

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY
MAY 19, 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 9:30 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:

PETER G. MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

ANNE FOTHERGILL
STEPHEN MORDFIN
MEGAN RAPPOLT

The transcript constitutes the minutes from the Public Hearing held on May 19 2015.

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

Application of Michael Blake and Victoria Elias,
Case No. 19001 5

Application of Marie Pollard,
Case No. 19003 7

Application of Stuart F. And Jennifer Pierson,
Case No. 19000 10

Application of Franklin Commons Intergenerational
Day Care Center, Inc.,
Case No. 18013A 40

Adjourn 66

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

9:48 a.m.

1
2
3 VICE CHAIRPERSON HEATH: Will the meeting please come
4 to order? Good morning, ladies and gentlemen. We're located
5 in the Jerrily R. Kress Memorial Hearing Room, at 441 4th
6 Street, N.W. Today's date is March 17, 2015 and we're here
7 for the public meeting and hearings of the Board of Zoning
8 Adjustment of the District of Columbia. My name is Marnique
9 Heath, Vice-Chairperson. Joining me today to my right, is
10 Jeffrey Hinkle, Board Member. To my left, Chairman Lloyd
11 Jordan. To the left of him, joining from the Board of Zoning
12 Commission is Peter May, sitting in as a member of the Board
13 today.

14 Please be advised that this proceeding is being recorded
15 by a court reporter, who is there, and is also being web-cast
16 live. Accordingly, we must ask that you refrain from any
17 disruptive noises or actions in the hearing room. Please turn
18 off anything that buzzes or rings to avoid disruptions. The
19 Board's hearing procedures and how we will process
20 applications can be found on the table at the back of the room
21 by the back door.

22 All individuals wishing to testify today will need to
23 do two things. First, prior to testifying, each person who
24 wants to address the Board must complete two witness cards per
25 person and give those cards, prior to testifying, to the court

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1 reporter who is seated to my right.

2 I need you to now stand and take the oath which will be
3 administered by Mr. Moy, Secretary to the Board.

4 MR. MOY: Good morning. Do you solemnly swear or
5 affirm that the testimony that you are about present in this
6 proceeding is the truth, the whole truth and nothing but the
7 truth?

8 (Witnesses sworn.)

9 Ladies and gentlemen, you may consider yourselves under
10 oath.

11 VICE CHAIRPERSON HEATH: All right. Mr. Moy, can you
12 make any preliminary announcements?

13 MR. MOY: Yes. Good morning. I do. A few
14 announcements for the record regarding today's docket. There
15 have been a number of cases that have been postponed and
16 rescheduled. The first is Appeal No. 18980, of Concerned
17 Citizens of Argonne Place. That has been reschedule to July
18 7. The Apostolic Nuncio Holy Year, the foreign missions case,
19 19013. That has been postponed and rescheduled to June 23rd.
20 Application No. 18984 of Kateh Zahraie, has been rescheduled
21 to July 7. The Apostolic Nuncio of the Holy See, the foreign
22 missions case, 19013, that has been postponed and rescheduled
23 to June 23. Application number 1894 of Kathy Zahraie, has been
24 rescheduled to July 7. Two other cases, 18998, Saint Sophia
25 Greek Orthodox Cathedral has been withdrawn. And finally,

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1 Application No. 19002, Rainbow CDC has been rescheduled to June
2 9.

3 VICE CHAIRPERSON HEATH: Okay. Thank you Mr. Moy.
4 We're going to call our first case. I'm going to call 01 first,
5 19001. You can call that.

6 MR. MOY: All right, to the table of parties to the
7 Application No. 19001, of Michael Blake and Victoria Elias.

8 VICE CHAIRPERSON HEATH: Good morning. Would you please
9 introduce yourselves? Make sure your mic is turned on. It
10 should have a green glowing light.

11 MR. BLAKE: My name is Michael Blake. I'm homeowner
12 and architect for this project.

13 MS. ELIAS: I am Victoria Elias. I am homeowner and
14 architect of the project as well.

15 VICE CHAIRPERSON HEATH: Okay. Did you both turn in
16 your cards to the court reporter? Okay. Thank you. We've
17 received and reviewed all of the documentation that you sent
18 in to the Office of Zoning and based on the file, the full
19 record, we believe your record to be complete. You may testify
20 and present any other additional material, but we're letting
21 you know that we think your file is complete. So, we can
22 proceed on with the hearing, the rest of the hearing, or you
23 can elect to present additional information.

24 MR. BLAKE: We don't have any additional information to
25 present.

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1 VICE CHAIRPERSON HEATH: Do any of the Board members
2 have any questions or issues about--with this case? Okay.
3 So, we'll turn to the Office of Planning.

4 MS. FOTHERGRILL: Good morning.

5 VICE CHAIRPERSON HEATH: Good morning.

6 MS. FOTHERGRILL: For the record, I'm Anne Fothergrill,
7 new staff to the Office of Planning.

8 VICE CHAIRPERSON HEATH: Welcome.

9 MS. FOTHERGRILL: The Office of Planning rests on the
10 record in support of the application, and I'm available for
11 any questions.

12 VICE CHAIRPERSON HEATH: Okay. Board, any questions
13 of the Office of Planning? Okay. Does the applicant have any
14 questions of the Office of Planning?

15 MR. BLAKE: No.

16 MS. ELIAS: No.

17 VICE CHAIRPERSON HEATH: Okay. Thank you.

18 MS. FOTHERGRILL: Thank you.

19 VICE CHAIRPERSON HEATH: Is anyone here from DDOT? We
20 do have a letter of no objection from DDOT as well. Is anyone
21 here from ANC 6A? ANC 6A? We also have a letter of approval
22 from ANC 6A where they voted 8-0 to approve your application.
23 Is there anyone here wishing to speak in support of this
24 application? Anyone in support? Anyone in opposition?
25 Anyone in opposition? All right. Well, we will close this

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1 hearing then, unless anybody has any other questions or issues,
2 and I will move that we approve the special exception under
3 223.

4 CHAIRPERSON JORDAN: Can I, can I second?

5 VICE CHAIRPERSON HEATH: He's anxious to second.
6 Okay, well, that was the motion. Okay. All right. Any
7 discussions? Okay. All right. So all in favor?

8 (Chorus of ayes.)

9 VICE CHAIRPERSON HEATH: Anyone opposed? All right.
10 The motion carries. Mr. Moy?

11 MR. MOY: Yes, ma'am, the staff would record votes four
12 to zero on the motion of Vice-Chairperson Heath. Also,
13 Chairperson Jordan seconded the motion. Also support Mr.
14 Peter May and Mr. Hinkle. We have a report seat vacant.
15 Motion carries four to zero.

16 VICE CHAIRPERSON HEATH: Summary order Mr. May, please.

17 MR. MAY: Thank you.

18 MS. ELIAS: Thank you.

19 VICE CHAIRPERSON HEATH: Thank you. Mr. Moy, we'll do
20 Pollard next.

21 MR. MOY: To the table, parties to the Application No.
22 19003. This is the application of Marie Pollard. This is a
23 request for a special exception relief not meeting lot
24 occupancy and court width requirements at premises 2216 12th
25 Street, N.W., Square T71, Lot 195.

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1 VICE CHAIRPERSON HEATH: Good morning.

2 MR. RAMIREZ: Good morning.

3 VICE CHAIRPERSON HEATH: Would you please introduce
4 yourself?

5 MR. RAMIREZ: Yes. My name is Roberto Ramirez and I am
6 representing the homeowner, Marie Pollard. I'm the architect
7 for the project.

8 VICE CHAIRPERSON HEATH: We understand that the
9 affidavit of posting has come in just this morning.

10 MR. RAMIREZ: Well yesterday, I sent it in.

11 VICE CHAIRPERSON HEATH: Okay. Thank you.

12 CHAIRPERSON JORDAN: I'll accept that they--there is a
13 recommendation from Planning, I believe, that they needed
14 additional non-conforming to 2001.3.

15 VICE CHAIRPERSON HEATH: Are you aware that Office of
16 Planning has made the recommendation that you need to add
17 2001.3 for non-conforming structure to your application?

18 MR. RAMIREZ: No.

19 VICE CHAIRPERSON HEATH: Okay. You can make an oral
20 addition to your filing. Okay, any other issues?

21 CHAIRPERSON JORDAN: And then we also just need you to
22 then supplement the record with the amendment in your
23 application. We're going to accept this as an oral motion now,
24 but you need to follow up with a filing with the Office of Zoning
25 again that says your amended requested relief.

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1 MR. RAMIREZ: Okay.

2 VICE CHAIRPERSON HEATH: Okay. All right. So with
3 that, unless anyone else has any other issues? All right. I
4 believe your file to be complete based on what we've received
5 so far. So we can proceed on with the hearing or you can opt
6 to present additional information if you choose.

7 MR. RAMIREZ: No, I don't have anything to add.

8 VICE CHAIRPERSON HEATH: Okay. All right. So then
9 we'll turn to Office of Planning.

10 MEGAN RAPPOLT: Good morning, Megan Rappolt for the
11 record, and Office of Planning stands on the record in support
12 of the application and I am happy to work with the applicant
13 to explain the 2001.3 with Office of Zoning. I'm available
14 for questions. Thanks.

15 VICE CHAIRPERSON HEATH: All right. Board, any
16 questions of Office of Planning? Applicant any questions of
17 Office of Planning?

18 MR. RAMIREZ: No.

19 VICE CHAIRPERSON HEATH: Okay. All right, thank you.
20 Is anyone here from DDOT? I don't believe they are. We do
21 have a letter recommending approval from DDOT. Is anyone here
22 from ANC 1B? No one here from ANC 1B? We do have a letter
23 recommending approval and a vote of nine to zero with zero
24 abstentions from ANC 1B. Is there anyone here wishing to speak
25 in support of this application? Anyone in support? Anyone

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1 wishing to speak in opposition? No opposition. All right,
2 well then we will close this hearing and I will make a motion
3 that we approve the special exception with the amended relief
4 for 2001.3 for non-conforming structure.

