

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

JANUARY 9, 2019

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
LESYLLEE M. WHITE, Board Member
LORNA L. JOHN, Board Member

ZONING COMMISSION MEMBER PRESENT:

ROBERT MILLER, Vice-Chairperson

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

HILLARY LOVICK, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN
ANNE FOTHERGILL
BRANDICE ELLIOT
MAXINE BROWN-ROBERTS
ELISA VITALE

The transcript constitutes the minutes from the Public Hearing held on January 9, 2019.

AGENDA

Case No. 19877 - Consolidated with Case No. 19895	3
Case No. 19895 - Application of Neighbors for Responsive Government, 3320 Idaho Avenue, N.W	3
Case No. 19890 - Application of Heather and Nathan Gonzales, 940 6th Street, N.E.	7
Case No. 19860 - Application of District Properties.com, Inc., 4613 Minnesota Avenue, N.E.	15
Case No. 19866 - Application of Serengeti, LLC	45
Case No. 19885 - Application of Lorens Helmchen	112
Case No. 19886 - Application of Giuseppe and Teresa Farruggio	119
Adjourn	226

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

10:00 a.m.

CHAIRPERSON HILL: All right. Mr. Moy, we're just moving along here. So you can bring up our next case whenever you like.

MR. MOY: I'm sorry. Okay.

CHAIRPERSON HILL: Take your time.

MR. MOY: So, okay. Again, there are two appeals on the docket today, both located at 3320 Idaho Avenue, N.W., Square 1818, Lot 849. The first is Appeal No. 19877 of ANC 3C. As captioned and advertised, this is from the decision made on August 7, 2018 by the Zoning Administrator, Department of Consumer and Regulatory Affairs, to approve a modification to the plans approved by BZA Order No. 19450 to construct a short-term family housing center in the RA-1 Zone at premises 3320 Idaho Avenue N.W., Square 1818, Lot 849.

The second appeal is No. 19895 of Neighbors for Responsive Government, captioned and advertised as appeal from the decision made on August 7, 2018 by the Zoning Administrator, Department of Consumer and Regulatory Affairs, to approve a modification to the plans approved by BZA Order No. 19450 to construct short-term family housing center in the RA-1 Zone at premises 3320 Idaho Avenue N.W., Square 1818, Lot 849.

CHAIRPERSON HILL: Okay. Could the parties come

1 to the table? And as the Board were aware, there were two
2 preliminary matters on these appeals. Okay, great. Yeah,
3 let's see where we're going to be with this. If you could
4 please introduce yourselves for the record from my right to
5 left?

6 MS. LORD-SORENSEN: Good morning, Chairman Hill
7 and members of the Board. Adrienne Lord-Sorensen, Assistant
8 General Counsel with the D.C. Department of Consumer and
9 Regulatory Affairs.

10 MR. LeGRANT: Good morning, Matthew LeGrant,
11 Zoning Administrator, DCRA.

12 MS. MacWOOD: Good morning. I'm Nancy MacWood,
13 Chair of ANC 3C.

14 MR. DeBEAR: Good morning, Eric DeBear, on behalf
15 of the intervenor, Department of General Services. And if
16 I could just mention something preliminarily --

17 CHAIRPERSON HILL: Sure.

18 MR. DeBEAR: -- Chairman Hill --

19 CHAIRPERSON HILL: Sure.

20 MR. DeBEAR: -- the parties are currently in a
21 conference room trying to work out a resolution. I think it
22 might be -- as you notice, several people, including NRG,
23 Neighbors for Responsive Government, are missing. If we
24 could potentially skip over these two appeals for one case,
25 I believe we'll have determined whether a resolution will

1 have been reached.

2 CHAIRPERSON HILL: No, sure. That's fine. We
3 were watching on TV. I saw everybody shake everybody's hand
4 as they were walking by. Was that everybody leaving the
5 room?

6 MR. DeBEAR: Yes.

7 CHAIRPERSON HILL: Wow, the handshake was nice.
8 That's --

9 MR. DeBEAR: Yeah.

10 CHAIRPERSON HILL: That was great. That's
11 encouraging. So then, okay, so you're just representing here
12 at this particular moment. Then, okay. Does the Board have
13 any issues with that? We'll go ahead and push this off for
14 a little bit.

15 MEMBER JOHN: Mr. Chairman, I believe we still
16 have to rule on the motion to consolidate.

17 CHAIRPERSON HILL: Okay.

18 MEMBER JOHN: We have --

19 CHAIRPERSON HILL: We can do that, too.

20 MEMBER JOHN: -- missing.

21 CHAIRPERSON HILL: Sure.

22 MEMBER JOHN: We didn't hear from the ANC. I
23 believe that's the only party we didn't get a response from.

24 CHAIRPERSON HILL: Okay, okay. We can do that
25 first, too, I suppose.

1 So there's a motion on -- there's a preliminary
2 matter, which is a motion to consolidate the cases. And it
3 seemed as though the property owner was -- I forget whether
4 the property owner was the one who made the motion.

5 MR. DeBEAR: Yes.

6 CHAIRPERSON HILL: Okay. And then the DCRA was
7 in favor of that. And then I wasn't clear actually whether
8 -- I thought the ANC was -- Commissioner, you're representing
9 the ANC?

10 MS. MacWOOD: Yes.

11 CHAIRPERSON HILL: And you were in favor of the
12 consolidation?

13 MS. MacWOOD: Yes, we have no objection.

14 CHAIRPERSON HILL: Okay. And then, but I wasn't
15 clear as to whether NRG was in favor of the consolidation.

16 MR. DeBEAR: I'm not going to put words in their
17 mouth, because they're not currently here --

18 CHAIRPERSON HILL: Sure.

19 MR. DeBEAR: -- which is why --

20 CHAIRPERSON HILL: Okay. Let's just --

21 MR. DeBEAR: -- I thought it might be prudent --

22 CHAIRPERSON HILL: Let's just --

23 MR. DeBEAR: -- just to skip over. But they do
24 have something in the record saying they consent in 19895.

25 CHAIRPERSON HILL: Okay. All right. Well, then

1 in that case, I don't have any -- well, to begin with, I was
2 in favor of granting the motion, because I thought that it
3 was the best use of the Board's time as well as everyone
4 else's time. So, unless the Board has any other opposition,
5 then I'll go ahead and grant that motion by consensus.

6 MEMBER JOHN: Yes.

7 CHAIRPERSON HILL: Okay. So, Mr. Moy, we're going
8 to go ahead and grant the motion to consolidate the two
9 appeals.

10 MR. MOY: Yes, sir.

11 CHAIRPERSON HILL: And we're going to -- let's
12 just see where we go. Just, if you guys, if you want to talk
13 to the Secretary in between a case and let us know where or
14 when you guys might be, then we'll just, we'll take it from
15 there.

16 MR. DeBEAR: Thank you.

17 CHAIRPERSON HILL: Okay. Thank you.

18 MR. MOY: Okay. Mr. Chairman, next up is Case
19 Application No. 19890 of Heather and Nathan Gonzalez,
20 captioned and advertised for special exceptions under
21 Subtitle E, Section 205.5 and 5201 from the rear addition
22 requirements of Subtitle E, Section 205.4 and Subtitle E,
23 Section 5201 from the lot occupancy requirements of Subtitle
24 E, Section 304.1.

25 This would construct a two-story rear addition to

1 an existing, semi-detached principal dwelling unit, RF-1
2 Zone, at 910 6th Street N.E., Square 831, Lot 39.

3 CHAIRPERSON HILL: Good morning. If you could,
4 just introduce yourselves for the record, please.

5 MR. GONZALEZ: Sure. Good morning, Mr. Chairman.
6 Nathan Gonzalez, 910 6th Street, N.E. I'm the homeowner.

7 MS. BRITTINGHAM: Good morning, Mr. Chairman and
8 members of the Board. My name is Lacy Brittingham of
9 Brittingham Architecture and architect for the project.

10 CHAIRPERSON HILL: Could you spell your last name
11 again? I'm sorry.

12 MS. BRITTINGHAM: Sure, B-R-I-T-T-I-N-G-H-A-M.

13 CHAIRPERSON HILL: Okay, great. Thank you. Ms.
14 Brittingham, are you going to be presenting to us?

15 MS. BRITTINGHAM: Yes, sir.

16 CHAIRPERSON HILL: Okay. So I guess I didn't have
17 a lot of particular questions about it, unless the Board had
18 a lot of particular questions. I mean, the real thing that
19 I wanted to kind of hear about was, again, kind of the
20 project and what you're trying to accomplish and also how
21 you're meeting the standards for us to grant the relief.

22 I guess a little bit if you could speak to the
23 ten-foot issue a little bit more, because that's something
24 that we tend to focus a little bit on, more on I should say.
25 And I'm going to put 15 minutes on the clock just so I know

1 where we are. And you can begin whenever you like.

2 MS. BRITTINGHAM: Okay. So this project is a
3 single-family, homeowner-occupied project. We are asking for
4 lot occupancy and the, not the rear yard setback, but the
5 rear yard extension past ten feet beyond the neighbor.

6 This lot is rather large at 98 feet. We are not
7 quite maxing out the 70 percent allowed lot coverage, and yet
8 we still have more than the minimum requirement for the rear
9 yard.

10 Both the lots on this side of the alley and on the
11 opposite side of the alley are all large lots of the same
12 proportion. The corner property is a surface parking lot.
13 So there is a lot of light and air in the center of this
14 block. And most of the properties have either a garage or
15 a large addition on the back of the house.

16 So we feel like we're proposing something that is
17 respectful of the neighborhood in that we are going back to
18 the limits almost of what we're allowed to do by right, not
19 by right, but with the special exception request, as opposed
20 to going up and having more impact on the street and how
21 neighbors really experience the row of homes along this
22 block.

23 Particularly, the neighbor to the north, we are
24 going more than ten feet beyond his rear wall of his house.
25 We are at 14-foot, 11, so just under 15 feet past the second

1 floor of his home. He has issued a letter of support for the
2 project. We understand that he is, possibly intends to
3 enlarge his home as well in the future.

4 So the ANC was in support of the project. The
5 church that owns the parking lot was in support of the
6 project. We have actually a number of other neighbors that
7 signed letters of support around, along 6th Street.

8 So we feel that the, there are no windows to the
9 north to view into his, the neighbor to the north's rear
10 yard. We're not really changing the experience from what is
11 currently experienced in his back yard.

12 CHAIRPERSON HILL: Okay. Does the Board have any
13 questions of the Applicant?

14 MEMBER WHITE: Just one question. You said for
15 the rear extension it was 14 feet for one of the neighbors,
16 past one of the neighbors. What about on the other side?

17 MS. BRITTINGHAM: The other side is a, just a
18 parking lot, surface parking lot.

19 MEMBER WHITE: Okay, okay.

20 MS. BRITTINGHAM: And it's 14-foot, 11 from his
21 second floor, which is, extends further back than his first
22 floor.

23 MEMBER WHITE: Okay.

24 MS. BRITTINGHAM: So it's 27 feet from his first
25 floor.

1 MEMBER WHITE: Okay. Thank you.

2 CHAIRPERSON HILL: Okay. I'm going to go ahead
3 and turn to the Office of Planning.

4 MR. MORDFIN: Good morning, Chair and members of
5 the Board. I'm Stephen Mordfin. And the Office of Planning
6 recommends approval of this application finding it in
7 conformance with the criteria for the granting of a special
8 exception and recommends approval and stands on the record.
9 Thank you.

10 CHAIRPERSON HILL: Okay. Does anybody have
11 questions for the Office of Planning? Okay. I got a
12 question. So, again, the whole ten-foot thing, like each
13 time we get here the Office of Planning kind of has a, or
14 does an analysis on the case in an individual basis. How did
15 you kind of come to the opinion that this should be granted?

16 MR. MORDFIN: Well, on this case, I think what's
17 unusual is that on one side you have a large surface parking
18 lot. And at that parking lot is I Street. And what this
19 will do I think also is, as that extension is more than ten
20 feet, it also serves to screen the rear yards to the north
21 from that parking lot and from the lights of cars that would
22 be there in the evenings.

23 And I think that that makes this a little bit
24 different from a lot of the other ones in that, in this case,
25 I think that enhances the privacy of those rear yards because

1 of the parking lot, as opposed to having other rear yards of
2 other dwellings.

3 CHAIRPERSON HILL: Okay. All right. Okay.
4 Anyone else? Okay. Does the Applicant have any questions
5 of the Office of Planning?

6 MS. BRITTINGHAM: No, sir.

7 CHAIRPERSON HILL: All right. Is there anyone
8 here who wishes to speak in support? Is there anyone here
9 who wishes to speak in opposition? Is there anything the
10 Applicant would like to add at the end?

11 MS. BRITTINGHAM: No, sir.

12 CHAIRPERSON HILL: Okay. All right. This is
13 great. All right. Okay. I'm going to go ahead and close
14 the record. Is the Board ready to deliberate?

15 (Off mic comments.)

16 CHAIRPERSON HILL: Okay. Do you want to start?

17 MEMBER JOHN: Thank you, Mr. Chairman. So I think
18 this case is fairly straightforward, even though the rear
19 yard extension does go beyond the ten-foot requirement, which
20 is by right. And we typically scrutinize these very
21 carefully.

22 However, I believe that this situation is unique,
23 because as the Office of Planning just explained, the
24 presence of the parking lot -- and I say to my left. It's
25 probably, I'm not sure whether that's east or west. But

1 looking at this diagram here, it's to the left of the house.
2 And I believe there is no impact in terms of privacy or use
3 or light and air to anyone on that side because it's a
4 parking lot.

5 And with respect to the house to my right, we're
6 only looking at a five-foot -- I don't like to say we're only
7 looking at, because it is more than allowed. But it's a
8 five-foot extension and not as I think harmful in this case,
9 because there seems to be a dog-leg of some sort that exists
10 between this house and the next house to the right.

11 So, based on the analysis, the record, and the
12 recommendation of the Office of Planning, the fact that the
13 neighbor to the right does not object, and I believe we do
14 have ANC approval, I am able to support this application.

15 MEMBER WHITE: Yeah, Mr. Chair, I can support the
16 application as well. I'm very sensitive to these rear yard
17 extensions. But I think the stars are aligned for this
18 particular case in terms of the support from the adjacent
19 neighbor to the north. There are no windows to the north as
20 well that will be impacting that neighbor.

21 The lot occupancy is also below the maximum at 68
22 percent. So, with OP's recommendation and analysis in terms
23 of how they were able to support both the lot occupancy and
24 the rear extension application, I would be in support as
25 well. And the Applicant did clarify that there was a parking

1 lot on the other side. So I think that the criteria for this
2 particular application was met for special exception.

3 ZC VICE CHAIRPERSON MILLER: Mr. Chairman, I
4 concur with my colleagues.

5 CHAIRPERSON HILL: Okay. I also agree as well and
6 concur with my colleagues. I think that they have met the
7 special exception criteria under E, 5201.3, as well as the
8 special exception criteria in general of X 901.

9 I'm going to go ahead and make a motion to approve
10 Application No. 19890, as captioned and read by the
11 Secretary, and ask for a second.

12 MEMBER JOHN: Second.

13 CHAIRPERSON HILL: Motion made and seconded. All
14 those in favor say aye.

15 (Chorus of aye.)

16 CHAIRPERSON HILL: All those opposed? The motion
17 passes, Mr. Moy.

18 MR. MOY: The staff would record the vote as four
19 to zero to one. And this is on the motion of Chairman Hill
20 to approve the application for the relief requested, seconded
21 the motion, Ms. White, also in support, or rather, Ms. John,
22 also in support, Ms. White and Mr. Robert Miller. We have
23 a Board member not present today. Motion carries four to
24 zero to one.

25 MR. GONZALEZ: Thank you.

1 CHAIRPERSON HILL: Thank you. Thank you.

2 MR. MOY: All right. Thank you, Mr. Chairman.
3 If we can have parties to the table to Case Application No.
4 19860. This is of District Properties.com, Inc., captioned
5 and advertised for special exception under the new
6 residential development requirements of Subtitle U, Section
7 4201.1 to construct a new four-unit apartment house in the
8 RA-1 Zone at premises 4613 Minnesota Avenue N.E., Square
9 5160, Lot 5.

10 And for the record, Mr. Chairman, ANC 7C filed a
11 letter last night. And that is in the case record.

12 CHAIRPERSON HILL: Okay, great. Let's go ahead
13 and start by, if you could introduce yourselves, please, from
14 my right to left.

15 MR. SIKDER: My name is Mohammed Sikder. And I'm
16 the owner of this property.

17 CHAIRPERSON HILL: Can you please spell your last
18 name for me?

19 MR. SIKDER: S-I-K-D-E-R.

20 CHAIRPERSON HILL: All right, sir. Next?

21 MR. HOLMES: Antawan Holmes, ANC 7C Chair.

22 CHAIRPERSON HILL: Is it H-O-L-M-E-S?

23 MR. HOLMES: That's correct.

24 CHAIRPERSON HILL: Okay. All right, Commissioner
25 Holmes. Great. So, Mr. Sikder, I guess you're going to

1 present to us.

2 (Off mic comments.)

3 CHAIRPERSON HILL: Okay. So I guess if you could,
4 walk us through the proposal and what you're trying to do.
5 And then if you could, again, kind of walk us through how
6 you're meeting the criteria, the special, you know, the
7 special exception criteria for us to grant this application,
8 that also is something that is clarified in the Office of
9 Planning's report if you also, you know, get a little bit
10 lost as you kind of walk through this with us.

11 I'm going to go ahead and put 15 minutes on the
12 clock so I know where we are. There's two clocks to the left
13 and the right of you.

14 And then, also, Commissioner, as a party member,
15 you'll have an opportunity to participate as a party. So
16 you'll get an opportunity to cross examine him with
17 questions, et cetera, and so forth.

18 We did get your letter. So I know that we have
19 some questions for you in terms of some of the claims I guess
20 about character is something at least I noticed in the
21 letter, so to just kind of get you thinking about that as Mr.
22 Sikder is going through his presentation.

23 So, Mr. Sikder, you can begin whenever you like.

24 MR. SIKDER: This project at Minnesota Avenue, we
25 are proposing for a four-unit apartment building. And it

1 conforms with the zoning requirements, such as side yard
2 setback, rear yard setback. For the rear yard, we are
3 proposing 32 feet and the requirement is 20 feet. And side
4 yard, also we are keeping it as a four-feet, I mean, eight-
5 feet as required.

6 And for rear area also we are providing more than
7 required for the 7.5 percent. And floor-to-area ratio we are
8 also conforming with the requirements as lot occupancy.

9 So, however, we do not require any parking in this
10 since it is only a four-unit apartment building. But it does
11 not -- I mean, still it requires a special exception because
12 a four-unit apartment building.

13 And in our opinion, that this proposal will
14 contribute to the continued improvement of the area by
15 developing on a vacant entry lot. The improvement of this
16 entry lot would be for the public good as it would remove a
17 vacant property and prevent the use of the property negative
18 purposes.

19 A special exception from BZA for new residential
20 development of this four-unit apartment building will not
21 have a negative impact on the zoning regulations and would
22 allow the property to be developed with the apartment
23 building that would be consistent with the development
24 pattern in the area.

25 That's all I have to say right now. And if you

1 have any questions, I will be able to answer.

2 CHAIRPERSON HILL: Okay. Does the Board have any
3 questions of the Applicant at this point?

4 MEMBER WHITE: Well, just the one question is, can
5 you kind of just explain again how, why you believe that your
6 project is, you know, kind of in conformity with the
7 neighborhood. Does it fit well with the character of the
8 neighborhood?

9 MR. SIKDER: I did not survey that any particular
10 -- what exactly meant, you mean the pattern is like single-
11 family versus apartment building?

12 MEMBER WHITE: Well, I mean, does it -- you know,
13 the particular project, would it kind of match well with the
14 neighborhood or is it kind of out of sync with it? Or do you
15 think it kind of conforms with the flow of the neighborhood?
16 Do you think it's going to be in harmony with the
17 neighborhood? And I'm looking at like special exception
18 criteria. Do you think it will have any kind of adverse
19 effect on that particular neighborhood?

20 MR. SIKDER: I do not see any adverse impact,
21 because there are plenty of apartments in this area. And so
22 I do not see any, it has any adverse impact. And the height-
23 wise and any other air circulation or anything else, it fully
24 conforms.

25 MEMBER WHITE: Okay. Thank you.

1 CHAIRPERSON HILL: Okay. All right. So,
2 Commissioner Holmes, so how this is going to go actually, so
3 now Mr. Sikder -- Sikder, thank you. So Mr. Sikder just had,
4 you know, I don't know, five minutes to give a presentation.
5 You'll also have five minutes to give a presentation in terms
6 of the amount of time. At this point, you can ask any
7 questions of Mr. Sikder in terms of the testimony he just
8 gave if you have any questions.

9 MR. HOLMES: Yes. So some of the questions that
10 was brought before in terms of character, again, on that
11 particular block, which is a block from the Deanwood Metro
12 station, as you go up, the majority of the houses facing on
13 the Nannie Helen, oh, I'm sorry, on the Minnesota side on
14 both sides are single-family that are two stories.

15 In the proposal that you had submitted to us,
16 yours is about three and a half stories up. And again, in
17 terms of, I think what you're saying in terms of conforming
18 to the area, you're changing up the way that the, the way
19 that it's currently structured.

20 And, I mean, honestly, we actually had your group
21 come to the Deanwood --

22 CHAIRPERSON HILL: Mr. Holmes, I'm sorry. So, I
23 mean, you'll have --

24 MR. HOLMES: You're asking me for a question.

25 CHAIRPERSON HILL: Yeah, yeah, exactly. No, I'm

1 saying I'm trying to get to what your question is.

2 MR. HOLMES: Again, the height, size, and use of
3 this property, as opposed to some of the other properties
4 that you have built in the neighborhood, why decide to do an
5 apartment now when the majority of the other ones have been
6 single-family homes on these similar lots?

7 MR. SIKDER: There are plenty of apartments in
8 this area. And also the height-wise, I do not see -- I mean,
9 there are -- yes, there are some houses two floors. There
10 are three floors also in this area. So it's not necessarily
11 that we are the only, this is the only building that has up
12 to three floors. And it has -- it is the only apartment in
13 this area, I mean, this is not the only one.

14 MR. HOLMES: No, but it's in the interior. And
15 again, all the three-story houses are the ones that you've
16 recently built --

17 CHAIRPERSON HILL: Mr. Holmes, I'm just trying to
18 get into your question. So you're asking -- I'm just trying
19 to understand the question. Your first question it seemed
20 to be saying, was backing up with Board Member White in terms
21 of did Mr. Sikder think that this was in character with the
22 neighborhood, right? That was your first question.

23 MR. HOLMES: Right.

24 CHAIRPERSON HILL: And I believe he was answering
25 yes, I assume, right? And then now your next question is

1 about, what again, why he didn't build, why he didn't want
2 to build single-family versus apartments?

3 MR. HOLMES: The single-family versus apartment,
4 because he's saying that there are other houses there that
5 are three stories. But to clarify, all the houses built
6 three stories have been the ones that District Property has
7 built. So he's justifying being able to build another three-
8 story place from all the previous ones that community didn't
9 have input in saying they did not want --

10 CHAIRPERSON HILL: I'm just trying to get to your
11 question. What are you trying to ask him?

12 MR. HOLMES: I'm trying to ask him about, one, why
13 did he build it there as opposed to -- I mean, other places
14 he's built, Sheriff Road, Eastern Avenue, he's built single-
15 family homes. Why in the --

16 CHAIRPERSON HILL: Okay. So your question --

17 MR. HOLMES: -- interior is he building multi, a
18 four-floor -- apartment when on the exterior he's been asked
19 in the past by community build the density out on the
20 exterior parts of the neighborhood not in the interior?

21 CHAIRPERSON HILL: Okay. So your question to Mr.
22 Sikder is why did you build on the interior as opposed to the
23 exterior.

24 MR. HOLMES: Um-hmm --

25 CHAIRPERSON HILL: So, Mr. Sikder --

1 MR. SIKDER: I guess he is trying to say that why
2 I'm building apartment building. So this is not, this is in
3 character. In the, there are a lot of apartments in this
4 area, not maybe, not necessarily just next to this building,
5 but there are plenty of apartments in this area.

6 And, I mean, in RA-1 Zone, it allows to have an,
7 I mean, four-apartment building. I mean, it is not totally
8 out of character.

9 CHAIRPERSON HILL: Okay. I'm not even talking
10 about the character issue, like, I mean -- so the answer it
11 seems like is he wants to, right?

12 MR. HOLMES: Yeah.

13 CHAIRPERSON HILL: And so, okay. So do you have
14 another question? Okay. All right.

15 MR. HOLMES: He's answered it.

16 CHAIRPERSON HILL: Okay. So, Commissioner Holmes,
17 why don't you go ahead and I'll give you five minutes to --
18 or you can take 10 minutes actually, because, you know, we
19 had 15 minutes but he only took 5. But you can go ahead and
20 give ten minutes to give your presentation. And you can
21 begin whenever you like.

22 MR. HOLMES: Okay. So just, I wanted to reiterate
23 what we submitted, the ANC, as well as the Deanwood Citizens
24 Association, civic association for the neighborhood in terms
25 of their concerns about this building.

1 A lot of the lots that District Properties has
2 done in the past have been single-family homes in the
3 interior of the neighborhood. And so we found it quite
4 interesting that they wanted to start doing a multi-unit in
5 the interior when there are three separate properties,
6 projects in the past that we've asked them to say, hey, why
7 don't you work to put more of that density on the exterior
8 of the neighborhood where more of the resources are located,
9 like buses, et cetera, for folks that want to move there,
10 such as 1200 Eastern Avenue, Sheriff Road, Nannie Helen
11 Burroughs in the past.

12 So, as we were explained about what the special
13 exception was to this, as did the neighborhood want to build
14 this, the neighborhood stated that they were not in favor of
15 this project.

16 CHAIRPERSON HILL: Okay. Does anyone have any
17 questions for the Commissioner? I -- a quick one. When you
18 say the interior and the exterior, I didn't -- like I'm
19 looking at the --

20 MR. HOLMES: So, if you're looking at the
21 boundaries of Deanwood, you would see that the exteriors of
22 the neighborhood would be Eastern Avenue, really the outside
23 portion of Kenilworth, coming back down through Nannie Helen
24 Burroughs, and then coming back up through Sheriff Road.

25 And the interior of the neighborhood for the most

1 part, and there are a couple of units here and there for
2 houses, of multi-units that preexisted. But in terms of the
3 majority of the houses, there are single-family, two-story,
4 A-frame homes from either 1910, 1960s when they were built.
5 And people kind of like the way that those things, the way
6 that the houses flow as constructed.

7 So, when we're talking about the exterior of the
8 neighborhood, we're talking about on those boundary lines --

9 CHAIRPERSON HILL: So you're talking about the
10 exterior of your ANC.

11 MR. HOLMES: No, the exterior of the Deanwood --

12 CHAIRPERSON HILL: Okay.

13 MR. HOLMES: -- neighborhood.

14 CHAIRPERSON HILL: Okay, okay. Well, I was just
15 looking at the plat. And I just was understanding, like
16 they're bordered by Minnesota Avenue and then Meade Street.

17 MR. HOLMES: Yes.

18 CHAIRPERSON HILL: Okay, okay. All right. Sure.

19 Does anybody else?

20 MEMBER WHITE: So just one question. What --
21 okay. So I understand you were more interested in having
22 apartments on the exterior of --

23 MR. HOLMES: Yes.

24 MEMBER WHITE: -- of Deanwood. But what adverse
25 effect does having this apartment have, you know, where he's

1 currently building it within the interior?

2 I'm just looking at the criteria for special
3 exception. So he's asking for a special exception in this
4 particular case. I think your letter actually mentioned
5 variance. But it's a special exception. So the criteria is
6 not as high for that particular relief.

7 So I just wondered if you could just give me a
8 little more color on the adverse effect that this property
9 could potentially have in your, in that area.

10 MR. HOLMES: Well, as we've known in the last
11 couple years, Deanwood has been a neighborhood that's in
12 transition. And a lot of the development that's been going
13 on, and will be, continue to go on, such as the Deanwood
14 Metro station, which will be coming down the line, is being
15 predicated on what we're always talking about, like the
16 residential characteristics to move forward some of the
17 economic development projects.

18 The Deanwood community is, the Deanwood Community
19 Citizens Association, which has over 100 years of history,
20 have prided themselves on wanting to basically make sure that
21 they are a working class neighborhood of single-family
22 homeowners.

23 So what we want to do is we want to, especially
24 in light on all of the affordable housing projects that have
25 been happening in the Deanwood area that we've been coming

1 here for, such as Deanwood Hills, such as the Strand, such
2 as the 4800, such as Providence Place, we've had a lot of
3 affordable housing projects with certain types of
4 requirements and did see occurring on the southern portion
5 of our neighborhood.

6 We want to make sure that we have an even balance
7 of development in our neighborhood. So we would like to
8 balance out all of the affordable houses that we've already
9 approved with more single-family development within the
10 neighborhood. So that's the balance we're looking for.

11 CHAIRPERSON HILL: Okay. So, Mr. Sikder, just
12 like with Mr. Holmes, or Commissioner Holmes I should say,
13 if you have any questions for the testimony that the
14 Commissioner just gave, do you have any questions?

15 MR. SIKDER: No.

16 CHAIRPERSON HILL: Okay. So I'm going to turn to
17 the Office of Planning.

18 MS. ELLIOTT: Good morning, Mr. Chairman and
19 members of the Board. I'm Brandice Elliott representing the
20 Office of Planning.

21 The Office of Planning is recommending approval
22 of the requested special exception relief. The property is
23 zoned RA-1, which is an apartment zone. Apartments are
24 permitted, as well as single-family homes, detached, attached
25 dwellings.

1 The apartment -- so the special exception is
2 essentially a design review of the proposed apartment
3 building. So what we are looking at is the site plan to make
4 sure that it's complementary to surrounding developed
5 properties. We're also looking at the design of the
6 building.

7 The Applicant did submit some architectural
8 renderings that we weren't pleased with initially. And we
9 did quite a bit of work with them over the holidays to refine
10 those. And the Applicant has incorporated a lot of the
11 elements we requested, things like different brick patterns,
12 textures, colors, and then also some decks. And so, because
13 of that, you know, we do support the design that has been
14 refined and is currently proposed.

15 I have become aware of an issue this morning with
16 a neighbor, the neighbor to the north of this property,
17 concerning the curb cut. I don't think that that's something
18 that OP is necessarily ready to comment on and redesign. But
19 I think that there probably will be some additional work that
20 needs to occur.

21 And she's here to speak. So I'll leave it up to
22 her. But it sounds like the neighbor is using the existing
23 curb cut. And so there may be some issues with that that we
24 were not aware of.

25 But other than that, I think I'll go ahead and

1 stand on the record of our report. And I'm open for any
2 questions you have.

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

5 So this issue of character comes up a lot. And
6 I find it very -- it's a big, moving target, right? And so,
7 you know, I, myself, am never really -- I shouldn't say never
8 really clear. Like sometimes, and in the past, you know, the
9 issues of character have actually tried to keep people out
10 of the neighborhood, could be kind of used as a
11 discriminatory way, right, in the past, right? So the word
12 character is pretty loaded.

13 And I was curious as to how, in your opinion,
14 this, and also just kind of your thoughts on character,
15 whatever, you know, that kind of means, but also, in your
16 opinion, how this does fit within not necessarily even the
17 criteria of character. It's more like, I guess, just, you
18 know, the special exception general criteria in terms of, you
19 know, harmony, general purpose and intent of the zoning
20 regulations. But you can speak to any of those things that
21 I just brought up.

22 MS. ELLIOTT: I love answering loaded questions.
23 Okay. So --

24 CHAIRPERSON HILL: It's early in the morning.

25 MS. ELLIOTT: So what we look at is, first of all,

1 this is an RA-1 Zone. So it's an apartment zone. It does
2 permit apartment buildings. So, in terms of use, that isn't
3 really the question. What we're looking at is site design
4 and the architectural characteristics of the building, what's
5 been proposed.

6 So this particular block does have, yes, it has
7 detached dwellings on the block. But there are also
8 institutional uses. There are variable uses. And then, as
9 you cross over Minnesota, as you travel down Minnesota and
10 cross over Meade Street, there are more apartment buildings.

11 So apartment buildings are not out of character
12 for this neighborhood. The types of materials that have been
13 incorporated into this building are not out of character.
14 We see a lot of brick. The accents used around the windows
15 are fairly typical on detached dwellings.

16 So I think in terms of character, we were in
17 agreement that it was not detracting from the existing
18 character of the neighborhood. It was actually fairly
19 consistent, fairly compatible with what's already there.

