

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

JANUARY 17, 2018

+ + + + +

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:

ANTHONY HOOD, Chairman

OFFICE OF ZONING STAFF PRESENT:

TRACEY ROSE, Secretary  
ALLISON MYERS, Member

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

ELISA VITALE

CRYSTAL MYERS

MAXINE BROWN-ROBERTS

MATT JESICK

BRANDICE ELLIOTT

STEPHEN MORDFIN

The transcript constitutes the minutes from  
the Public Hearing held on January 17, 2018.

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

2 12:14 p.m.

3 CHAIRMAN HILL: Okay, are we finally to hearings?

4 Okay. Oh, isn't there a preliminary matter, Ms.

5 Rose?

6 MS. ROSE: I'll call the case, and the parties can  
7 address the preliminary matter. It's the Appeal 19632 of  
8 AMT-Varnum LLC, pursuant to 11 DCMR, Subtitle Y, Section 302,  
9 from the decision made on August 23, 2017 of the Zoning  
10 Administrator, Department of Consumer Regulatory Affairs, to  
11 deny building permit B-16119420 to construct a new three-  
12 story flat in the RF-1 zone at premises 1523 Varnum St.,  
13 N.W., Square 2698, Lot 86.

14 CHAIRMAN HILL: Could the parties please introduce  
15 themselves.

16 MR. TONDRO: Maximilian Tondro on behalf of DCRA  
17 and the Zoning Administrator.

18 MR. SULLIVAN: Marty Sullivan from Sullivan &  
19 Barros, on behalf of the appellant.

20 CHAIRMAN HILL: All right, Mr. Sullivan. Does Mr.  
21 Tondro have something before us?

22 MR. SULLIVAN: Yes, we've come to an agreement  
23 that settles the issue in the appeal. And so based on that  
24 agreement, the appellant would like to formally withdraw the  
25 appeal.

1           We can draw up something in writing later today,  
2 but this just happened this morning, so we didn't have a  
3 chance to write something up. But I would like to make a  
4 request or a motion to withdraw at this time.

5           CHAIRMAN HILL: Okay. Does the Board have any  
6 comments to anybody? Okay, then I would be comfortable  
7 granting the motion to withdraw the appeal. And Ms. Rose,  
8 do I need to do anything else?

9           MS. ROSE: I think the withdrawal is enough.

10          CHAIRMAN HILL: Okay, great. All right, well  
11 thank you, gentlemen. Ms. Rose, whenever you like. This  
12 one's not on me. This is, Mr. Hart was the leader on this,  
13 so.

14          MS. ROSE: We have Application No. 19572 of SIM  
15 Development, LLC. This is a limited continued hearing,  
16 pursuant to a 11 DCMR, Subtitle X, Chapter Ten, for variances  
17 from a nonconforming structure requirement of Subtitle C,  
18 Section 202, and the parking requirements of Subtitle C,  
19 Subsection 701.5, to add two stories containing 16 units to  
20 an existing two-story housing unit mixed use building in the  
21 A-4 zone at premises 1916 15th Street, SE, Square 5766, Lot  
22 845.

23          VICE CHAIR HART: Thank you, Ms. Rose. We'll get  
24 a few minutes for folks to settle down, and. So why don't  
25 we go through some introductions. If you could introduce

1 yourselves and give me your address as well.

2 MR. JONES: Address and?

3 VICE CHAIR HART: Just your name and address.

4 MR. JONES: Phinis Jones, 1845 Woodmont Place, SE.

5 MR. BELLO: Toye Bello, 1917 Benning Road, NE.

6 Excuse my voice. I've got a cold.

7 MR. ANDRES: Erwin Andres with Gorove Slade

8 Associates, 1140 Connecticut Ave., NW.

9 MR. CRUIKSHANK: Neil Cruikshank, architect, 1323  
10 Fenwick Lane in Silver Spring, MD.

11 MS. AGYEI: Dorcas Agyei, 1926 15th Street, SE,  
12 a resident.

13 MS. FULLER: Greta Fuller, 1352 Maple View Place,  
14 SE.

15 VICE CHAIR HART: Thank you, and welcome. Good  
16 afternoon, everyone. So at the last public hearing that we  
17 had, we had a --

18 MS. FULLER: Pardon me, Mr. Hart, I'm sorry. She  
19 wasn't sworn in.

20 VICE CHAIR HART: Okay, actually, I'm glad that  
21 you brought it up. If there's anyone that is in the room  
22 that has not been sworn in, can you please rise. I know you  
23 may not be talking or testifying right now, but we do this  
24 at one point. So if you could stand up, the Secretary will  
25 give you an oath.

1 MS. ROSE: Raise your right hand. Do you swear  
2 or affirm that the testimony that will be presented today  
3 will be the truth, the whole truth, and nothing but the  
4 truth?

5 (The witnesses are sworn in.)

6 VICE CHAIR HART: Thank you, Ms. Fuller. So at  
7 the last public hearing we had, we wanted to, we heard a lot  
8 of discussion about some of the community concerns, as well  
9 as what the applicant said that they had, were willing to do,  
10 I guess, for the community. But at this meeting, we're  
11 really focused on the transportation concerns.

12 I think we've, we're supposed to indicate that  
13 at the last meeting but we didn't, but now it looks like  
14 we're going to be talking about that. If we could focus on  
15 that. I think we were also looking for just some additional  
16 conversations that the applicant had had with the community  
17 because of the community concerns that had been raised at the  
18 last meeting. If you could give us, Mr. Bello or Mr. Jones,  
19 if you'd give us an update on that as well, that'd be  
20 helpful.

21 MR. BELLO: Well, I think on community issues,  
22 I'll yield to Mr. Jones to speak to that issue.

23 MR. JONES: Yes, the Board had asked us if we'd  
24 willing to go back and get with the community one additional  
25 time and go over what we had offered to the community,

1 discuss the height of the building and the facade of the  
2 building. And we've done that.

3 VICE CHAIR HART: And the, what was the results  
4 of that?

5 MR. JONES: The community want, again, asked us  
6 to change the height of the building. Had very little  
7 discussion on the facade of the building. And we had  
8 indicated that in the last meeting that we wanted to move  
9 forward with the height that we had proposed to the Board.

10 VICE CHAIR HART: And you say the facade was?

11 MR. JONES: Yes, we did agree to look at the  
12 facade and discuss, and would be willing to continue to  
13 discuss the facade of the building.

14 VICE CHAIR HART: And what is the, did you supply  
15 what, have you come to an agreement as to what that facade  
16 would look like, or we've seen what that is?

17 MR. JONES: We showed what was proposed and what  
18 we would be willing to do, and the architect would probably  
19 be, could speak to that perhaps, what that facade is.

20 VICE CHAIR HART: That's fine. We might as well  
21 just start going through that now, and then talk to Mr.  
22 Anderson about the transportation after this.

23 MR. CRUIKSHANK: So after discussing with the  
24 owner, we did propose to do a complete brick facade. Which,  
25 when we met with the Committee, they weren't interested in



1 having a brick facade, they were more interested in having  
2 a shorter addition, less stories added to the existing  
3 building. From my understanding, they only wanted a one-  
4 story addition, which is something that the owner doesn't  
5 want to have to entertain.

6 VICE CHAIR HART: And so did you say that the, you  
7 said that the facade was going to brick, is it?

8 MR. CRUIKSHANK: We proposed a brick facade,  
9 which, like I said, the community was not interested in.

10 VICE CHAIR HART: Okay. Okay, well, we'll hear  
11 from the community in a minute. Okay, so why don't we move  
12 into the transportation aspects of it, and we'll get back to  
13 the community discussion. But since we have you here for the  
14 second or third time --

15 MR. ANRES: Right, thank you, Vice Chair Hart.  
16 Good afternoon, Chairman Hill, members of the Board. My name  
17 again is Erwin Andres, and I'm principal and vice-president  
18 of Gorove Slade Associates. With respect to our coordination  
19 with the client, I'd like to put our involvement a little bit  
20 in context.

21 The client had coordinated with DDOT, and DDOT had  
22 issued a review letter that recommended approval on October  
23 3, 2017. With respect to sort of the work that we did, our  
24 work was actually after that because of the fact DDOT didn't  
25 need a study. Our involvement was essentially to address

1 questions that were raised by the ANC.

2 The applicant brought me in because they wanted  
3 to be proactive, because they didn't, DDOT didn't request  
4 anything. But they wanted to make sure that the ANC issues  
5 were addressed relative to the parking assessment.

6 So consistent with many of the parking studies  
7 that we've done, actually, the studies that this Board has  
8 reviewed, we prepared a parking study that identified the  
9 number of spaces that are within a two to three block of the  
10 site; its level of utilization occupancy throughout the  
11 course of the day, from 8:00 a.m. to 10:00 p.m.; and  
12 identified, you know, whether or not the project would have  
13 any adverse parking impacts.

14 So we had submitted that to the ANC. We also  
15 submitted it to DDOT. DDOT subsequently in their December  
16 6 --

17 VICE CHAIR HART: When did you submit it to the  
18 ANC?

19 MR. ANDRES: I believe it was November 7. There  
20 was an ANC meeting that I believe was, that was handed out.  
21 But it was submitted I believe the day before. So --

22 PARTICIPANT: The day of, I believe.

23 MR. ANDRES: Okay. So in that case, in that  
24 instance, we also, you know, in our last hearing, I believe  
25 you had requested that DDOT take a look at the study that we

1 had done, which was not requested by DDOT. But you know,  
2 since it was done, you requested that DDOT opine on it.

3 So DDOT, in their December 6, 2017 review letter,  
4 essentially reviewed our study and again looked at the  
5 availability of parking in the neighborhood. And essentially  
6 confirmed all our findings.

7 So what our findings were, were that within a two  
8 to three block around the site, at any point in time, there  
9 was about 400 available spaces. So DDOT in their study, in  
10 their review of our study, looked at that and said, okay, you  
11 know, maybe some of these blocks are little bit further out,  
12 you know, why don't we reel it in.

13 So in their revised review letter dated December  
14 6, they said, okay, you don't have 432 or 498 spaces, you  
15 have close to 290 spaces, 293 spaces. So in that instance,  
16 you know, obviously it overwhelmingly confirmed our findings  
17 that there is parking available in the neighborhood. DDOT's  
18 review condensed our site, our area, from two to three blocks  
19 to roughly one and a half to two blocks.

20 What's telling is that a Ketcham Elementary School  
21 is across the street from our site on 15th Street. And there  
22 are parking restrictions along the Ketcham Elementary side  
23 of 15th Street during the day between 8:00 and 4:00.

24 So there would be, you know, what I would assert  
25 is that after 4:00, when most people come home from work,

1 there is parking available that's practically empty for most  
2 of the day and most of the evening, because it can't be used  
3 during the day, and in the evening there's not a lot of  
4 demand that people parking on that side of the street.

5 So given that, we, you know, like I said, the  
6 parking relief that's being sought is three spaces. Our  
7 study that DDOT has confirmed in their review letter has  
8 identified that there's over 283 spaces, excuse me, 293  
9 spaces available within one and a half to two blocks. As  
10 part of DDOT's review on October 3, they have identified four  
11 conditions that the applicant has agreed to implement in  
12 order to address the relief being sought.

13 VICE CHAIR HART: Yeah, and Mr. Andres, you said  
14 that there are these many parking spaces, and those are all  
15 available spaces, not that they, you have to--

16 MR. ANDRES: Yes, yes, yes. So when we did our  
17 first sweep that looked at two to three blocks out, in the  
18 neighborhood, if you were to count them regardless of whether  
19 they were occupied or not, there was anywhere between 860 and  
20 920 spaces that are physically there. The reason why that  
21 number changes is because there are some spaces that are peak  
22 hour restricted, and so some of the spaces aren't available  
23 at certain times.

24 But it's also important to note that most of the  
25 blocks in and around the site, south of Good Hope Road is

1 actually unrestricted. Anybody can park there. If you have  
2 Maryland plates, you can park there all day with no real  
3 penalty. And that's consistent with the fact that there's  
4 a lot parking available.

5 As identified in our memo, there's, south of Good  
6 Hope Road, there's one, two, three, four, approximately five  
7 blocks that are unrestricted. Some of the restrictions that  
8 are available are actually north of Good Hope Road. So with  
9 that, I'm available for questions.

10 VICE CHAIR HART: Thank you very much. I don't  
11 know if any of the Board members have questions of the, about  
12 the transportation. Any questions with what was just  
13 presented?

14 MEMBER WHITE: My one question is I'm looking at  
15 the ANC letter, and they seem to be questioning the veracity  
16 of the findings. Do you have any comment with respect to  
17 that?

18 MR. ANDRES: We've, you know, we've attended a few  
19 of the ANC meetings that were identified. You know, some of  
20 the questions that they raised were, you know, what about a  
21 lot of the other pipeline developments, did you take that  
22 into account?

23 And the answer is no, because typically, those  
24 pipeline developments are required to meet the parking  
25 requirement like we are. And none of those developments are

1 before this ANC for anything parking related. So there's,  
2 you know, if those parking developments, you know, require  
3 relief like we do, they would have to go through the same  
4 process. So that's the first point.

5 Second point is some of the citizens that have  
6 raised sort of question about parking are concerned about  
7 parking essentially in and around where they live. And  
8 understandably, you know, they're, given the sort of the lack  
9 of density in this neighborhood, that they've been accustomed  
10 to parking maybe in front of their house or maybe in front  
11 of the house next to them. And they're concerned that maybe  
12 they might come home and somebody else might be parking in  
13 front of their house.

14 You know, as a District policy, we try and  
15 identify parking that's available within walking distance,  
16 at reasonable walking distance. So it's been our experience  
17 working throughout the District that there are some  
18 neighborhoods where we try new counts at 5:00, and you're  
19 really circling blocks and blocks and blocks looking for  
20 parking spaces.

21 In this instance, any time of day, especially as  
22 I've mentioned, after 4:00, the parking in front of Ketcham,  
23 which can easily fit probably 11 or 12 vehicles on their side  
24 of the street, is completely empty. And that's been  
25 consistent. You know, if anybody really wanted to question

1 the veracity of our report, all you got to do is drive by  
2 there when people would typically come home, between 5:00 and  
3 7:00. There are many spaces that are available.

4 MEMBER WHITE: Thank you.

5 VICE CHAIR HART: Thank you. So I think we've  
6 already been, our process so far what we've gone through.  
7 We've had several meetings on this, so, and I guess I should  
8 get back to the concerns which -- excuse me, thank you very  
9 much, Mr. Andres, for the information. It's very helpful to  
10 hear that. And in seeing the DDOT supplemental report.  
11 Just, it's always helpful to hear that process, and providing  
12 some of that process was also very helpful as well.

13 Getting back to some of the concerns, Mr. Jones,  
14 from the community. You said they raised two issues, one  
15 about height, one about the facade. And I understand that  
16 those are not what the applicant is kind of here to request  
17 from us, that that's not the relief that they're looking for.  
18 But it doesn't seem like, it's seems a little bit to me that  
19 the community is just kind of against this application. And  
20 I'll listen to them in a minute.

21 MR. JONES: Sure. Yes, as you recall, the last  
22 time we were here, and I guess that was the third time, I  
23 suggested that the Board ought to vote on the case as it was  
24 before. Because I said exactly what you just said, the  
25 community was opposed to the project at its height. And I

1 didn't think that was going to change by going back.

2 One of the Board members asked if we'd be willing  
3 to go back and walk through it one more time, and we agreed  
4 to do that, and we did that. But it was very little  
5 discussion about anything other than knowing the height of  
6 the building in the last meeting.

7 VICE CHAIR HART: And you said that your  
8 architect, Mr. Cruikshank, said that possibly making the  
9 building brick was something that presented to the neighbors,  
10 community, and that the community did not -- it's not that  
11 they didn't want it. That's not something that they were  
12 looking for, because the issues that they had were not about  
13 materiality, it was more about the height and the actual  
14 building asset.

15 MR. JONES: Absolutely. Now yours, Mr. Bello.

16 MR. BELLO: Yes, sir, I think perhaps the  
17 architect's in that position to respond to your question,  
18 because there's a basis for what they proposed for finish  
19 facade was, as proposed. But in response to community  
20 concerns about the proximity of the historic district, we did  
21 offer that we were willing to change the facade to all brick.

22 But again, the desire of the community seems to  
23 be either the adaptive use of the existing building or no  
24 more than one-story addition. But I'll let the architect  
25 explain to you the reason for the choice of the sizes.



1 VICE CHAIR HART: I don't think I need to hear  
2 that at this moment, unless one of the other Board members  
3 wants to hear it.

4 ZC CHAIR HOOD: I have some questions which may  
5 not be in line with where you were going. First of all, let  
6 me apologize. I was the Board member who asked you all to  
7 get back together, and obviously it went further downhill and  
8 wouldn't work. Let me just ask Mr. Bello this, or maybe the  
9 architect. What height is it now?

10 MR. BELLO: Well, the main building height is at  
11 50 feet, which is the height permitted under the MU-4.

12 ZC CHAIR HOOD: So that's the height now?

13 MR. BELLO: That is the height --

14 MEMBER WHITE: No, that's not the current height  
15 now.

16 ZC CHAIR HOOD: Let me do this. Just go on,  
17 what's the existing height, what is it right now?

18 MR. BELLO: The existing height right now is about  
19 20, 27 feet, there around.

20 ZC CHAIR HOOD: Okay, what height can you go to  
21 under the regulations?

22 MR. BELLO: We can go to 50 feet for the main  
23 building, and we can go to 15 feet for the penthouse.

24 ZC CHAIR HOOD: Okay. So what height are you all  
25 proposing?

1 MR. BELLO: So we're proposing 50 feet for the  
2 main building and ten feet for the penthouse.

3 ZC CHAIR HOOD: Okay, I thought it was 49, did I  
4 miss something? So 50. Well, a foot around here makes a lot  
5 of difference.

6 MR. BELLO: There about.

7 ZC CHAIR HOOD: Okay, all right, that's all I need  
8 to know. Thank you, Mr. Vice Chair.

9 VICE CHAIR HART: Thank you. Excuse me. As I  
10 said, I'm also battling a cold, so. Right now, I know that  
11 we've kind of been through a back and forth with you all  
12 testifying.

13 We've heard from the Office of Planning  
14 previously, and since members of the community are here and  
15 one of the commissioners is here as well, from the ANC, if  
16 you could provide us with some comments about the process  
17 since our last hearing.

18 MS. FULLER: Thank you very much. My name is  
19 Greta Fuller, I'm here representing ANC 8A. I am the  
20 commissioner for ANC 8A-06, which is the single member  
21 district but, where this project will take place. It is not  
22 my single member district, but it abuts that.

23 To first start off, I'd just really like to clear  
24 up some things that were said from what the testimony that  
25 was given today here from the architect, the traffic study

1 personnel, and the community outreach. And one was about the  
2 facade.

3 I specifically remember at our ANC meeting before  
4 we took our vote, we asked the group that's representing  
5 STAMS if they would consider working with the community on  
6 the materials and the facade of the project if we did not  
7 agree on a special exception for the parking and variance  
8 from a nonconforming structure.

9 And they said no outright, that they would not  
10 work with us on the facade or the materials, that they would  
11 move forward. But if we did vote in favor of those, they  
12 would continue to work with us. That's one.

13 The other thing -- and you can also see it in our  
14 letter, that where we said we are disappointed, that the  
15 applicant's dismissal of the residents' concerns on this  
16 project. That does not show a willingness on their part to  
17 work with the community in good faith to develop a project  
18 that residents can be proud of and that we could live with  
19 for years. So that was untrue.

20 The next thing by the architect that wasn't true  
21 that he says that once again we weren't interested in the  
22 facade. I am a member of Historic Anacostia Preservation  
23 Society, where one alley and one street separates this  
24 building, which is outside of the historic district. No way,  
25 nowhere, no how would I ever say I would not work with a

1 facade of a building, of the look and feel of any building  
2 that abuts the historic district. So that, too, is untrue.

3 The other thing is about the parking study. The  
4 ANC commissioners received the parking study on November 7  
5 at our ANC monthly meeting only minutes before we took the  
6 vote. So even though they may have sent this study to the  
7 Chair the day before, we did not receive it until the day of  
8 the meeting.

9 Because Mr. Jones brought hard copies to the  
10 meeting and presented it to the commissioners at that time  
11 in case, I guess he may have thought ahead maybe we didn't  
12 receive it. But even one day before to receive this type of  
13 study, for commissioners is not enough time, when we all have  
14 jobs and other activities that we do in our everyday life.

15 As far as no demand is expressed for parking, that  
16 is untrue. As the ANC commissioner, almost every month we  
17 have new requests from residents for RPP parking because of  
18 this sort of situation, and because of all the new  
19 development that's coming online.

20 So while there may not be restrictive parking at  
21 this time, the residents are now seeing that construction  
22 that's coming into the neighborhood, they're seeking these  
23 private parkings. And if you go to DDOT, you will see that  
24 we have all sorts of new applications in for restricted  
25 parking.

1           It is also important to note that the unrestricted  
2 parking right now is actually used sometimes for overflow for  
3 the school Ketcham, which is right across the street, and for  
4 visitors and parents who come to see about their children in  
5 different programs that's going on. And that's what I want  
6 to say about that part.

7           And I'm going to try to keep moving along and be  
8 really quick, as quick as possible. But there are just three  
9 main points that I want to make. One, one is from the Office  
10 of Planning. I just want to know if they did their due  
11 diligence. We have a Frederick Douglass House that sits at  
12 15th and W Street, which is only two blocks from this site.

13           Did they do their due diligence to make sure that  
14 the view shed from the Frederick Douglass would not be  
15 interrupted by the size and height of this building? We  
16 still don't know if this building is taller than Ketcham, or  
17 how high this building is to Ketcham.

18           What I'm hearing that it's 60 feet, but no one has  
19 actually given us the actual height of Ketcham to tell us how  
20 tall this building is going to be in comparison to Ketcham  
21 Elementary, which is a historic building which was built in  
22 1909 and part of the historic district. We would like to  
23 understand if this building, if you allow it as it is  
24 proposed today, would it interfere with the view shed of  
25 Frederick Douglass House, one.

1           The DDOT study, the new buildings coming online.  
2           Yes, there's, we have the MLK Gateway, we have new buildings  
3           at Good Hope Road on the 1300 block, we have new houses at  
4           15th Street, at 15th and W Street. We have houses on U  
5           Street, on V, which are all within one to two blocks that no  
6           one's talking about, and that DDOT didn't even address in  
7           this study.

8           Also, DDOT did not address that they're also  
9           taking away our circulator bus that drives in front of this  
10          building, also pulling back public transportation. Which  
11          means that more people may be parking on the street. It's  
12          because of the circulator is being moved away. No one in  
13          this thing from DDOT talked about the safety and the traffic  
14          study according to the children that attend Ketcham  
15          Elementary. They did not address the school, they did not  
16          address safety for the children, they did not address a lot  
17          of things.

18          And when I look at the documents from DDOT, I'm  
19          perplexed, and why almost every sentence that I've seen says,  
20          After extensive review of the case materials submitted by the  
21          applicant. What about DDOT? Why are we taking all this  
22          information from the applicant? Is DDOT going out, actually  
23          doing their due diligence? And then that was the original  
24          letter.

25          On the second one is part of the application. The

1 applicant, once again, gives us a traffic study. Did DDOT  
2 do a traffic study? And as far as the TDM, it's almost  
3 laughable. To identify a staff member to be a coordinator.  
4 How do we know that this is going to continue as long as this  
5 building is online?

6 It may start in the beginning, but we all know,  
7 when buildings come online, people go away, people change,  
8 new people are in office, etc. There is nowhere in here  
9 where they're providing us for any relief for our parking at  
10 all.

11 So that's basically what I have to say about that.  
12 And then in conclusion, the community wants development. We  
13 have been seeking development. And this is a blighted  
14 property that has been across the street from Ketcham for  
15 many years and as long as I've lived in the community. So  
16 what I would like to say is that the community welcomes the  
17 development.

18 But we have some solutions. We're not trying to  
19 shut this down. The building is already a two-story  
20 building. It has a ground floor, and it has a second floor,  
21 and it has a basement. So to me, that's three floors. They  
22 have nine existing units. They want to make this building  
23 a 25 unit building with retail on the ground floor.

24 They can -- we, the community have decided we will  
25 forgo the retail and take the building down by a story. Take

1 the second, the fourth floor that's proposed and make that  
2 the ground floor. The existing first floor, and you could  
3 put eight units there. On the second floor, you could put  
4 eight units. Your basement, you could put eight units.  
5 That, eight times three gives you 24 units.

6 You may not get your twenty-fifth, but you got 24  
7 units. And if you don't, if you just take the building as  
8 it is today and work with what you have, you don't have to  
9 be in here with nonconforming structures and with special  
10 exceptions.

11 It seems like if this project goes ahead as  
12 proposed, the community is getting nothing. As a matter of  
13 fact, we're losing. We're losing on a building that's  
14 already nonconforming that's going to be even more  
15 nonconforming with two additional stories on it and a  
16 penthouse.

17 So there is a solution and it can be done.  
18 Basement, eight apartments; first floor, eight apartments,  
19 no retail; second floor, eight apartments, no retail. It can  
20 be done without making this a four, actually five-story  
21 building with a penthouse.

22 And if you must, if you must have a penthouse, we  
23 suggest that it sits back 30 feet from either side, 15th  
24 Street, Good Hope Road, so that it can't be visual from the  
25 street. But we are not on Board with this four-story



1 building and a penthouse that could be taller than Ketcham  
2 Elementary. Thank you for your time.

3 VICE CHAIR HART: Thank you very much. Are there  
4 any questions for the ANC commissioner?

5 ZC CHAIR HOOD: Ms. Fuller, you mentioned that  
6 your last statement about the penthouse, are you saying push  
7 it back away from 15th Street as well as Good Hope Road? So  
8 that would push it back towards, what's that, the alley?

9 MS. FULLER: You're correct.

10 ZC CHAIR HOOD: And let me just say this about the  
11 reports. I know you said you had a flashback. It took me  
12 back to when I first started down here with reports, when I  
13 learned how reports were done. DDOT, I'm not defending any  
14 of them, they don't do their own reports. What they do is  
15 take and validate whether the information provided -- they  
16 don't write a separate report. And if that's changed, I'm  
17 sure that Ms. Vitale will tell me or somebody will tell me  
18 something different.

19 What they do is take the information from, that's  
20 provided by Mr. Andres and others and they can see whether  
21 it's valid or not, whether it meets the code book or whatever  
22 they call the transportation code book. And whether or not  
23 if they do a comparison analysis. And that's how they get  
24 to their conclusions. Mr. Andres, if I'm stating that  
25 incorrectly.

1 MR. ANDRES: No, you're right, you're correct.

2 ZC CHAIR HOOD: The reason I know that is those  
3 were my questions early on when it's a different report. But  
4 what they do is just sort of look at the validity of the  
5 reports that are provided. But if they're not, then they  
6 will have an issue or they will make a correction. So there  
7 is some checks and balances, I wanted to assure you of that.  
8 You look like you don't believe me, but I wanted to assure  
9 you.

10 MS. FULLER: No, it's not true that I don't  
11 believe you. I just believe that they didn't do their due  
12 diligence. Because they did not look at, they're taking away  
13 the circulator bus that runs on that road. And also didn't  
14 look at all of the projects that's going online. They did  
15 not put that into the record and look at those as viable  
16 things.

17 And some of these projects have already built.  
18 Some of them have already been rehabbed and they're there.  
19 And nobody's talking about that.

20 ZC CHAIR HOOD: All right, thank you.

21 VICE CHAIR HART: I think you have -- actually,  
22 I have a question for the Office of Planning. I think Sharon  
23 may also have one additional.

24 CHAIRMAN HILL: Ms. Fuller, I'm over here.

25 MS. FULLER: Oh, okay.

1           CHAIRMAN HILL: The, I was just curious about a  
2 couple things. I mean, you mentioned, and we're going to get  
3 back to some of this I suppose, but that the, you would be  
4 interested in working with the developer in terms of the  
5 facade and the materials that would be used. And I  
6 understand in terms of their discussion they might be saying,  
7 you know, we want you to agree with us before we agree to  
8 talk to you.

9           But was there, was the all-brick something that  
10 they were interested, or do you know, or is that just you  
11 couldn't necessarily tell me what their thoughts, what  
12 people's thoughts were in terms of the facade.

13          MS. FULLER: Well, people were interested in the  
14 facade being within the character or carrying over from the  
15 historic district. Not that it should be in line the  
16 historic district or mimic, but that it should be a natural  
17 flow. So that the materials that are being used, that it's  
18 not such a big jolt when you get to this new building and the  
19 addition that they're adding. That it also complements the  
20 kind of art decor type building that it is today.

21          CHAIRMAN HILL: And does brick resolve, I'm just  
22 curious, does brick work out for that?

23          MS. FULLER: Yes, brick can work out for that.  
24 But it's how that brick is placed, is it blemished by, how  
25 the windows are situated. You know, there are lots of things

1 that go into it, not just brick.

2 CHAIRMAN HILL: Okay.

3 MS. FULLER: But it's how it's put together and  
4 what it looks like, the end product.

5 CHAIRMAN HILL: And then, and I'm always just  
6 curious as to who the outlier is on the commissions and  
7 stuff, and so like there's a vote that was in favor of the  
8 application, correct?

9 MS. FULLER: No, there was a vote that was not in  
10 favor, four of the, there was one abstention and four  
11 commissioners voted --

12 CHAIRMAN HILL: I got you, somebody just didn't  
13 vote.

14 MS. FULLER: Yeah, yes.

15 CHAIRMAN HILL: Okay. Do you know why they didn't  
16 vote?

17 MS. FULLER: It was the chair. He didn't vote,  
18 and honestly I'm not quite sure.

19 CHAIRMAN HILL: Okay, just curious. Okay, thank  
20 you.

21 MR. JONES: May I address the facade as well as  
22 the community benefit package? Because that came up in all  
23 of our years we've been here. We agreed, and I was the one  
24 who answered the questions, by the way. The community  
25 benefit package is, as been pointed out by Board members, is

1 unusual for a variance. It is normally done when you do a  
2 planned unit development. We agreed to a community benefit  
3 package.

4 The question was asked of me just before the ANC  
5 voted this last time to oppose this project, if they opposed  
6 the project, would we still do the community benefit package,  
7 would the developer do it. And I said yes to everything we  
8 agreed to, no matter how they voted. If they voted to oppose  
9 the package, we would do the community benefit package.

10 And I was thinking about my answer. The whole  
11 purpose of the community benefit package was to get the ANC  
12 to support the project. Even though I'm saying yes, we would  
13 do it, the next question was will you still do the brick  
14 facade. And I said, they've already indicated they're going  
15 to oppose it. And I'm thinking why would the developer spend  
16 additional money with the community benefit package and the  
17 facade without --

18 VICE CHAIR HART: They could if we imposed it as  
19 a condition.

20 MR. JONES: After --

21 VICE CHAIR HART: So it has nothing to do with  
22 them. They're the ones that are --

23 MR. JONES: And you still can.

24 VICE CHAIR HART: So I'm just saying that that's  
25 why the developer --

1 MR. JONES: I understand that. If you let me  
2 finish, I think I can get to your point.

3 VICE CHAIR HART: Sure, sure.

4 MR. JONES: Thank you. I said no to the community  
5 benefit package. And they asked about the brick facade, as  
6 been pointed out here, and I said no. I -- the developer  
7 still wanted to do the brick facade, you don't have to impose  
8 it. Listen, I live closer than most of the ANC commissioners  
9 to this project. I live four blocks away. All the  
10 commissioners that's testifying live further from this  
11 project than I do, where I bought my home.

12 I absolutely want this development done. I pass  
13 it every day. It was there for decades undeveloped. As a  
14 community person who lives in the community, four blocks from  
15 this project, I want it developed. I want it to look nice.  
16 I have spoken with the developer, they still wanted to do the  
17 brick facade. We're still going to do the community benefit  
18 package that we agreed to. You don't have to impose it, we  
19 are willing to do it. Thank you.

