

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

OCTOBER 23, 2012

+ + + + +

The Regular 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
JEFF HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

ANTHONY HOOD, Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

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OFFICE OF PLANNING STAFF PRESENT:

KAREN THOMAS
STEVEN COCHRAN
ELISE VITALE

The transcript constitutes the minutes from the Public Hearing held on October 23, 2012.

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

2 (9:48 a.m.)

3 CHAIRMAN JORDAN: Good morning.

4 Will the hearing please come to order. Good
5 morning, ladies and gentlemen. We're located
6 at the Jerrily R. Kress Memorial Hearing Room
7 at 441 4th Street. Today's date is October
8 23rd, 2012.

9 We're here for the Board of Zoning
10 Adjustment hearing. My name is Lloyd Jordan,
11 Chairperson. To my right is Jeffery Hinkle,
12 Board member. To my left is Vice Chair, Nicole
13 Sorg. To her left is the chairman of the Zoning
14 Commission, Mr. Anthony Hood. Please
15 be advised that the proceedings today are being
16 recorded by a court reporter and also being
17 webcast live. So therefore I'm going to ask
18 you to refrain from any disruptive noises in
19 the hearing room today.

20 The Board's hearing procedures and
21 how we process applications are contained by
22 the wall in a little slot. So if anyone has

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1 any questions about how we proceed, then please
2 feel free to go get the pamphlet from the wall.

3 Let's begin today's hearing agenda.

4 Mr. Moy, if you're ready? Okay.

5 All those who plan to testify today
6 in this proceeding, please stand and take the
7 oath or affirmation from the Board's secretary,
8 Mr. Moy.

9 MR. MOY: Thank you, Mr. Chairman.

10 Do you solemnly swear or affirm that
11 the testimony you're about to present at this
12 proceeding is the truth, the whole truth and
13 nothing but the truth?

14 (Chorus of affirmation)

15 MR. MOY: Ladies and gentlemen, you
16 may consider yourself under oath.

17 CHAIRMAN JORDAN: And I'm going to
18 also ask that prior to your testimony if you
19 would please complete two witness cards for each
20 person and then give them to the court reporter
21 prior to testifying, okay? That's two cards
22 for each person, thank you.

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1 Mr. Moy, let's go. We've got a full
2 docket. I don't know what you guys were
3 thinking. We've got like 12 cases today or
4 something.

5 MR. MOY: Yes, sir, indeed. But
6 the staff member of the Board is always on top
7 of things.

8 Again, good morning, Mr. Chairman,
9 members of the Board. We have as preliminary
10 matters, two cases that I'd like to share with
11 the Board. The first is that of the Case Number
12 18419 of 2221 14th Street LLC that's been
13 withdrawn by the applicant.

14 Second, there is a request for a
15 postponement, which is the last case in the
16 morning session which is Application Number
17 18432 of John Hines. And that completes the
18 staff's briefing on that matter, Mr. Chairman.

19 CHAIRMAN JORDAN: Okay, let's
20 proceed. Call the first case, please.

21 MR. MOY: Should I call the John
22 Hines case or do you want to go top of the order?

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1 CHAIRMAN JORDAN: Well, we can do
2 that.

3 MR. MOY: We can do that? That
4 would be Application Number 18432. This is the
5 application of John C. Hines pursuant to 11 DCMR
6 3104.1 and 3103.2 for a variance from the rear
7 yard requirements under section 404, and a
8 special exception under subsection 2516.1.

9 This is to permit an addition to an
10 existing flat, two-family dwelling, where there
11 are more than one principal structure on a single
12 lot in the R-4 District at premises 1618 5th
13 Street N.W., property located in Square 477 Lot
14 845.

15 CHAIRMAN JORDAN: Okay.

16 MS. REED-FRIMPONG: Good morning.
17 We're here actually to request the postponement
18 mainly for reasons to give a more solid
19 presentation to the Board.

20 CHAIRMAN JORDAN: Can you first
21 identify yourself?

22 MS. REED-FRIMPONG: I'm sorry. My

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1 name is Dianna Reed-Frimpong.

2 CHAIRMAN JORDAN: Okay. All
3 right, just need the introductions. And you
4 are, please? First is, you make sure that the
5 microphone is turned on. That the little green
6 button is, is it bright?

7 MS. IVORY: Yes.

8 CHAIRMAN JORDAN: Okay, go ahead.

9 MS. IVORY: My name is Jeanetta
10 Ivory, and we are right next door to that
11 existing. We are condos, one across from Condo
12 Association. And I came because we both have
13 concerns.

14 CHAIRMAN JORDAN: Okay, thank you.
15 Please identify yourself, please?

16 MS. WAHAB: Yes, my name Eloise
17 Wahab. I live at --

18 CHAIRMAN JORDAN: I'm sorry, your
19 last name?

20 MS. WAHAB: Wahab, W-A-H-A-B.

21 CHAIRMAN JORDAN: Okay, thank you.

22 Good, now back to your request?

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1 MS. REED-FRIMPONG: Sure. We
2 wanted to request the postponement in efforts
3 to give a more solid presentation to the Board,
4 mainly with the format of the presentation as
5 well as working with the architect to provide
6 more clear drawings. The drawings that were
7 submitted to DCRA as well to the Board were done
8 by hand.

9 And we were requesting a
10 postponement until the week of the 20th or the
11 27th of November, so that we can properly get
12 that information to you. I've met with Office
13 of Planning, Ms. Brown-Roberts, yesterday, in
14 detail about this.

15 CHAIRMAN JORDAN: And we do have the
16 letter of request dated October 16th, which we
17 will accept the request.

18 Now let me ask, the applicant is
19 asking for additional time so that they can
20 revise their plans, present a better
21 presentation. And also in your letter it
22 indicates meeting with community or the ANC,

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1 I believe?

2 MS. REED-FRIMPONG: Yes, sir. We've
3 actually met with the ANC and they voted in
4 favor, but I wanted to make sure that everyone
5 was aware of that. And we got that in a less
6 than timely fashion, and that was one of the
7 other reasons why we wanted to get a
8 postponement.

9 CHAIRMAN JORDAN: Okay. So
10 there's a request to postpone and not go forward
11 with this application. And we appreciate you
12 coming down.

13 Do you have any opposition or
14 concern about that? Can you --

15 MS. WAHAB: You mean as far as
16 they're making a --

17 CHAIRMAN JORDAN: Yes, we wouldn't
18 hear the case today.

19 MS. WAHAB: Okay. No, we're okay
20 with that. We have some concerns but --

21 CHAIRMAN JORDAN: Concerns. Have
22 you had a chance to talk to the applicant about

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1 your concerns or the applicant's representative
2 about your concerns?

3 MS. WAHAB: Not really, but he just
4 sent a letter stating --

5 CHAIRMAN JORDAN: Thank you. I
6 would strongly suggest, strongly, strongly,
7 strongly suggest that you meet with those people
8 who are in opposition or have concerns and before
9 you come the next time.

10 MS. WAHAB: No problem. Thank you.

11 CHAIRMAN JORDAN: We've learned
12 that through conversation a lot of the problems
13 are resolved, and everybody may not be happy
14 but certainly people live better in these
15 situations.

