

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

MARCH 27, 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 JOHN, Board Member
CARLTON HART, Board Member (NCPC)

ZONING COMMISSION MEMBERS PRESENT:

ROBERT MILLER, Vice-Chairperson
MICHAEL TURNBULL, Commissioner

OFFICE OF ZONING STAFF PRESENT:

TRACEY ROSE, Secretary
JOHN NYARKU

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MAXIMILIAN TONDRO, ESQ.
MARY NAGELHOUT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

MATT JESICK
CRYSTAL MYERS
JONATHAN KIRSCHENBAUM
ANNE FOTHERGILL
ELISA VITALE

The transcript constitutes the minutes from
the Public Hearing held on March 27, 2019.

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

10:03 a.m.

1
2
3 MS. ROSE: The first hearing case is Application
4 Number 19918 of Solo Entertainment, LLC, pursuant to 11 DCMR,
5 Subtitle X, Chapter 9, for a special exception under the
6 residential conversion requirements of Subtitle U, Section
7 320.2, to construct a third story and a three-story rear
8 addition to an existing attached principal dwelling unit and
9 converted to a three-unit apartment house in the RF-1 zone
10 at Premises 4521 Iowa Avenue NW, Square 2918, Lot 78.

11 CHAIRPERSON HILL: Okay. Will the Applicant
12 please come forward?

13 (Off the record comments)

14 CHAIRPERSON HILL: Okay, well then we can maybe
15 -- is he right there or -- I'm sorry you have to talk into
16 the microphone. Why don't you introduce yourself real quick?

17 MR. BAGNOLI: Sorry, David Bagnoli with the
18 Applicant.

19 CHAIRPERSON HILL: Okay.

20 MR. BAGNOLI: With StudioMB Architects.

21 CHAIRPERSON HILL: Okay. Mr. Commissioner, could
22 you introduce yourself?

23 MR. CAMPBELL: Ulysses Campbell, ANC 4C03.

24 CHAIRPERSON HILL: Okay, thank you, Commissioner.
25 Your attorney is not present?

1 MR. CAMPBELL: I don't see him in the crowd, I
2 just sent the client out to see if he could call him.

3 CHAIRPERSON HILL: All right. Okay. Then, Mr.
4 Miller, would that be all right if we wait?

5 MR. MILLER: Yes.

6 CHAIRPERSON HILL: We'll go ahead and move you,
7 we'll move you to the end of the day. No, I'm just kidding.

8 (Laughter)

9 MR. CAMPBELL: He may be here. We were kind of
10 collecting so --

11 CHAIRPERSON HILL: That's all right. Commissioner
12 Miller is just here for the one case.

13 MR. CAMPBELL: I see, okay.

14 CHAIRPERSON HILL: So you guys can leave. We're
15 going to call the next case.

16 MR. CAMPBELL: Okay.

17 MS. ROSE: The next case is 19954 of Nation's
18 Mosque pursuant to 11 DCMR, Subtitle X, Chapter 9, for
19 special exceptions under Subtitle E, Sections 205.5 and 5201
20 from the rear addition requirements of Subtitle E, Section
21 205.4 and under Subtitle C, Section 1504 from penthouse
22 enclosure requirements of Subtitle C, Section 1500.6, and the
23 penthouse setback requirements of Subtitle C, Sections
24 1502.1(b) and 1502.1(c)(2)(a) to construct an addition to the
25 existing place of worship in the RF-1 zone at premises 1519

1 4th Street, NW, Square 521, Lot 829.

2 CHAIRPERSON HILL: Okay, great. Thank you. Could
3 the Applicant please come forward?

4 (Off the record comments.)

5 CHAIRPERSON HILL: One second, I'm sorry, sir.
6 Just let me get everything settled, and then I can write it
7 down.

8 Okay, great. Could you please introduce your
9 selves?

10 MR. KILIC: Ahmet Kilic with Urbane Architects on
11 25 V Street, NW, Washington, D.C.

12 CHAIRPERSON HILL: Could you spell your last name
13 for me, sir?

14 MR. KILIC: K, as in Keith, I-L-I-C.

15 CHAIRPERSON HILL: Kilic?

16 MR. KILIC: Kilic.

17 CHAIRPERSON HILL: Kilic. Okay, thank you. Sir?

18 MR. SABIR: Albert Sabir, Executive Director of
19 the Nation's Mosque and Board of Advisors representative.

20 CHAIRPERSON HILL: Could you spell your last name
21 for me, sir?

22 MR. SABIR: S-A-B, as in boy, I-R.

23 CHAIRPERSON HILL: Thank you.

24 MR. BRADFORD: Dwayne Bradford, Board Advisor for
25 the Nation's Mosque.

1 CHAIRPERSON HILL: Okay, great. Well, welcome,
2 gentlemen. If you could turn off your microphones just to
3 have them one at a time, because I get feedback up here.

4 Mr. Kilic, are you going to be presenting to us?

5 MR. KILIC: Yes. Is the presentation available,
6 like, that we submitted to you?

7 CHAIRPERSON HILL: Meaning can you show us there,
8 is that what you mean?

9 MR. KILIC: Yes. Or just, I can do oral
10 presentation if --

11 MEMBER HART: I think you can go online. If you
12 go onto the BZA website, there are exhibits that should be
13 under one of those.

14 MR. KILIC: Okay.

15 CHAIRPERSON HILL: Or maybe a gentleman in the
16 audio room, audio visual room, if you can come out and
17 possibly help?

18 MR. KILIC: I can go ahead and start the story of
19 our application. In 2015 --

20 CHAIRPERSON HILL: Okay, give me one second then,
21 Mr. Kilic. So if you could, again, go ahead and tell us what
22 you're trying to do. And I'll wait to see if maybe somebody
23 can't come help us pull up some -- oh, here we go, perfect.

24 Thank you. Okay, great. So you know, if you
25 could go ahead and walk us through what you're trying to

1 propose and how you believe that you're meeting the standards
2 for us to grant the relief that you're looking for, that's
3 what we'll be looking at again, the standards in order to --
4 whether or not to approve or deny the relief that's being
5 requested.

6 So again, speak to the relief that's being
7 requested and the standards that we are using to determine
8 whether that should be approved or denied. And then tell us
9 a little bit again about the project.

10 And I'm going to go ahead and put 15 minutes on
11 the clock, Mr. Kilic, just so we know where we are. The
12 clocks are located on either side on the ceiling. And you
13 can begin whenever you like.

14 MR. KILIC: Thank you very much.

15 CHAIRPERSON HILL: Ms. Rose, can you turn 15
16 minutes there on the clock, thank you.

17 MR. KILIC: As you can see in the first exhibit,
18 this is 1519 4th Street address, the Nation's Mosque
19 building. And it's also known as Masjid Muhammad. This
20 existing building, the yellow box on the left and the vaulted
21 ceiling on top, is the existing building. And the tower and
22 the three-story building behind it is the proposed addition,
23 infill addition between the existing building and the
24 townhouse, red brick townhouse on the right.

25 So I would like to quickly mention about the

1 community here. It has been in this area since 1920s. It
2 is the earliest indigenous Muslim community in the nation.
3 And in 1959, they built this mosque with some prominent
4 Muslim leaders of the time, such as Malcolm X and his
5 friends.

6 So this center has been the earliest mosque in
7 Washington, D.C. And since then, this is the first expansion
8 project coming forward. And as Urbane Architects, we are
9 very excited and proud to be a part of this project.

10 In 2015, we made a presentation with DC Zoning,
11 a preliminary design review meeting. And this project was
12 intended to be a by right scheme, three-story high, under 50
13 feet, allowed by worship buildings use in RF-1 zone.
14 However, by the time we applied for permit, the zoning has
15 changed limiting the rear yard additions to ten feet, part
16 of neighbor's rear wall.

17 And in addition to that, we had some penthouse
18 roof access, staircase access to the roof. And also the
19 mechanical equipment enclosure, they were not following the
20 updated 2017 zoning which limited all those penthouses,
21 basically, which didn't allow any penthouse in RF-1 zones.

22 So this zoning change adversely affected the
23 project which had started and agreed with DC zoning in the
24 preliminary design review meeting. And back then, it was all
25 approved and okayed.

1 So we had to bring the case to BZA. So there are
2 three exceptions that we are requesting. The first one is
3 rear yard addition. The rear yard addition, as I said, this,
4 as you may well know, the rear yard addition, limitation of
5 the rear yard addition was in reaction to the very deep
6 residential additions that were in, like, different parts of
7 the city, 140 feet deep yards and, like, very deep rear yard
8 additions casting shadow and affecting the privacy of the
9 adjacent neighbor.

10 In this case, what we're requesting is only
11 addition of 15 feet which was formerly allowed. And this
12 building is, as you can see in this venue, will follow -- in
13 the following exhibits, is exactly the north of the adjacent
14 townhouse.

15 So this is the interior view, this is how the new
16 floor plan is going to develop. It's going to add to the --
17 we're going to do a nice interior design. This is the
18 section where you can see. The vaulted ceiling is the
19 existing building, the three-story addition is in between
20 this townhouse.

21 The townhouse, what you see is also owned by the
22 mosque. Basically, the neighbor's townhouse is the little
23 gray three-story building on the very right. So the addition
24 is making an L-shape, dog leg we call it, an L-shape
25 footprint.

1 And this is lower level fellowship hall which is
2 used by people from all faiths during the weekdays for lunch
3 and other events, second floor and third floor, second floor
4 offices, third floor some classrooms. This is the program,
5 this is the site plan. As you can see here, the adjacent
6 townhouses are rounded on the very right, bottom right. So
7 the plan left is the north direction. So what I would like
8 to take your attention is, I'm trying to get to the solar
9 studies.

10 But before we get that, I would like to talk to
11 you about the rooftop design. So as you know, in residential
12 zones penthouses are not allowed. But this project is trying
13 to -- is an assembly space, worship place. So we have close
14 to 200 occupancy in the building, and this requires a little
15 fresh air.

16 And mechanical equipment for this kind of assembly
17 space is much heavier than a residential building. So the
18 rooftop design we are very limited with this, a little
19 townhouse to do all these things.

20 As you can see at the rooftop, we have solar
21 panels, a green roof, this is going to be elite, certified
22 building. Even though it's not required, the mosque wanted
23 to pursue this project to be certified, environmental, to be
24 a good example for the community.

25 The vaulted ceiling on the left, we are trying to

1 preserve it because of its historic significance for the
2 community. So basically, to do all the mechanical equipment,
3 and rooftop access, solar panels, and the tower, everything
4 falls under the new footprint which couldn't allow us to
5 provide all the penthouse setback requirements. That's also
6 one of the other relief that we are requesting.

7 And the next floor plan shows, again, the first
8 floor architectural floor plan with dimensions, you can see
9 the rear. The neighbor has already done an addition and a
10 deck. And this is the view looking to north. This is the
11 south elevation of the building.

12 The neighbor's building, you can see, is hatched
13 at the lower left, and their deck. Since it's a party wall,
14 we don't have any windows. So we are not looking into
15 neighbor's backyard, no windows. We're going to propose
16 ground face brick and very nice elevation. This is the rear
17 elevation. And we are working on this really hard to create
18 a nice looking institutional look.

19 And other views, this is the back view. So if I
20 were to start lower left photograph, if you look at that, the
21 townhouse on the right is owned by the mosque. We're going
22 to keep the townhouse, and the new addition is going to wrap
23 around that. So the green building on the left is the first
24 adjacent neighbor, neighbor's house.

25 And the new project is going clean up the backyard

1 and create a much pleasant landscaped, as much as possible,
2 backyard for the community. And this is the view, how it's
3 going to look, the backyard, rear view proposed. The red
4 townhouse on the left is the adjacent townhouse, and it is
5 on the south side of the adjacent building.

6 So this is the by right scheme. The by right
7 scheme is like this, and shadow study shows that the addition
8 has almost no impact, additional impact, from shadow point
9 of view to the adjacent neighbor. This is March 21st, 8:00
10 a.m., 12:00 p.m., and 4:00 p.m. and shadows. This is
11 proposed scheme, and this is by right scheme.

12 And also we would like to demonstrate the
13 penthouse, or penthouse relief, and this view is from 4th
14 Street across the street from the curb looking up to the
15 building. So the penthouse enclosure cannot be seen from the
16 public street, the first public street the building is
17 sitting on.

18 And when you go to New Jersey Avenue, there is a
19 little green area. As you can see, you just start to see a
20 little bit of the proposed louver covering the mechanical
21 equipment. But the penthouse that we are requesting is at
22 the very back which is affecting the public view the least.

23 MEMBER HART: Mr. Kilic?

24 MR. KILIC: Yes.

25 MEMBER HART: Can you go back one slide? That's

1 not the one.

2 MR. KILIC: This one?

3 MEMBER HART: Go back again.

4 MR. KILIC: Shadow study?

5 MEMBER HART: This one. So this is the area that
6 you're talking about.

7 MR. KILIC: Yes.

8 MEMBER HART: Okay. I thought that that's what
9 we were talking about. I couldn't --

10 MR. KILIC: Yeah, that's the penthouse. But this
11 is not the first street. So there's a little wedge shape,
12 like, New Jersey Avenue and 4th Street come together in that
13 area. So from the street in front of the building, which is
14 4th Street, you cannot see it. You need to step further back
15 to New Jersey Avenue to start to see the louver enclosing the
16 mechanical equipment. So this is the second relief that we
17 are requesting.

18 MEMBER HART: Okay.

19 MR. KILIC: So in order to build this kind of
20 heritage building expansion, unfortunately the RF-1 zone has
21 too much restrictions. And we had meeting with the Office
22 of Zoning. They are in support of the project and they are
23 expecting the, I mean, I'm expecting in the future some
24 adjustments to zoning to give some exemptions for worship
25 buildings in these RF zones, especially for rooftop design.

1 Because currently, as I said, like, these very
2 narrow additions that we are putting in, there's too much
3 pressure on the rooftop to meet all the lead requirements,
4 all the mechanical equipment requirements providing
5 sufficient air and fresh air for the assembly spaces down.

6 And also, as I said, like, luckily this building
7 is just at the north side of the adjacent building which is
8 not affecting the adjacent neighbor from shadow point of view
9 at all.

10 I think that's all I have.

11 CHAIRPERSON HILL: Mr. Kilic, I just have a quick
12 question. In terms of DDOT, so you did work with DDOT or
13 talk to DDOT, and they had a condition about removing two
14 non-compliant parking spaces, re-design the curb cut, reduce
15 fence height, and provide new landscaping. Are you aware of
16 those conditions?

17 MR. KILIC: Yes.

18 CHAIRPERSON HILL: And where are those or have you
19 made those changes to your plans?

20 MR. KILIC: We haven't made, I mean, we are aware
21 of those changes. We are going to submit those changes
22 during the permit process.

23 CHAIRPERSON HILL: Can you show me where the two
24 non-compliant parking spaces are in your plans?

25 MR. KILIC: So the two non-compliant parking

1 spaces are the handicapped parking, if you look at the
2 existing parking, so the handicapped --

3 CHAIRPERSON HILL: Oh, I see them --

4 MR. KILIC: -- parking and the one across that are
5 outside the property line. So they have been used like this
6 since 1970s based on the testimonies. And interestingly
7 enough, like, two years ago Department of Environment and
8 Energy, working with the mosque, redid the parking and placed
9 the --

10 CHAIRPERSON HILL: Okay. I'm just going to
11 interrupt you one second. So you're in agreement with their
12 condition, okay --

13 MR. KILIC: Yes.

14 CHAIRPERSON HILL: -- in terms of to remove the
15 two non-compliant parking spaces, redesign curb cuts, reduce
16 fence height -

17 MR. KILIC: No, no. Actually, we had DDOT here
18 and they allowed us to grandfather two parking spaces
19 provided we lower the fence around it.

20 CHAIRPERSON HILL: Okay. We can come back to it.
21 I'll figure out what that is. So, well, actually I'll stay
22 here with it. So DDOT had these conditions, right, which was
23 remove two non-compliant parking spaces, redesign the curb
24 cut, reduce fence height, and provide new landscaping.

25 So you're saying now that DDOT has taken away some

1 of those conditions?

2 MR. KILIC: Yes. And so I misunderstood them.
3 Like, DDOT brought these conditions up. And in past November
4 we had DDOT hearing and presented the case. And they
5 accepted to grandfather these two spaces and other
6 conditions, but they asked us to lower the fence, because the
7 parking spaces are going to be on the public space.

8 CHAIRPERSON HILL: Okay, I'm just being helped out
9 here. So again, according to DDOT's even after the meetings
10 you had with them, well, we might have to clarify this, okay.
11 But we were going to probably have a bunch of questions from
12 the Board. And we're going to kind of move through this.

13 But DDOT still has the removal of the two vehicle
14 parking spaces shown in public space, redesign of non-
15 compliant curb cut, and reduction of an existing over-height
16 fence. I'm just saying, those are those three things that
17 we still have in the record from DDOT. So we're going to
18 talk about those, but you think that DDOT has removed some
19 of those conditions.

20 MR. KILIC: Yes.

21 CHAIRPERSON HILL: Which one of those conditions
22 do you think DDOT has removed?

23 MR. KILIC: DDOT has removed two parking spaces.

24 CHAIRPERSON HILL: Removal of the two vehicle
25 parking spaces shown in public space.

1 MR. KILIC: Yes.

2 CHAIRPERSON HILL: Okay. What about the redesign
3 of non-compliant curb cut?

4 MR. KILIC: Yeah, we are going to comply with
5 that.

6 CHAIRPERSON HILL: Okay, so you're going to change
7 that.

8 MR. KILIC: Yes.

9 CHAIRPERSON HILL: And then reduction of an
10 existing over-height fence?

11 MR. KILIC: Yes, we are going to comply with that.

12 CHAIRPERSON HILL: Okay. So at the very least,
13 I think whatever we end up doing here, we're probably going
14 to have to get new plans from you now and something new from
15 DDOT that says that they're going to let you have two public
16 parking spaces in public space.

17 So I'll start with that, okay. And then I'll go
18 ahead and let my fellow Board members ask any questions or
19 start to ask questions.

20 MEMBER WHITE: So I just want to clarify. Your
21 last communication with DDOT was, what was your response on
22 the date?

23 MR. KILIC: Actually, the last communication, last
24 week they approved our drawings as it is in ProjectDox, DCRA
25 ProjectDox. It appears they approved.

1 MEMBER WHITE: Last week?

2 MR. KILIC: Last week.

3 MEMBER WHITE: Okay. So that was after this March
4 15th letter, memo that they filed in the record that said --

5 MR. KILIC: Yes.

6 MEMBER WHITE: -- Exhibit 31.

7 MR. KILIC: Yes.

8 MEMBER WHITE: Okay. And the only other question
9 I have is you said that the mosque owns the house next door?

10 MR. KILIC: Yes.

11 MEMBER WHITE: Or the property next door. Can you
12 show that to me again?

13 MR. KILIC: The house next door, this is a
14 residential house, townhouse. And can you see this screen?
15 So this is also owned by the mosque. So the addition is
16 wrapping around that over here. So the first adjacent
17 neighbor is shaded, as you can see here, this is the first
18 adjacent neighbor. So the addition, the three-story addition
19 is further set back, three-story high addition is further set
20 back from the public street, except the tower here.

21 Also, you know, I just wanted to let you know the
22 minaret tower was encroaching into public space, as you can
23 see, 6-foot line here at the top. So that was one of the
24 other requests we had from DDOT that they approved.