20 VICE CHAIR HART: Thank you. I did have a  
21 question for the Office of Planning. The ANC commissioner,  
22 Commissioner Fuller, made a, or she testified that she was  
23 wondering whether or not the Office of Planning had looked  
24 at the view shed, where the building is located with respect  
25 to the Frederick Douglass House. And I was wondering if

1 you'd actually done any case work view shed analysis.

2 MS. VITALE: Good morning, Elise Vitale with the  
3 Office of Planning. The Office of Planning evaluated the  
4 application submitted for zoning relief. The property is  
5 not located in a historic district and did not require review  
6 by a Historic Preservation Review Board or HPO staff.

7 We don't have any information from the applicant  
8 as it relates to view sheds from the Frederick Douglass House  
9 as it would relate to this proposed development. So that was  
10 not part of our analysis.

11 VICE CHAIR HART: Thank you, I just wanted to know  
12 where you were with it. Let me stop -- sorry.

13 MS. AGYEI: May I say something about that?

14 VICE CHAIR HART: Actually, I'm -- this is, I was  
15 asking her where they had gotten it. She was responding to  
16 the question that I had raised on it. Someone just asked to  
17 say something, I don't know who that was.

18 MR. BELLO: Actually, I did.

19 VICE CHAIR HART: Okay.

20 MR. BELLO: I was going to explain the issue, but  
21 if you don't want to entertain it --

22 PARTICIPANT: It was that lady right there.

23 MR. BELLO: I was just going to say there's a  
24 significant topographical change between where this property  
25 is and where the Frederick Douglass Home is of at least 50

1 feet. So it's not in the view line at all.

2 VICE CHAIR HART: But there wasn't any information  
3 that was provided that shows that you're just saying that  
4 that's what the -- I'm just saying.

5 MR BELLO: I'm providing my observation of the  
6 surrounding area.

7 VICE CHAIR HART: Okay.

8 MR. BELLO: And anybody who knows where the  
9 Frederick Douglass Home is knows that it's quite elevated.

10 VICE CHAIR HART: That's fine, I appreciate that.  
11 Thank you.

12 CHAIRMAN HILL: Ms. Fuller had a comment.

13 VICE CHAIR HART: Ms. Fuller.

14 MS. FULLER: Yes, I'd like to say every project  
15 that's come to this community that builds a building of that  
16 height has always looked at the Frederick Douglass House.  
17 And it doesn't matter that it's 50 feet below. We have  
18 several PUDs and several projects, like from the MLK Gateway  
19 to the PUD at Reunion Square, to Columbian Quarters that are  
20 well below 50 feet that still look at the view shed.

21 And if the Office of Planning overlooked this,  
22 they should maybe go back and think about looking at this  
23 view shed just to make sure. It doesn't take much to look  
24 at this and make sure. But everybody's always looked at the  
25 view shed. And just because he says it's well below doesn't



1 mean that it's so.

2 And also, to state Mr. Jones, he does live in our  
3 community. But he lives in a semi-gated community where  
4 everybody has a garage, a driveway, and it's off-street  
5 parking.

6 VICE CHAIR HART: Well, I mean, I appreciate that.  
7 I'm not sure if that's necessarily relevant to --

8 MS. FULLER: Yeah, well he shouldn't bring it up.

9 VICE CHAIR HART: I understand.

10 MS. FULLER: Well, what is relevant is the  
11 Frederick Douglass House.

12 VICE CHAIR HART: Excuse me, excuse me, you've  
13 made the point. Thank you very much.

14 MS. FULLER: Okay, thank you.

15 VICE CHAIR HART: So right now we have heard from  
16 the applicant, we've asked a question of the Office of  
17 Planning, we've heard from the ANC. We actually have not  
18 gone through the, if anyone is -- oh. One of the Board  
19 members has a question, so we're going to have Chairman Hill.

20 CHAIRMAN HILL: Thanks, this is for the Office of  
21 Planning. Ms. Vitale, I know, so again, just to be clear.  
22 I read the record, I watched the video, and so I missed it  
23 the first hearing, I was here for the second one. And I  
24 asked Ms. Vitale in the second one to go over again your  
25 analysis of your reporting.

1           And just want you to do it for me again, if you  
2 wouldn't mind, sort of just going over your report, in terms  
3 of what the actual request is and what we're evaluating, and  
4 how you got to the decision that you got to.

5           Because for me, I guess, I continue to go through  
6 with this kind of, the nonconformity and where the lot  
7 occupancy already is, and then versus kind of like what is  
8 trying to be done by right and how -- if you just kind of  
9 walk me through a little bit of that, if you wouldn't mind.

10           MS. VITALE: Certainly, Mr. Chair. Again, Elisa  
11 Vitale with the Office of Planning. The request by the  
12 applicant was for relief for an addition to a nonconforming  
13 structure. That's Subtitle C, Section 202. In this  
14 instance, in the MU-4 zone, 75% lot occupancy is permitted.

15           The existing two-story structure that, it's a  
16 mixed use zone, we have a mixed use structure on the property  
17 with ground floor commercial and residential. That building  
18 is at 91% today. So for the applicant to do any addition to  
19 that building would require relief, because it's an existing  
20 nonconforming structure. So that's that first request.

21           The applicant is proposing additional stories  
22 within the maximum permitted height. That addition I believe  
23 would be at approximately 67% lot occupancy if looked at on  
24 a floor by floor basis. So that would be below that 75%  
25 maximum. So OP is recommending approval of that. This is

1 a mixed use zone that contemplates, you know, 50 feet in  
2 height.

3 The applicant is proposing an addition that is  
4 within the FAR maximums, the height maximums. So we felt  
5 that the relief for the addition to the nonconforming  
6 structure was appropriate, given that the lot occupancy  
7 proposed for those additional floors was below the permitted  
8 maximum in the zone.

9 The second piece of relief that was requested was  
10 special exception relief from the parking requirements. They  
11 would be required to provide three spaces. The applicant is  
12 proposing to not provide any onsite parking. That would be  
13 relief under Subtitle C, Section 701.5. Again, given the  
14 existing structure on the property that's at 91% lot  
15 occupancy, the applicant is constrained in terms of available  
16 area on the property to provide parking.

17 There are a number of criteria when you look at  
18 the evaluation for the parking relief request. Those have  
19 to do with the, you know, the ability of the residents or  
20 visitors to the site to access mass transit, shared parking,  
21 bike facilities. The property is about one mile from the  
22 Anacostia Metro station. There's also Metrobus service on  
23 Good Hope Road and Minnesota Avenue, so we felt that that  
24 piece was met. The applicant will provide bike parking  
25 onsite.

1 Another component to look at is just kind of  
2 general neighborhood characteristics in terms of access to  
3 transit and other, you know, ability to get goods and  
4 services. The property has a walk score of 84 and a transit  
5 score of 70. So again, those are indicative of a property  
6 that's well served by transit in an area where folks can bike  
7 or walk or take bus to get goods and services.

8 Let's see, I believe the majority of the other  
9 criteria weren't applicable to this property and to the  
10 relief that the applicant was requesting. You know, it does  
11 look at the presence of on-street parking. We have heard and  
12 DDOT evaluated that in its report, and there does appear to  
13 be, you know, available on-street parking within the area.

14 And again, I guess the final component of that  
15 evaluation would be the provision of a transportation demand  
16 management plan that is reviewed and approved by DDOT. And  
17 as you can see in the record, the applicant did propose a TDM  
18 plan and DDOT did review and approve that and finds it  
19 sufficient.

20 So that's a brief summary, perhaps not that brief  
21 of the OP analysis.

22 CHAIRMAN HILL: Okay, so just for my clarity  
23 again, the three parking spots, in terms of relief, they  
24 would have to obviously tear down some portion of the  
25 building in order to provide the three spots, correct?

1 MS. VITALE: That is correct.

2 CHAIRMAN HILL: And then the, they're within the  
3 height that's allowed, and they're within, it's 67% for the  
4 other floors rather than the 70%. So they're in there. And  
5 then the only question that I had, when FAR is not coming  
6 into this, they're within the FAR.

7 MS. VITALE: That's correct.

8 CHAIRMAN HILL: Okay. Okay, thank you.

9 MEMBER WHITE: And just verifying, is this  
10 definitely not a historic district?

11 MS. VITALE: It is not.

12 MEMBER WHITE: Okay.

13 ZC CHAIR HOOD: Mr. Chairman, Mr. Vice Chairman,  
14 a point of clarification. What are we doing? Are we going  
15 back through hearing process, or looking at the scope? Help  
16 me get my bearings here.

17 VICE CHAIR HART: No, no, no, I appreciate. The  
18 issue was there was some, I wasn't planning on doing it, but  
19 it seems like we are having to go through that. And I  
20 apologize for my little astray in that. But we did hear from  
21 the applicant about the two issues regarding the  
22 transportation analysis, the DDOT report, and conversations,  
23 and I guess a meeting that happened with the community after  
24 our last public hearing.

25 And really those were the kind of things that we

1 were really looking for that we had actually requested. So  
2 I think we've kind of hit all of those pieces. I do note  
3 that I didn't know you if you had any, I was making sure that  
4 the Board members didn't have any further questions. And  
5 some of this has gone a little longer because we've had a  
6 little, kind of some followup questions about things to get  
7 more clarity around that. So I do appreciate the time that  
8 you all have taken to think through all of this.

9 I was actually making sure that I had actually hit  
10 all of the pieces that, all of the, procedurally had gone  
11 through all of the process that I needed to. It's a little  
12 bit disjunctive because we've had this over several, over  
13 several meetings, excuse me, several hearings. I'm realizing  
14 that more that as I talk, the drier my throat gets. So I  
15 apologize for the coughing, as I submitted earlier.

16 So right now, I think we have heard from everyone.

17 MS. AGYEI: No, I have --

18 VICE CHAIR HART: Everyone that we had asked for  
19 information from. I will provide you an opportunity to  
20 speak. And we can do that right now. I'll give you a few  
21 minutes to be able to make some additional points that you  
22 would like to make.

23 MS. AGYEI: If I may.

24 VICE CHAIR HART: You need to actually --

25 MS. AGYEI: If I may, and I have two exhibits that

1 I would like to give to you all. They are existing exhibits  
2 that are already in the record, but I just kind of modified  
3 them a little bit, and I've brought copies.

4 VICE CHAIR HART: They are?

5 MS. AGYEI: They are basically looking at the  
6 residents --

7 VICE CHAIR HART: Which exhibits are we talking  
8 about?

9 MS. AGYEI: Sure. In the file is exhibit --

10 VICE CHAIR HART: Hold on, if you could just  
11 provide all of the information to the Secretary.

12 MS. AGYEI: In the file is Exhibit 7, which is the  
13 list of names and addresses of property owners within 200  
14 feet. And that's basically a listing of the names, as well  
15 as kind of a diagram of the streets in question. And I think  
16 that that diagram, as well as the names in the petitions, can  
17 kind of tie in together what the traffic study that I've  
18 already kind of, already submitted into the record.

19 So I've already submitted my kind of version of  
20 what the residents see for parking, which are Exhibits 89 A-1  
21 and 89 A-2. So I think that we can tie kind of all of those  
22 together with the diagram that's in Exhibit 7, which you all  
23 have.

24 ZC CHAIR HOOD: I'm sorry, I'm trying to  
25 understand. Is this the list, this is the list in blue of

1 the police officers, correct?

2 MS. AGYEI: Correct.

3 ZC CHAIR HOOD: And you're just showing us --

4 MS. AGYEI: So I have shown you the boxes of those  
5 people or folk that have signed the petition against the  
6 parking special exception. And then there's also a diagram  
7 that has the dots here.

8 ZC CHAIR HOOD: Now let me ask you about the  
9 petition.

10 MS. AGYEI: Sure.

11 ZC CHAIR HOOD: The one that we had, is that three  
12 additional names?

13 MS. AGYEI: Yes, that's a continuation of the  
14 petition that was started of folks that were against the  
15 parking exception.

16 ZC CHAIR HOOD: So that's not a new person.

17 MS. AGYEI: No.

18 ZC CHAIR HOOD: Because I was going to say --

19 MS. AGYEI: No, no, no. No, no. The continuation  
20 and because of weather constraints, you know, we were able  
21 to go to where we were going to.

22 ZC CHAIR HOOD: Okay, all right.

23 VICE CHAIR HART: Good? Okay, thank you.

24 MS. AGYEI: So what I would just kind of like to  
25 bring to the Zoning Board's attention is the blue dot is



1 where most of us that have spoken to you live, which is on  
2 15th Street. The red dots outline basically the traffic  
3 study saying that they can park, we should be able to park  
4 three blocks out from where the blue dot is. So it's those  
5 kind of more than just convenience, it's also a safety  
6 concern.

7 We don't live in the best neighborhood. Actually  
8 while we've been here at 11:10, there are three people that  
9 were shot, actually four people that were shot, one that's  
10 in critical condition. Which is actually right where this  
11 red dot is, if you look at square lot 5765, and then the  
12 square, the lot number 879.

13 So it's more so if we have to park three blocks  
14 away from our home and to leave our cars there, we don't know  
15 what's going on with our cars. So it's the safety of our  
16 property, as well as our safety walking home, if we have to  
17 park further away from where our homes are in the  
18 neighborhood that we live in currently with the conditions  
19 there are now.

20 And then also, with what I've already entered into  
21 the exhibits, I've pretty much shown U Street, which borders  
22 15th and U, which you all can see from the diagram, those  
23 parking spaces are pretty much full from U Street, the 1500  
24 block, up to the 1600 block. And I've submitted a PowerPoint  
25 showing, you know, I've taken pictures at various times. And

1 you can literally see how far the down the car spots are.

2 And the same is with that new team. So pretty  
3 much it's one thing to see the traffic study, and it's  
4 another thing to actually see the visual representation of  
5 what the community members see all the time. And we've had  
6 several community residents have sent you all letters of  
7 their concerns about the parking on U Street that you all  
8 hopefully have had a chance to review.

9 And our concern with them increasing the existing  
10 height of the building is that not only from a structural  
11 standpoint of how it's going to look, it's going to over, in  
12 my opinion, it's going to overshadow the neighborhood. But  
13 you're increasing the density of people on that space where  
14 there's really not, that street is basically only two blocks.  
15 1916 is the lot, and then our block, which consists of four  
16 residencies and six residency, four homes.

17 So it's a very small block that you're going to  
18 put all these extra heads on, which could potentially put  
19 these 75 cars just for the residents. Because there's no  
20 restriction for them having a car there. And then also the  
21 people that can potentially visit them. So those are our  
22 concerns.

23 VICE CHAIR HART: Okay. Do you have a question?

24 CHAIRMAN HILL: Yes, I have it actually for Mr.  
25 Bello. Mr. Bello, in terms of the three parking spots, how

1 would they provide the three parking spots? They would have  
2 to tear down a portion of the building?

3 MR. BELLO: Yes, Mr. Chair, a portion of the  
4 building would have to be demolished. And ironically, if the  
5 property owner were forced to do that, the likelihood is that  
6 the density will be transferred to the upper floors, making  
7 for a much larger mass of a building, which is contrary to  
8 the interest of the neighborhood.

9 CHAIRMAN HILL: Okay, well so anyway, I'm just  
10 trying to visualize how the density would necessarily change.  
11 You mean it would still be the same height. You might be a  
12 little, you'd take up a little bit area on -- well anyway.  
13 So you would, so the developer has looked at tearing down  
14 some of the building to provide the three spots. I'm just  
15 talking this through.

16 MR. BELLO: Well, that's a possibility. It's  
17 cost-prohibitive, which is why we're here. But yes, it is  
18 an option that can be looked at.

19 CHAIRMAN HILL: All right. Because I don't know,  
20 and just for the community, I'm trying to figure out, you  
21 know, what three spots is actually going to do for you.  
22 That's what I'm just trying to think through. Okay, thank  
23 you, Mr. Chair.

24 MEMBER WHITE: I have a question. Where would the  
25 parking actually be if, let's say, the requirement were that

1 you have to provide three spaces? Would it be on the alley  
2 side here by those red cars?

3 MR. BELLO: It would have to be on the alley side.  
4 Because there's a little slip of court in the alley. So if  
5 there was going to be a partial demolition of the building,  
6 that would be the most practical area to do something.

7 MEMBER WHITE: Underground is not a possibility?

8 MR. BELLO: Underground is not only cost  
9 prohibitive, but it'll be nearly impossible to engineer to  
10 have enough driveway slope to get cars in and out of there.

11 MEMBER WHITE: Okay. Thank you.

12 VICE CHAIR HART: Any other questions? We've  
13 already gone through your testimony. Do --

14 MS. AGYEI: I just have one --

15 VICE CHAIR HART: And it's, do you have another  
16 question that you're asking us?

17 MS. AGYEI: No, I don't have, it's not a question.

18 VICE CHAIR HART: Okay. Do the Board members have  
19 any other questions? No? Okay.

20 So I'm trying to kind of figure out where we  
21 should go from here. My inclination is to, I don't know,  
22 maybe think about this for a week. But I don't know if I,  
23 I don't know what the other Board members are. And partially  
24 it is to kind of understand some of the testimony that's been  
25 given today and just understand and kind of where I think

1 about this.

2 And I should have said that I wanted to close the  
3 record.

4 PARTICIPANT: They'll be back here next week.

5 VICE CHAIR HART: Oh, yeah, this is true. I  
6 should have actually --

7 CHAIRMAN HILL: Before you close the record I got  
8 a question.

9 VICE CHAIR HART: Okay.

10 CHAIRMAN HILL: Okay, sorry, before you close the  
11 record, I just got one question again for Mr. Bello and Mr.  
12 Jones.

13 So again, we can't put this as a condition because  
14 it doesn't necessarily apply to the zoning. But I know that  
15 you all will come back here again. So you're testifying that  
16 you're going to, if we were to move forward with this, you  
17 would continue to offer the community benefits package that  
18 you were offering, as well as a brick facade to the building.

19 MR. JONES: That is correct.

20 CHAIRMAN HILL: Okay.

21 VICE CHAIR HART: So I will like to, I am closing  
22 the record now. And as I just noted a few minutes ago or a  
23 minute ago, that I think I need a little bit of time. I want  
24 to hear from the other Board members, just to think about  
25 this. I know that Commissioner Hood is going to be back next

1 week anyway. So one more thing for you. But if you feel  
2 like strongly that you, you know, want to have a discussion  
3 today, maybe we can do that too. But I --

4 CHAIRMAN HILL: Mr. Vice Chair, I'm comfortable  
5 waiting next week if you wanted to meet. Like I said, Mr.  
6 Hood's going to be here, but I'll let the other members speak  
7 for themselves as well.

8 MEMBER WHITE: It's fine, it's fine with me as  
9 well. I mean, I guess my question is you just want to kind  
10 of look at the full record and look at what the parties are  
11 willing to do on both sides and make a ruling.

12 VICE CHAIR HART: That's correct.

13 MEMBER WHITE: Okay.

14 ZC CHAIR HOOD: Yeah, I'll be fine. I can come  
15 back next week. Keep messing around, maybe. But anyway, I  
16 would ask though, that you look at the view shed. Even  
17 though it's outside of the, and I don't think, I don't know  
18 if that's going to extend the hearings. I don't want to  
19 extend. I think we've exhausted, I've heard enough to be  
20 able to move forward, but I do want to digest this as this  
21 Vice Chair has mentioned.

22 The only thing I think that's outstanding, and I  
23 would like to have some resolve to that, I would ask Ms.  
24 Vitale if they could, if we could look at the view shed. If  
25 that's not on a active, be commented on. You know, I don't

1 want to put anything out there that's going to have to be  
2 commented on and we have to come back and have another  
3 hearing.

4 Even though I know it's outside of the historic  
5 district, I live, personally, I don't think it's a big deal.  
6 But I do agree with Commissioner Fuller, when we get the  
7 Nationals' Stadium, was the view shed to the Capitol. So if  
8 we can look at, make sure all the view sheds to the Capitol  
9 Street, we can make sure of the view sheds to Frederick's  
10 home, the Douglass home is the same.

11 So if we could look at that, I'd greatly  
12 appreciate it. Other than that, after that, Mr. Chairman,  
13 I would be ready to deliberate and decide this case.

14 VICE CHAIR HART: And I'm trying to understand if  
15 we're looking at the view shed issue, is that something that  
16 you're asking the applicant to provide, or are you looking  
17 for the Office of Planning to provide it? I'm not sure what  
18 --

19 ZC CHAIR HOOD: I'm just asking the Office of  
20 Planning to take a look for us. If that's going to create  
21 additional hearings, then don't worry about it. Because I  
22 know what my personal view is, but I just wanted to have  
23 something for record since it was brought up by the  
24 Commissioner.

25 VICE CHAIR HART: And so would you want a

1 supplemental report from the Office of Planning?

2 ZC CHAIR HOOD: If they give us a sound bite, a  
3 half-page, just say that they looked at the view shed and  
4 there's no effect.

5 VICE CHAIR HART: And now I'm trying to understand  
6 if we would need the whole, the week issue. Because they  
7 would have to be submitting that into the record. We would  
8 have to hold the record open for that, and I don't know if  
9 we would then need to have a, the ANC response issue that --

10 ZC CHAIR HOOD: Who's going to respond?

11 VICE CHAIR HART: I don't, maybe the ANC or the  
12 applicant. Which are both --

13 ZC CHAIR HOOD: Okay, you know, since this is, I'm  
14 going, since this is not an historic district, I just wanted  
15 to look. I'm going to withdraw my request.

16 VICE CHAIR HART: I don't want --

17 ZC CHAIR HOOD: No, I want to withdraw. Because  
18 it seems like this would complicate things, and I don't want  
19 to do that.

20 CHAIRMAN HILL: Now I'm just curious is if does --  
21 now I'm sorry, now I'm just going to ask. Ms. Nagelhout,  
22 does that mean that if we were to ask for something, then  
23 does that start that seven-day circle?

24 MS. NAGELHOUT: Well, I'm looking at the reg now.  
25 The OP is not a party, so and if you didn't ask for



1 responses, I'm not sure if that would or not.

2 VICE CHAIR HART: I appreciate it. I just wanted  
3 to know, I just wanted to understand. Well, let me ask the  
4 Office of Planning. Since you've now been hearing this,  
5 would you be able to provide us something before the meeting  
6 next week? And I'm trying to think of what that day is, so  
7 I don't know exactly. Maybe it's Monday?

8 MS. VITALE: I can certainly -- I'm not  
9 comfortable answering that on the spot since it would require  
10 coordination with other folks that aren't here to kind of  
11 speak to work load and availability.

12 MS. NAGELHOUT: The regulation does say the Board  
13 shall allow all parties an opportunity to file written  
14 responses to any exhibit, so.

15 ZC CHAIR HOOD: Let me go back to withdrawing my.

16 VICE CHAIR HART: That's fine.

17 ZC CHAIR HOOD: No, I'll tell you why I'm  
18 withdrawing, seriously. I was trying to take care of this.  
19 But it's not in the historic district. I think the record  
20 and the merits of this case stand for themselves, and I don't  
21 want to put it something that we normally don't do that's not  
22 in our process.

23 VICE CHAIR HART: That's fine. So it looks like  
24 we will have this, the public meeting for this decision date  
25 would be next week. And I'm assuming it's the 24th.

1 MEMBER WHITE: January 24.

2 VICE CHAIR HART: And I think that's, that would  
3 be it. I appreciate the comment from the fellow Board  
4 members, as well as the applicant and the Commissioner. And  
5 Ms. --

6 MS. AGYEI: Agyei.

7 VICE CHAIR HART: Agyei, I'm sorry.

8 MS. AGYEI: No worries.

9 VICE CHAIR HART: For coming in. It was very  
10 helpful to hear that, and you gave us something to chew on.  
11 So thank you.

12 CHAIRMAN HILL: All right, we're going to take a  
13 quick three-minute break, five-minute break.

14 (Whereupon, the above-entitled matter went off the  
15 record at 1:22 p.m. and resumed at 1:51 p.m.)

16 CHAIRMAN HILL: All right, everybody, let's get  
17 started again. Thank you.

18 MS. ROSE: You mean Shapiro?

19 CHAIRMAN HILL: Yes.

20 MS. ROSE: Next is Application Number 19661 of Seth  
21 and Megan Shapiro. Pursuant to 11 DCMR Subtitle X, Chapter  
22 9, for special exceptions under Subtitle E Section 5201 from  
23 the lot occupancy requirements of Subtitle E Subsection  
24 504.1, and from the nonconforming structure requirements of  
25 Subtitle C Subsection 202.2, to construct a two-story rear

1 covered porch on an existing flat in the RF-3 Zone at  
2 premises 506 Second Street Southeast (Square 765, Lot 59).

3 CHAIRMAN HILL: Thank you, Ms. Rose. Before we  
4 start, I'm just curious, is District Properties here? The  
5 case for -- okay, great. Then, just we might be hearing you  
6 next, so just wait a second. All right. If you could please  
7 introduce yourself?

8 MS. FOWLER: Good afternoon. My name is Jennifer  
9 Fowler, I'm the architect on this project. I reside at 1819  
10 D Street Southeast.

11 CHAIRMAN HILL: All right, Ms. Fowler. You've been  
12 here before and it's been a long day already and you're like  
13 the cleanest thing all day today, okay? I'm just letting you  
14 know, all right. So, congratulations. Congratulations that  
15 you had to wait all this time to get here.

16 So, if you can go ahead and tell us a little bit  
17 about the project. I don't have any specific questions, I  
18 think the record's pretty full. But please do tell us about  
19 the project. Please tell us again how you're meeting the  
20 standard for us to grant the relief requested.

21 I'm going to put ten minutes on the clock, Ms.  
22 Rose, if you wouldn't mind, just so I know where we are. And  
23 then, you can begin whenever you like.

24 MS. FOWLER: So, this is an existing row house in  
25 Capitol Hill, the RF-3 Zone. Currently, it has a rear two-

1 story covered porch that's in disrepair and approximately six  
2 feet deep. And it matches the adjacent porches of the  
3 neighbors at 504 and 508.

4 The proposal is to demolish this porch and rebuild  
5 it on a slightly larger footprint. So, we're hoping to  
6 expand an additional four feet beyond the existing rear wall  
7 of the porch, the rear structure. So, the resulting porch  
8 would be a ten-foot space, which is going to be four feet out  
9 beyond the adjacent neighbors.

10 The rear of the porch will be open and screened.  
11 The sides will have solid walls for privacy, with some  
12 screens at the tops of the walls, so that it's not completely  
13 closed off. The whole will be a roofed and kind of screened  
14 in structure.

15 We do have support from neighbors. We have a  
16 letter of support from 504 Second Street, 508 Second Street,  
17 as well as the neighbor at 215 E, just immediately behind  
18 this property. They face the north.

19 We also have support from the CHRS, who's -- they  
20 looked at the project and are fine with it. As well, the  
21 Historic Preservation Staff has agreed to approve it at staff  
22 level.

23 So, overall, it's been well received and we  
24 haven't heard any issues about light and air. It is a very  
25 modest extension beyond the existing structure.

1           CHAIRMAN HILL: Okay. Does the Board have any  
2 questions for the Applicant? Okay, good. Turning to the  
3 Office of Planning.

4           MS. MYERS: Hello, Crystal Myers for the Office of  
5 Planning. The Office of Planning is recommending approval  
6 and stands on the record with the staff report.

7           CHAIRMAN HILL: Does the Board have any questions  
8 for the Office of Planning? Okay. Does the Applicant have  
9 any questions for the Office of Planning?

10          MS. FOWLER: No, thank you.

11          CHAIRMAN HILL: All right. Is there anyone here  
12 from ANC wishing to testify? Is there anyone here wishing  
13 to testing in support of the application? Is there anyone  
14 here wishing to testify in opposition of the application?  
15 I'm going to turn it back to the Applicant, anything else  
16 you'd like to add?

17          MS. FOWLER: I do want to add that the ANC did  
18 support the proposal as well, I neglected to mention that  
19 before.

20          CHAIRMAN HILL: Okay, great, thank you. Board have  
21 any questions? No? Okay. All right. I'm going to go ahead  
22 and close the hearing. Is the Board ready to deliberate?  
23 Okay. As I mentioned earlier, I thought that the record is  
24 very full and I thought that the Office of Planning provided  
25 a very good analysis as to how this meets the criteria for

1 us to grant the relief requested.

2 As well as, the Applicant had mentioned the  
3 letters in support. Also, the Capitol Hill Restoration  
4 Society, as well as the ANC, having unanimous support. So,  
5 I didn't have any questions or issues with the application.  
6 Does the Board have anything else they would like to add?

7 MEMBER WHITE: I concur with what you said, Mr.  
8 Chairman.

9 CHAIRMAN HILL: Okay, great. Thank you. Then,  
10 I'll make a motion to approve the Application Number 19661,  
11 as captioned and read by the Secretary, and ask for a second.

12 MEMBER WHITE: Second.

13 CHAIRMAN HILL: Motion made and seconded. All  
14 those in favor?

15 (Chorus of ayes.)

16 CHAIRMAN HILL: All those opposed? The motion  
17 passes, Ms. Rose.

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

22 CHAIRMAN HILL: Thank you. Summary order, Ms.  
23 Rose?

24 MS. ROSE: Thank you.

25 CHAIRMAN HILL: Thank you. Thank you.

1 MS. FOWLER: Thank you.

2 MS. ROSE: Next, the Board will consider 19665 of  
3 District Properties.Com, Inc. As amended, pursuant to 11  
4 DCMR Subtitle X, Chapter 9, for a special exception under the  
5 new residential development provisions of Subtitle U  
6 Subsection 421.1, and pursuant to 11 DCMR Subtitle X, Chapter  
7 10, for a variance from the side yard requirements of  
8 Subtitle F Subsection 306.3, to construct six new one-family  
9 dwellings in the RA-1 Zone at premises 18-28 Brandywine  
10 Street Southeast (Square 6170, Lots 58, 59, 60, 61, 62, and  
11 63).

12 CHAIRMAN HILL: All right, great. Thank you. Can  
13 you please introduce yourself?

14 MR. SECK: Yes, Saidiwa Oumar Seck.

15 CHAIRMAN HILL: Could you spell your last name for  
16 me?

17 MR. SECK: S-E-C-K.

18 CHAIRMAN HILL: SECK, okay. Mr. Seck, were you  
19 sworn in this morning?

20 MR. SECK: No.

21 CHAIRMAN HILL: Okay. If you would stand and take  
22 the oath administered by the Secretary to my left. And if  
23 there's anybody else that missed the oath, they can stand and  
24 take it, please.

25 (Witness sworn.)

1           CHAIRMAN HILL: Okay, Mr. Seck. We brought you up  
2 here real quickly, because, as I was at lunch, I learned a  
3 little bit more about what was going on with you and I don't  
4 know if we're necessarily going to be able to hear this  
5 today.

6           So, there are a variety of things, I guess, in  
7 terms of posting and whether you were properly posted. You  
8 also seem to be -- there's some issues with -- I'm a little  
9 confused as to what you're trying to do.

10          In terms of, you have one lot that's requiring  
11 variance relief and the other lots do not. So, can you tell  
12 me about the posting?

13          MR. SECK: Yes, Mr. Chairman. The posting, I know  
14 there is a confusion there, but I do -- we uploaded yesterday  
15 that we posted it on December 28 versus what one of my  
16 colleagues in the office uploaded previously that it was  
17 posted on January 11, which is not the case.

18          And this shows an email that was sent out by my  
19 project manager when he went to the site and posted the signs  
20 and took the pictures and emailed it that same day, at 12:46  
21 p.m. So, the posting was proper and it shows two pictures  
22 with the address.

23          CHAIRMAN HILL: So, but you -- did you give  
24 referrals to the people that you needed to give referrals to?

