

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

JUNE 5, 2012

+ + + + +

The Public Hearing convened in the
Jerrily R. Kress Memorial Hearing Room, Room 220
South, 441 4th Street, N.W., Washington, D.C.,
20001, pursuant to notice at 9:30 a.m., Lloyd
Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson
NICOLE SORG, Vice-Chairperson
RASHIDA MacMURRAY, Board Member
JEFF HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

MARCIE COHEN, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON
STEPHEN MORDFIN
MAXINE BROWN-ROBERTS
ARTHUR JACKSON

The transcript constitutes the
minutes from the Public Hearing held on June 5,
2012.

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

2 9:38 a.m.

3 CHAIRPERSON JORDAN: Would the
4 hearing please come to order.

5 Good morning, ladies and gentlemen.

6 We are here located at the Jerrily
7 R. Kress Memorial Hearing Room at 441 4th Street,
8 Northwest. Today's date is June 5th. And
9 we're for the Public Hearing on Board Adjustment
10 cases set for today.

11 My name is Lloyd Jordan,
12 Chairperson. All the to my left Marcie Cohen,
13 Member of the Zoning Commission. To my
14 immediate left is Nicole Sorg, Vice Chairperson
15 of the Board. To my right is Rashida MacMurray,
16 Board Member. And to her right is Jeffrey
17 Hinkle, Board Member.

18 Please be advised this meeting is
19 being recorded by a court reporter and webcast
20 live. Accordingly, we must ask that you refrain
21 from making disruptive noises or actions in the
22 hearing room, meaning turning off your cell

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1 phones, please.

2 The Board's hearing procedures and
3 agenda is in the back of the room by the door if
4 you would like to take a look at them.

5 And with that, I think we're ready
6 to begin the hearing agenda. But for all
7 individuals who are going to testify here today,
8 we'd ask you to stand at this time and raise your
9 hand and take either an oath or affirmation from
10 the Secretary of the Board, Mr. Clifford Moy.
11 If you're going to testify, if you're going to
12 make any statements on the record, please do so.

13 (Witnesses sworn.)

14 MR. MOY: You may consider yourself
15 under oath.

16 CHAIRPERSON JORDAN: We also ask if
17 you do testify, to complete the witness cards,
18 two witness cards and please when you come forth
19 to give them to the court reporter.

20 Mr. Moy?

21 MR. MOY: Yes. Good morning, Mr.
22 Chairman, Members of the Board. Before I

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1 announce the first case in the Public Hearing
2 Session, for the record the Appeal Case of
3 Virginia Concrete Company, Inc., which is Case
4 No. 18349 scheduled for 1:00 this afternoon has
5 been withdrawn by the Appellant.

6 So with that, the first application
7 is Application No. 19356. This is the
8 Application of Stephen H. Greer, pursuant to 11
9 DCMR ' 3104.1 and 1543.1, for a special exception
10 to allow an addition to an existing one-family
11 dwelling under Section 223 not meeting the side
12 yard requirements section 405 and nonconforming
13 structure requirements 2001.3 in the WH/R-1-A
14 District at premises 4626 Garfield Street
15 Northwest, property located in Square 1408, Lot
16 800.

17 CHAIRPERSON JORDAN: Is that it,
18 Mr. Moy?

19 MR. MOY: Yes, sir.

20 CHAIRPERSON JORDAN: There's no
21 preliminary matters on this case?

22 MR. MOY: Not at the moment.

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1 CHAIRPERSON JORDAN: Okay. So
2 let's begin this particular case.

3 Would you please identify yourself,
4 please?

5 MR. HORSEY: Outerbridge Horsey,
6 Architect, on behalf of Mr. and Mrs. Greer who
7 are currently residing in Hong Kong and so
8 they're not here with me today.

9 CHAIRPERSON JORDAN: All right.
10 Thank you.

11 If you give me a second, let me poll
12 the Board.

13 Is this something new? What is
14 this?

15 MR. HORSEY: I submitted today
16 copies of two corrected documents that were in
17 the original exhibit. We submitted a revised
18 pre-hearing statement in which we explained a
19 couple of changes we made in negotiations with
20 the neighbor, Mr. Chairman. And we neglected to
21 revise those two documents, the plat and the
22 self-certification form calculation sheet to

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1 show the size of the closed in area.

2 CHAIRPERSON JORDAN: But this will
3 be consistent with what's already --

4 MR. HORSEY: Exactly. Exactly. It
5 just supports what was in the revised statement,
6 yes.

7 CHAIRPERSON JORDAN: And I know
8 that was -- because I asked for that.

9 MR. HORSEY: Yes.

10 CHAIRPERSON JORDAN: Okay.
11 Typically we're not accepting any filings short
12 of 14 days before.

13 MR. HORSEY: Correct.

14 CHAIRPERSON JORDAN: So I'm just
15 letting you know and put that on the record for
16 others to understand. But I think this record is
17 pretty clear. I'm going to poll the Board to see
18 if there's any need for any additional
19 information from anyone? Okay.

20 We deem the record's pretty clear on
21 this that the filings are consistent to what's
22 necessary to provide for a special exception.

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1 However, you have the right to put on any other
2 testimony if you believe you need to. The Board
3 doesn't have any questions at this particular
4 point.

5 I don't know if OP has any questions
6 that they need to address in this, do you?

7 MR. MORDFIN: No, sir.

8 CHAIRPERSON JORDAN: So --

9 MR. HORSEY: I'm fine. No further
10 testimony.

11 CHAIRPERSON JORDAN: Okay. Hold
12 on a second, catch up with myself.

13 Well then if we can just move to
14 deliberation on this. And does anyone have
15 anything they need to say about this one? Okay.
16 All right.

17 Are there any parties in opposition?
18 Any persons in opposition?

19 Persons in support if you feel
20 necessary to come forward.

21 Seeing none, let's then close this
22 hearing and move to any deliberation. Anyone

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1 need to say anything about this matter? I think
2 the record is very clear.

3 Ms. Sorg?

4 VICE CHAIRMAN SORG: Thank you, Mr.
5 Chairman.

6 I agree with you and I won't belabor
7 any points that are already in the filing.

8 But one thing I did want to note that
9 I felt was compelling in this particular case for
10 the record that I think is a little bit less
11 explaining is that the relief that's being
12 requested, although it is from the side yard to
13 go from 8 feet to 1 foot 10 inches, that's really
14 at the narrowest point which is based on the
15 angle of the property line. So that's one
16 additional fact in addition to the letters in
17 support, the ANC in support and other agencies
18 and so forth that to me was compelling to put me
19 over to be in support of the 223 application.

20 Thank you.

21 CHAIRPERSON JORDAN: Let's just
22 make sure we're clear on the record. Mr.

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1 Horsey, if you would please address the date of
2 that letter -- the May 1st letter between the
3 Applicant and the neighbor that had some
4 requirements, and can you tell us how those
5 things were met, particularly the landscaping
6 and et cetera, and the moving back the six
7 inches?

8 MR. HORSEY: That, the moving back
9 of six inches both away from the property in both
10 directions, south and west, I mean this is what
11 we proposed to do. Install a protective
12 bollard. Her driveway is unusually close, in
13 fact it's on the Greer's property. And so he has
14 assured her that he doesn't intend to ever exert
15 his property rights over that portion of her
16 driveway that's on his property. She's
17 concerned about backing up out of her garage and
18 hitting his new garage. So that was the
19 adjustment that we made to her satisfaction, and
20 also to put the bollard at the corner in case she
21 did go a little farther than she intended to.

22 The landscaping is intended to be

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1 placed after construction. It hasn't been
2 selected yet, but I'm sure we won't have a
3 problem selecting it with her.

4 We agreed to eliminate a blind
5 dormer on the side, on the east side facing her.
6 There wasn't a window in that dormer, but we
7 eliminated it just because it may reduce the
8 impact on her.

9 And then we agreed to provide for the
10 landscaping and the soil to build the east wall
11 of the garage, to construct it as a retaining
12 wall so that her grade is significantly higher
13 so it would allow us to fill against the east side
14 of the wall and put in the landscape buffer.

15 CHAIRPERSON JORDAN: Okay. Does
16 anyone have any questions about that?

17 And we know about the ANC's support,
18 which was by a vote of four-two-to-zero support
19 of this application, which would give it great
20 weight for it. Their concern was that you met the
21 neighbor's concern, and we wanted to have that
22 for the record.

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1 Okay. Anything on deliberations?

2 Okay.

3 Then let's move to ready for
4 decision.

5 And I would submit that based upon
6 the record, the Applicant has satisfied the
7 burden for proving the elements necessary to
8 establish case for a special exception from
9 subsection 405.9 that no parties appearing in
10 the Public Hearing is in opposition to the
11 application. and accordingly it's the decision
12 of the Board to grant this application as
13 requested with those amenities as defined by the
14 letter and by your updated submission be
15 supported by the Board, and that we find that:

16 There is no adverse effect upon the
17 surrounding properties;

18 There's no impact on light and air;

19 That there's no intrusion from the
20 character or the area of the property;

21 That the representations by the
22 documents which you submitted fairly represent

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1 the changes that are going to be made.

