

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

FRIDAY

NOVEMBER 2, 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

ZONING COMMISSION MEMBERS PRESENT:

MARCIE COHEN, Vice-Chair

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist
STEPHEN VARGA, Zoning Specialist

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN GYOR
KAREN THOMAS
STEVEN COCHRAN
ARTHUR JACKSON
ELISE VITALE

The transcript constitutes the
minutes from the Public Hearing held on
November 2nd, 2012.

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

WELCOME:

Lloyd Jordan.5

PRELIMINARY MATTER:

Motion to Waive Notice Requirements for
Today's Hearing6
VOTE TO APPROVE (3-0-2):.7

NATIONAL PRESBYTERIAN CHURCH:

APPLICATION NO. 18426 - ANC 3E:9
PRELIMINARY MATTER:
Recognition of Expert Witnesses10
OFFICE OF PLANNING:
Arthur Jackson.14
VOTE TO APPROVE 18426 (3-0-2):.17

ANDREW DEFLEER:

APPLICATION NO. 18422 - ANC 6B:18
OFFICE OF PLANNING:
Elise Vitale.21
VOTE TO APPROVE 18422 - (3-0-2):.22

MT. ZION UNITED METHODIST CHURCH:

APPLICATION NO. 18425:.25
PRELIMINARY MATTER:
Self-Certification Letter25
OFFICE OF PLANNING:
Stephen Gyor.27
PARTY IN OPPOSITION:
George Hartley.42
VOTE TO APPROVE 18425 (3-0-2):.61

JOMO OLUDIPE:

APPLICATION NO. 18430:.62
PRELIMINARY MATTER:
Deficiencies in Documentation64
Hearing Continued to December 4, 2012
(afternoon session)72

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T-A-B-L-E O-F C-O-N-T-E-N-T-S (Continued)

LAWAL ABDULGANIYA:

APPLICATION NO. 18381 - ANC 7D: 78

PRELIMINARY MATTER:

Deficiency in Documentation 81

Hearing Continued to December 18, 2012. . . .107

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

9:41 a.m.

CHAIRMAN JORDAN: Good morning.

Would the hearing please come to order? We're located at the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W. Today's date is November 2nd, 2012. We're here for the public hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Lloyd Jordan, Chairperson. To my left is Marcie Cohen, Member of the Zoning Commission and to my right Nicole Sorg, Vice-Chair of the Board of Zoning Adjustment.

Please be advised that this proceeding is being recorded by a court reporter and also being Web cast live. Accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room.

The Board's hearing procedures and processes are contained in the pamphlet by the

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1 door, so if you have any questions about how
2 we proceed, you can certainly go over and pick
3 up a pamphlet and read about it.

4 And as soon as Mr. -- our board
5 secretary, Mr. Moy, comes back, we'll begin.

6 This is our replacement hearing
7 from Tuesday, since Sandy had us -- kicked out
8 our Tuesday operations, but we wanted to be
9 sure that we kept progressing and helping
10 people get the relief, if necessary, that they
11 wanted. And so we scheduled another date. So
12 we appreciate it. We wanted an opportunity to
13 come back today, or coming here today.

14 Before we begin, I need a motion
15 from the Board to waive the notice
16 requirements to Section 3113.13(a) through
17 (d), as well 3112.14(a) through # regarding
18 the notice requirements for today's meeting.
19 Ms. Cohen?

20 COMMISSIONER COHEN: Yes, I'd move
21 to waive the notice requirements of
22 subsections 3113.13(a) through (d) and

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1 subsections 3112.14(a) through #.

2 CHAIRMAN JORDAN: Thank you. Any
3 unreadiness to motion?

4 (No audible response.)

5 CHAIRMAN JORDAN: All those in
6 favor, signify by saying aye?

7 (Chorus of ayes.)

8 CHAIRMAN JORDAN: Those opposed,
9 nay?

10 (No audible response.)

11 CHAIRMAN JORDAN: The motion
12 carries. Mr. Moy, can you --

13 MR. MOY: Yes, sir, staff would
14 record the vote as 3-0-2 on the motion of Ms.
15 Cohen to waive the notice requirements
16 pursuant to the sections that were cited. And
17 I believe second was Chairman Jordan. Also in
18 support, Vice-Chairperson Sorg. No other
19 Board Members participating this morning.

20 CHAIRMAN JORDAN: Okay. Very
21 good. Thank you.

22 I believe we have a couple of

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1 cases, and we'll handle them a little
2 differently. Let's do 18426. Mr. Moy, if
3 you'll call that one?

4 MR. MOY: I'm sorry, Mr. Chair,
5 have we taken the oath, or we're going to do
6 that after I call the case?

7 CHAIRMAN JORDAN: I'm sorry. We
8 didn't. See, you threw me for a loop.

9 But let me ask all those who are
10 here to testify on a case, please stand and
11 take the oath or affirmation, please. If
12 you're going to testify in any of the cases
13 today.

14 (Whereupon, the witnesses were
15 sworn.)

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

18 CHAIRMAN JORDAN: Additionally I'm
19 going to ask that you complete two witness
20 cards prior to you coming to the witness table
21 and handing those to the court reporter. So
22 each person must complete two witness cards.

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1 MR. MOY: Yes, sir. Good morning,
2 Mr. Chairman, Members of the Board. Very
3 quickly for the record, as the Board just
4 voted to waive the notice requirements, as I
5 said for the record that this docket case was
6 originally scheduled last Tuesday, October
7 30th. And of course that was rescheduled to
8 today, Friday, November the 2nd.

9 So with that, the first
10 application before the Board is application
11 No. 18426. And as the caption was advertised
12 reads application of the National Presbyterian
13 Church pursuant to 11 DCMR 3104.1 and 3103.2
14 for a special exception to allow the physical
15 expansion of an existing private school to
16 include a three-story addition and increase in
17 the student enrollment cap to 320 students and
18 the facility and staff cap to 70 individuals
19 under section 206, and a variance from the
20 side yard requirements for a temporary modular
21 trailer under section 405, in the R-1-B
22 District at premises 4120-4124 Van Ness

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1 Street, N.W. Property located in Square 1724,
2 Lot 805.

3 CHAIRMAN JORDAN: I missed all
4 those numbers. No. Very good.

5 Okay. Would you please introduce
6 yourselves?

7 MS. PRINCE: Allison Prince with
8 Goulston & Storrs here on behalf of the
9 applicant.

10 MR. NEILL: My name's Jim Neill.
11 I'm the head of school of National
12 Presbyterian School.

13 MR. SPACK: My name is Bill Spack.
14 I'm a principal with Cox Graae + Spack
15 Architects.

16 MR. VANPELT: Dan VanPelt, a
17 principal with Gorove/Slade Associates,
18 transportation engineers and planners.

19 CHAIRMAN JORDAN: Very good. Ms.
20 Prince, you've offered two persons for expert
21 witnesses, and we do have Mr. VanPelt who's
22 already been qualified as an expert witness.

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1 We do not have Mr. Spack as an expert. And I
2 -- do we? We don't. Exhibit 28?

3 MS. PRINCE: Mr. Spack has been
4 determined to be an expert by this Board in
5 the past.

6 CHAIRMAN JORDAN: Let me have
7 staff take a look at that, but my report from
8 staff indicates that he was not.

9 VICE CHAIR SORG: Mr. Chairman, I
10 have no problem with this designation of the
11 expert witness.

12 COMMISSIONER COHEN: And, Mr.
13 Chairman, I would concur with that.

14 CHAIRMAN JORDAN: Okay. All
15 right. Then we will accept him as an expert.
16 Just give me one second here. I think the
17 record here is pretty full in this matter. I
18 believe that all the documentation to support
19 your request for relief is here. There may be
20 a few questions we want to ask. And if you'll
21 allow us to raise those issues prior to you --
22 if there -- it may not be a necessity for you

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1 to do a presentation.

2 So let me turn to the Board and
3 see if there's anything we need to discuss
4 with this applicant. I think we have a record
5 that's pretty full.

6 Have you had a chance to review
7 the conditions that have been recommended?

8 MS. PRINCE: The conditions
9 recommended by the Office of Planning?

10 CHAIRMAN JORDAN: Right.

11 MS. PRINCE: Yes, we fully agree
12 with all of those conditions.

13 COMMISSIONER COHEN: I have no
14 questions.

15 CHAIRMAN JORDAN: I've been handed
16 a letter that came in from a Thomas Harr in
17 opposition, but I think our record has already
18 been -- well, we haven't closed the record.
19 We would just take it for what it's worth.
20 Just leave for the Board, just take it for
21 what it's worth.

22 VICE CHAIR SORG: It does also

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1 seem, Mr. Chairman, that the letter is
2 somewhat in opposition and somewhat in
3 support. And several of the concerns here are
4 actually related to construction activities --

5 CHAIRMAN JORDAN: Yes, so --

6 VICE CHAIR SORG: -- which are
7 outside the purview of the Board.

8 CHAIRMAN JORDAN: Well, seeing
9 that there's no questions that we have in
10 regards to this application and seeing that
11 you've accepted the general terms offered by
12 the Office of Planning, additionally that the
13 ANC 3E has voted in support of this
14 application and the Department of
15 Transportation has also submitted a letter of
16 no objection, as well as letters in support
17 from others regarding this, we don't have any
18 questions at this particular time.

19 Now you have the opportunity, if
20 you wish, to do a presentation if you feel
21 it's necessary, or you can just record on the
22 record as we have it.

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1 MS. PRINCE: We're happy to rest
2 on the record if you have no questions.

3 CHAIRMAN JORDAN: Then let me turn
4 now to Office of Planning and see if there's
5 anything additional that they need to add.

6 MR. JACKSON: Arthur Jackson, D.C.
7 Office of Planning. We rest on the record.

8 CHAIRMAN JORDAN: And I just
9 indicated the Department of Transportation.
10 Is there anyone here from the Department of
11 Transportation?

12 (No audible response.)

13 CHAIRMAN JORDAN: As I indicated,
14 they did indeed vote for -- I mean, sent us a
15 letter of no objection.

16 Is anyone here from ANC 3E?

17 (No audible response.)

18 CHAIRMAN JORDAN: And we do have a
19 letter that we would give great weight to from
20 ANC 3E who voted in support of this
21 application.

22 Is there anyone in the audience

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1 who wishes to testifies in support of this
2 application?

3 (No audible response.)

4 CHAIRMAN JORDAN: Anyone in the
5 audience wish to testify in opposition to this
6 application?

7 (No audible response.)

8 CHAIRMAN JORDAN: Okay. Then
9 we'll turn back to the applicant. There's
10 nothing to rebut. I don't know if you want to
11 close, but there's nothing really to close.
12 I think it speaks for itself.

13 So then we'll bring this hearing
14 to a close and close the record. And I would
15 move that we grant the request of the
16 applicant for the relief requested with the
17 conditions proposed by the Office of Planning.

18 COMMISSIONER COHEN: I'll second
19 that.

20 CHAIRMAN JORDAN: Motion made and
21 seconded. Any unreadiness?

22 (No audible response.)

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1 CHAIRMAN JORDAN: And we may make
2 some editorial changes to the conditions to
3 read a little differently, but with the same
4 substance of it.

5 Mr. Moy, you'll make sure it's
6 right? Okay.

7 MR. MOY: Yes, sir.

8 VICE CHAIR SORG: I might make one
9 friendly potential modification to condition
10 No. 8, which I think is redundant to the
11 understanding of a BZA order itself, which
12 indicates that if plans are submitted, then
13 construction must follow those plans. So I
14 think a condition reiterating that rule would
15 be redundant.

16 CHAIRMAN JORDAN: So just strike
17 it?

18 VICE CHAIR SORG: Just to clean it
19 up a little, that these --

20 CHAIRMAN JORDAN: Just strike it.

21 VICE CHAIR SORG: -- conditions
22 are kind of --

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1 CHAIRMAN JORDAN: Okay. Yes.

