

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

TUESDAY

MAY 12, 2015

+ + + + +

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 9:38 a.m., Lloyd Jordan, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

MICHAEL TURNBULL, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

LAWRENCE FERRIS, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN GYOR
KAREN THOMAS
MAXINE BROWN-ROBERTS
MATT JESICK
BRANDICE ELLIOTT

The transcript constitutes the minutes from the Public Hearing held on May 12, 2015.

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

9:38 a.m.

CHAIRPERSON JORDAN: Good morning. Would you please come to order.

We are here for the meeting of the Board of Zoning Adjustment in the District of Columbia. We are located in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W. My name is Lloyd Jordan, Chairperson. To my right is Jeffery Hinkle, Member of the Board. To my left is Marnique Heath, Vice Chair. To her left is Michael Turnbull, a member of the Zoning Commission sitting in as a member of the Board of Zoning Adjustment for today.

Please be advised that today's proceedings are being webcast live and also being recorded by a court reporter. So, therefore, I am going to ask you to refrain from any disruptive noises here in the hearing room today.

That's your signal to please to be sure that you silenced any devices that might make noise or disrupt the hearing.

The Board's hearing procedures are contained in some pamphlets or documents through the door to my left in the back. If you are not familiar with how we operate here at the board, feel free to pull that information and to read it.

If you are going to provide testimony or make a statement to the board or address the board in any manner today I am going to need you to do two things prior to you addressing the board.

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1 So if you are going to provide any statement, read a letter
2 or come to the witness table I'm going to need you to do two
3 things. The first of which, I am going to need you to complete
4 two witness cards per person, that's completing two witness
5 cards per person and give those witness cards, prior to taking
6 a seat at the table, to the court reporter to my right. So
7 that's two witness cards per person, complete them and give
8 them to the court reporter prior to providing testimony or
9 prior to you sitting in these seats today.

10 The second thing I'm going to need you to do is to now
11 stand and take the oath which will be given by Mr. Moy,
12 Secretary to the Board.

13 MR. MOY: Good morning.

14 Do you solemnly swear or affirm that the testimony you
15 are about to present at this proceeding is the truth, the whole
16 truth and nothing but the truth?

17 (Witnesses sworn.)

18 MR. MOY: Ladies and gentlemen, you may consider
19 yourself under oath.

20 CHAIRPERSON JORDAN: Okay, Mr. Moy, preliminary
21 matters, if any?

22 MR. MOY: Yes, very quickly, Mr. Chairman. Good
23 morning and good morning to the members of the board.

24 CASE 18974 ANC-1A

25 First, for the record the case on the docket which is

1 Application Number 18974 of Mika has been postponed and
2 rescheduled to June 16, 2015.

3 And the only other matter I'd like to present to the
4 board is a soft preliminary matter, Mr. Chairman, but on
5 Application Number 18996 of Macomb Street, Macomb Street
6 Trust, Robert Altman, Trustee, I believe there's maybe some
7 issues with the ANC or rather lack of one.

8 CHAIRPERSON JORDAN: Well, we'll deal with that when we
9 call the case. That's fine for now.

10 MR. MOY: That's fine, sir.

11 CHAIRPERSON JORDAN: All right. Right, so let me do
12 this, let me deal with these two party status issues quickly
13 and then we will move to decision case.

14 CASE 18990 ANC-3E

15 Can the representative of the applicant and the
16 representative of the party status request in 18990 to take
17 a seat at the table, please. 18990, there's a party status
18 request from a Jane Waldman and then a representative of the
19 applicant. We're not going to have the hearing, so you don't
20 need to do anything else unless you're a representative of the
21 applicant and the party status request personally.

22 Just make sure you microphones are on, please.

23 Great. I'm going to ask you to identify yourself and
24 who you represent, starting with my left, please.

25 MS. WALDMAN: Good morning. My name is Jane Waldman.

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1 I am applying for party status.

2 MS. KURNIT: I am Diana Kurnit and I am the applicant.

3 MR. BRUMER: Jon Brumer, the other applicant.

4 CHAIRPERSON JORDAN: Okay. It's my intent to grant the
5 party status request of Ms. Waldman. So, however, one of our
6 conditions, what we, what we have adopted as a practice is to
7 have the parties have discussions prior to us calling your
8 case. We want you to seriously have a conversation about
9 working out any aspect of differences which may exist among
10 where the party status person has, party has an issue, sincere
11 discussions of trying to work it out. I say this because it's
12 better that if there is some agreement among, between you, as
13 opposed to the board working it out for you, the issue which
14 we have no qualms of doing it but this process works. You have
15 to have sincere discussions to resolve matters.

16 And I use this as an example. One time we had like 12
17 party status in an area of town in which in which I didn't think
18 they would ever agree and they worked it out.

19 So, and the second thing I'm going to caution you on is
20 please do not walk outside the room and walk back in and say
21 we had discussions. There's people who walk outside the room,
22 walk back in the room in the matter of half a second and said,
23 oh, they've had discussions. And I'm pretty conscious of
24 that. So that just doesn't help. But sincere discussions.

25 And one thing that we talked about, neighbors are going

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1 to be neighbors whatever happens after today or not. So let's
2 try to work things out. So we'll call your case back.

3 MS. KURNIT: Okay.

4 CHAIRPERSON JORDAN: So you can step out in the hall and
5 have a conversation.

6 MS. KURNIT: In the hallway?

7 CHAIRPERSON JORDAN: Yes.

8 The applicant and the person requesting party status in
9 18997 please. I should have called you all at the same time
10 and save time and effort. I wasn't thinking. Got to change
11 that; right?

12 CASE 18997 ANC-6B

13 CHAIRPERSON JORDAN: Going to have to go through the
14 same speech; right? Yes, right: ditto, ditto.

15 Please identify yourselves, please.

16 MS. FOWLER: I'm Jennifer Fowler. I'm the architect.

17 CHAIRPERSON JORDAN: Okay.

18 MS. BARBARA: I'm Paola Barbara, an applicant.

19 MR. LOBB: I'm Chris Lobb, an applicant.

20 MR. HITCHCOCK: Cornish Hitchcock. I'm counsel for
21 Dr. Muriel Wolf who is the applicant party status.

22 CHAIRPERSON JORDAN: Okay. Do we have an entry?

23 MR. HITCHCOCK: Here she is. Yes, Dr. Wolf is here.

24 CHAIRPERSON JORDAN: Okay. Do we have an entry from
25 you on this case?

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1 MR. HITCHCOCK: I'm sorry?

2 CHAIRPERSON JORDAN: Do we have an entry for you as
3 counsel?

4 MR. HITCHCOCK: An entry? I was listed on the
5 application for party status.

6 CHAIRPERSON JORDAN: You were?

7 MR. HITCHCOCK: Yes.

8 CHAIRPERSON JORDAN: Okay.

9 MR. HITCHCOCK: Dr. Wolf has just joined. This is Dr.
10 Muriel Wolf.

11 DR. WOLF: Hello. Hi.

12 CHAIRPERSON JORDAN: All right, good.

13 All right, so as you just heard me say, that we want the
14 party status and the applicant to have some serious discussions
15 about any differences prior to your case being called for
16 hearing. And ditto what I just got through saying about the
17 seriousness of having those discussions and frank discussions
18 and trying to resolve issues and matters.

19 So we will call your case back up but please have those
20 discussions.

21 MS. FOWLER: I'm sorry. We do have an understanding
22 between the neighbor. We were late breaking.

23 CHAIRPERSON JORDAN: All right. Then when we call the
24 case we'll deal with it then.

25 MS. FOWLER: Yes. Thank you.

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1 MR. HITCHCOCK: Okay, thank you.

