

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

JUNE 6, 2018

+ + + + +

The Regular Public Hearing convened in the
Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441
4th Street, N.W., Washington, D.C., 20001, pursuant to notice
at 9:52 a.m., Frederick Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
CARLTON HART, Vice Chairperson (NCPC)
LORNA JOHN, Board Member
LESYLLEE M. WHITE, Board Member

ZONING COMMISSION MEMBER PRESENT:

ROBERT MILLER, Vice Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

CRYSTAL MYERS
BRANDICE ELLIOTT
MAXINE BROWN-ROBERTS

The transcript constitutes the minutes from the
Public Hearing held on Wednesday, June 6, 2018.

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

9:52 a.m.

CHAIRPERSON HILL: Mr. Moy?

MR. MOY: Thank you, sir. All right, into the docket as to the public hearing session, the first case is Case Application No. 19741; this is M2EDGEWOOD, LLC. This is a request for a special exception under Subtitle E, Section 206.2 from the Upper Floor Addition Requirements of Subtitle E, Section 206.1(a). This would construct a one-story upper-floor addition to an existing two-story, four-unit apartment house, RF-1 zone at 223 Adams Street, N.E., Square 3560, Lot 10.

CHAIRPERSON HILL: Okay. I'm just having a difficult time loading up your updated architectural plans. I don't know if you have them in your presentation. Okay. All right, if you could introduce yourselves for the record, from my right to left?

MR. SULLIVAN: Thank you, Mr. Chairman and members of the Board. My name is Marty Sullivan with the law firm of Sullivan and Barros, here on behalf of the applicant.

MR. CROSS: Michael Cross, architect.

MR. LEE: Matthew Lee, architect.

CHAIRPERSON HILL: Okay, Mr. Sullivan, I guess you're going to be presenting to us today. I guess there are some new drawings. When did you guys upload the plans?

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1 MR. CROSS: We added some supporting contextual
2 photos last night.

3 CHAIRPERSON HILL: Okay, so that's what we've got.

4 MR. CROSS: The plans for the proposed have been
5 the same throughout.

6 CHAIRPERSON HILL: All right. So, Mr. Sullivan,
7 you do know the objections of the Office of Planning has, and
8 I obviously assume you're going to speak to some of those.
9 I'll just go ahead and put 15 minutes up there, so we know
10 where we are, but we'll see how long this goes.

11 MR. SULLIVAN: Thank you, Mr. Chair and members
12 of the Board. This case is -- the architect is going to be
13 the star of the show, but I wanted to talk a little about the
14 criteria for special exception relief from 206, and I want
15 to go through -- it's a little bit strange, as you probably
16 know, because you've heard several of these cases.

17 The regulation that we're asking relief from, of
18 course, is Section 206, which is the restriction against
19 altering an architectural element. The special exception
20 relief is provided for, for that provision, and there's
21 criteria, as you know, in every special exception case.
22 There's the general criteria of 901, and then there's the
23 specific criteria.

24 In this case, there are three specific criteria,
25 the first two of which we meet, and everybody agrees that we

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1 meet, they're simple criteria to meet. The third criteria
2 in the special exception matches the language of the section
3 from which we're asking relief. So in a sense, it's
4 circular; we need special exception relief from the special
5 exception criteria in order to get the special exception
6 approval.

7 I don't know if the Board has ever said
8 definitively what that means, but I think we agree now with
9 the Office of Planning in their latest reports on this, that
10 what it means is, then you refer to the general requirement
11 to get relief from that third criteria.

12 Where I think we differ from the Office of
13 Planning is, what does that mean? What is the general
14 requirement? Of course the language of the general
15 requirement in 901.2 is that the project will be in harmony
16 with the general purpose and intent of the zoning
17 regulations, and it will not tend to affect adversely the use
18 of neighboring property in accordance with the zoning
19 regulations and zoning maps.

20 Regarding the general purpose and intent of the
21 zoning regulations, the Office of Planning report uses terms
22 such as character and compatibility. They talk about double-
23 hung windows; they talk about industrial style, streetscape.
24 They talk about moving an entrance from one corner to the
25 other, and none of these terms are listed anywhere in the

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1 regulations as specific criteria for approval. You won't
2 find these terms anywhere when you're having a conversation
3 about general purpose and intent of the zoning regulations
4 either, in my opinion.

5 Where will you find information about general
6 purpose and intent of the zoning regulations? Well, there's
7 a statute; the statute has a section called Zoning
8 Regulations Purpose, and it says that zoning maps and
9 regulations shall not be inconsistent with the comprehensive
10 plan, and zoning regulations shall be designed to lessen
11 congestion in the street; to secure safety from fire, panic,
12 and other dangers; to promote health and the general welfare;
13 to provide adequate light and air; to prevent the undue
14 concentration of population and the overcrowding of land; and
15 to promote such distribution of population and of the uses
16 of land as would tend to create conditions favorable to
17 health, safety, transportation, prosperity, protection of
18 property, civic activity, and recreational, educational, and
19 cultural opportunities, and as would tend to further economy
20 and efficiency in the supply of public services. You haven't
21 heard anything yet about aesthetics or streetscapes or
22 double-hung windows.

23 Finally, it ends with, Such regulations shall be
24 made with reasonable consideration, among other things, of
25 the character of the respective districts and their

1 suitability for the uses provided in the regulations, and
2 with a view to encouraging stability of districts and the
3 land values therein. So I think character applies to the
4 uses; character means residential versus commercial, and how
5 a use might change the character of a district, not how the
6 aesthetics would change the character of a district.

7 So that's our big different with Office of
8 Planning, and we would like the Board to consider that as you
9 listen to the architect's description of why this project was
10 done. They have a matter of right option, and the matter of
11 right option doesn't really change their numbers that much.
12 It's just not something this architect and this developer
13 want to do, because they care about their product, and they
14 care about their brand, and they don't want their name on
15 something that doesn't look good.

16 The ANC -- I don't think you have it in the
17 record, unfortunately, and after this, if we could leave the
18 record open to hear from the ANC -- but ANC 5E actually
19 unanimously voted to support this, so I think they have a say
20 in what is compatible with a neighborhood and what is in
21 character with a neighborhood, and we've done a lot of work
22 with ANC 5E. It's a significant accomplishment to get a
23 unanimous approval from them.

24 So that's important to note too. We've been
25 trying to get them to follow through and submit the

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1 memorialization of their meeting, but we haven't been able
2 to do that yet, and we will continue to do that.

3 One last thing: A year ago, this same Office of
4 Planning talked about general purpose and intent regarding
5 this project, where a mansard roof was removed, and they had
6 two sentences in talking about general purpose and intent:

7 First, the proposal removes the rooftop
8 architectural element in order to allow for the renovation
9 and expansion of a residential use in the RF-1 zone. The
10 proposed addition would be within the development standards
11 of the RF-1 zone, so it is not subject to special exception
12 review.

13 These are two sentences that, in my opinion, talk
14 about the general purpose intent of the zoning regulations.
15 And a year later, we're talking about streetscape, double-
16 hung windows, compatibility; historic preservation language,
17 essentially, and I don't think that's what the Zoning
18 Commission intended. I don't think they intended to have a
19 mere historic district without the due process of going
20 through the Historic Preservation Review Board.

21 Sorry for the long-winded explanation, but I think
22 that's where we differ with the Office of Planning, and then
23 I'll hand it over to the architect to talk about their vision
24 for this.

25 MR. CROSS: Yes, so to really speak to the

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1 architecture of the project, we're here to discuss 223 Adams
2 Street N.E.; that's located in Edgewood. It is currently a
3 four-unit apartment house at the corner of 3rd and Adams
4 Streets. We're proposing a matter-of-right expansion to a
5 five-unit apartment house. We're here today, as stated by
6 Marty, to seek relief from Subtitle E, Section 206.1(a),
7 which would otherwise prevent us from removing the existing,
8 unadorned, faux mansard roof from the front of this building.

9 We can execute the project without this relief,
10 but believe that in order to make the building more
11 attractive and more in-character with the forms found in the
12 original fabric of D.C., we must remove this element.

13 As Marty mentioned, we have spoken, and ultimately
14 received, the support from the Friends of Edgewood group, the
15 Edgewood Civic Association, SMD 5E10, as well as AMC 5E.
16 With all of those groups, we discussed how the project
17 bookends the row, how it's consistent with other buildings
18 along 3rd Street, and that it's a style that in keeping with
19 other forms found in the original fabric of D.C.

20 As Marty mentioned, we're a little confused by
21 OP's report, first, because of the code citations, but also
22 because it doesn't acknowledge any of these character-
23 defining attributes. Some of our confusion is this new
24 standard for character in a case regarding rooftop elements.

25 I think Marty's better to speak to some of this

1 code stuff, but we don't find, anywhere in Subtitle X,
2 character referenced as a standard. It references harmony
3 with the zoning regulations and maps, which the Office of
4 Planning clearly outlines how this is a matter-of-right
5 expansion of an existing apartment house. Therefore, we find
6 that, intrinsically, it is in harmony with the regulations
7 and maps.

8 We found mention to character, scale, and pattern
9 in another section of the special exception requirements for
10 RF-1 height requirements, which is where this special
11 exception relief stems from, although it is not part of the
12 requirements for 206.1. But the Office of Planning report
13 doesn't reference character, scale, or pattern; instead, they
14 use the words character and compatibility, which seem to be
15 borrowed from the Preservation Code.

16 The conflation of the zoning requirements for RF-1
17 and the Historic Preservation Code are made more apparent in
18 the report when they state, along with the roof removal, the
19 proposal would also remove the building's double-hung
20 windows, relocate its main entry from Adams to 3rd, and the
21 new windows would make the building have a more industrial,
22 apartment-building style than a single-family residential
23 style.

24 We take issue with this, because double-hung
25 windows are not required anywhere in Subtitle E. The

1 relocation of the entry is simply matter of right and is
2 conforming with all relevant codes. Furthermore, this
3 building is an existing apartment building, in a row of
4 existing apartment buildings, not single-family homes.

5 All this said, we believe the building is in
6 character, not only with this area, but the fabric of D.C.
7 as a whole. In fact, it's specifically because of our
8 client's concern that this building fits into the fabric of
9 D.C. and does not look like a pop-up, that we're seeking this
10 relief today.

11 As illustrated, this project can be achieved as
12 matter of right. As Marty mentioned, we are still achieving
13 the same gross floor area -- RF-1 doesn't have an FAR -- and
14 all five units. However, the resulting mass is clearly a
15 pop-up, and is not a form that can be found in the original
16 fabric of D.C.

17 The proposed mass is directly referencing forms
18 that can be found, not only in the original fabric of D.C.,
19 but within three to four blocks of this address itself. As
20 you see here, 2429 2nd Street is an originally built, three-
21 story bookend to a row of two-story homes with mansard roofs.
22 Again, three to four blocks from the site.

23 As a corner lot, there is much precedent in the
24 area for a change in typology, as it forms a bookend to the
25 row and addresses the character, scale, and pattern of both

1 frontages. Here are two more addresses, again within a few
2 blocks of the address, that show rows of homes with mansard
3 roofs that conclude on a corner with a rectilinear form
4 without a mansard roof.

5 Furthermore, Office of Planning seems to be
6 evaluating the project's character purely by its frontage on
7 Adams Street; however, the majority of the facade, both the
8 existing facade and the proposed facade, actually face 3rd
9 Street. When evaluated from 3rd Street, the existing mass
10 is actually out of character with the units on that side of
11 the block for roughly three blocks.

12 The proposed solution is more similar in character
13 to those that face 3rd Street, provides a transitional scale
14 between the two adjacent structures -- as you see, there's
15 a six- to seven-story apartment building on the back of the
16 alley that is adjacent to this project -- and completes the
17 pattern of rectilinear forms that currently exist for three
18 blocks along 3rd Street.

19 Lastly, the greatest number of people who will
20 view this project will do so from Rhode Island Avenue, where
21 it will once again be in perfect harmony with the character,
22 scale, and pattern of the block in which it sits.

23 While confused by the Office of Planning's
24 inclusion of character as a requirement of 5203.3, we are
25 proud to answer any questions regarding the character, scale,

1 and pattern of this proposal, because those are exactly the
2 design elements that drove us to seek this relief today, as
3 we know that pop-ups are not a typology that D.C. wishes to
4 promote in the RF-1 zone. Thank you.

5 MR. SULLIVAN: Thank you, and I would just like
6 to add a comment about the ANC 5E. I know you don't have the
7 letter yet, but this Board has seen how much they are
8 concerned about the single-family residential character, in
9 the Trinidad cases that have come before you with the
10 conversions, and they do take that stuff very critically and
11 seriously. So I think that says a lot about the fact that
12 they would unanimously support this particular proposal.
13 Thank you.

14 CHAIRPERSON HILL: Okay, does the Board have some
15 questions? Ms. White?

16 MEMBER WHITE: One question I have is, why don't
17 we have the ANC letter actually in the record? You're
18 talking about their support; I'm sure they did, but I'm
19 always interested in actually seeing the actual documentation
20 just to confirm that. It sounds like they were big
21 supporters, but I'm not sure if they're here. That was one
22 question.

23 The second question is, could you give me some
24 feedback on what the community's comments have been regarding
25 the project, that live adjacent to this proposed property?

1 Thank you.

2 MR. LEE: We have been trying to get the form 129
3 filled out and uploaded to our BZA case. We have repeatedly
4 contacted Commissioner Nancy Jones of SMD 5E10, as well as
5 following up with Commissioner Bradley Thomas of ANC 5E.
6 Bradley Thomas responded, saying that we need to contact
7 Nancy Jones, from whom we have not received a reply. So
8 we're doing our best to expedite that; we're not sure why
9 those documents have not been uploaded yet.

10 MR. CROSS: And I guess that meeting occurred on
11 May 15th, where that vote took place. Regarding the
12 neighbors, we don't have anything in the file, but we did
13 meet with the direct neighbors. It's semi-detached, so we
14 have one immediate neighbor. He showed up to the Friends of
15 Edgewood group meeting, and his concerns were largely related
16 to the neighbor notification letter that he had received,
17 concerning the underpinning that was going to happen.

18 He was in great support of this project, I guess,
19 suggesting that he has the exact same building next door.
20 So this is a type of project that he has a vested interest
21 in. He simply wanted to work with us more to make sure that
22 all the proper protection measures were given for the
23 underpinning. We traded information, and we haven't had any
24 further correspondence with him.

25 VICE CHAIRPERSON HART: And with regard to -- you

1 showed some images of existing buildings, and I guess that
2 was to show us that there are some precedents for having this
3 type of building at the end of the block in the neighborhood.
4 Do any of those have rooftop access? Decks? It's hard to
5 tell, so I'm just asking. If you don't know, that's fine.

6 MR. CROSS: I don't know.

7 VICE CHAIRPERSON HART: What does adding the
8 mansard -- you showed us a by-right -- were you calling it
9 a by-right? What does adding the mansard do to the floor
10 plan? Does it reduce the number of units? It's unclear as
11 to why this is not acceptable to you.

12 MR. CROSS: Yes. Our client is against pop-ups,
13 and he sees this as a pop-up, which it pretty clearly is.
14 That's his objection to it.

15 VICE CHAIRPERSON HART: You said they were against
16 pop-ups; what does that mean?

17 MR. CROSS: The aesthetic of a pop-up.

18 VICE CHAIRPERSON HART: Well, isn't this -- it's
19 not a pop-up, it's a by-right development, right?

20 MR. CROSS: Yes.

21 VICE CHAIRPERSON HART: So is that not a -- so are
22 you saying that that's not acceptable? I mean, that is the
23 by-right option.

24 MR. CROSS: This is by-right, yes. I guess we
25 might be disputing the term, pop-up, which is not a defined

1 term.

2 VICE CHAIRPERSON HART: I agree; I'm just trying
3 to understand what is it that is not making this an
4 acceptable look? I understand that the owner may have a
5 different kind of opinion of that, but I'm trying to get to
6 -- are they losing units? What is it that they're losing
7 here?

8 MR. CROSS: So the floor plan is actually pretty
9 easy to understand, because it is actually directly flipped.
10 The current floor plan has a partial cellar and three full
11 floors. In the matter-of-right option, we've flipped the
12 entire plan upside down, and it has a partial third floor
13 with three full stories below. It's basically the exact same
14 floor plan.

15 VICE CHAIRPERSON HART: So there's no loss in the
16 number of units that we're talking about.

17 MR. CROSS: Correct.

18 VICE CHAIRPERSON HART: You're telling me that the
19 applicant, owner, whatever -- their issue is an aesthetic
20 one, and they are thinking that the aesthetic of what you're
21 proposing is better than what this is.

22 MR. CROSS: Correct. My client has listened to
23 all the correspondence that you've probably been privy to
24 over the last two or three years, about the objections to
25 pop-ups by the general community of D.C., and the general

1 aesthetic that I believe that is part of a pop-up is when you
2 see a clear added mass thrown on the back of an original
3 structure that are two dissimilar forms.

4 He believes that to do quality development in
5 D.C., we should be looking to develop the whole building in
6 keeping with the aesthetics of the original fabric of D.C.

7 VICE CHAIRPERSON HART: Okay. So what about the
8 other corners that we are not seeing? What you're showing
9 us are corners that affirm your direction, but I have no idea
10 what happens on the other corners. Is every corner like
11 this, like what you're proposing?

12 MR. CROSS: Well, I can show that the corner
13 directly across the street is the same. In the photo, in the
14 upper-right-hand corner of BZA 14A, that is the northwest
15 corner of 3rd and Adams, where we are at the southwest corner
16 of 3rd and Adams.

17 VICE CHAIRPERSON HART: Sure, but in that case,
18 you actually have kind of -- it's not a mansard roof on the
19 corner. There's kind of a pediment on the building to the
20 left of that. Then to the left of that is -- it's not a
21 mansard either. Are you saying this is supporting what you
22 are proposing?

23 MR. CROSS: Yes, I am, because you're asking what
24 is on the adjacent corners, and what I'm saying is --

25 VICE CHAIRPERSON HART: No, I'm actually -- you

1 actually gave us, in the immediate vicinity, which is not the
2 adjacent corner -- what are the other types of buildings that
3 are on -- you've given us three blocks to the north. You've
4 given us a block and a half or half a block to the west.

5 But I'm just asking, what are the other -- there
6 are conditions on each of these intersections, and I don't
7 know what those are. So you're making the argument that this
8 so similar to everything else that's there, that we should
9 be allowed to do this, and I don't know that. I've not been
10 given enough information to get there.

11 MR. CROSS: I apologize; maybe we need to provide
12 more information. We're simply trying to say that all the
13 buildings in this area are not the same. There's a mix of
14 forms, and our form matches some of the forms found in the
15 area, is consistent with the rectilinear form directly across
16 the street, as well as for three blocks of that side of 3rd
17 Street, and this typology can be found in similar locations
18 within a few blocks of where it is being proposed. We're
19 happy to provide more information if needed.

20 VICE CHAIRPERSON HART: You also say that there
21 are no instances where they have a mansard roof that they
22 maintain in the immediate vicinity? I'm just asking because
23 I don't know.

24 MR. CROSS: Maintained with an expansion?

25 VICE CHAIRPERSON HART: Yes.

1 MR. CROSS: I don't know that either.

2 VICE CHAIRPERSON HART: I guess what I'm getting
3 to is, right now, we're being told that there is not an
4 economic rationale, because you're not losing a unit; that
5 the rationale is really, Well, we're in keeping with things
6 that are already going on in the neighborhood, and right now,
7 we don't really know what is going on in the neighborhood,
8 because we've only gotten two of the 15 corners that were
9 here. So while you may know this information, it's not
10 information that we have.

11 MR. CROSS: We'd be glad to provide the rest of
12 the 15 corners.

13 CHAIRPERSON HILL: Mr. Cross, I think we're going
14 to go back and forth on a bunch of stuff, but I'm going to
15 go back to your matter-of-right photo, if we could go back
16 to that again. I'm trying to understand what the difference
17 is between this option and the one you're proposing, in terms
18 of -- and it's basically along the same lines as the
19 questioning that Vice Chair Hart just made.

20 As one who has now done this enough -- if you can
21 do something a matter of right, it's just ridiculous to be
22 here, right? So the fact that -- there must be a reason, and
23 that's what I'm trying to get to. We can go through the
24 analysis and the regulations, but I want to know why you do
25 not want this.

1 The answer that you're giving us -- and that's why
2 I'm finding it so difficult to believe -- the answer that
3 you're giving us is that the aesthetic and the developer does
4 not like pop-ups. They don't like pop-ups so much that
5 they're willing to go through this entire process to not do
6 this. I struggle with that line of an answer.

7 So I'm asking you again, if you're going to tell
8 me -- and this is what you're going to tell me again, right?
9 The developer doesn't want to do this because they don't like
10 pop-ups; they like the square brick thing at the end better
11 than this. It's purely aesthetics. There's no economics to
12 it, there's no floor plan, there's more units in the basement
13 than there were up top. I mean, we can dig through this and
14 try to figure out exactly why they're not willing to do this.
15 So tell me again why they don't want to do this.

16 MR. CROSS: I completely understand why it's not
17 believable. I'm being 100 percent honest that this developer
18 does not want to be seen as doing pop-ups. Now, to your
19 point, there's probably some economics behind that. When you
20 flip the floor plan over, it means you put more square
21 footage in the cellar, and that's less valuable square
22 footage.

23 You also have a building that's seen as being not
24 a new building, not a completely new building, and therefore,
25 it has less of a sales value. This particular developer has

1 been developing this type of project in this area for the
2 last couple of years, and has been successful with this
3 product, because it looks like a new building and provides
4 a maximum of floor area in the --

5 CHAIRPERSON HILL: Okay, Mr. Cross, I appreciate
6 this discussion, because that makes more sense to me. So the
7 other thing is just a pain in the ass to try to struggle
8 through, as to why you want to do something a different way.
9 So I understand cellar, square footage; I understand floor
10 plans, I understand sales of some kind. So that's just what
11 I'm trying to figure out.

12 Okay. So now I'll ask two more questions. When
13 you went through this with the ANC, and when you went through
14 with the Friend of Edgewood, they like this design better
15 why?

16 MR. CROSS: The discussion that we had with them
17 were the three points at the beginning: the bookend of the
18 row, consistency along 3rd, and a style that's in keeping
19 with the fabric of D.C. They were not particularly concerned
20 about the mansard.

21 CHAIRPERSON HILL: Were they shown the matter-of-
22 right thing?

23 MR. CROSS: Yes. In fact, our presentation to
24 those groups involved just those two slides and basically my
25 opening statement. It didn't get into any of this other code

1 stuff.

2 CHAIRPERSON HILL: Okay.

3 MR. CROSS: And the conversations largely pivot
4 around some of the trees in the front, which are better
5 maintained with this plan, because we don't need the light
6 wells in the front to provide light and air to the basement
7 units.

8 CHAIRPERSON HILL: Okay.

9 MR. CROSS: So we're able to keep more trees up
10 front. They also requested that we make the whole thing a
11 red brick, match the --

12 CHAIRPERSON HILL: I understand. Is the unit to
13 the right -- is that red brick?

14 MR. CROSS: Yes. It's all red brick now, which
15 is easier to do when we have control over the whole facade
16 and don't have to piece-in with that mansard.

17 CHAIRPERSON HILL: Okay. And as far as that
18 matter-of-right thing again, you would be tearing it all down
19 and just rebuilding it that way? Can you flip back to the
20 other one again?

21 MR. CROSS: We're required to maintain that
22 mansard, I think we have to keep it --

23 CHAIRPERSON HILL: Keep the front facade?

24 MR. CROSS: Yes, sir.

25 CHAIRPERSON HILL: And so you'd be moving the door

1 back over to the other street there, but you'd be, I guess,
2 just filling it in. I mean, I'm a little confused as to how
3 you would be keeping that -- okay.

4 All right. Does the Board have any other
5 questions?

6 VICE CHAIR HART: Just to understand again, with
7 what you're proposing -- not this matter of right, but what
8 you're proposing -- are you keeping any of the existing
9 facades at all?

10 MR. CROSS: Yes. We are largely keeping the
11 existing facades. This is essentially an expansion of an
12 existing apartment house, and therefore we must keep 50
13 percent of the structure.

14 CHAIRPERSON HILL: Can you flip back to that other
15 one again? So where are you keeping the existing facade in
16 that situation? Okay.

17 VICE CHAIR HART: So you're also telling me that
18 you're going to match the brick?

19 MR. CROSS: That's the challenge with the red
20 brick, and we have talked about how we may have to paint it
21 to achieve the red of the red brick.

22 VICE CHAIR HART: So you're going to paint it red
23 to try to match the --

24 MR. CROSS: That was one of the discussions with
25 -- it started with Friends of Edgewood.

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1 CHAIRPERSON HILL: Or can you paint the existing
2 -- you can paint the existing brick?

3 MR. CROSS: We might have to paint it all. My
4 client has done a lot of these. He is the only client we
5 work with who does all-brick buildings, and he is committed
6 to trying to get brick match in some way, shape, or form.

7 VICE CHAIR HART: So what if you were actually
8 removing the existing building and just building this new?

9 MR. CROSS: I believe we'd be limited to two
10 units, because it would be a raze, and you could not covert
11 to apartment buildings in RF-1 with a raze.

12 VICE CHAIR HART: And then, go back to the
13 matter-of-right option. So with this, you would be -- would
14 those be new windows?

15 MR. CROSS: Yes. It's all --

16 VICE CHAIR HART: I mean, windows in terms also
17 of where they are located. Not just taking out, because it
18 seems as though -- it seems as though they might be moving
19 too. The new windows are moving.

20 MR. CROSS: I believe that many of the openings
21 are being expanded, but yes, they are all new windows, and
22 there are probably some in new locations.