20 CHAIRPERSON HILL: Okay. I appreciate it. It's
21 still a little -- I appreciate it. Okay.

22 MS. ELLIOTT: Well, and I'm sorry --

23 CHAIRPERSON HILL: Sure.

24 MS. ELLIOTT: -- just one more thing. This
25 development does comply with all the development standards

1 in the regulation. So it is providing the required rear yard
2 and side yards and front yard. And so, you know, it is still
3 providing some open space on the lot. And it is complying
4 with height requirements. It's actually coming in under the
5 maximum height at 35-1/2 feet where 40 feet is permitted.

6 CHAIRPERSON HILL: Okay. Does the Board have any
7 other questions? Okay. Mr. Sikder, do you have any
8 questions for the Office of Planning?

9 MR. SIKDER: No.

10 CHAIRPERSON HILL: Okay. Commissioner Holmes, do
11 you have any questions for the Office of Planning?

12 MR. HOLMES: I think kind of what I was discussing
13 first, discussing earlier about the neighborhood and
14 character being loaded, one of the things that, you know, the
15 community, we want to understand then in terms of the design
16 because of how things are being identified for development
17 in this area.

18 And it's going to probably be more than just you.
19 It needs to be with DMPED as well, because these are how
20 we're getting these projects done in our neighborhood, not
21 this one per se, but in total.

22 So the question really is in terms of, yes, it is,
23 it's set up for apartment. Actually, I'm going to retract
24 my --

25 CHAIRPERSON HILL: Are you sure? Take your time.

1 I mean, you can even set the microphone on, if you're --
2 okay.

3 MR. HOLMES: That's fine --

4 CHAIRPERSON HILL: Okay. All right. I mean,
5 because it's a good opportunity to ask the Office of Planning
6 something if you have a question you have to ask them.

7 MR. HOLMES: No.

8 CHAIRPERSON HILL: Okay. All right. Okay. All
9 right. Sure. All right. Is there anyone here wishing to
10 speak in support? Is there anyone here wishing to speak in
11 opposition? If you could, please come forward. You're all
12 right. Did you get sworn in earlier?

13 MS. NEWELL: No.

14 CHAIRPERSON HILL: Okay. All right. So why don't
15 you do this? If you could just stand and take the oath,
16 which is going to be administered by the Secretary, and if
17 anybody else missed taking the oath, if you could please
18 stand and take the oath now.

19 MR. MOY: Do you solemnly swear or affirm that the
20 testimony you're about to present in this proceeding is the
21 truth, the whole truth, and nothing but the truth? Thank
22 you. You may be seated.

23 CHAIRPERSON HILL: All right. Please have a seat.
24 I see some old faces that are going to be here today. Oh my
25 gosh, this is just old school week.

1 Okay. All right. If you could, please introduce
2 yourself for the record.

3 MS. NEWELL: Hi, my name is --

4 CHAIRPERSON HILL: You need to push the button on
5 the microphone and just once. That's all right.

6 MS. NEWELL: My name is Tracy Newell. I'm --

7 CHAIRPERSON HILL: Can you spell the last name?

8 MS. NEWELL: N-E-W-E-L-L, Newell.

9 CHAIRPERSON HILL: N-E-W-E-L-L. Okay.

10 MS. NEWELL: Yes.

11 CHAIRPERSON HILL: Okay. And what's your address,
12 Ms. Newell?

13 MS. NEWELL: 4615 Minnesota Avenue, right next to
14 the property --

15 CHAIRPERSON HILL: Okay.

16 MS. NEWELL: -- that he's building on.

17 CHAIRPERSON HILL: Okay. All right. So, Ms.
18 Newell, as a member of the public, you'll get three minutes
19 to testify.

20 MS. NEWELL: Okay.

21 CHAIRPERSON HILL: So those clocks are on your
22 right and left above your head. And I think there's a clock
23 in front of you, but I never remember. Is there a clock in
24 front of you?

25 MS. NEWELL: Yes, sir. I see right --

1 CHAIRPERSON HILL: Is there one right here?

2 MS. NEWELL: Yes.

3 CHAIRPERSON HILL: Okay. All right. And you can
4 begin whenever you like.

5 MS. NEWELL: Okay. I think the apartment building
6 is not in conform with the rest of the neighborhood, the
7 three houses that set right there.

8 I've been taking care of that property for like
9 20-something years. And the curve that, right there that we
10 share for 20-some years I've been parking my car right there.
11 Now my son does it, too.

12 So I've been trying to get in contact with this,
13 the developer for months now. And for some reason, the lines
14 stay busy or, you know, he -- I don't know what it is.

15 But I don't think, right there I think that it's
16 a crime. I'm used to looking at this -- his property is so
17 close to mine.

18 First of all, I think I was misled from the start.
19 When I first bought the property, I was 20 years old coming
20 from, out of high school. And the property, the guy that
21 sold me the property -- I didn't get a survey. I had the
22 tree right there. I thought my property come over close.
23 So, when I found out he did the survey, he's right next to
24 my property.

25 So he's taking away all of my privacy. He could

1 look right, for the apartment building, looking right in my
2 house where my son at and my grandson at. I don't really
3 appreciate that. I want something -- he could try to build
4 something to block that driveway, which I tried to get the
5 property myself, you know. I guess his money was a little
6 bigger than mine. But I understand that. I mean, I can't,
7 you know, spilled milk.

8 But I don't think that, I'm trying to figure out
9 how would I get my father's car from out of there, how would
10 I stop from parking in there, which I've been doing for 20-
11 something years, keeping this property up, getting trash and
12 everything. For years I've been keeping this property up.

13 And for him to come to take away all of my
14 privacy, because I wouldn't have had no privacy when I come
15 to find out the way the property is. And it's not his fault
16 the way the property was cut up or whatever. But the
17 property line, this is his property line and this is where
18 the, my line stops.

19 That mean where my trash can and everything is at,
20 it could do away with. Where my tree at that I had for
21 years, who's going to tear that down and put the tree on my
22 property, which I thought that was my property? I had that
23 tree over 20-something years. So that's taking away
24 something that is very special to me.

25 So, when he builds this apartment building, he's

1 taking away all the privacy. So I don't agree to this at
2 all.

3 CHAIRPERSON HILL: Okay. Does anybody have any
4 questions for the witness?

5 MEMBER JOHN: So, Ms. Newell --

6 MS. NEWELL: Yes.

7 MEMBER JOHN: -- I'm having trouble figuring out
8 where the curb cut is. Is it --

9 MS. NEWELL: The curb cut is on Meade Street.

10 MEMBER JOHN: It's on Meade Street.

11 MS. NEWELL: Yes, ma'am.

12 MEMBER JOHN: And your property is right next to
13 it. So your parking, you would enter from Meade Street into
14 the rear of your house?

15 MS. NEWELL: Yes, ma'am.

16 MEMBER JOHN: Okay.

17 MS. NEWELL: The side to get to the rear.

18 MEMBER JOHN: Right, from, so, yeah, from Meade
19 Street.

20 MS. NEWELL: Yes, ma'am.

21 MEMBER JOHN: And so the curb cut is on his
22 property --

23 MS. NEWELL: Yes.

24 MEMBER JOHN: -- right now.

25 MS. NEWELL: And I thought it was a shared

1 property for years, because I've been using it for, ever
2 since I moved there.

3 MEMBER JOHN: I see. So can you explain how --
4 I see. You were just putting your car in and parking on that
5 property.

6 MS. NEWELL: Yes.

7 MEMBER JOHN: Okay. That's all.

8 CHAIRPERSON HILL: Yeah, so what I see, Ms.
9 Newell, is that, so there's a curb cut that's going onto the
10 Applicant's property with an existing concrete platform. And
11 then there's a walkway that kind of goes over to another
12 platform. So are you parking on that platform on his
13 property?

14 MS. NEWELL: Yeah, I was parking -- well, my dad's
15 car, I got to get there to get to my property, because I
16 have, that's, that concrete you see that's my property. It's
17 kind of like messed -- the way the property is going, it's
18 kind of like -- you see the concrete right there in the back
19 of my yard? Do you --

20 CHAIRPERSON HILL: I'm looking at Exhibit 42 --

21 MS. NEWELL: Okay.

22 CHAIRPERSON HILL: And I don't know -- that's all
23 right.

24 MS. NEWELL: Okay. Well, there's concrete on the
25 back of my yard. I usually, I was parking right there where

1 that fence is at. I was parking right there. Sometimes I
2 pull my father's car onto my driveway. But I would park
3 right there. Well, that's his property here. I was parking
4 right there also, because it was like three cars. My son was
5 parking there, too. So all of us couldn't get to that back.
6 So we were parking right there also. But that's the way to
7 get into the property.

8 CHAIRPERSON HILL: Okay. All right. Does anybody
9 have any further questions for the witness? Okay. Does the
10 Applicant have any questions for the witness?

11 MR. SIKDER: Not really, because I didn't
12 understand actually what she, what's her --

13 CHAIRPERSON HILL: Do you have a question or don't
14 you have a question?

15 MR. SIKDER: No, I don't have any questions.

16 CHAIRPERSON HILL: Okay. All right.
17 Commissioner, do you have any questions for the witness? You
18 just have to speak in the microphone, sorry.

19 MR. HOLMES: No.

20 CHAIRPERSON HILL: Okay. All right. Ms. Newell,
21 thank you very much. You're excused. Thank you.

22 Okay. I guess I'm going back to the Office of
23 Planning if I could, since I've lost my architect due to the
24 shutdown.

25 I guess I'm in number 42, Exhibit 42. And I'm

1 looking at where the curb cut seems to be going into an
2 existing concrete platform, and then there's a walkway and
3 another existing concrete platform. Am I to understand
4 that's the existing curb cut and that curb cut is going onto
5 the Applicant's property?

6 MS. ELLIOTT: Correct. The Applicant is showing
7 the existing condition in regards to the curb cut and the
8 concrete walkway. DDOT has indicated in their report that
9 a new curb cut permit will be required. And so that could
10 result in either the curb cut being removed entirely or the
11 curb cut being redesigned to comply with current
12 requirements. So it sounds like there may be some tweaking
13 of the curb cut regardless of, you know --

14 CHAIRPERSON HILL: And that's not under our
15 purview. That's under DDOT's purview.

16 MS. ELLIOTT: Right.

17 CHAIRPERSON HILL: And so the, there's a
18 possibility that the curb cut will be gone anyway.

19 MS. ELLIOTT: That's a possibility. And that's
20 a concern to the neighbor, because then she won't be able to
21 access the concrete pad on her property.

22 I believe, it's not showing on the Applicant's
23 drawings. But when you -- I'm looking at Google Images,
24 Google Earth. And I see the concrete pad in her yard. And
25 so that's how she's accessing her parking.

1 CHAIRPERSON HILL: Okay.

2 MS. ELLIOTT: That's the concern is that she won't
3 be able to access her parking pad.

4 CHAIRPERSON HILL: Okay. And so the neighbor in
5 opposition is accessing it through a curb cut that might be
6 changed by DDOT. But we still don't have anything to say
7 about that.

8 MS. ELLIOTT: There are no zoning requirements
9 that would impact the location or use of the curb cut.

10 CHAIRPERSON HILL: Okay, okay. Does anybody have
11 any questions?

12 MEMBER WHITE: Well, I know it's not really our
13 jurisdiction. But I would hope that, in the event the
14 application is granted, that the neighbor and the property
15 owner will work together to, you know, just to make sure that
16 there are no, that she has the ability to still park in that
17 area since she's been there a very long time.

18 And I know DDOT will probably work on these issues
19 to get a lot of them resolved. But I think it would go a
20 long way to work in harmony with the neighbor to make sure
21 she can park her car, because she has been taking care of
22 that area a very long time. And you have to respect that.
23 So that's my only comment.

24 MR. SIKDER: Yes, that would be --

25 MEMBER JOHN: I have a question for the Applicant.

1 If the curb cut goes away, is there anything in the design
2 that could be tweaked to allow the neighbor to park? I don't
3 know. I'm just asking.

4 MR. SIKDER: No, the way we designed, we bypassed
5 all the concrete pad and everything. But we plan to
6 coordinate with DDOT and whatever is -- I mean, we'll
7 definitely, we'll make sure that she will have access or some
8 -- you know, as long as DDOT allows it, we'll give the access
9 for her parking.

10 MEMBER JOHN: Appreciate that.

11 MR. SIKDER: Sure, sure.

12 MEMBER JOHN: We can't compel you to do that. But
13 thank you.

14 CHAIRPERSON HILL: Okay. Anybody else? All
15 right. Do you have anything you'd like to add in conclusion,
16 Mr. Sikder?

17 MR. SIKDER: Yes, we will coordinate with DDOT to
18 accommodate her parking as long as they agree. And we'll
19 accommodate for her access to her parking.

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

22 (Off mic comments.)

23 CHAIRPERSON HILL: Okay. I can start. I think
24 that, again, you know, what I was trying to understand was
25 the analysis that we were looking at in terms of the special

1 exception criteria. I mean, it's not a variance. Again,
2 it's a special exception criteria. And this is allowed in
3 the RA-1 Zone.

4 I was -- I'm disappointed or, you know, always
5 disappointed when the ANC is not in favor of the project.
6 However, I don't think that they don't meet the standards.
7 I mean, I think that they do meet the standards. I think
8 they meet -- again, it's a special exception. It's not a
9 variance.

10 I think that in terms of character, what I've also
11 just kind of like spoken to even when we were kind of talking
12 through with the Office of Planning, character is really kind
13 of a difficult thing to put your finger on at times.

14 And so, you know, I would agree in this case with
15 what Office of Planning was talking about in just terms of,
16 again, it being something that's allowed in that zone, a
17 matter of whether or not the materials that were being
18 selected are something that they think fits in with the
19 general harmony of the neighborhood, which is, or I should
20 say the general purpose and intent of the zoning regulations
21 and zoning maps and were not adversely, and would not tend
22 to adversely affect the use of neighborhood property in
23 accordance with the zoning regulations and zoning maps. So,
24 again, I'm looking to the special exception criteria, the
25 general special exception criteria under X 901.

1 As far as the curb cut, you know, it's kind of not
2 something that's within our purview anyway. Like DDOT's
3 going to determine what is necessary.

4 I am glad to hear that the Applicant is going to
5 do what they can to allow the property owner who has been
6 using that curb cut continued access to that. And so I would
7 hope that they do try to do their best to try to do that for
8 the property owner.

9 But other than that, I think they meet the
10 criteria. And I would be in favor of approving the
11 application. Anyone else?

12 MEMBER JOHN: Mr. Chairman, I also agree that the
13 area is zoned RA-1. And this type of development is allowed.
14 And the project meets all of the development criteria. So
15 I can support the application.

16 I also note that this lot is at the end of the
17 street and sort of is like a, you know, it sort of bounds
18 that block. So, in terms of the disruption to the flow of
19 the houses, it's an end unit now. It would be a building
20 that's at the end of the street, at the corner of Meade
21 Street and Minnesota. So, in terms of disrupting the flow,
22 I think the impact on the single-family homes would be
23 greatly reduced.

24 And the fact that the Applicant has made changes
25 at the suggestion of OP to create a more residential looking

1 building I think would lessen what could be an otherwise
2 stark looking four-unit building at the end of the street.

3 So, based on the record and the explanations of
4 the Office of Planning in terms of what constitutes a change
5 in the character of the neighborhood, I can support the
6 application.

7 I also appreciate the testimony of the Applicant
8 and the commitment to do what is appropriate and what he's
9 able to do to assist the neighbor in being able to park. So,
10 based on all of that, I appreciate the testimony of the ANC
11 Commissioner, and I can support the application.

12 MEMBER WHITE: Mr. Chair, yes, I looked very
13 closely at the criteria. And I respect the, you know, the
14 testimony that came from Commissioner Holmes and also Ms.
15 Tracy Newell in terms of, you know, wanting to have something
16 in their area, you know, that was compatible.

17 But looking strictly at the standards, I think
18 they, as my colleagues have said, I think they, the
19 developer, the Applicant did comply with the development
20 standards according to the Office of Planning. And they're
21 making, you're making best efforts to create a look and feel
22 that meshes well with the neighborhood.

23 And I am a little bit more comfortable now that
24 you're going to work very closely with DDOT and also with the
25 neighbor to make sure that Ms. Tracy Newell can access her

1 property. I think that's very important, even though it's
2 not within our specific jurisdiction. But I think for you
3 that will obviously go a long way. So I can support the
4 application for District Properties.com, Inc.

5 ZC VICE CHAIRPERSON MILLER: Thank you, Mr.
6 Chairman. I concur with my colleagues.

7 CHAIRPERSON HILL: Okay. And also, you know, I
8 do appreciate the ANC Commissioners coming down, you know,
9 to take your time to come down here. And it's really,
10 believe me, I mean, as one who, also this is a volunteer
11 position, you know, realizes how much time. And I'm sorry
12 that we weren't able to see in your direction this time
13 around.

14 So I'm going to go ahead and make a motion to
15 approve Application No. 19860, as captioned and read by the
16 Secretary, and ask for a second.

17 MEMBER JOHN: Second.

18 CHAIRPERSON HILL: Motion made and seconded. All
19 those in favor say aye.

20 (Chorus of aye.)

21 CHAIRPERSON HILL: All those opposed? The motion
22 passes, Mr. Moy.

23 MR. MOY: The staff would record the vote as four
24 to zero to one. This is on the motion of Chairman Hill to
25 approve the application for the relief requested. Seconded

1 the motion is Ms. White, also in support, Ms. John and Mr.
2 Robert Miller. We have a Board member not present today.
3 The motion carries.

4 CHAIRPERSON HILL: Great. Thank you. Thank you
5 very much, gentlemen.

6 And I guess we're going to actually take a quick
7 break. However, I think -- is the appeal ready, people? We
8 don't know? Okay. So I'm going to let the Secretary -- if
9 somebody could talk to the Secretary at the break and let him
10 know whether or not the appeal application is ready to be
11 heard.

12 And we're going to take a quick ten-minute break.
13 Thank you.

14 (Whereupon, the above-entitled matter went off the
15 record at 10:57 a.m. and resumed at 11:16 a.m.)

16 CHAIRPERSON HILL: All right, Mr. Moy, ready?

17 MR. MOY: Thank you, Mr. Chairman.

18 CHAIRPERSON HILL: Let's just keep chugging down
19 through the agenda, okay?

20 MR. MOY: Agreed. The Board is back in session
21 and it is approximately 11:16. 11:16, that's pretty exact.
22 Okay.

23 Anyway, so, if we can have parties to the table
24 to Case Application Number 19866 of Serengeti, LLC?

25 This application, Mr. Chairman, has been amended

1 for special exceptions under the inclusionary zoning bonus
2 density requirements of Subtitle C, Section 1001.2(e)(3) and
3 under the new residential development requirements of
4 Subtitle U, Section 421.1 and pursuant to Subtitle X, Chapter
5 10, for a variance from the side yard requirements of
6 Subtitle F, Sections 306.2 and 306.3, to construct a new,
7 three-unit apartment house RA-1 Zone. This is at 1637 V
8 Street Southeast, Square 5778, Lot 165.

9 CHAIRPERSON HILL: Okay. All right, if you could
10 please introduce yourselves from my right to left.

11 MR. PRESTWOOD: Well, good morning, Chairman. I'm
12 Troy Prestwood, Chairman of ANC 8A.

13 MS. AGYEI: Dorcas Agyei, newly elected
14 commissioner of SMD 805 and this project was located there.

15 CHAIRPERSON HILL: Could you spell your last name
16 of us please?

17 MS. AGYEI: A, as in apple, G, as in George, Y-E-
18 I.

19 CHAIRPERSON HILL: And you would think I know how
20 to pronounce it by now, could you pronounce it for me?

21 MS. AGYEI: Agyei.

22 CHAIRPERSON HILL: Agyei. Well, Commissioner
23 Agyei, congratulations.

24 MS. AGYEI: Thank you.

25 CHAIRPERSON HILL: Welcome to the club.

1 MS. AGYEI: I know.

2 CHAIRPERSON HILL: That's great. Look at that.

3 MS. AGYEI: Careful what you ask for.

4 CHAIRPERSON HILL: That's right, careful what you
5 ask for. Yes, that's absolutely true. Sir?

6 MR. SLIWKA: Paul Sliwka, president of Serengeti
7 Development and the owner of the project.

8 MR. BLAKE: Michael Blake, principle of DC
9 Architecture.

10 CHAIRPERSON HILL: Okay. Mr. Blake, are you going
11 to be presenting?

12 MR. BLAKE: Yes.

13 CHAIRPERSON HILL: Okay. Mr. Sliwka, if you could
14 turn off that mic? I can only have one mic on at a time
15 otherwise I get feedback.

16 Okay, so -- okay, Mr. Blake, why don't you go
17 ahead and walk us through your proposal, your project, and
18 what you're trying to do. And specifically, if you could
19 speak to the special exception criteria as well as the
20 variance test and the, you know, just whatever. The
21 standards with which we're using to review whether or not to
22 approve or deny this project.

23 I'm going to go ahead and put 15 minutes on the
24 clock, just so I know where we are. And as the Commissioners
25 know, you guys will get an opportunity to participate as

1 parties.

2 And so you'll have an opportunity, I don't know
3 if you were here earlier but I know you've been here before,
4 that you'll go ahead and have the same amount of time to
5 participate, I'm sorry, to present. You'll also have an
6 opportunity to ask questions of the Applicant, the Office of
7 Planning, et cetera and so forth.

8 And so we'll just kind of work through that
9 together. So, Mr. Blake, you can go ahead and begin whenever
10 you like.

11 MR. BLAKE: Okay, thank you. This project
12 proposes to construct a new three-story, three-unit apartment
13 building on a currently vacant lot.

14 The proposed designed is a multi-dwelling unit
15 structure that conforms to the height density and area
16 requirements of the RA-1 zone. While every site presents
17 unique challenges and opportunities, it was clear from the
18 beginning of the design process that this building would be
19 heavily influenced by the irregular shape of the lot and the
20 development regulations within a RA-1 zone.

21 The design respects the intent of the zone
22 regulations as much as possible, maintaining the by-right lot
23 occupancy and floor area ratio. However, with only 26 feet
24 of street frontage, we concluded that it is not possible to
25 achieve a functional by-right buildable area with the

1 required two, eight foot side yards at backs.

2 In fact, we found that with a ten foot wide
3 building footprint, it is not possible to design a
4 functioning housing unit that complies with D.C. construction
5 codes requirements for minimum egress components and
6 habitable room dimensions.

7 Relief from the side yard setbacks is necessary
8 because of the narrowness of the lot and its adjacency to a
9 public alley and a vacant lot that is current being offered
10 as part of a solicitation by the Department of Housing and
11 Community Development. Which precludes the design from
12 taking advantage of a common division wall with an existing
13 building or a building being constructed together with a new
14 building.

15 In an effort to maximize the livable space, the
16 design utilizes a single exterior stair that does not count
17 towards the gross building area.

18 We developed several massing options locating the
19 exterior stair ten feet from the property line as required
20 by D.C. construction code, and studied the impact of their
21 location on the site.

22 By positioning the exterior stair on the west side
23 of the lot, we are able to incorporate a side entry yard that
24 creates a semi-private space for residents, consolidate
25 circulation while allowing access from both the sidewalk and

1 rear yard parking area. And utilizes space to define the
2 public private order of the site.

3 Okay. The relief that we are requesting, first,
4 is just to do a residential development in a RA-1 zone. We
5 are also asking for the variances for the side yard setbacks.
6 Two of them.

7 One for having a side yard, a setback that is less
8 than eight feet and one for having no setback at all on the
9 alley side of the lot. And after working with the ANC and
10 Office of Planning, we also added an inclusionary, an
11 inclusionary zoning unit in the building to make this a
12 inclusionary project.

13 The block already has several two-unit flats and
14 multi-family apartment buildings. As you can see here, here
15 is our subject property and the vacant lot next to it. Rear
16 alley on the, I'm sorry, the side alley on the east side.

17 Because we expect the proposed text amendment of
18 ZC Number 1723 to allow lot line to lot line with buildings
19 in the RA-1 zone, our design also anticipates that there will
20 be a 40 foot tall, which is the maximum height allowable
21 building, right on our property line to the west.

22 The proposed designed is 35 foot 2 inches and
23 three stories tall, which conforms with the zoning
24 regulations. And the lot occupancy is 40 percent with an FAR
25 of 1.03, which also conforms to the zoning regulations for

1 an inclusionary zoning project.

2 This diagram here explains the difficulties in
3 working with a by-right building footprint here. As you can
4 see, with two, eight foot side yard setbacks, we would limit
5 it to ten feet for the majority of the site and then just a
6 sliver towards the rear of this site.

7 So, what we were proposing is a U-shape building
8 with one, five foot six inch side yard setback on the west
9 side and a zero foot setback on the rear alley side, which
10 is a 15 foot wide alley.

11 As a part of the project strategy to meet the GAR
12 requirements, the property will utilize permeability
13 hardscapes, nature ground cover and planning to minimize
14 storm water runoff and heat island effect. A decorative
15 garden displaying the native plant species along V Street
16 Southeast sidewalk will welcome resident's home and beautify
17 the street scape for the community.

18 The side entry yard features elongated permeably
19 concrete pavers with a modern aesthetic that compliments the
20 building and reaches out to the public sidewalk.

21 The parking area will also be permeable employing
22 a gravel lock system to support vehicular traffic with as
23 light of a touch as possible.

24 Finally, a lawn at the rear of the property will
25 provide a recreational space for residents. And these are

1 the exterior elevations.

2 So, in addition to establishing the identity of
3 a building, exterior wall assemblies provide the first line
4 of defense against the elements and play a crucial role in
5 occupant safety and comfort. The proposed exterior wall
6 system was carefully selected with consideration of fire
7 safety and energy performance requirements, with
8 constructability, durability and aesthetics.

9 As is typical for urban construction where
10 structures are in close proximity to each other, the exterior
11 walls of the proposed building must provide a one hour fire
12 rating. In addition, the construction code requires walls
13 to have a minimal thermal resistance of R9.5 for mass walls
14 and R20 for wood frame walls.

15 The wall assemblies we're recommending for this
16 project utilize a two by six stud wall, fiberglass bat
17 insulation and proprietary sheeting to provide an R20 one
18 hour fire rated wall with a width of six and 9/16th inches.

19 While there are numerous exterior wall systems
20 that can satisfy this performance requirements, the selected
21 system results in a thin wall assembly that preserves the
22 limited allowable building area on this site for livable
23 interior space.

24 Finally, the availability of the material and
25 familiarity of the construction technic makes this exterior

1 wall assembly an appropriate selection for this project,
2 which aims to provide an accessible price housing option to
3 the Anacostia Neighborhood.

4 The design utilizes large format panels to
5 minimize the scale of the building and six inch plank siding
6 to provide texture to the exterior walls.

7 The buildings adjacency to a public alley allows
8 for a discrete location of exhaust and intake air terminals,
9 which will be pre-finished to match the cladding and blend
10 into the facade.

11 Finally, the clean lines of the aluminum windows
12 and extruded aluminum reveals, reinforces a sense of
13 modernity and quality that will define this buildings
14 presence in Anacostia's built environment.

15 The units are two bed, two bath units. The
16 interior living areas are organized around the side entry
17 yard with large windows and balconies overlooking the
18 exterior space and reinforcing its role as a communal amenity
19 for the residents of the building.

20 As I mentioned, we are anticipating a 40 foot tall
21 building that will be built on the lot line if the proposed
22 amendment takes place, which it sounds like it will.

23 In the meantime, we have a retaining wall on this
24 side, which from a majority, because of the difference in
25 grade with the adjacent vacant lot, first of all, it's a

1 necessary retaining wall and with a seven foot maximum
2 height, it will only be, it will be less than four feet tall
3 along majority of the side courtyard.

4 This is just on axonometric views. And as
5 mentioned, will be making one of the units an inclusionary
6 zoning unit, which allowed us to take advantage of the bonus
7 density. And also was in response to a request from the ANC
8 to include an inclusionary zoning unit. And that's all.

9 CHAIRPERSON HILL: Does the Board have any
10 questions.

11 MEMBER WHITE: Which unit is the IZ unit?

12 MR. BLAKE: It will be the lower unit. The ground
13 floor unit.

14 MEMBER WHITE: Okay. Okay. And could you just
15 walk me through, just quickly, just so I'm clear on why, how
16 you meet the standard for the side yard relief for the
17 variance test?

18 How you're meeting it, why you need that relief.
19 Why, I believe that, let's see. Yes, if you could just walk
20 me through that in terms of why, eight feet is required and
21 you're proposing five feet and I think seven and a half feet.

22 MR. BLAKE: Yes, you're correct, eight foot is
23 required on each side under the current regulations. We are
24 proposing a five foot, seven inch setback on the side and to
25 build right up to the alley, the lot line on the alley, on

1 the east side of the property.

2 That was a change that we made after working with
3 the Office of Planning. And they actually suggested that
4 they would prefer if the building went directly up to the lot
5 line as opposed to having, we were originally just having a
6 small side yard setback just to have a setback and try to
7 respect the regulations as much as possible.

8 But, at a certain point, once we introduced the
9 inclusionary zoning unit and got some bonus, the bonus
10 density, in modifying the design it made sense just to push
11 that all the way to the alley lot line. Which, the nice
12 thing about being next to the alley is that we still have the
13 effect of allowing air and light on that side of the building
14 because we've got a 15 foot alley that's going to be there
15 permanently.

16 MEMBER WHITE: So, the lot was just very narrow
17 and you're needing that relief in order to build this
18 project?

19 MR. BLAKE: That's correct. And if you look at
20 the diagram that's on the screen here, this top site plan is
21 the by-right building footprint.

22 And here you can see where if we had two, eight
23 foot side yard setbacks, we would be limited to ten feet.
24 For a multi-family project, we need, taking into account the
25 width of the exterior walls, the interior partitions, we need

1 three foot minimum for, clear for egress, we need seven foot
2 minimum for habitable rooms.

3 So, you can see how that doesn't really work with
4 a ten foot outside face of building, outside face dimension.

5 MEMBER WHITE: Thank you.

6 MEMBER JOHN: I have one question, Mr. Chairman,
7 maybe more. Can you walk us through access to the apartments
8 because that's a question I believe OP had? Thank you.

9 MR. BLAKE: So, the design anticipates an approach
10 to the building that's from both the sidewalk on V Street and
11 also parking at the rear of the lot. Which is one of the
12 driving factors of that side entry lot.

13 If we wanted to provide parking, even though it's
14 not required, we wanted to provide some parking. And if we
15 had just an entry on the front, someone that's coming from
16 their car would have to walk all the way around the building.
17 If this were a lot line to lot line building for example.

18 If we had it in the rear, somebody from the
19 sidewalk would have to walk around the alley and go all the
20 way to the back. So, the side courtyard is meant to
21 consolidate all of that and provide really, you enter the
22 property here at this gate, at the parking lot, and this gate
23 here at the sidewalk. And then you're in your communal space
24 for the building.

25 So, depending on which way you enter the building,

1 either way you end up in the side courtyard. We have that
2 single exterior metal stair where the first floor unit is
3 accessible directly from grade of that courtyard and the
4 upper units. You'll go up these switchback stairs to enter
5 into the main door, which is right where this mouse says.

6 MEMBER JOHN: Did you consider a brick veneer at
7 any point?

8 And could you explain the difference between what
9 you have chosen and what a brick veneer would like look or
10 do for the look and the feel of the building?

11 MR. BLAKE: Yes. And with the latest iteration
12 of the drawings, which again, we had a lot of back and forth
13 with Office of Planning over the holidays and with the input
14 from the ANC, we did introduce some brick into the main V
15 Street facade.

16 So, the building always had this projection, which
17 is meant to be the main kind of statement reaching out to the
18 sidewalk, and we've made that brick in an effort to match the
19 texture that the ANC has requested. And the Office of
20 Planning commented on as well.

21 I will, in the plans you can see, I'm not sure if
22 I can figure out how to zoom in, but I think it's worth
23 noting, because I did speak about the difference in the
24 construction of these walls and we are dealing with a very
25 limited building area here, I'm sorry, I don't know where I

1 can zoom in.

2 There we go. You can just visually see here the
3 difference in thickness of a wall that will comply with the
4 construction code, the energy code requirements, of a brick
5 rainscreen wall, brick veneer wall, versus the wood stud and
6 fiber cement cladding system that we are proposing.

7 MEMBER JOHN: And, I'm not good at math, how many
8 inches would that add to the building or takeaway from the
9 building space?

10 MR. BLAKE: I can tell you in one second. So, the
11 system that we're proposing is six and 9/16th inches. The
12 brick veneer wall, that would be basically one foot. So,
13 you're talking about five inches and change around the entire
14 perimeter of the building.