2 CHAIRPERSON JORDAN: Thank you. All right, let's call
3 our meeting -- thank you very much. We'll call your case
4 again.

5 Let's call the meeting decision case, please.

6 MR. MOY: Yes, sir. That case for a decision meeting
7 is Application Number 18957. This is Guggan Datta/Dosa, LLC.

8 CASE 18957

9 CHAIRPERSON JORDAN: This was a case -- you did call it?
10 I'm sorry, I was being rude, Mr. Moy.

11 MR. MOY: No, it's done. Thank you, sir.

12 CHAIRPERSON JORDAN: -- where there is a request for
13 waiver of late reconsideration. I don't consider, and I would
14 offer to the board that I don't consider this to be a
15 reconsideration. I think it's a request to correct the
16 administrative record in this matter and that the board, that
17 order of board actually comes out that supports what the board
18 actually stated.

19 And based upon what I believe occurred and the
20 statements made in hearing, particularly by myself when we
21 discussed the issue on the window, we, what we required for
22 condition number seven was for that window to be consistent
23 with those of the H Street overlay area, period.

24 And so with that, unless there's any issue with the
25 board, then I would just -- we can do it by consent and say

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1 that the order should be amended accordingly to reflect that
2 discussion. Okay.

3 MR. MOY: Okay. I just could also add, too, Mr.
4 Chairman that one of the members who participated had forwarded
5 an absentee ballot which would support the consensus of the
6 board.

7 CHAIRPERSON JORDAN: Because this is not really a
8 reconsideration. It's not presenting any new evidence or
9 facts that we did not have before us before. And it's not a
10 cause for re-hearing or appeal upon error by the board per se,
11 so we just take it administratively. I think that's the
12 appropriate way to handle it. So by consensus would be okay.

13 Okay. So let's do 962 I believe. We're okay, 962.

14 CASE 18962 ANC 4-A

15 MR. MOY: All right, before the board, parties to the
16 table for Application 18962. This is Jeffrey Blend. Mr.
17 Chairman, this is a request for variances from railyard and
18 the accessory building requirements at 1211 Kalmia Road, N.W.

19 CHAIRPERSON JORDAN: And while we're doing that let me
20 make, let me ask is there anyone here on Case 18999? Okay.
21 All right, we'll call that after this one. I should have done
22 that first but to resolve this matter.

23 Okay, so let's deal with this one. Please identify
24 yourself.

25 MS. MEDINA: Hi. My name is Teresa Medina. I am the

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1 applicant. I represent the contractor.

2 CHAIRPERSON JORDAN: Time out. You're the applicant?

3 MS. MEDINA: Yes. On behalf of Mr. Blend.

4 CHAIRPERSON JORDAN: Okay, who is the applicant. The
5 applicant in this case is Mr. Blend?

6 MS. MEDINA: Right.

7 CHAIRPERSON JORDAN: And you're the authorized
8 representative?

9 MS. MEDINA: Yes.

10 CHAIRPERSON JORDAN: Do we have a letter of
11 authorization? I know we have something in the file that
12 indicated there was no signature on an authorization for an
13 agent. Am I correct in that, Mr. Moy?

14 MR. MOY: Checking the record now on Exhibit Number 6,
15 sir. Right, there is an owner signature but the agent's
16 signature is blank.

17 CHAIRPERSON JORDAN: Well, If there is the owner's
18 signature with the designation?

19 COMMISSIONER TURNBULL: Yes. Looks like it.

20 MEMBER HINKLE: Mr. Chairman, the Office of Planning
21 actually has a signed letter of authorization.

22 CHAIRPERSON JORDAN: Let me see that, please. And
23 because it was -- oh, we have a signed letter of authorization
24 but we don't have any designation. Okay. All right, so let's
25 make sure that the record -- thank you very much -- let's make

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1 sure that the record, that's submitted into the record, the
2 document.

3 Additionally, there is a, it's the Office of Planning's
4 belief, and certainly I don't disagree with that that
5 additional relief is necessary under 2001.3 for
6 non-conforming. So we need you to amend your application for
7 that relief and also to just acknowledge that you are making
8 an oral request for that to be added.

9 MS. MEDINA: Yes.

10 CHAIRPERSON JORDAN: Okay. All right. I don't have
11 any questions about, other than those preliminary matters I
12 don't have any questions about the requested relief. I
13 believe that the application could support the requested
14 relief. But that's just my standpoint. I don't know if the
15 board has any questions or something they need to drill down
16 with the applicant on.

17 COMMISSIONER TURNBULL: I have no questions, Mr. Chair.

18 VICE-CHAIRPERSON HEATH: Just a quick question.

19 CHAIRPERSON JORDAN: Yes, please.

20 VICE-CHAIRPERSON HEATH: Did you meet with the ANC or
21 did the applicant meet with the ANC?

22 MS. MEDINA: I met with the ANC.

23 VICE-CHAIRPERSON HEATH: And was there a vote to --

24 MS. MEDINA: No. They just, they went through the
25 paperwork with me and that was basically all they did.

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1 VICE-CHAIRPERSON HEATH: Okay. So did you -- so you
2 didn't make a formal presentation?

3 MS. MEDINA: No.

4 VICE-CHAIRPERSON HEATH: But they didn't have any
5 issues with what you were --

6 MS. MEDINA: No.

7 VICE-CHAIRPERSON HEATH: Okay.

8 CHAIRPERSON JORDAN: Let me make sure we're clear when
9 we say "they" and the ANC. Who did you meet with? Did you
10 meet with the full board of the ANC --

11 MS. MEDINA: No.

12 CHAIRPERSON JORDAN: -- or did you meet with a single
13 member, district member or subcommittee?

14 MS. MEDINA: I met with a single member.

15 CHAIRPERSON JORDAN: And did she indicate there was a
16 need to have a presentation in front of the full ANC?

17 MS. MEDINA: No, she did not.

18 CHAIRPERSON JORDAN: Okay. All right, well the file
19 does show notice to the ANC. And so I would take the, certainly
20 the step that you have taken to assume that you at least met
21 the requirements to talk to the ANC.

22 All right, any other questions? Generally we require
23 applicants to make a presentation to the board to prove that
24 they meet the guide, the requirements for the relief. There
25 are times when the board will look at a case, and that

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1 document's in the file I believe that the records already
2 supports the relief requested. This is one of those cases.

3 So with your permission we will move on to see if there
4 is anything else the Office of Planning may want to say in
5 regards to your application. Unless there is something you
6 think you need to say about your application?

7 MS. MEDINA: No, I'm fine with that.

8 CHAIRPERSON JORDAN: Okay. So then let's move on to
9 the Office of Planning and see if there's anything in addition
10 that Ms. Thomas has for us?

11 MS. THOMAS: Good morning, Mr. Chair. Karen Thomas for
12 the Office of Planning.

13 We have nothing to add. We think that this area of the
14 relief is minimal and we will stand on the record of our report.
15 Thank you.

16 CHAIRPERSON JORDAN: Very good. Does the board have
17 any questions for Office of Planning?

18 (No response.)

19 CHAIRPERSON JORDAN: Does the applicant have any
20 questions for Office of Planning?

21 MS. MEDINA: Mr. Blend is actually here.

22 CHAIRPERSON JORDAN: Okay, great. So I take that as no
23 questions for Office of Planning?

24 MS. MEDINA: No questions. Thank you.

25 CHAIRPERSON JORDAN: We do have a letter in our file

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1 from the Department of Transportation with no objection to the
2 requested relief. Is there anyone here from ANC-4A on this
3 case? ANC-4A?

