

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY,

DECEMBER 22, 2009

+ + + + +

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., Shane L. Dettman, Acting Chairman, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

SHANE L. DETTMAN Vice Chairman
(NCPC)
MERIDITH MOLDENHAUER Board Member

ZONING COMMISSION MEMBERS PRESENT:

MICHAEL G. TURNBULL, FAIA, Commissioner
(AOC)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY Secretary
BEVERLEY BAILEY Sr. Zoning Spec.
JOHN NYARKU Zoning Specialist

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Board of Zoning Adjustment
District of Columbia
CASE NO. Transcript
EXHIBIT NO. null

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN
STEPHEN VARGA

This transcript constitutes the
minutes from the Public Hearing held on
December 22, 2009.

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

9:34 a.m.

ACTING CHAIRMAN DETTMAN: This hearing will, please, come to order. Good morning, everyone. This is the December 22nd Public Hearing of the Board of Zoning Adjustment of the District of Columbia. My name is Shane Dettman, Vice Chairman, representing the National Capital Planning Commission.

To my right is Mr. Michael Turnbull, representing the Zoning Commission and to my left is Ms. Meridith Moldenhauer, Mayoral Appointee to the BZA. Mr. Clifford Moy and Ms. Beverley Bailey with the Office of Zoning.

Copies of today's hearing agenda are available to you and are located to my left in the wall bin near the door. Please, be advised this proceeding is being recorded by a Court Reporter and is also webcast live.

Accordingly, we must ask you to refrain from

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1 any disruptive noises or actions in the
2 hearing room.

3 When presenting information to the
4 Board, please, turn on and speak into the
5 microphone, first, stating your name and home
6 address. When you are finished speaking,
7 please, turn off your microphone, so that your
8 microphone is no longer picking up sound or
9 background noise.

10 All persons planning to testify
11 either in favor or in opposition are to fill
12 out two witness cards. These cards are
13 located to my left on the table near the door
14 and on the witness tables. Upon coming
15 forward to speak to the Board, please, give
16 both cards to the reporter sitting to my
17 right.

18 The order of procedure for special
19 exceptions and variances is as such:
20 Statement and witnesses of the applicant;
21 Government reports, including the Office of
22 Planning and the Department of Public Works,;

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1 Report of the ANC; Parties or persons in
2 support; Parties or persons in opposition and,
3 finally, closing remarks by the applicant.

4 Pursuant to Sections 3117.4 and 5,
5 the following time constraints will be
6 maintained: The applicant, appellant, persons
7 and parties, except the ANC, in support,
8 including witnesses, 60 minutes collectively.

9 Appellees, persons and parties, except the
10 ANC, in opposition, including witnesses, 60
11 minutes. And individuals will be afforded 3
12 minutes each.

13 These time restraints do not
14 include cross examination and/or questions
15 from the Board. Cross examination of
16 witnesses is permitted by the applicant or
17 parties. The ANC within which the property is
18 located is automatically a party in a special
19 exception or variance case.

20 Nothing prohibits the Board from
21 placing reasonable restrictions on cross
22 examination, including time limits and

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1 limitations on the scope of cross examination.

2 The record will be closed at the
3 conclusion of each case, except for any
4 material specifically requested by the Board.

5 The Board and the staff will specify at the
6 end of the hearing exactly what is expected
7 and the date when the persons must submit the
8 evidence to the Office of Zoning. After the
9 record is closed, no other information will be
10 accepted by the Board.

11 The Sunshine Act requires that the
12 Public Hearing on each case be held in the
13 open before the public. The Board may,
14 consistent with its Rules of Procedure and the
15 Sunshine Act, enter into Executive Session
16 during or after the Public Hearing on a case
17 for purposes of reviewing the record or
18 deliberating on the case.

19 The decision of the Board in these
20 contested cases must be based exclusively on
21 the public record. To avoid any appearance to
22 the contrary, the Board requests that persons

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1 present not engage the Members of the Board in
2 conversation.

3 At this time, please, turn off all
4 beepers and cell phones, so as not to disrupt
5 these proceedings.

6 The Board will now consider any
7 preliminary matters. Preliminary matters are
8 those which relate to whether a case will or
9 should be heard today, such as requests for
10 postponement, continuance or withdrawal or
11 whether proper and adequate notice of the
12 hearing has been given. If you are not
13 prepared to go forward with a case today or if
14 you believe that the Board should not proceed,
15 now is the time to raise such a matter.

16 Does the staff have any preliminary
17 matters?

18 MS. BAILEY: Mr. Chairman and
19 Members of the Board, good morning. No, sir,
20 I do not.

21 ACTING CHAIRMAN DETTMAN: Great.
22 Thank you, Ms. Bailey. As there is no

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1 preliminary matters, let's proceed with
2 today's agenda. And before moving on to the
3 three cases that we had scheduled for this
4 morning, would all individuals wishing to
5 testify today, please, rise to take the oath?

6 And Ms. Beverley Bailey will administer the
7 oath.

8 MS. BAILEY: Would you, please,
9 raise your right hand?

10 (Whereupon, the witnesses were
11 sworn.)

12 MS. BAILEY: Thank you.

13 ACTING CHAIRMAN DETTMAN: Thank
14 you, Ms. Bailey. As I stated, the Board has
15 three cases this morning. And I think we are
16 just going to go slightly out of order and
17 take the Franklin Commons Child Development
18 Center first, that's Application No. 18013.
19 Is there applicant here? Okay.

20 And the reason we want to take that
21 one is we have a preliminary matter that we
22 need to discuss and then we can just move

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1 forward with 18011 and then 18014.

2 So I think the applicant was going
3 to get someone, but in the meantime, why don't
4 we go ahead and call that case?

5 MS. BAILEY: Thank you, Mr.
6 Chairman. Application 18013 of Franklin
7 Commons Intergenerational Day Care Center,
8 Inc., and it's pursuant to 11 DCMR 3104.1, for
9 a special exception for a child development
10 center, that's for 50 children and 14 staff,
11 under section 205, in the R-3 District at
12 premises 119 Franklin Street, N.E., Square
13 3505, Lot 802.

14 The preliminary matter that I'm
15 aware of associated with this application, Mr.
16 Chairman, is that we did not receive the
17 Affidavit of Posting on Friday. It is my
18 understanding that it did come in yesterday.
19 However, it was incomplete, at that time, so
20 perhaps the applicant can give a further
21 explanation.

22 ACTING CHAIRMAN DETTMAN: Great.

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1 And the applicant is here? Why don't you come
2 and join us at the witness table and we can
3 get started? Anyway, good morning. There is
4 a button on the mike or at the bottom that
5 says push. And so when you are speaking, just
6 go ahead and make sure that green light is on.

7 MS. BRADSHER: Okay.

8 ACTING CHAIRMAN DETTMAN: And
9 before we get started, if you wouldn't mind
10 stating your name and home address for the
11 record?

12 MS. BRADSHER: Yes. Cassandra
13 Bradsher, 121 Franklin Street, N.E., Apartment
14 K-11, Washington, D.C. 20002.

15 MR. ALLEN: Melvin Allen, 123
16 Franklin Street, N.E., Apartment L-24, 20002.

17 ACTING CHAIRMAN DETTMAN: Great.
18 Thank you. And was it Bradsher?

19 MS. BRADSHER: Yes.

20 ACTING CHAIRMAN DETTMAN: Okay.
21 Well, why don't we discuss the Affidavit of
22 Posting preliminary matter that Ms. Bailey

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1 raised.

