

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

JULY 11, 2006

+ + + + +

The Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 2:00 p.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

GEOFFREY H. GRIFFIS	Chairperson
RUTHANNE G. MILLER	Vice-Chairperson
CURTIS ETHERLY, JR.	Board Member

ZONING COMMISSION MEMBERS PRESENT:

GREGORY JEFFRIES	Commissioner
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OFFICE OF ZONING STAFF PRESENT:

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

D.C. OFFICE OF THE ATTORNEY GENERAL:

LORI MONROE, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN RICE
STEPHEN MORDFIN

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The transcript constitutes the minutes
from the Public Hearing held on July 11, 2006.

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AGENDA ITEMPAGEOPENING REMARKS:

Geoffrey Griffis 4

PRELIMINARY MATTER:

APPLICATION NO. 17490 - FIRST CHURCH OF CHRIST

Request for Postponement 9

Reschedule Hearing for October 24th 11

ROBERT AND IDA MAY MANTEL

APPLICATION NO. 17498 - ANC-6A: 15

WITNESS:

Robert Mantel 15

OFFICE OF PLANNING:

Stephen Rice 19

EXHIBIT 23 - ANC-6A REPORT: 20

EXHIBITS 9, 10 & 24 - LETTERS IN SUPPORT: 20

CAPITOL HILL RESTORATION SOCIETY:

Gary Peterson 21

MOTION TO APPROVE APPLICATION 17498: 22

VOTE TO APPROVE APPLICATION 17498: 23

JEFF B. SPECK AND SAMUEL HANKINS

APPLICATION NO. 17492 - ANC-1B: 24

WITNESS:

Jeff Speck 25

OFFICE OF PLANNING:

Stephen Mordfin 50

ANC-1B:

Phil Spalding 51

CLOSING REMARKS:

Jeff Speck 62

MOTION TO APPROVE APPLICATION 17492: 67

VOTE TO APPROVE APPLICATION 17492: 68

ADJOURN:

Geoffrey Griffis 70

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

2:25 p.m.

CHAIRPERSON GRIFFIS: Let me welcome you all this afternoon. This is the 11th of July 2006. I would normally be calling to session our afternoon hearing, however, I need to interrupt that prior to calling to order our hearing to reconvene our morning session for a very, very quick administrative element and I apologize for us starting late this morning and I appreciate everybody's patience. We will get into the afternoon as soon as we can, in fact, dispense with this morning.

(Whereupon, at 2:25 p.m. a recess until 2:36 p.m.)

CHAIRPERSON GRIFFIS: Let's then call to order our afternoon session. Of course, this is still the 11th of July 2006 and I am Geoff Griffis, Chairperson. Joining me today is the Vice Chair, Ms. Miller, and Mr. Etherly, our esteemed Member of the Board. Representing the Zoning Commission with us this afternoon is Mr. Jeffries and representing the National Capital Planning Commission normally with us is Mr. Mann, however, he has been called away on business. I believe it is the first day of hearings he will miss. That being said, we will move ahead

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1 with our agenda this afternoon.

2 And as I said previously, I do appreciate
3 everyone's patience with us. We ended our morning
4 session quite late and had to take a quick break.

5 Copies of today's hearing agenda are
6 available for you. They are located at the table
7 where you entered into the hearing room. You can see
8 where you are on the agenda in this chronology. I'm
9 going to move that a little bit, but I'll be clear
10 with it after my opening remarks.

11 There are several things that are very
12 important to understand as we proceed into our Public
13 Hearing. First of all, all proceedings before the
14 Board of Zoning Adjustment are recorded. The most
15 important means of recordation is the Court Reporter,
16 who is sitting on the floor to my right. I would ask
17 that everyone, please, fill out two witness cards
18 prior to coming forward to speak to the Board. They
19 should be available at the table in front of us where
20 you will provide testimony and also the table where
21 you entered in to the hearing room.

22 Those two cards go to the Court Reporter
23 prior to coming forward, that way, obviously, we will
24 have your name spelled correctly on the record, so
25 that we can give you the proper consideration in that

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1 transcript which we will produce. We are also being
2 broadcast live on the Office of Zoning's website. So
3 I ask that everyone turn off cell phones and beepers,
4 so that we don't have a disruption of the
5 transmissions of these proceedings.

6 The order of procedure for special
7 exceptions and variances is: First, we will hear from
8 the applicant, their presentation of their case and
9 all their witnesses. Secondly, we will hear any
10 Government reports attendant to the application.
11 Third, we will go to the ANC within which the property
12 is located. Fourth, we will hear from persons or
13 parties in support of an application. Fifth would be
14 persons or parties in opposition to the application.
15 Sixth, and finally, we will return to the applicant
16 for any closing remarks, rebuttal witnesses or
17 summations that they might have.

18 Cross examination of witnesses is
19 permitted by the applicant and parties in the case.
20 There are limitations to cross examination both in
21 time and jurisdiction. I'll address those
22 specifically as needed in each individual case.

23 The Sunshine Act does require that the
24 Board conduct all its proceedings in the open and
25 before the public. I guess I won't make any cracks at

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1 jokes at laws that might be passed today, but
2 otherwise will stand and continue on with this. And
3 note that we do enter into Executive Sessions both
4 during or after hearings on cases at times. This is
5 in accordance with our rules, regulations and
6 procedures, the current law, and the Sunshine Act.

7 And so, quite frankly, anything that we do
8 will be on the record out here, even my absurd
9 comments to the side.

10 The decision of this Board of contested
11 cases, of which all special exceptions and variances
12 are contested cases, must be based exclusively on the
13 record. We're going to create that record today in
14 this room. The Board cannot and will not deliberate
15 on any other information outside of that record.
16 Therefore, we do ask that people present today not
17 engage Board Members in private conversations, if
18 there is a recess or we're not on the dias at some
19 point. Obviously, it would give the appearance of us
20 receiving information outside of the record, so we
21 would like to not have that happen.

22 At this time, let me ask that all those
23 who are here today that are proposing to provide
24 testimony to the Board, if you would, please, stand
25 and give your attention to Ms. Bailey? Ms. Bailey is

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1 on my far left. She is going to swear you in.

2 MS. BAILEY: Would you, please, raise your
3 right hand?

4 (Whereupon, the witnesses were sworn.)

5 MS. BAILEY: Thank you.

6 CHAIRPERSON GRIFFIS: Excellent. Thank
7 you all very much. And a very good afternoon to
8 everybody and a good afternoon to Ms. Bailey, with the
9 Office of Zoning. Mr. Moy is close to me on my left.
10 He is also with the Office of Zoning. Ms. Monroe is
11 representing the Office of Attorney General with us
12 today.

13 With that, we can turn to any preliminary
14 matters. Preliminary matters are those which relate
15 to whether a case will or should be heard today,
16 requests for postponements, withdrawals, whether
17 proper and adequate notice has been provided, these
18 are all elements of a preliminary matter.

19 If you have a preliminary matter for the
20 Board's attention or you are not prepared or believe
21 a case on our agenda should not proceed today, I would
22 ask that you come forward and have a seat at the table
23 as an indication of a preliminary matter. I'll ask
24 Ms. Bailey if she is aware of any preliminary matters
25 for the Board's attention.

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1 MS. BAILEY: Mr. Chairman, Members of the
2 Board, good afternoon.

3 CHAIRPERSON GRIFFIS: Good afternoon.

4 MS. BAILEY: Staff does have two
5 preliminary matters, Mr. Chairman.

6 CHAIRPERSON GRIFFIS: Excellent.

7 MS. BAILEY: The first has to do with the
8 First Church of Christ, Scientist, Application No.
9 17490. There was a request from the applicant for
10 postponement of this case, sir.

11 CHAIRPERSON GRIFFIS: Excellent. We had
12 written request for postponement. Mr. Collins, you're
13 representing the applicant, I'm assuming?

14 MR. COLLINS: That's correct, sir.

15 CHAIRPERSON GRIFFIS: Excellent. And you
16 have requested postponement?

17 MR. COLLINS: We did request a
18 postponement in writing. We are revising the
19 development plans for the project and have asked in
20 our written comment, our written request for a hearing
21 in September. We understand the ANC has concerns with
22 that.

23 CHAIRPERSON GRIFFIS: Sure.

24 MR. COLLINS: We certainly want to respect
25 those concerns and I have talked to Mr. Roth about

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1 that.

2 CHAIRPERSON GRIFFIS: Okay. Let me just
3 make note and you did -- in fact, the applicant
4 requested the case be scheduled for the earliest
5 possible hearing date in September. That's a
6 conflicting phrase for us, only because we don't have
7 an awful lot open possible hearings in September.

8 MR. COLLINS: I realize that. I took a
9 shot.

10 CHAIRPERSON GRIFFIS: Yes, indeed. Okay.
11 And so what have we come to? Is there a consensus
12 then? Why don't you introduce yourself?

13 MR. COLLINS: Well, I believe late October
14 is what we're looking at and, you know. Go ahead,
15 please.

16 MR. ROTH: Mr. Chairman, for the record,
17 Alan Roth, Chairperson ANC-1C. Just prior to the
18 hearing convening this afternoon, Ms. Bailey and I had
19 a conversation, which I then shared with Mr. Collins,
20 in which it sounded as though October 24th might be
21 best for the Board as well as good for the ANC and not
22 objectionable to Mr. Collins.