23 MEMBER WHITE: Just so I'm clear, tell me again
24 why you can't use the window style and keep the entrance on
25 the existing street. Why do you have to move the door over

1 to Adams Street and change the style of the windows in order
2 to make the project work?

3 MR. CROSS: Yes. It's all about unit layouts.
4 By moving the entrance to the middle of 3rd, you get two
5 square-shaped units with two walls of windows, whereas if you
6 keep it on Adams, you get two rectangular units, one of which
7 is landlocked between the hallway and a party wall with
8 windows just at the front and rear. The other one has three
9 sides of windows. So it re-allocates the window line and
10 provides for better family-sized units. These are three-
11 bedroom, two-bath units for the majority of the units.

12 ZC VICE CHAIRPERSON MILLER: Thank you. Can you
13 go back to matter of right? Okay. Just to confirm, you've
14 probably answered this: Is the square footage the same as the
15 proposed option?

16 MR. CROSS: I can't say in absolute terms, but I
17 think generally we can say it is the same square footage.

18 ZC VICE CHAIRPERSON MILLER: And you said it's
19 the same number of units, different layout, and there are
20 more in the cellar than on the roof.

21 MR. CROSS: That's correct.

22 ZC VICE CHAIRPERSON MILLER: Is the height of the
23 larger massing the same height?

24 MR. CROSS: The height is the same.

25 ZC VICE CHAIRPERSON MILLER: And what is that

1 height?

2 MR. CROSS: The proposed height, I believe, is
3 just under 34 feet; the height requirement in this zone is
4 35 feet.

5 ZC VICE CHAIRPERSON MILLER: Right, so it's 34
6 feet both in the matter of right and the proposed?

7 MR. CROSS: Yes. I have no reason to believe that
8 it would change.

9 ZC VICE CHAIRPERSON MILLER: And is the taller
10 massing in this matter-of-right option, is it set back from
11 the existing facade, and how far is it set back, if it is?

12 MR. CROSS: Yes. I believe it's three to five
13 feet from the ridge of the existing mansard roof.

14 ZC VICE CHAIRPERSON MILLER: Okay. And who is
15 the client? Who is the developer? Not that that's relevant
16 to our discussion, but since it's been referenced to his
17 preferences here. Is there a principal LLC that we know of
18 in the city?

19 MR. CROSS: Yes. I'm happy to give the name, if
20 authorized.

21 ZC VICE CHAIRPERSON MILLER: Okay. I would just
22 make the comment that I think the mansard roof -- I realize
23 the special exception criteria and the awkwardness of how
24 it's worded provides that you can get relief from the
25 provision about the architectural rooftop element; that's why

1 you're here.

2 But I think the mansard roof is an architectural
3 element that, from personal aesthetics, I think it is
4 personally preferable. You have the setback of the larger-
5 massed building, you're getting the same amount of square
6 feet, the same amount of units. If this were shown in red
7 brick, matching the red brick, which you say the builder
8 wants to do, I think it definitely would show that it's
9 aesthetically more pleasing and more in character with the
10 adjacent property. That's just my own personal aesthetic.

11 Did I hear you say -- I think I heard you say that
12 for the proposed project, the developer wants to match red
13 brick. If it were a matter-of-right project, can you assure
14 us that it wouldn't be this white brick next to those red
15 brick?

16 MR. CROSS: I can assure that the project would
17 be built by my client as a matter of right.

18 ZC VICE CHAIRPERSON MILLER: Okay. All right,
19 thank you for your answers, and thank you for your
20 presentation.

21 MEMBER JOHN: Mr. Chairman, I have a question.
22 I am still stuck -- not really stuck, but could you clarify
23 for me again, why 5203.1(e)3 does not apply? Did I hear you
24 to say it did not apply?

25 MR. SULLIVAN: No, I don't think I said that. I

1 think what applies is 5203.1(b), (c), and (d); (b) and (c)
2 are met, without question, and (d) is the criteria that
3 matches the exact language of the language which we want
4 relief from.

5 MEMBER JOHN: Right. So (e) does not apply?

6 MR. SULLIVAN: Yes, (e) does not. This section --
7 if the whole section applies, it only applies to when you're
8 asking for height relief from the 35 feet. But as to
9 architectural elements, 5203.3 says that the special
10 exception from E206, the criteria are just (b), (c), and (d).
11 It's quite a path to get there.

12 MEMBER JOHN: I've got it, thank you.

13 CHAIRPERSON HILL: Okay. Office of Planning?

14 MS. MYERS: Hello, Crystal Myers, Office of
15 Planning. The Office of Planning recommended denial of this
16 case. When reviewing this case, we looked at E206.1,
17 E5203.3, and the criteria under that, as well as X900, which
18 are the general special exception criteria.

19 The first one, which is, Will be in harmony with
20 the general purpose and intent of the zoning regulations and
21 the zoning maps -- when reviewing this, we felt that it did
22 not meet this criteria. I would specifically point out
23 intent of the zoning regulations. When you look at the RF-1
24 zone and the intent of the RF-1, one of the points brought
25 up in that section, I believe it is to maintain the character

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1 of the neighborhood, which is where we started to look at the
2 design, especially since E206 is more of a design criteria.

3 I actually went out to the site and did a visit.
4 When you walk down Adams Street, all of the houses on this
5 side of Adams Street look the same, with that particular
6 roof. On the other side of Adams Street, those buildings
7 have a similar roof and a similar structure as well. Not the
8 same as this side, but there's definitely a consistency felt
9 on each side. Architecturally, it's consistent with the row
10 on each side.

11 So on this side, there would be a significant
12 change. Now, this section does try to encourage maintaining
13 the existing rooftop; however, you do have the opportunity
14 to redesign the structure in a way that the rooftop could be
15 removed, and you could still maintain the character of the
16 area.

17 That is our interpretation of the special
18 exception, it's not a variance. So if this criteria could
19 be met, as well as the X900 section, there are instances, as
20 mentioned earlier, where we have supported removal of the
21 rooftop element. However, in this case, we feel that the
22 design is a significant departure from the design of this
23 area and would be to a point of disturbing the character of
24 the area.

25 As I point out in the report, removing the rooftop

1 is the main issue. But on top of that, with the redesign,
2 you're also losing windows, the relocation of the entrance,
3 and we also felt that a matter-of-right depiction was
4 actually more in keeping with the character of the area.
5 We're not saying that's the ideal design, but it's more in
6 keeping, and we felt that between the two, that was the
7 better option. The proposed redesign building would be out
8 of character with the rest of the row, because many of the
9 elements that make the building compatible would be removed;
10 it would be the basic point.

11 Again, Office of Planning recommends denial of the
12 proposal to remove the mansard roof, but if the Board decides
13 to approve this project, we recommend that the building
14 incorporate the other elements that help it maintain the
15 compatibility of the streetscape character which, as I
16 mentioned, were the double-hung windows, relocating the
17 entrance back to Adams Street. That would be more in keeping
18 with the rest of the row, if you decide that the rooftop
19 should be removed.

20 So again, Office of Planning recommends denial of
21 this case.

22 VICE CHAIR HART: One question that I had -- so
23 you're saying that this is not meeting the intent of the RF-1
24 zone, and that's under X901?

25 MS. MYERS: The guidance to look at the intent of

1 RF-1 is from X900; however, the RF-1 section's stated purpose
2 section is the one that tells you the intent of the zone.

3 VICE CHAIR HART: Okay. And since you've said
4 that you've actually been to this neighborhood, what is your
5 idea about what happens on the corners? The applicant has
6 stated that they are in keeping with the general neighborhood
7 and the corners that transition from what's happening in the
8 middle of the blocks, and they provided some images showing
9 that. What is your expectation or expertise on that?

10 MS. MYERS: It's interesting. As you can see on
11 the pictures that are up right now to the left, the larger
12 building; in my opinion, that was really the only example of
13 a considerably-sized building on the corner in that general
14 area. As you keep walking down, each building on the corners
15 of these streets, Adams Street, Bryant Street; they're
16 consistent with their row.

17 I'm not saying this building wouldn't be, size-
18 wise, similar to those buildings, but I also would note that
19 all of those buildings that were on the corner were
20 consistent, at least at Adams and Bryant. I think I did make
21 it over to Channing as well. They were consistent with their
22 row, so if I were on Channing Street or Bryant Street or
23 Adams Street, all of those had an appearance very similar to
24 the rest.

25 This particular proposal on Adams Street would be

1 a departure from that. Even if it were, size-wise, similar
2 to the house or the building on the corner of Bryant Street,
3 it would be different in appearance to its own row, which
4 would be different from what Bryant Street and Channing
5 Street properties are doing. At least, that's what I
6 observed. I'm not saying that the applicant would not know
7 another street in the area that, perhaps, I did not go down.

8 I would also point out that you can design a
9 building that does remove the rooftop, like I said earlier,
10 but it's really about how you are designing it. We did not
11 feel that this design was something we could support when it
12 comes to removing the rooftop, because it was such a drastic
13 difference in the rest of the houses on this row.

14 VICE CHAIR HART: Thank you. Did you see any
15 expansions on any of the buildings on the corners? Did you
16 notice any?

17 MS. MYERS: Yes. Even this building, I believe
18 there's an addition on the back of this building. It was
19 probably done by matter of right. It was in the back, you
20 can't really see it. It was in the rear, and that's
21 perfectly fine.

22 I should also note too, that on this row, I think
23 most of these buildings are multi-family, which I'm aware of,
24 but they appear to be single-family.

25 VICE CHAIR HART: You mean along Adams Street?

1 MS. MYERS: Yes, sorry, Adams Street. It would
2 be appropriate if the owner of this property could try to
3 maintain that. As a matter of right, it's not a requirement,
4 but just to maintain that feeling on the row, the character
5 of the row, if it could be done in a way to still maintain
6 an appearance of a single-family structure, I think that
7 would be in keeping with the spirit of the RF-1 zone and the
8 spirit of the row that it's in.

9 VICE CHAIR HART: And do you think that they
10 would have -- because there is somewhat of a different view,
11 I guess, from 3rd Street, versus from Adams Street. It seems
12 as though they have a three-story structure -- well, they
13 have three-story structures on both Adams and 3rd Streets,
14 but this is now facing 3rd Street, not facing Adams Street.
15 Do you think that that's part of the consideration as well?

16 MS. MYERS: I could see your point, what is the
17 feeling when it comes to the neighborhood character on 3rd
18 Street? I didn't feel like there was any particular
19 character on 3rd Street. I'm not saying that there isn't,
20 but I did not pick that up. It's just there was such a
21 solidified character on Adams Street, that that's where I was
22 more basing my analysis off of.

23 But on 3rd Street, I don't think it really adds
24 to the character on 3rd Street, but I will admit I don't
25 think 3rd Street had pretty strong character. I think all

1 of those buildings on the corner were maintaining the
2 character of the other street that they were on.

3 VICE CHAIR HART: One final question, and I'm
4 sorry for all of these questions. I'm trying to get all of
5 this.

6 MS. MYERS: I'm here to answer questions.

7 VICE CHAIR HART: So 5203, which is still to
8 building height, and 5203 itself deals with the building
9 height and special exceptions, but it also deals with this
10 particular aspect, which is the removal of rooftop element.
11 At the very end of 5203, which is 5203.1, it has a curious
12 statement, one of the pieces, and I'll read it: The Board
13 of Zoning Adjustment may require special treatment in the way
14 of design, screening exterior or interior lighting, building
15 materials, or other features for the protection of adjacent
16 or nearby properties, or to maintain the general character
17 of a block.

18 So it seems as though that made sense in this
19 case, but it doesn't seem to be referenced anywhere else in
20 the -- like, I don't know how you get to that point. What
21 necessitates that being taken into account? I just bring it
22 up because I find that that would actually kind of answer
23 some of the things that we have, but I don't know when it
24 applies. I didn't know if you'd like to comment on that, or
25 just understood that.

1 MS. MYERS: I understand; I don't have an
2 additional comment on that, though.

3 VICE CHAIR HART: Thank you.

4 CHAIRPERSON HILL: Anyone else?

5 ZC VICE CHAIRPERSON MILLER: Thank you, Ms. Myers,
6 for your presentation. At some point we'll take
7 deliberation, maybe not today. I agree with your comments
8 about the mansard roof; that's an architectural element
9 that's referenced in the special exception criteria. I think
10 we're going into all these other things, the double-hung
11 window, the entrance, the feel of a single-family -- I think
12 it's really getting beyond what the special exception
13 criteria is. It sounds like we're an HPRB meeting here.

14 To the architect, could you put up the frame where
15 you reference the OP report that approved the removal of the
16 mansard roof, so that then Ms. Myers -- I think you did
17 reference this in your -- what distinguishes this from --
18 especially since it's a corner lot --

19 MS. MYERS: This is not a corner lot.

20 ZC VICE CHAIRPERSON MILLER: No, I know. But the
21 other is a corner lot.

22 MS. MYERS: Yes. As I said, you can remove a
23 rooftop element, a mansard roof, as long as the particular
24 project is designed in a way to still maintain the character
25 of the neighborhood, what the intent of the zone is, and be

1 done in a way that fits in. We felt that, in this project,
2 it was done that way.

3 Again, as you noted, this is not a corner lot;
4 this is a more interior lot, so I would even argue it was
5 even more of an issue to make sure that this design was more
6 in keeping with the row, and we felt it was. Today's
7 project, we feel, is not. So it's more, what is the design
8 of the project?

9 ZC VICE CHAIRPERSON MILLER: Is it the setback
10 that does it? Or one of the things that helps?

11 MS. MYERS: Yes. That was part of that --

12 ZC VICE CHAIRPERSON MILLER: Which is one of the
13 things that the matter-of-right option has.

14 MS. MYERS: Exactly.

15 ZC VICE CHAIRPERSON MILLER: Okay, thank you.

16 CHAIRPERSON HILL: Anyone else for the Office of
17 Planning? Does the applicant have any questions for the
18 Office of Planning?

19 MR. SULLIVAN: Yes, thank you. Is there a
20 difference between -- do you think there is a difference
21 between general purpose and intent of the zoning regulations
22 and the specific intent of a specific regulation?

23 MS. MYERS: So you mean, like, E206 versus the
24 general --

25 MR. SULLIVAN: No. I guess -- 901.2 says that it

1 should be -- there is specific criteria, then there's the
2 general criteria, and the general criteria says that it
3 should be in harmony with the general purpose and intent of
4 the zoning regulations.

5 Then you referred to specific intent of a specific
6 regulation, RF-1. Is there a difference between general
7 purpose intent, or does general purpose intent mean the
8 intent of any section you want to pick?

9 MS. MYERS: Well, I understood it as being the
10 general purpose and intent of the zoning regulations, and
11 this particular property is in the RF-1 zone. So that is the
12 guidance I use to decide what the intent of the zoning
13 regulation is, especially since E206 did not particularly
14 give guidance on what the intent was. But it does fall under
15 the RF-1 zone, so looking at this rooftop element criteria
16 is falling under the RF-1 zone, it seems that the intent of
17 the RF-1 zone is what guides the purpose of having that
18 criteria to begin with.

19 There's a number of different intent under the RF-
20 1 zone, but the one that was picked, particularly a purpose
21 for this case, was maintaining the neighborhood character,
22 and that's where the design issues fell under for our
23 analysis.

24 MR. SULLIVAN: And what section of the regulations
25 were you referring to for the character?

1 MS. MYERS: Well, I believe it's character of the
2 neighborhood. Unfortunately, I don't have the zoning
3 regulations in front of me, but under the stated purpose
4 section of the RF-1 zone at the beginning --

5 MR. SULLIVAN: Okay. Maybe it's 100.3, which says
6 that there's six things that are intended. The first one
7 says, Recognize and reinforce the importance of neighborhood
8 character, walkable neighborhoods, housing affordability,
9 aging in place, preservation of housing stock, improvement
10 to the overall environment, and low- and moderate-density
11 housing to the overall housing mix and health of the city.
12 Is that the section?

13 MS. MYERS: Exactly. The first part of it is the
14 part that I worked.

15 MR. SULLIVAN: So the fact that everything else
16 in that section talks about things completely unrelated to
17 aesthetics -- why is the term, neighborhood character -- how
18 does that translate to aesthetics? Double-hung windows,
19 moving entrances, streetscapes, and things like that?

20 MS. MYERS: So E206 is a design criteria pretty
21 much, maintaining a certain design element on the project.
22 Again, this falls under the RF-1 zone, and everything under
23 the RF-1 zone development standards, special exceptions,
24 etc., are supposed to support the intent of the zone, in
25 order to maintain projects that are in the RF-1 zone,

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1 developed in the RF-1 zone, under the intent of being
2 neighborhood character, and the other aspects as well, we
3 follow the development standards, and we also follow, if
4 we're doing a special exception, the special exception
5 criteria.

6 This section would prefer that rooftops are
7 maintained, that particular rooftop elements are maintained.
8 If they are not maintained, you review the special exception
9 criteria. In this case, in the report, I was pointing out
10 that the rooftop itself, just maintaining the rooftop itself,
11 was really the goal. But if you're going to remove the
12 rooftop, thinking you design a project that would still fall
13 within what the RF-1 zone is trying to do, which is the
14 intent of maintaining the neighborhood character, which is
15 why you have other examples like the one we're looking at on
16 the screen now, and that project we felt did maintain the
17 neighborhood character.

18 But if you are going to remove the rooftop, other
19 elements that are done -- not just the rooftop, but to the
20 whole design of the addition that's being done -- that still
21 maintains that character, and we felt, in this project, that
22 was not the case. That is why mention of windows and
23 relocation of the door were all considered. But again,
24 maintaining the rooftop was the main issue. But if you're
25 not going to maintain the rooftop, what else are you doing

1 in order to develop something that still keeps the spirit of
2 art forms that are alive?

3 MR. SULLIVAN: As a planning professional, do you
4 think this would all work a lot better if there were specific
5 criteria for the special exception relief in 5203.1 that said
6 something specifically about aesthetics and compatibility and
7 character of aesthetics? Wouldn't it all be a lot cleaner
8 and easier for applicants to understand and for Office of
9 Planning to understand?

10 MS. MYERS: I really have not comment on that.
11 I think we all know that the zoning regulations are always
12 updated and changed, etc. We take clarification to the
13 regulations periodically. I don't know if this section is
14 or is not considered clear or not clear. But at this point,
15 with the regulations that we have now, this is the type of
16 analysis that we would use. We would look at the general
17 section as well as the specific E206 section.

18 MR. SULLIVAN: Thank you. Has there been a change
19 in the Office of Planning's viewpoint on this from a year
20 ago, when the general-purpose intent didn't mention -- in a
21 report for this case -- really didn't mention anything about
22 aesthetics. It said general purpose intent related to
23 residential use and the development standards were met.

24 MS. MYERS: Well, as we always say, each case is
25 unique; we look at each one on its own individual merits.

1 The case that you're referring to over here, this is a case
2 that we were satisfied with and recommended approval of. In
3 this case, which is recommending denial, we went into more
4 detail in order to explain why we are recommending denial.

5 MR. SULLIVAN: Okay. Thank you. No further
6 questions, thanks.

7 CHAIRPERSON HILL: Okay, thanks. Mr. Sullivan,
8 if it was really clear and concise and everything, you
9 wouldn't have a job.

10 MR. SULLIVAN: I'm torn on that one.

11 (Laughter.)

12 CHAIRPERSON HILL: Okay. Anybody else for the
13 Office of Planning?

14 MR. LEE: May I speak to some of the context that
15 was mentioned by the Office of Planning for the neighborhood
16 context?

17 CHAIRPERSON HILL: Yes. Is that a question or is
18 that -- that's all right, because I haven't had anybody else
19 -- I guess you can ask questions of the Office of Planning,
20 if that's -- or do you just want to wait until the end? Do
21 you have a question of the Office of Planning? Okay. All
22 right.

23 Okay, is there anyone here from the ANC?
24 Obviously not. Is there anyone here wishing to speak in
25 support? Is there anyone here wishing to speak in

1 opposition? Okay. All right, then. Let's see, Mr.
2 Sullivan, I guess if you want to have any rebuttal or a
3 conclusion here. I know that I have something that I'm
4 curious about asking. I don't know if I'm going to do it at
5 the end or not, and if the Board has any other questions,
6 they can go ahead and ask the applicant now. If not, we can
7 go ahead and let Mr. Sullivan do a conclusion and a rebuttal
8 for the other member of his team.

9 MR. SULLIVAN: Okay, I'll go through the rebuttal
10 statement first.

11 MR. LEE: Sure. I'd like to say to Mr. Hart's
12 comment, we'd like to apologize that we didn't give more
13 information on the corner context, but to respond to two
14 things from the OP: from what we have seen on Adams Street,
15 those buildings have multiple meters on the front. And just
16 from walking down the streets, it's our strong assumption
17 that South Adams is mostly multi-family and not single-
18 family.

19 The second thing is, all along 3rd, nine of the
20 ten units on the west side of the block are rectilinear.
21 Over half of those have their primary entrance along 3rd,
22 rather than along the secondary streets, Ascot, Bryant,
23 Channing, etc.

24 Four of those are rectilinear bookends to a row
25 of mansard roofs, that would be Channing, Cromwell, and

1 Douglas. All have rectilinear bookends that end a row of
2 mansard row houses. Again, we're happy to upload a full
3 contextual study to the BZA case.

4 VICE CHAIR HART: That would be very helpful,
5 because right now I think it's just incomplete to be able to
6 understand what that context is, and it is statements that
7 you and Mr. Cross have made that I'm okay -- I'm hearing it,
8 but I don't know that. I don't understand where you're
9 making these assessments, and it's helpful for us to see that
10 and say, Oh, I get it. They're saying this because they have
11 a similar condition that's happening on three of the other
12 corners, but it's not happening here.

13 MR. LEE: Of course.

14 VICE CHAIR HART: You know, we can kind of see
15 some things, like some of the aerial photographs that you
16 provided. They showed some of the other corners, and it
17 looks like they're not on 3rd Street. The entrance is not
18 on 3rd Street, or it's not like the corner that you're
19 talking about. So again, are we talking about half of them
20 corners going to be a similar thing? Are we talking about
21 the instances that you've provided, which are a number less
22 than half of them? I just don't know.

23 MR. LEE: Right, and we're happy to provide a
24 full, detailed report showing what's mansard, where the
25 entrances are for all the corner lots in the vicinity. We'll

1 get you a detailed report shortly.

2 VICE CHAIR HART: And did you also look at an
3 entrance for one of the -- did you look at more than one
4 entrance for the building? Because on 3rd Street, in the
5 matter of right, you have just the one entrance on 3rd
6 Street, and it has a window well that you've created because
7 you have a unit that needs light. Did you consider having
8 an entrance on that side?

9 I mean, it looks like there's something that's a
10 -- I don't know if that's an existing entrance that is on the
11 very far right-hand side of the slide -- there's a stair, and
12 I don't know where that stair is going to.

13 MR. LEE: So that adjacent red brick building
14 adjacent to our project is the neighbor. That is the
15 existing neighbor --

16 VICE CHAIR HART: I'm talking about the sidewalk.
17 There's the tree strip on Adams Street; there's a sidewalk;
18 there's a brick retaining wall. At the very far right side
19 of that is a set of stairs.

20 MR. LEE: Yes, that's existing. That was left.

21 VICE CHAIR HART: So you'd leave that; but where
22 does that go to?

23 MR. LEE: That would go, looking at the site plan,
24 it would go up to the site and just wrap around the building.
25 There is sort of a secondary sidewalk within those properties

1 that runs the full length of South Adams, and so we'd just
2 maintain that, rather than get rid of it.

3 VICE CHAIR HART: Okay. And just to kind of
4 switch gears a little bit, I see the image that you have from
5 Adams Street, of the proposed building. Where is that image
6 taken from? The very first one, all the way to the front.
7 Where is that image taken from?

8 MR. LEE: So that is basically right in front of
9 the property on 3rd Street.

10 VICE CHAIR HART: Okay. So is it across the
11 street?

12 MR. LEE: It is roughly in the middle of the
13 street, not quite on the opposite sidewalk.

14 VICE CHAIR HART: I'm trying to understand what
15 you see if you actually see how much of the rooftop access --
16 what do you call it?

17 MR. LEE: That's essentially the third-story
18 addition in the matter-of-right design.

19 VICE CHAIR HART: No, no. I'm saying the rooftop
20 access, the penthouse; how much of that do you see from
21 across the street? I really don't know.

22 MR. CROSS: Yes. The images you see here are from
23 a three-dimensional model, from which the plans are
24 developed. So it is accurately depicting the view of that
25 penthouse from, as you say, wherever this camera is. It

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1 seems like the indication is that it's somewhere in the
2 middle of the street, and therefore that would be what you
3 see from the center of Adams Street, approximately in front
4 of the building at 223 Adams Street.

5 VICE CHAIR HART: And do you have a -- you don't
6 have any images from --

7 MR. CROSS: The only other image that might
8 reference that is the one where we show the mass from Rhode
9 Island. You can see that it is apparent, because you are far
10 enough back, and it's a large, open area.

11 Again, we feel that that also shows that
12 contextually, this is very much in-scale with the adjacent
13 buildings. It is one story higher than all the others there,
14 and it is backing up to a seven-story building. It seems
15 like it is not disproportionate at all.

16 VICE CHAIR HART: Okay.

17 MR. CROSS: And the third story is matter of
18 right.

19 CHAIRPERSON HILL: Okay. I'll let Mr. Sullivan
20 go ahead and complete his conclusion. Mr. Lee, as far as the
21 meters, the Office of Planning wasn't saying that there
22 weren't multi-family; it's that it looked like single-family.
23 At least, that's that I thought the Office of Planning was
24 saying during -- and I'm getting a nod from over there. So,
25 Mr. Sullivan?