2 Then actually we'll include that in the
3 motion.

4 MS. PRINCE: Okay.

5 CHAIRMAN JORDAN: All those in
6 favor of the motion, signify by saying aye?

7 (Chorus of ayes.)

8 CHAIRMAN JORDAN: Those opposed,
9 nay?

10 (No audible response.)

11 CHAIRMAN JORDAN: The motion has
12 it. Mr. Moy?

13 MR. MOY: Staff would record the
14 vote as 3-0-2, this on the motion of Chairman
15 Jordan to approve the application as
16 conditioned and amended. Second the motion,
17 Ms. Cohen. Also in support of the motion,
18 Vice-Chairperson Sorg. No other Board Members
19 participating. So again the motion carries by
20 a vote of 3-0-2.

21 MS. PRINCE: Thank you.

22 CHAIRMAN JORDAN: Thank you. Mr.

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1 Moy, would you call 18422, please?

2 MR. MOY: The next application
3 before the Board is application No. 18425.
4 This is the --

5 CHAIRMAN JORDAN: Mr. Moy, would
6 you call 18422, please?

7 MR. MOY: Oh, I'm sorry. I'm
8 sorry. Yes, 18422. This is the application
9 of Andrew Defler pursuant to 11 DCMR 3103.2.
10 This is for a variance from the lot area and
11 lot width requirements under subsection 401.3,
12 a variance from the lot occupancy requirements
13 under section 403, and a variance from the
14 rear yard requirements under section 404.
15 This is to allow a property subdivision in the
16 R-4 District at premises 1531 A Street, S.E.
17 Property located in Square 1072, Lots 812 and
18 826).

19 MR. COX: Good morning. My name
20 is David Cox. I'm the attorney --

21 CHAIRMAN JORDAN: Yes, is your
22 light glowing?

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1 MR. COX: No, it's --

2 CHAIRMAN JORDAN: It's a green
3 light. It should be glowing.

4 MR. COX: There we go.

5 CHAIRMAN JORDAN: Okay.

6 MR. COX: Good morning. I'm David
7 Cox with the law firm of Jackson & Campbell.
8 Mr. Defler's on international travel and could
9 not personally attend here today, but he did
10 wish me to appear and to advocate his cause
11 before you this morning.

12 CHAIRMAN JORDAN: If you'll just
13 wait for me, please, and get you started.
14 Okay?

15 All right. I'm sorry. Mr. Cox,
16 you're with Jackson & Campbell, is that
17 correct?

18 MR. COX: I am.

19 CHAIRMAN JORDAN: Okay. I believe
20 the record is pretty full in this matter. We
21 have -- the relief is pretty clear, what you
22 need and why you need relief. We have a

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1 recommended approval by the Office of Planning
2 and ANC 6B, as well as no objection from
3 Department of Transportation. And there's no
4 opposition that we have in our file. We
5 understand that clearly the exceptional
6 situation, the practical difficulty that's
7 already been shown through the filings.

8 I'm going to ask the Board if
9 there's any questions or issues that we may
10 have with this application. I know there's an
11 issue, a question of whether or not lot
12 occupancy relief is necessary, but I think
13 we're err on the safe of just leaving it in,
14 if that's all right with the Board.

15 So we have no questions. We
16 believe your application is very full. You
17 have the opportunity to do a presentation if
18 you want, however, as I always say, people
19 sometimes talk themselves into trouble and --
20 but you certainly have the right to come back
21 if anything comes up.

22 MR. COX: I appreciate that. I

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1 think we will rest on the record. Thank you.

2 CHAIRMAN JORDAN: And let me turn
3 now to Office of Planning and see if there's
4 anything in addition to what they've already
5 had in their report that they need to talk
6 about today.

7 MS. VITALE: No. Good morning,
8 Mr. Chair, Members of the Board. For the
9 record, Elise Vitale with the Office of
10 Planning. We'll rest on the record. I can
11 answer any questions.

12 CHAIRMAN JORDAN: Okay. And as I
13 indicated, the Department of Transportation
14 has no objection to the application.

15 Is there anyone here from ANC 6B?
16 (No audible response.)

17 CHAIRMAN JORDAN: Okay. They
18 recommended approval and which we will give
19 great weight to.

20 Is there anyone in the audience
21 wishing to testify in support of this
22 application?

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1 (No audible response.)

2 CHAIRMAN JORDAN: Anyone wishing
3 to testify in opposition to this application?

4 (No audible response.)

5 CHAIRMAN JORDAN: Now everybody
6 don't move at once. No? Great. Then we can
7 turn back to the applicant to see if there's
8 anything in rebuttal in closing, but there is
9 not.

10 MR. COX: No.

11 CHAIRMAN JORDAN: Then we will
12 close this hearing based upon the filing in
13 the record as we already have it. And I would
14 move that we approve the relief requested by
15 the applicant.

16 VICE CHAIR SORG: Second.

17 CHAIRMAN JORDAN: Motion made and
18 seconded by Ms. Sorg. Any unreadiness?

19 (No audible response.)

20 CHAIRMAN JORDAN: All those in
21 favor, signify by saying aye?

22 (Chorus of ayes.)

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1 CHAIRMAN JORDAN: Those opposed,
2 nay?

3 (No audible response.)

4 CHAIRMAN JORDAN: The motion
5 carries. Mr. Moy?

6 MR. MOY: Yes, staff would record
7 the vote as 3-0-2, this on the motion of
8 Chairman Jordan to approve the application for
9 the relief requested. Second the motion,
10 Vice-Chairperson Sorg. Also in the support of
11 the motion, Ms. Cohen. So again the motion
12 carries 3-0-2, Mr. Chairman.

13 CHAIRMAN JORDAN: All right.
14 Thank you very much. Mr. Moy, can we have a
15 summary order?

16 MR. MOY: Yes, sir. Thank you,
17 sir.

18 CHAIRMAN JORDAN: So let's talk
19 about later and then we can -- Okay. Let's
20 start at the top and let's --

21 MR. MOY: Top?

22 CHAIRMAN JORDAN: -- go for it.

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1 MR. MOY: All right. Thank you,
2 sir. So that would be again, once again
3 18425, the application of Mount Zion United
4 Methodist Church, pursuant to 11 DCMR
5 3104.1. This is for a special exception to
6 allow a child development center. This is 35
7 children, infant to 5 years old and 3 staff
8 persons under section 205, in the R-3 District
9 at premises 1334 29th Street, N.W. Property
10 located in Square 1241, Lot 135.

11 CHAIRMAN JORDAN: Good. Thank
12 you. Would you please introduce yourselves?

13 MR. RICKS: Vernon Ricks.

14 CHAIRMAN JORDAN: Riggs?

15 MR. RICKS: Ricks, R-I-C-K-S.

16 CHAIRMAN JORDAN: Okay. And who
17 are you, Mr. Ricks?

18 MR. RICKS: Chairman of the Board
19 of Trustees.

20 CHAIRMAN JORDAN: Okay. Is your
21 mic on? I can hear you, but is it --

22 MR. RICKS: Oh, okay.

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1 CHAIRMAN JORDAN: Okay. Okay.

2 There you go.

3 MR. RICKS: Vernon Ricks. I'm the
4 Chairman of the Board of Trustees of Mount
5 Zion United Methodist Church.

6 CHAIRMAN JORDAN: Okay. Thank
7 you. Yes?

8 MS. TAYLOR: I'm Dominique Taylor.
9 I'm the Registrar of the Board for Intown
10 Playgroup.

11 CHAIRMAN JORDAN: Yes?

12 MS. SHEFFER: Mandy Sheffer. I'm
13 the Director of Intown Playgroup.

14 MS. NIKODEM: I'm Bridget Murphy
15 Nikodem and I'm President of the Board of
16 Intown Playgroup and a Georgetown resident.

17 CHAIRMAN JORDAN: We have some
18 preliminary matters we need to address. I
19 didn't see -- well, who is the spokesperson
20 for -- and you are again --

21 MS. TAYLOR: I'm Dominique Taylor.

22 CHAIRMAN JORDAN: And you are with

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1 who?

2 MS. TAYLOR: With Intown
3 Playgroup.

4 CHAIRMAN JORDAN: I didn't see a
5 letter of authorization from the firm. They
6 did? Intown Playgroup is a -- it's the same
7 -- oh, that's the -- I thought this was Mount
8 -- who's the applicant?

9 MS. TAYLOR: The church is the
10 applicant and the playgroup is the
11 organization that operates at the church.

12 CHAIRMAN JORDAN: But the
13 chairman's here. Well, we have the head of
14 both organizations, so we accept that. We'll
15 do that, yes.

16 And there comes an issue, and I
17 guess it's more of a Board issue. Our file
18 does not indicate that there's a self-
19 certification letter and there's a question
20 about the Zoning Administrator's letter in the
21 file. But I think we have that letter from
22 April 17th that does talk about the relief

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1 that's requested, which we can accept as the
2 Zoning Administrator's referral letter.

3 MS. GLAZER: Mr. Chair, excuse me.
4 Pardon for interrupting. I'm not sure whether
5 that letter's in the file. I know there was
6 a reference to it in the OP report.

7 MS. TAYLOR: The memo?

8 CHAIRMAN JORDAN: Yes, the memo.

9 MS. GLAZER: The April 17th letter
10 that --

11 CHAIRMAN JORDAN: Yes, we know.
12 That's right.

13 MS. GLAZER: -- that was referred
14 to. Well, OP notes it and let me turn to OP
15 to get a clarification as to what the ZA
16 letter has.

17 MR. GYOR: Good morning, Members
18 of the Board. Stephen Gyor with the Office of
19 Planning. The letter from the Zoning
20 Administrator indicates that this letter must
21 be presented to the Board when filing for the
22 hearing, and it indicates that the applicant

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1 needs to obtain a special exception under
2 Title 11, section 205.

3 CHAIRMAN JORDAN: Can we have a
4 copy of that?

5 MR. GYOR: Sure.

6 CHAIRMAN JORDAN: And, Mr. Moy, if
7 you -- and that is clearly a ZA referral
8 letter. Okay. Yes, you're supposed to file
9 that letter --

10 MS. TAYLOR: Okay.

11 CHAIRMAN JORDAN: -- with the
12 application, because it really triggers --
13 under 3113, it really triggers kind of the
14 process, either self-certification signed by
15 a licensed District of Columbia architect or
16 an attorney and/or the ZA's referral letter.

17 MS. TAYLOR: When we initially
18 submitted, it was part of our application.

19 CHAIRMAN JORDAN: Well, this was
20 in the record, so I think we're okay though
21 now. We will accept that letter --

22 MS. TAYLOR: Okay.

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1 CHAIRMAN JORDAN: -- into our file
2 as we move forward.

3 Now let me ask the Board, is there
4 anything that you want the applicant to
5 respond to specifically? I know we have a
6 letter in opposition and we want to maybe talk
7 about how that situation --

8 COMMISSIONER COHEN: Yes, thank
9 you, Mr. Chairman. I'd just like to know how
10 far the play area is from the nearest
11 neighbor. Do the properties abut each other?
12 That's what it read like.

13 MS. TAYLOR: We do. There are two
14 properties that abut the play area and then
15 there's also houses across the street.

16 COMMISSIONER COHEN: And it's the
17 ones I guess that abut the play area that have
18 some concerns about noise. And question is
19 can -- is there room to do a planting of some
20 sort to reduce the noise, some type of a shrub
21 or tree? Is that possible?

22 MS. TAYLOR: Sure. The two houses

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1 that about our play area, one is owned by the
2 church. The other I believe is -- yes, it's
3 an apartment. I think there is space for us.
4 I can show you pictures of the space, if you'd
5 like, if that would be helpful.

6 COMMISSIONER COHEN: There is a
7 picture I believe which indicates that it is,
8 you know, cheek by jowl, as they say. So I
9 was just -- you know, wanted to elaborate on
10 that. And because there is some concern about
11 children playing so close, I think it, you
12 know, behooves you as the applicant to do some
13 remediation.

14 MS. TAYLOR: Yes, we can
15 absolutely take that into consideration. The
16 children are out for up to an hour a day from
17 sometime around 11:00 until 11:45.