23 CHAIRPERSON GRIFFIS: Interesting. The
24 24th?

25 MR. COLLINS: That would work. Yes, sir.

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1 CHAIRPERSON GRIFFIS: Very well. I think
2 we should set this for the afternoon of the 24th. Ms.
3 Bailey, you have reviewed this and believe that we can
4 fit this in on that date?

5 MS. BAILEY: Mr. Chairman, as you are able
6 to tell from the schedule, there is only one in the
7 afternoon. I, obviously, don't know how extensive
8 that is. It's an appeal. I would assume you would
9 want to do this before you hear that appeal.

10 CHAIRPERSON GRIFFIS: Absolutely.

11 MS. BAILEY: So that's the reasoning
12 behind suggesting the afternoon of the 24th.

13 CHAIRPERSON GRIFFIS: Good. We'll start
14 with the fun stuff and move on to the other. Okay.
15 Good. Yes, I would like to set this for the first
16 case in the afternoon on the 24th at 1:00.

17 MR. COLLINS: Thank you.

18 CHAIRPERSON GRIFFIS: Are there other
19 elements? Obviously, we're going to have additional
20 filings. Is that correct, Mr. Collins?

21 MR. COLLINS: Yes, yes, sir.

22 CHAIRPERSON GRIFFIS: Okay. We'll look
23 for those in due time.

24 MR. COLLINS: Thank you for your
25 consideration.

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1 CHAIRPERSON GRIFFIS: Sure.

2 MR. COLLINS: May I just ask one
3 clarification question?

4 CHAIRPERSON GRIFFIS: Yes.

5 MR. COLLINS: Since this is continued to
6 a date certain, there is no need for further notice
7 provisions?

8 CHAIRPERSON GRIFFIS: Yes, that's kind of
9 why I was hesitating on how we want to and whether we
10 want to have a date set for this. I certainly don't
11 believe that additional mailings are required. I
12 think it would be advantageous to have it reposted, if
13 at all possible, or just a placard that would be --
14 but, Mr. Roth, I'll defer to you if you think that's
15 actually needed, as you are organizing somewhat of the
16 community's representation on this.

17 MR. ROTH: I just watched the Board
18 deliberate on the Reed-Cooke Neighborhood Association
19 motion that the ANC had no involvement in, so I
20 hesitate to say I represent the community. But I
21 would say on behalf of the ANC --

22 CHAIRPERSON GRIFFIS: Well, I didn't give
23 you 100 percent of the community, just somewhat of the
24 community.

25 MR. ROTH: On behalf of the ANC, I

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1 certainly don't think another mailing is necessary,
2 but I would agree, Mr. Chairman, it would probably be
3 a good idea if it were reposted.

4 CHAIRPERSON GRIFFIS: Yes, I think it
5 serves everybody well. And just at least the dates
6 that would be posted and you've got the placards.
7 They can, obviously, be adjusted briefly. Okay.
8 Anything else then? Any other issues, elements?

9 MR. COLLINS: No, sir, no. Thank you.

10 CHAIRPERSON GRIFFIS: Very well. We'll
11 look for filings. Obviously, if it can come in two
12 weeks before or a week before?

13 MR. COLLINS: Sure.

14 CHAIRPERSON GRIFFIS: Obviously, it will
15 get to us and then we'll look to see you both back
16 along with everybody else on that date the first in
17 the afternoon.

18 MR. COLLINS: Great.

19 CHAIRPERSON GRIFFIS: Good. Thank you
20 very much.

21 MR. ROTH: Thank you.

22 CHAIRPERSON GRIFFIS: Okay. Let's move
23 ahead. Any other preliminary matters for the Board's
24 attention?

25 MS. BAILEY: Mr. Chairman?

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1 CHAIRPERSON GRIFFIS: Yes.

2 MS. BAILEY: Yes, normally, I would take
3 this up when the case is called, but you did receive
4 correspondence this afternoon addressing this matter
5 and that is Application 17492 of Jeff Speck. The
6 property was posted last Friday and that's four days
7 prior to the Public Hearing today. As I said, you do
8 have correspondence from someone in the neighborhood
9 expressing concerns about the posting. I'm not sure
10 if this is something you would like to address at this
11 point or for me to call the case and address it at
12 that point.

13 CHAIRPERSON GRIFFIS: Yes, let's call the
14 case.

15 MS. BAILEY: Okay. It's the last case of
16 the day, so we have one before that.

17 CHAIRPERSON GRIFFIS: Oh, I'm sorry.
18 You're absolutely right. Yes, in which case, let's
19 just take this up as a quick preliminary matter. We
20 were handed something walking out, which is dated
21 today, the 11th, 10. Is Bill Ringgold present? Is
22 there a Mr. Ringgold here? Okay. No, it doesn't make
23 sense. Let's call the first case of the day and we'll
24 take that up as a preliminary matter in the
25 application.

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1 MS. BAILEY: Thank you, sir.

2 CHAIRPERSON GRIFFIS: Sure.

3 MS. BAILEY: Application No. 17498 of
4 Robert and Ida May Mantel, pursuant to 11 DCMR 3103.2,
5 a variance from the off-street parking requirements
6 under section 2101.1, and pursuant to 11 DCMR 3104.1,
7 a special exceptional to allow a rear addition to an
8 existing single-family row dwelling under section 223,
9 not meeting the lot occupancy requirements at section
10 403, rear yard requirements, section 404, and open
11 court requirements, section 406. The property is
12 zoned R-4 and it's located at 1116 East Capitol
13 Street, N.E., Square 988, Lot 72.

14 And just to note, Mr. Chairman, there was
15 some indication that the off-street parking
16 requirement may not be needed.

17 CHAIRPERSON GRIFFIS: Excellent. Are we
18 ready? Excellent. I'm going to have you just turn
19 your microphone on and then you just need to state
20 your name. Perfect. State your name.

21 MR. MANTEL: My name is Robert Mantel and
22 I'm the applicant in this case.

23 CHAIRPERSON GRIFFIS: And your address?

24 MR. MANTEL: 1116 East Capitol Street,
25 N.E.

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1 CHAIRPERSON GRIFFIS: Very well. A very
2 good afternoon to you. A quick question, first of all
3 if there is some -- well, are you amending your
4 application to remove the variance?

5 MR. MANTEL: Yes.

6 CHAIRPERSON GRIFFIS: Okay.

7 MR. MANTEL: I was advised after the
8 initial, that I needed that variance, that I'm in a
9 Historic District. And in the file there is a notice
10 from the HPO that, in fact, that is the case and there
11 is a revised memo from Ms. Ogunneye indicating that,
12 I believe, that office endorses that. So I believe
13 all I need is the special exception.

14 CHAIRPERSON GRIFFIS: Excellent. And it
15 would be my concurrence with that that, in fact, this
16 is Ms. Faye Ogunneye, the HPO staff and the Office of
17 Planning, if I can speak for them, have indicated that
18 there is no required parking on this, based on the
19 fact that this is a contributing structure in a
20 Historic District.

21 MR. MANTEL: Yes.

22 CHAIRPERSON GRIFFIS: Very well. Let's
23 move ahead then with the special exception.

24 MR. MANTEL: Very briefly, we are in the
25 process of redoing our back yard and as part of --

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1 right now, it's basically unusable, because of a
2 severe mosquito problem and we have a two story back
3 porch existing, which we propose to screen in so that
4 -- my wife is particularly allergic to mosquitos. We
5 would like to be able to use that to put a small table
6 and some chairs out there, so we can have dinner and
7 what have you.

8 The porch right now is too small to do
9 that and we propose a bump-out, if you will, of about
10 3.5 feet and 5 feet wide to, at the lower level, just
11 the first floor, accommodate this. And this would
12 expand the footprint of the house on the lot, I
13 believe, from 67 to 68 percent, still well within the
14 70 percent requirement.

15 The requirements are, I guess, that this
16 will not have a substantially adverse effect on our
17 neighbors in terms of light, their light, their air,
18 their enjoyment, their privacy, that it will not
19 create any visual impairment of anyone. This is not
20 visible from East Capitol Street. And from the alley,
21 it would basically not be visible, because there will
22 be a fence.

23 Both of our immediate neighbors have
24 written letters in the file endorsing this and the
25 broader neighborhood in terms of the ANC unanimously,

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1 the Restoration Society, have all endorsed this as
2 well. So I request the concurrence of this Board.

3 CHAIRPERSON GRIFFIS: Excellent. Very
4 well said. In terms of the visual issue, it's not
5 that you are not -- that it's required that you not
6 see it, but that it is not visually intrusive. And
7 believe me, we've spent a lot of time trying to figure
8 out what visual intrusive means and I think we'll take
9 a couple of hours today and to the same.

10 No, it means, obviously, that it just
11 sticks in the character and so when we see this and
12 all that. Unfortunately, we prohibit the use of back
13 yards, so this is in a difficult situation. No.
14 Being totally serious, we have a 223 here, which I
15 think is an excellent section of our Zoning
16 Regulations and you have seen it on all of those
17 requirements.

18 In fact, 223 sets out the fact that you
19 need to address whether it would impair the light and
20 air, privacy and use of your adjacent properties and,
21 obviously, it is all lining up there. I don't have
22 any questions for the applicant. It's very clear,
23 very straightforward. The last piece of 223
24 requirements that a proper graphic representation be
25 provided, so that the Board has a full understanding

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1 of what is being proposed. That is also met with all
2 of the drawings and, frankly, the elevations that are
3 put in.

