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

PUBLIC HEARING AND MEETING
OF THE BOARD OF ZONING ADJUSTMENT

9:35 a.m. to 2:40 p.m.
Wednesday, September 27, 2017

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

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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 MARY NAGELHOUT, Esq.

10 HILLARY LOVICK, Esq.

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12 Office of Planning

13 ANNE FOTHERGILL

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

2 CHAIRPERSON HILL: The hearing will please
3 come to order.

4 We're located in the Jerrily R. Kress Memorial
5 Hearing Room at 441 4th Street Northwest. This is the
6 September 27th, 2017 public hearing of the Board of
7 Zoning Adjustment of the District of Columbia.

8 My name is Fred Hill, Chairperson. Joining me
9 today is Carlton Hart, Vice Chairperson, Lesyllee
10 White, board member, and representing the Zoning
11 Commission on some decision meetings is Michael
12 Turnbull, and then following will be Anthony Hood.

13 Copies of today's hearing agenda are available
14 to you and located in the wall bin near the door.
15 Please be advised that the proceeding is being
16 recorded by a court reporter. It is also webcast
17 live. Accordingly, we must ask you to refrain from
18 any disruptive noises or actions in the hearing room.

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

25 All persons planning to testify either in

1 favor or in opposition must have raised their hand and
2 been sworn in by the secretary. Also, each witness
3 must fill out two witness cards. These cards are
4 located on the table near the door and on the witness
5 table. Upon coming forward to speak to the board,
6 please give both cards to the reporter sitting at the
7 table to my right.

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

15 The order of procedures for special exceptions
16 and variances and appeals is also in the bin to your
17 left. The record shall be closed at the conclusion of
18 each case, except for any materials specifically
19 requested by the board. The board and the staff will
20 specify at the end of the hearing exactly what is
21 expected, and the date when the persons must submit
22 the evidence to the Office of Zoning.

23 After the record is closed, no other
24 information shall be accepted by the board. The
25 District of Columbia Administrative Procedures Act

1 requires that the public hearing on each case be held
2 in the open before the public, pursuant to Section
3 405B and 406 of that act. The board may, consistent
4 with its rules of procedures and the act, enter into a
5 closed meeting on a case for purposes of seeking legal
6 counsel on a case, pursuant to D.C. Official Code
7 Section 2-575(b)(4), and/or deliberating on a case
8 pursuant to D.C. Official Code Section 2-575(b)(13),
9 but only after providing the necessary public notice.
10 And in the case of an emergency closed meeting, after
11 taking a roll call vote.

12 The decision of the board in these -- the
13 decision of the board in cases must be based
14 exclusively on the public record. To avoid any
15 appearance to the contrary, the board requests that
16 persons present not engage the members of the board in
17 conversation.

18 Please turn off all beepers and cell phones at
19 this time, so as not to disrupt the proceedings.

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

1 the board should not proceed, now is the time to raise
2 such a matter.

3 Ms. Rose, do we have any preliminary matters?

4 MS. ROSE: Yes. Good morning, Mr. Chair, and
5 members of the board. Staff does have a few
6 preliminary matters.

7 First, with Appeal No. 19356 of the Argonne,
8 LLC, scheduled for decision today, this case has been
9 withdrawn by the appellant.

10 Two cases have been postponed. The hearing in
11 Application No. 19564 of Tammika Thompson was
12 postponed to October 25th, 2017 at the applicant's
13 request. And Application No. 19508 of John Tekeste
14 has been postponed to the hearing of December 20th,
15 2017.

16 Finally, a request for postponement has been
17 made by the applicant in one of the cases on the
18 hearing agenda today. That is Application No. 19377
19 for the Boundary Companies, and the Missionary Society
20 of St. Paul the Apostle. The applicant is requesting
21 a hearing on January 10th, 2018. This request for
22 postponement is before the Board for decision.

23 CHAIRPERSON HILL: Okay, great. Thank you,
24 Ms. Rose. Let's see. So, is the Board ready to
25 deliberate or discuss the preliminary matter

1 concerning the postponement of Application 19377?

2 [No audible response.]

3 CHAIRPERSON HILL: Okay. Is -- well, I can
4 begin. I mean, this is now the fourth time that we've
5 been asked to postpone this case. And I did have some
6 reservations because, you know, four times is more
7 than we normally do.

8 Is the applicant here, by any chance? Oh,
9 okay. If you could come on forward, please?

10 MS. ROSE: Do I need to swear them?

11 CHAIRPERSON HILL: Oh, yeah. I'm sorry.
12 Actually, if everyone could please stand, if you're
13 going to testify? Ms. Rose is going to swear everyone
14 in for the taking the oath. Thank you.

15 MS. ROSE: Please raise your right hand.

16 [Oath administered to the participants.]

17 MS. ROSE: You may consider yourselves under
18 oath.

19 CHAIRPERSON HILL: Okay. If you could please
20 introduce yourselves from my right to left?

21 MR. HORNE: Sure. My name is Steve Horne.

22 CHAIRPERSON HILL: You have to speak into the
23 microphone.

24 MR. HORNE: My name is Steven Horne. I'm a
25 Vice President with Elm Street Development.

1 MR. UTZ: I'm Jeff Utz with Goulston and
2 Storrs, the land-use counsel.

3 MR. WILKINSON: Good morning. John Wilkinson,
4 President of Boundary Companies.

5 CHAIRPERSON HILL: Okay. So, Mr. Utz, I guess
6 you're kind of going to explain to us -- I mean,
7 basically, you know, we have postponed this now three
8 additional -- three times previously and we've done
9 so, basically, on the record. I mean, we just went
10 ahead and moved forward with the application.

11 And so, it's unusual for us to do it a fourth
12 time. So if you could just kind of explain again why,
13 and not only that, why you need it all the way until
14 January 10th?

15 MR. UTZ: Sure. Sure. I'd be happy to.
16 Thanks for letting us have the opportunity to come
17 before you today.

18 What's not in the record is there is a lot of
19 -- there have been a lot of meetings over the past
20 actually, probably two years all told, with D.C.
21 agencies and the community, that has kind of continued
22 to iteratively influence the direction of the project.
23 And the project is being modified all along the way.

24 So we've been meeting with D.C. agencies,
25 we've been meeting with the community, and to that

1 end, we actually got ANC support in May, and they
2 submitted their letter indicating that support into
3 the record. So, we continue to work with the
4 community and now we are working with the immediate
5 neighbors, the chancellor's row community further.
6 And we hope to continue to do that ideally, before the
7 hearing.

8 Also, there is historic landmark nomination
9 application. Actually, two of them that have been
10 filed for some portions of the property relating to
11 the application. So, the desire would -- and those
12 will be heard. One is scheduled for October 28th, and
13 the other is scheduled, I believe, for November 17th.

14 It is likely that those will be heard in the November
15 timeframe in deciding that historic element is an
16 essential input into the entirety of the project. So
17 we were hoping to have some resolution in that regard
18 prior to coming to the BZA with those effected items.

19 So the intent with the January request was to
20 pick a date far enough out where we hopefully had come
21 to resolution on everything that I just talked about,
22 and there are actually other elements as well. What I
23 forgot to mention was there are -- there's a web of
24 fairly complicated agreements that are recorded on
25 this property with the adjacent neighbors,

1 Chancellor's Row, the building that is the St. Paul's
2 building itself, which has a school on it, that need
3 to be kind of definitely modified and unwound as well,
4 which is also adding to the kind of complexity of the
5 undertaking.

6 So we wanted to pick a date that was far
7 enough in the future where we could resolve these
8 things without having to request another extension.
9 And ideally, we would have requested no specific date.
10 We actually tried to do that on our prior submission,
11 just have an open-ended date and then ideally, we
12 would have filed something saying, we're basically
13 there with the community. We're there with the
14 agencies. The historic issues have been resolved.
15 And then whatever the BZA schedule would have allowed,
16 we would have just gotten back in line.

17 So, that would also ideally be what we'd like
18 to do now, not actually have a date, now that this
19 other -- this other application came in, I think it
20 was last week, the second application that's being
21 heard in November for the historic landmark
22 nomination. So, ideally, we'd like to resolve those
23 issues while we're still dealing with the neighbor
24 issues and --

25 CHAIRPERSON HILL: Okay. Okay.

1 MR. UTZ: -- come to you sometime in the early
2 2017.

3 CHAIRPERSON HILL: Okay. Does the Board have
4 any questions?

5 MR. HART: Mr. Chair. Yeah, I, in trying to
6 understand this a little bit more fully, I understand
7 the HPRB stuff that you kind of have to deal with, and
8 that's kind of -- you're looking at a mid-November,
9 mid to late November kind of timeframe with that. But
10 you're looking at like, a month and a half after that.

11 I mean, typically you have a lot of issues with
12 trying to have meetings during -- between the
13 Thanksgiving and New Year, and Christmas, the end of
14 the year.

15 MR. UTZ: Uh-huh.

16 MR. HART: And do you think that that's
17 actually going to be sufficient time to be able to
18 deal with anything that comes up after the HPRB
19 meetings, because you're really not going to have a
20 lot of time between that and the end of the year. I
21 mean, it's going to come up very quickly.

22 MR. UTZ: Right. Right.

23 MR. HART: And I'm just hesitant to -- one,
24 hesitant to give an open-ended kind of approval, just
25 to kind of, at some point in the future. I think we

1 prefer to have a deadline so that that puts you all on
2 notice that there is a specific time that you're
3 expected to come in. The neighborhood understands
4 that there's a timeframe, and it helps us understand
5 how to deal with this particular case as we deal with
6 all the other cases that we get.

7 So, could you talk a little bit about the time
8 between the mid-November and January that you
9 believe --

10 MR. UTZ: Sure.

11 MR. HART: -- that you would have enough time?
12 I understand the ANC kind of issue is over. But the
13 other issue seems like, I don't know.

14 MR. UTZ: Right.

15 MR. HART: I'm just a little bit unclear as to
16 the timeframe and if that's really sufficient; if we
17 really should be looking at March.

18 MR. UTZ: Right.

19 MR. HART: So, why don't you talk about that?

20 MR. UTZ: Right. Thank you. I do think that
21 January is probably too close in time to the November
22 HPRB treatment of the landmark. The second
23 application that was scheduled for November actually
24 came in after we requested January. The first
25 application was in and was going to be dated in

1 October, and we're just assuming that this will be
2 more of a November resolution with HPRB.

3 So I would agree that January is pushing the
4 schedule, so I think something like a February date if
5 we need to lock one in, would be more realistic. If
6 not having an open-ended date is just not on the
7 table, I think February would be something that would
8 accommodate that kind of response to the HPRB
9 decisions and direction and to allow us time to get
10 everything on the record and have you all review it in
11 time, get the agency reports in time, and get to our
12 hearing in a relatively comfortable manner.

13 MR. HART: And really, the locking in is
14 really, that's me talking, not the rest of the board
15 members.

16 MR. UTZ: Uh-huh. Got it.

17 MR. HART: So, they may feel that that's okay
18 to do. I just find that it's helpful to have that,
19 especially for you all, to have a time that you're
20 actually kind of focused on and trying to get that
21 done, because it helps to in some ways, clarify things
22 that you, okay, we have a deadline to actually get
23 this done. Not, well, at some point in the future.
24 So, just --

25 CHAIRPERSON HILL: Ms. White, you had a

1 question?

2 MS. WHITE: My comment is that, you know, this
3 is a pretty complicated project. You're looking to
4 construct 12 new buildings with approximate 78 one-
5 family dwelling units near 3015 4th Street Northeast.

6 So I'm also a little hesitant to kind of set a date,
7 obviously, in January because you still don't have
8 OP's feedback on it, or DDOT's feedback on it. I
9 don't know what the procedure is for just having them
10 to just circle back with us when they're ready because
11 I don't get the sense that they would be ready to go
12 in January or February. Those are just my comments,
13 unless you have any thoughts.

14 MR. UTZ: One thought that we had was, we
15 would be able to check in with more clarity on the
16 date in late November, after the HPRB hearings occur.

17 That really will be illuminating for us to know what
18 the timeframe going forward is.

19 So at that point, we could say if the February
20 dates are available --

21 CHAIRPERSON HILL: Okay.

22 MR. UTZ: -- we would be happy to lock into --

23 CHAIRPERSON HILL: So, I don't know, Mr.

24 Turnbull, if you have any comments. And I'll just
25 make one statement and then if you do have any

1 comments. You know, we haven't done an open-ended
2 date in the past as far as, I haven't been here that
3 long, but in the past few years. And I wouldn't be
4 comfortable with an open-ended date.

5 And so really, since you guys are here and you
6 know kind of how the time go -- I mean, basically,
7 we're trying to prevent having to start again, right?

8 I mean, this is your third -- this is your fourth
9 request. And so, I'm sure that this will be the last
10 one that gets granted, regardless of what, you know,
11 comes down the line probably. And so, you know,
12 depending -- and I know you want to get as quickly as
13 you can, to a resolution. And so, you know, if you
14 want to talk to Mr. Utz there and decide whether it's
15 February, whether it's March, you know, because then I
16 know if you did have to, you know, for some reason
17 February got thrown back, then I really doubt we're
18 going to grant another one, and then you're back to
19 whatever the beginning of the -- and I don't even know
20 how the queue works, actually. You know, then you're
21 looking at four more months after that. I don't know.

22 So, I mean, we can look into -- and I know
23 that the calendar hasn't been set that far out,
24 thankfully for all of us, but you know, we could put
25 something in there for, you know, just put a

1 placeholder in there somewhere for February or March
2 for you.

3 So you want to do like, second week of March?
4 Is that --

5 Yeah, you still have the microphone on.
6 Sorry.

7 MR. UTZ: I think March would be, all things
8 that we're talking about would make that the ideal
9 path forward to schedule a March date.

10 CHAIRPERSON HILL: Okay. So, Ms. Rose, can we
11 go ahead and do that?

12 MS. ROSE: March 14th?

13 CHAIRPERSON HILL: March 14th. Yeah. And I
14 think Mr. Turnbull has something to say first, before
15 we decide on this.

16 MR. TURNBULL: Well, I think you've all
17 touched on it, on all the critical elements, I think
18 to -- I guess the only thing is, is there anything
19 that you could see in the HPRB review that would throw
20 this back further? Is there anything out there as you
21 see are major issues that could be a stumbling block
22 to make it even longer?

23 MR. UTZ: It's hard to say. I don't think so.
24 One of the agencies we've been meeting with all along
25 is HPO, the Historic Preservation Office, and we've

1 gotten input from them and designed the project with
2 the sensitivity towards the historic nature of the
3 property incorporated. So we think that it shouldn't
4 cause further delay.

5 MR. TURNBULL: Okay.

6 MR. UTZ: But, it's still a bit of an unknown.

7 MR. TURNBULL: Yeah, I would just agree with
8 the Chair, that the Board has normally not done open-
9 ended. So if March is going to be the last time then,
10 okay, Mr. Chair.

11 CHAIRPERSON HILL: Okay. So then, Ms. Rose,
12 what date were you looking at there?

13 MS. ROSE: So, we're looking to schedule a
14 public hearing on March 14th, 2018.

15 CHAIRPERSON HILL: Okay. And now that I'm --
16 I mean, that is six months from now. So if you can't
17 figure that one out, then maybe there's a problem.

18 So I'd go ahead and make a motion to approve
19 the request for postponement on Application No. 19377.

20 MR. HART: Seconded.

21 CHAIRPERSON HILL: Motion been made and
22 seconded.

23 [Vote taken.]

24 CHAIRPERSON HILL: The motion passes.

25 MR. UTZ: Thank you.

1 CHAIRPERSON HILL: Thank you. Good luck.

2 MS. ROSE: Do you want me to record the vote,
3 Mr. Chair?

4 CHAIRPERSON HILL: Certainly.

5 MS. ROSE: Staff would record the vote as
6 four, to zero, to one with Mr. Hill making the motion
7 to postpone. Mr. Hart seconding with Ms. White and
8 Mr. Turnbull in support of the motion. One board seat
9 vacant.

10 CHAIRPERSON HILL: You don't do a summary
11 order or anything for that, right? Yeah, there's
12 nothing -- okay.

13 MS. ROSE: No, it's just a postponement.

14 CHAIRPERSON HILL: And just to let everyone
15 know in the audience, we are going to follow the
16 agenda that's in the back there. I'm sorry, that's in
17 the corner that you picked up when you walked through
18 the door.

19 MS. ROSE: Are you ready? The first case for
20 decision today is on the consent calendar. It is
21 Application No. 19055A of Valor Minnesota, LLC. A
22 request for a two-year time extension of BZA order No.
23 19055, approving variances from the minimum lot area
24 requirements under Section 401, lot occupancy
25 requirements of Section 403, rear yard requirements of

1 Section 404, and side yard setback requirements under
2 Section 405, and special exception from minimum lot
3 dimension requirements under Subsection 2604.3, to
4 construct 30 one-family attached and semi attached
5 dwellings in the R-2 Zone District at premises 4409
6 Minnesota Avenue Northeast.

7 CHAIRPERSON HILL: Thank you, Ms. Rose. Is
8 the Board ready to deliberate?

9 [No audible response.]

10 CHAIRPERSON HILL: Okay, great. I can go
11 ahead and start. This is like, I guess, two weeks ago
12 we heard this for the time extension. And at the time
13 we had asked from the applicant, a little bit more
14 information in terms of why this was necessary.

15 After reviewing the information that the
16 applicant submitted, I don't have an issue with the
17 time extension. I'm comfortable with the reasoning
18 behind that from, you know, that we had received from
19 in Exhibit 8 and 8A. There was some discussion about
20 either granting one or two years. I don't really have
21 a strong preference one way or the other depending
22 upon how the board goes, I'd be in -- I could go
23 either way.

24 And then also, in addition to that I agreed
25 with the analysis that the Office of Planning had

1 provided in terms of why this time extension should be
2 granted. Does the Board have any other thoughts?

3 MS. WHITE: I'm okay with the time extension
4 as well. It appears that the applicant is comfortable
5 with either a one or a two-year extension. So,
6 depending on how my colleagues feel, you know, one
7 year would be fine. Unless the applicant felt like
8 that wasn't going to be enough time. But they've
9 already indicated that one year would suffice.

10 MR. HART: Mr. Chair.

11 CHAIRPERSON HILL: Mr. Hart.

12 MR. HART: Yeah, I also would be in support of
13 an extension. I find that the two-year time extension
14 is actually probably needed, and I wanted to -- I
15 would like to give them more time than less in this
16 case, so that they can deal with the issues that they
17 have and they don't have to come back to us to have
18 another one-year time extension, you know, in 2018.

19 So I just feel that they have provided the
20 sufficient information to describe the issues they're
21 dealing with, and just in an effort to give them some
22 time, I thought that the two-year would be the most
23 appropriate. So, that's it.

24 MR. TURNBULL: Yes, Mr. Chair. I am agreeable
25 to the extension also. I think as we discussed in the

1 hearing, I think you and I sat on the original case on
2 this street, and I remember at the time that there was
3 issues with this street and the way it was laid out,
4 and the question of the survey and I think the
5 applicant has come back with their Exhibit No. 8 and
6 8A and clarified a lot of the issues and the issues
7 with WMATA and the Department of Transportation and I
8 think it's clear that there's issues that they have to
9 resolve to get this survey correct and get it moving
10 again.

11 So, I think the applicant had indicated -- I
12 don't know if I was really pushing for only a one-year
13 extension. After reading all the information I'm
14 amenable to the going for the two years, if the board
15 is also.

16 CHAIRPERSON HILL: Okay. Great. All right.
17 Then, I'll go ahead and make a motion to approve
18 Application No. 19055A of Valor Minnesota for a two-
19 year time extension, and ask for a second.

20 MR. HART: Second.

21 CHAIRPERSON HILL: Motion has been made and
22 seconded.

23 [Vote taken.]

24 CHAIRPERSON HILL: The motion passes, Ms.
25 Rose.

1 MS. ROSE: Staff will record the vote as four,
2 to zero, to one on a motion by Mr. Hill, seconded by
3 Mr. Turnbull to grant the two-year time extension,
4 with Mr. Hart and Ms. White in support of the motion,
5 one board seat vacant.

6 CHAIRPERSON HILL: Great. Summary order.

7 MS. ROSE: Thank you.

8 Next is Application No. 19548 of Tara Guelig
9 and Yuri Horwitz as amended, pursuant to 11 DCMR
10 Subtitle X, Chapter 9, for a special exception under
11 Subtitle D, Section 5201, from the rear yard
12 requirements of Subtitle D, Subsection 1206.3, to
13 construct a rear addition to a one-family dwelling in
14 the R-20 Zone at premises 2716 O Street Northwest,
15 Square 1239, Lot 143.

16 There is a request from the party in
17 opposition to defer the decision for two weeks, and
18 the applicant is in opposition to the deferment of the
19 decision.

20 CHAIRPERSON HILL: Okay. Is the board ready
21 to deliberate first, on the postponement issue? Okay.

22 So, I was not in favor of the postponement,
23 due to the fact that the request was coming from the
24 people that were behind the property. And in my
25 deliberations I'll explain as to how much I took into

1 -- how much I thought about their opposition and the
2 reasoning behind their opposition.

3 So in any case, the request didn't come from
4 the immediate adjacent neighbor, which was the person
5 that I was most interested in kind of focusing my
6 discussion about. And in addition, the postponement
7 seemed to be a request for things that the applicant
8 didn't actually -- they weren't in agreement of. They
9 weren't going to submit additional plans, they weren't
10 trying to make it just one story. So I didn't see any
11 need to postpone the deliberations. Does the board
12 have any thoughts?

13 MS. WHITE: My thought is that I don't see the
14 need for a postponement with respect to this case
15 either. I think we've got sufficient information in
16 the record.

17 MR. HART: I agree.

18 CHAIRPERSON HILL: Okay, all right. I don't
19 think I have to make a motion right, Ms. Rose? We're
20 just denying the postponement. So, we're just going
21 to deny the postponement.

22 So, we're moving on to deliberations. Is the
23 Board ready to deliberate?

24 MR. HART: Sure.

25 CHAIRPERSON HILL: Okay. Would someone else

1 like to start?

2 MR. HART: Sure. Mr. Chairman, in this case
3 we're looking at a homeowner that -- or homeowner's
4 family that wanted to expand the property, expand
5 their building in the rear of their building, and they
6 were looking to do this because they didn't really
7 have an option to go to make the expansion taller.
8 They wanted to have some space for an additional, or I
9 guess a larger bedroom, master bedroom, and just more
10 space in their house overall.

11 I understand that there was opposition from
12 the neighbor to the east, as well as some other
13 neighbors that were on another street, but were behind
14 this neighbor. And we heard from the ANC commissioner
15 that the ANC itself voted not to take a position, and
16 I guess in this case it was really around the fact
17 that there were neighbors that were both in support
18 and in opposition to this particular project. And so
19 the ANC just kind of stepped back and was allowing the
20 neighbors to talk amongst themselves.

21 In reading over the record, which included
22 quite a bit of letters, again, both in support and
23 against, as well as the Office of Planning report, the
24 Office of Planning report actually was in support of
25 this application and it noted that there was a

1 condition regarding kind of the treatment of the wall
2 on the eastern side of the expansion, I guess. And I
3 wasn't really -- because the neighbor that would have
4 kind of been affected by this wasn't really wanting
5 the addition at all, having the -- and she noted it in
6 her testimony, she didn't really want the -- she
7 didn't really think that the condition that OP was
8 talking about was really something that she would be
9 supportive of because she didn't want the building to
10 begin with.

11 So, I'm not really sure that I think that the
12 condition is something that we necessarily need to
13 have if we're looking to support this.

14 In taking a look at all the information that
15 was provided, I do say that the -- I think that I am
16 in support of the application. I understand that
17 there will be some impacts to this for the
18 application, but I felt that the applicant and the
19 Office of Planning provided pretty sufficient
20 information that helped me understand what was being
21 requested and that it was something that I felt was --
22 that the project itself had actually been reduced in
23 the impacts as the design went on through the Old
24 Georgetown Board review, and then just making changes
25 to try to lessen the impact of this new addition.

1 And so, I guess, you know, again, with that I
2 think I could support the application. I do
3 understand that it will provide some impacts and I,
4 nevertheless, got to that decision.

5 MS. WHITE: I'd kind of concur with Vice Chair
6 Hart on this. I remember this case because, I mean,
7 the location of the properties almost kind of like a
8 little private park area. And the neighborhood was
9 very sensitive to having development that would have
10 any kind of negative impact on the way it is as it
11 looks today.

12 But I think you know, in terms of looking at
13 the standards and the relief that they're seeking for
14 a special exception for a rear addition, and in
15 looking at the record, some of the things that I
16 looked at was the sun study. And the sun study showed
17 some impact, but I don't think it was substantial in
18 terms of having a substantial visual intrusion on, for
19 the other neighbors. Looking at some of the
20 photographs, once the addition is done, from what I
21 can see it doesn't appear that it would be that
22 visually apparent that it was there.

23 So I didn't see it as having a substantial and
24 unduly impact on the light and air of the other
25 neighbors. And so, in the lot occupancy that they

1 were requesting for the rear addition was within the
2 criteria that the board is able to provide. So, I
3 would concur with Vice Chair Hart, and I'll --
4 obviously, being very sensitive to the neighbors as a
5 D.C. resident myself, I do think that they were
6 meeting the requirements in order to get a special
7 exception for a rear addition.

8 MR. TURNBULL: Thank you, Mr. Chair. Let
9 me -- I think I'm going to take a little bit different
10 stance than my colleagues on this, the rest of the
11 Board. The Zoning Commission implemented this change
12 or recommended this change for several reasons,
13 because of impact of extensions back on to residential
14 areas such as this.

15 If I could go back even to the Office of
16 Planning report, and to Mr. Cochran's statement on
17 page 4. It says, "With the two-story portion of the
18 proposed addition would be 11.4 deeper than the
19 existing two-story rear wing. While the proposed
20 addition does not seem likely to have a substantial
21 impact on the light, air, or privacy available to 2712
22 O Street, it is difficult to evaluate whether the
23 increased amount and dimensions of the blank brick
24 wall would unduly compromise the enjoyment of 2712 O
25 Street."

1 And so OP's recommendation was that they would
2 work with the owners of that. And this whole thing of
3 this wall, and I think we had Ms. Schafer here, she
4 was just upset that it was so long. I mean, OP was
5 recommending, maybe you could put greenery on it. And
6 that's not in our purview to really go down that wall
7 and recommend. But the idea was that you would work
8 with them and figure out what you could do to solve
9 the impact of that big -- of that wall, that blank.
10 That space.

11 And you did. I think you sort of gave them a
12 direction to go back and review it. And they went
13 back, and it didn't sound like it was a very
14 successful meeting. Although, in Ms. Schafer's
15 report, talking about it, she had backed off of
16 totally objecting to the addition. She said, we would
17 agree, we would not object to a first-floor extension
18 no longer than 10 feet instead of the 20, a second-
19 story extension no longer than seven instead of the
20 15. So, there was a willingness to talk about it, but
21 I think the applicant was basically dug their heels in
22 and said no.

23 Now, from an architectural standpoint there's
24 other options you could have done. You could have
25 angled things back, you could have tapered things.

1 You could have had some movement to try to create
2 another space, rather than just going straight back.
3 You could have done some other kind of configurations
4 which would have at least addressed some of the
5 concerns of Ms. Schafer. And I think that's the whole
6 issue of why this zoning regulation was done, is to --
7 we would allow an applicant to do things with their
8 property beyond what the zoning regulations had, as
9 long as you've met and talked with the neighbors and
10 gone through this and looked at the impact.

11 I really don't think the applicant did enough
12 architectural work on this with Ms. Schafer, to try to
13 either configure their property or the structure in
14 such a way -- and they're probably going to say, there
15 is no way. Well, to me, that's not acceptable. I
16 think there's always a possibility of trying to
17 manipulate, massage, and do a set of plans that you
18 could work that would try to compromise some of these
19 issues.

20 So I don't see that and I'm a little bit
21 frustrated by it. I struggled with this. I
22 understand what the applicant is trying to do and I
23 appreciate what that is. But I'm also concerned about
24 the total impact on the adjacent neighbors. And I
25 think Ms. Schafer has raised a good point, and I, at

1 this point, unless I saw some movement further for
2 them to do something further with what they're going
3 to do with the property at the back, I cannot support
4 this.

5 CHAIRPERSON HILL: All right. Thanks, Mr.
6 Turnbull. Okay.

7 So I'm only laughing because like, we're going
8 down this road again.

9 I was also really torn with this and I really
10 appreciate the thoughtfulness that my colleagues have
11 put forth in terms of their discussion. Mr. Turnbull,
12 it would have been easier for me if you just went with
13 it though, and then you know, we could have -- I could
14 have just said my piece.

15 The neighbors that were behind the property
16 that had an objection, I mean, I understand their
17 concerns with the, you know, the space behind them and
18 what could potentially happen with all of the
19 different homes and make that like kind of like that
20 back-yard area smaller, I supposed, you know. But I
21 wasn't particularly convinced by their argument in
22 terms of, I understand they didn't want it to take
23 place and I think that it was -- that the applicant
24 made a pretty good case that they really can't see
25 much if that were to happen, actually. The people

1 that were in objection.

2 I was also just mainly concerned with Ms.
3 Schafer and the, you know, unduly affected. Like, you
4 know, I do find unduly not to be a very specific
5 criteria that we can kind of point at.

6 I also do think that the applicant did, I
7 mean, going back and looking at their drawings and
8 again, while I say that I was torn and can continue to
9 be torn is that, you know, it seemed that the
10 applicant did try to, in their design, make it
11 smaller. You know, they sloped one ceiling, one roof
12 top another way, and they pulled it back to a certain
13 extent. I mean, I was a little, not necessarily even
14 confused, but like you know, we were talk -- I mean,
15 obviously, the applicant wants what the applicant
16 wants. I mean, they want to move forward with their
17 design and I understand the need that they have to
18 make their property larger for their family. And, you
19 know, as you know, the District wants to keep people
20 in their homes as long as they can and not have to
21 move around if they can -- if we can accommodate
22 things.

