

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF: :
   
:
   
OFFICE OF PLANNING : Case No. 17-23
   
TEXT AMENDMENT :
   
:
   
-----:

Thursday,
   
April 19, 2018

Hearing Room 220 South
   
441 4th Street, N.W.
   
Washington, D.C.

The Public Hearing of Case No. 17-23 by the
   
District of Columbia Zoning Commission convened at 6:30
   
p.m. in the Jerrily R. Kress Memorial Hearing Room at 441
   
4th Street, N.W., Washington, D.C., 20001, Anthony J.
   
Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairperson
- ROBERT MILLER, Vice Chair
- PETER G. MAY, Commissioner (NPS)
- MICHAEL TURNBULL, Commissioner

OFFICE OF ZONING STAFF PRESENT:

- SHARON S. SCHELLIN, Secretary
- JACOB RITTING

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director  
JOEL LAWSON  
ELISA VITALE

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

PAUL GOLDSTEIN

The transcript constitutes the minutes from  
the Public Hearing held on April 19, 2018.

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

6:32 p.m.

1  
2  
3 CHAIRMAN HOOD: Good evening, ladies and  
4 gentlemen. This is a public hearing of the Zoning Commission  
5 for the District of Columbia. Today's date is April 19,  
6 2018. My name is Anthony Hood. We're located in Jerrily R.  
7 Kress Memorial Hearing Room.

8 Joining me this evening are Vice Chair Miller,  
9 Commissioner Shapiro, Commissioner May, and Commissioner  
10 Turnbull, Office of Zoning staff, Ms. Sharon Schellin, Office  
11 of Planning staff, Ms. Steingasser, Ms. Vitale, and Mr.  
12 Lawson, DCRA, Office of Consumer and Regulatory Affairs, Mr.  
13 Goldstein. Anybody else?

14 This proceeding is being recorded by a court  
15 reporter, and it's also webcast live. Accordingly, we must  
16 ask you to refrain from any disruptive noise. Notice of  
17 today's hearing was published in the D.C. Register, and  
18 copies of that announcement will be available to the left,  
19 on the wall near the door. The hearing will be conducted in  
20 accordance with provisions of 11 DCMR, Chapter 5, as follows:  
21 preliminary matters, presentation by the Office of Planning,  
22 reports of other government agencies, report of the ANC,  
23 organizations and persons in support, organizations and  
24 persons in opposition, and organizations and persons  
25 undeclared. The following time constraints will be

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1 maintained in this meeting.

2           The Office of Planning has up to 60 minutes, but  
3 I think we can do it probably in 10, so we can ask our  
4 questions, organizations 5 minutes, individuals 3 minutes.  
5 The staff will be available throughout the hearing to discuss  
6 procedural questions.

7           Please turn off all electronic devices at this  
8 time, so as not to disrupt these proceedings. At this time,  
9 the Commission will consider any preliminary matters. Does  
10 the staff have any preliminary matters?

11           MS. SCHELLIN: No, sir.

12           CHAIRMAN HOOD: Okay, so we will turn that over  
13 to Ms. Vitale.

14           MS. VITALE: Good evening, Mr. Chair, and members  
15 of the Commission, Elisa Vitale with the Office of Planning.  
16 In December of 2017, after having worked with the 2016 zoning  
17 regulations for just over one year, OP proposed a text  
18 amendment, Zoning Commission Case 17-23, that revised the  
19 definitions of attached, semi-detached, and detached  
20 buildings, updated the rules of measurement for side yards,  
21 and, more specifically, revised the development standards for  
22 side yards in the R, RF, and RA zones.

23           The proposed text would have resulted in the  
24 regulation of side yards in a manner more consistent with the  
25 1958 zoning regulations and would have permitted lot line

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1 development and the provision of no side yard for corner lots  
2 in the RF and RA zones.

3           When this text amendment was set down, we  
4 understand that there was some reluctance on the part of the  
5 Zoning Commission, but we believe that through our  
6 presentation tonight and the analysis that we've done, we can  
7 address some of the concerns expressed.

8           We see three key areas, new construction and the  
9 requirement for a shared common division wall, additions and  
10 extensions to existing buildings, and the treatment of corner  
11 lots. We'll walk through these three key issues in more  
12 detail in our presentation. With respect to new  
13 construction, as we discussed in our set down and hearing  
14 reports, and in the discussion at set down, the 2016 zoning  
15 regulations included certain changes to definitions in side  
16 yard regulations.

17           In particular, changes to the definitions of  
18 detached, semi-detached, and attached buildings resulted in  
19 a shift in the zoning administrator interpretation and  
20 application of the side yard regulations.

21           These changes resulted in the requirement to  
22 provide a side yard on each freestanding side of the building  
23 where there's not a shared common division wall.

24           While we understand that these changes were  
25 intentional and were implemented at the direction of the

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1 Commission and were meant to address concerns that had arisen  
2 from past practice, particularly as it related to certain BZA  
3 cases, we have found that there have been some unintended  
4 consequences. For new construction, we're finding that the  
5 2016 regulations are creating challenges for property owners  
6 that are proposing infill. These developments are often on  
7 narrow lots, where it would not be realistic to provide the  
8 required side yards. Furthermore, these infill projects are  
9 often happening in instances where the developer or the  
10 property owner may not control adjoining properties, and  
11 there also may not be buildings on those adjoining properties  
12 to which the new construction could attach, and thereby  
13 achieve that common division wall.

14 We're finding that this is somewhat in conflict  
15 with one of the goals of the zoning update, which was really  
16 to encourage and facilitate infill construction on existing  
17 record lots in the District.

18 With the changes that we're proposing in the text  
19 amendment for new construction, we're trying to allow people  
20 to build the types of buildings that are anticipated by the  
21 zone, rather than constrain development based on context and  
22 what may exist at a given moment in time on an adjoining  
23 property.

24 We believe that a semi-detached building should  
25 be permitted, where it's contemplated by the zone, in R3 and

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1 R4, and a row house should also be permitted in the row house  
2 zones, in the R4 zones in the city. The next issue is really  
3 additions or extensions. Again, with the update to the  
4 zoning regulations in 2016, we consciously made some changes,  
5 in order to address issues.

6 One of the desires was to preclude the ability for  
7 a property owner to obtain greater lot occupancy by  
8 constructing an addition. For existing buildings, we  
9 understand that there's certain expectations with respect to  
10 yards, open space, and the ability to maintain property.

11 This is an area where we believe that we can  
12 actually further refine the proposed text, so this would be  
13 new language that you haven't seen. We would request the  
14 opportunity and the ability to work with the Office of the  
15 Zoning Administrator and OAG on this issue.

16 Through additional discussions with DCRA staff and  
17 folks in the Office of the Zoning Administrator, we've  
18 determined that while the language of the 2016 zoning  
19 regulations attempted to prevent the elimination of existing  
20 side yards, zoning administrator interpretation and  
21 application has, in the past, treated conforming side yards  
22 differently than non-conforming side yards. The literal  
23 reading by the zoning administrator would permit the  
24 elimination of a conforming side yard; whereas, it would not  
25 permit -- you had to maintain a non-conforming side yard.

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1           What we're proposing is, like I said, we'd like  
2 to work with the Office of the Zoning Administrator and OAG  
3 to refine this language and come up with new language that  
4 captures the intent that would be -- that both a conforming  
5 or a non-conforming side yard should not be reduced or  
6 eliminated below the minimum width set out for the zone.

7           What we had proposed -- and we still believe that  
8 this is appropriate -- we believe a five-foot minimum side  
9 yard would be appropriate for the R1, R2, and R3 zones, and  
10 that a three-foot minimum would be appropriate in the RF and  
11 RA zones.

12           We would note that three-foot minimum is an  
13 increase over the regulations in 2016. In 2016, we had  
14 proposed two feet. Upon further study, we think to truly  
15 allow for maintenance and access, three feet would be more  
16 appropriate. We believe that this approach really should  
17 preclude the ability of a property owner to gain additional  
18 lot occupancy. There had been cases where the owner of a  
19 semi-detached building constructed an addition, and that  
20 effectively converted a semi-detached building to an attached  
21 building.

22           We think that our new proposal would really  
23 recognize and confirm the findings of the Board, particularly  
24 in two BZA cases that were appealed. That's 16811, the  
25 Pritchard case, and 17519, which was ANC 2E. There's a lot

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1 of text and a lot of color up here on the screen.

2           This is actually from our hearing report. This  
3 is the new proposed text for the development standards for  
4 side yards for the R zones. The red text is text that was  
5 new between set down and our hearing report.

6           The strikethrough blue text was text that was in  
7 our set down report, but we believe is no longer necessary  
8 and we would recommend deleting. You can see it's been  
9 refined from set down to more simply address the side yard  
10 requirement, based on building form. For the R zones, it  
11 would require two 8-foot side yards for detached buildings,  
12 one 8-foot side yard for a semi-detached building in the R2  
13 zone, one 5-foot side yard for a semi-detached building in  
14 the R3 zone, and no side yards would be required for attached  
15 buildings. As I just discussed, we would like the  
16 flexibility to refine the language in Sections 206.6 and  
17 206.7, again, to address this issue of constructing an  
18 addition to a semi-detached building or reducing or  
19 eliminating a side yard where there's an existing building.

20           I will note we're not recommending changes to the  
21 Forest Hills trans slope zones. Those are the R8, R9, and  
22 R10 zones. Going back to the overlays in the '58 regs, those  
23 zones had a different treatment for side yards. They had an  
24 8-foot minimum and, I believe, a 24-foot aggregate, so we  
25 maintained that standard in 2016.

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1           We would continue to recommend maintaining that  
2 standard moving forward. We had noted that we would not  
3 change the side yard requirements with respect to the  
4 Georgetown zones, the R19 and R20 zones, but given our new  
5 approach with respect to semi-detached buildings and the  
6 preservation of side yards, we believe that addresses the  
7 concerns that had been identified in the Georgetown zones,  
8 so we would recommend treating them the same way as the other  
9 R3 zones. The next slide, this is the proposed text for the  
10 RF zones. In the RF zones, the row house zones, we would  
11 require two side yards for detached buildings, one side yard  
12 for semi-detached buildings, and no side yards for attached  
13 buildings.

14           Any side yard provided in an RF zone would need  
15 to be a minimum of five feet in width. Again, the minimum  
16 non-conforming could go down to three feet, as we described  
17 earlier. Again, the language in 207.3 would likely change,  
18 based on our discussions with the Office of the Zoning  
19 Administrator and OAG. I haven't included a slide here with  
20 the RA zones.

21           We're generally proposing the text that was set  
22 down for the residential apartment zones. Again, the only  
23 exception there would be the language relating to the  
24 reduction or elimination of existing side yards. Another  
25 area where concerns were identified at set down were corner

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1 lots. We surveyed the treatment of corner lots in the  
2 regulations, as well as the existing situation in the built  
3 form across the city. Side yards, there's always been a  
4 provision, since 1958, that says a side yard's not required  
5 along the side street abutting a corner lot. This provision  
6 was carried forward and applied to the RF and RA zones in  
7 2016, and the RA zones, only, in the 2018 language that was  
8 set down.