5 MEMBER HINKLE: Second.

6 VICE CHAIRPERSON HEATH: All those in favor? Any
7 further discussion? Sorry. All those in favor?

8 (Chorus of ayes.)

9 VICE CHAIRPERSON HEATH: No one opposed. Mr. Moy?

10 MR. MOY: Yes, staff would record the vote as four to
11 zero. This is on motion of Vice Chair Heath, seconded by Mr.
12 Hinkle, also supporting the motion, Mr. Peter May and Chairman
13 Jordan. We have a board seat vacant. Motion carries four to
14 zero.

15 VICE CHAIRPERSON HEATH: Okay. All right, thank you.
16 Summary order--

17 MR. MOY: Thank you.

18 VICE CHAIRPERSON HEATH: --Mr. Moy? All right we'll do
19 Pierson next, Mr. Moy.

20 MR. MOY: All right the next application before the
21 Board for public hearing is Application No. 19000. This
22 application is---

23 VICE CHAIRPERSON HEATH: Just one second, Mr. Moy. Will
24 the applicant from the previous case turn in your witness card.
25 Thank you. All right. Sorry, Mr. Moy.

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1 MR. MOY: No, not at all. Application 19000. This is
2 the application of Stewart F. and Jennifer Pierson. This is
3 a request for variance relief from the off-street parking
4 requirements under 2101.1 and special exception relief under
5 223 at 5435 Sherrier--my lips are tied here this morning--Place
6 N.W.

7 VICE CHAIRPERSON HEATH: Okay. Good morning. Will
8 you please introduce yourselves?

9 MS. PIERSON: Good morning, my name is Jennifer
10 Pierson.

11 MR. PIERSON: Good morning, my name is Stewart Pierson.

12 CHAIRPERSON JORDAN: You want to make sure your
13 microphone is on.

14 VICE CHAIRPERSON HEATH: Make sure your mic is on. If
15 you push it, it will glow green. There you go.

16 MR. PIERSON: Sorry. Steward Pierson

17 MR. GRISAR: Mark Grisar, I'm the designer of the
18 project and I'm representing the applicants.

19 VICE CHAIRPERSON HEATH: Okay. The only issue I have
20 on this really comes from Office of Planning and their issues--
21 the issues they've brought up with parking relief. Does
22 anybody else have any other issues?

23 CHAIRPERSON JORDAN: Well, it's a fundamental issue
24 about meeting the variance test, and so we need you to show
25 us why you should be granted a variance for this parking.

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1 Meaning that the--as you know, the requirements for variance
2 relief, one, there's a question of whether or not you have an
3 exceptional situation or condition which will lead to that and
4 whether or not, secondly, there is a practical difficulty for
5 you to have---to be--to not be able to do the parking.

6 MR. GRISAR: We're prepared to defend that.

7 VICE CHAIRPERSON HEATH: Okay.

8 MR. GRISAR: We can do that either in conjunction with
9 the Office of Planning or I can do it now.

10 CHAIRPERSON JORDAN: It's your, it's actually the
11 applicant's burden to do that.

12 VICE CHAIRPERSON HEATH: Right. So you can do that
13 now.

14 MR. GRISAR: Okay, so, I'd like to proceed, with your
15 permission then. Thank you.

16 VICE CHAIRPERSON HEATH: Sure.

17 MR. GRISAR: In terms of the exceptional situation that
18 results in a practical difficulty, there's a number of factors
19 that go into that. The regulations set a minimum size of lot
20 of 5,000 square feet. This lot is 4,212 which is merely 84%
21 of the minimum of a standard lot. I think this is a practical
22 difficulty. You've got the siding of the house more or less
23 in the middle of the lot. It decreases the size of the yard
24 where the parking could possibly take place. In addition, a
25 9 x 19 parking pad in this small yard, which after the addition

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1 is put in, only has a 13 foot rear set back, would consume 24%,
2 a quarter, of the remaining outdoor space.

3 Another important factor is the change of grade on the
4 property. At the alley level moving down to the level of the
5 entrance to the rear of the house and the level of the addition
6 is almost two feet. So that the placement of a parking in this
7 small yard would not only be taking up a quarter of it, it would
8 be looming above the area that the owners would be able to have
9 outdoor use. Further--

10 CHAIRPERSON JORDAN: So you're saying this grade goes
11 up and not down?

12 MR. GRISAR: The grade is higher on the alley where
13 you'd enter the parking, and you'd have to then have steps down
14 to the level of the house entrance. On top of that, you're
15 limited pretty severely in where you can place this pad.
16 Basically, you could only put it where it exists currently,
17 and there are photographs and diagrams that show where that
18 parking is. There's currently actually a parking, a carport.
19 So while we agree that technically, there is a 9 x 19 pad place
20 where you could put this parking, you can only put it in one
21 place. The opposite side of the lot, the east side, is
22 occupied by a mature magnolia which is close enough to the
23 alley to where a parking pad would kill the roots, kill the
24 tree. This is a beautiful tree that actually provides
25 pleasure for not only the Piersons, but the neighbors. It's

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1 also a blind from people across the alley on--whose home is
2 actually on MacArthur if they're looking out their back
3 windows, this tree, again, softens the building, the Piersons
4 home and the one next door, I might add. It's a nice feature.
5 It's not a feature that I think anyone would want to destroy.

6 So, I'm making the case then that there's only one place
7 to put the pad. You put it there, you're looming over the yard
8 and furthermore, with a 13 foot rear set back and a 19 foot
9 parking pad, you've got the car parked above and virtually
10 adjacent to the home. On that side of the house, there's a
11 9 foot side set back, and so the 9 foot pad would just fit like
12 a shoe on a foot and again, since the new addition is going
13 to come within six inches of the edge of that 9 foot---basically
14 a 9 foot 6 inch from the---your parking is right on top of the
15 house. I want to emphasize also the exceptional situation of
16 the importance and the value of having usable outside space.
17 I think everyone agrees that that's a goal that we have.
18 Finally, on this point of the practical difficulties---

19 CHAIRPERSON JORDAN: Let's go back to your exceptional
20 situation and condition which is the first step of the test.
21 I haven't heard anything, and I just heard you kind of do a
22 drive by saying that there's a need to have more outside space.
23 Is that what you're offering to the Board as your exceptional
24 situation or condition of this property? Not going to the
25 practical difficulty, I think you've talked about several

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1 things which you proffer as a practical difficulty in having
2 a parking pad, but the first part of the test requires you to
3 establish that this property has an exceptional situation and
4 condition. So, that's different than the other neighborhood.
5 I think you might be able to take some of the things that you
6 talked about as a practical difficulty, but it was kind of not
7 given that way.

8 MR. GRISAR: May we have a moment, please?

9 MS. PIERSON: Sir, can I interject something, or ma'am,
10 may I interject something?

11 VICE CHAIRPERSON HEATH: Sure.

12 MS. PIERSON: Thank you. I guess as the person who owns
13 the house and lives in the house, what appears on paper doesn't
14 illuminate how we live or how our family uses the house and
15 we are the proud grandparents of 10 grandchildren, and the
16 house that we live in currently has of necessity very, very
17 small dining room. It's the dining room that we're trying to
18 enlarge. We also have a fairly small patio which is what Mr.
19 Grisar has been speaking to regarding the exception. The
20 backyard has a huge magnolia tree which I would sooner die than
21 remove. In addition, my mother's ashes and my former dog's
22 ashes are in the backyard and if we do not get permission to
23 have some green space back there where we can enjoy the birds
24 that we currently see and I know that my mother's ashes are
25 secure, and that tree remains, it will be useless to us and

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1 to our grandchildren. It's--in my view, I'm sorry, it seems
2 to me a very simple request that we're making. It all is
3 confined within our lot. It does not--there are no objections
4 to any of our neighbors about us building it. In addition,
5 we live in a neighborhood that's not zoned for parking because
6 we have a huge amount of opportunity to park on three sides
7 of the street we currently live on. So, I just ask you to
8 consider those more familial needs.

9 CHAIRPERSON JORDAN: What kind of a tree is it in the
10 backyard?

11 MS. PIERSON: It's a big magnolia tree.

12 MR. PIERSON: It's about 30 feet tall, 40 feet tall.

13 MR. GRISAR: Mr. Jordan, if I could speak directly to
14 your question, I think the exceptional situations do lie in
15 the size of the lot which I spoke of first. It's a lot that's
16 only 84% of the minimum standard. It's not only at the
17 standard, it's well below it.

18 CHAIRPERSON JORDAN: I don't really think that's where
19 your strength is because it's my understanding, based upon the
20 Office of Planning's report, that there are other lots that
21 are the same size or smaller. But I think what the applicant
22 might have just talked about here might give more credence in
23 regards to what is exceptional to this property. Not unless
24 you're offering to the Board that the lot size is smaller than
25 the other lots there. Is that what you're saying? Because

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1 that's what I read in your initial application.

2 MR. GRISAR: Well, I would argue that while there are
3 other lots that are as small or even slightly smaller, it's
4 kind of irrelevant to this particular case because it's
5 not--they're not setting a precedent and I don't think you're
6 going by using precedence. I think those lots are
7 exceptionally small so, in our case, we have an exceptionally
8 small lot in which we're trying to do something to improve it.
9 So, it's neither here nor there to me to---

10 CHAIRPERSON JORDAN: I understand what you believe.
11 But we're the ones that are going to make that decision. So,
12 let me go back to the applicant again. Will talk again about
13 what's in the backyard?.

