

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

MARCH 4, 2014

+ + + + +

The Regular Public Hearing
convened in the Jerrily R. Kress Memorial
Hearing Room, Room 220 South, 441 4th Street,
N.W., Washington, D.C., 20001, pursuant to
notice at 11:47 a.m., Lloyd Jordan,
Chairperson, presiding.

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BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson
S. KATHRYN ALLEN, Vice-Chairperson
MARNIQUE HEATH, Member
JEFF HINKLE, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

MARCIE COHEN, Vice-Chairperson

OFFICE OF ZONING STAFF PRESENT:

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

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN
MAXINE BROWN-ROBERTS
ARTHUR JACKSON
ELISA VITALE

The transcript constitutes the minutes from the Public Hearing held on March 4, 2014.

A G E N D A

18719 Application of Pierre DeLucy and
Jodie McLean 17

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18718 Application of Lenore Pool and
Tennis Club Inc. 41

18654 Application of Craig and Laura
Hickein 59

18692 Application of 1717 E Street LLC ... 66

18661 Application of Capitol Hill
Investors LLC 91

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

2 MR. MOY: Okay. At the top of the
3 batting order here then would be Application
4 18717. This is the application of Jared S.
5 Pettinato. Did I pronounce that correctly?

6 This is a request, Mr. Chairman, for
7 a special exception for a deck addition to a
8 one-family row dwelling. This is as advertised
9 for relief from Section 223, not meeting lot
10 occupancy and rear yard at 3416 13th Street,
11 N.W.

12 CHAIR JORDAN: Thank you. Would you
13 please identify yourself? Speak into your
14 microphone, please. And let me make sure you
15 gave the witness cards to B-

16 MR. PETTINATO: I didn=t. I will.

17 CHAIR JORDAN: Oh, see. Remember
18 before you testify, what are we supposed to do,
19 everyone? Complete two witness cards and give
20 them to the court reporter sitting to my right.
21 See, that was just a test. See, I knew I=d catch
22 someone. I=m just going to B- he wasn=t to me.

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1 No, everyone. So, just complete it and say your
2 name again clearly, and then I'm going to ask
3 you just to give the witness cards after you
4 complete.

5 MR. PETTINATO: I will. My name is
6 Jared S. Pettinato.

7 CHAIR JORDAN: Especially since you
8 have one of these applications where I think the
9 file is full, and based upon what you have
10 already submitted that I don't think that the
11 Board B- I don't have any other questions about
12 this. I don't know if any of the Board Members
13 have something they need to B- see, you almost
14 really rocked. So, you have the opportunity, of
15 course, to present on any testimony or evidence
16 which you wish at this hearing. However, the
17 Board is at a point where we believe that what
18 you've already filed supports your request for
19 relief. So, as I always say you can step off into
20 the dark waters and add something that might get
21 you into trouble, or you can have us go ahead
22 and proceed.

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1 MR. PETTINATO: Thank you. If you
2 would proceed, I would appreciate that.

3 CHAIR JORDAN: Some people don=t.
4 So, then let=s turn to Office of Planning to see
5 if Ms. Vitale has any addition to her report.

6 MS. VITALE: Good morning, Mr.
7 Chair, Members of the Board. Elisa Vitale with
8 the Office of Planning. I=ll just add, I believe
9 you should have a letter in the file from the
10 ANC. At the time our report was written we
11 didn=t have that information, but I know they
12 did meet and voted to support the application.
13 And with that, I=ll rest on the record and can
14 answer any questions that you might have.

15 CHAIR JORDAN: Very good. Does the
16 Board have any questions of Office of Planning?
17 Does the applicant have any questions of Office
18 of Planning?

19 MR. PETTINATO: No. Thank you.

20 CHAIR JORDAN: Then do we have a
21 representative here from Department of
22 Transportation for this particular case?

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1 Anyone from the ANC, which we do have a letter
2 in support of this application. And we
3 certainly appreciate them taking the time to
4 review this matter, who stands in support of
5 your application. Is there anyone here wishing
6 to testify in support of this application?
7 Anyone wishing to testify in support? Anyone
8 wishing to testify in opposition, anyone in
9 opposition? Then we normally turn back to the
10 applicant for any rebuttal, but you don=t have
11 anything to rebut in closing which we=d
12 probably find unnecessary. So, then we will
13 close the record on this matter, and I would
14 move that we grant the relief requested in this
15 case.

16 MEMBER HINKLE: Second.

17 CHAIR JORDAN: Motion made and
18 seconded. Any additional discussion from the
19 Board? All those in favor signify by saying aye.

20 (Chorus of ayes.)

21 CHAIR JORDAN: Those opposed, nay.
22 No, that=s okay, but it was the harmony that

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1 came across that was really stunning. The
2 motion carries. Mr. Moy.

3 MR. MOY: Yes, Staff would record the
4 vote as 5-0, this on the motion of Chairman
5 Jordan to approve the application with the
6 relief requested. Second the motion, Mr. Hinkle
7 seconding the motion, and also in support Ms.
8 Cohen, Ms. Heath, and Vice Chair person Allen.

9 CHAIR JORDAN: Very good. Then we can
10 have a summary order, please.

11 MR. MOY: Yes, sir. Thank you.

12 CHAIR JORDAN: You almost rocked
13 that. No, thank you. To complete, the witness
14 cards to the court reporter.

15 MR. PETTINATO: Absolutely. Thank
16 you.

17 MR. MOY: The next application
18 before the Board is Application 18719. This is
19 the application of Pierre DeLucy, I believe,
20 and Jodie McLean. This is a request for a
21 special exception under Section 223, not
22 meeting lot occupancy court, and nonconforming

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1 structure. This is the relief as advertised in
2 R-1-B District at premises 1814 24th Street,
3 N.W.

4 CHAIR JORDAN: Good morning.

5 MR. COOKE: Good morning.

6 CHAIR JORDAN: Or good afternoon.
7 What is this called? I guess it=s still morning.
8 Would you state your name for us, please?

9 MR. COOKE: My name is Patrick Cooke.

10 CHAIR JORDAN: Cooke?

11 MR. COOKE: Cooke, C-O-O-K-E.

12 CHAIR JORDAN: And you are, sir?

13 MR. THOMPSON: Good morning. Neal
14 Thompson.

15 CHAIR JORDAN: Thompson. All right.
16 I think you guys just gave the witness cards
17 over to the court reporter. Good job, good job.

18 This is another 223 which I think
19 the record is full. Does the Board have any
20 questions or anything you need to hear from this
21 particular applicant? Oh, authorization. Are
22 you B- what relationship are you to the

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1 applicant?

2 MR. COOKE: We are the architects for
3 the project. We also have a letter that=s been
4 submitted from the owner that we can act on his
5 behalf.

6 CHAIR JORDAN: Do we have that?

7 MR. COOKE: But given the snow day
8 yesterday, I don=t know if that got posted.

9 MR. MOY: It=s not in the record, Mr.
10 Chairman.

11 CHAIR JORDAN: Do you have a copy
12 with you?

13 MR. COOKE: I have a copy right now.

14 CHAIR JORDAN: Thank you.

15 MR. COOKE: How many copies do you
16 need?

17 CHAIR JORDAN: Well, as many as you
18 have. We need what, at least seven, eight.

19 MR. COOKE: I=ve got four right now.

20 CHAIR JORDAN: You have how many?

21 MR. COOKE: Four.

22 CHAIR JORDAN: Give it to Mr. Moy,

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1 please. Thanks, good catch. That=s why we=re a
2 team, one misses, the other is supposed to grab
3 it and catch it, so thank you.

4 MR. MOY: Staff is making more
5 copies, Mr. Chairman.

6 CHAIR JORDAN: Okay. So, did you look
7 at it?

8 MR. MOY: Yes, it looks fine, sir.

9 CHAIR JORDAN: Does the Board have
10 any questions, any issues with this particular
11 application? I think the record again is full
12 on this one. Then we would turn to the applicant
13 and ask do you think you need to put on some
14 additional testimony, but I think the
15 documentation which you submitted would
16 suffice for relief.

17 MR. COOKE: We=ll stand on the
18 record.

19 CHAIR JORDAN: Then let=s turn to Ms.
20 Maxine Brown-Roberts and see if there=s
21 anything in addition to her report that she
22 would like to add.

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1 MS. BROWN-ROBERTS: Good morning,
2 Mr. Chairman. And for the record, Maxine
3 Brown-Roberts from the Office of Planning. And
4 I=m going to stand on the record and with our
5 report, except that subsequent to our report
6 the ANC did receive the support of the adjoining
7 neighbors and recommended approval. Thank you.

8 CHAIR JORDAN: Thank you. Board,
9 questions of Planning? All right. Do you have
10 a question for Planning?

11 MR. COOKE: I have a clarification
12 for Planning.

13 CHAIR JORDAN: Yes.

14 MR. COOKE: That ANC recommended
15 support, ANC has received support from the
16 neighbors at 1812 and received nothing from the
17 neighbors at 1816. We spoke to the neighbors at
18 1816.

