

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

OCTOBER 24, 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 10:00 a.m., Carlton Hart, Vice-Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

CARLTON HART, Vice-Chairperson
LORNA JOHN, Board Member

ZONING COMMISSION MEMBER PRESENT:

PETER MAY, Commission Member

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

HILLARY LOVICK, Esq.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN
KAREN THOMAS
STEVEN COCHRAN
ANNE FOTHERGILL
CRYSTAL MYERS

The transcript constitutes the minutes from the
Public Hearing held on October 24, 2018.

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

9:51 a.m.

1
2
3 VICE CHAIRPERSON HART: And just so that everyone
4 knows what we're going to be doing moving forward; the
5 secretary raised two of the cases that the ANC has submitted
6 a postponement request for; those two cases are 19831 of
7 RUPSHA 2011 LLC and 19832; we're going to hear those two
8 cases first. And then we will move to the top of the current
9 agenda which is 19821, move to then the bottom of the agenda,
10 19837, then do 19838 which is on the back of the agenda, and
11 finish with 19829 and 19830. It may seem a little confusing,
12 but we're trying to organize some of these so that we can
13 move fairly quickly through the agenda.

14 So Mr. Secretary, if you can call Case No. 19831.

15 SECRETARY MOY: Yes, thank you, Mr. Vice Chair.
16 Again, this is Application #19831 RUPSHA, R-U-P-S-H-A 2011
17 LLC as amended for area variances on the lot, dimension
18 requirements, Subtitle B, Section 302.1, side yard
19 requirements, Subtitle B, Section 307.1, and the common
20 division wall requirement, Subtitle D, Section 303.4 which
21 would construct a new semi-detached principle dwelling unit
22 RF-2 Zone at 4813 Jay, J-A-Y Street N.E., Square 5149, Lot
23 87. Again, there's a request to postpone from ANC7 and that
24 is under Exhibit 41.

25 VICE CHAIRPERSON HART: Thank you, Mr. Secretary.

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1 Is the ANC here?

2 Is someone from the ANC here?

3 MS. GAFFNEY: Yes.

4 VICE CHAIRPERSON HART: Oh, please come up. Come
5 on.

6 You can turn on the mic.

7 And if you would, please introduce yourself. Give
8 me your name and address.

9 MS. GAFFNEY: Mary Gaffney, 328 62nd Street N.E.,
10 Apartment 201, Washington D.C. 20019.

11 VICE CHAIRPERSON HART: And You are on ANC7C?

12 MS. GAFFNEY: Yes.

13 VICE CHAIRPERSON HART: You're the representative.
14 So you have a request for postponement for this case?

15 MS. GAFFNEY: Yes.

16 VICE CHAIRPERSON HART: And you have -- actually,
17 you're looking for the postponement because you'd like for
18 the applicant to present the case at your ANC meeting which
19 is November the 8th?

20 MS. GAFFNEY: Yes.

21 VICE CHAIRPERSON HART: So you're looking for some
22 date that's after that?

23 You're looking for some date for the project to
24 come back to our board sometime after that?

25 MS. GAFFNEY: Yes, after the November meeting.

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1 VICE CHAIRPERSON HART: Okay, so can you just
2 explain why you think that you need this -- I mean, the case
3 was mailed out and notice was given for the case prior to
4 this board meeting. So was there difficulty trying to get
5 in contact with the applicant and then having them come to
6 a previous meeting, or was there some other issue that we're
7 not aware of?

8 MS. GAFFNEY: No, the applicant came to the
9 meeting but we didn't get enough explanation in order to
10 really make a final decision, a good decision on approving
11 or rejecting this. And we asked him to come back to the next
12 meeting and we will make a decision there.

13 VICE CHAIRPERSON HART: And Ms. Gaffney, when was
14 the meeting that you had that the applicant was actually at
15 the ANC meeting?

16 MS. GAFFNEY: October's meeting, yes.

17 VICE CHAIRPERSON HART: Oh, at October's?

18 MS. GAFFNEY: Yes.

19 VICE CHAIRPERSON HART: And Mr. -- actually, I
20 realize I haven't had you introduce yourself -- if you could
21 please yourself as well, your name and address.

22 MR. SECK: Yes. Good morning, Vice Chair, and
23 good morning, board members. My name is Oumar Seck, O-U-M-A-
24 R, last name is S-E-C-K and I represent RUPSHA 2011 LLC for
25 4813 Jay Street, N.E.

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1 VICE CHAIRPERSON HART: Mr. Seck, were you the one
2 that actually presented to the applicant?

3 MR. SECK: Yes.

4 VICE CHAIRPERSON HART: And -- not the applicant
5 -- to the ANC, sorry.

6 MR. SECK: The ANC.

7 VICE CHAIRPERSON HART: And do you have any
8 thoughts on the postponement?

9 MR. SECK: Yes, I'd like to say, Vice Chair, that
10 I have been to three meetings with the ANC. On September
11 24th I went to the DCA because the ANC commissioners for this
12 district asked me to go to the Deanwood Civic Association
13 Meeting and present. We had about three cases in that area,
14 so I went and presented it. It went well. And they asked
15 me to come to the executive board meeting which Dr. Gaffney,
16 here present, and Commissioner Homer were there at the time.
17 We met, we discussed the project and I presented it.

18 VICE CHAIRPERSON HART: And when was that?

19 MR. SECK: That was November 27th; that was two
20 days after -- I'm sorry, September --

21 VICE CHAIRPERSON HART: We haven't gotten there
22 yet.

23 MR. SECK: No, no. Yes, hope we do. September
24 27th, that was their executive meeting which concerned all
25 the commissioners. So we discussed the projects, it was

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1 three of them, and this one was one of them. And then on
2 October 11th I went to the ANC meeting with the constituents.
3 There were other developers there. And I was going to
4 present at 8:25 but didn't get to go to the board until about
5 9:30 or 9:25 or so. And when I started, because I had three
6 cases to present, time was running out, I understand they
7 were renting the place -- I did present maybe -- not this
8 one, but I distributed the plans and everything and the
9 commissioners were aware of what's going on, a few questions
10 starts coming out --- and on the last one which I think was
11 either Minnesota Avenue, which is not the case here; that's
12 when they told me you have to stop because they had to vacate
13 the room. But I did excuse the project on three different
14 occasions and I don't see what more do they need to make a
15 decision on this.

16 VICE CHAIRPERSON HART: Well, evidently, they want
17 to actually vote on it. And so they want to give that vote
18 -- can you guys turn your mics off? I'm sorry, I'm getting
19 feedback here.

20 Thank you.

21 They want to have their vote, and we would like
22 to have their, what the ANC position is on this as well. And
23 so they have to do that at one of their meetings. So I
24 understand the meeting ran a little late and there were
25 several projects that were on there that you had and while

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1 they may have heard it, they still didn't make the final
2 decision on what that is, and we would like that.

3 Do the board members have any questions for either
4 the commissioner or Mr. Seck?

5 Yes?

6 I mean, it seems as though we're talking about
7 two, three weeks that we would be able to delay. I don't
8 know, Commissioner Gaffney, if you'd be able to provide us
9 with a letter by the 14th -- sorry, the next meeting after
10 your meeting which is November 8th -- our next meeting is
11 November the 14th -- I don't know if you would be able to
12 provide us with a letter from the ANC by that time?

13 MS. GAFFNEY: Yes, we will.

14 VICE CHAIRPERSON HART: You have to turn the mic
15 on.

16 MR. SECK: I'm sorry. Yes, we can deliver a
17 letter by that time.

18 VICE CHAIRPERSON HART: Okay. I mean, I don't see
19 any problem with delaying for three weeks. Is there a
20 financial issue that we're not aware of for that delay? I
21 know it's a delay but it still is something that we would
22 prefer to have something from the ANC on this case. It
23 sounds like we'll be able to get something in fairly short
24 order. So my leaning would be to grant the postponement
25 until November the 14th, but I'd like to hear from other

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1 board members, if I could.

