

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning
Board of Zoning Adjustment

PUBLIC HEARING AND MEETING
OF THE BOARD OF ZONING ADJUSTMENT

9:39 a.m. to 1:14 p.m.
Wednesday, July 26, 2017

441 4th Street, N.W.
Jerrily R. Kress Memorial Room
Second Floor Hearing Room, Suite 220-South
Washington, D.C. 20001

OLENDER REPORTING, INC.
1100 Connecticut Avenue, NW Suite 810 Washington, D.C. 20036
Washington: (202) 898-1108 / Baltimore: (410) 752-3376
Toll Free: (888) 445-3376

1 Board Members:

2 FREDERICK HILL, Chairperson

3 CARLTON HART, Vice Chairperson

4 LESYLLEE WHITE, Board Member

5 PETER MAY, Zoning Commission

6 CLIFFORD MOY, BZA Secretary

7

8 Office of Attorney General

9 SHERRY GLAZER, Esq.

10 CHRISTOPHER COHEN, Esq.

11

12 Office of Planning

13 CRYSTAL MYERS

14 MATT JESICK

15 STEVE COCHRAN

16 BRYAN GOLDEN

17 BRANDICE ELLIOT

18 KAREN THOMAS

19

20

21

22

23

24

25

OLENDER REPORTING, INC.
1100 Connecticut Avenue, NW Suite 810 Washington, D.C. 20036
Washington: (202) 898-1108 / Baltimore: (410) 752-3376
Toll Free: (888) 445-3376

1	C O N T E N T S		
2			
3			PAGE
4			
5	Introductory Remarks		4
6			
7	A.M. Session		
8	18987A Pierce Investments, LLC		8
9	19122A 1600 I Street Corporation		10
10	18420A AT&T		11
11	19512 1262 Holbrook Terrace, LLC		15
12	19524 & 19525 Quincy Street Townhomes II, LLC		24
13	19517 James Wright and Sin Wah Li		41
14	19532 Avenue Property, LLC		41
15	19533 Richard Hall		64
16	19534 Rock Creek Property Group, LLC		73
17	P.M. Session		
18	19536 Brian and Carolyn Wise		95
19	19540 Starbucks Corporation and PVS Intl., LLC		102
20	19542 Bluebell Massage, LLC		111
21	19539 74 R Street, LLC		120
22			
23	Conclusion of Meeting		158
24			
25			

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

2 CHAIRPERSON HILL: This is the July 26th
3 public hearing of the Board of Zoning Adjustment of
4 District of Columbia.

5 My name is Fred Hill, Chairperson. Joining me
6 today is Carlton Hart, Vice Chairperson, Lesyllee
7 White, Board Member, and representing the Zoning
8 Commission on one case will be Rob Miller, and then
9 joining us for the rest of the day is Anthony Hood.

10 Copies of today's hearing agenda are available
11 to you and are located in the wall bin next to the
12 door. Please be advised that this proceeding is being
13 recorded by a court reporter and is also webcast live.

14 Accordingly, we must ask you to refrain from any
15 disruptive noises or actions in the hearing room.

16 When presenting information to the Board,
17 please turn on and speak into the microphone, first
18 stating your name and home address. When you're
19 finished speaking, please turn your microphone off so
20 your microphone is no longer picking up sound or
21 background noise.

22 All persons planning to testify, either in
23 favor or in opposition, must have raised their hand
24 and been sworn in by the secretary. Also, each
25 witness must fill out two witness cards. These cards

1 are located on the table near the door on the witness
2 table. Upon coming forward to the Board, please give
3 both cards to the reporter sitting at the table to my
4 right.

5 If you wish to file written testimony or
6 additional supporting documents today, please submit
7 one original and 12 copies to the secretary for
8 distribution. If you do not have the requisite number
9 of copies, you can reproduce copies on an office
10 printer in the Office of Zoning located across the
11 hall.

12 The order of procedures for special
13 exceptions, variances, and appeals are also located in
14 the bin as you enter. The record will be closed at
15 the conclusion of each case except for materials
16 specifically requested by the Board. The Board and
17 staff will specify at the end of the hearing exactly
18 what is expected, and the date when the persons must
19 submit the evidence to the Office of Zoning.

20 After the record is closed, no other
21 information shall be accepted by the Board.

22 The District of Columbia Administrative
23 Procedures Act requires that the public hearing on
24 each case be held in the open before the public
25 pursuant to Section 405(b) and 406 of that act. The

1 Board may, consistent with its rules of procedures and
2 the act, enter into a closed meeting on a case for
3 purposes of seeking legal counsel on a case, pursuant
4 to D.C. Official Code Section 2-575(b)(4) and/or
5 deliberating on a case pursuant to D.C. Official Code
6 Section 2-575(b)(13), but only after providing the
7 necessary public notice, and in the case of an
8 emergency closed meeting, after taking a roll call
9 vote.

10 The decision of the Board in these cases must
11 be based exclusively on the public record. To avoid
12 any appearance to the contrary, the Board requests the
13 persons present not engage the members of the Board in
14 convention.

15 Please turn off all beepers and cell phones at
16 this time so as not to disrupt these proceedings.

17 Preliminary matters are those which relate to
18 whether a case will or should be heard today, such as
19 request for a postponement, continuance, or
20 withdrawal, or whether proper and adequate notice of
21 the hearing has been given. If you're not prepared to
22 go forward with the case today, or if you believe the
23 Board should not proceed, now is the time to raise
24 such a matter.

25 Mr. Secretary, do we have any preliminary

1 matters?

2 MR. MOY: Good morning, Mr. Chairman, members
3 of the Board.

4 I have some brief remarks related to the case
5 applications on today's docket. I'd like to speak for
6 the public record.

7 The case Application No. 19508 of John Tekeste
8 has been postponed and rescheduled to the hearing of
9 September 27th, 2017.

10 Other than that, there are other preliminary
11 matters attended to specific cases, and I think it
12 would be more efficient to handle those when we call
13 those cases on a case-by-case basis, Mr. Chairman.

14 CHAIRPERSON HILL: Okay, great. Thank you,
15 Mr. Moy.

16 If anyone is here wishing to testify, if you
17 could please stand and take the oath which is going to
18 be administered by the secretary?

19 MR. MOY: Sorry. Good morning.

20 [Oath administered to the participants.]

21 CHAIRPERSON HILL: All right. Just so
22 everyone knows, we are going to follow basically the
23 agenda. We don't have any changes in terms of --
24 other than what Mr. Moy announced in the beginning.
25 So, we're going to go ahead and start with our public

1 meeting agenda. Mr. Moy, whenever you'd like to call
2 the first one.

3 MR. MOY: Thank you, Mr. Chairman. I believe
4 that would be for the Board's decision as to Case
5 Application No. 19 -- or rather, 18987A of Pierce
6 Investments, LLC.

7 This is a request of the applicant for a two-
8 year time extension of BZA order No. 18987, which
9 approved variances from the floor area ratio
10 requirements under Section 771 and the rear yard
11 requirements under 774, to allow construction of a
12 five-story multi-family building containing 46
13 dwelling units. This is in a C-2-A District at
14 premises 1124 Florida Avenue Northeast, Square 4070,
15 Lot 808.

16 CHAIRPERSON HILL: All right, great. Thank
17 you, Mr. Moy. Is the Board ready to deliberate?

18 Okay, I can go ahead and start. As far as the
19 two-year time extension, I after reviewing the record,
20 am in agreement in terms of the good cause that the
21 applicant has put forward. Part of my hesitation in
22 the thought process was just kind of hearing something
23 from the ANC. But the ANC had, per the regulations,
24 are allowed 30 days to respond, and they've had the 30
25 days to respond in terms of this application.

1 So, I don't have any issues. Also, I've also
2 read Exhibit 3 from the record and again, satisfied
3 from page 2 as to why the good cause in terms of
4 justification for the extension. Does the Board have
5 anything else to add?

6 MS. WHITE: No, Mr. Chairman. I agree with
7 your analysis that the request for the time extension,
8 that they met the criteria to have that relief
9 granted.

10 CHAIRPERSON HILL: Okay, great. Okay. All
11 right. Then, I'll go ahead and make a motion to
12 approve Application No. 18987A of Pierce Investments
13 as read by the secretary.

14 MR. HOOD: Second.

15 CHAIRPERSON HILL: Motion has been made and
16 seconded.

17 [Vote taken.]

18 CHAIRPERSON HILL: The motion passes, Mr. Moy.

19 MR. MOY: Staff would record the vote as four,
20 to zero, to one. This is on the motion of Chairman
21 Hill to approve the request for a two-year time
22 extension. And this is to BZA Order No. 18987.
23 Seconded the motion, Mr. Anthony Hood. Also in
24 support, Ms. White, Vice Chair Hart. We have a board
25 seat vacant. Motion carries, sir.

1 CHAIRPERSON HILL: Summary order, Mr. Moy.

2 MR. MOY: Thank you, sir.

3 The next case application for a decision is
4 Application No. 19122A of 1600 I Street Corporation.
5 Again, this is a request for a two-year time extension
6 of BZA Order No. 19122, approving variances from the
7 roof structure requirements under Section 411.1,
8 nonconforming structure requirements, 2001.3, and a
9 special exception from the office use requirements
10 under Section 508.1, to allow renovation and expansion
11 of an existing office building. This is in an SP-2
12 District at 1600 I Street Northwest, Square 186, Lot
13 39.

14 CHAIRPERSON HILL: Is the Board ready to
15 deliberate?

16 Okay. I can start. Again, as far as the good
17 cause in terms of the time extension, I'm comfortable
18 with the reasoning that the applicant has provided.
19 Last week, we deliberated in terms of a waiver, or to
20 waive I should say, the 30-day requirement, which we
21 did do. I was glad to hear and read from the ANC, ANC
22 2B, that they were also in favor of the time
23 extension. Their vote was unanimous, six, to zero, to
24 zero. And also, the analysis that the Office of
25 Planning has provided. So, I don't have any issues.

1 Does the Board have anything else to add?

2 Okay, I'll go ahead and make a motion to
3 approve Application No. 19122A as read by the
4 secretary.

5 MS. WHITE: Second.

6 CHAIRPERSON HILL: Motion has been made and
7 seconded.

8 [Vote taken.]

9 CHAIRPERSON HILL: Motion passes, Mr. Moy.

10 MR. MOY: Staff would record the vote as four,
11 to zero, to one. This is on the motion of Chairman
12 Hill to approve the application, or rather the request
13 for a two-year time extension, and this would be to --
14 or of BZA Order No. 19122. Seconding the motion, Ms.
15 White. Also in support, Mr. Hood, Vice Chair Hart.
16 We have a board seat vacant. The motion carries, sir.

17 CHAIRPERSON HILL: Do a summary order, Mr.
18 Moy.

19 MR. MOY: Thank you.

20 Next before the Board is Case Application No.
21 18420A of AT&T. Mr. Chairman, this is a request from
22 the applicant for a modification of consequence to the
23 approved plans in BZA Order No. 18420, to construct
24 small equipment cabinets related to the installation
25 of a 128-foot tall monopole and antennas in the R-4

1 Zone. This is at premises 4301 13th Street Northwest,
2 Square 2915, Lot 802.

3 CHAIRPERSON HILL: Thank you, Mr. Moy. Is the
4 Board ready to deliberate?

5 So, the first thing we need to determine, I
6 guess, is whether or not we think this is a
7 modification of consequence and not significance. And
8 after reading through the record and also the report
9 from the Office of Planning, I would agree that this
10 is a modification of consequence and not significance,
11 and therefore we would then need to set dates for
12 information to be submitted to us, and then submit
13 time for the ANC to submit anything that they might
14 have -- would like us to look at.

15 Does the Board have any other thoughts on
16 that?

17 MS. WHITE: No, I agree with you, Mr.
18 Chairman. I think that they did meet the requirements
19 and showed adequate cause to get a modification of
20 consequence.

21 CHAIRPERSON HILL: Okay. So, Mr. Moy, we need
22 to set a time for information and then we can set a
23 time for the meeting for this case.

24 MS. GLAZER: Pardon me, Mr. Chair. You need
25 to establish a time frame for responses from the

1 parties in the original proceeding, and then also any
2 responses to those responses.

3 CHAIRPERSON HILL: Okay, thank you.

4 So, Mr. Moy, I'm going to look at you for when
5 you think we should set the -- what dates you have.
6 Oh, you're looking at our -- after our holiday break,
7 when we come back?

8 MR. MOY: Yes. Yes, I'm looking at the dates
9 of September and I guess unless Chairman Hood wants to
10 participate, then that would give us a little bit more
11 flexibility on dates.

12 MR. HOOD: Mr. Chairman, I was one of the
13 original members, unless you all want to kick me off.
14 I'd like to stay with this.

15 CHAIRPERSON HILL: No, that's great. Sure.
16 Okay. Then when is Mr. Hood back again?

17 MR. HOOD: I don't know when I come back.

18 MR. MOY: September 27th, sir.

19 CHAIRPERSON HILL: Okay.

20 MR. MOY: So, if I work backwards from there,
21 all right --

22 CHAIRPERSON HILL: You like monopolies,
23 Chairman Hood?

24 MR. HOOD: I just like to see things through,
25 so I looked and saw that I was one of the original

1 members, so.

2 CHAIRPERSON HILL: Well, we'd be very happy to
3 have you back with us.

4 MR. HOOD: I'm sure you will.

5 MR. MOY: So, if I work backwards from there,
6 Mr. Chairman, I think what would be typical would be
7 responses, let's just say working backwards, responses
8 due to the Board a week prior to the 27th, which would
9 be September 20th. And so, what was the first
10 submission?

11 MS. GLAZER: Well, the first submission is
12 responses by the parties, and then the next submission
13 is the applicant, to give the applicant time to
14 respond to those.

15 MR. MOY: Okay. So, submission from the
16 parties, then let's say September 6th. Response from
17 the applicant September 20th, and this would be a
18 decision meeting on the 27th.

19 CHAIRPERSON HILL: Okay.

20 MR. MOY: Is that good?

21 CHAIRPERSON HILL: That's good.

22 MR. MOY: So again, responses from the parties
23 September 6th, deadline, from the applicant, September
24 20th, decision meeting, 27th. All in the month of
25 September.

1 CHAIRPERSON HILL: Sounds good to me.

2 MR. MOY: All right, Mr. Chairman, moving
3 right along, the next 19512, this is of 1262 Holbrook
4 Terrace, LLC, as amended. Special exceptions under
5 the alteration of a rooftop architectural element
6 requirements of Subtitle E, Section 206.1, residential
7 conversion requirements, Subtitle U, Section 320.2,
8 which would construct a rear addition and third-story
9 addition to convert a one-family dwelling into a
10 three-unit apartment house, RF-1 Zone at 1262 Holbrook
11 Terrace Northeast, Square 4055, Lot 48.

12 And there are filings in the record. These
13 are the post-hearing submissions that the Board
14 requested.

15 CHAIRPERSON HILL: Okay, great. Thank you,
16 Mr. Moy.

17 Is the Boar ready to deliberate?

18 MR. HART: Yes, Mr. Chair.

19 CHAIRPERSON HILL: Okay. Would someone like
20 to start the deliberation?

21 MR. HART: Sure. For this case, 19512, upon
22 review of the case, I -- and reviewing the entire
23 record, I would be in support of the application
24 because I believe that the applicant has shown in its
25 submittals, that it meets the special exception

1 criteria as set forth in the zoning regulations, and I
2 also agree with the Office of Planning evaluation and
3 analysis regarding this application and how it meets
4 the special exception criteria as well.

5 Now, the ANC 5D report raises some concerns
6 that I wanted to discuss, as well as since they voted
7 in June to oppose this application, I thought it would
8 be helpful to kind of talk about those issues.

9 They raised four concerns. One was around
10 parking, another was impacts to adjacent properties,
11 light and air impacts. A third was lack of
12 notifications to neighbors within 200 feet. And
13 finally, the impacts to neighborhood infrastructure.

14 So the first issue, the ANC notes that the
15 applicant addressed the existing concerns by agreeing
16 to, and this was the parking concern, the ANC report,
17 which is Exhibit 41, notes that the applicant
18 addressed existing concerns by agreeing to offer
19 additional parking spaces to remedy the parking,
20 potential parking burden. And I guess there are three
21 off-street parking spaces that actually can be -- the
22 applicant has noted, can be doubled up to allow six
23 cars to park there, and I thought this would be
24 sufficient to allow most concerns about the street
25 parking issue, which is the main issue that was

1 raised.

2 Regarding the adverse effect on the use or the
3 enjoyment on the abutting or adjacent dwelling or
4 property, which is the light and air argument, the ANC
5 asked -- thought that the light and air would be --
6 there would be an adverse impact to the neighbors, the
7 adjacent neighbors at 1260 Holbrook Terrace, as well
8 as 1264 Holbrook Terrace.

9 While I understand that the project has not
10 been received well by some of the residents, I wanted
11 to note that both of the adjacent owners, Mr. Foske,
12 who is the owner of 1260 Holbrook Terrace, and Mr.
13 Hyman, who is the owner of 1264, have provided letters
14 of support for the applicant before us.

15 I'd also note the ANC vote was, as we noted,
16 was not unanimous, so there was some discussion, I
17 guess, in the ANC itself.

18 And the third issue was with regard to the
19 200-foot -- the folks that were within 200 feet
20 indicated that they didn't receive written
21 notification, and I'm not exactly sure why they said
22 that they did not receive this information. Exhibit 3
23 does include the list of people and groups that
24 received the notification within that 200-foot radius.
25 So, that seems to have addressed at least that

1 portion of it. And I did not hear any information
2 that describes kind of why this particular -- why some
3 of the neighbors felt like they were kind of, I guess,
4 left in the dark.

5 I did also note that the single-member
6 district, ANC 5D, did actually have several meetings
7 with the applicant and the neighbors, as well as the
8 actual ANC meeting, the full ANC meeting itself, so
9 there seem to be quite a bit of kind of discussion in
10 the community about it. So, while I understand that
11 some people may not have been aware of it, and the
12 building itself was posted, there was an affordable of
13 posting in the record as well.

14 And then the last issue was with regard to the
15 effect of the proposed development on sewage, gas, and
16 electric infrastructure for the block.

17 While I understand that this project has some
18 opposition, the case in my mind is about zoning
19 matters. These issues are kind of outside of that,
20 outside of our purview. And again, I think that -- I
21 would hope that the applicant would continue to work
22 with the neighbors, as well as meeting all of the
23 requirements under the -- to receive permitting so
24 that those impacts would be lessened.

25 But again, I think with that I would be in

1 support of the application and that's it.

2 CHAIRPERSON HILL: Thank you, Mr. Hart, for
3 those well thought out remarks. Does anyone else on
4 the Board have anything to add?

5 MS. WHITE: Mr. Chairman, I wasn't -- I guess
6 I don't know if I was involved with the case from the
7 very beginning, but I did review the record and I was
8 able to hear some of the testimony. But I concur with
9 what Mr. Hart said, and I also think that they met the
10 standard for relief for special exception.

11 A couple of comments that I have is that you
12 know, obviously we look at statements and testimony
13 that we receive from the ANC, because they represent
14 some of the opinions of the community. But one thing
15 that I did look at in terms of whether or not the
16 project had any kind of negative impacts on the
17 neighborhood as far as light and air and adjacent
18 owners, I looked at Exhibits 4 and Exhibits 8, you
19 know, in terms of Exhibit 8, I looked at the
20 photograph that showed the subject property, as well
21 as the adjacent properties, just to kind of get a
22 sense of whether or not there would be some direct
23 negative impact on the neighbors. And I didn't find
24 that that would be the case.

25 If you're looking at the photo on the left

1 side, there is an apartment building that already I
2 think is at least three stories on the left side. And
3 if you're facing the property looking on the right
4 side, there is also a property that has already been -
5 - the intended development process that will also be
6 three units. So, I just wanted to add that comment in
7 terms of trying to, you know, look at the direct
8 evidence in terms of whether or not there would be any
9 negative impacts to the community. And while I do,
10 you know, definitely respect the comments of the ANC,
11 with respect to that development I think that they met
12 that criteria.

13 I would place another caveat that it appears
14 that the applicant and the ANC are kind of in
15 discussions to try to resolve some of the issues
16 regarding color, to try to come up with a color that's
17 in conformity with the neighborhood. So I would hope
18 that they would continue to have those discussions.

19 CHAIRPERSON HILL: Okay, great.

20 MS. WHITE: Sorry about those long comments,
21 but --

22 CHAIRPERSON HILL: No. Thank you so much.

23 Yeah, I also kind of struggled with this in
24 terms of just all the testimony that we took from the
25 community in terms of the commissioners that had come

1 down. Originally from the original hearing I thought
2 it seemed as though there could have been more of a
3 timing issue in terms of, had the applicant had more
4 time to work with the community then perhaps they
5 could have all come together. That did not end up
6 being the case.

7 I am glad, as you mentioned, Ms. White, the
8 applicant has agreed to lightening some of the gray
9 brick that the community had requested. I do think in
10 terms of, you know, the zoning requirements once
11 again, that I'm comfortable with them having met the
12 standard to approve the relief that's been requested,
13 particularly from the analysis that the Office of
14 Planning had provided in terms of how those criteria
15 were being met.