23 But again, one of the things that I remember
24 going back on when I was looking at it was again, kind
25 of like that rear extension and how there was the

1 window wall that kind of like tucked in and made it a
2 little bit larger. And I was even -- I was just
3 trying to figure out how they could pull it back a
4 little bit. I mean, it was pretty far back past the
5 10 feet, you know, that the Zoning Commission had set
6 forward in terms of these -- you know, when I first
7 kind of came on the -- I don't even like using the
8 term, but kind of like the pop-ups and the pop-backs,
9 and just how the Zoning Commission again made it so
10 that it could be a special exception in that the,
11 particularly the adjacent neighbor would have some,
12 you know, an opportunity to discuss with us their
13 concerns. And if the adjacent neighbor were on board
14 with this, you know, I would be able to move forward
15 with it.

16 And so, you know, I did think that it was a
17 deep lot, you know. And so that there was the ability
18 to go back farther. And I do appreciate very much the
19 Office of Planning's report. And I think that it was
20 well thought out. And again, I just kind of just
21 struggled with the next-door neighbor. And you know,
22 and I do also appreciate the Office of Planning's
23 recommendation to try to work with the neighbor in
24 terms of you know, something that they could do to
25 make it more appealing for the neighbor, in terms of

1 the green wall.

2 But I agree with Vice Chair Hart in terms of
3 the neighbor doesn't want it at all, so it would be an
4 odd condition to put that in there to have them kind
5 of move forward. So, the comments that Mr. Turnbull
6 just made in terms of the discussion that Ms. Schafer
7 had with the applicant in terms of there was maybe
8 some kind of a willingness to try to get to where Ms.
9 Schafer could be on board with this, you know, and
10 that would also require you know, Ms. Schafer to
11 compromise in that she doesn't want any of it
12 probably.

13 And so, I don't know if enough discussion
14 hasn't taken place or if you know, everyone wanted to
15 go ahead and see what was going to happen first. I
16 was keeping an open mind in terms of my thought
17 process, and also the discussion that we were having
18 here, and listening again to my colleagues in terms of
19 Vice Chair Hart and Ms. White in terms of, you know,
20 their thoughtfulness in their discussion.

21 However, I guess I don't feel comfortable at
22 this time voting for the approval of this, and again,
23 for the reasons Mr. Turnbull, that I think you
24 articulated quite well, where in you know, the Zoning
25 Commission put this forward in a way that created the

1 ability for this special exception to be granted. And
2 part of that was you know, the neighborhood being --
3 having a voice, more of a voice in what that would be
4 -- you know, what's going to happen.

5 And again, no disrespect to the Office of
6 Planning, because again, I think that they make a very
7 fine report and a very fine point in how they are --
8 how they came up with unduly. I mean, there was again
9 -- and we will continue to have this discussion with
10 probably other cases wherein you know, the person
11 could even have more privacy per se. You know, I
12 mean, they're going to have -- they could even have a
13 more private back yard, which was what the Office of
14 Planning had brought up in their discussions.

15 So, I guess I'm just not to the point right
16 now where I could approve this. And I suppose rather
17 than you know, and I don't know exactly, and I might
18 even look to Ms. Rose or anyone to our left there, as
19 to different ways to proceed. I mean, I'd like to --
20 I'd actually like to see if the applicant and Ms.
21 Schafer could have maybe even further discussion to
22 see if -- or, I don't know what the steps involved --
23 I mean, we could -- we're obviously going to take a
24 vote, unless people have changed their positions. You
25 know, it's going to go again as a split vote, which

1 this is now two weeks in a row that this split vote is
2 coming up. And so --

3 MR. HART: Can I have a word, Mr. Chairman?

4 CHAIRPERSON HILL: Sure. Of course.

5 MR. HART: Yeah. In this case, and I
6 understand Mr. Turnbull's, his position on it, or what
7 you described in the case. The one thing that really
8 got to me, or at least I started thinking about, was
9 this is a 15-foot wide site. So the property itself
10 is a fairly narrow site.

11 Now, in D.C. it's not necessarily a you know,
12 the narrowest, because there are narrower lots than
13 this. But what we're looking at is a site where
14 currently I was looking at, I don't know what exhibit
15 this is now. Give me a second.

16 One of the more recent exhibits that they
17 provided, which was the -- it was basically a drawing
18 that shows the changes to the design. It's something
19 that we requested. Changes to the design since the
20 project was first initiated.

21 And there have been positive changes to this
22 design in that there are some kind of setbacks.
23 There's a little kind of a courtyard area that looked
24 like it got a little bit larger as this kind of
25 process went on, and it seemed to be that it was going

1 to be difficult to come to a point where you could
2 create a bedroom that was -- I mean, you were probably
3 looking at 11 feet wide, I guess, if you were looking
4 at, you know, narrowing it any. At some point you'd
5 get to a -- that bedroom becomes nonviable. The new
6 bedroom becomes nonviable.

7 And I understand what you're -- I understand
8 the minimization of that, of that, of doing that. I
9 just don't know what other alternative that they would
10 have had to have been able to do to create something
11 that was viable for themselves, but not -- I mean,
12 they didn't go higher, they went, you know, back. And
13 I kind of see that the higher -- making it higher
14 would have been more impactful than going back,
15 building behind the -- you know, adding to the back of
16 the site, and I don't know if you had any thoughts on
17 that. But you know, going up versus the bump back.

18 CHAIRPERSON HILL: Do you know which -- I'm
19 just curious. I don't --

20 MR. HART: Well, I was looking at a couple of
21 exhibits. One of them is, I think this is 12. So
22 it's the drawings that they -- the first set of
23 drawings that they provided and if you give me a
24 second I'll get to the changes that the applicant
25 added as well. And I just can't remember which filing

1 it was.

2 But it was their drawings that show the change
3 in the progression of the design through time, and
4 it's a color drawing, or a series of drawings, that
5 helped to show what this looked like over -- I'm not
6 even sure what the time period was, but it was a
7 number of months. So, I thought that was helpful to
8 provide it.

9 CHAIRPERSON HILL: Sure.

10 MR. TURNBULL: Mr. Hart, I really appreciate
11 your comments. You're very insightful and I do
12 appreciate it and I understand where you're coming
13 from. And I think you have a point there on a lot of
14 that.

15 I guess, my only concern is that as the Chair
16 said, we've gone from a position where the next-door
17 neighbor was totally opposed to anything, to where she
18 was definitely willing to start talking about some
19 options. I think the possibility of a basement came
20 up, or a cellar, whatever you want to call it. I
21 think -- I guess what I didn't see on this any
22 further, was any kind of an indication further of a
23 massaging of the plan, whether you created a hyphen to
24 go back and created more open space on the side and
25 then bumped out a bit.

1 And somehow working with -- and I know it's a
2 very narrow lot, but I just can't see adding going
3 back more than if you go 20 feet, is then 30 feet
4 acceptable, or is 35? What becomes the breaking point
5 as when you fill up a site? Obviously, it's probably
6 70 percent or 60 percent. I'm not sure.

7 But I just have a feeling at this point, what
8 I'm struggling with on this, and I think as the Chair
9 said, my main concerns are the adjacent neighbor, Ms.
10 Schafer. I think the neighbors at the rear have some
11 points. I think that they've made some points. But
12 for my -- all the bang for me on this is Ms. Schafer
13 and the impact directly, she is most directly affected
14 by this.

15 And I just, I have a feeling that there might
16 have been some movement and then somehow nothing had
17 just -- either the applicant just said, no, we're not
18 going to do this, we're going to go with it. I don't
19 know whether that was on advice of counsel or
20 whatever. But it seems to me that there was some
21 movement by Ms. Schafer to try to compromise nothing
22 at all, to getting something, and then I know the
23 applicant wants a specific thing. I mean, I even
24 question that big space at the family room with the
25 sliding door. Well, I mean, the movable wall.

1 These are all fine points of a design that,
2 yeah, you can look at it one way and say, yeah, this
3 is what we need. It's not going to work if we don't -
4 - if you don't do this. I've never believed that. I
5 mean, I believe that you can -- there are many
6 iterations to a scheme.

7 And you may come to a point where it becomes
8 from a standpoint that for the applicant it just
9 becomes inoperable and it doesn't really work. But I
10 don't know if we're really there yet. I don't know if
11 they've really taken -- they've looked at it one way,
12 and as you said, Mr. Hart, the easiest way to do it
13 was to go back, and again, it is a narrow lot. I
14 understand that. I understand that.

15 But to me, I think there still could have been
16 something done to alleviate some of the impact for the
17 adjacent neighbor in such a way that whether the walls
18 were articulated a little bit different, whether they
19 were manipulated a little bit to offer some relief, I
20 just have a feeling that there might be some finessing
21 of the plans that it might come to a point where we
22 can get a decent compromise where both the applicant
23 and the next door neighbor at least say, well, it's
24 not everything that I want, but it's close and I can
25 agree to this.

1 MR. HART: Mr. Turnbull, I do appreciate that.
2 And I mean, currently there is a, like a two-foot,
3 almost a two-and-a-half-foot kind of wide courtyard
4 that is next to the existing building; next to the
5 existing structure. And it doesn't -- it goes kind of
6 back out to the -- the building goes back out to the
7 edge of the property line and you know, would you be --
8 -- do you think that we should be asking the applicant
9 to come back looking at a, you know, a step back like
10 that that would create the master bedroom at, I don't
11 know, I'm not exactly sure what that size is, but it's
12 somewhere -- it would be less than what it is now, but
13 it would be, you know, providing like a two-foot set
14 back from the edge, because I think once you get to --
15 once you get too far, it's going to be, again, a room
16 that's you know, becomes a somewhat unviable room.
17 Not unviable, but it just makes it very kind of a
18 strange shaped room.

19 And I don't know. I just think that we need
20 to --

21 MR. TURNBULL: No, I know what you're getting
22 at and that might be an option. I hate to be -- I
23 hate to play architect for someone else.

24 MR. HART: Yeah, and I don't want to do that
25 either. I'm just trying to think of, you know, does

1 it make sense to -- if we're --

2 MR. TURNBULL: I think it's worth it for them
3 to take a look at something like that, and maybe
4 something else too. I just think that there's maybe
5 some more massaging that could maybe happen with this.

6 MS. WHITE: Uh-huh. I mean, my only comment
7 is, you know ideally, I would have preferred if they
8 worked this -- these issues out beforehand. That's
9 why we always want parties to talk.

10 Unfortunately, you know, this case ended up
11 coming to us to make the decision. Even the ANC was
12 hesitant in getting involved in it. So, I don't know
13 whether or not the parties are willing to have any
14 discussions to try to resolve any of these issues. If
15 they were, then that would be a positive. But I don't
16 know how I apply the criteria based upon what they may
17 or may not be willing to agree on.

18 MR. HART: Yeah, I was just -- the only reason
19 I was posing anything was, it seems as though we were
20 getting to a split vote and I just didn't know if
21 there was some way to -- if there was some, I mean,
22 guidance to provide to the --

23 CHAIRPERSON HILL: Right, right, right. Okay.

24 MR. HART: So, that's it.

25 CHAIRPERSON HILL: I mean, again, I started

1 this one torn and I don't think that I'm -- and it
2 sounds like not everyone is at a place where they are
3 going to change their discussion. However, it does
4 seem interesting that we're having a full discussion
5 here about this. Again, part of the tornness (sic) of
6 the issues, where you know, the applicant at least
7 what they had indicated was that they had made changes
8 to the design to begin with to try to accommodate the
9 neighbors.

10 Now again, and then the other thing that
11 confused me, I suppose, or you know, was that -- or
12 made me think harder about approving this, was there
13 was an empty lot that was next to that property, and
14 then next to the empty lot was another property that
15 went back as far as they were trying to go. And so, I
16 did take that into consideration.

17 And so where it sounds like we are is, and
18 this is where I'm not clear, I would look to again,
19 Ms. Rose, I suppose, or the people to our left, as to
20 how to possibly proceed. At the very least I would
21 want to put this off again for a week so that I can
22 take a look at where we -- you know, just hear the
23 discussion again and think about the discussions that
24 we've all had in terms of having a vote again.

25 However, if I would also be, and also it

1 sounds like the board would be open to, you know, if
2 there were other design options that the applicant
3 could possibly go back to, you know, meeting with Ms.
4 Schafer, see if there is other opportunities for
5 providing some kind of a design. And then submitting
6 that again. And that creates this whole cycle again,
7 where everyone is going to have an opportunity to look
8 at that and then make comments on that. And it
9 continues to go on and on.

10 But I'm looking to you to the left here as
11 to --

12 MS. ROSE: Yes.

13 CHAIRPERSON HILL: -- what would be some
14 suggested processes.

15 MS. ROSE: You could either defer decision and
16 think about it a little longer. Or you could reopen
17 the record and schedule it for a further hearing,
18 allowing more submissions to come in to address the
19 issues that you're raising. Or you could just request
20 the documents, open the record, request the documents,
21 and then make a -- and set it for a decision meeting
22 without having a hearing, further hearing.

23 CHAIRPERSON HILL: What does the board -- I'm
24 thinking either one of two things. One, just opening
25 the record for the applicant to submit -- for the

1 applicant to -- I know that the applicant is either
2 watching or here and so, and so either submit -- meet
3 with the parties again and then try to come up with
4 another set of drawings, and then we can go on to a
5 decision. Or doing the same and then having a
6 hearing, or reopening the hearing to then bring in the
7 party status people that are in objection, and so on.

8 And so, and we might do something else in a
9 second, but I'm just trying to hear what the board has
10 to say.

11 MS. WHITE: My opinion would be to have them
12 get together, and to have the applicant resubmit like
13 a revised drawing if they so choose. And then we
14 could make a decision based upon that.

15 MR. TURNBULL: Yeah, I would agree. I
16 wouldn't want to go to a full hearing, though. I
17 wouldn't want to reopen the hearing. I'd just
18 continue on with our process, what we're doing here
19 but give them the opportunity to try to work something
20 out.

21 CHAIRPERSON HILL: Okay. And I'm doing this
22 just because we have an opportunity here. I just
23 noticed everybody is here. So, does everybody want to
24 come to the table, please? The applicant and the
25 party status people. I even see the Office of

1 Planning here, although we don't need the Office of
2 Planning just yet. We've got everybody here.

3 MS. MOLDENHAUER: I don't believe any of the
4 parties got sworn in.

5 CHAIRPERSON HILL: Oh, have you all been sworn
6 in by -- were you guys all here in the morning? Okay,
7 all right.

8 So, Ms. Rose, if you could swear everyone in
9 again, please? Thank you. And everyone else who came
10 late, if you could please stand and be sworn in if you
11 wish to testify?

12 MS. ROSE: Please raise your right hand.

13 [Oath administered to the participants.]

14 CHAIRPERSON HILL: Okay, thank you. If you
15 could -- well, welcome, everyone, again. If you could
16 please introduce yourselves from right to left?

17 MR. BRODNIG: Good morning, Mr. Chair. Good
18 morning, members of the board. Gernot Brodnig, co-
19 owner of 2719 Dunbarton Street, one of the opposing
20 parties.

21 MS. HASCI: And I'm Naima Hasci, co-owner of
22 2719 as well, and --

23 MS. LAMBERT: I'm Caroline Lambert, 2715
24 Dumbarton Street.

25 MS. SCHAFER: I am the Ms. Schafer people keep

1 talking about. Alison Schafer, 2712 O Street.

2 MS. MOLDENHAUER: Meredith Moldenhauer, Cozen
3 O'Connor, land-use counsel.

4 MS. GUELIG: Tara Guelig, 2716, the applicant.

5 MS. DALEY-RAO: Heather Rao, Cunningham Quill
6 Architects.

7 CHAIRPERSON HILL: Okay. We'll see how this
8 goes. I'm not interested in a big long hearing or
9 anything. I mean, you've been listening to this
10 discussion and this really was a full well thought out
11 discussion. And what I think we are -- or, where I
12 think we are currently is, we were going to, what I
13 think is ask for another crack at -- you know, another
14 shot at this, okay, from the applicant and from Ms.
15 Schafer, and I will give you both an opportunity to
16 speak.

17 But to see if there is any kind of -- you
18 heard Mr. Turnbull. You even got some architectural
19 help for free over here, from Mr. Hart. And so,
20 there, you know -- so, basically I would say, go back,
21 take a look at this again, submit whatever it is
22 you're going to submit. Then, I don't know how we'll
23 probably do it. I guess you'd have to like submit
24 drawings. The party status people would have to have
25 the opportunity to look at those drawings, make

1 comments on it. You would then have to have an
2 opportunity to comment on that. It's the whole seven
3 day back and forth thing that just, I think, needs to
4 be fixed. Mr. Zoning Commission person.

5 MR. TURNBULL: You're looking at me on that.

6 CHAIRPERSON HILL: Yeah, I know, the seven-day
7 circle of hell.

8 So, let's see. And then that would be the
9 best way to probably proceed, and then we can put it
10 on for, again, a decision date. That would be my
11 thoughts for the board. Okay?

12 Ms. Moldenhauer, I'm going to start with you
13 since you're the applicant. Do you understand or have
14 any thoughts or questions?

15 MS. MOLDENHAUER: We understand. We will go
16 back. I would just want to point the board to our
17 Exhibit 71B, which includes just maybe from Mr.
18 Turnbull, and kind of to Mr. Hart's point, back and
19 forth that did occur with Ms. Schafer directly in
20 October and in November. And one of the challenges
21 here is that the goalpost keeps on being moved.

22 In that e-mail communication you see emails
23 that says that, you know, she would request that a 15-
24 foot length on both floors, now obviously it's a
25 request for a 10-foot length and a seven-foot length.

1 So, we are more than willing to go back to have
2 additional, you know, review our plans, present
3 potentially modifications to the plans and file those
4 for the record.

5 CHAIRPERSON HILL: Okay. Okay. Okay. Ms.
6 Schafer, before you comment, I -- that's okay. Or
7 have any thoughts. I mean, again, where I think we
8 are right now, you've been watching this whole thing,
9 right, is that we're kind of stuck, right? And so
10 what usually happens then is either somebody changes
11 their vote and changes their opinion, wherein this
12 might get approved the way it was submitted, or not,
13 right? Or, you know, there are -- there is a new
14 board member coming on very soon, and so that would
15 split the vote.

16 And so, then you don't know which way that's
17 going to go. I guess I'm just trying to point out
18 that there is some, what's the word, incentive, to try
19 to do something, right? And so, do you have any
20 comments about anything?

21 MS. SCHAFFER: Yeah. I would say, I mean, I
22 wish we had a lawyer here but we've run out of money.

23 CHAIRPERSON HILL: Sure.

24 MS. SCHAFFER: But, so I'm a little bit
25 intimidated by making decisions and telling you what I

1 think, but I'll do the best I can.

2 CHAIRPERSON HILL: Don't be intimidated.

3 MS. SCHAFER: Well, it's intimidating.

4 CHAIRPERSON HILL: Okay.

5 MS. SCHAFER: So --

6 CHAIRPERSON HILL: We're just up high, looking
7 down on you.

8 MS. SCHAFER: Exactly.

9 CHAIRPERSON HILL: There's nothing scary about
10 that.

11 MS. SCHAFER: So as for -- as more I've
12 thought about the applicant's project and the more
13 I've learned with thinking about the sun and stuff
14 like that, my opinions on the impact on my garden have
15 evolved. I will agree about that? I would be happy
16 to talk to them about a compromise, absolutely.
17 That's the nature of life. No problem at all.

18 CHAIRPERSON HILL: Okay. Okay. Okay, great.

19 MS. SCHAFER: Is that good enough?

20 CHAIRPERSON HILL: All right, yeah. That's
21 great.

22 MS. SCHAFER: Okay.

23 CHAIRPERSON HILL: Thank you so much. So
24 again, you as the applicant have had a chance to kind
25 of see where we are, and so you know, if you can get

1 to something that's more helpful for shifting
2 somebody, you know, you might get your project
3 approved. Otherwise, you might be stuck in limbo, and
4 then you know, then you'd be waiting for a while as
5 well.

6 I don't really think there's a lot to say.

7 MS. MOLDENHAUER: The applicant just has
8 questions for clarification, I guess as she pursues
9 this.

10 CHAIRPERSON HILL: Okay.

11 MS. GUELIG: So, just two questions relating
12 to party status, and also is this conversation with
13 Alison as well as with the Dumbarton Neighbors?

14 CHAIRPERSON HILL: I think as of now, we're
15 just concerned with Ms. Schafer.

16 MS. GUELIG: Okay. And then does -- if we
17 come to an agreement, does that necessarily mean a
18 drop in party status, or no?

19 MS. MOLDENHAUER: That's when we would have --

20 CHAIRPERSON HILL: So what would have to -- so
21 I mean, it would be -- it would surprise me if you got
22 everybody to drop your party status. If you got Ms.
23 Schafer to drop your party status, that might be one
24 step, and then maybe you can get the other people to
25 drop their party status. I don't know if they would

1 or not, in order to just then move forward without a
2 full report if that's kind of where you're getting at.

3 So we're at least all on the same page, which is
4 great.

5 So, you know, you get 50 percent. Maybe you
6 get all of it. I don't know. But at least you'd get
7 your project. You'd have a better shot at getting
8 your project approved.

9 And so, but you know, you all are neighbors.
10 Everyone is trying to do what they want, and yet you
11 know, do your best to try to come back. We're stuck.
12 I mean, we're just stuck.

13 And the part of, you know, living in D.C. in
14 this particular board environment, I find somewhat
15 interesting in that you know, we talk out in public
16 and you saw everything that just happened so you know
17 where we are. And so, that's it.

18 So then, when do you think you could do this,
19 have this, and come back before us? And now we do
20 turn to the architect.

21 I guess, Ms. Schafer, also you know, when do
22 you think you might have time. You know, you know, so
23 in the next couple weeks can you get together? Okay.

24 So then --

25 MR. TURNBULL: Mr. Chair, I'm back on the

1 11th.

2 CHAIRPERSON HILL: Yeah, sure. Pardon? Okay,
3 Mr. Turnbull is back on the 11th, okay? And so then
4 it gives a couple weeks to talk to Ms. Schafer again,
5 couple weeks to kind of try to make your design in a
6 way that you get one of us. Okay? And then we come
7 back on the 11th because Mr. Turnbull is here on the
8 11th.

9 And then, you know, if you guys want to come
10 down you can, or you can just watch on TV, because
11 we're just going to discuss just like we did just now.
12 You know.

13 And so just before you reach for your
14 microphone, even though you're not supposed to have
15 time to speak, I'll let you have time to speak. Mr.
16 Brodnig, I mean, you were with the side that we didn't
17 believe -- not believe in, but didn't appreciate the -
18 - appreciate is the wrong word. Didn't hold --

19 MR. TURNBULL: Put down that shovel, Mr.
20 Chair.

21 [Laughter.]

22 CHAIRPERSON HILL: Your case wasn't exactly as
23 strong for our side. But would you like to say
24 something?

25 MR. BRODNIG: Yeah, just we appreciate your

1 appreciation. But just a clarification whether the
2 meeting and the efforts to, you know, find a
3 compromise will include us, or do you want that
4 basically have a bilateral between the applicant and
5 Ms. Schafer.

6 CHAIRPERSON HILL: Okay. So, I don't know
7 about the board. I mean, I'm just -- you, as a party
8 status participant will have an opportunity to comment
9 on anything that gets put into the record. So you'll
10 have an opportunity, like the drawings will come up
11 and then you'll go ahead and have an opportunity to
12 present your information that the board will look at
13 when we then deliberate.

14 As of now I'm just, as far as the board is
15 concerned, I just want to see if Ms. Schafer, the
16 immediate next-door neighbor, can get into some kind
17 of agreement. I mean, obviously what I think you
18 might have noticed or not with -- and I'm sorry, who's
19 the -- what's your name again? Guelig. Ms. Guelig.

20 MS. GUELIG: Ms. Guelig.

21 CHAIRPERSON HILL: Thank you. Ms. Guelig.
22 That if there was a way to appease all of you and you
23 dropped your party status, and you dropped your party
24 status, then they could move forward faster,
25 basically. Okay? Because there's like -- I'll let

1 you ask a question. But that's --

2 So but at least as far as what we're
3 concerned, we want to talk -- we'll see if you can get
4 to Ms. Schafer, come up with something, unless I'm
5 missing something with the board, you're welcome to
6 step in. Please, you had something to say?

7 MS. LAMBERT: Yes. I just wanted to point out
8 to the last letter that Ms. Schafer filed into the
9 record, that we had come to a unified position as to
10 what would be acceptable to us, and we have come a
11 long way from opposing the building all together, to
12 then going to a first floor, and then now accepting
13 the principle of a second floor, which you pointed
14 out.

15 And we've all -- we've made a lot of, we've
16 put a lot of effort into coming with something that
17 would be acceptable to all of us, which is outlined in
18 Ms. Schafer's letter.

19 CHAIRPERSON HILL: Okay. So, I appreciate
20 that. Thank you for pointing that out and the
21 applicant now again has been -- that's been reiterated
22 to the applicant. If she can get the -- if she can
23 get you to drop your party status, all of you, then
24 that's incentive. Okay?

25 But at the same time, you know, Ms. Schafer is

1 the one who lives right next door and so, you know,
2 that's what I think we're most interested in hearing
3 from.

4 So with that the case, we'll have this
5 discussion all over again on the 11th.

6 MS. MOLDENHAUER: So then, just from a timing
7 perspective --

8 CHAIRPERSON HILL: Yeah.

9 MS. MOLDENHAUER: -- I guess that's two weeks
10 from now; two weeks from today.

11 CHAIRPERSON HILL: Right.

12 MS. MOLDENHAUER: So, we would then what,
13 file --

14 CHAIRPERSON HILL: Oh no, it's two weeks from
15 now. You're back here on the 11th. So the 11th is
16 like two weeks from now?

17 MS. MOLDENHAUER: It's the four --

18 MS. ROSE: It's back on the 11th.

19 MS. MOLDENHAUER: Yeah, the 4th and then the
20 11th is two weeks from now.

21 CHAIRPERSON HILL: Okay.

22 MS. MOLDENHAUER: So that would mean that we
23 would maybe file supplemental plans, potentially, or a
24 filing with written statements by the fourth. And
25 then filings by opposition by Monday or Tuesday. It's

1 not giving everybody the whole seven days, but I guess
2 if everyone consents to that timeline, the board has
3 the ability to waive the requirements.

4 MS. ROSE: Yes.

5 CHAIRPERSON HILL: Okay. All right.

6 MS. ROSE: That's too short?

7 CHAIRPERSON HILL: Well, all I'm trying to --
8 Mr. Turnbull is back here on the 11th. That's why I'm
9 trying to get you back here.

10 MR. TURNBULL: I can come here on the next
11 week too.

12 CHAIRPERSON HILL: Okay.

13 MR. TURNBULL: I mean, I'll make myself
14 available.

15 CHAIRPERSON HILL: Okay.

16 MS. ROSE: He's also back on November 8th.

17 MS. MOLDENHAUER: I would look to the --
18 obviously, we would like to move forward.

19 CHAIRPERSON HILL: Sure, everybody wants to
20 move forward, I'm sure. But so I'm just come up
21 with --

22 MS. MOLDENHAUER: So if Ms. Schafer consents.

23 CHAIRPERSON HILL: Now we're just trying to
24 come up with timelines.

25 Do you think you'll be able to meet this week

1 at some point?

2 MS. SCHAFER: Yes. That's no problem. My
3 only concern is there are more of us and I know it's
4 just me, really, but I do -- it's just me, and so I
5 really like having them --

6 CHAIRPERSON HILL: Sure.

7 MS. SCHAFER: -- help me.

8 CHAIRPERSON HILL: Sure.

9 MS. SCHAFER: So an extra week wouldn't kill
10 us, if that's --

11 CHAIRPERSON HILL: Sure.

12 MS. SCHAFER: -- amenable to them, but I'm
13 flexible.

14 CHAIRPERSON HILL: Okay.

15 MS. MOLDENHAUER: I mean --

16 CHAIRPERSON HILL: I'm just trying to figure
17 out the dates without a calendar.

18 MR. TURNBULL: I can come the following week.

19 CHAIRPERSON HILL: So let's do one more week,
20 okay? And then that -- Ms. Rose, can you help me out
21 with -- if we push it back another week and Mr.
22 Turnbull can come back in --

23 MS. ROSE: If we do October --

24 CHAIRPERSON HILL: Sorry.

25 MS. ROSE: If we do October 18th, the

1 applicant's filings would be due on October 5th, and
2 the responses would be due October 12th.

3 CHAIRPERSON HILL: And that would give the
4 seven days?

5 MS. ROSE: Yes.

6 CHAIRPERSON HILL: Okay. So there's a seven-
7 day clock where, you know, they submit something, you
8 have seven days to respond, and then they have seven
9 days to respond back to you, but then if they do that,
10 then you have seven days to respond back to them, and
11 then it can go on, and on, and on.

12 So, but the applicant won't submit anything
13 after that because otherwise it goes on and on.

14 MS. MOLDENHAUER: We did not respond back to
15 all the extra filings for this hearing.

16 CHAIRPERSON HILL: So again, so can you repeat
17 the dates, Ms. Rose, please?

18 MS. ROSE: The applicant's initial filing will
19 be due on Thursday, October 5th. And the responses
20 would be due October 12th.

21 CHAIRPERSON HILL: So responses, October 12th.

22 MS. ROSE: Yes.

23 CHAIRPERSON HILL: Responses, October 12th.

24 MS. ROSE: And the decision would be October
25 18th.

1 CHAIRPERSON HILL: Okay. All right, great.
2 Okay. Thank you all very much. And then we're going
3 to take a quick break. Thank you.

