

## GOVERNMENT OF THE DISTRICT OF COLUMBIA

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## BOARD OF ZONING ADJUSTMENT

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## PUBLIC HEARING

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TUESDAY,  
SEPTEMBER 29, 2015

+ + + + +

The Regular Public Meeting 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  
FREDERICK L. HILL, Board Member  
JEFF HINKLE, Board Member (NCPC)

## ZONING COMMISSION MEMBERS PRESENT:

ANTHONY HOOD, Zoning Chair  
MICHAEL TURNBULL, Zoning Commission Member

## OFFICE OF ZONING STAFF PRESENT:

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CLIFFORD MOY, Secretary  
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

BRENDICE ELLIOTT  
KAREN THOMAS  
MAXINE BROWN-ROBERTS  
STEVEN COCHRAN

The transcript constitutes the minutes from the  
Public Hearing held on September 29, 2015.

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

10:54 a.m.

CHAIRPERSON JORDAN: Let=s call 18138-B, please.

MR. MOY: All right. That would be Application No. B-Applicants to the table for Applicant No. 18138-B.

This is the application of St. Paul=s Episcopal Church. This is a request, Mr. Chairman, for special relief, for special exceptions, for a child development center, and this is at property 201 Allison Street, N.W.

CHAIRPERSON JORDAN: Please come forward and take a seat, please.

Okay. Please identify yourselves.

MS. ROGERS: Good morning, Chairman Jordan and members of the Board. My name is Elizabeth Rogers with the law firm of Lerch, Early, and Brewer, here, today, representing the Christian Family Montessori School.

MR. RUHLEN: My name is Christopher Ruhlen. I=m also with the law firm of Lerch, Early, & Brewer in Bethesda, here today on behalf of Christian Family Montessori School.

MS. EVANS: Wendy Shenk-Evans. I=m the director of Christian Family Montessori School.

CHAIRPERSON JORDAN: Okay. Is this the case where I reviewed, and there was a question about the address? No? Is that B- that=s not this one? I have in here need to correct something.

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1 MR. MOY: Yes, I believe it is, Mr. Chairman.

2 CHAIRPERSON JORDAN: Yes, because I have something, and  
3 I didn=t complete my note. Okay. I have need to correct, and  
4 I didn=t finish the sentence. So what is the address? Because  
5 I think we=ve got 201 some place, and we=ve got 210 some place.  
6 What=s --

7 MS. ROGERS: The address should be 201 Allison Street.

8 CHAIRPERSON JORDAN: Okay. Let=s make sure that we  
9 amend the documents in this case to reflect that. Okay. I know  
10 I saw it somewhere. I just don=t have it in my notes.

11 And so the conditions that are proposed by Office of  
12 Planning is that the room be limited to 120 children, age two  
13 and a half to 12 years old, correct? Staff should be limited  
14 to 18 persons, and the hours of operation should be from 8:00  
15 a.m. to 6:00 p.m. Right. And the access to the entrance of  
16 the property for the purpose of a private school and child  
17 development center shall be on Webster Street, and access to  
18 the exit from the subject property for these purposes shall  
19 be from Allison Street. And those conditions are okay. Right.

20 Board, any other questions or issues you may have with  
21 this?

22 (No response)

23 CHAIRPERSON JORDAN: Okay. There=s no term being  
24 requested, and I think Office of Planning is against no term.  
25 They had a term before, and I think we rolled past that, without

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1 incident.

2 MEMBER HINKLE: Yes, Mr. Chair, I just want to offer,  
3 since I sat on the original application, this was a case where  
4 we put in a term, and I'm happy to see that there's been no  
5 issues, and I certainly support not moving forward with another  
6 term on this.

7 CHAIRPERSON JORDAN: As we normally proceed here in kind  
8 of expedited hearings B- well, not expedited in the technical  
9 sense B- how we move our hearings, the Board, right now, I don't  
10 think has any questions that they need to hear from the  
11 Applicant, and you certainly have the right, under the  
12 regulations, to put on a case, if you wish to. But you may want  
13 us to just go ahead and continue on, and process it. If there's  
14 anything that comes up, you have the opportunity to do  
15 rebuttal. Okay.

16 MS. ROGERS: Yes. We appreciate your consideration and  
17 here to answer questions.

18 CHAIRPERSON JORDAN: Okay. Let's turn, now, to Office of  
19 Planning and see if there's anything in addition.

20 MS. ELLIOTT: Good morning, Mr. Chairman, members of the  
21 Board. I'm Brandice Elliott with OP, for the record. The  
22 Office of Planning is recommending approval of this  
23 application with the conditions, previous conditions that were  
24 approved, carried forward with this application. We did  
25 recognize that this request does have a lot of support from

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1 the neighbors, and there haven=t been any issues. So the  
2 condition regarding a term limit wasn=t carried forward with  
3 this particular application. We feel that that=s  
4 appropriate.

5 If you have any questions, I=m happy to answer them.

6 CHAIRPERSON JORDAN: Okay. Board, any questions for  
7 Planning? Mr. Turnbull?

8 MEMBER TURNBULL: Ms. Elliott, I just want to make sure.  
9 So you=re okay with no term?

10 MS. ELLIOTT: Yes. The OP is supporting no term; yes.

11 MEMBER TURNBULL: No term. Okay. Thank you.

12 CHAIRPERSON JORDAN: Anyone else? Board, questions for  
13 Office of Planning?

14 (No response)

15 CHAIRPERSON JORDAN: Does the Applicant have any  
16 questions for Office of Planning?

17 MS. ROGERS: No.

18 CHAIRPERSON JORDAN: Okay. Is anyone here from the  
19 Department of Transportation on this case?

20 (No response)

21 CHAIRPERSON JORDAN: We do have a letter of no objection  
22 from the Department of Transportation.

23 Is anyone here from the Office of State Superintendent  
24 of Education?

25 (No response)

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1 CHAIRPERSON JORDAN: We do have a letter of recommended  
2 approval from the Office of State Superintendent of Education,  
3 supporting this application.

4 Is anyone here from ANC 4-D? From 4-D?

5 (No response)

6 CHAIRPERSON JORDAN: We do have a letter in support from  
7 ANC 4-D. It doesn't meet our requirements for great weight,  
8 but certainly, we take that in consideration, their letter of  
9 support.

10 Is anyone here wishing to speak in support of this  
11 application? Anyone in support?

12 (No response)

13 CHAIRPERSON JORDAN: Anyone in opposition? Anyone in  
14 opposition?

15 (No response)

16 CHAIRPERSON JORDAN: Then we'll move to close this  
17 hearing based upon the record as it exists today.

18 I would move that we grant the relief requested in  
19 18138-B, with the conditions as we stated, that does not  
20 include the five year term.

21 MEMBER TURNBULL: Second.

22 CHAIRPERSON JORDAN: Motion made and second. Discussion.

23 (No response)

24 CHAIRPERSON JORDAN: All those in favor, aye.

25 (Chorus of ayes)

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1 CHAIRPERSON JORDAN: Those opposed, nay.

2 The motion carries. Mr. Moy.

3 MR. MOY: Staff would record the vote as five to zero,  
4 this on the motion of Chairman Jordan to approve the  
5 application for the relief requested, including the four  
6 conditions. Second the motion, Mr. Turnbull. Also in support  
7 Vice-Chairperson Heath, Mr. Hill, and Mr. Hinkle. The motion  
8 carries, sir.

9 CHAIRPERSON JORDAN: Summary, please.

10 MR. MOY: Thank you.

11 CHAIRPERSON JORDAN: Thank you. Thank you.

12 I guess we go to the top of the order, Mr. Moy.

13 MR. MOY: All right. Top of the batting order. That would  
14 be Application No. 19069. This is the application of Natalie  
15 Wanamaker Javier. This is a request for special exception, Mr.  
16 Chairman, at property 4005 Anacostia Avenue, N.E.

17 CHAIRPERSON JORDAN: All right. Is someone here for this  
18 case? Please come forward. Did you give your witness card to  
19 the court reporter? Have you been sworn in?

20 MR. WANAMAKER JAVIER: (Off mic)

21 CHAIRPERSON JORDAN: So you just came in late. Okay. So  
22 let=s do this. I=m going to B- fill out your name, quickly,  
23 on a witness card, and give one to the court reporter and then  
24 we=re going to have B- you=ve got the witness cards up there;  
25 right? They=re right on the table, aren=t they? Yes. Do one

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1 right now and give it to the court reporter.

2 (Pause)

3 CHAIRPERSON JORDAN: Then I want you to complete it, when  
4 you=re finished, just so we can move forward. Just put your  
5 name on it for right now, but go back, and you=re going to have  
6 to B- come back over here, please. Don=t sit down. Mr. Moy,  
7 please.

8 (Witness sworn)

9 CHAIRPERSON JORDAN: Now if you would state your name for  
10 the record. Make sure the microphone is on. Should be a bright  
11 glowing green light.

12 MR. WANAMAKER JAVIER: My name is Jordan Wanamaker  
13 Javier.

14 CHAIRPERSON JORDAN: All right. Was this property  
15 posted? Do we have that in the record? I think my notes say  
16 there=s no posting.

17 MR. WANAMAKER JAVIER: It was posted on the 10<sup>th</sup> of  
18 September but I think the notary was done last week. But it  
19 was uploaded to the Web site last night, as well as the letter  
20 from the ANC in support of it.

21 CHAIRPERSON JORDAN: So it was posted September 10<sup>th</sup>. We  
22 have that? All right. So we do have the posting.

23 MR. MOY: Yes, sir.

24 CHAIRPERSON JORDAN: All right. Do we have a change, a  
25 request B- is this a ZA case, or self cert? ZA case? And what

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1 about the amended relief for waiver? Do we have that? Has that  
2 been filed, do you know? Anyone. I guess we can take that with  
3 the case, and we can make an oral motion to do that, to add  
4 202.10 for a waiver.

5 Do we have any other issues with this case? Anyone?

6 (No response)

7 CHAIRPERSON JORDAN: Okay. Board, any questions for this  
8 Applicant? And I think we=re going to have to amend the record.  
9 We=re going to add to this a relief from 202.10(c). Just going  
10 to have to amend the requested relief in your application.  
11 Anyone? Any questions for this Applicant?

12 (No response)

13 CHAIRPERSON JORDAN: All right. Right now, it seems like  
14 we=re okay with the requested relief, the amended requested  
15 relief. You have a right to present evidence before the Board,  
16 and right now we=re saying you probably don=t need to do that.  
17 But you can step in, if you want to, and get yourself in trouble,  
18 or we can proceed on.

19 MR. WANAMAKER JAVIER: Do appreciate it.

20 CHAIRPERSON JORDAN: Okay. So let=s turn to the Office  
21 of Planning.

22 MS. THOMAS: Good morning, Mr. Chair, members of the  
23 Board. Karen Thomas with the Office of Planning, and we will  
24 send in a record of approval of this request, including the  
25 waiver of the requirement to permit beyond 25 percent on the

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1 ground floor.

