CHAIRPERSON SOCKWELL: Yes?

3 MR. HENRY: May we be heard?

4 VICE CHAIRPERSON SOCKWELL: Yeah -- yes, you may.

5 MR. HENRY: Yes, Bobby Henry, appearing on behalf
6 of the owners, Mr. Paul and Ms. Elaine Anderson. Mr. Chairman,
7 we had notified Ms. Bailey this morning, upon learning of the
8 ANC's request for a continuance of this matter, we consent to
9 that -- that continuance. We are not here in opposition to that.

10 So, we want to make that real clear to this Board,
11 simply because we are not trying to slip into the community under
12 the cover of night. We want to go in; we want to be welcomed
13 within the community.

14 And I think when the Board gets a full opportunity
15 to hear from the members of the community, they will see the
16 positive reception that we have, in fact, received.

17 With regards to the meeting, we knew that they
18 could not have the meeting, and we want to be present. We've had
19 contact with Ms. Broadnax regarding her meeting, and we will be
20 there. And hopefully, we will be able to present a unified front
21 when we come back before this Board.

22 It would not be our preference to open the record
23 today since the ANC is not here, and we do not have the
24 opportunity to ask questions should, you know, we not be on one
25 accord with regards to their report.

1 Accordingly, we would ask this body to consider the
2 fact that we are agreeing to the continuance on behalf of the ANC
3 so that they may weigh in, and that this Board possibly give
4 consideration to scheduling an earlier date, if not within 30
5 days, maybe within the middle toward the latter part of January,
6 which would be about 60 days away.

7 We would certainly in -- in favor of that, Mr.
8 Chairman.

9 VICE CHAIRPERSON SOCKWELL: The timing of the
10 hearing is based upon the availability within our very tight
11 schedule to add cases to the docket. It is not currently
12 apparent that we have any space in the month of January. And
13 yet, the possibility is that in the month of February, something
14 could drop out that we don't know about at this point in time,
15 and cases do.

16 But the most likely available date is apparently
17 March, early March, of 2001. And that would be the only date
18 that we could establish as a date certain, hoping, perhaps, that
19 should something drop out of the schedule that we could, perhaps,
20 reschedule you to an earlier date.

21 But that would be the only thing that I can think
22 of.

23 SECRETARY PRUITT: Mr. Chair, we unfortunately
24 could not reschedule them to an earlier date because then, that
25 would require us to re-notice everybody.

1 VICE CHAIRPERSON SOCKWELL: Uh-huh.

2 SECRETARY PRUITT: We can continue to a date
3 certain from here. If we don't continue it from a date certain
4 from here, then we have to
5 re-notice -- we have to do another 40 days and re-notice the
6 whole community again. That's why --

7 VICE CHAIRPERSON SOCKWELL: But --

8 SECRETARY PRUITT: -- we usually do it to a date
9 certain. And it unfortunately makes it, on --

10 VICE CHAIRPERSON SOCKWELL: Okay, Ms. Pruitt --

11 SECRETARY PRUITT: -- these days when people --

12 VICE CHAIRPERSON SOCKWELL: -- let me ask you a
13 question.

14 SECRETARY PRUITT: -- fall out, that means we can't
15 --

16 VICE CHAIRPERSON SOCKWELL: Yeah, okay. Let me --

17 SECRETARY PRUITT: -- have it --

18 VICE CHAIRPERSON SOCKWELL: Let me ask you a
19 question. From -- from my impression, this case is not an
20 extraordinarily long case. I don't see anything in this that
21 would make it a half-day or a particularly long case, even --
22 even with ANC input.

23 And the fact that we do have an Office of Planning
24 report, there are not a lot of people here. Now, admittedly
25 after the ANC meeting, there might be more people coming on one

1 side or the other.

2 But is there a date that you think we might squeeze
3 it in?

4 SECRETARY PRUITT: I am looking at your calendar
5 now in January. On the second, aside from the huge deliberation
6 you have, you have four cases in the afternoon. On the ninth,
7 you have two cases in the morning and three cases in the
8 afternoon.

9 VICE CHAIRPERSON SOCKWELL: What are the two
10 morning cases? Are they -- do they look like they're --

11 MEMBER RENSHAW: Mr. Vice Chair?

12 VICE CHAIRPERSON SOCKWELL: -- maybe -- yes?

13 MEMBER RENSHAW: Mr. Vice Chair, if I may just
14 interject; most of the ANCs throughout the City are not meeting
15 in December. An exception, of course, is ANC-3G, which means --
16 is going to meet in December.

17 VICE CHAIRPERSON SOCKWELL: Uh-huh.

18 MEMBER RENSHAW: Do we know the meeting date of 5A?
19 In other words, you have to -- we should give them time to bring
20 this matter up at a regularly scheduled meeting of the ANC in
21 January or in February.

22 VICE CHAIRPERSON SOCKWELL: That's a good point,
23 Ms. --

24 MEMBER RENSHAW: And I don't know what the meeting
25 date is.

1 COMMISSIONER HOOD: Their meeting date is the
2 fourth Wednesday of each month. And that brings -- that's a good
3 point.

4 UNIDENTIFIED SPEAKER: Which makes it Christmas.

5 COMMISSIONER HOOD: Yeah, that's a good point.

6 MS. BAILEY: Mrs. Renshaw, if I'm not mistaken,
7 there's going to be, in this particular SMD area, a new Advisory
8 Neighborhood Commission I think has been re-elected -- has been
9 elected, and has not been sworn in. And I think that happens --

10 UNIDENTIFIED SPEAKER: January first.

11 MS. BAILEY: -- January, so --

12 MEMBER RENSHAW: Early January, they --

13 MS. BAILEY: Okay.

14 MEMBER RENSHAW: -- we are all sworn in.

15 MS. BAILEY: Oh, there would probably be a need to
16 be sometime after that person has had a chance to be sworn in and
17 get acclimated to the --

18 MEMBER RENSHAW: And Mr. Hood said that 5A meets on
19 the last Wednesday of the month?

20 COMMISSIONER HOOD: Right, the fourth Wednesday of
21 the month.

22 SECRETARY PRUITT: Which happens to --

23 VICE CHAIRPERSON SOCKWELL: Well --

24 SECRETARY PRUITT: -- be the 27th of January -- of
25 December. And then, if you move it to --

1 VICE CHAIRPERSON SOCKWELL: They're not -- they're
2 not going to be meeting in December.

3 VICE CHAIRPERSON SOCKWELL: Okay, my feeling is --

4 SECRETARY PRUITT: -- or the 24th of February.

5 VICE CHAIRPERSON SOCKWELL: My feeling is that if
6 an ANC meeting is properly noticed, then regardless the impact of
7 the newly-elected Single Member District Commissioner, the public
8 would be invited to a meeting.

9 And that meeting would take place with a quorum of
10 the Advisory Neighborhood Commissioners, and would include those
11 affected parties within the community.

12 So, I don't think that we need to wait for the ANC
13 Commissioner to be installed, but we certainly do -- have decided
14 to wait until an ANC meeting is held. If that meeting is not
15 held until January, then it definitely throws the months of
16 January out for this hearing.

17 So, I would suggest that it looks like February,
18 sometime in February, would be the only available time for this.

19 And if that is not possible, then we would have to schedule it
20 for the earliest meeting in March, which would be what date?

21 SECRETARY PRUITT: March -- March 6th, I think we
22 could squeeze it on there.

23 VICE CHAIRPERSON SOCKWELL: Which would be the
24 first -- the first week of March?

25 SECRETARY PRUITT: Yes. There are quite a few --

1 VICE CHAIRPERSON SOCKWELL: Which -- which, in
2 reality, is probably about four weeks after -- a little more than
3 four weeks after the ANC meeting, five weeks after the ANC
4 meeting. Likely, the ANC would take a week to prepare its
5 report.

6 So, you would be about a month beyond the ANC's
7 response window, which isn't so bad when you look at it in that
8 context. When you look at it as of today, it's a long time.

9 COMMISSIONER HOOD: Mr. -- Mr. Chair?

10 VICE CHAIRPERSON SOCKWELL: Yes?

11 COMMISSIONER HOOD: I would just add -- I'm going
12 to ask Ms. Williams (sic) if we could look at a time in February,
13 Mr. Chair, if that's okay, and try and squeeze them in, because I
14 heard Ms. Williams (sic) say "squeeze them in in March."

15 And it seems that you had two cases in the -- in
16 the morning of the hearing date on -- in February. That may be
17 more adequate because I listened to what you said. You said
18 "squeeze them in in March."

19 SECRETARY PRUITT: I guess the only concern is if
20 they're not meeting until the third -- the fourth --

21 UNIDENTIFIED SPEAKER: Wednesday.

22 SECRETARY PRUITT: -- Wednesday in February --

23 COMMISSIONER HOOD: January, January.

24 SECRETARY PRUITT: Oh, in January, okay, then we
25 may be able to put them in --

1 COMMISSIONER HOOD: In February.

2 SECRETARY PRUITT: Well, it's a week earlier, the
3 27th.

4 COMMISSIONER HOOD: In February?

5 SECRETARY PRUITT: Yeah, it's one week earlier.

6 VICE CHAIRPERSON SOCKWELL: Well, I think that the
7 applicant will probably appreciate anything we can do. So, shall
8 we continue with the approval of -- my fellow Board members, we
9 can continue this case until a date certain, which would be
10 February the --

11 SECRETARY PRUITT: Twenty-seventh.

12 VICE CHAIRPERSON SOCKWELL: -- 27th.

13 COMMISSIONER HOOD: Do you want a motion, Mr.
14 Chair, or you just --

15 VICE CHAIRPERSON SOCKWELL: Yeah, I move -- go
16 ahead, please.

17 COMMISSIONER HOOD: I make a motion that we
18 continue Application No. 16627 until February the 27th.

19 MEMBER RENSHAW: Second.

20 VICE CHAIRPERSON SOCKWELL: All in favor?

21 MEMBER RENSHAW: Aye.

22 COMMISSIONER HOOD: Aye

23 VICE CHAIRPERSON SOCKWELL: Opposed?

24 (No audible response.)

25 VICE CHAIRPERSON SOCKWELL: I guess not.

1 MS. BAILEY: The Staff will record the vote as
2 three 'til -- three to zero, to postpone the hearing until
3 February 27th; motion made by Mr. Hood, seconded by Mrs. Renshaw;
4 Mr. Sockwell to vote in favor of it; Mrs. Sheila Cross-Reid and
5 Rodney Moulden not present, not voting.

6 MR. HENRY: Mr. Chair?

7 VICE CHAIRPERSON SOCKWELL: Yes?

8 MR. HENRY: Would that be on the a.m. docket or the

9 --

10 VICE CHAIRPERSON SOCKWELL: It -- yes, it would be

11 --

12 MR. HENRY: -- the p.m. docket?

13 VICE CHAIRPERSON SOCKWELL: -- the a.m. MR.

14 HENRY: Mr. Chair, would we also be addressing the second issue
15 that was brought up?

16 MS. BAILEY: I'm sorry --

17 VICE CHAIRPERSON SOCKWELL: Yeah.

18 MS. BAILEY: -- yes. That was my mistake, Mr.
19 Chairman. There are two cases today where we have received
20 referral letters, two referral letters. But this was not one of
21 them, so that was my mistake. And I --

22 VICE CHAIRPERSON SOCKWELL: Okay.

23 MS. BAILEY: -- apologize.

24 VICE CHAIRPERSON SOCKWELL: All right, and your
25 name again, sir?

1 MR. HENRY: Bobby Henry.

2 VICE CHAIRPERSON SOCKWELL: Bobby Henry?

3 MR. HENRY: Bobby Henry.

4 MEMBER RENSHAW: Mr. Vice Chair, I'd like to ask if
5 Staff would be sure to write Ms. Broadnax and inform the ANC of
6 this continuance and the date on which the ANC should have a
7 report back to the BZA?

8 VICE CHAIRPERSON SOCKWELL: All right, then I guess
9 that we'll see you on the 27th of February.

10 MR. HENRY: Mr. Chairman, thank you for your time,
11 and committee members.

12 VICE CHAIRPERSON SOCKWELL: Thank you, Mr. Henry
13 and Andersons.

14 MS. BAILEY: The next preliminary matter, Mr.
15 Chairman, has to do with Application No. 16628, David Pomerantz
16 and Shirley (sic) Floyd. Would you please come forward?

17 While they're coming forward, the affidavit
18 opposing on this case, Mr. Chairman, was only received this
19 morning. And maybe the applicant can explain why the affidavit
20 was only filed this morning on this case.

21 MR. ALBAN: Fernando --

22 MEMBER RENSHAW: Sir --

23 COMMISSIONER HOOD: Turn your mic on.

24 MEMBER RENSHAW: -- turn on your microphone,
25 please.

1 MR. ALBAN: Fernando Alban, General Contractor.
2 I'm sorry for the delay. I mailed in an -- the affidavit on
3 Friday, express mail. And I just got caught up in the
4 Thanksgiving holidays, and I didn't count my days properly.

5 I have my receipt here that I mailed it on Friday,
6 but I understand that -- that copy was never found. So, I
7 brought a duplicate copy this morning.

8 SECRETARY PRUITT: Let me see the file.

9 VICE CHAIRPERSON SOCKWELL: I'm sorry?

10 SECRETARY PRUITT: Let me see the file, please,
11 sir.

12 MR. ALBAN: The copy, I gave it to the lady in the
13 office.

14 SECRETARY PRUITT: Okay.

15 MR. ALBAN: And I think it's the one -- it's the
16 one you have on-hand right now.

17 SECRETARY PRUITT: Can we get a copy of this?

18 MR. ALBAN: It is a notarized -- it is a notarized
19 copy. It is a duplicate.

20 MS. BAILEY: Sir, I'm assuming that the property
21 was posted on time. Was it posted 15 days prior --

22 MR. ALBAN: Yes, it was, ma'am.

23 MS. BAILEY: -- to today?

24 MR. ALBAN: On the affidavit, it states -- I
25 believe I put the date down as the 7th. I don't remember exactly

1 what the date was that I put down there. But there was plenty of
2 time, 15 days.

3 VICE CHAIRPERSON SOCKWELL: 11/7 is the date on the
4 affidavit.

5 MR. ALBAN: Yeah, there's plenty of time for the 15
6 days. I just didn't take the holidays into account.

7 VICE CHAIRPERSON SOCKWELL: Well, aside from your
8 not having gotten it into us in time, it has been posted for a
9 15-day period, which I assume we can -- I assume we can waive the
10 rules to accept the affidavit as complete.

11 SECRETARY PRUITT: Right, all we would need to do
12 is waive the filing time.

13 VICE CHAIRPERSON SOCKWELL: The filing -- the
14 filing time. Is there any objection to that?

15 COMMISSIONER HOOD: No objection.

16 MEMBER RENSHAW: No, no objection.

17 VICE CHAIRPERSON SOCKWELL: All right. Then, I
18 move we waive the filing time for the affidavit of posting for
19 Application 16628 to admit that to the record.

20 COMMISSIONER HOOD: Second.

21 VICE CHAIRPERSON SOCKWELL: All in favor?

22 MEMBER RENSHAW: Aye.

23 COMMISSIONER HOOD: Aye.

24 VICE CHAIRPERSON SOCKWELL: Opposed?

25 (No audible response.)

1 MS. BAILEY: You may --

2 VICE CHAIRPERSON SOCKWELL: All right.

3 MS. BAILEY: I'm going to call another -- please
4 have a seat, and we'll call you when the case -- when we're
5 ready.

6 VICE CHAIRPERSON SOCKWELL: Yeah.

7 MR. ALBAN: Thank you.

8 MS. BAILEY: The last preliminary matter, Mr.
9 Chairman, has to do with Application No. 16631, Alliance
10 Francaise. Would the persons here associated with that case
11 please come forward?

12 Mr. Chairman, there is a request from ANC-1D to
13 postpone the hearing on this case. And hopefully, I'm speaking
14 correctly this time. We do have two letters from the Zoning
15 Administrator concerning this project.

16 VICE CHAIRPERSON SOCKWELL: Uh-huh.

17 SECRETARY PRUITT: And, Mr. Chair, this project
18 actually is -- as Ms. Bailey says, there's two letters. And the
19 unfortunate thing is that -- that first, it was advertised as a
20 special exception.

21 We received a second letter from the ZA indicating
22 it needed a variance. And of course, you know, the tests for
23 those two are very different and it's a different standard. So,
24 that causes a little bit more complexity to this whole issue.

25 VICE CHAIRPERSON SOCKWELL: Uh-huh. Have--

1 MR. VAN DER KEMP: Do you want to talk to --

2 VICE CHAIRPERSON SOCKWELL: Yeah, have you prepared
3 your case on the basis of special exception or variance
4 requirements?

5 MR. VAN DER KEMP: I would like to --

6 VICE CHAIRPERSON SOCKWELL: Press that -- yeah.

7 MR. VAN DER KEMP: My understanding is that we have
8 prepared this on the basis of the variance requirement, as we
9 learned later on.

10 VICE CHAIRPERSON SOCKWELL: And your name, sir?

11 MR. VAN DER KEMP: My name is Frank Van Der Kemp.
12 I'm the Vice President of Alliance Francaise.

13 VICE CHAIRPERSON SOCKWELL: Okay. Well, I think
14 then the question remains -- I think that you're prepared to go
15 forward, regardless. So, the question, I think, is now limited
16 to whether or not we should grant a continuance based on the ANC-
17 1D request. Is that --

18 SECRETARY PRUITT: Another alternative may be
19 similar to the first -- well, yeah, to the first case: (1) go
20 forward with the hearing today; allow the ANC to comment later.
21 And then, I would also suggest because the relief was very
22 different, that you may consider that the applicant re-post the
23 property with the correct variance relief --

24 VICE CHAIRPERSON SOCKWELL: Uh-huh.

25 SECRETARY PRUITT: -- noted, and leave the record

1 open so that people can comment.

2 VICE CHAIRPERSON SOCKWELL: Okay. So, the property
3 was posted for a special exception relief?

4 MR. VAN DER KEMP: As far as -- this was done on
5 the 2nd of --

6 VICE CHAIRPERSON SOCKWELL: What does the affidavit
7 say?

8 MR. VAN DER KEMP: -- November.

9 VICE CHAIRPERSON SOCKWELL: Does Staff have the
10 folder for 16631?

11 MR. VAN DER KEMP: Here we go. On -- yeah, the
12 date of the posting was 11/2/2000.

13 VICE CHAIRPERSON SOCKWELL: Uh-huh.

14 SECRETARY PRUITT: The question is, sir, what did
15 the posting say?

16 MR. VAN DER KEMP: The -- I don't know. There are
17 pictures of it in the -- in the --

18 SECRETARY PRUITT: When you came down here,
19 somebody filled out that orange placard for you?

20 MR. VAN DER KEMP: Yes.

21 SECRETARY PRUITT: Then, I would suggest -- I
22 believe, Mr. Chair, that it was probably filled out -- I'm sorry,
23 when did you pick it up?

24 UNIDENTIFIED SPEAKER: November.

25 MR. VAN DER KEMP: November 2nd, I think.

1 UNIDENTIFIED SPEAKER: -- it was posted.

2 SECRETARY PRUITT: Okay.

3 MR. VAN DER KEMP: It was posted November 2nd, so I
4 assume that it was --

5 VICE CHAIRPERSON SOCKWELL: It was posted for a
6 special exception.

7 SECRETARY PRUITT: Right. And the reason I
8 indicate it is that is what our office initially was told that it
9 was -- should be advertised as.

10 VICE CHAIRPERSON SOCKWELL: So, that's an exception
11 to an existing --

12 SECRETARY PRUITT: Accessory.

13 VICE CHAIRPERSON SOCKWELL: -- private, single-
14 family --

15 COMMISSIONER HOOD: And it should have been posted
16 as a variance?

17 SECRETARY PRUITT: Correct. What happened was we -
18 - you know, this was referred to the ZA, and we received a letter
19 from the ZA indicating there was a special exception.

20 The applicant brought in all their information and
21 followed the procedure just as normal. And then, actually within
22 the last few days, just before Thanksgiving I believe, is when we
23 got a revised letter.

24 Let's see, the first letter came in November -- I'm
25 sorry; the first letter came in on June 11th, and that's Exhibit

1 No. 5. Then, we received, on November 7th -- actually, this
2 didn't come directly to -- well, it came to us on November 27th,
3 which indicated that it was a variance, which was yesterday.

4 I had been in contact with Mr. Bella, who is the
5 Zoning -- acting Zoning Administrator, the previous week, but we
6 didn't have anything in writing. And it was only after, I
7 believe he spoke with Mr. Johnson, I believe, of --

8 VICE CHAIRPERSON SOCKWELL: Uh-huh.

9 SECRETARY PRUITT: -- OP that they discovered that
10 maybe the right relief was not cited. So, it was not the
11 applicant's fault or -- I mean, they've certainly done what
12 they're supposed to --

13 VICE CHAIRPERSON SOCKWELL: Well --

14 SECRETARY PRUITT: -- and followed the procedures.

15 VICE CHAIRPERSON SOCKWELL: -- it is --

16 SECRETARY PRUITT: It's unfortunate.

17 VICE CHAIRPERSON SOCKWELL: Because the tests for a
18 variance are more stringent than those for a special exception,
19 it would seem that the community, in the absence of an ANC
20 meeting, would have had -- at least knowledgeable members of the
21 community would have had less feeling that they could respond
22 effectively in opposition, should there be opposition, to the
23 proposal.

24 It should have been noticed properly. I believe
25 that we need to re-notice this -- this application as a variance,

1 which in itself, should give the Advisory Neighborhood Commission
2 more time to set a meeting and -- and review the proposal.

3 So, it would be my feeling that we have to have the
4 proper notice in this case, and that the property should be re-
5 noticed.

6 COMMISSIONER HOOD: Mr. Chair, is that a motion?

7 VICE CHAIRPERSON SOCKWELL: That is my motion.

8 COMMISSIONER HOOD: Okay, I'll second that motion.

9 VICE CHAIRPERSON SOCKWELL: Any discussion on the -
10 -

11 MEMBER RENSHAW: Mr. Vice Chair, I'd just like to
12 notice, the D.C. Office of Zoning have (sic) to give the
13 applicant a -- another receipt. The receipt, which is Exhibit A,
14 speaks to a special exception. And would --

15 VICE CHAIRPERSON SOCKWELL: Yeah, the -- the ZA can
16 --

17 MEMBER RENSHAW: -- Zoning have to --

18 VICE CHAIRPERSON SOCKWELL: They can -- they can
19 amend --

20 MEMBER RENSHAW: -- to clarify that?

21 VICE CHAIRPERSON SOCKWELL: Yeah, they need to
22 amend that so that the record is clear. I agree that you would
23 take your receipts back to the DCRA Zoning --

24 SECRETARY PRUITT: The receipt comes to us.

25 COMMISSIONER HOOD: Oh, the receipt comes to you?

1 Oh, I'm sorry; excuse me.

2 SECRETARY PRUITT: The receipt was based on the
3 first ZA's letter.

4 VICE CHAIRPERSON SOCKWELL: Okay, so that was our
5 receipt? I'm sorry, excuse me.

6 SECRETARY PRUITT: Yes. And Mr. Chair --

7 COMMISSIONER HOOD: Does the ZA have --

8 VICE CHAIRPERSON SOCKWELL: From the -- from the --
9 from your filing for BZA action, it needs to be corrected to
10 reflect that it is a variance request --

11 MR. VAN DER KEMP: All right.

12 VICE CHAIRPERSON SOCKWELL: -- and not a special
13 exception request.

14 COMMISSIONER HOOD: Does the Zoning Administrator
15 now have it correct for what relief they're supposed to --

16 SECRETARY PRUITT: We certainly hope so. That's
17 one of the questions we asked.

18 COMMISSIONER HOOD: We would have to have them come
19 back, and then we go back to a special exception because --

20 SECRETARY PRUITT: Exactly. That -- Mr. Chairman,
21 I guess one of the questions I do have is, your -- you -- you are
22 -- you are voting on a continuance; is that correct?

23 MEMBER RENSHAW: No.

24 VICE CHAIRPERSON SOCKWELL: We're voting on a re-
25 notice.

1 MEMBER RENSHAW: A re-notice.

2 SECRETARY PRUITT: Re-notice. Does that include a
3 continuance or just to re-notice? Are you just doing -- are you
4 separating them out?

5 VICE CHAIRPERSON SOCKWELL: Well, I think that --
6 that we should have a continuance and a re-notice.

7 SECRETARY PRUITT: Okay, and that's all I needed to
8 be clear.

9 VICE CHAIRPERSON SOCKWELL: Uh-huh.

10 SECRETARY PRUITT: That's all I wanted so that I
11 could get it clear.

12 VICE CHAIRPERSON SOCKWELL: So, assume that to be a
13 continuance and a re-notice.

14 SECRETARY PRUITT: Okay.

15 COMMISSIONER HOOD: We still have to take the vote,
16 Mr. Chair.

17 VICE CHAIRPERSON SOCKWELL: Yes, right, so -- yes?

18 MR. VAN DER KEMP: Mr. Chairman, if I may, the ANC,
19 the local ANC, will have a hearing on December 19th. They did
20 not have any in November, and that's why we did not participate
21 then.

22 But we plan to present our project formally then,
23 although we did present our project to them at the premises. And
24 they visited and they saw the plans and everything at the
25 beginning of November.

1 VICE CHAIRPERSON SOCKWELL: At the beginning of
2 when?

3 MR. VAN DER KEMP: Of November.

4 VICE CHAIRPERSON SOCKWELL: But it was not an
5 official Advisory Neighborhood Commission meeting?

6 MR. VAN DER KEMP: No, it was not an official.
7 However, officials of the Advisory Neighborhood Commission were
8 present then. They came to see the --

9 VICE CHAIRPERSON SOCKWELL: I see, all right.

10 MR. VAN DER KEMP: -- project, and we gave them a
11 set up plans. And they apologized for the meeting not to have
12 been held in November.

13 VICE CHAIRPERSON SOCKWELL: Uh-huh.

14 MR. VAN DER KEMP: But the next one is December
15 19th.

16 VICE CHAIRPERSON SOCKWELL: Uh-huh. Well, the
17 other thing that is necessary is that the
18 -- for the Advisory Neighborhood Commission to properly respond,
19 they need to respond to the relief requested, as opposed to an
20 improper notice of the relief requested.

21 So, the question is, what would be the date certain
22 that we can continue you to? And as you are aware, the schedule
23 is very tight. And this may push you to the March 6th date --

24 MR. VAN DER KEMP: Okay.

25 VICE CHAIRPERSON SOCKWELL: -- which is

1 unfortunately the only date that I know we didn't squeeze
2 anything into. (Laughter.) Staff?

3 SECRETARY PRUITT: That is -- that is -- that date
4 is available. You only have one case, so far, scheduled for that
5 date, and that's the Cyber Hotel.

6 VICE CHAIRPERSON SOCKWELL: Okay. If -- if you --
7 we can't --

8 SECRETARY PRUITT: Because I know --

9 VICE CHAIRPERSON SOCKWELL: -- we can't offer you
10 an earlier date. March 6th would have to be it.

11 MR. VAN DER KEMP: So be it. Morning or afternoon,
12 if I may ask?

13 VICE CHAIRPERSON SOCKWELL: Ms. Pruitt?

14 SECRETARY PRUITT: It would be in the morning. No,
15 I'm sorry, it would be in the afternoon because in the morning,
16 we have a meeting.

17 MR. VAN DER KEMP: So --

18 SECRETARY PRUITT: So, it would be the second case
19 in the afternoon at 1:00, March 6th.

20 MR. ZEYDLER: Excuse me, is there anything that we
21 should do?

22 SECRETARY PRUITT: I would suggest that you re-post
23 the property, just as you did this time but with -- and we can
24 give you the correct language for a variance.

25 MR. VAN DER KEMP: So, we need to come back with

1 the --

2 SECRETARY PRUITT: And just put the orange signs
3 back up.

4 VICE CHAIRPERSON SOCKWELL: And -- and another
5 affidavit of posting.

6 SECRETARY PRUITT: Right.

7 MR. VAN DER KEMP: We need to come back to your
8 office with our paperwork stuff and everything?

9 SECRETARY PRUITT: No, all you need to do is come
10 back. We will help you fill out the orange sign --

11 MR. VAN DER KEMP: All right.

12 VICE CHAIRPERSON SOCKWELL: And you can bring your
13 receipt back --

14 SECRETARY PRUITT: Bring your receipt, and we will
15 correct that because it --

16 MR. VAN DER KEMP: All right.

17 SECRETARY PRUITT: -- it gets -- it's in the
18 receipt book, so we would correct both your original and our
19 copy.

20 MR. ZEYDLER: And then, the affidavit --

21 SECRETARY PRUITT: And then, yes, you will need -- on the
22 6th appearance, what, five days prior to that, you need to get
23 the affidavit of posting into our office.

24 But you need to post the property at least 15 days
25 before the 6th.

1 MR. ZEYDLER: Before the 6th.

2 MR. VAN DER KEMP: Okay.

3 SECRETARY PRUITT: But you could post it earlier.

4 I mean, it just -- it only helps; it doesn't hurt.

5 MR. VAN DER KEMP: Do we need also to send you
6 photographs of the sign?

7 SECRETARY PRUITT: Just an affidavit of posting.

8 MR. VAN DER KEMP: All right.

9 SECRETARY PRUITT: And then, our office will do the
10 rest.

11 VICE CHAIRPERSON SOCKWELL: Okay.

12 MS. SANSONE: Mr. Chairman, I might add, I was
13 noticing in regards to this question about the receipt, the
14 regulations provide a lesser fee for a variance. It's only \$800,
15 as opposed to the \$1,200 that was paid for the special exception.

16 So, one of the things that should be done is a
17 processing of a refund --

18 VICE CHAIRPERSON SOCKWELL: All right.

19 MS. SANSONE: -- of \$400.

20 VICE CHAIRPERSON SOCKWELL: And I believe that that
21 is possible since it was an improperly --

22 MS. SANSONE: Yes, the regulations authorize a
23 refund where an application is incorrectly filed at the direction
24 of the Zoning Administrator.

25 VICE CHAIRPERSON SOCKWELL: So, there is some light

1 at that tunnel.

2 (Laughter.)

3 MS. SANSONE: It may take you a while to get it
4 back, but we will work very diligently to do so.

5 VICE CHAIRPERSON SOCKWELL: And you'll probably
6 have your decision before you have your money back, but --

7 SECRETARY PRUITT: Motion on the floor, sir?

8 VICE CHAIRPERSON SOCKWELL: Yes, I move -- the
9 motion was to continue --

10 SECRETARY PRUITT: Continue to March?

11 VICE CHAIRPERSON SOCKWELL: -- the case until March
12 the 6th, the date certain, afternoon session, and that the
13 property will be re-posted for the appropriate 15-day time. And
14 a new affidavit of posting will be submitted.

15 COMMISSIONER HOOD: I'll second -- second the
16 motion.

17 VICE CHAIRPERSON SOCKWELL: All in favor?

18 MEMBER RENSHAW: Aye.

19 VICE CHAIRPERSON SOCKWELL: Aye. Opposed?

20 (No audible response.)

21 MR. ZEYDLER: One more question.

22 VICE CHAIRPERSON SOCKWELL: Yes?

23 MR. ZEYDLER: The ANC, if they would -- who would
24 advise him that there is this change in the --

25 VICE CHAIRPERSON SOCKWELL: The Office of Zoning --

1 MR. ZEYDLER: Well, the meeting, though, December
2 19th --

3 VICE CHAIRPERSON SOCKWELL: Yes.

4 MR. ZEYDLER: -- will they know that they're --

5 VICE CHAIRPERSON SOCKWELL: Well, you will make
6 arrangements with the Advisory Neighborhood Commission to present
7 your project at their next meeting.

8 UNIDENTIFIED SPEAKER: That's correct.

9 VICE CHAIRPERSON SOCKWELL: And you need to do that
10 quickly because they need to get it on the agenda.

11 UNIDENTIFIED SPEAKER: Yes.

12 VICE CHAIRPERSON SOCKWELL: And we will notify, the
13 Office of Zoning will notify, the Advisory Neighborhood
14 Commission of the change in schedule for the hearing.

15 MR. VAN DER KEMP: Okay, very good.

16 MR. ZEYDLER: But also changing in the variance --

17 VICE CHAIRPERSON SOCKWELL: And --

18 MR. ZEYDLER: -- variance versus the --

19 VICE CHAIRPERSON SOCKWELL: Well, it will -- it
20 will state in the letter the relief requested, I believe. And as
21 well, your posting is going to show --

22 MR. ZEYDLER: But shouldn't they know before the
23 meeting on December that they have to address this differently

24 VICE CHAIRPERSON SOCKWELL: Well, you're going to
25 arrange to see them, are you not?

1 MR. VAN DER KEMP: Yes, we are.

2 VICE CHAIRPERSON SOCKWELL: You're going to tell
3 them, aren't you?

4 MR. VAN DER KEMP: Okay.

5 VICE CHAIRPERSON SOCKWELL: Okay.

6 MR. ZEYDLER: Yeah, okay.

7 SECRETARY PRUITT: Sir -- sir, if you would call us
8 afterwards, we can give you the information about the variance
9 and the actual copy of the letter that came to us from Mr. Bella
10 so that you can take it with you --

11 MR. ZEYDLER: All right.

12 SECRETARY PRUITT: -- and you'll know exactly what
13 relief is being requested.

14 MR. ZEYDLER: Okay.

15 VICE CHAIRPERSON SOCKWELL: All right, well --

16 MR. VAN DER KEMP: Thank you very much.

17 VICE CHAIRPERSON SOCKWELL: Thank you very much and
18 we apologize for --

19 MR. VAN DER KEMP: I thank you for your time, and I
20 thank you very much.

21 (Pause.)

22 MS. BAILEY: Mr. Chairman, are you ready for the
23 case of the morning?

24 VICE CHAIRPERSON SOCKWELL: Yes, I think so.

25 MS. BAILEY: Applicant -- Application No. 16628 of

1 David Pomerantz and Shirley -- Sheryl Floyd, pursuant to 11 DCMR
2 3102.3, for a variance under Section 43.2 from the allowable
3 percentage of non-occupancy limitation for the proposed
4 construction of an accessory garage in an R-2 district, premises
5 3419 Porter Street, N.W.

6 The property is located in Square 2064 on Lot 83.
7 Please stand to take the oath. Please stand to take the oath and
8 raise your right hand.

9 WHEREUPON,

10 SHERYL FLOYD

11 DAVID POMERANTZ

12 FERNANDO ALBAN

13 WERE CALLED AS WITNESSES BY THE BOARD AND, HAVING BEEN DULY
14 SWORN, WERE EXAMINED AND TESTIFIED AS FOLLOWS:

15 MS. BAILEY: Members of the Board, we do not have
16 an Office of Planning report, nor do we have an ANC report on
17 this project. This is ANC-3C. The applicant is proposing -- the
18 applicant's request concerns the construction of a garage, a
19 parking garage.

20 And we do have a letter of referral from the Zoning
21 Administrator. The case is now ready to go forward.

22 VICE CHAIRPERSON SOCKWELL: All right. Have the
23 applicants been sworn in?

24 MS. BAILEY: Yes, they have, sir.

25 VICE CHAIRPERSON SOCKWELL: Okay. All right, you

1 may proceed with your case.

2 MR. POMERANTZ: My name is David Pomerantz, and
3 this is my wife, Sheryl Floyd. And you've heard from our general
4 contractor, Mr. Alban, and we thank you for hearing our petition
5 today to -- for a variance of Section 403.2, the allowable lot
6 occupancy percentage.

7 We are asking for that variance in order to replace
8 our garage. Our situation presents some peculiar and exceptional
9 practical difficulties. Let me briefly explain.

10 Our existing garage is in a pretty bad state of
11 disrepair. The walls are even listing to one side. In 1998, we
12 began trying to fix the garage. In talking with a number of
13 contractors, we learned that the best solution for us is to tear
14 down the existing garage, including the foundation, and -- and
15 replace it.

16 At that point, I came to the -- to the Building and
17 Land Regulations to -- informally, with plat in hand, trying to
18 see if this was something that we could do.

19 That's when I learned that the existing garage,
20 along with the house, already occupies more of the land than the
21 allowable percentage. But because it was built long enough ago,
22 we are grandfathered.

23 It was explained to us that in order to keep that
24 grandfather status, we would have to find a way to replace the
25 garage, while maintaining some portion of it, say the roof.

1 We, then, went to a number of contractors, asking
2 if that was something they could do. And they all -- the three
3 we got bids from all emphatically said they would not proceed
4 under those circumstances. It wasn't safe, and they would not
5 assume the risk.

6 And -- and that's why it's -- those are the
7 practical difficulties we have in -- in replacing the garage
8 without a variance.

9 I'd like to make two, small, additional points. We
10 have posted the notice of this public hearing, and spoken to many
11 of our neighbors about our plans, and we know of no opposition.

12 In addition, the relief that we're seeking would
13 not cause any substantial change in -- or -- or detriment to the
14 public good. We're not seeking any major changes in the
15 appearance of the garage, or really a major change in the amount
16 of lot occupancy.

17 You can see from our plans, the only thing we're
18 doing is, in that regard, is adding a foot more space to the
19 opening to make parking a little bit easier.

20 In all other respects, we're merely trying to
21 replace the look and feel of the existing garage, and we can't do
22 that without a variance. So, we thank you for your kind
23 attention. And if you have any questions, we'd be glad to help
24 answer them.

