

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

DECEMBER 13, 2017

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBERS PRESENT:

PETER MAY, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

SHERRY GLAZER, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN
BRANDICE ELLIOTT
STEVE COCHRAN
ANNE FOTHERGILL
MAXINE BROWN-ROBERTS
CRYSTAL MYERS
MATT JESICK

The transcript constitutes the minutes from the
Public Hearing held on December 13, 2017.

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

10:44 a.m.

CHAIRPERSON HILL: Hi, Mr. Moy. And just so everybody knows here, we are following the agenda that was in the bin. I don't know if you mentioned that or not. Okay, great. By the way, you can do this all day long if you want. It's fine with me. You did such a lovely job.

VICE CHAIR HART: Thank you, Mr. Chair.

CHAIRPERSON HILL: Whenever you're ready, Mr. Moy.

SECRETARY MOY: Thank you, Mr. Chair. All right. So this would be -- parties to the table. This is a continued hearing to Application 19608 of Jonathan Meyer and Phillip Lawrence captioned and advertised for a variance from the minimum court requirements of Subtitle F, Section 202.1, and from the non-conforming structural requirements, Subtitle C, Section 202.2.

This would construct the side addition to an existing one family dwelling and convert it to a nine unit apartment house, RA-2 Zone, Premises 1310 Vermont Avenue Northwest, Square 242, Lots 86 and 59. Okay. I'll end there, Mr. Chair.

CHAIRPERSON HILL: Okay, great. Thank you, Mr. Moy. I'll let everybody get situated. Hi. If you'd please introduce yourselves?

MR. SULLIVAN: Thank you, Mr. Chair and members

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1 of the Board. My name is Martin Sullivan of the law firm of
2 Sullivan and Barros on behalf of the Applicant.

3 MS. WILSON: Alexandra Wilson from the law firm
4 of Sullivan and Barros on behalf of the Applicant.

5 MR. FOSTER: And my name is Jim Foster from
6 Arcadia Design.

7 MR. CASEY: John Casey, the developer.

8 CHAIRPERSON HILL: Okay, great. So Mr. Sullivan,
9 there were some things that we had asked for to be included,
10 I guess, if you could go over what you had added since the
11 last hearing.

12 And then also the -- I guess, kind of public
13 outreach was another thing that we were kind of interested
14 in talking about. And also, in particular, you know, working
15 with the Office of Planning, unless something has changed,
16 is still in denial.

17 Well, anyway, that's okay. We'll get to it. I'm
18 a little -- I'm not saying it's still in denial.

19 So, Mr. Sullivan, do you want to start there?

20 MR. SULLIVAN: Thank you, Mr. Chair. We have an
21 additional PowerPoint explaining some of the additional
22 analysis. And the Applicant has also done a lot of work with
23 the neighboring building that's adjacent to where this
24 addition would be.

25 So the requested relief, of course, it's an area

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1 variance. And we continue to contend that it was a mistake.
2 That it's not a special exception because it should be
3 included as a special exception, but that hasn't been
4 corrected yet. And I am just proposing to enclose a portion
5 of a side yard.

6 If you see on Page 6 of the PowerPoint, it shows
7 the proposed addition. It's a small addition. And it's just
8 closing off the side yard and creating the court there.

9 I'll let the architect talk about this in more
10 detail, but what the addition allows the Applicant to do is
11 to reduce the potential existence of the rear addition and
12 allows it to provide more parking spaces, two things that,
13 my understanding is, that the adjacent neighbor was very
14 concerned about.

15 So I'll turn it over to the architect. And the
16 Applicant is here as well to talk about his discussions with
17 the church, the neighboring property owner.

18 MR. FOSTER: Hi. I'm not 100 percent sure of what
19 you want to talk about, but I guess I would first point out
20 that --

21 COMMISSIONER MAY: You need to state your name for
22 the record.

23 MR. FOSTER: Oh, I'm sorry. Jim Foster from
24 Arcadia Design. One of the things that came up during the
25 last time that we were here was that we didn't show 1308

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1 Vermont, which is the house to the south, which is what the
2 church owns. And it wasn't clear about how far back it
3 projected beyond the rear of 1310.

4 So we reflect that now in the site plan, showing
5 you that it's about 12 feet deeper than the rear L wing of
6 our project. So I believe that the proposed addition,
7 filling in the L, is essentially inconsequential to how it
8 affects the rear addition of their building.

9 What we also didn't show the last time were that
10 because it was somewhat in process was the parking
11 arrangement we were intending to use, which is to put some
12 additional parking between the back of the building and the
13 alley and tucked in a little bit behind the carriage house.

14 This allows us to have eight parking spaces for
15 our project by utilizing a little bit of an easement by using
16 part of the lot next door and then having a driveway out to
17 the alley. So that reflects the fact that we're -- and one
18 of the issues for the church was for us to have as much
19 parking as possible.

20 I guess, then, I would take your attention to the
21 next slide, which is Number 7, which, I think, reflects one
22 of the things you guys asked for, which was to show if we
23 didn't do the addition as an infill in the existing L, how
24 would it look if it extended off the back of the existing
25 rear wing.

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1 And that drawing basically shows that. It's
2 problematic on multiple levels for us because we can't -- the
3 existing space is 7 feet and our side yard is required to be
4 8. So it has to be even narrowed than the existing L. It
5 has to then extend back beyond the back of the existing wing.

6 In order to make everything work, that pretty much
7 shows how far back it extends. I know it's probably less of
8 an issue for you, but it definitely complicates our interior
9 floor plan because now instead of a square it's a more
10 elongated form that forces us to have more circulation.

11 It does raise the issue, however, of cutting into
12 us adding probably up to four of the additional spaces we
13 were thinking of adding will be eliminated. So I can maybe
14 get two spaces in there. But instead of eight, I'd probably
15 wind up having four spaces of parking, which is half of what
16 we'd like.

17 Also, it came up, I think someone on the Board
18 mentioned it last time, but we might also have an issue as
19 a non-conforming side yard to the north of this wing between
20 the new property line we're creating if we extend the
21 addition back. So hopefully that reflects what our option
22 would be if we extended it back.

23 And I guess I would only point out also that then
24 there is a picture at the very end on Page 9 that really
25 shows -- I think one of the comments from OP which stuck in

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1 my head was that this is an existing space, this 2 foot 3
2 inch space, which has two-story angular bay windows that
3 project into it that, at their outer point, are only 6 inches
4 away from the party wall of 1308. And they are two stories
5 tall up starting on the second floor.

6 You essentially can't see anything through this
7 space from the street. I live a couple blocks away and have
8 walked by this building a thousand times and never even
9 noticed the bay windows before.

10 But one of the comments from OP was that it's
11 going to block the view through to the back of the building
12 through this space. And I just want to point out that I
13 don't think there's much view, really, there to block. And
14 I don't think you can barely see through it anyway that the
15 addition filling in the L in the back is going to have any
16 effect on the view of this property from the street.

17 I will reiterate one last time that historic, we
18 went to them with several numerous offers to do the rear
19 addition by closing in the side yard. They said we couldn't.
20 Every single option we came up with was rejected.

21 Also Steve Cox specifically asked us when we did
22 our addition, that's our existing proposal, which is Page 6,
23 is that we originally had the back of our building straight
24 all the way across and now as you can see in that site plan,
25 it jogs a little bit.

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1 And one of the reason that jog is there is because
2 Steve asked us to keep the rear facade of the existing L
3 visible in the scheme and not either remove it in its
4 entirety and envelope it or encase it in a new building so
5 that's why it's exposed.

6 In extending the rear addition back, it
7 complicates the fact that our addition, which we're allowed
8 by Code to have as a three-story addition, is going to be an
9 extension of that, but also be taller than that and then kind
10 of overlap it at the top. And I wonder about aesthetically
11 how that's going to look as well.

12 So I feel like our existing proposed addition,
13 filling in the L, serves the historic purpose as well as
14 letting the rear wing be revealed in its existing form
15 without negatively affecting it.

16 And I think, unless someone has more questions for
17 me or --

18 VICE CHAIR HART: Actually, I do have a question
19 about the parking itself. You say there are eight spaces?

20 MR. FOSTER: We are trying to get eight -- no,
21 it's questionable whether every single one is a legal parking
22 space.

23 VICE CHAIR HART: Well, I mean, I'm just looking
24 at because the drive aisle, I guess, if you want to call it
25 the driveway.

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1 MR. FOSTER: Right.

2 VICE CHAIR HART: Their driveway is off the alley.
3 But there's also the driveway that's going to Parking Spaces
4 P3 through P8, correct? That looks really narrow. I mean,
5 I don't know how you turn a car unless you're doing an eight
6 point turn to be able to get into those parking spaces.

7 So I'm not sure if that's actually going to be
8 feasible to do as many spaces as you would like, which may
9 complicate things for you in terms of, you know, providing
10 as you said, as much parking as you would like. So if you
11 could talk about that that would be helpful.

12 MR. FOSTER: Well, we're not required technically
13 to have any parking because it's historic. But we could
14 easily have two legal spaces directly off the alley and call
15 it a day.

16 Any of the additional spaces we have on the
17 interior lot could be compact spaces because they wouldn't
18 be required to be permit size 9 x 19 spaces.

19 Yes, I agree that P5 and P8 have a little bit of
20 a tight turning radius there because they are the closest to
21 the back. But I think the other four could actually be
22 legal size spaces with a legal aisle.

23 We recognize that they are compact spaces, and
24 it's a little bit tight, but at least gives us the
25 opportunity to have parking on the property.

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1 CHAIRPERSON HILL: Okay. I'm interested to see
2 where this goes. But, Mr. Sullivan, if you could review for
3 me a little bit, you know, how you're reaching the three
4 prongs for the variance test. That's where I'm struggling
5 with it.

6 I mean, you can put up, Mr. Foster, that other
7 slide, I guess, kind of what is the buy right. Right, that's
8 what -- right, exactly.

9 I mean, so I'm kind of interested a little bit,
10 Mr. Sullivan, again, how you're getting to meeting the
11 variance test.

12 And then you had mentioned in the previous
13 testimony that it was possibly going to become a special
14 exception, but you didn't know when. And so do you know more
15 about that? I'm trying to --

16 MR. SULLIVAN: I don't. And nothing has been
17 proposed yet. I raised the issue six months ago with the
18 Office of Planning. And they responded that it did seem like
19 an error that it's not included in the list of special
20 exceptions. I don't know why they would pull out a court and
21 non-conforming for this zone when it's there for every other
22 zone.

23 And, in fact, there has been a case approved in
24 the RA Zone a special exception of a non-conforming issue
25 assuming that that -- either assuming that was corrected or

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1 just overlooking that it was never included.

2 But I don't have any information that it's going
3 to be corrected.

4 CHAIRPERSON HILL: Okay. So how do you meet the
5 variance test?

6 MR. SULLIVAN: So everything that the architect
7 talked about pretty much discusses the unnecessarily
8 burdensome aspects of not doing the proposed addition and
9 having to do the addition under Option B, which would be an
10 8 foot setback.

11 It causes a problem with the possible non-
12 conforming side yard on the other side. And it causes a
13 problem with internal space in the internal configuration --
14 and the architect can explain that in more detail -- because
15 then the proposed addition to do what we can do under FAR and
16 lot occupancy requirements causes the addition to go back
17 further and just the loss of parking spaces.

18 And I'll note, on the proposed option, the parking
19 spaces drawn there are quite large. The length of P6, 7 and
20 8 is 28 feet. They don't need to be that large, which it
21 should show more turning room there --

22 CHAIRPERSON HILL: Okay.

23 MR. SULLIVAN: -- for those spaces, a lot more
24 actually. So the internal configuration and the loss of
25 potential parking is -- those items by themselves are

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1 unnecessarily burdensome to the Applicant --

2 CHAIRPERSON HILL: Okay.

3 MR. SULLIVAN: -- particularly in light of the
4 degree of relief being requested.

5 CHAIRPERSON HILL: Okay.

6 COMMISSIONER MAY: Mr. Chairman.

7 CHAIRPERSON HILL: Sure.

8 COMMISSIONER MAY: I need to correct something.
9 P6, 7 and 8 are not 28 feet. That's a dimension string
10 that's incorrect. Because the total width of 1310 with the
11 proposed addition is 23 feet, total width of that. So I mean
12 it might be --

13 CHAIRPERSON HILL: You need to be speak into the
14 microphone.

15 COMMISSIONER MAY: It might be a 16 foot parking
16 space or 18 foot.

17 MR. FOSTER: I think that 28 foot dimension line,
18 when we added the parking to this drawing I think it was
19 overlaid.

20 COMMISSIONER MAY: Yes.

21 MR. FOSTER: And the dimension line goes under it,
22 really. So, I think you're right though. I think it's 16
23 plus 7 to the center. So it's about 23 feet to the center
24 of the aisle. So I think that space is 18 or 19 feet.

25 COMMISSIONER MAY: Yes.

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1 MR. FOSTER: But it's not 28 feet, correct.

2

3 COMMISSIONER MAY: Right. But, you know,
4 honestly, I don't think it really matters that much. I mean,
5 you know, as much as the parking might be a mitigation from
6 the perspective of the church, it's not required.

7 So I'm not going to waste a lot of energy in
8 making sure that they have the best possible parking. And
9 frankly, I think that jamming that whole yard with parking
10 is a terrible idea because, you know, there's much greater
11 benefit to not having that much parking in the back yard.

12 CHAIRPERSON HILL: Okay.

13 COMMISSIONER MAY: So I just don't think it's
14 germane to the zoning case either --

15 CHAIRPERSON HILL: Okay.

16 COMMISSIONER MAY: -- the relief requested.

17 CHAIRPERSON HILL: I'm just juggling with the
18 variance. Okay.

19 COMMISSIONER MAY: Maybe I can help you with that,
20 too.

21 CHAIRPERSON HILL: Yes, that would be great.

22 COMMISSIONER MAY: So, I mean, I think that the
23 notion that trying to do a rear addition that goes straight
24 back actually does contort the interior plan. It makes it
25 much harder to make good bedrooms and good use of the space.

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1 You know, I think it's arguable that you would not
2 -- I mean, they're arguing that Option B would require a
3 variance relief. Well, the width of the proposed addition
4 to the rear doesn't have to be 15 feet. It could be 12 feet,
5 and you'd have a conforming side yard there.

6 I don't know what other relief is related to that.
7 I don't accept the notion that Option B, that no matter what
8 you do, you're going to have to have relief because there are
9 certainly schemes that they could do that would not require
10 relief.

11 But, again, back to the original case. You know,
12 they cannot fill in that 2 foot 3 side yard because of HPRB.
13 And if they could do that otherwise, they would not need any
14 relief, right?

15 The fact that they are, you know, what they are
16 proposing here is demonstrably less complicated and produces
17 a better building if they do the addition on the side rather
18 than doing the addition to the rear.

19 And I think that that's -- you know, I'm a
20 stickler for the rules. You might have noticed that. But
21 I can very clearly understand the case here that it is a lot
22 harder to work with an addition off the back. And it just
23 winds up with a bad building in comparison.

24 CHAIRPERSON HILL: Okay. Mr. Sullivan, do you
25 have anything to add before I turn to the Office of Planning?

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1 MR. SULLIVAN: No. Just, well, we have had
2 discussions with the neighbor.

3 CHAIRPERSON HILL: Yes. The church.

4 MR. SULLIVAN: And I believe they're here --

5 CHAIRPERSON HILL: We'll see how it goes, yes.

6 MR. SULLIVAN: -- if they would like to speak.

7 CHAIRPERSON HILL: Okay. That's all right. So,
8 okay, can we hear from the Office of Planning?

9 MR. MORDFIN: Good morning. I'm Stephen Mordfin.
10 And the Office of Planning still recommends denial of this
11 application.

12 By closing in that entire court, you do --
13 although maybe there's not that much light that would go from
14 the west, the alley side, toward the street, Vermont Avenue,
15 what you're also doing is you're cutting off any light to
16 those bay windows that are in that court. Not that there are
17 probably a whole lot of light there, but you're almost
18 walling off that second bay window.

19 As for the Applicant saying that it doesn't work
20 if they provide the 8 foot setback, the Applicant has not
21 requested variance relief to provide a 7 foot setback in this
22 case and demonstrated any hardship why or weakness why that
23 would not -- you know, why they couldn't provide the 7 feet
24 and what's unique about this property.

25 So Office of Planning has not reviewed it for that

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1 to see if that would be a viable variance. So Office of
2 Planning continues to recommend denial.

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

5 MEMBER WHITE: My only question is was there an
6 alternative recommendation that you could support that was
7 presented to you?

8 MR. MORDFIN: That only application that was
9 presented to us is the one that's on the screen now, which
10 is to convert the existing side yard into an open court.

11 MEMBER WHITE: The proposed option.

12 MR. MORDFIN: The proposed -- yes.

13 MEMBER WHITE: Is that Option B?

14 MR. MORDFIN: Yes. Not the option that they
15 showed up there. But that was not presented as an
16 application. We've not reviewed it for that -- we've not
17 analyzed the 7 foot side yard setback.

18 CHAIRPERSON HILL: Okay, great. Anybody else from
19 the Office of Planning? No? Okay. Mr. Sullivan, do you
20 have anything for the Office of Planning?

21 MR. SULLIVAN: No, thank you.

22 CHAIRPERSON HILL: Okay. So we did, at the last
23 hearing, ask about if there was anyone here from the ANC or
24 anyone wishing to speak in support or opposition.

25 I do see there are people here that were here

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1 before. So we are going to go ahead and do what we normally
2 don't necessarily do, which is continue to ask for people
3 from the public at a continued hearing.

4 So I will ask is there anyone here from the ANC
5 wishing to speak? Is there anyone here wishing to speak in
6 support? Is there anyone here wishing to speak in
7 opposition? Okay. Please come forward.

8 If you could please introduce yourselves?

9 MR. ROBINSON: Bernie Robinson, 1332 Vermont
10 Avenue Northwest.

11 MR. DENNIS: Ron Dennis, Elder and Director of
12 Communications for Mount Olivet Lutheran Church at 1306.
13 And, of course, we have the property at 1308 Vermont.

14 CHAIRPERSON HILL: Okay. So before you guys
15 start, so in terms of both of you had spoken last time. And,
16 I guess, Mr. Robinson, actually I went back and watched the
17 video.

18 So I have some thoughts on timeliness, if that's
19 where we're going to go at some point. But primarily, I was
20 going to ask you to kind of hold your concerns to the new
21 information that's been put forward by the Applicant and not
22 go back to the old information.

23 But still, you have three minutes. So, and I know
24 that it was a little bit unclear in terms of how the posting
25 went. And I have a little bit more thoughts on that so we

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1 can talk about that as well.

2 But I'm going to go ahead and put three minutes
3 on the clock. And so, Mr. Robinson, you can start whenever
4 you like.

5 MR. ROBINSON: Okay. I believe at the last
6 hearing Mr. May specifically asked for additional context of
7 this project. And I listed in my third memorandum that I
8 submitted last evening areas of concern about not showing the
9 existing conditions and the context of the property.

10 The main one probably is the existence of the two
11 carriage houses at the back of the property or the adjacent
12 property. And I think we discussed at the last hearing that
13 1314 is under contract with the same developer. And they're
14 wiggling the property line in the back to accommodate FAR for
15 one building and probably another building.

16 And those two carriage houses up until recently
17 were fully occupied, two separate units at least, maybe more,
18 by two occupants, I believe, in each unit.

19 So the point was made about the parking,
20 obstructing that whole back yard. It will certainly bear on
21 the desirability of those living units. And it's also
22 additional density of this area at that corner of the block.

23 Nobody has mentioned the elimination of the two
24 parking spaces from Vermont Avenue, which actually can be
25 three spaces if they're used carefully.

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1 And I would like to point out that the variance
2 would permit excavation of the property at 1310 adjacent to
3 1308. And based on my personal experience of improper
4 excavation at 1330 Vermont, adjacent to my home at 1332
5 Vermont, I am confident that the church is going to sustain
6 damage and that repairs will not be made.

7 So the other things I've mentioned, the Option B
8 that was presented, white cubes, which, you know,
9 subconsciously turn people off and don't really present the
10 option well. The request for the more context, all the
11 developer did was submit the previous final plan submission,
12 except this time they left out Page 9 for some reason.

13 So I don't think that the developer's team has
14 complied at all with the request from the Board of Zoning
15 Appeals for more information and for a discussion of the
16 options that would be available.

17 CHAIRPERSON HILL: Okay. Does the Board have any
18 questions for the witness? Okay.

19 COMMISSIONER MAY: I didn't understand the
20 reference to eliminating parking on Vermont Avenue. What was
21 that?

22 MR. ROBINSON: If you look at the final plan that
23 is submitted, I believe the existing conditions show there
24 is a driveway and two very, very large spaces. I have
25 photographs of generally three vehicles being parked off

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1 street.

2 COMMISSIONER MAY: So it's off-street parking?

3 MR. ROBINSON: Correct.

4 COMMISSIONER MAY: That you access from Vermont
5 Avenue?

6 MR. ROBINSON: Correct.

7 COMMISSIONER MAY: But they're going to lose the
8 curb cut there, right? So they'll gain at least one space
9 on the avenue, right?

10 MR. ROBINSON: Possibly, yes. I don't believe
11 there's a fire hydrant located there.

12 COMMISSIONER MAY: There wouldn't be a fire
13 hydrant where there's a curb cut. I'm sure about that.

14 MR. ROBINSON: No, adjacent to the curb cut.

15 COMMISSIONER MAY: Oh.

16 MR. ROBINSON: You can't park within 15 feet, I
17 believe of a --

18 COMMISSIONER MAY: No, not 15. Much less.

19 MR. ROBINSON: Okay.

20 COMMISSIONER MAY: But, all right, point taken
21 though. I wanted to clarify what you were talking about with
22 those other spaces.

23 And I appreciate that you're pointing out that
24 they didn't give us more of the context as we had requested.
25 But we do have the drawing that indicates where 1308 is,

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1 which is, I think, the biggest concern, right, with how far
2 back 1308 went.

3 CHAIRPERSON HILL: Okay. Okay. Mr. Robinson,
4 just for my clarification again, so I know that the last time
5 you were here there was a lot of discussion about timeliness
6 and posting.

7 And so beyond that one, it seems that the concern
8 of yours is density and the parking. And then also, you
9 know, the experience that you've had, your own experience,
10 with the developer in previous developments. But those are
11 your objections, is that clear? Is that --

12 MR. ROBINSON: If I could expand on the notice
13 requirement, if you look at one of the exhibits that the
14 developer had submitted initially and then amended the next
15 day, the signage that is posted is not in compliance as far
16 as I can tell with the regulations requiring posting on the
17 property front.

18 CHAIRPERSON HILL: Sure.

19 MR. ROBINSON: And I had my eyes examined a couple
20 weeks ago, and 20/20. And you can't see the sign. You can't
21 read it. It's illegible from the sidewalk. And there's a
22 fence there. There's a gate there.