2 CHAIRPERSON JORDAN: All right. Thank you. Thank you.  
3 Board, questions of Planning? Mr. Turnbull?

4 MEMBER TURNBULL: Yes. So Ms. Thomas, you have no issues,  
5 at all, with the B- because it takes up the whole basement?

6 MS. THOMAS: Yes, and we thought that any remaining space  
7 would be left as unusable space, and it wouldn't be a benefit.  
8 So the space in the basement was already developed, so it made  
9 no sense to just cut it off at 25 percent. All he was doing  
10 was adding a kitchen to make it --

11 MEMBER TURNBULL: Okay.

12 CHAIRPERSON JORDAN: Anyone else, questions?

13 (No response)

14 CHAIRPERSON JORDAN: Okay. Anyone here from Department  
15 of Transportation on this case?

16 (No response)

17 CHAIRPERSON JORDAN: We do have a letter of no objection  
18 from Department of Transportation.

19 You said there=s B- the ANC uploaded a letter. You  
20 uploaded a letter for them?

21 MR. WANAMAKER JAVIER: Yes. It=s from Sirage in 7-D.

22 CHAIRPERSON JORDAN: Okay. In support. Is it from the  
23 single member or from the ANC?

24 MR. WANAMAKER JAVIER: I think it=s from the single  
25 member that=s in charge of my area.

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1 CHAIRPERSON JORDAN: Okay. So we don=t have input from  
2 the ANC. We just have a letter of support from a single member  
3 commissioner, I believe, is what I=m --

4 MR. WANAMAKER JAVIER: It's financing. It=s not a board  
5 of B- it=s not all of them. It=s just one member.

6 CHAIRPERSON JORDAN: It=s just a letter of support from  
7 a single member district of the ANC, which we=ll certainly  
8 accept. But it=s just not an act of the ANC itself.

9 Is anyone here wishing to speak in support of the  
10 application? Anyone in support?

11 (No response)

12 CHAIRPERSON JORDAN: Anyone in opposition? Anyone in  
13 opposition? Going once. Going twice. Last week, we had so much  
14 B- I was sitting here all the time, you never called for  
15 opposition. Going a third time. I don=t know what he was  
16 doing. All right. So then we will close the record on this case,  
17 and I would move that we grant the relief and the amended  
18 application of 19069.

19 MEMBER HEATH: Second.

20 CHAIRPERSON JORDAN: Motion made and second. Discussion,  
21 anyone?

22 (No response)

23 CHAIRPERSON JORDAN: All those in favor of the amended  
24 relief, signify by saying aye.

25 (Chorus of ayes)

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1 CHAIRPERSON JORDAN: Those opposed, nay.

2 The motion carries. Mr. Moy.

3 MR. MOY: Yes, sir. Staff would record the vote as five  
4 to zero, this on the motion of Chairman Jordan to approve the  
5 application for the relief requested, including the amendment  
6 for 202.10, sub (c). Second the motion, Vice-Chairperson  
7 Heath. Also in support, Mr. Chairman, rather, Mr. Turnbull,  
8 Mr. Hill, and Mr. Hinkle. The motion carries, sir.

9 CHAIRPERSON JORDAN: Then a summary order. But I want to  
10 remind you, you need to amend your application to add the relief  
11 we granted you in 202.10. Okay?

12 MR. WANAMAKER JAVIER: Okay.

13 CHAIRPERSON JORDAN: Good. Thank you very much.

14 Next, we have --

15 MR. WANAMAKER JAVIER: Thank you.

16 MR. MOY: Okay. That would be Applicants to the table to  
17 Application No. 19070. This is the Application of David and  
18 Shela B- is it Hoxie? H-O-X-I-E. As amended, Mr. Chairman, I  
19 believe. If the Applicant can clarify. This is for a variance.

20 CHAIRPERSON JORDAN: Yes. But I think we've got some  
21 issues. Please take a seat, please. Thank you. Please  
22 identify yourselves.

23 MS. HOXIE: I am Shela Hoxie.

24 MR. HOXIE: David Hoxie.

25 CHAIRPERSON JORDAN: Welcome. Make sure those mikes are

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1 on and sit closer, so we can hear you. Should be a bright glowing  
2 green light. Try it again.

3 MR. HOXIE: Oh, there it is. Okay. David Hoxie.

4 CHAIRPERSON JORDAN: All right. I think there=s some  
5 issues arising out of this, and I don=t know if we can go forward  
6 with a hearing on this today. But let=s talk about the relief  
7 requested. What are you asking the Board to grant?

8 MR. HOXIE: Variance use.

9 CHAIRPERSON JORDAN: A use variance. Correct. Okay.  
10 Use variance are 330.5. Let me ask you: How is this property  
11 presently being used? What is it?

12 MR. HOXIE: Well, technically, it=s being used as an inn.  
13 It=s not licensed as an inn.

14 CHAIRPERSON JORDAN: Used as an inn?

15 MR. HOXIE: That=s the closest definition.

16 CHAIRPERSON JORDAN: Yes, because we=ve kind of B- I  
17 think everybody, probably individually, looked at this, and  
18 is trying to understand how it=s being used.

19 MR. HOXIE: How it=s currently being used? Well, it=s  
20 currently being used as a guest house, or guest quarters.

21 CHAIRPERSON JORDAN: As a guest quarters. And it has a  
22 certificate of occupancy for that?

23 MR. HOXIE: Yes. For B- it has a certificate of occupancy  
24 for rooming, for individual room rentals.

25 CHAIRPERSON JORDAN: For a rooming house?

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1 MR. HOXIE: Right. Not rooming house; no. Individual room  
2 rentals, which would fall under the single-family residence.

3 CHAIRPERSON JORDAN: So it=s only one person B- it=s like  
4 a B&B? What is it?

5 MR. HOXIE: A B & B- a bed --

6 CHAIRPERSON JORDAN: Bed and breakfast?

7 MR. HOXIE: Not bed and breakfast; no. Bed and basket.  
8 Like a basket of fruit. We don=t prepare any meals. But it=s  
9 B- you could say that the principle is almost identical, other  
10 than breakfast.

11 CHAIRPERSON JORDAN: So what=s the certificate of  
12 occupancy say is, indicates the use?

13 MR. HOXIE: If I=m not mistaken, the -- does it say  
14 rooming house? I think it says rooming house.

15 MEMBER HEATH: And do you all live in this residence?

16 MR. HOXIE: I do, intermittently.

17 CHAIRPERSON JORDAN: What does that mean?

18 MR. HOXIE: That=s personal.

19 CHAIRPERSON JORDAN: I=m not talking about dog house  
20 days. I=m talking about B- no. We=re talking from the technical  
21 aspect. Do you live in the place? Is this your domicile? Is  
22 your place of residence? Is this where you live? I=m picking  
23 up his not, so don=t get yourself in trouble. I mean, we need  
24 to be very straightforward here, because we swear under oath,  
25 and it=s all actually enforceable, so --

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1 MR. HOXIE: No, it probably wouldn't be considered  
2 primary residence at this time.

3 CHAIRPERSON JORDAN: Okay. So we get deeper in to what  
4 the heck are we doing here? And so you're trying to get a change  
5 of use, and you want to operate this as an inn? Is that what  
6 you're trying to do?

7 MR. HOXIE: Yes, sir.

8 CHAIRPERSON JORDAN: How was this thing advertised  
9 before? What's the advertisement? Mr. Moy, do you have that?

10 MR. HOXIE: Yes.

11 MR. MOY: Yes, sir. It says on the application form, which  
12 is Exhibit No. 1, reads: Present use, guest quarters, temporary  
13 lodging, daily or weekly. Proposed use, same, plus optional  
14 purchase of alcohol beverages online at time of booking room  
15 reservation.

16 CHAIRPERSON JORDAN: But the request for relief is what?  
17 What's its advertising request for relief --

18 MR. MOY: 3104.1.

19 CHAIRPERSON JORDAN: They're calling a special exception  
20 or B- I think they call it special exception; is that correct?

21 MR. HOXIE: That's correct. And that was an error. We  
22 applied, initially, as a special exception, and then I learned  
23 from Ms. Brown that that was not correct, that we should be  
24 applying for a use variance.

25 CHAIRPERSON JORDAN: Yes. My gut instinct is that this

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1 needs to be re-advertised, and I think you=re going to need  
2 some work here to make your application more presentable,  
3 regarding --

4 MR. HOXIE: Do you mean B- when you say re-advertise, do  
5 you mean the banner that=s in front of the house?

6 CHAIRPERSON JORDAN: Yes.

7 MR. HOXIE: I asked that question when I picked up the  
8 banner, and I was B- I could find the name in my notes but --

9 CHAIRPERSON JORDAN: You mean picked up the placard?

10 MR. HOXIE: Right, from --

11 CHAIRPERSON JORDAN: When you picked up the placard, for  
12 what? You picked up a placard for use variance?

13 MR. HOXIE: No. It was B- I pointed that out to Mercedes  
14 at the front desk, she called someone, and that person said  
15 to proceed, to leave it as it is, and --

16 CHAIRPERSON JORDAN: When do B-

17 MR. HOXIE: Because the description is pretty much the  
18 same. The only difference is --

19 CHAIRPERSON JORDAN: Relief is still the same but it=s  
20 a higher standard. One might give B- I don=t know how the Board  
21 might want to treat this. Some people on a special exception,  
22 the standard is B- I want to say it=s a little more than a  
23 drive-by, and the use variance means, whoa, it requires a big  
24 lift, and so some people may say, oh, I have a chance, if I=m  
25 against this, I have a better chance to be opposed to this

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1 because it requires a use variance as opposed to a special  
2 exception, which is a quick review. It=s a difference between  
3 B- I don=t know B- it=s probably a difference between a full  
4 audit and someone just looking over a piece of paper. So that=s  
5 kind of what --

6 but I don=t know how the Board feels about B- where you guys  
7 probably might be with this. And thus you have an uphill  
8 battle because you B- we can take B- because you have B- Office  
9 of Planning is not in support of it. You might want to work,  
10 and have a conversation with them about this.

11 MR. HOXIE: Excuse me, Mr. Jordan. Do you mind if I hand  
12 this to Ms. Brown, because she asked me B- see, we=ve been  
13 talking about --

14 CHAIRPERSON JORDAN: Not right now while we=re in the  
15 middle of this hearing. I think you=re going to probably need  
16 some time to try to work through some issues.

17 MR. HOXIE: That=s what this is. I think --

18 CHAIRPERSON JORDAN: Yes, but that=s not B- you can give  
19 whatever you want to her there, but it=s not getting here until  
20 --

21 MR. HOXIE: I see.

22 CHAIRPERSON JORDAN: I don=t know, Board. What do you  
23 feel?

24 MEMBER HEATH: I think given that we do have issues, and  
25 they=re going to still need to work with Office of Planning,

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1 they=re still going to need to prove their case, it makes sense  
2 to give them the time they need, re-advertise this and do it  
3 in the proper B- proceed in the proper manner.

