

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY,
March 4, 2008

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The Regular Public Hearing
convened in Room 220 South, 441 4th Street,
N.W., Washington, D.C. 20001, pursuant to
notice at 1:12 p.m., Ruthanne G. Miller,
Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

RUTHANNE G. MILLER	Chairperson
MARC D. LOUD	Vice Chairperson
MARY OATES WALKER	Board Member
SHANE L. DETTMAN	Board Member
	(NCPC)

ZONING COMMISSION MEMBER PRESENT:

MICHAEL G. TURNBULL, FAIA, Commissioner
(OAC)

OFFICE OF ZONING STAFF PRESENT:

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

D.C. OFFICE OF THE ATTORNEY GENERAL:

LORI MONROE, ESQ.
SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

PAUL GOLDSTEIN

The transcript constitutes the
minutes from the Public Hearing held on March
4, 2008.

<u>AGENDA ITEM</u>	<u>PAGE</u>
<u>WELCOME:</u>	
Ruthanne Miller	5
<u>MICHAEL KELLY:</u>	
<u>APPLICATION NO. 17727 - ANC-6B</u>	
Withdrawn	8
<u>APPEAL OF EUCLID OF VIRGINIA, INC.:</u>	
<u>APPLICATION NO. 17725 - ANC-7A:</u>	9
<u>Postponed until July 29, 2008</u>	18
<u>ANTHONY V. SERAFINO:</u>	
<u>APPLICATION NO. 17727 - ANC - 6B:</u>	36
<u>WITNESSES:</u>	
Anthony V. Serafino	20
<u>OFFICE OF PLANNING:</u>	
Paul Goldstein	30
<u>VOTE TO APPROVE APPLICATION 17727 (5-0-0)</u>	42

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

1:12 p.m.

CHAIRPERSON MILLER: Good
afternoon, ladies and gentlemen. This is the
March 4th public hearing of the Board of
Zoning Adjustment of the District of Columbia.
My name is Ruthanne Miller; I'm the Chair of
the BZA. Joining me today to my right is the
Vice Chair, Mr. Marc Loud, and to my left Mary
Oates Walker and Shane Dettman, Board Members.
And also on the dais is Mr. Cliff Moy from the
Office of Zoning.

Copies of today's hearing agenda
are available to you and are located to my
left in the wall bin near the door.

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

When presenting information to the

Board, please turn on and speak into the microphone, first stating your name and home address. When you are finished speaking, please turn your microphone off so that your microphone is no longer picking up sound or background noise.

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

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

applicant.

Pursuant to section 3117.4 and 3117.5, the following time constraints will be maintained: The applicant, persons and parties, except an ANC in support, including witnesses, 60 minutes, collectively; appellees, persons and parties, except an ANC in opposition, including witnesses, 60 minutes, collectively; individuals, three minutes. These time restraints do not include cross examination and/or questions from the Board.

Cross examination of witnesses is permitted by the applicant or parties.

The ANC within which the property is located is automatically a party in a special exception or variance case and an in appeal.

Nothing prohibits the Board from placing reasonable restrictions on cross examination, including time limits and limitations on the scope of cross examination.

The record will be closed at the conclusion of each case, except for any material specifically requested by the Board. The Board and the staff will specify at the end of the hearing exactly what is expected and the date when the persons must submit the evidence to the Office of Zoning. After the record is closed no other information will be accepted by the Board.

The Sunshine Act requires that the public hearing on each case be held in the open before the public. The Board may, consistent with its rules of procedure and the Sunshine Act, enter executive session during or after the public hearing on a case for purposes of reviewing the record or deliberating on the case.

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

conversation.

Please turn off all beepers and cell phones at this time so as not to disrupt these proceedings.

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

If you're not prepared to go forward with a case today, or if you believe that the Board should not proceed, now is the time to raise such a matter.

Does the staff have any preliminary matters?

MS. BAILEY: Madam Chair, Application No. 17768 of Michael Kelly was withdrawn.

CHAIRPERSON MILLER: Thank you. And no action is required by the Board, is

that correct?

MS. BAILEY: No action is required.

CHAIRPERSON MILLER: Thank you.