2 ZONING COMMISSION MEMBER MAY: Unless there's a
3 really compelling reason why you can't wait for three or four
4 weeks, we would much rather have the ANC's report when we
5 consider the case. But otherwise, we could hear something
6 about the case today, but then we would wind up putting off
7 the decision, to wait to hear from them anyway. So it would
8 be much better if we just --

9 VICE CHAIRPERSON HART: Thank you.

10 BOARD MEMBER JOHN: Mr. Vice Chair, I concur with
11 that.

12 VICE CHAIRPERSON HART: So I think we will make --
13 we are putting this -- we are granting the postponement and
14 allowing the ANC to meet and to provide us with their report
15 and actually move this to the November 14th meeting. I'm
16 hoping that November 14th works on the agenda, Mr. Moy.

17 SECRETARY MOY: Mr. Vice Chair, sure, we'll
18 conclude any cases on the docket.

19 VICE CHAIRPERSON HART: No, I'm asking what are
20 the other cases that we have, what's our --?

21 SECRETARY MOY: All right, this is what we've got;
22 we have two hearings in November after the ANC's meeting, so
23 we're looking at either November 14th or November 28th. On
24 the 14th we have eight cases plus one appeal, and on November
25 28th we have six cases and one appeal.

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1 VICE CHAIRPERSON HART: I think it's better just
2 to do it on the 14th.

3 SECRETARY MOY: All right, done the 14th.

4 VICE CHAIRPERSON HART: Okay, so thank you, all.
5 I think you probably got to still sit, be sitting there. I
6 think you guys are the next case as well.

7 MS. LOVICK: Excuse me --

8 VICE CHAIRPERSON HART: Yes?

9 MS. LOVICK: So I just want to interject because
10 there was also a request with regard to the public notice
11 that you could address as a preliminary matter.

12 VICE CHAIRPERSON HART: Yes, I'm sorry; there were
13 so many cases that were the same, it's like okay which one
14 is this.

15 MS. GAFFNEY: 832.

16 VICE CHAIRPERSON HART: No, this is actually 831
17 that we're doing right now. Yes.

18 So this is a request -- give me a second --
19 there's a preliminary matter for the notice.

20 Sorry, I'm looking at the case on my laptop right
21 now.

22 So it seems as though, since we've actually just
23 given a postponement, I think that we will now have a little
24 bit more time to -- and I would be in support of the -- we
25 can waive the notice requirements but it seems like we will

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1 have time to be able to -- for the ANC to be able to add
2 their comments in -- and if anyone else wants to do that --
3 I don't have any particular issue with this, but do my other
4 board members have any other --?

5 ZONING COMMISSION MEMBER MAY: So I mean, the
6 issue is the multiple methods of notification, right. So
7 between now and the 14th what can actually be accomplished?
8 I'm sure they can repost the property with the additional
9 relief and submit an affidavit on that, but I don't know what
10 else is required in terms of timing for the other
11 notifications.

12 Mr. Secretary, do you know what else we would do,
13 or Ms. Lovick?

14 MS. LOVICK: Yes, that would be the only thing
15 that you could potentially do, other than requiring 40 days
16 notice, which you don't do in this situation normally. Yes,
17 if you want, you could ask that there be a posting with
18 regard to the relief from the common division wall
19 requirements of D307.4.

20 ZONING COMMISSION MEMBER MAY: Okay, that makes
21 sense. I think that that would not be a problem for the
22 applicant to post a new notice on the property.

23 VICE CHAIRPERSON HART: And also have the
24 notification to -- what is it, the affidavit of posting?

25 ZONING COMMISSION MEMBER MAY: Yes.

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1 VICE CHAIRPERSON HART: So that we have that on
2 the record as well. I don't know, two weeks. Do we need to
3 give it a time line for it?

4 MS. LOVICK: Typically you do; you usually do 15
5 days, that's typically what we do in this situation.

6 ZONING COMMISSION MEMBER MAY: So they'd have 15
7 days?

8 VICE CHAIRPERSON HART: Yes.

9 SECRETARY MOY: Mr. Vice Chair, I would suggest
10 to that before he leaves here today to go to our staff in the
11 lobby to pick up your new signs while you're here.

12 VICE CHAIRPERSON HART: And then we would have to
13 have the applicant posting prior to our meeting on the 14th,
14 so should we set a date for that? Do we have to set a date
15 for that?

16 SECRETARY MOY: Those are in the record.

17 VICE CHAIRPERSON HART: Okay, that's fine. So,
18 I think we're good?

19 SECRETARY MOY: Should I call the next case?

20 VICE CHAIRPERSON HART: Yes, I was just making
21 sure everybody understood the timing. Actually, there's one
22 thing from -- Commissioner Gaffney, you said that you could
23 have a letter to us; could you get a letter to us by the 12th
24 of November?

25 MS. GAFFNEY: Oh, yes.

1 VICE CHAIRPERSON HART: Okay, I just want to make
2 sure we have it before our --

3 MS. GAFFNEY: Yes, we will make sure that you have
4 it.

5 VICE CHAIRPERSON HART: Can you turn the mic on?

6 MS. GAFFNEY: I'm sorry.

7 VICE CHAIRPERSON HART: It's okay.

8 MS. GAFFNEY: Yes, we will make sure that you have
9 the letter before the 12th.

10 VICE CHAIRPERSON HART: Okay, excellent. Thank
11 you very much. So yes, Mr. Moy, you may call the next case.

12 SECRETARY MOY: All right, that would be Case
13 Application #19832 of Yasmine -- is that how it's pronounced?

14 PARTICIPANT: Yes.

15 SECRETARY MOY: Y-A-S-M-I-N-E, Sickder, as amended
16 for area variances for the lot dimension requirements,
17 Subtitle D, Section 302.1, side yard requirements, Subtitle
18 D, Section 307.1, and the common division wall requirements,
19 Subtitle D, Section 307.4 to construct a new semi-detached
20 principal dwelling unit, R-2 zoned, at 308 62nd Street N.E.,
21 Square 5267, Lot 44. And again, ANC7C has filed postponement
22 request.

23 VICE CHAIRPERSON HART: Thank you, Mr. Moy. So
24 if you could -- I know this is somewhat redundant, but if you
25 could introduce yourself again because this is a new case,

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1 we just want to make sure we have it for the record.

2 MS. GAFFNEY: I'm Mary Gaffney, ANC7C.

3 VICE CHAIRPERSON HART: Address?

4 MS. GAFFNEY: Address, 328 62nd Street N.E.

5 VICE CHAIRPERSON HART: Thank you. Yes, and the
6 applicant as well.

7 MR. SECK: Yes, my name is Oumar Seck, O-U-M-A-A-
8 R, S-E-C-K representing Yasmine Sickder for property address
9 308 62nd Street N.E.

10 VICE CHAIRPERSON HART: Thank you. Commissioner
11 Gaffney, you have submitted a request for postponement for
12 this case as well. If you could just explain why you're
13 looking for this request, you're making this request.

14 MS. GAFFNEY: Yes, I'm making this request because
15 we need more explanation exactly what's going to be built,
16 the material and what have you, and the variances across, so
17 we need to discuss that more fully and decide approval or
18 disapproval.

19 VICE CHAIRPERSON HART: Thank you. Mr. Seck?

20 MR. SECK: Yes, Vice Chair Hart, this is the same
21 situation, it was the same presentation on all of those three
22 meetings, the DCA, the executive board meeting and the ANC.
23 However, the support of the ANC is what we're looking for,
24 that's why we do all this effort, and we'll put them in the
25 past and continue to work with them if the case has been

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1 presented. I know that Dr. Gaffney had a problem with the
2 height of the building to say why don't you build it wider
3 and deeper and get the same amount of bedroom. It's not as
4 feasible as that, but because of the zoning research and
5 setbacks, as well as this particular property sits at the
6 corner off an alley, and the property line is at the alley;
7 to have the house sitting on the alley without the variance
8 we're looking for of basically 5 feet, it'll be tough for
9 trucks, trash trucks, et cetera, to turn in the alley, and
10 that could be a problem, also, for the actual security of the
11 building.