4 [Off the record from 10:46 a.m. to 10:57 a.m.]

5 CHAIRPERSON HILL: Ms. Rose, can we get back
6 started again?

7 MS. ROSE: Yes.

8 CHAIRPERSON HILL: Okay. We'd like to welcome
9 Chairman Hood from the Zoning Commission here to solve
10 all of our problems.

11 MS. ROSE: Next is Appeal No. 19505 of 57th
12 Street Mews, Incorporated, pursuant to 11 DCMR
13 Subtitle Y, Section 302, from the decision made on
14 February 28th, 2017, by the Zoning Administrator,
15 Department of Consumer and Regulatory Affairs, to
16 revoke Building Permit B1307755 to permit the
17 construction of an addition to a one-family dwelling
18 and conversion to an 18-unit apartment building in the
19 R-4 Zone, formerly a C-2-A Zone, at premises 1511 A
20 Street Northeast, Square 1070, Lot 0094.

21 At the public meeting of September 13th, 2017,
22 the board voted on this case but the vote was two, to
23 two, to one with motions both to grant the appeal and
24 to deny the appeal failing. The board then
25 rescheduled the matter for further deliberations

1 today.

2 CHAIRPERSON HILL: All right, thank you, Ms.
3 Rose.

4 I think that based upon the discussions that
5 we've had from my colleagues, I think I would make a
6 recommendation to push this back two weeks to allow us
7 more time to think about this matter. Does any other
8 board member have any comments?

9 [No audible response.]

10 CHAIRPERSON HILL: Okay. So, Ms. Rose, we're
11 going to push this one. And I think, do you have to
12 read the other one again, because we're going to do
13 the same thing for the other one, but you can go ahead
14 and read it.

15 MS. ROSE: We're going to defer this to --

16 CHAIRPERSON HILL: Sorry, two weeks from
17 today.

18 MS. ROSE: -- October 11th.

19 CHAIRPERSON HILL: October the 11th, for a
20 decision.

21 MS. ROSE: Decision meeting.

22 CHAIRPERSON HILL: Decision meeting, yes.

23 MS. ROSE: Yes. Okay, that's it. All right.
24 Thank you, we'll move on.

25 CHAIRPERSON HILL: Thank you.

1 MS. ROSE: Next is Application No. 19559 of
2 1400 5th Street, LLC pursuant to Subtitle X, Chapter
3 10 for a variance from the lot area requirements of
4 Subtitle E, Subsection 201.4, to convert an existing
5 three-unit apartment house and a church into a four-
6 unit apartment house in the RF-1 Zone at premises 1400
7 5th Street Northwest, Square 479, Lot 35.

8 The board members participating on this case
9 were Mr. Hart, Ms. White, and Mr. Shapiro, and staff
10 has an absentee ballot from Mr. Shapiro.

11 CHAIRPERSON HILL: Okay, great. Ms. Rose,
12 just before I turn this over to Vice Chair Hart
13 because I was not on that case, the Appeal No. 19505,
14 we've pushed back for two weeks. And I don't know
15 whether you read it or not. Did you read Appeal No.
16 19414, we're also pushing back two weeks?

17 MS. ROSE: That continues to be held in
18 abeyance until you address --

19 CHAIRPERSON HILL: Okay. Okay.

20 MS. ROSE: Yes.

21 CHAIRPERSON HILL: All right. Just wanted to
22 be clear for my own --

23 MS. ROSE: Yes.

24 CHAIRPERSON HILL: -- education. Thank you.
25 Mr. Hart.

1 MR. HART: Yes. Thank you, Mr. Chairman. In
2 this case, 19559, which the Board heard last week,
3 there was one kind of minor outstanding issue, which
4 was an authorization letter for the applicant. That
5 has been submitted to us, and I think that the record
6 is full on this case. I appreciated the applicant's
7 testimony and agreed with their testimony, and the
8 testimony given by the Office of Planning regarding
9 how the applicant was meeting the variance, the area
10 variance test.

11 I also would be supportive of the application
12 in that I did think that they met the variance test
13 regarding for the conversion of their existing three-
14 unit apartment house and a church into a four-unit
15 apartment building in an RF-1 Zone. And I don't know
16 if, Ms. White, you have any further comments.

17 MS. WHITE: No, I was glad to see the
18 authorization in the record, which I reviewed, and it
19 looks fine. It also includes the names of the other
20 partners, I believe. This was an area variance
21 request, and I too believe that they did meet the
22 criteria, the standard for getting an area variance
23 under the regulation. So, I'm satisfied with the
24 request.

25 MR. HART: Thank you. And with that, I would

1 like to approve Application No. 19559 of 1400 5th
2 Street, LLC. Can I have a second?

3 MS. WHITE: You may have a second. Second.
4 [Vote taken.]

5 MR. HART: Ms. Rose.

6 MS. ROSE: Staff would -- staff has an
7 absentee ballot in support of the motion by Mr.
8 Shapiro with any conditions that the Board might
9 approve. So staff would record the vote as three, to
10 zero, to two with the motion by Mr. Hart seconded by
11 Ms. White, to approve the application with an absentee
12 ballot from Mr. Shapiro in support of the motion. Mr.
13 Hill not participating and one board seat vacant.

14 MR. HART: And summary order, please?

15 MS. ROSE: Yes, thank you.

16 MR. HART: Thank you.

17 MS. ROSE: Next is Application No. 19439 of
18 311 P Street, LLC as amended, pursuant to 11 DCMR
19 Subtitle X, Chapter 9, for special exceptions from the
20 parking requirements of Subtitle C, Section 703. And
21 the RF-use requirements of Subtitle U, Subsection
22 320.2 to convert an existing two-story, one-family
23 dwelling into a three-story, three-unit apartment
24 house in the RF-1 Zone at premises 311 P Street
25 Northwest, Square 521, Lot 834.

1 CHAIRPERSON HILL: All right. Is the board
2 ready to deliberate? Okay.

3 Let's see. So, we had a full hearing and the
4 applicant has, you know, changed their plans. And
5 based on that new change, the Office of Planning was
6 able to agree on what the criteria was to grant the
7 request based upon the regulations.

8 I thought that also, it was important and
9 helpful that the ANC had withdrawn their opposition
10 based upon the TDM plan that DDOT was also in support
11 of. And also, the fact that DDOT would not have
12 approved a curb cut.

13 I guess the Office of Planning did have a
14 condition that we don't have to really read into the
15 record, and so it's not going to be a condition of us,
16 but that the applicant is going to have to get a
17 subdivision prior to the issuance of the building
18 permit for the conversion anyway. So that, based upon
19 recommendations from OAG is not, I guess, necessary to
20 put into the order.

21 After reviewing the testimony in the record,
22 and as well as the supplemental information, I don't
23 have any issues with this application or approving it.

24 Does the board have anything to add before I make a
25 motion?

1 MR. HART: Only that was happy to see that the
2 applicant has worked with the various groups to
3 actually get to this point. There was opposition to
4 this and I think that they've resolved this in a way
5 that I could be supportive of.

6 MR. HOOD: I just wanted to make sure that the
7 900 square feet for each unit, the way I believe it,
8 which would come up to 27,000 -- 2,700 square feet, I
9 just wanted to make sure. I know that was in
10 question. And I believe the way I read everything,
11 that they now, after they get the subdivisions and all
12 that taken care of, we will now have 900 square feet
13 for each unit. Okay. That's, I want to make sure I
14 understand that.

15 CHAIRPERSON HILL: Yes, that's what I
16 understand. Correct, Ms. Nagelhout?

17 [No audible response.]

18 CHAIRPERSON HILL: Okay.

19 MR. HOOD: Okay, well, I'm satisfied. Thank
20 you, Mr. Chairman.

21 CHAIRPERSON HILL: Okay. Ms. White?

22 MS. WHITE: No, I'm comfortable with the
23 request, with the changes as well as a the ANC
24 withdrawing their opposition. I would just concur
25 with your comment that we should incorporate the TDM

1 plan.

2 CHAIRPERSON HILL: Okay. Okay. All right.
3 So we'll go ahead and incorporate the TDM plan, and
4 I'm going to make a motion to approve Application No.
5 19439 of 311 P Street as read by the secretary.

6 MR. HOOD: Second.

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

9 [Vote taken.]

10 CHAIRPERSON HILL: Motion passes, Ms. Rose.

11 MS. ROSE: Staff would record the vote as
12 four, to zero, to one, with a motion by Mr. Hill
13 seconded by Mr. Hood, with Mr. Hart and Ms. White in
14 support of the motion, one board seat vacant, with the
15 incorporation of the TDM plan.

16 CHAIRPERSON HILL: Yes. Thank you. Summary
17 order. Can you do summary -- yeah, we don't have any
18 opposition now, correct?

19 MS. ROSE: Yes.

20 CHAIRPERSON HILL: Yeah, summary order,
21 please.

22 MS. ROSE: The last matter is a case on the
23 expedited review calendar, Application No. 19568 of
24 Catherine St. Denis and -- I'm not sure if that's
25 Saint. And Andrew Cruikshank, pursuant to 11 DCMR

1 Subtitle X, Chapter 9 for a special exception under
2 Subtitle D, Section 5201 from the front setback
3 requirements of Subtitle D, Subsection 305.1, to
4 construct a front addition to an existing one-family
5 dwelling in the R-2 Zone at premises 4348 Garrison
6 Street Northwest, Square 1655, Lot 814.

7 CHAIRPERSON HILL: Okay. Thank you, Ms. Rose.
8 Is the board ready to deliberate?

9 [No audible response.]

10 CHAIRPERSON HILL: Okay. I can go ahead and
11 start. I mean, it's an expedited review and so, you
12 know, I took a hard look at the record as well as the
13 report from the Office of Planning. The ANC had not
14 submitted something to us not too long ago, but now we
15 do have something from them in terms of their support
16 for the relief.

17 They did have a condition that they wanted to
18 add, which was the applicant promised to install and
19 use a rain barrel on the property after the addition
20 is complete. I would have been a little hesitant to
21 move forward with this because we don't have the
22 applicant and the -- we don't have the applicant in
23 front of us in terms of just confirming their
24 acceptance of the condition. However, I understand
25 there is something in the record that implies that

1 they have approval of this in terms of a condition.
2 So that would be one thing that I was kind of stuck on
3 when I was reviewing the record.

4 Based upon the analysis of the Office of
5 Planning, and my review of the record, including I
6 thought it was, you know, interesting that since
7 they're a corner lot they get to decide what is the
8 front yard, which made it more of an interesting
9 project that -- or I should say a case, I would be in
10 favor of this, approving this expedited review. Does
11 the board have any comments?

12 MR. HART: No, Mr. Chairman, I would concur
13 with your assessment and I would be in support as
14 well, of the application.

15 CHAIRPERSON HILL: Okay. Then I'll go ahead
16 and make a motion to approve Application No. 19568 as
17 read by the secretary, including the condition that
18 the applicant install and use a rain barrel on the
19 property after the addition is complete, and ask for a
20 second.

21 MR. HART: Seconded.

22 [Vote taken.]

23 CHAIRPERSON HILL: Motion passes, Ms. Rose.

24 MS. ROSE: Staff would record the vote as
25 four, to zero, to one on a motion by Mr. Hill,

1 seconded by Mr. Hart to grant the application, with
2 Ms. White and Mr. Hood in support, with one condition
3 as stated by the Chair.

4 CHAIRPERSON HILL: Summary order, please.

5 MS. ROSE: Thank you.

6 [Pause.]

7 CHAIRPERSON HILL: Let's move on to our
8 hearing cases.

9 MS. ROSE: The board has received a party
10 status application from Peter J. Waldron in Case No.
11 19570 of GWC 220 Residential, LLC, formerly the George
12 Calormiris and William Calormiris case, pursuant to 11
13 DCMR Subtitle X, Chapter 10, for an area variance from
14 the lot area requirements of Subtitle E, Subsection
15 201.4, to construct an additional apartment in an
16 existing 12-unit apartment house in the RF-3 Zone at
17 premises 22 2nd Street Southeast, Square 762, Lot 8.

18 CHAIRPERSON HILL: Right. Thank you. I
19 forgot, we were going to do this preliminary matter
20 first.

21 Is the applicant here and the person
22 requesting party status for 19570 here?

23 Okay, great. If you could both come forward?

24 MS. BROWN: Good morning. For the record,
25 Carolyn Brown for the law firm of Donohue and Stearns

1 on behalf of the applicant.

2 CHAIRPERSON HILL: Okay. Great, Ms. Brown.
3 Thank you.

4 You need to push your microphone button.
5 Sorry, there.

6 MR. WALDRON: Good morning. My name is Peter
7 Waldron. I live at 218 2nd Street Southeast.

8 CHAIRPERSON HILL: Okay. What I wanted to do,
9 Ms. Brown and Mr. Waldron, is kind of hear first the
10 party status case and determine that. And then we'll
11 see whether or not we're going to -- how we might move
12 forward. And so, okay, so, Mr. Waldron if -- I mean,
13 I saw in the record, and I guess you're the adjacent
14 neighbor, correct? If you could I guess just explain
15 to us, you know, why we should grant party status to -
16 - I mean, you're the adjacent property owner, but
17 still, if you could kind of just clarify that a little
18 bit more?

19 And specifically, I know some of the issues
20 that you raised in your opposition. Could you clarify
21 those for us as well?

22 MR. WALDRON: The two principle issues are --

23 CHAIRPERSON HILL: And I'm sorry, Mr. Waldron,
24 did you get sworn in this morning?

25 MR. WALDRON: I did.

1 CHAIRPERSON HILL: Okay, great. Thank you.

2 MR. WALDRON: I did. Pretty much, the --
3 first of all, I apologize for having no written
4 remarks. I thought we had an agreement worked out and
5 just received an agreement but an hour or so ago. I
6 haven't had a chance to look it over. So the first
7 thing I'm going to ask before I finish answering your
8 question is for some kind of postponement so I can
9 take a good hard look at the agreement that's been
10 offered at the very last minute.

11 But my opposition is principally trash
12 collection. There's a severe rodent problem in the
13 rear, and now in the front of our properties on 2nd
14 Street. It's due to the -- it's not due to the
15 Calormirises. At least it wasn't over the past years.
16 But it is due to the restaurants that are pretty
17 close to both properties.

18 And the other piece of this is, the Calormiris
19 had offered, as part of the community outreach in the
20 application, in the compliance with the application,
21 for rodent control protections, and offered me a
22 construction management agreement. And those are my
23 concerns.

24 CHAIRPERSON HILL: Okay. So, Mr. Waldron, so
25 I don't have any problem granting this gentleman party

1 status based upon what's in the record. Does the
2 board have any comments on that?

3 MS. WHITE: No, I support it as well. I think
4 he's made the case and meets the criteria.

5 MR. HART: And I can be supportive of it. I'm
6 trying to gauge, Mr. Waldron, you're saying that you
7 also want to have -- that you received something today
8 and are you saying that that might allay the concerns
9 that you have? I'm trying to understand, if you're
10 saying that you're in opposition now and we grant you
11 opposition party status, then you get to kind of
12 review this agreement --

13 MR. WALDRON: Attorney --

14 MR. HART: -- are you looking to change that?
15 I'm just trying to clarify that.

16 MR. WALDRON: No, I'm -- what I need is time
17 to absorb this agreement. It is totally different
18 from what we'd been operated under for the last four
19 to five weeks.

20 Ms. Brown had drafted the agreement and she'd
21 use the model of the Hines School, and I thought it
22 was an excellent agreement and we tweaked it a little
23 bit. And as of yesterday I thought we'd come to a
24 full agreement and that I would be prepared to support
25 this today. But I received this morning at 9:30,

1 agreement that is dramatically different as far as
2 skimming through it, and I would like some time to --

3 CHAIRPERSON HILL: Okay.

4 MR. WALDRON: -- read it thoroughly.

5 CHAIRPERSON HILL: Okay. So what we are going
6 to do anyway, is Mr. Waldron, I wanted to bring you
7 guys up, kind of figure out whether or not we were
8 going to grant party status, and then I was going to
9 ask you to go back and see if you guys could kind of
10 talk a little bit and put you at the end of the day.

11 And the reason why, again, is because if you
12 were party status then this is going to take a much
13 longer hearing than this would normally go through.
14 So if you did get this today, and so now we're going
15 to hear all the rest of our cases. And so you know, I
16 don't know exactly how that might run through the day,
17 meaning, you know, it might be like 1:30 that you're
18 back up before us again.

19 And what we would do at that time is then
20 again, see where you were with having an opportunity
21 to look at the agreement and whether that's enough
22 time or not, I don't know. We'll see what happens at
23 1:30 when you come forward. And then we can also, you
24 know, see where you are, right?

25 So that would be my suggestion with the board.

1 And, Ms. Brown, I'll let you talk in one second. Did
2 the board have any other thoughts to where I'm going
3 with this?

4 [No audible response.]

5 CHAIRPERSON HILL: Okay. Ms. Brown?

6 MS. BROWN: Yes, thank you. Two points. I
7 think we heard Mr. Waldron mention that he was
8 concerned about trash removal and rodents. Those have
9 been taken care of in the proposed condition in the
10 application that we submitted about bringing trash out
11 only through the front of the building and through the
12 ANC recommended condition that we agreed to. That is
13 to have all trash receptacles be stored inside the
14 building. So, those two issues regarding trash have
15 been addressed.

16 With respect to the construction management
17 agreement, that is a document that operates outside
18 the four corners of the BZA world, and Mr. George
19 Calormiris, who is -- who I'm working with on this
20 agreement, we -- Mr. Waldron is correct that he got a,
21 I wouldn't say substantially different agreement, but
22 it had been shortened considerably. But the substance
23 is the same.

24 CHAIRPERSON HILL: Okay. Okay.

25 MS. BROWN: And let me -- and I just want to

1 finish this point.

2 CHAIRPERSON HILL: Sure. Go on.

3 MS. BROWN: One of the difficulties in trying
4 to get this resolved today on an agreement that is not
5 germane to the BZA consideration on construction
6 management, is that Mr. Calormiris is in the hospital
7 today, and I will not be able to get authorization to
8 get approval for an agreement. He may be available
9 late today, but --

10 CHAIRPERSON HILL: Okay. Okay. Well, I mean,
11 this was what my plan was anyway, was to bring
12 everybody forward, because again, this is going to
13 take longer if we have someone who is a party status.
14 And so, you're going to be the last case.

15 And so, if there is something that you two can
16 do to get -- and I understand everything you just
17 said, and at the same time I don't know how the board
18 feels, but if Mr. Waldron just got the agreement this
19 morning, right, then -- or whatever it is, that's what
20 he just stated, then you know, there's a chance we
21 would postpone this. I don't know. Okay?

22 Actually, I shouldn't even say that. Whether
23 or not we postpone this is not necessarily how I think
24 we would end up going with in terms of Mr. Waldron
25 having an opportunity to review that. We would

1 probably go through the whole case. Right? So again,
2 I would just recommend, you know, there is rooms in
3 the back somewhere, I think, that Ms. Rose had
4 provided if you go over to the zoning there, Office of
5 Zoning. And if you can just talk, fine. But
6 regardless, we're going to come back at the end and
7 hear you guys last. And so it is probably going to be
8 1:30, and then we'll just -- I mean, if you can
9 resolve it, if you can -- and I'm sorry the gentleman
10 is in the hospital, certainly. But if you can figure
11 out how to get Mr. Waldron to even withdraw his party
12 status, that obviously helps you out anyway in terms
13 of a summary order versus a full order.

14 So that's what I'm saying, and so we'll see
15 you back here when we call you next. Okay?

16 MR. WALDRON: So there's no point in
17 postponing if Mr. Calormiris can't make -- he's the
18 decision maker here.

19 CHAIRPERSON HILL: It's not even if Mr.
20 Calormiris --

21 MR. WALDRON: Okay.

22 CHAIRPERSON HILL: -- I think can make the
23 decision or not. It's that you're here and the
24 applicant is here, and so we would probably have the
25 hearing. And so, whatever happens after that, I don't

1 know. Whether we make a bench decision or whether we
2 put you off for a hearing -- I'm sorry, a meeting date
3 later, meaning a decision date later, I'm not sure.
4 We'd have to see how this plays out at 1:30. Okay?

5 And don't hold me on that 1:30 thing. Just
6 kind of see how this goes. Okay? Like, we're going
7 to bring you up as soon as we can bring you up. Okay?

8 MR. WALDRON: I'm a former ANC commissioner.
9 I remember being here at 11:00 at night sometimes, so
10 that's --

11 CHAIRPERSON HILL: Oh, gosh, I hope it wasn't
12 while I was here.

13 MR. WALDRON: I'm prepared. I'm prepared --
14 in the '90s. I'm prepared to be here until 11 or 12.

15 CHAIRPERSON HILL: Well, it's much more
16 efficient with me. I've got to tell you, the '90s,
17 you know. All right. Okay. Thank you so much.

18 I'm sorry, do I have to make a motion for the
19 party status? I thought we'd just -- we can just do
20 that, right?

21 [Discussion off the record.]

22 MS. ROSE: By consensus you consent.

23 CHAIRPERSON HILL: By consensus.

24 MS. ROSE: Yes.

25 CHAIRPERSON HILL: By consensus we're

1 approving the party status for Mr. Waldron. Okay.

2 MS. ROSE: Yes.

3 CHAIRPERSON HILL: So, we're going to hear
4 that one back again. And then, Ms. Rose, whenever you
5 want to call the next one.

6 MS. ROSE: The next one is 19566 of Cindy
7 Jimenez and Chris Turner, pursuant to 11 DCMR Subtitle
8 X, Chapter 9, for a special exception under Subtitle
9 E, Section 5201, from the rear yard requirements of
10 Subtitle E, Subsection 205.4, to construct a three-
11 story rear addition to an existing one-family dwelling
12 in the RF-1 Zone at premises 225 Tennessee Avenue
13 Northeast, Square 1033, Lot 126.

14 CHAIRPERSON HILL: All right, great. Thank
15 you. If you could -- bless you. If you could
16 introduce yourselves from my right to left? You have
17 to push the button.

18 MS. JIMENEZ-TURNER: Cindy Jimenez-Turner.

19 MR. TURNER: Chris Turner.

20 MS. FOWLER: Jennifer Fowler, I'm the
21 architect. And I believe that Ms. Turner needs to be
22 sworn in.

23 CHAIRPERSON HILL: Okay, great. If you could
24 stand? And, Ms. Rose, if you could give the oath.
25 And then if anyone here who has come late wishes to

1 testify, if you could please stand and take the oath.

2 Oh, this way over here.

3 MS. ROSE: Please raise your right hand.

4 [Oath administered to the participants.]

5 MS. JIMENEZ-TURNER: Yes, I do.

6 MS. ROSE: You may consider yourself under
7 oath.

8 CHAIRPERSON HILL: All right. Great. Okay.
9 Ms. Fowler, so I guess you're going to present to us.

10 MS. FOWLER: Yes.

11 CHAIRPERSON HILL: After reviewing the record,
12 I don't have any specific questions in terms of what
13 I'd like to hear through the presentation. And if the
14 Board has anything else they'd like to add, please
15 step forward. I'd just like to hear again kind of
16 overall how the project is moving forward, what is it
17 you're trying to do, and how you're meeting the
18 standard for which we can approve the request.

19 And then that's it. I'm going to go ahead and
20 put -- do we have a clock again, or is the clock not
21 working?

22 Okay, we don't have a clock. So I'm going to
23 put 10 minutes on my iPhone right here.

24 MS. FOWLER: Okay.

25 CHAIRPERSON HILL: And then you can go ahead

1 and start whenever you'd like.

2 MS. FOWLER: Okay. Thank you. Good morning,
3 everybody. Afternoon. Good morning.

4 So this project was filed for permit back in
5 April, similar to my other case that it was here last
6 week on Warren Street. We filed as a matter of right
7 project.

8 After we filed for permit, the Zoning
9 Commission added the language about the rear setback
10 requirement, after we were already kind of in the
11 process, had done detailed drawings, had gone through
12 some permit reviews. Unfortunately, we missed the
13 cutoff for vesting in this case as well. The March
14 29th date, I believe it was, because we filed on April
15 4th.

16 So, that's why we're here before you asking
17 for relief for the rear yard setback requirement.
18 Again, we've gone through all the reviews at DCRA and
19 this is kind of the final piece in our approval
20 process.

21 This is a rear addition. It's three stories
22 completely at the rear of the property. We're not
23 building above the existing house. The proposed
24 addition is only going to cover 48 percent. It's a
25 very, very deep lot. There are a lot of deep lots on

1 this square. There are also a number of large
2 additions. People have added on, there's additions
3 with third floors, and there are also a number of
4 large garages on the alley. So, this proposal, while
5 it is a large addition, is in keeping with many of the
6 other properties in the area.

7 We did provide a sun study that's in the
8 record. It's Exhibit 33. And what we found on this
9 is that due to the orientation of the street, the most
10 impact will be to 227 Tennessee Avenue Northeast, and
11 we found that despite the large addition, the main
12 impact will be kind of in the mid-day time, December
13 mid-day, spring in the middle of the day as well. And
14 summer mid-day, somewhat, but very much less so than
15 the other two parts of the year; other times of the
16 year.

17 Despite the impact there, we do have a letter
18 of support from that neighbor, from 227. That is in
19 the record, Exhibit 13, from Cathy Wasem. Actually, a
20 wholehearted recommendation of support. She was very,
21 very supportive of the project, and that's in the
22 record.

23 So that's essentially the nature of the
24 relief. The impact with the sun study has been shown
25 to be, I think it's an undue impact. And I think I'll

1 end it there and see if anybody has any questions.

2 CHAIRPERSON HILL: What happened to 223? I
3 can't remember, in terms of the outreach?

4 MS. FOWLER: Do you want to speak to that?

5 MS. JIMENEZ-TURNER: Yes. 223, we reached out
6 to them when we started the project in person. We
7 went over and showed them the plans and everything we
8 were doing, and they were very hesitant in signing
9 anything. They just did not feel comfortable. They
10 said they had concerns but would not share them with
11 us. They communicated they would share them with the
12 ANC Board or here. They've known about the hearings
13 every step of the way.

14 We also, I believe we mailed them via
15 certified mail, copy of the plans, along with the one
16 page or two, sign if they had any concerns or if they
17 approve. They did not respond to that.

18 The house, the residents of 223 do not live at
19 the property. They come sporadically once a month or
20 -- and so, we have not been able to talk to them since
21 that first time.

22 CHAIRPERSON HILL: Okay. Okay.

23 MS. JIMENEZ-TURNER: No communication.

24 CHAIRPERSON HILL: Okay. Okay.

25 MR. HOOD: Mr. Chair, can I follow up on that

1 question?

2 CHAIRPERSON HILL: Please.

3 MR. HOOD: Yeah, because when I look at the
4 study, sun studies, it looks like 223 is more impacted
5 than 227. And I heard you say in your comments that
6 227 and got -- I saw the letter of support. But from
7 my standpoint, the way I look at it and, you know,
8 maybe you can help educate me, but it looks like 223
9 is really, really more impacted than 227. But I don't
10 want to -- we don't have to go back and forth, but I
11 just want to make that note of what I see from your
12 study.

13 And let me just ask this if I could, Mr.
14 Chairman.

15 CHAIRPERSON HILL: Sure.

16 MR. HOOD: So you were in the pipeline. I'm
17 just trying to understand. You know, the Zoning
18 Commission can mess up a few things. I just want to
19 know, you were in the pipeline and you -- how far were
20 you in the pipe? Were you almost done?

21 MS. FOWLER: You mean at the time that the
22 language was incorporated?

23 MR. HOOD: The vesting rule was put in, right.

24 MS. FOWLER: No, I wouldn't say we were almost
25 done. We're almost done now. I mean, we've gone

1 through all the reviews at DCRA. But at that time,
2 I'm just -- I imagine we probably had a couple of
3 reviews at that point because we --

4 MR. HOOD: So, you weren't almost -- you
5 weren't what they call, complete?

6 MS. FOWLER: No.

7 MR. HOOD: So, you still had -- even though
8 the date is March 27th, and even if we had extended it
9 to March 31st, you wouldn't have made it because you
10 were in April the 4th.

11 MS. FOWLER: So my understanding was that we
12 would have had to file by March 27th, and we filed by
13 April 4th. So we filed after. But I think your
14 hearing was later. So we'd filed before we knew that
15 the zoning change was going to be implemented.

16 MR. HOOD: Well, that actually, we had been
17 working on that for years. So the issue -- but I
18 don't want to get into that.

19 MS. FOWLER: Okay.

20 MR. HOOD: That's not before us today.

21 MS. FOWLER: Okay.

22 MR. HOOD: So we can talk about that another
23 time, but --

24 MS. FOWLER: Okay.

25 MR. HOOD: -- I just wanted to make -- I'm

1 trying to see, though. I want to see the impacts of
2 what we've done. I've heard them.

3 MS. FOWLER: Uh-huh.

4 MR. HOOD: And this is my first time hearing
5 it, so I was trying to see the impacts of what we've
6 done and if we needed any more corrections. But it
7 sounds like our view was, you needed to be really in
8 the pipeline, but you all have some more work that you
9 need to continue to do.

10 MS. FOWLER: Right.

11 MR. HOOD: That's all I was trying to say.

12 MS. FOWLER: Right. Right.

13 MR. HOOD: Okay. Thank you. Thank you, Mr.
14 Chair.

15 CHAIRPERSON HILL: Thank you, Chairman Hood.

16 Okay, does the board have any further
17 questions from the applicant before I turn to the
18 Office of Planning?

19 MR. HART: Just one, Mr. Chairman. Ms.
20 Fowler, there -- we have a letter in opposition from
21 the Capitol Hill Restoration Society. Could you talk
22 about that if you could?