23 CHAIRPERSON HILL: No, I understand. And just,
24 we've kind of -- you had made a comment also that we had kind
25 of gone through this a little quickly.

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1 MR. ROBINSON: Right.

2 CHAIRPERSON HILL: And so I just wanted to again
3 clarify, I went back and looked at the regulations and how
4 we got to the original date, which was October 25, so, yes,
5 October 25, I think, in that, you know, we, and not me, but
6 someone, has to post in the DC Register and has to send out
7 the letters to people within 200 feet, which was done.

8 MR. ROBINSON: Right.

9 CHAIRPERSON HILL: And then anyone on the 25th
10 that was interested would have paid attention on the 25th to
11 know that we then postponed it to the 1st.

12 We have heard as the Board before in terms of the
13 posting, it is difficult. I mean, I looked at the
14 photographs. Thank you for providing it. It's inside.

15 MR. ROBINSON: Right.

16 CHAIRPERSON HILL: And so it's up against the
17 window. There's a glare. And unfortunately, I kind of get
18 a little bit torn -- I shouldn't say torn, like, but there's
19 not a whole lot they can also do. I mean, I guess they could
20 have posted it on the sidewalk up against that fence. And
21 then it would have been exposed to the elements. And so --

22 MR. ROBINSON: With all due respect, Mr. Hill, I
23 can give you the sign that my attorneys, Shaw Pittman,
24 themselves posted on the property front of 1332 when we were
25 asking for a BZA variance for our property.

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1 And the signs are heavy cardboard. They're
2 intended to be outside on the exterior. My attorneys, Shaw
3 Pittman, at the time, would not even allow me to do it
4 myself. They had a guy who ran around town doing that. And
5 he put out two stakes in the front yard, which could have
6 easily been done at 1310.

7 CHAIRPERSON HILL: Okay.

8 MR. ROBINSON: And put the sign on it. And then
9 you take a picture of it every couple days to make sure it
10 stays up there.

11 CHAIRPERSON HILL: Okay. No, I understand. And
12 I guess what -- I just wanted to -- I didn't want to feel as
13 though we were rushing through this this time.

14 Like, we did take a look at the regulations. The
15 Office of the Attorney General did as well as Mr. Moy. And
16 they are in compliance. I mean, I agree that maybe there has
17 to be some other way to perhaps say that you have to post the
18 sign. I don't know. But we did -- you can disagree with me.

19 MR. ROBINSON: It seems pretty clear language to
20 me. It says post it at the base of the building and, those
21 three letters, A-N-D, that says at the front of the property.

22 CHAIRPERSON HILL: Okay.

23 MR. ROBINSON: And I raised this issue before.
24 The developer, if he had been of good conscience and --

25 CHAIRPERSON HILL: No, no. Please don't do that.

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1 Please don't say good conscience. So anyway, I'm going to --

2 MR. ROBINSON: He could have posted the sign after
3 the last hearing.

4 CHAIRPERSON HILL: Okay. Okay. I just so --
5 anyway, we're still in disagreement. But I'm just saying,
6 we did go back and look and so, okay.

7 Sir, could you please introduce -- you did
8 introduce yourself, correct?

9 MR. DENNIS: Yes.

10 CHAIRPERSON HILL: Mr. Dennis? Okay. I'm going
11 to go ahead and put three minutes up there as well. You can
12 start whenever you like.

13 MR. DENNIS: Okay, thank you. Well, today, to
14 hear or see this proposal about eight spaces is just
15 preposterous. That area is too small.

16 And we have a deck between the church and our
17 house that we use for activities. To have eight cars with
18 films and just that whole environment thing in an alley and
19 directly behind that is an Asian restaurant, who parks two
20 cars that do their delivery.

21 So you're talking 10 cars within that given amount
22 of time adjacent to our property where we use our deck with
23 our Sunday school kids and all. And so that's objectable.

24 I would rather see just the two parking lots. And
25 I don't want it to be said or used that the church is so, got

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1 to have more parking, you know, to give something less than
2 first class to that project. To put eight cars back there
3 is just insane. Absolutely insane.

4 And you have two carriage houses there that abut
5 the alley and the back of their property. And you're going
6 to put eight cars in there with a driveway. And I've heard
7 the concern about the site of the driveway.

8 So, no, we don't want eight spaces back there.
9 Two will be sufficient. And we will continue to, you know,
10 just that everybody in the neighborhood to have a parking
11 problem. But I don't want that in the plans and it said that
12 the church wants more parking if that's what they're
13 offering.

14 Also, I talked to Mr. Casey Sunday at church, and
15 he never mentioned anything about what he's presenting today,
16 Sunday, three days ago. He never said, oh, we got new this
17 or we going to do that. It was like he was talking about an
18 enhancement package for our support, but that was all he was
19 talking about. Nothing about what the new plans would
20 consist of.

21 So to hear eight spaces today. And this is why
22 we're concerned about the excavation with the building
23 because of the age. And, of course, says there's the
24 insurance, and we'll do this and we'll do that. But, I mean,
25 the monument is sinking every year. The Jefferson Memorial

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1 is sinking every year.

2 That's not -- and I said on the record last time
3 where we suffered from -- where Popeye's on 14th Street
4 turned in condos. And the back hoe backed into our church
5 wall. And we went eight months with plastic, construction
6 plastic, on that wall. And we couldn't use our church hall.

7 Then we had a sink hole in front of the gate to
8 the department area. And the government had three agencies
9 get involved. And they had to wait because they were going
10 to pave the entire alley instead of just our piece there.

11 So we are very concerned about construction in any
12 manner near our property because of past what we consider
13 injuries and being at the fault of developers.

14 And we don't have a letter of support. To see
15 that written in there that there was -- what they said that
16 they was expecting. Well, we never said anything we was
17 giving them a letter of support.

18 So that kind of -- there's an ill feeling, an
19 uneasy feeling, that if you come up with eight parking
20 spaces. You didn't say it, anything on Sunday. And then,
21 you know, it's just not a good thing. Thank you.

22 CHAIRPERSON HILL: Okay, great. Does the Board
23 have any questions for the witness?

24 COMMISSIONER MAY: No. But I'd like to make a
25 correction. Washington Monument and Jefferson Memorial are

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1 not sinking every year. Now, there has been a very, very
2 slight reduction in the elevation of the Washington Monument,
3 but it's a fraction of an inch over the entire life of it.

4 And the Jefferson Memorial itself is not moving.
5 The plaza around it has had a problem with sinking, and we
6 fixed most of that. But the tile base in itself is, you
7 know, that whole area is built on fill, and it does subside.
8 But the monument itself is on very stable foundation. The
9 memorial itself is on very stable foundation and is not
10 sinking.

11 CHAIRPERSON HILL: As a member of the National
12 Capitol Planning Commission is that -- oh, National Park
13 Service. I'm sorry, Park Service. I apologize. I
14 understand why you're so --

15 COMMISSIONER MAY: Well, the NCPC is also very
16 concerned about that, I'm sure, as well.

17 CHAIRPERSON HILL: Right. I see you clarified,
18 the Park Service, the Park Service.

19 VICE CHAIR HART: Mr. Chair, I have a question for
20 Mr. Dennis. Mr. Dennis, are you the person that has been
21 kind of the point of contact at the church?

22 MR. DENNIS: One of the persons, one of the
23 persons. The congregational president, Mr. Emmett Aldrich,
24 is the person. But I am also involved, and I'm on the
25 committee for this project. And I am a point of contact.

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1 VICE CHAIR HART: Okay. No, that's fine. I
2 wasn't sure if we were -- if what we were hearing was that
3 the Applicant had had conversations with somebody or they had
4 conversations with --

5 MR. DENNIS: No, I'm involved in all the
6 conversations that took place.

7 VICE CHAIR HART: I appreciate that clarification.

8 MR. DENNIS: Thank you, sir.

9 CHAIRPERSON HILL: Anyone else? All right. Thank
10 you, gentlemen, very much. Okay. Mr. Sullivan, in terms of
11 some of the issues that the witnesses have brought up and,
12 I guess, Mr. Casey, actually, there's a -- some of the things
13 at least, and I can let obviously the other Board members
14 speak for themselves, is kind of like somehow you're going
15 to, I suppose, make the church, in particular, more
16 comfortable with how you're going to operate your project if
17 this is actually were to go through, which actually I don't
18 know what it is right now because, again, the variance test
19 is a high test. But you might have that here based upon some
20 of the discussion. I'm not sure.

21 But as far as, like, and I don't know in the past
22 what you might think you might be able to offer. In past
23 cases, people have offered things in terms of, like,
24 construction management plans or tying your insurance -- you
25 know, they can be a part of as a provider -- I forget what

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1 the terminology -- included about that.

2 And then if you could speak, I guess, to, you
3 know, right, the excavation, somehow tying the church in some
4 particular way to the insurance or a construction management
5 plan. Those are my initial questions to you.

6 MR. CASEY: Okay. Yes, I am -- I've met with the
7 church a number of times. And this last meeting this past
8 week, we've been corresponding back and forth for the way we
9 were going to protect the property and taking measures of
10 ensuring them that, you know, through insurance policies that
11 if there's any damage done to the property that they would
12 be covered and taken care of not only with Mr. Dennis but
13 another gentleman here from the church and many other
14 members.

15 We had had pretty in-depth conversations regarding
16 their concerns. One of the things I'd like to touch on is
17 the massing of the building.

18 CHAIRPERSON HILL: Forgive me, Mr. Casey. I'm
19 sorry. I'm just trying -- you can go ahead and say it. But,
20 I guess what I also want to hear is, like, there's always
21 talk about everything. And everybody is going to talk about
22 everything, and everybody is going to be nice.

23 You know, what is it that there's some teeth to
24 in terms of, you know, this church and excavation and, you
25 know, so you can speak to that first before you talk about

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1 the massing.

2 MR. CASEY: No, we put it in writing. I mean,
3 there has been correspondence going back and forth between
4 the church and myself with regards to roofing aspects of my
5 building tying into their building, the excavation of the
6 foundation, getting a -- I've offered to pay for structural
7 engineers at my expense for them to hire any structural
8 engineer they want to be a third-party to inspect this work
9 during the course of construction. This is all in writing.

10 I've offered to get a home inspection group to
11 inspect their property pre-construction and post-construction
12 to verify if there's any problems with their property after
13 the property is completed.

14 Insurance policies, I've asked them if they want
15 to get their structural engineer at my expense, any engineer
16 they want to pick, to oversee reviewing the structural plans.
17 I've --

18 CHAIRPERSON HILL: Okay. That's okay. So, Mr.
19 Sullivan, is this kind of all things will be put into a
20 construction management plan?

21 MR. SULLIVAN: It seems like that's where it was
22 headed, and I think we were under the understanding that it
23 was progressing to that.

24 CHAIRPERSON HILL: Okay. And you'll forgive
25 because I forget what it is -- and I know you've done it

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1 before, I think. But how do you tie in the insurance to the
2 neighbor?

3 MR. CASEY: Add them as an additional insured on
4 the insurance policy.

5 CHAIRPERSON HILL: Okay. So that will be part of
6 the -- that's what you were thinking about.

7 MR. CASEY: And that's what's in writing.

8 CHAIRPERSON HILL: Okay. That's what's in
9 writing. Which exhibit is this that it's in writing?

10 MR. CASEY: This is just correspondence that has
11 been going back and forth between the church and us.

12 CHAIRPERSON HILL: Okay.

13 MR. CASEY: And the church has responded with they
14 want to meet again to review the items and details that our
15 agreement is going back and forth on.

16 CHAIRPERSON HILL: Okay. Okay. All right. Does
17 the Board have any other questions? Because I'd be
18 interested in seeing the construction management plan, like,
19 before I could vote on this.

20 Like, you know, well, I can hear what other Board
21 members are talking about or leaning towards in terms of
22 their thoughts. And I'm not going to go make you go through
23 a bunch of exercises if I don't think there's a chance this
24 might happen, right?

25 So you could provide a construction management

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1 plan that outlines all of this that we're talking about in
2 terms of the insurance and the church basically?

3 MR. CASEY: Yes.

4 CHAIRPERSON HILL: Okay. All right. Does the
5 Board have any -- I did that already. Does the Board have
6 any thoughts?

7 MEMBER WHITE: I think having the construction
8 management plan is very critical. Because when you were
9 talking about this, I was looking through the record to see
10 whether or not any of that information was submitted. And
11 so you confirmed that that still hasn't been submitted. But
12 I think that would be helpful.

13 But, obviously, what would also be helpful is just
14 to make sure that we're meeting the criteria under the
15 variance test because you still have a situation where OP is
16 not on board. And not to say we never disagree with OP, but
17 we do give their feedback pretty great weight.

18 So I'd like to, you know, be able to really get
19 behind the prongs that you're meeting within the variance
20 test. And I'm not sure I'm there right now.

21 And the fact that there are some substantive
22 issues going on with the church and with Mr. Robinson, I'm
23 still not quite there in terms of being supportive of the
24 application, but I'm open.

25 CHAIRPERSON HILL: Okay. All right. So then if

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1 you could provide that to us, the construction management
2 plan, with details of how, you know, and I'm interested in
3 whatever, just speak to excavation also if you could.

4 And then, let's see, then the other question, I
5 guess, I kind of have. Like, I mean, I'm a little confused
6 as far as parking goes. Like, they don't want that many
7 parking spaces.

8 I mean, like, where are you getting -- and then
9 you're saying that you might not necessarily be able to fit
10 that many in there. I mean, I'm a little -- what do you
11 think is going to happen? You can push the microphone
12 button.

13 MR. FOSTER: All I can suggest is that my client
14 mentioned to me that the church -- a conversation with
15 someone at the church -- I'm not sure who the specific person
16 was -- had expressed that they would like to see as much
17 parking as possible.

18 We had done a schematic plan that you're looking
19 at on this plan. But we hadn't finalized it yet, which was
20 why it wasn't on the site plan you reviewed last time because
21 we weren't sure if we were going to have that much parking
22 because of how much green space it takes away from the back
23 yard.

24 So I did this plan to show what we think we could
25 conceivably physically fit in the space if we were to provide

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1 as much parking as possible.

2 We're not committed to providing the eight spaces.
3 I was mostly just trying to show how many spaces we thought
4 we could fit --

5 (Simultaneous speaking).

6 CHAIRPERSON HILL: Okay. So I mean as in -- just
7 before you talk, Mr. Casey, what I would be interested in
8 seeing again is just whatever you think you might really want
9 to do --

10 MR. CASEY: Okay.

11 CHAIRPERSON HILL: -- given that Mr. May is
12 talking about how it's not necessarily even conducive. You
13 know, the green space would be nice back there.

14 And then just -- and then, so I'm a little
15 confused also in terms of, like, what the church is trying
16 to -- their comments, I mean. It's rare that I hear anybody
17 trying to get less parking. So, but, Mr. Casey?

18 MR. CASEY: You know, the issue -- I'm not sure
19 if Mr. Dennis was maybe in the room when we were talking
20 about parking, but some of the members had concerns about the
21 building going further back taking up space where parking
22 could be. But it was something that went back and forth.
23 But I look forward to the opportunity to going back with the
24 church and discussing the parking.

25 CHAIRPERSON HILL: Okay. Mr. Dennis, could you

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1 come forward just for a moment? Could you speak to that
2 comment?

3 MR. DENNIS: Yes, I can. I was in the room. And
4 you know I was in the room, Mr. Casey. Boy, anyway, the
5 church said, you know, what about parking? That was a
6 concern as it is for any infill or anything new. And he
7 said, oh, okay, well, we'll see what we can do. That was it.
8 But no, that was not a contingent for support for more
9 parking.

10 CHAIRPERSON HILL: Okay. Okay. That's all right.

11 MR. DENNIS: Yes. So we said, what about parking?

12 CHAIRPERSON HILL: Okay.

13 MR. DENNIS: And, you know, he said, oh, okay.

14 CHAIRPERSON HILL: Okay.

15 MR. DENNIS: Let's see what we can do. But no,
16 we don't want eight parking spaces back there.

17 CHAIRPERSON HILL: Okay.

18 MR. DENNIS: Thank you, sir.

19 CHAIRPERSON HILL: All right, Mr. Dennis. So Mr.
20 Casey, there's only two things. I mean, anybody else can
21 speak up what they want. I'd like to see the construction
22 management plan. Something that convinces the board that,
23 you know -- and I'm not here to kind of figure out who said
24 what and how your reputation is this or that, right?

25 So, but we can read things. And so if you submit

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1 something that makes sense, that has some teeth to it that
2 we understand how the property is protected, that would be
3 helpful for us.

4 And then also, if you could provide something that
5 shows what you really think might happen back there, okay,
6 that would be helpful. And those are the only two items that
7 I want to see.

8 And I know that Commissioner May will not be with
9 us here next week, but we could put this out to a decision
10 next week. And Commissioner, you could provide your input
11 via --

12 COMMISSIONER MAY: From my vacation.

13 CHAIRPERSON HILL: From your vacation, from your
14 vacation. Actually, can you call in? That would be great.
15 I would love to have you call in. Or I'd love to hear some
16 of your thoughts on --

17 (Simultaneous speaking.)

18 COMMISSIONER MAY: If we have materials submitted
19 in advance, I could review that and get you an absentee vote
20 next week if that's what your choice is.

21 CHAIRPERSON HILL: Okay. When do you think you
22 can get those to us?

23 MR. SULLIVAN: We can have it by Friday if we can
24 get a decision -- or if we can continue this next week,
25 excuse me. If we can --

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1 CHAIRPERSON HILL: We're not continuing. I'm
2 sorry.

3 MR. SULLIVAN: If you can schedule it for next
4 week, then we'll --

5 CHAIRPERSON HILL: Okay. So we're going to get
6 what we need for Friday.

7 MR. SULLIVAN: There's only one other thing I'd
8 like to be able to submit is maybe, if necessary, I have not
9 read Mr. Robinson's late filings.

10 CHAIRPERSON HILL: Okay.

11 MR. SULLIVAN: I'd like to have the opportunity
12 to respond to that seeing as he's not even a party and he's
13 not even within 200 feet and he's filing things at the last
14 minute. So that would be at the same time.

15 CHAIRPERSON HILL: Okay.

16 MR. SULLIVAN: And it wouldn't be extensive. I
17 just wanted to reserve the right to be able to respond.

18 CHAIRPERSON HILL: Okay. I'm just thinking about
19 this for a second. So then there's the seven days in terms
20 of -- and OAG here, I love the seven days. The OAG is
21 smiling.

22 So the seven days start on Friday. If people
23 submit something on Friday, then we have to keep the record
24 open for seven days, but that's just for the ANC or parties,
25 correct?

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1 So it would be open for the ANC to submit, right?
2 But I still need the seven days. And the ANC was in support
3 of this so we could waive the seven days. Okay. But not --
4 you don't think it's prudent?

5 MS. GLAZER: Just because the ANC is in support,
6 it doesn't mean they don't have a right to comment on the
7 submission.

8 CHAIRPERSON HILL: Okay. All right. Okay, so,
9 right. So this is where you're stuck, okay, with the
10 holidays, right? Because the 20th is our last hearing and
11 then even I go on vacation. And so, let's see, yes, I don't
12 know what to say. You're in January now.

13 COMMISSIONER MAY: He's not going to break ground.

14 CHAIRPERSON HILL: Right. Okay. Well, I know,
15 I always try to ask and see if there's something in terms of
16 finances or -- I mean, we spent a lot of time on this one so
17 which we should.

18 So go ahead and submit the information by Friday.
19 The ANC will have an opportunity to respond back to the
20 information submitted in a week, okay? With one week, I
21 guess, right? And it's just the ANC, correct, that would
22 have an opportunity to submit a response, okay, to the
23 information on Friday? Is that correct? I'm looking at the
24 OAG or somebody.

25 MR. SULLIVAN: I'm sorry. Excuse me, Mr. Chair.

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1 If we're not going to be scheduled for next week, then I
2 would request we have a little more time to make sure that
3 we --

4 CHAIRPERSON HILL: Okay.

5 MR. SULLIVAN: -- get there.

6 CHAIRPERSON HILL: Okay.

7 MR. SULLIVAN: And get it done right.

8 CHAIRPERSON HILL: I'm still trying to get the
9 seven days. So that's fine.

10 MR. SULLIVAN: Because I assume we're looking
11 towards maybe the first hearing in January is --

12 CHAIRPERSON HILL: I'm looking to Mr. Moy, I
13 guess. But I'm just -- and just again for OAG, I just again
14 want to be clear. It's always just the parties or the ANC
15 that have an opportunity to respond?

16 MS. GLAZER: That's correct.

17 CHAIRPERSON HILL: Okay, all right.

18 MS. GLAZER: Mr. Chair.

19 CHAIRPERSON HILL: Pardon?

20 MS. GLAZER: The ANC is an automatic party.

21 CHAIRPERSON HILL: Right, right.

22 MEMBER WHITE: But it seems like they're going to
23 need a little additional time anyway because they've got to
24 work with the church to finalize that construction management
25 plan.

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1 CHAIRPERSON HILL: Yes, okay, sure.

2 MEMBER WHITE: You know, I think, they can't do
3 this in a vacuum. They're going to have to interact with
4 probably the church and Mr. Robinson.

5 CHAIRPERSON HILL: Okay. Yes, you need to work
6 with the church because you don't need to -- Mr. Robinson
7 doesn't have to sign anything. And the church doesn't
8 actually have to sign anything. I mean, I just need to know,
9 the Board needs to understand -- again, I go back to this,
10 we can read, right? So if it's just some BS that you're
11 putting forward, you know, and I'm sorry, I've now been up
12 here a long time. We'll be able to tell.

13 Okay. So but if you can get the church to sign
14 off on the construction management plan, that would be
15 better, right? So in order to have an opportunity to do
16 that, this is all December now. So, Mr. Sullivan, you're
17 suggesting submitting this information by when?

18 MR. SULLIVAN: If I could have --

19 CHAIRPERSON HILL: Sure, go ahead.

20 MR. SULLIVAN: -- 30 seconds to consult with my
21 client.

22 SECRETARY MOY: While they're doing that, Mr.
23 Chairman, just to let you know the next two hearings in
24 January is the 10th and the 17th.

25 CHAIRPERSON HILL: And how does the docket look?

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1 SECRETARY MOY: It looks good.

2 CHAIRPERSON HILL: Okay. That's great. Wow. I'm
3 shocked. Can we push everything off now then to January?
4 Is Commissioner May here for either one of those?

5 COMMISSIONER MAY: No.

6 CHAIRPERSON HILL: You're not here for either one
7 of those? When are you here next?

8 COMMISSIONER MAY: March. I actually haven't been
9 scheduled yet for January, but I would not be able to be here
10 on the 10th or the 17th.

11 CHAIRPERSON HILL: You could not come in for a
12 decision on the 10th or 17th?

13 COMMISSIONER MAY: I do not believe I can, no.

14 CHAIRPERSON HILL: Okay. You do not believe you
15 can. That's okay, I'm just saying you're not --

16 COMMISSIONER MAY: I'm not entirely the master of
17 my schedule.

18 CHAIRPERSON HILL: Okay. That's all right. I'm
19 just checking whether you were back from vacation. That's
20 what I was trying to get at.