4 CHAIRPERSON JORDAN: I think that makes a lot of sense.

5 MEMBER HILL: Mr. Jordan.

6 CHAIRPERSON JORDAN: Yes, please.

7 MEMBER HILL: I=m just curious. So what is the C of O  
8 right now?

9 CHAIRPERSON JORDAN: I think he B- that=s what B- you said  
10 the certificate of occupancy says rooming house? Rooming?

11 MR. HOXIE: I think so.

12 CHAIRPERSON JORDAN: See, that=s another issue. We need  
13 to see the C of O too. That needs to be filed.

14 MEMBER TURNBULL: Yes, I think B- and my only concern is  
15 you=re in the R-4 neighborhood which is residential, and your  
16 usage, you=ve got the C of O for is permitted. Once you start  
17 introducing food, and alcohol, in to this, you=re bringing B-  
18 you=re mixing up the neighborhood, and I think that=s why the  
19 Office of Planning, and I would be opposed to it. This is really  
20 not a permitted use. You=re stepping in to the inn category,  
21 which is B- really belongs in a SP Zone or in a different zone,  
22 not in an R-4 Zone. So as the Chair has already said, you=ve  
23 got a big lift, to try to get this, but I think you probably  
24 need to sit down with Ms. Brown-Roberts and go through this.

25 CHAIRPERSON JORDAN: Yes. I think it=s probably safer

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1 that you do. Otherwise, you're going to be wasting your time  
2 and money because we're probably going to deny it. So let's  
3 move this to Mr. Turnbull's next date, please, or whatever we  
4 can.

5 MR. MOY: I think given the --

6 CHAIRPERSON JORDAN: Is that October something?

7 MR. MOY: Would be November 17.

8 CHAIRPERSON JORDAN: Anybody can review it. If Mr.  
9 Turnbull doesn't feel like digging in,, if he's not willing  
10 to take the ownership, we can just give another date.

11 MR. MOY: Okay. Well, the other thing I'm noticing, Mr.  
12 Chair B- on the ANC-1 report, there is an ANC-1 report but it's  
13 listed as special exception relief. So I don't know --

14 CHAIRPERSON JORDAN: Yes. That's why --

15 MR. MOY: B- needs to go back --

16 CHAIRPERSON JORDAN: That's what we're saying. They're  
17 going to advertise again for the use variance, and they're  
18 going to get a date, and they're going to be working with the  
19 Office of Planning, trying to make sure that all the things  
20 are lined up, that you need to have, and we're going to need  
21 you B- I'm going to ask that you file a copy of your present  
22 certificate of occupancy.

23 MR. HOXIE: Once we were informed that we needed to  
24 reapply as a use variance instead of special exception, we  
25 notified every single involved party, ANC 1-A and --

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1 CHAIRPERSON JORDAN: And that=s B- if you want me to go  
2 forward with this hearing, you know, I=m telling you, you=re  
3 not going to win, so --

4 MR. HOXIE: Oh, no. I=m just saying that we did everything  
5 we were supposed to do. We=ll go through and do all the  
6 corrective steps.

7 CHAIRPERSON JORDAN: Because otherwise, we can grant,  
8 and you have to wait a year, and then you have to pay gain and  
9 all that. I=m trying to throw you a bone, trying to help you  
10 out. Okay. So what=s the date?

11 MR. MOY: It would be November 17<sup>th</sup>, Mr. Chairman.

12 CHAIRPERSON JORDAN: Okay. So either get some more  
13 placards, get those documents in, be sure to have a  
14 conversation with Ms. Brown-Roberts, and make sure you=ve got  
15 all that lined up. Okay?

16 MS. HOXIE: Okay. Thank you.

17 CHAIRPERSON JORDAN: Thank you very much.

18 Okay. Let=s do 275-A.

19 MR. MOY: Yes, sir. Applicants to the table to  
20 Application No. 18275-A. This is the application of Maral --

21 CHAIRPERSON JORDAN: I thought that was yours. Hold on.  
22 What=s the next case? 275. All right. Okay. All right. I  
23 thought that was B- when I said seventy B- I see there=s two  
24 75's. That=s my error. Come forward, please.

25 MR. MOY: Okay. So we=re on 18275-A, sir?

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1 CHAIRPERSON JORDAN: Yes.

2 MR. MOY: Okay. And that=s property at 1200 Potomac  
3 Avenue, S.E.

4 CHAIRPERSON JORDAN: All right now. What a fun last day.  
5 Okay. So please identify yourselves.

6 MR. KADLECEK: Good morning, members of the Board. Cary  
7 Kadlecek from the law firm of Golson and Storrs on behalf of  
8 the Applicant.

9 MR. ASLANTURK: Utku Aslanturk.

10 CHAIRPERSON JORDAN: Give me that last name again.

11 MR. ASLANTURK: Aslanturk. A-S-L-A-N-T-U-R-K.

12 CHAIRPERSON JORDAN: Aslanturk. Okay. Got it.

13 Mr. Moy, it appears that everybody=s out, except me,  
14 because I=m not using it today.

15 We=re going to take five minutes.

16 (Off the record from 11:21 a.m. to 11:28 a.m. for a  
17 technical difficulty)

18 CHAIRPERSON JORDAN: Okay. Let=s do the 75.

19 MR. MOY: All right. That would be application B-  
20 Appellants to Applicant No. 19075 of Michelle Munn. This is  
21 property, Mr. Chairman, at 2118 2<sup>nd</sup> Street, N.W., and I would  
22 ask the Applicant to confirm the relief that she=s seeking on  
23 this application.

24 CHAIRPERSON JORDAN: Yes. Please take a seat and identify  
25 yourself, first, please. Let=s make sure microphone is on. It=d

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1 be a bright glowing green light. See the button. Push it; yes.  
2 Push it again. Yes. It should be B- it says push. All right.  
3 Just push it one time. Let=s try it. No. Push it again. Maybe  
4 I cut you off. Go ahead. Say it again. No. Stay where you are.  
5 Just say B- push it one more time.

6 MS. MUNN: There.

7 CHAIRPERSON JORDAN: There you go. Great.

8 MS. MUNN: I=m Michelle Munn. I=m the owner of 2118 2<sup>nd</sup>  
9 Street, N.W., D.C. 20001.

10 CHAIRPERSON JORDAN: All right. We=ve got a lot of things  
11 flowing from this case with a lot of issues. This was advertised  
12 as what?

13 MS. MUNN: It should have been an area variance, but I  
14 have some special exceptions. I=ve listed special exceptions  
15 for the side yards.

16 CHAIRPERSON JORDAN: So it was advertised as a variance,  
17 correct? Or not correct?

18 MS. MUNN: It should B- yes, because I had them correct  
19 it at Office of Zoning when I picked up my orange thing.

20 CHAIRPERSON JORDAN: Okay.

21 MS. MUNN: And the ANC, and everything, has written their  
22 letters of support for the variance.

23 CHAIRPERSON JORDAN: All right. So the side yard relief  
24 B- it=s not side yard relief anymore. It=s really --

25 MS. MUNN: Right. So Office of Planning came out with

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1 their report B- so it=s a messy case. Let me just kind of explain  
2 where --

3 CHAIRPERSON JORDAN: We realize it=s messy. That=s why  
4 we=re trying to step through it.

5 MS. MUNN: Right. So Office of Planning came out last week  
6 with their report and informed me, slash B- it=s really me,  
7 that we have open courts, not side yards, because I have an  
8 attached rowhouse, and that because the existing B- well, I  
9 keep thinking of as being a side yard, is really an open court  
10 because it=s an existing nonconformity of less than five feet.  
11 That counts towards lot occupancy.

12 So the lot occupancy calculations, originally, I had  
13 sought relief for, from 70 percent to 73.1 percent, which would  
14 be 3.1 percent, and I fully recognize that was over the special  
15 exception limit of 223, which is why I had sought variance  
16 relief on that.

17 So I=ve proceeded B- I=ve been moving along with the  
18 existing footprint, which I=ve planned on basically enclosing  
19 my back porch, and then adding another four feet, four inches,  
20 of depth to the property, and that would allow me to, as I  
21 indicated in my statement of why I=m seeking such relief, it  
22 would allow me to bring my refrigerator from the dining room  
23 in to the kitchen.

24 And something that the Office of Planning report does  
25 not acknowledge, but is in my statement, is it would also allow

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1 me to reorient my kitchen range, so that I can open it without  
2 B- right now, it=s obscuring my limited cabinet structure. And  
3 so if I reorient it, A, you have to not be obscuring your  
4 cabinets, and also be able to open the oven and see in it, and  
5 not be hitting at the back of your wall.

6 So I feel strongly, that there are practical  
7 difficulties for me continuing --

8 CHAIRPERSON JORDAN: Now I kind of let you talk because  
9 I was trying to do some other things, but you kind of got way  
10 ahead of me.

11 MS. MUNN: Okay.

12 CHAIRPERSON JORDAN: So I guess if there=s been proper  
13 notice, and the signage was up as a use variance, and the ANC  
14 has responded --

15 MS. MUNN: It=s not a use variance. It=s an area variance.

16 CHAIRPERSON JORDAN: An area variance. Then I don=t think  
17 we need to, we have to re-advertise this one.

18 MS. MUNN: If you=d like me to talk about the practical  
19 difficulties --

20 CHAIRPERSON JORDAN: I need quiet right now --

21 MS. MUNN: Okay.

22 CHAIRPERSON JORDAN: B- and let me try to do what I=m  
23 doing.

24 MS. MUNN: All right.

25 CHAIRPERSON JORDAN: Thank you.

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1           So did we amend the relief for a nonconforming court?  
2 Did you do that in your -- have you made a major relief for  
3 nonconforming court?

4           MS. MUNN: So my form 135 is for an area variance under  
5 Sections 404.1, 404.4, 405.8, 405.9, and then 403.

6           CHAIRPERSON JORDAN: Four --

7           MS. MUNN: So I don=t know where that matches up with B-  
8 that was my existing pre Office of Planning B- Office of  
9 Planning came out with their report last week, so I haven=t  
10 gone in to the system to try to concur. I just --

11           CHAIRPERSON JORDAN: Let=s do this. Mr. Cochran, what do  
12 you have as a relief in this case, please.

13           MR. COCHRAN: Thank you. For the record, Steve Cochran,  
14 Office of Planning. No question that there=s been a lot of  
15 confusion about what=s been advertised.

16           I can tell you what OP analyzed.

17           CHAIRPERSON JORDAN: I just want to know, so we=ll know,  
18 going forward.

19           MR. COCHRAN: Okay.

20           CHAIRPERSON JORDAN: And then we=ll come back to your  
21 analysis overall --

22           MR. COCHRAN: No; no. I wasn=t going to go in to the  
23 analysis, just what it was, the request for relief that we had  
24 looked at. A variance for an increase in the existing  
25 nonconforming lot occupancy on a nonconforming lot.

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1           Although it appears that it may have been advertised as  
2 special exceptions for the open, for the side yard relief, we  
3 know that that has to be a variance since the lot occupancy  
4 is a variance, and that it=s actually open courts and not side  
5 yard. So we looked at that.