25          MR. SECK: Referrals, as far as --



1           CHAIRMAN HILL: The different agencies that you  
2 need --

3           MEMBER WHITE: That was the Office of Zoning.

4           MS. MYERS: Yes, I can -- I came up, just so I  
5 could address this on the record. I'm Allison Myers with the  
6 Office of Zoning.

7           So, for this kind of application, the Office of  
8 Zoning, beyond the typical referrals to the Office of  
9 Planning and to DDOT, were required by the criteria of the  
10 special exception to send further referrals to agencies such  
11 as OSSE and Department of Parks and Recreation.

12           And on Friday the 12th is when we realized we  
13 needed to send those referrals. And so, those were sent on  
14 Friday the 12th, after the original referrals were sent by  
15 our office on, I believe, December 1.

16           CHAIRMAN HILL: So, we haven't heard back from  
17 those referrals, though?

18           MS. MYERS: That is correct.

19           CHAIRMAN HILL: Okay.

20           MS. MYERS: That would be -- those were late sent  
21 referrals by our office. That wasn't the Applicant's  
22 responsibility.

23           CHAIRMAN HILL: Okay. So, we need to hear back  
24 from them before we can move forward?

25           MS. MYERS: The Board, as far as I understand it,

1 the Board is not required to receive a report from those  
2 agencies. We are merely required to send a referral. And  
3 in some cases, they would not respond, but the Board can  
4 determine what would be an appropriate amount of time.

5 We did reach out directly to those agencies to  
6 follow-up on the situation, because it was sort of a  
7 different situation than a typical referral.

8 CHAIRMAN HILL: Okay. Well, I think the Board  
9 would still like to hear back from them. So, then, there's  
10 an issue, Mr. Seck, I guess you're trying to hold variance --  
11 I'm confused as to what you're trying to do.

12 MR. SECK: Yes, Mr. Chair. We are proposing to  
13 build six row houses, from the corner of First Street to the  
14 alley on Brandywine Street. So, there's a special exception  
15 for the fact that they're single-family houses there, which  
16 would bring in this new construction of six attached homes.

17 And we did have the ANC support letter that was  
18 uploaded, I've been to their meeting twice and with the  
19 executive Board meeting once. So, I attended three times,  
20 with the Commissioners, and they approved it without a  
21 problem.

22 And the variance would be for the house abutting  
23 the alley, which according to the RA-1, it requires an eight-  
24 foot setback, which is a ruling that was issued by the Office  
25 of Planning.

1           And Zoning has raised concern on that, based on  
2 the burden that is being put on builders in general, to have,  
3 when you're building a house and there is not, a row house,  
4 and there's not an existing house that you can attach to and  
5 you're building it on a property line, Office of Planning had  
6 introduced this setback ruling. Which I believe is in the  
7 works to be revoked.

8           And we asking for that variance to be able to  
9 build right on the property line, as normal townhouse.  
10 Otherwise, it would be impossible, because we have a 20 feet  
11 wide lot on Lot 58. Lot 58 is 20 feet by 100, similar to the  
12 rest of them. And that's --

13           CHAIRMAN HILL: Mr. Seck, I'm sorry, just trying  
14 to get through this whole thing about your motion. So,  
15 you're trying -- you made a motion to waive the notice  
16 requirements for the variance relief.

17           MR. SECK: I'm sorry, Mr. Chairman, can you explain  
18 what you --

19           CHAIRMAN HILL: Yes, in your Exhibit 39, you have  
20 a motion to waive the notice requirements. Form 153. Sorry,  
21 Form 150. In order to add the variance relief.

22           MR. SECK: Okay. I do apologize, Mr. Chairman, the  
23 Exhibit 39, I do not have.

24           CHAIRMAN HILL: Twenty-nine.

25           MR. SECK: Oh, 29?

1 CHAIRMAN HILL: Oh, sorry, 39.

2 MR. SECK: Thirty-nine? I do not have with me and  
3 not very familiar with that motion, honestly, so I wouldn't  
4 want to speculate on something I'm not sure about. Because  
5 I have, and I do know this sounds --

6 VICE CHAIR HART: Mr. Seck, it looks like someone  
7 by the name of Mohammad Sikder submitted a form and this is  
8 what the form says. That the Board waive its notice  
9 requirements in order to add a variance relief. So, that  
10 form was sent by -- was submitted for the record by Mr.  
11 Sikder on adding the variance relief that you just spoke of  
12 for this project.

13 And because it was added, it was sent on the 11th  
14 of January, which is fairly recent, they wanted to waive the  
15 requirement to notice to the public that you are making this  
16 addition to your relief request.

17 So, it is something that we were just trying to  
18 understand what you were talking about and making sure that  
19 was what that comported with this.

20 CHAIRMAN HILL: So, typically, when -- so, again,  
21 when variance relief is added, a case is renoticed by  
22 republishing the notice in the Register and resending letters  
23 to neighbors within 200 feet at least 40 days before the  
24 hearing.

25 In some cases, I guess, and I'm just looking at

1 some information, the Board instead ask the Applicant to  
2 merely post revised notice of the property for 15 days and  
3 meet with the ANC about the revised relief. So, when you met  
4 with the ANC, did they understand that you were asking for  
5 variance relief?

6 MR. SECK: Yes, I did explain that to them, that  
7 there was a variance that we were going to ask for for the  
8 last lot. And -- but the special exception was the main  
9 reason that we were there for. That I was there for.

10 VICE CHAIR HART: I think what the -- the main  
11 issue for us was really around trying to get the -- there  
12 were several District agencies that should have gotten notice  
13 prior to when they actually got notice, and we're waiting  
14 back to get that information.

15 That was last month, if I heard correctly, that  
16 the information was sent to them. And I just think it was  
17 just not enough time to get their comments back.

18 And so, we were trying to move this particular  
19 hearing to when we -- to a time after we would have thought  
20 we had gotten any comment back from them, some sort of report  
21 back from those agencies.

22 We ultimately may not get those comments, but we  
23 do want to provide enough time to be able, for them to be  
24 able to respond.

25 And as Ms. Myers said a little earlier, the Office

1 of Zoning staff person said earlier, the application was  
2 submitted in November, early November, and the request or the  
3 project was not referred to those agencies until December.  
4 Is that what I -- was I off on the dates?

5 MS. MYERS: The original referrals to Office of  
6 Planning and DDOT were sent in December. But the further  
7 referrals to OSSE and to the Department of Parks and  
8 Recreation were sent this past Friday.

9 VICE CHAIR HART: Oh, I'm sorry, I thought you said  
10 December, you said January.

11 MS. MYERS: If I said December, I'll correct the  
12 record, it was January.

13 VICE CHAIR HART: Okay. So, we've only had --  
14 those agencies have not had an opportunity to be able to  
15 actually have responded since they've really just gotten the  
16 request last week.

17 CHAIRMAN HILL: Okay.

18 VICE CHAIR HART: So, they just need a little more  
19 time.

20 CHAIRMAN HILL: Mr. Vice Chair, thank you so much  
21 for your help. The -- what I would suggest is, go ahead and  
22 post the revised notice for your property for the variance.  
23 And we'll allow 15 days for that. The ANC, you're saying,  
24 already did hear about the variance?

25 MR. SECK: I did mention it when I presented the

1 case, that there is a variance that we're going to be needing  
2 for that last lot. But the main focus with that, the special  
3 exception.

4 And what I would like to say, Mr. Chair, real  
5 quickly, is that we did get a letter, an email from Ms. Myers  
6 on January 9, after the submittal, if I'm correct, on  
7 November 2. And we replied immediately and that was  
8 regarding, if I'm correct, the self-certification that we  
9 sent.

10 So, I think Ms. Myers explained it clearly, it's  
11 not our fault in this way. But if you would consider, Mr.  
12 Chair, the special exception today and approve on that and  
13 the variance, we can put up five of our houses, we can wait  
14 on the variance.

15 CHAIRMAN HILL: Yes, I'm sorry, I don't think we'll  
16 be able to do that. I mean, it's just -- there's like, we  
17 have plans for the way the project is now. And so, and I'm  
18 looking at your report from the ANC and the ANC doesn't  
19 mention anything about a variance, it only talks about the  
20 special exception.

21 So, I would go ahead and send you back to the ANC  
22 to get something from them that approves what you're asking  
23 us for, which is the special exception and the variance. I  
24 would go ahead and repost for 15 days about the variance.

25 And then, that will give us a little bit of time

1 also to get back any information we might have gotten from --  
2 I mean, even if there was a delay that wasn't your fault,  
3 right, the variance is not something that was posted or is  
4 something that the ANC responded to. I mean, you say you  
5 talked to them about it, but it's not in their report.

6 MR. SECK: That is correct.

7 CHAIRMAN HILL: And so, I need something that talks  
8 about the special exception, talks about the variance. Go  
9 ahead and repost for 15 days at the property about the  
10 variance, okay?

11 And then, we'll get you back here as quickly as  
12 we can, giving enough time for people to get back from OSSE  
13 and DPR. So, that being all said, Ms. Rose, when would be --  
14 or, Ms. Myers, when do you think might be enough time to get  
15 Mr. Seck back here?

16 MS. ROSE: February 14?

17 CHAIRMAN HILL: Okay, February 14?

18 MR. SECK: That will work.

19 CHAIRMAN HILL: Okay. All right. Is that good?

20 All right. All right, so we'll see you February 14. And if  
21 you have any questions, I'd go ahead and reach out to Ms.  
22 Myers. Okay, all right.

23 MR. SECK: Thank you.

24 CHAIRMAN HILL: You're welcome.

25 MS. ROSE: Next we have Application Number 19635



1 of HJB Properties, LLC. As amended, pursuant to 11 DCMR  
2 Subtitle X, Chapter 9, for a special exception from the  
3 residential building conversion requirements of Subtitle U  
4 Subsection 320.2, to construct a rear addition to an existing  
5 one-family dwelling and convert it to a three-unit apartment  
6 house in the RF-1 Zone at premises 1121 Morse Street  
7 Northeast (Square 4070, Lot 138). There's a party status  
8 request in this application.

9 CHAIRMAN HILL: All right. Let's start with  
10 everyone introducing themselves, if they could, from my right  
11 to left over here. If you could just please introduce  
12 yourselves and state your address, home address.

13 COMMISSIONER BUGGS: Commissioner Yvonne Buggs,  
14 1113 Montello Avenue Northeast, Washington, D.C.

15 COMMISSIONER LEE: Commissioner Clarence Lee, 1519  
16 Trinidad Avenue Northeast. I'm the Chairman of 5D.

17 CHAIRMAN HILL: Commissioner, what was your last  
18 name again, I'm sorry? What was your last name?

19 COMMISSIONER LEE: Commissioner Lee.

20 CHAIRMAN HILL: Lee, thank you.

21 MS. WARD: Doretta Ward, 1141 Morse Street  
22 Northeast.

23 CHAIRMAN HILL: Okay. Wait a second. Go ahead.

24 MR. SULLIVAN: Marty Sullivan from Sullivan and  
25 Barros, on behalf of the Applicant.

1 MR. WILSON: Alex Wilson from Sullivan and Barros,  
2 on behalf of the Applicant.

3 MR. JACKSON: Brandon Jackson, I'm the Applicant  
4 and property owner.

5 MR. MARKUS: Rich Markus, I'm the architect.

6 CHAIRMAN HILL: Okay. Just real quick, so, Ms.  
7 Ward, are you the party status requested individual?

8 MS. WARD: The party -- I'm sorry, I'm not  
9 following.

10 CHAIRMAN HILL: That's all right, that's okay.  
11 Somebody had asked for -- somebody had requested for party  
12 status and it looked like it was a David --

13 MS. WARD: Hale?

14 CHAIRMAN HILL: Yes.

15 MS. WARD: No, he was not able to make it.

16 CHAIRMAN HILL: Okay. So, then, David Hale is not  
17 here. So, then, David Hale was asking for party status.  
18 Okay. And so, you all are here representing the ANC?

19 COMMISSIONER LEE: Yes.

20 CHAIRMAN HILL: And --

21 MS. WARD: And residents.

22 CHAIRMAN HILL: And you're a resident? Okay. So,  
23 you guys are here in either support or opposition, okay. So,  
24 we'll get to you guys, it's later in the hearing, just to let  
25 you know.

1           So, I'm going to ask you to step away from the  
2 table, then. I thought you all were the party status people,  
3 I'm sorry. Now, you pointed that there were other people as  
4 well?

5           MS. WARD: Yes.

6           CHAIRMAN HILL: So, the other people that are here  
7 are also members of the community?

8           MS. WARD: Yes.

9           CHAIRMAN HILL: Okay, all right. Then, we'll get  
10 to that portion of the hearing as well.

11          MS. WARD: Okay.

12          CHAIRMAN HILL: There was a gentleman who had  
13 requested party status and that's who I thought you all were  
14 with. And so, that's why I was trying to get to that part.  
15 So, all right. So, now, Mr. Sullivan, I assume you're going  
16 to be presenting to us?

17          MR. SULLIVAN: That's correct.

18          CHAIRMAN HILL: Okay. So, then, as I understand  
19 it, if the party status individual has not shown, then that  
20 -- I thought that would be automatically dismissed, but the  
21 person is not here, so I will deny a party status of the  
22 person who is not here.

23          ZC CHAIR HOOD: I think a motion would be safe.

24          I'll second that motion.

25          CHAIRMAN HILL: Okay. I will make a motion to deny

1 party status for David Hale, due to him not being here.

2 ZC CHAIR HOOD: I'll second that motion.

3 CHAIRMAN HILL: The motion is made and seconded.

4 All those in favor?

5 (Chorus of ayes.)

6 CHAIRMAN HILL: All those opposed. All right.

7 Okay. All right. So, Mr. Sullivan, I'm going to go ahead  
8 and give you time, because it doesn't look like anything's  
9 going to be easy today. So, you can go ahead and take, I'm  
10 going to put -- well, apparently my clock doesn't work  
11 either. So, I'm going to put 15 minutes on the clock for  
12 you.

13 If you can please walk us through what you're  
14 trying to do, what your Applicant's trying to do, and again,  
15 how you're meeting the criteria for us to grant the requested  
16 relief? And, obviously, there are a number of people here  
17 in opposition.

18 There was a number of letters in opposition. And  
19 so, you might want to try to address some of those issues  
20 that are going to come up later as well. Or we can address  
21 those when we get to them.

22 Does the Board have any other specifics they might  
23 like to hear from the Applicant? No? Okay. Then, Mr.  
24 Sullivan, you can start whenever you like.

25 MR. SULLIVAN: Thank you, Mr. Chair. I thought I

1 would give a bit of a big picture and then, we'll move on to  
2 the architect and I can specifically go over the special  
3 exception requirements. On Mr. Hale, he is a supporter now,  
4 so I assume that's why he's not here.

5 And I wasn't even aware he had filed the party  
6 status application, but he, to my knowledge is the adjacent  
7 neighbor on what I'll call the short side, the side with the  
8 shorter house. And he is now in support of the application.

9 So, the big picture, the subject building is  
10 adjacent on one side to a couple of buildings, which were  
11 converted to three units under the old regulations, before  
12 2015. And these conversions included additions that were 40  
13 feet in height and 53 feet back.

14 So, they were a full-scale, full-size matter of  
15 renovations under the old regulations. This application  
16 originally sought to match that length and height of that  
17 adjacent building. And it also sought to alter the front of  
18 the building, similar to those two buildings as well.

19 The Applicant, since then, hired this firm and  
20 changed architects. And based on discussions with the other  
21 adjacent neighbor and with the Office of Planning, revised  
22 the application with two significant changes. One was to the  
23 front of the building.

24 There is now no material alterations to the front  
25 and the third story addition is going to be set back almost

1 32 feet from the front of the building, so that it's not  
2 really visible from the front. Which was an important  
3 concern of both Mr. Hale and the Office of Planning.

4 The other change is reducing the proposed  
5 expansion in the back by 20 feet, so that it is now more in  
6 line with the angle of the adjacent house that's got a 53-  
7 foot addition and the shorter house, Mr. Hale's. So, I won't  
8 get into the shadow studies.

9 We believe it was these two changes that it caused  
10 the Office of Planning and the adjacent neighbors to now  
11 support this project. With that, I'll turn it over to the  
12 architect to explain the project in more detail.

13 MR. MARKUS: Thank you. I just wanted to reiterate  
14 a couple of things that Marty just said. So, the original  
15 submission was a full 60 percent lot occupancy and it also  
16 went to 40 feet in height.

17 This application, after talking with -- getting  
18 comments from the OP and neighbors' comments, is responding  
19 to those. And it's now 35 feet in height and it's a shorter  
20 building.

21 CHAIRMAN HILL: Just for clarification, Mr. Hale's  
22 house is the house there to the right on the diagram?

23 MR. MARKUS: Correct.

24 CHAIRMAN HILL: Okay, thank you.

25 MR. MARKUS: 119, 1119, sorry. So, one major

1 difference, too, in this project is that the front is being  
2 maintained, the front of the house. So, we still are putting  
3 on a third story, but that's pushed back far enough so you're  
4 not going to see it directly across the street.

5 But now, we're keeping -- the original submission  
6 actually was removing the front porch, too, which is a  
7 defining element along the street. But that's being retained  
8 now.

9 And then, the front material and the front massing  
10 and the mansard roof is all being kept. And so, that piece  
11 is being maintained and maintaining the character on the  
12 street. And then, the third story is set back, so the  
13 massing on that street is maintained.

14 And then, we are still going past the neighbor's  
15 addition, more than the ten feet, but previously it was 54  
16 feet back and now, it's 33 feet.

17 And what we based the footprint on is that each --  
18 there's three units and each unit is now just about the same  
19 size as the existing living area that's in the house now on  
20 two stories. So, that's why it is the size that it is.

21 CHAIRMAN HILL: Can you say that again? Can you --  
22 I didn't understand what you're saying.

23 MR. MARKUS: So, the existing house, on the living  
24 area on two stories, the square footage is about 1,300 square  
25 feet. So, each unit now, there's three units, one on each

1 floor, basement, first floor, second floor, each unit is  
2 about the same square footage. So, they're nice two-bedroom  
3 plus den units.

4 And then, the top floor actually has additional  
5 square footage on the penthouse, and that's actually -- I  
6 mean, the third story. That's actually a three-bedroom unit.  
7 That's a rough description, I can -- or a quick description.  
8 I can answer your questions.

9 CHAIRMAN HILL: No, go ahead, I was just -- I just  
10 wanted to understand what you were saying. Thank you.

11 MR. MARKUS: Okay. That was it. I can answer your  
12 questions.

13 MR. SULLIVAN: Okay. Thank you, Rich. And thank  
14 you, Mr. Chair. I will just briefly go over the special  
15 exception requirements.

16 The general requirement under Subtitle X 901.2,  
17 the granting of special exception in this case will be in  
18 harmony with the general purpose and intent of the zoning  
19 regulations and zoning maps and will not tend to affect  
20 adversely the use of neighboring property, in accordance with  
21 the zoning regulations and zoning maps.

22 We think that the changes made from the original  
23 application, while of course this application isn't viewed  
24 just in relation to that, were aggressive in relation to  
25 other such applications like this.



1           For instance, the 32-foot setback is significant  
2 and it completely preserves the view of this building from  
3 the front street. And one of the things that drove the size  
4 of the addition in the back was trying to provide the size  
5 that would allow families to move in.

6           So, that's why it's two bedrooms and a den in the  
7 smaller ones and three bedrooms and a den in the larger unit,  
8 all while still stepping back significantly from the very  
9 large building to the east of this property, and in doing so,  
10 securing the support of what we think is the only potentially  
11 affected neighbor on the short side.

12           The specific requirements of U 320.2, the building  
13 is now less than 35 feet in height. There is not a fourth  
14 dwelling, it's just three dwellings.

15           This was an existing residential building at the  
16 file, although this building has been vacant for some time  
17 due to being in need of repair. The -- we meet the minimum  
18 900 square foot of land area, of course. The property has  
19 2,795 square feet, which allows three units, with your  
20 approval.

21           And then, we're asking for a waiver, of course,  
22 from the ten-foot rule. The addition has shown to not be  
23 blocking any chimneys or vents or interfering with solar  
24 panels. And the original rooftop architectural elements are  
25 not going to be altered.

1           There's some minor changes in the front, which the  
2 Office of Planning has found do not rise to a level of  
3 needing specific mention as a waiver from that requirement,  
4 so we're not changing the rooftop architectural elements.

5           Regarding the waiver from the ten-foot rule, we  
6 have shadow studies, which we can go -- that are on the  
7 PowerPoint, which show very limited impact on the sunlight  
8 to the neighboring property to the west.

9           And, of course, no impact on the property to the  
10 east, which is 40 feet high and a 53-foot addition. And any  
11 shadow that's there now is almost entirely caused by that  
12 property to the east.

13           So, I have nothing further, if the Board has any  
14 questions. Oh, I'm sorry, you wanted me to address the  
15 comments from the community.

16           I think this community, and understandably they  
17 want to protect the single-family feel of the community and  
18 I think they maybe take issue with the fact that this relief  
19 is available. Although, of course, this relief was -- this  
20 was a matter-of-right case a couple years ago.

21           So, but that's, I think that's what many of the  
22 concerns are about. They did mention parking, but we do have  
23 two parking spaces in the back. And I don't think any of the  
24 -- most of the comments don't really relate to the specific  
25 special exception requirements or to the impact of this

1 particular building.

2 And I think it's important that the one property  
3 that is potentially impacted is now in support. Thank you.

4 CHAIRMAN HILL: Okay. Does the Board have any  
5 questions for the Applicant?

6 VICE CHAIR HART: Just one, Mr. Chairman. The --  
7 and I know that you didn't write the ANC report, but they did  
8 say that they opposed the application -- oh, I'm sorry, this  
9 is Exhibit 36. So, it is the ANC report and I'll ask them  
10 when they come up.

11 But it says that they oppose the application for  
12 variance/special exception. Did you tell them at some point  
13 that this was going to be a variance, or was this always a  
14 special exception? Or are they just kind of covering their  
15 basis as they are describing this?

16 MR. SULLIVAN: No, it was always a special  
17 exception. However, we were asking -- original application  
18 asked for relief from the 35-foot in height, which is also  
19 a special exception.

20 VICE CHAIR HART: Thank you.

21 ZC CHAIR HOOD: Mr. Chairman, the gentleman who  
22 pulled back his party status request, what was his address?  
23 Was it 1119? What was his address, was it 1119?

24 MR. SULLIVAN: Yes, 1119.

25 ZC CHAIR HOOD: Okay. And other side is 1123,

1 correct?

2 MR. SULLIVAN: Yes.

3 ZC CHAIR HOOD: Okay. Do we have anything from  
4 them? I didn't see it, maybe I missed it. 1123?

5 MR. SULLIVAN: No, we don't have anything from  
6 them. I think that's a three unit condominium.

7 ZC CHAIR HOOD: 1123?

8 MR. SULLIVAN: Yes.

9 ZC CHAIR HOOD: Okay. All right. Thank you, Mr.  
10 Chairman.

11 VICE CHAIR HART: And did you actually -- did you  
12 reach out to them or they -- did they just not respond to  
13 reaching out to them?

14 MR. JACKSON: I reached out to them, it was hard  
15 to get in touch with people from there. It's a building, so  
16 you can't really go knock at their front door. But we were  
17 mostly concerned with the impact on the neighbor at 1119,  
18 because this doesn't affect 1123 at all, because it's much  
19 larger than what we have planned. So, we're already in their  
20 shadow.

21 VICE CHAIR HART: I understand, I just --

22 MR. JACKSON: Okay.

23 VICE CHAIR HART: -- it was more just trying to  
24 understand how you reached out to them and it sounds like  
25 they were just not around.

1 MR. JACKSON: Yes. Didn't respond to the door,  
2 been ringing the bell.

3 VICE CHAIR HART: Thank you.

4 ZC CHAIR HOOD: And Mr. Sullivan, you mentioned  
5 about, what did you say, a couple of years ago, this would  
6 have been a matter-of-right. Why did that change?

7 MR. SULLIVAN: That's a loaded question. It was  
8 changed --

9 ZC CHAIR HOOD: I already know the answer.

10 MR. SULLIVAN: Yes, the regulations were changed,  
11 I think, to --

12 ZC CHAIR HOOD: I don't usually ask a question if  
13 I don't already know the answer.

14 MR. SULLIVAN: Yes.

15 ZC CHAIR HOOD: I'm just seeing how you all  
16 respond.

17 MR. SULLIVAN: Well, in my opinion, I think the  
18 regulations were changed to give this Board a chance to  
19 review specific applications that were -- that would be --  
20 first of all, I think that the most important thing from that  
21 was protecting the front view.

22 I think people, when they had a neighborhood with  
23 a certain type and style and size of house, they didn't want  
24 to see the addition going up right in the middle. And I  
25 think, in that respect, this application hits the target on

1 that by having such a large setback.

2 ZC CHAIR HOOD: Right. Let me help you, most of  
3 it was changed because we had no regulations in place, it was  
4 out of control, and to help protect the character of  
5 neighborhoods. That's why that was done. Thank you, Mr.  
6 Chairman.

7 CHAIRMAN HILL: Thank you, Chairman Hood. I'm  
8 going to turn to the Office of Planning.

9 MR. JESICK: Thank you, Mr. Chairman and the  
10 Members of the Board. My name is Matt Jesick. We reviewed  
11 this application against the criteria of Subtitle U Section  
12 320.2.

13 And the original application, the original design,  
14 we did recommend denial of that design. But upon the  
15 revisions provided by the Applicant, we're now recommending  
16 approval and feel that the application meets the criteria of  
17 that section. Thank you and I'd be happy to take any  
18 question.

19 MEMBER WHITE: Yes, I have one question. What were  
20 some of the changes? If you could just kind of highlight  
21 what the modifications were to get them in your camp, to  
22 support the application.

23 MR. JESICK: Sure. I think the biggest one is  
24 preserving the front facade. Whereas, before, they were  
25 proposing to completely change the facade, I guess you could

1 say, to more closely align with the existing convergence to  
2 the east. Now, they're preserving the front facade. We felt  
3 that was very important.

4 They're setting the third floor back, I believe  
5 it was about 30 or 32 feet, from the front. So, that would  
6 not be visible. And also, the height of that third floor has  
7 come down from 40 feet to about 35 feet.

8 And then, at the rear, that third floor also steps  
9 in a little bit from the first and second floors. So, we  
10 felt that was small, but important.

11 And then, the overall depth of the addition was  
12 reduced quite a bit, from 54 feet to about 32 or 33 feet.  
13 So, the result of that is, not only is it just smaller, but  
14 it causes a much smaller net impact in terms of shadow or  
15 impacts to light to the adjacent property to the west.

16 MEMBER WHITE: All right. I guess, with those  
17 modifications that were made, I'd be interested, once the ANC  
18 comes up, just to kind of get a sense of whether or not that  
19 changed their opinion of the project as well. Thank you.

20 VICE CHAIR HART: And, Mr. Chairman, if I might ask  
21 to the Office of Planning, Mr. Jesick, did you also look at  
22 the -- did the length of the -- the size of the property also  
23 impact your view of this?

24 I mean, it was -- it's about 50 feet left for the  
25 rear yard after the addition, if we approve the addition.

1 But there's like 50 feet left from that. Did that play any  
2 role in that?

3 MR. JESICK: I'd say, not a significant role. We  
4 were looking more at the impacts of the, just the depth of  
5 the addition, how that would relate to -- or what impacts  
6 that would cause to adjacent properties. And then, our  
7 larger concern was at the front of the facade or the front  
8 of the house as well and what was happening with that facade.

9 VICE CHAIR HART: Thank you.

10 CHAIRMAN HILL: I'm sorry to make you do this, but  
11 could you walk me through again your analysis, Mr. Jesick?  
12 I mean, again, since there are people here that are going to  
13 be presenting information, I'd like to kind of, if you could,  
14 just walk through your analysis a little bit more in detail.

15 And then, what I am also kind of curious about is,  
16 the -- and this comes before us quite often, in terms of what  
17 is unduly affected.

18 And I assume that there was -- I don't know what  
19 the Applicant previously submitted, or at least I can't  
20 recall if it was in there, in terms of, they might have been  
21 trying to match that property all that way, taking it out,  
22 and the Office of Planning was not in approval of that.

23 And I'm a little curious as to why they -- or what  
24 your analysis as to why you would have thought that they  
25 could go as far back as the neighboring property. So, the



1 unduly affected question is one that I'm asking, I guess, a  
2 little bit, in terms of the property to, I guess, the one  
3 that the neighbor pulled his opposition to it.

4 But also, if you could, just walk me through your  
5 analysis as to how you got to approving this.

6 MR. JESICK: Sure. Well, again, we just went  
7 through Section 320.2 in Subtitle U and it gives a number of  
8 criteria. So, in that sense, it's very straightforward, you  
9 just go through the criteria one-by-one. The height, they're  
10 meeting the height, they're not going above 35 feet.

11 They're not providing more than three dwelling  
12 units, so they're not subject to inclusionary zoning. It  
13 also is a lot that is large enough to accommodate three  
14 units, meaning there is more than 900 square feet per unit  
15 being proposed.

16 The Criteria E says, an addition shall not extend  
17 further than ten feet past an adjacent property. They are  
18 going beyond ten feet, but you can apply for a waiver from  
19 that provision, which this Applicant has done. And that  
20 analysis is further down the list and we'll get to that.

21 You can't block a chimney, they're not doing that.  
22 You can't impede a solar panel system, they're not doing  
23 that. You have to maintain rooftop architectural elements  
24 at the front of the property, they are doing that.

25 And then, we look at more what might be considered

1 standard special exception criteria: light and air available  
2 to neighbors, privacy, and then, character of the street.  
3 In terms of light and air, they reduced, like I said, the  
4 delta, in terms of the shadow that's being caused on the  
5 adjacent property to the west by pulling that addition back.  
6 So, it's not as big as those ones that are already causing  
7 significant shadow in that area.

8 Privacy, there are no windows on the adjacent  
9 wall, so they won't be looking over the neighbor's yard at  
10 all.

11 And then, character of the street, again, they are  
12 maintaining that front facade. So, we felt that was very  
13 important to maintaining the look of the street along Morse.  
14 And those are the significant criteria.

15 CHAIRMAN HILL: Okay, thank you. Does the Board  
16 have any other questions for the Office of Planning?

17 ZC CHAIR HOOD: Yes. I just have a quick question.  
18 Do you recall that we were supposed to be changing, and I  
19 don't want to put it on this Applicant, that we were supposed  
20 to be changing some of the regulations so that when the BZA  
21 hears these cases, that the materials would be more definite  
22 and that we would see more of what materials would be used.

23 Do you recall us talking about that? And if so,  
24 what happened to it? Well, that's probably more of a  
25 question for Ms. Steingasser, but I'm just asking you since

1 you're here.

2 MR. JESICK: I recall on a previous case I handled,  
3 Mr. Hood, that you thought it was very important that we  
4 called out the materials on a -- this was a separate case  
5 altogether, where we talked about the materials and how that  
6 was important.

7 Again, in that case, we were looking at the front  
8 of the building and what that looks like and they were  
9 changing some materials. In this case, since they're keeping  
10 the materials the same, we didn't feel it was necessary to  
11 call out specific conditions on that part of the design.

12 ZC CHAIR HOOD: Okay. Well, let me ask you this,  
13 is that rule in place? I think we did that -- and I asked  
14 for that, actually, during ZR 16. Is that in place? I don't  
15 see it. If not, we need to put that on our list.

16 MR. JESICK: I don't know of that rule being in  
17 place, so we can --

18 ZC CHAIR HOOD: If you could help me remember to  
19 ask Ms. Steingasser to put it on the list and I'll do it the  
20 next ZC meeting?

21 MR. JESICK: Definitely.

22 ZC CHAIR HOOD: Thank you, Mr. Chair.

23 CHAIRMAN HILL: Anything we can do to help you, Mr.  
24 Hood, to move yourself along there, we're happy to take up  
25 our time here.

1 (Laughter.)

