

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

JANUARY 6, 2015

+ + + + +

The Regular Public Hearing convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4<sup>th</sup> Street, N.W., Washington, D.C., 20001, pursuant to notice at 10:11 a.m., Lloyd Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

LLOYD JORDAN, Chairperson  
MARNIQUE HEATH, Board Member  
JEFF HINKLE, Board Member (NCPC)

The transcript constitutes the minutes from the Public Hearing held on January 6, 2015.

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ZONING COMMISSION MEMBER PRESENT:

MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary  
JOHN NYARKU, Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN GYOR  
MEGAN RAPPOLT  
MATT JESICK  
BRANDICE ELLIOT

DDOT STAFF PRESENT:

RYAN WESTROM

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

(10:20 a.m.)

CHAIR JORDAN: Let's do 18885.

ZC MEMBER TURNBULL: I was going to say are we going to give them a little more time,

CHAIR JORDAN: The applicants, yes. We're going to do that, certainly. Let's 85.

MR. MOY: Application Number 18885 of Amanda Thomas, as advertised notice, requests a special exception under Section 223 not meeting lot dimension, lot occupancy, rear yard and court width requirements as well as a variance from the alley setback requirements at 1401 Massachusetts Avenue SE.

CHAIR JORDAN: Good morning.

MS. THOMAS: Good morning.

CHAIR JORDAN: Please identify yourselves.

MR. TEASS: My name is Will Teass. I'm a principal with Teass \ Warren Architects, formerly Tektonics Design Group. I'm here this morning representing my client to the left, Amanda Thomas, who's the owner at 1401 Massachusetts Avenue SE.

MS. THOMAS: My name is Amanda Thomas, the owner of 1401 Massachusetts Avenue.

CHAIR JORDAN: Okay. I think there's sufficient grounds in your documentation to support your

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1 application.

2 I don't know if the Board has any questions that  
3 they feel they need to ask on this case. So it's your option  
4 to waive doing a presentation, and we can just proceed on.

5 MR. TEASS: That would be fine with us. Thank  
6 you.

7 CHAIR JORDAN: Sure, and turning to Office of  
8 Planning, anything in addition? Good morning. How are you?

9 MR. GYOR: Good morning, Mr. Chairman, members  
10 of the Board, Stephen Gyor with the Office of Planning. We  
11 support the application and rest on the record. Thank you.

12 CHAIR JORDAN: Board, any questions for OP?  
13 Applicant, any questions for OP? We do, anyone here from ANC  
14 6B on this case, ANC 6B? We do have a letter of support from  
15 ANC 6B that supports the application.

16 We have a letter from Department of  
17 Transportation with no objection to the relief requested. And  
18 I also want to note that there are letters from several  
19 neighbors who support this application.

20 Is there anyone here wishing to speak in support?  
21 Anyone here wishing to speak in support? Anyone wishing to  
22 speak in opposition? Anyone in opposition?

23 Then we'll close the record on this case. And  
24 I would move that we grant the relief requested in 18885.

25 MEMBER HEATH: Second.

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1 CHAIR JORDAN: Motion made and second. Any  
2 additional discussion? All those in favor, signify by saying  
3 aye.

4 (Chorus of ayes)

5 CHAIR JORDAN: Those opposed, nay? Motion  
6 carries. Mr. Moy?

7 MR. MOY: Yes, staff would record a vote as 4-0,  
8 this on the motion of Chairman Jordan to approve the  
9 application for the relief requested. Second the motion, Ms.  
10 Heath. Also in support, Mr. Turnbull, Mr. Hinkle and the  
11 member not present. Motion carries, sir.

12 CHAIR JORDAN: Summary, please.

13 MR. MOY: Thank you.

14 CHAIR JORDAN: Thank you very much. It's done.  
15 Then let's call 87 please, Mr. Moy.

16 MR. MOY: Okay. To the table Application Number  
17 18887 of DC CVS Pharmacy, LLC. As advertised, request for a  
18 special exception from the roof structure enclosures under  
19 Section 411 and 770.6 at property 67 Dupont Circle NW.

20 CHAIR JORDAN: Very good. Please introduce  
21 yourselves.

22 MS. BLOOMFIELD: Good morning. I'm Jessica  
23 Bloomfield from Holland & Knight.

24 MS. BROWN: Carolyn Brown with Holland & Knight.

25 CHAIR JORDAN: Good morning. Do we have an ANC

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1 letter in this case? I didn't see one when I went into the  
2 file. ANC hasn't --

3 MR. MOY: Let me double check. I don't recall  
4 there being one yesterday.

5 CHAIR JORDAN: I don't think there is one.  
6 There was presentation with the ANC?

7 MS. BLOOMFIELD: There's no letter from the ANC.  
8 We contacted the ANC. They did not put us on their agenda.  
9 We emailed with them a couple of times.

10 We believe that it was because the nature of  
11 relief was so small they didn't think that it was necessary  
12 to put it on. We also, HPO really took the lead in this and  
13 asked us to do the separate roof structures instead of a single  
14 roof structure.

15 And we talked with the ANC about that. So at this  
16 point they never scheduled us on any of their meetings.

17 CHAIR JORDAN: Okay. All right. And I did  
18 receive notice. That's in front. So this is one I think yes,  
19 I'm sure that Ms. Bloomfield, Ms. Brown you're going to waive  
20 anything if we already believe that there's sufficient  
21 information in this file to grant relief. Any questions,  
22 Board?

23 ZC MEMBER TURNBULL: I just had a question. On  
24 the roof structures, there's the two buildings. There's the  
25 one that's got the mansard roof, and then there's the other

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1 roof.

2 Are the units going on the other roof, not the  
3 mansard? They're going on that, I was confused because the  
4 one picture shows you looking at the building as if the units  
5 are behind the mansard roof.