6           And then finally, the extension of a nonconforming  
7 structure and B- excuse me B- that wasn=t finally. Now finally,  
8 a reduction in an existing nonconforming rear yard depth.

9           CHAIRPERSON JORDAN: In rear yard. Okay. So we do need  
10 2001.3.

11          MR. COCHRAN: Yes.

12          CHAIRPERSON JORDAN: All right.

13          MS. MUNN: Yes. The open court is definitely different  
14 than what I had thought. I thought it was being a side yard.  
15 And it=s advertised as side yard, I believe; not open court.

16          MR. COCHRAN: If you look on page four of our report --

17          CHAIRPERSON JORDAN: Page four of your report?

18          MR. COCHRAN: Yes. The items that are bolded B- I=ll give  
19 you the section numbers, and a description of the sections from  
20 which B- for which we=re doing analysis.

21          MEMBER HINKLE: And the fact that these are open courts  
22 creates the lot occupancy issue. Is that correct?

23          MR. COCHRAN: That=s correct. Yes. It=s existing and  
24 projected increase in nonconformity -- existing nonconformity  
25 and projected increase.

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1 MEMBER HINKLE: Thank you.

2 MR. COCHRAN: If you look at the lot occupancy, you'll  
3 see what the Applicant had originally estimated as their lot  
4 occupancy and what they had estimated the change would increase  
5 it to, and then what OP, and now the Applicant, also agrees,  
6 the existing lot occupancy and proposed lot occupancy actually  
7 is.

8 CHAIRPERSON JORDAN: Is it page four, is where --

9 MR. COCHRAN: That's correct. There's a blue and white  
10 --

11 MS. MUNN: So if you B- yes. If you were to --

12 CHAIRPERSON JORDAN: I keep asking you just to hold tight  
13 for us.

14 MS. MUNN: Okay.

15 CHAIRPERSON JORDAN: We'll get to you. Trust me. We're  
16 going to do that. Just needs to hold tight. So I have 403, lot  
17 occupancy variance necessary. A variance for 404, rear yard.  
18 Open court should be a variance, shouldn't it?

19 MR. COCHRAN: Yes, sir.

20 CHAIRPERSON JORDAN: And we've got 232, 201.3 for the  
21 nonconforming structure. Okay. Now are there any other relief,  
22 or is this incorrect from your viewpoint, what the relief is?

23 MS. MUNN: I defer to Office of Planning for whatever the  
24 appropriate couching of terminology is, and whether that's an  
25 open court or whether it's a side yard, and whether it's a

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1 variance or whether it=s a special exception. But my requested  
2 relief footprint includes the expansion plan I started with,  
3 talking to DCRA back in December of last year, asking what I  
4 need to do, and they sent me to Zoning, and then I filed.

5 So it=s basically to enclose my rear porch, my existing  
6 rear porch, which goes five B- it=s nine feet, total. So it=s  
7 four feet, six inches, I believe, or four feet, seven inches,  
8 and then go an additional four feet B- four feet, eight inches,  
9 it must be. Then I go an additional four feet, four inches,  
10 back, beyond my existing porch, which is an original build.

11 So I=m seeking to go B- my calculations were such, that  
12 if you were to only enclose my rear porch, that would be 70  
13 percent, if you don=t count what are now open courts, towards  
14 lot occupancy. But the additional four feet, four inches, makes  
15 that calculation go to 73 percent.

16 But because I have the nonconforming open courts, now  
17 I have a different set of calculations for lot occupancy. So  
18 it=s significantly higher.

19 So I have a small lot. I have a small house.

20 CHAIRPERSON JORDAN: All right. So let me --

21 MS. MUNN: So I=m trying to update my kitchen.

22 CHAIRPERSON JORDAN: I understand. You=re getting so far  
23 ahead of me. What the Chair usually does is control the conduct  
24 of the hearing. So we will address you and let you know when  
25 you=re supposed to say something. So we=re trying to get our

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1 arms around what the relief is, and you're starting to go in  
2 to the testimony. So just kind of B- just chill a little bit.  
3 We'll be okay. You'll get to tell, say what you want to say.

4 Okay. I think I'm straight on what the relief is. The  
5 advertisement was advertised as a variance, and we do have the  
6 ANC 1-B letter. The ANC letter has reports on a variance but  
7 I don't know if it had all the relief requested, and --

8 MS. MUNN: They mentioned open court at that time too.  
9 What they said is about the open court not var B- but in  
10 principle, their letter was for the exact footprint that --

11 CHAIRPERSON JORDAN: All right. So I think we can  
12 probably go ahead and proceed, Board. Do you want to B- do I  
13 hear B-

14 MR. COCHRAN: Yes.

15 CHAIRPERSON JORDAN: Mr. Cochran.

16 MR. COCHRAN: I think this will simplify it. If you were  
17 B- I'm not suggesting you grant relief, but if you were to grant  
18 relief, you would be permitting a lot occupancy of 85.6  
19 percent, a rear yard of 9 feet, 9 inches, and a 4 foot, 4 inch  
20 extension of existing nonconformities for the open court.

21 CHAIRPERSON JORDAN: Gotcha. Gotcha. All right. Well,  
22 before we get to that, then we have to get the proof that=s  
23 necessary, because here=s the lift.

24 MEMBER TURNBULL: Mr. Chair, if I might interrupt.  
25 There=s just one more B- what the plans don't show is you don't

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1 show a stairs coming off the back any longer.

2 MS. MUNN: There would be just little steps down; right.

3 MEMBER TURNBULL: So there still would be the steps  
4 coming down. Does that impact lot occupancy more?

5 MR. COCHRAN: It doesn=t, because they would not be four  
6 feet above grade.

7 MEMBER TURNBULL: Okay. Got you. Thank you, Mr. Cochran.

8 CHAIRPERSON JORDAN: All right. So now we=re to you, and  
9 we need you to present evidence to the Board ,why the variances  
10 should be granted, and now you=ve seen Mr. Cochran=s report,  
11 as well as what we=re believing.

12 Let=s start with the first thing. How is this property  
13 unique? Or unique or have an exceptional condition.

14 MS. MUNN: It is unique in that it is exceptionally  
15 narrow, and shallow, for the purpose of a modern kitchen. But  
16 I=d like to talk to why I have practical difficulties.

17 MEMBER TURNBULL: But how does that compare to the  
18 rest of the --

19 CHAIRPERSON JORDAN: Excuse me. Mr. Turnbull. Look, I=m  
20 trying to help you in this hearing, and this is probably going  
21 to be my last asking you to work with me. I asked you a very  
22 specific question and it=s not for you to say, no, I=d rather  
23 talk about X, Y, Z. That=s not where we are. I=m trying to help  
24 you. We=re trying to help you get your relief. We=re really  
25 going above and beyond.

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1           And I know zoning, this stuff is technical, this stuff  
2 is not something you do every day. So stay with us to help you  
3 get to where you need to be. The question, what was before you,  
4 was tell us how this property is unique. You said it=s very  
5 narrow and shallow for a modern kitchen. That=s where you were.  
6 We have questions about that, before we even get to a practical  
7 difficulty question, because we=re not there yet, of proof.  
8 You can tell us whatever you want to tell us. That doesn=t mean  
9 that we=re going to take it and agree with it. Okay?

10           So the question is how is this property unique. You said  
11 exceptionally narrow and shallow. Mr. Turnbull was about to  
12 ask you a question. Mr. Turnbull?

13           MEMBER TURNBULL: Yes. I just want to say, you said it  
14 was unique, but how does that compare to the rest of the units  
15 in your B- as far as your neighbors?

16           MS. MUNN: It=s the same footprint as the rest of my  
17 neighbors.

18           MEMBER TURNBULL: Okay.

19           MS. MUNN: For my particular block. But I --

20           CHAIRPERSON JORDAN: So how is that property B- look, I=m  
21 trying to help you. You can shake your head all you want. We  
22 can go through this hearing, we can just deny it, because as  
23 you stand right now, you=re not going to get the relief, and  
24 we=re trying to help you help us so we can get you where we  
25 are. We don=t sit here and just try to deny things for the

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1 sake of it. You=ve got problems with this case. It=s from day  
2 one, you got problems, and we=re trying to work through that.

3 So it=s, you know, the attitude, whatever you want to  
4 B- if you think it helps you, you can convey it, because you  
5 don=t owe us, whatever, you know, is necessary, as long as it=s  
6 not out of line. So the question is, you have property that  
7 you just admitted was like the other properties connected to  
8 you and on your block.

9 MS. MUNN: That is correct.

10 CHAIRPERSON JORDAN: So is there anything else you can  
11 give us, that shows that this property has an exceptional  
12 condition or circumstance?

13 THE WITNESS: No.

14 CHAIRPERSON JORDAN: So you understand, we have a  
15 four-prong test and you=re not getting past the first prong,  
16 to get to number two, three, and four?

17 MS. MUNN: I don=t understand that part, but I hear it.  
18 Yes.

19 CHAIRPERSON JORDAN: You have a copy of Mr. Cochran=s  
20 report; correct? And I think he discussed it, at length, about  
21 there=s no exceptional condition or unique circumstances of  
22 your property, that would allow for you to get these variances.

23 Is your yard the same size as the other yards?

24 MS. MUNN: Yes.

25 CHAIRPERSON JORDAN: Okay.

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1 MEMBER TURNBULL: Do any of the other, of any of your  
2 neighbors, have buildings that were added on at the back?

3 MS. MUNN: Uh-huh. Yes.

4 MEMBER TURNBULL: They do.

5 MS. MUNN: Non-permitted; yes.

6 CHAIRPERSON JORDAN: Yes, whether legal, illegal. Yes.  
7 Okay. We're taking a moment. We want to try to see where we  
8 can B- trying to give you a lift, but we can=t.

9 MS. MUNN: Let me know if I can make a statement.

10 CHAIRPERSON JORDAN: Yes. Go ahead. Make a statement.

11 MS. MUNN: Okay.

12 CHAIRPERSON JORDAN: You can run with it, whatever you  
13 want B- yes. Go ahead. Just say what you want to say, then.

14 MR. MOY: Okay. So my understanding is that the Board is  
15 authorized to grant variances from the strict application of  
16 zoning regulations, where by reason of exceptional narrowness,  
17 shallowness, or shape of a specific piece of property at the  
18 time of the original adoption of regulations, or by reason of  
19 exceptional topographical conditions OIG other extraordinary  
20 or exceptional such situation or condition of the property,  
21 strict application of the zoning regulations would result in  
22 particular and exceptional practical difficulties to, or  
23 exceptional or undue hardship upon the owner of such a  
24 property.

25 And my understanding further is that the standard is

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1 practical difficulty since I'm pursuing an area variance, not  
2 a use variance.

3 Further, my understanding, per Palmer Super Case 542,  
4 is that BZA has a flexibility to consider a number of factors,  
5 including but not limited to the weight of the burden of  
6 noncompliance, the severity of the variances requested, and  
7 the effect that the proposed variances would have on the  
8 overall zone plan.