14 MS. PIERSON: What is currently in the back yard are--

15 CHAIRPERSON JORDAN: I mean, that's important that you
16 think it's different than---

17 MS. PIERSON: No, I understand.

18 CHAIRPERSON JORDAN: I know you talked about your
19 mother's ashes and---

20 MS. PIERSON: So, my mother's ashes are actually the
21 rose bush because ashes are lime, they're good for roses. And
22 our prior--two prior dogs whose ashes are also mixed in with
23 my mother, my mother happened to like dogs.

24 CHAIRPERSON JORDAN: I knew I missed something else.

25 MS. PIERSON: I mean, I'm sure it sounds really foolish

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1 to you, but that is practically--and in fact, when we moved
2 from Glover Park, my mother's ashes and our dogs ashes moved
3 with us, so that's how important it is. We do have several
4 other trees in the backyard, it's a very small backyard, but
5 the overwhelming tree, as Mr. Grisar has said, is this big
6 magnolia and when we first saw the house 12 years ago, I looked
7 at the big oak tree in the front and the big magnolia tree in
8 the back and the house was sold to me as far as I was concerned.
9 And I will, Mr. Jordan, just repeat again that we do have 10
10 grandchildren, five of whom live very close by and whom I take
11 care of one day a week. And we're not yet able to have everyone
12 in the dining room because the dining room is too small.

13 MR. PIERSON: May I add one point that joins the two
14 sides here? There are two lots next to us that are about the
15 same size, they're smaller than standard. The houses on those
16 lots are situated differently than the house on our lot. Our
17 house is a double brick construction and it's set fairly far
18 back from the front. As a consequence, there's a very small
19 area to use in the back, unlike the other houses. So, I would
20 say it is different though of the same size and, of course as
21 we've indicated further, it was a 1950's construction before
22 the standards were set.

23 CHAIRPERSON JORDAN: And that leads to the other part
24 of the problem. I know that you made a request from 2101.1
25 but what would be applicable is that--you actually had parking

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1 there and now you're trying to remove parking?

2 MS. PIERSON: That's correct.

3 CHAIRPERSON JORDAN: And the provision, and whoever
4 prepared the application asked for a variance in 2101.1 where
5 there's no parking and you're going to be required to do
6 parking, then you're looking for an exception there. But
7 however, you have parking and removal of parking and the fact
8 that you had -- but there actually was a parking space, you're
9 actually removing parking space, so 2100.10 would be more
10 applicable. I don't know if you've--

11 MR. GRISAR: I was the person that prepared this and
12 please forgive my mistake. I did review it with zoning
13 officials and thought I had everything covered.

14 COMMISSIONER MAY: Madam Chair, can I ask a couple of
15 questions?

16 VICE CHAIRPERSON HEATH: Sure.

17 COMMISSIONER MAY: So Mr. Grisar, the essential problem
18 that I'm wrestling with is that the way you have designed this
19 addition puts the--is such in such a fashion that it really
20 prevents the parking space. It's how you've designed the
21 addition. I understand the lot is small; it's not
22 exceptionally small. 80 percent is a lot better than we see
23 a lot of times. We just had a case in here a few minutes ago
24 that was I think 60 percent. You know, that's where you start
25 to get really small. And that's a lot that was only 1200 square

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1 feet. It's very hard to provide parking in a space like that.
2 That's not the relief they wanted, but small is relative, but
3 84% of a lot in this zone isn't that exceptional. But the way
4 you've designed it pushes--I mean it really does limit your
5 options. So I'm wondering is there a reason why you could not
6 have the bulk of the area more to the other side of the property.
7 Push some of that volume toward-- there's clearly more patio
8 space there before you get to the street. Couldn't some of
9 that volume of space be over in that direction?

10 MR. GRISAR: There's two factors. One, you'll notice
11 that the design is--it's basically two pieces.

12 COMMISSIONER MAY: Yes.

13 MR. GRISAR: And the smaller piece is on the side of the
14 magnolia and that is to minimize the damage to the roots. I
15 know from experience and just general information---

16 COMMISSIONER MAY: Isn't the magnolia in a raised bed?

17 MR. GRISAR: It's not, no. The bed actually slopes
18 down along that side property line, it does not remain high
19 even though there's a continuation of the retaining wall
20 material. When it turns perpendicular to the alley, where the
21 magnolia is, it's on a--it slants down and the grate decreases
22 really--

23 COMMISSIONER MAY: Okay, so, this is very, very
24 difficult to tell, because you don't have a site plan that
25 really shows where that tree is, right? If you're going to

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1 argue that the tree roots prevent you from building on that
2 side, then you'd have to prove that, in fact, something is
3 preventing you from building on that side.

4 MR. GRISAR: Sir, that--the tree is in the pictures that
5 were provided.

6 COMMISSIONER MAY: It's in pictures but I asked for a
7 plan. Do you have a plan that shows that? A site plan?

8 MR. GRISAR: I may have one. If you'll give me a
9 second, I'll look through what I have. But in the meantime,
10 I'd like to also say that there is another compelling reason
11 for the particular design.

12 COMMISSIONER MAY: Yes.

13 MR. GRISAR: The kitchen is on that side of the house.

14 COMMISSIONER MAY: Yes.

15 MR. GRISAR: And this addition is meant to be a dining
16 room. So, rather than have to cross the entire width of the
17 house to get to your dining area from the kitchen, it is natural
18 to simply have the new dining room right off the kitchen. And
19 that does appear in a plan. It does show that the kitchen is
20 in that back corner. So it's the obvious and really only place
21 for the dining area.

22 COMMISSIONER MAY: It's not the only place. You can't
23 argue it's the only place. I mean, really, we're talking about
24 a house that in total is 25 feet wide. Really? That's the only
25 place you could put it? Is it really such a burden to walk

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1 another five feet to get to it? I don't think so. You can
2 argue that it is the best place, undoubtedly. I'm not
3 questioning that. But you can't argue that it's the only
4 place. I mean I think honestly the only thing that you have
5 going for you in terms of the exceptional circumstance is
6 what's the--how much of the tree roots do you need to maintain
7 on the other side? That is a legitimate reason I think why
8 you might need to push the addition back. The other thing
9 about this is that we're only talking about 9' x 19', and right
10 now the carport is bigger than that, right?

11 MR. GRISAR: That's correct.

12 COMMISSIONER MAY: How big is it?

13 MR. GRISAR: I think it's 12 feet wide.

14 COMMISSIONER MAY: By what depth?

15 MR. GRISAR: It goes to something like 22 feet to the
16 alley.

17 COMMISSIONER MAY: 22 feet?

18 MR. GRISAR: Something like that.

19 COMMISSIONER MAY: Right. So, you know, just taking
20 three feet off of that and shifting your dining room a few feet
21 further away from it, you know, it could all work together.
22 And what I'm --it sounds like you didn't even try. I mean if
23 you tried that and tried to demonstrate why it doesn't work,
24 I could buy into your arguments, but there's no evidence that
25 you even looked at that. I mean maybe you did look at it, but

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1 tell me what you did.

2 MR. GRISAR: I tried to put an addition on that met the
3 programmatic needs of the client, and I felt that--I believe
4 strongly that that includes having the dining room flow
5 naturally from where the kitchen is.

6 COMMISSIONER MAY: You flipped it all the way to the
7 other side. I mean, if there was---

8 MR. GRISAR: Flipping it to the other side puts the tree
9 in--

10 COMMISSIONER MAY: Right, and I'm not saying flipping
11 it on the other side, what I'm saying is that moving it a few
12 feet away from the parking space, if it's needed.

13 MR. GRISAR: Then you're talking about reducing the
14 size of an already pretty small addition. We tried to do this
15 as a small-house kind of approach. We're not trying to do a
16 super addition. We have no intention---

17 COMMISSIONER MAY: So let me just finish my thought,
18 which is that if you could demonstrate, you know, with some
19 diagrams or something like that, why it doesn't work to have
20 the dining room placed a little bit further away from that,
21 from where the parking pad would be or why the parking pad
22 simply--or the carport, existing carport couldn't be cut back
23 to 9' x 19' and still achieve your goals. Without that, there
24 really isn't any demonstration that it can't work. I mean,
25 I agree with the Office of Planning. I can easily see, based

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1 on the information that you presented so far, that you could
2 fit a parking space in there. Now, I would also add that it
3 doesn't mean that you have to use it to park the cars there.
4 It just means that you have to have it. So that could be an
5 upper patio that has a gate to the alley and you've filled your
6 parking requirement and you don't ever have to park there.

7 CHAIRPERSON JORDAN: And look, and this is what I'm
8 going to say, and I keep hearing it from you, I'm sorry, your
9 name, you're the architect?

10 MR. GRISAR: Mark Grisar.

11 CHAIRPERSON JORDAN: Mr. Grisar, I keep hearing it from
12 you over and over again, and I think Mr. May is trying to help
13 you and the Board is trying to help you in giving you some
14 options so that you can come back and try to do some changes,
15 because what you're presenting is not there. But where I think
16 that you might be having--getting caught up, is your subjective
17 intent and need and ability and we're looking at it in an
18 objective across-the-board, across-the-district. It's not
19 just what your, as a homeowner, may want. Every homeowner can
20 come in and say this is what we need because we--they'll say
21 it has to be this way because basically you want it that way.
22 But we can't operate that way in a district and so I'm hearing
23 it a lot of in your conversation. So what you have to show
24 in an objective type of manner to the Board that what you're
25 doing, as Mr. May has indicated to you, that it just does not

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1 work the way that the zoning regulations require you to do it.
2 There are some possibilities for you to come back in to the
3 Board, present the alternatives why it does not work so that
4 the Board can put their hands on it and stamp it.

