

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

AUGUST 3, 2010

+ + + + +

The Regular Public Hearing convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 9:30 a.m., Nicole Sorg, Acting Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

NICOLE SORG, Acting Chairperson
SHANE L. DETTMAN, Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

ANTHONY HOOD, Zoning Commission Chair

OFFICE OF ZONING STAFF PRESENT:

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

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

LORI MONROE, ESQ.

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ORIGINAL

OFFICE OF PLANNING STAFF PRESENT:

ARLOVA JACKSON
ARTHUR JACKSON
MATT JESICK
STEPHEN MORDFIN

The transcript constitutes the minutes from the Public Hearing held on August 3, 2010.

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

10:58 a.m.

ACTING CHAIRPERSON SORG: The hearing will please come to order. Good morning, ladies and gentlemen. This is the August 3rd, 2010 Public Hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Nicole Sorg, Vice Chairperson. Joining me today are Shane Dettman representing the National Capital Planning Commission and representing the Zoning Commission is Anthony Hood.

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

Please be advised 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 noise or action in the hearing room.

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

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

16 The order of procedure for special
17 exceptions and variances is (1) statement and
18 witnesses of the applicant, (2) Government
19 reports including Office of Planning,
20 Department of Public Works and others, (3)
21 report of the Advisory Neighborhood
22 Commission, (4) parties and persons in

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1 support, (5) parties or persons in opposition,
2 (6) closing remarks by the applicant.

3 Pursuant to Sections 3117.4 and
4 3117.5, the following time constraints will be
5 maintained. The applicant, appellant, persons
6 and parties except an ANC in support including
7 witnesses are allowed 60 minutes collectively.
8 Appellees, persons and parties except an ANC
9 in opposition including witnesses are allowed
10 60 minutes collectively. Individuals are
11 allowed three minutes. These time constraints
12 do not include cross examination and/or
13 questions from the Board.

14 Cross examination of witnesses is
15 permitted by the applicant or parties. The
16 ANC within which the property is located is
17 automatically a party in a special exception
18 or variance case. Nothing prohibits the Board
19 from placing reasonable restrictions on cross
20 examination including time limits and
21 limitations on the scope of cross examination.

22 The record will be closed at the

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

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

17 The decision of the Board in these
18 contested cases must be based exclusively on
19 the public record. To avoid any appearance to
20 the contrary, the Board requests that persons
21 present not engage members of the Board in
22 conversation.

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

4 The Board will now consider any
5 preliminary matters. Preliminary matters are
6 those which relate to whether a case should or
7 will be heard today such as requests for
8 postponement, continuance or withdrawal or
9 whether proper and adequate notice of the
10 hearing has been given.

11 If you are not prepared to go
12 forward with a case today or if you believe
13 the Board should not proceed, now is the time
14 to raise such a matter.

15 Mr. Secretary, are there any
16 preliminary matters?

17 MR. MOY: Yes, there are, Madam
18 Chair. Very quickly, there is a preliminary
19 matter in Case Number 18093 attendant to
20 posting requirements and in Case Number 18090,
21 there is a request or a motion for
22 postponement.

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1 ACTING CHAIRPERSON SORG: Thank
2 you, Mr. Moy.

3 If the Applicant is present for
4 Case Number 18090, the Board is ready to
5 address the preliminary matter in that case.
6 Is that Applicant present? It appears that he
7 is.

8 Before we ask you to come over or
9 come forward, let's take care of the oath.

10 Would all individuals wishing to
11 testify today please rise and take the oath?

12 Ms. Bailey, would you please
13 administer the oath?

14 MS. BAILEY: Do you solemnly swear
15 or affirm that the testimony that you'll be
16 giving today will be the truth, the whole
17 truth and nothing but the truth?

18 ACTING CHAIRPERSON SORG: Thank
19 you.

20 So, would the Applicant and those
21 wishing to testify regarding Case Number 18090
22 please come forward and take a seat?

1 Good morning. Starting from my
2 left, can you please state your name and
3 address for the record? You need to turn on
4 your mike I think.

5 MR. SIKDER: My name is Mohammad
6 Sikder. My address is 6660 Tennyson Drive,
7 McLean, Virginia.

8 DR. STOCKTON: How do you turn it
9 on? Right here. Push it.

10 ACTING CHAIRPERSON SORG: Um-hum.
11 I think you got it.

12 DR. STOCKTON: Laura --

13 ACTING CHAIRPERSON SORG: There
14 you go.

15 DR. STOCKTON: My -- my name is
16 Laura L. Stockton. My address is 3142 Monroe
17 Street, N.E., Washington, D.C.

18 MR. POLES: Good morning. My name
19 is Raymond Poles. My address is 3143 Newton
20 Street, N.E.

21 MS. O'CONNOR: My name is Margaret
22 O'Connor. My address is 3155 Monroe Street,

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1 N.E.

2 MR. SOREL: My name is Robert
3 Sorel, 3153 Monroe Street, N.E.

4 ACTING CHAIRPERSON SORG: Mr.
5 Sorel, I believe that we have received a
6 letter from you.

7 MR. SOREL: Yes, you have.

8 ACTING CHAIRPERSON SORG: Okay.
9 And among those of you on my right, is there
10 one person who is the representative for your
11 interest as a group?

12 MR. POLES: No, I think we're
13 speaking individually in opposition of. Oh,
14 yes, excuse me. If I may, I'm sorry. Our ANC
15 wanted to be here, but could not be. I don't
16 know whether or not she contacted you, but she
17 informed us at our last meeting that she would
18 not be here. That's why you see us here as
19 well.

20 ACTING CHAIRPERSON SORG:
21 Absolutely, we have gotten communication from
22 her and all we're considering right now is the

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1 request for postponement.

2 Okay. And so that said, what
3 we're going to do is we're going to find out
4 does anybody -- first, Mr. Sikder, do you have
5 any comments regarding the request for
6 postponement or any issues regarding that?

7 MR. SIKDER: No, I do not see any
8 reason to postpone.

9 ACTING CHAIRPERSON SORG: Okay.
10 And the individuals wishing to testify in
11 opposition, do you have any issues or
12 opposition regarding the request for
13 postponement? Are you in favor of such?

14 MR. SOREL: Not in favor of
15 postponement.

16 MR. POLES: Not in favor.

17 ACTING CHAIRPERSON SORG: So, you
18 all would like to go forward today?

19 ALL: Yes.

20 ZC CHAIR HOOD: Madam Chair, I
21 think we have a request and I hear them ready
22 to move forward today. We have a request from

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1 the ANC Commission and by law, we're suppose
2 to give weight and I understand she has a
3 letter. I'm actually in favor of the
4 postponement. As soon as I find -- get it
5 back in my hands.

6 Because as already stated in the
7 ANC's Chairperson's letter that we had, she
8 would like to have been here. Would have been
9 here. By no fault of hers, the Board moved it
10 another week. Also, she was planning to be
11 here on the 27th. We had to move it to
12 another week and I think in fairness of
13 looking at her submittal and not discounting
14 anyone else's submittal, but looking at her
15 submittal, I think that due diligence and the
16 work that the ANC has put in because they are
17 the representatives of the area.

18 I mean it's good to have the
19 community down here also, but I think that the
20 work that's been put in by the ANC. The book
21 that we've been given. Chairperson, I would
22 like to afford her the opportunity to come

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1 down and represent the Commission.

2 Mr. Sikder, you know, I'm suppose
3 to give them great weight and I understand the
4 community and I can understand this is putting
5 them at a disadvantage to have them come down
6 again, but I would tell you I would -- I think
7 because of no fault of hers that we had to
8 move this, I would like to see us -- I'm in
9 favor of postponing.

10 ACTING CHAIRPERSON SORG: Thank
11 you, Mr. Hood.

12 I agree and also would note that
13 Ms. Grant is the official representative of
14 the ANC based on their report from them which
15 is our Exhibit Number 23.

16 So, I agree with your sentiments
17 and also appreciate that the community has
18 come down as well as Mr. Sikder, but I also
19 agree that, you know, it was the Board who
20 rescheduled the meeting on relatively short
21 notice due to an unavoidable conflict.

22 As well, we have another

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1 preliminary matter in the case to address
2 later of some late filings by the Applicant
3 which were received on July 30th which I do
4 not know if they have been served on the ANC,
5 but also I don't believe that that allows
6 enough time to review the revised plans that
7 were submitted.

8 So, for those two reasons as well
9 as that stated by Mr. Hood that, you know, the
10 ANC representative is very interested in
11 testifying in this case and was planning to do
12 so and I agree that postponement in this case
13 is a good idea.

14 Mr. Dettman, do you have anything
15 to --

16 MEMBER DETTMAN: Oh, I agree with
17 the postponement and would like to recommend
18 although those who have come down today are
19 not parties and are not seeking party status
20 to ask Mr. Sikder to serve the revised plans
21 on the people that are here in the audience
22 today as well as the ANC and everyone else.

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1 ACTING CHAIRPERSON SORG: I agree.

2 Thank you, Mr. Dettman.

3 Mr. Sikder, have you sent the
4 revised plans to the ANC?

5 You need to turn your microphone
6 on please.

7 MR. SIKDER: No, we -- yes, we
8 mailed it, but I'm going to send by email to
9 Ms. Grant, everyone else and maybe I don't
10 have their address unless I can get it.

11 ZC CHAIR HOOD: Well, Mr. Sikder,
12 they're all right here right now. What a
13 better time to work with them and get all that
14 information so when you come back, you know,
15 and I'm glad you brought that up, Chairperson
16 Sorg. Because I didn't know that they didn't
17 have the advance plan. That's even more
18 reason to postpone.

19 Do you all have the revised plans?
20 Well, we don't need to go forward. That's
21 more reason.

22 ACTING CHAIRPERSON SORG: Okay.

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1 Great. Well, I'm glad that you guys are --
2 you're going to work together on this and
3 serve the revised plans on everybody.

4 MR. SIKDER: The reason is that
5 because of recommendations from OP, it was too
6 late to revise. It took a long time. So, as
7 a result, truly I couldn't serve it all here.

8 ACTING CHAIRPERSON SORG:
9 Absolutely, we're aware and I do know that the
10 revised plans take care of most of the
11 concerns that OP had in their report. So,
12 it'll be a good idea perhaps that you can work
13 with the community based on that.

14 I also wanted to ask my fellow
15 Board Members if there was other information
16 that we wanted to request from the Applicant
17 in this case prior to the rescheduled hearing.

18 MEMBER DETTMAN: Ms. Sorg, there's
19 just one other question I had. It goes to the
20 relief that's being sought and there was a
21 note on page 2 in the Office of Planning's
22 report that says area variance relief appears

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1 also to be required from Section 201 because
2 a semi-detached dwelling is not listed as a
3 residential use allowed as a matter of right
4 in the R-1 District.

5 I just wanted to ask quickly, Mr
6 Jackson, it sounds to me like if it's not a
7 use that's allowed in the R-1 that would be a
8 use variance that would be necessary. So, I
9 was just wondering how you approach that.

10 MR. JACKSON: All right. Good
11 morning, Members of the Board.

12 Previous experience has been that
13 when we've tried -- when we've proposed
14 changes to an allowable use that's residential
15 that's not listed on the allowable uses in a
16 particular zone that the -- we've been advised
17 that it's not a use change because it
18 continues to be a residential use. It's the
19 character of the residential use that's in
20 question.

21 MEMBER DETTMAN: Okay.

22 MR. JACKSON: A semi-detached

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1 dwelling or a dwelling with one side yard is
2 not a listed use per se, but the residential
3 use one-family dwelling is allowable use in
4 the District.

5 MEMBER DETTMAN: Okay. Okay.

6 MR. JACKSON: So, that's the
7 distinction we're making.

8 MEMBER DETTMAN: So, essentially a
9 semi-detached and detached is -- they're both
10 one family dwellings?

11 MR. JACKSON: Yes.

12 MEMBER DETTMAN: And so, in this
13 case, we're looking at a one-family detached
14 dwelling with no side yard on one side?

15 MR. JACKSON: Correct.

16 MEMBER DETTMAN: So, should we --
17 I know that relief from the side yard
18 requirements is being requested already. So,
19 are we looking at the right amount of relief?
20 Do we really need to do an area variance for
21 a semi-detached dwelling or are we really just
22 looking at a one-family dwelling with no side

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1 yard on one side?

2 MR. JACKSON: Well, that -- we'd
3 leave that as a call for the Board.

4 MEMBER DETTMAN: Okay.

5 MR. JACKSON: But, we thought for
6 the sake of being conservative and trying to
7 cover all the possible relief we'd highlight
8 that for your attention.

9 MEMBER DETTMAN: Okay. No, I
10 appreciate that. It's a very good point on
11 OP's report.

12 Madam Chair, I think the relief
13 that's been requested is proper. I don't
14 think we need to add in an area variance for
15 a use that's typically not allowed. It's a
16 one-family dwelling and that's maybe how we
17 should just look at it. Whether it's detached
18 or semi-detached really shouldn't matter.

19 ACTING CHAIRPERSON SORG: I agree.
20 Thank you, Mr. Dettman.

21 MEMBER DETTMAN: We could put a
22 footnote in. If the Board is inclined to

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1 improve this at the end of the day, we could
2 put a footnote saying we address this and that
3 no relief to establish this semi-detached
4 dwelling is necessary. We could do something
5 like that.

6 ACTING CHAIRPERSON SORG: Okay.
7 Thank you, Mr. Dettman. I agree. Those are
8 questions that we can also get into, but good
9 to clarify the relief that's required here.

10 Okay. So, since we have
11 consensus, the Board will postpone the hearing
12 for this application.

13 Mr. Moy, when does it look like we
14 have space in the schedule to hear this case?

15 MR. MOY: Well, Madam Chair, in
16 the ANC's file and motion for request, it was
17 indicated that the ANC Chair would be
18 available for either September 14th or
19 September 21st. My suspicion is the --
20 although the Applicant can speak for himself,
21 that as soon as possible I suppose. So, staff
22 would recommend September 21st in the

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1 afternoon.

2 ACTING CHAIRPERSON SORG: Thank
3 you, Mr. Moy.

4 Mr. Sikder, are you available on
5 September 21st and those of you wishing to
6 testify September 21st good for you? I see
7 nodding of heads for two.

8 Because we have individuals
9 testifying in opposition and there are several
10 of you, there are a couple of options. We do
11 have a tight schedule and we try to
12 accommodate everybody, but perhaps what we can
13 do is you can submit letters into the record
14 and also if you wanted to get together an
15 organize to have one representative if your
16 concerns are similar, that's something that
17 you also have the choice of doing.

18 Okay. Do any other Board Members
19 have anything to add?

20 ZC CHAIR HOOD: Yes, Chairman
21 Sorg. I just wanted to ask Mr. Sikder. Have
22 you met with the ANC. Because -- did you go

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1 out and physically meet with them and discuss
2 your plans?

3 MR. SIKDER: Yes.

4 ZC CHAIR HOOD: Okay. Okay. All
5 right. Thank you.

6 ACTING CHAIRPERSON SORG: One
7 follow-up. Thank you, Mr. Hood. That's --

8 MR. SIKDER: But, the only thing
9 is the plan we showed right now is the house
10 is smaller than previous version. So, this
11 I'm going to give them the new revised
12 drawings.

13 ACTING CHAIRPERSON SORG: Okay.

14 MEMBER DETTMAN: Mr. Sikder, just
15 so I understand. The ANC hasn't seen the
16 revised plans either? I think you said no.

17 MR. SIKDER: No.

18 MEMBER DETTMAN: Okay. Do you
19 know when the ANC meets again?

20 MR. SIKDER: No.

21 MEMBER DETTMAN: You don't.

22 Mr. Moy, do you know when the ANC

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1 would meet again?

2 ZC CHAIR HOOD: They meet the
3 fourth Wednesday of every month.

4 MEMBER DETTMAN: Fourth Wednesday.

5 ZC CHAIR HOOD: Yes.

6 MEMBER DETTMAN: Is that before
7 the date that we're looking at?

8 ZC CHAIR HOOD: Yes, that's going
9 to be before the date. Their next meeting, I
10 think, is the fourth Wednesday of September.

11 MEMBER DETTMAN: Okay.

12 ZC CHAIR HOOD: I'm a little
13 familiar with this ANC.

14 MEMBER DETTMAN: Mr. Sikder, I
15 would recommend going to the ANC again, doing
16 another presentation.

17 MR. SIKDER: Sure. I do that.

18 MEMBER DETTMAN: Getting as many
19 eyes looking at this plan as possible.

20 MR. SIKDER: Sure.

21 ZC CHAIR HOOD: You know, Mr.
22 Dettman, I think when I look at this I know

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1 that this is a lot of her single -- and I
2 won't be participating on this case, but I
3 know that -- when it comes back, but I know
4 that a lot of the members here are her single
5 member district.

6 The full ANC I wanted to say is
7 the fourth Wednesday of the month in
8 September. I'm not sure when -- the single
9 member district meets the second Tuesday.

10 MEMBER DETTMAN: Okay. The full
11 ANC is the fourth Wednesday?

12 ZC CHAIR HOOD: The fourth
13 Wednesday. You know I'm not sure. Looking at
14 the letter I think even with the revised plan
15 she still has the authority to come either way
16 I believe. The way I read the letter.

