

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

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WEDNESDAY, NOVEMBER 15, 2017

The Regular Public Meeting convened in the Jerrily R. Kress Memorial Hearing Room, Suite 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 9:30 a.m., Frederick Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK HILL, Chair
CARLTON HART, Vice Chair
LESYLLEÉ M. WHITE, Board Member

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY HOOD, Chairman
PETER MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

CHRISTOPHER COHEN, ESQ.

The transcript constitutes the minutes from the Public Meeting held on November 15, 2017.

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

9:48 a.m.

CHAIRMAN HILL: All right. The hearing will please come to order. Good morning, ladies and gentlemen. We're located in the Jerrily R. Kress Memorial Hearing Room at 441 4th Street, N.W. This is the November 15th public hearing of the Board of Zoning Adjustment to the District of Columbia.

My name is Fred Hill, Chairperson. Joining me today is Carlton Hart, Vice Chairperson; Lesylee White, Board Member; and representing the Zoning Commission on the meeting cases is Peter May, followed by Anthony Hood who will be joining us for the hearing cases.

Copies of today's hearing agenda are available to you and located on the wall next to the door. Please be advised that this proceeding is being recorded by a court reporter and is also webcast live. Accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room.

When presenting information to the Board, please turn on and speak into the microphone, first stating your name and home address. When you're finished speaking, please turn your microphone off so that your microphone is no longer picking up sound or background noise. All persons planning to testify either in favor or in opposition must have raised

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1 their hand and been sworn in by the Secretary. Also, each
2 witness must fill out two witness cards. These cards are
3 located on the table near the door and on the witness table.

4 Upon coming forward to the Board, please give both
5 witness cards to the reporter sitting at the table at my
6 right.

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

13 The order of procedures for special exceptions,
14 variances, and appeals is also listed in the bin as you walk
15 in the door. The record shall be closed at the conclusion
16 of each case, except for any material specifically requested
17 by the Board. The Board and the staff will specify at the
18 end of the hearing exactly what is expected and the date when
19 the persons must submit the evidence to the Office of Zoning.
20 After the record is closed, no other information shall be
21 accepted by the Board.

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

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

8 The decision of the Board in cases must be based
9 exclusively on the record. So to avoid any appearance to the
10 contrary, the Board requests that persons present not engage
11 the members of the Board in conversation. Please turn off
12 all beepers and cell phones at this time so not as to disrupt
13 the proceeding.

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

21 Mr. Secretary, do we have any preliminary matters?

22 MR. MOY: Good morning, Mr. Chairman and members
23 of the Board. We do, but staff would suggest that we take
24 those preliminary matters on a case-by-case basis.

25 Other than that, I'd like to, for the record,

1 clarify today's docket. We have five case applications that
2 have been administratively rescheduled to December 6th, 2017.
3 These cases are Application Numbers 19621 of Richard Hilton;
4 19622 of Mark Rivetti; 19624 of Kerameddine Dris, D-R-I-S;
5 19633 of VI, or V-I, 3629 T Street, LLC; and 19634 of
6 Jonathan and Kate Grabill. So these five cases rescheduled
7 to December 6th, 2017.

8 We also have two other cases that have been
9 postponed and rescheduled. Application Number 19618 of
10 Gillette Wing rescheduled to December 13th, 2017 and Appeal
11 Number 19550 of ANC 6C rescheduled to January 24th, 2018.
12 And that's it from the staff, Mr. Chairman.

13 CHAIRMAN HILL: Okay, great. Thank you, Mr. Moy.
14 If anyone is here wishing to testify, if you wouldn't mind
15 standing and taking the oath administered by the Secretary
16 to my left.

17 MR. MOY: Good morning. Do you solemnly swear or
18 affirm that the testimony you're about to present in this
19 proceeding is the truth, the whole truth, and nothing but the
20 truth? Ladies and gentlemen, you may consider yourselves
21 under oath.

22 (The witnesses were sworn in.)

23 CHAIRMAN HILL: Thank you, Mr. Moy. So just to
24 let everyone know, sorry we got started a little late. There
25 was some issues with some traffic, and so I just wanted to

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1 let everyone know, as far as what we're going to do in terms
2 of the order, for both the meeting agenda, as was the hearing
3 agenda, we are going to follow what is in the bin, so there's
4 no adjustment to those agendas. So you can follow through
5 with that. I think it's going to be a pretty long day today,
6 so there you go.