19 CHAIR JORDAN: Any additional B- all
20 right. That=s more of a statement. Anyone here
21 for Department of Transportation on this
22 matter? We do have a letter of no objection to

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1 the relief being requested by the Department of
2 Transportation. Is there a representative of
3 ANC-2D? We do have a letter of support from
4 ANC-2D who supports this application which we
5 give great weight to. Is there anyone wishing
6 to speak in support of this application, in
7 support of this application? Anyone wishing to
8 speak in opposition, please come forward. Do me
9 a favor, please; talk to Mr. Moy, who is the
10 Board Secretary.

11 (Off the record comment.)

12 CHAIR JORDAN: Okay. Let=s proceed.
13 Would you identify yourself? Make sure your
14 microphone is on, please.

15 MS. LAND: My name is Martha Land,
16 and I live at 1816 24th Street, right next door.

17 MR. LAND: My name is Stuart Land.

18 CHAIR JORDAN: Is your microphone
19 on? Please pull it closer.

20 MR. LAND: My name is Stuart Land,
21 and I live the same place, 1816 24th Street, N.W.

22 CHAIR JORDAN: Okay. All right. You

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1 have three minutes if you=d like to tell us what
2 the issues are, and why you=re in opposition.

3 MS. LAND: Well, we are excited that
4 they are going to be fixing up this house that
5 was not worked on, but when I spoke to Mr. Cooke
6 over the weekend and he said they were going to
7 extend the back to a balcony, though the
8 drawings were much more extensive, that they
9 would only be taking a balcony two and half feet
10 beyond what our perimeter was. I said oh, I=m
11 sorry, but we won=t agree to that. We stuck to,
12 several years ago, to the exact zoning
13 requirements, and as did neighbors on our
14 right, both of the neighbors on our right. We
15 were all restricted, and to even have someone
16 extend it two and a half feet but with more
17 B- with drawings that they were trying to get
18 accepted that were more elaborate, which we
19 assume will be done at a later time. It would
20 totally destroy our privacy, the very thing
21 that we tried to accomplish for them when we had
22 our back extended exact B- well, you=ll see in

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1 the picture, and he has a picture of it, also.
2 So, that we don=t care what they do. I mean,
3 we=re delighted they=re going to fix it up, but
4 not extending beyond what the requirements were
5 for the other people to their right.

6 MR. LAND: Just to underscore that,
7 when we did the property in late 1980s we were
8 very careful to abide by the zoning
9 requirements. And the problem here is that the
10 way this B- I don=t know if they can B-

11 MS. LAND: They=re going to.

12 MR. LAND: The way these houses are
13 joined together in a very, very close way, not
14 like the other houses, so that B-

15 MS. LAND: Right here.

16 MR. LAND: And the whole
17 architecture or design was to put a big window
18 in front B- to redo the kitchen and put a big
19 window facing out so that we could B- we have
20 a house B- the kitchen would be an attractive
21 and comfortable place to eat and have the
22 ability to see the scenery outside. That was

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1 their theory. And I must say, the people on the
2 other side of us, I guess it=s the right side,
3 they are doing remodeling, and they are
4 likewise strictly abiding by the rule. And it=s
5 the same thing by the next house, the McCarty=s
6 house where they are also respecting that
7 zoning.

8 CHAIR JORDAN: Okay.

9 MR. LAND: We never got any of these
10 drawings that we understood we were going to get
11 before this hearing.

12 MS. LAND: Over the weekend, so we
13 don=t know what we=re talking about because C-

14 CHAIR JORDAN: You have not seen the
15 drawings?

16 MS. LAND: No, they did not give us
17 the drawings, and he was supposed to send the
18 drawings over the weekend, so we=re like, you
19 know B-

20 CHAIR JORDAN: So, you don=t
21 B- well, let me say this. Let me ask a question.
22 So, you=re saying that this property, that the

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1 request is going to impede you in some type of
2 way.

3 MS. LAND: Right.

4 CHAIR JORDAN: But you have not seen
5 the plans?

6 MS. LAND: No, but just the B-

7 CHAIR JORDAN: So, let me ask you a
8 question.

9 MS. LAND: Yes.

10 CHAIR JORDAN: What are you basing
11 your statement that it=s going to cause you a
12 problem?

13 MS. LAND: On just having gone
14 through the same kind of thinking ourselves
15 about what if someone would put a balcony, what
16 if we would put a balcony? No way, we wouldn=t
17 do it because it would impinge on the privacy.
18 I mean, we went through the whole thinking for
19 ourselves, and to preserve the privacy for our
20 next door neighbor thinking that some day he
21 would fix up the back of his house we did not
22 B- we took that into consideration. And there

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1 were requirements, also, and we followed them
2 exactly. So, all of a sudden to hear that there
3 was going to be a two and a half foot, where we
4 look out B- we basically live in that room. We
5 look out all the time. If there=s going to be
6 two and a half feet of balcony out there, but
7 really there B- I was told by Mr. Cooke that
8 they had more extensive drawings. Well, we all
9 know what that means. We know that they=ll put
10 up something and then later when they get the
11 permit to extend it, they=ll already have the
12 approval of the permit, so it=ll be extended at
13 some time.

14 MR. LAND: Can I make just one B-

15 CHAIR JORDAN: Well, first of all, we
16 have to get this kind of back in order. We
17 normally give B- unless you=re a person, a
18 party in opposition you only have three minutes
19 to talk about where you are. We=ve gone past
20 that, but that=s okay, because the Board wants
21 to hear what you have to say. But is your
22 contention that if this relief is granted that

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1 this addition would be do what to you? It would
2 stop light and air coming to your place, block
3 your view? What are you saying?

4 MS. LAND: Yes, block the view. Would
5 you like to look out your kitchen window and see
6 somebody cooking outside right in your view? I
7 mean, we wouldn=t do it to anybody else.

8 MR. LAND: And can I just say that
9 they also B- they invade our privacy because
10 this big window, they have a balcony going out.
11 I don=t know if B-

12 MS. LAND: They B-

13 MR. LAND: B- this will come out.
14 You can show it to them. And they could look into
15 B-

16 MS. LAND: Look right into our house.

17 MR. LAND: Right into our house,
18 right into our dining room, kitchen where we eat
19 every night.

20 CHAIR JORDAN: Thank you. We
21 appreciate your statement and question. Board,
22 questions?

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1 ZONING MEMBER COHEN: Oh, to them?
2 No, not to them. I'm sorry. I wanted to go to
3 the architects.

4 CHAIR JORDAN: Yes, go ahead.

5 ZONING MEMBER COHEN: Have you
6 changed your original proposal?

7 MR. COOKE: We have not, no.

8 ZONING MEMBER COHEN: So, basically,
9 you will line up with the B- as proposed, or do
10 you extend beyond, as the B-

11 MR. COOKE: We extend beyond, as she
12 B-

13 ZONING MEMBER COHEN: By two and a
14 half feet.

15 MR. COOKE: By about two and a half
16 feet, yes, in building with beyond that a small
17 balcony, as well.

18 CHAIR JORDAN: What do you mean
19 Abeyond that?@

20 MR. COOKE: Per the plans.

21 MEMBER HEATH: So, just to clarify,
22 you=re saying that the building extends out two

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1 and a half feet beyond, and then the balcony is
2 another B-

3 MR. COOKE: Is another three feet,
4 yes.

5 MS. LAND: Okay. So, he did not B- he
6 said only two and a half feet it would go out.

7 MEMBER HEATH: Thank you.

8 CHAIR JORDAN: I think B- looking at
9 your statement, I think you have two and a half
10 feet in your statement.

11 MR. COOKE: There=s two and a half
12 feet of building extension, and three feet of
13 balcony extension, all of which encompasses
14 zoning enclosure.

15 CHAIR JORDAN: Okay. I don=t know,
16 did I miss that in your B- what kind of balcony
17 is there going to be?

18 MR. COOKE: What=s been proposed in
19 the plans is a metal balcony with a spiral
20 stair. We=re actually in anticipation of
21 removing that spiral stair. The owners don=t
22 really want that, or to use that as a balcony

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1 any more, but the plans as submitted contain a
2 balcony that is a cantilevered metal balcony of
3 about three feet.

4 CHAIR JORDAN: I guess I'm missing
5 that in the statement that was initially
6 prepared to the Board. Because when I was
7 looking at the statement, I saw two foot
8 extension of the property, but I saw three foot
9 wide deck. I didn't see a three foot B- I guess
10 it was going out, so that is about five. Okay,
11 if you look at it that way. But it's only 100
12 square feet total expansion from B- totally for
13 all that together. Right?