17 MEMBER DETTMAN: Okay.

18 ACTING CHAIRPERSON SORG: Okay.
19 Well, perhaps we can reach a compromise here.

20 Since the ANC has met and
21 submitted a letter on the plans that were
22 submitted prior and you are going to serve the

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1 new plans on the ANC as well as those
2 individuals in opposition, why don't we think
3 about waiting until after the single member
4 district meeting which is going to be on
5 September 14th so that she can have a chance
6 to sit down -- you can have a chance to sit
7 down with her, present those plans to that
8 meeting and maybe we can then schedule our
9 meeting for September 21st.

10 Does that look okay, Mr. Moy?

11 MR. MOY: Oh, absolutely.

12 ACTING CHAIRPERSON SORG: Okay.

13 And how about those of you in opposition?
14 September 21st works for you? Some shaking of
15 heads. Some nodding of heads. But, I will
16 remind you that we will duly note you
17 testimony submitted in writing as well and,
18 Mr. Sikder, September 21st is okay for you
19 also?

20 Okay. I think we will then
21 postpone this case until September 21st.

22 Any other Board Members have any

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1 comments?

2 MEMBER DETTMAN: Just that -- was
3 it Mr. Sorel? In addition to providing us you
4 testimony in writing, if you have an
5 opportunity to talk to your SMD or the ANC
6 representative, you can get your concerns
7 addressed and voiced through them as well.

8 MR. SOREL: But, I can submit more
9 in writing as well since it's been postponed?

10 MEMBER DETTMAN: Certainly.

11 ACTING CHAIRPERSON SORG:
12 Certainly.

13 MR. SOREL: Thank you.

14 ACTING CHAIRPERSON SORG: Then we
15 should also establish a deadline for filings
16 for the postponed meeting. Which would be?

17 MR. MOY: If the Board desires,
18 perhaps that Thursday prior to September 21st.
19 Which would be 18th, 17th -- the 16th I
20 believe.

21 ACTING CHAIRPERSON SORG: Okay.
22 Does that give everyone enough time? You can

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1 -- Mr. Sikder will serve the revised plans on
2 you. You can make your comments and submit
3 any written testimony or other information
4 that you would like into the record. Okay.

5 All right. Thank you very much.

6 Yes, Mr. Sikder. Can you turn on
7 your mike please?

8 MR. SIKDER: I mean it will be
9 okay to bring my revised plans at the ANC
10 meeting?

11 ACTING CHAIRPERSON SORG: I would
12 suggest since all of you are in the same room
13 today and you're being handed the witness
14 cards that have the contact information for
15 the people sitting here that you might email
16 it to them.

17 MR. SIKDER: Email. Yes.

18 ACTING CHAIRPERSON SORG: If
19 that's acceptable. So that they have plenty
20 of time to look at everything and everyone is
21 on the same page with regard to the project
22 here.

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1 MR. SIKDER: Sure.

2 ACTING CHAIRPERSON SORG: Okay.

3 All right. Thank you very much.

4 Okay. Ms. Bailey, can we call the
5 first case please?

6 MS. BAILEY: Madam Chair, the
7 first case -- good morning to everyone.

8 ACTING CHAIRPERSON SORG: I'm
9 sorry. Good morning.

10 MS. BAILEY: The first case is
11 Application 18093. It's the Application of
12 Darryl Smith and it's pursuant to 11 DCMR
13 Section 3104.1 for a special exception to
14 allow a rear addition to an existing one-
15 family detached dwelling under Section 223,
16 not meeting the side yard requirements at
17 Section 405. The property is zoned R-4. It's
18 located at 4100 Grant Street, N.E., Square
19 5077, Lot 14.

20 ACTING CHAIRPERSON SORG: Thank
21 you, Ms. Bailey.

22 Anybody wishing to testify in this

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1 case come down and take a seat. You can take
2 a seat or you can stay there. Either way.

3 MR. SMITH: Good morning.

4 ACTING CHAIRPERSON SORG: Good
5 morning. Can you introduce yourself to the
6 record please?

7 MR. SMITH: My name is Darryl
8 Smith. I live at 4100 Grant Street, N.E.

9 ACTING CHAIRPERSON SORG: Thank
10 you. Are there any preliminary matters in
11 this case? I forgot to ask.

12 MR. MOY: Yes, Madam Chair.
13 There's the issue of posting requirement
14 pursuant to 3113.14 and 3113.19.

15 ACTING CHAIRPERSON SORG: Right.
16 Thank you, Mr. Moy.

17 Okay. This is something that
18 we'll have to take up first. We've just
19 received your affidavit of posting. Can you
20 talk about what happened there? Did you post
21 the signs? When did that happen?

22 MR. SMITH: I didn't realize that

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1 I had to come and pick up the signs and I was
2 called a week before on the 27th to come and
3 pick up the signs and then I posted then
4 immediately and returned with photos and a
5 filled out affidavit which I had notarized.
6 So, I accept responsibility for not putting
7 those up on time.

8 ACTING CHAIRPERSON SORG: Okay.
9 Thank you. I see that the date of posting is
10 July 29th, 2010. So, that makes it about ten
11 days late.

12 But, I understand especially in a
13 case like this which is fairly minimal in the
14 relief that's being requested that there are
15 other ways that we reach out to the
16 surrounding community. I know that there's no
17 opposition in this case.

18 Have you spoken to your neighbors?
19 Do we have --

20 MR. SMITH: Yes, I've spoken to
21 most of my neighbors. I have signed letters
22 from neighbors on either side of the house in

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1 support of the extension and the amount that
2 I need to have done.

3 I turned those in yesterday. I
4 have copies here as well.

5 ACTING CHAIRPERSON SORG: Right.
6 I see that now. We have two letters in
7 support of the project from the adjacent
8 neighbors in our Exhibits Number 24 and 25.

9 In addition, I'm of the opinion
10 that the Board can waive our rules with regard
11 to posting in this case. That the property
12 was posted although a little bit late. We
13 have support for the application. No
14 opposition and, of course, we have other ways
15 of reaching out to the community with the
16 letters sent by the Office of Zoning to the
17 ANC and other agencies and members of the
18 community.

19 Does any other Board Members have
20 any other comments?

21 ZC CHAIR HOOD: Madam Chair, I
22 would agree with your assessment.

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1 ACTING CHAIRPERSON SORG: Okay.
2 Thank you. So, I think we can move forward on
3 this case today.

4 There is one other issue here and
5 that's regarding the relief that is needed.
6 You've received a copy of the OP report?

7 MR. SMITH: No, I haven't.

8 ACTING CHAIRPERSON SORG: Okay.
9 In the report that the Office of Planning
10 submitted for this case, there's a couple of
11 questions about whether the relief that's
12 requested in your application is all that's
13 needed.

14 So, what we can do is we can have
15 you make your statement and then we can turn
16 to the Office of Planning to hear what their
17 report is and then we can talk about whether
18 or not you need to or want to amend your
19 application for the zoning relief that they
20 are indicating that you may require. Okay.

21 MR. SMITH: Okay. Okay. The
22 statement as far as -- because I'm not clear.

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1 As far as how much distance on the sides of
2 the house or --

3 ACTING CHAIRPERSON SORG: Whatever
4 you may have come prepared to talk about with
5 regard to the project and, you know, what it
6 is and why you may need the relief and what's
7 unique about your property that --

8 MR. SMITH: Okay. What I'm --
9 what my intentions are is to extend the back
10 of the house. It's in very bad condition.
11 It's also very small.

12 The kitchen area is only like
13 probably about 36 square feet and I'd like --
14 I'm only being allowed 5 feet of an extension.
15 I would like to go back 12 feet.

16 The problem is -- the problem that
17 -- excuse me. The problem that's being
18 brought to my attention is that one side of
19 the house is very close to another side of the
20 house. It's only about 5 feet distance.
21 That's the opposition.

22 I brought this to the attention of

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1 the neighbor. She says she has no issues with
2 my going back 12 feet. I have a signed letter
3 as you already have.

4 And I'm hoping that, you know, by
5 doing this I can enhance the neighborhood,
6 bring up the property values for myself as
7 well as everyone else. That's the advantages
8 I see to my -- to having this done by 12 feet.

9 I've talked to several other
10 neighbors verbally besides those two and I
11 have no opposition from any of them that I've
12 encountered so far.

13 I've talked to the -- met with the
14 head of the ANC. I've had her over to see the
15 house herself. She has no opposition. Still
16 waiting to get a letter of, you know, support
17 from her and that was all I have to say.

18 ACTING CHAIRPERSON SORG: Do you
19 know if the ANC had a meeting or if they plan
20 to meet? Did you discuss that?

21 MR. SMITH: I asked her about
22 coming down. She said she would send a letter

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1 down in support. She also promised to send me
2 a letter. I didn't get that. So, I called
3 her two days before. I didn't get, you know,
4 and she said she would have the letter for me,
5 drop it in my mailbox. That didn't happen.
6 So, I decided to proceed, you know, as planned
7 and yes.

8 ACTING CHAIRPERSON SORG: That's
9 okay. We have your testimony now on record
10 that you did meet with your ANC representative
11 and discussed the project and that your
12 testimony is that she was supportive of the
13 project. So, that's in the record and now, in
14 your testimony.

15 MR. SMITH: Okay.

16 ACTING CHAIRPERSON SORG: Do any
17 Board Members have questions for the
18 Applicant? No? Okay.

19 Then at this time, I think we can
20 turn to the Office of Planning for their
21 report.

22 MR. JACKSON: Good morning again.

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1 I am substituting for the actual staff person,
2 Paul Goldstein, who prepared this report.
3 He's ill today. So, I will sit here in his
4 stead.

5 And as his report states, the
6 Office of Planning recommends approval of the
7 application pursuant to Section 223 to permit
8 the proposed rear addition at 4100 Grant
9 Street, N.E.

10 We support relief from the side
11 yard requirements and the 2001.3 with regard
12 to the extension of a nonconforming side yard.

13 The issue we have though is that
14 the Applicant -- we'd like the Applicant to
15 confirm exactly how much relief is needed
16 because there is slight variations in the side
17 -- on the plans as submitted with regard to
18 the distance from the side yard. It's either
19 between 5 and 510 to the west, 210 and 360
20 east.

21 These are minor, but we want to
22 make sure that there's enough leave provided

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1 -- the minimum leave provided to get the plans
2 approved when they're submitted for
3 construction.

4 In addition, we think that the --
5 because the side yards are narrow that it
6 increases the lot occupancy of the proposed
7 building to 50 percent, but because 223 allows
8 up to 70 percent, we are also supportive of
9 providing that relief.

10 In the alternative, the Board
11 could grant relief up to the maximum dimension
12 that's allowed in either case on the east or
13 the west side which would allow flexibility
14 for the zoning reviewer to decide on the
15 submission of plans what the actual relief is.
16 So, we're just throwing that out as a
17 possibility.

18 In any case, that's a brief
19 summary of the Office of Planning report and
20 highlighting the issues that we have raised
21 and we are available to answer any additional
22 questions the Board may have.

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1 ACTING CHAIRPERSON SORG: Thank
2 you very much.

3 Do any Board Members have
4 questions for the Office of Planning? Mr.
5 Smith, do you have questions for the Office of
6 Planning?

7 MR. SMITH: No.

8 ACTING CHAIRPERSON SORG: Okay.
9 Thank you.

10 MEMBER DETTMAN: Mr. Smith, do you
11 happen to know what the exact dimensions of
12 the side yards are today and what they will be
13 for the addition? I think that's a question
14 OP is asking.

15 MR. SMITH: Okay.

16 MEMBER DETTMAN: I think the
17 discrepancy is between our Exhibit Number 2
18 which is the plat that you submitted and our
19 Exhibit 4 which is your self-certification.

20 MR. ALLEN: Good morning, Madam
21 Chair. My name is Lloyd Allen. I am the
22 engineering contractor on this project. I can

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1 probably answer these questions a little bit
2 clearer than Mr. Smith.

3 ACTING CHAIRPERSON SORG: Great.

4 MR. ALLEN: Okay.

5 ACTING CHAIRPERSON SORG: Before
6 you proceed, can you identify yourself for the
7 record please?

8 MR. ALLEN: Yes. My name is Lloyd
9 Allen. My address is 743 Nova Avenue, Capitol
10 Heights.

11 ACTING CHAIRPERSON SORG: Thank
12 you. Go ahead.

13 MR. ALLEN: Okay. Yes, on the
14 side measurements, there were two different
15 measurements that were supplied. I think the
16 original was on the plat from downtown and
17 then Mr. Smith was contacted by I think the
18 zoning BZA concerning getting measurements and
19 he gave them one where he said that it was 9
20 feet 5 inches on one side and 4 feet -- I mean
21 5 feet 4 inches on the other side.

22 He thought you were talking about

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1 from his house to his neighbor's house not the
2 property line. So, that's where the
3 discrepancy is on there.

4 That clears up what your concerns
5 are on that?

6 MR. JACKSON: All right. Just to
7 clarify, so the dimensions on the plat are
8 correct?

9 MR. ALLEN: They're pretty close.
10 Because there's a fence that divides the two
11 properties and the undulations of the fence,
12 you know, sometimes they're 3 feet 10 and then
13 it narrows and then it widens out again. So,
14 you know, sometimes I think it comes into
15 about 3-2 or something like that. Then it
16 goes back out. So, and, you know, to have --
17 to come out there with a surveyor to get the
18 corrections, I don't think either party, Mr.
19 Smith or either of his neighbors on either
20 side, would have an issue with that at all.

21 MR. JACKSON: So, Madam Chair, if
22 he is -- he's stating simply that the plat is

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1 the most correct document, we would defer to
2 the plat.

3 MEMBER DETTMAN: And so, the
4 second question here is that now that we've
5 established that the plat's correct, the last
6 question OP had went to lot occupancy.

7 On your self-certification, you
8 say that the proposed construction will have
9 a 40 percent lot occupancy.

10 MR. ALLEN: Yes. Yes, it would
11 be.

12 MEMBER DETTMAN: But, that's not
13 including the nonconforming side yard which
14 counts toward lot occupancy. Is that correct?

15 MR. ALLEN: I think that would
16 include. I think it's just -- I think it's
17 just under like 39 something.

18 Unfortunately, the architect who
19 did this project is out of the country right
20 now and I'm not sure -- he's down in Haiti to
21 be exact and I'm not sure when he's coming
22 back to the U.S.

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1 MEMBER DETTMAN: Mr. Jackson, did
2 you take a look at this and by incorporating
3 the side -- the nonconforming side yard, did
4 you come up with a number that was above the
5 matter-of-right lot occupancy?

6 MR. JACKSON. Well, yes.
7 Actually, Mr. -- well, the Applicant -- the
8 staff person who actually worked on this
9 application did a calculation and he came up
10 with 50 percent.

11 MEMBER DETTMAN: Okay.

12 MR. JACKSON: Including the 3 foot
13 side yard. But, now, what's the actual depth
14 of the building?

15 MR. ALLEN: The actual depth of
16 the existing building, there is a 42-foot --
17 from the end of the building to the fence line
18 for the alley is 42 feet. We are proposing to
19 go back 12 feet within that 42 feet. So,
20 after construction, he would have roughly
21 about 30 feet to the end of the -- to end of
22 the yard.

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1 MR. JACKSON: All right. So,
2 that's 42 plus 12?

3 MR. ALLEN: No, 42 minus 12 which
4 would be 30 after completion of the addition.

5 MR. JACKSON: Okay. So, what's
6 the depth of the building? Total depth of the
7 building with the addition?

8 MR. ALLEN: With the addition, it
9 would be -- what is it? If you give me a
10 moment.

11 MR. JACKSON: I guess the question
12 is on the plat is one 5 feet? One side yard
13 5 feet and the other's 3?

14 MEMBER DETTMAN: According to the
15 plat, one side yard is 5 feet. The other one
16 is 3½ feet.

17 MR. ALLEN: Are you talking about
18 the side yard or are you talking about the
19 depth of the back yard?

20 MR. JACKSON: Well, what we'd have
21 to do is -- what we normally would do is take
22 the total depth of the building --

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1 MR. ALLEN: Um-hum.

2 MR. JACKSON: -- and the distance
3 from the -- the width of the building plus the
4 5 -- plus the 3 feet.

5 MR. ALLEN: Okay.

6 MR. JACKSON: And use that as a
7 basis for determining the lot occupancy.

8 MR. ALLEN: Okay.

9 MR. JACKSON: I would think we
10 would just add in the 3 feet -- the 3½ feet
11 because it's less than 5.

12 MR. ALLEN: The actual depth of --
13 the total depth of the building would be 43.8
14 feet and that would be from the front wall all
15 the way to the perimeter of the back wall of
16 the addition.

17 MR. JACKSON: And then that would
18 be 3½ plus 21½. So, that would be 25 feet
19 including the side yard. The width of the
20 building plus the side yard would be 25 feet.

21 MR. ALLEN: Yes. Yes, that would
22 be. Because the actual -- the width of the

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1 building right now is 21.6 feet and then you
2 have on one side which would be the sidewalk
3 side is the roughly 6 feet -- 5-10 to 6 feet
4 and then on the other narrow side is 3. --
5 yes, 3.5 feet.

6 MEMBER DETTMAN: Mr. Jackson, does
7 the front porch need to be included in lot
8 occupancy?

9 MR. JACKSON: Yes. The front
10 porch is covered. Correct?

11 MR. ALLEN: And that was one of
12 the issues that I had with -- Mr. Clark is the
13 architect. We discussed this with the Zoning
14 down on 9th and K and they said that to -- if
15 we -- if we were to remove the roof on that --

16 MR. JACKSON: Yes.

17 MR. ALLEN: -- then that would not
18 be included into the equation.

19 MR. JACKSON: So, it's -- the
20 floor of the front porch is less than 4 feet
21 above ground?

22 MR. ALLEN: Yes.

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1 MR. JACKSON: Okay. Are you going
2 to remove the roof?