2 CHAIRMAN HILL: Okay. Does the Applicant have any  
3 questions for the Office of Planning?

4 MR. SULLIVAN: No, thank you.

5 CHAIRMAN HILL: Okay. So, now, would the ANC like  
6 to come forward? Well, Commissioners, welcome. I'm sorry  
7 you had to wait around so long. If I could, if there was a  
8 way I could figure out how the Commissioner stuff could go  
9 first, that would be great. But I hope it was at least  
10 somewhat entertaining. Let's see.

11 So, normally, the Commissioners get five minutes  
12 each. I don't have a clock, so I'll just kind of let you  
13 know. And, please, go ahead and start whenever you like.

14 COMMISSIONER BUGGS: Good afternoon, Chairman and  
15 Members of the Board. First of all, I'd like to note that  
16 we were kind of -- they were coming from left field when they  
17 said that Mr. Hale is now supporting their project, because  
18 Mr. Hale was, these first two signatures, he and his wife  
19 were the first two signatures on the petition.

20 And they also the ones that applied for party  
21 status. I realize that they're not here today, but they did  
22 not let us know that they were going to support this project.  
23 Other members of the neighborhood absolutely opposes the  
24 project still.

25 When we were at the last Commission meeting, which

1 was on January 9, we actually were warned that if we did not  
2 support, that they were going to go by a matter-of-right to  
3 do what they can do. So, we were kind of like -- we asked  
4 were we being threatened.

5 They told us, he told us no, but we felt like  
6 that. And Mr. Hale, at that time, still was opposing. So,  
7 we're pretty much not -- the Commission voted five-zero-one  
8 to oppose this project.

9 CHAIRMAN HILL: Okay. Thank you. We may have some  
10 questions for you all. So, Commissioner, would you like to  
11 give some more testimony?

12 COMMISSIONER LEE: Yes. So, I agree and I'm glad  
13 to hear what Board Member Hood said about running rabid with  
14 these monstrosities in our neighborhood. So, I'm glad that  
15 the BZA took that on to put these regulations in effect,  
16 because that's what we're really trying to do.

17 We're not only trying to maintain the character  
18 of the front of the homes, but we would like to maintain the  
19 character and the density in the neighborhood. This is --  
20 we don't have a lot of blocks with large lots like this in  
21 the Trinidad area and it's one of three streets to have these  
22 large lots that this can go on.

23 We opposed the same thing in Commissioner Buggs'  
24 area, same type of building, it was separate from the house  
25 where someone wanted to build a three-story addition on the

1 garage. So, this is why we're here, we're trying to maintain  
2 the character and keep the density down.

3 We have a parking problem. A lot of us that are  
4 opposed have been here for more than 25 years, when we could  
5 park in front of our own doors at any time. And as we -- we  
6 welcome the change, we welcome the new neighbors, because  
7 this has made our neighborhood safer.

8 So, we do like that these empty homes are being  
9 renovated and coming in. But just the fact that we'd like  
10 to maintain the character of the single-family home. We  
11 weren't aware of the other two buildings that ran amok,  
12 because we would have been opposed to that, because we all  
13 stood in awe in the alley as they went up and wondered how  
14 this happened. But there was some regulations.

15 I myself renovated my house some 16 years ago and  
16 I was told I had the ten-foot rule. So, I'm not against the  
17 ten-foot rule to renovate, because I want each individual to  
18 -- we're not opposed to a family renovating their home, we're  
19 just opposed to developers coming in and making our single-  
20 family homes into multi-family units.

21 We have enough multi-family units in the area.  
22 So, we're just opposed to that. So, we did vote five-zero-  
23 one, with one abstention to not have the -- not support the  
24 variance request, which is -- they needed ANC approval. So,  
25 we did not vote to approve that.

1           So, we just want your support and follow-up in  
2 what our recommendation is, not to approve the application.  
3 Thank you.

4           CHAIRMAN HILL: Thank you, Commissioner. Just so  
5 you know, they're applying for a special exception, not a  
6 variance. It's a special exception request. But it still  
7 is the same project.

8           The -- were you around when -- what Chairman Hood  
9 was speaking of is when the Zoning Commission changed the  
10 regulations so that you couldn't do matter-of-right, the  
11 property that's to -- the other larger property is already  
12 there. So, were you a Commissioner at that time?

13           COMMISSIONER LEE: No, I was not.

14           CHAIRMAN HILL: Okay. Okay. So, I'm just curious,  
15 because that was how the Zoning Commission was addressing  
16 this situation that was going on and brought it to the level  
17 of a special exception, to be able to ask for certain things.  
18 Which is what the Applicant is asking for.

19           And the criteria that we need to do to evaluate  
20 whether or not to approve that special exception. A special  
21 exception -- the reason why I'm mentioning, the special  
22 exception is an easier test than a variance test in terms of  
23 approval. Does the Board have questions for the  
24 Commissioners?

25           VICE CHAIR HART: Just one quick one.

1 Commissioners, thank you very much for coming down and  
2 spending the time with us. And I'm not sure which  
3 Commissioner, either one of you can answer, but I have the  
4 question to Mr. Sullivan earlier and I know that this not a  
5 letter that he submitted, this is the letter that the ANC  
6 submitted.

7 But in the letter, the first sentences says that  
8 ANC 5D resolves to approve the application for  
9 variance/special exception.

10 And you were -- were you under the assumption that  
11 -- were you thinking that it was a variance or a special  
12 exception or were you thinking that it was -- or do you have  
13 this kind of as a letter that you put out to include both the  
14 variance and the special exception?

15 I'm only asking because they're only looking for  
16 a special exception, which as the Chairman just said, is --  
17 there are things that are in the zoning regulations that can  
18 be allowed if the BZA gives them permission to do that.

19 Variances are things that are not allowed under  
20 the zoning regulations, that an Applicant would have to come  
21 and prove that there's some extraordinary reason that we  
22 should be giving them that relief. So, if you could just --

23 COMMISSIONER BUGGS: So, Chairman Hart, when the  
24 letter was written, we were under the assumption that it was  
25 kind of like one and the same, variance/special exception.



1 I guess, my ignorance didn't think that it was one or the  
2 other, it was both.

3 VICE CHAIR HART: No, it's -- don't feel bad,  
4 zoning is not an easy thing for most people to just pick up  
5 and, oh, let me read 1,000 pages of fairly dense text.

6 COMMISSIONER BUGGS: Exactly.

7 VICE CHAIR HART: But -- so, don't feel that way,  
8 I was just asking just to more get clarity around, sometimes  
9 when folks send things, they kind of say, well, we always  
10 kind of say this whenever we send a letter out that says  
11 variance or special exception of, whatever the address is.

12 And I know you all do more projects than just this  
13 one and I just was more getting clarity around that. But  
14 what you've said is fine. I understand that it is not -- in  
15 some ways, most people think it's kind of splitting hairs,  
16 that variance, special exception, whatever, you want some  
17 relief.

18 COMMISSIONER BUGGS: Right.

19 VICE CHAIR HART: And so, I understand that, I just  
20 wanted to get a little clarity. Thank you.

21 MEMBER WHITE: Good afternoon, Commissioners. You  
22 just heard Office of Planning kind of give some history on  
23 their original position, where they denied, they were in  
24 denial of the relief.

25 But then, they submitted a supplemental report,

1 based upon conversations that they had with the Applicants  
2 regarding some of their concerns. And then, they've modified  
3 it in support.

4 And one of the things that kind of stuck up in my  
5 mind was the fact that they felt as though the modifications  
6 were in line with the look and feel of the other houses,  
7 especially on the front, especially because the Applicant had  
8 agreed to preserve the existing look, especially with the  
9 frontage.

10 I just wondered if you had some comment or if your  
11 opinions have changed somewhat, based upon the supplemental  
12 report submitted by OP? It's Exhibit 52, I believe.

13 COMMISSIONER BUGGS: Well, when the Applicant redid  
14 their plans, they sent them to us, well, to me on December  
15 28. I tried to pull together a Single Member District so  
16 that we can discuss what the plans, the changes were. But  
17 there was just not enough time.

18 And I normally try to hold my Single Member  
19 District meetings the Thursday before our Commission meeting,  
20 so that I'll be able -- I'll have a chance to not only  
21 explain to my constituents what the changes were, but also  
22 explain to my fellow Commissioners what the changes were.

23 I did not have the opportunity to do that. It was  
24 not enough time. So, I can't even say that I knew what the  
25 new changes were myself.

1           COMMISSIONER LEE: And to what we just heard from  
2 the Office of Planning, I'm a little taken aback, because I  
3 think 33 or 50 feet, we're still looking at a monstrosity in  
4 the rear yard.

5           So, for me, I'm -- like you just said, splitting  
6 hairs, 20 feet, but it's still going back a large amount past  
7 the ten, but that's still 23 past what matter-of-right is.  
8 So, I'm a little taken aback why they thought that was better  
9 or why that would be more appealing to us as residents.

10          MEMBER WHITE: But the height aspect of it, you're  
11 comfortable with?

12          COMMISSIONER LEE: No, I'm not -- I'm only  
13 comfortable with matter-of-right.

14          MEMBER WHITE: Okay.

15          ZC CHAIR HOOD: So, let me ask this, are you two  
16 relatively new Commissioners or have you been Commissioners  
17 for a while?

18          COMMISSIONER BUGGS: 2014.

19          COMMISSIONER LEE: Me also, 2014.

20          ZC CHAIR HOOD: Okay.

21          COMMISSIONER BUGGS: And this would be the first  
22 BZA case that I --

23          ZC CHAIR HOOD: Okay.

24          COMMISSIONER BUGGS: -- had the pleasure of sitting  
25 in.

1           ZC CHAIR HOOD: Well, let me say this, let me  
2 commend you, first of all, on having a Single Member District  
3 meeting. And I like the way you have that coordinated, where  
4 you have your Single Member District meeting before you have  
5 your full ANC. Let me commend both of you. But let me ask  
6 this as well.

7           First of all, ANC, I have a lot of respect for  
8 ANCs, being a former super soldier. So, I understand how it  
9 is, that's one of those thankless positions that I've been  
10 in many times.

11           But let me ask, those two other properties that  
12 have the -- that were, as you said I said, you've got to be  
13 careful, don't quote what I said, because you'll end up in  
14 the paper.

15           (Laughter.)

16           ZC CHAIR HOOD: But what I'm saying is, those two  
17 other projects, they were matter-of-right at that time, I'm  
18 sure. Now, let me ask you, would you all have been opposed  
19 to those?

20           COMMISSIONER BUGGS: Yes.

21           COMMISSIONER LEE: Yes.

22           ZC CHAIR HOOD: Okay. And you mentioned that, the  
23 threat of a matter-of-right came, whether it was a threat or  
24 not, but the issue of a matter-of-right, you said you were  
25 fine with a matter-of-right. But, obviously, the Applicant

1 didn't want to do a matter-of-right, because we're all here  
2 having this discussion.

3 So, that lets you know that there's some  
4 significance to this, as opposed to doing it as a matter-of-  
5 right. So, I just wanted to compare that. But I want you  
6 all to know that from my standpoint, continue to do a good  
7 job like you're doing, regardless of what we have done.  
8 We're going to try to talk through this as well. Thank you.

9 VICE CHAIR HART: Mr. Chairman, one other point.  
10 Commissioners, also, you noted that you hadn't -- you weren't  
11 aware that the Hales had kind of changed their position on  
12 this.

13 They actually submitted a letter, which is Exhibit  
14 -- that we see -- we keep on telling what the exhibit numbers  
15 are and we do that because if somebody's looking for this or  
16 trying to understand what we're talking about, they can  
17 easily go to the record and found out where I was talking or  
18 some of the other Board Members.

19 So, I understand that you may not have this in  
20 front of you, so I was going to read it. It's a very short  
21 letter. But it's a letter from both David and Geraldine  
22 Hales, who live at 1119 Morse Street Northeast, and they sent  
23 this letter to the BZA.

24 It says, we are owners of 1119 Morse Street  
25 Northeast and our property is direct adjacent to 1121 Morse

1 Street Northeast. We have met with Brandon Jackson from HJB  
2 Properties, LLC, to discuss the proposed addition and  
3 conversion to that property and the need for special  
4 exception relief and a waiver from the ten-foot rule.

5 Having been apprised of these plans, we do not  
6 believe that the addition is likely to have a substantial  
7 negative effect on our light and air or privacy. We,  
8 therefore, support the application. And then, it was  
9 sincerely and they signed it.

10 I am not saying that to sway you necessarily, it's  
11 more just to let you know that they actually did submit  
12 something, it wasn't just Mr. Sullivan saying that they were  
13 supporting. They did actually submit a letter.

14 And I don't know why they -- actually, they did  
15 say they cc'd ANC 5D, but the letter was dated to us January  
16 15, 2018, so that was Monday. So, yes, it was a holiday, so  
17 you probably will get it today or tomorrow.

18 But, again, I was just letting you know that they  
19 have changed their position and I thought that you just might  
20 be interested in what they were saying.

21 COMMISSIONER BUGGS: Thank you.

22 COMMISSIONER LEE: But we also have the petitions  
23 of the neighbors, and that's been submitted, and most of them  
24 are here today.

25 VICE CHAIR HART: I agree.

1           COMMISSIONER LEE: They live on the same side of  
2 the street as the addition. But there also is a third  
3 property that's up the street that's the same as the two that  
4 are adjacent to this building. So, that's what I said, we're  
5 trying to maintain -- those were a matter-of-right.

6           VICE CHAIR HART: I understand.

7           COMMISSIONER LEE: Okay.

8           VICE CHAIR HART: I understand. I was just saying  
9 that the next-door neighbor had actually submitted something  
10 to the record about their support of the project.

11          CHAIRMAN HILL: And I guess, just to piggyback what  
12 Vice Chair Hart said, the meetings that you have with your  
13 constituents, again, like our -- what we look at for -- there  
14 are criteria that we look at for when we're granting whatever  
15 the relief is that we're asking for.

16                 And if they're special exception, there are  
17 certain criteria. If it's a variance relief, then there's  
18 a three-prong test that is a much higher bar in which to  
19 pass.

20                 The criteria that we're looking at right now is,  
21 like, U 320.2 lists all of these different criteria that we  
22 look at in terms of -- and primarily, it's adverse impact,  
23 in terms of light and air, on the neighboring property. And  
24 then, a variety of other criteria there that the Office of  
25 Planning, in their report, has gone through.

1           And that's just kind of some of the feedback that  
2 we get. But our job, again, is to look at the regulations  
3 and see whether or not we think that the standard is being  
4 met, per those, whatever the request is. So, yes, so that's  
5 what that is. All right.

6           Anybody else for the Commissioners? No? All  
7 right. Thank you, Commissioners.

8           Is there anyone here, I'm going to, I don't think  
9 there is, but I'm going to ask first, is there anybody here  
10 who wishes to speak in support of the application? Okay.

11           Is there anyone here that would like to testify  
12 in opposition? Opposition? If you could please just raise  
13 your hands, I just want to see how many of you there are.  
14 Okay.

15           Could you guys just scoot down one or just free  
16 up a chair? And then, I can take four people over here.  
17 Again, I think you've all been sworn in, correct?

18           MS. WARD: Right.

19           CHAIRMAN HILL: Okay, great. Well, welcome.  
20 Again, thanks for making it through here, this longer day,  
21 long day, I should say. We still have a little bit more to  
22 go through. So, as public members, you have three minutes  
23 to testify.

24           MS. WARD: Okay.

25           CHAIRMAN HILL: I don't really have a clock,



1 unfortunately, so I'm just going to kind gauge it as we go  
2 along. Or, actually, I'll do a little stopwatch here. So,  
3 before we start, and I know you did introduce yourselves  
4 already once, at least one of you did, if you wouldn't mind  
5 please introducing yourself from my right to left for the  
6 record. And then, we can start.

7 MS. WARD: Doretta Ward, 1141 Morse Street  
8 Northeast.

9 MS. FRISON: Teresa Frison, 1184 Morse Street  
10 Northeast.

11 MS. RAMSEY: Karen Ramsey, 1413 Montello.

12 MS. ROGERS: Frances Rogers, 1116 Morse Street  
13 Northeast.

14 CHAIRMAN HILL: Okay. If it's all right, then, Ms.  
15 Ward, I'm going to start with you.

16 MS. WARD: Okay.

17 CHAIRMAN HILL: And then, you need to just push the  
18 button, and you can begin whenever you like.

19 MS. WARD: Okay. Early on, I had submitted my  
20 opposition letter. And I also submitted the neighbor's  
21 opposition letter, along with their signatures.

22 I since -- I noticed later on, when I went online  
23 to look at it, it did not take the last page. So, I have an  
24 updated list of 18 owners in the neighborhood who oppose the  
25 special request of Mr. Jackson.

1           CHAIRMAN HILL: Okay. You can go ahead and submit  
2 that afterwards --

3           MS. WARD: Okay.

4           CHAIRMAN HILL: -- if you could.

5           MS. WARD: Okay. And according to this -- if I'm  
6 looking at this correctly and you're saying that there's no  
7 light affecting the neighbors, it appears at 9:00 a.m. there  
8 is definitely light affecting the neighbors. And that's a  
9 total complaint and it would affect them permanently at  
10 various hours during the day, along with the air flow.

11           And as the other Commissioner stated, we're  
12 totally against these buildings coming up in the  
13 neighborhood. This is a single-family neighborhood.  
14 Although it's not labeled as historic, we have unique  
15 historic homes in our neighborhood.

16           And we would like for it to stay at that look.  
17 As well as, the rear is just -- these large rear additions,  
18 is like an eyesore. You have houses going in and out. You  
19 got all these rears, so far we have three. And honestly,  
20 it's an eyesore and it's enough.

21           Also, to the -- I have a support -- we have a lady  
22 that also signed our petition who's about two doors from  
23 1119. She is opposed of it too, and it would definitely  
24 affect her light and shadow. That's all I have for right  
25 now.

1 CHAIRMAN HILL: Okay. Thank you. Next, please.

2 MS. FRISON: Thank you, Commissioners, for this  
3 opportunity. I have a letter on record under my name and my  
4 husband's name.

5 I also have the same letter done by the people who  
6 live at 1184, 1188, and 1186, they would also like to sign  
7 on to that in opposition. As well as a separate letter that  
8 I do not believe was sent via email, from our neighbors that  
9 are residing at 1159 and 1161, in opposition of this.

10 We do have three row houses on our block that have  
11 been converted into condos. One was the same model that  
12 they're proposing, which is two units. And then, we have two  
13 homes, single-family homes, were converted into three units.

14 We currently have eight homes on our block that  
15 can be converted into condos. We are a single-family  
16 residence. Imagine that, we would have 11 condo units on a  
17 single block in the city, if you said yes to everybody that's  
18 going to come up.

19 And believe me, they're all going to come up,  
20 because they have the space to do this, to go to three or to  
21 two condos.

22 And we just can't afford this. It's going to  
23 damage our infrastructure. Our neighbors on that side that  
24 already have the three condo units, their water pressure is  
25 not what it used to be, because they have -- instead of

1 having all these single-family homes, now they have eight  
2 family homes in addition on their block.

3 Our roads are -- we have lots of kids on our  
4 street, we have speed bumps, people still come down that road  
5 hitting those speed bumps at 35-45 miles an hour.

6 If we have more people coming down our street to  
7 add to these houses, it's going to have more transportation,  
8 more damage to our infrastructure, and it's going to damage  
9 the light that people see from across the street, not just  
10 their neighbors.

11 The people that live across the street from the  
12 fairly new condo that's just the two units, they don't have  
13 the light that they used to have, the morning light. So,  
14 it's -- it really changes the nature of our neighborhood.  
15 Thank you.

16 CHAIRMAN HILL: Thank you.

17 MS. RAMSEY: Good afternoon, Commissioners. I live  
18 two blocks away, but have been following this development,  
19 as well as other developments in the neighborhood closely.  
20 And we've been having a number of large buildings come in.  
21 Some of them are helpful in supporting increased housing  
22 needs and IZ units for the neighborhood, including the  
23 buildings on Florida Avenue.

24 The new buildings that are being proposed now do  
25 not do that. They instead take a single-family home that

1 would have been affordable for a family at \$400,000 to  
2 \$500,000, a wealthy family, but now, they're being converted  
3 to condos that sell for \$700,000 each, which is pushing  
4 people further out of the neighborhood. Where you could have  
5 purchased a home, you're now purchasing part of a home for  
6 far more money.

7 And I know our Commissioners answered a lot of  
8 questions, but just to supplement what they have said, both  
9 1121 and 1135 have been under discussion with the ANC for  
10 over five months. They've been very heated discussions, it's  
11 creating divisions in the neighborhood.

12 It's highlighting a lot of the negative impacts  
13 of putting in a 40-foot or 35-foot wall in someone's  
14 backyard, where they cannot garden, they can't sit outside.  
15 They have people standing on their roof decks, looking down  
16 over them, dropping things into their yards.

17 It's becoming an issue, and in particular, in the  
18 1100 and 1200 blocks of Morse. I know that, in this past  
19 year, that you have not approved, I forget whether it was a  
20 variance or a special exception, for 1165, which was asking  
21 to do the same thing, putting in a three-unit condo and going  
22 back 40 feet.

23 So, if you're not approving one project which was  
24 not supported by the neighborhood, I don't understand how you  
25 will start picking and choosing. So, the block starts to

1 push back and it has a negative impact on the people that get  
2 stuck in the middle of 40-foot walls in their backyards.

3 If you have condo conversion on either side of  
4 you, the best thing you can do at that point is just to move.  
5 And that's not helpful to residents of the neighborhood.

6 CHAIRMAN HILL: Okay, thank you.

7 MS. ROGERS: Hello.

8 CHAIRMAN HILL: Hello.

9 MS. ROGERS: I don't have anything technical to  
10 add, just kind of emotional. And I don't understand why Mr.  
11 Hale's backed down, because up to last week, he was against  
12 it and he said, if they go up, I'm going to have to move.  
13 And so, I don't know what happened between the last meeting  
14 and his letter.

15 But I feel as though, for every special exception  
16 that's approved, others will be asked. And just down the  
17 street, a house has just gone on the market and they're  
18 asking \$799,000. You could use it as a single-family home  
19 or a condo conversion.

20 And that's the attitude that people are taking on  
21 that side of the street, particularly because their side has  
22 longer lots than my side does. And when you start putting  
23 in these here-there-here-there, you have two or three, four  
24 houses in-between two monstrosities.

25 And you can't live like that, you just really

1 can't. And so, my objection is probably just tell them, we  
2 won't accept it.

3 My water pressure did go down, even though the  
4 water company came and put in new pipes and stuff, my water  
5 pressure did go down. And I asked the guy next to me, did  
6 your water pressure go down? And he said, yes. I said, oh,  
7 I said, maybe I had old pipes. Well, I don't have old pipes.

8 But it's -- when they put those new units in here,  
9 they -- and Mr. Hale's complained about his internet and it  
10 going out, because it does not have the same kind of service  
11 that he had prior to the new building. So, that's all I have  
12 to say.

13 CHAIRMAN HILL: Okay.

14 MS. ROGERS: I'm just totally opposed.

15 CHAIRMAN HILL: I understand, Ms. Rogers. All  
16 right. Does -- yes, you can give that to the Secretary  
17 there, the submission. Does the Board have any questions for  
18 the witnesses? Okay.

19 I mean, the only question I have, again, the  
20 understanding that I'm getting is, you're opposed to the  
21 project, you're opposed to the massing, you're opposed to  
22 what they're doing there, in terms of the development. And  
23 I get that, I understand that. Okay.

24 ZC CHAIR HOOD: Mr. Chairman?

25 CHAIRMAN HILL: Yes.

1           ZC CHAIR HOOD: Could I ask the young lady, the  
2 third person who spoke, and I forgot your name, I'm sorry.

3           MS. RAMSEY: Karen Ramsey.

4           ZC CHAIR HOOD: Ms. Ramsey, you said you'd followed  
5 this whole discussion about the pop-ups, pop-backs, pop-  
6 arounds, and whatever else they're going to create. If we  
7 help the -- one of the criterias that we have to look up --  
8 and I'm not negotiating, I'm just using what the regulations  
9 say.

10           One of the things is to not go ten, I think it's  
11 ten feet back from rear wall, I mean from the rear. If that  
12 was held to the strict application of the regulations, would  
13 you have a problem with this project.

14           MS. RAMSEY: I would not. I think ten feet is  
15 reasonable. It allows people to expand for growing families,  
16 to convert a building into other units. But I have seen the  
17 impact from friends who have the 35 or 40-foot extension next  
18 to them and it diminishes their quality of life and has  
19 created a lot of problems for them with their households.

20           ZC CHAIR HOOD: So, in your opinion, since you say,  
21 and I'm asking you since you said you followed this whole  
22 discussion, and others may have as well, but she mentioned  
23 it, do you think the way the regulations are written, that  
24 it's helpful to -- do you think they -- well, naturally, they  
25 can be improved, but do you think this is a start from us not



1 having anything?

2 And I know the Chairman probably is going to say  
3 that I'm taking my own time. I'm trying to get educated so  
4 we can --

5 CHAIRMAN HILL: This is very helpful, so please --

6 ZC CHAIR HOOD: Oh, it's become helpful? Okay.

7 (Laughter.)

8 CHAIRMAN HILL: Everything's individually based.

9 (Laughter.)

10 MS. RAMSEY: From my perspective, if you have seen  
11 the impact of some of the development gone amok, and you've  
12 put in regulations, if you then just approve every special  
13 exception that comes up, what's the point in having them?  
14 Because then you end up with the same result.

15 ZC CHAIR HOOD: So, and I'm just trying to -- I'm  
16 going to ask this. Do you think that we should -- let me ask  
17 you this. Do you think we need to relook at these, because  
18 we made a special exception, do you think it needs to be  
19 relooked at?

20 MS. RAMSEY: Yes --

21 ZC CHAIR HOOD: I'm talking about --

22 MS. RAMSEY: -- I do.

23 ZC CHAIR HOOD: -- the ten different criterias that  
24 we came up with.

25 MS. RAMSEY: Yes.

1 ZC CHAIR HOOD: Okay. All right. Thank you.

2 CHAIRMAN HILL: Okay. I was just going to make a  
3 comment, as far as, just to the witness, I guess, as far as  
4 approving every special exception that comes up, we don't  
5 approve every special exception that comes up.

6 Each one is different. And so, that's how we look  
7 at it. So, okay. All right. Mr. Sullivan, thanks for  
8 playing musical chairs there. So, you have some comments?

9 MR. SULLIVAN: I would just like the Applicant to  
10 address the comment about the threat. And then, just in  
11 general, his interaction with the community --

12  
13 CHAIRMAN HILL: Okay. That's fine.

14 MR. SULLIVAN: -- and the history of this  
15 particular --

16 CHAIRMAN HILL: I don't necessarily like the word  
17 threat, either. Words get used here a lot that inspire  
18 certain feelings.

19 But I was curious and so, it's nice to address  
20 that whatever the by-right -- I mean, I understand like a  
21 negotiation tactic, whatever that might be, if that was or  
22 wasn't, it doesn't matter. But -- I shouldn't say it doesn't  
23 matter. I'm curious as to what the by-right was, because --  
24 yes. Okay, we can start it there.

25 MR. SULLIVAN: Okay.

1           CHAIRMAN HILL: And, please, you can address any  
2 comments you like.

3           MR. JACKSON: Yes. I just wanted to make it clear  
4 that I wasn't trying to threaten anybody. I would never  
5 threaten somebody, especially when I'm trying to get them to  
6 vote in favor for me, it wouldn't quite make any sense for  
7 me to threaten somebody at that point in time.

8           I wasn't trying to do that and I'm sorry if I  
9 offended people and they took it that way, I did not mean it  
10 like that at all.

11           But I've been hearing a lot about the front facade  
12 and the pop-ups and people not liking to see the pop-ups from  
13 the street. And so, when I was just kind of laying out, I  
14 was like, well, if we can't do this, we're going to have to  
15 try to do something else.

16           And I was like, that's kind of what our by-right  
17 options were, which would be something similar to a two-unit  
18 building, instead of three.

19           It would be two that would have the pop-up  
20 underneath 35 feet, but that pop-up would have to be pushed  
21 forward, which would make it visible from the street.  
22 Whereas, what we were proposing would move back from the  
23 street.

24           So, I was trying to trust the fact that we were  
25 doing something to try to make everything still look uniform

1 along the street, by moving the pop-up portion, having it set  
2 back and not having it be near the front.

3 Because if we did the by-right of only ten feet,  
4 and if we did something that had a pop-up on there, you're  
5 going to see it from the front. That's all I was saying.  
6 It wasn't a threat, it was nothing like that. That was all  
7 I -- I was just making that point.

8 CHAIRMAN HILL: Mr. Jackson, that's okay. I mean,  
9 I appreciate you clarifying it. And they're -- these  
10 particular projects create a lot of emotion within the  
11 community.

12 And -- but I understand that, as everyone is  
13 trying to get their point across, and outline what would  
14 happen if something else doesn't happen, then that's what  
15 you're providing clarity to. You wouldn't have been pushing  
16 back, the front would look different.

17 MR. JACKSON: Yes.

18 CHAIRMAN HILL: Okay.

19 MR. JACKSON: That's all I was trying to say.

20 ZC CHAIR HOOD: Let me ask, how much different --  
21 this is the plans, I think, that we have. How much  
22 difference would it be than what's already there? I mean,  
23 what's already came before the regulations were put in place?

24 MR. JACKSON: I'm not sure.

25 ZC CHAIR HOOD: When you pushed it forward, how

1 much difference would it be from the other two units that are  
2 -- or other conversions that have already been done?

3 MR. JACKSON: I'm sorry, are you saying --

4 ZC CHAIR HOOD: I'm saying --

5 MR. JACKSON: -- the alternative?

6 ZC CHAIR HOOD: Yes. Your alternative that you  
7 mentioned about moving forward. If we held you to the strict  
8 application of just ten feet in back --

9 MR. JACKSON: Yes.

10 ZC CHAIR HOOD: -- you said you'd have to move it  
11 forward. What difference would there be from -- because you  
12 can see the other ones from the street, correct?

13 MR. JACKSON: Yes, right.

14 ZC CHAIR HOOD: So, what difference would it be?

15 MR. JACKSON: Nothing, you would still see it from  
16 the street.

17 ZC CHAIR HOOD: Right, you'd still see it from the  
18 street. So, you pushing it back and you've already got some  
19 already on the street that are already up front, what  
20 difference would yours make from being up there as well? If  
21 we held you to the strict application of the regulations?

22 MR. JACKSON: Well, I mean, it was -- people were  
23 opposing being able to see it. So, I mean, I don't quite  
24 understand what you're --

25 ZC CHAIR HOOD: That's all right. So, they're

1 opposing being able to see it and they're also opposing you  
2 taking it further in the back?

3 MR. JACKSON: Yes.

4 ZC CHAIR HOOD: Okay.

5 MR. JACKSON: So, it's kind of --

6 ZC CHAIR HOOD: So, what's the --

7 MR. JACKSON: -- what I was trying to figure out  
8 is, well, which way do you want me to go? That's why I was  
9 trying to do.

10 ZC CHAIR HOOD: Okay.

11 MR. JACKSON: And that's why I've been working with  
12 the neighbor at 1119 so much. I've been back and forth with  
13 him for months. Stopping by, we sit down and we talk about  
14 it, trying to figure out, what can you live with, what would  
15 be amenable to you, since you're going to be right here?

16 ZC CHAIR HOOD: Right. And I think that's actually  
17 good.

18 MR. JACKSON: And to address what happened --

19 ZC CHAIR HOOD: Let me just ask you --

20 MR. JACKSON: -- with the --

21 ZC CHAIR HOOD: No, I don't need to know the rest  
22 of it.

23 MR. JACKSON: Oh, okay.

24 ZC CHAIR HOOD: I just need to know --

25 MR. JACKSON: It was from a comment from earlier

1 about nobody knew about why he's changed --

2 ZC CHAIR HOOD: As the Chairman already said, we  
3 get a lot of we didn't know, I didn't know this, I don't --

4 MR. JACKSON: Okay.

5 ZC CHAIR HOOD: -- understand it. But did you show  
6 -- and I want to go back to the neighborhood, about the  
7 potential thinking of it was a threat, but it was not a  
8 threat, but it just was an alternative.