21 COMMISSIONER MAY: I will be back from vacation.

22 CHAIRPERSON HILL: Okay. All right.

23 COMMISSIONER MAY: I can't say anything more than
24 that.

25 CHAIRPERSON HILL: Okay. The 10th and the 17th.

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1 Okay.

2 MR. SULLIVAN: So January 3.

3 CHAIRPERSON HILL: Okay.

4 MR. SULLIVAN: If we're going to be on the 10th.
5 And I think as much time as possible would be good. But
6 January 3 I'm being assured is (simultaneous speaking).

7 CHAIRPERSON HILL: Okay. January 3 you can get
8 us the information we need after talking to the church to try
9 to get the construction management plan agreed to, okay?

10 And, again, Mr. Dennis, you know, the church,
11 we're just trying to have something that gives you some
12 confidence as to how things will move forward. And it would
13 be nice if everybody can try, you know. And I don't know
14 where the communication has been kind of mixed up, but I know
15 that everybody here wants to try. So try to do that.

16 So the 3rd is when you're going to submit and then
17 there will be seven days after the 3rd, which gets me to
18 exactly the 10th.

19 SECRETARY MOY: If the Board is interested in the
20 10th, then they would need to submit by the 2nd of January.

21 MR. SULLIVAN: We can do that.

22 CHAIRPERSON HILL: Okay. All right. So submit
23 by the 2nd. The ANC will have one week to respond. And then
24 we will make a decision on the 10th. And Commissioner, you
25 are welcome to come. I understand. But other than that,

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1 then we'll --

2 COMMISSIONER MAY: I'll try.

3 CHAIRPERSON HILL: Okay. Because otherwise, is
4 there any thoughts you'd like to share with us now?

5 COMMISSIONER MAY: Sure. Well, I mean, are we
6 actually -- I mean have we gotten the closing from the
7 Applicant on this? Because we're going to close the hearing,
8 right, and then go to a meeting next time?

9 CHAIRPERSON HILL: Yes, we're going to close the
10 hearing and go to a meeting next time.

11 COMMISSIONER MAY: So, I mean, if the Applicant
12 is done, and there's no rebuttal or closing, then, yes, I
13 think, there's some things I'd say now.

14 CHAIRPERSON HILL: Then, Mr. Sullivan, would you
15 like to say anything in closing?

16 MR. SULLIVAN: No, and I think that Board member
17 White asked for a little additional information on the
18 variance argument as well. So I think that would probably
19 include some of the things that I would talk about here
20 anyway. I would just like to highlight the --

21 CHAIRPERSON HILL: Actually, now that I do mention
22 that, it actually would, like a one pager or something --

23 MR. SULLIVAN: Right.

24 CHAIRPERSON HILL: -- clarifying how you're
25 meeting the variance, you know, just clarifying the variance

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1 standards because the Office of Planning is against you.
2 Okay?

3 MR. SULLIVAN: Got it. Yes.

4 CHAIRPERSON HILL: Go ahead with your closing.

5 MR. SULLIVAN: So I'll save your time now and
6 include it in that statement, yes.

7 VICE CHAIR HART: Okay. So you're done? You're
8 done?

9 MR. SULLIVAN: Yes.

10 CHAIRPERSON HILL: Okay. All right. So I'm going
11 to go ahead and close the hearing. The hearing is closed.
12 Does the Board have any thoughts that they'd like to share
13 before we go to the --

14 COMMISSIONER MAY: Sure.

15 CHAIRPERSON HILL: Okay.

16 COMMISSIONER MAY: I'd love to.

17 CHAIRPERSON HILL: Thank you.

18 COMMISSIONER MAY: So I think I already spoke a
19 little bit about how I thought this could meet the variance
20 test. But, I mean, let me -- I'll just recap a number of
21 points.

22 First of all, I don't agree with the argument that
23 this would be a special exception if not for an error in the
24 zoning regulations. I mean, whether it's an error or not
25 it's moot. It is what it is, and we still have to meet the

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1 variance test.

2 I also appreciate the Office of Planning's
3 argument on this. And they're taking a pretty strict
4 interpretation of what the regulations require in the
5 circumstance.

6 As I said before, I can see how this can get to
7 meeting the variance test because I do think that it is a
8 burden to try to comply with the regulations and have a
9 reasonable use of the property in this re-development scheme.

10 I would also say that on some of the other things
11 that have been brought up on the issue of notice, I think
12 that the Chairman addressed that pretty well.

13 I do agree that the idea of putting the sign up
14 in the building behind the glass is not good. And I would
15 hope that the Applicant and Mr. Sullivan, you know, learned
16 a little bit from, you know, what came up in this discussion
17 and, if not, I'm sure Mr. Robinson can give you a whole
18 lecture on how best to do posting of the property.

19 No comments from the audience, please.

20 As I said before, I don't think that it's smart
21 to try to park eight cars in the back, not necessarily for
22 the reasons that were stated here by Mr. Dennis. Is it
23 Dennis, is that right, on behalf of the church?

24 But regardless, I'm going to agree with that. I
25 think it's a lot of cars to try to park there. I mean,

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1 putting in something less than that might be a better use of
2 the property.

3 And, again, the parking itself is not a component
4 of the relief. It's an attempt to make an abutting property
5 owner happier with it. I mean, I appreciate their effort in
6 doing that, but it's not a critical mitigation to any relief
7 that's been requested here.

8 Similarly, the construction management agreement
9 is a good thing. And I appreciate the fact that the
10 Applicant is talking to the church about that and wants to
11 make sure that they are comfortable with the construction
12 that will occur.

13 But, again, you know, these are basically, you
14 know, making sure that the building next door is unaffected
15 by construction is a requirement. They have to meet that
16 under the building codes. There are steps they have to take
17 to assure that. And I don't see that as a critical
18 mitigation of the relief that's requested here.

19 So, I mean, I understand sometimes we want to have
20 construction management plans. Certainly, the Zoning
21 Commission wants to see those in certain circumstances when
22 it's called for, but it's not necessarily every case.

23 So, you know, I would be comfortable concluding
24 our discussions today based on those points. But if the
25 Board prefers to wait and see more information, see more

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1 information on the variance test and on some of the other
2 issues with the adjacent property, you know, that's fine.
3 I'm happy enough to defer the decision making until the Board
4 is satisfied with the information that's in the record.

5 CHAIRPERSON HILL: Okay.

6 COMMISSIONER MAY: So that's it.

7 CHAIRPERSON HILL: Okay. Great. Does anybody
8 else want to talk about anything right now because we're all
9 going to be here next time? Okay. All right. That's great.

10 All right. So we will -- you guys don't have --
11 that's it, right? So you guys can watch it on video on the
12 10th unless you're here for something else, okay? Thank you.
13 Thank you all.

14 We're actually taking a two minute break. Thank
15 you.

16 (Whereupon, the above matter went off the record
17 at 11:42 a.m. and resumed at 11:47 a.m.)

18 CHAIRPERSON HILL: All right, Mr. Moy, whenever
19 you'd like.

20 SECRETARY MOY: Thank you, Mr. Chairman. The
21 Board is back in session. And if I can have parties to the
22 table to Application Number 19593 of Edward and Naomi Griffin
23 as amended.

24 This application is captioned and advertised for
25 a special exception under Subtitle E, Section 5201, light

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1 occupancy requirements of Subtitle E, Section 304.1, non-
2 conforming structural requirements, Subtitle C, 202.2.

3 This would enclose a rear third floor deck in an
4 existing one family dwelling, RF-1 Zone, 1226 North Carolina
5 Avenue Northeast, Square 1012, Lot 122.

6 And I believe, Mr. Chair, there is a party status
7 request.

8 CHAIRPERSON HILL: Right, thank you. Let's see.
9 Could you introduce yourselves, please, from my right to
10 left?

11 MS. PITTS: My name is Denise Pitts. P as in
12 Paul, I-T-T-S. I represent Charlene Patton, who is at my
13 left. She is the homeowner of 1230 North Carolina Avenue
14 Northeast.

15 CHAIRPERSON HILL: Okay. You're the party status
16 in opposition, is that correct, or request for opposition?

17 MS. PITTS: Yes. I represent Ms. Patton.

18 CHAIRPERSON HILL: Thank you. Could you introduce
19 yourself, please? You need to push the button.

20 MR. GRIFFIN: Sorry. Edward Griffin of 1226 North
21 Carolina Avenue Northeast.

22 CHAIRPERSON HILL: Okay. And you're the
23 Applicant?

24 MR. GRIFFIN: Yes.

25 CHAIRPERSON HILL: Okay. Mr. Griffin, I didn't

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1 see anything in the record concerning your objection to the
2 party status. Is that correct?

3 MR. GRIFFIN: Yes, I guess, I didn't know I was
4 supposed to file something so.

5 CHAIRPERSON HILL: Okay. That's okay. That's all
6 right so.

7 MR. GRIFFIN: She does live within 200 feet of me
8 though so if that's the criteria --

9 CHAIRPERSON HILL: Right, right. Well, yes, so,
10 but anyway. Okay. So I think there's a time limit, and you
11 missed that time limit so.

12 MR. GRIFFIN: Okay.

13 CHAIRPERSON HILL: So basically you're not
14 opposed. So could you please clarify for the Board why you
15 should be granted party status?

16 MS. PITTS: Absolutely. And prior to beginning
17 my presentation, I'd like to make a correction for the
18 record.

19 On Exhibit 47 that I submitted on behalf of my
20 client submitting notice to the ANC that we were requesting
21 party status in opposition, I indicated that I had emailed
22 the notice to Yahoo.com and only put one O in the Certificate
23 of Service. I went back and double checked, and it was
24 actually the proper email address. The error was only on my
25 Certificate of Service.

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1 CHAIRPERSON HILL: Okay. Thank you.

2 MS. PITTS: In this case, Mrs. Patton lives 17
3 feet to the property line of Mr. Griffin. And the dwelling
4 is, I believe, approximately 21 feet from Mr. Griffin.

5 I believe that -- I'm sorry. You look confused.

6 CHAIRPERSON HILL: I'm listening. I was just
7 doing the math in my head. I was saying 19, 21. I was just
8 seeing where we were.

9 MS. PITTS: So it's from the property -- the
10 property line is 17. The house is 21 feet. And I believe
11 that Mrs. Patton's request for party status is clearly
12 demonstrated that she'll be significantly, distinctively and
13 uniquely affected by the proposed action because of her
14 proximity.

15 Although there is one intervening neighbor between
16 her house -- there's a house between hers and Mr. Griffin's,
17 Mrs. Patton's house juts further into the back than her next
18 door neighbor.

19 CHAIRPERSON HILL: Okay, okay.

20 MS. PITTS: Currently, the area -- I think the
21 significant affect can be most clearly seen in the picture
22 submitted. And I believe it's Exhibit Log Number 46 that
23 shows the view from one of Mrs. Patton's west facing windows.
24 The view as it is currently showing the abandoned deck and
25 what it would look like -- well, sort of what it would look

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1 like.

2 CHAIRPERSON HILL: Okay, okay. I understand. I'm
3 sorry. I'm just going to cut you off because I do know the
4 -- I'm looking at this photo here real quick. Right. Okay.
5 Does the Board have any questions for the Applicant or any
6 other thoughts on the party status?

7 I'm comfortable with the party status being
8 granted and the Applicant, whether you should have filed
9 something or not, was not in opposition. So I'm comfortable
10 granting you party status. So now you'll have party status.

11 Now in addition to that, you've asked for a
12 postponement?

13 MS. PITTS: Yes, sir. Would you like -- may I be
14 heard on the --

15 CHAIRPERSON HILL: Sure. The postponement?

16 MS. PITTS: -- motion for continuance? In this
17 case, my client has still not had a shade study done. We're
18 in negotiations with several different engineers and
19 architects to have that done.

20 Additionally, she hasn't had the opportunity to
21 present information, since I've been retained, to the ANC or
22 to the Capitol Hill Restoration Society. The Capitol Hill
23 Restoration Society has already met and --

24 CHAIRPERSON HILL: For December. Or I don't know
25 when they meet, actually.

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1 MS. PITTS: I believe they meet tomorrow.

2 CHAIRPERSON HILL: Okay.

3 MS. PITTS: But in any case, they've met and
4 considered this case and understood there was no opposition
5 to the application.

6 CHAIRPERSON HILL: Are you going to be at
7 tomorrow's meeting?

8 MS. PITTS: I'm going to try.

9 CHAIRPERSON HILL: Okay.

10 MS. PITTS: But I won't have my shade study
11 completed.

12 CHAIRPERSON HILL: Okay. So how long are you
13 trying to get us to postpone this to?

14 MS. PITTS: To the end of January.

15 CHAIRPERSON HILL: The end of January. Mr.
16 Griffin, do you have any issues with the postponement until
17 the end of January?

18 MR. GRIFFIN: Not really.

19 CHAIRPERSON HILL: Okay. All right. So this did
20 get postponed from 11/1. Mr. Griffin, we'll remember how
21 accommodatable -- accommodatable? Accommodating you've been.

22 MR. GRIFFIN: Thank you. I appreciate that.

23 CHAIRPERSON HILL: You all can try this any time
24 you like. You'd be surprised what comes out of your mouth.

25 Okay. Let's see, so then we're going to postpone

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1 this. You've gotten party status, okay? You understand all
2 that involves.

3 MS. PITTS: Yes, sir.

4 CHAIRPERSON HILL: Okay, great. So then you'll
5 be able to present in the same amount of time as the
6 Applicant and cross-examine and --

7 MS. PITTS: Yes, sir.

8 CHAIRPERSON HILL: Okay, great. So Mr. Moy, we're
9 going to put this on -- what's the end of January one?

10 SECRETARY MOY: I would suggest -- well the end
11 of January would be January 31. But if you want to slide
12 into February, we're looking at February 2.

13 CHAIRPERSON HILL: Okay. Okay. Why do we want
14 to slide into February? Oh, because we wanted to?

15 SECRETARY MOY: I wanted to give them the options.

16 CHAIRPERSON HILL: Okay. I mean, January 31, do
17 you think you can get everything done by the 31st?

18 MS. PITTS: I would hope so.

19 CHAIRPERSON HILL: Okay.

20 MS. PITTS: But having heard Mr. Moy say February
21 2, of course, I would glob onto that date.

22 CHAIRPERSON HILL: Sure. I mean, I think Mr.
23 Griffin has been very accommodating again, accommodatable.
24 And so but I don't know if one more week is going to do
25 anything for you?

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1 MR. GRIFFIN: I would prefer January 31.

2 CHAIRPERSON HILL: Okay. We're going to stick
3 with January 31.

4 MS. PITTS: Okay.

5 CHAIRPERSON HILL: Okay. Mr. Moy, January 31?

6 SECRETARY MOY: Yes, sir.

7 MS. GLAZER: Mr. Chair?

8 CHAIRPERSON HILL: Yes?

9 MS. GLAZER: If you're going to postpone it that
10 long, you want a time for response from the Applicant to any
11 new filings, especially a study.

12 CHAIRPERSON HILL: Again, I'm just trying to
13 think. So filings, I don't understand. What are you
14 suggesting?

15 MS. GLAZER: Generally, the Applicant gets time
16 to review the filings before the hearing is all I'm
17 suggesting.

18 CHAIRPERSON HILL: Okay, sure. Okay. So any
19 filings that you might have or that anybody has let's do it
20 a week before, okay?

21 MR. GRIFFIN: Well, that wouldn't give me time to
22 respond. Perhaps if there's any -- if there's going to be
23 a filing, perhaps they could do it maybe by the 17th, which,
24 I guess, is what they were initially requesting their
25 postponement to?

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1 CHAIRPERSON HILL: Okay. So can you guys get
2 everything into the record by the 17th to give Mr. Griffin
3 enough time?

4 MS. PITTS: Absolutely.

5 CHAIRPERSON HILL: Okay. Okay. All right. So
6 then filings by the 17th. And if OP wants to weigh in on
7 anything that comes forth on the 17th, you're welcome to do
8 so. And then we'll see everybody back here on the 31st.

9 MR. GRIFFIN: My response would be due by the
10 24th?

11 CHAIRPERSON HILL: Well, now I'm going to get a
12 calendar.

13 MR. GRIFFIN: That would be seven days -- I'm just
14 going down the.

15 SECRETARY MOY: It's the 24th, sir. That's
16 correct, yes. That would also include any supplemental from
17 the Office of Planning.

18 CHAIRPERSON HILL: I only have 2017, so I don't
19 know what to tell you.

20 VICE CHAIR HART: It's the 17th. It's fine. The
21 24th is fine. That's the week after the 17th so.

22 CHAIRPERSON HILL: Okay.

23 VICE CHAIR HART: But, Mr. Griffin, and I note
24 that the -- has the ANC actually weighed in on this?

25 MR. GRIFFIN: So the ANC hasn't gotten back to me.

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1 And I've emailed.

2 VICE CHAIR HART: I only suggest that you try to

3 --

4 MR. GRIFFIN: Keep trying to get back with them.

5 VICE CHAIR HART: And that you now have a little
6 bit more time to be able to do that. So it's helpful for us
7 because we take the ANC reports, we use them -- you know, we
8 give them great weight as we do the Office of Planning
9 reports. So it would be helpful to understand where they are
10 on this.

11 MR. GRIFFIN: I understand. I'll keep trying to
12 get in touch with them.

13 VICE CHAIR HART: I understand. Thank you.

14 CHAIRPERSON HILL: And, Mr. Griffin also, I guess,
15 you went from a variance to a special exception?

16 MR. GRIFFIN: That's correct.

17 CHAIRPERSON HILL: So if you could correct the
18 paperwork to reflect that?

19 MR. GRIFFIN: I know I submitted, like, something
20 on November 10. Was that --

21 CHAIRPERSON HILL: Okay.

22 MR. GRIFFIN: -- the solution? Or do I need
23 something more than that?

24 CHAIRPERSON HILL: Ms. Glazer?

25 MR. GRIFFIN: Revised?

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1 CHAIRPERSON HILL: I'm sorry there was something
2 about some paperwork that needed to be taken care of for
3 going from a variance to a special exception?

4 MR. GRIFFIN: And I actually just heard back from
5 Mr. Calhoun today. He sent me an email from the Office of
6 Zoning, I think. So that might have been.

7 CHAIRPERSON HILL: Mr. Calhoun?

8 MR. GRIFFIN: Yes.

9 CHAIRPERSON HILL: I don't know who that is.

10 MR. GRIFFIN: No? Maybe it was a different
11 department. I thought it was zoning.

12 CHAIRPERSON HILL: Yes, that's somebody else.

13 MR. GRIFFIN: Somebody else?

14 CHAIRPERSON HILL: Yes. So, but I guess if you
15 just want to check, Mr. Griffin, with -- I guess you can call
16 Mr. Moy later and just try to figure out -- make sure you
17 have all of your paperwork straightened up from going from
18 a variance to a special exception. That's all I just wanted
19 to make sure.

20 MR. GRIFFIN: All right. Well, thank you, sir.

21 CHAIRPERSON HILL: Okay, great.

22 MS. PITTS: If I --

23 CHAIRPERSON HILL: Okay, sure.

24 MS. PITTS: One final matter, and your comment
25 about that you all give great weight to the reports filed,

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1 I spoke with Ms. Elliott yesterday or maybe it was the day
2 before. I've slept since then. And noted that the Office
3 of Planning had filed a report noting that there was no
4 notice of objection.

5 And for the record, I want to note that I did file
6 notice with the Office of Planning with Mr. Eric Shaw, who
7 I believe is the director --

8 CHAIRPERSON HILL: Sure. Okay.

9 MS. PITTS: -- that we were seeking party status
10 and in opposition.

11 CHAIRPERSON HILL: Okay.

12 MS. PITTS: And I believe because of Ms. Elliott's
13 schedule that --

14 CHAIRPERSON HILL: Okay.

15 MS. PITTS: -- it was overlooked. So I just want
16 to go on the record and note that I did provide notice that
17 we would be seeking party status.

18 CHAIRPERSON HILL: Okay.

19 MS. PITTS: And that we were in objection,
20 contrary to what the report says.

21 CHAIRPERSON HILL: Okay, okay. I don't know if
22 you need to correct that or not? No? Okay, all right.
23 Okay, great. Well, it's been noted, and it's now on the
24 record.

25 MS. PITTS: Thank you.

1 CHAIRPERSON HILL: Okay. Thank you. All right.
2 You all have a nice holiday.

3 MS. PITTS: Thank you.

4 CHAIRPERSON HILL: Bye-bye.

5 SECRETARY MOY: All right. Mr. Chairman, I
6 believe, we're at Gillette Wing. That would be Application
7 Number 19618 of Gillette Wing. Captioned and advertised for
8 a special exception, which is under Subtitle U, Section
9 601.1(c).

10 This would permit a one family dwelling in an
11 existing structure on an alley line, RF-3 Zone, at premises
12 19 4th Street Rear Northeast, Square 16, Lot 18.

13 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
14 Moy. Could you please introduce yourselves?

15 MR. WING: My name is Zak Wing, the property
16 owner's husband.

17 MS. WING: Hi. I'm Gillette Wing. I'm the
18 property owner.

19 MS. MOLDENHAUER: Good -- what is it? Good
20 afternoon, I think it is already. Meridith Moldenhauer from
21 the law firm of Cozen O'Connor, representing the Applicant.

22 MS. CHECA: And good afternoon. I'm Lorena Checa,
23 the project architect, Checa Architects and --

24 CHAIRPERSON HILL: Could you speak a little bit
25 closer into the microphone? Sorry.

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1 MS. CHECA: Yes. So my name is Lorena Checa. I'm
2 the project architect. And I'm the principal of Checa
3 Architects. And I'm representing the client.

4 CHAIRPERSON HILL: Okay, great. All right. Ms.
5 Moldenhauer, I assume you're going to be presenting to us?

6 MS. MOLDENHAUER: If you think a presentation is
7 necessary.

8 CHAIRPERSON HILL: I think you're going to be
9 presenting to us. And so just if you could give us a little
10 bit of an overview on the application and go over again kind
11 of what you're trying to do and the reasoning behind how
12 you're meeting the criteria.

13 It can be brief. But I'm going to go ahead and
14 throw 10 minutes up on the clock just so I know where you
15 are. And you can begin whenever you like.

16 MS. MOLDENHAUER: Sure. I'll turn over then to
17 the property owner, Ms. Gillette Wing, who just introduced
18 herself. We'll give a quick background on the property and
19 go through then the relief.

20 MS. WING: Hi, again. I'll try to be quick, and
21 I'll go through the slides if that makes the most sense. You
22 know, you can kind of see the first slide shows the existing
23 property on the left and then our proposed plan and just to
24 sort of clarify that facade is the alley facade that you're
25 seeing. That's not a street fronting facade.

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1 And the next slide shows the lot, which my family
2 has owned since the 50s, but it was only recently deeded to
3 me. And it's been a separate single alley lot with, I guess,
4 independent ownership since 1919, not attached to any other
5 street fronting property, if that makes sense.