25 MEMBER WHITE: Thank you.

1 MR. KILIC: The canopy, a 6 foot nine canopy.

2 CHAIRPERSON HILL: Okay, anyone else? Sure.

3 COMMISSIONER TURNBULL: Mr. Kilic, did you talk
4 to the neighbors next door?

5 MR. KILIC: Yes. Actually, I'll let -- do you
6 want to talk about that.

7 MR. SABIR: Yes. Well, we had meetings with the
8 tenants, those who were currently living in the house at
9 1513. We also sent an email to the property manager in
10 reference to reaching out to the owner. So the extent of --
11 and we also called trying to reach the owner. So that's to
12 the extent that we've reached out.

13 Now, we've also moved through the process of
14 talking to the civic association and getting 100 percent
15 approval for this, as well as the ANC, also getting 100
16 percent approval.

17 And we've had open houses, and we've extended an
18 invitation up and down the street to try to get the neighbors
19 to engage in this process.

20 COMMISSIONER TURNBULL: Well, I don't know if
21 you're familiar, we just had a submission, Exhibit Number 34,
22 and it's signed by the neighbors at 1514, 1516, 1518, and
23 1520. And they're in opposition to what you're proposing.
24 Did you talk to Sylvia Gilbert, Christopher Agrawal, Jacob
25 Jelks, Mariah C. Rippe?

1 MR. SABIR: Those names I'm not familiar with,
2 sir.

3 COMMISSIONER TURNBULL: Well, they're opposed.
4 And one of the questions you talk about, the regs now are an
5 imposition to you. But things that the regulations do, the
6 revised regulations, are to protect. They're designed to
7 protect adjacent homeowners. They also have some rights.
8 So it's a protection for everyone, and especially the RF
9 zone.

10 So what I'm concerned about here, although there's
11 no shadows, there's definitely an imposition of a huge
12 structure now and sort of blocking some of the air, the
13 circulation back there. And I'm not really sure what this
14 thing looks like. I see a sketch, a drawing of what it looks
15 like.

16 And I'm not sure that they understand totally what
17 they're going to be looking at from their rear yard. Because
18 that's where they spend most of their time, is going to be
19 the rear yard, I'm assuming. So what they see back there is
20 huge.

21
22 And I'm not sure if you've gone and explained to
23 the neighbors what they're going to be looking at and how
24 you're going to ameliorate what they're going to be seeing.
25 Is this decorative? I mean, it calls out for block or brick,

1 but it doesn't really show me any color or a rendering in any
2 three dimensional way that these people could understand.

3 And I think you may need to go back and revisit
4 with some of these people. Because we obviously have some
5 concerns about what's going on at the back there. I'm just
6 pointing that out. I mean, that's just my view that maybe
7 you haven't done enough due diligence, maybe you have, or you
8 think you have. But it sounds like there's at least four
9 homeowners fairly adjacent, either next to the house that you
10 talked to but in that row, that do have concerns about what
11 you are proposing.

12 Not only are you going back the 40 feet or
13 whatever, but you're going higher with the penthouse. So
14 it's a very stark building that's being put back there. And
15 I think for a lot of them, that's going to be a concern that
16 all of a sudden they're going to come out and see this image
17 of something that, in a residential zone, they had never
18 thought they would see.

19 So I'm just concerned that maybe you haven't
20 really explained enough to them. But I think they are due
21 an explanation. I think they are due a meeting that you
22 could go through and show them and maybe discuss how you plan
23 to ameliorate what this thing looks like. Just a suggestion.

24 MR. KILIC: Yes. We have received only one direct
25 email to us, like, reached through the Masjid, 1512. So

1 these homeowners are, I just opened up the exhibit, they are
2 living at the back. And we emailed with the only homeowner
3 who wrote us back was 1513, I think this property. And then
4 we explained them about the project. The other oppositions
5 never showed up at civic association meetings, neither there
6 or at ANC meetings. So we are not --

7 CHAIRPERSON HILL: Okay, Mr. Kilic, I'm just going
8 to interrupt you a second. You said there was a civic
9 organization? What was the civic organization?

10 MR. KILIC: Bates --

11 MR. SABIR: Bates Street Civic Association. I've
12 had one meeting with them and two meetings with the ANC.

13 CHAIRPERSON HILL: Okay. All right. So we'll see
14 how this kind of goes in terms of there are people here, I'm
15 sure, that we're hear from as well. But to Commissioner
16 Turnbull's point, you know, in terms of the outreach, that's
17 something that we can also talk about, okay.

18 Does anyone have any other questions?

19 MEMBER HART: Just so that I can understand this
20 as well, can you put up the plans again if you could?

21 MR. KILIC: Yes.

22 MEMBER HART: I think you had at actually open
23 already. Go back into the PDF. No? Yeah. So currently,
24 there's one image that shows the rear of the building. It's
25 like a perspective, like a rendering. I can't recall what

1 page.

2 MR. KILIC: This is --

3 MEMBER HART: Yeah.

4 MR. KILIC: So this is the rear.

5 CHAIRPERSON HILL: It's on Page 18 of your slide
6 deck.

7 MR. KILIC: Page 18.

8 MEMBER HART: Yeah. So actually, those are the
9 two things that I was -- this view and the next.

10 MR. KILIC: Sorry.

11 MEMBER HART: Either one of these. That's fine.
12 So what I was trying to figure out is that this area here,
13 the area that shows kind of the add-in is what you're -- this
14 building already -- the existing building already is a
15 certain length or a certain distance. And you're adding in
16 a piece, you called one of these by right and then you called
17 the other one that's --

18 MR. KILIC: Yes.

19 MEMBER HART: So that's the, whatever that piece
20 is being added in, I don't know what you want to call that.
21 It looks like it contains a stairwell.

22 MR. KILIC: Yes.

23 MEMBER HART: Where is the existing stairwell?

24 MR. KILIC: Existing stairwell, obviously this
25 entire thing, the entire three-story addition is, addition

1 like new.

2 MEMBER HART: Yeah.

3 MR. KILIC: So by right and proposed is if you
4 didn't seek relief, setback relief, we could have built this
5 which is up on the screen, Page 18. So this is a by right
6 scheme, I mean, not counting on the penthouses but the rear
7 area, as far as the rear area setback is concerned, this is
8 by right project. Because we are providing a ten feet side
9 yard.

10 MEMBER HART: But I think what I'm understanding
11 now is that, because you all own the rowhouse, the rowhouse
12 is sitting next to the adjacent neighbor to the south. Is
13 that right?

14 MR. KILIC: Yes.

15 MEMBER HART: And so you're adding onto the
16 rowhouse only. And because that is -- because your building,
17 the mosque itself is not adjacent to a rowhouse that it
18 doesn't own. So it owns the rowhouse that's next to it.
19 It's only adding onto the rowhouse that it owns.

20 MR. KILIC: Yes.

21 MEMBER HART: So that's what's causing all of, not
22 all of it, that's what's causing you all to kind of have to
23 deal with -- What was driving me crazy was I was, like,
24 well, the building's already back this far. And you're
25 really adding to extend the rowhouse to the existing length

1 of the existing building.

2 MR. KILIC: Exactly.

3 MEMBER HART: But because you own the rowhouse and
4 you don't own the rowhouse to the south of that, you're
5 adding on more than ten feet. And then that causes the --

6 MR. KILIC: Yes.

7 MEMBER HART: -- the relief that you're requesting
8 now. I was just making sure I was getting clarity around
9 that. Because I was having a hard time with it. It just
10 didn't make sense. I'm, like why would you need to? But now
11 that you've said that the rowhouse is really all that you're
12 adding onto, it has finally clicked in my head.

13 MR. KILIC: Yes.

14 MEMBER HART: So thank you.

15 COMMISSIONER TURNBULL: I wonder if you could open
16 Exhibit 9, the photographs, the very first one? Now that's
17 what's there now, right?

18 MR. KILIC: Yes.

19 COMMISSIONER TURNBULL: That's what's existing
20 now. And it's about that existing -- your existing townhouse
21 is about 10 to 12 feet shorter than the one on the other
22 side, the green one.

23 MR. KILIC: The green one is the neighbor's.

24 COMMISSIONER TURNBULL: Yeah. That's about -- but
25 your townhouse is back -- you're sort of the gray, white,

1 tanny color one.

2 MR. KILIC: Yes.

3 COMMISSIONER TURNBULL: Whatever it is. Okay.

4 MR. KILIC: Yes, this is what it looks like now.

5 COMMISSIONER TURNBULL: So you're basically adding
6 on 40 feet from the back of your townhouse.

7 MR. KILIC: I don't think it's 40 feet. It should
8 be, like, 25 feet.

9 COMMISSIONER TURNBULL: Twenty-five feet.

10 MR. KILIC: I mean, I can check the numbers again.
11 So this is neighbor's addition, actually. They did an
12 addition, 12 feet addition. They put this deck which we
13 couldn't find, like, in the records, this deck.

14 So from this wall, this green wall of the
15 neighbor, we are adding 15 feet.

16 COMMISSIONER TURNBULL: Fifteen feet, okay. Thank
17 you.

18 MR. KILIC: Fifteen feet. So the relief that we
19 are requesting is 15 feet only.

20 CHAIRPERSON HILL: Mr. Kilic, could you go to,
21 from your slide deck, can you go to Page 18? Okay. So I
22 see, you know, basically between Page 18 and 17, this is the
23 difference between the matter of right and the scheme that
24 you're trying to get approval for, just from the rear yard.

25 MR. KILIC: Yes.

1 CHAIRPERSON HILL: I'm talking about the rear yard
2 relief. So what I'm confused by is that white, next to the
3 actual mosque itself in the back, the white piece --

4 MR. KILIC: Yes.

5 CHAIRPERSON HILL: So you're saying that's already
6 there?

7 MR. KILIC: No, it's not already there.

8 CHAIRPERSON HILL: Right.

9 MR. KILIC: But it is set back ten feet from the
10 rear yard. So that's not zoning allows that. Basically we
11 are providing this ten feet setback, side yard setback.

12 CHAIRPERSON HILL: Okay. That's right. I
13 understand.

14 MR. KILIC: So the white area is also new, new
15 building. The white facade is new.

16 CHAIRPERSON HILL: I understand. You're providing
17 the ten foot setback from that other -- your property.

18 MR. KILIC: Yes.

19 CHAIRPERSON HILL: Okay. All right, does anyone
20 have any other questions for the Office of Planning?

21 COMMISSIONER TURNBULL: All right. If what we're
22 seeing up in front there is the by right, the by right shows
23 the gray building going about what, ten feet beyond the
24 existing rowhouse?

25 MR. KILIC: Yes.

1 COMMISSIONER TURNBULL: But then if we go to what
2 you're proposing, if you could bring that slide up, that next
3 -- so I thought you said that was only 15 feet. But this
4 looks like it would be a lot more than 15 feet.

5 MR. KILIC: Ten feet plus fifteen is 25.

6 COMMISSIONER TURNBULL: Oh, that's the -- all
7 right.

8 MR. KILIC: The ten feet is already by right for
9 us. So the neighbor, we can build ten feet out of neighbor's
10 rear wall which is this.

11 COMMISSIONER TURNBULL: Right.

12 MR. KILIC: So in this one, the red brick is
13 neighbor's wall. So this ten feet is by right. We can do
14 this.

15 COMMISSIONER TURNBULL: All right. So you're
16 requesting 25 feet?

17 MR. KILIC: No, we are requesting 15 feet. So
18 from here to the white wall is what we're requesting.
19 Because this is already the by right.

20 COMMISSIONER TURNBULL: Okay.

21 MR. KILIC: So we can make ten feet addition,
22 right? We can do ten feet addition --

23 COMMISSIONER TURNBULL: Right.

24 MR. KILIC: -- by matter of right. So this is by
25 right scheme, and this is additional 15 feet.

1 COMMISSIONER TURNBULL: I'm just saying that the
2 actual addition from the rear of the townhouse, the existing
3 townhouse next door, is 25 feet.

4 MR. KILIC: Twenty-five, exactly.

5 COMMISSIONER TURNBULL: Right, thank you.

6 MR. KILIC: But ten feet of that is already
7 granted by current DC law.

8 COMMISSIONER TURNBULL: Yeah, we get that.

9 MR. KILIC: So just to respond to Mr. Turnbull's,
10 you know, materials, what we presented at the ANC meetings,
11 so this is the rear elevation. These exhibits are presented
12 at Bates Community, Bates Street Civic Association meeting
13 and also ANC meeting.

14 As you can see over here, colored brick and the
15 panel wall materials. As I said, like, we brought these up,
16 but we didn't have any discussion there. There was no
17 objection. And also site elevation, this is the site
18 elevation we call, like, brick wall.

19 And so this, it's not colored. I think it could
20 have been colored, but as I said, there was no comments about
21 these elevations, about the materials. And these are going
22 to be much better, very high quality commercial materials.
23 It's going to be -- I am familiar with the residential
24 buildings that are built there. So we can talk to the
25 neighbors if they have comments, obviously, in regards to

1 what it looks like.

2 But this material has already been presented to
3 them, like, they had opportunity to bring their comments as
4 far as the materials and how the rear and side walls are
5 treated, are concerned. Yeah.

6 CHAIRPERSON HILL: Anybody else?

7 (No audible response)

8 CHAIRPERSON HILL: Okay, could I turn to the
9 Office of Planning?

10 MR. JESICK: Thank you, Mr. Chairman, and members
11 of the Board. My name is Matt Jesick. The Office of
12 Planning reviewed the relief as it was referred from the
13 Office of the Zoning Administrator. And those two areas of
14 relief were the rear addition greater than ten feet beyond
15 the adjacent neighbor and also penthouses that do not meet
16 the setback requirements.

17 In terms of our analysis, we looked at the
18 criteria of Section 5201 for the rear addition and found that
19 the impacts to light and air to nearby neighbors would not
20 be significantly different than what a matter of right
21 proposal would create.

22 We also found that the privacy of adjacent
23 neighbors would not be impacted by the addition, because
24 there's a very limited fenestration on the addition. And we
25 also found that the addition would not be, the portion of the

1 addition requiring the relief would not be significantly
2 visible from any public right of way.

3 In terms of the penthouse setback, we found that
4 the applicant demonstrated that they met the criteria of
5 Subtitle C, Section 1504. And that section asks would it be
6 unreasonable to locate the penthouses in a different
7 location.

8 Because of the layout of the worship space in the
9 lower portion of the building, as well as the office and
10 classroom spaces on the upper stories of the addition, the
11 locations of the mechanical ducts and pipes would necessitate
12 the location of the mechanical equipment on the roof towards
13 the southern wall.

14 Also given the layout of the mosque below, the
15 location of the stairwell is limited in where it can go. So
16 that, in part, governs where the stair exits onto the roof.

17 So again, we found that the Applicant met the
18 criteria for Section 1504 in order to grant relief. I'd be
19 happy to take any questions.

20 CHAIRPERSON HILL: Okay, does anyone have any
21 questions for the Office of Planning?

22 MEMBER HART: Yes. Only, and I'm not sure if you
23 actually saw the letter that we had spoken of a little
24 earlier in the hearing today.

25 MR. JESICK: OAG provided me a copy a few minutes

1 ago.

2 MEMBER HART: Okay. So I know that you haven't
3 had much time to look through it. So the only question I had
4 really was with regard to, on Page, I guess, 2. And there's
5 some question about whether or not there's -- about the rear
6 yard setback. I guess this is also on the first page as
7 well. They talk about kind of the minimum rear yard.

8 Could you kind of just talk about that a little
9 bit? Because it sounds like what they're raising is that,
10 because of a stairwell that is either proposed or it's going
11 to be changed with an existing stairwell that will be changed
12 with regard to the project, that the rear yard would not be
13 met. And just if you could give a little description as to
14 whether or not you are in agreement with that, or not, or
15 need more time?

16 MR. JESICK: The Zoning Administrator's Office did
17 review the plans and provided a referral letter to the
18 Applicant which did not indicate that rear yard relief was
19 necessary. I did not speak to them about the rear yard
20 specifically. In some cases, access stairs and access ramps
21 do not count towards rear yards. That's maybe one
22 explanation as to why it was not deemed to infringe on the
23 rear yard requirements.

24 MEMBER HART: Thank you.

25 CHAIRPERSON HILL: Mr. Jesick, so Mr. Kilic, could

1 you turn to Page 18 on your slide deck again? Right, thanks.

2 So what I'm just trying to understand, Mr. Jesick,
3 if you can see there, the white part that's right adjacent
4 to the mosque, I mean, that's currently not existing. So all
5 I'm really trying to understand again is what is considered
6 by right versus what is the proposed scheme, so basically
7 between Slide 18 and 17. And the Slide 18, that white
8 portion there, as it kind of comes up and matches the back
9 of the mosque, so that is by right?

10 MEMBER HART: Are you talking about this, that
11 wall?

12 CHAIRPERSON HILL: Yes. How come you get one of
13 those, and I don't get one of those?

14 (Off the record comments)

15 CHAIRPERSON HILL: Oh, yes. That's what I'm
16 speaking of.

17 MR. JESICK: I would need to take a look at that
18 in more detail. You know, my understanding of the ten foot
19 rule is that the entire addition would need to meet the ten
20 foot rule, essentially.

21 But we did not necessarily factor that
22 consideration into our analysis of whether the impacts would
23 be greater for the matter of right scenario versus the
24 proposed scenario. In either instance, you're going to have
25 a 60 foot building extending back somewhat from the existing

1 rowhouse. So we felt that the impacts would be similar.

2 CHAIRPERSON HILL: Okay. And again, Mr. Kilic,
3 if you could go to the Slide 17 if you don't mind.

4 So again, and we'll see, Mr. Jesick, where we get
5 with this, but I just wanted to, you know, understand the
6 difference between Slide 17 and 18 in terms of, you know,
7 what is by right.

8

9 And so, you know, if that is in fact just what
10 we're looking at, that's where I'm kind of just trying to
11 find a little bit more clarity in terms of if that, in fact,
12 is the by right version on Page, you know, Slide 18. So
13 that's just kind of another side question.

14 Because again, then as far as, like, what I think
15 we're looking at is the shadowing or increased, you know, the
16 problem between just the existing and the by right, I'm
17 sorry, the proposed and the by right is the only thing that
18 I'm kind of, like, focusing in on a little bit or want to
19 focus more in on. So okay.

20 Does anybody have any more questions for the
21 Office of Planning?

22 COMMISSIONER TURNBULL: I just have one, Mr.
23 Chair.

24 Mr. Jesick, did you happen to talk about what the
25 wall was going to look like, the aesthetics of it?

1 MR. JESICK: I did exchange an email or two with
2 the architect about the aesthetics of the wall. And he
3 indicated there would be some banding in the brick to kind
4 of break up the mass.

5 COMMISSIONER TURNBULL: But you didn't see
6 actually a rendered feel of it just --

7 MR. JESICK: I did not

8 COMMISSIONER TURNBULL: Okay, all right. Thank
9 you.

10 CHAIRPERSON HILL: Okay, any more questions for
11 the Applicant before I move on to the audience?

12 MEMBER JOHN: Mr. Chairman, I'm still a little
13 confused about what is new and what isn't. So can we go back
14 to the by right? I believe it's 17.

15 MR. KILIC: Sure.

16 MEMBER JOHN: Okay, can you point out what exists
17 now without the addition, without any addition?

18 MR. KILIC: Without any addition, only this yellow
19 vaulted ceiling building is the addition -- existing. It has
20 a stair over here. And then the townhouse, maybe we should
21 pull up the Google Earth view. Let me see.