9 Further, I would argue that my Applicant -- my property  
10 falls squarely within the language of the variance statute as  
11 a piece of the property that was exceptional in shallowness  
12 or shape at the time of the original adoption of regulations,  
13 and that my property is exceptionally small with respect to  
14 lot size. It's abutted by a public alley in the rear.

15 And strict compliance with the regulations is  
16 practically difficult because the adoption of the zoning  
17 regulations has resulted in nonconformities that are subsumed  
18 in the requested variance relief, as well as nonconformities  
19 with respect to lot size and lot width.

20 Finally, I would like to B- or further, I'd like to argue  
21 that the Board B- I understand that the Board must weigh this  
22 burden of compliance with the severity of relief requested,  
23 and the effect of the proposed variance, and I would argue that  
24 the case's severity for the requested relief at 4.4 inches of  
25 additional depth is small.

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1           The proposed B- my argument is that the proposed  
2 addition could cause substantial detriment to the public good,  
3 or impair the intent purpose or integrity of the zoning  
4 regulations. And as you know, I=ve got a letter from my ANC.  
5 I have a letter from my LeDroit Park Civic Association. I=ve  
6 a letter from my abutting neighbor. My other neighbor, I sent  
7 a registered letter to. It came back. I=ve never seen him. He=s  
8 an absentee landlord. I have several letters on file from my  
9 community, and I B- my understanding is that the Board is to  
10 give significant consideration, or whatever the lan B- some  
11 such toward the opinions of the local community. And I  
12 recognize that they=re also to give strong consideration to  
13 the opinion of the Office of Planning. I would be happy to kind  
14 of talk about the Office of Planning report, which -- as  
15 presented last week.

16           I mean, I do think it gives B- it presents a case for  
17 B- or acknowledges the practical difficulty regarding my  
18 refrigerator, and that you could reorient my refrigerator with  
19 the existing footprint, but it does not acknowledge the  
20 practical difficulty that is also in my statement regarding  
21 my kitchen range, and why I need to do that.

22           I don=t have any insulation in my existing bump out, none  
23 of them do, so I=d like to have some insulation in my kitchen.  
24 It=s a family residence. I=d like to update it to have a modern  
25 standard.

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1 MEMBER HEATH: You recognize the Office of Planning  
2 recommends denial --

3 MS. MUNN: Yes.

4 MEMBER HEATH: B- of your application?

5 MS. MUNN: Yes.

6 MEMBER HEATH: Okay. And then to go back to your first  
7 point, how is your property exceptional if all of your  
8 neighbors have a similar configuration for this bump-out on  
9 the back of your property, if all of your neighbors have a  
10 similar-sized rear yard, if all of your neighbors= rear yards  
11 are on an alley. What makes your property exceptional?

12 MS. MUNN: It is not exceptional compared to my  
13 neighbors.

14 MEMBER HEATH: And that=s the first prong of the test,  
15 and if we can=t get over that, then nothing else matters. So  
16 that=s where we=re having a really difficult time with this.  
17 We understand all the other issues. We understand your  
18 neighbors have no issue with it. We understand that you need  
19 insulation. We understand that your kitchen isn=t functioning  
20 property and you need it to be better. But if we can=t get  
21 over that first prong, then we have nothing. So --

22 MS. MUNN: Right. I mean, I haven=t done an audit of my  
23 neighbors to know where their refrigerators are, for example.  
24 But --

25 MEMBER HEATH: And that probably doesn=t matter.

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1 MS. MUNN: Right.

2 MEMBER HEATH: But we need to know what makes your  
3 property exceptional.

4 CHAIRPERSON JORDAN: Yes. Exactly. Thank you. That=s  
5 what I was trying B- you presented it better than I --

6 MS. MUNN: And it=s exceptional in that I haven=t gone  
7 and done a non-permitted bump-out either.

8 CHAIRPERSON JORDAN: You know, even if I try to look at  
9 this as the relief being de minimis, but it=s so much relief  
10 that has to happen, and the lot occupancy is certainly not de  
11 minimis.

12 MS. MUNN: Yes. I mean, I=m asking for 4 feet, 4 inches.  
13 If there=s no indication from the committee that there is any  
14 support, or ways that we can work with this, then I will  
15 consider other ways. I don=t know if that means pulling off  
16 my front porch, so I get the additional 87 square feet, right  
17 there. I don=t know if that means popping it out.

18 CHAIRPERSON JORDAN: This is what I=m going to do for you.

19 MS. MUNN: Yes. We=re just --

20 CHAIRPERSON JORDAN: Listen to what I=m going to do.

21 MR. MOY: I=ve been here for nine months, going back to  
22 DCA, DCRA, Office of Planning, Zoning.

23 CHAIRPERSON JORDAN: Okay.

24 MS. MUNN: My thing has been on file for three months.

25 CHAIRPERSON JORDAN: Excuse me a second, please.

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1           MEMBER TURNBULL: Let me B- you know, the BZA usually does  
2 not get in to a situation where we=re offering a lot of help,  
3 in the sense that we=re B- what we=re trying to do here is offer  
4 a way. For instance, you=re bumping out this full area. That  
5 would be a very long B- we=re looking at like 19 feet. Are  
6 you looking to put a breakfast area out there too? Though this  
7 would be the kitchen. I mean, you can make a galley kitchen.  
8 If you only bumped out the extra 4 foot, 8, which is where the  
9 porch is now, you only bumped out that, you=ve got an 11 foot  
10 galley kitchen with just bumping out to your porch. You know  
11 what I=m saying?

12           This Board might be more favorable with grating that B-  
13 well, maybe I=m not but--

14           MS. MUNN: That=s still a variance?

15           MEMBER TURNBULL: Yes. But no, let me B- Mr. Cochran,  
16 could you weigh in.

17           MR. COCHRAN: Thank you, sir, have discussed,  
18 informally, options that the Applicant might have on different  
19 kinds of layouts, and again, we=re not the Office of the Zoning  
20 Administrator.

21           MEMBER TURNBULL: Right.

22           MR. COCHRAN: But it does appear to us that the Applicant  
23 may be able to expand B- to enclose their existing rear porch,  
24 get another 4 feet, 8 inches, all within by right, because it=s  
25 already grandfathered as an existing --

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1 MEMBER TURNBULL: That=s what I was thinking.

2 MR. COCHRAN: B- nonconforming structure, and they  
3 wouldn=t have to be here at all. It may require relocating the  
4 access to the back yard from the back of the building to the  
5 open court, but there do seem to be alternatives, that may not  
6 make for a terrific kitchen, but would make for an updated  
7 kitchen that wouldn=t require the refrigerator to be in the  
8 dining room.

9 MEMBER TURNBULL: I=m looking that it would be at least  
10 a 12 foot galley kitchen with cabinets on two sides, I think.  
11 That might be B- I mean, cabinets are 2 feet, 2 feet, to get  
12 you almost a 4 feet aisle. Or not quite. You won=t have B- well,  
13 you=ll have 3 foot something, I=m guessing, but I=m just  
14 looking that that=s a solution that may get you some of the  
15 relief that you want for your kitchen.

16 MS. MUNN: So if I were to pursue that track, do I need  
17 to come back and ask for a continuance here, and then resubmit  
18 with those?

19 CHAIRPERSON JORDAN: So let me have further conversation  
20 with you. One. We can=t get past the first part. But even  
21 if we got to the second part, you=d have to show us a practical  
22 difficulty, that you cannot do, operate this property within  
23 the zoning regulation. You just heard now, and I think Mr.  
24 Cochran has talked about it before, even in his report, and  
25 evidently you=ve had conversation, there are alternatives,

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1 that you can get more space and do things within the confines  
2 of your property.

3 So therefore you wouldn't B- there would not be a  
4 practical difficulty, that you can show us. It's not B- the  
5 standard is not what I want, is what I really B- makes it  
6 impossible B- I'm using that, that's too strong a word B- which  
7 is really a practical difficulty for me to get there, and that's  
8 not presented to us. As we've heard here, they've presented  
9 you some alternatives, and Mr. Cochran has talked about some  
10 other different layouts.

11 So I would suggest B- this is what I'm going to do for  
12 you, because I'm not going to ask you. This is what's going  
13 to happen. We're going to continue this case, going to give  
14 you the chance, up to 30 days or so, for you to find out the  
15 alternatives for you to be able to change this property in a  
16 way that, one, might be matter of right, meaning that you don't  
17 have to come back here. But then if you do, then you've used  
18 the alternative, where the Board can kind of look at this and  
19 say, well, she has no other way out. You follow me?

20 So Mr. Moy, what's the date for that?

21 MR. MOY: Considering the B- what you've just been to the  
22 discussion, I'm thinking in terms of the required amount of  
23 time. Mr. Turnbull is back on November 17<sup>th</sup>. Sounds like a long  
24 time, but she may need that extra time, so --

25 CHAIRPERSON JORDAN: Yes, to work with and get it done.

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1 That=s just a little over a month.

2 MR. MOY: I think November 17<sup>th</sup> would be appropriate.

3 CHAIRPERSON JORDAN: So you can certainly have  
4 conversation again, and Mr. Cochran=s a great guy, he would  
5 be glad to meet with you again, but you=ve really got to listen  
6 to him and talk about the alternatives.

7 Then you=re going to go down and if he=s going to say,  
8 well, I think this might be matter of right B- and he doesn=t  
9 really have to go that far, but it might be matter of right,  
10 as Mr. Turnbull and Ms. Heath has given you, and DCRA very well  
11 may give you a permit to go forward with this without even  
12 having to come back. I can=t guarantee that; but it might  
13 happen.

14 But there=s certainly got to be a change in your  
15 configurations and the relief that you need, and there=s ways  
16 of doing it.

17 MS. MUNN: Okay. And so matter of right, and we=re talking  
18 the, enclosing the back porch; right?

19 MEMBER TURNBULL: Yes.

20 MS. MUNN: Okay.

21 MEMBER TURNBULL: And if for some reason, the ZA says you  
22 still need to come back to us, then you come back to us, and  
23 I think this Board would look a lot more favorable on granting  
24 the 4 foot, 8 --

25 MS. MUNN: Okay. And just to clarify. We=ll work together

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1 to get the language on B- but it=s still a variance on  
2 everything because --

3 MR. COCHRAN: No. For the B- just for the record, the  
4 Applicant started this, just expressing an opinion, by  
5 seemingly doing, trying to do the right thing by going to DCRA.  
6 It=s unfortunate that it=s a self-certified application,  
7 without adequate understanding of the zoning regulations, and  
8 I think that=s where the problem began, and maybe continued.

9 But no, again, it=s up to the Zoning Administrator. But  
10 if the Zoning Administrator says that enclosing the back porch  
11 and doing the kitchen would be permitted, because you wouldn=t  
12 be B- you=re already grandfathered with that lot occupancy,  
13 then there would be no need to come back to the Board.