23 MS. FOWLER: I did meet with Gary Peterson a
24 couple of weeks ago and we reviewed the project, and I
25 just, I saw that he submitted a letter late yesterday

1 and did not have a chance to review it. But I
2 understand he has concerns about the impacts.

3 MR. HART: Yeah, it looks like they -- this is
4 Exhibit 38.

5 MS. FOWLER: Uh-huh.

6 MR. HART: It looks like he talks about the --
7 or, he as the Chair, talks about the size of the
8 house. Well, he says doubling.

9 MS. FOWLER: Uh-huh.

10 MR. HART: And then the, you know, the impact
11 of the rear expansion.

12 He did say that the Zoning Committee for
13 Capitol Hill Restoration Society voted unanimously to
14 oppose the application. And so, they do talk about
15 the light and air being duly affected, and he says
16 again, without proof.

17 So I mean, he raises some issues and it's
18 helpful for us to kind of hear this so that we can,
19 you know, evaluate this accordingly.

20 MS. FOWLER: Yeah, I think, I mean, it is like
21 I said, it's a large addition but it is a very deep
22 lot and we're going to 48 percent, so it's kind of
23 unusual that we can add so much without going even up
24 to the 60 percent mark. And as I said, the sun study,
25 because the 227 is to the north of 225, that is where

1 we have more of the impact. But that neighbor has
2 supported it. We also have support from the ANC. So,
3 you know, otherwise we had very good feedback from the
4 neighborhood on this project.

5 MR. HART: Thank you.

6 MS. FOWLER: Thank you.

7 CHAIRPERSON HILL: Okay. I'll turn to the
8 Office of Planning, please.

9 MS. FOTHERGILL: Good morning. I'm Anne
10 Fothergill with the Office of Planning, and we rest on
11 the record in support of the application, and I'm
12 happy to take any questions.

13 CHAIRPERSON HILL: Okay. Does anybody have
14 any questions for the Office of Planning?

15 MS. WHITE: Just one question. What was your
16 -- what's your thought on the sun study?

17 MS. FOTHERGILL: I reviewed it and I don't
18 know what the exhibit number is for you, but in
19 looking at it, I agree with the applicant's architect
20 that the impact is primarily to 227, who did write a
21 letter of support and that because the lot is so deep,
22 and they will still have a 72-foot rear yard, that
23 there is light and air provided to the neighboring
24 properties, even with the addition.

25 MS. WHITE: Okay.

1 CHAIRPERSON HILL: Okay. I'm going to go turn
2 to the audience. Is there anyone here from the ANC?
3 Is there anyone here wishing to speak in support? Is
4 there anyone here wishing to speak in opposition?

5 [No audible response.]

6 CHAIRPERSON HILL: Okay. Ms. Fowler, going to
7 go back to you. Is there anything else you'd like to
8 add?

9 MS. FOWLER: No, I just wanted to thank Anne
10 for her assistance on this project. She's very
11 helpful as usual. Thank you.

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

15 Okay, I'm going to close the hearing. Is the
16 board ready to deliberate?

17 [No audible response.]

18 CHAIRPERSON HILL: Okay. All right. I can
19 start.

20 Again, based on the record and taking into
21 account the analysis of the Office of Planning as well
22 as the support of the ANC, I mean, I do think that it
23 is a large project. Or, I shouldn't say a large
24 project. I think that they are doubling the space,
25 but I do think it's a good project given that they

1 were a -- or given that they were able to get the
2 support of the next-door neighbor at 227, that was
3 something that had -- I had taken into account because
4 they are going farther back than would have been
5 allowed.

6 So I would be in favor of this application.
7 Does the board have anything else they'd like to add?

8 MS. WHITE: No, I'm looking at the record and
9 looking at the sun study. I see that, you know, at
10 least one adjacent neighbor was very supportive. You
11 know, I had some concerns about the Capitol Hill
12 Restoration letter, which appeared to oppose it. But
13 with OP's report, and with the ANC's support, I'm
14 comfortable with their special exception rear addition
15 requests under Subtitle E, 205.4. So, I would be in
16 support.

17 CHAIRPERSON HILL: Okay. I'm going to --

18 MR. HOOD: Mr. Chairman.

19 CHAIRPERSON HILL: Yeah, sure. Go ahead, Mr.
20 Hood.

21 MR. HOOD: I'm also going to support this. I
22 actually, thanks to the help of my colleague sitting
23 next to me, I misread the sun study. I do make
24 mistakes. Usually one a year. But I did look at that
25 wrong, so I would have to concur, so I retract my

1 statements about 223 being the most affected.

2 But one of the things I did like about it,
3 even though the structure is, I understand what the
4 Capitol Hill Restoration Society is mentioning, but
5 one thing I liked about it, when I looked at the view
6 from the street, to me, from the street view, it was
7 hidden. So, that was some very good architecture.

8 I'm not a fan of pop-ups, pop-backs. But
9 this, I think, it goes right down the line in which
10 the Zoning Commission was trying to craft when we did
11 the language. So I appreciate it and I will be voting
12 in favor of this. Thank you, Mr. Chairman.

13 CHAIRPERSON HILL: Okay. Great. Thank you,
14 sir.

15 Well, I'm going to go ahead and make a motion
16 to approve Application No. 19566 as read by the
17 secretary and ask for a second.

18 MS. WHITE: Second.

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

21 [Vote taken.]

22 CHAIRPERSON HILL: Motion passes, Ms. Rose.

23 MS. ROSE: Staff would record the vote as
24 four, to zero, to one, with a motion by Mr. Hill
25 seconded by Ms. White, with Mr. Hart and Mr. Hood in

1 support of the motion to grant the application. One
2 board seat vacant.

3 CHAIRPERSON HILL: Thank you. Summary order.

4 MS. ROSE: Yes.

5 CHAIRPERSON HILL: Thank you.

6 MS. ROSE: Next is Application 19578 of 944
7 Florida Avenue Northwest, LLC, pursuant to Subtitle X,
8 Chapter 10, for a use variance from the use
9 requirements of Subtitle U, Section 401, to operate a
10 salon in the commercial space of an existing building
11 in the RA-2 Zone at premises 944, Florida Avenue
12 Northwest, Square 357, Lot 50.

13 [Pause.]

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

16 MR. SULLIVAN: Good morning, Mr. Chairman and
17 members of the board. My name is Marty Sullivan with
18 the law firm of Sullivan and Barros on behalf of the
19 applicant.

20 MR. WILSON: Alex Wilson from Sullivan and
21 Barros on behalf of the applicant.

22 MS. GIRMA: Good morning. My name is Yodit
23 Girma, the owner of Salon Revive.

24 CHAIRPERSON HILL: I'm sorry, could you
25 pronounce your name again?

1 MS. GIRMA: Yodit.

2 CHAIRPERSON HILL: Yodit. Thank you. All
3 right, Mr. Sullivan, you are going to be presenting to
4 us, I assume.

5 MR. SULLIVAN: That's correct.

6 CHAIRPERSON HILL: And I guess, to point out
7 the obvious, the Office of Planning is not in support
8 of your request.

9 There are -- I mean, we have reviewed the
10 record and are prepared to hear your presentation.
11 Obviously, or not obviously, I would just, you know,
12 focus most primarily on how you're meeting the
13 variance test, and kind of the analysis that the
14 Office of Planning has provided. I'm going to go
15 ahead and put 20 minutes on the clock for you and see
16 whatever you want to do with it.

17 And does the board have anything else to add
18 before they begin?

19 [No audible response.]

20 CHAIRPERSON HILL: Okay, Mr. Sullivan, take it
21 away.

22 MR. SULLIVAN: Thank you, Mr. Chairman. I'd
23 like to start out with a statement from the owner of
24 Salon Revive, and the owner of the property, Ms.
25 Girma, and then I will get into the variance test.

1 MS. GIRMA: Good morning. My name is Yodit
2 Girma, and the owner of Salon Revive. I've owned and
3 operated the salon for about 15 years. In recent
4 years, the O Street Corridor has gone through
5 developments and we decided, just in order to stay in
6 the area, we decided to purchase a property near; near
7 which is 944 Florida Avenue.

8 So, we just, we like, you know, the location
9 is just close by where we can sustain the rent and the
10 change in the area so we can stay.

11 MR. SULLIVAN: And she submitted the rest of
12 her statement for the record, if the Board would like
13 to review that.

14 CHAIRPERSON HILL: Just a quick question,
15 actually. So, you purchased this property, right?

16 MS. GIRMA: Yes, we did.

17 CHAIRPERSON HILL: And so, and you purchased
18 it hoping to do what you're trying to do.

19 MS. GIRMA: That's correct.

20 CHAIRPERSON HILL: And so when you purchased
21 it, did you know that you didn't have the ability to
22 do what you're trying to do?

23 MS. GIRMA: Well, we were under the impression
24 it was a commercial space.

25 CHAIRPERSON HILL: Okay. Okay, thanks.

1 MR. SULLIVAN: And on that point, Mr. Chair,
2 the space has always been used as commercial, and it
3 had a valid certificate of occupancy for its nightclub
4 use. And so under the 1958 regulations, when they
5 were looking at this property, it was available for
6 special exception relief as the conversion of a non --
7 one nonconforming use to another. And in the 2016
8 regulations, for some reason, the phrase,
9 "neighborhood facility" was omitted from that special
10 exception, which effectively meant that you could not
11 do that conversion unless you were a residential use.

12 So that kicked us into the use variance
13 category, which we assert this safely meets, for many
14 factors, including the location, the size of the
15 property, building. Primarily, the history of the use
16 as a commercial use. Especially in the context of
17 this commercial zone.

18 So regarding the location, it's a corner
19 property on the edge of much more dense zones. If you
20 can see from what's on the screen and from the
21 PowerPoint presentations, it's almost within the
22 scissors of the mixed-use zones that have large
23 apartment buildings going up around it.

24 It's across from the MU-10 Zone and the Arts-2
25 Zone, and this is the only historically mixed-use

1 building on this block.

2 This is a picture of the apartment building
3 going up across the street, and the property is in the
4 bottom right of this photo, and it shows the
5 juxtaposition of this property with that and the
6 difficulty in operating a residential use in this
7 historically commercial property.

8 The size of the building is in combination
9 with other unique conditions. It creates an undue
10 hardship if the regulations are strictly applied.
11 It's a large property for this block, and it stands
12 out, of course, as a commercial building that was
13 always meant to be a commercial building. The
14 commercial use below has always made the residential
15 use above difficult, and we think that will continue.

16 But the biggest thing is the history of the
17 use. This Board has regularly approved use variance
18 relief for commercial properties in a residential zone
19 if they were originally constructed as commercial, and
20 if it's shown to be difficult to convert them to
21 residential.

22 Specifically, the BZA recently approved Case
23 18838, the Hilltop Bar and Restaurant, which was also
24 in this ANC. In that case, the Office of Planning
25 supported the first story of relief, use variance in

1 that case, in a situation that's very similar to this
2 case. And at the hearing for that case, then, the
3 Office of Planning withdrew their opposition to the
4 second floor as well. Also similar facts to this
5 case.

6 Another case is 118701, 1247 E Street
7 Southeast. It was approval of a use variance on the
8 first floor for a similar use like this. And we have
9 pointed out in our PowerPoint, some of the
10 similarities between the Hilltop Bar and Restaurant in
11 this case. It is a vacant building most recently used
12 for commercial purposes.

13 The residential use above has been spotty
14 because of the commercial use below, and this is one
15 of the things that the ANC urged us to use both
16 stories because they know of the troubled history of
17 this building, both with the use upstairs and with the
18 commercial use on the first floor.

19 I would point out some differences between 944
20 Florida and the Hilltop Bar case is that Hilltop Bar
21 is in the middle of a residential zone, single-family
22 and flats, whereas 944 Florida is essentially in the
23 middle of a commercial zone, although that happens to
24 be on the tip of the RA-2 Zone.

25 Both case 18 -- 838 and 18701 were in the RF-1

1 Zones.

2 So the difficulty on the first floor, the main
3 undue hardship is the difficulty in converting this to
4 a residential use. And on the second floor, it's the
5 difficulty of converting, of repairing it, bringing it
6 up to code to continue as a residential use, and then
7 maintaining it as a residential use.

8 And we can talk about, we have somebody here
9 to talk about the cost of construction and renovation
10 and the differences between the residential and the
11 commercial, if you would like to hear more about that.

12 And that concludes our presentation, if you
13 have any questions.

14 MR. HART: Yeah, if you could, Mr. Sullivan, I
15 would like to understand a little bit more about the
16 difficulties with the renovation of the residential.
17 You had asked about that, you know, trying to listen
18 to you and also see if there's -- if things kind of
19 pop out at me.

20 The other issue, the other question that I
21 had, you made a statement about the commercial use
22 below has always made the residential use above
23 difficult. And if you could expound on that a little
24 bit more I'd appreciate it.

25 MR. SULLIVAN: Well, the commercial use below

1 was a bar nightclub, which would obviously make a
2 residential use difficult above it. But with the use
3 of a salon as well there are some aspects of that use,
4 particularly odor, which can affect a residential use
5 above, without affecting the neighboring properties
6 around it. And that's primarily what I meant with
7 that.

8 Now regarding the conversion of the second
9 floor, and we have the project manager for the project
10 here who can talk more about this. But it largely
11 relates to the condition of the residential use
12 upstairs, and the things needed to continue it as a
13 residential use as opposed to just leaving it as open
14 space and dedicating that to the use below.

15 So with us is the property manager, Yared
16 Tesfaye, and he can talk about some of the
17 difficulties in continuing the residential use --

18 MR. HART: Could you actually --

19 MR. SULLIVAN: -- and maintaining it.

20 MR. TESFAYE: Good morning.

21 MR. HART: Could you actually just spell your
22 last name?

23 MR. TESFAYE: Tesfaye. T-E-S-F-A-Y-E.

24 CHAIRPERSON HILL: Mr. Tesfaye, did you get
25 sworn in this morning?

1 MR. TESFAYE: No. No, sir.

2 CHAIRPERSON HILL: If you could stand up and
3 take the oath which is going to be administered by Ms.
4 Rose. And anyone else who again has come late that
5 wishes to testify.

6 [Oath administered to the participants.]

7 MS. ROSE: You may be seated.

8 CHAIRPERSON HILL: All right, sir. Go ahead.

9 MR. TESFAYE: Good morning. So, converting
10 the used upstairs from what it is now to a residential
11 unit, it takes -- we had to totally gut the place out
12 because it was not done by code, or it was not done
13 right. It's outdated. So we needed a total gut
14 versus doing if it's just a commercial use, all she
15 was trying to do is get the place out and just put a
16 boot for the nail shop, she doesn't have to do no
17 partition. She doesn't have to do no kitchen, no
18 bathrooms, no bedrooms, which will cost triple the
19 amount of just leaving it exposed bricks and just
20 bring your boot in just to do a nail shop.

21 So if we have decided to change it to a
22 residential unit, you have to completely gut the
23 place, run new plumbing, new electrical, and new HA --
24 AC, because it doesn't even have AC right now, which
25 she is not even planning to do.

1 MS. WHITE: Do you know the actual costs? I'd
2 like to hear the numbers. I don't know if you --

3 MR. TESFAYE: The cost will be three times
4 more than the commercial use. Like I told you, if we
5 do just -- if she was just doing the commercial --

6 MS. WHITE: Uh-huh.

7 MR. TESFAYE: -- all she has to do is just --
8 and she's planning to leave the brick open. So once
9 you get it out she's just going to leave the brick
10 open and she's just going to be putting tables. Like,
11 you know, nail tables, versus if you are doing a
12 residential you have to first gut the place out, add
13 insulation, then add drywall, then do partition,
14 bedroom. You're going to have to put two bathrooms,
15 full kitchen.

16 MS. WHITE: How much?

17 MR. TESFAYE: Cost will be about, about 125,
18 to \$150,000 versus probably 45 to \$50,000 for her
19 commercial use.

20 CHAIRPERSON HILL: Chairman Hood, do you have
21 any questions?

22 MR. HOOD: I have more questions for the
23 Office of Planning in germane to the site. But, Mr. -
24 - somebody mentioned, I think you mentioned -- Mr.
25 Sullivan, you mentioned that it was a bar use

1 previously?

2 MR. SULLIVAN: Yes, that's correct. On the
3 first floor.

4 MR. HOOD: Yeah, because I noticed the way it
5 looks on W Street. I kind of reconcile with the
6 conversion of that. I'm just curious where we're
7 getting this not being -- anyway, I'll ask my
8 questions for Office of Planning. Thank you.

9 CHAIRPERSON HILL: Okay. All right. Great.
10 With that, I'll turn it over to the Office of
11 Planning.

12 MR. COCHRAN: Thank you, Mr. Chair. Steve
13 Cochran for the Office of Planning.

14 Unfortunately, we can't stand on the record on
15 this one. This was first filed as an application to
16 use the first floor for the salon, and the second
17 floor was for continued residential use. The
18 applicant has given the impression this morning that
19 at first at least, that this is a commercial property.
20 It's a mixed-use property. It has been used
21 residentially on the second floor, continuously. The
22 certificate of occupancy for commercial use is applied
23 only to the first floor.

24 For the original application, OP had some
25 concerns about whether the tests had been met, but

1 understood that the first-floor commercial use was a
2 long-standing type use, and noted that even though a
3 use variance would be required to go from a bar and
4 restaurant use under Category D, use group D, to a
5 salon use under a different use category, the proposed
6 salon use would be less intense than the bar and
7 restaurant that had been there.

8 When this changed to an application to use
9 both floors for a salon use, our concerns about the
10 application increased. We have to recommend that you
11 deny the application, primarily for three reasons.
12 There's been no demonstration of an exceptional
13 situation that results in a practical difficulty for
14 continued use of the second-floor residential purposes
15 for residential purposes, or for a purpose that would
16 be permitted either by-right or as a special exception
17 in the RA-2 Zone. They've jumped straight to
18 something that requires a use variance, not anything
19 that could be otherwise permitted by-right or by
20 special exception in this zone.

21 Also, because the proposed total conversion
22 would likely result in a substantial detriment to the
23 public good in a neighborhood where there's already
24 considerable upward pressure on residential rents.
25 And finally, because the use of the building

1 exclusively for commercial purposes would be contrary
2 to the moderate density residential purposes of the
3 RA-2 Zone and would constitute a substantial harm to
4 the zone's intentions and regulations.

5 I'm happy to answer questions.

6 MR. HOOD: So, Mr. Chairman, can I ask a
7 question?

8 CHAIRPERSON HILL: Please.

9 MR. HOOD: Okay. Mr. Cochran, from what I'm
10 hearing throughout all this, I don't know if I buy the
11 second and third point. But the first point about the
12 second floor being used as the same as the first
13 floor, and I understand it was no problem I guess,
14 using the salon on the first floor, if the salon was
15 on the first floor with the Office of Planning, and
16 keeping the second floor as residential correct?

17 MR. COCHRAN: Had there been demonstrations of
18 the three-prong test, we probably would not have had
19 any problem with recommending approval of the first
20 floor for a salon use.

21 MR. HOOD: So --

22 MR. COCHRAN: The application had not gotten
23 to the point of demonstrating compliance with the
24 three-prong test at the point where it was changed to
25 both floors. But it certainly would have been

1 possible for the applicant to have demonstrated that.

2 MR. HOOD: But let me walk down it slowly. It
3 takes me a while to walk down and try to get to where
4 I need to be. I'm just going by your testimony. The
5 first floor, from what I've heard from you, and I know
6 the policies in this city now, I know Office of
7 Planning and some other cases are encouraging, or try
8 to encourage businesses to move on the second floor,
9 and I know that's still probably opening out for
10 discussion, and some places it worked. And I think
11 Florida Avenue is a prime example, because they do
12 have some commercial use on second floors. And I
13 particularly know of a salon.

14 But anyway, I'm just curious. It sounds as
15 though that Office of Planning would not have an issue
16 with a three-prong test. It sounded like that, if the
17 first floor was used as a salon, redoing the use, and
18 the second floor was residential. Is that a fair
19 statement?

20 MR. COCHRAN: The Office of Planning would
21 likely have considerably less difficulty recommending
22 approval of an application that requested a salon use
23 on the first floor and a continued residential use on
24 the second floor.

25 However, I have to caution, that remains

1 hypothetical because that's not the application before
2 us.

3 MR. HOOD: Right. I understand that. But I'm
4 trying to figure out -- I'm trying to get to where
5 this applicant wants to be and where the Office of
6 Planning is and try -- so I can make my decision how
7 I'm going to deal with this, with the board.

8 You mentioned the -- what would be the
9 detriment to the zone plan?

10 MR. COCHRAN: The RA-2 Zone is intended to be
11 a moderate density residential zone. This would
12 eliminate any residential use in that zone. A
13 residential use that has existed on the second floor
14 since the building was constructed.

15 The building has a separate entrance at the
16 corner of Florida and W Street for the commercial use,
17 and a separate entrance for the residential use on W
18 Street. The same set of stairs that would have to be
19 reconstructed for commercial use, would also have to
20 be reconstructed for residential use. The applicant
21 would be putting plumbing facilities on the second
22 floor anyway for the proposed commercial use. It
23 would have to put -- it would have to upgrade the
24 plumbing on the second floor for rehabilitated
25 residential use. And so on, and so forth.

1 MR. HOOD: Okay.

2 MR. COCHRAN: So the building was clearly
3 constructed for two types of uses.

4 MR. HOOD: Okay. I understand. But the
5 testimony I heard from this gentleman, I'm sorry,
6 what's your name?

7 MR. TESHAYE: My name is Yared Tesfaye.

8 MR. HOOD: Mr. Tesfaye. The testimony I heard
9 from him, they were not going to do no additions to --
10 I even heard that you were going to put an air
11 conditioner in, right?

12 MR. TESHAYE: Yes.

13 MR. HOOD: Okay. But the issue is, he's
14 saying he's not going to do those things.

15 MR. COCHRAN: I have to question whether it
16 would be to code not to have the upper space air
17 conditioned, and I don't understand how it could be
18 left as an open space if you're going to need water
19 for the sinks for a salon.

20 MR. HOOD: Okay. Okay. All right. I know
21 we're getting a little off track of what our duties
22 are. I'm just trying to figure out how we can make
23 this work. So I'll hold off on any additional
24 questions, Mr. Chairman.

25 CHAIRPERSON HILL: Okay, great. I just was

1 trying to, Mr. Cochran, also clarify. The second
2 floor has been used as residential use.

3 MR. COCHRAN: Correct.

4 CHAIRPERSON HILL: And so, that's why I'm a
5 little confused in terms of the testimony that it was
6 a commercial use from the applicant.

7 MR. SULLIVAN: No, if we communicated that,
8 that was not intended. We've always made it clear.
9 In fact, that's why we original filed it as just one
10 story because I advised the client, well, the first
11 story is a much easier case. The second story is, we
12 have to make a better case. And they were concerned
13 about timing. And so, we filed just for one story.

14 And then, when we went to the ANC, the ANC
15 said, this needs to be two stories. This property has
16 never worked as a mixed-use, and the only way we'll
17 support it is if you're doing two stories, which if
18 you're okay with that. And of course we were okay
19 with that. And that's when we amended the
20 application.

21 CHAIRPERSON HILL: So the ANC was only in
22 support if it was two stories?

23 MR. SULLIVAN: Well, they may have supported
24 one if we insisted on that, but they urged us that --

25 CHAIRPERSON HILL: Okay.

1 MR. SULLIVAN: -- that they thought the
2 solution for this property, and I believe they're here
3 to make -- I won't put words in their mouth.

4 CHAIRPERSON HILL: Okay. Okay. Okay. I see
5 people getting all antsy in the back. We'll move on
6 to you pretty soon.

7 Does anyone have any further questions for the
8 Office of Planning? Okay.

9 MS. WHITE: Well, I mean, the one issue I'm
10 having, I'm you know, just trying to get through the
11 whole thought process of her expanding to the second
12 floor, how that would be a detriment to the public
13 good. It's -- so I won't put words in your mouth, but
14 I'm just trying to understand your thought process in
15 making that determination as part of the use variance.

16 MR. COCHRAN: Two things. It would be the
17 loss of a residential unit in a residential zone. And
18 secondly, it would be converting to an exclusively
19 nonresidential use, a property that's in a residential
20 zone.

21 MS. WHITE: Thank you.

22 CHAIRPERSON HILL: Okay. All right. So let's
23 see. So, is there anyone here from the ANC? Oh,
24 please, come forward. Oh, sorry, hold on. Before you
25 come forward, actually, I apologize, I forgot to ask

1 the applicant as he's raising his hand.

2 Do you have any questions for the Office of
3 Planning?

4 MR. SULLIVAN: I do, just a couple.

5 CHAIRPERSON HILL: Sure.

6 MR. SULLIVAN: Thank you. Mr. Cochran, you
7 said that there will be a substantial detriment to the
8 public good because of upward pressure on rents.
9 That's because one unit is going away? I'm not sure I
10 understand that comment. There will be an upward
11 pressure on rents for what reason?

12 MR. COCHRAN: The neighborhood is experiencing
13 upward pressure on rents, as your application points
14 out. The neighborhood has seen luxury rental units
15 developed extensively within a few blocks of the site.

16 The second floor has traditionally been let's
17 just say not a luxury residential unit, and the loss
18 of a nonluxury residential unit would be a substantial
19 detriment to a neighborhood that is in danger of
20 losing more nonluxury residential units.

21 MR. SULLIVAN: Do you think that could also
22 present a difficulty in renting that unit if there was
23 so much competition with high-quality units
24 surrounding it?

25 MR. COCHRAN: No, I don't. Not everyone can

1 afford the new luxury residential units. There's a
2 demand for more affordable units in the neighborhood.

3 MR. SULLIVAN: Okay. And you're aware there's
4 428 units going up across the street from this
5 property?

6 MR. COCHRAN: Yes. And as you've pointed out,
7 they are luxury rental units.

8 MR. SULLIVAN: Well, there's no Inclusionary
9 Zoning in those units?

10 MR. COCHRAN: I can't address that. I don't
11 know the project any more than you've described it in
12 your application.

13 MR. SULLIVAN: Okay. So are you familiar with
14 the Hilltop Bar case?

15 MR. COCHRAN: I am not.

16 MR. SULLIVAN: 18878. In which the Office of
17 Planning in that case did support the first floor and
18 didn't support the second floor. So they bifurcated
19 their decision. You seem to say that you would have
20 supported one story by itself, but when we asked for a
21 second story that made you not support the first
22 story. Is that correct?

23 MR. COCHRAN: We were -- at the time you
24 changed the application, OP believed that you had not
25 yet met the three-prong test. But it might be

1 possible for you to meet those tests.

2 When you switched to asking for both floors to
3 go to commercial purposes, it was clear that you did
4 not meet the three-prong test with the final
5 application.

6 MR. SULLIVAN: You said that it's impossible
7 for the applicant to show the three-prong test on the
8 second floor.

9 MR. COCHRAN: If I used the word, impossible,
10 I would retract that. I don't recall using that word,
11 but I'm sorry if I did.

12 MR. SULLIVAN: Okay. Well then my follow up
13 question would have been, how do you gather that the
14 Board of Zoning Adjustment and the Office of Planning
15 supported two-story relief for 2737 Sherman for the
16 Hilltop Bar?

17 MR. COCHRAN: Again, as you know, every case -
18 - no case sets a precedent for another case. I'm not
19 familiar with the case that you've cited.

20 MR. SULLIVAN: Okay, thank you. Thanks.

21 CHAIRPERSON HILL: Has anybody got anything
22 else for Mr. Cochran?

23 [No audible response.]

24 CHAIRPERSON HILL: I would not want to play
25 poker with Mr. Cochran. Okay.

1 Let's see. Is the ANC here? Oh yeah, the ANC
2 is here. Please, come forward. That was a
3 compliment, Mr. Cochran, just to let you know.

4 MR. COCHRAN: Thank you, sir. You wouldn't
5 want to play poker with me because I don't know how to
6 play poker.

7 CHAIRPERSON HILL: Oh, then I retract my
8 statement. I would love to play poker with you.

9 Okay. All right, sir. I'm sorry. I didn't
10 realize you were here for this long. Please,
11 introduce yourself.

12 MR. NELSON: That's okay. Good afternoon. My
13 name is Patrick Nelson and I am the current chair of
14 the 1B Zoning Preservation and Development Committee
15 and I have testified before you on numerous occasions.

16 There's a number of points that I want to
17 make, and I probably will miss some of them because
18 I've been jotting notes down as this testimony has
19 been going on. But this case has multiple issues that
20 we deal with. I've lived in my house for 24 years,
21 which is about three blocks from this location. And
22 this location has had a lot of problems with the bar
23 that was in it, the fact that the apartment that's
24 above it has not actually been rented in quite a long
25 time, so the issue of losing a space doesn't really

1 hold a whole lot of water to me.

2 The issue brought up about the building that's
3 going in across the street, which is the 965 site, is
4 one that I have been actively involved in, and that
5 has almost 140 affordable units at 30 percent. That's
6 part of the clause that was written into the D.C.
7 legislation on properties that the District sold to
8 developers, and it's a higher number than what the
9 developer wanted to do because we at the ANC pushed
10 them to do that. So, the argument that we're losing
11 affordable units, that building is going to create
12 more than what was under the IZ regulations. And
13 there's also a building that is going up catty-corner
14 to that. The Howard Towers is in between another
15 building on Barry and Sherman, so it's one block up.
16 That I actually negotiated through Howard University,
17 and that's going to have close to 40, 30 percent AMI
18 units that are coming online at the end of this year.
19 So there are a number of affordable units coming on.

20 And the issue that we're dealing with,
21 especially in 1B, which Anthony Hood probably knows
22 well, that Chairman Turner and I have talked about a
23 lot, is the fact that we are putting up so many units
24 and we're losing office space, and we're not -- we're
25 really getting saturated with units here, that some of

1 which are not even selling. I mean, everywhere you
2 look in Ward 1 they're just slapping up houses. Every
3 available spot that they could build, they're
4 building, and they're building on top of buildings
5 that are already there.