7 I guess, Mr. Moy, if you want to start with our
8 first meeting case.

9 MR. MOY: Thank you, Mr. Chairman. I'm assuming
10 that it's one of the two with Peter May, who's participating.
11 So that first decision case would be Application Number 19560
12 of Adam Ross and Peng Wu. This is an application that was
13 captioned and advertised for special exception relief under
14 Subtitle E, Section 5201 from the rear yard requirements
15 Subtitle E, Section 205.4, which would construct a two-story
16 rear addition to an existing one-family dwelling, RF1
17 District at premises 1739 Harvard Street, N.W., Square 2588,
18 Lot 160.

19 As the Court will recall, this was convened a
20 public hearing on October 4th and scheduled for decision.
21 Let's see. Additional supplemental information in the record
22 with filings from the applicant, as well as responses by the
23 party opposition, and those are in the record file, Mr.
24 Chairman.

25 CHAIRMAN HILL: Mr. Moy, I'm sorry, I was trying

1 to get my paperwork together. Did you say there was, there
2 wasn't a preliminary matter with this, correct?

3 MR. MOY: Not with this one, sir.

4 CHAIRMAN HILL: Okay.

5 MR. MOY: That I know of.

6 CHAIRMAN HILL: Okay. That you know of yet. Is
7 the Board ready to deliberate? Okay, all right. So I can
8 start. I guess, you know, I went back, there was party
9 status in opposition. There was lots of opposition to this
10 project. There was a neighbor that did testify in support
11 of the application.

12 So it was very contentious, and I guess I struggle
13 with these particular cases because, you know, in terms of
14 going beyond the 10 feet by right. And when I say I struggle
15 with them, it's that, you know, again, everything is done by
16 a case-by-case basis and, yet, sometimes, you know, we look
17 at the criteria, and the Office of Planning, for example,
18 might be in agreement that the criteria is met, you know, for
19 a special exception that is going even, you know, 10 feet,
20 15 feet beyond the 10 feet that you're allowed to do by
21 right. So I continued to kind of go back and look at the
22 standards in terms of how we are to apply their regulations
23 and determine whether or not this can or can't or shouldn't
24 be approved.

25 And so, again, sometimes, you know, the Office of

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1 Planning, in their opinion, it goes, it could be 10 feet
2 beyond, 15 feet beyond the 10 feet, and it still meets the
3 criteria, whereas this was a project that they went back a
4 few feet past the 10 feet. And so what I was kind of taking
5 a look at was, again, what the difference would be between
6 the by right and what the difference is with what the
7 applicant is trying to propose by going a couple of feet
8 beyond the 10 feet.

9 And then I went back again and looked at the
10 regulations and it was like, you know, light and air
11 available to neighboring properties shall not be unduly
12 affected, privacy and use of enjoyment in neighboring
13 properties shall not be unduly affected, nor compromised,
14 shall not be substantially visually intruding upon the
15 character and scale of the houses, and, you know, the rest
16 of the criteria. Again, what it continues to constantly come
17 down to is the determination of unduly affected, right? You
18 know, what is unduly affected? And one person's opinion,
19 obviously, the next door neighbor or if those people are in
20 opposition to it, it could be, you know, a foot beyond the
21 10 feet.

22 So it's really kind of determined to us on a case-
23 by-case basis as to what we think, given the information that
24 we're given from the Office of Planning, you know, the ANC,
25 and also reports that we might get from DDOT. The ANC was

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1 in denial of this application, unanimously in denial. And,
2 yet, the Office of Planning gave their analysis that this met
3 the criteria for the special exception.

4 So, again, I looked at the report and see how much
5 it would affect the property that is the neighbor's,
6 basically, the next door neighbors. And after going back and
7 forth with kind of my thoughts, I guess, you know, I agreed
8 with the Office of Planning's analysis that I didn't think
9 that the project unduly compromises the neighbors. I thought
10 that, you know, the 10 feet, if you go another couple of
11 feet, two or three feet, I didn't see it was necessarily
12 unduly more, you know -- as I speak bad English --
13 compromised. And so I actually then, I just, you know, after
14 getting past that, I was even thinking that the design of the
15 home was pretty moderate. I mean, they had, like, even on
16 the master, there's not even a master bathroom in the --
17 like, they're trying or had been trying to do what they could
18 do to accommodate the needs of their family and, at the same
19 time, not create something that is even more affected of the
20 neighbors.