6 And then the next slide is a base map that just
7 sort of gives you an idea of the orientation of the property,
8 which is in red in the center to the northernmost street
9 there that you see is 8th Street. And that's how you enter
10 the alley through A. So even though the address is a 4th
11 Street address, the alley entrance is actually up there on
12 8th Street.

13 And then to the left is 4th Street. To the right
14 is 5th where my mom grew up actually. And then you have East
15 Capitol down there at the bottom.

16 And then another little glimpse of what it looks
17 like at the moment. There's, you know, ivy on the exterior,
18 but under that is the original brick. That alley facade is
19 not, obviously, original. It's got a garage door. I'm not
20 sure when the garage door was put in, but that's that.

21 And then the next slide is looking back at 8th
22 Street from deeper in the alley. So you can see the property
23 on the left. And then you can see 8th Street there ahead.
24 So that's that.

25 And then the next part shows the distance to a

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1 public street, which is, again, 8th Street, which is 110
2 feet, the property line is 110 feet from the public street
3 there, which is A.

4 And just, you know, to sort of let you know a
5 little bit about what we've done with the community. We've
6 had some really great productive community meetings, four
7 exactly.

8 We got unanimous support from the ANC, 6C. We
9 were able to construct, or make a construction management
10 agreement, with the neighbors. And we got approval from the
11 Office of Planning. So that's the basic.

12 MS. MOLDENHAUER: Okay. And now we'll turn it
13 over to the project architect to just quickly walk through
14 the plans.

15 MS. CHECA: So the proposed project is basically
16 converting an existing storage structure into a single family
17 dwelling without increasing the footprint or the height at
18 all, where it would be renovating and improving it into a one
19 bedroom residence and remodeling and bringing everything to
20 current energy and building codes while preserving the
21 historic features as Gillette, the owners specified.

22 The three brick walls are to stay intact. And
23 we're only proposing the rebuilding of the alley facade,
24 which is -- there's no windows.

25 This would constitute the main access and the fire

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1 escape egress from the bedroom up above. And we are -- just
2 for the record, this facade is 3 feet back from the property
3 line. So there is an easement from the alley so that there's
4 an element of safety entering the property. And --

5 MS. MOLDENHAUER: Just to clarify easement -- but
6 the building is just set back.

7 MS. CHECA: Set back. Sorry, I used the wrong
8 words.

9 MS. MOLDENHAUER: No, not a problem. Just
10 clarifying it.

11 MS. CHECA: Yes. Thanks. And this is the front
12 facade, which we're proposing again. We're going through
13 this process, and we will be working with the Office of
14 Historic Preservation to develop this further to meet their
15 requirements. But we've had preliminary conversations and
16 the architectural goal is to keep the character of the
17 historic neighborhood and the residential scale.

18 Next. This is the north facing that faces the
19 easement. And those are all existing openings. We're not
20 recommending we change them except for the one where there's
21 currently a door. It was decreased in height. So there is
22 an existing archway that was filled in that we're
23 recommending be restored.

24 And can I go back? One element to speak about the
25 privacy, those small windows on the first floor, the sill is

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1 really high. The window sill from the interior is, like, 5
2 foot 6. And right in front of that whole wall, we have a
3 wood fence over a masonry wall. The top of it currently is
4 at 6 foot 6.

5 This is the west facing facade. And it faces the
6 street fronting lot across from us. And that window is
7 proposed to be frosted and not changed at all in terms of the
8 sides.

9 These are two windows facing the south facade.
10 And there's two parking pads on the two contiguous lots to
11 us facing this direction.

12 And back to the proposed structure in the front,
13 which would be wood. And the 4 feet of brick wall at the
14 bottom is infill following in the character of the rest of
15 the walls, but also to make some reality of the fact that
16 there will be trash cans out in the front. So this would be
17 the area for their trash collection from the alley.

18 CHAIRPERSON HILL: Okay. Thank you, actually.
19 Ms. Moldenhauer, could you speak again to the criteria?

20 MS. MOLDENHAUER: Absolutely. So we're asking for
21 a special exception under U, 601.1(c), for alley dwellings.
22 The criteria is a special exception relief. You have the
23 basic standard special exception criteria as well as
24 additional conditions.

25 So I'll just simply walk through under the general

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1 special exception criteria. The relief is harmonious with
2 the purpose and intent of the zoning regulations and the map.

3 The project meets all four of the general
4 conditions and pretty much almost as close to possible being
5 a matter of right project except for the fact that it is on
6 a 10 foot wide alley, but it is within 300 feet as we noted
7 earlier. Ms. Wing testified it's 110 feet from a public
8 street.

9 It would be within the harmony and purpose, as OP
10 has indicated, and promotes obviously District wide policy.

11 CHAIRPERSON HILL: I'm sorry. Just so I'm clear,
12 110 feet from the public street or 300 feet from --

13 MS. MOLDENHAUER: The requirement is 300 feet.
14 Our property is 110.

15 CHAIRPERSON HILL: Okay, I got it. All right.
16 Thank you.

17 MS. MOLDENHAUER: So we are substantially within
18 that distance.

19 It promotes widespread policy and encourages alley
20 dwellings. And also then is all within the existing
21 structure and is actually improving the existing dilapidated
22 structure and provides for a variety of housing stock and
23 affordability in the Capitol Hill area, mostly just because,
24 obviously, it's going to be building a smaller home than some
25 of the other housing stock in the neighborhood.

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1 The relief will not adversely affect the use of
2 neighboring abutting properties. Improving and replacing a
3 blighted storage facility is obviously a benefit. We've had
4 extensive conversation with the neighbors as indicated and
5 entered into a construction management agreement.

6 We will also be maintaining the existing condition
7 of light and air of the neighboring properties seeing as
8 though there's no change to the existing structure. We are
9 working within the existing envelope.

10 We are maintaining the privacy as the windows that
11 are all being proposed are all existing penetrations in the
12 historic facade except for those that are on an alley and
13 then are thus facing cars and things to that effect and
14 abutting an alley which would have no impact to privacy.

15 And we are, for the one neighbor that we obviously
16 are in the rear of, that faces 4th Street. We are proposing
17 to frost that one window.

18 I'm sorry. There are other structures as well as
19 another dwelling structure on the alley.

20 The specific conditions under U, 601.1(c), there
21 are about like seven of them. I'll quickly walk through
22 them.

23 The alley must be wholly or partly within one of
24 the following zones. Our property is compliant with that and
25 is not wholly or partly within those zones. Our property

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1 complies with that. It is in the RF-3 District. The --

2 CHAIRPERSON HILL: That's okay, Ms. Moldenhauer.
3 You don't have to go through all of them.

4 MS. MOLDENHAUER: So I'll just --

5 CHAIRPERSON HILL: We did see -- I appreciate it,
6 and we can see a slide presentation. But I appreciate it.

7 MS. MOLDENHAUER: Okay. So we do comply with all
8 of these. And then there's other conditions that obviously
9 identify that we've worked with the agencies and this, I
10 think, in detail, and it is also in our Pre-Hearing
11 Statement, outlines all of the work that we've done with the
12 different agencies. And there is no filed objections from
13 any of the agencies. And those agencies that have filed
14 letters have indicated no objection as well.

15 CHAIRPERSON HILL: So in terms of having something
16 into the record that you have reached out to all of these
17 agencies, do you have anything in the record in terms of,
18 like, that you reached out to all of these people?

19 MS. MOLDENHAUER: So this list identifies when we
20 reached out to them. This is in the record, the PowerPoint.
21 It's also listed in our Pre-Hearing Statement.

22 CHAIRPERSON HILL: Okay. Okay.

23 MS. MOLDENHAUER: So, yes.

24 CHAIRPERSON HILL: Thank you.

25 MS. MOLDENHAUER: Our extensive outreach to these

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1 required agencies is part of the record.

2 COMMISSIONER MAY: Did you ever connect with
3 anybody? I mean, did they respond? Did anybody say thanks,
4 I got your email or?

5 MS. MOLDENHAUER: We had a meeting with DC Water,
6 so we had a physical meeting with them as outlined here on
7 August 22. We did not hear back from DPW. We have a letter
8 in the record from MPD. We have a letter in the record from
9 DDOT. And we did not hear back from FEMS.

10 COMMISSIONER MAY: Nothing at all even though
11 there was outreach to FEMS?

12 MS. MOLDENHAUER: Yes. I'm going to have Eric
13 DeBear --

14 COMMISSIONER MAY: My only question is did you
15 connect with anybody at FEMS? And it's a yes or no.

16 MR. DeBEAR: I spoke directly with Chief Tony
17 Fallwell, who --

18 COMMISSIONER MAY: Great. Yes. What did he say?

19 MR. DeBEAR: He said that he thought they would
20 have no objection as long as the property is sprinklered,
21 which I believe it's intended to be.

22 COMMISSIONER MAY: Okay. But that was my only
23 thought was --

24 MR. DeBEAR: But I personally spoke with him on
25 the phone a couple of times.

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1 COMMISSIONER MAY: And I think, you know, when we
2 changed the zoning regulations to be a little bit more
3 flexible on dwellings like this the concern was access for
4 fire equipment. And there was a 20 foot wide alley
5 requirement to be able to do it. And we probed a little more
6 deeply on that and found that it really, it didn't have to
7 be 20 feet wide.

8 MR. DeBEAR: The hose.

9 COMMISSIONER MAY: They weren't going to drive the
10 truck down there.

11 MR. DeBEAR: Right.

12 COMMISSIONER MAY: They were just going to run a
13 hose.

14 MR. DeBEAR: Yes.

15 COMMISSIONER MAY: So that's where the 300 feet
16 comes from, I think. But it's always best to have that
17 confirmation from FEMS. And I'm glad to hear the building
18 is going to be sprinklered. I don't know why that's not a
19 requirement across the board now anyway. But, okay.

20 CHAIRPERSON HILL: Could you state your name for
21 the record?

22 MR. DeBEAR: Eric DeBear from the law firm of
23 Cozen O'Connor.

24 CHAIRPERSON HILL: Okay, great. Thank you.

25 MS. MOLDENHAUER: Okay. Then the property is also

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1 in the RF-3 Zone, that's the Capitol interest zone. So we've
2 outlined the different requirements. And we do comply with
3 all of those.

4 So that being said, we believe that given the fact
5 that we have ANC support, neighbor signatures on a
6 construction management agreement and OP support, we would
7 then rest on the record, but be available to answer any other
8 questions.

9 CHAIRPERSON HILL: Okay, great. Thank you. Does
10 the Board have any questions for the Applicant? Okay. Ms.
11 Wing, are you guys going to live on the property?

12 MS. WING: We are not.

13 CHAIRPERSON HILL: Oh, just curious. I'm just
14 curious. Okay. Office of Planning?

15 MR. MORDFIN: Good afternoon. I'm Stephen
16 Mordfin. And the Office of Planning supports this
17 application and supports the Applicant's attempts to get
18 comments from the other agencies. OP did also try to get
19 comments from the agencies that did not submit letters in
20 support. I did not receive anything.

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

24 MS. MOLDENHAUER: No questions, thank you.

25 CHAIRPERSON HILL: All right. Is there anybody

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1 here from the ANC? Is there any -- oh, great. Please come
2 forward. If you could just introduce yourself into the
3 record.

4 MS. HEALEY: My name is Christine Healey. I'm the
5 Commissioner for ANC 6C01. And I'm here representing ANC 6C.

6 CHAIRPERSON HILL: Okay. And Commissioner Healey,
7 are you the SMD for this?

8 MS. HEALEY: I am the SMD for this.

9 CHAIRPERSON HILL: So as ANC, you get five
10 minutes. So I'm going to put five minutes on the clock, Mr.
11 Moy. And you can begin whenever you like.

12 MS. HEALEY: Okay. The ANC 6C filed our report
13 yesterday. I'm sorry we didn't get it into you sooner. As
14 the Commissioner for the single member district I work with
15 to keep the residents informed about this project. I put out
16 flyers. We sponsored two meetings. I emailed the residents
17 who were not in direct communication with the attorney.

18 It is a narrow alley. It only has one entry and
19 exit. It's a busy alley. But among the neighbors, there was
20 a consensus that this is a property that should be renovated
21 and even though there was not necessarily a consensus about
22 how the building should be used.

23 However, a group of neighbors did work with the
24 Applicant and her attorneys, and they came up with a
25 construction management agreement. This was subsequent to

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1 the meeting of ANC 6C. And at ANC 6C, we voted to support
2 the application conditioned upon a construction management
3 agreement being reached.

4 Eight neighbors from five households reached this
5 construction management agreement with the Applicant, and
6 thus ANC 6C supports the application.

7 CHAIRPERSON HILL: Okay, great. Well, first of
8 all, Commissioner, thanks for coming down. I know you kind
9 of have to wait for awhile. And, you know, you're very
10 fortunate, Mr. and Mrs. Wing, to have a Commissioner that
11 cares so much to come on down and spend time to give clarity
12 in terms of what's going on.

13 When you just said that there was some people --
14 there was a difference of opinion as to how to use the
15 property, I'm just curious. What was the difference in
16 opinion? What other things did people want it to be used as?

17 MS. HEALEY: They might have preferred that it
18 stay as a storage facility or an artist's studio.

19 CHAIRPERSON HILL: I see. Okay. All right. Does
20 anyone else have a question for the Commissioner? Were you
21 sworn in by any chance this morning?

22 MS. HEALEY: I was.

23 CHAIRPERSON HILL: Okay, great. Thank you.
24 That's fine. The people should have, like, a little sticker,
25 like, I voted. I was sworn in. And then I don't have to do

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1 this every single time. Yes. Okay. All right. Thank you,
2 Commissioner. Did you have a guy ask -- no, yes, I did.

3 Is there anyone here who wishes to speak in
4 support? Is there anyone here who wishes to speak in
5 opposition? Okay. Do you have anything else you would like
6 to add?

7 MS. MOLDENHAUER: Just two points. One is a
8 procedural issue. We filed our Affidavit of Maintenance
9 yesterday. So, I think, maybe procedurally there may need
10 to be simply a waiver of the time requirements. But it was
11 just our final affidavit confirming that we had been checking
12 on it during the course of the posting.

13 And then the second would be we have not yet filed
14 this application for HPRB. So we would -- and given the new
15 regulations that limit ability to kind of modify the plans,
16 we would ask the Board to put a specific condition, if the
17 Board is willing to support the application, of course, a
18 condition that allows us to modify the plans or the facade
19 as proposed or required by an HPRB approval.

20 Thank you. No further questions or comments.

21 CHAIRPERSON HILL: Okay. That sounds fair to me.
22 Does the Board have anything else they would like to add?
23 Okay. I'm going to go ahead and close the hearing. Is the
24 Board ready to deliberate?

25 Okay. I think that this was a very interesting

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1 project. I think that it meets the criteria as set forth in
2 the regulations and as explained by both the testimony and
3 from the report of the Office of Planning.

4 I would be in -- first of all, as the Applicant
5 had stated, allowing their latest exhibit into the record,
6 the Affidavit of Maintenance. Unless the Board has any
7 issues, we'll go ahead and do that. Okay. So we're going
8 to go ahead and do that.

9 And then I would be in approval of this with the
10 condition that they are allowed to modify the plans in
11 accordance with the recommendations of HPRB. Does anyone
12 have anything else to add before I make a motion?

13 MEMBER WHITE: One question. Would you need to
14 incorporate the management plan into the order as well or the
15 requirement that sprinklers be incorporated as well?

16 CHAIRPERSON HILL: I think we're covered. I
17 think, yes, we're okay. Yes. Anyone else?

18 COMMISSIONER MAY: Mr. Chairman, I just have --
19 when it comes to HPRB, the envelope itself is going to stay
20 the same, right? So you're not going to have any change in
21 footprint or anything like that.

22 So I think we have to be clear that they have the
23 ability to change the surfaces of the existing structure.
24 I'm not sure exactly how that gets worded, but it should be
25 worded in such a fashion that they do not, essentially don't

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1 change the footprint or the envelope of the building.

2 CHAIRPERSON HILL: Okay, I understand. So can you
3 just say yes into the record as to what the Commissioner just
4 mentioned?

5 MS. MOLDENHAUER: Commissioner May, yes, we
6 acknowledge that the limited focus is not to, obviously,
7 create any areas of relief or to change the exterior face of
8 the footprint. It's just simply if the materials, or if
9 there is a window penetration, that is changed.

10 CHAIRPERSON HILL: Yes.

11 MS. MOLDENHAUER: But we would, given the new
12 regulations and the limitations on the zoning administrator
13 to modify those, we want to make sure it's part of a
14 condition that allows that.

15 COMMISSIONER MAY: That's fine. I'm not
16 questioning the condition. It's just the condition has to
17 be limited to changing the services, changing the window
18 penetrations and things like that.

19 MS. MOLDENHAUER: We consent to that. Thank you.

20 COMMISSIONER MAY: So that's -- again, I'm not
21 sure what the language should be to do that, but that is what
22 it should be limited to.

23 Oh, I would make a motion. Is that what you're
24 asking for?

25 CHAIRPERSON HILL: Well, I was going to say, if

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1 you have the condition in your head the way that you'd like
2 to think --

3 COMMISSIONER MAY: No, I don't.

4 (Simultaneous speaking.)

5 CHAIRPERSON HILL: I agree with what you're saying
6 in terms of condition. I just wanted to make sure that I
7 covered it in that fashion. So unless anyone does have
8 anything to say then yes, please go ahead, Commissioner.

9 COMMISSIONER MAY: So I would make a motion that
10 we approve BZA Case Number 19618, Special Exception
11 Application to Allow Conversion of an Existing Historic
12 Structure on an Alley Lot in the RF-3 Zone to a Residential
13 Unit with the condition that the Applicant would have
14 flexibility to modify, or to make changes to the design of,
15 the facade to the building, including window penetrations and
16 related changes that may be necessary for approval by the
17 Historic Preservation Review Board.

18 CHAIRPERSON HILL: Second. The motion has been
19 made and seconded. All those in favor?

20 (Chorus of ayes.)

21 CHAIRPERSON HILL: All those opposed?

22 (No audible response.)

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

24 SECRETARY MOY: Staff would record the vote as 4
25 to 0 to 1. This is on the motion of Mr. Peter May to approve

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1 the application for the relief requested along with the
2 condition as he has cited in his motion. Seconding the
3 motion is Chairman Hill. Also in support Ms. White and Vice
4 Chair Hart. We have a Board seat vacant. The motion
5 carries.

6 CHAIRPERSON HILL: Summary Order, Mr. Moy?

7 SECRETARY MOY: Yes, sir. Thank you.

8 CHAIRPERSON HILL: Thank you. Thank you all.

9 SECRETARY MOY: Are you up? Okay. I'll send a
10 tech out to help you with that. If I can have the parties
11 to the table to Application Number 19619 of Matt Medvene.

12 This Application is captioned and advertised for
13 a special exception under Subtitle E, Section 5203.3, from
14 the rooftop architectural elements requirements of Subtitle
15 E, Section 206.1. This would construct a third story
16 addition and convert a one family dwelling to a flat in an
17 RF-1 Zone. This is at 765 Girard, G-I-R-A-R-D, Street
18 Northwest, Square 2886, Lot 288.

19 CHAIRPERSON HILL: Okay, great. Could you please
20 introduce yourselves? And you push the button.

21 MR. HUNT: My name is Julian Hunt. I'm the
22 architect.

23 MR. MEDVENE: My name is Matt Medvene. I'm the
24 project owner.

25 CHAIRPERSON HILL: Were you both signed in -- were

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1 you both sworn in this morning?

2 MR. HUNT: Yes.

3 MR. MEDVENE: Yes.

4 CHAIRPERSON HILL: Okay. Who's going to be
5 presenting to us?

6 MR. HUNT: I'll do that.

7 CHAIRPERSON HILL: Okay, Mr. Hunt. So, Mr. Hunt,
8 basically, I mean, we've read the record. We understand
9 everything that's been presented to us in the record.

10 I don't have a lot of questions. I don't know if
11 any of the other Board members have anything specifically
12 they like to hear from. I like to hear just kind of briefly
13 about the project and how you're meeting the criteria to
14 grant the relief that you are requesting.

15 I would like to hear a little bit more about kind
16 of like the ANC 1B meeting concerning the materials that they
17 spoke about and also the Office of Planning had some comments
18 on the design, I guess. So if you could speak to both of
19 those during your presentation. Then also we'll be able to
20 hear from the Office of Planning.

21 I'm going to go ahead and put 10 minutes on the
22 clock just so I know where we are. And then you can begin
23 whenever you like unless anyone else on the Board has
24 anything particular they'd like to hear from?

25 MEMBER WHITE: Just one question that you can

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1 address. Just that I noticed there is one opposition letter
2 in there from a neighbor located at 759 Girard Street. So
3 I wonder if you could comment on, as part of your
4 presentation, your interaction with, and conversations with,
5 that neighbor.

6 CHAIRPERSON HILL: Okay. One second. Mr. Moy?
7 Oh, he's trying to tell you how to use the computer there.

8 SECRETARY MOY: Mr. Chairman, he wanted to have
9 access to the case so he can show --

10 CHAIRPERSON HILL: Sure.

11 SECRETARY MOY: -- the drawings and the plans.

12 CHAIRPERSON HILL: Okay. So I'll give you a
13 second to pull all that up.

14 COMMISSIONER MAY: I would just note it's better
15 to use the Google rather than Internet Explorer.

16 CHAIRPERSON HILL: Mr. Hunt, actually, I mean, I
17 know, this might take longer than you need actually. Why
18 don't you go ahead and just start?

19 Tell us about the project. We've seen everything.
20 And so just kind of speak to the issues, what you're trying
21 to do and how you're meeting the criteria and then also turn
22 to the Office of Planning.

23 MR. HUNT: Right, okay. We submitted this for
24 permitting. And during the period of time that it was in
25 DCRA, the zoning codes had changed. So in the middle of the

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1 permitting process, we got flagged for changing the roof
2 line.

3 So we had to adapt, resubmit. And basically the
4 drawings that I submitted were basically to show this
5 analysis we did of this building type, which is a two family
6 semi-detached group of housing. There are 14 of these units
7 on that street.

8 So I photographed all of those buildings to show
9 how over time, you know, slight variations emerged over time
10 to make the argument that what we were doing was similar to
11 that, making a slight variation on an existing set of
12 buildings.

13 So the question was, you know, how much of a
14 change in the roof line is within the parameters of
15 acceptable within, you know, the character of the
16 neighborhood?

17 We referred to another case up the street, 723
18 Girard, which has also had a similar BZA question about his
19 roof line. And that was Case Number 19472, which was
20 approved, I think, a couple of months ago. We took that as
21 a precedent.

22 They had extended that existing roof element,
23 which was basically decorative because on some buildings they
24 have it, on some buildings they don't. And in that
25 particular case, up the street on 1723 Girard, they had

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1 extended it -- taken the same slope and extended it up
2 slightly so it became a kind of mansard. We did the same
3 thing.