5 Even in this conversation, I was trying to tell you what
6 you proffered in regards to the exceptional situation
7 circumstances, especially from a lot size, was not getting it,
8 but you went back to it. I think you--this is not to me a dead
9 project. I think you just have to tighten up where you are
10 and we haven't even gone to the Office of Planning yet, and
11 Mr. May is giving you some alternatives and some discussion
12 about what you can do to make sure this happens. Okay? You
13 follow me? So, that's all, I think Mr. May has kind of summed
14 it up, but you can certainly speak toward what he just said
15 if you have that proof that's available now.

16 MR. PIERSON: May I just address Mr. May? One of the
17 things that I heard you say was we should put the parking space
18 in there but we don't have to use it as a parking space, which
19 confuses me. It seems to me it might be elevating form over
20 substance. If we made the space over there and planted it with
21 trees and bushes, would we be in opposition to the purpose of---

22 COMMISSIONER MAY: You could surround it. I mean, if
23 you had a 9' x 19' space that's surrounded by planters and you
24 have trees around it and things like that, you know, that could
25 be fine. It could be a very fine planted patio and having

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1 something that doubles as a patio or a parking space is actually
2 a very common thing across the city, because a lot of people
3 don't have room for both, and when they can't get the parking
4 space that they need on the street, they have to go park in
5 their space on the patio behind their house. It still has to
6 function as a parking space, though. So it has to be 9' x 19'
7 clear, paved, whatever. So--and you can't enclose it and
8 fence it off completely, you'd have to put up a gate. But
9 again, all things that could be done.

10 MS. PIERSON: May I ask, is it always the case in the
11 District of Columbia that single family houses must have a
12 parking space?

13 COMMISSIONER MAY: It depends on the zone.

14 MS. PIERSON: Well---

15 COMMISSIONER MAY: Actually, I think single family
16 houses probably do, right? Yes, single family homes do. When
17 you have flats, like in an R4 neighborhood, which is row houses,
18 it's one space per two dwelling units. And so, if you have
19 a single family house in that zone, you do not have to have
20 a parking space.

21 MS. PIERSON: So, I listened intently to your concerns,
22 I understand the practical nature of the space being
23 potentially redesigned or at least showing the Board redesigns
24 that may or may not function. That's my understanding of what
25 you just said.

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1 COMMISSIONER MAY: Well, you know, if you want to make
2 the case that you have to do it this way, the only way you can
3 effectively do your addition is to have this relief, you have
4 to demonstrate that there's no way for you to
5 practically--practically, not impossible, but
6 practically--put in that parking space. By the way, I think
7 I was incorrect. In R4, you still do need to have a single
8 parking space.

9 MS. PIERSON: I guess the only addition I would make is
10 the statement I made earlier which I cannot change the
11 regulations, I understand that. But everything that I've
12 heard of recent vintage in the District of Columbia, is that
13 we're moving toward fewer cars.

14 COMMISSIONER MAY: Correct.

15 MS. PIERSON: And more green space. And it just so
16 happens actually, that our daughter is getting her Ph.D. on
17 the health benefits of green space in inner city, upon inner
18 city poor people. We happen to live, as I said earlier, in
19 a neighborhood where we are blessed with infinite places to
20 park and while that may not yet be reflective in how the
21 District of Columbia perceives residential parking, I would
22 hope someday that it does. And obviously, we're going to get
23 back to you with new drawings.

24 CHAIRPERSON JORDAN: Well, actually, what you're doing
25 is also opening the door to a whole other level of discussion

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1 about providing us the proof that there's ample parking in your
2 neighborhood to even provide the variance. But I--what we're
3 saying here, I think you should take this back, work it up,
4 I think the Board's given you enough direction, we haven't even
5 gone to the Office of Planning, and maybe have another
6 conversation with the Office of Planning, and give you the
7 opportunity, because I don't think we should kill this, but
8 there are some things that you need to do to present to the
9 Board to get you where you need to be.

10 MS. PIERSON: In that next presentation, is it of any
11 benefit to us for you to hear from the ANC?

12 CHAIRPERSON JORDAN: We hear from the ANC. The
13 regulations are the regulations, and this is new. This is new
14 to most people who have never touched zoning, even people
15 who've been in zoning forever, it's always new. Zoning is not
16 an easy concept *per se* for people to get their arms around,
17 anybody to get there arms around. And so, I understand that,
18 and so what we've been trying to talk to you about is something
19 that can help you go forward to kind of get you there.

20 MS. PIERSON: No, I perfectly well understand that and
21 I much appreciate your help.

22 MR. GRISAR: Sir, how does this relate to our special
23 exception application? Or is that something that is going to
24 be heard today and can be passed on? Or is everything all
25 connected and one can't happen without the other?

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1 VICE CHAIRPERSON HEATH: We could separate the two.

2 MR. PIERSON: Let's not do that. It seems to me this
3 is all of a piece and we'd like to have the opportunity to
4 prepare a modification for you.

5 VICE CHAIRPERSON HEATH: Okay. We'll accept that.

6 MR. GRISAR: Your request then, I want to make sure I
7 understand, is to come back with several schemes that do not
8 work and which would thereby demonstrate---

9 VICE CHAIRPERSON HEATH: No, that's not the request.
10 Mr. May? I'll let Mr. May clarify.

11 COMMISSIONER MAY: Let me explain again. So, what you
12 should do is show us a site plan that shows where all of the
13 things are that are on the site; the carport, the trees, the
14 whatever else the features are. Okay, the drawings that you
15 show us now don't have enough information of that. It may also
16 help to have an aerial photograph which you can get off the
17 Internet, right? Just to show what it looks like and where
18 the sites are because that's an easy way to get to where you
19 want to be. The next thing you should do is, on this site plan,
20 show us where you think the root zone is, the critical root
21 zone for that tree and I suggest that you actually consult with
22 somebody who knows a lot about that particular species of tree
23 and can tell you what the likely root zone is and submit that
24 information. Submit who you talked to about it and what they
25 said. And then just draw that circle around where the tree

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1 is planted and that demonstrates where you should not be
2 putting your foundations.

3 Then based on that information, try to accommodate what
4 you think is necessary for a reasonable dining room addition
5 within the space that's available to you. And if you can show,
6 you know, it doesn't have to be full-fledged plans, it just
7 has to be some diagrams that show well, if you take this block
8 that's 12' x 15' and you try to move it around in these
9 locations, where can it fit and not hit the tree roots and then
10 can that be done and still allow a parking path. And if you
11 can't possibly fit those two pieces into that backyard, then
12 I think maybe you have a case. But if you find something that
13 actually demonstrates that, then you can drop the request for
14 the parking relief and come back and the rest of the relief
15 is easy to grant, I think. In my view.

16 MS. PIERSON: Yes, thank you.

17 VICE CHAIRPERSON HEATH: All right. So, we're going to
18 encourage that you also continue your conversations with
19 Office of Planning to make sure they're satisfied with the
20 process and the variance request. So, with that, we will turn
21 to the Office of Planning and allow---

22 MR. MORDFIN: Good morning Chair, members of the Board.
23 The Office of Planning still does not support the variance
24 relief request primarily because the applicant has not
25 demonstrated that there's an exceptional situation resulting

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1 in a practical difficulty as discussed. We find that the
2 parking space could be provided on the lot in addition to the
3 proposed building additions. The Office of Planning does
4 support the special exception to reduce the rear yard, finding
5 that it is conforming to the requirements of Section 223 and
6 supports that request. Thank you.

7 VICE CHAIRPERSON HEATH: Thank you. Are there any
8 questions of the Office of Planning?

9 CHAIRPERSON JORDAN: Well just--when you said you
10 didn't support it, why aren't you supporting it?

11 MR. MORDFIN: The variance request? We don't find that
12 there's an exceptional situation that results in a practical
13 difficulty. It appears from the plans submitted that it is
14 possible to put a 9' x 19' parking space off the alley on that
15 lot. There is a parking space there now. And even with the
16 building additions, we find that there is sufficient room to
17 provide the parking and, therefore, there's no exceptional
18 situation resulting in an practical difficulty where they
19 could not provide the parking. And that is the reason that
20 we don't find that this application conforms with that.

21 CHAIRPERSON JORDAN: Have you had a chance to see if
22 that tree is impactful to your recommendation?

23 MR. MORDFIN: I have not.

24 VICE CHAIRPERSON HEATH: Okay. Applicant, any
25 questions of Office of Planning?

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1 MR. PIERSON: No. Thank you very much. We'll be back
2 to see you.

3 VICE CHAIRPERSON HEATH: Okay. All right.

4 CHAIRPERSON JORDAN: You're sure you don't have any
5 questions for the Office of Planning? You can ask them
6 questions or you can meet with them later, but--

7 MR. GRISAR: Could we clarify a couple of things,
8 please?

9 CHAIRPERSON JORDAN: With the Office of Planning?
10 Please ask your questions.

11 MR. GRISAR: Sir, from your letter, you did agree that
12 the test about no detriment to the public, that that is in our
13 favor, is that correct?

14 MR. MORDFIN: That's correct. We found that there
15 would be no substantial detriment to the public good.

16 MR. GRISAR: And for the third test which was does it
17 do harm to the spirit of the zoning regulations, how did you
18 find for that?

19 MR. MORDFIN: Well, for that one we found that in the
20 spirit of the zoning regulations, each single family detached
21 dwelling should have one parking space and this one has one
22 today. And by not providing it when it appears that it could
23 be provided, that does go against the zoning regulations
24 because you're supposed to--these things are required to be
25 provided. Not whether or not it's convenient, but whether or

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1 not it actually can be done and can be accommodated on the lot,
2 and it has not been demonstrated to the Office of Planning that
3 this parking space cannot be accommodated on the lot.

4 MR. GRISAR: I don't want to belabor this any further,
5 but I do feel like your argument about the zoning regulations
6 arcs back to the practical difficulties, and your problem with
7 the practical difficulties whereas, if we were talking about
8 the spirit and the intent of the zoning regulations, I think
9 in many ways we are within that spirit. I don't think
10 that--and I can go on, I don't want to take up any more time.