3 MR. ALLEN: Yes.

4 MR. JACKSON: Okay. Well, then it
5 would not be included.

6 MEMBER DETTMAN: Okay. Ms. Sorg,
7 can I just make a recommendation. Perhaps we
8 can take a five-minute break and let the
9 Applicant and OP figure out what the lot
10 occupancy is.

11 I don't think this affects our
12 analysis whatsoever. We want to make sure
13 that if you do need lot occupancy relief we
14 include it in our 223 analysis so that when
15 you get to the ZA he doesn't kick you back
16 here.

17 So, we could just --

18 ACTING CHAIRPERSON SORG: I agree,
19 Mr. Dettman. Thank you for that suggestion.
20 We'll take a five-minute break.

21 (Whereupon, at 11:42 a.m., off the
22 record until 11:50 a.m.)

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1 ACTING CHAIRPERSON SORG: Okay.
2 It looks like we have gotten our math figured
3 out here.

4 Do you want to -- who would like
5 to address what we figured out? Okay. Great.

6 MR. JACKSON: Well, after
7 discussions with the Applicant, we decided
8 that there interest is in retaining the roof
9 on the porch. So, we figured it to be 46
10 infraction. So, we think 47 percent lot
11 occupancy would be adequate to cover all the
12 proposed use. The building with the porch and
13 the addition.

14 ACTING CHAIRPERSON SORG: Great.
15 Thank you.

16 Do Board Members have any other
17 questions for the Applicant or for the Office
18 of Planning? Okay.

19 In this case, we have not received
20 a letter from the ANC and I don't see anybody
21 in the audience here who I think is from the
22 ANC for this property, but we will note that

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1 the Applicant has testified that he met with
2 his ANC representative. They toured the house
3 and heard about the project and were
4 supportive in conversation.

5 And also looking out in the
6 audience and I don't believe there's anyone
7 else here to testify in support or opposition
8 of the project and I'll note that we received
9 two letters from the immediate neighbors in
10 support of the project. That's our Exhibit
11 Number 25 and Number 24. Those were received
12 on August 2nd.

13 Mr. Smith, do you have any closing
14 remarks?

15 MR. SMITH: Not at this time.

16 ACTING CHAIRPERSON SORG: Okay.
17 Thank you.

18 Okay. I think that after the
19 testimony that we've heard today the record in
20 this case is sufficient to deliberate on the
21 relief that is requested and is required. So,
22 what we'll do is we'll close the record now

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1 for this case and we can move into
2 deliberations and for that, I will turn to Mr.
3 Dettman.

4 MEMBER DETTMAN: Thank you, Madam
5 Chair.

6 I think as to the application
7 that's before us for an addition to an
8 existing single-family detached dwelling, I
9 think I'm going to simply incorporate by
10 reference the Office of Planning's report. I
11 think Mr. Goldstein's, through Mr. Jackson,
12 report pretty well spelled it out for us here.
13 It's a very small addition measuring 21½ by
14 12½ feet.

15 We've clarified through testimony
16 the actual width of the side yards which will
17 be -- which are and will be 5 feet on the west
18 and 3½ feet on the east. That's shown in the
19 plat. Our Exhibit Number 2.

20 We've also clarified whether or
21 not the application requires lot occupancy
22 relief under 403. Together with the existing

1 structure and the proposed addition, the
2 resultant lot occupancy will be 47 percent and
3 so, the application will require lot occupancy
4 as well which doesn't change our analysis. We
5 can do that all under 223.

6 And so, again, Madam Chair, I'm in
7 support of the application referring and
8 relying upon the Office of Planning's report
9 and I think I have nothing else to say.

10 ACTING CHAIRPERSON SORG: Thank
11 you, Mr. Dettman, for your remarks. I agree
12 completely that, you know, we can be in
13 support of this application. The record is
14 sufficient there and now that we've figured
15 out the relief that's required, we can make
16 sure to go forward with the -- to be
17 sufficient for the project.

18 Are there any other comments from
19 the Board?

20 Okay. And can I call for a -- is
21 there a motion in this case?

22 MEMBER DETTMAN: I'd move for

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1 approval of Application Number 18093 pursuant
2 to 11 DCMR 3104 for a special exception to
3 allow a rear addition to an existing one-
4 family detached dwelling under Section 223 not
5 meeting the side yard requirements of Section
6 405, the lot occupancy requirements of Section
7 403 as well as the nonconforming structure
8 provisions of 2001.3 for a premises located or
9 a house located at 4100 Grant Street, N.E.

10 ZC CHAIR HOOD: Second.

11 ACTING CHAIRPERSON SORG: Thank
12 you. A motion has been made a seconded. All
13 those in favor say aye.

14 (Ayes.)

15 ACTING CHAIRPERSON SORG: All
16 those opposed?

17 Mr. Moy, can you please read back
18 the vote?

19 MR. MOY: Yes, Madam Chair, staff
20 would record the vote as 3 to 0 to 2 on the
21 motion of Mr. Dettman to approve the
22 application for special exception relief

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1 Section 223 not meeting side yard and lot
2 occupancy requirements and nonconforming
3 provisions. Seconded by Mr. Hood, Chairman
4 Hood and also in support of the motion, Ms.
5 Sorg and two other Board Members not
6 participating.

7 So, again, the final vote is 3 to
8 0 to 2.

9 ACTING CHAIRPERSON SORG: Thank
10 you, Mr. Moy and I think in this case we can
11 call for a summary order.

12 MR. MOY: Very good.

13 ACTING CHAIRPERSON SORG: Thank
14 you and thank you, Mr. Smith. Good luck.

15 MR. SMITH: All right. Thank you.

16 MEMBER DETTMAN: Thank you to Mr.
17 Jackson for his expertise.

18 ACTING CHAIRPERSON SORG: And
19 thank you, Mr. Jackson for your good math.

20 Ms. Bailey, can we please call the
21 next case.

22 MS. BAILEY: Madam Chair, the next

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1 case is Application 18092. Application of
2 Renu Schmoyer and it's pursuant to 11 DCMR
3 Section 3104.1 for a special exception to
4 allow a home occupation. That's a wedding
5 cake and custom cake design bakery located in
6 an owner-occupied one-family dwelling. The
7 project is under Section 203 of the Zoning
8 Regulations. It is zoned R-4 and it's located
9 at 606 South Carolina Avenue, S.E., Square
10 875, Lot 39.

11 ACTING CHAIRPERSON SORG: Thank
12 you, Ms. Bailey.

13 I got one person in the audience.
14 So, if you'd like to come forward, have a seat
15 and identify yourself for the record please.

16 MS. SCHMOYER: My name is Renu
17 Schmoyer and I live at 606 South Carolina
18 Avenue, S.E., Washington, D.C.

19 ACTING CHAIRPERSON SORG: Thank
20 you very much.

21 One thing that we wanted to start
22 out with, Ms. Schmoyer, is when we were

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1 reviewing your application there was a
2 question that came up about whether or not a
3 special exception was sufficient relief for
4 what we're asking for here or based on the
5 fact that in the regulations a bakery is
6 specifically prohibited in the zone in which
7 your property lies. Which would force us to
8 consider this application or for the
9 application to be made under a higher
10 standard.

11 Is that something that you've had
12 discussions about or --

13 MS. SCHMOYER: I'm not sure what
14 you mean by a higher standard. That has never
15 -- not come up and I've not been informed of
16 such to date.

17 The letter that I had received
18 from the -- my initial application suggested
19 I go through the special exception process and
20 what I was told is that it's because what I'm
21 suggesting is neither -- actually fits neither
22 category. It's neither allowed nor

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1 prohibited. So.

2 ACTING CHAIRPERSON SORG: Okay.
3 I'm glad that you spoke about the conversation
4 that you had. That's great.

5 MEMBER DETTMAN: I think the
6 letter that you're referring to is from Mr.
7 LeGrant which is our Exhibit Number 5.

8 MS. SCHMOYER: Correct.

9 MEMBER DETTMAN: Okay. It's
10 interesting that in the letter Mr. LeGrant
11 indicates that the use of the subject premise
12 is for a "home bakery" and goes on to say that
13 since you're proposing a "bakery" use, that
14 use is prohibited under 203.9 and that you'd
15 require a special exception.

16 In fact, because a bakery is
17 specifically prohibited as a home occupation,
18 the regulations go on to say that only those
19 uses that are not permitted and not prohibited
20 can be allowed as a special exception. Since
21 it's specifically prohibited, it doesn't allow
22 us to view this as a special exception.

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1 MS. SCHMOYER: Well, in my
2 conversations with Mr. LeGrant, he said -- you
3 know, I explained to him that what I'm
4 proposing is a custom cake -- wedding cake
5 design business. It is not a bakery and it is
6 distinctly different from a bakery which is
7 zoned for a retail area because of the high
8 volume of traffic and so, he said I agree with
9 you and, therefore, you need to go through
10 this special exception process because it is
11 neither -- I can't say that you are -- you
12 don't fit the list of allowed and you don't
13 fit the -- you don't specifically fit the list
14 of not allowed. So, he agreed to that or he
15 said --

16 MEMBER DETTMAN: No, that's good
17 that you had that conversation.

18 I think for purposes of being
19 consistent with the regs and then going
20 forward and make it easier for the Board, I
21 mean we -- I would recommend that we don't
22 consider this a bakery because it's not and

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1 it's not defined in the regulations and the
2 regulations direct us to Webster's unabridged
3 and we read the definition of a bakery and
4 it's not what you're proposing and matter of
5 fact, part of the definition uses the term
6 retail establishment which you are not.

7 So, yes, you don't fit that, but
8 for us to say we're going to grant a special
9 exception for a bakery, I think that
10 contradicts the Zoning Regulations.

11 We looked at this this morning and
12 I think the regulations do give us the
13 flexibility in a different way in order to
14 move forward as a special exception.

15 I can kind of lay that out if
16 you'd like me to, Madam Chair.

17 ACTING CHAIRPERSON SORG: I think
18 that's -- please continue.

19 MEMBER DETTMAN: Okay. If you
20 look at 203.9, it says except as explicitly
21 permitted by 203.6 the following uses are
22 prohibited and it says an retail service or

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1 other use specified in 701.1 and 701.4 and
2 701.4 is where you see bakery. So, we can't
3 see this as a bakery, but if you look at 701.5
4 a provision that is not explicitly listed in
5 203.9, it says other service or retail use
6 similar to that provided for in 701.1 and
7 701.4 including et cetera, et cetera.

8 I think what you're proposing is
9 similar to a bakery, but it doesn't rise to
10 the level of actually being a bakery as
11 defined by Webster's meaning a retail
12 establishment.

13 So, I think that we can proceed as
14 a special exception under 203.10 to provide
15 for a use that is similar to a use that's
16 listed in 701.4 and that's found -- that
17 provision is 701.5.

18 ACTING CHAIRPERSON SORG: Thank
19 you, Mr. Dettman. I think this is, in my
20 opinion also, an excellent way to go forward.

21 Mr. Hood, do you have any comment
22 now or --

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1 ZC CHAIR HOOD: No, I just wanted
2 to know in Exhibit 6, did you actually design
3 the pullman car image? Is that one of your
4 designs?

5 MS. SCHMOYER: That's correct.

6 ZC CHAIR HOOD: Fantastic. That's
7 all I have.

8 MS. SCHMOYER: Thank you.

9 ACTING CHAIRPERSON SORG: Thank
10 you, Mr. Hood.

11 Well, I think what we -- now that
12 we've spoken about whether or not we believe
13 -- the Board believes that we can continue as
14 a special exception, we can move forward with
15 the process.

16 So, outside of that question which
17 we've discussed and I'm glad that you brought
18 up your conversation with the Zoning
19 Administrator. That's important. It was good
20 to hear. Outside of that, I think that the
21 record is very full.

22 We have plenty of letters of

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1 support from your neighbors and community. I
2 know that you've also got a letter from
3 Councilmember Wells, the Capitol Hill
4 Restoration Society. The ANC is in support of
5 you.

6 So, I think that the record is
7 very full here with regard to the project and
8 its benefit and the facts about it. So, you
9 can move forward with a statement or
10 presentation that you have prepared or the
11 Board can ask you specific questions that they
12 may have. However you prefer to proceed.

13 MS. SCHMOYER: I can just proceed
14 if you have specific questions.

15 ACTING CHAIRPERSON SORG: Okay.
16 Great. Do any Board Members have questions?
17 No, not at this time.

18 Okay. Then we'll turn to the
19 Office of Planning for their report and we'll
20 be interested to hear your thoughts on the
21 special exception. That discussion. Thanks.

22 MS. JACKSON: Good afternoon. For

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1 the record, my name is Arlova Jackson with the
2 Office of Planning.

3 We actually had a different
4 conversation in our office about whether or
5 not -- we questioned whether or not relief was
6 required at all. We actually didn't -- that
7 didn't come up about the bakery. I guess I
8 had a different reading of 203.10 than you did
9 and so, I kind of separated the two not
10 permitted versus prohibited and said that
11 since it was prohibited, that it would be
12 allowed as a special exception. So, that's
13 how we proceeded.

14 As is evident in our staff report,
15 OP recommends approval of the requested
16 special exception at 606 South Carolina, S.E.
17 We find the project meets the standards for
18 approval in Section 203. The business would
19 be secondary to the residential use, should
20 not have an adverse impact on neighboring
21 properties and wouldn't require any physical
22 changes to accommodate the use.

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1 So, we recommend approval for the
2 home occupation and would take any questions
3 you have at this time.

4 ACTING CHAIRPERSON SORG: Thank
5 you very much.

6 Do any Board Members have
7 questions for the Office of Planning? Ms.
8 Schmoyer, do you have any questions for the
9 Office of Planning?

10 MS. SCHMOYER: No.

11 ACTING CHAIRPERSON SORG: Okay.
12 Thank you.

13 Okay. Moving forward here, there
14 is not a member of the ANC present here, but
15 we have received a letter in support from the
16 ANC which is somewhere here. Which is our
17 Exhibit 26 in which the ANC met at a properly
18 noticed meeting with a quorum and voted
19 unanimously to support the application. So,
20 we can give great weight to the support of the
21 ANC in this case.

22 As I mentioned before, we also

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1 have a letter of support from Councilmember
2 Wells which is our Exhibit Number 29. As
3 well, a letter of support from the Capitol
4 Hill Restoration Society which is our Exhibit
5 Number 32 and several letters in support, very
6 descriptive letters in support I might add
7 from I think nearly all of the surrounding
8 neighbors including both of the immediate
9 neighbors which are our Exhibits 27, 25, 23
10 and 24. Oh, and as well a petition signed by
11 several other neighbors in our Exhibit Number
12 22.

13 And seeing no other witnesses or
14 individuals present to testify, do you have
15 any closing remarks that you'd like to make?

16 MS. SCHMOYER: No, not at this
17 time.

18 ACTING CHAIRPERSON SORG: Okay.
19 Great. So, as I mentioned, I think the record
20 and the testimony that we've received today
21 are sufficient for us to move into
22 deliberations and so, for that, I will again

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1 turn to Mr. Dettman.

2 MEMBER DETTMAN: Thank you, Madam
3 Chair.

4 I think I'll simply rely upon the
5 Office of Planning's report which is our
6 Exhibit Number 31 in lieu of taking us through
7 all of the provisions, the many provisions of
8 Section 203 which regulate home occupation.

9 The Office of Planning's report on
10 page 2 in terms of kind of summarizing what's
11 being proposed here, it says that the proposed
12 custom and wedding cake business which as
13 we've discussed is a use that we're
14 considering to be similar to a use that is
15 listed in 701.4 and that language is -- we're
16 looking to 701.5 for that guidance.

17 It's only going to use -- it's
18 only going to require the use of a small
19 portion of the kitchen and basement,
20 approximately 14 percent. The regulations
21 provide for 25 percent. All preparations,
22 storage and materials associated with the

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1 business will take place inside the house.

2 There will be no signage. There's
3 no onsite sales. There are no employees and
4 so, you know, again, this is a very small
5 operation that I don't see a potential for any
6 kind of adverse impact to the surrounding
7 community and in fact, it's widely supported
8 by the community.

9 You've noted we have a letter from
10 Councilmember Tommy Wells. It's our Exhibit
11 Number 29. The application has the support of
12 the Capitol Hill Restoration Society. That's
13 Exhibit 32. You have already mentioned the
14 ANC's support, Exhibit 26 and I won't go
15 through all of them, but we do have several
16 letters in support from the neighbors who the
17 only impact they could potentially identify
18 was the occasional scent of a freshly baked
19 cake wafting down the street and so, how can
20 you argue with that?

21 ACTING CHAIRPERSON SORG: That
22 sounds terrible.

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1 MEMBER DETTMAN: So, with that
2 said, I'm in support of the application and am
3 prepared to make a motion.

4 ACTING CHAIRPERSON SORG: Thank
5 you, Mr. Dettman. I completely agree with
6 your assessment and I actually have nothing to
7 add to that.