1 MR. SULLIVAN: Thank you. I actually think the
2 zoning regulations, in most cases, are really clear. That's
3 what I like about them, and that's why I enjoy practicing
4 them. When somebody calls me, and they say, What can I do
5 in this zone? I tell them exactly what they can do. You can
6 go to this height, this FAR, this side yard. Then I say,
7 oops, it's in a historic district, so whatever I say, it
8 doesn't really matter. You're going to have to go talk to
9 somebody, and they're going to tell you something that's much
10 more -- something that I don't understand.

11 I think that's an issue here. I think if the
12 zoning commission had intended such specific discussion about
13 windows and moving entrances and even mansards, which was not
14 even mentioned in the regulations, they would have provided
15 a criteria for that. They would have said, Here's the
16 criteria, and they would have given the Board and the
17 applicant guidance, and the Office of Planning. I don't
18 think the Office of Planning are design professionals, I
19 think maybe they refer to their historic preservation office
20 staff to help write the reports.

21 But it risks becoming sort of a shadow historic
22 preservation zone, and it leads to this ambiguous discussion,
23 which doesn't leave any room for a freedom of expression of
24 the architect and the applicant, and I think that's what they
25 were talking about here. I don't read it as, I hate pop-ups;

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1 it's more, I like this design, and this building is going to
2 have my name on it, and I have a reputation for what
3 buildings I put in the city. And he happens to like that.

4 Obviously, there is a restriction on removing an
5 architectural element, so it means something; the difficulty
6 is, to what degree does the Board and the Office of Planning
7 -- or to what detail they go into that. I don't know how to
8 answer that, other than I think our argument is that general
9 purpose intent is just that, it's general.

10 The purpose of the zoning regulations and the
11 statute doesn't say anything about aesthetics. So I think
12 there needs to be some leeway for freedom of expression in
13 your consideration of what's changed in this building,
14 consideration of the expertise of the architect and the
15 applicant, and to balance that in some way with the
16 restrictions and the regulations and the purpose of it.

17 I think the ANC can be helpful in that, and I
18 would love to say that we're going to follow through on that
19 and get that report. One thing the zoning commission
20 probably intended was, if the neighborhood was okay with
21 this, then we're going to be okay with it in a lot of
22 situations. That is one reason for the special exception
23 relief, I think a very important reason, is that we want to
24 give the neighborhood a chance to say, This is not what we
25 want. That give this Board the leeway to agree with them.

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1 So that's all I have to say about that. Thank
2 you.

3 CHAIRPERSON HILL: Okay. So this is where I kind
4 of -- and I'll just open it up to the Board in terms of
5 overall thoughts, because I don't think we're going to close
6 this hearing right now. I hear the applicant's argument in
7 terms of the legal discussion with which they're coming at
8 it in terms of the regulations, and I'd like to go back and
9 take a harder look, I guess, at that. That's one thing that
10 I'm interested in doing.

11 I'm kind of having a discussion with the applicant
12 here and opening it up to the Board, because I'm not closing
13 this hearing. We might get to a question from me. I'm not
14 there in terms of the argument that the applicant is making.
15 I'm still kind of with the Office of Planning.

16 What I would have asked the applicant to do, I
17 suppose is, rather than -- I don't know where the rest of the
18 Board is -- and we can have a discussion -- but the applicant
19 continued to work with the Office of Planning, rather than,
20 if this were denied, you can't come back for a year. I think
21 the Office of Planning makes a good argument as well.

22 You could try to work with the Office of Planning,
23 and this the part that I just struggle with so much -- if we
24 do come back, I'd like a little bit more clarity as to why --
25 I mean, just as a business owner, the matter-of-right thing,

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1 it just boggles my mind again. Just to struggle as to why --
2 the whole thing about the pop-up versus -- that argument to
3 me -- I can't even get around it.

4 I'm just going to repeat the same thing I said,
5 but to come here and go through this whole process because
6 you don't like pop-ups; it's just ridiculous. There's an
7 economical reason as to why you're here, and I would rather
8 hear what the economics is, because that's an even better
9 argument. At least I can get around that.

10 Then when you look at whatever the option is
11 that's supposedly the more aesthetically pleasing option,
12 you're going to have two different bricks. It's just going
13 to be the outline of what the building is, so I can't even
14 get behind that.

15 But again, those are beyond the regulations and
16 the argument of what we're here to go through. So I guess
17 I'm looking at the applicant and thinking, you can come back
18 and provide your photos and explanation as to why you
19 actually need this or want this, instead of the matter-of-
20 right option, and then continue to have this discussion with
21 regulations.

22 And I agree, Mr. Sullivan; it is not as clear as
23 a lot of things that come before us. But I do think the
24 Office of Planning makes an argument, and the Office of
25 Planning has been here -- we've been here many times when

1 they have agreed to remove a rooftop element, and the
2 neighborhood has been against it. The applicant is very
3 happy to get the analysis of the Office of Planning. That
4 provides the Board some flexibility on either side, in other
5 cases.

6 So my thoughts here, and I'd love my colleagues
7 to chime in -- I don't know what the applicant may or may not
8 be interested in doing. At this point, I'm not on Board.
9 So if you were to go ahead and try to do the information that
10 Mr. Hart is asking for, as well as -- I don't even really
11 need the economics to it. If you're going to come back with
12 what you're doing, then the argument that you made is on the
13 regulations. So that's something that I can go back and take
14 a harder look at and then compare it again to the Office of
15 Planning.

16 Then together -- I don't know if Mr. Sullivan has
17 done this or not -- you have to, at the same time, work with
18 the Office of Planning and see if you can come up with
19 something else so that you don't get a denial and can't come
20 back for another year.

21 So those are my thoughts from the Board. I don't
22 know if anybody else has any other comments before we turn
23 to asking whatever we're going to ask of the applicant.

24 MEMBER WHITE: Yes. I concur with what you said,
25 Chair Hill, because I'm not there yet either, and I think the

1 Office of Planning did make a pretty strong argument in terms
2 of trying to maintain the look and feel of that particular
3 block.

4 I think that the applicant has an opportunity here
5 to work closer with Office of Planning to see if they can
6 come up with maybe an alternative that they would be
7 supportive of. Obviously, not have anyone from the ANC or
8 anyone from the committee here hasn't really helped that much
9 either. I'm kind of perplexed as to why we don't have any
10 feedback from them at all, because this is a fairly large
11 project.

12 I would also recommend that you work the Office
13 of Planning and maybe come up with an alternative rendering
14 that they would be able to support, maintaining the look of
15 that block on Adams.

16 Now, I don't know if you would have to necessarily
17 change the entrance or change all the windows to comply with
18 what have suggested in order to get approval, but I think at
19 least having a discussion would be helpful.

20 MEMBER JOHN: So, Mr. Chairman, I agree with most
21 of what's been said. I don't believe we need to hear the
22 economic argument, because the regulations don't take that
23 into account. I too would like to take another look at the
24 regulations, particularly in light of the testimony of the
25 Office of Planning and the applicant's discussion of whether

1 we should look at the specific intent or the general intent
2 of the zoning regulations, those two arguments.

3 I am concerned that we would be changing the look
4 and feel of Adams Street, because all of the houses along
5 that row, as I understand it, do have the mansard roof, and
6 we would be changing this one particular house at the end of
7 the block. Although I understand the whole idea of the
8 bookends, I don't know, as Mr. Hart said, whether or not, on
9 the other sides of the street, there are the same bookends.

10 But the Office of Planning also testified that on
11 the opposite side of Adams Street, all of those houses are
12 of the same type, or have the same look and feel, sort of a
13 square -- I'm not an architect, so I'm having trouble with
14 this -- it's sort of a uniform character to those houses.
15 So while I understand the need for the proposed design, I am
16 really torn about disturbing the look and feel of that row
17 on Adams Street.

18 So that's where I am. I'm not there yet. I would
19 like to be, but I'm not there.

20 VICE CHAIR HART: I guess many of the questions
21 I had were really around the neighborhood and character issue
22 and understanding that a little bit better would help me
23 understand this a little bit better. I feel that you
24 provided some information that has been helpful to see what
25 has happened on several of the corners in the immediate

1 neighborhood or general neighborhood. But it seems as though
2 there needs to be a real understanding as to whether this in
3 keeping or not in keeping with what the neighborhood
4 character is.

5 So the questions that I had were really around how
6 this comports with that. I think you understand that having
7 -- the request that I had was really around, give me a plan
8 or a map of the neighborhood, showing what you did, but just
9 on a little larger scale that says, Okay, we've looked at six
10 corners, and this is what we've come up with. We've had this
11 type of transition building on three of those six corners --
12 whatever.

13 But I think it's helpful to kind of understand
14 that, because right now, while you are supposed to be giving
15 what's happening that are similar to your -- giving
16 information that supports the hypothesis that you have, it
17 doesn't seem like we have enough information to be able to
18 say, Oh, okay, I agree with that, or don't agree with that.
19 I think that would be helpful.

20 I kind of understand the issue about 3rd Street;
21 you're trying to have this building look more like the
22 buildings along 3rd Street. But I still think that you have
23 the issue of what happens along Adams. I'm not sure what
24 exactly happens along Adams, except for the buildings that
25 are directly next to it. I don't know what happens across

1 the street. I could see this image that you've provided
2 here, which is kind of a massing, but that's all that I have.

3 So going to OP's point, which is looking at the
4 neighborhood character issue, I'd like to understand that a
5 little bit better, and I just don't think we have that
6 information yet. I think you all may have it, but it would
7 be helpful for you to include it so that we can look at that
8 as well.

9 So under E100, as Mr. Sullivan read, I guess
10 100.3, they talk about the different criteria are. There are
11 also the development standards, 101.2. They talked about
12 what the development standards are intended to do. So this
13 is kind of generally what we're looking at. So I'm just
14 trying to understand all of that.

15 At 101.2, it looks at things like building bulk
16 and location of that with respect to the adjacent lots and
17 streets. Again, I'm just trying to understand all of this.
18 It's helpful for us to see. I think the image that you have
19 on the screen, which shows the building massing along 3rd
20 Street with Rhode Island, Adams, Bryant, I think that's very
21 helpful.

22 I think maybe you should write about the
23 transition and having a moderate-sized building might be okay
24 to do there. But I am concerned about the transition up
25 Adams Street, because I think that's less successful. That's

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1 why I was kind of trying to understand what the rationale was
2 for not wanting to do an addition, but keeping the mansard.
3 That's where I was going with that.

4 So what I've asked for is just a comparative plan
5 that shows where these other corners, what happens on them.
6 I think that would be very helpful for us to understand that.
7 I'm assuming you have photos along Adams Street -- just to
8 understand what's on the other side, what's on the east side
9 of Adams Street would be helpful as well. That's it.

10 ZC VICE CHAIRPERSON MILLER: Thank you, Mr.
11 Chairman. The only thing I'm really looking forward to
12 getting is the ANC letter and any other letters in support
13 from the civic associations that you mentioned, and maybe the
14 adjacent neighbor. I think that would be helpful for the
15 record.

16 As I indicated previously, I think for me this
17 section is all about rooftop architectural elements, so
18 that's the only element that I was focusing on, which is the
19 black mansard roof, and I happen to think that it looks more
20 in keeping with the neighborhood to do the matter-of-right
21 option, as long as it's all red brick and that each of the
22 massings match each other and the adjacent property as much
23 as possible.

24 I don't know if we're going to get there, but if
25 you want to develop and work with OP and see if you come up

1 with different designs that maybe the applicant and OP can
2 agree with, that's fine. That's your right to do, and we'll
3 see if we get anything else. But the neighborhood letters
4 will be important for this record.

5 CHAIRPERSON HILL: Okay, Mr. Sullivan. So, as I
6 got it, Commissioner Miller, the ANC letters, an adjacent
7 letter from the neighbor and Friends of Edgewood, in terms
8 of sort of the community feedback. Mr. Hart was the
9 photographs or whatever other things he was interested in,
10 for whatever it's worth. I kind of like the entrance on 3rd
11 Street, but that's just for whatever it's worth.

12 Then for me, I'm going to go back and look at the
13 regulations. I think that what you are putting forward is
14 a real argument, and so you can continue down that path. I
15 don't necessarily know, as I've already stated, that I'm not
16 there, but I'm also listening to what the argument is from
17 the Office of Planning.

18 So I guess I'm kind of looking to you; I guess
19 you'll come back to us with that. So for me, and it would
20 seem also for some, to continue to try to work with the
21 Office of Planning so that you could possibly -- because you
22 have now the ANC and the community support. I don't know
23 whether you'd have to go back to them, though, if you were
24 going to try to do a different design with the support of the
25 Office of Planning. I don't know how that would work, and

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1 I'll let you kind of struggle through that, I suppose.

2 I guess, in summary, I didn't think this was going
3 to go two hours, and so we've gone two hours, and the reason
4 why is because it isn't an easy fix or discussion, I suppose.
5 So you can read the tea leaves up here as much as you'd like
6 to try, and figure out what you want to do when you come back
7 and go talk the applicant. But I think that coming forward
8 the way you did was at least understandable. But I'm still
9 with the Office of Planning. I'm just throwing all of that
10 out.

11 So for you to give all of that back, including
12 working with the Office of Planning or trying to work with
13 the Office of Planning, when do you think you would want to
14 come back here?

15 MR. SULLIVAN: I would say two weeks to a
16 submission date.

17 CHAIRPERSON HILL: Mr. Miller, you're back on the
18 27th? Is that what I remember?

19 ZC VICE CHAIRPERSON MILLER: Yes.

20 CHAIRPERSON HILL: Okay. So then you're going to
21 be -- you're going to be short though, because I think two
22 of us are not going to be here on the 27th.

23 ZC VICE CHAIRPERSON MILLER: I can come back.

24 CHAIRPERSON HILL: So -- okay, Mr. Miller, you're
25 willing to come back at another time? That's very nice.

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1 You're retired, right? Let's see. So you said two weeks for
2 submissions?

3 MR. SULLIVAN: That would be great, yes.

4 CHAIRPERSON HILL: And Mr. Moy, if we did that,
5 when would we be back here again?

6 MR. MOY: So if the applicant is proffering to
7 submit additional information in two weeks, that would put
8 us at Wednesday, June 20th. I'm guessing the Board would
9 want a reaction from Office of Planning?

10 CHAIRPERSON HILL: Yes, if we could get a
11 supplemental from the Office of Planning.

12 MR. MOY: Right. Also maybe give them another
13 week or -- yes, that would take us to June 27th. Perhaps
14 also include letters from -- if it's gettable, from the ANC
15 and adjacent property owners.

16 CHAIRPERSON HILL: Mr. Sullivan, try to get those
17 letters, then.

18 MR. MOY: That would be by the 20th or the 27th;
19 it's up to the Board when you want that. So what I'm hearing
20 then, Mr. Miller can -- this would be a continued hearing
21 sometime after June 27th. Is that what I'm hearing? Or do
22 you want this on continued hearing in the first week of July?

23 CHAIRPERSON HILL: Okay. We'll do continued
24 hearing then, but then Mr. Miller would have to be here the
25 27th and then come the following week. Or will we be off for

1 July 4th?

2 (Simultaneous speaking.)

3 MR. MOY: We do have a hearing on July 11th. I
4 was going on the fact that -- do you want to come back on
5 June 27th?

6 ZC VICE CHAIRPERSON MILLER: That would be very
7 convenient.

8 CHAIRPERSON HILL: Problem is, two of us aren't
9 going to be here.

10 MR. MOY: Two of you will not be here?

11 CHAIRPERSON HILL: Yes. Let's back up.
12 Commissioner Miller, I want to thank you so much. I really
13 do mean, thank you for -- your willingness to come back in
14 again, so let's go ahead and do it maybe July 11th for the
15 continued hearing.

16 Then, Mr. Sullivan, again, what I would recommend
17 is that -- I mean, I know this is what I would want. The
18 Office of Planning seems like it's at least willing to talk
19 to you. So if there is something that you can come up with
20 for the Office of Planning, I would like to see something
21 from the ANC that they're comfortable with whatever it is
22 that the Office of Planning is now possibly comfortable with.
23 That's if you go that route.

24 MS. MYERS: Sorry, the Office of Planning, at
25 least myself, we will not be here on July 11th. That's the

1 only day I can't do.

2 CHAIRPERSON HILL: Okay.

3 MS. MYERS: Still submit a report though, but I
4 will not be here to answer questions.

5 CHAIRPERSON HILL: Why don't we keep it on July
6 11th. What's the docket looking like on July 11th and the
7 week after that? Are they all heavy after that? Because
8 we're just going to get a recess, so all three weeks, we're
9 getting beat up? Okay.

10 So let's keep it on July 11th, and if you can
11 submit your supplemental. And if we really need to talk to
12 you, then we'll just call you from wherever you are.

13 I guess that's it, then. So July 11th, we're
14 coming back for a continued hearing. Mr. Sullivan, do you
15 know when you're going to submit everything?

16 MR. SULLIVAN: Well, then I guess I'd like to push
17 up against that date.

18 MR. MOY: So let's push it another week. Can you
19 do June 27th?

20 MR. SULLIVAN: Sure, that would be great, and give
21 us -- the ANC, I'm sure you'll accept their letters anytime
22 before that hearing, so we'll keep working on that. But
23 everything else that we have control over, we'll submit.

24 CHAIRPERSON HILL: Yes. The only thing I'm kind
25 of interested in is, again, if you come back with something

1 different, having to get something from the ANC -- and I
2 don't know how you would necessarily do that -- but I'd like
3 some kind of feedback from the ANC.

4 What were the dates again? I'm sorry.

5 MR. MOY: For the applicant to make their
6 additional information filings by June 27th, and then we'll
7 give time for Office of Planning for a supplemental in July;
8 let's say the first week in July -- July 3rd, okay?

9 CHAIRPERSON HILL: Okay. The applicant will have
10 time to respond to anything the Office of Planning submits
11 by July 11th.

12 MR. MOY: Right. Then, Mr. Chairman, for letters
13 from the ANC -- possible letters from the ANC -- and adjacent
14 neighbors, I guess you can have those letters in any --

15 CHAIRPERSON HILL: Whenever you can get them. I
16 mean, the 27th or -- I mean, I think we're being pretty
17 flexible here, also, because I don't know how this might have
18 gone. Board, anything else? Okay. All right, thank you all
19 very much.

20 Just so everybody knows, we're going to take a
21 break here now. I really didn't think this was going to go
22 as long as it did, so we might have a lunch break. I'll let
23 you guys know when we come back from our break. So we'll
24 take a 10-minute break now. Thank you.

25 (Whereupon, the above-entitled matter went off the

1 record at 11:29 a.m. and resumed at 11:47 a.m.)

2 CHAIRPERSON HILL: All right, Mr. Moy, we can
3 start whenever you'd like.

4 MR. MOY: Thank you, Mr. Chairman. The next case
5 application before the Board, if we could have parties to the
6 table, is the case Application Number 19755, of Dale Denton
7 and Morgan Washburn. As captioned and advertised for special
8 exceptions under Subtitle C, Section 1504 for the penthouse
9 setback requirements Subtitle C, Section 1502.1 (b) and (c),
10 Subtitle E, Section 5007 and 5201 from the accessory
11 structure rear setback requirements Subtitle E, Section
12 5004.3, and under Subtitle E, Section 5201 from rear yard
13 requirements of Subtitle E, Section 306.1 and pursuant to
14 Subtitle X, Chapter 10, variance from the lot occupancy
15 requirements is Subtitle E, Section 304.1 to construct a rear
16 deck and rear roof deck addition and convert the existing
17 residential care facility to a flat RF-1 Zone at premises
18 1208 T Street, NW, Square 275, Lot 47.

19 CHAIRMAN HILL: Okay, great. Thank you, Mr. Moy.
20 If you could just please introduce yourselves from right to
21 left.

22 MR. GREENHOUSE: Good afternoon, Mr. Chair Hill
23 and members of the Board. My name is Jacob Greenhouse. I'm
24 representing the applicant and owner of this property on all
25 matters of development going forward.

1 MS. FREEMAN: Good afternoon, I'm Lucia Freeman
2 of Aggregate Architecture.

3 MR. FREEMAN: And I'm Mark Freeman of Aggregate
4 Architecture as well. And I'm the architect of record.

5 CHAIRPERSON HILL: Okay. The owner's not here?
6 Oh, okay. I was like all the owners are hiding in the back
7 today. Okay. Just curious. I was just curious. All right.

8 So, Mr. Greenhouse, I guess, you said you were
9 going to present to us. So I'd like you to go ahead and
10 present, I guess, what it is you're trying to do and the
11 criteria, with which you're meeting the standards for us to
12 grant the exceptions that you're -- the relief that you're
13 requesting.

14 I know that you know that the Office of Planning
15 is not in support of your variance for the relief you're
16 requesting. And so, you can, you know, hit all of the items,
17 in terms of the standards, that you are meeting in order for
18 us to grant the relief.

19 In particular, speak to the variance issue and how
20 you're meeting the three prongs for us to grant that
21 variance. And I'm going to put 15 minutes on the clock just
22 so I know where we are and you can start whenever you'd like.

23 MR. GREENHOUSE: Thank you, Chairperson Hill. Out
24 of curiosity, would it be more helpful to have OP to give a
25 summary beforehand, and then we can have the architects

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1 present on design and go to those three points as well?

2 CHAIRPERSON HILL: No, it's okay. Usually, I
3 mean, that's so funny. Even I kind of think that the best
4 way to go, but you go ahead and start first.

5 MR. GREENHOUSE: Okay. Well, I'm going to hand
6 it to over --

7 CHAIRPERSON HILL: Okay.

8 MR. GREENHOUSE: -- to the people who design
9 product --

10 CHAIRPERSON HILL: Sure.

11 MR. GREENHOUSE: -- and they can speak it to the
12 language --

13 CHAIRPERSON HILL: Sure.

14 MR. GREENHOUSE: -- that we're asking about.
15 Thank you.

16 MR. FREEMAN: Okay. Just for clarification,
17 should I even deal with these areas where we're in agreeance
18 with the Office of Planning?

19 CHAIRPERSON HILL: No, go ahead and present your
20 whole case.

21 MR. FREEMAN: Okay. So we are -- done a design
22 and can I -- I get it up through here, right?

23 CHAIRPERSON HILL: Yes, you can.

24 MR. FREEMAN: Where do I got to go for that?

25 CHAIRPERSON HILL: That's a good question. There

1 you go. Well, I mean, did you bring it?

2 MR. FREEMAN: Well, I thought we -- you, normally
3 you download it.

4 CHAIRPERSON HILL: Oh, no, no. You have to bring
5 a copy of your presentation.

6 MR. FREEMAN: Okay. Well, apologies for that.
7 We do have paper copies with us though.

8 CHAIRPERSON HILL: Okay. Do you have paper
9 copies?

10 MR. FREEMAN: I have, yes, I have --

11 CHAIRPERSON HILL: Do you have the requisite
12 number of copies?

13 MR. FREEMAN: I have four.

14 CHAIRPERSON HILL: You have four?

15 MR. FREEMAN: So it looks like we starting off on
16 the best foot here.

17 MR. MOY: Well, I think the other option, if you
18 were going to use, if you were going to go through your
19 architectural drawings that you submitted into the record,
20 then you can go into the -- on the net to the case record,
21 to hunt for your documents that you filed, if you want to go
22 that route. Does that make sense?

23 MR. FREEMAN: Through IZIS?

24 MR. MOY: Yes. It's good you've done this before.

25 APPLICATION No. 19755 - MARK FREEMAN

1 MR. FREEMAN: I think it's going to take a little
2 bit. All right, so while that's downloading, to continue on,
3 we are requesting relief for Subtitle C1502.1 (b) and(c),
4 which requires the penthouse roof decks to be set back from
5 side and rear wall at the distance equal to its height off
6 of the roof structure.

7 We are requesting relief from Subtitle E5004.3,
8 which requires a setback from the alley at 12 feet from the
9 center line of the alley to which a lot abuts. That is
10 specifically for a roll-up door. We are requesting a --
11 those two are special exceptions.

12 We are requesting a variance from Subtitle E304.1,
13 which allows for a maximum lot occupancy of 60 percent, and
14 going over the BZA requirement or acceptance of 70 percent,
15 which is why we're asking for the variance on that.

16 And then, we are also asking for Subtitle E306 --
17 a relief from Subtitle E306.1, which requires a 20-foot rear
18 yard setback. The design that has been submitted is a roof
19 deck which has walls on the sides and the railing and with
20 the way that the dogleg or the rear addition of this lot has
21 a lower two-story at the back -- by doing that, just as the
22 neighbors, we would not have a roof deck. It would only be
23 a usable roof deck of 10-foot-7 by 6-foot-4.

24 That doesn't really allow for furniture, so we
25 want to maintain the footprint of that space, which is

1 approximately 14 feet by 14 feet.

2 The required setback from the alley, as Ms.
3 Elliott's note says, we do not -- it's in question whether
4 we need that or not. But we're asking for a roll-up door,
5 and because of the alley width and the depth of the rear
6 yard, if we were to actually meet that requirement of the 12-
7 foot setback, we would not have a rear yard, or to allow for
8 a parking space.

9 In Subtitle E, so the lot occupancy, we are
10 requesting a deck that also wraps around the dogleg of the
11 rear building, the rear addition, which, at the depth of
12 8 feet puts us over the -- the rear deck area puts us over
13 70 percent.

14 This is also because we were asking for a balcony
15 that looks on and maintains a vertical planting wall. The
16 last part is, because the deck goes back -- here we go.
17 Thank you.

18 So I'm going to reference the plans here a little
19 bit while we're doing this too. Then in the rear yard, which
20 I was just -- because of the request for the depth of the
21 deck, we are going, encroaching approximately two feet into
22 that rear yard setback.

23 Per our burden of proof statement, we are not
24 affecting the neighbors, you know, regarding light, air,
25 visually intrusiveness. I think that sort of runs the gamut

1 of the reliefs.

2 Should I go into more detail about that or is that
3 sort of -- because I feel like that what we have here is a
4 general agreeance from the Office of Planning, but what we
5 don't have a general agreeance on is the lot coverage over
6 the 74 percent on the deck.