12 VICE CHAIRPERSON HART: But this is, what we're
13 looking at is just the preliminary matter which is that they
14 are looking for postponement and you're just saying that is
15 -- you're saying a similar concern which is you have met with
16 the Deanwood Civic Association as well as ANC7C and you were
17 expected to get some result from those meetings. I
18 understand that; I think in a similar vein as the previous
19 case, I think that the ANC would actually be able to hear
20 this in a fairly short order. You're not waiting a month and
21 a half; this is several weeks. I will also put this meeting
22 on the 14th as well. Commissioner Gaffney, you are also
23 thinking that you can have a letter -- it may be the same
24 letter or it may be two different letters -- but some report
25 that is sent back to us. You think that the November 14th

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1 date is doable?

2 MS. GAFFNEY: Yes, it is doable.

3 VICE CHAIRPERSON HART: Again, I'm assuming other
4 board members have a similar concern that we don't have an
5 ANC report and this is an important case, variances are
6 important cases, as the special exceptions, too, but the
7 variances are a higher bar. And so we would prefer to have
8 the ANC weigh in on this, and so I think we're looking at the
9 November 14th date as well.

10 Mr. May?

11 ZONING COMMISSION MEMBER MAY: You are correct;
12 I agree with you, that's what we want.

13 BOARD MEMBER JOHN: I agree, Mr. Vice Chair.

14 VICE CHAIRPERSON HART: Yes, sir?

15 MR. SECK: Yes, Vice Chair Hart, I wanted to just,
16 from Dr. Gaffney, if since they wanted more questions
17 answered, am I going to meet with them at the executive
18 meeting, because I know that the issue I was trying to
19 explain could result to negative support, which if I can
20 prevent that by meeting with them, explaining and see the
21 situation, the feasibility of the project or what they're
22 expecting and what can be done, that we can come to an
23 agreement before issuing a letter of support.

24 VICE CHAIRPERSON HART: So, would you like a
25 longer time period?

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1 MR. SECK: No, no, no. Definitely not. What I'm
2 saying is you have asked Dr. Gaffney to provide a letter by
3 the 12th. Now, Dr. Gaffney, wanted more explanation and I
4 haven't --

5 VICE CHAIRPERSON HART: What I would suggest that
6 you do is you are both here now, you all could have a
7 discussion, at least start to have a discussion now and have
8 -- if you need to have an executive discussion, I think
9 probably outside you all can discuss whether you need to do
10 that -- I don't think necessarily we need to have that
11 discussion here, but I would encourage you all to meet as
12 many times as you need to, to find ways to resolve any
13 particular concerns that you have. But right now it sounds
14 like our position is going to be that we grant a postponement
15 and we schedule this for the 14th of November with the ANC
16 providing us a comment by the -- excuse me, ANC report by the
17 12th of November. So, and I guess there's another issue with
18 this case as well. So you both understand that?

19 MS. GAFFNEY: Yes.

20 VICE CHAIRPERSON HART: Okay. I think there's a
21 similar issue with regard to notice on this case as well.
22 Mr. Seck, there was a preliminary matter about waiving the
23 notice requirements for this case as well?

24 MR. SECK: I'm not aware of that request but I do
25 know the sign had been posted; that's what my staff had told

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1 me.

2 MS. LOVICK: No, I think the application was
3 amended to add the common division wall relief and there was
4 a request made to the record to waive the notice requirements
5 for that common division wall relief.

6 VICE CHAIRPERSON HART: Okay, and so the applicant
7 could repost his property as he did with a previous case?

8 MS. LOVICK: Sorry, I thought you were talking to
9 the applicant. I'm sorry. Yes -- well, if that's something
10 --

11 VICE CHAIRPERSON HART: No, I think it would work.
12 I think we're looking at that as well.

13 MS. LOVICK: You're postponing?

14 VICE CHAIRPERSON HART: Yes, so if you could, Mr.
15 Seck, get another board, but also follow the procedures, I
16 think we're looking at having it for two weeks so we have
17 that information. But I think we would support waiving the
18 40-day notice.

19 MR. SECK: So this would on this report November
20 14th?

21 VICE CHAIRPERSON HART: 14th as well, yes.

22 I think those are the matters we have before us.
23 I appreciate you all for coming in, and we'll see you all on
24 the 14th. And Mr. Seck, I guess I'll see you a little later
25 in terms of date.

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1 MR. SECK: Yes, thank you.

2 VICE CHAIRPERSON HART: Thank you very much.

3 And you can call the next case, Mr. Moy.

4 SECRETARY MOY: Thank you, Mr. Vice Chair. So,
5 if we can have applicants to the table to Case Application
6 19821 of 1322 Randolph Street N.W., LLC captioned and
7 advertised for special exception under the residential
8 conversion requirements, Subtitle U, Section 320.2 which
9 would construct a third story and three-story rear addition
10 to an existing principal dwelling unit and convert it to a
11 three-unit apartment house RF-1 Zone; this is at 1322
12 Randolph Street N.W., Square 28, Lot 127.

13 VICE CHAIRPERSON HART: Thank you, Mr. Moy. If
14 you could introduce yourselves.

15 MS. WILSON: Hi, good morning. My name is
16 Alexandra Wilson from the law firm of Sullivan & Barros on
17 behalf of the applicant.

18 MR. GHANBARI: Hi, I'm Fariq Ghanbari; I'm the
19 owner of the property.

20 VICE CHAIRPERSON HART: Your last name is?

21 MR. GHANBARI: Ghanbari.

22 VICE CHAIRPERSON HART: Can you spell that?

23 MR. GHANBARI: G-H-A-N-B-A-R-I.

24 VICE CHAIRPERSON HART: Thank you. So, Ms.
25 Wilson, if you -- I think that the record is pretty full on

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1 this -- if you could talk about the change that you were
2 describing in the -- I guess you were asking for, requesting
3 to file additional materials. And I did not have an issue
4 with you placing them into the record; we'll accept those
5 materials. But I understand the next door neighbor now
6 supports the application?

7 MS. WILSON: Yes.

8 VICE CHAIRPERSON HART: If you could just talk
9 about what the issue was with that -- why they didn't support
10 it before and why they support it now, or if you could just
11 describe that aspect of it.

12 MS. WILSON: Sure, and I'm going to turn it over
13 to Fariq.

14 MR. GHANBARI: Hi. Yes, so the neighbor initially
15 wasn't in support, but I don't think it was that she wasn't
16 in support; more so she just wanted to be a part of the
17 design changes. And so she requested a few things like a
18 spiral staircase, certain coloring on the back of the home,
19 where some of the windows would be placed and whatnot, so we
20 worked with her hand-in-hand through the design process and
21 came to an agreement.

22 VICE CHAIRPERSON HART: And so the spiral
23 staircase change was something she wanted; did she say why
24 she was looking for that?

25 MR. GHANBARI: Yes, her main concern was just the

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1 visual appeal of the home. She says she's in the backyard
2 a lot, she has two dogs and so she didn't want a square
3 staircase in the back that would be kind of pushed up against
4 her home. So she has had a couple requests like that, along
5 with she also has solar, so we had to --- she wanted us to
6 provide her with compensation for that, which we were more
7 than happy to do so.

8 VICE CHAIRPERSON HART: Okay. Does the board have
9 any questions for the applicant on this case?

10 ZONING COMMISSION MEMBER MAY: So regarding the
11 solar panels, did you actually study the effect of the
12 addition on the solar panels?

13 MR. GHANBARI: Absolutely, we had studies taken
14 and the cost analysis on how much she was losing?

15 ZONING COMMISSION MEMBER MAY: Did you submit that
16 to the record?

17 MR. GHANBARI: I believe all of that was -- I know
18 she had the study taken and we paid for it. I'm not sure.

19 ZONING COMMISSION MEMBER MAY: Yes, I mean,
20 because typically -- I mean, I don't know how typical that
21 is; we don't have these circumstances too often, but my
22 recollection on past cases when we've dealt with this issue,
23 we actually received documentation that showed the extent of
24 any effect of an addition on the abutting solar panels; most
25 cases it's been demonstrated it wasn't very substantial. It

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1 certainly helps that you have her support and whether you
2 compensate her for the loss, that's not part of our criteria
3 per se, so actually having something in the record indicating
4 the extent of that effect and that the neighbor's okay would
5 normally be what I would look for. But you don't believe
6 that's actually in the record? I didn't see it, but then
7 again --

8 MS. WILSON: It's not in the record.

9 ZONING COMMISSION MEMBER MAY: It's not in the
10 record, okay. Do you have it here?

11 MS. WILSON: We do not have it here.

12 So we do have a panel agreement that we could not
13 submit to the record but we're happy to submit that and it
14 has that information regarding the study.