9 I'm going to call it an alternative. In your  
10 alternative, did you show views of how it would look one way  
11 versus the other way?

12 MR. JACKSON: Well, yes, I had a sheet that I tried  
13 to just hold up and it was like this one.

14 ZC CHAIR HOOD: But, I mean, did you show that to  
15 the community?

16 MR. JACKSON: Oh, for what --

17 ZC CHAIR HOOD: When you were --

18 MR. JACKSON: -- would actually be the alternative?

19 ZC CHAIR HOOD: -- showing when a matter-of-right,  
20 as was stated --

21 MR. JACKSON: Oh, no, no, no, because I didn't have  
22 --

23 ZC CHAIR HOOD: Okay.

24 MR. JACKSON: -- it was during the discussion,  
25 while everybody was having the discussion, at the ANC

1 meeting, about these current plans. And then, I brought up,  
2 this would be a matter-of-right

3 ZC CHAIR HOOD: So, you had something to show them  
4 what would have been a matter-of-right? Or just telling  
5 them?

6 MR. JACKSON: No, no, I was just telling them. I  
7 was trying to explain --

8 ZC CHAIR HOOD: Because a picture is worth a  
9 thousand words.

10 MR. JACKSON: Yes, I think --

11 ZC CHAIR HOOD: So, a matter-of-right --

12 MR. JACKSON: Yes, I tried to point to -- no,  
13 excuse me, I'm sorry. I tried to point to one that's kind  
14 of in the plans to say, the way you see this one here is how  
15 it would look from the street, versus it being setback where  
16 you can't really see it.

17 ZC CHAIR HOOD: Sometimes a different picture of  
18 massing would -- I'm not giving you a lecture, but I'm just  
19 saying --

20 MR. JACKSON: Oh, I understand.

21 ZC CHAIR HOOD: -- it would actually be helpful for  
22 us as well.

23 MR. JACKSON: No, definitely, this is my first time  
24 doing this, so I appreciate all the --

25 ZC CHAIR HOOD: Okay.



1 MR. JACKSON: -- everything I can learn here.

2 ZC CHAIR HOOD: And sometimes, that would be a  
3 better understanding for those of us who don't do zoning, as  
4 the Chairman mentioned, all the time. Because a lot of the  
5 community, the ANC members, they don't do zoning.

6 This is, as somebody stated, I'm not sure who it  
7 was, about 1,000 pages, this is not easy. Sometimes, we need  
8 to see how things are going to pan out. So, anyway, that's  
9 enough for my lecture for today. Thank you.

10 MR. JACKSON: Thank you.

11 CHAIRMAN HILL: Okay. Does the Board have any  
12 other questions for the Applicant? All right. Okay. All  
13 right. We got the -- does -- okay. So, does the Board have  
14 any questions to the Applicant?

15 MEMBER WHITE: I have one question.

16 CHAIRMAN HILL: Sure.

17 MEMBER WHITE: What's your feeling on making  
18 modifications from the rear so that it's not as visible?  
19 What was your position on that?

20 MR. JACKSON: On making the rear not visible  
21 modifications?

22 MEMBER WHITE: Like not making the pop-back as far  
23 back? Like maybe bringing it in some? Were there some  
24 economic reasons or just --

25 MR. JACKSON: Oh, yes, there's definitely economic

1 reasons for why you have the pop-up there in the first place.

2 It completely changes --

3 MEMBER WHITE: Can you explain that?

4 MR. JACKSON: -- the whole project a lot.

5 MEMBER WHITE: Can you explain that for the record?

6 MR. JACKSON: Yes. I mean, you probably have about  
7 a 50 percent -- well, I guess, like a 30 percent increase in  
8 your profit if you have the pop-up versus if you don't.

9 MEMBER WHITE: In terms of it being a livable  
10 space?

11 MR. JACKSON: Oh, yes, it's a livable space.

12 MEMBER WHITE: I mean, I know you're trying to --

13 MR. JACKSON: So, probably --

14 MEMBER WHITE: -- make money from it, but why does  
15 it need to go back that far?

16 MR. JACKSON: The pop-up or the rear addition?

17 MEMBER WHITE: The rear addition.

18 MR. JACKSON: Oh, it would be very small if it  
19 didn't go back pretty far. Because as you split it on each  
20 level, it's only about 19 feet in width, so you need -- in  
21 order to get two bedrooms in there --

22 MEMBER WHITE: Can you show me --

23 MR. JACKSON: -- comfortably two bedrooms --

24 MEMBER WHITE: -- the plan on your --

25 MR. JACKSON: Yes.

1 MEMBER WHITE: -- just so that we can --

2 MR. JACKSON: So, if you see, on this sheet, this  
3 shows the -- what would be the top is the basement one, which  
4 would be the underground unit.

5 MEMBER WHITE: Right.

6 MR. JACKSON: And then, the next one, that's going  
7 to be the first floor, which is the current street level  
8 floor. And then, this shows you the proposed second and  
9 third floor, which that's just one unit together, with two  
10 levels.

11 But as you see, space-wise, you kind of can't push  
12 it much further or else you lose -- the bedrooms become too  
13 small. And the living room area becomes kind of almost not  
14 existent.

15 VICE CHAIR HART: Yes, I mean, I can understand --  
16 sorry for jumping in. But --

17 MEMBER WHITE: No, that's okay.

18 VICE CHAIR HART: -- I can understand the living  
19 area space kind of concern. But as I start looking at the  
20 bedroom plans, you have a bedroom that is six feet eight by  
21 21 feet long? That is a large bedroom.

22 And I'm looking at -- this is Exhibit 47. And I  
23 don't know -- is that the most recent exhibit? Plans? I've  
24 had several versions of the plans up, so let me see if I can  
25 get the most recent one.

1 MR. JACKSON: Okay.

2 VICE CHAIR HART: Yes, I think it is. Yes, this  
3 is the most recent plans that you have. And they have a  
4 fairly large bedrooms. Bedrooms are -- granted there's an  
5 area that you're kind of going into them.

6 But 21, 20 feet, 21.5 feet, 20.2, 20 feet 0.2  
7 inches, or 20 feet two inches by ten feet eight inches. And  
8 I understand that you have to kind of configure it, figure  
9 out the configurations. Those just seem really oddly shaped  
10 --

11 MR. JACKSON: Yes, that --

12 VICE CHAIR HART: -- spaces. And it seems as  
13 though you could actually save on some of the -- it seems as  
14 though that they could be smaller to be able to accommodate  
15 a normal size room. And that just seems -- those seem odd  
16 to me.

17 MR. JACKSON: Yes. Well, I'll let Rich address  
18 this if I don't explain it correctly. But it's mostly  
19 because the rooms are L-shaped. They kind of fit together  
20 like Tetris, like Legos.

21 VICE CHAIR HART: No, I understand that.

22 MR. JACKSON: There's only one portion that can  
23 have the bed on it. And for the rooms to be side-by-side,  
24 so you essentially have to give one of the rooms the length  
25 of the other bed portion from the other room in order for

1       them to be side-by-side, or else you have a --

2               VICE CHAIR HART: But what you end up doing is you  
3       -- because of how your circulation happens in the room that  
4       is to the -- it's the one in the bottom, the one that's six  
5       feet eight by 21 and a half feet, you didn't number those,  
6       but it's the bedroom, I don't know, that's on the east side,  
7       I think, of the building.

8               That one, your circulation, you have a door that  
9       comes in and then, you have the larger part of the space,  
10      portion of the space, is closest to where that door is. And  
11      so, if you put a bed there, then you're kind of walking  
12      towards the bed first and then, you have this kind of long  
13      space that's 11 feet by six and a half feet that's kind of  
14      unused.

15              And so, it just becomes a -- they're just oddly  
16      shaped rooms to do. You're saying that you need the space  
17      for creating these rooms, and typically you have -- granted,  
18      you may not be able to have rectangular sized rooms -- or,  
19      sorry, more squarish sized rooms. I kind of get that.

20              But these seem really large. And it's almost like  
21      there needs to be some way of rethinking that. So, I don't  
22      know you, you can --

23              MR. MARKUS: I can address that. So, we run into  
24      this issue a lot. So, when you have a certain size lot, the  
25      best case scenario -- if you have two bedrooms, the bedrooms,

1 in order to be a legal bedroom, has to have an egress, an  
2 opening to it.

3 So, it has to be on an exterior wall. And when  
4 it's a party-wall on both sides, you can't do it on the side,  
5 so you have to do it on the back. And then, when the lot is  
6 -- best case scenario is, you get two bedrooms exactly side-  
7 by-side, but that only works when the lot is large enough.

8 So, at 19 feet wide for the lot, then you got the  
9 party-walls that brings it in, so you've got 18 feet from  
10 interior dimension all the way across, then you put a wall  
11 in the middle, if you have two bedrooms side-by-side, you're  
12 getting less than eight -- you're getting eight foot  
13 bedrooms.

14 Which for this size unit doesn't really make  
15 sense. So, we end up doing these kind of L-shaped spaces  
16 sometimes. And one of them has to be bigger and one of them  
17 has to be smaller, but it still has to have a window on the  
18 exterior. That's why you get kind of a leg on one of them.

19 So, the main portion of the bedroom is against the  
20 back wall on one of them and the larger portion of the  
21 bedroom is set in on the second bedroom with kind of a little  
22 leg that goes down to the rear wall. So, it seems very long  
23 and it is, but it's just -- you kind of have to figure out  
24 ways to work it out when you have a lot of this dimension.

25 VICE CHAIR HART: I understand that. I guess I'm

1 just saying that they are odder than I've normally seen.  
2 And, again, we do see quite a number of plans for projects  
3 and the layout for the rooms has some logic to it and these  
4 just seem a little bit less than that.

5 And it just seems like it's -- they just, like I  
6 said, they just seem odd to me. You have a lot of space that  
7 you can't -- you're not going to be putting a bed in an area  
8 that's six by eight, because a bed, I'm a six-foot person,  
9 a bed is going to be six feet and maybe a little bit more.  
10 So, that's the length of it.

11 So, if you're talking about that, then you're --  
12 if you're looking at that same bedroom that has that space,  
13 you're talking about an eight inch clearance between the --  
14 if you're putting the bed there, you have an eight inch  
15 clearance between the bed, between the edge of the bed and  
16 one wall. Unless you put it sideways, which would be kind  
17 of an odd thing to do.

18 I'm just saying that the -- you do have to think  
19 about how the furniture is sitting in a room and it just  
20 seems like that second bedroom has a very odd shape to be  
21 able to put any furniture in it that's a logical way.

22 MR. JACKSON: Well, Mr. Hart, just wanted to -- I  
23 was going to bring it up. So, I thought of the same thing  
24 that you did about the clearance between the bed and the  
25 closet doors.

1           So, what we had -- but we had already submitted  
2 everything before talking about the interiors, so I thought,  
3 right now, we have to deal with the exterior ten-foot  
4 portion. But I --

5           VICE CHAIR HART: I'm -- sorry. I'm only bringing  
6 them up, because the interior has effects on the exterior.

7           MR. JACKSON: Okay.

8           VICE CHAIR HART: So, if the interior can be  
9 configured in a different way, maybe you're losing space that  
10 you -- or you're using space that you don't really  
11 necessarily need.

12           And that's what I'm trying to get to is, is there  
13 a way that this is actually configured that is using up more  
14 space than is really kind of necessary for that addition.  
15 Maybe this addition only really has to go back 20 feet.

16           I don't know, but I'm saying that it seems a  
17 little bit -- those seem a little bit odd and that kind of  
18 drives the other stuff, how you lay out where the other  
19 things are. But you can continue with your response.

20           MR. JACKSON: Yes, I don't think it really  
21 addresses completely your point about whether or not you can  
22 bring down the length of it.

23           It more had to do with the clearance portion of  
24 the bed, so that the door moved forward and then, you had a  
25 door that -- one went right into the one room to kind of --



1 cut off a piece of that bathroom and moving a closet over and  
2 the mechanical room over so that the closet to that room  
3 moves from that space.

4 So, you gain two feet, so it's no longer like that  
5 six feet eight inches, where you can actually put a bed and  
6 if you're hanging off, you're not going to hit the door or  
7 something with your feet.

8 VICE CHAIR HART: So, the closet that is between  
9 the two rooms would --

10 MR. JACKSON: Yes.

11 VICE CHAIR HART: -- be removed? Is that --

12 MR. JACKSON: No, it would be moved over to the  
13 right, to where the mechanical, washer/dryer is.

14 VICE CHAIR HART: Yes.

15 MR. JACKSON: So, we're thinking about rotating  
16 that 90 degrees into the room next door. So, you see, like  
17 -- and take away that closet space that it has for the den  
18 and move that bathroom back and you kind of walk through the  
19 bathroom with the washer/dryer and you have a walk-in closet  
20 there.

21 And then, you no longer have that closet that  
22 would sit at the foot of your bed, you wouldn't be facing the  
23 closet any more. So, you gain about two feet in that case.

24 VICE CHAIR HART: Yes, I mean, I can kind of  
25 understand it would be helpful to have that. But are you

1 just thinking about that now or are you just --

2 MR. JACKSON: No, I had already thought about it  
3 before. I had actually sent Rich an email about it, but we  
4 had already submitted documents for this hearing.

5 VICE CHAIR HART: And --

6 MR. JACKSON: But I wanted to address that, because  
7 I thought that was something that -- I'm sorry, this is my  
8 first time --

9 VICE CHAIR HART: No, no, it's fine.

10 MR. JACKSON: -- I thought the interior would be  
11 addressed later.

12 VICE CHAIR HART: What I was saying is that, we're  
13 not really approving -- while the plans include the interior  
14 plans, I was just trying to see if there was a way to save  
15 some of the length, the extension space, if there was a  
16 reorganization of how the bedrooms were oriented, so that you  
17 didn't have to go farther back.

18 And that was the only point that I was trying to  
19 bring. Whether or not the closet is at this place or that  
20 place, if you're not gaining any other -- if you're not  
21 reducing the size of the actual extension or the addition,  
22 then you're not really -- it's not really helpful, because  
23 it's --

24 MR. JACKSON: Okay.

25 VICE CHAIR HART: -- if you understand what I'm

1 saying.

2 MR. JACKSON: Yes.

3 CHAIRMAN HILL: All right. So, this is what I  
4 think maybe, so I think we'll -- I want to be able to take  
5 a look at this a little bit more, in terms of the decision.  
6 I think that, since Mr. Hood has already been volunteered a  
7 couple of times for next week, it's just another decision  
8 case putting on his agenda.

9 And so, we can go ahead and do that. I do -- I  
10 would like, I guess, I would like to kind of just share where  
11 I am, I suppose, with some things.

12 I mean, I don't know, Mr. Hart, if there are  
13 things that you might like to see in terms of your discussion  
14 with design or with them being able to pull it back at all.  
15 I mean, my thoughts, I guess, are that the Office of Planning  
16 has already provided an analysis, so we've got an analysis  
17 at this length.

18 And I don't really -- the opposition continues to  
19 be kind of, any kind of -- like if you get three feet out of  
20 it, I don't think they're going to be on Board anyway.

21 But that being the case, if there's some way that  
22 you think you might be able to pull this back and achieve  
23 your program and you want to try to provide some other  
24 different kind of options, I'm sure that the Board would be  
25 interested and take a look at that.

1           The only thing I'm kind of interested in seeing,  
2 I guess, is just from the front, again, what the matter-of-  
3 right would have been, in terms of you would have, if you got  
4 stuck -- if you were at the ten feet back from the wall, what  
5 would that make the program look like? And so, that's how  
6 there would be a change to what you are able to do.

7           I do think that -- I mean, these projects continue  
8 to bring a lot of testimony from the public and continue to  
9 be a very emotional project. I'm glad, I guess, that the  
10 Zoning Commission has done what they've done, in terms of  
11 kind of getting us to the point where there is a discussion  
12 before us in terms of projects like this.

13           I'd, again, point back out to the community that  
14 the ones that were there next door are before the Zoning  
15 Commission took action to change what was matter-of-right.  
16 So, all of those homes would end up being exactly like that.

17           And I know that -- and that was even before my  
18 time, in that, I know that -- the Chair of the Zoning  
19 Commission is here. And there was a lot of testimony taken  
20 and a lot of discussion, in terms of how to address this  
21 issue.

22           And there was a lot of, I know, opposition to it,  
23 because you were basically taking away more property rights,  
24 from people that could have had the ability to do something  
25 much larger by right. And so, there's another side of the

1 discussion to this.

2           What was coming on and what continues to be a  
3 discussion here is that, whether or not the going beyond ten  
4 feet becomes anything more than -- anything beyond a special  
5 exception, I think, basically would kill that. I don't know  
6 where that discussion may or may not be going.

7           And then, you can also -- and now, I'm just kind  
8 of speaking to the people that were testifying, we have  
9 people that don't want you to go ten feet back.

10           And so, it does create a very difficult argument  
11 for those that want to do something with the property the way  
12 that they're allowed to do something within the zoning  
13 regulations versus what you want your neighbor to be able to  
14 do. And, again, as one who lives in the city in a very dense  
15 area, when things happen to my own apartment, I get very  
16 upset about it.

17           And so -- but then, there are these regulations,  
18 one of which is this special exception that there is criteria  
19 that, if it's met, then this should be approved, it's within  
20 the zoning regulations. So, that's all that I'd be  
21 interested in seeing, in terms of it.

22           And if you can get that to -- I don't think that  
23 drawing will take you very long at all, in terms of what you  
24 would be able to do as a matter-of-right for the front. And  
25 then, again, if you want to do -- I don't know if anybody

1 wants anything else, but that's the only thing I'd be  
2 interested in seeing. Any other thoughts or comments from  
3 the Board?

4 ZC CHAIR HOOD: Mr. Chairman, since you asked for  
5 that, are we going to share that with the ANC as well?

6 CHAIRMAN HILL: Certainly.

7 ZC CHAIR HOOD: Okay.

8 CHAIRMAN HILL: Yes, all the parties, and the ANC  
9 is a party, it will be in the record and we'll get that when  
10 he gets that to us. All right. Sorry, Ms. Rose, you have  
11 a comment?

12 MS. ROSE: You have to give the parties a week to  
13 respond. So, we would be looking at possibly the 31st for  
14 a decision.

15 CHAIRMAN HILL: Okay. So, the -- so, you guys  
16 would get a decision on the 31st.

17 MS. ROSE: Document would be due, if they could get  
18 it by Monday the 22nd. I don't know how soon they can get  
19 the document to us.

20 CHAIRMAN HILL: That's this Monday.

21 MR. MARKUS: We can do that.

22 CHAIRMAN HILL: I mean, it's just a drawing --  
23 well, apparently, you already have it there.

24 MR. MARKUS: No, we don't have it, but we can put  
25 something together.

1 CHAIRMAN HILL: Okay.

2 MR. MARKUS: It would be a very simple drawing, but  
3 it's going to show the massing of what we --

4 CHAIRMAN HILL: What would happen in the front.

5 MR. MARKUS: Yes.

6 CHAIRMAN HILL: What would happen in the front.

7 I'm just curious, what would happen in the front.

8 MR. MARKUS: Right.

9 CHAIRMAN HILL: Unless the Board is ready to go  
10 right now and then, we can do that as well. Okay, all right.  
11 So, Monday, we'll get that. Then, everyone will have a week  
12 to respond to that drawing.

13 If there's anything you want to respond to to that  
14 drawing, that's all we're asking for. And so, then, we'd  
15 listen, hear about that. And then, we'll go ahead and make  
16 a decision that following Wednesday, which is the 31st, is  
17 that what you said?

18 MS. ROSE: Yes. The response would be due Monday,  
19 January 29. And then --

20 CHAIRMAN HILL: Okay.

21 MS. ROSE: -- the decision would be Wednesday the  
22 31st of January.

23 CHAIRMAN HILL: Okay. Do you guys understand? All  
24 right. Do you have anything you would like to add before I  
25 close the hearing?

1 MR. SULLIVAN: No. Well, a closing, very briefly

2 --

3 CHAIRMAN HILL: Sure, please, go ahead.

4 MR. SULLIVAN: I would just -- I would answer the  
5 question, why have special exceptions at all? I think in  
6 this case, it's worked out, because I think it's encouraged  
7 renewal of this property, which was vacant for many years,  
8 which was up against a large property that had been built  
9 under previous regime of regulations.

10 Which -- and I think this is a good compromise  
11 between doing what was done before and working with a  
12 neighbor to come up with something that fits in-between what  
13 the neighbor has and what was done before.

14 It also encourages the development of a property  
15 that was vacant for a long time. So, and other than, of  
16 course, we think it clearly meets the regulations for special  
17 exception approval. Thank you.

18 CHAIRMAN HILL: Okay. Does the Board have anything  
19 else? Okay. Then, we'll close the hearing. See you guys --  
20 we don't have to see you guys, we'll be here for the  
21 decision.

22 MS. ROSE: Next we have --

23 CHAIRMAN HILL: All right. Sorry, Ms. Rose. I was  
24 saying, let's go back to the original order that we had  
25 proposed at the beginning of the day.



1 MS. ROSE: So, the Morse Street case?

2 CHAIRMAN HILL: Yes.

3 MS. ROSE: Next is Application Number 19657 of Mala  
4 Mahmood. Pursuant to 11 DCMR Subtitle X, Chapter 9, for a  
5 special exception under the residential conversion  
6 regulations of Subtitle U Subsection 320.2, to construct a  
7 rear addition and convert an existing one-family dwelling  
8 into a three-unit apartment house in the RF-1 Zone at  
9 premises 1135 Morse Street Northeast (Square 4070, Lot 145).

10 CHAIRMAN HILL: Okay. All right. Please introduce  
11 yourselves.

12 MS. MAHMOOD: Hi, my name is Mala Mahmood. I am  
13 the owner of this property --

14 CHAIRMAN HILL: I'm sorry, can you speak in the  
15 microphone?

16 MS. MAHMOOD: My name is Mala Mahmood. I am the  
17 owner of the property 1135 Morse Street, which is also going  
18 to be my home.

19 CHAIRMAN HILL: Okay.

20 MR. PETYAK: Ryan Petyak, architect at 3877, and  
21 project manager of the project.

22 MR. SHOVE-BROWN: David Shove-Brown, with 3877,  
23 architect.

24 CHAIRMAN HILL: Okay. So, what we did do was, we  
25 tried to put these together, because they're on the same

1 street. And so, we'll see whether that works out better or  
2 not.

3 So, let's see, I guess, Ms. Mahmood, are you going  
4 go present to us? Okay. All right. Let's see, give me one  
5 second. Okay.

6 So, some of the questions, I suppose, are going  
7 to end up being with, I guess, questions I'm going to have  
8 for the Office of Planning as well. But the Office of  
9 Planning is in support of your special exception conversion,  
10 but in denial of the rear addition requirement, the waiver,  
11 that is.

12 And so, you can speak to that as you're doing your  
13 presentation. So, if you can go ahead and you can explain  
14 your project to us and then, you can also speak to how you  
15 think you're meeting the criteria for us to grant the relief  
16 requested.

17 And I'll go and put -- I'll give ten minutes to  
18 you, just I don't have a clock, but so I kind of know where  
19 you are. But if you take longer than that, that's fine, I'm  
20 just trying to understand where we are. And you can begin  
21 whenever you like.

22 MS. MAHMOOD: Okay. Thank you. Can you hear me  
23 or should I bring this forward a little bit?

24 CHAIRMAN HILL: Yes, bring it a little forward, I  
25 guess, yes.

1 MS. MAHMOOD: Okay.

2 CHAIRMAN HILL: There you go.

3 MS. MAHMOOD: So, at this -- 1135 Morse Street is  
4 the house where we're going to live as well. And we're  
5 requesting relief under 320.2 to go 40 feet beyond the most  
6 restrictive neighbor. That's 30 feet beyond the allowable  
7 10-foot addition in the back. These are really large lots,  
8 they're about 145 feet deep.

9 And we're requesting to also convert the single-  
10 family house into three-family flat. Each of the units is  
11 going to be family sized. It's very important to us, because  
12 we're going to live upstairs and we're a family-sized unit,  
13 so we can grow into it.

14 I can talk a little bit about the Office of  
15 Planning portion, but I would -- also Ms. Brandice will also  
16 go into it a little bit. So, I will talk a little bit about  
17 the neighborhood outreach that we have done.

18 So, we went under contract on the house in July  
19 and since the day we went under contract, we made a really  
20 big effort to reach out to the neighbors to understand what  
21 the neighbors wanted from our design, because we had rough  
22 ideas of what we wanted.

23 We did want three units, we wanted to go back, but  
24 we didn't really know what their pain points were, if there's  
25 anything we could have done to address any concerns. So,

1 just to say that we started talking to our neighbors way, way  
2 ahead.

3 And you'll see in our Exhibits 38 through 44 that  
4 we have many, many letters of support for our project from  
5 our block, including neighbors very, very close to us. And  
6 this is the culminated effort of a lot of talking. So, to  
7 start with the outreach.

8 When we closed on the property, we brought our  
9 architect, 3877, in to take a look at the property and we  
10 also wanted to go over with our neighbors what they wanted.

11 And what we found out was that one of our  
12 neighbors had -- if you look at our plans, yes, that one, the  
13 third photograph shows that one of the neighbors, not next  
14 door, but one over, had solar panels in the front. And he  
15 asked us not to go up in the front. He said, just as long  
16 as you don't touch my solar panels, that's fine.

17 So, we designed -- we reached out to our architect  
18 and we specifically designed the addition to be so set back  
19 that you could not either see it from the street or touch the  
20 solar panels at all in terms of the shadow impact.

21 And then, we -- I went to the historic department,  
22 I guess, downtown, to understand what materials would be most  
23 favorable for our neighbors, if this was a historic area.

24 Keep in mind, we are not a historic area, I just  
25 wanted to do this to understand the best materials that we

1 could use, so that this would come up later and we could have  
2 good materials and not something that they would not like.  
3 So, this is something I did as an additional step, to  
4 understand what we could -- how we could make the neighbors  
5 happy.

6 Then, we had a Single Member District meeting.  
7 And at this meeting, we addressed a lot of issues the  
8 neighbors had. It was a well-attended meeting.

9 One of the outcomes from this meeting was that we  
10 had the porch taken out in our first design and the neighbors  
11 wanted us to have a uniform front look of the property. And  
12 so, we brought our porch back into the design.

13 The reason we had taken it out in the first place,  
14 so we could get more light into that lower unit. But now,  
15 we've brought that porch back, so we can have the same look  
16 all up and down our street.

17 And the other thing that came up was parking. So,  
18 a lot of our neighbors have issues with the parking situation  
19 on Morse Street. And since we're going to live here and we  
20 don't have cars and we have two car parking spots in the back  
21 as well, we wanted to help in some way.

22 So, I became the block representative for the RPP  
23 process, which is a DDOT process. And our Commissioner told  
24 us it would be helpful if I become the block representative,  
25 so I've gone back and forth with DDOT and gotten quite a few

1 signatures from our block to try to get residential parking  
2 permit only on our block.

3 So, this is something that I've done just as an  
4 aside, even though we don't really need to be doing that.  
5 It's something that was really important for our neighbors  
6 to have our block be RPP.

7 And then, in terms of the ANC process, we've  
8 presented in front of the -- I've presented in front of the  
9 ANC three times with these changes. And I was asked to get  
10 signatures of support.

11 And the first time I was asked to get signatures  
12 of support, I got 48 signatures from all over Trinidad,  
13 because I was told go anywhere in Trinidad and get the  
14 signatures. So, I spent a significant amount of time  
15 knocking on all the doors, showing our plans. And we were  
16 told that this way more than we're supposed to be doing. A  
17 lot of the Commissioners told us this as well.

18 And so, and then, we went to the December meeting  
19 and had 48 signatures from around Trinidad and nine  
20 individual signatures personally written from the 1100 Morse  
21 Street block. And that's Exhibit 38 through 44 in our  
22 submission.

23 And then, we were told again to hold off until  
24 January. So, we came back and presented again in January.  
25 And they asked if we could bring personalized handwritten

1 notes, because the typed up versions weren't personal enough.  
2 But unfortunately, I was traveling, so I couldn't get all of  
3 those handwritten, but I got two of them handwritten. And  
4 so, it's -- that was a request that they had.

5 The January 9 ANC meeting is when we got our no  
6 vote. I was just very surprised because we were under the  
7 impression that the ANC would vote to support us, because we  
8 had done whatever they asked in terms of trying to get  
9 neighborhood support and that seemed like the biggest issue  
10 for our Commissioners.

11 So, I've gone -- we've made a lot of changes to  
12 our plans already and the plans that we had submitted to OP,  
13 I have been in touch with OP and we've gone back and forth  
14 trying to understand what we can do to make sure that this  
15 works for them. And we're very excited to move forward.  
16 Thank you.

17 CHAIRMAN HILL: Okay. Does the Board have any  
18 questions for the Applicant?

19 VICE CHAIR HART: Just one. Ms. Mahmood, did you  
20 provide, and it may have, any drawings of what the by-right  
21 option would look like in comparison?

22 MS. MAHMOOD: No. We have --

23 VICE CHAIR HART: I mean, for the shadow study.

24 MS. MAHMOOD: Yes, we do have -- we do. And so --

25 VICE CHAIR HART: You have a shadow study, but --

1 MS. MAHMOOD: Yes.

2 VICE CHAIR HART: -- it has your option of what  
3 you're doing.

4 MS. MAHMOOD: No, we also -- we changed it. We  
5 added to it, we made another version that has the proposed  
6 and the current. And that is on Page -- it's the second to  
7 last page or third to last page.

8 VICE CHAIR HART: Which exhibit are we talking  
9 about?

10 MS. MAHMOOD: Oh, I'm sorry.

11 VICE CHAIR HART: Is that 45?

12 MS. MAHMOOD: Yes, exactly. Forty-six.

13 VICE CHAIR HART: Forty-five?

14 MS. MAHMOOD: Exhibit 46 shows the -- it has the  
15 elevations in there, as well as the --

16 VICE CHAIR HART: It's 45.

17 MS. MAHMOOD: Oh, sorry.

18 VICE CHAIR HART: It's okay. Forty-six is a  
19 petition, so I didn't think that that's it.

20 MS. MAHMOOD: Sorry, Exhibit 45.

21 MR. SHOVE-BROWN: Are you looking for shadow study  
22 with the by-right, as in pushed all the way up front?

23 VICE CHAIR HART: No.

24 MR. SHOVE-BROWN: Similar to what you had talked  
25 to the last applicant about?



1           VICE CHAIR HART: We're looking at it, if you have  
2 a ten-foot --

3           MR. SHOVE-BROWN: Right, okay.

4           VICE CHAIR HART: -- for this.

5           MR. SHOVE-BROWN: Okay, yes.

6           MR. PETYAK: What was provided was what was  
7 existing and then, what is being proposed in the design, and  
8 not with the ten-foot rear addition. So, you have existing  
9 and the design proposed.

10          VICE CHAIR HART: Yes, it is somewhat helpful to  
11 have what the by-right and what you're proposing, because  
12 then you can kind of see what the difference is between the  
13 two.

14          The what is existing is, since it's flat, it's not  
15 really going to be that much of a difference. So, that's why  
16 I was wondering what that might be. Especially for the  
17 neighbor that's 1135, no 1133.

18          And could you explain, and I don't know, I'm  
19 speaking to you, Ms. Mahmood, but if it's one of the others  
20 that would be inclined to answer, what's the difference  
21 between, in the -- on Exhibit 45, Sheet A0024, you have what  
22 it looks like during August and during different times of the  
23 day.