6 So the issue that relates to the Hilltop is
7 also something that I was personally involved in.
8 That was an issue where that was originally a grocery
9 store on the first floor and storage on the second
10 floor. And we advocated to have that made into a bar,
11 which actually is now being quite productive in the
12 community. And that was one where the same issue was
13 addressed, that they only wanted to do the first
14 floor, and we advocated and successfully got that
15 converted on both floors.

16 When this case came before me, before it even
17 hit the committee, I had a conversation with Marty and
18 I said, I'm not really strongly going to support this.
19 If you want to come in front of the committee for the
20 first floor, I said, if you're willing to address the
21 issue of possibly making it the whole building, I will
22 wholeheartedly put my weight behind it, but I'm not
23 going to support the first floor because of the issues
24 that we'll be dealing with this building.

25 And he said, when I discussed that with him,

1 that he had originally wanted to do the second floor
2 but pushed back on that and went with the first floor.

3 So the second application was really driven by
4 my desire to have both floors used for this space.
5 And in the sense of what they're using it for, it
6 really makes more sense to be able to have the second
7 floor available for them because the first floor is
8 going to be the haircutting area, and the second floor
9 is more of a nail section. So they're subdividing it
10 and they're using the space.

11 The issue for me is more so that the space is
12 not conducive to having a unit above it. It's just
13 not. It's not been used properly as a unit in the
14 whole time that I've lived in my house. And I just
15 don't see what it's -- I mean, I understand opposition
16 that OP has. It's a regulation. They want to stick
17 with it. I'm not in opposition to that. But there
18 needs to be some wiggle room, and what makes more
19 sense when it's out on the street versus what's in a
20 book and written in a rule. And I understand the
21 rules quite well. I mean, I advocate on behalf of
22 following the rules. But in this case, I think there
23 needs to be some adjustment. And it will be more
24 beneficial to the community than a detriment.

25 CHAIRPERSON HILL: All right. Thank you,

1 Commissioner Nelson. Does the board have any
2 questions for the commissioner?

3 MR. HART: Yeah, actually, Mr. Chairman.

4 CHAIRPERSON HILL: Sure.

5 MR. HART: Mr. Commissioner, thank you very
6 much for coming down. Mr. Nelson, is it?

7 MR. NELSON: Yes.

8 MR. HART: Thank you very much for coming
9 down. Just one quick question regarding, do you see
10 this as a kind of, as a unique condition or do you see
11 this as other buildings in this you know, kind of in
12 this block or in this area that has it -- that you
13 would have a similar kind of feeling towards?

14 MR. NELSON: I --

15 MR. HART: So are you seeing this kind of, you
16 know, as itself? Or is it, there's some other, you
17 know, larger, larger you know, thing at play?

18 MR. NELSON: I see it as a uniqueness in the
19 sense that if you look at the demographic of this,
20 across the street is a brand new high-rise building.
21 Next to it is a lot that's being -- is currently under
22 construction that's also going to be a high-rise
23 building. And then we have the 965 site, which is on
24 the corner next to the tower. So that whole side of
25 the street is all high-rise, all the way down, almost

1 to the junction of 9th Street.

2 On this side of the street, is also a high-
3 rise building. So that block really only has
4 residential units that face Florida, right where this
5 square is. And they're all single units. They're not
6 mixed use.

7 Behind that building is an auto repair store.
8 So it's commercial all along the W Street, as far as
9 I know. All along the W Street there are commercial.
10 It's a bar there. There's a couple other things.

11 So it's congruent in my logic, that that comes
12 right along to the corner, and then the residences
13 continue along the edge.

14 MR. HART: Thank you very much.

15 CHAIRPERSON HILL: Commissioner Nelson, thanks
16 for coming down. I mean, really, particularly with
17 this case it does help and it does provide a lot of
18 clarity to us, as well as you mentioned the word
19 weight behind this in that, you know, the Office of
20 Planning is giving their opinion based upon how they
21 see the regulations. And however, you know, it is --
22 it's a lot different when you come down here than a
23 letter. So, you know, you guys are very lucky,
24 actually, that the Commissioner has been here for the
25 past four hours to come down and talk with us. So,

1 just wanted to kind of point that out to you and thank
2 you.

3 Does anybody have anything else for
4 Commissioner Nelson?

5 [No audible response.]

6 CHAIRPERSON HILL: Okay. All right. So then,
7 thank you, Mr. Commissioner.

8 Does anyone else here want to speak in support
9 of the application? Okay, please, come forward. If
10 you could just -- you just have to -- yeah, just --
11 first of all, did you get sworn in this morning?

12 [No audible response.]

13 CHAIRPERSON HILL: Okay. Ms. Rose, if you
14 could swear -- and if anyone else has come in, in the
15 next five minutes would like to come in, just if we
16 could swear you in there, so.

17 [Oath administered to the participants.]

18 MS. ROSE: You may be seated.

19 CHAIRPERSON HILL: Sir, if you could just give
20 us your name and then I don't know if you filled out
21 your witness cards, you do need to fill out a couple
22 of witness cards and make sure the transcriber gets
23 those. Okay, there's two cards. They might even be
24 on the desk somewhere there.

25 I'm going to go ahead and put -- you'll have

1 three minutes to speak, so I'll just let you know when
2 your three minutes are up, and so you can begin
3 whenever you'd like.

4 MR. RILEY: My name is David Riley. I live in
5 912 W Street Northwest. I own several properties on
6 the block, and the bar that was there was giving the
7 neighborhood a real hard time. So I'm in support of
8 this salon because it won't -- it won't distract from
9 the neighborhood. You know. I mean, I don't know
10 what else could be that, besides a salon, but it was a
11 bar there when I came -- I been down there 47 years.
12 And when I came there was a laundromat in there. And
13 I'm not sure how the liquor -- I mean, the bar got
14 there, but you know, it disrupted the neighborhood.
15 Urinating on peoples' property and peoples' yards,
16 loud noise.

17 A salon won't do that, so I'm in support of
18 it.

19 CHAIRPERSON HILL: Okay, great. Thank you.
20 Does the board have any questions for Mr. Riley?

21 MS. WHITE: Do you remember when it was
22 residential on the top, or do you have any
23 perspective?

24 MR. RILEY: Yes.

25 MS. WHITE: What's your opinion about that?

1 MR. RILEY: It was on and off, on and off. I
2 mean, the building really needs gutting out. You
3 know, it wasn't up to code, it's still not up to code.

4 MS. WHITE: Thank you.

5 CHAIRPERSON HILL: Okay, great. Thank you.
6 All right, thank you. I'm sorry.

7 MR. HART: Yes, sir. Just one additional
8 question. Mr. Riley.

9 MR. RILEY: Yes.

10 CHAIRPERSON HILL: Mr. Riley, right over here.

11 MR. HART: Sorry.

12 MR. RILEY: Oh, okay.

13 MR. HART: Sorry. You said you own a number
14 of properties along W Street?

15 MR. RILEY: Yes, I own the adjacent property
16 next to 944.

17 MR. HART: Okay.

18 MR. RILEY: Which is 909 W Street.

19 MR. HART: Okay. I just wanted to know where
20 you were along that.

21 MR. RILEY: Yes.

22 MR. HART: And you said you --

23 MR. RILEY: And I live directly across the
24 street from it.

25 MR. HART: You said you live in 19 -- 912 --

1 MR. RILEY: Yes.

2 MR. HART: -- W Street? Okay. Thank you.

3 MR. RILEY: Fill out my cards and give them to
4 them.

5 CHAIRPERSON HILL: Okay, great. Thank you.
6 If you could just turn off that microphone right
7 there. Thank you so much.

8 All right. Is there anyone here wishing to
9 speak in opposition to the application? Anyone here
10 wishing to speak in opposition?

11 [No audible response.]

12 CHAIRPERSON HILL: All right. Does the Board
13 have any more questions of the applicant?

14 [No audible response.]

15 CHAIRPERSON HILL: Okay. I do have a quick
16 question, Mr. Sullivan. If you can kind of like just
17 -- the struggle I'm having with it again is just the,
18 you know, the three-prong test, right.

19 If you can again just hit the highlights of
20 your argument as to how you're meeting the test?

21 MR. SULLIVAN: Sure. I think so much of what
22 the Chairman Nelson said, as well as Mr. Riley,
23 evidences the history of this property. And I think
24 the unique condition, he highlighted that well. He
25 said, the space is not conducive to having a

1 residential unit above. And that is based on their
2 long experience with this property.

3 It's obviously unique on its block, as it sits
4 within this area that's commercial and mixed use with
5 a lot of units. But within the block itself, it's the
6 only mixed-use property as well. And so that makes it
7 extremely unique. And that uniqueness leads directly
8 to the undue hardship of having difficulty maintaining
9 the upstairs as a residential unit in addition to
10 keeping it or --

11 CHAIRPERSON HILL: It's the uniqueness of the
12 mixed-use and the history.

13 MR. SULLIVAN: Correct.

14 CHAIRPERSON HILL: Okay.

15 MR. SULLIVAN: Yeah. Or the, you know, the
16 history maybe, the evidence, the strongest evidence.

17 CHAIRPERSON HILL: And it's leading to the
18 practical difficulty how again?

19 MR. SULLIVAN: Of not being able to maintain a
20 residential unit above this mixed-use property on the
21 second floor, because of where it sits.

22 And the reason, I don't want to beat a dead
23 horse, but the reason I keep bringing up Hilltop is
24 the board approved two floors there and that was smack
25 dab in the middle of the RF-1 Zone surrounded by

1 residences; small residences, single-family and flats,
2 as opposed to this property which has the difficulty
3 of existing within this growing, larger, much more
4 dense area. It has the problem of competing with all
5 the additional units that are coming online that are
6 newer, have all the amenities. If people are looking
7 in this area for a space, they're going to gravitate
8 towards those. And that's in addition to the cost,
9 the additional cost, as you heard, in keeping it as
10 residential or updating it as residential. And then
11 there will be difficulty in renting it as well. So
12 I --

13 CHAIRPERSON HILL: Okay.

14 MR. SULLIVAN: Yeah.

15 CHAIRPERSON HILL: Okay, I'm sorry. I'm just
16 going to kind of cut you off.

17 All right. I don't know if the board wants to
18 ask any further questions. I mean, so I went through
19 everyone. I'm not going to -- I need time to kind of
20 think on this just a little bit. I'm not going to be
21 able to decide right now. Are you guys going to be
22 able to decide right now?

23 So what I'd like to do is ask for -- I mean, I
24 just want to go back and look at the Hilltop case in a
25 little bit more detail. And so, and then also ask the

1 applicant if they could just -- I mean, I know I can -
2 - if you want to add something that -- I mean, for me
3 the struggle is just the variance test, right? And
4 so, you know, what you just summarized in your
5 connection and, you know, the uniqueness and how it's
6 you know, leading to the practical difficulty, that is
7 where I'm trying to get to. So if you can -- if you
8 want to submit some small something that kind of helps
9 explain that a little bit further for me, I don't know
10 if there's anything else that the board would like to
11 hear, and/or if the board wants anything supplemental
12 from the Office of Planning --

13 MR. HOOD: Mr. --

14 CHAIRPERSON HILL: Yeah, sure.

15 MR. HOOD: Mr. Chairman, let me just ask Mr.
16 Sullivan also if he can give us a case. I know you
17 mentioned the Hilltop and I haven't had a chance to
18 look at that. I don't even know if I -- where I was
19 on that one, or if I was even on it.

20 But anyway, other than the Hilltop case,
21 something that may mirror exactly -- and I don't know,
22 maybe the Hilltop case does it. If you think that's
23 sufficient, that's fine. But something that kind of
24 mirrors this, where you have a site like this which
25 has served as a use in this city for so long, because

1 I look at these cases like sometime this kind of
2 situation gets land-locked. Okay? We used it as this
3 for 30 years, now we want to come back and make it
4 right. And the suitability for the way we use it, and
5 it goes to what Commissioner Nelson was saying, what
6 the ANC and those who live in the neighborhood, how
7 they benefit from it.

8 So do we have anything else that may be in the
9 record, other than the Hilltop case, unless it mirrors
10 that, that's basically that mirrors this case, exactly
11 how this case is, and the situation and the position
12 of where this house is? I think that's very
13 important. If you understand what I'm kind of looking
14 for.

15 MR. SULLIVAN: I do, thank you.

16 MR. HOOD: Okay. Thank you.

17 MR. HART: And just so that I have this
18 correct in my head, Mr. Sullivan, you're not actually
19 looking to -- the Office of Planning talked about the
20 loss of an affordable unit. This was not looking to
21 actually replace -- this wouldn't actually look to
22 replace an affordable unit. This would actually be a
23 market rate unit if there were to be a unit, because
24 you're putting so much money into it. I think it
25 would be difficult to -- I mean, there's only one unit

1 that you're putting in. And so, I'm just trying to
2 kind of -- I'm making sure that that's not -- that I
3 have that correct.

4 MR. SULLIVAN: Yes, that's true. That would
5 be the challenge of creating a unit that's marketable
6 at a price, at a cost that's affordable to do that.
7 Yes.

8 MR. HART: Okay, thank you.

9 CHAIRPERSON HILL: Okay. Oops. Okay. I
10 don't think, we don't need anything else from the
11 Office of Planning, correct? No?

12 And the Office of Planning wouldn't respond to
13 anything that the applicant submitted.

14 MR. COCHRAN: Only if the board asked us to.

15 CHAIRPERSON HILL: Okay. No, I don't think
16 so. All right. Okay. I mean, just also for the --
17 for everyone that's here, I mean, I'm just struggling
18 with the regulation, you know, and getting to the
19 nexus, you know?

20 So, okay. So then we would need to get
21 something back from the applicant when? And then when
22 would Chairman Hood be back with us?

23 MS. ROSE: Mr. Hood will be here on the 18th
24 of October.

25 CHAIRPERSON HILL: On the 18th of October.

1 MR. HOOD: Can always send a proxy in. Unless
2 we need to talk about it. I would like to be able to
3 talk about this one. But if not --

4 CHAIRPERSON HILL: All right. Then I'm going
5 to put you back on the 18th of October. Okay? And
6 then because then Chairman Hood would be here and I
7 think it would be helpful to have him here for that
8 discussion.

9 So, that being the case, Ms. Rose, when would
10 we need everything?

11 MS. ROSE: October 12th if you're not going to
12 get responses.

13 CHAIRPERSON HILL: Okay. Yeah, I don't need
14 responses. I don't think we need responses. All
15 right, Mr. Sullivan?

16 MR. SULLIVAN: That's good.

17 CHAIRPERSON HILL: Okay. All right.

18 MR. SULLIVAN: Thanks.

19 CHAIRPERSON HILL: Thank you all for coming
20 down.

21 MR. SULLIVAN: Thank you.

22 CHAIRPERSON HILL: Thank you. And we're going
23 to take a quick break also. Thank you.

24 [Off the record from 12:23 p.m. to 12:34 p.m.]

25 CHAIRPERSON HILL: We're ready. Are we

1 waiting for anyone? Okay.

2 [Discussion off the record.]

3 MS. ROSE: Application No. 19517 of James
4 Wright and Sin Wah Li, pursuant to 11 DCMR Subtitle X,
5 Chapter 9 for a special exception under Subtitle U,
6 Subsection 310.2, and pursuant to Subtitle X, Chapter
7 10 for an area variance from the minimum land area
8 requirements of Subtitle U, Subsection 320.2D, to
9 permit the use of an existing three-story attached
10 dwelling as a three-unit apartment house in the RF-1
11 Zone at premises 943 S Street Northwest, Square 362,
12 Lot 113.

13 CHAIRPERSON HILL: Hi. Good afternoon. If
14 you could just introduce yourselves from my right to
15 left?

16 MS. SHARE: Yeah. My name is Tahani Share and
17 I am the agent for the homeowners on 943 S Street.

18 MS. WAH LI: My name is Sin Wah Li. I'm the
19 owner of the 943 S Street and the wife of James
20 Wright.

21 MR. WRIGHT: I'm James Wright. I'm the joint
22 owner of 943 S Street Northwest.

23 CHAIRPERSON HILL: Okay, great. Who's going
24 to be presenting to us?

25 MS. SHARE: I will.

1 CHAIRPERSON HILL: Okay, great. Ms. Share, so
2 you know, this was requested at one point, postponed
3 by the ANC so they had an opportunity to kind of go
4 through this. It seems as though, you know, you have
5 had an opportunity to do that. We've reviewed the
6 record as the board and I find the record to be pretty
7 full in terms of, you know, you coming before us now.

8 I see that the ANC 1B was unanimously in support.
9 You have four letters in support, as well as the
10 support of the Office of Planning, and we all have
11 read their analysis.

12 I just think that at this point if you just
13 want to give us a brief presentation as to what you're
14 trying to do and how you're meeting the standard for
15 which we can grant the relief requested, I'm going to
16 put 10 minutes on the clock just so I know kind of
17 where we are and you can begin whenever you'd like.

18 MS. SHARE: Okay. So, the property in 943 S
19 Street has a lot area of 1827. It was built in 1885.
20 It currently has a cellar, so three stories and a
21 cellar.

22 When the homeowners bought the property it had
23 three units, one in the basement, one on the first
24 floor, and two -- and the third one on the second and
25 third floor.

1 In the process of applying for a certificate
2 of occupancy we did some research and we couldn't find
3 any certificate of occupancy being issued for the
4 property. And there was also in there, because we
5 couldn't find any building permit ever issued for this
6 property. So nobody knew exactly when those units
7 were converted.

8 The issue is that, so when we first started
9 with the process the owners first contacted their
10 adjacent neighbors and were able to get their support.

11 We have five letters of support of adjacent
12 neighbors. And the way those townhomes are
13 configured, they all have the same rear setback, so
14 they are all aligned from the back, so there is not
15 going to be any in keeping those three units.
16 Currently there is no adverse effect on their right of
17 light and air or privacy, and also because we are not
18 proposing any changes to the structure, this in
19 historic district, so the structure would remain the
20 same.

21 But in terms of the hardship that the owners
22 are having is that, if we want to think about
23 converting the first and the basement unit to one
24 unit, the first thing that would come to mind is to
25 actually stack the stairs on top of each other. But

1 when we looked at -- so, currently there is no stair
2 between the basement and the first unit. And in that
3 location there is an existing bathroom and a kitchen,
4 and a lot of duct work going through that space.

5 So just putting a stair, stacking a stair in
6 that location, would require a lot of work. Those
7 units were converted a long time ago, and moving all
8 the plumbing and the ducting to the other side of the
9 wall is something that would cost a lot of money and
10 that is a hardship to the owners.

11 CHAIRPERSON HILL: Okay. I'm going to turn to
12 the Office of Planning.

13 MS. FOTHERGILL: Good afternoon. I'm Anne
14 Fothergill with the Office of Planning. As you know,
15 the Office of Planning generally does not support
16 conversions to -- when the property doesn't meet the
17 minimum lot area per unit. However in this specific
18 case we did find that it met the variance test. There
19 will be no new impacts on their neighbors. It's an
20 existing condition that has existed for prior to the
21 applicant's ownership of the property, and so there
22 will be no detriment to the public good, and it's an
23 existing condition, and they're not proposing any
24 changes to the building, and we recommend approval of
25 the variance and the special exception to allow the

1 three units to be retained.

2 CHAIRPERSON HILL: Okay. And just for my own
3 clarification, I mean, yeah, it's extremely odd for
4 the 900 square feet and the Office of Planning. So
5 just so I know again, can you kind of walk me through
6 again why you are in support?

7 MS. FOTHERGILL: Sure. What we found was the
8 exceptional condition was that it's an existing
9 condition that has existed prior to this applicant's
10 ownership. There have been three units in this
11 building at least to one previous owner. The building
12 has been converted, as the applicant mentioned.

13 There's been reconfigurations of stairs and bathrooms.

14 And so that leads to a practical difficulty to
15 compliance because if they had to convert to two units
16 to go back to a flat, it would be a practical
17 difficulty to make the renovations to the house. And
18 also, there's an existing tenant, who is a long-
19 standing tenant, that would need to be evicted.

20 And so, for this specific case, because
21 there's no additional impact to neighbors, there's not
22 a new amount of density coming into the property,
23 we've found that it meets the variance test,
24 specifically for this one, not in general for the 900
25 square feet for all cases across the board.

1 CHAIRPERSON HILL: Okay, thank you. Does the
2 board have any questions?

3 MS. WHITE: Can you remind me, where is the
4 tenant?

5 MS. FOTHERGILL: There's a tenant in the
6 basement and a tenant, I believe, on the first floor
7 and then the second and third is a unit. I think
8 that's what the applicant stated.

9 MR. WRIGHT: Correct.

10 MS. FOTHERGILL: And there's no, as they
11 mentioned, there's no -- they all have separate
12 entrances and there's no connection. So in order to
13 convert it there -- a connection would have to be
14 created.

15 MS. WHITE: Thank you.

16 CHAIRPERSON HILL: Okay. Anyone else for the
17 Office of Planning?

18 [No audible response.]

19 CHAIRPERSON HILL: All right. Is there anyone
20 -- does the applicant have any questions for the
21 Office of Planning?

22 [No audible response.]

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

25 [No audible response.]

1 CHAIRPERSON HILL: Is there anyone here
2 wishing to speak in support of the application? Is
3 there anyone here wishing to speak in opposition to
4 the application?

5 [No audible response.]

6 CHAIRPERSON HILL: All right, Ms. Share, I'm
7 going to turn back to you. Is there anything else
8 you'd like to add?

9 MS. SHARE: I believe, well, the owner
10 actually would -- has something to say to the board.
11 He has a long history with the neighborhood and with
12 this property and with his tenants. I believe he has
13 something to say.

14 CHAIRPERSON HILL: Okay, great.

15 MR. WRIGHT: I guess the only thing I'd like
16 to add is that you know, we've always tried to be, you
17 know, good landlords so to speak. And I think that
18 some of the questions that came up first were about
19 who might be living there and whether or not we would
20 be overcrowding the place. And actually, the process
21 of going to the ANC meetings has been very useful and
22 I think we allayed a lot of those fears, and we had a
23 chance to talk to people about, you know, we're not
24 intending to put 15 people in there and anything like
25 that.

1 So we're just trying to be compliant, and I
2 guess it's been quite an education process. And you
3 know, we love the place and we want to have good
4 people in there that get on with the neighborhood, and
5 certainly are, you know, the neighbors on either side
6 have been very supportive, and I think we've also, you
7 know, partly won over some others that once they found
8 out how we've been managing the place in the time that
9 we've had it.

10 CHAIRPERSON HILL: Okay, great. Thank you.
11 Board have anything else?

12 [No audible response.]

13 CHAIRPERSON HILL: All right. I'm going to go
14 ahead and close the hearing.

15 Is the board ready to deliberate? Okay. I'm
16 fine to start.

17 I mean, I'm glad that the applicant has come
18 down. I've seen you guys here before and everything.
19 I hope that you've enjoyed your time here with us the
20 past few times that you've been with us. And I
21 thought that, again, the -- what I found enlightening
22 -- or, enlightening. What I found to be the best
23 analysis for me was the report from the Office of
24 Planning and how they had gotten to their analysis in
25 terms of approving this application. So I had said

1 the 900 square feet is something that they do not -- I
2 can't even remember the last time that they approved
3 that. And so, you know, I can then get behind the
4 application based upon the analysis that has been
5 provided for the Office of Planning in addition to
6 that the ANC has been in support of this application.

7 Does the Board have anything else to add
8 before I make a motion?

9 [No audible response.]

10 CHAIRPERSON HILL: Okay. I'll go ahead and
11 make a motion to approve Application No. 19517 as read
12 by the secretary.

13 MR. HART: Seconded.

14 CHAIRPERSON HILL: Motion been made and
15 seconded.

16 [Vote taken.]

17 CHAIRPERSON HILL: The motion passes, Ms.
18 Rose.

19 MS. ROSE: Staff would record the vote as
20 four, to zero, to one, with the motion by Mr. Hill
21 seconded by Mr. Hart, with Ms. White and Mr. Hood in
22 support of the motion to approve the application. One
23 board seat vacant.

24 CHAIRPERSON HILL: Okay, great. Summary
25 order.

1 MS. ROSE: Yes, thank you.

2 CHAIRPERSON HILL: Thank you. Thank you all
3 very much. You're welcome.

4 MS. ROSE: Next is Application 19539 of 74 R
5 Street, LLC as amended, pursuant to 11 DCMR Subtitle
6 X, Chapter 9 for a special exception under Subtitle E,
7 Section 5201, from the lot occupancy requirements of
8 Subtitle E, Subsection 304.1, and the nonconforming
9 structure requirements of Subtitle C, Subsection
10 202.2, to allow an addition to and convert an existing
11 one-family dwelling into a flat in the RF-1 Zone at
12 premises 74 R Street Northwest, Square 3101, Lot 57.

13 CHAIRPERSON HILL: Good afternoon. If you
14 could please introduce yourselves from my right to
15 left when you get a chance?

16 MR. SULLIVAN: Good afternoon, Mr. Chair and
17 members of the board. My name is Marty Sullivan with
18 the law firm of Sullivan and Barros on behalf of the
19 applicant.

20 MR. KADIDA: Good afternoon. Tom Kadida, the
21 owner of 74 R Street.

22 CHAIRPERSON HILL: Okay, great. So, Mr.
23 Sullivan, you know, you guys were with us here before
24 about this and it seems that you've changed the design
25 so that it makes it a little bit more clear in terms

1 of what you're trying to do, and that the Office of
2 Planning is now in support based upon the changes that
3 made. I mean, the spiral stair was something that had
4 been of concern.

5 I suppose, actually, I don't think there's
6 much the board would like to hear in addition to what
7 we heard the last time, but if you want to go ahead
8 and let us know what has happened since the last
9 hearing, and how you've kind of changed the design and
10 where you are at this point, and then we can perhaps
11 turn to the Office of Planning.

12 MR. SULLIVAN: Sure. Thank you. Yeah, the
13 simple answer to that is that we reduced the lot
14 occupancy below the 70 percent so that we could get
15 within the special exception relief, and that test is
16 pretty straight forward because the building with the
17 addition, is still recessed within the walls of the
18 two buildings adjacent to it. So it doesn't,
19 obviously it doesn't have any impact on light and air
20 or privacy of neighboring properties.

21 The other thing that has gone on is I believe
22 the applicant had a discussion with the tenant from
23 next door. Although, I'm not sure that her concerns
24 were applicable to the special exception relief, but
25 he can update you on that conversation if you are

1 interested in that.

2 CHAIRPERSON HILL: I was actually -- now I'm
3 just trying to remember. Was this the project where
4 the construction person built too much? No? Okay.
5 You're lucky. I'm thinking of something else. Okay.
6 All right.

7 Does the board have any questions for Mr.
8 Sullivan or the applicant?

9 [No audible response.]

10 CHAIRPERSON HILL: Okay, because that other
11 case was awful. So, okay. I'm going to turn to the
12 Office of Planning.

13 MS. THOMAS: Good afternoon, Mr. Chair, and
14 members of the board. Karen Thomas for the Office of
15 Planning and we'll stand on the record of our support
16 that the applicant did satisfy OP's request to make a
17 special exception of this case and not the variance,
18 which we couldn't support. Thank you.

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

21 [No audible response.]

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

24 MR. SULLIVAN: No, thank you.

25 CHAIRPERSON HILL: All right. Is there anyone

1 here from the ANC?

2 [No audible response.]

3 CHAIRPERSON HILL: Is there anyone here
4 wishing to speak in support of the application? Is
5 there anyone here wishing to speak in opposition to
6 the application?

7 [No audible response.]

8 CHAIRPERSON HILL: Going to turn back to the
9 applicant. Mr. Sullivan, is there anything else you'd
10 like to add?

11 MR. SULLIVAN: No, nothing further. Thank
12 you.

13 CHAIRPERSON HILL: All right. Okay. Then I'm
14 going to go ahead and close the hearing. Is the board
15 ready to deliberate? I can go ahead and start.

16 You know, after the application has been
17 changed it makes it, you know, from a -- to a special
18 exception. And again, as the applicant has pointed
19 out in terms of the recess on, you know, on either
20 side of the property, it's farther and so the light
21 and air isn't necessarily, isn't going to prove to be
22 affected.

23 And based upon the analysis of the Office of
24 Planning as well as the letters of support from the
25 adjacent property owner, as well as the information

1 provided by the ANC, I don't have any issues with this
2 particular application. Does anyone have anything
3 they'd like to add from the board?

4 Okay. Going to go ahead and make a motion
5 then to approve Application No. 19539 as read by the
6 secretary.

7 MS. WHITE: Second.

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

10 [Vote taken.]

11 CHAIRPERSON HILL: The motion passes, Ms.
12 Rose.

13 MS. ROSE: Staff would record the vote as
14 four, to zero, to one with a motion by Mr. Hill,
15 seconded by Ms. White, with Mr. Hart and Mr. Hood in
16 support of the motion to approve the application, one
17 board seat vacant.

18 CHAIRPERSON HILL: Summary order.

19 MS. WHITE: Thank you.

20 CHAIRPERSON HILL: Okay, great. Thank you.
21 Thank you, gentlemen.

22 MR. SULLIVAN: Thank you.

23 MS. ROSE: Next is Application No. 19532 of
24 Avenue Property, LLC, pursuant to 11 DCMR Subtitle X,
25 Chapter 9, for a special exception under Subtitle E,

1 Section 5201 from the rear yard requirements of
2 Subtitle E, Section 205 to construct a three-story
3 rear addition to an existing two-story, four-unit
4 apartment house in the RF-1 Zone at premises 2025 E
5 Street Northeast, Square 4550, Lot 98.

6 [Pause.]