4 Are there any questions of the applicant,
5 at this time, from the Board? Not noting any, then
6 let's move ahead to the Office of Planning and welcome
7 the Office of Planning's report.

8 MR. RICE: Good afternoon, Mr. Chair and
9 Board. My name is Stephen Rice. The Office of
10 Planning recommends approval for Application 17498
11 under section 223. Basically, the row house has two
12 existing porches. The addition will only affect the
13 first level porch, which will increase the rear depth
14 by 3.5, approximately, feet adding to the overall lot
15 occupancy of only 1 percent.

16 The first and second story porches will --
17 are currently extended beyond the rear walls of both
18 abutting properties. Therefore, the light and air
19 available to the neighboring properties will not be
20 unduly affected. The enclosure will only add onto the
21 first porch -- story porch. Given that the abutting
22 properties are currently shorter in rear depth than
23 the subject property, their privacy of use and
24 enjoyment will not be unduly compromised.

25 The proposed rear project includes a gated

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1 entrance, which will not be visible from East Capitol
2 Street. The visual design is not inconsistent with
3 the surrounding residences. The ANC-6A voted 8-0 in
4 favor for this proposal. OP has received supporting
5 letters from both abutting neighbors and the Capitol
6 Hill Restoration Society.

7 As mentioned, HPO has provided a form to
8 waive the parking requirement, given that it is a
9 contributing structure. OP therefore concludes that
10 the applicant has met the burden of proof pursuant to
11 section 223 of the Zoning Regulations and recommends
12 approval. Thanks.

13 CHAIRPERSON GRIFFIS: Excellent. Thank
14 you very much, Mr. Rice. Are there questions from the
15 Board of the Office of Planning? Does the applicant
16 have any cross examination of the Office of Planning?

17 MR. MANTEL: No, sir.

18 CHAIRPERSON GRIFFIS: Thank you very much.
19 Let's move ahead then. We did note that this was in
20 an Historic District, the Capitol Hill Historic
21 District, in fact, and also noted is 6A's support. Is
22 6A present, ANC present? No member of the ANC is
23 present. We do note Exhibit No. 23, which is a vote
24 of 8-0. They supported the application.

25 As indicated, the applicant has stated

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1 that there are letters of support from the adjacent
2 property owners and we would take note of Exhibit 9,
3 10 and 24, which is the Capitol Hill Historic
4 Restoration Society, which had brought this to the
5 committee. They had found that it would not visually
6 intrude and they had also supported it based on the
7 requirements of the special exception under 223.

8 Oh, I'm sorry, is Capitol Hill Restoration
9 Society present? Indeed. We don't mean to steal
10 thunder. We're just moving fast.

11 MR. PETERSON: Thank you, Mr. Chairman.
12 You very accurately summarized what would have been my
13 testimony and the only other thing I wanted to say was
14 I would urge that the Board make a Bench decision on
15 this matter.

16 CHAIRPERSON GRIFFIS: Excellent. Thank
17 you very much. We appreciate you being here. Most
18 importantly, in the substantive letters that you
19 provide the Board that get into the merits of each
20 case, which is not so much that we are looking to
21 stack up for and against, but rather look for the
22 elements that bring to our attention those elements
23 that need to be looked at more closely or deliberated
24 on. And your letters always succinctly put them into
25 good framing. So we thank you for that and this

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1 letter is no different.

2 Very well. Any other questions from the
3 Board from the Capitol Hill? Okay. Let's move ahead
4 then and I would call any persons present, at this
5 time, to provide testimony in Application 17498. Are
6 there any persons that would like to provide testimony
7 in support of the application, in opposition to the
8 application?

9 Not noting any persons present, we'll turn
10 it over to you for any closing remarks that you might
11 have.

12 MR. MANTEL: No, sir.

13 CHAIRPERSON GRIFFIS: Very well. I
14 believe the record is full on this and I think there
15 is no reason why we wouldn't proceed in a Bench
16 decision, unless any Board Members have any objection.
17 Not noting any objections, let's move ahead and I
18 would move approval of Application 17498 of Robert and
19 Ida May Mantel, that is for allowing a rear addition
20 of the existing single-family row dwelling under
21 section 223, as the application as been amended to
22 remove the parking variance required relief, as this
23 property does not meet the lot occupancy requirements,
24 rear yard requirements, open court requirements at
25 premises 1116 East Capitol Street, N.E.

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1 BOARD MEMBER ETHERLY: Second, Mr. Chair.

2 CHAIRPERSON GRIFFIS: Thank you very much,
3 Mr. Etherly. I think this, frankly, applicant could
4 have rested on the record that was submitted. But to
5 summarize, the 223 requirements are full met. There
6 has been no evidence presented that this would in some
7 way or fashion be detrimental or impair the light and
8 air, privacy or use or be inconsistent with the
9 character of the surrounding areas.

10 A great reliance on the analysis of the
11 Office of Planning to support the ANC and also the
12 Capitol Hill Restoration Society gives me great
13 confidence in supporting the approval of this special
14 exception. I would ask for any other deliberation at
15 this time.

16 Not noting anything further from the
17 Board, we do have a motion before us. It has been
18 seconded. I would ask for all those in favor to
19 signify by saying aye.

20 ALL: Aye.

21 CHAIRPERSON GRIFFIS: And opposed?
22 Abstaining? Ms. Bailey?

23 MS. BAILEY: Mr. Chairman, the Board has
24 voted 4-0-1 to approve the application. Mr. Griffis
25 made the motion, Mr. Etherly seconded, Mrs. Miller,

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1 Mr. Jeffries support and Mr. Mann is not present, at
2 this time.

3 CHAIRPERSON GRIFFIS: Excellent. I don't
4 see why we wouldn't waive our rules and regulations
5 and issue a summary order, unless Board Members have
6 any concerns.

7 MS. BAILEY: Thank you, sir.

8 CHAIRPERSON GRIFFIS: Very well. Not
9 noting any, thank you very much. Mr. Mandel, we
10 appreciate it, appreciate you being patient with us
11 and it looks like an excellent little accommodation to
12 really animate your rear yard. So good luck with
13 that.

14 MR. MANTEL: I appreciate your
15 consideration. Thank you.

16 CHAIRPERSON GRIFFIS: Indeed. Have a good
17 day. Let's move ahead then. Call the next case.

18 MS. BAILEY: The next case is Application
19 No. 17492 of Jeff B. Speck and Samuel Hankins,
20 pursuant to 11 DCMR 3103.2, for a variance from the
21 floor area ratio requirements under section 402, a
22 variance from the lot occupancy requirements under
23 section 403, and a variance from the off-street
24 parking requirements under subsection 2101.1. This is
25 to construct a single-family row dwelling in the R-5-B

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1 District. The property is located at 2241 and 2243
2 10th Street, N.W., Square 357, Lots 94 and 95.

3 CHAIRPERSON GRIFFIS: Very well. A very
4 good afternoon, sir, you're just going to introduce
5 yourself, name and address, for the record, please.

6 MR. SPECK: Good afternoon. I'm Jeff
7 Speck. I live at 2101 16th Street, N.W.

8 CHAIRPERSON GRIFFIS: Excellent. Your
9 name is very familiar to us, because you keep showing
10 up on our schedule. So now we're certainly glad to
11 see you.

12 MR. SPECK: Well, thank you. And I wanted
13 to start with my best foot forward, but unfortunately
14 there is this embarrassment regarding the posting and
15 it's actually quite ironic, because anyone in the
16 neighborhood who knows me knows that I've been -- the
17 site is my home away from home and I have been talking
18 to anyone who will listen about this property and this
19 proposal for a good six months now.

20 Unfortunately, I have never done this
21 before. I'm a city planner, but I have never worked
22 in Washington. And I didn't know the process. And
23 the day I submitted my application, there was a temp
24 there and I wasn't told to post. I understand that
25 there is a letter that I received that talked about

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1 posting. I think that was the letter I got with my
2 date on it.

3 But when I got that letter, I noticed the
4 date was a day that I was in California on a federal
5 program that I oversee, and so I panicked, it was the
6 night before my wedding, and called Cliff Moy and
7 rescheduled. And I guess somewhere else in the note
8 it talked about posting. But thankfully, Beverly
9 Bailey, called me on Friday, asked me where my
10 affidavit was and I probably wasn't very kind to her,
11 because I was shocked.

12 I thought that the city did the posting,
13 which shows how much I know about how things work in
14 a big city. But we immediately that day called
15 together friends, put together a sign, put the posting
16 up and I throw myself at the mercy of the council.
17 It's a bit of an embarrassment that it happened that
18 way. In any case, I have confidence that this project
19 is well-known in the neighborhood and I think some of
20 the neighborhood representatives here will back me up
21 on that.

22 CHAIRPERSON GRIFFIS: Okay.

23 MR. SPECK: I have a PowerPoint
24 presentation that I would like to show.

25 CHAIRPERSON GRIFFIS: Let's dispense with

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1 this one preliminary matter first.

2 MR. SPECK: Okay.

3 CHAIRPERSON GRIFFIS: Because actually
4 it's a requirement for us to proceed and so we would
5 either have to waive our requirements on that or
6 uphold the requirements, which would mean setting this
7 for a different date.

8 I need to bring to your attention, because
9 I'm not sure you have it, the letter handwritten, that
10 was delivered to us as we walked out. And it does
11 indicate that Bill Ringgold -- were you served this
12 letter?