2 Was the property posted?

3 MS. BRADSHER: Yes, it was. I
4 brought the pictures and I brought a letter, I
5 typed it up. The reason for that was my mom
6 was put in the hospital for a month and I was
7 going through that and she had got her kidney
8 taken out. They didn't know what was going on
9 with her and it was just -- I was just going
10 through some things. I really was going
11 through some things, crying, praying and
12 everything. And I do apologize.

13 When I got my mom out of the
14 hospital, because I was up there every day,
15 spending nights, I had thought about the
16 signing and I came immediately. Mr. Nero gave
17 it to me. He said it was okay, just calm
18 down. Put it up. I put it up. I took the
19 pictures. I brought two pictures matter of
20 fact and plus I typed a letter.

21 Again, I apologize. It's up.
22 Everybody knew about it. I apologize. I

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1 really do.

2 ACTING CHAIRMAN DETTMAN: Okay.
3 Well, that is not a problem certainly. And we
4 certainly understand those types of personal
5 situations.

6 Ms. Bailey, so we received the
7 Affidavit of Posting when?

8 MS. BAILEY: It is my understanding
9 that you brought it into the office yesterday,
10 but it was incomplete. Is that correct?

11 MS. BRADSHER: No, everything is
12 complete.

13 MS. BAILEY: Was it signed by a
14 notary?

15 MS. BRADSHER: Oh, the affidavit?
16 Oh, yes, yes. We did this morning.

17 MS. BAILEY: Okay. So it just
18 needs to be signed by a notary. Do you have
19 it with you?

20 MS. BRADSHER: We did that.

21 MS. BAILEY: Do you have it with
22 you today?

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1 MS. BRADSHER: No, they have
2 everything.

3 MS. BAILEY: It's in the office
4 here?

5 MS. BRADSHER: Here it is. She
6 gave me a copy myself.

7 MS. BAILEY: Okay. I'll go and get
8 the official copy.

9 MS. BRADSHER: Yes.

10 MS. BAILEY: Mr. Chairman, I'll go
11 get the copy.

12 MS. BRADSHER: That's right. She
13 had me back there with her.

14 ACTING CHAIRMAN DETTMAN: I just
15 see the copy that Ms. Bradsher was holding up.
16 It was signed by Sharon Schellin, so I think
17 it's just a matter of the Board getting a copy
18 of the --

19 MS. BRADSHER: Okay.

20 ACTING CHAIRMAN DETTMAN: --
21 affidavit. And I think Ms. Bailey is going to
22 do that right now.

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1 MS. BRADSHER: Okay.

2 ACTING CHAIRMAN DETTMAN: How many
3 days was the property posted for? Do you
4 recall?

5 MS. BRADSHER: I did it on -- I did
6 it Wednesday.

7 ACTING CHAIRMAN DETTMAN:
8 Wednesday.

9 MS. BRADSHER: I did it Wednesday,
10 I think.

11 ACTING CHAIRMAN DETTMAN: Okay.

12 MS. BRADSHER: This is what he is
13 talking about.

14 ACTING CHAIRMAN DETTMAN: Well, the
15 Board has the authority to waive its
16 particular rules. And some of those rules
17 deal with posting.

18 MS. BRADSHER: Yes.

19 ACTING CHAIRMAN DETTMAN: And I
20 think in the standard for which the Board
21 waives rules is for good cause shown and no
22 prejudice to any party to the case, and the

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1 only party to this case is the ANC, and I see
2 that the ANC did review your case and is in
3 support of your application.

4 Did you have any additional
5 interaction with adjacent neighbors or people
6 living in the apartment complex or anything?
7 No?

8 MS. BRADSHER: No, no, sir.

9 ACTING CHAIRMAN DETTMAN: Okay. In
10 addition to posting the property and reaching
11 out to the ANC, the Office of Zoning also
12 notifies all property owners within 200 feet
13 of the property.

14 MS. BRADSHER: Yes.

15 ACTING CHAIRMAN DETTMAN: So I
16 think, Board Members, with respect to the
17 requirement to post the property for a certain
18 number of days, the applicant has testified to
19 that the property was posted last Wednesday.
20 We did receive the Affidavit of Posting signed
21 by a notary this morning.

22 And given the circumstances that

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1 the applicant was attending to, I think that
2 the applicant has shown good cause. And I
3 don't see any possibility for prejudice to any
4 party, so I would be inclined to waive our
5 rules under 3100.5. And then we can move on
6 from there. Great.

7 Ms. Bradsher, the preliminary
8 matter that the Board wanted to discuss is
9 that you were referred to the Board by the
10 Zoning Administrator. We have his letter,
11 Exhibit No. 4, stating that you would first
12 need to obtain a special exception.

13 MS. BRADSHER: Yes.

14 ACTING CHAIRMAN DETTMAN: Pursuant
15 to our regs under section 205 to establish
16 your use in an R-3 Zone it says. You may or
17 may not be aware that this property was
18 actually developed back in 1981 by way of a
19 Planned Unit Development, a PUD, which is a
20 process that is undertaken by the Zoning
21 Commission.

22 And despite the Board, the BZA,

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1 taking an action some time ago to allow a
2 learning center --

3 MS. BRADSHER: Yes.

4 ACTING CHAIRMAN DETTMAN: -- the
5 Board has a question as to whether or not your
6 application should be before us or actually
7 before the Zoning Commission for a
8 modification to the 1981 PUD.

9 And we have discussed this very
10 preliminarily with Mr. Turnbull who represents
11 the Zoning Commission and we have made an
12 inquiry to the Office of Attorney General.

13 MS. BRADSHER: Okay.

14 ACTING CHAIRMAN DETTMAN: And we
15 are awaiting guidance on that.

16 MS. BRADSHER: Okay.

17 ACTING CHAIRMAN DETTMAN: So I
18 think, the Board right now thinks, that the
19 best course of action is to put off this
20 application until after the holiday until we
21 can get guidance on whether or not you belong
22 in front of the BZA or if you should go to the

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1 Zoning Commission to pursue a modification to
2 the PUD.

3 MS. BRADSHER: Okay. Okay.

4 ACTING CHAIRMAN DETTMAN: I know
5 that that is probably -- you were ready to go
6 forward today. However, what the Board
7 doesn't want to do is take an action on an
8 application where the Board doesn't have the
9 jurisdiction over this particular application.
10 So we need to get guidance on that.

11 So the date that we are actually
12 looking at was January 19th and we would
13 schedule your hearing for January 19th. And
14 hopefully by that time we will receive
15 information either from the Zoning Commission
16 or the Office of Attorney General for the best
17 course of action.

18 So it may be if we hear back from
19 them and they say yes, the BZA can go forward
20 with this application, we would hear this
21 application and most likely decide it on
22 January 19th. I mean, you have the support of

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1 the ANC. You have the support of OSSE.

2 So it's likely we would hear it and
3 decide it on the 19th. However, if we do hear
4 that this application is best positioned
5 before the Zoning Commission, I'm not sure
6 what happens then. I guess the Zoning
7 Commission would have to find a place on their
8 calendar.