25 VICE CHAIRPERSON SOCKWELL: Board members, or shall

1 I start? Mr. Alban?

2 MR. ALBAN: Yes?

3 VICE CHAIRPERSON SOCKWELL: What is the structure
4 of the roof of the garage?

5 MR. ALBAN: It's a frame structure, two-by-sixes, I
6 believe.

7 VICE CHAIRPERSON SOCKWELL: So, is the roof a
8 multiple of trusses, or is it -- it's a --

9 MR. ALBAN: They're not trusses; they're A-framed
10 collar beams.

11 VICE CHAIRPERSON SOCKWELL: Okay. And you felt
12 that it would not be possible, or not be practical?

13 MR. ALBAN: Not be possible because there was
14 enough water damage that some of the members were weakened. I
15 have a picture if you'd like to see it.

16 VICE CHAIRPERSON SOCKWELL: I would like for you to
17 submit any additional photographs through Staff that we can look
18 at. That way, please.

19 MR. ALBAN: You can see on the upper gable how the
20 water has seeped through the siding on the side. And it's -- you
21 know, quite a few of the members were deteriorated that way.

22 VICE CHAIRPERSON SOCKWELL: I will say one thing;
23 that either -- either Mr. Pomerantz or Ms. Floyd are not
24 respectful of their Toyota or --

25 (Laughter) -- or they're very brave individuals because of the

1 level of collapse that appears to be on its way with your -- with
2 your ancient structure here.

3 And I can see that with the roof structure in very
4 bad repair, water damage, etcetera, that it would be highly
5 unlikely that a contractor could successfully, or guarantee
6 success, in maintaining the roof and putting another structure
7 underneath it, because it looks like it's pretty well tied
8 together for dear life, as opposed to the normal situation.

9 Basically, what I see is that the Zoning
10 Administrator has the authority to grant up to two percent area
11 variations. Your request apparently is for seven percent more
12 lot occupancy than would be allowed under the ordinance, which
13 means that the variance that you're asking for is five percent
14 more than what could have been handled internally by the Zoning
15 Administrator under one area of your relief.

16 The other is that for non-conforming uses and what-
17 not, they cannot be enlarged. And if they come down, then you
18 have to go back to the conforming requirements, which I assume
19 would -- it means your garage would have to get smaller.

20 MR. POMERANTZ: Right.

21 VICE CHAIRPERSON SOCKWELL: And what you're asking
22 for is a garage that is somewhat larger than the existing
23 structure; is that correct?

24 My understanding, having read the material, the
25 garage you're asking for is an additional, what, 100 square feet?

1 Or, actually, it's less than 100 square feet more. Mr. Alban,
2 maybe you can answer that.

3 MR. ALBAN: The increase is one foot in width, and
4 the length of the garage is 19 feet. So, we're asking for an
5 additional 19 square feet to what is currently there.

6 VICE CHAIRPERSON SOCKWELL: And you think that's
7 pretty reasonable?

8 MR. ALBAN: Since they can't open the car door when
9 they're in the garage, I think so.

10 VICE CHAIRPERSON SOCKWELL: I would tend to agree
11 with you. I think that there is -- I think the extreme
12 circumstance with regard to your property is that the garage,
13 itself, is not reusable, not restorable.

14 And under the strict requirements of the ordinance,
15 you would not be able to guarantee that it would -- that the roof
16 could not be maintained without collapsing if you tried to raise
17 it, which would make it an impractical expense to try to support
18 the roof, to have it collapse, and then have to go through the
19 whole process of starting from scratch again.

20 It would be my feeling that you would meet the
21 requirements for a variance, and that there is obviously no
22 adverse impact. There are no neighbors in opposition. Do you
23 have an ANC report? No, there is no ANC report.

24 And we did get letters of support from your
25 neighbor at 3410 and at 3418 Porter. I guess 3410 Quebec Street,

1 yeah, and your neighbor on Porter Street, right.

2 I don't see any reason why we cannot approve this.

3 MEMBER RENSHAW: Mr. Vice Chair?

4 VICE CHAIRPERSON SOCKWELL: Fellow Board members?

5 MEMBER RENSHAW: Mr. Vice Chair, I would just like
6 to make the point that I commend the applicants for tending to
7 their garage. There are too many homes in the upper Northwest
8 where garages are falling apart.

9 If you are an alley walker because of a dog, you
10 notice the number of homes that have dilapidated garages looking
11 in just about the condition as the applicant. And I commend them
12 for paying attention to their garage space, and also reclaiming
13 an area where their car can be parked off the street.

14 So, that's -- that is a value to the neighborhood.

15 VICE CHAIRPERSON SOCKWELL: Thank you, Ms. Renshaw.

16 It also appears that the garage structure being proposed is
17 essentially compatible in materials and in design to the
18 previously existing structure so that it will not present a
19 marked change to what was there before, aside from quality,
20 convenience, utility --

21 (Laughter.)

22 VICE CHAIRPERSON SOCKWELL: -- and longevity.

23 COMMISSIONER HOOD: So, with that, Mr. Chair, if
24 it's in order, I make a motion that we approve Application No.
25 16628 for all the reasons that are already in the record stated

1 above for the relief of a variance under Section 43.2.

2 MEMBER RENSHAW: Second.

3 VICE CHAIRPERSON SOCKWELL: Any discussion?

4 (No audible response.)

5 VICE CHAIRPERSON SOCKWELL: All in favor?

6 MEMBER RENSHAW: Aye.

7 VICE CHAIRPERSON SOCKWELL: Aye. Opposed?

8 (No audible response.)

9 VICE CHAIRPERSON SOCKWELL: Your -- you have
10 received a bench decision from this Board, and your Order will be
11 available in about ten days. Staff, any --

12 MS. BAILEY: Just to call the vote, Mr. Chairman.

13 VICE CHAIRPERSON SOCKWELL: Yes, record the vote.

14 MR. BRANDLER: Motion is made by Mr. Hood to
15 approve, seconded by Mrs. Renshaw. Mr. Sockwell is in favor;
16 Mrs. Sheila Cross-Reid and Mr. Moulden are not present, summary
17 order, bench decision.

18 VICE CHAIRPERSON SOCKWELL: Thank you.

19 MR. POMERANTZ: Thank you very much.

20 MS. FLOYD: Thank you.

21 VICE CHAIRPERSON SOCKWELL: Enjoy it. That
22 concludes the morning session. We will now --

23 (Whereupon, the proceedings went off the record at
24 11:11 a.m., and resumed at 1:13 p.m.)
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A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

(1:13 p.m.)

VICE CHAIRPERSON SOCKWELL: Good afternoon. The hearing will please come to order. Good afternoon, ladies and gentlemen. This is the November 28th, year 2000, public hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Robert N. Sockwell, Vice Chairperson acting for the Chairperson, Shiela Cross-Reid, who is not here today. Joining me today is Ann Renshaw to my left, and from the Zoning Commission, Anthony Hood to my right.

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

These cards are located on each end of the table in front of us. Upon coming forward to speak to the Board, please give both cards to the reporter, who is sitting to my right.

The order of procedure for special exceptions and variances is (1) statement and witnesses of the applicant; (2) government reports including Office of Planning, Department of Public Works, etcetera; (3) report of the Advisory Neighborhood Commission; (4) parties or persons in support; (5) parties or persons in opposition; and (6) closing remarks by the applicant.

Cross examination of witnesses is permitted by the applicant or parties. The ANC within which the property is

1 located is automatically a party in the case.

2 The record will be closed at the conclusion of each
3 case, except for any materials specifically requested by the
4 Board. And the staff will specify at the end of the hearing what
5 is expected.

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

10 Please turn off all beepers and cell phones, or set
11 them to vibrate at this time, so as not to disrupt these
12 proceedings. The Board will make every effort to conclude the
13 public hearing as near as possible to 6:00 p.m. If the afternoon
14 cases are not completed at 6:00 p.m., the Board will assess
15 whether it can complete the pending case, or cases, remaining on
16 the agenda.

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

22 If you are not prepared to go forward with a case
23 today, or if you believe that the Board should not proceed, now
24 is the time to raise such a matter. Does the Staff have any
25 preliminary matters?

1 MS. BAILEY: Mr. Chairman, yes, we do. The first
2 is dealing with Application No. 16633, Eva Brandler. Is that
3 person or the applicants here for that case, Eva Brandler,
4 Application No. 16633. Would you please come forward?

5 Mr. Chairman, there were two notices on this
6 project from the -- from the Zoning Administrator's Office.
7 They're Exhibits No. 5 and No. 19. It was initially advertised
8 for one thing, and we ended up with another type -- with another
9 type of relief, a lesser type of relief. That issue needs to be
10 resolved prior to the case being heard today.

11 VICE CHAIRPERSON SOCKWELL: All right, I have No. 5
12 and No. 19.

13 SECRETARY PRUITT: Mr. Chair, they're both for
14 variances.

15 VICE CHAIRPERSON SOCKWELL: Right.

16 SECRETARY PRUITT: It's just the subsections
17 changed.

18 VICE CHAIRPERSON SOCKWELL: Uh-huh.

19 SECRETARY PRUITT: So, essentially, the case was
20 advertised for a variance. The standard was the same; it's just
21 a different subsection. I believe Staff believes you can amend
22 the application and still go forward with this hearing today.

23 VICE CHAIRPERSON SOCKWELL: Well, I have my own
24 interpretation of what was and was not correct in the way the
25 case was brought forward. So, I want to compare with Staff's

1 analysis. So, Ms. Pruitt, if you want to elaborate on your --

2 SECRETARY PRUITT: We actually did not actually
3 analyze -- analyze, excuse me -- this. We did receive a call
4 from the Zoning Administrator indicating the first letter stated
5 June 28, 2000. The second letter is dated November 7th.

6 As you know, there has been some changes in the
7 ZA's Office over this time. And when we asked for an explanation
8 as to why -- what -- what warranted the change, I was not able to
9 get that.

10 It's very uncomfortable for Staff to make an
11 interpretation, since that is the ZA's position, and we do
12 usually go with that. Unfortunately, it has caused problems
13 before, and particularly this applicant and one earlier.

14 VICE CHAIRPERSON SOCKWELL: Uh-huh. I am looking
15 for a copy of --

16 UNIDENTIFIED SPEAKER: Nineteen.

17 VICE CHAIRPERSON SOCKWELL: -- 19. Never mind;
18 I've got it.

19 SECRETARY PRUITT: One deals with a nonconforming -
20 - the first one was in reference to non -- enlargements and
21 additions to nonconforming structures. And then, the one that
22 was cited on November 7th --

23 VICE CHAIRPERSON SOCKWELL: Right, November 7th
24 agrees with my analysis.

25 SECRETARY PRUITT: Okay, so that's --

1 VICE CHAIRPERSON SOCKWELL: Yes. The Zoning
2 Administrator's initial statement was that the relief would be
3 from 2001.3(B) and (C), which deals with enlarging or adding to
4 existing nonconforming structures, which was not the case.

5 This was an internal modification, which would have
6 been a change of use within the nonconforming structure, which
7 complies -- which is lawful under 2000.4, but is, in this case,
8 relief requested from 2002.3 as per the November 7th restatement
9 of the zoning variance request needed or relief needed.

10 Okay, so, because both were variances, the
11 likelihood of inadequate notice is not there. So, I would say
12 that we could go forward with this -- with the Zoning
13 Administrator's restatement if the applicant is aware of the
14 change and what that means.

15 MEMBER RENSHAW: Mr. Vice Chair, may I ask the
16 Chair if number two on Exhibit 5, dated June 28, 2000, is still
17 part of this application, the variance from Section 2101.1, the
18 required number of parking spaces in the R1-B zone?

19 VICE CHAIRPERSON SOCKWELL: Actually, Ms. Renshaw,
20 I did look at that as well. And under Section 2101.1, this
21 property, as a residential property used for an apartment, would
22 not fall under the defined parking requirements for such uses
23 because those uses are not allowed in the R1(B) zone.

24 They fall -- it would fall under the last and most
25 loose definition, which is "other uses," which requires one

1 parking space per 600 gross square feet of floor area or cellar
2 area.

3 MEMBER RENSHAW: Why --

4 VICE CHAIRPERSON SOCKWELL: And I believe that that
5 would still be binding under Section 2101.1.

6 MEMBER RENSHAW: I'm just wondering why the Zoning
7 Administrator did not reference that in his November 7th, 2000
8 memorandum to the BZA.

9 VICE CHAIRPERSON SOCKWELL: Probably because he --
10 if you look at the specific wording of number two in the June
11 28th letter, it states, "Variance from Section 2101.1, the
12 required number of parking spaces in the R1(B) zone."

13 And that is pretty loose, but it's -- it's
14 generally correct because it falls under a general statement of
15 parking requirements for those properties and uses and districts
16 not so defined specifically in the section. So, I would say that
17 it's correct.

18 MEMBER RENSHAW: All right, so we are taking into
19 consideration number two --

20 VICE CHAIRPERSON SOCKWELL: Yes.

21 MEMBER RENSHAW: -- of the June 28th, 2000 --

22 VICE CHAIRPERSON SOCKWELL: Uh-huh.

23 MEMBER RENSHAW: -- Zoning Administrator's
24 memorandum to the Board?

25 VICE CHAIRPERSON SOCKWELL: Yes.

1 MEMBER RENSHAW: Thank you.

2 SECRETARY PRUITT: Excuse me, Mr. Chair, I'm
3 confused. You are or are not?

4 VICE CHAIRPERSON SOCKWELL: We are; we would. The
5 two -- the two relief requests are valid. The November 7th
6 letter corrects number one from June 28th.

7 Number two from June 28th, which I had to look at
8 pretty hard, is actually correct in that it falls under a catch-
9 all category at the end of the specified parking requirements of
10 the table in 2101.

11 SECRETARY PRUITT: Okay, I just wanted it to be
12 clear for the record.

13 VICE CHAIRPERSON SOCKWELL: Yes.

14 SECRETARY PRUITT: Thank you.

15 VICE CHAIRPERSON SOCKWELL: Okay, any other
16 questions on this one, Board members? Do we feel that we can go
17 forward with this?

18 MEMBER RENSHAW: Uh-huh.

19 COMMISSIONER HOOD: Do we need a motion or --

20 VICE CHAIRPERSON SOCKWELL: Yes.

21 COMMISSIONER HOOD: I make a motion that we just --
22 we proceed with Case No. 16633.

23 VICE CHAIRPERSON SOCKWELL: I second the motion.
24 All in favor?

25 MEMBER RENSHAW: Aye.

1 VICE CHAIRPERSON SOCKWELL: Aye.

2 MS. BAILEY: Staff will record the vote as three to
3 zero to proceed with hearing this case, motion made by Mr. Hood;
4 seconded by Mr. Sockwell; Mrs. Renshaw in agreement.

5 The last preliminary -- thank you; you may be --

6 VICE CHAIRPERSON SOCKWELL: Yes, you gentlemen can
7 --

8 MS. BAILEY: -- seated.

9 VICE CHAIRPERSON SOCKWELL: -- step back to the
10 audience. Thank you.

11 MS. BAILEY: The last preliminary matter, Board
12 members, has to do with the last case of the afternoon, 16 --
13 Application No. 16635 for Chaplin Park -- for Chaplin Park. The
14 applicant in this case is requesting that the hearing be
15 postponed.

16 We do have a letter from the ANC, which -- we do
17 have a letter from the ANC.

18 SECRETARY PRUITT: The letter from the ANC is in
19 your supplemental package that you got this morning. It's also
20 in agreement with the request for postponement.

21 VICE CHAIRPERSON SOCKWELL: Yes, there's a letter
22 dated --

23 MEMBER RENSHAW: October 28th.

24 VICE CHAIRPERSON SOCKWELL: -- 27th of October --
25 well, I -- the --

1 MEMBER RENSHAW: The 27th of, I'm sorry.

2 VICE CHAIRPERSON SOCKWELL: -- 27 October. Would
3 you like to read it, Ms. Renshaw?

4 MEMBER RENSHAW: Sure.

5 VICE CHAIRPERSON SOCKWELL: Thank you.

6 MS. BAILEY: I was a little confused with the ANC
7 letter, Mr. Chairman, because the project is advertised for ANC-
8 7A. However, this letter is coming from ANC-7D. So, maybe the
9 applicant, in addressing the reasons for postponement, can also
10 clarify the correct ANC, if he knows.

11 MEMBER RENSHAW: Well, let's read into the record
12 the ANC-7D communication from Michael Cresee, 7001 Secretary, and
13 it states, "Please accept this letter as my notification to your
14 office that Advisory Neighborhood Commission-7D has no problem
15 with a request for a continuance of BZA Application 16635,
16 Jackson & Campbell, P.C., for client number 140024.1, from
17 November 28th, 2000, to December 5, 2000.

18 Chairman Delano Foster - 7D is in support of this
19 decision, and provides a phone number if we need to clarify or
20 verify this aspect of the case.

21 SECRETARY PRUITT: Mr. Chair, just so -- to add
22 some information to this to help you, Staff called ANC-1 --
23 excuse me, 7A, and left a voice message --

24 VICE CHAIRPERSON SOCKWELL: Uh-huh.

25 SECRETARY PRUITT: -- requesting them -- informing

1 them of the request for a continuance and asking them to comment.

2 We have not heard back from them. I have left two messages
3 there.

4 I also called Mr. Cresee, who I spoke to verbally,
5 and then asked him to send us a written confirmation.

6 COMMISSIONER HOOD: Ms. -- Ms. Pruitt, if I can
7 just ask, is this -- this is in 7A?

8 SECRETARY PRUITT: No, it's actually in 7D.

9 COMMISSIONER HOOD: It's in 7B?

10 SECRETARY PRUITT: Yes, when you look in the file.

11 VICE CHAIRPERSON SOCKWELL: You said 7B, as in --

12 SECRETARY PRUITT: "D" as in dog.

13 VICE CHAIRPERSON SOCKWELL: "D".

14 MEMBER RENSHAW: "D" as in dog.

15 VICE CHAIRPERSON SOCKWELL: Okay.

16 COMMISSIONER HOOD: So, apparently, it abuts 7A?

17 SECRETARY PRUITT: Yes.

18 COMMISSIONER HOOD: Okay, that's the reason, okay.

19 SECRETARY PRUITT: Uh-huh.

20 COMMISSIONER HOOD: So, 7D was in favor of --

21 SECRETARY PRUITT: Yes, that's who the letter -- 7D
22 is the -- what you got a letter from them.

23 VICE CHAIRPERSON SOCKWELL: So, we notified 7A and
24 7D?

25 SECRETARY PRUITT: Yes, as a courtesy, we -- if

1 it's adjacent and very close to a site, we will notify the
2 adjacent ANC.

3 VICE CHAIRPERSON SOCKWELL: And you said you
4 contacted -- you tried to contact --

5 SECRETARY PRUITT: I called twice, yes.

6 VICE CHAIRPERSON SOCKWELL: -- 7 -- 7D?

7 SECRETARY PRUITT: 7A.

8 VICE CHAIRPERSON SOCKWELL: 7A?

9 SECRETARY PRUITT: And left voice messages with
10 them.

11 COMMISSIONER HOOD: And the gentleman in front of
12 us, I believe, is Mr. Cresee?

13 SECRETARY PRUITT: No, he's actually Mr. Campbell,
14 the applicant.

15 MR. COOPER: No, Cooper.

16 SECRETARY PRUITT: Cooper, excuse me.

17 COMMISSIONER HOOD: It's Cooper; I'm sorry.

18 SECRETARY PRUITT: -- of Campbell & Jackson --
19 Jackson Campbell.

20 MR. COOPER: Jackson & Campbell.

21 SECRETARY PRUITT: There are too many of them
22 today.

23 VICE CHAIRPERSON SOCKWELL: I'm sure neither Mr.
24 Jackson nor Mr. Campbell will know that we have put their names
25 backwards.

1 All right, this -- this case has some significant
2 issues with regard to the placement of antennas on buildings,
3 which is a particularly hot item within the District of Columbia.

4 I would think that if there was an opportunity to
5 resolve certain issues with the community which might gain
6 support from the Advisory Neighborhood Commission, that the
7 applicant would want to make sure of that.

8 And certainly, this Board would be willing to see
9 the ANC involved and -- and fully informed of the proposed
10 application.

11 Is there any reason for us to believe that there is
12 a lack of timeliness in this ANC issue in terms of have we
13 allowed enough time for the ANC to have reviewed this? This is
14 strictly a --

15 SECRETARY PRUITT: Yes, this was referred out in
16 our normal -- at least 40 days in advance.

17 VICE CHAIRPERSON SOCKWELL: Uh-huh.

18 SECRETARY PRUITT: I believe Mr. Cooper had been in
19 contact, based on his letter, with the ANC. So, they were aware
20 of it. We were just writing -- waiting for written confirmation.

21 VICE CHAIRPERSON SOCKWELL: Uh-huh.

22 MR. COOPER: If I may, Ms. Pruitt is absolutely --
23 Robert Cooper from Jackson & Campbell
24 on behalf of the applicant, which is actually Nextel
25 Communications and Fort Chaplin Park L.P., which is the owners of

1 the apartment building on East Capitol Street.

2 We've been in touch with the ANC for a couple of
3 months now. Prior to the elections, we attempted to set up an
4 appointment with them to present our case and get their full
5 support, or at least get comment from them if they were not in
6 support, to see if there were some compromises that we could make
7 for the applications -- the antennas to be palatable.

8 We had tentatively set up an appointment with them
9 for the second week in November, and they also agreed to this
10 continuance. That would give them time to have met and -- and
11 gotten a letter down, a timely letter down, to the Board of
12 Zoning Adjustment. Unfortunately, despite my numerous
13 telephone calls and letters to Mr. Cresee, I did not receive any
14 return phone calls, nor did we ever receive this letter from him
15 until apparently last night. I believe someone said October
16 27th. It was actually November 27th.

17 This letter just came in from Mr. Cresee consenting
18 to the continuance. We've been attempting to, and I know the
19 staff here had been attempting to, reach Mr. Cresee for quite
20 some time.

21 So, we have not yet been able to present our case
22 to the ANC. In my verbal communication with him and the review
23 of the application, he said he didn't have any problems with it.

24 But of course, I'd rather that be in writing, and I'd also
25 rather actually make a full presentation.

1 The thought was we could move it to the 5th. That
2 would give us enough time for them for them to meet with us and
3 get their letter down here. The 5th is also -- an opening on the
4 5th because of the Toller case, which I am presenting, has been
5 postponed from that, the date of the 5th.

6 So, an opening -- Ms. Kress agreed there was an
7 opening available. We have not yet been able to meet with ANC.
8 So, it's been posted; everyone has been notified that the hearing
9 is set for the 5th, but we have not yet been able to meet with
10 the ANC.

11 VICE CHAIRPERSON SOCKWELL: But the ANC meeting,
12 you said, you had scheduled for -- originally for the second week
13 of this month?

14 MR. COOPER: Of November.

15 VICE CHAIRPERSON SOCKWELL: Yeah.

16 MR. COOPER: But we never heard back from Mr.
17 Cresee with the date, time, and place. And I don't even know if
18 they actually had the meeting, which would have been the Tuesday
19 after Election Day, if I'm not mistaken, was their ANC meeting
20 day.

21 Despite my numerous phone calls to him, the
22 messages on his voice mail, I never got a return phone call. We
23 were prepared to meet with them, but we didn't know where to go,
24 or what time, and if, in fact, they actually met.

25 VICE CHAIRPERSON SOCKWELL: Uh-huh.

1 MR. COOPER: So, this is actually the first
2 communication that we've gotten back from them, other than my
3 initial telephone calls with Mr. Cresee.

4 VICE CHAIRPERSON SOCKWELL: So, you -- when was the
5 last time you spoke with Mr. Cresee?

6 MR. COOPER: Over a month ago.

7 VICE CHAIRPERSON SOCKWELL: Now --

8 MR. COOPER: Well, approximately a month ago; it
9 was approximately a month ago.

10 VICE CHAIRPERSON SOCKWELL: Okay. Now, if you --
11 if you knew that the Advisory Neighborhood Commission was to meet
12 on, let's say, the 14th of November, it seems to me that if you
13 thought you were going to be on the agenda, or felt you needed to
14 be, that you would have been in contact with the Advisory
15 Neighborhood Commission on a regular basis to make that that
16 happened.

17 MR. COOPER: I was --

18 VICE CHAIRPERSON SOCKWELL: And --

19 MR. COOPER: -- Mr. Sockwell. I attempted -- I
20 made numerous phone calls to him --

21 VICE CHAIRPERSON SOCKWELL: And you're saying --

22 MR. COOPER: -- and left messages.

23 VICE CHAIRPERSON SOCKWELL: -- during that time
24 period, he did not respond at all?

25 MR. COOPER: Never -- never returned any of my

1 phone calls. I even had Staff here call, and also the Office of
2 Planning made phone calls during that same time period to try to
3 reach him.

4 And again, I didn't know anything about this
5 letter. It's dated October 27th, but it didn't get faxed into
6 here until last night.

7 VICE CHAIRPERSON SOCKWELL: And Staff -- and Staff
8 can confirm that those calls were made, okay. Then, I suppose
9 that we have had a breakdown of our local neighborhood
10 organization with regard to your case. And it would probably be
11 prudent to continue it to a date certain to at least give the
12 opportunity for the Advisory Neighborhood Commission to meet.

13 Now, when is their next scheduled meeting?

14 MR. COOPER: I'm not certain. I believe he said it
15 was on the second Tuesday of each month, but --

16 VICE CHAIRPERSON SOCKWELL: Which would put it
17 outside of the date that you're requesting.

18 MR. COOPER: Exactly.

19 VICE CHAIRPERSON SOCKWELL: And therefore --

20 MR. COOPER: And Ms. Kress informed me that
21 earliest possible date for us was a follow, would be sometime in
22 February, probably now March. And we, obviously, didn't want to
23 wait that late either.

24 But we would like -- I would prefer to actually
25 make the presentation to the ANC before we come here to you all.

1 I mean, it makes sense -- it makes sense.

2 VICE CHAIRPERSON SOCKWELL: Yeah, it seems to me
3 that that would be the proper way to go. It also is apparent
4 that even if the ANC could schedule a special meeting for the
5 purpose of reviewing your project, it would not likely fall
6 before the time that you would be coming back.

7 MR. COOPER: Exactly.

8 VICE CHAIRPERSON SOCKWELL: So, we're probably
9 looking at a continuance that would not bring you back before us
10 before the middle of March. And the reason for that is this
11 morning, we did some squeezing to put some cases in that needed
12 to be continued. And they absorbed the open space or semi-open
13 space that we were using.

14 So, I don't know what to tell you, except that
15 we're -- we're, right now, caught without a reasonably short
16 return for you.

17 COMMISSIONER HOOD: And also, Mr. Chair, if I can
18 just add, Mr. Cooper, that may allow you some time, if you have
19 any outstanding issues with the community, that may -- may be
20 able to close the gap some. If you come back, I believe, the
21 first -- Ms. Pruitt, the first meeting date in March?

22 SECRETARY PRUITT: It's -- yeah --

23 COMMISSIONER HOOD: Mr. Chair, that's --

24 VICE CHAIRPERSON SOCKWELL: We were looking at
25 March 6th for the --

1 SECRETARY PRUITT: Well, I guess --

2 VICE CHAIRPERSON SOCKWELL: And I don't know
3 whether you can stick --

4 SECRETARY PRUITT: -- we've already continued one
5 case to March 6th.

6 VICE CHAIRPERSON SOCKWELL: Right.

7 SECRETARY PRUITT: We also have a Cyber Hotel on
8 that particular day. I'm not sure how controversial --

9 VICE CHAIRPERSON SOCKWELL: And I'm not sure Mr.
10 Cooper would want to be against a Cyber Hotel --

11 SECRETARY PRUITT: Right.

12 VICE CHAIRPERSON SOCKWELL: -- on the same date.

13 MR. COOPER: I would prefer not to.

14 SECRETARY PRUITT: So, then, we can put you on for
15 the 13th.

16 MR. COOPER: Wait, can't I do this? It's currently
17 set for December 5th. Well, the request had been made to move it
18 to the 5th. Ms. Kress had said it was fine for the 5th, and
19 we've advertised for the 5th.

20 The community is made -- has been made aware. The
21 posters have been placed. Can I do this; if I can meet with the
22 ANC this week, because now we've gotten some communication from
23 Mr. Kress (sic), so I know he's (sic) still an elected Advisory
24 Neighborhood Commissioner, and perhaps set up something this week
25 with the ANC -- and I've already spoken with the Office of

1 Planning about our proposal, and they're in their final review of
2 it -- and come back on the 5th and report to back to you -- if
3 we've done what we need to do with the ANC, and they are in
4 agreement with it, and the Office of Planning has been satisfied,
5 then I would be prepared to go forward on the 5th.

6 If not, then obviously I am pushed -- I am forced
7 to be pushed back to March --

8 SECRETARY PRUITT: Thirteenth.

9 MR. COOPER: -- 13th. I'd prefer not to, but it
10 doesn't seem like I have much of a choice in the date, the
11 outside date. But at least the 5th is still within our window.
12 I mean, it gives me a week. I may still be able to get the ANC
13 to sit down and -- and meet with us.

14 COMMISSIONER HOOD: Mr. Cooper, you're optimistic
15 that you can do now what you've tried to do in a month, in a
16 week.

17 MR. COOPER: I -- I agree. I agree. But I've got
18 to be here on the 5th anyway because of the other case that's
19 being continued. I've got to come down here on the 5th anyway.

20 So, I would like to leave this on the calendar, if
21 I may. You know, if, for some miracle, we're able to meet with
22 ANC this week and get their consent, you know, like I said, the
23 other -- all the other parties have already been -- have already
24 reviewed the proposal.

25 MEMBER RENSHAW: Mr. Cooper, Mr Chair -- Vice

1 Chair, I'd like to address this question of a special ANC
2 meeting. A special ANC meeting would have to be duly advertised
3 to the community. And it looks like since the ANC meets on the
4 second Tuesday of the month, they'd be meeting on December the
5 12th. Is that correct?

6 MR. COOPER: Yes, I understand that it would be --

7 MEMBER RENSHAW: And these matters have to be voted
8 on in a public meeting. The ANCs are not allowed to vote
9 privately on matters such as this.

10 And so, if the ANC can call -- if it feels it can
11 bring together the community in that short a period of time, the
12 request can be made. But I would imagine that the ANC is going
13 to let you know that it would have to be brought up at its duly-
14 recognized public meeting of December the 12th, if indeed it is
15 meeting in December.

16 MR. COOPER: Correct.

17 SECRETARY PRUITT: Excuse me, Mr. Vice Chair, may I
18 make a suggestion? And if this is a -- if the applicant doesn't
19 mind, this may be one situation where we can go forward with the
20 hearing because the public notice is -- is notified about it.
21 The applicant is ready.

22 Leave the record open so that the ANC can have
23 their duly-noticed meeting, and then you can make a decision in
24 January at your next hearing.

25 And if they don't meet in February -- in December,

1 then it would push it to February. But at least you would have
2 the hearing out of the way. This would sort of make both --

3 MR. COOPER: Good enough.

4 SECRETARY PRUITT: -- ends -- I mean, it would, I
5 think, accommodate both parties.

6 VICE CHAIRPERSON SOCKWELL: That seems to be a
7 fairly reasonable alternative. It would also give you time to,
8 if necessary and if possible, to get letters of support from
9 individual members of the community most affected, adjacent
10 neighbors, etcetera, if that's something you would want to do.

11 So, it would at least put your schedule a little
12 bit more close to what you had wanted it to be.

13 MR. COOPER: And again, if it looks as if that's
14 completely unworkable within the next several days, and then we
15 will just -- you know, I'll be here on the 5th anyway, and I will
16 report back to the Board.

17 And then, you know, we'll just prepare to put the
18 whole case on, on the 13th, after we've met with the ANC if it
19 comes to that.

20 VICE CHAIRPERSON SOCKWELL: Well, I think --

21 COMMISSIONER HOOD: Mr. --

22 VICE CHAIRPERSON SOCKWELL: Go ahead.

23 COMMISSIONER HOOD: Mr. Chair, I'm just concerned
24 about procedure. I don't know -- I don't sit on BZA enough to
25 know exactly how you do it. But I know the cases that we did

1 earlier, we negated to proceed in that manner without at least
2 affording the applicant and the ANCs an opportunity.

3 In being consistent, I would be totally against
4 that last recommendation. But if my colleagues do desire, then I
5 will yield to -- to their experience here on the Board on Zoning
6 Adjustment.

7 VICE CHAIRPERSON SOCKWELL: Well, if -- if we allow
8 the applicant to put his case on, on the 5th, and the Advisory
9 Neighborhood Commission has not had a chance to meet, then we
10 would -- we could -- we could decide not to vote on the case at
11 that time, await the results of the Advisory Neighborhood
12 Commission, and schedule a public meeting to discuss that late
13 arriving data and -- and vote at that time.

14 COMMISSIONER HOOD: Well, I understand we're trying
15 to be accommodating. But then, we -- we exclude the ability to
16 be able to come down and have cross examination. I don't even
17 know if controversial or anything, so --

18 VICE CHAIRPERSON SOCKWELL: Uh-huh, uh-huh.

19 COMMISSIONER HOOD: -- I'm just throwing this out
20 there because I'm not that familiar. But I'm just saying if we
21 exclude testimony from both sides, where we needed to have
22 everyone sitting here in the same room, and -- and all on the
23 same page, cross examinations excluded and everything. So --

24 VICE CHAIRPERSON SOCKWELL: Well, we could do it
25 this way: we could break the case into two components. We could

1 hear the applicant's case if -- because our dates are so tight,
2 we might be able to squeeze half the case into one date, do you
3 think, Ms. Pruitt?

4 SECRETARY PRUITT: (No audible response.)

5 VICE CHAIRPERSON SOCKWELL: You don't think we can
6 do that?

7 SECRETARY PRUITT: I would recommend either we do
8 it on the 5th or you move it to the 13th. VICE CHAIRPERSON

9 SOCKWELL: Of March?

10 SECRETARY PRUITT: Of March, yeah. It's just, when
11 you bifurcate a case like this, it makes it very difficult to
12 keep track of. And I think it does just -- the discontinuity
13 makes it hard for both the Board members and --

14 VICE CHAIRPERSON SOCKWELL: You see, the only
15 reason I suggested it is because this case didn't seem to have a
16 great deal of community opposition. It appears that it is
17 lacking only the formal response of the Advisory Neighborhood
18 Commission.

19 And I don't think that it would be a long duration
20 case. And that's why I thought maybe we could work it a little
21 bit differently.

22 SECRETARY PRUITT: I understand your concern.

23 VICE CHAIRPERSON SOCKWELL: I mean, it does not
24 appear to be a contested case, in the traditional sense.

25 COMMISSIONER HOOD: Well, in that case, Mr. Chair,

1 unless hearing from Board Member Renshaw, I will yield to my
2 Board members.

3 MEMBER RENSHAW: Mr. Vice Chair, I am not in favor
4 of putting the -- the cart in front of the horse here. I believe
5 the matter has to go before the ANC at a duly-publicized public
6 meeting with enough notice to the community so that the community
7 can come together with the applicant and hear the parameters of
8 the case.

9 And then, everyone is notified of the hearing date
10 before the BZA, and everyone comes to, or as many who are
11 interested in coming to, the session, that is the proper way to
12 proceed.

13 VICE CHAIRPERSON SOCKWELL: Ms. Renshaw -- I'm
14 sorry.

15 SECRETARY PRUITT: I'm sorry; just for point of
16 information, this office referred this case to the ANC on August
17 21st of this year.

18 VICE CHAIRPERSON SOCKWELL: So, the ANC has been
19 given a great deal of advance notice.

20 SECRETARY PRUITT: Yes. I just wanted to let you
21 know when --

22 VICE CHAIRPERSON SOCKWELL: As well, we do have I
23 guess an affidavit of posting.

24 MS. BAILEY: No, we have not received an affidavit
25 of posting. We --

1 VICE CHAIRPERSON SOCKWELL: I thought Mr. Cooper --

2 SECRETARY PRUITT: I think that Mr. Cooper said he
3 has it.

4 MR. COOPER: Yes, I have it with me right now,
5 photographs.

6 VICE CHAIRPERSON SOCKWELL: You know, that's
7 supposed to already be in our file, isn't it?

8 MR. COOPER: Five days?

9 SECRETARY PRUITT: Yes, it is. It's -- I think Mr.
10 Cooper was, after talking with Ms. Kress, kind of assuming that
11 this was probably getting continued, even though we had informed
12 him that the Board makes that decision.

13 MR. COOPER: I had to -- had to post it for the
14 5th, and so I was going to -- not the 28th. Otherwise, there was
15 going to be confusion in the community again about whether --

16 VICE CHAIRPERSON SOCKWELL: So, you posted the
17 property for a hearing --

18 MR. COOPER: For the -- for the 5th. That was what
19 the Staff told me to post it as, yes.

20 VICE CHAIRPERSON SOCKWELL: So, Staff -- Staff told
21 you -- well, that's not proper procedure because the continuation
22 of a public hearing is not a guarantee. It is a request that is
23 acted upon by the Board.

24 And it probably -- because it was done that way --
25 it was done that way, but it should not have been done without

1 knowing that you were going to get your -- your continuance.