13 MR. SPECK: No, but I believe his name is
14 Biff Ringgold.

15 CHAIRPERSON GRIFFIS: I'm sorry.

16 MR. SPECK: And in getting to know --

17 CHAIRPERSON GRIFFIS: Very well.

18 MR. SPECK: -- many of the neighbors on
19 this site, this fellow approached us several times,
20 but he actually asked us for money on Friday in order
21 to support the project. He is kind of a neighborhood
22 character and I shouldn't put words in his mouth, but,
23 you know, one quote was every brick you put up, I can
24 take down. And we're beginning to wonder if we need
25 to hire a private investigator to protect ourselves as

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1 we build this house.

2 CHAIRPERSON GRIFFIS: Understood.

3 MR. SPECK: But that's that story.

4 CHAIRPERSON GRIFFIS: Well, he may just
5 own a demolition company, I'm not sure. With that
6 being said, it is a concern of ours in that he is
7 indicating pursuant to DCMR 3103.2 and the fact that
8 the public notice sign was posted 7/7 and was not
9 posted 15 days before the hearing, thus not giving the
10 community ample notice to express its concerns.

11 He opposes the proposal. Okay. Bringing
12 to our attention the substantive matter. Of course,
13 there are two means of which we require notice for all
14 applications. We have found that this big orange
15 placard is obviously the most visible and probably the
16 most noticed. A people get letters in the mail, they
17 don't often read them or fully understand the
18 implications of it, but a big sign seems to go the
19 long distance.

20 Mr. Speck, this was presented to the ANC?

21 MR. SPECK: Yes, it was.

22 CHAIRPERSON GRIFFIS: And the ANC, is it
23 your understanding that it was probably noticed?

24 MR. SPECK: Yes, and it was printed both
25 to the ANC and to the Cardozo-Shaw Neighborhood

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1 Association. Also, I believe, I don't know if it's
2 material, but I believe, Mr. Ringgold lives within the
3 200 foot radius, so would have received a mailing as
4 well.

5 CHAIRPERSON GRIFFIS: Okay. Has anyone
6 verified that?

7 MR. SPECK: I don't know that for a fact,
8 but we were told he lives at Garfield Terrace.

9 CHAIRPERSON GRIFFIS: Okay. Well, that
10 may mean -- I think we can go pretty much quickly
11 through that. I would note Mr. Spalding is here with
12 the ANC. If you wouldn't mind introducing yourself
13 for the record?

14 MR. SPALDING: Phil Spalding. I live at
15 1929 13th Street and I'm here representing ANC-1B.

16 CHAIRPERSON GRIFFIS: Excellent. And, Mr.
17 Spalding, your capacity as an ANC Member, do you have
18 any position on this?

19 MR. SPALDING: I do have words for the
20 Board. The ANC did consider this in May. We do duly
21 notice all of our proceedings, our agendas are posted
22 on two prominent local websites and we ask our
23 Commissioners and other community members to print
24 those agendas as they develop and post them in the
25 community. We also have notice in a number of regular

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1 newspapers. They are not as detailed as we might
2 like, but they do constitute due notice.

3 This was considered by the ANC. It was
4 also noticed and considered by the Cardozo-Shaw
5 Neighborhood Association and I am a member of the
6 executive committee of that group as well. They did
7 have a presentation. They did take a vote on this,
8 although I do not think they have submitted anything
9 to the Board.

10 CHAIRPERSON GRIFFIS: Okay. Excellent.
11 Board Members, any other additional questions? Any
12 concerns with proceeding today? Very well. I don't
13 note any major concerns.

14 Obviously, it's a very important aspect we
15 take very seriously as part of our rules and
16 regulations. It is a waivable rule and I think that
17 that would be proper in this case in the -- given the
18 fact of the matter that we have had several community
19 presentations of this and also it was posted, although
20 not properly, for the full 15 days.

21 I would also note that it wasn't brought
22 up on this just directly, but noting the photographs
23 in the record, it appears to be not a difficult site
24 to see so that with just the limited days of posting,
25 I think it would draw adequate attention for those

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1 that were regularly there, even if it was for just
2 roughly half the time that we have required.

3 So with that, if there is no objection
4 from the Board, I think we would take it as a
5 consensus and waive our rules and regulations on the
6 posting time and move ahead with this case. Very
7 well. Let's do that. Mr. Speck, we'll turn it back
8 over to you.

9 MR. SPECK: Thank you, Mr. Griffis.

10 CHAIRPERSON GRIFFIS: Do you have a
11 PowerPoint? Do you want the lights off? Are you
12 going to start with that?

13 MR. SPECK: I would appreciate that.
14 Thank you.

15 CHAIRPERSON GRIFFIS: Excellent. Why
16 don't we -- Ms. Bailey? Excellent. Thank you.

17 MR. SPECK: Well, this is my first time
18 and I'm glad to have that behind me. Now, we can talk
19 about planning and architecture. This is my first
20 time before this body. I have presented in my other
21 professional capacity before the Zoning Commission
22 talking about Zoning Codes, which you will see I have
23 some concern about.

24 In my professional life, I am a city
25 planner, a certified AICP. This is a property that I

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1 wish to build for myself and what I hope will be a
2 growing family, but I am also the designer and this is
3 an important project for me from a professional
4 standpoint.

5 I am LEED accredited and I am currently on
6 appointment as the director of design at the National
7 Endowment for the Arts, but I am here as a private
8 citizen who wants to build a house. As I said, I live
9 at 16th and U Street only about six blocks from the
10 site, so I know the neighborhood very well. I was
11 thrilled.

12 You know, I with my wife, Alice who is
13 behind me, rented the Zipcar and drove around most of
14 D.C. looking for a prominent and interesting site and
15 were thrilled to find that, a vacant lot at the very,
16 very tip of the 1800 rendition of the L'Enfant Plan
17 for D.C. where Florida Avenue meets 10th Street, N.W.

18 It was once the site of two tiny row
19 houses. It's a 552 square foot parcel that sat unused
20 for many years. This is the view from the north and
21 forgive the blur. This is the view on the Sanborn
22 Map. It's actually two properties, 95 and 94.

23 This one I own outright and have had after
24 buying it from the owner last year. This one we are
25 set to close in August. There were some title issues.

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1 It was a tax sale property. I actually had to hire a
2 private detective to find the owner. We have come to
3 agreement, so the property that I'm speaking to you
4 about are these two pieces together which are 42 feet
5 in full length, 25 feet across at the base meaning an
6 average width at the middle of 12.5 feet.

7 I am here to argue that the site can't be
8 developed economically under current Zoning
9 Regulations and, indeed, these regulations bear little
10 relationship to the historic buildings in the
11 immediate neighborhood. And this shows the immediate
12 neighborhood. This is 10th Street. Most of these
13 buildings would need multiple variances to be built
14 today.

15 I have support in this argument from the
16 Office of Planning, the Ward 1B ANC and the Cardozo-
17 Shaw Neighborhood Association, all of whom are
18 represented here. I am requesting three variances to
19 the R-5-B Zoning in order to build a three story row
20 house that completes the corner of this prominent
21 flatiron intersection.

22 At 1,650 square feet, the house I'm
23 proposing is in keeping with the historic scale of the
24 neighborhood. I also hope to create what will be a
25 landmark building in what now is a somewhat blighted

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1 intersection. I want to take you through the plans.
2 You know, this is an important building for me
3 professionally, as well. I plan on spending more per
4 square foot than most people spend in this
5 neighborhood, and I also want to be a model of
6 environmental sustainability in ways that I will
7 describe.

8 Moving into the site plan, you can see
9 this is actually the basement plan of the house in its
10 lot, which are these two properties. The property
11 lines are the edges of the building line in this area.
12 So what in any other city you would consider yard is
13 actually in Washington, D.C. part of the right of way.
14 That is the site plan.

15 I won't spend too much time on the
16 interior, which you won't see very much of, but you
17 enter off of Florida which is the more prominent side
18 and, therefore, more appropriate front. It's a busier
19 street with more traffic. And then you go up to the
20 main living floor. However, on the first floor at the
21 same level of the first floor of the neighbors is a
22 second bedroom, a bathroom and laundry and a little
23 room for watching television.

24 You come upstairs and this is only 12 feet
25 wide. There is a living room, a dining room and a

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1 kitchen and a fireplace giving some prominence, as you
2 will see, to the corner. You come upstairs and it's
3 a master bedroom, bathroom, nursery, closets and
4 that's the whole house, a balcony here, as on the
5 lower story. And the interesting, from an
6 architectural point of view, thing about the house is
7 just that you need the bay windows to have square
8 rooms within the residence.

9 This is not a zoning issue, I was told.
10 This is an open space or public space issue. I have
11 been before the Public Space Committee, not the
12 committee, I'm sorry, Denise Wiktor, and her staff.
13 An application is in to them. They have been very
14 supportive for these protrusions. The roof is a
15 butterfly roof with its low point here, so that I can
16 drain onto my own site into a cistern in the basement,
17 so the water will be available for gray water in the
18 house and for irrigation of the yards.

19 This is the elevation on Florida. You can
20 see the stairwell which is principally glass, the bay
21 windows overhanging the chimney giving a tall corner
22 and the application describes a 42 foot height, but
23 you can see most of the house is lower. It's really
24 the chimney which is the highest point.