4 We just had a discussion on the record regarding the
5 contact with ANC-4A.

6 Is there anyone here wishing to speak in support of this
7 application? Anyone wishing to speak in support?

8 (No response.)

9 Anyone here wishing to speak in opposition to this
10 application? Anyone in opposition? Going once. Going
11 twice.

12 (No response.)

13 Closed then.

14 Then we would close this hearing based upon what's in
15 the record. And I would move that we grant the relief
16 requested in Case Number 18962.

17 COMMISSIONER TURNBULL: Second.

18 CHAIRPERSON JORDAN: Motion made and second.

19 Any discussion?

20 (No response.)

21 All those in favor of the motion: aye.

22 (Chorus of ayes.)

23 Those opposed: nay.

24 (No response.)

25 The motion carries.

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1 Mr. Moy.

2 MR. MOY: Staff would record the vote as 4 to 0. It goes
3 unopposed. Motion of Chairman Jordan to approve the
4 application for the relief requested. Second to the motion,
5 Mr. Turnbull, Office of Support. Vice-Chairperson Health and
6 Mr. Hinkle. We have a board seat vacant. The motion carries,
7 sir.

8 CHAIRPERSON JORDAN: I just want to indicate it's the
9 amended relief and that the applicant has two
10 responsibilities: one, you need to file amended requested
11 relief, the application, and; secondly, that the authorization
12 for agent or representation is put in the record.

13 MR. MOY: Great. Thank you, sir. I got it.

14 CHAIRPERSON JORDAN: All right, thank you very much.

15 MS. MEDINA: Thank you.

16 CHAIRPERSON JORDAN: Now let's call 18999.

17 CASE 18999 ANC-1C

18 MR. MOY: Yes. This is the Appeal Number 18999 of
19 ANC-1C.

20 CHAIRPERSON JORDAN: Okay. Will you please identify
21 yourselves.

22 MR. ROELL: My name is Hugo Roell. I am -- I live across
23 the street from this development. I am one of the people
24 involved in the appeal of the permit.

25 CHAIRPERSON JORDAN: That's sufficient. I just need

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1 to -- just make sure your microphone is on.

2 MR. BLODNIKAR: My name is Eric Blodnikar. I am
3 involved with the appeal to the permit.

4 MS. KHAN: I am Alia Khan. I am also a neighbor
5 involved with the appeal.

6 MR. TONDRO: Sorry. Maximilian Tondro, Assistant
7 General Counsel with the Department of Consumer Regulatory
8 Affairs.

9 CHAIRPERSON JORDAN: Okay. And I understand, Mr.
10 Tondro, that the Department of Consumer Regulatory Affairs is
11 issuing a -- has issued a revocation of the permit. Is that
12 correct?

13 MR. TONDRO: We are in the process of revoking the
14 permit right now, yes.

15 CHAIRPERSON JORDAN: Then based upon the process, okay,
16 based upon that then what I would offer to the board that we
17 enter an order consistent with the requested relief by the
18 appellants that the zone administrator erred in regards to the
19 permit issued on this property. And that would be this case.

20 Is there any conversation, issues with that?

21 (No response.)

22 All right, so do you understand what we just did and
23 where we are? The DCRA has admitted that it erred in getting,
24 issuing the permit. And so therefore they issued a revocation
25 of that permit. It now solves what you were trying to seek

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1 from this board. So we will issue an order consistent with
2 that.

3 Basically you won the appeal based upon the admission
4 of DCRA that they erred in giving the permit.

5 Yes?

6 MR. ROELL: Thank you for considering our appeal. Our
7 only wish is that the actual, that they explain which part of
8 our arguments they --

9 CHAIRPERSON JORDAN: Well it won't happen here.

10 MR. ROELL: No. Okay. That's my --

11 CHAIRPERSON JORDAN: Conversations later. But we are
12 issuing an order consistent that the zone administrator erred
13 in its issuing the permit and the permit is being revoked.

14 MR. ROELL: Thank you.

15 CHAIRPERSON JORDAN: So you can have a conversation. I
16 would suggest that you go to meet with the zoning administrator
17 and have these discussions beforehand while these things are
18 being discussed. Okay?

19 MR. ROELL: Thank you.

20 CHAIRPERSON JORDAN: So I would move that we, the board
21 issues an order consistent with what I just said that --

22 MEMBER HINKLE: Second.

23 CHAIRPERSON JORDAN: All right. Any discussion,
24 board?

25 (No response.)

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1 CHAIRPERSON JORDAN: That's right, you lost and you
2 missed one. All right, now we're even.

3 Okay, all those in favor of the motion signify by saying
4 aye.

5 (Chorus of ayes.)

6 Those opposed: nay.

7 (No response.)

8 The motion carries. Mr. Moy?

9 MR. MOY: Staff would record the vote as 4 to 0 on the
10 motion of Chairman Jordan. Second to the motion, Mr. Hinkle,
11 Office of Support. Vice-Chairperson Heath and Mr. Turnbull.
12 One seat vacant. The motion carries 4 to 0, sir.

13 CHAIRPERSON JORDAN: Very good. Then that would be the
14 order. And you can do that by summary.

15 Tell Mr. LeGrand I appreciate his honesty in this one
16 and the correction and tell him thank you. Thank you very
17 much.

18 All right, so 95.

19 CASE 18995 ANC-5D

20 MR. MOY: Parties to the table to Application Number
21 18995. This is the application of Rokas Reipa, I believe.

22 Mr. Chairman, this is a request for special exception
23 relief under section 223, not meeting the lot occupancy of rear
24 yard and side yard setback and non-conforming structure
25 requirements at 1254 Florida Avenue, N.E.

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1 CHAIRPERSON JORDAN: Thank you. Please identify
2 yourselves.

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

5 MR. REIPA: Hi. Good morning, I am Rokas Reipa. I am
6 the owner, applicant --

7 CHAIRPERSON JORDAN: Say your name again?

8 MR. REIPA: It's Rokas Reipa.

9 CHAIRPERSON JORDAN: Okay.

10 MR. REIPA: I'm the owner, applicant and resident of the
11 property.

12 CHAIRPERSON JORDAN: Yes. Make sure your microphone
13 is on, please.

14 MR. ISHAQ: I'm Al-Farabi Ishaq. And I am the owner of
15 1252 Florida Avenue, N.E., the attached property to 1254.

16 CHAIRPERSON JORDAN: Okay. Ms. Fowler, there is an
17 issue about requested relief for the court. Did you do an
18 amendment to that?

19 MS. FOWLER: Yes. We filed a supplemental filing
20 requesting an amendment.

21 CHAIRPERSON JORDAN: Okay, when did you file that?

22 MS. FOWLER: Yesterday.

23 CHAIRPERSON JORDAN: All right. All right.

24 MS. FOWLER: That's something that Ms. Elliott
25 determined or helped us figure out during the review process.

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1 CHAIRPERSON JORDAN: Okay. Did you meet with the ANC
2 and what's the status of the meeting with the ANC?

3 MR. REIPA: So I met with the SMD. I presented in front
4 of them. I did not have a chance to meet with the full 5D ANC.

5 CHAIRPERSON JORDAN: Okay. And what do you mean you
6 didn't have a chance? Was a meeting scheduled and?

7 MR. REIPA: My representative was going to put me on the
8 docket but she couldn't put me on their, on their agenda in
9 time.