22 MEMBER HART: Yeah, I think, Mr. Kilic, that's one
23 of the things I was actually looking at and trying to
24 understand what was existing. If you could actually go to
25 a plan. I think this may kind of describe --

1 (Off the record comments)

2 MEMBER HART: Well, it is. It think that's one
3 of the issues that I was kind of trying to figure out to was
4 around what was an existing part of the building. And I
5 don't think there's a drawing that shows what is existing and
6 what is actually being -- the totally new. And what I think
7 we're realizing is that the -- I was thinking that it was
8 just behind the rowhouse. But it's not, it's the actual,
9 it's the entire piece between the rowhouse and the mosque
10 which is --

11 MR. KILIC: Yes.

12 MEMBER HART: -- a stand-alone building right now.

13 MR. KILIC: Yes. So the existing, I mean, the
14 existing building is, I don't know if you can follow the
15 curser here, is this. And then there's the symmetrical stair
16 happens here. We knock it down. It comes here like this.
17 This is the existing.

18
19 And this townhouse is also existing. It has an
20 extension all the way here, as you can see in the picture.
21 This was existing. So we are knocking down one-story part
22 of the townhouse as well. It's extending further over here.
23 We knock that down.

24 And instead we fill this. This is like an urban
25 infill project. We are filling in the space from the

1 property line up against the existing building's wall, which
2 is this wall. This wall is the existing building wall. So
3 this is the existing building wall, and then this is the
4 property line. So we are filling in this L-shape footprint.
5 To do that, we knock down one-story portion of the existing
6 townhouse as well.

7 MEMBER JOHN: So one follow-up question. Does
8 that piece exist now?

9 MR. KILIC: No.

10 MEMBER JOHN: Will that be drawn in red? No?

11 MR. KILIC: No. It's not.

12 MEMBER JOHN: Okay. So you would need relief to
13 build that?

14 MR. KILIC: Yes.

15 MEMBER JOHN: So you need more than 15 feet,
16 wouldn't you? The ten, okay, so ten feet would be from here.
17 Let's say that's ten feet. Do you need the rest of this?

18 MR. KILIC: No.

19 MEMBER JOHN: No?

20 MR. KILIC: Ten feet is -- so this neighbors'.

21 MEMBER JOHN: Oh, yes.

22 MR. KILIC: It is neighbors', this.

23 MEMBER JOHN: That's correct.

24 MR. KILIC: So this is us. This is our building.
25 As a matter of fact, there is a building, one-story building

1 over here, like this. This is us.

2 So if we use, for example -- and right now these
3 are individual lots, this is separate lot. So the existing
4 building, our neighbor is here. So if you add ten feet, we
5 reach here anyway. So this lot is right now separate. The
6 mosque, so this is our lot, and now this is the rear wall or
7 the --

8 CHAIRPERSON HILL: Mr. Kilic, I'm sorry, I have
9 to interrupt you, right. Because I'm providing you a little
10 more clarity. Where your cursor is right now, there is an
11 existing building, right.

12 MR. KILIC: Yes.

13 CHAIRPERSON HILL: So you're going ten feet back
14 from that existing building.

15 MR. KILIC: Only for this lot.

16 CHAIRPERSON HILL: Right, exactly, to match that
17 lot.

18

19 MR. KILIC: Yes.

20 CHAIRPERSON HILL: And then the by right would be
21 ten feet from the next door adjacent.

22 MR. KILIC: Yes, which is somewhere here. Because
23 we are knocking this down. So the neighbor's ten feet is
24 here. We are building -- we are knocking down this one-story
25 existing townhouse and building three-story. So from zoning

1 point of view we can build only up against the deck or this,
2 the upper two levels. But for this part, we can build up to
3 here.

4 CHAIRPERSON HILL: Now you're saying if that --
5 so I'm kind of -- I want to ask the Office of Planning now.
6 So, like, so they're going ten feet back from an existing
7 wall. And then after they tear that wall down, they would
8 only be able to go ten feet back from the neighbor's wall?

9 MR. JESICK: I really can't weigh in on this. You
10 know, you get into all the nuances. Normally when we do the
11 ten-foot rule it's a rowhouse going straight back.

12 CHAIRPERSON HILL: Right.

13 MR. JESICK: And it's one property. Here we're
14 doing it with an existing building expanding to the side, and
15 they're combining lots, and they're combining buildings into
16 one structure.

17 CHAIRPERSON HILL: Right.

18 MR. JESICK: So this is really a question for the
19 zoning administrator -

20 CHAIRPERSON HILL: Okay, okay.

21 MR. JESICK: -- as to what it would be by right
22 and what -

23 CHAIRPERSON HILL: Okay. All right. So, Mr.
24 Kilic, I think what I know we're going to kind of have some
25 -- sure, go ahead.

1 MR. KILIC: So this picture explains this region.
2 So this is our townhouse. So this is one-story existing
3 building that we hold. And this is neighbor's rear wall.
4 And this is --

5 CHAIRPERSON HILL: No, we understand. I'm sorry.
6 I understand what you're saying. You're going back ten feet
7 from that existing first floor.

8 MR. KILIC: For the --

9 CHAIRPERSON HILL: For the building that's going
10 to be next to the mosque.

11 MR. KILIC: The white part, the white elevation
12 part, we are doing that.

13 CHAIRPERSON HILL: I understand.

14 MR. KILIC: And for this green wall, we are coming
15 forward ten feet. It's almost here, but we want to do
16 another 15 feet.

17 CHAIRPERSON HILL: I understand. I think we just
18 have to understand a little bit more about what's going on.
19 But let's see how we get. And at least, at this point, I
20 think maybe kind of understanding what is there now, right,
21 versus what you guys are proposing to do, like, it'd just be
22 kind of a little easier to see in terms of, I mean, Vice-
23 Chair Hart just pulled up, or we looked on Google maps.
24 There's, like, whenever they took that photo, there's nothing
25 there on that lot right now. There's just a -- you're going

1 to do the infill as you said.

2 So I think that maybe, you know, seeing what is
3 there now versus what you guys are proposing to do, that
4 might be helpful. And so that's just my initial thought.

5 And then again, for me, finding out some clarity
6 from the Office of Planning what is by right versus the
7 proposed, and so if, and this might be the case, and so I
8 just have to -- I'm just kind of wrapping my head around how
9 you're getting to -- I keep sending you back to Slide 18,
10 right, of your deck.

11 And so if in fact, you know, I'm just trying to
12 get my head around Page 17 versus 18. And if, in fact, the
13 Office of Planning can explain to me how Page 18 is by right,
14 then that would be helpful, right. Because then we're just
15 talking about the effect of the project between Page 17 and
16 18. And so that's what I'm just kind of talking about.

17 So does anybody have any more questions for the
18 -- and we'll figure out what else we might need from the
19 Applicant afterwards. Does anybody have any questions for
20 the Applicant before I go to public?

21 (No audible response)

22 CHAIRPERSON HILL: Okay. Is there anyone here
23 wishing to speak in support? Oh, please, come forward.
24 Anywhere you like, sir.

25 Is the ANC here?

1 (No audible response)

2 CHAIRPERSON HILL: No, okay. Sir, if you could
3 introduce yourself for the record.

4 MR. MUMIN: Yes, I was going to say good morning.
5 I can't figure, is it morning or afternoon?

6 CHAIRPERSON HILL: Unfortunately it's morning.
7 But I can tell you right now, whoever's here for the appeal,
8 start thinking about dinner.

9 MR. MUMIN: Okay. I'm Ibrahim Mumin. And I'm a
10 member of Masjid Muhammad. And have been --

11 CHAIRPERSON HILL: Sir, I'm sorry. Could I just
12 get you to first introduce yourself?

13 MR. MUMIN: I'm sorry. I just -

14 CHAIRPERSON HILL: That's all right.

15 MR. MUMIN: Ibrahim, I-B-R-A-H-I-M, and I have
16 this -- I don't know, last name, M-U-M-I-N.

17 CHAIRPERSON HILL: Okay, great. And --

18 MR. MUMIN: 631 Q Street NW, Washington, D.C.
19 20100. I'm about four blocks from the Masjid.

20 CHAIRPERSON HILL: Okay, great.

21 MR. MUMIN: And I've been a member for some 40
22 years.

23 CHAIRPERSON HILL: Okay, sir, I was just going to
24 point out, as a member of the public, you'll get three
25 minutes for your testimony.

1 MR. MUMIN: Okay.

2 CHAIRPERSON HILL: Ms. Rose, if you could put
3 three minutes on the clock. The clocks are located up top
4 there. And, Ms. Rose, you give him a second there before you
5 start that clock. And you can begin whenever you like.

6 MR. MUMIN: Okay. Well, I wanted to thank you,
7 Mr. Chairman, and the Commission members for this
8 opportunity. I've been a member, as I mentioned, of this
9 mosque since 1972. And this is, as the panel mentioned, this
10 is the first time we've attempted to modernize the facility.

11 I'm involved with training in the hotel business,
12 and usually with hotels you sort of upgrade and modernize
13 every six years. So using that formula, we should have done
14 something about six times, and we haven't.

15 We are fortunate because Masjid Muhammad is
16 embedded in this community. We're a critical part of the
17 community. Unfortunately, many faith institutions are
18 leaving the city. I know friends who are at Metropolitan
19 Baptist Church and some at Scripture Cathedral and other
20 churches who've gone because they can't figure out how to
21 upgrade and modernize in the space that we have to live.

22 Let me just focus on what I think might be very
23 important. I think it was Mr. Turnbull talked about
24 outreach. And I can tell you, because of somebody who's
25 involved and what I do in the neighborhood. We met with

1 Bradley Thomas, who's the senior member -- Commissioner in
2 the 5E.

3 He told us that he wanted us to meet with the
4 Bates Area Civic Association. I think that meeting was
5 around November. We met with the Bates Area Civic
6 Association, the issue came up, and we got a unanimous vote
7 for approval for what we were proposing from the Bates Area
8 Civic Association.

9 We went before ANC 5E, they have a process where
10 you go twice before them. The first time you present, the
11 second time they make a decision. We presented, I think, in
12 November of last year, 2018, to 5E. And then in December we
13 presented again. And I think as Ahmet, the architect, was
14 saying, the vote for the Commission was unanimous.

15 And I wasn't sure, but I'm just puzzled, because
16 I never heard of any opposition. And so I'm happy, because
17 in my day job I'm a community economic development
18 consultant. I was a consultant on the building of the Walter
19 Washington Convention Center. I worked with the MCI Center,
20 Verizon Center, Capital One Arena in its previous iterations,
21 worked with City Center DC, and I've been involved in just
22 about every major project in Shaw over the last 30 years.

23 And so I'm very sensitive to community
24 participation and involvement. And so we're happy to sit
25 down with people. And everybody we presented to have enjoyed

1 this process, including the Metropolitan Police, because
2 we've had cameras that help people with the crime. When I
3 moved to Shaw, Mr. Chairman, it was not the gentrified place
4 that you read about in the Washington Post now. You know,
5 it was a lot of open air drug markets and things.

6 And Masjid Muhammad's been there, and we want
7 to stay there and be a good neighbor. And in fact, we've
8 done that. And that's why, I think we were able to get the
9 support from the Bates Area Civic Association and ANC 5E.

10 I'll be happy to take any questions you have.

11 CHAIRPERSON HILL: Okay, thank you. Does the
12 Board have any questions for the Witness?

13 MEMBER WHITE: Just one question about the Bates
14 Civic Association. Can you just define the community that
15 that civic association covers?

16 MR. MUMIN: Yes. Well, the short answer is that
17 it includes where the mosque is located. And I'm not the
18 best person with terms of the line, but I think it goes up
19 to Florida Avenue and down to, I think, past Dunbar, I think.
20 What is that, N Street? And I think the western boundary is
21 New Jersey Avenue.

22 And I think what Ahmet, the architect, was saying
23 is that we're on 4th Street, but many people don't even see
24 us, because they go up and down New Jersey Avenue. But we're
25 set back there and have been there, you know, since 1960 and

1 been a critical part of all of the things.

2 We just had, with the 4th Street Friendship 7th
3 Day Adventist Church, right there at 4th and Q, we did a,
4 what do you call it, a health fair. They call it a health
5 and fun fair. I have to remember all the buzzy names, you
6 know, because it was not just a health fair, it was also some
7 activities for children.

8 And so that's the area. And I believe we have
9 letters from the Bates Area Civic Association and the ANC.

10 MEMBER WHITE: It's in the record.

11 MR. MUMIN: Oh, it's in the record, yeah. What's
12 the date of the letters of opposition that came in? I had
13 not seen them.

14 CHAIRPERSON HILL: Yeah, that's okay. We got them
15 in today, I believe.

16 MR. MUMIN: Today? Okay.

17 CHAIRPERSON HILL: But nonetheless --

18 MR. MUMIN: No, no, no, I'm good.

19 CHAIRPERSON HILL: No, that's all right, sir.

20 MR. MUMIN: No, but what I'm saying is I just
21 wanted you to show what we have done in terms of trying to
22 do due diligence by first meeting with the ANC Commissioner,
23 Bradley Thomas, for our area. He directed us to go to the
24 Bates Area Civic Association, which we did.

25 We made a presentation to them, they approved the

1 project at that meeting, I was there, unanimously. And then
2 ANC 5E also approved the project unanimously. So I think
3 it's been reasonable in terms of what we've done in terms
4 of trying to reach out with the elected civic leadership.

5 CHAIRPERSON HILL: Sure, okay.

6 MEMBER WHITE: Thank you.

7 CHAIRPERSON HILL: All right. Anybody have any
8 more questions for this Witness?

9 (No audible response)

10 CHAIRPERSON HILL: Okay, thank you, sir.

11 MR. MUMIN: Okay.

12 CHAIRPERSON HILL: Does the Applicant have any
13 questions for the Witness?

14 MR. KILIC: No.

15 CHAIRPERSON HILL: You can, no, if you wouldn't
16 mind, in the microphone.

17 MR. KILIC: No.

18 CHAIRPERSON HILL: Okay, great. Is there anyone
19 here wishing to speak in opposition? If you could please
20 come forward?

21 CHAIRPERSON HILL: Okay, great. Good afternoon
22 or good morning. If you could please introduce yourself for
23 the record. And actually, if you could do me a favor, I'm
24 sorry, you need to have just one microphone on at a time,
25 otherwise that gets feedback, sorry. So let's go just from

1 right to left if you'd please introduce yourselves for the
2 record.

3 MS. GILBERT: Sylvia Gilbert. I live at 1514 3rd
4 Street NW.

5 MR. AGRAWAL: Christopher Agrawal, 1516 3rd Street
6 NW.

7 MS. RIPPE: Mariah Rippe, 1520 3rd Street NW,
8 directly behind the mosque.

9 CHAIRPERSON HILL: Okay, great. Thank you. So,
10 Ms. Gilbert, we'll start with you. And as I mentioned
11 before, everybody gets three minutes to speak, to provide
12 testimony. So there's two clocks on the ceiling there. And
13 Ms. Rose is going to set the three minutes for you. And you
14 can begin whenever you like.

15 MS. GILBERT: Okay. As far as being notified, the
16 only way we knew this was happening was from the letter we
17 got about this hearing. I mean, yes, the Bates Street have
18 meetings, but all we get is that the Bates Street is having
19 the meeting. We don't know what's going on at the meeting.
20 We don't get a notice that they were going to present at the
21 meeting. Because had we done that, I would have gone.

22 And the ANC, they don't tell us what is going on
23 at the meeting, that they were going to present. They mostly
24 talk about the Metropolitan Police.

25 But anyway, I live directly behind the mosque.

1 And it is going to impact the lighting I'm going to get in
2 my back when they put those buildings up, the building up and
3 move it. And as far as moving it back and putting windows,
4 I mean, our backs are right there back to back.

5 I know in their presentation they said there was
6 an alley, but it's not an alley. Some of us as neighbors
7 moved our back in a little bit so that we could get people
8 to, when they have ladders or we're getting our gutters
9 cleaned they could come through. It's not an alley. The
10 alley stops short of our properties. And we just made our
11 own little entrance way and stuff.

12 So, yeah, the light is going to impact, I think,
13 because I only get the setting sun in the west now. So I've
14 been there 27 years, and I'm just used to having a little bit
15 of light and stuff. Can I give them my time?

16 CHAIRPERSON HILL: I don't think so.

17 MS. GILBERT: Really?

18 CHAIRPERSON HILL: No, you can't, apparently. No,
19 I'm sorry.

20 MS. GILBERT: I mean, that's about all.

21 CHAIRPERSON HILL: All right, great. Thank you.

22 Mr. Agrawal?

23 MR. AGRAWAL: Yes, thank you. So again, Chris
24 Agrawal. I signed onto Exhibit 34 which you all have been
25 referencing. I'll just add, we do recognize that it came in

1 today. We would have much preferred to go to the Bates Area
2 Association or the ANC if we had heard about this. But this
3 was the first we were hearing about this.

4 So I live directly behind the mosque right next
5 door to Ms. Sylvia. And those of us who signed onto the
6 opposition paper, we all live directly behind the mosque.
7 We've all lived behind the mosque for many years. I've lived
8 behind the mosque for almost ten years. As Ms. Sylvia said,
9 she's been there almost 30 years. But among all of us who've
10 signed onto that paper, we have almost 80 years combined that
11 have lived right there.

12 So we have long-standing interests in the
13 neighborhood. We've been good neighbors. And the mosque
14 historically has been a good neighbor. So I can only say for
15 myself, I support the mosque and what they do for the
16 community. This is just about the structure and the fact
17 that it's going to block emergency access, light, and air
18 behind the space.

19 We understand that the ANC met and supported the
20 structure and that it deserves great weight from this Board.
21 But those of us sitting here and those of us who signed onto
22 the paper are the ones who are most impacted by the
23 structure. We're right behind it.

24 As Ms. Sylvia said, there's no alley in this
25 block. So we understand, you know, basically that the zoning

1 rules are there for a reason. They are there to create space
2 between buildings and people in a crowded urban environment.
3 There may be reasons why you'd want to grant exceptions in
4 some cases, this is not the place to grant an exception
5 because of the way the block is set up.

6 It's very crowded back there. There is no alley.
7 And as Ms. Sylvia said, there've been a number of times where
8 there's been a fire, or there's been some kind of emergency.
9 And people have had to get to the back of our houses. And
10 if the mosque were to expand into the space where they're
11 indicating, it'll block access.

12 The other thing I'll mention is that I believe you
13 all, Board members, were hitting on the point that the
14 indicated by right area is -- we don't believe is actually
15 by right. The adjacent townhouse that's not owned by the
16 mosque, if you go ten feet off of that, that's what they
17 would have a right to which is not what's indicated on, I
18 think, Slide 18 which you all were referring to.

19 So we think that when you look at the point of
20 that ten foot setback, it's to prevent big structures, multi-
21 story structures from suddenly appearing behind people's
22 houses and casting shadows onto adjacent properties. If you
23 look at the point of that ten foot rule, it should only go
24 from the adjacent house, not from the one-story structure
25 that's already there.

1 At a minimum, we request that the Board would
2 postpone a vote so we actually have more time to engage with
3 the mosque. Because that would be our preference. Thank
4 you.