4 The issue with zoning -- excuse me, with the
5 Office of Planning at the end of November was to turn that
6 mansard roof slightly, instead of leaving it as a straight
7 incline, to turn it slightly in a return. And that's what
8 we did. And we submitted those drawings on the 29th of
9 November.

10 I think it's relatively straightforward, not very
11 complex. We have support from the, yes, the adjacent
12 neighbor and most of the neighbors, the ANC and the Office
13 of Planning.

14 CHAIRPERSON HILL: Okay. All right. I'm going
15 to turn to the Office of Planning.

16 MR. COCHRAN: Thank you, Mr. Chair. OP will be
17 happy to just rest on the record unless you have questions,
18 in which case, I'll give a quick summary.

19 CHAIRPERSON HILL: Okay. Does anyone have any
20 questions for the Office of Planning or want a summary other
21 than what's in the record with the Office of Planning? Okay.
22 Do you have any questions for the Office of Planning? You
23 have to push the microphone.

24 MR. HUNT: No.

25 CHAIRPERSON HILL: Okay, great. All right. Does

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1 the Board have any questions for the Applicant? Okay. Is
2 there anyone here from the ANC? Is there anyone here who
3 wishes to speak in support? Is there anyone here who wishes
4 to speak in opposition? Could you please come forward?

5 Actually, why don't you guys sit over on this side
6 over here because you can share that microphone.

7 Good afternoon. Have you both been sworn in?

8 MS. JOHNSON: Yes.

9 CHAIRPERSON HILL: Okay. If you could please
10 introduce yourselves.

11 MS. JOHNSON: I am Brenda Johnson, and I am the
12 resident of 759 Girard Street that submitted the letter.

13 MR. BETHEL: Errington Bethel. I'm a resident of
14 745 Girard Street.

15 CHAIRPERSON HILL: Okay. And just for clarity
16 again for me, like, how -- you're not right next to the
17 property, correct?

18 MS. JOHNSON: I am.

19 CHAIRPERSON HILL: You need to speak into the
20 microphone, sorry.

21 MS. JOHNSON: I'm two doors from the property.
22 Like he said, the houses are semi-detached. I'm attached to
23 the next set of houses.

24 CHAIRPERSON HILL: Okay. Got it. And you, sir?

25 MR. BETHEL: Yes, I live in the middle of block,

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1 so.

2 CHAIRPERSON HILL: Okay.

3 MR. BETHEL: The center of Girard Street.

4 CHAIRPERSON HILL: Okay, just curious. So you'll
5 each have three minutes to present testimony to the Board.
6 And the clock is up here on my left -- and right, actually.
7 And you can begin whenever you like.

8 MR. BETHEL: So first of all thank you guys. I
9 won't take a lot of time. Really quick. First time being
10 here so excuse the kind of like ignorance of the process.

11 But last night, over the course of a couple of
12 weeks, I went door to door to some neighbors, got some
13 signatures of people who are actually in opposition to this.
14 So they might have said they've spoke to Jim Turner, the ANC
15 and some neighbors. I find that to be different from what
16 I found.

17 The main concern with this is architectural
18 integrity of the block. So the last case we heard they
19 talked about preserving the historic look of that alley.
20 This case has done not the same thing. They want to add an
21 additional unit. They want to use jargon like increasing the
22 slope or things like that. But they're really adding a third
23 unit on top of a single family home.

24 These aren't people who actually want to live
25 here, right? It's a project owner, excuse me -- a project

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1 owner who -- I've lived here for 27 years. Like, I've been
2 on this block. I've seen the street.

3 They've taken the north facing side of Girard
4 Street, tons of pop ups, helicopter factory, limited parking.
5 The south facing side, all single family homes.

6 As I mentioned before, same kind of look and feel.
7 We'd like to preserve that in our neighborhood. As the city
8 continues to change, we want to make sure that the people who
9 have been here, who, like, appreciate what it looks like and
10 the culture it presents is preserved.

11 Thank you, guys.

12 CHAIRPERSON HILL: Thank you.

13 MS. JOHNSON: And I'm Brenda Johnson --

14 CHAIRPERSON HILL: You need to speak in the
15 microphone.

16 MS. JOHNSON: I'm Brenda Johnson at 759 Girard
17 Street. I have very similar points that he had, but some of
18 mine are different.

19 I had just gotten my house repaired from a lot of
20 the work that they did from the helicopter factory. That was
21 a fight for me. They cracked some of my walls. I did get
22 them to repair them.

23 However, with this -- what they're trying to do
24 is not going to keep it uniform. The front porch is already
25 gone. They are already doing a whole lot of work there. So

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1 it's making it look totally different.

2 It doesn't fit with the neighborhood. It doesn't
3 fit with the houses that are already on the block. And I've
4 already had some complaints. I already tried to call about
5 trucks coming around at 5:30 in the morning when I know
6 that's too early for a residential neighborhood.

7 But my biggest point is they are overcrowding it.
8 They're just saying that they're going to make it a flat.
9 A flat what? Are you going to make this three condos?

10 We already have a big parking problem. And mainly
11 just for the neighborhood -- I've lived in this neighborhood
12 since 1974. I grew up on the 1100 Block. I purchased a home
13 on the 700 Block in 1997.

14 And I would like to see the neighborhood stay
15 somewhat similar to what it already is and not change that
16 street. Because if they go up, it's going to look totally
17 different. And there's no house on that side of the street.
18 I'm not sure what residence he's talking about that goes up
19 any further than the houses that are already there.

20 CHAIRPERSON HILL: Okay. Great. Thank you. Does
21 the Board have any questions for the witnesses?

22 COMMISSIONER MAY: What's the helicopter factory?

23 MR. BETHEL: The helicopter factory is on the 700
24 Block of Girard Street. You guys can -- I mean, it's pretty
25 well documented in the Washington Post. It was an old

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1 helicopter factory, I believe, after the war. They sold it
2 for, like, \$2 million. So you'll see it.

3 COMMISSIONER MAY: So it's nearby.

4 MR. BETHEL: It's on the --

5 COMMISSIONER MAY: It's a former industrial
6 building that has been redeveloped?

7 MR. BETHEL: Correct.

8 COMMISSIONER MAY: Okay. That's all. I had not
9 heard anything about it. I read a lot of that stuff. It's
10 pretty -- okay. Thanks a lot.

11 CHAIRPERSON HILL: Well, I knew that. Okay.
12 let's see. No, do we have any questions for the witnesses
13 other than that?

14 VICE CHAIR HART: Mr. Bethel?

15 MR. BETHEL: Yes.

16 VICE CHAIR HART: You said -- by the way, you did
17 fine. I mean, you were fine. You didn't need to couch
18 anything. So you said that you had actually talked to other
19 folks in the neighborhood and that there were -- just some
20 other folks that were not supportive of this.

21 MR. BETHEL: Yes. So last night in, like, you
22 know, 18 degree weather, went door to door. Talked to a lot
23 of neighbors. Got some signatures.

24 My direct neighbor, Chris Turner, is an architect.
25 He remodeled his home. He lived in his home. He appreciated

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1 keeping the houses looking the same, similar look and feel.
2 He signed the opposition. Well, Chris didn't sign the
3 opposition. But people up and down the block from the top
4 of the block all the way down to my neighbor here to her
5 house, even their adjacent neighbors also signed it. And
6 they would be at 763 Girard Street.

7 VICE CHAIR HART: Thank you.

8 MEMBER WHITE: I didn't mean to cut you off. Yes,
9 I appreciate you coming down here. And I appreciate the fact
10 that you've been in the neighborhood a long time.

11 So, you know, from what I understand what you're
12 saying is that, you know, this development is having a -- is
13 substantially changing, you know, the look and feel of the
14 neighborhood.

15 But, obviously, you know, as Board members, we
16 have to look at the criteria to see whether or not they're
17 meeting the criteria in order to grant or deny their
18 application.

19 So, I mean, in your opinion what I'm getting from
20 you is there is going to be dramatic change to the
21 neighborhood based upon, you know, the relief that they're
22 seeking today.

23 MR. BETHEL: So not just in my opinion, and not
24 to cut you off, they've added supporting documents. They
25 show all the pictures of the semi-detached houses. Then they

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1 show their proposed. It looks different. It's not an
2 Errington opinion. It's a factual look at what they're
3 planning to do.

4 VICE CHAIR HART: And just so that we're also
5 clear, the Applicant is -- and they may have said this and
6 I just didn't hear it, they're doing a flat, which is one
7 unit over another unit.

8 It's not -- they're not -- they have said that
9 they're not -- well, what we have seen are drawings for that
10 and not a three unit apartment building. I understand that
11 you may have a different opinion of that. I'm just saying
12 that's what they submitted to us.

13 CHAIRPERSON HILL: Anybody else? Okay. All
14 right. Thank you all very much. Thank you. Oh, no wait.
15 I do have a question. I'm sorry. Did you guys go to the ANC
16 meeting? Either one of them?

17 MR. BETHEL: So I'm actually, like, applying for
18 business school right now. So I've been going to a lot of
19 different business schools. And I was out of town that
20 meeting. I tried to talk to Jim Tanner or James Turner,
21 James Turner. I just haven't been able to get in touch with
22 him.

23 CHAIRPERSON HILL: Sure. He's the single member
24 district or he's your single member district?

25 MR. BETHEL: He's the ANC 1B guy that I know.

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1 CHAIRPERSON HILL: Okay.

2 MR. BETHEL: So, I mean, there might be another
3 guy.

4 CHAIRPERSON HILL: Okay. And Ms. Johnson?

5 MS. JOHNSON: I did not attend. I was not aware
6 that there was a meeting discussing it.

7 CHAIRPERSON HILL: Okay, sure. Okay. All right.
8 All right. Thank you all very much.

9 Just kind of -- and I don't know, let's see
10 there's a report from the Office of Planning. And so there's
11 a report from the Office of Planning.

12 So I was just a little curious about your kind of
13 analysis in terms of -- you can comment on just some of the
14 things that the witnesses had said. And your thoughts in
15 terms of -- I'm just kind of looking at the, you know, the
16 criteria being in harmony with general purpose and intent of
17 the zoning regulations and zoning map. But can you speak to
18 this when you're providing your analysis kind of the
19 character or the look of the project?

20 MR. COCHRAN: I'd be happy to. It's a little bit
21 difficult because it's a twinned house. You've got two
22 houses together that together look like one larger house to
23 some extent. It's clear there are two doors and this and
24 that, but the composition is mirror image.

25 On the other hand, one of the points of the

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1 regulation is to allow growth and change that's respectful
2 of the existing character. You're allow to go up to a third
3 story in this zone. You're allowed to have a flat.

4 Anybody that's going to put on an additional story
5 on a two-story house is going to change the roof line. So
6 we're looking at did they try to be sympathetic to the
7 general community character in changing that roof line?

8 I didn't think they did at first because of the
9 way that the sidewall went straight up. So we asked them to
10 look at the mansard pattern and just continue those angles
11 directly up.

12 Right now you've got a mansard roof with a dormer.
13 They've kept the mansard roof. They've kept the angle going
14 from the front. They've kept the angle now going in from the
15 side. And they've enlarged the dormer.

16 There's no question that the aesthetic is somewhat
17 different. But when you look at the neighborhood, there are
18 several different aesthetics in the neighborhood.

19 The aesthetic of the south side of the block is
20 completely different as some of the neighbors had testified.
21 They're very different character, north side and south side.
22 One is semi-detached. The other are fairly large single
23 family houses with yards.

24 So there is variety in the neighborhood. And we
25 thought the architect made enough changes after we had some

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1 discussions to keep within the character of the neighborhood
2 albeit within a modern idiom.

3 MEMBER WHITE: I have one question. Can you
4 outline for me what you think those changes were that allowed
5 them to maintain the look and feel of the neighborhood, just
6 in terms of helping me with my analysis?

7 MR. COCHRAN: There were two basic changes. One
8 was simplify the materials. The sidewall had been, I think,
9 three or four different materials. It's now down to two.
10 So that -- it's not shouting out anymore.

11 The other one, the most important to me at least
12 was, the change in the angle for the mansard. So it's now
13 a genuine mansard roof. It has the two angles.

14 And if you can, for instance, both halves of that
15 mirror image of the two houses that are semi-detached now
16 have the same angle on the front, have the same angle on the
17 sides.

18 And so if you're going to expand a house, there
19 are certain things that I think you do need to keep. And
20 they kept those. It's clearly not going to look like a 19th
21 Century semi-detached villa, but change happens. And they
22 tried to respect it as best they could.

23 CHAIRPERSON HILL: Okay. Anyone else for the
24 Office of Planning? Okay. From the Applicant again, just
25 in terms of Mr. Hunt, the changes that you made in terms of

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1 working with the Office of Planning, are those similar to
2 kind of the discussions that the ANC had when you were going
3 through with them to get -- because it looks like you did
4 have someone in opposition at one point. You made some
5 changes and then you got unanimous support?

6 MR. HUNT: Partially. They were more concerned
7 about the materials.

8 CHAIRPERSON HILL: Materials. Okay. All right.
9 Okay. Does anyone else have anything else for anybody?
10 Sure.

11 MEMBER WHITE: Just one question. What are the
12 materials? The two materials that the --

13 MR. HUNT: Well, it's --

14 MEMBER WHITE: -- Office of Planning was
15 referencing?

16 MR. HUNT: It's painted brick, the base building.
17 And the mansard is turned metal.

18 MEMBER WHITE: I'm sorry.

19 MR. HUNT: The mansard is turned metal.

20 MR. MEDVENE: It's to match the existing
21 neighbors' roof.

22 CHAIRPERSON HILL: You need to speak into the
23 microphone, sorry.

24 MR. MEDVENE: It's the turned metal to match the
25 existing neighbors, the house that we're attached to, excuse

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1 me, to match exactly what's on their roof because right now,
2 it does not match.

3 CHAIRPERSON HILL: Okay. All right. I don't have
4 any more questions. Anybody else? Okay. I'm going to go
5 ahead and close the hearing. Is the Board ready to
6 deliberate? Okay. Okay. I can start.

7 This is again for a special exception. And I
8 think that the Office of Planning has clarified for me --
9 again, after hearing the testimony from the witnesses, I was,
10 again, taken pause by the fact that neighborhoods change.
11 And I don't necessarily like when my neighborhood changes.
12 But the ability for the Applicant to do what they need to do
13 to this property within the regulations, I believe the Office
14 of Planning has outlined their argument behind how they meet
15 the criteria.

16 In addition to that, the ANC was in support of
17 this project. And we give great weight to both the ANC and
18 the Office of Planning. But I was convinced by the Office
19 of Planning's latest discussion just now that we had as to
20 how they got to the position that they got to in terms of
21 granting this special exception.

22 Does anyone else have any thoughts?

23 COMMISSIONER MAY: No, I think you're right. They
24 meet the necessary test for the special exception. The
25 Office of Planning has, I think, handled it all correctly,

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1 including suggestions for revising the design.

2 There are certainly things that I would quibble
3 about with the design. I mean, I don't see a reason to
4 change, you know, the style of windows from what's existing
5 to what they're proposing. But, you know, it's not a
6 historic district, and we don't weigh in on stuff like that.
7 It's just my tendency to want to comment on those things.

8 But I trust that Mr. Cochran has done a good job
9 of working with the Applicant to make it as good as it can
10 be.

11 CHAIRPERSON HILL: Okay. Anyone else?

12 MEMBER WHITE: Yes, I mean, I asked all of these
13 questions because, you know, I do have pause when, you know,
14 you have neighbors that are coming in, and they are
15 expressing some concerns about some, you know, substantial
16 changes that are going on in their neighborhood.

17 So, as representative, you know, on the BZA, I
18 always believe that I have an obligation to hear them out
19 when they have specific concerns.

20 But, you know, I did query, ask the Office of
21 Planning a number of questions about the specifics regarding
22 the materials because the ANC did have some suggestions in
23 terms of trying to limit the number of materials that are
24 being used.

25 And I am comfortable that they have made some

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1 adjustments and that they are meeting the criteria for a
2 special exception under Subtitle E, 5203.3, and specifically,
3 you know, also for alteration of the rooftop architectural
4 element under 206.1.

5 CHAIRPERSON HILL: Okay. And again, you know, I
6 am very empathetic to the neighbors and people also that have
7 been there for a very long time. And as we've been here now
8 for a couple of, you know, years or whatever, the changes
9 that take place in the neighborhood.

10 So, but I'm going to go ahead and make a motion
11 to approve Application Number 19619 as read by the Secretary
12 and ask for a second.

13 COMMISSIONER MAY: Second.

14 CHAIRPERSON HILL: Motion made and seconded. All
15 those in favor?

16 (Chorus of ayes.)

17 CHAIRPERSON HILL: All those opposed?

18 (No audible response.)

19 CHAIRPERSON HILL: Motion passed. Mr. Moy?

20 SECRETARY MOY: Staff would record vote as 4 to
21 0 to 1. This is on the motion of Chairman Hill to approve
22 the application for the relief being requested. Seconding
23 the motion, Vice Chair Hart. Also in support, Mr. Peter May,
24 Ms. White. We have a Board seat vacant. The motion carries.

25 CHAIRPERSON HILL: Thank you, Mr. Moy. Summary

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1 Order?

2 SECRETARY MOY: Yes, sir.

3 CHAIRPERSON HILL: Okay. So we have been here for
4 a little while. We're going to take a quick 10 minute break
5 so we can try to get a snack. And so we'll be back here in
6 about 10 minutes or so. Thank you.

7 (Whereupon, the above matter went off the record
8 at 12:49 p.m. and resumed at 1:07 p.m.)

9 CHAIRPERSON HILL: Okay, Mr. Moy, I know we're
10 trying to accommodate some scheduling, and so what I want to
11 go ahead and do is, if we could go ahead and hear -- follow
12 the agenda thus far, which is, if everyone is here for 19640.

13 And then we're going to go ahead and move up the
14 appeal to -- after that.

15 SECRETARY MOY: You know, hopefully -- because
16 there's only one other party that we're waiting for --

17 CHAIRPERSON HILL: Okay, so --

18 SECRETARY MOY: So, it's --

19 CHAIRPERSON HILL: Sorry.

20 SECRETARY MOY: So, in the meantime then, we'll
21 begin with, as the Chairman has just said, begin with
22 Application number 19640 of Basilica of the National Shrine
23 of the Immaculate Conception, caption advertised for special
24 exception, subtitle C, Section 710.3(a)(4).

25 This is from the parking lot location,

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1 requirements of Subtitle C, Section 710. This would continue
2 the existing parking lot use, RA-1 Zone at 300 Michigan
3 Avenue, NE, Parcel 121/22.

4 CHAIRPERSON HILL: Okay, great. Is the Office of
5 Planning here?

6 (Off mic comment.)

7 CHAIRPERSON HILL: Okay, all right. Okay,
8 someone's -- okay. All right, could you please introduce
9 yourselves.

10 MR. KAVANAUGH: My name is Patrick Kavanaugh. I'm
11 with the law firm of Hamilton & Hamilton, and I'm
12 representing the Basilica of the National Shrine today. And
13 with me is Comptroller of the Basilica, as his -- appearing
14 as a representative here, and that's Kevin Kavanaugh.

15 CHAIRPERSON HILL: Okay. If you could introduce
16 yourself for the record, sir?

17 MR. KEVIN KAVANAUGH: My name is Kavanaugh. I'm
18 the Comptroller of the Basilica of the National Shrine of the
19 Immaculate Conception, which is the Applicant.

20 CHAIRPERSON HILL: Okay. Both of your names is
21 Kavanaugh?

22 (Off mic comment.)

23 CHAIRPERSON HILL: Okay. Not related.

24 MEMBER WHITE: No relation?

25 (Off mic comment.)

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1 CHAIRPERSON HILL: Okay. All right.

2 (Off mic comment.)

3 CHAIRPERSON HILL: No, I was curious about the
4 Kavanaugh thing. Okay.

5 (Off mic comment.)

6 CHAIRPERSON HILL: All right. So, let's see.
7 Mr. Kavanaugh -- Mr. Kavanaugh, I guess you're going to
8 present to us. And so -- over here to my right. And I guess
9 I don't have a lot of questions, per se, about the
10 application, unless my colleagues have other particular
11 things. I mean, if you just want to kind of briefly go over
12 the -- what you're requesting, and how you're meeting the
13 standard for relief, you know, we've gone through the record,
14 and I do think it's pretty full.

15 We just recently got the information from the ANC,
16 in terms of, you know, their thoughts. There was, I guess,
17 some comments from DDOT concerning C-715, in terms of the
18 requirements for the ten percent total area devoted to
19 parking, including islands and driveways, shall be covered
20 by landscaping.

21 There are landscaping concerns, so maybe you could
22 speak to that. Other than that, does anyone have anything
23 else, particularly? So, Mr. Kavanaugh, you can just kind of
24 go through all that as you'd like, again, and I'll put ten
25 minutes on the clock, just so we're -- I know where we are,

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1 and you can begin whenever you like.

2 MR. KAVANAUGH: Can I begin with your last comment
3 about the landscape issue --

4 CHAIRPERSON HILL: Sure.

5 MR. KAVANAUGH: -- before I forget it? That was
6 recently filed by the Department of Transportation. I -- so
7 I do not have a figure I can give you, but I would ask the
8 members of the Board to please check Exhibit No. 5, which are
9 five photographs of the parking lot. I believe the existing
10 parking lot clearly meets those -- that criteria.

11 It is entirely bordered by trees on the parking
12 lot, and bushes. The islands have trees on them. There's
13 a lot of grass, it's all landscaped. I'm sure we're over the
14 ten percent, but I do not have an actual figure. So I think
15 that's -- is the current condition.

16 CHAIRPERSON HILL: Okay. So, Mr. Kavanaugh,
17 again, I just want to know that it's going to, you know, DDOT
18 was recommending that we add that as a condition. So
19 C-17 -- oh, I'm sorry, C-715 -- is something that will be
20 added, and that condition is, that requires that parking lots
21 with at least ten parking spaces, a minimum of ten percent
22 of the total area devoted to parking, including aisles and
23 driveways, shall be covered by landscaping areas planted with
24 trees and shrubs. And you will be in compliance with that.
25 That's all I need to know.

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1 MR. KAVANAUGH: Yeah, that's true.

2 CHAIRPERSON HILL: Okay. All right. So, please
3 begin whenever you like.

4 MR. KAVANAUGH: Okay. We're here seeking a
5 special exception for the requirements under sub- --

6 CHAIRPERSON HILL: And, Mr. Kavanaugh, if you
7 could speak more into the microphone.

8 MR. KAVANAUGH: Yes. Subtitle C, Section 710.2,
9 710.3. The zoning requires basically the parking be on the
10 same lot. A special exceptions provide it -- can be provided
11 if it meets certain requirements. One is, it's a more
12 efficient use of the land available to the Basilica.