15 I haven't done the calculations to figure out what
16 that would mean towards the buildable area, but it's
17 basically double the thickness of the width of the wall.

18 MEMBER JOHN: Okay, thank you.

19 ZC VICE CHAIRPERSON MILLER: Thank you, Mr.
20 Chairman. I was going to ask about the brick as well so
21 that's been, because that was a concern of the ANC.

22 The other concern they had, and I think was about
23 the venting, could you comment on that?

24 MR. BLAKE: Yes. There was a comment about the,
25 wanting to avoid having just, I believe it was dryer vents

1 and things like that, just on the facade of the building.
2 You know, certainly a sensitivity to the kind of impact that
3 it can have on the quality of the, the look of the building.

4 So, with the cladding system that we're proposing,
5 the nice thing about it is we can also get pre-finished
6 vents, caps, covers, anything we need to put on that facade
7 to make them disappear.

8 Some things will vent up to the roof, plumbing for
9 example, that will go up to the roof. But we also will plan
10 to take advantage of the alley, the adjacent alley lot
11 location, to exhaust dryers and the various kinds of intakes,
12 air intake and outtake that we need to have in the building.

13 But we are, we appreciate the sensitivity to that,
14 wanting to avoid the look of plastic on the walls, on the
15 exterior walls, and will specify a material that maintains
16 the quality of the design.

17 ZC VICE CHAIRPERSON MILLER: Thank you.

18 CHAIRPERSON HILL: Okay, great. So, Commissioner
19 Prestwood and Agyei, are you guys, I didn't get it, are you
20 guys both from the same ANC?

21 MR. PRESTWOOD: Yes.

22 CHAIRPERSON HILL: Okay. And you're the Chairman
23 and then you're the SMD?

24 MR. PRESTWOOD: Yes.

25 CHAIRPERSON HILL: Okay. So, just in terms of the

1 presentation, you'll have the same amount of time as the
2 Applicant to do your presentation.

3 But at this point, do you have any questions,
4 either one of you, and we can go through them as you want,
5 do you have any questions for the Applicant concerning the
6 testimony that he just gave?

7 MR. PRESTWOOD: I do, thank you. First question,
8 just on your last statement, which was that you said some
9 things will vent to the roof, I just want to be very clear
10 about what those things are. I know you said such as
11 plumbing. Is that the only thing or what else are you
12 considering that will vent to the roof?

13 MR. BLAKE: Yes, so I imagine the vents for the
14 plumbing will go up to the roof. That, I'm just kind of
15 thinking to the mechanical design here, but probably
16 everything else will, the air intakes and the outtakes, just
17 to minimize the runs, and we do have the alley directly
18 adjacent, will vent directly into the alley.

19 Yes. And we do, as you can see in the axons here,
20 we are planning to use heat pumps, one for each unit, which
21 will be located on the roof as well. They'll be below the
22 four foot maximum height allowed.

23 So, that's not exhaust or venting or anything like
24 that. There will be line sets that go up to those units, but
25 nothing that will be visible from the street.

1 MR. PRESTWOOD: And then you also said that you
2 will, you're looking to evaluate the type of materials that
3 you're going to use for those caps, or do you already know
4 what they will be?

5 MR. BLAKE: We already know what they will be.
6 So, we would like to use hardie panel for the cladding and
7 hardie siding. They're entire fiber cement line.

8 And the nice thing about that, it's an extremely
9 durable product. It will look good for years. There is a
10 fade, a warranty against the color fading of the building.

11 And they also have several different accessories
12 that go along with their line. So, they are pre-finished
13 colors that we will be selecting from. You can also choose
14 pre-finished accessories to match that.

15 So, we're not necessarily evaluating that, it will
16 be something from that family of products to match the
17 cladding.

18 MR. PRESTWOOD: I only have two more quick
19 questions. During a meeting that we had with the Applicant,
20 it was not determined at that time if these would be
21 apartments or condos, has that been, and has there since
22 been, has there been a determination of what they will be?

23 MR. SLIWKA: Yes, thanks for that. Nice to see
24 you, Happy New Year.

25 MR. PRESTWOOD: Happy New Year.

1 MR. SLIWKA: I believe that they're going to be
2 created as three condos with Units 2 and 3 to be for sale
3 units and Unit 1 to be retained as a rental under the
4 inclusionary zone pricing that you saw earlier on one of the
5 exhibits.

6 MR. PRESTWOOD: Do you not, you don't want to sell
7 that at a reduced rate to a resident that might benefit from
8 having a lower rate of a condo?

9 MR. SLIWKA: Well, there's folks in Anacostia that
10 rent and there's folks that buy.

11 MR. PRESTWOOD: Right.

12 MR. SLIWKA: And this building, it's a three-unit
13 building. So, 66.66 percent of the owners of this building
14 will own in Anacostia and .333 will have the opportunity to
15 rent. And maybe save up for a purchase later on in their
16 life.

17 I'm a person who owns properties that I sell and
18 sometimes I build properties that I rent. I mean, it has yet
19 to be determined. My inclination at this point is to retain
20 ownership of the inclusionary unit and use it as a rental
21 property. That's basically a business decision. And also,
22 I think I'm serving the community in a reasonable way.

23 MR. PRESTWOOD: My final question is about the
24 retaining wall. If you could go, I don't know if you're able
25 to slide back to it yet. Oh, well that one. The one after.

1 Okay. In your testimony earlier you said that,
2 according to the new regs that, essentially the property
3 beside it will build up to its property line as well, which
4 would be that wall.

5 Are you, in terms of the future, because I know
6 there's a bit of a fence right there that you added, we do
7 appreciate at least that much, on that wall, so you cut the
8 wall down, I'm not sure about how much, but right in front
9 where the gate is and you added this fence here for, so
10 people can see.

11 But, if you have a property that's coming that's
12 going to be up to that retaining wall, my question is, what
13 then will you do with that fence, and then also with this
14 wall? Will you still need it, and if you don't, will you
15 remove it?

16 MR. BLAKE: Well, and first of all, I believe it's
17 still under consideration whether or not that eight foot lot
18 line setback is going to go away or not, so we don't know
19 that for sure, but it sounded like that's the direction it
20 was going. Which is why we kind of anticipate that with the
21 fenestration on the elevation that would be facing that
22 hardie wall.

23 The wall, you know, I don't foresee it as
24 something that we would take away in the future. I wanted
25 to show this section, again, just to highlight the fact that

1 that, for a majority of that, the distance of that wall, it
2 will be less than four feet tall. And we plan on putting
3 plantings, vegetation, a vegetation strip along the base of
4 that wall and introducing some landscape lighting elements.

5 So, it will really be a feature of that side
6 courtyard. And we can't necessarily control what's going to
7 happen on the adjacent property.

8 MR. PRESTWOOD: Okay.

9 MR. BLAKE: Especially with the uncertainty of
10 whether or not that setback will go away. So, our approach
11 is to plan for it as much as possible in our design. And
12 we're trying to make it a feature as much as possible so that
13 if there is a building that's directly abutting it, there's
14 still a reason for that wall there, which will be to serve
15 as a landscape element.

16 MR. PRESTWOOD: And Commissioner John said that,
17 in your testimony to Commissioner John you said that the
18 first unit, I think it was Commissioner John, that the first
19 unit will be, well, the first unit on the first floor rather,
20 is simply at grade. Is there not a step into that unit like,
21 so that there's not a backup of water from a storm, anything
22 like that? Like, how does that work?

23 MR. BLAKE: Yes, there will be a two inch, three
24 inch step up into the unit.

25 MR. PRESTWOOD: Okay.

1 MR. BLAKE: We don't want to have water coming in
2 through the door. So that would, you know, all I meant by
3 saying that's a grade is that you don't have to go up the
4 stairs to get into that unit.

5 MR. PRESTWOOD: Thank you.

6 CHAIRPERSON HILL: Thanks, Chairman. Commissioner
7 Agyei.

8 MS. AGYEI: Just to kind of reiterate what the
9 Chair has said, we did have concerns about what would happen
10 to that wall if the new owner did build up to it. And they
11 had been trying to get in contact with the owner.

12 Are you all still going to make those efforts or
13 is this kind of where you're going to stand on this is how
14 you're proceeding, just in case that does happen?

15 Because, essentially, our concern with retaining,
16 removing some of the wall structure from that wall and adding
17 on the gate was to allow for light and air, which will kind
18 of be null and void, which we kind of discussed earlier, if
19 that wall does go up.

20 MR. SLIWKA: I think we struggled with the
21 possibility of building on that lot. That lot is owned by
22 D.C. and they have it out for bid for a project.

23 It's hard to look into the future and see what's
24 going to be created in a neighborhood, but unlike a lot of
25 developers, I actually try to do that.

1 So, when we designed this building, and we looked
2 at about eight or ten different iterations of being able to
3 provide the staircase access and some sense of privacy and
4 security, and at the same time, a sense of community, we also
5 realized that there might in the future, and we don't know
6 how long in the future, years, two years, five years. And
7 also, to a degree, controlled by you all hopefully.

8 So that if a development is proposed for that,
9 you'll have some input, along with our new neighbors here at
10 1637 V Street, which will be obviously concerned about that.

11 So, we took some windows away from the side, we
12 tried to face the living room and public spaces out to the
13 street, tried to face the bedrooms out to the backyard
14 parking and to the side. The only windows that you see that
15 would potentially be close to a new building, are in the
16 bathrooms.

17 I do like to put windows in my bathrooms, that's
18 one of my things. I like a little natural light everywhere
19 I can get it.

20 So, having said all that, I can't, I've tried to
21 reach out. I made a FOIA request to the District of
22 Columbia, who told me who the person who had been granted the
23 development rights where. When I contacted him he said that
24 was an incorrect, incorrectly provided information.

25 I learned, I believe at the ANC meeting, that that

1 property still hadn't been granted yet. So there is a lot
2 of unknowns as to what's going to happen on that lot.

3 But we got to go forward. And I think that what
4 we've done here with the recessed courtyard, which is only
5 35 feet high, or potentially even less at that point, allows
6 enough light and air, enough privacy and enough sense of
7 community that I think this is going to be a successful
8 building in your neighborhood.

9 MS. AGYEI: And while I definitely do like the
10 changes that have been presented, this is the first time that
11 I am seeing the new feature of the facade of the brick. I
12 don't know --

13 MR. PRESTWOOD: Yes, I don't know if this is the
14 appropriate time talk more about our testimony, I mean, our
15 views --

16 CHAIRPERSON HILL: Yes, we can get to it.

17 MR. PRESTWOOD: -- on that.

18 CHAIRPERSON HILL: We can get to it. We'll go
19 like, and I think we're going to have some further discussion
20 about it and then you're going to have an opportunity to
21 present.

22 Do you have any more questions for them?

23 MS. AGYEI: No, I don't.

24 CHAIRPERSON HILL: Okay, great. All right. Well,
25 good. Yes, Commissioner Agyei, this is great. You're a

1 Commissioner now. So, okay, I'm just excited that you're a
2 Commissioner now.

3 And so, let's see. You'll both have 15 minutes
4 to present. However you'd like to split up that time. And
5 you can begin whenever you like.

6 MR. PRESTWOOD: Thank you again, Chairman. So,
7 ANC 8A, on December 4th, we voted to, December 4th, 2018, we
8 voted to support BZA Application 19866 with conditions.

9 And those conditions, essentially, were regarding
10 the design. And I do appreciate the Commissions, that the
11 fact that you brought that up because that does remain a
12 design. An issue rather.

13 I did hear the Chairman say earlier, how do you
14 define character. And because that's a loaded question. And
15 for me, at least, I look at character like a play. I think
16 of, like my favorite musical right now is Hamilton. And so,
17 you look at the musical and everyone has a role to play,
18 right, to bring this story to life.

19 And so, I look at character in a neighborhood very
20 similarly. Each building has a role to play to tell the
21 story, to bring the block alive, to tell its story, right.
22 And so, that's how I judge character.

23 And I think in this case, this building still is
24 out of character with what surrounds it. It is all brick in
25 that neighborhood. And there is, I mean, there is no

1 property on that street that uses, what is it called, fiber
2 cement panels, fiber cement horizontal siding.

3 And while we do appreciate the addition of some
4 brick, additional brick here, we don't believe it goes far
5 enough. I mean, you're asking, first of all, you're moving
6 this building closer to the sidewalk, which if, there's
7 another example that shows the distance that the other
8 buildings are setback further, and so the fact that you're
9 bringing this building closer to the street, it is going to
10 stand out like a sore thumb with this type of building
11 material.

12 And so, it was our recommendation to the
13 Applicant, that they include more brick. And while they did
14 make an attempt here, and we do appreciate that, I want to
15 go on record saying we appreciate that, I think they can go
16 further.

17 So that they can fit in and tell the story of this
18 community here. It is, again, they're mostly, we're not
19 really against the fact that they want to go taller, that's
20 allowable. They want to maximize the lot, that's allowable.

21 But we do have a, you know, if you're asking for
22 a variance and exceptions, than what we're asking for is,
23 well, can you at least meet the community where we are, in
24 terms of, okay, let's put something here that's going to look
25 great for years to come, that will fit in to the character

1 of the neighborhood that has harmony with the other buildings
2 there to some degree so that it doesn't just stand out as a
3 modern three-story building, which is what it does, at least
4 at this time.

5 What we're asking is that the, and we do
6 appreciate the fact that the Applicant is addressing how the
7 building will be vented, and that I want to go on the record
8 saying we did talk about inclusionary zoning with the
9 Applicant and they did include, and so we do also appreciate
10 that as well, we want the building to move forward.

11 But we do think that, when we talked to our
12 neighbors here, and Commissioner Agyei can go deeper on that,
13 when we talked to our neighbors, one of the things they're
14 asking for is, can we have a building that looks like it
15 belongs on the block. So, it plays the character, it plays
16 a character in telling the story.

17 I also want to mention very quickly about what the
18 Office of Planning proposed and their recommendations. And
19 while we do appreciate one of their suggestions, which is to,
20 if you could go back, I think to the diagram from the top
21 that showed where the parking and the, yes, that one there,
22 we do appreciate one of their recommendations, which is to
23 flip the green space, to put that closer to the building and
24 to move the parking, I guess essentially in its place, we
25 actually do like that idea.

1 We had discussed that at one point with the
2 Applicant. And so, we do appreciate their recommendation.

3 However, we are quite confused that they did not
4 speak to the fact that this building stands out like a sore
5 thumb in our community. And so, I'm sure they get a chance
6 to answer that question. But that's all I have in terms of
7 where we are.

8 Again, 8A, ANC 8A, we provided conditional support
9 for this project, but we do want the Applicant to continue
10 to work with their neighbors and with the ANC on this design.
11 Thank you.

12 CHAIRPERSON HILL: Thank you.

13 MS. AGYEI: I did have an opportunity to speak to
14 some of the residents closest to the, what would be the new
15 apartment, and they are excited for there to be development.

16 And I think that the struggle with a lot of
17 residents are that we want new development in our community
18 but we don't want folks to come to our community and build
19 what they can for it elsewhere, but then we're in the
20 neighborhood, their property looks like it's a property from
21 northwest that's been moved to southeast and doesn't
22 necessarily fit the surrounding features of the homes.

23 And I'm not saying that everything needs to be
24 cloned, but that's kind of a lot of the feedback that I got
25 from the residents. Oh, is it going to be too tall, is it

1 going to look like ours, what features are they going to
2 have, is it going to be brick, is it going to look historic.

3 And even though I think that right now they're
4 right outside of the historic district, so they don't have
5 to conform to some of the historic characteristics that they
6 would have if they were further in, but that's just kind of
7 one of the feedbacks that I'm getting from people.

8 So, it's like they welcome the development, but
9 they don't want to feel as if corners are being cut as far
10 as the design. And I know that that's not something that you
11 all can necessarily speak to, but that's what we looked at
12 when we were granting the removal of the side yard, since it
13 is going to be set by the alley.

14 MR. PRESTWOOD: And if I could add just one quick
15 thing, which is that we also appreciate the constraints that
16 the Applicant is under in trying to build this property here.

17 MS. AGYEI: Definitely.

18 MR. PRESTWOOD: It is very narrow. And you
19 basically, I don't know how they were able to do it, but they
20 put together, I think, something that could work there. But
21 the design of that building is still a bit of a sticking
22 point for us.

23 MS. AGYEI: But I definitely want to appreciate
24 the thickness, and to your point that if you do go brick that
25 you lose some of the work ability room. So, I am conscious

1 of that. But, to the extent that you could, obviously I
2 don't want to make this a cumbersome process where it's
3 financially unfeasible, but that that is things that I've
4 got, feedback from the community.

5 CHAIRPERSON HILL: Okay, great. Thank you,
6 Commissioners. Does the Board have questions of the ANCs?
7 Oh, okay. I've got questions. Or just a couple comments I
8 supposed.

9 It sounds like, I mean, both of you have been
10 before us, first time Commissioner Agyei you're here as a
11 Commissioner, but, and the fact that the last time I remember
12 that you were here, it was kind of a similar discussion in
13 terms of materials that we had. Or it was a part of the
14 discussion I think at least, if I recall correctly. Just one
15 part of it.

16 But the, and I'm not saying one way or the other,
17 I'm just kind of expressing my thoughts as the other Board
18 Members have an opportunity to do so.

19 Again, with the discussion that seemed to be going
20 on in terms of like the IZ, in terms of like what brick they
21 have included now. I mean, there is still the conditions
22 that are within the Office of Planning, that we haven't kind
23 of walked through yet with the Applicant.

24 And I supposed your understanding that what we're
25 continuing to be faced with is whether or not they are

1 meeting the standards for us to grant the application through
2 the regulations. In terms of like the variance and the
3 special exceptions that they're requesting.

4 As you've already mentioned, the lot being very
5 narrow, and that might be something that, whether we believe
6 they're making an argument and believing that argument yet.

7 I guess I'm just, I'm glad to hear that there has
8 been a lot of discussion. I don't know what's going to take
9 place here yet, but it does seem as though there has been a
10 lot of back and forth.

11 And understanding from the community that, they
12 seem to be trying to do what they can with what they've been
13 given, in terms of the lot. So that was just more, just a
14 comment.

15 Does the Applicant have any questions of the
16 Commissioners?

17 MR. BLAKE: No questions. If I could address the
18 parking, the comment about the parking? It's an Office
19 Planning comment as well.

20 CHAIRPERSON HILL: We're going to go to the Office
21 of Planning, you're going to have an opportunity for rebuttal
22 and then also a conclusion. So I guess you could just save
23 it for that, okay. And I think we're going to have some
24 questions for you anyway because I have some questions after
25 the Office of Planning gives their report.

1 So, I'm going to go ahead and turn to the Office
2 of Planning.

3 MS. FOTHERGILL: Good afternoon, I'm Anne
4 Fothergill with the Office of Planning. And as you saw in
5 our report, we do recommend approval of the variances that
6 are requested for the side yard and the two special
7 exceptions. One for bonus density for opting into
8 inclusionary zoning and one for new multi-family residential
9 development in the RA-1 zone.

10 We found that the narrowness of the property was
11 an exceptional condition that resulted in the practical
12 difficult for meeting the side yard regulations, and we did
13 work with the Applicant to provide a wider side yard on the
14 non-alley side, and to push closer to the alley because the
15 alley provided that buffer between properties. And we did
16 find that their request for the variance for the side yard
17 requirements meet the variance test.

18 In terms of the two special exceptions, we did
19 encourage them to opt into inclusionary zoning, and we do
20 support that special exception. And for Subtitle U 421.1,
21 which is the residential development in the RA-1 zone, 421.3
22 specifically talks about site plan, provisions of light and
23 air, parking, recreation.

24 And we went through that criteria and we did find
25 that it meets the criteria. We did make some recommendations

1 for changes to the plan that have been mentioned, flipping
2 the parking and lawn, as you can see on the screen right now.
3 So that the parking is at the rear of the lot and the
4 recreation space is closer to the residents.

5 We did discuss with the Applicant covering the
6 exterior stairs so that residents, when they're entering the
7 building, are covered from the elements. And finally, just
8 additional trees and plantings in the side courtyard to
9 provide a buffer and to soften the landscape. Those were our
10 recommendations.

11 We were not aware of the ANC's report at the time
12 of our report, and we would support more brick on the
13 building. We understand that the Applicant is constrained
14 already. The buildable area is constrained. And as the
15 Applicant has suggested, it would be further constrained by
16 adding more brick. But if they could make it work, we would
17 support more brick to the facades of the building.

18 And I'm happy to take any questions.

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

21 Wow, am I the only one with questions today?
22 Really, nobody has got any questions, really? Okay.

23 All right. Paul's going to have to come back and
24 do a lot of talking. Okay.

25 So, let's see. First of all, the Applicant real

1 quick. The Applicant knows about the three conditions that
2 the Office of Planning has put forward. Do you have any
3 comment on those conditions?

4 MR. BLAKE: Yes. If I could first address the
5 comment about the parking. We did look at the initial design
6 options.

7 You know, we had the same kind of inclination to
8 put the parking towards the back of the lot with a lawn
9 towards the front. This is one of the schematic design
10 options.

11 And, the issue there I think is, if you're on the
12 site, there's a significant drop in elevation from the rear
13 site down. You can see here the kind of contours end.

14 And you also have the alley, which comes to an end
15 here, right where we have our gravel system ending. We would
16 only be able to fit, if we did the parking at the rear of the
17 lot and provided the proper approach to those spaces, from
18 the alley, we would only be able to provide two spots.
19 Which, I think with three units, it would be much nicer for
20 there to be a unit, a spot per unit.

21 And so, basically, this was the only way we could
22 arrange this using the public alley. The 15th foot width
23 there and where this alley starts to turn, to allow for an
24 approach into these perpendicular spots.

25 CHAIRPERSON HILL: Okay, that's good. Sorry, I

1 don't mean to cut you off. So, that's a discussion that
2 you've had or haven't had with OP yet?

3 MR. BLAKE: That's correct. Yes, we got those
4 comments with the, in their response.

5 CHAIRPERSON HILL: So you haven't had discussion
6 with OP as to why you're trying to do it this way?

7 MR. BLAKE: No.

8 CHAIRPERSON HILL: Okay. And then, the one about
9 the exterior stairs being covered for better year round
10 protection and safety with the residents of the top floor?

11 MR. BLAKE: Yes, we did look at that as well.
12 And, we just --

13 CHAIRPERSON HILL: Okay, so you haven't had, I'm
14 just going to keep, so you haven't had a discussion with them
15 about that yet either?

16 MR. BLAKE: No.

17 CHAIRPERSON HILL: Okay. And then the third, the
18 additional trees planted, should be located on the side
19 courtyard to soften the landscape and provide a better
20 buffer?

21 MR. BLAKE: We incorporated some additional
22 vegetation into the plan in those spots.

23 CHAIRPERSON HILL: Okay. And as far as I
24 understand, OP is in support of this project with those
25 conditions, correct?

1 MS. FOTHERGILL: We worded it as suggestions for
2 the Board to consider, so I think there is a nuance. We
3 didn't state them as conditions, but the Board can make them
4 conditions.

5 CHAIRPERSON HILL: That's okay. I did notice the
6 word suggestions actually and so, that did confuse me
7 actually.

8 So, all right. Does anybody have more questions
9 for Office of Planning?

10 MEMBER WHITE: For the Applicant, but --

11 CHAIRPERSON HILL: Sure, go ahead. You want to
12 ask the Applicant?

13 MEMBER WHITE: Yes. I mean, it seems like there
14 is a desire to have this project be all brick, from ANC, from
15 OP, from the community. It would have a nicer feel.

16 So, obviously I'm interested in kind of getting
17 your feedback on that. I think it would look much nicer.
18 And it would definitely be more compatible with the
19 neighborhood.

20 Obviously there is a cost to it, development
21 costs. So, I just wanted to get your feedback on that
22 because that might be something that I would be interested
23 in pursuing.

24 MR. BLAKE: Well, you know, I think this gets into
25 the discussion of character that began with one of the

1 earlier cases. I appreciate the comments about what
2 character means to you, in terms of comparing it to a musical
3 and that kind of thing.

4 And I understand, to me, character, a lot of
5 times, refers more to nostalgia than anything else. I
6 understand wanting to have the building fit into the
7 neighborhood, but there is not, this isn't a historic
8 district, there is not a set language for the project other
9 than it being brick, which at the time that these buildings
10 were built, was the typical, the standard construction
11 method.

12 We also have to respond to changes in building
13 code, to changes in energy code. And as we've discussed, the
14 unique conditions of this lot.

15 Which is why I, you know, it's not going to be a,
16 the same type of brick wall, masonry back up wall that the
17 neighbors have. It's a rainscreen brick wall. It's a
18 veneer.

19 And me, personally, as an architect, I would
20 rather express the current condition, the current aesthetics.
21 Keeping in mind that this is not in the historic district.

22 We tried to introduce a little bit of brick on the
23 projection to at least acknowledge that request. It's going
24 to be --

25 CHAIRPERSON HILL: That's okay, Mr. Blake, you can

1 just pick an answer. So, you're going to be like, the
2 character is no good, you don't like the way it would look,
3 you think it's going to cost too much.

4 MR. BLAKE: We're not speaking about cost. We
5 haven't said anything about cost. I'm making a point.

6 CHAIRPERSON HILL: Oh, okay. I'm just trying to
7 get your answer.

8 MR. BLAKE: Well, I've made the -- I think the
9 main consideration, for me, with this site is that brick is
10 not an appropriate --

11 CHAIRPERSON HILL: Okay.

12 MR. BLAKE: -- choice because of the wall facings.

13 CHAIRPERSON HILL: Okay. All right, there you go,
14 good answer. All right. Does anybody have any more
15 questions of the Applicant at this portion, because I'm going
16 to turn to the, if they have any questions of the Office of
17 Planning?

18 So, does the ANC have any questions of the Office
19 of Planning?

20 MR. PRESTWOOD: I would like to ask if they will
21 include our comments today, and of course, a review of the
22 letter that we submitted for the case, in terms of addressing
23 the facade and adding more brick to this property, as a
24 suggestion to the BZA?

25 MS. FOTHERGILL: I actually don't have your letter

1 in front of me, so if someone --

2 MR. PRESTWOOD: Okay. Well, my comments today.

3 MS. FOTHERGILL: Oh, okay.

4 MR. PRESTWOOD: Or my testimony.

5 MS. FOTHERGILL: We would support more brick, but
6 my understanding is we have to balance the buildability of
7 the project, and my understanding is that they are
8 constricted in space for their units, so we're weighing that.
9 But, yes, we would support more brick for this project. And
10 I'm happy to go on the record saying OP would support more
11 brick for this project.

12 MR. PRESTWOOD: Thank you.

13 CHAIRPERSON HILL: Okay. Any more questions?

14 MS. AGYEI: I do have a question. It seems like
15 you worked with the Applicant to have them bring onboard IZ,
16 which we had made a request of, but at the time that they
17 left the ANC that was not a part of what we understood would
18 have happened.

19 So, when you say IZ, did you have an opinion on
20 that just being a rental versus that being a situation where
21 residents could opt into that as a buy-in property?

22 MS. FOTHERGILL: The Applicant, as you know, is
23 constrained by space. And we talked about the IZ unit for
24 the bonus density for FAR, but we did not discuss whether it
25 would be a rental or a sold unit.

1 CHAIRPERSON HILL: But is that known? Does that
2 have anything to do with, that's not within our purview
3 anyway, right?

4 Just as far as like them getting the bonus density
5 for the IZ, it doesn't matter whether it's a rental or it's
6 being sold.

7 MS. FOTHERGILL: That's correct.

8 CHAIRPERSON HILL: Okay.

9 MS. FOTHERGILL: That's my understanding. OAG may
10 have a --

11 MS. LOVICK: That's correct.

12 CHAIRPERSON HILL: Okay, look at that, I'm ready.
13 Let's see, anything else from the ANC?

14 MS. AGYEI: Not for me.

15 CHAIRPERSON HILL: Okay. Any questions from the
16 Applicant?

17 MR. PRESTWOOD: I'm sorry, Commissioner --

18 CHAIRPERSON HILL: Sure.

19 MR. PRESTWOOD: -- I mean, Chairman. I would just
20 say that, again, we would be willing to continue to work with
21 the Applicant in terms of finalizing a design.

22 I mean, if brick becomes a bit of an issue then
23 let's talk about that more and let's figure out what we can
24 do to make it fit. But, as is, it does not fit into that
25 community.

1 And would be, honestly we, this ANC, we're unable
2 to, I think, get concessions there or if we're unable to, I
3 think get the Applicant to be willing to work with the
4 community and the ANC on this, then, again, our conditional
5 support will be withdrawn.

6 CHAIRPERSON HILL: Okay, that's fine. I think,
7 Commissioner Prestwood, we have your letter and, again, in
8 terms of the character issue and what the property owner is
9 starting to do, I think in general it sounds like things are
10 working pretty well and so we'll see where we get.

11 But okay, now back to this. So, is there anyone
12 here wishing to speak in support?

13 Is there anyone here wishing to speak in
14 opposition? Okay, please come forward, sir. Sir, did you
15 get sworn in earlier?

16 MR. THERESA: No.

17 CHAIRPERSON HILL: Okay. All right. You can take
18 a seat over there if you like. And then we'll swear you in.
19 I'm sorry, if you could just stand actually and take the oath
20 administered by the Secretary right there to the left.

21 And then if there is anyone else who also hasn't
22 been sworn in, if you could stand and raise your right hand?
23 All right.

24 MR. MOY: Do you solemnly swear or affirm that the
25 testimony you're about to present in this proceeding is the

1 truth, the whole truth and nothing but the truth?

2 MR. THERESA: Yes.

3 MR. MOY: Thank you.

4 CHAIRPERSON HILL: Okay, great. Could you
5 introduce yourself for the record and give us your address?

6 MR. THERESA: My name is Ari Theresa and I live
7 at 1604 V Street Southeast. Right down the street.

8 I don't have much --

9 CHAIRPERSON HILL: I'm sorry, could you spell your
10 last name for me?

11 MR. THERESA: Theresa, T-H-E-R-E-S-A.

12 CHAIRPERSON HILL: Okay, Mr. Theresa. So, Mr.
13 Theresa, you, as a member of the public, you'll have three
14 minutes to give your testimony. And there is a clock in
15 front of you and on either side and you can begin whenever
16 you like.

17 MR. THERESA: Okay. Yes, I won't take very long.
18 I just wanted to echo the sentiments of our ANC Commissioners
19 and just to say I support everything that they said about
20 this application.

21 And as someone who lives right down the street,
22 I also believe that the project doesn't really fit into the
23 community the way it's being design. Even though I am
24 somewhat pleased that they are doing inclusionary zoning.

25 Yes. And so, that's all I have to add.

1 CHAIRPERSON HILL: Okay, great. Thank you.

2 MR. THERESA: Okay.

3 CHAIRPERSON HILL: Does the Board have any
4 questions for the Witness? Okay.

5 Does the ANC have any questions for the Witness?

6 MS. AGYEI: As a resident could you give feedback
7 on what you feel would fit?

8 MR. THERESA: Well it's a really, really small lot
9 over there, like pretty narrow, and even though it's not in
10 the historic district it still is kind of, you know, the
11 block is ornate and the building next to it isn't, but that's
12 not to say that the buildings that come into the neighborhood
13 shouldn't have some sort of standard, you know, to just kind
14 of fit into the community.

15 CHAIRPERSON HILL: Okay.

16 MR. PRESTWOOD: I just have a quick comment. I
17 just want to thank the resident for coming out and
18 testifying.

19 CHAIRPERSON HILL: Yes, thank you so much.
20 Thanks.

21 MR. THERESA: Sure.

22 CHAIRPERSON HILL: All right. Does the property
23 owner have any questions for the witness?

24 (No audible response)

25 CHAIRPERSON HILL: No. Okay, thank you. Thank

1 you, sir. If you could just turn off that microphone if you
2 don't mind or else we'll get feedback. Thank you.

3 Okay. Well this is where I am and so you all can
4 tell me what you think where you are, all right. So I would
5 be interested in the Applicant kind of speaking with the
6 Office of Planning a little bit more in terms of the three
7 suggestions that they had, or possibly even the fourth
8 suggestion in terms of adding brick.

9 The flipping of the parking lot -- The flipping
10 of the parking lot --

11 (Off microphone comment)

12 CHAIRPERSON HILL: No, I said the possible fourth
13 condition of adding the brick, sorry. The flipping of the
14 parking lot, the exterior stairs, and the trees, and the
15 additional past work, in terms of where I am, like -- and I
16 know this is just, you know, like I like the design, okay,
17 and so, like I've been here for four years and, you know,
18 characters are really -- I said in an earlier thing, right,
19 characters are very much -- You can disagree with a
20 character.