10 CHAIRPERSON JORDAN: In time. When did you meet with
11 the single member district?

12 MR. REIPA: It was at the end of April.

13 CHAIRPERSON JORDAN: End of April. What is this, 1st
14 of May. Why did we wait so long?

15 MR. REIPA: I'm sorry, it wasn't at the end of April,
16 it was -- I don't remember when I met with him -- it was, it
17 was the beginning of April, I'm sorry. It was their, it was
18 their 1st of the month or their monthly meeting for the SMD.

19 CHAIRPERSON JORDAN: When was the application filed in
20 this case, Mr. Fowler?

21 MS. FOWLER: February 9th I believe.

22 CHAIRPERSON JORDAN: And then we waited --

23 MS. FOWLER: Sorry. I know the document is dated
24 February 9th but I'd have to check on my --

25 CHAIRPERSON JORDAN: That's, that's okay.

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1 MS. ELLIOTT: If I may, Mr. Chair.

2 CHAIRPERSON JORDAN: Yes.

3 MS. ELLIOTT: The memo that we have from Office of
4 Zoning indicates it was filed March 10.

5 CHAIRPERSON JORDAN: Filed March 10. Okay, let's find
6 out.

7 Mr. Moy, when was the application filed? Because now
8 we've got conflicting.

9 MR. MOY: Okay, I have it right here. It was filed --

10 CHAIRPERSON JORDAN: I know, with your fancy computer
11 screen and.

12 MR. MOY: Absolutely. It was off the rack, sir.

13 (Laughter.)

14 MR. MOY: The date on this application is -- where's the
15 date, where's the date? -- March 10.

16 CHAIRPERSON JORDAN: Okay, so that's consistent. So I
17 think this filing date was March 10. March 10, April, I'm
18 really having a concern about not meeting with the ANC and
19 giving them proper time to -- this didn't just happen overnight
20 in March and you jumped up and said you were doing it. You'd
21 been planning on doing it beforehand.

22 And so I, you know, normally if there's been some
23 conversation with the ANC and reasonable time would allow them
24 to meet I would not have had, I personally wouldn't have a
25 concern about it. But I think we have to be reasonable in

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1 giving the ANC time to react. And by your own statement you
2 indicated that they couldn't get it scheduled in enough time.
3 And with you reaching out to them in April certainly I don't
4 think shows diligence in regards to trying to reach out to the
5 ANC.

6 That's just my thought about it and but I don't know
7 if the board has anything else that they think about it but
8 that's just kind of where I am at this point.

9 Do we have any other questions for this applicant or
10 something that we need to hear from the applicant in this
11 regard? I'm thinking, Ms. Fowler, that we were going -- I
12 would suggest to the board, depending on how the board wants
13 to react, Mr. Turnbull and Mr. Hinkle and Ms. Heath, that we
14 should roll this and at least give the ANC time to react one
15 way or the other. That would be my thought. I mean I think
16 it's straightforward.

17 However, we also have Mr. -- is it Hishaq?

18 MR. ISHAQ: It's Ishaq.

19 CHAIRPERSON JORDAN: Ishaq. And you are here for what
20 purpose?

21 MR. ISHAQ: What brings me here today actually is that
22 -- and I do want to thank the board for allowing me to be
23 informed of today's hearing. I am not against the decision
24 by the owner to do whatever he or she is doing on their property.
25 What I am concerned with is the aspect of compliance.

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1 I have had an opportunity to have a number of people
2 owning various properties on either side of me and the garage
3 that exists there now is actually not a 1-story garage but it's
4 probably a one-and-a-half or pretty close to an existing
5 2-story garage. That was done by a previous owner. What has
6 happened since is that within days I should say of the present
7 owner taking ownership of the property -- and I do have some
8 photographs if the board would be interested in them -- but
9 what happened is that the person added onto my privacy fence
10 an additional 5-foot attachment.

11 I'm a gardener. I'm a mental health professional. And
12 gardening is my passion. My life has pretty much been ruined
13 in terms of having sunlight in my back garden. This addition
14 is the same height as the half story of the garage that the
15 previous owner built. In other words, there's a span of an
16 addition -- and I have photographs of it if one would like to
17 see that -- of an additional 5-foot extension raising the fence
18 to probably about 18 to 20 feet high.

19 So for my backyard I no longer can get sunlight.
20 Previously I was getting sunshine. I can't even get sunlight
21 now. And what concerns me is that I've been the owner of that
22 property since 1991 and my fence is probably soon to be in need
23 of replacement. There's the integrity of the fence at issue
24 because I have not simply been able to think about how I should
25 even begin having this discussion.

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1 So that is why I am here today.

2 CHAIRPERSON JORDAN: Let me try to resolve this.
3 Unless the board -- is the board comfortable with me moving
4 this? Okay. Any objection?

5 (No response.)

6 Then we will move this to another date. I'm going to
7 suggest that the applicant certainly meet with this witness
8 and talk about how to resolve issues that might affect his
9 property and certainly submit to the record something along
10 this discussion. Because I think it sounds very reasonable
11 what he's talking about but we need to have some input.

12 And, Ms. Fowler, as you know, we require the applicant
13 to have conversations with their neighbors, you know, serious
14 conversations with their neighbors as well as the ANC. And
15 so let's make sure that happens in this case.

16 I don't think this is, you know, it's pretty close to
17 a no-brainer but you've got to dot the i's and cross the t's
18 in making sure of those things. The community is extremely
19 important in regards to this because they are the ones who are
20 going to be affected by the relief that you request. And the
21 board takes that very sensitive, very, very sensitive to that
22 type of relief.

23 We don't mind if we, you know, someone is being
24 unreasonable and excessive, et cetera, but we need you to at
25 least have those discussions. And we'd like to see a reach-out

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1 to the ANC.

2 So, Mr. Moy, what do we have in the way of dates? I'm
3 thinking you've got to give the ANC at least time to react and
4 find out if they want to put this on their -- when is their
5 board meetings? What part of the month do they have board
6 meetings?

7 MR. REIPA: I want to say the second Tuesday of every
8 month.

9 CHAIRPERSON JORDAN: Second Tuesday. So let's try to
10 get -- Mr. Turnbull is there?

11 MR. MOY: Mr. Turnbull is due back with the board --
12 sounds like a flight -- is due back on June 23.

13 CHAIRPERSON JORDAN: June 23. At least he's taking a
14 break.

15 COMMISSIONER TURNBULL: I can make, I can make whatever
16 day you want.

17 CHAIRPERSON JORDAN: Okay.

18 COMMISSIONER TURNBULL: I'll do my best on it.

19 CHAIRPERSON JORDAN: I think we should at least after
20 that next ANC date so you can at least get scheduled off or
21 find out if they're going to present. And you need to let them
22 know today or tomorrow, I would suggest. Don't do it because
23 I say so. Suggest that you have contact with them as soon as
24 possible to get on their agenda.

25 MR. MOY: So with that then we're looking at either June

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1 9 or June 16, Mr. Chairman.

2 CHAIRPERSON JORDAN: Let's probably do the 16th so we
3 have reaction time.

4 MR. MOY: Yes, I agree.

5 CHAIRPERSON JORDAN: Okay. And please meet with your
6 neighbors, have a discussion. And where you can reasonably
7 accommodate you should reasonably accommodate.

8 MR. ISHAQ: Okay.

9 COMMISSIONER TURNBULL: Mr. Chairman, and I was just
10 looking at the photographs we have on file, it looks like the
11 neighbor's house goes a lot further back than the applicant's
12 house. So there's like a stucco wall and there is a little
13 bit of a fence then that goes beyond. And I guess the only
14 question is, is the fence a party fence or is it on someone's
15 property? I think that should be clarified, whose, who really
16 owns the fence.