25 And then on 10th Street, which is the more

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1 domestic street and the more residential quieter
2 street, it picks up the vocabulary of the punched
3 openings of its neighbors and then becomes more modern
4 as it approaches the corners. The elevations are a
5 little bit deceiving, because what looks to be a very
6 large house is actually zero feet thick right there,
7 which is why I built a model that I will bring to you.

8 This is the view from the south with the
9 party wall of the neighbor against it. This is the
10 view from the north where this is the sharp edge of
11 the building and it recedes away from you in this
12 direction with the bay window present there. Visible
13 more clearly in the model, Florida Street rotating to
14 10th Street. And then just because I built it, I
15 might as well show you the different floors within the
16 model. No need to waste your time repeating the
17 floors.

18 Like any application for variances, the
19 Zoning Code requires that two conditions be met. The
20 first is that due to the exceptional size and shape of
21 the lot that the strict application of the regulations
22 result in peculiar and exceptional practical
23 difficulties, I'm sure you know this already, and the
24 second is that the relief to the regulations does not
25 cause any substantial detriment to the public good,

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1 does not substantially impair the intent, purpose and
2 integrity of the Zoning Regulations and Map.

3 I will address each of the three variances
4 that I'm asking for in terms of those two conditions.
5 First, due to the exceptional size and shape of the
6 lot, the application of the regulations is difficult
7 for the lot occupancy. I am allowed a 60 percent lot
8 occupancy and I am asking for 100 percent lot
9 occupancy. This property is clearly exceptional in
10 both size and shape.

11 At only 552 square feet, it is hard to
12 imagine this site actually once held two individual
13 single-family houses. These 19th Century structures
14 were torn down many years ago because they were too
15 small to meet modern living requirements, I would
16 suggest.

17 The row house adjacent to this lot, 2239
18 10th Street, on a property of 384 square feet remains
19 unoccupied possibly for the same reason. It is being
20 held empty and, fortunately, being kept up very well,
21 but by someone who essentially buys property and, to
22 my understanding, holds them and hopes to sell them,
23 but it is not being used.

24 Next door, 2237 10th Street, is another
25 19th Century row house. It covers 90 percent of its

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1 519 square foot lot and this building recently was
2 given a third story to make it more habitable. So
3 that is the context.

4 CHAIRPERSON GRIFFIS: Who gave it the
5 third story?

6 MR. SPECK: The builder, the owner.

7 CHAIRPERSON GRIFFIS: Oh.

8 MR. SPECK: It is owned by York Van Nixon
9 who is a very nice fellow who we have --

10 CHAIRPERSON GRIFFIS: I was going to say
11 we didn't approve that, did we?

12 UNIDENTIFIED SPEAKER: Yes, you did.

13 CHAIRPERSON GRIFFIS: Wow.

14 MR. SPECK: Well, if it's any consolation,
15 what you approved did not have as tall a parapet as
16 what was built, but that's a whole other story.

17 CHAIRPERSON GRIFFIS: That's no
18 consolation.

19 MR. SPECK: I mean, I don't want to
20 discuss other people's projects, but what you approved
21 had a parapet here and then I guess through building
22 somehow, additional parapet height was added. It's a
23 lovely roof deck though.

24 Moving on to my property. So the shape of
25 the site is a flatiron triangle with a 34 degree acute

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1 angle at its point. It's 25 feet across at its base,
2 as I told you. You know, like New York's Flatiron
3 Building and other landmarks, it occupies the
4 prominent head of its block between 10th Street and
5 Florida. They are fronted by a long row of houses all
6 of which have zero front setbacks and the same thing
7 is true, so both -- sorry, both 10th Street and
8 Florida have zero front setbacks.

9 Located where these two rows meet, the
10 subject property effectively has two fronts and no
11 back. Any area of the site left unoccupied would
12 appear as a front setback, which is out of keeping
13 with the historic remainder of the block.

14 Indeed, there is only one ugly spot on
15 this whole block and it's right next door where 2239
16 10th Street fails to fill its site and there is this
17 little weird rear door with no stoop that results from
18 a street -- a house which has to be both a front and
19 a back on the block.

20 So, you know, taken together, the small
21 size and unusual shape of the lot creates a
22 circumstance in which it is exceptionally difficult to
23 create a habitable dwelling on 60 percent of the
24 property. The plan that this requirement creates,
25 which is basically three floors of one room each,

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1 would be inferior to the next door neighbor which sits
2 unoccupied.

3 Secondly is, you know, the fact that
4 relief to this regulation or my argument that relief
5 to the regulations does not cause substantial
6 detriment to the public good or to the Zoning
7 Regulations. Here is the blank party wall that is
8 there now. The subject lot, despite being the
9 consolidation of two smaller lots, is still unusually
10 small and could not be created under current
11 regulations.

12 It's nonconforming as it currently stands
13 empty with the blank party wall of a neighbor, you
14 know, fronting a prominent intersection. It's an
15 awkward and what I would call an unattractive rip in
16 the fabric of the city. By consolidating these two
17 vacant lots at some expense, I am trying to create a
18 circumstance in which it's finally possible to mend
19 this wound and contribute to the revitalization of the
20 area.

21 The fact that this property comprises the
22 northern tip of the L'Enfant Plan for Washington I
23 think merits celebration. The intersection is also
24 the site of a tiny, tiny National Park Service
25 triangle, about that big, which is one of many that

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1 the city might hope to eventually beautify. I think
2 it would be much more effective as a public space
3 having a noble building against its edge rather than
4 a blank party wall.

5 In terms of the Zoning Regulations and
6 Map, the R-5-B classification placed on this block in
7 1958 does not correspond to its current or historic
8 structures. The 60 percent lot coverage maximum can
9 be found on, approximately, half the buildings on the
10 block.

11 But as one approaches the corner the
12 buildings increasingly fail to meet that requirement
13 and the Sanborn Map for the area indicates how the
14 historical structure on the corner, these are building
15 footprints, covered the entirety of its site and
16 potentially, I'm not sure what this circle means, but
17 potentially with also a bay window on its end.

18 So in my calculations, an attempt to make
19 this block conform to the current Zoning Map would
20 require the demolition of at least 15 19th Century
21 houses.

22 The second variance I'm asking for is the
23 floor area ratio. I am allowed 1.8 which would give
24 me 994 square feet and I'm asking for 3.0, which would
25 give me 1,656 square feet. Exceptional and unusual

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1 lot. Again, even though it's a combination of two
2 historic lots, the property is exceptionally small and
3 oddly shaped. Application of a 1.8 FAR to this lot
4 results in an allowable building area of 994 square
5 feet and the unusual shape of that lot makes it
6 effectively much smaller.

7 A three story staircase over three floors
8 would occupy 160 square feet and a perimeter wall
9 around a building of the allowed size would occupy
10 another 160 square feet, which means that I would have
11 roughly a 674 square foot apartment on three floors.

12 While there is no doubt a market in the
13 city for apartments of 674 square feet, I'm not aware
14 of any that are disposed on three separate stories and
15 while it makes sense economically to include small
16 apartments in larger buildings, there is no economic
17 logic to a new stand-alone structure built from
18 scratch with 2,000 square feet of exterior wall
19 surface surrounding a single small apartment.

20 Second, that the relief does not cause
21 detriment to public good. You know, the public good
22 should be considered both in terms of the area and the
23 height of the proposed building. In terms of area,
24 what I'm proposing, 1,656 square feet, is well below
25 the national standard of 2,400 square feet, but well

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1 in keeping and pretty much on par with the size of
2 houses in this immediate neighborhood and in Northwest
3 D.C. It's hard to imagine how a row house of this
4 size could negatively impact the neighborhood.

5 And then in reviewing the plans, it's
6 worth noting that not even the living room is more
7 than 12 feet square. So knowing that, you know,
8 zoning variances are not granted freely, I have really
9 designed this house to be the bare minimum size that
10 would economically justify the use of the lot. I am
11 confident that requiring a smaller house would result
12 in the lot remaining empty.

13 In terms of the building's height -- so
14 that's the floor area. In terms of the height, an FAR
15 of 1.8 on a lot coverage maximum of 60 percent implies
16 in the zoning a building height of three floors, and
17 the R-5 Zone actually allows five floors. But I have
18 already shown how the Zoning Map of this block doesn't
19 conform to its current or historic structure, so the
20 zoning is less significant than the context.

21 The site is directly across 10th Street
22 from a large four story building and terminates a row
23 of historically two story row houses. As of this
24 application, two of these row houses have added a
25 third story to meet modern living requirements. We

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1 can anticipate more will do so over time.

2 In addition, there is a tradition in the
3 city of corner buildings rising higher than those
4 adjacent in order to add prominence and dignity to
5 intersections. This happens in many cities. That
6 said, the main parapet of the house has been designed
7 to stay well below the height of its neighbor, rising
8 only at the northern corner to its tall chimney which
9 will give some strength to that corner.

10 Finally, because the building is on the
11 northern part of its block, it can't cast shadows on
12 any of its neighbors or its neighbors' yards. This is
13 a little shadow study I did through the course of the
14 day and you can see also that it doesn't even cast
15 much of a shadow on the park because it's so thin. So
16 it's a pretty fair house in terms of shadows. That's
17 my request for living area.

18 Finally, the third variance I'm asking for
19 is parking spaces. As was already discussed, the
20 challenges to place a habitable house on this lot is
21 great even without a garage. Adding a smaller garage,
22 a one car garage, would absorb the majority of what I
23 would be allowed as the ground floor and result in a
24 house of questionable value. In addition, the lot is
25 located adjacent to a complicated intersection.