15 ZONING COMMISSION MEMBER MAY: You have that with
16 you?

17 MS. WILSON: I have it on my laptop. I'm happy
18 to present it to the board or have it uploaded to the record.

19 ZONING COMMISSION MEMBER MAY: Yes, I think it
20 would be helpful to have that in the record. I mean, I know
21 maybe we can pause before a decision-making or something like
22 that and you can quickly email it to us and we can get it
23 that way.

24 MS. WILSON: I'd be happy to do that.

25 ZONING COMMISSION MEMBER MAY: Okay, that would

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1 be helpful for me. That's it for my questions.

2 VICE CHAIRPERSON HART: Board Member John?

3 Okay, I'll move to the Office of Planning.

4 MS. THOMAS: Good morning, Mr. Chair and members
5 of the board. We would stand on the record of our report,
6 we are satisfied that the applicant has come to some
7 agreement with the abutting neighbor regarding the solar
8 panels, and that is in the record as Exhibit -- I can't
9 remember the number but it's one of the exhibits -- and we
10 also have the ANCs that are in support of the proposal.

11 And with that, I'll leave it there. Thank you.

12 VICE CHAIRPERSON HART: Thank you. Do we have any
13 questions for the Office of Planning?

14 ZONING COMMISSION MEMBER MAY: I'm sure you're
15 aware there are a couple of letters of objection in this case
16 from nearby neighbors, and the one thing that was cited that
17 I had a question about was the decks. There are three decks
18 on the back that extend another 6 feet; I think the letter
19 said that incorrectly, that they extend 13 feet, or maybe I
20 misunderstood what they were trying to say. But just can you
21 clarify that decks such as this do not, are not in conflict
22 with the 10-foot limitation on an addition to that?

23 MS. THOMAS: The way we understand it at this
24 time, the decks are not part of the 10-foot rule because it's
25 an open structure.

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1 ZONING COMMISSION MEMBER MAY: It's an open
2 structure, there's no roof over it. If they put a roof over
3 the top floor, then it would be subject -- yes, that was my
4 recollection of it, but I think that's something that the
5 neighbors who had a concern would want to know. I just
6 happened to glance back at the drawings. I have a question
7 for the applicant; is this section drawing that was most
8 recently submitted, is that just sort of notional? Because
9 there's no slope to the roof, so you're just going to have
10 a swimming pool on the top there.

11 Yes, that. How are you shedding water off that?

12 I mean, not that it relates to the zoning relief
13 but it could in the sense that if you want to add slope you
14 could wind up making the building taller in the front and
15 shorter in the back. The drawing should reflect accurately
16 what's being --

17 MR. GHANBARI: Absolutely. And I think that is
18 just a drawing for presentational purposes for the spiral
19 staircase and the decks, but we would be decreasing at any
20 point as opposed to increasing.

21 ZONING COMMISSION MEMBER MAY: Right. So, you're
22 not going --

23 MR. GHANBARI: To go higher.

24 ZONING COMMISSION MEMBER MAY: You're not going
25 to go higher but you have -- I mean, this is a little bit of

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1 a concern; you've got a, what is it a 45-foot deep building
2 or something like that, and you're at a 35-foot building
3 height and you have to slope the roof. So the drawings --
4 I mean, I appreciate the fact that this is only a
5 presentation drawing or may have been conceived as a
6 presentation drawing, but you're going to actually have real
7 drawings that show things like the slope of the roof.

8 MR. GHANBARI: Absolutely.

9 ZONING COMMISSION MEMBER MAY: And those are the
10 things that we should have in our record; otherwise, when you
11 go for your permit and it shows that you're a little bit
12 taller in the front or -- I mean, you could wind up having
13 complications at permitting if we don't actually have an
14 accurate drawing.

15 MR. GHANBARI: Maybe the slope is from left to
16 right.

17 ZONING COMMISSION MEMBER MAY: And so you're
18 shedding water onto your neighbor's property?

19 MR. GHANBARI: No, we have a gutter system to pull
20 water out of the back.

21 ZONING COMMISSION MEMBER MAY: So maybe but you
22 don't know for sure?

23 MR. GHANBARI: No, the architect would be able to
24 shed more light on that.

25 ZONING COMMISSION MEMBER MAY: And the architect

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1 is not here?

2 MR. GHANBARI: Unfortunately not. But I assure
3 you that we won't be going any higher.

4 ZONING COMMISSION MEMBER MAY: Well, obviously
5 because you haven't requested any relief to go higher. I
6 mean, it's -- who's the architect on this?

7 MR. GHANBARI: He is Hawaii Design.

8 ZONING COMMISSION MEMBER MAY: Yes, I've never
9 heard of that.

10 MR. GHANBARI: We've already reached our maximum
11 height, and so we would actually be going down.

12 ZONING COMMISSION MEMBER MAY: So, it's a 64-foot
13 building and -- so, over 64 feet and you're dropping at least
14 an eighth of an inch -- so that's 8 -- it's got more than 8
15 inches -- probably dropping a foot. I mean, it's close.
16 There should be a drawing in the record that actually
17 accurately depicts how the roof works because otherwise it
18 could affect that height. And I -- it's in your best
19 interest to present it that way. I mean, I guess
20 theoretically since we're showing the top of roof at 30 and
21 4 inches and the top of the third floor at 19 and 6 inches,
22 that theoretically means that there's a couple of feet to
23 spare. And you can still maintain a minimum ceiling height
24 in the back rooms.

25 You should talk to your architect because this is

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1 garbage; they should be presenting drawings to us that are
2 accurate.

3 MR. GHANBARI: Absolutely.

4 ZONING COMMISSION MEMBER MAY: And I'm being
5 polite when I say garbage.

6 VICE CHAIRPERSON HART: Yes, it's funny,
7 Commissioner May; I've looked at this section and I'm trying
8 to figure out where was this section cut from because how do
9 you have the spiral staircase in this, and the spiral
10 staircases at the western side, on the western most side of
11 this. It looks like the section is cut through with almost
12 like the wall, or just where that wall is, the western wall.

13 ZONING COMMISSION MEMBER MAY: Right. Yes, so
14 it's not accurately depicted on that. I mean, you can't look
15 at that because it doesn't really relate to the relief; it's
16 the roof that could potentially affect the relief. So, yes.
17 Have you worked with this architect before?

18 MR. GHANBARI: Yes.

19 ZONING COMMISSION MEMBER MAY: Okay, so I assume
20 that you've built stuff with him and that it's been okay.
21 I mean, I'm an architect, so I look at this thinking do they
22 really know what they're doing.

23 MR. GHANBARI: I believe so, yes.

24 ZONING COMMISSION MEMBER MAY: Okay, good. Well,
25 it's your money.

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1 MR. GHANBARI: Thank you.

2 VICE CHAIRPERSON HART: So, any other questions
3 for the Office of Planning?

4 Okay, is the ANC here?

5 Okay. Is anyone here wishing to speak in support
6 of the application?

7 Anyone wishing to speak in opposition to the
8 application?

9 Okay, no one. Ms. Wilson, do you have any other
10 comments that you'd like to make in conclusion?

11 MS. WILSON: No, thank you.

12 VICE CHAIRPERSON HART: Okay, so it seems there
13 is at least some information that we would like to see, and
14 I'm not exactly sure when we can get that; if that would be
15 today or if that would be tomorrow, then that would then
16 depend if we could actually hear it today or at least decide
17 on it today, or set a quick decision for next week.

18 ZONING COMMISSION MEMBER MAY: I do think that
19 there should be accurate drawings in the record, and I don't
20 think that we should -- I mean, in the past -- I don't recall
21 if we've talked about this before -- can we wait to get an
22 accurate drawing into the record and still make a decision
23 today? Or is it best for us just to defer?

24 SECRETARY MOY: I'll speak from BZA staff; we
25 prefer all the documentation in the record before the board

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1 takes action.