9 Here are two examples. This was the type of  
10 survey that we did using GIS with building footprints. In  
11 looking at the neighborhood development patterns, we found  
12 that buildings really were generally built to the corner and  
13 frequently did not provide a side yard abutting the side  
14 street.

15 There certainly are exceptions. On the screen  
16 now, these are row house zones, RF zones. In the  
17 neighborhood on the left, at the southern end, you can see  
18 the intersection of 15th and Buchanan Streets. At that  
19 intersection, the corner lots are larger.

20 The buildings fronting 15th Street are pulled  
21 back, and there is a side yard provided along the corner  
22 there. If you look at the neighborhood on the right, you'll  
23 see that on the corners, there are no side yards provided.  
24 There really was a good amount of variety. We do think,  
25 given the new development and the new proposal to require the

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1 maintenance of existing side yards, that would, then,  
2 preserve this situation in those instances where there is  
3 that side yard provided on a corner, but would also allow for  
4 new construction to build up to the property line because  
5 that certainly is a common practice in the city.

6           Here are examples in the R3 zone. Certainly, in  
7 R3, you have a greater variety of building form, with more  
8 detached and semi-detached buildings. Here, you really can't  
9 even begin to quantify a standard. There really is variety  
10 in terms of whether a setback's provided or not.

11           Frequently, when you've got a detached building,  
12 you see that setback provided, but there certainly are  
13 instances where that's not the case. We do want to highlight  
14 for you that the proposed text would still allow for the  
15 construction of a semi-detached building on a property line.  
16 We are not bringing forward the requirement for the shared  
17 common division wall. It would allow discretion. It would  
18 allow what you see here. If you had two adjacent properties,  
19 where semi-detached buildings were contemplated, you can see,  
20 on the left side, the semi-detached building could be sited  
21 at the interior property line, or it could be sited at the  
22 side street line.

23           We believe this approach is consistent with the  
24 treatment of corner properties dating back to the 1958  
25 regulations. In the instance of an attached building, say

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1 in an RF zone, again, a new attached building could be  
2 constructed that would provide no side yards and would not  
3 share a common division wall.

4 We want to make sure that's clear. We believe  
5 there was one letter in the record where there may have been  
6 a misunderstanding of the proposal. We would recommend that  
7 relief from the side yard requirements for additions or  
8 extensions be available via special exception, and for new  
9 construction, that relief from the side yards would be by  
10 variance.

11 We do have a summary of BZA cases that have been  
12 filed under the 2016 regulations. There have been 26 filed.  
13 One was actually an extension, so those were from the 1958  
14 regulation provisions. One case was withdrawn. There have  
15 been seven cases requesting variance relief for new  
16 construction, and then 19 cases that were special exception  
17 relief for additions or extensions.

18 That actually concludes our presentation report.  
19 We have not uploaded this to the record so we request that  
20 the record be held open, so that we can submit the  
21 presentation to the record. Otherwise, we're here and happy  
22 to answer any questions and look forward to your discussion  
23 and direction. Thank you.

24 CHAIRMAN HOOD: Thank you, Ms. Vitale. Let me  
25 just ask about this slide. Do we know, of that, were all of

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1 those approved?

2 MS. VITALE: This is a summary. Some of these are  
3 still pending, so no. This really is everything in the  
4 pipeline from the effective date of the new regulations until  
5 now.

6 CHAIRMAN HOOD: Okay, thank you very much. Let's  
7 see if we have any comments or questions. I'm sure we do.  
8 Commissioner Shapiro.

9 COMMISSIONER SHAPIRO: I have a few questions,  
10 just for clarification. First of all, here and the slide  
11 before, Ms. Vitale, I didn't understand what's existing and  
12 what's proposed, in terms of relief, the distinction between  
13 variances and special exceptions. There was a little too  
14 much going on for me there, so help me with that again.

15 MS. VITALE: Basically, now, if a homeowner has  
16 an existing building and they're proposing an addition or an  
17 extension to that existing building, and they do not meet a  
18 yard requirement, say the rear yard requirement, they would  
19 be able to request relief as a special exception. That would  
20 be --

21 COMMISSIONER SHAPIRO: But just stick with the  
22 side yard?

23 MS. VITALE: That's what we're proposing here.  
24 If someone had an existing building, they didn't meet the  
25 minimum side yard requirement, and they -- say they were in

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1 an RF zone, they had a two-foot side yard, we're saying the  
2 absolute bare minimum for a non-conforming would be three  
3 feet, so they would need relief if they wanted to continue  
4 that two foot --

5 COMMISSIONER SHAPIRO: Special exception or  
6 variance?

7 MS. VITALE: Special exception if they wanted to  
8 continue that two-foot side yard. Whereas, if you were  
9 proposing new construction and you were in a zone where two  
10 8-foot side yards were required, and you wanted to build a  
11 new house, and you were proposing to provide two 4-foot side  
12 yards, you would need to go to the Board of Zoning  
13 Adjustment. The relief would be a variance for that.

14 COMMISSIONER SHAPIRO: So the distinction is  
15 existing versus new construction?

16 MS. VITALE: Correct.

17 COMMISSIONER SHAPIRO: Then I also didn't  
18 understand -- I could use a little clarification about this  
19 issue related to the semi-detached -- the additions. What  
20 are you working to avoid with --

21 MS. VITALE: It has happened that there might be  
22 a semi-detached house, so they had one side yard. They could  
23 have attached to another property, along one property line,  
24 but they would have one side yard. There are different  
25 requirements with respect to lot occupancy. For a

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1 semi-detached building, your lot occupancy would be 40  
2 percent. If you're an attached building, your lot occupancy  
3 would go up to 60 percent. It was in a homeowner's interest  
4 to basically convert that semi-detached building to an  
5 attached building. As soon as you go lot line to lot line,  
6 you're --

7 COMMISSIONER SHAPIRO: You pick up an extra 20  
8 percent.

9 MS. VITALE: -- considered attached, and then your  
10 lot occupancy would go up from 40 to 60 percent. We're  
11 saying we would propose that if you have an existing side  
12 yard, it cannot be reduced or eliminated below the minimum  
13 required by the zone.

14 COMMISSIONER SHAPIRO: Playing devil's advocate,  
15 if you could, not as an administrator, but as a planner,  
16 what's wrong with that? What would be wrong with allowing  
17 for that additional density?

18 MS. VITALE: I think --

19 COMMISSIONER SHAPIRO: From a planner's  
20 perspective.

21 MS. STEINGASSER: It gets to the issue that we're  
22 dealing with, and the BZA, especially, is wrestling with this  
23 issue of character, when one typology interjects itself in  
24 the middle of a row of otherwise fairly homogenous properties  
25 or buildings. So you end up with a lot occupancy that's far

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1 in excess of what is expected in that zone, so it just  
2 becomes extremely out of character.

3 COMMISSIONER SHAPIRO: That's fair, thank you.  
4 Let me see if I had any other questions. I'm sure there's  
5 going to be some. The next slide with these cases, the list  
6 of cases, I don't remember where that was.

7 There, 19 and 7, the 19 is for relief for  
8 additions or extensions. Do you have any sense, of those 19,  
9 how many would you say are end runs around this with an  
10 attempt -- the kinds that would change the typology and would  
11 mess with the character of the neighborhood?

12 MS. VITALE: I think only one of these is in the  
13 R3 zone. That's really where you would find that  
14 semi-detached form. I can't speak to the particulars of  
15 that.

16 COMMISSIONER SHAPIRO: I'm just trying to get a  
17 sense of how big a problem this is. Thank you. Thank you,  
18 Mr. Hood. That's all I have for now.

19 CHAIRMAN HOOD: Who would like to go next?  
20 Commissioner May.

21 COMMISSIONER MAY: Thank you, sir. I have quite  
22 a few thoughts on this. I appreciate the fact that you  
23 mentioned the -- whatever it was -- 207, where there was a  
24 difference in treatment between an existing building with a  
25 non-conforming side yard versus an existing building with a

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1 conforming side yard because I noticed that, too.

2 I thought if I have a conforming side yard, I can  
3 convert to an attached building without any problem. I'm  
4 glad you caught that. I would suggest that maybe you just  
5 need a 207.4 that mimics the same language and just has it  
6 apply to conforming side yards, rather than non-conforming  
7 side yards, rather than try to cover everything in a single  
8 paragraph.

9 I was a little confused by the statement that you  
10 think, now, that the Georgetown specialized R3 zones don't  
11 need that special protection. Can you explain that to me,  
12 again? Because I noticed that in looking through the  
13 standards for those specialized zones and thought oh, well,  
14 Georgetown's going to get different treatment. Why is that?  
15 Now you're saying it doesn't need it.

16 MS. VITALE: I think it is the preservation of  
17 existing side yards. When Georgetown did the custom zone and  
18 evaluated the neighborhood and the development pattern in  
19 that neighborhood in the building form, one of their concerns  
20 was preserving -- where there was a side yard, to preserve  
21 that.

22 We think now, at least with respect to side yards,  
23 if we require the maintenance of existing side yards, we  
24 would then accomplish the same goal that we were trying to  
25 accomplish through the special requirements for Georgetown

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1 in their custom zone.

2 COMMISSIONER MAY: Have you had any discussion  
3 with ANC 2E? Is that who it was that you worked with on --  
4 you worked very closely with one ANC to draft that customized  
5 zone early on.

6 MS. VITALE: We have not reached out to them.

7 COMMISSIONER MAY: I think it would be worthwhile  
8 to just confirm with them that they understand this and that  
9 we're not doing -- slipping in a change to the zone that they  
10 had worked very carefully with you to customize. Can we  
11 bring up the slide that had the side yards with the streets  
12 abutting? I think I understand what the point of this is,  
13 but I think one of the things that I want to understand, as  
14 a planning rationale -- and this is one of the things I was  
15 trying to get at in the set down discussion -- is that we  
16 just ignore the fact, for the moment, that you are -- the  
17 diagram on the left is assuming that there's a street there.

18 That zero lot line development is fair game now.  
19 Right? You can do semi-detached houses. You could do ten  
20 of them in a row, with one side of the house on the lot line  
21 and one side of the house with a side yard.

22 MS. VITALE: Correct.

23 COMMISSIONER MAY: Previously, that's not --  
24 that's not a building type that has been encouraged in the  
25 District, from a planning perspective, as far as I recall.

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1 MS. VITALE: Certainly, this has -- zero lot line  
2 development has been contemplated since 1958 through 2016.  
3 The 2016 regulations were a change.

4 COMMISSIONER MAY: Don't try to go back on the  
5 history on that because I disagree with that depiction. I  
6 think it was not intended in the 1958 regulations, and it got  
7 bent out of shape in practice. So let's not try to go back  
8 to that. I want to understand more of the planning  
9 rationale.

10 MS. VITALE: Planning wise, I do think this isn't  
11 -- the District is a built-out city. I think what we are  
12 seeing, generally, are infill lots. We're not generally  
13 seeing strings of ten new either attached or semi-detached  
14 construction going in.