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1 This is the map of the Historic District,
2 which this lot is not a part of, although I would like
3 it to become at some point, but you can see where
4 Barry Street intersects with Florida and Florida takes
5 a sharp turn and 10th Street is there as well. It's
6 a very complicated and one of the more confusing
7 intersections in this neighborhood. I would question
8 the safety of having a curb cut in this location.

9 Also, in terms of detriment to the public
10 good, the current zoning on this block does not
11 correspond to its historic use in the sense that none
12 of the 49 houses on this block have curb cuts,
13 driveways or garages. Not even on the alley is there
14 a single garage. Placing a curb on either street
15 would damage a historic curb, compromise the safety of
16 the sidewalk.

17 It would also eliminate, and this is the
18 most interesting, it would eliminate a shared parallel
19 parking space from the street in order to give me a
20 private one on my lot. So you would be trading a
21 public shared space for a private space, which for the
22 time being would be empty, because I own no car. I
23 purchased this lot partly because of its proximity to
24 Metro, only three blocks from the African-American
25 Civil War Memorial entrance to the U Street Metro

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1 Station.

2 This is my wallet. I am not offering a
3 bribe. This is my Metro card and my Zipcar card. We
4 found life in the city to be perfectly lovely without
5 owning a car.

6 So as I hand the mike over to other
7 commenters, I just want to mention the process in
8 which I did consult with members of the Office of
9 Planning, the ANC, the Cardozo-Shaw Neighborhood
10 Organization as I moved forward with my plans, and the
11 fact that all three groups, you know, have supported
12 this plan derives in part from the fact that their
13 advice helped to shape it.

14 It was really an interactive and
15 integrated process, so I hope the outcome is
16 satisfactory. And thank you so much for your
17 patience.

18 CHAIRPERSON GRIFFIS: Excellent. Thank
19 you very much. A fascinating presentation, I must say
20 a presentation of testimony in evidence that is often
21 needed for more complicated projects that we don't
22 get, but nonetheless very informative. I am also
23 struck with the intrigue of a national park at the
24 corner and we're going to have to tell Mr. Parsons
25 about that and see how and who is going to paint the

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1 concrete or cut the grass out there.

2 MR. SPECK: I actually called them to see
3 if we might improve it together, but it's a tough
4 bureaucracy.

5 CHAIRPERSON GRIFFIS: Very. Okay. So
6 now, you presented the model up to us. A couple quick
7 questions on the side. You're showing some control,
8 let's say, off the -- what is it, I guess it would be
9 the public area. Are you proposing to put some sort
10 of enclosure on the Florida Avenue side, some sort of
11 fencing boundary and also on the other?

12 MR. SPECK: This is before the Public
13 Space Committee and, in fact, I don't think they can
14 rule on it until they get structural drawings. So I
15 think they are sitting on it. What I would like to do
16 is just a stoop on this side with nothing but --
17 actually, it's maybe better to see in the elevations,
18 just a low stoop that exists at the height of the
19 watercourse there at the bottom of the house.

20 CHAIRPERSON GRIFFIS: Yes.

21 MR. SPECK: So you would have a few steps
22 up and then a place you could sit and then within this
23 area, there is room to plant a tree.

24 CHAIRPERSON GRIFFIS: Um-hum.

25 MR. SPECK: This is probably the less

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1 offensive of what I am proposing.

2 CHAIRPERSON GRIFFIS: So there's no
3 windows proposed in your now TV room? Is that the
4 story?

5 MR. SPECK: High windows where I'm showing
6 here.

7 CHAIRPERSON GRIFFIS: Yes.

8 MR. SPECK: But that's all.

9 CHAIRPERSON GRIFFIS: I see. Fascinating.

10 MR. SPECK: Now, on this elevation I am
11 proposing a door yard, which is a low wall again, but
12 I would like to surround it either with some sort of
13 dense tree or bush or a relatively low fence with ivy
14 through it in order to be able to use this space
15 somewhat privately. I suspect that the Public Space
16 Committee will have more to say about that. They told
17 me it wasn't a zoning issue, but it's certainly, you
18 know, a neighborhood issue.

19 CHAIRPERSON GRIFFIS: Right. I think it's
20 excellent and I ask it not as a zoning issue, just to
21 understand the entire project and how it all relates.
22 Very well. I think this is incredibly clear and I
23 don't have any other questions of the applicant at
24 this time.

25 Board Members, any questions? In fact,

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1 it's actually unsettling to see that we approved a
2 building down the way because I remember the
3 application and I don't ever remember seeing anything
4 even close to what I'm looking at now presented to us.
5 But be that as it may, there is a familiarity with
6 that block and it's particularly unique and elements
7 of practical difficulty of which you have outlined, I
8 think, very well.

9 And if I'm not mistaken we have had two,
10 if not three, applications on this and it was the
11 beginning of the discussion of the Board of how
12 uniqueness is actually set and the fact that we can
13 have uniqueness, the same uniqueness, all in one
14 square. And it goes to a bigger issue of how is it
15 unique in a context of the larger city, and then also
16 is that uniqueness particular to that area or that
17 particular property.

18 But what am I trying to say with that is
19 that you mention the fact that the other buildings, as
20 they get closer to the corner, none of which or all of
21 which are in existence, none of which would be
22 conforming today, and I think that is very relevant as
23 we look at, as you had said, the L'Enfant corners or
24 the particular pieces of the pie that are cut up which
25 was to be these kind of follies, of course, or parks.

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1 But I, obviously, didn't figure out what
2 happens up towards the end of it all and you get
3 smaller and smaller pieces. It would be irrational to
4 try to argue in rebuttal of the fact that this isn't
5 unique or that this is practically difficult or that
6 there isn't some practical difficulty in making all of
7 these requirements in the regulations just alone, the
8 FAR and the lot occupancy.

9 So with that, we move ahead, if there is
10 any other clarifying questions. Not noting any
11 others, then let's move ahead. The Office of Planning
12 is with us and we'll hear their analysis.

13 MR. MORDFIN: Good afternoon, Chair and
14 Members of the Board. I am Stephen Mordfin with the
15 Office of Planning. The subject property is unique in
16 that it is small, narrow, shallow and unusually shaped
17 with no alley access. This combination of factors
18 results in a residential property that is difficult to
19 redevelop.

20 If the requested variances are not granted
21 it will result in peculiar and exceptional practical
22 difficulties of the owner, because only an
23 exceptionally small house could be constructed not
24 consistent with modern standards. The applicant would
25 not be able to maximize the small area of the lot to

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1 the extent possible, and the only place an off-street
2 parking space can be located is also the most
3 buildable portion of the lot.

4 The granting of these variances will not
5 impair the intent and integrity of the Zoning
6 Regulations, because they will allow for the
7 residential reuse of this residentially zoned
8 property. The Office of Planning concludes that the
9 applicant has satisfactorily met the criteria for the
10 granting of variances and, therefore, the Office of
11 Planning recommends approval of the application as
12 submitted. Thank you.

13 CHAIRPERSON GRIFFIS: Excellent. Thank
14 you very much. Questions from the Board? Does the
15 applicant have any cross examination of the Office of
16 Planning?

17 MR. SPECK: No, I don't.

18 CHAIRPERSON GRIFFIS: Very well. Let's
19 move ahead. Mr. Spalding?

20 MR. SPALDING: Phil Spalding. I live at
21 1929 13th Street and I represent ANC-1B. The
22 Commission did have a presentation of this project in
23 May. We did vote unanimously to support it. You have
24 our letter which addresses the specific variances and
25 special exception asked for and, also, in its last

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1 paragraph states that this is an exceptional
2 application.

3 We were exceptionally struck by the
4 applicant's knowledge of the history of the community,
5 the knowledge of the context of the buildings that are
6 in this block and that the proposed structure was in
7 keeping both with history and with current
8 development, and development that is foreseen.

9 I would just take one second. I know Ms.
10 Miller is going to check these. There were two
11 variance cases before you. There was 17233 and 17307
12 and we did see Mr. Nixon's building, which is pretty
13 tough to look at, but the case that you had that is on
14 the Florida Avenue side was very carefully designed
15 and is a very effective three story structure now.

16 And with that, we would just reiterate our
17 support and rest on the letter that we sent you.

18 CHAIRPERSON GRIFFIS: Excellent. Thank
19 you very much and it's a great letter, as usual, but
20 this in particular noting the specificity that went in
21 and the analysis, one in the presentation and then
22 also in the Commission's.

23 I'm glad that you brought up what you did
24 in terms of the testimony today, because I was going
25 to highlight your final paragraph and it basically

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1 says exactly what you said today and noting the
2 appreciation of the Commission, and I think you in
3 particular of the applicant's appreciation of the
4 area, and then how the design has reflected that
5 individual's appreciation to the specific site, but
6 also the area.

7 It all becomes this great success. You
8 know, I don't know, it is interesting. I mean, we did
9 approve the NAR Building, which is one of the images
10 Mr. Speck showed, and it's incredibly analogous. It
11 has been more analogous for me than the Flatiron
12 Building in New York because this is Washington, D.C.

13 No, but the fact of the matter is it's
14 very similar in terms of, one, they required, if my
15 memory serves, an FAR variance. They also projected
16 over their property line in order to have a usable
17 footprint around the core of their building.