2 That's putting the cart before the horse.

3 MR. COOPER: Granted. I wasn't -- I'm not familiar
4 with that part of the procedure, and I -- I made the inquiry
5 several times before I posted because I wanted to make sure we
6 were doing the right thing with the -- with the posting.

7 So, I posted it for the 5th, and I've got the
8 photograph to show that it was posted for the 5th --

9 VICE CHAIRPERSON SOCKWELL: Okay.

10 MR. COOPER: -- at the appropriate time for the
11 hearing on the 5th. And --

12 VICE CHAIRPERSON SOCKWELL: All right. So -- so,
13 the thing is it's going to have to be -- if we're going to
14 continue it, it looks like my Board members prefer that we push
15 this back into March.

16 MR. COOPER: If I -- if I may, with all due
17 respect, it seems to me -- I understand that there's the -- the
18 procedure to make a presentation to the ANC, and that this Board
19 gives the ANC great weight.

20 But even if I had presented it to the ANC and they
21 didn't send a letter down here, that should not have prevented me
22 from going forward with my case.

23 Likewise, if I -- if I don't present because they
24 don't have a meeting, or they cancel their meetings, that should
25 not prevent an applicant from proceeding forward with his or her

1 case.

2 I don't recall the Board -- the Zoning Regulations
3 requiring, as a matter of law, that the applicant necessarily
4 meet with the ANC at a certain time prior to the hearing.

5 I don't -- I think it should make an effort to do
6 that, but the --

7 VICE CHAIRPERSON SOCKWELL: There's nothing that
8 says that the Advisory Neighborhood Commission has to report on
9 an application, right. The Advisory Neighborhood Commission is
10 automatically a party to a case --

11 MR. COOPER: Correct.

12 VICE CHAIRPERSON SOCKWELL: -- and in certain
13 situations, the ANC does not respond at all.

14 MR. COOPER: Correct.

15 VICE CHAIRPERSON SOCKWELL: And in this case, the
16 reasoning that I believe Ms. Renshaw is using is that the issues
17 involved are particularly significant issues with regard to this
18 city and antennas in general, if not in particular --

19 MR. COOPER: Correct.

20 VICE CHAIRPERSON SOCKWELL: -- and that she wants
21 to make sure that the Advisory Neighborhood Commission has its
22 opportunity to be heard, to cross examine, to be cross examined,
23 etcetera.

24 While I personally do not think that this
25 particular case has shown itself to be one with a great deal of

1 community involvement up to this point; there doesn't seem to be
2 a big outcry against it, I would be more willing to see the case
3 handled expeditiously.

4 Our schedule is just so tight that we don't have --
5 we just don't have a lot of area to play around with in terms of
6 time. Your scheduled for the 5th.

7 I would -- I would be willing -- I mean, if the
8 Advisory Neighborhood Commission has had as much time to respond
9 as it has, and that includes phone calls from the applicant, from
10 the Office of Zoning, and from the Office of Planning, and they
11 have not responded effectively, I would be willing to hear the
12 case on the 5th, leave the record open for the Advisory
13 Neighborhood Commission's input, and hold a public meeting
14 session to make the decision at a later date.

15 COMMISSIONER HOOD: Mr. Chairman, I would be in
16 agreement with that, as long as we make sure that the next couple
17 of days of this week, that our staff also tries to ensure that
18 the ANC is notified because I just have problems with not being
19 able to cross examine.

20 But again, I will yield to your discretion.

21 SECRETARY PRUITT: Mr. Hood, what we can do is one
22 call, and write the ANC and indicate that the hearing will go
23 forward, and the record will be left open. And we can give a
24 time certain so that they know when a report needs to be in, if
25 you'd like.

MEMBER RENSHAW: We haven't voted on

1 that.

2 VICE CHAIRPERSON SOCKWELL: Yeah, and that's --
3 that's what I would like to move. We have not, and I am not -- I
4 have not made a motion yet. If you'll give me a chance, Ms.
5 Renshaw, you will get --

6 MEMBER RENSHAW: Very good.

7 VICE CHAIRPERSON SOCKWELL: -- your motion.

8 MEMBER RENSHAW: Fine.

9 VICE CHAIRPERSON SOCKWELL: So, I move that we
10 continue this hearing, this case, until December 5th, at which
11 time the applicant will present, and any others, aside from the
12 ANC. The record will be left open for a period of -- how long --
13 however long is necessary for the ANC to hold a valid --

14 SECRETARY PRUITT: Well, the next available
15 decision date would be January 2nd.

16 VICE CHAIRPERSON SOCKWELL: Okay, so we could keep
17 the record open -- is the ANC going to have its -- have its
18 meeting this month? We don't know?

19 MR. COOPER: I don't even know if they had one in
20 November.

21 SECRETARY PRUITT: Well, that's one thing Staff can
22 inquire about. And then, hopefully, if it is -- if they do have
23 a meeting, then we can, you know, put it -- make it as close as
24 possible to the end of December, giving them some grace period.
25 And then --

1 VICE CHAIRPERSON SOCKWELL: Well, why don't we just
2 do this; we'll hold the hearing on December 5th, if -- if a
3 motion is passed. And we will deal with the ANC situation on the
4 5th, at which time we will know more about the ANC's potential
5 meeting schedule.

6 SECRETARY PRUITT: So, we'll know how long to leave
7 the record open at that point.

8 VICE CHAIRPERSON SOCKWELL: Exactly, yes. And I --
9 I so move. Do I have a second?

10 COMMISSIONER HOOD: I have a question.

11 VICE CHAIRPERSON SOCKWELL: Why don't you second,
12 and then you can discuss?

13 COMMISSIONER HOOD: I don't really want to second
14 because --

15 VICE CHAIRPERSON SOCKWELL: Okay.

16 COMMISSIONER HOOD: -- because I have some
17 unreadiness (sic).

18 VICE CHAIRPERSON SOCKWELL: All right.

19 COMMISSIONER HOOD: I'll let the motion --

20 VICE CHAIRPERSON SOCKWELL: All right. Well, then, I'll
21 withdraw the motion, and we'll continue to discuss it.

22 COMMISSIONER HOOD: Right, I wanted to hear from
23 Mrs. Renshaw, Board Member Renshaw. I think you were getting
24 ready to speak before we started a motion.

25 MEMBER RENSHAW: Yes, I wanted to mention at this

1 point that I am not convinced that the ANC and the community has
2 really grappled with this issue, not having a presentation by the
3 applicant.

4 And it is easy, in the rush of the season, through
5 a difficult election period, to put matters aside. And I am not
6 -- I do not know whether this ANC, 7D, is a vigorous ANC, or
7 whether it has had problems filling some of the seats, whereby
8 there would not be a quorum for some of the meetings.

9 And so, therefore, I would like to --

10 VICE CHAIRPERSON SOCKWELL: Ms. Renshaw, may I --

11 MEMBER RENSHAW: Yes?

12 VICE CHAIRPERSON SOCKWELL: -- ask a question? We
13 generally don't raise the issue about whether ANCs are vigorous
14 or not. This is the first time this has been raised in some
15 time. And I would like to know the justification for raising it
16 about ANC-7D.

17 MEMBER RENSHAW: Because we -- it has been stated
18 that the BZA made attempts in August to reach out to the ANC.
19 And therefore, that argument has been presented to this Board
20 that that has been sufficient time for the ANC to recognize the
21 issue and to react to the issue, either by not doing anything at
22 all or by holding a public meeting.

23 However, I am not certain -- I don't know whether
24 this ANC has been running successfully and efficiently, or
25 whether it has been rather dormant. And therefore, the community

1 has not been well-served with an aggressive, active ANC.

2 These issues regarding antennas are very important
3 to the community. They're very sensitive issues. And I think,
4 therefore, that the community has -- has to be given a nudge to
5 react to this kind of an application.

6 And if the nudge is by going back to the ANC and
7 saying, "We have a continuance here, and it's going to be at this
8 date, but the ANC has a chance, one last chance, to have a public
9 hearing," in advance of this coming before the Board, I think
10 that's the proper way to handle it; rather than hearing the case,
11 running back to the ANC and saying, "Hey, we've heard part of the
12 case, or almost all of the case. Sorry you weren't there. You
13 can read the record, but you can also throw in your comments."

14 VICE CHAIRPERSON SOCKWELL: All right, thank you.
15 Ms. Renshaw, just one quick question before you -- Ms. Pruitt?

16 SECRETARY PRUITT: Yes?

17 VICE CHAIRPERSON SOCKWELL: Which ANCs have been
18 noticed?

19 SECRETARY PRUITT: Both 7A and D.

20 VICE CHAIRPERSON SOCKWELL: All right. And neither
21 7A nor 7D responded in a reasonable period of time?

22 SECRETARY PRUITT: No, we got no response from
23 either one. And as I said, I called Mr. Cresee yesterday again
24 to try to get some confirmation based on the letter from Mr.
25 Cooper.

1 VICE CHAIRPERSON SOCKWELL: I would be somewhat
2 unwilling to want to push this hearing back so far when we have
3 two ANCs noticed, and neither one has responded, because now we
4 would be putting ourselves in a situation to await the pleasure
5 of the Advisory Neighborhood Commission.

6 And while we have -- it's obvious that these two
7 Advisory Neighborhood Single-Member Districts have been contacted
8 as early as August, the fact that they haven't responded, while
9 it certainly poses issues with regards to the ANC itself in that
10 area,, I'm not sure that we should hold the applicant hostage
11 over the Advisory Neighborhood Commission's failure to respond.

12 COMMISSIONER HOOD: Mr. Vice Chair, if I could just
13 add, I think this was dealt with in August. And I will say this,
14 and I've said this before, if anybody wants to get something
15 through in this City, the best time to do it is in August,
16 because ANCs usually -- and Commissioner Renshaw -- I mean, Board
17 Member Renshaw, you can correct me if I'm incorrect.

18 People who volunteer usually take a break in
19 August. And I will say that they did have sufficient time. But
20 from this Board Member's perspective, I believe that if they're
21 able to -- and I understand it's not contested, from what I have
22 in front of me.

23 But if we're able to deal with all of it in March,
24 cross examination and whatever else, then I'm more inclined to
25 leaning towards that. And again, Mr. Chair, I hate to put you

1 out there on a motion and it fails --

2 VICE CHAIRPERSON SOCKWELL: It's not a problem.

3 COMMISSIONER HOOD: -- having been there myself
4 sometimes, I know how it goes. So --

5 VICE CHAIRPERSON SOCKWELL: It's not a problem.

6 COMMISSIONER HOOD: -- what I will say is that I
7 think we need proceed cautiously, because sometime -- because of
8 rushing, I'd rather for us to err -- if we're going to make an
9 error, let's err on the side of caution.

10 We don't always need to rush when people tell us,
11 "We need to do this," and push and push. Sometimes, that gets us
12 into the trouble that -- that comes to bear. So, those are my
13 comments

14 VICE CHAIRPERSON SOCKWELL: Well, I understand the
15 direction that you're taking. I somewhat disagree in this
16 particular case because of the particular application -- the
17 status of the application from the standpoint of its lack of
18 seeming controversy with the community, but -- or seeming lack of
19 controversy in the community.

20 But if the Board wishes to postpone this hearing
21 until the 13th of March, then I request a motion on that.

22 MR. COOPER: If I may, one last time --

23 VICE CHAIRPERSON SOCKWELL: You need to turn on
24 your mic.

25 MR. COOPER: If I may, one last time; the community

1 was notified in August. I spoke with the Commissioner in
2 September, October. The community was notified of a hearing date
3 today. And perhaps Ms. Vice Chair could ask if anyone in the
4 audience here today, regardless of an ANC meeting -- notices went
5 out to everyone in the community.

6 The property has been placarded. If anyone is here
7 today, then perhaps we should -- perhaps we could hear from that
8 person. But my --

9 VICE CHAIRPERSON SOCKWELL: We cannot accept
10 testimony --

11 MR. COOPER: Not necessarily --

12 VICE CHAIRPERSON SOCKWELL: -- prior to calling a
13 case.

14 MR. COOPER: Not necessarily testimony. Perhaps
15 they can weigh in on this decision -- this discussion we're
16 having right now about the continuance. But my suspicion is that
17 no one is here. It has nothing to do with whether the ANC had a
18 meeting or not.

19 I used to be an ANC Commissioner and people
20 wouldn't show up for those meetings either. So, you know --

21 VICE CHAIRPERSON SOCKWELL: Well, we can -- we can
22 certainly handle the one issue. Is there anyone here from the
23 ANC regarding this case? Is there anyone here from the community
24 regarding this case?

25 (No audible response.)

1 COMMISSIONER HOOD: Let me just -- is the case --
2 is this case contested? Do we know of any?

3 SECRETARY PRUITT: By -- all BZA cases, except for
4 foreign missions, are considered contested. Whether or not
5 there's a lot of opposition, I don't believe there is based on
6 what's in the record.

7 MR. COOPER: I checked the record as of yesterday,
8 and there was nothing in the file.

9 COMMISSIONER HOOD: Well, Mr. Chair, if -- if that
10 will -- I will yield to -- I don't like doing this, but I will
11 yield to your discretion. And if you put the motion back up, see
12 what happens between now and December the 5th -- which I can tell
13 you, Mr. Cooper, it's not going to happen.

14 I already know that. So, I mean, we -- that part
15 of it, we can alleviate. But if we can ask Staff to reiterate
16 and see what they could do to help to see if that can happen, and
17 then I guess we'll just look at it again on the 5th.

18 VICE CHAIRPERSON SOCKWELL: Yeah, I mean, I --
19 that's -- I would prefer, under these circumstances of a limited
20 opposition case, to -- we don't know anything Ms. Renshaw,
21 period.

22 COMMISSIONER HOOD: But Board Member Renshaw --

23 VICE CHAIRPERSON SOCKWELL: But the point is that
24 when you -- it appears that there is a distinction being made
25 about this community and its interests. Regardless of the ANC's

1 involvement, when there are opponents to a case, the opponents
2 come forward.

3 When there are particular supporters of a case,
4 very often, those come forward as well. No one has come forward
5 today on either side. And is that to say that a residential
6 community, especially zoned as such with apartments and what-not,
7 that has certainly enough residents to have the infrastructure
8 sufficient to have someone come out, if that community has not
9 appeared, then at least we have that as some basis for a level of
10 interest, regardless of the ANC's involvement.

11 COMMISSIONER HOOD: Let me just also add that they
12 have agreed to the continuance of December the 5th, the ANC did.

13 So, I guess I would be inclined to go ahead and move in that
14 direction. So --

15 VICE CHAIRPERSON SOCKWELL: I mean, the ANC did
16 respond on their letterhead. And I mean, we're acting like they
17 don't exist.

18 MEMBER RENSHAW: Oh, we read it into the record, so
19 they do exist.

20 VICE CHAIRPERSON SOCKWELL: But we're acting as if
21 they don't exist.

22 MEMBER RENSHAW: Well, we are being -- we are being
23 protective of the community. This is a very technical issue. It
24 doesn't surprise me --

25 VICE CHAIRPERSON SOCKWELL: This is not a technical

1 issue.

2 MEMBER RENSHAW: -- me -- it is a --

3 VICE CHAIRPERSON SOCKWELL: This is -- this is
4 strictly an issue --

5 MEMBER RENSHAW: -- it is a -- it is a technical
6 issue --

7 VICE CHAIRPERSON SOCKWELL: -- of visibility --

8 MEMBER RENSHAW: It is also --

9 VICE CHAIRPERSON SOCKWELL: The antenna regulations
10 are not technical regulations in that sense. This is not that
11 kind of an issue.

12 MEMBER RENSHAW: Perhaps they see it as such.

13 COMMISSIONER HOOD: Well, with that, Mr. Chair, I
14 make motion to grant the ANC and the applicant what they ask for,
15 for December the 5th, Case No. 16635.

16 VICE CHAIRPERSON SOCKWELL: I second the motion.
17 Additional discussion?

18 (No audible response.)

19 VICE CHAIRPERSON SOCKWELL: All in favor?

20 COMMISSIONER HOOD: Aye.

21 VICE CHAIRPERSON SOCKWELL: Aye. Opposed?

22 MEMBER RENSHAW: Opposed.

23 COMMISSIONER HOOD: We need to record --

24 VICE CHAIRPERSON SOCKWELL: Will you record the
25 vote?

1 MS. BAILEY: The vote is recorded as two to one;
2 motion made by Mr. Sockwell; section -- seconded by Mr. Hood;
3 Mrs. Renshaw is opposed to the motion.

4 VICE CHAIRPERSON SOCKWELL: Yeah, the motion was --
5 was made by Mr. Hood.

6 MS. BAILEY: The motion made by Mr. Hood, seconded
7 by --

8 VICE CHAIRPERSON SOCKWELL: Seconded by Sockwell.

9 MS. BAILEY: -- Mr. Sockwell, opposed by Mrs.
10 Renshaw --

11 VICE CHAIRPERSON SOCKWELL: Yes.

12 MS. BAILEY: The motion fails.

13 SECRETARY PRUITT: No -- oh, yes, it does.

14 VICE CHAIRPERSON SOCKWELL: Uh-huh, it fails.

15 SECRETARY PRUITT: Excuse me.

16 VICE CHAIRPERSON SOCKWELL: It fails.

17 Well, then, we have but one other --

18 COMMISSIONER HOOD: So, we have March the 6th.

19 VICE CHAIRPERSON SOCKWELL: Yeah, back on March the
20 13th.

21 COMMISSIONER HOOD: March the 13th, then. With
22 that, I'll make another motion that we continue the case until
23 March the 13th, Case No. 16632 (sic).

24 MEMBER RENSHAW: Second --

25 VICE CHAIRPERSON SOCKWELL: No, I'll second the

1 motion.

2 MEMBER RENSHAW: (Laughter.)

3 MR. COOPER: The case -- excuse me, the case is
4 16635, not 32.

5 COMMISSIONER HOOD: Oh, I'm sorry. I've moved onto
6 the next case. I had already moved on.

7 MR. COOPER: Thank you, because at least it's gone
8 forward.

9 COMMISSIONER HOOD: Case No. 16635.

10 VICE CHAIRPERSON SOCKWELL: And I'll second that
11 motion. All in favor?

12 MEMBER RENSHAW: Aye.

13 COMMISSIONER HOOD: Aye.

14 VICE CHAIRPERSON SOCKWELL: Aye.

15 MS. BAILEY: The motion is passed to schedule this
16 hearing from March the -- I lost my date here -- 13th; motion
17 made by Mr. Hood, seconded by both Mrs. Renshaw and Mr. Sockwell.

18 SECRETARY PRUITT: And that would be the morning
19 agenda?

20 VICE CHAIRPERSON SOCKWELL: Uh-huh. Mr. Cooper, you
21 may tell you client that you have served them well. I'm sorry we
22 couldn't help you.

23 Are there any other preliminary matters?

24 MS. BAILEY: Staff has none, Mr. Chairman.

25 VICE CHAIRPERSON SOCKWELL: Then please call the first

1 case of the afternoon.

2 MS. BAILEY: Application No. 16632 of Medhane Alem
3 Eritrean Orthodox Church, pursuant to 11 DCMR 3103.2 for a
4 variance from the parking requirements under Subsection 2101.1,
5 for the proposed conversion of an existing structure to be used
6 as a church, seating 120 persons, in a C-1 district, at premises
7 4700 14th Street, N.W.

8 The property is located in Square 2706, Lot 54.
9 All those persons wishing to testify in this case, would you
10 please stand? All those wishing to testify, please stand and
11 raise your right hand.

12 WHEREUPON,

13 GLADYS HICKS

14 FATHER DALREN

15 GABRECHRISTOS DAGNEW

16 WERE CALLED AS WITNESSES BY THE BOARD AND, HAVING BEEN DULY
17 SWORN, WERE EXAMINED AND TESTIFIED AS FOLLOWS:

18 ALL: I do.

19 MS. BAILEY: Thank you. Mr. Chairman, the property
20 was properly posted, and the affidavit is on file. We do not
21 have a request for party status in this case. We do have reports
22 from the Office of Planning that's recommending approval.

23 We also have a report from ANC-4C, and the ANC is
24 in opposition to the project. We do have a Zoning
25 Administrator's referral letter. And the case is now ready to go

1 forward.

2 VICE CHAIRPERSON SOCKWELL: Thank you. You may
3 proceed.

4 MS. HICKS: Okay, for the record, my name is Gladys
5 Hicks. And for this case, I'd like to acknowledge Father Dalren.
6 He is the priest for the Eritrean Medhane Church. He is here on
7 behalf of his congregation. Also, there are other church members
8 here.

9 Okay, this is Board of Zoning Adjustment Case No.
10 16632. The street address is 4700 14th Street, N.W. The lot
11 number is 54 in square 2706. It is zoned C-1, commercial.

12 The premises is an existing one-story structure.
13 It was first built in -- first part -- half of it was constructed
14 in 1922. The second part, which made it cover almost 100 percent
15 of the lot, was constructed in 1935.

16 So, as I said, the lot covers 100 percent of the
17 lot. The cross streets are Crittendon Street and 14th Street.
18 And to the west side of the -- of the lot is a 15-foot wide
19 public alley.

20 Starting in the R-1A and R-1B residential zones,
21 under Section 201.1 of the D.C. Zoning Regulations, churches are
22 permitted as a matter of right. A church is also permitted in
23 the lesser restrictive C-1 commercial zone.

24 Under Board of Zoning Adjustment Case No. 16632,
25 the church is requesting a variance from Section 2101.1, the

1 Schedule of Off-Street Parking Requirements, in order to locate
2 in the C-1 commercial zone.

3 Under Section 2101.1, one off-street parking space
4 is required for every ten seats of occupancy in the main
5 sanctuary. And this is whether there are -- whether the church
6 membership fully covers those seats or not. You would have to
7 place seats -- this is a policy made by Mr. Botner. He was the -
8 - a former Zoning Administrator.

9 Either you put seats in the main sanctuary for the
10 total capacity that can be used for -- under the D.C. Building
11 and get counted for that off-street parking, or also you have to
12 -- the Zoning Office would assess parking based on one parking
13 space for every seven square feet standable, usable for standing,
14 capacity in the main sanctuary.

15 So, this case has been calculated on a one off-
16 street parking space for every ten seats.

17 VICE CHAIRPERSON SOCKWELL: And you missed a part
18 of that, which is that in the situation where benches are
19 provided --

20 MS. HICKS: Yes, where -- where --

21 VICE CHAIRPERSON SOCKWELL: -- or in this case,
22 pews --

23 MS. HICKS: -- benches are provided, or pews, the
24 calculations could be done based on one -- one parking space
25 required for each 18 inches of benches or a pew.

1 VICE CHAIRPERSON SOCKWELL: And have you measured
2 those benches, based on the plans that were submitted?

3 MS. HICKS: It is my understanding that the
4 calculations were done by the -- by Mr. Numbing, who is no longer
5 -- he was the Chief of the Review Branch. And I don't know what
6 calculation he worked it out. He just specified one parking
7 space for every ten seats.

8 VICE CHAIRPERSON SOCKWELL: Uh-huh, based -- based
9 on the number of pews provided and the size of those pews, it's
10 approximately 105 seats.

11 MS. HICKS: Which would require 10.5, and you round
12 it off to the next whole number, which would be 11 parking
13 spaces. The -- they calculated it to work out to be 12 parking
14 spaces that's required.

15 The -- I would like to go on record and state that
16 the existing church has 50 adult members, and that 30 members are
17 stated on page two of the Office of Planning report to the Board
18 of Zoning Adjustment.

19 So, even though they are charged more parking
20 spaces than the adult current population, if they only had 50 --
21 a 50-member church, normally you would -- one for ten would be
22 five parking spaces required.

23 But the -- because of past cases with churches, the
24 Zoning Office -- Office -- the Board -- the Zoning
25 Administrator's Office set the policy to be more stringent on

1 churches when calculating in the parking. So, it's 12 that's
2 required.

3 VICE CHAIRPERSON SOCKWELL: I would submit that
4 it's 11, but it's only the difference of one space --

5 MS. HICKS: Okay.

6 VICE CHAIRPERSON SOCKWELL: -- because one of the
7 pews is restricted by a protrusion of the wall, so it does not
8 meet the same size requirement as the others.

9 MS. HICKS: Okay.

10 VICE CHAIRPERSON SOCKWELL: Go ahead.

11 MS. HICKS: Thank you. On November the 14th of the
12 year 2000, the case was discussed at a formal meeting at -- with
13 the AN -- Advisory Neighborhood Commissioner. There were six
14 members present.

15 The first resolution had two people abstaining, one
16 nay, and three persons for -- that were for the resolution. That
17 first resolution, we have copies of it, was against the
18 conversion of the building into a church. It states that the
19 church would cause additional parking problems on Crittendon and
20 other neighboring streets.

21 And the second item was converting the building
22 into a church would not be consistent with the community's desire
23 to reestablish a retail corridor.

24 The second -- this resolution was voted down. The
25 second resolution had been submitted to the Board of Zoning

1 Adjustment. There were four votes to deny the church location
2 there for the off-street variance and one against, and one person
3 abstained, all of them voting.

4 I have with me today Mr. Dagneu and Mr. Berhane
5 Yitbarek, Mr. Jim Smith, Mr. Tewolde, and Mr. Welde, who will
6 testify on behalf of the Medhane Alem Eritrean Orthodox Church.

7 This is a church which has members from the D.C.
8 Metropolitan area, Virginia, Maryland, and the District of
9 Columbia. In addition, because it is an orthodox church, it is a
10 little unique in that most of the members do not drive on Sunday.

11 They walk or take public transportation.

12 Those who live too far to walk and to take public
13 transportation are given permission by the priest to drive. The
14 maximum number of cars that are estimated to be driven on a
15 Sunday will be nine.

16 I'd like for Mr. Dagneu to -- could you please
17 state your name and -- for the record and your residence, where
18 you live, and your occupation?

19 MR. DAGNEU: My name is Gabrechristos Dagneu.

20 MS. HICKS: Okay. What is your relationship to the
21 church?

22 MR. DAGNEU: I am active member for the last ten
23 years here in D.C.

24 MS. HICKS: Could you -- could we go back to
25 question number one, and state where you live?

1 MR. DAGNEW: I live in my own house, number 129
2 Cold Spring Place, Alexandria, Virginia, 22306.

3 MS. HICKS: And could you also state your
4 professional occupation?

5 MR. DAGNEW: I work -- I'm an accountant. I work
6 for the Department of State. And at the same time, I help the
7 church. I am an accountant of the church.

8 MS. HICKS: Okay, how many years have you been a
9 member of the church?

10 MR. DAGNEW: Since I was 15. It is 56 years now
11 since I have joined the church. I am 71 now.

12 MS. HICKS: Could you give us a brief history of
13 the church, and also the age of the religion?

14 MR. DAGNEW: It is one of the original and oldest
15 churches in the world. When the disciples was killed, 318 popes
16 came around -- they gathered together, and they established
17 religious holidays, fasting days and rules. The church was one
18 by then.

19 Rome quarreled with Athens and broke away in the
20 name of Catholic Church, and the church split into two. To make
21 it worse, Martin Luther quarreled with Rome and broke away in the
22 name of the Lutheran Church, and the church split into three.

23 Now, a church split from the Lutheran Church, but
24 our church is still the same original church.

25 MS. HICKS: And approximately what year was it

1 established?

2 MR. DAGNEW: It was established in 47. Our
3 forefathers accepted Jesus Christ 47 A.D.

4 MS. HICKS: Okay, thank you. How are your
5 religious services conducted?

6 MR. DAGNEW: Our religious services are conducted
7 with a unique hymn, which was never find in this -- on this
8 earth. It was given by the Holy Spirit, one holy man. He went
9 to school and stayed seven years. He could not learn anything.
10 He was kicked out from the school, and he was crying.

11 And he went back to his mother. Then, his mother -
12 - then, his uncle told him, "You wasted seven years here. Go
13 back and help your mother." So, when he was going, crying,
14 crying, crying; then he sat down under the tree and he saw an
15 insect climbing six times. Then, the insect failed six times;
16 the seventh time, went through, succeeded.

17 Then he said, "This tiny creature is" --

18 VICE CHAIRPERSON SOCKWELL: Mr. Eclam (sic), if you
19 don't mind, what I think Ms. Hicks wants you to describe with
20 regard to the services is the format of your service, the time,
21 the type of activities that the service entails, and the days
22 that you might be using the church for services, something a
23 little bit more directly related to the use of the building.

24 MS. HICKS: Okay, that -- that's my next question.
25 How is this church unique?

1 MR. DAGNEW: It is unique because we use the
2 language Geez, G-E-E-Z, and you don't find it anywhere else in
3 the world.

4 MS. HICKS: Okay, how many members are in your
5 church worldwide?

6 MR. DAGNEW: About 2 million.

7 MS. HICKS: Okay, how many churches serve that
8 population?

9 MR. DAGNEW: About -- we have 7,500 church back
10 home.

11 MS. HICKS: Okay, how many churches do yo have in
12 the United States?

13 MR. DAGNEW: We have 15 church in the United
14 States.

15 MS. HICKS: Okay. And when was your current
16 congregation formed in the District of Columbia?

17 MR. DAGNEW: In 1990.

18 MS. HICKS: Okay. At what rented locations have
19 you worshipped?

20 MR. DAGNEW: Right now?

21 MS. HICKS: Yes.

22 MR. DAGNEW: Right now, we are on the 16th Street.

23 COMMISSIONER HOOD: Mr. Chair, if you could ask --

24 MR. MEZGHEBE: Universalist Methodist.

25 VICE CHAIRPERSON SOCKWELL: Which church?

1 MR. DAGNEW: 18 --

2 MR. MEZGHEBE: Universalist Methodist Church.

3 VICE CHAIRPERSON SOCKWELL: Okay.

4 MR. DAGNEW: The building is 1810 16th Street.

5 COMMISSIONER HOOD: Mr. Chair, I know all this is
6 interesting, and I'm willing to hear it. But also, we -- we want
7 to make sure that we stay focused on --

8 VICE CHAIRPERSON SOCKWELL: Yeah, I'm trying to --

9 COMMISSIONER HOOD: Okay.

10 MS. HICKS: I've -- I've finished on this -- on
11 this phase.

12 COMMISSIONER HOOD: Okay, because we're here for
13 the use of variance of parking.

14 MS. HICKS: Yes, I understand.

15 VICE CHAIRPERSON SOCKWELL: Yeah.

16 MS. HICKS: The rest of it will be brief.

17 COMMISSIONER HOOD: I mean, while I'm interested in
18 the history -- now, don't get me --

19 MS. HICKS: We just wanted to make sure that it was
20 not characterized as a pop-up, store-front church, and we wanted
21 to qualify it as a -- as a well-established religion, because
22 that has been questioned in the past through the Zoning
23 Administrator's Office.

24 We used to see a little bit of everything come
25 through.

1 VICE CHAIRPERSON SOCKWELL: Ms. Hicks, if you would
2 try to keep the issue germane to the type of zoning relief
3 requested and the justifications and supporting documentation
4 regarding the use of the facility, its potential impact upon the
5 surrounding neighborhood, I think that would go a long way to --

6 MS HICKS: Okay, and I think it will help --

7 VICE CHAIRPERSON SOCKWELL: -- getting us further
8 along.

9 MS. HICKS: -- also help to speed the case along.
10 So, that will be what we're doing next. Mr. Berhane Yitbarek
11 will be the next witness. For the record, could you please give
12 your name, address, and your professional occupation?

13 MR. YITBAREK: My name is Berhane Yitbarek. I
14 reside at 8504 16th Street, Apartment 703, Silver Spring,
15 Maryland. I'm an electrical engineer. I work for the National
16 Institutes of Health.

17 MS. HICKS: Are you a member of the church?

18 MR. YITBAREK: Yes, I am the member of the church.

19 MS. HICKS: Okay, are you an officer of the church?

20 MR. YITBAREK: Yes, I am also a Secretary of the
21 church.

22 MS. HICKS: When did the church purchase 4700 14th
23 Street, N.W.?

24 MR. YITBAREK: We purchased the church on December
25 1999.

1 MS. HICKS: How much did you purchase -- what was
2 the purchase price?

3 MR. YITBAREK: A hundred-forty-thousand dollars.

4 MS. HICKS: Okay, do you have a current mortgage on
5 the church?

6 MR. YITBAREK: Yes, we do.

7 MS. HICKS: Okay. What were you told by the former
8 owner of the building about the use of the property as a church?

9 MR. YITBAREK: The former owner and the real estate
10 agent told us the building can be used as a church.

11 MS. HICKS: Did you receive a preliminary report
12 from an engineer regarding the use of the property as a church?

13 MR. YITBAREK: Yes, we hired a building engineer to
14 do a feasibility study. He contacted DCRA and the fire marshals
15 and gave us a report on the base of the information he received
16 from DCRA and the fire marshals, saying that the building can be
17 used as a church.

18 MS. HICKS: Okay. For the record, do you have a
19 copy of that preliminary report that you could submit to the
20 Board?

21 MR. YITBAREK: Yes, I have the report here.

22 MS. HICKS: Okay, could you pass out copies? Were
23 you asked to provide architectural plans and a building permit
24 application?

25 MR. YITBAREK: Yes, we provide an architectural

1 plan to DCRA to get a permit of renovation.

2 MS. HICKS: Okay. When did you find out that you
3 had an off-street parking problem?

4 MR. YITBAREK: We found out that we have an off-
5 street parking problem after we submitted an architectural
6 drawing to get the renovation permit. DCRA told us, "You need at
7 least two parking space," and we replied, "We have more than two
8 parking space. We have a parking space for six to seven cars in
9 just on the lot."

10 And they told us that, "The lot is not yours. The
11 lot belongs to the public," but that's not what they told the
12 building engineer. You can see that from the report we just
13 passed out.

14 MS. HICKS: Okay, our next witness is Mr. Jim Smith
15 and Mr. Permits. For the record, could you please give your
16 name, street address, and occupation?

17 MR. SMITH: Yes, my name is James F. Smith, known
18 as "Jim Smith". I live at Number Six Logan Circle, N.W.,
19 Washington D.C., 20005, and I am representing the church today as
20 a land-use consultant.

21 MS. HICKS: Okay. Could you tell us about your
22 involvement with the church and its own street -- off-street
23 parking --

24 MR. SMITH: Certainly.

25 MS. HICKS: -- issue?

1 MR. SMITH: I got involved by the church, by one of
2 the members of the church, who is a good friend of mine when they
3 went down to DCRA and talked to Swann Mack, which is a Zoning
4 Reviewer on staff, who told them that, because they had an
5 average of 30 people that came to the church, they had to provide
6 three off-street parking spaces.

7 So, we discovered that -- when I talked to Ms.
8 Mack, that the -- and I went to the Surveyor's Office to confirm
9 it -- that the lot, the building on the lot, occupies 97 percent
10 of it, and that the space that's in front of the church on the
11 corner of 14th and Crittendon is actually public space.

12 Most of the property north of Florida Avenue, in
13 many cases, has the private property go out to the edge of the
14 sidewalk. But in this particular sector of the city, they have
15 the face-on line of the buildings as being the property line.

16 And there is a parking area, an area known as
17 parking in Department of Public Works language, which is adjacent
18 to the sidewalk between the building line and the sidewalk, known
19 as parking.

20 We discovered that we had to submit a package
21 through a filing process to go before the Zoning Reviewer, Edgar
22 Nunley, who was the Chief, at that time, of the Zoning
23 Enforcement Branch, who eventually got to look at the case.

24 And I had several conversations with him about it.
25 And he told me that what Mr. Sockwell and Ms. Hicks had a

1 discussion about a little earlier today, that there would have to
2 be a decision on either 18 inches of benches or seven square foot
3 per person, and four moveable seats, in a church, per the D.C.
4 Code.

5 Whereupon, he came out with -- I believe he told me
6 originally it was 11 and a half spaces. So, I had a discussion
7 with him, and said, "Well, we can't have a half space, so we
8 should probably go for 12 spaces."

9 So, that's the way the memorandum was written up to
10 be forwarded to you all as having 12 off-street parking spaces.
11 This is the only requirement that the Zoning Administrator's
12 Office made of this case.

13 Since churches are allowed in this zone as a matter
14 of right, the only issue before us today is the question of off-
15 street parking at this site.

16 MS. HICKS: Okay, would you explain the
17 architectural layout?

18 MR. SMITH: Do you have a hand-held mic? No, I'll
19 just -- if you'll trade places with me?

20 VICE CHAIRPERSON SOCKWELL: Mr. Smith, would you
21 prefer to use the laser pointer? Oh, you have one, very good.

22 MR. SMITH: We have our toys. Yes, I have a
23 graphic here that shows the church. I'm going to move it a
24 little bit closer so I can point to it as well as --

25 MS. BAILEY: Mr. Smith, are copies of that -- those

1 materials in the file?

2 MR. SMITH: Yes, ma'am. If they're not, I have
3 copies, that I'll get to you, of everything that I have.

4 This is the building that is existing. There was
5 an addition made, as Ms. Hicks said, after 1922 in the back part.

6 But you can't tell where it was made. For some reason, they
7 were miraculously able to find the same type of face brick, which
8 I've never seen before, ever.

9 And the current condition of the church when I saw
10 it about two months ago was a shell. It's not currently a
11 church. The current Certificate of Occupancy is a store, like a
12 convenience store. We have a copy of the Certificate of
13 Occupancy submitted for the record in your file jacket.

14 The building has one floor above grade. It's at
15 grade at the front of the building. And Crittendon Street is out
16 here, and 14th Street is on this side. So, the building is sited
17 at the corner of 14th and Crittendon Street, N.W.