2 And so with that, I would move that
3 the Board approve the application as submitted?

4 VICE CHAIRMAN SORG: Second.

5 CHAIRPERSON JORDAN: Motion made
6 and seconded that we approve the application for
7 a special exception.

8 Ready for the question? All those
9 in favor signify by saying aye.

10 ALL: Aye.

11 CHAIRPERSON JORDAN: Those opposed
12 nay.

13 The motion carries. Mr. Secretary?

14 MR. MOY: Yes, sir. Staff would
15 record the vote as five-to-zero-to-zero. This is
16 on the motion of Chairman Jordan to approve the
17 application for the special exception under 223
18 relief, not meeting the side yard and
19 nonconforming structure provisions.

20 Second the motion Vice Chair Sorg.
21 Also in support of the motion, Mr. Marcie Cohen,
22 Mr. Rashida MacMurray and Mr. Hinkle.

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1 So again, the final vote is
2 five-to-zero-to-zero the motion carries.

3 CHAIRPERSON JORDAN: And I believe
4 since there's no opposition and it's a decision
5 in favor of the applicant that we can have a
6 summary order in this matter.

7 MR. MOY: Yes. Thank you, Mr.
8 Chairman.

9 MR. HORSEY: Thank you, Mr.
10 Chairman, Members of the Board.

11 CHAIRPERSON JORDAN: It's not that
12 we didn't want to see your presentation --

13 MR. HORSEY: I worked so hard to get
14 it up to you, with the help of your staff. With
15 the help of your staff, yes, we managed to make
16 it out. But, thank you.

17 CHAIRPERSON JORDAN: Okay.

18 MR. MOY: The next application for
19 Board Public Hearing is Application No. 18359.
20 This is an Application of Essie M. Clark,
21 pursuant to 11 DCMR ' 3104.1. This is for a
22 special exception to allow a two story rear

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1 addition to an existing one-family
2 semi-detached dwelling under section 223, not
3 meeting the side yard requirements under section
4 403 and lot occupancy requirements under section
5 403 in the R-4 District at premises 5422 8th
6 Street Northwest. Property located in Square
7 2994, Lot 40.

8 Mr. Chairman, this application does
9 have a few preliminary matters included.

10 CHAIRPERSON JORDAN: Yes.

11 MR. MOY: Absence of a affidavit of
12 posting and authorization letter. So, that's
13 something that the Board should address.

14 Thank you.

15 CHAIRPERSON JORDAN: Well, it
16 anyone here for Case 19359?

17 VICE CHAIRMAN SORG: You just have
18 to turn on your --

19 CHAIRPERSON JORDAN: Well, first
20 you need to sit down and make the green light is
21 on.

22 MR. SHEPHERD: Okay.

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1 CHAIRPERSON JORDAN: Okay. And
2 identify yourself, please.

3 MR. SHEPHERD: I'm Les Shepherd,
4 architect, representing Essie May Clark, who is
5 the property owner.

6 MR. TATCHELL: I'm Peter Tatchell.

7 CHAIRPERSON JORDAN: Say your last
8 name again.

9 MR. TATCHELL: It's Tatchell. I'm
10 part of the construction team, proposed
11 construction team.

12 CHAIRPERSON JORDAN: This file is
13 kind of riddled with some problems, okay?

14 (1), I don't know where to being.
15 One we have no representation letter in the file
16 that the owner has designated you or anyone to
17 be the person who represents --

18 MR. SHEPHERD: She's here. I mean
19 I just stepped up to the table. But Essie and
20 her family are here.

21 CHAIRPERSON JORDAN: Okay. And if
22 you would, I would probably think we can proceed

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1 past that if you would simply take the table --

2 MR. SHEPHERD: Okay.

3 CHAIRPERSON JORDAN: -- and then
4 you can defer -- well, there's some other filings
5 in here. You didn't do the filings in the case,
6 did you?

7 MR. SHEPHERD: I did not. I did the
8 systematic design and --

9 CHAIRPERSON JORDAN: Just give us
10 one second, please.

11 Ms. Clark, could you please the
12 witness table for us, please.

13 Let me tell you what we have here.
14 We have documents. The normal process, so that
15 you know what we're doing as we're trying to help
16 your application, is that the normal process is
17 that the owner can always participate, file
18 documents, participate in the hearing, make a
19 request to the Board to grant the relief or the
20 owner can give -- also the owner can give an
21 authorization to someone to represent them in
22 this proceeding to sign documents, to push

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1 things in front of the Board in their behalf.

2 Well, we don't have an authorization
3 letter from you granting that right to -- was it
4 Marcia Wilson, would that be the name of the
5 person that did the --

6 MR. TATCHELL: Her name was Maria
7 Wilson.

8 CHAIRPERSON JORDAN: Maria Wilson.

9 MR. TATCHELL: Yes.

10 CHAIRPERSON JORDAN: Maria Wilson
11 did everything in this file. She filed the
12 application , she filed documents, she even, I
13 believe, signed off in checks or something in
14 this regard. We have no letter of
15 authorization. So representations that she
16 made, we don't know if she's just making them on
17 her own.

18 For instance, one of the reasons why
19 we do this is so someone else who is not attached
20 to the property or the owner can't come in and
21 try to do some things to somebody else's
22 property. So it's a protection, certainly, for

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1 the owner.

2 And so before we could go forward,
3 I would want to talk to you about some of the
4 representation did you give it to this person,
5 and then will you stand by what she did to that
6 date. But prior to that, I want to make sure
7 that everyone who is going to testify that's at
8 this table, that's sitting at the witness table
9 today, has taken the oath or made affirmation.
10 Did you all take --

11 MR. SHEPHERD: I did not.

12 CHAIRPERSON JORDAN: Stand again.
13 (Witnesses sworn.)

14 MR. MOY: You may consider yourself
15 under oath. Thank you.

16 CHAIRPERSON JORDAN: Okay. Thank
17 you.

18 Now let's go one more time down the
19 table to identify yourselves, if you would.

20 MR. SHEPHERD: I'm Les Shepherd.
21 architect.

22 CHAIRPERSON JORDAN: Yes?

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1 MR. TATCHELL: My name is Peter
2 Tatchell. I'm the --

3 CHAIRPERSON JORDAN: You have to
4 speak up and please kind of get closer to the mic.

5 MR. TATCHELL: My name is Peter
6 Tatchell. I'm the proposed builder for the
7 project.

8 CHAIRPERSON JORDAN: Yes. And would
9 you make sure that the green light is on, the
10 button is on with the green light.

11 Would you please, Ms. Clark. And
12 try to get a little closer to the mic and tell
13 us who you are. Go ahead.

14 MS. CLARK: I'm Essie Clark, the
15 homeowner.

16 CHAIRPERSON JORDAN: Thank you.
17 And?

18 MR. CLARK: And Major Clark,
19 co-homeowner.

20 MS. CLARK: And son.

21 MR. CLARK: And son.

22 CHAIRPERSON JORDAN: Thanks.

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1 Appreciate it.

2 Ms. Clark, there were some filings
3 in the record from a Marcia Wilson --

4 MS. CLARK: Marie.

5 CHAIRPERSON JORDAN: Maria. Maria.
6 Where did we get this name from? Maria Wilson who
7 -- and I'm going to also ask you, Mr. Clark,
8 because you might have handled the transaction,
9 that you two hired her to represent you or -- take
10 the hired part off. But she was designated by you
11 two to represent you?

12 MR. CLARK: Yes, she was.

13 CHAIRPERSON JORDAN: Okay. So you
14 stand by all the representations that she may
15 have filed in your behalf in the record?

16 MR. CLARK: Yes, I do.

17 CHAIRPERSON JORDAN: And she is not
18 here today. And so you can also then
19 subsequently designate someone else like Mr.
20 Shepherd to represent you. I think that's why
21 you might be at the table speaking on your
22 behalf. Is that also what you're doing?

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1 MR. CLARK: That's correct.

2 CHAIRPERSON JORDAN: Are we okay
3 with all that, everyone? Okay. Okay. Go
4 ahead if you have something.

5 VICE CHAIRMAN SORG: Oh, are you
6 indicating, Mr. Chairman, that Ms. Clark, does
7 she in addition need to submit the letter of
8 authorization for Mr. Shepherd for
9 representation or --

10 CHAIRPERSON JORDAN: We can do it
11 early. We can do it as a follow-up or we can do
12 it early. And I would accept it as a procedural
13 matter to a hearing.

14 VICE CHAIRMAN SORG: Okay. Just
15 checking.

16 CHAIRPERSON JORDAN: Also are you
17 asking the Board because there's not a request
18 in the file to do an expedited review of her file?

19 MR. SHEPHERD: We were. I mean,
20 whatever got us --

21 CHAIRPERSON JORDAN: I believe
22 that's what you're doing. So for the record

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1 then the answer is yes.

2 MR. SHEPHERD: Okay.

3 CHAIRPERSON JORDAN: Now we have a
4 couple of issues that I don't know if we're going
5 to be able to address here today, but we can
6 probably step through it to get there.

7 One of the requirements under the
8 regulations is that a posting is done notifying
9 the public that you've made an application for
10 the relief that you sought. And we have nothing
11 in the file that indicated that that has
12 happened. And we usually require an affidavit of
13 there has been a posting for the period of time
14 required of the posting.