2 ZONING COMMISSION MEMBER MAY: Okay. I mean, it
3 all seems like it's pretty straightforward, so if we can get
4 that statement about the solar and accurate section that
5 depicts the slope of the roof, or somehow magically it drains
6 it in a way that I cannot understand yet, I think that we can
7 make a decision very quickly next week.

8 VICE CHAIRPERSON HART: So Ms. Wilson, can we get
9 something by the end of this week?

10 MS. WILSON: Yes, we should be able to.

11 VICE CHAIRPERSON HART: So, I think we'll set this
12 case for a decision for October 31st, and have the documents
13 in the file by the 26th of October.

14 So we are going to set this for decision for next
15 week and hopefully we'll get this information and be able to
16 make that decision. Well, I guess we'll make a decision
17 regardless if we get that information.

18 So, anyhow, thank you very much.

19 MS. WILSON: Great, thank you.

20 MR. GHANBARI: Thank you for your time.

21 VICE CHAIRPERSON HART: All right. Mr. Moy, if
22 we could call the next case, please.

23 Actually, we're going to take a two-minute break.

24 (Whereupon, the above-entitled matter went off the
25 record at 10:34 a.m. and resumed at 10:47 a.m.)

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1 VICE CHAIRPERSON HART: Okay, we are back in
2 session. So, the next case we have, Mr. Moy, is Application
3 #19837.

4 SECRETARY MOY: Yes, sir. So, if we could have
5 parties to the table, this is to Application #19837 with
6 Peter and Stephanie Eicher, E-I-C-H-E-R as amended for
7 special exception under Subtitle D, Section 5201 to the lot
8 occupancy requirements of Subtitle D, Section 304.1, rear
9 yard requirements, Subtitle D, Section 306.2, non-conforming
10 structure requirements, Subtitle C, 202.2, which would
11 construct the three-story rear addition in R-3 Zone; this is
12 at 600 H Street S.W., Square 468, Lot 67.

13 VICE CHAIRPERSON HART: Thank you, Mr. Moy. Good
14 morning.

15 MS. EICHER: Good morning.

16 MR. EICHER: Good morning.

17 VICE CHAIRPERSON HART: If you could please
18 introduce yourselves, if you give your name and your address.

19 MR. EICHER: My name is Peter Eicher and I live
20 at 600 H Street, S.W.

21 MS. EICHER: I'm Stephanie Eicher and I live at
22 the same address.

23 VICE CHAIRPERSON HART: Thank you. Typically we
24 have folks come in and give a presentation. I think this is
25 a fairly straightforward case. I don't know if my fellow

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1 board members need any further information; if you're itching
2 to give a presentation, I won't take that away from you, but
3 I'm not thinking we really need further information. I think
4 the record's fairly full on this, but do you have anything
5 you'd like to present to us?

6 MR. EICHER: I'm not itching to give a
7 presentation. I'm prepared to give one if you want. I think
8 the one thing we should bring up, come through quite as
9 clearly in the application is we would like is the purpose
10 of this addition is to be able to install an elevator so that
11 we can age in place.

12 VICE CHAIRPERSON HART: That is a big thing. I
13 mean, I'm serious; it's not a trivial thing, so I do fully
14 understand that. But if my fellow board members have any
15 questions -- it seems as they don't, I'll move to the Office
16 of Planning.

17 MR. MORDFIN: Good morning, Chair and members of
18 the board. I'm Stephen Mordfin and the Office of Planning
19 recommends approval of this application and stands on the
20 record and is available for questions. Thank you.

21 VICE CHAIRPERSON HART: Do the board members have
22 any questions for the Office of Planning?

23 PARTICIPANT: No.

24 VICE CHAIRPERSON HART: Okay, hearing none -- do
25 the applicants have any questions for the Office of Planning?

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1 MR. EICHER: No.

2 VICE CHAIRPERSON HART: Okay. Is the ANC here?
3 Is there anyone here wishing to speak in
4 opposition?

5 Is there anyone here wishing to speak in support?

6 Okay, no one raised their hand. So we're back to
7 you all, Mr. and Ms. Eicher.

8 MR. EICHER: Eicher, that's correct.

9 VICE CHAIRPERSON HART: Every time I look at it,
10 I think that I'm saying it incorrectly.

11 Do you have any final things that you'd like to
12 say in conclusion?

13 MR. EICHER: Just that I hope the record is clear;
14 we have the support of the ANC, the Office of Planning, no
15 objection from DDOT, support from our immediate neighbors on
16 either side and from a large group of other people within 200
17 feet, and nobody has raised any objections with us. So I
18 hope you all approve this. Thank you.

19 VICE CHAIRPERSON HART: Thank you very much. So
20 I will close the record. Is the board ready to deliberate?

21 PARTICIPANT: Yes.

22 VICE CHAIRPERSON HART: So, I can start; as I said
23 earlier, I find that the applicant has provided sufficient
24 information for me to be able to support this application.
25 It is a very straightforward case. I'll note that the ANC6B

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1 recommends approval by unanimous vote and cited no issues or
2 concerns. This is Exhibit 13, and I guess there's a
3 duplicate of Exhibit 30. There's also letters in support
4 from several neighbors, including two adjoining neighbors and
5 then the Office of Planning report also recommends approval
6 of the special exception relief. And if board members have
7 any other comments you'd like to make.

8 BOARD MEMBER JOHN: Just briefly, Mr. Vice Chair.
9 I agree that the record is full and this is a modest
10 extension which will bring the applicant's house in line with
11 the house to the left, to the west. And ANC, there is
12 support from the ANC and neighbors, and the record -- the
13 Office of Planning has conducted a very thorough analysis and
14 I will give great weight to that analysis and support the
15 application.

16 VICE CHAIRPERSON HART: Okay. I will then make
17 a motion to approve Application #19837 of Peter and Stephanie
18 Eicher as read and captioned by the secretary. Do I have a
19 second?

20 BOARD MEMBER JOHN: Second.

21 VICE CHAIRPERSON HART: All those in favor say
22 aye.

23 (Chorus of ayes.)

24 Any opposed?

25 The motion carries. Mr. Moy?

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1 SECRETARY MOY: Staff would record the vote as 3-
2 0-2 based on the motion by Vice Chair Hart to approve the
3 application for relief requested, seconded the motion Ms.
4 John, also in support Mr. Peter May. We have two members
5 that are not participating. The motion carries.

6 VICE CHAIRPERSON HART: Thank you, all.

7 MR. EICHER: Thank you very much.

8 VICE CHAIRPERSON HART: Have a good afternoon --
9 good morning, actually.

10 So, Mr. Moy, if we could call the next case,
11 19838.

12 SECRETARY MOY: Yes, thank you, Mr. Vice Chair.
13 If I can have parties to the table to Case Application #19838
14 of Andrew Cooper as amended for a special exception under
15 Subtitle E, Section 5201, and the lot occupancy requirements
16 Subtitle E, Section 304.1 construct a two-story accessory
17 structure RF-1 Zone at 912 5th Street N.E., Square 807, Lot
18 42.

19 VICE CHAIRPERSON HART: Thank you, Mr. Moy. Good
20 morning. Could you please introduce yourself?

21 MS. FOWLER: Good morning. I'm Jennifer Fowler;
22 I'm the architect on the project.

23 VICE CHAIRPERSON HART: So, Ms. Fowler, I know
24 you've been here before in front of us on a number of
25 occasions. I also felt that there was a lot of information

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1 -- the record is fairly full on this -- I didn't have any
2 particular questions on the case. Does anyone else have any
3 questions for the applicant?

4 PARTICIPANT: No.

5 VICE CHAIRPERSON HART: So let's move to the
6 Office of Planning.

7 MR. COCHRAN: We're happy to stand on the record.

8 VICE CHAIRPERSON HART: That was quick. Do my
9 board members have any questions for the Office of Planning?

10 Ms. Fowler, do you have any questions for the
11 Office of Planning?

12 MS. FOWLER: No, I don't. Thanks.

13 VICE CHAIRPERSON HART: So, is the ANC present?

14 Is there anyone here wishing to speak in support
15 of the application?

16 Anyone here wishing to speak in opposition?

17 Seeing none -- back to you, Ms. Fowler. Do you
18 have any --?

19 MS. FOWLER: Maybe one of the quickest cases ever.

20 VICE CHAIRPERSON HART: We can prolong it if you'd
21 like.

22 MS. FOWLER: No, that's okay, thank you.

23 VICE CHAIRPERSON HART: I'm joking. Do you have
24 any final conclusions or --?

25 MS. FOWLER: Nothing now; just we need to get ANC

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1 support that's on the record, as well as the Restoration
2 Society, and I just want to thank Mr. Cochran for his
3 assistance on this, making sure we had all our ducks in a
4 row. Thank you.