MS. BAILEY: And secondly, there is a request for Application No. 17725. This is for the appeal of Euclid of Virginia, Inc. There is a request for this application to be postponed.

CHAIRPERSON MILLER: Do you want to have a seat and put your microphone on?

MR. DeCARO: Okay.

CHAIRPERSON MILLER: Okay.

MR. DeCARO: Yes, my name is Thomas DeCaro. I'm the attorney for Euclid of Virginia, Inc. We have been exchanging settlement agreements and we thought that this matter would have been settled before today. My client is out of town, and has been out of town for awhile. I'm trying to get his approval for the final wording of the settlement agreement. And so we would ask,

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because the settlement agreement will involved filing for a special exception, which requires the document that full -- you know, prepare a full set of documents for that, I would ask for a 120-day continuance on this case. However, if we do get the settlement agreement signed, we'll be dismissing the case.

CHAIRPERSON MILLER: I'm sorry, the 120 days is for what?

MR. DeCARO: Well, we have to put together a package and submit it to the Board according to the settlement agreement so that we can get the approval for the installation of this gas station.

CHAIRPERSON MILLER: Do I understand that you might want to convert your appeal to an application for a special exception, or no?

MR. DeCARO: Procedurally, we prefer not to do that because we don't want to lose our appeal right of the denial of the permit on the grounds of zoning. And so if we

convert the case at this point, we will be essentially agreeing to all the terms of the settlement agreement. And so, I'm not in a position to do that at this time.

CHAIRPERSON MILLER: No, I understand that. But I mean, if we were to give you a date, you know, 120 days from now --

MR. DeCARO: Yes.

CHAIRPERSON MILLER: -- is that what you're asking?

MR. DeCARO: That's what I'm asking.

CHAIRPERSON MILLER: But it would be either for an appeal or a special exception application?

MR. DeCARO: Well, that would be nice to get the special exception application consolidated with this matter, if that would be appropriate. I don't know. I mean, I thought I was going to be filing a new matter.

CHAIRPERSON MILLER: It is a new

matter. That's why I was trying to understand what the 120 days were for. You just want to just to cover that period of time?

MR. DeCARO: Just to cover the period of time to make sure that I'm not in a time crunch because of the drawing requirements and all the other documentary requirements that are, you know, necessary to prepare for the special exception.

CHAIRPERSON MILLER: Okay.

MS. PARKER-WOOLRIDGE: Good afternoon, Madam Chair and Board Members. My name is Doris Parker-Woolridge and I'm representing the appellee, District of Columbia Department of Consumer and Regulatory Affairs.

MS. PLEASANT: Please forgive my voice, Madam Chair and Members of the Board. Assistant Attorney General Shakira Pleasant, also representing DCRA.

CHAIRPERSON MILLER: And what's their position?

MS. PARKER-WOOLRIDGE: Madam Chair, according to the settlement agreement that has been drafted, the respondent is really requesting a stay of this matter and he intends on filing an application for a special exception to build the gas station. In the interim, the appellant must file certain plans and applications to reflect, you know, gas station, or what they intend on doing. And I believe the appellant needs time to first have the architect to draft those plans or revise the ones that were submitted to the Agency. Also, he needs to revise the application for the permit for a gas station. So it's several phases that he must go through in order to get the approval for DCRA for the gas station that they want at 3710 Minnesota Avenue, N.E.

CHAIRPERSON MILLER: Okay. So when he does that, then you intend to file an application for a special exception?

MR. DeCARO: To file an application for a special exception, that's

right. Assuming, of course, which I fully believe will happen, that we're able to work out the final -- if there are any unresolved terms in the existing settlement agreement. I haven't heard back from my client on that matter. But I only received the settlement agreement on the 25th of February, and this case has been going on for about 11 months. So, that's my concern.

MS. PARKER-WOOLRIDGE: Madam Chair, let me also state, we had proceedings at the Office of Administrative Hearings on the Stop Work Orders and also on the Notice of Infractions against this property, which is also part of the settlement agreement as well.

CHAIRPERSON MILLER: So if you don't have a signed settlement agreement, which you don't at this point, are you saying that you would proceed with the appeal in 120 days?

MR. DeCARO: That's right.