13 Two, it's more appealing. It presents a more
14 appealing streetscape, and more aesthetically pleasing
15 presentation of the Basilica's unique design. As far as
16 those are concerned, the Basilica's on a very small piece of
17 land. As you may know, it's the largest Catholic Church in
18 North America, and there are 70 parking spots that run along
19 the side of the Basilica on the lot -- same lot as the
20 Basilica.

21 But since it holds about 4,000 people in the main
22 church, additional parking was necessary. This parking lot
23 is located directly across Harewood Road. It is -- it
24 provides the Shrine with the ability to make more -- a more
25 efficient use of the land.

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1 Even if they can squeeze on a few more parking
2 spaces, it would detract from the landscaping of the
3 Basilica, itself, and would take up other areas there.

4 The way the Basilica has been maintained, it's
5 landscaping on the church itself creates a much more
6 appeasing -- pleasing streetscape than if parking -- more
7 parking was required on those lots. The parking lot presents
8 easy ingress and -- and egress and -- ingress and egress from
9 Harewood Road, and with an auxiliary egress and -- ingress
10 and egress from Irving Street.

11 The lot has been in use for 57 years now.
12 Originally, it was given five-year time limits when it first
13 had occurred. The last time we appeared here, it was given
14 a 20-year time limit.

15 Our application specifically requests no time
16 limit, because time limits are really to see if it will have
17 any ill effect on the neighbors. And there have been no
18 complaints about the use of the parking lot.

19 Also, it used to be very cheap to file for a
20 special exception. That has become much more expensive, and
21 by making us do it periodically, we would suggest that for
22 a 410-space parking lot, has become very expensive. So that
23 is why we're saying we want it without any time limit, this
24 time.

25 The -- in addition to the benefits it presents to

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1 the shrine by providing safe and convenient parking for the
2 pilgrims, parishioners, and others who are visitors, who come
3 there every year -- which is probably a million people over
4 the course of the year -- it also has benefitted the
5 neighborhood by providing a place for all the shrine's
6 visitors, pilgrims -- and pilgrims, to park, rather than
7 spreading out throughout the neighborhood, which is getting
8 more crowded over there, with recent development activities
9 by Catholic U and off campus.

10 So, we believe we do meet all the requirements,
11 and that we would point out the Office of Planning has --
12 also is suggesting approval with no time limits. Department
13 of Transportation has no objection, and sees no problem with
14 the traffic network of DC being affected by the continued use
15 of the parking lot. We are aware of the ten percent tree and
16 landscaping provision.

17 And, finally, one of the neighbors has written --
18 one of the neighbors have written and support, the other two
19 neighbors within 200 feet have not offered any opposition,
20 and we're sure would support it.

21 And, finally, the ANC voted unanimously, after
22 presentation at its meeting in late-October, to support it
23 by a 7-0 vote.

24 CHAIRPERSON HILL: Okay, great. All right,
25 thanks, Mr. Kavanaugh. I'm going to turn to the Office of

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1 Planning.

2 MS. FOTHERGILL: Good afternoon. For the record,
3 I'm Anne Fothergill, with the Office of Planning, and as the
4 Applicant stated, we support the special exception, and we
5 are not opposed to there being no term limit. We find that
6 it meets the criteria for the special exception of
7 Subtitle C, Section 710.3(a)(4), and I'm happy to rest on the
8 record -- I'm going to rest on the record in support of the
9 application. I'm happy to take any questions.

10 CHAIRPERSON HILL: Okay, does the Board have any
11 questions for the Office of Planning? Does the Applicant
12 have any questions for the Office of Planning?

13 MR. KAVANAUGH: No.

14 CHAIRPERSON HILL: Okay. I'm going to see, is
15 there anyone here from the ANC? Is there anyone here wishing
16 to speak in support? Is there anyone here wishing to speak
17 in opposition? All right, Mr. Kavanaugh, I'm going to just
18 turn back to you. Is there anything else you'd like to add?

19 MR. KAVANAUGH: No. I think the record's
20 complete, and that we have demonstrated entitlement to the
21 granting of the special exception.

22 CHAIRPERSON HILL: Okay, thank you.

23 MR. KAVANAUGH: So, we thank you for your time.
24 I'd like to just say two things. I want to thank, on the
25 record, Mr. LeGrant for his help in this, and also Alexander

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1 Cain. My last appearance before the BZA was 20 years ago.

2 And I never thought I'd be back to have to renew
3 it. But I am, and they were very helpful in guiding me
4 through the process.

5 CHAIRPERSON HILL: Oh, great. Well, thank you.

6 MR. KAVANAUGH: Thank you.

7 CHAIRPERSON HILL: Welcome back.

8 (Laughter)

9 MR. KAVANAUGH: Thank you.

10 CHAIRPERSON HILL: Let's see. All right, so I'm
11 going to go ahead and close the hearing. Is the Board ready
12 to deliberate?

13 MEMBER WHITE: Yes.

14 CHAIRPERSON HILL: Okay, I guess so. I thought
15 that the record was complete. I thought that the Applicant,
16 in their application, made a good argument as to why they
17 meet the test for the special exception. I also was in
18 agreement with the analysis that the Office of Planning had,
19 and the only thing that I was kind of wanting clarity on, was
20 the condition that DDOT had put, in terms of the ten percent
21 of the -- according to C-715. Does anyone else have anything
22 else they'd like to add?

23 MEMBER WHITE: No. I think the record's complete,
24 Mr. Chairman. I think they met the criteria. And the ANC
25 and the OP reports add additional support. So I would be in

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1 support of the application.

2 CHAIRPERSON HILL: Okay. Then I'll make a motion
3 to approve Application No. 19640, as read by the secretary,
4 with the condition that DDOT had recommended concerning the
5 requirements of C-715, and ask for a second.

6 MEMBER WHITE: Second.

7 CHAIRPERSON HILL: The motion has been made and
8 seconded. All those in favor.

9 (Chorus of aye.)

10 CHAIRPERSON HILL: All those opposed? The motion
11 passes, Mr. Moy.

12 SECRETARY MOY: Staff would record the vote as
13 4-0-1. This is on the motion of Chairman Hill to approve the
14 application of further relief being requested, as well as the
15 condition, as he has cited. Seconding the motion, Ms. White.
16 Also in support, Commissioner Peter May, Vice Chair Hart.
17 We have a Board seat vacant. Motion carries.

18 CHAIRPERSON HILL: Okay, great. Summary order,
19 Mr. Moy?

20 SECRETARY MOY: Thank you, sir.

21 MR. KAVANAUGH: Thank you.

22 CHAIRPERSON HILL: Thank you, gentlemen. Merry
23 Christmas.

24 MR. KAVANAUGH: Thank you very much. Take care.

25 MEMBER WHITE: Mm hmm.

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1 (Off mic comment.)

2 SECRETARY MOY: All right. I'm seeing that all
3 the parties are together to appeal number 19 -- 19627, of ANC
4 7-F. So, if they could come to the table. This is
5 advertised for -- as an appeal from the decision made on
6 February 2, 2015 by the Zoning Administrator, Department of
7 Consumer and Regulatory Affairs, to issue Building Permit
8 No. B -- that's B as in Bravo -- 1501924, to construct a
9 71-unit apartment house, RA-3 zone. That premise is
10 4000 Benning Road, NE, Square 5081, Lot 52, and there were
11 motions -- particular a motion to dismiss under Exhibit 28
12 in this appeal. Mr. Chair.

13 CHAIRPERSON HILL: Okay, great. Thank you. Has
14 everybody been sworn in? Okay. Have you all been sworn in?
15 No? Okay, whoever needs to be sworn in who may testify, if
16 you could please stand and take the oath administered by the
17 secretary to my left. And anyone else who hadn't shown up
18 until now.

19 SECRETARY MOY: Do you solemnly swear or affirm
20 that the testimony you're about to present in this proceeding
21 is the truth, whole truth, and nothing but the truth?

22 (No audible response.)

23 SECRETARY MOY: Thank you. You may be seated.

24 CHAIRPERSON HILL: Okay, great. So, if you all
25 could please introduce yourselves from my right to left.

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1 MR. TONDRO: Good afternoon. Maximilian Tondro,
2 on behalf of DCRA, and thank you for accommodating us.

3 MR. LeGRANT: It's Matthew LeGrant, Zoning
4 Administrator, DCRA.

5 MR. FREEMAN: Kyrus Freeman, with the law firm of
6 Holland & Knight, on behalf of the property owner.

7 MR. BELT: David Belt, the assigned person to
8 speak on this by the ANC-7F. I'm the one that brought the
9 appeal forward.

10 CHAIRPERSON HILL: Okay.

11 MS. CARR: Good afternoon. My name is ANC
12 Commissioner Carson Carr. I'm the Chair of 7F.

13 CHAIRPERSON HILL: Well welcome.

14 (Off mic comment.)

15 CHAIRPERSON HILL: No, I'm sorry. Just have a
16 microphone right there, if you could pull -- yeah, and just
17 push the button there.

18 MS. SETTLES: Good afternoon. I'm Karen
19 Settles -- ANC Commissioner Karen Settles, 7F-05.

20 CHAIRPERSON HILL: Okay, well thanks, both the
21 commissioners, for coming down. I guess there are a variety
22 of things that we're going to have to go through here a
23 little bit. So there's been a few motions made by the DCRA,
24 and you're aware of the motions that have been made? Okay.
25 And you need to just push in the microphone if --

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1 MR. BELT: I'm sorry.

2 CHAIRPERSON HILL: That's okay. That's all right.

3 MR. BELT: Yes.

4 CHAIRPERSON HILL: And so, that's one thing that
5 we're going to have to talk about. The other, just for my
6 clarity again -- Chairman Carr, so Mr. Belt is here
7 representing you guys. Is that correct.

8 MS. CARR: That is correct.

9 CHAIRPERSON HILL: Okay, all right. Speaking on
10 your behalf? Okay, so there's that -- so, the -- and this
11 is where I don't think anybody's going to be -- this is going
12 to take a little bit more time than I had originally thought.

13 After speaking with the Office of the Attorney
14 General, in terms of just the timeline, there has been a
15 motion that was put forward with -- for the dismissed for
16 untimely filing, lack of jurisdiction or public space,
17 failure to claim -- failure to state a claim.

18 And then there was another motion for continued
19 to two weeks, so that DCRA could take time to prepare for the
20 merits of the case. The motion was filed. The Applicant has
21 to have seven days to respond to the motion. The seventh day
22 is tomorrow.

23 And so, did you know about the motion and the
24 timeline that you had to submit to that -- submit any
25 information about the motion?

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1 MR. BELT: No, I did not. I received their
2 submissions Thursday afternoon from DCRA, and the close of
3 business Friday, from Holland & Knight. So there was no time
4 for me to prepare. I did call and make one submission on
5 Monday, but it wasn't fully -- and I wasn't ap- -- you know,
6 aware of any seven-day ruling for my response.

7 CHAIRPERSON HILL: Okay, all right. So you'll
8 have up until tomorrow to respond to the motions that were
9 put forward. And we're going to have to -- and then you had
10 another motion, Mr. Tondro, about to continue this for a
11 couple of weeks.

12 And so, in order to give -- and again, this is
13 what I have understood, in terms of talking with the Office
14 of the Attorney General, so we are going to have to now put
15 this into January, in order for us to come back here to allow
16 the Appellant time to respond to the motions -- the full
17 seven days -- and then you'll already have your two weeks
18 there. So, we're going to --

19 MR. BELT: I might be prepared --

20 CHAIRPERSON HILL: Do you follow along?

21 MR. BELT: -- I'm actually prepared to respond --

22 CHAIRPERSON HILL: Okay. You're prepared to
23 respond --

24 MR. BELT: -- to the timeliness.

25 CHAIRPERSON HILL: -- to the timeliness?

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1 MR. BELT: Yes.

2 CHAIRPERSON HILL: Okay. So, now I'm going to
3 turn to OAG, because I'm a little -- and so, if they give up
4 their right to the seven days, can we hear -- can we move
5 forward?

6 MS. GLAZER: Well, I supposed you could if the
7 Appellant is willing to waive its right, and just respond
8 orally. But I just noticed there's also a motion by a
9 proposed intervenor -- the property owner, which is
10 automat- -- who is automatically a party under the rules.

11 But there's a separate motion, which I haven't
12 reviewed yet. And I don't know if the Appellants have review
13 it.

14 CHAIRPERSON HILL: Okay. Which motion is that?

15 MR. FREEMAN: It's the same motion to dismiss.

16 CHAIRPERSON HILL: Okay.

17 MS. GLAZER: Is it just a statement to join in
18 DCRA's motion?

19 MR. FREEMAN: Our motion to dismiss, which we
20 filed on Friday -- Mr. Belt indicated he received on Friday.

21 CHAIRPERSON HILL: Okay. So, that's Friday.

22 MR. FREEMAN: Yep.

23 CHAIRPERSON HILL: So -- okay. So, you have,
24 again, now seven days from that Friday to respond to
25 anything. And you could waive that, I suppose. Right? And

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1 then -- and then that turns us over to the motion for
2 postponement for a few weeks, so that DCRA could -- the
3 motion to continue the hearing.

4 And so, I'm inclined, depending upon, you know,
5 what the Board thinks, to just go ahead and give the
6 Applicant the time that they're allotted, which is the seven
7 days, and that would automatically then push us into the new
8 year. And then DCRA would have their time that they're
9 requesting. Does the Board have any other thoughts? Now --
10 okay.

11 MEMBER WHITE: It's fine with me.

12 MR. BELT: It's one thing.

13 CHAIRPERSON HILL: Okay, that's all right.

14 MR. BELT: I'm one of the -- I'm one of the only
15 ones that's not a lawyer --

16 CHAIRPERSON HILL: No, no. I'm not a lawyer,
17 either, thank God. No, that's right.

18 (Laughter.)

19 CHAIRPERSON HILL: Oh, that's the woes.

20 MR. BELT: So, I was prepared. I knew about the
21 seven days, but --

22 CHAIRPERSON HILL: Right. Sure, I understand.

23 MR. BELT: -- I --

24 (Simultaneous speaking.)

25 MS. GLAZER: Mr. Chair, just to interject. I

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1 think it might be prudent, since the Appellant is not
2 represented and is pro se, and the Board is inclined to
3 postpone it to give them an opportunity to make a filing in
4 writing before the continued date, even though they're
5 willing to proceed today, they have a right to review the
6 filings more thoroughly, and that is, since the Board is
7 inclined to review -- to postpone the matter anyway.

8 CHAIRPERSON HILL: Okay. All right. So,
9 Mr. Belt, so there's been filings again for the motions to
10 postpone. If you want to go ahead and file something into
11 the record, in terms of your response to that, you can go
12 ahead and do that. Okay?

13 And since we are going to push this now into
14 January, because we only have one more week -- next week, and
15 next week we already have a lot of different appeals, and
16 it's a pretty full docket for us -- this is going to be now
17 January.

18 I can make it happen as early as possible in
19 January, to accommodate everyone, but now I'm going to look
20 to Mr. Tondro, to see how much time he thinks he might -- I
21 mean, two weeks was putting you into the holidays. So I
22 don't know exactly what that means.

23 MR. TONDRO: Yes, thank you, Mr. Chair. Just as
24 a clarification, I think we would be prepared to go forward
25 next week, only on the issue of timeliness. And then if the

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1 Board were to make a ruling on timeliness, that one -- and
2 to go to the merits -- then at that point, that is when we
3 would need the additional time.

4 I think this is a particular case where the
5 timeliness is fairly -- for lack of better words, of
6 egregious -- that I think that the Board should be able to
7 make the decision on timeliness alone. But I think, you
8 know, if that -- if it was felt that Mr. Belt would be
9 needing to have the time to respond to those motions, then
10 giving him until next week, we could do that.

11 That would mean that the only thing that the Board
12 would consider next week would be the timeliness motions.
13 If the Board then made a decision that required a hearing on
14 the merits, then that could be heard instead later on in
15 January. Does that make sense?

16 CHAIRPERSON HILL: It makes sense. I understand.
17 So -- okay, Mr. Moy, what's our schedule look like next week?

18 MS. CARR: Excuse me.

19 CHAIRPERSON HILL: Sure.

20 MS. CARR: In conversing with Mr. Belt, I will
21 prefer for everything -- because next week isn't good for me.
22 And so we making adjustments for everyone.

23 CHAIRPERSON HILL: Sure.

24 MS. CARR: So I would prefer if you would push
25 everything to January, so we can do everything at the same

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1 time.

2 CHAIRPERSON HILL: Okay. Okay.

3 MS. CARR: Please.

4 CHAIRPERSON HILL: Okay. All right. So, Mr. --
5 and I'm going to agree over the -- which is what it sounds
6 like the other Board members, as they're nodding their heads,
7 agree with. So then, we're going to hear everything --
8 okay? -- in January. And, Mr. Moy, what is January looking
9 like?

10 SECRETARY MOY: Oh, sorry.

11 COMMISSIONER MAY: Can I ask a question? So,
12 Mr. Tondro, you had asked for the hearing on timeliness
13 first. And then, if we decided that we should hear the
14 merits of the case, then you would need extra time to prepare
15 on the merits of the case.

16 What we're teeing up now, is that we'd have a
17 timeliness hearing, and then, at the same time, hear on the
18 merits. Is that --

19 MR. TONDRO: Mm hmm.

20 COMMISSIONER MAY: -- and is that a problem from
21 your perspective?

22 MR. TONDRO: I think the concern that we would
23 have, is that it's additional resources that we have to
24 expend to be able to go and track down this information.
25 Because this is a permit that was issued over two years ago.

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1 COMMISSIONER MAY: Right.

2 MR. TONDRO: And so for us, determining the
3 timeliness issue, was already preparing that -- took some
4 time. There's also the issue that I think the permit
5 holder --

6 COMMISSIONER MAY: Right.

7 MR. TONDRO: -- has been spending their time, they
8 recently retained a lawyer, and they had to focus on the
9 timeliness first. Again, this is something where the
10 timeliness was particularly -- it's not a matter of a couple
11 of days, or even a couple of weeks or months. It's years.

12 COMMISSIONER MAY: So, the merits of the case
13 speak -- you'd rather not --

14 MR. TONDRO: I would --

15 COMMISSIONER MAY: -- work on the merits of the
16 case until the timeliness issue has been decided.

17 MR. TONDRO: Yes.

18 CHAIRPERSON HILL: I understand. Okay, so --
19 okay. Okay.

20 COMMISSIONER MAY: I'm just think -- I'm asking
21 that -- I was suggest -- I asked that question because it
22 seems like it's probably -- it would -- it might be a
23 sensible thing to actually handle this into steps.

24 CHAIRPERSON HILL: I agree. I agree. I was just
25 trying to figure out -- but then I agree. So, unless the

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1 Board has any other issues with that, so what we will do, is
2 we will give you time to prepare something in terms of the
3 motion to dismiss.

4 So they've gone ahead and, you know, DCRA has this
5 motion to dismiss, which also the property owner has, as
6 well. And then you'll have -- I guess you can have more than
7 seven days. I mean, we can decide how much time you need to
8 file a response. I mean, seven days from this past Friday
9 would be this Friday.

10 And so -- but we can give them as much time as we
11 want. Right? So we can -- we can have -- I can give -- how
12 much time -- you may not be wanting to do anything, I don't
13 know. But how much time do you think you might want, in
14 order to submit something to the record in response to the
15 motions that have been put forward?

16 Those motions, again, are dismissed for untimely
17 filing, lack of jurisdiction over public space, dismissed for
18 failure to state a claim.

19 MR. BELT: Right. I see all that. And if I had
20 prepared myself, I don't see why two legal teams could not
21 have prepared themselves for filings that they made at this
22 particular time. And I would just be more inclined to do it
23 all at once in January, have both -- because it's plenty of
24 time -- that gives them additional time to work on -- also
25 work on the actual claims on the merits.

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1 CHAIRPERSON HILL: So, I'm turning to OAG, because
2 I'm trying to get to this point now. So --

3 MR. BELT: It's more difficult for me to keep
4 taking off from work just to come down -- to come down here
5 and breaking that up into two separate --

6 CHAIRPERSON HILL: Mr. Belt, I understand. That's
7 okay, I understand.

8 MR. BELT: Okay.

9 CHAIRPERSON HILL: So you're prepared right now
10 to discuss your issue of timeliness.

11 MR. BELT: Well, in -- well, if we want to do that
12 in January, to give me the full time -- if we want to do that
13 because they didn't submit -- I didn't the submissions until
14 Friday --

15 CHAIRPERSON HILL: I understand. I'm trying to
16 work through this with you, and I think your understanding --
17 (Simultaneous speaking.)

18 MR. SULLIVAN: -- I'd rather just do it all at
19 once, the way the Commissioner Carson Carr had recommended.

20 MS. CARR: And even if you make it late-January,
21 that gives them more time that they need, so that we can be
22 totally ready. And then with the filing -- because I think
23 that was your original question to him, how much time that
24 we'd need -- more time that we need to submit anything that
25 we're going to submit. Right?

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1 CHAIRPERSON HILL: Okay. Okay. So, do -- I mean,
2 so, what's on the table here -- just to clarify it, right? --
3 is that I was asking whether or not the Applicant was ready
4 to submit -- or, I'm sorry -- was ready to -- and prepared
5 to discuss the timeliness issue.

6 And it seems as though the Applicant is not
7 prepared right now to discuss the timeliness issue. And that
8 was the first thing. That would be the preliminary matter --
9 the motion to dismiss as being untimely. So, what is kind
10 of on the table here, is again, we would go ahead and do
11 that, and -- not today, we would be postponing that until
12 next January.

13 And then -- and what Commissioner May had just
14 mentioned -- which I'm torn on this issue, so I want to hear
15 what anybody else has to add -- is that we would come and
16 discuss the timeliness issue first, and then, if we were to
17 move forward with hearing the appeal, we would give the
18 Applicant another two weeks -- not the Applicant -- DCRA
19 another two weeks to produce their response on the appeal,
20 itself.

21 Which means that the Applicant would have to come
22 down here twice.

23 COMMISSIONER MAY: Mr. Chair --

24 CHAIRPERSON HILL: Mr. May -- give me one second.

25 COMMISSIONER MAY: So, Mr. Chairman, I mean, my

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1 argument, or my thought on this, is that we do -- it is smart
2 for us to be judicious in the time that the Government has
3 to invest in defending this case. So, in other words, DCRA's
4 time in researching this, and preparing for the case on the
5 merits, is -- I think is an important consideration.

6 And I think that in order to be sensitive to
7 Mr. Belt and his time and his need to be down here, is to
8 take up the timeliness question as the first matter on any
9 given day. So, on January 10th, we'd come down and discuss
10 the timeliness question, and make a decision first thing in
11 the morning, so you don't have to sit here until 2 o'clock
12 in the afternoon to get a vote on it.

13 And that also can save, you know, everyone some
14 time, because they don't have to prepare the arguments on the
15 merits if we decide that that, you know, it doesn't meet the
16 timeliness test.

17 If it does meet the timeliness test, then we can
18 grant people sufficient time to be able to prepare. I just
19 think it's a more efficient use of everyone's time.