24          What I'm trying to understand is, there's areas  
25 that are grey and there are areas that are green. What are

1 the areas in grey and green mean?

2 MS. MAHMOOD: Concrete versus non-concrete  
3 backyards.

4 VICE CHAIR HART: So, the area -- and how did you  
5 develop that?

6 MR. PETYAK: Based off of Google Earth.

7 VICE CHAIR HART: So, they are approximations for  
8 the neighbors? For yours, it's fairly, from what I'm seeing,  
9 fairly straight. But the other ones, it just seems like a  
10 lot of concrete.

11 MS. MAHMOOD: Yes, so --

12 VICE CHAIR HART: That's what I'm trying to --

13 MS. MAHMOOD: Yes, it's true actually, we are the  
14 one who has full concrete, specifically because I don't want  
15 to plant anything, so I want concrete all the way through.

16 VICE CHAIR HART: No, that's fine. I'm not  
17 describing that. I'm not -- it doesn't matter to me one way  
18 or the other if they do, I just wanted to understand if  
19 that's what I was actually looking it.

20 MS. MAHMOOD: Yes.

21 VICE CHAIR HART: Sometimes, when you do drawings,  
22 you have, well, I'll just put something there, and you kind  
23 of assign a color and you don't really think about it, and  
24 it sounds like you all have actually thought about what these  
25 were. So, it's helpful to understand that.

1           And the point that I was kind of getting to was,  
2           the neighbor that's at 1133 has a small portion of grass.  
3           And that portion of grass would be blocked by the addition  
4           that, if we were to approve it, that addition that's next to  
5           that. And so, it's like almost 100 percent of it. So,  
6           that's more of the concern.

7           It does -- there are some impacts on some of the  
8           other neighbors, as you go during sunrise, it looks like  
9           there's some impacts as well for some of the neighbors that  
10          are to the west, 1131 and 1129. I think, I'm sorry, it's  
11          hard reading the numbers.

12          MS. MAHMOOD: Sorry, yes, it is 1129.

13          MR. SHOVE-BROWN: Yes, the angle of Morse Street  
14          causes really -- the only situation where the shading is  
15          affecting the neighbors is in the morning. Based on the  
16          angle of the street and based on the way the sun rotates  
17          around that property, it affects it in the morning only.

18          And then, you hit about noon and you can see  
19          across the page, we've got morning, noon, and night, or  
20          sunset. So, really, it's a morning sun that affects the  
21          neighbor to the west.

22          VICE CHAIR HART: And you just -- you did this in  
23          January and August. Okay. Okay, thank you.

24          CHAIRMAN HILL: Okay. Anyone else for the  
25          Applicant? All right. Okay. Turning to the Office of

1 Planning.

2 MS. ELLIOTT: Good afternoon, Mr. Chair, Members  
3 of the Board. I'm Brandice Elliott, representing the Office  
4 of Planning. The Office of Planning does have a mixed  
5 recommendation on this particular project. We are  
6 recommending approval of the actual conversion.

7 I'm happy to go through the details of that as  
8 part of my verbal report. But we are recommending denial of  
9 the waiver requesting the rear addition to exceed ten feet.  
10 There are a lot of positive things about this particular  
11 project that I would like to go ahead and cover.

12 First of all, the Applicant has clearly done a lot  
13 of outreach. We want to make sure that that's acknowledged,  
14 because it did impact the design that was initially submitted  
15 to OP for review. The design itself, because the Applicant  
16 consulted with historic preservation, it does a good job of  
17 preserving the facade.

18 She -- the design -- I'm sorry, the addition is  
19 set back far enough from the facade that it should be  
20 minimally visible from the street. It's about 30 feet back  
21 from the front of the house. And then, the original features  
22 of the front of the house are being preserved, including the  
23 porch.

24 And she also consulted with historic preservation,  
25 although it's not in a historic district, regarding

1 materials. And so, we think overall there are some positive  
2 elements to the design that should be acknowledged.

3 The issue that we have is the massing of the 40-  
4 foot rear addition. And we -- it should also be -- I see the  
5 elevation up on the screen showing that this, unlike the  
6 project that we saw previously, it does actually provide a  
7 four-foot wide court along the east property line.

8 So, there is some separation between that neighbor  
9 and the addition, which helps. But what we see on the other  
10 property line is, it's built right on the property line. It  
11 will be a common wall and it's fairly blank.

12 And we're concerned about the impact that the  
13 addition has on this -- on the row of houses on this street.  
14 Forty feet, we think is sort of pushing the limits of what  
15 was intended for this particular regulation. And I don't  
16 think that anything has been provided in the Application to  
17 sort of convince us that there is no undue impact.

18 Certainly, with projects, and I saw -- I heard  
19 some of the questioning regarding shading of adjacent  
20 properties. Certainly, some projects are affected by  
21 developments like this.

22 But what we have to determine is whether there is  
23 undue impact. And I think that in this case, there probably  
24 is.

25 One of the other issues that we have is, although

1 the front facade is sort of preserving the historic character  
2 of the neighborhood, is that the alley is impacted by an  
3 addition like this.

4 Most of the homes, while the rear walls are not  
5 necessarily uniform, they're sort of characterized by smaller  
6 additions, maybe ranging from ten to 15 feet. This one, in  
7 contrast, is a significant addition and sort of impacts the  
8 pattern of the -- that's been established along the alley for  
9 the row of houses.

10 So, these are all things that we've discussed with  
11 the Applicant since filing our report. And we have discussed  
12 some design options, which may be up for consideration.

13 One of the things that we saw in the previous case  
14 is that the overall size of the addition had been reduced and  
15 the third story was actually providing a setback, so that it  
16 would create less impact on the neighbor to the west. The  
17 setback from the rear facade.

18 So, I think we're leaning towards wanting to see  
19 something like that incorporated into this design, although  
20 if the Applicant and the architects come up with something  
21 else, we're open to that. But that's where our  
22 recommendation lies at this point. And if you want me to  
23 through the criteria, I'm happy to. But I'm available for  
24 questions.

25 MEMBER WHITE: For my knowledge, could you just go

1 through the criteria? Because this is a recurring issue that  
2 we are beginning to see now.

3 MS. ELLIOTT: We are seeing more rear additions.  
4 So, the -- to start, the height of, the overall height of the  
5 proposal is actually just shy of 35 feet. It's 34 and a half  
6 feet, so it meets the requirement of (a). There are only  
7 three units for this proposal, so inclusionary zoning would  
8 not apply.

9 The lot size is just shy of 2,800 square feet, so  
10 there's actually 932 square feet of land area per unit, which  
11 meets the minimum requirement. So, 900 square feet.

12 The addition, a waiver has been requested for the  
13 rear addition to exceed ten feet. And I have already  
14 discussed that in some detail, so I'll spare you a repeat.

15 The -- (f) requires that any additions not block  
16 or impeded the functioning of chimney or external vents.  
17 Because the third floor is set back 30 feet from the front  
18 facade, it does not impact any existing chimneys or vents.

19 And (g) requires that it not impact an existing  
20 solar energy system. The adjacent dwelling, immediate  
21 adjacent dwellings to the east and west do not have solar  
22 energy systems. The Applicant did note that the dwelling two  
23 doors down to the west does have a solar energy system, but  
24 they have provided a sun study showing that there's no impact  
25 to that system.

1           And (h) requires that rooftop architectural  
2 elements not be removed or altered. And because the third  
3 story is being set back 30 feet, those elements are  
4 preserved. And then, the remainder of the analysis sort of  
5 goes into the detail of adverse impact, which I've already  
6 sort of discussed in impact to light and air.

7           MEMBER WHITE: Thank you.

8           CHAIRMAN HILL: Okay. Anyone else for the Office  
9 of Planning?

10          VICE CHAIR HART: Just one quick. Ms. Elliott,  
11 with regard to the window issue, could you kind of go over  
12 that particular portion of this again? Just the windows that  
13 are on the, what do you call that, you're calling it the  
14 court.

15          MS. ELLIOTT: We -- I only called it out as a way  
16 to provide some additional light and air to that property to  
17 the east, because the court, obviously, allows the light to  
18 penetrate that space. So, we actually saw that as a benefit  
19 to the design.

20          In terms of privacy to that neighbor, that  
21 neighbor has actually provided a letter of support to the  
22 record, so they do not seem to be concerned about the  
23 adjacency of those windows to the property.

24          Although, the Applicant did indicate that there  
25 would be some sort of frost or some sort of film applied to



1 those windows to ensure privacy.

2 VICE CHAIR HART: Okay. Thank you.

3 CHAIRMAN HILL: Okay. I was just curious about  
4 something, as far as the solar panels go. So, if they were  
5 doing -- if this project were to be done by-right, then those  
6 solar panels could be blocked? I get a little confused  
7 sometimes.

8 MS. ELLIOTT: So, the regulations regarding the  
9 solar panels, I do believe -- okay. Well, now I'm  
10 questioning my own knowledge. I'm not sure that it applies  
11 to a by-right scenario. I think it's only --

12 CHAIRMAN HILL: If I understand, they could have  
13 gone ten feet back and gone up as high as they can and come  
14 up to the front and then, block the solar panels?

15 MS. ELLIOTT: They could, potentially.

16 CHAIRMAN HILL: Okay.

17 MS. ELLIOTT: I'm trying to remember if the third  
18 story -- it could affect the architectural, the roof detail,  
19 which may require special exception. If the third story was  
20 brought all the way to the front, that may actually kick in  
21 the need for a separate special exception.

22 CHAIRMAN HILL: Right. But if it was pulled back  
23 the appropriate amount --

24 MS. ELLIOTT: Right.

25 CHAIRMAN HILL: -- it could be a by-right option

1 where it would then be blocking the solar panels.

2 MS. ELLIOTT: Correct.

3 CHAIRMAN HILL: Potentially.

4 MS. ELLIOTT: I think so.

5 CHAIRMAN HILL: Okay. I'm just curious. And then,  
6 for the Applicant, I guess, Ms. Mahmood, again, I'm a little  
7 -- the windows that you have there, so I'm just curious, how  
8 did you get to this point with your program that you are  
9 making it a narrower extension and putting in the windows,  
10 rather than filling out the whole space? What was the  
11 thought behind that?

12 MS. MAHMOOD: We just didn't want to have a very  
13 tunnel-y interior space. We wanted some light to come in on  
14 the sides as well, on bedroom. It doesn't create an awkward  
15 layout for bedrooms, it helps create more of a home feel,  
16 with windows in each bedroom on the side.

17 And also, yes, it was -- we didn't need that much  
18 bulk space. So, we used our square footage in a way that we  
19 could keep a separation from the neighbor next door, have a  
20 little bit of a gap.

21 CHAIRMAN HILL: But then, if that property were to  
22 try to do what you're going to do, then you'll have this  
23 little --

24 MS. MAHMOOD: That's okay.

25 CHAIRMAN HILL: Okay.

1 MS. MAHMOOD: It'll be light coming in, yes. And  
2 the windows will be --

3 MR. SHOVE-BROWN: Sorry, part of the issue is,  
4 exactly what you guys were talking about in the last case,  
5 we didn't want to get into jigsaw puzzle rooms that had the  
6 long corridor to get to a window or something like that.

7 So, by creating the court, we allow access to all  
8 those bedrooms, to have windows for egress and so on and so  
9 forth, so you don't end up with strange shaped bedrooms.

10 CHAIRMAN HILL: Okay. All right. One more  
11 question for the Office Planning. Again, these, I mean,  
12 we're going to continue to see these.

13 And what I guess was spoken earlier by, I think  
14 it was one of the Commissioners, in terms of how the Office  
15 of -- I know that the Office of Planning goes and evaluates  
16 each case on a case-by-case basis.

17 You had mentioned in terms of kind of working even  
18 with the Applicant, how maybe they could pull back the third  
19 floor. And I guess, it's -- and I know you can't give me a  
20 number, I know.

21 But where is it that the Office of Planning kind  
22 of hits -- like, how far back do you think the Office of  
23 Planning would have been like, well, you're really not  
24 adversely affecting the neighbors? You can't really tell me  
25 that, right?

1 MS. ELLIOTT: That's right, unfortunately. There  
2 is no magic number. I mean, even between this case and the  
3 previous case, we see differences. Where in the previous  
4 case, for better or for worse, there's the benefit of being  
5 adjacent to existing large condominium buildings.

6 And so, even if that addition comes in slightly  
7 smaller than those, they're not going -- it's not going to  
8 have as great an impact as, say, this project, which is mid-  
9 block and doesn't have other adjacent large buildings.

10 CHAIRMAN HILL: Okay, I see what you're saying.  
11 So, that's, again, where the Applicant tends to work with the  
12 Office of Planning to see where people kind of end up or  
13 possibly could end up?

14 MS. ELLIOTT: Right.

15 CHAIRMAN HILL: And, again, I look to the  
16 Commissioners and whoever else -- I mean, again, they, as the  
17 Office of Planning has mentioned, for better or for worse,  
18 they're adjacent to a property that came in before the  
19 regulation change and you're trying to go back as far as  
20 those properties.

21 It looks like, if you throw back out that -- how  
22 far are you going back and the shadow studies. I'm looking  
23 at the shadow studies and just seeing how far back you're  
24 going with relation to the other -- it looks like you're kind  
25 of going as far back as those.

1 MS. MAHMOOD: They were 54 feet back.

2 CHAIRMAN HILL: Okay. And you're how far back?

3 MS. MAHMOOD: Forty.

4 CHAIRMAN HILL: Okay. So, regardless, I'm just  
5 trying to understand a little bit, as to how -- I'm trying  
6 to -- I'm just educating myself in terms of how the Office  
7 of Planning gets to where they get to. There's more  
8 reasoning to it than you think.

9 (Laughter.)

10 CHAIRMAN HILL: And so, I'm just trying to  
11 understand for myself. Okay.

12 ZC CHAIR HOOD: Mr. Chairman?

13 CHAIRMAN HILL: Yes.

14 ZC CHAIR HOOD: Ms. Mahmood, how many feet did you  
15 say you were going back?

16 MS. MAHMOOD: Thirty feet beyond the allowable ten,  
17 so it's 40 from the --

18 ZC CHAIR HOOD: So, you're going back a total of  
19 40?

20 MS. MAHMOOD: Yes.

21 ZC CHAIR HOOD: Thirty over the allowable?

22 MS. MAHMOOD: Allowable, yes.

23 ZC CHAIR HOOD: Okay, thank you.

24 MS. MAHMOOD: Thanks.

25 VICE CHAIR HART: Ms. Mahmood, just out of

1 curiosity, you've gotten -- there is a letter from the  
2 neighbor on 1137? Do you have a neighbor -- one of the  
3 adjacent neighbors is --

4 MS. MAHMOOD: Right.

5 VICE CHAIR HART: -- supportive of the addition?

6 MS. MAHMOOD: Yes.

7 VICE CHAIR HART: And that's the one from 1137?

8 MS. MAHMOOD: Yes.

9 VICE CHAIR HART: Okay. And the --

10 MS. MAHMOOD: It's in the record.

11 VICE CHAIR HART: Okay. And 1132?

12 MS. MAHMOOD: 31, sorry 33.

13 VICE CHAIR HART: 33, I'm sorry.

14 MS. MAHMOOD: I've communicated with her and we  
15 have gone back and forth. She's out of state, she was moving  
16 when we were deciding all of this. And so, we've been in  
17 touch and she's not opposed to the plan, but there's no  
18 letter in the record yet.

19 VICE CHAIR HART: All right. And you said you've  
20 gone back and forth on --

21 MS. MAHMOOD: When we changed our designs, we  
22 updated again. And so, we have communicated with her via  
23 text as well.

24 VICE CHAIR HART: Was she looking for something to  
25 be changed?

1 MS. MAHMOOD: No.

2 VICE CHAIR HART: I mean, during this, you're  
3 saying that --

4 MS. MAHMOOD: She had no suggestions and she said  
5 she didn't have any opposition.

6 VICE CHAIR HART: And did 1137 have anything that  
7 they were looking for?

8 MS. MAHMOOD: They weren't looking for anything,  
9 but they said during the construction phase, that I stay in  
10 touch with her. And I'm going to, because we're going to  
11 live here, we want to have good neighbors. So, she said as  
12 long as we don't work in the late hours of the night and on  
13 Sundays, and that's something we are definitely going to  
14 obviously do, because of all that.

15 And also, a point that I think Ryan can talk a  
16 little bit about is, we're not -- we're creating an internal  
17 skeleton for the property, when we're building it. So, we're  
18 not going -- we're not latching into the brick of the party-  
19 walls.

20 So, we're losing a little square footage inside,  
21 so that we don't impact our neighbors next door. And that's  
22 important to us.

23 VICE CHAIR HART: No, that's fine.

24 MS. MAHMOOD: Yes.

25 VICE CHAIR HART: And my last question is on the

1 roof deck. It says, public. What does that mean?

2 MS. MAHMOOD: Yes, I'm sorry, it just means like --

3 MR. SHOVE-BROWN: It means Ryan can't type.

4 (Laughter.)

5 VICE CHAIR HART: I'm not even sure what the actual  
6 word was supposed to be.

7 MS. MAHMOOD: Everyone's invited.

8 (Laughter.)

9 VICE CHAIR HART: Yes, I was just trying to figure  
10 that out and I can't remember which exhibit that was in now.  
11 Oh, it was in Exhibit 45. And I'm assuming that was just  
12 meant to be a roof deck.

13 MS. MAHMOOD: Yes. And that roof deck is only for  
14 the upper unit.

15 VICE CHAIR HART: Yes, okay.

16 CHAIRMAN HILL: Okay. So, let's see, we're going  
17 to go out into the audience in a second here. But, Ms.  
18 Mahmood, as we're kind of going through this, first of all,  
19 I'd also like to say as the Office of Planning had said, it  
20 is commendable that you tried and have gone out and done the  
21 outreach that you have.

22 I understand how the whole thing works and that  
23 sometimes you're asked to do one thing and then, you're asked  
24 to do something else. So, you have tried.

25 The part that I'm still here with is that,



1 basically, you have the Office of Planning in denial of what  
2 you're trying to do, except for -- basically, they're in  
3 denial of what you're trying to do. They don't think you  
4 meet the criteria.

5 And your ANC also doesn't think you meet the  
6 criteria. So, you're kind of at both noes at this point.  
7 Okay.

8 And not that that matters, I mean, we can go  
9 against the Office of Planning. I haven't seen us go against  
10 the Office of Planning and an ANC before, but I'm letting you  
11 know where we are with this at this point, as we're going  
12 through this process.

13 But at the same time, again, working with your  
14 neighbor about the solar panels, as I'm finding this day  
15 interesting, because we're hearing more and more from this  
16 street, again, the neighbors, whatever they end up trying to  
17 do later, they are very deep lots.

18 They are very deep lots. And that's why the  
19 Zoning Commission did enable this to be something that would  
20 be coming forward to us, because of this type of situation.  
21 So, all right.

22 Does anybody have anything for anybody before I  
23 turn to the audience? Okay.

24 Would the ANC Commissioners like to speak? Is  
25 there one Commissioner, two Commissioners? Okay, great.

1 Commissioners, if you could introduce yourselves again for  
2 the record and then, as I mentioned before, you have five  
3 minutes each to provide testimony.

4 COMMISSIONER BUGGS: Hello, I'm Yvonne Buggs,  
5 Commissioner Yvonne Buggs of Single Member District 5D.

6 COMMISSIONER LEE: Commissioner Clarence Lee,  
7 Chairman of 5D.

8 CHAIRMAN HILL: Commissioner Buggs, you can go  
9 first, if you'd like.

10 COMMISSIONER BUGGS: Okay. So, I've had a Single  
11 Member District with, I'm going to say Mala, because I can't  
12 get that pronunciation right, so I've had several meetings  
13 with her. And then, she's come back to the ANC again.

14 And she's visited me in my home and each time, I  
15 told her that her plans did look better than what we've seen,  
16 but she still had a lot of opposition from her neighbors.  
17 And that's what I needed her to focus on is, coming together  
18 with them.

19 Thus far, she has not. They still are in very  
20 much opposition. So, that's -- I have to stand with my  
21 constituents.

22 CHAIRMAN HILL: No, that's great, I appreciate  
23 that. Commissioner Lee?

24 COMMISSIONER LEE: Yes. As the same -- well, even  
25 just hearing Commissioner Hart and both gentlemen, both of

1 you speak in regards to, we're still in opposition because  
2 of the deep lots, trying to maintain the integrity of the  
3 neighborhood. And I've never even looked at, considered the  
4 architecture of it.

5 But I don't know if this is testimony or not, but  
6 like you say, I did the same thing at my house on Trinidad  
7 avenue, before the matter-of-right, when I could have went  
8 back the whole length of the yard.

9 And one of the things that, even when people don't  
10 realize is that you take away the rear neighborhood aspect  
11 of it. So, I have to walk about my deck and cross over and  
12 speak to my neighbor, next door to me.

13 And over the time, it's even like, it gives me  
14 great protection. Somebody can see who's coming up into my  
15 backyard, see who's coming up to my window. My house was  
16 broken into, because of my addition, but my neighbor was able  
17 to call the police.

18 So, just trying to keep this back as a -- trying  
19 to bring it back to a neighborhood. We're glad for new  
20 neighbors, we're glad that the crime is down, we're glad that  
21 the -- well, the crime is down. We're certainly glad for  
22 that, but we like to -- I raised my children there.

23 Glad the schools are better. She won't have to  
24 go through what I had to do, paying for private school,  
25 because the schools weren't better. So, as we get new

1 neighbors, now that I'm an old parent, and even when you  
2 think about these additions, I'm trying to get my son to  
3 leave, because I raised him to be nice.

4 So, I'm trying to get him to leave as a grown man  
5 who decided that -- so, even when you look at these things,  
6 so the room size. And he has a small room. When I made my  
7 addition, I have all the luxury, they have children rooms.  
8 So, because I kept it as a single-family home.

9 That's really what we're trying to do here. We're  
10 not against people moving in. And, in addition, when I did  
11 my home, I have a handicap bathroom for my then grandmother.  
12 I still have -- well, we have a handicap bathroom, because  
13 we envision our seniors coming to live with us if need be.  
14 We wanted to make something that -- but it's all one home.

15 So, that's the only thing I would add. Because  
16 when I heard Mr. Hart talk about the architecture part of it,  
17 that is what we're talking about too. When you talk about  
18 these room size, I'm looking and I'm see more adults.

19 I have a house across the street from me that's  
20 redone, but it's more focused on roommate style, which causes  
21 a parking problem, the cars and the more. So, when do see  
22 some of these new homes, it is bringing in more adults, not  
23 families.

24 It's bringing in adults, roommate style, so not --  
25 we're a popular neighbor, we're close to the bars. And a lot

1 of people making homes that focus on that. And you can just  
2 make more money off of it with the rent, because we have  
3 people with five and six roommates in these three and four-  
4 bedroom houses, with additions, because they're using the  
5 full range of the house.

6 So, I mean, if it's a matter-of-right, I'm all for  
7 a matter-of-right. And I'm even for if somebody wants --  
8 doesn't have to maintain the historical presences, because  
9 I think that's your choice. If you move, since we're not a  
10 historical neighborhood, if you move in, if you want to  
11 change the front, if you want to take the front, you want to  
12 get more light in, I understand that.

13 I'm all for that, as long as it's a matter-of-  
14 right. But these monstrosities that keep popping up, we have  
15 to scale them back. We have to really bring back. So, if  
16 we're going to build this as a neighborhood for families and  
17 children, we can't have -- I'm not against young adults,  
18 because like I say, I have one in my house. I have two in  
19 my house.

20 But what I'm saying is that, that we want to have  
21 more families coming in. And so, that's it. And so, we  
22 welcome her as a family, and we welcome her as a family  
23 wanting to bring in her father. I truly understand that too.  
24 Seniors, I'm caring for now. I understand that. But we just  
25 want it as a single-family home.

1 CHAIRMAN HILL: Go ahead.

2 MEMBER WHITE: So, what would it take for the ANC  
3 to support her application, in your mind?

4 COMMISSIONER LEE: If I was at the meeting, a  
5 matter-of-right. Whatever she chooses to do within the  
6 matter-of-right, within the regulations. You saw some wisdom  
7 in doing this, in setting these rules.

8 And I think that the rules haven't been set that  
9 long and I think we should follow the rules of what you've  
10 already set, the new rules that are set for people who want  
11 to move into neighbors and modify their homes.

12 MEMBER WHITE: Okay.

13 COMMISSIONER BUGGS: And for the community, the  
14 neighbors, they need to be, have peace in where they live.  
15 These neighbors have been living there for 30, 40, 50 years  
16 now.

17 And now, a lot of them that's getting these big  
18 pop-ups, they're saying, well, okay, I'm just going to go  
19 ahead and move to somewhere, I can't stay here. I can't even  
20 come out and visit with my neighbors, because I've got this  
21 blockage now.

22 So, once we start approving for all of the new  
23 homes that they want to build back, and I'm just -- I live  
24 around the corner and I know most of these neighbors on Morse  
25 Street.

1           There was a house that just went up for sale two  
2 doors down from me. And they are making this house beautiful  
3 with no pop-up, no nothing. And so, why can't other people  
4 come in and do the same for these single-family homes and go  
5 somewhere else where they have apartment buildings to build  
6 apartments.

7           COMMISSIONER LEE: And like my last comment, even  
8 the impact, I don't know how this affects you guys, but the  
9 impact of raising our taxes. When you bring these homes in  
10 and there's a senior citizen 50 percent break, but a lot of  
11 our folks haven't hit that age at 65, so our taxes continue  
12 to grow before we get that 50 percent break for being a  
13 senior.

14           And that also is a financial impact. When you  
15 think about taxes going from \$600 a year to \$3,000 a year in  
16 the matter of a mortgage. So, I've been there 27 years. So,  
17 I started at \$600, now I'm at \$3,000.

18           So, when you think of the impact, and that's  
19 because of the ongoing sales of the homes and the cost of the  
20 homes being above the \$600 range, that can impact somebody  
21 who's not financially -- who don't have the financial means.  
22 I'm blessed, it's not a problem for me.

23           But I look at my seniors who -- federal government  
24 employees who can retire at 55-56. So, their incomes won't  
25 be cut, but they might have to work longer, because they got

1 to worry about paying that property tax. The home is paid  
2 for, but the property tax keep increasing, due to these  
3 renovations.

4 And I did it to my neighbor, I increased the value  
5 of my neighborhood. But I was there and it was my home  
6 before and it's still my home now.

7 And so, I think that was one of the things that --  
8 I don't know if that's a consideration, but when I think  
9 about when these things happen, how somebody's going to be  
10 able to afford to keep their home who's already paid for it,  
11 worked for it all their life, who had it. Because the prices  
12 when we bought was \$60,000.

13 So, that's a matter, your house is paid for, but  
14 the taxes are now \$3,000-4,000 a year. Because they keep  
15 going up. Our real estate says that every time a sale goes  
16 up, there's a limit. But I never see it go down, it went up  
17 every year.

18 And so, this also is just going to increase that  
19 burden on the families that are there, the seniors that are  
20 there, people trying to live -- who want to stay, because  
21 it's a convenient neighborhood. That's the one thing about  
22 it, it's -- even during the day, when I first moved there,  
23 and I used to drive to work.

24 I worked in this building. I used to drive from  
25 my house to the parking lot, which you all took away, but I



1 used to drive to my house to the parking lot to this building  
2 right here. And so, it was very convenient.

3 So, that's one of the things that draws people to  
4 it, draws working people to it, because it is great. And the  
5 buses are great. But when we get this large amount of homes  
6 just being converted to these -- and we have plenty of four-  
7 unit buildings in the neighborhood.

8 We're not against -- because we have -- a lot of  
9 the homes are four units. We have a lot of four-unit  
10 buildings in the Trinidad area. But we're trying to maintain  
11 a home and that brings a group of people together.

12 We have some apartment dwellers, we have some home  
13 owners, and then, we can bring everybody back together so we  
14 can still continue to improve. Because we still have some  
15 issues, but we're getting better.

16 And we want people to be able to communicate with  
17 each other in the back of the house, as well as in the front  
18 of the house.

19 MEMBER WHITE: Okay. Thank you.

20 COMMISSIONER LEE: You're welcome.

21 ZC CHAIR HOOD: Mr. Chairman?

22 CHAIRMAN HILL: Certainly, sir.

23 ZC CHAIR HOOD: Can I ask a question? First of  
24 all, let me apologize for the three of them taking away your  
25 parking lot.

1 (Laughter.)

2 ZC CHAIR HOOD: But we --

3 CHAIRMAN HILL: We weren't here then.

4 (Laughter.)

5 ZC CHAIR HOOD: Oh, right. Well, anyway. Let me  
6 ask you, did you follow the whole pop-up, and I hate to --  
7 I hope the Chairman will indulge me, because he told me I was  
8 taking my time on these things.

9 Did you follow the whole 20 hours worth of  
10 testimony, probably more than that, of the pop-up, pop-back,  
11 and some of the adjustments we've made since then? Did you  
12 follow that whole creation of these regulations?

13 COMMISSIONER LEE: No, I did not.

14 ZC CHAIR HOOD: Okay. Because I'm hearing some of  
15 the same things that you're saying that came out from others.  
16 And as the Chairman has already mentioned, we've got both  
17 sides and that's how we got to where we are now. This is  
18 trying to be the happy medium to evaluate, because at first,  
19 there was nothing. That's why you have those other pop-ups  
20 that were a matter-of-right.

21 You heard the Office of Planning's report. Would  
22 you agree with it? I mean, would you accept that as what  
23 they have -- and Ms. Elliott, I have Ms. Elliott's name right  
24 this time. Right, Ms. Elliott? Did I get it right? Okay.  
25 It's only took me -- how long did it take me, Ms. Elliott?

1 MS. ELLIOTT: Five years.

2 (Laughter.)

3 ZC CHAIR HOOD: Five years? Okay. But anyway,  
4 five's a charm. So, you heard Ms. Elliott's report. Would  
5 you be -- would that be approvable -- or whatever the word  
6 I'm trying to use -- let me ask it this way, because I want  
7 to make sure I use proper English.

8 Would the ANC approve of her report and be  
9 acceptable in moving forward with this case after you heard  
10 her recommendations?

11 COMMISSIONER LEE: Well, I'm not -- I head part of  
12 it being a denial. And that's on the extension. But is that  
13 the extension past the ten feet?

14 MS. ELLIOTT: So, the actual -- we would like to  
15 continue working with the Applicant on the length of the  
16 addition. What's been proposed down the street is a 33-foot  
17 extension. We can start there and see where the discussion  
18 go.

19 We would also like to see a setback on the third  
20 floor from the rear of the building, so that it's not just  
21 a giant flushed wall. It would have a little bit more of  
22 design to it.

23 COMMISSIONER LEE: Well, I think, in order not just  
24 to open the door and have it run rampant, I'm sticking with  
25 matter-of-right and a single-family home. So, I wouldn't be

1 in approval of what she's designing. It's not a matter-of-  
2 right and maintaining a single-family home.

3 ZC CHAIR HOOD: Okay. All right. And maybe I  
4 should give you more time, because I'm not sure where we're  
5 going with this. So, you can evaluate this. But, anyway,  
6 that's fine, I've heard your answer for now.

7 COMMISSIONER LEE: Okay.

8 ZC CHAIR HOOD: So, thank you, Mr. Chairman.

9 CHAIRMAN HILL: All right. Well, Commissioners,  
10 I've got to say, it's late even for us down here. I've got  
11 to tell you, this is a very -- I find it's a very difficult  
12 job, I've got to say. I mean, it's a really -- it's very  
13 emotional. I understand why everybody feels the way they  
14 feel.

15 And it's difficult, because we are here to judge  
16 the regulation and the standard. So, we look at those  
17 standards. I mean, it's a very -- it's not that abstract,  
18 right?