CHAIRPERSON MILLER: Okay. But

you don't expect that to happen.

MR. DeCARO: Well, my expectations have been thwarted in the past and I certainly hope that we can resolve it because we've been working together very, very hard and Ms. Parker-Woolridge has been, you know, working with us very, very effectively to get this matter resolved. So I would expect that we'll be able to resolve it.

CHAIRPERSON MILLER: Okay. I guess what I would suggest is that, you know, we give you a date 120 days from now, if that's what you're suggesting.

MR. DeCARO: I would appreciate that.

CHAIRPERSON MILLER: But I think that the Board would also appreciate that if you do get a settlement agreement that you might want to let the Board know earlier if you're going to withdraw your appeal so that we can make that date available to someone else.

MR. DeCARO: Absolutely. No problem.

CHAIRPERSON MILLER: Okay.

MR. DeCARO: We'll just file a copy of the settlement agreement in these proceedings and that will take care of it.

CHAIRPERSON MILLER: Okay. Okay.

VICE CHAIRMAN LOUD: I just had a question for the Office of Attorney General, because this came up in another case, so it's not so much for your case; I just wanted to be clear on procedure.

In case like this, does the ANC receive notification of the intended settlement and are they made, I guess, a part of the proceedings from this point moving forward?

MS. PARKER-WOOLRIDGE: In the past, we've never provided them with a copy of the settlement agreement. We only provide them with notice of pleadings that we filed at BZA.

VICE CHAIRMAN LOUD: So they would have been aware of the request to continue or to postpone?

MS. PARKER-WOOLRIDGE: Yes, as a matter of fact, in the motion you'll see at the Certificate of Service it indicates that we also e-mail them.

VICE CHAIRMAN LOUD: Okay.

MS. PARKER-WOOLRIDGE: Which is from the information we receive from Ms. Bailey as to their e-mail address. And we also insert it in the mail as well.

VICE CHAIRMAN LOUD: Okay. Did that indicate that a 120-day postponement would be --

MS. PARKER-WOOLRIDGE: No. No, no, it did not.

VICE CHAIRMAN LOUD: Okay. Thank you.

MS. PARKER-WOOLRIDGE: Yes.

CHAIRPERSON MILLER: Okay.
Anything else? Any other questions?

We have July 22nd or July 29th available in the afternoon.

MR. DeCARO: Either of those dates is fine with me, and being abundantly cautious I would ask for July 29th, if that's okay with Ms. Parker-Woolridge.

MS. PARKER-WOOLRIDGE: That's okay with appellee's counsel.

CHAIRPERSON MILLER: Okay. That's what it will be then, July 29th.

MS. PARKER-WOOLRIDGE: Madam Chair, will it be the first on the calendar for July 29th for the afternoon?

CHAIRPERSON MILLER: Yes.

MS. PARKER-WOOLRIDGE: Thank you.

CHAIRPERSON MILLER: Though I thought it was looking like it's unlikely that this will go forward on the 29th, but if it does, you will be first in the afternoon. Okay.

MS. PARKER-WOOLRIDGE: Okay. Thank you, Madam Chair.

MR. DeCARO: Thank you very much.

CHAIRPERSON MILLER: Okay. Thank you.

Ms. Bailey, we have one other case for the afternoon, is that correct?

MS. BAILEY: We do, Madam Chair.

CHAIRPERSON MILLER: And are the parties here in that case?

MS. BAILEY: Anthony Serafino. Mr. Serafino, are you sitting in the audience?

MR. SERAFINO: I'm right here.

MS. BAILEY: Okay.

CHAIRPERSON MILLER: Okay. Mr. Serafino, what I want to say is that, you know, the Board's gone non-stop this morning and we want to take a short break so we can back fresh for your case.

So, I think that will be about 15 or 20 minutes. Okay. Then we're going to break for that amount of time and then come back and pick up the Serafino case.

(Whereupon, at 1:25 p.m. off the

record until 1:56 p.m.)

CHAIRPERSON MILLER: We're back on the record. And, Ms. Bailey, would you call the first and only case for this afternoon, please?