8 Do any other Board Members have
9 anything they'd like to add?

10 Okay. Then is there a motion?

11 MEMBER DETTMAN: I move for
12 approval of Application Number 18092 pursuant
13 to 11 DCMR 3104 for a special exception to
14 allow a home occupation being a wedding cake
15 and custom cake design establishment located
16 in an owner-occupied one-family dwelling under
17 Section 203 in the R-4 District at 606 South
18 Carolina Avenue, S.E.

19 ACTING CHAIRPERSON SORG: Is there
20 a second?

21 ZC CHAIR HOOD: I'll second.

22 ACTING CHAIRPERSON SORG: A motion

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1 has been made and seconded. All those in
2 favor say aye.

3 (Ayes.)

4 ACTING CHAIRPERSON SORG: All
5 those opposed? Mr. Moy, can you please read
6 back the vote?

7 MR. MOY: Yes, Madam Chair, staff
8 would record the vote as 3 to 0 to 2 on the
9 motion of Mr. Dettman to approve the
10 application for special exception 223 --
11 rather special exception 203 relief. Seconded
12 by Mr. Hood -- Chairman Hood and also in
13 support of the motion, Ms. Sorg. No other
14 Board Members participating. So, again, the
15 final vote is 3 to 0 to 2.

16 ACTING CHAIRPERSON SORG: Thank
17 you, Mr. Moy and I think we can call for a
18 summary order in this case as well.

19 MR. MOY: Excellent.

20 ACTING CHAIRPERSON SORG: Are
21 there any other matters for this morning
22 session?

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1 MR. MOY: No, Madam Chair.

2 ACTING CHAIRPERSON SORG: Okay.

3 Thank you. Then this concludes the morning
4 session and --

5 MS. SCHMOYER: Thank you.

6 ACTING CHAIRPERSON SORG: -- thank
7 you and good luck. This concludes the morning
8 session. We will adjourn and return at 1:30
9 for the afternoon session. Thank you
10 everyone.

11 (Whereupon, the hearing was
12 recessed at 12:14 p.m. to reconvene at 1:30
13 p.m. this same day.)

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A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

1:48 p.m.

ACTING CHAIRPERSON SORG: The hearing will please come to order. Good afternoon, ladies and gentlemen. This is the August 3rd, 2010 Public Hearing of the Board of Zoning Adjustment of the District of Columbia.

My name is Nicole Sorg, Vice Chairperson. Joining me today are Shane Dettman representing the National Capital Planning Commission and representing the Zoning Commission is Anthony Hood.

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 that you refrain from any disruptive noises or actions in the hearing room.

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

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

16 The order of procedure for special
17 exceptions and variances is (1) statement and
18 witnesses of the applicant, (2) Government
19 reports including the Office of Planning,
20 Department of Public Works and others, (3)
21 report of the Advisory Neighborhood
22 Commission, (4) parties and persons in

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1 support, (5) parties and persons in
2 opposition, (6) closing remarks by the
3 applicant.

4 Pursuant to Sections 3117.4 and
5 3117.5, the following time constraints will be
6 maintained. The applicant, appellant, persons
7 and parties except an ANC in support including
8 witnesses are allotted 60 minutes
9 collectively. Appellees, persons and parties
10 except an ANC in opposition including
11 witnesses are allotted 60 minutes
12 collectively. Individuals are allowed three
13 minutes. These time constraints do not
14 include cross examination and/or questions
15 from the Board.

16 Cross examination of witnesses is
17 permitted by the applicant or parties. The
18 ANC within which the property is located is
19 automatically a party in a special exception
20 or variance case. Nothing prohibits the Board
21 from placing reasonable restrictions on cross
22 examination including time limits and

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1 limitations on the scope of cross examination.

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

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

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

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

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

6 The Board will make every effort
7 to conclude the public hearing as near as
8 possible to 6:00 p.m. If the afternoon cases
9 are not completed at 6:00 p.m., the Board will
10 assess whether it can complete the pending
11 cases or case or cases remaining on the
12 agenda.

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

20 If you are not prepared to go
21 forward with a case today or if you believe
22 that the Board should not proceed, now is the

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1 time to raise such a matter.

2 Mr. Secretary, are there any
3 preliminary matters?

4 MR. MOY: Yes, there are, Madam
5 Chair, but small in nature. Staff would only
6 say that in the first two cases for the
7 afternoon, Case Number 18088 and 18089 there
8 are filings of additional statements or
9 information from the Applicants that are
10 untimely filed pursuant to the Zoning Regs in
11 3113.8.

12 ACTING CHAIRPERSON SORG: So,
13 let's take those case by case.

14 With that, would all individuals
15 wishing to testify today please rise and take
16 the oath.

17 Ms. Bailey, would you please
18 administer the oath?

19 MS. BAILEY: Please raise your
20 right hand?

21 Do you solemnly swear or affirm
22 that the testimony that you'll be giving today

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1 will be the truth, the whole truth and nothing
2 but the truth?

3 ACTING CHAIRPERSON SORG: Thank
4 you very much.

5 Ms. Bailey, will you please call
6 the first case?

7 MS. BAILEY: Thank you, Madam
8 Chair and good afternoon to everyone.

9 The first case is Application
10 18088. It's the application of M. Sikder and
11 it's pursuant to 11 DCMR Section 3103.2 for a
12 variance from the lot area and lot width
13 requirements under Section 401 and a variance
14 from the side yard requirements under Section
15 405 to allow the construction of a new one-
16 family dwelling -- detached one-family
17 dwelling. The property is zoned R-2. It's
18 located at 4411 Grant Street, N.E., Square
19 5130, Lot 33.

20 ACTING CHAIRPERSON SORG: Thank
21 you, Ms. Bailey.

22 Would all those wishing to testify

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1 for Case Number 18088 please come forward and
2 take a seat at the table? You can come
3 forward if you want. That's fine.

4 Hello, again. Starting from my
5 left.

6 MR. SIKDER: Yes, my name is
7 Mohammad Sikder and my address 6660 Tennyson
8 Drive, McLean, Virginia.

9 ACTING CHAIRPERSON SORG: Thank
10 you. Sir. Can you turn on your microphone
11 please? It's a button right in the center
12 under the stem I guess is -- there you go.

13 MR. WARE: Okay.

14 ACTING CHAIRPERSON SORG: You got
15 it.

16 MR. WARE: Good afternoon. My
17 name is James Ware. My address is 5711 Ottawa
18 Street, Oxon Hill, Maryland. The property I'm
19 here about is at 4415 Grant Street, N.E.
20 That's the property I own in D.C.

21 ACTING CHAIRPERSON SORG: Okay.
22 Is your property adjacent to the property in

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1 question?

2 MR. WARE: Yes.

3 ACTING CHAIRPERSON SORG: Okay.

4 And you're here in opposition or in support?

5 MR. WARE: Opposition.

6 ACTING CHAIRPERSON SORG: Okay.

7 Thank you, sir.

8 Sir, your property is in between
9 two properties that we're considering this
10 afternoon.

11 MR. WARE: Yes.

12 ACTING CHAIRPERSON SORG: Is that
13 correct? Okay. Thanks.

14 The first thing that we need to do
15 is consider the preliminary matter in this
16 case which is the late filing of the revised
17 plans. Those are -- I don't have an exhibit
18 number for those, but they were received I
19 believe on Friday, July 30th which is after
20 the filing deadline for this hearing.

21 Do you care to comment, Mr.
22 Sikder?

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1 MR. SIKDER: Yes, we had to revise
2 the drawing as per OP recommendation. That
3 took us some time.

4 ACTING CHAIRPERSON SORG: Okay. I
5 think that the Board can agree that to move
6 forward we can accept these filings into the
7 record. Does anybody else have any thoughts
8 about that? Okay. Then by consensus, we'll
9 allow this.

10 I still don't have an exhibit.
11 The revised drawings for 4411 Grant Street
12 into the record. That's Exhibit Number 25.

13 Okay. Mr. Sikder, we have your
14 file and statements. Do you have a prepared
15 presentation for this afternoon?

16 MR. SIKDER: Yes.

17 ACTING CHAIRPERSON SORG: Okay.
18 Go ahead.

19 MR. SIKDER: We own this property
20 at 4411 Grant Street, N.E. It has lot area
21 2513 square feet and 25 feet wide and in this
22 R-2 zone, in order to build a house, we need

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1 a variance of about 2487 square feet lot area
2 and 15 feet the lot width and 5 feet side
3 yard.

4 And we are seeking for this
5 variance and we are -- for this project, we
6 are providing three floors with 19 feet wide
7 width of the house and I mean as you can see
8 in the plan, it has the -- like a three
9 bedroom and two and a half bath.

10 Now, this property is unique by
11 reason for its exceptional narrowness,
12 shallowness, shape, topography or other
13 extraordinary -- I mean this is the
14 exceptional situation or condition.

15 The subject property is unique
16 because of an exceptional circumstance in that
17 the -- a lot was created prior to 1958 zoning
18 regulations. The new regulations clearly
19 dimensions for lot site is and lot width that
20 were greater than those of the existing lots.

21 Adjacent properties are already
22 double lot and in separate ownership. So,

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1 there is no opportunity to combine lots to
2 create a common lot and also, we are having
3 particular difficulty because the lot area and
4 lot width cannot be expanded because those
5 lots have different ownership and currently
6 double lot and variance would not -- actually,
7 the variance would not cause substantial
8 detriment to the public good and will not
9 impair the intent, purpose and integrity of
10 the Zoning Plan as embodied in the Zoning
11 Regulations.

12 And currently -- I mean also we
13 are providing parking in the back side.

14 So, that will conclude my
15 presentation.

16 If you have any question, then I
17 can answer to that.

18 ACTING CHAIRPERSON SORG: Thank
19 you, Mr. Sikder.

20 Do Board Members have any
21 questions for the Applicant? I see Mr.
22 Dettman nodding his head. So.

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1 MEMBER DETTMAN: Good afternoon,
2 Mr. Sikder. Some question about your
3 description of the variance test and how your
4 application meets the three prongs of the
5 variance test.

6 You testified that for your
7 exceptional condition or you had said your
8 uniqueness that the property was created prior
9 to 1958. Can you kind of describe why that's
10 exceptional?

11 MR. SIKDER: Because right now
12 this property cannot be expanded because the
13 lot is located in between two houses. So,
14 that will be practical difficulties.

15 MEMBER DETTMAN: Right. But, I'm
16 talking about your exceptional condition which
17 is the first prong of the variance test and as
18 you know, in order to meet that prong, the
19 property has to be exceptional. It has to
20 have some kind of exceptional condition. Some
21 people describe it as a unique condition and
22 basically, it can't be like others. Right.

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1 MR. SIKDER: Correct.

2 MEMBER DETTMAN: And in your
3 filing though, you said when the Zoning Act of
4 1958 was adopted, mostly all of the lots on
5 the subject square and many others in the area
6 were adopted with less than 4,000 square feet
7 of area in lot widths less than 40 feet. So,
8 in a sense, your lot is like every other lot
9 in the neighborhood.

10 So, how is that exceptional?

11 MR. SIKDER: Not every other lot.
12 There are some lots 40 feet. I mean most of
13 the houses -- most of the houses are there 40
14 feet actually.

15 MEMBER DETTMAN: Okay.

16 MR. SIKDER: And this particular
17 lot, we have less than that.

18 MEMBER DETTMAN: So, are you
19 saying -- so, you're saying it's not really --
20 it wasn't really the adoption of the Zoning
21 Regulations back in 1958, but rather it's
22 really the narrowness of your property.

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1 MR. SIKDER: That's correct. Yes.

2 MEMBER DETTMAN: Okay.

3 MR. SIKDER: Narrowness of the
4 property.

5 MEMBER DETTMAN: So, if the
6 exceptional condition is the narrowness --

7 MR. SIKDER: Narrowness. Correct.

8 MEMBER DETTMAN: -- and not the
9 adoption of the Zoning Regulations --

10 MR. SIKDER: Correct. Yes.

11 MEMBER DETTMAN: -- if your
12 exceptional condition is the narrowness, how
13 does the property's narrowness make it
14 practically difficult for you to build a
15 house?

16 MR. SIKDER: Yes, it's -- because
17 it's -- by current zoning law, we cannot built
18 a house with this narrow lot because --

19 MEMBER DETTMAN: Well, you just
20 testified that according to current zoning law
21 you can't build a house. That's not true.
22 You can build on this. You'd have a narrow

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1 house, but so what.

2 MR. SIKDER: No, of course, a
3 narrow house. You -- it would not be -- maybe
4 is not feasible to sell. Is not feasible to
5 actually even -- you have 25 feet my lot and
6 if you subtract 16 feet, 8 feet both sides --

7 MEMBER DETTMAN: Right.

8 MR. SIKDER: -- so, you're going
9 to have about 5 plus 9 feet -- 9 feet wide
10 house.

11 MEMBER DETTMAN: Okay.

12 MR. SIKDER: Maybe is not
13 practical. Maybe not be feasible.

14 MEMBER DETTMAN: Okay. All right.
15 I think that's good. You know, it's not what
16 you testified to. So, it's really -- it's the
17 narrowness of the property. That if you
18 strictly apply the Zoning Regulations, you'd
19 have an unacceptably narrow house.

20 MR. SIKDER: Yes, that's --

21 MEMBER DETTMAN: Okay. My last
22 question is about the third prong where you

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1 said that the project won't cause substantial
2 detriment to the public good or to the zone
3 plan, but you never articulated why.

4 MR. SIKDER: I mean it does not --
5 I mean it's not any -- it's not making any --
6 like the parking, won't have parking in the
7 back side. So, is not really hampering any on
8 the street. That's one reason I can say.

9 MEMBER DETTMAN: Did you look at
10 the house's proximity to other houses in the
11 neighborhood? How close it is to existing
12 homes? It's impact on light and air.

13 MR. SIKDER: There would be about
14 8 plus maybe 11 feet distance at least between
15 the other houses.

16 MEMBER DETTMAN: Um-hum.

17 MR. SIKDER: So, I would say that
18 would not make any hampering any light and
19 air.

20 MEMBER DETTMAN: Okay. Okay. How
21 does the design of this house compare to the
22 character of the neighborhood?

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1 MR. SIKDER: Yes, we have this --
2 now, this design on the same block. It's
3 similar, very similar house currently is
4 there.

5 MEMBER DETTMAN: One that you've
6 built or just things that exist?

7 MR. SIKDER: No, somebody else did
8 it.

9 MEMBER DETTMAN: Okay. Thank you.

10 MR. SIKDER: You're welcome.

11 ZC CHAIR HOOD: Madam Chair, I
12 just have a couple of questions.

13 Mr. Sikder, can you -- in your
14 affidavit of posting, you had a picture of the
15 lot and how it exists now. What is that?
16 Because it's black and white. Exhibit -- I
17 don't know what exhibit it is, but anyway,
18 it's behind your affidavit of posting.

19 ACTING CHAIRPERSON SORG: Twenty-
20 five.

21 ZC CHAIR HOOD: Exhibit 25. Thank
22 you, Madam Chair.

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1 What is this tree? This foliage.

2 What is all that? Is that a tree there or --

3 MR. SIKDER: Tree. It's a tree.

4 ZC CHAIR HOOD: How old is that
5 tree?

6 MR. SIKDER: How?

7 ZC CHAIR HOOD: Yes. Will that
8 tree be impacted?

9 MR. SIKDER: Yes, this we'll have
10 to --

11 ZC CHAIR HOOD: How old is it?

12 MR. SIKDER: I would not know how
13 old the tree is.

14 ZC CHAIR HOOD: Okay. Yes. Yes,
15 what's the depth or how wide is it?

16 MR. SIKDER: I mean it is not --
17 no, I mean not necessarily that would -- I
18 mean the requirements to have a tree and
19 that's a different case, but otherwise, normal
20 practices, you know, I mean in building a
21 house I mean if there is a tree. Normally cut
22 it. I never inquired how many --

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1 ZC CHAIR HOOD: Well, I'm just
2 asking. Have you been to the site?

3 MR. SIKDER: Yes.

4 ZC CHAIR HOOD: Okay. I'm just
5 asking a question because I'm trying to -- for
6 me, I have not been on any of your cases. For
7 me, I would like to see how you're going to
8 stick something up in there. I'd just like to
9 see how it all fits in.

10 MR. SIKDER: Right.

11 ZC CHAIR HOOD: And as far as I'm
12 concerned right now, you haven't presented the
13 case to me. I'm still waiting on that. Maybe
14 I need to back up off my comments and let you
15 finish. Have you finished your presentation?

16 MR. SIKDER: Yes.

17 ZC CHAIR HOOD: Have you talked to
18 the neighbors on both sides?

19 MR. SIKDER: Yes, I went to one --
20 one -- I went a couple of times. I met with
21 James and I talked to him about this case. I
22 mean he said he doesn't have any problem, but

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1 I'm really surprised that he came today
2 against. So, I mean --

3 ZC CHAIR HOOD: Well, maybe he's
4 here like -- maybe he doesn't understand it
5 like I don't. Maybe that -- I don't know. I
6 don't want to speak for him. I'll let him
7 speak, but I will tell you, Mr. Sikder, for
8 me, this is not that clear. I'm not sure of
9 your presentation.

10 Anyway, my question is about the
11 tree. I want to know, I guess, preservation.
12 How old is it? How wide it is. What other
13 damage we could be doing if we're going to be
14 removing this tree.