5 VICE CHAIRPERSON HART: Thank you. With that, I
6 will close the record and the board is ready to deliberate,
7 yes?

8 Okay, I can start. As I noted, I found that the
9 applicant has provided sufficient information for me to
10 support the application. The Office of Planning report,
11 Exhibit 42, recommends approval of the special exception
12 relief. I would, as we have to, give great weight to the
13 Office of Planning report, and I do concur with it. The
14 ANC6C report, Exhibit 43, recommends approval and cites no
15 issues or concerns. And I would also, as I said, support the
16 application. I do believe this is a fairly straightforward
17 case. Would anyone else like to provide any comments on this
18 property?

19 BOARD MEMBER JOHN: Again, just briefly, Mr. Vice
20 Chair. I support the application and I'm pleased that the
21 request for variance was withdrawn and that simplified the
22 process much more, so I would be able to support the
23 application based on the record and OP's analysis and I
24 concur with what you have said before.

25 VICE CHAIRPERSON HART: Okay. So with that, I

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1 will make a motion to approve Application #19838 of Andrew
2 Cooper as read and captioned by the secretary. Do I have a
3 second?

4 PARTICIPANT: Second.

5 PARTICIPANT: Second.

6 VICE CHAIRPERSON HART: Hearing a second, all
7 those in favor say aye.

8 (Chorus of ayes.)

9 Any opposed?

10 Motion carries. Mr. Moy?

11 SECRETARY MOY: Staff would record the vote as 3-
12 0-2. This is on the motion of Vice Chair Hart, and I believe
13 seconded by -- this is on the motion of Vice Chair Hart to
14 approve the application for the relief, seconded by Mr. Peter
15 May, also in support Ms. John, two other board members not
16 participating. Motion carries.

17 VICE CHAIRPERSON HART: Thank you very much. Have
18 a good morning.

19 Okay, so it looks like we are at Application
20 #19829 of RUPSHA 2011 LLC.

21 SECRETARY MOY: Yes, thank you, Mr. Vice Chair.
22 Again -- and I see the applicant moving to the table -- this
23 is Case Application #19829 of RUPSHA which is R-U-P-S-H-A
24 2011 LLC, caption and advertised for area variances for the
25 lot dimension requirements, Subtitle D, Section 302.1, side

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1 yard requirements, Subtitle D, Section 307.1 which would
2 construct a new detached principal dwelling unit R-2 Zone at
3 4417 A Street S.E., Square 5350, Lot 38.

4 VICE CHAIRPERSON HART: Thank you. If you could
5 please introduce yourself.

6 MR. SECK: Yes, board members. My name is Oumar
7 Seck, O-U-M-A-R, S-E-C-K, representing RUPSHA 2011 LLC for
8 4417 A Street, S.E.

9 VICE CHAIRPERSON HART: Okay. If you could just
10 talk about how you are meeting the prongs of the variance
11 test. You are looking for that relief for this particular
12 case and you can begin at any point. I'll give you ten
13 minutes on our -- I don't think you need ten minutes, but --

14 MR. SECK: No.

15 VICE CHAIRPERSON HART: Okay.

16 MR. SECK: Mr. Vice Chair Hart, I can pass on some
17 documents if possible just on the record.

18 VICE CHAIRPERSON HART: You can hand the documents
19 to the secretary.

20 MR. SECK: Yes, this is the letter of
21 correspondence I received from the commissioner of the single
22 member district --

23 VICE CHAIRPERSON HART: Please feel free to do so.

24 MR. SECK: If I may begin?

25 VICE CHAIRPERSON HART: Sure.

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1 MR. SECK: Yes, this is 4417 A Street, S.E. We're
2 proposing to construct -- we're asking for lot variance for
3 side yard in this area for Zone R-2 the requirement is 8
4 feet, the lot size being 25 feet wide. We're proposing 3
5 feet on both side and providing parking in the rear from the
6 alley. This has been presented to the ANC and we do have
7 their support. They did not get a chance to issue an
8 official letter that I could have today but they're planning
9 to write that and provide it to the BZA within this week
10 according to Chairperson Ebbon Allen. The email chain I just
11 gave you was the correspondence we've been having and I've
12 been running into some other issues recently with some
13 commissioners not receiving the email, their District of
14 Columbia email address. And for this particular address it's
15 the single-member district Commissioner Tate, and she did
16 send an email where she specifically said that they
17 definitely support the project, as well as Chairperson Allen.
18 And I did get a text late last night that he could not, the
19 Chairperson Allen could not provide the letter, but they will
20 make sure it's provided to you by the end of the week.

21 VICE CHAIRPERSON HART: By the end of this week?

22 MR. SECK: Yes.

23 VICE CHAIRPERSON HART: Okay.

24 MR. SECK: If you want me to describe the
25 property, I can.

1 VICE CHAIRPERSON HART: Yes.

2 MR. SECK: It's a two-story brick house with vinyl
3 siding around. Again, we're asking for side-yard variance
4 from 8 feet to 3 feet. There's alley access to the rear
5 which will provide single-car parking. It's a three-bedroom,
6 two and a half bath house. And the rear yard setback as per
7 zoning rules are met; it's just the side yard because of the
8 width of the lot.

9 ZONING COMMISSION MEMBER MAY: So just to be
10 clear; the reason you need relief is because of the width and
11 if you put in compliant side yards at 8 feet, you would have
12 an impossibly narrow house?

13 VICE CHAIRPERSON HART: Yes.

14 ZONING COMMISSION MEMBER MAY: Okay. It would be
15 helpful if you stated that in your argument for it because
16 in your argument for the case, you basically stated we tried
17 to buy the property next door and couldn't do it, right?
18 That was this case, wasn't it?

19 MR. SECK: Um.

20 ZONING COMMISSION MEMBER MAY: I can't remember
21 which one is which. Well, in any case, the relief was not --
22 the reason for the relief was not clearly stated, but the
23 Office of Planning fortunately did state it very clearly and
24 that helps make your case.

25 MR. SECK: Okay.

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1 VICE CHAIRPERSON HART: Okay. And do board
2 members -- Ms. John, do you have any questions for the
3 applicant since Mr. May has asked his question already?

4 BOARD MEMBER JOHN: I thank Commissioner May for
5 that question and it helps to clarify what relief the
6 applicant is requesting.

7 VICE CHAIRPERSON HART: Okay, we're going to move
8 to the Office of Planning report.

9 MS. FOTHERGILL: Good morning; I'm Anne Fothergill
10 with the Office of Planning. The Office of Planning reviewed
11 this application and found that it did meet the variance test
12 and recommends approval of the relief and it rests on the
13 record, and I'm happy to take any questions.

14 VICE CHAIRPERSON HART: Any other questions for
15 the Office of Planning?

16 Hearing none. Mr. Seck, do you have any questions
17 for the Office of Planning?

18 MR. SECK: No, Chair.

19 VICE CHAIRPERSON HART: Do we have -- is the ANC
20 here?

21 MR. SECK: I know them but I don't see them here.

22 VICE CHAIRPERSON HART: Yes, that's fine. I'm
23 sorry; I'm asking if anyone is in the audience but I
24 appreciate your response. I know all of them. You know them
25 well, right?

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1 MR. SECK: Yes.

2 VICE CHAIRPERSON HART: Is there anyone here
3 wishing to speak in support of the application?

4 Anyone here wishing to speak in opposition to the
5 application?

6 No one raised their hands. So Mr. Seck, I think
7 we're back to you. Do you have any concluding statements
8 that you'd like to make?