7 MS. O'NEAL: Good morning. I'm Millie O'Neal,
8 pulling up a PowerPoint presentation.

9 CHAIRPERSON HILL: Sure, that's okay. Since
10 you just spoke in the microphone, could you introduce
11 yourself for the record? You need to push the button
12 again.

13 MS. O'NEAL: Millie O'Neal, owner of Avenue
14 Property, LLC, for Case 19532.

15 CHAIRPERSON HILL: Okay, great. So, Ms.
16 O'Neal, I'll just wait until you pull up what you want
17 to pull up there.

18 And while you're doing that maybe I'll just
19 kind of mention to you, we do see that there has been
20 -- I'm trying to remember. You were here before for
21 us and we sent you back out. And since then it looks
22 as though you have been able to kind of get your ducks
23 in a row a little bit in terms of working with the
24 Office of Planning with some conditions that I am kind
25 of curious from the Office of Planning about when we

1 get to that.

2 And then working with the ANC. However, if
3 you could just kind of go through -- I mean, I'm going
4 to go ahead and give you 10 minutes on the clock and
5 just walk us through the presentation that you have
6 for us, including how you have worked with the ANC and
7 the Office of Planning, and how you're meeting the
8 standards for us to grant the relief requested. And
9 you can go ahead and begin whenever you'd like.

10 MS. O'NEAL: Certainly. Thank you for that,
11 Chairperson Hill. My architect unfortunately had to
12 go to a doctor's procedure and he just left two
13 minutes ago, so I'll have to wing it solo.

14 So what I'll start with, slide one on this
15 little PowerPoint presentation I put together. This
16 is a rendering of what the property would propose to
17 look like. It would consist mainly of preserving the
18 existing brick façade, and setting back a third-floor
19 addition composed out of aluminum and glass door
20 front.

21 I'm going to move down to the next page. This
22 is a photo with the current building, looks like
23 presently it is a blighted property. It's attracting
24 criminal activity. I think that this property could
25 certainly use a renovation and my goal is to create a

1 better project and property for this block and improve
2 it overall.

3 So my community outreach started in May. I
4 first had a presentation to the ANC Civic Association
5 Friends of Kingman Park. Then I went and presented to
6 7D ANC. I also had several meetings with neighbors.
7 I also had a meeting with the Kingman Park Civic
8 Association president, and then I also individually
9 met with individual owners along E Street and 21st
10 Street.

11 And as a result of all those meetings, these
12 are some of the comments I got back. Most of the
13 concerns from neighbors were about affordable
14 concerns. And so to address that, I want to market
15 one of the units as affordable through the HPAP
16 Homeownership program.

17 Another major concern was about underpinning.
18 And that's actually one of the reasons I'm seeking
19 this relief is to alleviate the necessity to underpin.
20 By gaining this relief I'll be able to create larger
21 units, making three bedrooms possible. Otherwise, I
22 have to underpin, and I think that not underpinning is
23 -- makes the construction a lot simpler and also has
24 less impact on my neighbors.

25 There were also concerns about if I were to

1 renovate the building exactly in the current
2 footprint, that it would attract a lot of single
3 renters. And so what I'm trying to do is basically,
4 you have a three-bedroom family units that would
5 attract more families and children to the neighborhood
6 and preserve the original brick façade in the front.

7 There were also concerns about contractor
8 communication and parking. There's been a lot of
9 development in this neighborhood. Actually, almost
10 this entire square has been developed with similar
11 condominium developments as to what I'm trying to.
12 And the contractors did not communicate very well.
13 And one thing that has not been done, that I suggested
14 that the neighbors seemed really excited about, that
15 is having a kickoff meeting, and also providing on-
16 site contact in terms of a project manager and a
17 superintendent.

18 And I also should state that I live in this
19 neighborhood. I'm about a block over from this
20 property. So I certainly will probably be getting my
21 door knocked on.

22 Another concern was about privacy.
23 Originally, we had large decks. So what we did was we
24 scaled the decks back and they're more so
25 architectural features than they are full-sized decks,

1 to address this concern.

2 There also will not be any windows facing the
3 neighboring properties. The height of the building is
4 within the limits for the zone. And in terms of the
5 light and air privacy test, we are providing a setback
6 of the third floor which will reduce the visual
7 impact. And we're seeking the glass because we
8 thought about doing a brick extension, but when we
9 looked at the masonry arches of the existing
10 structure, we felt that it would be too hard to kind
11 of try to get a mason with that skill level in today's
12 time to match that.

13 So we feel like this setback would create a
14 buffer from the street, and the third-floor addition.

15 In addition to this, this square is extremely
16 unique in that it has a large open space in the back,
17 and it creates a visual buffer between this property
18 and the rear, and it would not intrude on the
19 character of the rear alley.

20 And so, in this slide you can kind of see the
21 large open space highlighted in orange, and then my
22 site is directly adjacent to that. And there's an
23 alley that runs between those two spaces. There are
24 no structures on this space, so this would still
25 provide ample light and air to the neighboring and

1 surrounding properties.

2 This is with the proposed north and south
3 elevations. This is a proposed section. You have
4 your first floor, proposed second floor, and then your
5 proposed third floor.

6 These are some additional renderings of what
7 the property could look like from different angles,
8 and also, this is the west elevation shown in this
9 slide.

10 This is an overview of how the lot occupancy
11 is being used. The existing building is approximate
12 38 feet and five inches. The new addition would be
13 about 22 feet and 11 inches. The stairs in the back
14 would extend out the middle, splitting the lot. And
15 from the rear wall of the new addition to the end of
16 the alley, there would be 50 feet and six inches. And
17 the proposed lot occupancy would be 54 percent.

18 This is the existing basement level that's
19 there, and we want to reuse this. This is the
20 proposed first floor. This is the proposed second --
21 this is the second floor, but first floor of the top
22 units. And this is the proposed third floor.

23 And this is the roof level. That concludes my
24 presentation.

25 CHAIRPERSON HILL: Great. Thank you. Does

1 anyone have any questions for the applicant at this
2 time?

3 MR. HART: Just one question, Mr. Chairman.
4 Ms. O'Neal, you were talking about, I don't know. I'm
5 not sure what page this is, but it's the image that
6 shows the kind of bird's eye view of your property.

7 MS. O'NEAL: Uh-huh.

8 MR. HART: Is the -- did you say that the back
9 yard is actually -- the back is actually split in the
10 middle?

11 MS. O'NEAL: No. The stairs come out in the
12 middle. The exit stairs come out in the middle.

13 MR. HART: But there's, it looks like there's
14 a wall or something that's around there. And I don't
15 have any, at least I didn't see one.

16 MS. O'NEAL: Oh, yes. It's a fence.
17 Essentially so that if the residents that are in the
18 bottom units are sitting out there in the back, or
19 you're having some type of activity, you can enter the
20 property without invading the privacy of those people.

21 MR. HART: Okay. And so, I know this is not
22 that -- I'm just trying to understand it because I
23 didn't see a site plan that actually showed where all
24 this was. And so, I was just trying to understand
25 what was happening in the back. That's all. So you

1 have a -- it looks like there is a fence that is in
2 between these two -- in between these two -- I don't
3 know. If you could describe this a little bit better?

4 MS. O'NEAL: Oh.

5 MR. HART: Or is there a plan that shows
6 what's happening in the back?

7 MS. O'NEAL: Yeah. How about the section
8 that --

9 MR. HART: That can -- that's fine. Is the
10 edge of the property where the back of the car is?

11 MS. O'NEAL: Yes, that is where the edge of
12 the property is.

13 MR. HART: Okay. So, we see a fence that goes
14 from that part, all the way to the building. That's
15 what I'm trying to understand. Is that actually
16 correct, or is there something else that I'm missing?

17 MS. O'NEAL: That is correct. So basically
18 that's a privacy area for the trash cans and also a
19 sidewalk so that you're not stepping on to the grass
20 and the pervious surface areas.

21 MR. HART: Okay. And with regard to the roof
22 deck, the units in the front have access to their own
23 private roof decks?

24 MS. O'NEAL: Yes. There are a total of three
25 roof decks. The roof deck in the rear is for all of

1 the units, and the two roof decks in the front, one
2 would be for unit 3 and the other roof deck would be
3 for unit 4.

4 MR. HART: And what's in the middle of the
5 two?

6 MS. O'NEAL: A landing for the stairs.

7 MR. HART: And you have a mechanical area that
8 -- is there anything that's above that, or is that
9 just -- is that shielded or, I don't know. I'm
10 looking at the roof-level plan.

11 MS. O'NEAL: Okay.

12 MR. HART: And I see where there are HVAC
13 units that show up, the air conditioning units that
14 show up.

15 MS. O'NEAL: Yes. So there --

16 MR. HART: So I just didn't know what I was
17 looking at that was separating where the staircases
18 are and where the mechanical area is.

19 MS. O'NEAL: Yes, there is a privacy screening
20 between the front roof deck and the rear roof deck.
21 And in between that, those two screens, there's a
22 corridor for the mechanical condenser units and the
23 HVAC equipment.

24 MR. HART: Okay. All right. Thank you.

25 CHAIRPERSON HILL: Which one is the affordable

1 unit?

2 MS. O'NEAL: The affordable unit. Let me go
3 to the first floor. The affordable unit would be on
4 the first floor, so when you come in and you go to the
5 left, it's a one-bedroom with a den.

6 CHAIRPERSON HILL: Got it.

7 MS. O'NEAL: Two bath.

8 CHAIRPERSON HILL: Okay. Okay, just curious.
9 Okay, great.

10 All right. I'm going to turn to the Office of
11 Planning.

12 MR. HOOD: Mr. Chairman --

13 CHAIRPERSON HILL: Oh, sorry.

14 MR. HOOD: Can you show me right quick a
15 rendering of the front? Do you have a drawing of the
16 front?

17 MS. O'NEAL: Sure.

18 MR. HOOD: Okay, that's what I need to see.

19 MS. O'NEAL: Do you prefer this one or --

20 MR. HOOD: Oh, this is fine.

21 MS. O'NEAL: Okay.

22 MR. HOOD: That answers my question. Thank
23 you.

24 MS. O'NEAL: All right. Thank you.

25 CHAIRPERSON HILL: All right, great. Thank

1 you.

2 Going to turn to the Office of Planning. And
3 if the Office of Planning could also kind of explain
4 some of what their thoughts are in terms of the
5 conditions and how we might be able to put -- well,
6 I'll turn to the Office of Planning. Thank you.

7 MR. JESICK: Thank you, Mr. Chairman and
8 members of the board. My name is Matt Jesick.

9 The Office of Planning worked with the
10 applicant extensively since the last time they were
11 before the Board to get some more information about
12 the project and to go through some interactions on the
13 design. We finally arrived at a place where we felt
14 comfortable with the design, and we also felt that the
15 applicant has addressed the special exception criteria
16 that is detailed in our report. So we are
17 recommending approval of the application subject to
18 condition specifically referencing the design and
19 materials, because we felt that that was directly
20 related to some of the special exception criteria that
21 talked about compatibility with the neighborhood. We
22 wanted to ensure a higher level of design, and that
23 the design does not get dumbed down, so to speak, at
24 the time of building permit.

25 And so, we talked in the condition about the

1 materials on the front of the building, and the
2 materials on the side and rear, and then also the
3 parapet wall. So we feel that the plans that have
4 been submitted in the record at this point, have
5 reached a good level of design so we're satisfied with
6 that. We just wanted to, again, be sure that those
7 don't change down the road. I'd be happy to take any
8 questions. Thank you.

9 CHAIRPERSON HILL: So then, as far as the
10 condition, and that's what I'm just trying to specify,
11 would it be enough to say that if we were to approve
12 this it's subject to the approved plans in Exhibit 67?

13 MR. JESICK: What I've been told by DCRA is
14 the more specific you can get, the more guidance that
15 gives the Zoning Administrator at the time of the
16 building permit.

17 CHAIRPERSON HILL: Okay. Okay. So the
18 conditions, Ms. O'Neal that -- I don't know if you've
19 seen these. I mean, you know, the use of material on
20 the project, and I'm going to read them. "The use of
21 materials on the project shall be as shown in Exhibit
22 67, including but not limited to; one, the E Street
23 façade of the third floor shall be composed of mostly
24 glass with aluminum framing as shown on sheet 4 of
25 Exhibit 67; two, the use of -- thank you, cementitious

1 panels on the side and rear façade either, A, in a
2 stacked pattern with belt courses at the levels of
3 each floor as shown on sheet 3 of Exhibit 67, or B, in
4 a bond pattern as shown on the precedent photo on
5 Sheet 2 of Exhibit 67; and number 3, the parapet wall
6 shall be faced with materials as shown in Exhibit 67.

7 If, however, at the time of building permit, the
8 Zoning Administrator determines that these features
9 are actually handrails as shown in the application,
10 their design and placement may be changed so that they
11 can be determined to be a parapet with materials
12 matching the building sides as described in part 2 of
13 this condition."

14 Do you understand everything I just read?

15 MS. O'NEAL: Thank you, Chairperson Hill. I
16 do.

17 CHAIRPERSON HILL: Okay.

18 MS. O'NEAL: And I have reviewed it in depth
19 with Matt, and also the architect. We're all on board
20 with that. Yes.

21 CHAIRPERSON HILL: Okay. So you agree to
22 those conditions?

23 MS. O'NEAL: Yes, sir.

24 CHAIRPERSON HILL: Okay, great, because I
25 don't know half of them right there.

1 Okay. So, all right. That being the case,
2 does anybody have questions for the Office of
3 Planning?

4 MR. HOOD: I just want to comment on that. I
5 think that's the way that -- I don't know if we put
6 that in place yet, but that's exactly what's supposed
7 to happen. I don't know if you all do that for every
8 case, when you identify materials on the sheets.

9 CHAIRPERSON HILL: We do that for every case.

10 MR. HOOD: No, I don't think so. But I think
11 that's exactly where I hope the Zoning Commission will
12 eventually legislate that. Even though that may not
13 be the case now, but that's where we're trying to get
14 to. So I'll remember this case number. Thank you.

15 CHAIRPERSON HILL: If you give me something to
16 read specifically, and he can read the vocabulary,
17 then we can move forward.

18 So, all right. Anyone have more questions for
19 the Office of Planning?

20 MS. WHITE: I don't, I just have a quick
21 comment. I love what you did in terms of following up
22 with Office of Planning and with the community because
23 when you were here before there were some things that
24 needed to get done. So it's good to see that you
25 executed on that and worked very closely with Matt.

1 I'm very happy that you've selected the property in
2 terms of including an affordable unit as well, and
3 addressing some of the community concerns. But it
4 will be good to see you do that meeting, I guess the
5 contractor meeting that's coming up, to keep the
6 community involved because that goes a long way, as
7 you know. So, that's just a quick comment, Mr. Chair.

8 CHAIRPERSON HILL: Okay, great. Thank you.
9 All right. Does the applicant have any questions for
10 the Office of Planning?

11 MS. O'NEAL: No, I do not have any questions
12 at this time.

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

15 Oh, please come forward. Were you sworn in
16 today?

17 MR. COOMBER: Yes.

18 CHAIRPERSON HILL: Okay, great. And as the --
19 well, as the ANC, you get five minutes but whatever
20 you -- please, begin. And I'm sorry, could you give
21 us your name again?

22 MR. COOMBER: Sure. It's Coomber.

23 CHAIRPERSON HILL: Coomber?

24 MR. COOMBER: Yeah. C-O-O-M-B-E-R.

25 CHAIRPERSON HILL: And Commissioner Coomber,

1 are you the SMD?

2 MR. COOMBER: Yes.

3 CHAIRPERSON HILL: Okay. Great. Please,
4 begin whenever you'd like.

5 MR. COOMBER: Sure. And thank you for
6 affording me this time. I'm speaking on behalf of
7 both ANC 7D and the Friends of Kingman Park, which is
8 the civic association that is recognized by the
9 District Federation of Civic Associations as
10 representing the area.

11 I've lived in D.C. for the past 13 years, and
12 in the neighborhood for over eight. My wife and I are
13 raising our four boys.

14 Both ANC 7D and the Friends of Kingman Park
15 voted strongly in favor. I believe both voted
16 unanimously to support this special exemption and I'm
17 happy to represent them here today.

18 I'm largely going to reiterate what Ms. O'Neal
19 mentioned. But there are many similar buildings on
20 this same block that have been renovated in similar
21 ways. Those buildings have not changed the complexion
22 of the neighborhood significantly. In fact they've,
23 in most peoples' opinions I think that they've
24 improved the neighborhood. A lot of these 4M1
25 apartment buildings have been vacant for a long time.

1 On this row there have been vacant properties that
2 have been used for flop houses in the recent past, so
3 it's great to see them being filled. And generally,
4 the community is very supportive.

5 I understand that there are some folks within
6 the community that were concerned that I saw in the
7 letters of opposition that I didn't reach out. And
8 I'm not -- it's difficult to reach out on every issue
9 to every door in the neighborhood. We do -- we have
10 public meetings of the neighborhood association, the
11 civic association, and we have, you know, public
12 meetings with the ANC.

13 And as soon as I did hear complaints from
14 neighbors, and concerns from neighbors, I approached
15 Ms. O'Neal about them. She got together with those
16 neighbors and addressed their concerns, and I was
17 really excited to see that interaction and to see us
18 talk through problems as a neighborhood.

19 And actually, many of those neighbors who had
20 met with Ms. O'Neal later wrote letters of support,
21 which I think is great.

22 And I think building this building, filling it
23 with new neighbors ready to contribute to our
24 wonderful neighborhood is far preferable to, you know,
25 just leaving it vacant as a burned-out shell as it is

1 now. Delays have the potential to negatively impact
2 the neighboring properties. You have fewer eyes on
3 the street, which increases the possibility of crime,
4 as well as bad actors attracted to many of those
5 vacant properties, which is a significant problem in
6 our neighborhood. We have a lot of vacant properties,
7 a lot of vacant absentee owners, and we benefit from
8 people being in our neighborhood.

9 Ms. O'Neal, as she mentioned, is a neighbor.
10 She lives just down the street on Oklahoma. She's a
11 professional. She has experience doing these kind of
12 renovations. I'm proud to support her and I think
13 she's the right person to rebuild this building and
14 contribute to our community.

15 CHAIRPERSON HILL: Okay, great. Thank you.
16 Does anyone have any questions for Commissioner
17 Coomber?

18 [No audible response.]

19 CHAIRPERSON HILL: No? Okay, great. Thank
20 you, Commissioner.

21 Is there anyone here, else, wishing to speak
22 in support of the application? Oh, please, come
23 forward. Have you been sworn in?

24 MS. L. WHITE: I have.

25 CHAIRPERSON HILL: Okay. So as a member of

1 the community you'll be given three minutes to speak.

2 So please --

3 MS. L. WHITE: It will take me less.

4 CHAIRPERSON HILL: -- go ahead and begin
5 whenever you'd like.

6 MS. L. WHITE: My name is Lisa White. I'm a
7 neighbor of Kingman Park. I'm the former ANC. I
8 preceded -- Bob preceded me. I've known, I call her
9 Millie, that's her first name.

10 MS. O'NEAL: That's fine.

11 MS. L. WHITE: But she's been an active
12 neighbor in the community and I just think it's great
13 that she took all her savings and decided to renovate
14 this building on E Street. I think it will be a great
15 benefit for the neighborhood. She's active in our
16 community groups, so I totally support this project.

17 CHAIRPERSON HILL: Okay, great. Thank you.
18 Does anyone have any questions for the witness?

19 [No audible response.]

20 CHAIRPERSON HILL: All right. Thank you very
21 much.

22 MS. L. WHITE: Thank you.

23 CHAIRPERSON HILL: Is there anyone here
24 wishing to speak in opposition to the application?
25 Please, come forward.

1 Have you guys been sworn in?

2 MR. WALTON: Yes.

3 CHAIRPERSON HILL: Okay, great. If you could
4 just go ahead and introduce yourselves from my right
5 to left. And again, as I mentioned, for the community
6 members, we give three minutes each to the community
7 members. So just whenever you'd like to begin, you
8 can.

9 MR. WALTON: Yes, I'm representing the Civic
10 Association. I believe we get five.

11 CHAIRPERSON HILL: You do get five minutes.
12 I'm sorry. I didn't realize you with them.

13 MR. WALTON: Yes. Thank you. I'm sorry.

14 CHAIRPERSON HILL: That's all right.

15 MR. WALTON: I didn't introduce myself.

16 CHAIRPERSON HILL: No, that's good. Yeah, I
17 didn't know that. Yeah, please, again, if you could
18 introduce yourself again?

19 MR. WALTON: Sure. It's Frazer Walton, and
20 I'm President of the Kingman Park Civic Association.
21 And just to give you -- just to make a few corrections
22 about the representations that's been made by Ms.
23 O'Neal.

24 Ms. O'Neal did talk to me the day before the
25 first hearing that we had. She came to my home and

1 spoke to me about getting support. I knew nothing
2 about the project. And many of the neighbors knew
3 absolutely nothing about the project.

4 So we did talk and I explained to her my
5 position, and the position of the civic association,
6 and we were very happy to tell her that we look
7 forward to her renovating the property. The property,
8 by the way, has not been a blighted property. It's
9 been boarded. You don't see any crime there and I
10 think most of the neighbors will tell you that.
11 That's a cliché that's being stated to you today, but
12 that's beside the point.

13 The point is that we oppose the project, first
14 of all, on the record. And we oppose the project
15 because let me give you a little background so you
16 will know about Kingman Park because it's going to
17 come up again.

18 Kingman Park was built, originally, in 1928.
19 And it's been a long-standing African/American
20 community. Right now we are undergoing change, and we
21 are happy with that. We're seeing new people come
22 into the community. It's becoming a very diverse
23 community. We fully support that.

24 However, you're seeing massive displacement of
25 people within this city. You're seeing pop-ups, pop-

1 outs, increases in rents because this is going to
2 increase the rents. It's going to further drive
3 people out of the neighborhood. So what we have and
4 what has occurred is that we have an ANC who has come
5 in, Mr. Coomber. He's been very extremely divisive.
6 He does not contact most of the residents within the
7 community.

8 And I'll give an example. If you look at the
9 record you will see that the ANC commission, the
10 application was filed on, I believe, May the 11th.
11 And on June the 13th, the ANC commission approved this
12 unbeknownst to the majority of the people in the
13 neighborhood. And then your office on June the 21st,
14 sent letters out, which was great, because that was
15 the first real notice the 200 people living within 200
16 feet of the project. That was the first notice that
17 the majority of people knew about this project.

18 So, what we would recommend in the future is
19 that the ANC show to your office, and this is just a
20 recommendation, that he has contacted people within
21 200 feet of the project, because he did not do that.
22 He rushed, in less than 30 days before the Commission,
23 got their approval, unbeknownst to everyone. And by
24 that time, you have on the record, the approval of the
25 ANC commission.

1 Now going specifically to the project itself,
2 a number of issues that we have. One, we disagree.
3 We believe that the loadbearing issue is a major issue
4 with this project. And we say that because if you
5 know Kingman Park, and we can substantiate that, this
6 is a land-filled area. It is not a solid surface
7 ground in that area. It's landfill. And it used to
8 be a short distance away toward Kenilworth that used
9 to be a dump. And of course the Anacostia River was
10 there, where we live, a few feet from these homes, and
11 they landfilled all of that land.

12 So what we get is a continued settlement of
13 the property. And as a result you will find that it
14 does need underpinnings, that the adjoining properties
15 would need underpinnings, because you're talking about
16 a big project, 2,500 to 1,500 pounds per pressure
17 coming. And so without proper engineering and without
18 a proper study, geotechnical study on this project, we
19 do not believe that it should be approved, and that it
20 certainly should be a condition before any of this is
21 done.

22 That's a very serious issue and we do
23 understand that the architect is not here today. We
24 were hoping that the architect would be here so that
25 he could explain a little bit about his geotechnical

1 studies. But of course, he isn't here.

2 It's also a flood plain area. And as a result
3 with the new floods coming in this city, and they're
4 going to come, that's an additional problem because
5 we're already getting runoff in the neighborhood,
6 serious flooding to homes that sit right across on
7 20th Street, on 21st Street.

8 So we bring in all this additional weight.
9 We're getting tilting with the houses because of the
10 weight and the weight bearing. And now we're being
11 asked to put another third floor, another pop-back
12 that affects the views and of course we respect the
13 Office of Planning. The Office of Planning has said
14 that it does not unduly affect. But it does affect,
15 and the Office of Planning has said that it doesn't
16 substantially interfere. But it does interfere.

17 And so as a result, we have a lot of
18 reservations and we respect the fact that the Office
19 of Planning itself has said that there are a lot of
20 exceptions that they would like to see. Now who's
21 going to monitor all of these exceptions that are
22 being put in place.

23 So what we're recommending is that we strongly
24 encourage the developer, Ms. O'Neal, to improve the
25 property. We support that. And we also support

1 having residents remain in the city. But it's driving
2 these rents and it's driving us out. And it's driving
3 many of the families, not of course myself, I'm
4 speaking on behalf of the Civic Association, thank God
5 my house is paid for. But a lot of young families are
6 being driven out of the community. And this is a
7 travesty. It's really a travesty.

8 And with that, I think I've made the
9 presentation on behalf of the civic association. I do
10 believe that you should think very hard because what's
11 going to happen? What's going to happen when the next
12 applicant comes with the same suggestion? Well, Ms.
13 O'Neal has done it. I guess now it's my turn to
14 request. And then you're going to have a whole row of
15 pop-back houses and popped up houses.

16 And again, we're going to be faced with the
17 same issues of fresh air, sunlight being blocked, the
18 quiet enjoyment, the density increasing in the
19 community. So I think the matter-of-right was put
20 there for a reason, to protect everyone in the
21 community. And if we continue to allow exceptions,
22 then we destroy the whole meaning of the matter-of-
23 right. Thank you.

24 CHAIRPERSON HILL: Thank you, Mr. Walton.
25 Before I get to the board and questions maybe I'll

1 hear from both witnesses, and then we'll come back to
2 you for questions, Mr. Walton.

3 Could you introduce yourself and --

4 MS. RAGLIN: Yes. Good afternoon.

5 CHAIRPERSON HILL: Good afternoon.

6 MS. RAGLIN: My name is Veronica Raglin. I am
7 Chairman of the Kingman Park Civic Association
8 Executive Board, and I live on 21st Street.

9 CHAIRPERSON HILL: I'm sorry, could you give
10 me your last name again?

11 MS. RAGLIN: Raglin, R, A as in apple, G-L-I-
12 N.

13 CHAIRPERSON HILL: Ms. Raglin, so you're with
14 an association also?

15 MS. RAGLIN: Well, I'm speaking as a resident.

16 CHAIRPERSON HILL: Oh, okay. All right. I'm
17 just trying to figure out the time. I'm supposed to
18 give three minutes to -- so you'll get three minutes
19 to speak.

20 MS. RAGLIN: Okay.

21 CHAIRPERSON HILL: And you can start whenever
22 you'd like.

23 MS. RAGLIN: Okay. First of all, I'd like to
24 support Mr. Walton in his statements. And I'd like to
25 add a few additional things.

1 Number one, I'm a former ANC of the ANC for
2 over 12 years for Kingman Park. And when Mr. Coomber
3 says that he can't respond to every issue or every
4 resident, that is not true. That's his job. And as
5 the ANC, there are many issues that we have never --
6 the total community has never been informed about, and
7 he makes an excuse that he cannot do that.

8 Well, I disagree with that and we have been,
9 so many times, notified at the last minute, only
10 because of a notice from the government.

11 Secondly, the pop-up, pop-back issue on E
12 Street, I am firmly opposed to the construction at
13 2025 E Street Northeast, for a number of reasons.
14 One, there's approximate six inches of space between
15 the attached buildings. On the drawing that she
16 showed us, the back, there's a big space. If there's
17 a foot or more space between these attached buildings.
18 The front, of course, looks like maybe it may be
19 realistic. But some of the drawings, in my opinion,
20 were not realistic in showing the amount of space that
21 is available.

22 My other issue with the spacing between these
23 attached buildings is, suppose we let everyone or
24 allow everyone to construct what I call hallways.
25 Where are the windows going to go if we have these

1 closely attached buildings? Where are the windows
2 going to go to bring in air and light? So, it doesn't
3 make sense that we're going to allow every owner to
4 construct all the way back, or almost to the property
5 line, and this would be -- and that this construction
6 will be safe and secure.

7 To me, you're allowing these owners and
8 developers to build deathtraps. What are we going to
9 do? How are people going to live in these buildings?

10 And then further, we have two owners on E
11 Street who have experienced water damage from
12 buildings that did build -- that did do underpinnings,
13 from the snow drifts, from rain, and the neighborhood
14 now is experiencing excessive water when it's just a
15 regular rain. What happens if we have more snow,
16 heavier rains, and God help it if it's a flood.

17 The other thing that I want to discuss is the
18 density. This area of the neighborhood is already
19 densely populated. We're going to add more people to
20 that, that number? How is the city going to provide
21 services such as police, fire, emergency, if we have
22 this density of people there? You're creating more
23 problems by allowing the density to increase rather
24 than looking at what -- how are we going to make this
25 more livable. To me, you're decreasing the standard

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1 of living.

2 And the other issue -- oh, the other issue is
3 the soil issue, which Mr. Walton mentioned, that the
4 soil itself needs to be tested. There's no question
5 in my mind that there needs to be more study as to the
6 effects of this extra construction on these buildings
7 will have.

8 Finally, I am also concerned that insurance,
9 what is the insurance -- how are the insurance
10 companies going to view these properties, whether
11 they're going to be insurable if we continue to allow
12 owners to build all the way out, and a fact that they
13 are supposed to be attached? I don't see how you're
14 going to attach buildings on that row, all the way out
15 of whatever they're proposing. I don't see how that's
16 going to work as a livable space.

17 So, in closing, I would recommend that you not
18 approve this special exception because I don't think
19 it's a workable exception for the city, and I don't
20 think it's a workable construction idea that's going
21 to work for everybody. Thank you.