21 I'm really, I mean, again, it was contentious.
22 There was a lot of testimony we took. The neighbors, this
23 particular applicant, you know, it seems like they didn't
24 even know if they were going to be able to stay in the
25 neighborhood after this contentious case, and I guess I would

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1 just like to also speak to my thoughts in terms of, you know,
2 the applicant is trying to do what the applicant thinks they
3 can do under the regulations to accommodate the needs of
4 their family, and so it's not their fault if they can do this
5 or not. Like, we're the ones that, we, this process, is the
6 process that determines whether or not that is something that
7 should be approved.

8 So I say all that that, you know, I hope the
9 neighbors would understand that they're just trying to do
10 something for the benefit of their family, and this is
11 something that is allowed or there's a process that one goes
12 through and, depending upon what the rest of my colleagues
13 think, you know, I, at least, am in favor of this project.

14 So that's where I am. I do have some, I am a
15 little confused. Depending upon where we get with this, I'd
16 be looking for some help from the architects in terms of,
17 like, what plans we actually are looking at because I got a
18 little confused as to what plans we were or weren't
19 approving.

20 But I'm going to wait for others here to speak and
21 let me know where we sit. So whoever would like to go next.

22 MEMBER WHITE: I'll just add my non-architect
23 comments to it, and then I'll be interested in hearing what
24 our two architects have to say, Mr. Hart and Mr. May. But
25 I have similar opinions as Mr. Hill. This is a very unique

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1 property near the zoo. It's a very unique architectural type
2 of structure, and the neighbors appear to be very cohesive
3 in terms of the type of changes they would be onboard with
4 seeing with these particular types of properties.

5 I mean, they're asking for a special exception,
6 so the standards are high, not as high as a variance type of
7 request. They're looking to construct a two-story rear yard
8 addition to an existing one-family dwelling in an RF-1 zone
9 located at 1739 Harvard Street.

10 But, again, like Chairman Hill, I did closely
11 review the record and the post-hearing submissions, including
12 the updated plans that were submitted, the updated elevations
13 that were submitted, as well as the updated shadow studies.
14 I was concerned that there was lack of ANC support for the
15 particular project. They essentially denied it, as Mr. Hill
16 said, five to zero, because they felt as though the neighbors
17 had, the neighbors would be adversely impacted by this rear
18 addition, and I could see that there would be some impact.
19 I'm still struggling with whether or not, you know, the
20 extent of the impact, and I know that the applicant made some
21 revisions in terms of pushing back on how far they're going
22 out on the rear in order to be more accommodating towards the
23 neighbors.

24 So, you know, looking at the standards and the
25 criteria, I am in favor of the particular relief that they're

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1 seeking. But, if possible, I would like to see what the
2 architects feel about the revised updated plans because I
3 think they're less obtrusive, as opposed to the original
4 plans that were submitted.

5 CHAIRMAN HILL: Thank you, Ms. White. The
6 architects?

7 MEMBER HART: Yes. I appreciate the comments of
8 my colleagues. Looking at the case and the documents that
9 have been filed since our hearing, I do appreciate the
10 applicants' willingness to go back to 11 feet on the second
11 floor or third floor, if you want to call it that, and back
12 to 13 feet. I think that's helpful.

13 For the design, I thought that they had, as my
14 colleagues did, thought that they had met the criteria for
15 special exception relief, particularly looking at the shadow
16 studies that were submitted and understanding and
17 appreciative of the information on them in terms of showing
18 what the by right or differentiating what the by right and
19 the proposal would, the impacts or the shadows from both of
20 those two options would be on the neighboring properties.
21 I did not think that it was a, I thought that the difference
22 between the by right or matter of right and the proposal in
23 terms of the shadow impacts I thought were very close to one
24 another. I did not think that they were, that was a large,
25 an unduly impactful on the neighbors.

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1 I, again, believe that my colleagues have
2 expressed their understanding and support for the application
3 because it met the criteria that was set forth in the zoning
4 regulations. I don't have much to say about it other than
5 that, and, again, I think I would be voting in support of the
6 application, as well.