16 And then also although it, you know, it did --
17 it was opposed and the ANC did oppose it, it was a
18 split vote in terms of it being four to three. And
19 so, you know, there were you know, almost half the
20 community was again, at least as far as the ANC
21 commissioners did vote in favor of the project. So,
22 it is unfortunate that it couldn't be all completely
23 supported, but I am comfortable that they have met the
24 criteria with which -- within the regulations for us
25 to you know, approve this project.

1 So, that being said, I want to go ahead and
2 make a motion to approve Application No. 19512 as read
3 by the secretary.

4 MR. HART: Second.

5 CHAIRPERSON HILL: Motion has been made and
6 seconded.

7 [Vote taken.]

8 CHAIRPERSON HILL: Motion passes, Mr. Moy.

9 And I think you have an absentee or --

10 MR. MOY: Yes, I do, Mr. Chairman. Before I
11 give a final vote, as you said, I do have an absentee
12 vote from Peter May who participated and quite
13 naturally reviewed the entire record.

14 His absentee vote is to approve the
15 application with any conditions that the Board may
16 impose. He has written an extensive comments which
17 I'd like to read into the record if I may, Mr. Chair?

18 CHAIRPERSON HILL: Please, go ahead.

19 MR. MOY: Quote, "In my view, the applicant
20 has made a reasonable case that the requested relief
21 should be approved. This conclusion is supported by
22 the support of the Office of Planning's report
23 indicating that the conditions required for granting
24 the special exception have been met, and that the
25 relief is warranted."

1 MR. MOY: Exactly. Thank you, sir.

2 CHAIRPERSON HILL: Thank you.

3 MR. MOY: The next two case applications, Mr.
4 Chairman, are companion cases which I'd like to read
5 both into the record if I may. And of course, as the
6 Board is aware, I'll need separate vote counts for
7 each application.

8 The first is Application No. 19524 of Quincy
9 Street Townhomes II, LLC, as amended for special
10 exceptions under the requirements of Subtitle U,
11 Section 320.1, and pursuant to 11-DCMR Subtitle X,
12 Chapter 10, for a variance from the parking space size
13 requirements of Subtitle C, Section 712.5, to
14 construct a rear addition to and convert an existing
15 one-family dwelling into a three-unit apartment house.
16 This is in an RF-1 Zone at premises 429 Quincy Street
17 Northwest, Square 3236, Lot 87.

18 The second companion case application is
19 Application No. 19525 of Quincy Street Townhomes I,
20 LLC, as amended for a special exception under the
21 requirements of Subtitle U, Section 320.1, and
22 pursuant to 11-DCMR Subtitle X, Chapter 10, a variance
23 from the parking space size requirements of Subtitle
24 C, Section 712.5; 712.5, to construct a rear addition
25 to and convert an existing one-family dwelling into a

1 three-unit apartment house in the RF-1 Zone at
2 premises 431 Quincy Street Northwest, Square 3236, Lot
3 88.

4 CHAIRPERSON HILL: Okay, great. Thank you,
5 Mr. Moy. Is the Board ready to deliberate?

6 Okay, I can start and then I'm actually going
7 to see if anyone else wants to chime in or lead some
8 of the discussion.

9 Last hearing, we were asking questions from --
10 we took testimony from the applicant as well as the
11 ANC commissioner, and there was some discussion about
12 IZ and any kind of thoughts the applicant might have
13 had in terms of IZ, and also in terms of you know,
14 proffering units or also possibly a contribution to
15 the trust fund.

16 After discussions with OAG, it seems as though
17 that really isn't kind of within our purview in terms
18 of any kind of contribution. So, the applicant had
19 put into the record a proffered, I think it was 15,000
20 towards either the trust fund or they had mentioned N
21 Street Village as another alternative. And that,
22 again, isn't within our area. I mean, if the
23 developer, depending upon how this goes one way or the
24 other, if the developer was interested in doing that,
25 that's completely on their own and it has nothing to

1 do with the BZA. So, that's off the table, just to
2 let you guys know on that.

3 Then after that, does anybody want to start
4 the discussion in terms of the case?

5 MR. HART: Everybody's speaking at once.

6 CHAIRPERSON HILL: Right. I've been talking
7 all morning so far. You know.

8 MR. HART: Yeah, in looking over the case I
9 think that we had some discussion, or not had, we
10 heard from the applicant about the building -- about
11 the -- about kind of both of these properties being
12 next to one another, and there was some issue about
13 the IZ stuff. So, I'm glad that you clarified that.
14 That's helpful.

15 Yeah, and I think that the applicant has done
16 a -- had a significant conversation, I guess, with the
17 community, and I'm very appreciative of that. I think
18 that that's helpful to have that conversation, and it
19 seems as though the drawings that were submitted were
20 somewhat in flux, and that was partially because of
21 those conversations and making some adjustments to the
22 drawings. And I wanted, also, to thank the applicant
23 for submitting the drawing set that was kind of
24 internally consistent. Those would be Exhibits 55 and
25 59. But I thought it was very helpful to have that

1 information in here, so I'm understanding what is
2 included in the project now.

3 With regard to the project itself, I do feel
4 that the applicant has made a case for -- successfully
5 made a case for having the BZA approve the project. I
6 understand that this is a blighted property and needs
7 to have that work done so that it can bring back a
8 resident -- residents, several residents, into this
9 community.

10 Having read the Office of Planning report, I
11 do agree with the analysis that the Office of Planning
12 has provided, and would be in support of the project.

13 And I'll leave it at that.

14 MS. WHITE: Thanks. Thanks, Mr. Chairman.
15 Yeah, I basically concur with Mr. Hart's comments as
16 well. I mean, I think we were kind of the ones that
17 kind of had some questions about the Inclusionary
18 Zoning aspect of this project, and now that I've
19 gotten confirmation from OAG that that does not apply,
20 as Mr. Hill said, that the contribution to a trust
21 fund would be definitely voluntary on behalf of the
22 developer and it would not be something that we would
23 require or enforce.

24 I do think this is a very good project. I
25 mean, unlike, I guess one of the cases that we heard

1 before, they got a considerable amount of community
2 support. They worked with the ANC, they worked with
3 the community, they worked with the adjacent owners.
4 They've offered to make some -- how should I say?
5 With the adjacent owners the developer has offered to
6 include some enhancements to the adjacent owners'
7 properties that also I'm sure was very helpful in
8 getting community support.

9 It's in a unique project. They're basically,
10 you know, two flats that the developer is working on,
11 but each being heard as separate cases. And they made
12 a special exception request to do this residential
13 conversion, and based on the record, based on the
14 support of the ANC and the Office of Planning, I would
15 be in support of this.

16 One question that I did have was about the
17 second part of their request, which was the variance
18 request for parking. I haven't been convinced at this
19 point that they met the burden of it being an
20 exceptional circumstance in terms of needing to have
21 the additional relief under the variance provision of
22 C 712.5, but I'm open to discussion on that point.
23 But that's where I am with respect to that case.

24 MR. MILLER: Thank you, Mr. Chairman. I would
25 concur with my -- all the points that my colleagues

1 have made. I had raised the Inclusionary Zoning
2 question at the hearing that we had last week because
3 when the Zoning Commission amended the general IZ
4 regulations that apply to 10 or more units, we said
5 that IZ would be applicable to adjacent properties
6 that are being developed at the same time by the same
7 owner, which is what the case is here. And so, you
8 would combine those two properties to get to the 10 or
9 more units. And because we were seeing the people or
10 -- well, we saw the need to make it applicable.

11 So, unfortunately the Zoning Commission did
12 not, when we did that change, that clarification, we
13 didn't change the rowhouse conversion regulations,
14 which is a separate case that was I think earlier,
15 actually, than the IZ. Or it may have been the same
16 time. I don't know.

17 And IZ does apply to rowhouse conversions
18 under the new rowhouse conversion regulations when
19 there's a fourth or a sixth, or every other unit, and
20 I think it's at a fairly deep affordability level as
21 well. And here we have a rowhouse conversion; two row
22 house conversions adjacent to each other. Same owner.

23 And the rowhouse is normally two units, and the
24 conversion is to three for each of the properties to
25 go to three.

1 So, we didn't explicitly -- the Commission did
2 not explicitly amend the rowhouse conversion language
3 regulations, so make adjacent property owners who are
4 under the same ownership being developed to be
5 considered as one development, which this is
6 essentially one development that's being marked as
7 Quincy Street Townhomes. But because there isn't that
8 explicit requirement yet, I will take that issue back
9 to the Zoning Commission for us to address for future
10 cases, and don't want to see this as any kind of a
11 precedent for development being able to avoid IZ in
12 the future because these are neighborhoods where we
13 want to see affordable housing included.

14 On the conversion itself, I think it's a
15 creative way that they've -- they did work with the
16 neighbors doing -- and they're doing the green
17 vegetated wall on the rear addition, and they've set
18 back that rear addition way beyond the property line
19 so that it wouldn't have an adverse impact. So, I
20 think that was a creative way to try to mitigate
21 against the normal 10-foot -- the 10-foot rule
22 requirement that you don't go back 10 feet beyond the
23 property. All that open space between where the front
24 of the house -- front of the development is, and the
25 rear addition, so there's that mitigation.

1 So, on the parking, I guess I didn't have as
2 much of a problem. They're trying to create as many
3 parking spaces as they can to avoid any on-street
4 problems of, I think the variances for the compact.
5 Is that -- I'm not even sure why that's in a variance
6 category than a special exception. That's another
7 thing to look at, at the Zoning Commission level,
8 because if the neighbors aren't having a problem I
9 don't know why we would make that bar so difficult to
10 have smaller spaces.

11 But anyway, I'm very ready to go forward, and
12 supportive of this project, and hope that future
13 conversions that had this kind of adjacent property
14 identical ownership will be applicable -- will have IZ
15 applicable to it. But this one falls through the
16 cracks.

17 CHAIRPERSON HILL: All right. Thank you, Mr.
18 Miller. Let's see.

19 So, I also thought that -- well, I mean, as we
20 stated last week, I thought that the developer has
21 done a lot of work with the community, and has done so
22 in a very creative fashion. I did think that the
23 developer was being very genuine in working with the
24 community and trying to provide something that they
25 could get behind. I mean, the ANC commissioner did

1 come and had some questions in terms of clarification,
2 I think just for him, and for their ANC, concerning
3 the 10-foot request. And I think that the Office of
4 Planning provided further clarification on that as
5 best they could.

6 I also, after discussing with the Office of
7 Attorney General a little bit, and just kind of going
8 back and forth in my own mind in terms of the parking
9 with the variance, that was kind of a little bit of a
10 discussion with myself. I had a discussion with
11 myself about the variance and how the tests were
12 really being met. I thought that, again, the
13 developer was doing what they could to work with the
14 community, and whether or not that really equated to
15 the first part of the test in terms of the exceptional
16 situation. I wasn't completely there, I suppose. I
17 mean, the Office of Planning happens to be here.

18 But, I don't really -- I'm -- to your point,
19 Mr. Miller, I mean, I don't know why this is you know,
20 this wouldn't be -- couldn't have been a special
21 exception. However, it is a variance and I am going
22 to agree with the Office of Planning in terms of their
23 analysis. I don't know whether I would do that in all
24 cases, but in this particular situation I would be
25 comfortable doing that.

1 So, I think, then, I can make -- do you want
2 any discussion, further discussion about the variance
3 issue, Ms. White? I mean, I think it seems like we
4 can move forward so --

5 MS. WHITE: Yeah. I mean, I'm ready to move
6 forward. I mean, I think the Office of Planning even
7 admitted that the variance issue was a tough one to
8 kind of move forward on. But I mean, eventually they
9 did. And obviously I don't want to, if the community
10 wants it, if the community is supporting it and having
11 the additional parking relief would make things better
12 for the community considering the difficulty, the
13 extreme difficulty with parking in that neighborhood,
14 I could get behind the request to make the project
15 successful.

16 But it is a pretty tough bar, and it's very
17 close, and we don't move fast to approve variances in
18 these types of cases. But I think that if my fellow
19 board members are comfortable, I could support it as
20 well, unless OAG has anything further to say on that
21 point.

22 CHAIRPERSON HILL: Okay, great. Thank you,
23 Ms. White. Yeah, I mean again, the -- I believe the
24 test has been satisfied in terms of the variance, so
25 with how the -- based upon the testimony we took, as

1 well as the analysis of the Office of Planning.

2 So one of the items, again, for a condition
3 that they did, meaning the applicant agreed to was,
4 create a vegetated green wall. And there is an
5 example in Exhibit 36 in terms of for this first
6 application, the 19524.

7 As far as the 19525, I still do need to get a
8 green wall rendering for the second application.
9 There's not in -- there is not something there, so I'm
10 going to need something from the applicant in terms of
11 that.

12 Before we move on, or at least continue
13 discussion, does the Office of -- since you are here,
14 does the Office of Planning -- and since we're talking
15 about you, is there anything you'd like to add?

16 MS. MYERS: Thank you, Crystal Myers for
17 Office of Planning.

18 I just wanted to add since there was a little
19 bit of discussion about the variance relief, I just
20 wanted to make a small correction from the OP report.

21 We originally said that the applicant was requesting
22 special exception relief. Or, sorry, variance relief
23 from C-712.3, and in actuality the applicant is asking
24 for variance relief from 712. --

25 MR. COHEN: Mr. Chair. I'm sorry to

1 interrupt. I'd just like to remind the Board that the
2 record is closed, so, or it was closed last week after
3 the hearing. So taking testimony from OP is --

4 CHAIRPERSON HILL: Okay, so --

5 MR. COHEN: The Board would have to reopen the
6 record.

7 CHAIRPERSON HILL: So, the Board would have to
8 reopen the record to allow the Office of Planning to
9 correct something?

10 MS. GLAZER: Yes.

11 CHAIRPERSON HILL: Okay. That's all right.
12 So, procedurally we would now reopen the record right
13 now to take -- or decide whether we want to reopen the
14 record right now to allow the Office of Planning to
15 submit the correction?

16 MR. COHEN: Submit what --

17 CHAIRPERSON HILL: Or whatever they're about
18 to say, yeah.

19 MR. COHEN: Correct.

20 CHAIRPERSON HILL: Okay. So, I'm going to
21 make a motion that we reopen the record to allow the
22 Office of Planning to speak.

23 MS. MYERS: I apologize for the confusion.
24 It's actually in the record.

25 CHAIRPERSON HILL: Oh.

1 MS. MYERS: The applicant submitted the
2 additional variance relief after the hearing.

3 CHAIRPERSON HILL: Okay. Hold on. That's
4 okay. I'll just follow -- thank you. So, I'm going
5 to reopen the record to allow the Office of Planning
6 to say whatever the Office of Planning is about to
7 say. Does the Board --

8 MS. MYERS: Thank you. I just wanted to
9 clarify.

10 CHAIRPERSON HILL: That's okay. All right.

11 MS. MYERS: That's all.

12 CHAIRPERSON HILL: Is the Board all right with
13 that?

14 MS. WHITE: Yes.

15 CHAIRPERSON HILL: Okay. Do I need to make a
16 motion or can we do consensus with that? A motion?

17 MR. COHEN: You can do consensus.

18 CHAIRPERSON HILL: I can do consensus. Okay.
19 Please, interrupt me any time you'd like by the way,
20 today.

21 MR. COHEN: I'm sorry.

22 CHAIRPERSON HILL: It's all right. It's only
23 my last day before the break.

24 Now please, I'm sorry.

25 MS. MYERS: Okay.

1 CHAIRPERSON HILL: Go ahead.

2 MS. MYERS: Yeah, just wanted to clarify since
3 we did discuss a little bit about the variance relief.

4 So, the applicant is requesting relief from C-
5 712.5 and this is about the card -- or the parking
6 space dimensions. They're actually providing the
7 correct dimensions when it comes to the length of the
8 car, but not the width of the car. So, they're asking
9 for compact car dimensions just for the width
10 situation. Which is more of a narrow request.

11 So originally we had said it was for 712., I
12 believe 3, and that is more about 50 percent compact
13 and 50 percent full-sized car space. And what they're
14 actually asking for is just relief from the width of
15 the full-size requirement. Same arguments. That has
16 not changed. But I just wanted to clarify that
17 because I know the applicant submitted that
18 information afterwards, and also just to add to your
19 analysis, your consideration when you decide on how
20 you want to vote on this, the relief is actually much
21 more -- a little bit more narrow than we originally
22 looked at it.

23 CHAIRPERSON HILL: Okay. But again, right at
24 C-712.5.

25 MS. MYERS: 712.5.

1 CHAIRPERSON HILL: Right. Okay. All right.
2 So, I'm going to close the record now. Okay? Okay?
3 Reclose the record.

4 All right. Okay. So, all right. So then
5 back to, again, just to clarify, again, the condition.
6 There was the one condition again about the green
7 vegetated wall. And in Application 19524 there is
8 actually an exhibit 36. And in Application 19525, we
9 are going to need another exhibit for the green
10 vegetated wall.

11 So, I'm going to make a motion to approve
12 Application No. 19524 as read by the secretary.

13 MS. WHITE: Second.

14 CHAIRPERSON HILL: Motion has been made and
15 seconded.

16 MR. MILLER: Mr. Chairman.

17 CHAIRPERSON HILL: Sorry.

18 MR. MILLER: I had forgotten to say one thing.

19 CHAIRPERSON HILL: Sure.

20 MR. MILLER: I wanted to -- and in addition to
21 commending the applicant for working with the
22 neighbors and ANC. I also wanted to commend the
23 applicant for creating family-sized units in this sort
24 of rowhouse conversion. I think they're three or
25 four-bedroom units going from the basement all the way

1 to the top floor is what each of the units is. And
2 so, I think that's a commendable attribute of this
3 project.

4 CHAIRPERSON HILL: No, no, I think that's --

5 MR. MILLER: I'm ready to --

6 CHAIRPERSON HILL: No, I think -- I thank you.

7 MR. MILLER: I'm ready to vote. I'm sorry
8 to --

9 CHAIRPERSON HILL: That's all right. Thank
10 you for adding that. I mean, it is -- I mean, the
11 applicant is being commended a lot for this particular
12 project and I hope that they're successful. I really
13 do. And so, what did I do?

14 So just to be clear again, I'm making a motion
15 to approve Application No. 19524 as read by the
16 secretary, including the condition about the green
17 vegetated wall, and I ask for a second.

18 MS. WHITE: Second.

19 CHAIRPERSON HILL: Motion has been made and
20 seconded.

21 [Vote taken.]

22 CHAIRPERSON HILL: The motion passes, Mr. Moy.

23 MR. MOY: Okay. This is for Application No.
24 19524?

25 CHAIRPERSON HILL: Yes.

1 MR. MOY: Okay. So, staff would record the
2 vote as four, to zero, to one. This is on your
3 motion, Mr. Chairman, to approve the application for
4 the amended relief. Seconding the motion, Ms. White.

5 Also in support, Mr. Rob Miller, Vice Chair Hart. We
6 have a board seat vacant.

7 CHAIRPERSON HILL: Okay. And we'll do summary
8 order. Okay?

9 So, the next one is Application No. 19525. I
10 make a motion to approve Application No. 19525 as read
11 by the secretary, including the condition from the
12 Office of Planning about a green vegetated wall, which
13 the applicant will provide to the record.

14 MS. WHITE: Second.

15 CHAIRPERSON HILL: Motion has been made and
16 seconded.

17 [Vote taken.]

18 CHAIRPERSON HILL: Motion passes, Mr. Moy.

19 MR. MOY: Staff would record the vote as four,
20 to zero, to one. This is on the motion of Chairman
21 Hill to approve the request for the amended relief.
22 Seconded the motion, Ms. White. Also in support, Mr.
23 Robert Miller and Vice Chair Hart. Board seat vacant.
24 Motion carries four, zero, one.

25 CHAIRPERSON HILL: Thank you. Can we do a

1 summary order again, Mr. Moy?

2 MR. MOY: Yes, sir.

3 CHAIRPERSON HILL: Okay. And we're just going
4 to take a quick two-minute break, three-minute break,
5 before we start our hearing cases. Thank you.

6 [Off the record from 10:39 a.m. to 10:43 a.m.]

7 CHAIRPERSON HILL: All right, Mr. Moy.
8 Whenever you'd like. Let's start our hearing cases.
9 The last one before the summer break.

10 MR. MOY: Yes, sir. Thank you, Mr. Chairman.

11 Okay. The Board is now into the hearing session.
12 So, on the docket I believe, if we can have parties to
13 the table to Application No. 19517 of James Wright and
14 Sin Wah Li.

15 This application is captioned and advertised
16 for a special exception under Subtitle U, Section
17 320.2, and pursuant to Subtitle X, Chapter 10 for an
18 area variance from the minimum land area requirements
19 of Subtitle U, Section 320.2(d).

20 This would permit the use of an existing
21 three-story attached dwelling as a three-unit
22 apartment house in the RF-1 Zone. This is at premises
23 943 S Street Northwest, Square 362, Lot 113.

24 CHAIRPERSON HILL: Okay. Is the applicant
25 here? Oh, please come forward. You can just sit down

1 at the table there. Yes. Have you all been sworn in?

2 [No audible response.]

3 CHAIRPERSON HILL: Okay. So, first, you need
4 to stand and take the oath there. Mr. Moy is going to
5 give that to you. You can just stand right where you
6 guys are. And if anybody else hasn't taken the oath,
7 if you want to stand if you're going to provide
8 testimony, and take the oath now. Okay. All right.

9 [Oath administered to the participants.]

10 MR. MOY: Thank you. You may be seated.

11 CHAIRPERSON HILL: All right. If you could
12 please -- did you fill out your witness cards? No?
13 Okay. So, well, there was directions at the
14 beginning. That's okay.