18 COMMISSIONER COHEN: What about in
19 the summer?

20 MS. TAYLOR: We do not operate in
21 July and August.

22 COMMISSIONER COHEN: Okay. And

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1 what about some events that you may have which
2 includes parents? Is there a significant
3 amount, or just a few?

4 MS. TAYLOR: There's one event,
5 our graduation day. That's the only day both
6 parents and children are outside and it's for
7 maybe an hour-and-a-half during that day.

8 COMMISSIONER COHEN: Okay.
9 Because I think when I read the record it
10 appeared that there was more activity. So if
11 that's the extent of it --

12 MS. TAYLOR: It is.

13 COMMISSIONER COHEN: All right.
14 Thank you for that.

15 MS. TAYLOR: Absolutely.

16 CHAIRMAN JORDAN: Ms. Sorg?

17 VICE CHAIR SORG: Thank you very
18 much, Mr. Chairman. Respectfully, Ms. Cohen,
19 I think we've received several letters in
20 support and a few letters in opposition to
21 this application. And so I would like to hear
22 from the applicant what they view as the

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1 conditions in the play area before potentially
2 prescribing, you know, mitigation factors.

3 So my question to the applicant
4 therefore would be the letters that we have
5 received primarily were from residents at 2909
6 O Street and 2907 O Street, and they shared in
7 some way some similar concerns. Of course as
8 Commissioner Cohen mentioned, noise was one of
9 the concerns that were relevant to the zoning
10 case at hand. And another one was, you know,
11 sort of unsightliness of toys left out and
12 mess in the play area.

13 And so I think certainly it may be
14 something that we want to look at mitigating,
15 but I just want to understand from you, you
16 know, what's your view on, you know, those
17 conditions.

18 MS. TAYLOR: Absolutely. Thank
19 you. The two addresses that you mentioned are
20 actually located across the street. So our
21 children are one and two, and while they are
22 capable of sometimes being very loud in an

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1 instance, I don't think that when they're out
2 there there's actually a huge volume of noise
3 per se that would travel indoors to
4 potentially be disruptive.

5 We have worked very hard to make
6 our playground look nicer. We've removed a
7 lot of the plastic toys that I think you just
8 referenced. We have some still, because
9 they're a little more durable, but we've
10 worked to move to more natural toys for the
11 children and more natural aesthetics. When
12 the playground is not in use, everything is
13 clear. I have pictures of what the playground
14 looks like when it's not in use. We set up a
15 playground before school, so from 9:00 until
16 noon it's set up. From 11:00 until noon the
17 children are out there playing if the
18 weather's nice.

19 So unfortunately living in D.C.
20 from September to June that's -- there's
21 sometimes I think 50 percent of the days are
22 nice enough for us to be outside and 50

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1 percent that are not. So I think an hour a
2 day we try to do the best we can. And we have
3 actually offered our phone numbers to those
4 two neighbors should the children's noise be
5 too disruptive so that they can call us and
6 let us know and we can try to work with the
7 children to make sure they're not being too
8 disruptive.

9 CHAIRMAN JORDAN: Is the
10 playground behind the church?

11 MS. TAYLOR: It is.

12 CHAIRMAN JORDAN: Yes.

13 MS. TAYLOR: So --

14 CHAIRMAN JORDAN: And --

15 MS. TAYLOR: Oh, I'm so sorry.

16 CHAIRMAN JORDAN: No, go ahead
17 because you were -- go ahead.

18 VICE CHAIR SORG: Yes, it sounds
19 like -- I'm looking at an aerial view.

20 MS. TAYLOR: Yes.

21 VICE CHAIR SORG: Because of the
22 nature of the request here -- I don't think

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1 that we've got a site plan. So it sounds like
2 these two addresses and these neighbors are
3 kind of catty-corner to the play area. Is
4 that correct?

5 MS. TAYLOR: Did you say 2907 and
6 2909?

7 VICE CHAIR SORG: O Street, yes.

8 MS. TAYLOR: Yes, they're opposite
9 the playground.

10 VICE CHAIR SORG: So the church
11 property actually --

12 MS. TAYLOR: It's an L-shape.

13 VICE CHAIR SORG: -- is an L-
14 shaped boat. Got it. We're getting a visual
15 demonstration. That fronts on 29th and O
16 Street. I see that now. I missed that a
17 little bit before.

18 Regarding events --

19 MS. TAYLOR: Yes.

20 VICE CHAIR SORG: -- can you
21 clarify when and how often, you know, parents
22 and children and larger groups associated with

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1 the child development center are occupying the
2 play area?

3 MS. TAYLOR: So the play area is
4 used from 11:00 until noon when the weather is
5 amenable Monday through Friday, and parents do
6 go out with their children to supervise them.
7 I would say when we go out, on an average day
8 we have maybe 25 children at school. By the
9 time we get outside it's probably 20 or less
10 children on the playground. And then their
11 parents and caregivers and two of our
12 teachers.

13 We have one big event a year,
14 graduation. Yes, there's one other event,
15 graduation, where we actually have outside
16 entertainment come in, and that would be like
17 a balloon artist and a face painter.

18 VICE CHAIR SORG: So during the
19 one hour of play time during the day the
20 parents are actually with their children?

21 MS. TAYLOR: Yes.

22 VICE CHAIR SORG: Is that

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1 generally the operation --

2 MS. TAYLOR: Yes, it's a --

3 VICE CHAIR SORG: -- that you
4 have?

5 MS. TAYLOR: -- coop.

6 VICE CHAIR SORG: I see.

7 MS. TAYLOR: Yes, it's a
8 cooperative school.

9 VICE CHAIR SORG: Okay. Got it.
10 I'm sorry, one more other question, please.
11 Regarding the toys and play apparatus that I
12 mentioned as one of the other concerns, are
13 these put away or organized?

14 MS. TAYLOR: Would you like to see
15 pictures? I don't know if that's helpful.

16 VICE CHAIR SORG: Sure. You
17 should hand them to the secretary, yes.

18 MS. TAYLOR: I'm going to describe
19 the pictures to you before the secretary
20 passes them to you.

21 The first picture is the
22 playground set up for use. So that's what it

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1 looks like from 9:00 until 11:00. And that's
2 the playground from 9:00 to 11:00 as well,
3 just being set up. Oh, they just wanted me to
4 enter those in the record. And then this is
5 a picture of the playground when it's not in
6 use. And you'll notice that we put all the
7 toys away. We've got a cover on the sandbox.
8 We take the teepee tent down every day. And
9 there's a bench that's left out as well.

10 So we did -- yes.

11 COMMISSIONER COHEN: Excuse me.
12 The houses of the people who are complaining,
13 is it yellow?

14 MS. TAYLOR: Yes.

15 COMMISSIONER COHEN: Okay. Thank
16 you.

17 MS. TAYLOR: And I will say that
18 we did receive feedback that the neighbors did
19 not like the plastic toys. That's part of the
20 reason that we've made the change to the
21 layout that you see now. There used to be a
22 plastic slide, there used to be other plastic.

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1 And we put those away, but we've been trying
2 to make things more appealing.

3 COMMISSIONER COHEN: I would be
4 opposed to the plastic just because it has PVC
5 in it.

6 MS. TAYLOR: There's that, yes.
7 It works a lot of ways for us to make those
8 changes.

9 CHAIRMAN JORDAN: Any other
10 questions by the Board of the applicant?

11 (No audible response.)

12 CHAIRMAN JORDAN: We appreciate
13 that. Then I believe we have enough in our
14 record and you hit us -- you answered the
15 questions that we need to have addressed. And
16 the pictures were very helpful. So you can do
17 a presentation if you want. It's up to you.
18 We think we have enough in the record to stand
19 by the record.

20 MS. TAYLOR: Okay.

21 CHAIRMAN JORDAN: And if that's
22 what you wish to do. Office of Planning, is

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1 there something in addition that you would
2 like to talk about?

3 MR. GYOR: We support the
4 applicant's request for relief. We stand on
5 the record.

6 CHAIRMAN JORDAN: And do we have
7 DDoT -- anything from DDoT?

8 MS. TAYLOR: We did receive
9 support from the Department of Transportation
10 and a resolution in support from the ANC.

11 CHAIRMAN JORDAN: Yes, so the
12 letter of no objection in from DDoT. And we
13 have a letter from ANC 2E which recommended
14 approval and did have a quorum at the time of
15 their vote, and the letter was timely. So we
16 will give great weight to that letter. We
17 have several -- no, it's more than several.
18 We have a ton of letters in support.

19 MS. TAYLOR: There should be 39.

20 CHAIRMAN JORDAN: There's a lot of
21 them of this application. There's two letters
22 here of opposition.

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1 Is there anyone here from ANC 2E?

2 (No audible response.)

3 CHAIRMAN JORDAN: Is there anyone
4 here to testify in support of this
5 application?

6 (No audible response.)

7 MS. NIKODEM: Chairman, if
8 necessary we have several people here who are
9 willing to testify. But if you'd prefer us to
10 wait, we'd be happy to do so.

11 CHAIRMAN JORDAN: I think you can
12 stand on what you've already submitted.

13 MS. TAYLOR: Stand on the record.

14 MS. NIKODEM: Happy to do so.

15 Thank you.

16 CHAIRMAN JORDAN: Not unless
17 someone really wanted to do it. But we
18 believe we have enough. If you want to, you
19 can.

20 MS. TAYLOR: We'll rest on the
21 record for now.

22 CHAIRMAN JORDAN: Okay. Anyone in

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1 opposition? Please? Come forward and
2 testify, please. And would you make sure that
3 your microphone -- you see a glowing green
4 light. And did you complete a witness card
5 for us?

6 MR. HARTLEY: I did.

7 CHAIRMAN JORDAN: Okay. We have
8 to give those to the court reporter. And tell
9 us your name.

10 MR. HARTLEY: My name is George
11 Hartley. I live in that yellow house --

12 CHAIRMAN JORDAN: Okay.

13 MR. HARTLEY: -- across the
14 street. I've lived there six years. I
15 travel. I come back. I've known the Mount
16 Zion folks for a long time. I see them and
17 their parishioners on Sundays. So I don't
18 have any problem with the church, or with
19 children. And I've lived through all the
20 incarnations of the plastic, and they're
21 corrected. They have moved the big plastic
22 slide and all of that.

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1 I don't think shrubbery is going
2 to stop the problem that we have. And I went
3 out a week-and-a-half, 2 weeks ago and there
4 was a 9 or 10-foot teepee, which, you know, in
5 Georgetown our houses come right up to the
6 street almost and there is the same in their
7 lot. So if my house were bigger and had a
8 front yard, it would have a teepee in my front
9 yard. So you would need shrubbery about 10
10 feet high. Now the teepee may not always
11 exist, but there will be something else.

12 They do keep it nicely in the
13 afternoons, but it still looks like a
14 playground. It's got a giant sandbox, and
15 it's covered. They used to be really lax
16 sometimes about what they left out. They're
17 not anymore. Okay. They really have made the
18 effort. Now I sound like I'm in support of
19 them, but I really think there is a problem
20 zoning wise with a playground in your front --
21 right in front of you. And I'm not the only
22 one. There are neighbors across the street.

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1 There is a park, Rose Park, to
2 blocks down. And, you know, kids in the
3 neighborhood walk with their caregivers down
4 to that park. It's a great park. The mayor
5 has just authorized more money to make it even
6 better. It works for toddlers.

7 I don't know that we need another
8 playground in a quiet residential
9 neighborhood. I don't know that we need to
10 have strollers lined up in our very narrow
11 sidewalks. And, yes, the parents are there
12 when their children are out. And the children
13 make noise. They're toddlers. They're great.
14 They're laughing. There's crying. There's
15 regular toddler stuff. But you also have the
16 parents, and that's like the din of a theater
17 lobby, you know, talking all the time. And
18 you can't -- it's not about calling and
19 saying, hey, keep it down. It's not that.
20 This is a playground in my front yard. And I
21 just find that very objectionable.