5 CHAIRPERSON HILL: Okay, thank you.

6 MS. RIPPE: Hi, I'm Mariah Rippe again. And I
7 think the majority of what Chris has said is what I would
8 also want to say. We'd like to see more documentation on the
9 studies for our backyards because, again, our property line
10 and their property line touch. Their fence is over our
11 property lines. We pulled our fences in to allow access to
12 our backyards. It's the only way we can get into our
13 backyards or have deliveries or things of that nature.

14 The other concern is that 20 foot rule and how,
15 now that our backyard is touching their property line, and
16 they're going to have a ramp and an area way stairs, which
17 is going to have deliveries and people coming in and out of
18 the rear of this building on a normal day to day basis, which
19 is going to be, let's just say they said it was nine foot on
20 one of the documents, nine foot from our backyard.

21 And I'm questioning that 20 foot regulation and
22 what that -- I would like to have some type zoning answer in
23 regards to that regulation, and what that has allowed and
24 what's not allowed, as well as a sunlight study.

25 And I'd like to point out also that the architect

1 himself called this a tower which is also how we see it. It
2 is a very large structure which is going to cast shadows.
3 They even had, on Slide 17 and 18, a shadow study at 4:00
4 p.m. which showed our backyards completely shaded. So that's
5 going to definitely, if they showed our structures on that,
6 you would see that the back of our structures would even be
7 shadowed.

8 And I'm also wondering, you know, if it is a 25
9 foot addition from the existing townhouse, I would like to
10 see something that shows their existing one-story and how
11 that plays into, if they're demolishing that, what is the ten
12 foot regulation? Is it from the existing structure that
13 they're demolishing or is it from the existing structure that
14 is staying?

15 Because if they're demolishing part of that,
16 that's not part of the -- is that part of the ten foot rule
17 or not? I don't know the answer to that. So that's
18 something I'd like to clarify and maybe even see an existing
19 structure study and where those ten feet lie so we know
20 what's accurate. Because right now we don't see really
21 what's existing to have that information.

22 And then the access, the access for emergency, I
23 mean, it's not in the mosque, they don't have to provide that
24 access through their parking lot to the back of ours. It's
25 just something that I know has happened in the past. But

1 it's something that, since we have no alley back there, it's
2 something that we know that their property is directly
3 attached to our backyards, which we spend a lot of time in.
4 And we're questioning a lot of that.

5 Oh, the penthouse. The penthouse, sorry, this new
6 penthouse on the rear of the structure is going to be taller
7 than what's allowed. And it's on the direct rear on the
8 structure which is going to impede light, and air, and sun
9 even more than what it would be if that penthouse was set
10 forward on the structure and met the setback requirements.
11 Done.

12 CHAIRPERSON HILL: That's okay. Let's see, so
13 okay, I'll make a couple of comments and then we can ask the
14 Board whether they have any questions of the witnesses.

15 I guess, as far as the notice and everything, I
16 do want to point out a couple of things. Like, Ms. Gilbert,
17 you said you've been there for 27 years?

18 MS. GILBERT: Yes.

19 CHAIRPERSON HILL: And you have to say yes in the
20 microphone, I'm sorry.

21 MS. GILBERT: Yes.

22 CHAIRPERSON HILL: And then, Mr. Agrawal, how long
23 have you been there?

24 MR. AGRAWAL: Almost ten.

25 CHAIRPERSON HILL: And then Ms. Rippe?

1 MS. RIPPE: Ten.

2 CHAIRPERSON HILL: Okay, right. So you guys, and
3 this isn't a preachy thing, you guys have never attended your
4 ANC meeting?

5 MR. AGRAWAL: I have, a couple of times.

6 CHAIRPERSON HILL: Okay, right. So the ANC
7 meeting, I mean, it's publicly noticed, there's plenty of
8 opportunity. I mean, it's what going on. There's a placard
9 that is put in front of whatever the building is. If you
10 kind of walk around your neighborhood you see the placard.

11 Also the notices that were sent out to you guys,
12 you should have received on February 11th or thereabout in
13 terms of being within the 200 feet. I'm just talking about
14 the notice. You can go back, you can look in the record.
15 It does get mailed out from the Office of Zoning.

16 And that's how we get testimony. I mean, in terms
17 of, you know, your letter showing up today, like, we actually
18 are now giving you an opportunity to speak. And also we're
19 going to kind of probably, as you've already seen, we have
20 our own questions, and we're probably going to end up tabling
21 this.

22 I mean, I think that what I've at least noticed
23 so far, I'm just making a comment, I'll ask you questions
24 if the Board has any, but it seems as though the Applicant
25 has been trying to reach out to people. I don't know how you

1 all got missed, or whatever, you know, but they've gone
2 through their, you know, they went to the civic organization,
3 the went to the ANC, they went to the SMD. And so I'm
4 saying, as far as that goes.

5 Now, that still doesn't stop you from being in
6 opposition to the project, so you're still here at the right
7 time, okay. So does the Board have any questions of the
8 witnesses?

9 MEMBER HART: Just a point of clarification.
10 Regarding the emergency access, so I'm still a little bit
11 confused as to actually the images that we're seeing here.
12 Are you saying that the emergency access is on from 4th
13 Street through their property to the back of your property?
14 I'm confused by that, because I think the alley itself kind
15 of stops before it comes down to your property. So that's
16 the part that I'm trying to --

17 MR. AGRAWAL: That's exactly right. In most
18 blocks, there's an alley so that fire fighters or someone
19 could get to the back of the houses. On this block, there
20 is no alley behind the mosque. So basically, between the
21 mosque and the five or so houses that are objecting, there
22 is no alley. So the only way for fire or police to get to
23 the back of our houses is through the parking lot of the
24 mosque.

25 CHAIRPERSON HILL: Which is private property.

1 MR. AGRAWAL: It is private property.

2 CHAIRPERSON HILL: Okay.

3 MR. AGRAWAL: Yeah. So it's not an official
4 emergency access, but it's been used in the past.

5 MEMBER HART: Yeah. I understood that. What I
6 was trying to get to was actually what the Chairman just
7 brought up which is that is a -- it is access that emergency
8 vehicles have been able to use, but it is not an emergency
9 access.

10 MR. AGRAWAL: Exactly.

11 MEMBER HART: Okay.

12 MR. AGRAWAL: But that's why we're opposed to
13 granting an exception, letting them closer to the property
14 line. It's just a reason why we're opposed the expansion.
15 We're not saying that the police have a right to block it,
16 I guess.

17 CHAIRPERSON HILL: Okay. Anyone else?

18 COMMISSIONER TURNBULL: I would just -- I've been
19 on cases before where there have been apartment buildings,
20 again, with no alley. And actually, there's no legal
21 responsibility for them to provide access. It's on their
22 private property. So it's out of the goodness of their heart
23 that they're allowing people to be able to come back and do
24 that.

25 So I don't think the Board can impose anything

1 beyond what we're governed by the regulations. So, I mean,
2 it's just a situation that there are certain areas within the
3 city that don't have alleys at the back of them that allow
4 full access to the properties.

5 CHAIRPERSON HILL: Anyone else?

6 MEMBER JOHN: So I'm sure that after this hearing
7 you all might try to talk to the representatives from the
8 mosque. But just to help you along, the backyard, even with
9 the addition, would still be 20 feet from the property line.
10 So it's not right up against the property line. So some of
11 your concerns might be alleviated by knowing that there's a
12 20 foot setback in the back which is within the regulation.

13 MR. AGRAWAL: That's something that we'll also
14 hopefully speak with the Office of Planning about. Because
15 they're proposing to add a ramp and a stairway, both of which
16 are permanent structures that aren't within the 20 foot
17 setback. So only the building is in the setback. But if
18 you've seen the drawings, the ramp is very large, and the
19 stairs. And those are both permanent structures within the
20 -- and those are not compliant with this 20 foot setback.

21 MEMBER JOHN: Okay, thank you.

22 MEMBER HART: That is actually, just to kind of
23 make sure we're all aware of this, also the zoning
24 administrator provided the review of this project. And so
25 what we are seeing and what the relief that's being requested

1 is from what the zoning administrator has stated.

2 So while I understand what you're saying is that
3 -- your belief is that their setback is not correct. The
4 zoning administrator has provided their, you know, input
5 using what they have done, I guess, for the rest of the city
6 in understanding that. So I'm just making sure that you're
7 fully aware of that.

8 And the last part is regarding the height, and I
9 still think this is a little bit high. Because I think the
10 allowed height is 60 feet which is a pretty tall building.
11 And that is something that we have to take into
12 consideration.

13 I understand, and the reason I bring that up is
14 that you all are bringing up questions about light and air
15 impacts as well as just the shade. And if they're less than
16 what is allowed, the zoning allows the Applicant to ask for
17 up to whatever that height is. If they want something over
18 that, then they have to, of course, get some zoning relief.
19 But they're not requesting that.

20 So while I do understand the concern that you
21 have, I'm also just pointing out that there is a lot of --
22 they do have an ability to be able to build a building of
23 this size as a -- of this height as a by right option. So
24 again, I do understand. I'm just making sure that I pointed
25 that out.

1 CHAIRPERSON HILL: Okay. Actually, Mr. Kilic,
2 could you pull up Exhibit 4? Thank you. Can you scroll down
3 just a little bit? Can the witnesses, can you tell me which
4 number lots you guys are? Are you, like, who's 17, 16, 18,
5 19, 20? You're on 3rd Street.

6 MS. RIPPE: I'm 17.

7 MR. AGRAWAL: I'm 18.

8 MS. GILBERT: I'm 19.

9 CHAIRPERSON HILL: Okay. So currently, you guys
10 are getting some shadowing from the mosque, correct?

11 MS. RIPPE: Very minimal, yes.

12 CHAIRPERSON HILL: Okay, very minimal. Okay, all
13 right. Okay, does the Applicant have any questions for the
14 witnesses?

15 MR. SABIR: No, not a question, but an invitation
16 --

17 CHAIRPERSON HILL: Okay, sure, that's great.

18 MR. SABIR: -- for us to get together.

19 CHAIRPERSON HILL: That's great.

20 MR. SABIR: We open our doors to you. And
21 immediately following this we can discuss the time and date.

22 I'm also going to add, if I can, just to
23 reiterate, I'm one of the members, and I've been here for 48
24 years as a member of Masjid Muhammad.

25 And again, the narrative is very clear that we've

1 come from a narrow circle of interests to a broader circle
2 which now has expanded to represent over 36 nationalities.
3 So again, it's very important for us to continue to grow.
4 And of course, our growth is to be inclusive. And our motto
5 is one human family under God.

6 CHAIRPERSON HILL: All right, thank you, sir. All
7 right, thank you, the witnesses, ladies, gentlemen. All
8 right.

9 So let's see, yeah, so if we could, from the
10 Applicant, I don't know what you guys want to see. What I
11 want to see is a supplemental report from the Office of
12 Planning as to -- and Mr. Kilic, I'm going to ask you to
13 throw up again my favorite slides already, which 17 and 18
14 of your deck. And I just want to understand the matter of
15 right.

16 And I just want something from the Office of
17 Planning that tells me that this is the matter of right,
18 okay. Because if this is the matter of right, then all I'm
19 interested in looking at is the difference between what the
20 effects are of light, air, shadowing, privacy, to what's
21 between, you know, 17 and 18, okay. So I just need to know
22 that 18 is, in fact, matter of right.

23 MR. JESICK: We can do that, and we might, after
24 we determine that, we might ask the Applicant, if they need
25 to, to revise their shadow studies if --

1 CHAIRPERSON HILL: Okay, okay. So, yeah. And so
2 again what I think the Board is kind of tasked with again,
3 Mr. Kilic, and I'm sorry if I'm not saying it right, but is
4 again the difference between the matter of right and what
5 you're trying to do, okay.

6 And so that's what I'm interested in looking at.
7 And I guess if you wanted to propose some shadow studies,
8 again, between the matter of right and what, after you
9 consult with the Office of Planning and you guys make sure
10 you're on the same page, just shadow studies between the
11 matter of right and what is proposed. And I guess that would
12 include, you know, if you could, you know, show what's going
13 to happen behind the mosque as well, okay.

14 Does anyone else have any other questions?

15 COMMISSIONER TURNBULL: I would just hope that we
16 could get also a better representation of what the wall looks
17 like. And I would just reiterate, we want all Applicant's
18 to be successful in their mission and their applications.
19 And I think whatever you get done to help us get there is
20 much appreciated.

21 MEMBER HART: Yes, the only thing I'd ask for is
22 a drawing of what the existing conditions are and then, just
23 so that we know what the addition is, the proposed addition
24 is.

25 In the existing condition, I include what the

1 parking area is now. And then the proposed, what is the
2 parking area and whether or not DDOT has, you know, made an
3 imposition or made any agreement, anything that you can
4 provide that says that DDOT is okay with not having the two
5 spaces.

6 Because we've already had something from DDOT
7 that's saying that they want, sorry, that DDOT wants those
8 two spaces to be removed. And so right now we don't have
9 anything from DDOT saying that. So I think that would be
10 helpful to have as well.

11 CHAIRPERSON HILL: All right. So, Mr. Kilic, just
12 to get over again, could you say your name again, please, one
13 more time?

14 MR. KILIC: Ahmet Kilic.

15 CHAIRPERSON HILL: Kilic. You can write it down
16 as many times as you want over there. Kilic. So, Mr. Kilic,
17 right, the DDOT issues that we talked about before, I'd like
18 some clarification, just to repeat what Mr. Hart said.

19 MR. KILIC: Yes.

20 CHAIRPERSON HILL: Anyone else?

21 (No audible response)

22 CHAIRPERSON HILL: Okay. So when do you think we
23 can get all that from you, Mr. Kilic?

24 MR. KILIC: I need to coordinate with Office of
25 Planning. As soon as they give us the information, I mean,

1 confirmation, we can update shadow studies in two weeks, I
2 would say, after I hear back from Office of Zoning.

3 (Simultaneous speaking.)

4 COMMISSIONER TURNBULL: -- the parties in
5 opposition?

6 MR. KILIC: Excuse me?

7 COMMISSIONER TURNBULL: You'll meet with the
8 individuals who are in opposition?

9 MR. KILIC: Yes. Yeah, I mean, I haven't had a
10 chance to speak, like, I'm sorry that I'm not aware of this
11 opposition letter. I saw it just today when I came here.
12 So we haven't had a chance to communicate with them.

13 Just the only opposition or the only comment came
14 from the homeowner in this Exhibit 43, the homeowner at 43.
15 And they sent an email on Monday. And I responded to them
16 Tuesday. And I can, I mean, I don't want to take too much
17 of your time, but I can read the response.

18 They were concerned about the privacy. And then
19 we directed them that there will be some tree -- I directed
20 them to DOEE's tree planting. And this area is very heavily
21 shaded. I mean, since I don't know about the opposition, we
22 didn't prepare ourselves for that. This area is really
23 nicely shaded wooded area. We are trying to keep the
24 existing trees as they are.

25 The existing parking is staying as it is. We are

1 not doing any change. DOEE did the existing parking two
2 years ago, changed it to pervious surface. So we are not
3 changing anything.

4 And I think the most important thing here is we
5 are not requesting rear yard setback relief. We are not
6 requesting that. So all this, obviously this -- also
7 Planning should weigh in on this. But this ten foot rule is
8 created.

9 I am a practicing architect in DC since 2006 but
10 working here for 17 years, just to take Board's attaching
11 that the ten foot limitation is in regards to the adjacent
12 neighbor not to the rear, the neighbors at the rear, because
13 in this city, you can build two buildings 20 feet setbacks.

14 So the Office of Zoning is basically proposing 40
15 feet setback building to building. And we are respecting
16 that. We are in this 20 feet setback. And the stairs and
17 the ramps, as Mr. Hart mentioned, we are not discussing that,
18 because those are by right. DCRA zoning, otherwise DCRA
19 zoning --

20 CHAIRPERSON HILL: Mr. Kilic, I'm just going to
21 interrupt one second.

22 MR. KILIC: Yes.

23 CHAIRPERSON HILL: So again, just as far as the
24 shadowing between the by right and the proposed, that'll be
25 helpful, and then everything else that all of the Board

1 members just asked for.

2 MR. KILIC: Absolutely.

3 CHAIRPERSON HILL: And so do you have any
4 questions about what you've been asked for?

5 MR. KILIC: No.

6 CHAIRPERSON HILL: No, okay.

7 COMMISSIONER TURNBULL: Mr. Chair, I'm just
8 wondering, did you ever get a letter from the adjacent
9 neighbor?

10 MR. KILIC: No.

11 COMMISSIONER TURNBULL: What was it, 824? You
12 think you talked to him.

13 MR. SABIR: We did get a letter of support from
14 an owner on 3rd Street. I don't have the letter in front of
15 me.

16 COMMISSIONER TURNBULL: But the one on 4th Street,
17 the --

18 MR. SABIR: 4th Street, which one?

19 (Off the record comments)

20 MR. SABIR: No, we don't have a letter.

21 COMMISSIONER TURNBULL: Do you think they would
22 submit a letter in support?

23 MR. SABIR: We reached out to them.

24 COMMISSIONER TURNBULL: Okay.

25 MR. SABIR: We are currently talking to the

1 property manager. We haven't had a face-to-face with the
2 owner.

3 COMMISSIONER TURNBULL: Okay, all right. Thank
4 you.

5 CHAIRPERSON HILL: Okay. So if you, Mr. Turnbull,
6 when are you back with us?

7 COMMISSIONER TURNBULL: Whenever you would like.

8 CHAIRPERSON HILL: Oh, okay. So if we do this,
9 I don't know, Ms. Rose, if we come back in two -- can
10 somebody help me out with some dates?

11 MS. ROSE: Are you looking at a continued hearing
12 or a decision meeting?

13 CHAIRPERSON HILL: We'll do a continued hearing,
14 I think.

15 MS. ROSE: Continued hearing. And do you want
16 responses?

17 CHAIRPERSON HILL: Just from the Office of
18 Planning. And I guess the, you know, any parties. There
19 will be the ANC.

20 MS. ROSE: Okay.

21 CHAIRPERSON HILL: The -

22 MS. ROSE: I will --

23 CHAIRPERSON HILL: Sorry.

24 MS. ROSE: I would recommend April 24th. Mr.
25 Turnbull will be here that day. And that will give everybody

1 an opportunity to make the submission and then have a chance
2 for responses. So I can give you dates if that's good.

3 COMMISSIONER TURNBULL: I'm glad to know I'm here
4 that day.

5 MS. ROSE: The 24th, yes.

6 CHAIRPERSON HILL: Okay, all right. So we'll try
7 to get back here on April 24th. So then if we can get
8 something from the Office of Planning prior to that?

9 MS. ROSE: Yes.

10 CHAIRPERSON HILL: So then when would you submit
11 --

12 MS. ROSE: The submissions would be due on April
13 4th and any responses would be due April 11th. I'm sorry,
14 the submissions would be due April 11th, and the responses
15 will be due April 18th.

16 CHAIRPERSON HILL: And then when would Office of
17 Planning's submission --

18 MR. CAMPBELL: Are they making the initial
19 submission or a response? We give a week for responses.

20 MR. JESICK: We would probably prefer the later
21 date.

22 MS. ROSE: The later date, April 18th?

23 MR. JESICK: April 18th.

24 CHAIRPERSON HILL: Okay. All right. So all
25 right, Mr. Kilic, do you understand?

1 MR. KILIC: Yes.

2 CHAIRPERSON HILL: Okay. And so just again, so
3 I'm going to wrap up for my thing, because as I mentioned
4 before, you know, the matter of right versus the proposed,
5 the shadowing, and even, I suppose, if there's trees now that
6 are already shadowing, that might be something to understand,
7 right, that they're already is shadowing going on.