21 If it were an all brick building it would still
22 be the size that it is, right. It still wouldn't look like
23 the -- I'm just making a comment, we're not having a
24 discussion.

25 (Off microphone comment)

1 CHAIRPERSON HILL: That's okay. I'm just giving
2 you my opinion. So I'm just --

3 (Off microphone comment)

4 CHAIRPERSON HILL: It's okay, and you gave me your
5 opinion. And so now they are going to go back, they are
6 going to go back. I'm saying we're not going to do anything
7 here today even though it seems to me that the Applicant has
8 actually tried quite a bit to get to where we are here.

9 I mean the Applicant is trying to fill a lot that
10 is very difficult to fill, has worked with the community for
11 the IZ, has worked with the community to try to put some
12 brick together, and I think they have a good argument as to
13 why additional brick is going to make the property less
14 workable.

15 But I'm -- The additional reason why I am
16 interested in spending more time is because the Applicant
17 hasn't had an opportunity to talk with the Office of Planning
18 concerning their suggestions.

19 The one suggestion that came forward again was the
20 flipping of the lot that hadn't been discussed with the
21 Office of Planning. I think your arguments seem valid to me
22 as to why, you know, you wouldn't want to flip that lot, but
23 I don't know if that discussion has happened with the Office
24 of Planning or not.

25 So that kind of being an opportunity for the

1 Office of Planning to discuss with the Applicant those three
2 to four additional suggestions. And then so that's kind of
3 where I am in terms of this particular process.

4 And then I would I guess want a supplemental
5 report from the Office of Planning as to after this
6 discussion has taken place. I think that -- Yes, that's kind
7 of where I am. I don't know where you guys are.

8 Because, again, and I've said it before, I mean
9 I think that in terms of the variance standard I mean if they
10 weren't granted the variance you'd have a ten foot wide
11 building, you know, for a multi-unit.

12 So I mean the variance test to me I think is an
13 easily understandable one. And the other tests I also think
14 are -- I mean I'm just telling you where I am. I concur with
15 how they are getting to this.

16 The struggle that I am having and I suppose is
17 just this continued discussion as to what is considered, what
18 the ANC, and I appreciate very much the Commissioners coming
19 down here, as I mentioned before, the new Commissioner Agyei
20 has come down before and unfortunately lost as I recall the
21 last one time that she was down here.

22 So what I am hearing from the ANC again is that
23 the property owner has been working well with the ANC and has
24 tried to do what they can and the community would like to see
25 the property develop as opposed to not being developed, but

1 that's just, you know, outside of the discussions that we
2 actually have up here, which is whether or not the standards
3 are being met for the variance and the special exceptions in
4 terms of the test.

5 So I am looking to my Board Members, that was all
6 just to kind of tell the Applicant as to where I am, if that
7 is something that the Board would be interested in or is
8 there anything additional they would be interested in before
9 we either come back for a continued hearing or a decision.

10 MEMBER JOHN: Mr. Chairman, I am where you are
11 because I think the Applicant has made a very good effort to
12 try to develop this very narrow lot and I believe that they
13 have met the standard in the regulations for the variance.

14 I was at first interested in exploring the brick
15 exterior because as we look at the photographs of the
16 community there are a lot of brick buildings.

17 However, I believe the Applicant has made, has
18 given a reasonable explanation as why they did not consider
19 a full brick veneer and in my mind I thought of why not do
20 a front, just the front in brick veneer, but I don't know
21 how, what that would do to the design in terms of visibility
22 from the alley and the other side.

23 So I think your suggestion is a good one, that
24 there could be further discussion with the Office of Planning
25 to see what the Office of Planning's ideas are and how that

1 issue could be resolved.

2 And I appreciate the testimony of the
3 Commissioners because it's reasonable to feel that if you
4 live in the neighborhood with the majority of the buildings,
5 especially on that block, being brick you would want to see
6 some continuity.

7 At the same time the building does not come under
8 historic preservation so there is a little bit of tension
9 there which if it can be resolved through further discussion
10 would be helpful to the parties and I don't see any harm in
11 talking. So I would support what you have suggested, Mr.
12 Chairman.

13 MEMBER WHITE: I agree that we should not make a
14 decision today, that the parties should talk with the Office
15 of Planning to see if we can incorporate some of the very
16 good suggestions that were made.

17 I tend to side more with the brick, you know. In
18 spite of the fact that it's not a historic district I still
19 think that the look and feel would probably conform better
20 with the neighborhood but I am willing to have some
21 flexibility on it depending on what they come up with with
22 the Office of Planning.

23 But I am giving the ANC, you know, great weight
24 in terms of, you know, what they feel would be the best
25 design for this particular building. I know there is some

1 challenges but I do think that the Applicant has done a very
2 good job in terms of putting together a design, but I do
3 thing that the brick would probably look better, but those
4 are my two cents.

5 And I do also applaud them that they included an
6 IZ in it. I think that is very important in the city to do
7 that. So whether it's for sale or a rental I do applaud them
8 for that.

9 ZC VICE CHAIRPERSON MILLER: I'll talk in my
10 standard comment today that I concur with my colleagues, but
11 I'll just emphasize that, of course, the brick would look
12 better, but I think they gave a good explanation on the
13 extreme narrowness of this lot and they would lose I guess
14 by their explanation a foot on each side or something,
15 perimeter, a foot of the perimeter, so on that grounds alone.

16 I think they gave a good explanation for all of
17 the things but since the Office of Planning had not seen OP's
18 letter I think it is certainly a good idea for them, for the
19 Applicant to talk with the OP because there may be things
20 that OP can suggest that would move in the direction of
21 accommodating some of the ANC's concerns.

22 So I am very supportive of this project but I
23 think a conversation with OP, since they hadn't had that
24 conversation with OP on those specific items would be
25 helpful.

1 CHAIRPERSON HILL: Okay. Mr. Theresa, could you
2 come forward again? Since I identified you earlier, I hate
3 shutting people down, what were you going to say?

4 MR. THERESA: Oh, yes, I was going to add that
5 there is a water runoff issue at the base of 16th and V, it's
6 right where I live, and there is always like puddles
7 accumulating over there and always standing water, doesn't
8 matter if it has rained or not, and, you know, I was
9 wondering like how, since this is up the hill how this might
10 affect it like in terms of it being paved over or if there
11 were going to be lead certified, whatever --

12 CHAIRPERSON HILL: Okay. Okay. Okay.

13 MR. THERESA: Yes.

14 CHAIRPERSON HILL: So in general water usually
15 isn't something that we are always getting to deal with, but
16 I think the pavers issue, is that what you are turning to?
17 Mr. Blake, do you have an answer for that?

18 MR. BLAKE: Yes. I just wanted to point out that
19 we will be required to meet a green area ratio of 0.3, which
20 the purpose of that regulation is to address stormwater
21 runoff and heat island effect.

22 CHAIRPERSON HILL: Okay.

23 MR. BLAKE: So we left, you know, a portion of the
24 lot as just, and it's natural vegetation, natural slope. At
25 least as it stands right now with the parking we are using

1 permeable pavers and a permeable parking surface to address
2 that.

3 CHAIRPERSON HILL: Okay.

4 MR. THERESA: Okay, thanks. I appreciate that.

5 CHAIRPERSON HILL: Okay. Thank you. Thank you,
6 sir.

7 MR. THERESA: Thank you for letting me --

8 CHAIRPERSON HILL: You're welcome. Sorry, I
9 didn't mean -- I just never know what people are going to say
10 sometimes, so -- Let's see.

11 Okay, so, Mr. Blake, so I think you are hearing
12 everything we are saying and you are getting I think mixed
13 comments up here as well, right.

14 Again, to clarify what I am interested in, and
15 everybody can clarify what they want to again, but, you know,
16 there are the four suggestions now that the Office of
17 Planning is kind of making.

18 I think that in terms of the brick issue you seem
19 to have a split kind of discussion up here, okay, or not
20 split. You can go back and watch the video and figure out
21 what you think you got, right, and then -- but I would like
22 the Office of Planning to have the opportunity to have the
23 discussion on the first three, also, in particular, the
24 flipping the parking.

25 So I guess at this point we are asking for you to

1 have a discussion with the Office of Planning and then do
2 whatever you think -- You guys can also speak with the ANC,
3 continue to have a conversation with the ANC, and then
4 determine what you think your best design is.

5 And you might certainly come back here with this
6 same design, you know, but the fact that we didn't have the
7 Office of Planning's report and you guys didn't have the
8 Office of Planning report it's difficult for us to comment
9 on something that, you know, you haven't had a chance to
10 discuss with the Office of Planning.

11 So then if you can come back here and then we can
12 we can go ahead -- and I don't know if the Board thinks they
13 need a continued hearing or just we can make a decision based
14 upon -- Okay, so I'm seeing make a decision is kind of what
15 the Board seems to be saying.

16 So then all we would need you to do is go ahead
17 and have a discussion with the Office of Planning, have a
18 discussion with the ANC, see if your design changes at all
19 or if anything changes, and then we ask for a supplemental
20 report from the Office of Planning and then we can set this
21 up for a decision.

22 So, Mr. Moy, following all of that conversation
23 do you have some dates or questions for the Applicant? And
24 then, also, the Applicant and the ANC will have an
25 opportunity to give us -- Well, I don't -- Normally we don't

1 have any conclusion from that.

2 You have an opportunity for any kind of rebuttal
3 and a conclusion if we do end this hearing today, except for
4 the things that we are asking for. So let's see what Mr. Moy
5 has to do in terms of the timing first.

6 MR. MOY: As part of the timing, Mr. Chairman, I
7 have a question of the Board as well, because you asked for
8 a) the Applicant to coordinate with Office of Planning and
9 ANC, and b) requesting OP to file a supplemental report.

10 If the Applicant has no changes then I wouldn't
11 expect any additional filings from the Applicant. If the
12 Applicant does have changes then would the Board allow or
13 wish for ANC to respond to a filing from the Applicant?

14 CHAIRPERSON HILL: We would want time for the ANC
15 to respond to a filing from the Applicant. That would be
16 yes.

17 MR. MOY: Okay.

18 CHAIRPERSON HILL: But I'm still waiting for
19 dates.

20 MR. MOY: I had to throw that out there.

21 CHAIRPERSON HILL: Right.

22 MR. MOY: Okay. So, okay, let's work with this
23 as I understand it. So if the Applicant has any additional
24 changes or additional information that the Applicant can make
25 their filing within a week, so that would be, what, January

1 16th, which is a Wednesday, and any responses, or no
2 responses from the ANC, due by Tuesday, January 29th, and to
3 include the Office of Planning the same date, January 29th,
4 and then the Board can make its decision on February 6th?

5 CHAIRPERSON HILL: Okay. So that being all the
6 case because I think we are going to tie this up, but now,
7 Mr. Blake, you didn't have a chance for any kind of rebuttal
8 or a conclusion. Would you like to do either one?

9 MR. SLIWKA: I think it's a pretty building. I
10 like it. So in 2001/2002 I bought a little piece of land in
11 the Logan Circle Historic District at 1209 O Street and, you
12 know, we threw up a design for Steve Callcott and Office of
13 Historic Presentation back at the day.

14 It was a regurgitated Victorian brick box and he
15 sat back and looked at it and he said I don't want to do
16 this, you are just doing what everybody else is doing. It
17 looks like a new building that's trying to look old and it's
18 off-putting. He said go back to the drawing board.

19 I am a developer so I thought, oh, my lord, this
20 is going to cost me some money. My business partner was an
21 artist, Walter Gagliano. He designed a bunch of restaurants
22 around D.C., including Jaleo and D.C. Coast over the years,
23 and he said this is a great opportunity, let's go back to the
24 drawing board, throw out all of our architectural and all
25 of our plans and go back to the drawing board and do

1 something contemporary.

2 It will fit in mass wise with 1209 O Street
3 Northwest but it will be sexy and it will be beautiful and
4 it will be the future. So we did it. It probably cost me
5 a quarter of a million dollars extra money, but we did win
6 the Mayor's Award for Excellence in Design.

7 I approach this tiny, little, narrow lot with the
8 same idea. Let's make something that doesn't stick out like
9 a sore thumb, because I think that's in the eye of the
10 beholder, let's make something that someone drives past and
11 says, wow, that's an exciting European beautiful building,
12 how did that find its way here.

13 And you know what, I think your new neighbors in
14 the building are going to be those kinds of neighbors,
15 progressive, future-looking, not stuck in the past. So
16 that's my only comment.

17 We'll try to work with you guys as much as we can,
18 but don't be cynical about something new and fresh.

19 (Simultaneous speaking)

20 CHAIRPERSON HILL: Hey, hey, hey, just keep it
21 focused over here, okay.

22 MR. SLIWKA: Okay.

23 CHAIRPERSON HILL: Okay, thanks. I appreciate it.

24 (Simultaneous speaking)

25 MR. SLIWKA: Well, I'm little passionate about it.

1 CHAIRPERSON HILL: I understand --

2 (Simultaneous speaking)

3 MALE PARTICIPANT: I don't appreciate being called
4 a cynical, Chairman Hill.

5 CHAIRPERSON HILL: Okay. All right, that's what
6 I -- I think what he was trying to -- He was trying to make
7 his point and nobody wants to be called cynical, and so I --
8 I think he's trying to make his point.

9 MR. SLIWKA: My point was I was cynical at 1209
10 O Street in the beginning when Steve from the District of
11 Columbia talked to me about doing something contemporary, but
12 I became a believer, too.

13 And a little bit of excellence, there is no
14 difference in cost between an excellent design and something
15 that's just another box.

16 CHAIRPERSON HILL: Okay. Okay, all right. Let's
17 see, No, we -- I mean, I'm sorry, just the way the process
18 works like they get the last word in the conclusion so I'd
19 rather let's not go into kind of a back and forth thing.

20 And, again, I don't, you know, it's -- I'm just
21 going to make a couple of comments here since I get the
22 opportunity to do so. I didn't think and don't think that
23 the parties are necessarily in the wrong place.

24 Some people have difference of opinions, okay.
25 And so, you know, I don't necessarily -- I gave you my

1 opinion and, you know, I was disagreeing with what other
2 people have said about the character issue, right.

3 And so I get, unfortunately, I get a vote, and so,
4 you know, but I think that the discussions that we have heard
5 thus far, as Commissioner Miller just mentioned, were also
6 relevant in terms of, you know, the tininess of the lot, the
7 how much the brick is going to take up the space, and then,
8 again, whether or not people think it fits in or not that I
9 do believe is a little bit of an opinion, okay.

10 And so but what I have heard thus far is that the
11 developer has been working with the community and the ANC and
12 I hope that they can continue to have some kind of
13 discussion.

14 If, however, this doesn't -- I mean, again, I will
15 reiterate the reason why I -- Well, probably we're going to
16 actually have this thing have a little bit more of a
17 discussion either way, but the thing that really came up to
18 me was the Office of Planning's report in terms of flipping
19 the parking lot and the grass and I didn't really understand
20 the argument until you just made it, okay.

21 And so that is something, a discussion that you
22 can have with the Office of Planning and they might, you
23 know, agree with where you are. You know, it sounds like you
24 all might be right back with us again in the exact same
25 design with the exact same place and we'll just see what

1 happens. So that's the end of my comments I guess. Okay --

2 (Simultaneous speaking)

3 MR. PRESTWOOD: Chairman Hill, I'm sorry.

4 CHAIRPERSON HILL: Okay, sure.

5 MR. PRESTWOOD: I just wanted to let you know
6 logistically ANC 8A we have a bit of a problem with the
7 dates.

8 We don't reconvene until February 5th, which is
9 the earliest that we could potentially vote on a
10 recommendation one way or the other with whatever comes back
11 from the Applicant.

12 CHAIRPERSON HILL: Okay.

13 MR. PRESTWOOD: Unless you are willing to accept
14 our initial letter which says that if we are unable to see
15 eye-to-eye or to, not eye-to-eye, if we are unable to come
16 to some type of a consensus around the things that the
17 Applicant wants and what we believe the community wants, if
18 you are willing to accept our letter which says that it's
19 withdrawn then we will move forward, but right now we don't
20 reconvene until the 5th of February.

21 CHAIRPERSON HILL: Okay. The letter that you have
22 currently with us it doesn't really give -- I think it
23 doesn't really say something one way or the other, right, it
24 just says that, you know --

25 MR. PRESTWOOD: It's conditional.

1 CHAIRPERSON HILL: -- you want it to be continued
2 to work with -- It's conditional --

3 MR. PRESTWOOD: Yes.

4 CHAIRPERSON HILL: -- to continue to work with you
5 guys.

6 MR. PRESTWOOD: Yes.

7 CHAIRPERSON HILL: And so that to begin with is
8 kind of a hard condition for us to make to begin with because
9 we need to see what the drawing, we need to see what happens
10 at the end.

11 MR. PRESTWOOD: Okay.

12 CHAIRPERSON HILL: So, however, if you are stating
13 that the Applicant can go ahead and work with the Office of
14 Planning, work with, you know, see whatever kinds of
15 suggestions -- I mean they have added more brick than they
16 had before, but, again, you know, that's not to say that you
17 don't want more brick, you know.

18 And so then you would then be able to vote at your
19 February 5th meeting on whatever, whether it's this design
20 or whether this design has been changed you're saying that
21 you could vote on the 5th?

22 MR. PRESTWOOD: That's correct.

23 CHAIRPERSON HILL: Okay. And then we would --
24 Okay, then we would get a report back from the ANC after
25 that?

1 MR. MOY: But I don't know how quickly this ANC
2 would be able to get a letter to us because if not then I
3 would suggest moving the decision to the 13th, which would
4 be the following week.

5 CHAIRPERSON HILL: Okay. That's one week later.
6 So then we would at least know where the ANC stands one way
7 or the other for the decision. So, yes -- Okay, so then if
8 we did that does that change any of the dates for you, Mr.
9 Moy?

10 MR. MOY: I was going to keep them in place unless
11 I hear otherwise.

12 CHAIRPERSON HILL: Okay. Then you would -- Okay,
13 so could you repeat the dates for me again because I am
14 confused then if we need to hear anything back from the ANC?
15 We wouldn't hear anything back from them until after the 5th,
16 correct?

17 MR. PRESTWOOD: That's correct.

18 MR. MOY: Yes. So, again, once again if the
19 Applicant has any changes or wants to add additional
20 information the due date would be January 16, although I
21 think also if we weren't going to do anything I would need
22 some new plans anyways to show -- I believe I heard there was
23 going to be some brick, because the existing drawing that's
24 now on the record don't show any brick at all.

25 So I don't know if that involves another revision

1 or not, but, anyway, any responses, there is an OP
2 supplemental due January 29th and then we are looking at
3 decision on February 13th.

4 CHAIRPERSON HILL: Oh, well, just to clarify what
5 Mr. Moy said, I thought there was in the drawing, the most
6 recent one that you had I thought that there was brick in the
7 current drawing?

8 MR. BLAKE: There is. It's Exhibit 48. We had
9 some technical difficulties with IZIS and we ended up
10 emailing the file directly to someone. I never received any
11 confirmation but I believe it was added to the record as
12 Exhibit 48, which shows the brick.

13 MR. MOY: Can I ask you which sheet, because I am
14 looking at those plans now?

15 MS. LOVICK: The most recent exhibit is at Exhibit
16 50.

17 MR. BLAKE: Yes, like I said, there was some, we
18 had some technical issues and I don't know, we never received
19 confirmation, but on Exhibit 48 if you are looking at Sheet
20 A06 the axons call out a masonry flat projection and the
21 elevations as well.

22 CHAIRPERSON HILL: All right, Mr. Blake, it
23 doesn't matter. So just submit whatever, whatever ends up
24 being your final drawings just submit those.

25 MR. BLAKE: Can I ask, I am just a little confused

1 by all this because my understanding, we worked extensively
2 with the Office of Planning and it was, you know, it was very
3 helpful, it was great.

4 But I am little confused by these are suggestions,
5 which is, you know, we did explore all them. I could walk
6 you through right now all the reasons that we did not do
7 this.

8 And, you know what, I mention this because we had
9 to delay this hearing because we were, you know, I know there
10 was a change in the commissioners and all, we had to change
11 this hearing because, delay it a month because we basically
12 were, didn't get any feedback from the ANC.

13 They are the last exhibit that was uploaded on the
14 Exhibit 51. We had asked for this report, you know, over a
15 month --

16 CHAIRPERSON HILL: All right, Mr. Blake, let me
17 just -- It's okay, I understand what you are trying to say,
18 and I am just trying to be as clear as I can, okay, as to
19 where I think we are.

20 I am looking at a report from the Office of
21 Planning that is making some suggestions, okay, and they are
22 suggestions.

23 You have made your argument as to why, at least
24 for Number 1, right, and Number 2 we didn't even get into
25 really as far as the stair issue, right, so I would prefer

1 that you actually have the discussion with the office of
2 planning then they can at least give us our feedback.

3 They might say after your discussion, you know,
4 Number 1 we don't believe is a suggestion, Number 2 we don't
5 believe is a suggestion. It is an easier place for us to
6 start at.

7 We have already been here now for, you know, an
8 hour and whatever it is, right, so I am trying to get to
9 whatever the decision is as quickly as possible for you guys,
10 and so, you know, I'm sorry if before you had a delay and
11 that it was postponed and I know that new commissioners come
12 in and so, therefore, that's the election.

13 So I think this is your best way to get a decision
14 one way or the other by the 15th of February, okay. So --
15 Sorry, Mr. Moy.

16 MR. MOY: No, if you were finished I was going to
17 add that in addition to the dates I have already outlined
18 there is one other date, since the ANC is meeting on the 5th
19 of February if the ANC can make their filing by that Friday,
20 which would be February 8th.

21 MR. PRESTWOOD: Eighth. Yes, got it.

22 MR. MOY: Okay. Is that doable?

23 MR. PRESTWOOD: Absolutely.

24 MR. MOY: Thank you.

25 CHAIRPERSON HILL: Can you repeat the dates again

1 for me, Mr. Moy?

2 MR. MOY: Okay. The Applicant to file, if any at
3 all, would be by January 16th and if, of course, the
4 Applicant does file any responses to their filing by January
5 29th, which also includes the supplemental from Office of
6 Planning, the ANC will have until that Friday, February 8th,
7 February 8th to reply with their letter, and the decision on
8 February 13th.

9 CHAIRPERSON HILL: Okay. Okay, all right great.
10 Okay, thank you all very much.

11 MR. BLAKE: Thank you.

12 CHAIRPERSON HILL: We are going to take another
13 quick break and then we're going to figure out what we are
14 going to do in terms of the rest of the day and including
15 lunch.

16 (Whereupon, the above-entitled matter went off the
17 record at 12:42 a.m. and resumed at 12:58 p.m.)

18 CHAIRPERSON HILL: All right, Mr. Moy, have we
19 got everybody?

20 MR. MOY: Yes, thank you, Mr. Chairman. The Board
21 has reconvened and it's a little bit before 1:00 p.m. and I
22 believe we can go back to re-call parties to the table.

23 I think we're ready. So we'll re-call parties to
24 the table to the two appeal cases, which is Appeal Number
25 19877 of ANC 3C and 19895, Neighbors for Responsive

1 Government.

2 CHAIRPERSON HILL: Okay, if you could please
3 introduce yourselves from my right to left?

4 MS. LORD-SARENSEN: Good afternoon, Chairman Hill,
5 and Members of the Board, Adrienne Lord-Sarensen, Assistant
6 General Counsel with the D.C. Department of Consumer and
7 Regulatory Affairs.

8 MS. WITTY: Good afternoon, Pat Witty, I'm the
9 authorized representative of Appellant Neighbors for
10 Responsive Government.

11 MS. BRADBURY: And I'm Angela Bradbury, ANC 3C06
12 Commissioner.

13 MS. MOLDENHAUER: Good afternoon, Meredith
14 Moldenhauer from the law firm of Cozen O'Connor on behalf of
15 the Department of general Services.

16 CHAIRPERSON HILL: Okay, so Ms. Moldenhauer,
17 you're here representing the property owner. It is the
18 appeal of ANC and also the Neighbors for Responsive
19 Government that is before us right now.

20 So from what I understand, Commissioner, since
21 it's your appeal, if you could tell me -- you weren't at the
22 very beginning because you were talking with somebody.

23 So we went ahead and granted the motion to combine
24 the two appeals into one appeal, so you're both here now
25 under the same appeal. So I suppose if Commissioner Bradbury

1 you could tell me where you are with things as well as Ms.
2 Witty?

3 Commissioner, why don't you go first?

4 MS. BRADBURY: Right, so we are requesting a
5 postponement of this case because we have been negotiating
6 and talking with the City on the best way to resolve this and
7 we have come to an agreement on how to settle the matter.

8 We have come to settlement terms in December that
9 the ANC accepted and the only question that arose after that
10 was the mechanism by which we would implement the agreement.
11 And again, the issue at hand was the patio deck.

12 And the ANC had thought that the settlement would
13 be attached to a modified order in the underlying case of
14 19450. The City preferred to do a memorandum of
15 understanding so we have hashed out language that is
16 acceptable to myself, and again, I cannot speak for the full
17 ANC because the full ANC hasn't seen it yet.

18 But it's language that I think will solve and
19 address the issues and enable us to withdraw the appeal,
20 assuming the ANC at its next meeting goes ahead and approves
21 it. Our next meeting is January 23rd.

22 I can't enter into an MOU on behalf of the ANC
23 without the ANC having the publicly noticed meeting and
24 voting on it. But I think very much we're right at the
25 finish line and we just need to postpone this so that once

1 the ANC approves it, we can withdraw the appeal.

2 CHAIRPERSON HILL: All right, Commissioner. And
3 just so you know, my understanding in terms of adding
4 conditions, we wouldn't have been able to necessarily add
5 conditions under this mechanism. It's an appeal.

6 They would have to come forth with a modification
7 so that we would then be able to add -- in other words, this
8 wouldn't have been the mechanism anyway at this point but
9 still, the leverage that you have is what you're working with
10 now which, obviously, is something that is worthwhile.

11 Ms. Witty, do you have any further comments on
12 those?

13 MS. WITTY: I have nothing to add. I've already
14 signed the memorandum of understanding on behalf of Neighbors
15 for Responsive Government. And we will withdraw the appeal
16 as soon as it's clear that the ANC is also able to do so.
17 So, I have nothing further to add.

18 CHAIRPERSON HILL: So Commissioner Bradbury, when
19 do you think we might be able to put this back on the docket
20 to know one way or the other?

21 MS. BRADBURY: Well, if you put them on February,
22 our meeting is January 23rd and assuming that the ANC
23 approves this, we could withdraw it as soon as January 24.

24 MS. MOLDENHAUER: I believe the next day would
25 actually be January 30th.

1 CHAIRPERSON HILL: Do we have anything on January
2 30 that's an appeal?

3 MR. MOY: An appeal on the 30th? Only one for
4 decision but no new appeals on the table.

5 CHAIRPERSON HILL: Okay, so we can go ahead and
6 put it on the 30th then if that's okay with everyone. Is
7 that okay with DCRA?

8 MS. LORD-SARENSEN: Yes, it is.

9 CHAIRPERSON HILL: Is that okay with the property
10 owner?

11 MS. MOLDENHAUER: Yes, so obviously, we've worked
12 together, we've executed a memorandum of understanding, both
13 DGS signed as well as DHS signed. That was finalized this
14 morning into this afternoon and we are simply then just
15 waiting for a signature from the full ANC.

16 And we also have Angela Bradbury as an individual
17 SMD and Nancy MacWood as an individual who have acknowledged
18 the document as acceptable to themselves.

19 And so we are hopeful that obviously the full ANC
20 would vote on the 23rd and this would be resolved and
21 withdrawn by the 30th or before the 30th, when this would be
22 postponed until.

23 CHAIRPERSON HILL: So, Mr. Moy, we're going to
24 postpone this to January 30th.

25 MR. MOY: Yes, sir. For clarity from the Staff

1 side, if this scenario plays out, I hope that both the ANC
2 and NRG would officially file a letter in the record of
3 withdrawal.

4 CHAIRPERSON HILL: Prior to the 30th?

5 MR. MOY: Correct.

6 CHAIRPERSON HILL: So the reason why that's being
7 cleared up is currently I'm having you guys on as an appeal
8 for the 30th. So I would have to study and figure it all out
9 again and so please, before the 30th, let us know one way or
10 the other.

11 MS. BRADBURY: I will do so on the 24th, as soon
12 as I have a signed resolution and the signed memorandum I can
13 submit those to you.

14 CHAIRPERSON HILL: Okay, great, does the Board
15 have anything else? So we're going to do that, Mr. Moy.
16 Okay, thank you all very much.

17 Just so everybody knows, what I think's going to
18 happen, and we'll kind of see how this goes, is we're going
19 to hear one more case, then we're going to take lunch, then
20 we're going to come back for 19886.

21 So, up next, and Mr. Moy will announce it, is
22 19885, but I'll let Mr. Moy announce that and we'll see where
23 we are.

24 MR. MOY: You could have announced it too but
25 that's all right.

1 CHAIRPERSON HILL: I've never done that before.

2 MR. MOY: So parties to the table to Case
3 Application number 19885 of Lorens Helmchen, advertised
4 caption for special exceptions under the penthouse
5 requirements, Subtitle C, Section 1500.4 and under Subtitle
6 C, Section 15304 from the penthouse enclosing walls
7 requirement of Subtitle C, Section 1500.9 in the penthouse
8 setback requirements of Subtitle C, Section 1502.1 B and C
9 to repair and replace the existing roof access stair and roof
10 deck in the RF1 zone.

11 This is at 16 10th Street, NE Square 941, Lot 821.

12 CHAIRPERSON HILL: Please introduce yourselves for
13 the record.

14 MS. WHOLEAN: Clair Marie Wholean, Company
15 Arcphena, I'm the architect.

16 MR. HELMCHEN: Lorens Helmchen, I live at 16 10th
17 Street NE in Washington D.C. 20002. I'm the property owner.

18 CHAIRPERSON HILL: Okay, Ms. Wholean, I'll wait
19 until you get pulled up. Whenever you're ready, just let me
20 know.

21 MS. WHOLEAN: Yes, we're ready.

22 CHAIRPERSON HILL: Okay, great. So, Ms. Wholean,
23 I suppose what I'd like you to do in terms of your
24 presentation, if you can kind of go over what happened since
25 the last time you were here?

1 And I know we have a supplemental report from the
2 Office of Planning so why don't you just go ahead and start
3 with that, and what has, again, happened since the last time
4 you were here?

5 MS. WHOLEAN: Sure. There were two comments at
6 the last Hearing, one was about the one-to-one setback of the
7 railing. The other was about the 10-foot height requirement.

8 Per our conversation with Ms. Vitale, I was
9 advised that the interpretation of the 10-foot height
10 requirement was from the intersection of the penthouse and
11 the roof, not the total height of the building. And so the
12 new design has incorporated that new interpretation that it's
13 10 feet from the intersection with the roof.

14 The new penthouse is 9 foot 9 from the
15 intersection with the roof and you can see that here. That
16 is this dimension, this 9 foot 8 and three-quarters. So we
17 have reduced the height of the penthouse considerably. You
18 will see this dash line here, that was the old design and
19 here's the new in black.

20 If we go back to the plan, we have also pulled
21 back the deck from the rear so this 3 foot 6 here, that is
22 the same as the height of this railing and this is Green Rove
23 here. So that is the summary of the changes.

24 CHAIRPERSON HILL: Okay, great. Does the Board
25 have any questions for the Applicant? I'm going to turn to

1 the Office of Planning.

2 MS. VITALE: Good afternoon, Mr. Chair, Members
3 of the Board, Elisa Vitale with the Office of Planning. As
4 stated in the Office of Planning supplemental report, we are
5 recommending approval of the penthouse special exception
6 relief.

7 This would be relief from the provision that
8 requires walls of uniform height. The Applicant is proposing
9 a sloped design for the penthouse stair enclosure. This
10 would help to minimize the bulk and visibility of the rooftop
11 penthouse. And then as mentioned, setback relief is
12 required.

13 The Applicant is providing zero setback at the
14 northern property line in a 3 foot 1.5 inch setback at the
15 rear property line. And given the height of the penthouse
16 of 9 foot 9 inches, they do need relief for the north
17 property line and the rear property line. But the Office of
18 Planning supports approval of that relief. I'm happy to
19 answer any questions and this concludes my report. Thank
20 you.

21 CHAIRPERSON HILL: Okay, does anybody have any
22 questions for the Office of Planning? Does the Applicant
23 have any questions for the Office of Planning?