16 MS. WAHAB: Sure, thank you.

17 CHAIRMAN JORDAN: If by consensus,
18 the Board, that we will go ahead and to grant
19 this postponement.

20 Mr. Moy, what possible dates do we
21 have?

22 MR. MOY: Well, Mr. Chairman, as you

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1 know there's no hearing on the 20th of November.

2 There is a hearing of course on the 27th. We
3 could add this as the fifth case in the morning,
4 which would be in addition to decision cases.

5 CHAIRMAN JORDAN: Which case was
6 that again?

7 MR. MOY: November 27th. Or the
8 case? 18432. Staff would recommend placing
9 this in the morning session on December the 4th,
10 since you only have four cases in the morning
11 session. But it's your call.

12 CHAIRMAN JORDAN: So the 27th or --

13 MR. MOY: Or December 4th.

14 CHAIRMAN JORDAN: But how many
15 cases on December 4th?

16 MR. MOY: Four cases in the morning.

17 CHAIRMAN JORDAN: And November 27th
18 is --

19 MR. MOY: Four cases in the morning
20 plus decision cases.

21 (Off microphone comments)

22 MR. MOY: Yes.

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1 CHAIRMAN JORDAN: What do we have
2 in the afternoon of the 4th?

3 MR. MOY: Two cases.

4 CHAIRMAN JORDAN: That's not
5 decisions?

6 MR. MOY: Correct, it's a hearing.
7 Applications, yes.

8 (Off microphone comments)

9 MR. MOY: Afternoon or morning?

10 CHAIRMAN JORDAN: Afternoon.

11 MR. MOY: All right, very good.

12 All right, thank you.

13 MS. WAHAB: Thank you.

14 (Off microphone comments)

15 MR. MOY: So with that, Mr.
16 Chairman, the first application before the
17 Board. This application, Number 18421, this
18 is an application of 3579 Warder Street LLC,
19 pursuant to 11 DCMR 3103.2.

20 This is for a variance relief from
21 the nonconforming structure provisions under
22 subsection 2001.3, not meeting the occupancy

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1 requirements under section 772 and 774,
2 respectively, and a variance from the off-street
3 parking requirements under subsection 2101.1.

4 This is to allow the renovation of
5 an existing dwelling into a four-unit apartment
6 house in the R-5-D District at premises 3602
7 16th Street, N.W. Property located in Square
8 2624 Lot 776. This is the caption as
9 advertised, Mr. Chairman. I believe there's
10 an amendment to the relief being requested.

11 CHAIRMAN JORDAN: Good morning.

12 MS. MOLDENHAUER: Good morning.

13 CHAIRMAN JORDAN: Would you please
14 identify yourselves, please.

15 MS. MOLDENHAUER: Good morning,
16 Board Members, my name is Meredith Moldenhauer
17 from Griffin & Murphy. I am here today with
18 Mohammad Pishvaein, the developer, representing
19 3579 Warder Street LLC, James Killette from
20 Killette & Associates. We also have Alan Dalton
21 from RE/MAX Allegiance here as well. I'll let
22 the individuals introduce themselves.

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1 MR. PISHVAEIN: Good morning, my
2 name is Mohammad Pishvaein. I'm a developer
3 in Washington, D.C.

4 MR. KILLETTE: Hello, my name is
5 James Killette, architect.

6 CHAIRMAN JORDAN: First, I think we
7 have as a preliminary matter there's been a
8 request to waive the 14-day requirement of the
9 filing of the pre-hearing statement which we
10 will do.

11 MS. MOLDENHAUER: Thank you.

12 CHAIRMAN JORDAN: Before we begin,
13 I think their application is very solid.
14 However, we could because of some supplemental
15 and some amendments define clearly what's your
16 relief, request for relief?

17 MS. MOLDENHAUER: Absolutely. The
18 relief has been modified, just to kind of go
19 back. Our application includes relief from
20 area variance requirements under 3103.2, under
21 the nonconforming structure 2001.3, for two
22 areas. One, the lot occupancy which is an

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1 existing nonconformity, and the rear yard which
2 is also an existing nonconformity.

3 We also have amended the application
4 to include floor area ratio relief under 402.4,
5 and that is a request for relief of the current
6 project as a 3.87 FAR, which is requesting relief
7 of .37 FAR.

8 The initial application had had
9 parking relief, but in our supplemental we
10 identified that the application is now providing
11 a parking pad on the lot, and thus that is not
12 required anymore.

13 CHAIRMAN JORDAN: So we have relief
14 under 2001.3, and for a nonconforming structure
15 403.2 for 4.1?

16 MS. MOLDENHAUER: And also 402.4
17 for the floor area ratio.

18 VICE CHAIR SORG: Mr. Chairman, I
19 just want to ask one, I just missed the FAR
20 numbers that you said. Can you say them again?

21 MS. MOLDENHAUER: The requirement
22 is for at 3.5, the proposed project is providing

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1 a FAR 3.87.

2 VICE CHAIR SORG: And what's the
3 existing?

4 MS. MOLDENHAUER: The existing,
5 hold on one moment. The existing is 3.65.

6 VICE CHAIR SORG: Okay, and in the
7 OP report it says 2.67. Okay, thanks.

8 (Off the record comments)

9 CHAIRMAN JORDAN: Ms. Moldenhauer,
10 we believe that your file is very solid. I
11 think we understand clearly what you want and
12 why you want it. You can have the opportunity
13 to do a presentation if you want, but we don't
14 believe it's necessary.

15 I think we probably have more
16 questions with Office of Planning than we have
17 with you, but it certainly is your right to do
18 a presentation if you want to. And as you know,
19 we certainly know sometimes people do
20 presentations when they don't have to, and they
21 might say something that doesn't help.

22 But anyway, it's certainly up to you, and

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1 I think the Board is pretty clear on your
2 application.

3 MS. MOLDENHAUER: Okay, then we do
4 have PowerPoints. I will hold off on that at.

5 What maybe I'd like to do is just see what
6 questions may be posed of the Board. There may
7 be some pictures in the PowerPoint slides that
8 we can use and help explain something if an
9 additional question comes up from OP or from
10 that dialogue. I'll hold off on any additional
11 presentation at that point.

12 CHAIRMAN JORDAN: And that's
13 certainly how I would like to proceed, if we
14 can now turn to Office of Planning and give you
15 the opportunity if necessary to respond to them.

16 MS. MOLDENHAUER: Thank you. I
17 appreciate that.

18 CHAIRMAN JORDAN: If we can turn to
19 Office of Planning, please.

20 MR. COCHRAN: Thank you, Mr. Chair.
21 Because of the tightness of your schedule I
22 think I'll just cut to the chase.

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1 With respect to 404.1 and 403.1, the rear
2 yard and lot occupancies, we certainly support
3 the relief of the, those have been in excess
4 of what's allowed for years, no problem,
5 although we've got to point out that that rear
6 porch was probably constructed without a permit.

7 We couldn't find one. But that was certainly
8 well before the current applicant bought the
9 property. When it comes to the

10 expansion of the nonconforming structure we're
11 not quite as sanguine about it as perhaps the
12 Board is, mostly because it's related to the
13 FAR, which was just asked for today by the way.