14 So I think what the Chair is saying is go meet with the  
15 Zoning Administrator. If you=d like, I would be happy to be  
16 in the meeting with you. And get a determination on whether  
17 the plans that you show the Zoning Administrator can be built  
18 by right. And then if not, you would then perhaps want to  
19 rephrase your case and come back to the Board with new  
20 information.

21 MS. MUNN: Okay.

22 MR. TURNBULL: And some new drawings.

23 MS. MUNN: Yes. We can do that.

24 CHAIRPERSON JORDAN: And it might be, if you come back,  
25 maybe the relief is a special exception. I don=t know, but you

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1 need to reconfigure this and work with some folks  
2 to do it.

3 MS. MUNN: Okay. And Mr. Cochran, can you --

4 MR. COCHRAN: No, there=s no way it could be B- it=s  
5 already way over a lot occupancy for a special exception. This  
6 would be --

7 CHAIRPERSON JORDAN: I thought if they came B- right now,  
8 I thought she=s at sixty --

9 MR. COCHRAN: No, that=s --

10 CHAIRPERSON JORDAN: Sixty-three --

11 MR. COCHRAN: That=s what she had thought. But again,  
12 it=s already at 79.6 percent.

13 (Simultaneous conversation)

14 CHAIRPERSON JORDAN: Unless they hack off part of the  
15 house.

16 MR. COCHRAN: If this was special exception, we=d have  
17 a whole different recommendation.

18 CHAIRPERSON JORDAN: Yes. I thought maybe B- oh, so  
19 that=s wrong. Okay.

20 MS. MUNN: Because the lot occupancy is count B- or the  
21 side, the open courts are counting.

22 CHAIRPERSON JORDAN: Got it. All right. So that=s what  
23 we=re going to do and --

24 MS. MUNN: Okay. Thank you.

25 CHAIRPERSON JORDAN: B- hopefully you=ll have

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1 conversations with whoever you need. We continue this to  
2 November 17<sup>th</sup>, correct?

3 MR. MOY: Yes, sir.

4 CHAIRPERSON JORDAN: That=s where we are. Okay? Thank  
5 you.

6 MS. MUNN: Thank you. Thank you.

7 CHAIRPERSON JORDAN: All right. So where are we now? Oh,  
8 we=ve got to go back. We=ve got to go backwards; right? We go  
9 back to B- well, no, let=s B- where are we on B- let me see.  
10 One second. Because I think we=re going to have --

11 MR. MOY: Is it Maral? Since it=s back on your tablet?

12 CHAIRPERSON JORDAN: Yes. So let=s call that back.

13 MR. MOY: Okay. Here we go, for sure. 18275 --

14 CHAIRPERSON JORDAN: We=re going to take five minutes,  
15 and we=ll come with this. Okay.

16 (Off the record from 11:59 a.m. to 12:05 p.m.)

17 CHAIRPERSON JORDAN: Where are we? So did we call 18275-A  
18 already? Did you call it?

19 MR. MOY: Yes. I did, sir.

20 CHAIRPERSON JORDAN: All right. So please identify  
21 yourselves.

22 MR. KADLECEK: Cary Kadlecek from Golson and Storrs on  
23 behalf of the Applicant.

24 MR. ASLANTURK: Utku Aslanturk.

25 CHAIRPERSON JORDAN: All right. So here=s a case I think

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1 we=ve got some other issues. I want to make sure we=re on the  
2 same page.

3 All right. This has been submitted to us as a  
4 modification. I believe your request for modification is  
5 proper for the first floor. But there=s no modification of the  
6 basement. So what=s the modification request of the basement?  
7 Because the basement has not been granted any variance. So  
8 I think you have to show B- you have to come here for a use  
9 variance for the use of the basement.

10 But what=s the use of the basement? So help me here, get  
11 an understanding.

12 MR. ASLANTURK: First of all, we are using as a commercial  
13 space, and the basement is going to be part of the first floor.

14 CHAIRPERSON JORDAN: What do you mean, part of the first  
15 floor?

16 MR. ASLANTURK: Part of the office space.

17 CHAIRPERSON JORDAN: Part of the office space. But what=s  
18 the B- but the basement is B- what=s it present use now? It=s  
19 residential, zoned residential for the basement; correct?

20 MR. KADLECEK: Well, yes, I mean, the entire property of  
21 course is zoned Residential, but it doesn=t make sense to B-  
22 the office space, they have a certain amount of office space  
23 necessary that they=re trying to accomplish here. So you  
24 can=t really accomplish that in just the first floor, and to  
25 grant a use variance for part of it --

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1 CHAIRPERSON JORDAN: Well, we did that already. We  
2 granted a use var B- this property B- well, we all discussed  
3 it. I don=t know if you were counsel at the time.

4 MR. KADLECEK: I was not; no.

5 CHAIRPERSON JORDAN: There was a request for use variance  
6 to change the second floor, and this Board denied the second  
7 floor, --

8 MR. KADLECEK: Right.

9 CHAIRPERSON JORDAN: B- and we said that there was not  
10 a showing, proper showing for a use variance to allow the second  
11 floor, and it must remain residential.

12 MR. KADLECEK: Right.

13 CHAIRPERSON JORDAN: We made some special B- we  
14 considered the use of the first floor, and in doing so found  
15 that the first floor would not be B- it was a hardship, and  
16 use of the first floor for residential use. A same if similar  
17 showing has not been made for the basement.

18 MR. KADLECEK: Right, and I believe in the prior case,  
19 the top floor was already configured for residential use. It  
20 had historically been used as residential. The basement, in  
21 this case, I believe is B- does not have the same history, and  
22 if we need to supplement the record --

23 CHAIRPERSON JORDAN: All I=m saying to you is that this  
24 is not a modifica B- the modification is correct and proper  
25 for the first floor, but as it comes to the basement we need

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1 B- you're going to have to show us all the requirements for  
2 a use variance. Okay. That's what I'm saying.

3 MR. KADLECEK: Okay.

4 CHAIRPERSON JORDAN: And so your application doesn't  
5 reflect that.

6 MR. KADLECEK: Okay.

7 CHAIRPERSON JORDAN: I mean, that's my B- unless the  
8 Board has some other aspect of this. But that's B- and we  
9 drilled B- because I remember this, I was on that case, and  
10 we drilled down on this case about how to get where we were  
11 for the first floor. So it wasn't a walk in the park.

12 MR. ASLANTURK: So what was the usage on the basement in  
13 the previous application? Because like I had plans showing the  
14 first floor and the basement as a coffee shop, and the second  
15 floor, first, as a pet store, then become a residential. Like  
16 on that application, I have plans, I don't have it with me,  
17 but it's showing the basement, and the first floor there's a  
18 coffee shop, and the second floor is a residential.

19 So what was the use on the basement --

20 CHAIRPERSON JORDAN: I don't B- that's not my job to do.

21 MR. ASLANTURK: No, no, but like, you know --

22 CHAIRPERSON JORDAN: That's not my job to do. So you need  
23 to let us know why it would qualify for a modification and what  
24 the use, the use --

25 MR. KADLECEK: Well, I mean, if it would be easier, we

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1 can certainly, you know, differentiate the basement from the  
2 first floor. If you would like us to speak to that, I think  
3 we certainly can.

4 We can speak to the, certainly, the practical  
5 difficulty, or the difficulty of using the basement as  
6 residential.

7 CHAIRPERSON JORDAN: All I'm saying B- you're going to  
8 have to show us this is a use variance here, and that's B- so  
9 if you want to do it now, think you've got enough in the record,  
10 then we can do that and go through that exercise.

11 But I didn't see anything that's argued in your  
12 pleadings, that provide that information, is all I'm saying.

13 MR. KADLECEK: Okay. And we did submit the plans for the  
14 record, and so I think what we can do is explain. I'll have  
15 Utku explain why the basement, the lowest level, could not,  
16 is not suitable for residential use.

17 CHAIRPERSON JORDAN: Okay. All right. It's your lift.

18 MR. ASLANTURK: Well, the property's in the Historic  
19 District and we cannot do --

20 MEMBER TURNBULL: Let me just, just so that the Board  
21 know, I mean, the drawings are part of their prehearing  
22 statement, Exhibit 27.

23 CHAIRPERSON JORDAN: Exhibit 27?

24 MR. ASLANTURK: Yes.

25 MEMBER TURNBULL: It's called prehearing statement but

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1 there=s plans following it.

2 MEMBER HILL: Mr. Chairman.

3 CHAIRPERSON JORDAN: Yes? Please.

4 MEMBER HILL: Just so as I said, we=re not talking about  
5 a use variance.

6 CHAIRPERSON JORDAN: Yes. Yes, we are. Yes. Well, so that  
7 we=re clear, he=s asking for a modification B- he=s asking for  
8 a use variance for the basement and a modification of the use  
9 variance that was already granted for the first floor.

10 MR. ASLANTURK: Well, the property is cellar plus first  
11 and second floor, and we are doing the residential on the second  
12 floor, and there is no connection between the basement and the  
13 second floor. That basement can be used in a residential area,  
14 and the property=s in Historic Preservation, and we cannot  
15 really do much on the exterior as well. We have two entry for  
16 the property. The one on the B- like if you look at the A-2,  
17 and it says Entry Hall, that=s the residential entry for the  
18 second floor.

19 And if you look at the, same again, proposed first floor,  
20 the Door 7, that=s the entrance for the commercial space. So  
21 there is not B- and this property, square footage-wise, it=s  
22 around 650 square feet, it=s not too big, and once you=re on  
23 the second floor, there is not really B- like you cannot connect  
24 the basement with second floor.

25 CHAIRPERSON JORDAN: Does the basement have an entrance?

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1 MR. ASLANTURK: Basement currently don=t have entrance.

2 CHAIRPERSON JORDAN: Does not have an entrance? You have  
3 to come from the --

4 MR. ASLANTURK: It has an entrance through the first  
5 floor. Like the stair --

6 CHAIRPERSON JORDAN: So it doesn=t have an external  
7 entrance?

8 MR. ASLANTURK: it doesn=t, currently.

9 MEMBER TURNBULL: But you=re making an entrance; am I  
10 correct?

11 MR. ASLANTURK: WE are thinking to have entrance on the  
12 side, if we get approval from Historic Preservation.

13 CHAIRPERSON JORDAN: But right now, it doesn=t?

14 MR. KADLECEK: Correct.

15 MR. ASLANTURK: The only connection. right now, for the  
16 basement, is from the first floor.

17 MR. KADLECEK: So I think the logical conclusion is, of  
18 course, if you have the ground floor, that=s a commercial use,  
19 and then you want a residential use in the building. That  
20 doesn=t really work with the amount of space you have. You can=t  
21 really pass through the commercial, because they=d have to  
22 create yet another entrance to use the residential in the  
23 basement. So it just doesn=t work.

24 CHAIRPERSON JORDAN: Yes. Okay. We=re with you on that.  
25 We just couldn=t jump to where you needed to be without having

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1 it. It was certainly not argued.