17 MR. ISHAQ: I am the owner of the fence, sir, Mr.
18 Turnbull.

19 COMMISSIONER TURNBULL: So it's on your property line?

20 MR. ISHAQ: Yes. Yes, it is.

21 COMMISSIONER TURNBULL: You have a survey that can show
22 that?

23 MR. ISHAQ: It is.

24 COMMISSIONER TURNBULL: Okay. All right, thank you.

25 CHAIRPERSON JORDAN: Okay, well good.

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1 MR. ISHAQ: Well, let me clarify that. I am the owner
2 of the original fencing. The additional piece is the owner
3 of the other party, if you understand.

4 COMMISSIONER TURNBULL: And you're saying that the
5 previous owner added on?

6 MR. ISHAQ: No, no, no, no, no. No, I can just simply
7 show you what you're asking about.

8 COMMISSIONER TURNBULL: Well, why don't you just submit
9 it for the record now.

10 MR. ISHAQ: Yes. What it is is that --

11 CHAIRPERSON JORDAN: No, no, no, he said just submit it
12 in the record.

13 MR. ISHAQ: Okay. All right.

14 CHAIRPERSON JORDAN: Submit the photos --

15 MR. ISHAQ: Fine.

16 CHAIRPERSON JORDAN: -- with an explanation in the
17 record and we'll look at it and have discussion if necessary
18 when the --

19 MR. ISHAQ: Right. Yes.

20 CHAIRPERSON JORDAN: -- case is put on for the 16th.

21 MR. ISHAQ: Right.

22 CHAIRPERSON JORDAN: Okay?

23 MR. ISHAQ: Thank you.

24 CHAIRPERSON JORDAN: All right, so then that would be
25 our handling of this matter today. Thank you.

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1 COMMISSIONER TURNBULL: Mr. Chair.

2 CHAIRPERSON JORDAN: Yes?

3 COMMISSIONER TURNBULL: On the last case.

4 CHAIRPERSON JORDAN: Before you get away, Ms. Fowler>

5 COMMISSIONER TURNBULL: Ms. Fowler, maybe we need some
6 shadow studies, just. Thank you.

7 CHAIRPERSON JORDAN: If you have not worked out -- you
8 mean over, just overall period, regardless?

9 COMMISSIONER TURNBULL: Yes.

10 CHAIRPERSON JORDAN: Okay. All right.

11 COMMISSIONER TURNBULL: Just for existing conditions
12 and that.

13 CHAIRPERSON JORDAN: Okay. Okay, fine.

14 MR. ISHAQ: Thank you.

15 CHAIRPERSON JORDAN: Mr. Moy, we have an announcement
16 regarding Case Number 18970?

17 CASE 18970 ANC-3D

18 MR. MOY: Yes, sir. Thank you for the introduction on
19 that.

20 I was just handed a minor note from staff that the agent
21 to 18970 is requesting a postponement and rescheduling to --
22 the reasons for cause because they need to work more with the
23 ANC, consult with the ANC. So staff would suggest putting this
24 application to -- and I had a date here. It would be June the,
25 June the 23rd.

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1 CHAIRPERSON JORDAN: Okay, so that would be the order
2 in that case.

3 MR. MOY: Thank you, sir.

4 CHAIRPERSON JORDAN: Let's call 18996 I believe. Oh,
5 we've got an issue with that, haven't we. Oh yes, let's deal
6 with that. Okay.

7 CASE 18996 ANC-3C

8 MR. MOY: Okay, Applicant Number 18996, Macomb Street
9 Trust, Robert Altman, Trustee.

10 CHAIRPERSON JORDAN: Good morning. Would you please
11 identify yourself.

12 MR. FOWKES: It's V.W. Fowkes. I'm the agent for the
13 applicant.

14 CHAIRPERSON JORDAN: Fowkes?

15 MR. FOWKES: Yes.

16 CHAIRPERSON JORDAN: And you're the, you said you're
17 the agent of Macomb Trust?

18 MR. FOWKES: That's correct.

19 CHAIRPERSON JORDAN: Okay. There's a couple of things
20 preliminarily. One, the Office of Planning I believe is
21 working to have relief from a non-conforming structure. And
22 I believe that's probably necessary. So we need you to either
23 -- to orally ask for that and to supplement the record with
24 it, if you believe it's necessary. If you don't, then you
25 won't do it and then you'll just take it at your peril.

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1 The second thing is regarding did you meet with the ANC?
2 What's the status of the ANC issue?

3 MR. FOWKES: So we did meet with the ANC back in
4 November. And --

5 CHAIRPERSON JORDAN: Full board of the ANC or a single
6 member of the board?

7 MR. FOWKES: No, just the -- not the -- it was the
8 Planning and Zoning Committee.

9 CHAIRPERSON JORDAN: Okay.

10 MR. FOWKES: And we presented the with the entire
11 project. They did have some issues with the way that we had
12 designed the driveway. They had no issue with the addition
13 for which we are asking relief.

14 We knew at the time we needed to meet with them again
15 and meet with the full body. And it was an oversight on our
16 part we didn't.

17 CHAIRPERSON JORDAN: What do you mean? So they told
18 you you need to move this in front of the full ANC?

19 MR. FOWKES: I know from working with this particular
20 ANC that it's customary to first meet with the Planning and
21 Zoning Committee and then to meet with the full ANC for a vote
22 -- for a resolution. In our mind we knew we were more, we were
23 also concerned with historic preservation and we knew we would
24 have to deal with the ANC for historic preservation. And that
25 was really what we were thinking about. And we just forgot

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1 to meet with, to schedule, to get on their agenda for this
2 particular relief. To be honest, it dawned on me this morning
3 and listening to the previous applicants.

4 CHAIRPERSON JORDAN: Yes, because you know how serious
5 we are about the meetings with ANC. And I appreciate the
6 honesty. I truly appreciate the honesty on that.

7 When does the ANC meet?

8 MR. FOWKES: The next ANC meeting is June -- is May 18.
9 And the one after that is May -- sorry, May 18 and then June
10 15.

11 CHAIRPERSON JORDAN: Do you think you can get on the
12 June 18 docket or you wouldn't know?

13 MR. FOWKES: I'm sorry, May 18, I doubt we could get on
14 the May 18. I'm pretty certain we could get on the June 15.

15 CHAIRPERSON JORDAN: You met with the Planning
16 Committee but you hadn't made a formal request for -- yes.
17 Okay, so let's do that. Let's make this after the 15th of June.
18 And please be diligent to get that scheduled up. Yes.
19 Especially an ANC that is an active ANC that really wants to
20 participate in these processes. And you had some conversation
21 about follow-up with them. So we need to make sure that
22 happens, I would suggest to the board. That's good.

23 So let's get a date. Probably June 23?

24 MR. MOY: That's very good, sir. You cleared the room.

25 CHAIRPERSON JORDAN: I have flashes of thought at

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1 times.

2 So very good, let's do that. And please, and I'd
3 appreciate it if you would make contact with them.

4 MR. FOWKES: Absolutely.

5 CHAIRPERSON JORDAN: And you get on. Thank you. So
6 that would be it. Thank you very much.

7 MR. FOWKES: Thank you.

8 CHAIRPERSON JORDAN: Mr. Jesick, we kind of made it easy
9 for you today. But I hate to drill you so hard but thanks for
10 coming in.

11 Okay, now -- oh, so you have a concession, a concession
12 in one; right? Let's do, that's 997. 997, yes, 997.

13 CASE 18997 ANC-6B

14 MR. MOY: Thank you, sir. To the table, parties to the
15 Application Number 18997. This is the application of Chris
16 Lobb and I think it's pronounced Paola, Paola Barbara. This
17 is the property at 148 11th Street, S.E.