14 OP had put in 2.67 as the FAR because
15 that's what the applicant had originally filed,
16 but when we met with the applicant we suggested
17 that perhaps the basement did have some space
18 that would count towards the floor area ratio.

19 The applicant subsequently did look at that
20 more closely and whereas OP had thought that
21 perhaps half of the basement would count towards
22 FAR, it turned out that the entire basement

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1 counts towards FAR.

2 So that was the new figure that was
3 given to us by the applicant, which I received
4 yesterday because of some communication
5 problems with computers between our offices.

6 Okay, so the applicant is basically
7 adding four floors on the rear, now that you
8 count the basement as a floor, and adding a roof
9 structure on the top floor, which would be a
10 partial floor.

11 The concern that we have that leads
12 us not to be able to support it as opposed to
13 opposing, is because we just don't have enough
14 information to analyze it. Yes, the applicant
15 supplied considerably more that we got
16 yesterday, but we still don't have a comparison
17 of what the return on investment would be if
18 the applicant came closer to comporting with
19 the FAR restrictions.

20 We don't know that the addition of
21 that fourth floor, which definitely increases
22 the FAR beyond what's permitted in the zone,

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1 we don't know what the return on investment would
2 be with that, without that added. We also don't
3 know what the cost would be and what the return
4 would be if they didn't do the addition on the
5 back.

6 So there's just not enough
7 information to adequately weigh whether the
8 building would lie, continue to be vacant, lie
9 fallow, if you couldn't expand to do the addition
10 on the rear, and to have three bedrooms on the
11 top floor unit rather than two bedrooms like
12 every other floor has. So that's the main
13 problem that we have.

14 We also have a little bit of concern
15 that -- it's unfortunate. I appreciate the
16 applicant having looked at the FAR, but it is
17 unfortunate that that request is getting noted
18 only today. But that's a procedural question
19 not a substantive one at this point.

20 We certainly don't think that
21 there'll be any harm to the public good. We
22 do have concern that there would be substantial

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1 harm to the zoning regulations because of the
2 lack of demonstrated, practical difficulty
3 demonstrated, in our viewpoint, and the lack
4 of procedure on advertising the FAR.

5 We have to also point out that while it's
6 not within the Board's jurisdiction to look at
7 public space considerations, but the applicant
8 now does jut out into public space by about two
9 feet, and you may want to take into consideration
10 whether they would have to revise their plans,
11 because they're not correcting that deficiency
12 with these plans.

13 That concludes our testimony. I'll
14 be happy to answer any questions.

15 CHAIRMAN JORDAN: Ms. Sorg?

16 VICE CHAIR SORG: Thank you.

17 Hi, Mr. Cochran.

18 MR. COCHRAN: By the way I should
19 say DDOT is here to answer any questions if you
20 want to, on public space.

21 VICE CHAIR SORG: Right. A couple
22 of questions. First, in one of your statements

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1 you noted that the FAR relief request was only
2 noted today. I just wondered, have you seen
3 the, and reviewed the last submission from the
4 applicant?

5 MR. COCHRAN: That's the one that
6 I got yesterday. I just saw today that it was
7 actually filed here on the 17th. But there was
8 some technology problems in transmitting it from
9 one office to the other.

10 VICE CHAIR SORG: And so are the
11 statements and the evidence that are in that
12 submission tying into what your remarks are
13 today?

14 MR. COCHRAN: Absolutely taking
15 that into account of what I'm saying today, yes.

16 VICE CHAIR SORG: Yes, okay. I
17 just wanted to make sure. Okay, then with
18 regard to, it sounds to me like, you know, I
19 hear from you, you're fine with lot occupancy
20 requirements, rear yard, we agree with that.
21 It sounds to me like your biggest hangup is the
22 fourth floor addition. Is that accurate?

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1 MR. COCHRAN: It's the combination
2 of the costs from repairing the fire damage and
3 somewhat inadequate information on whether
4 those costs could be recouped without the
5 expansion of a nonconforming structure. And
6 then obviously the fourth floor addition, which
7 admittedly the applicant has tried to, they've
8 worked with us. They've set it back. It won't
9 be that visible from the surrounding area.

10 VICE CHAIR SORG: But it's a FAR
11 question, I understand that.

12 MR. COCHRAN: Absolutely.

13 VICE CHAIR SORG: So can you say
14 what portion of the FAR relief that the fourth
15 floor addition represents?

16 MR. COCHRAN: Sorry, no, I can't.
17 I have not measured that since I didn't realize
18 that the FAR would be going over until yesterday.

19 VICE CHAIR SORG: Okay.

20 Do you know?

21 CHAIRMAN JORDAN: Let's just wait
22 just a second. Is there any other questions

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1 for Office of Planning from Board members?

2 Then let's turn to the applicant and
3 to respond to some of the highlights of the
4 Office of Planning, please. And I think your
5 first question, Ms. Sorg, was?

6 VICE CHAIR SORG: I was just asking
7 whether you knew what portion of the FAR relief,
8 the fourth floor addition represented.

9 MS. MOLDENHAUER: One moment. If
10 you go to the supplemental document, which is
11 the September 28th filing, Exhibit C, Page 85,
12 it shows that the small penthouse is 441 square
13 feet. And the FAR relief is 469 square feet.

14 CHAIRMAN JORDAN: Give me those
15 numbers again, please.

16 MS. MOLDENHAUER: 441 is the
17 penthouse square footage, and the FAR relief
18 is 469. I don't believe that those two numbers
19 actually correlate to each other, and I'd like
20 the applicant to provide some additional
21 testimony to address that issue.

22 And I just want to obviously point out

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1 that in the submission, the pre-hearing
2 statement, Exhibit Number E, we do outline a
3 detailed pro forma profit and loss analysis
4 which does show what potentially, what profits
5 could potentially be obtained with compliance
6 of FAR, and it's showing that obviously it's
7 a de minimis profit.

8 But let me turn to the applicant,
9 Mr. Pishvaein, and allow him to testify as to
10 some of the challenges of marketing a property
11 and the design of this project in regards to
12 his needed relief.

13 MR. PISHVAEIN: Good morning.
14 Like Mr. Cochran for the Office of Planning,
15 I go cut to the chase and tell you exactly what
16 my thought is.

17 When I purchased this building and
18 house back in February, I went back and forth
19 with my architect about three months to make
20 something out of this that I can make it to be
21 somewhat profitable. And the only thought that
22 I came up was to put an addition fourth floor

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1 on this to go up one more flight so I can sell
2 the top unit.

3 As a developer, and if you talk to
4 real estate agents, and probably you know this,
5 the units in the basements are the hardest to
6 sell and they are almost, not impossible.

7 But right now I can in front of you
8 for another property, 3609 13th Street, last
9 August, or last November, I'm sorry. And we
10 just went in the market about a month and a half
11 ago for a three-unit apartment building or
12 condo.

13 The top floor, Unit Number 3, sold
14 for \$550,000. Unit 2, ground level, sold for
15 \$500,000. We're asking for \$400,000 for the
16 basement unit and nobody's interested. I mean
17 there's \$150,000 difference between basement
18 and upper floor, you know, 20 feet higher, and
19 consumer is not interested for the basement.