15 So, you need to -- you can do it afterwards.
16 There's two witness cards over at the table, or there
17 might be witness cards in front -- there's witness
18 cards right in front of you there. So, you each need
19 to fill out two and then provide them to the
20 transcriber there to my right. Okay?

21 So, but before you do that, why don't you just
22 go ahead and introduce yourselves, please, from my
23 right to left? You need to push the button there, the
24 green light button.

25 MS. WAH LI: My name is Sin Wah Li. I am the

1 wife of James Wright.

2 CHAIRPERSON HILL: Okay.

3 MR. WRIGHT: I'm James Wright, wife of --
4 husband of Li Sin Wah.

5 CHAIRPERSON HILL: Okay.

6 MR. WRIGHT: And we are the owners of the
7 property.

8 CHAIRPERSON HILL: Okay, great. So, before we
9 kind of begin, you guys, I mean, it seems as though
10 you're aware of the ANC 1B's request for a
11 postponement?

12 MR. WRIGHT: We had not been -- we have not
13 been made aware of that. Our architect is on the way.

14 CHAIRPERSON HILL: Okay.

15 MR. WRIGHT: She thought the timing of this
16 would be a little bit later.

17 CHAIRPERSON HILL: Okay.

18 MR. WRIGHT: Based on the schedule.

19 CHAIRPERSON HILL: Sure.

20 MR. WRIGHT: So, she's on the way here now.
21 And of course we went to the meeting where we know
22 that they were -- where they were requesting that.
23 But because we didn't hear that it had been postponed,
24 we have fulfilled the request that we be here today.

25 CHAIRPERSON HILL: Sure. Okay. And let's

1 see. So, is there someone here from the ANC? Okay.
2 All right. Before we get to you, just one second
3 there, so you hadn't heard about the postponement
4 until -- or you, just now?

5 MR. WRIGHT: Yeah. I mean, we knew that there
6 was talk of one.

7 CHAIRPERSON HILL: Okay.

8 MR. WRIGHT: But we had no official
9 notification.

10 CHAIRPERSON HILL: Okay. Okay. Okay. Sir,
11 could you come on forward, please? If you could just
12 introduce yourself, if you wouldn't mind?

13 MR. NELSON: My name is Patrick Nelson and I
14 am the current chair of the 1B Zoning Preservation and
15 Development Committee.

16 CHAIRPERSON HILL: All right. Commissioner
17 Nelson, thanks for coming down.

18 So you guys had asked for a postponement, I
19 guess, so that you could get more information and then
20 also -- you haven't even had a vote yet, correct?

21 MR. NELSON: No. Just to give you a little
22 background on what's gone on. I received a e-mail
23 through my system that I set up for people that want
24 to come in front of the Committee and make their
25 presentations.

1 And when I receive the e-mail my normal
2 process is to go online and check all the case records
3 and all that stuff. And I noticed that the date was
4 today. And I called the architect and spoke to her,
5 which is not my normal process, but I called her to
6 explain to her that you're trying to get this on the
7 docket before you even talk to the ANC. And that you
8 can come to the Committee and explain your process,
9 but you're not going to get a vote, we're not going to
10 vote on it because the Commission doesn't meet until
11 after your hearing date.

12 And she told me on the phone, she said, I'm
13 aware of that. We talked to the zoning people and
14 they just told us all we have to do is come down and
15 talk to the committee and we'll be okay.

16 And I said, well, that's not correct. You
17 need to come to the committee, you need to make a
18 presentation, you need to show all of your reasons and
19 clarifications why you want this to go through. And
20 then we vote a recommendation to the full ANC, they
21 will review that and either support it or change their
22 vote, and then that information is transposed to the
23 BZA prior to your hearing date.

24 CHAIRPERSON HILL: Okay.

25 MR. NELSON: So --

1 CHAIRPERSON HILL: That's okay. Yeah, no. I
2 appreciate it. So, okay. Thanks, Commissioner
3 Nelson.

4 Mr. Wright, so I assume you're the architect
5 and you just -- that's okay. So, let me think. If
6 you could -- you first need to stand and take the
7 oath, okay, because Mr. Moy is going to administer the
8 oath for you here. You need to stand and take the
9 oath as a witness to let us know you're not going to
10 lie.

11 So, if you could please take the oath? Mr.
12 Moy.

13 [Oath administered to the participants.]

14 MS. SHAW: Thank you.

15 CHAIRPERSON HILL: Okay. So, I'll let the
16 Board kind of -- we'll kind of talk this through a
17 little bit.

18 I mean, Mr. Wright, and Ms. Li, you are going
19 to need to present in front of the ANC. We're going
20 to have to get a vote from them. And so, really, I
21 don't see the need in doing this now. That's kind of
22 where I'm kind of coming from. We can see what the
23 Board is going to decide. I mean, I understand
24 everyone is here, but you know, our process is our
25 process. And so, and by the way, you know, you want

1 their support so you really want to do your best, and
2 the Commissioner has made -- taken his time, actually,
3 to come down here to clarify their position and their
4 process. And it was very accommodating of him to kind
5 of reach out to the architect when that's not
6 necessarily the ANC's process.

7 You wanted to say something?

8 MR. WRIGHT: Only that in terms of I think the
9 process that as has been outlined to our architect, as
10 was pointed out, I think she was told to go to the
11 ANC, which we did. I also believe that we fulfilled,
12 but I'll let the architect verify that, the time
13 criteria to get our submission in so that it could
14 have potentially been heard. But I'll let --

15 CHAIRPERSON HILL: Okay.

16 MR. WRIGHT: You know, we submitted in good
17 time and I believe that there might have been --

18 CHAIRPERSON HILL: Okay.

19 MR. WRIGHT: -- or rather there might have been
20 other hearings when our case could have been heard, so
21 the reason that we were only being heard very close to
22 the, you know, to the date of this --

23 CHAIRPERSON HILL: Sure.

24 MR. WRIGHT: -- was because it wasn't
25 scheduled sooner. But I'll leave that --

1 CHAIRPERSON HILL: Sure.

2 MR. WRIGHT: Yeah.

3 CHAIRPERSON HILL: Okay. And I'm just
4 pointing out that you need their support. You know,
5 you need their help.

6 So today, you don't want to do anything that
7 annoys them. Okay? All right.

8 So now, after I've said that, what would you
9 like to say?

10 MS. WAH LI: I mean, the only thing I want to
11 say is that we've been working on this case in full
12 coordination with the Office of Zoning, and some of
13 the steps we've taken actually where sort of
14 recommendations from the Office of Zoning. For
15 example, going to the Committee and presenting in
16 front of the zoning, and I was an encouragement by the
17 Office of Zoning to go and get that opinion. I mean,
18 we understood that there's not going to be time for
19 the ANC to vote on the case. We understood that, but
20 getting opinion of the zoning and preservation
21 commission was --

22 CHAIRPERSON HILL: Okay. That's okay. I'm
23 just going to cut you off.

24 MS. WAH LI: Yeah.

25 CHAIRPERSON HILL: Mr. Hart, you had

1 something?

2 MR. HART: Yeah, I guess part of this is, yes,
3 there are procedures that every applicant has to go
4 through for each case. And those procedures are, you
5 know, notification of the folks that are around you,
6 that live around you, and also notifications going out
7 to the ANC and all that.

8 So, what is a little bit -- and maybe I just
9 missed this, but what is a little bit confusing to me
10 is in the time period when you first engaged with the
11 Office of Zoning staff and now, that was a set time
12 period. And I'm trying to understand why there
13 couldn't have been a discussion with both the
14 subcommittee of the ANC, as well as the full ANC, in
15 that time frame. And so, that's the part that I'm
16 trying to get.

17 And the second piece of this is this is, and
18 again, maybe I'm missing something with this, but the
19 case is really about trying to get a certificate of
20 occupancy for an existing building that doesn't have
21 any construction. That's my understanding.

22 MS. SHAW: No proposed construction, yes.

23 MR. HART: That's fine.

24 MS. SHAW: No change, yes.

25 MR. HART: Yes. And so, it doesn't seem like

1 that should be a very -- it seems like a very short
2 kind of discussion with the ANC, and then once the ANC
3 kind of understands it, they can put it on their full
4 agenda, and all that.

5 So, I'm trying to understand all this timeline
6 in this because it doesn't seem like that this should
7 have been -- that you shouldn't have had enough time
8 to be able to have a conversation with the ANC, and
9 that's what we're trying to get to.

10 MS. SHAW: Right. I think the only confusion
11 happened that the BZA hearing was set before the ANC
12 was able to review the case. So, for the next meeting
13 of the ANC, their agenda still was full and they
14 couldn't review our case.

15 And then the solution would have been, yes, to
16 postpone the BZA hearing so we can meet with the ANC.
17 Which was -- we're fine with.

18 CHAIRPERSON HILL: Okay. All right. Do you
19 guys have -- I mean, Mr. Commissioner, you came down
20 here. You don't have an opinion yet, I would assume,
21 right? You still have to --

22 MR. NELSON: I just want to just clarify just
23 a couple of things.

24 CHAIRPERSON HILL: Sure.

25 MR. NELSON: She was told when she called me

1 at that point in time, that if she doesn't reschedule
2 her meeting here today, that it would be ineffective
3 for her to get the ANC. So, I have a little bit of
4 concern with the fact that it was already like two to
5 three weeks ago that I talked to her. I didn't have a
6 chance to go and look exactly the date, but it was at
7 least a week or two before that she could have taken
8 on her own and just said, okay, I understand that,
9 let's change it.

10 And I explained that on the phone to her in
11 good detail, and we did that again when she came to
12 our committee meeting, which she did on the 17th. And
13 we talked about this, and there was some feedback from
14 the committee at that point in time. And there was
15 some issues that were brought up, and in clarity, and
16 I'm not trying to say anything negative against her.
17 I think their issue is that there -- the Committee
18 initial input from them is that they're not going to
19 support this. They're going to recommend to the ANC
20 not to support this.

21 And we gave them specific reasons why. One is
22 that there was no C of O, one is that there's no
23 permit. So technically, as far as the committee
24 members were concerned, this building was built prior
25 to them purchasing it by the previous owner,

1 illegally. So, they have a concern about whether or
2 not this should be condoned and supporting.

3 CHAIRPERSON HILL: Okay.

4 MR. NELSON: And there was also a letter that
5 was sent to me directly, not solicited from the
6 Westminster Association that strongly opposes us
7 supporting this. And when we spoke to her about that
8 at the committee meeting she said she was not aware of
9 that organization and that's why she didn't contact
10 me.

11 CHAIRPERSON HILL: Okay. Okay. Give me one
12 second. Give me one second, Mr. Wright.

13 MR. NELSON: So there are some --

14 CHAIRPERSON HILL: Okay. Okay. It's all
15 right. It's all right. Okay. I appreciate that, Mr.
16 Commissioner.

17 Mr. Wright.

18 MR. WRIGHT: Sorry, just very briefly.

19 CHAIRPERSON HILL: Sure.

20 MR. WRIGHT: Yes, we were made aware of that
21 meeting of the objection, but we do have the support
22 of our neighbors on either side and other people in
23 the street, and we supplied letters --

24 CHAIRPERSON HILL: Okay. Okay. Okay.

25 MR. WRIGHT: -- so I don't mean to sound like

1 -- yeah.

2 CHAIRPERSON HILL: No, that's all right. I
3 was -- so again, we're not going to be able to hear
4 this today. There's too many moving parts, there's
5 too many things going on.

6 So the Commissioner came down here and he has
7 taken his time to come down here. I would do your
8 best to figure out how to get in front of the ANC and
9 get a vote.

10 And then we're going to reschedule this, and
11 then you can come back and we can hear your case. And
12 again, I mean, everyone is trying to work together.
13 The Commission also realizes that you bought this
14 property the way it is, and you're going to need the
15 ANC. So, it's great that you guys are all here right
16 now, and we're going to reschedule this, Mr. Moy,
17 until after we can get a vote from the ANC.

18 Since the Commissioner is here, when do you
19 think they might be able to get in front of you?
20 Could you tell me that? You don't know. You need to
21 push the button, Mr. Commissioner.

22 MR. NELSON: They could come to the next
23 meeting, which would be in August.

24 CHAIRPERSON HILL: Okay. Okay. Great.

25 MR. NELSON: So it would be just, September.

1 CHAIRPERSON HILL: Yes. Sure. Mr. Hood?

2 MR. HOOD: Let me just ask a question. We're
3 talking about the subcommittee and I know this ANC, as
4 we all do. I think Chairman Turner and others. But I
5 know they have a zoning subcommittee. And then
6 they're probably going to -- that zoning subcommittee
7 then is going to take a -- make a recommendation, I
8 believe, to the full commission. Am I correct?

9 MR. NELSON: Correct.

10 MR. HOOD: Commissioner Nelson. So, we know
11 the activity and the activeness of this ANC. So, as
12 the Chairman has already mentioned, let's just go
13 through the process. And I keep hearing the Office of
14 Zoning. The Office of Zoning has many cases all over
15 the city for years, and that process has been put in
16 place for years, and it works. So, really, it's
17 incumbent upon the applicant at times when you saw
18 that this case is before board member Vice Chair Hart
19 was mentioning, before the case, and it's incumbent
20 upon all of us to do our part. It's good to have the
21 ANC. I'm not -- I wouldn't say, this Commissioner
22 would not say that it's mandatory that you have to
23 have the ANC. But it's a good policy and a good
24 process. That's why it's put there. The ANC gives
25 great weight, as well as the Office of Planning.

1 So, really, this could be worked out.
2 Honestly, from my standpoint, today we spent too much
3 time even talking about this. We should already go
4 back and deal with it because I know the reputation of
5 ANC 1B, Chairman Turner and Commissioner Nelson, and
6 others.

7 So we're spending too much time on this, and
8 let's get to what the merits of the case is. Let's
9 give them an opportunity to weigh in so his
10 subcommittee can then take it to the ANC. But let me
11 get back to my point. You think this will be able to
12 go to the full ANC once you hear a date? Can you
13 factor all that in when you all deal with it, when you
14 make your recommendation?

15 MR. NELSON: That's not an issue.

16 MR. HOOD: That's not an issue. Okay. All
17 right. Thank you, Mr. Chair.

18 CHAIRPERSON HILL: Okay. Thank you, Mr. Hood.

19 So, September 7th was the date that was
20 floated at one point, Mr. Moy. Do you have the
21 calendar there?

22 MR. MOY: Yes, I do, Mr. Chairman. I'm also
23 looking at ANC 6E, monthly meetings.

24 UNIDENTIFIED SPEAKER: [Speaking off
25 microphone.]

1 MR. MOY: Well, I have a date of September
2 5th, 2017, for the full ANC meeting. This is 6E.

3 CHAIRPERSON HILL: 6E.

4 MR. MOY: Am I wrong?

5 CHAIRPERSON HILL: Yeah, 6E.

6 MR. MOY: Yeah, that's what I thought. So, I
7 have a full ANC meeting on September 5, 2017. So, if
8 that's correct, in terms of the time sequence, the
9 dates, then the Board meeting on Wednesday, their next
10 scheduled meeting would be the 6th, I don't know if
11 that's too soon for an ANC report.

12 So could the Board easily take this up on the
13 13th, or when Mr. Hood returns on the 27th.

14 MR. HOOD: Mr. Chairman, let me make a
15 correction. I had the wrong ANC, but the rest of my
16 comments apply.

17 CHAIRPERSON HILL: Okay. Okay. Well, let's
18 do it when Chairman Hood is back.

19 MR. MOY: That would be the 27th.

20 CHAIRPERSON HILL: Okay. 27th of September.

21 MR. MOY: Okay.

22 CHAIRPERSON HILL: Okay. Okay. All right.
23 Okay. All right. Okay. All right. Well, thank you,
24 you know, good luck. Okay.

25 MR. MOY: The next case application before the

1 Board is No. 19532. This is Avenue Property, LLC,
2 captioned and advertised for special exceptions relief
3 under Subtitle E, Section 5201; from the rear yard
4 requirements, Subtitle E, Section 205, to construct a
5 three-story rear addition to an existing two-story,
6 four-unit apartment house, RF-1 Zone, 2025 E Street
7 Northeast, Square 4550, Lot 98.

8 MS. O'NEAL: Hello. I have some handouts. Is
9 it okay if I --

10 CHAIRPERSON HILL: Actually, that's okay. Why
11 don't you sit down first and introduce yourselves, and
12 then we'll kind of work through this here a little
13 bit.

14 MS. O'NEAL: Good morning. I'm Millie O'Neal.
15 I'm the owner of 2025 E Street. I --

16 CHAIRPERSON HILL: Is your microphone on?

17 MS. O'NEAL: I don't know. Can you hear me?

18 CHAIRPERSON HILL: Is the green light on?

19 MS. O'NEAL: Yeah, it's on.

20 CHAIRPERSON HILL: Push the green light again.
21 I don't think it's on.

22 MS. O'NEAL: Is this better?

23 CHAIRPERSON HILL: There you go. Okay. And
24 what's your name again? I'm sorry.

25 MS. O'NEAL: Good morning. I'm Millie O'Neal.

1 I'm the owner of 2025 E Street Northeast.

2 CHAIRPERSON HILL: Okay.

3 MS. O'NEAL: I'm here representing myself
4 today. I'm architecturally trained and I'm a
5 certified construction manager and I have over 10
6 years of experience in building.

7 CHAIRPERSON HILL: Okay. Okay. All right,
8 Ms. O'Neal.

9 So we're basically, we're back to a little bit
10 of a procedural thing here that I'm trying to -- we're
11 going to try to work our way through.

12 So currently, have you been working with the
13 Office of Planning? Have you met with them?

14 MS. O'NEAL: Yes. Uh-huh.

15 CHAIRPERSON HILL: Okay. You know that they
16 currently are not making a recommendation?

17 MS. O'NEAL: Yes.

18 CHAIRPERSON HILL: Okay. So that's, again,
19 another piece of the puzzle in terms of what the Board
20 needs.

21 MS. O'NEAL: Well, I know that that was their
22 original recommendation and their statement, but they
23 said that they were probably going to be able to make
24 a verbal recommendation at the hearing because we got
25 caught up with some holidays and the reviewer was

1 actually out for vacation, and then my architect was
2 out for vacation. But they did have several
3 conversations and we have changed the plans
4 significantly to meet OP's requirements.

5 CHAIRPERSON HILL: Okay. All right. Okay.
6 All right. I'm just going to turn to the Office of
7 Planning here to find -- if the Board doesn't mind, to
8 get a little bit further clarification as to where
9 they are.

10 MR. JESICK: Thank you, Mr. Chairman and
11 members of the Board. My name is Matt Jesick.

12 As noted in our report, we requested
13 significant additional information from the applicant.
14 We've been working closely with the applicant and
15 their architect since our report was written to try
16 and get some additional information. Some additional
17 information has been submitted to the record. I think
18 Office of Planning has seen more information. I think
19 all the information needs to be submitted to the
20 record, and once that happens we can update our
21 analysis and provide more feedback to the Board.

22 MS. O'NEAL: All of the information that has
23 been supplementary, has been submitted to the record.
24 I think that --

25 CHAIRPERSON HILL: Ms. O'Neal, give me one

1 second here, all right?

2 MS. O'NEAL: All right.

3 CHAIRPERSON HILL: Because you don't even have
4 -- you don't have a report from the ANC, correct?

5 MS. O'NEAL: Oh, no, I do have -- I do have a
6 report and I have a copy of that right here. The ANC
7 supported -- is supporting this --

8 CHAIRPERSON HILL: Okay. All right. Hold on
9 one second. Hold on one second.

10 MR. MOY: Mr. Chairman, it's in your case file
11 under Exhibit 45. It was Exhibit July 23rd.

12 CHAIRPERSON HILL: Okay. The 23rd. When was
13 the 23rd? That was Sunday, right?

14 MR. HOOD: And I can tell you, Mr. Chairman,
15 just working with 7D the past two or three weeks, they
16 don't take things very lightly.

17 MS. O'NEAL: I had several meetings with
18 neighbors and 7D. I met with Bob Kumer and Sharice
19 Muhammad (phonetic). I had several presentations with
20 them. I have incorporated --

21 CHAIRPERSON HILL: Okay. Ms. O'Neal, just
22 give me one second. Okay? Just give me a second.

23 [Pause.]

24 CHAIRPERSON HILL: Okay. So, we still don't
25 have a report from the Office of Planning. The Office

1 of Planning needs further time to look at the
2 information that's being submitted by you, Ms. O'Neal.
3 And as far as I'm concerned, like, I need to hear
4 from the -- I want to understand the analysis of the
5 Office of Planning. I have reviewed the file, I have
6 reviewed the case. I didn't see the ANC report until
7 just now because it came in on Sunday.

8 But I'm not ready to move forward. I mean,
9 are you guys ready to move forward?

10 MR. HART: I think part of the hesitation with
11 this, with the case, is that you submitted plans, the
12 Office of Planning gave a report, and then you updated
13 those plans and the Office of Planning hasn't reviewed
14 those. And so -- and excuse me. And when the Office
15 of Planning submitted their first report, they stated
16 that there were some deficiencies that needed to be
17 addressed, and you've submitted additional drawings
18 and they need to kind of come back to us to be able to
19 say, oh yeah, this is what we actually asked for, or
20 this is still, you know, outstanding.