22 So when you asked, I said I'm

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1 going to come down and talk to you.

2 CHAIRMAN JORDAN: So is playing in
3 the playground in a limited time period?

4 MR. HARTLEY: It is. But all of
5 the time you know it's a playground, and
6 there's a property value component as well.

7 CHAIRMAN JORDAN: So you mean from
8 the sight of seeing the area that appears to
9 be a playground --

10 MR. HARTLEY: Yes.

11 CHAIRMAN JORDAN: -- is
12 objectionable to you?

13 MR. HARTLEY: Well, the actual
14 objection: Noise, congestion, SUVs. There
15 are, you know, 25 kids and their parents.
16 We're bring upwards of 35 to 50 people to our
17 neighborhood, a quiet residential neighborhood
18 every day Monday through Friday.

19 CHAIRMAN JORDAN: And so is there
20 a gathering for like the early morning drop-
21 off? Is there noise then and parents around,
22 or --

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1 MR. HARTLEY: I would think that
2 the drop-off is on 29th.

3 CHAIRMAN JORDAN: Okay. So
4 that's --

5 MR. HARTLEY: So this is an L.

6 CHAIRMAN JORDAN: Okay.

7 MR. HARTLEY: It doesn't mean they
8 don't use our parking from time -- you know,
9 and that kind of thing, but that's first
10 come/first serve. But it's a lot of extra
11 people that you ordinarily would not have.
12 And as I say, there is a park right down the
13 street.

14 CHAIRMAN JORDAN: Okay.

15 MR. HARTLEY: Two blocks.

16 CHAIRMAN JORDAN: All right.

17 Thank you. I think we've used your time. The
18 Board has questions of Mr. Hartley?

19 VICE CHAIR SORG: Thank you, Mr.
20 Chairman. Mr. Hartley, you spoke about two
21 the concerns. Would you say that one concern,
22 what sounds like a large, very visible play

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1 structures or the noise is more objectionable
2 to you?

3 MR. HARTLEY: Yes.

4 VICE CHAIR SORG: Which? No, I'm
5 saying --

6 MR. HARTLEY: Oh, which one?

7 VICE CHAIR SORG: -- would you
8 characterize one as more or less, or --

9 MR. HARTLEY: You know, I was so
10 taken aback by this teepee when I walked out
11 my door, I looked out my windows, so at this
12 immediate moment that's what bothers me. And
13 it used to be a big plastic slide. Now it's
14 a teepee. You don't know what it's going to
15 be in the future. So if you make it legal,
16 they can do whatever. So, yes, that's a big
17 problem for me.

18 There is definite noise and
19 congestion in that time frame when they're
20 there. And they -- you know, now they set up.
21 I was out putting the trash out this morning
22 7:30, quarter of 8:00. They were out setting

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1 up. So I know it's like half the day.

2 VICE CHAIR SORG: Okay. Thank
3 you. I am prompted with one question for the
4 -- a couple of questions for the applicant.
5 Oh, sorry.

6 COMMISSIONER COHEN: That's all
7 right. I'm okay.

8 CHAIRMAN JORDAN: Describe this
9 teepee to me, please? Describe that teepee to
10 me, please?

11 MR. HARTLEY: It's like any teepee
12 you see in a cowboy movie. It's big. It's --
13 you know, it's like what you might see if you
14 went to a museum at the -- you know, the
15 Indian Museum. You see these big teepees.
16 It's about 9 or 10 feet.

17 CHAIRMAN JORDAN: But it's put up
18 and taken down, isn't it?

19 MR. HARTLEY: I guess, yes. I
20 haven't seen it lately, but in their comments
21 they were saying something about the teepee.
22 And it sounded to me like that's more

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1 permanent now, or at least it's possible that
2 it goes up and down.

3 But my point, Mr. Chairman, is
4 that it was a slide and now it's a teepee, and
5 you know, in a year from now it'll be
6 something else.

7 CHAIRMAN JORDAN: This is the
8 teepee? Huh, okay. I was thinking it was a
9 teepee teepee or the -- okay. Got it. Yes,
10 okay. This is not an adult-sized huge teepee,
11 right? That's what we're looking -- okay.
12 Got you.

13 All right. You had a question?

14 COMMISSIONER COHEN: Yes, when you
15 moved in, this was an existing child care
16 center and how has it changed since you've
17 been living there?

18 MR. HARTLEY: No, I don't know
19 what it was. Six years ago when I moved in it
20 was nothing like this. It has kind of grown,
21 ebbed and flowed in terms of what they've had.
22 They mentioned to you that at its worst it was

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1 a lot of big orange, purple, you know,
2 plastic. There's still plastic balls and
3 carts and things like that, but not a lot.
4 They've done the more environmental stuff now.
5 My biggest problem is that I have a playground
6 in front of my house. And I don't know if
7 neighborhood compatibility is something to
8 look at it, but I would say it doesn't belong
9 there, especially when we have one two blocks
10 away.

11 COMMISSIONER COHEN: No, I guess
12 what I'm asking is what has happened that from
13 the moment you moved in --

14 MR. HARTLEY: Yes.

15 COMMISSIONER COHEN: -- to today
16 that's been of greater concern to you, because
17 it has existed there at the time you purchased
18 your home, I believe. It's been there quite
19 awhile.

20 MR. HARTLEY: It has, and I don't
21 know if they needed the special exceptions
22 before. I'm not really up on your rules, but

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1 it wasn't anything like this. It wasn't as
2 offensive. But the whole concept of having a
3 playground in your front yard, if you need a
4 special exception for it, they didn't have it.
5 And it just seems like it's growing like top
6 seed. Last summer I think they wanted to do
7 a camp. And I heard someone say, no, we're
8 not there in July and August, but I think they
9 were, or at least they were trying to. It's
10 a very ever-present playground in our
11 neighborhood. And it's just a very basic
12 question. Would you want a playground in your
13 front yard? These are not bad people, but I
14 just don't think that this is right.

15 CHAIRMAN JORDAN: All right.

16 Thank you. We appreciate it.

17 Any other questions for Mr.
18 Hartley?

19 COMMISSIONER COHEN: No.

20 CHAIRMAN JORDAN: Okay. Thank
21 you, Mr. Hartley.

22 Okay. Then let's turn back to the

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1 applicant. We do have a couple of questions
2 for the applicant. Ms. Sorg?

3 VICE CHAIR SORG: Thank you, Mr.
4 Chairman. Two questions. The first question
5 is you have 25 children now, I think, right?

6 MS. TAYLOR: We are -- the
7 Certificate of Occupancy that we had initially
8 that expired, which is why we're reapplying,
9 was for 30 children.

10 VICE CHAIR SORG: Okay. But --
11 okay. Fine. But my question actually is so
12 those families, where are the families who
13 patronize the CDC coming from?

14 MS. TAYLOR: This was noted. This
15 was part of the conversation, the interview
16 that we had with the Department of
17 Transportation as well. On average, 70
18 percent of the families come from the 20007
19 area code, so they come from the local
20 community. The strollers that were referenced
21 before, it's because a lot of people actually
22 walk to the playgroup. And we work with the

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1 church also to make sure that -- you know,
2 we're happy to figure out ways to make sure
3 that's not a problem if we have to collapse
4 strollers, store them, whatever we need to do,
5 because that can be an issue for us on rainy
6 days. So we try to work with what we can with
7 the children.

8 VICE CHAIR SORG: So would you say
9 that generally speaking those 70 percent, a
10 lot of them walk?

11 MS. TAYLOR: Yes.

12 VICE CHAIR SORG: Yes, okay. And
13 then regarding the play area, because you have
14 the parents there with the children, do they
15 -- I sort of want to understand the flow of
16 the play area itself, because I'm imagining,
17 you know, groups of children around the, you
18 know, play structures and so forth. And where
19 to the parents themselves gather? Is it
20 closer oz the O Street side? Is it closer to
21 the church? Are there spaces set aside for
22 the parents to sit, and where are those

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1 located in the play area?

2 MS. TAYLOR: By the nature of our
3 playgroup, we're a cooperative playgroup, so
4 that means that the parents are there to
5 interact with and guide the children through
6 their play time. I will say as a mother it's
7 also nice to be around adults for part of the
8 day. That's part of the draw as well.

9 The playground itself, at the top
10 of the playground closest to the street
11 there's a sandbox. There is the teepee that
12 is set up and closed down every day. The
13 children have books in there. We can fit
14 maybe two children, sometimes the teacher, in
15 there and they sit and read books.

16 At the bottom of the playground we
17 have a place where they can paint. That's
18 very attractive to a lot of them. We also
19 have a play house behind the large house that
20 you see, and a lot of the children will be in
21 there pretending to eat and drink. There's a
22 little patio for them to do some play acting

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1 as well.

2 So the parents typically, they'll
3 either be interacting with their children or
4 they may be talking to themselves as well.
5 There's just sort of -- there's little groups,
6 lots of little activities that are going on
7 throughout the playground.

8 CHAIRMAN JORDAN: And does the
9 teepee stay up, or it goes up and down?

10 MS. TAYLOR: It goes up and down.

11 CHAIRMAN JORDAN: It's up for what
12 time of the day?

13 MS. TAYLOR: Oh, so this morning
14 Mandy, our director, was there early setting
15 up so that she could be here to testify in
16 time. Typically --

17 MS. SHEFFER: So I'm one of the
18 teachers who's outside everyday. And we
19 typically start setting up around 8:30 and the
20 teepee goes up then. At the moment the teepee
21 is around the back near the playhouse. So it
22 moves about. It's six feet tall. And it gets

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1 taken down by 11 -- by 12:00 the playground is
2 completely disassembled and packed up. So the
3 only thing that you can see from the street is
4 the covered sandbox and at the moment we have
5 some -- and the bench. And we have little
6 logs that we use as balancing. But everything
7 is --

8 CHAIRMAN JORDAN: Yes, okay.

9 MS. SHEFFER: -- below the fence
10 level.

11 CHAIRMAN JORDAN: Okay. Thanks.
12 Any other questions from anyone?

13 MS. TAYLOR: Oh -- I'm sorry.

14 CHAIRMAN JORDAN: Something you
15 want to -- yes, because we're in your time to
16 do --

17 MS. TAYLOR: Is it -- okay.

18 CHAIRMAN JORDAN: -- a rebuttal or
19 if you --

20 MS. TAYLOR: I just wanted to
21 address the question about the camp. As part
22 of our licensing we are able to run camp, but

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1 we never run during July and August, mainly
2 because all of our families go away.

3 CHAIRMAN JORDAN: What is camp?

4 MS. TAYLOR: Camp is just an
5 extension of school after May. It's for the
6 month of June.

7 CHAIRMAN JORDAN: From what time?

8 MS. TAYLOR: Same time.

9 CHAIRMAN JORDAN: Yes.

10 MS. TAYLOR: So it's Monday
11 through -- it's actually Monday through
12 Thursday, because on Fridays we take field
13 trips. But it's the same hours, 9:00 until
14 noon. Yes, and usually less children.

15 CHAIRMAN JORDAN: Okay. Any other
16 questions from anyone?

17 (No audible response.)

18 CHAIRMAN JORDAN: Okay. Good. If
19 there's --

20 MS. TAYLOR: Oh, I'm sorry. I
21 just wanted to say one more thing. I
22 appreciate our neighbor's concern that the

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1 playgroup has changed and, you know, he's
2 concerned that potentially in the future the
3 plastic could come back, but I want to say
4 that the curriculum we're currently adopting
5 is one that we intend to have in place for as
6 long as the future of the playgroup. And it's
7 a Reggio Emilia-based curriculum which really
8 draws on nature and natural products for the
9 children's use, which is why this is so
10 amenable for the work that we're doing. So I
11 just want to address that concern.

12 And also say that if there are
13 issues with the teepee, we're happy to take
14 that -- we try to take it down and keep it as
15 minimally as -- sort of as little of a problem
16 as possible.

17 The church, there's a structure on
18 the playground that's actually a historic
19 building, so we want to work -- we work with
20 the church to make sure that we're respectful
21 of that as well. That's another one of the
22 drivers of the change that we've made

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1 recently.