18 And it's just a fascinating piece that I
19 think most people would say is a successful building
20 for our times and there it is. That's at Jefferson,
21 rather, Jersey and Massachusetts across from the
22 Georgetown Law Center and 601 New Jersey Avenue, which
23 is a commercial office building designed by the firm.
24 Oh, well, we don't need to go there.

25 Okay. Anything else for Mr. Spalding?

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1 Ms. Miller?

2 VICE CHAIR MILLER: I thought I heard Mr.
3 Speck say that part of the reason he has the ANC and
4 OP's support is because you all had a role in shaping
5 the project somehow. Did you? Did you do something,
6 contribute something?

7 MR. SPALDING: I do think that what Mr.
8 Speck is describing to you is that he came to me at
9 least six months ago with the initial proposal for
10 this site, at which time he had pretty well developed
11 designs for this site. They have been refined since
12 that time, but the site really limits what he can do.

13 So I did have a sense of the original
14 massing, the original design and exactly what the
15 request would be for lot occupancy, FAR. I didn't
16 know about parking originally. And he did continue to
17 work with the ANC for guidance in how to work with the
18 ANC, also asked the ANC for guidance on how to work
19 with you and with Office of Planning and we did
20 provide what we knew of those processes to him.

21 And he did also go to the Cardozo-Shaw
22 Neighborhood Association because they represent the
23 specific area, also are designated to represent the
24 Historic District in that area.

25 VICE CHAIR MILLER: Thank you.

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1 CHAIRPERSON GRIFFIS: Good. Anything
2 else? Yes, Mr. Jeffries?

3 COMMISSIONER JEFFRIES: Just to let the
4 applicant know that I drive past the spot maybe three
5 to four times a week, so depending on which way we go
6 up here, I might be seeing this quite often, but it
7 looks like a very good project.

8 MR. SPECK: Thank you.

9 CHAIRPERSON GRIFFIS: Maybe we should try
10 to kick in some money to put another floor on to hide
11 that other building.

12 MR. SPECK: It's actually -- is it okay
13 for me to speak?

14 CHAIRPERSON GRIFFIS: Sure.

15 MR. SPECK: It's actually a site I tried
16 to acquire. I have limited means and the fellow is
17 expecting a lot of money for it, more than I thought
18 it was worth.

19 CHAIRPERSON GRIFFIS: The one just
20 adjacent to you?

21 MR. SPECK: The one just adjacent.
22 However, I would like to approach him subsequent to
23 this other building beginning with a plan. I would
24 love to show him what he could do with that site,
25 which essentially involves a back and a top that would

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1 bring it to fill out the block.

2 CHAIRPERSON GRIFFIS: Right, right.
3 Interesting point. Okay. Very well. Again, Mr.
4 Spalding, we do appreciate it and the fullness of the
5 report and then your presentation of it is much
6 appreciated.

7 Let's move ahead then to any other
8 Government reports attendant to this application. I
9 don't have any note of others, unless Board Members
10 are aware or the applicant is aware.

11 If not, we can move ahead and ask for
12 persons present in Application 17492 that would like
13 to speak in favor of the application. You can come
14 forward at this time. Yes, Mr. Spalding?

15 MR. SPALDING: Phil Spalding. I reside at
16 1929 13th Street and despite my duties as ANC
17 commissioner, I am also a member of the executive
18 committee of the Cardozo-Shaw Neighborhood
19 Association. This was presented to the Cardozo-Shaw
20 Neighborhood Association. They did vote to support it
21 enthusiastically with a unanimous vote.

22 However, due to some inexperience amongst
23 the members, you have not received correspondence on
24 this.

25 CHAIRPERSON GRIFFIS: Okay.

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1 MR. SPALDING: I am just here to represent
2 that this was presented to the neighborhood
3 association, was very enthusiastically received, got
4 unanimous support, but I don't have a letter. I
5 pleaded for the past week to try and get one, but I
6 don't have one. But as an executive committee member,
7 I am telling you that he has presented to the
8 community as well.

9 CHAIRPERSON GRIFFIS: Good. We appreciate
10 that. In all of the ANC and also in regards to other
11 public meetings, was there any elements of discussion
12 that were brought up that were pertinent to this
13 hearing? I mean, were there any concerns?

14 MR. SPALDING: I heard absolutely no
15 specific concerns. There were questions about the
16 design and the design does lead to questions.

17 CHAIRPERSON GRIFFIS: Sure.

18 MR. SPALDING: Filling 100 percent lot
19 occupancy and having a building in this site is
20 something that most community members are not ready
21 for or used to at this point. They have seen this
22 vacant for a long period of time. Proposing this
23 structure I think took them a bit by surprise, but all
24 of the comments, once Mr. Speck was given a chance to
25 present what he wanted to do, were positive. There

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1 were absolutely no concerns.

2 CHAIRPERSON GRIFFIS: Okay. Excellent.
3 Thank you. Questions from the Board? Ms. Miller?

4 VICE CHAIR MILLER: I just want to see if
5 I can understand. Are you speaking in behalf of
6 Cardozo-Shaw Neighborhood even though you don't have
7 a letter or are you just speaking as a person about,
8 you know --

9 MR. SPALDING: I am speaking on behalf of
10 the Cardozo-Shaw Neighborhood Association. I have
11 been a member for the past six years. I am on their
12 executive committee. I was present at the meeting
13 when Mr. Speck presented. I did witness and vote to
14 support and I have been asking the chair of their
15 development committee to get a letter of support to
16 either Mr. Speck or myself so that we could present it
17 to the Board.

18 They did not do so, but I wanted to
19 represent to you that they did meet. They did review
20 this. They did vote on it. Unfortunately, I don't
21 have a letter.

22 VICE CHAIR MILLER: Right.

23 MR. SPALDING: So I'm just representing to
24 you that I am a member of that executive committee and
25 that they did meet and vote on it.

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1 VICE CHAIR MILLER: Right, I understand
2 that. I was just trying to get, you know, the
3 procedure down. I understand you don't have a letter,
4 but they do support it, you're representing.

5 MR. SPALDING: Yes.

6 VICE CHAIR MILLER: I was just curious.
7 As a member of the executive board, do you need any
8 other kind of authorization though to represent the
9 views or is that --

10 MR. SPALDING: Their by-laws are really
11 quite loose. They do understand that I was going to
12 be here today. Part of the actual vote that took
13 place I think was to designate me to represent
14 Cardozo-Shaw.

15 VICE CHAIR MILLER: Okay.

16 MR. SPALDING: But I don't have that
17 written for you today.

18 VICE CHAIR MILLER: Okay. Okay. Thank
19 you.

20 CHAIRPERSON GRIFFIS: Anything else?
21 Questions, Mr. Speck, of Mr. Spalding in his capacity
22 now?

23 MR. SPECK: Not now. I'm sure you can
24 tell me later.

25 CHAIRPERSON GRIFFIS: Okay. Very good.

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1 Thank you. Let me ask are there any other persons
2 present to provide testimony in support or in
3 opposition to Application 17492? Any others here
4 present? Very well. Let's move ahead to any closing
5 remarks you might have, Mr. Speck.

6 I have a quick question, actually twofold.
7 One, you noted not in the statements, but in the
8 written, the roof was going to have some dual roles.
9 One was capturing some rain water, also potentially
10 some solar panels. And my question always in
11 Washington, D.C., as you have studied this city and as
12 I have looked at it, it has beautiful vistas both from
13 the ground and from above. Why not a roof deck?

14 MR. SPECK: You know, first of all, I
15 forgot to note that I am -- there is a new product
16 that allows you to put solar panels in a standing seam
17 metal roof. It's a 16 inch sheet that lies between
18 the standing seams and that is the roof that I plan to
19 put on this house. So I do want to collect solar
20 energy as well.

21 It was a tradeoff. I couldn't do both
22 solar and the roof deck. There are some questions
23 about collecting water off a roof deck and then using
24 that water. It will be dirtier. My wife may want me
25 to have a roof deck. I'm not sure, but I thought

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1 between the balconies, the two balconies on the west
2 side and the garden at the ground level, that that
3 would be enough.

4 It's obviously more expensive to have a
5 roof deck than not and at a certain point I had to do
6 some value engineering. So it was a tradeoff. Right
7 now in our apartment in the Roosevelt on 16th Street
8 we have a 4 by 8 foot balcony and it's wonderful and
9 we'll be more than doubling that with this, so we
10 decided to stop there.

11 CHAIRPERSON GRIFFIS: Oh, I see, right.
12 You do have a step-out balcony there. Right, right,
13 right. Good. Okay. Very well.

14 Last question is more of a design
15 question, but you have brought yourself to compare the
16 Flatiron and also the NAR Building in that you bring
17 your building to a direct point and it's solid. None
18 of the others are. Why would you go to that extreme
19 to do?

20 MR. SPECK: You know, it's interesting
21 looking at the heritage or the history of buildings on
22 pointy sites and you always hear planners saying, oh,
23 it's so bad the way that L'Enfant chopped its angled
24 avenues through the grid pattern because it created
25 all these difficult sites. And, indeed, you know,

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1 100, 150 years ago architects considered that a
2 burden.

3 But these days with, you know, more
4 enthusiasm for dynamic, exciting, you know, dramatic
5 architecture, there is nothing that appeals to me more
6 than this point. And because it is the point at the
7 top of the map, not just any point but a very kind of
8 historically laden one, I thought it should really be
9 a point.