21 And that's the part of it that we have to deal
22 with right now. It's hard for us to be able to --
23 specifically because the Office of Planning had not
24 made a recommendation, it is hard for us to then, on
25 the dais today, be able to say, oh okay, this has all

1 been submitted to us because we're not actually
2 looking at -- it's hard to kind of gauge what -- if
3 we've gotten everything that the Office of Planning
4 asked for. And we rely on them to provide us
5 information and provide us some analysis, and then we
6 look at that independently to be able to say, okay
7 yeah, I actually agree with that and we could move
8 forward with it.

9 So, as the chairman said, I think it's hard
10 for us to be able to take all of the information that
11 we have gotten and not understand if the Office of
12 Planning is actually for all of this, or for only a
13 portion of this. And I think that we need to get that
14 before we are able to --

15 MS. O'NEAL: Yeah. May I speak on that a
16 moment?

17 MR. HART: To do that. I'm just giving the
18 Chairman some additional information.

19 CHAIRPERSON HILL: Before you speak on it,
20 does anybody else have anything to say?

21 MR. HOOD: I'm going to say it a little
22 quicker than my good friend, Vice Chair. I just think
23 that the Office of Planning needs to be able to
24 analyze the -- as has already been stated, the new
25 information so we can make an informed decision.

1 That's it. That's all.

2 CHAIRPERSON HILL: Okay. All right. Okay.
3 So, Ms. O'Neal, we're going to reschedule you.

4 MS. O'NEAL: Okay.

5 CHAIRPERSON HILL: Okay? And, Mr. Moy, when
6 do you think we might be able to do this?

7 MS. O'NEAL: I mean, can we hear from Office
8 of Planning to make sure because he did tell me that
9 he was going to make a verbal recommendation.

10 CHAIRPERSON HILL: We just heard from the
11 Office of Planning. I need a report, we need a
12 report. This isn't happening today.

13 MS. O'NEAL: All right.

14 MR. MOY: Mr. Chairman, my first inclination
15 is to reschedule this to September 20 -- when was the
16 last one?

17 CHAIRPERSON HILL: Twenty-seventh, when Mr.
18 Hood is back.

19 MR. HOOD: Well, actually, you don't have
20 to -- it seems like everybody is ready to go, Mr.
21 Jesick. Probably if you all can do it sooner, I'm
22 sure that the applicant would appreciate it. I don't
23 want to --

24 MS. O'NEAL: That would be great if you could
25 do it sooner because --

1 CHAIRPERSON HILL: Okay. All right.

2 MS. O'NEAL: Yeah, if the property is vacant
3 it's creating a --

4 CHAIRPERSON HILL: Okay. Okay.

5 MS. O'NEAL: -- nuisance right now.

6 CHAIRPERSON HILL: Okay. Mr. Moy, he's
7 looking at our calendar.

8 MR. MOY: All right. Given the size of the
9 dockets for the hearings in September, Mr. Chairman, I
10 would recommend rescheduling this to September 20th.

11 CHAIRPERSON HILL: Okay. All right, so Mr.
12 Hood, I mean, you might as well wait -- Mr. Moy, we're
13 going to put this on the 27th because Mr. Hood is here
14 now, and so that's just one more week later. And
15 since he's already aware of the case, it would be more
16 helpful if he were here.

17 So the 27th. We're going to do it on the
18 27th.

19 MS. O'NEAL: All right.

20 MR. MOY: Okay.

21 CHAIRPERSON HILL: Okay? All right.

22 MR. MOY: The next case application before the
23 Board is Number 19533 of Richard Hall. This is for a
24 special exception under Subtitle D, Section 5201, from
25 the rear yard requirements, Subtitle D, Section

1 1206.2, to construct a rear deck on an existing one-
2 family dwelling, R-20 Zone. This is at premises 1959
3 39th Street Northwest, Square 1310, Lot 77.

4 CHAIRPERSON HILL: Great. Thank you. If you
5 could please introduce yourselves from my right to
6 left?

7 MS. HALL: Linda Hall. I'm a co-owner of the
8 property.

9 MR. HALL: And I'm Richard Hall, co-owner of
10 the property.

11 MR. GIBBONS: Good morning, Joe Gibbons, ANC
12 2E Chair. Good morning.

13 CHAIRPERSON HILL: Well, I would first like to
14 just complement you on a full application. We're
15 going to hear a case -- we're going to hear your case
16 today. Everything is here, you've got the ANC
17 commissioner, the Office of Planning report, this is
18 great. If anybody is here with any of these -- if you
19 don't have any of these things, you might as well just
20 go right now, you know? So, I'm just -- that's not --
21 I'm just joking.

22 MR. HALL: Thank you.

23 CHAIRPERSON HILL: All right. Okay. So,
24 whose going to present for us? One of you guys, I
25 guess? Mr. Hall and Ms. Hall, in terms of the

1 presentation. You're going to be speaking?

2 MR. HALL: Yes, sir.

3 CHAIRPERSON HILL: Okay. All right. So, I
4 don't have any specific questions, I guess, about the
5 application. I would like to again hear in general
6 what is you're trying to propose and how you're
7 meeting the standard. Obviously, the commissioner is
8 here from your ANC, which is very kind of him to take
9 time out of his day.

10 And then the Office of Planning did have some
11 comments concerning relief from C-202.2. I don't know
12 if you're aware of that or not in terms of the Office
13 of Planning is recommending that that is something
14 that you would add to your application.

15 We'll get to it if you don't know.

16 MR. HALL: That's new to me, having seen that
17 report just recently. The 202.2.

18 CHAIRPERSON HILL: Okay. Okay. So, Mr. Hall,
19 I'm going to go ahead and give you 10 minutes to
20 present to us, okay? And you can tell us about your
21 project, the relief you're requesting, and how you're
22 meeting the standard. Okay?

23 MR. HALL: We want to build to a deck to the
24 back of our house on the main level. At the rear of
25 the house it is the second level. The zoning

1 requirement, Subtitle D, Section 5201.1 requires a 20-
2 foot back yard. We are at the -- our alley, we are at
3 the end of our alley, and the turnaround for the alley
4 cuts into our back yard. We don't have 20 feet in any
5 spot on the back yard. We have 18 feet on the south
6 and we have seven -- we have eight feet on the north.
7 So we are requesting a variance of that Subtitle D,
8 5201.1.

9 We're going to put a spiral staircase to give
10 us -- to minimize the space required for the stairway,
11 and that spiral staircase will go on the south side of
12 the deck. That's basically it.

13 We have written letters to neighbors. We have
14 many letters of support from neighbors, particularly
15 adjacent south and north neighbors. That's, that's
16 really it.

17 CHAIRPERSON HILL: Okay. That's fine. Thank
18 you.

19 Does the Board have any questions for the
20 application?

21 Okay. Then I am going to turn to the Office
22 of Planning.

23 MR. COCHRAN: Thank you, Mr. Chair. OP is
24 recommending approval of the application. Obviously,
25 the applicant had filed originally for relief pursuant

1 to -- from 1206.2, Subtitle D, pursuant to 5201.1.

2 And we recommend approval of that.

3 This wasn't self-certified. It was referred
4 to by -- it was referred by the DCRA. So, just in
5 case it went back to DCRA after you give them
6 approval, we thought out of an abundance of caution
7 that we should note that they already have an existing
8 nonconforming rear yard.

9 So we thought they ought to get relief from
10 202.2 also. We have absolutely no problem with that.

11 They've already had a deck in that rear yard before.

12 It's been demolished. This would be a new deck back
13 there. So, we're recommending approval for both of
14 those.

15 We had also noted that if DDOT recommended
16 that the design be changed a bit so that the stairs
17 that would go from the new deck down to the ground
18 level were to be moved, that we would not have a
19 problem with that.

20 DDOT looked at it further. They decided that
21 there's basically no way they could get out of either
22 their back door or their car door if those stairs were
23 moved, so they didn't recommend that the stairs be
24 moved. So our recommendation for relief from both of
25 those stands.

1 CHAIRPERSON HILL: Okay, great. Thank you,
2 Mr. Cochran.

3 So, Mr. and Mrs. Hall, the Office of Planning
4 is recommending that you add 202.2 to your
5 application, and they're approving that. I assume you
6 would verbally amend your application now to include
7 C-202.2?

8 MR. HALL: Yes, I would. I would do that.

9 MS. HALL: Yes, we would do that.

10 CHAIRPERSON HILL: Okay.

11 MR. HALL: I ask for just a stipulation of
12 what 202.2 says, because we do intend to go to DCA.

13 CHAIRPERSON HILL: Sure. Mr. Cochran, would
14 you take that, please?

15 MR. COCHRAN: It just means that your property
16 right now is nonconforming and the rules are that you
17 have to ask for relief if you want to do an addition
18 to a nonconforming property. And this, if the Board
19 votes to give you that approval, you would then have
20 permission, not only for the rear yard exception, but
21 to expand a property that doesn't conform.

22 MR. HALL: I understand.

23 CHAIRPERSON HILL: Okay, great. Does anyone
24 have any questions for the Office of Planning?

25 All right.

1 MS. GLAZER: Mr. Chair.

2 CHAIRPERSON HILL: Sure.

3 MS. GLAZER: Sorry to interrupt.

4 CHAIRPERSON HILL: Certainly.

5 MS. GLAZER: But I just want to note for the
6 record that the applicant did self-certify the
7 application and I believe it was self-certified in May
8 of 2017. The ZA also submitted a memorandum, as Mr.
9 Cochran pointed out. The ZA's memo did not include
10 the relief for expansion of a nonconforming structure,
11 so the applicant's application is consistent with the
12 ZA memo. However, OP has a different opinion. I just
13 wanted to clarify.

14 CHAIRPERSON HILL: Okay. Okay. Great. Thank
15 you. All right. Okay. So, do you have any questions
16 for the -- oh, you've already asked your question of
17 the Office of Planning. You're good?

18 MR. HALL: Yes.

19 CHAIRPERSON HILL: Okay. All right. So, is
20 there anyone here from the ANC?

21 MR. GIBBONS: Yes. Joe Gibbons, ANC 2E Chair.
22 We're proud to support this applicant and the
23 position and the location of the deck will have no
24 adverse impact on the neighborhood or the surrounding
25 homeowners.

1 CHAIRPERSON HILL: Okay.

2 MR. GIBBONS: So, we proudly support this
3 applicant.

4 CHAIRPERSON HILL: Okay, great. Well, nice to
5 see you, Commissioner.

6 MR. GIBBONS: Nice to see you.

7 CHAIRPERSON HILL: All right. Nice that you
8 have pants on today.

9 [Laughter.]

10 MR. GIBBONS: Thank you.

11 CHAIRPERSON HILL: Well, yeah, he had -- I'm
12 sorry. I will clarify. He was wearing shorts the last
13 time he was down here, right? Yeah.

14 But thank you for taking your time to come
15 down here.

16 MR. GIBBONS: Thank you, sir.

17 CHAIRPERSON HILL: I'm sure your constituents
18 are very thankful for that.

19 All right. Is there anyone here, or does
20 anybody have any questions for the Commissioner?
21 Okay.

22 Is anyone here wishing to speak in support of
23 the application?

24 Is there anyone here wishing to speak in
25 objection to the application?

1 [No audible response.]

2 CHAIRPERSON HILL: All right. Do you have
3 anything else you'd like to add?

4 MR. HALL: No, sir.

5 CHAIRPERSON HILL: Okay. All right. Then,
6 I'm going to go ahead and close the record. Is the
7 Board ready to deliberate?

8 Okay. So, yeah, I don't have really anything
9 in terms of further clarification. I mean, after
10 reading through the record and also the analysis of
11 the Office of Planning, I am comfortable approving the
12 application. Does the Board have anything they'd like
13 to add?

14 MR. HART: Yeah. I guess that would just be
15 the amended -- the amended part that's --

16 CHAIRPERSON HILL: Yeah, the C-202.2. Uh-huh.
17 Okay. All right. Then -- and, Mr. Commissioner, I'm
18 just joking. It's very nice to see you.

19 So, I'll go ahead and make a motion to approve
20 Application 19533 pursuant to 11-DCMR Subtitle X,
21 Chapter 9 for a special exception under Subtitle D-
22 5201, from rear yard requirements of Subtitle D,
23 1206.2 to construct a rear deck on existing one-family
24 dwelling in R-20 Zone, as well as relief from C-202.2
25 at premises 1959 39th Street Northwest, Square 1310,

1 Lot 77, and ask for a second.

2 MR. HART: Second.

3 CHAIRPERSON HILL: Motion has been made and
4 seconded.

5 [Vote taken.]

6 CHAIRPERSON HILL: Motion passes, Mr. Moy.

7 MR. MOY: Staff would record the vote as four,
8 to zero, to one. This is on the motion of Chairman
9 Hill to approve the amended relief to Application No.
10 19533. Seconded the motion, Vice Chair Hart. Also in
11 support, Mr. Anthony Hood and Ms. White. We have a
12 board seat vacant. Motion carries.

13 CHAIRPERSON HILL: Thank you. Summary order,
14 Mr. Moy.

15 MR. MOY: Thank you, sir.

16 CHAIRPERSON HILL: Thank you. Thank you all
17 very much.

18 MR. HALL: Thank you.

19 MR. MOY: The next case application before the
20 Board is Application No. 19534 of Rock Creek Property
21 Group, LLC, captioned and advertised from special
22 exceptions under Subtitle G, Section 1200.4. This is
23 from the side yard requirements of Subtitle G, Section
24 306.1, and from the use requirements, Subtitle U,
25 Section 504.1(g), to construct an addition to an

1 existing building for office use in the MU-2 Zone.
2 This is at premises 5 Thomas Circle Northwest, Square
3 212, Lot 852.

4 CHAIRPERSON HILL: All right, great. Thank
5 you, Mr. Moy.

6 If you could please introduce yourselves from
7 my right to left?

8 MR. VANPELT: Good morning. I'm Dan VanPelt
9 with Gorove/Slade Associates.

10 MR. KADLECEK: Good morning. Cary Kadlecek
11 from Goulston and Storrs.

12 MS. JACOBSON: Good morning, Jenna Jacobson
13 with Rock Creek Property Group.

14 MS. NELSON: Good morning. Jane Nelson with
15 Nelson Architects.

16 MR. GENTLE: And Stephen Gentle, Senior Pastor
17 at National City Christian Church.

18 CHAIRPERSON HILL: Great. Okay. All right.
19 Mr. Kadlecek, are you going to be presenting to us?

20 MR. KADLECEK: Yes, if it pleases the Board,
21 we'll give you a very short --

22 CHAIRPERSON HILL: Okay.

23 MR. KADLECEK: -- under 10-minute
24 presentation.

25 CHAIRPERSON HILL: Okay. So, I am going to go

1 ahead and put 10 minutes on the clock whenever Mr. Moy
2 comes back, and would like to hear, in terms of the
3 relief that you're requesting in term -- and as well
4 as how you're meeting the standard for that. I would
5 like a little bit more clarification, I suppose, on
6 just the TDM plan and even just a verbal. You know,
7 the one condition that DDOT had was that the applicant
8 shall implement the June 9th, 2017 TDM plan, which is
9 under Exhibit 30, for the entire property and for the
10 life of the project. Is that yes?

11 MR. KADLECEK: Yeah, we'll address --

12 CHAIRPERSON HILL: Okay. All right. Okay.
13 Okay.

14 MR. KADLECEK: We'll address that.

15 CHAIRPERSON HILL: Then, go ahead and start.
16 I'll just put 10 minutes up there for you, whenever
17 you'd like to begin.

18 MR. KADLECEK: Yes, again, Cary Kadlecek with
19 Goulston and Storrs on behalf of the applicant. Just
20 as a quick overview, the applicant is requesting two
21 areas of relief. One is a special exception for
22 general office use for both the addition that's being
23 proposed, plus the existing building, the Campbell
24 building that's there now. And then the second is for
25 side yard relief.

1 As Jane will explain, it's a little bit of a
2 technicality. It sort of looks like a rear yard but
3 it's actually technically a side yard. We're pleased
4 to have the support of the Office of Planning, of
5 DDOT, and of ANC 2F. So, with that, I'll let the
6 pastor speak.

7 MR. GENTLE: Good morning. Again, my name is
8 Steve Gentle, Senior Pastor at National City Christian
9 Church. I reside with my family at 1107 S Street,
10 about five blocks from the congregation. I've served
11 the church for nearly 12 years and it's a pleasure to
12 be before you today and speak in support of this
13 project.

14 National City Christian Church has been in our
15 community for nearly 170 years, and presently we're a
16 congregation that is bilingual, Spanish speaking as
17 well as English speaking, multi-cultural, open and
18 affirming congregation that truly seeks to serve the
19 community where we live and where we try to make an
20 impact.

21 Our community services include food pantry,
22 which feeds hungry persons with kitchen facilities or
23 no kitchen facilities. Toddler's play group, which is
24 a majority of family members that don't even
25 participate in the church services but come and use

1 the facilities for a variety of activities.

2 We have a weekly organ recital that's free to
3 the community. LGBTQ plus events, socials, community
4 events, including the monthly meeting space for the
5 Capital Pride Planning Committee.

6 Anyway, we just seek to serve the community
7 and we're excited about this project. The
8 congregation has been in conversations about the
9 design of the building and the plaza, and we know that
10 it will restore this largely vacant building that we
11 have on the west side of our sanctuary, and transform
12 it into a beautiful safe, secure, and useful site to
13 build on the church's legacy.

14 The west wing building has been used for many
15 purposes over its 60 plus years of life, as
16 educational facilities for children and adults. In
17 the 1970s the building was utilized to house our
18 community children's ministry that offered after-
19 school tutoring and education enrichment opportunities
20 for the neighborhood children, primarily from Thompson
21 Elementary School.

22 In that time, the church has also made spaces
23 available to community partners, which has included
24 the House of Ruth, IMAYA (phonetic) Services for the
25 Aging, the Council of Churches in the Greater

1 Washington Area.

2 More recently, particularly in my time, the
3 building has been leased to a public charter school
4 that's had an enrollment of about 250 elementary
5 school children. And for several years now -- pardon
6 me. For several years now, the building has been
7 largely vacant. And so, we support the petition for
8 zoning variance so that this place on 5 Thomas Circle
9 can be a beautiful and safe place that adds to the
10 community where we live and serve.

11 CHAIRPERSON HILL: Thank you. Pastor Gentle?

12 MR. GENTLE: Yes.

13 CHAIRPERSON HILL: Oh, that's an appropriate
14 name as the Vice Chair Hart just mentioned to me.
15 Thanks for coming down. Okay.

16 MS. NELSON: I will try to make a brief
17 presentation. If I go through it too quickly and I've
18 put some of the slides at the back, so feel free to
19 just ask me afterwards if I've gone through --

20 CHAIRPERSON HILL: Okay. Okay.

21 MS. NELSON: -- too fast.

22 CHAIRPERSON HILL: Thank you.

23 MS. NELSON: So, to orient you on this aerial
24 view, the site is right here. The whole lot contends
25 right here. So, we have Massachusetts Avenue, 14th

1 Street, N Street, and Thomas Circle.

2 The record lot, record lot 123, is outlined in
3 red, and that has changed significantly over time.
4 The original church structure was built in 1930. The
5 west wing addition, the Campbell Wing, was built in
6 1953. The Beasley Wing was built in 1985, and then
7 finally, an 11-story apartment building was developed
8 in 2005.

9 Both of the wings on either side of the church
10 have been used over the years as office use, and the
11 Campbell Wing has had also some educational use. But
12 as it has been said, the building is mainly
13 unoccupied. The scope of our project is to renovate
14 the Campbell Wing and add two stories. We are seeking
15 a special exception to be allowed to use the Campbell
16 Wing as general office use.

17 When the apartment building was developed, it
18 used the N Street as its rear yard. Therefore, the
19 north face of the Campbell Wing, the rear of the
20 Campbell Wing, is considered a side yard, even though
21 it is at the rear of the Campbell Wing and functions
22 as a rear yard. So, this right here is that. And
23 here's the alley, and the alley goes through. That's
24 now technically a side yard.

25 MR. HART: Can you say that again?

1 MS. NELSON: So --

2 MR. HART: Can you say that again, why it was
3 a side yard?

4 MS. NELSON: So, when the 11-story apartment
5 building was built, it used N Street as -- so it's all
6 on one record lot. So it used N Street as the rear
7 yard. So it couldn't measure to the center line of N
8 Street to satisfy its rear yard requirement. That
9 then made the rear yard of the Campbell Wing and the
10 church actually, technically, a side yard. So that
11 now has to meet the side yard requirements.

12 So, right now, the existing building and our
13 two floors added on top, that setback is nine-foot-
14 seven at its smallest, and 10-foot-two on its widest.
15 The requirement is 10-foot-11. So, we actually need
16 a side yard relief for one-foot-four.

17 So, as we've described, the side yard relief
18 is really necessary only because of a technicality.
19 It's worth nothing that if this were classified as a
20 rear yard, which is functionally what it is, the rear
21 yard requirement would be 12 feet, and we are
22 providing 19-feet-seven-inches, since a rear yard
23 would be measured to the center line of that alley.

24 This is the site plan for the addition, again,
25 showing that we're going straight up on the existing

1 façade, so that setback does not change.

2 The views, very quickly, we're looking north
3 across Thomas Circle, at the church, and the
4 neighboring buildings on the south. I mean, the
5 bottom slide we're looking Southeast. And then on
6 this slide we're looking Southwest, and you can see
7 the Campbell wing on the right side of the slide here.