7 So I guess what I'll do is at that stage, I'm
8 going to transition over to into the deck here because that's
9 the point --

10 CHAIRPERSON HILL: Okay. Sure, that's good.

11 MR. FREEMAN: -- of the expansion. Is that okay?

12 CHAIRPERSON HILL: Sure.

13 MR. FREEMAN: So what we have -- yes, I just want
14 to go to the -- so what we have, if I can show you on our
15 site plan here, is, in the lower plan and the upper plan, you
16 can see where there is a dogleg, which shows the outline of
17 the house and then there is an areaway to the side, which is
18 the adjacent property and then the rear aspect. I think what
19 really shows it is the rendering.

20 So between these two. So if you look at the, my
21 top-left on the screen, you can see where we have a balcony
22 and a side deck area that fills in this area. And then, the
23 deck extends to the back.

24 We have looked at the many ways of designing this.
25 And our opinion is because the lot is smaller, it is, well,

1 it's 1,377.6 square feet, which is less than the 1,800 square
2 foot minimum in an RF1, approximately, 23.5 percent. And we
3 also have a lesser depth than the hundred-foot.

4 Both of those are creating hardships in our
5 opinion on fitting in all of the aspects of the design, and
6 in this case, putting in the deck of eight feet in depth to
7 allow furniture and placement in an area to hang out, we are
8 also building an areaway underneath this deck, in which the
9 lower tenant -- because we are splitting this rowhouse into
10 two units. It will be basement rental unit and then the
11 owners will live in the upper unit.

12 We're also allowing them or providing them an area
13 to hang out and to -- basically a recreation area. So we have
14 looked at materiality to try to help with the lot coverage
15 issue. We have looked at sort of definitions to the way lot
16 coverage is defined.

17 In our mind, we feel, again, we feel that the
18 depth and the area of the lot are the hardships that we have.
19 And, even though, the other neighboring structures also have
20 the same lot square footage, depth and square footage, they
21 are facing the same hardship.

22 Ms. Elliott and I have had some conversations
23 about, you know, many lots in the District also are
24 underneath the minimum and that's why the special exception
25 was allowed. But in our view, the 70 percent isn't

1 necessarily the best ability to use the lot to what Mr.
2 Morgan and Mr. Washburn would like to do.

3 There have been other discussions between Ms.
4 Elliott and I regarding going to a reduced deck size. What
5 we feel that would do with the design is basically create a
6 landing or again, a non-usable deck off of the main level
7 because that dogleg purely is a passageway or an areaway to
8 use and to maintain the vertical green wall.

9 We do have a doorway that's on the side that the
10 design intent is to also open up the rear that the kitchen
11 space -- so again, if you look at the rendering we have the
12 ability for those sliding doors to open up and then to use,
13 to essentially double the size of their kitchen area.

14 I think where we go from this stage is, where the
15 Office of Planning and we are in disagreement is about that
16 extra 57 square feet or so to get down into 70 percent.

17 Office of Planning has stated they would provide
18 support for the presentation if we were able to meet that 70
19 percent, which is approvable under special exception.

20 So at that stage what we're looking for is, if we
21 still maintain the same design through the zoning rules and
22 regs, are we allowed to still sort of think about some of the
23 design in other ways?

24 So what I'm looking at is specifically the use of
25 grading on top of a structure. That would, in our mind,

1 would be looking as to -- wherever is my notes -- a building
2 a component or appurtenance because it's not necessarily the
3 actual piece, but it's a part of the overall design. And,
4 by definition, a component is part of an element or a larger
5 whole.

6 So building area is defined as the maximum
7 horizontal projection area of a building, principle building
8 and its accessory buildings. Except for outdoor balconies,
9 this term shall not include any projections into open spaces
10 authorized elsewhere in the title, nor shall it include
11 portions of a building that do not extend above the level of
12 the main floor of the main building if it is placed so as not
13 obstruct light and ventilation.

14 So we're saying, because we're using grading and
15 we are not obstructing light or ventilation, that, even if
16 it could be termed a balcony, that it should not be accounted
17 for in lot occupancy because building area shall not include
18 building components or appurtenances dedicated to the
19 environmental sustainability of the building.

20 So to that point, we are also in the areaway
21 providing permeable pavers and a little more -- and some more
22 green, sustainable area by also providing light down to the
23 lower unit.

24 So we're trying to look at this as a holistic
25 approach and holistic aspect of the deck, and how the deck

1 is utilized for the upper units, but because of the
2 materiality, we aren't necessarily meeting the definition of
3 a covered space or a lot coverage because -- and then --
4 okay, yes, lot occupancy.

5 So then this goes towards the fact of what lot
6 occupancy is intended to do. Under the zoning rule, Subtitle
7 B311, lot occupancy regulations are intended to provide a
8 primary control of the total volume of buildings and
9 structures on a lot through the restriction of the buildings
10 horizontal area above a designated horizontal plane.

11 So, in this case, we're talking about a volume.
12 We don't feel that this deck, through its extension, creates
13 a volume and it does not hinder any of the overall use of the
14 deck, of the people on the lot, or even adjacent to them.

15 The building directly to its east is one that the
16 volume, you can see the volume that that has. That's a huge
17 amount of volume and a huge amount of lot occupancy. We're
18 not attempting to build this deck and then build on and build
19 a sun porch or anything. We're just building an outdoor deck
20 that has furniture cover, or furniture space and use.

21 I think the other aspects that would or should be
22 considered, which are not with you at this moment, but there
23 is a previous BZA case, Number 19030, from 1826 12th Street
24 NW, which is the corner lot of this block. It's at 12th and
25 T, okay.

1 The garage there, you can see it towards the end
2 of this picture at the back here, right there. That garage
3 and that development was approved in 2015 -- July 14, 2015
4 at the -- because the Office of Planning noted that the
5 garage, if it removed its roof, would reduce its lot
6 occupancy.

7 So, but they still maintained or allowed to have
8 volume of that garage space maintained. So we're sort of
9 going, well, how come that removable roof is acceptable, even
10 though the volume of the garage is there, but yet, and so it
11 still maintains the definition of building area, and would
12 still be defined as in lot occupancy because -- let's see
13 here.

14 CHAIRPERSON HILL: I think we understand your
15 point.

16 MR. FREEMAN: Okay.

17 CHAIRPERSON HILL: So you're getting to,
18 basically, materiality. Your saying that if you have a
19 material that is porous, that you should be able to kind of
20 build, you can build to the entire square footage of the
21 entire backyard if you -- or up until where the, I guess, the
22 rear setback would be, would take effect.

23 My only question to that is, well, what happens
24 if you put a rug down? What happens if you put something on
25 top of that so that it's no longer permeable, and are you

1 then going to, like, maintain that you have to keep the
2 grade?

3 I mean, it seems as though it's a little, it's a
4 slippery slope in terms of how to allow, well, their deck is
5 made out of metal and mine's made out of wood, so I'm sorry
6 about the wood when you're, you know, you're out of luck.
7 I think it's a very difficult -- a difficult conversation to
8 have --

9 MR. FREEMAN: Okay --

10 CHAIRPERSON HILL: -- in that --

11 MR. FREEMAN: -- and so if we --

12 CHAIRPERSON HILL: -- it makes it a little bit
13 hard, so then, there is nothing in the zoning reg that says
14 metal is okay, but wood isn't.

15 MR. FREEMAN: But then --

16 CHAIRPERSON HILL: And I'm not -- I'm not --

17 MR. FREEMAN: I got that same definition of
18 building area for lot occupancy is a structure --

19 CHAIRPERSON HILL: We have to go by what's
20 actually in the zoning regs, not what we would like to be in
21 the zoning regs.

22 MR. FREEMAN: Well, the building area --

23 CHAIRPERSON HILL: And that's what I'm in, and I'm
24 not looking for a response for it. I'm just telling you
25 that's kind of the issue that we're having to grapple with.

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1 MR. FREEMAN: No, I got you. And, but building
2 area is the maximum horizontal projected area of a principle
3 building and its accessory buildings, so then that this at
4 1820 -- on 12th street, that garage, by still maintaining its
5 --

6 CHAIRPERSON HILL: Are you --

7 MR. GREENHOUSE: -- four walls.

8 CHAIRPERSON HILL: -- are you arguing another case
9 to us because --

10 MR. FREEMAN: No, I'm saying --

11 CHAIRPERSON HILL: -- right now, we have to take
12 this case at its face.

13 MR. FREEMAN: Got you.

14 CHAIRPERSON HILL: And that's what we have to look
15 at. I understand that you may have found some other
16 instances, and we may look at them as well, but right now
17 we're looking at this case and understanding whether or not
18 it meets the variance test and whether or not it meets the
19 special exception test.

20 MR. FREEMAN: Okay.

21 CHAIRPERSON HILL: And that's it.

22 MR. FREEMAN: Well, what I -- last, just to wrap
23 that up. What I would say about that garage, is that I feel
24 like that volume is maintained. And, so, the intent of the
25 zoning rule because of volume, is what you're trying

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1 restrict, we have also tried to maintain the volume in the
2 existing design of those rowhouses along the back.

3 We haven't torn off that back to reconfigure the
4 building or do a huge major addition, we are purely working
5 with the existing form, both in the historic district, and
6 then wrapping around --

7 CHAIRPERSON HILL: Okay. Okay. Mr. Freeman, we
8 understand, I guess, some of your argument. Again, what we
9 are trying to figure out is how you're meeting the standards
10 for the variance tests, I mean, in terms of that one issue.

11 And so I'm going to just -- I'm going to turn to
12 the Office of Planning now, I guess, unless you guys have any
13 more arguments that you have for that. Okay. All right.
14 We'll turn to the Office of Planning.

15 OFFICE OF PLANNING - BRANDICE ELLIOTT

16 MS. ELLIOTT: Good afternoon, Mr. Chairman,
17 Members of the Board. I think it's afternoon. Pretty close.
18 All right. I'm Brandice Elliott, representing the Office of
19 Planning.

20 And before I get started, I feel badly enough
21 about this today. I think it needs to go on the record, I
22 accidentally renamed the property owners in my report, and I
23 don't know how I even came up with the names, but I'm clearly
24 wrong, so I just want to let you know that on the record.

25 This is something I'm particular sensitive to,

1 given my unique name, so I just want you to know that I
2 apologize for that.

3 CHAIRPERSON HILL: Actually, Ms. Elliott you bring
4 up something else. So there was a request by the Office of
5 Planning to except the report as late, and I -- unless the
6 Board has any issue with that, would also accept that report
7 as that report being late. Does the Board have any issue?

8 THE BOARD: No.

9 CHAIRPERSON HILL: Okay. And then the other was
10 that the affidavit of posting was a little untimely, and
11 there was a request to waive that in terms of, I think you
12 posted on 6/4, and it was due 6/1, so there was, like, five
13 days off there.

14 You did go to the ANC, and so I feel that the
15 community seems to have been notified enough, so I don't have
16 an issue with the affidavit of posting, and I would also
17 waive that requirement. Does the Board have any concerns?

18 THE BOARD: No, concerns.

19 CHAIRPERSON HILL: Ms. Elliott, I'm sorry to
20 interrupt you. Please go ahead, and thank you.

21 MS. ELLIOTT: No, you're well within your rights
22 to interrupt. So there are three components to this request.
23 First is the roof deck. The second is the roll-up door, and
24 then the third is the lower level deck. So I'll go ahead and
25 check off the first two boxes because they're a little

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1 easier.

2 The roof deck that's been proposed requires
3 special exceptions for setback relief. In general, OP is
4 supportive of that relief. The roof deck is in line with
5 existing roof decks on the same block. It's the same size,
6 and we have no concerns with it causing any sort of adverse
7 impact to the neighborhood.

8 The second issue is the roll-up door. As
9 indicated in the report, relief may not be needed, but the
10 applicant is well within their rights to request that. And,
11 again, we have no concerns regarding that roll-up door. I
12 think we'd have more of a discussion if it was an accessory
13 structure, you know, like a garage or something of that
14 nature. But this purely functions as a door, and so we have
15 no issues with it.

16 The third is the ground floor roof deck, which is
17 where our concerns mostly lie. And that's because the
18 request -- it requires a variance from lot occupancy. Sixty
19 percent is what's permitted on this lot, by right; 70 percent
20 by special exception. The applicant has requested just over
21 74 percent.

22 Our issue isn't with design. We've had a lot
23 of discussions. I understand what the Applicant is trying
24 to achieve.

25 It's, you know, they're providing outdoor space

1 for the cellar unit, or basement unit. I'm not sure which
2 one it is. And the outdoor space, it wraps around. So it
3 starts in the dogleg, and then it would provide some
4 additional space in the rear yard. And that's all very nice.

5 The problem is, it doesn't justify the variance.
6 And what we're looking for with the variance, the first prong
7 of the test is that there needs to be an exceptional
8 situation resulting in a practical difficulty.

9 And this property doesn't exhibit any unique
10 characteristics that allow us to find that special exception.
11 The -- or I'm sorry, that special situation. What we're
12 generally, in a case like this, we're looking for a lot that
13 is uniquely small.

14 This lot, although it is smaller than what the
15 regulations require, it is the same size as all the other
16 lots on that block. The lot occupancy hasn't precluded that
17 lot from being developed.

18 We do expect that smaller lots have smaller
19 volumes on them, smaller development, more -- it's more
20 appropriately sized for the size of that lot. And that's
21 generally what the regulation is getting to.

22 So the Applicant wasn't able to identify anything
23 that provided that exceptional situation resulting in a
24 practical difficulty. And so, we sort of got stumped on that
25 part of the variance test.

1 The second part, you know, whether it would cause
2 substantial detriment to the public good. I think we're in
3 agreement that it wouldn't.

4 But then, you know, the third prong of the test
5 basically has to demonstrate that there's no harm to the
6 zoning regulations. And if you can't provide that
7 exceptional situation for the first prong, then it's hard to,
8 you know, get past the third prong as well.

9 So is it within, you know, the character of the
10 neighborhood? Does it cause any adverse impact? You know,
11 we would say no, but we don't find that exceptional situation
12 that takes us over the hump of the first prong of the
13 variance test.

14 So that's where we stand. But I'm happy to answer
15 any questions, apologize more for my reports, and renaming
16 people, but yes. That concludes my presentation.

17 CHAIRPERSON HILL: Okay, great. Thank you. Does
18 the Board have any questions for the Office of Planning?

19 MR. FREEMAN: Just one question about the
20 materiality. I mean they're -- actually the materiality
21 doesn't have to do with the variance. It has to do with the
22 need for the providing kind of an open or permeable device
23 or building material, that would allow for, you know, the --
24 I don't know.

25 Just it -- I mean, I understand the argument.

1 It's just, it's not necessarily going to the variance sense.
2 It's more going to, should it be discounted? Should the deck
3 be discounted? Because it is not -- should it not be counted
4 towards lot occupancy, because it is not -- it allows
5 permeability through it?

6 MS. ELLIOTT: We discussed this at some length.
7 We actually had to rope DCRA into the conversation on this,
8 as well.

9 The house on the corner that also received a --
10 some sort of relief. I'm not sure if it was lot occupancy,
11 or, I'm sorry. If it was variance, or special exception
12 relief.

13 But the house on the corner that the Applicant
14 showed in some plans, they had a garage. And the Zoning
15 Administrator made an interpretation that if they removed the
16 roof from that garage, that it would no longer count towards
17 lot occupancy.

18 And we've seen that interpretation in other cases,
19 as well, that have come before the Board. But what they were
20 able to do was replace that with a trellis, you know, that's
21 two foot on center.

22 And then, that the Zoning Administrator has
23 interpreted, does not apply towards the lot occupancy. So
24 the garage could still have a trellis roof, as long as the
25 trellises were two foot on center. If that makes sense.

1 The Applicant asked if, you know, that's something
2 that could be considered for this case. You know, I think
3 that the -- it's a little bit different.

4 First of all, no one is walking on the roof of the
5 garage. And so, there's definitely, like, a difference in
6 structural purpose. This is lot occupancy that absolutely
7 would be used.

8 I think DCRA, aside from, you know, questions of
9 interpretation, also had some concerns about the safety of
10 applying that theory to this structure. But even with the
11 metal grating, and with what was provided in the plans, from
12 what they could tell, this absolutely counts towards lot
13 occupancy.

14 And maybe that's an argument that the Applicant
15 wants to take up with the Zoning Administrator following the
16 hearing. But I think that, based on previous cases that
17 we've seen, the issue of materials hasn't come into play like
18 this for calculating lot occupancy. I'm not sure that it
19 should be applied any differently in this case.

20 MR. FREEMAN: Thank you.

21 CHAIRPERSON HILL: Okay. Anyone else? All right.
22 Does the Applicant have any questions for the Office of
23 Planning?

24 MS. FREEMAN: I do have a question. If we were
25 to lower the surface of the deck to about 18 inches, to four

1 feet above grade, this would not count towards the lot
2 occupancy.

3 But the logic in doing that, and against doing
4 that, is that we are restricting that area way that we've
5 created for the tenant below. And in this case, a tenant
6 who's going to end up paying quite a bit in rent, not having
7 an outdoor space is fairly restrictive.

8 And I think that the owners are trying to create
9 a very nice space back there. Not only for themselves, but
10 for their tenants, as well.

11 So I guess my question is, is there any merit in
12 us trying to provide that space? I know it doesn't meet the
13 letter of a variance. But if we were to go back to that
14 special exception, can we -- could we negotiate on that a
15 little bit? I guess --

16 CHAIRPERSON HILL: I'm sorry. What's your
17 question?

18 MS. FREEMAN: My question is, if we were to lower
19 it to four feet above grade, we wouldn't be here. So it
20 wouldn't count toward the lot occupancy, because it's not a
21 structure over four feet.

22 MR. FREEMAN: Why is it good at four feet, but not
23 at five and a half?

24 MS. FREEMAN: Right. Why is four feet okay, but
25 five and a half feet is not okay?

1 MS. ELLIOTT: The regulations have identified that
2 structures less than four feet in height do not count towards
3 lot occupancy. That's a specific regulation. And so
4 anything above does count towards lot occupancy, and that's
5 why you're here.

6 MS. FREEMAN: But you just said, like, a pergola
7 structure, that's spaced more than 24 inches on center, which
8 is over four feet, does not count towards that.

9 And in discussions with -- previous discussions
10 on other projects with the Zoning Administrator, that 24
11 inches on center rule, which is how we plan to structure
12 this, is the exception to that four foot in height.

13 MS. ELLIOTT: That is a longstanding
14 interpretation from the Zoning Administrator, not something
15 that's in the regulations.

16 MR. FREEMAN: Okay, so. Okay, so I'd just follow
17 up one bit.

18 CHAIRPERSON HILL: Sure.

19 MR. FREEMAN: So my only question is, materiality
20 is not a function. But we could still build this exact same
21 design. Just keep the deck four feet off of grade. And
22 still cover what we're covering?

23 That's what I'm hearing. And I want to make sure
24 that that's clear. Or that we're clear on that.

25 MS. ELLIOTT: Yes. If the deck is lowered so that

1 it is no more than four feet above grade, then it does not
2 count towards lot occupancy.

3 CHAIRPERSON HILL: They're just regulations.

4 MR. FREEMAN: It's part of the fact of getting in
5 and out of the back yard.

6 CHAIRPERSON HILL: No. We understand what you're
7 trying to do. And so, you know --

8 MR. FREEMAN: But there's also --

9 CHAIRPERSON HILL: I mean, again, the thing that
10 you guys are coming up against is that this is a variance.
11 And so, the variance, there's three very, you know, strong
12 criteria that we need to look at.

13 A variance is a very serious thing to try to, you
14 know, get past. Right? And so, in the argument that you
15 seem to be making over and over again, is that, you know, it
16 would be good to have it. It would be nice to have it. It
17 would be helpful to have it.

18 The people would be, you know, it practically
19 makes sense, because, you know, we want to do things for
20 people. But those aren't arguments within the three prongs
21 of the test.

22 So, you know, so, okay. So, does anybody have any
23 more questions for Miss Elliott? All right. Do you guys
24 have -- I'm sorry. Do you guys have any more questions for
25 Miss Elliot?

1 MR. FREEMAN: I don't believe so.

2 CHAIRPERSON HILL: Okay. Is there anyone here
3 from the ANC? Is there anyone here wishing to speak in
4 support? Is there anyone here wishing to speak in
5 opposition?

6 Okay. So we're back to you guys again. And so,
7 I guess I am actually going to go back to the Office of
8 Planning, I suppose, because I'm a little confused myself.

9 So then, there's this four feet issue, that's
10 being talked about. Then there's, they are 4.2 percent off
11 their special exception. So they'd have to lose 4.2 percent
12 somewhere, right?

13 Then they'd be back here with a special exception,
14 right? Or maybe if they were going to do this, I don't know.
15 Right? And so they could do that. They could pull that from
16 the top deck. They can pull that from the third deck,
17 wherever.

18 But then we'd have to look at different plans
19 again. So we could only do what we're doing right now, based
20 upon what's before us. And so, we would be here just for the
21 lot occupancy. The lot occupancy.

22 So then, those plans, we couldn't even necessarily
23 move forward on these plans. All right. I guess, so I'm
24 back to my little discussion here.

25 So I would suggest that the Applicant work with

1 the Office of Planning, again, to try to find 4.2 percent.
2 To get to a special exception. Or do whatever you want to
3 do, because we're approving what's before us.

4 And then, what I suppose gets a little bit
5 confusing is what the ANC has seen. So what did you guys --
6 you guys went to the ANC with this whole project. Right?

7 MR. FREEMAN: Yes.

8 CHAIRPERSON HILL: And so, they approved this
9 whole project. I see it was, like, you know, they didn't
10 have any issues or concerns. And for the -- and I think it
11 was 11 to zero. So it was unanimous.

12 So what did -- did they have any -- when you were
13 at the ANC meeting, did they have anything to say about it?

14 MR. FREEMAN: That's no. A negative.

15 CHAIRPERSON HILL: Okay.

16 MR. FREEMAN: They were all supportive of it.

17 CHAIRPERSON HILL: Okay. So I don't know whether,
18 and I'll let you go ahead and make anything in conclusion.
19 And I don't know if the Board wants to allow the Applicant
20 more time to work with the Office of Planning, or just, you
21 know, have this hearing now.

22 And so, does the Applicant have anything they'd
23 like to say?

24 MR. FREEMAN: Well, may I ask one more question,
25 while we're here?

1 CHAIRPERSON HILL: Sure.

2 MR. FREEMAN: So the zoning regs state that a --

3 CHAIRPERSON HILL: Who are you asking of?

4 MR. FREEMAN: To Ms. Elliott.

5 CHAIRPERSON HILL: Okay.

6 MR. FREEMAN: So the zoning regs note that an
7 uncovered landing is not considered lot coverage. Can we
8 designate part of the deck that we have, that would be part
9 of the egress or landing area to that, which would then take
10 off the square footage?

11 Or basically take -- reduce the lot coverage?
12 Because we can do that with the stair. And we can do that
13 with the area outside of the primary door, and then the path
14 from that door to the stair. I can -- we can make it to 70
15 percent, if we are allowed that designation.

16 MS. ELLIOTT: So I think that would be
17 inconsistent with how we've interpreted the regulation for
18 lot occupancy.

19 Generally, when we review decks, it's in their
20 entirety. We don't piece it out so that part of it is
21 dedicated specifically to landing. And then, you know, the
22 rest is a deck.

23 If you want to continue working, you know, on the
24 redesign, we can speak with the Zoning Administrator. But
25 to my knowledge that is not something --

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1 CHAIRPERSON HILL: Okay.

2 MS. ELLIOTT: -- that we can --

3 CHAIRPERSON HILL: All right. I've got to
4 interrupt this. So whatever the Board -- I'm going to ask
5 the Applicant. All right?

6 So again, if you get denied, you can't come back
7 for a year, come back to this same thing again. Right? So,
8 and I think the Board's being very flexible, actually, again,
9 as it's trying to move through this for everyone.

10 So I would suggest the Applicant go back and work
11 with the Office of Planning. See if you can lose your four
12 point -- you know, get down to 70 percent. And then, what
13 I would like to see is whatever those revised plans are.

14 I suppose, then, we need a supplemental from the
15 Office of Planning. Right? To those revised plans.

16 I guess I would like to see something from the
17 ANC, an email or something, that says that those revised
18 plans don't seem to change the significance of it.

19 And then I would request that the Board put this
20 on. We'll try to figure out when we get everything. And
21 then we can just do it as a meeting on the day that you're
22 back, Mr. Miller, because it would be a more easier
23 discussion to have at that point.

24 Does the Applicant agree? Or does the Applicant
25 understand what is being proposed, and agree to this?

1 MR. FREEMAN: Yes. We do. Thank you.

2 CHAIRPERSON HILL: Okay. So then, when would you,
3 Mr. Moy, if we could come back with a decision on the 27th,
4 how would we get back to -- how would we get everything at
5 that point?

6 MR. MOY: Okay. Working backwards, if the Board
7 set this for a decision meeting on June the 27th, then if the
8 Applicant files additional information, say within a week,
9 let's say by June 13th. Or would you need more time?

10 MR. FREEMAN: I think that's fine. June 13th?

11 MR. MOY: Okay. Wonderful. And then OP with
12 supplemental. I'll give OP a week. Let's say, June 20th?
13 All right? And set this for decision on the 27th of June.

14 As to the ANC letter, do you want the staff to
15 reach out to the ANC? Or do you want to leave that to the
16 responsibility of the Applicant?

17 CHAIRPERSON HILL: I mean, if the Applicant
18 reached out to the ANC, unless you think you're going to have
19 -- I just think, if you can reach out to the ANC, I mean, I
20 don't -- and even if I suppose if you were to -- I won't be
21 here that day.