7 COMMISSIONER MAY: Thank you. So I pretty much
8 agree with everything that's been said so far. I also
9 appreciate the application that the applicants changed to
10 pull back the addition to 11 feet on the top floor and 13
11 feet on the ground floor at the rear.

12 I think that it is important to understand that
13 the intention of the zoning regulations when it comes to this
14 limitation on building additions in the rear yard was
15 intended to not to clamp down completely on the prospect of
16 doing additions like these that are proposed but to avoid
17 some of the circumstances that we were seeing on a regular
18 basis where there was a very deep yard and people, as a
19 matter of right, were building 30-foot additions on the back.
20 It was much less about, you know, the 11, 12, 13-foot
21 addition than it was about the 30-foot ones. And in this
22 circumstance, given the amount of rear yard there is, they,
23 theoretically, could go back 30 feet and still have a 20-foot
24 rear yard. I think that was the major concern.

25 And I think that, when we evaluate things like

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1 this, you know, the understanding of undue impact is not
2 limited to, well, is this going to, is there going to be a
3 significant difference between 10 feet and 13 feet in terms
4 of the shadows that are cast on the abutting property?
5 There's a lot more to do with it than that. I mean, part of
6 it has to do with the architectural integrity of the row
7 itself, but part of it also has to do with, you know, what's
8 the remaining depth. And we still wind up with yards that
9 are, you know, 40 - 50-feet deep in this circumstance. I
10 mean, that includes what's set aside for parking, but, you
11 know, you can park in your rear yard.

12 So I'm comfortable with this. Again, I appreciate
13 the applicant reduced it to the minimum that they feel is
14 necessary, and I think that's a good move, and it's a move
15 that the abutting neighbor should understand as a gesture to,
16 you know, try to get along and do something that's really the
17 minimum that they need. And so I don't really see a problem
18 with extending, you know, allowing this extension out to 13
19 feet on the ground floor and 11 feet on the top floor, and
20 I think this is, I would agree with what the rest of the
21 Board has stated. So I'm prepared to move forward.

22 CHAIRMAN HILL: Okay, great. Thanks. Really,
23 what I was just a little confused was, again, what we were
24 approving, and I guess we're approving the updated plans.

25 COMMISSIONER MAY: Yes. I mean, it was pretty

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1 clear that they amended their application to reflect the 13
2 and 11-foot additions.

3 CHAIRMAN HILL: Okay, okay. All right. Well,
4 that being the case then, unless there's further discussion,
5 I'm going to make a motion to approve Application Number
6 19560 as read by the Secretary and with the updated plans.

7 COMMISSIONER MAY: Second.

8 CHAIRMAN HILL: Motion made and seconded. All
9 those in favor?

10 (Chorus of ayes.)

11 CHAIRMAN HILL: All those opposed?

12 (No audible response.)

13 CHAIRMAN HILL: The motion passes, Mr. Moy.

14 MR. MOY: The staff would record the vote as four
15 to zero to one. This is on motion of Chairman Hill to
16 approve the application for the relief requested, along with
17 the revised plans. Seconded the motion, Mr. Peter May. Also
18 support, Mr. White, Vice Chair Hart. We have a Board seat
19 vacant. The motion carries.

20 CHAIRMAN HILL: Thank you, Mr. Moy. In full
21 order; is that correct?

22 MR. MOY: Yes. The next case application for
23 decision-making is Application Number 19576 of William
24 Skelton, as captioned and advertised, for a special exception
25 under Subtitle E, Section 5201, from the rear yard

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1 requirements of 205.4. This would construct a two-story rear
2 addition to an existing one-family dwelling in the RF-1 zone.
3 This is at premises 1745 Harvard Street, N.W., Square 2588,
4 Lot 163.

5 Again, this was heard at the public hearing on
6 November 1st, scheduled for decision for today, November
7 15th, and there were filings on the record from the applicant
8 requested by the Board for supplemental information and
9 responses from parties that had a deadline of yesterday,
10 November 14th.

11 As to the responses, Mr. Chairman, I do have a
12 quick preliminary matter in that the response from the party
13 opposition, Jeremy Kadden, K-A-D-D-E-N, he properly filed
14 under Exhibit 74, but there's a second filing under Exhibit
15 75 which appears to be the same letter minus the two bullets
16 that are in Mr. Kadden's filing. Other than that, the rest
17 of the content of the letter appears to be the same. The
18 only difference is that the signatories include seven or
19 eight other names. So I'm asking the Board whether or not
20 you want to allow that into the record or not.