2 CHAIRMAN JORDAN: Thank you. Then
3 we'll bring this hearing to a close.

4 And let me ask one question before
5 I do that.

6 Then let's bring the hearing to a
7 close and close the record. And I believe the
8 Board's ready to deliberate on the matter.
9 And I'm going to -- so, Ms. Sorg, do you want
10 to begin?

11 VICE CHAIR SORG: Sure. Thank
12 you, Mr. Chairman. I think that, you know, in
13 this case we had a full record of neighborhood
14 comment, as well as an understanding of the
15 program that's housed in the Mount Zion
16 Church. Also I happen to live in the
17 neighborhood, and so understand the closeness
18 and density of this area, east portion of
19 Georgetown. And certainly as a Board I think,
20 you know, we always want to garner as much
21 community input and as deep an understanding
22 of the issues that surround these types of

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1 uses that affect not just the specific users,
2 but also the surrounding community.

3 That being said, I do believe in
4 this case that the applicant has justified the
5 standards of the special exception under 205
6 and I would be in support of the application.
7 I can go ahead and make a motion.

8 CHAIRMAN JORDAN: Yes, why don't
9 you just --

10 VICE CHAIR SORG: Okay. And so I
11 will --

12 CHAIRMAN JORDAN: Could you talk
13 about the conditions?

14 VICE CHAIR SORG: Yes, I will make
15 a motion to approve application 18425 with the
16 relief requested under the following
17 conditions: (1) The term of the special
18 exception shall run for 10 years; (2) the
19 child development center shall have a maximum
20 of 35 children aged 1 through 3 years; (3) the
21 number of paid staff shall not exceed seven,
22 not including parents and baby sitters and

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1 caregivers; (4) the hours of operation shall
2 be from 7:30 a.m. until 6:00 p.m., Monday
3 through Friday; (5) the play area shall remain
4 neat and clean when not in use. That's my
5 motion.

6 CHAIRMAN JORDAN: Okay.

7 COMMISSIONER COHEN: Mr. Chairman,
8 I'd like to second that motion.

9 CHAIRMAN JORDAN: Motion made and
10 seconded that we approve the application with
11 the conditions as read. Any further
12 discussion?

13 (No audible response.)

14 CHAIRMAN JORDAN: All those in
15 favor, signify by saying aye?

16 (Chorus of ayes.)

17 CHAIRMAN JORDAN: Those opposed,
18 nay?

19 (No audible response.)

20 CHAIRMAN JORDAN: The motions
21 carries. Mr. Moy?

22 MR. MOY: Yes, sir. Staff would

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1 record the vote as 3-0-2. This is on the
2 motion of Vice-Chairperson Sorg to approve the
3 application per the five conditions as was
4 stated in her motion. Second the motion, Ms.
5 Cohen. Also in support Mr. Jordan. No other
6 Board Members participating. So again, the
7 motion carries on a vote of 3-0-2.

8 CHAIRMAN JORDAN: Yes, and may we
9 have a summary order, please?

10 MR. MOY: Yes, sir.

11 CHAIRMAN JORDAN: Thank you.
12 We're going to take a brief five-minute
13 recess. Thank you.

14 (Whereupon, the above-entitled
15 matter went off the record at 10:38 a.m. and
16 resumed at 10:50 a.m.)

17 CHAIRMAN JORDAN: We're ready to
18 rock and roll. Do you want to call the case?

19 MR. MOY: Yes, sir, with pleasure.
20 That would be application No. 18430. This is
21 the application of Jomo Oludipe, pursuant to
22 11 DCMR 3103.2, for variances from the lot

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1 area and lot width requirements under
2 subsection 401.3, and a variance from the side
3 yard requirements under section 405. This is
4 to allow the new construction of two semi-
5 detached dwellings in the R-2 District at
6 premises 154 and 156 Forrester Street, S.W.
7 Property located in Square 6239, Lots 11 and
8 12.

9 CHAIRMAN JORDAN: Can you identify
10 yourselves for us, please? Make sure the
11 microphone is turned on. There should be a
12 bright glowing green light. I don't think
13 you're on yet. Bright glowing green light.
14 Just press it.

15 MR. OLUDIPE: Oh, okay.

16 CHAIRMAN JORDAN: All right. And
17 did you complete the witness cards and give it
18 to the court reporter?

19 MR. OLUDIPE: Okay.

20 CHAIRMAN JORDAN: Did you do that?

21 MR. AKAME: Yes, he did.

22 MR. OLUDIPE: Yes, it's on?

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1 CHAIRMAN JORDAN: Okay. Yes, we
2 know you're on.

3 MR. OLUDIPE: Yes. My name is
4 Jomo Oludipe. I'm the applicant for the
5 variance.

6 CHAIRMAN JORDAN: Okay. And you,
7 please?

8 MR. AKAME: Aziz Akame. I'm the
9 architect of the project, of Mr. Jomo.

10 CHAIRMAN JORDAN: All right.
11 Thank you. I think that we're deficient in a
12 couple of things in regards to this
13 application, one of which I don't see a -- do
14 we have authorization here? Affidavit of
15 posting. Did you file an affidavit of
16 posting? Do we have an affidavit of posting,
17 Mr. Moy?

18 MR. MOY: No, sir, it's not in the
19 -- it's absent from the official record.

20 CHAIRMAN JORDAN: All right. Did
21 you complete an affidavit of posting?

22 MR. AKAME: Yes, sir.

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1 CHAIRMAN JORDAN: Do you have a
2 copy of it?

3 MR. AKAME: Only thing that I
4 received is a letter from Zoning. That's what
5 it was. And it was confirmed that a hearing
6 will take place.

7 CHAIRMAN JORDAN: No, did you post
8 a big sign and notice that you had made an
9 application for zoning relief and then take
10 pictures of it and then fill out an affidavit
11 and bring it back?

12 MR. AKAME: I think I did. Yes, I
13 did. You know --

14 VICE CHAIR SORG: They're big
15 orange posters. Did you put a big orange
16 poster on the property?

17 MR. AKAME: No. No, I didn't
18 receive that.

19 CHAIRMAN JORDAN: Okay. And let
20 me ask you another question: Did you make
21 contact with the Advisory Neighborhood
22 Commission?

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1 MR. AKAME: Yes, sir.

2 CHAIRMAN JORDAN: You had a
3 meeting with them?

4 MR. AKAME: Yes, we had a meeting.

5 CHAIRMAN JORDAN: Okay. Because
6 we have nothing from --

7 MR. MOY: Yes, about a month ago.

8 CHAIRMAN JORDAN: We have nothing
9 from the Advisory Neighborhood Commission
10 either.

11 MR. AKAME: We did at the Haley
12 High School.

13 CHAIRMAN JORDAN: Okay. The
14 affidavit, the posting is really fundamental.
15 It's something that we have to have so that
16 the neighborhood knows that you're trying to
17 do something, because every citizen has a
18 right to voice their concern and/or support
19 for the relief that you're requesting.

20 MR. AKAME: Right.

21 CHAIRMAN JORDAN: And they should
22 know about things. And our rules require

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1 that.

2 MR. AKAME: Yes, we did have a
3 meeting at the high school. That was a month
4 ago with the ANC Commission.

5 MR. OLUDIPE: And then the
6 members, they -- later they received the
7 letter concerning the variance.

8 COMMISSIONER COHEN: I'm sorry,
9 it's two separate steps.

10 MR. OLUDIPE: Oh, okay.

11 CHAIRMAN JORDAN: I have real
12 concerns about us going forward without having
13 this being posted, and I think there are some
14 other issues.

15 Ms. Sorg, go ahead.

16 VICE CHAIR SORG: Thank you, Mr.
17 Chairman. I agree to an extent. I think for
18 the applicant there are three ways, right,
19 that we notice the public. One, the letter
20 that you received from the Office of Zoning
21 confirming your application instructs you to
22 come down to this office and pick up a big

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1 orange poster and put it on your property.
2 And as the Chairman mentioned correctly, I
3 think that's the main way that the neighbors
4 learn that you're trying to do a project.

5 I think though obviously that we
6 have in testimony that the applicant and his
7 representatives met with the ANC, but we've
8 not received any communication from the ANC.
9 So I agree that with two of the three modes in
10 question, in addition to what I view are some
11 deficiencies in the record, namely that we've
12 not received what I think are the relevant
13 plans, I think if you're looking at postponing
14 for notice and to fill the record, I think I
15 would agree.

16 CHAIRMAN JORDAN: Yes, I'd feel a
17 lot more comfortable and I don't think we can
18 waive -- I don't have enough here to waive the
19 requirement for the affidavit, and I think
20 there are some other things that need to be
21 cleaned up anyhow in regards to this
22 application. And I have nothing from the ANC

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1 regarding their view on this, and so, you
2 know, if we had the ANC letter or something,
3 we'd say, yes, there's some public something,
4 but we don't have that. I'm going to --

5 MR. AKAME: Yes, we have about
6 15 --

7 CHAIRMAN JORDAN: Understand. I'm
8 going to continue this, offer this for you to
9 continue it. And there are some deficiencies
10 that you need to correct so we can go forward,
11 one of which is that you need to actually do
12 the posting that's required with the signage.
13 I would contact the ANC again and ask them to
14 produce a letter for you. Your plans are at
15 this point incomplete. We need a full set of
16 plans from you.

17 And is there anything else anybody
18 else needs?

19 VICE CHAIR SORG: I think to
20 clarify with regard to the plans, you know,
21 this is a case that is regarding the
22 combination of lots, so specifically a site

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1 plan --

2 MR. AKAME: Yes. Oh, you want --

3 VICE CHAIR SORG: -- as you can
4 see, I mean, as one would expect to see a site
5 plan showing that combination, as well as the
6 footprints. All that we received to my
7 knowledge are elevations.

8 MR. AKAME: No, I provide a site
9 plan, survey plat showing the footprint of the
10 addition and the setback --

11 VICE CHAIR SORG: Right. We have
12 the surveyor's plat.

13 CHAIRMAN JORDAN: We have the
14 surveyor's plat.

15 VICE CHAIR SORG: Yes, I guess it
16 does show, but we have not received any floor
17 plans. That's something that we customarily
18 receive.

19 MR. AKAME: Oh, okay. Do you have
20 the elevations?

21 VICE CHAIR SORG: We do have the
22 elevations.

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1 CHAIRMAN JORDAN: As I said, we
2 need a set of plans. And I'm going to suggest
3 that you contact the Office of Zoning after
4 this and just talk with -- the Office of
5 Zoning will sit and talk with you and make
6 sure you to have everything that you need and
7 will advise you of moving forward. Also, the
8 Office of Planning -- I don't know if you had
9 a chance to meet with the Office of Planning,
10 have a conversation with the Office of
11 Planning.

12 MR. AKAME: Yes, I talked to them
13 on several occasions.

14 CHAIRMAN JORDAN: Mr. Moy, what
15 dates are we looking at?

16 MR. MOY: Sir, by my calculation,
17 I think we should ensure that the applicant
18 meets the 15-day requirement for signage. And
19 because of the Thanksgiving holiday weekend,
20 that will push the next or earliest hearing of
21 this application on December the 4th. So we
22 can either set that in the morning or the

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1 afternoon, sir. We have one, two, three, four
2 cases in the morning. We can do five in the
3 morning.

4 CHAIRMAN JORDAN: For what day?

5 MR. MOY: December 4th.

6 CHAIRMAN JORDAN: December 4th?

7 That's fine with me, December 4th.

8 Okay. December 4th. We're going
9 to continue this matter to December 4th.

10 MR. AKAME: What time?

11 MR. MOY: In the morning, sir?

12 Let's do it in the morning.

13 CHAIRMAN JORDAN: Yes, the 9:30
14 docket, which we're trying to get rid of just
15 9:30 and 1:00.

16 MR. MOY: That's right.

17 CHAIRMAN JORDAN: And we're going
18 to get to that point, aren't we.

19 MR. MOY: Yes, we are. This will
20 do it.

21 CHAIRMAN JORDAN: Okay. So please
22 find out. Meet with staff, either with Office

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1 of Zoning or with Planning, and just make sure
2 we dot the I's and cross the T's.