20 CHAIRPERSON HILL: Okay. Mr. White? Oh, I'm
21 sorry. Mr. Hart?

22 VICE CHAIRPERSON HART: Yeah.

23 CHAIRPERSON HILL: Ms. White?

24 MEMBER WHITE: Well, I mean I -- I guess, first
25 of all --

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1 CHAIRPERSON HILL: Can you all turn off your
2 microphones? I'm sorry, it's like feedback. Thanks.

3 MEMBER WHITE: Or echo. Yeah, I mean the first
4 part of this is to get over the hurdle of the motion to
5 dismiss. And you're a pro se, you know, Appellant. So, it's
6 going to take some substantive time to kind of get a handle
7 on this. But they're not only filing on the timeliness
8 issue. It's lack of jurisdiction and failure to state a
9 claim.

10 So, there are three hurdles that you have to get
11 over, in order to move forward with the appeal. I would be
12 inclined to, you know, make sure that you deal with the
13 motion to dismiss first, because it's a pretty heavy lift for
14 a pro se appellant.

15 So, you -- because it's an appeal, you may end up
16 having to come back again anyway, because it's -- it can be
17 very, you know, time-consuming. So my recommendation would
18 be to just get it on the calendar to at least hear the motion
19 to dismiss first, and give the Appellants an opportunity to
20 prepare to respond, because it's fairly detailed information.

21 CHAIRPERSON HILL: Okay. Okay. But, Mr. Hart,
22 before you speak, and Mr. Freeman, before you speak, also,
23 but I mean, I'm now also inclined to do the same, which I
24 don't think, Mr. Freeman, you would have an objection to.
25 So, what we're trying to talk through here -- and I think

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1 because of the Public Meetings Act, it's all in the public --
2 we're going to go ahead and hear the timeliness issue first.

3 So, go ahead, and as the Appellant, please focus
4 on the motion that's been put forward, which is timely
5 filing -- you've seen the motion, right? You know, a lack
6 of jurisdiction, failure to state a claim. So then, we'll
7 hear that on the -- what's the first hearing, Mr. Moy? I'm
8 just --

9 SECRETARY MOY: Okay, if I --

10 COMMISSIONER MAY: If I --

11 SECRETARY MOY: -- Mr. Chair, if I heard the ANC
12 Chair correctly, I believe she said that she would not be
13 available January 10th. If that were to be the case, then
14 the next available date would be --

15 CHAIRPERSON HILL: No, she was okay on the 10th,
16 I think.

17 SECRETARY MOY: She was? Okay.

18 CHAIRPERSON HILL: But -- you're -- you need to
19 speak into the microphone. I'm sorry.

20 SECRETARY MOY: Okay.

21 MS. CARR: I'm fine with the 10th, but it was the
22 next -- it was next week --

23 CHAIRPERSON HILL: Okay.

24 MS. CARR: -- when we were talking about --

25 CHAIRPERSON HILL: Okay, got it. Okay. So, how

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1 busy are we on the 10th?

2 SECRETARY MOY: It's about seven cases?

3 CHAIRPERSON HILL: Are there any appeals on the
4 10th?

5 SECRETARY MOY: No, no. It's a similar
6 circumstance for the 17th, as well.

7 CHAIRPERSON HILL: Okay. All right. So, on
8 the -- and, Mr. Freeman, did you have anything to add?

9 MR. FREEMAN: I did, and I don't want to kind of
10 take us off track here, but I'd -- Mr. Belt had seven days
11 to respond. That would have been, if we filed on
12 December 8th, that would have been December 15th. He said
13 today he was ready to respond on timeliness. So, I'm not
14 sure why we're not scheduling the hearing on timeliness on
15 the 20th of December.

16 CHAIRPERSON HILL: What I was understood -- what
17 I understood from OAG -- right? -- was that there was a
18 filing -- I'd have to look at the calendar again, so I --

19 MR. FREEMAN: It's Friday.

20 CHAIRPERSON HILL: So, today, tod- --

21 MR. FREEMAN: -- so it's no problem --

22 CHAIRPERSON HILL: -- so it's not -- it's not
23 seven days. I mean, so it'd be -- tomorrow is --

24 MR. FREEMAN: There was no filing --

25 COMMISSIONER MAY: Mr. Freeman, if I can

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1 interject, it's because the Appellant here is not represented
2 by counsel, and they need the additio- -- we think that it's
3 smart to give them a couple of extra days to respond in
4 writing.

5 And the second thing is, that the ANC Chair cannot
6 be here next week. So, I think those two reasons are the
7 reasons why we pushed -- we would push it to January.

8 MR. FREEMAN: Understood. Thank you.

9 CHAIRPERSON HILL: And once again, I still am --
10 I'm going to go back and check, because again, I went through
11 this all last night. There was something that they had
12 another day to respond to, which is tomorrow. And so, you
13 know -- all right, sorry. Not yours. Their motion, right?

14 So -- DCRA. So, that's how I'm getting to the
15 seven day thing, right? Which is tomorrow. And so, you'll
16 have --

17 MR. FREEMAN: I would just like to point out one
18 other thing. Mr. Belt did make a filing after both of us
19 submitted our motions.

20 MR. BELT: Well, actually, your filings --

21 CHAIRPERSON HILL: You need to speak into the
22 microphone.

23 MR. BELT: Oh. Actually, your filing was so late,
24 as I was understood, that the filings -- all filings should
25 have been submitted 21 days before the hearing --

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1 CHAIRPERSON HILL: Okay. That's all right --

2 MR. BELT: So, I don't know if that's just --

3 CHAIRPERSON HILL: -- everybody, everybody,
4 everybody, everybody, everybody --

5 MR. BELT: -- with you, or everybody else --

6 CHAIRPERSON HILL: I get to talk. So, we're going
7 to go ahead and, on the 10th, we're going to hear about the
8 motion that was filed. Okay? So, please prepare and give
9 us all the information, and seven days before the 10th is
10 what day, Mr. Moy?

11 SECRETARY MOY: That would be January the 3rd.

12 CHAIRPERSON HILL: Right. Okay, so if you
13 could -- if you could give us -- it was already on the 2nd --
14 okay? -- if you could give us your filings by at least the
15 2nd. Okay? And then -- what? -- do they have time to
16 respo- -- how does that work? I forget, now. Do they have
17 time to respond after that, or no, that's the end of the
18 filings?

19 (Off mic discussion.)

20 CHAIRPERSON HILL: Yeah. Right. Okay. So -- so
21 on the second, if you could please, Mr. Belt, have everything
22 ready for -- to discuss this issue on timeliness. Okay? I
23 mean -- I'm sorry -- all the issues that are in the
24 preliminary motion here. Okay?

25 And so then, we're just going to talk about that

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1 on the 10th. Okay? So, that way you don't even have to --
2 I mean, you've probably already prepared for your appeal and
3 you've done a lot of work. But now, nobody has to do
4 anything for the appeal. We're going to -- and that way
5 nobody's going to waste their time. Okay?

6 So, you can go ahead and focus on the first thing,
7 which is getting through this motion. Okay? And then after
8 that, if we get to the merits of the appeal, we will put the
9 appeal on, to give you enough time to prepare for the appeal.
10 Okay? All right.

11 So, the 2nd, you're going to give us this
12 information we need to do. And we will do this first thing
13 in the morning on the 10th. Okay? So, the first -- we will
14 do this the first case on the 10th after the decision cases.
15 So that'll be, you know -- I don't know, you all get here,
16 the thing starts at 9:30 -- decision case, or whatever
17 decision case there'd be. You know, don't be late. Okay?

18 But we'll do this first so you all can get out.
19 Okay?

20 MS. SETTLES: Thank you.

21 CHAIRPERSON HILL: Mr. Tondro?

22 MR. TONDRO: Yes. Pardon me, Board Chair. Just
23 take a quick note. I didn't receive -- I just heard from
24 Mr. Freeman that he's indicated that Mr. Belt had filed
25 something. I haven't received any notice of that. So I just

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1 wanted to take the opportunity -- the last thing I'm saying
2 is casting aspersions -- just when Mr. Belt, when he does
3 file, if he can please make sure to serve myself, and also
4 Mr. Freeman, by email. Thank you.

5 CHAIRPERSON HILL: Okay.

6 MR. TONDRO: Because I was not --

7 CHAIRPERSON HILL: Mr. Belt, do you have those
8 email addresses? You need to speak into the microphone.

9 MR. BELT: Oh, I'm sorry.

10 CHAIRPERSON HILL: Okay, that's all right. That's
11 all right.

12 MR. BELT: What I was -- do what I was told by the
13 BZA, which was submitted online.

14 CHAIRPERSON HILL: Okay.

15 MR. BELT: And I'm assuming they're checking back.

16 CHAIRPERSON HILL: Okay. If you could just do us
17 a favor. When you leave, if you could just get their email
18 addresses --

19 MR. BELT: Okay.

20 CHAIRPERSON HILL: -- and just send them any
21 information --

22 MR. BELT: Okay.

23 CHAIRPERSON HILL: -- okay? -- that you're going
24 to get on the 2nd.

25 MR. BELT: Okay, yeah, because they sent something

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1 to --

2 CHAIRPERSON HILL: As long -- just make sure you
3 get it to the on the 2nd -- by the 2nd. Okay? Then we can
4 make sure we can move on this. And commissioners, we do
5 appreciate your coming down, and it is important. And now,
6 also, provided clarity, at least at this point, because it
7 was a little confusing as to who the Appellant was. So now
8 we understand that Mr. Belt is going to be speaking for the
9 ANC, and the ANC is the Appellant.

10 MS. CARR: That is correct.

11 CHAIRPERSON HILL: Okay.

12 MS. GLAZER: Mr. Chair.

13 CHAIRPERSON HILL: Yes.

14 MS. GLAZER: I just wanted to say I'm sure the
15 Appellant understood there are two requirements. One is to
16 serve all parties. That would be DCRA, and now the property
17 owner, if the Board has granted the motion, and has said that
18 the property owner is an intervenor. And also to file
19 documents in the system -- the zoning system.

20 CHAIRPERSON HILL: Okay. So, what Ms. Glazer is
21 saying, is just providing clarification. You still do need
22 to enter the documents into the ISIS system. Okay? And so
23 do that -- do both. You put them up -- you load them up into
24 the record, and then you go ahead and also serve the parties.

25 And we are going to grant -- unless the Board has

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1 any reason not to -- grant the building property owner
2 intervenor status. Okay? All right. Any questions on
3 anything?

4 MS. CARR: And the way he's -- they -- he said it
5 was okay to email them, to serve.

6 CHAIRPERSON HILL: Yes. Yes --

7 MS. CARR: Okay.

8 CHAIRPERSON HILL: -- you can email them.

9 MS. CARR: Right. I just wanted to --

10 CHAIRPERSON HILL: But in addition --

11 MS. CARR: I want that to be --

12 CHAIRPERSON HILL: Sure. No, of course. But in
13 addition to that, I'll put it all into the records --

14 MS. CARR: He need it. He has -- he has that
15 part --

16 CHAIRPERSON HILL: -- yeah, okay. Okay, great.

17 MS. CARR: Yes.

18 CHAIRPERSON HILL: Okay.

19 MS. CARR: Thank you.

20 CHAIRPERSON HILL: All right. Thanks,
21 commissioners. Thanks, everybody.

22 MS. CARR: Thank you. Have a good holiday.

23 CHAIRPERSON HILL: Happy Holidays. That's right,
24 Happy Holidays.

25 (Off mic discussions.)

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1 SECRETARY MOY: All right. If I could have
2 parties to the table to Application No. 19641, of Robert and
3 Kathryn -- it is pronounced McPhail? M-C-P-H-A-I-L?
4 Captioned and advertised for special exception under
5 Subtitle U, Section 601.1(c). This is from the lot -- this
6 is from the Alley Lot Used Permissions of Subtitle U's
7 Chapter Six, to permit the use of an existing two-story alley
8 lot building. It is a one-family dwelling, R-20 Zone, the
9 premise is 3208 Volta Place (Rear), N.W., Square 1255 of
10 Lot 210.

11 CHAIRPERSON HILL: Okay, if you could introduce
12 yourselves, please?

13 MR. SULLIVAN: Good afternoon, Mr. Chair and
14 members of the Board. My name is Martin Sullivan, with the
15 law firm of Sullivan and Barros, on behalf of the Applicant.

16 MS. WHITE: I'm Michele White, and I'm the
17 contract purchaser of the property.

18 MS. WILSON: My name is Alex Wilson, from the law
19 firm of Sullivan & Barros, also on behalf of the Applicant.

20 CHAIRPERSON HILL: Ms. White, when you say
21 contract purchaser, you mean you're going to be the owner of
22 this, if this goes through?

23 MS. WHITE: That's right.

24 CHAIRPERSON HILL: Interesting. Okay,
25 Mr. Sullivan, you have two people hanging on your case today.

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1 So, let's see, if you could go ahead and walk us through,
2 again, the project, and how you're meeting the criteria. OP
3 had some recommendations, and -- about Sub U 601.1(c)(4).
4 And so you could speak to that again, as well. At least
5 that's what I think that everybody's looked -- anyway, so
6 I -- I don't know why everybody's looking at -- all right.

7 So, you can go ahead and start whenever you like.
8 I'm going to put ten minutes on the clock, Mr. Moy, just so
9 we know where we are.

10 MR. SULLIVAN: Thank you, Mr. Chair and members
11 of the Board. The cover photo here that you see is actually
12 the rear of the building. This building is -- it's done.
13 It needs no work. It was lawfully permitted about 11 years
14 ago as an artist studio, as near as we can figure.

15 Now, some of the permits which we've put in the
16 record, mention that it's one-family dwelling. But it wasn't
17 entirely clear to me that it was approved as such, and it
18 wouldn't have been able to have been approved without BZA
19 relief.

20 So, we advised the contract purchaser that she
21 needed to clarify this situation, and get approval under a
22 special exception, for a one-family residence prior to
23 closing on the property.

24 CHAIRPERSON HILL: I'm sorry, Mr. Sullivan. I
25 just want to jump in and clarify. It was that the Applicant

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1 continued to work with District agencies enumerated in Sub U
2 601.1(c)(4). So just to be clear where that was from that.
3 Okay, thanks.

4 MR. SULLIVAN: Thank you. So you can see from the
5 second slide shows the location of the property. Wisconsin
6 Avenue is to the east, and the alley by the property, it's
7 a record lot. And then the yard area is actually these two
8 tax lots. So that's not part of the application,
9 technically, because it's only the record lot that's part of
10 the application.

11 And there's a 20-foot wide alley in the area where
12 you enter the garage on the property. Show the next slide.

13 So this would be the area on the 20-foot wide
14 alley. You enter the garage, and there's also a door to the
15 right that goes into the property that way. The previous
16 picture is the other side of that. It's the rear facing onto
17 the backyard.

18 The reason why we are here, is because the alley
19 narrows to ten-feet wide at its ingress from P Street. So,
20 that's what we need special exception relief for. If that
21 was five-feet wide, or we would be matter of right.

22 As you can see from the photos, the property is
23 ready for residential use and has been permitted as such, and
24 that has -- had something to do with -- some of our
25 interactions with these agencies, they've asked, well, was

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1 this permitted? Was the work permitted? Why are you calling
2 me? We're okay with it.

3 But it was -- I think it's critical that this is
4 all there. It's already -- it's already been approved as
5 such by DCRA.

6 Going over the special exception requirements
7 starting on page 9, the alley is not wholly or partially
8 within our 1A, 1B, or the R-2 zones. It's in the R-20 zone.
9 There is a -- the lot area is 1,518 square feet of land area,
10 so we meet the minimum area requirement for the lot.

11 It does connect to an improved public street.
12 They're an approved alley, or system of alleys, through
13 P Street, as you saw from the second slide. And you can see
14 also, from some of the photos, that the alley is easily
15 accessible by car.

16 There are -- there is one large parking lot in the
17 area back there, just south of our property. And there's
18 additional parking, as you can see, up against the commercial
19 buildings on Wisconsin Avenue.

20 The property does have a garage. Call it one car,
21 one-and-a-half, maybe two cars, that the Applicant will park
22 in.

23 Regarding the agency comments, we did submit to
24 the record a summary of our outreach to the various agencies,
25 and we can answer any questions about that.

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1 CHAIRPERSON HILL: Okay, so that is in the record.

2 MR. SULLIVAN: Yes.

3 CHAIRPERSON HILL: And where is it in the record?

4 MS. WILSON: I can speak to that. It's
5 Exhibits 34A, 1 through 3, and I actually submitted them to
6 BZA Submissions on November 11th, but when I checked the
7 record a couple of days ago, I saw that they'd never been
8 submitted. So that's why, if you look at the record, the
9 date says 11/15, but they're the last three exhibits.

10 CHAIRPERSON HILL: Okay. Okay, great. Thank you.

11 MR. SULLIVAN: Just -- when we have a non-
12 objection from the ANC -- this is the Georgetown ANC, and
13 they are in the habit of doing that recently -- so there were
14 no concerns addressed. We haven't heard from any neighbors,
15 and unless -- if the Board has any other questions, I have
16 nothing further to add.

17 CHAIRPERSON HILL: Does the Board have any
18 questions?

19 COMMISSIONER MAY: Yeah. So, you're probably here
20 for the other case, right? That was -- so the question is,
21 Fire and EMS, and what, if any -- I mean, I saw there's a
22 whole litany of stuff, including screenshots of your
23 cellphone, and -- anyway, but I didn't see that there was a
24 direct connection or report.

25 MS. WILSON: So, I talked to Chief Falwell, and

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1 I sort of briefed him. I talked to him on the phone, and he
2 asked me to just follow up and send him an email describing
3 the case. I believe that's in the record, and that's really
4 my last contact with him.

5 He was asking me sort of why -- like why we were
6 reaching out if the building had already been permitted and
7 there is no new construction.

8 COMMISSIONER MAY: Mm hmm.

9 MS. WILSON: So, my -- I'm not going to put words
10 in his mouth. My general consensus was it wasn't an issue.

11 COMMISSIONER MAY: Right. So then, I have two
12 other questions. How far is the property from the street?
13 From P Street?

14 MS. WILSON: I'm going to pull it up. I don't
15 know the exact --

16 MR. SULLIVAN: I don't know that we measured it.
17 It's well within the 300.

18 COMMISSIONER MAY: Yeah. It looks like it's
19 pushing a couple hundred, though.

20 MR. SULLIVAN: Yeah, I would say somewhere
21 probably around 180, if I had to -- but I can -- I can
22 probably figure that out before we adjourn.

23 COMMISSIONER MAY: Well, I mean, you know, want
24 to figure it out today if we figure it out. So, and then --

25 MR. SULLIVAN: And -- yeah, and it's not one of

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1 the special exception requirements. That's a matter-of-right
2 requirement, I think.

3 COMMISSIONER MAY: Right. It, it, it -- I mean
4 that distance is just relevant because of the safety issues.
5 So the second question I have is, is the property
6 sprinklered?

7 MR. SULLIVAN: I don't know. If it's not, we
8 would have to address that, because we're going to have to
9 go to DCRA and confirm that the use is -- doesn't need -- if
10 it needs a change of use from what was approved previously,
11 my guess is, based on the permits, I thought it was approved
12 as if it was going to be used as a single-family, because it
13 said one-family dwelling on the permits. On some of the
14 permits.

15 COMMISSIONER MAY: But --

16 MR. SULLIVAN: But if we would have to have it
17 sprinklered, if it -- if that's required for a one-family
18 dwelling.

19 COMMISSIONER MAY: I don't know if it's required
20 or not, it's just smart if you going to be -- if it's going
21 to be a hard thing to reach with -- in the event of a fire.
22 Can you bring in some of the -- bring up some of the photos
23 of the property again? All right, slow down.

24 You know, so I'm not seeing any indication in the
25 ceilings that it's -- you'd see some sprinkler heads, most

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1 likely, if there were sprinklers in there. It's possible to
2 retrofit with sprinklers. It's not easy, although
3 residential sprinkler systems have gotten a lot easier. It's
4 not, you know, rigid pipe like you have in this building.

5 So, I mean technically, it's not really our issue.
6 If Fire and EMS was really concerned about it, then they've
7 done what they're supposed to do, in terms of reaching out.
8 So, thank you.

9 CHAIRPERSON HILL: Okay. I'm going to turn to the
10 Office of Planning.

11 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman
12 and members of the BZA. Maxine Brown-Roberts, for the
13 record. We recommend approval of the proposal under 601.1(c)
14 for conversion to single-family residence. And, as outlined
15 in our report, in Item No. 5, we had recommended that the
16 Applicant make an entry to find EMS.

17 And I did call Mr. Falwell, myself, and spoke to
18 him about the application. He asked me to send him over a
19 copy of the section of the Code, and I did. He said he would
20 get back to me, and I haven't heard anything from him. I --
21 yesterday, I sent him an email again, and I haven't heard
22 anything back. So, that's it.

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

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1 MR. SULLIVAN: No, thank you.

2 CHAIRPERSON HILL: Okay. Is there anyone here
3 from the ANC? Is there anyone here wishing to speak in
4 support? Is there anyone here wishing to speak in
5 opposition? Mr. Sullivan, is there anything else you'd like
6 to add?

7 MR. SULLIVAN: No, thank you.

8 CHAIRPERSON HILL: Okay. Does the Board have any
9 final questions for the Applicant? Okay, I'm going to close
10 the hearing. Is the Board ready to deliberate? Okay, I can
11 start. I'm comfortable with the application. There was some
12 questions about -- and this was the second, oddly enough,
13 today, in terms of like whether or not the agencies had been
14 reached out to, and it's pretty odd that we get two alley
15 things like this in a day.

16 I think the property's very interesting. And I
17 think that they meet the criteria to grant the special
18 exception and the relief that they're requesting. Did anyone
19 else have anything else they'd like to add? Okay, I'm going
20 to make a motion to approve Application No. 19641, as read
21 by the Secretary, and ask for a second.

22 VICE CHAIRPERSON HART: Second.

23 CHAIRPERSON HILL: Motion has been made and
24 seconded. All those in favor?

25 (Chorus of aye.)

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1 CHAIRPERSON HILL: All those opposed?

2 (No audible response.)

3 CHAIRPERSON HILL: Motion passes, Mr. Moy.

4 SECRETARY MOY: Staff would record the vote as
5 4-0-1. This is on the motion of Chairman Hill to approve the
6 application for the relief being requested. Seconded the
7 motion, Vice-Chair Hart. Also in support, Mr. Peter May,
8 Ms. White, we have a Board seat vacant. The motion carries,
9 sir.

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

12 SECRETARY MOY: Thank you.

13 CHAIRPERSON HILL: Thank you. Thank you all very
14 much. Enjoy your house.

15 MS. BROWN-ROBERTS: Thanks.

16 SECRETARY MOY: All right, if we could have
17 parties to the table to Application No. 19642. This is of
18 Samuel Akingbade -- A-K-I-N-G-B-A-D-E -- as amended for a
19 variance from the side yard requirements of Subtitle D,
20 Section 307.4, which would construct a new semi-detached,
21 one-family dwelling, R-2 Zone. That premise is 725 49th
22 Street, NE, Square 5179, Lot 78.