15 I think here, this is just acknowledging the fact  
16 that frequently, people are faced with one lot and no control  
17 over what's going on the lot adjacent to it, so to require  
18 that shared common wall, and to prohibit zero lot line  
19 development, it becomes unrealistic and essentially prevents  
20 someone from constructing a building form that is  
21 contemplated in the zone.

22 COMMISSIONER MAY: I think maybe I'm being  
23 misunderstood in what I'm trying to say. I agree, and  
24 understand, with the intention to try to solve that problem  
25 of infill housing and what can you do when you own a single

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1 property and it's not wide enough to build it with the  
2 required side yards and so on? It's more that the -- as a  
3 housing type, the way you are proposing that the regulations  
4 be rewritten will allow that this sort of development  
5 pattern, where you could have a row of several houses with  
6 one free-standing wall and one on the lot line -- again, I  
7 don't believe that was -- the only places where we see that  
8 kind of development is typically where you have ganged  
9 houses.

10           You have a pair of zero lot line, and they share  
11 that common division wall. Sometimes, one of them would get  
12 built, and the other one wouldn't. That might happen in a  
13 rare circumstance.

14           But in the history of the development of  
15 Washington, there's not a lot of zero lot line development,  
16 where you basically take the required side yard and you put  
17 it all on one side of each house, and it makes it easier,  
18 rather than splitting the difference. It's a completely  
19 valid building form, but it's not something that has been  
20 regularly happening here. But we are, in fact, if we take  
21 this action, saying that's perfectly okay. I think it was  
22 perfectly okay by practice before, even if I disagreed with  
23 the practice. I just want to understand -- I guess I'm  
24 looking for either acknowledgment that yes, you think that's  
25 perfectly fine, or it's fine, but it's really never going to

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1 happen because we just don't have enough land where it's  
2 going to develop that way.

3 MS. VITALE: I think it's a bit of a combination.  
4 I think we do see this because you see a little bit of  
5 everything, certainly, depending on the neighborhood, the  
6 subdivision. I think this does happen, maybe even more --  
7 I think I was surprised, in looking at GIS maps, how varied  
8 it really is.

9 There are certainly examples, and I do appreciate  
10 that the common vision for a semi-detached is a shared common  
11 division wall, and then your free-standing sides are kind of  
12 the far edges of those two lots. I think it does happen.  
13 I do think it probably won't happen a lot. I do think, in  
14 those instances where we are seeing a quantity of new  
15 development, either semi-detached or row dwellings, those are  
16 frequently -- we've seen a lot of cases that have come to the  
17 BZA because it's R5A, and they're going through a design  
18 review process. There is that opportunity to look at how the  
19 development is being laid out. I think we're also looking  
20 for direction from you, in terms of, if this isn't a building  
21 form that you want to see or want to permit, then that's  
22 helpful for us to know, as well.

23 COMMISSIONER MAY: I think we don't want to  
24 venture too far into planning. We're, theoretically, just  
25 the Zoning Commission. We don't set the planning guidance.

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1 That's done by others, and largely you all. I'm glad you  
2 mentioned the RA1 development standards, or development  
3 review. I can appreciate that. That makes sense.

4 I think, however, there's not really an explicit  
5 requirement in that review, in that special exception relief,  
6 that there be an analysis of lot occupancy and placement of  
7 buildings on the site and so on. If you see it's an issue,  
8 you talk about it, but otherwise, there's not an explicit  
9 requirement to address this, is there?

10 MS. VITALE: Site design and site planning is  
11 definitely one of the -- I don't have the criteria in front  
12 of me, but I do know that the layout is contemplated as part  
13 of that review.

14 COMMISSIONER MAY: Since you're going to be  
15 working on some other language, it might be worthwhile taking  
16 a look at what's required under the review that the Office  
17 of Planning would provide for the BZA in those circumstances.  
18 Another reason I'm even thinking about this is that I was on  
19 BZA this week and we had one.

20 They're not very frequent, but I don't recall that  
21 site design was much of a debate. It was materials and stuff  
22 like that. You mentioned the Pritchard case, 16-811. That  
23 tells me how long ago I was on that case, since we're now  
24 almost at 20,000 cases, and that's 16,000 something.

25 I remember that case very clearly, and the

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1 circumstances around it. But if I understand you correctly,  
2 you're trying to prevent that kind of an outcome by limiting  
3 the ability to take an existing building, with any kind of  
4 side yard, from being able to go right to the property line.

5 MS. VITALE: That's correct.

6 COMMISSIONER MAY: I think that's one of the  
7 biggest things, from my perspective, because in my mind, that  
8 was the classic case where you had a row of townhouses and  
9 when you got to the end of the row, there was a bigger side  
10 yard.

11 I thought that was an important planning  
12 principle, and certainly one that we were seeing regularly  
13 in PUDs, when we saw new row house development, where  
14 whenever you got to the end of a row, you had a side yard.  
15 That brings my other question. When we do see PUDs and  
16 people try to build the attached houses in a row, they're no  
17 longer going to be required to have that side yard at the end  
18 of a bar of houses, is that right?

19 MS. VITALE: That's correct.

20 COMMISSIONER MAY: You all think that's a good  
21 idea because? I'm not doubting it; I'm just asking what the  
22 planning rationale is.

23 MS. VITALE: I think there are different  
24 circumstances. Certainly, in our review, if you're looking  
25 at a row house form, where you are doing all attached

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1 buildings, at the end of a row, the setback generally isn't  
2 provided if you're at an alley. It's frequently not provided  
3 at the corner. I don't think we felt that was necessary to  
4 require.

5 MS. STEINGASSER: Can we go to the maps? I think  
6 they're very helpful. You can see here, historically, the  
7 houses at the end have gone to that corner, and there is no  
8 setback in many cases. In a PUD --

9 (Off-mic comment.)

10 MS. STEINGASSER: No. The houses are the little  
11 white parts. You can see where a lot of them run right up  
12 to that corner. As the corner turns, then the side of the  
13 building maintains the street wall with the front façade of  
14 the perpendicular properties. With a PUD, what we see a lot  
15 is much smaller lots, lots that don't meet the matter of  
16 right, 1,800 square feet, and they're asking for flexibility.

17 So there's an opportunity to establish that corner  
18 if it's important, if it provides the open space that might  
19 otherwise be missing. What we're talking about is just a  
20 matter of right and carrying forward that matter of right  
21 condition from the 1958 regs that has always said at a  
22 corner, you don't have to have a side yard.

23 COMMISSIONER MAY: Right, and I'm most concerned  
24 about corners because I think that's -- it's perfectly  
25 natural that you would not have a side yard requirement at

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1 a corner. It's when you have a -- when you go all the way  
2 to the corner, then the next row -- and you turn the corner,  
3 the next block of buildings, their side yard or the side of  
4 their building is going to be against the rear yards of the  
5 first row.

6           Having a little bit of extra space there is  
7 sometimes an important thing. In new construction, I guess,  
8 it's less important because you're going to be -- you're much  
9 less likely to have insufficient rear yard on the one block.

10           Again, this sort of goes back to the Pritchard  
11 case, where what happened was that they were filling in that  
12 side yard, and it meant that the addition was right on the  
13 rear yard boundary of the houses that were on the next street  
14 over.

15           MS. STEINGASSER: There's an example of that in  
16 the upper right corner, Orleans and --

17           COMMISSIONER MAY: Right.

18           MS. STEINGASSER: You can see where there's two  
19 houses that one house, its side yard is adjacent to the rear  
20 yard, so there is that open space.

21           COMMISSIONER MAY: And there's a very tiny side  
22 yard on the left.

23           MS. STEINGASSER: We see it also, then, down at  
24 the end, at the bottom, where 0856, also where the houses run  
25 and then the separation is. Then across the street from

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1 that, there's a little tiny house that actually fills that  
2 in, so there's no yard at all there.

3           We just found, especially in these older  
4 neighborhoods, whether they were Historic, with a capital H,  
5 District, or just historic, that there was all kinds of form  
6 when it came to the row houses, whether they hit the corner  
7 or didn't.

8           COMMISSIONER MAY: I appreciate seeing this and  
9 thinking about it. It is a reminder that in these older  
10 neighborhoods, there are a variety of different forms. Part  
11 of what makes it such an interesting city and so many  
12 interesting neighborhoods are those sorts of conditions. I  
13 wish that some of the things that used to be done, where you  
14 would actually have no rear yard on that corner property,  
15 actually could happen more often. I know that's a zoning  
16 relief issue, but being able to turn the corner completely  
17 and join one row with the other row, I think, actually can  
18 be a very good thing. But it does mean that somebody doesn't  
19 get a yard.

20           I'm getting more comfortable with all of that,  
21 especially since we are trying to make it clear that we don't  
22 want existing side yards to be eliminated -- or eliminated  
23 as a matter of right. Right?

24           I'm also comfortable with shrinking side yards  
25 because, again, I think we're -- we made the move already to

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1 five feet as the minimum, and three feet is more comfortable  
2 than two feet, if you're going to be left with something.  
3 You made reference to the one letter that was in the record,  
4 where they think there's a misunderstanding of what's going  
5 to happen.

6           That's an odd circumstance, it seems. This is a  
7 house on Monroe Street. I don't know if that person is here  
8 to testify today. Oh, they are. We'll hear from them.  
9 We'll talk about that circumstance because I think that it  
10 looks like what they have is row house lots that, then, come  
11 against a wider lot that is a fully detached or a  
12 semi-detached house. Please do not speak up. You'll have  
13 your chance. Thank you. We obviously can't solve for every  
14 single circumstance, but right now, are there two buildable  
15 lots in that circumstance, and then they would -- under the  
16 current change, they would be able to go property line to  
17 property line and called them attached if it's zoned that  
18 way?

19           MS. STEINGASSER: I believe so. That's how we  
20 read it. That's why we --

21           COMMISSIONER MAY: That's different from the way  
22 --

23           MS. STEINGASSER: We think it's different than the  
24 way that letter --

25           COMMISSIONER MAY: Interprets it, right.

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1 MS. STEINGASSER: -- interprets it, and we  
2 appreciated their drawing attention to the fact that that was  
3 how they were reading it, and if it was wrong, they wanted  
4 the right to --

5 COMMISSIONER MAY: Sure, and I'm glad they're here  
6 to talk about it because I think we do want it to be very  
7 clear.

8 MS. STEINGASSER: That's how we read it, and  
9 that's why we felt we needed to identify that.

10 COMMISSIONER MAY: I think that answers my  
11 questions about this. I'm interested in hearing the  
12 testimony. I don't think I have anything more to say, other  
13 than to babble.

14 CHAIRMAN HOOD: Thank you. Mr. Turnbull.

15 COMMISSIONER TURNBULL: Thanks, Mr. Chair. I just  
16 have one thought. Going with this change, one of the things  
17 we often see in the BZA is people want to use the rooftop.  
18 Do you see any issues coming up out of this with setbacks,  
19 if you're pushing it all the way to the end? We still  
20 require the one-to-one setback for -- I'm just curious. Does  
21 this set up any different parameters for us to look at when  
22 we look at these cases?

23 MS. STEINGASSER: I don't anticipate any. I don't  
24 think anybody anticipates any because it's actually kind of  
25 going back to the way the regs were working prior to the '16

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1 adjustment.