6 MS. BROWN: My understanding is that they're all  
7 going behind the mansard roof or the sloped roof.

8 ZC MEMBER TURNBULL: Right, because there's one,  
9 and I'm looking at Architectural Drawing A 4.0. And it's got  
10 some dashed in units highlighted, but that's really the units  
11 that are beyond in the mansard area. Am I correct on that?

12 MS. BROWN: That's what it appears. I think  
13 you're actually right looking at that drawing.

14 ZC MEMBER TURNBULL: Yes, so I was assuming that  
15 the one view that they had, the little perspective shot they  
16 were showing nothing on the low roof sort of with the tile.

17 And they're showing the mansard, and they were  
18 showing like well it's back in that mansard area.

19 MS. BROWN: Yes.

20 ZC MEMBER TURNBULL: Okay. That's fine then.

21 MS. BROWN: Thank you.

22 CHAIR JORDAN: Okay. Any additional questions?  
23 Then let's turn to the Office of Planning.

24 MR. GYOR: Good morning again, Mr. Chairman,  
25 Stephen Gyor sitting in for Steve Cochran --

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1 CHAIR JORDAN: Oh, I was about to say wait a  
2 minute.

3 MR. GYOR: -- with the Office of Planning. We  
4 support the application and rest on the record. Thank you.

5 CHAIR JORDAN: Okay. Any questions, Board, for  
6 planning? The applicant, any questions for planning?

7 MS. BROWN: No, sir.

8 CHAIR JORDAN: Anyone here for DDOT for this  
9 particular case, on this case? No. We have a letter from the  
10 Department of Transportation with no objection to the relief  
11 requested.

12 Anyone here from ANC 2B? Anyone from ANC 2B? Is  
13 there anyone here wishing to speak in support of the  
14 application? Anyone wishing to speak in support of the  
15 application? Anyone in opposition? Anyone in opposition?

16 Then we'll close the record on this case. And  
17 I would move that we grant the relief in 18887.

18 ZC MEMBER TURNBULL: Second.

19 CHAIR JORDAN: Motion made and second. Further  
20 discussion? All those in favor, signify by saying aye.

21 (Chorus of ayes)

22 CHAIR JORDAN: Those opposed, nay. The motion  
23 carries. Mr. Moy?

24 MR. MOY: Staff would record the vote as 4-0,  
25 this on the motion of Chairman Jordan to approve the

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1 application for the relief requested. Second the motion, Mr.  
2 Turnbull. Also in support Ms. Heath and Mr. Hinkle and no  
3 other member present. Motion carries, sir.

4 CHAIR JORDAN: Summary order, please.

5 MR. MOY: Thank you.

6 MS. BROWN: Thank you very much.

7 CHAIR JORDAN: Thank you. Let's call 67 please,  
8 Mr. Moy.

9 MR. MOY: To the witness table Application  
10 Number 18867 of Growth Spurts. This is a request, Mr.  
11 Chairman, for variance on the off street parking requirements  
12 under Subsection 2101.1 for Child Development Center at 1802  
13 D Street NE.

14 CHAIR JORDAN: Okay. Please identify  
15 yourselves.

16 MS. SMITH: Good morning. I'm Camilla Smith.

17 MR. SMITH: Good morning, Calvin Smith.

18 CHAIR JORDAN: That's right. We've had you here  
19 before, haven't we. Why did we send this B- oh yes, because  
20 you didn't post. Now we've got it all posted up. Yes, we're  
21 all posted. All right, I think, is this where the relief,  
22 there was a relief requested, I think the ZA's letter offered  
23 relief under 2101, was it?

24 Just two issues. I think maybe someone  
25 requested relief on under 2116, but this can be all done in

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1 2101. Isn't that, am I right or wrong? 2101.

2 Okay. I got it. They requested under 2101, but  
3 it also requires relief under 2116. I think that's the issue  
4 here.

5 But if we waive it, and Mary's not here, if we  
6 waive under, if we do a variance under 2101, then I don't  
7 necessarily see why they need 2116 relief, although you're  
8 going to have parking space at another place, right? If we  
9 waive the requirement under 2101, then it's done.

10 MR. HINKLE: Then it's done. I agree with you,  
11 Mr. Chairman.

12 CHAIR JORDAN: Yes, I don't think OAG, or maybe  
13 I misread OAG, but it says that it was necessary for 2116. I  
14 don't think that's necessary. Would you all agree? Okay.

15 Then we are at a point with this case, I think  
16 it's ready, all packaged up, ribbon and everything ready to  
17 go. It's a little delayed Christmas present or whatever you  
18 very well may celebrate.

19 Let's make it a new year's present. And I think  
20 we necessarily don't have to hear anything from you unless you  
21 just want to talk and then talk yourself into trouble.

22 Then we're going to, okay. Got you. So I take  
23 that as you've waived any additional hearing and presentation  
24 to the Board. Board, any other questions on this? OP?

25 MR. JESICK: Thank you, Mr. Chairman, members of

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1 the Board. My name is Matt Jesick. The Office of Planning  
2 rests on the record in support of the application. Thank you.

3 CHAIR JORDAN: Thank you. Any questions  
4 anyone? Okay. Any questions to anyone on anything? All  
5 right, we have report from DDOT of no objection to the relief.

6 Anyone here from ANC 6A? They also support the  
7 application. And you have contacted the neighbors, right, and  
8 talked to them? They're all, yes, okay.

9 Is anyone here wishing to speak in support of this  
10 application? Anyone in support? Anyone in opposition? All  
11 right, then I would move that we grant, we close this hearing.