8 I mean, I understand all the outreach that you've
9 already done and how long this project has been going on.
10 And I think you have done a lot of outreach. I think that,
11 you know, the people here, there, have opinions. But again,
12 you can't please everybody. But go ahead and try to meet
13 with people and see what you can do. And then we'll see you
14 back here on the 24th.

15 And just on a little note, you know, I'm really
16 sorry for everything that's going on with your community
17 right now and everything. And so that's it. Okay.

18 MR. KILIC: Thank you very much.

19 CHAIRPERSON HILL: Yeah, all right. We're going
20 to take a quick break, because this went on longer than we
21 thought. Okay, thank you.

22 (Whereupon, the above-entitled matter went off the
23 record at 11:36 a.m. and resumed at 11:51 a.m.)

24 CHAIRPERSON HILL: All right, Ms. Rose, whenever
25 you like.

1 MS. ROSE: This is Application number 19918 of
2 Solo Entertainment, LLC, pursuant to 11 DCMR Subtitle X,
3 Chapter 9 for special exception under the residential
4 conversion requirements of Subtitle U, Section 320.2, to
5 construct a third story and a three story rear addition to
6 an existing attached principle dwelling unit, and convert it
7 to a three-unit apartment house in the RF-1 zone at premises
8 4521 Iowa Avenue Northwest, Square 2918, Lot 78.

9 CHAIRPERSON HILL: Okay. Did everybody get sworn
10 in? Okay.

11 PARTICIPANT: No, sir.

12 CHAIRPERSON HILL: Okay. If there's anybody here
13 who needs to get sworn in, who wasn't sworn earlier, if you
14 could please stand and take the oath administered by the
15 Secretary to my left.

16 MS. ROSE: Please raise your right hand. Do you
17 swear or affirm that the testimony you will be presenting
18 today will be the truth, the whole truth, and nothing but the
19 truth? You may be seated.

20 CHAIRPERSON HILL: Okay. If you could please
21 introduce yourselves, from my right to left.

22 MR. CAMPBELL: Ulysses Campbell, ANC Commissioner
23 4C03.

24 MR. SULLIVAN: Martin Sullivan from Sullivan and
25 Barrows, on behalf of the applicant.

1 MR. BAGNOLI: David Bagnoli from StudioMB
2 Architects, on behalf of the applicant.

3 MR. ABEBE: Siem Abebe, owner of the property.

4 CHAIRPERSON HILL: Okay, great. Mr. Sullivan, I
5 assume you're going to testify, I mean, present to us?

6 MR. SULLIVAN: Yes, sir.

7 CHAIRPERSON HILL: Okay. So, I'm going to go
8 ahead and start. If you could just kind of tell us what
9 happened since the last time you were here? And what, I
10 know, you know, the Board requested of you? And, yes, let's
11 just start there. I'm going to put 15 minutes on the clock
12 again, just so I know where we are. And you can begin
13 whenever you like.

14 MR. SULLIVAN: Thank you, Mr. Chair, Members of
15 the Board. First of all, my sincere apologies for being late
16 this morning. I had some bad information. Especially to
17 Commissioner Miller, and to Mr. Campbell.

18 I'll have Mr. Bagnoli go over some of the changes,
19 and some of the different additional information that we have
20 to present. Thank you.

21 MR. BAGNOLI: Thank you. Last time we spoke you
22 all asked for a little bit of clarification on a few items,
23 which we've included in the presentation, revised the entire
24 presentation. So, I'll move a few sheets that are here for
25 reference only, and go to those modified sheets and

1 additional information.

2 Oops, sorry. Going in the wrong direction there.
3 I think the first question and clarification was requested
4 was in reference to the view from the street, in the street
5 section. And asked for some clarity in terms of what the
6 street width was, and if that impacted the front appearance
7 of the building.

8 And so, as I had alluded to during our
9 conversation, the view cone is correct. We did not have the
10 sidewalk and the site wall shown on that section. So,
11 admittedly, it wasn't exactly accurate in terms of the street
12 section. But this is reflective of that, and does not
13 reflect any change to the previous drawing, in terms of the
14 mass of the building.

15 We do have an option we'll show you, where we
16 looked at stepping back the top floor of the building, per
17 your request. And we have shadow studies, and some views
18 from the front and the rear that you asked for as well. So,
19 I'll get to those.

20 You saw these last time. This is the full on 20
21 foot tall, I'm sorry, 20 foot deep expansion to the back.
22 We have an option where we pushed the third floor in to a 15
23 foot setback.

24 These are the studies you saw before. I'll just
25 remind you, I think the red line you asked for is the by

1 right shadow. And this is the basis of design, the 20 foot
2 addition shadow. So, the darker line that you see there is
3 the 20 foot addition. The red line is the by right shadow
4 line.

5 And we did these shadow studies in December, June,
6 and then October, November. I'm sorry, October and May,
7 April, at 9:00 a.m., 12:00 p.m. and 3:00 p.m. So, this is
8 the, this gets a little confusing when I get to the
9 additional drawings. So, I'll explain it here.

10 At 9 o'clock in the morning the sun is low, and
11 casting this shadow on the by right scheme up above, and then
12 on the proposed 20 foot addition on the lower. At noon the
13 by right scheme on above, and the proposed on the lower. At
14 3 o'clock on December everything is basically in shadow.

15 We were asked I think by Mr. Campbell to include
16 the properties behind us at the corner intersection. And so,
17 that is a new addition. The kind of jagged mass that you see
18 there to the left is the neighbor that testified, that asked
19 to include that.

20 And then in March and September, here again at
21 9:00 a.m., on the by right, and the proposed noon, and at
22 3:00 p.m. And then, in June, again, by right and proposed
23 top and bottom, noon, and at 3:00 p.m.

24 Then, I think a drawing for clarification. You
25 asked in terms of character and appearance from the street.

1 We took a couple of shots to try to show as best we could the
2 vegetation and the foliage. Notwithstanding, we tried to
3 back up a little bit, and show what the mass of the building
4 currently looks like from the street.

5 And then, this is the view of the proposed
6 addition. You can see that, with that view kind of that I
7 showed earlier, that you really are not seeing the addition
8 from the middle of the road.

9 And then, this is the views from the alley, which
10 you asked us to provide, which we've done here. Again, this
11 is the full 20 foot, full three story addition. And we added
12 this shot of the alley, again, the view from the alley
13 towards the structure.

14 And then, we took a look at what it meant to push
15 back the third floor and see if that helped. This is the new
16 work that we looked at on the upper level. And so, what
17 you're seeing here is the by right above. The line down
18 below is, the red is the by right.

19 And the shadow line of the blue is what you see,
20 and this is where it gets a little confusing. But the shadow
21 line of the blue at 9:00 a.m. is in alignment with the shadow
22 of the 20 foot addition. But at noon you can see the blue
23 is the full height 20 foot addition. The new shadow that
24 doesn't have a line attached to it is with the step back.
25 And the red line is the by right. Is that clear?

1 CHAIRPERSON HILL: Can you say it again?

2 MR. BAGNOLI: So, the blue line is the full
3 height, 20 feet, for all three storys. To the immediate
4 right of that is the shadow line when we step back the third
5 floor. And the red line is the by right.

6 And again, at 9:00 a.m., because the sun is so
7 low, there's no difference between the blue line. So, it's
8 the same for the 15 foot push back on the third floor as it
9 is to do the full on 20 feet. So, by the time you get to
10 noon, you do start to see a difference in that step back.

11 MEMBER HART: So, you're also saying that the area
12 that is, this area right there is what the delta is between
13 --

14 MR. BAGNOLI: Yes. The stuff that's not in the
15 shadow is the delta between the setback. And the blue line
16 is the full 20 feet.

17 CHAIRPERSON HILL: But only at certain times of
18 the day?

19 MR. BAGNOLI: Exactly. And it changes by time of
20 year. But it's when that sun is really low in the afternoon
21 and in the morning that you'll see. So, you'll see that
22 again in, you know, here you can't see anything at 3:00 p.m.
23 But you'll see that again in another slide here.

24 In the morning, even in March and September, the
25 shadows are in alignment with that step back. The red being

1 the by right. But by the afternoon you do start to see a
2 difference between the blue line and the red line.

3 So again, the blue line is full three storys, 20
4 feet. And the intermediate line there, the shadow, is with
5 the 15 foot set back on the third floor. And this is March
6 and September. And here it is in June.

7 And, I'm sorry, that was the afternoon in March
8 and September. Here it is in June at noon, at 3:00 p.m. And
9 then, this is the view of the proposed set back on the upper
10 level, where we go to 15 feet on the third floor.

11 CHAIRPERSON HILL: In that case you have a full
12 deck there on that?

13 MR. BAGNOLI: Yes, sir.

14 CHAIRPERSON HILL: Okay.

15 MR. BAGNOLI: And then, here's the view from the
16 alley for that option. And then, just very briefly, the
17 requisite, I mean, the resultant floor plans for that push
18 back, where we would have the balcony on the third floor.

19 And I believe in this scheme we end up losing a
20 bedroom as well. So, instead of three bedrooms, which we
21 were showing before, I think this scheme is showing just the
22 two.

23 CHAIRPERSON HILL: You lose a bedroom on the third
24 floor? Is that what you're saying?

25 MR. BAGNOLI: Lose a bedroom on that green unit.

1 CHAIRPERSON HILL: If you did the 15 foot?

2 MR. BAGNOLI: Yes.

3 CHAIRPERSON HILL: Okay.

4 MR. BAGNOLI: And then, I also have, you all asked
5 for a little bit more information on the alley. We submitted
6 additional alley photos, Google Earth photos that showed
7 before the addition that was done four doors up. I can show
8 those. They were submitted. If you want to see those, we
9 have those images as well from the alley.

10 CHAIRPERSON HILL: Okay, sure. Please.

11 MR. BAGNOLI: Okay. So, these Google Earth images
12 were taken before the property, I believe it's 4511 that the
13 addition was done on, the three story addition, which you'll
14 see.

15 So, these show all the row houses in a prior
16 configuration, as does this view. This property right here
17 is the one that has a full 20 foot addition on the back,
18 which you see here, on the left here. So, that's 4511.
19 Those Google images were pre addition to that building.
20 There was some conversation about that last time we were
21 here.

22 And this is just moving closer to our property.
23 Giving you a little bit of sense of the character of the
24 alley, which I think was a question last time. Okay. That's
25 All I have. Thank you.

1 CHAIRPERSON HILL: Okay. All right. Does the
2 Board have any questions for the applicant?

3 MEMBER HART: No, Mr. Chairman. I appreciate the
4 information that we've received. I think it's very helpful.
5 And it's much clearer to me now. So, thanks.

6 CHAIRPERSON HILL: Okay. Mr. Commissioner, would
7 you like to, I guess I'm not sure exactly. You have the same
8 amount of time. And whether or not you want to present
9 anything, or you just want to speak to what has been --

10 So, this is a supplemental hearing, in terms of
11 just speaking to the information that was just presented.
12 Do you have either a presentation, or questions? I'm going
13 to let you do whatever you'd like to do.

14 MR. CAMPBELL: Thank you, Mr. Chair. I was given
15 some pictures by one of the residents. And, you know, I had
16 mentioned the fact that there were already these photos that
17 had been submitted.

18 But, and they're additional copies of these. But
19 they show a slightly different perspective from the alley.
20 So, and I don't believe that these have actually been
21 submitted. I was just given these.

22 CHAIRPERSON HILL: Okay. Do you --

23 MR. CAMPBELL: May I give these to you?

24 CHAIRPERSON HILL: -- have any, you don't have
25 copies?

1 MR. CAMPBELL: I think we have, how many copies
2 do we have?

3 CHAIRPERSON HILL: Just, if you can give one to
4 the applicant. And then if you give the copies to the
5 Secretary, the Secretary can give them to, for distribution.
6 I'm sorry. Yes, the ANC rep would have to --

7 MR. CAMPBELL: Yes. These show the uniformity of
8 the properties at the rear. I did have one question of the
9 applicant, regarding the presentation. It was specifically
10 with regard to the shadow study.

11 When are these shadow most pronounced? Because
12 there were studies from several different times of year. And
13 I was looking at them. I just was unclear on that.

14 MR. BAGNOLI: Sorry. Let me go back to those.
15 Let's go, I guess this is a -- When you say they're the most
16 pronounced, what do you mean?

17 MR. CAMPBELL: By most pronounced I mean,
18 heaviest, have the greatest impact on the adjacent
19 properties. Because it looks like there are certain times
20 of year where there's minimal shadowing. And then, other
21 times of the year where the shadowing is heavier, and falls
22 to a greater degree in the various yards of the adjacent
23 properties.

24 MR. BAGNOLI: I think just generally speaking you
25 expect that in the December shadow studies is really where

1 the sun is the lowest. And since the property is facing
2 basically south, southwest, that's when you would expect the
3 deepest shadows to occur.

4 So, in most of the Decembers would be where you
5 would expect to see the longer shadows across the back yard.
6 And I don't think there's much difference in the 3:00 p.m.
7 that you see here. This is at noon in Decameter. And this
8 is the 9:00 a.m. version.

9 MR. CAMPBELL: Okay. Thank you. I also want to
10 note that I received information that the applicant had made
11 arrangements with Antoinette Mitchell, who is one of the
12 adjacent properties, to make sure that she is added to the
13 insurance coverage, protecting against any potential damage.
14 So, I appreciate that.

15 And I have conferred with various members of the
16 community, who reiterate their opposition to the proposed
17 development. I would simply ask the Board to review the, in
18 particular the size of the proposed addition in the rear.

19 CHAIRPERSON HILL: Okay. All right. So, is that,
20 that's the end of your testimony, Mr. Commissioner?

21 MR. CAMPBELL: Yes, it is --

22 CHAIRPERSON HILL: Okay, great.

23 MR. CAMPBELL: -- Chairman Hill.

24 CHAIRPERSON HILL: So, we normally, sometimes we
25 do, and sometimes we don't. But often times there are people

1 here. So, we will take public testimony on what has just
2 been, in terms of the supplemental hearing. Because we're
3 not doing the testimony again for the whole thing.

4 So, does anybody here wish to speak in support of
5 the supplemental information? Does anyone here want to speak
6 in opposition to the supplemental information? Okay. All
7 right. So, I'm going to go back to some questions then.

8 So, just from the applicant. Oh, no, actually for
9 the ANC. I guess you can't really speak on all the ANC.
10 But, you know, they're, and I'm, we get a lot of these now,
11 Mr. Commissioner. You've been here for some of them, right.

12 And so, you know, there's the ten foot allowed by
13 right. And then the, what you can get by special exception
14 if you can meet the criteria for the special exception, which
15 is what brings the applicants here for us.

16 And what has been somewhat, the Board has been
17 kind of struggling with I think, is something in terms of
18 like this stepping back, the second floor or the third floor.
19 If they step back the third floor right now, you're going to
20 get a full balcony on that third floor, as opposed to
21 whatever the small balcony was that was going to be there.

22 Do you have any thoughts as to how your ANC might
23 think of the third floor being stepped back, with the full
24 balcony, rather than the smaller balcony?

25 MR. CAMPBELL: Chairman Hill, one of the things

1 that I'd like to note is that the ten foot setback allowed
2 by law is somewhat deceptive, in that it allows for ten feet
3 from the rear of the building, but does not include any
4 balconies or decks, or any kind of thing like that.

5 So, you know, you could say ten feet. But you
6 actually end up getting something greater. And I also
7 recognize that there is a certain amount allowed by law, in
8 terms of the lot occupancy, right.

9 But as far as that third floor, I frankly, I am
10 less concerned about that than I am about something that
11 would be at ground level, protruding back from the property.
12 I think that in some cases the, what is higher up may not
13 have the same sort of impact on the enjoyment of the property
14 for people who are going to be at ground level or, you know,
15 sitting in lawn furniture, something like that, directly at
16 the rear of the property.

17 But I can tell you that generally my impression
18 of my colleagues, and the way that we look at this is
19 obviously you want to make sure that everything is in
20 compliance with whatever the BZA regulations are, first and
21 foremost.

22 And then, we also take into consideration the
23 desires of the community. But in this case I'm, and that's
24 part of the reason I was asking about the shadow studies.
25 You know, while I don't think that the impact is negligible,

1 per se, it does not seem to be as substantial as something
2 that's protruding from a lower level. I don't know if that
3 answers your question exactly.

4 CHAIRPERSON HILL: Yes. It kind of answered the
5 question. I got you. Okay. All right. Does the Board have
6 any questions for the applicant or the ANC? Does the
7 applicant have any questions for the ANC?

8 MR. SULLIVAN: No, thank you.

9 CHAIRPERSON HILL: Okay. Does the applicant have
10 any questions, or make any closing statement?

11 MR. SULLIVAN: Just, because as you alluded, it's,
12 this is a subjective decision, and a subjective review. And
13 we've put forward what we think is a reasonable plan. And
14 we think it's important to get a third bedroom, a three
15 bedroom unit on top.

16 But in the event that the Board was not happy with
17 this, I think it would be imperative that we have feedback
18 on that, and be able to adjust. Just because it's not that
19 predictable of a decision.

20 And I think it would be difficult for the
21 applicant if they were to lose 20 feet, but then we found out
22 later, well, the Board was okay with 18, or okay with 15.
23 So, we're submitting this. This is our preferred option.
24 We think it's reasonable. But we're open to feedback, I
25 guess is what I want to say about that.

1 CHAIRPERSON HILL: Okay. All right.

2 MR. SULLIVAN: Thank you.

3 CHAIRPERSON HILL: Okay. Yes. Oh, which plans
4 are the ones in the record that have the full 20 feet on the
5 third floor?

6 MR. SULLIVAN: Well, all of the plans do. The
7 official plans do. What we've submitted is --

8 CHAIRPERSON HILL: Right. Just that one --

9 MR. SULLIVAN: -- just the --

10 CHAIRPERSON HILL: -- thing. Okay.

11 MR. SULLIVAN: Yes.

12 CHAIRPERSON HILL: So, the official plans are in,
13 do you know where the official are, in which exhibit?

14 MR. SULLIVAN: Yes. They're actually in two
15 exhibits. So, the last one would be 44C.

16 CHAIRPERSON HILL: 44C? Okay. All right. Okay.
17 I'm going to close the record. Is the Board ready to
18 deliberate? Okay. I can start. I mean, I think that this
19 continues to be something that I can understand why there's
20 opposition.

21 I can understand why there's community opposition.
22 I can understand why there's a lot of opinions on what
23 happens with these things that are going back. And now,
24 these are coming up so often that I don't know what seems to
25 be something that we can convey to the community, as well as

1 people that are trying to do this, you know, as applicants,
2 or as property owners.

3 Again, I'm going back to the original thought
4 process, as to how I get to where I'm getting, which is that
5 when these were allowed by right they could go out and fill
6 out the whole lot. I sound like a broken record. But they
7 could have gone back, you know, 40 feet, whatever it was.

8 There was emergency legislation that got put in
9 place. There was a lot of testimony that got put in place
10 that Mr. Miller had to go through to get to where the Zoning
11 Commissioner said, okay, we're going to do ten feet by right,
12 and then there's going to be a special exception for, you
13 know, how I guess you could go, again, you could kind of fill
14 out your whole lot, right. That's the special exception.

15 And since it's not a variance, it's a special
16 exception, it's within the regulations for us to approve this
17 based upon what we has determined whether or not it, you
18 know, meets the criteria. And also, primarily light and air,
19 and shadowing, right.