19 I mean, there is some to it that I'm trying to  
20 figure out sometimes in terms of why something might be undue  
21 versus not, in terms of the -- and I'm kind of even talking  
22 about, just for myself now, how the light and air is  
23 affected. Whether -- on these other properties.

24 And what was also brought up before was, if your  
25 neighbor next door was in approval or not. That was another

1 thing, whether or not you just happened to be lucky enough  
2 that the neighbor down the road might want to do the same  
3 thing, and so, they're not going to be in opposition to you.

4 I guess, I just wanted to make a statement, which  
5 is that, I don't think it's easy. I don't think you all  
6 think it's easy. I know that -- again, all of us living in  
7 the city here, we're happy for some changes that happen to  
8 our neighborhood and we're not as happy to others.

9 It sounds like you're not even that into the  
10 conversion, you don't even like the conversion aspect of the  
11 homes being able to go to three units. So, the by-right, I  
12 mean, it's even a special exception, I think, for the  
13 conversion.

14 So, it gets into a lot -- and as Mr. Hood was  
15 talking about, Chairman Hood talking about, they had 20, many  
16 hours of testimony about getting to this point. It was a  
17 long conversation that I've just had.

18 But at the bottom line, the Applicant still  
19 doesn't have the Office of Planning on Board and doesn't have  
20 the ANC on Board. But I appreciate your testimony. And are  
21 we done with the Commissioners? Okay. So, thank you all for  
22 coming down.

23 Is there anybody else that wants to speak in  
24 support? Anybody want to speak in support? Anybody want to  
25 speak in opposition? If you'd please come forward? We're --

1 I lost somebody, so we're going to take just a three minute  
2 break here and we'll be right back.

3 (Whereupon, the above-entitled matter went off the  
4 record at 4:28 p.m. and resumed at 4:36 p.m.)

5 CHAIRMAN HILL: All right, Ms. Rose, if we can get  
6 started once again. Okay, so if you could please introduce  
7 yourselves from my right to left and as members of the  
8 community you will each get three minutes. And I will keep  
9 the timer on you, if that's okay. And if you would please --  
10 let's go -- introduce ourselves first, please, right to left.

11 MS. WARD: Hello, my name is Doretta Ward. I live  
12 at 1141 Morse Street Northeast.

13 MS. FRISON: Hello, I am Teresa Frison. I live  
14 at 1184 Morse Street Northeast.

15 MS. RAMSEY: Karen Ramsey, 1413 Montello Avenue.

16 MS. ROGERS: Francis Rogers, 1116 Morse Street  
17 Northeast.

18 CHAIRMAN HILL: Okay, great. Thank you. Ms. Ward  
19 if you'd go ahead and begin whenever you get a chance?

20 MS. WARD: Okay, hello again. First off, I did  
21 an updated neighborhood petition list. I gave it to Ms.  
22 Rose. Since the one that I submitted online I've had more  
23 owners to sign. And they oppose the -- Ms. Mala's project.

24 Also I wanted to add that in one of the ANC  
25 meeting we mentioned Mala's trying to contact the owner at

1 1133 Morse Street Northeast. We mentioned in the meeting  
2 that the owner does -- no longer lives there. She's renting  
3 her house out to Air B&B or renters. So it would not affect  
4 her at all. As well as 1139 -- the lady -- she just put her  
5 house up for rent. I mean, I am sorry. She just put her  
6 house -- advertised her house for sale. And within the  
7 advertisement she's stating that it's a good investment for  
8 a condo.

9 Several people did sign Mala's list. But a lot  
10 of those folks are not within the 200 range. My list is  
11 within the 200 range of her property. And I find that about  
12 four people, maybe less, are within the 200 range. 1138 is  
13 renters. 1178 is renters. And 1123 and 1125 -- they're also  
14 renters. Yes, she did a lot of leg work. Yes she did. In  
15 terms of the property -- residential parking, we have been  
16 trying to do that prior to Mala moving in the neighborhood  
17 for years. And it has not happened. Because we do have this  
18 problem with parking. And it is a hardship on us. And  
19 various hours that we come in that we have to look for a  
20 parking space.

21 The rear addition -- oh, I am sorry. I did submit  
22 a letter of opposition online. So a lot of what I feel is  
23 already online. I am very emotional about it. I've been in  
24 the neighborhood for over 37 years and I have become  
25 accustomed to being able to go out into my backyard and talk

1 to my neighbors. And my neighbors, they look after one  
2 another. As we get older, we need neighbors looking after  
3 us. We need to be able to see. I would no longer be able  
4 to see if that wall is put up there.

5 She talks about the privacy -- she would have  
6 windows up and they would be able to look in on us and they  
7 will have light but I will not have light. I will not have  
8 the -- the continued airflow. And the four people who will  
9 be -- the four neighbors who will be affected the most signed  
10 the opposition neighbors letter. The one person who did not  
11 sign it is the neighbor who we -- nobody can reach because  
12 she no longer lives there. She's renting her property out.

13 So all that to say, yes. I am not in agreement  
14 to it. It does not -- it does not support the current  
15 character of my neighborhood -- what I have bought into. I  
16 have bought into the spacious backyard. I bought into the  
17 view. And with these long walls coming up, I will no longer  
18 have the view, the spacious backyard -- the view to see my  
19 neighbors. The view to see the sun. I'd have to look around  
20 to probably see it now with the way the buildings are coming  
21 up. So I totally do not agree with it. It blocks your air,  
22 it blocks your sun. And it can be a depressing sight to see  
23 when you come outside and you're used to looking at land and  
24 air -- I mean, feel air with it. You're used to looking in  
25 one direction and see all this land, and then you all the



1 sudden come out and you no longer see it. Can be a  
2 depressing sight for me. Thank you.

3 CHAIRMAN HILL: Thank you.

4 MS. FRISON: Thank you, commissioners, for holding  
5 this hearing. It's very much a privilege to come and voice  
6 my opinion on changes happening in my neighborhood and how  
7 things are affecting us personally. These -- these  
8 extensions -- these additional condos are an added burden to  
9 really a failing neighborhood. We're -- 1100 block, as I  
10 mentioned before, we have eight houses -- now nine houses --  
11 that could potentially become condos.

12 So could you imagine your whole neighborhood once  
13 being single-family homes with children, grandchildren, the  
14 daycare down the block -- and suddenly, nine out of the 40  
15 homes we have are condos with two, three different families  
16 coming in? These condos that went up -- that are hideous --  
17 have no contacts with the rest of the neighborhood. They  
18 don't have the front porches. They were done by right before  
19 you could get involved in this.

20 I have a picture, if you want to see, and they're  
21 really ugly. They have bought these condos at 700 --  
22 \$800,000 and many of them are being rented out. So they are  
23 investment properties and so when these developers come and  
24 try to give you a sob story about how they are saving the  
25 community by buying a house that's been neglected, this is

1 not true.

2           They -- both of these houses that we're talking  
3 about today, I know families that have tried to buy them.  
4 They could not outbid a developer. So you're a single family  
5 and you can have -- let's say you have \$500,000 that you can  
6 throw down on a house. You're not going to be able to outbid  
7 a developer that can bid 700, 800, \$1 million for a house.  
8 So -- but the developers come in and tell you we're doing the  
9 neighborhood a good -- it's not. They're changing the nature  
10 of our community. Thank you.

11           CHAIRMAN HILL: Thank you.

12           MS. RAMSEY: My name is Karen Ramsey --

13           CHAIRMAN HILL: MS. Ramsey if you could just move  
14 the microphone. Yes, just point it -- really had it extra  
15 low there.

16           MS. RAMSEY: So, again, thank you for letting us  
17 attend the hearing and provide views on the neighborhood.  
18 Much of what I have to say I said during the hearing for  
19 1121. I know your job is to regard each on the merits. And  
20 we're also trying to do that. But also looking at the impact  
21 on the neighborhood as a whole. And as I stated earlier, the  
22 large extensions in the back -- which, luckily OP in this  
23 case is taking a different look at as opposed to the 1121  
24 property. I would welcome you to come and spend some time  
25 in the neighborhood. We can visit some of those backyards,

1 sit down, have a beer, show you what it's like to sit next  
2 to a 40-foot wall in the backyard and not have sun or air.  
3 It does have an impact on the community.

4 And again, I know that matter of right -- someone  
5 can come in, go back ten feet, put in two units, that would  
6 address some of the housing shortages in DC with density.  
7 What I hear neighbors objecting to repeatedly is three-unit  
8 conversions, popping back 30 feet -- 40 feet -- and it's  
9 mostly developers that come in that already have two or three  
10 homes and are flipping houses and then selling them at a high  
11 price. And it's pushing people out of the neighborhood.

12 People can't afford it. We're losing some of our  
13 inclusionary zoning units. We're losing a neighborhood where  
14 families could come in or single people could come in and  
15 actually purchase a home -- where they wanted to be part of  
16 a community -- where you know your neighbors. You can talk  
17 to each other. You attend community meetings. And that is  
18 being lost by these large pop-ups.

19 And it may not make sense that it would change the  
20 character of a neighborhood that significantly, but it  
21 actually does when you look in the neighborhood. So I think  
22 that what I have been hearing at the meetings, again, is  
23 three-unit conversion is not one what is wanted or welcome  
24 in the neighborhood. And it's causing a ripple effect of  
25 negative impacts on all of the residents. Thank you.

1 CHAIRMAN HILL: Thank you.

2 MS. ROGERS: I have very little to say. Everybody  
3 has already said everything I had to say. And I did submit  
4 letters of opposition to both the 1121 and the 1135.

5 CHAIRMAN HILL: Ms. Rogers, can you speak a little  
6 bit closer to the microphone? I'm sorry.

7 MS. ROGERS: Oh, I am sorry.

8 CHAIRMAN HILL: That's all right.

9 MS. ROGERS: Can you hear me now?

10 CHAIRMAN HILL: Yes, now I can.

11 MS. ROGERS: Okay. I have submitted letters  
12 online in early January in opposition to 1135 and 1121. And  
13 I think my letters state it -- because I had time to think  
14 about it and I didn't have time to talk -- so it states my  
15 feelings. But the only thing that I would go along with is  
16 matter of right. Because that's the law as it is now. I  
17 still don't think I really like the third floor. And then  
18 when you have a third floor and you can put a penthouse --  
19 a deck on top of a penthouse. But three units -- I am  
20 against. And 60 feet out I am against. It's -- I think I  
21 do it a little bit better in my letter. Thank you.

22 CHAIRMAN HILL: Thank you. All right, does the  
23 Board have any questions for the witnesses?

24 (No audible response.)

25 CHAIRMAN HILL: Okay, thank you all very much.

1       Okay, so Ms. Mahmood, I am going to get -- let you have an  
2       opportunity to kind of, you know, respond to anything you  
3       want to respond to or make a conclusion or comments. But --  
4       but -- beyond you spending even a lot of time on that, I  
5       mean, we're going to have a continued hearing, I think. I  
6       mean, at this point again, you have provided us with your  
7       case, right? And you've also provided us a case in how you  
8       met the standards. I suppose we could vote, but I don't  
9       think you'd win. And so I say that because I -- just based  
10      upon the -- the testimony we've taken as well as the  
11      information that's in the record as to whether or not you're  
12      meeting the criteria for us to meet the standard, I think  
13      there's a lot in there that would -- would be against you in  
14      terms of -- at the very least, the -- the extension. In  
15      terms of how far you're trying to go back.

16                So unless the Board has any other thoughts to  
17      this, I would probably try to have a continued hearing and  
18      ask the Applicant to continue working with the Office of  
19      Planning and see if there could be anything the Applicant  
20      could do to provide a different type of design that the  
21      Office of Planning could perhaps get behind. And then after  
22      that would be taking place -- and I would imagine, you know,  
23      you would want to take a look at the ANC again to see if --  
24      if the new design would be something that the ANC could get  
25      behind. Now based upon the discussion we've had and what

1 we've seen, I doubt that would be the case. So I don't know  
2 whether that really helps you or not.

3 MS. MAHMOOD: I am happy to work with the Office  
4 of Planning. And we -- you know, we really want to work it  
5 out.

6 CHAIRMAN HILL: Okay. And again, I guess -- and  
7 this is -- this is not necessarily, Ms. Mahmood, to you as  
8 much as just, you know, kind of applicants and everything --  
9 and the members of the community here. Like, even if the  
10 Office of Planning says yes -- or, says yes -- even if the  
11 Office of Planning presents criteria that they think supports  
12 the application, it doesn't mean that the application is  
13 going to get approved. Particularly in -- in this kind of  
14 case, because there's a lot of moving parts going on. And  
15 there's a lot of things going on with regard to this  
16 particular issue that we're faced with in terms of the  
17 zoning. Does the Board have any other thoughts?

18 VICE CHAIR HART: Just one, Mr. Chairman. I had  
19 asked this earlier, but I would kind of reiterate. If you  
20 could provide a -- for the shadow study, just to understand  
21 what the -- the by right is, that would be helpful just so  
22 that we could use that for -- you know, for our future  
23 understanding. And I would echo chairman's comment regarding  
24 working with the Office of Planning to understand what the --  
25 what you might do to be able to make changes to that -- that

1 would then help the Office of Planning get to a part that --  
2 that they could be in support of it. Again, it's -- not  
3 saying that we're going to be approving of it, it is we have  
4 to use the ANC report and the Office of Planning. We -- we  
5 give them great weight as we are reviewing the project. And  
6 -- so it's just helpful for us to understand where -- where  
7 each of them are. But I think that having that would be --  
8 would be helpful. But I do appreciate the -- the shadow  
9 studies that you have included because it does given an  
10 understanding of -- of what is kind of going on behind the --  
11 behind building. And that's it.

12 CHAIRMAN HILL: Okay. Oh -- I am sorry.

13 MS. MAHMOOD: Yes, I was going to say, that's  
14 fine. Having that studied or the - by right as well.

15 CHAIRMAN HILL: Okay. So we're going to have a  
16 continued hearing. I would suggest we do it for the next  
17 time that Mr. Hood is here. And I think it is going to take  
18 a little bit of time, actually, to do this. I don't know how  
19 long you all's planning is going to take. I don't know where  
20 you are with this. I don't know if you're going to get to  
21 a point that you're -- the -- something with the Office of  
22 Planning. So I think he's back on the 14th of February. Is  
23 that correct, Chairman Hood?

24 ZC CHAIR HOOD: Right.

25 CHAIRMAN HILL: So then I would -- I -- unless he

1 -- he can respond to me, but I am saying that is probably  
2 enough that you -- it gives you a month to kind of work with  
3 you all's planning, work with your architect. See if you can  
4 get to a place that you can get their support. And if you  
5 have a chance to go to the ANC and get some kind of feedback  
6 from the ANC, that would also be welcome. However, what were  
7 you going to say, MS. Mahmood?

8 MS. MAHMOOD: I was going to say that we can  
9 probably get -- work on the design of it pretty quickly and  
10 get it to the Office of Planning. And if she has time, we  
11 can probably talk about that sooner than that -- if that's --  
12 is that something that -- that you're open to? A little  
13 before we only -- we already held the house in July --  
14 August. And it's been a really long time, so we're trying  
15 to move with a little --

16 CHAIRMAN HILL: Yes, I appreciate that. And I  
17 understand. I guess -

18 MS. MAHMOOD: Thank you.

19 CHAIRMAN HILL: This is -- this is probably the  
20 best you're going to be able to do, I think. In terms of,  
21 like, the Office of Planning, you know, they have a lot of  
22 stuff on their plate as well. And so they're going to have  
23 to like, fit you in, you know? And so -

24 (Simultaneous speaking.)

25 CHAIRMAN HILL: If -- so -- so the Office of



1 Planning, you can help the -- you can -- you can see whatever  
2 can or can't be done by the 14th of next month.

3 MS. ELLIOTT: We can work in that time frame, yes.

4 CHAIRMAN HILL: Okay. So then you would need to  
5 give us a supplemental?

6 MS. ELLIOTT: Yes, I imagine that the Board would

7 -

8 CHAIRMAN HILL: Yes.

9 MS. ELLIOTT: Would be interested in one.

10 CHAIRMAN HILL: Yes. And then the ANC would need  
11 time to respond to the supplemental, Ms. Rose?

12 MS. ROSE: Yes.

13 CHAIRMAN HILL: Okay. So they would need a week  
14 to be able to respond to the supplemental. So if I worked  
15 backwards from the 14th -- how does that work with all the  
16 paperwork?

17 MS. ROSE: Would the Applicant be able to file  
18 their submission by January 31st?

19 MS. MAHMOOD: Yes.

20 MS. ROSE: And then the responses would be due  
21 February 7th.

22 CHAIRMAN HILL: Yes -- no, I am just looking at  
23 the Office of Planning. The 31st means the Office of  
24 Planning is working with the Applicant by the 31st. In other  
25 words, your tight time frame just became tighter. So -- so

1 you're okay with that?

2 MS. ROSE: Yes.

3 CHAIRMAN HILL: Okay.

4 PARTICIPANT: We're available.

5 CHAIRMAN HILL: All right, okay. All right. So  
6 we're going to get a supplemental report by when again? I'm  
7 sorry, Ms. Rose?

8 MS. ROSE: January 31st.

9 CHAIRMAN HILL: January 31st we will get a  
10 supplemental from the Office of Planning -- giving the ANC  
11 two weeks?

12 MS. ROSE: No, February 7th.

13 CHAIRMAN HILL: Oh, February 7th. Okay, one  
14 second. February 7th. Are we coming back -- I thought we  
15 were coming back here the 14th? We're coming back here the  
16 7th?

17 MS. ROSE: And then the 14th will be the date that  
18 we will be back here -

19 (Simultaneous speaking.)

20 CHAIRMAN HILL: Okay. All right. I'm just  
21 saying, that gives them two weeks. I don't understand the  
22 two weeks thing.

23 VICE CHAIR HART: No, I think what -- I think what  
24 the Secretary is saying is that we wouldn't want to give --  
25 we wouldn't want to have the -- the supplemental report and

1 then the response to that -- we're -- we give ourselves a  
2 week to be able to kind of look at that information.

3 CHAIRMAN HILL: Okay.

4 VICE CHAIR HART: As opposed to having it on,  
5 like, the 13th or something, which is very -- very short  
6 period of time for us to actually review what's being --  
7 what's being submitted. So --

8 CHAIRMAN HILL: Okay.

9 VICE CHAIR HART: It just provides us with a  
10 little bit more time.

11 CHAIRMAN HILL: Okay. So those -- can you repeat  
12 those dates, Ms. Rose? I'm sorry.

13 MS. ROSE: Yes, no problem. January 31st for the  
14 first submission. And then responses by February 7th.

15 CHAIRMAN HILL: Okay. Responses from the ANC by  
16 February 7th.

17 MS. ROSE: Yes. And then the Board would consider  
18 a decision on February 14th.

19 CHAIRMAN HILL: We would have a continued hearing  
20 on the 14th.

21 MS. ROSE: Continued hearing.

22 CHAIRMAN HILL: We would have a continued hearing  
23 on the 14th. I saw the commissioner raise her hand. We --  
24 you have to come speak in the microphone, I am afraid. And  
25 if you'd introduce yourself again.

1 MS. BUGGS: Yes, this -- Commissioner Buggs. I  
2 just wanted to say that the commission -- the full commission  
3 doesn't meet again until February 13th.

4 CHAIRMAN HILL: Right. Okay.

5 MS. BUGGS: So would we have to do something -

6 CHAIRMAN HILL: You -- you will -- I mean,  
7 Commissioner Buggs, I think that we are asking for responses  
8 by the 7th, which is -- so you'll get a chance to look at the  
9 Office of Planning's supplemental report on the 31st of  
10 January. Then you have a week to give us something in terms  
11 of what you think of that supplemental report. And then you  
12 -- the hearing -- a continued hearing -- so you can come here  
13 -- I hate to say you can come here again. You can come here  
14 again on the 14th in terms of providing any continued  
15 feedback for this particular case. And so that's what I  
16 would think in terms of the timeline.

17 MS. BUGGS: Okay. I'm going to try really hard  
18 to do that, yes, sir.

19 CHAIRMAN HILL: You mean coming on the 14th?

20 MS. BUGGS: Uh-huh. Because I do -- I do have a  
21 good government job.

22 (Laughter.)

23 CHAIRMAN HILL: Okay. All right -- no, no.  
24 That's okay. No, I don't think -- honestly -- honestly,  
25 Commissioner Buggs and Commissioner Lee, like, you know, you

1 guys have been here all day. And I appreciate all the people  
2 that have been here all day, okay? And just like I've got  
3 to say something every time -- every time I say this,  
4 everybody -- we've been here all day, okay? And I've got a  
5 job. Okay? Right? Okay, we've all got jobs, okay? This  
6 is not our job, okay? This is volunteer job, basically, for  
7 the community.

8 MS. BUGGS: Oh, this is not your job?

9 CHAIRMAN HILL: This is not my job. Okay?

10 (Laughter.)

11 CHAIRMAN HILL: I mean, it's my job, but I don't  
12 get -- so -

13 (Laughter.)

14 CHAIRMAN HILL: So I am just trying to point it  
15 out -- and sure, it's late in the day, right? You know, I  
16 already -- you know, my wife is already like, where are you?  
17 So -- but nonetheless, it is important that we hear from the  
18 ANC. So the ANC will have a week to turn around and give us  
19 something -- whenever the report is. And I am sure that will  
20 be enough in terms of what your position is on whatever the  
21 supplemental report is from the Office of Planning. Okay.  
22 Does the Board have any other comments? Commissioner Lee?

23 MR. LEE: Yes. I just want to know, is this going  
24 to require another vote from the ANC on the new plan? So we  
25 voted to not support -- to be in opposition. Now, when we

1 get the new plans, do we have to -- will it require another  
2 vote from the commission?

3 CHAIRMAN HILL: I suppose what -- let me think  
4 about this a little bit more. I suppose if Ms. Mahmood  
5 thinks that she can get a vote from -- it will be up to Ms.  
6 Mahmood. Ms. Mahmood, if you think that you're going to be  
7 able to get -- you know, you like to present to the ANC. And  
8 the ANC will pass -- which would be great, right? If based  
9 upon your new plans you think you can get the support from  
10 the ANC, you should present to the ANC. And then that letter  
11 and the ANC support will have great weight for us. Unless  
12 the -- you all have any other thoughts?

13 ZC CHAIR HOOD: If the ANC -- because the ANC  
14 meets the 13th. And we're going to hear the support team --  
15 even if the representative from the ANC comes down and give  
16 it to us verbally and then we get the -- letter. And I don't  
17 know if you can do a letter overnight or not. But --  
18 preferably. Because I don't want to put the pressure on  
19 them. They're going to meet the 13th, they're coming on the  
20 14th, they can give it to us verbally. We can take it up to  
21 the last minute of what their position is -

22 CHAIRMAN HILL: Okay, all right. Let's do this.  
23 Ms. Mahmood, I am sorry, the -- okay, let -

24 MS. MAHMOOD: I just -- to make it easier, if I  
25 do do that and they have a letter that they can fill out that

1 day about the report, I can even hand it in the next morning,  
2 if that's something that you -

3 (Simultaneous speaking.)

4 CHAIRMAN HILL: Okay, let -- I don't think so -

5 MS. MAHMOOD: I'm just -

6 CHAIRMAN HILL: So commissioners, do you think --  
7 if -- do you think Ms. Mahmood could get on the calendar for  
8 the 13th?

9 MR. LEE: Yes.

10 CHAIRMAN HILL: Okay, so Ms. Mahmood, go ahead and  
11 present to full ANC, okay? If you get a no, you get a no.  
12 If you get a yes, you get a yes, okay? And then go ahead and  
13 you can at least testify as to what happened at that ANC  
14 meeting on the 14th, okay? And if -- commissioners, if you  
15 want to give something to the record and submit, you know,  
16 something, that lets us know what happened on the 14th, that  
17 would be helpful.

18 As well as, again, the 7th -- which is a week  
19 after the -- the 31st, you have an opportunity to submit  
20 something in writing about the supplemental report from the  
21 Office of Planning. Okay? And the ANC can submit something  
22 whenever they want at any time, okay? So you can submit  
23 something to us -- if I think that's right. I mean, you can  
24 submit even more stuff, okay? But I am just giving you kind  
25 of like a deadline that we'd like to look at something about

1 the supplemental report that the Office of Planning is going  
2 to give on the 31st. Okay? All right. Okay, does everybody  
3 understand?

4 (No audible response.)

5 CHAIRMAN HILL: Okay, so do you have anything, Ms.  
6 Mahmood, that you're confused about?

7 MS. MAHMOOD: I know I look confused, but -

8 CHAIRMAN HILL: I don't think you look confused  
9 at all. By the way, you're very composed. You seem pretty  
10 good. You know.

11 MS. MAHMOOD: Thank you. I think I understand  
12 everything. I would like -- yes. I guess at the next  
13 meeting I will discuss -

14 (Simultaneous speaking.)

15 CHAIRMAN HILL: Okay. All right. Great, great,  
16 great. Okay. All right, thank you all very much.

17 (Pause.)

18 CHAIRMAN HILL: All right, Ms. Rose.

19 MS. ROSE: Next is application 11636 of Scott  
20 Yurcheshen. Pursuant of the 11 DCMR Subtitle X, Chapter 9,  
21 for a special exception under Subtitle E, section 5201 from  
22 the lot occupancy requirements of Subtitle E, subsection  
23 304.1, and under Subtitle C, section 1504 from the penthouse  
24 requirement of Subtitle C, subsection 1500.4 and from the  
25 penthouse setback requirements of Subtitle C, subsection



1 1502.1, to construct a roof deck and expand existing rear  
2 decks on an existing flat in the RJ-1 Zone at premises 26 Q  
3 Street Northeast (Square 3520, Lot 118).

4 CHAIRMAN HILL: All right, if you could please  
5 introduce yourself?

6 MR. BLAKE: My name is Michael Blake. I am the  
7 architect on the project.

8 CHAIRMAN HILL: All right, Mr. Blake. So you are  
9 representing the property owner?

10 MR. BLAKE: That's correct.

11 CHAIRMAN HILL: And do we have a -- something that  
12 says you can do that?

13 MR. BLAKE: Yes, there should be a form. I'm  
14 trying to pull up --

15 CHAIRMAN HILL: That's all right. If you -- I'll  
16 go with that.

17 VICE CHAIR HART: Exhibit 10.

18 CHAIRMAN HILL: Oh, Exhibit 10. Thank you. I am  
19 a little unclear -- and maybe you can tell us what the  
20 specific relief is that you're asking for. Because there was  
21 like a revision. And I am still unclear as to whether it is  
22 lining up with what the Office of Planning thinks you're  
23 asking for. And also, then, the -- you are aware, obviously,  
24 that the Office of Planning does not support your penthouse  
25 setback argument. And so what I would first like you to do

1 is, again, go over what it is you're trying to propose, hit  
2 those highlights that I just mentioned -- you can start with  
3 what it is you're specifically asking for. I am going to put  
4 ten minutes on the clock just so I kind of know where we are,  
5 and if it goes longer, it goes longer. And you can begin  
6 whenever you'd like.

7 MR. BLAKE: Okay, thank you. Just trying to get  
8 this to come up on the -- oh, there it is. If I can just  
9 quickly address -- I think you said that there was a -- a  
10 revision. I don't believe that was the case. There was  
11 corrected architectural drawings that were just showing that  
12 there was a projection in the front. Has really nothing to  
13 do with the project, just correcting the drawings. Just --

14 CHAIRMAN HILL: So what was announced and  
15 captioned by the secretary is the relief that you're  
16 requesting?

17 MR. BLAKE: Yes, that's correct.

18 CHAIRMAN HILL: Okay.

19 MR. BLAKE: So -- and the relief relates to the  
20 lot occupancy. Since we are proposing to extend the -- the  
21 decks -- replace the existing decks with deeper decks. And  
22 then also for the roof deck -- first of all just being  
23 allowed to do the roof deck in general in this zone. And  
24 then also to have relief from the setbacks -- both side and  
25 rear setbacks. And that's for the roof -- for the roof deck

1 only.

2 CHAIRMAN HILL: Okay.

3 MR. BLAKE: So, as you can see in the pictures,  
4 there currently is three levels of decks. Each level has  
5 their own deck. And the top unit, which is level three and  
6 level two of this house, the decks are basically unusable.  
7 There was an issue with the C of O and basically the decks  
8 had to be shortened because of a previous case. And they're  
9 -- they're basically unusable. We -- to get up on the roof  
10 to do the survey for this house we had to go in the  
11 neighbor's roof -- neighbor's deck to -- to go up there.  
12 With their approval, of course.

13 But -- so the house right now has no access to the  
14 roof, basically. And the two unusable decks --

15 CHAIRMAN HILL: Can you tell me why the decks are  
16 unusable? I remember this case.

17 MR. BLAKE: Well, I mean, you can see in the  
18 picture here you've got the furniture in front of the doors.  
19 They're basically -- I shouldn't say their unusable. They're  
20 unusable to -- to access the roof, which is one of my -- the  
21 homeowner's concerns is access to the roof. But they're --  
22 they're just not -- they don't give a lot of quality outdoor  
23 space.

24 CHAIRMAN HILL: Okay, okay. All right, I will let  
25 you continue. Thank you.

1           MR. BLAKE: So, we're -- the lot occupancy comes  
2 into play with extending those decks, and that's why --  
3 that's the -- the relief we're searching for for that. And  
4 then, just in an effort to increase the amount of outdoor  
5 space that they have, we wanted to do the roof deck -- to  
6 have more of a private, outdoor space for them.

7           CHAIRMAN HILL: Were you the original owner? I  
8 mean, I am sorry. I am just trying to understand. So did  
9 you present to us previously?

10          MR. BLAKE: No.

11          CHAIRMAN HILL: Okay. And so the owner is not  
12 here. You're representing the owner. Is the owner who  
13 you're representing the person who came before us the last  
14 time?

15          MR. BLAKE: No, I think it was the developer that  
16 -- the case that was involved -- the developer before.

17          CHAIRMAN HILL: Okay. I think it involved the  
18 developer and the owner of one of the units. But okay.

19          MR. BLAKE: Okay.

20          CHAIRMAN HILL: All right.

21          MR. BLAKE: So -- I mean, I think it's -- I don't  
22 have a lot more to add. I am happy to take questions on it.  
23 And I am sure we can discuss the notes from the Office of  
24 Planning.

25          CHAIRMAN HILL: Okay, thank you. Did you get

1 sworn in today?

2 MR. BLAKE: Yes.

3 CHAIRMAN HILL: Okay.

4 (Laughter.)

5 CHAIRMAN HILL: All right. Did you get sworn in  
6 in the morning?

7 MR. BLAKE: I think it was like the second round

8 -

9 CHAIRMAN HILL: Oh, second round. Okay. Well  
10 then I don't feel so impressed by you. Okay, can I turn to  
11 the Office of Planning, please?

12 MR. JESICK: Thank you, Mr. Chairman, and the  
13 members of the Board. My name is Matt Jesick. I am sitting  
14 in for Mr. Bryan Golden today. The Office of Planning  
15 supported the project in general. But we could not support  
16 the setback relief for the real -- I mean, at the rear of the  
17 penthouse -- or, excuse, the -- the rooftop deck level. We  
18 thought that it would be overly visible compared to a  
19 conforming solution which would have a one-to-one setback.  
20 And therefore would go against the intent of the penthouse  
21 regulations. I would be happy to try to answer any  
22 questions. Thank you.

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

25 VICE CHAIR HART: Just a quick one. Mr. Jesick,

1 so the spiral stair case goes up to the roof. And then  
2 there's the -- the railing that's against the -- you know,  
3 against the back wall. So you're just -- you're saying that  
4 the railing should be moved back but the spiral staircase and  
5 then the railing that's associated with that is okay?

6 MR. JESICK: That's correct.

7 VICE CHAIR HART: Okay.

8 CHAIRMAN HILL: Mr. Jesick, so I am trying to  
9 remember this case just because I -- and maybe I am just  
10 wrong, but I thought when we were here before we made them  
11 make the deck smaller. No?