21 CHAIRMAN HILL: Okay. I mean, has the Board had
22 a chance to look at the letters? I didn't see a real
23 difference with that second letter, and, since it wasn't one
24 of the parties in opposition there, I didn't think it was
25 necessary to include it in the record. Does anyone have any

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1 other thoughts to that? Okay.

2 Then, Mr. Moy, we're not going to allow that into
3 the record.

4 MR. MOY: All right. Thank you, sir.

5 CHAIRMAN HILL: All right. Other than that, is
6 the Board ready to deliberate? Okay. Well, for the record,
7 since this is a separate case again, it seems that I continue
8 to be in the same place, which is that we come back to this
9 whole issue of unduly affected. And this, again, the Office
10 of Planning had provided a report in their analysis that this
11 met the criteria that was, you know, unduly affected. And
12 then the ANC, again, it's the same street as the previous
13 case, they were opposed to this.

14 There was party status in opposition. Again, lots
15 of opposition to the case. There was, it was very similar
16 in that there was a neighbor in support. And even the
17 neighbor in support I thought was, I guess, and Commissioner
18 May is here and he spoke to this earlier, that how the Zoning
19 Commission came up with this ability, this flexibility that
20 it's not an exact science. I mean, again, there's not a
21 number that you can go back X number of feet beyond the 10
22 feet. You, again, continue to get referred back to the
23 criteria which is in the regulations on the special
24 exception, which, again, goes to the light and air and the
25 privacy, the visual character, again, things that don't have

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1 an exact number value to them or it being more of a
2 discussion from the Board as to whether or not the
3 application is meeting the criteria, which is that, you know,
4 is it unduly affecting the light and air and also, you know,
5 the other criteria in terms of the character of the
6 neighborhood.

7 I think that in this case I thought that, I,
8 again, went back to the regulations and looked and then
9 determined my opinion of the light and air and the other
10 criteria, and I was again in agreement with the Office of
11 Planning concerning this application. I thought that what
12 also -- I was supposed to turn that off, right? Okay, all
13 right.

14 So, again, with this case, I guess what I found,
15 I suppose, interesting about it was that there was already
16 something on the first floor that was 13 feet and the
17 applicant seemed to and even the people in opposition seemed
18 to desire something that looked better than what is existing
19 there now. So I didn't think that, if it was there now, it
20 wasn't necessarily going to unduly affect at least that first
21 floor any differently if they'd been living with this the
22 whole time.

23 So then you're kind of going back to the second
24 floor and whether -- you know, again, the way I was looking
25 at it, and I appreciate that it's not necessarily exact. I

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1 mean, you look at the whole of the project and the
2 application as to whether or not it is affecting the, you
3 know, what is the effect of that project, meaning the
4 difference between the by right and the additional three feet
5 or so, it's still something that I do kind of look at because
6 that's just the way that I was going through my analysis of
7 it. And so, you know, if they were able to go, you know,
8 something is already there 13 feet on the first floor, they
9 go up to 10 feet back on the second floor, I didn't see
10 really the unduly affected nature of the additional three
11 feet. I do, however, continue to empathize and understand
12 that the neighbors don't want this, and it comes down to,
13 again, what the Board thought or what I thought in terms of
14 the analysis for how the criteria is being met.

15 So I would, again, be in agreement with the Office
16 of Planning and the analysis that they provided as to how
17 this should be approved in terms of the special exception.
18 And the more and more we see these, the more and more, again,
19 I kind of understand how we are to analyze them. And I know
20 it's on a case-by-case, but, once again, as Commissioner May
21 had mentioned in the previous one, the depth of the yards and
22 what, you know, the Zoning Commission was trying to fix when
23 this, when people are going all the way back to filling out
24 the deep lots of these types of applications.

25 So that's my analysis, and I would be in support

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1 of this application and look to my colleagues.