14 MR. COOKE: That's correct.

15 CHAIR JORDAN: Yes?

16 ZONING MEMBER COHEN: What is the
17 applicant's rationale to extend further than
18 the building next door?

19 MR. COOKE: This was done through
20 repeated design efforts, coordination with
21 Historic Preservation to find an appropriate
22 scale of addition. We knew that we needed to

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1 replace the entire rear deck and porch
2 enclosure that=s on the house, so when that came
3 down we needed to close down the small sort of
4 six inch deep court that we really left on the
5 one side. And during the reconstruction found
6 a happy medium through design that we found gave
7 appropriate amount of space to the interior
8 that was needed without impinging unduly on
9 every other property.

10 ZONING MEMBER COHEN: So, you have
11 been in front of HRPB? And are they B- have they
12 approved this, or they just gave you some
13 advice?

14 MR. COOKE: They have approved this
15 project.

16 CHAIR JORDAN: And you have the
17 support of the other B- the neighbor on the
18 other side?

19 MR. COOKE: That=s correct, yes.

20 CHAIR JORDAN: And you have not
21 shared the plans with the Lands?

22 MR. COOKE: The plans were dropped

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1 off at the Lands originally, but I understood
2 when we talked on Friday that they never
3 received them, and that=s B- the neighbors at
4 1812 did receive their plans.

5 CHAIR JORDAN: Okay.

6 MR. COOKE: I understand that they
7 did not.

8 CHAIR JORDAN: All right. This is
9 what we=re going to do with this one. I=m going
10 to continue this matter. You=re going to meet
11 with the neighbors, you=re going to discuss the
12 plans with the Lands, and we=ll put this back
13 on the docket for April 1st, is it? Is that B-

14 VICE CHAIR ALLEN: April Fools.

15 CHAIR JORDAN: On April 1st. Is that
16 good with the Board? Okay, that=s how we=ll
17 handle this one.

18 It=s always important that people
19 try to work with their neighbors and talk to
20 neighbors. We understand that it may not
21 happen, and we understand that it may not B- I
22 mean, that you may not come to an agreement, but

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1 we=d at least like that row to have some
2 discussions and fully disclose that which they
3 believe is going to go on. Then it=s for the
4 Board to make a decision whether or not somebody
5 is going to be substantially impacted, but also
6 to remind the Lands that this is a special
7 exception request, so the Board really starts
8 to get a little bit limited in regards to what
9 it can do in regards to some of these types of
10 requests. But I want you to have a conscious,
11 deliberate meeting with the Lands, present them
12 the plans and discussion. And as I always say
13 when we have opposition, it=s better that you
14 work it out than for us to work it out for you
15 because somebody may not win at all. Okay? All
16 right, good. So, April 1st can we do that? Is
17 that okay?

18 MR. MOY: Yes, sir.

19 CHAIR JORDAN: Good. Then that=s
20 what we=re going to do with this case.

21 MR. MOY: All right. Moving ahead
22 then the next application on the docket is

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1 Application 18720. This is the application of
2 Ben and I believe it=s pronounced Pia Cacioppo,
3 pursuant to 11 DCMR ' 3104.1. Again, this is a
4 special exception to construct a one-story
5 garage with mezzanine under Section 223, not
6 meeting, this is what=s advertised, lot
7 occupancy under Section 403 requirements at 723
8 13th Street, N.E.

9 CHAIR JORDAN: Let me editorialize
10 for a second. That=s why when we do this rewrite
11 or we take consideration about oppositions
12 probably should be well ahead, even if it=s just
13 a neighbor because it gives people time to talk
14 about it and work it out, et cetera. I think it
15 just makes a more effective and efficient use
16 of everyone=s time. I understand, but I=m
17 saying the applicants need to make a conscious
18 effort, and if there=s any opposition, at least
19 just so that they touch base. We don=t B- you
20 know, we don=t necessarily even have that in the
21 rule that they have to touch base with them. I
22 said it was an editorial, free editorial in the

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1 op page, my own view, not the stated belief of
2 the Board.

3 Okay, please identify yourselves.

4 MS. FOWLER: My name is Jennifer
5 Fowler. I'm the architect.

6 MS. CACIOPPO: Pia Cacioppo, owner.

7 CHAIR JORDAN: Okay. Did we get the
8 ANC letter on this matter? We do have one? We
9 got it today?

10 MR. MOY: It was four days ago, Mr.
11 Chairman.

12 CHAIR JORDAN: Okay. But the Board
13 just got it today. Right? Okay. Well, I won't
14 step in this one before I say I think the record
15 is fine, but it's pretty straightforward here,
16 unless we've got B- know we've met with our
17 neighbors. Right? Board, any questions on this
18 case?

19 Ms. Fowler, you know how we
20 generally operate, so is it all right to go to
21 Office of Planning and see what Mr. Mordfin has
22 for us?

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1 MS. FOWLER: That=s perfectly fine.
2 Thank you.

3 CHAIR JORDAN: Anything in addition?

4 MR. MORDFIN: Good morning. I=m
5 Stephen Mordfin with the Office of Planning,
6 and I have nothing additional to add. Thank you.

7 CHAIR JORDAN: Other than OP has
8 already recommended approval.

9 MR. MORDFIN: Yes, OP has
10 recommended approval of this case.

11 CHAIR JORDAN: Department of
12 Transportation? There=s a letter in the file in
13 support from Department of Transportation, and
14 this is a special exception case, again, but the
15 other one blew up. That recommends, has no
16 objection to the relief being requested. Is
17 there anyone here from ANC-6A? And we do have
18 B-

19 (Off microphone comment.)

20 CHAIR JORDAN: We have your letter.
21 That=s fine, thank you, appreciate it. And
22 thank you for attending. We have a letter from

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1 ANC-6A that had a quorum and met and voted 5-0
2 in support of this application for this special
3 exception relief from the 223.

4 Is there anyone wishing to speak in
5 support of this application, anyone in support?
6 Anyone in opposition, anyone in opposition? Ah
7 hah, no.

8 (Laughter.)

9 CHAIR JORDAN: Just thought I=d wake
10 you up a little bit. No. So, let=s turn back to
11 the applicant, and Ms. Cohen has a question,
12 please.

13 ZONING MEMBER COHEN: Actually, I
14 think you went so fast that I do have a question
15 for Mr. Mordfin. On page 4 of your review the
16 site photo or map that you have, it shows a very
17 long, narrow extension. Is that accurate?

18 MR. MORDFIN: What the map shows,
19 that=s the outline of the property.

20 ZONING MEMBER COHEN: Yes, of the
21 site.

22 MR. MORDFIN: It doesn=t show the

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1 extension on there.

2 ZONING MEMBER COHEN: So, it goes way
3 beyond anybody else=s property.

4 MR. MORDFIN: No, that=s the lot
5 boundaries.

6 ZONING MEMBER COHEN: Oh, I=m sorry.
7 I=m sorry. Thank you.

8 CHAIR JORDAN: Okay. It was a little
9 fright. See, see, you keep it interesting here.
10 This only happens this way after major
11 snowstorms and stuff, otherwise we=re pretty
12 boring.

13 Okay. Any additional questions of
14 the applicant? Then I would move that we grant
15 the request for the special exception.

16 MEMBER HINKLE: Second.

17 CHAIR JORDAN: Motion made and
18 second. Any additional discussion? All those in
19 favor signify by saying aye.

20 (Chorus of ayes.)

21 CHAIR JORDAN: Motion carries. Mr.
22 Moy?

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1 MR. MOY: Staff would record the vote
2 as 5-0, this on motion of Chairman Jordan to
3 approve the application with the relief
4 requested, second to motion, Vice Chairperson
5 Allen. Also support, Ms. Cohen, Ms. Heath. Oh,
6 it was Mr. Hinkle. Okay. Well, you=re on the far
7 end.

8 CHAIR JORDAN: No, I understand.

9 MR. MOY: Well, I=m learning how to
10 count to five again, Mr. Chairman.

11 (Laughter.)

12 CHAIR JORDAN: That=s right, we have
13 a full complement of a Board. Have you seen that
14 in a long time?

15 MR. MOY: Yes. So, once again, let me
16 start at the beginning. The motion is made by
17 Chairman Jordan, second is by Mr. Hinkle, also
18 in support Vice Chairperson Allen, Ms. Cohen,
19 and Ms. Heath, 5-0.

20 CHAIR JORDAN: All right. A summary
21 order, please.

22 MR. MOY: Thank you.

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1 CHAIR JORDAN: Thank you, appreciate
2 it.

3 MR. MOY: The next application
4 before the Board is Application 18718. This is
5 an application of Lenore Pool and Tennis Club,
6 Inc., pursuant to 11 DCMR ' 3104.1.

7 Mr. Chairman, this was originally,
8 won't say originally, was advertised for a
9 special exception for a community center
10 building which includes a tennis court and a
11 swimming pool. The last BZA order was Order
12 Number 14619 approved under Section 209.