10 CHAIRPERSON GRIFFIS: Excellent. Shall we
11 condition that it not be a cell phone tower or
12 anything like that? I think we did that on NAR.
13 Okay. Very good. Anything else then? Anything
14 further? Any other closing remarks, summations that
15 you might have?

16 MR. SPECK: Only that there are not many,
17 but a few other lots like this in the city and this is
18 comforting. I don't think I will be the one
19 developing them, but this is a comforting discussion
20 because none of those are buildable either under their
21 current zoning.

22 CHAIRPERSON GRIFFIS: Very well. Thank
23 you very much. Anything else from the Board? Any
24 other clarifications? Is anyone here present that
25 would like to provide testimony either in support or

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1 in favor or neutral on this application, 17492, can
2 come forward at this time.

3 Not noting any others present that would
4 like to provide additional testimony, Board Members,
5 I think the record is full. If the time is available
6 to us, I think it would be appropriate to begin the
7 deliberation on this and may well reach a Bench
8 decision, unless there are any other clarifying
9 questions of the applicant. Very well.

10 Not noting any other, I think I started
11 off saying and I think it feeds right into this
12 deliberation that this is -- this probably ought to
13 be, what, the test case at the beginning of DCMR 11,
14 Zoning, what it is that a variance is, unique,
15 practically difficult to comply with the regulations,
16 not impairing the intent and integrity of the Zone
17 Plan and certainly not impairing the public good.

18 Let's begin with the uniqueness and I
19 probably won't hit them all, but it's obviously well-
20 founded in the de minimis size of the lot, both of
21 them even combined. I was kind of struck with the
22 fact that Mr. Speck opened up his remarks saying
23 recently married, juggling all these schedules. It
24 was understandable why the posting wasn't totally
25 done.

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1 But moving on to that, that they were
2 looking to build this house for a growing family and
3 I had to wonder how big a family they are expecting,
4 but not to get into the personal. But we're looking
5 at a house of three levels as it builds out this site
6 that is probably more comparable to the condo building
7 we just approved this morning, and there are
8 supposedly larger unit layouts and that were for two
9 bedroom pieces.

10 My point being combining two of these lots
11 is obviously a requirement for any viable development
12 project and even at that, it is not viable in terms of
13 complying totally with the regulations. As we look to
14 the -- one might say how could we look at 100 percent
15 lot occupancy, especially in an R-5 Zone. It is
16 obviously back to the uniqueness of this and the size
17 and the shape.

18 And I think really what has impressed on
19 this in terms of presentation and the written is that
20 the -- and that's one of the best things about our
21 regulations, I believe, and how all of the
22 calculations are done, is that they all work together.
23 As one moves, the others move. So as the site grid
24 becomes smaller, obviously the impact of FAR becomes
25 more magnified.

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1 But what we often don't see in this
2 uniqueness of shape is that shape starts to decide
3 those magnifications. In addition, this is like a
4 text book case of that and really shows, I think,
5 phenomenally well if you cut off that corner where
6 that fireplace is, the lot occupancy would
7 proportionately diminish substantially and, yet, the
8 actual square footage that is being reduced is
9 minimal.

10 And then we're not talking about great
11 utilization of this site either and, in any case, not
12 really belaboring the point more than it needs to,
13 there is nothing that is presented that wouldn't
14 convince me that this is unique and that it's
15 practically difficult in complying with just these
16 variances. It's somewhat surprising that there aren't
17 more.

18 In terms of the impairing the intent and
19 integrity of the Zone Plan, that is what I think the
20 familiarity of this block really comes for this Board
21 is looking at an R-5-B. I mean, in the applications
22 that we saw, I remember very substantive discussions
23 about how the Zoning Commission or when it was mapped
24 actually led them to move up to the R-5 and perhaps it
25 was wishful thinking that someone was going to acquire

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1 and assemble the entire square or half of the square
2 and build larger multi-family structures.

3 That didn't happen and so we're left with
4 one of the highest residential zoned districts in lots
5 and plats that can hardly fit, as was evidenced today,
6 conforming small units, let alone houses themselves.
7 And in terms of the public good, there is even more
8 than just not impairing the public good here.

9 I think Mr. Speck has done an excellent
10 job in presenting and is obviously very committed to
11 making a statement here and not just, one might say,
12 an egotistical statement of look at my great design,
13 but rather more of an urban design statement of, you
14 know, how do we define it?

15 How do we really value our corners and our
16 pieces and our what we might call odd blocks or odd
17 sites and those sites that aren't just in prominent
18 downtown, but rather those up in the upper reaches of
19 the original square and the original boundary avenue.

20 I think it was great to end with Mr.
21 Specks' comment of why the point. You know, this is
22 the point. This was at the very edge. It was
23 defining and, anyway, an excellent project. I think
24 this was kind of fun to walk through and wish it was
25 more complicated and we spend more time and require

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1 more things, but we don't need to in this realm.

2 I will leave it at that. I will open it
3 up to any other comments Members might have.

4 VICE CHAIR MILLER: I just want to say
5 that I think it is a really exciting example of urban
6 design and certainly no public detriment, and it's a
7 benefit to the public. But in looking at the variance
8 standards, it's just so basic that this is clearly
9 exceptional in its size. It's clearly small and
10 practical difficulty, you couldn't build unless you
11 had these variances.

12 So it's all there and I also want to
13 commend you for working with OP and the ANC and the
14 community and just bringing this forward in a really
15 great way.

16 CHAIRPERSON GRIFFIS: Good. Well-said.
17 With that then, I think it's appropriate to move
18 approval of Application 17492 of -- what is the
19 address of this? How are we identifying this?

20 MR. SPECK: 2243 and 2241.

21 COMMISSIONER JEFFRIES: 43, 41 and 43.

22 COURT REPORTER: Microphone.

23 CHAIRPERSON GRIFFIS: Oh, right, 2241 and
24 2243 10th Street.

25 COMMISSIONER JEFFRIES: Second.

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1 CHAIRPERSON GRIFFIS: Right.

2 COMMISSIONER JEFFRIES: Did you finish?

3 CHAIRPERSON GRIFFIS: Yes, I might as
4 well.

5 COMMISSIONER JEFFRIES: Second.

6 CHAIRPERSON GRIFFIS: Excellent. Thank
7 you very much for moving me along there, Mr. Jeffries.
8 Good. I think we have spoken of it all. Of course,
9 it was for the relief from the variance of the FAR and
10 also the variance of lot occupancy and the variance
11 from the off-street parking, which would allow for the
12 construction of this single-family row dwelling.

13 Is there any other comments from the
14 Board, deliberation on that? Not noting any other, we
15 do have a motion before us that has been seconded. I
16 would ask for all those in favor to signify by saying
17 aye.

18 ALL: Aye.

19 CHAIRPERSON GRIFFIS: And opposed?
20 Abstaining? Very well. Ms. Bailey, we would love to
21 record the vote.

22 MS. BAILEY: Mr. Chairman, the vote is 4-
23 0-1 to approve the application. Mr. Griffis made the
24 motion, Mr. Jeffries seconded, Mrs. Miller and Mr.
25 Etherly supports the motion. Mr. Mann is not present

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1 at this time. And we're doing a summary order, Mr.
2 Chairman?

3 CHAIRPERSON GRIFFIS: Well, I don't see
4 any reason why we wouldn't waive our rules and
5 regulations and issue a summary order unless other
6 Board Members have any objections to that. Not noting
7 any objections, we will issue a summary order, Mr.
8 Speck.

9 Thank you very much. It was worth the
10 wait to see this and very good luck to you. I can't
11 imagine in D.C. that you're going to get to do this
12 but, boy, we'll look for it and we'll get our updates
13 from Mr. Jeffries, who has noted on the record that he
14 drives by all the time, so he will keep us informed.

15 MR. SPECK: Thank you all. Any positive
16 words you can share with the Building Department,
17 please do.

18 CHAIRPERSON GRIFFIS: They don't talk --

19 MS. BAILEY: Mr. Chair?

20 CHAIRPERSON GRIFFIS: They don't talk to
21 us.

22 MS. BAILEY: Mr. Chairman?

23 CHAIRPERSON GRIFFIS: Yes, ma'am?

24 MS. BAILEY: The last closing notice. The
25 applicant's graphic presentation, we would like to

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1 have a copy, if possible, in the record at some point.

2 CHAIRPERSON GRIFFIS: Absolutely. Yes,
3 it's an excellent point.

4 MS. BAILEY: Just to have a complete
5 record of --

6 CHAIRPERSON GRIFFIS: Obviously, anything
7 that was created here needs to go into the official
8 record and so if you would provide a copy of the
9 PowerPoint, we can just put it into the record.

10 MR. SPECK: This is your computer and it's
11 on it, so you have got it.

12 CHAIRPERSON GRIFFIS: Oh, we can just take
13 the disc then.

14 MR. SPECK: It's Mr. Nyambi's computer.

15 CHAIRPERSON GRIFFIS: Oh, perfect. Then
16 there it is. Thank you very much.

17 MR. SPECK: Thank you.

18 CHAIRPERSON GRIFFIS: Good. Anything else
19 then? Ms. Bailey, any other business for the Board?
20 That's it. Very well. Thank you all very much. If
21 there is no other business for the Board, we will
22 adjourn for the afternoon.

23 (Whereupon, the Public Hearing was
24 concluded at 3:48 p.m.)

25

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