12 We will close this hearing, and I also will move  
13 that we grant the relief under 2101 under this application.

14 MEMBER HEATH: One more thing --

15 CHAIR JORDAN: We got a condition?

16 MEMBER HEATH: Right, from ANC.

17 CHAIR JORDAN: What was that condition?

18 MEMBER HEATH: There were five of them.

19 CHAIR JORDAN: Let me look at this. Okay. Yes,  
20 we can live with those. That includes the conditions that are  
21 in the ANC letter, and they are simply, I think you've had  
22 discussion not to let people park --

23 MR. SMITH: Yes.

24 CHAIR JORDAN: -- improperly and all that.  
25 Okay. Thank you. So I would amend my motion to include that.

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1 Is there a second?

2 MEMBER HEATH: I'll second.

3 CHAIR JORDAN: Motion made and second. Any  
4 additional discussion? All those in favor, aye?

5 (Chorus of ayes)

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

8 MR. MOY: Staff would record the vote as 4-0,  
9 this on the motion of Chairman Jordan to approve the  
10 application for the relief requested, 2101.1 with, including  
11 the conditions contained in the ANC letter, also in support  
12 or seconding, Ms. Heath.

13 Also in support, Mr. Turnbull and Mr. Hinkle. No  
14 other member present today, so motion carries, sir.

15 CHAIR JORDAN: Summary please.

16 MR. MOY: Thank you.

17 CHAIR JORDAN: Thank you. You're done. Okay.  
18 Now the fun part begins of our day. Let's do 18891, and let's  
19 take a five minute break at our 10:30 breakpoint although we  
20 started a little late. So we'll still take our five minute.

21 (Whereupon, the above-entitled matter went off  
22 the record at 10:33 a.m. and resumed at 10:43 a.m.)

23 CHAIR JORDAN: All right, let's proceed on.  
24 Call the case, please.

25 MR. MOY: Yes, sir, with pleasure. This is

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1 Application Number 18891 of 14th and H, LLC. This  
2 application, Mr. Chairman, was advertised for variance relief  
3 from height requirements under 770 FAR, 771 lot occupancy,  
4 parking requirements, special exception from the roof  
5 structure setback as well as the HS overlay special exception  
6 requirement.

7 I would ask that the applicant give the Board the  
8 status of where we are, if there's any amendment to the relief  
9 requested. And that completes the status briefing, Mr.  
10 Chairman.

11 CHAIR JORDAN: You guys are fine. Please  
12 introduce yourselves.

13 MS. MOLDENHAUER: Good morning. My name is  
14 Meredith Moldenhauer on behalf of Griffin, Murphy, Moldenhauer  
15 & Wiggins. With me today is Mohari Sequar on behalf of the  
16 applicant and Jeff Goins on behalf of PGN Architects.

17 MR. SEQUAR: Good morning, Mr. Chairman and  
18 members of the Board. My name is Mohari Sequar. I'm the owner  
19 and applicant of this project.

20 MR. GOINS: Good morning, Mr. Chair, members of  
21 the Board. I'm Jeff Goins with PGN Architects. I'm a partner  
22 there.

23 CHAIR JORDAN: All right, there's some  
24 preliminary matters. I don't know if we can, if I'm  
25 comfortable in going forward with this case. Let me ask some

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1 questions.

2 Ms. Rappolt, did you, and have you and the  
3 applicant and Ms. Moldenhauer here, have you guys had  
4 substantive conversations from the time you submitted your  
5 report?

6 MS. RAPPOLT: I'm sorry, Megan Rappolt for the  
7 record with OP. We've had one conversation since that time.

8 CHAIR JORDAN: And are you still in need of  
9 additional information?

10 MS. RAPPOLT: OP continues to take issue with the  
11 FAR requested. We also needed more information, I think, as  
12 well as DDOT did in terms of the parking.

13 Generally we support the special exception for  
14 the project, but due to these time constraints and sort of,  
15 I guess the holidays in general, we didn't have enough time  
16 to communicate effectively with the applicant.

17 CHAIR JORDAN: And also, Ms. Moldenhauer, there  
18 is an issue here. I see a TDM plan for this project. What  
19 I think I missed, I did see not the traffic study.

20 MS. MOLDENHAUER: No, so in our opinion, and  
21 we've worked with DDOT. We've been in communication with them  
22 throughout the process, and OP.

23 In our opinion, a full, comprehensive traffic  
24 analysis was not necessary for this project, and well obviously  
25 we respectfully disagree with DDOT and their request for it.

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1           The project physically cannot be parked, and  
2 we're more than willing to kind of walk through that process.

3           And the applicant has also been more than willing  
4 to concede a host of TDM measures and also is agreeing with  
5 DDOT and would concede to the additional requests that they  
6 asked in their submission and believe that all of those would  
7 ameliorate any possible concerns or impact on parking and --

8           CHAIR JORDAN: We can't operate like that.  
9 Here's the issue. We get a traffic mitigation plan, but what  
10 are we mitigating? So how does the Board then make a proper  
11 evaluation and say that the issues that might arise out of a  
12 traffic study, and this is just my thought, Board, arise out  
13 of a traffic study is mitigated by a traffic mitigation plan.

14           I hear what you're saying, but it sounds to me  
15 like we're saying just in case there are some then this is what  
16 we're going to do. But what if there are some, and these things  
17 don't do it? Does that make sense to the Board?

18           MS. MOLDENHAUER: I mean what we're offering is  
19 we're offering no RPP and no VPP along with a extensive host  
20 of TDM measures. DDOT has agreed that this area is transit  
21 rich.

22           And in that regard, the only possible impact that  
23 I believe would be a factor here would be the possibility for  
24 an owner to then own a car and have to park it on a private  
25 garage.

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1                   We're willing to provide testimony that there are  
2 a significant amount of garages in the area, and that you  
3 literally can walk out of this project and hop directly into  
4 a streetcar because there will be one right in front of you,  
5 take the --

6                   CHAIR JORDAN: Streetcar?

7                   MS. MOLDENHAUER: I'm sorry, the --

8                   CHAIR JORDAN: You know something the rest of DC  
9 doesn't know? No, just joking with you.

10                  MS. MOLDENHAUER: Once it's operational.  
11 They're testing, and I see it everyday when I drive on H Street.  
12 Once it's operational, which it will be operational by the time  
13 this building would be erected, they then literally hop in a  
14 car and drive down to Union Station or a number of other private  
15 parking garages that we've provided to DDOT and in our  
16 submission and then pay to park if they deem that they want  
17 to own a car.