13 CHAIR JORDAN: Yes. So, that leads
14 right into my question. Why is this the new and
15 not modifying the previous order? Why are we
16 doing this?

17 MR. MOY: Is this a question of the
18 General Counsel?

19 CHAIR JORDAN: No, I'm just B- I'm
20 asking anybody.

21 MR. MOY: Anyone.

22 CHAIR JORDAN: Yes. Why is it a new

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1 case? Anyone?

2 MR. MOY: All I can say is it was -

3 CHAIR JORDAN: Do you want to answer?

4 Do you have an answer?

5 MS. NAGELHOUT: I would ask the
6 applicant, it=s their application. Did they
7 choose this, or B-

8 CHAIR JORDAN: Yes, why is this a new
9 B- let me have you, excuse me, identify
10 yourselves.

11 MS. MacADAMS: Hi, I=m Monica
12 MacAdams. I=m the vice president of the Lenore
13 Pool and Tennis Club.

14 MR. SUMMERSGILL: I=m Bob
15 Summersgill. I=m Commissioner for 3FF7 and I=m
16 here to apologize for not getting our statement
17 in sooner, but you B- we hope you will accept
18 it for the record. We appreciate it.

19 CHAIR JORDAN: We got it here, and
20 it=s before the hearing, so appreciate it.

21 So, do we know why B- McAdams, is
22 it?

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1 MS. MacADAMS: MacAdams, right.

2 CHAIR JORDAN: And you B- do we have
3 an authorization for you? You are the vice
4 president of the Tennis Club?

5 MS. MacADAMS: Right.

6 CHAIR JORDAN: I mean, of the Lenore
7 Pool and Tennis B- okay, I guess it=s called.

8 MS. MacADAMS: Yes.

9 CHAIR JORDAN: We can visit that at
10 some other point. I think we do. Do we have a
11 letter that you=re going to represent them
12 today?

13 MS. MacADAMS: I B-

14 CHAIR JORDAN: We can work in reverse
15 and accept your testimony in the record that
16 they B- you=re duly authorized to represent
17 them. Is that what you=ve told us?

18 MS. MacADAMS: Well B-

19 CHAIR JORDAN: Are you the B-

20 MS. MacADAMS: They sort of know
21 they=re there. It=s a very small nonprofit
22 corporation which was established some 25 years

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1 ago for the sole purpose of developing and
2 managing this facility.

3 CHAIR JORDAN: Okay. Let me B-

4 MS. MacADAMS: And so I=m an officer.

5 CHAIR JORDAN: I got you. That=s why
6 I said, you=re just placing it on the record
7 under oath that you have their authority to move
8 forward. That=s all I said. Okay, so we=re
9 good.

10 MS. MacADAMS: I=m part of the
11 Athey,@ if you follow me.

12 CHAIR JORDAN: Oh, I clearly follow
13 you. I don=t know if you=re following me, but
14 that=s okay. You made me forget what I was going
15 to say.

16 Did you file the application? Who
17 filed the application?

18 MS. MacADAMS: I did.

19 CHAIR JORDAN: You did.

20 MS. MacADAMS: Yes.

21 CHAIR JORDAN: Is there a reason why
22 you didn=t file this as a modification to the

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1 previous relief that was granted in Case 14619?

2 MS. MacADAMS: I thought that=s what
3 this was to be honest with you. I=m not a
4 professional B-

5 CHAIR JORDAN: I understand. I
6 understand.

7 MS. MacADAMS: All right. We were
8 -- the original B- and I didn=t B- and I=m
9 rather new to Washington, D.C., as well as to
10 this club, so my understanding was that in order
11 to increase the membership which had been B-

12 CHAIR JORDAN: No, no. No, I B-

13 MS. MacADAMS: B- apprized
14 previously B-

15 CHAIR JORDAN: You=re going well
16 past what I=m asking you.

17 MS. MacADAMS: Okay. I don=t
18 B- maybe I don=t understand your question.

19 CHAIR JORDAN: Okay. I understand.

20 MS. MacADAMS: I work very close
21 -- the staff here is wonderful, by the way. And
22 I worked very closely with them to make sure

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1 that I knew what I was doing.

2 CHAIR JORDAN: Okay.

3 MR. JACKSON: Mr. Chairman, I may be
4 able to assist on that.

5 CHAIR JORDAN: Yes. Well, give me one
6 second.

7 (Off microphone comment.)

8 CHAIR JORDAN: Yes. Mr. Jackson,
9 please.

10

11 MR. JACKSON: Yes, Mr. Chairman.
12 Arthur Jackson, D.C. Office of Planning. I
13 discussed B- I asked the applicant about the
14 same question regarding the relief, and what
15 she explained to me was that she filed the same
16 application that was filed the last time. And
17 the last time the application was filed for this
18 special exception. The reason for that is that
19 I believe there was a minor modification of the
20 plans, or the plans had not been recorded, but
21 the current development had not been part of the
22 original application, so at that time they

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1 filed an application that originally requested
2 a special exception, but under the final order
3 14619B they came back to filing relief in
4 accordance to 3129.7, which actually is just a
5 modification of the conditions of approval. So,
6 I suggested at the time was that we B- it would
7 be appropriate to do the same thing now since
8 we=re just making a minor modification of the
9 previous order conditions. But the applicant
10 was going to be B- didn=t have a lot of time to
11 refile the application, so in conjunction with
12 the Office of Zoning we decided to move forward
13 with a build and suspence approach. The
14 applicant has applied for a special exception
15 for the overall use, and the Office of Planning
16 provided interpretation in line with the B- I=m
17 sorry, to have a discussion in our report in
18 line with the actual provision that we apply for
19 minor modification of additions to address the
20 minor changes they=re talking about in
21 conditions.

22 CHAIR JORDAN: I appreciate that,

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1 but I just think administratively, Mr. Moy, I
2 just think administratively it makes it messy.
3 And I think that we would at some point in our
4 system catch it or something, because if the
5 application does, indeed, state that they want
6 to modify the conditions of the previous case,
7 you know, because otherwise we have another
8 case with some other conditions over here, and
9 another case with conditions here, and it=s not
10 following the sequence of other changes to this
11 application, to the relief or the modification
12 to the relief that=s been previously granted
13 before. So, I think administratively we have to
14 kind of keep them together because if someone
15 just pulled up this property, you know, it=s
16 going to be kind of different because there was
17 14619 in 1987, then there was modifications in
18 1988, and all that was under the other case, and
19 now we=re here. All that to be said it=s much
20 to do about nothing, but let=s just make sure,
21 in the future I would suggest that if we could,
22 if the Office of Zoning would kind of line it

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1 up for us even if we have to correct it. A lot
2 of times the applicants don=t know the process
3 or procedures, but we try to catch it, if we can.

4 MR. MOY: Yes, I agree, Mr. Chairman.
5 I=ll work with the Staff to see that that takes
6 place.

7 CHAIR JORDAN: Like I said, much to
8 do about nothing. All that being said, you just
9 simply want to increase five more people, five
10 more families.

11 MS. MacADAMS: Yes. It=s sort of
12 two-pronged. It=s five more memberships all
13 together, and of that number, not in addition
14 thereto, but of that number to increase the
15 number from three to six families who may be
16 members even though they live more than 1,000
17 feet from the facility. So, it=s two-pronged.

18 CHAIR JORDAN: It=s three to six.

19 (Off microphone comment.)

20 CHAIR JORDAN: All right. I mean, I
21 don=t see the issues in this. Board, questions
22 about this one?

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1 ZONING MEMBER COHEN: I guess it may
2 be in the record, and what is the eligibility
3 then of becoming a member of this club?

4 MS. MacADAMS: Well, again,
5 historically, so this is a little bit of
6 hearsay, but historically, 25 years ago a group
7 of neighbors who live on this Lenore Lane and
8 sort of extension of Linnean Avenue, it=s like
9 a cul de sac really, but has two different
10 street names. There was one vacant lot
11 available in that area, and 18 or so neighbors
12 got together, pooled their resources,
13 purchased the lot and sought to develop a little
14 pool and tennis club thereon. And the idea was
15 that it would be essentially available to them
16 and a few other people, but it was really
17 considered a neighborhood facility. So, that=s
18 how it all started long before I moved to
19 Washington, but that was its beginning.

20 So, they=ve been very careful about
21 not having a sort of open-ended membership, so
22 the first dibs, if you will, are people who live

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1 on this little circle, in this little enclave.