24 MS. WHOLEAN: No.

25 CHAIRPERSON HILL: Is there anyone who wishes to

1 speak in support? Is there anyone here who wishes to speak
2 in opposition? Does the Board have any final questions for
3 the Applicant? Do you have any final things you'd like to
4 add?

5 MS. WHOLEAN: Sure, a few more comments. So just
6 a summary, we believe that the revised design meets all of
7 the requirements of a six-part test, and a summary of that
8 is that strict application would be inconsistent with the
9 building code. We are not creating an extension of the
10 building wall.

11 The roof structure is not visually intrusive. This
12 design is less than the previous design and full compliance
13 would not be possible without expanding the building
14 footprint. Every effort has been made to achieve compliance
15 and the light and air of adjacent buildings is not affected.

16 I would also like to add that while previous
17 iterations of this design have been presented to the ANC and
18 they supported it, as well as neighbors, we didn't present
19 this design to them yet because I don't want to confuse them
20 with so many designs.

21 So the intention was to have this Hearing and then
22 after the Hearing today, show them this design. And we
23 anticipate that they would support this one as well because
24 it's shorter and less intrusive than the previous.

25 CHAIRPERSON HILL: Okay, Ms. Wholean, it's so

1 funny, there was a previous predecessor of mine and I
2 remember -- anyway, I was going to make a comment. Actually,
3 that was the only thing that I was kind of -- my question was
4 in terms of if the ANC had actually seen this design.

5 However, I was comfortable with the fact that the
6 ANC had supported the design 6-0 previously, and I didn't
7 think this design changed anything factually to what you had
8 presented previously.

9 So that's why I'm comfortable moving forward with
10 a deliberation. Do the other Board Members have anything
11 they'd like to add on that note? Okay, then I'm going to go
12 ahead and close the Hearing.

13 Is the Board ready to deliberate? Okay, so as I
14 mentioned just as I started to go through this, I think that
15 the Applicant has met the burden of proof in terms of how
16 they're meeting the standards for us to grant the relief
17 requested.

18 There was some questions about the relief that the
19 Office of Planning had when they previously presented, and
20 those items have been cleared up with the Office of Planning.
21 In addition to that, the Office of Planning has now given
22 again the report with this design being approved in terms of
23 how they're meeting the standard and the requirement.

24 As I mentioned in the Hearing portion, the only
25 question that I somewhat had, and I did have it actually, was

1 whether or not I thought the ANC was going to have to see
2 this design.

3 And I was comfortable with the fact that it is
4 asking for less relief, and I didn't think that factually
5 anything changed concerning the relief being asked for.

6 And so that's why I'm comfortable moving forward
7 with the recommendations of the Office of Planning and the
8 ANC based upon the design they had seen. Does anyone have
9 any other comments?

10 MEMBER LESYLLEE WHITE: No, Mr. Chair, I would
11 agree with your comments, especially with the report from Ms.
12 Vitale. I'm comfortable they've met the criteria for the
13 penthouse relief they're seeking and the revised drawings
14 that they've submitted.

15 I think they are in line with the criteria that
16 they're seeking so I would be in support of the application.

17 CHAIRPERSON HILL: Okay, I'm going to go ahead and
18 make a motion. I'm going to make a motion to approve
19 Application 19885 as captioned and read by the Secretary and
20 ask for a second?

21 MEMBER WHITE: Second.

22 CHAIRPERSON HILL: The motion's made and seconded.
23 All in favor say aye?

24 (Chorus of aye.)

25 All those opposed? The motion passes. Mr. Moy?

1 MR. MOY: The Staff would record the vote as 3-0-
2 2. This is on the motion of Chairman Hill to approve the
3 application for the relief requested, and it is seconded by
4 Ms. John. Also in support, Ms. White. We have two Board
5 Members not present and not participating. The motion
6 carries, sir.

7 CHAIRPERSON HILL: Thank you all very much. All
8 right, so we're going to go ahead and take a quick lunch
9 break. We're going to try and actually make it quick so that
10 means we'll be back here at 1:40 p.m. Thank you.

11 (Whereupon, the above-entitled matter went off
12 the record at 1:15 p.m. and resumed at 2:00 p.m.)

13 CHAIRPERSON HILL: All right, Mr. Moy. You can
14 go ahead and start again whenever you'd like.

15 MR. MOY: Thank you, Mr. Chairman. Hearing is
16 reconvening. It's about 2:00, and the next case application,
17 parties to the table to Application Number 19886, Guiseppe
18 and Teresa Farruggio, as amended, for special exceptions
19 under Subtitle D, Section 1206.4 and 5201; from the rear
20 addition requirement, Subtitle D, Section 1206.3; and
21 pursuant to Subtitle X, Chapter 10, for variances from the
22 front setback requirement, Subtitle B, Section 3015.1C and
23 Subtitle D, Section 1205.2; and from the non-conforming
24 structural requirements, Subtitle C, Section 202.2, to
25 construct a rear addition to the existing attached principal

1 dwelling unit in the R-20 zone at 3602 Prospect Street, N.W.,
2 Square 1202, Lot 838. And this was last heard, Mr. Chairman,
3 on December 6th, 2018. It was to take up the opposition's
4 request for postponement.

5 CHAIRPERSON HILL: Okay, great. All right. If
6 you could please introduce yourselves from my right to left.

7 MR. TEASS: Good afternoon. My name is Will Teass
8 with Teass Warren Architects. I'm here on behalf of the
9 neighbor in opposition.

10 MR. YEDIBALIAN: My name is Cal Yedibalian. I am
11 the homeowner at 3604, adjacent to the proposal.

12 CHAIRPERSON HILL: Could you spell your last name
13 for me, sir? You need to just push it once.

14 MR. YEDIBALIAN: Y-E-D-I-B-A-L-I-A-N, Yedibalian.
15 Cal would be easier.

16 CHAIRPERSON HILL: Cal it is. Okay. Next?

17 MS. MAZO: Good afternoon. Samantha Mazo of Cozen
18 O'Connor. We are counsel to Cal, to the adjacent property
19 owner, the party in opposition.

20 CHAIRPERSON HILL: Okay.

21 MR. DuPONT: I'm Stephen DuPont. I'm the
22 architect for the applicant.

23 MR. FARRUGGIO: Guiseppe Farruggio, the owner of
24 the house.

25 CHAIRPERSON HILL: Okay. Sir, could you spell

1 your last name, also?

2 MR. FARRUGGIO: F-A-R-R-U-G-G-I-O.

3 CHAIRPERSON HILL: Okay, all right. So, Mr.
4 DuPont, you're going to be presenting to us?

5 MR. DuPONT: Yes.

6 CHAIRPERSON HILL: Okay. So what we're going to
7 end up doing here because you're going to have an opportunity
8 to present, just to let everybody know how this works, even
9 though everybody probably knows, at least most of you here
10 at the table. You'll have an opportunity to present. The
11 party in opposition will then have an opportunity to ask
12 questions of you after we've had an opportunity to ask
13 questions of you. You'll have also then an opportunity to
14 present, and then we're going to hear from the Office of
15 Planning. We'll go through the Office of Planning, and
16 everybody will have an opportunity to ask questions of the
17 Office of Planning. We'll have rebuttal in terms of the
18 applicant and then conclusion. Okay?

19 Yes, and we're actually going to lose a Board
20 member in a few minutes, in 15 minutes. So if we do get, if
21 we don't get to a decision today, our Board member will read
22 in to the remaining portions of the hearing.

23 So, Mr. DuPont, if you want to go ahead and give
24 us a presentation as to, again, just basically what it is
25 that you're trying or your client is trying to accomplish or

1 you, as yourself, as the architect, I suppose, and then how
2 you're meeting the criteria for us to grant the special
3 exceptions and the variances. And I'm going to put, I don't
4 know, I'm going to put 20 minutes on the clock just so I know
5 where we are. I know that this is going to take a little bit
6 longer, and that's why you're at the end of the day. And
7 we'll just see where we get to. Okay?

8 MR. DuPONT: Thank you very much.

9 CHAIRPERSON HILL: Sure. You can start whenever
10 you'd like.

11 MR. DuPONT: On your screen, you'll see kind of
12 a plat drawing for that side of the street and our house, the
13 applicant's house is in gray, rather than darker gray. This
14 wall here that I'm showing with the cursor is the existing
15 back wall of the house. The house is, by far, the smallest
16 house on the street. It's also set back from its property
17 line 30 feet, but it's flush with the neighbor at the rear.
18 These two houses were built at the same time, apparently, by
19 the same party, and they were configured for that builder's
20 personal reasons.

21 Mr. Yedibalian's house is set back about six feet
22 from the property line and is a much deeper house, but it's
23 obviously not as deep as my client's. The difference is
24 something around 20 to 22 feet difference in this back area
25 way. What that means is anything that we would do on the

1 back of the property will require a special exception.
2 Anything will exceed the 10-foot rule.

3 On the front of the property, we're constrained
4 by the Old Georgetown Board. We're actually constrained at
5 the back of the property by the Board also but more so at the
6 front.

7 After several hearings at OGB, we've arrived at
8 a solution where we have a third-floor addition and we're
9 holding that back three feet from the existing front wall of
10 the house. So there's no change to the existing two-story
11 front wall of the house at all. It's a slope roof and a
12 dormer. And then in the back, all the work is being done on
13 the back. The work consists of an addition here, which is
14 at the basement level to provide a deck off the living room
15 that would match the deck at 3600 Prospect Street. Both of
16 those decks side-by-side looking out over sort of twin
17 patios.

18 This curved blue line is a line of an existing
19 fence that's already there, and the red line is the line of
20 the 7-foot rule for property line by right fences. So we're
21 talking about adding this area above that red line.

22 We're also talking about a bay addition at the
23 back of the house, which is this, to give a little more room
24 especially at the ground floor, which is very tight. But
25 I've held the bay away from the sides of the two properties

1 so that the impact on the neighbors would be as minimal as
2 possible. From these decks here -- this is drawn, I think,
3 considerably deeper than it really is. I think this house
4 is actually way back here. You won't see this bay except if
5 you're standing way out on the side of the deck over here,
6 and that was the intention.

7 We also have -- the size of the sheet is so
8 different. We also have cut down the roof line up above to
9 similarly limit the impact on this roof deck, which is
10 existing. The ridge line of our proposed third floor is no
11 higher than the existing parapet at 3604. So this addition,
12 this bay addition on the back, and then a basement-level
13 addition here with a deck above it. And we have, we're
14 proposing these substantial planters on both sides so that
15 we can put actual trees in here, rather than fences or
16 railings or something like that.

17 CHAIRPERSON HILL: Mr. DuPont, I'm just going to
18 kind of interrupt because you're going to go on a little bit.
19 As I was looking through the drawings, I got a little bit
20 confused in terms of what was there and what's proposed. So
21 that basement level is not there now?

22 MR. DuPONT: This addition is not here now.

23 CHAIRPERSON HILL: Okay. What is it --

24 MR. DuPONT: This is here. The neighbor's deck --

25 CHAIRPERSON HILL: The neighbor's deck is there.

1 MR. DuPONT: Right.

2 CHAIRPERSON HILL: And currently what is there
3 now? Nothing?

4 MR. DuPONT: Right. Well, there's a patio.

5 CHAIRPERSON HILL: Right.

6 MR. DuPONT: It's like that.

7 CHAIRPERSON HILL: Got it. Okay. So you're
8 trying to go out again -- and thank you. You're trying to
9 go out again on the basement level, right?

10 MR. DuPONT: Yes.

11 CHAIRPERSON HILL: And you're trying to make that
12 bay, pulling out that bay?

13 MR. DuPONT: Right. Both of which require the 10-
14 foot rule because we're already more than 10 feet behind Mr.
15 Yedibalian.

16 CHAIRPERSON HILL: Right. The bay, how far is the
17 bay going out?

18 MR. DuPONT: About three feet.

19 CHAIRPERSON HILL: Okay.

20 MR. DuPONT: And it's held back from the corners
21 about 30 inches.

22 CHAIRPERSON HILL: Okay. Please continue.

23 MR. DuPONT: I'm pretty much there. Let me go
24 back to the other model and a quick look at the front. This
25 is the result from the Old Georgetown Board. The original

1 brick is unchanged, and the face of this dormer is back three
2 feet from the face of the original brick.

3 CHAIRPERSON HILL: Right. And that third floor
4 is new?

5 MR. DuPONT: That third floor is new.

6 CHAIRPERSON HILL: Right. So do you have a
7 picture of what's existing there now?

8 MR. DuPONT: Yes, sir.

9 CHAIRPERSON HILL: Okay. All right, great. Thank
10 you. You can keep going.

11 MR. DuPONT: I'm not sure there's that much more.

12 CHAIRPERSON HILL: Okay. That's fine. I mean,
13 depending upon what the Board has -- I mean, we've read
14 everything into the record in terms of your arguments for the
15 how you're meeting the standard necessary for the variance
16 and the special exception. I mean, this is the meat of
17 everything we're talking about.

18 MR. DuPONT: I think the one pertinent thing we
19 might do is go to the last, the sun studies.

20 CHAIRPERSON HILL: Sure.

21 MR. DuPONT: Which will be Exhibits 65, 66, and
22 67, I think. And they're basically going to say the same
23 thing that Mr. Yedibalian's sun studies say, which is that
24 most of the impact is in the morning and it's across the
25 third-floor windows of his house.

1 So on the left-hand side is the existing house,
2 and on the right-hand side just the proposed. And this is
3 December that we're looking at at 7:30 in the morning. And
4 at 7:30 in the morning, there's a little bit of light that
5 would be blocked by our addition. At 9 in the morning,
6 there's a little bit more blockage about halfway across the
7 third floor, and then at 10 in the morning there's a little
8 bit more blockage than there was before. That's December.

9 Looking at March and as you move toward June,
10 things change because the sun is higher in the sky and it
11 sets and rises more to the north. So 7:30 in the morning,
12 again, we're blocking the top floor windows. In the middle
13 of the day, it's less. And by 10, 10:30 in the morning, the
14 difference is fairly minimal.

15 Going to June, the season when you might actually
16 like to have a little shading, we probably have less. In
17 June, the sun actually sets north of due east, so at 7:30 in
18 the morning there's no direct light on the house anyway. By
19 9 a.m., this is a, you can see it, these are darker images
20 because the computer actually compensates for the angle of
21 the sun hitting the wall. It's a much less direct angle when
22 the sun is higher in the sky, so it ended up being a darker
23 image. I'm sorry.

24 There's very little difference between the two.
25 And then by 10:30 a.m., there's a little bit of shading on

1 about a third of the decks, but the top floor windows are
2 completely sunny. And I think most of the commentary at this
3 point has to do with sunlight across the top floor windows.
4 I think you can still see that in your own computers. You
5 want me to put it back up?

6 CHAIRPERSON HILL: Yes, please.

7 MR. DuPONT: All right. I don't know what you get
8 to see.

9 CHAIRPERSON HILL: All right. Is that it, Mr.
10 DuPont?

11 MR. DuPONT: I think so.

12 CHAIRPERSON HILL: Okay, all right, okay. Ms.
13 White, I'm sorry, you said you had a question.

14 MEMBER WHITE: Yes. Because I have to leave, I
15 am going to listen to the rest of the case because it's
16 really interesting, and I love your graphics, by the way.

17 MR. DuPONT: Thank you.

18 MEMBER WHITE: But can you just tell me quickly
19 how you're meeting the variance standard?

20 MR. DuPONT: Yes, page 14 of the burden of proof
21 letter I address each of the three standard requirements
22 explicitly. And by the way, I should mention that, when this
23 work is done, the house will still be the smallest house on
24 the street, smallest footprint.

25 So looking at the burden of proof -- which one is

1 that? I thought I had it up here.

2 MEMBER WHITE: Or you could just highlight some
3 of it for me.

4 MR. DuPONT: I have it right here. I thought I
5 had put it into that folder. Hold on. One second and I'll
6 have it for you. Here we go.

7 CHAIRPERSON HILL: I think it's Exhibit 43. I
8 don't know if that's --

9 MR. DuPONT: Yes, page 14, there are the three
10 standard variance arguments: does the property exhibit
11 specific uniqueness with respect to exceptional narrowness,
12 etcetera? And, yes, the exceptional condition is the non-
13 conformity that actually requires the variance, which is the
14 front of 3602 is set back about 21 ½ feet from the front of
15 3600 and about 24 feet from the front of 3604. The condition
16 cannot be remedied by building in front. The Old Georgetown
17 Board will not allow it. So we don't have any other option
18 except by going out the back for the 10-foot rule.

19 As far as the variance is concerned, we're not
20 actually making any changes to the front of the existing
21 house. So, yes, there's a non-conforming condition, but
22 we're neither enlarging, nor making it more extreme.

23 Does the extraordinary exceptional situation
24 impose a practical difficulty? Yes, it is exactly this
25 condition which has brought us before you. And can the

1 relief be granted without substantial detriment to the public
2 good and without substantially impairing the intent, purpose,
3 and integrity of the zoning regulations and map? As far as
4 the zoning regulations and map is concerned, this should be
5 fine. As far as the public good is concerned, the Old
6 Georgetown Board has already accepted this design and that
7 leaves only our two neighbors.

8 MEMBER WHITE: Thank you.

9 CHAIRPERSON HILL: Okay. Does anybody have any
10 questions for the applicant at this point? Okay. So I meant
11 to say this earlier again. So we're, you know, it's two
12 individuals right next to each other. They obviously have
13 very strong opinions one way or the other, and I just want
14 to make sure that we're very, we're going to be very calm and
15 relaxed as we -- I've come up with better words to describe
16 how we're going to go through the process. But, nonetheless,
17 I'd like to go through the process as efficiently as
18 possible.

19 That being said, Ms. Mazo, do you have any
20 questions for Mr. DuPont?

21 MS. MAZO: I do have a couple of questions. Mr.
22 DuPont, in --

23 CHAIRPERSON HILL: Could you lean up into the
24 microphone a little bit? Sorry.

25 MS. MAZO: Speak up?

1 CHAIRPERSON HILL: Yes.

2 MS. MAZO: No one has ever asked me to speak up
3 before. This is exciting. Yes, Mr. DuPont, in the section
4 of some filing of your many filings that you have in front
5 of us, you said that no other member of the public has
6 expressed any concern, but isn't that incorrect? Because the
7 ANC has filed a letter expressing their specific concern
8 about the sun studies and the impact on Cal's house; is that
9 correct?

10 MR. DuPONT: They expressed, basically what it
11 said is work with the neighbors.

12 MS. MAZO: No, Mr. DuPont, I believe that -- is
13 that a mischaracterization? I'll be happy to pull that up,
14 but it expressly says we have concerns --

15 CHAIRPERSON HILL: That's okay. I got the letter
16 from the ANC anyway, and I saw what the letter said.

17 MS. MAZO: Sure, okay.

18 CHAIRPERSON HILL: But so his answer was, I don't
19 know what your answer was, Mr. DuPont.

20 MR. DuPONT: Let me say --

21 CHAIRPERSON HILL: No, I didn't want to have a
22 long discussion on this. The question was whether or not
23 there was other people that had concerns, so I assume the
24 answer is yes. I do have the letter also that the ANC, the
25 ANC --

1 MR. DuPONT: What they said is, in response, I
2 think, to the conversations that were occurring about sun
3 studies and because they generally speak about them, they
4 kind of made a rhetorical co-directive that this should be
5 addressed and they made no other ruling.

6 CHAIRPERSON HILL: Okay, Ms. Mazo. I guess that's
7 the answer that you're going to get. You can follow-up with
8 that question or ask another question.

9 MS. MAZO: Sure. Mr. DuPont, how far back beyond
10 the rear wall of Cal's house does your addition go?

11 MR. DuPONT: I'm not exactly sure. My drawings
12 from working on both of those houses show that it's about 20
13 feet, but I keep hearing from Cal who has measured it that
14 it's 22 feet. So I don't know.

15 CHAIRPERSON HILL: Is that the bottom floor you're
16 speaking of?

17 MR. DuPONT: Well, it's the back wall of both
18 houses. It's a straight wall in both cases.

19 MS. MAZO: Okay. But assuming it's either,
20 whatever, the existing condition is either 20 feet or 22
21 feet, how far back does the proposed ground floor addition
22 go beyond the existing conditions? Do you have an answer for
23 that?

24 MR. DuPONT: The basement floor addition goes back
25 13' 6.5", which matches the deck at 3600.

1 MS. MAZO: Okay. So to be clear, the basement
2 extends an additional 13-plus feet for a total extension
3 beyond Cal's house of approximately, at minimum, 35 feet; is
4 that correct?

5 MR. DuPONT: Whatever it is, most of it's not
6 visible.

7 CHAIRPERSON HILL: That's okay. I'm also just
8 trying to ask the question also. It's a pretty straight-up
9 answer.

10 MR. DuPONT: Yes.

11 CHAIRPERSON HILL: So do you know what the number
12 is?

13 MR. DuPONT: No. I have a two-foot deviation.

14 CHAIRPERSON HILL: Okay. So 34 feet?

15 MR. DuPONT: Thirty-four, thirty-five, something
16 like that.

17 CHAIRPERSON HILL: Okay, okay.

18 MS. MAZO: Okay. Also, just for clarification
19 purposes, your proposal also proposes a new third story on
20 to Mr. Farruggio's house; is that correct?

21 MR. DuPONT: Yes.

22 MS. MAZO: Because that wasn't clear in the
23 proposal you provided.

24 CHAIRPERSON HILL: Mr. DuPont, Board member --

25 MEMBER WHITE: Can you speak to the diagram for

1 me and can you state whether we're talking about 3602 or
2 3604? I'm having difficulty following.

3 MS. MAZO: Sure.

4 MEMBER WHITE: Is there a diagram with the back
5 of the house so that I can see which house you're referring
6 to?

7 MR. DuPONT: Yes.

8 MS. MAZO: We have that diagram as part of our
9 PowerPoint. We can pull that up, if that would be helpful.
10 I don't know if Mr. DuPont has that information.

11 MEMBER WHITE: It would be helpful. I'm just
12 trying to follow your cross-examination.

13 MS. MAZO: Okay. Unfortunately, it looks like Mr.
14 DuPont is not on the IZIS system.

15 CHAIRPERSON HILL: No, that's okay. The one that
16 -- Mr. DuPont, just one of the ones that showed the back of
17 the properties. You had a nice drawing there.

18 MR. DuPONT: The plat drawing or the model?

19 CHAIRPERSON HILL: The model.

20 MR. DuPONT: The model. All right. So that's the
21 plan view. This is --

22 CHAIRPERSON HILL: Now, go back to the other one,
23 please. Okay.

24 MR. DuPONT: That's existing condition.

25 CHAIRPERSON HILL: Okay. And go ahead and give

1 us what you're proposing. Got it. Okay. And, Cal, you're
2 the one, you're the house to the left?

3 MR. YEDIBALIAN: Yes.

4 CHAIRPERSON HILL: Yes, okay. Great.

5 MR. DuPONT: So this is the addition --

6 CHAIRPERSON HILL: Yes, we got that part. I'm
7 sorry. Ms. John just wanted to see this diagram as we're
8 asking these questions. So, Ms. Mazo, what's your next
9 question?

10 MS. MAZO: Mr. DuPont, your sun studies that you
11 filed in the record, you filed multiple sun studies in the
12 record. Which are the ones that you're showing to the Board
13 today?

14 MR. DuPONT: They're all accurate and the same and
15 they match yours. And the ones I just showed you are the
16 Exhibits 65, 6, and 7, I think.

17 MS. MAZO: And those were the ones that were filed
18 last night; is that correct?

19 MR. DuPONT: Yes, at the same time you filed
20 yours.

21 MS. MAZO: Okay. So those sun studies, could you
22 pull those sun studies back up?

23 CHAIRPERSON HILL: Which one are you pulling up,
24 by the way? Because I got 65, 66, and 67 here also.

25 MR. DuPONT: It may be, 68 was Ms. Mazo's last

1 filing, and then I had a filing, I don't remember the
2 numbers. It might be 64, 5, and 6, or something. And
3 they're called 1 December, 2 March, and 3 June.

4 CHAIRPERSON HILL: Okay. Which one are you going
5 to pull up now?

6 MR. DuPONT: Which -- well, I think June is really
7 the most useful one.

8 MS. MAZO: Actually, December, please.

9 MR. DuPONT: Fine.

10 CHAIRPERSON HILL: Okay. So 65.

11 MR. DuPONT: That's December.

12 CHAIRPERSON HILL: Okay. What's your question,
13 Ms. Mazo?

14 MS. MAZO: Just confirming for the record that
15 what you're showing the Board shows no existing sunlight on
16 3604, on Cal's house, at 7:30 a.m. on the top story of Cal's
17 house. In the existing conditions, you're showing that
18 there's no --

19 MR. DuPONT: No, this is --

20 MS. MAZO: -- no sunlight.

21 MR. DuPONT: No, no, that's not true. This is the
22 existing condition.

23 MS. MAZO: What I'm looking at --

24 MR. DuPONT: This looks exactly like --

25 MS. MAZO: What I'm looking at shows no sunlight

1 there.

2 CHAIRPERSON HILL: Are you looking at the proposed
3 one?

4 MS. MAZO: No, I was looking at existing, what's
5 being shown on the screen. Maybe that's darker than what's
6 on the computer screen.

7 MR. DuPONT: If you look at the screen up there,
8 the light area up top is the top part of Cal's windows and
9 brickwork.

10 CHAIRPERSON HILL: So the shadow study is showing
11 that light is the light portion at the top.

12 MR. DuPONT: Yes.

13 CHAIRPERSON HILL: Okay.

14 MR. DuPONT: That's exactly the same as in Mazo's
15 sun studies.

16 CHAIRPERSON HILL: Okay. We can figure that out
17 later.

18 MS. MAZO: Okay. So that's my question.

19 CHAIRPERSON HILL: Okay.

20 MS. MAZO: And --

21 MR. DuPONT: They're a little more difficult to
22 read, and I'm sorry, because of all the --

23 CHAIRPERSON HILL: That's okay. I'm just trying
24 to get through the questions.

25 MR. DuPONT: Yes, okay.

1 MS. MAZO: And then also your sun studies do not
2 show a matter of right proposal, do they?

3 MR. DuPONT: There is no such animal that can be
4 proposed.

5 MS. MAZO: Sir, it's a yes or no question.

6 MR. DuPONT: No.

7 CHAIRPERSON HILL: Okay, all right. Is that it?
8 Okay.

9 MS. MAZO: No more questions.

10 CHAIRPERSON HILL: So, Ms. Mazo, we started with
11 20, they went through 10. I'm going to give you 15 just
12 because. And so you can start whenever you'd like.

13 MS. MAZO: Just very briefly. Again, Samantha
14 Mazo here on behalf of Mr. Yedibalian who is the adjacent
15 property owner as manner of property status. We are here
16 because the adjacent property owner is requesting both
17 special exception and variance relief in order to extend the
18 rear property approximately 35 feet beyond Cal's house and
19 then also to add a new third-story addition.

20 With that, I'm going to turn it over to project
21 architect, Mr. Yedibalian's architect, to provide some
22 additional images and to talk through the sun studies.

23 MR. TEASS: Good morning. My name is Will Teass,
24 and I've got a couple of slides to talk about the existing
25 conditions and some impact of the proposed addition on the

1 sunlight and the air to the property at 3604 Prospect.

2 What you're seeing here is an aerial view taken
3 from the southeast. It speaks to the relationship of the
4 subject property, which is with the red dot on it, and the
5 property to the left or to the west, which is 3604, and you
6 get a sense of the setback that exists today. These are
7 images that are taken from the rear of 3604. The image on
8 the right really speaks to the setback and the upper level
9 deck. The property on the right-hand side is 3602, which is
10 the property associated with the application. The image on
11 the left is from that deck. So as you can already tell,
12 there's a substantial impact from the existing condition of
13 the adjacent property at 3602.

14 CHAIRPERSON HILL: So go back one. So you're the
15 deck on the left, right? The slide, the photograph that you
16 have on the left there, that deck on the left matches the
17 deck on the third story is what you're telling us?

18 MR. TEASS: Correct. The image on the left is
19 taken from the deck that you're seeing on the right-hand
20 side.

21 CHAIRPERSON HILL: So the image on the left is
22 taken from the deck that's on the right?

23 MR. TEASS: Yes.

24 CHAIRPERSON HILL: Okay. The only reason why I
25 ask that is, to me, just from the photograph, it looks like

1 the wall is farther on the right than it is on the left. I'm
2 just confirming that's the same deck?

3 MR. TEASS: Correct.

4 CHAIRPERSON HILL: Okay.

5 MR. TEASS: So these two images illustrate the
6 condition at 3604. You can see the rear yard with the
7 landscaped area on the right-hand side. A portion of the
8 property at 3602 is visible on the left-hand side where
9 there's an existing fence. There are actually multiple
10 sections of fence. There's also a brick wall. And then the
11 image on the left is again from that deck and illustrating
12 the tunnel-like condition that exists already at 3604.

13 MS. MAZO: Sorry. Will, just real quickly, just
14 for orientation purposes, 3602 is Mr. Farruggio's house and
15 3604 is Mr. Yedibalian's house because, quite frankly, I get
16 confused, as well.

17 MEMBER WHITE: And that's the house that we're
18 looking at now with the vegetation on the right, and the
19 steps from the movie are on the right of that. 3604 -- which
20 house borders the steps for the Exorcist movie?

21 MR. TEASS: 3600.

22 MEMBER WHITE: 3604.

23 MR. TEASS: 3600. So it's 3600, which is also a
24 party in opposition, 3602 which is the one in from the steps
25 which is the subject property, and then we're at 3604.

1 MEMBER WHITE: Okay. Now I get it.

2 MR. TEASS: If that helps.

3 MEMBER WHITE: Yes.

4 CHAIRPERSON HILL: This is Cal's backyard.

5 MR. TEASS: This is Cal's backyard. These are all
6 pictures from Cal's house.

7 CHAIRPERSON HILL: And then that basement there,
8 the left, that's what the existing thing, and that's going
9 to go out another 13.5 feet?

10 MR. TEASS: Correct, correct.

11 CHAIRPERSON HILL: All right.

12 MR. TEASS: Again, there's two decks at Cal's
13 property, and you're seeing again the extent of that wall
14 that exists at 3602. And as you start to understand the
15 lighting --

16 CHAIRPERSON HILL: Can you go back one? Thanks.
17 So that wall there, so that wall would not go out any
18 farther, other than for the three-foot bump out, correct?

19 MR. TEASS: That wall would not go out any further
20 on the ground floor and second floor. It would go out on the
21 third floor, and I think that's a point that we want to get
22 to when we get to the --

23 CHAIRPERSON HILL: I got you. What floor are you
24 on right now?

25 MR. TEASS: This is the ground floor.

1 CHAIRPERSON HILL: So it would or would not -- it
2 would not go any farther there.

3 MR. TEASS: Correct. There is a proposed bay that
4 would extend. But that bay is set back from the edge of the
5 brick.

6 CHAIRPERSON HILL: Got it. We know about the
7 third floor. I'm just trying to make sure we're all oriented
8 in the same --

9 MR. TEASS: Absolutely.

10 CHAIRPERSON HILL: Okay, okay.

11 MR. TEASS: Again, an image that shows the
12 challenges that are inherent in the site now with the tunnel-
13 like condition of having, you know, properties on either side
14 that exist past. This is taken at the cellar-level of 3604,
15 at Cal's house. And then I think also it's important to talk
16 about the interior lighting conditions, and so you're seeing
17 an image here on the existing third floor of Cal's house
18 looking out with, you know, quite frankly a spectacular view
19 of Key Bridge, and this is, I think, one of the more
20 important points to talk about because this window would be
21 particularly affected by the addition of a third floor on
22 3602.

23 Again, you get a sense of now the second level,
24 sorry, the ground floor when you're looking out and seeing
25 the building to the left, which is 3602.

1 CHAIRPERSON HILL: I'm sorry. Go back one. So
2 that's ground floor, and there's the cellar. So this is,
3 what floor is this?

4 MR. TEASS: Second floor.

5 CHAIRPERSON HILL: Second floor. Then there's the
6 floor below.

7 MR. TEASS: Which is the ground floor.

8 CHAIRPERSON HILL: Which is the ground floor. And
9 then there's the floor below that.

10 MR. TEASS: Which is the cellar.

11 CHAIRPERSON HILL: And the one that you just
12 showed a couple back, that's the ground floor. Keep going
13 back. Sorry. That's the ground floor.