15 So let me ask was there notification
16 posted in front of the house that you've made an
17 application?-

18 MR. CLARK: Yes, there was two. We
19 received two and it was posted in the front yard
20 and one was also placed on the from door.

21 CHAIRPERSON JORDAN: And how long
22 did you get that posting to stay up.

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1 MR. CLARK: It's still up to this
2 day right now.

3 CHAIRPERSON JORDAN: Well given the
4 period of time, how long do you think it's been
5 up?

6 MR. CLARK: Well, we did not receive
7 it until, I believe it was Saturday.

8 CHAIRPERSON JORDAN: This past
9 Saturday?

10 MR. CLARK: This past Saturday is
11 when we received it. And once we received it,
12 we were instructed to place it up so people in
13 the community could be aware of the hearing that
14 would be taking place today. And we put it up
15 immediately.

16 CHAIRPERSON JORDAN: Who did you
17 receive it from?

18 MR. CLARK: I have no idea who the
19 person was because I wasn't home at the time, but
20 it was delivered to the house. It was accepted
21 by my other sister, who is not present today. And
22 once we received it, we placed it up.

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1 CHAIRPERSON JORDAN: Yes.

2 Okay. We're trying to work through
3 this.

4 MR. CLARK: Sure.

5 CHAIRPERSON JORDAN: And we have
6 some problems. There's a 15 day requirement
7 that notice is posted. And usually someone has
8 to get the posting requirements from here, and
9 then bring it to you, but you said someone
10 delivered it to you. So, I don't know who that
11 may be. It may have been someone from Ms.
12 Wilson's office, or Ms. Wilson, or somebody like
13 that might have brought it. But it would not have
14 been timely to provide notice.

15 Let me ask another question, and ask
16 the Board's indulgence. With this application
17 did you have the opportunity to go door-to-door
18 and talk to your neighbors about what you're
19 requesting to get the support or--

20 MR. CLARK: Yes, certain neighbors,
21 yes we did go to them. I believe we had one that
22 we did submit a letter of recommendation by the

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1 name of Mrs. Ford.

2 CHAIRPERSON JORDAN: I believe Mrs.
3 Ford is the person who asked for party status for
4 in support. Okay. Is she here?

5 MR. CLARK: No, she's not present
6 here today?

7 CHAIRPERSON JORDAN: Well, we take
8 her party status request in support as being a
9 letter in support. I would think we can do that.
10 Okay.

11 So how many neighbors did you talk
12 to on the block?

13 MR. CLARK: I personally talked to
14 a few neighbors. Some didn't have any
15 objections to what we was doing.

16 Also, at the same time, we had two
17 people who no longer live in the community due
18 to whatever the circumstances may be. And also
19 at the time, we have new people who moved into
20 the neighborhood, Latino and some language
21 barriers may exist, but for the most part they
22 have no disapproval of what we were doing with

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1 our property.

2 CHAIRPERSON JORDAN: Now here's
3 another issue, maybe an even bigger issue. Did
4 you have a meeting or request a meeting and did
5 you have a meeting with the ANC, your Advisory
6 Neighborhood Commission?

7 MR. CLARK: No, we did not and I was
8 not aware that we should have had one. That was
9 not brought to our attention. If so, I'm sure
10 that would not have ben a problem.

11 CHAIRPERSON JORDAN: I'm going to
12 suggest that we probably get this continued and
13 allow the applicant to fulfill all the
14 requirements. Because there's just too many
15 holes here. If we had just a few, we might have
16 been able to waive some of it. But it's getting,
17 you know bigger.

18 MR. CLARK: Sure.

19 CHAIRPERSON JORDAN: And notice to
20 the community is very important and super
21 important is notice to the Advisory Neighborhood
22 Commission. And so does the Board have a

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1 feeling one way or the other?

2 VICE CHAIRMAN SORG: Mr. Chairman,
3 I would have a couple of things.

4 And to the applicant, I just wanted
5 to make sure Ms. Ford is the neighbor to the
6 south? Is that right?

7 MR. CLARK: I believe so. She
8 across the street from us.

9 VICE CHAIRMAN SORG: Okay.

10 MR. CLARK: I don't know if that's--

11 VICE CHAIRMAN SORG: She's across
12 the street?

13 MR. CLARK: Yes. I don't know if
14 that's north or south. But she's

15 VICE CHAIRMAN SORG: So the
16 addition that you're requesting here bumps out
17 to the south. And so my question was the
18 location of this neighbor whom you have a letter
19 in support from, and I was wondering is it from
20 the neighboring residence?

21 MR. CLARK: No.

22 VICE CHAIRMAN SORG: Okay.

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1 MR. CLARK: The neighboring
2 resident no longer resides at that place.

3 VICE CHAIRMAN SORG: So is it
4 vacant?

5 MR. CLARK: It's under renovations.

6 VICE CHAIRMAN SORG: Okay. Thank
7 you very much.

8 MR. CLARK: Yes.

9 VICE CHAIRMAN SORG: The other
10 thing that I was wanting to note, Mr. Chairman,
11 is that we do have notes in our file that a
12 notification was sent out to ANC as well as the
13 100 meter radius of neighbors. So--

14 CHAIRPERSON JORDAN: Well if you
15 have a feeling one way or the other, if you want
16 to make a motion and see if the Board agrees with
17 it, and we'll do that and we can proceed. I'm just
18 a little guarded by there's some -- there are
19 several little things that could get by, but the
20 little things start to add one plus one, plus
21 one, plus one. And it gets a little hairy,
22 that's all.

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1 Any other feel from anybody?

2 COMMISSIONER COHEN: Well, Mr.
3 Chairman, I believe that we need to assure that
4 the neighbors including the Advisory
5 Neighborhood Commission has an opportunity to
6 review this application. And I think that
7 postponing it a week or two if that's possible,
8 we should do it.

9 VICE CHAIRMAN SORG: And I'll add
10 one more thing else. I agree with Ms. Cohen, and
11 I just wanted to note the other certain pieces
12 of the public notices as well if the applicant
13 is requesting to be on the expedited calendar,
14 then that's something where they could go back
15 to the --

16 CHAIRPERSON JORDAN: Yes.

17 VICE CHAIRMAN SORG: -- do the --
18 fill in the holes of the application and then be
19 able to be on that expedited calendar for
20 whenever that is.

21 CHAIRPERSON JORDAN: And if there's
22 not any objection by the applicant, what we will

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1 do is scant this matter and set another date.
2 Otherwise, we would be forced to make a ruling
3 which might not be favorable based upon the
4 information we've got here today. So if that's
5 okay with you, we will be glad to do it. I mean
6 just asking -- but I think we have a consensus
7 of the Board that we would --

8 COMMISSIONER COHEN: Yes. Excuse
9 me, Mr. Chairman, I do have a question, let me
10 ask it.

11 CHAIRPERSON JORDAN: Yes, Ms.
12 Cohen.

13 COMMISSIONER COHEN: Maria Wilson,
14 now she is like a consultant to you or a friend
15 or -- because these are very standard procedures
16 that are followed by, as far as my experience has
17 been, all applicants?

18 MR. CLARK: Okay. From my
19 understanding, I believe someone else was
20 working on the case and then over a period of time
21 it was referred to Ms. Wilson. And I've had
22 several correspondences with her.

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1 We only did exactly what we were told
2 to do.

3 CHAIRPERSON JORDAN: We
4 understand.

5 MR. CLARK: That was it; whatever
6 documents had to be filled out and to be
7 submitted, that's what we did.

8 CHAIRPERSON JORDAN: We
9 understand. And it's something that we
10 discussed at the Board about when people
11 representing people and understanding the
12 process and the procedures of the Board is really
13 key and important. So I'm going to accept that
14 we have a consensus of the Board that we continue
15 this.

16 I don't know a possible date, Mr.
17 Moy?

18 MR. MOY: Mr. Chairman, according
19 to my notes the ANC 4D meets the 3rd Tuesday of
20 each month. So, by my calendar, I wouldn't think
21 the Board would want to schedule this for
22 anything earlier than June 26th.

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1 CHAIRPERSON JORDAN: Is that a date
2 that we're going to go by, June 26th?

3 MR. MOY: It could be anytime after
4 June 26th.

5 CHAIRPERSON JORDAN: All right.
6 If we have time on that docket?

7 MR. MOY: Yes.

8 CHAIRPERSON JORDAN: That's good.

9 COMMISSIONER COHEN: Does this give
10 you a hardship of any kind?

11 CHAIRPERSON JORDAN: One of the
12 first things -- well, I'm going to suggest that
13 after sometime today that you meet with the
14 Zoning Commission -- Office of Zoning staff to
15 talk about process so you know everything that's
16 necessary to be done. I don't know if Mr.
17 Shepherd's aware of the process or --

18 MR. SHEPHERD: I'm not. Let me kind
19 of explain that I'm a friend. Essie and I work
20 together.

21 CHAIRPERSON JORDAN: Yes.

22 MR. SHEPHERD: I designed the

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1 addition onto the back and then we have a design
2 builder who is going to do the construction
3 documents and do the permitting phase. So, and
4 I'm not licensed in the District. I don't work
5 -- I work in the District, but not -- I don't --

6 CHAIRPERSON JORDAN: I understand,
7 and we appreciate you all being here but we're
8 trying to step through this making sure that
9 we're not violating any laws or procedures that
10 need to happen. And so that you find someone
11 that you're comfortable with, whether or not
12 it's Ms. Wilson, whoever, talk to and make sure
13 that all the Is are dotted and Ts are crossed.
14 And the staff at the Office of Zoning is
15 certainly willing to help and the Office of
16 Planning also to talk about what's necessary for
17 this process.