18 CHAIRPERSON JORDAN: So it's my understanding that
19 there's been some -- well, just let's introduce ourselves.
20 I'm sorry. Please again.

21 MR. LOBB: I'm Chris Lobb, applicant.

22 MS. FOWLER: Good morning. I'm Jennifer Fowler. I'm
23 the architect.

24 MS. BARBARA: Paola Barbara, the other applicant.

25 MR. HITCHCOCK: Cornish Hitchcock, counsel for Dr.

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1 Muriel Wolf.

2 DR. WOLF: I'm Dr. Muriel Wolf and this is Richard Wolf.

3 CHAIRPERSON JORDAN: Okay. So we have the Wolfs
4 requesting party status. And I understand from our earlier
5 call that there's been some agreement on this. Is that
6 correct?

7 MR. HITCHCOCK: Yes, Mr. Chairman.

8 CHAIRPERSON JORDAN: So are you withdrawing your party
9 status request?

10 MR. HITCHCOCK: We are withdrawing the request for
11 party status. And Dr. Wolf would like to state that she now
12 supports the application as modified by the most recent
13 exhibits, Exhibits 32 and 33, that address principal concerns
14 but also address a point raised by the Office of Planning in
15 --

16 CHAIRPERSON JORDAN: The adjustment to the window.

17 MR. HITCHCOCK: To the window, yes. And appreciate the
18 applicants and their architect working with Dr. Wolf to try
19 to find an accommodation here.

20 CHAIRPERSON JORDAN: Isn't it nice when you just can get
21 along. See the power of conversation. I mean it sincerely.
22 I'm not really joking, but I mean it very sincerely for those
23 who are watching. This is just important. You know, it's
24 just so important that people live together, you know, right
25 next door. You hate to come outside and see your neighbor just

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1 turn their head and do that. And it's just not a fun thing.

2 And we have some that really I think, you know, a
3 Hatfield and McCoy situation goes on. But I really appreciate
4 the applicant providing those concessions on this case.

5 With that we will accept the late submission in this case
6 which included the reduced drawing -- well, the drawing for
7 the window. And I think also the -- well, yes, the window was
8 the big issue.

9 Board, is there any other thing we need to drill down?
10 Any questions on this since we now have revised drawings?
11 You're good? Good.

12 Ms. Fowler, as you know how we proceed at the board, we
13 believe that now with the revised drawings and et cetera, and
14 certainly the revised drawings taking in the concern from the
15 Office of Planning, which I was really going to hit you with
16 anyway, and that this matter is now ready and ripe to proceed
17 on.

18 MS. FOWLER: Yes, thank you. I don't have anything
19 else to add.

20 CHAIRPERSON JORDAN: Good. So then we will turn to Mr.
21 Gyor and see if he has anything to -- since you just bluffed
22 your way in here and demanded that they change the window.

23 (Laughter.)

24 MR. GYOR: Good morning, Mr. Chairman and members of the
25 board. I am Stephen Gyor with the Office of Planning. We

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1 support the applicant's request for relief, including the
2 revised plans, and rest on the record.

3 Thank you.

4 CHAIRPERSON JORDAN: Any questions, board?

5 (No response.)

6 Does the applicant have any questions?

7 MS. FOWLER: No, thank you.

8 CHAIRPERSON JORDAN: DDOT. I don't have anything from
9 DDOT? Did I miss the DDOT letter from anyone? Did you get
10 a, have a Department of Transportation letter or something?
11 Because I don't have one in the file.

12 MS. FOWLER: No, I didn't see one.

13 CHAIRPERSON JORDAN: All right. I don't see how this
14 impacts traffic needs anyway.

15 So anyone here from ANC-6B? ANC-6B? We do have a
16 letter of support which the board gives great weight to ANC-6B
17 who supports the request of the relief.

18 Is anyone here wishing to speak in support? Anyone in
19 support other than what we've already heard?

20 (No response.)

21 Anyone in opposition? Anyone in opposition?

22 (No response.)

23 We will close the record based upon the amended plans
24 as in the file and -- the amended relief? -- no, just the amended
25 plans that are in the file.

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1 I would move that we grant the relief requested. That
2 would be my motion.

3 VICE-CHAIRPERSON HEATH: Second.

4 CHAIRPERSON JORDAN: Motion made and seconded.

5 Board discussion?

6 (No response.)

7 All in favor of the motion: aye.

8 (Chorus of ayes.)

9 Those opposed: nay.

10 (No response.)

11 The motion carries. Mr. Moy?

12 MR. MOY: Thank you. Staff would record the vote as 4
13 to 0 based on the motion of Chairman Jordan to approve the
14 application for the relief requested. Second the motion,
15 Vice-Chairperson Heath. Also in support Mr. Turnbull, Mr.
16 Hinkle. Board seat vacant. Motion carries, sir.

17 CHAIRPERSON JORDAN: Summary order please.

18 MR. MOY: Thank you.

19 CHAIRPERSON JORDAN: And I thank you all again. I
20 really do. Thank you so much.

21 CHAIRPERSON JORDAN: 990. 990 please.

22 MR. MOY: Application Number 18990, Diana Kurnit and
23 Jonathan Brumer.

24 CHAIRPERSON JORDAN: Are they outside?

25 MR. MOY: Yes. I'll run out momentarily.

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1 CHAIRPERSON JORDAN: Okay. Well, I'll tell you what,
2 we'll take a 5-minute because I would just hate for us to miss
3 our 5-minute break. So we'll take five minutes.

4 (Whereupon, the above-entitled matter recessed at 10:23
5 a.m. and went back on the record at 10:43 a.m.)

6 CHAIRPERSON JORDAN: Okay, let's, Mr. Moy, let's call
7 this case.

8 MR. MOY: Yes, sir.

9 CASE 18990 ANC-3E

10 MR. MOY: To the table, parties to Application Number
11 18990, Diana Kurnit -- Kurnit, I'm sorry -- and Jonathan
12 Brumer.

13 CHAIRPERSON JORDAN: Okay, let's please reintroduce
14 yourselves, please.

15 MS. KURNIT: I'm Diana Kurnit.

16 MR. BRUMER: And I'm Jon Brumer, Diana's husband.

17 MS. WALDMAN: Jane Waldman.

18 CHAIRPERSON JORDAN: I do have you on here but push the
19 button.

20 MS. WALDMAN: Jane Waldman.

21 CHAIRPERSON JORDAN: And I take it you did give your
22 witness cards to the court reporter as you came in?

23 MR. BRUMER: Yes, we did.

24 MS. KURNIT: I think I wrote the wrong case number on
25 it.

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1 MR. BRUMER: Oh no. Should we do another card then?

2 CHAIRPERSON JORDAN: Well, we can do it later on.

3 MS. KURNIT: Okay.

4 CHAIRPERSON JORDAN: But make sure we do that.

5 I know that you've had significant discussion here this
6 morning. Was it fruitful or where are we on this?

7 MS. WALDMAN: Who are you asking?

8 CHAIRPERSON JORDAN: Well, whoever wants to answer.

9 MS. KURNIT: I'm happy to start. So I guess our
10 question is do you want us to kind of go through the whole case
11 or just where we are?

12 CHAIRPERSON JORDAN: No, no. Have you resolved the
13 issues or are the issues still outstanding? Ms. Kurnit, Ms.
14 Waldman?

15 MS. KURNIT: I think we've come a long way.

16 CHAIRPERSON JORDAN: Well, let me tell you, it's going
17 to resolve today unless you want a continuance. Otherwise
18 it's going to get resolved as we sit here.