18 The condition of the building was pretty bad. It
19 had a single story with about a 12 and a half foot ceiling. It
20 had an old lay-in ceiling, just like the one here.

21 But because of severe roof leaks, it caved in
22 almost all over the place. And the electricity was not working
23 when I saw the building. We had to use flashlights in the
24 building.

25 The floor was pretty rotten and almost ready to

1 collapse. There is a cellar underneath the building, that's a
2 six-foot-one-inch height, which can not be used for human
3 occupancy. So, we did not count that in our calculations, and
4 the church has no plans for the use of this lower facility.
5 They're only interested in the main floor, which is the plan that
6 we see here.

7 The church -- this is a picture of the floor plan
8 that they're proposing. Because of their religion, they have to
9 face the east when they pray, so that the current main entrance
10 of the building is a corner door, which you can see in a
11 photograph. But unfortunately, that's on the east side of the
12 building.

13 So, what they propose doing is putting a new door
14 in right here so that it's behind the pews so that if someone is
15 praying in the church, they won't cause disruptions to the
16 congregation.

17 So, they would cut a new door; it's a double-door
18 in this side so that the people facing the east would not be
19 interrupted. There is currently a bay window in the front, which
20 would be made into an altar for the church, so that the
21 ceremonial part of the service occurs up here in the front.

22 There are two bathrooms proposed. There were
23 actually, originally, two bathrooms back there that were
24 existing, but they weren't usable. They were completely broken
25 down and falling apart.

1 So, what they planned on doing is to slightly
2 enlarge those bathrooms to make them handicap accessible.

3 There are some features to note about this religion
4 and this church with this floor plan. Please note that there are
5 no kitchens in this church; there is no other program that this
6 church has. It is simply a place to worship.

7 There are no feeding programs for the congregation,
8 nor anyone else. There's not even a provision for coffee in the
9 church sanctuary.

10 What they plan on doing with the church is to put
11 in a -- because of limited funds, is to put in a new suspended
12 ceiling, much like the one in this hall that we have now;
13 carpeting on the floor, much the same as you have now; and some
14 pews to hold the congregants in their worship service.

15 This is an elevation plan of the inside of the
16 building that the engineer drew, showing some modified windows.
17 They will have some round tops, instead of square tops like this.

18 And then, this is the front door that is -- would remain for a
19 fire egress only, but not for a ceremonial or otherwise interest
20 to be used, which is on the corner of 14th and Crittendon.

21 In a few minutes, there's another gentleman, who
22 drew this nice rendering down here of what the outside will look
23 at, will testify about that phase of the project.

24 It's designed to hold between 105 and 115 people,
25 depending on how you measure the pews, and five staff members, so

1 that the calculations we have are between 11 and 12 off-street
2 parking spaces are required.

3 At any rate, the Zoning Administrator has
4 advertised -- and also, the Board of Zoning Adjustment therefore,
5 for 12 off-street parking spaces.

6 MS. HICKS: Okay, the next person to testify will
7 be Mr. Tewolde. Could you state your name, address, and
8 occupation for the record, please?

9 MR. TEWOLDE: My name is Mehari Tewolde.

10 MS. HICKS: Okay.

11 MR. TEWOLDE: My name is Mehari Tewolde. I live
12 3223 Woodbridge Place, N.W., Washington, D.C. 20010.

13 MS. HICKS: Okay, could you state your professional
14 occupation?

15 MR. TEWOLDE: I am a computer teacher at St.
16 Benedict the Moor, Washington, D.C.

17 MS. HICKS: Okay. Are you a church member?

18 MR. TEWOLDE: Yes, I am.

19 MS. HICKS: Are you an officer of the church?

20 MR. TEWOLDE: Actually, I am a deacon of the
21 church.

22 MS. HICKS: Okay, could you explain the proposed
23 work that would be done on the exterior of the building?

24 MR. TEWOLDE: As you can see, this is the picture,
25 the one that we see at the present. I should not call it bad

1 building; I should call it ugly building, okay? That's why I
2 made this, in order to show you that the exterior building for
3 the future.

4 So, we're going to have this new windows, flat on
5 the Crittendon Street. We're going to have a double-door with a
6 glass doors. And I think the building, like I say, looks ugly;
7 so it needs to be washed.

8 MS. HICKS: Can you explain the building's
9 orientation?

10 MR. TEWOLDE: Yes. Okay, this is the 14th Street,
11 and this is Crittendon, N.W.

12 MS. HICKS: Okay. Can you explain what will happen
13 with the closed landscaping on the green strip?

14 MR. TEWOLDE: Well, when we bought the building, as
15 they all mentioned that, we were told that we were going to have
16 parking on this side. Since we don't have any parking now, we
17 changed it. The landscaping is going to be with nice flowers in
18 order to look good, plus grasses.

19 MS. HICKS: Okay. Will anyone be at the church
20 daily?

21 MR. TEWOLDE: Yes, our pastor, David Occolum, the
22 man who has a special hat, is going to be every -- from Monday
23 through Saturday.

24 MS. HICKS: Okay, what hours will the church be
25 occupied daily?

1 MR. TEWOLDE: In the morning from 9:00 a.m. to --
2 from Monday through Saturday from 7:00 -- 9:00 a.m. to 5:00 p.m.

3 VICE CHAIRPERSON SOCKWELL: Sir, may I ask a
4 question? You said something about parking. You thought that
5 there was going to be parking in the side of the building when it
6 was purchased?

7 MS. HICKS: Yes, that's true.

8 VICE CHAIRPERSON SOCKWELL: And if you would
9 elaborate on that particular issue?

10 MS. HICKS: We have an additional plan. There is a
11 green strip to the side of the building.

12 VICE CHAIRPERSON SOCKWELL: Which is parking by
13 D.C. Government's --

14 MS. HICKS: It's public space. They found out --

15 VICE CHAIRPERSON SOCKWELL: But it's called parking
16 by D.C. Government; it's not sidewalk?

17 MS. HICKS: It's not sidewalk; it's --

18 VICE CHAIRPERSON SOCKWELL: If it's not sidewalk,
19 it has to be parking, by definition, which, of course, doesn't
20 have anything to do with cars.

21 MS. HICKS: Well, it's owned by public space. And
22 they -- they thought it was part of their public -- their private
23 property, once they bought the church.

24 VICE CHAIRPERSON SOCKWELL: Uh-huh, but it is -- it
25 is, therefore, public area called parking that is behind the

1 public sidewalk?

2 MS. HICKS: That's right, yes.

3 MR. SMITH: That's correct. That's right. And if
4 I could refer the Board to the report from the engineer they
5 hired to -- to do the plans and check out the feasibility, he
6 mentioned that they were under the impression at that time,
7 erroneously as we all know, that that area does not belong to
8 this lot.

9 Although if one did not know and drove by and
10 looked at it, would get the impression that perhaps that does,
11 somehow, belong to that lot.

12 VICE CHAIRPERSON SOCKWELL: But the lot -- I mean,
13 the description of the property was the deed description for the
14 sale of it --

15 MR. SMITH: Exactly.

16 VICE CHAIRPERSON SOCKWELL: -- and was not
17 represented as being part of the building lot by the real estate
18 agent, I assume?

19 MR. SMITH: I wasn't there.

20 MR. TEWOLDE: What?

21 MR. SMITH: Did the -- his question was, did the
22 building -- real estate agent or the owner represent to you that
23 that was parking for that building?

24 MR. YITBAREK: Yes. No, what they told us, if you
25 look up -- up on Crittendon Street -- if you look up on

1 Crittendon Street, it looks -- it's a straight -- the gardens in
2 front of the houses is straight. Then when it comes to our
3 building, it's in a little bit.

4 So, we assumed that -- everybody assumed it's a
5 parking space. The owner told us we -- we can park here, and the
6 real estate agent told us we can park here. Even the building
7 engineer, when he went down to DCRA, they told him that property
8 belongs to us. You can see it on that report.

9 He mentioned it we -- six to seven cars can be
10 parked there.

11 VICE CHAIRPERSON SOCKWELL: Well, I think that the
12 issue that you may have in purchasing the property is one of
13 having been misled as to what constituted your lot. But at the
14 same time, there had to have been a building survey; there had to
15 have been title work and deed descriptions of the size of the
16 land and the building on it.

17 And I am hopeful that it was not unknown to the
18 purchasers, especially having the assistance of people with
19 engineering degrees, one way or another, that it was -- it
20 shouldn't have been unknown that that property that was adjacent
21 did not belong to the building.

22 MR. YITBAREK: Yeah, what happened is, because of
23 the hardship we had, we've been moving from one church to another
24 church. They told -- some church, you know -- like, we do
25 incense like the Catholics. So, the church we rented before they

1 told us, "Don't do this," you know, there's a lot of rules when
2 you are in somebody else's house.

3 So, what our wish was just to get a building. And
4 the church we were, they told us by this day, you have to move
5 because we have to do renovation. And most of the church on 16th
6 Street, they didn't have a parking. And we never told -- to tell
7 you the truth, we never told about parking when we bought that
8 building.

9 The only thing we told was here is the building we
10 find so we can have our own space so we can pray our way.

11 VICE CHAIRPERSON SOCKWELL: Uh-huh. But I am
12 concerned that you may have been misled into a purchase thinking
13 that it contained amenities that it did not have. And that would
14 be an issue that you should -- that you might consider taking up
15 with someone at some point, because it may be that you based your
16 purchase price on -- on issues that were not property issues, but
17 were public space issues.

18 But anyway, continue; we'll -- we'll go forward.

19 MR. SMITH: If I can just follow up on that? The
20 report that we handed out to the Board from -- that says "Future
21 home of Medhane Alem Eritrean Orthodox Church," was in September
22 of '99, and they didn't purchase it until December of '99.

23 And they used the engineering report as a basis for
24 moving forward, that this was a feasible project. So, you're
25 right. There were some misunderstandings on the part of the

1 applicant for not being informed about what was public parking,
2 or what was public space, and what was private space.

3 But at any rate, I think they used the basis of the
4 report that we handed out to you as making their decision to
5 enter into this real estate purchase.

6 MS. HICKS: I'd like to continue with Mr. Tewolde.

7 I'd like to continue with Mr. Tewolde. What date do you
8 worship on?

9 MR. TEWOLDE: Every Sunday.

10 MS. HICKS: Okay, what hours are the services?

11 MR. TEWOLDE: Seven a.m. to 11:00 a.m.

12 MS. HICKS: Okay. When will members no longer be
13 at the church on Sunday?

14 MR. TEWOLDE: Eleven a.m.

15 MS. HICKS: Okay. Are there any other holy days
16 that you have services on?

17 MR. TEWOLDE: Yeah, we do -- we have Christmas,
18 Good Friday, and Easter, and occasionally, we have a committee
19 meeting.

20 MS. HICKS: Approximately members would be -- would
21 be at the committee meeting?

22 MR. TEWOLDE: Just five, six.

23 MS. HICKS: And at what time of the day will this
24 committee meeting be held?

25 MR. TEWOLDE: Well, it depends. You know, we get,

1 like, Mondays most of the time.

2 MS. HICKS: And would this be in the evening?

3 MR. TEWOLDE: Yeah, in the evening, yes. I just
4 want to make clear this -- can I say something? They are the
5 holiday -- I just want to give you an example that, for example,
6 in the United States, people celebrate the Christian on December
7 the 25th. Well, we don't celebrate.

8 According to Orthodox church, we celebrate on
9 January 7th. Even Easter, we celebrate -- I don't have the date
10 now. But in the United States even -- for example, if they
11 celebrate this Friday, we're going to celebrate after a week.
12 So, that's the way we do every time, every year, according to the
13 Orthodox.

14 MS. HICKS: Would that be on Sunday?

15 MR. TEWOLDE: That's going to be --

16 VICE CHAIRPERSON SOCKWELL: On a Sunday, the Sunday
17 after Easter?

18 MR. TEWOLDE: Well, Easter is --

19 VICE CHAIRPERSON SOCKWELL: But it's the week after
20 normal Easter for --

21 MR. TEWOLDE: Correct.

22 VICE CHAIRPERSON SOCKWELL: -- all the other
23 Christians?

24 MR. TEWOLDE: Correct.

25 MS. HICKS: Okay, the next witness is Mr. Welde,

1 along with Mr. Permits on the off-street parking issue. Mr.
2 Welde, would you state your name, address, and your professional
3 occupation?

4 MR. MEZGHEBE: My name is Weldemaria Mezghebe. I'm
5 a physician assistant, surgical P.A., and I live in 12001 Gordon
6 Avenue, G-O-R-D-O-N, in Beltsville, Maryland, 20705.

7 MS. HICKS: Okay, could you explain what the photos
8 in the exhibits show as regards to your observations on off-
9 street parking in the immediate area where the church is located?

10 MR. MEZGHEBE: The -- the pictures show the
11 availability of the parking space on the 4700 block on 14th
12 Street, N.W. Basically, the pictures were taken between the
13 hours of 7:00 a.m. to about 11:00 -- 11:00 a.m. in the morning.

14 And those are the hours usually, between to 7:00
15 and 11:00 or 10:300, that are our Sunday services. And the
16 purpose of the pictures were to see if there is available parking
17 areas those hours, without being hinderance to the community and
18 without using the off-site -- the off-site street, the off-site
19 of 14th Street, the Crittendon or the Decatur Streets.

20 I was concerning basically on the 14th is right
21 across from the church.

22 MR. SMITH: Mr. Welde, I take it that these are the
23 photographs, both of them, that you made yourself. Is that
24 correct?

25 MR. MEZGHEBE: Correct.

1 MR. SMITH: And that we asked you to get a special
2 camera that makes a date and time stamp so that we would -- can
3 authenticate the type of photographs being made, and that we --
4 we decided to go this route as a substitute traffic consultant
5 because of the limited funds of the church, and we're trying to
6 do this on a budget.

7 I want to point out for the record that -- and we
8 have this labeled -- that -- and I also have copies for the BZA
9 after we're finished with this, with these exhibits, that this
10 first picture was made at 14th and Crittendon, looking north.
11 This is the bus barn, which is on this side of the street, so
12 that --

13 VICE CHAIRPERSON SOCKWELL: Mr. Smith?

14 MR. SMITH: Yes?

15 VICE CHAIRPERSON SOCKWELL: Would you like to pass
16 your copies of those photographs to the Board now?

17 MR. SMITH: Some of them are black and white; some
18 of them are color. I only have one copy.

19 VICE CHAIRPERSON SOCKWELL: Okay.

20 MR. SMITH: What we wanted to do was -- this is a
21 200-foot proximity circle of the site, and this is a 600-foot
22 circle.

23 VICE CHAIRPERSON SOCKWELL: I don't know where they
24 --

25 MR. SMITH: I do some liquor licenses as well as

1 BZA cases from time to time, and we have to use a 400 and 600-
2 foot radius. And I think that's appropriate because of all of
3 the dialogue that happens from a restaurant or a nightclub that
4 comes in to use property.

5 What is the real sphere of influence that people
6 have? And I think it's been dialogued a great deal that a 600-
7 foot circle is a very generous area to consider to be used for
8 any type of destinate parking and walking to a destination.

9 The area is characterized by the east side for two
10 -- this is 14th and Crittendon right here. The east side of 14th
11 Street is the Metrobus bus barn, which --

12 VICE CHAIRPERSON SOCKWELL: And actually, Mr.
13 Smith, the liquor license requirements are based on the proximity
14 of same-class liquor licenses in particular. And those are
15 different criteria; I've done those myself.

16 MR. SMITH: I stand corrected. So, what we did
17 was, is we wanted to go the length of the 600-foot circle, at any
18 rate, showing the parking that was available on the street.

19 We have several boards of photographs that were
20 taken at various times, not only of 14th Street, but of some of
21 the surrounding streets, which we can go through rather quickly
22 and show you how much parking was available.

23 If you look at this particular area, from this area
24 down here up to here, there's approximately 77 parking spaces on
25 Sunday, but there's approximately 60 spaces normally in that area

1 that were formerly metered parking.

2 But because the City is redoing the meter situation
3 and is doing these new meters -- and for some reason, the meters
4 are either being stolen or removed off of that street, although
5 it is a commercial street -- so we expect, because the signage is
6 still there, that there will be meters coming back in those
7 locations.

8 The meter poles are still there. There are just no
9 meters on the street right now. So, our emphasis was to see if
10 we could find, at the time the church uses their -- their church
11 on -- between 7:00 a.m. and 11:00 a.m. on Sunday, if there were,
12 indeed, on the average, 12 or more spaces available, not in front
13 of residences on Crittendon, Buchanan, Allison, Decatur or
14 Delafield.

15 The first picture shows a view in the early morning
16 along Crittendon -- along 14th Street, that there's no parking on
17 this side of the street. And if you look at these pictures very
18 carefully, there's parking all up and down this side of the
19 street. And in these photographs, there is parking available.

20 The second photograph shows the subject property at
21 the same time, and that there is no one, at all, parked next to
22 the building. There is a no parking sign from here to the
23 corner, but there are approximately three spaces available next
24 to the building, that are normal spaces, on the street.

25 The next picture shows Buchanan -- excuse me,

1 Decatur Street, looking south, again very early in the morning on
2 10/14. And again, where there's about 12 spaces on that side of
3 the street, there's only one car, that I can see on this
4 photograph, that's parked there at that hour.

5 This other photograph here is at the corner of
6 Delafield, looking down 14th Street again. There's a number of
7 parking spaces that are not metered in this particular block.
8 And there's at least five to seven spaces available on this side
9 of the street.

10 This is a view, on 10/15, of the street that shows
11 only three cars in the three-block area that is parked there at
12 that hour.

13 VICE CHAIRPERSON SOCKWELL: At what hour?

14 MR. MEZGHEBE: Unfortunately, this was a new
15 camera. I do not -- could not set up at the time. I was able to
16 set up the date though. But on the next pictures, you will be
17 able to see the time and the date.

18 On this -- if I have to guess, this is early in the
19 morning, at 7:00, 7:30, because all my pictures are taken between
20 7:00 to 11:00 or 11:30 in the morning.

21 VICE CHAIRPERSON SOCKWELL: All right, and some of
22 them were taken on the 14th?

23 MR. MEZGHEBE: That's the only picture on the 14th,
24 which was Saturday.

25 VICE CHAIRPERSON SOCKWELL: I understand that, yes.

1 MR. MEZGHEBE: The only picture -- I think I took
2 maybe a couple -- either one day or two days that I took pictures
3 on Saturday. The rest are on Sundays.

4 VICE CHAIRPERSON SOCKWELL: And the Sunday pictures
5 are the ones that are most important if your services --

6 MR. MEZGHEBE: Correct.

7 VICE CHAIRPERSON SOCKWELL: -- are generally held
8 on Sunday.

9 MR. MEZGHEBE: Correct.

10 MR. SMITH: Here's some other on-street parking
11 that was available on 10/15. This is a view of Decatur Street,
12 standing in the intersection on 14th and Decatur, looking to the
13 west. And you can see that there's one, two, three, four -- at
14 least five parking spaces --

15 MR. MEZGHEBE: That's my car there.

16 MR. SMITH: -- that are available. Huh?

17 MR. MEZGHEBE: That's my car right there.

18 MR. SMITH: That's your car?

19 MR. MEZGHEBE: Yes.

20 MR. SMITH: I wouldn't tell a policeman

21 (Laughter.)

22 MR. SMITH: Here's another view, 14th -- 14th and
23 Delafield, looking west, which shows the same situation. Here's
24 another view, 15th at Delafield, looking south. And this street
25 has on-street parking all the way up and down 15th, except for 25

1 feet from the intersection or five feet from a driveway.

2 So, there was (sic) several spaces available one
3 block away. So, we're not saying that we would like to park
4 there. We're just characterizing the neighborhood as having an
5 abundance of parking at the time when the church uses its
6 services.

7 Here's another photograph made on 10/15 by Mr.
8 Welde. Again, this is taken at the corner of 14th and Decatur,
9 looking south. The subject property is located right here. And
10 you can see that when you see this -- this particular shot, that
11 there is plenty of parking available again on the street.

12 Once again, we took some more photographs on
13 November the 5th --

14 MR. MEZGHEBE: Now, you see the dates --

15 MR. SMITH: Yeah, the date -- he got --

16 MR. MEZGHEBE: The time.

17 MR. SMITH: He showed me the first round, and we
18 got the date (sic) to work.

19 MR. MEZGHEBE: The time.

20 MR. SMITH: So, 11/5 at 7:26 a.m., 14th and
21 Delafield looking south where there's -- I only see one, two,
22 three cars in the view on this photograph. 11/5 at 7:27 a.m.,
23 this is, again, at 14th and Decatur looking south, which is a
24 block further down, and there's only one, two, three, four, five,
25 six cars on that two-block area at that hour.

1 Here's another photograph taking -- taken on
2 November the 5th at 11:42 a.m. There were some neighbors that
3 said, "Well, starting at about 11:00, we have no parking in the
4 neighborhood," and the church will be out of their building by
5 11:00 because their church -- their service is actually not -- it
6 doesn't end at 11:00; it ends about 10:00 to 10:30. And they
7 have given themselves a half an hour to go and go home.

8 So that again, this shows that there's one, two,
9 three, four, five, six, seven, eight, nine cars parked on that
10 end of the block, and a block that has normally 25 to 30 cars
11 available. I can give you exact count.

12 On the 5th of November, at 11:44, at 14th and --

13 VICE CHAIRPERSON SOCKWELL: May I --

14 MR. SMITH: -- Delafield, looking south, again is a
15 different story. Again, 11/6 at 3:00 p.m., when he -- I told --
16 I asked Mr. Welde to make some shots of the street at other times
17 too, at random.

18 VICE CHAIRPERSON SOCKWELL: Yeah, let's -- let me
19 ask you a couple of questions.

20 MR. SMITH: Yes, sir.

21 VICE CHAIRPERSON SOCKWELL: Generally speaking --
22 and I just want to sort of bring this to closure. Generally
23 speaking, during the times that the church is holding services on
24 Sunday, which is the principal use day for the largest number of
25 church members --

1 MR. SMITH: Correct.

2 VICE CHAIRPERSON SOCKWELL: -- as I understand it
3 from testimony, approximately during the period 7:00 a.m. to
4 11:00 a.m., what seems to be, by your unprofessional -- i.e.
5 you're not a traffic consultant -- estimate and photographs --
6 what appears to be the average number of spaces available during
7 that time period within a block in -- in all directions, or
8 thereabouts, of this proposed facility? Are you saying
9 that there are at least 11 or 12 free parking spaces during those
10 times currently?

11 MR. SMITH: If you go one block in each direction
12 on 14th Street, there are 41 available spaces.

13 VICE CHAIRPERSON SOCKWELL: All right.

14 MR. SMITH: Based upon the photographs we've shown
15 you, and continue to show, that there's approximately 20 to 25
16 spaces that would normally be metered, which does not include the
17 side streets where the commercial property extends back to the
18 alley, which would increase our number.

19 VICE CHAIRPERSON SOCKWELL: All right. And then,
20 you're saying that there are 25 spaces that would normally be
21 metered. And in addition, there are how many other spaces?

22 MR. SMITH: If we --

23 VICE CHAIRPERSON SOCKWELL: And those metered
24 spaces -- meters aren't -- don't work on Sundays. They're not --

25 MR. SMITH: Correct.

1 VICE CHAIRPERSON SOCKWELL: You don't put money in
2 meters on Sunday, so those metered spaces are free spaces on
3 Sunday.

4 MR. SMITH: That's correct.

5 VICE CHAIRPERSON SOCKWELL: So, let's get to the
6 total number of spaces, the average number of spaces. I want
7 some closure here.

8 MR. SMITH: Okay. If we went to Delafield down to
9 Allison, there are 77 total parking spaces. On Sunday morning,
10 at the various times we looked at it, there has not been more
11 than 15 to 20 cars parked where 77 spaces exist, without counting
12 any of the side streets.

13 If we count the side streets, there's approximately
14 270 parking spaces in the 600-foot circle, and also picking up
15 this block down to Allison.

16 VICE CHAIRPERSON SOCKWELL: So, you're saying 270?

17 MR. SMITH: Yes, sir.

18 VICE CHAIRPERSON SOCKWELL: Now, is the -- why
19 don't you complete your traffic discussion and then we can get to
20 some more of this, please?

21 MR. SMITH: Some of the -- some of the residents
22 who wrote in and said that there's a lack of parking --

23 VICE CHAIRPERSON SOCKWELL: Well, we'll get to --
24 we'll get to that, but okay --

25 MR. SMITH: I'm still making the presentation on --

1 VICE CHAIRPERSON SOCKWELL: All right.

2 MR. SMITH: -- what's available. Last Sunday, on
3 the 26th, I met all the panel here, and we went down the alleys
4 to see what we could discover, because I had never been down the
5 alleys.

6 And these -- this exhibit here represents alley --
7 alley parking spaces which are behind either the same block where
8 the house is located -- the property is located, which is 14th,
9 Crittendon, 15th, and Decatur.

10 And what we found was, is that there is a whole set
11 of garages. Some of them are abandoned and used for storage.
12 But they are altogether in that alley, which is located near the
13 subject property -- in this particular alley, there are 24
14 parking spaces that weren't vacant -- they were not vacant
15 garages.

16 And on the other side of the garages, there were
17 six spaces on the on Crittendon Street that were available off-
18 street for the residents' use.

19 We also went through to look at the alley along
20 14th Street, which is right here. And there's approximately 17
21 or 18 parking spaces behind the commercial buildings because the
22 commercial buildings don't go all the way back to the lot line.
23 There's parking behind those buildings, many of which are vacant.

24 We went up to Delafield, and we found that between
25 14th and Delafield, and 15th and Decatur, there's another set of

1 garages and parking spaces which number 17 spaces, that are
2 available to the -- not to us, but to the people that own the
3 houses that park behind their houses.

4 And we were curious when some of the folks in the
5 neighborhood were saying that they don't have parking to see if
6 they really do have parking. So, we took the liberty of going
7 behind three of the protestors' houses, and we see that 1416
8 Crittendon has a parking spot.

9 The person who protested from 1419 Crittendon has a
10 double-wide gate for two cars to park in. And the rear of 1418
11 Decatur has an ice -- it looks like an abandoned ice cream truck
12 and some trash, but it's basically one or two parking spaces if
13 you put them end-on-end to fill up that space. Anything else?

14 MS. HICKS: No, that's it, not unless they have any
15 more questions. Okay, in conclusion, under Case No. 16632, there
16 is an exceptional condition of the premises which requires relief
17 from the Board of Zoning Adjustment.

18 The existing one-story structure was built in 1992.
19 The addition to the original structure was added in 1935,
20 thereby covering --

21 VICE CHAIRPERSON SOCKWELL: When did you say --

22 MS. HICKS: -- approximately 100 percent of the
23 lot.

24 VICE CHAIRPERSON SOCKWELL: -- the original
25 structure was built?

1 MS. HICKS: 1922, according to the tax records.
2 And according to the records of the D.C. Surveyor's Office, the
3 addition was put on in 1935, therefore covering approximately 100
4 percent of the lot.

5 There's only a green strip that's -- that's
6 controlled by public space, located on Crittendon Street, which
7 cannot be used for parking without permission from the Department
8 of Public Works.

9 We strongly believe that the variance can be
10 granted without detriment to the public good. Also, to minimize
11 the parking impact to the neighborhood, car-pooling, walking, and
12 taking public transportation is -- is advised and recommended.

13 The creation of a liaison -- we suggested there be
14 a creation of a liaison between the church and the ANC to
15 establish dialogue. And we suggest that two members of the
16 church be designated to monitor the parking on a weekly -- on a
17 Sunday -- every-Sunday basis to avoid parking on the residential
18 streets and only use the parking along the commercial strip.

19 Twenty-two people have signed individual letters of
20 support of the church, and we have those that we could submit to
21 the Board.

22 COMMISSIONER HOOD: Mr. Chair, if we could just
23 clarify for the record, are those 22 people in the neighborhood
24 or are they --

25 MS. HICKS: In the neighborhood, yes.

1 COMMISSIONER HOOD: -- from the church?

2 MS. HICKS: Yes. And their street addresses are --
3 and the signatures and dates are listed on -- on each -- each
4 letter of support. Currently, the church members are trying to
5 find and negotiate off-street parking to lease and use on
6 Sundays.

7 And this, in the future, will require a special
8 exception. But this is something that we don't have finalized as
9 of today. So, with that, I conclude our case.

10 VICE CHAIRPERSON SOCKWELL: Board members --

11 COMMISSIONER HOOD: I have --

12 VICE CHAIRPERSON SOCKWELL: -- any questions?

13 COMMISSIONER HOOD: -- a number of questions, Mr.
14 Chair, but I want to start off, first of all, is the bus barn
15 still being used?

16 MR. SMITH: Yes.

17 MS. HICKS: Yes.

18 COMMISSIONER HOOD: And you all are directly across
19 the street from the bus barn?

20 MR. SMITH: Yes.

21 MS. HICKS: Yes.

22 COMMISSIONER HOOD: I will tell you that I've been
23 taken aback by these pictures, just having dealt personally with
24 that area. Something must have definitely changed up there. You
25 used to have to do some double-parking just to go in and school

1 tokens when I was in school.

2 So, I can tell you that -- and I was sitting here,
3 trying to figure out exactly what's changed. But I'm looking
4 forward to hearing the discussion.

5 But I can tell you I know I'm familiar -- but this
6 was years ago; I've been out of school for a while -- not too
7 long, but --

8 (Laughter.)

9 COMMISSIONER HOOD: -- but I can tell you that I
10 was kind of taken aback by all the room that I'm seeing here on
11 these pictures. But with that, Mr. Chair, I'll yield to my
12 colleagues and see how the discussion goes.

13 VICE CHAIRPERSON SOCKWELL: Ms. Renshaw, do you
14 have questions? If you want to hold -- or if you're still
15 working on them, I can ask the questions.

16 MEMBER RENSHAW: Go ahead; you go ahead.

17 VICE CHAIRPERSON SOCKWELL: All right.

18 MS. HICKS: Can I comment on that, on what he just
19 said about what has changed? Currently, it's my understanding
20 that you can get tokens and smart-cards, or whatever you need, at
21 different locations. So, there may not be the same demand to go
22 into one location now because you can go into the Metro --
23 wherever the Metro Transit Authority is located.

24 You can also go to Metro Center. You can also get
25 smart-cards from Giant, and also Safeway, and other locations.

1 So, that might be the change that has been made over the years.

2 COMMISSIONER HOOD: I understand that, Ms. Hicks.
3 But while that's not relevant -- but my situation was that I was
4 -- basically one or two of us were the only two in there buying
5 the tokens.

6 So, I was wondering where the other cars were
7 going, or where -- you know, so, in other words, I understand the
8 availability now, different places are going to access those
9 items. But at that time, if I remember correctly, the crowd in
10 the bus line were one or two or three -- three folks.

11 So, the cars definitely didn't reflect what I see
12 here.

13 VICE CHAIRPERSON SOCKWELL: And we're assuming that
14 the photographs are true to their intent, and -- and time of
15 having been taken. What I would like to ask here -- do you have
16 other questions, Mr. Hood?

17 COMMISSIONER HOOD: I have some more that I would
18 like to --

19 VICE CHAIRPERSON SOCKWELL: Well, no, please, you
20 may continue.

21 COMMISSIONER HOOD: I don't have them together, but
22 I --

23 VICE CHAIRPERSON SOCKWELL: Okay, well, then let me
24 ask this question, and this would be asked of Mr. Achlem -- is
25 that right, Mr. Achlem (sic)? What is it, Achlem?

1 MR. DALREN: Dalren.

2 VICE CHAIRPERSON SOCKWELL: Dalren, okay. You
3 stated, I believe, that -- or it was stated that the orthodox
4 church restricts the driving to services by its members unless
5 specifically approved. That was a statement made in the early
6 part of the presentation.

7 And I want to get a good understanding of that,
8 that the church members are not free to drive their personal cars
9 to services on Sunday, if they so choose?

10 MS. HICKS: Okay, do you want to answer that?

11 MR. YITBAREK: I can answer that. If you look at
12 the orthodox, for example the Jewish Orthodox, they walk to their
13 synagogue as a rule. But because of where we live, we trying to
14 adjust this where you cannot walk from White Oak to 16th Street.

15 So, we get -- we say that okay, at least you can
16 take the public transportation. And Father Dalren lives in White
17 Oak, and he had been taking on Sunday a public transportation
18 back and forth.

19 I mean, we can give him a ride; we can pick him up.
20 But he had been taking on Sunday public transportation the past
21 ten years.

22 VICE CHAIRPERSON SOCKWELL: Yes, but -- but I think
23 that the critical part of your answer or your description of the
24 method by which church members arrive at, or would arrive at, the
25 facility was that generally, you are not allowed to drive on

1 Sunday to the service, unless previously approved by Father
2 Dalren.

3 MR. YITBAREK: Yeah, you can -- you can say that.
4 Like back home, everybody walks to the church; no one drives.

5 VICE CHAIRPERSON SOCKWELL: Okay, what you're --
6 what you're saying to me is not what I'm asking to hear. I'm
7 asking to hear whether or not it is a rule, or whether or not it
8 is just encouraged, that people not drive.

9 MR. YITBAREK: Yes, it is encouraged people not to
10 drive because of the orthodox rule.

11 VICE CHAIRPERSON SOCKWELL: The services that are
12 held on the church on Sunday from approximately 7:00 a.m. --

13 MR. YITBAREK: Yes.

14 VICE CHAIRPERSON SOCKWELL: -- starting time --

15 MR. YITBAREK: Yes, yes. There is only one mass,
16 7:00 a.m. to 10:00 a.m. or 10:30 a.m.

17 VICE CHAIRPERSON SOCKWELL: And after the mass,
18 what other church activities that might retain the larger portion
19 of the congregation would take place?

20 MR. YITBAREK: There will be none like --

21 VICE CHAIRPERSON SOCKWELL: And that's normally.

22 MR. YITBAREK: Yes, normally.

23 VICE CHAIRPERSON SOCKWELL: When weddings are held
24 at the church --

25 MR. YITBAREK: No, usually we do weddings -- we

1 arrange a church -- we do weddings in different places, at a
2 bigger church.

3 VICE CHAIRPERSON SOCKWELL: Okay. So, there are no
4 small weddings?

5 MR. YITBAREK: Yes, that's true.

6 (Laughter.)

7 MR. YITBAREK: And you know, because of the
8 culture, yes.

9 MS. HICKS: And it's true for funerals.

10 MR. YITBAREK: Yeah, even funerals have never been
11 held in our church.

12 VICE CHAIRPERSON SOCKWELL: Okay. And in terms of
13 other church activities, there apparently are some small five to
14 seven person council-type meetings, or what -- they were called
15 committee meetings.

16 MR. YITBAREK: Yeah, the committee, like five to
17 seven of us, usually on Monday night; it depends on the schedule.

18 If not, any other, like it could be Saturday, but five or seven
19 of us. That's the maximum. The Building Committee -- like the
20 Building Committee or Church Committee --

21 VICE CHAIRPERSON SOCKWELL: And what times are
22 those generally held?

23 MR. YITBAREK: No, we arrange it. It depends on
24 how our schedules are. If it is Monday -- if it is a work-day,
25 usually it's in the evening.

1 VICE CHAIRPERSON SOCKWELL: So, after 6:00?

2 MR. YITBAREK: Yes, after 6:00, 6:00, 6:30, 7:00.

3 VICE CHAIRPERSON SOCKWELL: And Saturdays?

4 MR. YITBAREK: Saturday probably --

5 MR. MEZGHEBE: It's difficult to set a date really,
6 or a time. It's the convenience of the individuals' own
7 schedule.

8 VICE CHAIRPERSON SOCKWELL: All right, that's fine.

9 Now, there are no plans for nursery school programs, or anything
10 like that?

11 MR. MEZGHEBE: No, there is no -- no, we don't;
12 nursery schools, no.

13 VICE CHAIRPERSON SOCKWELL: Is the -- is there any
14 intent to make the church facility, should it be approved,
15 available at times for community meetings, such as perhaps the
16 Advisory Neighborhood Commission might a space to hold a meeting,
17 or the community civic association might need a space to hold a
18 meeting, that might be --

19 MR. MEZGHEBE: No, should --

20 VICE CHAIRPERSON SOCKWELL: Is there anything in
21 your orthodox religion that would prevent the use of the facility
22 for any type of community --

23 MR. MEZGHEBE: Oh, you mean for our community, no.

24 VICE CHAIRPERSON SOCKWELL: For the surrounding
25 community that -- is there anything --

1 MR. MEZGHEBE: Can I answer that?

2 VICE CHAIRPERSON SOCKWELL: Yes.

3 MR. MEZGHEBE: The answer is no. Normally, our
4 church is very strict. You go to the church only to pray and
5 pray only; nothing outside the church activities.

6 VICE CHAIRPERSON SOCKWELL: Okay.

7 SECRETARY PRUITT: Excuse me, Mr. Sockwell.

8 VICE CHAIRPERSON SOCKWELL: Yes?

9 SECRETARY PRUITT: Just for clarification of the
10 record, the Board is only looking at parking. Churches in this
11 particular area are allowed, as a matter of right. And so, the
12 only thing that's before the Board today is whether or not to
13 grant the variance from the number of -- 12 number of parking
14 spaces.