14 MR. TEASS: Cellar.

15 CHAIRPERSON HILL: Cellar. Okay. Do you have a
16 shot from the ground floor? Not yet.

17 MR. TEASS: So this is the ground floor, just a
18 different angle. So you're seeing the --

19 CHAIRPERSON HILL: Okay. That's the ground floor.

20 MR. TEASS: Yes.

21 CHAIRPERSON HILL: And then now you're on the next
22 floor up.

23 MR. TEASS: Correct.

24 CHAIRPERSON HILL: And then there's a floor up
25 above that.

1 MR. TEASS: Correct.

2 CHAIRPERSON HILL: Okay, all right. Okay, okay.
3 You were two photos back.

4 MR. TEASS: Again, these just really emphasize the
5 condition of the property at 3602 and the already significant
6 impact that it has. Yes, it is an existing condition, but
7 it already has a significant impact on the light and air of
8 3604, of Cal's house.

9 MEMBER WHITE: I have a question. So can we go
10 back? What's the length of that wall?

11 MR. TEASS: Based on our measurements of the
12 drawings in the record, that wall appears to be about 20
13 feet, between 19.5 and 20 feet, the brick wall. So some of
14 the discrepancy is, I think, where that measurement is taken
15 from. So the measurement from Cal's wall to the furthest
16 extent of the new bay projection is about 22 - 23 feet. And
17 then at the lower level, it's 33 - 34 feet with the proposed
18 addition. If I can just jump ahead a couple of slides, I
19 think some of the exhibits that --

20 MS. MAZO: Well, just real quickly, can you use
21 this image to explain what Mr. Farruggio is proposing for the
22 third story?

23 MR. TEASS: Yes. And so what you're seeing here
24 is the top of the second story at 3602 when the project, as
25 designed, would be complete. The sky here would be almost

1 completely obscured. You would only have a small portion at
2 the right-hand side.

3 MS. MAZO: Sorry. And that's because this is
4 where Mr. Farruggio's proposing his third-story addition; is
5 that correct?

6 MR. TEASS: Correct.

7 MEMBER WHITE: And so my question is what's the
8 length of that third-story addition? I mean, does it go
9 beyond that little tower or --

10 MR. TEASS: Currently, it's shown at 22 feet, so
11 it goes beyond the bell tower, basically to where the flag
12 is conveniently placed in that image. That's the extent of
13 that addition.

14 MEMBER WHITE: And is that where the neighbor's
15 house is near, the neighbor's house that's flush with one of
16 them?

17 MR. TEASS: I'm not sure.

18 MEMBER WHITE: Okay. We can get to it.

19 MS. MAZO: But that neighbor's house does not have
20 a third story, correct?

21 MR. TEASS: The height of it matches. 3600 and
22 3602 are the same height.

23 CHAIRPERSON HILL: All right. So, Mr. DuPont, I
24 appreciate you answering their questions, but just let them
25 go ahead and answer their questions. You'll have a chance

1 to answer your questions and it can turn into a free-for-all
2 later, okay? All right. Keep going, Mr. Teass.

3 MR. TEASS: I'd actually like to jump ahead to the
4 site plan and start to get into some drawings that I think
5 help us orient ourselves to the project. So what you're
6 seeing on the right-hand side is the proposed site plan. The
7 extent of new work is depicted in green and tan in the right-
8 hand image, and so obviously we've talked about the cellar
9 addition extending about 13.5 feet from the existing rear
10 wall that's about 19.42 feet from the rear wall of Cal's
11 house. There is also a 3-foot bay extension that's on the
12 ground, second, and third floors that bring the total
13 addition at those levels to about 23 feet. And perhaps you
14 have a question?

15 CHAIRPERSON HILL: That's all right, Mr. Teass.
16 And I appreciate what you guys are trying to show us and
17 everything, but the 10-foot, the matter of right 10-foot,
18 like it already is there, like it already is non-conforming
19 there. Like, I don't really understand, I understand why
20 you're showing it to us, but, anyway, keep going. I didn't
21 really have a comment, nevermind.

22 MR. TEASS: Sure. And so I think part of our work
23 that we were commissioned to bring to the hearing today was
24 a series of sun studies, and I think that what you're seeing
25 in the middle is the existing condition today. And so, yes,

1 there is a portion of the building that's there today that's
2 depicted in the tan color that already exceeds the 10-foot
3 addition. So part of our proposition today is that there is
4 already an impact of sun and light on the adjacent property
5 by virtue of the fact that the existing structure exceeds
6 that 10 feet.

7 The image on the right-hand side shows the third
8 floor addition. It shows the cellar addition, and it also
9 shows the bay addition at the rear. And what we're trying
10 to illustrate here is the degree to which additional shadow
11 is cast by both the third floor addition, as well as the
12 cellar addition. And so, again, we looked at a winter,
13 spring, fall, and summer time period. We don't, we would
14 agree that the impact of the lighting is most prevalent in
15 the morning because the sun in this image is to the right,
16 rising in the east. And so the area on the right-hand side
17 depicts the area of additional shadow that is cast on to
18 Cal's property at 3604 by the third-floor addition, and so
19 you can see that in 7:30 in the winter, you can see that,
20 again, in the spring and the fall at 7:30, and you can see
21 that again to a lesser degree in the summertime, and I think
22 those generally correspond to the work that Mr. DuPont has
23 presented.

24 MS. MAZO: Will, can you go back to the winter?
25 Thanks. So right now your sun studies are showing that the

1 upper story of Cal's property, that's where the master
2 bedroom is, is getting morning light; is that correct?

3 MR. TEASS: Correct.

4 MS. MAZO: And as currently existing. And that's
5 kind of documented by the photo you provided.

6 MR. TEASS: Correct.

7 MS. MAZO: But you are showing that if this
8 proposed third story addition is approved as proposed that
9 that would entirely eliminate that morning light to the third
10 story of Cal's house?

11 MR. TEASS: That's correct. It eliminates the
12 ability to look out from the master bedroom and see the
13 sunrise in the winter in the morning.

14 MR. YEDIBALIAN: That's actually our master
15 bedroom, so we're actually, what we look forward to every
16 morning, which is what gets us up, we don't have anymore.
17 So that's -- it's not just a room up there. That's the
18 master bedroom, so that's why it's so protrusive when you
19 have 22 feet out and a little over five feet above, which is
20 going out the whole extent of the extension there.

21 MS. MAZO: And with that, Cal, I know Cal wants
22 to say a few things quickly.

23 MR. YEDIBALIAN: Okay. So, again, that was my
24 biggest concern obviously was when we look at that one
25 shadow. The whole thing that, you know, is like quality of

1 life there, you know, where we are, the air, the light. You
2 know, I know we're doing a lot of these shadow studies. But
3 it's also the air. You know, it's like a tunnel vision when
4 you start looking at all these pictures I looked through if
5 you look at the proposed additions occurring. If you're in
6 the yard, if you're on the lowest level, you're like tunnel
7 vision. As you move up, you're on tunnel vision. When you
8 have that, that brick wall is the one that you were, so it's,
9 in essence, going to go up, so this is the bedroom now, so
10 it goes out to the flag, you're up over, I think it's 5'7"
11 above, and that's all you're going to see there. So now
12 you've lost all that light and air, you know. And then you
13 just start looking out. That's how you become, in a sense,
14 tunnel vision, claustrophobic. And as you move down,
15 obviously, to the lower level, you'll see where you lose
16 everything there also with that addition that goes out 13.5
17 feet.

18 I guess my whole concern is I know both of our
19 neighbors on both sides oppose this. We both oppose this.
20 The gentleman is in the back now of 3600. And I know the
21 ordinance was adopted for 10 feet for a reason because they
22 didn't want any construction to go past 10 feet to avoid
23 these issues.

24 What really, I guess, is so upsetting for me is
25 that we're already at 22 feet. On the top, you know, we're

1 going the whole length adding 22 feet past my house and at
2 the bottom we're adding another 13.5 feet. You can't really
3 see it now, but if you're in that yard just visualizing
4 what's left after that, your air is gone, you know, your
5 light is gone. It's just not a very good feeling anymore.
6 It's just not what we had envisioned and I thought the
7 ordinance would protect us from that. It just seems like,
8 I know there are exceptions to ordinances, but, you know,
9 over 10 feet maybe. But when you start getting over 22 feet
10 and you're hitting levels of 35 feet, it just seems so
11 excessive how we could even have that even get approved.

12 That's it. I'm done. Thank you.

13 MS. MAZO: I do have some concluding remarks, but
14 I can --

15 CHAIRPERSON HILL: We asked a bunch of questions,
16 so go ahead. We have your whole presentation here. I mean,
17 you can kind of, you know, we interrupted your time, so go
18 ahead and --

19 MS. MAZO: Just very briefly. I mean, again, as
20 Mr. Yedibalian said, as Cal said, both property owners oppose
21 this project. Nobody has agreed to a third-story addition.
22 There was some language in one of the filings that Mr.
23 Yedibalian had agreed to something at some point. That
24 statement is not correct. Mr. O'Malley, the owner of 3600
25 Prospect, the house that's next to the Exorcist stairs, also

1 opposes the application. They didn't agree to anything. ANC
2 2E does not support the application. I mean, this is, to
3 this neighborhood, to these neighbors and, in particular, to
4 Mr. Yedibalian, this is, I mean, as he stated, an egregious
5 expansion beyond what was really anticipated as part of the
6 10-foot rule.

7 You know, we've got, I mean, there are special
8 exception standards. The burden, of course, is on the
9 applicant to prove that the project meets both of those
10 standards. First of all, what's proposed here does not meet
11 the variance standard that's required for the third story.
12 In particular, this is obviously, the variance test is an
13 exceedingly difficult standard. There have been many cases
14 recently where the court of appeals has found that the Board
15 or that the Zoning Commission may have erred in the issuance
16 of a variance approval and really none of the prongs are met
17 here.

18 I mean, obviously, the exceptional practical
19 difficulty, but really it's the third prong that does not
20 cause substantial detriment to Mr. Yedibalian's home. And
21 here what has been provided by Will and the sun studies in
22 particular explain how much of a detriment this is going to
23 cause to Mr. Yedibalian. It is going to reduce his morning
24 light by at least an hour. I have sat on, usually, the other
25 side of many of these cases and, you know, I don't think I

1 would put forward a case where there's a sun study that
2 showed that an hour of light was going to be reduced on a
3 single family home. I mean, I think everybody understands,
4 especially in the morning, that's when you want your
5 sunlight. And if what's being proposed is going to be
6 reducing that, that certainly would fall under the auspices
7 of substantial detriment that would not allow this case to
8 be relevant and approvable as a variance, in my opinion.

9 Further, the special exception standard is also
10 not satisfied here. Again, the issue is will not tend to
11 adversely affect the use of neighboring property in
12 accordance with the zoning regulations. Here we have shown
13 or through Will's documents that this will tend to adversely
14 affect Mr. Yedibalian. Anybody who is sleeping in that
15 master bedroom is going to lose their morning light,
16 especially in the morning, which is when you want the morning
17 light. There's also potential privacy concerns by the decks.
18 You know, all these things are really what the special
19 exception standard, as I've been told by this Board, by OP,
20 by everybody in many of my other cases, what the special
21 exception standards are here to protect. And in this case,
22 because of the existing condition, which, you know, nobody
23 discounts the fact that that structure is there, but that
24 doesn't mean that as a matter of right they are allowed to
25 build 22 feet on top of them. They're here for particular

1 relief and, certainly from my perspective and from the
2 evidence that's in the record, they have not satisfied their
3 burden.

4 CHAIRPERSON HILL: Okay, great. Thank you. Does
5 anyone have any questions of the party in opposition at this
6 point?

7 MEMBER WHITE: Yes, Mr. Chairman. I would like
8 to see, can we go back to those maps? I'm not sure which one
9 but anything that shows where a 10-foot addition would end.
10 Okay. And that is for the third and the second floor. Can
11 you clarify that for me? How far is the second floor going
12 back and how far is the third floor going back beyond what
13 is there right now?

14 MR. TEASS: Is that question directed to me?

15 MEMBER WHITE: Yes, Mr. Teass.

16 MR. TEASS: The second floor exists to 20 feet.
17 That would be extended to 23 feet by virtue of the rear
18 addition. There is no third floor, and that third floor
19 would be entirely new over top the existing structure. So
20 it would go beyond the 10 feet to the 19.42 feet.

21 MR. YEDIBALIAN: Could I help explain that, too?
22 Because it's a little confusing. That wall that exists, it's
23 behind that that they're putting in the floor. I don't see
24 that because that's the second floor, right? The wall. You
25 have the wall, right. So behind that is your second floor.

1 That's why you don't -- yes, but the point is it's behind
2 that. So she was asking -- that's open over there, so it's
3 really behind that. You don't have a picture where you can
4 see down? That's what she needs to see because it's very
5 hard to explain this.

6 MR. TEASS: Both houses have parapets. You can
7 see in the upper right in that right-hand image, you see the
8 end of the parapet.

9 MR. YEDIBALIAN: Just think of it being all
10 hollow, except for that first. It's hard for her to see.

11 MEMBER WHITE: So we're concerned with 10 feet
12 beyond this property, right? Which one? This one.

13 MR. TEASS: The image on the right is the adjacent
14 property. The addition is proposed on the right-hand side.

15 MEMBER WHITE: Where is Cal's house, in the middle
16 or to the right?

17 MR. TEASS: In the middle of this image.

18 MEMBER WHITE: Okay. So this is Cal. Okay.

19 MR. TEASS: And the house to the right is 3602,
20 which is the applicant.

21 MR. YEDIBALIAN: The second floor I don't see
22 because that's behind that brick already, what they're going
23 to build. That's just a --

24 MR. TEASS: And so their --

25 MEMBER WHITE: What's the distance beyond this

1 house, this 36 --

2 MS. MAZO: That's not 3600. We'll show you 36.
3 3600 would be to the right of 3602. It's not in this
4 picture. 3600 is not in this picture.

5 MEMBER WHITE: Okay, okay. You get it?

6 CHAIRPERSON HILL: Can you go back?

7 MS. MAZO: Sorry. Will, can you show them where
8 3600 is? So 3600 is Mr. O'Malley's house. He's also in
9 opposition. It's on the right-hand side of 3602. And that
10 3600 height, sorry, that 3600, it's at the same height as Mr.
11 Farruggio's existing structure. So Mr. Farruggio's house
12 would pop up taller than 3600, correct?

13 MR. TEASS: So this is an aerial photo taken from
14 the south. And so the subject property is here, which is
15 3602. 3604 is here, and 3600 is here. And so the addition
16 on 3602 would not extend any further rear than 3600, but it
17 would go up another story from 3600. So that addition would
18 be all in that location on that house.

19 MEMBER WHITE: And that's what I was trying to get
20 to: where would the 10-foot rule end? So it would still be
21 less than the end of --

22 MR. TEASS: The 10-foot rule would be
23 approximately halfway across that rear wall.

24 MEMBER WHITE: Okay.

25 MR. TEASS: If you were to hold that third floor

1 addition back to it was limited to 10 feet from 3604.

2 MEMBER WHITE: Okay.

3 CHAIRPERSON HILL: Okay. That's a good question
4 for later, actually, at least now that I have a question.
5 Commissioner Miller, anything?

6 ZC VICE CHAIRPERSON MILLER: Not at this time.

7 CHAIRPERSON HILL: Okay. Mr. DuPont, do you have
8 any questions about the presentation that was just given?
9 You just have to push the button there and speak once. I'm
10 sorry. Just push the button once, and, once it's on, then
11 you can go ahead and ask your questions.

12 MR. DuPONT: Right. So I'm looking at Exhibit 68
13 on my computer, and I'm looking at page three. Page three
14 on the left is showing a photograph from the upper of the two
15 decks --

16 CHAIRPERSON HILL: Wait a minute. Give me one
17 second. I just want to get to where you are. Page three of
18 their presentation.

19 MR. DuPONT: Yes.

20 CHAIRPERSON HILL: Okay. Is that the one that's
21 up there? Is that the one that's on the screen now?

22 MR. DuPONT: Yes, yes, it was.

23 CHAIRPERSON HILL: Okay, all right, okay.

24 MR. DuPONT: Okay. So that is the upper of the
25 two back decks at 3602, and in that image you actually cannot

1 see any of the basement-level addition that we're proposing
2 or any of the rear bay. And, yes, some of the sky on the
3 upper portion will be occluded, but I'll show you in a minute
4 why that's a relatively minor element.

5 CHAIRPERSON HILL: Mr. DuPont, I'm sorry, what's
6 your question of them?

7 MR. DuPONT: I want to go through their proposal
8 and make comments about it because I think some of it is a
9 little bit misleading.

10 CHAIRPERSON HILL: You'll get an opportunity to
11 have a rebuttal.

12 MR. DuPONT: I'm sorry.

13 CHAIRPERSON HILL: That's okay. I'm just trying
14 to ask do you have any questions concerning, do you have any
15 direct questions concerning their presentation?

16 MR. DuPONT: Only in a rebuttal format.

17 CHAIRPERSON HILL: Okay, all right. Okay. So
18 then I'm going to go ahead and move to the Office of
19 Planning.

20 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman
21 and members of the BZA. So the applicant has requested a
22 special exception from the rear wall extension. The
23 measurements that I have in my report were taken from the
24 applicant's plans, and so I had that where 10 foot was
25 allowed they were having 21 feet, 21.7 feet, and the proposed

1 would go to 34.71. So that's, I think that's about how much
2 they've been talking about --

3 CHAIRPERSON HILL: Ms. Brown-Roberts, I'm sorry.
4 Just so I understand again, and this has been a lot of
5 confusion. Just to clarify, you're talking about the
6 distance from what's there now and what they're proposing?

7 MS. BROWN-ROBERTS: Right. So it's --

8 CHAIRPERSON HILL: What's there now is already
9 non-conforming past the 10 feet.

10 MS. BROWN-ROBERTS: Right. It's 21 feet, let's
11 say 21 feet past --

12 CHAIRPERSON HILL: Past what's there now.

13 MS. BROWN-ROBERTS: Yes. No, 21 feet is what is
14 the non-conforming rear yard that they have now.

15 CHAIRPERSON HILL: Okay.

16 MS. BROWN-ROBERTS: And then with the addition,
17 it would go, at least with the addition on the basement level
18 would go out to 34.71. The third floor addition would remain
19 as the -- would go as far as the non-conforming.

20 CHAIRPERSON HILL: Okay, got you. Thank you.

21 MS. BROWN-ROBERTS: So there wouldn't be an
22 extension on the third floor addition.

23 CHAIRPERSON HILL: And, actually, I don't know if
24 you have to switch over to that computer or not, Mr. DuPont,
25 there was a slide that you had that you had spun around the

1 design and everything that had, like, the back and it kind
2 of clearly, I think, was easier to follow along.

3 MR. DuPONT: Technology moves faster than I'm
4 aware sometimes.

5 MS. MAZO: Can I just ask, Mr. DuPont, is that
6 model in the record?

7 MR. DuPONT: I don't know how to put the model in
8 the record. It's 500 megabytes.

9 CHAIRPERSON HILL: Okay. So I guess, Mr. Moy, how
10 do you get --

11 MR. DuPONT: The model, the model --

12 CHAIRPERSON HILL: That's all right.

13 MR. DuPONT: -- as the slides show that was
14 submitted with the original --

15 CHAIRPERSON HILL: Okay. So we can get to that
16 point in a minute. You're asking that because --

17 MS. MAZO: It would be helpful to know if that
18 model is in the --

19 CHAIRPERSON HILL: Okay. So the model is not in
20 the record.

21 MS. MAZO: -- record before the Board.

22 CHAIRPERSON HILL: The model is not in the record,
23 but there is a diagram like that that's in the record.

24 MR. DuPONT: The drawings that are in the record
25 are directly, they're snapshots of this model.

1 CHAIRPERSON HILL: Okay, all right.

2 MR. DuPONT: I just put the 3D model in there and
3 make it move around.

4 CHAIRPERSON HILL: Okay, all right. So now please
5 go ahead. All I'm just trying to understand, Ms. Mazo, is
6 what we're looking at, okay? And if there's another slide
7 you'd like to use that's in the record that shows this, I
8 don't have any problems. I'm just trying to understand, I
9 mean, and now I guess I want to make sure that I understand
10 this. Do you disagree that this -- go back to the other one,
11 please. Do you disagree, because I've looked at other things
12 that were in the record that looked like this, I just haven't
13 seen this model, as you've mentioned. Is this what you think
14 is proposed?

15 MS. MAZO: I personally would feel more
16 comfortable if we are asking questions we'd be asking
17 questions of an exhibit that's in the record, you know,
18 certainly from an appeal standpoint and from other aspects.
19 So if there's a similar image --

20 CHAIRPERSON HILL: Okay. Mr. DuPont, is there a
21 similar image that you can find that's in the record?

22 MR. DuPONT: Yes. This is the, this is what was
23 -- sorry. Let's see. That one.

24 CHAIRPERSON HILL: Okay. So this is in the
25 record, and where is this in the record? Do you know?

1 MR. MOY: I think, Mr. Chairman, if I can help,
2 I think it's Exhibit 41.

3 CHAIRPERSON HILL: Okay. Let me go there.

4 MR. MOY: There's 41A.

5 MR. DuPONT: It's actually 7A.1 is the original
6 submittal of the design, which is, like, 40 slides. But it
7 doesn't have that exact orientation or the color images.

8 MS. MAZO: I don't mean to extend this any longer.

9 CHAIRPERSON HILL: That's okay.

10 MS. MAZO: If it's easiest just to use that model
11 that's not in the record, that's fine. I just want it noted
12 --

13 CHAIRPERSON HILL: When you threw out the word
14 appeal, all the bells and whistles went off, okay? So now
15 I'm just going to wait and figure out what it is that you
16 need to see that we can go through. So --

17 MR. DuPONT: This is from the original submittal.

18 CHAIRPERSON HILL: Okay. That's fine with me,
19 that's fine with me.

20 MEMBER WHITE: What are you asking us to approve?
21 This from this slide? So if we were to approve this --

22 MR. DuPONT: They're the same.

23 MEMBER WHITE: -- application, this would be what
24 you would work with?

25 MR. DuPONT: Except this wall between the two

1 decks -- and we've changed that.

2 MEMBER WHITE: Okay. thank you.

3 CHAIRPERSON HILL: And the whole reason why I was
4 doing this is I was trying to get through the report with the
5 Office of Planning. I had -- actually, go back to the other
6 one, if you wouldn't mind. Okay. That works for me. So I'm
7 just hearing the Office of Planning at this point. I just
8 want to look at something that I could talk to the Office of
9 Planning about.

10 Okay. Ms. Brown-Roberts, can you please continue?

11 MS. BROWN-ROBERTS: Yes.

12 CHAIRPERSON HILL: Wherever you think you were,
13 Ms. Brown-Roberts.

14 MS. BROWN-ROBERTS: Okay, yes. So I was just
15 explaining that the difference in the measurements that the
16 lower floor was the, the basement addition was the one that
17 went out the 37 feet while the third floor addition, I think,
18 there is a bay that extends the full width, so it has, I
19 think, an additional three feet, but, generally, it stays
20 within the existing footprint.

21 CHAIRPERSON HILL: Okay, all right.

22 MS. BROWN-ROBERTS: So concerning the, so the rear
23 yard extension, for the light and air available to
24 neighborhood properties, concerning 3600 Prospect Street,
25 which is the one to the right, we believe that the light and

1 air that would be available to that property will not be
2 adversely affected. The shadows from the shadow studies,
3 they fall, I think, to the left, and so any shadows on 3600
4 will be, would be minimal.

5 Regarding 3604, there are, as shown in both the
6 shadow studies that were presented today, there would be some
7 impacts. However, the Office of Planning does not believe
8 that it would be substantially much over what is the shadows
9 that are there today.

10 Regarding the privacy and enjoyment of the
11 properties, on the addition, there would be no windows to
12 overlook directly into the adjacent properties. Regarding
13 3600, the applicant has provided, I think, both the option
14 of, what I'm looking at right now is the, there's a --

15 CHAIRPERSON HILL: Actually, Ms. Brown-Roberts,
16 I'm going to interrupt you one second because I'm just, I
17 just actually just pulled up your report. I mean, I have
18 your report printed off, so if you guys want to pull, I don't
19 know if you can pull up 68, or not 68, 53. Like, I'm going
20 to look at 53 now, and I'm just to let everybody know I'm
21 looking at 53 and I'm looking at page five of the Office of
22 Planning's report. Okay. Go ahead, Ms. Brown-Roberts.

23 MS. BROWN-ROBERTS: Yes. So at the time that the
24 report was written, the applicant had submitted an
25 alternative of having just a brick wall or a planter with

1 some trees. The Office of Planning has a preference for the
2 planter with the trees and believes that that will go a long
3 way in mitigating the privacy, any privacy intrusion on 3600,
4 the property at 3600.

5 There are also plantings that are further along
6 the property line that would remain. And so those would also
7 help to mitigate any views from the balcony.

8 Views from the third floor addition would
9 significantly remain the same that they have now from their
10 second floor. So I don't think that there would be a great
11 detriment or any greater access to views directly into 3600.

12 Regarding 3604, the applicant has also provided,
13 has also, is also recommending a similar planting on the
14 balcony that should help to reduce views. The views from the
15 balcony will go further out into the rear of 3600, and I
16 think that's, if you look at some of the pictures, it shows
17 that that portion of the rear yard is significantly, has
18 trees and plantings in there. And so the privacy from that
19 area will be minimized, and I don't think that it will be
20 significant.

21 From the plans that we also viewed, there is not
22 a roof deck. I don't know if that has changed since we have,
23 the plans that we had looked at. There was not a roof deck
24 that would allow views into the rear. I think the opposition
25 had said that that was his master bedroom. But if there's

1 not a deck there on the third floor addition, I don't think
2 that there will be any privacy issues. There are no windows
3 on the addition, and so the privacy should not be changed
4 from what is there today.

5 And let's see. And then the, that section also
6 goes on to talk about the visibility from Prospect Street
7 again. The third floor would be visible, but this is
8 something that the Old Georgetown Board looked at and did not
9 have a problem with it. So I think we are in support of
10 that.

11 Regarding the variance for the front, from the
12 front setback requirements, I think the applicant is
13 presented with an exceptional situation in that 3600 and the
14 subject property were developed together, and that building
15 was set back. If we look along Prospect Street, we see that,
16 I think this is the only property that is set back from the
17 property line. And so with it being within the historic
18 district and the Old Georgetown Board has opined that they
19 would not, they would not recommend having any additions to
20 the front of the yard. That presents an exceptional
21 situation for the property.

22 In addition to that, on 3600, there are windows
23 along the property line and if that was to be filled in, that
24 would mean those windows would be at risk and would be
25 covered. So I think our, I think it will not be substantial

1 detriment to the public good or substantial harm to the
2 zoning regulations to grant the variance for the front
3 setback, from the front setback requirement.

4 Then regarding the addition to a non-conforming
5 structure, we also believe that the criteria is sort of, has
6 been answered between the variance and the special exception,
7 and so, based on that, we are recommending approval. And I'm
8 available for questions. Thanks.

9 CHAIRPERSON HILL: Okay. Thank you. Just real
10 quick now, so, Mr. DuPont, can you put this into the record
11 in some capacity? Not in some capacity. Can you put this
12 into the record?

13 MR. DuPONT: This is what?

14 CHAIRPERSON HILL: What we're looking at right
15 here.

16 MR. DuPONT: I can make a snapshot of it, sure.

17 CHAIRPERSON HILL: Why can't you put the whole
18 thing in the record?

19 MR. DuPONT: Because you don't have the vector
20 software, and the file is 600 megabytes.

21 CHAIRPERSON HILL: Okay. So that answer is
22 correct. So all I'm just trying to understand is what I can
23 and can't look at. It's okay, it's all right. I'm just
24 trying to figure it out because I just talked to OAG, and so,
25 you know, if I can get it into the record, then we can use

1 this or we can use something else because --

2 MR. DuPONT: There is a visualization tool, but
3 it's not very good, and you would have to download the
4 software.

5 CHAIRPERSON HILL: So I will agree with Ms. Mazo,
6 you know, unless I can put it into the record, it's not fair
7 to them. So I got to be able to put it into the record.

8 MR. DuPONT: It is in the record.

9 CHAIRPERSON HILL: No, this isn't in the record.
10 This thing --

11 MR. DuPONT: The three-dimensional model --

12 CHAIRPERSON HILL: That's okay. I'm trying to
13 figure it out. So you're telling me each exact view of this
14 is in the record?

15 MR. DuPONT: No, it's impossible. There's an
16 infinite number of views.

17 CHAIRPERSON HILL: Okay. So I'm back to OAG.
18 What do I get to look at or what do I get to use here?

19 MS. WHOLEAN: Well, whatever you use, it should
20 be in the record, so I think you need to clarify what it is
21 that you want to see in the record and ask that that be
22 submitted. I mean, it sounds as though the entire document
23 can't be submitted, but piecemeal certain renderings could
24 be.

25 CHAIRPERSON HILL: Okay. Mr. DuPont --

1 MR. DuPONT: I have this, which I think might do
2 it. This is what went to the ANC and is much more complete
3 than the original that was given to you all. So here is the
4 existing house. These are sections. This is sectioned
5 through Cal's house. These are existing, this is proposed.
6 Existing, proposed. And then we go to 3D existing, proposed.
7 Existing, proposed. Existing, proposed. Existing --

8 CHAIRPERSON HILL: Okay. So go back. That's
9 fine. So go back. Okay. Just there you go.

10 MR. DuPONT: I can give you this slide show, which
11 is, like, 45 slides.

12 CHAIRPERSON HILL: Okay. Could you put that into
13 the record?

14 MR. DuPONT: Yes.

15 CHAIRPERSON HILL: Okay, great.

16 MR. DuPONT: It will take me a little while
17 because I have to take each one and reduce it down to 8
18 megabytes.

19 CHAIRPERSON HILL: Okay. That's fine. I don't
20 think we're going to decide this today.

21 MR. DuPONT: Okay.

22 CHAIRPERSON HILL: Okay. So just for me again,
23 and I'm still with the Office of Planning here, I understand
24 what they're doing. So could you, Ms. Brown-Roberts, can you
25 again go over just kind of the variance test and how you

1 believe they're meeting that?

2 MS. BROWN-ROBERTS: Okay. If I could see the
3 front of the house. Okay. So the requirement is that the
4 front of the house should line up basically with these two
5 houses that you're looking at. The middle house should line
6 up here. That's the requirement.

7 MR. DuPONT: With one or the other, but not the
8 same.

9 MS. BROWN-ROBERTS: Or one or the other or -- yes,
10 one or the other. It should line up with one or the other.
11 That's the requirement.

12 Now, this property is within the historic
13 district, and Old Georgetown Board has said that they are not
14 in support of having an addition to the front of this
15 property to bring it out to meet either of these property
16 lines. Okay. And so that is an exceptional situation, which
17 is causing difficulty to the applicant. And, therefore,
18 that's how they meet the first problem of the test.

19 We do not think that it will be a substantial
20 detriment to the public good. It has been that way for over
21 50 years and hasn't been a problem. And as Old Georgetown
22 Board, if they were to go against that, that, I think, would
23 be a detriment to the public good.

24 In addition to that, as I said before, these two
25 buildings were constructed together and there are windows

1 along the property line and they're actually at risk windows.
2 So if they were to meet the requirement, then the property
3 at 3600 would lose those windows there. And we don't think
4 that granting the variance would be any substantial harm to
5 the zoning regulations, as this is an unusual block face
6 along this portion of Prospect Street.

7 CHAIRPERSON HILL: Okay. Does anybody have any
8 questions for the Office of Planning? Sure, go ahead.
9 Please.

10 ZC VICE CHAIRPERSON MILLER: Thank you, Ms.
11 Roberts, for your presentation and for your report. And you
12 shouldn't interpret these questions as my preferring a
13 different type of design, but I'm just trying to understand
14 something. The Old Georgetown Board is advisory, correct?
15 It's not a mandatory requirement that the District has to
16 follow.

17 MS. BROWN-ROBERTS: Yes.

18 ZC VICE CHAIRPERSON MILLER: Is that correct?

19 MS. BROWN-ROBERTS: That's correct, yes, yes.

20 ZC VICE CHAIRPERSON MILLER: And has the District
21 approved projects that have, that are different than the Old
22 Georgetown Board has recommended in the past? Has the Office
23 of Planning supported projects that were different than the
24 OGB is recommending?

25 MS. BROWN-ROBERTS: I have been here for 17 years

1 and I've never seen it.

2 ZC VICE CHAIRPERSON MILLER: Okay.

3 MS. BROWN-ROBERTS: I'm not saying that it hasn't
4 happened. I just don't know.

5 ZC VICE CHAIRPERSON MILLER: Okay. I have a vague
6 recollection from my years of service of an example or two,
7 but I can't think of a specific one. The at-risk windows or
8 the current, 3602, I see that it's right up against 3604,
9 right? Is it also right up against 3600?