22 CHAIRPERSON HILL: Okay. Thank you, Ms.
23 Raglin and Mr. Walton.

24 Does the board have any questions for the
25 witnesses?

1 MR. HART: Yes, Mr. Chairman. Just, I'm
2 trying to kind of figure out the one question that
3 you've both raised about, one about soil and two,
4 about construction.

5 Ms. O'Neal has a licensed architect that
6 actually is, that is part of their job is to make sure
7 that whatever the building is, that they are -- they
8 are attesting to the fact that whatever they're
9 building is actually up to the municipal codes and is
10 structurally sound. And you're making some statements
11 that are saying that there are problems with the soil
12 and all of that, and I'm not exactly sure where you're
13 pulling that from. Like, what is it that you're
14 basing that on?

15 MR. WALTON: Sure. First of all, Mr. Hart,
16 the plans generally, the plans. I don't think the
17 plans are included for the underpinning. As you said,
18 there's a certification by an architect, but that's
19 exactly why DCRA has to review and has to look at the
20 sufficiency, and the accuracy. And as Ms. O'Neal has
21 just said, she does not intend to do underpinnings.
22 Generally, underpinnings of a project that size would
23 be required. Not only for the project itself, but for
24 the adjoining properties.

25 So, that's an issue, and I respectfully

1 represent to you, that's an issue that we will take up
2 with DCRA because we understand that that's not
3 exactly before the Zoning Commission per se, but of
4 course you have -- certainly are concerned about that.
5 We know that.

6 But the soil is assumed, in many instances,
7 they'll look at the record, they'll assume the soil.
8 They'll assume because they look at a city map. But
9 what we're saying is that in Kingman Park, that is
10 landfill. And unless -- and that's not noted by DCRA.
11 We know it because we've been there 70 years. I've
12 been there 68 years. We know that's landfill.

13 And so, you can't look at a standard
14 requirement and apply that to every area of the city.
15 That's why we're saying that we know that there
16 should be geotechnical, a geotechnical report and
17 investigation by a geotechnical engineer, not an
18 architect. It's a whole different ballgame. That's
19 what we're saying.

20 MR. HART: I mean, I understand what you're
21 saying and there are engineers that -- there are
22 architects that work on a variety of things. There
23 are engineers that also look at aspects. Again,
24 you're right. This is not -- that part of it is
25 really not before us, but I was just trying to

1 understand where you were basing that information.
2 And you're saying that you're basing it on the fact
3 that you've lived there for 70 years --

4 MR. WALTON: And it's well known that that's
5 landfill.

6 MR. HART: -- and that -- yeah, I'm just
7 saying that that's where you're getting it from.

8 MR. WALTON: Yes.

9 MR. HART: I was just unaware of where you
10 were pulling it from because --

11 MR. WALTON: Yes.

12 MR. HART: -- I didn't have any evidence
13 showing me where that came from, so I was looking for
14 your testimony.

15 MR. WALTON: And to help you out there,
16 because I appreciate that question, God knows I do,
17 because of the same thing occurred with the streetcar.
18 We had to tell the engineers when they were building
19 the streetcar. They were not aware of that
20 themselves.

21 So because that's a unique little area in
22 there, and that's exactly why when they built the
23 streetcar the area was not filled in because of that
24 same problem, so they had to reinforce that area when
25 they did build the car barn. Similar problem. That's

1 why we know the underpinnings are a very, very serious
2 issue, because it will collapse those houses. That
3 land is settling, where we live. We know that from
4 having lived there, to have it repaired, contractors,
5 architects to come out. So, that is a serious
6 problem.

7 CHAIRPERSON HILL: Okay.

8 MR. HART: Thank you.

9 CHAIRPERSON HILL: Ms. White.

10 MS. WHITE: No, my question is, the building
11 is vacant, so were there some environmental issues
12 that were tied to why it's vacant to begin with, or is
13 it because it's just, the owner just decided not to do
14 anything with the building anymore?

15 MR. WALTON: I believe, and I'm pretty
16 certain, there was a fire. It was occupied before
17 with tenants, but they had a fire there.

18 MS. WHITE: Okay.

19 MR. WALTON: And that's when they closed it.
20 And we have never had a crime problem there. That's
21 not -- that's a totally false statement. And we are
22 there every day.

23 CHAIRPERSON HILL: Okay.

24 MR. WALTON: Yes.

25 CHAIRPERSON HILL: Chairman Hood.

1 MR. HOOD: Mr. Walton, let me just ask you.
2 First of all, thank you all for coming down and
3 providing testimony. Who was your predecessor? I'm
4 just curious. I know that's irrelevant to this case,
5 but I just want to know who your predecessor was.

6 MR. WALTON: Julius Lowery.

7 MR. HOOD: Do you know who was before him?

8 MR. WALTON: Before Julius Lowery? Herb
9 Harris.

10 MR. HOOD: Okay. I'm just trying to see who I
11 worked with --

12 MR. WALTON: Sure.

13 MR. HOOD: -- when I was in that capacity as a
14 president. I remember Kingman park --

15 MR. WALTON: Right.

16 MR. HOOD: -- being very active, so.

17 MR. WALTON: Yes.

18 MR. HOOD: Let me ask you this, how many -- I
19 must be going way back because I don't remember either
20 of those two. Let me ask you this, who was your -- I
21 mean, how many people attend your meetings?

22 MR. WALTON: I would say on average, five to
23 15.

24 MR. HOOD: Five to 15.

25 MR. WALTON: Yes.

1 MR. HOOD: Okay.

2 MR. WALTON: And if we have a special guest,
3 we can get up to 30, 40.

4 MR. HOOD: Yeah, I know how that runs.

5 MR. WALTON: Yeah.

6 MR. HOOD: Okay. Let me ask you --

7 MR. WALTON: Sure.

8 MR. HOOD: -- something, Ms. O'Neal, you
9 stated that you live in the area. So you live in
10 Kingman Park?

11 MS. O'NEAL: Yes, I do.

12 MR. HOOD: That's unique within itself.
13 Developers coming from the neighborhood. So I just
14 want to make that point.

15 Mr. Walton, if -- something, you mentioned the
16 flood plain and some other things. And I understand
17 that and it's good that you all are carrying that
18 history on because a lot of things that you know that
19 are going on in the neighborhood, for some reason in
20 this city, gets lost, about like some areas built on
21 swamp land. And I understand that.

22 But is there anything -- if the underpinning
23 was done, because they do have to go to building
24 permits. They have to go get the building permits,
25 which is not in the purview of this board, but is

1 there anything that maybe she could garner your
2 support if she did the underpinning? I'm just asking.
3 I'm just trying to see where you all are.

4 MR. WALTON: Sure. Sure. And I appreciate
5 that, Mr. Hood. I really do, because I think it's a
6 fair question. And I met with Ms. O'Neal and I told
7 her she had our full support for the renovation of the
8 building.

9 We have applied for the historic designation
10 of the neighborhood in an attempt to preserve the
11 character, integrity of the neighborhood, and to
12 preserve those federal style homes, not to create
13 triangular boxes attached to them, but to make it a
14 neighborhood that we hope will represent a
15 neighborhood that's been there since 1928. So I told
16 her that we would fully support the renovation of the
17 building. We would love to see her do that. There's
18 no question about it.

19 But to do it in a way that is consistent with
20 the integrity and the structure and the character of
21 the neighborhood. That's the only reason why Ms.
22 Raglin and I are here on behalf of many of the
23 neighbors who are opposed to these major changes to
24 those buildings, glass pop-ups, the ANC himself came
25 in and put one his building and many people object to

1 it because 21st Street was a center piece. And you
2 know that probably from coming out in that area.

3 Now it has a big pop-up in the middle of it
4 and it's very disfiguring to the people. It's changed
5 the character of the neighborhood, and it's changing
6 it, and we're trying to hold on to that. So, we
7 wanted to work with her, and we said hey, my
8 suggestion is, there's already a little pop-back
9 building. Keep that line. Keep it to the extent of
10 the one that they do have.

11 If you look at the drawings, you'll see
12 there's a building that's been extended. Keep it
13 there because it keeps moving. It's like moving the
14 goalpost. And we're trying to keep the symmetry
15 straight, keep it in -- keep it consistent, like your
16 mind, so that you have a clear mind, not one over
17 here, one back 10 feet, one 22, one 34. That's the
18 problem.

19 MR. HOOD: Okay. How far away are you with
20 your historic designation?

21 MR. WALTON: We have a hearing on October the
22 26th.

23 MR. HOOD: Of this year.

24 MR. WALTON: Of this year, yes, sir.

25 MR. HOOD: Okay. All right. Thank you.

1 Thank you, Mr. Chair.

2 MR. WALTON: Sure.

3 CHAIRPERSON HILL: Okay, thank you. Does
4 anyone have any more questions of the witnesses?

5 [No audible response.]

6 CHAIRPERSON HILL: Okay. All right. Thank
7 you all very much. Thank you. Thank you for coming
8 down. And thank you for coming down.

9 Okay. Let's see, does the applicant have
10 anything else they would like to add?

11 MS. O'NEAL: Yes, I would like to address some
12 of the comments that Mr. Walton brought up.

13 CHAIRPERSON HILL: Okay.

14 MS. O'NEAL: Okay. So the main comment I
15 wanted to address was the underpinning. The reason
16 I'm seeking this relief is to avoid underpinning, and
17 not underpin. I am an AI candidate and certified
18 construction manager, so I can speak to the structural
19 integrity and building procedures.

20 Underpinning would not be required for this
21 project because we're not digging out a basement level
22 for this property. If we were digging out a basement
23 property -- a basement level, we would be required to
24 do --

25 CHAIRPERSON HILL: Okay.

1 MS. O'NEAL: -- underpinning.

2 CHAIRPERSON HILL: Okay.

3 MS. O'NEAL: So, I'm not seeking underpinning
4 at all whatsoever, and my reason for seeking this
5 relief is to avoid underpinning to not underpin.

6 CHAIRPERSON HILL: Okay. I understand.

7 MS. O'NEAL: And have minimal impact on my
8 neighbor property.

9 CHAIRPERSON HILL: I understand.

10 MS. O'NEAL: My neighboring properties.

11 CHAIRPERSON HILL: Okay. I'm sorry, you want
12 to keep going?

13 MS. O'NEAL: Yes. And in accordance with DCRA
14 building codes and the International Building Code
15 standards, I will be following all NEC, National
16 Association of Structural Engineers, ASHRAE Mechanical
17 codes, the fire marshal's office, D.C. Water, and any
18 other applicable codes in accordance with the
19 International Building Code which DCRA does follow.
20 And my project will be processed through the
21 permitting office --

22 CHAIRPERSON HILL: Yeah.

23 MS. O'NEAL: -- and built and designed in
24 accordance with the International Building Code.

25 CHAIRPERSON HILL: Okay. Yeah, okay. Thank

1 you. Mr. Hood.

2 MR. HOOD: And in that, don't they send out a
3 civil engineer, because I think one of their questions
4 that -- one of the things I heard was about the
5 loadbearing.

6 MS. O'NEAL: Yes, they do.

7 MR. HOOD: Okay. Okay. All right. Thank
8 you.

9 CHAIRPERSON HILL: Okay. Does the Board have
10 any further questions for this application?

11 [No audible response.]

12 CHAIRPERSON HILL: Okay. I think I know where
13 I am, but I think I'd like to take a week to think
14 about it, unless everybody is ready to deliberate now,
15 which in that case, I'm ready to deliberate now.

16 Does the board have a strong opinion one way
17 or another?

18 MS. WHITE: I'm comfortable with waiting to
19 actually deliberate next week.

20 CHAIRPERSON HILL: Mr. Hood, you look pensive.

21 MR. HOOD: Yeah, I'd still like to give some
22 thought. I think, I don't know if -- I don't know.
23 Go to the Vice Chair.

24 CHAIRPERSON HILL: Okay. Well, it looks like
25 I've got enough to push this off a week anyway,

1 because I want to just think about it. Chairman Hood.
2 I mean, Vice Chair Hart.

3 MR. HART: I'm Chairman now, am I?

4 CHAIRPERSON HILL: Yeah.

5 MR. HART: Yeah, I don't mind the week just to
6 think about it, so I'd be supportive of that.

7 CHAIRPERSON HILL: Okay. So, again, I think
8 that we've gotten some good information. I think that
9 the applicant has provided a lot of information and
10 worked with the community and I think that there are a
11 lot of things with the project that I think is very
12 strong. The only reason why I kind of want to take
13 back and go back and just kind of look at this a
14 little bit more again is due to some of the thoughts
15 that we've heard from some members of the community,
16 and just kind of take a look at that.

17 So, I don't need anything additional. I don't
18 think anybody needs anything additional, correct? All
19 right. So, we're just going to put this off for a
20 meeting decision next week.

21 MS. O'NEAL: Okay.

22 CHAIRPERSON HILL: Okay? All right, Ms. Rose?

23 MS. ROSE: October 4th.

24 CHAIRPERSON HILL: October 4th.

25 MS. ROSE: 9:30.

1 CHAIRPERSON HILL: All right. Okay. Thank
2 you so much.

3 And so, once again, I'm closing the hearing.
4 Hearing is done. We've taken all the testimony,
5 gotten everything from everybody, and we're just going
6 to have a meeting on next week about this case. And I
7 am going to ask for a quick break. Three minutes.

8 MS. O'NEAL: Thank you.

9 CHAIRPERSON HILL: Thank you.

10 [Off the record from 1:38 p.m. to 1:48 p.m.]

11 CHAIRPERSON HILL: Start back up here again.
12 And, Ms. Rose, if you can call our last case again?

13 MS. ROSE: It's Application No. 19570 of GWC
14 220 Residential, LLC, pursuant to 11 DCMR Subtitle X,
15 Chapter 10, for an area variance from the lot area
16 requirements of Subtitle E, Subsection 201.4, to
17 construct an additional apartment in an existing 12-
18 unit apartment house in the RF-3 Zone, at premises 220
19 2nd Street Southeast, Square 762, Lot 8.

20 CHAIRPERSON HILL: Okay, great. Thank you.
21 If you could just introduce yourselves again from my
22 right to left.

23 MR. WALDRON: My name is Peter Waldron.
24 Anything else?

25 CHAIRPERSON HILL: No, that's it.

1 MS. BROWN: Hi, Carolyn Brown on behalf of the
2 applicant.

3 CHAIRPERSON HILL: All right, great. So, Ms.
4 Brown, you are going to be presenting first to us, and
5 I'd like to say for the record, I said 1:30, and it
6 was actually 1:35 before the break. So it is --

7 MS. BROWN: I was going to compliment you on
8 that.

9 CHAIRPERSON HILL: Right. Thank you so much.
10 I mean, if you want to handle a docket this is the
11 chairman to, you know, take care of business in a
12 judicious process.

13 So, let's see. The way we're going to be --
14 well, I'm just going to state the whole, the process
15 before we get to whether or not you guys got to any
16 kind of an arrangement or agreement or anything like
17 that. So, we're going to hear the presentation from
18 you, Ms. Brown. You're going to present. Mr. Waldron
19 is a party status individual. You will have an
20 opportunity to cross-examine whatever the presentation
21 was. Then you will have an opportunity to present.
22 Mrs. Brown will have an opportunity to cross-examine
23 you. We're going to turn to the Office of Planning.
24 Everyone is going to have an opportunity to ask
25 questions of the Office of Planning. We have read the

1 record, Mr. Waldron, and understand the specifics to
2 the questions that you have. Or sorry. I'm sorry.
3 The opposition that you have, you know, what you put
4 into the record in terms of why you're opposed to it.

5 I'm just saying, we've started -- we do understand at
6 least that portion of it.

7 The way that this works, and I'm always
8 laughing because it's very equal is that, the amount
9 of time that you get, Ms. Brown, is the same amount of
10 time that Mr. Waldron would get in terms of a
11 presentation.

12 I'm going to first ask Ms. Brown, since you
13 are the applicant again, were you able to come to any
14 kind of an understanding?

15 MS. BROWN: Yes and no.

16 CHAIRPERSON HILL: Okay.

17 MS. BROWN: Mr. Waldron indicated that he
18 would not have enough time from this morning until now
19 to actually review the changes that we submitted to
20 him this morning. Partly because we don't have a
21 printout of the red-line version. He got an e-mail
22 version and he expressed to me that he needed more
23 time.

24 CHAIRPERSON HILL: Okay.

25 MS. BROWN: What I committed to him in return

1 was, regardless of the outcome of this hearing,
2 whether we get approved, denied, or continued, we
3 would continue to work on the construction management
4 agreement because independent of this 13th unit, the
5 owner has a permit that was issued in August to
6 renovate the existing 12 units in the building.
7 That's where some of the construction impacts will
8 come from, and George Calormiris has committed to work
9 with Mr. Waldron to resolve those construction issues.

10 For example, having equipment on the roof
11 where a crane will be required. That's going to
12 happen independent of this 13th unit.

13 CHAIRPERSON HILL: Okay. I'm just going to
14 interrupt you for one second --

15 MS. BROWN: Sure.

16 CHAIRPERSON HILL: -- because I'm just kind of
17 trying to move along here. So, you can go ahead and
18 then present to us. I mean, the way that since
19 everyone is here, we'll go ahead and probably have a -
20 - we are going to have a hearing. I would imagine
21 that we're not going to decide in terms of we're going
22 to see what's going to happen with the -- well, let's
23 see what happens, but I would imagine that I would
24 want, and I don't know the rest of the board members
25 want again, just to see whether this gets resolved or

1 not before we get to a point where we are voting. But
2 who's to say? I don't know exactly.

3 So, the other is that if you could get Mr.
4 Waldron to withdraw, that would make it easier for me
5 to give a summary order, rather than have to go
6 through a full order process, which is something that
7 I would prefer to do.

8 But that all being the case, Ms. Brown, how
9 much -- I mean, I think the record is pretty full and
10 I'm trying to keep this moving judiciously. So I
11 would just kind of give you 10 minutes in terms of
12 presentation.

13 MS. BROWN: I think I could do it in five.

14 CHAIRPERSON HILL: Okay. Okay. Well, I'll
15 give you 10 minutes.

16 MS. BROWN: Okay.

17 CHAIRPERSON HILL: Because I at least want to
18 give Ms. Waldron a shot, you know, at having a little
19 bit of time.

20 So you can go ahead and start your
21 presentation whenever you like, and I will put 10
22 minutes on the clock here, thank you.

23 MS. BROWN: Thank you. Good afternoon, Mr.
24 Chair and members of the board. Again, I'm Carolyn
25 Brown with the law firm of Donohue and Stearns on

1 behalf of the applicant.

2 We're so pleased to have the unanimous support
3 of ANC 6B. That's 10 members that voted to support
4 this application with the condition that all trash
5 receptacles be stored inside the 12, or hopefully 13-
6 unit apartment building, and we have agreed to that
7 and we would request that that be part of a condition
8 as well for any approval of this application.

9 We're also very pleased to have the support of
10 the Office of Planning and DDOT, and support from the
11 neighborhood to the south, the National Indian Gaming
12 Association.

13 We believe that we have set forth in our
14 application statement, and when I think the Office of
15 Planning has also done an excellent job of explaining
16 how we meet the variance test, the exceptional
17 extraordinary conditions that affect the property that
18 make it difficult to use the basement for an
19 alternative use other than a functioning purposeful
20 use, other than the apartment that we're proposing and
21 that it wouldn't have any substantial detriment to the
22 zone plan or the area.

23 This was a pre-1958 building with 12 units.
24 It was purpose built as an apartment building. It's
25 actually very spacious apartment building with the

1 existing 12 units each having approximately 800 square
2 feet and two bedrooms.

3 The proposed 13th unit in the basement would
4 have approximate 600 square feet and be a one-bedroom,
5 so it's the smallest unit at 600 square feet.

6 The reason for the conversion of the basement
7 area is that as part of the renovations that I
8 mentioned the laundry facilities will be moved,
9 eliminated, and each of the units will have individual
10 washers and dryers so it's left the basement unusable.

11 There is not the need for storage like you might have
12 in some of the micro unit apartments elsewhere in
13 town. As I mentioned, these are very large units.

14 There is no need for bike storage. We have
15 bike racks at the back of the property. Plus there
16 are three Capitol Bikeshare stations within one to
17 three blocks of this property, and it's extremely
18 well-served by public transportation, including the
19 Capitol South Metro Station.

20 So, we believe that we've established that
21 we've met the variance test, and we would ask for your
22 support.

23 With respect to the construction management
24 agreement, as I said, we would be happy to continue
25 working on that. We understand from Mr. Waldron that

1 that's the only objection at this point that he would
2 be supportive of this application, but for the need to
3 get the construction management agreement signed. And
4 I realize of course that, you know, the board doesn't
5 like to talk about construction management agreements
6 because they're not tied to any of the zoning relief,
7 but I know that it's important to Mr. Waldron and I
8 wanted to get that on the record.

9 And if -- I'd be happy to answer any questions
10 that you have.

11 CHAIRPERSON HILL: Okay, great. Thanks. Does
12 the Board have any questions for the witness at this
13 point?

14 MS. WHITE: Just one question. The trash
15 management, just so I'm clear, you said everything has
16 to be stored --

17 MS. BROWN: Sure. I'm sorry.

18 MS. WHITE: -- inside the property, or inside
19 the grounds?

20 MS. BROWN: Sure. Let me clarify that. There
21 are actually two conditions that we have agreed to.
22 One is that all the trash receptacles for the tenants
23 in the building must be stored inside the building.
24 They may not be exterior to the property whatsoever,
25 and that is because of the serious rodent problems

1 that they have on Capitol Hill and this is, you know,
2 just 100 feet, not even that. I guess the back
3 property line abuts the commercial properties on
4 Pennsylvania Avenue. So that's issue number one.

5 Issue that Mr. Waldron had raised at the ANC
6 was, he wanted to make sure that the trash did not go
7 out the back, where the commercial properties were --
8 I mean, uses were, and all the other dumpsters were.
9 He wanted to see it come out the front. We've agreed
10 to that. We've also agreed to increase trash pick up
11 to three times a week, instead of two. So those are
12 all part of the conditions. So I think in our
13 prehearing statement we have the condition that trash
14 would come out through the front of the building only
15 and be collected three times a week. And the second
16 condition is that all trash receptacles must be stored
17 inside the building.

18 MS. WHITE: Thank you.

19 CHAIRPERSON HILL: Mr. Hart.

20 MR. HART: Yes. Ms. Brown, thank you for the
21 presentation and, the question that I had was really
22 around -- and I read the OP report and they kind of
23 mentioned the same thing, around the ability to use
24 the basement for something else. And you've described
25 that it has to be a viable 13th unit, because the

1 units that are in -- the other units that are in the
2 building have sufficient storage space, and it won't
3 be necessary to use that for storage space. But if
4 you look at the -- I mean, I looked at the plans for
5 the floors for the units, and there weren't huge
6 closets in each one. They're fairly regular sized
7 closets, and then there were only a couple of them.
8 And I just like to understand if while you may not
9 need to have 12 storage spaces in the basement, maybe
10 it's six storage spaces so that, you know, some of the
11 units could have extra storage if they had skis or,
12 you know, whatever. If the people that were in those
13 units needed to have some other space.

14 I'm just trying to get to the -- you can't do
15 anything else other than have this as a 13th unit.
16 That's the part that I'm trying to grapple with.

17 MS. BROWN: Well, I think it goes to more the
18 practical difficulties. There are, perhaps, you know,
19 your suggestion that part of the basement could be
20 used for storage. The building has functioned since
21 1955 without any storage for the tenants as it is.
22 And so, there's not the view that it's needed in the
23 building because the tenants have not had it before,
24 and I think that's part of the answer to that
25 question.

1 And then secondly, you know, the owner
2 wouldn't necessarily be required to do that as a
3 matter of right, and he -- it doesn't -- it isn't
4 necessarily the best use and I know that that's not
5 necessarily what we're always asking for, but it
6 creates the practical difficulty of, now you have to
7 carve up the basement into these, you know, you figure
8 out who uses it, and there just doesn't seem to have
9 been the need for it. And so, if there's no need,
10 then it's going to sit empty.

11 MR. HART: Yes. And I understand that. What
12 I was trying to get to was, you're right, it is about
13 the practical difficulty and what can you do with the
14 space. And I do appreciate that the desire for the
15 applicant to, your client, to want to create some
16 usable, you know, space there. And I was just trying
17 to figure out if we are allowing another unit in a,
18 you know, in an area that is on a site that is needing
19 a variance to kind of get there. And so, that's the
20 part that I was trying to figure out how does that
21 balance in my mind. Does it, you know, kind of make
22 sense? I mean, 1955 was one point in time where now
23 it, you know, another century, into another century.
24 And the needs of people now maybe are definitely
25 different than they were, you know, 50 years ago, 60

1 years ago.

2 And so, I was just trying to kind of gauge
3 whether or not it made sense to say yes to this for
4 that reason. Is there, you know, a definite
5 difficulty that I can say yeah, I can definitely agree
6 with that and that makes sense to me.

7 I mean, I'm not saying that I don't support
8 it. I'm just saying that I wanted to further
9 understand that to see if that was a necessity. And
10 I've got to say that in this day and age you can go by
11 many different places and find storage facilities. I
12 know there was a brand new one that just opened up on
13 New York Avenue, and that is, they build them because
14 people are -- because people need them.

15 And so, that's why I'm kind of saying, in this
16 day and age, there are storage facilities that are
17 literally companies that are building these things
18 because they know that people need to have extra
19 storage space outside of their own residences. And if
20 you had one that was in here, that might be able to
21 alleviate that.

22 So again, I didn't want to -- I understand the
23 point that you're making. I was just trying to figure
24 out, you know, the storage versus new unit.

25 MS. BROWN: Yeah, and Office of Planning and I

1 did discuss that very issue, and that's where we were
2 focused on the fact that a lot of these storage unit
3 facilities are cropping because of the micro units,
4 and that that's where we discussed, you know, these
5 are spacious, 800 square feet, and you know, I used to
6 have skis propped up in the corner of my apartment,
7 you know, and I think it's a function of, you know,
8 how much clutter or stuff people think they need to
9 hang on to as well. And it seems to me that, you
10 know, having clutter in the basement when you can
11 create a unit that's far more usable and has a far
12 better benefit to the city, I think that's where I
13 come out.

14 MR. HART: Thank you.

15 CHAIRPERSON HILL: Okay. So, Mr. Waldron, you
16 have an opportunity now to ask cross-examine questions
17 to Ms. Brown in terms of the testimony that she has
18 given. I don't know if you have a lot of cross-
19 examine questions, but do you have any questions for
20 Ms. Brown on the testimony that she's given?

21 MR. WALDRON: Well, there's some
22 clarifications.

23 CHAIRPERSON HILL: Clarifications.

24 MR. WALDRON: Does that --

25 CHAIRPERSON HILL: Maybe that -- go ahead and,

1 I'm not sure whether there --

2 MR. WALDRON: Yeah, I'm --

3 CHAIRPERSON HILL: We'll see how it goes. I
4 don't know whether they're questions. Or, you're
5 going to have an opportunity to present as well in
6 about a few minutes here.

7 MR. WALDRON: Okay.

8 CHAIRPERSON HILL: Do you have any questions
9 concerning what she had presented?

10 MR. WALDRON: Yeah. I mean, I know the -- I
11 lived -- I've been the property owner next to the
12 property since 1974, and I probably know the building
13 nearly as well as my own house. And it wasn't simply
14 a laundry room, it was a trash room.

15 CHAIRPERSON HILL: So the question -- I'm just
16 trying to understand the question.

17 MR. WALDRON: So do you -- are you aware that
18 it was also a trash room?

19 CHAIRPERSON HILL: And if you could speak into
20 the microphone a little bit more? I'm sorry.

21 MR. WALDRON: Are you aware that it was used
22 as a trash room?

23 MS. BROWN: My understanding from Mr.
24 Calormiris is that there were one or two trash bins in
25 that area, and they will now be relocated to the

1 stairs in the front of the basement area.

2 CHAIRPERSON HILL: Okay.

3 MR. WALDRON: And have you ever been to the
4 building itself, Ms. Brown?

5 MS. BROWN: Not inside.

6 MR. WALDRON: Okay. So are you aware that you
7 need to walk, if -- my understanding from the ANC
8 meeting is, there is an issue with bicycles. You
9 know, their suggestion was use this space for
10 bicycles, and that the compromise has been to have the
11 bicycles come around the back. But the practical
12 difficulty, which is a word I'm learning about through
13 this hearing, is that the apartment --

14 CHAIRPERSON HILL: Mr. Waldron, I'm sorry.
15 I'm just trying to -- what's the question?

16 MR. WALDRON: The question would be, are you
17 aware that it's almost a two-block walk to reach the
18 bicycles from the front of the building, that would be
19 stored out back?

20 MS. BROWN: I'm not aware.

21 CHAIRPERSON HILL: Okay. Okay.

22 MR. WALDRON: It is.

23 CHAIRPERSON HILL: Okay. Why don't I do this?
24 I'm going to go ahead and let you present --

25 MR. WALDRON: All right.

1 CHAIRPERSON HILL: -- because then I want to
2 hear what you -- I mean, again, we understand the
3 construction issues. We understand the rat issues,
4 you know, from what you talked about. So I'd like to
5 give you an opportunity to present first, and then,
6 you know, hopefully this can get to a point where
7 you're actually happy again. Or, not happy, you know,
8 you can get behind this perhaps.

9 What we're doing, again, is charged with
10 looking at an application and whether or not it meets
11 the regulations to gain approval. This particular
12 application has gone now through the Office of
13 Planning, the ANC, and then we have all the
14 information that's in the record.

15 So what we're, again, charged to do is looking
16 at how the applications apply to the regulations as to
17 whether or not they can or can't be granted.