20 So I gathered some drawings and I
21 went to the Office of Planning back in April
22 of this year, and I went through the same thing

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1 and everything with the back porch and the fourth
2 floor.

3 And in that meeting their concern
4 was that we do not want you to put a fourth floor
5 because of the, full fourth floor, because we
6 don't want to have any kind of disturbance from
7 16th Street when you're looking at the house.

8 We don't want anything to look different, so
9 that would be a violation of zoning. But if
10 you do a fourth floor penthouse with a setback
11 we would be okay with it.

12 And the thought was if we do add
13 another bedroom and a bath up there with a
14 rooftop deck like I have it in the financial
15 analysis, we can get an extra \$150,000 for that
16 versus I can't do anything with the basement.

17 And at that point I didn't have
18 parking in the basement. I got away with the
19 parking, and Office of Planning was okay with
20 not having any parking in the basement. And
21 they were just saying, just go with the basement
22 as a unit and penthouse on top and everything

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1 would be okay. So based on that I got all of
2 this together and that's where we are.

3 So it's again it would be in market.

4 If I just cut that penthouse on top that would
5 be another unit just the same as you see on your,
6 on the allowances reports, there would be
7 another unit for \$500,000, just \$150,000 less.

8 CHAIRMAN JORDAN: I think the
9 question though is, is it an issue of making
10 more money or where it becomes a feasible
11 project?

12 MS. MOLDENHAUER: And I just want
13 to answer that question. I'm just going to ask
14 the applicant a specific question.

15 If you were to look at the profit
16 and loss statement, you're initially showing
17 a profit of \$200,000. If you could not sell
18 that upper unit or have the total number of units
19 that you're showing right now, what type of
20 profit would you have?

21 MR. PISHVAEIN: \$50,000.

22 MS. MOLDENHAUER: Would that be a

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1 feasible project for you to pursue?

2 MR. PISHVAEIN: No.

3 CHAIRMAN JORDAN: Any other
4 questions we have of the applicant? Does the
5 applicant have anything more they want to --
6 let me talk about the public space matter.

7 What's the status of the public
8 space discussions?

9 MS. MOLDENHAUER: Let me just turn
10 to a PowerPoint slide, and that way the architect
11 can kind of walk through that issue.

12 Mr. Killette?

13 MR. KILLETTE: Good morning.
14 Okay, as it relates to public space, which we
15 have a projection here of approximately two feet
16 from the Brown Street side, Brown Street has
17 a maximum projection distribution of four feet,
18 six inches. Our projection is only
19 approximately two feet.

20 So I met with the Public Space
21 office, and I do have an application on file.

22 They granted permission to extend the

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1 projection because it's not beyond the four
2 feet, six inch maximum Brown Street
3 distribution.

4 CHAIRMAN JORDAN: So you said they
5 granted permission for you to extend?

6 MR. KILLETTE: Yes.

7 MS. MOLDENHAUER: I believe you
8 stated that the application is on file.

9 MR. KILLETTE: Yes, the file has
10 just not been, right. It's in process.

11 CHAIRMAN JORDAN: Any other
12 questions of the applicant in light of Office
13 of Planning's report, anyone?

14 VICE CHAIR SORG: Thank you, Mr.
15 Chairman. I'll just ask one more question.
16 I'm looking in that same exhibit at the
17 construction budget. Do you have a feeling of
18 what portion of that construction budget is
19 related to the restoration as opposed to of the
20 addition and sort of ultimate tenant units build
21 out?

22 MR. PISHVAEIN: Yes, I do. I do

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1 have that in the presentation. We do have a
2 construction budget for \$768,000. We have two
3 issues here. First of all, we are going to have
4 fire sprinkler because we are going up one more
5 flight. So in the plumbing I have the fire
6 sprinkler included, which is \$60,000.

7 Also the restoration, there are two, again
8 you have it in your package. There are four
9 pieces of concrete joist and beams were added
10 to this house at some point. These concrete
11 joists were extended from one property to
12 another property.

13 We are right here in between, 3602,
14 and this is 16th Street and this is Brown Street.

15 The previous owner has added at some point
16 Joists A and B, and Beams 1 and 2. These are
17 22-1/2 feet long and these are eight feet long.

18 Because of the explosion at this property,
19 these joists has lost its integrity and they're
20 all bowed down. And at this point we have
21 columns to support it.

22 And I have never seen one building

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1 or house to have concrete on the roof. But no
2 matter what, this has to be supported all the
3 way through the basement. It has to supported
4 with jacks all the way through the basement so
5 we can cut these concretes piece by piece to
6 remove it from the house. Otherwise it pulls
7 down the walls. It would damage both properties
8 on both sides.

9 And right now there are holes
10 through the roof and light comes through and
11 the concrete is bent and bowed down. So it's
12 one of those things that I don't know exactly
13 how much.

14 I've got estimates anywhere from
15 \$30,000 to \$50,000 to remove this concrete.
16 Otherwise the normal construction costs would
17 be somewhere between \$125 to \$150, and we added
18 extra \$10 square foot for that matter.

19 VICE CHAIR SORG: That's what I was
20 looking for.

21 MR. PISHVAEIN: And I feel bad when
22 you ask me the question that, my attorney's

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1 asking me the question that is \$50,000 enough?

2 And I sit here and I say no, you know, one should
3 think that the hell with you, you're making
4 \$50,000. Why is that not enough?

5 I bought this property last
6 February, ten months ago, for \$720,000. At this
7 point including clearing costs, attorney fees,
8 architect, permits, right now I paid extra
9 \$40,000. Once you say okay, then we go to apply
10 for building permits. That would be another
11 four months.

12 And by the time we start it'll be
13 the end of February of next year. By the time
14 I'm done it will be next year at this time that
15 I'm ready to sell. So two years of working and
16 probably we will be finalizing, maybe sitting
17 at some closing hopefully by February of 2014.

18 So that's when I say, you know, if
19 you divided by two years it would be \$25,000
20 a year income, and putting \$1.2 million
21 investment?

22 CHAIRMAN JORDAN: But in your P&L

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1 it shows that if you're in compliance with the
2 FAR that it's \$83,000.

3 MR. PISHVAEIN: I'm sorry.

4 CHAIRMAN JORDAN: If I'm reading
5 your P&L correctly.

6 MS. MOLDENHAUER: I believe my
7 client was talking about the project as
8 presented, not the FAR.

9 CHAIRMAN JORDAN: Okay, but it said
10 compliance with FAR, then at the end of the day
11 it's an \$83,000 profit, right? Isn't that what
12 this document says?

13 MR. PISHVAEIN: Well, the question
14 was, if you don't do the penthouse what would
15 be the profit? And I just gave you a number
16 that so the penthouse would be \$650,000, so slash
17 the penthouse so I can sell it for \$500,000.

18 So that's \$150,000 less, and it's
19 showing \$200,000 profit. I'm just taking
20 \$150,000 off and I'm saying roughly it would
21 be \$50,000. That was a rough number that I came
22 up with to give you an answer.

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1 MS. MOLDENHAUER: I believe that
2 the different analysis then be FAR application
3 or that's submitted in the supplemental, this
4 is actually just showing full compliance with
5 FAR while still doing a fourth floor level.