15 MR. SIKDER: Removing this tree, I
16 mean this -- this -- I mean it -- in order to
17 make a it feasible and better looking, this
18 has to be removed. Because these are sitting
19 in front. This will be sitting exactly in
20 front of the house. Like to make this
21 walkway, also that's not possible and how --
22 I mean I -- maybe I'm not sure what exactly

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1 your question. How old are tree? I mean I
2 didn't investigate that.

3 ZC CHAIR HOOD: Would your removal
4 of the tree damage anything next door? I mean
5 the roots of it do they go to the house next
6 door or any -- I mean anything of that nature?

7 MR. SIKDER: Normally, this --
8 this roots it never is an issue because we
9 stumped out and it is very normal. It is very
10 easy, easy process. It does not really
11 hampering our maybe making a negative impact
12 to the neighbors.

13 ZC CHAIR HOOD: And again, as
14 Board Member Dettman had mentioned and I
15 didn't hear this question because I was
16 reading your statement and trying to
17 understand what was going on, what is the
18 relationship of what you're proposing to the
19 characteristic of the neighborhood? You may
20 have already answered that for him, but I'm
21 going to ask it again. How does it coincide
22 or what is the characteristic of what you're

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1 proposing? How does it go along with the
2 existing neighborhood?

3 MR. SIKDER: Yes, I swear at least
4 own house very similar to this. Our three
5 floors, we did the similar. I mean that's --
6 we took that type of features from the other
7 house. So, that at least it would make some
8 character with the other existing house, but
9 most houses are, yes, it was built a long time
10 ago. Some of them are two floors. It may not
11 be dissimilar.

12 ZC CHAIR HOOD: Well, for me, Mr.
13 Sikder, you might not have to worry about me,
14 but I will tell you from my standpoint I'd
15 like to see how that house is going to fit up
16 in there. For me, you're giving me a
17 perspective or view of how that sits in there.
18 You know, it's all right to have it on another
19 sheet of paper, but, you know, you're trying
20 to visualize what you're proposing and how
21 that actually sits up in there.

22 Now, maybe it's here, Madam Chair,

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1 and I just don't have it, but for me that
2 would be very helpful. So, thank you, Madam
3 Chair.

4 ACTING CHAIRPERSON SORG: Thank
5 you, Mr. Hood.

6 Do you have anything further?

7 MEMBER DETTMAN: Just one other
8 one.

9 ACTING CHAIRPERSON SORG: Okay.

10 MEMBER DETTMAN: Mr. Sikder, I
11 didn't see in the revised plans what your lot
12 occupancy will be. With the revised plans,
13 what's your lot occupancy?

14 MR. SIKDER: That remain the same.
15 Lot occupancy will be --

16 MEMBER DETTMAN: So, it remains at
17 41 percent?

18 MR. SIKDER: Yes. What's that --

19 MEMBER DETTMAN: Sir, originally,
20 it was 45.8 with the deck. You make the
21 necessary revisions to the deck which brought
22 you down to 41 percent.

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1 MR. SIKDER: Correct. Correct.

2 MEMBER DETTMAN: Okay. So, it's
3 the footprint of the house including the porch
4 that takes up 41 percent of the lot?

5 MR. SIKDER: Correct.

6 MEMBER DETTMAN: Okay. I
7 understand that the property is exceptionally
8 narrow which makes it practically difficult
9 for you to meet the side yard requirements.

10 MR. SIKDER: Correct.

11 MEMBER DETTMAN: How does it make
12 it practically difficult for you to meet the
13 lot occupancy requirements?

14 MR. SIKDER: It would be similar.
15 If we make very -- I mean even 5 foot smaller,
16 we cannot make like three bedroom or, you
17 know, similar type of house, but more -- we do
18 -- we see that if we have a three bedroom, two
19 bedroom house, it more practical. More people
20 are -- their -- their desire. Is like for a
21 family -- for a family of three or, you know,
22 two person, they -- they desire to have three

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1 bedrooms.

2 MEMBER DETTMAN: Do you happen to
3 know -- in terms of square footage, do you
4 know how many square feet over you are?

5 MR. SIKDER: Is very -- I do not
6 remember. It's very minimal.

7 MEMBER DETTMAN: It's 1 percent of
8 the lot. So, you're looking at 25 square
9 feet.

10 MR. SIKDER: Right.

11 MEMBER DETTMAN: So, couldn't you
12 reduce the depth of the house by what I've
13 calculated to be roughly a foot.

14 MR. SIKDER: This can be done.

15 MEMBER DETTMAN: And you could --
16 so, really, it's not really practically
17 difficult for you to meet the lot occupancy
18 requirements.

19 MR. SIKDER: Definitely. I mean I
20 don't think that will be -- I mean right now,
21 if you can see the -- the bedroom is about 9
22 feet 4 inches. So, will be maybe 8 feet 4

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1 inches.

2 MEMBER DETTMAN: Okay.

3 MR. SIKDER: So, still can be
4 worked out.

5 MEMBER DETTMAN: I'm not proposing
6 that as a recommendation. I guess I'm posing
7 the question to you. You know, how is it
8 practically difficult for you to meet the lot
9 occupancy requirements? I mean do you need
10 that additional foot?

11 MR. SIKDER: Yes, it would make it
12 more practical reason because just like every
13 bedroom is 8 feet like -- no, about 11 feet.
14 It's -- it's not big enough, but I mean it's
15 not that -- I mean you can see in the market
16 there are some rooms are very, very tiny.

17 But, in my view, that is more
18 practical, more useful if you have at least 9
19 by 12 feet bedroom.

20 MEMBER DETTMAN: A 9 by 12 foot
21 bedroom?

22 MR. SIKDER: Yes, is about the --

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1 the -- and

2 MEMBER DETTMAN: You're proposing
3 a 12 foot by 19 foot. Correct?

4 MR. SIKDER: No. No. No. No.
5 Bedroom. Size of the bedroom.

6 MEMBER DETTMAN: Oh, I see it now.
7 What are the dimensions of this bedroom?

8 MR. SIKDER: Is about 9 feet 4
9 inches by 12 feet, but actually, it will be
10 less because you have to deduct the size of
11 the wall which is about 8 inches.

12 MEMBER DETTMAN: Okay.

13 ACTING CHAIRPERSON SORG: Thank
14 you, Mr. Dettman.

15 I have one follow-up question
16 that relates to the bedrooms. In answer to
17 Mr. Dettman's previous question, you testified
18 that it would be difficult for you to market
19 a house with fewer than three bedrooms.
20 Correct?

21 MR. SIKDER: Well, no, the market
22 is more --

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1 ACTING CHAIRPERSON SORG: That is
2 less desirable?

3 MR. SIKDER: More -- more --
4 correct.

5 ACTING CHAIRPERSON SORG: Okay.
6 Maybe you can help me out reading the plans
7 here, but when I look at your third floor
8 plan, I see three bedrooms and then when I
9 look at your first floor plan, I see another
10 bedroom in the back.

11 MR. SIKDER: Well --

12 ACTING CHAIRPERSON SORG: So,
13 that's --

14 MR. SIKDER: In this market,
15 normally, nobody consider -- I mean all the
16 time you see the -- say the bedroom they
17 consider on the -- I mean above the first
18 floor. I do not know why, but that's the
19 normal practice. If you -- if we have to
20 market this thing -- this house, we have to
21 say three bedroom.

22 ACTING CHAIRPERSON SORG: So --

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1 MR. SIKDER: They use -- I mean we
2 -- we call it bedroom, but most of the time,
3 I mean the area purpose and for other legal --
4 legal way, I mean they do not consider it.

5 ACTING CHAIRPERSON SORG: Okay.
6 Then what is this room?

7 MR. SIKDER: I mean that might be
8 for an office or maybe we can -- I can as an
9 office. I mean in that we -- we market it.

10 ACTING CHAIRPERSON SORG: Okay. I
11 had one other question. In your original
12 filing, I see a number for the lot occupancy
13 of 30.4 percent and I know that the numbers
14 that we were -- that Mr. Dettman was talking
15 about I believe coming from the OP report, but
16 I wanted to understand how you calculated your
17 own number there.

18 MR. SIKDER: Well, you mean for
19 lot occupancy?

20 ACTING CHAIRPERSON SORG: Um-hum.

21 MR. SIKDER: Oh, we -- we didn't
22 -- I mean this -- the deck, the height of the

1 deck. That we -- we -- in order to -- not to
2 include, it has to be less height.

3 ACTING CHAIRPERSON SORG: Okay.

4 MR. SIKDER: That we -- we took it
5 out from there.

6 ACTING CHAIRPERSON SORG: Okay.
7 And then the last thing that I wanted to ask
8 you to do here is since we received revised
9 plans after your original submission, can you
10 walk us through the changes that you made?

11 MR. SIKDER: Sure. Yes,
12 basically, the -- the deck that we -- we
13 reduced the height of this deck in the back of
14 the house. So, that would alone -- I mean
15 reducing the lot occupancy and we did -- and
16 we added, I think, some windows. I think
17 that's -- that's it. I mean --

18 ACTING CHAIRPERSON SORG: I don't
19 know. On my plans, I don't think I have a
20 deck. Am I wrong?

21 MR. SIKDER: But, the most -- I
22 mean we -- we progressed mostly for these --

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1 reducing the height of the deck. That all the
2 measure -- I mean the -- I mean the change of
3 the drawings.

4 ACTING CHAIRPERSON SORG: Like I
5 said, I actually don't have a deck on the
6 revised plans that I received for this
7 application. So, there seems to be -- unless
8 you guys have a deck in the plans that you
9 got. There seems to be a little bit of
10 discrepancy here about how you changed your
11 plans.

12 MR. SIKDER: Actually, we -- yes,
13 I talked to John. We mail to him. It was
14 sort of where -- it got delayed making all
15 these drawings and he said -- we mailed to him
16 and he said he would be able to take care of
17 it.

18 ACTING CHAIRPERSON SORG: No. No.
19 I have the drawings and we've accepted them
20 into the record. We understand that they were
21 late and we understand that it takes time and
22 that you were responding to the comments from

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1 the Office of Planning report. That's fine.

2 But, I was just trying to
3 understand the changes that you made and as I
4 read the plans here, in the original document
5 which is our Exhibit Number 1 I suppose or
6 actually Number 8, it shows a 10 by 12 wooden
7 deck. In my Exhibit Number 25 when I look at
8 the site plan, I don't show any deck.

9 So, did you remove it or did you
10 lower the height?

11 I just want to be clear so that we
12 can understand what the characteristics of the
13 project is that you're proposing. Thank you.

14 MR. SIKDER: I think -- porch.
15 Yes, looks like they remove it entirely. Yes.
16 Yes, they removed it entirely.

17 ZC CHAIR HOOD: Madam Chair, can I
18 just? Mr. Sikder, you wouldn't know whether
19 the deck was removed or not?

20 MR. SIKDER: No, that issue I
21 remember we had this -- the deck was issue.
22 So, I mean just sort of reduce -- I mean the

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1 lowering the deck, just removed it entirely.

2 ACTING CHAIRPERSON SORG: Okay.

3 MR. SIKDER: Yes, I think we
4 removed the deck entirely.

5 ACTING CHAIRPERSON SORG: Okay.

6 Do any other Board Members have additional
7 questions for Mr. Sikder?

8 Okay. Thank you, Mr. Sikder.

9 I think at this time we can move
10 to the Office of Planning report.

11 MR. MORDFIN: Good afternoon. I'm
12 Stephen Mordfin with the Office of the
13 Planning and the subject application is in
14 conformance with the criteria for the granting
15 of a variance because the site is unique
16 because it cannot be expanded as all adjacent
17 properties have been developed and this
18 results in a practical difficulty as the
19 narrowness of the lot results in narrow side
20 yards which then increase the lot occupancy as
21 side yards of less than 5 feet in width count
22 towards the lot occupancy.

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1 With the elimination of the
2 proposed deck from the plan, the proposal
3 would not substantially impact the zone plan.
4 Minimizing the lot occupancy variance request
5 to 41 percent.

6 Therefore, the Office of Planning
7 recommends that the Board approve the
8 requested variances to lot width and lot area
9 and to reduce the minimum side yards to 3 feet
10 and improve a lot occupancy variance to
11 increase the maximum lot occupancy to 41
12 percent.

13 Thank you.

14 ACTING CHAIRPERSON SORG: Thank
15 you very much.

16 Do Board Members have questions
17 for the Office of Planning?

18 Mr. Sikder, do you have questions
19 for the Office of Planning?

20 MR. SIKDER: No.

21 ACTING CHAIRPERSON SORG: Okay.
22 Thank you very much.

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1 Oh, I actually do have a question
2 for you. Now, we would move on to the part
3 where we see if the ANC, anybody here is
4 representing the ANC. Is anybody in the
5 audience representing the ANC? No.

6 So, in our file here, we don't
7 have any letter from the ANC. Can you talk a
8 little bit about your correspondence with them
9 on this project?

10 We do. Just -- hold on. I'm
11 sorry. I'm mistaken.

12 ZC CHAIR HOOD: I'm sorry, Madam
13 Chair. I'm mixing you up.

14 ACTING CHAIRPERSON SORG: No. No.
15 No. It's not your fault. Yes, so, sorry. To
16 proceed, can you talk about your
17 correspondence with the ANC?

18 MR. SIKDER: Yes, I emailed to
19 Alissa to make a schedule for ANC meeting or
20 discuss about our two cases, but I never got
21 any response from her and I didn't attend any
22 ANC meeting per this case.

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1 ACTING CHAIRPERSON SORG: Okay.

2 MR. SIKDER: But, there's nobody
3 -- I mean I emailed to her a couple of times
4 and I -- I left a message also, but she never
5 responded. She's the I think -- that -- I
6 forgot. Chairperson or whoever it is in this
7 ANC.

8 ACTING CHAIRPERSON SORG: Okay.
9 Thank you. But, you tried to reach out to
10 them.

11 MR. SIKDER: Yes.

12 ACTING CHAIRPERSON SORG: Okay.
13 So, now, we will turn to the individual in
14 opposition.

15 MR. WARE: Okay.

16 ACTING CHAIRPERSON SORG: And what
17 we will do is we can allow you three minutes
18 to make your statement and you can go ahead.

19 MR. WARE: Okay. Basically, why
20 I'm opposed to that -- I did meet with Mr.
21 Sikder before and at first, I was -- said yes,
22 go ahead. Build a house there. But, that's

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1 before I had a chance to, you know, really --
2 exactly what he was planning on building there
3 and what would happen it would impact the
4 property because most of the property in that
5 area are on two lots. So, most properties in
6 the area have 50 foot wide front footage.

7 And by building what he's
8 proposing to build would take away from the
9 community and especially my property. Because
10 just to give you a visual, this would be my
11 property and this is what he's building. My
12 house down here. All the houses looking down
13 on my property and I also, you know, created
14 a privacy area because I have bedrooms on both
15 sides of my property. So, for his property,
16 people could be looking down on that.

17 Then I also I have -- have just a
18 small side yard each side of his property.
19 Then that would be a problem with people
20 coming on the side encroaching onto my
21 property.

22 The other issue I would have with

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1 parking. Even though he proposed to put
2 parking in the rear, because there is an alley
3 there, but 9 times out of 10 if you have a
4 house, you're going in your front door. You
5 going to be parking in the front of your
6 property and -- because especially the alley
7 is not lit and especially have a young lady
8 come home at night, she's not going to hardly
9 go around the alley and wait -- look around to
10 see who come out there to jump her. I think
11 she's going in the front of the house.

12 And most people have two cars.
13 It's already a short street and parking is the
14 issue sometimes already there and so by the
15 average person having two cars, that even
16 created more of an issue. Say four cars.
17 Even, you know, three and a half cars added to
18 what we already have there.

19 My time is up?

20 ACTING CHAIRPERSON SORG: No, you
21 can continue if you like.

22 MR. WARE: And I just think --

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1 ACTING CHAIRPERSON SORG: Don't
2 have to if you're finished.

3 MR. WARE: I just think it would
4 take away from the community a lot. Like I
5 say, it is one house there that is three
6 stories, but it's designed the way where
7 especially with that tree there you already
8 notice the house being there. Which just is
9 a nice size tree and that wouldn't impact --
10 the house being won't impact it. But, to take
11 away that tree and put -- I'm using the term
12 mountains, but I know it wouldn't be quite
13 that high, but compared to my house, it would
14 be mountainous and it would just take a lot
15 from my house.

16 And my tenants already informed me
17 to have something like that and they're in the
18 middle of it, it's -- it just would -- just
19 take away from the house a lot.

20 Okay. Thank you for your time.

21 ACTING CHAIRPERSON SORG: Thank
22 you, Mr. Ware. Don't go away.

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1 Do any Board Members have
2 questions for Mr. Ware?

3 ZC CHAIR HOOD: Mr. Ware,
4 question. What has changed? Mr. Sikder said
5 he was surprised to see you here. You all had
6 talked about it previously.

7 MR. WARE: When I met him about --
8 I guess about maybe a couple of months ago and
9 I didn't know that -- he may just came to me.
10 Introduce himself to him. That he wanted to
11 build a house right there and he said will you
12 support me. I said build a house. Okay.
13 Build a house.

14 But, I had no idea exactly what he
15 was planning on doing or the size of the house
16 or how high he was going up until after I got
17 some visual of what he was talking doing.
18 Then I could really realize how it would
19 impact my property.

20 ZC CHAIR HOOD: So, that's your
21 property with the -- you have the digital --
22 the DirecTV antenna on the --

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1 MR. WARE: Yes.