15 VICE CHAIRPERSON SOCKWELL: Right. I think that
16 the direction I'm trying to take on this is to what extent the
17 facilities will be used by anyone. And in asking that question,
18 it naturally carries over to whether or not the community would
19 be using it.

20 But that was just -- the principal use -- the
21 principal issues are how much activity the building is going to
22 generate, which would encumber potentially the parking that's
23 available in the neighborhood.

24 I think that covers my general questions at this
25 time. Ms. Renshaw?

1 MEMBER RENSHAW: Yes, Mr. Vice Chair, it -- you
2 stated that the Father would be on the premises every day
3 throughout the day. So, that brings me to ask whether
4 congregants will be able to make appointments to come for
5 counseling or any kind of sessions with the -- with the church
6 leader.

7 This, again, goes to parking and whether that is
8 going to be the case, whether that's part of your religion.

9 MR. YITBAREK: It is not our custom, like if I may
10 say the Catholics, to go and make an appointment with the priest.

11 And you know -- but it might be an occasion our very old people
12 who can come on the holidays like St. Gabriel is on -- on the
13 12th, and those kinds of days. They just go and pray.

14 And most of those old people are from back home,
15 and they will be driven by their family or public transportation.

16 MEMBER RENSHAW: The Office of Planning submitted a
17 report to the BZA, and had, as one of its issues for our
18 consideration, what traffic and parking demand management
19 policies will be used to minimize impacts on the neighborhood.
20 Have you seen this report?

21 VICE CHAIRPERSON SOCKWELL: Are we -- are we at the
22 Office of Planning report yet? I mean, I don't think we're there
23 yet.

24 MEMBER RENSHAW: I had a question -- well, I had a
25 question regarding parking demand.

1 VICE CHAIRPERSON SOCKWELL: Okay, but I wouldn't
2 reference it out of the Office of Planning report because we
3 haven't gotten to that section.

4 MEMBER RENSHAW: All right, then I will hold that
5 comment and pass to Commissioner Hood.

6 VICE CHAIRPERSON SOCKWELL: Thank you.

7 COMMISSIONER HOOD: I was sitting here trying to
8 formulate one or two questions. I don't have many because I
9 think most of it is pretty straight forward here in front of me.

10 I, too, was going to reference the Office of Planning report,
11 but I will wait, as the Chair has asked.

12 One of my -- one of questions is -- and I'm not
13 really sure how the orthodox church works. But as far as trying
14 to grow -- I know most churches are trying to get the membership
15 and trying to grow, you know?

16 From what I'm hearing here today, you're like --
17 you have 50 people; that's it. You know, that's the cut-off.
18 What about room for growth, which is going to eventually
19 encompass more traffic, more cars? Where do you stand with that?

20 MR. YITBAREK: Okay, the church was formed in 1990,
21 and incorporated in 1992. And now, we are in year 2000. From
22 1990 up to now, it's only 52 members. So, you can see the growth
23 yourself. It's not much growth at all.

24 COMMISSIONER HOOD: So, you had 52 members in 1990,
25 and you have 52 members now?

1 MR. YITBAREK: No, no, no. What I'm saying is from
2 1990 up to 2000, the growth only 52 members, which is -- I don't
3 know when they started, but --

4 MS. HICKS: How many numbers did you start with?

5 UNIDENTIFIED SPEAKER: Eighteen.

6 MR. YITBAREK: Yeah, so they said they started at
7 18, and now it's 52. So --

8 COMMISSIONER HOOD: The majority of your membership
9 now, how do they get to wherever you're worshipping now? How do
10 they get there?

11 MR. YITBAREK: Some of us car-pool; most of us
12 public transportation. And we are on 16th and S right now, which
13 is a very busy area.

14 MS. HICKS: Do any of the members walk?

15 MR. YITBAREK: Yeah, and a lot of the members walk,
16 yeah, like Mehari and --

17 COMMISSIONER HOOD: Where are you -- where are you
18 now, on 16th Street?

19 MR. YITBAREK: Sixteen and S.

20 COMMISSIONER HOOD: And a lot of your members walk
21 now?

22 MR. YITBAREK: From Washington, yeah, and a lot of
23 them take public transportation.

24 COMMISSIONER HOOD: So, the majority of your
25 membership is from Washington D.C.?

1 MR. YITBAREK: Correct, yeah.

2 COMMISSIONER HOOD: So, when you move down to -- if
3 this is approved, and when you go down and if you -- the waiver,
4 and you're able to use the facility and the parking and
5 everything, the majority of your members will be walking?

6 MR. YITBAREK: Yes, sir.

7 COMMISSIONER HOOD: I did have some questions in
8 the Office of Planning's report. And I'm sure that's where my
9 colleague, Ms. Renshaw, was going, so I will now -- I guess I
10 will end my questioning. I believe that's it, Mr. Chair.

11 VICE CHAIRPERSON SOCKWELL: Thank you. Any more
12 questions, Ms. Renshaw?

13 MEMBER RENSHAW: Not at the moment.

14 VICE CHAIRPERSON SOCKWELL: All right, then we'll
15 go to government reports. We do have a report from the Office of
16 Planning, and I've asked Ms. Renshaw to bring up the salient
17 issues and highlights of that report.

18 MEMBER RENSHAW: The Office of Planning's report is
19 dated November 17th, 2000, and it was written by David
20 McGhettigan through Andrew Altman, the Director of the Office of
21 Planning.

22 And the summary is that the Office of Planning
23 approves -- recommends the approval, with conditions, of a
24 variance from the parking requirements of Section 3202.2, for a
25 church use in the C-1 zone.

1 He then goes on to give the outstanding issues and
2 the recommended action, along with background project description
3 and analysis, which consumes several pages, and the issues for
4 the Board's consideration; and he has a number of them, one, two,
5 three, four issues.

6 And then, finally, the recommendation that the
7 Office of Planning recommends the approval with the following
8 conditions: (1) that the use of the structure for services or
9 other large gatherings shall be limited to Sunday mornings; (2)
10 that the applicant shall establish a program to encourage ride-
11 sharing, transit, bicycle and pedestrian modes of transportation
12 by church members to minimize parking demand; and (3) that the
13 applicant shall diligently pursue an off-site parking agreement.

14 Upon approval of an off-site parking agreement by
15 the Board of Zoning Adjustment or two years from the date the
16 variance is granted, whichever occurs sooner, this variance shall
17 become null and void.

18 COMMISSIONER HOOD: Mr. Chair, my question was to
19 some of these conditions that the Office of Planning had
20 recommended. First of all, I wanted to ask Ms. Hicks, were they
21 aware of the Office of Planning report?

22 MS. HICKS: Yes, I did see the report. Yes.

23 COMMISSIONER HOOD: Okay. My concern is, how much
24 of this -- and maybe my colleagues can help me -- is even
25 enforceable. I believe -- I don't know if number three. I mean,

1 so it's kind of just out there on a whim.

2 MEMBER RENSHAW: Well --

3 COMMISSIONER HOOD: And I want to thank you, Board
4 Member Renshaw, for doing the Office of Planning report since
5 you're representing the OP today too.

6 MEMBER RENSHAW: Oh, I have many hats.

7 VICE CHAIRPERSON SOCKWELL: She has many hats;
8 that's correct. Well --

9 MS. HICKS: Could we have a fourth condition, to
10 have a liaison? That's what I recommended in the -- in my
11 conclusion, that there be two members from the church appointed
12 as liaison to work with the community when and if they perceive
13 or think that there are any problems, that one person be -- two
14 persons be designated, one to be vigilant every Sunday, and the
15 second person should serve as a back-up, in the church, to make
16 sure that there are no problems with individuals parking in the
17 residential portions of the neighborhoods?

18 MR. YITBAREK: And any other concerns.

19 MS. HICKS: And they could also address any other
20 concerns from the community.

21 VICE CHAIRPERSON SOCKWELL: Okay.

22 MS. HICKS: Also on condition number one, could we
23 add "except holy days," Good Friday and Christmas, which is
24 celebrated next year in the Eastern Orthodox fashion? Those
25 would be the only exceptions to -- that we would request for the

1 -- for item number one, on the conditions.

2 VICE CHAIRPERSON SOCKWELL: Add holy days?

3 MR. SMITH: January the 7th.

4 MS. HICKS: Which would be Christmas, which would
5 be -- which would be January the 7th.

6 SECRETARY PRUITT: Excuse me, Mr. Sockwell, I'd
7 just like to state for the record; these conditions really don't
8 apply to what's before the Board.

9 MS. HICKS: Okay.

10 SECRETARY PRUITT: It's only for the parking.

11 MS. HICKS: Okay.

12 SECRETARY PRUITT: The church is a matter of right.
13 You're allowed to have --

14 VICE CHAIRPERSON SOCKWELL: Right, right.

15 SECRETARY PRUITT: -- your services whenever you --

16 MS. HICKS: Okay.

17 SECRETARY PRUITT: You know, it's your right to do
18 so. The Board is only looking at parking, and that needs to be
19 very clear.

20 VICE CHAIRPERSON SOCKWELL: So, actually number --
21 number two and three would be the only ones --

22 SECRETARY PRUITT: They could be --

23 VICE CHAIRPERSON SOCKWELL: -- that would have any
24 parking impact.

25 SECRETARY PRUITT: But typically, we don't

1 condition variances because they run with the land. It can be
2 done, but it's traditionally not.

3 MS. SANSONE: Excuse me, Mr. Chair. I was just
4 speaking with Jerrily Kress again this morning on this issues of
5 conditions. In these use variance in parking cases, it would be
6 appropriate to impose conditions.

7 Of course, we should be careful that they are, you
8 know, enforceable. And -- and also, I noticed in number three,
9 the Office of Planning is suggesting that this would really be a
10 -- almost a two-year variance to allow the applicant to try to
11 pursue an off-site parking agreement, which, of course, is a
12 special exception process, and provide the parking that way.

13 Or else, the way the Office of Planning has this,
14 is that the variance would become void. So, they are -- they are
15 suggesting a type of enforceability here. And conditions
16 relating to parking would be appropriate in a parking-type
17 situation, a parking -- even though it is a variance.

18 VICE CHAIRPERSON SOCKWELL: I think -- you see, the
19 issue here is the church is a matter of right. The particular
20 church is of such a size, population-wise, that it would require
21 a variance from the parking requirements.

22 And so, if we are to condition this, then we are
23 conditioning the particular church, as opposed to just a church.

24 And that's -- that's where the difference between matter of
25 right and a BZA-related issue come together.

1 So, I think we have the right to put certain
2 conditions on the particular church. We might even be in a --
3 might be advised to make any order, should there be one, tied
4 directly to this particular church, only because under the
5 circumstances, the -- their orthodox -- in order for conditions
6 to be enforced, if such enforcement is considered, one of the
7 things is that the method by which they practice their religion
8 discourages the use of automobiles to come -- for coming to
9 services, which is unusual in that it is part of their religious
10 tenet.

11 It is not just a -- an administrative decision, per
12 se. And that is where this becomes a little bit different from
13 the average church.

14 SECRETARY PRUITT: I guess my concern -- and this
15 is something counsel, I think, would be better answering -- but
16 traditionally, variances run with the land. And we have had
17 previous cases where there have been variances, and you have
18 conditioned them. But the conditions had to be based on not the
19 particular tenant, but, you know, on a reasonableness.

20 And so, I'm not sure how to tie this to --

21 VICE CHAIRPERSON SOCKWELL: Well, see, they're the
22 owners -- they're the owners, as opposed to a tenant. And --

23 SECRETARY PRUITT: Right, but if they sell the
24 property, usually it runs with the property. Variances -- if you
25 vary --

1 VICE CHAIRPERSON SOCKWELL: Yeah, the problem --
2 the problem is that, because this is a parking variance, let's
3 say that another church comes in and they figure they can fit in
4 190 people --

5 SECRETARY PRUITT: Then they would need additional
6 parking. They need a variance for the additional spaces.

7 VICE CHAIRPERSON SOCKWELL: Okay.

8 SECRETARY PRUITT: But that would be based on their
9 sanctuary. But say another church came in and they had the same
10 number of people, the variance would run with the land.

11 VICE CHAIRPERSON SOCKWELL: Okay, so -- so, we
12 don't have -- so, we don't have an enforcement mechanism, per se,
13 as you know?

14 SECRETARY PRUITT: And that's why I say, I don't
15 know if --

16 VICE CHAIRPERSON SOCKWELL: Okay.

17 SECRETARY PRUITT: I think Court counsel needs to
18 answer it, or at least do some research on that. I think there's
19 National Child Development where that was an issue case. And
20 that's a concern.

21 MEMBER RENSHAW: Well, in National Child
22 Development case, the Court said that the Board cannot impose
23 personal conditions to impermissibly regulate the business
24 conduct of the owner, rather than the use of the property.

25 And the conditions that are proposed here are not

1 relating to the conduct of the church or its religious conduct,
2 but to the use of the structure.

3 And they're proposing the establishment of a
4 program to encourage ride-sharing and so forth. They're
5 proposing, you know, keeping the number of gatherings limited so
6 that -- it's going to the use of the building, not to the conduct
7 of the church.

8 Now, when we speak of running with the land, we
9 typically mean that the variance will be permanent and last
10 forever. It runs with the deed. But in a use variance, such is
11 being requested here, it's -- I believe it's a use variance.

12 VICE CHAIRPERSON SOCKWELL: No, it's an area
13 variance.

14 MS. HICKS: It's an area variance.

15 VICE CHAIRPERSON SOCKWELL: The use is a matter of
16 right.

17 SECRETARY PRUITT: It's an area variance for
18 parking --

19 MS. HICKS: Right.

20 SECRETARY PRUITT: -- and that's what --

21 MEMBER RENSHAW: It would still -- it's being proposed for
22 a term of years, two years variance, at least as OP's proposal,
23 that they're saying the variance should last for two years, or
24 until the church is able to come forward with an off-site parking
25 agreement and get their special exception approval or variance to

1 allow them to meet their parking obligation that way.

2 So, we're not really talking about a condition here
3 that is running with the land permanently, at least as being
4 proposed by OP. They're proposing a term limit. And really,
5 that's an enforcement mechanism.

6 VICE CHAIRPERSON SOCKWELL: Well, it looks like we
7 have to at least decide whether or not the method by which OP
8 wanted to place controls on this is one that the Board wishes to
9 attempt to employ, or whether we're going to look at it strictly
10 on the basis of the applicant's proposed condition, which is
11 probably the more effective one, which is a self-imposed
12 condition to provide a community liaison in perpetuity, which
13 would give the assurance -- an assurance to the community that
14 any changes and any issues that might affect them will be brought
15 to their attention and discussed with authorized members of the
16 church governing body.

17 And I think that that, in itself, as a self-imposed
18 condition, places more control or communication that either of
19 the three conditions recommended by the Office of Planning
20 because first of all, the use of structure for services other
21 than -- or other large gatherings shall be limited to Sunday
22 mornings would be a -- probably an unfair imposition on the
23 church.

24 And -- and because the church is a matter of right,
25 where do you draw the line against what a church can or cannot

1 do, if it's a matter of right operation to be a church. To be a
2 church is to do what is done in churches traditionally at
3 whatever times those things are -- are actually accomplished.

4 As well, the program to encourage ride-sharing
5 transit, bicycle, pedestrian modes of transportation is part of
6 the orthodox order's tenets, as I said. And the off-site parking
7 agreement is something that we certainly might want to look at.

8 But realistically, even if the numbers proposed by
9 the applicant's traffic analysis are 50 percent inflated, there
10 would still be approximately 145 available spaces in the
11 community, of which a reasonable portion apparently are available
12 during the particular time period at which the church holds its
13 principal Sunday service.

14 So, we are going to have to look at this when we
15 get to it, but I want to get through the rest of the issues that
16 -- unless we have --

17 COMMISSIONER HOOD: Mr. Chair, I just have one
18 concern. I've been sitting here looking through the sheet that
19 was just handed to us about those in support. And also, I tried
20 to compare it -- and I may be incorrect -- with the people that
21 we noticed within 200 feet.

22 And I've noticed that we have people on our street
23 and other places, and I'm just trying to see if anyone was in
24 support within the 200 -- in the sheets to which the Office had
25 noticed.

1 And my concern is, I'm seeing -- you handed us a
2 stack of support letters. But then, when I compared them to my
3 listings, I'm concerned because this does not reflect what I was
4 looking for here. So, that's just something I wanted to bring to
5 everyone's attention.

6 SECRETARY PRUITT: And Mr. Hood, I would say that
7 there may be --

8 COMMISSIONER HOOD: I may be incorrect, but --

9 SECRETARY PRUITT: No, but some of those may be
10 owners, and some may be tenants. And that be where some --

11 COMMISSIONER HOOD: What hundred block, again, is
12 this on?

13 SECRETARY PRUITT: It's on -- I was just looking at
14 that. It's the 4700 block.

15 MS. HICKS: It's the 4700 block of 14th Street,
16 N.W.

17 SECRETARY PRUITT: Fourteenth Street. And then, if
18 you look at some of the addresses like 1500 Upshur -- 14 -- well,
19 some of them are way off. So, there --

20 COMMISSIONER HOOD: Right, and that's --

21 SECRETARY PRUITT: -- there is a variety.

22 COMMISSIONER HOOD: I just wanted to put that on
23 the record.

24 VICE CHAIRPERSON SOCKWELL: Yeah, the -- most of
25 these letters are from non-adjacent neighbors who may be within

1 the general area, but not from -- not from persons who would be
2 immediately affected by the presence of the church.

3 MS. HICKS: Okay.

4 VICE CHAIRPERSON SOCKWELL: And that's -- I
5 appreciate that, Mr. Hood. Your observations are duly noted. If
6 no one has additional questions immediately of OP report, we do
7 not a report from Public Works. And the Advisory Neighborhood
8 Commission has not provided us --

9 MEMBER RENSHAW: We have a letter. We have a
10 letter.

11 VICE CHAIRPERSON SOCKWELL: Do we have a letter?

12 MEMBER RENSHAW: Yeah, is this from the Chair?

13 VICE CHAIRPERSON SOCKWELL: Oh, okay.

14 MEMBER RENSHAW: It's --

15 VICE CHAIRPERSON SOCKWELL: I'm sorry, supplemental
16 package.

17 MEMBER RENSHAW: The ANC4-C letter is dated
18 November --

19 VICE CHAIRPERSON SOCKWELL: 3C.

20 MEMBER RENSHAW: It says 4C.

21 COMMISSIONER HOOD: 4C.

22 VICE CHAIRPERSON SOCKWELL: Oh, okay. Oops, the
23 wrong one.

24 MEMBER RENSHAW: Is dated November 20th, 2000, and
25 signed by Maureen Young, the Chair of ANC4-C. And it asks the

1 Board of Zoning Adjustment to take official note that the ANC4-C
2 has reviewed the application for an exception to the parking
3 regulations of the District of Columbia, and recommends that the
4 BZA deny the application.

5 As support for the denial, please take note that
6 ANC4-3 voted four to one to one at its November 14th, 2000
7 meeting to deny the application. They voted based on the report
8 by ANC4-C03, that the residents of ANC4-C03 were against the
9 conversion because they are concerned that the use would cause
10 parking problems.

11 There being a quorum of six members of ANC4-C
12 present, and there being a vote of the majority of the
13 commissioners present, ANC4-C recommends that the Board of Zoning
14 Adjustment deny BZA Application 16632; again signed by Maureen
15 Young, the Chair of ANC4-C.

16 VICE CHAIRPERSON SOCKWELL: There is -- let me see
17 this. There is something to be said -- we give the Advisory
18 Neighborhood Commissions great weight, but there is something to
19 be said about the way this ANC letter is written.

20 They are concerned that the use would cause parking
21 problems. The issue is that the use is a matter of right use. A
22 church is not being denied access to a community that it has a
23 matter of right to exist within.

24 What I think the ANC may have meant to say was that
25 the intensity of use, based upon the number of church members to

1 be accommodated, would cause parking problems. That's not
2 exactly what they said.

3 And this letter, again, is not on official ANC
4 stationary as well, which we do require. And that can be
5 corrected.

6 COMMISSIONER HOOD: But do we have --

7 SECRETARY PRUITT: Actually, it's not required. We
8 like it.

9 MEMBER RENSHAW: No.

10 SECRETARY PRUITT: It is not required by regs.

11 VICE CHAIRPERSON SOCKWELL: Well, we've been asking
12 for it.

13 SECRETARY PRUITT: We've been asking for it,
14 correct. I just wanted to --

15 VICE CHAIRPERSON SOCKWELL: Okay, and we -- we
16 would prefer to have that. Is there anyone here representing the
17 Advisory Neighborhood Commission --

18 SECRETARY PRUITT: There's one over there.

19 VICE CHAIRPERSON SOCKWELL: -- 4C?

20 MR. FENTY: Yes, yes.

21 VICE CHAIRPERSON SOCKWELL: Mr. Fenty, would you
22 step forward? Have you been sworn in?

23 MR. FENTY: Has the -- has the proponents closed
24 their case?

25 MR. SMITH: We are --

1 MS. BAILEY: If they may step back, please?

2 SECRETARY PRUITT: Yeah.

3 VICE CHAIRPERSON SOCKWELL: Yeah.

4 MS. BAILEY: The applicants, would you please take
5 a seat?

6 VICE CHAIRPERSON SOCKWELL: We should have asked
7 you to step forward. We actually had Ms. Renshaw read the ANC
8 report --

9 MR. FENTY: Either way.

10 VICE CHAIRPERSON SOCKWELL: -- and I apologize for
11 that.

12 MS. BAILEY: Mr. Fenty, when you have completed
13 your testimony, would you please fill out two witness cards for
14 us?

15 MR. FENTY: We filled them out.

16 MS. BAILEY: Oh, okay.

17 MR. FENTY: I think we turned them in.

18 UNIDENTIFIED SPEAKER: Yes.

19 VICE CHAIRPERSON SOCKWELL: And would you state
20 your name and address, please, for the record?

21 MR. FENTY: My name is Adrion Fenty. I live at
22 4712 17th Street, N.W. I am a Commissioner for ANC4-C03, in
23 which 4700 14th Street is located.

24 COMMISSIONER HOOD: Mr. Fenty, this is in your SMD?

25 MR. FENTY: Uh-huh.

1 COMMISSIONER HOOD: This is in your single-member
2 district?

3 MR. FENTY: Yes, this is within my single-member
4 district. Should I proceed with testimony or do you want me to -
5 -

6 VICE CHAIRPERSON SOCKWELL: Please.

7 MR. FENTY: Okay. I want to start by saying that
8 the community, through the ANC, has followed all laws that govern
9 the ANC throughout this entire process.

10 We were aware at the outset that the law of the
11 District of Columbia provides that churches are a matter of
12 right. However, churches are required to have one parking space
13 for every ten feet that they have.

14 It is my understanding that the use, as a matter of
15 right, follows some type of religious interpretation, but that
16 the parking issue is not one to be given any like consideration.

17 It's one that was written with the impression that
18 the community would decide when there is a parking problem, and
19 when a particular use is going to pose some type of parking
20 problem on the community. And that is why it comes to the ANC.

21 In order to have a church without the requisite
22 parking, you must obtain a variance, and that is why we are here.

23 The variances are only given if they are in accordance with the
24 law of the District of Columbia, which requires that the ANC
25 decision be given great weight before this body.

1 In October of this year, ANC4-C03 convened a
2 meeting, wherein every member of ANC4-C03, including residents
3 within 200 feet, were invited.

4 Residents showed up at that meeting, and every
5 resident who showed up voted against approving this variance.
6 They stated two reasons for that. One was that they did not want
7 to have additional cars parking in the neighborhood; there was
8 already a parking problem; and two, that that use was
9 inconsistent with what the community wanted.

10 On November 14th, before the full ANC, a majority
11 of the ANC voted to support ANC4-C03's decision and deny this
12 variance. I submit to you that all of the laws of the District
13 of Columbia have been followed, that mistakes have been made by
14 the proponent, as has been stipulated, but that the community has
15 made no mistake, and that the community should not be punished.

16 We have followed the process. We have followed it
17 fairly, and this body should give great weight to that decision.

18 Now, there are some other issues. I just want to
19 correct the record. It's my understanding that although there
20 are 50 people in the -- that belong to the church, this variance
21 would allow for 120 members to come. And that is what should be
22 the issue, not the 50.

23 This body has recently decided a case in the same
24 neighborhood, less than a half a mile away, wherein it denied the
25 application to build ten townhomes in the neighborhood because,

1 in part, it would cause parking problems in the neighborhood.

2 So, there is a precedent for you all denying this
3 variance today.

4 VICE CHAIRPERSON SOCKWELL: Can you reference the
5 case?

6 MR. FENTY: It's the application of Stacy Hamlin
7 and Allen Johnson. I don't have the case number in front of me.

8 VICE CHAIRPERSON SOCKWELL: Actually, one of the
9 issues on that particular case was the specific fact that it did
10 not have proper access from the alleys. It was -- to be built,
11 primarily within the alley system.

12 MR. FENTY: But parking was an issue, both in the
13 community decision and the Office of Planning. And it was my
14 impression that it was a decision, and this Board's decision as
15 well.

16 Let me also state that the testimony given that
17 there was a church at this location before is erroneous. The
18 use, up until about 1997, was a convenience store.

19 VICE CHAIRPERSON SOCKWELL: They submitted a
20 Certificate of Occupancy that showed that it was a convenience
21 store.

22 MR. FENTY: Yes, there was testimony that said
23 there was a church there before.

24 VICE CHAIRPERSON SOCKWELL: I didn't hear it.

25 MR. FENTY: I'm just trying to correct the record.

1 Lastly, I would, at some point -- and I don't know the proper
2 procedure here, but there has been pictures shown of 14th Street
3 and the neighboring streets that show no parking at the time when
4 the proponent plans to use the church.

5 I would like to present pictures which, in my
6 opinion, show the exact opposite so that this body will know that
7 there is, the community impression at least, that this is a very
8 crowded street at the time that the church would like to use it.

9 That is my testimony, and the testimony of the ANC.

10 And I understand that there are residents from the community who
11 are here to testify.

12 VICE CHAIRPERSON SOCKWELL: Do you have those
13 photographs for the record now?

14 MR. FENTY: Yes. The Court's indulgence?

15 COMMISSIONER HOOD: Mr. Chair, can I just ask Mr.
16 Fenty a question?

17 VICE CHAIRPERSON SOCKWELL: Please.

18 COMMISSIONER HOOD: Mr. Fenty, is there a no
19 parking sign or something -- I'm just -- like I said earlier,
20 stated earlier, I was taken back -- the cars -- you know, the
21 availability of the parking.

22 Is there a time, a point in time during the day,
23 when there are no parking signs going up and down 14th Street?

24 MR. FENTY: Well, it's my understanding that the
25 parking is only in -- you can park on Sundays on the west side of

1 the street, but not -- in front of the bus barn, you cannot park,
2 at least in the 4700 block of 14th Street. You cannot park in
3 front of the bus barn at any time.

4 There's a Metro stop there. And the only place you
5 can park is in the 4600 block of 14th.

6 COMMISSIONER HOOD: I will say that the pictures
7 that I see here now brings back a lot of memories.

8 MR. FENTY: Let me say for the record that those
9 pictures were taken this past Sunday at 7:45 a.m. -- I'm sorry,
10 for the record, 9:45 a.m.

11 COMMISSIONER HOOD: Is there another church in the
12 area?

13 MR. FENTY: There are probably no -- no less than
14 ten churches in the area. There's -- there's a lot of churches
15 on 16th Street, on 14th Street, on Arkansas, on 13th Street.
16 It's -- it's an area that has a lot of churches, which --

17 VICE CHAIRPERSON SOCKWELL: And numerous churches
18 are in private homes, residential buildings. Are any of those in
19 private -- in formerly residential properties?

20 MR. FENTY: There is a church in the 4500 block or
21 4600 block of 14th Street. That was there before I was the ANC
22 Commissioner for this area.

23 So, I am unaware of whether that came through a
24 process. It doesn't have any parking. And I understand that,
25 during our community meetings, there was testimony that that

1 church causes problems, as well as another church at the corner
2 of Buchanan and Arkansas, which is in the Single-Member District
3 4C-03.

4 COMMISSIONER HOOD: I just -- I'm just perplexed of
5 how you can go to one extreme to -- this is what I'm used to
6 seeing, but I don't know how you can get pictures like that and
7 this.

8 VICE CHAIRPERSON SOCKWELL: It certainly appears
9 that, on any given Sunday -- where did I get that one from -- you
10 may find some significant differences at different hours. And at
11 9:45 would be approximately the middle of the service, as
12 proposed by the applicant, at which time it appears that the
13 intersection surrounding the proposed facility is choked with
14 cars parked on the street.

15 It troubles me that we have two sets of photographs
16 that are so entirely different.

17 MR. FENTY: If I may, Chair, most of those parking
18 problems are probably the result of the church on Arkansas and
19 Buchanan and maybe the church in the 4600 block of 14th Street.

20 The church on Arkansas and Buchanan has a lot of
21 people who attend the church, and they park -- you cannot really
22 park on Buchanan. They park on every adjacent street on both
23 sides of Arkansas.

24 So, depending upon when they start their service,
25 that probably explains the discrepancy in the two photos. It's a

1 very large church.

2 VICE CHAIRPERSON SOCKWELL: Uh-huh. Mr. Fenty, you
3 are the ANC Commissioner for 4-C03. Where do you live in
4 relation to this property? Again, you're at 4712 17th?

5 MR. FENTY: Yes, so two blocks away west.

6 VICE CHAIRPERSON SOCKWELL: Okay. And during the
7 course of your weekly travels, you spend a lot of time on these
8 neighborhood streets. Obviously, in the last several months,
9 you've spent more time on the streets than you, perhaps, wanted
10 to.

11 But the question is, the photographs here are
12 particularly important because they're Sunday, and Sunday is when
13 we're talking about the services. Generally, when you don't have
14 a Sunday service, is the availability of parking on the
15 neighborhood streets fairly good?

16 MR. FENTY: You can usually find one parking space.
17 Sometimes, you do have to go to Decatur because all of the
18 street -- all of the spots on 14th Street are taken up.

19 The testimony given by the proponent that there are
20 hundreds of spaces is incredulous. This neighborhood always have
21 cars that are backed up against each other.

22 I don't know where that testimony was derived from,
23 but it couldn't be farther from the truth. And it really offends
24 me. That should not be the testimony that's on the record before
25 this body.

1 It is very hard to park in the area of 14th and
2 15th, Crittendon and Decatur. If nothing else, that should be on
3 the record.

4 VICE CHAIRPERSON SOCKWELL: And I will admit that -
5 - I mean, I went to Roosevelt High School. Of course, it was
6 many years ago, but -- longer ago than Mr. Hood was there, but
7 anyway -- the -- when I traversed 14th Street, it has -- I don't
8 have a recollection personally of as few cars being present as
9 those in the photographs that we were presented before I saw
10 these.

11 This looks more reasonable to me. But I think that
12 the question is that on a Sunday, with the impact of potentially
13 more vehicles, and in this case, these cars are all parked,
14 perhaps according to the Mayor's relaxed parking policy, but they
15 are parked virtually up to the intersections, beyond the limits
16 of parking signs.

17 And this tends to say that there's not enough
18 parking. And it tends to say that people are squeezing the
19 parking envelope to the point that it's bulging. And would
20 additional cars brought in be significantly enough -- would be
21 enough significant to cause this to become an even worse
22 situation than it is now?

23 And I appreciate your testimony, and the
24 photographs are very much appreciated for the record.

25 Board Members, are there any other questions for

1 Mr. Fenty at this point? And the applicant has the ability to
2 cross examine Mr. Fenty if you would like. Mr. Smith?

3 MR. SMITH: Mr. Fenty, at your Single-Member
4 District -- did somebody say -- Mr. Fenty, at your Single-Member
5 District meeting in October, how many citizens voted -- I was
6 there, but I wanted to ask you --

7 VICE CHAIRPERSON SOCKWELL: Let me interrupt, and I
8 apologize. Procedurally, Mr. Fenty, I should have allowed you to
9 cross examine the applicants. Would you like to do that before
10 Mr. Smith asks his questions?

11 And you can stay where you are, Mr. Smith, because
12 you may be representing the applicant for his cross examination.

13 MR. SMITH: Okay.

14 MR. FENTY: The Court's indulgence? No.

15 VICE CHAIRPERSON SOCKWELL: Yes, sir?

16 MR. FENTY: No, I don't want to cross examine.

17 VICE CHAIRPERSON SOCKWELL: All right, then, Mr.
18 Smith, please feel free.

19 MR. SMITH: Mr. Fenty, at your October Single-
20 District meeting, I recall were there not three citizens voted
21 no, and no one else was there that voted at that time?

22 MR. FENTY: That's correct.

23 MR. SMITH: And again, at the -- so, what you're
24 saying, then, is that based upon your leafleting the
25 neighborhood, that three citizens came forward and came to the

1 meeting, and said that they did not want the -- the use of the
2 church at this location?

3 MR. FENTY: That's incorrect. I think it's the --
4 the record will show that residents have sent letters in. We
5 have another letter we can present today, so that's incorrect.

6 MR. SMITH: But basically, it's three or four
7 people have come forward out of your single-member district to
8 become identified and talk about their opposition to this
9 facility?

10 MR. FENTY: That's incorrect.

11 MR. SMITH: How many people would you -- would you
12 represent that have officially either written letters or voted in
13 your meetings?

14 MR. FENTY: There has been probably less than ten
15 who have voted in the meetings, probably less than five -- I
16 don't know how many people have sent letters in. We could
17 certainly find out.

18 However, everyone in the community was invited to
19 come to the meeting. I think it was actually your testimony that
20 the members of your church lived in Silver Spring, Alexandria,
21 and Beltsville, not even in the District of Columbia.

22 MR. SMITH: I would like a clarification. In the
23 center of your testimony that you just presented to the Board of
24 Zoning Adjustment, that the -- "the use is inconsistent with what
25 the community wanted," can you elaborate on that statement,

1 please?

2 MR. FENTY: That was a statement by one of the
3 residents who came to the meeting. I think it is important to
4 note here that the -- throughout this process, I think that the -
5 - the members of the church have felt, in some way, that the
6 community was against them.

7 But for -- for historically, and for the last
8 couple of years, this community has worked diligently to try and
9 build some retail tenants in their area. So, while that is not
10 germane to the facts of this case, it is understandable that the
11 community does take that into account when making their decision.

12 And that was a testimony that came out of the
13 meeting, and that the community did not feel that this use was
14 consistent with the use that they wanted in -- within their own
15 community.

16 And I'm disappointed that the Office of Planning
17 did not take that into account.

18 MR. SMITH: Mr. Fenty, at the ANC meeting in
19 November, you submitted a resolution, which I have a copy of.
20 Can you tell the Board of Zoning Adjustment -- this one was
21 defeated, but is this the resolution that you had submitted that
22 was voted down?

23 MR. FENTY: This is the resolution
24 that was submitted. I think we will both stipulate that this
25 resolution got a three -- only had three members approve it,
which meant it did not get approved.

1 Subsequently, there was a motion, absent this
2 resolution, to deny the variance, which did get four members
3 supporting it. I'll just clarify that for the Board of Zoning
4 Adjustment.

5 One of the ANC Commissioners did not agree
6 technically with the way this resolve was written. He didn't
7 think it specifically addressed what we were trying to do.

8 And when we just said flatly that we were going to
9 deny the motion, deny the variance, he then came on-board and
10 supported our denial.

11 MR. SMITH: So basically, the resolution was the
12 background, even though it wasn't passed, that the rationale
13 that's stated in the "whereas" is basically the rationale or the
14 will of the people that were present at the ANC meeting. Is that
15 correct?

16 MR. FENTY: Because we did not vote on the
17 resolution, we cannot say whether or not that is why the ANC
18 Commissioners voted on it. All we can say is that a majority of
19 the ANC Commissioners who were present at our duly-scheduled
20 November meeting voted against supporting this variance.

21 MR. SMITH: One of the paragraphs for the
22 resolution that you submitted that was not passed says, "Whereas,
23 a majority of the members of the community voted to disapprove
24 the zoning exemption based for reasons including the following:
25 (a) converting the building into a church would cause additional

1 parking problems on Crittendon and other neighboring streets --

2 VICE CHAIRPERSON SOCKWELL: Mr. Smith, let me ask a
3 question.

4 MR. SMITH: Yes?

5 VICE CHAIRPERSON SOCKWELL: If the resolution was
6 not passed, what is the validity of discussing it?

7 MR. SMITH: Because --

8 VICE CHAIRPERSON SOCKWELL: It does not carry the
9 weight of the ANC's vote.

10 MR. SMITH: Okay, I'll withdraw the question.

11 VICE CHAIRPERSON SOCKWELL: Yeah, anything that was
12 discussed is discussion. Anything that was passed is record,
13 okay?

14 MR. SMITH: No more questions.

15 VICE CHAIRPERSON SOCKWELL: Okay, thank you. Are
16 there any more questions from your group?

17 MR. SMITH: No.

18 VICE CHAIRPERSON SOCKWELL: Thank you. Mr. Fenty?

19 MR. FENTY: Yeah, I just wanted to make one other
20 observation that might not be clear. The area that's been
21 discussed on the record, that you called public parking, that
22 they thought was part of their establishment, is -- there is
23 extra space there to walk, but it does not appear to be a parking
24 area.