MS. BAILEY: Madam Chair, the case is 17725, application of Anthony V. Serafino, pursuant to 11 DCMR 3104.1, for a special exception to allow a second floor rear addition to an existing one-family row dwelling under section 223, not meeting the lot occupancy requirements. The property is located in the R-4 District at 1000 D Street, S.E. It's Square 971, Lot 805.

Would you stand to please take the oath?

Will you be testifying too, ma'am?

MR. SERAFINO: She's not testifying.

MS. BAILEY: Okay. Please raise your right hand.

MR. SERAFINO: She's just making

sure I do this right.

MS. BAILEY: Do you solemnly swear or affirm that the testimony that you are about to give will be the truth, the whole truth and nothing but the truth?

MR. SERAFINO: I do.

MS. BAILEY: Thank you.

CHAIRPERSON MILLER: Good afternoon. I'm not sure, Ms. Bailey, whether you said it's case 17727 or not, but anyway, that's what it is.

And would you like to introduce yourself for the record, please?

MR. SERAFINO: Sure, my name is Anthony Serafino.

CHAIRPERSON MILLER: And would you give your address, please?

MR. SERAFINO: Sure, 1000 D Street, S.E.

CHAIRPERSON MILLER: Okay. And you're here for a special exception under 223?

MR. SERAFINO: Yes, ma'am.

CHAIRPERSON MILLER: We all have read the record and Office of Planning was recommending that additional relief might be required, still under 223, I guess for one, lot area and non-conforming rear yard in addition to the lot occupancy?

MR. SERAFINO: Correct, as part of the process Paul Goldstein informed me there were some additional reliefs, that I included an updated 135 Form after I did my initial information that I provided, so I think we're on the same page as far as now me understanding exactly what types of relief are required.

CHAIRPERSON MILLER: Okay. So I assume then you would want to amend your application to include those areas under 223 that we just talked about, not meeting the rear yard requirements, not meeting the area requirements in addition to lot occupancy? It's still under 233.

MR. SERAFINO: Right, I guess my

understanding, and not really being an expert in the process of course, was that be resubmitting the Form 135 that that took care of that. I was given the advice that I didn't necessary have to change anything else other than the Form 135.

CHAIRPERSON MILLER: Do you know what exhibit that is, because I'm not sure that I have that.

MR. SERAFINO: One moment. I have it. I don't know if I have all the exhibit numbers, but it was in your files.

CHAIRPERSON MILLER: Okay.

MR. SERAFINO: Actually, I submitted a packet which had -- I have the stamped copy here from the office on February 4th and it had all the minor updates based on the feedback from the various stakeholder groups. As part of that, that was the updated Form 135. So, I know it's February 4th. I don't know what exhibit number it is. It was updated to the justification letter, the Form

135 and then copies of letters of support from ANC and so forth.

CHAIRPERSON MILLER: I don't think we have that. That's where there's a disconnect in communication.

MR. SERAFINO: Okay. Yes, that's probably why I felt like well, what else do I need to do. But I got a call from the staff over here the other day about that and I basically told them the same thing. And I thought we were clear on at least the part of the additional pieces.

MS. BAILEY: Madam Chair, I think what the applicant is referring to, he filed an updated self-certification form under 223. However, it does not specifically identify all of the requests that's needed under section 223.

MR. SERAFINO: Okay. If I'm looking correctly at the 223, I have -- and this was, again, I worked just directly with Paul from the Office of Planning and my zoning

lawyer. We have lot occupancy on there, lot area, rear yard. Those are the three variances that are noted on that 135.

MR. GOLDSTEIN: This is Paul Goldstein. I think what may be a disconnect is that he updated the chart which showed which areas were deficient, but maybe didn't call out specifically the areas in the submission; if I'm wrong, unless that is incorrect.

Did you specifically write in the letter this section, this section, or did you just update the numbers in the chart in response to our discussion?

MR. SERAFINO: Actually, in my documentation I specifically just called out the subsections under 223, you know, the privacy, light and air, etcetera. I didn't call out any justification for those other variances because they are status quo. My lot area is my lot area, my driveway size is my driveway size. The proposal doesn't change

any of those, so I wasn't sure if there was -- I guess that was the disconnect. When I asked the question about do I need to change anything else, I was told no.