3 With the ANC, I don't know if they
4 took a vote while you were there.

5 MR. AKAME: Yes, they --

6 CHAIRMAN JORDAN: And you need the
7 support -- or get with the chairperson, make
8 sure that they prepare a letter and all that
9 kind of stuff for you. Let's get that in the
10 file.

11 MR. AKAME: Okay.

12 CHAIRMAN JORDAN: And get the
13 posting document. Post that on the property.
14 Then take pictures of it and then come back,
15 fill out affidavit, and then bring it all in.
16 Okay?

17 MR. AKAME: Okay. How do we
18 contact the ANC? Do you have the number?

19 CHAIRMAN JORDAN: Didn't you
20 already contact them before?

21 MR. AKAME: Well, they call us.
22 Yes, I think I have a phone number in my

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1 records.

2 VICE CHAIR SORG: It's up to you
3 to chase down the ANC and get them to send the
4 letter.

5 CHAIRMAN JORDAN: Yes, you know,
6 before you leave, you should go meet with the
7 Zoning Office across the hall and pick up the
8 poster and have some conversation about making
9 sure you have everything you need.

10 MR. AKAME: All right.

11 CHAIRMAN JORDAN: So with that,
12 this matter is continued to December 4th.

13 MR. MOY: That's correct, sir.

14 CHAIRMAN JORDAN: All right.

15 Thank you.

16 MR. OLUDIPE: Thank you so much.

17 MR. AKAME: All right. Thank you.

18 CHAIRMAN JORDAN: All right. We
19 will stand in recess until 1:00 p.m. But if
20 we had our continuing docket, we would be
21 going into the other part. However, we're
22 still dealing with 9:30 and 1:00 dockets.

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1 There we go. Thank you very much. Just for
2 the record.

3 (Whereupon, the above-entitled
4 matter went off the record at 11:00 a.m. and
5 resumed at 1:09 p.m.)

6 CHAIRMAN JORDAN: Okay. Would the
7 hearing please come to order? We were in
8 recess from this morning. So we're back for
9 our afternoon session. We're located at the
10 Jerrily R. Kress Memorial Hearing Room at 441
11 4th Street, N.W.

12 I'm Lloyd Jordan, Chairperson. To
13 my left is Marcie Cohen, Member of the adverse
14 conditions, and to my right is Nicole Sorg,
15 Vice-Chair.

16 Please be advised that we are
17 being Web cast live and also this hearing is
18 being recorded by a court reporter, so
19 therefore, I'm going to ask you to refrain
20 from any disruptive noises.

21 I'm going to also ask that if
22 there is anyone who is going to testify today,

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1 would they please stand and take the oath or
2 affirmation from the Board secretary and
3 complete two witness cards and give them to
4 the court reporter prior to testifying?

5 So if you would stand, anyone
6 who's going to testify in matters? I don't
7 see anybody that needs to testify, I don't
8 think. Well, we continued the appeal of the
9 matter today, so I know that there's a case
10 that's on for appeal. And I think, Mr. Moy,
11 you tried to contact the parties and did not
12 reach them. Mr. LeGrant. So there won't be
13 need for you to be sworn in. The matter of 18
14 -- is it 18429? Yes, 18429. So that one we
15 continued.

16 And what is the date, Mr. Moy?

17 MR. MOY: I believe the date, Mr.
18 Chairman, is December 4th in the afternoon.

19 CHAIRMAN JORDAN: December 4th in
20 the afternoon. Okay. And so I think -- I'm
21 sorry? If it's anything about the merits of
22 the case or about the case, no. We've already

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1 continued it until a new date and I think the
2 Office of Zoning tried to contact everyone to
3 let you know not to come down. Evidently,
4 were not successful in doing that. Okay? Is
5 the December 4th -- if you can come up and
6 talk about the date, if that date is good. Is
7 December 4th a date that -- in the afternoon,
8 Mr. Moy, or in the morning?

9 MR. MOY: Yes, sir, in the
10 afternoon.

11 CHAIRMAN JORDAN: All right.
12 Gentlemen, where are we on December 4th? I
13 need to know yes or no if that's a good date
14 or a bad date.

15 MR. LeGRANT: That's fine with the
16 property owner, yes.

17 CHAIRMAN JORDAN: Okay.

18 MR. SURABIAN: December 4th is
19 okay.

20 CHAIRMAN JORDAN: Okay. Very
21 good. Thank you.

22 MR. MOY: Okay.

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1 CHAIRMAN JORDAN: December 4th.

2 Thanks.

3 MR. MOY: The only other
4 preliminary I'd like to raise, too, Mr.
5 Chairman, just for the record is that from the
6 morning session application No. 18369, this is
7 the application of the D.C. Government in care
8 of Paramount Development, LLC and Blue Sky
9 Housing, that was withdrawn. So I just want
10 to make that for the record for the
11 transcript.

12 CHAIRMAN JORDAN: Okay. Thank
13 you.

14 MR. MOY: Other than that, the
15 case before the Board, and I see the applicant
16 just walked into the hearing chamber, is
17 application No. 18381. This is the
18 application of Lawal Abdulganiya, pursuant to
19 11 DCMR 3103.2, for a variance from the lot
20 width requirements under section 401, a
21 variance from the side yard requirements under
22 section 405, and a variance from the use

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1 provisions under section 201.1, to construct
2 a semi-detached dwelling in the R-1-B District
3 at premises 4336 Douglas Street, N.E.
4 Property located in Square 5116, Lot 115.

5 As the Board will recall, this
6 case has been continued twice; July 17th and
7 September 25th, 2012. What the secretary has
8 in hand is a revised set of drawings which the
9 Board had asked for with a deadline of October
10 the 16th, which you do have in your case
11 folders. But my understanding from the
12 applicant yesterday was that he had made a
13 change in one of the sheets, so he refiled
14 another set.

15 CHAIRMAN JORDAN: Okay. Let's do
16 this: Since late arrival, let's -- anyone
17 who's going to testify in a matter in this
18 case needs to stand and take the oath or
19 affirmation given by the Board secretary and
20 complete two witness cards. Is there going to
21 be any testimony from anyone other -- yes, so
22 let's do that. Stand and raise your right

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1 hand.

2 (Whereupon, the witnesses were
3 sworn.)

4 MR. MOY: All right. You may be
5 seated. Thank you.

6 CHAIRMAN JORDAN: Good. Yes?
7 Please, I need you to sit. If you would sit,
8 please, and then make sure the microphone is
9 turned on. There should be a bright green
10 button appearing in front of you, the
11 microphone. Is it lit green?

12 MR. MOBLEY: Yes.

13 CHAIRMAN JORDAN: Okay. Now would
14 you identify yourself for us, please?

15 MR. MOBLEY: My name is Clarence
16 Mobley. I'm an architect for the client.

17 CHAIRMAN JORDAN: Okay. Now,
18 something you wanted to as before we begin?

19 MR. MOBLEY: Yes, I would like for
20 you distribute what I'm going to say to the
21 Board, if it's okay. And you'll be reading
22 the same thing I'm reading. Is that okay?

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1 CHAIRMAN JORDAN: Okay. Yes, go
2 ahead. Let's do that. To the secretary.

3 Did we correct the deficiency of
4 not having an affidavit of posting in this
5 case?

6 MR. MOBLEY: Excuse me, sir?

7 CHAIRMAN JORDAN: Do we have an
8 affidavit of posting? Did you have that?

9 MR. MOBLEY: Yes, sir. Oh, would
10 you like -- I have another copy.

11 CHAIRMAN JORDAN: Now is there
12 some additional -- did some plans also get
13 changed just recently here?

14 MR. MOBLEY: Yes. Yes, sir. But
15 the change was very minor, but --

16 CHAIRMAN JORDAN: It doesn't -- so
17 the plans are not being --

18 MR. MOBLEY: The plans --

19 CHAIRMAN JORDAN: I was informed
20 by the Board secretary that I think yesterday
21 or so you were going to change some plans,
22 submit some plans or something?

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1 MR. MOBLEY: Yes, you have a copy
2 of the changed plans. The Zoning -- you have
3 the Z Plan. It's Z1. It's the second sheet
4 in your packet under the new plans. It says
5 Z Plan at the corner. At the bottom it says
6 Z1.

7 CHAIRMAN JORDAN: Z1?

8 MR. MOBLEY: It's the second
9 sheet.

10 CHAIRMAN JORDAN: Okay. I thought
11 there was something new that came in. And
12 this came in the other day. Correct.

13 MR. MOBLEY: Okay.

14 CHAIRMAN JORDAN: Has Planning
15 seen these plans? Has planning planned to see
16 these plans? Have you seen these plans?

17 MR. COCHRAN: Excuse me, sir. No,
18 we haven't seen --

19 CHAIRMAN JORDAN: Mr. Mobley, did
20 you give Office of Planning a set of these
21 plans? Did you give them plans? This
22 revised, whatever this is.

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1 MR. MOBLEY: That is the final
2 set. Office of Planning does not have that.
3 Mr. Chairman, that --

4 CHAIRMAN JORDAN: October 23rd.

5 MR. MOBLEY: The change on that
6 change labeled at the bottom as Z1 --

7 CHAIRMAN JORDAN: Z1?

8 MR. MOBLEY: -- showed the entire
9 block of the project on that side of the
10 street.

11 CHAIRMAN JORDAN: Let me do this:
12 Can you tell me what has changed from the last
13 set of plans you submitted and what's changed
14 in here so we can all kind of step there with
15 you, because I know Planning hasn't had a
16 chance to see this either? So what has
17 changed?

18 MR. MOBLEY: The only thing that's
19 changed is that the plan has been expanded to
20 include more lots, to show the lots from the
21 end of the street to the lot that we're
22 concerned about here.

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1 CHAIRMAN JORDAN: Oh, you just did
2 a -- okay. You just showed more area
3 around --

4 MR. MOBLEY: More area.

5 CHAIRMAN JORDAN: But the plans
6 itself didn't change?

7 MR. MOBLEY: Plans did not change.

8 CHAIRMAN JORDAN: Okay.

9 MR. MOBLEY: Just more area. And
10 in addition, Mr. Chairman, you have a copy of
11 my statement, but if I could show you here.

12 CHAIRMAN JORDAN: Yes, I asked
13 about the affidavit of posting. You said you
14 had it.

15 MR. MOBLEY: The posting of --

16 CHAIRMAN JORDAN: Did you turn in
17 the affidavit of posting?

18 MR. MOBLEY: I turned the
19 affidavit that I was the owner's
20 representative.

21 CHAIRMAN JORDAN: That's the
22 authorization letter.

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1 MR. MOBLEY: The authorization
2 letter.

3 CHAIRMAN JORDAN: And, but did you
4 post a big orange sign in front of the
5 property indicating to the community that you
6 were requesting zoning relief?

7 MR. MOBLEY: Oh, that's what I'm
8 here for now, to request the zoning relief.

9 CHAIRMAN JORDAN: I know, but you
10 have to do notification to the community.
11 When you filed this, you didn't get the big
12 orange sign to take and post on the property?

13 MR. MOBLEY: I individually, I
14 didn't post --

15 CHAIRMAN JORDAN: I know you came
16 in this kind of late at some point, right, and
17 some other things?

18 MR. MOBLEY: All the meetings
19 before -- first time I've sat before you, but
20 I --

21 CHAIRMAN JORDAN: I know you came
22 in late to this whole matter. The train was

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1 already --

2 MR. MOBLEY: The train --

3 CHAIRMAN JORDAN: -- yes, left the
4 station and you were trying to rescue this
5 project.

6 MR. MOBLEY: I'm trying to rescue
7 it. As you'll see in my statement in the
8 packets that you have one of each so that I
9 wouldn't have long to talk about what's going
10 on in the process. I could just give you my
11 whole presentation by just --

12 CHAIRMAN JORDAN: Yes, but we have
13 a fundamental step that happens before that
14 and it's required to be that the request for
15 relief -- that there's a public disclosure,
16 and that public disclosure takes the form of
17 a big sign that says Office of Zoning --

18 MR. MOBLEY: Yes. Oh, yes, I'm
19 familiar with that.

20 CHAIRMAN JORDAN: Okay. Now did
21 that happen? Did that sign get posted?

22 MR. MOBLEY: Okay. That sign did

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1 not get posted, but I went from door oz door
2 in the neighborhood. And you'll see on the
3 pictures I went from door to door and asked in
4 the neighborhood if anybody objected to this
5 being here.