9 MR. SECK: Just to ask for your vote to be able
10 to proceed with this project, that's all.

11 VICE CHAIRPERSON HART: Did you also say that --
12 is this particular lot one of the narrower lots in the
13 square?

14 MR. SECK: Yes, the standards are 40x100 usually,
15 but this one is 25-feet wide, one of the narrow lots.

16 VICE CHAIRPERSON HART: Okay. So with that, I
17 will close the record, if no one wants any additional
18 information.

19 Okay, so we'll close the record.

20 Is the board ready to deliberate?

21 Okay, so for this case I understood that the
22 Office of Planning recommended approval of the variance for
23 side yard under D 307.1, and they are -- and I actually would
24 be in support of the Office of Planning support -- I
25 understand that the applicant in trying to meet the

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1 requirements under the zoning requirements would have had a
2 very narrow house that they would have to have been able to
3 build, and they're asking for this relief to be able to do
4 that. I felt after reading the record that the applicant had
5 actually met their requirement for the three prongs of the
6 variance test and would be in support of the application.
7 I don't know if my fellow board members have any other
8 comments that they'd like to make on the case?

9 BOARD MEMBER JOHN: Mr. Vice Chair, I am able to
10 support this application because it is true that the
11 applicant would only be able to build a very narrow house if
12 he were to comply with the 8-foot side yard, and so that
13 creates a practical difficulty for him because of the very
14 narrow lot. And so based on the analysis of the Office of
15 Planning and the applicant's representations as clarified in
16 this hearing, I would be able to support the application.
17 As I said earlier, we do not have a full report from the ANC,
18 so we cannot give it great weight; however, I will just note
19 that there is support for the project from the single-member
20 district commissioner, so I would be able to move forward
21 with this application.

22 VICE CHAIRPERSON HART: Mr. May?

23 Okay. So with that, I would move that we approve
24 Application #19829 of RUPSHA 2011 LLC as read and captioned
25 by the secretary. Do I have a second?

1 BOARD MEMBER JOHN: Second.

2 VICE CHAIRPERSON HART: Hearing a second, all
3 those in favor say aye.

4 (Chorus of ayes.)

5 Any opposed?

6 The motion carries. Mr. Moy?

7 SECRETARY MOY: The staff would record the vote
8 as 3-0-2. This is the motion of Vice Chair Hart to approve
9 the application for the relief, seconded by Ms. John, also
10 in support Mr. Peter May, no other board members
11 participating today. The motion carries.

12 VICE CHAIRPERSON HART: Thank you. So, if you
13 could, Mr. Moy, call the next case, 19830.

14 SECRETARY MOY: Case Application #19830 of
15 Yasmine, Y-A-S-M-I-N-E Sickder, captioned and advertised for
16 area variance from the side yard requirements, Subtitle D,
17 Section 307.4 to construct a new principal dwelling unit in
18 R-3 Zone at 3902 1st Street S.E., Square 6128, Lot 834.

19 VICE CHAIRPERSON HART: Thank you, Mr. Moy. Good
20 morning. If you could introduce yourself for the fourth time
21 today.

22 MR. SECK: Good morning. My name is Oumar Seck,
23 O-U-M-A-R, S-E-C-K, representing Yasmine Sickder for 3902 1st
24 Street S.E. property.

25 VICE CHAIRPERSON HART: I appreciate the -- having

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1 to go through that. I know it's very redundant but it's
2 necessary for our record. So for this case we have side yard
3 variance relief, and you are looking for actually no --
4 you're looking for -- you're not going to have any side yard
5 for this case -- if you could talk a little bit about just
6 the, how you're meeting the variance test for this case. And
7 we have not gotten the ANC report either?

8 MR. SECK: No, this particular one is the same.
9 I have been to the ANC meeting and Chairperson Cuthbert
10 wanted to proceed for a vote, but the single-member district
11 commissioner, Mr. David Jones, did not get the
12 correspondence. However, there's a track record which I have
13 here that I would pass on that email would be sent to him and
14 everybody else. I did meet with him afterward, the meeting,
15 and talked to him. Yesterday he was actually going to give
16 me a letter, but he's new in the commission and he was
17 thinking he could draft a letter and send me but I told him
18 normally it's an official letter with the District of
19 Columbia Advisory Neighborhood Commission, what do you call
20 it, letterhead, and he's working with Commissioner ---
21 Chairperson Cuthbert to provide that letter this week. Me
22 and him will meet also on this property along with others in
23 his neighborhood that are coming to discuss questions there.
24 But he's in support and he has it on a text message,
25 unfortunately I couldn't print it, but I have it on my phone.

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1 He sent it late last night.

2 ZONING COMMISSION MEMBER MAY: Can I ask, how the
3 ANC presentation went, except for the fact that the SMD rep
4 wasn't there?

5 MR. SECK: Yes, Commissioner May. The
6 presentation went well, passed on the plans and answered
7 questions. As a matter of fact there is a gentleman who
8 lives on Brothers Place named Mr. Moon who bought one of our
9 properties and that also was, I believe, a BZA case. I was
10 not the presenter -- I mean, the person presenting the case
11 and he was praising our property to the commissioners and the
12 neighbor and it did go very well.

13 ZONING COMMISSION MEMBER MAY: And they just would
14 not vote because the SMD rep was not present?

15 MR. SECK: Actually, he was present, David Jones,
16 but they used -- I don't want to say it here, but there was
17 some kind of dispute between the chairperson and the reps
18 because the chairperson clearly stated that she's not going
19 to email some stuff. So the email will be sent, I do have
20 copies here I'm going to pass on, and they were copied, even
21 the single member district commissioner was copied, but he
22 did say at that meeting that he wasn't; later on I forwarded
23 all the email to him.

24 ZONING COMMISSION MEMBER MAY: So, can you just
25 state simply why they did not take a vote?

1 MR. SECK: Because he was saying that he was not
2 aware that this project --

3 ZONING COMMISSION MEMBER MAY: So he was not aware
4 of this project?

5 MR. SECK: That's what he claims.

6 ZONING COMMISSION MEMBER MAY: Right, he was
7 caught by surprise at the meeting.

8 MR. SECK: At the meeting.

9 ZONING COMMISSION MEMBER MAY: Right, but he
10 didn't voice any particular objections at the time?

11 MR. SECK: No.

12 ZONING COMMISSION MEMBER MAY: And you're hoping
13 -- I mean, you're not going to present to them again, but do
14 they plan to take a vote at a subsequent meeting?

15 MR. SECK: Well, this is, again, the text message.
16 Me and him were going at emails. I, again, will present
17 those copies to you. But he told me that he will generate
18 the letter with Chairperson Cuthbert of support, and they're
19 not in opposition. They're going to do the letter just like
20 the previous case and send it.

21 ZONING COMMISSION MEMBER MAY: But they didn't
22 take a vote, so how would they do a letter?

23 MR. SECK: See, that's what I know.

24 ZONING COMMISSION MEMBER MAY: Okay, so in other
25 words, we'd have to wait for them to have another meeting to

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1 get a letter, technically?

2 MR. SECK: But they were not in opposition,
3 Commissioner May --

4 VICE CHAIRPERSON HART: That doesn't -- they have
5 to take an official vote at that meeting or they have to have
6 another meeting. So they're not going to have a subsequent
7 letter, a report they send to us, that it wouldn't say
8 anything because they can't say that they've taken a vote.
9 You would have been present for the vote that they would have
10 taken, so it's --

11 ZONING COMMISSION MEMBER MAY: We'll have to
12 grapple with how we, whether we're prepared to go ahead with
13 an actual formal vote.

14 VICE CHAIRPERSON HART: Do you have the actual --
15 you said you have some correspondence?

16 MR. SECK: Yes, I do have --

17 VICE CHAIRPERSON HART: Is it printed?

18 MR. SECK: No, the text message came late
19 yesterday; it was around 10:00 something, 11:00, and he
20 basically said that he wanted to allow me --

21 VICE CHAIRPERSON HART: That's okay, because text
22 messages are even further removed from email, further removed
23 from an actual letter. So don't worry about that, because
24 it's not really helpful for us; we can't put it on the
25 record. It's just you reading something that's on your

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1 phone. So, you have -- what are you expecting to get from
2 them; you said you were expecting to get something from them
3 by the end of the week?