CHAIRPERSON MILLER: Okay. I don't think we have that, personally.

MR. SERAFINO: Okay. I have a few extra copies.

CHAIRPERSON MILLER: Oh, good. Would you give some to Ms. Bailey then? Thanks.

MR. SERAFINO: When I reviewed my packet over at the office a few days ago, I swear I saw it in there as one of the exhibits, because I looked through all the exhibits that were in the case.

CHAIRPERSON MILLER: Yes, I'm sure it's not your fault.

MR. SERAFINO: Okay.

CHAIRPERSON MILLER: It just wasn't distributed to the Board for some reason.

MR. SERAFINO: Okay.

CHAIRPERSON MILLER: Okay. We're just looking through it now. We didn't get any of that. So, okay. So, as far as I can tell then, there isn't any need to amend; you have already done that. And this is a pretty straightforward case, but if you just want to very quickly like summarily describe your application, we can take it from there.

MR. SERAFINO: Sure.

CHAIRPERSON MILLER: Okay.

MR. SERAFINO: This is a single-family dwelling. The existing part of the house that is relevant to the application currently contains a deck that is accessed by a second-floor den. The intended purpose of the house is still a single-family home, fundamentally an in-fill bedroom addition replacing the deck with a 140-square foot bedroom that stacks upon the existing structure. So, there's going to be no increase in footprint or non-conformities

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through this process.

Relating to light and air, the overall height would remain no greater than 24 feet, which is the current height of the house, and I'm guess I'm told that 40 feet is the maximum permitted. I think more importantly that portion of the house is actually even lower than that. It's the shortest part of the property and it will remain at the same height as the adjacent section next to it. The neighbor to my north, there's a pretty significant separation of about 20-plus feet because we have each of our driveways adjacent to each other and the neighbor to my east at 1002 D Street has a court and a very good amount air and light in there. He is supporting the application, as are all my neighbors who are either adjacent or with who I have line of sight.

As far as privacy is concerned, actually I think privacy will improve for my neighbor at 1002 because currently with a deck

you have direct line of sight into his back yard and all into the back of his house. But with the addition, there will be no window on that side; it will be closets. And so, that condition that currently exists will go away.

Relating to, I guess, just the visual appeal of the property, one of the aspects of the project that we are undertaking in addition to just this small addition is bringing the rear portion of the house up to the historic character that the original house has. This was supported by the Historic Preservation Office as well as the Capitol Hill Restoration Society, so we're taking the opportunity to make the overall appearance of the house actually look better after the addition than had currently existed before because of some, I guess, existing conditions that were put in in the 1950s that aren't particularly appealing.

Additionally, I've submitted, I believe, all the required photos, elevation

drawings, site plan, etcetera. And as I mentioned earlier, we have support from the Office of Planning, my ANC, Capitol Hill Restoration Society and then the neighbors who are adjacent or have line of sight onto the addition.

CHAIRPERSON MILLER: Okay. Excellent. Any questions from Board Members? This is pretty straightforward.

Okay. Then we can turn to the Office of Planning. Good afternoon, Mr. Goldstein.

MR. GOLDSTEIN: Good afternoon, Madam Chair. As is more explicitly stated in the report, the Office of Planning recommends approval of the application and I'll rest on that record. I'm available for any questions, if you have any.

CHAIRPERSON MILLER: I just want to say your tables are really helpful, really excellent. Thank you.

Any questions for Office of

Planning?

VICE CHAIRMAN LOUD: Madam Chair beat me to the punch on the new format. I really like it a lot.

MEMBER DETTMAN: I just have one question for clarification on your report, which I'll echo the comments of the Board that your report is very well written, as they always are.

You make reference in your table on page 2 in your report that the existing court is 10 feet wide. And looking at the plans that are submitted, I don't have an exhibit number, I think I see a court, but I don't see that it's 10 feet wide.

MR. GOLDSTEIN: Yes, thank you for the question. This is one that we talked about a bit internally. It's our understanding when the lot is bordering a street, that you actually measure the width of the court along the lot line on the side along the street, not sort of width going into the

interior of the property. So there is a court, but it's about six feet deep into the property, but for conformance with the Zoning Code, you actually measure to make sure that there's enough width along the lot line, which is about 10 feet. So that's the circumstance. It's a little different for courts when it's a property that's sort of mid-block, for instance, versus one that's along a street or an alley.