22 So I won't be part of that decision. But I can
23 submit absentee. If there was something that, you know, in
24 your design, it showed -- you know, I mean, you're trying to
25 shave 4.2 percent. Right?

1 And so, you know, however you shave it, if it's
2 done in a way that we, the Board, wouldn't think that the ANC
3 wouldn't change the significance of what the ANC has
4 recommended. Then, you know, that might be something that
5 the Board would be able to understand. If you submit that,
6 meaning that explanation.

7 However, I would also try to get something from
8 the ANC. Unfortunately, kind of the way that the ANC usually
9 works is, they don't -- depending on who the ANC is, they
10 don't want to send anything, unless everybody gets to talk
11 about it. So, you know, see what you can get.

12 MR. MOY: Okay. That sounds fine. Then I'll
13 leave submission from the ANC --

14 CHAIRPERSON HILL: Probably to the Applicant.
15 Right. Unless the Board has any other thoughts?

16 MR. MOY: Right.

17 CHAIRPERSON HILL: I mean, I'd be comfortable with
18 that. So then, what were your dates, Mr. Moy? I'm sorry.

19 MR. MOY: With the Applicant filed by June 13th,
20 Office of Planning supplemental June 20th, decision on June
21 27.

22 CHAIRPERSON HILL: Okay. That sound good? All
23 right. Okay. Thank you, guys.

24 MR. FREEMAN: Thank you, guys. Have a good day.

25 CHAIRPERSON HILL: All right, Mr. Moy. Whenever

1 you like.

2 MR. MOY: All right. Thank you, Mr. Chairman.
3 So the next Case Application is Number 19756 of Kathryn
4 Bristow as amended, for a special exception under Subtitle
5 D, Section 5201, from the lot occupancy requirements of
6 Subtitle D, Section 304.1; side yard requirements, Subtitle
7 D, Section 307.1; nonconforming structure requirements,
8 Subtitle C, Section 202.2.

9 This would construct a rear deck addition to an
10 existing attached principal dwelling unit, R2 Zone. This is
11 at 2632 10th Street, North East Square, 3842, lot 25.

12 As a reminder to the Board, again, as with the
13 previous case, this affidavit posting was a little untimely
14 with the same timeline as the previous case. So the Board
15 may want to consider waiving the time requirements on that
16 Affidavit of Posting.

17 CHAIRPERSON HILL: Okay, Mr. Moy. We'll see how
18 we go for that. But thank you so much for pointing that out.
19 Gentlemen, if you could please introduce yourselves from my
20 right to left?

21 MR. SEDGWICK: Louis Sedgwick.

22 MR. LEVINE: Good afternoon. My name is Jeff
23 Levine. I'm architect and also agent for the owner.

24 CHAIRPERSON HILL: Okay. Did you say Sedgwick,
25 sir?

1 MR. SEDGWICK: Sedgwick.

2 CHAIRPERSON HILL: Okay. I suggest you speak in
3 the microphone. I'm sorry.

4 MR. SEDGWICK: Sedgwick.

5 CHAIRPERSON HILL: Okay, great. Thank you. Thank
6 you. Mr. Levine, are you presenting to us?

7 MR. LEVINE: Yes. I am. I'm sorry, but this is
8 the first time here, and I didn't realize I have to bring
9 some drawings. I'll try --

10 CHAIRPERSON HILL: You don't have to. It's all
11 right.

12 MR. LEVINE: It's fairly simple.

13 CHAIRPERSON HILL: Just before you get through
14 that. I'm sorry. So the Affidavit of Posting is late. Can
15 you tell me why it's late?

16 MR. SEDGWICK: Because I misunderstood when they
17 explained it to me. I thought I was supposed to pick it up
18 on, what is it? They said 15 days before the hearing.

19 CHAIRPERSON HILL: Okay. That's all right. So
20 you misunderstood.

21 MR. SEDGWICK: Right.

22 CHAIRPERSON HILL: And then, so as in -- was the
23 previous case, the reason why I at least didn't have any
24 issue with the Affidavit of Posting, was because we did have
25 a report from the ANC, meaning they had been reached out to.

1 They had been presented in front of.

2 Have you guys presented in front of the ANC?

3 MR. SEDGWICK: Yes. I was with the ANC yesterday
4 evening. We walked through the neighborhood. And I had a
5 petition, you know, from the neighbors.

6 CHAIRPERSON HILL: So did you -- I'm sorry, I'm
7 a little -- did you present in front of the ANC?

8 MR. SEDGWICK: Yes.

9 CHAIRPERSON HILL: Okay. And did they vote?

10 MR. SEDGWICK: She was in support of it.

11 CHAIRPERSON HILL: She, meaning the --

12 MR. SEDGWICK: The ANC.

13 CHAIRPERSON HILL: The SMD.

14 MR. SEDGWICK: Right.

15 CHAIRPERSON HILL: Okay. And when you say she was
16 in support of it. So you didn't present in front of the
17 whole ANC? You walked around with the SMD?

18 MR. SEDGWICK: Right.

19 CHAIRPERSON HILL: Okay. So why didn't you end
20 up presenting in front of the whole ANC?

21 MR. SEDGWICK: Because the reason why, because I
22 could never get in contact with the ANC. I just really got
23 in contact with her about a week and a half ago. And I've
24 been trying.

25 And when I finally got in contact with her, she's

1 saying that, you know, she never received none of my
2 information. That it was a, you know, a mix up, with the ANC
3 I guess, getting in contact with whoever she has to get in
4 contact before us, getting into the computer to see our --
5 to see this case.

6 CHAIRPERSON HILL: Okay. And how long have you
7 been trying to get in front of the ANC?

8 MR. SEDGWICK: Probably a month. Most likely a
9 month.

10 CHAIRPERSON HILL: Okay.

11 MR. SEDGWICK: And I then sent registered letters,
12 and everything.

13 CHAIRPERSON HILL: Okay. I'm sorry. I'm getting
14 clarification. So it was posted properly. It's the
15 Affidavit of Posting that was late. So you did post
16 properly. It was just that your Affidavit was late.

17 So I am not concerned about the Affidavit being
18 presented late. Does the Board have any concerns about that?
19 Okay. So we're going to waive that deadline. Okay? So
20 that's that. So back to the --

21 MR. SEDGWICK: Thank you.

22 CHAIRPERSON HILL: You're welcome. So back to the
23 ANC, however. So you haven't presented in front of the full
24 ANC. You've been trying to reach out to the full ANC for
25 over a month now.

1 MR. SEDGWICK: Right.

2 CHAIRPERSON HILL: You did get in touch with the
3 SMD. And you walked around with the SMD, concerning this
4 project?

5 MR. SEDGWICK: Yes.

6 CHAIRPERSON HILL: And she, you're saying, was in
7 support?

8 MR. SEDGWICK: Yes. She was in support. I have
9 a letter right here.

10 CHAIRPERSON HILL: Oh. You have a letter? A
11 letter would be great.

12 MR. MOY: It's in Exhibit 40, I believe.

13 CHAIRPERSON HILL: Oh. Oh. Did it just come in?

14 MR. MOY: June 5th. Yes.

15 CHAIRPERSON HILL: Okay. All right. Okay. So
16 Mr. Levine, Levine?

17 MR. LEVINE: Levine.

18 CHAIRPERSON HILL: Levine. Not related to the
19 music school, are you?

20 MR. LEVINE: No.

21 CHAIRPERSON HILL: You personally, like --

22 MR. LEVINE: They're much more talented than I am.

23 CHAIRPERSON HILL: Okay. All right. Well, okay.

24 Let's see. So if you could go ahead and tell us about the
25 project, and how you're meeting the requirements to grant the

1 requested relief. And we'll start from there.

2 You just need to push it once, and it'll stay on.

3 MR. LEVINE: Oh. I see. Okay, thanks. Yes.
4 Thanks for the opportunity to present to you today.

5 And basically, this is a fairly simple project,
6 of just a deck that is being put on the back of a existing
7 unit. The existing unit is non-conforming, by about 41 or
8 42 percent of lot coverage, as it is. And that by putting
9 on the deck, it comes out to 48.62 percent.

10 This is below the 50 percent criteria, so that
11 we're asking for relief as a special exception, as opposed
12 to a variance since it is below the 50 percent mark there.
13 So that is one thing that we believe that we can do here.

14 And what we're saying is, that since the special
15 exception will be in harmony, the criterion of the special
16 exception is that it will be in harmony with the general
17 purpose and intent of the zoning regulations, and it will not
18 tend to adversely affect the use of neighborhood property,
19 that we believe that the proposed deck, in form, material,
20 and construction to decks and steps in the adjacent back
21 yards. And I could show some photographs. But I think
22 you've probably got them on your exhibits, that are --

23 CHAIRPERSON HILL: We're okay. Yes.

24 MR. LEVINE: Yes. There were a lot of decks that
25 are very similar. And this is actually less of an adverse

1 effect then even some of the adjacent ones, really. Just
2 ones that go up much higher than this one, that only goes up
3 seven feet.

4 The deck, though, will, as I say, not adverse to
5 the adjacent property. So that's the first part of the
6 special exception.

7 Then there's another exception, for when the deck
8 is put in place itself. And we're looking basically, I think
9 -- let's see, I can -- if you were just to look at the plan
10 that I have there on the left-hand side, which is the north
11 side.

12 Since the rear entry comes out on the north side
13 of the deck, and goes straight over to steps, which try to
14 minimize the rear yard, so that it can maximize the use of
15 the rear yard, that we would like to ask for relief of the
16 special exception, since it is only one foot from the
17 property line there.

18 And we've worked with the Office of Planning on
19 this, who's agreed. And has actually suggested that by
20 putting in a high lattice fence here, a six-foot lattice
21 fence, that it also allows a -- minimizes the amount of
22 adverse effect from privacy and things like this. So this
23 is something we certainly have agreed to put in.

24 On the deck, on the south side of the deck,
25 because the deck is less, due to lot coverage, we can go over

1 five feet to the south property line. And though not
2 specifically in the code, it talks about the five feet four,
3 something similar to this, but in a similar other zoning
4 area.

5 If you have a setback of five feet, in
6 particularly 11-D 307.5, they regard five feet as being
7 enough distance from a privacy point of view. So it's not
8 going to really adversely affect the property adjacent at 5
9 feet.

10 Like to have, that's usually an eight-foot
11 setback. But they will accept it in certain zones. So in
12 the same spirit and intent, we believe that the five feet
13 will be accepted here.

14 CHAIRPERSON HILL: Okay.

15 MR. LEVINE: So those are the two other parts of
16 the special exception that -- two other special exceptions
17 we'd like for relief.

18 CHAIRPERSON HILL: Okay. All right Mr. Levine.
19 I'm just kind of looking at this whole record here.

20 So I'm comfortable just turning to the Office of
21 Planning here, to hear what the Office of Planning has to
22 say, if I could. MS. MYERS: Hello. Crystal Myers,
23 for the Office of Planning. The Office of Planning is
24 recommending approval of this case.

25 I would like to note a staff report correction.

1 The north side yard, we had said the existing was zero feet,
2 and the proposed was zero feet. It's actually one foot.

3 The analysis is still the same. And we support
4 the proposal. So -- And I also wanted to note that the
5 application also includes relief from C-202.2, which is the
6 non-conforming structure section, because the existing lot
7 occupancy is already over the permitted amount. And, I
8 believe, as well as the side yard situation.

9 So with that, we recommend approval of this case,
10 and stand on the record of the staff report.

11 CHAIRPERSON HILL: Okay. Great. Does the
12 Applicant have any questions for the Office of Planning?

13 MR. SEDGWICK: No.

14 CHAIRPERSON HILL: Thank you. Is there anyone
15 here from the ANC? Is there anyone here wishing to speak in
16 support? Is there anyone here wishing to speak in
17 opposition? Does the Board have any final questions? Does
18 the Applicant have anything they'd like to add in conclusion?

19 MR. SEDGWICK: No.

20 CHAIRPERSON HILL: All right. I'm going to go
21 ahead and close the hearing. Is the Board ready to
22 deliberate?

23 MR. MOY: Excuse me.

24 CHAIRPERSON HILL: Sure. Of course.

25 MR. MOY: If we can go back one step.

1 CHAIRPERSON HILL: Sure.

2 MR. MOY: Prior to your last statement. My
3 apologies. I just want to clear up procedurally, as to the
4 Affidavit of Posting.

5 CHAIRPERSON HILL: Okay.

6 MR. MOY: So in fact, as you know, as the Board
7 is aware, the sign needs to be posted, probably, 15 days
8 prior to the hearing. But according to the Affidavit, it was
9 posted May 31st. The deadline actually would have been May
10 22nd.

11 So your discussion on that was correct. And the
12 Affidavit itself, the Affidavit, the Statement itself, was
13 one day late. So I just wanted to --

14 CHAIRPERSON HILL: Okay.

15 MR. MOY: -- put that to your attention. And to
16 clarify --

17 CHAIRPERSON HILL: I see. So the posting was also
18 --

19 MR. MOY: That day.

20 CHAIRPERSON HILL: -- late by a day. And so --

21 MR. MOY: The posting of the sign was less than
22 15 days.

23 CHAIRPERSON HILL: Was less than 15 days.

24 MR. MOY: So the Board's discussion was correct.

25 CHAIRPERSON HILL: Okay. So that clarification

1 that the Secretary just provided, it doesn't change my
2 opinion in terms of waiving the timeliness, due to the fact,
3 again, that we've had discussions about the ANC.

4 Does the Board have anything they'd like to add?
5 Okay. All right, Mr. Moy. Thank you for pointing that out.
6 All right.

7 Does the Applicant have anything? Right? You
8 guys want to say anything in conclusion?

9 MR. SEDGWICK: No.

10 CHAIRPERSON HILL: Okay. Thanks. I thought we
11 did this, now that I think about it. So I'm going to go
12 ahead and close the hearing.

13 I can go ahead and start the deliberation, if the
14 Board is ready to deliberate. And I agree with the analysis
15 that the Office of Planning has provided. What I wanted to
16 kind of walk through, for my own concerns, was again, how the
17 community had been reached out to.

18 It sounds as though the Applicant has done their
19 best to get in front of the full ANC. However, we do have
20 a letter from the SMD, stating that they have gone through
21 the property with the Applicant. And they, the SMD, was in
22 favor.

23 So I feel as though the Applicant has done their
24 community outreach. And I am also satisfied with how they're
25 meeting the criteria for the relief. Does the Board have

1 anything else they'd like to add?

2 MS. MYERS: I would concur with you Mr. Chair.
3 I think the Application is complete and full. And that
4 what's been presented, as far as what's in the record, will
5 have no adverse impacts to the community, based upon what's
6 in the file here. So I would support the application.

7 ZC VICE CHAIRMAN MILLER: Thank you. Yes. I just
8 want to thank the Applicant, Mr. Sedgwick and Mr. Levine, for
9 working with the Office of Planning to reduce the size of the
10 deck, so that it only required special exception release,
11 instead of variance. And also, for you all agreeing to do
12 the lattice screening, as they had suggested.

13 CHAIRPERSON HILL: Okay, great. Then I'll go
14 ahead and make a motion to approve Application Number 19756
15 as captioned and read by the Secretary, and ask for a second?

16 (Chorus of seconds.)

17 CHAIRPERSON HILL: Motion made and seconded. All
18 those in favor?

19 (Chorus of ayes.)

20 CHAIRPERSON HILL: All those opposed?

21 (No audible response)

22 CHAIRPERSON HILL: The motion passed, Mr. Moy?

23 MR. MOY: Staff will record the vote as five to
24 zero to zero. That is on the motion of Chairman Hill to
25 approve the application for the relief being requested.

1 Seconding the motion, Vice Chair Hart. Also in support, Mr.
2 Rob Miller, Miss White, and Miss John. The Motion carries.

3 CHAIRPERSON HILL: Thank you. Summary order?

4 MR. MOY: Yes, sir.

5 CHAIRPERSON HILL: Okay. We're going to take a
6 quick break. We'll be back here at one o'clock. And we're
7 losing Commissioner Miller. And so, the remaining four of
8 us will be here. So Commissioner Miller, you have a nice day.

9 (Whereupon, the above-entitled matter went off the
10 record at 12:45 p.m. and resumed at 1:04 p.m.)

11 MR. MOY: Thank you, Mr. Chairman. If the Board
12 could have parties to the table to Case Application No. 19762
13 of AMT-Varnum LLC, captioned and advertised for a special
14 exception under the residential conversion requirements of
15 Subtitle U, Section 320.2, to construct a three-story rear
16 addition and convert the existing principal dwelling unit to
17 a three-unit apartment house in the R-1Z zone. This is at
18 1521 Varnum Street Northwest, Square 2698, Lot 47.

19 CHAIRPERSON HILL: All right, good afternoon. If
20 you could please introduce yourselves for the record.

21 MR. SULLIVAN: Good afternoon, Mr. Chair and
22 Members of the Board, my name is Marty Sullivan, with the law
23 firm of Sullivan & Barros, on behalf of the applicant.
24 Before the others here at the table introduce themselves, I'd
25 like to say that the principal for the project is here. He

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1 got caught at lunch, but before we get to his part, he'll be
2 here. He should be here in five, ten minutes. Thanks.

3 MR. CLEVELAND: Will Cleveland, architect.

4 MS. WILSON: Alexandra Wilson, from Sullivan &
5 Barros, on behalf of the applicant.

6 CHAIRPERSON HILL: All right. Mr. Sullivan, are
7 you going to present to us today?

8 MR. SULLIVAN: Yes, sir.

9 CHAIRPERSON HILL: Okay. If you could just go
10 ahead and go through what relief is being requested and how
11 you're meeting the criteria and the standard for us to grant
12 that relief. I'll go ahead and -- I think we're going to --
13 it looks like there's people here, as well, so I'm just going
14 to go ahead and put 15 minutes on the clock for you for this
15 portion of it, and we'll see where we go. In fact, I'm going
16 to put 20 minutes up there, just for now, even though I don't
17 know, again --

18 (Simultaneous Speaking.)

19 CHAIRPERSON HILL: -- what this portion of the
20 hearing we want to hear from, again. Has everyone been sworn
21 in here? Has everyone been sworn in? Do we need to swear
22 anybody? Mr. Sullivan, you said the owner was also gone?

23 MR. SULLIVAN: Yes, but he was here this morning.

24 CHAIRPERSON HILL: So he probably got sworn in?

25 MR. SULLIVAN: He was probably sworn in.

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1 CHAIRPERSON HILL: Mr. Cleveland, you have not?
2 If you could please stand. Hopefully, everyone's -- if there
3 is anyone else who needs to be sworn in, please stand and
4 take the oath administered by the Secretary to my left.

5 MR. MOY: Good afternoon. Do you solemnly swear
6 or affirm that the testimony you're about to present in this
7 proceeding is the truth, whole truth, and nothing but the
8 truth?

9 (No audible response.)

10 MR. MOY: Thank you. You may be seated.

11 CHAIRPERSON HILL: All right, thank you. Mr.
12 Sullivan, whenever you like.

13 MR. SULLIVAN: Thank you, Mr. Chair and Members
14 of the Board. This is a project involving 1521 Varnum Street
15 Northwest, and it's a conversion to a three-unit building
16 under Subtitle U, Section 320.2. The architect will present
17 the project. As part of doing that, he'll go through the
18 special exception requirements involved with this. Thank
19 you.

20 MR. CLEVELAND: The subject property is an
21 existing single-family row home.

22 CHAIRPERSON HILL: Mr. Cleveland, if you can just
23 lean into that mic a little bit more. Thanks.

24 MR. CLEVELAND: It's an existing single-family row
25 home in the 16th Street Heights neighborhood on Varnum

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1 Street, 1521 Varnum Street. The goal of the project was to
2 design a three-unit special exception apartment house with
3 the existing row house, with a bump back of not exceeding ten
4 feet and a height limit of 35 feet.

5 We also took into consideration the general nature
6 of the existing façade that had some architectural quality.
7 In light of the regulations of preserving the architectural
8 integrity of the front, set back from the front of the
9 building approximately 13 feet to preserve that front
10 elevation. We developed three units in there, two upstairs
11 units on Floors 1, 2 and 3, and then a third basement unit.
12 It's the third basement unit that we're seeking as the
13 additional unit. Some of the goals for the project, in terms
14 of how we do these, we try and fit these developments to look
15 as much like a single-family home as possible by introducing
16 elements like a common front entrance and vestibule to enter
17 both the front and the back.

18 So when you look at this development from the
19 front, when it's completed, there'll be a single front door
20 there. We also looked to set back from the front and develop
21 a floor terrace on the upper penthouse unit, so that we don't
22 affect the front, in this case, mansard and dormer. Also,
23 it's an attractive feature for those upper-level units. The
24 design goal -- we talk about this idea of contextualism and
25 how it deals with the historic nature of the neighborhood.

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1 Again, it's not a historic district, but there's
2 some architectural quality there. We try and contrast that
3 as much as possible, so that we're not copying the existing
4 architecture there. We want the architecture to contrast
5 that, so that we don't make it look like a copy. As you've
6 seen, some of the more egregious popups in D.C. have
7 developed extensions to dormers, extensions to mansard roofs.
8 It's really not, aesthetically, a successful path, as far as
9 we're concerned. We think the neighborhood provides a much
10 needed update to an existing house. It promotes goals of
11 density and affordability by providing additional units in
12 what is an RF-1 neighborhood, and it meets the requirements
13 of the zoning code. This slide starts to show the back of
14 the units.

15 There, you can see the property at 1519, to the
16 left, and then our property there to the right. The 10-foot
17 bump back is that wood paneled area there, which would be an
18 EPA rain screen, which is really a quite luxurious material,
19 and then an additional five-foot balcony on to that.

20 There, you can see the way we stack these, the
21 doors there would be bedrooms. Coming from the ground up
22 would be Bedrooms 1 and 2 for the first unit, and then the
23 penthouse unit kind of stacks in an L shape, a little bit
24 differently. That's a third unit on the top floor there.
25 There's no areaway access.

1 Because of the way this lot's configured, we
2 didn't have to create any access to the lower-floor unit in
3 the rear of the building. Again, the goal was -- there's
4 also a single door entry there for both units. So again,
5 from the exterior, it's designed to look like a single-family
6 residence, which is really kind of the goal in all these.
7 In context with the existing row, you can see the rear
8 elevation in relationship to the existing row. These are
9 kind of truncated rows, so it's not an entire street block.
10 There's an existing two-family, semi-detached at 1529, and
11 then there's the four-dwelling row that we're part of. From
12 the rear, we feel that the impact to the -- again, this is
13 a north-facing alley side, so direct sunlight to the back of
14 these buildings is minimal at best now.

15 It's late afternoons, very early mornings in the
16 summertime only. It has very minimal impact from that
17 perspective, but also because it falls within the
18 requirements of the 10-foot setback and the 35-foot limit,
19 it's minimal impact, as well.

20 From the front, you can see the setback. There's
21 virtually no architecture that's new in the front of the
22 building. The goal is to really restore and preserve as much
23 of the front façade as possible. Again, it's an elevation
24 view. From a perspective view on the street, that bulk plane
25 virtually eliminates the view of the popup. Both with color,

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1 both with landscape elements on the street front, which are
2 quite mature, and with the setback, we feel that this will
3 have virtually no impact on the front elevation of the row.

4 MR. SULLIVAN: I'll address the general
5 requirements and the specific requirements of the special
6 exception relief. First, the general requirement being that
7 it's in harmony with the general purpose and intent of the
8 zoning regulations and maps and will not tend to affect
9 adversely the use of neighboring property. There's an empty
10 lot, currently, to the west. The addition's only ten feet,
11 of course, which is a matter of right, if you will.

12 If they were doing two units, they could do the
13 ten-foot addition as a matter of right, so they could have
14 this size of building as a matter of right either way.
15 There's a large backyard, so it doesn't have any effect on
16 the properties to the back. Of course, as he said, there's
17 13 foot, a substantial setback in the front, preserving the
18 residential, single-family character of the front of the
19 building.

20 The specific requirements of the special exception
21 relief under 320.2, the addition is under 35 feet in height.
22 There's just three dwellings, so there's not a fourth
23 dwelling. It is an existing residential building. The
24 property exceeds 2,700 square feet, so it has 900 square feet
25 per unit.

1 The addition does not extend more than ten feet
2 past the rear wall of the one adjoining property to the east.
3 The addition will not block a chimney or a vent and does not
4 interfere with solar panels, as well. Then the original
5 rooftop architectural elements are not altered. Those are
6 the requirements of the special exception. Finally, the test
7 involves light, air, and privacy. Since the addition is only
8 ten feet, as noted, it's in line with what could be there,
9 regardless, as a matter of right for a two-unit building, and
10 the rear of the building faces north, so the architect will
11 go over the shadow studies, which show that there's minimal
12 impact, mostly in the late afternoon, at certain times of the
13 year, on the one adjacent property.

14 MR. CLEVELAND: When we do these shadow studies,
15 the first thing that we realize is the true advantage of
16 south-facing real estate. Largely, you're going to see, in
17 the shadow study, that the north face, the alley side of the
18 row, is in shadow from the hours of 9:00 to 3:00 p.m.,
19 virtually for the entire year. That being said, we did
20 recognize some impacts late afternoon that they may be
21 experiencing now that they would lose, but we think that's
22 minimal and spurious, given the landscape around there.

23 A lot of times, outside the hours of 9:00 and
24 3:00, you're affected more by landscape than anything else.
25 So we can point to the summer solstice study as being

1 probably the only thing where we noticed, also, impacts to
2 the 1529 property, but again, those were early afternoon
3 impacts only. There were some roof impacts, which is to be
4 understood when you're building higher than the property
5 adjacent to you, but again, minimal. The top half is what's
6 existing, the existing condition. The lower half on these
7 images are what's proposed.