8 So, as you can see, the building is surrounded
9 by much taller buildings with uses that vary from
10 commercial office use to hotels, to multi-family
11 residential.

12 On the slide at the upper left, you can see
13 the Beasley Wing on the right and the Campbell Wing on
14 the left. And that line -- so, the massing of those
15 two wings is a little lopsided right now. We're
16 proposing to add a fourth floor to the Campbell -- a
17 full fourth floor to the Campbell Wing, to balance
18 that symmetry.

19 On the slides, the photographs from the
20 bottom, now we're looking at where we are asking for
21 the -- this is the rear of the Campbell, the rear of
22 the church, the rear of Beasley, and we're looking
23 down the alley. And here's the rear of the Campbell
24 Wing.

25 So this area is what has now technically a

1 side yard. This is the area that we are asking for
2 that one-foot-four-inch relief from a side yard
3 requirement.

4 This rendering is showing -- it's taken across
5 Thomas Circle, and it shows proposed fourth-floor
6 addition, setback fifth floor, and the penthouse
7 screening. The design intent -- sorry. The design
8 intent is that our fourth-floor addition is an attic
9 story, which is the same treatment as the Beasley
10 Wing. From this belt course up is considered
11 architecturally an attic story, and so we are
12 similarly doing that on our wing.

13 The next slides are basically taking views
14 from as you go around the circle counter-clockwise.
15 And here again, you can see how the now the Campbell
16 Wing and the Beasley Wings are more balanced.

17 This view is taken straight on from the --
18 looking at the church. And this view is in the entry,
19 looking in the entry court to our Campbell Wing, which
20 is the essence of our project.

21 The façade material of the fourth floor is
22 limestone, to match the limestone of the existing
23 building. Our intent for the design of the attic
24 story was to be complimentary to the existing façade
25 below, but not replicated it, and therefore

1 distinguishing it as an addition that occurred 60
2 years later.

3 In this view, you can see the fifth floor is
4 set back significantly, almost 47 feet from the south
5 façade. Because it's set back, we did not feel that
6 it should be limestone. We wanted a material that
7 would be complimentary to the limestone, and since the
8 existing limestone has a smooth surface of rectangular
9 units and tight joints, with very little relief,
10 articulation on it, it has a -- overall, it has this
11 sense of a taught skin. And we feel that the glass
12 curtain wall with butt joints at the fifth floor, and
13 then the smooth metal panels, also at butt joints, at
14 the penthouse screening, would be compatible and give
15 that taught skin feeling.

16 Wanted to note that the penthouse is set back
17 an additional 40 feet from the fifth floor setback.

18 I won't go through, in saving time. These
19 are, the you know, two-dimensional drawings of the
20 facades. I'll just note that on the west façade, the
21 limestone of the existing buildings turns the corner
22 and then transitions to brick. We propose to do the
23 same thing on our fourth-floor addition. And then at
24 the fifth floor, we'll turn the glass curtain wall
25 just slightly, and then again transition to brick.

1 This drawing is of that rear façade where
2 we're requesting the side yard relief. In the plans,
3 so everything on that is shaded is the -- are church
4 functions, including this area right here, which is
5 below the entry court. And this will maintain as
6 church functions. Our entrance to the Campbell Wing
7 is right here. We are redoing the existing ramps
8 because they do not meet current ADA, and in doing so,
9 we're going to basically build them into the hill so
10 they become more part of the landscape, and then pull
11 them away from the portico of the church.

12 The second and third floor existing on this
13 slide right here is our proposed fourth-floor
14 addition. And it takes the full footprint of the
15 existing building. Slide on the right is of our fifth
16 floor. We are setting back the fifth floor by 46-
17 feet-eigh-inches, and then -- which is basically the
18 point -- this line right here is the connector of the
19 Campbell Wing to the church. So, we are lining that
20 with the edge of the building below, and then the
21 fifth floor we're setting back an additional 16 feet.
22 And that dimension aligns with some architectural
23 elements on the façade of the church.

24 CHAIRPERSON HILL: Okay. Okay. All right.
25 Does the Board have any further questions for the --

1 you're going to talk about the --

2 MR. KADLECEK: We'll address the TDM really
3 quickly.

4 CHAIRPERSON HILL: Okay. Yeah.

5 MR. VANPELT: Yeah, just real quick. Again,
6 Dan VanPelt with Gorove/Slade.

7 There was a CTR that was done for this study,
8 and we scoped that out with DDOT, and we coordinated
9 with DDOT early on in the process. And then the CTR
10 determined that there was no -- the minimal
11 transportation impacts. You know, so we have DDOT's
12 concurrence on our transportation review. There was
13 the one condition about the TDM plan being for the
14 entire property and for the life of the project. We
15 understood that it was for this project, not for the
16 entire property, because that's what we had discussed
17 with DDOT.

18 For the life of the project, we also
19 understand that that's new language from DDOT that
20 we're going to see as far as the standard, what
21 they're going to expect from a TDM plan. We've always
22 kind of understood that a TDM plan is -- lives with
23 the life of the project, so that really just fits with
24 our understanding and we don't have any issues, and we
25 agree to that condition.

1 CHAIRPERSON HILL: Okay, just to clarify
2 because you kind of lost me there just for a half
3 second.

4 MR. VANPELT: Sure.

5 CHAIRPERSON HILL: So, you are agreeing to
6 what the language with which we had gotten from DDOT
7 earlier, which again was that -- I'm just going to
8 reread it.

9 "The applicant shall implement the June 9th,
10 2017 TDM plan," that you guys submitted under Exhibit
11 30, "and for the entire property and for the life of
12 the project."

13 MR. VANPELT: I think the -- do you want to

14 MR. KADLECEK: Yes. Except for the property.
15 The property is the whole record lot, so we just want
16 to be clear that the property is just for this project
17 site, which is lot -- I can't remember off -- this is
18 on the tax lot 8, 8 something.

19 CHAIRPERSON HILL: 852?

20 MR. KADLECEK: Lot 852, right.

21 CHAIRPERSON HILL: So now, what are you
22 proposing the language to be? Can you say it again?

23 MR. VANPELT: Take out entire property, and
24 for this project or for this --

25 CHAIRPERSON HILL: For the life of the

1 project, for this lot.

2 MR. VANPELT: Yeah.

3 MR. KADLECEK: Right. Just take out the
4 phrase, "for the entire property." It could be
5 replaced as the project site.

6 CHAIRPERSON HILL: Okay. Does OAG have any
7 comments or thoughts about that? Is that --

8 MS. GLAZER: OAG has no problem with it from a
9 legal perspective.

10 CHAIRPERSON HILL: Okay. All right. Okay.
11 Okay. All right. So, you can keep going.

12 MR. KADLECEK: That's all we have. Thank you.

13 CHAIRPERSON HILL: Okay, great. Does the
14 Board have any questions for the applicant?

15 MR. HART: Just one really quick question.
16 The penthouse, it does not need to be set back from
17 the side yard, from the -- I don't know what you call
18 it now. Is the side -- from the building just to the
19 west of it, because currently it's set back from the -
20 - what I would consider the back, but it may be
21 something else. But the side part is -- in the front
22 there's no issue, but the side was -- I just want to
23 make sure that we're clear on that. And so --

24 MS. NELSON: Yes, the penthouse does meet the
25 current setback requirements, the current penthouse

1 requirements.

2 MR. KADLECEK: So, that the requirement in
3 this case is, because the building to the west is not
4 adjacent, the setback requirement is one-half to one,
5 and the penthouse is set back accordingly.

6 MR. HART: Okay.

7 CHAIRPERSON HILL: Okay. Going to turn to the
8 Office of Planning.

9 MR. GOLDEN: Good morning, Bryan Golden,
10 Office of Planning.

11 We are recommending approval of this project
12 and would stand on the record of our report, and I'm
13 available for any questions if you have any.

14 CHAIRPERSON HILL: Does the Board have any
15 questions of the Office of Planning?

16 MS. WHITE: Did you have any comment on the
17 change that we just -- what they're suggesting we make
18 to the TDM plan to strike, entire property?

19 MR. GOLDEN: I can't speak for DDOT, but that
20 seems reasonable from our perspective.

21 CHAIRPERSON HILL: Okay. Does the applicant
22 have any questions for the Office of Planning?

23 MR. KADLECEK: No questions. Thank you.

24 CHAIRPERSON HILL: Okay. Is there anyone here
25 from the ANC?

1 Is there anyone here wishing to speak in
2 support of the application?

3 Is there anyone here wishing to speak in
4 opposition to the application?

5 [No audible response.]

6 CHAIRPERSON HILL: All right. With that,
7 we'll turn back to the applicant. Is there anything
8 else further you'd like to add?

9 MR. KADLECEK: We have nothing further, thank
10 you.

11 CHAIRPERSON HILL: All right. Does the Board
12 have anything they'd like to add, or questions?

13 [No audible response.]

14 CHAIRPERSON HILL: Okay. Then I'm going to go
15 ahead and close the record. Is the Board ready to
16 deliberate? Okay.

17 Well, based upon the record and the
18 presentation that we just heard, I don't have any
19 particular issues with this, with the relief that's
20 being requested. I think it is interesting, the whole
21 side-yard, rear yard issue that was presented to us
22 and how that kind of came about.

23 I am satisfied with the analysis that the
24 Office of Planning has provided, as well as that ANC
25 2F was in approval -- actually, I do have a question.

1 I'm going to -- so, the vote at the ANC was six to
2 one?

3 MR. KADLECEK: Yes.

4 CHAIRPERSON HILL: Why did one person vote no?

5 MR. KADLECEK: I'll let Jenna respond to that.

6 CHAIRPERSON HILL: Okay.

7 MS. JACOBSON: So, we went before the ANC four
8 times, twice for HPRB and two times for BZA. Full ANC
9 for one meeting, for the BZA, and then the CDC
10 Committee. And the comment -- I don't want to speak
11 for the commissioner who voted against it, but the
12 comment was the same he had at HPRB, which he didn't
13 particularly like the view from -- he lives about a
14 block away and said he may not like the view of the --

15 CHAIRPERSON HILL: Okay. Okay. I was just
16 curious. Okay.

17 MS. JACOBSON: That was my understanding of
18 it.

19 CHAIRPERSON HILL: Yeah.

20 MR. HOOD: Let me just ask this question, was
21 he -- is he the single-member district commissioner
22 for this area?

23 MS. JACOBSON: He is not.

24 MR. HOOD: And let me -- since I have the mic,
25 let me just ask this. What goes on in the bottom of

1 National -- the church. What do you all have in the
2 basement? And this is not pertaining, I'm just
3 curious. I've actually been down there, but I just
4 want to know, what do you all have in the basement?

5 MR. GENTLE: You're referring to the Campbell
6 building itself, or underneath the plaza?

7 MR. HOOD: Where the members who have passed,
8 what do you call it? What do you all have down there?

9 MR. GENTLE: Oh, excuse me. Yes, thank you.

10 MR. HOOD: I have two friends who are actually
11 down there. I'm just curious, what do you all call
12 that?

13 MR. GENTLE: That's called the columbarium,
14 and it's just a beautiful location for cremated
15 remains to be --

16 MR. HOOD: Okay.

17 MR. GENTLE: -- inurned and remembered.

18 MR. HOOD: So, you all have space for
19 additional people. I mean, does it ever run out of
20 space because I know it's quite a bit down there.

21 MR. GENTLE: Eventually, it will run out.

22 MR. HOOD: Eventually it will run out, but not
23 now.

24 MR. GENTLE: I think we're okay for --

25 MR. HOOD: And that's the side bar, but so

1 thank you.

2 MR. GENTLE: -- at least five -- 50, 60 years,
3 probably.

4 MR. HOOD: Fifty, 60 years' worth. Okay. All
5 right. Thank you.

6 CHAIRPERSON HILL: Are you thinking about your
7 future, Mr. Hood, somewhere?

8 MR. HOOD: No, actually I have some people who
9 have passed and they were well thought of here in this
10 city, the Tally family.

11 MR. GENTLE: Oh, yes.

12 MR. HOOD: Yeah, Mr. and Mrs. Marcus Tally.

13 MR. GENTLE: Services for Helen and Marcus.

14 MR. HOOD: Right. Helen and Marcus Tally.
15 Yeah.

16 MR. GENTLE: Yeah, wonderful, wonderful people
17 and the columbarium is open to the public.

18 MR. HOOD: So, you knew them?

19 MR. GENTLE: Oh, very well. Yes.

20 MR. HOOD: Okay. I attended their service.
21 Okay.

22 CHAIRPERSON HILL: All right, Chairman Hood.

23 MR. HOOD: It was an aside.

24 CHAIRPERSON HILL: All right, Chairman Hood.
25 That's all right. That's all right.

1 But now I do -- I am close enough to the
2 neighborhood that I'm going to swing on by and take a
3 look for myself.

4 Okay. So, thank you for answering those
5 questions. So, once again I'm going to close the
6 record and does the Board have anything to add before
7 I make a motion?

8 MS. WHITE: My comment is that this is a very
9 good presentation, very impressed with the PowerPoint
10 that you have. Very familiar with the area. I'm very
11 familiar with all the wonderful things that the church
12 has done over the years. But looking strictly at the
13 standards for the request that you're asking for
14 today, I'm comfortable that you've met the burden and
15 I could support your request for a special exception
16 for aside and new office use.

17 CHAIRPERSON HILL: Okay, great. So, I'll go
18 ahead and make a motion to approve Application No.
19 19534 as read by the secretary, including the
20 condition from DDOT, which is the applicant shall
21 implement the June 9th, 2017 TDM plan under Exhibit
22 30, for the project site for the life of the project.
23 And motion has been made and seconded.

24 [Vote taken.]

25 CHAIRPERSON HILL: Motion passes, Mr. Moy.

1 MR. MOY: Staff would record the vote as four,
2 to zero, to one. This is on the motion of Chairman
3 Hill to approve the application for the relief
4 requested. Seconded the motion, Mr. Hood. Also in
5 support, Ms. White, Vice Chair Hart, we have a board
6 seat vacant, and the approval also includes the
7 condition, or the amended condition in terms of the
8 language. The motion carries.

9 CHAIRPERSON HILL: Okay. Thank you. Summary
10 order, Mr. Moy?

11 MR. MOY: Yes, sir.

12 CHAIRPERSON HILL: Okay. Thank you all very
13 much.

14 MR. KADLECEK: Thank you.

15 CHAIRPERSON HILL: And we are going to take a
16 quick two-minute break. Thank you.

17 [Off the record from 11:47 a.m. to 11:58 a.m.]

18 CHAIRPERSON HILL: All right, Mr. Moy. Let's
19 get back started again. And we're readjusting the
20 agenda a little bit. And we're going to put --
21 there's one case that's going to go last, and that is
22 going to be 19540 of Starbucks. So, just to let
23 everybody know, we're going to hear that one last.

24 So, Mr. Moy, whenever you'd like, you can call
25 our next case.

1 MR. MOY: I'm sorry, Mr. Chair, I think my
2 miscommunication. I think the reference to go last
3 would be 19539 of 74 R Street, if that's okay with the
4 Board. I was thinking coffee at the time, so my bad.

5 CHAIRPERSON HILL: Okay. All right. So, just
6 so I'm clear. Hold on. Just let me take a look here
7 now. Okay, so 19539, Application 74 R Street. So,
8 that's now going to go last.

9 MR. MOY: That's correct.

10 CHAIRPERSON HILL: Okay. All right. Okay.
11 So then, other than that we're going to follow the
12 agenda. So, you can call our next case.

13 MR. MOY: Yes. Okay, I'm calling for the
14 record, Application No. 19536. This is the
15 application of Brian and Carolyn Wise. And for the
16 record, I'll just go ahead and read what's been
17 captioned, Mr. Chair, for the transcript. And this is
18 pursuant to 11-DCMR, Subtitle X, Chapter 9, for
19 special exceptions under Subtitle E, Section 5204;
20 from the rear yard requirements of Subtitle E, Section
21 5104; side yard requirements of Subtitle E, Section
22 5105; and pursuant to Subtitle X, Chapter 10, for
23 variances from the alley center line setback
24 requirements, Subtitle E, Section 5109; and the
25 pervious surface requirements, Subtitle E, Section

1 5107, to construct a two-story, two-unit apartment
2 house on an alley lot in the RF-3 Zone at 205 3rd
3 Street Southeast, Square 762, Lot 828.

4 CHAIRPERSON HILL: Okay, great. Good
5 afternoon. If you could please go ahead and introduce
6 yourselves, please, from my right to left?

7 MR. WISE: Brian Wise, the owner of the
8 property.

9 CHAIRPERSON HILL: Okay.

10 MS. ERWIN: And my name is Stephanie Erwin,
11 I'm here to represent the architect.

12 CHAIRPERSON HILL: Okay. Okay. So, who would
13 be presenting to us?

14 MS. ERWIN: I'm going to present.

15 CHAIRPERSON HILL: Okay. All right. So, Ms.
16 Erwin, I guess there is something that now has been
17 put into the record, concerning a Fair Housing Act,
18 and that's something that came in a little bit later
19 for us. And after looking through this and then
20 discussing with the Office of Attorney General, it
21 seems that the most prudent thing to do would be to
22 wait until you've gone through that particular process
23 in order for us to hear this.

24 So that would be my statement first to the
25 Board. Secondly, I guess, is that after that process

1 has been completed, then we could just -- you know,
2 we'll go ahead and put a placeholder now for you in
3 terms of when you'll be coming back to us. And so,
4 allowing enough time for that process to work its way
5 through. And in the meantime, I guess, if you could
6 just, you know, if you want to try to work with the
7 Office of Planning in terms of making sure that you
8 guys are on the same page with at least what they seem
9 there, you know, you're requesting. Okay?

10 So, unless the Board has any other thoughts,
11 that's the way that I think that we should proceed.

12 MS. GLAZER: Pardon me, Mr. Chair.

13 CHAIRPERSON HILL: Yes.

14 MS. GLAZER: I just wanted to know if the
15 Board wants a statement from the Office of Zoning as
16 to the fact that there was a recommendation of
17 referral made to the applicant?

18 CHAIRPERSON HILL: Okay. Yeah. So, Mr. Moy,
19 could you confirm that?

20 MR. MOY: Yeah, I'd be glad to, Mr. Chairman.

21 It's my understanding from the Office of
22 Zoning staff that the applicant has been advised by
23 OOC of their rights under the Fair Housing Act, and as
24 Ms. Glazer had mentioned, also with respect to the
25 procedures regarding this requirement to go -- to go

1 to --

2 CHAIRPERSON HILL: Uh-huh. Sure.

3 MR. MOY: -- DCRA.

4 CHAIRPERSON HILL: Ms. Glazer, you were going
5 to say something?

6 MS. GLAZER: Yeah. Mr. Chair, I just want to
7 add to that. It was my understanding since this is a
8 legal issue, that I was apprised of, that the
9 applicant was advised, but also that the Office of
10 Zoning made the required referral to DCRA to evaluate
11 this under their reasonable accommodation policies.

12 CHAIRPERSON HILL: Okay. Okay. So, Mr. Moy,
13 I'm trying to just get a placeholder for the
14 applicant, and allow time for this process to work
15 itself through. Do you have a suggestion?

16 MS. ERWIN: And I'm sorry, do you mind if I
17 interrupt for just a second?

18 CHAIRPERSON HILL: Certainly. Go ahead.

19 MS. ERWIN: We already spoke with Mr. LeGrant
20 yesterday, about the reasonable accommodation, and he
21 did not give us an official letter, but said that this
22 would not fall under his purview in his opinion. He
23 did not get that in writing from his counsel. But
24 because it's not an existing building and there's not
25 an existing tenant, he does not believe that he can

1 weigh in on this.

2 CHAIRPERSON HILL: Okay. So, unfortunately
3 this is kind of how a process that I have to go
4 through.

5 MS. ERWIN: Right.

6 CHAIRPERSON HILL: And so, I appreciate your
7 comments, but now we're going to have to go through
8 this process in the way that we're supposed to go
9 through it. And so, I want to get you back here as
10 soon as possible.

11 MR. WISE: Mr. Chairman if I could also --

12 CHAIRPERSON HILL: Yes, certainly.

13 MR. WISE: The counsel for the Office of
14 Zoning said that -- she did not say that it was
15 required to be deferred. She said that we had the
16 option of having the Board hear the case today.

17 CHAIRPERSON HILL: Right.

18 MR. WISE: Time is of the absolute essence on
19 this because, because of the need to move forward with
20 this project, because of the needs of the future
21 tenant. And so, if we have the option, we would like
22 for the Board to hear -- even if it's everything other
23 than the use variance, we would like for the Board to
24 consider --

25 CHAIRPERSON HILL: Sure. I understand, Mr.

1 Wise. Mr. Wise, I'm just not -- we're not going to be
2 able to do that today. And so, you know, this process
3 has to work its way through. I don't want to waste
4 your time either. I don't want you to waste our time.
5 You're going to be back here again, you know, and so
6 -- but I will try to get here as quickly as possible
7 in terms of when Mr. Moy thinks we would be able to do
8 this so that it would allow enough time, again, for
9 the process to work its way through.

10 MR. MOY: Yes. With that in mind, Mr.
11 Chairman, we could entertain this at the first hearing
12 after August break.

13 CHAIRPERSON HILL: Okay.

14 MR. MOY: Which would be September 6th.

15 CHAIRPERSON HILL: Okay. And you guys, did
16 you hear September 6th?

17 And that, by the way, we are being
18 accommodating to you guys, because those dockets are
19 full. Like, those are days --

20 MR. WISE: Would it change the decision of the
21 Board if we dropped the request for the use variance,
22 which is what that is directly pertaining to at this
23 point?