19 MS. KURNIT: We would like that.

20 CHAIRPERSON JORDAN: You would like, what's that?

21 MS. KURNIT: We would like to get it resolved today as
22 we sit here.

23 CHAIRPERSON JORDAN: Okay. So somebody's not going to
24 be happy one way or the other then if we resolve it. So,
25 that's, that's fine. We'll proceed on.

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1 Okay. All right, so there's no agreement reached in
2 regards to the party status. Ms. Waldman, are you familiar
3 whether it needs to have party status in the case?

4 MS. WALDMAN: I think so.

5 CHAIRPERSON JORDAN: Okay. You always have the
6 opportunity even without party status to comment and discuss.
7 Party status provides you the opportunity to cross-examine
8 witnesses and ask questions, et cetera, and to put on a case.
9 So that, I just wanted to make sure you understood that.

10 All right. With that then let's go to the applicant's
11 case.

12 MS. WALDMAN: Mr. Chairman, if I may?

13 CHAIRPERSON JORDAN: Yes.

14 MS. WALDMAN: When we say we're close I think that we
15 have a potential solution. It depends on how the board sees
16 it.

17 CHAIRPERSON JORDAN: Don't know how to handle that.
18 Let's hear it. Go ahead, let's talk about it.

19 MS. WALDMAN: The applicants had four options for a
20 deck. I am opposed to their original option and option one.
21 My preferred option is option four. Option two is the one that
22 we have spent some time discussing because it seemed the most
23 fruitful for a resolution.

24 In option two, if you are looking at it, there is a
25 cut-out triangle on the outside of the deck.

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1 COMMISSIONER TURNBULL: I'm sorry, is there an exhibit
2 number?

3 MR. BRUMER: Oh yes. So --

4 CHAIRPERSON JORDAN: One second please.

5 COMMISSIONER TURNBULL: Forty-four.

6 CHAIRPERSON JORDAN: Is it 44?

7 COMMISSIONER TURNBULL: No.

8 I'm sorry, I was looking at the ANC report. It's
9 Exhibit Number 3.

10 MS. KURNIT: It's Exhibit Number 13.

11 COMMISSIONER TURNBULL: Thirteen. Got it.

12 CHAIRPERSON JORDAN: Thank you.

13 MR. BRUMER: If I may there, our original plan for a
14 proposed deck is Exhibit Number 5. And our three alternative
15 proposals which we prepared in an attempt to try to reach some
16 sort of an agreement with Ms. Waldman can be found in Exhibit
17 13.

18 MS. KURNIT: And she's talking about Number 2 within 13.

19 CHAIRPERSON JORDAN: Option 2 here, okay.

20 MR. BRUMER: The second alternative.

21 CHAIRPERSON JORDAN: Okay. And so what's the
22 outstanding issue that you think is?

23 MS. WALDMAN: Well, the triangle has certain dimensions
24 --

25 CHAIRPERSON JORDAN: The triangle, triangle.

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1 MS. WALDMAN: -- and I suggested that instead of having
2 an equilateral triangle that the line be drawn a little bit
3 differently. And the applicant would prefer I think an
4 equilateral triangle.

5 But perhaps more importantly, they haven't had an
6 opportunity to talk with their contractor and see if any
7 adjustment of that triangle is possible.

8 COMMISSIONER TURNBULL: I mean the way I look at it,
9 basically option two is linked to, exactly the same as the
10 original except for the 45 degree angle.

11 MS. KURNIT: Exactly. And I think, yes, so just to be
12 clear option -- our very first plan that we submitted actually
13 calls for the big distinction is it calls for a 10-foot deep.
14 So this dimension coming out would be 10 feet. We started with
15 an alternative proposal to address Ms. Waldman's concerns
16 which was option one which just shrunk that depth a little bit
17 to 9'6".

18 The second option, and the reason I think Ms. Waldman
19 likes it the most is because she feels that that cut-out would
20 allow some light into her basement window. And I think we're
21 a little fearful of starting to carve up our deck into a weird
22 shape. When, you know, when you talk about that we would be
23 okay with that, it's not our preference. We would of course
24 prefer a square or a rectangular regularly-sized shaped deck.
25 The only reason we did this cut-out was to address her concerns

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1 of light.

2 So we feel that that is a compromise in a sense for what
3 we are trying to do. So we are reluctant to start carving it
4 more at different angles again without our contractor here to
5 be able to say anything about it but also in terms of the
6 esthetics of what the deck ultimately will look like if we do
7 that.

8 MR. BRUMER: And we're not also -- we're also not sure
9 whether if we have an asymmetric triangular cut-out whether
10 that would meet the requirements of the code, whether that
11 would be structurally sound, whether there's some other reason
12 that isn't obvious to us why it would be problematic.

13 Again, these three alternatives we prepared solely in
14 an attempt to try to accommodate Ms. Waldman's concerns. And
15 so they themselves represent concessions on our part, efforts
16 to try to come up with a deck configuration that would meet
17 her concerns. So what we're talking about would be a new
18 concession.

19 CHAIRPERSON JORDAN: Supposedly the stairs are on that
20 side, aren't the stairs, the old deck stairs are on that side?

21 MS. KURNIT: Correct.

22 CHAIRPERSON JORDAN: And you can move the stairs to the
23 opposite side?

24 MS. KURNIT: Correct.

25 COMMISSIONER TURNBULL: I'm looking at some

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1 photographs on Exhibit Number 19. It looks like the fence
2 that's already there is a solid fence?

3 MS. KURNIT: Yes. That's our neighbor's house.

4 CHAIRPERSON JORDAN: On Exhibit 5 or 13?

5 COMMISSIONER TURNBULL: On Exhibit Number 19.

6 CHAIRPERSON JORDAN: Nineteen.

7 COMMISSIONER TURNBULL: There's some pictures. And it
8 looks like your existing fence is solid. Do you really --

9 MS. WALDMAN: There's a little space between the
10 boards.

11 COMMISSIONER TURNBULL: Do you get any light at all with
12 that fence there?

13 CHAIRPERSON JORDAN: Whose fence is it?

14 MS. WALDMAN: Mine. Are you talking about the fence
15 between our two houses?

16 COMMISSIONER TURNBULL: Is it on the left-hand side or?

17 MS. KURNIT: There are, right, there are fences on
18 either side of our house. I don't know which photo you're
19 looking at because --

20 COMMISSIONER TURNBULL: Well, I'm assuming that the
21 photograph I'm looking at is showing Ms. Waldman's fence.

22 CHAIRPERSON JORDAN: Waldman's fence.

23 MS. KURNIT: Yes. Yes.

24 CHAIRPERSON JORDAN: It looks like Ms. Waldman's fence.

25 MS. KURNIT: That is her house.

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1 COMMISSIONER TURNBULL: And I'm just curious how much
2 light you would be impacting by it?

3 MS. WALDMAN: The sun comes from the neighbor's.

4 COMMISSIONER TURNBULL: Right.

5 MS. WALDMAN: Comes around. So, yeah, the fence is
6 split except when you get under my stairs it's 3-foot high or
7 whatever.

8 COMMISSIONER TURNBULL: Okay.

9 CHAIRPERSON JORDAN: You've got a lot of stuff going on
10 over there.

11 All right, so look, we can give you a couple of weeks
12 if you want to have a discussion or we can go ahead.

13 All right, we will go ahead. I see there's, there's --
14 So, board, is there any other additional questions that we need
15 to drill down? I am probably comfortable. I've seen nothing
16 that indicated -- I understand, I've looked at all the, I've
17 looked at all the evidence and I know that, and these pictures,
18 particularly in Exhibit 19. It's a closed backyard.