2 CHAIR JORDAN: Got it.

3 MS. MacADAMS: And then a couple of
4 other people, for example, a woman lost her
5 husband, therefore sold her house, and moved
6 away, bought a condo but wanted to return, you
7 know, wanted to maintain her membership, so she
8 had sold her membership to the young family who
9 bought her house, but she B- so, there are a
10 handful of close friends, personal exceptions
11 where they wanted to open membership to people
12 who do not live in this very little tiny area.
13 But the whole idea was that it was to be a
14 neighborhood-type facility so that, you know,
15 a tightknit group, and every B- you know, you
16 wouldn't have people coming in by the carloads
17 from points unknown and that sort of thing. So,
18 it was meant to be a very familiar, friendly
19 place. I think that=s what this is all about.

20 ZONING MEMBER COHEN: Thank you.

21 MS. MacADAMS: But I have no
22 knowledge of the history or what issues had been

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1 raised at the outset. It was very specific. I
2 think the original plans B-

3 ZONING MEMBER COHEN: You did answer
4 my question. Thank you very much.

5 CHAIR JORDAN: Yes, we try to keep it
6 short and sweet.

7 MS. MacADAMS: I'll be as short as
8 you like.

9 CHAIR JORDAN: Yes. Sometimes it's
10 very helpful just to kind of answer the question
11 and B- okay. Board, any other questions,
12 because when I looked at this and looked at the
13 pictures, I didn't see a lot of B- has there
14 been any issues with this property, have
15 neighbors complained?

16 MS. MacADAMS: No, and I did a
17 petition.

18 CHAIR JORDAN: Short and sweet.
19 Okay.

20 MS. MacADAMS: It's included in the
21 papers.

22 CHAIR JORDAN: Right, right. Any

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1 other questions, Board? Anything else you B-

2 MS. MacADAMS: I have one question.

3 CHAIR JORDAN: No, you don=t B- you

4 can=t ask B-

5 MS. MacADAMS: Oh, I=m sorry.

6 CHAIR JORDAN: Stay with me. You and

7 I are on the same page. We=re going to get there.

8 Let=s turn to Office of Planning. Mr. Jackson,

9 you made your report. Can you tell us why they

10 requested to go to six and you=re saying five?

11 Is that correct?

12 MR. JACKSON: That=s an oversight by

13 Office of Planning if they want six.

14 CHAIR JORDAN: I thought that=s B-

15 MR. JACKSON: Six is fine.

16 CHAIR JORDAN: Okay. Try to throw us

17 for a loop here. But you found no reason why this

18 request shouldn=t be denied, why this should be

19 denied.

20 MR. JACKSON: There was no reason for

21 this request to be denied. We noted that the

22 applicant has not made any change to the

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1 physical property itself, there are no
2 additions proposed. There=s no change in any
3 regulation, requirements that there be no
4 parking on site, so we think it=s truly a minor
5 modification that should be approved.

6 CHAIR JORDAN: Okay.

7 MR. JACKSON: So we support it.

8 CHAIR JORDAN: Thank you. Board, any
9 questions of Office of Planning? If you have any
10 questions of Office of Planning, you can ask
11 that gentleman.

12 MS. MacADAMS: That was the question
13 I was going to ask. Thank you.

14 CHAIR JORDAN: Okay. Department of
15 Transportation, we do have a letter from
16 Department of Transportation, no objection to
17 this relief. Turning now to the representative
18 from ANC, Mr. Summerfield is it?

19 MR. SUMMERSGILL: Summersgill.

20 CHAIR JORDAN: Summersgill.

21 MR. SUMMERSGILL: I submitted a
22 statement in support. The ANC voted 5-0 in

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1 support, or excuse me, 6-0 in support.

2 CHAIR JORDAN: Thank you. We thank
3 you for the ANC=s input and really coming down
4 helps out a lot, too.

5 MR. SUMMERSGILL: It was a week late.

6 CHAIR JORDAN: That=s okay. We
7 appreciate it, and we do make note of that and
8 give great weight to the action of the ANC. Is
9 there anyone here wishing to speak in support
10 of this application, anyone wishing to speak in
11 support? Anyone wishing to speak in opposition,
12 anyone in opposition? Then we would normally
13 turn back to the applicant for any rebuttal or
14 closing, but I=m going to suggest that you
15 probably let us keep rolling with this. Okay.

16 Then I would turn to the Board. Let
17 me B- I would say that B- I would offer that the
18 Board B- I would move that we grant the relief
19 being requested with modifications to the order
20 granted in 14619. I guess this might be
21 corrected as 14619C at some point, Mr. Moy.

22 MR. MOY: That=s correct, sir.

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1 CHAIR JORDAN: And that the previous
2 B- that some of the previous conditions in that
3 order stand. And let me show the modifications
4 I want to make to the previous order, previous
5 condition. One, that the membership of the
6 Lenore Pool and Tennis Club, or any successor
7 entity who will use the recreation facility
8 shall be limited to no more than 25 families,
9 and no more than six of the members of the
10 families may reside in excess of 1,000 feet.
11 Except for the security lighting, the
12 recreation facility shall not be illuminated at
13 night. Three, parking shall not be provided on
14 site. Four, the applicant shall provide for
15 private trash collection service on a regular
16 basis. Five, the applicant shall provide and
17 maintain evergreen landscaping along the
18 boundaries of the site bordering public
19 right-of-ways sufficient to screen the
20 facility from the street. I dropped out those
21 things which are already done from the order,
22 so that would be my motion.

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1 VICE CHAIR ALLEN: I second.

2 CHAIR JORDAN: Motion made, second.
3 Additional discussion? All those in favor
4 signify by saying aye.

5 (Chorus of ayes.)

6 CHAIR JORDAN: Those opposed, nay.
7 The motion carries. Mr. Moy.

8 MR. MOY: The Staff would record the
9 vote as 5-0, this on the motion of Chairman
10 Jordan to approve the request, and this would
11 be a modification to Order 14619 carrying forth
12 the conditions as the Board has stated,
13 including the two modification conditions now.
14 Second the motion, Vice Chairperson Allen, also
15 in support Ms. Cohen, Ms. Heath, and Mr. Hinkle.

16 CHAIR JORDAN: Thank you. A summary
17 order, please.

18 MR. MOY: Thank you, sir.

19 CHAIR JORDAN: Thank you. Appreciate
20 it. Thank you.

21 MR. MOY: The next application
22 before the Board is application number 18654 of

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1 Craig and Laura Hickein. This is, as advertised
2 previously, for a special exception for an
3 addition to a one-family detached, not meeting
4 Section 223, or rather under Section 223, not
5 meeting lot area, lot occupancy, and
6 nonconforming structure.

7 I believe, Mr. Chairman, we should
8 clarify the relief because I believe it=s been
9 amended to add relief under minimum yard
10 requirement, Section 404, but I think the
11 applicant should be prepared to cover that.

12 CHAIR JORDAN: I thought B- please
13 introduce yourself. Make sure your microphone
14 is on, please.

15 MR. HICKEIN: I apologize. Good
16 morning. My name is Craig Hickein. I=m the owner
17 of 4008 3rd Street, N.W., and the applicant.

18 CHAIR JORDAN: Did you say Hicks or
19 Hickens?

20 MR. HICKEIN: Hickein like chicken,
21 sir.

22 CHAIR JORDAN: Okay. All right. Are

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1 you requesting a change of relief than what=
2 been submitted?

3 MR. HICKEIN: We requested
4 additional rear yard relief under Section 404
5 pursuant to the Office of Planning=s suggestion
6 in their report in December of 2013.

7 CHAIR JORDAN: But we already had
8 requested rear yard support, or relief, so we
9 expanded the B- I=m just trying to get clear
10 here, because I B-

11 MR. HICKEIN: If I may, I believe in
12 the original request for relief we did not
13 include rear yard under Section 404. The Office
14 of Planning made that recommendation in their
15 report, December 10th, 2013.

16 CHAIR JORDAN: Okay.

17 MR. HICKEIN: On February 25th of
18 2014, I submitted a letter to the Board
19 requesting that that be added to my
20 application.

21 CHAIR JORDAN: Okay. Yes, okay,
22 because that B- then we had B- we started a

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1 hearing in this before. Correct?

2 MR. HICKEIN: Correct, although B-

3 CHAIR JORDAN: And then we pulled up
4 and we stopped, and said meet with OP and see
5 how you can come within the occupancy, and then
6 you kind of shaved your project back some. Yes.

7 MR. HICKEIN: That=s accurate.

8 CHAIR JORDAN: We=ve only had a
9 couple of hundred cases in between there, but
10 I do remember that.

11 MR. HICKEIN: I=m impressed.

12 CHAIR JORDAN: It was like 60 square
13 feet, it was that issue, and Mr. Jackson was
14 saying look, just do this, shave it back by a
15 couple of inches and you=re there. I think we
16 are there on this one. Board, any issues with
17 this matter? Questions?

18 This is the one, you know, we had and
19 it was just B- we measured the desk up here, the
20 width, and then we said you=ve just got to pull
21 it back, you know, six inches this side. So with
22 that, is there anything else you need to say?