18 If we continue it until June 26th,
19 I think you need to move very rapidly to get these
20 things done. For instance, we would need:

21 The authorization letter from
22 whoever you want to authorize to actually

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1 represent you;

2 An affidavit of posting;

3 You're going to need to make a
4 request to the Advisory Neighborhood Commission
5 to either support the application or not,
6 usually they might want you to come in and have
7 a presentation in front of the ANC, and et
8 cetera.

9 Okay?

10 MR. SHEPHERD: Sure.

11 CHAIRPERSON JORDAN: Okay.

12 MR. TACHELL: Mr. Chairman?

13 CHAIRPERSON JORDAN: Yes.

14 MR. TACHELL: This is a little
15 information that designing can advice us in?

16 CHAIRPERSON JORDAN: That's the
17 Zoning or Office of Planning could both -- would
18 like to talk to you about it.

19 MR. TACHELL: Okay. Thank you.

20 MR. MOY: After here, our office is
21 right across the hall, so my suggestion is after
22 this, we could walk across the hall.

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1 MR. TATCHELL: Thank you.

2 CHAIRPERSON JORDAN: Well, with
3 this, then we will continue this hearing until
4 June 26th. And thank yo for coming.

5 MR. SHEPHERD: Sure. Thank you
6 very much.

7 MR. MOY: Mr. Chairman, before we
8 leave this case --

9 CHAIRPERSON JORDAN: Yes?

10 MR. MOY: -- would you prefer to
11 have this scheduled in the morning or the
12 afternoon the 26th?

13 CHAIRPERSON JORDAN: Do we have
14 other expedited matters?

15 MR. MOY: Not on the 26th.

16 CHAIRPERSON JORDAN: Okay. Let's
17 probably make it the first thing and then we can
18 --

19 MR. MOY: Okay. Very good.

20 CHAIRPERSON JORDAN: First thing.
21 And if they be sure to make the request for being
22 expedited, it might be you know really

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1 perfunctory in the first place.

2 CHAIRPERSON JORDAN: Good thank
3 you.

4 MR. SHEPHERD: Thank you. Thank
5 you very much.

6 MS. CLARK: Thanks a lot.

7 MR. MOY: The next application
8 before the Board of Zoning Adjustment is an
9 Application No. 18355. This is the Application
10 of Artur Marques Kalil and Lolanda Tappin,
11 pursuant to 11 DCMR ' 3103.2. for a variance from
12 the lot area and lot width requirements under
13 section 401, to construct a flat, a two-family
14 dwelling in the R-4 District at premises 1400
15 block of 3rd Street Northwest. Property
16 located in Square 553W, lot 804.

17 CHAIRPERSON JORDAN: Please come
18 forward.

19 Thank you. If you'd please introduce
20 yourself?

21 MR. KALIL: I'm Artur Marques
22 Kalil.

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1 CHAIRPERSON JORDAN: What's the
2 last name again?

3 MR. KALIL: Kalil.

4 CHAIRPERSON JORDAN: Kalil.

5 And there's no H in the first name.
6 I don't know if that's a big deal.

7 COMMISSIONER COHEN: K-A-L-I --

8 MR. KALIL: Yes. Last name's
9 correct.

10 CHAIRPERSON JORDAN: Okay. Mr.
11 Kalil, did you get sworn in or affirmed? And did
12 complete our witness cards for us?

13 MR. KALIL: No.

14 CHAIRPERSON JORDAN: So make sure
15 we get that.

16 All right. This is an application
17 for approval of a variance to construct a two
18 unit rowhouse in a nonconforming lot of 1400
19 block of 3rd Street Northwest. And I take it
20 you're representing yourself in this process?

21 MR. KALIL: Yes. Both myself and
22 the owner, Ms. Tappin.

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1 CHAIRPERSON JORDAN: It's owned by
2 yourself and Ms. Tappin?

3 MR. KALIL: No. We have a contract
4 for purchase contingent on receiving the
5 variance. So she's the owner right now. Once the
6 variance is received, then I'll have a contract
7 with her.

8 CHAIRPERSON JORDAN: Okay. They
9 have the authorization there. All right.

10 Are you familiar with how we process
11 applications for variances and --

12 MR. KALIL: Generally, I'm learning
13 as we go.

14 CHAIRPERSON JORDAN: Okay.

15 CHAIRPERSON JORDAN: Well, the way
16 we handle these requests is that generally the
17 applicant makes a statement or they can rest on
18 the record of documents they've already
19 submitted.

20 And then you may have questions from
21 the Board.

22 And then the Office of Planning

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1 would make their presentation or stand on the
2 record, and then you have opportunity to ask
3 questions of them, and we would ask questions of
4 Office of Planning.

5 And then we would ask for any ANC
6 representative if they wanted to make a
7 statement, if necessary, and questions to be
8 asked.

9 And then we ask for persons in the
10 audience who are in support of the application
11 or who are opposed to the application.

12 And then we come back for wrap-up.

13 I'm just going to check here with the
14 Board to see where we very well may be. Unless
15 you wanted to do a presentation --

16 MR. KALIL: I'll stand by the
17 record.

18 CHAIRPERSON JORDAN: I don't know
19 if you have anything to add. I don't know if the
20 Board may want to ask questions about this
21 particular application.

22 VICE CHAIRMAN SORG: Thank you, Mr.

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1 Chairman.

2 CHAIRPERSON JORDAN: Sure.

3 VICE CHAIRMAN SORG: Granted, this
4 is not the most voluminous of reasons we've ever
5 received for a variance application. But in my
6 opinion it turns out that's pretty easy to make
7 this case based on the, you know the even the
8 photography and the facts about the constraints
9 of the property.

10 What I would ask the applicant is did
11 you reach out to the ANC 5C, did you request a
12 meeting?

13 MR. KALIL: I never had a personal
14 meeting. I had someone contact me who looked at
15 -- I can look at my email list and see the name.
16 But she contacted someone at the ANC about a
17 possible side yard requirement. And I said I've
18 already looked through all the required
19 variances. And then -- after an exchange of
20 emails she said she talked to them and, indeed,
21 I didn't need to apply for it. But that's --
22 that's been the only contact I've had. I didn't

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1 --

2 VICE CHAIRMAN SORG: I don't quite
3 understand what you're saying. That you
4 received an email from somebody from ANC 5C?

5 MR. KALIL: No. Someone from -- it
6 wasn't the Board of Zoning, it was from --

7 MS. BROWN-ROBERTS: Mr. Chairman,
8 I'm sorry to butt in,

9 CHAIRPERSON JORDAN: Very well.

10 MS. BROWN-ROBERTS: Maxine
11 Brown-Roberts from Office of Planning. I was
12 the person who contacted him.

13 VICE CHAIRMAN SORG: Oh, Office of
14 Planning.

15 So did you reach out to the local--

16 MR. KALIL: I did not personally,
17 no.

18 VICE CHAIRMAN SORG: Okay. Thank
19 you.

20 CHAIRPERSON JORDAN: Any other
21 questions, anyone? Yes, please.

22 COMMISSIONER COHEN: What is on the

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1 site before? I mean, do you know what the
2 history is of the site?

3 MR. KALIL: As far as I know, the
4 site's been vacant from it's -- you know, it's
5 inception. And it's been vacant that way since
6 even before the newest rendition of the Zoning
7 laws.

8 COMMISSIONER COHEN: And the
9 adjacent building if it's brick, are there
10 personal windows so you would be sharing a blank
11 wall, is that correct?

12 And then are there other houses that
13 are narrow in this particular, you know like 200
14 feet, 24 feet across, do you know?

15 MR. KALIL: I haven't measured the
16 houses, but they seem to be about 14, 16 feet wide
17 as a general rule. The exception is the
18 building that I would be sharing the wall with.
19 That's basically the only thing that's not 14 or
20 16 feet wide it seems.

21 CHAIRPERSON JORDAN: Did you have
22 the occasion to talk to the neighbors, or who

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1 will soon be neighbors?

2 MR. KALIL: Right, right. I did not.
3 I'm still a full time student in graduate school
4 and I barely have the time, but --

5 MR. MOY: We do have an affidavit of
6 posting and we do have pictures of the posting.

7 CHAIRPERSON JORDAN: Any other
8 questions of the applicant? Anyone?

9 All right. We'll turn now to the
10 Office of Planning.

11 MS. BROWN-ROBERTS: Good morning,
12 Mr. Chairman and Members of the Board. I'm Maxine
13 Brown-Roberts from the Office of Planning.