23 CHAIRPERSON HILL: Okay, if you could please
24 introduce yourself.

25 MR. AGBIM: My name is Ike Agbim. I'm the

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1 architect for the owner.

2 CHAIRPERSON HILL: Can you spell your last name,
3 please?

4 MR. AGBIM: A-G-B-I-M.

5 CHAIRPERSON HILL: Yes, please, you introduce,
6 sir?

7 MR. AKINGBADE: I'm Samuel Akingbade, the
8 Applicant. A-K-I-N-G-B-A-D-E.

9 CHAIRPERSON HILL: You know, I see your name is
10 on the application, so I can actually -- but thank you so
11 much. The -- so, Mr. Agbim -- Ag- --

12 MR. AGBIM: Yes, Agbim.

13 CHAIRPERSON HILL: Agbim. Are you going to be
14 presenting to us?

15 MR. AGBIM: Yes, sir.

16 CHAIRPERSON HILL: Okay. I guess, you know, it
17 is a variance test, meaning you're asking for a variance.
18 And so, if you can kind talk through the three prongs, in
19 terms of how you're meeting that test, in order for us to
20 grant the relief, as well as if you could tell us a little
21 bit more about the project, and what you're trying to do.

22 I'm -- unless the Board has anything other than
23 that, I'm going to go ahead and put ten minutes up on the
24 clock, just so we know where we are, and you can begin
25 whenever you like.

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1 MR. AGBIM: Thank you, sir. This lot -- Lot
2 No. 78 -- is an odd-shaped end-of-block lot on the corner of
3 49th Street and Hayes Street, NE, on the southeast corner of
4 49th and Hayes. It's, you know, an odd-shaped polygon. So,
5 probably the reason why we're here today is because of the
6 shape and the geometry of the lot.

7 On the 49th Street frontage, it's got a mere
8 10 feet, you know, frontage -- front yard, front dimension --
9 and in the rear in the alley, it has a much wider. So it's
10 kind of displayed out towards the alley. So we do not
11 have -- the geometry of the lot makes it such that you can't
12 really have two side yards without getting a var --
13 without -- I'm being -- you can't have two sides yards and
14 still have space to fit in a single-family dwelling or a
15 structure of any nature on that property.

16 So, that's why we're here, seeking a variance from
17 the street that adheres to eight-foot side yard requirement.
18 The project is designed to be a semi-detached, placed in the
19 building on the property line on one side, in between
20 plots -- lot number 78, and lot number 91, which is the
21 property next door.

22 And that way, we have one side yard, but not the
23 other side yard. And so that's really the reason why this
24 design is the way it is, and why we're here seeking a
25 variance.

1 Now, as regards to the test, we believe that this
2 is a single-family dwelling in an R-2 zone, which is what
3 this is zoned for. And we believe that it fits in properly
4 into the neighborhood, and will not substantially be
5 dismantled to public good, in terms of traffic noise, light,
6 and the application is -- the proposal is very consistent
7 with the neighborhood.

8 So, residential property, a single-family property
9 in a single-family, an apartment-use area, and we feel that
10 this would be very consistent with what's in the
11 neighborhood.

12 So, having said that, I believe that granting this
13 variance from the side yard requirement, will not, you know,
14 be -- cause any harm to public good.

15 CHAIRPERSON HILL: Okay. Mr. Akingbade, just --
16 we didn't see any letter of authorization from Mr. Agbim to
17 represent you. You can orally tell us that you're allowing
18 Mr. Agbim to represent you. I just need something in the
19 record that says that.

20 MR. AKINGBADE: I do allow Mr. Agbim to represent
21 me.

22 CHAIRPERSON HILL: Okay, great. Thank you. All
23 right. Mr. Agbim, I'm going to turn to the Office of
24 Planning.

25 MS. MYERS: Good afternoon. Crystal Myers, for

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1 the Office of Planning. The Office of Planning recommends
2 approval of this project, and stands on the record of the
3 staff report.

4 CHAIRPERSON HILL: Okay, great. Does the Board
5 have any questions for the Office of Planning? All right,
6 Mr. Agbim, do you have any questions for the Office of
7 Planning?

8 MR. AGBIM: No sir.

9 CHAIRPERSON HILL: All right. Is there anyone
10 here from the ANC? Is there anyone here wishing to speak in
11 support? Is there anyone here wishing to speak in
12 opposition? All right, Mr. Agbim, do you have anything else
13 you'd like to add?

14 MR. AGBIM: No sir. We have a letter of support
15 from two neighbors. We got them late, so we're not able to
16 get them, or upload them into the system.

17 CHAIRPERSON HILL: Okay. You can go ahead and
18 give those to the Secretary, and then he can add them into
19 the record. It looks as though, Mr. May, you have a
20 question?

21 COMMISSIONER MAY: Yeah. So on the wall that's
22 on the property line where you need the side yard relief,
23 you're showing -- the drawing showing eight-inch block wall?

24 MR. AGBIM: Yes sir.

25 COMMISSIONER MAY: So, do we know that at any time

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1 in the near future, the abutting -- that there'll be a house
2 built on that abutting property that would join up to that
3 wall on the property line?

4 MR. AGBIM: No. The property next door -- the lot
5 number 91, which is the one that shares that property line --

6 COMMISSIONER MAY: Yeah.

7 MR. AGBIM: Has approval for detached building on
8 it.

9 COMMISSIONER MAY: Fully detached.

10 MR. AGBIM: Yes sir.

11 COMMISSIONER MAY: Okay. So you're -- I mean,
12 putting up a block wall on the property line kind of assumes
13 that somebody else is going to build up right next to it.
14 But what you're saying, is that that's always going to be
15 there.

16 MR. AGBIM: Well, yeah. By definition, the semi-
17 detached building has a wall on the property line.

18 COMMISSIONER MAY: That's not my point. My point
19 is that the -- we're all going to be able to see an eight-
20 inch block wall on the side of that house that you're
21 proposing to build. Right?

22 MR. AGBIM: Yes sir.

23 COMMISSIONER MAY: So, since you are seeking
24 relief for the side yard requirement, I think that one way
25 to address concerns that come with that -- having that loss

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1 of side yard, would have that wall look good. So, what about
2 actually making that a brick wall like everything else? I'm
3 not asking for windows, or any special treatment. But just
4 brick, rather than block. Do you think that's feasible?

5 MR. AGBIM: Yeah. There are actually some masonry
6 options that the owner can employ, such as the simulated
7 block wall, which has brick pattern on it. It's really
8 block, but it has brick pattern, and it can be stained.
9 And --

10 COMMISSIONER MAY: I'm sorry, what kind of pattern
11 is it?

12 MR. AGBIM: Brick pattern -- brick.

13 COMMISSIONER MAY: Oh, a brick patter- --

14 MR. AGBIM: Yeah.

15 COMMISSIONER MAY: A brick pattern block?

16 MR. AGBIM: Brick pattern block wall, yeah. Yes
17 sir.

18 COMMISSIONER MAY: Wow. That's like telling
19 instead of aluminum siding, you want to put up vinyl siding.
20 Can you do brick?

21 MR. AGBIM: Yes, brick is feasible. It's more
22 expensive, but I think --

23 COMMISSIONER MAY: Yeah, I mean -- but it's not
24 hugely more expensive, I would think. I mean it's going
25 still be backed with four-inch block, I assume. Or you're

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1 going to do a -- you could do a wood stud wall, and --

2 MR. AGBIM: And face it with brick, yeah.

3 COMMISSIONER MAY: And face it with brick, right?

4 MR. AGBIM: Yeah.

5 COMMISSIONER MAY: I mean, I just think that
6 that's the least that you can do to make this look good from
7 that side.

8 CHAIRPERSON HILL: So would you agree to that?

9 MR. AGBIM: Yes sir.

10 CHAIRPERSON HILL: Could they -- Mr. Akingbade,
11 could you please agree to that on the record.

12 MR. AKINGBADE: Yes, I agree with that.

13 COMMISSIONER MAY: Okay. Thank you very much.
14 I appreciate it.

15 MR. AKINGBADE: Thank you.

16 VICE CHAIRPERSON HART: Just a point of
17 clarification. Mr. Agbim, you're the -- you actually own
18 property -- lot number 91. Correct?

19 MR. AGBIM: Yes sir.

20 VICE CHAIRPERSON HART: Okay. I mean, I saw a
21 letter in there, and then I was like, you're talking about
22 this. So you have control over the actual building that
23 you're talking about, so you could -- it's up to you to
24 figure out when you want to actually build the next door
25 neighbor that's against this wall.

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1 MR. AGBIM: Yes sir.

2 VICE CHAIRPERSON HART: Okay. I mean it just --

3 COMMISSIONER MAY: It's sort of crying out for
4 having the other half of the semi-detached building being
5 built. Right?

6 VICE CHAIRPERSON HART: Yeah. That's why I was
7 like, you know -- and I agree with you.

8 COMMISSIONER MAY: Well, you know, and certainly
9 if you were to change your plans for lot 91 and wanted to
10 make a semi-detached building, you wouldn't have to put brick
11 on it. But, you know, we're not trying to redesign the whole
12 thing and --

13 CHAIRPERSON HILL: Okay, but you understand and
14 you're in agreement.

15 MR. AGBIM: Oh yeah. One hundred percent.

16 CHAIRPERSON HILL: Yes, okay.

17 (Simultaneous speaking.)

18 CHAIRPERSON HILL: Okay, wonderful. Okay. Does
19 anyone have anything else? All right, I'm going to go ahead
20 and -- and Mr. Akbim -- I'm sorry, Agbim -- do you have
21 anything else you'd like to add?

22 MR. AGBIM: No, nothing else.

23 CHAIRPERSON HILL: Okay.

24 MR. AGBIM: Yeah, we did -- just to mention for
25 the record, we did present this to the neighbors and to the

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1 ANC. We had the ANC on the 9th of November. They were,
2 however, not able to do a vote, and they didn't have the
3 meeting in December.

4 Their next meeting will be in January. So that
5 is the reason why they don't have any objection to the
6 project. But they were not able to do a vote on it due to
7 quorum, or some other reason.

8 CHAIRPERSON HILL: Okay. All right. Okay, I'm
9 going to go ahead and close the hearing. Is the Board ready
10 to deliberate?

11 (Off mic comment.)

12 CHAIRPERSON HILL: Okay. I think it actually
13 clearly meets the variance test, and so I am comfortable
14 resting on the record and the information that the Office of
15 Planning has provided. I'm thankful that Commissioner May
16 put forward the concerns about the brick, and that the
17 Applicant has agreed to change the wall there. Does anyone
18 else have anything else to add before I make a motion?

19 VICE CHAIRPERSON HART: Just a minor point, that
20 ANC 7C was actually here earlier. They were --

21 CHAIRPERSON HILL: Oh.

22 VICE CHAIRPERSON HART: -- they were at the appeal
23 that we had.

24 CHAIRPERSON HILL: Right, right. We could have
25 talked to them.

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1 VICE CHAIRPERSON HART: So, they could have
2 actually --

3 CHAIRPERSON HILL: Written a letter.

4 VICE CHAIRPERSON HART: -- provided some --

5 CHAIRPERSON HILL: Well, that's all right. So,
6 okay.

7 VICE CHAIRPERSON HART: Got it. Just interesting.

8 CHAIRPERSON HILL: All right. Okay. Then I'm
9 going to go ahead and make a motion to approve Application
10 No. 19642, as captioned and read by the Secretary, and ask
11 for a second.

12 VICE CHAIRPERSON HART: Second.

13 CHAIRPERSON HILL: Motion is made and seconded.
14 All those in favor.

15 (Chorus of aye.)

16 CHAIRPERSON HILL: All those opposed. The motion
17 passes, Mr. Moy.

18 SECRETARY MOY: Staff would record the vote as
19 4-0-1. This is on the motion of Chairman Hill to approve the
20 application for the relief being requested. Seconding the
21 motion, Mr. Peter May. Also support, Ms. White, Vice-Chair
22 Hart, we have a Board seat vacant. The motion carries.

23 CHAIRPERSON HILL: Summary order?

24 SECRETARY MOY: Thank you.

25 CHAIRPERSON HILL: Thank you. Thank you,

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1 gentlemen.

2 (Off mic comments.)

3 SECRETARY MOY: All right, I see the parties
4 moving to the table. This is -- yes, of course. This is
5 Case Application No. 19643, William Calomiris. Caption
6 advertised for special exception under Subtitle D,
7 Section 5201. This is from the rear yard set-back
8 requirements of Subtitle D, Section 5004.1. This would
9 permit an existing accessory structure in the R-15 Zone,
10 3112 New Mexico Avenue, NW, Square 1625, Lot 24.

11 CHAIRPERSON HILL: Okay, great. Could you
12 introduce yourself, please?

13 MR. CALOMIRIS: Sure. My name is William
14 Calomiris -- you can call me Bill.

15 CHAIRPERSON HILL: Okay, Bill. So, you're here
16 alone?

17 MR. CALOMIRIS: Yes. I mean, I have counsel, in
18 case --

19 CHAIRPERSON HILL: I was saying, you know, you got
20 counsel backing you up. Okay.

21 MR. CALOMIRIS: Yeah.

22 CHAIRPERSON HILL: All right, so I don't have a
23 lot of questions about the application. I suppose, if you
24 could go over what you're trying to do, as well as how you're
25 meeting the criteria for us to grant the relief that you're

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1 requesting. I see that you've presented in front of the ANC,
2 and we have their record -- I'm sorry, information -- as well
3 as the Office of Planning.

4 But if you could go ahead and please speak to the
5 comments that I made. I'm going to put ten minutes on the
6 clock so we know where we are, and you begin whenever you
7 like.

8 MR. CALOMIRIS: Cool. It's just a two-minute
9 spiel. My name is Bill Calomiris, and I'm at 3112 New Mexico
10 Avenue, NW. I'm here today requesting special exception
11 relief from accessory building, the rear yard requirements,
12 to allow the shed behind my house, in my backyard, to be
13 located 8.9 feet from the center line of the alley, instead
14 of 12 feet.

15 As a gift, my father constructed the shed in my
16 backyard while I was out of town for a month. That complies,
17 in all aspects, with zoning regulations that were in effect
18 until September 6th of last year.

19 We subsequently learned that the section of zoning
20 regulations requiring garages to be set back 12 feet from the
21 center line to the alley, was changed, so that the setback
22 now applies to sheds, in addition to garages. I'm here to
23 basically try to rectify that mistake.

24 While the shed's approximately ten feet tall at
25 the peak of the roof, it's only seven feet, which is nine

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1 inches above the adjacent grade to the north and west, and
2 only nine inches taller than the existing seven-foot-tall
3 fence at the rear of my property.

4 The shed is also considerably shorter than the 20-
5 feet allowed by -- under zoning regulations. The shed will
6 not create any additional views into the neighboring
7 properties to the north, south or west, and the majority of
8 my neighbors' properties contain similar accessory buildings
9 or sheds.

10 The shed will not create any additional views to
11 neighboring properties, blah blah blah. At the request of
12 my neighbor to the north, I've also agreed to install a new
13 fence along my north property line, that is eight feet, six
14 inches tall, that will fully screen her from the view of the
15 shed.

16 My neighbor has also submitted a letter of support
17 to the record. If the shed is constructed without the
18 request relief, it would be located approximately three feet
19 closer to her building -- or to her house.

20 The shed is also located across a 15-foot-wide
21 public alley, from the properties to the west and the south.
22 I'm pleased to have the ANC 3D and OP support. As a result,
23 I believe that I have demonstrated that I meet the test for
24 special exemption relief under the zoning regulations. And
25 if you guys have any questions, just let me know.

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1 CHAIRPERSON HILL: Okay, does the Board have any
2 questions for the Applicant?

3 COMMISSIONER MAY: So, this is sort of, I don't
4 know, looks like a chicken and egg question. It was -- I
5 mean, first of all, it's interesting and novel that your --
6 that it was built for you as a gift while you were away. I
7 mean, I assume you were going to happen while you were away.
8 You just --

9 MR. CALOMIRIS: No.

10 COMMISSIONER MAY: -- come back and found it
11 there?

12 MR. CALOMIRIS: Well, I didn't find the whole
13 thing there. I actually found a big hole in the ground.
14 I --

15 COMMISSIONER MAY: Okay.

16 MR. CALOMIRIS: Yeah.

17 COMMISSIONER MAY: So -- well -- so, assuming it
18 was all properly permitted at that time -- right? I mean,
19 that's what I'm assuming -- that it was permitted?

20 MR. CALOMIRIS: No. That's why I'm here.

21 COMMISSIONER MAY: So, it was not permitted at
22 all. So, the fact that it was not permitted at all -- I
23 mean, it should have had a permit. Right?

24 MR. CALOMIRIS: Yeah, yeah.

25 COMMISSIONER MAY: So, the fact that it was

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1 permit -- that it was built before the regulation went into
2 effect, is irrelevant.

3 MR. CALOMIRIS: Well, it -- the reason that I
4 mention that is because --

5 COMMISSIONER MAY: I think your attorney wants to
6 come in and help you.

7 CHAIRPERSON HILL: Wait a minute. So, would you
8 introduce yourself? Or not. You can introduce yourself.

9 MR. GAON: Oh, I'll introduce --

10 CHAIRPERSON HILL: I'm sorry.

11 MR. GAON: -- myself. I just want to make sure,
12 for the record, that he authorizes -- there's no letter of
13 authorization in the record. So --

14 CHAIRPERSON HILL: Okay.

15 MR. GAON: -- I just want him to --

16 MR. CALOMIRIS: I authorize him to get it.

17 CHAIRPERSON HILL: Okay. That's okay. First --
18 I'm sorry -- first, give me your name.

19 MR. GAON: My name is Joe Gaon, of the law firm
20 Holland and Knight, here on behalf of the Applicant.

21 CHAIRPERSON HILL: Okay. And you, as the
22 Applicant, are now authorizing Mr. Gaon -- thank you -- to
23 represent you.

24 MR. CALOMIRIS: Correct.

25 CHAIRPERSON HILL: Okay, thank you. Mr. Gaon?

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1 MR. GAON: The shed was not built before the
2 regulations went into effect. So under ZR 58, sheds didn't
3 have to be set back from the center line to the alley.

4 COMMISSIONER MAY: But they did have to be
5 permitted.

6 MR. GAON: They did have to be permitted. That
7 is correct. So, Bill's father didn't think it needed to be
8 set back, and he did not --

9 COMMISSIONER MAY: Oh, right. So he tried to
10 build it to code, but didn't actually bother with getting the
11 permits that were --

12 MR. GAON: That's correct.

13 COMMISSIONER MAY: -- coded.

14 MR. GAON: That's correct.

15 COMMISSIONER MAY: Got it.

16 MR. GAON: And that's why we're here, trying to
17 rectify that mistake.

18 COMMISSIONER MAY: Okay. So it -- yeah, it's kind
19 of a red herring, the regulation aspect of it. All right,
20 now I understand. I was just really curious about -- because
21 it had been built before it was required, and then it would
22 have been -- and it was permitted, then everything would have
23 been fine.

24 MR. GAON: Yes, that's correct.

25 COMMISSIONER MAY: But it's -- that's not what

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1 happened. All right. My question is satisfied.

2 CHAIRPERSON HILL: Okay, great. So, Mr. Gaon, so
3 you are representing the Applicant.

4 MR. GAON: That's correct.

5 CHAIRPERSON HILL: But you were just here for
6 backup?

7 MR. GAON: Just for backup.

8 CHAIRPERSON HILL: Do you get paid as backup?

9 MR. GAON: I'm not going to answer that.

10 CHAIRPERSON HILL: Okay. (Laughter.) All right.
11 Okay. I'm going to turn to the Office of Planning, please.

12 MR. JESICK: Thank you, Mr. Chairman and members
13 of the Board. My name is Matt Jesick. The Office of
14 Planning is happy to rest on the record in support of the
15 application. Thank you.

16 CHAIRPERSON HILL: Okay. Does anyone have any
17 questions for the Office of Planning? Does the Applicant
18 have any questions for the Office of Planning?

19 MR. CALOMIRIS: No.

20 CHAIRPERSON HILL: Okay. All right, is there
21 anyone here from the ANC? Is there anyone here wishing to
22 speak in support? Is there anyone here wishing to speak in
23 opposition? Is there anything else you'd like to add at the
24 end?

25 MR. CALOMIRIS: No.

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1 CHAIRPERSON HILL: All right, Bill. So, let's
2 see. Does the Board have any other questions?

3 VICE CHAIRPERSON HART: No, only to Mr. -- excuse
4 me, Bill -- that he's provided us with a very large document
5 for justifying this shed that you are now thanking your
6 father for.

7 MR. CALOMIRIS: Yeah.

8 VICE CHAIRPERSON HART: We'll be thanking him, and
9 you can continue talking about this over every holiday that
10 you --

11 MR. CALOMIRIS: Oh, I plan on it.

12 VICE CHAIRPERSON HART: I agree. But anyhow, I
13 didn't have any questions. Thanks.

14 MR. CALOMIRIS: Thanks.

15 CHAIRPERSON HILL: Okay, great. I'm going to
16 close the record. Is the Board ready to deliberate?

17 (Off mic comment.)

18 CHAIRPERSON HILL: Okay, I can start? I thought
19 that Mr. Calomiris did a very good in presenting to us, as
20 well as the announcements that the Office of Planning has
21 provided, as well as the information that the ANC 3D has
22 provided, and I didn't have any issues with the application.
23 Does anyone want to add anything before I make a motion?
24 Okay, I'm going to make a motion to approve Application
25 No. 19643, as captioned and read by the Secretary, and ask

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1 for a second.

2 MEMBER WHITE: Second.

3 CHAIRPERSON HILL: Motion is made and seconded.

4 All those in favor?

5 (Chorus of aye.)

6 CHAIRPERSON HILL: All those opposed? The motion
7 passes, Mr. Moy.

8 SECRETARY MOY: Staff would record the vote as
9 4-0-1. This is on the motion of Chairman Hill to approve the
10 application. Seconding the motion, Ms. White. Also in
11 support, Mr. Peter May, Vice-Chair Hart, we have a Board seat
12 vacant. The motion carries.

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

15 SECRETARY MOY: Yes, thank you.

16 CHAIRPERSON HILL: Okay, thank you. Thank you,
17 sir.

18 MR. CALOMIRIS: Thanks, guys.

19 CHAIRPERSON HILL: All right. Do we have anything
20 else before us, Mr. Moy?

21 SECRETARY MOY: Nothing from the staff, sir.

22 CHAIRPERSON HILL: All right, we stand adjourned.
23 Thank you.

24 (Whereupon the above-entitled matter went off the
25 record at 2:23 p.m.)

NEAL R. GROSS

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C E R T I F I C A T E

This is to certify that the foregoing transcript


In the matter of: Public Hearing

Before: DCBZA

Date: 12-13-17

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



Court Reporter

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