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1 MR. HICKEIN: No, sir. Thank you.

2 CHAIR JORDAN: Then let=s turn to
3 Office of Planning. Mr. Jackson?

4 MR. JACKSON: Mr. Jackson, we have
5 our report before you. The applicant B- we
6 appreciate the applicant working with and
7 meeting with the Zoning Administrator and
8 working through the issues related to this
9 case. Based on the additional submission in the
10 file which is their revised site construction
11 plan we think that applicant B- the current
12 submission meets the requirements for approval
13 under special exception, as a special exception
14 under 223, and we continue to support the relief
15 granted under that provision.

16 CHAIR JORDAN: Thank you. Board,
17 questions of Office of Planning? Applicant, any
18 questions of Office of Planning?

19 MR. HICKEIN: No, thank you.

20 CHAIR JORDAN: And this is so small,
21 this is all about a deck, a small deck, but we=ve
22 got to go through the hoops. And we appreciate

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1 you coming because a lot of people do not do
2 that, and certainly get themselves B- subject
3 themselves to potential enforcement, but we
4 really appreciate you stepping up and doing
5 this.

6 We have a representative from
7 Department of Transportation on this. We do
8 have a letter of no objection to the relief.
9 Anyone here from ANC-4C? We do have a letter of
10 unanimous support of ANC-4C for the relief
11 being requested. Anyone here wishing to speak
12 in support of this application, anyone wishing
13 to speak in support? Anyone wishing to speak in
14 opposition, anyone in opposition? Then we
15 normally would turn it back for rebuttal and
16 closing, but I don=t believe that we need to do
17 so here.

18 You are aware that there=s a
19 condition being proposed that the B- that you
20 should retain the rear yard parking pad?

21 MR. HICKEIN: Understood. We will.

22 CHAIR JORDAN: So, then I would move

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1 that the Board grant the relief requested with
2 the condition that the applicant shall retain
3 the rear yard parking pad with a minimum
4 vertical clearance above the pad of six feet six
5 inches for the additional deck in accordance
6 with Section 2115.5 of the regs.

7 ZONING MEMBER COHEN: Second.

8 CHAIR JORDAN: Motion made and
9 second. Any discussion? All those in favor
10 signify by saying aye.

11 (Chorus of ayes.)

12 CHAIR JORDAN: Those opposed, nay.
13 The motion carries. Mr. Moy.

14 MR. MOY: Yes. Staff would record the
15 vote as 5-0, this is on motion of Chairman
16 Jordan to approve the application relief that=
17 been amended for approval, second the motion
18 Ms. Cohen, also in support Ms. Heath, Vice
19 Chairperson Allen, and Mr. Hinkle.

20 CHAIR JORDAN: A summary order,
21 please.

22 MR. MOY: Summary order. And did I

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1 say that was with one condition? If I didn=t,
2 it is.

3 CHAIR JORDAN: That=s okay. I know
4 yesterday you went out shoveling snow and you
5 kind of used up all your energy.

6 MR. MOY: Well, I did as a matter of
7 fact.

8 CHAIR JORDAN: And then your brain
9 kind of B- I understand. I=m with you. Same
10 thing happened to me, I was zapped. Thank you
11 very much. We appreciate it.

12 MR. HICKEIN: Thank you.

13 CHAIR JORDAN: The next case we=re
14 going to call is 18692; however, we=re going to
15 take a five-minute break which is normally our
16 10:30 break, which now has a 12:30 application.
17 Five minutes, please. So, 18692 can start
18 lining themselves up.

19 (Whereupon, the proceedings went
20 off the record at 12:40 p.m., and went back on
21 the record at 12:48 p.m.)

22 CHAIR JORDAN: Okay. We=re back in,

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1 we had a seventh inning stretch.

2 MR. MOY: All right. The application
3 before the Board is Application 18692. This is
4 the application of 1717 E Street LLC. This is
5 before the Board as published asking for relief
6 for a variance from the use provisions to
7 construct an eight-unit apartment house under
8 Section 330.5 at 1717 E Street, N.E.

9 CHAIR JORDAN: Please introduce
10 yourselves.

11 MR. BELLO: Good afternoon, Mr.
12 Chair and Board Members. My name is Toye Bello.
13 I'm representing the applicant in this case.

14 MR. DiRUGGIERO: Good afternoon. My
15 name is Gerard DiRuggiero, and I'm a broker at
16 Urban Land Company, and we specialize in new
17 condominium sales in the District.

18 MR. ALI: Good afternoon. My name is
19 Ramy Ali from Ram Design. I'm the project
20 architect.

21 CHAIR JORDAN: Your last name again?

22 MR. ALI: Ramy Ali from Ram Design.

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1 CHAIR JORDAN: Okay.

2 MR. KHAN: My name is Faraz Khan. I'm
3 one of the developers.

4 MR. DAMANI: Good afternoon. My name
5 is Mreza Damani. I'm one of the developers.

6 CHAIR JORDAN: Yes. Mr. Bello, we
7 don't have an authorization letter in the file.

8 MR. BELLO: I have belief that one
9 was filed, but the owners are here.

10 CHAIR JORDAN: Right.

11 MR. BELLO: They can perhaps testify
12 to that fact.

13 CHAIR JORDAN: That's the only thing
14 that saved you.

15 MR. BELLO: Appreciate that.

16 CHAIR JORDAN: You're the owners of
17 the property. You're the developers, and you're
18 B- it's okay for Mr. Bello to sit here and tell
19 us that he's representing you because he's in
20 front of you telling us that.

21 MR. BELLO: Yes.

22 CHAIR JORDAN: A lot of strange

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1 things have happened. No, he wouldn't do that.
2 I've known him since he's B- no. He was already
3 an adult.

4 And we did receive an ANC letter
5 today, we received today, I think it came
6 B- this is the first time I think the Board has
7 seen it.

8 There's a couple of housekeeping
9 things. Mr. Bello, I'm going to tell you, you
10 got a lift in this case, so this is B- because
11 you're asking for a use variance here, and you
12 know our standard for use variance. However,
13 are you tendering Mr. Damani and Mr. Khan, and
14 Mr. DiRuggiero as experts?

15 MR. BELLO: Mr. DiRuggiero as an
16 expert in real estate brokerage and sales, and
17 the developers as experts in development and
18 construction.

19 CHAIR JORDAN: All right. I don't
20 have a problem with Mr. DiRuggiero. I have a
21 problem with Mr. Damani and Mr. Khan as experts.
22 They're not in our book, for one. I think Mr.

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1 DiRuggiero=s bio and length of experience shows
2 that he can testify as an expert in those
3 matters of the marketing and sale of real
4 estate, et cetera. I=m not, and I don=t know
5 where the Board is regarding the other two
6 B- tender them as experts. They can testify as
7 fact witnesses, but not as expert witnesses
8 because I do not think they have the breadth of
9 experience and certainly even education,
10 because I believe that Mr. Damani has got a
11 computer science background. And I have one of
12 those, and I can=t get up and tell you about a
13 building being constructed based upon that
14 education. And although they=ve done some
15 projects, both have done some projects, it
16 doesn=t surround itself to me of the level of
17 intensity of experience that we would normally
18 want to see in our experts. What they can
19 testify B- well, that=s just my opinion, Board.
20 I=m searching for the Board to weigh in one way
21 or the other with regards to the expert;
22 however, they could testify clearly as fact

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1 witnesses. Board, anybody? It=s acceptable?
2 Then by consent we won=t accept them as experts
3 but they can testify as fact witnesses.

4 MR. BELLO: Absolutely fine. Thank
5 you.

6 CHAIR JORDAN: All right. Then you
7 can proceed in your case. As you know, this is
8 a use variance and I don=t know if you really
9 want to proceed or get some more time, unless
10 you area ready to present to the Board some
11 alternative financials. I haven=t seen
12 anything in your financials that provided
13 comparable on rental rates, the finances on
14 rentals. I didn=t see the comparable on the
15 finances of the applicant. Right off the bat,
16 I didn=t see those things.

17 There was B- I don=t see any
18 financial expert who is going to testify as to
19 the reasonableness of the return on investment.
20 And right off the bat, you=re talking about
21 B- 11 percent return of investment is not
22 reasonable return. We=ve had many, many cases

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1 with experts in here who say 11 percent is, so
2 I=m just giving it to you up front so that you
3 may want to take some more time to massage it,
4 or you can forward. I=m just letting you know
5 where your problems from our review of the B- my
6 review of the application. That=s not saying
7 where the other Board Members are because I
8 haven=t discussed it with them. But we study
9 these things long before we come here today, so
10 those would be the issues that I see. And I don=t
11 know if you=re ready to address that.

12 MR. BELLO: Thank you, Mr. Chair. I
13 didn=t come to address the need for financial
14 expert to either testify or provide testimony
15 to the fact that an 11 percent approximate
16 return on investment is not a reasonable
17 spread.