2 ZC CHAIR HOOD: Okay. All right.
3 Thank you. Thank you, Madam Chair.

4 MEMBER DETTMAN: So, Mr. Ware, by
5 the sounds of it, you're not against
6 development on this property.

7 MR. WARE: No. My biggest concern
8 is because the height of the house that he
9 proposed on building is going to really make
10 my house look in a -- in an awkward position
11 and then building so close to the property
12 line, you're not going to hardly be able to go
13 around your property without encroaching onto
14 mine.

15 MEMBER DETTMAN: Did you happen to
16 see this picture that we have in the record?

17 MR. WARE: No.

18 MEMBER DETTMAN: Well, so, we have
19 the property that we're looking at and then to
20 one side, we have your house and to the other
21 side, it looks like there's a house there.

22 Can you describe that house?

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1 MR. WARE: To the right of my
2 property?

3 MEMBER DETTMAN: It would be to
4 the right of your property. That's right.

5 MR. WARE: It's a house that -- I
6 believe it's three stories. I'm not sure. I
7 believe it might be three stories.

8 MEMBER DETTMAN: Okay.

9 MR. WARE: And it's a brick front.
10 It has siding on the side of it. I believe
11 there's no windows on the side. I think all
12 the windows they have is in the back or either
13 in the front and it's a nice looking house and
14 then again, that big tree that he was talking
15 about is more or less block his house to a
16 certain extent.

17 MEMBER DETTMAN: Right. Right.
18 Okay. Okay. Are you familiar with the house
19 that's behind that three-story house? You can
20 kind of catch a glimpse of it from this
21 picture, but do you know what that house kind
22 of looks like? Just trying to get a sense of

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1 the houses that are around the subject
2 property.

3 MR. WARE: The house that's behind
4 it. I think it's a two-story house and got a
5 garage they built in the back of it I believe.

6 MEMBER DETTMAN: Um-hum.

7 MR. WARE: Yes.

8 MEMBER DETTMAN: Okay. All right.
9 Thank you.

10 ACTING CHAIRPERSON SORG: Does the
11 Board have any other questions for Mr. Ware?
12 Okay.

13 Mr. Sikder, do you have any
14 questions for Mr. Ware? No?

15 MR. SIKDER: No.

16 ACTING CHAIRPERSON SORG: Okay.
17 Then you're welcome to make a closing
18 statement if you like.

19 MEMBER DETTMAN: Mr. Sikder,
20 before you go ahead and do that.

21 ACTING CHAIRPERSON SORG: Oh, I'm
22 sorry.

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1 MEMBER DETTMAN: No, I apologize.
2 I said that I didn't have any questions. I do
3 have one last question.

4 You heard Mr. Ware indicate that
5 he's not against development on this property
6 just the three stories and we've seen enough
7 of your cases where it tends to be kind of --
8 you know, kind of dropping the same house on
9 two different properties and it's usually
10 three stories sometimes with a garage.

11 So, did you consider just building
12 two stories? Turn your mike on please.

13 MR. SIKDER: Since there is no
14 garage in the -- in the inside garage, so,
15 still we will have, you know, like if we take
16 it out entirely first floor, it still will be
17 a -- you know, feasible. That's -- that's --
18 it would be considered. Yes. I don't think
19 that should be any problem.

20 MEMBER DETTMAN: Well, you know,
21 it's not really our job to design the house
22 for you. So, I was -- did you consider -- did

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1 you already consider two stories and decide
2 that that's not possible?

3 MR. SIKDER: Well, we -- we did
4 not consider it because definitely the -- I
5 mean we saw -- I mean I thought that since we
6 have a similar three-floor building in this
7 block and most of the new houses are built
8 about three floors, but I mean, of course, if
9 that's -- if that's the only way it can be
10 built, I'm for it. I have no problem with it.

11 If you consider that an issue and
12 that would make me to go forward, yes, I would
13 consider to make two floors.

14 MEMBER DETTMAN: What about the
15 larger context in the neighborhood? What's
16 the predominant house look like? Is it two
17 stories? Is it three stories?

18 MR. SIKDER: I think most of them
19 are two/two and a half and around that figure.
20 Yes. But, only that couple of houses are
21 built new. They are three-story building.

22 MEMBER DETTMAN: Okay. Thank you.

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1 ACTING CHAIRPERSON SORG: Any
2 other questions for the Applicant?

3 So, do you have a closing
4 statement you'd like to make?

5 MR. SIKDER: No, that's all. If I
6 am to go forward. I mean if anything makes to
7 go forward, I would -- I'm for to revise the
8 drawing and I can, you know, if that's the
9 issue. If that's an issue.

10 ACTING CHAIRPERSON SORG: Thank
11 you, Mr. Sikder. It's nice to hear that
12 you're willing to be flexible to work with the
13 community that you're building in.

14 MR. SIKDER: Sure.

15 ZC CHAIR HOOD: Madam Chair, I
16 would echo that. First, I was -- but, that
17 says a lot that you were willing to work with
18 the neighbors. So, I would echo that. Your
19 comments.

20 ACTING CHAIRPERSON SORG: Thank
21 you for your patience.

22 There's one thing that I want to

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1 clarify, Mr. Sikder.

2 This is to you, Mr. Ware. Mr.
3 Sikder indicated in his last statement that he
4 would be willing to go two stories for this
5 house. Is that something that you would find
6 more agreeable?

7 MR. WARE: Yes.

8 ACTING CHAIRPERSON SORG: Okay.
9 Given, Mr. Sikder, what you've heard today --
10 given what you've heard today and the
11 discussions that we've had with regard to the
12 relief that you're requesting as well as to
13 the member of the community that's come
14 forward, would you like to go back and be
15 given the time to revised your plans?

16 MR. SIKDER: Yes.

17 ACTING CHAIRPERSON SORG: You
18 would?

19 MR. SIKDER: Sure.

20 ACTING CHAIRPERSON SORG: Okay.
21 Okay. Okay. It's a little bit of a unique
22 circumstance here given that you have two

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1 cases this afternoon for projects that are on
2 either side of the same neighbor.

3 So, in the interest of efficiency,
4 I want to find out from Mr. Ware if you would
5 have the same issues with the other project
6 that is proposed at 4417 Grant Street which is
7 Case Number 18089?

8 MR. WARE: Yes, because basically,
9 it would be the same problem.

10 ACTING CHAIRPERSON SORG: Okay.
11 Thank you and Mr. Sikder, would you be willing
12 to collaborate with the neighbor in that case
13 as well?

14 MR. SIKDER: Yes.

15 ACTING CHAIRPERSON SORG: So, then
16 would you like to also postpone that case to
17 be able to revise the plans there as well?

18 MR. SIKDER: Sure.

19 ACTING CHAIRPERSON SORG: Okay.
20 Excellent.

21 MR. SIKDER: You mean just do I
22 have to submit the revised plan. Correct?

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1 ACTING CHAIRPERSON SORG: I think
2 what we'll do is -- okay. So, what we'll do
3 is we will -- for the case that we're in now
4 which is 18088, what we'll do is we will
5 schedule a time for a decision on that case
6 and we'll have you submit your plans in a
7 timely fashion in advance of that and other
8 than that information, the record will be
9 closed in that case and we'll just have a
10 decision without any other testimony.

11 I think in the interest of sort of
12 due process as it were for the other project
13 that we've discussed at 4417 Grant Street,
14 we'll have to have you similarly submit the
15 revised plans as we discussed today and we
16 will have to have a hearing on that or perhaps
17 we can go onto an expedited schedule or we can
18 hear that now.

19 MS. MONROE: Yes, if I interject.

20 ACTING CHAIRPERSON SORG: I
21 understand.

22 MS. MONROE: You can hear it now.

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1 I mean basically just walk through it and then
2 do the same thing and send in the new plans.

3 ACTING CHAIRPERSON SORG: Okay.

4 MS. MONROE: Just briefly. It's
5 pretty much the same facts. It wouldn't take
6 much.

7 ACTING CHAIRPERSON SORG: Gotcha.
8 Okay. So, that's what we're going to do.
9 We'll hear that quickly now and then we'll
10 receive both things and then we can -- once
11 we've heard that, can we schedule both of them
12 after we hear the next case for a decision or
13 whatever? Okay. Thank you.

14 Okay. Ms. Bailey, can we call the
15 next case please? I suspect neither of you
16 are going anywhere or you can go if you want.
17 Actually, you might want to stay for the
18 record.

19 MS. BAILEY: Madam Chair, the next
20 case is Application 18089. It's the
21 Application of M. Sikder and it's pursuant to
22 11 DCMR Section 3103.2 for a variance from the

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1 lot area and lot width requirements under
2 Section 401 and a variance from the side yard
3 requirements under Section 405 to allow the
4 construction of a new one-family dwelling in
5 the R-2 District at premises 4417 Grant
6 Street, N.E., Square 5130, Lot 36.

7 ACTING CHAIRPERSON SORG: Thank
8 you, Ms. Bailey.

9 In this case, do we have any
10 preliminary matters? Oh, you want to give
11 those to Ms. Bailey please at the end.

12 MR. MOY: Okay. All right. Madam
13 Chair, yes, as with the previous case 18088,
14 18089 also has revised drawings as well that
15 were filed last Friday, July the 30th, I
16 believe. I believe is the date.

17 ACTING CHAIRPERSON SORG: Okay.
18 Thank you, Mr. Moy.

19 As with the last case, I think
20 that based on the fact that these drawings
21 were in response to the Office of Planning
22 report and we can see no prejudice, we can

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1 accept these drawings which are our Exhibit 25
2 into the record. Okay. So, by consensus, we
3 will do that.

4 And then could you introduce
5 yourselves again for the record?

6 MR. SIKDER: My name is Mohammad
7 Sikder. My address 6660 Tennyson Drive,
8 McLean, Virginia.

9 ACTING CHAIRPERSON SORG: Thank
10 you and you, sir?

11 MR. OLUDIPE: Yes, my name is Jomo
12 Oludipe.

13 ACTING CHAIRPERSON SORG: I think
14 you got to turn your mike on.

15 MR. OLUDIPE: The light is on.
16 Oh.

17 ACTING CHAIRPERSON SORG: There
18 you go. Can you please repeat yourself and
19 your home address please?

20 MR. OLUDIPE: Yes, my name is Jomo
21 Oludipe. My address is 4423 Grant Street,
22 N.E., Washington, D.C.

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1 ACTING CHAIRPERSON SORG: Thank
2 you, sir.

3 MR. OLUDIPE: Yes.

4 ACTING CHAIRPERSON SORG: Mr.
5 Sikder, do you care to make a statement or
6 would you like to respond just to questions?

7 MR. SIKDER: I'll respond to
8 questions.

9 ACTING CHAIRPERSON SORG:
10 Excellent. Thank you.

11 Do any Board Members have
12 questions for Mr. Sikder on this application
13 which is quite similar to the last one?

14 Okay. Okay. Not seeing any
15 questions, we can turn to the Office of
16 Planning who can give their report or rest on
17 the record if you like.

18 MR. MORDFIN: Good afternoon. I'm
19 Stephen Mordfin with the Office of Planning
20 and the Office of Planning stands on the
21 record in this case as it's similar to the
22 last case.

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1 ACTING CHAIRPERSON SORG:

2 Excellent. Thank you.

3 Do any Board Members have
4 questions in this case for the Office of
5 Planning? Looking like no.

6 Mr. Sikder, do you have any
7 specific questions for the Office of Planning?

8 MR. SIKDER: No.

9 ACTING CHAIRPERSON SORG: Okay.
10 Thank you.

11 Again, in this case, we have not
12 received an ANC report and don't have any
13 information that they had a meeting about this
14 case.

15 I will ask you again if you tried
16 to correspond with the ANC member here as
17 well?

18 MR. SIKDER: Yes, I -- I tried to
19 reach the ANC members, but I didn't get any --
20 I didn't hear anything from them.

21 ACTING CHAIRPERSON SORG: Okay.
22 That's fine.

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1 Now, we can move to -- okay. Mr.
2 Oludipe, is that right?

3 MR. OLUDIPE: Yes, ma'am. Yes.

4 ACTING CHAIRPERSON SORG: Okay.
5 You can have three minutes to give your
6 testimony please.

7 MR. OLUDIPE: Yes, maybe I
8 submitted some copies of my -- I just want to
9 read through again. Maybe make some comments.

10 Yes, this Application Number
11 18089, Application of Mr. Sikder. I'm raising
12 my objection to this proposed variance from
13 the lot area and lot width requirement under
14 Section 401 and a variance from the side yard
15 requirement under Section 405 to allow the
16 construction of a new one-family dwelling
17 detached in the R-2 District at premises 4417
18 Grant Street, N.E., Square 5130, Lot 36.

19 My objection is based on the
20 following facts. Catastrophe flooding, Square
21 5130, Lot 36 or 4417 Grant Street, N.E. is the
22 lowest point in the area and has the

1 propensity of catastrophe flooding which may
2 lead to loss of properties and possibly lives
3 -- loss of lives if a house is erected on this
4 lot thereby impeding the flow of water into
5 the drainage system installed on this lot by
6 the District of Columbia government.

7 During heavy and insistent
8 rainfall, our yard and the street are always
9 flooded and the drain is on Lot 36. Relieve
10 the flooding and close pictures of the
11 drainage system.

12 Before we bought our house, 4423
13 Grant Street, N.E. in 1984, our immediate
14 concern was flooding. We were told about the
15 installed drainage system on Lot 36 and the
16 lot belongs to the District of Columbia
17 government and that nothing will be erected on
18 it because of the drainage system. That was
19 a blessed assurance that we will be protected
20 from water from the neighborhood.

21 Flooding from the neighborhood,
22 flooding our crawl hole basement and leading

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1 to loss of property. We constantly receive
2 notices form FEMA about flooding in our block.
3 See the attached letter from FEMA.

4 The lot is only 25 feet wide in
5 the back and 24 feet wide in the front.
6 Permission to build on this lot may result in
7 encroachment on our property and that may lead
8 to litigation among the parties concerned.

9 Then at Number 6, with the
10 construction of the building, we'll have a
11 parking problem and also it would be greatly
12 appreciated if the above facts can be taken
13 into consideration in the Application 18089 if
14 it is not approved.

15 I have the letter from the FEMA
16 here. I have the copy, but I have not made
17 the -- it always is the lowest point in the
18 vicinity and you see the drainage on that lot
19 and the lot is very, very, very close
20 together. If we don't have enough room, at
21 least the 8 feet required if we have the house
22 on that lot, then is going to result in very

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1 bad flooding for us and we have to -- I don't
2 know what will happen.

3 Because the neighbor to the left
4 of our house is always pumping out water from
5 his basement every year and if another one is
6 built to the left again, then the water won't
7 have anywhere to go.

8 And that's my case. Thank you so
9 much.

10 ACTING CHAIRPERSON SORG: Thank
11 you very much, Mr. Oludipe.

12 Do Board Members have questions?

13 ZC CHAIR HOOD: Sir, the lowest
14 point, these drains that you have a picture of
15 in --

16 MR. OLUDIPE: Yes.

17 ZC CHAIR HOOD: -- the pictures
18 that you submitted, that was put in by the
19 city?

20 MR. OLUDIPE: Yes, only -- there
21 is another vent that is built that you cannot
22 see. I thought the picture would take it.

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1 You see, there are two drains. Two like -- if
2 you -- if you go there, you can see through
3 very large pipes erected by the government.

4 ZC CHAIR HOOD: So, okay. Let me
5 ask this question. Maybe this will go to Ms.
6 Monroe.

7 Typically, there's another review
8 I believe and does that happen in the
9 permitting process? The city came out and did
10 this and as far as him being able to --

11 MS. MONROE: I mean I'm not an
12 expert on that, but I would think yes. That
13 would have to go to probably Environmental and
14 DCRA and all the other permitting, you know,
15 agencies would look into this. It's kind of
16 strange.

17 I don't know if the Applicant
18 knows anything about it. If the drains are
19 there, I'm sure you could see them and --

20 MR. SIKDER: I could answer some
21 sort I know.

22 MS. MONROE: Yes.

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1 MR. SIKDER: Of course, you are
2 right. There is a -- this is a whole process.
3 The DOE does the civil engineering, the
4 structural engineering. All they are going to
5 review this application.

6 If there is any problem, either
7 they would say you cannot or they would say
8 what's the remedy for it and they're not going
9 to just let it go this way.

10 But, that's another department.
11 Excuse me. DOE. They are going to remove it.

12 ZC CHAIR HOOD: Right. Because we
13 don't want to have the same situation that
14 happened on West Virginia Avenue where those
15 homes flooded. They built these nice
16 townhomes and for ten years, they flooded.
17 You go by there now all it is is a park. So.

18 Okay. Thank you, Madam Chair.

19 ACTING CHAIRPERSON SORG: Thank
20 you, Mr. Hood. Mr. Dettman.

21 MEMBER DETTMAN: Thank you, Madam
22 Chair.

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1 Mr. Sikder, I'm looking at the map
2 that shows all of the home that were notified
3 of the project and so, the lot that we're
4 looking at is Lot 36. That's your lot.
5 Right?

6 MR. SIKDER: Correct.

7 MEMBER DETTMAN: Okay. And, Mr.
8 Oludipe, your lot is Lot 38.

9 MR. OLUDIPE: Yes.

10 MEMBER DETTMAN: So, there's a lot
11 in between. That's Lot 37. Is there anything
12 built on that lot?

13 MR. OLUDIPE: When we bought the
14 house, the fence, I think the former owner
15 already occupy the -- that Lot 37. Because in
16 the past, they told me that -- you see, I had
17 a lawyer who investigated everything and told
18 me everything was okay. It was 20 years later
19 that somebody came and said that there's
20 another lot that they bought on the tax sale.