MEMBER DETTMAN: Okay. Two follow-up questions there. The property line is not out where the fence is, is that correct, it's actually along the side of the house, that's correct, so the fence and everything is in public space, I presume?

And, Mr. Goldstein, is that indicated in the regs somewhere about the measurement and that you take it along the lot line instead of the width of the court.

MR. GOLDSTEIN: Yes, that was my interpretation based on the definitions in the

Zoning Regulations.

MEMBER DETTMAN: And that would be under open court?

MR. GOLDSTEIN: Sure. That would be correct, under open court. Let me see, perhaps it's under -- the open court definition is a little terse. Well, at this particular moment I don't seem to see it, but I remember considering it. I would assume that 223, regardless, would cover situations with non-conforming courts.

MEMBER DETTMAN: Right.

MR. GOLDSTEIN: And the Office of Planning would be supportive of 223 for the courts in this situation. I can follow up with you as well about our reasoning for that measurement of the court after the hearing, if you'd like.

ZC MEMBER TURNBULL: But your interpretation is basically because it's on a corner lot?

MR. GOLDSTEIN: Correct. It's not

just that it's on a corner, but it's also that the side in which the court is on is facing a street.

ZC MEMBER TURNBULL: Okay. Okay.

CHAIRPERSON MILLER: So basically, if I understand your testimony, that this was an issue that the Office of Planning looked at and there was a specific regulation that led you to interpret it the way you've described. It's just that we can't put our fingers on it right this moment, correct?

MR. GOLDSTEIN: That is correct.

CHAIRPERSON MILLER: That's why we're revamping the regulations so that they're easier to use. Okay.

Are there other questions for Office of Planning?

Our regulations are a challenge even for us sometimes. I think that the Board Members are trying to see if we could find it, but haven't yet.

MR. GOLDSTEIN: I think, if I may,

I'm looking at court width of, and I think this may have been where we got the definition; the minimum horizontal dimension substantially parallel with the open end of the open court. And our sense of that was that the opening to the court is actually when it's facing a street is along the lot line. Now we could have also cited something else in that interpretation, but seemed to make sense to us that that is actually the open side of the court. It's not bordering another property; it's bordering the street, and that's why the parallel to the opening, the opening is on the street.

But regardless, we would be willing to support relief for a court in this instance if that might make it an easier time of it.

MEMBER DETTMAN: I'm totally fine with that interpretation. Could this be considered a court niche instead though?

MR. GOLDSTEIN: Gosh, court niche?

MEMBER DETTMAN: You don't have to answer that.

MR. GOLDSTEIN: Yes, I prefer not to, if that's possible.

CHAIRPERSON MILLER: Would you like comment on this? Oh, the Zoning Regulations.

Okay. Mr. Turnbull, do you have an opinion on this?

ZC MEMBER TURNBULL: No, Madam Chair, I'm satisfied with Mr. Goldstein's interpretation.

CHAIRPERSON MILLER: Okay. I think I may have forgotten to introduce Mr. Turnbull for the record from the Zoning Commission. I did the intros before we broke for lunch, basically. Okay.

Okay. Do you have a copy of the Office of Planning's report.

MR. SERAFINO: Yes, ma'am, I do.

CHAIRPERSON MILLER: Okay. Do you have any questions for Office of Planning?

MR. SERAFINO: I do not. We resolved all the questions prior to today.

CHAIRPERSON MILLER: Good. Okay.

Anybody else here who wishes to testify either in support or opposition to this application?

Okay. And the ANC is in support.

MR. SERAFINO: In that same packet there's an ANC letter.

CHAIRPERSON MILLER: Right, dated January 10th, 2008. They voted eight to one to support the special exception. And then Capitol Hill Restoration Society also voted to support the application. And then we have neighbors in support and we have no one in opposition, as far as I can tell.

Okay. Any closing remarks?

MR. SERAFINO: No, I just appreciate the Board's time in this matter.

CHAIRPERSON MILLER: Any questions from the Board?