2 MEMBER WHITE: I'll add my, I guess the architects
3 have already weighed in on it, but I know they're going to
4 weigh in on this one, as well. But my analysis is basically,
5 you know, looking at the criteria and, again, you know, for
6 the record, I did review the record and the updated filings.
7 There are some similarities between this case and the
8 previous case obviously, but, as Mr. Hill has mentioned, we
9 have to look at each case on a case-by-case basis. And I
10 think Mr. May's comments regarding the intent of the zoning
11 regulations was very helpful, his analysis with respect to,
12 you know, why it was done, you know. The intent was not to
13 prevent all development, but it was kind of, you know, the
14 intent was to prevent these massive developments from
15 happening in the rear yard, as opposed to preventing people
16 from doing, I guess, satisfactory development in order to
17 accommodate their family needs.

18 So with this particular case, I did look at,
19 obviously, Office of Planning's recommendations. But, you
20 know, as a Board member, I always look at what the neighbors
21 want. I think you have to pay attention to the comments of
22 the ANC and the neighborhood in terms of what's going to be
23 acceptable for them, but, at the same time, you have to look
24 at the criteria, as well.

25 I think, with this particular case, I think with

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1 the first floor I did not see a problem with the 13 feet
2 development, as well as the second floor. I think that what
3 the applicant has proposed is reasonable, which is the 10-
4 foot, as well.

5 So I would be supportive of it. I think, you
6 know, both parties have tried to be somewhat accommodating
7 because this is a very unique property and they're trying to,
8 you know, maintain the character and the flavor of that
9 block. So, Mr. Chairman, I would be in support of this, as
10 well.

11 CHAIRMAN HILL: Same order?

12 MEMBER HART: Sure. Mr. Chairman, I think I'd,
13 after looking at the information that has been provided after
14 our hearing, I also would be in support of the application.
15 I do understand that this, of course, is a different
16 application than the first application that we looked at.
17 This is going back 13 feet on the ground floor and on the
18 second floor. There is an existing addition, I guess, that's
19 on the ground floor. I just feel that they have met the
20 criteria that is set forth in the zoning regulations
21 regarding the project, excuse me, regarding the relief that's
22 requested. And I would concur with your comments that you've
23 made so far and, again, I'd be in support of that, as well.

24 COMMISSIONER MAY: So I'll try to be quick.
25 Again, the intention of the zoning regulations was more about

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1 the really large additions that we were starting to see in
2 the rear of homes. And so putting some sort of control on
3 that, allowing people, 10 feet matter of right and then some,
4 and then a path forward if they want to go beyond that. And
5 the question is, you know, when you go a little bit beyond
6 that, does that cause an undue impact? And so the question
7 in this particular case is three more feet on the second
8 floor, on the top floor, is that really an undue impact
9 compared with 10 feet? Well, the 10 feet, I think, is
10 probably the hardest thing to get used to, so going to 13,
11 I don't see that that's unduly impactful.

12 I also think it's, you know, I appreciate the fact
13 that the applicant did submit a version of the plan with only
14 a 10-foot addition on the second floor, top floor. And I
15 think it's helpful to see those things, but I think that we
16 don't want people to have the impression that the purpose of
17 doing that is to, you know, demonstrate that it's possible
18 to have an addition like that; and, therefore, if it's
19 possible, then the relief isn't needed. That's not what
20 happens with the special exception, and I think the question
21 is whether it's, I mean, it does still come back to impacts,
22 and I think that -- I mean, it is a bit illustrative to
23 understand what would happen if you only had 10 feet, but
24 that's not really the determining factor.

25 So I agree with all my colleagues' comments on

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1 this and am prepared to vote in favor.

2 MEMBER WHITE: Mr. Chairman, can we just clarify,
3 you know, what we're recommending on the second floor just
4 so that I'm clear?

5 CHAIRMAN HILL: Yes, I think the plans, they're
6 going to match the first floor to the second floor.

7 MEMBER WHITE: Okay.

8 CHAIRMAN HILL: And, Commissioner May, I'm glad
9 that you're here to help again explain a little bit more as
10 to how this kind of came around. And so how far back and
11 filling out the lot, that was really what the Zoning
12 Commission was trying to do in terms of having, you know,
13 there was a way that, as a special exception, one could go
14 farther back. And so, you know, I think that, again, in this
15 case, that the applicant has met those conditions.

16 I would just kind of want to mention to the
17 applicant that I guess there was some, in one of the letters
18 from the opposition, there was some discussion about a fence
19 that they were going to take down and try to, you know, and
20 this isn't a condition, I'm more just asking if the applicant
21 could do their best to help with the fence matching the rest
22 of the fence issue. If they could somehow help with that,
23 that would be something that I would like to point out.