20 And so, I guess what I think is difficult for
21 property owners is, what exactly does that mean, right? You
22 know, because this has, I mean, the Office of Planning has
23 recommended approval of this. And sometimes the Office of
24 Planning --

25 I mean, again, it is on each case by case basis,

1 as was reminded to me just the other day actually, when I was
2 giving testimony to the City Council. But like, it is on a
3 case by case basis.

4 There's not like a flat, you know, you can get 20
5 feet, or you can get 25 feet, and then after that it's a
6 variance, right. And if it were, then that would probably
7 be the end of this discussion. Because a variance would be
8 a very hard thing to get for something like this.

9 So, that being the case I'm back to kind of like
10 looking at whatever was the matter of rights shadowing,
11 versus the addition, right. And whether or not I think there
12 is any kind of undue impact to that particular shadowing.

13 I think that as a property owner who suddenly has
14 20 feet next to you, that didn't have anything before, it's
15 a shock. And I can understand why you would be opposed to
16 that. But that's not really what we're looking at all the
17 time.

18 I mean, the other thing, and I'll continue to turn
19 it over to my colleagues. But the other think that I don't
20 want to get to is where you need the adjacent property owners
21 to be in support of something, right.

22 That's not, I think, what's within the regulation.
23 It's not saying that you need the adjacent property owners
24 to be. It's whether we think there is an undue impact on a
25 particular project. And again, the way that I'm looking is,

1 between the matter of right and what they are proposing.

2 And I think that, you know, unfortunately the ANC
3 is not in support of this. And I can understand why they're
4 not in support of this, because their community is not in
5 support of this.

6 There was a property, I guess four units down that
7 has kind of a similar, or however many units down it is, that
8 has a similar look to it in terms of from the alley. And so,
9 I think that from the street you can't see any difference
10 from this particular project. So, I think that the
11 additional shadowing, and the additional impact between the
12 ten and the 20 feet is nominal.

13 And so, I think that, you know, in addition to the
14 analysis that the Office of Planning has provided, which
15 perhaps, you know, later on they'll give us even more
16 specificity as to what is or isn't, you know, something that
17 --

18 And I guess that's just the way the regulation is.
19 Like, sometimes it's 20. And now, well anyway. So, I'm
20 going to vote in favor of this application, and look to my
21 colleagues to hear their input.

22 MEMBER JOHN: So, Mr. Chairman, I share your ideas
23 about where we are in this whole process of trying to figure
24 out what's appropriate between ten feet and maybe 20, or 25.
25 And I've struggled with this quite a bit.

1 In this particular case I agree with OP's
2 analysis. And I also looked at, you know, the mass in terms
3 of the lot occupancy, and the rear yard, which is 55 feet,
4 even with the addition. And the lot occupancy is 50 percent.
5 So, overall I think that this is within the range of what's
6 appropriate.

7 I also looked for a long time at the shadow
8 studies. And I agree that the last exhibit shows that there
9 is not a significant difference between the ten foot addition
10 and the 20 foot addition for most of the year. And I was a
11 little surprised to see that. But in the end those were the
12 factors that led me to wanting to support this application.

13 MEMBER HART: Yes. Mr. Chairman, I am, at the
14 last hearing I requested a number of, piece of information,
15 some kind of visual documentation demonstrating how the
16 project would affect the neighbors.

17 Also, these more accurate drawings regarding the
18 street width, and overall right of way dimensions. The
19 applicant has supplied this information, as they have
20 described a litter earlier today, a few minutes ago. And I
21 think that they, that information has helped understand the
22 impacts of the by right versus the, what is being proposed.

23 And I think that the applicant has provided this,
24 the information that they have provided have helped me to
25 understand that I would be in support of the application.

1 I didn't think that the shadowing would be undue, as you've
2 raised earlier. The overall height is allowed under Zoning.
3 And this is really a relief from U320.2 for residential
4 conversion.

5 And after reviewing the full record, including
6 these new materials that we requested since the last hearing,
7 I think that I would be able to support the application, in
8 that I think that they have met the criteria within the
9 Zoning regs. I didn't have much else beyond what you all
10 have said already. And so, I'll leave it at that.

11 MEMBER WHITE: Thanks, Mr. Chair. I'm struggling
12 with this one. Because I'm not a huge, I don't think any of
13 us are huge fans of pop backs or pop ups, or whatever you
14 want to call them. But, you know, the testimony from the ANC
15 Commissioner, and some of the opposition letters that are in
16 the record did give me pause.

17 And I did believe that it is going to change maybe
18 the look of the rear, look and feel of that particular block,
19 even though there are some other developments of a similar
20 nature.

21 But with the shadow studies, you know, I did kind
22 of pull back on it a little bit. I still feel that, you
23 know, that 20 feet is a lot. I kind of have to look at this
24 on a case by case basis, you know.

25 Sometimes the opposition parties that come to us,

1 even with ANC support and OP support can give us pause to
2 want to make some adjustments. But with the shadow studies
3 I felt that, you know, the input, impact was a lot more de
4 minimis than I thought it would be.

5 So, with this particular application I think that
6 I can be in support of it. But I am very hesitant, you know,
7 because it does, you know, kind of change the look of the
8 area.

9 But I think the light and air impacts are de
10 minimis compared to what it's going to look, what it would
11 look like if they went with the by right option. So, I will
12 support this particular application.

13 ZC VICE-CHAIR MILLER: Thank you, Mr. Chairman.
14 And thank you to the applicant for coming up with the
15 perspective renderings that we requested, and the alternative
16 option on the third floor setback that I think Commissioner
17 John had had some dialogue with you the last time. And the
18 insurance, adding the insurance. And the community
19 engagement you've had with the ANC. And the ANC's efforts
20 on this matter.

21 You know, as many of you know, I voted against the
22 row house down zoning at the Zoning Commission. It was a
23 three to two vote. I was unsuccessful in opposing it. And
24 then the Commission was concerned that there still was
25 extensions that were, and additions, rooftop additions that

1 were, even with the down zoning were having some kind of
2 impact on neighbors, which neighbors were opposing.

3 So, this ten foot thing came up with all kinds of
4 criteria, special exception criteria to allow. And I think
5 I did support that. And that has led to a lot of cases her
6 before the BZA, which is not our goal to have a lot of cases
7 generated from zoning changes.

8 It's, the whole zoning re-write was an effort to
9 try to, initially was to try to lay out what's permitted, and
10 what's not permitted. And maybe change some things from
11 variance to special exception, where it didn't seem to be
12 having undue impact.

13 So, all that's to say is, I don't know what that
14 says. These are case by case cases. The, we've seen, you've
15 experienced the challenges and frustrations with them. The
16 OP is aware of them. The Zoning Commissioners who have been
17 with you on these cases are aware of them.

18 OP is looking at the whole body of conversions to
19 three bedrooms, and cases, and rooftop additions, to see if,
20 what changes can be made to make this process move more
21 swiftly, and more predictable.

22 Because there is a lot of subjectivity involved
23 when you're saying undue compromise upon the privacy,
24 enjoyment, and use of the adjacent neighbors. So, you say
25 the adjacent neighbors. Maybe we don't. But still, but

1 actually if they're all in support of it, you can kind of
2 say, oh well, they don't feel unduly compromised. Why should
3 I say they're unduly compromised?

4 Substantial intrusion upon the visual character
5 of the row house look, from both the street. And I think
6 until this case I didn't realize it was also from the alley.
7 This is a very well designed addition, both going up and
8 going back.

9 Although that blank wall does look very blank in
10 the renderings we have. I assume there would be some banding
11 there going forward, so it's not quite the massive appearance
12 that it appears to be.

13 But I guess surprised myself in this case that I
14 think there is substantial, and I'm not sure this should be
15 a criteria, but it is in the current regulation. I think
16 there is substantial visual intrusion upon the look of, the
17 character of the external facades from, when looked from the
18 alley, except for that one outlier at 4511 I guess, toward
19 the end of the block.

20 But this is right in the middle. It goes, and it
21 goes up and goes back. And although it doesn't occupy even
22 a substantial, it's less than what's allowed in terms of
23 allowed occupancy. I personally think this does
24 substantially intrude upon the visual character of the look,
25 the view from this, from the alley.

1 You know, density is not an issue in these cases.
2 I voted against the row house down zoning because density was
3 an issue for me there. And I, we want more units. We want
4 more family sized units. And I appreciate that that effort
5 was made here.

6 I guess it doesn't matter at this point, since
7 there's at least three solid votes, and one reluctant
8 supporting vote already in favor of this. But I would have
9 been interested in seeing the, in addition to the 15 foot
10 setback on the third floor, the 15 on the second, and then
11 on the ground floor.

12 Because I think that would have, might have made
13 a difference, as Commissioner Campbell said. You know, the
14 ground floor is probably even more important in terms of your
15 use of your back yard in the adjacent property.

16 So, I would have been interested in seeing that come
17 forward, rather than this whole application going down. But
18 I don't think it's going to go down. So, I will be not
19 supporting this particular application, reluctantly.

20 CHAIRPERSON HILL: Okay. Yes. I mean,
21 Commissioner, I think it's interesting that, you know, I
22 know, I've served with you on these cases a lot before. And
23 you voted against the down zoning.

24 And so, you know, it would have been even deeper,
25 you know, had this been allowed, right. And there would be

1 more shadowing. I mean, this would have gone out until the
2 lot occupancy. And so, you know, it is complicated.

3 But at the same time I think this is difficult for
4 the people that are trying to figure, even the community.
5 Like, what are you trying to figure out? Like, you know,
6 the, if the Office of, well, there's no Office of Planning
7 --

8 If the Office of Planning, you know, had more of
9 a hard line. Or if, you know, the Zoning, well, it's the
10 Zoning Commissioner actually that's going to actually do
11 that, right. I don't know, you know. It's 25 feet. It's
12 20 feet, what have you. Then, that's what that is.

13 Okay. I'm going to make a motion. Okay. I'm
14 going to make a motion to approve Application number 19918
15 as captioned and read by the Secretary, and ask for a second.

16 MEMBER HART: Second.

17 CHAIRPERSON HILL: The motion is made and
18 seconded. All those in favor say aye.

19 (Chorus of aye.)

20 CHAIRPERSON HILL: All those opposed.

21 ZC VICE-CHAIR MILLER: Nay.

22 CHAIRPERSON HILL: Okay. The motion passes. Ms.
23 Rose.

24 MS. ROSE: Staff will report the vote as four to
25 zero to one to approve the application, with a motion by Mr.

1 Hill, seconded by Mr. Hart, with Ms. John and Ms. White in
2 support of the motion. Mr. Miller opposed.

3 CHAIRPERSON HILL: Okay. Thank you. Thank you,
4 Commissioner. Thank you gentlemen.

5 MS. ROSE: It's four to one to zero. I'm sorry.

6 CHAIRPERSON HILL: Yes. Please, Ms. Rose.

7 MS. ROSE: The next application is 19889 of AMM
8 II Investments, LLC, as amended pursuant to 11 DCMR, Subtitle
9 X, Chapter 9, for special exceptions under the new
10 residential development requirements of Subtitle U, Section
11 421.1, and under Subtitle C, Section 703.2, from the minimum
12 parking requirements of Subtitle C, Section 701.5, and
13 pursuant to 11 DCMR Subtitle X, Chapter 10, for an area
14 variance from the side yard requirements of Subtitle F,
15 Section 306.2(a), to construct a new eight unit apartment
16 house in the RA-1 zone, at premises 413 60th Street
17 Northeast, Square 5261, Lot 803.

18 CHAIRPERSON HILL: Okay. Thank you. Could you
19 please introduce yourselves for the record?

20 MS. MOLDENHAUER: Meridith Moldenhauer from the
21 law firm of Cozen O'Connor, for the applicant.

22 MR. KHAN: Mubashir Khan, applicant, from AMM II
23 Investments, LLC.

24 MR. KHAN: Mudassary Khan, applicant from AMM II
25 Investments, LLC.

1 CHAIRPERSON HILL: Okay. Ms. Moldenhauer, I
2 assume you're going to be presenting to us.

3 MS. MOLDENHAUER: Given my late appearance in the
4 case, and the fact that my, the client hasn't actually
5 prepared the majority of the application, I'll turn it over
6 to my client.

7 CHAIRPERSON HILL: Okay. Great. So, Mr. Khan,
8 I guess basically, I think some of us might have some
9 questions for you. But if you want to go ahead and walk us
10 through your application, and then what you're trying to do,
11 and how you're meeting the standard for us to approve the
12 application? I'm going to put 15 minutes on the clock so I
13 know where we are. And, Ms. Rose, if you wouldn't mind doing
14 that? And you can begin whenever you like.

15 MR. KHAN: Okay. Thank you very much. I
16 purchased this property like a year ago. And my plan was
17 that I'll take this presentation and do it everything by
18 myself. And I've worked for one plus year on this thing.
19 Worked with ANC, and with DCRA, and this office.

20 But just last minute I just felt a little nervous
21 to come by myself. So, I requested Ms. Meridith to come and
22 help me out here.

23 So, the project which I'm proposing is a three
24 level plus cellar new construction, eight unit apartment
25 building in RA-1 zone. And there's a existing old structure

1 sitting there, a very small single family house sitting
2 there. It's been sitting there abandoned from ten plus
3 years. And it's a eyesore for the neighborhood.

4 So, we are proposing to put a new building there.
5 And when I bought the property initially I approached BZA
6 Office. I met Ms. Alexandra Cain back in May of 2018, and
7 just inquired the process, how I can take this myself.

8 And I was advised to go to DCRA and Zoning
9 Administrator's Office, and ask for BZA referral. And I
10 schedule PDRM meeting with them. And we went back and forth
11 a few times with that office. And they issued a BZA
12 memorandum with four exceptions on it. And that was on
13 August 8 of 2018.

14 I went back and tweaked some more plans. And we,
15 because I wanted to come in front of the Board with as less
16 as possible exceptions. So, we tweaked some plans. And then
17 the reissue a revised BZA memorandum on 16th, I'm sorry, 6th
18 of November 2018 with two special exceptions. One for
19 parking, and one for new construction.

20 And there was no side yard variance added in that
21 at any time. And the, down the road when we start talking
22 with Office Planning and DDOT, Ms. Crystal Myers from Office
23 of Planning on December 10th, she explored that. DCRA made
24 a mistake here. You need, you are required to have a side
25 yard variance as well, because we are providing four feet

1 side yards.

2 And she said, you need to have eight feet side
3 yard. So, that triggered the communication back with DCRA.
4 And they admitted that they made a mistake. Although I was
5 working with DCRA from last six months at PDRM meetings, and
6 emails back and forth. They never brought this up. And they
7 admit their mistake that, yes, we made a mistake. You do
8 require a side yard variance here.

9 And so, they reissued a third BZA memorandum on
10 December 18th of 2018. So, after that I was working closely
11 with Office of Planning and DDOT. And we tweaked plans
12 again, based on their recommendations. And we got positive
13 approval from DDOT and Office of Planning.

14 DDOT was concerned about the parking. And we were
15 providing three indoor bike parking. They requested us to
16 make it five, which we did. And the reason we cannot provide
17 one parking space, which was required, because there's a
18 alley in the back, which is 15 feet. But unfortunately that
19 alley is unimproved.

20 ANC and myself, we communicated with DDOT,
21 requesting to pave that alley. And we are still in
22 communication with them. And they said they will do, we can
23 request them at the time of permitting.

24 So, we don't know when that alley will be paved.
25 If that alley will be paved we don't, we can have plenty of

1 parking in our 68 feet long back yard. So, for now that's
2 one of the issues here.

3 And we also have one parking spot on the front of
4 the property, which DDOT said we have to close that, because
5 half of the parking is in the public area. So, that's why
6 it's not on the update plans anymore. So, that's regarding
7 park. And we, and they requested us to give two more bikes
8 parkings in indoor. So, we have provided five bike racks.

9 And this property is also very close proximity to
10 train, to a bus stop, .1 mile from bus stop. And there's a
11 bike sharepoint 2.5 miles distance. And then, there's a
12 metro stop less than half a mile away. So, there's a lot of
13 public transit options there.

14 And the second thing was the new construction, as
15 per the laws that RA-1 zone requires BZA approval for any new
16 construction there. And then, the third part was the
17 variance which I'm here for, is also side yard, which as I
18 told it, it came later in the case. And still, we have
19 support from OP on that.

20 And also, I worked with, since I bought the
21 property I worked with our ANC very closely. Before I even
22 submit any paperwork I got their feedback. And we changed
23 some plans according to their feedback.

24 I have presented this project two times in
25 Executive Committee, and two times to public. I've

1 approached the neighbors as well. We got letter of support
2 from just some neighbor as well. So, my ANC Commissioner is
3 here to support the project as well.

4 So, all these things are going on from last one
5 plus year. And that's why I'm here today. I do not have any
6 formal presentation. But we have submitted the updated plans
7 as Exhibit 64 and 65. And if there are any other questions
8 I will like to take that. But that's what I have to say
9 right now.

10 And then, regarding the width of the, I do believe
11 that, we do believe that this lot is very narrow compared to
12 other apartment building lots in the area. My lot is only
13 40 feet wide. And there are other lots, for example, one at
14 501 60th Street is 78 feet wide. 6006 8th Street North is
15 94 feet wide. And 5927 8th Street is 60 feet wide.

16 So, that is the reason, within this 40 feet lot
17 we are trying to have four feet side yard. Because if we
18 give more than that it would create practical difficulties
19 to develop this project.

20 So, that's what I have for now. If there are more
21 question I'll happy to take that. And is there anything, Ms.
22 Meridith you would like to add?

23 MS. MOLDENHAUER: One of, I think you addressed
24 everything. I would just note that in the DDOT report they
25 did note that they wanted to see a TDM plan that increased

1 the number of bike parking.

2 And the revised plans at Exhibit 65, Page 5, shows
3 that on the first floor plan they have, the applicant has
4 increased the parking from the required three long term bike
5 spaces to now five long term bike spaces, as requested. And
6 we'll be open for questions.

7 CHAIRPERSON HILL: Okay. Does the Board have any
8 questions for the applicant?

9 COMMISSIONER TURNBULL: I just had one. In the
10 Department of Transportation Report, also on Page 3 they talk
11 about a heritage tree. Are you taking care of that as per
12 their suggestions?

13 MR. KHAN: Yes. We talk about that. And I told
14 them we will hire arborist once we get to the permitting.
15 And we will look into that. And if, whatever needs to be
16 done we'll take care of that part, yes.

17 COMMISSIONER TURNBULL: Okay. Thank you.

18 MEMBER HART: Yes. The only question, well, the
19 main question I have is, I am, I understand what, Mr. Khan,
20 that you said regarding the width of your property. But, I
21 mean, I'm just kind of looking at the, you know, the various
22 properties that are around here.

23 Even in the square it's, you know, there are some
24 that are kind of shorter and wider. Some of them are
25 actually much narrower than yours. So, I don't see the issue

1 of how your lot is, has some distinct character that is
2 different than the other lots that are in the square.

3 I think that you'll need to provide more
4 information regarding how you're meeting the variance test.
5 I understand that what you're proposing is what you're
6 proposing.

7 But you're also asking us to provide, to approve
8 a variance to the zoning regs. And I don't have really any
9 information that I can understand why that would be, why we
10 should be allowing that, given that there doesn't really seem
11 to be a, any special nature of this particular lot that is
12 creating the variance relief.