4 MR. SECK: A letter of support. This one is not
5 the one at the end of the week. The single-member
6 commissioner, David Jones, they say that he will draft a
7 letter; he told me that last night. I spoke with -- if you
8 allow me, sir, please just to read this particular small text
9 of what he said; "Hello, I spoke with Chairperson Cuthbert.
10 She's okay with moving forward. I am strongly considering
11 supporting this project. I will draft the letter after we
12 meet. We're going to meet Saturday or Monday on the property
13 to answer a few questions for him." So that's what I got
14 from him and that's what we're looking for, a letter of
15 support.

16 VICE CHAIRPERSON HART: Yes, okay. Just
17 procedurally, you won't get a letter that we would be able
18 to give great weight until after they have a meeting where
19 they actually took a vote. So while you may have ancillary
20 meetings with them with the SMD or with several of the ANC
21 members, they really can't do an actual vote and submit
22 something to us that is something that we give great weight
23 to until they actually have their ANC meeting and it's on the
24 agenda and the ANC commissioners are there. So while that's
25 helpful to understand, it's still -- it would be just a

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1 letter that we would get from him if he sends something prior
2 to their next meeting.

3 MR. SECK: Okay.

4 ZONING COMMISSION MEMBER MAY: Do you know when
5 the next meeting is?

6 MR. SECK: Uh --

7 ZONING COMMISSION MEMBER MAY: Do you know when
8 the last meeting was?

9 MR. SECK: Yes, the last meeting was on -- I have
10 it written here -- one second please -- I've gone to so many
11 of the meetings. It was this month -- I think it was
12 October.

13 VICE CHAIRPERSON HART: That's -- if you don't
14 have it.

15 ZONING COMMISSION MEMBER MAY: I mean, was it
16 earlier in the month?

17 MR. SECK: Yes, it was earlier in the month.

18 VICE CHAIRPERSON HART: I think where Commissioner
19 May is going is maybe we just wait until they have their
20 meeting and then get their actual --

21 ZONING COMMISSION MEMBER MAY: It feels a bit
22 premature if you're going to be meeting with the single-
23 member district representative on Saturday to discuss this
24 and he -- in what you read to us he indicated an inclination
25 to support but did not state clearly support. So not that

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1 it's necessarily going to upset the apple cart here if you
2 didn't have widespread objections to it at the ANC meeting,
3 but out of respect for the ANC, it may be best for us to
4 simply wait until they take a vote. So anyway, we'll discuss
5 that further.

6 VICE CHAIRPERSON HART: Let's move to the Office
7 of Planning.

8 MS. MYERS: Good morning, Crystal Myers with the
9 Office of Planning. The Office of Planning is recommending
10 approval of the requested relief, requested variance relief
11 and stands on the record of the staff report.

12 VICE CHAIRPERSON HART: Are there any questions
13 from the board for the Office of Planning?

14 Mr. Seck, do you have any questions for the Office
15 of Planning?

16 MR. SECK: No, thank you.

17 VICE CHAIRPERSON HART: Okay, thank you. Is the
18 -- I'm asking this question for the audience -- is the ANC
19 here? Is anyone here wishing to speak in support of the
20 application?

21 Anyone here wishing to speak in opposition?

22 Okay. Mr. Seck, do you have any comments that
23 you'd like to make in conclusion? I think that we're still
24 going to wait for the ANC report, but if you'd like to
25 provide any comments, that would be helpful.

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1 MR. SECK: The comments I do not want it to be
2 negative, but the communication has been an issue. We
3 monitor these meetings and I apologize that I don't have the
4 exact date that I met with them. They were saying I'm not
5 getting emails; then when I forwarded email and call and say,
6 "I forwarded you, you got all these emails from two months
7 ago or more," they said, "Okay, I'm sorry. What can we do?"
8 And this is how he basically tried to escalate it,
9 Commissioner Jones tried to escalate. We were actually set
10 up to meet this morning at 7:00 a.m., but I know that there's
11 no way he could have provided the letter when we were talking
12 late yesterday. So I do believe they are going to support
13 it; it's just that we're going to follow the procedures you
14 just led forth.

15 VICE CHAIRPERSON HART: Yes, I'm also just trying
16 to figure out, since I don't know when their actual meeting
17 is, it's hard to -- I could add a date but it may be a date
18 that is too premature for them.

19 ZONING COMMISSION MEMBER MAY: Maybe I could make
20 a suggestion; I mean, if it's not a true imposition for you
21 to wait until November 28th, I'll be back here on November
22 28th and that will certainly give you enough time. So that's
23 about a month from now.

24 MR. SECK: I see. May I ask a question?

25 VICE CHAIRPERSON HART: Sure.

1 MR. SECK: If I get back to Commissioner Jones who
2 I'm going to call today and let's say they have an executive
3 meeting where they can take a vote or --

4 ZONING COMMISSION MEMBER MAY: An executive
5 meeting is not going to be -- a vote has to be taken at a
6 public meeting.

7 MR. SECK: Oh, I'm sorry. At a public meeting,
8 okay. If the public meeting is early on, let's say in the
9 next week or so, which I don't know, and they will be able
10 to provide us --

11 ZONING COMMISSION MEMBER MAY: I mean, we could
12 tentatively put it theoretically on the agenda for the
13 meeting on the 14th.

14 MR. SECK: Yes, which I'm already coming here
15 normally.

16 ZONING COMMISSION MEMBER MAY: That's fine. I
17 mean, I wouldn't be here but I can send an absentee ballot.

18 VICE CHAIRPERSON HART: Send an absentee. I mean,
19 it's possible but -- what I'm thinking of is if we do it for
20 the 14th and they don't have their meeting or they have their
21 meeting on the 14th or something, that makes it difficult to
22 do that, then we would have to postpone it again. But we
23 would at least have a time in the, that we would be able to
24 figure that out.

25 MR. SECK: I can give an answer to Mr. Moy today.

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1 VICE CHAIRPERSON HART: Well, we have a schedule
2 now; that's why I'm trying to work through that.

3 MR. SECK: I see.

4 VICE CHAIRPERSON HART: How about this; how about
5 we schedule this for decision on November the 14th, and if
6 we need to, then we will -- if you find out that the ANC is
7 meeting after the 14th or there's some other issue, then we
8 could move it to the 28th when Mr. Commissioner May is back.

9 ZONING COMMISSION MEMBER MAY: Mr. Chairman, I
10 looked it up; ANC meets on the first Wednesday, so that would
11 be the 7th.

12 VICE CHAIRPERSON HART: Yes, they should have time
13 to be able to do that. I appreciate that; thank you,
14 Commissioner May. So, why don't we set this for decision on
15 November the 14th.

16 MR. SECK: Okay.

17 VICE CHAIRPERSON HART: And if you could, Mr.
18 Seck, make sure that the ANC is aware that they should be
19 providing us a letter by the, let's say the 12th, which is
20 the -- I think that's Monday, yes, Mr. Moy?

21 SECRETARY MOY: Yes, that would be Monday the
22 12th.

23 VICE CHAIRPERSON HART: That would provide us with
24 the information from the ANC, and then you would have the
25 actual letter or the report from the ANC itself.

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1 So, any other final questions for Mr. Seck?

2 Okay, hearing none, thank you very much, Mr. Seck.

3 MR. SECK: Thank you very much, Mr. Moy, Vice
4 Chair Hart and Commissioner or -- Jones. I wasn't sure if
5 you're a commissioner or not.

6 VICE CHAIRPERSON HART: Board member.

7 MR. SECK: Board member.

8 VICE CHAIRPERSON HART: Yes. Commissioner May
9 because he's on the Zoning Commission.

10 MR. SECK: Right, thank you.

11 VICE CHAIRPERSON HART: We make things confusing.
12 So, Mr. Moy, do we have anything left on the agenda, sir?

13 SECRETARY MOY: Nothing from the staff, sir.

14 VICE CHAIRPERSON HART: Okay. So with that, I
15 will adjourn the meeting.

16 (Whereupon, the above-entitled matter went off the
17 record at 11:26 a.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCBZA

Date: 10-24-18

Place: Washington, DC

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