2 MEMBER TURNBULL: And so just going back to what you said  
3 earlier, the basement will be office and part showroom? Or --

4 MR. ASLANTURK: We have a construction company and have  
5 a showroom on 1200 Pennsylvania Avenue. So our office is also  
6 currently BB it=s a showroom, slash, office.

7 MEMBER TURNBULL: And so the first floor is primarily a  
8 showroom, then?

9 MR. ASLANTURK: Yes. We have B- we will have like  
10 displays for the kitchen cabinets, and then in the basement,  
11 we will have our offices. And this is like 650 square feet per  
12 floor. It=s not like a huge place. When I say offices, it=s  
13 basically two room.

14 MEMBER TURNBULL: Okay.

15 MEMBER HILL: Okay. Just to be clear for me. Right. You  
16 walk in the main floor there, and then the basement B- the only  
17 way you can get through the basement is going through the main  
18 floor, currently, and if you want to get a second entrance,  
19 that you=re going to have to go through HPRB to do that?

20 MR. ASLANTURK: A second entrance? When you say second  
21 entrance --

22 MEMBER HILL: An entrance to the basement B- that=s not  
23 currently there.

24 MR. ASLANTURK: It=s not currently there, yes.

25 MEMBER HILL: Right. And so that would have to go through

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1 Historic Preservation?

2 MR. ASLANTURK: Correct. And the reason we want to have  
3 that one, we can use the basement as a storage, so we can just  
4 bring the material from the side towards those stairs to the  
5 basement instead of going through the first floor, and internal  
6 stairs to the basement.

7 CHAIRPERSON JORDAN: And the request for modification --  
8 simply going from the coffee shop to the showroom space?

9 MR. KADLECEK: Correct. Showroom, slash, office.  
10 Correct.

11 CHAIRPERSON JORDAN: The windows are still there; right?

12 MR. KADLECEK: Yes. The exterior of the building, other  
13 than this possible proposal for stairs, is not changing at all.

14 CHAIRPERSON JORDAN: Okay. Board, do we need to drill  
15 down any further on this? I think it=s B- I think we=re good  
16 now. But I want to make sure that you amend the relief. That  
17 it was use variance request, so you just need to make sure the  
18 record reflects a use variance request for the basement, a  
19 modification of relief from the first floor relief. Okay.

20 MR. KADLECEK: I think that=s in the record.

21 CHAIRPERSON JORDAN: So then if there=s no other  
22 questions of this Applicant, then we can go to Office of  
23 Planning, see if there=s anything in addition. We kind of  
24 modified your report.

25 MS. ELLIOTT: You sure did. Brandice Elliott with Office

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1 of Planning, for the record. The Office of Planning was already  
2 prepared to recommend approval of the modification. I believe  
3 that the Applicant has demonstrated that there is practical  
4 difficulty with using the basement as a residential use. So  
5 we continue to support this request, and I'm happy to answer  
6 any questions you have.

7 CHAIRPERSON JORDAN: Okay. Board, questions of Planning?

8 (No response)

9 CHAIRPERSON JORDAN: Applicant, questions of Planning?

10 MR. KADLECEK: No questions.

11 CHAIRPERSON JORDAN: We have B- no one=s here from  
12 Department of Transportation. We have a letter of no objection  
13 from Department of Transportation. Anyone here from ANC 6-B?  
14 6-B?

15 (No response)

16 CHAIRPERSON JORDAN: We do have a letter of support from  
17 ANC 6-B. Anyone here wishing to speak in support of the  
18 application? Anyone in support?

19 (No response)

20 CHAIRPERSON JORDAN: Anyone in opposition? Opposition?  
21 Opposition? All right. See, that=s three times.

22 (No response)

23 CHAIRPERSON JORDAN: Still waiting for the guy to run  
24 around the pole again; right? So let=s close the record on  
25 this matter. I would B- is there B- well, let me make the motion.

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1 Then we can have discussion.

2 I would move that we grant the relief, the amended relief  
3 in 18275-A, to grant the modification of the first floor use  
4 variance, and to grant a use variance for the use of the  
5 basement for office space.

6 MEMBER HEATH: Second.

7 CHAIRPERSON JORDAN: Motion made and second. Discussion?  
8 Issues? Concerns? Mr. Turnbull.

9 MEMBER TURNBULL: I guess, well, my only thing is that  
10 right now, that building has like an overhead rolling door,  
11 and it=s got some other B- I=m assuming that when you go to  
12 HPRB, you=re going to be removing all of that, and putting it  
13 in its historical context.

14 MR. ASLANTURK: Yes. We are already talking with Francis  
15 and Sarah, and I=m a contractor in that area, so I=m familiar  
16 with the Historic Preservation requirements.

17 CHAIRPERSON JORDAN: Okay.

18 MR. ASLANTURK: So they=re going to actually help us to  
19 get that door, because that=s very wide and tall. So we are  
20 talking with them.

21 MEMBER TURNBULL: Okay. Thank you.

22 CHAIRPERSON JORDAN: Any other concerns on readiness?

23 (No response)

24 CHAIRPERSON JORDAN: All in favor of the motion, signify  
25 by saying aye.

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1 (Chorus of ayes)

2 CHAIRPERSON JORDAN: Those opposed, nay.

3 The motion carries. Mr. Moy.

4 MR. MOY: Yes, sir. Staff would record the vote as five  
5 to zero, this on the motion of Chairman Jordan to approve the  
6 amended relief as the Chair has described in his motion. Second  
7 the motion, Vice-Chairperson Heath. Also in support, Mr.  
8 Turnbull, Mr. Hill, Mr. Hinkle. The motion carries, sir.

9 CHAIRPERSON JORDAN: Summary order, please.

10 MR. MOY: Thank you.

11 CHAIRPERSON JORDAN: Thank you very much.

12 MR. KADLECEK: Thank you.

13 CHAIRPERSON JORDAN: And call our last but certainly not  
14 least case of the day. They've been with us all morning.

15 MR. MOY: Yes, sir. That would be Application No. 19021,  
16 the Application of Amazing Love Health Services. As  
17 advertised, variance relief from the off-street parking  
18 requirements at premises 702 15<sup>th</sup> Street, N.E.

19 CHAIRPERSON JORDAN: Okay. The parties, please come  
20 forward and please give us your names.

21 MR. MOORE: My name is Thomas Moore.

22 MR. NTEMI: George William Ntemi.

23 CHAIRPERSON JORDAN: You said William Tomei?

24 MR. NTEMI: William Ntemi.

25 CHAIRPERSON JORDAN: Ntemi. Okay.

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1 All right. We=ve got some things going on with this too.  
2 This is our day for cases with issues; right? Right. I think  
3 this has been before us a couple of times, hasn=t it? At least  
4 one other time before; right? We kind of tried to help you out  
5 there. All right. So this is before us, the relief requested  
6 B- it=s a variance relief; correct?

7 MR. MOORE: Yes.

8 CHAIRPERSON JORDAN: It=s a variance from 2101.1, but  
9 this was advertised as a special exception but you changed it;  
10 right? You advertised it B-

11 MR. MOORE: Yes.

12 CHAIRPERSON JORDAN: B- as the area variance. So we got  
13 that taken care of. The ownership issue. You have a letter  
14 B- this property=s owned by who?

15 MR. NTEMI: William Basilico (phonetic).

16 CHAIRPERSON JORDAN: Who is it owned by?

17 MR. NTEMI: William Basilico Trust.

18 CHAIRPERSON JORDAN: Okay. And Mr. Siegart --

19 MR. MOORE: Swaggart.

20 CHAIRPERSON JORDAN: Swaggart.

21 MR. MOORE: John Swaggart.

22 CHAIRPERSON JORDAN: Swaggart is the trustee for that  
23 trust.

24 MR. MOORE: Yes.

25 CHAIRPERSON JORDAN: Okay. I think the records may even

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1 have him listed as the owner. But that=s okay. We can work with  
2 that. All right. I think maybe we corrected everything.  
3 Still, let=s go through the test. I mean, how is it exceptional  
4 condition and situation for this property?

5 MR. MOORE: That=s the question?

6 CHAIRPERSON JORDAN: Yes, that=s a question. I=m sorry.

7 MR. MOORE: Sure. It=s from the very beginning, since the  
8 inception of the building, it was brought in as a variance,  
9 and in that area there, is a limited amount of parking, period.  
10 It is enclosed, and there=s just no way to comply with the B-  
11 being categorized as a medical building, it requires the  
12 doubling of a lot of parking spaces. So there=s no way we could  
13 possibly comply with 42 parking spaces.

14 CHAIRPERSON JORDAN: So how many is there?

15 MR. MOORE: Fourteen.

16 CHAIRPERSON JORDAN: And what=s the building presently  
17 used for?

18 MR. MOORE: Presently, it=s used as a behavioral health  
19 clinic.

20 CHAIRPERSON JORDAN: And you=re converting it back, to  
21 use it as a medical clinic?

22 MR. MOORE: Well, they put us in zoning, categorized as  
23 Medical.

24 CHAIRPERSON JORDAN: Well, what is B- what=s it going to  
25 be?

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1 MR. MOORE: They said basically it was, you know, it=s  
2 in that category. They had nothing else --

3 CHAIRPERSON JORDAN: Well, tell us what=s going to happen  
4 now at the building.

5 MR. MOORE: Counseling. Counseling services. Individual  
6 therapy, and some groups.

7 CHAIRPERSON JORDAN: All right. So you=re saying that  
8 because this property had been B- we see the previous  
9 variances allow for the 14 parking spaces. You=re asking this  
10 Board just to keep that in place. Is that what you=re doing?

11 MR. MOORE: Yes, sir.

12 CHAIRPERSON JORDAN: And you=re saying those conditions  
13 which existed back B- when was that --

14 MR. MOORE: >66.

15 CHAIRPERSON JORDAN: 1966. The reason why we granted,  
16 this Board granted a variance to allow for just 14 parking  
17 spaces, is why you=re here today, whatever that was; right?

18 MR. MOORE: Absolutely.

19 CHAIRPERSON JORDAN: Okay. Now what about the issue with  
20 public space? Have you gotten that --

21 MR. MOORE: We=ve resolved that issue. We recognize  
22 that we cannot use public space, and we did all that with B-  
23 got that clarity with DDOT and Public Space. So we withdrew  
24 that.

25 CHAIRPERSON JORDAN: Okay. Well, we really need you to

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1 go in to why it meets the test. I understand you just want to  
2 adopt B- well, let me see if the Board B- anyone? How the Board  
3 wants to handle it. This was granted a variance before, where  
4 evidently we said there was a B- it was okay for a special B-  
5 I mean for a variance, and because we=re not getting that CB  
6 I=m trying to see B- I don=t have a copy of that order. A copy  
7 of that order, somewhere? 8912. Let me say this. Does Planning  
8 have a copy of that order? Is it 8912?