11 VICE CHAIRPERSON HEATH: You have to meet all parts of
12 the variance test, so it's not just one prong. You have to
13 meet all prongs.

14 MR. GRISAR: Understood. Understood. I'm trying to
15 eliminate what our obstacles are.

16 VICE CHAIRPERSON HEATH: Okay.

17 MR. GRISAR: And I'm hoping that we can eliminate two
18 out of the three and just be able to, in the end, concentrate
19 on the one.

20 VICE CHAIRPERSON HEATH: Okay. Well, I would
21 encourage you that as you work through your process and develop
22 your drawings and additional documentation that you're going
23 to submit, that you work with Office of Planning and get clarity
24 on what exactly it is that they're going to require.

25 MR. GRISAR: Okay.

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1 VICE CHAIRPERSON HEATH: Because it's likely our
2 requirements will be the same. So--also, you're going to need
3 to amend your relief to also include 2100.10, since you
4 currently have parking and you're going to maintain it.

5 MR. GRISAR: Okay.

6 VICE CHAIRPERSON HEATH: All right? So, we'll continue
7 this hearing.

8 MR. GRISAR: What's the mechanics for getting back on
9 the schedule?

10 VICE CHAIRPERSON HEATH: Well, we'll go through that.
11 Before we do, we're going to just proceed with ANC to see if
12 they're here and is anyone here from ANC 3D? Okay. Please
13 introduce yourself.

14 MS. GATES: Good morning, I'm Alma Gates from ANC 3D.
15 ANC 3D's report is on file. I would like to point out that
16 we looked at Section 34.1 under the special exception
17 requirement, and that was the basis for our decision to grant
18 them relief from the requirement to have this off-street
19 parking space. The Piersons deserve a lot of credit for being
20 here today, by the way. Many of their neighbors have simply
21 gone ahead and enclosed garages, et cetera. They're here
22 asking for the relief they should. I am very surprised at the
23 Board's decision and that this requires a variance.

24 CHAIRPERSON JORDAN: The Board didn't make that
25 decision it requires a variance, the applicant --

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1 MS. GATES: I'm sorry, Mr. Jordan, I misphrased that.

2 CHAIRPERSON JORDAN: Go ahead.

3 MS. GATES: Thank you.

4 CHAIRPERSON JORDAN: Yes, but it requires under that
5 law a variance, that's what it requires. Not a special
6 exception.

7 VICE CHAIRPERSON HEATH: Thank you.

8 CHAIRPERSON JORDAN: And further, we have not denied
9 it. We're really trying to help get this past the hump,
10 because we could have denied it, but we don't want to do that.
11 We want to make sure that all the i's are dotted and the t's
12 are crossed so that you can get the relief that's necessary,
13 if you can show that. And I think we've given you the guidance
14 to help you try to get there.

15 MR. PIERSON: We appreciate that.

16 MS. GATES: May I ask Mr. Mordfin a question? Did you
17 actually go out and visit the site?

18 MR. MORDFIN: I did not visit the rear of the site, so
19 I don't know---

20 MS. GATES: Thank you.

21 MR. MORDFIN: Thank you.

22 VICE CHAIRPERSON HEATH: Is there anyone else here
23 willing or wanting to speak in support of this application?
24 Anyone in support? Anyone wishing to speak in opposition?
25 Anyone in opposition? All right. Well then, any further--

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1 COMMISSIONER MAY: Yes, I just had one further
2 observation. Going back to the concept of trying to create
3 that new parking pad and trying to take advantage of it. I
4 actually think you should take a good look at that, because
5 I think you already want to have some patio space there and
6 the idea of having maybe an upper patio, lower patio may
7 actually work quite well in that site. You know, take
8 advantage of the change in topography and it could give you
9 a nice large flat area and again, with your grandchildren, that
10 might be very useful. I mean, that's where the Big Wheels can
11 come out and be used and things like that. It might be a very
12 good feature if you can find a way to work it in, and then you
13 don't have to avoid this. And also, I mean, think toward the
14 future, that maybe the parking situation isn't always going
15 to be the way it is right now and maybe some future owner, or
16 one of your children might want to live there and they might
17 want to have that parking space. And so it might be a good
18 thing for the future of the home in the long run.

19 MS. GATES: Mr. May, would your clarify ---

20 COMMISSIONER MAY: I'm sorry, I don't take questions
21 from---thank you.

22 MR. PIERSON: Mr. May?

23 COMMISSIONER MAY: Yes? I'm happy to take your
24 question.

25 MR. PIERSON: I appreciate your guidance. I think for

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1 all of us we need a visual perception of all of the features
2 of this plan and the current lot and it will be our intent to
3 present that to you as soon as we can.

4 COMMISSIONER MAY: I really appreciate it. I'm sorry
5 if I sounded harsh through all this stuff, but it's just, you
6 know, I try to get straight to the root of the matter, so.

7 MR. PIERSON: We appreciate that.

8 CHAIRPERSON JORDAN: I'm sorry, for the ANC, is there
9 something you wanted to say?

10 MS. GATES: Yes, I think that it would be helpful if you
11 clarified the kinds of surfaces that could be implemented on
12 this parking pad so that it doesn't have to be poured cement.

13 CHAIRPERSON JORDAN: Yes. Let me suggest this--

14 MS. GATES: So can you clarify that, please?

15 CHAIRPERSON JORDAN: The Board really cannot provide
16 advice, I think we went way over what we're supposed to do.
17 We're supposed to remain objective. We've kind of given you
18 the roadmap to get where you need to be. But the Office of
19 Planning certainly, I would recommend that you spend time with
20 the Office of Planning. They can have all those discussions
21 with you, and talk about--even before you come back, take a
22 look at where you are, get past Office of Planning, we'll
23 probably do a supplemental report if something new is filed.
24 Have those discussions that you were just talking about and
25 then let's get it done.

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1 COMMISSIONER MAY: I would also suggest that the Office
2 of Planning probably has some really good suggestions on paving
3 materials you might use, including some very new and green
4 materials, pervious pavement, things like that, that might be
5 of real benefit.

6 MS. GATES: Got it.

7 VICE CHAIRPERSON HEATH: Okay, any other comments from
8 the Board? All right. Then we will continue this hearing.
9 Mr. Moy?

10 MR. MOY: Staff would suggest, I don't know if you're
11 thinking about a decision or a continued hearing, but --

12 CHAIRPERSON JORDAN: It's going to be a continued
13 hearing.

14 MR. MOY: Okay. I'm looking at July 7 because my
15 understanding is Mr. May will be here or Mr. Moy will be here
16 that day.

17 CHAIRPERSON JORDAN: Mr. Moy may.

18 VICE CHAIRPERSON HEATH: Okay. So, July 7.

19 MR. MOY: And perhaps if the applicant can submit their
20 additional information a week in advance of the hearing. So,
21 I would suggest--that would suggest that would be June 30?

22 MR. PIERSON: Thank you very much.

23 VICE CHAIRPERSON HEATH: Thank you. We're going to
24 take a five minute break.

25 CHAIRPERSON JORDAN: Then we're going to start which

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1 case?

2 VICE CHAIRPERSON HEATH: Then we will go to 18013A.
3 Franklin Commons.

4 (Whereupon, the above-entitled matter went off the
5 record at 10:42 a.m. and resumed at 10:49 a.m.)

6 CHAIRPERSON JORDAN: It's show time.

7 VICE CHAIRPERSON HEATH: All right, we're ready to
8 proceed, Mr. Moy.

9 MR. MOY: Yes, thank you. The next application before
10 the Board for public hearing is Application No. 18013A,
11 Franklin Commons Intergenerational Day Care Center, Inc. The
12 Board will recall, the Board first heard this application on
13 April 21, 2015, and the application was continued because of
14 late posting. As a preliminary matter, there was a filing this
15 morning from--a request for party status from a Ms. Sutherland,
16 as a preliminary matter.

17 VICE CHAIRPERSON HEATH: Thank you. Will the
18 applicants for this case please come forward. Also, if you
19 are the one requesting party status, you can come forward as
20 well. Okay, so we have received the request for party status.
21 We're not going to be able to accept the party status request
22 because it's out of time. That party status request needed
23 to be issued prior to the original hearing date, not prior to
24 this date. The original hearing was--began on April 21, and
25 so your party status request needed to be in prior to that date,

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1 and so it is late at this point. It appears we are going to
2 proceed with a full hearing at this point, and so you will be
3 able to speak when we call for people who are in opposition
4 to the application. So you just won't be able to cross-examine
5 the applicant, okay? You can remain. We'll call on you a
6 little later in the hearing. Thank you. All right. So, to
7 the applicant, will you please introduce yourselves? Please
8 make sure your microphone is turned on. Push the ---

9 MS. BRADSHER: It's on. Good morning everyone. My
10 name is Cassandra Bradsher.

11 MS. BARNES: I am the ANC representative.

12 VICE CHAIRPERSON HEATH: Okay.

13 MS. BARNES: Diane Barnes.

14 VICE CHAIRPERSON HEATH: Okay. All right. And so, we
15 do have a few questions for the applicant before we proceed.
16 There's a question about the number of staff you currently have
17 and if you're seeking to increase the number of staff.

18 MS. BRADSHER: No, ma'am, I'm not. Everything's going
19 to stay the same. I'm not going forth with anything.

20 VICE CHAIRPERSON HEATH: So, you intend to remain at 14
21 staff?

22 MS. BRADSHER: Yes.

23 VICE CHAIRPERSON HEATH: Okay. All right.

24 CHAIRPERSON JORDAN: Tell us a little bit about the
25 parking spaces. Do you have a lease for parking?

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1 MS. BRADSHER: Yes. Through Horning Brothers.