6 CHAIRMAN JORDAN: Yes, I see that.

7 MS. MOLDENHAUER: There's two
8 different --

9 CHAIRMAN JORDAN: Yes, the numbers
10 don't, yes --

11 MS. MOLDENHAUER: There's two
12 different scenarios. One is complying with FAR
13 overall and doing a top penthouse floor, or two,
14 taking off the penthouse.

15 CHAIRMAN JORDAN: Anything else we
16 need of the applicant, anyone?

17 Let's turn now to the Department of
18 Transportation for their comments.

19 MR. SOLANO: Good morning,
20 everybody. Can you hear me?

21 CHAIRMAN JORDAN: Yes.

22 MR. SOLANO: My name is Gilberto

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1 Solano and I currently work for the Department
2 of Transportation. I do have a couple questions
3 for the architect. Well, I really wanted to
4 see what your presentation and what your report
5 would be and, I apologize.

6 This is my first hearing and I'm
7 learning procedures. So I didn't get a chance
8 to review them, but I apologize.

9 CHAIRMAN JORDAN: We understand,
10 just don't let it happen again. No.

11 (Laughter)

12 MR. SOLANO: Noted.

13 CHAIRMAN JORDAN: We do have a
14 report that's been submitted by the Department
15 of Transportation if you want to expound on that
16 --

17 MR. SOLANO: Yes, sir.

18 CHAIRMAN JORDAN: -- if necessary.
19 You don't have to. You can stand by it or add
20 to it or subtract whichever you prefer.

21 MR. SOLANO: I would like to add to
22 it briefly.

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1 CHAIRMAN JORDAN: Mm-hmm.

2 MR. SOLANO: Usually in cases where
3 the public space is being impacted, whether
4 through the pedestrian right-of-way or the
5 public space or the traffic flow, there are cases
6 where these items go before the Public Space
7 Committee.

8 After reviewing the report and
9 listening to some of the comments that are being
10 made, I believe that this particular project
11 at this where that it protrudes into public space
12 which was discussed, I think, two feet, would
13 need to go before the Public Space Committee.

14 So at this point I don't have anymore
15 to add except for the Public Space Committee
16 should be readily available to review and
17 provide more feedback as to the portion that's
18 protruding into public space on this project.

19 CHAIRMAN JORDAN: Are there any
20 questions of the Department of Transportation
21 from Board members?

22 Yes, Mr. Hood?

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1 ZC CHAIRMAN HOOD: I apologize. I
2 was having a sidebar.

3 CHAIRMAN JORDAN: I noticed that.

4 ZC CHAIRMAN HOOD: You noticed
5 that? First thing, we welcome the gentleman
6 from DDOT. What's your last name again?

7 MR. SOLANO: Solano.

8 ZC CHAIRMAN HOOD: Solano. I can
9 tell you, I've been here a long time. I've never
10 seen DDOT ask the applicant a question. That's
11 the first time.

12 MR. SOLANO: I'm a trendsetter,
13 sir.

14 CHAIRMAN JORDAN: And he's been
15 here a long time, like a long, long, long time.

16 ZC CHAIRMAN HOOD: Okay, Mr.
17 Chairman.

18 Okay, the architect mentioned, and
19 you may have commented on this. Again, forgive
20 me if you did. The architect mentioned that
21 there was an application on file.

22 I don't know if I would be out of

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1 order just to ask you, what's the status of that
2 Public, or do you know anything? Does it look
3 like it's a go or --

4 MR. SOLANO: That's a very good
5 question. I did research it before, prior to
6 arriving to the hearing today. And I didn't
7 see in the application itself or comments made
8 by staff that it has been approved or the review
9 has concluded.

10 ZC CHAIRMAN HOOD: So that sort of
11 review is still going on this, pending?

12 MR. SOLANO: Exactly, right.

13 ZC CHAIRMAN HOOD: Okay, thank you.

14 Thank you, Mr. Chairman.

15 CHAIRMAN JORDAN: Does the
16 applicant have any questions of the Department
17 of Transportation?

18 MS. MOLDENHAUER: I just have one
19 quick question. Is it true that based on Brown
20 Street that there's a permitted below four-foot
21 protrusion waiver process?

22 MR. SOLANO: Could you repeat that

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1 question? I'm sorry.

2 MS. MOLDENHAUER: My understanding
3 is that there's a four foot, six inch -- sorry.

4 MR. KILLETTE: Okay, when I met with
5 Public Space, they informed me that there was
6 a, I was informed by Public Space that four foot,
7 six inches was the maximum street distribution
8 at Brown Street. And because we were under that
9 it would be okay to continue the existing
10 projection.

11 MS. MOLDENHAUER: Is that
12 calculation of a four foot, six inch on Brown
13 Street, is that correct?

14 MR. SOLANO: That is correct. But
15 when you spoke with Neil Schoon --

16 MR. KILLETTE: Excuse me?

17 MR. SOLANO: Neil Schoon.

18 MR. KILLETTE: Yes, sir.

19 MR. SOLANO: Did he give you exactly
20 anything in writing, or what did he refer that
21 or base that on as far as providing you that
22 information?

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1 MR. KILLETTE: He printed the
2 distribution sheet that showed the numbers.
3 He gave me a copy of it, and he said as long
4 as I would be below the maximum then there wasn't
5 a problem.

6 MS. MOLDENHAUER: I think that
7 that's the only issue that I want to identify
8 at this point. I don't want to go any further.

9 Obviously this is an issue that will have to
10 be addressed with Public Space directly and is
11 not specifically related to the application.

12 If we do, maybe one of the things
13 we would ask would be for some flexibility to
14 potentially have to address this issue if the
15 waiver is not granted. Obviously if that waiver
16 would not be granted that would reduce even the
17 FAR by four square feet on each floor as well.

18 But I don't think that's an issue
19 we can really address today. The application
20 has been submitted by the architect and now it's
21 simply a process of waiting. As indicated by
22 DDOT it's pending. We don't know at all really

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1 what is being reviewed at this moment, and I
2 don't think we should try to project what that
3 agency will do at this point.

4 CHAIRMAN JORDAN: Is there anyone
5 here from ANC-1D? Anyone from ANC-1D? We do
6 have a letter of support from ANC-1D whose voting
7 in support of this project which we would give
8 great weight.

9 Is there anyone in the audience here
10 in support of the application that wishes to
11 testify other than what we've already had?

12 You can't hear me? Thank you. Is
13 anyone here in opposition who wishes to testify
14 in opposition to this project?

15 Then let's turn back to the
16 applicant for any -- do you have a question?

17 VICE CHAIR SORG: If I can make one
18 note. Based on the transitions in our filing
19 system, I just wanted to know. I counted this
20 up last night with the, what do you call it,
21 Roman numerals. And just to note, you just
22 asked for letters of support. I counted that

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1 the applicant submitted nine letters of support.

2 CHAIRMAN JORDAN: Yes. You
3 counted nine, I counted ten. But either way
4 they, and thank you. I was remiss for not
5 putting that on the record that we have ten
6 letters of support. And also the
7 recommendation from the Department of
8 Transportation really was that they have no
9 objection to the application.

10 So let's turn back to the applicant
11 and ask if there's anything further, any
12 rebuttal you want to close for us, please, if
13 necessary?