18                  But they would not be able to obtain RPP, and  
19 there would be sufficient covenants on the project. So I think  
20 that in this regard any impact is so limited that to put the  
21 burden of obtaining a full TDM study onto the applicant, we  
22 respectfully submit that we believe it's not necessary. And  
23 that is why we're here today without having provided one.

24                  CHAIR JORDAN: So you have a traffic expert here?

25                  MS. MOLDENHAUER: No.

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1 CHAIR JORDAN: Okay. I mean it doesn't have to  
2 be a full study. Board, any thoughts on this, anyone?

3 ZC MEMBER TURNBULL: Well, unless we ask the  
4 Department of Transportation --

5 (Simultaneous speaking)

6 CHAIR JORDAN: Let's kind of flip this around and  
7 go to transportation and see if you've got a, rely on your  
8 advice.

9 MR. JESICK: Thank you. Good morning, Chairman  
10 Jordan and the rest of the Board. I appreciate the chance to  
11 discuss this project, and we see it as a project with great  
12 potential.

13 As you have observed, however, unfortunately  
14 from our opinion we haven't received enough information for  
15 us to reasonably evaluate the project in terms of whether we  
16 would support or not support it.

17 We agree with Ms. Moldenhauer that a full,  
18 complete CTR comprehensive transportation review would not be  
19 necessary. However, there's a fairly well established  
20 process by which an applicant would scope a project such as  
21 this.

22 And a CTR of some level would be completed, and  
23 we would expect that for an applicant such as this in a project  
24 seeking a variance such as this one.

25 We have not received that. We did receive a

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1 scoping form in late December, which was about approximately  
2 one month after we actually would've expected to see a  
3 comprehensive transportation review.

4 So we believe that the scoping process was not  
5 followed, and thus we are left with a lack of information for  
6 us to full evaluate the project at this time.

7 CHAIR JORDAN: Does that, all right, this is what  
8 I think we're going to do. I'm going to offer this unless the  
9 Board has something to the contrary.

10 I'd like to roll this over, Ms. Moldenhauer, and  
11 let you get either, to have further conversation with Planning  
12 or Department of Transportation.

13 It's certainly going to, I'm going to, I think  
14 the Board would be more comfortable with more information.  
15 Would that be correct?

16 MEMBER HEATH: Yes.

17 CHAIR JORDAN: That we provide not a full traffic  
18 study report but what DDOT has requested, and also provide the  
19 information that, if you can resolve something with the Office  
20 of Planning regarding the information flow.

21 Whether or not they eventually agree is going to  
22 be another issue, but that the issue of, where they can say  
23 they have sufficient information makes the Board more  
24 comfortable.

25 So I kind of think that this is not ripe yet. I

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1 think there's some issues outstanding. I'm not comfortable  
2 in going forward.

3 And I don't think the Board is comfortable in  
4 going forward at this point unless we have this additional  
5 information which we can evaluate this. So we can carry this  
6 over for Mr. Turnbull's next date?

7 ZC MEMBER TURNBULL: Yes, and I can make myself  
8 available.

9 CHAIR JORDAN: Okay.

10 ZC MEMBER TURNBULL: Again, I mean I think we  
11 want to expedite this thing as fast as we can.

12 CHAIR JORDAN: When can we, I don't know how long  
13 it may take you to get --

14 ZC MEMBER TURNBULL: Yes, how long will it take  
15 the applicant to --

16 MS. MOLDENHAUER: If we're not, I mean I guess  
17 one of the clarifications, we're not asking for a full report.  
18 It would just simply be an analysis from a transportation  
19 expert.

20 MR. JESICK: Yes. So we have the CTR scoping  
21 form, and you guys did submit a copy of it. So typically early  
22 in the process we would then respond with comments as to whether  
23 we agree with what you're going to do or not.

24 And so there's particular sections that you end  
25 up doing, and so the length obviously could be quite extensive

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1 or relatively brief. And so, and we would expect that scoping  
2 form as part of every project very early in the process.

3 And so in this case, yes, we can work back and  
4 forth with the scoping form. I anticipate we could do that  
5 in just a couple days= time back and forth.

6 And then once the scoping is completed, that's  
7 the scope of the report that would be expected. And I would  
8 leave it to the applicant to either find somebody or work on  
9 preparing the requested details in house and a submission some  
10 point following.

11 CHAIR JORDAN: Okay. Let me do this. Let me  
12 take this off page and let you guys certainly have further  
13 discussions. Mr. Moy, so I'm thinking 30 days tops, two weeks?

14 MS. MOLDENHAUER: Yes, it sounds like we may not  
15 even need 30 days, and it sounds like we have probably three  
16 weeks I think sounds sufficient to file something  
17 supplemental.

18 CHAIR JORDAN: So Mr. Moy, on a comfortable day  
19 within the 30 days. If it's two weeks, then fine. If it's  
20 three weeks, then fine, but a comfortable day.

21 MR. MOY: For comfort level for the Board, Mr.  
22 Chairman, of course we're looking to February at this point.  
23 I would suggest --

24 CHAIR JORDAN: We meet on the 13th, the 20th. Is  
25 this a full month for meetings?

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1 MS. MOLDENHAUER: There's a holiday in the  
2 middle there.

3 MR. MOY: We have a holiday in January.

4 CHAIR JORDAN: Oh, okay.

5 MR. MOY: Well --

6 CHAIR JORDAN: Is that a good well or well, well?

7 MR. MOY: Well, there are --

8 CHAIR JORDAN: Let me help you. I'm going to  
9 propose something.

10 MR. MOY: They're all consistent in terms of  
11 number of cases on our hearing dockets. The Board can do as  
12 early, and knowing that, the Board can do as early as February  
13 the 3rd or the 10th or the 24th.