21 So, we argued that, but the lawyer
22 told me that there was something called hard

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1 possession or something like that. So, I
2 didn't worry and they told me that they can't
3 build on that lot. That's why I bought the
4 house in --

5 MEMBER DETTMAN: But, there is
6 another lot.

7 MR. SIKDER: Yes, I can answer to
8 some.

9 MEMBER DETTMAN: Between.

10 MR. SIKDER: I mean actually I was
11 trying to purchase that block to make it --
12 you know, to make it without busier. So, what
13 happened -- actually, I was trying to buy this
14 for a long time. Then what appeared that in
15 his house encroachment from --

16 MEMBER DETTMAN: Okay. Actually,
17 I don't mean to cut you off, but --

18 MR. SIKDER: No. No. No.

19 MEMBER DETTMAN: -- I don't really
20 need to know that information. I was just
21 wondering these drain things are they actually
22 located on your property or are they located

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1 on Lot 37 or in public space?

2 MR. SIKDER: I do see the lid
3 there, but my -- you see we are not really
4 worried about this moment because there's a
5 whole branch to review this especially DOE.
6 Then, of course, you have a DCRA. There are
7 a lot of things to be -- I mean they are going
8 to go through. So.

9 MEMBER DETTMAN: I understand
10 that. I know through the building permit
11 process there are a lot of people who touch a
12 building permit application. I'm just
13 wondering would you happen to know if the
14 drains that are shown here are they actually
15 within the boundaries of your property?

16 MR. SIKDER: I did -- I mean I
17 went there a couple of times. I really didn't
18 pay attention to that drain in my property.

19 MEMBER DETTMAN: Okay. Thank you.

20 ZC CHAIR HOOD: I think Board
21 Member Dettman's question is a very good one
22 and I don't know why we can't get the answer.

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1 I'm not following you, Mr. Sikder. One minute
2 I'm applauding you and the next minute, I
3 don't follow you.

4 MR. SIKDER: Oh, I'm sorry.

5 ZC CHAIR HOOD: I think you would
6 know if this was on your property. If you've
7 been out there, you would know what you're
8 going to build on. Right?

9 MR. SIKDER: Yes.

10 ZC CHAIR HOOD: So, you would know
11 whether these drains are on your property.
12 Isn't that your question, Board Member
13 Dettman?

14 MEMBER DETTMAN: I'm sorry, Mr.
15 Hood. What's that?

16 ZC CHAIR HOOD: You're trying to
17 find out if these drains are on his property.
18 Right?

19 MEMBER DETTMAN: Right.

20 ZC CHAIR HOOD: I think you would
21 know that.

22 MR. SIKDER: No, you see I'm here.

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1 I mean just to make it -- we come here to get
2 the variance.

3 ZC CHAIR HOOD: Yes, I know why
4 you're here.

5 MR. SIKDER: So, for this
6 permitting issue when you go there for the
7 design if any issue, then -- then we go with
8 the detail drawing. At this moment, there is
9 no reason we go for the detail drawing of this
10 and as I said, I went there. I didn't see any
11 visually in there. In my property.

12 ZC CHAIR HOOD: Okay.

13 ACTING CHAIRPERSON SORG: If there
14 are other witnesses that want to come forward
15 and testify, you can do so.

16 MR. OLUDIPE: Yes, his house is --
17 he know that the drainage is on property and
18 that his house is next to --

19 MR. WARE: To answer the question
20 about the drainage --

21 ACTING CHAIRPERSON SORG: Just
22 before you begin again, this is Mr. Ware.

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1 MR. WARE: Yes, James F. Ware,
2 Sr., 5711 Ottawa Street, Oxon Hill, Maryland.
3 I own a property at 4415 Grant Street, N.E.

4 ACTING CHAIRPERSON SORG: Okay.
5 Thank you. Go ahead.

6 MR. WARE: Okay. The reason why
7 Mr. Sikder may not have seen the drains
8 because the property was overgrown with weeds
9 and other rubbish there and just recently, all
10 the weeds been cut down recently. So, by all
11 the weeds and the foliage, just looking at the
12 property, wouldn't know the drains are there.
13 Only if you been on the property or been
14 around for awhile, then you would know that
15 the drains are there and then they're in the
16 middle of the property.

17 ACTING CHAIRPERSON SORG: Okay.
18 Thank you.

19 MEMBER DETTMAN: Mr. Oludipe,
20 aside from the flooding, looking at the house
21 that's being proposed, three stories and all
22 that, again, setting the flooding issue aside,

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1 do you have any comments to make about the
2 house itself?

3 MR. OLUDIPE: Yes, people will be
4 -- if we were having that kind of three-story
5 building there, the people will be living
6 there with cars and you just have a very small
7 space. If there is 8 feet here, 8 feet there,
8 there will be maybe three car parking, but
9 then with maybe a small house, there will not
10 be enough parking for maybe two cars. Then
11 there will be parking in front of our house
12 and then we'll be struggling with parking.
13 So, that's another logistical problem.

14 Besides, when it snows, I will
15 probably be shovelling the snow in my yard
16 from their house because it's so tall and then
17 when it melts, it will be coming into my yard.

18 And the flooding, the flooding is
19 the major something.

20 MEMBER DETTMAN: Um-hum.

21 MR. OLUDIPE: Major because I
22 argue with my second house neighbor for

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1 pumping out his -- his water into my yard.

2 MEMBER DETTMAN: Um-hum.

3 MR. OLUDIPE: Yes.

4 MEMBER DETTMAN: I also want to
5 try to identify other issues other than
6 flooding that you might have and so, like I
7 said, if there wasn't a flooding issue, it
8 sounds like you have maybe some concerns about
9 parking.

10 MR. OLUDIPE: Parking.

11 MEMBER DETTMAN: What about the
12 design of the house? The height?

13 MR. OLUDIPE: The height also.
14 Yes.

15 MEMBER DETTMAN: Okay. So, if the
16 design was somehow modified to be a two-story
17 house or a one-story or whatever it is, does
18 that alleviate any of your concerns?

19 MR. OLUDIPE: No. No.

20 MEMBER DETTMAN: Thank you, Madam
21 Chair.

22 ACTING CHAIRPERSON SORG: Thank

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1 you, Mr. Dettman.

2 Are there any other questions?
3 Mr. Sikder, do you have any questions for the
4 two individuals in opposition?

5 MR. SIKDER: No.

6 ACTING CHAIRPERSON SORG: Okay.
7 Thank you. Okay. Thank you, everyone, for
8 your testimony and I'm glad that you've come
9 down to speak about this project.

10 And in the same way that we were
11 moving forward with the previous application,
12 in the interest of working together with this
13 community, Mr. Sikder, would you in this
14 application also be willing to submit revised
15 plans for a decision meeting scheduled in a
16 few weeks?

17 MR. SIKDER: Yes.

18 ACTING CHAIRPERSON SORG: Okay.
19 Great. And with regard to the concerns about
20 flooding, I think the Board definitely hears
21 your concerns and while I think that it's --
22 whether the drains are on Mr. Sikder's -- the

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1 subject property and how the drainage and the
2 flooding will be impacted by the building, I
3 don't think that's under the Board's
4 jurisdiction with regard to zoning, but that
5 issue will definitely -- as Mr. Sikder also
6 said, he will look into that with the
7 appropriate agency.

8 So, certainly, care, I think, will
9 be taken to make sure that -- and anyway, his
10 house is going to be flooded, too, if nothing
11 happens.

12 Okay. Mr. Sikder, how long do you
13 think it'll take for you to submit the revised
14 plans for these two projects?

15 MR. SIKDER: I think ten days.

16 ACTING CHAIRPERSON SORG: Ten
17 days?

18 MR. SIKDER: Um-hum.

19 ACTING CHAIRPERSON SORG: Okay.
20 That's fair. So, what I'd like to do is
21 schedule both of these cases, 18089 and 18088,
22 for a decision on September 14th in the

1 morning and that should be okay for you.

2 Correct?

3 MR. SIKDER: Fourteenth?

4 ACTING CHAIRPERSON SORG:

5 Fourteenth.

6 MR. SIKDER: And when -- I need to
7 submit just prior to that.

8 ACTING CHAIRPERSON SORG: Right.

9 So, that would mean that you need to submit by
10 September -- what day? Eighth.

11 MR. SIKDER: Eighth.

12 ACTING CHAIRPERSON SORG: Okay.

13 MR. SIKDER: And this be your
14 public meeting. Right? Public meeting or --

15 ACTING CHAIRPERSON SORG: Correct.

16 This will be a decision. So, you will --
17 we're going to -- what we're going to do is
18 now we're going to close the record in this
19 case except for the receipt of those -- in
20 each of these cases except for the receipt of
21 those documents.

22 MR. SIKDER: Documents.

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1 ACTING CHAIRPERSON SORG: And when
2 we reconvene on the cases again, you can -- of
3 course, you're welcome to come, but it'll be
4 a decision meeting. So, we won't be taking
5 any testimony and the Board will deliberate at
6 that time.

7 MR. SIKDER: Thank you.

8 MR. MOY: Madam Chair, just a real
9 quick question on the staff's part. The
10 individuals who testified this afternoon, are
11 you also requiring that the Applicant to, even
12 though it would not be mandatory, serve those
13 revised drawings to the two gentlemen who
14 testified as well? I just raise that as a
15 question.

16 ACTING CHAIRPERSON SORG: Thank
17 you, Mr. Moy. That's a very good point.

18 So, what we'd like to do is we're
19 going keep the decision in the morning public
20 meeting of September 14th, but we will have
21 you submit the revised plans a little bit
22 earlier than that so that we can allow both of

1 the individuals in opposition, and we'll ask
2 you to serve those on both of the neighbors
3 here, and allow you time to submit written
4 responses if you choose to in response to
5 those revised plans. So, those will be able
6 to come into the record and be part of our
7 deliberations as well. That works for you?

8 Okay. So, let's figure out the
9 dates.

10 MR. MOY: Staff would suggest --

11 ACTING CHAIRPERSON SORG: Please
12 go ahead, Mr. Moy.

13 MR. MOY: Staff would suggest,
14 Madam Chair, that we back everything a week so
15 if the Applicant submits the drawings to
16 Office of Zoning and the persons who
17 testified. September 1st?

18 ACTING CHAIRPERSON SORG: Um-hum.

19 MR. MOY: And then if there are
20 any responses from the persons who testified,
21 if they have any comments, then they could
22 submit those into the record by September 8th

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1 which would be one week.

2 ACTING CHAIRPERSON SORG: Okay.
3 Great. So, we will receive your drawings by
4 September 1st and then that'll give you both
5 a week to look at them and see whether the
6 concerns that you have have been alleviated or
7 whatever responses that you want to submit to
8 that by September 8th. Okay.

9 MR. WARE: Should I give him my
10 mailing address?

11 MR. SIKDER: Yes.

12 ACTING CHAIRPERSON SORG: Yes,
13 that would be excellent. Since you're all
14 here, you can talk and figure out what is the
15 best way to be able to get these together, you
16 know.

17 MR. WARE: Yes.

18 ACTING CHAIRPERSON SORG: Great.
19 Thank you very much.

20 MR. OLUDEPE: Thank you.

21 ACTING CHAIRPERSON SORG: So,
22 we'll give you a couple of minutes to get the

1 addresses together before we start the next
2 case.

3 (Whereupon, at 3:15 p.m., off the
4 record until 3:17 p.m.)

5 MS. BAILEY: Madam Chair, are you
6 ready for the next case?

7 ACTING CHAIRPERSON SORG: Yes, I
8 am. Thank you, Ms. Bailey.

9 MS. BAILEY: You're welcome and
10 that's Application 18091, application of M.
11 Sikder and it's pursuant to 11 DCMR Section
12 3103.2 for variances from the lot area and lot
13 width requirements under Section 401 and a
14 variance from the side yard requirements under
15 Section 405 to allow the construction of a
16 one-family detached dwelling. The property is
17 zoned R-2. It's located at 5328 Gay Street,
18 N.E., Square 5209, Lot 52.

19 ACTING CHAIRPERSON SORG: And
20 thank you, Ms. Bailey and I think in this case
21 there are not any preliminary matters. Is
22 that correct? Okay.

1 MR. MOY: That correct, Madam
2 Chair.

3 ACTING CHAIRPERSON SORG: Okay.
4 Thank you.

5 Okay. Mr. Sikder, would you like
6 to walk us through your application and the
7 revision in the plans that you've submitted?

8 MR. SIKDER: Yes, in this case,
9 actually, we lowered that deck in order to, I
10 mean, make OP requirements and otherwise, I
11 mean more or less same drawings. If you have
12 any questions, I could answer. Maybe that's
13 better.

14 ACTING CHAIRPERSON SORG: Okay.
15 Thank you.

16 MR. SIKDER: Um-hum.

17 ACTING CHAIRPERSON SORG: Do any
18 Board Members have question for Mr. Sikder on
19 this application?

20 MEMBER DETTMAN: Mr. Sikder, there
21 were just a few issues noted in OP report.
22 One, you talked about the deck, but then it

1 had to do with the evergreen tree, positioning
2 the house a little bit further back to align
3 with the existing homes, changing the front
4 facade a little bit, add windows to the side
5 facades. Have all these issues been resolved?

6 MR. SIKDER: Correct.

7 MEMBER DETTMAN: Okay. Thank you.

8 ACTING CHAIRPERSON SORG: Do you
9 think that you can point out where we can find
10 the resolution of those issues in the revised
11 plans that you submitted?

12 MR. SIKDER: I can see like the
13 height of the deck you can see on this page.
14 Like before it was over 4 feet. Right now,
15 it's 10 feet 8 inches.

16 ACTING CHAIRPERSON SORG: Okay.
17 You're holding up the rear elevation.

18 MR. SIKDER: Correct. Rear
19 elevation.

20 ACTING CHAIRPERSON SORG: And you
21 said that -- oh, continue. Thank you.

22 MR. SIKDER: And in this one, we

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1 moved the house farther in order to align.

2 ACTING CHAIRPERSON SORG: And
3 you're holding up the site plan.

4 MR. SIKDER: Site plan. Correct.
5 And about the windows, we -- we -- we're
6 providing some moulding around the windows.
7 That's in the back elevation and the right --
8 I think right and left in both elevation.

9 ACTING CHAIRPERSON SORG: Okay.
10 Thank you.

11 If there are no more questions for
12 the Applicant, then we can move. Okay. Then
13 let's move to the Office of Planning please.

14 MR. JESICK: Good afternoon, Madam
15 Chair and Members of the Board. My name is
16 Matt Jesick.

17 The Office of Planning supports
18 the requested relief to construct a house on
19 the subject property and since the relief is
20 very similar to the past cases you've
21 discussed, I can just rest on the record for
22 that part of my testimony unless there are

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1 further questions.

2 I would like to bring the Board's
3 attention to the conditions of approval on the
4 front page of the OP report and as you
5 discussed, I think the Applicant has met
6 actually most of these conditions with the
7 revised set of plans.

8 I do believe, however, that
9 condition 2 should stand and this addresses
10 protection of the tree at the front of the
11 property. There aren't too many trees along
12 that stretch of Gay Street and we feel that
13 the tree would enhance the appearance of the
14 street and of this property in particular.
15 So, that's why we have proposed that
16 condition.

17 But, we do appreciate the changes
18 that Mr. Sikder has made to the plans. Many
19 of those changes are not directly related to
20 the relief that's required. However, we feel
21 that they will help the house fit in better
22 with the neighbors and just overall be more

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1 aesthetically pleasing. So, we do appreciate
2 those changes.

3 I'd be happy to take any
4 questions.

5 ZC CHAIR HOOD: Madam Chair, I
6 have a question.

7 Mr. Jesick, I'm looking at your
8 picture that you have 306 and pictures say a
9 lot to me. That no parking sign, is that a
10 curb cut right there or a driveway or what's
11 going on there?

12 MR. JESICK: Yes, that's an
13 existing curb cut.

14 ZC CHAIR HOOD: Okay. Okay. And
15 let me ask you so, we wouldn't be doing away
16 with the cement? The -- what do you call it?
17 The retaining wall. Thank you. The retaining
18 wall would not be -- that would stay intact.
19 Right?

20 MR. JESICK: My guess is that it
21 would stay intact. This side of Gay Street,
22 the north side, is a little higher in

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1 elevation. So, a few of the homes along that
2 stretch do have retaining walls. So, I would
3 imagine that it would remain.

4 ZC CHAIR HOOD: A lot of these --
5 this is probably maybe my first time really
6 sitting on Mr. Sikder's cases while I've heard
7 about them. I want to make just -- is this
8 what the Office of Planning is now -- is this
9 part of the initiatives? I mean as go about
10 infill development. Is that what we're doing
11 here?

12 MR. JESICK: Yes, I would say that
13 what this application is could be considered
14 infill development. It's a vacant lot that
15 either has been built on before and the house
16 is now demolished or it was never built on for
17 whatever reason and the ownership has come
18 into the hands of Mr. Sikder and now, he's
19 proposing yes, what we call an infill
20 development.

21 ZC CHAIR HOOD: Okay. Thank you.
22 Madam Chair, let me ask this question. Mr.

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1 Jesick, when you took this picture, is this
2 proportionate or is it not proportionate? Is
3 it out of proportion?