8 CHAIRPERSON HILL: Mr. Cleveland, just for
9 clarity, I had a question about a few slides back. Could you
10 go a couple back, please? It was just the front of the
11 property. Is it black right there? Are there windows there?
12 I'm just confused as to what that is from this slide.

13 MR. CLEVELAND: If you look at it from the
14 elevation, roughly, the ceiling height is at the existing
15 eave there. There's almost enough room -- in fact, there is
16 a third-floor attic space there. There's almost enough room,
17 in the size of these row houses, to put a third floor on
18 there without changing anything. It's not quite to meet
19 market, so we do have to bump up a little bit. There are
20 windows on that third floor; you just can't see them because
21 --

22 CHAIRPERSON HILL: I think I can see the outline.
23 I'm just trying to understand what we're looking at. It's
24 not necessarily going to be black.

25 MR. CLEVELAND: That's what we're proposing is a

1 black metal. It's a very modern looking material.

2 CHAIRPERSON HILL: Then with the windows.

3 MR. CLEVELAND: The one with the windows would
4 also be a black metal and a very modern style, a very
5 contrasting style to --

6 (Simultaneous speaking.)

7 CHAIRPERSON HILL: It actually could look like
8 that, is what you're saying?

9 MR. CLEVELAND: It actually could look like that.

10 CHAIRPERSON HILL: Okay, that's --

11 (Simultaneous speaking.)

12 MR. CLEVELAND: Although it is an elevation.
13 That's a view that you see maybe from the second-floor window
14 of the neighbor across the street, but again, it's more of
15 an architectural view. It's not a perspective view.

16 CHAIRPERSON HILL: Okay, thank you.

17 MR. SULLIVAN: The last requirement is that the
18 conversion and the addition, as viewed from the street,
19 alley, and other public ways, shall not substantially
20 visually intrude upon the character, scale, and pattern of
21 houses along the subject street or alley. Mr. Cleveland, if
22 you could talk about that requirement and how the proposal
23 meets that.

24 MR. CLEVELAND: Right, from the alley side.

25 MR. SULLIVAN: Alley and the street, as viewed

1 from the street or the alley.

2 MR. CLEVELAND: As we've talked about, the
3 character of the front of the building is maintained. We're
4 setting back 13 feet from the front façade. There's two
5 setback requirements on the roof there. One is for the
6 architecture elements, and the other, the second is for an
7 existing chimney. So we meet both the setback for the
8 architectural requirement and the ten-foot radius from an
9 existing chimney. We won't have to touch any of that. Just
10 for your information, these are very generous-sized row units
11 now. We don't have the problems that we run into in a lot
12 of row homes.

13 We have plenty of space to meet market with a
14 luxury top-floor unit here and still meet the setback
15 requirements. In terms of the rear of the building, we don't
16 have any direct line of sight from the balcony to the
17 adjacent property, which is the attached dwelling. While
18 there are windows there, there's fenestration there.

19 There's no direct line of sight from the balcony
20 to any of the back windows along our row. In addition to the
21 alleys, 89 feet -- again, these lots, as opposed to some row
22 dwellings that we run into, these lots are incredibly
23 generous in this neighborhood, as well. We have a full 89
24 feet from the alley to the back of our building, so there's
25 no rear setbacks, and there would be ample yard space for all

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1 adjacent properties.

2 Lastly, we'd like to talk about -- I think we've
3 already mentioned it, too -- the very developed nature of the
4 landscape. You have eight trees on this street. When we
5 talk about impact for popups, where they become really
6 egregious is where there isn't a mature street front of
7 trees. That's not the case in this situation. We do set
8 back, so you don't have direct line of sight to the addition.
9 But the reality is you can't see up there anyway when you're
10 walking on the street adjacent to the property. That's
11 really an advantage to this particular location.

12 MR. SULLIVAN: Lastly, Mr. Chair, I would ask the
13 principal, Mr. Taylor, to respond to the ANC report, noting
14 that he failed to conduct outreach, because he has some
15 information on that. I'm not sure if he's been sworn in or
16 not.

17 CHAIRPERSON HILL: Okay. First of all, could you
18 introduce yourself? You need to push the button.

19 MR. TAYLOR: Michael Taylor.

20 CHAIRPERSON HILL: Secondly, have you been sworn
21 in?

22 MR. TAYLOR: I have not.

23 CHAIRPERSON HILL: If you could please stand, sir,
24 and take the oath administered by the secretary.

25 MR. MOY: Do you solemnly swear or affirm that the

1 testimony you're about to present in this proceeding is the
2 truth, the whole truth, and nothing but the truth?

3 MR. TAYLOR: I do.

4 MR. MOY: Thank you.

5 CHAIRPERSON HILL: You would think I could learn
6 that by now, Mr. Moy.

7 MR. MOY: I'll write it down.

8 CHAIRPERSON HILL: Is everyone allowed to do it?
9 Is everyone on the Board able to do it? OAG, is everybody on
10 the Board able to do it?

11 PARTICIPANT: I've never, personally, seen anyone
12 else do it but the secretary.

13 CHAIRPERSON HILL: So you don't know?

14 PARTICIPANT: I don't know.

15 CHAIRPERSON HILL: Maybe we could find out by next
16 week or next time. I'm a little curious. Mr. Sullivan, you
17 were going to ask the property owner to speak to the ANC's
18 comments.

19 MR. SULLIVAN: Yes, sir.

20 MR. TAYLOR: I've reached out to the community for
21 the past three years regarding development of this project.
22 In January, I contacted Ulysses and John Stokes and asked
23 them for a sit down. We met at John Stokes' home.

24 MR. SULLIVAN: Mr. Taylor, can you explain who Mr.
25 Stokes is?

1 MR. TAYLOR: Sure. John Stokes is the neighbor
2 at 1519 Varnum Street Northwest.

3 CHAIRPERSON HILL: That's the immediate next-door
4 neighbor?

5 MR. TAYLOR: Immediate next-door neighbor, yes.
6 We sat down to discuss a mutually beneficial path forward.
7 Mr. Stokes said he'd get back with me. Mr. Campbell said
8 he'd get back with me, as well. I never heard anything back.
9 I made a few more calls to both Mr. Campbell -- and spoke
10 with Mr. Stokes on one other occasion since that time, with
11 no resolution. I've also met with Layla Joseph. She is the
12 neighbor at 1529 Varnum.

13 CHAIRPERSON HILL: Is that across the street?

14 MR. TAYLOR: That is the adjacent neighbor, as
15 well, on the other side. She asked for plans and
16 documentation, which we provided to her. She asked for a few
17 concessions, in terms of making sure that construction
18 wouldn't interfere with her privacy or be too disturbing.
19 We made concessions in that regard to her. They don't stand
20 opposed to the project.

21 CHAIRPERSON HILL: I'm sorry; is that the other
22 side of the alley? Is that what you're --

23 MR. TAYLOR: It is a parking -- they have a
24 driveway adjacent to the lot at 1521.

25 CHAIRPERSON HILL: Mr. Sullivan.

1 MR. SULLIVAN: I believe that's the end of our
2 presentation in chief, so if you have any questions.

3 MEMBER WHITE: I guess the main question, this
4 seems to be quite a bit of opposition to the project. I just
5 want to get a better understanding of why that is and what
6 -- mainly, opposition that's tied specifically to the
7 criteria. That's what we have to weigh. I wondered, to the
8 extent that you've been able to resolve some of those issues
9 -- because we've got a lot of letters of opposition here.
10 Obviously, that's something that we have to take into
11 account. I didn't know who wanted to answer that.

12 MR. SULLIVAN: I can address that. How much time
13 do you have? I could talk to you about this project. Not
14 this project, but this property has a history. Initially,
15 it was a seven-unit conversion when it was combined with the
16 other property. That case had an appeal, which was denied.
17 Then subsequently, that permit was pulled by DCRA a year
18 after issuance for other reasons, unrelated to zoning, and
19 it's currently before the court of appeals.

20 This property has been a hot spot. This
21 particular project, though, is quite straightforward, in that
22 it's got a significant setback, and it's only got the
23 ten-foot addition, which I think checks the two critical
24 boxes that this Board typically focuses on in a conversion
25 case. From what I've seen of the opposition letters, it

1 relates -- a lot of it relates to a permitted development
2 that's not yet constructed next door, at 1523 Varnum, which
3 is not part of this case. It also relates to macro community
4 issues, which I believe are also not part of the special
5 exception relief. A lot has been said, including a letter
6 that just came in last night or this morning from another ANC
7 commissioner, not in this SMB, talking about 320 Webster
8 Street, which is a completely different project. The
9 applicant is available to talk about that if the Board wanted
10 to talk about that, but I don't think it has anything to do
11 with this relief, as well. Beyond that, I guess I would
12 reserve our comments for rebuttal and hear from the
13 opponents, themselves. I won't speak for them beyond that.

14 MEMBER WHITE: Thank you.

15 CHAIRPERSON HILL: Okay, anyone else?

16 MEMBER HART: Yes, if you could -- I appreciate
17 the information about where trees are located and views will
18 be blocked by trees. Along the rear, along the alley, is
19 this the only shot that you have?

20 MR. CLEVELAND: Yes, that is the only shot that
21 we have. Really, what happens, it's a 15-foot alley back
22 there. When you get to the back, there are a number of
23 accessory garage structures there, so your view of the rear
24 from the alley is blocked, in most cases. This is a shot
25 corner looking at our lot. If you look --

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1 MEMBER HART: What if you went to the -- in this
2 image, what if you went to the right in this image? What do
3 you see then? I'm just trying to figure out what's back
4 there.

5 MR. CLEVELAND: That is a parking lot for an
6 adjacent church that's on 16th Street.

7 MEMBER HART: What I'm asking is what's the view
8 from that parking lot toward your property?

9 MR. CLEVELAND: You're really just looking at the
10 back of the rows there. Again, there's about --

11 MEMBER HART: What I'm getting to is that under
12 Subtitle U, 302 -- excuse me, Subtitle U, 320.2(i), one of
13 the criteria is that your project should not have a
14 substantially adverse effect on the use or enjoyment of any
15 adjacent property, in particular, light and air, privacy of
16 use and enjoyment, and character, scale and pattern of houses
17 along the street or alley.

18 My question is we don't know what's along the
19 alley. Because you have stated that along the alley are some
20 other accessory structures that block it. I'm asking what
21 about the view from this point toward your house, the
22 project? I don't know what that is. I understand that it's
23 a parking lot.

24 I understand that it is somebody else's property.
25 I'm just trying to understand what that view is. I don't

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1 know if what you're telling me is that there are trees that
2 are there and they're blocking the view, so you really can't
3 see anything. I don't know. That's what I'm trying to
4 understand.

5 MR. CLEVELAND: I see. There are large mature
6 trees on our lot, specifically, and there's also a hedgerow
7 there that separates the lot from the parking area. You
8 would see -- if you're standing in the parking lot, you would
9 see the back of the rows, but again -- I could generate an
10 architectural view of that, if that would be helpful.

11 MR. SULLIVAN: And more photos we could submit,
12 as well.

13 MEMBER HART: We have this wonderful thing, that's
14 Google, that can show us what some of this looks like. I
15 just don't know what's on there.

16 MR. CLEVELAND: It's a private parking lot. When
17 you're looking -- again, understood. We could enter the
18 parking lot and take a picture, but from Google, you really
19 can't see it from there because it's not an area that is --
20 it's not a public way, I guess. From the public way is where
21 our photograph is taken. I understand your concern. Does
22 it visually intrude on the nature or the character of the
23 row?

24 The back of these buildings are a sort of
25 hodgepodge of ad hoc renovations of what were porch additions

1 to existing structures. It's really not the front of house
2 of the row. It doesn't mean there's not quality there. It
3 doesn't mean that they're not wonderful spaces. It just
4 means it's a very hard thing to capture architecturally,
5 other than to say plainly what we're proposing. Does that
6 make sense?

7 MEMBER HART: It does. What I was trying to get
8 to was what you're showing here and your explanation were not
9 sufficient for me to understand. What you've just explained
10 was more information and more description that gives me an
11 understanding as to what's back there and why it may be
12 difficult -- why we're only seeing one image.

13 Because typically, we'll have images of several
14 points along the alley, so that we can say I see; that's from
15 -- this is what you can see from there. If you don't, then
16 it makes me wonder why wouldn't I be able to see that? You
17 provided some information, which is helpful. I don't have
18 any other questions.

19 MEMBER JOHN: I have a question, Mr. Chairman.
20 Using a cursor or something, can you show me where the
21 subject property is? Which house is the subject property?
22 There are three houses, I think, in a cluster, and then
23 there's a house with a fence and a pink hedge.

24 MR. CLEVELAND: Do you see my cursor circling
25 there?

1 MEMBER JOHN: No.

2 MR. CLEVELAND: I'm not sure what -- do we have
3 a pointer?

4 CHAIRPERSON HILL: Mr. Cleveland, we'll wait for
5 the microphone, but even then, I don't know if you might have
6 to -- how you'll do this. I don't know why the cursor's not
7 working.

8 (Off-microphone comments.)

9 CHAIRPERSON HILL: Yes, but then if he does it on
10 the back wall, it's not on camera. Paul's coming to help.
11 That's good enough, actually, even right there, then he can
12 click back out of that. Yes.

13 MR. CLEVELAND: Thank you. This is 1529 right
14 here. Our property is this window area here. These two
15 large growth trees are in our backyard. Then 1519 is behind
16 those trees. What you're getting is a series of accessory
17 structures behind that foliage there that's really kind of
18 blocking that view. This is the alley, which doglegs around
19 here. This here is the parking lot of the church. That's
20 their dumpster there. This pole represents the corner of the
21 public alley, which then extends parallel to the row from
22 this corner on. This exits out on to Webster Street.

23 MEMBER JOHN: Just one follow-up question. To the
24 right of the property, between the three houses, from my
25 right, what's right there?

1 MR. CLEVELAND: This is a semi-detached structure
2 here, and they have a driveway. There is a side yard that
3 has become a subdivider property. There's about -- I want
4 to refresh my memory on what that dimension is between there.
5 I could find it specifically for you if you give me a minute.
6 Is that helpful?

7 MEMBER JOHN: That's fine; thank you.

8 CHAIRPERSON HILL: I think you can move on now,
9 Mr. Cleveland.

10 MR. CLEVELAND: Okay.

11 CHAIRPERSON HILL: You can go forward. You can
12 keep going, wherever you were. I think you were at -- I
13 forget where you were in the -- you're on almost the
14 second-to-last slide, I think.

15 MR. SULLIVAN: I think we were just responding to
16 Mr. Hart's question.

17 CHAIRPERSON HILL: Oh, okay. Were you done?

18 MEMBER HART: Which they did. They did.

19 CHAIRPERSON HILL: I guess I have a quick question
20 again. I'm trying to remember -- because I recognize all the
21 faces, so I'm trying to remember what -- Mr. Sullivan, you
22 started to tell me again. I'm just trying to understand --
23 I know it's before us. Then you said that -- can you walk
24 me through, again, what's been going on with the property?
25 You said it was a seven-unit building. The permit got -- you

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1 appealed. Sorry, go ahead.

2 MR. SULLIVAN: Pre-conversion changed to the R-4
3 rules. We're talking 2014, I think, maybe even 2013. The
4 then owner of the property received a permit to do a
5 seven-unit conversion of 1521 Varnum.

6 CHAIRPERSON HILL: This current property?

7 MR. SULLIVAN: Yes. That was appealed by Mr.
8 Stokes, the next-door neighbor. That appeal was heard --

9 CHAIRPERSON HILL: By this Board.

10 MR. SULLIVAN: I believe it was Chairman Jordan
11 was the chair at that time.

12 CHAIRPERSON HILL: I still might have been here,
13 I think, but okay.

14 MR. SULLIVAN: I can't remember if you were on
15 then or not.

16 CHAIRPERSON HILL: It might have been right at the
17 very beginning, but go ahead; I'm sorry.

18 MR. SULLIVAN: That appeal was denied. The permit
19 had already been issued. Then the rest of this, about -- I
20 think it was about eight months after -- then in the
21 meantime, after that appeal, the property was conveyed to Mr.
22 Taylor.

23 About eight months after that permit was issued
24 for the seven-unit conversion, DCRA revoked the permit and
25 said that the applicant had never provided any MEP plans.

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1 A hearing was had at OAH, where it was immediately found out
2 that they did provide MEP plans, and DCRA knew it. We don't
3 really know what the purpose of that appeal was, but it was
4 dismissed. A month after that, DCRA issued another
5 revocation, just a flat permit revocation, not a request for
6 additional information. There was a laundry list of what I
7 would call 20 minor items or 10 minor items. That particular
8 case is in the course of the OAH appeal, and I'm not handling
9 that, so I don't know the details on that.

10 CHAIRPERSON HILL: But it's still Mr. Taylor's
11 property; it's still Mr. Taylor's appeal.

12 MR. SULLIVAN: Correct, yes. In the meantime,
13 he's trying to mitigate the damage from not being able to
14 develop the matter of right project that was approved four
15 years ago. He's now asking for this special exception relief
16 to do the three-unit conversion with this property, and he
17 subdivided what was going to be the seven-unit property. He
18 has a permit to construct a two-unit flat at 1523 Varnum.

19 CHAIRPERSON HILL: Where's the 1523 Varnum?

20 MR. SULLIVAN: It's just to the west. I'm sure
21 they'll show you.

22 CHAIRPERSON HILL: But he did subdivide the lot?

23 MR. SULLIVAN: Yes.

24 CHAIRPERSON HILL: Then the two unit you're doing
25 as a matter of right?

1 MR. SULLIVAN: The 1523 is a matter of right, yes.

2 CHAIRPERSON HILL: Then the --

3 MR. SULLIVAN: I'm sorry; subject to an appeal
4 that you'll hear next month.

5 CHAIRPERSON HILL: The two unit? Okay. Before
6 the recess in July?

7 MR. SULLIVAN: Yes.

8 CHAIRPERSON HILL: Then the seven unit, you still
9 have that before OAH?

10 MR. SULLIVAN: Technically, that permit is
11 revoked. I may not --

12 CHAIRPERSON HILL: I'm just curious. I'm just
13 trying to understand --

14 (Simultaneous speaking.)

15 CHAIRPERSON HILL: You're not involved in it, but
16 it's before -- the property owner can speak to it. It's
17 before OAH right now.

18 MR. SULLIVAN: It's before OAH, and it was that
19 appeal -- the appeal of the revocation filed by Mr. Taylor
20 was dismissed as him not having standing. It had something
21 to do with not having the correct name on the permit or
22 something like that. That particular issue is being appealed
23 at the court of appeals. If the court of appeals says yes,
24 that dismissal was not correct, then it goes back to OAH,
25 where it hasn't yet had a substantive hearing.

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1 CHAIRPERSON HILL: For the seven units?

2 MR. SULLIVAN: Yes, for the seven units, yes, but
3 not on zoning issues, on building code issues.

4 CHAIRPERSON HILL: I understand. Mr. Taylor, you
5 got this in '14?

6 MR. TAYLOR: I bought the project, I believe, in
7 2015, I believe.

8 CHAIRPERSON HILL: I appreciate that. That was
9 helpful. You're before us again -- for which you're before
10 us. As you pointed out, you're not going past the ten feet
11 behind, and you're going up to the matter of right of the 35?

12 MR. SULLIVAN: Correct.

13 CHAIRPERSON HILL: You're just here for the
14 conversion from the two to the three? Otherwise, you could
15 do the matter of right as this with two, right?

16 MR. SULLIVAN: Correct.

17 CHAIRPERSON HILL: Does anybody have anything
18 else for the applicant? No?

19 MEMBER JOHN: Where is 1519 on this, just using
20 the same diagram from the rear? Can you do that?

21 MR. CLEVELAND: Do you want to see a view from the
22 architectural drawings? Will that be acceptable?

23 MEMBER JOHN: If that's all you have. I was
24 trying to place it based on the last diagram. 1523 would be
25 to the west. The property is 1521.

1 MR. SULLIVAN: Exhibit 38-B, in the record, has
2 nine additional photos. Photo No. 7 might be helpful, if you
3 have that. It's the one showing an accessory building.

4 MEMBER HART: Okay, we can see it.

5 CHAIRPERSON HILL: I think we're good. We're
6 good? I'm going to turn to the Office of Planning. Office
7 of Planning, please.

8 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman
9 and members of the BZA. Maxine Brown-Roberts, for the
10 record. As you can see, the record the Office of Planning
11 provided to -- first report. In that one, we had asked for
12 some additional information regarding some of the plans and
13 information regarding views and that sort of thing from the
14 street.

15 The applicant did provide the information, and we
16 supplemented our report based on the information that was
17 later provided. Under Subtitle U, 320.2, which allows for
18 the conversion of single-family dwellings in an apartment
19 house with three units, we went through all the criteria and
20 think that the applicant has met the criteria. The changes
21 that are being made to the front of the house we think are
22 minor and are upgrades.

23 Even with the changes, it still meets the
24 character of the neighborhood and the other houses along
25 there. Regarding the views from the street, again, it is set

1 back 13 feet, so the addition won't be seen from directly in
2 front. We think it will be seen from the side view, but
3 again, there is vegetation there. We think that even with
4 the development of the adjacent properties, that vegetation
5 will be maintained. I think if they tried to remove those
6 trees, it's something that would have go to through urban
7 forestry and all that sort of thing, so we have some
8 confidence that majority of it will be retained. The same
9 thing applies to the views from the alley.

10 This is a larger addition. It has an additional
11 floor, which is different from the adjacent house, which is
12 shorter, but it's still within the permitted height. We
13 think that with vegetation in the back -- I did look at
14 Google and could see that there was some vegetation behind
15 there, which we think will help to shield that back view from
16 the alley.

17 The addition, I don't think that what is being
18 proposed is significantly different from what is there. I
19 think it fits in. It's in the general character. The color,
20 I am not sure. I am pretty comfortable with the color, but
21 that's neither here or there right now.

22 Again, we think that the view from the alley,
23 again, as applicant says, it's all of eight or nine feet from
24 the alley, and with vegetation, I think that it will be
25 minimal. The ten-foot addition, again, is permitted as a

1 matter of right. From the shadow studies that the applicant
2 proposed, yes, there is going to be some shadowing, but
3 again, we don't think that it is to an extent where it would
4 be a detriment to the addition. Again, the ten feet -- I
5 think when the rules for putting in that additional ten feet,
6 there was consideration that there would be some shadow on
7 the adjacent properties, but that it wouldn't be a detriment
8 to the neighbors, so that it would block their light and air
9 significantly. Based on that and the rest of the analysis,
10 we recommend approval of the request. Thank you, Mr.
11 Chairman.

12 CHAIRPERSON HILL: Does anybody have any questions
13 for the Office of Planning?

14 MEMBER HART: Just that when you were looking at
15 the view from the alley, you didn't think that was enough of
16 a change to the character of what's going on in the alley?
17 I know that there are some accessory structures that are
18 right up against the alley that can block views, but did you
19 have any other -- did you have any concerns about that at
20 all?

21 MS. BROWN-ROBERTS: No, again, I think what is
22 being proposed is not -- it's something that we have seen
23 along alleys. Along this alley, I think, it's a little
24 different, yes, from what the adjacent property has, but I
25 think it's within that realm of things. I don't think that

1 it is outlandish or significantly different or anything that
2 I would say that it would affect the adjacent property, or
3 even the views from the street. Yes, the views from the
4 alley, yes, even with the vegetation, it may be -- it's going
5 to be seen. But I don't think it is going to be -- have such
6 a significant impact on the view along the alley, no.

7 MEMBER HART: The height of the building is --
8 right now, you might be able to see the expansion or -- I
9 guess it's expansion on the roof of the building, of the
10 existing house, because they are proposing this third floor.
11 You might be able to see that from across the street.

12 MS. BROWN-ROBERTS: I'm not sure --

13 MEMBER HART: Right now, they are looking at a
14 two-story building now. They're looking at a third story.
15 That is within the zoning regs. They are allowed to do that.
16 The height is within the zoning regs. Really, it's the --
17 the use won't change that. You'll still have the same
18 ability to see that 35-foot --

19 MS. BROWN-ROBERTS: Thirty-three.

20 MEMBER HART: -- 33-foot tall building that's
21 there. So there is -- the use, itself, is not going to
22 change that. The height of the building has nothing to do
23 with the use, per se.

24 MS. BROWN-ROBERTS: Right. The use is going to
25 -- it's a permitted use to have three units with a special

1 exception. They allow you to do the three units if all these
2 other things are met.

3 MEMBER HART: Thank you.

4 CHAIRPERSON HILL: Anyone else? I have a quick
5 question. We've seen a lot of these before -- I shouldn't
6 say we've seen a lot of these before. Did the Office of
7 Planning have any thoughts about the one door in the front
8 and the one door in the back? I can't think of one we've
9 seen the one door in the back, necessarily. I'm trying to
10 -- there's no comment? You don't have any thoughts about it?

11 MS. BROWN-ROBERTS: No. I think that goes to just
12 a functioning of the building, how it functions.

13 CHAIRPERSON HILL: Actually, now that I think
14 about it, I guess that's there's been one door, at least in
15 the front.

16 MS. BROWN-ROBERTS: I just wanted to note that I
17 don't know if you noticed that they're adding a stairs down
18 into the basement from the front, also.

19 CHAIRPERSON HILL: Could you pull that up? Could
20 the applicant pull that up for me?

21 MS. BROWN-ROBERTS: It's not very visible, but
22 it's there.

23 MR. CLEVELAND: There's an existing porch from the
24 front of the house. We'll be creating an area way directly
25 underneath of that porch, and a stair to access -- that's how

1 you access the third unit.

2 CHAIRPERSON HILL: I got it, okay. I see. Thank
3 you. Does the applicant have any questions for the Office
4 of Planning?