14 CHAIR JORDAN: All right, how many cases do we  
15 have on the 3rd?

16 MR. MOY: Well, they're all off by one, so the  
17 3rd we have eight cases. On the 10th, we have nine.

18 CHAIR JORDAN: Those are hearing cases or  
19 decision --

20 MR. MOY: That's correct. I'm looking just at  
21 the new application, the hearing cases.

22 CHAIR JORDAN: All right, come here a moment.

23 MR. MOY: And the 24th we have eight cases. So  
24 they're all pretty level.

25 CHAIR JORDAN: Okay. They're level for sure.

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1 MR. MOY: So we're going to have to load one of  
2 them up.

3 CHAIR JORDAN: Yes, so we have no hearings on the  
4 20th. I see that. The 13th --

5 MR. MOY: So that's why I say we can do as early  
6 as the 3rd.

7 (Simultaneous speaking)

8 CHAIR JORDAN: That's too soon, 27th there is  
9 one, two, oh, one, two, three, four, five, six, seven, eight,  
10 nine. Did you say the 3rd or the 10th?

11 MR. MOY: That's correct.

12 CHAIR JORDAN: It doesn't look, wow. And then  
13 we have another holiday in February, right?

14 MR. MOY: Yes, but we do as early as January 27th  
15 by chance, we still have eight or nine cases, sir.

16 CHAIR JORDAN: All right, let's do the 3rd. The  
17 3rd is locked though. Draw a line. Put it in red.

18 MR. MOY: No more?

19 CHAIR JORDAN: Do everything you can. The 3rd,  
20 there's nothing can go on the 3rd. Even if I say Cliff, can  
21 we please put something on the 3rd, you say no, not the 3rd.  
22 Okay.

23 MS. MOLDENHAUER: Chairman Jordan, here's just  
24 a question. We've had extensive conversations with OP even  
25 though the holiday, the pre-hearing filing.

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1                   We believe that our FAR case is substantially  
2 submitted in regards to the exhibits we filed in our  
3 pre-hearing statement. We'd ask the Board if there's any  
4 other information that they'd be looking for --

5                   CHAIR JORDAN: Okay. Good question.

6                   MS. MOLDENHAUER: -- that could provide us an  
7 opportunity to supplement that.

8                   CHAIR JORDAN: Good question. Good, thank you.  
9 Board, is there anything else, any questions that you need to  
10 have addressed in this interim period?

11                  ZC MEMBER TURNBULL: Well, I think if OP still  
12 is not in agreement with the FAR calculations, I think we need  
13 to show, you need to show us why they're wrong or why you think  
14 you're right in your calculations.

15                  MS. RAPPOLT: Just as a point of clarification,  
16 it's not a calculation. It's their request for an additional  
17 0.4 FAR here that OP doesn't support.

18                  ZC MEMBER TURNBULL: Oh, okay. Understood.

19                  CHAIR JORDAN: Okay. So that's the 3rd, right?  
20 Is that what I said, February 3rd?

21                  MR. MOY: February 3rd, sir.

22                  CHAIR JORDAN: Okay. And certainly you know you  
23 need to get it in to us --

24                  MR. MOY: By a week, sir, would be January 27th.  
25 I would say Monday, the 26th. Is that too soon?

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1 MS. MOLDENHAUER: Tuesday, the 27th?

2 MR. MOY: Tuesdays, the 27th January, or do you  
3 want Friday, the 30th?

4 MS. MOLDENHAUER: Friday, the 30th would be  
5 wonderful if that's possible.

6 CHAIR JORDAN: No.

7 MS. MOLDENHAUER: I don't think that will give  
8 the Board enough time to read it, so --

9 CHAIR JORDAN: Well, we don't get our OAG reports  
10 until Friday evening, so --

11 MS. MOLDENHAUER: Thursday evening?

12 CHAIR JORDAN: Yes, say Thursday so at least give  
13 OAG the opportunity to look at it, do what they're going to  
14 do with it, and we can get our report from them on Friday. But  
15 certainly you're going to give it to DDOT as soon as --

16 MS. MOLDENHAUER: We're working with DDOT during  
17 this entire time, yes.

18 CHAIR JORDAN: Okay. So let's do it that  
19 Thursday, whatever that date is.

20 MR. MOY: January 29th, sir.

21 CHAIR JORDAN: Okay.

22 MS. MOLDENHAUER: Thank you very much.

23 CHAIR JORDAN: All right, thank you. Then  
24 that's what we'll do, continue it to that date. Thank you.  
25 All right, what do we have? We have, oh, one more case.

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1 MR. MOY: I can go see where they are at this  
2 point, sir.

3 CHAIR JORDAN: We have the applicants here.

4 MR. MOY: Mr. Bell is here.

5 CHAIR JORDAN: You want to call it? Okay.  
6 Let's call 884. Where's the, we'll find out.

7 MR. MOY: Okay. That would be to the witness  
8 table Application 18884 of 1351 LLC advertised for special  
9 exception from the zone district boundary line under 2514.1(d)  
10 and variance from the rear yard requirements under 774.1 at  
11 1351 Wisconsin Avenue NW, Square 1243, Lot 811, as advertised.

12 CHAIR JORDAN: All right, thank you. Are the  
13 parties and persons ready for this case? What happened to our  
14 party status folks?

15 (Off microphone discussion)

16 CHAIR JORDAN: No, why don't you sit down at this  
17 end because the camera is right where you are. You see the  
18 camera in front of you here? There's a camera down over this  
19 way.