14 And the application for a variance
15 request from the minimum lot area and the minimum
16 lot width requirements, those are two areas in
17 which the property, those are existing
18 conditions of the property which cannot be
19 expanded on. And I think those are the two
20 exceptional conditions for the property owner to
21 meet. And then that goes to the burdenness of
22 the practical difficulty of meeting the second

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1 requirement.

2 We also believe that if the variance
3 is granted, that it will not effect the Zoning
4 regulations and the Map, and it will not be a
5 detriment to the adjacent community.

6 Again, the property built will
7 adjoin the adjacent, there are no windows there.

8 The property across the alley does
9 have a window, but it's a low window and I don't
10 think there will be any impact on that property
11 owner. And therefore, we recommend approval of
12 the requested variances.

13 Thank you.

14 CHAIRPERSON JORDAN: Thank you.

15 Are there any questions of the
16 Office of Planning?

17 Does the applicant have any
18 questions of the Office of Planning?

19 MR. KALIL: No.

20 CHAIRPERSON JORDAN: Are there any
21 other governmental agencies, Department of
22 Transportation, you know I know there's no

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1 report. The ANC, I believe was it 5C? ANC 5c,
2 is anyone from ANC 5C here? And I don't believe
3 we received a letter from ANC 5C.

4 Are there any persons in the
5 audience in support of this application?

6 Is there anyone in the audience in
7 opposition to the application?

8 Is there anything else you might
9 want to say to the Board?

10 MR. KALIL: I don't believe so, no.

11 CHAIRPERSON JORDAN: All right.
12 Then we will conclude this hearing. And let me
13 defer to the Board on how we're going to act.
14 We'll move to quick deliberation. Anybody has
15 anything they'd like to say on the record about
16 this particular application or let the record
17 stand for itself?

18 And so is there a motion anyone wants
19 to make with regards to the application? Yes?

20 Ms. MacMurray?

21 MEMBER MacMURRAY: Mr. Chairman, I
22 make a motion to approve this application.

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1 The Office of Planning has approved
2 a variance for leave to construct a real
3 structure in accordance to 401 and 401 on the
4 minimum lot requirement and the minimum width.

5 The application has conformed with
6 all of the requirements, and therefore there is
7 not adverse to parties in the opposition or the
8 parties in support.

9 COMMISSIONER COHEN: And I'll
10 second that motion, Mr. Chairman.

11 CHAIRPERSON JORDAN: A motion has
12 been made and seconded that we approve the
13 variance request as submitted based on the upon
14 in the file that shows that you have met the
15 burden, the responsibility of showing that there
16 is an exceptional situation and practical
17 difficulty in meeting the Zoning requirements.

18 So with that, an unreadiness? All
19 those in favor signify by saying aye.

20 ALL: Aye.

21 CHAIRPERSON JORDAN: Those opposed
22 nay.

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1 The motion carries.

2 Mr. Moy?

3 MR. MOY: Staff would record the
4 vote as five-to-zero-to-zero. This is a motion
5 of Ms. MacMurray to approve the application for
6 Zoning relief. The variance, lot area, lot
7 width, section 401.

8 The second motion Ms. Cohen also
9 supported the motion. Ms. Sorg, Chairman
10 Jordan and Mr. Hinkle.

11 Again, the final vote is
12 five-to-zero-to-zero.

13 CHAIRPERSON JORDAN: Very good.
14 Thanks you.

15 COMMISSIONER COHEN: So now you can
16 get your degree, and it's early.

17 MR. KALIL: Right. Thank you.

18 MR. MOY: Mr. Chairman?

19 CHAIRPERSON JORDAN: Oh, yes,
20 summary order, please.

21 MR. MOY: All right. Thank you, sir.

22 MR. MOY: The next and last

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1 application before the Board today is
2 Application No. 18357. This is the Application
3 of David E. Perkins, pursuant to 11 DCMR ' 3104.1
4 and 3103.2. This is for a variance from the lot
5 occupancy requirements under section 403, and a
6 special exception to construct a free standing
7 carport serving a one-family row dwelling under
8 subsection 2300.8 in the R-4 District at 2014
9 Summit Place Northeast. The property located
10 in Square 3535, Lot 810.

11 CHAIRPERSON JORDAN: Good morning.

12 MR. PERKINS: Good morning.

13 CHAIRPERSON JORDAN: Would you
14 please identify yourself for the record?

15 MR. PERKINS: David Perkins, owner
16 2014 Summit Place Northeast.

17 CHAIRPERSON JORDAN: Thank you, Mr.
18 Perkins.

19 Are you familiar with the process
20 that we usually operate?

21 MR. PERKINS: I learned a lot.

22 CHAIRPERSON JORDAN: Yes, we

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1 defined it just a minute ago for the last
2 applicant.

3 MR. PERKINS: Yes.

4 CHAIRPERSON JORDAN: So you can do
5 a presentation to us or you can let the Board ask
6 you questions about the application.

7 And then we will proceed to the
8 Office of Planning and ask questions there.

9 And the Board can ask you questions.

10 So let's adopt that role that the
11 applicant -- that if the Board has any questions
12 of the applicant.

13 From my understanding you got -- how
14 long have you been in this residence?

15 MR. PERKINS: Since '73.

16 CHAIRPERSON JORDAN: Since '73. And
17 there was a garage there at one time?

18 MR. PERKINS: Yes.

19 CHAIRPERSON JORDAN: Was the garage
20 there when you got there or --

21 MR. PERKINS: Yes. When my mother
22 moved back into the home, there was a garage.

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1 CHAIRPERSON JORDAN: Okay. And
2 then it was taken down?

3 MR. PERKINS: Taken down. It was
4 dilapidated really bad. I have a picture as
5 part of my package.

6 CHAIRPERSON JORDAN: Yes. I think
7 we've seen it.

8 MR. PERKINS: Yes.

9 CHAIRPERSON JORDAN: And so there's
10 just a pad remaining that's just been sitting
11 there?

12 MR. PERKINS: Yes. Yes.

13 CHAIRPERSON JORDAN: The parking
14 pad, now you wish just to turn into a carport?

15 MR. PERKINS: Yes. Yes.

16 CHAIRPERSON JORDAN: So the parking
17 pad is not going to be next to the house, it's
18 going to be back --

19 MR. PERKINS: Yes. It's behind the
20 house, but directly behind the house is my
21 backyard, which my house sits up higher than the
22 alley elevation and the garage is still at alley

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1 level.

2 CHAIRPERSON JORDAN: Anyone else
3 have any questions. Ms. Cohen?

4 COMMISSIONER COHEN: Yes. So you
5 have to actually step out of the house, walk
6 around the garage to get into the pad?

7 MR. PERKINS: Yes. Walk out to the
8 backyard, step down into the alley and then walk
9 around.

10 COMMISSIONER COHEN: Okay. And
11 from one of the pictures it looks like you've
12 actually laid the foundation already.

13 MR. PERKINS: Yes. I didn't know
14 anything about the laws, D.C. laws. So I had the
15 carport built and I was clueless.

16 COMMISSIONER COHEN: And who caught
17 you?

18 MR. PERKINS: I don't know. I had
19 a neighbor -- we have -- we have a neighbor that's
20 really giving all the neighbors a hard time.
21 He's relatively -- he and his wife of two years.
22 But he confronted me and he said that well

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1 someone reported me. So, I'm like okay. I'm
2 like, well I wish you would have spoken first and
3 I could have stopped what I was doing and, you
4 know -- but anyway. But then I got a Stop Work
5 Order, but the carport was built by then.

6 CHAIRPERSON JORDAN: Okay.

7 COMMISSIONER COHEN: And you built
8 it out to the property line, is that correct?

9 MR. PERKINS: Yes. Well, about the
10 same as where the garage was. Yes. Yes.

11 COMMISSIONER COHEN: Okay.

12 CHAIRPERSON JORDAN: Same
13 footprint as the garage?

14 MR. PERKINS: Yes. Just -- yes.

15 CHAIRPERSON JORDAN: And it's my
16 understanding that the grounds are level between
17 the house and the alley and the parking pad, it's
18 different elevations?

19 MR. PERKINS: Oh, yes. Yes.

20 CHAIRPERSON JORDAN: And did you
21 take a look at trying to move the car pad any
22 other way, any cost associated with --

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1 MR. PERKINS: Yes. I was told if I
2 wanted a garage, which I can't afford, I would
3 have to basically lose half of my backyard
4 because it needs to be back in the alley. That's
5 if you want a garage. So that's an expense. And
6 I don't want to garage because of the area that
7 I'm in, you know, with the crime and the drugs.
8 And then also the reason I don't want a garage
9 we have a -- we have a lot of alley rats and that's
10 just an issue, you know --

11 CHAIRPERSON JORDAN: Did you get
12 any pricing about what it would cost to --

13 MR. PERKINS: Yes. I spoke to --
14 well, I -- as far as a garage, you know I did ask
15 the contractor about it. He said a good garage,
16 if we do everything, the foundation, he told me
17 between \$10,000 and \$15,000 if I don't do a real
18 nice garage.

19 No, I don't want a garage. I wanted
20 the carport. But just to give me some shelter.
21 And also I'll be able to see into the alley, see
22 what's going on. So basically I want the open

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1 space.