5 MR. SULLIVAN: No, thank you.

6 CHAIRPERSON HILL: Is there anybody here from the
7 ANC? Sir, can you please just come on forward.

8 I'm sorry; you have to speak in the microphone,
9 so you have to come and first speak in the microphone.
10 Please have a seat and just introduce yourself, if you
11 wouldn't mind, Commissioner.

12 MR. CAMPBELL: Ulysses Campbell, 4C03. What I was
13 saying was my neighbors have actually been here longer than
14 I. Is it possible for me to defer to them and offer
15 testimony after they go?

16 CHAIRPERSON HILL: Sure. I think everybody's
17 going to stay for everything, but that's fine. If you want
18 to be last, that's fine. So is there anyone here speaking
19 in support? I guess there's people here all in opposition?
20 Mr. Sullivan, why don't you move down one? I'm trying to get
21 everybody over on one side, if I can.

22 Mr. Cleveland, maybe you can also move over. I
23 think there's five -- oh, there's six. We'll do four at a
24 time, so just four of you right here is fine. As far as --
25 you have to talk into the microphone, but if you do have

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1 something to show, it would have to be on the camera. If
2 it's on the camera, maybe -- Mr. Sullivan, if you wouldn't
3 mind, since you know where the camera is, if you could just
4 grab that easel there. I think it's right there, right in
5 front of you. No, your back, right there. Maybe you do know
6 where the camera is. I guess you're always prepared. You
7 don't have a diagram or anything to show. When you do speak
8 -- that's okay. Give me one second. I need a microphone,
9 also, Mr. Moy. Okay, you got the microphone. You've all
10 been sworn in. If you could please first introduce
11 yourselves.

12 MS. WALDECK: Hello. I appreciate you listening
13 to us. My name is Cecilia Waldeck. I'm the chair of the
14 16th Street Neighborhood Association, and I'm here on behalf
15 of that association today.

16 CHAIRPERSON HILL: Okay, great, so you'll get five
17 minutes. Next, please?

18 MS. BUSH: Jane Bush. I live on Webster Street.

19 CHAIRPERSON HILL: You, sir?

20 MR. STOKES: I'm John Stokes, and I live at 1519
21 Varnum Street.

22 CHAIRPERSON HILL: You, sir?

23 MR. WENG: Henrik Weng. I live on 1520 Webster
24 Street.

25 CHAIRPERSON HILL: Okay. Ms. Waldeck, maybe we'll

1 do you -- you can go last because it'll be easier to -- we
2 might be able to use your diagram on anything that they speak
3 of. The rest of the people, as members of the community,
4 you'll get three minutes each to speak. There's a clock
5 there to the right and left, if Mr. Moy would reset that for
6 three minutes. I'm going to begin with you, sir, and then
7 go down the line, okay? Mr. Stoker? Oh, I'm sorry, Bush,
8 Mr. Bush, you can go ahead and --

9 MS. BUSH: No, I'm Jane Bush.

10 (Simultaneous Speaking.)

11 CHAIRPERSON HILL: Okay, Mr. Weng, let's start
12 with you anyway, and we'll go to the right. So please go
13 ahead whenever you -- you can start whenever you like.

14 MR. WENG: 1520 Webster Street, so I have the
15 property that's adjacent to 1523 Varum Street, 1521, so I'm
16 facing -- when I look in my rear yard, I face the
17 development. I think first of all, it's really difficult to
18 consider the light and privacy and effect on all the
19 neighbors without considering the whole property, 1523 and
20 1521.

21 I know we're only considering 1521 today, but to
22 hear that the addition will not have significant effect seen
23 from the alleyway is just incomprehensible. This is a big,
24 big structure that sits there. To hear the sort of excuses
25 that the vegetation will take care of that, the vegetation

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1 will have to be taken down to create these additions. I have
2 11 windows facing the property where the balconies will face
3 mine. I think my privacy and -- not the air; that doesn't
4 really matter -- will be greatly affected. I'm done.

5 CHAIRPERSON HILL: Okay, Mr. Weng. Sir?

6 MR. STOKES: Good afternoon, Board. My name is
7 John Stokes. I am the owner and resident of the
8 single-family attached row house dwelling located at 1519
9 Varnum Street Northwest, in the neighborhood of 16th Street
10 Heights, an RF-1 residential district, and located attached
11 to the subject site at 1521 Varnum Street Northwest.

12 As you may be aware, there has been a long history
13 of mind-bending acrobatics of proposed construction at 1521
14 and 1523 Varnum Street, dating back to 2015. Three minutes
15 could never cover the three and a half year struggle me and
16 my community have undertaken, but I can only hope that this
17 Board will drill down on this scheme.

18 The site of the lot is oversized, in the middle
19 of the block, and has made potential irresponsible
20 development a major concern for the 16th Street Heights
21 community. This new proposed development is too important
22 to be granted a special exception without fuller exploration
23 of the details that makes this request worthy of caution.
24 As the youth say, stay woke. There is no way to consider
25 just 1521 Varnum Street without also analyzing the building

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1 permit B1611 -- I mean B1611940, granted on February 21st,
2 for the 1523 Varum Street Northwest. They are two pieces
3 of a sordid puzzle. There's also a BZA hearing scheduled for
4 this permit in July. I and my neighbors are not against
5 responsible development that is in keeping with the beautiful
6 character of the neighborhood that I have lived in for almost
7 25 years. Indeed, the neighborhood has seen wonderful
8 renovations and expansions without sacrificing the home
9 values and quality of life of the community.

10 Other developments have owners who live in the
11 renovated or expanded projects, and they took great care to
12 ensure that at least the projects respected the look and feel
13 of the surrounding homes. They are truly good neighbors.

14 If common sense is not good enough to consider,
15 then consider Section 320.2(e), which requires that the new
16 addition shall not extend further than ten feet past the
17 furthest near wall of any principal residential building or
18 any adjacent property, in this case my house. The plans show
19 an expansion past ten feet, to more like fifteen feet, when
20 you count the balconies.

21 I know that this goes to ten feet, and I'm just
22 finding out that guess what, those balconies extend another
23 four or five feet, I guess they don't count. I guess there's
24 just ten feet and balconies get thrown in for free, even
25 though it does extend it. There is no real reason. The

1 balconies, especially open-air balconies, present another
2 possible violation, which is 320.2(i), which requires that
3 the new addition shall not have a substantially adverse
4 effect on the use or enjoyment of any abutting or adjacent
5 dwelling, and especially points to the adverse effects on
6 light and air. Anybody who's been on a balcony knows that
7 if you go on to the balcony, you can see around inside. You
8 can smoke. You can drink. You can have parties.

9 You can do whatever you want to on those
10 balconies, unless they're enclosed. If they were enclosed
11 in part of the ten feet, guess what, I'd be okay with this,
12 actually, but that they have the ten feet plus the balconies,
13 to say that they don't have an effect on the enjoyment of my
14 property next door is not true.

15 Also, the character, scale, and pattern of the
16 houses along the subject street or alley. There's a reason
17 why you have not seen full display and full renderings of
18 every design, from every angle. From the front, it looks
19 like it was cut off to what we saw. From the street, you can
20 see it.

21 If you look straight down -- I don't know, OP,
22 sometimes you guys go out and actually look at properties.
23 If you go out and look just straight down Varnum Street, 15th
24 and Varnum, you will see all the houses in a row, no
25 obstructions. There's some decks, but they're all the same

1 in a row. This, in the middle of a block, will go up, will
2 tower over the rest of the houses and neighborhood, and you
3 bet your bottom dollar you can see this from the street, no
4 matter what talk about vegetation. You can see this, and you
5 will see it from driving up and down the street. There is
6 also serious noise, parking, and light pollutions, which
7 impacts me and my neighbors.

8 In closing, I would like the Board to consider my
9 neighbors and my pleas to not only vote down a special
10 exception, but to thoroughly review the subdivision of the
11 lot and the permitting of a rear two-unit residence behind
12 the residence at 1521 Varnum Street. I'm going over, but I
13 have to address something I saw on the slide that talked
14 about neighborhood engagement.

15 In particular, I don't know whether everybody's
16 seen, but the neighbor said at 1529, so I guess maybe the
17 wife said okay. I don't know, but on this petition, which
18 was signed just last week, the husband has signed and says
19 that he's against this. That's from 1529 Varnum Street.
20 From my meeting with Mr. Taylor, we did, indeed, meet.

21 We did have a conversation. No substantial ending
22 came from that particular conversation. I'm willing to still
23 have conversations with Mr. Taylor and with the folks on this
24 development team because, again, we just want good neighbors.
25 We want to be involved. We just don't want the twin towers,

1 as we're calling this, to be built without further
2 exploration. Thank you.

3 CHAIRPERSON HILL: All right, thank you. Ma'am.

4 MS. BUSH: Yes, Jane Bush. I live on Webster
5 Street. I'll be impacted. I'm right behind John Stokes'
6 house. I will be seeing this house, as well. There are some
7 missing renderings. There are covered garages. Those are
8 going to be torn down. Some of the tree -- there's one huge
9 tree that's already been chopped down.

10 That vegetation is going to disappear. It's very
11 suspicious that there's a rear entry, when renderings have
12 been produced for both 1523 and 1521 that show that this is
13 going to be a twin towers project, with an open court that's
14 going to be running from Varnum to Webster, very strange,
15 using the alleyway as an entrance.

16 This is problematic for security reasons, for
17 starters, and it changes, under 320.2(i), what this complex
18 is going to look like. We don't have that in the RF-1. This
19 is not indicative or in the style of anything that we've seen
20 in the RF-1. I also would like to say our Webster Street
21 backyards are much smaller than this particular Varnum Street
22 row of houses. We are going to see it. We will feel it.
23 We're going to hear it. It's certainly not in keeping with
24 what we expect to see in our neighborhood.

25 CHAIRPERSON HILL: Okay, great. Thank you. Ms.

1 Waldeck.

2 MS. WALDECK: Yes, I would like to direct your
3 attention to Exhibit 35, and also, John Stokes uploaded some
4 more petitions yesterday, but there are probably over 36
5 neighbors who are not here today that are quite concerned
6 about this project. They have busy lives, and they wanted
7 me to mention to you that their absence should not be
8 interpreted by the Board as a lack of concern or opposition
9 to this project. I want to make three points.

10 CHAIRPERSON HILL: Ms. Waldeck, do you have a
11 diagram or something? Is that what you're going to try --
12 I'm just trying to figure out how to do this. You'll need
13 the microphone by Mr. Moy, and you have to kind of hold that
14 -- somebody can help you. You have to hold it up where that
15 easel is if you plan on doing that. Then you will have five
16 minutes, as an association, so maybe Mr. Weng can just hold
17 it there. You need to turn it on.

18 MS. WALDECK: My first point -- I don't have my
19 statement right in front of me.

20 CHAIRPERSON HILL: You can go get your paper. You
21 said you needed the statement?

22 MS. WALDECK: It might go faster if I read what
23 I already wrote. My first point, the premise of this hearing
24 is that neighbors, BZA, OP, and other --

25 CHAIRPERSON HILL: You need to move back a little

1 bit more. You're kind of in the line of the camera. Okay,
2 great, thank you.

3 MS. WALDECK: -- D.C. agencies have received
4 timely and sufficient information about a proposed
5 development, so that they can analyze and testify on its
6 impacts to the neighborhood. In this case, this premise is
7 simply not true. The owner, Mr. Taylor, has gone out of his
8 way to keep everyone uninformed of his plans and the larger
9 development.

10 No helpful or relevant information was presented
11 to neighbors at the recent ANC 4C meeting, and I received no
12 information in response to my May 16th letter, which is
13 Exhibit 30. Only five days ago, on June 1st, in response to
14 the OP report noting the lack of pertinent information, did
15 Mr. Taylor add renderings and some other information to the
16 case file.

17 Then today, sitting here, we see, suddenly, that
18 there have been some shadow studies done, but despite me
19 asking for that information on May 16th, it's not provided.
20 Clearly, BZA needs to more rigorously require special
21 exception applicants to file comprehensive and timely
22 information on their plans and share it with neighbors, or
23 these hearings become ineffective and a waste of time.

24 Second point. If BZA wants to effectively enforce
25 the zoning regulations and protect the community, it is

1 important to consider the entire development and not lose
2 sight of the forest for the trees. The owner wants you and
3 the D.C. agencies to get lost in the trees of myopic,
4 sequential decision making and approve a development that has
5 substantial negative impacts on the neighbors living on
6 Square 2698, their property values, their safety, their
7 shared air, light, and breezes, and the privacy and quiet
8 enjoyment of neighbors' homes.

9 I am very skeptical that the owner shared his
10 building plans with the zoning administrator at the time the
11 odd subdivision was approved. Later, the permit for 1523
12 issued as a matter of right, under ZR-58, likely to avoid the
13 new setback requirements.

14 Now, when the zoning regulatory process invites
15 community review, Mr. Taylor will argue that it's unthinkable
16 that anything other than the 1521 building is discussed. If
17 Mr. Taylor is successful in his enterprise of regulatory
18 arbitrage, it will be a sad day for all of us, regulators
19 like you and district voters like me who, together, cannot
20 seem to build a sensible zoning regime.

21 I have two demonstratives I want to share. From
22 the information I received, not from Mr. Taylor, but from
23 DCRA, the plan is to convert the single-family row home into
24 five separate residential units in two separate buildings.
25 The rear building on the newly created 1523 lot will

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1 essentially function as an alley residence, with two units
2 on an 18-foot-wide alley. Not only is the narrow
3 18-foot-wide alley problematic, but the building abuts an
4 existing church parking lot. Clearly, a hard look at the
5 safety and traffic issues raised by this rear building is
6 needed. Moreover, the church is concerned about its
7 potential liabilities from this new residential building,
8 which will be built right on the lot line with an existing
9 church parking lot.

10 From my diagram, you can see this is 1521, which
11 we're just looking at today. This new building is only 12
12 feet behind the rear balconies. When Office of Planning
13 talks about no impact from the alley or no impact from the
14 shadowing, the studies we just looked at don't show what the
15 impacts are going to be on this new building, which already
16 has a permit.

17 If your front door is 12 feet away from the rear,
18 it seems to me there's going to be a lot of impacts on the
19 criteria of 320.2(i). The second demonstrative I have
20 relates to the height because open balconies are planned for
21 both buildings, on the third floor.

22 The third floors are essentially in an area where
23 all the buildings are traditional row homes that only have
24 two floors. The third floor of 1521 and 1523 is essentially
25 going to be -- you're going to have balconies that are

1 essentially equivalent to the roof of all the neighboring
2 buildings. I have been on the roof of my row home
3 neighboring buildings. You can see very far. You can see
4 down into all the yards of the entire square. It's a pretty
5 wide view. A lot of the neighbors signing the petition are
6 extremely concerned about the side porches on the third floor
7 on the 1523 building, which are going to be looking east,
8 toward all the backyards on the square, and also the 1521
9 third balcony is so high that it's probably going to even
10 look into buildings on 16th Street.

11 Anyway, I wanted to just mention, in our
12 neighborhood, what's conforming are enclosed back porches.
13 I live near a recent condo conversion before the rules
14 changed. One of the problems we're having is marijuana smoke
15 from the balconies comes down into the neighboring yards.
16 It's legal for people to smoke marijuana on their open back
17 porch, but it's extremely annoying for families who have
18 children who are in the backyard.

19 It's something I really want the Board to consider
20 in all these cases and to encourage that the back porches are
21 enclosed. At the beginning of the 20th century, Mr. Wardman
22 and the other developers in our neighborhood understood the
23 importance of protecting neighbors in dense row home
24 neighborhoods, and they limited the height of rear porches,
25 enclosed many of them, and did not allow windows on the sides

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1 of buildings, unless they faced an alley or street. Why are
2 our current development standards moving backwards from this
3 100-year-old best practice? My final point. Even if you
4 want to limit this special exception hearing to only the
5 planned three-unit building on the 1521 lot, the close
6 proximity of the two buildings make it not practical to
7 assess Section 320.2(i) impacts.

8 How would any one of you go about analyzing the
9 impact of just the 1521 building on the air and light, the
10 privacy and quiet enjoyment of neighbors, without considering
11 the 1523 building and its occupants, who will reside about
12 12 feet away from the rear of the planned 1521 building?

13 How would any one of you go about analyzing the
14 negative impact of just the 1521 building on the existing
15 character, scale, and pattern of the neighboring homes from
16 Varnum Street, in the rear alley, without considering the
17 1523 building? Why would you approve the owner's clever
18 avoidance of the inclusionary zoning requirements of Subtitle
19 C, Section 1003.6? After all, the purported reason for
20 allowing the redevelopment of row houses into multi-unit
21 buildings is to increase affordable housing in the district.

22 The resulting condo units from this planned
23 development are very likely to sell in excess of \$450,000
24 each. In sum, there may be modifications that will alleviate
25 issues raised by the 1521 building, including, but not

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1 limited to, eliminating the third-floor balcony and fully
2 enclosing the first and second-floor balconies in a manner
3 that conforms with the adjacent row homes. However, the 1523
4 building and the underlying subdivision present more
5 challenging issues to resolve, and I respectfully suggest
6 that the issued permit for 1523 be revoked or otherwise be
7 reconsidered.

8 CHAIRPERSON HILL: Okay thank you. I'll let you
9 guys go ahead and sit down first again. Does the Board have
10 any questions for these witnesses?

11 MEMBER HART: One question, Mr. Chairman, for Mr.
12 Stokes, regarding the enclosing of the rear deck. Did you
13 say that you might be in favor of the project?

14 MR. STOKES: Again, we are not against
15 development. I am willing to -- this has been three and a
16 half years of my life, sir. I don't have any more money to
17 spend on this. I don't have any more time to spend on this.
18 Something's going to happen there. What I want is to try to
19 protect the dignity and character of our neighborhood. I'm
20 going to lose out. I'm kind of resigned to that.

21 I'm going to be losing out. I'm going to lose my
22 privacy. My home value is going to sink. I'm just, at this
23 point, trying to save the rest of my community as best I can.
24 If I don't have to have a balcony that's an open-air balcony,
25 I'm willing to consider this thing. I'm willing to take a

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1 look at what we can do. This was talked about in this first
2 case. I'm so laser focused on the character of this -- I was
3 going to say monstrosity -- of this building. I'm focused
4 on the character. I'm focused on these balconies. If the
5 balcony can be enclosed, I'm just trying to make it some --
6 I'm just trying to salvage something.

7 MEMBER HART: Okay, thank you. For Ms. Waldeck,
8 I appreciate the information that you provided. Did you say
9 that the other building had already been permitted?

10 MS. WALDECK: Yes, the permit has issued. Mr.
11 Stokes has filed an appeal. I guess ideally, I think they
12 both be considered together because --

13 MEMBER HART: We can't consider them together.
14 The applicant has brought in the project that's before us,
15 so we're only looking at 1521. But I wanted to understand
16 if you had said that. I'm going to actually ask the
17 applicant, as well, about it, but I wanted to get the -- if
18 I had heard what you said correctly. I do appreciate the
19 information that you've provided to us.

20 CHAIRPERSON HILL: Okay, anyone else?

21 MEMBER WHITE: Yes. I don't know if it was Mr.
22 Stokes who said it, but one of the neighbors indicated that
23 there were some safety concerns. I didn't really understand
24 what you meant by that, in terms of this particular project.
25 Then there was another neighbor that indicated that all the

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1 vegetation would be removed as a result of the project, so
2 there would be less privacy. I just wanted to get a better
3 handle on that. Maybe that's something I need to address
4 with the applicant.

5 MS. BUSH: It was I that mentioned that. In the
6 plans, if you look at 1523 and 1521 together, it looks like
7 the garages which are covered would be torn down, and there's
8 going to be an open court because the rules for the setback,
9 side and rear, all of that's gone. All the rules regarding
10 a new construction property have been disregarded to build
11 this second two-unit rear alley entrance property at 1523.

12 We have an open court running from Varnum to
13 Webster, through the alley, which is very -- it's going to
14 create a lot of problems, in the sense that we could have
15 security issues. The other thing is that because all this
16 vegetation is going to be chopped down, and because we've
17 got, when you think about it, ten bedrooms and thirteen
18 bathrooms going in, where there were three toilets before,
19 what's going to happen with the sewage?

20 All of these things need to be taken into
21 consideration when these two properties are going to be built
22 together. Because all of the foliage is going to be chopped
23 down to build these two buildings, and because of this open
24 court, we've got an alley that's subject to a lot of street
25 activity we've never seen before, with people coming and

1 going. We've got potential problems there.

2 MEMBER WHITE: Thank you.

3 CHAIRPERSON HILL: Okay, great. We have more
4 people. Thank you guys very much. I just do want to mention
5 something before you all leave, and even for the other people
6 that come forward. We go through this process a lot. I'm
7 sorry that it brings everybody to so much frustration and
8 concern.

9 We live in the city, at least most of us do, and
10 we live in densely populated areas and things happen. All
11 I'm just trying to mention is that we are aware of all of the
12 consternation that goes on on both sides. We appreciate you
13 coming down and hearing your testimony. Thank you all very
14 much. There was two more people for opposition.

15 There's the ANC, but there's only one more person
16 for opposition. Sir, you can please come forward. Actually,
17 Mr. Commissioner, you might as well come on up, if you will,
18 then, because there's more chairs available. Sir, you can
19 just sit over on that side, if you wouldn't mind, unless you
20 have something -- but you need to speak into the microphone,
21 regardless.

22 MR. SMITH: Push this button?

23 CHAIRPERSON HILL: Yes, please, just push that
24 button and introduce yourself and give us your address.

25 MR. SMITH: My name is Charles Smith. I live at

1 4320 15th Street Northwest. The back of my house provides
2 me with a view up the alley, towards the church, which, right
3 now, I can see the far -- the houses on Varnum Street have
4 very deep backyards.

5 CHAIRPERSON HILL: I'm going to let you give your
6 testimony. I just want to get introductions for the record
7 real quick, again.

8 MR. SMITH: Oh, okay, sorry.

9 CHAIRPERSON HILL: That's okay. Mr. Commissioner,
10 can you just please introduce yourself?

11 MR. CAMPBELL: Ulysses E. Campbell, commissioner
12 for 4C03.

13 CHAIRPERSON HILL: Mr. Smith, you'll have three
14 minutes, as a member of the --

15 MR. SMITH: Yes, I'm sorry.

16 CHAIRPERSON HILL: That's okay -- as a member of
17 the community, and you can begin whenever you like.

18 MR. SMITH: What I already said. Then, a really
19 big concern that we have -- I have -- is parking. Again, I
20 understand that you're limited in only being able to talk
21 about 1521 and not 1523, but as I understand it, 1523 will
22 have no parking. You're taking however many cars these
23 multiple-unit houses, whatever you want to call them, however
24 many cars come with the people who live in those places,
25 where are those cars going to park? Already, on 15th Street,

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1 we have to be very strategic to be sure that we have a place
2 to park when we come home at night. Varnum is in the same
3 situation. There are a lot of people, a lot of cars.
4 They're going to add a whole lot of new cars, or additional
5 cars, as far as I know, there's no place to park them. I
6 think that's a real issue. Also, again, as Jane Bush said,
7 you have the problem of people, where you have a walkway that
8 goes from Varnum Street all the way up to the alley, with
9 nothing -- no fence, no gate, nothing.

10 People can run up that sidewalk, from Varnum
11 Street to the alley, and then go up to the church, go down
12 towards my house, maybe come over, jump over the fence.
13 Sometimes we do have crime in our neighborhood. It's not
14 rampant, but we do have, now and again -- I've been down here
15 three months ago to testify in a case of home invasion just
16 three doors down from where I live.

17 Security, overcrowding, the parking issue, and I
18 think that you're really doing yourselves a disservice by
19 saying we can't possibly talk about 1523 because we're
20 talking about 1521. The same developer, the same property
21 which has just been subdivided, they have to be -- in my
22 opinion, they have to be taken together, as this is a real
23 change coming to our neighborhood, and not a good one. Thank
24 you.

25 CHAIRPERSON HILL: Okay, thank you. Commissioner,

1 you'll get five minutes to testify as the ANC, and you can
2 begin whenever you like.

3 MR. CAMPBELL: Thank you very much. I appreciate
4 the opportunity to appear before you today on behalf of ANC
5 4C. I'm pleased to answer any questions. At our main
6 meeting, we heard from the architect, Mr. Will Cleveland, for
7 AMT-Varnum LLC. You have the ANC report on Form 129 as part
8 of the record of the case.

9 You also mentioned the fact that my colleague,
10 Commissioner Jonah Goodman, of ANC 4C10, has filed an
11 individual letter of opposition to the application for
12 special exception. The ANC was particularly concerned about
13 the owner's lack of community engagement. There is a robust
14 community association, 16th Street Neighborhood Association,
15 which is represented here.

16 They're active in the area, and they weren't
17 approached. In this instance, the owner did not communicate
18 in advance with the neighbors, John Stokes, at 1519 Varnum,
19 or David and Layla Joseph, at 1529 Varnum. He does point out
20 that he has been in communication with Mr. Stokes. In fact,
21 Mr. Stokes and I both met with Mr. Taylor back in January.

22 He and I did actually speak on one other occasion,
23 over the telephone. I want to say it was in March. I was
24 looking at my records. Unfortunately, I don't have a record
25 of exactly when that was. He has reached out to me via

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1 email. He let me know that he was not going to be in
2 attendance at our May meeting. He also -- because I've been
3 in contact with Alexandra Wilson, with Sullivan & Barros.
4 I had communicated to her that I had some questions. She
5 evidently communicated that to Mr. Taylor, who did reach out
6 to me to say if you've got some questions, you can contact
7 me.

8 Additionally, it came to our attention that a
9 member of the ownership group of AMT-Varnum LLC is a partner
10 in a development project over at 320 Webster Street that has
11 created a variety of structural problems at the adjacent
12 properties located at 318 and 322 Webster, for which a stop
13 work order has been issued by the Department of Consumer and
14 Regulatory Affairs, a stop work order with which that
15 ownership group has apparently failed to comply.