20 MR. BELL: Oh, I see it.

21 CHAIR JORDAN: So you can move down this way.

22 MR. BELL: That's what happens when you come with  
23 the city.

24 CHAIR JORDAN: You have that in an SUV or  
25 something?

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1 (Off microphone discussion)

2 ZC MEMBER TURNBULL: You didn't bring it on the  
3 bus I'm sure.

4 MR. BELL: The Prius for us.

5 CHAIR JORDAN: Okay, fine. See, did he say  
6 something? No, I thought he was, no, I thought he was making  
7 the same comment.

8 ZC MEMBER TURNBULL: Maybe before you start,  
9 could you just point out the property on the --

10 MR. BELL: Sure. I'll be talking about it, but  
11 the property runs from here to here.

12 ZC MEMBER TURNBULL: That's what I thought it  
13 was, okay.

14 MR. BELL: That's the property, and then we'll  
15 have, I can show you each of the neighbors --

16 ZC MEMBER TURNBULL: Okay.

17 MR. BELL: -- everything.

18 ZC MEMBER TURNBULL: Got you.

19 MR. BELL: All right, I thought this would give  
20 you the context of --

21 ZC MEMBER TURNBULL: It's very nice. Thank you.

22 MR. BELL: -- what we're talking about and make  
23 it much more understandable for people who aren't architects  
24 that have to replan all this. Should I begin?

25 CHAIR JORDAN: No, just take a seat.

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1 MR. BELL: Okay.

2 CHAIR JORDAN: Mr. Moy, you already called the  
3 case?

4 MR. MOY: Yes, sir.

5 CHAIR JORDAN: I really don't understand this.  
6 What were they doing?

7 MALE PARTICIPANT: I believe that asked Mr. Moy  
8 how long to get to the next hearing. They just went to meet.  
9 I just called them. They're coming back upstairs.

10 CHAIR JORDAN: Okay. We'll give them five  
11 minutes to get in here.

12 ZC MEMBER TURNBULL: Is that model a quarter inch  
13 scale?

14 MR. BELL: It's an eighth inch scale --

15 ZC MEMBER TURNBULL: Oh, eighth inch. Yes,  
16 okay.

17 MR. BELL: -- model. I made every building from  
18 a flat fold out.

19 ZC MEMBER TURNBULL: Well, we don't often get  
20 many models for something like this.

21 MR. BELL: I actually asked Clarence , who's a  
22 friend, I said should I take my model or not? He says oh,  
23 absolutely.

24 ZC MEMBER TURNBULL: This is a real treat.

25 MR. BELL: Oh, okay.

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1 ZC MEMBER TURNBULL: I love to see models.

2 MR. BELL: Yes, I think you can understand the  
3 thing so much better. Architects love models.

4 ZC MEMBER TURNBULL: Did you show this before the  
5 Old Georgetown Board?

6 MR. BELL: I did, and we'll be seeing this  
7 essentially with this up.

8 ZC MEMBER TURNBULL: Okay.

9 CHAIR JORDAN: Okay. Welcome back. Thank you.  
10 We're going to proceed. If you please reintroduce yourselves.  
11 Could you take a seat, please, and introduce yourself. And  
12 if you're going to be standing, I'm going to ask, do we have  
13 our wireless mic handy?

14 MR. MOY: Yes, sir.

15 CHAIR JORDAN: Mr. Bell, we have a wireless mic  
16 that you can use.

17 MR. BELL: Thank you.

18 CHAIR JORDAN: All right, please, but let's take  
19 a seat for now. I need everyone to introduce themselves again  
20 for the record.

21 MR. BELL: My name is Robert Bell. I'm the  
22 applicant and the architect and owner of the property.

23 CHAIR JORDAN: Yes.

24 MR. MULDER: Christian Mulder, neighbor with a  
25 lot adjoining the theater building and spokesman for the party.

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1 CHAIR JORDAN: Okay.

2 MR. GALLAGHER: Bill Gallagher, adjacent  
3 neighbor. We all, our properties touch this property.

4 CHAIR JORDAN: We understand. Just introduce  
5 yourselves, please.

6 MR. JUNKER: Ceaser Junker, neighbor.

7 CHAIR JORDAN: All right, thank you. All right,  
8 I'm sorry.

9 (Off microphone discussion)

10 CHAIR JORDAN: Okay. We've already, so that you  
11 gentlemen understand, we were ready to go some time ago, at  
12 least ten minutes ago, and we've been waiting.

13 Mr. Bell, would you like to handle the ownership  
14 issue first, please? Or first, tell me what happened? Did  
15 you guys not resolve your issues?

16 MR. BELL: We were not able to come to a  
17 resolution of the fundamental issue here.

18 CHAIR JORDAN: Okay. All right.

19 MR. MULDER: Mr. Bell said, he claims that he can  
20 build a residence out there, and he felt that needed to be  
21 discussed first, decided by the Board first.

22 CHAIR JORDAN: So you guys didn't have fruitful  
23 discussion? Is that what you're telling me?

24 MR. MULDER: We did not. We made it clear. I  
25 mean we from our side, we're prepared to work. We are so

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1 concerned about it all that we're even willing to buy the lot  
2 as long as it's not being developed and just that the carriage  
3 houses restored.

4 CHAIR JORDAN: Right, and Mr. Bell, you didn't  
5 have fruitful discussion? You didn't offer to have discussion  
6 with the party opposition?

7 MR. BELL: I offered to make any kind of visual  
8 adjustments, windows, roof lines, things like that. But I  
9 couldn't offer the fundamental question of here, of was this,  
10 did this qualify to be a residence.

11 CHAIR JORDAN: All right, got you. We're good.  
12 So now let's deal with the first issue on ownership. The  
13 ownership of the property for which relief is requested is an  
14 issue. So can we step through that, please?