2 COMMISSIONER TURNBULL: I was just curious. We  
3 keep running into the situation with some people use a roof  
4 hatch, and yet some always want the little walk-up stairway,  
5 which always gets to be an issue on how far that is away from  
6 -- so I'm just curious how that's going to work out.

7 MS. STEINGASSER: If they wanted to have a  
8 walk-up, and they had the space -- and they didn't have the  
9 space, they would have to come before the BZA and have a  
10 public --- it would be a public hearing, and the adjacent  
11 property owners would be notified.

12 COMMISSIONER TURNBULL: All right, thank you.

13 CHAIRMAN HOOD: Vice Chair Miller.

14 VICE CHAIR MILLER: Thank you, Mr. Chairman, and  
15 thank you, Office of Planning, for your report and  
16 recommendation, which I am supportive of. I do see it as a  
17 clarification. I just had one quick question. Is ANC 1D  
18 here?

19 You're ANC 1D? Okay. I guess I've heard part of  
20 your response to that. We'll hear -- I just wanted to have  
21 your response to the one ANC letter we have in the record,  
22 which was in opposition. I don't know if you wanted to  
23 comment now, or wait until they testify.

24 MS. VITALE: We can certainly comment now. I do  
25 think that this was before we've arrived and solved for the

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1 -- to prevent the elimination of existing side yards. I  
2 think, hopefully, that would go some way towards making them  
3 comfortable, with respect to existing development.

4 VICE CHAIR MILLER: Okay, thank you. Maybe we'll  
5 have more dialogue about that. Thank you.

6 CHAIRMAN HOOD: I just have questions on Page 6.  
7 I think what I'm going to do, since we have so many people  
8 here, what I'm going to do is when I do bring people up for  
9 comment, I'm going to bring the -- if we have enough room at  
10 the table, I'm going to bring everybody up. We're going to  
11 hear the testimony, and then we can have an exchange.

12 I want to include the three people that we have  
13 here in that exchange. That way, we can work through some  
14 of this. I think that will be the better way to do this.  
15 You all can start coming up now, if you don't mind.

16 Let me ask, I need you to walk me through 6,  
17 semi-detached building. As I heard the discussion with  
18 Commissioner May and yourself is how the city's unique, but  
19 sometimes we get away from forms and formality or have a  
20 specific diagram of how things are laid out in the city. I  
21 just don't understand -- I'm trying to see -- when I look at  
22 semi-detached, it joins in the middle, and it's the side  
23 yards, as you mentioned, on the sides.

24 Maybe that's the neighborhoods I grew up in. I'm  
25 not trying to just make it germane to where I grew up, but

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1 I can tell you that to me, I can see a lot of  
2 inconsistencies. Maybe I just don't understand it. Explain  
3 this -- if you could explain to me 6. I know you've talked  
4 about it, but explain it to me, so I can understand  
5 semi-detached buildings, the first drawing we have.

6 MS. VITALE: It may even help to look at some --  
7 again, like we looked at with the R4, with the row house,  
8 some examples.

9 CHAIRMAN HOOD: I tried to follow that, but since  
10 we don't have a pointer, I was trying to figure out where we  
11 were. Maybe if you can tell me where the square and the lot  
12 is, I can get there.

13 MS. VITALE: I was going to say on the left-hand  
14 side, at the top of Square 2651, at the top of the left-hand  
15 map.

16 CHAIRMAN HOOD: 2651? Okay.

17 MS. VITALE: You see that? That's kind of what  
18 we're talking about. When we say semi-detached, we often  
19 think of that row. They're four matched pairs there, where  
20 they share a common division wall, and then you've got the  
21 yard on the resulting freestanding side.

22 That's what we often think of when we think of  
23 semi-detached. But if you go over to the right-hand side and  
24 you look at -- it looks like it's 5766. It's kind of in the  
25 upper right. You see the zone line between MU4. You can see

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1 there, there are two buildings in that square that appear to  
2 sit on the property line.

3           They aren't sharing a common division wall, and  
4 then they have the side yard provided on the free-standing  
5 side, between each one, that provides separation. All we're  
6 saying is, really, that we've found a variety of situations  
7 that we have seen semi-detached treated both in the  
8 conventional way that you would think of, where the  
9 properties share a common division wall, and we also have  
10 seen a number of examples throughout the city where you have  
11 a semi-detached building, but it's a zero lot line  
12 development, and it's not sharing a common division wall.

13           That could be because properties developed over  
14 time, and perhaps there wasn't a building there to attach to.  
15 We think that this isn't an uncommon situation in the  
16 District, and that with the changes that were adopted under  
17 the 2016 regs, someone couldn't do this.

18           If somebody was going to build a new building and  
19 didn't have a neighbor to attach to, they would have to  
20 provide a side yard on both freestanding sides which,  
21 basically, was resulting in a lot that wasn't buildable.  
22 Because if you needed -- if you had an 18-foot lot, which is  
23 an acceptable lot width for a row house in the RF zone, and  
24 you had to provide two side yards, you weren't left with  
25 anything to build a functional home.

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1 CHAIRMAN HOOD: I think one of you mentioned that  
2 this is probably targeted more for our infill, pretty much.

3 MS. VITALE: That's correct.

4 CHAIRMAN HOOD: Now that I've been slowly walked  
5 through it, I think I'm with you now. Commissioner Shapiro,  
6 can I ask -- go ahead, Commissioner Shapiro.

7 COMMISSIONER SHAPIRO: Just a very quick question  
8 then. Am I correct in assuming, then, if we were to allow  
9 people to build the lot line infill, as you're describing,  
10 then that wall would be an at-risk wall?

11 MS. VITALE: That's correct.

12 CHAIRMAN HOOD: I think I'm good. I have concern,  
13 but thank you for walking me through that. Any other  
14 questions up here? I'm going to ask each one of our  
15 witnesses to give us their testimony, and then we may just  
16 have a dialogue back and forth if we're not straight. I  
17 think that may be the best way. I'm going to start with the  
18 young lady.

19 MS. MURPHY: Good evening, everyone. I appreciate  
20 the Chairman calling me a young lady. I really appreciate  
21 that. I appreciate the opportunity to testify here. My name  
22 is Donna Murphy. Together with my husband, Keenan Keller,  
23 we are the owners of 1850 Monroe Street, Northwest, in Mount  
24 Pleasant, which is an RF zone. Our house is a 1900 single  
25 family detached house, with two side yards. It is an

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1 historic property, on the Register of Historic Places and,  
2 of course, as I'm sure you all know, Mount Pleasant is an  
3 historic zone.

4           The two lots directly to our east, 1842 and 1844  
5 Monroe Street had, previously, standing on them, what I  
6 believe Commissioner Hood called traditional semi-detached  
7 homes, two homes connected by a common wall, with a side yard  
8 on each side. Some years ago, there was a fire. Those  
9 houses burned down.

10           They weren't rebuilt for quite some time. And a  
11 developer has now purchased those properties and is proposing  
12 to put up two lot line to lot line buildings -- these are  
13 25-foot-wide lots, by the way -- and a 30-foot brick wall on  
14 our property line, and to extend it back fairly significantly  
15 into the lot.

16           This is something that certainly was never an  
17 expectation of ours, and we've become involved in the zoning  
18 process as a result. A couple things. First of all, we  
19 reside in ANC 1D, and our ANC opposed the elimination of the  
20 side yard requirement, not just because of existing side  
21 yards, but because when there are infill situations like  
22 this, we think that the existing homeowners should also be  
23 taken into account.

24           Understanding that the Office of Planning has  
25 brought up a number of interesting circumstances where, for

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1 example, if you have a lot that's too narrow to build, if you  
2 don't have side yards, et cetera, it might be necessary, but  
3 the way that -- if the zoning code allows it as a right that  
4 there's no side yard, or actually never -- does not require  
5 a side yard as a right, then the developers can do that, and  
6 there's no recourse for the existing homeowners.

7           On the other hand, if it's not required -- if it's  
8 not allowed as a right -- for example, under the 2016 code,  
9 there's a five-yard side yard requirement for the lot next  
10 to ours. If it's not required as a right, the developer can,  
11 as he has, go to the BZA and file for a variance, and the  
12 particular circumstances can be taken into account. However,  
13 if the proposed changes to the zoning code are adopted, then  
14 we have no recourse on that. They can build a 30-foot brick  
15 wall on our lot line. How are they going to maintain that  
16 wall? They're going to have to come on to our property to  
17 maintain that wall. There are any number of detrimental  
18 circumstances that flow from that, not to mention the issues  
19 during construction. I will say that the ANC opposed this.

20           Their opposition was not addressed in the April  
21 9th memo, which we were hoping it would be. Our  
22 commissioner, Jack McKay, couldn't be here tonight, so he did  
23 ask us to represent that he believes the ANC continues to be  
24 opposed to eliminating the side yard requirement in Mount  
25 Pleasant. I think my time is up.

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1 CHAIRMAN HOOD: Okay, thank you. Next.

2 MR. KELLER: I'm Keenan Keller. I co-own the  
3 property at 1850 Monroe Street with my wife, Donna Murphy.  
4 I will yield to her such time as she will consume.

5 CHAIRMAN HOOD: Actually, no time shall be ceded,  
6 but since there's so few of us here, you can continue.

7 MR. KELLER: I want to make sure that she gets her  
8 full say.

9 MS. MURPHY: I actually tried to fit everything  
10 into my three minutes, the key points. I do think that it's  
11 important to recognize that while there are a great variety  
12 of houses and types of houses -- row houses, semi-detached,  
13 detached -- in our neighborhood, the real concern here is  
14 that if the zoning code permits -- I guess in the December  
15 report, it stated that no side yard was required, stated that  
16 very bluntly, in the RF zone.

17 The change to it actually created confusion, the  
18 proposed change in the April 9th memo, as we read it, as the  
19 ANC read it, as our neighbors read it. I understand, based  
20 on the testimony tonight, for the first time, because I'm not  
21 a zoning expert, that apparently attached means attached to  
22 the lot line.

23 Everyone that I've spoken to in Mount Pleasant  
24 thinks "attached" means attached to another house. When we  
25 read this, we all thought if there's no house to attach to,

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1 it would have to be either a detached or a semi-detached  
2 house. It would have to have a side yard. And that, you see  
3 reflected in our letter; that's what we thought. That is  
4 what the ANC -- at least our ANC commissioner thought, as  
5 well. I didn't get a chance to talk to all the ANC  
6 commissioners. We think that the rules should be clear, and  
7 we also think that the 2016 requirement makes sense because  
8 when you have special circumstances, you can have your  
9 circumstances heard before the BZA, and the homeowner next  
10 door gets a say in it.

11 If you eliminate that requirement and say no side  
12 yard, as a right, in all circumstances in Mount Pleasant,  
13 then we, as existing homeowners, get no say.

14 MR. KELLER: I would add there's a great ambiguity  
15 in the report. For example, there was actually -- as my wife  
16 said, there was actually no definition of "detached" or  
17 "semi-detached." The way that it was actually handled in the  
18 report was completely circular, so it was impossible for  
19 anyone to sit down and actually read it with any clarity.