18 I preface all that before just letting you
19 know to give your time here, because we want to hear
20 what you have to say as a party status person who, you
21 know, has the adjacent property owner. So, I'm going
22 to go ahead and put 10 minutes on the clock again for
23 you to go ahead and let us know your concerns and your
24 presentation.

25 MR. WALDRON: And did you say I'd be happy

1 when I was done?

2 CHAIRPERSON HILL: Well, it's so funny. I'm
3 not -- yes. I mean, happy is a very odd thing. I'm
4 not necessarily sure I'm always happy, but yes. I'm
5 satisfied.

6 MR. WALDRON: First of all, I'd like to
7 apologize if I do not have any written remarks. I
8 could present some. It was my expectation, I'm
9 repeating a little bit of this from this morning, that
10 we were coming today, 99 percent, to have -- sign an
11 agreement. And I would have been in support.

12 Having said that, I'm here in opposition
13 unless as part of the order there's a trash
14 collection, indoor trash collection provision and a
15 CMA agreement. You're looking -- should I continue?
16 You're --

17 CHAIRPERSON HILL: No, no, yeah. Please, go
18 ahead.

19 MR. WALDRON: And the reason for that is one,
20 that's what I'm looking for. But it was also
21 presented to me by Ms. Brown as part of the community
22 outreach. I was checking my notes this morning and I
23 don't see anything about community outreach in the
24 application anymore. I do see, and I want to correct
25 it for the record, that at least as far as June 26th

1 was concerned, that I had been contacted and talked
2 to. I was not -- no one notified me of anything until
3 mid-August. So no one ever talked to me.

4 These are my concerns. Ordinarily I know this
5 trash -- this construction management agreement is
6 something you don't want to go near. It's out of your
7 purview. But I have real concerns based on some
8 conversations I had with George Calormiris.

9 Now, I've lived there since 1974. That's 43
10 years. I've never met Mr. Calormiris, but we've had
11 any number of really cordial conversations over the
12 phone. And in those conversations he assures me, as
13 he did just yesterday, that he would just about pay
14 for me to go to the moon. Sometimes I think he's
15 going to offer to send the rent checks to me, he's so
16 excited to work with me.

17 But when I did raise, in August, concerns
18 about the rats out back, he said he'd take care of it.
19 He did not. American Pest Control is a company he
20 cited as being pest. One compartment was placed out
21 in front of the building. Nothing was placed in the
22 rear, and that's where the rat problem is.

23 I raised the issue a second time with him, and
24 still, nothing was done. In mid-August, a company
25 called Restore My Pipes moved in and started to do

1 some pipe restoration. I don't quite know what it
2 was. Suddenly my water bill spiked for the week that
3 they were there, and then the water bill fell back.
4 In the meantime, some of their equipment damaged my
5 fence post. I alerted Ms. Brown to this, sent her a
6 picture, and I talked with June.

7 In one of our conversations with George, he
8 assured me that no matter what pictures of none --
9 once the project is over he's going to just write me a
10 check for whatever is a problem. So these are
11 concerns that have been raised and they haven't been
12 dealt with.

13 I looked at the zoning application and I see
14 there are two tests. The Test B, which I -- and I
15 don't have all my papers because I wasn't prepared to
16 come here today to do anything else other than sign an
17 agreement, one has to do with practical difficulties,
18 and efficient use. And I suggest to you that the
19 trash room, laundry room, since the 1950s, could be
20 used as lockers, storage, bikes. It could also be
21 used as a trash room. And by the way, there is a
22 trash room commitment from Mr. Calormiris and Ms.
23 Brown by e-mail at least, however --

24 CHAIRPERSON HILL: Could you just excuse me
25 for one second, please?

1 MR. WALDRON: Sure.

2 [Pause.]

3 CHAIRPERSON HILL: I apologize. Please,
4 continue.

5 MR. WALDRON: I'm concerned, also, about where
6 this trash room is going to be. My understanding is
7 that it is not part of this application or part of any
8 permit. Yet, I don't know whether or not under the
9 law the zoning rules it should be, but my
10 understanding is there is going to be, carved out into
11 that lower level, where the trash room once was, and
12 laundry room, some other room. I just don't know its
13 place here, but I raise it because it's one of the
14 concerns that continues in my mind, which makes me
15 want to have all of this part of the order so I feel
16 some secure -- security and protection.

17 Test C says, "The variance would not cause
18 substantial detriment to the public good and would not
19 substantially impair the intent, purpose, and
20 integrity of the zone plan as embodied in the zoning
21 regulations and map."

22 Again, addressing that, I think it does. I
23 think there is a public good, and that's the good that
24 redowns (sic) to me. I'm concerned about the rats.
25 I'm concerned now, especially because of the pulling

1 back of the agreement after it had been proposed to
2 me.

3 And by the way, just as an aside, Ms. Brown
4 drafted the agreement. She drafted it about two weeks
5 ago. She used the Hines School as a model. That was
6 what I was going to recommend to her. I thought it
7 was excellent. I thought all the points she addressed
8 in the agreement met my concerns. The only concern we
9 had, and until this morning I was under the impression
10 that that was the agreement we were operating on. I
11 tweaked it yesterday with my concerns about default
12 and cure, added that provision, and then this morning
13 I see an agreement that, quote Ms. Brown, was watered
14 down.

15 So, and I'm sorry if I'm a little incoherent
16 here because I didn't get a chance to write a complete
17 statement, but I'm going to add one more thing. In
18 the statement of compliance, as part of the
19 application, Ms. Brown wrote, "This project adequately
20 balances the zoning regulation goals and the
21 protecting neighbor properties in putting it to its
22 highest use. And I suggest it is -- it does not
23 because I'm not protected. They offered the
24 construction management agreement. They offered the
25 rat storage, and now they seem to have withdrawn it.

1 It's my sense that, and I'm knowledgeable
2 about this, that for 10 years you've worked on new
3 zoning rules, and there are reasons for zoning rules.
4 And to give a variance there should be a really good
5 reason. There's a benefit if you give a variance.
6 There should be some obligations. I think I should
7 have some protection here, in terms of the rat storage
8 and collection.

9 And now, in terms of an offered agreement to
10 me, construction agreement which now seems to have
11 been withdrawn. And I think I've said enough.

12 CHAIRPERSON HILL: Okay.

13 MR. WALDRON: I could probably go on for
14 hours, but you'd be cutting me off.

15 CHAIRPERSON HILL: Okay. No, that's great.
16 We'll go ahead and -- did you say I was cutting you
17 off? I'm sorry?

18 MR. WALDRON: No, I said I --

19 CHAIRPERSON HILL: Because I don't mean to cut
20 you off.

21 MR. WALDRON: No, you did not cut me off.

22 CHAIRPERSON HILL: Oh, okay. Okay, great.

23 MR. WALDRON: Thank you.

24 CHAIRPERSON HILL: Sure. No, Mr. Waldron, I
25 agree, and I'm just trying to get to the crux of

1 again, your issues. And I'm going to let Ms. Brown
2 have an opportunity as she is afforded, to cross-
3 examine any statement you just made. But just so I'm
4 clear, Ms. Brown, there is -- you know, it is going to
5 be a condition within the order that the applicant
6 shall provide a trash room within the building and
7 shall exclusively store trash indoors.

8 MS. BROWN: That is correct.

9 CHAIRPERSON HILL: Right? And even beyond
10 that, it sounds like you've agreed to the trash coming
11 out of the front door. That's the part that I
12 didn't --

13 MS. BROWN: That's correct.

14 CHAIRPERSON HILL: So, that's a second
15 condition that you would be willing -- your applicant
16 would be willing to agree to?

17 MS. BROWN: And trash pick up --

18 CHAIRPERSON HILL: Three times a week, rather
19 than two times a week. Right.

20 MS. BROWN: Correct.

21 CHAIRPERSON HILL: So, that's the rat,
22 possibly could address at least the rat concern. I
23 mean, I'm sure that at this point, Mr. Waldron, and
24 you have been very complimentary of Ms. Brown, and I
25 actually don't know what the methodology is. Can you

1 tell me again, the agreement that you were saying that
2 she was using? The Hines?

3 MR. WALDRON: The Hines School project, which
4 is --

5 CHAIRPERSON HILL: Hines School.

6 MR. WALDRON: -- so controversial on the Hill.

7 CHAIRPERSON HILL: Okay. Okay.

8 MR. WALDRON: That there is -- I'm sure you
9 had a meeting or two about.

10 CHAIRPERSON HILL: Yeah. So, but, sorry. So
11 I just so, in any case, I'm sorry that that didn't get
12 probably followed through on at this point.

13 But nonetheless, Ms. Brown, do you have any
14 questions for Mr. Waldron?

15 MS. BROWN: I have no questions.

16 CHAIRPERSON HILL: Okay. All right. Okay.
17 So, we are going to come back, Mr. Waldron, and have
18 an opportunity to discuss all this. So, I'm going to
19 turn to the Office -- hold on, does the board have any
20 questions for either the applicant or the party
21 status?

22 MR. HOOD: Is the Hines School agreement
23 working?

24 MR. WALDRON: As far as I was concerned --

25 MR. HOOD: Yeah, you keep -- okay.

1 MR. WALDRON: -- I would have signed it today,
2 along with the cure and default, yes.

3 MR. HOOD: But you keep alluding to the Hines
4 School. I just wanted to know if it's working.
5 Obviously, it's working.

6 MR. WALDRON: Is the Hines agreement working?

7 MR. HOOD: Yeah, right.

8 MR. WALDRON: I live on the hill and I write
9 for the Hill Rag and I follow the Eastern Market, so I
10 could tell you, yes.

11 MR. HOOD: Oh, so you write for the Hill Rag.
12 Okay.

13 MR. WALDRON: I do, yeah.

14 MR. HOOD: Okay. All right. Thank you. All
15 right. All right, thank you, Mr. Chairman.

16 MR. WALDRON: But I'm here as a resident and
17 citizen.

18 MR. HOOD: I got you. I got you. I got you.

19 CHAIRPERSON HILL: All right, thank you.
20 Okay. So, I'm going to turn to the Office of
21 Planning, please.

22 MS. ELLIOT: Thank you, Mr. Chairman.
23 Brandice Elliott representing the Office of Planning.
24 And the Hines School, I think, is still just under
25 construction. Should be wrapping up pretty quickly.

1 So, I guess we'll see how the agreements hold up after
2 that.

3 So I'll go ahead and provide a brief analysis
4 of this case, and you're so lucky to have two of the
5 same variances in one day, and OP supporting both of
6 them. So, different reasons, though.

7 So this particular case, the basement was
8 previously used as a laundry facility. And as the
9 applicant was making the argument that it was a
10 practical difficulty to continue to use it as an
11 amenity space, we did challenge them to look at some
12 other options. And so, one of the -- you know, some
13 of the amenities that we understand are in demand from
14 other properties is the provision of storage or a
15 bicycle room, things of that nature. And so, the
16 applicant provided additional information noting that
17 unlike some of the apartments that we're seeing now,
18 these are a little bit larger. They're not micro
19 units, but they're also a little bit larger than, you
20 know, your typical one-bedroom home. So there are
21 more -- there is more storage contained within each
22 unit.

23 But also, there are bicycle racks elsewhere on
24 the property, although as noted in our report, we
25 still continue to -- although it's not required to

1 urge the applicant to actually enclose those so that
2 bikes are a little harder to be stolen. I've had two
3 of mine walk away and that's not a good day.

4 So we did have that conversation and we did
5 explore some other uses. You know, that in this case,
6 the advancement in modern technology has sort of
7 opened up that space. It's no longer needed for
8 laundry. Leaving it vacant doesn't seem like a good
9 use of it, and it does provide additional issues,
10 potentially rat proliferation.

11 So we do think that there is a practical
12 difficulty there, and we do support the additional
13 unit.

14 In terms of the remainder of the test, because
15 this is all internal, and there are no exterior
16 additions, we did find that we wouldn't expect it to
17 have a detriment to the public good. That doesn't --
18 we are, and I believe as we've testified before, we
19 are very sensitive of the rat issue on Capitol Hill.
20 It has come up in several of our cases and we always
21 encourage the applicant to work with adjacent
22 neighbors and other property owners to make sure that
23 it's under control. And because this is close to
24 restaurants, we recognize that there's an issue. And
25 we appreciate that the applicant and the ANC have

1 worked together. I hope that the construction
2 management plan will help tie some of those loose ends
3 together, and that there's an agreement. But we do
4 support the ANC's condition that they have included in
5 their report, and the conditions provided by the
6 applicant regarding the trash enclosure and you know,
7 other things that will help with the rat problem for
8 this property.

9 And also, we found that we wouldn't expect
10 there to be a substantial harm to the zoning
11 regulations for this particular area of relief. It is
12 in a higher density residential area. It's metro-
13 adjacent. It also has other modes of transportation
14 nearby, and I think that probably wraps it up. Oh,
15 and also because the structure, the massing of it,
16 isn't actually changing, it still sort of meets the --
17 if they were expanding the structure we would have
18 more development review concerns related to the size
19 of the structure. But because it's staying the same
20 and it's been that way since pre-1958, we can be
21 supportive of it, recognizing that there's -- it would
22 not harm the zoning regulations.

23 So I rambled a little bit but if you have any
24 questions, I'm happy to answer those.

25 CHAIRPERSON HILL: Okay, great. Thank you.

1 Does the Board have any questions for the Office of
2 Planning?

3 MS. WHITE: Just one quick question. So the
4 trash plan, they're moving it out three times a week
5 and they are bringing it out the front to alleviate
6 having to bring it out the back. And so, I'm looking
7 at the front. Is it coming down a ramp or is it -- I
8 see there's like -- I don't see that --

9 MR. WALDRON: Can I offer something here?

10 MS. WHITE: Yes.

11 CHAIRPERSON HILL: Just let the Office of
12 Planning first answer, and then sure. One second.

13 MR. WALDRON: It's just about your question
14 about the trash.

15 CHAIRPERSON HILL: Okay. Just let the Office
16 of Planning answer first.

17 MS. ELLIOT: Well, according to the floorplan
18 that's been provided, there are some stairs that go
19 down. So, and I'm assuming -- and it should be
20 labeled, and probably will be on future plans, I
21 understand that these were probably a little bit in
22 flux when they were submitted. But I'm assuming that
23 the trash room is going to be where the electric
24 meters are shown, adjacent to the -- so it will be a
25 separate room all together. They're not going to be

1 stashed in the hallway, but there will be a different
2 room with its own door. So you go down the stairs,
3 through the hallway, and into that separate room for
4 trash storage.

5 MR. WALDRON: The new apartment's back door
6 would have been the way the trash used to be emptied.
7 So, with the apartment there, they're obviously not
8 going to put trash to the back. So the back has never
9 been an issue because the door -- the apartment
10 precludes it. So, the trash has to come out one way
11 or the other, and that's what I wanted to offer to you
12 in terms -- that's why it's coming out the front
13 and --

14 MS. WHITE: At the front, yeah.

15 CHAIRPERSON HILL: Okay. Does anybody have
16 anything else for the Office of Planning?

17 [No audible response.]

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

20 MS. BROWN: No questions.

21 CHAIRPERSON HILL: Does the party status have
22 any questions for the Office of Planning?

23 MR. WALDRON: None.

24 CHAIRPERSON HILL: Okay. All right. All
25 right. Let's see, is there anyone here from the ANC

1 wishing to speak?

2 [No audible response.]

3 CHAIRPERSON HILL: Is there anyone here
4 wishing to speak in support of the application? Is
5 there anyone here wishing to speak in opposition to
6 the application?

7 [No audible response.]

8 CHAIRPERSON HILL: All right. So let's see,
9 I'm going to allow you, Mr. Waldron, do you have
10 anything further you'd like to add in summary?

11 MR. WALDRON: Yeah. I'll just repeat once
12 again. I would be here in support of this
13 application. The trash collection provisions are
14 adequate as far as I'm concerned. I feel as though I
15 were blindsided by this weakening, the watering down
16 of this agreement today. I was prepared to sign the
17 agreement Ms. Brown drafted, and that's why I'm here
18 in opposition. I'd be delighted to return in support
19 if we could work something out.

20 CHAIRPERSON HILL: Okay, great.

21 MR. WALDRON: And I ask that you can include
22 that as part of your order.

23 CHAIRPERSON HILL: Okay, great. Ms. Brown?

24 MS. BROWN: Yes, thank you. With respect to
25 including the construction -- I think I understood Mr.

1 Waldron to say that he wanted a construction
2 management condition in the order, and the board has
3 declined to do that because it doesn't relate, and I
4 would refer you to BZA Case 18898 of Ingleside, where
5 it's set forth.

6 Having said that, we are committed to
7 continuing with the negotiations. I could get into
8 discussions of the sequence of the drafting, but I
9 think that that would be nonproductive, and so we'll
10 leave that for outside the room.

11 Let me see what else I was going to respond
12 to.

13 With respect to the location of the trash
14 room, that is still being determined right now. If
15 you were to look at Sheet A-100 of the basement plan,
16 you will see the basement stairs that go down and it
17 would be tucked in by the electrical area for now. In
18 a separate permit, the applicant is considering would
19 be -- would eventually would want to dig out some of
20 that unexcavated area to create a separate trash room
21 that's a little more contained.

22 And we are, as I stated, we're happy with the
23 three conditions regarding the trash. I think that
24 takes care of the issues that the ANC had and that Mr.
25 Waldron has, and we believe that we have set forth --

1 have clearly demonstrated that we meet the three-prong
2 test for variance relief, and we would ask for
3 approval.

4 CHAIRPERSON HILL: Okay. Great. All right.
5 Does the Board have anything else for the applicant or
6 party status?

7 MR. HART: Just one note that the -- what is
8 this? The Capitol Hill Restoration Society provided a
9 letter. I think you're aware of that. They were
10 actually in opposition for a variety of reasons, but
11 they also raised the issue of kind of getting to the
12 rear of the facility, of the building, is just
13 difficult, the same thing that Mr. Waldron just raised
14 with having a fairly circuitous route to get to the
15 back. But I just wanted to make sure that you were
16 aware of that.

17 MS. BROWN: Yes, we saw the letter.

18 MR. HART: I guess it was just submitted
19 yesterday, so.

20 MS. BROWN: Yeah, either I think late last --
21 afternoon, yeah.

22 CHAIRPERSON HILL: Okay. All right. Then I'm
23 going to go ahead and close the hearing. But what I
24 wanted to do and get the board's input with this
25 again, as I've kind of mentioned when we somewhat

1 started this, I know that the construction management
2 agreements are not within the board's purview, in
3 terms of it's not something that we include, usually,
4 in our orders.

5 However, we have encouraged parties to work
6 together to try to do that if it somehow brings people
7 together. And so, it sounds as though that is
8 something that the applicant is willing and wants to
9 do. I'd like to know one way or the other before we
10 vote on this, what exactly did happen with that
11 process, unless the board has any other thoughts. I'd
12 like to at least give it, you know, a week to have an
13 opportunity for Mr. Waldron to take a look at that.

14 Again, it would not be something that would be
15 -- that I would be interested in including in our
16 order. I would, again, clarify with the applicant,
17 and the applicant is here, that you know, those three
18 conditions are the ones that now we are talking about
19 because there has been so much discussion now about
20 the rodent issue with -- and the applicant has agreed
21 on the record to the three conditions, which were the
22 one that, applicant shall provide a trash room within
23 the building and shall exclusively store trash
24 indoors. The second one was that the applicant agreed
25 to trash being taken out of the front door, and that

1 the third was that trash would be picked up three
2 times a week rather than two. And that is what I
3 understood the conditions to be, regarding trash.

4 I would like to put this off for a vote next
5 week in terms of giving the party status individual
6 time to look at the agreement. If the agreement would
7 be something that would be strong enough, or convince
8 the applicant that -- I'm sorry, the party status
9 person that they are comfortable with the project,
10 then if they were to withdraw their opposition, it
11 would allow the applicant to move forward on, if we
12 were to approve this, on a summary order, rather than
13 a full order, and what that means, then, Mr. Waldron,
14 is that it's a timing issue that it's quicker for a
15 summary order to get processed than a full order. So
16 there again is incentive for the property owner.

17 It sounds as though, I don't know how this
18 missed at the last moment, but it sounds as though you
19 have a neighbor, or one who, you know, wants to make
20 sure this can work for you. And so, I'm sorry that it
21 kind of got disjointed. I'm just kind of talking
22 extemporaneously here, not asking any questions about
23 anyone.

24 But that's kind of where I am. Does the board
25 have any further thoughts or comments? Does that

1 sound fine with the board?

2 MS. WHITE: It sounds fine with me, Mr. Chair.

3 CHAIRPERSON HILL: Okay. All right. Then if
4 we could leave the record open for something from I
5 guess, Ms. Brown and Mr. Waldron, concerning what
6 happens with an -- and I'll give you an opportunity to
7 speak because it seems like you want to -- concerning
8 what happens, and I'm trying to figure out some timing
9 issues here now that I think about it, with the seven
10 days, which I hate the seven days.

11 So, and I only say that because it's just so
12 confusing. I think it's a great -- people should have
13 an opportunity to --

14 MR. WALDRON: Made me laugh.

15 CHAIRPERSON HILL: Right. People should have
16 an opportunity to respond to things, but it does make
17 it more difficult for me to get through this process.

18 So, Ms. Brown, you seemed like you had
19 something you wanted to say?

20 MS. BROWN: Yes. Point of clarification. You
21 know, I don't know if we could state right here that
22 we would waive the seven-day requirement, and that
23 might speed things up. Another alternative is that --
24 that's point number one.

25 Number two is setting parameters about what

1 this description of the negotiations are of what you
2 want in that submission, because I can't imagine that
3 you want us to explain who said what, what provisions
4 came in, what didn't. I assume it would just be a
5 simple statement that we've reached agreement or we
6 haven't.

7 CHAIRPERSON HILL: Yes.

8 MS. BROWN: Okay.

9 CHAIRPERSON HILL: I guess, you know, and so I
10 am hesitant to -- I guess we can waive the -- I forget
11 how the seven-day gets waived and Ms. Rose or --

12 MS. BROWN: And I have one third suggestion --

13 CHAIRPERSON HILL: Sure.

14 MS. BROWN: -- that might not involve the
15 seven days.

16 CHAIRPERSON HILL: Sure.

17 MS. BROWN: And that is, if the board wanted
18 to take a vote and we reached an agreement two weeks
19 from now, three weeks from now, that if we did reach
20 agreement --

21 CHAIRPERSON HILL: Sure.

22 MS. BROWN: -- Mr. Waldron could submit a
23 letter to that affect.

24 CHAIRPERSON HILL: Sure. No, I understand.

25 MS. BROWN: And then, that would turn the full

1 order into a summary order.

2 CHAIRPERSON HILL: Sure. No, I understand.
3 That's a good suggestion and I don't think I'm
4 comfortable currently with that. But thank you for
5 that suggestion.

6 So what we're going to do is I'm going to go
7 ahead -- let's say if we ask for -- I'd like to keep
8 the seven days. So, if we go ahead and ask for a --
9 basically, I just want a statement. I mean, you guys
10 have a week now, let's say, right? Today is
11 Wednesday. You submit by next Wednesday, whether or
12 not you've come to an agreement or not. And then that
13 gives seven days. Actually, I have to do it Tuesday.

14 So Tuesday, you submit by next Tuesday, and
15 now I'm looking to you guys to the left because if you
16 submit by next Tuesday whether or not you've come to
17 an agreement, then it gives another seven days, which
18 would be the following Tuesday as to both parties
19 having an opportunity to comment on each other's
20 submission. And then I could come to a meeting that
21 following Wednesday. Correct?

22 MS. ROSE: So, if you have a meeting on the
23 11th, then you're saying the first submission would be
24 due on the 3rd, which is Tuesday, and the response
25 would be due on the 10th.

1 CHAIRPERSON HILL: Yes. Is that clear to
2 everyone?

3 MR. WALDRON: I'm not sure what -- explain to
4 me what for submission might -- would fully mean for
5 me.

6 CHAIRPERSON HILL: Sure. So that first date
7 is -- can you give it to me again, Ms. Rose?

8 MS. ROSE: October 3rd.

9 CHAIRPERSON HILL: So, October 3rd, you would
10 need to submit something saying you have or haven't
11 come to an agreement. Okay?

12 MR. WALDRON: But we don't need an agreement
13 for you.

14 CHAIRPERSON HILL: I just need a statement. I
15 just need an -- I don't need the agreement.

16 MR. WALDRON: Okay.

17 CHAIRPERSON HILL: You know, because we're not
18 going to be upholding that agreement anyway.

19 MS. BROWN: So I just have a question. If we
20 -- either we both agree we have an agreement, or I'm
21 not sure that there is a need for a seven-day response
22 if the facts are, we have an agreement or we don't.

23 CHAIRPERSON HILL: I'm trying to keep my
24 option. I'm trying to make sure that I don't get
25 stuck in a spot where again, I have to do this again.

1 It's just one more week later that we'd be voting.
2 So, you know, because if you agree and he doesn't, or
3 he agrees and -- I mean, it just, I want to have an
4 opportunity for there to be the seven days before we
5 vote again because it's just pushing it another week
6 back.

7 So the first date was again, the 3rd?

8 MS. ROSE: Yes.

9 CHAIRPERSON HILL: And then responses due by?

10 MS. ROSE: October 10th.

11 CHAIRPERSON HILL: The 10th, okay. And then
12 we would be able to have a meeting on the 11th.

13 MS. ROSE: The 11th.

14 CHAIRPERSON HILL: Okay. And, Mr. Hood, if
15 you'd like you can do absentee for that. I don't know
16 if you were there or not.

17 MR. HOOD: Whatever you want. Whatever you
18 want me to do, Mr. Chairman.

19 CHAIRPERSON HILL: I see. Well, that's very
20 kind of you. I think whatever you feel necessary,
21 Chairman Hood.

22 MR. HOOD: Well, can I ask this question or --

23 CHAIRPERSON HILL: Certainly. Of course.

24 MR. HOOD: -- and this goes to this --

25 CHAIRPERSON HILL: Now that I've opened my

1 mouth again, please. Go ahead.

2 MR. HOOD: Maybe this goes to Ms. Nagelhout or
3 Ms. Lovick. Typically in the BZA order when parties
4 come to an agreement, maybe I'm thinking the Zoning
5 Commission, but typically don't we just say that there
6 is a memorandum, or there is an agreement. Typically
7 that's what we do.

8 So I think that's why it's even more important
9 that you kind of know about whatever agreement. We
10 don't enforce it, but we mention it in the order.
11 Isn't that right, Ms. Nagelhout and Ms. Lovick? Okay.
12 All right.

13 CHAIRPERSON HILL: Okay. All right. So, sir,
14 are you clear?

15 MR. WALDRON: One last question.

16 CHAIRPERSON HILL: Certainly.

17 MR. WALDRON: I think submission would be from
18 both of us, separately?

19 CHAIRPERSON HILL: You guys can -- I'd like to
20 hear from both of you. I just want confirmation that
21 you either -- I'd like something submitted, a
22 statement from each of you, that you either are --
23 separate statements, exactly, into the record, that
24 you either are in agreement or you aren't in
25 agreement.

1 MR. WALDRON: And who -- they're submitted to?

2 CHAIRPERSON HILL: IZIS. They're submitted to
3 the record itself. Okay?

4 And I'm sure that Ms. Brown will be happy to
5 help you explain how to submit that as long as you
6 come to an agreement. Right?

7 MR. WALDRON: She was terrific the first time.

8 CHAIRPERSON HILL: Well, I'm going to look up
9 the Hines School thing and learn all about it.

10 So, all right. So okay, well, thank you all
11 very much for coming down and that's it.

12 So, I'm sorry, there's a question?

13 MS. ROSE: We had one more matter, yes.

14 CHAIRPERSON HILL: Certainly, please.

15 MS. ROSE: To announce the closed meetings in
16 October.

17 CHAIRPERSON HILL: Okay. All right. You guys
18 are done, thank you so much. This is an
19 administrative issue here.

20 All right. In accordance with Section 405C of
21 the Open Meetings Act, D.C. Official Code Section 2-
22 575(c), I move that the Board of Zoning Adjustment
23 hold closed meetings on Monday, October 2nd, October
24 16th, October 23rd, and Tuesday, October 10th. These
25 closed meetings start at 3:00 p.m. and are held for

1 the purpose of obtaining legal advice from our
2 counsel, and deliberating upon but not voting on the
3 cases scheduled to be publicly heard or decided by the
4 board on the day after each such closed meeting.

5 Those cases are identified on the board's
6 public decision meeting and hearing agendas for
7 October 4th, October 11th, October 18th, and October
8 25th. A closed meeting for these purposes is
9 permitted by Section 405(b)(4) and (b)(13) of the act.

10 Is there a second?

11 MR. HART: Second.

12 CHAIRPERSON HILL: The motion has been made
13 and seconded. Will the secretary please take a roll
14 call vote on the motion?

15 MS. ROSE: When I call your name please
16 respond with a yes or a no.

17 [Roll call vote taken.]

18 MS. ROSE: Mr. Hill.

19 CHAIRPERSON HILL: Yes.

20 MS. ROSE: Ms. White.

21 MS. WHITE: Yes.

22 MS. ROSE: Mr. Hart.

23 MR. HART: Yes.

24 MS. ROSE: Mr. Hood.

25 MR. HOOD: Yes.

1 MS. ROSE: The motion carries on a vote of
2 four to zero to hold the closed meetings.

3 CHAIRPERSON HILL: Thank you. I request that
4 the Office of Zoning provide notice of these closed
5 meetings in accordance with the act.

6 MS. ROSE: Thank you.

7 CHAIRPERSON HILL: Is there any further items
8 for the board today?

9 No? Okay. Then we stand adjourned. Thank
10 you, everyone.

11 [Whereupon, at 2:40 p.m., the public hearing
12 and meeting were adjourned.]

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CERTIFICATE OF TRANSCRIPTIONIST

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