9 MEMBER HEATH: I may. Just one second.

10 MEMBER TURNBULL: I guess the only thing B- I=m looking  
11 at the Department of Transportation report, there=s  
12 only about three things that they are still requiring. Provide  
13 transportation assistance through tokens. Does not create a  
14 transportation demand management plan. Talks about a transit  
15 subsidy program for employee. And install at least one  
16 long-term bicycle park space, and one short term use space.  
17 I mean, are you in agree with everything that they=ve said so  
18 far?

19 MR. MOORE: Yes, sir.

20 MEMBER TURNBULL: So you=re good with that, then?

21 MR. MOORE: Yes, sir.

22 MEMBER TURNBULL: Okay. So that=s all resolved. Okay.

23 CHAIRPERSON JORDAN: Wow. So this is a summary order.

24 Oh, at the time, in 1966, that property was an unimproved  
25 lot and vacant. Unimproved, with debris. So put together a

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1 little differently now.

2 Ms. Elliott, would you just tell us where we are with  
3 this property.

4 MS. ELLIOTT: Thank you, Mr. Chair. Well, as you know,  
5 some of these older orders can be a little difficult to see  
6 through, and unfortunately, there wasn't a whole lot of  
7 information on the record. So we're having to fill in the gaps  
8 a little bit. But as far as we can tell, this was a vacant  
9 property in 1966. The variance was approved in 1967, to allow  
10 the construction of a medical facility that didn't have the  
11 required parking spaces at that time, which I believe is the  
12 same number that's currently required, of 42 spaces. Some  
13 things don't change. So the Board, from what I can tell, they  
14 did permit this medical facility to be constructed with B- it  
15 was 24 parking spaces. And then it looked like that there was  
16 a plan to provide additional off-site spaces, if I'm  
17 remembering correctly.

18 So the lot itself was approved to be constructed, you  
19 know, with fewer parking spaces, and required, for a similar  
20 use, as was being proposed by the Applicant.

21 CHAIRPERSON JORDAN: All right. I guess we can B- this  
22 is asking to maintain the same parking, for the same building,  
23 hasn't changed, is that correct?

24 MR. NTEMI: Hasn't changed.

25 MR. MOORE: Yes, sir.

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1 CHAIRPERSON JORDAN: How many employees are you going to  
2 have?

3 MR. NTEMI: Right now, we have about 12 employee but they  
4 don=t park in the property.

5 CHAIRPERSON JORDAN: How do they get there?

6 MR. NTEMI: So we have provided for public  
7 transportation.

8 CHAIRPERSON JORDAN: Have you got any bicycle racks  
9 around there?

10 MR. NTEMI: Yes. We do. We=ve 18 now, ability to park,  
11 18 bikes.

12 CHAIRPERSON JORDAN: All right. Board, do we have any  
13 other questions of this Applicant? I think what we=re doing  
14 here is riding on the fact that this is the same property which  
15 we see the earlier variance, and what they=re going to do is  
16 continue the same use where they were allowed 14 parking  
17 spaces. You=re not converting the property in any shape, form,  
18 or fashion?

19 MR. NTEMI: No.

20 MR. MOORE: No, sir.

21 CHAIRPERSON JORDAN: Use is still the same use?

22 MR. NTEMI: That is correct.

23 CHAIRPERSON JORDAN: Of course the ANC have listed some  
24 stuff. But I think those things that the ANC B- A. B, limit  
25 the number of patients. And 14 B- incentive B- do you provide

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1 any incentive for your employees to take public  
2 transportation? What do you do?

3 MR. NTEMI: Not only with employee but with our consumer  
4 as well.

5 CHAIRPERSON JORDAN: With your who?

6 MR. NTEMI: With our consumer. We give them like tokens.

7 CHAIRPERSON JORDAN: Oh, really?

8 MR. MOORE: Or fare cards.

9 MR. NTEMI: Fare cards.

10 CHAIRPERSON JORDAN: Your patients?

11 MR. NTEMI: Yes.

12 CHAIRPERSON JORDAN: Is that right?

13 MR. MOORE: Yes.

14 CHAIRPERSON JORDAN: Where is this office?

15 (Laughter)

16 CHAIRPERSON JORDAN: Wow. Okay. And does the ANC  
17 know who to contact if there=s a problem with the property?

18 MR. MOORE: Yes.

19 CHAIRPERSON JORDAN: I=m good. Board, is there anything  
20 else you need to hear on this thing? I think it=s kind of  
21 self-explanatory. I=m tending to B- I would offer the Board  
22 that we don=t oppose any of these conditions, you=re already  
23 doing these things, and I think some of these that I=m looking  
24 at just goes a bit above and beyond. So let=s turn B- we already  
25 heard from Office of Planning. Anything else you want to add?

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1 MS. ELLIOTT: I wouldn't mind drawing in a couple more  
2 clarifications, if you wouldn't mind indulging me.

3 So once that first medical facility was out of the  
4 picture, there were a couple other uses that did occupy this  
5 building, which is why now, the Applicant is requesting the  
6 variance. So I believe the use prior to this behavioral health  
7 facility was actually a charter school. But again, the  
8 Applicant in this case are not proposing to modify the exterior  
9 at all. In fact, they're going to be improving the exterior,  
10 because we're going to reclaim our public space, and there  
11 won't be parking at it any more, and I suspect that with those  
12 previous uses, they were probably counting some other parking  
13 spaces as those that were in public space.

14 So we're rectifying that. Also, the Applicant has  
15 demonstrated that B- well, they've indicated that they are  
16 providing a service to lower-income households, and in doing  
17 so, recognize to get people to their appointments, they need  
18 to provide them with transit subsidies, which they've  
19 indicated they'll be doing, and also their employees are  
20 getting subsidies as well.

21 So not everyone is driving to the property, and parking  
22 on the public street, or anything like that.

23 So we think that what they propose is offsetting the need  
24 for their additional parking. And then we do find that the  
25 practical difficulty is the fact that this property was

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1 constructed for a similar use with deficient parking. So we're  
2 in support of this request. and I'm happy to answer any other  
3 questions you have.

4 CHAIRPERSON JORDAN: Good. Thank you. That was very good,  
5 very clear. Board, any questions for Planning?

6 (No response)

7 CHAIRPERSON JORDAN: Okay. We already noted DDOT sent a  
8 letter in support, with no objections, and had some  
9 stipulations, but we understand that the Applicant has already  
10 got those in place. We have a letter from ANC 6-A, where they  
11 voted in support, subject to a list of conditions, which I don't  
12 think the Board is of the mind to impose those, because some  
13 of these are just way outside of where it needs to be, and I  
14 haven't seen any evidence of any reason for implementing them,  
15 which is a requisite for conditions.

16 Is anyone here wishing to testify in support? Anyone in  
17 support?

18 (No response)

19 CHAIRPERSON JORDAN: Anyone in opposition? Anyone in  
20 opposition?

21 (No response)

22 CHAIRPERSON JORDAN: Then if it's okay with the Board,  
23 we'll close the record of what we have here, and I would move  
24 that we grant the relief, the amended relief requested in Case  
25 19021.

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1 MEMBER HINKLE: Second.

2 CHAIRPERSON JORDAN: Motion made and second. Further  
3 discussion?

4 (No response)

5 CHAIRPERSON JORDAN: All those in favor of the motion,  
6 signify by saying aye.

7 (Chorus of ayes)

8 CHAIRPERSON JORDAN: Those opposed, nay.

9 The motion carries. Mr. Moy.

10 MR. MOY: Yes, sir. Staff would record the vote as five  
11 to zero, this on the motion of Chairman Jordan, actually his  
12 last motion, on Application --

13 CHAIRPERSON JORDAN: No. I've got another one.

14 MR. MOY: Oh, we have another one? Okay. I'll go with  
15 that. Second the motion --

16 CHAIRPERSON JORDAN: Don't just steal my opportunity  
17 here on the last day.

18 MR. MOY: Second the motion, Mr. Hinkle. Also in support,  
19 Vice-Chairperson Heath, Mr. Turnbull and Mr. Hill. The motion  
20 carries, sir.

21 CHAIRPERSON JORDAN: Summary order, please.

22 MR. MOY: Thank you.

23 CHAIRPERSON JORDAN: Thank you. See, waiting here all  
24 this time, it panned out for you. I know. Like are they still  
25 doing this case? But thank you very much. Appreciate it.

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1 MR. MOORE: Thank you. It wasn=t boring at all.

2 CHAIRPERSON JORDAN: All right. Thanks. In accordance  
3 with Section 405 of the Open Meetings Act of the District of  
4 Columbia, Code 257(c), I move B- see, I had another one, and  
5 you gave this to me to do B- I move that the Board of Zoning  
6 Adjustment hold a closed meeting on Mondays, October 5<sup>th</sup>, 19<sup>th</sup>,  
7 and 26<sup>th</sup>. The meetings are to start at 4:00 p.m., are held for  
8 the purpose of obtaining legal advice from our counsel, and  
9 deliberating upon but not voting on the cases scheduled to be  
10 publicly heard and decided by the Board on the day after each  
11 closed meeting.

12 These cases are identified in the Board=s public meeting  
13 and hearing agenda for October 6, October 20<sup>th</sup>, and October 27<sup>th</sup>.  
14 A closed meeting for these purposes is permitted under Section  
15 405(b)(4) and (b)(13) of the Act.

16 Is there a second?

17 MEMBER HINKLE: Second.

18 CHAIRPERSON JORDAN: Motion made and second. Will the  
19 secretary please roll call vote on the motion.

20 MR. MOY: Yes, sir. If the members would kindly vote as  
21 yes or no when I call your name.

22 Mr. Turnbull.

23 MEMBER TURNBULL: Yes.

24 MR. MOY: Vice-Chairperson Heath.

25 MEMBER HEATH: yes.

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1 MR. MOY: Chairman Jordan.

2 CHAIRPERSON JORDAN: Yes.

3 MR. MOY: Mr. Hill.

4 MEMBER HILL: Yes.

5 MR. MOY: And Mr. Hinkle>

6 MEMBER HINKLE: Yes.

7 MR. MOY: The motion carries, sir.

8 CHAIRPERSON JORDAN: See, I didn=t get the second part  
9 of that. Seeing that the motion is passed, I instruct the Office  
10 of Zoning to do the appropriate posting of the notices on the  
11 office administrative bulletin board, in the D.C. Register,  
12 and et cetera. Is there anything else coming before the Board?

13 With that --

14 MEMBER TURNBULL: We=re going to miss you.

15 CHAIRPERSON JORDAN: Thanks. I appreciate it.

16 MEMBER TURNBULL: We wish you all the best.

17 CHAIRPERSON JORDAN: Thanks a lot. Appreciate it.

18 And so with this, turn off the lights and close the door  
19 for me, and there=s B- and again, I just want to go on the record  
20 and say I really appreciate working with each and every one  
21 of you. AS I said, the staff, and Office of Planning, and the  
22 Office of the Attorney General=s Office. With that, then we  
23 are adjourned. Thank you.

24 (Whereupon, at 12:36 p.m., the Public Hearing of the  
25 Board of Zoning Adjustment was adjourned.)

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