20 As a former ANC commissioner, I would also take  
21 great exception with the report, given the fact that the ANC  
22 timely filed an objection not to have great weight accorded  
23 to the ANC's position in the memo is probably a violation of  
24 D.C. law and regulation. At the very least, it's somewhat  
25 disrespectful to the time that has been committed by

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1 individuals to this. Finally, I would say that the real  
2 bottom-line problem here is that particularly in historic  
3 areas like Mount Pleasant, these regulations have the  
4 potential to create an abusive infill situation.

5           The way that the staff has approached this is  
6 trying to create a remedy to address a developer issue and  
7 leaving actual homeowners who will have the quiet enjoyment  
8 of their property highly adversely burdened is problematical.  
9 The Commission should, as the ANC did, take a very strong  
10 look at that. Because nothing good will happen from that,  
11 with the exception of division and litigation.

12           CHAIRMAN HOOD: Next.

13           MR. PALKA: Good evening, Commission. Thank you  
14 very much for having me. My name is Kevin Palka. I reside  
15 at 802 Cottage Street Southwest, in Vienna. I'm here in  
16 support of the proposed text amendment in Zoning Case No.  
17 17-23.

18           I am the owner of the vacant properties at 79 and  
19 81 U Street Northwest, in Bloomingdale. Last year, I  
20 submitted a permit to construct a row dwelling on each  
21 property. These two properties are recorded lots, which are  
22 isolated from other houses, due to their location. To the  
23 east of the lots is the public alley, so my lot line is right  
24 on the public alley. To the west of the rear yards are  
25 perpendicular-facing lots along 1st Street, so we're kind of

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1 landlocked there, to so to speak.

2 I've been told that the corner lot exemption did  
3 not apply to the side yard requirement to the lots which abut  
4 an alley. Before I invested in these properties, to my  
5 knowledge, there was no side yard requirement.

6 I was actually issued an approved PDRM letter from  
7 the zoning administrator to proceed with the design of my  
8 property for row house development. I received and relied  
9 on that information from the Zoning Office and the approved  
10 PDRM, which I have a copy of here.

11 I would have never purchased the lots if I didn't  
12 have the approved PDRM letter from zoning. The lots are 18  
13 feet wide, the same width as most other lots in the area.  
14 Basically, the side yard requirement would make these lots  
15 virtually unbuildable, since they abut the alley and the  
16 adjacent properties perpendicularly. Even if I could combine  
17 the properties, you'd virtually be able to build a very small  
18 house with a ten-foot side yard. It would make the project  
19 virtually unfeasible. That scenario basically would be an  
20 economic catastrophe for me and my family, since they were  
21 considered buildable lots when I purchased them.

22 When I went through the permit process, I was  
23 stunned to find out that the side yard requirement would  
24 apply. In the Bloomingdale neighborhood, I'm not aware of  
25 any home in that area that has a side yard.

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1           The planning principle or objective that would  
2 require a side yard in a row house district is unknown to me.  
3 Therefore, I strongly support the proposal to delete the  
4 provision and reinstate the prior rule. I hope you guys act  
5 quickly to make a decision. Thank you.

6           CHAIRMAN HOOD: Thank you three. Let me talk to  
7 the Murphy family first, then I'll open up to others. This  
8 is exactly what I don't want to see us create. I'm actually  
9 really glad that you -- and I'm not saying this because  
10 you're here because that's not how I operate. I'm actually  
11 glad that you're here to bring this to our attention. Lot  
12 line to lot line -- let me see; I'm looking at your home now.  
13 On one side, you have a setback, right? On one side you do.

14           MS. MURPHY: On the west side, there's a narrow  
15 side yard, and then our neighbor's side yard. There's a  
16 detached house to our west. On the east side, we have a  
17 relatively large side yard, and then the 1844 lot where  
18 they're proposing to develop right to the lot line and put  
19 up a 30-foot wall.

20           COMMISSIONER MAY: Can I interrupt? How big is  
21 that relatively large side yard?

22           MR. KELLER: Oh, gosh.

23           MS. MURPHY: I don't know that I've measured it.

24           MR. KELLER: I've actually never measured it. The  
25 house is one of the original houses in the neighborhood, so

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1 the whole notion of conforming is --

2 (Simultaneous Speaking)

3 COMMISSIONER MAY: What's in that space? Is it  
4 just yard, or is there a driveway?

5 MR. KELLER: It's our yard.

6 MS. MURPHY: It's our yard. There's a garden.

7 COMMISSIONER MAY: Is it wide enough that a car  
8 could fit into it?

9 MS. MURPHY: Yes, you could put a driveway.

10 MR. KELLER: Yes, you could put a driveway.

11 COMMISSIONER MAY: It's probably more than the  
12 eight-foot minimum.

13 MS. MURPHY: It's more than the eight-foot  
14 minimum, yes.

15 MR. KELLER: It's probably at least as wide as our  
16 two-car garage that's in the alley.

17 CHAIRMAN HOOD: That area to your east is your --  
18 that little area that I see --

19 MS. MURPHY: We own a double lot, what would now  
20 be a double lot. It was the first house built in the  
21 neighborhood, so it's not, but it's as wide as two lots put  
22 together. Then there are two vacant lots next to us, each  
23 of which are 25-foot lots, I'm told, because there used to  
24 be two semi-detached homes joined in the middle with side  
25 yards on either side. You can see the footprint of them.

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1 MR. KELLER: The foundation still exists.

2 CHAIRMAN HOOD: Maybe I'm confused. I thought  
3 they were going to come right up to your wall.

4 MS. MURPHY: No, they're going to come right up  
5 to our lot line, not to our wall.

6 CHAIRMAN HOOD: To your lot line, okay. Again,  
7 it goes back to Commissioner May's -- do you know how much  
8 space, roughly, that is, how many feet?

9 MS. MURPHY: From the edge of our house to our  
10 fence?

11 CHAIRMAN HOOD: Right.

12 MR. KELLER: Maybe ten feet.

13 CHAIRMAN HOOD: I was thinking something else when  
14 I said that. I was thinking it was coming right up to your  
15 home --

16 (Simultaneous Speaking)

17 MS. MURPHY: No, our home is a detached home.

18 CHAIRMAN HOOD: Detached on both sides.

19 MS. MURPHY: We have a full side yard on both  
20 sides.

21 CHAIRMAN HOOD: On both sides. This is a very  
22 unique -- I'm looking here at -- what's the ones that are  
23 attached like row homes, row houses, and then I see some --  
24 I'm seeing exactly what the Office of Planning was saying.  
25 I'm seeing the mix.

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1 MS. MURPHY: There is a mix. There's absolutely  
2 a mix. In fact, there used to be even more of a mix because  
3 there were these smaller row homes, which are much smaller  
4 than what's being planned for those two lots.

5 On the two lots, 1842 and 1844, there was the  
6 semi-detached homes with the common division wall, with side  
7 yards on each side. Then there are two detached homes. Then  
8 there's more of the smaller row homes beyond our neighbors  
9 to the west.

10 CHAIRMAN HOOD: Mr. Murphy, you mentioned about  
11 the ANC not getting great weight. Where did that come from?

12 MR. KELLER: One of the things that -- in the old  
13 days, we used to actually expect when an ANC took the time  
14 to have a public hearing and write a letter, and then write  
15 to one of the city boards or commissions, there would be a  
16 response within the staff report to the issues that were  
17 raised by the ANC, based upon its community contact. In this  
18 particular instance, we don't have that.

19 CHAIRMAN HOOD: You don't have it yet.

20 MR. KELLER: We don't have it yet.

21 CHAIRMAN HOOD: It will be responded to.

22 MR. KELLER: Okay, good.

23 CHAIRMAN HOOD: Yes, it will be responded to.

24 MS. MURPHY: Our understanding was that the April  
25 9th memo was the last staff report, so maybe that was a

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1 misunderstanding.

2           CHAIRMAN HOOD: It'll be responded to in our  
3 proceedings. We'll respond. That has not gone away; believe  
4 me. We don't want nobody to think that the ANCs don't get  
5 great weight; that's one rumor we don't want to start. Let's  
6 open it up. Commissioner Shapiro.

7           COMMISSIONER SHAPIRO: I actually have questions  
8 for OP, if that's appropriate now.

9           CHAIRMAN HOOD: Sure.

10           COMMISSIONER SHAPIRO: I want to understand, from  
11 your perspective -- let's look at this situation, the 1850  
12 Monroe. I'm looking at it on Google Maps. I get what  
13 they're saying. Is their interpretation of this your  
14 interpretation of this? What could happen on this lot right  
15 now, matter of right, special exception? What could happen  
16 on this empty lot if this were to -- we approved matter of  
17 right, special exception?

18           MS. STEINGASSER: If the change were approved and  
19 we went back to the '58 language, they could go lot line to  
20 lot line as a matter of right.

21           COMMISSIONER SHAPIRO: Either lot line?

22           MS. STEINGASSER: Either lot line, both lot lines.

23           COMMISSIONER SHAPIRO: Either or both?

24           MS. STEINGASSER: Yes. It could be a 25-foot-wide  
25 structure, lot line to lot line.

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1 COMMISSIONER SHAPIRO: Currently?

2 MS. STEINGASSER: Currently, they would need to  
3 have a side yard on either side.

4 COMMISSIONER SHAPIRO: Two side yards?

5 MS. STEINGASSER: Or attach themselves to the one  
6 side. It would be one side against --

7 COMMISSIONER SHAPIRO: Under current regs, would  
8 they be required to attach to the existing semi-detached  
9 home, or could they build up to the lot line next to their  
10 house?

11 MS. VITALE: That house to the east, the  
12 semi-detached to the east? If they could attach to that  
13 property to the east, then they could go lot --

14 COMMISSIONER SHAPIRO: Right, they could, then  
15 they'd have a side yard next to these folks' homes?

16 (Simultaneous Speaking.)

17 MS. VITALE: May I --

18 MS. STEINGASSER: -- house to the east, I believe,  
19 is a row house.

20 COMMISSIONER SHAPIRO: Yes, I'm aware of that.

21 MS. STEINGASSER: I just want to make sure we're  
22 calling it the right thing.

23 COMMISSIONER SHAPIRO: I'm sorry, a row house.

24 MS. STEINGASSER: There are two lots --

25 COMMISSIONER SHAPIRO: It's currently --

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1 MS. VITALE: It's my understanding that it's not  
2 just one -- it's two developable lots. If they attach to the  
3 row home to the east, you could have a row home on the next  
4 lot to the west that provided no side yards, and then it  
5 would be the next lot to the west, the one that's adjacent  
6 to Ms. Murphy and Mr. Keller, where since they would not have  
7 a wall to attach to, one side yard would be required.

8 MS. STEINGASSER: Under the current regs. Then  
9 they could go for a special exception --

10 (Simultaneous Speaking)

11 MS. MURPHY: Actually, may I? The zoning  
12 administrator has actually ruled in this case already, if you  
13 wanted to know what they had said.

14 MS. STEINGASSER: We're winging this from the --  
15 so there may be all kinds of actual detailed history we're  
16 unaware of. We're working off the Google map.