2 CHAIRPERSON JORDAN: And how many spaces do you have?

3 MS. BRADSHER: Throughout the whole community?

4 CHAIRPERSON JORDAN: No, parking spaces that are
5 associate with your use.

6 MS. BRADSHER: Four.

7 CHAIRPERSON JORDAN: And where are those located?

8 MS. BRADSHER: Right in the visitor's parking. During
9 the daytime, they don't do any towing, they only tow at night.

10 VICE CHAIRPERSON HEATH: And that's in the same parking
11 lot as the--and so do you have additional--a lease for four
12 additional spaces somewhere close by? Or all of your parking
13 is right there on the site?

14 MS. BRADSHER: Yes, it is.

15 VICE CHAIRPERSON HEATH: Okay.

16 CHAIRPERSON JORDAN: On site meaning on the property
17 itself.

18 MS. BRADSHER: On the property.

19 CHAIRPERSON JORDAN: Do we have that lease? Do we have
20 a copy of that? Or is it in your lease? Do we have that?

21 VICE CHAIRPERSON HEATH: I don't think so. Are
22 there--do you know if there are currently 100 parking spaces
23 in that lot?

24 MS. BRADSHER: Yes, ma'am.

25 VICE CHAIRPERSON HEATH: And so you have four of those?

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1 MS. BRADSHER: Yes.

2 VICE CHAIRPERSON HEATH: Okay.

3 CHAIRPERSON JORDAN: Do you know how many--

4 MS. BRADSHER: None of my staff drive.

5 CHAIRPERSON JORDAN: Do you know how many are being used
6 by the property owner?

7 MS. BRADSHER: Say that again.

8 CHAIRPERSON JORDAN: Do you know how many spaces are
9 being used by the property owner?

10 MS. BRADSHER: I don't know. Management is there;
11 she uses one.

12 CHAIRPERSON JORDAN: I just meant in general for the
13 property. Okay. Did you file with us a copy of your lease?
14 Do you have a separate lease or is it just word of mouth or
15 what do you have? For the parking.

16 MS. BRADSHER: No, from Horning Brothers, yes, I don't
17 have a separate lease as you're saying.

18 CHAIRPERSON JORDAN: Is it in your lease?

19 MS. BRADSHER: I don't know.

20 VICE CHAIRPERSON HEATH: So there's no documentation
21 that says you have four parking spaces?

22 MS. BRADSHER: It could be. And I can look at my lease.

23 VICE CHAIRPERSON HEATH: Okay.

24 CHAIRPERSON JORDAN: So when you said you have four
25 parking spaces on the property, how do--so where does that come

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1 from? How do you know you have those?

2 MS. BRADSHER: Oh, from Horning Brothers. The owners.

3 CHAIRPERSON JORDAN: Okay, and how long have you had
4 that?

5 MS. BRADSHER: Since we started five years ago.

6 CHAIRPERSON JORDAN: And so, maybe previously you filed
7 something in a lease or did you file a letter from Horning
8 Brothers indicating that you had these four spaces?

9 MS. BRADSHER: No, it's--we do a contract yearly and it
10 goes through that.

11 CHAIRPERSON JORDAN: So it is in---

12 MS. BRADSHER: Yes.

13 CHAIRPERSON JORDAN: That's kind of what we were
14 asking.

15 MS. BRADSHER: Okay.

16 CHAIRPERSON JORDAN: When you say contract, that's your
17 lease?

18 MS. BRADSHER: Yes, yes.

19 CHAIRPERSON JORDAN: But it is in the same lot. It's
20 not any across the street, down the block, it's on the same
21 lot?

22 MS. BRADSHER: Huh uh, it's right there.

23 CHAIRPERSON JORDAN: Okay.

24 VICE CHAIRPERSON HEATH: Okay.

25 CHAIRPERSON JORDAN: They need something in the record.

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1 VICE CHAIRPERSON HEATH: I'm not sure how we'll end up
2 proceeding here today, but at any rate, if you could supplement
3 the record with a copy of that lease agreement between you and
4 Horning Brothers that specifies the number of parking spaces
5 that you have, that would be great. Okay, thank you.

6 CHAIRPERSON JORDAN: Now how long have you been
7 operating there again?

8 MS. BRADSHER: Five. Five years.

9 CHAIRPERSON JORDAN: Five years and you had a five year
10 term and you're asking to be granted relief with no additional
11 term?

12 MS. BRADSHER: Exactly. Yes.

13 CHAIRPERSON JORDAN: Have you had complaints from
14 neighbors about activities arising out of your operation?

15 MS. BRADSHER: No.

16 CHAIRPERSON JORDAN: No complaints?

17 MS. BRADSHER: No complaints. No fights, no
18 arguments, no nothing.

19 CHAIRPERSON JORDAN: Okay.

20 VICE CHAIRPERSON HEATH: Any other questions from the
21 Board? Okay. All right. Is there anything additional that
22 you want to present? We've read the record, we've seen all
23 of the information that you've presented. Is there anything
24 in addition to that that you'd like to present to the Board?

25 MS. BRADSHER: No ma'am.

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1 VICE CHAIRPERSON HEATH: Okay. All right. Then we'll
2 turn to Office of Planning.

3 MR. MORDFIN: Good morning. The Office of Planning
4 supports this application for one, for special exception for
5 the operation of the child development center. The same as
6 what was approved by the Board five years ago and also to reduce
7 the parking requirement from four spaces to zero as in the
8 middle of the day the parking lot is not full, is not at capacity
9 and, therefore, found that it would not have an adverse impact,
10 and therefore, the Office of Planning supports this
11 application to continue the operation of the daycare center
12 with no parking required.

13 VICE CHAIRPERSON HEATH: Okay. And are you in support
14 of no term or are you--would you still be in support of another
15 five year term?

16 MR. MORDFIN: The Office of Planning was in support of
17 no term when we prepared our report. There were no--we were
18 not aware of any opposition to this. We're still not aware
19 of any opposition to the operation of the day care center.
20 There's opposition to other aspects of it being located there
21 and in the space that it's in and what it should be used for,
22 but we didn't find opposition to the operation of the center
23 itself.

24 VICE CHAIRPERSON HEATH: Okay. All right. Any other
25 questions for Office of Planning? Does the applicant have any

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1 questions of Office of Planning?

2 MS. BRADSHER: No. No ma'am.

3 VICE CHAIRPERSON HEATH: Okay. All right. Thank you.

4 MS. BRADSHER: Thank you.

5 VICE CHAIRPERSON HEATH: And you're from ANC 5E?

6 MS. BARNES: Yes.

7 VICE CHAIRPERSON HEATH: Okay. Would you like to speak
8 or present anything at this time?

9 MS. BARNES: Nothing extra with the exception of what
10 I've already provided. Because our intent was to make sure
11 that the two parties involved, outside of the owner, was in
12 agreement with what was going on. And since the owner actually
13 provided space for the opponent of the applicant, then we was
14 okay with that. So, they stated that they wasn't --

15 CHAIRPERSON JORDAN: I'm missing something. It's like
16 jumping double dutch some kind of way. We already started and
17 I'm missing what the controversy at issue, I'm like, I mean,
18 okay---

19 MS. BARNES: In the beginning when it came to the ANC,
20 it was stated that with the contingency of them getting an
21 agreement between the two---

22 VICE CHAIRPERSON HEATH: Between the applicant---

23 MS. BARNES: Between the applicant and the tenant's
24 association, Ms. Sutherland.

25 VICE CHAIRPERSON HEATH: Okay.

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1 CHAIRPERSON JORDAN: Okay.

2 MS. BARNES: And we came back and I actually talked to
3 the owner, which is Horning Brothers, and they stated that they
4 would give them space so that they did not interrupt the space
5 for the development center. So that has been done and so the
6 ANC voted to support what was done.

7 VICE CHAIRPERSON HEATH: Okay. All right. And so
8 these were conversations that you had with the applicant,
9 Horning Brothers, and the tenant--a representative of the
10 tenant's association?

11 MS. BARNES: Yes. Exactly.

12 VICE CHAIRPERSON HEATH: Okay. All right. Okay.
13 Any questions for ANC? All right. Thank you. Is there
14 anyone here wishing to speak--let me take a step back. I did
15 not ask if DDOT was here and if there was anyone wanting to
16 speak on behalf of DDOT. It appears there's not. But we do
17 have a recommendation of no objection from DDOT. Is there
18 anyone here wishing to speak in support of this application?
19 Anyone in support? You can come forward. Okay.

20 CHAIRPERSON JORDAN: Ms. Barnes, before you go, let me
21 ask you has--can you come back to the microphone, please? I
22 was remiss. So what about complaints about the operation of
23 the center?

24 MS. BARNES: I haven't had any complaint as far as the
25 operation of the center is concerned at all. Just complaint

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1 as far as using this space---

2 CHAIRPERSON JORDAN: The meeting space, the meeting
3 issue?

4 MS. BARNES: Exactly. That was the main issue. The
5 meeting space, inclusive of the center.

6 CHAIRPERSON JORDAN: And did you say there was an
7 executed agreement--and I'll come back to the applicant so--
8 because I know your resolution says "contingent upon an
9 agreement being reached," right?

10 MS. BARNES: Right.

11 CHAIRPERSON JORDAN: So, it's a verbal agreement? Let
12 me ask the applicant. Was there a written agreement?

13 MS. BRADSHER: On?

14 CHAIRPERSON JORDAN: This issue about the use of the
15 facility?

16 MS. BRADSHER: No. No.

17 CHAIRPERSON JORDAN: Okay.

18 MS. BRADSHER: They wanted just space for a meeting and
19 for events, I think. That's it.

20 CHAIRPERSON JORDAN: And that's been worked out in your
21 estimation?

22 MS. BRADSHER: So far, yes.

23 CHAIRPERSON JORDAN: The owner, the property owner made
24 a determination of how it's going to flow?

25 MS. BRADSHER: No. Huh uh.

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1 MS. BARNES: The owner actually provided space for the
2 tenant's association so that the child development center can
3 operate on its own without interruption from the tenant's
4 association.