25 VICE CHAIRPERSON SOCKWELL: Yeah, the term --

1 MR. FENTY: If you look --

2 VICE CHAIRPERSON SOCKWELL: Yeah, let me explain.
3 The term "parking" --

4 MR. FENTY: I understand.

5 VICE CHAIRPERSON SOCKWELL: -- is an DPW term that
6 has nothing to do with cars. There is --the designation of
7 public space in the District of Columbia between the curb line
8 and the property line, is one of two things. It is either
9 sidewalk, as required sidewalk space, or it is a combination of
10 two elements: one, sidewalk, which is from the curb to the rear
11 of the existing or designated sidewalk.

12 And the rest of that space between that point and
13 the building, the property line, is designated as parking. It
14 probably goes back to sometime when people put their horses
15 there, but it has nothing to do with cars.

16 And if there is no curb cut and no agreement
17 between the Department of Public Works and a property owner for
18 such use of space, then it is merely a designation that starts
19 with "P" and means nothing about cars.

20 MR. FENTY: I just wanted to state for the record
21 exactly what you just said, is there are no curb cuts there. So,
22 it would be hard to even think that that was a parking area.

23 VICE CHAIRPERSON SOCKWELL: But sometimes, people
24 just really don't know. Okay, anything else?

25 MR. FENTY: No, but I think there are some

1 community members who signed up to testify.

2 VICE CHAIRPERSON SOCKWELL: Okay, Board Members, do
3 we have any questions for the ANC representative?

4 MEMBER RENSHAW: No.

5 VICE CHAIRPERSON SOCKWELL: Are there parties or
6 persons in support of this application, who have planned to
7 testify?

8 (No audible response.)

9 VICE CHAIRPERSON SOCKWELL: Are there parties or
10 persons --

11 MS. ASEFA: Support.

12 VICE CHAIRPERSON SOCKWELL: Support? Did you fill
13 out a witness card?

14 MS. ASEFA: No, I didn't.

15 VICE CHAIRPERSON SOCKWELL: If you -- you should
16 have filled out a witness card. If you have testimony, I think
17 we can allow you to do this if the Board Members don't mind.
18 Fill out two witness cards, pass them forward, and you may come
19 up to speak.

20 COMMISSIONER HOOD: No, she said support.

21 VICE CHAIRPERSON SOCKWELL: She said support,
22 that's right.

23 VICE CHAIRPERSON SOCKWELL: She will be. Thank
24 you, Mr. Fenty. And just for those who don't know, Mr. Adrion
25 Fenty is the Council member-elect from Ward 4.

1 MS. BAILEY: Mr. Chairman so as not to hold the
2 proceeding up, the lady can testify. And then, at the end of her
3 testimony she --

4 VICE CHAIRPERSON SOCKWELL: That will be fine.

5 MS. BAILEY: -- can fill out the application -- the
6 witness cards.

7 VICE CHAIRPERSON SOCKWELL: All right. Would you
8 identify yourself and your address, please?

9 MS. ASEFA: My name is Lydia Asefa. I am --

10 VICE CHAIRPERSON SOCKWELL: I beg your pardon;
11 would you spell that for us, please?

12 MS. ASEFA: Sure, L-Y-D-I-A, A-S-E-F-A. I'm sorry,
13 I sound a little nervous because I am.

14 VICE CHAIRPERSON SOCKWELL: That's okay. Take your
15 time. We're all very comfortable -- want you to be comfortable
16 just like you're in your own living room.

17 MS. ASEFA: Okay.

18 (Laughter.)

19 VICE CHAIRPERSON SOCKWELL: And your address again?

20 MS. ASEFA: It's -- well, I own a business. It's
21 SuperSaver Grocery and Deli at 4413 14th Street, N.W., Washington
22 D.C.

23 VICE CHAIRPERSON SOCKWELL: 4413?

24 MS. ASEFA: Right. I've been there approximately
25 14 years.

1 VICE CHAIRPERSON SOCKWELL: Continue.

2 MS. ASEFA: I think the only thing that I'd like to
3 say is that I've been there a very long time, which means I know
4 pretty much the neighborhood and what the neighborhood people are
5 like and what's been going on.

6 Generally, 14th and Crittendon, that -- that
7 corner, that alley corner, has nothing been but an open market
8 for drug selling. It's been there for prostitution. There's
9 been -- it's an area where a lot of violence has taken place.

10 For -- for me, as far as I guess I'm concerned,
11 I've talked to quite a few people about it. And for a church to
12 come in there, for the community, even though the community is
13 not going to be part of that church, it's a good idea because I
14 see a lot of youngsters out there who I would say -- you know,
15 when people go to a church and they're covered up, and they're
16 humble, you kind of see things.

17 This is not a church that I go to. Actually, I
18 don't even go to a church. But when the other kids, all the
19 neighborhood kids, see these people who are concerned, and see
20 these people who have morality and who want to worship, then it -
21 - you know, it kind of -- what's the word I want to use -- it
22 runs into the community.

23 You know, the kids will actually see something,
24 something that has not been there for a long time. What has been
25 there has nothing been but violence. I don't think -- I mean, of

1 course parking is going to be a big issue here, but I don't think
2 parking is the issue.

3 The issue here is what they want to put up there
4 is, you know, department stores. That's what the neighborhood
5 probably would like to see. But they bought the building.

6 And the community probably -- is the community
7 going to be disturbed by this? I doubt it. I doubt it,
8 especially the people who are in business. And you know, would I
9 be concerned if there is a church there? I'm two and half, maybe
10 three blocks away; no, I wouldn't. It wouldn't bother me any.

11 I would get -- I'm sure I would get business from
12 the church if they were there, and so would the other businesses
13 that are around. It's not going to kill the area. I don't think
14 it's going to kill the area. But I don't think parking is the
15 issue here.

16 A lot of the kids are going to see something that
17 they have not seen it. And you have to actually live there --
18 and I don't live there, but I am there 90 percent of the time.

19 There was a problem that I used to come in there
20 and work from 7:00 a.m. until 12:00 midnight. And I see the
21 kids. And more -- everybody should be concerned, not what's
22 going to be -- what is -- what is going -- how -- what it -- what
23 the parking issue is going to be here

24 People should be concerned what is coming in, and
25 what is going to happen to the neighborhood, and if the

1 neighborhood is going to have any kind of change because of this.

2 The kids on 14th and Crittendon, 14th and Buchanan,
3 14th and Allison, have absolutely no moral values, a lot of them.

4 That's not a wrong statement; that's the right statement. I've
5 been in that neighborhood. I've been in that neighborhood for 14
6 years.

7 Thirty percent of the kids in that neighborhood
8 carry guns. Now, tell me that's a wrong statement, because I see
9 them.

10 VICE CHAIRPERSON SOCKWELL: Well, let's say that in
11 terms of the parking issue that is before us, is your deli open
12 on Sundays?

13 MS. ASEFA: Yes.

14 VICE CHAIRPERSON SOCKWELL: And what are your
15 approximate hours on Sunday?

16 MS. ASEFA: Nine to 9:00.

17 VICE CHAIRPERSON SOCKWELL: Okay. And do you find
18 that there is a significant parking impact on those streets on
19 Sunday? Would you, in your viewpoint, feel that the photographs
20 provided by the applicant or -- I don't know if you saw the
21 photographs provided by Mr. Fenty, but they are of a
22 significantly different parking area appearance from the ones
23 that were provided by the applicant.

24 Would you say that on Sunday, there are a lot of
25 cars on the street -- let's put it that way, during the --

1 MS. ASEFA: During the 14th and Crittendon -- is
2 that the area?

3 VICE CHAIRPERSON SOCKWELL: Yeah, in that -- in
4 your general vicinity -- you're in the 4400 block, you said, 47 -
5 - 4413? And so, you're three blocks --

6 MS. ASEFA: From them.

7 VICE CHAIRPERSON SOCKWELL: -- down the street.

8 MS. ASEFA: Right.

9 VICE CHAIRPERSON SOCKWELL: But although you may be
10 in the store more than outside of the store, obviously there is
11 enough business for the deli to be open on Sunday --

12 MS. ASEFA: Yes.

13 VICE CHAIRPERSON SOCKWELL: -- which is a good
14 thing. But do you believe that the parking is impacted? And you
15 don't have to feel that it is improper to make an honest
16 statement, although you are in support of the application,
17 obviously.

18 MS. ASEFA: The parking will have some impact.

19 VICE CHAIRPERSON SOCKWELL: Okay, thank you. Any
20 questions, Board Members?

21 MEMBER RENSHAW: No.

22 VICE CHAIRPERSON SOCKWELL: Thank you very much for
23 your time.

24 COMMISSIONER HOOD: I just wanted to say to Mrs. --

25 VICE CHAIRPERSON SOCKWELL: Asefa.

1 COMMISSIONER HOOD: -- Asefa, that while I
2 understand -- and believe me, we understand the concerns about
3 the neighborhood and maybe some criminal elements that you may
4 see. It's still this Board's charge -- I just want to put this
5 on the record -- to deal with the parking.

6 That's what is basically in front of us. And I
7 know those other things amount to something and mean something to
8 you because it's tangible. But this Board's charge is, at this
9 particular time, in this case, is to deal with the parking
10 variance.

11 And I just wanted to put that on the record.

12 MS. ASEFA: Okay, thank you.

13 VICE CHAIRPERSON SOCKWELL: All right, persons or
14 parties in opposition, people who would like to speak? Do you
15 represent a common interest or are you all from different houses
16 or living places, locations within the community?

17 UNIDENTIFIED SPEAKER: Locations within the
18 community.

19 VICE CHAIRPERSON SOCKWELL: All right. I'm going
20 to call a five minute recess, if you don't mind, so that Board
21 Members and members of the audience can relax briefly. Thank
22 you.

23 (Whereupon, the proceedings went off the record at
24 4:08 p.m. and resumed at 4:23 p.m.)

25 VICE CHAIRPERSON SOCKWELL: Reconvening, we are now

1 to talk with the persons in opposition. None of you had
2 requested party status, per se, to the best of my knowledge. Is
3 that correct --

4 SECRETARY PRUITT: Yes.

5 VICE CHAIRPERSON SOCKWELL: -- Staff? All right,
6 so, how would you like to proceed? Who wants to go first?

7 MS. HOWELL: I do.

8 VICE CHAIRPERSON SOCKWELL: All right, you'll have
9 to push the button on your microphone to illuminate the little,
10 red band. That means it's on. Give your name and your address
11 and your statement.

12 MS. HOWELL: Judith Howell, and my temporary
13 address, currently, is 5808 Georgia Avenue, N.W. However, I have
14 just recently moved from the 4300 block of Georgia Avenue, and I
15 attend People's Congregational Church, which is 4704 13th Street,
16 N.W.

17 And I also teach there during the week as an
18 academic therapist and tutor for people with specific language
19 learning problems, aged fifth grade through adult. So, I'm at
20 the church on a continuous basis during the week.

21 VICE CHAIRPERSON SOCKWELL: And please go ahead.

22 MS. HOWELL: First of all, I'd like to say that --

23 VICE CHAIRPERSON SOCKWELL: Let me ask you -- I
24 want you to begin your testimony with a statement of why you feel
25 that you are particularly aggrieved by this.

1 MS. HOWELL: I'll try to keep it real brief, but I
2 will try to cover the waterfront.

3 VICE CHAIRPERSON SOCKWELL: Okay.

4 MS. HOWELL: I have been a resident of Washington
5 35 years. And for a brief period of time in the 70's, I actually
6 lived on 14th Street, and I believe the exact address is 4704, as
7 is the same address of the church.

8 And is the -- currently the Spanish church in the -
9 - I'm sorry, 4600 block -- the 4600 block. I believe it was
10 4604. That's actually the Spanish Inglesa, which is a converted
11 rooming house. And I roomed in that rooming house also directly
12 across from the bus barn between Buchanan and Crittendon Streets,
13 N.W. on 14th Street.

14 That is where the Spanish Inglesa exists now, that
15 Representative Fenty talked about the community having a problem
16 with the parking of that church in the alleys and along the side
17 streets, and in front of the businesses.

18 I also worked at a vegetarian restaurant during
19 that time that was on 14th Street between Buchanan and
20 Crittendon, so I am quite familiar with the parking situations
21 over a long period of time.

22 And I also purchase all of my travel passes,
23 although I do sometimes get them from retail stores and stuff --
24 you will find that if you do both Metro-rail and Metrobus, the
25 most convenient place, and the place that still has the widest

1 variety of Metro methods of transportation to purchase is that
2 bus barn.

3 First of all, I want to say that I am aggrieved to
4 have to be opposed to having the parking variance given to a
5 community of faith, so that my speaking in opposition, this is
6 not an easy thing.

7 I really believe if it was not for my community of
8 faith on 13th Street, I wouldn't be alive today and doing the
9 kinds of positive things that I am in the community. So, it
10 grieves me to have to speak in this way.

11 But the parking problem there is real. And I was
12 as shocked as you were, sir, to see the photographs. And there
13 may be a few things that can explain this. Because of the way
14 Metrobus has now set its bus fares and -- and revised how its
15 cards are given out, I do know that people now continue to buy on
16 a bi-weekly basis.

17 And you'll find the first of the month Sunday,
18 right after the checks and so on have come in, is usually a very
19 heavy Sunday of people coming up to purchase from the bus barn,
20 what we would say from the retail store at the bus barn.

21 And then, it does slack off the second week. And
22 then, about mid-month, there is another, you know purchase. You
23 know, people are constantly coming to buy, but the amount of
24 volume that we used to see there has probably been changed by the
25 nature of the way the bus barn, itself, now sells its passes, so

1 that they are in smaller amounts of money, more convenient;
2 people are more likely to get weekly.

3 But I find that people still buy, you know, a lot
4 of things, usually two Sundays a weeks (sic). So -- two Sundays
5 a week -- a month, rather, is what I'm trying to say, is that you
6 will see more traffic than you will see two of the other Sundays.

7 It just happens to go like that. And I usually
8 come over between services and always try to purchase my cards
9 there.

10 Now, I have to say that I am very, very
11 disappointed also with the Office of Planning because the
12 community, as a whole, did believe that as a part of the Ward 4
13 plan, and as a part of everything that has been expressed to
14 them, that they understood that we really thought that a retail
15 corridor should be established and nurtured opposite the barn.

16 But parking problems, if you get somewhere at 6:45
17 or 7:00 in the morning, you will probably get the spaces first.
18 So, if this church comes at quarter of 7:00 in the morning to
19 start their service, they will probably get what available spaces
20 that there are on the actual corridor, or just in the fringe
21 parts of the side streets.

22 However, everybody else who then comes, either for
23 later church services in the area or to do mercantile business in
24 that area, will be circling and going -- parking further and
25 further into the residential zone in order to make the

1 accommodation.

2 The numbers of parking spaces that have been talked
3 about in this informal presentation made by the proponent are
4 mind-boggling to me. I don't know where 77 of them are on the
5 main street. I don't know where 100-and-whatever-many it was
6 stated there are, are on the side streets.

7 I just -- most of those homeowners have multi-
8 generational family members. They have two, three, four cars a
9 house. And just this -- unless everybody had left to go to their
10 churches when they took their pictures, I mean, I just don't
11 understand how they could say there's that many parking spaces.

12 There are not that many parking spaces in that
13 community as what I heard testified to here today. Given that,
14 that area had been affected for a long period of time with crime.

15 And some crime was around some of the night spots in the area.

16 And when all of those were closed, yes, there's
17 residual community crime issues that have absolutely nothing to
18 do with the parking, except that it may the trend that the
19 community residents in that area would rather park their cars on
20 the street where they could see them, than use any particular
21 garages, or sheds behind their house, or alley parking spaces
22 where they would have to come into their property from the rear,
23 or have to negotiate getting through the alley to the street side
24 in order to enter their homes.

25 Also because that area had a lot of crime for a

1 long period of time, a lot of people have secured their backs in
2 that area and, therefore, make it very difficult for them to
3 access.

4 So, all this idea about all this parking in the
5 alleys and parking behind houses and all of this is something
6 that if the community does not think now that this variance will
7 affect them, once they have to try and reactivate these kinds of
8 parking facilities in order to park their cars, it will
9 definitely affect them. And you will hear an outcry.

10 There is another issue, if we just stick with
11 parking. It is my understanding -- well, I was in the
12 neighborhood when the bus barn was renovated. And many, many of
13 the routes that come through the bus barn were re-routed to
14 either Bladensburg Garage or to Western Garage.

15 I think this Board, Zoning Board, would have to
16 take into effect (sic) what's going to happen with now the
17 purchase by private developers of the Western Garage.

18 And now the re-routing of those bus routes,
19 especially the cross-town ones, E-bus lines and other bus lines,
20 that may not be able to access the Bladensburg Garage, will they
21 be transferred back to Northern?

22 One of the big fights when I was living there was
23 whether they were going to let Northern build this big washing
24 facility and -- and maintenance facility there. And the reason
25 why they okayed it, and parking by the way -- they had to put

1 parking there -- and they okayed it because Metro said they would
2 be moving the buses out.

3 Well, this latest thing of Western Garage going to
4 private developers will bring some of those buses back. And
5 although the garage sits on the eastern side of 14th Street, it
6 greatly affects traffic and parking on the western side as well.

7 Because when buses finish their route, they have to
8 come into the garage space. So, there are a lot of -- it always
9 has been an exceptional amount of non-service buses that come
10 down and pull in; not that many on Sunday of course. But that is
11 a consideration, an idea, of it affecting the ability for
12 consumers to come and use the services and park.

13 I attended this meeting, which was held in my
14 church by the ANC for C-03 because I saw the folks directly
15 adjacent to me at the meeting. And they had just opened a coffee
16 shop in that block.

17 And so, because of that -- and I was at the church
18 -- I asked, "What's the meeting about?" And I went in, and I
19 listened. When it came time for the voting -- although many of
20 us who had been in the community knew that this parking variance
21 would create a problem, we did not vote.

22 We were asked by Mr. Fenty not to vote. Only those
23 people in the 200-foot range were allowed to vote. There were
24 other people in the meeting, including myself, that were voicing
25 these concerns and asking these questions.

1 We need to really see if there can be a healing for
2 this community. This community has had to put up with a
3 tremendous amount, without getting very much services at all.

4 It seems like everybody has something for the
5 community to have, except what will benefit the residents and
6 increase consumer, taxpayer, and residential use in the
7 community, and also what will create a more wholesome family
8 environment.

9 Possibly the presence of a church, with moral and
10 upright people, might bring that. But also, an active business
11 corridor, with small businesses that are making it and that are
12 bringing something positive -- and what I see, as having worked
13 at a small business in that area, is that we never could get
14 enough in that two-block area going at one time to feed off of
15 one another, and therefore prosper.

16 And people are not going to come and park and do
17 business where it is inconvenient for them. If these people are
18 going to make it as a coffee shop there, they need Saturday
19 morning and they need Sunday morning. And if the parking is
20 taken, somebody is going to go somewhere else to get their
21 coffee.

22 VICE CHAIRPERSON SOCKWELL: Well, the question
23 would be perhaps, if I might ask, whether or not people coming on
24 Sunday morning might become customers of a facility that offers
25 coffee and things like that, either before or after church, and

1 would not that business thrive on the additional customer flow?

2 MS. HOWELL: My observation of both the church at
3 Arkansas and Buchanan, which have come in the community since I -
4 - I'm just at the church and no longer a resident or an employee
5 on that corridor, and the Inglesa, is no.

6 They go to one carry-out, possibly two. They go to
7 the carry-out down in 44, some maybe. And mainly, they just go
8 to the corner store on Buchanan. And to the best of my
9 knowledge, the church presence that pre-dates the church presence
10 of this church has affected one thing and one thing only, all the
11 back to our neighborhood, where we have a new sanctuary, all up
12 Arkansas and 13th Street, it has affected one thing: parking.

13 VICE CHAIRPERSON SOCKWELL: And do you know how
14 many people the Inglesa will hold?

15 MS. HOWELL: I don't know how many it holds. I do
16 know that community people testified, and I have witnessed
17 myself, that they continue to block alleys. They continue to
18 have parking problems. Neighbors continue to call, and the
19 police are pretty much ineffective, or have been ineffective, in
20 terms of getting them to even park in, you know, the legal
21 spaces.

22 As far as the church that went into the C & P
23 property at Arkansas and Buchanan, they were sold that property
24 with the thing that there's parking on the roof. But if you look
25 into it, you will find that a whole part of the roof was unable

1 to carry or bear the load, the structural problems -- you walk -
2 - you can walk by it or drive by Arkansas Avenue and see where
3 they've tried to patch the brick from keeping that roof from
4 coming down.

5 And basically, they have only been able to develop
6 a small portion of their site as a church because of the
7 structural problems.

8 The bottom line is, I think people are taking
9 advantage of who are in communities of faith by people who have
10 property. These people desperately want places to worship, and
11 they are misled when they purchase.

12 And as far as what the community needs are or the
13 impact that it's going to have on the community, absolutely
14 nothing -- no research is done; no pre-conversation is given for
15 us to have any import or idea.

16 VICE CHAIRPERSON SOCKWELL: I assume that you don't
17 have any knowledge of why the previous business closed?

18 MS. HOWELL: No, I don't. I do know though, at one
19 point, it wasn't a convenience store. There was a great farmer's
20 market, small farmer's-type fresh vegetables and fruit store on
21 11th Street, N.W.

22 And because of crime, it tried, at one point, to
23 migrate up to that 14th and Crittendon Street area. And it used
24 that area that's called parking to put out fresh fruits and
25 vegetables, and watermelons, and stuff like that, for display on

1 the weekends to show what their produce -- produce -- what
2 produce they had brought in fresh.

3 And that was a positive use. However, there just
4 wasn't enough other business. You know, and the neighborhood had
5 turned enough away from the crime to make it a viable -- you
6 know, for them to stay.

7 VICE CHAIRPERSON SOCKWELL: Okay, thank you.

8 COMMISSIONER HOOD: Mr. Chair, may I just offer a
9 suggestion?

10 VICE CHAIRPERSON SOCKWELL: Yes.

11 COMMISSIONER HOOD: Maybe we can hear from all four
12 -- I think these are the only people here in opposition. If we
13 could just hear from all four for the second time, because I do
14 know we're going to lose the quorum at 6:00 --

15 VICE CHAIRPERSON SOCKWELL: Six-thirty.

16 COMMISSIONER HOOD: -- 6:30?

17 VICE CHAIRPERSON SOCKWELL: Uh-huh.

18 COMMISSIONER HOOD: I think it's 6:00, and we do
19 have another case. So, if we can hear from all of them, then we
20 can maybe ask the questions.

21 MS. HOWELL: Right, well, I am going to leave. So,
22 if anybody has anything specific for me -- I had a student at
23 4:30, and I desperately tried to reach the mother.

24 MEMBER RENSHAW: I just have one question, and
25 anyone could answer this in their testimony, or by Ms. Powell

1 (sic). And that is, the mayor has made a statement that he is
2 going to be spinning out some of the government offices into the
3 community.

4 And I wondered if this 14th Street corridor or over
5 nearby on Georgia Avenue was going to be the location in Ward 4
6 for some government office buildings, and whether or not it's
7 anywhere near this site. Shaking of heads? Then, the question
8 is answered.

9 MS. HOWELL: Yeah, no, it's not -- nothing is going
10 to affect that immediate block. And the last name is Howell, H-O-
11 W-E-L-L -- not that we know.

12 VICE CHAIRPERSON SOCKWELL: All right, thank you
13 very much. Next, please?

14 MS. NWANZE: Hi, my name is Audrey Nwanze. I am a
15 partner --

16 VICE CHAIRPERSON SOCKWELL: Spell your last name,
17 please.

18 MS. NWANZE: N, as in Nancy, W-A-N-Z-E. And I just
19 have one, quick comment.

20 VICE CHAIRPERSON SOCKWELL: And your address?

21 MS. NWANZE: Is -- my business address is 4706 14th
22 Street, N.W.

23 VICE CHAIRPERSON SOCKWELL: All right, go ahead,
24 please.

25 MS. NWANZE: Okay. It has appeared so far from

1 the testimony that it comes -- the view has come mostly from
2 residents. But there are businesses also on that block, on the
3 4700 block. And as Judith testified, we are a brand new coffee
4 house that opened eight weeks and a day ago.

5 We do the bulk of our business on Saturdays and
6 Sundays, a large part of our business on Saturday -- on Sundays
7 because we provide entertainment.

8 I notice that in -- not in any of those pictures is
9 my car, and I'm usually there at 7:30. So, we've been open since
10 the end of September. The impact that this church will have on
11 our business will be tremendous in the morning.

12 A lot of our customers drive in for a quick cup of
13 coffee and drive out. They are three doors away from us and will
14 take up the bulk of our front parking area for our customers to
15 come in and out. And there's already a problem now.

16 I cringe to think what it will be like once they
17 have full membership, if they don't have it already. I don't
18 have anything against churches; I just think that a store front
19 is not an appropriate use for a church.

20 And they have not been completely honest throughout
21 this whole process. So, I find it hard to believe that they have
22 only 50 members. They started construction without getting
23 permits. It just has not been a very truthful dealings here.

24 VICE CHAIRPERSON SOCKWELL: Let me ask a question.

25 MS. NWANZE: Sure.

1 VICE CHAIRPERSON SOCKWELL: Do you have -- did you
2 research whether or not they had obtained building permits before
3 --

4 MS. NWANZE: We did call the inspector, yes.

5 VICE CHAIRPERSON SOCKWELL: All right.

6 MS. NWANZE: Uh-huh, we did.

7 VICE CHAIRPERSON SOCKWELL: And the inspector --

8 MS. NWANZE: Came out and stopped the construction.

9 VICE CHAIRPERSON SOCKWELL: All right.

10 MS. NWANZE: So, in terms of the impact that it
11 would have on us, it would devastate our small business. And
12 that's all I have to say.

13 VICE CHAIRPERSON SOCKWELL: Just one thing: you
14 may not be aware that many of the churches in the City that are
15 some are the more successful churches started out in some type of
16 store front as the most appropriate method to house their
17 fledgling congregations, and have since moved to large and very
18 elaborate facilities.

19 And you do not believe that a store front is an
20 appropriate beginning for a church.

21 MS. NWANZE: Not at this critical stage that our
22 retail strip is in, no, I do not.

23 VICE CHAIRPERSON SOCKWELL: No, you said, period.
24 You did not -- you didn't say "in this area". I am just saying
25 that you do not believe --

1 MS. NWANZE: No, I --

2 VICE CHAIRPERSON SOCKWELL: -- that a store front
3 is appropriate --

4 MS. NWANZE: For my area; let me --

5 VICE CHAIRPERSON SOCKWELL: -- for a church.
6 That's what you said. I want to correct the record and --

7 MS. NWANZE: Correct.

8 VICE CHAIRPERSON SOCKWELL: -- make sure I
9 understand what you mean.

10 MS. NWANZE: Let me clarify.

11 VICE CHAIRPERSON SOCKWELL: It's either you're
12 totally against it, or you're against --

13 MS. NWANZE: No.

14 VICE CHAIRPERSON SOCKWELL: -- it in this
15 particular location for this particular reason.

16 MS. NWANZE: This particular location and this
17 particular block of the 4700 block of 14th Street.

18 VICE CHAIRPERSON SOCKWELL: Thank you. Next, if
19 there are any other questions. Yes, please?

20 MR. NWANZE: My name is George -- George Nwanze,
21 and that last name is the same. I am also a part owner of the
22 coffee house in the 4700 block of 14th Street.

23 We also happen to live in that same neighborhood.
24 We're three blocks away, so there is a multitude of interests,
25 not just running a business, but also being residents of that

1 neighborhood.

2 One of the things that came up earlier during the
3 testimony was the fact that 30 percent of the children or the
4 youngsters in that neighborhood are involved in some criminal
5 activity.

6 I would like to say that I have four children, and
7 I do not perceive them to be criminals. So, I just wanted that
8 on the record.

9 Going back to the parking issue, I took the
10 photographs that are represented there on behalf of the
11 complainant, in opposition to that church -- I mean, to that
12 location. Those pictures were taken at 9:25 this Sunday, and are
13 accurate.

14 There is something that has been sort of overlooked
15 through much of this proceeding with regards to pictures and
16 locations of churches in this neighborhood. There was mentioned
17 by Judith of a church, the 4600 block, the Inglesa Church, right
18 across the street, east of that, is another church in a warehouse
19 facility.

20 The church has been referred to as being located at
21 Arkansas and Buchanan. That church has at least 500 members that
22 share -- have parking somewhat available to them at 14th and
23 Buchanan in a parking lot that they lease from Gulf Oil Company.

24 Now, when that parking lot is full, the members of
25 the church park along 14th Street, as well as Arkansas. Their

1 parking ranges from 14th and Allison, as I can tell, all the way
2 up to 14th and Delleville.

3 The -- most of the cars that you see in that
4 picture taken at 9:45, the majority of them are actually members
5 of that church. In the -- in the weeks that we've been there on
6 Sunday running the business, we've had the opportunity to stand
7 at our store front and observe parking issues.

8 We have been well aware of this church coming up
9 for some time now, and the impact that it would have on parking.

10 So, we have had ample opportunity to personally observe the
11 coming and going of traffic.

12 There is absolutely no parking between those hours.

13 VICE CHAIRPERSON SOCKWELL: Between what hours?

14 MR. NWANZE: Between the hours of 8:00 and at least
15 11:00, there is no parking available. The exploration of an off-
16 site facility is probably a moot -- a moot point. There is
17 nothing within that proximity that will afford this church an
18 off-site facility, other than going to park maybe somewhere in
19 Columbia Heights.

20 So, you know, trying -- trying to stay focused on
21 the parking issue, there really isn't a parking option. A lot of
22 the pictures here, I don't know what day they were taken. Some
23 of the pictures in the alley show property in the back of our
24 property, which is not accessible for parking.

25 And there was made mention of, you know, the

1 security issue. And Judy point -- touched on the point that I
2 had that -- and that may be a reason why the neighbors do not
3 want to park in the alley. But they don't have that option also.

4 I would also like to say that the -- the business
5 that we have is a business that thrives on having availability of
6 parking space, as my wife said earlier.

7 There isn't really much that -- that can be done in
8 terms of allowing the church to have some space. There really
9 isn't any space available.

10 I also know -- and this may be a little bit off the
11 point of parking as well. I'll retract that statement. But I
12 also have some history with the church and that building. I
13 actually had a hand in helping them out when they recently --
14 when they purchased that building.

15 And they were well-aware of the limitations of that
16 building.

17 COMMISSIONER HOOD: Mr. Chair -- I just need to
18 clarify your last statement. You assisted this church?

19 MR. NWANZE: The building that we purchased for our
20 coffee house was owned by the same individual. The gentleman
21 that sold the building to them also sold the building to us.

22 When they purchased the building, and right about
23 the time that they were trying to do something with the building,
24 I -- they -- I physically helped to clean and move a lot of the
25 existing equipment that was in that building, that's a deli. And

1 I --

2 VICE CHAIRPERSON SOCKWELL: Was that because you
3 purchased the equipment?

4 MR. NWANZE: No, not because I purchased the
5 equipment. I -- the gentleman that sold the building is a
6 personal friend of mine.

7 VICE CHAIRPERSON SOCKWELL: Oh, okay.

8 MR. NWANZE: And he needed someone who could help,
9 you know, them to clean the place out.

10 VICE CHAIRPERSON SOCKWELL: But you weren't aware
11 of -- I assume that you weren't aware of any inferences that
12 might have been made as to the availability of additional square
13 footage for parking?

14 MR. NWANZE: No, but I was well aware of the -- the
15 fact that there was a congregation -- a significant congregation
16 that was coming to that location.

17 VICE CHAIRPERSON SOCKWELL: Okay, thank you.

18 MR. NWANZE: You're welcome.

19 VICE CHAIRPERSON SOCKWELL: Mr. Hood?

20 COMMISSIONER HOOD: I have no questions.

21 VICE CHAIRPERSON SOCKWELL: Ms. Renshaw, any
22 questions?

23 MEMBER RENSHAW: No questions at this time.

24 MR. FYKES: My name is Leroy Fykes.

25 VICE CHAIRPERSON SOCKWELL: You'll have to push the

1 red button. Thank you.

2 MR. FYKES: My name is Leroy Fykes. I live at 1313
3 Emerson Street, N.W. I work on the -- with Charlene DuJarvis on
4 the Georgia Avenue Revitalization Committee.

5 And in that discussion, we also raised the issue of
6 doing some revival down on the 14th Street corridor that we're
7 now discussing.

8 I'm also -- I've lived at -- at my address on
9 Emerson Street for 19 years. I'm also the block captain for the
10 Carter Baron East Neighborhood Association for that block, and
11 also have an interest in the -- interest in the commercial block
12 because I'm looking to purchase a place to practice law close
13 enough to walk.

14 I have three children. I think it's appropriate
15 for me to be able to run my practice in my neighborhood. And I'm
16 looking for a kind of neighborhood where I can actually do that.

17 And this revitalization and bringing in tenants and
18 making it a comfortable enough block for people to come and go
19 without security issues, and be able to get good services --
20 traffic is clearly a part of that consideration.

21 Now, one of the issues -- you know, we -- it would
22 be very hard for anyone to ever suggest that our neighborhood was
23 anti-church. I'm a deacon over at Zion Baptist over on Blagdon -
24 - Blagdon Avenue.

25 In my neighborhood, in the eight or nine blocks

1 around where I am, we have -- we must have 10, 15 churches. On
2 just the corner of Emerson and -- which is about three blocks
3 over -- Emerson and 14th Streets, you've got St. Paul AME.
4 You've got -- down on Galliton, you've got three churches down on
5 -- right near the corner of Galliton and 14th Street.

6 You've got this -- the new church on 14th and --
7 and Allison. All of the churches have parking problems. I mean,
8 Zion now is parking across on Blagdon Avenue. And they're now --
9 we're now parking all the way across 16th Street.

10 Nineteenth Street is growing again. They've got a
11 new minister. And of course, they're parking at 16th, and
12 they're coming down the side streets also.

13 You've got Simpson Hamline at Allison and 16th
14 Street. We've got churches blanketed -- we're going to start an
15 8:00 service in January. So, we're going to have not only the
16 8:00 service, breakfast, Sunday School, an 11:00 service, we --
17 these churches, basically in the neighborhood that I live in,
18 have services that extend from the early morning right until the
19 early afternoon.

20 Now, even at Emerson Street, where you have St.
21 Paul, we have illegal parking regularly every Sunday morning
22 because there's not enough space. Now, we're only three blocks
23 further north of the 4700 block of 14th Street.

24 Churches -- you know, churches tend to have elderly
25 folks. They're not going to walk long distances. So, if you

1 only have parking immediately -- the parking that we're going to
2 be concerned about is going to be immediately adjacent to the
3 building.

4 So, that the notion that there are other spaces
5 that are further out that are going to be used, that's just not
6 realistic.

7 I don't know where these pictures come from either
8 because when I park over there on Sundays, and during the week to
9 pick up tokens for my kids, I usually have to come up on the
10 sidewalk, jump -- have somebody jump out to get the bus tokens,
11 and then -- and then come back. And then, we take off.

12 But the notion that there's adequate parking there
13 is a real myth. And I'm certainly -- I would object to the
14 photos because there's really been no foundation established by
15 an expert for the acceptance of these photos into evidence.

16 VICE CHAIRPERSON SOCKWELL: Well, we have tried not
17 to require an expert for the opposition's photographs either. So
18 --

19 MR. FYKES: Okay, well --

20 VICE CHAIRPERSON SOCKWELL: -- we have to accept --

21 MR. FYKES: -- I understand that.

22 VICE CHAIRPERSON SOCKWELL: -- both of them on the
23 word of the -- good faith.

24 MR. FYKES: Right. So, that's why I'm testifying
25 at this point about the -- the fact that this is not what I

1 normally see during the day on a Sunday or a Saturday for 14th
2 Street in the 4700 block.

3 Now, as a potential, future merchant -- because I
4 really do need to have some space around there. We're very
5 concerned about the synergism associated with getting --

6 VICE CHAIRPERSON SOCKWELL: Now, this is as a
7 potential, future merchant --

8 MR. FYKES: Right.

9 VICE CHAIRPERSON SOCKWELL: -- "you" are concerned
10 --

11 MR. FYKES: Me.

12 VICE CHAIRPERSON SOCKWELL: -- not "we" or "they;"
13 "you".

14 MR. FYKES: Well, if I --

15 VICE CHAIRPERSON SOCKWELL: You.

16 MR. FYKES: -- commiserate with --

17 VICE CHAIRPERSON SOCKWELL: Mr. Fykes --

18 MR. FYKES: -- there will be others --

19 VICE CHAIRPERSON SOCKWELL: Mr. Fykes, law business
20 is the future merchant.

21 MR. FYKES: Right.

22 VICE CHAIRPERSON SOCKWELL: Okay.

23 MR. FYKES: But in that business -- there will more
24 than just myself in that business.

25 VICE CHAIRPERSON SOCKWELL: Okay, but you --

1 MR. FYKES: So, I used the imperial "we".

2 VICE CHAIRPERSON SOCKWELL: -- but you're -- but
3 you're speaking for yourself because it's a non-existent
4 business. You cannot speak for people who do not exist.