17 COMMISSIONER SHAPIRO: All right. Mr. Chair.

18 CHAIRMAN HOOD: You wanted to respond?

19 MS. MURPHY: I was going to offer to say what has  
20 happened so far with the zoning administrator, if you wanted  
21 to know.

22 CHAIRMAN HOOD: Is this a live case?

23 MS. MURPHY: It is.

24 CHAIRMAN HOOD: We might not want to go there  
25 because I'm not sure who's sitting. Is that a BZA case?

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1 MS. MURPHY: It is pending at the BZA. They've  
2 requested a variance.

3 CHAIRMAN HOOD: One of us may see it, so we better  
4 not --

5 MS. MURPHY: Okay, sorry.

6 CHAIRMAN HOOD: Vice Chair Miller.

7 VICE CHAIR MILLER: Thank you, Mr. Chairman. Just  
8 following up on Commissioner Shapiro's question, under the  
9 existing 2016 language, you said a side yard would be  
10 required on one side or the other of that adjacent vacant  
11 lot. Is that correct? What would be the width of that?

12 MS. VITALE: There would be one side yard required  
13 on the freestanding side, the side that does not share a  
14 common division wall. That would be where the one side yard  
15 would be.

16 VICE CHAIR MILLER: Would that be the eight -- the  
17 standard --

18 MS. VITALE: This is RF, so I believe it would be  
19 five feet.

20 VICE CHAIR MILLER: I'm just going off the top of  
21 my hand and thinking about this for the first time with  
22 what's been presented in front of us. It seems to me that  
23 it might be some value to crafting some kind of exception to  
24 the no side yard recommendation that you're suggesting, in  
25 the case where the width of a lot is, say, 25 feet wide,

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1 where you would get a functional house, and where it's  
2 vacant.

3 I don't want to craft it to the particular  
4 circumstances here, but that's what I kind of want to do.  
5 It seems to me that we could craft it where it makes sense,  
6 from a planning perspective, to address the situation in this  
7 case, or require at least a relief process that would have  
8 to be considered by the Board of Zoning Adjustment, so that  
9 the adverse impacts could be weighed, but only if it had a  
10 minimum width that was large enough to accommodate a side  
11 yard comfortably, and where there's an existing house next  
12 door.

13 MR. GOLDSTEIN: I'm sorry; if I may, I'm Paul  
14 Goldstein with the Office of the Zoning Administrator. I  
15 just want to -- not with their case, in particular, in mind  
16 -- just throw out another hypothetical. Let's say these two  
17 lots were under different ownership and there isn't -- some  
18 of this discussion is that there's a possibility of  
19 coordinating development. Let's say different ownership, the  
20 lot to the immediate east wants to come first. If we do not  
21 allow lot line development in some way, they would  
22 theoretically be required to have two side yards on that  
23 property. It just gets a little bit -- you change a fact and  
24 things kind of lead to different conclusions, as well.

25 COMMISSIONER MAY: Not to mention the fact that

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1 if we start messing with the dimensions in a circumstance  
2 like this, we could prompt the current property owner for  
3 those two properties to try to subdivide to avoid that.

4 VICE CHAIR MILLER: Right. There are a lot of  
5 unintended consequences.

6 PARTICIPANT: Lots of different ways it could get  
7 played out.

8 VICE CHAIR MILLER: This is the RF zone?

9 MS. VITALE: That's correct.

10 PARTICIPANT: May I offer one point? One of the  
11 ways that we're looking at this is not necessarily to be  
12 prescriptive with respect to every instance within Washington  
13 because there's a great variation with respect to  
14 development, but looking at this from the perspective of  
15 rights and burdens and responses. As Ms. Murphy presented  
16 -- and I would really associate myself with her comments --  
17 the issue here is the burden of matter of right and  
18 development in infill situations on existing property.

19 The way that the report is actually written right  
20 now, it actually expands a right without addressing the  
21 burden that exists as a result of the expansion of that  
22 right. If you look at it from that perspective, the need for  
23 balancing in these instances, then you get away from trying  
24 to address every hypothetical.

25 The other thing that I would actually say, also,

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1 that came up now, is this whole definition of attached that  
2 they're using right now really does need to be addressed.  
3 You might want to consider the whole idea of having the  
4 definition of attached incorporate the whole notion of  
5 sharing a division wall because that actually adds a level  
6 of clarity to this and takes you out of the circularity of  
7 the situation that they're in right now.

8 COMMISSIONER SHAPIRO: In your specific  
9 circumstance, you're living next to a vacant lot. At some  
10 point, odds are there's going to be development there. I've  
11 actually had that exact same --

12 (Simultaneous Speaking)

13 MS. MURPHY: Absolutely.

14 COMMISSIONER SHAPIRO: Just so I understand this  
15 correctly -- I think I'm hearing this from you, too -- the  
16 difference we're talking about is five feet.

17 MR. KELLER: We're actually talking about --

18 COMMISSIONER SHAPIRO: Rather than on your  
19 property line, there's no doubt that you could have something  
20 five feet farther away that would be a 30-foot wall.

21 MS. MURPHY: Right. One thing I would -- I would  
22 go back to a point that -- I can't read her nametag, but the  
23 lady from the Office of Planning, who made the presentation  
24 -- one thing that concerns us if there's no side yard and  
25 they're allowed to construct this wall right up to our

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1 property line, they have no way of maintaining that wall,  
2 except by coming on to our property. Basically, it places  
3 a burden on us. We're going to have to allow them access to  
4 do whatever they want to maintain that wall, regardless.  
5 There's no recourse for us. I think she said that the  
6 determination of the Office of Planning was that a minimum  
7 of three feet are required to be able to maintain and do  
8 maintenance and things.

9           If this is a matter of right, then they can come  
10 up to our property line and then, for forever, we have to  
11 allow them access to maintain that wall, regardless, because  
12 they were allowed to build up to the property line.

13           COMMISSIONER SHAPIRO: I think that DCRA may have  
14 some thoughts about that, but that's not even remotely an  
15 uncommon experience in D.C. There are thousands and  
16 thousands of those situations in D.C.

17           PARTICIPANT: The fact that -- not just the  
18 maintenance, but it's also the construction. The fact that  
19 those situations exist doesn't mean that the city can legally  
20 create a regulation that would require someone to grant an  
21 easement, to create that kind of burden on construction or  
22 development. Under existing federal law, with respect to  
23 takings, going back to the Kelo case, that's not something  
24 that the court has looked favorably on with respect to the  
25 actions of municipalities, let alone creating such a de facto

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1 right of access to independent third parties.

2           COMMISSIONER MAY: I believe that those sorts of  
3 issues, access to a wall that's on a property line, is  
4 addressed in the building codes and regulations in some form.  
5 Again, it's not an uncommon circumstance. We are not, by any  
6 means, creating an easement if we take action on this  
7 regulation to approve what the Office of Planning has stated.

8           We're not doing anything specifically to that  
9 property. That's between you and them and the building codes  
10 or DCRA, in terms of how that is handled. It's not a zoning  
11 issue, never been a zoning issue, never will be a zoning  
12 issue.

13           MR. KELLER: I'm not sure that I would necessarily  
14 go that far.

15           COMMISSIONER MAY: That's fine. You're entitled  
16 to an opinion. I do have a question, though. Right now, you  
17 have a side yard on the other side, and your neighbor --  
18 basically, it's a pair of fully detached houses, right?

19           MS. MURPHY: Yes.

20           COMMISSIONER MAY: The space between -- the side  
21 yard between you and that other house is fairly small, right,  
22 and their side yard is fairly small, as well. Don't you have  
23 a 25-30-foot building that's 15 feet away on the opposite  
24 side?

25           MR. KELLER: Interestingly, historically, those

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1 two properties, we believe, were built on a single lot and  
2 were owned originally by sisters, siblings.

3 COMMISSIONER MAY: Which has nothing to do with  
4 my question. My question has to do with what is the physical  
5 circumstance right now?

6 MR. KELLER: You go; I yield to you.

7 MS. MURPHY: The answer is yes, and the answer is  
8 we're not -- we actually have looked forward, for years, to  
9 someone coming and building an historically appropriate house  
10 in that lot. We don't like having a vacant lot next to us.  
11 But the idea that they can build up to the -- rather than  
12 considering what was there for the infill situation, or  
13 having any restrictions, in terms of the appropriateness  
14 relating to that, the proposed amendments would essentially  
15 shift it so that we have no recourse to object or to look at  
16 the circumstances within the zoning code.

17 COMMISSIONER MAY: You said before that your  
18 property is historic, and that it's in the Historic District,  
19 right? Has their proposed construction gone before the HPRV?

20 MR. KELLER: It's still pending.

21 MS. MURPHY: It's still pending final approval.

22 COMMISSIONER MAY: So you know you have the  
23 opportunity to speak up then, right?

24 MS. MURPHY: We have.

25 MR. KELLER: We have, and the community

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1 (Simultaneous Speaking) historic Mount Pleasant --

2 COMMISSIONER MAY: I thought you said it was still  
3 pending.

4 MR. KELLER: It's not a resolved case.

5 COMMISSIONER MAY: So it's been heard, but it's  
6 not finished.

7 MS. MURPHY: It's been heard twice, and there's  
8 continuing issues.

9 COMMISSIONER MAY: I think one of the things that  
10 I would be concerned about is that if this were not in the  
11 Historic District, you could wind up not just with a 30-foot  
12 wall, you could wind up with a 30-foot wall that's CMU and  
13 no windows.

14 MS. MURPHY: CMU?

15 COMMISSIONER MAY: Cinder blocks. But you're not  
16 going to have that in the Historic District because it's  
17 going to be visible.

18 MS. MURPHY: We get brick.

19 COMMISSIONER MAY: You may get windows, too,  
20 right?

21 MR. KELLER: That's actually a point of --

22 (Simultaneous Speaking)

23 MS. MURPHY: That's actually a point of  
24 contention, apparently --

25 (Simultaneous Speaking)

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1           COMMISSIONER MAY: Do you want windows or not want  
2 windows? Never mind. It's not relevant.

3           MS. MURPHY: It's not a point of contention with  
4 us. There's other -- we probably shouldn't be talking about  
5 the specific case, I think. I would say --

6           COMMISSIONER MAY: It's not our case.

7           MS. MURPHY: Sorry? What we have been talking  
8 about, this is not the first time, and it's not going to be  
9 the last, where we've had these issues with infill properties  
10 in Mount Pleasant. That's why I think the ANC weighed in is  
11 that we've had, repeatedly, efforts to build on every square  
12 inch of the lot they can possibly build on.

13           COMMISSIONER MAY: That's happening all over the  
14 city. We encourage some of it, and we try to control it in  
15 the right ways. I think the thing that stands out for me is  
16 that of all of the other houses that are on that block, yours  
17 has probably one of the biggest side yards for the ones that  
18 have side yards, right?

19           MS. MURPHY: Yes, it does.

20           COMMISSIONER MAY: There's a fully attached that's  
21 a few blocks in one direction, and then there's the one next  
22 door.

23           (Simultaneous Speaking.)