10 MS. BROWN-ROBERTS: Yes, it's a row dwelling.
11 Yes, they're all row dwellings.

12 ZC VICE CHAIRPERSON MILLER: Right. So there's
13 no side yard or separation.

14 MS. BROWN-ROBERTS: No.

15 ZC VICE CHAIRPERSON MILLER: And there's no
16 requirement in this --

17 CHAIRPERSON HILL: Mr. DuPont, let them answer,
18 okay? Can you turn off that microphone for me?

19 MR. DuPONT: I'm sorry.

20 CHAIRPERSON HILL: That's all right.

21 MS. BROWN-ROBERTS: As far as I know. I don't
22 know if Mr. DuPont has something else, but, as far as I know,
23 they're attached.

24 ZC VICE CHAIRPERSON MILLER: Okay. I would like
25 to hear, if you have a different answer to that, go ahead,

1 to any of the questions that I just asked.

2 MR. DuPONT: Just a technicality. The wall
3 between 3600 and 3602 is a party wall. They share it
4 structurally. 3602 is face online, the property line, to
5 3604, so they do not share the wall separately. There are
6 two walls face-to-face.

7 ZC VICE CHAIRPERSON MILLER: Okay. Thank you.

8 MR. DuPONT: But they are within an inch of
9 contact.

10 ZC VICE CHAIRPERSON MILLER: Okay. I appreciate
11 that. And 3600 is here today?

12 MS. BROWN-ROBERTS: Yes.

13 ZC VICE CHAIRPERSON MILLER: Are you planning to
14 testify later? Okay, thank you. I'll have a question for
15 you later. Thank you.

16 CHAIRPERSON HILL: Okay. And I'm only smiling
17 that big because I'm going to learn from OAG later what I can
18 and can't look at. I've found other things in the record
19 that I'm now looking at, and so, you know -- sorry.

20 ZC VICE CHAIRPERSON MILLER: I'm sorry to
21 interrupt you. So is the Old Georgetown Board report in the
22 record? Can you provide it for the record, their final
23 report? I know you were there many times.

24 CHAIRPERSON HILL: You need to turn the microphone
25 on, Mr. DuPont.

1 ZC VICE CHAIRPERSON MILLER: Whatever it is, can
2 you provide whatever they --

3 MR. DuPONT: Yes. If I didn't already, I will,
4 yes.

5 ZC VICE CHAIRPERSON MILLER: Okay. Thank you very
6 much. That's it.

7 MR. DuPONT: I apologize if it's not there. I've
8 missed a few technicalities of service, etcetera.

9 CHAIRPERSON HILL: Okay. So, Mr. DuPont, can you
10 access the exhibits from there?

11 MR. DuPONT: I've downloaded a number of them.

12 CHAIRPERSON HILL: Okay. I don't know if you've
13 got 42-1A? 41A2, 41A2.

14 MR. DuPONT: No. What was it?

15 CHAIRPERSON HILL: It's the back again. It's the
16 back of what's proposed.

17 MR. DuPONT: Well, I can show you that.

18 CHAIRPERSON HILL: A piece of it that's in the
19 record.

20 MR. DuPONT: All right. Where is that file? This
21 is the record. Do you want it straight on?

22 CHAIRPERSON HILL: No, that's not it. That's all
23 right. That's not the one I'm looking at.

24 MR. DuPONT: Well, there are quite a few. That
25 one?

1 CHAIRPERSON HILL: No. Keep going, keep going,
2 keep going. You would think we'd be able to do this from up
3 here.

4 MR. DuPONT: This is just flipping through a file.

5 CHAIRPERSON HILL: Okay. Never mind. It doesn't
6 matter.

7 MEMBER WHITE: Can you take a look at page 7?
8 This is page 26.

9 MR. DuPONT: If it's the same -- that's 7. Seven
10 is a planned view of the lower cellar --

11 CHAIRPERSON HILL: Okay. It doesn't matter. All
12 right. Does the applicant have any questions for the Office
13 of Planning?

14 MR. DuPONT: No, not for the Office of Planning.

15 CHAIRPERSON HILL: Okay. Does the opposition have
16 any questions for the Office of Planning?

17 MS. MAZO: Yes, I have two questions.

18 CHAIRPERSON HILL: Sure.

19 MS. MAZO: Ms. Brown-Roberts, good to see you.
20 Just very briefly, in talking about the exceptional condition
21 --

22 CHAIRPERSON HILL: Mr. DuPont, I'm sorry, could
23 you turn off that microphone? I'm getting feedback. Sorry.

24 MS. MAZO: Sorry. In talking about the
25 exceptional condition in your report and again today, you are

1 really tying it very closely to the location of the property
2 within the Old Georgetown historic district and the Old
3 Georgetown Board's approval of that design. Is that a
4 correct understanding?

5 MS. BROWN-ROBERTS: Yes, to some extent. If the
6 applicant was to show us a design that filled that in, I
7 think that, you know, the variance would go away and that
8 would be fine, too.

9 MS. MAZO: The reason I ask is because, as this
10 board and OAG is well aware, I guess last spring the D.C.
11 Court of Appeals issued their decision on the St. Thomas
12 case, which expressly said that historicity or the location
13 of a property within a historic district and the fact that
14 it was reviewed by HPRB and the particular design was
15 reviewed by HPRB cannot be the sole exceptional condition for
16 a property. And so I just wanted to get that on the record
17 and to ask if -- well, that's that first question.

18 CHAIRPERSON HILL: I'm sorry. What was your
19 question again?

20 MS. MAZO: Well, really the question is is that
21 it sounds to me like most of the exceptional condition is
22 really tied to the location within the Old Georgetown
23 historic district.

24 CHAIRPERSON HILL: That's the question?

25 MS. BROWN-ROBERTS: Yes, yes.

1 MS. MAZO: And OGB's approval of a prior plan,
2 correct?

3 MS. BROWN-ROBERTS: Yes.

4 MS. MAZO: Okay, thank you. And then my next
5 question, again I'm kind of on the sun studies, but it has
6 to do with the sun studies and I just, I am looking at the
7 record right now and it appears to me that OP's report, which
8 was filed on November 30th appears to pre-date the sun
9 studies that are in the record that, to me, on the record
10 only show up as of December 2nd. And so I guess my question
11 is is when OP was reviewing the documents in the record to
12 prepare the report, did you have sun studies?

13 MS. BROWN-ROBERTS: No, we did not have the sun
14 studies at the time. But we were looking at it, we looked
15 at, you know, used our judgment in some of it. When I got
16 the sun studies from the applicant and I reviewed the
17 application again to make sure that what we had in the report
18 was consistent with what we believed from the sun studies,
19 so there was not a reason to amend our report.

20 MR. DuPONT: Okay. No further questions from
21 party in opposition.

22 CHAIRPERSON HILL: Do you have a question for the
23 Office of Planning? Okay.

24 MR. DuPONT: Just quickly, the Old Georgetown
25 Board is actually part of the U.S. Commission of Fine Arts,

1 which is federal. Doesn't that trump the HPRB?

2 MS. BROWN-ROBERTS: I don't know.

3 MR. DuPONT: From my point of view, I would think.
4 I can't really go back on the OGB.

5 CHAIRPERSON HILL: Okay. That's all right. So
6 she doesn't know the answer. Okay. So I'll start with my
7 question. I have a question of -- Ms. Mazo, you said his
8 last name so well. How do you say the last name?

9 MS. MAZO: Yedibalian.

10 CHAIRPERSON HILL: Yedibalian.

11 MR. YEDIBALIAN: Yedibalian.

12 MS. MAZO: So I've said it wrong.

13 CHAIRPERSON HILL: That's okay. Yedibalian. It's
14 been said now enough times, Mr. Yedibalian. So, Mr.
15 Yedibalian, I mean, again, I'm looking at apparently
16 something that nobody else can look at but is on this Exhibit
17 41A2. I'm in the backyard, okay? And so there is the
18 basement floor that's coming out and I'm going to ask a bunch
19 of questions here to Mr. DuPont. I just want to get my head
20 around this one more time again because the discussion is all
21 the back, right?

22 So the basement, whatever that basement level, you
23 guys are calling it a cellar, whatever the cellar level is,
24 just forget about this thing that spins around because I
25 can't even seem to, I don't even know what to do with it.

1 So I think it's great that I can't seem to be able to -- I
2 mean, Mr. DuPont, I really appreciate it, but I don't know
3 what I'm allowed not to look at. And so, you know, if there
4 is something in the record that you can point to. What I
5 have is 41A2. That's perfect. That's it. Okay, great.

6 So there is the basement that's coming out all the
7 way to how much farther, and now this is to Mr. DuPont, is
8 that basement, cellar, whatever you want to call it, coming
9 out from what's existing now?

10 MR. DuPONT: Right. This corner here is the
11 existing corner of the house.

12 CHAIRPERSON HILL: Yes.

13 MR. DuPONT: This bay, which is set over --

14 CHAIRPERSON HILL: It's three-foot something out.

15 MR. DuPONT: It's about three feet.

16 CHAIRPERSON HILL: Yes.

17 MR. DuPONT: This extension is 13' 6.5" and
18 matches Mr. O'Malley's over here.

19 CHAIRPERSON HILL: So it comes out 13' 6.5" beyond
20 what is there now?

21 MR. DuPONT: Correct.

22 CHAIRPERSON HILL: Okay. So, Mr. Yedibalian, I'm
23 just going to, I mean, to me, I'm kind of talking through
24 some of this. Really what we're going to end up doing again,
25 just so you know because you haven't been here before, at

1 least I have not recognized your face, is that we're going
2 to look at the standards which includes the variance test,
3 which is a big test to get through, and then all of the
4 standards that we need to go through for the special
5 exception. So I'm not even getting to that argument yet.
6 I'm just kind of having a discussion here because I'm
7 curious, okay? Do you have an issue with that basement
8 level?

9 MR. YEDIBALIAN: Yes, I have an issue with the --
10 should I not be pushing this or --

11 CHAIRPERSON HILL: That's okay. Can you throw
12 that back up again there? There you go. So what's the issue
13 that you have with the basement level?

14 MR. YEDIBALIAN: So with the basement level, so
15 that's going out now another -- so right now we're at 22,
16 we're going out 13.5 more feet, so that's now building out
17 that tunnel vision there. But even more so, when you look
18 at it, what you're not seeing is there's a wall right now.
19 This is actually --

20 CHAIRPERSON HILL: That's fine. It's going up to
21 7 feet --

22 MR. YEDIBALIAN: -- a foot and a half --

23 CHAIRPERSON HILL: -- that they're allowed to go
24 up to by a fence.

25 MR. YEDIBALIAN: So now you're back on to the main

1 floor. So if you look at the, you come off into the house,
2 go right to the end to the main floor, which is where that
3 first deck is, this is actually above that by probably about
4 a foot.

5 CHAIRPERSON HILL: You mean that roof is above
6 your first floor deck by about --

7 MR. YEDIBALIAN: So it's not just, yes, the cellar
8 level, if you want to call it, but it's that first floor.
9 So it's a lot more imposing than it seems. It just adds to
10 more --

11 CHAIRPERSON HILL: That's okay, that's all right.
12 I'm just asking questions, and, obviously, you can have your
13 opinion. So you object to that?

14 MR. YEDIBALIAN: Right. I would like it to be
15 done --

16 CHAIRPERSON HILL: You want it to stay the same.

17 MR. YEDIBALIAN: Right.

18 CHAIRPERSON HILL: That's okay. You want it to
19 stay the same. And I understand the third story, because the
20 third story is blocking more of your third story's light,
21 okay? And so the discussion that we're going to start to
22 have is whether or not we think that's an undue impact on you
23 and whether or not they're meeting the variance test. And
24 the part that now Commissioner Miller has kind of brought up
25 as to how we're getting to this is that, and what I think

1 there might be some discussion later, is that if -- I'm
2 sorry. Your name is also difficult for me to pronounce. I
3 apologize. Mr. Farruggio. So, Mr. Farruggio, if he wanted
4 to build out forward all the way to the front, you know,
5 which he should have been able to do if it wasn't for the
6 situation that he's in, he would be blocking out all the
7 windows of the other neighbor. So I'm just trying to figure
8 out what I think of the situation. But as far as you're
9 concerned, you do have a problem with the bottom, as well as
10 the top?

11 MR. YEDIBALIAN: Right.

12 CHAIRPERSON HILL: Yes. That's fine, it's okay.
13 That's all I'm just trying to clarify. All right. Does
14 anybody have any questions of anybody before I move on to the
15 audience?

16 MEMBER WHITE: Yes, Mister -- sorry, go ahead.

17 ZC VICE CHAIRPERSON MILLER: You go while I gather
18 my thoughts.

19 MEMBER WHITE: So I wanted to ask the homeowner
20 a question because, or the architect -- I'm terrible at names
21 -- Mr. DuPont, did you consider a 10-foot addition instead
22 of a 14, 13 - 14?

23 MR. DuPONT: Yes. What we did was match the
24 neighbor.

25 MEMBER WHITE: Yes, but so by matching the

1 neighbor on all three levels, you would be at 10 feet --

2 MR. DuPONT: No, matching the neighbor's deck at
3 3600. The reality is right now that my client is the one who
4 has the least privacy of everybody. The neighbor at 3600
5 looks over his patio and pool area quite easily. All we did
6 was match the depth of his deck and then enclose in
7 underneath it.

8 CHAIRPERSON HILL: Commissioner Miller?

9 ZC VICE CHAIRPERSON MILLER: Oh, yes. Well, I'll
10 see the, I think it's important on my previous question to
11 get the OGB Report in the record since that's a big part of
12 the first prong of the variance test for one of the areas of
13 relief being sought here.

14 So that's the main reason why I asked for it. But
15 I'm also interested to see if what alternatives were
16 considered but I don't want to go through that here. I'm
17 just interested what alternatives were considered.

18 But was it, but I will ask about one specific
19 alternative which I alluded to, was an alternative considered
20 of going forward and not leaving room for the windows if,
21 leaving some room for the windows.

22 MR. DUPONT: We did about L in the alphabet
23 options.

24 ZC VICE CHAIRPERSON MILLER: Yes, I bet you did.

25 MR. DUPONT: A number of them might work to the

1 front.

2 ZC VICE CHAIRPERSON MILLER: Okay. And obviously
3 all rejected by OGB?

4 MR. DUPONT: Yes.

5 ZC VICE CHAIRPERSON MILLER: How much square
6 footage is in the existing house?

7 MR. DUPONT: The house is gross, 25 feet wide and
8 I think 32 front to back. So it's about 650 per floor. I
9 think that's right.

10 ZC VICE CHAIRPERSON MILLER: Can you give me, I'm
11 not capable of doing that math.

12 MR. DUPONT: It's 2500 times 32 is 800.

13 ZC VICE CHAIRPERSON MILLER: Just approximately.

14 MR. DUPONT: 800 square feet per floor.

15 ZC VICE CHAIRPERSON MILLER: And how many floors?

16 MR. DUPONT: Two plus the basement, plus another
17 sub cellar.

18 ZC VICE CHAIRPERSON MILLER: So it's 3200?

19 MR. DUPONT: Basically 30, basically a 2400 square
20 foot house.

21 ZC VICE CHAIRPERSON MILLER: Okay. Thank you.
22 And how much will it be after this, with this proposed
23 proposal?

24 MR. DUPONT: About 3000 because we don't get the
25 full top floor. The Old Georgetown Board made us stay back

1 three feet from the front.

2 ZC VICE CHAIRPERSON MILLER: Yes.

3 MR. DUPONT: And it has a slow through as well.

4 ZC VICE CHAIRPERSON MILLER: So it's going from
5 2400 to about 3000?

6 MR. DUPONT: About that, yes.

7 ZC VICE CHAIRPERSON MILLER: Okay.

8 MR. DUPONT: Gross. That's gross, not including
9 wall thicknesses.

10 ZC VICE CHAIRPERSON MILLER: I understand, I
11 understand. And when did your client, and I would have asked
12 them directly but I can't pronounce this name either, because
13 when did you purchase the home?

14 MR. FARRUGGIO: Three years ago.

15 ZC VICE CHAIRPERSON MILLER: Three years?

16 CHAIRPERSON HILL: You have to speak into the
17 microphone, sorry.

18 MR. FARRUGGIO: Three years ago.

19 ZC VICE CHAIRPERSON MILLER: Okay. And how long
20 have you been trying to get this addition?

21 MR. FARRUGGIO: Well, I hired Mr. Dupont the
22 second time because the first architect, they told me I could
23 do whatever. And we proposed to extend the back the first
24 time because, you know, I didn't know and the architect
25 didn't know.

1 I guess he didn't know either. And then we
2 minimized really to the necessity to make it worthwhile, to
3 be able to live there comfortably.

4 ZC VICE CHAIRPERSON MILLER: But you probably had,
5 did you have an idea that you, that it might be difficult to
6 do an expansion?

7 MR. FARRUGGIO: No. Not at all because I thought
8 the lot is so big and the way that the amount of houses built
9 in there is so like, 25 percent or 30 percent, is built on
10 the lot, is I know but, you know, regularly you built, you
11 know, pretty close to the lot --

12 ZC VICE CHAIRPERSON MILLER: Yes.

13 MR. FARRUGGIO: -- most of the time but that was
14 a big surprise for me.

15 ZC VICE CHAIRPERSON MILLER: And not to get too
16 personal here, but how many people are, you're living in the
17 house you own?

18 MR. FARRUGGIO: Yes.

19 ZC VICE CHAIRPERSON MILLER: And how many people
20 are living in the house?

21 MR. FARRUGGIO: Five.

22 ZC VICE CHAIRPERSON MILLER: All right. Okay.

23 MR. FARRUGGIO: I have five kids.

24 ZC VICE CHAIRPERSON MILLER: Okay.

25 MR. FARRUGGIO: But they don't live all with me.

1 ZC VICE CHAIRPERSON MILLER: Right. Okay. Thank
2 you very much.

3 CHAIRPERSON HILL: Okay. All right. Is there
4 anyone here, so everybody got their answer, they've asked
5 their questions to the Office of Planning, right? Okay.

6 Is there anybody here wishing to speak in support?
7 Is there anyone here wishing to speak in opposition? You can
8 come on the floor, please, sir?

9 Mr. Farruggio, could you please turn off the
10 microphone? Thank you.

11 MS. MAZO: Just for the record, can we connect
12 this computer back too?

13 CHAIRPERSON HILL: Sure.

14 MS. MAZO: So that we can identify where Mr.
15 O'Malley's house is? It might just be helpful.

16 CHAIRPERSON HILL: Sure, sure. I'll let you pull
17 that out.

18 All right. Sir, if you could go ahead and
19 introduce yourself, please, for the record?

20 MR. O'MALLEY: Yes, I am Robert O'Malley. I have
21 lived in the house at 3600 Prospect Street which is
22 immediately east of Mr. Farruggio's house, for the past 15
23 years.

24 CHAIRPERSON HILL: Okay. Mr. O'Malley, just to
25 let you know, so did you get sworn in earlier?

1 MR. O'MALLEY: No, I did not.

2 CHAIRPERSON HILL: Didn't you raise your hand and
3 got sworn in?

4 MR. O'MALLEY: No, I --

5 CHAIRPERSON HILL: Okay. If you could stand up.
6 That's all right. Stand up. Mr. Moy, if you could get a,
7 please swear in Mr. O'Malley?

8 MR. MOY: Sir, do you solemnly swear or affirm
9 that the testimony you are about to present in this
10 proceeding is the truth, the whole truth, and nothing but the
11 truth?

12 MR. O'MALLEY: Yes.

13 MR. MOY: Thank you.

14 CHAIRPERSON HILL: Okay, Mr. O'Malley. So as a
15 member of the public you'll get three minutes to give a
16 presentation to us. The time is on the left and the right
17 of you and also I believe right in front of you. And you can
18 start whenever you like.

19 MR. O'MALLEY: Thank you. I'll need only three
20 minutes, maybe less. I would, while I'm thinking about it,
21 I would like to just make one comment on Mr. Miller's request
22 for the OGB Report if there is one.

23 The OGB approval should have nothing to do with
24 your analysis of this and your consideration of this on the
25 merits. You're a District of Columbia agency and you have

1 final authority to, in this particular context, to make a
2 decision without regard to what the OGB has said.

3 I was disappointed in a similar context that the
4 ANC which had demonstrated hostility to this proposal for two
5 years, finally didn't have the guts to make a decision one
6 way or the other and I had it with them, frankly, but I just
7 call that to your attention too.

8 And I've been most impressed favorably by the
9 attention that you all have given to this and the questions
10 you've raised about it, compared to the ANC and the OGB.

11 So I'm just urging you because I think you're the
12 best qualified to make a judgement on this to ignore what you
13 had --

14 CHAIRPERSON HILL: Okay, Mr. O'Malley. I just
15 want to cut you off because you only got three minutes.

16 MR. O'MALLEY: All right.

17 CHAIRPERSON HILL: And so I understand what your
18 comments were so I'm going to go ahead and cut you a break
19 and I'm going to throw another minute there on the clock so
20 you're now at 2:30, okay?

21 MR. O'MALLEY: All right. Thank you. I'll just
22 content myself with saying that I only have only one major
23 comment to make.

24 Ms. Brown-Roberts' report which I have read word
25 for word several times, is entirely accurate with one major

1 exception. I think Ms. Brown-Roberts, you personally must
2 have visited the site in order to convey all these details
3 in your report, I believe.

4 But your report is as far as I can tell completely
5 accurate with one major exception. I think this is Exhibit
6 53 in your files and the Chairman called attention to Page
7 4 of that exhibit, or Page 5.

8 And I would call attention to Page 4 of that
9 exhibit in which Ms. Roberts, referring to the rear extension
10 and the so-called basement area there, she says with the
11 basement addition, the light and air to the area below the
12 deck, that's me, she's referring to the deck on my property.

13 The light and air that currently exists below my
14 deck should not be significantly different from the existing
15 situation caused by the wall and vegetation that's there now.

16 That's just not true. That can't be. I've got
17 a deck there but it's completely open and of course, there's
18 nothing there now next to my deck.

19 I have no objection to Mr. Farruggio's deck. In
20 fact, I put up a deck when I moved in 15 years ago myself but
21 I didn't fill in anything under that deck. And we frequently
22 use that. That's a patio now and we frequently use that and
23 there's plenty of light and air between our deck and Mr.
24 Farruggio's patio which will be concealed by his new 13 and
25 a half foot addition.

1 That is the only major inaccuracy and I think it's
2 an important one in the Office of Planning report prepared
3 by Ms. Brown-Roberts which is otherwise very good, I think.

4 That is the only comment that I would like to make
5 at this point and I'll be happy to answer any questions that
6 any of you have.

7 CHAIRPERSON HILL: Okay, great. Thank you.

8 Does anybody have any questions for Mr. O'Malley?

9 Mr. O'Malley, I forget. Can you clarify again,
10 how long have you lived there?

11 MR. O'MALLEY: Fifteen years.

12 CHAIRPERSON HILL: Okay.

13 Sure. Go ahead Mr. Miller.

14 ZC VICE CHAIRPERSON MILLER: So just to be clear,
15 you are opposed to this project?

16 MR. O'MALLEY: I'm opposed, yes. I'm opposed to
17 the entire project.

18 ZC VICE CHAIRPERSON MILLER: Right.

19 MR. O'MALLEY: Although I have much, obviously I
20 have much less concern than Mr. Yedibalian does for various
21 reasons because they're, some of his legitimate concerns are,
22 do not affect me.

23 ZC VICE CHAIRPERSON MILLER: Right.

24 MR. O'MALLEY: The one that affects me most of all
25 is the so-called basement addition, 13 and a half feet as the

1 Chairman clarified just a few minutes ago. 13 and a half
2 feet beyond the existing rear wall.

3 ZC VICE CHAIRPERSON MILLER: And I assume you
4 would be equally opposed or more opposed to an alternative
5 that had the addition in the front?

6 MR. O'MALLEY: Oh, yes. That would be a major
7 disaster because the windows would be -- I have two major
8 windows --

9 ZC VICE CHAIRPERSON MILLER: Yes, I saw that.

10 MR. O'MALLEY: -- in that front driveway there.

11 ZC VICE CHAIRPERSON MILLER: I saw it.

12 MR. O'MALLEY: And partly for that reason, the OGB
13 from the very beginning has said, don't even consider that.

14 ZC VICE CHAIRPERSON MILLER: Okay. Thank you.

15 CHAIRPERSON HILL: Okay. Anybody else?

16 (No audible response)

17 CHAIRPERSON HILL: Okay. Does the Applicant have
18 any questions for the Witness?

19 MR. DUPONT: Not questions but comments that I'll
20 make later.

21 CHAIRPERSON HILL: Okay. Does the party that
22 stands in opposition have any questions for the Witness?

23 MS. MAZO: Yes, just very briefly. Mr. O'Malley,
24 you identified that your biggest concern is the rear addition
25 at the ground floor because of the impact that it would have

1 on your, the use of your patio.

2 In your estimation, is there an amount that could
3 be pulled in, or has there been any discussion about pulling
4 either that third, that in or pulling in the third floor in?
5 Third floor doesn't impact you as much but, that would kind
6 of lessen that impact?

7 MR. O'MALLEY: There have not been any discussions
8 about that because I assume that Mr. Farruggio feels that
9 there is no point to an extension unless he can get about 13
10 feet and that would be consistent with the extension of my
11 deck area.

12 I have no problem with him building a deck just
13 like mine as long as he doesn't close in underneath the deck.
14 So if he's going to, if he wants to do something like that,
15 then it makes sense for him to extend the same amount as the
16 same distance as my deck which is 13 and a half feet.

17 MS. MAZO: But then, I mean, do you, and it sounds
18 like there haven't been discussions about pulling in that
19 ground floor and that impact, but do you think if that ground
20 floor were pulled in to some extent, it would have less
21 impact on your building, I mean, on your home? The use, I'm
22 sorry, on --

23 MR. O'MALLEY: No, I don't think, I don't think
24 eight feet would be any better than three feet. It just
25 shouldn't be any extension there at all, in my view except

1 for a deck. If he wants the deck. If he wants a deck just
2 like I have. But any extension of a full floor underneath
3 his deck is my basic problem.

4 CHAIRPERSON HILL: Okay, Ms. Mazo, anymore?

5 MS. MAZO: No more questions.

6 CHAIRPERSON HILL: Okay. All right, you guys are
7 going to respond to something, is that what's your idea? So
8 let's just leave it until the rebuttal, okay?

9 All right. Mr. O'Malley, thank you so much.

10 MR. O'MALLEY: Thank you.

11 CHAIRPERSON HILL: Mr. Farruggio, if you could
12 turn off that microphone for me? The other one, the other
13 one.

14 Okay. I'm actually really, what's the word. I'm
15 going to have to take the time to study this and figure it
16 out and look at it. Like it's actually more confusing than
17 I had, no, I shouldn't say anticipated. I mean, it is
18 confusing and so, you know, I don't know where I am with
19 this. I'm going to let the Applicant give a rebuttal, okay?

20 I'm going to throw 15 minutes up there for you for
21 rebuttal and in which you'll be -- yes?

22 MS. MAZO: Sorry. And can we cross on rebuttal?
23 I just hope --

24 CHAIRPERSON HILL: That's what I'm trying to
25 figure out again real quick. And OAG's I think having a --

1 OAG?

2 (Off the record comments)

3 Right. So I'm trying to get -- you can go back
4 over to your microphone if you want to.

5 (Off the record comments)

6 CHAIRPERSON HILL: That's all right. So again as
7 I understood, the Applicant was going to get rebuttal and
8 then the party in opposition was clarifying whether or not
9 they got to cross the rebuttal. I'm going to guess yes and
10 then the Applicant will get a conclusion.

11 MS. MAZO: That's fine, yes.

12 CHAIRPERSON HILL: Okay. All right. Okay. So
13 All right, so there we go with that. So you can go ahead.
14 I'm going to put 15 minutes on the clock as I said to begin
15 with and you can go ahead and begin whenever you like.

16 MR. DUPONT: Mr. O'Malley is not quite accurate
17 when he says there's no obstruction at the bottom of his
18 deck.

19 In fact, there is a three foot high brick wall
20 which is on my client's property by a couple of feet and a
21 number of trees which are also very dense trees which are
22 also on my client's property and extend to several feet above
23 his deck.

24 If I were to put a deck next to his property, it
25 would cut those trees off below the deck and he would then

1 have no separation between the two decks.

2 That's been the problem between those two
3 properties all along. The privacy that he is getting is
4 coming from things that belong to my client and it's
5 unfortunate but that's the way it is.

6 So we would like to actually replicate the
7 greenage, the foliage above the deck level that he's got now
8 with the large planters and tree plantings that we move up
9 there and the sunlight blockage and privacy below the deck
10 would be somewhat denser because brick is denser than very
11 dense trees but still, there would be a blockage below the
12 deck that is already existing.

13 So on that point, I don't have photographs
14 necessarily in the record that, I have the one photograph
15 actually of the, from his deck which is Exhibit, let's see,
16 which one is it. Number, it's, oh, I don't know the exhibit
17 number.

18 CHAIRPERSON HILL: It doesn't matter, Mr. Dupont.
19 We're following along with you. I got the report and
20 everything. Just go ahead and continue.

21 MR. DUPONT: It's labeled 3600 Deck if you want
22 to search through. You'll see what it looks like from his
23 side. And those trees that are up there behind his planters
24 are actually my client's trees, not his. So the problem is
25 way more complicated than the report not being accurate.

1 Going to the Cozen O'Connor on Page 3, the photo
2 on the left is from the upper deck at 3604 and in that photo
3 you cannot even see what the addition would be down below.

4 The photo on the right shows the, if you go out
5 four fenceposts, three and a half, four fence posts beyond
6 the end of the brick on the left. That's as far as our
7 basement addition would go. And it would be a couple of feet
8 higher than the wall. That part's true.

9 Looking at page 4, that wall, that sort of dipsy-
10 doodle wall on the right, we would be about 6 or 7 brick
11 courses higher than that to the top of the deck and that
12 wall, the top of that wall is roughly where the by-right
13 fence can be on property lines.

14 Page 5 is from the upper deck and that's fine.
15 The corner of the brick you see on the left in that left hand
16 photo is the existing corner and it will remain the existing
17 corner. You cannot see, you see the dipsy-doodle wall over
18 there faintly down below but the requested addition at the
19 basement would be absolutely inconsequential.

20 Page, that was Page 5, I guess. On Page 6, where
21 again down in Mr. Yedibalian's basement level, this is
22 actually a cellar in this case I think, and you would have
23 some obstruction in the upper left out to about the fourth
24 fence post beyond the brick. You can see the same thing in
25 Page 7.

1 Now on Page 8, there's no impact at all. Yes,
2 it's a top floor and yes, the window would be in the shadow
3 for a couple of hours in the winter time, but there's, you
4 don't see any of the work at all.

5 Page 9 is the second floor and again, the same is
6 true. You don't see any of the work at all.

7 These, I'm going to skip Page 10 and go to right
8 to 11. I think 11 is extremely misleading. When you show
9 the space beyond this ten foot line which actually has no
10 bearing whatsoever in this project, and you color it the same
11 as the additions that we're proposing, you make the work --

12 CHAIRPERSON HILL: Mr. Dupont? I'm sorry, I've
13 lost you again. Which Exhibit are you in?

14 MR. DUPONT: I'm on the Cozen O'Connor.

15 CHAIRPERSON HILL: Oh, you're on the O'Connor
16 part, okay. And you said 11?

17 MR. DUPONT: Page 11, yes.

18 CHAIRPERSON HILL: Okay.

19 MR. DUPONT: On Page 11, the left hand image is,
20 I don't see the relevance to that for anything. The middle
21 image is trying to show what is missing in the left hand
22 image of course. But when you color it the same as the
23 proposed additions and add it into that, it makes the project
24 look more than twice as big as it is. Especially since the
25 rooftop portion doesn't show the sloped roof and reduced

1 massing that we've actually tried to incorporate.

2 And the same is true of all of those shadow
3 studies. If you take that middle golden thing out so that
4 it only shows the roof and the basement and the bay, it's a
5 way different impression of what we're trying to accomplish.

6 And really, that's about it. I have images that
7 are in the record I'd like to quickly show. This is a line
8 drawing of the proposed third story addition from Mr.
9 Yedibalian's roof deck.

10 CHAIRPERSON HILL: Where are you in now?

11 MR. DUPONT: I'm in, it would be Exhibit 66, I
12 think, 65. I'm sorry about that.

13 CHAIRPERSON HILL: That's fine.

14 MR. DUPONT: 65. This one and the next two, I
15 guess it's 65, 66, 67, or they're called one -- darn it.

16 CHAIRPERSON HILL: Well, it's not 65.

17 MR. DUPONT: No. It's, they're labeled 1 from
18 3604, 2 from 3604, and 3 from 3604. And they are an outline
19 drawing of what the proposed third floor addition would be.