12 MR. JESICK: No.

13 CHAIRMAN HILL: Okay, all right. Okay, but so  
14 you're -- the Office of Planning is in support of the size  
15 of the decks. Your only issue is the setback from the  
16 railing in the penthouse?

17 MR. JESICK: That's correct.

18 CHAIRMAN HILL: Okay. Does anybody have any  
19 questions for the Office of Planning?

20 (No audible response.)

21 CHAIRMAN HILL: Okay. If you have any questions  
22 for the Office of Planning?

23 MR. BLAKE: Not a question, just I think -- you're  
24 know, it -- we're happy that we can keep the spiral  
25 staircase. We did a lot of exploration to try to do that

1 with an interior stair, and it just was not acceptable to the  
2 homeowner. So, you know, being able to keep this -- this  
3 spiral stair and deal with the setback relief there is  
4 helpful. The only thing -- I think it's going to be a  
5 challenge considering the -- the DCR the building code  
6 requirements for positive connection for deck railings to jog  
7 that portion of the railing and the deck back. If I can zoom  
8 in here on this section that's on the screen. It's -

9 PARTICIPANT: Go in the middle.

10 (Simultaneous speaking.)

11 PARTICIPANT: Little farther up.

12 (Simultaneous speaking.)

13 PARTICIPANT: Yes, go into the middle. Not that  
14 one, but over to the -- over to the right. Those -- the plus  
15 and -- and minus. That will zoom it in.

16 PARTICIPANT: Above where your cursor is, it's  
17 right next to the blue hand.

18 MR. BLAKE: Oh, yes, okay. I've got it. So we  
19 already have -- I think this is -- a double -- a two-by-eight  
20 that we're - or soon we could get to work. This is already  
21 going to be a bit of a challenge to have this narrow piece  
22 here where we have to kind of route the deck to get to that  
23 -- the landing for the stair. So with pushing that back to,  
24 you know, to provide the railing setback -- and this is  
25 again, excuse me -- I have run into this before and what

1 happens is you can't -- the railings can no longer just be  
2 fastened directly to the decking, or even, really the decking  
3 wood. That there is some pretty stringent requirements for  
4 getting positive connections to the deck structure itself.

5 So with not being able to just attach the railing  
6 to the decking, we will need to push the whole structure back  
7 itself. What's going to happen then, I think, is that the  
8 deck is going to have to get higher because of, you know,  
9 we'll be moving part of the roof as it slips forward. And  
10 I think it's just going to create some challenges with that.

11 CHAIRMAN HILL: Mr. Blake, I am going to interrupt  
12 you just for a second. So did you work with the Office of  
13 Planning to try to figure out how their discussions and --  
14 because the penthouse setbacks stuff, like, I am just letting  
15 you know, like we rarely go against that. And so, you know,  
16 you talked to the Office of Planning and couldn't figure out  
17 a solution?

18 MR. BLAKE: No, I didn't -- we did not have any  
19 back and forth with this.

20 CHAIRMAN HILL: Okay. Okay, keep going.

21 MR. BLAKE: That's basically my comment. I think  
22 that it is -- you know, it's acceptable for us to do that.  
23 I think it's going to cause some challenges in terms of  
24 construction, I just wanted to -

25 (Simultaneous speaking.)



1           CHAIRMAN HILL: Okay, all right -- because I am  
2 going to let you know, the penthouse setback thing, like, you  
3 might as well just forget it. You know? Like I mean, it  
4 rarely -- it has to be extreme. You know? And I -- and I  
5 still haven't seen -- so I would just -- and I am sorry you  
6 had to wait all the way to the end of the day to hear this,  
7 but I would go ahead and go back and work with the Office of  
8 Planning and figure out -- and if you get everything you want  
9 except for you have to figure out how to -- you know, do the  
10 setback?

11           MR. BLAKE: And we are prepared to accept that --  
12 that we -- you know, we accept the comment that you want to  
13 see the setback for the railing. And we just have to figure  
14 out how to engineer that and -

15           (Simultaneous speaking.)

16           CHAIRMAN HILL: But we have to see it is the whole  
17 thing. We can't approve, just, you know -- we'll see what  
18 it looks like.

19           VICE CHAIR HART: And actually I would -- if I am  
20 concurring with the Chairman. I think it would be helpful  
21 to understand -- I understand that the drawings that you  
22 provided are -- you know, they're -- it is a little bit hard  
23 to understand how the deck is -- what the deck is attached  
24 to exactly. Is it attached to the sides?

25           MR. BLAKE: Yes.

1           VICE CHAIR HART: And so what we're seeing is some  
2 cross timbers that are under, and then there is another one  
3 that is, I guess, to the -- in this image there's another one  
4 that's to the -- I don't know how you describe where that is.  
5 But it is at the other end of the -- of the deck. And -- and  
6 so you're saying that to be able to support the railing on  
7 the end -- one of the reasons that it's there is because  
8 there's a member that needs to be underneath that. And that  
9 -- to have clearance for that member that's underneath it,  
10 if you move it back, that means the deck has to get taller.  
11 But we really don't know how tall that can -- that means.  
12 Maybe a good six inches.

13           But again, I don't know what that is. And I don't  
14 know what that does to the -- you know, where you're  
15 attaching it to the sides, how much distance that -- you  
16 know, what -- what that creates -- what issues that creates.  
17 So as the Chairman said, I think that going back and talking  
18 to the Office of Planning and just having a -- a dialogue  
19 with them would be helpful so that we don't have to spend  
20 time trying to kind of figure this out now. I just think you  
21 just need to have a little bit more of a conversation with  
22 them to see what -- what works.

23           CHAIRMAN HILL: Yes. I guess, Mr. Blake, I am not  
24 trying to be short with you. I am just realizing that -- I  
25 am just trying to get to where we're going to be. And -- and

1 so, you know, you need to get back with the Office of  
2 Planning. Try to figure out -- I'm just letting you know,  
3 again, as I mentioned several times, the penthouse setback  
4 stuff, like that's just, is a nonstarter for some people on  
5 this Board, I know for sure. And so -

6 ZC CHAIR HOOD: And I will be -- suffice that to  
7 say it's a nonstarter. So let's see what we can do. I think  
8 the Chairman's advice is very -- something you want to take  
9 heed to.

10 CHAIRMAN HILL: Yes?

11 MR. BLAKE: And just to clarify because we're --  
12 it's the -- the rear yard setbacks and then also the -- the  
13 side yard setback -- the side one-to-one setback for the --  
14 from the side lot lines that -- there wasn't any opposition  
15 to that from the Office of Planning as I understand. Is  
16 there opposition to those setbacks?

17 CHAIRMAN HILL: From us, you mean?

18 MR. BLAKE: Yes.

19 ZC CHAIR HOOD: Just any penthouse relief -- I  
20 just -- any penthouse relief, I can tell you, I am going to  
21 have a problem with. So you need to -- unless you can prove  
22 a case, like he said, I think I've only known maybe BZA to  
23 do it twice.

24 CHAIRMAN HILL: All right, okay. So what you're  
25 asking -- now I need further clarity on this from the Office

1 of Planning -- the side - what is it? So you're looking for  
2 relief from the back for the railing, correct?

3 MR. JESICK: Correct.

4 CHAIRMAN HILL: Okay.

5 MR. JESICK: But there is also the one-to-one  
6 setback from the side.

7 CHAIRMAN HILL: On the penthouse?

8 MR. JESICK: Correct.

9 CHAIRMAN HILL: And what -- can you show me that,  
10 please?

11 MR. JESICK: So --

12 CHAIRMAN HILL: And the Office of Planning was in  
13 support of the relief from the one-to-one setback on the  
14 side?

15 MR. BLAKE: That's correct.

16 CHAIRMAN HILL: And why were you in support of  
17 that?

18 MR. JESICK: I believe the rationale that Mr.  
19 Gordon gave was that it -- it was not as visible as the one  
20 at the rear of the structure. So you're not apparently at  
21 odds to the regulations with the requirement of the one-to-  
22 one setback.

23 CHAIRMAN HILL: Mr. Blake, can you show me that  
24 again?

25 MR. BLAKE: Sure, I can. If I could just quickly

1 and before I flip this sheet. The rationale that we had was  
2 that this is in the middle of a very long block of houses and  
3 that the side yard -- you're not going to be able to see  
4 these side railings at all.

5 CHAIRMAN HILL: See if you can put your hand over  
6 the relief. Right, okay. Okay. I can't speak for the Board  
7 until we see it. So I would go ahead and work with the  
8 Office of Planning to get the penthouse relief on the rear  
9 if you want to keep the -- if they're on Board with the  
10 relief for the sides, then you can come back and make your  
11 case. And unless -- Chairman Hood, do you have any thoughts  
12 about that?

13 ZC CHAIR HOOD: Let's see if we -- anything on the  
14 penthouse, let's see if we can make it -- can make it  
15 whatever the requirement is. I'm going to leave it at that.  
16 Because you may come up with a compelling case working with  
17 the Office of Planning, as the Chairman -- I don't want to  
18 preempt anything or discourage anything.

19 (Simultaneous speaking.)

20 CHAIRMAN HILL: Okay. So I would try -- I would  
21 -- again, in terms of -- well, let me ask another question.  
22 In terms of financing or -- or the project, I mean -- how  
23 much of a delay are you able to absorb? Or -- the reason why  
24 I am asking is again, Chairman Hood is back here again on the  
25 14th. I've already established this now, right? And so you

1 would be again working with the Office of Planning. And then  
2 you would have an opportunity to come back here when Chairman  
3 Hood has already reviewed the record. Does the 14th seem  
4 like a reasonable time for you in terms of your project?

5 MR. BLAKE: We'd like to -- it's getting a little  
6 close Because we're trying to start construction in the  
7 spring. We still have to go through the permit. This is  
8 already pushed back because of -- just an inability to  
9 coordinate with the ANC for the initial hearing. So we've  
10 already been delayed two months. This was supposed to be in  
11 November with holidays and all that kind of --

12 CHAIRMAN HILL: Okay, all right. So then, how  
13 quickly does the Office of Planning think they would have an  
14 opportunity to work with the Applicant so that we could get  
15 back -- it doesn't have to be the Chairman. And so even then  
16 it's probably only buying you a week, but maybe a week is  
17 something. I don't know.

18 MR. JESICK: I would say that's probably about as  
19 fast as you could move it. To move it up one week to the  
20 7th.

21 CHAIRMAN HILL: To move it up one week to the 7th.  
22 Okay, great. So I would work with the Office of Planning.  
23 I would go ahead about that rear railing. I would go ahead  
24 and see what you can do in terms of the argument for even the  
25 -- any penthouse relief. You know, because again, that is

1 where the past people from the Zoning Commission, because  
2 they've had to go through this a lot, they've been the ones  
3 that have been most -- not concerned. They've gone through  
4 a lot of effort in terms of penthouse relief.

5 So I don't know who the next commissioner will be  
6 here on that day, so you will just have to see how that  
7 commissioner works. So I am saying, I would go ahead and  
8 probably show if you adhered to the one-to-one, what it would  
9 look like. What you would have to do to make your argument  
10 that at least the sides should remain the way they are. And  
11 then you know, can work with the Office of Planning for the  
12 rear. Okay?

13 MR. BLAKE: Okay.

14 CHAIRMAN HILL: Okay, so then if we're trying to  
15 get you back here by the 7th of February and still then the  
16 ANC has to have seven days for -- there will be a  
17 supplemental report then again, correct? So the ANC would  
18 have to have a week. What seems to work, Ms. Rose?

19 MS. ROSE: January 24th for the original  
20 submission. That's next Wednesday.

21 CHAIRMAN HILL: For the submission for the  
22 Applicant?

23 MS. ROSE: Yes. And then the response would be  
24 due the 31st.

25 MR. JESICK: The 31st is fine with us.

1           CHAIRMAN HILL: The 31st we would have the report  
2 from the Office of Planning, right?

3           MS. ROSE: Well, who would be -- would someone be  
4 responding to that?

5           CHAIRMAN HILL: Yes. Then the ANC would have to  
6 have an opportunity to -- anyone would have to have an  
7 opportunity to respond to anything that we get from the  
8 Office of Planning.

9           MS. ROSE: So they would need a week, and that  
10 would be on the 7th. So how much time does the Board need  
11 to review it?

12           CHAIRMAN HILL: Okay, all right. I mean, Mr.  
13 Blake, you're only getting one more week. So I will go ahead  
14 and like put you down with Mr. Hood because he's back here.  
15 And so then he'll know what's going on. So we can go on the  
16 same timeline as that previous case that we did, correct?

17           MS. ROSE: Okay, so if you have a hearing on  
18 February 14th?

19           CHAIRMAN HILL: Yes.

20           MS. ROSE: And then the 31st of January the  
21 initial document will be filed. And then the responses would  
22 be due on February 7th.

23           CHAIRMAN HILL: So the 31st -- just so I am clear  
24 -- the 31st is when we get the report from the Office of  
25 Planning? The supplemental? And then that means that you



1 have to get something -- I can't put that on the calendar --  
2 you have to get something to us.

3 All right, so can you work with the Office of  
4 Planning and get those on the 24th, which is a week from  
5 today?

6 MR. BLAKE: Yes.

7 CHAIRMAN HILL: Okay. And then that gives you a  
8 week to get something by the 31st. And then that gives the  
9 ANC or anybody time to submit something by the 7th, and then  
10 we're back here by the 14th.

11 (Pause.)

12 CHAIRMAN HILL: Okay. All right, any questions,  
13 Mr. Blake?

14 MR. BLAKE: No, thank you.

15 CHAIRMAN HILL: Okay, thank you.

16 (Pause.)

17 CHAIRMAN HILL: Or, I am sorry. Just to be clear  
18 again, it's a continued hearing. Okay -- on the 14th.

19 (Pause.)

20 CHAIRMAN HILL: All right, Ms. Rose. Whenever you  
21 like.

22 MS. ROSE: Next application 19654 of 523 8th  
23 Street, LLC. Pursuant to 11 DCMR Subtitle X, Chapter 10, for  
24 area variances from the lot occupancy requirements of  
25 Subtitle G, subsection 704.1, from the rear yard setback

1 requirements of Subtitle G, subsection 705.3, and from the  
2 nonconforming structure requirements of Subtitle C,  
3 subsection 202.2, to construct a rear, first-floor addition,  
4 and add a new third floor to an existing two-story restaurant  
5 in the MU-25 zone at premises 523 8th Street Southeast,  
6 Square 903, Lot 841.

7 Again, a couple of preliminary matters in this  
8 case. First, it has been brought to the staff's attention  
9 that the parking is located in ANC 6B, not ANC 6A as noted  
10 in the application form. However, the correct ANC has filed  
11 a report. Yesterday they filed a report in the case. And  
12 we need an authorization letter from the owner authorizing  
13 the tenant or the tenant's representative to proceed.

14 CHAIRMAN HILL: Okay. Could you introduce  
15 yourself, please?

16 MS. WORSLEY: Sure. My name is Gayll Worsley.  
17 I am the architect.

18 CHAIRMAN HILL: Could you spell your last name,  
19 please?

20 MS. WORSLEY: W-O-R-S-L-E-Y.

21 CHAIRMAN HILL: Worsley?

22 MS. WORSLEY: Yes.

23 CHAIRMAN HILL: Okay. Ms. Worsley, let's see --  
24 first of all, thank you for being with us for the whole day.  
25 I guess you were sworn in at the morning -- in the morning?

1 MS. WORSLEY: I was in the morning, yes.

2 (Laughter.)

3 CHAIRMAN HILL: I feel so bad, because I don't  
4 know where this is going to go now. And it took me this long  
5 to get to this point. I like the restaurant. The restaurant  
6 is really nice. I wish you were the restaurant owner. I'd  
7 feel a lot better about -- I don't know what's going to  
8 happen here. Like -- so you don't have an authorization  
9 letter to represent the property owner, correct?

10 MS. WORSLEY: I do, actually.

11 CHAIRMAN HILL: Oh.

12 MS. WORSLEY: It should have been uploaded  
13 yesterday. If not, I have a copy of it if you'd like to see  
14 it.

15 (Simultaneous speaking.)

16 CHAIRMAN HILL: Oh, well. Now -

17 MS. WORSLEY: The owner -- Ambar actually owns the  
18 property. So -

19 CHAIRMAN HILL: Which exhibit is it? Which  
20 exhibit is it?

21 MS. WORSLEY: It should have been -- I'm not quite

22 -

23 CHAIRMAN HILL: You have the letter with you?

24 MS. WORSLEY: I can forward it to you. I have it

25 -

1 (Simultaneous speaking.)

2 MS. WORSLEY: She emailed it to me yesterday --  
3 they're out of town.

4 (Simultaneous speaking.)

5 MS. WORSLEY: They -- they are the -- Ambar is 523  
6 8th Street.

7 CHAIRMAN HILL: Okay, so -- all right. So you are  
8 -- I guess that was a little bit of the confusion. The  
9 restaurant owns the -

10 VICE CHAIR HART: Can I ask you a question? Ms.  
11 Rose, is the issue that we don't know that Ambar is the owner  
12 of 523 LLC? Is that the -- 523 8th Street, LLC? Is that the  
13 issue?

14 MS. NAGELHOUT: That's part of it. The  
15 application came from the LLC. There's nothing on the record  
16 identifying who the LLC is.

17 VICE CHAIR HART: Yes. And so I understand what  
18 you're saying, Ms. Worsley. It's the issue of -- if it was  
19 Ambar that was, you know, kind of -- the Applicant, then it  
20 would be one thing. But because it's the LLC that -- they  
21 have created, it gives us a little bit of -- kind of one off.  
22 It's like, well who is representing them -- and so I think  
23 that's some of the confusion that we're in.

24 MS. WORSLEY: And they're out -- they're out of  
25 town, so they did send over a letter yesterday and -- I

1 believe it was uploaded. But -

2 CHAIRMAN HILL: Well we have a letter that's dated  
3 from September 21st. That's why I didn't understand when you  
4 said that yesterday.

5 MS. WORSLEY: Oh, she sent a supplemental letter  
6 saying that they -- they are both the owner of Ambar and they  
7 are known as -

8 CHAIRMAN HILL: Okay. And you're saying you have  
9 that there in front of you?

10 MS. WORSLEY: I could forward it to you -- an  
11 email of it.

12 CHAIRMAN HILL: Okay. How do we get a copy of  
13 that?

14 MS. NAGELHOUT: It could be submitted into the  
15 record later and you can proceed with the hearing. It just  
16 -- it would have to come into the record before an order  
17 could be issued.

18 CHAIRMAN HILL: Okay. So please submit that into  
19 the record.

20 MS. WORSLEY: Okay, will do.

21 CHAIRMAN HILL: And anyway you're testifying that  
22 you represent the owner of the building?

23 MS. WORSLEY: Yes.

24 CHAIRMAN HILL: Okay. All right. And then we  
25 have -- the correct ANC is ANC 6A, which we do have -- oh,

1       sorry, 6B. And we do have a letter from 6B? Okay, all  
2       right. So -- okay, Ms. Worsley, I am going to go ahead and  
3       let you present. Okay?

4               MS. WORSLEY: Thank you so much.

5               CHAIRMAN HILL: Yes, you're telling me too.

6               (Laughter.)

7               CHAIRMAN HILL: Let's see, so now I am going to  
8       give you ten minutes on the clock.

9               MS. WORSLEY: Okay.

10              CHAIRMAN HILL: If you can go ahead --

11              MS. WORSLEY: I'll make it brief.

12              CHAIRMAN HILL: Walk through what it is you're  
13       doing. Originally there -- we didn't have -- there was the  
14       confusion about the ANC. We didn't have an ANC report. Now  
15       we have an ANC report. There was the confusion about, again,  
16       authorization. I guess we all feel comfortable now with the  
17       authorization. You're going to submit that into the record  
18       afterwards. And you can go ahead and start and tell us what  
19       you're trying to do and how you're meeting the criteria to  
20       allow us to approve this or deny it.

21              MS. WORSLEY: Okay, very good. This project is  
22       located in the 500 block of 8th Street Southeast. It's a  
23       distinct, two-story restaurant. Their proposal is to do a  
24       third story for additional seating and at some point maybe  
25       private dining, private events. Currently the rear portion

1 is in not-great shape. You'll see even -- so that's a  
2 picture of the rear. Right now the trash cans are placed in  
3 the alley. And as you can see the structure is not in the  
4 greatest of strength. The large -- there's some kitchen  
5 equipment that you see, a fan , an air conditioning unit and  
6 -

7 (Simultaneous speaking.)

8 MS. WORSLEY: Which acts as a kitchen, which is  
9 located in the rear of the -- of the building on the first  
10 floor. With the proposed addition -- essentially we're --  
11 the best way to think about it is that we would be enclosing  
12 the stair that you see that's coming down from the second  
13 floor. And in doing so we are basically going to enclose  
14 that little area that you see, which would take us up to the  
15 property line.

16 One of the strong requests of the ANC as a  
17 community is that we provide a trash room. They have a lot  
18 of problems with rodents and even though the trash cans are  
19 stored relatively neatly, they would much prefer to have an  
20 indoor trash room. And so as a part of the negotiations with  
21 the community we are including an indoor trash room as a part  
22 of the project.

23 The owner is not trying to reinvent the wheel with  
24 the kitchen. We did make some adjustments to the kitchen and  
25 in doing so we did take a look at their rooftop equipment,

1 relocating the existing rooftop unit, which is located toward  
2 the front and all kitchen equipment. And one of the things  
3 that we discovered as we went through the code requirements  
4 for setbacks and separations is that the current  
5 configuration doesn't quite meet what's required for  
6 distances between intakes and exhausts.

7 So as we enclose this, we did try to explore how  
8 to figure the stair. And we did meet it with a -- a hardship  
9 and try to get stair area and get the kitchen equipment out.  
10 The distance is the separation at this rear portion of -- and  
11 get the trash room in at the same. So we just had practical  
12 difficulty in fitting a lot of stuff in a little bit of  
13 space. But we did make it work. And we're just requesting  
14 relief on the ground of that we are -- we need to be  
15 egressed. We need to keep our code required distances for  
16 the mechanical equipment. And we already basically are  
17 enclosing what's there. We're not impacting the community  
18 in a negative way.

19 CHAIRMAN HILL: Okay. Does anybody have any  
20 questions for the Applicant?

21 (No audible response.)

22 CHAIRMAN HILL: All right, I am going to turn to  
23 the Office of Planning, please?

24 MR. MORDFIN: Good afternoon, I am Steve Mordfin  
25 with the Office of Planning. And the Office of Planning



1 supports this application. The Applicant did apply for  
2 relief from rear yard, not conforming structures, and lot  
3 occupancy. Lot occupancy is permitted at 100-percent for  
4 commercial uses. And it's only limited for residential uses.  
5 As this building will be 100-percent commercial with no  
6 residential at all, OP finds that there is no need to grant  
7 relief for lot occupancy.

8 The other two -- the rear yard, the Applicant is  
9 going to build back to the rear lot line and go straight up  
10 for the three floors. So there's two different rear yard  
11 requirements. Office of Planning recommends approval of both  
12 of the, which will allow the Applicant to construct the trash  
13 room at the alley, which is where it needs to be for the  
14 collection of refuse, and then it will then go up and allow  
15 for the installation of the second stairwell at their back,  
16 which is needed for health requirements and also to allow the  
17 kitchen to be vented up to through the roof.

18 And the last one, nonconforming structure, because  
19 the Planning Office also recommends approval for the  
20 extension of a nonconforming structure there. So the Office  
21 of Planning recommends approval of this application and is  
22 available for questions. Thank you.

23 CHAIRMAN HILL: Okay. So Ms. Worsley, this was  
24 self-certified?

25 MS. WORSLEY: Yes.

1 CHAIRMAN HILL: Okay. So the Applicant doesn't  
2 need lot occupancy is what the Office of Planning is saying?

3 MR. MORDFIN: That's correct.

4 CHAIRMAN HILL: Okay. So you understand that  
5 part?

6 MS. WORSLEY: Yes, I do.

7 CHAIRMAN HILL: Okay. So you would be all right  
8 with changing the application that you don't need lot  
9 occupancy?

10 MS. WORSLEY: Yes.

11 CHAIRMAN HILL: Okay. And if they don't need lot  
12 occupancy, then do they still need nonconforming structure?

13 (Pause.)

14 MR. MORDFIN: It doesn't appear they need  
15 nonconforming structure, I don't think, because -- oh -

16 MS. WORSLEY: The stair.

17 MR. MORDFIN: The stair. Well, it will be  
18 nonconforming in there when they've completed it. I don't  
19 know if they meet the rear yard requirement as it's required  
20 currently.

21 MS. WORSLEY: I believe because of the stair and  
22 the landing that we're still nonconforming.

23 (Pause.)

24 MR. MORDFIN: It doesn't look like they need  
25 nonconforming because the building appears to conform to the

1 requirements.

2 CHAIRMAN HILL: Okay, so they would just need --  
3 variance relief for a rear yard setback requirements for  
4 Subtitle G, section 705.3. That's all they would need?

5 MR. MORDFIN: They would need both rear yard  
6 requirements because they don't provide either the 15-foot  
7 from the center line of the alley for the --

8 (Simultaneous speaking.)

9 CHAIRMAN HILL: Right, I know.

10 MR. MORDFIN: Even at building height, or 15 feet  
11 from the rear lot line or any building height above 25 feet.

12 (Pause.)

13 CHAIRMAN HILL: Mr. Vice Chair, you follow? Okay.

14 VICE CHAIR HART: Yes, we were -- we were just  
15 trying to look at the rear yard is where we got into two  
16 aspects.

17 MR. MORDFIN: Yes.

18 VICE CHAIR HART: One is from the center line of  
19 the alley. One is from the actual lot itself, the lot line.

20 CHAIRMAN HILL: Correct.

21 VICE CHAIR HART: But there. So I understand  
22 that.

23 CHAIRMAN HILL: So how do we make the motion?

24 VICE CHAIR HART: So it would be that the  
25 Applicant would be -- that we would be approving the

1 variances for rear yard setback requirements of Subtitle G,  
2 705.3. Correct? I'm making sure that that's the only one  
3 that in fact that you've -- the one we've listed, and also,  
4 two, that is listed in OP report.

5 MR. MORDFIN: Yes.

6 CHAIRMAN HILL: All right, so -

7 MS. ROSE: In the record we will need a revised  
8 self-certification.

9 MS. WORSLEY: I'll provide that as well if -- when  
10 I put the -

11 MS. ROSE: Thank you.

12 CHAIRMAN HILL: Okay, Ms. Worsley, it's been a  
13 long day for me. And I, thank goodness, have other people  
14 up here. Do you understand what you're going to be revising  
15 the self-cert to say?

16 MS. WORSLEY: Yes.

17 CHAIRMAN HILL: Okay. All right, and I'm  
18 following your lead now, Vice Chair, I mean. Okay.

19 (Laughter.)

20 CHAIRMAN HILL: All right, so do you have any  
21 questions for the Office of Planning, Ms. Worsley?

22 MS. WORSLEY: No.

23 CHAIRMAN HILL: Does the Board have any questions  
24 for the Office of Planning?

25 (No audible response.)

1 CHAIRMAN HILL: Okay. Is there anybody here from  
2 the ANC?

3 (No audible response.)

4 CHAIRMAN HILL: Is there anybody here wishing to  
5 speak in support?

6 (No audible response.)

7 CHAIRMAN HILL: Is there anyone here wishing to  
8 speak in opposition?

9 (No audible response.)

10 CHAIRMAN HILL: Is there anything else you'd like  
11 to say, Ms. Worsley?

12 MS. WORSLEY: No, thank you.

13 CHAIRMAN HILL: Is there anything the Board has  
14 for Ms. Worsley?

15 (No audible response.)

16 CHAIRMAN HILL: Okay. I am going to go ahead and  
17 close the hearing. Is the Board ready to deliberate? Okay,  
18 Mr. Hart, could you help me?

19 VICE CHAIR HART: Mr. Chairman, sure. Thank you,  
20 Mr. Mordfin, for your information and stepping through this  
21 -- it doesn't seem like it's that difficult, but it seems  
22 like there are just some pieces that we were trying to  
23 understand. If - and for the Office of Planning report on  
24 that project I actually agree with the Office of Planning  
25 report for the project. And I think that -- that the Board

1 should vote to approve the application of the, I guess,  
2 revised relief that we've noted, which is for the variances  
3 for the rear yard setback requirements of Subtitle G, 705.3.  
4 And to remove the other relief that's -- that was requested.

5 (Simultaneous speaking.)

6 CHAIRMAN HILL: Yes, I was going -- I'm saying,  
7 how is that different from what I first said?

8 (Laughter.)

9 CHAIRMAN HILL: I'm going to have to go back and  
10 -- what? All right. Okay. All right, so does the Board  
11 have any thoughts?

12 MEMBER WHITE: Yes, I'm comfortable with the two  
13 versions of the rear yard relief under Subtitle G, 705.3, I  
14 think. It was spelled out in terms of the two versions of  
15 rear yard relief that are needed for this particular  
16 application. My only other thought is the ANC letter --  
17 talking a little bit about specifically asking for the  
18 interior trash room with access door directly from the  
19 interior of the building as well as a roll-up door accessed  
20 from the exterior. My only question is whether or not that  
21 was something that the ANC wanted us to include as a  
22 condition, or whether or not the Applicant is just going to  
23 incorporate that into the relief, which is fine.

24 VICE CHAIR HART: I mean, I was just looking at  
25 the drawings that were Exhibit 30. I guess it's sheet HR-13,

1 which is a floor plan. They actually have the trash room.  
2 That's included in there. It's got a rolling door. It's  
3 actually identified as one five by seven rolling door.  
4 There's an access -- or, access to the trash room from the  
5 interior of the restaurant. So it looks like there's  
6 actually --

7 (Simultaneous speaking.)

8 MEMBER WHITE: That's fine. That's fine. I just  
9 couldn't -- it was a little small. I couldn't make that out.

10 VICE CHAIR HART: See, I just blew it up on my  
11 laptop.

12 MEMBER WHITE: Thank you. I'm comfortable with  
13 it.

14 VICE CHAIR HART: So, I think with that -- I'd  
15 make a motion to approve application number 19654 of 523 8th  
16 Street, LLC for the variances for the rear yard setback  
17 requirements of Subtitle G, 705.3. To construct a rear  
18 first-floor addition and add a new third floor to an existing  
19 two-story restaurant in the MU-25 zone at premises 523 8th  
20 Street Southeast, Square 903, Lot 841.

21 CHAIRMAN HILL: Second. Motion was made and  
22 seconded. All of those in favor, aye.

23 (Chorus of aye.)

24 CHAIRMAN HILL: All of those opposed.

25 (No audible response.)

1 CHAIRMAN HILL: The motion passes, Ms. Rose.

2 MS. ROSE: Staff would record the vote is four to  
3 zero to one, with the motion by Mr. Hart seconded by Mr.  
4 Hill. With Ms. White and Mr. Hood in support of the motion,  
5 with one voice in favor therefore the application is amended.

6 CHAIRMAN HILL: Summary order?

7 MS. WORSLEY: Thank you.

8 CHAIRMAN HILL: Okay thank you. Thank you very  
9 much.

10 PARTICIPANT: Thank you.

11 PARTICIPANT: Have a good night.

12 CHAIRMAN HILL: Mr. Moy, is there -- I mean -- Mr.  
13 Moy

14 (Laughter.)

15 CHAIRMAN HILL: Ms. Rose, is there anything left  
16 for the Board today?

17 MS. ROSE: I'll check.

18 CHAIRMAN HILL: Okay.

19 MS. ROSE: No.

20 CHAIRMAN HILL: No? All right, great. Then we  
21 stand adjourned. Thank you.

22 (Whereupon, the above-entitled matter went off the  
23 record at 5:45 p.m.)

24

25



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This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: Board of Zoning Adjustment

Date: 01-17-18

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.

  
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Court Reporter

**NEAL R. GROSS**

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