24 So unless there's anything else to add, I'm going
25 to go ahead and make a motion to approve Application Number

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1 19576 as read by the Secretary.

2 COMMISSIONER MAY: Second.

3 CHAIRMAN HILL: Motion has been made and seconded.

4 All those in favor?

5 (Chorus of ayes.)

6 CHAIRMAN HILL: All those opposed?

7 (No audible response.)

8 CHAIRMAN HILL: The motion passes, Mr. Moy.

9 MR. MOY: Staff would record the vote as four to
10 zero to one the motion of Chairman Hill to approve the
11 application for the relief being requested. Seconded the
12 motion, Mr. Peter May. Also in support, Ms. White and Vice
13 Chair Hart. We have a Board seat vacant. The motion
14 carries.

15 CHAIRMAN HILL: Okay, great. Full order, Mr. Moy?

16 MR. MOY: Yes, sir.

17 CHAIRMAN HILL: And we're going to take just a
18 one-minute break while we switch out commissioners.

19 (Whereupon, the above-entitled matter went off the
20 record at 10:26 a.m. and went back on the record at 10:32
21 a.m.)

22 CHAIRMAN HILL: All right, Mr. Moy.

23 MR. MOY: Thank you, Mr. Chairman. All right.

24 So the last case for decision-making is Application Number
25 18997A of Chris and Paolo Lobb, L-O-B-B. This is a request

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1 for a modification of consequence to the plans approved in
2 BZA Order Number 18997 in order to remove a previously-
3 approved covered walkway and to retain a rear porch that was
4 to be demolished on a one-family dwelling, R-4 Zone, at
5 premises 148 11th Street, S.E., Square 989, Lot 26.

6 CHAIRMAN HILL: Okay, great. Is the Board ready
7 to deliberate? Okay. So I can start. You know, I read
8 through the Office of Planning's report, and the original
9 order granted special exception relief as to lot occupancy
10 under the 58 zoning regs. Under the current regulations, the
11 covered walkway is no longer necessary to ensure that the
12 proposed accessory building qualifies as a rear addition
13 because it now complies as a separate dwelling unit as a
14 matter of right. So the existing rear porch was to be
15 demolished to allow for the lot coverage added by the covered
16 walkway connection.

17 So I remember when these things were kind of
18 coming through a little bit more in terms of, like,
19 meaningful connections. And so I didn't have an issue with
20 approving this and was in agreement with the Office of
21 Planning. Does my colleagues have any other comments?

22 MEMBER WHITE: Yes, Mr. Chairman, I agree with the
23 request, as well. And there doesn't appear to be any
24 opposition to this. And as you indicated, the original order
25 granted special exception relief as to lot occupancy under

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1 the 58 regs. And under the current regulations, the covered
2 walkway is no longer necessary to ensure that the proposed
3 accessory building qualifies as a rear addition.

4 So I would be supportive for the relief for
5 modification of consequence to the BZA Order 18999.

6 CHAIRMAN HILL: Okay. Does anyone have anything
7 else to add? All right. I'm going to go ahead and make a
8 motion then to approve Application Number 18997A as read by
9 the Secretary and ask for a second.

10 MEMBER WHITE: Second.

11 CHAIRMAN HILL: Motion made and seconded. All
12 those in favor?

13 (Chorus of ayes.)

14 CHAIRMAN HILL: All those opposed?

15 (No audible response.)

16 CHAIRMAN HILL: Motion passes, Mr. Moy.

17 MR. MOY: Staff would record the vote as four to
18 zero to one, this on the motion of Chairman Hill to approve
19 or grant the request for a modification. Seconded the
20 motion, Ms. White. Also in support, Mr. Anthony Hood and Vice
21 Chair Hart. With a Board seat vacant, the motion carries.

22 CHAIRMAN HILL: Summary order, Mr. Moy?

23 MR. MOY: Thank you, sir.

24 (Whereupon, the above-entitled matter went off the
25 record at 10:35 a.m.)

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C E R T I F I C A T E

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In the matter of: Public Meeting

Before: DC BZA

Date: 11-15-17

Place: Washington, DC

was duly recorded and accurately transcribed under
my direction; further, that said transcript is a
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