5 MR. FYKES: No, it is an existing business. We are
6 just not currently on that --

7 VICE CHAIRPERSON SOCKWELL: Okay, all right.

8 MR. FYKES: -- in that spot.

9 VICE CHAIRPERSON SOCKWELL: Okay, go ahead.

10 MR. FYKES: But we are an existing business. We've
11 been in existence for more than 30 years.

12 VICE CHAIRPERSON SOCKWELL: Uh-huh.

13 MR. FYKES: Now, what I'm suggesting is that in --
14 in looking at a neighborhood, and one of the -- we're currently
15 meeting on a monthly basis as a 14th Street revival group to try
16 to deal with issues of safety, to try to bring -- to get people
17 interested, to try to get infrastructures built into the area
18 that's appropriate for new businesses.

19 We're really trying to make and market the 14th
20 Street corridor. Parking is critical to the development of that
21 corridor. The businesses that are going to come to the -- that
22 are potentially going to come to that -- into that area are going
23 to need parking because they're coming and going, like the coffee
24 shop.

25 I specialize in elder care. My clients can't park

1 three and four blocks away. They need to be able to park close
2 to where their business is.

3 Now, there was an issue raised about a -- why the
4 food market in the church's location died. It died, I think, as
5 a person who attempted to go over there and shop, because the
6 quality of the presentation was poor.

7 The actual food was -- it was a plexi -- a thick,
8 plexi-glass operation, which means that basically they were more
9 afraid of us -- they weren't afraid to take our money, but they
10 appeared to be afraid of us as customers.

11 That's not what we see in the businesses that we
12 hope to have established in the near future. And the other
13 thing, of course, is that the expectation is that the parking
14 problem, if the revitalization is successful, can only get worse.

15 So, what we're trying to do now is to make sure
16 that we anticipate the fact that there will be a growth in
17 businesses and retail in that area, and that when we finally hit
18 -- hit that mark, there will be adequate parking in that area.
19 Thank you.

20 VICE CHAIRPERSON SOCKWELL: Mr. Fykes?

21 MR. FYKES: Yes?

22 VICE CHAIRPERSON SOCKWELL: You do not foresee the
23 addition of off-street parking as part of the revitalization
24 design?

25 MR. FYKES: I don't see that. I don't know where

1 it would be, where you could actually put parking.

2 VICE CHAIRPERSON SOCKWELL: Well, below grade.

3 MR. FYKES: There are lots of springs and so forth
4 that run through that area, even -- it would be very hard to put
5 some -- some below grade parking. And I don't think the City has
6 any plans for doing that. It has not been discussed in our
7 meetings -- and we've had planning folks there.

8 VICE CHAIRPERSON SOCKWELL: So, most of the
9 development that you see is City-funded development or private
10 development?

11 MR. FYKES: Well, you're talking about
12 infrastructure if you're talking about parking.

13 VICE CHAIRPERSON SOCKWELL: I'm talking about --
14 I'm talking about infrastructure.

15 MR. FYKES: Right.

16 VICE CHAIRPERSON SOCKWELL: I'm talking about
17 parking; I'm talking about whatever the revitalization would
18 entail, as you, as one working with the organization that's
19 promoting it through Mrs. Jarvis, would see that.

20 MR. FYKES: Well, and --

21 VICE CHAIRPERSON SOCKWELL: And if parking is a
22 concern, then parking should be part of the grand plan.

23 MR. FYKES: Well, parking currently has not been --
24 has not been -- the investment in parking certainly has not been
25 discussed at this point. What we've talked about primarily has

1 been issues of security, beautification, so that we would create
2 the right ambiance for businesses that -- that could come to that
3 area and -- and operate successfully.

4 VICE CHAIRPERSON SOCKWELL: So, you're talking
5 about neighborhood support: retail, commercial businesses, as
6 opposed to any other employment center related development?

7 MR. FYKES: Right, it's a small strip. And what
8 we're looking for are the dry cleaners, the coffee shops --

9 VICE CHAIRPERSON SOCKWELL: Okay.

10 MR. FYKES: -- the small doctors' and dentists'
11 offices that would support a fairly strong demographic in that
12 area.

13 VICE CHAIRPERSON SOCKWELL: Small law firms and --

14 MR. FYKES: Hope to be bigger.

15 (Laughter.)

16 VICE CHAIRPERSON SOCKWELL: Okay. Any questions,
17 Ms. Renshaw?

18 (No audible response.)

19 VICE CHAIRPERSON SOCKWELL: Mr. Hood?

20 COMMISSIONER HOOD: I just have -- I just have one
21 question. I want to just ask the three panelists right now, just
22 give me a quick response. The letter dated September 21st to Ms.
23 Kress, and I quote -- this is just a portion of the letter --
24 "The only variance we need is for parking. And we are certain
25 that there will be no neighborhood opposition to us."

1 Is that statement incorrect? All of you can ask --
2 answer.

3 MR. NWANZE: I'm sorry; the letter is from the?

4 COMMISSIONER HOOD: This letter is from the church,
5 Mr. Yitbarek, I believe. Is that how you pronounce it? I hate
6 to mispronounce people's names, but it was in response to this
7 application trying to expedite it.

8 So, I just want you to put on the record the
9 statement out of this letter where it says, "The only variance we
10 need is for parking, and we are certain that there will be no
11 neighborhood opposition to us."

12 Is that an incorrect or correct statement?

13 MR. NWANZE: It's a -- it's an incorrect statement. There
14 were two witnesses here earlier who live on Crittendon, 1414
15 Crittendon, that couldn't stay because they had to go back to
16 their work. They filled out witness cards, but they weren't able
17 to testify.

18 They are strongly in opposition to having a parking
19 variance. We know that because --

20 COMMISSIONER HOOD: Did they submit anything in
21 writing?

22 MS. NWANZE: I don't know if you received letters
23 from them or not.

24 COMMISSIONER HOOD: We probably did. If you would
25 see what's actually behind here --

1 SECRETARY PRUITT: I don't know.

2 MR. NWANZE: And I think that letter would be
3 inaccurate also.

4 COMMISSIONER HOOD: Okay, that's all I need to
5 know. Thank you; I'm satisfied.

6 MS. NWANZE: I'm sorry; can I ask the date of the
7 letter?

8 COMMISSIONER HOOD: September 21st, 2000.

9 MS. NWANZE: Okay.

10 COMMISSIONER HOOD: Exhibit No. 12.

11 MR. NWANZE: Could I possibly add something, Board
12 Members?

13 COMMISSIONER HOOD: Sure.

14 MR. NWANZE: As a coffee house, we would -- we
15 would more than welcome the business from the church. And we are
16 certainly not in opposition to a church, but not at the expense
17 of a community and the community's interest in parking.

18 MEMBER RENSHAW: Mr. Vice Chair, just a question
19 for Mr. or Mrs. Nwanze; and that is, are there any surface
20 parking areas close to your coffee shop, which also might be used
21 by Mr. Fykes for his law business?

22 I take it that there is no, what we would call, a
23 municipal garage, parking garage, in your area, which perhaps the
24 community ought to look into.

25 VICE CHAIRPERSON SOCKWELL: Right.

1 MEMBER RENSHAW: But are there any surface lots
2 that can be used for customer parking?

3 MR. NWANZE: The only -- the only surface lot is
4 the lot that is currently used by the church at 14th and
5 Buchanan, which is a parking lot that's owned by Gulf Oil
6 Company.

7 And that, as I stated earlier, is fully occupied
8 during the hours the church is in operation. And the members do
9 spill out onto the side streets.

10 MR. FYKES: One other thing too is that in terms of
11 -- in terms of the church being there, I'm also looking at the
12 issue of the presentation that they put, because the presentation
13 that they put is going to very important to people's decisions
14 about whether they're going to stop, or even my clients, who come
15 with appointments, whether or not they'll feel safe.

16 VICE CHAIRPERSON SOCKWELL: Do any you feel that a
17 church located there, exclusive of the parking issue, would go a
18 distance in making the neighborhood corner, which has been
19 referred to as a location for drug activity, etcetera, a better
20 corner? Now, that's understanding that the
21 church operation for assembly activities is primarily on Sunday
22 with a single service, and for small committee meetings, although
23 there would be someone in the church daily for some period of
24 time, apparently.

25 MR. FYKES: I think that if the -- based on the

1 services that the church -- the things, the activities the church
2 says it would be involved in, which was essentially zero during
3 the week, what that really means then is that that becomes an
4 inactive corner.

5 Now, an inactive corner with respect to foot
6 traffic from the church -- for example, at Zion, there's lot of
7 programs and activities, which means that, in terms of safety,
8 there's always somebody coming and going. It's a different --
9 it's different from the traffic issue.

10 If you have a building on the corner where they're
11 done before dark, so to speak, and there's no other activity
12 there, it's just -- it's like an abandoned building in the
13 evening.

14 So, it does not really help in terms of safety and
15 security for the rest of the neighborhood. And it certainly
16 doesn't give -- it certainly does not -- does not help the
17 neighborhood in terms of a presentation.

18 VICE CHAIRPERSON SOCKWELL: Mr. Fykes, to what
19 extent do the businesses that are currently along that immediate
20 strip of 14th Street, which would be west side primarily, stay
21 open beyond 6:00 or 7:00 p.m. in the evenings?

22 MR. FYKES: Right now, the only one that I'm aware
23 -- the only two businesses I'm aware of -- and again, I didn't
24 start -- only within the last couple of years have I even
25 considered the possibility of working with that strip, and I

1 never used it.

2 But the businesses that I know are open, because of
3 the neon lights, are the liquor store. And now, we have -- the
4 Nwanzes have their coffee shop. And there may be a couple other
5 places that are down there that are kind of seeping into my
6 consciousness now because basically, the coffee shop is there.

7 Before, because I don't spend a lot of time in the
8 liquor store, I didn't have much of a reason to go down there.

9 VICE CHAIRPERSON SOCKWELL: Uh-huh. So, for the
10 most part, even now, the existing businesses, with the exception
11 of the coffee shop and the -- well, the liquor store, and of
12 course the gas stations and what-not, there are no generally
13 evening-oriented businesses operating along that --

14 MR. FYKES: No, I didn't say that. I said I wasn't
15 aware of them because --

16 VICE CHAIRPERSON SOCKWELL: Okay, you're not --

17 MR. FYKES: -- because I didn't --

18 VICE CHAIRPERSON SOCKWELL: -- you're not aware of
19 any of them, okay.

20 MR. FYKES: -- I can't -- so, I can't speak to
21 that.

22 VICE CHAIRPERSON SOCKWELL: Okay, then perhaps the
23 Nwanzes can --

24 MS. NWANZE: Yes, I can.

25 VICE CHAIRPERSON SOCKWELL: -- respond to that.

1 MS. NWANZE: Outside of ourselves, there is a
2 bakery that basically goes 24 hours a day. There is an Asian
3 restaurant, which stays open very late, possibly until 1:00 or
4 2:00 in the morning. I've never been there and it's been closed.

5 And there's also a nightclub that opens up on the
6 weekends: Thursday, Friday, Saturday and Sunday.

7 VICE CHAIRPERSON SOCKWELL: Okay, now, is the Asian
8 restaurant a sit-down restaurant or is it a carry-out?

9 MS. NWANZE: Carry-out.

10 VICE CHAIRPERSON SOCKWELL: Okay, so it's a carry-
11 out, rather than a restaurant?

12 MS. NWANZE: Uh-huh. And on the 26 -- on the 4600
13 block, there is a family-style, sit-down, Spanish restaurant, in
14 addition to -- they're open until 2:00, and their bakery is open
15 pretty late also.

16 VICE CHAIRPERSON SOCKWELL: All
17 right, okay.

18 MEMBER RENSHAW: I wish we had a little map with an
19 indication of the businesses on the block, and hours of
20 operation.

21 MS. NWANZE: Is that something that can be
22 provided? The map is already done by the neighborhood with all
23 the pertinent information.

24 MEMBER RENSHAW: Does the neighborhood have that?

25 MS. NWANZE: Yeah, Adrienne Vance.

VICE CHAIRPERSON SOCKWELL: Yeah, and maybe that

1 isn't necessary because this is a parking variance, not a use
2 variance. We're not --

3 MEMBER RENSHAW: I'm saying the parking.

4 VICE CHAIRPERSON SOCKWELL: Yeah, but the -- the
5 parking -- the parking impact on most of those businesses --
6 we're really talking about a Sunday single-time period parking
7 impact. We're not talking about a weekday parking impact.

8 And I think that would be overkill to request that.
9 It's not necessary, I don't believe.

10 MEMBER RENSHAW: I don't agree with you, Mr. Vice
11 Chair. I think it would be very helpful. And if Mr. Fenty's ANC
12 can provide it and have it for our files, I think we should
13 accept it.

14 VICE CHAIRPERSON SOCKWELL: Well, I mean, if they
15 want to prepare the documentation and submit it to the applicant,
16 as well as to the Board, I mean, that's something that I don't
17 agree with because we're not dealing with those businesses.

18 And they are not necessarily even in the same block
19 as this particular business. And their owners are not
20 represented here with the hearing.

21 MEMBER RENSHAW: I think a visual is always very
22 helpful to --

23 VICE CHAIRPERSON SOCKWELL: I think visuals are
24 very helpful, but I don't --

25 MEMBER RENSHAW: -- and -- and I --

1 VICE CHAIRPERSON SOCKWELL: -- want to ask for
2 this.

3 MEMBER RENSHAW: -- doubt -- I doubt that it's
4 going to take a great deal of time. I bet that it's already --

5 VICE CHAIRPERSON SOCKWELL: Well --

6 MEMBER RENSHAW: -- available, so --

7 VICE CHAIRPERSON SOCKWELL: -- if I may use the
8 Chair's discretion, I'm not going to ask for it.

9 MEMBER RENSHAW: Well, the neighborhood can supply
10 it if they wish.

11 COMMISSIONER HOOD: I don't want to have to do a
12 sua sponte review to the Zoning Commission, so what I will do, I
13 think the Chair asked the discretion -- maybe I will ask the
14 Chair -- the Chair's indulgence that we -- if it's provided, we
15 just ask for it. If not, let's just move on, either way.

16 MR. NWANZE: And Mr. Chair, the businesses are all
17 in that block, sir. They are all in the 4700 block of 14th.

18 VICE CHAIRPERSON SOCKWELL: I thought that the
19 business -- one business was in the 4600 block as a Spanish
20 restaurant.

21 MR. NWANZE: Only one.

22 VICE CHAIRPERSON SOCKWELL: I thought that --

23 MR. NWANZE: Fortune Express, the bakeries,
24 ourselves, we're all in the 4700 block. Only the La Lepitard is
25 the restaurant that's directly across from the church. That's

1 the only one.

2 VICE CHAIRPERSON SOCKWELL: Right. If you want to
3 include only those businesses that are in the 4700 block and put
4 that information together, that's fine.

5 Are there any other questions for these witnesses?

6 (No audible response.)

7 VICE CHAIRPERSON SOCKWELL: Is there any cross
8 examination of these witnesses by the applicant? (No
9 audible response.)

10 VICE CHAIRPERSON SOCKWELL: Then, you're excused,
11 and thank you very much.

12 MR. NWANZE: Thank you, Mr. Chair; thank you, Board
13 Members.

14 (Pause.)

15 SECRETARY PRUITT: Excuse me, before you leave --
16 please, could you wait for a minute? I just wanted to check
17 something with the Board. Excuse me -- excuse me, Mr. Chair, I
18 believe that the three witnesses who are still here are getting
19 ready to leave.

20 Just so we're clear for the record, you're going to
21 leave the record open for them to submit a map --

22 VICE CHAIRPERSON SOCKWELL: Right.

23 SECRETARY PRUITT: -- of the -- that means you also
24 have to serve it on the ANC and the applicant. I just wanted to
25 be sure that was clear before you left.

1 VICE CHAIRPERSON SOCKWELL: Thank you.

2 SECRETARY PRUITT: Thank you. Oh, and do you have
3 a date, I mean, when this needs to be in by?

4 VICE CHAIRPERSON SOCKWELL: I think that we -- you
5 can have this within a week, can't you?

6 SECRETARY PRUITT: You know, this would be
7 potentially first available next -- for decision at your next
8 meeting on December 5th, which means we would need it before
9 then.

10 VICE CHAIRPERSON SOCKWELL: Can you provide it more
11 quickly than that? You can -- for the -- for the base mapping,
12 you can refer to --

13 SECRETARY PRUITT: There are some -- but there are
14 some other --

15 VICE CHAIRPERSON SOCKWELL: Okay, there are --

16 SECRETARY PRUITT: -- issues, that you need to
17 allow the applicant time to respond to it also.

18 VICE CHAIRPERSON SOCKWELL: All right.

19 COMMISSIONER HOOD: Mr. Chair, if I --

20 SECRETARY PRUITT: I mean, that's -- that's one of
21 the problems.

22 MS. NWANZE: -- simple map of the businesses that
23 are located on the 4700 --

24 MS. BAILEY: Excuse me, ma'am, you need to speak
25 from the map -- the mic.

1 MS. NWANZE: I'm just asking -- what I'm saying
2 that I will do, and that would be to provide a map of the
3 businesses that are located on the 4700 block --

4 VICE CHAIRPERSON SOCKWELL: In the block.

5 MS. NWANZE: -- of 14th?

6 VICE CHAIRPERSON SOCKWELL: Their hours of
7 operation and what was --

8 MEMBER RENSHAW: That's it, their hours and --

9 MS. NWANZE: Okay, just the 47 -- the 47 or the 46
10 and 47?

11 VICE CHAIRPERSON SOCKWELL: Just the 47.

12 MS. NWANZE: Forty-seven, okay.

13 SECRETARY PRUITT: If they can have that to us
14 within a week, then we -- you would still not be able to make a
15 decision, but you could do it in January.

16 MS. NWANZE: I could get it to you --

17 VICE CHAIRPERSON SOCKWELL: Well, I'll tell you
18 what. I'll tell you what --

19 SECRETARY PRUITT: Or a special meeting.

20 VICE CHAIRPERSON SOCKWELL: -- since the -- since
21 the building is at the corner of 47, we'll just allow you to --
22 or request that you do the 4600 block too.

23 MS. NWANZE: Good enough.

24 VICE CHAIRPERSON SOCKWELL: That will make our
25 Board Members very happy to my left.

1 SECRETARY PRUITT: You also, though, have to allow
2 the applicant time to respond to that.

3 VICE CHAIRPERSON SOCKWELL: Yeah, and the applicant
4 would need time to respond, okay?

5 COMMISSIONER HOOD: So, we probably --

6 VICE CHAIRPERSON SOCKWELL: So --

7 COMMISSIONER HOOD: -- if I can just say, we may be
8 able to have a special meeting on the 12th. I know you all have
9 a busy schedule, but --

10 VICE CHAIRPERSON SOCKWELL: Yeah, if you have a --
11 if you can complete that and serve the
12 ANC and the applicant in a week's --

13 SECRETARY PRUITT: By Monday.

14 VICE CHAIRPERSON SOCKWELL: By Monday --

15 MS. NWANZE: Sure.

16 VICE CHAIRPERSON SOCKWELL: -- you can do that?
17 Okay, that's fine.

18 SECRETARY PRUITT: Then that will give them a week
19 to respond.

20 MS. NWANZE: Okay.

21 VICE CHAIRPERSON SOCKWELL: Since that concludes
22 parties or persons in opposition, then I guess we will take
23 closing remarks by the applicant.

24 MS. HICKS: I'll try to be brief. I only have
25 about six points to make, and also to get back on record as far

1 as clarifying a couple of items.

2 This building has been vacant at 4700 14th Street,
3 N.W. for approximately a year, maybe more. The store next door
4 is used for storage of items. It has not been used for retail
5 use.

6 The next door, the third door up, is the coffee
7 house. Yeah, then, there's another store, and then the coffee
8 house.

9 Any retail use in the area, in our estimation, will
10 create just as much, if not more, of an impact on the
11 neighborhood than the nine cars that will be there on Sunday,
12 early in the morning.

13 There are members of this church who do live in the
14 District of Columbia, and there are members who do walk to
15 church, take public transportation. And again, there are
16 approximately only nine cars that will be used to car-pool and to
17 transport those individuals who live at great distances.

18 The coffee shop has been open only for two months.
19 The date that I went in, the church members were sitting in
20 there as patrons. So, I think there's been some assumptions that
21 the church members will not contribute anything or give anything
22 back to the neighborhood. That's not true.

23 They were in the coffee house when I came to the
24 ANC meeting on November the 14th having coffee and waiting for me
25 to arrive.

1 Also, the members fast prior to church services.
2 So, once they get out at 10:30, they might -- those who do walk
3 or take public transportation, in my estimation, will probably
4 contribute something back to the coffee house, or even the
5 bakery, or any other retail facility that is open, that has food
6 to serve.

7 Because if I were fasting for a Sunday, I don't
8 think I could make it until -- for that length of time, for a
9 church service.

10 Also, I'd like to point out and note that we knew
11 that the photos would be in dispute. We did make an extra effort
12 to have those photographs date-stamped with the date-stamp that's
13 provided by the camera.

14 And photographs were made by witnesses in a team
15 effort, to establish the time of day and the actual condition on
16 the time and dates that they were taken.

17 It is our feeling, that sure, there is -- there's
18 -- with any use of 4700 14th Street, N.W., there is going to be
19 some impact. But with this church, it's not going to be as great
20 of an impact as the "X" number of churches that are already
21 existing in the surrounding area.

22 Also, we felt that there would not be as great of
23 an impact on the neighboring area as if the proposed use would be
24 a retail store. As a matter of right, a 7-Eleven could locate
25 there, theoretically.

1 Have you ever stopped, or tried to get into the
2 parking lot, of most 7-Elevens, or tried to get parking close to
3 a 7-Eleven when people are getting coffee early in the morning,
4 or as they're going back and forth to work?

5 So, theoretically, any use that you use there will
6 have some traffic impact. But we feel that the church, because of
7 its uniqueness, will not have as much impact as the neighbors are
8 speculating that it will have. Do you have anything to say?

9 MR. SMITH: I would like to elaborate on that point
10 that because a building is under 3,000 square feet, any use,
11 unless it's a public hall or a liquor store, that allows for ANC
12 input, or a fast-food restaurant is allowed to be in that
13 location as a matter of right.

14 And we know that some of the traffic that has been
15 proposed, that the coffee house might have itself, as the traffic
16 -- we know that a liquor store will have, which is three doors
17 down, can be the same for any type of commercial establishment
18 that must rely on a good customer base to come in there, is going
19 to create parking problems and hazards.

20 We think that the de-intensified parking use of a
21 church that only uses the space principally on Sunday from 7:00
22 until 11:00 is probably the best of all worlds.

23 Also, I think it's erroneous to characterize the
24 building as being vacant and unattended to. I think that, from
25 what I've seen around the City, there's a great number of

1 churches that don't seem to have a lot of activity at certain
2 times. But that doesn't mean that it's unattended to or -- or
3 let to waste upon the neighborhood.

4 I've talked to the people in the church. I've seen
5 their plans. You've seen their plans. I think that they're
6 taking an abandoned structure that needs to move forward in a
7 positive way.

8 There was also some allegations about illegal work
9 that was going on in the church, and I want to clarify that.
10 Apparently, they weren't aware that if they did some of the
11 repairs to the bathroom and to the roof -- to the ceiling inside
12 the space, and put some plywood on the floor to help stabilize it
13 a little bit that they would be subject to a stop-work order.

14 So, they were given a stop-work order. I didn't
15 know -- at that time, I was not involved with the case, when that
16 happened.

17 However, I understand that Mr. Berhane Yitbarek,
18 who is here, went down to talk to Swann Mack about this situation
19 and wanted to rectify how to -- what -- what can we do here?
20 We're planning on doing a church, and, you know, what do we do?

21 And what -- to my knowledge, what has happened is,
22 the Zoning Reviewer, Swann Mack, said, "No, you're not a church
23 until the certificate of occupancy says you're a church. You are
24 whatever use to repair it was there before."

25 So that, if they needed to repair a bathroom, to

1 put a toilet into the bathroom, then not the applicant -- they
2 now have a permit to work on the bathrooms -- the applicant did
3 not do this; the City Zoning Office said, "No, you have to go
4 back to the former certificate of occupancy." So, they wrote
5 down it was a store.

6 So, that's how it's done. I process permits every
7 day in the City, and I know that to be a fact. The work that
8 they've been doing is only to repair the building, for whatever
9 the outcome may be. You can't really use a building or sell a
10 building that has a non-working bathroom, and has garbage piled
11 high, and has no working electricity inside the building, and so
12 on.

13 VICE CHAIRPERSON SOCKWELL: Excuse me, would you
14 repeat that last statement?

15 MR. SMITH: I don't know if I can.

16 (Laughter.)

17 VICE CHAIRPERSON SOCKWELL: You said you cannot
18 sell a building --

19 MR. SMITH: It's very difficult to sell a building
20 or to use a building if it doesn't have code-compliant electrical
21 service, bathrooms that are working, and stuff like that.

22 I think that what they were trying to do is,
23 whatever the outcome will be by this case --

24 VICE CHAIRPERSON SOCKWELL: Well, I think the
25 question is --

1 MR. SMITH: -- and they're trying to make it --

2 VICE CHAIRPERSON SOCKWELL: -- that they purchased
3 the building in that condition.

4 MR. SMITH: Correct.

5 VICE CHAIRPERSON SOCKWELL: So, I think that sort
6 of negates your statement.

7 MR. SMITH: Well, I don't feel so.

8 VICE CHAIRPERSON SOCKWELL: I mean, if they -- if
9 you're saying that they were willing to buy it with non-working
10 facilities, then it obviously wasn't a condition of sale for
11 them, and therefore, would be no more of a condition of their
12 sale to someone else necessarily.

13 I think what we do have, which is not necessarily
14 relevant, is the fact that perhaps they were working on the
15 building without a building permit. And as you know, having
16 processed many building permits through the City, you can do
17 virtually nothing of substance without a building permit.

18 MR. SMITH: Correct.

19 VICE CHAIRPERSON SOCKWELL: They may not have been
20 aware of that. And I am not aware of what that work of substance
21 was or wasn't, so it's not particularly relevant.

22 MR. SMITH: Okay.

23 VICE CHAIRPERSON SOCKWELL: And the fact that you
24 addressed it appreciated, but not necessary.

25 MR. SMITH: Okay.

1 MS. HICKS: Okay.

2 VICE CHAIRPERSON SOCKWELL: Ms. Hicks, any other --

3 MEMBER RENSHAW: Yes, Mr. Vice Chair, I'd like to -

4 -

5 VICE CHAIRPERSON SOCKWELL: No, I was asking Ms.

6 Hicks if she had any --

7 MEMBER RENSHAW: Oh, I'm sorry.

8 MS. HICKS: No, we -- we've -- we'll rest our case.

9 VICE CHAIRPERSON SOCKWELL: Okay.

10 MEMBER RENSHAW: Mr. Vice Chair, I'd like to ask
11 Ms. Hicks about a statement in the Office of Planning report. I
12 should have brought this up earlier.

13 It states that, "The applicant has pursued an off-
14 site parking agreement with the bus barn across the street, but
15 such an agreement would take six to nine months to finalize." Is
16 that accurate?

17 MR. SMITH: I can -- I can handle that one, I
18 think. To my knowledge, what actually happened was when they
19 were told they had to find some off-street parking, they talked
20 to a manager at the bus barn, who said that if they were given
21 permission to do anything, it would take several months. And that
22 was the end of the conversation.

23 There was no representations made on behalf of the
24 manager to allow any parking at all that could be done as a sure
25 thing, and we can get to it, or anything like that.

1 It was just a casual conversation relating to,
2 "Gee, you have parking there. Is it available to us?"

3 And I think that, based upon what I know about
4 being able to park at facilities with the insurance requirements,
5 with -- with staggering schedules for buses that we -- who knows
6 what's going to happen, and with their allocation spaces for
7 their own help, and perhaps with people that would abandon cars
8 there overnight or something, that that probably wouldn't happen,
9 as well as I --

10 VICE CHAIRPERSON SOCKWELL: The question -- I think
11 the question might be raised a little bit differently, and that
12 is that has there been any formal discussion with WMATA --

13 MR. SMITH: No.

14 VICE CHAIRPERSON SOCKWELL: -- regarding any use of
15 their facility for parking?

16 MR. SMITH: There's been no formal discussion that
17 I'm aware of.

18 VICE CHAIRPERSON SOCKWELL: All right. And do you
19 have another question, Ms. Renshaw?

20 MEMBER RENSHAW: No.

21 VICE CHAIRPERSON SOCKWELL: All right. Has there
22 been discussion with the Department of Public Works regarding the
23 rental of the adjacent 18 foot by 90 foot strip on the corner,
24 which is accessible by an alley, or by a curb-cut, at the rear of
25 the property, for parking for your facility?

1 MR. SMITH: I did talk to Anthony Downing. As you
2 know, he was away for a while, but he's back now. And I talked
3 to him Friday, Thanksgiving Friday.

4 And I told him that we have a Board of Zoning
5 Adjustment case, and we -- the folks that purchased the property
6 thought it was a front yard, and it turned out it was public
7 space, and that there may be something that could be done to
8 accommodate parking.

9 I also, in my permit travels, know Caroline Pauley,
10 who works with Mr. Downing. And she is the Traffic Engineer that
11 approves curb-cuts. And I had a similar circumstance on another
12 site, not related to this neighborhood, where you have to put a
13 green lawn, not pavement or -- it has to be landscaping less than
14 three feet high, or a green space, between the sidewalk and any
15 driveway four feet wide.

16 And the reason why you do that is, if you parallel
17 park and you pull in there, and you open a car door, you can't
18 smash your car door into a pedestrian who's going down the
19 sidewalk, or a roller-blader, or a cyclist like me, who might not
20 see the car.

21 So that, if there was parking that was allowed to
22 go there, it could only probably be a single line of cars that
23 could enter from the alley. And it might be able to go out at
24 the base of the lot, somewhere toward 14th Street.

25 But Mr. Downing told me that all curb-cuts all

1 public space rentals have to go before the ANC, and that he
2 wasn't sure of the outcome of anything. And he also has not seen
3 the sight, nor sent his inspectors out there.

4 And he said he would be willing to do so, at some
5 point, if we file for something to go there.

6 VICE CHAIRPERSON SOCKWELL: Well, the site is 18 --
7 the public space available is 18 feet wide.

8 MR. SMITH: Yeah, it might be.

9 VICE CHAIRPERSON SOCKWELL: I had a distribution
10 run while we were on break.

11 MR. SMITH: Okay, okay, 18; so that leaves 16 feet
12 -- well, after the four is taken out.

13 VICE CHAIRPERSON SOCKWELL: If you -- if you have
14 18 feet, and you put something there, you only need five percent
15 -- say, if you use the private property requirement for five
16 percent landscaping --

17 SECRETARY PRUITT: That's for ten parking spaces or
18 more.

19 VICE CHAIRPERSON SOCKWELL: -- you actually -- you
20 actually wouldn't be able to get ten spaces. You've got 1,600
21 and --

22 MS. HICKS: And a legal-sized parking space is nine
23 feet wide.

24 VICE CHAIRPERSON SOCKWELL: Yeah, but you wouldn't
25 be using a legal parking space in this case. You'd be losing --

1 using valet parking at 285 per -- 285 square foot per --

2 MR. SMITH: Correct.

3 VICE CHAIRPERSON SOCKWELL: -- per allowable car.

4 But you also have basement access stairs and a projection from
5 the building into the space. So, the available space is good for
6 5.68 cars, if it were not encumbered at all.

7 And since it is, the chances are that you might get
8 three, possibly four, cars into the space, valet-park only. And
9 that would mean no curb-cut would be requested because you would
10 be coming in off of the existing curb-cut, which is the rear
11 alley access.

12 MR. SMITH: Correct.

13 VICE CHAIRPERSON SOCKWELL: And that would at least
14 allow a reduction in the number of spaces being requested for the
15 variance. But I just wondered if any of that had been looked
16 into.

17 MR. SMITH: Other than my discussion with Anthony
18 Downing on Friday, no. We would have to go through a Public
19 Space Committee hearing for public space rental, and go back
20 before ANC -- is it 4C --

21 MS. HICKS: 4C.

22 MR. SMITH: -- 4C to solicit their input. Not that
23 -- not that the decision would be based solely upon what their
24 input was, but I think it is something that we are willing to
25 look and see if we can pursue that.

1 I think that it would take some time to advertise,
2 because of the holidays, for the Public Space Committee and so.
3 But we definitely would look at it, regardless of the outcome of
4 this hearing.

5 VICE CHAIRPERSON SOCKWELL: All right, thought I'd
6 bring it up. Yes?

7 COMMISSIONER HOOD: I just have a quick question.
8 Again, I ask this to the three people who were here in
9 opposition. Again, I'm concerned about this expediting letter in
10 that there will be no neighborhood opposition.

11 Ms. Hicks, could you expound briefly on why the
12 lead pastor -- well, they may not call it Pastor. Mr. Yitbarek
13 wrote that and put that in this letter to this -- to the Office
14 of Zoning.

15 MS. HICKS: Okay, let me see if I have a copy.

16 COMMISSIONER HOOD: September 21st --

17 MS. HICKS: September 21st -- Mr. Permits will
18 speak to that. I came in late on the case. I didn't start
19 getting involved in the case until late October.

20 COMMISSIONER HOOD: Okay.

21 MR. PERMITS: What happened, when I first got
22 involved was, between Ms. Swann and Edgar Nunley, it took them
23 about two months to come out with the referral letter to the
24 Board of Zoning Adjustment.

25 And Ms. Kress requested us to write a letter, if we

1 didn't think we would have any opposition. At the time, we
2 didn't know we wouldn't have any opposition, but we didn't feel
3 that -- because we saw that there didn't seem to be any parking
4 problems at the time we wanted to use the building, that there
5 would be one.

6 So, at the request of the Director of the Office of
7 Zoning, we submitted a letter in our attempt to try to try to get
8 an expedited hearing, because the church is paying mortgage
9 payments and -- and space that they're only able to have for a
10 certain amount of time, and the time was ticking away.

11 So, I think that that letter was a little
12 premature, because we hadn't been before the ANC. But it was a -
13 - at the request of Mrs. --

14 MS. HICKS: Kress.

15 MR. PERMITS: -- Ms. Kress.

16 COMMISSIONER HOOD: I've had -- let me just say
17 this; I've had the pleasure of working with Mrs. Kress, and I
18 just find this hard to believe that she -- she doesn't usually
19 put the cart before the horse.

20 MR. PERMITS: Well, that's --

21 COMMISSIONER HOOD: So, I'll -- I'll just leave it
22 at that. I just want to make sure that -- I'm -- I am concerned
23 about this letter coming to us like there's no opposition, no
24 problem, please hurry up and expedite it.

25 MR. PERMITS: That was the insistence upon the

1 church that they needed to move fast, and we were trying to get
2 an expedited hearing. And it turned out that they didn't have an
3 expedited hearing.

4 VICE CHAIRPERSON SOCKWELL: All right. I think
5 that where we -- where we stand on this is that there is
6 information being requested. This case, being a contested case,
7 will require further deliberation by the Board before a decision
8 can be made.

9 We are expecting to have the next meeting for this
10 case to be on the 12th of December, after information is
11 provided. It was not discussed at what time we would bring the
12 case up on the 12th.

13 SECRETARY PRUITT: The concern is Ms. Renshaw isn't
14 going to be here; you won't have a quorum unless you have
15 somebody read the record. And I can't -- we won't have the
16 transcript back by then.

17 VICE CHAIRPERSON SOCKWELL: All right. So, we may
18 have to pursue this --

19 SECRETARY PRUITT: January.

20 VICE CHAIRPERSON SOCKWELL: Is there another day?

21 SECRETARY PRUITT: No, because your other hearing
22 days are very full. Let me pull the schedule just to verify, but
23 --

24 VICE CHAIRPERSON SOCKWELL: Basically, the only
25 thing that we would be discussing would be the parking issue, in

1 particular, and the documentation submitted by the opponents.

2 It's not a continuation of testimony or any other active --

3 COMMISSIONER HOOD: Could we do it the morning of
4 the 19th?

5 VICE CHAIRPERSON SOCKWELL: Yeah, I would suggest
6 that we try it as a morning of the 19th issue if possible.

7 MR. SMITH: Mr. Chairman, if -- to help expedite
8 things, if we can get the information, as Ms. Pruitt asked the
9 persons in opposition to present the information, we can respond
10 within 24 hours. So, we can probably make the December the 5th
11 calendar if the other --

12 VICE CHAIRPERSON SOCKWELL: Well, we can't -- we
13 can't do the December 5th, unfortunately.

14 COMMISSIONER HOOD: I think the 19th -- because we
15 have two in the morning, I believe --

16 VICE CHAIRPERSON SOCKWELL: You have currently two
17 that is (sic) showing on this; there may be more.

18 MR. SMITH: The 19th of what?

19 COMMISSIONER HOOD: December.

20 VICE CHAIRPERSON SOCKWELL: December.

21 MR. SMITH: Okay.

22 SECRETARY PRUITT: Yeah, and an appeal in the
23 afternoon, which is usually very, very long. So --

24 COMMISSIONER HOOD: For personal reasons, I know I
25 will be here the morning of the 19th representing the Zoning

1 Commission. So, if we can try to work that into it --

2 SECRETARY PRUITT: We can continue it to the 19th
3 at the special public meeting.

4 VICE CHAIRPERSON SOCKWELL: I think that that's the
5 most reasonable time frame that we can offer at this point.

6 MR. SMITH: What time?

7 SECRETARY PRUITT: It would probably -- I would
8 like to say 9:00.

9 COMMISSIONER HOOD: I believe I'm going to be
10 serving that day anyway --

11 MEMBER RENSHAW: Oh, okay.

12 COMMISSIONER HOOD: -- at least the morning.

13 SECRETARY PRUITT: So, 9:30, the first thing in the
14 morning; I mean, the first case on the agenda?

15 VICE CHAIRPERSON SOCKWELL: Okay.

16 SECRETARY PRUITT: That would still -- we would
17 still like your responses to the map from the community, if you
18 choose to respond, by December 11th --

19 MR. SMITH: Okay.

20 SECRETARY PRUITT: -- and with the decision date on
21 it on December 19th at 9:30.

22 MS. BAILEY: Is this further hearing? Is it
23 further hearing or decision?

24 VICE CHAIRPERSON SOCKWELL: Decision.

25 MEMBER RENSHAW: Decision.

1 SECRETARY PRUITT: The record will be closed,
2 except for the response from the community -- I mean, the
3 submission from the community and your response.