14 MS. MOLDENHAUER: Thank you very
15 much, Mr. Chairman. I'd just like to quickly
16 sum everything up and provide a closing.

17 Based on the conflicts of factors we saw
18 on the existing nonconformity in the rear yard,
19 the existing nonconformity as far as the lot
20 occupancy, the physical conditions on the
21 property based on the fire, the unique aspects
22 that there are these concrete joists and beams

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1 on the property, the cost associated with having
2 to cut those up and remove those as stated in
3 our pre-hearing statement, creates a practical
4 difficulty and an economic hardship on the
5 applicant in order to comply with all of the
6 zoning requirements as stated, the lot occupancy
7 rear yard and floor area ratio.

8 As Mr. Pishvaein testified, the
9 necessity to have both the basement level and
10 the other additional units, and especially the
11 top unit based on the ability to sell that top
12 unit for a higher marketable price as shown in
13 the profit and loss analysis in our submission,
14 is crucial in order to have this project be
15 financially feasible.

16 As indicated in the cases cited in
17 our submission, I'll go through those.
18 Economic feasibility has been determined to be
19 a factor that can be considered by the Board
20 to satisfy practical difficulty, and I think
21 that we have satisfied all three prongs of the
22 case and we have ANC support. We have ten

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1 letters of support including the adjacent
2 property owner in this project.

3 We ask the Board for their
4 opportunity to review the case and we hope that
5 they grant support for all aspects of the relief.

6 CHAIRMAN JORDAN: Thank you. With
7 that we'll conclude this hearing and turn to
8 the Board to see if they're ready to deliberate.

9 Well, let me start it off by simply
10 saying, I'm going to move that we grant the
11 request, the applicant's request and the
12 supplemental request for the variance as
13 requested on 2001.3 for nonconforming structure
14 regarding lot occupancy, and under 403.2, 404.1
15 rear yard, and 402.4 for the FAR.

16 Any second?

17 VICE CHAIR SORG: Second.

18 CHAIRMAN JORDAN: Motion made and
19 seconded. Is there any unreadiness?

20 MEMBER HINKLE: Yes, Mr. Chair, I
21 think the applicant asked for flexibility in
22 terms of the open space committee as well.

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1 CHAIRMAN JORDAN: Then I would
2 amend that motion to add for that flexibility
3 to resolve the public space issue.

4 It was a friendly add, so we don't
5 need another --

6 (Off microphone comments)

7 CHAIRMAN JORDAN: Okay, any other
8 further unreadiness? No. All those in favor
9 signify by saying aye.

10 (Chorus of ayes)

11 CHAIRMAN JORDAN: Those opposed,
12 nay. The motion carries.

13 Mr. Moy?

14 MR. MOY: Staff would record the
15 vote as four to zero to one. This is on the
16 motion of Chairman Jordan to approve the
17 application for the relief cited, the amended
18 relief. Second the motion is Mr. Hood.

19 Also in support of motion, Vice
20 Chairperson Sorg and Mr. Hinkle. No other Board
21 members participating. So again, the motion
22 carries by a vote of four to zero to one.

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1 ZC CHAIRMAN HOOD: Mr. Chairman,
2 correction. Ms. Sorg actually seconded. I was
3 -- okay.

4 MR. MOY: Okay, so I yield that
5 second to Ms. Sorg.

6 CHAIRMAN JORDAN: Okay. And may we
7 have a summary order?

8 MR. MOY: Yes, sir.

9 CHAIRMAN JORDAN: Thank you.
10 Thank you, all.

11 MS. MOLDENHAUER: Thank you very
12 much.

13 MR. PISHVAEIN: Thank you very
14 much.

15 MR. MOY: The next application
16 before the Board is Application 18418. This
17 is the application of Pilgrim Baptist Church,
18 pursuant to 11 DCMR 3104.1 for a special
19 exception to permit a church program under
20 section 216, in the R04 District at premises
21 712 I Street, N.E., property located in Square
22 888, Lot 800.

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1 MR. BUSH: Good morning.

2 CHAIRMAN JORDAN: Good morning.
3 Could you please identify yourselves, please?

4 (Off the record discussion)

5 MR. BUSH: Thank you. It is bright
6 now. Members of the Board, my name is Nate Bush.
7 I'm present of behalf of the applicant, Pilgrim
8 Baptist Church. Present to my left is Pastor
9 Louis Jones. He is the pastor of Pilgrim
10 Baptist. And Reverend Kevin Kearney, he's the
11 administrative officer of Pilgrim Baptist
12 Church.

13 CHAIRMAN JORDAN: Okay, thank you.
14 We have some concerns about this application
15 in a good way for you, because we believe that
16 we've been advised by counsel, and we also
17 believe with our examination of this record that
18 relief is not necessary.

19 That within your present use of the
20 church property that it passes over to have the
21 same use for the administrative capacity in the
22 building that's adjoining. So I don't know what

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1 brought you here, but the previous
2 interpretations of section 216 indicates that
3 it goes to another aspect and that your use would
4 be a comparable use in the other location.

5 MR. BUSH: Yes, Mr. Chairman. I
6 appreciate the representations of counsel.
7 We've had this discussion both at the church
8 itself and also with other members of the
9 community. In fact, one of the, when we made
10 presentation before the ANC, their position was
11 very similar to what is being represented down
12 here today.

13 Our position has been that because
14 of, we believe that clearly a special exception
15 would be appropriate in light of the fact that
16 we're simply relocating administrative offices
17 from one site to another site that's adjacent
18 to the church itself.

19 However, in order to make sure that
20 we preserve any possibility of issues that may
21 come up later on, we felt that it would be in
22 our best interest to move forward to ask for

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1 a special exception from the Board.

2 There are some other considerations that
3 we thought would be to our advantage if we, in
4 fact, came before the Board asking for the
5 special exception.

6 So we are aware that this issue, that
7 the comparable use that we are requesting is
8 consistent with those functions that would be
9 extended to a property that's, well, we're aware
10 that the use that we're actually requesting is
11 consistent with what is already provided and
12 permitted. It was just our view that this was
13 a way of touching all of the bases to address
14 those issues.

15 (Off microphone comments)

16 CHAIRMAN JORDAN: Well, let me try
17 to help you a little bit. One, you know, you
18 paid money for the application to be here, but
19 we don't think that the relief is necessary.

20 And so I'm going to offer this as
21 a motion and it requires some follow-up for you
22 to then make a special request, make a request

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1 to the Office of Zoning so you can see if you
2 can get your money back.

3 MR. BUSH: Mr. Chairman, before you
4 make the motion could I make one more
5 representation?

6 CHAIRMAN JORDAN: Do you know what
7 my motion's going to be?

8 MR. BUSH: No, I do not know. I'm
9 anticipating what it is and I'm asking that my
10 remarks be taken into consideration before --

11 CHAIRMAN JORDAN: If you let me
12 finish then I think I would probably help you.

13 MR. BUSH: Okay, thank you.

14 CHAIRMAN JORDAN: And I'll give you
15 the opportunity once I make my motion for you
16 to say if it doesn't help.

17 MR. BUSH: That would be fine.

18 CHAIRMAN JORDAN: Well, just let me
19 say what my intent is. My intent is to offer
20 to the Board a motion to dismiss this application
21 and in that order indicate that the relief
22 requested is unnecessary because the

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1 administrative use of that building is something
2 that's already allowable within the zoning law.