9 MR. MOY: Well, I think it would
10 have to do that. But I think that, at that
11 time on the 19th, the Board will have more
12 information to convey to you for the next
13 steps.

14 MS. BRADSHER: Okay. Okay.

15 ACTING CHAIRMAN DETTMAN: Okay.
16 Does the -- Mr. Moy, can we put this on for
17 the morning of the 19th?

18 MR. MOY: Yes, we can. I mean,
19 this will be the fourth, four cases in the
20 morning.

21 ACTING CHAIRMAN DETTMAN: Okay.
22 Ms. Bradsher, does the morning of January 19th

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1 work for you?

2 MS. BRADSHER: It's fine.

3 ACTING CHAIRMAN DETTMAN: It does.

4 Okay. As Mr. Moy stated, we have three
5 cases, so you would be fourth in the morning.

6 We get started at 9:30. But given the type
7 of projects that we have scheduled for that
8 morning, we should be able to get to your
9 application fairly quickly, I think. Okay.

10 So if there is nothing else --

11 MS. BRADSHER: Okay.

12 ACTING CHAIRMAN DETTMAN: -- I
13 guess we'll see you on the 19th.

14 MS. BRADSHER: Okay.

15 ACTING CHAIRMAN DETTMAN: Thank
16 you.

17 MS. BRADSHER: Thank you.

18 ACTING CHAIRMAN DETTMAN: Ms.
19 Bailey, I think we can go ahead and call the
20 18011 case.

21 MS. BAILEY: Mr. Chairman, the
22 Application is of Kil Huh and Jenny Yang. As

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1 you indicated, it's Application 18011. It is
2 pursuant to 11 DCMR § 3104.1, for a special
3 exception to allow a rear addition to an
4 existing one-family detached dwelling under
5 section 223, not meeting the side yard and
6 nonconforming structure requirements in the R-
7 1-B District at premises 4419 45th Street,
8 N.W., Square 1591, Lot 830.

9 Those are the relief that were
10 advertised, Mr. Chairman. I think the Office
11 of Planning did recommend something
12 differently. So perhaps clarification might
13 be needed.

14 ACTING CHAIRMAN DETTMAN: Thank
15 you, Ms. Bailey. And the applicant is at the
16 table, I see.

17 MR. HUH: Yes, good morning.

18 ACTING CHAIRMAN DETTMAN: Good
19 morning to you. Why don't you introduce
20 yourself for the record?

21 MR. HUH: My name is Kil Huh. I am
22 the owner of Lot 1591, Square 830. And I

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1 thank you for your time before the Commission.

2 ACTING CHAIRMAN DETTMAN: Great.

3 Let me start off by saying this. The Board
4 has reviewed the record and it is a very
5 complete record. And in the interest of time,
6 I would offer the opportunity for you either
7 to very briefly highlight the project, but in
8 terms of what is being proposed and the relief
9 that is being requested, I think the Board has
10 a good handle on your project.

11 And so you also could take
12 advantage of the opportunity to rest on the
13 record and go right to Board questions. There
14 was one issue, and if you have anything to add
15 before we go to the Office of Planning,
16 regarding the variance from 401.3 from the lot
17 area it looks like.

18 MR. HUH: Yes.

19 ACTING CHAIRMAN DETTMAN: And that
20 was something actually the Board hasn't seen
21 before, that you would need a variance from
22 the lot area in order to facilitate you

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1 converting the property from a tax lot to a
2 record lot.

3 MR. HUH: Yes.

4 ACTING CHAIRMAN DETTMAN: So if you
5 have any information to add there --

6 MR. HUH: Okay.

7 ACTING CHAIRMAN DETTMAN: -- that
8 would be helpful.

9 MR. HUH: I do not.

10 ACTING CHAIRMAN DETTMAN: Okay. We
11 will certainly ask the Office of Planning.
12 And did you have anything other than what is
13 in the record already that you wanted to
14 provide the Board in order to further clarify
15 anything in the record or with the project?

16 MR. HUH: No, sir. I would rest on
17 the record and be available for questions.

18 ACTING CHAIRMAN DETTMAN: Okay.
19 Great. Board Members, do you have any
20 questions?

21 COMMISSIONER TURNBULL: Mr. Chair,
22 Mr. Vice Chair, whatever your title is today,

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1 you're kind of both. I just had one question,
2 but I think maybe the Office of Planning might
3 be able -- and that's in the Office of
4 Planning report on page 2, there is the map
5 that shows your triangular lot and it is
6 dotted in blue.

7 MR. HUH: Yes.

8 COMMISSIONER TURNBULL: Then there
9 is another little piece right at the end that
10 is in yellow. Is that not part of your
11 property?

12 MR. HUH: No, sir, it's not.

13 COMMISSIONER TURNBULL: Is that --

14 MR. HUH: It's an odd
15 configuration. But I have researched the
16 issue and it actually belongs to an adjacent
17 property that is located on Alton Street.

18 COMMISSIONER TURNBULL: Oh, okay.
19 Is it the property that it butts up to or is
20 it --

21 MR. HUH: I can't recall the
22 address offhand, but it is the --

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1 COMMISSIONER TURNBULL: It looks
2 like its straddles.

3 MR. HUH: It straddles our
4 property.

5 COMMISSIONER TURNBULL: Yes.

6 MR. HUH: It's an odd
7 configuration, so it runs along the north side
8 of our lot and then also on the east side of
9 our lot.

10 COMMISSIONER TURNBULL: And there
11 is nothing on it?

12 MR. HUH: There is nothing on it.

13 COMMISSIONER TURNBULL: It's
14 vacant?

15 MR. HUH: It's vacant. Correct,
16 sir.

17 COMMISSIONER TURNBULL: Okay.
18 Thank you.

19 ACTING CHAIRMAN DETTMAN: I just
20 noticed in reviewing the record you have
21 letters in support from your adjacent
22 neighbors. I didn't see a letter in the

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1 record from the owner of 4450 Alton.

2 MR. HUH: Yes.

3 ACTING CHAIRMAN DETTMAN: Did
4 you --

5 MR. HUH: That's currently a rental
6 property.

7 ACTING CHAIRMAN DETTMAN: Yes.

8 MR. HUH: And we contacted her
9 management company as well as sent her a
10 letter asking her for a letter of support or
11 just any -- to voice any concerns that she
12 might have and she never got back to us.

13 ACTING CHAIRMAN DETTMAN: Okay.
14 You said that you sent the owner a letter?

15 MR. HUH: Correct.

16 ACTING CHAIRMAN DETTMAN: Do you
17 have a copy of that letter that you sent?

18 MR. HUH: I don't.

19 ACTING CHAIRMAN DETTMAN: Okay.

20 MR. HUH: I can furnish you with an
21 electronic copy, if you would like that
22 though?

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1 ACTING CHAIRMAN DETTMAN: I don't
2 think that's necessary.

3 MR. HUH: Okay.

4 ACTING CHAIRMAN DETTMAN: Unless
5 Board Members want to see that in the record.

6 MR. HUH: Yes, and then we also
7 called her management company to see if there
8 was an alternative address that we might be
9 able to contact her at, besides the one listed
10 in the -- I forget where the office is that
11 you pull the addresses of your neighbors. And
12 they didn't provide one.