4 MR. SMITH: Okay.

5 SECRETARY PRUITT: Otherwise, the record is closed.

6 MR. SMITH: Thank you so much.

7 VICE CHAIRPERSON SOCKWELL: Thank you.

8 MS. BAILEY: We also encourage the applicant to
9 provide findings of fact and conclusions of law, if you choose to
10 do so.

11 MR. SMITH: By what date?

12 SECRETARY PRUITT: We have a little bit more time
13 on that.

14 MS. BAILEY: By the 15th, Sharon --

15 VICE CHAIRPERSON SOCKWELL: By the 15th?

16 MS. BAILEY: -- which would be that Friday? Well,
17 Wednesday is the 13th.

18 SECRETARY PRUITT: The 13th.

19 MS. BAILEY: Okay.

20 SECRETARY PRUITT: Yeah, response --.

21 MR. SMITH: December the 11th and December the 15th
22 for findings of fact?

23 MS. BAILEY: Uh-huh.

24 MR. SMITH: And once again, thanking the Board for
25 its indulgence.

1 MS. HICKS: Thank you.

2 VICE CHAIRPERSON SOCKWELL: Thank you.

3 COMMISSIONER HOOD: Thank you.

4 VICE CHAIRPERSON SOCKWELL: Please -- please call
5 the next case.

6 MS. BAILEY: Application No. 16633 of Eva Bradler,
7 pursuant to 11 DCMR 3103.2 -- Mr. Chairman, I'm stopping because,
8 if I'm not mistaken, there's a new Zoning Administrator's memo,
9 not the one that's advertised. So, that's the one we should be
10 calling.

11 MS. BAILEY: Okay. I'm sorry, Mr. Chairman; I'll
12 start over, Application No. 16633 of Eva Brandler, pursuant to 11
13 DCMR 3103.2 for variance under Subsections 2001.3(A), (B), and
14 (C) to allow an addition to a non-conforming, existing structure
15 and use that exceeds the allowable percentage of lot occupancy,
16 and a variance from Subsection 2101.1 from the required number of
17 parking spaces in an R1-B district, at premises 3715 Woodley
18 Road, N.W.

19 The property is located in Square 1920 on Lot 25.
20 All of those wishing to testify, would you please stand to take
21 the oath? Please raise your right hands.

22 WHEREUPON,

23 MAXINE BROWN-ROBERTS

24 WILLIAM BRANDLER

25 NAOMI ADELMAN

MICHAEL FINN

WERE CALLED AS WITNESSES BY THE BOARD AND, HAVING BEEN DULY
SWORN, WERE EXAMINED AND TESTIFIED AS FOLLOWS:

ALL: I do.

SECRETARY PRUITT: Mr. Chairman, this is, of
course, the case we dealt with in a preliminary way. There's a
-- the application needs to be amended to reflect the correct
zoning relief.

And subsequent to that, Staff has been -- has
talked with OP, who has been in consultation with Mr. Nunley,
who indicated that his -- it is his belief -- and I am
paraphrasing, and I will defer to OP after a while -- that the
second relief on the first letter is not needed, so that there
is only one variance relief requested.

VICE CHAIRPERSON SOCKWELL: Thank you.

MS. BAILEY: Mr. Chairman, only to complicate
things a little further, there is a request for party status on
this case, as well.

VICE CHAIRPERSON SOCKWELL: All right, thank you.

And the persons requesting party status, we should take party
status first.

SECRETARY PRUITT: It's your choice.

VICE CHAIRPERSON SOCKWELL: I would like to
establish the party first. So, if you would allow the person
wishing to become a party to the case --

1 SECRETARY PRUITT: And then, I guess you do need
2 to make a determination on -- or, just to -- for clarification
3 on the record, are you going to deal with the two zoning
4 release (sic) or just the one zoning release based on the
5 letter on Exhibit 19?

6 VICE CHAIRPERSON SOCKWELL: I'm thinking about
7 that one.

8 SECRETARY PRUITT: Okay.

9 VICE CHAIRPERSON SOCKWELL: Thank you.

10 SECRETARY PRUITT: So, that the applicant knows
11 what --

12 VICE CHAIRPERSON SOCKWELL: All right. And if
13 you would push the button your microphone and identify yourself
14 and your address, please?

15 MS. ADELMAN: Naomi Adelman, 3713 Woodley Road,
16 N.W.

17 VICE CHAIRPERSON SOCKWELL: And it's A-D-E-L-M-A-
18 N?

19 MS. ADELMAN: Right.

20 VICE CHAIRPERSON SOCKWELL: It's 37 --

21 MS. ADELMAN: Thirteen.

22 VICE CHAIRPERSON SOCKWELL: -- 13 Woodley. So,
23 you are the adjacent neighbor?

24 MS. ADELMAN: I am.

25 VICE CHAIRPERSON SOCKWELL: And you are

1 requesting party status as --

2 MS. ADELMAN: I believed I needed to do that in
3 order to testify. I didn't realize you --

4 VICE CHAIRPERSON SOCKWELL: Well, you actually
5 don't need it in order to testify, but you are, by your
6 location, stating that you are particularly aggrieved, or in
7 support of -- I don't now which way you're going with this --

8 MS. ADELMAN: Aggrieved.

9 VICE CHAIRPERSON SOCKWELL: -- aggrieved, because
10 of your proximity to the proposed --

11 MS. ADELMAN: Right.

12 VICE CHAIRPERSON SOCKWELL: -- work.

13 MS. ADELMAN: Correct.

14 VICE CHAIRPERSON SOCKWELL: And does anyone on
15 the Board object to Ms. Adelman requesting party status?

16 COMMISSIONER HOOD: No.

17 VICE CHAIRPERSON SOCKWELL: Okay. Then, do we --
18 we don't have to move on that, do we, or do we?

19 SECRETARY PRUITT: No, you can just do it --
20 well, actually --

21 COMMISSIONER HOOD: General consensus.

22 SECRETARY PRUITT: -- general consensus.

23 VICE CHAIRPERSON SOCKWELL: The general consensus
24 of the Board is that you are accepted as a party --

25 MS. ADELMAN: Thank you.

1 VICE CHAIRPERSON SOCKWELL: -- to the case. If
2 you would return to the -- if you can find a seat? All right,
3 the applicant is seated and sworn in. You may begin to -- yes,
4 I'm sorry?

5 SECRETARY PRUITT: You still need to deal with
6 the issue of whether or not --

7 VICE CHAIRPERSON SOCKWELL: Oh, I'm sorry.

8 SECRETARY PRUITT: -- just so that the applicant
9 knows exactly what issues to address, as you -- on the November
10 7th memo, there's only one variance request that Mr. Bella
11 states needed, and that's 200. -- 2002.3.

12 I will defer, actually, to Ms. Robinson-Brown
13 (sic). She spoke with Mr. Bella during our break and can give
14 more information.

15 VICE CHAIRPERSON SOCKWELL: Ms. Robinson-Brown
16 (sic), would you like to --

17 SECRETARY PRUITT: I hope I'm pronouncing it
18 correctly?

19 MS. BROWN-ROBERTS: Yeah, it's Maxine Brown-
20 Roberts.

21 SECRETARY PRUITT: I'm sorry.

22 VICE CHAIRPERSON SOCKWELL: Oh, I thought there
23 was something different about the way that was --

24 MS. BROWN-ROBERTS: I spoke to Mr. Bella on a
25 number of occasions concerning this. And earlier today, I also

1 spoke to him. And he informed me that the portion of the
2 zoning regulations that talks about all other uses in all of
3 the District did not apply because there is a regulation for
4 apartment use. It is just that it is not within the R1-B zone.

5 So, it is up to the discretion of the Board to
6 regulate or assign how many parking spaces they think is
7 appropriate.

8 VICE CHAIRPERSON SOCKWELL: I think -- the way I
9 looked at it was, because the apartment use, as listed in
10 2101's table, 2101.1's table, did not refer to the R1-B
11 district simply because apartments would be traditionally
12 banned from that district unless they were pre-existing, prior
13 to the 1958 enactment. I assumed that --

14 MS. BROWN-ROBERTS: It is a pre-existing --

15 VICE CHAIRPERSON SOCKWELL: Yeah, and it is. I
16 assumed that the -- that the variance would still be needed,
17 because it was all other districts. Even though the use is a
18 listed use, the district was not listed under the use. So, it
19 would fall under the catch-all, all other districts portion.

20 And Ms. Sansone, do you --

21 MS. SANSONE: Well, the -- there is a provision
22 in the regulations that where you're changing a building or
23 structure to another use that requires more parking spaces,
24 than requires -- than what had been required, that the
25 additional parking spaces in conformity to the schedule in 2101

1 have to be provided.

2 SECRETARY PRUITT: But the use is not changing.

3 VICE CHAIRPERSON SOCKWELL: Yeah, this is not a -
4 -

5 MS. SANSONE: No, but it's requiring more parking
6 spaces.

7 VICE CHAIRPERSON SOCKWELL: Yeah. And the issue
8 -- the issue is that there -- there were no parking spaces
9 required when the building was built. So, the new units
10 increase the non-conformity, and so it's increasing a non-
11 conforming use within a non-conforming structure.

12 And I think that we probably should -- I'll tell
13 you what; I'd want to err on conservative and include it.

14 MS. SANSONE: Mr. Chairman, I was referring to
15 the wrong section. It's 2100.6 that talks about increasing the
16 intensity of the use.

17 VICE CHAIRPERSON SOCKWELL: I knew what you
18 meant.

19 MR. FINN: May I -- may I start?

20 VICE CHAIRPERSON SOCKWELL: Yeah, please go
21 ahead. So, we're going -- we're going to -- we're going to
22 deal with the -- with the parking variance as well.

23 MR. FINN: My name is Michael Alan Finn. I'm an
24 architect in the District of Columbia, and was hired by Mr.
25 Bill Brandler here to do plans with this building.

1 Before I get into the -- my discussion of what
2 we're doing with the building, may I ask just for a
3 clarification on the parking variance? If we're extending --
4 if we're increasing the number of units in the building, say by
5 four units, does that mean we're required to supply four
6 parking spaces?

7 If there were no parking spaces required --

8 VICE CHAIRPERSON SOCKWELL: You're -- you're --

9 MS. SANSONE: -- because it's an existing use --

10 VICE CHAIRPERSON SOCKWELL: Yeah.

11 MR. FINN: -- we're putting four more -- does
12 that mean we have to put in four parking spaces?

13 VICE CHAIRPERSON SOCKWELL: Well, the way that I
14 was looking at is was that, under the catch-all, you would be
15 looking at a parking space per each 600 square feet of gross
16 cellar floor area devoted to the use.

17 MR. FINN: So, that's -- so, in other words, if
18 we're putting new units --

19 VICE CHAIRPERSON SOCKWELL: I beg your pardon,
20 Ms. --

21 SECRETARY PRUITT: I'm just thinking out loud.

22 VICE CHAIRPERSON SOCKWELL: Because it's -- it
23 doesn't fall under the requirements for apartments in 2101,
24 which basically does not go over into the -- into the R1-B
25 zoning district.

1 So, if I go to all of the uses, all districts,
2 it's one per 600 square feet of gross floor area, cellar floor
3 area. I'm not sure that the zoning ordinance effectively binds
4 us into using the residential requirement. And I'm willing to
5 listen to Staff --

6 MR. FINN: Because if the -- if the basement --

7 VICE CHAIRPERSON SOCKWELL: I mean, if you went -
8 - if you were going to go to R5 requirements, and basically for
9 apartment houses in an R5 requirement, it's one for each
10 dwelling unit. If it were an R1-B, there is no allowance for
11 such parking.

12 If we -- if we're talking about four units, and
13 we want to go with four spaces, the whole idea is that the R1
14 district is one space per residential unit required, yet the
15 building is pre-existing, didn't have any parking; you're
16 adding units.

17 I'm not really sure how to handle it. And I
18 looked at it at least two different ways, and I felt that maybe
19 it was satisfactory just to use a square-footage basis to deal
20 with the parking issue.

21 But I will -- I will accept whatever the
22 consensus of my Board Members is, or with Staff, Corporation
23 Council, and Office of Planning.

24 MR. FINN: If I -- just to do some quick
25 arithmetic, if I may, there's one existing unit in the

1 basement.

2 VICE CHAIRPERSON SOCKWELL: Uh-huh.

3 MR. FINN: I'm just -- I'm just basically brain-
4 storming here. There's one existing unit in the basement. If
5 we -- we -- we're going to enlarge that unit to incorporate an
6 existing area where you've still got a direct access out.

7 But say we decide not to touch that unit --

8 VICE CHAIRPERSON SOCKWELL: Yeah.

9 MR. FINN: -- and we only add three units in the
10 basement; if we do the variance in one fashion, that would be
11 an addition of three parking spaces.

12 VICE CHAIRPERSON SOCKWELL: Uh-huh.

13 MR. FINN: And we've got more than enough space
14 to put in six parking spaces in the backyard. So, the variance
15 becomes a moot point.

16 If we go by the square footage of the basement --
17 let's say the -- and once again, we've got an -- you can see
18 we've got an existing unit in the basement that's
19 approximately, oh, let's say, 25 by 15 square feet. Let me
20 just do that real fast here. Let's call it 375 --

21 VICE CHAIRPERSON SOCKWELL: Three hundred and
22 seventy five --

23 MR. FINN: -- square feet.

24 VICE CHAIRPERSON SOCKWELL: -- square feet,
25 right.

1 MR. FINN: And then, the entire basement is
2 100.41 times 40 is 401 -- let's call it 401.7 -- 4017 minus 375
3 for the existing unit is 3642, and you divide that by 600 --

4 VICE CHAIRPERSON SOCKWELL: You've got six
5 spaces.

6 MR. FINN: -- is six spaces.

7 VICE CHAIRPERSON SOCKWELL: Right.

8 MR. FINN: So --

9 VICE CHAIRPERSON SOCKWELL: All right, then I
10 would be willing to take the lesser, which would be a space per
11 unit. I think that -- we could work with that.

12 SECRETARY PRUITT: If that is the case, then they
13 really don't need the variance because the space is provided.

14 VICE CHAIRPERSON SOCKWELL: Okay.

15 MR. FINN: We have space for six cars.

16 SECRETARY PRUITT: And unfortunately --

17 VICE CHAIRPERSON SOCKWELL: Okay.

18 SECRETARY PRUITT: -- that's been a problem we've
19 talked with the Zoning Administrator about. If space is
20 provided -- it's sort of left moot.

21 VICE CHAIRPERSON SOCKWELL: Uh-huh.

22 SECRETARY PRUITT: If space is provided on-site,
23 they don't need a parking variance.

24 VICE CHAIRPERSON SOCKWELL: Okay.

25 SECRETARY PRUITT: And we're working closer with

1 them to get it a little clearer.

2 VICE CHAIRPERSON SOCKWELL: All right. Then
3 under the circumstances, for a variety of reasons, we'll drop
4 with number two and deal only with the variance from Section
5 2002.3 for the expansion of the non-conforming use.

6 MR. FINN: I mean, we are more than willing to
7 put in six spaces in the back. And we have the room for it.

8 VICE CHAIRPERSON SOCKWELL: Uh-huh.

9 MR. FINN: Well, to proceed on the -- on the
10 other variance, if I could -- if I may just review -- review
11 the building. Is it okay if I stand up?

12 VICE CHAIRPERSON SOCKWELL: Uh-huh.

13 MR. FINN: I do this better if I walk around.

14 SECRETARY PRUITT: Just turn your mic, sir.

15 MR. FINN: Oh, I'm sorry. Here we have a drawing
16 of the existing basement. And one thing that's interesting
17 about this particular building is that there are existing area-
18 ways into this basements.

19 In other words, if you look at the photograph of
20 the front of the building, there is one rather intriguing,
21 attractive, direct entrance area-way into the basement in this
22 corner of the building. There's also another one on the side
23 yard.

24 And there is an existing entrance in the rear of
25 the building also. So, the basement is quite accessible on its

1 own merits, without going through the main floor of the
2 building.

3 And it's -- one of the things that we'd like to
4 use when we, hopefully, construct our new units because this
5 will enable -- well, there's two reasons for doing this. One
6 is that it will enable each one of these apartments to become
7 more or less like an English basement.

8 It would have its own direct egress and ingress
9 from the street without going through the lobby of the
10 building, which we think would be a good thing for the
11 neighborhood in the fact that the sideyards would become more
12 useable, rather than just a vacant -- the present, vacant, long
13 strip that they are now, and would become a more attractive
14 portion of the building.

15 Also in the rear, there are some covered porches,
16 which you can see in the photographs also. And we would like
17 to actually make a little area-way underneath these porches so
18 that these two units in the rear also would have a direct
19 access to the outdoors without going through the building.

20 And we feel that would make the building connect
21 a little bit more to the -- to the yard, and make it less
22 remote. And there is -- if there is any sort of security
23 problem in here now, having the direct access to the units, we
24 think, would help alleviate that problem.

25 Also, the ceiling height is pretty good in here

1 also. It's -- it's about seven-plus feet underneath these
2 large steel beams. So, there's plenty of ceiling height. So,
3 the demolition of the existing concrete floor would also be
4 kept to a minimum because basically, we can keep what we have.

5 So, the plan is basically very straight-forward,
6 just, you know, adding more units in the basement. I think
7 what's important in this building is that basically, we're not
8 going to be changing the envelope, or the exterior.

9 We would, of course, like to do these area-ways.

10 And in some cases, the District Government actually requires
11 these individual exits from apartments because as any -- since
12 it's not -- it doesn't meet existing building codes, if you can
13 put a -- if you put a new unit in it, and you have a direct
14 access directly outside, it eliminates any, you know, potential
15 fire hazard because you don't have to go through a public
16 corridor.

17 Let me talk a little bit about the neighborhood.

18 Oh, it's a basically -- it's basically a two-story and
19 basement building. It's a residential use; it's a residential
20 neighborhood.

21 The neighborhood is a bit of a mix. Directly to
22 the east -- there's a single-family dwelling directly to the
23 east. But adjacent to that are rather dense, high-rise
24 residential developments all up and down Wisconsin Avenue.

25 And there's rather a mix in the neighborhood. As

1 you go further and further west, it becomes more single-family,
2 detached. And there are a mixture of flats, and single-
3 families, and varying residential developments in the
4 neighborhood.

5 And basically, we feel that -- that we have a
6 practical difficulty on our hands here because we've got --
7 well, the owners have the space; it's there. And in order to
8 do anything with it, we're required to get a variance.

9 It seems like it's -- maybe it's a rather harsh
10 word to use, but it's almost a hardship because we -- the space
11 is there and, yet, we can't do anything with it. And it seems
12 like it's ready-made for residential use because that's
13 basically what the building is.

14 And, you know, it's about 80 years old. So, the
15 fact that it's non-conforming, you know, is basically no fault
16 of the present owners.

17 So, we -- basically, we want to be -- also, we
18 want to be good neighbors. And I've discussed this with the
19 owners, and we're more than willing to do whatever it -- any
20 neighborhood adjoining property owner would like to have us do
21 in order to make the building more presentable, basically clean
22 it up and make it an asset to the whole community.

23 It's a -- it's a wonderful source of moderately
24 priced, affordable housing. And this is what the District is
25 in the greatest need of. And it seems to me this is a

1 wonderful opportunity to do that.

2 And once again, I say the owners are more than
3 willing to be accommodating to whatever concerns that the
4 neighbors might have. So, that's basically it.

5 May I -- just one other thing; and on -- as far
6 as the percentage of lot occupancy goes on this particular
7 building, we're actually pretty close. We almost -- we almost
8 make that. So, basically, as far as lot occupancy goes, it's -
9 - if it were one floor, it would just be a big house.

10 So, it has rather a minor presence in the street
11 now. So, basically, that's it.

12 COMMISSIONER HOOD: Mr. Chair, can I ask a
13 question --

14 VICE CHAIRPERSON SOCKWELL: You may.

15 COMMISSIONER HOOD: -- if it's in order? I just
16 wanted to ask a question. You stated that you wanted to be a
17 good neighbor. I'm looking at some pictures, and I'm also
18 looking at the letter from -- let me see who the letter was
19 from -- from the person who's right next door, Ms. Adams?

20 SECRETARY PRUITT: She's right there.

21 COMMISSIONER HOOD: Oh, okay.

22 VICE CHAIRPERSON SOCKWELL: Adelman.

23 COMMISSIONER HOOD: Ms. Adelman, I'm sorry. Her
24 letter alludes to that you obviously have not -- my concern is
25 do you want to be a good neighbor now because you have to come

1 down in front of the Board of Zoning Adjustment and get -- for
2 your addition of your three new apartment, or did you want to
3 be a good neighbor all through the process, years ago this
4 time, before you got here?

5 I just want to know; is it all of a sudden you
6 want to be a good neighbor, or have you always wanted to be a
7 good neighbor?

8 MR. BRANDLER: Well, I think the process
9 certainly has brought a lot of things to my attention. I'm the
10 builder's son. Thirty years ago, she purchased the building.
11 I was just starting at the time. We couldn't afford a
12 management company.

13 We -- every week, we used to mop the floors.

14 COMMISSIONER HOOD: Can you speak a little
15 louder?

16 MR. BRANDLER: Sorry. At that time, when we
17 first purchased it, it was fun for me on weekends mopping the
18 floors, cutting the grass, changing lightbulbs, doing
19 everything that should be done, and should be done now.

20 Over the years, maybe 20 years ago, it was handed
21 to a management company, just because my mother was getting too
22 old and she had to work. I was in school. And you know, they
23 handled the rent control and all of those items that she wasn't
24 familiar with.

25 I'm getting more involved with it as she's

1 getting older. I have a brother and two sisters. They're in
2 the area, but they're not interested. And I -- I enjoy it.
3 It's fun for me.

4 I go by there with my son. I live in Rockville.
5 And when we go by -- just within the last two years, I've
6 become more involved with it.

7 The reason it was purchased 30 years ago was to
8 provide an income to my mother in her retirement. She doesn't
9 really need the income right now, and -- but she doesn't want
10 to lose money either.

11 The building hasn't been maintained properly. As
12 far as the structure goes, there's seepage in the basement, and
13 -- and the roof needs to be replaced. There's a lot of items
14 that need to be done structurally. Those are major items.

15 In the last two years, her income on it -- and
16 she doesn't get a salary. Whatever falls to the bottom is
17 basically it. Last year -- I have her, I think, D-90 or the --
18 or the tax return. In 1998, it was \$3,500. Last year, it was
19 \$12,000.

20 So, you know, one item -- replacing the roof, we
21 put it the other way. So, as I started getting more involved,
22 I noticed there were things that needed to be done.

23 And honestly, Ms. Adelman next door, she has a
24 very nice yard; I think the nicest in the area, no question
25 about that. The one we have inside of the outside, the yard

1 doesn't look very nice; I agree with that. But --

2 SECRETARY PRUITT: Mr. Chairman, we're about to
3 lose our quorum here.

4 MR. BRANDLER: But just to sum up quickly, I have
5 been interested in the last couple of years. I've added
6 windows, electrical. But this has hastened it, I will admit.

7 COMMISSIONER HOOD: For the sake of time, you --
8 you've answered my question.

9 MR. BRANDLER: Yes, sir.

10 VICE CHAIRPERSON SOCKWELL: Any further
11 statements by the applicant at this point?

12 MR. BRANDLER: Well, I'm continuing to --

13 VICE CHAIRPERSON SOCKWELL: Okay, all right.

14 MR. BRANDLER: And part of the income from the
15 additional units will go to upgrade and make some improvements.

16 VICE CHAIRPERSON SOCKWELL: So basically, it's
17 your statement that the additional income from the units will
18 help you to improve the maintenance and upkeep of the unit, and
19 of the building itself, and will, of course, increase the
20 reserves developed from the cash flow, I would assume?

21 MR. BRANDLER: I would like to get to that point
22 where I have some reserves. But there are items that I feel
23 should be done right away.

24 VICE CHAIRPERSON SOCKWELL: Okay.

25 MR. BRANDLER: But it will be a while before

1 there's reserves, but --

2 VICE CHAIRPERSON SOCKWELL: All right. Well, let
3 me ask you this; in the immediate -- in the immediate future,
4 what are the things that you plan to do to the exterior,
5 because you're going to spend a considerable amount doing this
6 modification to the interior, which of course, you can
7 amortize. But let's get to that.

8 MR. BRANDLER: Yeah. Well, and again, what I'm
9 doing here was hastened because of the -- because of the Zoning
10 Board hearing. And actually, it gave me a chance to meet a lot
11 of the neighbors, and I did become more involved.

12 What disappointed me, a lot of the complaints
13 that I received from the neighbors were very easy ones to
14 correct: one complaint about the gate being -- it's been a
15 couple of years and it hasn't been fixed, and trash -- these
16 are easy things.

17 But what I would like to do with the money is --
18 what I've just done is I did hire a landscaper. And Friday,
19 he's going to start some work on that. Now, that costs \$7,000.

20 VICE CHAIRPERSON SOCKWELL: Okay, that's fine.
21 Let me ask you a couple of questions very quickly, because I
22 think we're running low on time, and I want to get to the
23 bottom of this.

24 How have you received the complaints that have
25 been lodged by neighbors over a period of, say, the last year

1 or so, or two, including Ms. Adelman?

2 MR. BRANDLER: Well, the neighbors haven't been
3 giving complaints to me. They've been giving them to Wagleman
4 & Brawner, the management company. I've just been involved in
5 the last couple of months and have heard about it.

6 VICE CHAIRPERSON SOCKWELL: Okay, so you're
7 actually new to being involved with the property, period?

8 MR. BRANDLER: The day-to-day operations, that's
9 correct.

10 VICE CHAIRPERSON SOCKWELL: All right. So
11 instead, your mother --

12 MR. BRANDLER: No, well, I've been involved with
13 the income statements and that type of thing -- with major
14 improvements, if a boiler had to be replaced.

15 VICE CHAIRPERSON SOCKWELL: But have you had any
16 involvement with the complaints that have been lodged against
17 the property?

18 MR. BRANDLER: No, sir.

19 VICE CHAIRPERSON SOCKWELL: Okay, and --

20 MR. BRANDLER: Not until now.

21 VICE CHAIRPERSON SOCKWELL: And your mother has
22 not been sharing those things with you --

23 MR. BRANDLER: Well, she -- she didn't --

24 VICE CHAIRPERSON SOCKWELL: -- through --

25 MR. BRANDLER: She wasn't aware of these types of

1 complaints either and --

2 VICE CHAIRPERSON SOCKWELL: Well, what is
3 Wagleman and whatever doing when they get these complaints?

4 MR. BRANDLER: Well, they've -- I asked them the
5 same question, and they say they've responded. And I asked
6 them for proof. They faxed me over some letters, which I have
7 here, of how they responded.

8 VICE CHAIRPERSON SOCKWELL: Were those letters
9 placed in the file for us to be aware of?

10 MR. BRANDLER: I have them here. I didn't place
11 them in the --

12 VICE CHAIRPERSON SOCKWELL: Copies of those
13 letters would probably be appropriate to be placed in the file
14 because it would give some kind of time frame during which the
15 management company has dealt, independently of the owners, with
16 any adjacent neighbor complaints. And I think that would be
17 worthwhile.

18 Beyond that, it appears that there is -- there is
19 a complaint regarding maintenance, upkeep, noise, and I think
20 the responsiveness of the owner or manager to such complaints,
21 at least in the case of the individual who is here.

22 And if -- you don't need to elaborate on the
23 design any further, and you have pretty much covered the
24 issues, as you see them. I'd like to bring Ms. Adelman up very
25 quickly, if we can. I'd like to get through --

1 SECRETARY PRUITT: Well, she actually has the
2 right to cross examine the applicant --

3 VICE CHAIRPERSON SOCKWELL: Yeah.

4 SECRETARY PRUITT: -- before she puts testimony
5 on.

6 VICE CHAIRPERSON SOCKWELL: Yeah, we have an
7 Office of Planning --

8 SECRETARY PRUITT: And we have an Office of
9 Planning --

10 VICE CHAIRPERSON SOCKWELL: -- report.

11 SECRETARY PRUITT: -- report also. And I believe
12 she had some questions; I'm not sure.

13 VICE CHAIRPERSON SOCKWELL: Yeah, do you want to
14 cross examine?

15 MS. ADELMAN: No, I haven't -- I didn't have --

16 SECRETARY PRUITT: Ma'am, you have to --

17 VICE CHAIRPERSON SOCKWELL: Yeah, please come
18 forward. I'd like for you to cross examine the applicant.

19 MS. ADELMAN: I had a question.

20 VICE CHAIRPERSON SOCKWELL: I understand that
21 she's putting it on, but she's still in the room.

22 MS. ADELMAN: I had a question about the number
23 of parking spaces, and the fact that you're using four spaces
24 now. Is this -- and maybe this is a question to you, Vice
25 Chair. Is this the new three spaces, in addition to the four

1 that are currently being used because they were --

2 VICE CHAIRPERSON SOCKWELL: Well, the fact --

3 MS. ADELMAN: -- the total will be eight.

4 VICE CHAIRPERSON SOCKWELL: The fact of the
5 matter is that, because the building pre-dates the Zoning
6 Ordinance, and probably has been at its present level of
7 occupancy for a long period of time, the spaces that they have
8 were not required spaces. Am I pretty much --

9 SECRETARY PRUITT: That's correct.

10 VICE CHAIRPERSON SOCKWELL: Yeah, and --

11 SECRETARY PRUITT: That's correct.

12 VICE CHAIRPERSON SOCKWELL: And on that basis,
13 they could be applied to any compliment of --

14 MS. ADELMAN: Right, to --

15 VICE CHAIRPERSON SOCKWELL: -- spaces being
16 required at this time.

17 MS. ADELMAN: Okay. Now, does this mean there's
18 a limit to the number of parking spaces --

19 VICE CHAIRPERSON SOCKWELL: There's a limit --

20 MS. ADELMAN: -- that they can have?

21 VICE CHAIRPERSON SOCKWELL: -- based on the size
22 of the lot.

23 MS. ADELMAN: Okay. I did have a question to the
24 architect about how you would define "an attractive entrance"
25 to the side of the apartment, and also what you consider a

1 "side yard". What is the exact width of the space between your
2 building and my home?

3 I don't believe that's considered a yard. That's
4 maybe --

5 VICE CHAIRPERSON SOCKWELL: There's actually five
6 feet shown on the drawings that indicate the plat, which --

7 MS. ADELMAN: I don't --

8 VICE CHAIRPERSON SOCKWELL: -- is to his property
9 line. Now, beyond his property line, if that five feet truly
10 exists, as it has been described --

11 MS. ADELMAN: Well, that might be five feet
12 between my house, but not my property line.

13 VICE CHAIRPERSON SOCKWELL: No, his property line
14 to his wall, to his building --

15 MS. ADELMAN: Five feet?

16 VICE CHAIRPERSON SOCKWELL: -- is shown in this
17 drawing.

18 MEMBER RENSHAW: Mr. Vice Chair, I want to state
19 for the record that I have to leave right now. I'm very sorry
20 to the applicant and to Mrs. Adelman. But I will --

21 SECRETARY PRUITT: Well, we have to stop.

22 MEMBER RENSHAW: You'll have to stop because
23 you'll lose a quorum and will have to, unfortunately --

24 VICE CHAIRPERSON SOCKWELL: Okay, all right.
25 Okay, let me ask --

1 MEMBER RENSHAW: -- have to be rescheduled.

2 VICE CHAIRPERSON SOCKWELL: -- Ms. Adelman one
3 question. Of all the issues that are present in this case, is
4 there anything that the applicant could do that would be
5 sufficient for you to withdraw as an opponent to his proposal?

6 MS. ADELMAN: I think that I would need more than
7 just one action. I have been complaining for nine years. The
8 management company has told me that, in fact, they were told by
9 Ms. Brandler that she did not want to hear about it; she didn't
10 want to spend the money on it.

11 And they've done the best they can to try to get
12 the work done. They would not pay to have work done, or to
13 have the yard mowed.

14 Mr. Brandler has informed me that he has been in
15 charge -- "in charge" of this for the last year and a half to
16 two years. I don't think it takes that long to mow your lawn
17 and to edge your walk. Those are not expensive things. You
18 don't need a building reserve to do it.

19 VICE CHAIRPERSON SOCKWELL: That's right.

20 MS. ADELMAN: You know, he could hire a kid in
21 the neighborhood to do it.

22 VICE CHAIRPERSON SOCKWELL: Okay.

23 MS. ADELMAN: The place is a mess. I think I
24 would want a good year of seeing that this building is being
25 maintained properly before I think that they -- that they have

1 three more people.

2 And then, I have one other thing, is that the
3 basement apartment supposedly, whatever it is -- I've never
4 seen it -- has been unoccupied for a very long time.

5 And I don't know how long you can consider that
6 an existing space if it hasn't been occupied. I don't know
7 what the law is, but I think that that should be something that
8 you should all investigate.

9 VICE CHAIRPERSON SOCKWELL: Well, it's more than
10 a four-unit building, so it has to register its units with the
11 rental accommodations people with the District of Columbia.

12 MS. ADELMAN: Okay.

13 VICE CHAIRPERSON SOCKWELL: I have no idea what
14 their --

15 MS. ADELMAN: Okay, what they've registered?

16 VICE CHAIRPERSON SOCKWELL: -- what they've
17 registered, right.

18 MS. ADELMAN: Okay. Well, I think, actually, my
19 answer to your question simply is no, there's nothing they can
20 do, at least --

21 VICE CHAIRPERSON SOCKWELL: In the short term?

22 MS. ADELMAN: -- in the short term.

23 VICE CHAIRPERSON SOCKWELL: Okay.

24 MS. ADELMAN: In the long term, yes.

25 VICE CHAIRPERSON SOCKWELL: Okay.

1 MS. ADELMAN: And I told that to Mr. Brandler.

2 VICE CHAIRPERSON SOCKWELL: All right. Well,
3 because we are losing -- we have lost our quorum, I'm going to
4 have to schedule a continuation of this hearing for another
5 date certain. And that is likely to be --

6 SECRETARY PRUITT: I'm looking --

7 VICE CHAIRPERSON SOCKWELL: Hold your -- hold
8 your breath.

9 SECRETARY PRUITT: Looking at the schedule and
10 squeezing everything as tight as we can, it appears that we may
11 -- you've already added one case to the 19th. You could add
12 this one. That means you have two other cases in the -- in the
13 morning.

14 I will warn you, though, that one of the cases in
15 the morning is an Amoco station that's highly contested. We've
16 been getting tons and tons of calls and letters in opposition
17 on that. So, it's going to be a big case.

18 MS. ADELMAN: Could we go first?

19 COMMISSIONER HOOD: Mr. Chair, if we put those --

20 VICE CHAIRPERSON SOCKWELL: Well, if it's a gas
21 station, then I'm pleased to hear it.

22 COMMISSIONER HOOD: If we put those cases that we
23 added first, because we have some knowledge of them, then we
24 should be able to proceed (sic) --

25 VICE CHAIRPERSON SOCKWELL: Yeah.

1 COMMISSIONER HOOD: -- each one of them within a
2 half an hour, I would hope. And if we start at 9:00 --

3 VICE CHAIRPERSON SOCKWELL: Okay.

4 COMMISSIONER HOOD: I mean, well, let me -- I
5 don't -- I'm not going to say anything about --

6 VICE CHAIRPERSON SOCKWELL: Yeah, whatever the
7 schedule is. I would say that what we will try to do is
8 dispose of this case on the 19th of December --

9 MS. ADELMAN: Okay.

10 VICE CHAIRPERSON SOCKWELL: -- if you can return.
11 And it would be an a.m. case. Ms. Adelman, is that --

12 MS. ADELMAN: You bet.

13 VICE CHAIRPERSON SOCKWELL: Okay.

14 COMMISSIONER HOOD: Mr. Chair, if I can, I want
15 to take this opportunity to apologize to both. I know they've
16 sat through us going back and forth with the previous case.
17 And again, I want to apologize to you, but our colleague did
18 have a previous engagement.

19 And we were running short today, so I want --
20 from this -- from my perspective, I want to apologize to the
21 both of you.

22 MS. ADELMAN: Thank you.

23 COMMISSIONER HOOD: I appreciate your patience.
24 And I'm sure that the Chair agrees with me.

25 VICE CHAIRPERSON SOCKWELL: I agree. And -- and

1 to all of you, we will try to get through this as expeditiously
2 as possible on the 19th. So, therefore, lacking a quorum, I
3 adjourn the hearing.

4 (Whereupon, the hearing was concluded at 6:13
5 p.m.)
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