2 CHAIRPERSON JORDAN: Any other
3 questions for the applicant?

4 COMMISSIONER COHEN: Just one more.
5 Across from the alley from your carport can
6 somebody maneuver their car into their --

7 MR. PERKINS: Oh, yes. It's a car
8 lot that people park. Right in front of -- well,
9 you know not directly in front. But, yes, the
10 trash trucks are able to drive around.

11 The only thing I did is put a roof
12 over my -- you know, I designed it in a kind of
13 corner where they can turn, you know.

14 COMMISSIONER COHEN: Yes. Are you
15 worried about somebody backing into your door?

16 MR. PERKINS: No, there's no door
17 there. Or into the post?

18 COMMISSIONER COHEN: The post?

19 MR. PERKINS: No. No.

20 COMMISSIONER COHEN: Well, that's
21 right, there is no door.

22 MR. PERKINS: Yes.

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1 COMMISSIONER COHEN: Okay.

2 MR. PERKINS: Sure.

3 CHAIRPERSON JORDAN: Ms.
4 MacMurray?

5 MEMBER MacMURRAY: My only question
6 is just to clarify. So it just has columns
7 standing--

8 MR. PERKINS: Yes.

9 MEMBER MacMURRAY: You can stand
10 and you can look through and --

11 MR. PERKINS: Yes. And I
12 definitely -- yes. Yes. I kind of vision it in
13 my neighborhood. We're transitioning, but we
14 still have a lot of issues.

15 MEMBER MacMURRAY: Okay.
16 There's rats?

17 MR. PERKINS: Yes, and a lot of
18 them.

19 CHAIRPERSON JORDAN: Right. But
20 he's talking about four and two legged.

21 MR. PERKINS: Yes, right. Exactly.

22 CHAIRPERSON JORDAN: Yes, Ms. Sorg?

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1 VICE CHAIRMAN SORG: Thank you, Mr.
2 Chairman.

3 So have you seen the report that was
4 made by the Office of Planning?

5 MR. PERKINS: The report from the
6 Office of Planning?

7 VICE CHAIRMAN SORG: It's from May
8 29th. It says "Memorandum Office of Planning
9 Recommendation."

10 MR. PERKINS: No, I don't think so.

11 VICE CHAIRMAN SORG: Okay.

12 Mr. Chairman, I think I may have more
13 questions for the applicant regarding the
14 variance request after we hear from the Office
15 of Planning.

16 CHAIRPERSON JORDAN: Sure.

17 MR. PERKINS: I was having a Mr.
18 Arthur Jackson working with me as far as the
19 variance. And he was thinking that whoever
20 calculated may have over calculated as far as the
21 square footage. So I don't -- I was waiting to
22 hear back from Mr. Arthur Jackson.

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1 VICE CHAIRMAN SORG: Right.
2 That's him right now.

3 MR. PERKINS: Oh, hi.

4 CHAIRPERSON JORDAN: Well, let's
5 take that as a segue over to --

6 VICE CHAIRMAN SORG: Yes, exactly.

7 CHAIRPERSON JORDAN: -- to Arthur
8 Jackson.

9 MR. PERKINS: Right.

10 MR. JACKSON: Mr. Chairman, Members
11 of the Board, my name is Arthur Jackson with the
12 -- I'm a Development Use Specialist with D.C.
13 Office of Planning.

14 Before you have a report from the
15 Office of Planning which explains our position
16 in this case.

17 In brief, the applicant -- the
18 contractor for the applicant constructed the
19 carport in the backyard. We know without
20 getting the proper permits. We know that there
21 is a change in elevation from the immediate
22 backyard next to his house, which is above the

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1 grade of the alley, to a parking pad that takes
2 up the entire rear of the property, which is at
3 alley grade -- alley height.

4 And if you look at page 4 of the
5 Office of Planning's report, and hopefully you
6 have the color copies, you will see that the
7 width of the parking pad is approximately equal
8 to the width of the property. The parking pad
9 wall comes up to about four feet, so it's a
10 significant drop.

11 We note that the alley line is an
12 alley along that area and it's fairly wide. I
13 think it's 14 feet, so there is room to maneuver
14 to back and forth.

15 And the parking spaces that are in
16 front across from the alley are perpendicular to
17 the parking pad such that some cars would be
18 coming -- going north and south, northeast
19 backing in and out.

20 We also note that the pad -- this is
21 a unique characteristic of the property, but we
22 also note that in terms of uniqueness-- well

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1 first to address the issue of the carport.

2 The special exception relief
3 requested for a carport was accurate in that the
4 circumstances on this case are consistent with
5 the standards for approval of a carport in the
6 rear yard. They have unusual topography on the
7 site, and the shape and dimension is somewhat
8 unique because it's across from the corner.

9 It would be very difficult and
10 expensive to construct a carport attached to the
11 house in that it would require significant
12 grading to get up that hill. And, of course, the
13 retaining walls that are there would have to be
14 removed and replaced by others.

15 We also note that some of the
16 requirements for a garage, particularly that
17 require setback from the center line of the alley
18 do not apply to a carport. And I think the
19 reason that may be relief waived is the fact that
20 you can see all around you in a carport as for
21 a car, and it's easy to drive in. You don't have
22 to worry about doors. Maneuvering into a

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1 carport is, of course, easier than a garage.

2 That's just an observation of why a
3 carport is not subject to the same regulations
4 as a garage.

5 But continuing, looking at the
6 requirements under 2118.4, a detached carport
7 the proposal -- the existing structure seems to
8 be consistent with the standards under 2116
9 through 2119 -- 2116.9. And so OP recommends
10 that the special exceptions for the carport be
11 approved. However, in terms of the lot
12 occupancy, we initially discussed the
13 possibility with the applicant that there may
14 have been a miscalculation because of the house
15 -- the swelling on the site actually sits back
16 from the street 12 feet and as such, there is not
17 a court with the front yard. So it should be
18 calculated as a court.

19 We mentioned some calculations. We
20 referred them to the Zoning Administrator. The
21 Zoning Administrator did not indicate that there
22 was any error in the original Zoning

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1 computations that were provided in the Zoning
2 Administrator's referral letter.

3 So, we proceeded on that basis. And
4 we think that if the contractor for the applicant
5 had followed procedures, had filed for the
6 correct permits, that they would have noted that
7 there was problem with lot occupancy and they
8 could have altered the carport to be more
9 consistent with the regulations.

10 Just doing the quick calculations,
11 I think we're talking about a difference of
12 around 48 feet which breaks down to making the
13 carport of about 22 feet narrower. We think--
14 because it's 182 feet wide. Again, that's a
15 quick calculation. But that's the type thing
16 that would happen if proper procedures had been
17 followed.

18 So we do not think the uniqueness --
19 any unique characteristics of the property
20 actually present any practical difficulties.
21 This is all based on factors beyond the
22 characteristics of the site.

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1 So while we don't think there's any
2 detriment to leaving the carport as it is, we
3 don't think that the circumstances of this case
4 meet the standards for a variance approval, and
5 as such we would -- we're not able to support the
6 request for the variance. And again, this is --
7 we looked at the other options to this proposal
8 and we confirmed in the rewriting the Zoning
9 Administrator that there was any error in their
10 calculations. And so we deferred to them on the
11 issue of lot occupancy.

12 That concludes the Office of
13 Planning's report and we're available to answer
14 questions.

15 CHAIRPERSON JORDAN: Questions of
16 the Office of Planning?

17 VICE CHAIRMAN SORG: Thank, Mr.
18 Chairman.

19 You said that the carport was 182
20 feet wide.

21 MR. JACKSON: No, long.

22 VICE CHAIRMAN SORG: Long? Yes,

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1 okay. It's 132 feet wide?

2 MR. JACKSON: Right.

3 VICE CHAIRMAN SORG: Right?

4 What's the size of a standard
5 parking space?

6 MR. JACKSON: Nine by 19.

7 VICE CHAIRMAN SORG: Right.

8 MR. JACKSON: So it would still not
9 be the correct -- or the required width for --
10 there for a parking space. But it's an existing
11 condition, so --

12 VICE CHAIRMAN SORG: Right.

13 MR. JACKSON: -- but the width would
14 be an issue. And I think -- however, I think the
15 regulations also have a minimum area for a
16 parking space. There's 250 some feet, so --

17 VICE CHAIRMAN SORG: The distance.

18 MR. JACKSON: -- I guess one thing
19 I had not considered is whether or not the
20 current size of the parking space meets at least
21 the width requirement of a -- how it's set up
22 right now.

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1 VICE CHAIRMAN SORG: What's the
2 minimum area?

3 MR. JACKSON: Well, under the -- let
4 me check. He's checking.

5 VICE CHAIRMAN SORG: Well, this
6 area is 240 square feet and a quarter.

7 CHAIRPERSON JORDAN: While Mr.
8 Jackson's doing that, let me ask you, Mr.
9 Perkins, your carport didn't extend greater than
10 what the garage was?