13 ACTING CHAIRMAN DETTMAN: Okay.
14 Like I said I don't think that's necessary and
15 the Board Members don't need to see the letter
16 in the record. But it's good that you reached
17 out to all your adjacent neighbors.

18 Well, if there is nothing further,
19 why don't we move on to the Office of
20 Planning? Mr. Mordfin, good morning, how are
21 you?

22 MR. MORDFIN: Good morning.

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1 ACTING CHAIRMAN DETTMAN: I think
2 the Board is in receipt of your report, that's
3 our Exhibit No. 25. The Office of Planning is
4 in support. I guess you can take advantage of
5 resting on the record and go right to Board
6 questions or you can summarize your analysis
7 if you would like.

8 MR. MORDFIN: The Office of
9 Planning is willing to stand on the record on
10 this case.

11 ACTING CHAIRMAN DETTMAN: Can you
12 clarify the variance from lot area? We have
13 never seen that before and is there a specific
14 reason the Office of Planning thinks that when
15 this goes to the surveyor for a recordation,
16 that it is likely the surveyor will take it to
17 the BZA?

18 MR. MORDFIN: Well, in this case,
19 it's not a record lot. You have got tax lots
20 that are here. And you can't get a permit
21 from a tax lot. You have to have a record
22 lot.

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1 In other cases what has happened is
2 you have record lots that don't conform, so
3 they are grandfathered in. And that's fine,
4 because they were created legally.

5 In this case, it's very unusual
6 that this got created this way and it was
7 never a record lot. It was never subdivided
8 and this house was built on it and it's all
9 prior to 1958. It was the early '50s when
10 this house was actually constructed on this
11 lot.

12 In this case, there is no way to
13 make this lot conforming. All the other
14 surrounding properties are owned by adjoining
15 properties. And if, you know, these variances
16 are not granted, then what that does is that
17 means that this owner can never obtain a
18 permit to do anything to this house, which
19 kind of just freezes it in place.

20 It is an unusual situation. I
21 think this is, you know, something that is
22 unique. I think this is something that, you

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1 know, why we have variances and you end up
2 with something unusual like this. This is not
3 typical. You even look at -- when you look at
4 the map that's on page 2, you can see the odd
5 configuration. How it got that way, I don't
6 know.

7 So I think that is a unique
8 situation. And I think the practical
9 difficulty is that the applicant cannot make
10 this conform. And the other -- and because of
11 that cannot then add on to his house or do
12 anything really to his house that requires a
13 building permit.

14 And therefore, I also don't think
15 it adversely affects the Zone Plan, because
16 this is an existing situation. We are not
17 creating a situation where you are going to
18 have a lot that doesn't conform to lot width
19 and lot area. It already does and this just,
20 you know, acknowledges the fact that this
21 unusual lot is there.

22 And you know, so therefore the

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1 Office of Planning recommends approval of the
2 variances to allow this to become a record
3 lot.

4 COMMISSIONER TURNBULL: Mr.
5 Mordfin, I'm just curious. That whole corner
6 of the block there from the alley to Alton,
7 those three lots that make up that corner are
8 all kind of a strange configuration. Do you
9 know if the others are still tax lots or are
10 they record lots or we don't know? I mean, we
11 don't care.

12 MR. MORDFIN: Right. Well, talking
13 the colors on this map. The darker colors are
14 tax lots.

15 COMMISSIONER TURNBULL: Oh, okay.

16 MR. MORDFIN: The lighter colors
17 are record lots.

18 COMMISSIONER TURNBULL: Are record
19 lots. But it is interesting that whole corner
20 got developed the way it is, sort of a puzzle.
21 It's like a little zigzag effect.

22 MR. MORDFIN: Yes, and I don't know

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1 if there was something else that came through
2 there, if there are utility right-of-ways or
3 all kinds of other things --

4 COMMISSIONER TURNBULL: Right.

5 MR. MORDFIN: -- that some times
6 resulted in those angles like that.

7 COMMISSIONER TURNBULL: Yes, okay.

8 Thank you.

9 ACTING CHAIRMAN DETTMAN: Mr.
10 Mordfin, with respect to the first prong of
11 the variance test, is it simply that the
12 property was created prior to the adoption of
13 the Zoning Regulations? And when the Zoning
14 Regulations were adopted, it rendered this
15 particular tax lot nonconforming?

16 MR. MORDFIN: Well, because it's a
17 tax lot, it makes it kind of unusual that
18 usually if you have a record lot, you know,
19 that becomes nonconforming. To have this tax
20 lot that has no record lot under it, I think
21 is an unusual situation.

22 Usually you have some record lots

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1 underneath of it, because you can go and you
2 can research it and see what's underneath. In
3 this case, there are no record lots underneath
4 of it. And I think that's an unusual
5 situation, that there aren't any and yet, it
6 was developed in this manner.

7 ACTING CHAIRMAN DETTMAN: Okay.
8 And I think you may have just mentioned it
9 that pretending for a second if this was a
10 record lot, is it generally just assumed at
11 the building permit stage that this is looked
12 into, it's found that this is a record lot
13 that predates the Zoning Regulations and
14 doesn't meet the 401 requirements and it is
15 considered grandfathered?

16 MR. MORDFIN: In that case, it
17 would just be considered grandfathered,
18 because it just is a record lot that predated
19 it.

20 ACTING CHAIRMAN DETTMAN: Okay.

21 MR. MORDFIN: Predated the Zoning
22 Regulations.

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1 ACTING CHAIRMAN DETTMAN: I have
2 nothing further. Board Members?

3 MEMBER MOLDENHAUER: Good morning.
4 I was just a little intrigued by your
5 statement that there is nothing underneath it.
6 Are you saying that there is no -- it's not a
7 part or parcel of another lot that this is
8 just a meets and bounds description that it's
9 a record -- that it's a tax lot?

10 MR. MORDFIN: Well, what I meant by
11 nothing underneath is there is no record lot
12 underneath of it. Some of these record lots
13 when you research it and you find that there
14 might be say the property to the south, I
15 don't know what's under there, because I
16 didn't research that, you might find that
17 there are two record lots under there. And
18 somebody combined them.

19 Sometimes people combine them for
20 tax purposes and maybe they only want to get
21 one tax bill, they don't want to get two tax
22 bills because they own two properties and they

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1 create these tax lots.

2 In this case, I don't know why this
3 was created in the manner in which it was. It
4 was apparently never subdivided legally.
5 Well, at the time before 1958, I don't know
6 what the requirements were. But it wasn't
7 done in the manner in which we would do it
8 today.

9 MEMBER MOLDENHAUER: Thank you.

10 ACTING CHAIRMAN DETTMAN: To the
11 applicant, did you receive a copy of the OP
12 report?

13 MR. HUH: I did. And may I add
14 something, Mr. Chair? Just that we engaged in
15 the process of trying to transfer the tax
16 assessment lot to a record lot prior to the
17 knowledge that it was a nonconforming property
18 and I just got word last week that the Office
19 of the Zoning Administrator had actually
20 approved it and moved it on to the Office of
21 the Surveyor. So I'm not exactly sure if
22 that's a data point you need, but, you know,

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1 that's just something that happened along the
2 way.