ZC MEMBER TURNBULL: I just have

one question for the applicant and it's kind of a sidebar issue.

Your address is 1000 D, but do you really use that as a front door, or do you 10th Street?

MR. SERAFINO: I actually use 1000 as a front door.

ZC MEMBER TURNBULL: Okay.

MR. SERAFINO: That side door was for a one-time apartment into the house.

ZC MEMBER TURNBULL: Okay.

MR. SERAFINO: Because the previous owner had a small rental and actually gave it a sort of fictitious address of 350 10th Street. And when we bought the property we changed that.

ZC MEMBER TURNBULL: Okay.

MR. SERAFINO: I guess my wife uses the side door when she parks in the driveway with the kids.

ZC MEMBER TURNBULL: Okay.

MR. SERAFINO: I use the front

door because I take the Metro.

ZC MEMBER TURNBULL: Thank you.

CHAIRPERSON MILLER: Okay. Any other questions?

Do we have a motion in this case?

MEMBER DETTMAN: Madam Chair, I'd like to move approval of Application 17727, pursuant to 11 DCMR, for a special exception to allow a second-floor rear addition to an existing one-family row dwelling under section 223, not meeting the lot occupancy, rear yard and lot area requirements in the R-4 District.

ZC MEMBER TURNBULL: Second.

MEMBER DETTMAN: I guess I'll just quickly take the Board through the requirements that the applicant needs to meet under section 223.

As I've stated, the application is for a second-floor addition to an existing single-family row dwelling that does not meet the requirements of section 401, 403 and 404.

The applicant had stated that the

existing non-conformities are not going to change in that it's a second-floor addition to an existing first-floor addition and that the footprint is not going to change.

223.2(a) with respect to light and air, and (b) with respect to privacy, the applicant stated that there is adequate distance between the subject property and the neighboring properties for the available of light and air and that it's a good chance, giving the existing conditions, that privacy may be improved in that you're reducing the direct lines of sight into the neighboring properties.

223.2(c) talks about visual intrusion and the character, scale and pattern of the houses. I think in the filing and in the applicant's testimony that this is actually going to improve the character and scale of the neighborhood by matching the cornice line of the existing row dwelling.

223.3 says that the lot occupancy

of the dwelling or flat together with the addition shall not exceed 50 percent in the R-1, R-2 and 70 percent in the R-3. Currently this property is in excess of the lot occupancy that's required under chapter 4, but below the 70 percent that's allowable under 223.3.

223.4 talks about the Board may require special treatment. I don't see the need for any special treatment.

And 223.5, this section cannot be used to permit the introduction or expansion of a non-conforming use as a special exception. I had some questions concerning the court, but those were clarified by DCOP.

And so that being said, no new non-conformities will be created and the existing ones will be expanded.

CHAIRPERSON MILLER: This goes to use though, not structure. So I mean, it's still a residential use.

MEMBER DETTMAN: Oh, that's right.

I stand corrected.

With that, Madam Chair, I guess I'll turn it back over to you.

CHAIRPERSON MILLER: Okay. I think you covered this totally thoroughly, as did the applicant and the Office of Planning. And it also appears that this is actually an improvement to what was there and doesn't change the footprint at all.

So, I don't really have anything more to say.

Anybody else?

We have a motion that's been seconded. As there's no further deliberation, all those in favor say aye.

ALL: Aye.

CHAIRPERSON MILLER: All those opposed? All those abstaining?

And would you call the vote, please?

MS. BAILEY: Madam Chair, the vote is recorded as 5-0-0 to grant the application,

as amended. Mr. Dettman the motion; Mr. Turnbull seconded. Mrs. Miller, Mrs. Walker and Mr. Loud support the motion.

CHAIRPERSON MILLER: Thank you. And as there's no party in opposition, this will be a summary. And that means you should get it very quickly.

MR. SERAFINO: Thank you very much.

CHAIRPERSON MILLER: Thank you.

And is there anything else on our agenda for this afternoon, Ms. Bailey?

MS. BAILEY: No, Madam Chair, that's it.

CHAIRPERSON MILLER: Okay. Then this hearing is adjourned.

(Whereupon, the hearing was adjourned at 2:23 p.m.)