4 MR. JESICK: This picture is from
5 the web. I would say its -- it probably looks
6 a little bit skewed.

7 ZC CHAIR HOOD: Okay. Well, I
8 hope it is. I'm hoping it's out of
9 proportion. Okay. Thank you, Mr. Jesick.

10 Thank you, Madam Chair.

11 ACTING CHAIRPERSON SORG: Thank
12 you, Mr. Hood.

13 Mr. Jesick, I wanted to ask about
14 the character of the surrounding area with
15 regard to height and stories. Can you talk
16 about that a little bit as compared to the
17 proposed project?

18 MR. JESICK: Sure. I'd say most
19 of the houses in the neighborhood are two
20 stories. There is a newer one down the block
21 that is three stories, but characteristically,
22 they are, you know, about the same size as the

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1 house being proposed by Mr. Sikder and the --
2 or similar width and similar sized side yards.

3 ACTING CHAIRPERSON SORG: But,
4 when you say size in this context, do you mean
5 square feet or you mean height and stories?

6 MR. JESICK: Oh, I'm sorry. I
7 meant the footprint of the house --

8 ACTING CHAIRPERSON SORG:
9 Footprint.

10 MR. JESICK: -- is similar, but
11 yes, this house would be three stories which
12 may be slightly taller, but we don't feel out
13 of character necessarily.

14 ACTING CHAIRPERSON SORG: Okay.
15 Gotcha. Thank you.

16 Are there any other questions for
17 the Office of Planning?

18 MEMBER DETTMAN: Mr. Jesick, is
19 this going to be the only house on the block
20 that actually has a driveway? Can't tell from
21 the pictures.

22 MR. JESICK: No, there are a

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1 number of homes with driveways. I can refer
2 you to -- in the original set of plans that
3 Mr. Sikder submitted, well, I'm sorry. That's
4 not really showing it either.

5 MEMBER DETTMAN: Exhibit Number 5.
6 We might be able to see something there. I'm
7 seeing it now.

8 MR. JESICK: Yes, if you refer to
9 the aerial photo, I think you can see a number
10 of driveways along that block.

11 MEMBER DETTMAN: Thank you.

12 ACTING CHAIRPERSON SORG: Mr.
13 Sikder, do you have any questions for the
14 Office of Planning?

15 MR. SIKDER: No.

16 ACTING CHAIRPERSON SORG: Okay.
17 Thank you.

18 ZC CHAIR HOOD: Madam Chair, can I
19 ask Mr. Sikder a question?

20 ACTING CHAIRPERSON SORG: Please.

21 ZC CHAIR HOOD: Mr. Sikder, did
22 you talk to both -- obviously, as the Chair

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1 already said, there's no opposition. Did you
2 talk to both of your neighbors or did you
3 already mention that you already spoke with
4 both of your neighbors on the other side --
5 both sides?

6 MR. SIKDER: Oh, no, I -- I went
7 to ANC meeting. Your mean neighbors of this
8 house?

9 ZC CHAIR HOOD: Yes, the people
10 who live on these -- both of these sides here.

11 MR. SIKDER: I -- initially, I
12 attended ANC meeting and I drove by two times,
13 but I couldn't reach any of the owners.

14 ZC CHAIR HOOD: Mr. Sikder, it
15 seems like you're having a hard time getting
16 in touch with people. I haven't been -- this
17 is only my third case -- fourth case, but it
18 seems like you have a -- do you go too late at
19 night or what is the issue?

20 MR. SIKDER: No, I go in the
21 daytime.

22 ZC CHAIR HOOD: Well, maybe they

1 work. So, okay. Why don't we try from now --
2 next case that I come on with you, I want to
3 hear that you've got in touch with the person.

4 MR. SIKDER: I went to the other
5 -- been to --

6 ZC CHAIR HOOD: Yes, I know, but
7 most of the time, the majority of your cases,
8 at least from what I see here, you can't get
9 in touch with anybody.

10 MR. SIKDER: Nothing I can do. I
11 mean I go. I mean I -- I mean it's not that
12 I don't go. I mean I am going. I mean I
13 don't know the point.

14 ZC CHAIR HOOD: There's a golden
15 rule in this city and it's the good neighbor
16 policy. Have you ever heard of that? Good
17 neighbor policy.

18 MR. SIKDER: Yes.

19 ZC CHAIR HOOD: If you want to be
20 a good neighbor with your construction, you
21 want to try to make sure you get in touch with
22 people. It's a golden rule. The hidden rule.

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1 It's not written.

2 MR. SIKDER: That's true.

3 ZC CHAIR HOOD: But, it's out
4 there. I've been doing this a long time. I
5 know it's -- the good neighbor policy.
6 Remember that.

7 MR. SIKDER: I try. I try, but
8 you're right. It may not be that I time -- I
9 attend, but I'm trying.

10 ACTING CHAIRPERSON SORG: Can you
11 also say something about your conversations
12 with the ANC?

13 MR. SIKDER: ANC members, they
14 raised the same question. That they want a
15 smaller size. I mean the story wide. But, I
16 told them we cannot build here two-story
17 building because that is a slope in the back.
18 We have to clear the like basement basically.
19 So, if we need to make a two-story building,
20 we cannot have the garage, attached garage.
21 The garage just -- this is the garage.

22 So, they're saying well, can

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1 waive. This is why -- they're asking me why
2 don't you ask to waive this parking garage,
3 the attached garage. I said no, that's a BZA
4 requirement. That's how I explain them.

5 Then they were asking that -- the
6 same question that -- that is not houses.
7 This three floors. I mean but I showed them
8 a couple of pictures that are in the same
9 block and neighboring block. There are a few
10 of them with three-story building with parking
11 garage.

12 And they said they were supposed
13 to send you a letter with, I mean, whatever
14 they decide and after that, I called them one
15 time and that was the end of it.

16 ACTING CHAIRPERSON SORG: So, I'm
17 sorry if I missed that.

18 MR. SIKDER: Did -- did --

19 ACTING CHAIRPERSON SORG: Did you
20 speak to them at their meeting or did you talk
21 to them, you know, outside of the meeting or
22 via telephone or something like that?

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1 MR. SIKDER: No, at the meeting.

2 ACTING CHAIRPERSON SORG: At the
3 meeting. So, you presented the project at the
4 meeting?

5 MR. SIKDER: Exactly.

6 ACTING CHAIRPERSON SORG: Okay.

7 MR. SIKDER: I actually went
8 twice.

9 ACTING CHAIRPERSON SORG: You
10 presented the project twice at two different
11 meetings. Do you remember the dates of those
12 meetings?

13 MR. SIKDER: I may have that. I
14 attended -- the one was the pre-meeting that
15 was before July 13th. July 13th was the
16 actual ANC meeting, but the gentleman, he told
17 me why don't you come pre-ANC meeting, explain
18 first to this -- our Board Members. Which I
19 did.

20 ACTING CHAIRPERSON SORG: Okay.

21 MR. SIKDER: And they told me to
22 come at the actual ANC meeting while all the,

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1 you know, neighbors and other people will be
2 there. Which I did also. So, I explain in
3 both -- in both time.

4 ACTING CHAIRPERSON SORG: Oh, I
5 see. Okay. And it looks like you've written
6 in your letter attached to our Exhibit Number
7 22, you attended the meeting, ANC meeting, on
8 June 2nd.

9 MR. SIKDER: Right. That was
10 actual, I mean, the meeting, but I met with
11 them twice.

12 ACTING CHAIRPERSON SORG: Okay.
13 Great. Thank you.

14 Do Board Members have any other
15 questions for Mr. Sikder at the moment?

16 MEMBER DETTMAN: No questions,
17 Madam Chair, but just one comment and I don't
18 want to repeat what Chairman Hood said because
19 I agree 100 percent with what he said about
20 being a good neighbor, but, Mr. Sikder, this
21 is my last day on the BZA and so, over the
22 course of the three years, I've seen a lot of

1 your applications and I think everything that
2 Chairman Hood said is absolutely correct.

3 But, you need to start documenting
4 this stuff, you know. So, five months from
5 now, when this ANC writes a letter to OZ
6 saying we had no idea about this project,
7 we're going to be forced to, you know, take an
8 action or if you had it documented, we could
9 say well, no, on such and such a date, the
10 Applicant said that he met with you.

11 So, it serves your best interest
12 to really start documenting this stuff. The
13 meetings with the ANCs, the phone calls with
14 the ANCs, the phone calls with the adjacent
15 neighbors. It helps you. Because right now,
16 it's making our job more difficult.

17 MR. SIKDER: Yes, I --

18 MEMBER DETTMAN: So, just document
19 things. That's it. Document.

20 MR. SIKDER: Actually, you're
21 right and which I'm doing it like in the
22 format of emailing. When I -- they

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1 corresponded with me. Especially, with this
2 -- this project, all the emails I sent and
3 that's -- yes, I'm trying to keep it. Thank
4 you.

5 ACTING CHAIRPERSON SORG: Okay.
6 If there are not any other questions for the
7 Applicant, there do not seem to be any people
8 in the audience to testify. So, would you
9 like, Mr. Sikder, to make a closing statement?

10 MR. SIKDER: No, that would be my
11 statement.

12 ACTING CHAIRPERSON SORG: Okay.
13 Thank you.

14 Okay. So, in this case, I think
15 that through the record that we've received
16 and the testimony today, we have sufficient
17 documentation to be able to deliberate on the
18 case today. So, we can say that the record is
19 closed for this case and now, we'll move into
20 deliberations.

21 Would anyone like to start us off?

22 MEMBER DETTMAN: Madam Chair, I'd

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1 be happy to take the Board through the
2 variance analysis that's before us.

3 ACTING CHAIRPERSON SORG: Thank
4 you. Thank you.

5 MEMBER DETTMAN: This is an
6 application for zoning relief in order to
7 construct a single-family detached dwelling
8 located at 5328 Gay Street, N.E.

9 The areas of zoning relief that
10 are necessary or that are being requested I
11 should say is a variance from the lot area and
12 lot width requirements of 401, the lot
13 occupancy requirements of 403. With the
14 revised plans that are before us in Exhibit
15 22, the lot occupancy would be 41.1 percent
16 and what's permitted in this particular zoning
17 district is 40 percent.

18 And finally, a variance from
19 Section 405.9 to permit side yards of 3 feet
20 where a minimum side yard requirement is 8
21 feet.

22 With respect to the first prong of

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1 the variance test, whether this particular
2 property has an extraordinary exceptional
3 condition that gives rise to a practical
4 difficulty, I think that the property is
5 exceptionally narrow. The property in its
6 current size and width and area does predate
7 the Zoning Regulations.

8 However, that in and of itself
9 does not create the exceptional condition, but
10 rather I personally think that it is
11 exceptionally narrow and would give rise to a
12 practical difficulty in that if the Zoning
13 Regulations were strictly applied, you would
14 end up with essentially a 9 foot wide house
15 and I do think that that presents a practical
16 difficulty to the property owner.

17 Whether or not that particular
18 area of relief, the side yards, can be granted
19 without causing substantial detriment to the
20 public good or substantially compromise the
21 zone plan, I think that there's precedent in
22 the nearby surroundings where you have a

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1 collection of three homes that are relatively
2 close together.

3 I think combined with the 3 foot
4 side yards that are going to be provided on
5 this property in combination with the existing
6 side yards immediately next door, I think that
7 that'll provide enough space between the
8 properties to get adequate light and air and
9 circulation of air between these properties.
10 So, I think that that particular area of
11 relief can be granted.

12 The lot occupancy relief, I think
13 the burden's been met there as well though it
14 isn't the strongest case. I think a
15 relatively minor adaptation to what's being
16 proposed could be made in order for the
17 property to come into compliance with the 40
18 percent lot occupancy, but I think that the
19 property is exceptionally narrow enough in
20 order to warrant a very de minimus amount of
21 relief from lot occupancy.

22 Like I said, the variance from lot

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1 occupancy is 1.1 percent or according to the
2 OP report, it's 20-some square feet,
3 additional square feet of the building area
4 and so, given the de minimus nature of the
5 variance and the fact that just looking at the
6 map on page 2 of the OP report, the proposed
7 depth of the house is similar to almost all of
8 the properties along that particular block,
9 so, I think that with respect to the zoning
10 relief for lot occupancy I think the third
11 prong in the variance test is met as well.

12 So, Madam Chair, with that said,
13 I'm in support of the application and I think
14 the only relevant condition proposed by OP at
15 this point is condition number 2 concerning
16 the tree.

17 ACTING CHAIRPERSON SORG: Thank
18 you, Mr. Dettman. That was a very excellent
19 description of the issues that are at hand in
20 this case and I agree with you on all of the
21 points that you've made and I don't have very
22 much to add.

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1 I agree with you that subsequent
2 to having received the revised plans from the
3 Applicant that it is the second condition
4 suggested on the OP report regarding the
5 preservation of the tree in the front of the
6 property that's still relevant to include.

7 Also, there's a note in the OP
8 report and they mention it twice I think about
9 the Applicant's ability to retain the curb cut
10 that is currently there. That, I think, is
11 something that in my opinion the Applicant is
12 going to have to work out with DDOT. Not
13 something that we, I think, in my opinion want
14 to get into at this stage.

15 Are there any other comments from
16 the Board?

17 Okay. Then is there a motion?

18 MEMBER DETTMAN: Madam Chair, I'd
19 move for approval of Application Number 18091
20 pursuant to 11 DCMR 3103.2 for a variance from
21 the lot area and lot width requirements, the
22 side yard requirements and the lot occupancy

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1 requirements to allow the construction of a
2 one-family detached dwelling in the R-2
3 located at 5328 Gay Street, N.E.

4 ZC CHAIR HOOD: Second.

5 ACTING CHAIRPERSON SORG: A motion
6 has been made and seconded. All those in
7 favor say aye.

8 (Ayes.)

9 ACTING CHAIRPERSON SORG: All
10 those opposed?

11 Mr. Moy, can you please read back
12 the vote.

13 MR. MOY: Yes, Madam Chair. Staff
14 would record the vote as 3 to 0 to 2 based on
15 the motion of Mr. Dettman to approve the
16 application for the variance relief as cited.
17 Seconded by Mr. Hood and also in support of
18 the motion, Ms. Sorg. No other Board Members
19 participating. So, again, the final vote is
20 3 to 0 to 2.

21 ACTING CHAIRPERSON SORG: Thank
22 you, Mr. Moy, and I think we can have a

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1 summary order.

2 Thank you, Mr. Sikder, for your
3 cooperation today and your flexibility and
4 we're looking forward to receiving your
5 revised plans. Thank you.

6 Are there --

7 ZC CHAIR HOOD: Madam Chair, I
8 just wanted to commend you for your first --
9 I've been around a long time and I think today
10 you were organized. There were some issues.
11 You handled it very well and you ran these
12 proceedings excellently and I want to commend
13 you and encourage you to keep doing the great
14 work in running these hearings when you have
15 the opportunity being the Vice Chair. But, I
16 think you've done a great job today and I want
17 to commend you.

18 And also, I want to say that I'm
19 going to miss Board Member Dettman. I think
20 that we've said previously going away, but I
21 wanted to make sure I put that on the record.

22 Thank you.

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1 ACTING CHAIRPERSON SORG: Thank
2 you, Mr. Hood. I really appreciate your
3 comments and even more than that, I appreciate
4 the support of you and Mr. Dettman today. It
5 made my job a lot easier. So, thank you for
6 that.

7 And I think I may also have said
8 something about how much we all will miss Mr.
9 Dettman on the record before, but I also will
10 reiterate my comments in that regard and hope
11 that he is not a stranger even though he
12 doesn't get to sit here anymore.

13 MEMBER DETTMAN: Thank you, Madam
14 Chair. Perhaps I'll be before you on that
15 side of the dais someday.

16 ACTING CHAIRPERSON SORG:
17 Hopefully.

18 MEMBER DETTMAN: Using your
19 decisions against you. No. Thank you. This
20 is my third and final going away party I
21 guess.

22 But, I just wanted to reiterate

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1 how much of a real privilege I've considered
2 it to serve on the BZA for the last three
3 years.

4 You did an excellent job today.
5 It was very impressive. You just kind of
6 jumped right in there and took over and that
7 was really, really great and in the short time
8 that we've been able to work together, I've
9 been nothing but impressed every single week.

10 I'm very happy Chairman Hood is
11 here because I've been able to work with all
12 of your colleagues on the Zoning Commission
13 and every single one is exceptionally
14 professional, but I've also been able to get
15 to know you, Mr. Hood, as a person and I think
16 that you are, you know, a great asset to the
17 city and a really great leader on the Zoning
18 Commission. So, I appreciate all your support
19 as well.

20 And, of course, you know, the
21 Office of Zoning, the staff, Mr. Moy, Ms.
22 Bailey and OAG, everyone over at OAG that

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1 supports the Board, it's been just an
2 incredible honor working everyone. So, I
3 appreciate it.

4 Thank you very much.

5 ACTING CHAIRPERSON SORG: Thank
6 you and thank you to the staff today also.

7 Is there any further business for
8 this afternoon?

9 MR. MOY: I think that completes
10 the afternoon session, Madam Chair.

11 ACTING CHAIRPERSON SORG:
12 Excellent and I will note that the time is now
13 3:43. Oh, this hearing is now adjourned.
14 Thank you.

15 (Whereupon, the hearing was
16 concluded at 3:43 p.m.)

17

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