6 The only objection I got was from
7 the lady at the right, and she was down here
8 the last time and she -- since that time I
9 haven't seen here since. I've been past her
10 place about four times, on four different
11 occasions. And now her car is not out front.
12 Two times I went back. I couldn't get in.
13 She has a big dog in he front yard and the
14 dog monitors the house. I went by on a
15 Friday, Saturday and on a Sunday to try to
16 catch her on a day that probably she wouldn't
17 work. I couldn't catch her. The photo that
18 you see before you now, there's no black car
19 in front of her house because I couldn't catch
20 her.

21 But the neighbors across the
22 street and down the street on either side of

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1 the street in the back where you'll see in
2 your K -- or your Z1 plan, you'll see that the
3 street is broken up in the back. I went to
4 the neighbors back there and they did not
5 object to the place. I did the footwork, but
6 I didn't do the sign work. And I hope you'll
7 forgive me.

8 CHAIRMAN JORDAN: Well, let me ask
9 you: Did you do a presentation with the ANC?

10 MR. MOBLEY: No, but I have data
11 into that folder in my package pertaining to
12 the ANC.

13 CHAIRMAN JORDAN: What's the data?

14 MR. MOBLEY: The data said that
15 the ANC had no comment.

16 CHAIRMAN JORDAN: We have a letter
17 from ANC? You did a presentation to the ANC?

18 MR. MOBLEY: I did not.

19 CHAIRMAN JORDAN: You submitted
20 the plans to the ANC?

21 MR. MOBLEY: I did not, but I had
22 the information that was distributed from the

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1 Zoning Commission that the ANC had not been
2 notified.

3 CHAIRMAN JORDAN: Okay.

4 MR. MOBLEY: And though since they
5 didn't notify, I got this letter yesterday.
6 It said that they were not notified. And I
7 said they were not notified, well then I don't
8 need -- if the PO did not notify the ANC and
9 did not get a positive response back from the
10 ANC --

11 CHAIRMAN JORDAN: You're confusing
12 me just a little bit. Okay. Oh, this is it?
13 We got this from the ANC? Oh, the notice?
14 Yes, but -- okay.

15 MR. MOY: Mr. Chairman, if I may
16 add for the record, in the official case
17 record we do have an Office of Zoning referral
18 letter dated March 19th to ANC 7D.

19 CHAIRMAN JORDAN: Okay. Now what
20 letter are you talking about?

21 MR. MOBLEY: I got a letter here.
22 I'm very sorry.

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1 CHAIRMAN JORDAN: Yes, we
2 understand your -- okay. Oh, your Office of
3 Planning report you're showing us? And you're
4 trying to show this for the point of what?

5 MR. MOBLEY: (Off microphone.)

6 CHAIRMAN JORDAN: Sir, you need to
7 be on the microphone.

8 MR. MOBLEY: Since the Office of
9 Planning stated that --

10 CHAIRMAN JORDAN: No, no, no, no,
11 no. That just simply means that their office
12 has not gotten anything from them.

13 MR. MOBLEY: Oh.

14 CHAIRMAN JORDAN: It's incumbent
15 -- well, I use that lightly. It's incumbent
16 upon the applicant to make contact with the
17 ANC to see if you can do a presentation to the
18 ANC to see whether or not they want to support
19 your application. And I'm taking it that that
20 did not happen by the applicant.

21 MR. MOBLEY: No. But I have
22 testimony from some of the residents who can

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1 attest that they did not object to that --

2 CHAIRMAN JORDAN: Yes, but they're
3 not here.

4 MR. MOBLEY: -- which I can go
5 back and get a statement from saying they do
6 not object. The one in the back of the
7 property -- well, on the other side of the
8 street of the property --

9 CHAIRMAN JORDAN: You know, this
10 thing has been set with us three times. And
11 I know you're doing your best trying to get it
12 worked out, and I think you're getting close.
13 You're just like right --

14 MR. MOBLEY: I plead -- I ask for
15 your mercy.

16 CHAIRMAN JORDAN: -- there. It's
17 been like pulling teeth. It's like right
18 there. But give me a second.

19 Okay. We're going to do this:
20 You know, I'm doing whatever we can to try to
21 help you get to where you need to be.

22 MR. MOBLEY: I appreciate --

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1 CHAIRMAN JORDAN: It's been -- you
2 know, we're going through stages. We're
3 getting better. We're getting better. We're
4 getting better. And we're going to fine tune
5 this and we're going to knock it out the park
6 at some point, but that's just not today.
7 We're going to have to have you to post this.
8 The public announcement, you got to post it.

9 MR. MOBLEY: Okay.

10 CHAIRMAN JORDAN: Then you're
11 going to also have to make contact with the
12 respective Advisory Neighborhood Commission.
13 Make contact with them. Find out what they
14 want. See if you can do a presentation with
15 them. In fact, Ms. Sorg is preparing for you
16 a list of things that you need to do, which
17 she is bending over backwards to be helpful.
18 And you need to do that.

19 Once you have this posting up for
20 15 days, then you're going to take a picture
21 of it. You're going to take a picture of it
22 at some point in there. Then you're going to

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1 complete an affidavit saying that this posting
2 has been up for a period of time. Okay? And
3 then you're going to file that back here.

4 Okay?

5 MR. MOBLEY: Okay.

6 CHAIRMAN JORDAN: You're going to
7 contact the ANC. I would call them. I would
8 send them letters. Send them emails --

9 MR. MOBLEY: I will.

10 CHAIRMAN JORDAN: -- to find out
11 who the chair is and, you know, just say,
12 look, I need you to do this for me. I need to
13 do a presentation for you. And if they say we
14 don't have time, say, well, you're going to
15 give me -- can you give me a letter or
16 something? But sometimes, depending on the
17 ANC, you know, they got a lot on their
18 calendar to do it.

19 The other thing that you could do
20 as a backup, all these people's houses that
21 you went to --

22 MR. MOBLEY: Yes.

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1 CHAIRMAN JORDAN: -- you can also
2 do a form, a letter of support and say, hey,
3 would you sign this? Or do one petition kind
4 of thing and say will you say this in support
5 of us? We need those things. It's important
6 that the public knows about zoning issues,
7 zoning relief that the neighborhood, the
8 community, someone's seeking to change some
9 things. Okay? This is really important.
10 This is being fair.

11 MR. MOBLEY: Yes.

12 CHAIRMAN JORDAN: And not saying
13 that they won't support you; they very well
14 may support you, but we have to dot our I's
15 and cross our T's here.

16 MR. MOBLEY: Okay.

17 CHAIRMAN JORDAN: Because not only
18 are we here to try to help your applicant, but
19 more importantly we're the gatekeepers for the
20 community in regards to this. So we have a
21 responsibility to them. Okay?

22 You had something you wanted to

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1 add?

2 MR. COCHRAN: I wondered if the
3 Board could advise the applicant as to the
4 type of relief that is needed so that they
5 don't continue under the current perception.

6 CHAIRMAN JORDAN: What other
7 question? I thought we worked -- Board, where
8 are we? No, I saw something. I thought he
9 changed it to -- he did change it in this
10 letter saying he needed a variance request.
11 There's a letter, this thing he just passed
12 out today. It says -- you realize a variance
13 is required, isn't that correct?

14 MR. MOBLEY: Yes, I realize that.

15 CHAIRMAN JORDAN: Did you see
16 this?

17 MR. COCHRAN: I read it as the
18 applicant though one variance and one special
19 exception was needed. As long as the
20 applicant understands that it's two variances.

21 CHAIRMAN JORDAN: Yes, I think he
22 understands that now. You're no longer asking

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1 for special exception relief? You know that
2 you need two variances? I think you need
3 three.

4 MR. MOBLEY: Yes, I'm aware of
5 that. A variance on the side yards and a
6 variance on the width of the --

7 CHAIRMAN JORDAN: Certainly.

8 MR. MOBLEY: -- frontage of the
9 streets.

10 CHAIRMAN JORDAN: Certainly, yes.
11 Yes, that's okay. So we're good, but that's
12 -- thanks. Well, better get it cleared up
13 now. Then I'm going to ask, Ms. Sorg, would
14 you read the -- yes, just do it so make sure.
15 Or you can hand him the sheet of paper if you
16 want.

17 MS. GLAZER: Mr. Chair?

18 CHAIRMAN JORDAN: Yes.

19 MS. GLAZER: I just wanted to
20 interject along with OP's comment, some of the
21 filings that just came in the plans I think
22 interchange the words "special exception" and

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1 "variances." And I think the applicant, it
2 sounds like he is clear about what it is. He
3 just used the wrong word. He used --

4 CHAIRMAN JORDAN: Okay.

5 MS. GLAZER: Because the change in
6 relief was originally the application sought
7 a use variance. And I believe at the October
8 hearing, that's when the Board and the
9 applicant resolved that issue. And there was
10 a discussion about changing the plans so that
11 it would be a one-family dwelling instead of
12 a detached. Semi-detached. Excuse me.

13 CHAIRMAN JORDAN: Okay. And that
14 is an area variance. You need two area
15 variances. Okay? Right?

16 MR. MOBLEY: Yes. Wait a moment.

17 CHAIRMAN JORDAN: We're all on the
18 same page, aren't we? Or no we're not?

19 MR. MOBLEY: I think we are, but I
20 want to be sure that I can repeat it back to
21 you. We need a variance on the type of unit;
22 that is, a single-family detached unit.

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1 That's not one. Or do we need a -- I thought
2 I heard her say something about that, but I
3 don't know about that.

4 CHAIRMAN JORDAN: You need --

5 MR. MOBLEY: I need the
6 variance --

7 CHAIRMAN JORDAN: -- two area
8 variances, one for the lot width and another
9 area variance for the side yard width.

10 MR. MOBLEY: I approach both of
11 those in my letter.

12 CHAIRMAN JORDAN: Yes, okay. So I
13 just want to make sure we're -- I thought you
14 had gotten -- like I said, we've been moving
15 it, we've been winding this, the train --

16 MR. MOBLEY: I appreciate it.

17 CHAIRMAN JORDAN: -- and we're
18 just not ready oz roll yet. Okay?

19 MR. MOBLEY: Okay. Did you -- go
20 ahead.,

21 VICE CHAIR SORG: Thank you, Mr.
22 Chairman. I think there is still a little bit

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1 of confusion in the letter, because, you know,
2 we're looking at the letter, or the testimony
3 that you submitted today so that we can make
4 sure that when we come back, you know,
5 everything is clear. And as OP is pointing
6 out, in the testimony that you submitted today
7 you do also say that we're requesting a
8 special exception and we ask for a variance
9 for a special exception.

10 But what I think that we need to
11 make clear is that there are two types of
12 zoning relief. One is a special exception and
13 one is a variance.

14 MR. MOBLEY: Oh, okay.

15 VICE CHAIR SORG: Okay?

16 MR. MOBLEY: One is a special
17 exception, yes.

18 VICE CHAIR SORG: And -- right?
19 So you can't ask for both at the same time.
20 And what you're asking for is a variance. And
21 that's why you have to show the practical
22 difficulty condition. So the words "special

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1 exception" do not belong in your testimony
2 because you're asking for a variance. Does
3 that make sense?

4 MR. MOBLEY: Yes. Yes.

5 VICE CHAIR SORG: Okay.

6 MR. MOBLEY: Okay.

7 VICE CHAIR SORG: And the reason
8 that there's a difference is the variance
9 means you're asking for more feet or more, you
10 know, relief. So you're asking for the
11 variance and not the special exception.