3 MR. BUSH: Yes. Can I comment, Mr.
4 Chairman?

5 CHAIRMAN JORDAN: You can go ahead.

6 MR. BUSH: I thought there was a
7 second coming on.

8 CHAIRMAN JORDAN: I didn't put it
9 before the Board but --

10 MR. BUSH: Very good. It would be
11 helpful, Mr. Chairman, but this is our concern.

12 That ultimately the church is being taxed for
13 that property at the current ongoing rate. We
14 can seek tax reduction if, in fact, we have a
15 special exception to permit the alternative use
16 for that property which would allow us to then
17 --

18 CHAIRMAN JORDAN: We're saying you
19 have use already as a church, is what we're
20 saying. So how we, I'm not getting into a tax
21 issue. What we're doing is affirming that you
22 have use of that property as administrative

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1 office for the church. That's what the motion
2 says. That's what I'm saying. You're looking
3 for what's the added pluses.

4 MR. BUSH: I appreciate the point,
5 well taken, Mr. Chairman.

6 CHAIRMAN JORDAN: Is the Board okay
7 with that motion? Okay.

8 ZC CHAIRMAN HOOD: If that's a
9 motion, Mr. Chairman, I'll second that motion.

10 CHAIRMAN JORDAN: Motion made and
11 seconded that we dismiss this with the order
12 stating that this property as used as a church
13 and the adjoining property for church office
14 space is a permitted use, and that this was not
15 necessary for a special exception.

16 I'll those in favor signify by
17 saying aye.

18 (Chorus of ayes)

19 CHAIRMAN JORDAN: Those opposed
20 nay, the motion carries.

21 Mr. Moy?

22 MR. MOY: Yes. Staff would record

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1 the vote as four to zero to one. This was on
2 the motion of Chairman Jordan to dismiss the
3 request application. Second the motion, Mr.
4 Hood. Also in support, Vice Chair Sorg and Mr.
5 Hinkle. Motion carries four to zero to one.

6 CHAIRMAN JORDAN: Good.

7 ZC CHAIRMAN HOOD: Mr. Chairman, I
8 think Reverend Jones looks like he has some
9 unreadiness. So I just wanted to hear, if we
10 could allow time to hear from Reverend Jones.

11 Let's hear from Reverend Jones a second.

12 MR. JONES: Thank you. Thank you,
13 Mr. Hood. I think I'm clear now after hearing
14 Mr. Jordan, Chair, that the attachment of the
15 property to our church gives us the same rights
16 of usage as our church, which then can help us
17 to move forward in our next area that is of
18 concern. So I think I'm okay.

19 CHAIRMAN JORDAN: And if we could,
20 Mr. Moy, if we can reduce that order and be sure
21 that we include the dialogue, I mean for the
22 motion.

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1 (Simultaneous speaking)

2 CHAIRMAN JORDAN: And they'll have
3 a piece of paper also if they need to give it
4 to somebody to have it.

5 MR. JONES: Certificate of
6 occupancy, does that weigh any on this property
7 versus the church that would carry over?

8 CHAIRMAN JORDAN: We were saying,
9 yes. The answer is yes.

10 MR. JONES: All right.

11 CHAIRMAN JORDAN: And Mr. Moy, if
12 we can get that order out to them when we do
13 our summary?

14 MR. MOY: Yes, we can do that, Mr.
15 Chairman.

16 CHAIRMAN JORDAN: Okay, thank you.
17 Then you'll have that. Plus also we gave you
18 a benefit of trying to get your money back.

19 MR. JONES: Thank you for that too.

20 CHAIRMAN JORDAN: So you got more
21 than what you came here for.

22 MR. JONES: Thank you.

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1 CHAIRMAN JORDAN: We aim to please.

2 MR. JONES: We are, we're pleased.

3 (Simultaneous speaking)

4 CHAIRMAN JORDAN: Very good.

5 MR. BUSH: I appreciate the
6 chairman's latitude in allowing comments by
7 counsel not to sway the reason that --

8 CHAIRMAN JORDAN: Come on, you're
9 nice. We have some that we have to throw things
10 at them. Thank you for your comments. Thank
11 you very much.

12 MR. BUSH: Thank you all very much.

13 CHAIRMAN JORDAN: Thank you,
14 Planning.

15 (Off microphone comments)

16 CHAIRMAN JORDAN: I know, we know
17 you did. Thank you.

18 Okay, let's keep rocking and rolling
19 here today.

20 (Off microphone comments)

21 MR. MOY: The next application, Mr.
22 Chairman, is Application Number 18420. This

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1 is an application of AT&T, pursuant to 11 DCMR
2 3104.1, for a special exception to allow the
3 installation of 128-foot tall lightpole.

4 Let me repeat that. A 128-foot tall
5 monopole, in parentheses, (lightpole), antennas
6 and related equipment shelter and cabinets under
7 section 2713. This is in the R-4 District at
8 premises 4301 13th Street, N.W., property
9 located at Roosevelt High School. Property is
10 in Square 2915, Lot 802.

11 CHAIRMAN JORDAN: Thank you.

12 Would you please identify
13 yourselves?

14 MS. ANDERSON: Good morning,
15 members of the Board. My name is Tracy Anderson
16 and I'm here on behalf of the applicant, AT&T.

17 With me today is Amargeet Singh. He is our
18 engineer for the project. Also with me
19 is Christopher Morin from BC, our architects
20 and engineers, and Paul Whitley and Tim
21 Smolinski, I'm sorry, Tim and Paul, in correct
22 order, from NB&C. They are site acquisition

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1 specialists, so they handle the leasing and the
2 administrative part of the site.

3 CHAIRMAN JORDAN: Okay, just a
4 second. Did you do a presentation with the ANC?

5 MS. ANDERSON: We did. We
6 attended, I believe it was December 14th and
7 July 11th. We did two different ones. And I
8 believe Chairperson Joseph Vaughan submitted
9 a letter of support.

10 MR. MOY: I don't have a letter of
11 support.

12 CHAIRMAN JORDAN: No, I did notice.
13 I'm sorry, I was remiss. You did meet with
14 them January 2012?

15 MS. ANDERSON: Yes.

16 CHAIRMAN JORDAN: You did a
17 presentation.

18 MR. MOY: We don't have an ANC
19 letter in our files.

20 MS. ANDERSON: I can get one. The
21 Board, yes, they voted that night in support.

22 CHAIRMAN JORDAN: They did vote?

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1 MS. ANDERSON: They did take an
2 official vote. They did not take a vote at the
3 December meeting. We were still in the
4 preliminary stages. We hadn't finalized some
5 of the details of location and zoning plans so
6 we didn't expect them to vote. But they did
7 take a final vote on the second time we attended.

8 CHAIRMAN JORDAN: The Board
9 believes that the file here is sufficient to
10 not have any questions for the applicant nor
11 do we necessarily have to hear anything from
12 you, but you certainly have the opportunity to
13 provide that if you feel you need to talk about
14 something.