19 Board, questions for the applicant? Mr. Turnbull
20 please.

21 COMMISSIONER TURNBULL: You took it back 6 inches for
22 why?

23 MS. KURNIT: To address the concerns about having a
24 smaller footprint if that was going to address Mr. Waldman's
25 concerns. It wasn't our choice necessarily either.

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1 All we want to do is be in line with her, she has an
2 enclosed porch. That would, 10 feet would be in line with
3 hers.

4 COMMISSIONER TURNBULL: So 10 feet would be in line?

5 MS. KURNIT: Correct. And there's a tree that comes
6 close to that. So we want to be completely within the tree
7 and giving the tree room to grow. And that lines up with that
8 too.

9 COMMISSIONER TURNBULL: So you could do, still have 10
10 feet with a 45.

11 MS. KURNIT: We'd love to have 10 feet.

12 CHAIRPERSON JORDAN: Are you stirring up something?
13 (Laughter.)

14 COMMISSIONER TURNBULL: No. I don't mean to stir up
15 anything.

16 MS. KURNIT: We don't want to, we don't want to start
17 throwing things out that aren't, that we don't have an
18 architectural plan of what 10 feet with the cut-out looks like.
19 Our contractor could certainly do that.

20 CHAIRPERSON JORDAN: But I think he's indicating --

21 MS. KURNIT: But that's the type of, that was the
22 original relief that we were seeking which was the 10 foot.

23 CHAIRPERSON JORDAN: No, he's just making
24 observations.

25 Anybody else, any questions of the applicant?

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1 COMMISSIONER TURNBULL: Well, I'm assuming your
2 original plan of 10 feet saved the tree still.

3 MS. KURNIT: Absolutely.

4 COMMISSIONER TURNBULL: Okay.

5 MR. BRUMER: Yes. And that was something that we made
6 clear to our contractor was a concern, that we wanted to
7 preserve the trees both on the left and right side. So all
8 the configurations do that.

9 CHAIRPERSON JORDAN: It's not a lot to work with back
10 there.

11 MS. KURNIT: No. Unfortunately.

12 CHAIRPERSON JORDAN: And your deck is open; right?

13 MS. KURNIT: Yes.

14 CHAIRPERSON JORDAN: And you have a letter of support
15 from the neighbor on the other side, don't we?

16 MS. KURNIT: Yes, we do.

17 MR. BRUMER: To the south. And we also have about 30
18 letters of support from neighbors within 200 feet of our house.
19 And we also have a map showing the houses in which neighbors
20 submitted letters of support if you'd like to see that. It
21 isn't something we filed but we have it on a Zip drive we could
22 --

23 CHAIRPERSON JORDAN: We reviewed the letters. As we
24 always say, the board spends hours and hours before we come
25 out here.

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1 MS. KURNIT: We appreciate that.

2 CHAIRPERSON JORDAN: And of our individual time looking
3 at these cases. Physically they usually take up my whole
4 Saturday and Sunday doing it.

5 Board, is there any other question that you have of the
6 applicant? Anybody?

7 (No response.)

8 I think that the record is clear so far of where we are.
9 And you can give me any presentation you want, so I don't
10 necessarily think it's necessary. But let's, let me turn to
11 Ms. Waldman and see if there are any questions you would like
12 to ask of the applicants, of their proposal, what they have
13 here, what they've offered to the board. It's at the time
14 where you would ask questions of the applicant.

15 MS. WALDMAN: Well, I'm a little --

16 CHAIRPERSON JORDAN: You will have the opportunity to
17 do a presentation but right now you can ask questions of the
18 applicant.

19 MS. WALDMAN: I'm a little bit confused about how we got
20 to the board since we were close.

21 CHAIRPERSON JORDAN: Because an application has been
22 filed here for whatever period of time. And it was scheduled
23 for a hearing today.

24 MS. WALDMAN: Yes.

25 CHAIRPERSON JORDAN: And the getting close was at the

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1 board asking you to go out and have a conversation and talk
2 about some resolution. It's my understanding there has not
3 been a resolution as you come back into this room although
4 you're close.

5 I asked was did you want to have the opportunity to take
6 another couple of weeks to discuss this and the applicant
7 indicated no. So that's why we're proceeding on. Am I --

8 MS. WALDMAN: I see.

9 CHAIRPERSON JORDAN: Okay? So you, so we're at the
10 point of our hearing. The board has asked questions of the
11 applicant based upon their application, any concerns they have
12 with the application. And the applicant has not, chose not
13 at this point to offer anything more because the board hasn't
14 had any additional questions. But we're at the point where
15 the party status person has the right to ask questions of the
16 applicant about things in their proposal or their application.

17 MR. BRUMER: Mr. Chairman.

18 CHAIRPERSON JORDAN: Yes?

19 MR. BRUMER: If I could just ask a procedural question.
20 Will we have an opportunity to present our full case if we wish
21 to or after?

22 CHAIRPERSON JORDAN: So that you know where we're
23 probably sitting right now, the board is probably supporting
24 where you are and the board has no questions. You would have
25 the opportunity once Ms. Waldman has her presentation to do

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1 what we call a rebuttal. And that's probably where you want
2 to be.

3 MR. BRUMER: Okay.

4 CHAIRPERSON JORDAN: Don't stop you. You can do a
5 presentation but I ask that we're now with Ms. Waldman's
6 opportunity to ask you questions.

7 MR. BRUMER: Thank you.

8 MS. WALDMAN: So may I ask a question since you just said
9 you're okay where you are?

10 CHAIRPERSON JORDAN: That means the board has no
11 questions of the application at this point. Oh no.

12 (Fire alarm sounding.)

13 CHAIRPERSON JORDAN: We have to wait. It may not mean
14 us necessarily. The way this fire system works, it alternates
15 particular floors.

16 (Whereupon, the above-entitled matter went off the
17 record at 10:57 a.m. and went back on the record at 10:58 a.m.)

18 CHAIRPERSON JORDAN: We're going to continue it over
19 for two weeks. You're going to have discussion and try to
20 resolve any issues, find out where you are with your contractor
21 and we'll do it again.

22 Is that all right with you, Mr. Turnbull and Ms. Heath?

23 I'm sorry, the board's moving this to June 9. You can
24 have conversations to try and resolve it. You can submit
25 anything you want to say in writing. The 16th? What about

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1 the 16th? I don't want to drag this out. I'm sorry, the 16th,
2 Mr. Moy? The 16th? We'll put it on for the 16th. I
3 understand. Talk it out. If not, it's going to be done on
4 the 16th. Trust me.

5 And I'm going to say this once again, the board is pretty
6 clear where we are on your application. And so just view that
7 for the word for the wise for you all talking about your
8 compromise. All right? Thank you.

9 MR. MOY: This is for decision; correct, sir?

10 CHAIRPERSON JORDAN: No, no, no.

11 MR. MOY: For clearance?

12 CHAIRPERSON JORDAN: Yes. Because she has to put on her
13 case.

14 MR. MOY: I understand. I understand.

15 CHAIRPERSON JORDAN: All right, very good.

16 MR. BRUMER: I'm sorry, on June -- the dates you're
17 identifying were dates of decision or dates of hearing?

18 CHAIRPERSON JORDAN: We'll do a hearing but it's going
19 to be decided that day, trust me.

20 MS. WALDMAN: On June 16?

21 CHAIRPERSON JORDAN: Yes. Yes.

22 All right, that's just three weeks away; right?

23 MR. MOY: Yes, three weeks.

24 CHAIRPERSON JORDAN: Thank you.

25 (Whereupon, at 10:59 a.m., the above-entitled matter

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1 went off the record.)

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