3 MEMBER MOLDENHAUER: So you're
4 saying that the surveyor -- it has actually
5 been passed onto the surveyor and the surveyor
6 is in the process of approving it?

7 MR. HUH: That's what I believe.

8 MEMBER MOLDENHAUER: Okay. So I
9 mean, based on that information, I would think
10 that, and maybe OP can chime in but I don't
11 believe that, they would then need the
12 variance relief if they are already getting
13 approval from the surveyor to obtain a new
14 record lot.

15 MR. MORDFIN: Yes, I mean, if they
16 are going to get a record lot, but I mean,
17 maybe they're going to get the record lot as a
18 result of the variances being granted. I
19 don't --

20 MR. HUH: I don't know.

21 MR. MORDFIN: -- I'm not familiar
22 with what had happened with that.

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1 ACTING CHAIRMAN DETTMAN: Okay.
2 Well, I guess we have a couple courses of
3 action here. One is that we can just go
4 forward with the variance out of an abundance
5 of caution and the applicant could have that
6 variance in the event the approval of this
7 record lot was contingent upon a future BZA
8 action or we can accept the applicant's
9 testimony that this has been actually
10 converted to a record lot and incorporate
11 401.3 into our 223 analysis, which additions
12 to nonconforming structures that don't meet
13 the requirements of -- well, a list of
14 provisions and one of them is 401, can be
15 subsumed under 223.

16 MR. MORDFIN: Yes.

17 ACTING CHAIRMAN DETTMAN: So we
18 could do that as well. Actually, I think that
19 that latter course of action is maybe more
20 appropriate. I think that the Zoning
21 Regulations in general speak to lots and not
22 necessarily tax lots and record lots.

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1 We have certainly had cases, I
2 think it was the Mitchell Stewart case that we
3 discussed this a little bit about the absence
4 of a record lot and could the Board go forward
5 measuring area requirements against tax lots
6 and I think that the answer there was that we
7 could.

8 So, Board Members, I would be in
9 support of moving forward, simply with the
10 223. And because the lot doesn't meet the
11 area requirements under 401, the applicant
12 would be covered under our 223 analysis and
13 have the special exception relief that he
14 needs in order to get a building permit.
15 Okay.

16 Does the applicant have any
17 questions for the Office of Planning?

18 MR. HUH: No, not at this time.

19 ACTING CHAIRMAN DETTMAN: Okay.
20 Let me just check.

21 COMMISSIONER TURNBULL: You looked
22 a little confused that you weren't being

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1 covered.

2 MR. HUH: Well, only because the
3 Office of Planning had requested that we apply
4 for a lot area variance under -- just
5 basically to take the more cautious and
6 conservative approach, because it was a
7 nonconforming lot. And they thought that in
8 the event that the Office of Surveyor had some
9 difficulty or if there was another practical
10 matter involved, that they would at least have
11 the area lot variance to stand behind, in
12 terms of approving it from a tax lot to a
13 record lot.

14 And you know, in consultation with
15 the Office of Planning, that's what they
16 recommended. And therefore I amended the
17 application. So but if the Commission or the
18 Board, rather, feels that it is not necessary,
19 then I would go with the recommendation as
20 well.

21 ACTING CHAIRMAN DETTMAN: Okay.
22 Board Members, do you --

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1 COMMISSIONER TURNBULL: I think,
2 Mr. Vice Chair, you were saying that he would
3 be covered. It would still be doing
4 essentially what he wants us to do.

5 MR. HUH: Yes.

6 ACTING CHAIRMAN DETTMAN: Okay.
7 All right. So moving forward, we will just
8 focus on the 223 and not on the area variance
9 from the lot area and lot width requirements.
10 Although, I do think OP's recommendation to
11 at least include the area variance was a good
12 recommendation. But finding out that this has
13 actually been converted to a record lot, I
14 think, gives the Board a little bit more
15 confidence that we can just go forward with
16 the 223.

17 MEMBER MOLDENHAUER: Just to
18 clarify for the record. I don't believe it
19 has been finalized as a new record lot just
20 yet, but I think that from what the applicant
21 has stated, that it has actually been approved
22 and it's right now, I guess, waiting at the

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1 Office of Surveyor to be finalized. But I
2 know that that's usually a fairly quick
3 process.

4 So I'm sure if it's there and it
5 has already been approved and usually they go
6 through a check system where if there is a
7 problem, they then bounce it back. And if it
8 hasn't gotten bounced back yet from the Office
9 of Surveyor, it should then move forward. So
10 is that correct? Is that what you are
11 testifying to?

12 MR. HUH: That is correct.

13 MEMBER MOLDENHAUER: Okay.

14 MR. HUH: Mr. Ray Washington in the
15 Office of the Zoning Administrator --
16 Administration called me earlier this week on
17 Monday, I believe, and told me that the
18 application from his side had been approved
19 and it is now in the Office of the Surveyor's
20 hands.

21 ACTING CHAIRMAN DETTMAN: All
22 right. Thank you. And thank you, Ms.

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1 Moldenhauer, for that clarification.

2 Let me just check in the audience.

3 Is there anyone here wishing to testify in
4 support or against the application?

5 Seeing none, I think, it's back to
6 the applicant for closing statements.

7 MR. HUH: Thank you for your time
8 before the Board. I really appreciate it.
9 Happy holidays and I rest on the record.

10 ACTING CHAIRMAN DETTMAN: Okay.
11 Well, Board Members, we can either go forward
12 today with a decision or put this off for a
13 few months if you need to review the record.
14 If we are ready to go forward today, I can
15 start us off here.

16 It's a request for a two-story rear
17 addition to an existing single-family detached
18 home that is nonconforming as to side yard and
19 I'll include lot area and lot width in that as
20 well. This type of addition is allowed by way
21 of a special exception under 223.

22 And instead of going through the

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1 individual provisions of section 223, I'll
2 just incorporate by reference the Office of
3 Planning's report. The Office of Planning is
4 in support of the application. And in their
5 analysis of the proposed addition, they find
6 that it will not unduly impact light, air and
7 privacy and enjoyment of use of neighboring
8 properties.

9 It also falls within the maximum
10 allowable lot occupancy under 223. Currently,
11 it is at 17 percent. What is being proposed
12 is 31 percent lot occupancy. And under 223,
13 the applicant is allowed to go up to 50
14 percent.

15 The ANC, ANC-3E, is in support of
16 the application, that's our Exhibit No. 21.
17 And in addition to that, the applicant has
18 retained the support of almost all of the
19 adjacent neighbors, those are Exhibits No. 20,
20 22, 23 and the applicant also testified to
21 reaching out to the owner of 4450 Alton, that
22 is a rental property he had mentioned, on a

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1 couple of occasions and tried to obtain their
2 support, but there was no response.

3 So the applicant has reached out to
4 all of the neighbors in order to make sure
5 that the proposed addition will not have an
6 undue impact on the property.

7 So that being said, Board Members,
8 if there is nothing further, I can make a
9 motion. Let me just find the language here.

10 I'll move for approval of
11 Application No. 18011, pursuant to 11 DCMR
12 3104.1, for a special exception to allow a
13 rear addition to an existing one-family
14 detached dwelling under section 223, not
15 meeting the side yard requirements of 405, and
16 the nonconforming structure provisions of
17 2001.3 at premises 4419 45th Street, N.W.