15 MS. ANDERSON: I believe OP's
16 report was very thorough. I have a few just
17 additional things that I wanted to say to you.
18 I won't go through the entire PowerPoint
19 because OP did cover it thoroughly in their
20 report.

21 CHAIRMAN JORDAN: We're saying we
22 believe your file is very complete.

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1 MS. ANDERSON: Oh, well, great.

2 Then --

3 CHAIRMAN JORDAN: We think we've
4 all read the record and we know what's in it.

5 MS. ANDERSON: That's fine, then --

6 CHAIRMAN JORDAN: Unless there's
7 something that's not in it that you believe you
8 need to say.

9 MS. ANDERSON: No, if you're happy
10 --

11 CHAIRMAN JORDAN: But you certainly
12 have the right to say it, although some people
13 when we get to this point and we say that they
14 say the wrong things.

15 MS. ANDERSON: Yes, I might, and as
16 an attorney that often happens. So I'll defer
17 to OP and just answer any questions that you
18 all might have.

19 CHAIRMAN JORDAN: Okay, then let us
20 defer to OP for you. Does OP have anything
21 additional to add?

22 MS. THOMAS: Nothing to add.

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1 CHAIRMAN JORDAN: Then is the
2 Department of Transportation here?

3 (Off microphone comments)

4 CHAIRMAN JORDAN: And there was no
5 objections, from the Department of
6 Transportation report there was no objections.
7 And there is no ANC letter, but we based upon
8 your representation that the ANC did vote in
9 support. We do know in the record that you did
10 do a January, at least in our record, January
11 2012, presentation.

12 Let me come back to Ms. Sorg. You
13 have questions for the applicant?

14 VICE CHAIR SORG: Yes.

15 CHAIRMAN JORDAN: We'll come back
16 to it.

17 Is there anyone in the audience
18 wishing to testify in support of this
19 application? Seeing that there's nobody else
20 in the audience but the people sitting at this
21 table and they're not going to talk against this
22 application, but however, anybody in the

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1 audience in opposition?

2 Then let me go back to the applicant
3 for rebuttal and closing, but there is no
4 rebuttal because nothing was negative, so her
5 closing. However, Ms. Sorg has a question for
6 you.

7 VICE CHAIR SORG: Absolutely.
8 Thank you, Mr. Chairman. I just wanted to
9 address the proposed conditions and the OP
10 report and see what the applicant's thoughts
11 are on those.

12 MS. ANDERSON: The proposed
13 conditions regarding the vegetative screening,
14 that will be provided. We can work with
15 Planning to determine what the appropriate
16 species of plant or tree along the perimeter,
17 I think especially at the compound because it's
18 on the perimeter of the football field. We're
19 happy to comply with that.

20 And Mr. Morin, correct me if I'm
21 wrong, but I believe the exact number of the
22 setback will be 7.5 feet. And I believe OP had

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1 it as less than ten feet, but the exact number
2 will be seven and a half feet.

3 MR. MORIN: That's from the center
4 of the pole.

5 MS. ANDERSON: From the center of
6 the pole. And then additionally we have
7 provided RAD centers at, I believe it's 90 feet
8 and 110 feet for two additional future
9 co-locators. The replacement lights from the
10 original lightpole will be going on at 100 feet.

11 VICE CHAIR SORG: Okay, thank you.

12 CHAIRMAN JORDAN: Any other
13 questions or anything from the applicant? Does
14 the applicant have anything else they think they
15 need to say?

16 MS. ANDERSON: No. If you have all
17 the information, we're happy to move forward.

18 CHAIRMAN JORDAN: Okay, then let's
19 close this hearing. And is the Board ready to
20 deliberate? Then let's move to deliberations.

21 Ms. Sorg?

22 VICE CHAIR SORG: Thank you, Mr.

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1 Chairman. I think based on the record in this
2 case, I would put forward a motion to approve
3 the Application 18420 with the relief requested
4 under 2713, with two conditions.

5 The first, and I'll read them out. The
6 first reading, or condition number one, at
7 least two other providers would be able to locate
8 on the approved monopole. And the second
9 condition regarding the screening, that the
10 applicant shall install a landscape buffer
11 within the existing fence line to screen the
12 facility cabinet and the base of the monopole.

13 CHAIRMAN JORDAN: That's your
14 motion?

15 VICE CHAIR SORG: That was my
16 motion.

17 CHAIRMAN JORDAN: I second it.

18 MEMBER HINKLE: Can I make a
19 friendly amendment to that?

20 CHAIRMAN JORDAN: We're working
21 with a friendly amendment to the right. I'm
22 going friendly amendment to the right.

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1 MEMBER HINKLE: I would, in terms
2 of your second condition, add install and
3 maintain.

4 VICE CHAIR SORG: Oh yes, good.
5 (Off microphone comments)

6 CHAIRMAN JORDAN: Motion made and
7 seconded to approve the application with the
8 conditions as stated. Unreadiness?

9 All those in favor signify by saying
10 aye.

11 (Chorus of ayes)

12 CHAIRMAN JORDAN: Those opposed,
13 nay. The motion carries.

14 Mr. Moy?

15 MR. MOY: Certainly, Mr. Chairman.
16 Who seconded the motion?

17 CHAIRMAN JORDAN: I did.

18 MR. MOY: Counselor, okay. So the
19 staff would record the vote as four to zero to
20 one. This is on the motion of Vice Chair Sorg
21 to approve the special exception application
22 relief.

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1 Second the motion, Chairman Jordan.

2 Also in support, Mr. Hood and Mr. Hinkle. No
3 other Board members participating. The motion
4 carries as four to zero to one, and also the
5 approval includes the two conditions as cited
6 by the movement.

7 MS. GLAZER: Mr. Chair?

8 CHAIRMAN JORDAN: Yes.

9 MS. GLAZER: I probably should have
10 brought the subject --

11 CHAIRMAN JORDAN: Oh.

12 MS. GLAZER: But I believe that
13 there was also a request for the variance. The
14 setback issue was a variance.

15 MS. ANDERSON: The setback issue
16 has been determined because we moved out of
17 public space.

18 CHAIRMAN JORDAN: I'm sorry what
19 was --

20 MS. GLAZER: There are two items for
21 relief here, the special exception which the
22 Board voted on and also the setback variance.

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1 CHAIRMAN JORDAN: I thought the
2 motion included for the relief requested for
3 special exception and the variance.

4 MS. GLAZER: I didn't hear the word
5 "variance." But if it included it then that's
6 fine.

7 CHAIRMAN JORDAN: It was clearly
8 the Board's intent. That was the motion to
9 grant the relief.

10 MS. GLAZER: Okay.

11 CHAIRMAN JORDAN: All right, but
12 thank you for --

13 (Off microphone comments)

14 CHAIRMAN JORDAN: All right, thank
15 you. Thank you.

16 MS. ANDERSON: Thank you.

17 CHAIRMAN JORDAN: Do we have
18 anything else for the morning session?

19 MR. MOY: Not from the staff, Mr.
20 Chairman.

21 CHAIRMAN JORDAN: All right, then
22 we're in recess until 1:00. Yes, 1:00. Thank

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1 you.

2 (Whereupon, the foregoing matter
3 went off the record at 10:54 a.m.)

4

5