24 CHAIRPERSON HILL: I think at this point we
25 won't be able to do it. It just has to -- you're

1 going to have to go through the process.

2 So, September 6th?

3 MR. MOY: Yes, sir.

4 CHAIRPERSON HILL: Okay. All right. Okay.
5 Thank you all very much.

6 MS. GLAZER: Mr. Chair.

7 CHAIRPERSON HILL: Yes, sir. Certainly.

8 MS. GLAZER: Is the Board aware of whether
9 that would be consistent with the 45-day period for
10 the referral?

11 CHAIRPERSON HILL: I'm looking at Mr. Moy.

12 MS. GLAZER: DCRA has 45 days to review the
13 request.

14 MR. MOY: That's close. We're off about a
15 week. If that's the case then the next date would be
16 September the 20th. September 13th, rather.

17 CHAIRPERSON HILL: Okay, September 13th. Mr.
18 Moy.

19 MS. GLAZER: Mr. Chair, can I just add for the
20 record that if there is a determination earlier, the
21 applicant could make a request to move the date.

22 CHAIRPERSON HILL: Okay.

23 MS. GLAZER: But DCRA needs to be able to run
24 through its process.

25 CHAIRPERSON HILL: I think we're probably

1 going to stick with the 13th at this point, just --
2 but if things change, the applicant is welcome to come
3 forward and speak with the secretary. Okay?

4 MR. MOY: Yeah, I would like to -- would like
5 to add for the Board, though, I mean -- well, the
6 Board, it's skilled to do anything here, but we do
7 have a couple of appeals on the 13th, I just noticed.
8 That's why, initially, I mentioned the 20th. But so
9 long as you are aware that you have a couple appeals
10 on that day of the 13th.

11 CHAIRPERSON HILL: Okay. So, what we're going
12 to try to do is do the appeals in the afternoon. And
13 so, we'll hear you guys in the morning. Okay? All
14 right.

15 Okay, Mr. Moy?

16 MR. MOY: Yes, sir.

17 CHAIRPERSON HILL: Okay.

18 [Pause.]

19 CHAIRPERSON HILL: All right, Mr. Moy,
20 whenever you're ready.

21 MR. MOY: Yes, sir. All right. I get to my
22 coffee here, then. This would be Application No.
23 19540 of Starbucks Corporation and PVS International,
24 LLC, captioned and advertised for special exception
25 under Subtitle U, Section 513.1(n). This is from the

1 use requirements of Subtitle U, Section 512.1, which
2 would permit a 45-seat prepared food shop. This is in
3 the MU-4 Zone at premises 4347 M Street Northwest,
4 Square 1205, Lot 810.

5 CHAIRPERSON HILL: Okay. Good afternoon. If
6 you could please introduce yourselves from my right to
7 left.

8 MR. DONOHUE: Mr. Chairman, Ed Donohue,
9 counsel for the applicant.

10 MR. GIBBS: Joseph Gibbs, Store Development
11 Manager for Starbucks Corporation.

12 MR. GIBBONS: Joe Gibbons, 2E Chair.

13 CHAIRPERSON HILL: Hello, Commissioner
14 Gibbons.

15 MR. GIBBONS: Hello.

16 CHAIRPERSON HILL: Let me just drink some of
17 my locally grown coffee.

18 All right. If -- let's see. I don't have a
19 lot of specifics to ask about this, and so we're going
20 to just kind of go ahead and hear the requested relief
21 and how you're meeting the standards for that relief.

22 I'm going to go ahead and put 10 minutes on
23 the clock for you. Mr. Donohue, I suppose you're
24 going to be speaking?

25 MR. DONOHUE: Very briefly, Mr. Chairman. We

1 have no proposed exterior changes. We're adding seats
2 and seating, tables. This is similar to the
3 application we had two months ago for the Tacoma Park
4 location. We're pleased to have the support of the
5 ANC. We have some proposed development conditions
6 that we've worked out with the SMD and with the chair.
7 Also, I'm very pleased to have the support of the
8 Office of Planning. It's a really very straight-
9 forward case, Mr. Chairman, so we didn't prepare a
10 PowerPoint for you.

11 CHAIRPERSON HILL: Okay. No, that's great. I
12 appreciate it. I want to get to August.

13 So, can you go over the conditions with me
14 quickly? Or maybe the ANC Commission could do that.
15 I just want -- I know what I have in front of me, and
16 so I just want to read them into the record or
17 understand that we're all on the same page with that.
18 So, Mr. Commissioner, would you be happy to do that?

19 MR. GIBBONS: Sure. Thank you, Mr. Chair.
20 We've reached an agreement on four items. One that
21 there shall be no deep fryer installed on the premise.
22 Any meats cooked shall be grilled only. The grill
23 utilized will have a hood that vents to the side of
24 the building and terminates at the roof to prevent
25 cooking or food smells to permeate the sidewalk and

1 street frontage areas.

2 The pest control and maintenance service will
3 be performed monthly, and more often if necessary.

4 And then we have a long language on trash,
5 which I want to thank Ms. Elliott for helping us with
6 that. They're going to be very considerate, and
7 there's a 12-hour window when they're going to have
8 the trash so it won't be viewed by the public at all,
9 and it will be taken every -- daily.

10 So, I can read that into the record if you'd
11 like, but we've come to an agreement.

12 CHAIRPERSON HILL: Okay. I mean, I can read
13 it if you'd like so --

14 MR. GIBBONS: Oh, no. I'm sorry.

15 CHAIRPERSON HILL: Sure. No, yeah, please.

16 MR. GIBBONS: "Refuse shall not be stored on
17 the sidewalk or within the public view, except after
18 8:00 p.m. prior to the day of collection. Empty trash
19 cans will not remain in public view after 8:00 a.m. on
20 the day of collection. Applicant will make
21 commercially reasonable efforts to maintain the public
22 space adjacent to and in front of the premises in a
23 clean and orderly manner. Applicant shall use
24 sealable containers for trash, food waste, and
25 recycling designed to prevent intrusion by rodents,

1 vermin, and other pests, and further agrees to keep
2 the containers closed and sealed when waste is not
3 being disposed."

4 "Finally, the applicant should store -- shall
5 store refuse securely at all times so that the odors
6 to reach the residential district."

7 And so that they agreed to that in total.

8 CHAIRPERSON HILL: Okay. Great. And the
9 applicant agrees to these conditions?

10 MR. DONOHUE: Yes.

11 CHAIRPERSON HILL: Okay. All right. Okay.
12 Mr. Donohue, I'm going to agree with you and I'm not
13 going to ask any further questions at this point.
14 Does the Board have any other questions? Mr. Hood?

15 MR. HOOD: Can I just ask one quick question?
16 I'm not too familiar with Starbucks. I don't drink
17 coffee. But anyway, let me ask, number one, this
18 condition, do you have deep fryers in your other
19 locations?

20 MR. GIBBS: No, we do not.

21 MR. HOOD: Okay. So, that was a -- I just
22 didn't understand that. So, what are you all trying
23 to health -- I understand that you -- is it healthy?
24 I mean, I'm just understanding how that came --

25 MR. GIBBONS: No, it has to do with the waste

1 and all the other -- that goes with frying. I like
2 fried food, but we just wanted to make sure that this
3 area, and this place does not have it.

4 MR. HOOD: I got you. That's a lot of
5 thinking that went into that. Thank you.

6 MR. GIBBONS: Thank you.

7 MR. HOOD: Okay. Thank you, Mr. Chair.

8 CHAIRPERSON HILL: Ms. White.

9 MS. WHITE: Where is the trash stored? It's
10 not in public view, but where exactly --

11 MR. GIBBS: The trash would be stored behind,
12 there is an area behind the store. It's behind the
13 building.

14 MS. WHITE: Uh-huh.

15 MR. GIBBS: Off of the sidewalk, but it's --
16 it will be behind the --

17 MR. HART: If you look on --

18 MR. GIBBS: I think page --

19 MR. HART: -- Exhibit 30.

20 MS. WHITE: Uh-huh.

21 MR. HART: The image is on the -- well, it
22 says page -- it's the 7th page, which is the second to
23 the last page.

24 MR. GIBBS: Yeah, the trash, one we will have
25 a -- if you look at number 32, we have internal --

1 we're keeping it inside the store and when it's needed
2 the trash will be taken out to the sidewalk, or the
3 vendor will come in through this door, take the trash
4 out, and leave.

5 MS. WHITE: Is there an alleyway behind that
6 area?

7 MR. GIBBS: There's a area -- I believe so. I
8 need to check.

9 MS. WHITE: Okay. No, that's good. But there
10 is a process in place.

11 MR. GIBBS: Correct.

12 MS. WHITE: So, that was my question.

13 MR. DONOHUE: It's not actually alley space,
14 but there's space for it.

15 MS. WHITE: Okay.

16 MR. DONOHUE: Yes, ma'am.

17 MS. WHITE: Thank you.

18 MR. GIBBONS: There's a little walkway. And I
19 just want to say that Commissioner Lisa Palmer wrote
20 these four conditions and the Board -- the ANC
21 unanimously approved them in our public meeting. So,
22 she was responsible for writing these conditions.

23 CHAIRPERSON HILL: Okay, great. Thank you.
24 Does the Board have anything else for the applicant
25 right now?

1 Okay, I'm going to turn to the Office of
2 Planning.

3 MS. ELLIOT: Thank you, Mr. Chairman. Good
4 afternoon. I'm Brandice Elliot with the Office of
5 Planning. Office of Planning is recommending approval
6 of the special exception that has been requested to
7 allow 45 indoor seats at the Starbucks.

8 We did have a question in our report regarding
9 trash removal, and that seems to have been addressed.

10 We do understand the ANC's concerns related to vermin
11 control, and it's certainly not the first time that
12 it's come up, not just in this area, but we realize
13 that it is a health and safety issue citywide, and are
14 pleased that both parties were able to come to an
15 agreement. So, we support the conditions that have
16 been offered by the ANC, and be happy to answer any
17 questions you have.

18 CHAIRPERSON HILL: Great, thank you. Does the
19 Board have any questions for the Office of Planning?

20 Does the applicant have any questions for the
21 Office of Planning?

22 MR. DONOHUE: No, sir.

23 CHAIRPERSON HILL: Okay. Let's see. Is there
24 anyone else here from the ANC?

25 Is there anyone here wishing to speak in

1 support of the application?

2 Is there anyone here wishing to speak in
3 opposition to the application?

4 Mr. Donohue, do you have anything else you'd
5 like to add?

6 MR. DONOHUE: No, Mr. Chairman, we don't.

7 CHAIRPERSON HILL: All right, great. Thank
8 you. Then I'm going to go ahead -- and nobody has
9 anything else for the applicant? Okay.

10 I'm going to go ahead and close the record.
11 Is the Board ready to deliberate?

12 Okay. I am able to support this application
13 based upon the information that is submitted into the
14 record, as well as the analysis that has been provided
15 by the Office of Planning. It is very accommodating
16 of the Commissioner to come down here and spend his
17 day with us again, and I am glad to see that their ANC
18 was in support with the conditions that have been read
19 into the record. Does the Board have anything else
20 they'd like to add?

21 Okay. Then I'm going to go ahead and make a
22 motion to approve Application No. 19540 as read by the
23 secretary, including the conditions that were read
24 into the record by the Commissioner.

25 MS. WHITE: Second.

1 CHAIRPERSON HILL: Motion has been made and
2 seconded.

3 [Vote taken.]

4 CHAIRPERSON HILL: The motion passes, Mr. Moy.

5 MR. MOY: Staff would record the vote as four,
6 to zero, to one. This is on the motion of Chairman
7 Hill to approve the application for the relief
8 requested, along with the conditions as proposed,
9 proffered by the ANC and approved by the Board.

10 Second the motion, Ms. White. Also in
11 support, Mr. Hood, Vice Chair Hart. I have a board
12 seat vacant. The motion carries.

13 CHAIRPERSON HILL: Okay, great. Summary
14 order, Mr. Moy.

15 MR. MOY: Thank you, sir.

16 CHAIRPERSON HILL: Thank you. Thank you,
17 gentlemen.

18 MR. DONOHUE: Thank you.

19 MR. GIBBS: Thank you.

20 [Pause.]

21 MR. MOY: All right, the next application
22 before the Board, if we can have parties to the table
23 to Application No. 19542 of Bluebell Massage, LLC,
24 captioned and advertised for a special exception
25 relief under Subtitle U, Section 513.1(e). This would

1 permit a massage establishment in the MU-4 Zone at
2 3705 14th Street Northwest, Unit 2. This is in Square
3 2826, Lot 12.

4 CHAIRPERSON HILL: All right. Good afternoon.
5 If you could please introduce yourselves from my
6 right to left?

7 MR. KODISH: Good afternoon. My name is Lance
8 Kodish. I'm an attorney at Weiss, LLP. We represent
9 the applicant and the principal of the applicant in
10 this case is Carlos Machado, who is sitting to my
11 left.

12 Introduce yourself.

13 MR. MACHADO: Hi. I'm Carlos Machado. I'm
14 owner of Bluebell Spa.

15 CHAIRPERSON HILL: Were you guys sworn in this
16 morning?

17 MR. KODISH: Yes.

18 CHAIRPERSON HILL: Okay. All right. So, Mr.
19 Kodish, I guess you're going to be presenting to us?

20 MR. KODISH: Yes.

21 CHAIRPERSON HILL: Okay.

22 MR. KODISH: Yes, I am.

23 CHAIRPERSON HILL: So, before you do again, I
24 guess, you know, we've reviewed the record. I would
25 like to hear, as the Board would, clarity on the

1 relief that you're requesting and the standard to
2 which you think you meet that relief request. And
3 then also I'm interested in the ANC and how your work
4 with the ANC went, and I'm going to review what I
5 think we just kind of got here from the ANC.

6 So, please, speak to all that. But I'm going
7 to put 10 minutes on the clock for you.

8 MR. KODISH: Sure.

9 CHAIRPERSON HILL: Just so I know where you
10 are, and you begin whenever you like.

11 MR. KODISH: Thank you. This is an
12 application for a special exception pursuant to 11-
13 DCMR Section 513.1(e), and we are requesting that the
14 business owner who currently owns a day spa at the
15 location, be permitted to also provide as an ancillary
16 service, therapeutic massage treatments at the same
17 premises.

18 We feel confident that our application makes a
19 prima facie case, but I'd be run through the standards
20 as well.

21 So, pursuant to Subtitle X, Section 901, we
22 believe the proposed special exception is in harmony
23 with the general purpose and intent of the zoning
24 regulations, largely because this is a mixed-use --
25 mixed-use zone property as-is. And the proposed use

1 is in accordance with the existing use, and also a lot
2 of the uses of the surrounding properties generally.
3 We feel it does intend to adversely affect the -- any
4 neighboring properties. In fact, there are several
5 adjacent property owners who have submitted letters of
6 support, in support of this application. I'd like to
7 point out that there are no other facilities that
8 offer therapeutic massage treatments within several
9 miles of this location. And in that regard, we feel
10 it makes sense because it's serving an under-utilized
11 and underserved need for what is becoming a more
12 diverse and younger population.

13 And then particularly as it relates to Section
14 531.1(e), the three standards there are the
15 establishment being compatible with other uses in the
16 area. Again, I think I pretty much covered that.
17 There are several other beauty salons and the like
18 that neighbor his property. And his existing use,
19 which is day spa, providing fax -- waxing, facials,
20 and the like, is very complementary to the therapeutic
21 massage service that he's looking to use.

22 The proposed use is not objectionable as a it
23 relates to noise, traffic, or other conditions. We
24 did get a document filed by DDOT indicating that there
25 would be either no or negligible impact on traffic in

1 the area, and parking. The business owner also
2 already has two parking spots available and a lot of
3 his clients will walk and/or take public
4 transportation to his property anyway. He is equal
5 distant from two Metro stops on the Green Line. And
6 there are several bus stops on 14th Street near his
7 property.

8 And lastly, we feel the establishment will not
9 have any adverse impact on religious, educational, or
10 other facilities. Again, the record reflects that
11 there have been no letters of objection filed in the
12 case, and as it relates to those establishments.
13 Again, we have received no opposition.

14 As far as our meeting with the ANC, I
15 certainly thought it was very productive. We had many
16 e-mails back and forth with Zach Teutsch, who is the
17 Commissioner of the ANC there. He did give us
18 permission to file an e-mail that he sent to me, which
19 unfortunately we didn't get until the weekend, so that
20 should be the last filing on your docket, indicating
21 his own personal support.

22 For whatever reason, the ANC decided not to
23 actually hold a formal vote, but they did indicate at
24 the meeting there was no objection and I think
25 Commissioner Teutsch's e-mail followed, backs that up

1 and jives with that, for whatever reason they decided
2 they weren't going to take a position. But --

3 CHAIRPERSON HILL: Yes, I'm just curious. Do
4 you know why they didn't vote?

5 MR. KODISH: I don't. We were --

6 CHAIRPERSON HILL: You were there at the
7 meeting.

8 MR. KODISH: Absolutely.

9 CHAIRPERSON HILL: Yeah.

10 MR. KODISH: As was Carlos and our law clerk,
11 Joe Kirkwood who is sitting in the back there.

12 CHAIRPERSON HILL: Sure.

13 MR. KODISH: And we were the second or third
14 parties called. We gave a presentation. It was
15 actually well attended. There was probably 75 or so
16 members of the community --

17 CHAIRPERSON HILL: Right.

18 MR. KODISH: -- at the Petworth Library, and I
19 basically, towards the end of it, hinted that I would
20 appreciate if there would be a vote. And one of the
21 chair people who was running the meeting just said
22 that they had agreed that they weren't going to launch
23 an objection, but --

24 CHAIRPERSON HILL: Okay. Okay. Okay. Okay.

25 MR. KODISH: Yeah. And then, I guess, the

1 only other thing I'd like to say is that the Office of
2 Planning, as well as DDOT, which I mentioned, have
3 both filed pleadings in the case that recommend
4 approval, or at least recommend no objection. So,
5 we're more than happy to answer any other questions
6 that you have, and thank you for your time.

7 CHAIRPERSON HILL: Okay, thank you. Board has
8 any questions for the applicant?

9 MS. WHITE: What are the hours of operation?

10 MR. MACHADO: It's 10:00 to 8:00. 10:00 a.m.
11 to 8:00 p.m.

12 MS. WHITE: Thank you.

13 CHAIRPERSON HILL: Does anyone else have any
14 questions for the applicant?

15 [No audible response.]

16 CHAIRPERSON HILL: All right. Going to turn
17 to the Office of Planning.

18 MS. MYERS: Hello. Crystal Myers for the
19 Office of Planning.

20 The Office of Planning is recommending
21 approval and stands on the record of the staff report.

22 CHAIRPERSON HILL: Okay. Does the Board have
23 any questions for the Office of Planning?

24 [No audible response.]

25 CHAIRPERSON HILL: Okay. Does the applicant

1 have any questions for the Office of Planning?

2 MR. KODISH: No, thank you.

3 CHAIRPERSON HILL: Okay. Is there anyone here
4 from the ANC wishing to speak?

5 Is there anyone here wishing to speak in
6 support of the application?

7 Is there anyone here wishing to speak in
8 opposition to the application?

9 [No audible response.]

10 CHAIRPERSON HILL: All right. I'm going to
11 turn back to you. Do you have anything further you'd
12 like to add?

13 MR. KODISH: No, thank you.

14 CHAIRPERSON HILL: All right. Then, I'm going
15 to go ahead and close the hearing. Is the Board ready
16 to deliberate?

17 Okay. So, after reviewing the record and the
18 report and the analysis of the Office of Planning, I
19 agree with their analysis and would be in support of
20 this application. I also am, even though it's not a
21 vote from the ANC so that we would be accorded to give
22 the information great weight, I am glad to see that we
23 have gotten something in terms of feedback from at
24 least a private citizen who is a member of the ANC.

25 And so, I don't have any issues with this

1 application. Does the Board have anything further to
2 add?

3 [No audible response.]

4 CHAIRPERSON HILL: Okay. Then I'm going to go
5 ahead and make a motion to approve Application No.
6 19542 as read by the secretary.

7 MR. HART: Second.

8 CHAIRPERSON HILL: Motion has been made and
9 seconded.

10 [Vote taken.]

11 CHAIRPERSON HILL: The motion passes, Mr. Moy.

12 MR. MOY: Staff would record the vote as four,
13 to zero, to one. This is on the motion of Chairman
14 Hill to approve the application for the request being
15 -- for the application for the -- the relief -- excuse
16 me. Let me start over.

17 This is on the motion of Chairman Hill to
18 approve the application for the request -- for the
19 relief being requested. There.

20 Seconded the motion, Vice Chair Hart, also in
21 support, Ms. White, Mr. Hood, we had a board seat
22 vacant. Motion carries.

23 CHAIRPERSON HILL: Thank you, Mr. Moy.
24 Summary order.

25 MR. MOY: Thank you.

1 CHAIRPERSON HILL: Thank you. Thank you,
2 gentlemen.

3 All right, Mr. Moy, whenever you're ready you
4 can call our last case.

5 MR. MOY: All right. Mr. Chair, thank you.
6 That would be Application No. 19539 of 74 R Street,
7 LLC, captioned and advertised for relief from
8 variances, from the lot occupancy requirements,
9 Subtitle E, Section 304.1, and the nonconforming
10 structure requirements of Subtitle C, Section 202.2.
11 This would allow an addition to and convert an
12 existing one-family dwelling into a flat in the RF-1
13 Zone, 74 R Street Northwest, Square 3101, Lot 57.