24           MS. MURPHY: The ones across the alley, on Clark  
25 Road, have huge lots.

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1           COMMISSIONER MAY: I'm not talking about across  
2 the alley. I was just talking about the ones on your block.

3           MS. MURPHY: We probably have the biggest side  
4 yard, although there's several other detached houses that  
5 have side yards, as well. Our is probably slightly larger.

6           COMMISSIONER MAY: I don't think I have any other  
7 questions. It is curious to me that you find the language  
8 that was intended to be clarifying to be confusing. They  
9 moved away from the common division wall language because  
10 people found that confusing and went to this -- the  
11 definition that was based on side yards versus -- or yards,  
12 defining what yards were required for the different types of  
13 houses. I think that's something that Office of Planning has  
14 to take into consideration. The intention of this is to be  
15 clear, not to muddy the waters.

16           MS. MURPHY: Can I explain why we find it -- with  
17 the common division -- for people, at least the people we  
18 associate with in our neighborhood, the common division wall  
19 was pretty clear. Everybody knows what a row house is --

20           COMMISSIONER MAY: It was very clear to me, too,  
21 but the zoning administrator misinterpreted it for decades,  
22 in my view.

23           MS. MURPHY: We thought it was clear. Then the  
24 report in December said no side yard requirement, very  
25 bluntly. That was when the ANC got involved and objected

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1 because they thought that was not -- they feel strongly  
2 that's not the way to go for infill in our district, at  
3 least.

4 But the way that it's set out in the April 9th  
5 memo, in listening to the proceedings tonight, I have come  
6 to understand that apparently the Office of Planning --  
7 apparently zoning and planning professionals consider  
8 attached to be attached to the lot line, but I don't think  
9 that's common usage.

10 It's certainly not common usage among the people  
11 that we talk to because everyone read that and said that  
12 house is going to have to be semi-detached because there's  
13 no building to attach to, so it'll have to have a side yard.  
14 I said I don't think that's what they meant, but that's what  
15 it says.

16 COMMISSIONER MAY: It was also clear to me what  
17 freestanding wall meant, but that got debated and reversed  
18 more than a decade ago.

19 MR. KELLER: Abutting a lot line has clarity, and  
20 that has meaning. But attached does imply some --

21 MS. MURPHY: Attached to something.

22 MR. KELLER: -- connection, which is, I think,  
23 where you end up with that.

24 COMMISSIONER MAY: I think this is all good input  
25 because I think the Office of Planning will want to try to

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1 make it crystal clear what the -- not just what -- crystal  
2 clear not just to the zoning administrator on how to  
3 administer it, but to people who just read these things  
4 because the cases come up in their neighborhood.

5 CHAIRMAN HOOD: I would associate myself with Vice  
6 Chair Miller to see -- I don't want to necessarily just  
7 tailor it to one situation because I'm sure there are others  
8 out there. You take care of one, there are thousands of  
9 others that need to be dealt with.

10 But I think that caveat that you mentioned is  
11 something that we may need -- I would like to see us look  
12 into -- by them bringing up this -- Mr. Keller and Ms. Murphy  
13 bringing this to our attention today, I don't agree with  
14 that. I don't know how we get there, and we got off the  
15 cuff. Let's try to see if we can work and figure that out.

16 PARTICIPANT: Mr. Chairman --

17 CHAIRMAN HOOD: Let me go to Commissioner -- is  
18 it on that?

19 COMMISSIONER MAY: Yes, it's on that questions.  
20 I think trying to tie it to the dimension of the property is  
21 problematic for reasons that I've brought up before. I think  
22 that one of the things that we took into consideration when  
23 we did the -- what was it, 1410 or 1411? Which was one that?

24 The side -- the R4/1411. We took into  
25 consideration what was happening next door in the treatment

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1 of the -- it was the rooftops, right? I garble them, the  
2 rooftops and the R4 zone stuff. In any case, the point I'm  
3 trying to make is that basing it on what you're rebutting --  
4 so in other words, if you're rebutting a side yard of an  
5 existing historic property, there might be -- in order to  
6 build to the lot line, you might need a special exception,  
7 not a variance, but a special exception.

8 I think you'd have to just demonstrate that  
9 there's no adverse impact associated with it, as opposed to  
10 doing it based upon the width of the lot, which I think is --

11 (Simultaneous Speaking)

12 MS. MURPHY: May I bring up one point from the ANC  
13 that I forgot?

14 CHAIRMAN HOOD: Let me just say I think that's a  
15 good suggestion, even though our other suggestion, special  
16 exception, from my standpoint, is not working. Maybe it'll  
17 work this time because what we did previously is not working.  
18 Anyway, we can have that discussion at a later time. You  
19 wanted to bring another point up? We don't typically include  
20 you in it, but we're going to do it tonight.

21 MS. MURPHY: I appreciate it. This is something  
22 that came up in my discussion with the ANC Commissioner, and  
23 I forgot to mention it earlier because I was rushing to get  
24 through my points. One of the things that I think the ANC,  
25 at least ANC 1D, would like to see is some consideration, in

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1 these infill projects, for what was there previously.

2           At least in Mount Pleasant, that's something that  
3 I think the ANC would like to see is some consideration for  
4 what was previously on those lots, if there was. I'm sure  
5 there was circumstances where there was never anything there  
6 before. That's not the case in Mount Pleasant. In Mount  
7 Pleasant, there was always something there before. Given the  
8 historic nature, that's something the ANC would like to see.

9           CHAIRMAN HOOD: I think we have a good Office of  
10 Planning. They put on their thinking caps, and they usually  
11 come back with some things that we at least asked them to  
12 look at. Not that we're going to get there, but we try to  
13 achieve that. Mr. Turnbull, and then I want to go to the  
14 gentleman.

15           COMMISSIONER TURNBULL: Thank you, Mr. Chair. I  
16 would associate myself with a lot of the comments that you've  
17 all said. We all want vacant infill lots to be developed,  
18 but after hearing two of our witnesses tonight, I think there  
19 is -- especially as Commissioner May with these historic  
20 properties. We've got a mixed zone.

21           It's an RF zone, but there's semi-detached houses,  
22 which are historic. It's an old developed neighborhood.  
23 It's got a character to it. There's certain things you want  
24 to preserve. I think simply coming up and saying here's the  
25 rule; you can develop from lot line to lot line is a nice

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1 idea -- in not associating with any setting, just in a blank  
2 map that you can do. But I think in this context, I think  
3 when you get into historic neighborhood or properties, you  
4 really have to look at the context. I think, as we said, we  
5 may need -- the regulations may need to have some kind of an  
6 exception or something where you need either a special  
7 exception or a variance, so that you can get to building to  
8 the lot line.

9           Other than that, you would have to provide some  
10 type of a sideyard. I think we need to offer protection to  
11 our old historic neighborhoods that we want to keep. We want  
12 to get the infills. We want to develop them. But I think  
13 we also have to step back and look at the whole surrounding  
14 and put in something as a protection for that.

15           CHAIRMAN HOOD: Any other questions on Monroe  
16 Street? Let's go to U Street. I noticed that, I think,  
17 across from where you're trying to develop is an alley,  
18 right? That alley across from you is already up to the lot  
19 line.

20           MR. PALKA: Correct.

21           CHAIRMAN HOOD: That's a whole different scenario  
22 than what we're hearing.

23           MR. PALKA: It's a completely different scenario.  
24 We have the alley on the east side and the other houses on  
25 First Street, on the west side. They have a setback on First

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1 Street already, so there technically already is a side yard,  
2 even --

3 (Off-mic comments.)

4 CHAIRMAN HOOD: 7981.

5 MR. PALKA: Technically, those houses already have  
6 a side yard, plus we're meeting the lot occupancy of 60  
7 percent, and we have a 40-foot setback on the rear, so  
8 there's still plenty of side yard, and we also have  
9 assurances with those houses on First Street for egress.  
10 It's obviously a completely different situation.

11 CHAIRMAN HOOD: Completely different.

12 MR. PALKA: Which I totally agree with a lot of  
13 the things they said, too, ironically. It's just I received  
14 an approval PDRM, preliminary approval from zoning, so I  
15 proceeded in that direction. I'm stuck between a rock and  
16 a hard place, right now, carrying the financial costs of the  
17 property.

18 PARTICIPANT: You're between a rock and the BZA.

19 MR. PALKA: I'm between a rock and the BZA. I'm  
20 just looking for relief in that respect or direction.

21 COMMISSIONER TURNBULL: Chair, I think that's what  
22 the BZA needs, flexibility to look at these different cases  
23 and being able to approve the right variation for each one.

24 CHAIRMAN HOOD: When I said what we did previously  
25 wasn't working, the vice chair reminded me that one of them

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1 did work. I just want to see us -- I was on that side. I  
2 just didn't want to see us try to take another fresh look at  
3 that, as well.

4 I think we can go in the right direction. I  
5 agree. That way we have outlets, so we can give input. Any  
6 other questions on U Street, or any other streets that we may  
7 know of or not know of?

8 COMMISSIONER SHAPIRO: I have to say I feel --  
9 this is a conversation, I'm thinking, amongst us, as we're  
10 trying to make sense of this. It feels clear to me that  
11 everything we talked about on Monroe Street around what the  
12 burden would be, what the impact would be, it's as if the  
13 other gentleman is the neighbor and speaking about this from  
14 the other side. I'm not quite sure how we look at this issue  
15 and provide clarity that would serve both of these interests.  
16 They feel directly conflicting to me.

17 CHAIRMAN HOOD: They are. I think we said that  
18 at the very beginning, total opposite. That's why I think --

19 COMMISSIONER SHAPIRO: Part of it is a decision  
20 about what is the best citywide policy and framework that we  
21 want to put out? It can't be to make sure that every  
22 individual is going to be happy. It's not going to happen.

23 CHAIRMAN HOOD: Right, but we have a little more  
24 detail, at least for my standpoint. I think, in this  
25 conversation, there were some things said. We've asked the

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1 Office of Planning to go back and -- I believe we did -- go  
2 back and look at some things, like we did in the pop-back  
3 case, and see if we can come up with a criteria where they  
4 can have input.

5           If I'm misspeaking, somebody can correct me. But  
6 to do it, for us to try to figure that out right now, I think  
7 it needs to be -- unfortunately, it needs to be some more --  
8 it's not just germane to two properties because as you are  
9 saying, I agree with that, zoning's not just for two  
10 properties. We're zoning for the whole city. I'm sure  
11 thousands of people could come down here and say something  
12 about -- if they run into this case.

13           It may not be that many. Hopefully it's not. We  
14 don't want to do -- ourselves create problems other places  
15 in what we're moving forward here in this. I think that's  
16 what we're trying to achieve. If we have that release valve,  
17 which is a special exception or variance or whatever we can  
18 come up with, I think that may be suitable, and it might be  
19 a win/win for everyone -- not everyone, but for most.

20           (Simultaneous Speaking.)

21           CHAIRMAN HOOD: I'm sorry.

22           COMMISSIONER SHAPIRO: I just want to make sure  
23 we're giving clear enough direction to the Office of  
24 Planning. If I'm hearing correctly, it's the existing  
25 language with a little bit more allowance for special

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1 exceptions in certain circumstances, but what are those  
2 certain circumstances?