15 MR. BELL: I present as evidence with, these are  
16 not issues, two different pieces.

17 CHAIR JORDAN: Do you have copies for the Board?

18 MR. BELL: Yes, here's a copy for the Board.

19 CHAIR JORDAN: No, you're supposed to have 12  
20 copies, right? Twelve copies for the Board.

21 MR. BELL: I don't have 12 copies of that.

22 CHAIR JORDAN: Hand it to Mr. Moy. Let's see  
23 what we have, and if we have time to copy it.

24 MR. BELL: I have a couple of copies.

25 CHAIR JORDAN: Give what you're going to give.

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1 Hand that to the Board, Mr. Moy. And did you, did the party  
2 in opposition see these documents?

3 MR. MULDER: We are well aware of the surveyor's  
4 work.

5 CHAIR JORDAN: And you still contend that  
6 there's an issue on ownership?

7 MR. MULDER: Yes.

8 CHAIR JORDAN: Okay. So what do you, Mr.  
9 Turnbull, what do we have here?

10 ZC MEMBER TURNBULL: Well, I mean we're, what  
11 evidence do you have that you could present that would be  
12 contrary to this?

13 MR. MULDER: We don't have the evidence with us  
14 because we weren't expecting to, but we can send it to you  
15 tomorrow.

16 CHAIR JORDAN: But you made the representations  
17 in your pleadings to this body, so if you're not, I don't  
18 understand you not being prepared to deal with what you raised  
19 as part of the issues with the relief.

20 It just doesn't seem logical to me. All right,  
21 I'm going to take this under advisement, going to certainly  
22 want to see these other documents.

23 I'm going to need to probably see everything that  
24 supports, that you think is necessary for the Board to see that  
25 show ownership of the complete area in which you are seeking

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1 relief, okay.

2 And the same thing from the party opponents who  
3 subsequently be submitted to this Board, right?

4 MR. MULDER: Yes.

5 ZC MEMBER TURNBULL: Okay. I guess the, what  
6 we're seeing is the survey, but do you actually have a Bill  
7 of Sales?

8 CHAIR JORDAN: You know, deeds?

9 ZC MEMBER TURNBULL: A deed.

10 MR. BELL: Yes, after these claims were made,  
11 this went to a settlement and title company which showed that  
12 there were no encroachments on the title as claimed by the  
13 applicants. And the purchase was made after that.

14 ZC MEMBER TURNBULL: So you have a deed to the  
15 property then?

16 MR. BELL: Yes, I do.

17 ZC MEMBER TURNBULL: With no what do you call it.

18 MEMBER HEATH: Where is that information?

19 MR. BELL: I didn't bring a copy of the deed with  
20 me.

21 CHAIR JORDAN: Okay. I know this is new to  
22 everyone, and I understand that. And so let me certainly let  
23 you know I do understand. The issue here that's raised and  
24 whether or not even we can go forward is on the ownership issue.

25 The issue has been presented by someone else that

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1 you don't own all the property in which you're seeking relief.  
2 That's a fundamental basis of our relief being granted, to hear  
3 a case and move forward.

4 So that's what you have to show us, that you own  
5 the property. A survey, yes, we can see what the survey is,  
6 but that doesn't talk about ownership.

7 And it's certainly the same thing pointing back  
8 to those with party status because it does not help in any  
9 shape, form or fashion that you just make the claim.

10 Anybody can make the claim they own property. So  
11 we could go through with the Hearing Board and hold this in  
12 abeyance, this particular issue, which is probably what we,  
13 the Board have a feel for how they want to proceed in this,  
14 anyone? Any suggestions, Mr. Turnbull?

15 ZC MEMBER TURNBULL: You raised a good point.  
16 It's kind of tricky. Normally we've never dealt so much with  
17 the ownership of the property per se. In fact, I don't know  
18 how many times where an applicant has come in with a deed to  
19 the property.

20 Maybe it's been in the documentation, and I  
21 haven't really noticed it, but here there's definitely an issue  
22 with the ownership of the property.

23 CHAIR JORDAN: What we usually do, because we  
24 take the documents that you filed with the government. It's  
25 based upon your oath or affirmation and that you're not going

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1 to, anyone falsifies.

2 And so we have had situations before, not very  
3 many, few and far between since I've been on this Board that  
4 issues question. Then we require the proof of ownership issue  
5 to resolve.

6 So that's kind of where we are on this one. And  
7 as Mr. Turnbull said, this is a chicken and egg kind of deal.  
8 And so that's why I was just kind of turning to the Board to  
9 see if they want to hold the hearing and then or just reschedule  
10 this. Anybody have a feel? Yes, Mr. Turnbull?

11 ZC MEMBER TURNBULL: Again, just trying to hash  
12 through all this. I mean you could have the hearing and come  
13 to a decision, but you really couldn't decide anything.

14 You couldn't decide anything, so you'd have to,  
15 we'd have to have a continuation at some point.

16 CHAIR JORDAN: And so in following what you're  
17 saying, what if we did go through a full hearing and then the  
18 ownership is not proven. Then we would've wasted the Board's  
19 time and issue.

20 MEMBER HEATH: Right.

21 CHAIR JORDAN: That make any sense?

22 MEMBER HEATH: That does.

23 ZC MEMBER TURNBULL: Right.

24 CHAIR JORDAN: Okay. So this is what we're  
25 going to do if it's okay with the Board. We're going to

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1 continue this matter. And we need to get from both parties  
2 the documentation about ownership of this property.

3 I mean it's key to where you are. It's one of  
4 the things that you guys raised in your party status issues,  
5 and you're claiming that you own part of this property in which  
6 relief is being requested.

7 And before you could go forward, you have to show  
8 that you own the property in which you're seeking the relief.  
9 Okay? So here we go back with those dates again. And I'm  
10 just, yes?