18 MEMBER MOLDENHAUER: I second.

19 ACTING CHAIRMAN DETTMAN: The
20 motion has been made and seconded. Is there
21 anything further?

22 All those in favor say aye.

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1 ALL: Aye.

2 ACTING CHAIRMAN DETTMAN: Opposed?

3 And there are no abstentions. Can we record
4 the vote, please?

5 MS. BAILEY: Mr. Chairman, the vote
6 is recorded as 3-0-2 to grant the application,
7 as amended, to include relief also from the
8 lot area and lot width requirements. The
9 motion was made by Chairman Dettman, seconded
10 by Board Member Moldenhauer, Mr. Turnbull
11 supported the motion as well.

12 ACTING CHAIRMAN DETTMAN: Thank
13 you, Ms. Bailey. And I think as there is no
14 opposition to the case, we can do a summary
15 order on this.

16 MS. BAILEY: Yes, sir. Thank you.

17 ACTING CHAIRMAN DETTMAN: Okay.
18 Thank you. And, Ms. Bailey, whenever you are
19 ready, we can call our last case.

20 MS. BAILEY: The third case this
21 morning, Mr. Chairman, is Application 18014.
22 It's the Application of Elizabeth Ministry,

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1 Inc., and it is pursuant to 11 DCMR § 3104.1,
2 for a special exception to establish a child
3 development center, that's for 25 children and
4 4 staff. It is under section 205 of the
5 regulations. The property is located at 210
6 55th Street, N.E. It is also known as Square
7 5252, Lot 140. And it is Zoned R-2.

8 ACTING CHAIRMAN DETTMAN: Good
9 morning to you.

10 REV. DR. GRAHAM: Good morning, Mr.
11 Chairman.

12 MS. STEBBINS: Good morning.

13 ACTING CHAIRMAN DETTMAN: Why don't
14 we start off by introductions?

15 REV. DR. GRAHAM: I am Carolyn
16 Graham, the president and founder of The
17 Elizabeth Ministry.

18 MS. STEBBINS: Good morning, I'm
19 Dana Stebbins, a consultant to The Elizabeth
20 Ministry.

21 ACTING CHAIRMAN DETTMAN: And that
22 was Debbins?

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1 MS. STEBBINS: Stebbins.

2 ACTING CHAIRMAN DETTMAN: Stebbins.

3 Thank you. And you have been sworn in this
4 morning, is that correct?

5 REV. DR. GRAHAM: Yes.

6 MS. STEBBINS: Yes.

7 ACTING CHAIRMAN DETTMAN: Okay.

8 ACTING CHAIRMAN DETTMAN: Let me
9 start off. You have some great visuals here,
10 but let me start off by saying, as with the
11 last application, this is a pretty
12 straightforward application. I see that you
13 have the support of the ANC, OSSE as well as
14 the Office of Planning.

15 It's a pretty full record and the
16 Board has a very good idea of the relief that
17 is necessary. You are here for a special
18 exception under 205 to establish a child
19 development center.

20 So I guess I'll make available to
21 you the opportunity to rest on the record.
22 And if the Board has questions about anything

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1 specific in the project, we can go right to
2 Board questions. And then following that, we
3 can move on to the Office of Planning or you
4 can take us through the graphics that you have
5 prepared and kind of highlight some of those
6 elements of the project that you think are the
7 most important.

8 REV. DR. GRAHAM: I'll do that.

9 ACTING CHAIRMAN DETTMAN: Okay.

10 REV. DR. GRAHAM: Thank you. Thank
11 you for the opportunity. Good morning.

12 ACTING CHAIRMAN DETTMAN: If you
13 are going to stand, you are going to need a
14 microphone. We have one right over here for
15 you.

16 REV. DR. GRAHAM: This is a
17 demonstration project for the City of
18 Washington. It's the first of its kind. It
19 involves creating affordable housing for teen
20 mothers in the foster care system, as they
21 near aging out. The individuals who will live
22 there will be young women who have one child,

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1 who are between the ages of 17 and 21.

2 Each of them will occupy a two-
3 bedroom apartment. So the apartments are
4 being converted into two bedrooms. The
5 subject before you today though is the infant
6 toddler care center that will be located in
7 this building here.

8 We are taking the ground floor of
9 this building, that is the basement of this
10 building and converting it into an infant/
11 toddler care center. Three units are being
12 used now for this purpose for the infant/
13 toddler care center where we will have 25
14 children.

15 Adjacent here on this side of this
16 building here will be the play space for the
17 children. They will not need to exit to the
18 street, but will actually access the
19 playground by going to the rear of this
20 building here. And you can see from the
21 renderings, I think, that you have before you
22 that there is a pathway from this building

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1 here over to this play space here. So,
2 essentially, that's it.

3 ACTING CHAIRMAN DETTMAN: Great.
4 Thank you. You stated that it is actually
5 going to be three units that will be put
6 together and used for this particular purpose?

7 REV. DR. GRAHAM: Three units will
8 be taken, that's right, and used for this
9 purpose.

10 ACTING CHAIRMAN DETTMAN: Okay.

11 REV. DR. GRAHAM: Yes.

12 ACTING CHAIRMAN DETTMAN: How long
13 have the buildings been vacant? Do you have
14 any idea?

15 REV. DR. GRAHAM: We purchased the
16 buildings in 2007 and in 2008 the last tenants
17 moved out of the buildings.

18 ACTING CHAIRMAN DETTMAN: Board
19 Members, any questions?

20 MEMBER MOLDENHAUER: Between 2008
21 and currently, have you started on the
22 renovation process of the other buildings?

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1 REV. DR. GRAHAM: No, we have not.
2 The buildings are boarded up. We have been
3 going through the design process as well as
4 the approval process and securing the loans
5 for the building.

6 DHCD will be our anchor lender and
7 we are in discussions now with a private bank
8 here in the city that will do the additional
9 funding necessary to carry forth the
10 renovations.

11 MEMBER MOLDENHAUER: Okay.
12 Wonderful. I don't know, just in order to
13 fully address the different issues, there is a
14 couple of letters of denial in the
15 application. Have you seen those?

16 REV. DR. GRAHAM: We have seen one
17 of the letters.

18 MEMBER MOLDENHAUER: Okay.

19 REV. DR. GRAHAM: From one of the
20 residents.

21 MEMBER MOLDENHAUER: Okay. There
22 is one and then there is -- yes, oh, is it the

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1 same? And do you have any response to that?
2 Just to cover any potential issues?

3 REV. DR. GRAHAM: I'm going to let
4 Ms. Stebbins respond to that.

5 MS. STEBBINS: I can only respond
6 to the one we have seen.

7 REV. DR. GRAHAM: Yes.

8 MS. STEBBINS: And the one we saw
9 talked about nuisance use and a historic kind
10 of disruptive presence on those properties.
11 And so our response is exactly that we are
12 addressing that by converting vacant buildings
13 into now occupied buildings with good tenants
14 and a child care center and a program which
15 has been highly recommended by the District
16 Government and will probably be recognized
17 nationally.