13 And I don't know, Ms. Moldenhauer, if you have a
14 response for that, that would be helpful. The verbal
15 response would be good. A written one would be also good.
16 So, I'm not, I know we may not have it today. But I'm just
17 saying that that's part of the issue that I have.

18 MS. MOLDENHAUER: Hopefully we can address it
19 verbally today. But, I mean, I think that they're, the width
20 of the lot is a unique factor. But I think there also are
21 additional confluence of factors.

22 The Board, I know in multiple cases, including a
23 project on 16th Street, where it approved the Planned
24 Parenthood building, did grant variance relief on that
25 project, based on the fact that the width was narrow in

1 comparison to other similar uses.

2 And here, as Mr. Khan has identified, when you're
3 comparing it -- You might be right when you're looking at the
4 square overall. But there's a lot of single family homes
5 when you're comparing it to other apartment buildings in the
6 project, in the square. And we identified three
7 specifically, all the apartment buildings that are in this
8 close proximity have 70, 90 foot wide lots.

9 And for a 40 foot wide lot here, in regards to
10 building and constructing a apartment building, you then have
11 a common corridor that you wouldn't have in a single family
12 house. That creates additional challenges with the side
13 yard. And so, we believe that that is a practical difficulty
14 relating directly to the unique condition.

15 In addition, I believe the confluence of factors
16 for unique conditions are that the property has been long
17 vacant. And so, the inability then to potentially try to
18 renovate the existing structure.

19 But rather, the need to, you know, demolish the
20 existing structure, given the fact that it has been
21 dilapidated and vacant for a very significant period of time,
22 as well as the fact that there was a detriment of reliance
23 on DCRA, and the self-certification that DCRA gave in regards
24 to the side yard variance that was not originally identified.

25 The applicant went forward, designed a project,

1 filed a BZA application. And only later on down the road
2 became aware of that, based on his good faith reliance on his
3 PDRM, and the fact that this wasn't identified earlier.

4 So, I believe that based on those three confluence
5 of factors that the degree of relief here, while yes, it's
6 half of the required side yard, we do believe that it still
7 is providing a side yard.

8 The abutting neighbor to the north has a
9 substantial side yard as well. So, there is limited impact
10 on, to the overall design, the community, and the public
11 good. And the neighbor to the north that does have the side
12 yard actually has indicated, and filed a letter of support
13 in the application. So, based on all of that we believe the,
14 that we satisfy this variance standard.

15 CHAIRPERSON HILL: Mr. Khan, what's there now?
16 it's still just that property?

17 MR. KHAN: Right now on my lot?

18 CHAIRPERSON HILL: Yes.

19 MR. KHAN: It's just a small old house.

20 CHAIRPERSON HILL: They haven't torn down that
21 house yet?

22 MR. KHAN: No.

23 CHAIRPERSON HILL: It's still there?

24 MR. KHAN: I have applied the raze permit last
25 year in June. And it's not approved yet.

1 CHAIRPERSON HILL: Okay.

2 MR. KHAN: So, we are waiting for the raze permit.

3 CHAIRPERSON HILL: Okay. How old is that house?
4 Do you know?

5 MR. KHAN: I'm sorry?

6 CHAIRPERSON HILL: How old is that house? Do you
7 know?

8 MR. KHAN: I would say like 70, 100 years old, 90
9 years old at least.

10 CHAIRPERSON HILL: Old house.

11 MR. KHAN: In a very bad condition. And it's been
12 vacant for ten plus years. That's what a neighbor have told
13 me.

14 CHAIRPERSON HILL: Well, I'm not surprised it's
15 vacant. Does anybody have any questions for the applicant?

16 MEMBER WHITE: My only question is the feedback
17 from ANC, in terms of their position on whether or not you've
18 met the variance standard. And just the community feedback
19 as a whole. Just curious what you've heard.

20 MR. KHAN: Okay. In terms of community, as I
21 said, like, I approached them right at the start of the
22 project. And they worked very, I worked very closely with
23 them. And I, before this last BZA memorandum was issued I
24 presented my project to Executive Committee and public. And
25 they were very supportive.

1 But then, the last memorandum came in, which was
2 DCRM's mistake that we need a side yard variance. I went
3 back to ANC, presented my project again on February 28th in
4 Executive meeting.

5 And then March 14th in the public meeting. And
6 they voted in favor. And I have a letter from ANC as well,
7 which was posted this morning to the records, saying that it
8 has been approved and, on March 14th.

9 CHAIRPERSON HILL: The ANC? That posted this
10 morning?

11 MR. KHAN: Right.

12 CHAIRPERSON HILL: And then you said the
13 Commissioner's here?

14 MR. KHAN: Yes. ANC Commissioner 7C is here.

15 CHAIRPERSON HILL: Would the Commissioner come
16 forward? Good afternoon, Commissioner. Could you introduce
17 yourself for the record?

18 MS. GAFFNEY: Good afternoon. I'm Mary Gaffney.

19 CHAIRPERSON HILL: Ms. Gaffney, you were here not
20 too long ago, right?

21 MS. GAFFNEY: Yes.

22 CHAIRPERSON HILL: Okay. All right.

23 MS. GAFFNEY: Coming back soon too.

24 CHAIRPERSON HILL: Okay. Lucky you. All right.

25 Let's see. So, could you go ahead and -- Well, first of all

1 we, I'm going to take a look at the report. I'm seeing the
2 report just got submitted this morning, I suppose. But could
3 you please give us your testimony concerning the application?

4 MS. GAFFNEY: Well, like the applicant said, the
5 house had been sitting there for a long time, probably more
6 than 20 years or more. And I only live two blocks away from
7 it. And it's a eyesore in the community.

8 And when the applicant approached me he had not
9 have done anything. Because he wants to see the community
10 input. And we guided him of the community input. We look
11 at the structure, or the design that he want to build in the
12 community.

13 And he presented to the community first. And then
14 he went to the AND Executive Committee. And the committee
15 approve it there. And then he brought it to the entire
16 community. The Executive Committee, and he came to the
17 entire community. And they approve it.

18 They were very proud of what they have seen, and
19 what he had intended to build, and with his building of the
20 structure that he presented to us is rather unique, because
21 of the design inside, and what all it's intended to be in
22 that apartment.

23 CHAIRPERSON HILL: Okay. Does the Board have any
24 questions for the Commissioner? Does the applicant have any
25 questions for the Commissioner?

1 MS. MOLDENHAUER: No. Thank you for coming down.

2 CHAIRPERSON HILL: All right. Commissioner, you
3 can just hang out here if you want to. We'll see what
4 happens. We'll turn to the Office of Planning, please.

5 MS. MYERS: Good afternoon. Crystal Myers for the
6 Office of Planning. As the applicant noted the Office of
7 Planning worked with the applicant, and is satisfied with the
8 design of the building. So, we rest on the record of the
9 staff report, and recommend approval.

10 CHAIRPERSON HILL: Okay. Does the Board have any
11 questions for the Office of Planning.

12 COMMISSIONER TURNBULL: I was just wondering, Ms.
13 Myers, could you maybe go back, and go over what the Vice
14 Chair brought up about meeting the variance test?

15 MS. MYERS: We were satisfied with the argument
16 that the narrowness of the lot for the use being proposed,
17 which is an apartment house, that the lot is more narrow than
18 you would typically see for an apartment house development.

19 As noted by the applicant as well, in that area
20 there's a variety of housing. But on that particular block
21 there's a lot of semi-detached and single family homes, which
22 is more appropriate, that type of width, with the neighboring
23 properties. Those have semi-detached and single family
24 homes. But this is an apartment house.

25 And they are asking for, I believe four foot side

1 yard. So, they're still providing half the side yard. It's
2 just they're asking for relief from four feet. So, we
3 thought that the amount of relief being requested, the type
4 of use that they're planning to do --

5 And if they actually were to provide the whole
6 eight feet it would significantly reduce the living space of
7 the two bedroom units being proposed in this. So, taking all
8 that into account we felt that this was an appropriate, for
9 the relief being requested for a variance relief.

10 COMMISSIONER TURNBULL: Okay. Thank you.

11 MEMBER HART: And following up on my question I
12 guess. The applicant is requesting this relief because they
13 are providing a side yard. Is that correct?

14 MS. MYERS: Well, they're asking for a special
15 exception relief for the whole apartment house. But for the
16 side yard portion it's a variance relief, yes.

17 MEMBER HART: Yes. So, but that's, if they had
18 no, could they have a zero? Could they have a, build on the
19 lot line? I mean, is there a need to have a -- If they were,
20 they're not providing eight feet. But, and I thought that
21 this was one if you provide a side yard then it had to be a
22 particular size. But if you don't provide a side yard then
23 --

24 MS. MYERS: Well, there's nothing to attach on
25 either side of the property. So, you mean, if they were to

1 build --

2 MEMBER HART: Build it to --

3 MS. MYERS: -- it to lot line, to lot line? I
4 think actually with the new -- I don't think so. But I'm not
5 sure. But I don't think that they would be able to do it
6 with no relief.

7 MEMBER HART: What I'm trying to get to is really
8 trying to understand whether or not they need to have --
9 We're being required, sorry, we're being asked to approve a
10 variance. And I'm trying to understand whether or not there
11 is another option that they could use, that would not require
12 a variance relief.

13 And so, if they build on the, built to the lot
14 line? If they did four units instead of eight units. I
15 mean, I'm thinking that there's some other option. But right
16 now I just don't know. And I just, I feel like I don't have
17 enough information. So, I'm asking that. I'll ask the
18 applicant as well. But I didn't know if you had any thoughts
19 on that.

20 MS. MYERS: I mean, if they were to redesign it,
21 reduce the units, perhaps, you know. That would be a
22 question more for the applicant on, you know, what the
23 solution for that would be. But for the units that they're
24 doing, with the lot size, you know, what they were proposing
25 seemed reasonable.

1 MEMBER HART: Thank you.

2 CHAIRPERSON HILL: Ms. Moldenhauer, you seem to
3 have a comment.

4 MS. MOLDENHAUER: Well, I have no questions for
5 Office of Planning. But I do, if Vice Chair Hart would like
6 a response to his question. I have some available --

7 MEMBER HART: I was going to ask. But I wanted
8 to get through that part first.

9 MS. MOLDENHAUER: Sure.

10 CHAIRPERSON HILL: You can go ahead and answer
11 your question.

12 MS. MOLDENHAUER: Sorry.

13 CHAIRPERSON HILL: Yes.

14 MS. MOLDENHAUER: So, when the application was
15 originally filed in, was it --

16 MR. KHAN: 2018.

17 MS. MOLDENHAUER: 2018, the 016 regulations were
18 in effect, which require that if you had a free standing side
19 yard you required a side yard. So here, because of the
20 layout of the lot and the abutting property, when the
21 applicant originally filed for building permits DCRA should
22 have obviously identified about that even if they build on
23 the property line, or if they built four feet off the
24 property line.

25 Here, if they had built on the property line in

1 2018 when the originally filed for this, it would have
2 required relief. Because it would have been a free standing
3 side yard.

4 When the Zoning Commission filed Zoning Commission
5 Case 17-23 that revised the language for the free standing
6 side yards, which was then approved on January 28th, 2019,
7 and was published, and went into effect on February 22nd.
8 So, now as of today they could build on the property line.

9 But, Commissioner Hart, to your point, I would say
10 that because of the unique timing of that case, when that
11 just occurred, that would have been practically difficult for
12 the client to then have to now go and redesign the project,
13 because of the timing of that having just recently changed.

14 Because at the time that they met with DCRA,
15 obtained the original, and designed the original building,
16 they would have still needed to apply for relief, if they had
17 built on the property line.

18 CHAIRPERSON HILL: Understood.

19 COMMISSIONER TURNBULL: I think my question is,
20 if they built to the property line on one side, I don't think
21 they could do it on both sides, but they might need eight
22 feet on the other side. And I'd have to go back and really
23 go through the regs.

24 See if you build on one side, you're still
25 required to have a side yard on the other. They may have --

1 so I mean, it's going to be a six and one half dozen of the
2 other. So I don't know if they, if they gain anything. But
3 you'd, I'd, we'd have to, you'd have to study it, look at it.

4 CHAIRPERSON HILL: Okay. All right. You said you
5 don't have any questions of the Office of Planning?

6 MS. VICKERS: No questions of the Office of
7 Planning.

8 CHAIRPERSON HILL: All right. Is there anyone
9 here who wishes to speak in support? Is there anyone here
10 wishes to speak in opposition? Okay. I don't know, what
11 does the Board want? Did you want something? Did anybody
12 want anything? Did you not want anything?

13 MEMBER HART: From me?

14 CHAIRPERSON HILL: Yes.

15 MEMBER HART: Oh I just, I, I do feel like I need
16 more information on the variance issue.

17 CHAIRPERSON HILL: So you want an argument for
18 the, further argument about the variance?

19 MEMBER HART: Yes.

20 CHAIRPERSON HILL: Okay. So I mean, if the
21 applicant can provide a further -- I'm sorry.

22 MEMBER HART: If, if the rest of the Board wants
23 to, wants to vote right now, I, we can do that too. But I'm
24 just telling you that that, that's what I need to be able to
25 understand this more fully.

1 CHAIRPERSON HILL: Okay. Does the Board think
2 they're ready to vote now, or do they need more information?
3 Okay. All right. Then it doesn't look like you're going to
4 get your information, I suppose. Or we'll see what happens
5 here, I don't know. I'm a little unclear, myself, to be
6 quite honest.

7 COMMISSIONER TURNBULL: Well, well we don't want
8 to upset the Vice Chair.

9 CHAIRPERSON HILL: That's quite all right. He
10 gets upset, I'm sure, every now and again. Let's see, okay.
11 Does the Board, does the applicant have anything to say that
12 they would like to add in conclusion?

13 MR. KHAN: Just one more thing, I don't know if
14 that helps or not, but as Mr. Turnbull was saying, that we
15 can leave one, eight feet on one side, and build on the
16 property line on the other side.

17 We're not gaining anything out of it. And by
18 having this four feet, on both sides, we, we are having
19 windows. But building on the lot line, we have to do at risk
20 windows, which are not preferred. So you know, that, that
21 was a reason we thought about.

22 CHAIRPERSON HILL: That's okay, Mr. Khan. I
23 guess, they're still, they're still, it's still not clear to
24 us whether or not you could have built lot line, the lot
25 line. And then whether you would be here for a variance or

1 not, you know.

2 And so that's what I think, Vice Chair Hart was
3 kind of trying to talk to. But I understand what you're
4 asking about with the one thing, you know, sorry, building
5 to one lot line and then the, though eight yards, eight feet
6 on the other side. Is there anything else?

7 MR. KHAN: Right. And just, just the other thing
8 that I wanted to mention is like, these are two bedroom
9 apartments, so enough design for the families, over there.
10 That's why and this is the narrowest we can get with two
11 bedrooms.

12 MS. VICKERS: I would just end with the property
13 to the, the north is supportive. And that the relief that
14 we are giving, if we were to build on the property line.
15 This relief does, does provide some distance to dividing
16 property owner. And they did, they did indicate a letter of
17 support.

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

21 MEMBER HART: Yes.

22 CHAIRPERSON HILL: Okay. Mr. Turnbull, do you
23 want to start us off?

24 COMMISSIONER TURNBULL: Now, I, I understand the
25 Vice Chair's angst. I, right now I'm satisfied with it. I

1 didn't think that's four feet is amenable. I think the
2 argument about the size of a lot makes sense. And as OP has
3 said, I think the applicant's case for four feet, regarding
4 the windows and trying to make a workable design.

5 If he went to the lot line, he'd have, I mean that
6 causes a lot more problems with the design of a building.
7 So I mean, if, if we want to see the arguments in writing,
8 that's fine. I'm, I'm okay with that, but I see, I think
9 I am right now, I could be fine with the application.

10 MEMBER WHITE: I think I concur with Mr.
11 Turnbull's assessment regarding the applicant's meeting the
12 special exception and variance criteria. I think I'm
13 comfortable with the attorney's kind of restatement of
14 meeting the prongs for the variance test, as well as the
15 report from OP, as well as the support from the ANC.

16 I thinks the, the lot is unusually narrow. And
17 most of the lots in that area are a lot larger. I think this
18 one he said was 40 feet wide, and most of them we're like 70
19 feet wide, if I'm recalling it correctly.

20 There's a lot of community support. These are
21 family size units. I get the sense that the community
22 overall is in support. And I think I can get behind the fact
23 that they've meet the standards for relief for both the
24 variance and the special, special exception application.

25 MEMBER JOHN: So Mr. Chairman, I focused on the

1 variance relief because I thought that the rest of the
2 application was fairly straightforward. And I was persuaded
3 by the argument that the lot at 40 foot wide is larger than
4 what you would need for a semi-detached, or something like
5 that, so --

6 And for an apartment building, it would have been,
7 really too narrow to provide the eight foot side yard. So
8 I was persuaded by that argument, as amplified by the
9 statements that we have heard this morning. So I am able to
10 support this application, based on the record and OP's
11 analysis.

12 MEMBER HART: Well you've heard my questions, so
13 far. I understand your viewpoints on it. I just felt that
14 that we did not have sufficient information to be able to go
15 to decide on the, on the variance test. I still prefer to
16 have more information on it. And I fail that --

17 While I understand that this lot may be narrower
18 than other lots in the area for, you know, an apartment, I
19 still don't see the -- I don't feel that the information is
20 necessarily in the record to be able to make that claim.

21 I understand the applicant has provided that
22 information today, as well. And Office of Planning provided
23 that in their support of the application as well. I am, I
24 don't think that I'd be able to support the application
25 because I don't think that the variance test that we have

1 sufficient information to approve the variance, or show that
2 the applicant has met the various tests.

3 And I just feel that it's, that information would
4 be helpful to be able to, to do that. But again, I'm, as we
5 all, I'm one vote of the five you have on the Board.

6 CHAIRPERSON HILL: Okay. So I'm also -- this is
7 an interesting day. I'm also just kind of in agreement with
8 you Mr. Hart, in that, I think that there could have been
9 more information provided concerning the variance test.

10 However, you know, I'm not going to get in the way
11 of what seems to be happening at this particular point. So
12 I'm going to ask somebody to make a motion for the
13 application.

14 COMMISSIONER TURNBULL: Mr. Chair, understanding
15 both of your viewpoints, I thought there was enough of oral
16 discussion, and from the Office of Planning, and from the
17 applicant, and ourselves on the dais that we could -- and I
18 would make a motion that we approve application number 19889
19 of AMM To Investments LLC. Look for a second.

20 MEMBER WHITE: Second.

21 CHAIRPERSON HILL: The motion made and seconded,
22 all those in favor say aye.

23 (Chorus of ayes)

24 CHAIRPERSON HILL: All those opposed, nay. Motion
25 passes. Ms. Rose --

1 MS. ROSE: Staff would record the vote as three
2 to two to zero, with a motion by Mr. Turnbull, second by Ms.
3 White. In support of the motion is Ms. John with Mr. Hill
4 and Mr. Hart opposed to the motion.

5 CHAIRPERSON HILL: All right. Great. Thank you.
6 Thank you, very much. All right. Ms. Rose, you can call the
7 next one up.

8 MS. ROSE: Next is application 19913, 57th Street
9 Mews Inc. Pursuant to the 11 DCMR Subtitle X, Chapter 9 for
10 a special exception under the inclusionary zoning, lot
11 dimension requirements of Subtitle E, 201.1 to subdivide the
12 existing lot and to construct three new attached flats in the
13 RF1 zone at premises 1511 through 1515 A Street, Northeast,
14 square 1070, lot 94.