12 MR. MOBLEY: Okay. Yes.

13 VICE CHAIR SORG: Okay. So I
14 guess --

15 MR. MOBLEY: Pardon me. One more
16 thing. And in the variance -- according to my
17 understanding, the variance needs more public
18 exposure?

19 VICE CHAIR SORG: Well --

20 CHAIRMAN JORDAN: Both need the
21 same exposure.

22 MR. MOBLEY: Okay.

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1 CHAIRMAN JORDAN: And I'm going to
2 ask you to do this: Before we -- I think
3 we've asked you to meet with the Office of
4 Zoning and Office of Planning to get some
5 leadership, some direction. Did you do that?
6 Did you meet with those -- with the Office of
7 Zoning and sit down with somewhere here to
8 find out everything you needed to do?

9 MR. MOBLEY: I went to the Office
10 of Planning.

11 CHAIRMAN JORDAN: Did you go to
12 the Office of Zoning?

13 MR. MOBLEY: I didn't go to the
14 Office of Zoning. I went to the Office of
15 Zoning, but I didn't talk to any person who
16 could help me. I did mention -- I did talk to
17 Mr. Nero. He gave me a lot of information and
18 referral information. And I went to his
19 referral information.

20 CHAIRMAN JORDAN: Let me tell you,
21 we just cannot do this for you. We can't tell
22 you what to do. We try to help you, but we're

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1 also the -- we're the -- we also have to
2 adjudicate this matter. So we just can't
3 really do all of this for you.

4 MR. MOBLEY: Yes.

5 CHAIRMAN JORDAN: There are
6 resources for you. The Office of Zoning.
7 Office of Planning has bent over backwards,
8 because I can even read in their report where
9 they tried to help with your variance test
10 approval, although I saw a little line in your
11 application which I guess we could stretch it
12 to do all the stuff that it was supposed to,
13 but you have resources. You need to use them.
14 But when you come here, you need to be game
15 ready.

16 MR. MOBLEY: Okay.

17 CHAIRMAN JORDAN: All right? And
18 just you're not game ready. And we're going
19 to going to continue this for this last time.

20 Mr. Moy, what do we have as time
21 for --

22 MR. MOY: According to my notes,

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1 Mr. Chairman, ANC 7D meets on the second
2 Tuesday of the month.

3 CHAIRMAN JORDAN: What's that
4 again?

5 MR. MOY: According to my
6 schedule, ANC 7D meets on the second Tuesday
7 of the month, so that's coming up --

8 CHAIRMAN JORDAN: Like next week.
9 No, that's two weeks.

10 MR. MOY: That's going to be --
11 yes. So --

12 CHAIRMAN JORDAN: So you need oz
13 get in contact with the ANC like right away,
14 because they meet on -- so that's going to
15 probably be the 11th or something.
16 Thirteenth? November -- that's when they're
17 going to meet? Yes, November 13th or so. And
18 they're -- that ANC meets. So you got to
19 really try to contact them today and see if
20 you can get on their agenda.

21 MR. MOBLEY: I'm going to try to
22 contact them before that time and see if they

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1 can have a special meeting for me.

2 CHAIRMAN JORDAN: Before you leave
3 here today I would be sure to pick up the
4 public notice, the big notice sheet. And if
5 you got a minute, why don't you speak to Mr.
6 Moy and he will help you step through some of
7 this stuff? Okay? Okay?

8 MR. MOBLEY: Yes.

9 CHAIRMAN JORDAN: All right. So
10 this is going to be our last shot to get it
11 right.

12 MR. MOBLEY: Now could I have a
13 shot before that shot? I mean, when I say "
14 a shot before," could I mix submittals before
15 the next --

16 CHAIRMAN JORDAN: You can do all
17 the filings, yes. You can file all the things
18 when you're ready to file them prior to that
19 date.

20 MR. MOBLEY: Okay.

21 CHAIRMAN JORDAN: They should be
22 in 14 days before the hearing.

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1 MR. MOBLEY: Okay.

2 CHAIRMAN JORDAN: Please try to do
3 that unless there's a way you -- there's some
4 real, real good reason why you can't do it 14
5 days before the hearing date.

6 And, Mr. Moy, we're talking about
7 a potential hearing date of?

8 MR. MOY: Yes. Now I'm getting a
9 little nervous. I was originally going to
10 suggest continuing this hearing on December
11 the 4th, but maybe to give you as much time as
12 necessary I'm thinking maybe December 11th,
13 Mr. Chairman. But I'll leave that up to you.

14 CHAIRMAN JORDAN: Yes, Ms. Cohen?

15 COMMISSIONER COHEN: Keep in mind
16 you have to post.

17 CHAIRMAN JORDAN: Yes, it's 15
18 days.

19 MR. MOBLEY: Yes, okay.

20 COMMISSIONER COHEN: It's 15 days.

21 MR. MOBLEY: Thank you so much,
22 miss. I'll start the posting.

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1 COMMISSIONER COHEN: Yes.

2 MR. MOBLEY: And I'll start the
3 ANC. And I'll check with the Office of
4 Planning again. And with these entities, I'll
5 do as much -- this is the first time I've been
6 before -- I've been a government worker for 20
7 years and I'm in private practice now for just
8 three years, and this is the first time I've
9 had to deal with this sort of thing.

10 CHAIRMAN JORDAN: And I understand
11 that, but -- and we'll do everything to help
12 you, but I think there's also another side of
13 that, and something I've talked about
14 numerously. When people come to you and they
15 need your help, it should be something that
16 you know how to do. Okay? And so with that,
17 we've kind of bent over backwards. I know you
18 even came and rescued it for somebody else,
19 but when we get to this forum, we really need
20 to have it ready to go. So we're doing -- but
21 we're really trying to help you get there.
22 But in the future I -- and to anyone else who

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1 may be listening, be sure that the person
2 that's used has been familiar with this
3 process. This is a serious process. Okay?
4 And everybody can't do it. Everybody doesn't
5 have the knowledge base, even those who appear
6 in front of us regularly don't certainly know
7 what they're doing.

8 But anyway, so the date is?

9 MR. MOY: Yes, Mr. Chair, I'd
10 rather err on caution to give the applicant as
11 much as -- especially since the Board's going
12 to give him his last shot.

13 CHAIRMAN JORDAN: Is that the
14 18th, you think?

15 MR. MOY: So that would be either
16 December 11th or December 18th. So that's
17 your desire.

18 CHAIRMAN JORDAN: Eighteenth.

19 MR. MOY: Eighteenth? In the --
20 let's do this in the morning. December 18th
21 in the morning? Good?

22 CHAIRMAN JORDAN: Yes. What are

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1 we looking like in the morning?

2 MR. MOY: One, two, three, four,
3 five, six cases in the morning. We have six
4 in the morning. We have six int he morning.
5 This will be the seventh in the morning.

6 CHAIRMAN JORDAN: Is that right?

7 MR. MOY: That's a lot. Yes,
8 we're getting -- it's part of the rolling
9 docket thing.

10 CHAIRMAN JORDAN: So we're on
11 track. We haven't seen one yet.

12 All right. So December 18th,
13 9:30. Okay? So you got a lot to do by that
14 time. And please visit across the hall. You
15 need to get the notices before you leave here.
16 Try to call the ANC chairperson today or
17 tomorrow. Do all the stuff you need to do.
18 Utilize contacting Planning. They shouldn't
19 be the last person to find out about any
20 changes or any writing. They should know
21 about it right away. Contact Mr. Moy. He's
22 going to help you get where you need to be.

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1 He's going to do the best he can. Okay?

2 MR. MOBLEY: So it's my understand
3 that I need to contact three entities and get
4 everything I can from these three entities and
5 bring it back to this Board. Am I
6 oversimplifying this? The three entities is
7 the ANC and the posting and the Office of
8 Planning. With these three entities am I in
9 a position to bring it back to this Board and
10 say I've got all my marbles together now and
11 that --

12 CHAIRMAN JORDAN: I'd ask you just
13 to visit with Mr. Moy. He'll take a little
14 more time and step through this with you.
15 Okay? And that way we'll help get you there.

16 MR. MOBLEY: Yes.

17 CHAIRMAN JORDAN: Okay? Because
18 like I said, we usually don't do this, but
19 because we're light this afternoon and you're
20 the only case on the docket, we took an extra
21 minute or so to help you.

22 MR. MOBLEY: Yes.

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1 CHAIRMAN JORDAN: Okay? Good.

2 MS. GLAZER: Mr. Chair, according
3 to the Exhibit No. 31 in the file, the Board
4 previously closed the record with the
5 exception of a few items; OP's supplemental
6 report and some revisions from the applicant.
7 I would suggest that -- at this point the
8 Board it sounds like wants more documentation,
9 so the Board would need to reopen the record.

10 CHAIRMAN JORDAN: That would have
11 been done -- probably it would have been done
12 by the Chair, so I'm going to allow him to do
13 that.

14 MS. GLAZER: Okay.

15 CHAIRMAN JORDAN: Okay? So let's
16 get those things in by 14 days in advance of
17 the -- 14 days in December 18th is at least by
18 December 4th. You got to do all this stuff.
19 Okay?

20 MR. MOBLEY: You think I'll be
21 ready by that time, Mr. Moy?

22 CHAIRMAN JORDAN: You're going to

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1 meet with Mr. Moy and have that discussion.

2 Is there any other business --

3 MR. MOY: I'm here every day, sir.

4 MR. MOBLEY: I want to get this
5 thing -- I would like to get it over. I'd
6 like to overcome this in this department
7 because I might have to come here again, and
8 I want to be prepared. I don't want to come
9 here --

10 CHAIRMAN JORDAN: Yes, and as I
11 said, I'm going to close this hearing. And
12 then afterwards you're going to talk to Mr.
13 Moy. Okay? So I've now closed this hearing
14 as we've continued it to December 18th. So
15 we're not going to talk about this anymore.
16 So you can get up from the witness table, if
17 you feel like, and turn off your microphone.
18 Thanks.

19 And so is there any other business
20 that needs to come before the Board this
21 afternoon, Mr. Moy?

22 MR. MOY: Yes, sir, there's a

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1 sheet of paper on your white binder that you
2 need to read for the month of November. Okay?

3 CHAIRMAN JORDAN: Okay. I'll do
4 that. Thank you.

5 In accordance with Section 405(c)
6 of the Open Meeting Act of D.C. Code Section
7 2575, I move that the Board of Zoning
8 Adjustment hold closed meetings on Monday,
9 November 5th, Friday, November 9th and
10 November 26th. This will begin at 4:00 p.m.
11 for the purpose of obtaining legal advice from
12 our counsel and to deliberate upon but not
13 voting on the cases scheduled to be publicly
14 -- that's supposed to be heard -- or decided
15 by the Board on the day after each such closed
16 meeting. Those cases are identified on the
17 Board's public agenda for November 7th,
18 November 13th and November 27th.

19 Is there a second?

20 VICE CHAIR SORG: Second.

21 CHAIRMAN JORDAN: Motion made and
22 seconded. Would the secretary please take a

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1 roll call vote?

2 MR. MOY: Yes. When I call your
3 name, you can respond with yea or nay.

4 Ms. Cohen?

5 COMMISSIONER COHEN: Yea.

6 MR. MOY: Chairman Jordan?

7 CHAIRMAN JORDAN: Yes.

8 MR. MOY: Vice-Chair Sorg?

9 VICE CHAIR SORG: Yes.

10 MR. MOY: And there are no other
11 Board Members sitting this afternoon, Mr.
12 Chairman.

13 CHAIRMAN JORDAN: All right.
14 Thank you. Now we have concluded all our
15 business for today?

16 MR. MOY: Yes, sir.

17 CHAIRMAN JORDAN: Are you sure?
18 Okay. Then we are adjourned. Thank you.

19 (Whereupon, the meeting was
20 adjourned at 1:46 p.m.)
21

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