11 ZC MEMBER TURNBULL: May I ask a question?  
12 Since we have ownership data that's contradictory to his --

13 CHAIR JORDAN: I don't know that to be true.

14 ZC MEMBER TURNBULL: Okay. All right. We  
15 don't know how we can solve the problem here.

16 CHAIR JORDAN: No, you're not going to solve it  
17 here. That's why we're not going to have a hearing today.

18 ZC MEMBER TURNBULL: Our role is not to solve  
19 property ownership. We're here for strictly the zoning  
20 issues, I think, but you've got to, we need, if you feel that  
21 there is a lien or something on this property that is still  
22 in effect, you need to be able to show that to us.

23 As Mr. Bell is going to be proving that he bought  
24 this property clean and there's nothing on it, so I mean that's  
25 the issue that's going to be coming before us as to the

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1 ownership of the property.

2 CHAIR JORDAN: Yes, and it's your burden to show,  
3 as you've raised it because I understand some of you are saying  
4 you got some of it in tax sales.

5 Somebody owns part of the land, and so it's  
6 whichever way you guys want to do it. But we're only going  
7 to do it, you're only going to get one shot at this. Okay?

8 MR. MULDER: We will submit the documentation as  
9 soon as possible.

10 CHAIR JORDAN: May 3rd, Mr. Moy. Oh, wait, one,  
11 two, I'm sorry, March. One, two, three, one, two, three, four,  
12 five, six. I only see six cases on March 3rd. Am I correct?

13 MR. MOY: That's correct as of yesterday.

14 CHAIR JORDAN: Okay. I mean all the other days,  
15 I've gone through it. And any other days are loaded.

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

17 CHAIR JORDAN: So this is going to be set, I can't  
18 see it happening any time before it, so March 3rd. And this  
19 is what I'm going to ask you, yes, please.

20 MR. BELL: So here's my question. I have  
21 received a building permit on this lot by the DC government  
22 based on a plat provided by the DC government, shows no  
23 encroachments whatsoever. It seems to me that --

24 CHAIR JORDAN: I'm sorry, Mr. Bell. I'm not  
25 going to have that conversation with you. We've already

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1 decided what's going to happen. This Board has to be  
2 comfortable with the ownership issue.

3 That's it, not trying to be unreasonable, but it  
4 is what it is. Okay? What you do with another agency is  
5 something else. And DCRA didn't ask you to prove that you own  
6 the land. They didn't ask you to do that. Isn't that correct?

7 MR. BELL: No, they didn't.

8 CHAIR JORDAN: I know they didn't. I used to be  
9 the director of their agency, so I know they did not ask you  
10 to prove you own the land. So let's, so this is going to be  
11 moved to March 3rd.

12 This is what I'm going to need you to do. Mr.  
13 Moy, give me, I want to exchange the documentation so that each  
14 side can see the documentation.

15 So if you can work our way for a start for Mr.  
16 Bell, for both parties to exchange their documentation and then  
17 give them an opportunity to respond to what the documentation  
18 is.

19 Although I think that's probably well above us,  
20 and we don't have OAG here to help give some rendering here.

21 So I think we need to be, exchange within ten days  
22 of the hearing and then seven days for any rebuttal thereof.  
23 Does that make sense, Board? Okay. So ten days from, what's  
24 that?

25 MR. MOY: Okay. So working from March 3rd for

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1 the continued hearing, seven days from that is the 24th, so  
2 that can be your rebuttal, rebuttals. Okay? Ten days from  
3 February the 24th would be, February the 12th, which is a  
4 Thursday if my math is correct.

5 CHAIR JORDAN: So on February 12th is it? At  
6 least by February 12th you guys exchange documents. You show  
7 your hand. You show your hand and exchange documents.

8 Then you're going to have three days to send to  
9 the Board what you dispute about the other person's proof.  
10 Okay?

11 MR. BELL: All right.

12 CHAIR JORDAN: Sorry, but this is kind of what  
13 we have to do for us to be able to even to move forward on this  
14 thing. All right, so that would be the order of the Board.  
15 And so, thank you. Mr. Adams?

16 MR. ADAMS: Yes, I just asked, so we should send  
17 the documents to the Board on the --

18 CHAIR JORDAN: On the first, is that February 20  
19 what was it, 12th, 14th?

20 MR. MOY: I would make that February 12th.

21 CHAIR JORDAN: On February 12th you're going to  
22 do two things. Each side is going to do two things. You're  
23 going to exchange documents with each other, and you're going  
24 to file the document here with the Board, your individual  
25 documents.

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1                   Then three days later, within three days, you're  
2 going to have the opportunity to share with each other your  
3 discussion of that, your rebuttal to what was submitted and  
4 also file it with the Board.

5                   So it's two things you're going to be sending to  
6 the Board, okay. Good. So that's where we are, and we  
7 appreciate you coming down. Just we've got to step through  
8 these things, the preliminary issues which you raised. All  
9 right.

10                  Thank you.

11                  MR. BELL: Thank you, Mr. Chairman.

12                  MR. MOY: Just for the record then, Mr. Chairman,  
13 so that would be February 12th. And their rebuttals, I'm going  
14 to move it up because that three days would be February the  
15 17th.

16                  MR. BELL: Okay. The actual hearing will be --

17                  MR. MOY: March the 3rd.

18                  CHAIR JORDAN: Thanks, and we just thank you for  
19 all your input in this whole conversation.

20                  MS. ELLIOTT: Always a pleasure.

21                  CHAIR JORDAN: Thank you, Ms. Elliott. Thanks  
22 a lot. Thank you. All right, Mr. Moy, is there any other  
23 business coming before the Board today?

24                  MR. MOY: Not from the staff, sir.

25                  CHAIR JORDAN: Mr. Bell, do you need this? And

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1 file whatever you need to do. No other business, Board,  
2 anything? Christmas carols? It's a little late for that.

3 Thank you very much. All right, so then we are  
4 adjourned, thanks.

5 (Whereupon, the above-entitled matter went off  
6 the record at 11:18 a.m.)

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