20 So the first one is looking pretty much due east
21 toward the car barn. The second one is just looking more
22 toward the bridge, showing the outlines of what the addition
23 would be, and the third one shows the view. And at the very
24 bottom left of that image you can see the corner of Mr.
25 Farruggio's house.

1 The impact on views by our proposed work are
2 really very minimal. In most cases, where you have an
3 impact, it's in front of trees of the neighbor or something
4 of that sort and not the long views.

5 It may not be exactly everything you want in life
6 but I don't think they're particularly much of an imposition.

7 This picture I think is in the record. This is
8 between the two properties, so 3600 and 3602. The privacy
9 is just not there. This is his rooftop, his deck view
10 showing the trees. I'm searching for something else.

11 CHAIRPERSON HILL: That's all right. Mr. Dupont,
12 what I'm just trying to get at and I know that we're actually
13 coming up on a possible hard stop.

14 MR. DUPONT: That's fine.

15 CHAIRPERSON HILL: And I want to make sure that
16 we get everything that we need to today here.

17 MR. DUPONT: Those are my comments.

18 CHAIRPERSON HILL: Okay. All right, great. All
19 right, because I think there are some things we are going to
20 ask although I'm not terribly sure what they are just yet.

21 Ms. Mazo, do you have any questions on the
22 rebuttal?

23 MS. MAZO: Yes, a couple questions. I think the
24 first question is you identified that there were, maybe from
25 the second floor that you would not be, that Mr. Yedibalian

1 would not be able to view the extension, that the addition
2 that this, I don't think that makes sense. Can you explain
3 how that would be the case?

4 MR. DUPONT: You can obviously walk to that end
5 of your deck and look over. You mean from inside or from
6 outside?

7 MS. MAZO: Yes, I mean just going back to your
8 comment. You pointed to --

9 MR. DUPONT: I'm looking --

10 MS. MAZO: -- one of the pictures and you said
11 that Mr. Yedibalian would not have a view of the addition and
12 I'm just trying to understand what that was all about.

13 MR. DUPONT: Well, looking at Page, I'm looking
14 for the one, looking at Page 3 on the left hand image, if you
15 look way down at the bottom through the arm of the chair, you
16 can see the dipsy-doo fence. It's not much of a bother.

17 MS. MAZO: Well, I mean, you know, won't the bare
18 extension be extended on the ground, you know, 13 and a half
19 feet?

20 MR. DUPONT: Yes, look at where my --

21 MS. MAZO: I mean, isn't it anticipated that that
22 will be visible?

23 MR. DUPONT: Look at where my point, look at the
24 pointer. That's about what we're talking about.

25 PARTICIPANT: He said the left side of the bank.

1 MS. MAZO: Right, and that is a very good point.
2 I mean, the deck --

3 MR. DUPONT: Yes, I --

4 MS. MAZO: -- the deck extends and so from the
5 other side of the deck there would be more of a view.

6 MR. DUPONT: I totally agree. And I --

7 MS. MAZO: So that's one question.

8 MR. DUPONT: And we would be up about here.

9 MS. MAZO: Right. The next question is you raised
10 questions. I'm sorry. Sorry, can you clarify how much above
11 the existing bottom wall? You're saying it would extend
12 another foot and a half above the existing bottom wall? Is
13 that --

14 MR. DUPONT: Yes.

15 MS. MAZO: Yes, and I'd ask you just to use that
16 image because I think it's clearest.

17 MR. DUPONT: Well, it may be clear but I haven't
18 marked it. Let me find the one that I marked. There.

19 MS. MAZO: Okay. So in that image you're saying
20 that --

21 MR. DUPONT: We have four brick courses higher.

22 MS. MAZO: Yes, but that image is obviously
23 showing from Mr. Farruggio's house looking into Mr.
24 Yedibalian's. It doesn't show the view from Mr.
25 Yedibalian's. So that is, where would that image, that, so

1 it's the photo from 20 --

2 MR. DUPONT: It was taken from Mr. Yedibalian's.
3 (Simultaneous speaking)

4 MR. YEDIBALIAN: -- the one you had before.

5 MR. DUPONT: I'm sorry?

6 MR. YEDIBALIAN: The one you originally showed
7 that you got out of.

8 MR. DUPONT: No, that was from your --

9 MR. YEDIBALIAN: That's what we care about.

10 MR. DUPONT: Well, right, but that's why I drew
11 it. This is in the record.

12 MS. MAZO: Okay.

13 MR. DUPONT: It's been there for months.

14 MS. MAZO: So there's that question. The next
15 question is you raised, you stated that you believe the
16 images in the, some studies were misleading in some way but
17 are you aware that the Board, the test that the Board
18 actually needs to satisfy is the difference between what is
19 permitted as a matter of right and existing and proposed?

20 And we're not saying in any way that the existing
21 building needs to be reduced. That's not it. But that would
22 you, I mean, agree that the reason that those images are
23 created the way they are was to show the impact as directed
24 by the Court of Appeals on how this Board needs to evaluate
25 a sun study?

1 MR. DUPONT: I would not agree with that. If you
2 want to be completely straight forward about it, the portion
3 beyond the ten foot would either be shown just with a line
4 or the different color but not the same color as the proposed
5 additions.

6 MS. MAZO: Okay, but --

7 MR. DUPONT: Because it makes the work seem much
8 bigger than it is.

9 MS. MAZO: Okay. Finally, you know, there has
10 been some discussion just today about a possible compromise
11 of pulling in the top story by some portion and what's the
12 status of those negotiations?

13 MR. DUPONT: As far as I know, we're both sort of
14 in agreement to take that forward.

15 MS. MAZO: So --

16 CHAIRPERSON HILL: Could you say that again? I
17 didn't hear what you said.

18 MR. DUPONT: I think that we're both in agreement
19 to take that forward. My last conversation with Mr. Teass
20 and Ms. Mazo indicated that we were in agreement.

21 (Simultaneous speaking)

22 MR. DUPONT: We were discussing truncate the third
23 floor addition by a certain amount so that it doesn't cut off
24 so much of the side of the view and so much of the sun in the
25 wintertime from the top floor of 3604 and I think we can do

1 that. We would be creating a deck at the top floor which --

2 CHAIRPERSON HILL: Did it take me this long to get
3 to this point? Okay. So wait a minute. Okay. So the
4 question was, what was your question, Ms. Mazo? Your
5 question was to, say it again?

6 MS. MAZO: My question was during the course of
7 today, had there been some discussions to potentially
8 postpone this hearing in order to allow the parties to go
9 forward with and a reduced size of that upper story, that
10 size of reduction had --

11 CHAIRPERSON HILL: And what's your answer?

12 (Simultaneous speaking)

13 CHAIRPERSON HILL: What I didn't understand, now
14 just because, now I'm just, when did this happen in this two
15 hours that I've been sitting here that somebody mentioned
16 something about backing off on a third story?

17 MR. DUPONT: We were asked that at lunch.

18 CHAIRPERSON HILL: I'm asking you, Ms. Mazo or you
19 Mr., today did that happen while I was here?

20 MR. DUPONT: Yes.

21 CHAIRPERSON HILL: At what point during the
22 testimony did somebody say something that there was some
23 negotiation going on?

24 MS. MAZO: No, there was not.

25 CHAIRPERSON HILL: It was never brought up?

1 MS. MAZO: It was not brought up.

2 CHAIRPERSON HILL: Ever brought up?

3 MS. MAZO: Right.

4 CHAIRPERSON HILL: Until right now?

5 MS. MAZO: Correct.

6 CHAIRPERSON HILL: Okay. I'm going to need to
7 take a break. Okay. So we're at cross exam during rebuttal.

8 MR. DUPONT: I, if I may?

9 CHAIRPERSON HILL: I don't know what you're going
10 to do. I don't know what anybody's going to do. I'm just
11 trying to figure this out.

12 MR. DUPONT: I'm not --

13 CHAIRPERSON HILL: So --

14 MR. DUPONT: -- too facile with, I'm not too
15 facile with procedures.

16 CHAIRPERSON HILL: So the question was, the
17 question was, it's okay I got an answer. So there was some,
18 I'm not saying it's going to happen one way or the other
19 because at this point I don't know what's going to happen,
20 okay?

21 So there was a question that you just asked Mr.
22 Dupont. That's the first time that I've heard this question
23 in the past two hours, that there has been some kind of
24 discussion other than this plan.

25 And your answer is yes. Your answer was yes, that

1 there has been discussion.

2 MR. DUPONT: It was requested of us.

3 CHAIRPERSON HILL: What's the next question in
4 your area of rebuttal right now?

5 MS. MAZO: Just what the status was in terms of
6 Mr. Farruggio on those decisions.

7 PARTICIPANT: There hasn't been any disagreement.

8 MR. DUPONT: It was asked of us at lunchtime.
9 We're obviously not wanting to go there as our first answer.
10 But if they're asking again and that's where we have to go,
11 then we will be as flexible as possible, yes.

12 CHAIRPERSON HILL: Okay. Next question?

13 MS. MAZO: No more questions.

14 CHAIRPERSON HILL: Okay. I cannot believe this.
15 Okay. So all right. So that's the end of your rebuttal
16 questions?

17 MS. MAZO: Yes.

18 CHAIRPERSON HILL: Okay. Yes, thanks. All right.
19 Yes, I don't know what we're going to do now here. Okay.
20 So Mr. Dupont, go ahead and please give your conclusion.
21 I'll give you five minutes to conclude.

22 MR. DUPONT: As I struggle to do what's supposed
23 to be done in terms of procedure, I mess it up a bunch. I'm
24 sorry about that. I don't actually come to BZA that often.

25 CHAIRPERSON HILL: No, Mr. Dupont, that's okay,

1 and I'm not, what I'm trying to, what I'm getting flustered
2 by is that there's something that I knew nothing about that's
3 coming on two hours after we've been through this entire
4 situation.

5 MR. DUPONT: I'm trying to get to that.

6 CHAIRPERSON HILL: And it's okay because I was
7 going to ask for a bunch of stuff. This is possibly going
8 to make it easier for at least me to understand where we may
9 be going.

10 MR. DUPONT: Okay.

11 CHAIRPERSON HILL: But why don't you go ahead and
12 conclude with whatever you're going to conclude with and then
13 the Board might have some questions about this new
14 information that's just been brought to light.

15 MR. DUPONT: Right. Well, obviously we were not
16 looking to truncate the design. Obviously, the OGB doesn't
17 like roof decks and I don't think BZA does particularly
18 either. So it's not an easy thing to just automatically do.

19 It was asked of us if we would consider it. We
20 did consider it. We do have an answer but we're not bringing
21 it forward.

22 CHAIRPERSON HILL: Okay, that's fine. It was
23 asked of you to consider something that had a roof deck that
24 you'd then have to go back to --

25 MR. DUPONT: We would have to shorten the third

1 floor addition --

2 CHAIRPERSON HILL: -- you'd have to go back to OGB
3 about the roof deck on the back?

4 MR. DUPONT: We have to go back to them anyway.
5 That's not the end of the world.

6 CHAIRPERSON HILL: If, for the back side? For the
7 back?

8 MR. DUPONT: Yes.

9 CHAIRPERSON HILL: If you shorten the back?

10 MR. DUPONT: Yes. We'll have to go back for
11 permit anyway.

12 CHAIRPERSON HILL: Okay. So just keep concluding.
13 We'll come back to this. Just go ahead and conclude as if
14 we didn't know about this or whatever you might do for the
15 next three minutes, please.

16 MR. DUPONT: Okay. So we have, it's a basement
17 addition. Because of the conditions of the existing site,
18 it automatically impacts that ten foot rule which is a new
19 rule since the house was bought, a new rule since Mr.
20 Yedibalian bought his house also. So these are new to both
21 of us. The bay addition on the back also requires the same
22 ten foot special exception.

23 The third floor addition on the front apparently
24 has a variance requirement which we added into our submittals
25 because the party in opposition requested it, required it.

1 But I don't believe it actually applies because we're not
2 doing anything to the front.

3 We're not enlarging or making more extreme any
4 condition of the front wall of the house and there's nothing
5 that can be done to rectify the situation to make it, to
6 bring it into code.

7 All our work is at the back and I again, I guess
8 I would repeat my feeling that I think the U.S. Commission
9 of Fine Arts tends to trump the HPRB because in most cases
10 the HPRB personnel have nothing, they just pass it off to the
11 U.S. Commission and accept whatever they do and it is Federal
12 versus City.

13 The only thing I can think of that may have
14 something to do with the third floor addition is a pop-up
15 concern which is really important in strong row house
16 conditions which this is not. This is a very variegated row
17 house and I don't think it has anything to do with this.

18 Mr. O'Malley, I would like to make as happy as
19 possible. But his representation about the deck is just not
20 accurate. If I was to build the deck like his, he would lose
21 that vegetation because it would be clipped off underneath
22 the deck. So we would like to provide him the replacement
23 for that and close in underneath.

24 The, you can see that this addition is pretty much
25 carved up and sculpted. It's sculpted in ways that we have

1 made an effort to address all of the neighbors' view
2 concerns.

3 Honestly, I was a lot less concerned about sun
4 shading than I was with views because these houses face south
5 and the sun is darn brutal. The views I think are more
6 important and the views are why people buy these properties,
7 not the sun angles.

8 They look at the river, they look at Roslyn. It's
9 all very picturesque. The sun angle has nothing to do with
10 that and that's my conclusion.

11 CHAIRPERSON HILL: Okay. Great, thank you. All
12 right. So I know where the Board is and you all can let me
13 know. I was going to ask for some different proposals or
14 diagrams.

15 I'll tell you where I just kind of am. And I
16 guess, I mean like, I mean, yes. So when I was first asking
17 and I don't know whether I have any questions anymore. I'm
18 just kind of talking through some things. So going to go
19 back with Cal.

20 So Cal, so again, so like, you know, you again,
21 what I was trying to understand when I was asking about the
22 basement, was that, you know, taking everything in account
23 because the basement to me, I was like, you know, I didn't
24 really think there was a lot of issues with the basement.

25 I didn't even really think there was a lot of

1 issues with the three foot bump out that was coming. I'm
2 just kind of talking out loud. I'm not necessarily sure what
3 request it is, okay.

4 I understand the, I understand that your concerns
5 about sunlight with the third floor, right. We don't need
6 to flip through any more slides. Thank you so much. And so,
7 you know, this is what I'm kind of struggling with, right.
8 MR. Farruggio? Thank you, thank you.

9 So Mr., I know it's wrong, but Mr. Farruggio, you
10 know, again my struggle is that it's a variance, right. And
11 like, you know, you bought the property kind of the way it
12 is, right, and so, you know, your ability to make it bigger
13 isn't, I'm just kind of working through that, right.

14 To Mr. O'Malley, is it O'Malley, Mr. O'Malley?
15 To the other property owner, I mean again, you know, that
16 view should be able to build out all the way to the front,
17 okay, which would knock out the windows of the next door
18 neighbor which would be worse than what's going on now, okay.

19 But just because of the way that nonconformity is
20 and that the Old Georgetown Board won't let you do that which
21 also it's great because the next door neighbor doesn't want
22 to lose their windows, that, I don't know, they could have
23 been at risk if it weren't for the fact that Old Georgetown
24 Board is there telling you that you can't go up to the front
25 of the property line.

1 So you can't expand, right. So that's why I'm
2 also, maybe that's a better argument for the variance.
3 That's where I'm trying to kind of get to.

4 So my confusion at this point, at all the way
5 until the end of the rebuttal at the two hours that you guys
6 have actually talked about a possible third concept, is I
7 know that this is kind of the process but it took a long time
8 to get to this point.

9 And I don't know, maybe I'll just roll the dice
10 and somebody wins and somebody loses and, you know, we can
11 go with that, okay?

12 And so but I guess I would like to see and I don't
13 know what also the Board would like to see, I would
14 definitely at least like to see whatever you guys think might
15 be whatever option three is, okay?

16 Because OAG has said that you can't build forward,
17 okay? And so that to me again speaks to the variance, okay,
18 which means that maybe you should be able to build back and
19 up, okay.

20 So I'm just kind of throwing out all this together
21 with you because I believe, as Ms. Mazo knows because she's
22 been here before, I just kind of try to talk it out a little
23 bit and you all can figure it out and just do what you want
24 to do, okay.

25 But we're going to make a decision when you come

1 back again, right. So I would like to see whatever this
2 third option is, okay, that makes it so maybe the sunlight
3 to the party in opposition --- how do you say your name
4 again?

5 MR. YEDIBALIAN: Yedibalian.

6 CHAIRPERSON HILL: Yedibalian. No, I want to try.
7 I really want to learn. Yedibalian. So Mr. Yedibalian, you
8 know, the sun there on the third floor it actually gets to.

9 And Mr. Dupont, I mean, sun's great. Like south
10 facing, everyone wants to go south facing. Not just for the
11 views, just for the sun. Everybody wants the sun, right?

12 So that's the whole point of south facing. And
13 so, you know, but anyway, again the Office of Planning has
14 given their report and they think that your sun's not really
15 going to be that hampered, right.

16 So, you know, that's there and Ms. Mazo can tell
17 you all about, you know, what is unduly affected, is the word
18 that's coming out right now. But so I'd like to see that,
19 okay. I'd like to see whatever that third option is, okay?

20 And if that makes this all work, great, okay. Or
21 don't come back and see what happens to you guys, okay. So
22 that's my two cents.

23 Does the Board have any other thoughts?

24 MEMBER WHITE: Mr. Chairman, I had planned to ask
25 for a ten foot addition so I could see what that looks like.

1 In terms of the sun studies and, you know, that's sort of
2 where I'm stuck which is why I kept asking where does the ten
3 foot addition end.

4 I also think it's always good for neighbors to
5 work things out before having us decide because what we
6 decide might not make anybody happy in a way.

7 So I would be in favor of continuing as we weren't
8 planning to decide today anyway. But I'd like to see where
9 that ten foot addition would end.

10 CHAIRPERSON HILL: Hold on a second, Mr. Dupont.

11 So you're asking for the ten foot addition on the
12 bottom floor?

13 MEMBER WHITE: On the bottom floor.

14 CHAIRPERSON HILL: Okay. And not the three foot
15 whatever on the second and third floor? Oh, no. That's
16 right. That's still within the ten feet.

17 MEMBER WHITE: Yes, I don't think there's a big
18 difference between ten feet and 13 feet or 14 feet.

19 CHAIRPERSON HILL: Okay. I'm --

20 MEMBER WHITE: But I would just like to see it.
21 And if I had a choice between sunlight and that amazing view,
22 I would take the view.

23 So that's why you don't want us to give our
24 preferences and you want us to stay with the regulations
25 which --

1 CHAIRPERSON HILL: We'll get --

2 MEMBER WHITE: -- wait, I'm not finished.

3 CHAIRPERSON HILL: No, he's trying to say --

4 MEMBER WHITE: I'm not finished --

5 CHAIRPERSON HILL: I'm not trying to stop you.

6 MEMBER WHITE: -- which don't protect the view.

7 See there is no right to a killer view anywhere but there's
8 a right to sunlight. So that's where we are.

9 CHAIRPERSON HILL: Okay. So I'm just being clear.
10 Hold on, Cal.

11 So what you're asking for is for ten feet. I just
12 want to clarify so that Mr. Dupont knows that we're going to
13 get back.

14 MEMBER WHITE: Okay. In several places, the
15 addition goes back beyond ten feet. Wherever those --

16 (Off the record comments)

17 MR. YEDIBALIAN: Okay, am I saying that correct?
18 Yes. The one that was affecting my master bedroom, they cut
19 it at ten feet and that was the discussion we've been having
20 with them. Am I saying that correct?

21 MEMBER WHITE: My impression was that the addition
22 was pulled back to match the existing addition of one of the
23 neighbors, right? No?

24 MR. YEDIBALIAN: I don't know. We were talking
25 about the -- okay.

1 MEMBER WHITE: Just the top floor is --

2 MR. YEDIBALIAN: Yes, just the top floor was the
3 only one with the light issues.

4 MEMBER WHITE: That was pushed back?

5 MR. YEDIBALIAN: So we pushed back that to ten.

6 MEMBER WHITE: Okay.

7 MR. YEDIBALIAN: And that was the discussion. Can
8 I speak now or are you still?

9 MEMBER WHITE: Yes, go ahead and speak.

10 MR. YEDIBALIAN: Okay. Just for the record, Ms.
11 Mazo was not involved, Will was not involved. I was sitting
12 in the back with Bob and who came up to us?

13 You came up to us, said listen, we're neighbors,
14 let's discuss and you --

15 CHAIRPERSON HILL: Okay, that's good. I get it.
16 No I don't --

17 MR. YEDIBALIAN: Well, I just wanted to let you
18 know.

19 CHAIRPERSON HILL: No, I appreciate, I appreciate
20 you're, appreciate. That's great.

21 (Simultaneous speaking)

22 MR. YEDIBALIAN: And so they made a proposal,
23 basically we worked something out.

24 CHAIRPERSON HILL: That's great. Okay. Okay.
25 I got you. I appreciate you letting them off the hook on

1 that one.

2 MR. YEDIBALIAN: No, I just wanted to let you --

3 CHAIRPERSON HILL: So --

4 MR. YEDIBALIAN: So what we talked about was that
5 we agree and they were going to put it down so we could do
6 it. It was to move back, what you said, the top --

7 CHAIRPERSON HILL: Okay. So let's do this, let's
8 do this, let's do this. Why don't you come back and show us
9 whatever it is that you all believe is a proposal that you
10 could both live with. Okay, right?

11 And then you'd have to go back to, oh no, then you
12 wouldn't have to go back to ANC, not with the ANC --

13 MR. DUPONT: I would go to OGB before we see you.

14 CHAIRPERSON HILL: Okay. Do they have to go to
15 OGB before they see us? We don't have to go to OGB.

16 MR. DUPONT: I will go and talk to Mr. Luebke and
17 Ms. Stevenson before --

18 CHAIRPERSON HILL: Right. You can do that. I'm
19 saying we don't have to listen to OG --

20 MR. DUPONT: I know.

21 CHAIRPERSON HILL: So it's up to you, right. So
22 you're going to go ahead and make the change, whatever you
23 need to make the change to, okay, for those designs with the
24 ten foot and the third floor, all right, okay? And then come
25 back to us when? When can you get back to us?

1 MR. DUPONT: I don't know what, how your world
2 works.

3 CHAIRPERSON HILL: Okay. That's right. Because
4 OAG's trying to tell me something. OAG, what are you trying
5 to tell me?

6 MS. LOVICK: I'm saying that you would set a time
7 for them to file those revised plans to the record and then
8 there would need to be an opportunity to respond.

9 CHAIRPERSON HILL: Yes, okay.

10 MS. LOVICK: And then, then would then be a date
11 that you would either continue the hearing or if you wanted
12 to set it for a decision. I'm not sure.

13 CHAIRPERSON HILL: Okay. Okay, I'm fine with
14 setting the decision, you know, based upon these plans that
15 we see, okay. So does the Board have any other thoughts on
16 that?

17 ZC VICE CHAIRPERSON MILLER: I would agree that
18 we don't need to have a continued hearing. We can just get
19 the file --

20 CHAIRPERSON HILL: Okay.

21 ZC VICE CHAIRPERSON MILLER: Whatever's being
22 filed as a supplement --

23 CHAIRPERSON HILL: Okay. Great.

24 ZC VICE CHAIRPERSON MILLER: -- and get the
25 responses from both the party in opposition and I think OP

1 needs to look at it and make sure they're okay with it.

2 CHAIRPERSON HILL: Okay. All right. So we get
3 a supplemental from OP?

4 ZC VICE CHAIRPERSON MILLER: And I also would
5 still like to see whatever the latest OG, Old Georgetown Ward
6 Report is.

7 CHAIRPERSON HILL: What the most recent one was?

8 ZC VICE CHAIRPERSON MILLER: Yes, whenever they
9 did the filing and whatever the most recent report.

10 CHAIRPERSON HILL: You want the one that hasn't
11 been submitted as well as the one that's going to happen?
12 Yes, that's fine. I'm just understanding.

13 ZC VICE CHAIRPERSON MILLER: Whatever has, yes,
14 whatever the most recent one is.

15 CHAIRPERSON HILL: Right.

16 MR. DUPONT: They had a ruling based on the
17 concept.

18 CHAIRPERSON HILL: Right.

19 MR. DUPONT: I will upload it.

20 CHAIRPERSON HILL: Upload that one and then but
21 what you're saying, Mr. Dupont, is that you're going to go
22 back again and get something else?

23 MR. DUPONT: Well, they don't like roof decks.

24 CHAIRPERSON HILL: Okay. Are you --

25 MR. DUPONT: So I --

1 CHAIRPERSON HILL: -- making a roof deck?

2 MR. DUPONT: It would, this proposal would result
3 in a roof deck, yes.

4 CHAIRPERSON HILL: Okay. I don't know. So that's
5 up to you and, you know, if you want to mess with OGB or
6 whatever, you know.

7 Okay. So when can we get -- so I'm looking at you,
8 Mr. Moy, now. So we need drawings, we need a supplemental
9 from Office of Planning and then we can set for decision?

10 MR. MOY: Yes, sir. Before I go through the
11 timeline, if I can ask the Applicant, based on what he's
12 already heard from the Board, the earliest date when he could
13 submit into the record? I'm not clear how much time he
14 needs.

15 MR. DUPONT: Submit exactly what? The OGB Report
16 tonight?

17 MR. MOY: No, no, no, that's separate. The
18 possible revised, possible revised proposals?

19 MR. DUPONT: Plans, revised plan?

20 MR. MOY: How long would it take?

21 MR. DUPONT: When are you in Washington?

22 ZC VICE CHAIRPERSON MILLER: You have to do the
23 numbers, that all.

24 MR. DUPONT: I know. When you, well, I have to
25 redesign the house. When you in Washington? When is your

1 next hearing date? When would the next continuance go to?

2 MR. MOY: Well, okay. I can go up that way too.

3 I mean, if, okay --

4 CHAIRPERSON HILL: When's Mr. Miller back?

5 MR. MOY: Oh, geez. That's way out there. I'll
6 tell you, I just looked at that, Mr. Chairman, and he's back
7 February 27th.

8 CHAIRPERSON HILL: February 27. All right. Let's
9 move back from February 27th.

10 MR. MOY: Okay.

11 CHAIRPERSON HILL: Okay?

12 MR. MOY: All right.

13 CHAIRPERSON HILL: We'll have a decision on
14 February 27th.

15 MR. MOY: Okay.

16 MR. DUPONT: That six weeks, five weeks.

17 MR. MOY: Yes, that'd be February 27th for a
18 decision.

19 CHAIRPERSON HILL: Okay. All right, sure, go
20 ahead.

21 MR. MOY: So if I were, let me --

22 CHAIRPERSON HILL: All right. Hold it. We're on
23 this negotiation. Mr. Miller, do you need to go?

24 ZC VICE CHAIRPERSON MILLER: No.

25 CHAIRPERSON HILL: okay, all right.

1 ZC VICE CHAIRPERSON MILLER: Getting ready to go.

2 CHAIRPERSON HILL: Okay, great. So you would like
3 it earlier than that is what you're trying to tell me.

4 Is there somebody's mic on? All right. That's
5 okay.

6 Sure, please go ahead.

7 MR. FARRUGGIO: I think, you know, when I approach
8 Mr. Kyle (phonetic) to say, you know, well, let's, we're
9 neighbors so let's stop, Mr. O'Malley, and he proposed, you
10 know, he says, I said what does he really need? You know,
11 what is really the most important thing?

12 And he proposed to move the, he said the most
13 important thing is the light from the bedroom. He says if
14 you can, instead of having the whole extension, move ten
15 feet, you know, ten feet in so he can get some more light.

16 CHAIRPERSON HILL: Okay.

17 MR. FARRUGGIO: And I always say, he says let's
18 see, but of course what we're trying to do out there was
19 possible three bedrooms. We're going to put, let's see if
20 it works.

21 CHAIRPERSON HILL: Okay.

22 MR. FARRUGGIO: The stairs and everything. And
23 I think me and my architect, we said that it maybe to make
24 it worth the while we need to be around seven feet.

25 CHAIRPERSON HILL: Okay.

1 MR. FARRUGGIO: Seven feet.

2 CHAIRPERSON HILL: Okay.

3 MR. FARRUGGIO: If Kyle is okay with that, we can,
4 you know --

5 CHAIRPERSON HILL: Okay. So you guys can work
6 that out or see if you can work it out.

7 ZC VICE CHAIRPERSON MILLER: I want to thank you
8 for doing that. I wish it had been presented maybe at the
9 beginning but I want to thank you for neighbors trying to be
10 good neighbors.

11 MR. FARRUGGIO: Thank you for listening because,
12 I mean, I really --

13 CHAIRPERSON HILL: Okay. So that's okay, we're
14 still back to the timing. You all still have to agree, okay.

15 MR. FARRUGGIO: Yes.

16 CHAIRPERSON HILL: So your architect, the question
17 is how long does your architect need? How long do you all
18 need to talk about this and make some drawings?

19 MR. FARRUGGIO: I think we will after we need to
20 see how many feet. At feet now, that's where we're at.

21 PARTICIPANT: I was asking how much time do you
22 need for that?

23 MR. FARRUGGIO: If we agree to eight, let's say
24 seven feet. You will be okay with that if we --

25 (Simultaneous speaking)

1 CHAIRPERSON HILL: That's okay, that's okay. So
2 basically what -- ho, ho, ho -- so basically what, I mean to
3 Cal again and now this is where it's just getting into where
4 it's outside of our area. Cal would want to know about the
5 light, okay, right? Whether it's seven feet, whether it's
6 ten feet, whatever it is before he agrees. So you all got
7 to figure that stuff out.

8 So I'm back to a date and we had a date and Mr.
9 Dupont kind of poo-pooed my date because he thought it was
10 too far away.

11 MR. DUPONT: No, no, no. I didn't understand it.

12 CHAIRPERSON HILL: Okay, great. And so I'm on the
13 decision with Mr. Miller on the 27th of --

14 MR. MOY: Yes, of February.

15 CHAIRPERSON HILL: February. February. So please
16 work backwards.

17 MR. MOY: Okay. Let me lay this out and then --

18 CHAIRPERSON HILL: Great.

19 MR. MOY: -- then you'll have something to work
20 with.

21 CHAIRPERSON HILL: Mr. Secretary, you work for us,
22 right?

23 MR. MOY: Yes, sir.

24 CHAIRPERSON HILL: Okay. Can you work backwards
25 then from that date? Thank you.

1 MR. MOY: Okay, let's do that which was going to,
2 I wanted to complete. Okay. So if we're looking at February
3 27th for a decision, right. And I like to give Office of
4 Planning time to review for their supplemental report, let's
5 say by, let's say Monday, February 18, right.

6 Responses from the parties, let's go that week,
7 February 11th. That's be 2-11, all right. So then we can
8 give the Applicant to all the steps that the Applicant's
9 going to have to do to make a filing. Let's say by Friday,
10 February 1st.

11 CHAIRPERSON HILL: Okay, Mr. Dupont. Is all that
12 clear, is everybody clear? Okay, great. And if we get
13 nothing, we're going to decide what we got here, okay?

14 So and okay. So that's it. Anybody else, got
15 anything else? Okay, and I do appreciate, Cal, I'm just
16 going to keep going with Cal.

17 I really appreciate you bringing that up at the
18 end and I don't mean to get a little excited. I just got a
19 little excited at the end because I, and Ms. Mazo comes along
20 and Mr. Teass comes along often, you know.

21 And so I was just all of the sudden surprised that
22 there was something else that you all didn't know about that
23 was like, you know, we went two hours all the way to get to
24 this point. Mr. --

25 PARTICIPANT: Farruggio.

1 CHAIRPERSON HILL: I'm going to go with, okay,
2 okay. So are we done? Okay. All right. That's good, we're
3 done. Okay and let's, we, are we done? Okay. All right.
4 Everybody understands? Okay. All right. We'll see you for
5 a decision on that date. Okay. Thank you all very much.

6 MS. MAZO: Thanks for your time.

7 CHAIRPERSON HILL: Thank you.

8 MR. DUPONT: Thank you very much.

9 CHAIRPERSON HILL: Thank you, thank you.

10 Mr. Moy, does the Board have anything else in
11 front of it today?

12 MR. MOY: Nothing from the staff, sir.

13 CHAIRPERSON HILL: Okay, great. We stand
14 adjourned. Thank you.

15 (Whereupon, the above-entitled matter went off the
16 record at 4:24 p.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: 01-09-19

Place: Washington, DC

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