18 So any of those issues should be evaded
19 by the conversion of the buildings.

20 MEMBER MOLDENHAUER: Thank you.

21 MS. STEBBINS: You're welcome.

22 COMMISSIONER TURNBULL: What's the,

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1 I think it's a wonderful project, phasing?
2 Does the -- when you get into rehabbing the
3 buildings, child care, is that going to be one
4 of the first things that gets done or how do
5 you see that?

6 MS. STEBBINS: Actually our general
7 contractor is here this morning and probably
8 can address that staging question for you if
9 you don't mind.

10 COMMISSIONER TURNBULL: Sure.

11 MR. REHFUSS: I'm not sworn in.

12 MS. STEBBINS: Okay.

13 MR. REHFUSS: Do you need to swear
14 me in?

15 MS. BAILEY: Sir, please, raise
16 your --

17 (Whereupon, the witness was sworn.)

18 MS. BAILEY: Thank you.

19 MEMBER MOLDENHAUER: Can you press
20 the mike?

21 MR. REHFUSS: Yes. Does that got
22 it? Good morning. My name is Ken Rehfuss.

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1 I'm the president of RKR Construction. We
2 will be the general contractor on this project
3 with Elizabeth Ministry.

4 To answer your question
5 specifically, because of the size of the
6 project, there are two separate buildings, but
7 basically the renovation will all be done
8 concurrently. So in terms of completion of
9 the day care center, it will be done in
10 conjunction with the apartments.

11 COMMISSIONER TURNBULL: So there
12 will be no phasing?

13 MR. REHFUSS: Correct.

14 COMMISSIONER TURNBULL: You go
15 right into it.

16 MR. REHFUSS: Correct. I mean,
17 it's a substantial renovation. Since the
18 building is boarded up, it's what we would
19 call a gut rehab of the property. So we will,
20 you know, take out all the existing
21 infrastructure and, basically, the perimeter
22 walls of the building stay in place, but then

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1 we -- you know, everything else will go back
2 in new.

3 COMMISSIONER TURNBULL: Okay.

4 MR. REHFUSS: So in terms of
5 occupancy permits and completion, it will be
6 all completed at once.

7 COMMISSIONER TURNBULL: So once
8 occupancy is ready, the child care center will
9 be ready to go?

10 MR. REHFUSS: That is correct.

11 COMMISSIONER TURNBULL: Okay.
12 Thank you.

13 MR. REHFUSS: That's correct.

14 MEMBER MOLDENHAUER: The
15 application states that the facility, I think
16 it's also part of your program, would only be
17 used by the women that are actually in the
18 buildings?

19 REV. DR. GRAHAM: That's correct.

20 MEMBER MOLDENHAUER: And so I
21 wanted to make sure that you would be okay
22 with having -- if we do decide to deliberate

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1 this case today, to have the approval
2 conditioned on that limitation? Is that
3 something that you would be --

4 REV. DR. GRAHAM: No, we are fine
5 with that.

6 MEMBER MOLDENHAUER: Okay.

7 REV. DR. GRAHAM: That's right.

8 MEMBER MOLDENHAUER: Thank you.

9 ACTING CHAIRMAN DETTMAN: Along the
10 same lines as Ms. Moldenhauer's question,
11 there were some other items that I saw in the
12 record. Your proposed hours of operation is
13 6:00 a.m. to 7:30 p.m.?

14 REV. DR. GRAHAM: Yes, yes.

15 ACTING CHAIRMAN DETTMAN: And often
16 times with these types of uses, the Board will
17 put a condition on their approval and tie it
18 to a specific set of hours. Is 6:00 to 7:30,
19 is that exactly the hours that you need or do
20 you need a little bit of flexibility on either
21 end?

22 And the Board doesn't do this every

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1 single time. I'm just kind of --

2 REV. DR. GRAHAM: Yes.

3 ACTING CHAIRMAN DETTMAN: -- trying
4 to get a feel from you whether or not if the
5 Board did have a specific time frame, is 6:00
6 to 7:30 what you really need?

7 REV. DR. GRAHAM: Chairman Dettman,
8 I would ask for some flexibility in that.
9 Simply because as the young women mature and
10 finish their education, they -- many of them
11 will be in unconventional jobs and work
12 nonconventional hours, such as EMTs, maybe
13 even fire and police persons and even also in
14 health care.

15 So we would like for you to allow
16 us some flexibility in extending the hours,
17 because the facility -- because it's on the
18 grounds where they will be living, it is
19 conceivable that we would be able to
20 accommodate extended hours to meet their
21 requirements.

22 ACTING CHAIRMAN DETTMAN: Okay.

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1 And how about the number of children and
2 staff? I see 25 children and 5 staff. It's
3 another area that the Board at times
4 conditions orders on. How about that? Do you
5 need flexibility there or is 25 students going
6 to be your, you know, maximum that you will
7 always have?

8 REV. DR. GRAHAM: 25 students will
9 be the maximum that we have. The requirements
10 will conform to the city's Office of Early
11 Care and Education regulatory requirements.

12 ACTING CHAIRMAN DETTMAN: Okay.

13 REV. DR. GRAHAM: So the space
14 requirements limit the number of children that
15 can be there. And the staffing must also
16 comply with the -- comport rather with the
17 requirements of OSSE.

18 ACTING CHAIRMAN DETTMAN: Great.
19 Thank you.

20 REV. DR. GRAHAM: Yes.

21 ACTING CHAIRMAN DETTMAN: Board
22 Members, anything else? Okay. Why don't we

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1 move on then to the Office of Planning? Their
2 report is our Exhibit No. 31. We have Mr.
3 Varga with us here this morning. And let me
4 just ask the applicant very quickly, did you
5 receive a copy of OP's report?

6 REV. DR. GRAHAM: Yes, we did.

7 MS. STEBBINS: Yes, we did.

8 ACTING CHAIRMAN DETTMAN: Okay.
9 Great.

10 REV. DR. GRAHAM: Yes.

11 ACTING CHAIRMAN DETTMAN: Why don't
12 we just move on to the Office of Planning
13 report then? Good morning.

14 MR. VARGA: Good morning. The
15 Office of Planning stands on the record. I'll
16 be happy to answer any questions that you all
17 have.

18 ACTING CHAIRMAN DETTMAN: Board
19 Members, any questions? Okay. Does the
20 applicant have any questions for the Office of
21 Planning?

22 REV. DR. GRAHAM: No, we don't.

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1 ACTING CHAIRMAN DETTMAN: Okay.
2 Mr. Varga, thank you for the report. It was
3 an excellent report and we very much
4 appreciate the work that the Office of
5 Planning always puts into the report. So
6 again, thank you very much.

7 MR. VARGA: Thank you very much.

8 ACTING CHAIRMAN DETTMAN: Turning
9 to the ANC, do we have a representative from
10 the ANC here today? Not seeing one, we are in
11 receipt of their report. I don't have an
12 exhibit number on this. However, we received
13 a resolution from ANC-7C, dated December 4,
14 2009, expressing their support for the
15 project.

16 That they held a meeting. The
17 property owner was there, presented and
18 discussed the case. And the ANC makes it a
19 point to state that this project will remove
20 the blight and questionable activities which
21 now occur on the property, which the applicant
22 just testified to.

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1 So again, that is in our record.