5 VICE CHAIRPERSON HEATH: A separate space in the
6 building.

7 MS. BARNES: Exactly. And the ANC took it as that's an
8 agreement between the owner and the applicant, along with the
9 association to provide extra space for both parties. And so
10 that's what was done.

11 CHAIRPERSON JORDAN: Okay, thank you.

12 VICE CHAIRPERSON HEATH: You're here speaking in
13 support? Did you turn in your witness card? Okay, and you were
14 here to testify or to take the oath this morning? Okay.
15 Perfect. Can you make sure your mic is on and then introduce
16 yourself?

17 MS. DAVIS: My name is Jeanel Davis and I work at the
18 Franklin International Daycare Center. I have been there for
19 four years and I'm an infant-toddler teacher. And I would like
20 to say that everything that's, you know, being said that's
21 going on at the daycare center, the little complaints.
22 They're not true. We're doing, we're doing everything for the
23 kids. And basically, it's no--

24 CHAIRPERSON JORDAN: What complaints are you talking
25 about?

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1 MS. DAVIS: Huh?

2 CHAIRPERSON JORDAN: What complaints are you--

3 MS. DAVIS: The complaints that I'm talking about is Ms.
4 Gwen. She's saying that bad things are going on in the daycare
5 center and it's not. And I come to work every day, attend
6 to the children. That's it. And whatever is going on that
7 Ms. Sutherland is saying, it's not true.

8 VICE CHAIRPERSON HEATH: Okay. All right.

9 CHAIRPERSON JORDAN: All of a sudden we went from no
10 complaints to there is some complaints.

11 MS. DAVIS: I mean Ms. Sutherland--evidently, there's
12 some complaints from her.

13 CHAIRPERSON JORDAN: Okay.

14 VICE CHAIRPERSON HEATH: Okay. All right. Thank you.
15 Is there anyone else who--are all of you wanting to speak in
16 support?

17 MS. GLOVER: Yes.

18 VICE CHAIRPERSON HEATH: Okay.

19 MS. GLOVER: It can be short.

20 VICE CHAIRPERSON HEATH: Okay. All right. That's
21 fine. Just please introduce yourself and then you can make
22 your statement.

23 MS. GLOVER: Hi. I'm Collette Glover. And I'm a
24 parent of one of the children that attends Franklin Commons
25 Childcare Development Center. And I'm in support of the

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1 center because of my daughter. She's two years old and she
2 goes there. Not only that, I am a resident of Franklin Commons
3 Apartments, so as I stated, as I heard a little earlier about
4 the parking during the daytime, it's like anybody can park
5 anywhere, you know. And at night time, they do tow. Everyone
6 around here does not have cars. I don't have a car. But there
7 is a hundred parking spaces around there, which is true, what
8 she stated. And again, I just support Franklin Common because
9 again, without them, I wouldn't have no one to watch my
10 daughter; as you can see, she is here with me today because
11 the center is closed. So that's it.

12 VICE CHAIRPERSON HEATH: Thank you. Next?

13 MS. EDWARDS: Hello, my name is Danielle Edwards and I
14 work at Franklin Commons in the infant and toddler room. And
15 I started working there last year from Summer Youth Employment
16 and they hired me permanently, and I am supporting Ms.
17 Cassandra and her daycare center because since I worked there,
18 it's been nothing but a loving environment not just for the
19 staff, but for the community. It's very well liked around the
20 community. It's been no problems whatsoever. Ms. Cassandra,
21 she's a very helpful, loving person to not just her staff but
22 her kids and you know, the parents and the community. She just
23 wants a good relationship with the community and with the staff
24 and everyone who works there, so I'm really in support of it.

25 VICE CHAIRPERSON HEATH: Okay. Thank you.

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1 MS. BYNUM: Good morning, my name is Khaleelah Bynum.
2 I'm an employee at Franklin Commons. I have been there for
3 two years. I'm a pre-school teacher alongside with Ms. Gina.
4 I'm in support with the daycare and Ms. Cassandra. I love the
5 job. I love working with the kids. Seeing the enjoyment on
6 their faces. I recently received my CDA. Without Franklin
7 Commons, I wouldn't have got that. So, that's all I wanted
8 to say.

9 VICE CHAIRPERSON HEATH: Thank you.

10 MS. E. BRADSHER: Hello, my name is Eugina Bradsher.
11 I'm the pre-school teacher at the daycare center and I support
12 because my child is also in the back too. She also attends,
13 and if I didn't have the Center, I wouldn't have nobody to watch
14 my child either, to be honest. And I also have friends that
15 have kids that go to the Center and they work. So they need
16 to go to work, they can't bring their kids. Because I also
17 know their family members is not able to watch their children
18 so, it's like, if I don't have a place where my child can go,
19 if I don't have a property also, a place for my child to go,
20 then what am I supposed to do? So--and then Ms. Cassandra also
21 helps out with parents and stuff, if there's anything they need
22 to do dealing with their children or just home-wise, she's
23 there for them period, you know. Helpful. She's a very
24 helpful person and loving. I support it, like, I support it.

25 VICE CHAIRPERSON HEATH: Thank you.

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1 MS. EDWARDS: How you doing? My name is Arnette Jones
2 Edwards. I just started Franklin Commons and so far, it's been
3 good. Everything's been good. The parking is nice. As the
4 young ladies and parents stated, it's empty, it's not a lot
5 of cars on the park, I'm sorry, on the parking lot and for what
6 I've seen so far, I've been there for a week and it's been good.
7 The neighbors seem to be very understanding, they speak, you
8 know, I've been seeing people speaking, talking, not as if
9 anything was wrong. Other than that, everything is good. And
10 that's it. That's all I have to say.

11 VICE CHAIRPERSON HEATH: Okay, thank you.

12 MS. ESCOBAR: Hello, my name is Gloria Escobar. I have
13 been with the Center for one year and it has been a wonderful
14 place. I have learned so much. Ms. Cassandra, she's an
15 excellent person to work for and it's a beautiful neighborhood.
16 I like the neighborhood where the center is located. It's
17 peaceful, quiet. Throughout the first year, I have not seen
18 anything, you know, bad. It's just a wonderful neighborhood.
19 I think it's at a great location. I've never noticed any
20 issues with the parking and I'm just in favor of the Center
21 and I just hope, you know, it keeps open.

22 VICE CHAIRPERSON HEATH: All right. Thank you. Anyone
23 else wishing to speak in support? We thank you all for coming
24 down and participating. I'm going to call for opposition.
25 Anyone wishing to speak in opposition. You can take your time

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1 now. Please introduce yourself and you will have three
2 minutes.

3 MS. SUTHERLAND: Okay, I'll start. I'm Gwen
4 Sutherland. I am the president of the Franklin Commons Tenant
5 and Civic Association. This is Ms. Tina Thomas North. She
6 is the Vice-President of the tenant--Franklin Commons Tenant
7 and Civic Association and we were elected. I've been elected
8 since mid-nineties. They keep electing me, I don't know why.
9 Let me say that I was--

10 VICE CHAIRPERSON HEATH: One question before you
11 proceed with your statement. Did you turn in your witness
12 cards?

13 MS. SUTHERLAND: Yes, ma'am.

14 VICE CHAIRPERSON HEATH: And were you here this morning
15 to be sworn in?

16 MS. SUTHERLAND: I was a tad late, so.

17 VICE CHAIRPERSON HEATH: Okay, so Mr. Moy, do you want
18 to administer the oath?

19 MR. MOY: Do you solemnly swear or affirm that the
20 testimony that you are about to present in this proceeding is
21 the truth, the whole truth and nothing but the truth? Thank
22 you.

23 MS. SUTHERLAND: You say that I have three minutes for
24 my entire--okay, let me say that I created the Franklin Commons
25 Intergenerational Daycare Center, so I'm not--

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1 CHAIRPERSON JORDAN: You're actually from the Franklin
2 Commons Tenants Association, so you have five minutes as an
3 associational organization.

4 VICE CHAIRPERSON HEATH: There you go.

5 MS. SUTHERLAND: Okay, Mrs. Bradsher, one of our
6 tenants, attended a couple of our tenant association meetings
7 and she presented an idea for a center that was to help
8 everybody from infants to senior citizens and the population
9 in between. As a matter of fact, it was Ms. Thomas who threw
10 out the name intergenerational. I am not opposed to a daycare
11 center in Franklin Commons. We live in a 100% HUD, Section
12 8 property and we've got lots of babies, kids and people of
13 all ages. I do have an issue, and I don't know if this the
14 proper Board to address this to, we incorporated the Franklin
15 Commons Intergenerational Daycare Center, of which the child
16 development center was a part. However, as a senior citizen,
17 I was in college, I was struggling, but I spent months preparing
18 the package for the center, including incorporation,
19 501(c)(3), everything that was necessary.

20 However, once those things were in place, at a final
21 meeting with the applicant, with the Vice President and with
22 the resident manager, the applicant stated that she wanted me
23 out. She was very angry. I was terrified. So, from that
24 point it seemed that the center is operating as a sole
25 proprietorship. That's the problem. We've had minimal

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1 communication between--and I am on the board, Mrs. Thomas is
2 on the board and as a matter of fact, the applicant, we placed
3 her on the board. We've never had a meeting. She doesn't meet
4 with us. We don't get any updates, and I did bring a copy of
5 the incorporation papers. It's not solely a daycare center.
6 It's intergenerational.