11 MR. PERKINS: Oh, no. No.

12 CHAIRPERSON JORDAN: It just
13 covered the area of that pad?

14 MR. PERKINS: Yes. Yes. Just put a
15 roof over it and then put the polls, of course,
16 to hold the roof up.

17 CHAIRPERSON JORDAN: So it was
18 exact -- so that it was already --

19 MR. PERKINS: Right, it was already
20 -- you know, the existing garage is gone, that's
21 all. Yes.

22 COMMISSIONER COHEN: May I?

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1 CHAIRPERSON JORDAN: Yes, please.

2 COMMISSIONER COHEN: Exhibit 11,
3 dated January 30, 2012 from Advisory
4 Neighborhood Commission 5C, basically supports
5 the carport because of the prior conditions
6 which resulted in the presence of strangers in
7 the alley, gambling, smoking, drugs, and keeping
8 loud noise. So after speaking with the
9 surrounding neighborhoods, and this is signed by
10 Commissioner Farmer-Allen, they're pleased that
11 Mr. Perkins took the initiative to create a
12 wonderful carport.

13 So, I just want that to be in the
14 record as well.

15 MR. PERKINS: Thank you.

16 MR. JACKSON: Mr. Chairman, under
17 2115.10 a minimum of 285 square feet is the park
18 area required for each required parking space.
19 So a minimum requirement for a required parking
20 space is 285 square feet or 9 by 19.

21 VICE CHAIRMAN SORG: Okay. Then
22 how does that influence your thought with regard

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1 to the first problem of the variance, the
2 practical difficulty?

3 MR. JACKSON: I didn't get the --
4 what was the figure you --

5 VICE CHAIRMAN SORG: How does
6 that--

7 MR. JACKSON: No. I was asking what
8 was the figure you came to with the --

9 VICE CHAIRMAN SORG: 240 square
10 feet, a little bit less.

11 CHAIRPERSON JORDAN: And you're
12 saying the regs require 285?

13 MR. JACKSON: Yes for a required
14 parking space.

15 CHAIRPERSON JORDAN: So it's less
16 than what's required?

17 MR. JACKSON: Right.

18 CHAIRPERSON JORDAN: And so --

19 VICE CHAIRMAN SORG: So, how is
20 that--

21 MR. JACKSON: Well, we still got the
22 issue of lot occupancy. The issue is not the

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1 size, it's the lot occupancy.

2 CHAIRPERSON JORDAN: And the lot
3 occupancy is over by 18 inches? Well, it's
4 about three percent?

5 MR. JACKSON: Yes. three percent
6 and about 48 feet. So those are the facts.

7 CHAIRPERSON JORDAN: So if he had a
8 garage door, we have the same problem?

9 MR. JACKSON: Yes.

10 CHAIRPERSON JORDAN: So if he just
11 parked his car there and didn't put a roof over
12 it, he'd have the same problem?

13 MR. JACKSON: No, it's really
14 nonconforming, so -- well, in this case you could
15 --

16 CHAIRPERSON JORDAN: What I mean is
17 the same area is being taken up period?

18 MR. JACKSON: Yes.

19 CHAIRPERSON JORDAN: That's the
20 point I made.

21 MR. JACKSON: Yes. The area--

22 CHAIRPERSON JORDAN: So it's a rock

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1 and a hard place?

2 MR. JACKSON: Well, a rock and a
3 retaining wall.

4 CHAIRPERSON JORDAN: Okay. I
5 gotcha.

6 MR. JACKSON: And we will
7 acknowledge that the expense involved in making
8 the cars -- in deepening and making these parking
9 pad deeper would be significant to make it 19
10 feet, at least 19 feet. And that indicates that
11 it would not be -- the space that the carport
12 covers is not sufficient to be -- the dimensions
13 are not sufficient to meet the requirements for
14 a required parking space.

15 CHAIRPERSON JORDAN: All right. I
16 believe I understood what you're saying.

17 MR. JACKSON: But just rolled out,
18 I can see. But that's what he needs the relief
19 for is lot occupancy, right.

20 CHAIRPERSON JORDAN: Okay. Any
21 other questions of Mr. Jackson?

22 Mr. Perkins, do you have any

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1 questions of Mr. Jackson?

2 MR. PERKINS: No. He's been a lot
3 of help. Thank you.

4 CHAIRPERSON JORDAN: Okay. Any
5 other reports from any other governmental
6 agency? None.

7 Anyone here from ANC 5C who has voted
8 unanimously, so support the request made by the
9 applicant and which would be considered for
10 great weight?

11 Is there anyone here in support of
12 the application?

13 Anyone in attendance in opposition
14 to the application?

15 Okay. Is there anything you want to
16 say in wrap-up?

17 MR. PERKINS: If I had to start over
18 again, I wish I would have known. But the only
19 thing I would recommend as far as the DCR -- what
20 is it, DCRC?

21 CHAIRPERSON JORDAN: DCRA.

22 MR. PERKINS: DCRA is that they --

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1 because when I spoke to a lot of people, even
2 coworkers, and they were thinking the same way
3 I was, you know when I first was notified of the
4 error I was made was that, well it's your
5 property. I think a lot of people in D.C. do not
6 understand the codes.

7 Like I didn't even know that if I
8 wanted to install windows myself, I needed a
9 permit. I would never have known that. I would
10 have went to Home Depot, installed windows and
11 then I would have got fined. And I think it would
12 be nice if they just send out, maybe once a year,
13 twice a year a pamphlet, just like the Department
14 of Rates Management sends out leaf collecting
15 pamphlets.

16 You know, they could send out, you
17 know these are the rules, these are the codes,
18 watch out for scrupulous contractors. This is
19 our website, you can check out their license
20 here. And I think that would be very
21 beneficial.

22 CHAIRPERSON JORDAN: Check before

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1 you build?

2 MR. PERKINS: Yes.

3 CHAIRPERSON JORDAN: Okay. And I
4 do understand that the Mayor's doing a
5 regulatory forum commission --

6 MR. PERKINS: Oh, is he?

7 CHAIRPERSON JORDAN: -- and so I'll
8 try and make sure we get that and you might want
9 to be sure to submit that so that they can have
10 this discussion.

11 Any other questions of the
12 applicant, anyone?

13 COMMISSIONER COHEN: I have a
14 comment. I'm looking at page 4 of OP's report
15 and I do notice, and again I understand the
16 issue, but I do notice that the adjacent house
17 has a car parked behind it and I don't think it's
18 detrimental. And I know that that's not -- you
19 know I know that we're talking just about Zoning
20 regulations, but I would suggest that it doesn't
21 really stand out in the neighborhood what this
22 applicant has done to his property.

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1 He's cleaned up what was a very
2 negative part of the house, the old garage and
3 improved, and everybody seemed satisfied with
4 it. So, except for that chain link fence. Are
5 you willing to remove that chain link fence?

6 MR. PERKINS: The reason that I put
7 that there is that it's a detriment because I was
8 afraid if I kept it open, we have a lot of
9 stragglers, people will come --

10 COMMISSIONER COHEN: Yes.

11 MR. PERKINS: -- into, you know kids
12 playing around, they're going to run -- you know
13 I just wanted to just avoid that. It's like a
14 deterrent.

15 I mean, I didn't want to put a solid
16 thing there, I wanted to be able to see because,
17 like I say, we have a lot of issues in the
18 neighborhood, and it's getting better, but --

19 CHAIRPERSON JORDAN: Let me just
20 kind of if I could?

21 COMMISSIONER COHEN: Sure.

22 CHAIRPERSON JORDAN: So your

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1 recommendation is that the chain link fence gets
2 replaced with a wooden?

3 MR. JACKSON: Some manner of wooden
4 fence that would be consistent with the
5 materials used in the -- with the wood. Now it
6 could be a metal picket, a wooden picket that has
7 spaces between then which you could see through.
8 But wood is something that is a little more
9 aesthetic as opposed to chain link. And that's
10 just a suggestion.

11 CHAIRPERSON JORDAN: Ms. Cohen, did
12 you finish because I --

13 COMMISSIONER COHEN: I guess what
14 I'm trying to say is that I am comfortable with
15 providing the variances that are requested.

16 CHAIRPERSON JORDAN: Ms. Sorg?
17 Well, I just thought you may want to ask a
18 question. Okay.

19 So if there's nothing else you have
20 to us, so we're going to close the hearing and
21 the record in this matter and move to
22 deliberations. Okay. And I know, and we accept

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1 that.

2 Ms. Sorg?

3 VICE CHAIRMAN SORG: Thank you, Mr.
4 Chairman.

5 I'll say this about this case: The
6 first thing I'll note from the last portion of
7 the conversation and questions is with regard to
8 the special exception. I have no problem
9 personally with the chain link fence. I think
10 it's in this case just fine.

11 What I do have the problem with is
12 the variance. Clearly in this case there's no
13 dearth of community support. I think that, you
14 know you can see that this plan has potential,
15 you know up sides for the neighborhood, for the
16 neighboring community, for the alley. I
17 certainly in his statement and his testimony am,
18 you know sensitive to the desires and issues that
19 Mr. Perkins has with his schedule and with his
20 property, and that's something that is of great
21 value to us. But, you know, to me looking at the
22 Zoning Code, which is what we have to do and then,

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1 you know even to get to the consideration of all
2 of these other factors which we as residents and
3 so forth can very clearly understand and be
4 sensitive to, not every property has the
5 capability with regard to its size and
6 organization to have everything it wants. Not
7 every property has the ability to have a garage
8 or a two story addition, or a pool house, or any
9 number of things.