14 CHAIRPERSON HILL: All right. Good afternoon.
15 If you could please introduce yourselves from my
16 right to left?

17 MR. KADIDA: Tom Kadida, owner.

18 MR. SULLIVAN: Marty Sullivan on behalf of the
19 applicant.

20 MS. WILSON: Alex Wilson on behalf of the
21 applicant.

22 CHAIRPERSON HILL: Okay. All right. So, Mr.
23 Sullivan, I assume you're going to be presenting to
24 us?

25 MR. SULLIVAN: Yes.

1 CHAIRPERSON HILL: Okay. So, there is a lot
2 of information concerning this, and so I'm going to
3 give you as much time as you want to try to get us to
4 understand this a little bit more.

5 I guess as you know, Office of Planning hasn't
6 made a recommendation at this point, and I did just
7 see something from the ANC, which I haven't had a
8 chance to really take a close look at, but I'm going
9 to do that now. So, I'm a little bit -- I'm actually
10 a little but unsure as to how to exactly to proceed
11 with this. But we're going to go ahead, I guess, and
12 allow you an opportunity to go ahead and make your
13 presentation. And we will see where we go from there,
14 I suppose.

15 Is there -- does the Board have any other
16 specific things they'd like to hear from the applicant
17 before they begin?

18 Okay. So, Mr. Sullivan, whenever you're
19 ready, please, go right ahead.

20 MR. SULLIVAN: Thank you, Mr. Chairman. I
21 would just like to give a little background and then I
22 will turn it over to the owner to give some testimony
23 himself. We're asking for lot occupancy relief under
24 Section E 304.1, to go from an existing lot occupancy
25 of 66 percent, to 70.17 percent. So, we're .17

1 percent over the limit which would have kept us in the
2 special exception category.

3 Initially, the applicant received a matter of
4 right approval to do an addition and a convert this
5 building to two dwelling units and through a mistake
6 of his contractor discovered late, the boundaries of
7 the approve permit were exceeded. So, the
8 construction involved doing an addition up, a third-
9 floor addition, and filling in a nonconforming court,
10 and filling in that nonconforming court increased the
11 lot occupancy, so the rear footprint needed to be
12 pulled back, and the contractor didn't pull it back
13 far enough. It did come back several feet, but it
14 didn't go back far enough.

15 Of course, that's not why we're here. The
16 mistake got us here, but that's not part of our
17 variance argument, of course. This is a de novo
18 argument. And the situation -- I'll get into unique
19 condition and the practical difficulty.

20 So, this property is one of four very long
21 building footprints on this block, and it's unique in
22 that respect. And it sits between two buildings that
23 also have long footprints. They're all equal.

24 It also has a long nonconforming court. Both
25 adjacent buildings already have two units, and the

1 applicant proposed to also do a two-unit dwelling and
2 renovate this building in the scale and style of the
3 two buildings adjacent to it. In order to do an
4 addition up because of the nonconforming court, he had
5 to close the court, or not do the addition.

6 Also, the court just looked at a brick wall on
7 the other side. So, there were windows just staring
8 at a brick wall. So, it made sense to close that
9 court. In order to close the court, he had to bring
10 the rear footprint back.

11 Because of the length of the two adjacent
12 buildings, bringing the addition back further than it
13 is now, it's already recessed within the rear walls of
14 the two adjacent buildings. So, basically bringing it
15 back further recesses it even more and loses light and
16 air and privacy.

17 Initially, when the applicant discovered this
18 mistake, the first thing he did was he took off
19 balconies that were extending this even further
20 because I instructed him, we need to try to get as
21 close to the 70 percent as possible, because I would
22 prefer it to be a special exception case.

23 And he got to 70.17. To go beyond that then
24 would cause more meaningful disturbance to the
25 existing building as it was built. And also recess it

1 a little further.

2 So, I think that might have been what part of
3 Office of Planning's reticence is. The variance
4 argument obviously doesn't hit you in the face. It's
5 not the strongest argument. But there is some unique
6 aspects of this, and some practical difficulty, I
7 believe, that would justify going 1.7 percent past the
8 special exception limit.

9 And I have with me the principal from the
10 applicant, Mr. Tom Kadida, to answer any questions and
11 to explain his position on this. Thanks.

12 MR. KADIDA: Good afternoon, Mr. Chair. As
13 exactly what Attorney Marty Sullivan has just relayed
14 to you, it's the courtyard that was initially there
15 and is a nonconforming courtyard. So, we had to
16 basically close that to be able to go one floor
17 addition, just like the two adjacent properties next
18 to us. And doing so, the contractor brought the wall
19 -- he did recess the wall back. He just didn't bring
20 it back far enough.

21 So, we're still recessed in compared to the
22 two properties next to us. The two properties next to
23 us are actually further back than the existing
24 building that we have constructed already. So, we're
25 basically asking for the relief in order for the

1 building to remain as-is, as built. And we've already
2 taken off the balcony that would have actually
3 exceeded way more than what it will be accepted as a
4 special exception.

5 MR. SULLIVAN: Thank you. That's all we have,
6 Mr. Chairman, if the Board has any questions.

7 CHAIRPERSON HILL: Okay. Were you guys here
8 for this before us?

9 MR. SULLIVAN: No, this is the first time.

10 CHAIRPERSON HILL: No? You look familiar to
11 me. Sorry. I don't know if you've been before us
12 before. Okay. All right.

13 So, I see from one other part of the record,
14 so there were balconies. So, you got rid of the
15 balconies, correct?

16 MR. KADIDA: Correct.

17 CHAIRPERSON HILL: And so it seems like
18 there's like little Juliette balconies there with the
19 spiral stair. So, and maybe, Mr. Sullivan, just if
20 you got rid of those balconies would you be below the
21 70 percent?

22 MR. SULLIVAN: I think they might be landings
23 that are required under code.

24 MR. KADIDA: Yes. The Juliette balconies are
25 fine. They're not going to go over the 70. But the

1 stairs that would allow the top unit, or the units to
2 be able to get to the trash, or maybe to go to their
3 parking space, just pushes us over the 70. So, we had
4 a balcony from top to bottom which we completely
5 removed, just kept the stairs there, which is about a
6 five-foot radius. But it actually allows the unit
7 owners to be able to access the back.

8 CHAIRPERSON HILL: Right. Sure.

9 MR. KADIDA: Yeah.

10 CHAIRPERSON HILL: And so, Mr. Sullivan, if
11 you did, if you got rid of the stairs, you'd be back
12 before us for a special exception to get to the 70.

13 MR. SULLIVAN: That's correct.

14 CHAIRPERSON HILL: Okay. And, Mr. Kadida?

15 MR. KADIDA: Kadida.

16 CHAIRPERSON HILL: Kadida. Kadida?

17 MR. KADIDA: Yes.

18 CHAIRPERSON HILL: Mr. Kadida, if the
19 stairwell was not there, how would the owners get to
20 their car?

21 MR. KADIDA: They will have to go around the
22 block to the alley.

23 CHAIRPERSON HILL: Around the block.

24 MR. KADIDA: Right.

25 CHAIRPERSON HILL: Through the alley. There's

1 no way because there's -- whatever the bottom unit is,
2 there's no hall there or anything. That bottom unit
3 could go -- there's access from the bottom unit to the
4 parking, but not any of the other units.

5 MR. KADIDA: The top unit, correct. There's
6 no breezeway, per se, for the top unit to come down
7 and go in the back. So that's --

8 CHAIRPERSON HILL: Is there only two flats?

9 MR. KADIDA: Yes.

10 CHAIRPERSON HILL: Okay. Okay. Does the
11 Board have any other questions?

12 MS. WHITE: One question is, what are the
13 adjacent owners saying? Are they comfortable?

14 MR. KADIDA: They're supportive, yes.

15 MS. WHITE: They're supportive. Okay.

16 MR. KADIDA: Yes. Yeah. We're not affecting
17 them whatsoever.

18 MS. WHITE: Uh-huh.

19 MR. KADIDA: Not affecting the neighborhood,
20 the ANC supported it, BZA supported it. It was just
21 oversight a little bit.

22 MR. HOOD: Mr. Chairman -- Mr. Sullivan, you
23 mentioned what -- I can't remember the number. 1.7 or
24 .7 over you said you could expound on that.

25 MR. SULLIVAN: It's .17 percent beyond the 70.

1 Yeah.

2 MR. HOOD: Point 17.

3 MR. SULLIVAN: Yes.

4 MR. HOOD: And I thought you made a statement
5 after that. Maybe you already did it and I just was
6 reading. You said you can expound how you go to that
7 .17?

8 MR. SULLIVAN: Well, it was contractor
9 mistake, and by the time it was discovered, it was
10 already built. And so that's why. I mean, if it was
11 planned ahead of time I would have suggested 70
12 percent, obviously.

13 MR. HOOD: Okay.

14 MR. SULLIVAN: But because it was already
15 built.

16 MR. HOOD: So, that was in essence of what you
17 had already made in your statement. I thought maybe
18 you had something different to offer. Okay.

19 MR. SULLIVAN: No, that's it.

20 CHAIRPERSON HILL: So where was the contractor
21 error that would have gotten you the -- I mean, it's
22 built anyway, actually. I mean, that's actually now -
23 - now I'm confused. I mean, you would have had to
24 have gotten permission first, right, from us, to build
25 to the 70 percent.

1 MR. SULLIVAN: Correct.

2 CHAIRPERSON HILL: So it just, it's been done.
3 This is completed.

4 MR. SULLIVAN: Well, it was permitted as a
5 matter of right. I believe you were staying at 66.

6 MR. KADIDA: Correct. So, we --

7 CHAIRPERSON HILL: I see. I see. You were at
8 the 66.

9 MR. KADIDA: Right. He just didn't bring it
10 far enough inside. He brought it back enough, which
11 actually is recessed even further from both neighbors
12 at that point.

13 CHAIRPERSON HILL: Uh-huh. Right. The matter
14 of right, you were originally going to do a matter of
15 right at 66 percent.

16 MR. KADIDA: Right. That's correct.

17 CHAIRPERSON HILL: And he, the contractor,
18 made it bigger?

19 MR. KADIDA: He, in the process of closing the
20 courtyard, he supposed to have brought the wall where
21 it is right now, further in.

22 CHAIRPERSON HILL: Uh-huh.

23 MR. KADIDA: But he just didn't pull it back
24 further in.

25 CHAIRPERSON HILL: I see. I see. All right.

1 Okay.

2 MR. KADIDA: So, we're not past the neighbors
3 right now.

4 CHAIRPERSON HILL: No, I understand. I
5 understand. I understand. Okay.

6 MR. HART: So, that -- and the wall itself,
7 you're saying the rear wall should actually be -- I'm
8 going to throw a number out there, a foot farther -- a
9 foot less or farther away from the back of the lot.
10 You should have -- that wall was built in the wrong
11 location. Is that what you're telling us?

12 MR. KADIDA: That's correct. The back. The
13 back wall.

14 MR. HART: I mean, usually, you know, when you
15 -- there are architectural drawings so that architects
16 and contractors know what it is that's actually being
17 constructed, and so that the DCRA would also know what
18 they are approving for, for permits.

19 And it just -- that seems like a pretty big
20 deal to make a mistake like that because it is now
21 costing you time to be able to have an attorney here
22 and all that. So, you know, it's a significant --
23 while it may seem like it is a small number, it is a
24 significant change because you need to have the
25 drawings so that -- which is why we've actually talked

1 about drawings and making sure that the drawings that
2 we're approving are actually what's actually being
3 built. And like I said, that's a pretty significant
4 problem that your contractor, and I'm assuming you've
5 had a conversation with him about that, or two.

6 MR. KADIDA: I did. If the courtyard wasn't
7 there, per se, the mistake was you had to close the
8 nonconforming courtyard to be able to go in addition.

9 So, it's either you close the courtyard and recess
10 the backwall further in, or you leave the courtyard
11 where it is and bring the wall further back. But
12 since we had to close the courtyard, you had to either
13 close the courtyard and bring the back wall further
14 in. So, he just didn't pull it back further in.

15 But, we still again, way recessed in from the
16 neighbors that we are currently.

17 CHAIRPERSON HILL: Okay. Okay, Mr. Sullivan,
18 as far as the ANC goes, how did that go? I mean, how
19 did the presentation go with the ANC, and I'm curious
20 again as to you know, their thoughts. I mean, I see
21 you did get their vote, and it looks like there was --
22 and I'm curious again, there was one abstention and
23 one against. Can you explain the ANC meeting?

24 MR. SULLIVAN: Yes. I'd like to have Ms.
25 Wilson address that. She attended those meetings.

1 MS. WILSON: So, for the ANC meeting they
2 originally were supposed to have the Bloomingdale
3 Civic Association meeting before the ANC meeting, and
4 typically the ANC defers to whatever the Bloomingdale
5 Civic Association voted. In this case, the
6 Bloomingdale Civic Association meeting was postponed
7 due to weather, and I believe the ANC resolution
8 addresses that.

9 Because it was postponed due to weather, the
10 ANC simply voted to defer to the BCA decision that
11 next -- that following Monday.

12 And so, then we went to the BCA meeting. I
13 went with Mr. Kadida. We spoke at length about the
14 project, answered many questions from the community,
15 and at the end the community voted to support each
16 member of the Bloomingdale Civic Association gets a
17 blue piece of paper. And so at the end, they
18 requested that members who were in support raise their
19 papers in the votes. And I believe there were 10 --
20 at least 10 community members in support. And there
21 was possibly one opposition.

22 And from there, the ANC deferred to them as
23 stated in their resolution.

24 CHAIRPERSON HILL: Why was the one in
25 opposition? Do you know?

1 MS. WILSON: I'm not sure. They didn't say.

2 CHAIRPERSON HILL: Okay. Okay. All right.
3 Does the Board have anything else for the applicant?

4 MR. HOOD: Yeah, Mr. Chairman. Ms. Wilson,
5 you said one opposition. You're talking about the
6 vote from the -- at the BCA's meeting. Not the -- you
7 also had, from ANC report, a commissioner voting one,
8 voting against. You had the same, one voting against.
9 Was that the single -- and one abstention. Are those
10 the single-member district commissioners?

11 MS. WILSON: Oh, for the ANC? Yes, I believe
12 one, one voted in opposition, and one abstention.
13 They did not get into why. It was a very quick vote.

14 MR. HOOD: Right. But I'm just --

15 MS. WILSON: Our SMD was in support of it.

16 MR. HOOD: Oh, that's the question. That's
17 the question.

18 MS. WILSON: Yes. I'm sorry. I
19 misunderstood. Okay.

20 MR. HOOD: So, who is the president now of the
21 Bloomingdale Civic Association?

22 MS. WILSON: Teri Jamine Quinn.

23 MR. HOOD: Teri. Okay. Teri Quinn. Okay.
24 Thank you.

25 CHAIRPERSON HILL: Okay. Does the Board have

1 anything else for the applicant?

2 [No audible response.]

3 CHAIRPERSON HILL: Okay. Going to turn to the
4 Office of Planning.

5 MS. THOMAS: Good afternoon, Mr. Chair and
6 members of the Board. Karen Thomas for the Office of
7 Planning.

8 First, I'd like to say I sympathize with the
9 applicant's position in this case, but the Office of
10 Planning couldn't see a way past the first test for
11 the variance relief. Understandably, a staircase
12 won't cause light and air problems, and it could
13 satisfy the second parts of the test, with respect to
14 the public good. But we don't see how it -- we think
15 there would be some harm to the intent by trying to
16 create a nexus between de minimis relief, what we
17 might say a de minimis amount of area for this
18 situation. And we don't want to set any type of
19 precedent that an applicant can come and say it's de
20 minimis, where we don't think it is.

21 In the first case, in the first instance, a
22 lot occupancy of 66 percent would have warranted some
23 appearance before the Board. I don't know when it
24 comes to an addition, because you're beyond the 60
25 percent maximum within the RF Zone. So, if you're

1 already at 66 percent and you're adding on, somehow
2 that should have kicked in, that some type of special
3 exception relief would have been warranted. And the
4 applicant should have been at the Board.

5 Be that as it may, wherever that was missed,
6 the fact that he made an attempt, a commendable
7 attempt to push back the wall and try to get it
8 reduced, I think it was well beyond 74 percent. To
9 get it to 70 percent would only require a two-foot, a
10 foot or two-foot setback to get it to 70 percent, the
11 way we calculated it. It was about 2.67 percent.
12 Feet, sorry. Not percent.

13 So, again, we consider that to be another
14 error in trying to resolve this situation. So, it's
15 hard for us to see how we could recommend approval in
16 this situation, albeit, being very minor.

17 We would leave that up to the Board to
18 determine but OP can't see its way past the .17
19 percent on special exception relief, which we could
20 support.

21 CHAIRPERSON HILL: Okay. So, I'm sorry, I
22 didn't catch the very last piece.

23 MS. THOMAS: I said, we can see ourselves --
24 we can't see a way past the 70 percent to the .17
25 percent, even though it's a staircase.

1 CHAIRPERSON HILL: Okay. So, the question I
2 have again is that, so if the staircase were removed,
3 that would put them in a special exception. Do know
4 if the Office of Planning would be able to support
5 that, or you couldn't say right now?

6 MS. THOMAS: Yes, we did say we could support
7 a special exception. We could support special
8 exception relief.

9 The way I understand it, if the applicant --
10 I'm not trying to solve this for the applicant, but
11 since we're here, it was explained to me by DCRA that
12 if the stair were on the level that was equivalent to
13 the street, than a stair wouldn't -- it wouldn't count
14 as part of the occupancy relief.

15 So if there was some way that the flat -- see,
16 I don't have -- we don't have a good picture of the
17 floors, each floor.

18 CHAIRPERSON HILL: Okay. Okay. All right.
19 That's okay.

20 Okay. So, does the Board have any further
21 questions for the Office of Planning?

22 [No audible response.]

23 CHAIRPERSON HILL: Okay. Does the applicant
24 have any questions for the Office of Planning?

25 MR. SULLIVAN: No, thank you.

1 CHAIRPERSON HILL: Okay. All right. Then we
2 are going to turn to the audience. So, is there
3 anyone here from the ANC?

4 Is there anyone here wishing to speak in
5 support?

6 Is there anyone here wishing to speak in
7 opposition?

8 Please, come on forward. Hi, you can go ahead
9 and introduce yourselves.

10 MS. BISAGNI: Hi. I'm Melissa Bisagni. I'm a
11 tenant at 72 R Street.

12 CHAIRPERSON HILL: B-A-Z-A-N-I-E?

13 MS. BISAGNI: B-I-S-A-G-N-I.

14 CHAIRPERSON HILL: Do that again. I'm sorry.

15 MS. BISAGNI: B-I-S-A-G-N-I.

16 CHAIRPERSON HILL: Bisagni?

17 MS. BISAGNI: Yes.

18 CHAIRPERSON HILL: Okay. And yours?

19 MR. ROXAS: Nicholus Roxas. R-O-X-A-S. First
20 name, N-I-C-H-O-L-U-S.

21 CHAIRPERSON HILL: Okay. And she is?

22 MR. ROXAS: Daughter.

23 CHAIRPERSON HILL: Okay.

24 MS. BISAGNI: Sumpi (phonetic).

25 CHAIRPERSON HILL: All right. So, you guys

1 got sworn in earlier this morning?

2 MS. BISAGNI: No, we didn't.

3 MR. ROXAS: No, we didn't.

4 CHAIRPERSON HILL: Oh, you did not? Okay.
5 So, if you could please stand up and we'll swear you
6 in?

7 [Oath administered to the participants.]

8 MR. ROXAS: Before we go, let me apologize for
9 any (simultaneous speech).

10 CHAIRPERSON HILL: Sure. No, that's great. I
11 mean, you guys have been here all day. She's been
12 actually really quiet. I'm shocked. I wish everybody
13 could say that. I wish I could say that about
14 everybody.

15 MR. ROXAS: She's great for being two.

16 CHAIRPERSON HILL: Okay. So, I'm going to
17 give you each three minutes. Okay? And so, you can
18 begin whenever you'd like.

19 MR. ROXAS: I would just like to begin by
20 saying that testifying because -- in opposition, to
21 not create a precedence for this kind of development,
22 which is to me, a huge mess and shouldn't be allowed
23 anywhere. This began as a purchase of a single-family
24 home, it was supposed to remain as a single-family
25 home. They over-extended, they had no permits, they

1 had no permission, especially from us. We've been
2 there before they purchased the location and started
3 development. They -- no permission from our
4 landlords, no permission from us as a tenant, no
5 meetings saying this is what's the plan. There was no
6 plan. They came up with permits maybe sometime in the
7 first quarter this year for saying that we're going to
8 do this kind of construction or the construction was
9 already done.

10 And then said, here, sign this, give us
11 permission to do this. And we're like, no. But
12 everybody said okay. I was like, no, everybody didn't
13 say it was okay. We know those people, they did not
14 say it was okay.

15 To continue on, they tried to sell off the
16 property, and then supposedly it was sold and then
17 they had to stop, and they still continued to try to
18 sell the property as a two-unit location when they're
19 not even allowed to sell it at a one-unit at this
20 time. So, they continued to show as an open house.