7 Now the parking variance, what Horning Brothers did, the
8 manager I suppose, and as she said, we have 100 units for one
9 hundred spaces. Now some tenants don't have cars, some have
10 two cars. The applicant has an out of state tag on her car.
11 What management did was to narrow those spaces. They redrew
12 the lines and we measured the lines. They're 8 feet instead
13 of the standard 9 feet. Ever since, neighbors come to me from
14 the association, they do complain about the dings and the
15 scratches and issues getting in and out of the cars. And you
16 can chime in any time, madam Vice President.

17 Now, also the special exception for the continued
18 operation for 50 kids, now today, we've only seen anywhere from
19 7 to 10 kids. But to say 50 kids, what the residents are saying
20 they feel that's maybe too many kids for that space. It's 2400
21 feet of space, so that was a concern. Also, someone brought
22 to my attention that one of the doors back here is sealed on
23 the rear of 119 Franklin Street and this is appearances, they
24 were asked to enter from the side of 121 down--well it's a
25 slope, they placed some netting or something there, I don't

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1 think they're steps. But that is a concern.

2 Also, there was a concern about the special exceptions
3 to midnight and I think that motion's been withdrawn. Okay,
4 yes, but that was a concern. Also, questions had been put to
5 me about the government oversight. I'm concerned about it
6 too. I don't know who licensed, who does certifications, I
7 don't even know if they are. I just don't know, and I'm a
8 member of the board. I created the Articles of Incorporation,
9 I did all of the work, but I just have kind of been left out.
10 Now as to the tenant association, Horning Brothers, I did
11 receive a letter from them saying that we could use the space
12 if we give them a thirty day notice; however, please be aware
13 that this is a HUD space. This is a 100% HUD community. HUD
14 mandates that the tenants have access to adequate meeting
15 space. So a part of the 2400 square feet of space that the
16 childcare center is using, a part of that is community meeting
17 space; it's 600 square feet. However, Horning Brothers said
18 we could use it, give a thirty day notice, which I agree to.
19 I did speak with the applicant about that at some point. I
20 think it was after our last tenant meeting and I invited her
21 and she said sure, you can meet in the kitchen area. And that
22 was kind of a bone of contention to meet in the kitchen area
23 and I said well we have the 600 square foot meeting space.

24 VICE CHAIRPERSON HEATH: Your five minutes is up so, if
25 you could bring your statement to a close.

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1 MS SUTHERLAND: Okay. Well I pretty much covered
2 everything. Like I said, I have concerns about the parking,
3 I also have concerns about the oversight and we need to know
4 the educational qualifications and that may not be in your
5 purview. But I do support a daycare center, but she needs--
6 the applicant needs to work with the board. We have a board
7 of directors; we're incorporated. It's not a sole
8 proprietorship and that's how it's been operating. Thank you.

9 VICE CHAIRPERSON HEATH: Thank you.

10 CHAIRPERSON JORDAN: Just to let you know, everything
11 about what you said is really not germane to the zoning issue.
12 We have no control over the operation of the facility. There
13 are other District of Columbia departments, Offices of State,
14 Superintendent of Schools, Department of Human Services, et
15 cetera, et cetera, doors being locked that's for emergency
16 purposes, maybe DCRA, but we're here solely for the zoning
17 issues. So, I just wanted to make sure. And whether or not
18 how she's operating as a sole proprietorship or as a
19 corporation is also not before us.

20 MS. SUTHERLAND: Okay.

21 VICE CHAIRPERSON HEATH: One issue that---

22 MS. SUTHERLAND: I'm still learning the BZA and all
23 these variances.

24 CHAIRPERSON JORDAN: Yes, I understand.

25 MS. SUTHERLAND: As a former ANC commissioner, I'm

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1 still learning.

2 CHAIRPERSON JORDAN: We are too, no.

3 VICE CHAIRPERSON HEATH: One issue that you did raise,
4 that is under our purview, is about parking, and you indicated
5 that the owner of the property re-striped the parking lot and
6 made the spaces smaller. Was that to create the 100 parking
7 spaces?

8 MS. SUTHERLAND: We believe it was to create the four
9 on site. Because I think as it stands now, they're required
10 to park off site on the street. So I think it was done to make
11 space for them to legitimately--

12 CHAIRPERSON JORDAN: When was that done?

13 MS. SUTHERLAND: Oh, four months? Last spring.

14 CHAIRPERSON JORDAN: And did you measure the spaces?

15 MS. SUTHERLAND: Yes.

16 CHAIRPERSON JORDAN: And they are 8 feet?

17 MS. SUTHERLAND: 8 feet. Yes.

18 VICE CHAIRPERSON HEATH: Have you counted them, by
19 chance?

20 MS. SUTHERLAND: Haven't actually counted them, but
21 we---

22 MS. THOMAS: There are 100 spaces. There were
23 originally 80. They didn't move any trash receptacles. I
24 don't know how they did it. I have cleaning bills with clothes
25 that are damaged as a result of getting in and out of my car.

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1 So no, I know firsthand that those spaces are not adequate.

2 VICE CHAIRPERSON HEATH: Yes. Do you have any other
3 questions? Any other questions?

4 CHAIRPERSON JORDAN: I don't have any questions.

5 VICE CHAIRPERSON HEATH: It is; unfortunately, you're
6 out of time, but out of time but thank you for your statement.

7 MS. BRADSHER: They didn't do the four--redo the four
8 parking spaces for---

9 CHAIRPERSON JORDAN: Wait, wait, wait, wait. We have a
10 process and procedure. You're about to get your opportunity
11 to speak, the Chair's going to give it to you, but this--

12 VICE CHAIRPERSON HEATH: One moment. Just
13 procedurally, is there anyone else here wishing to speak in
14 opposition before we turn back to the applicant? No one else
15 in opposition? Okay. So, that's okay, that's okay. It's a
16 new process. So, we're going to turn back to the applicant
17 for rebuttal and closing, and so you can make your statement
18 or comment at this point.

19 MS. BRADSHER: Okay. The four parking spaces was just
20 redone. It wasn't redone for me because they granted me this
21 five years ago. So why would it be redone over for me? That
22 doesn't make sense. If you come there during the day, it's
23 empty. People work; some people there that do not have cars.
24 So I don't see how that's an issue.

25 VICE CHAIRPERSON HEATH: Okay. Any other final

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1 statements? Okay, thank you. Well, then we will close this
2 hearing, and any deliberation from the Board?

3 CHAIRPERSON JORDAN: I think we can--I would be
4 supportive of the request for the applicant to grant the relief
5 requested without a term. I have not heard anything in regards
6 to, nor have I been presented with any evidence of any
7 complaints for this operation and so I would be supportive of
8 it without a term.

9 VICE CHAIRPERSON HEATH: Okay. Any other comments?
10 Okay. All right. Well, then I will move that we accept the
11 request for variance and for special exception for the child
12 development center with 50 children and 12 staff.

13 CHAIRPERSON JORDAN: Second.

14 VICE CHAIRPERSON HEATH: Any further discussion? All
15 in favor?

16 (Chorus of ayes.)

17 VICE CHAIRPERSON HEATH: Anyone opposed? All right.
18 So, the motion carries. Mr. Moy?

19 MR. MOY: Yes, thank you. Staff would record the vote
20 as 3-0; it was on motion of Vice-Chair Heath to approve the
21 application for the relief requested. Seconded the motion,
22 Chairman Jordan. Also supporting, Mr. Hinkle. We have a
23 member not participating and a seat vacant. Motion carries
24 3-0.

25 VICE CHAIRPERSON HEATH: All right. Thank you.

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1 Summary order, Mr. Moy?

2 MR. MOY: Thank you.

3 VICE CHAIR HEATH: All right. So, one matter before
4 closing.

5 MR. MOY: Madam Chair, there's one case that staff would
6 like to tee up for the board. This is Application No. 18945.
7 This is the application of Gertha Davis. Staff has been in
8 touch with the applicant and the applicant has indicated the
9 desire to withdraw her application, but staff has not received
10 any written documentation.

11 VICE CHAIRPERSON HEATH: Okay. All right. Thank you.
12 So we need to do a roll call vote for the month of June for
13 closed meetings. In accordance with Section 405C of the Open
14 Meetings Act, D.C. Official Code Section 2-575C. I move that
15 the Board of Zoning Adjustment hold closed meetings on the
16 Mondays of June 8, June 15, June 22 and June 29. These meeting
17 start at 4:00 p.m. and are held for the purpose of obtaining
18 legal advice from our counsel and deliberating upon, but not
19 voting on the cases scheduled to be publicly heard or decided
20 by the Board on the day after each such meeting. Those cases
21 are identified on the Board's public hearing agendas for June
22 9, June 16, June 23 and June 30. A closed meeting for these
23 purposes is permitted by Sections 405B4 and B13 of the Act.
24 Is there a second?

25 CHAIRPERSON JORDAN: Second.

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1 VICE CHAIRPERSON HEATH: Mr. Moy would you please take
2 a roll call vote on the motion?

3 MR. MOY: Yes, thank you. When I call the Board
4 member's name if you could reply with a yes or no. Chairman
5 Jordan?

6 CHAIRPERSON JORDAN: Yes or no.

7 MR. MOY: Vice-Chair Heath?

8 VICE CHAIRPERSON HEATH: Yes.

9 MR. MOY: Mr. Hinkle?

10 MR. HINKLE: Yes.

11 MR. MOY: There are no other members present. The
12 motion carries.

13 VICE CHAIRPERSON HEATH: Thank you and this meeting is
14 adjourned.

15 CHAIRPERSON JORDAN: Nope you got some other --

16 VICE CHAIRPERSON HEATH: Oh, do I, I thought that was
17 it. I request that the Office of Zoning provide notice of
18 these closed meetings in accordance with the Act. All right.
19 Thank you. We are adjourned.

20 (Whereupon, the hearing in the above-entitled matter
21 was concluded at 11:27 a.m.)

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