16 As of this date, the extensive problems at those
17 adjacent properties have yet to be completely repaired. ANC
18 recognizes that the availability of housing is a major issue
19 for the District of Columbia. The population for the entire
20 region is increasing.

21 In fact, the Washington Council of Governments
22 projects that in the next 30 years or so, there are going to
23 be an additional one and a half million more people here in
24 the D.C. area. How we address the challenge of housing new
25 people, that's a challenge even now, basically. Zoning

1 Regulation 320.2(i)(ii) states that a special exception shall
2 not unduly compromise the privacy and use and enjoyment of
3 neighboring properties. I think it can be argued that in a
4 neighborhood that has been traditionally composed of
5 single-family dwellings, a development employing popup and
6 pop back to add square footage compromises the existing
7 design style. Unlike neighborhoods in which the properties
8 are large enough to accommodate conversion into multiple
9 units without the necessity of exterior renovation.

10 The community here cannot bear such conversion
11 without extensive construction adding to the existing
12 buildings. As you have seen, the surrounding neighbors are
13 in agreement that this proposed development will
14 substantially compromise their privacy and enjoyment.

15 In conclusion, it's the hope of the ANC that our
16 unanimous vote to oppose the special exception request of
17 AMT-Varnum LLC be given great weight, and that their
18 application be denied. One additional thing. Mr. Sullivan
19 had referenced the matter that's before the court of appeals
20 on the permit that had been issued for 1521 Varnum Street.

21 This is a really convoluted kind of situation
22 because apparently, after the revocation of that permit,
23 that's when this existing lot was split. Subsequent to all
24 of that, DCRA entered into a settlement agreement with the
25 owner of the property. My understanding of that is that the

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1 rationale was that there were basically two bites at the
2 apple that were going on. We had the existing development,
3 and then we had the court case that was before superior
4 court. DCRA was saying you've got to pick which one of these
5 you're going to go with, hence the settlement agreement.
6 Apparently, if he is willing to wait on the court case, which
7 apparently is still some months out, then if the court
8 decides in his favor, he can go back and look -- I guess he's
9 got to re-integrate those lots and can develop the 1521 as
10 originally planned, but he cannot begin construction on
11 either this 1521 or the 1523 development without having to
12 dismiss the 1523 case that's before the court. That's
13 substantial because nobody had mentioned the fact that this
14 is an either/or kind of thing. I'm happy to answer any
15 questions.

16 CHAIRPERSON HILL: All right, thanks, Mr.
17 Commissioner. Are you the SMD?

18 MR. CAMPBELL: I am.

19 CHAIRPERSON HILL: Thanks for coming down. Does
20 anyone have any questions for the commissioner or the
21 witness?

22 MEMBER WHITE: I'm going to just go ahead and ask
23 a question, just so you can just summarize it again for me,
24 as it relates to 1521 Varum, because we always give great
25 weight to ANC's feedback if it's directly related to the

1 special exception criteria. As it relates to the special
2 exception criteria for this application, which is the one
3 that we have to consider for purposes of this case, can you
4 tell me again what is the adverse impact that this project
5 is going to have for your neighbors?

6 MR. CAMPBELL: I can tell you my feelings about
7 that. In terms of the actual ANC report, we basically
8 summarized all of that there. I realize that for the
9 purposes of this hearing, one of the main issues that we had,
10 which was this development over on Webster Street, may not
11 necessarily be a relevant, salient point to how you make a
12 determination in this particular case.

13 The other thing that I would say with regard to
14 this -- because I've been sitting back there taking notes
15 while I've been listening to everything else. I'd say the
16 privacy, use, and enjoyment of the neighboring properties,
17 I think, is particularly affected, especially during the
18 construction phase.

19 Also, I think the whole issue of being in harmony
20 with the general purpose and intent of the zoning
21 regulations, I have mixed feelings about a development like
22 this, given the fact that you have to pop up and you have to
23 pop back, as I mentioned during my testimony. In
24 neighborhoods where the properties are large enough that you
25 can convert to a multi-family dwelling without having to do

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1 a lot of extensive renovation, that's one thing. There's
2 still the drain, in terms of increased density and drain on
3 services for the community, but the additional weight of the
4 construction and popping up and popping back and the adverse
5 influence that has on the community is additionally worthy
6 of note in this case for me. Ms. White, I hope that answers
7 your question.

8 MEMBER WHITE: Thank you.

9 CHAIRPERSON HILL: Mr. Commissioner, I just want
10 to make a comment. When you guys do come before us or
11 present reports to us, it's great to have the ANC person come
12 down, as well as the SMD, because we can hear from them.
13 Unfortunately, it takes up a lot of time. We definitely
14 appreciate you being here for that. The other, though, is
15 that we like to hear whatever it is they want to say, so
16 whatever it is you put in your report, we want to hear.

17 Even beyond that, I'm glad that your ANC did
18 present the information that they did present. For
19 clarification for you, the issues and concerns that we give
20 great weight towards and are supposed to do within the
21 regulation are those that are standards within the regulation
22 that we're looking at.

23 Things such as community outreach or whether
24 you've talked to your neighbors, that's not in the
25 regulations. We want to hear about them, and that's great

1 that you did, but your ANC speaking particularly to those
2 issues and concerns that we are supposed to look at for the
3 regulations, that's what we can give great weight to. The
4 other things we can't give great weight to technically, but
5 we do want to hear from them. It's just more for
6 information's sake, in general, moving forward, for your ANC.
7 We definitely want to hear everything that you have to say.

8 MR. CAMPBELL: Mr. Hill, I appreciate that. It
9 was a quandary of something for me because on the one hand,
10 you have to report accurately, as far as what went on. At
11 our ANC meeting last month, when Commissioner Goodman learned
12 that Mr. Taylor was a partner of some type -- I think he's
13 a minority partner. I'm not exactly clear.

14 I don't want to make inferences that I can't back
15 up -- was involved in this Webster Street Development, his
16 position was we shouldn't even hear this until these issues
17 over on Webster Street have been resolved. His passion
18 carried the rest of us, and perhaps carried us away from a
19 discussion where we could have addressed some of the more
20 salient points of the zoning regulations that you have been
21 able to consider.

22 CHAIRPERSON HILL: It's not that the report wasn't
23 helpful; it was helpful. I'm just point out -- believe me,
24 we know about passion, getting carried away and such, but
25 again, the specific -- your community providing specific

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1 testimony to those standards that we're looking at, that's
2 something that we can then give great weight to. I'm just
3 trying to share, but thank you so much for coming down.

4 MR. CAMPBELL: I understand. Thank you.

5 CHAIRPERSON HILL: Thank you, sir. Mr. Sullivan,
6 you can return back over. You want to stay over there?

7 MR. SULLIVAN: I'm fine here, thanks.

8 CHAIRPERSON HILL: Mr. Sullivan, not connected to
9 anything, you were here earlier for other cases.

10 MR. SULLIVAN: Was that just today?

11 CHAIRPERSON HILL: That was just today. I'm
12 saying matter of right is better, yes, Mr. Sullivan? Never
13 mind, it's okay; it doesn't matter. I'm just sharing.

14 MEMBER HART: I had a question, Mr. Chairman.

15 CHAIRPERSON HILL: Please, go ahead; I'm sorry.

16 MEMBER HART: I guess this is for Mr. Cleveland,
17 I guess. Regarding the shadow studies, why didn't you
18 include Building 1523 in here? Because it is a building that
19 has -- it has been permitted, correct?

20 MR. CLEVELAND: It's been permitted, but it's not
21 --

22 MEMBER HART: I know it hasn't been built, but
23 it's a building that will be there.

24 MR. CLEVELAND: If the appeal is not successful,
25 yes.

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1 MEMBER HART: So there's no construction there,
2 but it is something that has been -- it's been approved. The
3 permit is out. There is an appeal on it, so you felt that
4 it wasn't something that you needed to include because -- Mr.
5 Sullivan, it doesn't matter which one, I just was trying to
6 understand that.

7 MR. SULLIVAN: We could probably model that. I
8 think the shadow study showing the impact of the ten-foot
9 addition would be much less. There certainly wouldn't be any
10 shadow going that way.

11 CHAIRPERSON HILL: Thank you, Mr. Sullivan.

12 MR. SULLIVAN: I don't know that the Board's ever
13 considered prospective construction when they're reviewing
14 a specific case. I think it would be favorable to us,
15 actually.

16 MEMBER HART: The reason I brought it up was that
17 this was actually a building that is actually behind here,
18 that may actually be affected by the -- this is a property
19 that is -- if we are to take 1521 all by itself, then we're
20 looking at the impacts from 1521 on all neighbors, regardless
21 of who owns it, right?

22 That building, 1523, is a building that is next
23 to this. It is behind it, and there may be shadow impacts
24 on it from 1521. That was the question that I had. If it
25 is a building that has already been permitted, regardless if

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1 it's been built, it is still something that may be up and may
2 have some impacts on it from this building. That's why I was
3 trying to figure out why it would not be included in there.

4 MR. SULLIVAN: Mostly because it's very
5 prospective, especially in light of the appeal. We had a
6 matter of right project approved by this Board four years ago
7 that still hasn't been built, as well. More importantly,
8 though, it's just the ten-foot addition, which, again, is
9 within the matter of right structure, so it would be limited,
10 anyway, just because of the small size of the addition, I
11 think.

12 CHAIRPERSON HILL: Okay, I'm sorry; I've got a
13 bunch of questions. I don't particularly have -- I
14 understand how we got here. I understand how the developer
15 got here. I empathize even with -- I empathize with
16 everybody, the developer, the community. We've been through
17 it all now with everybody, and it's been years and years.

18 I am curious of one thing. It's not particularly
19 to this case, but I guess we're going to come back on appeal
20 with the -- you're going to be here for the appeal of the
21 other property, so I can ask it then, but I'm just going to
22 ask it now. How come you guys just only did two units on
23 that property?

24 MR. SULLIVAN: That's all that's permitted as a
25 matter of right.

1 CHAIRPERSON HILL: Right, but you could have done
2 a special exception, also, for the third unit.

3 MR. SULLIVAN: There's no existing building there.
4 It has to be an existing building.

5 CHAIRPERSON HILL: Okay. Now, to the Office of
6 Planning, just for me. I know you mention it in your report,
7 that you did take into consideration 1523, the proposed
8 development. I thought you did mention that you thought
9 about it when you were going through your analysis. Is that
10 not true?

11 MS. BROWN-ROBERTS: No, because --

12 CHAIRPERSON HILL: You need to push the button.

13 MS. BROWN-ROBERTS: I'm sorry. No, because this
14 is the first time I'm seeing that building on the property.

15 CHAIRPERSON HILL: This is the first time you saw
16 the diagram that --

17 MS. BROWN-ROBERTS: Yes.

18 CHAIRPERSON HILL: Would that change the opinion
19 that you're giving in any capacity?

20 MS. BROWN-ROBERTS: I would have to --

21 CHAIRPERSON HILL: You have to push the button
22 again. Have you been here before?

23 MS. BROWN-ROBERTS: It's a long day. I would have
24 to take a look at that. I don't know. I'd have to look at
25 it in context. I wouldn't say right now.

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1 CHAIRPERSON HILL: When you say you have to look
2 at it in context, is that something that you would have
3 looked at in context or think that the Office of Planning
4 should be looking at? We're only here for 1521. 1523 hasn't
5 been built. It might not get built. The appeal might work
6 out, who knows? It's not there. I'm just asking a question,
7 really. What would the -- now knowing what you know, or
8 seeing what you've seen, would you look at something
9 differently, or would you analyze things differently?

10 MS. BROWN-ROBERTS: No, I think we would look at
11 it because it's a building that would be there. We would
12 look at the light and air, all the requirements that are
13 outlined in 320, to see how it would affect it.

14 CHAIRPERSON HILL: To see how the new property
15 would affect the proposed property at 1523?

16 MS. BROWN-ROBERTS: Right.

17 CHAIRPERSON HILL: To what Mr. Hart was saying.

18 MS. BROWN-ROBERTS: Yes.

19 MR. SULLIVAN: Mr. Chair, the 1521 units are going
20 to exist and be sold before anything happens on 1523, as
21 well. We can show --

22 (Simultaneous speaking.)

23 CHAIRPERSON HILL: Again, I think that --

24 MR. SULLIVAN: I guess we would show some shadow
25 on the footprint of where the 1523 building would be, I

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1 guess. I think it's highly -- I think it's unusual. I think
2 it would be a first. You could always look at another
3 property and you could say that building's going to be torn
4 down and there'll be a different building there. Something's
5 going to be subdivided in the future.

6 CHAIRPERSON HILL: I don't have an issue with the
7 discussion in terms of the 1521 property. Again, I think
8 it's -- we've gone through this a lot, with a lot of things.
9 You're only going ten feet back, and you're going thirty-five
10 feet high. All these were calculations that you all were
11 trying to figure out, so I understand how we got here. I
12 don't necessarily have an issue with how you got here. I'm
13 just trying to understand now whether or not 1523 has to play
14 into this at all.

15 MS. BROWN-ROBERTS: I'm hesitant to say that
16 because there are a number of scenarios where -- let's say
17 it wasn't this property owner; it was someone else. Two
18 weeks after -- let's say, there's an approval here. Two
19 weeks after development came in, we wouldn't have analyzed
20 it as such.

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

23 MEMBER WHITE: Just one question, just based upon
24 the testimony that you heard from the neighbors. Does that
25 change your analysis at all?

1 MS. BROWN-ROBERTS: NO.

2 MEMBER WHITE: Can you explain why?

3 MS. BROWN-ROBERTS: Because I still think that
4 they -- I don't think that the shadows are going to be
5 significant. The addition, I think, will -- I've never said
6 that the addition will not be seen. The regulation doesn't
7 provide for it not to be seen. It's the impact. I still
8 don't think that it's going to have that -- a significant
9 detrimental impact.

10 CHAIRPERSON HILL: Okay, what does the Board --
11 first of all, we did that. Then Mr. Sullivan, do you have
12 any -- I don't think we're going to decide this today. I
13 wasn't sure, but I don't think we're going to decide this
14 today. I think we're going to at least have to think about
15 it a little bit. I don't know if the Board needs anything
16 else, in order to think about it a little bit. Do you have
17 anything with rebuttal or conclusion, Mr. Sullivan?

18 MR. SULLIVAN: Just two short points. The ANC
19 resolution says that the applicant failed to conduct any
20 outreach, but then I think you heard from the ANC
21 commissioner and from the applicant that there was some
22 material outreach to the adjacent neighbors and to the ANC
23 commissioner. Then to point out, again, on the balconies,
24 there's five feet -- there's a five-foot distance away from
25 Mr. Stokes' property for the balconies. The privacy angle

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1 has been considered. The balconies don't go the whole way
2 to the edge of the property. That's all we have. Thank you.

3 CHAIRPERSON HILL: Does the Board have any more
4 questions for the applicant? Also, do we need anything from
5 anybody?

6 MEMBER HART: I'm debating. I think it might be
7 at least helpful to understand where the other building is
8 located, where 1523 is located, maybe not the actual
9 building, itself, the volume of the building, but kind of
10 where the footprint is with regard to the shadow study.
11 Because really, I'm not sure exactly where that is.

12 That would be helpful just to understand whether
13 or not -- I'm only bringing it up because there is a building
14 permit for it. If there weren't a building permit for it,
15 and if it was just some idea that somebody had, then I could
16 agree with you, Mr. Sullivan. But because of the building
17 permit existence, that means that people have gone -- that
18 the property owner has gone to the extent of actually saying
19 this is something I'd like to build, and I'm putting money
20 toward it to actually do that.

21 I think that's a little bit different than saying,
22 hypothetically, somebody might put something there. To meet
23 you halfway, if it's not a building massing, I would like to
24 have at least the footprint of where 1523 is on the shadow
25 study, to understand if there is any impact from the ten-foot

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1 deal. That's all that I'm looking for.

2 MEMBER WHITE: Just one question that I had, in
3 terms of whether or not you've thought about how to alleviate
4 some of the privacy concerns that some of the neighbors have.
5 Did you factor in anything that would provide some kind of
6 screening, just to protect the neighbors from being exposed
7 to activity that would be occurring in the backyard area or
8 the deck area or the side area?

9 I don't know if that's something you thought
10 about, or if there was something you wanted to incorporate
11 into supplemental information that you're going to submit.
12 I've heard a recurring theme of those concerns with the
13 neighbors, so it's just food for thought.

14 If it's something that you could think about, I
15 think it would be helpful, as well as security concerns. The
16 security aspect of it, we're in the city. The people that
17 are living there are going to be buying the units. In the
18 event that it's approved -- and I'm not saying it's going to
19 be approved -- there was some recurring themes about
20 security, as well.

21 MR. SULLIVAN: Were you looking for a response
22 now, or you're just saying in the additional submission?

23 MEMBER WHITE: In the additional submission, it
24 would be something I would just -- I think the neighbors
25 would be interested in seeing.

1 CHAIRPERSON HILL: Ms. John.

2 MEMBER JOHN: I have the same question that Ms.
3 White just asked. She got to it before I could push my
4 button. We have heard quite a bit about loss of privacy and
5 all of that. I think it's something to consider and maybe
6 consider proposing something before the next hearing.

7 MR. SULLIVAN: I would just like to point out that
8 the neighbor to the back on Webster, they're about 160 feet
9 away, their building, from these balconies. We'll point that
10 out, too. I don't know that we're willing to say we're going
11 to get rid of a balcony because it's really not that close
12 to anybody. We already shrunk it in regard to the one
13 neighbor next door, but we'll think about that. I don't
14 really know -- is there a policy against balconies?

15 MEMBER HART: No, but there is a policy about
16 privacy. What about a privacy screen on the east side of the
17 building -- of the balcony?

18 MR. SULLIVAN: We could do that, sure, but it's
19 already five feet away. That's why we --

20 MEMBER HART: I know, but I'm just saying you've
21 heard from the neighbors. I'm just trying to --

22 MR. SULLIVAN: Yes, I think that's something --
23 sure, that comes up in a case like this, and we've talked
24 about that.

25 MEMBER HART: Again, I understand what you're

1 saying. I think that's helpful to have the setback, but
2 maybe there's a way of not actually having the visibility of
3 anybody from -- you would have to be pretty far back in Mr.
4 Stokes' property to be able to actually see into that if you
5 had a privacy screen. It's just a thought.

6 CHAIRPERSON HILL: I'm still kind of confused
7 about the Office of Planning. I'm trying to understand, I
8 guess. This is the first time that I think we've been in
9 this situation before, and I just want to be clear as to what
10 I thought I was talking -- you were offering up some
11 discussion, which was that -- so we're looking at this one
12 property, 1521, and the resulting shadow and light that would
13 be adversely affected onto 1523.

14 That would just be, then -- it would be if 1523
15 had -- no, because they're building it by right, so it would
16 be if 1523 had an issue, then they might come before us and
17 appeal that building permit for 1523. I guess I'm going
18 round about asking. There's really nothing that you would
19 be providing us, in terms of supplemental or anything right
20 now, for 1523, meaning you're providing analysis that is
21 shadow and light upon buildings that are there. If 1523
22 already were there, then you would have provided analysis to
23 that.

24 MS. BROWN-ROBERTS: Yes, but as your commissioner
25 has asked a while ago -- asked applicant to provide

1 additional information on that building. I think that if
2 that's the case, I think we can also look at applying the
3 same standards that we applied before to that property.

4 CHAIRPERSON HILL: So you would take the
5 additional information the applicant provides with a
6 supplemental of some kind?

7 MS. BROWN-ROBERTS: Yes, I could do that.

8 CHAIRPERSON HILL: I don't even know if I'm asking
9 for it yet because I'm still confused. Wherein, it doesn't
10 exist. We don't know if it's going to happen. Again, we're
11 being asked to look at the light and air on this project, as
12 it relates to the surrounding context of the neighborhood and
13 the neighbors. There is no 1523 right now. I'm just asking
14 the Board, do you need anything else from --

15 MEMBER HART: Really, what I was looking for, I
16 relented some of my point, which was I understand that the
17 bulk building is not there, but there is a permit there. If
18 I at least understood where 1523 is located with respect to
19 where 1521 is, then if you had basically a box on the shadow
20 study drawing that showed this is where these two buildings
21 are located with respect to each other, this is the shadow
22 from 1521. It may or may not actually touch 1523. I don't
23 know. It's just because I don't know where 1523 is with
24 respect to 1521.

25 CHAIRPERSON HILL: I see you guys are raising your

1 hand. Just give me one second. What is it that you're
2 asking from the applicant?

3 MEMBER HART: What I had asked for them was if
4 they could provide a -- they already have a massing study,
5 shadow study for 1521. I was asking them to include, in that
6 shadow study, where the outline of 1523 is located, the floor
7 plan, where that's located, not the massing of that building,
8 but just where the outline of that building is, just so I
9 understand does the shadow even touch it or not? I don't
10 even know.

11 PARTICIPANT: The footprint.

12 MEMBER HART: Yes, I just don't know what the
13 footprint is.

14 CHAIRPERSON HILL: Mr. Sullivan, do you
15 understand?

16 MR. SULLIVAN: Sure, we can do that.

17 CHAIRPERSON HILL: All right. So, then, we do not
18 need anything from the Office of Planning now. The Office
19 of Planning is shaking their head. Ma'am, we don't normally
20 do this, but you've been here all day. You're raising your
21 hand. Do you want to -- no, you don't have to talk over
22 there. You can just come over here. Just give me one
23 second. Hold on. I just want to say something. You can sit
24 down. We don't normally do this, but I don't understand;
25 what is it? You need to push the button again.

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1 MS. WALDECK: I just wanted to share something
2 helpful. The diagram I did is based on information I
3 received from DCRA, the zoning administrator, on 1523. He
4 has two plats with the outline of the 1523 building. Based
5 on what I put together today, I sort of hand did it. I'm an
6 antitrust attorney; I'm not a drawer. From what I could tell
7 from looking at the two plats, the 1523 building, the
8 beginning of it started about 12 feet away from the rear of
9 the 1521 building, but DCRA has the information.

10 CHAIRPERSON HILL: Okay.

11 MEMBER HART: I understood that. What I was
12 really trying to get to was I want their architect to
13 actually do scale drawings that show where these things are
14 located with respect to each other. I understood that -- I
15 know that the architect would know how to do that. I
16 appreciate the information, though.

17 CHAIRPERSON HILL: Okay. I actually have a hard
18 stop at 3:00. Unless you all have anything more, Mr. Moy,
19 I guess we can put this on for decision, yes? We'll put this
20 on for decision. Mr. Sullivan, can you repeat what you think
21 we're asking you?

22 MR. SULLIVAN: We're going to revise the shadow
23 study to show a footprint of the proposed or the approved
24 building footprint at 1523, in relation to the shadow study.
25 We'll consider screening on the east side of the balcony, as

1 well, and address, in a narrative, I suppose, any other
2 potential privacy or security issues that were raised.

3 CHAIRPERSON HILL: Okay. Does that all sound good
4 from the Board? Okay, Mr. Moy, when can we get that from Mr.
5 Sullivan, and then get it on the docket for a decision? I
6 don't know if the 27th, then, if that would -- what?

7 (Off-microphone comments.)

8 CHAIRPERSON HILL: No, for a decision. Okay,
9 never mind. I guess we don't have to wait that long for a
10 decision. How fast can you get that in?

11 MR. SULLIVAN: If we could have one minute to
12 discuss.

13 CHAIRPERSON HILL: If you'll excuse me --

14 MR. SULLIVAN: We can do it by the end of the
15 week.

16 CHAIRPERSON HILL: -- I'm going to let the vice
17 chair here just work through the details. Thank you all.

18 MEMBER HART: Sure, go ahead, Mr. Sullivan.

19 MR. SULLIVAN: We can provide something by the end
20 of the week, if need be. If there's more time because of
21 your schedule, then we'll take it.

22 MEMBER HART: Actually, Mr. Moy, do we have to
23 have the ANC weigh in?

24 MR. MOY: That's up to the Board. Typically, they
25 are a party, and they had a position. I don't know what this

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1 additional information's going to show. It wouldn't be
2 unreasonable to allow the ANC to respond to the applicant's
3 filing.

4 MEMBER HART: Two weeks for a decision? If we did
5 it on the 20th, that would be --

6 MR. MOY: That would be the 20th. In other words,
7 if you allow the ANC to respond, you can give them a due date
8 of the 13th. Let me take that back. Today's the 6th. He
9 said he would submit by the end of the week, or a week? I
10 forget.

11 MR. SULLIVAN: If the decision's on the 20th, and
12 we don't need time to respond to the ANC, then the ANC, could
13 they file something on the Monday, the 18th, and then we
14 could file something on the 11th. That would be great.

15 MEMBER HART: That works.

16 MR. MOY: The 11th, and the 18th, and then the
17 20th.

18 MR. SULLIVAN: Yes.

19 MEMBER HART: We clear, Mr. Sullivan?

20 MR. SULLIVAN: Yes, I think so. Thank you.

21 MEMBER HART: Crystal. Sorry, I had to say that.

22 MR. MOY: Mr. Vice Chair, do you -- would you care
23 for any response from the Office of Planning?

24 MEMBER HART: I'm asking if you -- she's shaking
25 her head vigorously. I'm kidding. We don't need a

1 supplemental.

2 MR. MOY: All right. So again, it's June 11th,
3 June 18th, decision June 20th.

4 MEMBER HART: Thank you very much. Is there
5 anything else, Mr. Moy?

6 MR. MOY: Not from the staff, sir.

7 MEMBER HART: Excellent. The hearing is
8 adjourned. Thank you.

9 (Whereupon, the above-entitled matter went off the
10 record at 2:58 p.m.)

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C E R T I F I C A T E

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In the matter of: Public Hearing

Before: DCBZA

Date: 06-06-18

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