18 CHAIR JORDAN: How do we get there
19 without that testimony?

20 MR. BELLO: Well, it=s B- I believe
21 the Board has heard many, many cases in this
22 case in which this is a settled matter. In some

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1 cases that I=ve even been involved before the
2 Board, 20 percent threshold has been deemed to
3 be the acceptable B-

4 CHAIR JORDAN: By this Board?

5 MR. BELLO: Yes, that=s correct.

6 CHAIR JORDAN: It must have been a
7 heck of a day.

8 ZONING MEMBER COHEN: Mr. Chairman.

9 CHAIR JORDAN: Yes?

10 ZONING MEMBER COHEN: Market
11 conditions actually are important in
12 determining what=s a reasonable rate of return.
13 And in today=s market it would be my experience
14 that this may be a reasonable rate of return in
15 light of the other returns other investments
16 have, so that wasn=t clearly demonstrated that
17 whether it=s reasonable or unreasonable rate of
18 return.

19 In addition, I would just suggest
20 to you that, again, as applicant should have
21 been aware of some of the issues that are being
22 put forward prior to B- if they own the land or

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1 have an option on the land, to do due diligence.
2 They should have identified some of these
3 issues, as well. So, my position is this is
4 something that may have been self-imposed. So,
5 I think these are issues that have not yet been
6 explored or explained thoroughly, but I wanted
7 to share with you some of my reservations.

8 In addition, there is an Office of
9 Planning report that states they cannot approve
10 this project unless B- that they would if it was
11 fewer units, so I just want to throw that out
12 as guidance to you, but today I'm not prepared
13 to, based on the record, move forward on this.

14 CHAIR JORDAN: Yes. Well, this is the
15 hearing, Ms. Cohen, so they have the right to
16 put on the testimony. The only thing I was
17 laying out was letting you know where your bumps
18 are, and if you're ready to proceed to address
19 those issues. We can do it whichever way you
20 want. If you go forward with the evidence that
21 you've already submitted, and then whatever you
22 put on today, and we do what we do, or I was

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1 giving you the option that you might want to
2 take another look at it and come back. But,
3 certainly, it=s your show to row.

4 MR. BELLO: Well, we are certainly
5 glad to supplement the records further, and
6 I=ll leave it to the discretion and the guidance
7 of the Board whether to take the preponderance
8 of the testimony today or just postpone the
9 case.

10 CHAIR JORDAN: Here=s the problem
11 with that.

12 MR. BELLO: I=m sorry?

13 CHAIR JORDAN: Here=s the problem
14 with that, because we can take the testimony and
15 if we take the testimony and then we
16 subsequently get documents from experts or
17 others espousing to certain issues, then we may
18 want to have conversation. We might want to
19 question. I didn=t know if you=re ready to put
20 on that type of evidence. That=s why I presented
21 it to you up front to let you B- give you the
22 option as to what to do, because if we go through

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1 taking testimony and then you subsequently
2 submit us a market study which there=s no market
3 study in here in this file, or you give us an
4 expert opinion by an expert which we accept in
5 regards to financials, then we may have
6 questions. But either way.

7 MR. BELLO: We=re certainly glad to
8 take the advice of the Board and supplement the
9 records further, and perhaps reschedule for an
10 appropriate time when the Board can hear the
11 full evidence.

12 CHAIR JORDAN: I would probably
13 B- and that=s just my opinion. Board, is that
14 comfortable with you? Because we go through
15 these things, as you know, we scrub them and go
16 through it, and look at it, and try to determine
17 B- but let me find out first. Are people here
18 in support of this application that want to give
19 B- we could take their testimony for the
20 record. We can take their testimony, if it=s
21 okay with you, those people who are B- want to
22 testify other than B- for support so they don=t

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1 have to come back, and we would have that in the
2 record. Board, is that okay with you?

3 Then let=s do that, because I hate
4 to have them have to come back down. And they
5 made it through the snow to get here, so B- all
6 right. So, is there anyone wishing to testify
7 in support of this application, in support?
8 Please. And make sure your microphone is on. It
9 should have a bright green glow. See, I don=t
10 think it=s on. Push the button. Say something.

11 MS. PHILLIPS-GILBERT: It=s on now.

12 CHAIR JORDAN: Okay. Did you give
13 your witness card to the court reporter?

14 MS. PHILLIPS-GILBERT: Yes, I did.

15 CHAIR JORDAN: Okay. Would you
16 identify yourself?

17 MS. PHILLIPS-GILBERT: My name is
18 Sondra Phillips-Gilbert, and I=m the ANC
19 Commissioner 6A07 of the community in which the
20 developers want to build the condominiums.

21 CHAIR JORDAN: Okay. You=re the
22 single member?

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1 MS. PHILLIPS-GILBERT: Single
2 member.

3 CHAIR JORDAN: Okay. All right.
4 Please, you have three minutes, if you want to

5 MS. PHILLIPS-GILBERT: I'm just here
6 to lend support that the Commission did support
7 the special variance, the relief. And, also, we
8 voted, and Mr. Alberti is our Chair, he can
9 speak to that. But I'm just here to say that I
10 support them. They showed B- they worked with
11 the community, they met with us, and I really
12 appreciate the time they took to do that for us.

13 CHAIR JORDAN: All right. Thank you,
14 appreciate it. Board, any questions? Okay. Then
15 please identify yourself.

16 MR. ALBERTI: Hi, I am Nick Alberti.
17 I'm the Chair of ANC-6A here representing the
18 ANC. I really don't want to waste your time. I
19 came here just in case you had questions on our
20 letter which you now have. I wasn't sure you
21 were going to have it in time, so I have copies.
22 But you do have it, and if there are any

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1 questions, I'm here to answer questions. I
2 don't want to bore you with B-

3 CHAIR JORDAN: No, no. I B-

4 MR. ALBERTI: B- reiterating
5 what=s in our letter.

6 CHAIR JORDAN: No, and I appreciate
7 getting the letter, and I appreciate both of you
8 coming down, because at times we get a lot of
9 ANC letters, and we do have questions, or we=re
10 not able to talk to you so you understand where
11 we may be. There=s some conditions that you had
12 in the letter, or that B- one of which the
13 applicant has agreed to in the sense of the
14 parking permit restrictions, but there are
15 other things in here, the condition that they
16 get a commitment to hire residents in the
17 surrounding area and support youth
18 organizations is something that this Board
19 doesn't have the authority to instruct, or
20 impose as a condition. I just wanted you to know
21 that.

22 MS. PHILLIPS-GILBERT: We

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1 understand that.

2 MR. ALBERTI: Chairman, back to the
3 park B- the residential parking.

4 CHAIR JORDAN: We could do that one.

5 MR. ALBERTI: You can do that one?

6 CHAIR JORDAN: Yes, but they've also
7 agreed B-

8 MR. ALBERTI: Okay, that was our
9 hope.

10 CHAIR JORDAN: Yes.

11 MR. ALBERTI: All right.

12 CHAIR JORDAN: Yes, we can
13 definitely do that.

14 MR. ALBERTI: And on the other items
15 we understand that that's not within your
16 purview, and we appreciate that.

17 CHAIR JORDAN: Board, any other
18 questions or statements? Yes?

19 ZONING MEMBER COHEN: The proposal
20 is for eight units. The Office of Planning could
21 accept this project for six units. Do you have
22 an argument why it should be eight units?

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1 MS. PHILLIPS-GILBERT: Well, there
2 are apartment buildings on that same side that
3 side-by-side, it=s four and four, it=s eight,
4 so we have no argument against, so we support
5 it. We were just concerned about the parking,
6 and that=s where the community agreed with the
7 developers to allow the three additional
8 parking spaces.

9 ZONING MEMBER COHEN: Thank you.
10 Yes, sir?

11 MR. ALBERTI: If I may, back to the
12 parking. And I=m not sure I=ve seen the final
13 plans, or what will be the final plans, but the
14 developer has represented to us that they=re
15 committed to providing, I think, up to seven
16 parking spaces, is what they said when they
17 presented this to us. And the parking is
18 important in that neighborhood, and I just want
19 to emphasize that to this Board. Thank you.

20 CHAIR JORDAN: Let me ask you. I see
21 the vote was 4-1. What was the issue with the
22 one vote, if you know?

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1 MS. PHILLIPS-GILBERT: Mr. Alberti
2 can speak to that.

3 MR. ALBERTI: That was my vote. It
4 was B- and this goes to the last item where
5 we=re asking B- where this is an agreement
6 between B- where the applicant offered to
7 provide unspecified support for a youth
8 organization. I don=t like putting those things
9 in there. It looks like we=re trading our
10 support for some tangible return. I assure you
11 that wasn=t the case here. We viewed this on its
12 merits considering the parking issues, and it
13 was on that basis that it approved. I just did
14 not like including that in the letter and voted
15 just for the appearance of a conflict of
16 interest.