2 MS. BAILEY: Mr. Chairman, that
3 report was received today.

4 ACTING CHAIRMAN DETTMAN: Received
5 today. Okay.

6 COMMISSIONER TURNBULL: There you
7 go.

8 ACTING CHAIRMAN DETTMAN: Great.

9 COMMISSIONER TURNBULL: I need
10 that.

11 ACTING CHAIRMAN DETTMAN: Okay.
12 Moving on then, let me just see if there is
13 anyone in the audience wishing to testify in
14 support or against the project?

15 Not seeing anyone, as discussed by
16 Ms. Moldenhauer, we do have a couple of
17 letters in the record recommending denial of
18 the application. And I think in our
19 deliberations we can take that up.

20 Okay. Ms. Moldenhauer actually
21 just pointed out to me that the request is for
22 four staff. However, somewhere in the record

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1 there is mention of five. Is five the number
2 of staff that you are --

3 REV. DR. GRAHAM: I believe it is
4 four, Mr. Chairman. I believe it is four.

5 ACTING CHAIRMAN DETTMAN: Okay.

6 REV. DR. GRAHAM: Yes.

7 ACTING CHAIRMAN DETTMAN: Well, at
8 this point, I think we are at closing
9 statements. Back to the applicant for
10 anything that you would like to say.

11 REV. DR. GRAHAM: I want to thank
12 the Board for allowing us this time. And
13 certainly, we recognize that it is a
14 requirement, but I do want to thank you for
15 your, you know, serious deliberation with
16 respect to this project.

17 We are excited about it. It has
18 been a long time in process and we have
19 extended -- expended, rather, a lot of energy
20 and commitment to this body of work. We think
21 that it will serve as a template for how we
22 begin to address some of the needs of young

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1 people aging out of the foster care system who
2 will often times end up in many of the other
3 public systems, such as the homeless --
4 publicly supported systems, such as
5 homelessness and the criminal justice system
6 and the like.

7 So we are excited about it and are
8 hoping to again put the District on the map
9 with this body of work. Thank you so much.

10 ACTING CHAIRMAN DETTMAN: Thank
11 you. I think it's now to the Board to decide
12 whether or not we are ready to go forward
13 today or if we need a little extra time to
14 look at the record.

15 I think the Board is going to
16 proceed with their deliberation. And I think
17 Ms. Moldenhauer is going to lead us off here.

18 MEMBER MOLDENHAUER: Thank you, Mr.
19 Chairman. We are here today for the
20 Application of The Elizabeth Ministry, which
21 is requesting a special exception to establish
22 a child development center for 25 children and

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1 4 staff under section 205.

2 This application has been outlined
3 in OP's report and it goes through all of the
4 numerous requirements for the 205 relief. And
5 I think that I will incorporate the report in
6 my deliberation. But I'll talk to just a
7 couple main points in summarizing this for our
8 deliberation.

9 There is -- under section 205.2
10 requires the approval and support by OSSE and
11 we have a letter in our record. It is not an
12 exhibit number, but it is dated December 7,
13 2009 from OSSE stating that they do recommend
14 approval for this.

15 In addition to that, there are
16 different elements in regards to faculty and
17 pick-up and drop-off that has been addressed.

18 We thought that these are going to be -- only
19 going to be children of people who reside at
20 either Lot 104 or Lot 141. And I think that
21 that will be a condition of the application.

22 In addition to that, it goes

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1 through and there has been sufficient
2 information in the record about the outdoor
3 play space, about the fact that the children
4 will not need to go off of the site, but
5 rather they can go through the rear of the
6 property and access that. And that there is
7 sufficient screening and trees to not provide
8 any problems.

9 In addition to that element, we do
10 have a letter from the ANC-7C stating that
11 they do recommend approval for this. And that
12 they fully support the application and that is
13 in our record also.

14 There were two letters of denial.
15 One, Exhibit 26, and another which does not
16 have a specific exhibit number, but is just a
17 little scribble that says denial. This, I
18 think, was fully addressed by the applicant's
19 testimony regarding the fact that this was
20 more of a concern about the current vacant
21 property or the existence of the vacant
22 property and the potential blight that that

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1 might have on the area.

2 But obviously, that would be
3 remedied by any development. And I think that
4 the purpose of this application and the
5 purpose of the development for this project is
6 a very, you know, positive benefit to the
7 area.

8 I think that is everything. And so
9 if there is no additional information or
10 deliberation, I'll move forward for a motion.

11 And I would submit a motion to
12 approve Application No. 18014 for The
13 Elizabeth Ministry, pursuant to 11 DCMR
14 3104.1, for a special exception to establish a
15 child development center for 25 children, 4
16 staff, under section 205 in an R-2 District at
17 the premises of 210 55th Street, N.E.

18 I would condition that upon no
19 hours, based on testimony of potential
20 multiple jobs, and the fact that it would be
21 conditioned on 25 children, 4 staff and that
22 the children would only be children whose

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1 parents reside or mother resides at the
2 property.

3 And that this would have a 10 year
4 term, so that in 10 years the applicant could
5 come back for any additional relief.

6 COMMISSIONER TURNBULL: Second.

7 ACTING CHAIRMAN DETTMAN: Thank
8 you, Ms. Moldenhauer. That was an excellent
9 summary of the relief being requested. And I
10 certainly agree with your motion for support
11 and the conditions that you have recommended.

12 So motion has been made and
13 seconded.

14 All those in favor say aye.

15 ALL: Aye.

16 ACTING CHAIRMAN DETTMAN: Opposed?

17 And no abstentions. Can we call the vote,
18 please?

19 MS. BAILEY: Mr. Chairman, the vote
20 is recorded as 3-0-2 to grant the application
21 with the conditions that were articulated.
22 Board Member Moldenhauer made the motion,

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1 Commissioner Turnbull seconded, Mr. Chairman
2 supports the motion, Chairman Dettman supports
3 the motion, 3-0-2 to grant.

4 ACTING CHAIRMAN DETTMAN: Thank
5 you, Ms. Bailey. And as there is no
6 opposition to this case, I think we can do a
7 summary order.

8 MS. BAILEY: Summary order it is.

9 ACTING CHAIRMAN DETTMAN: Thank
10 you. And with that, thank you very much.
11 It's very nice that the Board can end their
12 2009 season on a very happy note. It's a
13 great project and good luck to you.

14 And thanks again to the Office of
15 Planning.

16 I'm not going to say anything that
17 is going to be incriminating. It has been a
18 very, very productive year. I don't exactly
19 know how many cases we processed and decided,
20 but it has been a very productive year for the
21 Board.

22 And I'm very much looking forward

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1 to 2010 to continue on with my colleagues and
2 we will have a new addition to the Board some
3 time in January, so that's very exciting. We
4 will have a full Board. And just happy
5 holidays to everyone. Thank you very much.

6 And we are sending out very
7 positive and good thoughts for Chairman Loud.

8 It's unfortunate he hasn't been able to join
9 us the last few weeks, but our thoughts are
10 certainly with him as he attends to some
11 personal matters. And I suspect he will be
12 joining us in January and we look forward to
13 that.

14 Board Members, anything before I
15 close us out here? Then we will stand
16 adjourned.

17 (Whereupon, the Public Hearing was
18 concluded at 10:34 a.m.)

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