10 And in this case I think you can see
11 that there is unique topography. And certainly
12 that goes a certain distance with regard to the
13 request that the applicant is making, but I have
14 trouble getting past the lot occupancy question
15 here. And so I don't believe that I can support
16 the variance in this case.

17 Thank you.

18 CHAIRPERSON JORDAN: Anyone else?
19 Ms. MacMurray?

20 MEMBER MacMURRAY: Mr. Chairman,
21 based upon the historical use of this particular
22 area and what it's been used for prior, and the

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1 recommendation of the Office of Planning,
2 extending the columns and putting on a roof I
3 don't think that takes away from the existing use
4 of what it already had been intended for. So
5 even though the variance relief requested would
6 exceed what was already there, for the other I
7 guess intangible qualities of this particular
8 case I would move to address to waive those
9 requirements.

10 VICE CHAIRMAN SORG: If I can just
11 respond --

12 CHAIRPERSON JORDAN: No --

13 VICE CHAIRMAN SORG: Oh, do you want
14 me to wait?

15 CHAIRPERSON JORDAN: No, go ahead.

16 VICE CHAIRMAN SORG: So I heard a
17 little bit of the discussion earlier and I just
18 wanted to make a point for the record regarding
19 the garage level as existing as well as, you know
20 putting the carport over the top of what was
21 already a car parking pad. It's a different
22 thing. A parking pad doesn't take up lot

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1 occupancy. You can pave over something -- you
2 know, if you can get there from the alley, you
3 can park on it and it's not -- it doesn't come
4 under a code because it's not building the roof
5 on it.

6 And so that's the point that I would
7 make about that. And that's why I have I have
8 to -- well, certainly, I agree with you, Ms.
9 MacMurray that I'm sensitive to that and I would
10 not -- if I would manage, I wouldn't want snow
11 on my car either. I park outside, it sucks in
12 the winter. And I agree in that regard. But
13 with regard to the standards, you have something
14 that was taking up no lot occupancy because it
15 was a parking pad and now something that is
16 taking up lot occupancy. And in addition, there
17 are ways to protect one's car without incurring
18 and managing lot occupancy issues.

19 Also, there were some comments
20 earlier and questions regarding the previous
21 garage that was on this site. And obviously as
22 in the code if you tear something down, there's

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1 no right to rebuild it if the lot is not
2 conforming for that use.

3 So to me the previous dilapidated
4 garage doesn't weigh into my deliberations on
5 this. I just wanted to make that extra point.
6 But certainly I respect of those issues and
7 sensitivities in the case.

8 CHAIRPERSON JORDAN: Well, my
9 thought on the matter, I mean I would offer as
10 a finding to the extent the property was
11 previously was a garage that was demolished and
12 has left a parking pad and whatever shape and
13 dimensions, that parking pad is already there.
14 But the house and the alley and the pad are on
15 different elevations, and that leveling that
16 thing off would be very difficult and very
17 expensive to do that. And also if you follow the
18 regs it would have an impact on the backyard.

19 And so that to do all that becomes
20 drastic and costly. And we kind of have a
21 situation that's existing as it is.

22 There's been no evidence presented

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1 to this Board that there's an adverse impact upon
2 the community or the regulations. There's no
3 one that's said that, in fact quite to the
4 contrary. We have the letter that we have to
5 give weight to the ANC who has commended you for
6 doing that what you're doing and the practical
7 aspect of where you are, what you're covering
8 that's going to be there regardless of what we
9 do, except you might be ordered to take the roof
10 off and all that, but we still have the same area
11 that's being used. Not in regards to how it
12 equates to occupancy. And that even by
13 OP's own admission that there's some exceptional
14 circumstances and some uniqueness and
15 exceptional circumstances here, but there's
16 some practical difficulties that would lead to
17 a -- that should be considered in this, although
18 they have recommended and great weight is always
19 given to OP not to support the variance, but they
20 do support the special exception.

21 You have support letters from some
22 of your neighbors. I think it's Farmer-Allen?

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1 MR. PERKINS: Yes.

2 CHAIRPERSON JORDAN: Farmer-Allen
3 and Wilds, a Mr. Wilds?

4 MR. PERKINS: Yes.

5 CHAIRPERSON JORDAN: And with that
6 I would move for this Board that we approve the
7 applicant's request for both the special
8 exception and the variance.

9 Anyone second? Ms. Cohen?

10 COMMISSIONER COHEN: Second.

11 CHAIRPERSON JORDAN: Seconded by
12 Ms. Cohen.

13 Any unreadiness, further
14 unreadiness that we have not already discussed?

15 All those in favor of approving the
16 applicant's request for the special exception
17 and the variance signify by saying aye.

18 ALL: Aye.

19 CHAIRPERSON JORDAN: Those opposed
20 nay? The motion carries.

21 MR. MOY: It's approved.

22 VICE CHAIRMAN SORG: Yes.

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1 CHAIRPERSON JORDAN: Just wait a
2 second, Mr. Moy.

3 Staff would --

4 CHAIRPERSON JORDAN: Go ahead.

5 MR. MOY: The staff would record the
6 vote as three-to-one-to-one. This on the
7 motion of Chairman Jordan to approve the
8 application for both the variance, special
9 exception relief.

10 Second the motion of Ms. Cohen. Also
11 in support of the motion Ms. MacMurray. We have
12 Mr. Sorg opposed to the motion and we have a Board
13 Member absent.

14 So again, it's three-to-one-to one.
15 The motion carries, Mr. Chairman.

16 CHAIRPERSON JORDAN: Thank you.
17 And since there is no one in opposition and this
18 decision is in favor of the applicant, I believe
19 it's right for a summary order.

20 MR. MOY: Yes, sir. Thank you, Mr.
21 Chairman.

22 CHAIRPERSON JORDAN: Good. Thank

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1 you. Yes, it has been approved.

2 MR. PERKINS: Oh, okay. Thank you.

3 CHAIRPERSON JORDAN: But always
4 check and let your neighbors know to always check
5 with DCRA before they do any kind of improvements
6 of land or attempt to take something down --

7 MR. PERKINS: Right.

8 CHAIRPERSON JORDAN: And the Office
9 of Planning was very helpful, as you said. We
10 thank Mr. Jackson for his support.

11 Thank you.

12 MR. PERKINS: Thank you.

13 CHAIRPERSON JORDAN: We have one
14 other item for business, Board, if we can. We
15 have one other item for business, and that is the
16 -- we need to do a proper motion so we can go into
17 a closed meeting for next week's training, which
18 is what we've talked about kind of retreat
19 training.

20 So as Chairperson of the Board of
21 Zoning Adjustment for the District of Columbia
22 in accordance with Section 407 of the District

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1 of Columbia Administrative Procedural Act, I
2 move that the Board of Zoning Adjustment hold a
3 closed meeting on June 12, 2012 to begin
4 immediately after our morning public meeting
5 that's on June 12th, we have one item on the
6 agenda I believe on that day. But immediately
7 thereafter go into this closed meeting for
8 purposes of internal training pursuant to D.C.
9 Code Section 2-585(b)(12). And so I so move that.
10 Is there a second.

11 VICE CHAIRMAN SORG: Second.

12 CHAIRPERSON JORDAN: Great. And
13 so motion made and seconded. Will the Secretary
14 please take a Roll Call vote on the motion before
15 us now?

16 MR. MOY: Yes.

17 When I call your name, if the Member
18 can respond by yes or no, aye or nay.

19 Ms. Cohen?

20 COMMISSIONER COHEN: Yes.

21 MR. MOY: Vice Chair Sorg?

22 VICE CHAIRMAN SORG: Yes.

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1 MR. MOY: Chairman Jordan?

2 CHAIRPERSON JORDAN: Yes.

3 MR. MOY: Ms. MacMurray?

4 MEMBER MacMURRAY: Yes.

5 MR. MOY: Motion carries, Mr.
6 Chairman.

7 CHAIRPERSON JORDAN: Good. It
8 appears that the motion has passed. The motion
9 has passed.

10 I hereby give notice that the Board
11 of Zoning Adjustment will hold a closed meeting
12 in this hearing room in this Office of Zoning
13 Conference Room to conduct internal training on
14 June 13, 2012 to begin immediately after the
15 close of the public meeting scheduled for that
16 same date and time.

17 Notice will also be posted in the
18 Office of Zoning Electronic Reading Room, placed
19 in the Office of Zoning's Electronic Calendar,
20 on its website and published in the *District of*
21 *Columbia Register* in as timely a manner as
22 practicable.

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1 Is there any other business that
2 needs to come before the Board this morning?

3 MR. MOY: Yes. Just one thing. For
4 the record I would like to announce again that
5 there's no Public Hearing for the afternoon
6 being that the Appeal Case 18349, the Appeal of
7 Virginia Concrete Company has been withdrawn.

8 CHAIRPERSON JORDAN: Thank you, Mr.
9 Moy.

10 And with that, then we would stand
11 adjourned.

12 (Whereupon, at 10:58 the Public
13 Hearing was adjourned.)

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