17 CHAIR JORDAN: Let me take one step
18 back, because let=s assume, and also, Mr.
19 Bello, how do I say this gingerly? If you are
20 given the right to do the eight units then
21 you=ll only be required to have four parking
22 spaces but you=re going to have seven. Right?

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1 MR. BELLO: It would actually only be
2 required to have three parking spaces.

3 CHAIR JORDAN: Okay. That was one of
4 the two, okay. Well, all right, I could be
5 wrong. So, you=ll be three and you=re going to
6 have seven.

7 MR. BELLO: That=s correct.

8 CHAIR JORDAN: So you=re giving up
9 something that you really don=t need, but
10 you=re giving it up.

11 MR. BELLO: We=re not only giving
12 that, we=re also committing to limiting to
13 three RPPs.

14 CHAIR JORDAN: Okay. I guess because
15 there can be some other people in the household
16 can go and get them, et cetera. I got you, so
17 there is something, you=ve got some give and
18 take there.

19 MR. BELLO: Okay.

20 CHAIR JORDAN: Any other questions,
21 Board, to our two witnesses? Appreciate it.
22 Thank you so much for coming.

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1 MS. PHILLIPS-GILBERT: Thank you.
2 And, by the way, I really enjoy observing this.
3 This is the first time opportunity for me as a
4 new ANC, and I commend you all for the work you
5 do, and the patience because it really B- you
6 really have to know what you=re doing, and I
7 enjoyed it.

8 CHAIR JORDAN: Thank you.

9 MS. PHILLIPS-GILBERT: Thank you.

10 CHAIR JORDAN: Thank you for saying
11 that, you=re very kind.

12 ZONING MEMBER COHEN: And back to you
13 for your volunteer work, too.

14 CHAIR JORDAN: You should come on
15 some days when it=s really hectic down here.
16 Please do, no. In fact, do we have ANC training?

17 ZONING MEMBER COHEN: It=s online.
18 Actually, there is some training online if you
19 go and walk through it.

20 CHAIR JORDAN: But I think that might
21 be something that we might want to suggest and
22 talk about at some point.

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1 ZONING MEMBER COHEN: We are aware of
2 that.

3 MS. PHILLIPS-GILBERT: Well, I think
4 it would be great, be able to use the terms and
5 new people coming in, you know.

6 CHAIR JORDAN: Absolutely.
7 Absolutely.

8 MS. PHILLIPS-GILBERT: The new
9 people can actually understand what it is you
10 do. And I just want to commend you because just
11 observing it=s been very educational, and the
12 fact that the Chair is, you know, funny, kind
13 of exciting.

14 (Laughter.)

15 CHAIR JORDAN: Well, thank you. We
16 try to keep it active. Thank you. We try to take
17 some of the pressure off, but I can be something
18 else at times. But thank you so very much.

19 MS. PHILLIPS-GILBERT: I appreciate
20 that.

21 CHAIR JORDAN: Those who are wishing
22 to speak in opposition, those in opposition?

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1 Okay, then let=s do this. Let=s keep this record
2 open. Let=s set this for a new date, Mr. Moy.
3 Mr. Bello, you=re going to need some time to try
4 to gather some things. How long do you think
5 you=re going to need?

6 MR. BELLO: Well, the owner seems to
7 B-

8 CHAIR JORDAN: I heard him say two
9 weeks, but I think that=s pushing it.

10 MR. BELLO: I=d say perhaps no more
11 than 30 days.

12 CHAIR JORDAN: Yes, okay. How are we
13 looking? Is there a date we=re looking okay on
14 the docket?

15 MR. MOY: Well, I was looking at Ms.
16 Cohen, too, because she=s B-

17 CHAIR JORDAN: Oh, that=s right.

18 MR. MOY: She=s not scheduled for
19 anything in April other than April 1st.

20 CHAIR JORDAN: What does April 1 look
21 like?

22 MR. MOY: Well, April 1 is beginning

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1 to get a little bit packed. I=d recommend
2 B- well, it=s up to the Board. I mean, the Board
3 can handle quite a bit.

4 CHAIR JORDAN: No, thank you, Mr.
5 Moy.

6 MR. MOY: Well, we have two appeal
7 cases, so in addition to the two appeal cases
8 we have one, two, three, four, five new
9 applications, plus two for decisions. And we
10 just added two more cases today.

11 CHAIR JORDAN: And what=s Ms.
12 Cohen=s next date?

13 MR. MOY: April 1st.

14 CHAIR JORDAN: No.

15 ZONING MEMBER COHEN: No, no. I don=t
16 have a date.

17 CHAIR JORDAN: You don=t?

18 MR. MOY: It would be March unless
19 she wants to B- I mean, it would be May,
20 probably May 6, if she wants to take it. It=s
21 open, May 6 is open.

22 ZONING MEMBER COHEN: Sure.

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1 CHAIR JORDAN: Thirty days is what,
2 April B-

3 MR. MOY: Thirty days would be about
4 April 15th.

5 CHAIR JORDAN: And what day in May?

6 MR. MOY: May 6th, it=s the first week
7 in May.

8 CHAIR JORDAN: May 6th is the date.
9 Okay.

10 MR. BELLO: Mr. Chair, I=ll actually
11 be out of the country on that date.

12 CHAIR JORDAN: Okay. All right. So,
13 what are we going to do here? Let me look at
14 April 1st. Are you going somewhere warm? Mr.
15 Bello, are you going somewhere warm?

16 MR. BELLO: I wish.

17 CHAIR JORDAN: We could just take the
18 hearing there.

19 MR. BELLO: I wish.

20 MR. MOY: Mr. Chairman.

21 CHAIR JORDAN: Yes?

22 MR. MOY: In the interim I was

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1 conferring with Ms. Cohen and she could be
2 available for this one on the 29th of April.

3 CHAIR JORDAN: Are you still here on
4 the 29th?

5 MR. BELLO: No, sir. I'm actually
6 leaving about then, that day, I believe.

7 CHAIR JORDAN: I'm looking at April
8 1st. April 1st is pretty strong, one, two, three,
9 four B-

10 MR. MOY: There=s no hearings on the
11 22nd, and the hearing prior to the 22nd is April
12 B- we=re back to April 15th, if Ms. Cohen could
13 be available for that. She=s looking.

14 CHAIR JORDAN: Okay, April 15th.
15 That=s another important date for some reason,
16 but B-

17 MR. MOY: Tax day.

18 CHAIR JORDAN: I know. Well, thank
19 you.

20 MR. BELLO: Thank you very much.

21 CHAIR JORDAN: But I just wanted to
22 be fair with you up front and allow you the

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1 opportunity to make this B- otherwise, you go
2 on appeal.

3 MR. BELLO: Appreciate that. Thanks.

4 MR. MOY: Mr. Chairman, would the
5 Board desire to have the filings in at least
6 seven days prior to the B-

7 CHAIR JORDAN: Absolutely. So, we
8 need your filing by April 8th, please.

9 MR. MOY: Thank you, sir.

10 CHAIR JORDAN: Thank you. Thank you
11 all for coming, appreciate it.

12 MR. BELLO: Thank you.

13 CHAIR JORDAN: Do you want to take a
14 break?

15 MR. MOY: Yes, sir. The next
16 application before the Board is Application
17 18661. This is the application of Capitol Hill
18 Investors LLC pursuant to 3103.2 and 3103.
19 B- well, this a variance request from the rear
20 yard requirements under Section 774, and a
21 variance from the off-street parking
22 requirements under Subsection 2101.1. This is

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1 what has been advertised at property 405 8th
2 Street, S.E.

3 CHAIR JORDAN: I think you can kind
4 of hold your breath on that now. Is there anyone
5 here for 18661, 18661, going once, going twice.
6 Okay, that=s dead. Send a Notice to Show Cause
7 on this one for missing their hearing date.
8 Thank you. Any other business coming before
9 the Board at this time?

10 MR. MOY: No, sir.

11 CHAIR JORDAN: Anything?

12 MR. MOY: So, for clarification for
13 the Staff, is the Board closing the file on this
14 case, or are we moving it to next week?

15 CHAIR JORDAN: Well, we have to send
16 them a notice.

17 MR. MOY: Okay.

18 CHAIR JORDAN: That=s why I=m
19 saying, we send them a notice.

20 MR. MOY: All right.

21 CHAIR JORDAN: We=ve got to give them
22 a new date and send a notice. I think the rule

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1 calls it a Show Cause or something like that.

2 MR. MOY: Okay, I can do that.

3 CHAIR JORDAN: Okay. Good, then we
4 are adjourned.

5 MR. MOY: Yes, sir.

6 CHAIR JORDAN: Thank you.

7 MR. MOY: Thank you.

8 (Whereupon, the proceedings went
9 off the record at 1:13:09 p.m.)

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