3 COMMISSIONER MAY: What do you mean by the  
4 existing language? Are you talking about the current --

5 COMMISSIONER SHAPIRO: No, what they are --

6 COMMISSIONER MAY: What they're proposing.

7 COMMISSIONER SHAPIRO: -- the revised version of  
8 their most recent proposal. We're saying their most recent  
9 proposal, but with a little bit more special exception going  
10 on.

11 COMMISSIONER MAY: To address this particular  
12 circumstance, I think it would be what the Office of Planning  
13 is proposing with something that addresses the circumstance  
14 of an existing detached or semi-detached house being the  
15 abutting property and being an historic property or something  
16 like that, that there's not an automatic right to build right  
17 to the property line there, but that there would be a special  
18 exception ability to build to the property line there.

19 COMMISSIONER SHAPIRO: I think the only distinct  
20 -- if I'm hearing you correctly, the only real distinction  
21 -- because my understanding is what they wrote was what you  
22 described, with one exception, which is that they're not  
23 making a distinction about what's in the historic district  
24 or not.

25 COMMISSIONER MAY: No. Right now, what they're

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1 proposing -- what the Office of Planning is proposing is that  
2 you could build right out to the Keller-Murphys' property  
3 line. Based on what we heard today, we're considering  
4 whether we want to add another protection there when we're  
5 in a circumstance where that property line abuts an historic  
6 property, or maybe it's just a property that has an existing  
7 side yard.

8 COMMISSIONER SHAPIRO: That's my point. I think  
9 all -- I imagine many of the examples, as we see on this map,  
10 of what they're proposing would affect properties that have  
11 existing side yards.

12 COMMISSIONER MAY: I don't think it's that many.  
13 I don't know. But again, I think that we're not necessarily  
14 endorsing that this should occur. We're simply asking the  
15 Office of Planning to look at language that might address a  
16 circumstance like this. I also think that we should be  
17 sending a very clear message that we want to have -- that the  
18 way to get past this additional requirement would be a  
19 special exception, rather than a variance, because all we're  
20 really talking about is an ability for the neighbors to speak  
21 out in a circumstance like this and be heard by the  
22 decision-making authority.

23 COMMISSIONER SHAPIRO: That makes sense to me, too.

24 VICE CHAIR MILLER: I would agree with what  
25 Commissioner May said and what my fellow commissioners have

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1 said. The Office of Planning is much smarter than we are  
2 about thinking about things, about what options might address  
3 this situation and what the pros and cons and unintended  
4 consequences might be. Mr. Goldstein, I know, has wanted to  
5 say something for a while.

6 MR. GOLDSTEIN: Thank you very much. I do want to  
7 say just a word about the definitions because I think this  
8 is actually a really important point for our office. I  
9 appreciate your feedback on it, as well. For us, it actually  
10 seems more clear. I understand that reasonable people can  
11 disagree. I think one of our issues with the way the  
12 definitions worked under 2016 is what you're building form  
13 was depended on your neighbor. If you have, let's say, what  
14 we would classically say is -- you have one side yard.  
15 You're a lot line development. To us, that's a semi-detached  
16 building. But under the regulations as they exist now, it's  
17 not clear what you are.

18 You're a detached building, but a detached  
19 building requires two side yards. Can you be a semi-detached  
20 building? That requires that you have one common division  
21 wall. It's created some lack of clarity. You could be a row  
22 dwelling lot line to lot line, and then your neighbor tears  
23 down a house, a vacant lot.

24 You suddenly become a semi-detached house.  
25 There's just a lot of these examples, where what you are is

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1 relative to what you're next to. That has created some  
2 confusion for us. The '58 regs, where you could build on the  
3 lot line and have one side yard, that's a semi-detached  
4 building.

5           It doesn't matter what your neighbor's doing. If  
6 you have two side yards, you are detached. If you're lot  
7 line to lot line, it was called row dwelling. It got changed  
8 to attached building in the ZR16, but it's very clear that's  
9 what your building form is. I just want to put in our  
10 perspective that this definitional change, which I think we  
11 find very important, to us, creates greater clarity.  
12 Wherever you want to work with special exception for  
13 preserving of yards, that's another thing, but just being  
14 able to call a building what it is, in our opinion, is kind  
15 of an important point.

16           COMMISSIONER MAY: You mentioned the old term row  
17 dwelling. If we went back to row dwelling, rather than  
18 calling it attached -- I think it's a matter of terminology.  
19 Because I think attached -- just like the Keller-Murphys are  
20 interpreting attached as being physically attached, and other  
21 non-zoning administrator personnel interpreted common  
22 division wall as actually being attached, as opposed to being  
23 a zero lot line building, the way the Zoning Administrator's  
24 Office had interpreted it incorrectly for years -- there has  
25 to be some wording that is clear to all.

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1 MR. GOLDSTEIN: I think that's not a bad thing to  
2 consider, a terminology point.

3 COMMISSIONER SHAPIRO: I just have to -- the 1850  
4 Monroe, then, would be considered a row dwelling?

5 MR. GOLDSTEIN: I'm sorry, the --

6 COMMISSIONER MAY: No, it wouldn't because it's not  
7 on the lot line. But the houses that could be built next  
8 door --

9 (Simultaneous speaking)

10 COMMISSIONER SHAPIRO: -- definition.

11 COMMISSIONER MAY: Right.

12 (Simultaneous Speaking.)

13 COMMISSIONER MAY: It's not attached right now.  
14 Under the new definitions that the Office of Planning is  
15 suggesting, that would be a fully detached house, and it  
16 would still be a fully detached house. You'd have fully  
17 detached, semi-detached, and instead of attached, you might  
18 --

19 COMMISSIONER SHAPIRO: Just that your neighbors  
20 call it --

21 COMMISSIONER MAY: -- call it row dwelling.

22 COMMISSIONER SHAPIRO: The neighboring property  
23 does not define your property. That's the point that Mr.  
24 Goldstein --

25 (Simultaneous Speaking)

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1 MR. GOLDSTEIN: That would make our lives a lot  
2 easier.

3 COMMISSIONER MAY: The Office of Planning might  
4 have some reason why row dwelling wasn't very good, but  
5 rather than try to figure it all out here, I would just leave  
6 it to the brilliant minds at this end of the table.

7 CHAIRMAN HOOD: Anything else?

8 VICE CHAIR MILLER: I saw the unintended  
9 consequence of -- requiring a special exception only in cases  
10 where there was enough width of the lot dimension, but I  
11 don't want to lose that concept because I'm not sure I want  
12 to require them every -- where there's only an 18-foot --  
13 require a special exception to not have a side yard when it  
14 may not make sense, in terms of having function

15 PARTICIPANT: You're right. I agree.

16 VICE CHAIR MILLER: I think we have to --

17 (Simultaneous Speaking)

18 PARTICIPANT: Right. I agree with that. I agree  
19 with you. It should not -- we should not be in a  
20 circumstance where it's an 18-foot-wide lot, and you need a  
21 special exception just to build on that. I think it needs  
22 to be some combination of lot width and what you're abutting.

23 VICE CHAIR MILLER: Yes, I just didn't want to  
24 lose that concept.

25 COMMISSIONER TURNBULL: I think you've got to get

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1 back to the context of the lot and the street where it was  
2 and related to that.

3 CHAIRMAN HOOD: Let me ask -- any other questions  
4 up here? Let me ask the Office of Planning, do you we need  
5 to expound more, or are we clear on what we're --- is  
6 somebody clear on what we're looking at? If we have to take  
7 another bite, we'll do that.

8 MS. STEINGASSER: I think we have a good sense of  
9 where you're going, and I think you have a good sense of the  
10 challenge that we've been wrestling with in these two polar  
11 cases right here. Yes, we'll be working -- we'll also be  
12 coordinating with the Historic Preservation staff to look at  
13 how they -- what might work best, in terms of how they're  
14 viewing the character and things in those neighborhoods.  
15 We'll probably do a little bit of looking, again, with DCRA  
16 on the coordination of terminology.

17 CHAIRMAN HOOD: Okay. Anything else?

18 COMMISSIONER SHAPIRO: Mr. Chair.

19 CHAIRMAN HOOD: Yes.

20 COMMISSIONER SHAPIRO: It's sitting with me that  
21 I would want to be very careful about adjusting this in a way  
22 that -- there's some kind of an issue related to how we've  
23 been talking about the uniqueness of historic districts. It  
24 is true there's something truly unique, by definition, about  
25 historic districts, but I wouldn't want to think that would

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1 be the only distinction that you were making that allows for  
2 these kinds of exceptions.

3 MS. STEINGASSER: Not at all. I think this is  
4 going to be more important outside the historic districts,  
5 where there isn't that inherent review. HPRB will review any  
6 construction in the historic --

7 (Simultaneous Speaking)

8 COMMISSIONER SHAPIRO: That's clear. Thank you  
9 very much.

10 CHAIRMAN HOOD: Anything else? What I'll say to  
11 our witnesses is just stay tuned.

12 MS. MURPHY: Thank you for the opportunity.

13 CHAIRMAN HOOD: Thank you for coming in and giving  
14 us your testimony. Anything else up here? Ms. Schellin, do  
15 we have anything?

16 MS. SCHELLIN: Just to see when we're coming back,  
17 how much time the OP might need, so we can schedule.

18 MS. STEINGASSER: Do we need to set a deadline?  
19 We're going to do it as quickly as we can. I just don't know  
20 how to --

21 MS. SCHELLIN: We can set a meeting date, and then  
22 you can submit your report ten days before. How about that?

23 MS. STEINGASSER: Then we would --

24 CHAIRMAN HOOD: Let me ask this. Our last meeting  
25 in July, let's start there, or do we need to go further?

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1 MS. STEINGASSER: I don't know that it needs to  
2 be the last meeting in July, but we'll take it. I don't know  
3 what I'm saying. We'll shoot for the meeting beforehand.

4 COMMISSIONER MAY: I'm with the Office of  
5 Planning. Why don't we just give them some time to figure  
6 it out, and they can --

7 MS. STEINGASSER: It'll need a new set down.

8 MS. SCHELLIN: Oh, it needs a new set down?

9 MS. STEINGASSER: I think so.

10 CHAIRMAN HOOD: Yes, I'm sure.

11 MS. SCHELLIN: Then in that case --

12 MS. STEINGASSER: It will be all new text.

13 MS. SCHELLIN: Then in that case -- I thought we  
14 were going --

15 (Simultaneous Speaking).

16 CHAIRMAN HOOD: -- advertise. Let's just leave  
17 it as you all have stated. Anything else, Ms. Schellin?

18 MS. SCHELLIN: Nothing.

19 CHAIRMAN HOOD: Anything else, Ms. Steingasser?  
20 Okay, I want to thank everyone for their participation in  
21 this hearing. This hearing's adjourned.

22 (Whereupon, the above-entitled matter went off the  
23 record at 8:17 p.m.)

24

25

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Office of Planning Text Amendment

Before: DCZC

Date: 04-19-18

Place: Washington, DC

was duly recorded and accurately transcribed under  
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