21 And throughout the entire time personal
22 property damage has already occurred. I've already
23 spoken to them several times. They have not
24 compensated us in any way. They have not cleaned up
25 any of the mess they created. There were so many

1 health hazards, vermin were coming from the house
2 during construction, and they did nothing to actually
3 help us out in those scenarios.

4 And like I said, all I really want is like
5 this kind of development to actually end, not to
6 create a precedence here, and you know, be more
7 professional about it.

8 CHAIRPERSON HILL: Okay. Where are you guys
9 located again?

10 MR. ROXAS: Seventy-two.

11 MS. BISAGNI: Seventy-two.

12 MR. ROXAS: We were the red building next
13 to --

14 MS. BISAGNI: We're the red house.

15 MR. ROXAS: The red house.

16 MS. BISAGNI: And it's only one --

17 MR. ROXAS: Yeah, it's only one unit.

18 MS. BISAGNI: It's a single-family home.

19 MR. ROXAS: We live there alone.

20 MS. BISAGNI: It's not a two-family.

21 CHAIRPERSON HILL: Okay. Okay. All right.

22 And you've been there for how long?

23 MS. BISAGNI: Three years.

24 CHAIRPERSON HILL: Okay, all right.

25 MS. BISAGNI: And across the street.

1 MR. ROXAS: Before she was born.

2 CHAIRPERSON HILL: Okay. Okay.

3 MS. BISAGNI: Yeah, and we lived across the
4 street.

5 CHAIRPERSON HILL: Okay. Okay. So, I'm going
6 to go ahead and give you three minutes as well.

7 MS. BISAGNI: So, I'm concerned because we
8 received on September 15th of 2016, this notification
9 form for safeguards during construction. And it was
10 due in April. I have pictures of the construction
11 starting in the back of our house when they did the
12 demolition. We have adjoining walls with them. They
13 never asked our permission. I gave the paperwork in
14 mid-September, that they gave to me in mid-September,
15 to our landlords. And they said, we didn't even know
16 that this was happening.

17 I did speak to our property managers because
18 our landlords are living in Vermont, and they said
19 that they would look into it. We, over time, had been
20 trying to follow up, but even our property managers
21 were not getting a lot of input.

22 And I didn't know that there were ANC
23 meetings, or the civic association meetings with this
24 on this schedule. I would have attended just to make
25 some clarifications to people.

1 It's interesting hearing how the house has
2 gone over the allotted size, because to me it seems
3 very, very obvious how these things happened. If
4 we're talking about just 66 percent of the lot size,
5 they closed off an air shaft between 76 and 74. It
6 shows in their diagram that there was an addition.

7 The crazy thing, and we have photos, the
8 landlord at 7060 does not live there. He has tenants
9 and they're usually young, and they stay for about a
10 year. So, there's a lot of turnover. They built a
11 retaining wall, probably just to protect the adjoining
12 property while they were doing demolition of the
13 house, which is thoughtful, except they covered up
14 windows of 76, and they covered up windows of 76
15 permanently.

16 If you look at these images here, that spiral
17 staircase is right in front of the windows of 76 on
18 all of 76's floors. I mean, if they've exceeded the
19 property limits, I mean -- well, let's talk about
20 that.

21 When they cut the balconies off, we have a
22 wooden stairwell in the back. There are burn marks
23 all over the place because they just arc welded it
24 off. We did not know that this was going to happen.

25 So many things during the construction of this

1 house were frightening. We have fruit trees in the
2 back. We lost over 300 plums because they were just
3 covered in dirt. We had, as Nick said, mice running
4 around. I started getting styles, which is recorded.
5 Like I mean, I went to two different doctors trying
6 to get rid of repeated styles because we had dust all
7 over our house.

8 Our landlords did speak to the developers and
9 they said, yes, we'll clean your house, or whatever,
10 but it was never done. Our sitter came down with a
11 horrible cough, also had to go to the doctor. I mean,
12 there was dust everywhere, inside, outside our house.

13 They had construction workers, I believe storing
14 stuff on our roof. We have pictures of them walking
15 on our roof and carrying construction materials. We
16 heard them. We found that out because we heard them
17 walking up there.

18 The developers told us at the beginning, and
19 it wasn't this gentleman, it was someone else who
20 spoke to us, that when they bought the house from Mrs.
21 King, who was the previous owner of the house, when
22 they bought the house from her sister, they were going
23 to renovate it beautifully and it was going to remain
24 a single-family residence. And then we find out much
25 later, it's a two-family residence, it's going to be

1 turned into condos, and that they are adding a fourth
2 floor.

3 On the front of the house, too, they just,
4 they removed the cupola and didn't have any thought of
5 putting it back. I don't know if there is any kind of
6 guidelines for that kind of architectural --

7 CHAIRPERSON HILL: Okay. Okay.

8 MS. BISAGNI: -- change. But so many crazy
9 things happened.

10 They actually built into 76's front yard. I
11 mean, I can't imagine how that happened except someone
12 didn't want to cut stones to the right shape. They're
13 in 76's yard.

14 CHAIRPERSON HILL: Okay. Okay. All right.
15 Let's see, so --

16 MS. BISAGNI: Oh, can I say one more thing
17 about this notification? When they handed it to me
18 they said, oh, 76 already signed it. He signed it
19 today on the spot. You should be able to do it as
20 well. And I'm like, 76, the owner doesn't live there.
21 There are tenants there so I don't know who signed it
22 for you, but it wasn't the owner, and it says on this
23 paperwork that it has to be signed by the owner.

24 And this was repeatedly said to us, that 76 is
25 fine with all this stuff. They already built the wall

1 covering 76's walls without having presented this
2 safeguard during construction, stating that they were
3 going to do work on the adjoining wall.

4 CHAIRPERSON HILL: Okay. Okay. All right.
5 Does anybody have any questions for the witnesses?

6 [No audible response.]

7 CHAIRPERSON HILL: Okay. Let's see, what was
8 I going to ask. Okay. So now the property has been
9 finished, right?

10 MS. BISAGNI: Yes.

11 CHAIRPERSON HILL: How has the -- how has it
12 been since it's been finished?

13 MS. BISAGNI: Well, I mean, there's no one
14 living there.

15 CHAIRPERSON HILL: Okay.

16 MS. BISAGNI: There's some interesting things
17 that bother us, but I mean, they took out the tree in
18 our tree box, which was kind of crazy. So now, we've
19 maintained the tree box and our landlord has
20 maintained it before him because --

21 CHAIRPERSON HILL: Okay.

22 MS. BISAGNI: -- Mrs. King was so old.

23 CHAIRPERSON HILL: Okay.

24 MS. BISAGNI: So, they're constantly ripping
25 up our garden.

1 CHAIRPERSON HILL: Okay.

2 MS. BISAGNI: And that drives me crazy.

3 CHAIRPERSON HILL: Okay.

4 MS. BISAGNI: They keep the lights on all the
5 time.

6 CHAIRPERSON HILL: Okay. Okay.

7 MS. BISAGNI: I don't know who to talk to
8 about those things.

9 CHAIRPERSON HILL: Okay.

10 MS. BISAGNI: And there's always, I mean, even
11 like during construction and even recently, like
12 always throwing the construction garbage in our trash,
13 which drives me crazy.

14 CHAIRPERSON HILL: Okay. Okay. All right.
15 Anything else for the witnesses? Okay. All right.
16 Thank you guys very much.

17 MR. KADIDA: Say bye bye.

18 UNIDENTIFIED SPEAKER: Bye bye.

19 CHAIRPERSON HILL: Bye bye. Okay.

20 Let's see, so Mr. Kadida.

21 MR. KADIDA: Yes.

22 CHAIRPERSON HILL: Kadida, right? So,
23 obviously those neighbors are not happy with the way
24 that your crews have been working or what's been going
25 on. There is -- you had provided testimony that there

1 was letters of support from the adjacent neighbors.

2 Could you clarify again what that means?

3 MR. KADIDA: Let me go back and address what
4 they said. Initially --

5 CHAIRPERSON HILL: I'd rather you just let me
6 ask you questions and then you just go ahead and
7 answer those questions. But, so first of all, the
8 adjacent neighbors.

9 MR. KADIDA: Yes.

10 CHAIRPERSON HILL: You said that there was
11 letters of support.

12 MR. KADIDA: Yes. We have --

13 CHAIRPERSON HILL: Who are they from?

14 MR. KADIDA: From 76R.

15 CHAIRPERSON HILL: Okay.

16 MR. KADIDA: The owner, we sent a letter to
17 him explaining what we're --

18 CHAIRPERSON HILL: That's the one to --

19 MR. KADIDA: The right.

20 CHAIRPERSON HILL: The right?

21 MR. KADIDA: Uh-huh.

22 CHAIRPERSON HILL: The cream --

23 MR. KADIDA: Correct.

24 CHAIRPERSON HILL: Uh-huh. And then the owner
25 in the brick?

1 MR. KADIDA: The owner on the left side, which
2 is the red --

3 CHAIRPERSON HILL: Uh-huh.

4 MR. KADIDA: We've sent a letter. The owners
5 actually live out of the -- out of town.

6 CHAIRPERSON HILL: Okay.

7 MR. KADIDA: They don't live in the city.

8 CHAIRPERSON HILL: Uh-huh.

9 MR. KADIDA: We have been talking to the
10 management company. We have a very good relationship
11 with the management company.

12 CHAIRPERSON HILL: Uh-huh.

13 MR. KADIDA: We sent a letter out to the
14 owners through the management company.

15 CHAIRPERSON HILL: Uh-huh.

16 MR. KADIDA: They didn't return it quickly
17 enough for us to present it to the BCA.

18 CHAIRPERSON HILL: Uh-huh.

19 MR. KADIDA: But they are in support via e-
20 mail. They said, if you need the letter we can sign
21 it and send it back.

22 CHAIRPERSON HILL: Uh-huh.

23 MR. KADIDA: But since we went to the BCA and
24 they were supportive, the ANC was supportive, we
25 didn't think we needed that letter from the owner 72.

1 CHAIRPERSON HILL: So when you provided
2 testimony earlier that you said that the neighbors
3 were in support, you were referring back to an e-mail
4 that you got from the owner in the brick --

5 MR. KADIDA: 72.

6 CHAIRPERSON HILL: right.

7 MR. KADIDA: But we do have the support and
8 letter from 76.

9 CHAIRPERSON HILL: Right. I understand. I'm
10 just clarifying for --

11 MR. KADIDA: Yeah. Correct, yes. Yes.

12 CHAIRPERSON HILL: Okay. All right.

13 MR. HART: If we could get whatever e-mail
14 that you had, you can always submit things to us in
15 person.

16 MR. KADIDA: Sure.

17 MR. HART: So, you could have brought the e-
18 mail to us. And actually, I would like to see it.

19 MR. KADIDA: Sure.

20 MR. HART: But yeah, Mr. Chair, I'm not -- in
21 listening to the testimony that's been given and the
22 comments that we've gotten from the Office of
23 Planning, I'm having a hard time with being able to
24 understand how this meets the relief that they -- the
25 requirements, the prongs for the relief that's

1 required. Or excuse me, that's being requested. I
2 mean, I'm -- I would like to have, from the applicant,
3 some images that show us how meeting either the, what
4 is by-right or a special exception is not -- they're
5 not capable of doing. I mean, right now it's just, I
6 just feel like there's got to be a way to get there.
7 And I don't think that because the contractor didn't
8 do it correctly is an adequate response. I don't
9 think that that's something that I'd want to say for
10 any case. Well, I shouldn't say for any case. For
11 this case, I don't think that that's an adequate
12 enough response for you know, for being a unique
13 condition.

14 I mean, if you look at all of the other
15 project -- all of the other buildings along the site,
16 they are all about the same size. So, it just makes
17 this -- you know, the building itself is fairly normal
18 compared to the rest of the buildings on the block,
19 and it just making an exception here does not make
20 sense to me at this point. So, I would like to see
21 some sort of you know, further explanation as to why -
22 - see as in terms of drawings, why this is necessary;
23 why we can't get to either -- well, if they were a
24 matter of right, they wouldn't come to us, but the
25 special exception aspect of it is -- I don't know. I

OLENDER REPORTING, INC.

1100 Connecticut Avenue, NW Suite 810 Washington, D.C. 20036
Washington: (202) 898-1108 / Baltimore: (410) 752-3376
Toll Free: (888) 445-3376

1 still feel like I need to get there. I understand
2 that it's not a, you know, the applicant is saying
3 it's not a huge deviation from the actual, the relief
4 needed, but it just still seems like we need -- I need
5 some other information to be able to be able to
6 evaluate this correctly.

7 CHAIRPERSON HILL: Okay, yeah. I'm sorry.
8 Did anyone else have a comment?

9 MS. WHITE: If we could get more information
10 just to be able to analyze this more carefully,
11 because I do have some hesitation in approving a
12 variance at this point given the comments from the
13 Office of Planning, given the comments from your
14 neighbors. I mean, that was a pretty powerful
15 testimony in terms of what they just indicated.

16 But if there is any other alternative way that
17 you could figure out how to allow the occupants to get
18 to their cars or, you know, empty trash, obviously you
19 know, no one wants to go all the way around the corner
20 in order to be able to empty their trash and get to
21 their cars. But the variance test is a pretty high
22 test and I would concur with Mr. Hart that we -- Vice
23 Chair Hart, if there was some additional information
24 we could get, that would be helpful.

25 MR. HOOD: I too, Mr. Chairman, would concur

1 with the Vice Chair and Board Member White. Let's see
2 what we can do to make it right. I'm just going to
3 say that. Right now, I'm not having a hard time
4 because I'm looking at the merits of the case, and not
5 even getting to the good policy, the neighbor that you
6 all have not been, I'm looking at the merits of the
7 case and I just don't see myself voting in favor of
8 what's before me today.

9 So, let's see what we can do, Mr. Sullivan and
10 others, to make this right. And that's it. Thank
11 you, Mr. Chairman.

12 CHAIRPERSON HILL: Okay. So, where I think --
13 and I'm also in the same place here, you guys. So
14 where I think that we, the Board, would like to see, I
15 mean, I think that if there is some way that you can
16 work with the Office of Planning in terms of getting
17 to the special exception rather than the variance, I
18 think I'm also having a hard time with it.

19 The issue that -- I guess, I mean, even what
20 I'm having even another hard time with is like, you
21 know, you've already built it, right? And so, we're
22 basically, you know, you already need the special
23 exception to get to the 70 percent, but it's already
24 built.

25 And so, to make you tear it down and go back

1 to 66, you know, that's a whole other thing. I mean,
2 your contractors just, I don't know what they were
3 thinking or how they got to wherever they -- I mean,
4 it is a big difference, you know, that they did,
5 right? So, I think that if you want to -- well, first
6 of all, the Board would like to see -- I'd like to see
7 what the 70 percent does to you. Like, whatever you
8 can work out with the Office of Planning to see if you
9 can somehow get -- either remove the stairwell, and
10 that's just too bad for the tenants. They have to
11 walk around the block, I guess, right. And then, or
12 whatever the Office of Planning might have -- they
13 seem to have kind of a creative way that they think
14 they might be able to get to it. And then getting it
15 to the 70 percent.

16 What I'd also like to see is some kind of
17 statement. I don't want to get into a situation where
18 kind of like challenging the testimony from the
19 witnesses. Like I'd just like to hear some statement
20 in the record as to what you're going to do to kind of
21 like, you know, make sure that your, you know, people
22 moving forward on that project, even though if you are
23 going to have to remove the stairwell then there's --
24 I mean, I just want some kind of something from you,
25 Mr. Kadida, that can make us as a board feel as though

1 you've heard now the testimony from the people next
2 door, you've taken that into an account, and you're
3 going to be mindful of that moving forward. Just
4 something that says that in the -- I don't know what
5 you want to, you know, a little note of some kind as
6 to what the management issues you're going to
7 undertake now to make sure that the people that work
8 for you are going to treat the neighbor's property
9 with care, something like this. Okay?

10 Like, so really, and I would like to have
11 something pretty detailed that outlines that. Okay?
12 So that's one.

13 The other, again, is how I guess I stated, and
14 my colleagues stated, how you might be able to get to
15 the 70 percent in terms of the special exception, and
16 then -- and if you want to continue down this road
17 still, you can, although I don't think there's a whole
18 lot of -- I don't think you can necessarily get us
19 there.

20 And again, the reason why I'm following up
21 again is, this is already done. It's like, you know,
22 you're here asking for something that you've already
23 done. You know, and so I think it's a bit of a
24 fortunate for you if you can get the Office of
25 Planning to kind of get to the special exception all

1 together.

2 Does the Board have any other comments to add?

3 [No audible response.]

4 CHAIRPERSON HILL: Okay. So, then you're
5 understanding what we're asking for, from you guys?

6 MR. SULLIVAN: Yes.

7 CHAIRPERSON HILL: Okay. So, Mr. Moy, I guess
8 this would be a continued hearing, and Chairman Hood
9 has pointed out again, he's here on the 27th. And so,
10 since Chairman Hood first heard the testimony, we're
11 going to continue this hearing on the 27th. So, I
12 don't close the record, then, right, because it's a
13 continued hearing?

14 MS. GLAZER: Correct. And you've also asked
15 for information.

16 CHAIRPERSON HILL: Right. No, I want the
17 information that we asked for from them, but then that
18 means the record is open still to the public?

19 MS. GLAZER: It's up to the Board.

20 CHAIRPERSON HILL: Okay. So, we'll leave the
21 record open until the 27th. Or whatever. Not the
22 27th. Whenever it is that we -- however long we take
23 information.

24 MR. MOY: The Board --

25 MS. GLAZER: The Board can set a time table.

1 MR. MOY: Yeah. Do you want a deadline for
2 submissions?

3 CHAIRPERSON HILL: Yeah. When would be a good
4 time if Mr. Hood is going to be here on the 27th?

5 MR. MOY: Well, we're clearly -- the applicant
6 can file any time up to let's say, they're going to
7 have ample time. So, I would set a date of Monday,
8 September 18th. Unless they feel they need more time.

9 This still --

10 CHAIRPERSON HILL: Is that good? That's fine.
11 Right?

12 MR. MOY: Still continued hearing.

13 CHAIRPERSON HILL: Okay. All right. Okay.
14 The 18th is good. Yeah.

15 And then I was -- okay. All right. Any
16 questions, Mr. Sullivan?

17 MR. SULLIVAN: No, thank you.

18 CHAIRPERSON HILL: Okay. All right. Then we
19 are going to see you guys on the 27th, with Chairman
20 Hood.

21 MR. SULLIVAN: Thanks.

22 CHAIRPERSON HILL: All right. We have one
23 more thing to do here. So, let's see.

24 In accordance with Section 405(c) of the Open
25 Meetings Act, D.C. Official Code Section 2-575(c), I

1 move that the Board of Zoning Adjustment hold closed
2 meetings on Monday, September 11th, September 18th,
3 September 25th, and Tuesday -- September 25th, and
4 Tuesday, September 5th. That's out of order.

5 These meetings start at 3:00 p.m. and are held
6 for the purpose of obtaining legal counsel -- purposes
7 of obtaining legal advice from our counsel and
8 deliberating upon but not voting on the cases
9 scheduled to be publicly heard or decided by the Board
10 on the day two days after such closed meeting.

11 Those cases are identified on the Board's
12 public decision meeting and hearing agendas for
13 September 13th, September 20th, September 27th, and
14 September 6th. A closed meeting for these purposes
15 permitted by Sections 405(b)(4) and (b)(13) of the
16 Act. Is there a second.

17 MR. HART: Second.

18 CHAIRPERSON HILL: The motion has been made
19 and seconded. Will the secretary please take a roll
20 call vote on the motion?

21 MR. MOY: Okay. When I call the board
22 member's vote, if you could reply or respond with a
23 yes or a no?

24 [Roll call vote taken.]

25 MR. MOY: Mr. Hood.

1 MR. HOOD: Yes.

2 MR. MOY: Ms. White?

3 MS. WHITE: Yes.

4 MR. MOY: Chair Hill?

5 CHAIRPERSON HILL: Yes.

6 MR. MOY: Vice Chair Hart?

7 MR. HART: Yes.

8 MR. MOY: We have a board seat vacant, the
9 motion carries, sir.

10 CHAIRPERSON HILL: Okay. So, I request that
11 the Office of Zoning provide notice of these closed
12 meetings in accordance with the act.

13 Okay. So, do we have anything else before us
14 today, Mr. Moy?

15 MR. MOY: Not to my knowledge, sir.

16 CHAIRPERSON HILL: So we are adjourned until
17 September.

18 MR. MOY: September 6th, I believe.

19 CHAIRPERSON HILL: I will miss you all very
20 much.

21 MR. MOY: We will too. We'll miss you as
22 well.

23 CHAIRPERSON HILL: We stand adjourned.

24 [Whereupon, at 1:14 p.m., the public hearing
25 and meeting were adjourned.]

CERTIFICATE OF TRANSCRIPTIONIST

I, Kimberly Lawrie, do hereby certify that the foregoing proceeding was transcribed from a digital audio recording provided to me by Olender Reporting and thereafter was reduced to typewriting by me or under my direction.

I am not related to any of the parties in this matter, and this transcript is a true and accurate record of said audio recording to the best of my ability. The above information has been transcribed by me with a pledge of confidence, and I do hereby certify that I will not discuss or release the content or any information contained herein.



Kimberly Lawrie,
Legal Transcriptionist