15 CHAIRPERSON HILL: All right. Let's see, if you
16 could please introduce yourselves for the record.

17 MR. ALI: Ramy Ali with Ramy Design Architects.

18 MR. BELLO: Toye Bello, representing the
19 applicant.

20 MR. DEMUREN: Taiwo Demuren, 57th Street Mews
21 Inc., the owner of the building.

22 CHAIRPERSON HILL: Can you spell your last name,
23 please, sir?

24 MR. DEMUREN: D-E-M-U-R-E-N.

25 CHAIRPERSON HILL: Okay. Great. Thank you. I'm

1 sorry, sir, I was -- well first of all, if you could just
2 have one microphone on at a time if you could, thank you.
3 And then the architect, could you pronounce your name again
4 for me? I'm sorry, I didn't hear all the time.

5 MR. ALI: Ramy Ali.

6 CHAIRPERSON HILL: Ali, that's right. Okay. I
7 didn't hear, Ali. Okay. All right. Is Mr. Bello or Mr. Ali
8 going to be presenting to us?

9 MR. BELLO: I'll be presenting.

10 CHAIRPERSON HILL: Okay. I'm trying to remember
11 here. Okay. So all right, Mr. Bello, if you want to go
12 ahead and walk us through the application and what you're
13 trying to achieve. I'm trying to remember where, when you've
14 been here.

15 I think there was a couple of things that happened
16 earlier because I've, I've seen this thing now a couple of
17 times. But if you could go ahead, walk us through your
18 presentation, what you're trying to do, and how your meeting
19 the standard for us to grant the application. I'm going to
20 put 15 minutes on the clock, so I know where we are.

21 And before you begin, just to let everyone know,
22 I mean, we have a very full day today. And so I don't know,
23 we might be able to work through one more case, which would
24 be 19942. I doubt we'll get past that after -- until we take
25 lunch. And then hopefully, we get through, that would be

1 then, one, two, three, four --

2 There's still four cases before we have an appeal.
3 And so, I'm just kind of letting you know. I don't know
4 whether will get to 19942, or not. We'll see what happens.
5 Mr. Bello, go ahead. Put 15 minutes on the clock, Ms. Rose.
6 And you can begin whenever you like.

7 MR. BELLO: Thank you. The instant application
8 is a special exception relief to subdivide a single lot of
9 record into three 16-foot wide lots, and to construct three
10 buildings containing two units each, for a total of six units
11 on, on the subject property.

12 The project is opting into the IZ provisions,
13 which is why we're here requesting a special exception, in
14 order to create widths of lots that are 16 feet wide. And
15 the application meets all the conditions for the IZ, for
16 opting into the IZ. Specifically, on the Section, Subtitle
17 C, Chapter 10, Section 1001.2.

18 CHAIRPERSON HILL: You know what, I'm going to
19 catch out for you just a little bit because I want to kind
20 of ask a couple questions of you. And then, see as I
21 mentioned, we have a pretty full day today. So some of the
22 conditions that the ANC had mentioned, I think that we can
23 -- I just want to talk about a little bit.

24 One was, in whether or not you're, the applicant
25 is an agreement to some of them. Again, adhere to the plans

1 presented by the applicant in this request, including but not
2 limited to design, appearance, size, and building materials
3 any substantial deviation from these plans must be brought
4 back to the ANC. You're in agreement?

5 MR. BELLO: Absolutely.

6 CHAIRPERSON HILL: Okay. Keep the height limit
7 of the development to no more than 35 feet for what will be
8 designated as 1513 - 15 A Street, Northeast, and 25 feet for
9 what will be designated as 1511 A Street, Northeast, as
10 outlined in the plans presented by the applicant in this
11 request.

12 Our ANC notes that the current proposal appears
13 to be below the minimum amount allowable, below the maximum
14 allowable height under RF1 for three adjoining lots and under
15 simultaneous development. Do you agree with this condition?

16 MR. BELLO: Yes, we do.

17 CHAIRPERSON HILL: Okay. Build the inclusionary
18 zoning unit required under the special exception on site at
19 1511 through 1515 A Street, Northeast?

20 MR. BELLO: That's what's contemplated, yes.

21 CHAIRPERSON HILL: Okay. Will you agree to it?

22 MR. BELLO: We do.

23 CHAIRPERSON HILL: Okay. And then, include at
24 least six parking spaces on site at 1511 through 1515 A
25 Street, Northeast?

1 MR. BELLO: We do.

2 CHAIRPERSON HILL: You agree to it. Okay. All
3 right. The last one I think, is a little bit difficult for
4 us to adopt as a condition, which is really what the Board
5 -- the ANC's asking. Not seek further zoning really for 1511
6 through 1511 A Street, Northeast, unless supported by this
7 ANC.

8 So I don't think we'll be able to adopt that, as
9 a condition because that is what we're supposed to do. So
10 does the Board have any questions? I mean, I think the
11 applicant has the application and the testimony in the
12 record. Does the Board have any specific questions for the
13 applicant at this time?

14 COMMISSIONER TURNBULL: Yes, thank you, Mr. Chair.
15 It looks like the unit of the far-right of the drawing that
16 were looking at is two stories high. The others are three
17 stories and you've got a setback. On those three story
18 units, you can access the roof?

19 MR. ALI: Yes. The two buildings that have, that
20 are three stories and cellars they have access to the roof
21 through a roof hatch, within the third floor.

22 COMMISSIONER TURNBULL: Okay. I'm trying to figure
23 out --

24 MR. ALI: A21, rear elevation.

25 COMMISSIONER TURNBULL: Well on A22, A22 shows a

1 private roof deck guardrails. Now, but it doesn't show any
2 guardrails at the edge of the building. And I -- what then
3 is confusing is that on drawing A23, which shows a section
4 through the building on A23.

5 MR. ALI: I can clarify that. It's because
6 there's an extended parapet along the roof line, the 42-inch
7 high parapet.

8 COMMISSIONER TURNBULL: But it doesn't show
9 anywhere.

10 MR. ALI: I'm just referring to that sheet that
11 you pointed out A --

12 COMMISSIONER TURNBULL: 23? Can, can you go to
13 A23? On A23 it sort of shows a little stair going up, with
14 a guardrail around it, but at the edge of the roof it looks
15 like it's only a parapet of six to eight inches or maybe a
16 foot.

17 MR. ALI: Yes. It's because we're not extending
18 the, the roof all the way to the edge. So we're keeping the
19 roof deck away from the front facade. So we don't have to
20 extend it up to 44 inches.

21 COMMISSIONER TURNBULL: Well, do you have a roof
22 plan?

23 MR. ALI: Yes.

24 COMMISSIONER TURNBULL: Maybe I can look at a roof
25 plan.

1 MR. ALI: If you look at A19, the roof deck is
2 like ten feet inwards, ten foot, six inches from the back,
3 rear wall.

4 COMMISSIONER TURNBULL: So the guardrail is 42
5 inches all around that private roof deck?

6 MR. ALI: From the front to the back. And at the
7 edges, we're just trying to extend that parapet to 42 inches.

8 COMMISSIONER TURNBULL: Okay. I guess, I --
9 didn't show up on -- it's hard to, well I guess what didn't,
10 what was confusing is when I look on A22, it looks like
11 there's a -- I see a guardrail around the stairs, but then
12 I don't see anything front, or back, or, I'm, I'm not sure
13 what I'm looking at.

14 MR. ALI: Yes. We, we were trying to trying to
15 keep the wall along the alley as uniform as 42 inches. But
16 front and back, we don't have to extend that parapet all the
17 way up to that 42-inch line.

18 The section, the section you're refer to at the
19 very beginning, we just want to clarify that the roof hatch
20 top does not extend beyond that 42 inch height from the roof.
21 That was the main intent of detailing that area.

22 COMMISSIONER TURNBULL: So that, the guardrail
23 that I'm looking at, okay, if I come up and I go towards --
24 can I go toward this elevation? Can I go towards the side
25 here, the alley side?

1 MR. ALI: You're looking at the elevation or the
2 section now?

3 COMMISSIONER TURNBULL: Well I'm looking at A22.
4 This thing looks like it shows up, it -- A22 looks like it
5 goes up beyond, beyond the roof.

6 MR. ALI: Yes, I agree. That, that line needs
7 to be aligned with the roof line at 42 inches. There's no
8 point of that going beyond.

9 COMMISSIONER TURNBULL: Well that's what I was
10 wondering. So the roof line is wrong. That should be
11 extended up higher?

12 MR. ALI: No. The roof line is correct. The
13 guardrail it shouldn't, it shouldn't be showing on that
14 elevation. It should be like, aligned with the parapet.

15 COMMISSIONER TURNBULL: That's what I thought.

16 MR. ALI: Yes.

17 COMMISSIONER TURNBULL: I was going to say because
18 otherwise, it looks like --

19 MR. ALI: Yes, like a --

20 COMMISSIONER TURNBULL: -- like that could fall
21 off. I don't it could fall -- okay. So all right, so that
22 needs to be taken -- okay. All right. Thank you.

23 CHAIRPERSON HILL: Okay. Any questions for the
24 applicant? And turning to the Office of Planning.

25 MR. JESICK: Thank you, Mr. Chairman and members

1 of the Board. My name is Matt Jesick. The Office of
2 Planning is happy to rest on the record, in support of the
3 application. I'd be happy to take any questions. Thank you.

4 CHAIRPERSON HILL: Okay. Does the Board have any
5 questions for the Office of Planning? Does the applicant
6 have any questions for the Office of Planning?

7 MR. BELLO: No, thank you.

8 CHAIRPERSON HILL: All right. Is there anyone
9 here who wishes to speak in support? Is there -- oh, please,
10 come forward. Have you all been sworn in?

11 MR. ALCORN: Yes.

12 MR. PETERSON: Yes.

13 CHAIRPERSON HILL: Okay. Great. If you could
14 please introduce yourselves, for the record.

15 MR. ALCORN: Sure. So to start, good afternoon,
16 Brian Alcorn, representative of ANC 6A08.

17 CHAIRPERSON HILL: Hello Commissioner, how are
18 you?

19 MR. ALCORN: Very well, thank you, Mr. Chair.

20 CHAIRPERSON HILL: Good. Sir?

21 MR. PETERSON: I'm Gary Peterson. I'm Chair of
22 the Capitol Hill Restoration Society Zoning Committee.

23 CHAIRPERSON HILL: Okay. All right. We've got
24 big wigs in the house today. All right. So I guess you are
25 the ANC, are you the SMD also?

1 MR. ALCORN: Yes, this is my SMD, as well.

2 CHAIRPERSON HILL: Okay. Great. So you'll get
3 five minutes to testify. Well actually, that's not true.
4 You're a party, so you can do whatever you want. But I'll
5 give you -- but I'll just hear your testimony, if that's all
6 right. We'll start with that Commissioner. And then --

7 Actually, Mr. Peterson, can we start with you?
8 If you wouldn't mind because you are just going to get, well
9 actually you do get five minutes because you're representing
10 an agency, or not agency, a community group.

11 MR. PETERSON: Yes. Right, but I won't take very
12 long, so --

13 CHAIRPERSON HILL: Okay. I'm just going to put
14 five minutes on the clock anyway because that's what I'm
15 supposed to do. And you can begin whenever you'd like.

16 MR. PETERSON: Oh fine. Our committee has
17 reviewed this plan and voted to support it conditioned on
18 there being no further appeals by the applicant. Without
19 going into the deep, dark history of this case, there are at
20 least three appeals that were pending, or are still pending,
21 no decision.

22 And we just want to make -- we want finality here.
23 We approve of the plans. We think it's a good plan and would
24 recommend to you that you approve it, though we, we support
25 the special exception requested.

1 CHAIRPERSON HILL: Okay. Great. Well I'm glad
2 that you're able to get to the same page as the, the
3 applicant. Commissioner?

4 MR. ALCORN: Sure, thank you, Mr. Chair. And
5 thank you for running through the ANC's letters and
6 conditions on the top. I think that does make this a little
7 bit easier. I do have a prepared statement I'd like to read
8 so --

9 CHAIRPERSON HILL: Sure. Please go ahead.

10 MR. ALCORN: -- so I'd like you to ask to bear
11 with me.

12 CHAIRPERSON HILL: Take your time.

13 MR. ALCORN: Thank you. Thanks for the
14 opportunity to testify today. I'm Brian Alcorn,
15 Commissioner for single member district 6A08, and designated
16 representative on this matter. My SMD also encompasses the
17 applicant 57 Mews Property at 1511 A Street, Northeast. I
18 also own a primary residence less than 75 feet from that
19 property.

20 Thanks also to the Board for postponing this
21 hearing to today's date. I was most confused why the
22 applicant in this case wanted to proceed with the hearing
23 back at your public meeting on February 27th, after having
24 agreed to join us prior to that meeting, to ask for a
25 postponement to a March date.

1 Anyway, I am here today to talk about community
2 sentiment in ANC 6A's vote of conditional support for a
3 special exception shown in a specific architectural rendering
4 design package proposal to subdivide a lot and create three
5 flats containing two units each, including an inclusionary
6 zoning unit.

7 Contrary to the assertions in the applicant's
8 pre-hearing statement, there is robust community interest in
9 the proper development of this parcel. There are over a
10 dozen community letters in the BZA case file.

11 There has been robust attendance ANC zoning
12 subcommittee hearings. And there was strong attendance at a
13 March community meeting that the applicant's team had
14 requested the ANC set up for them, which we were happy to do.

15 The neighborhood is presently encouraged by the
16 prospect that Mews is exploring a proposal that would be
17 consistent with the RF1 designation of the neighborhood. And
18 is much more in line with the density, and uniformity of our
19 neighborhood than any proposal we've seen so far.

20 As proposed, the architectural renderings provided
21 by Mews, as Exhibit 52, appear on their face to be in harmony
22 with the general purpose, and intent, of the zoning
23 regulations, and the zoning map.

24 However, the neighborhood remains concerned that
25 1511 A Street, Northeast will be in fact, developed in a

1 manner that is consistent with the neighborhood if the
2 special exception is granted. And that's why the ANC voted
3 to provide the conditional support that I will lay out today.

4 There is good reason for this. As Commissioners
5 of this Board may remember, an effort by Mews to construct
6 a non-zoning compliant and wildly out of scale 18 unit,
7 five-story condominium, or apartment building on that side
8 begin in 2013.

9 After a number of appeals by the community, the
10 plans and application of zoning to the property was found to
11 be improper by DCRA, as well as BZA, before any construction
12 started. This was case 19505, verbally decided back in
13 November 2017, and it was quite contentious.

14 Throughout that journey, the neighborhood and
15 ANC6A has had to expend significant time, attention, and
16 resources in dealing with this property under the applicant's
17 stewardship and its related matters.

18 Over time, the community has grown skeptical of
19 Mews' ability or willingness to advance a viable plan, or
20 employ qualified professionals for this property. The
21 applicant's past use of architects and structural engineers
22 that, on that other project who were unlicensed or barred
23 from practicing in the District of Columbia, have not helped
24 matters either.

25 A couple of key points the neighbors asked me to

1 raise about this past and current history. Homeowners and
2 residents in this immediate Capitol Hill neighborhood have
3 prioritized preservation of the residential low-to-moderate
4 housing density that is common on square 1070.

5 In 2015, the Zoning Commission approved the
6 down-zoning of 18 properties on that square, to R4 now RF1,
7 including this property, in a zoning map amendment in support
8 of this priority. And the applicant acknowledges this in his
9 pre-hearing statement, as well as, willingness to comply with
10 that.

11 As recognized by the Zoning Commission, and
12 reflected in the record in ZC14-20, every residence on the
13 1500 block of A Street, Northeast, squares 1070 and 1069 to
14 the north, is either a single family residence, or two flat
15 row home with a cellar, first and second level.

16 All are uniformly, early 1900's Victorian,
17 bayfront, or slightly newer porch front homes. None features
18 a pop-up, third story, or rooftop deck on the primary
19 structure. No existing home on 1500 block of A Street hits
20 the buy-right 35 foot height limitation in the RF1 zone at
21 this time.

22 In its pre-hearing statement, 57 Street Mews
23 appears to recognize that predominant two-story residential
24 developments dominate the neighborhood around the property
25 of 1511 A Street. The community believes that any in fill

1 development at 1511 A street must comply with the RF1 zone
2 requirements, and should closely mirror, and not overwhelm
3 existing homes at the 1500 block of A Street, Northeast.

4 The applicant has made recent misrepresentations
5 that have been irksome to neighbors. You will see several
6 letters from neighbors regarding misstatements made by the
7 owner about incomplete community outreach plans and
8 neighborhood support. These statements were not true. The
9 ANC has also made itself accessible, and is unfairly
10 criticized in the pre-hearing statement.

11 Similarly, neighbors have founded it vexing that
12 no District licensed design or engineering professional has
13 been involved, thus far, save for a D.C. licensed architect,
14 Suleiman Umar, who signed the undated, self-certification
15 that appears as Exhibit 3. Mr. Umar is not otherwise
16 involved with this project to our knowledge.

17 Mr. Ali, presenting to you today, is not an
18 architect licensed in D.C., to our knowledge. While Mr. Ali
19 claims that this is common practice, we find this troubling
20 given the history that I've already described with this
21 property. Mews' reliance on professionals who are actually
22 unlicensed, or barred from practicing in the District of
23 Columbia upsets the community.

24 However, despite these concerns and the
25 neighborhood's long history with this property, we are

1 encouraged by this latest proposal, that if executed as shown
2 in Mews' architectural renderings and design package, several
3 new for sale homes that would be consistent with the RF1
4 designation of the neighborhood and the property, may be
5 delivered.

6 And that would be much more in line with the
7 low-to-mid density and uniformity of this residential
8 neighborhood than the aforementioned and wholly discredited
9 five-story apartment building. As you would expect in these
10 circumstances, the neighborhood has had many questions and
11 concerns with this proposal related to trash storage, traffic
12 impact, light, air.

13 And honestly about the developer, ranging from
14 cautionary support to outright opposition. So we've tried
15 to be strategic in how we approach this, as we want to see
16 this property put to productive use.

17 Yet given the difficulties with this owner and the
18 property in the past, we think this is a great opportunity
19 for the BZA to impose requirements on a potential special
20 exception approval as allowed under Subtitle X, Chapter 9,
21 901.4, and term limit as allowed under 901.5.

22 You have the power to set conditions that are
23 meaningful under this guidance. The ANC's conditions are
24 presented in our letter, which I -- you have described, and
25 are the meaningful requirements that we would like to see as

1 a condition of this special exception.

2 To summarize, the applicant is seeking a special
3 exception to subdivide square 1070, lot 94 into three lots
4 of 16 feet, 16 feet, and 16.04 feet. The minimum lot with
5 requirement in this RF1 zone is 18 feet, but 16 feet is
6 allowed by special exception if IZ accommodations are created
7 at the developed property.

8 So in exchange for the benefit of those narrow lot
9 widths, we need to ensure that an IZ unit is on site, as a
10 gateway issue, which you have confirmed. There would be no
11 other reason to allow narrower lots otherwise.

12 It is also our understanding that the applicant
13 has not considered subdividing a lot into two, as a matter
14 of right, nor has, have they prepared an alternate proposal
15 to explore that option.

16 So, as outlined in the ANC report are the
17 recommendations we'd like to see as conditions for the
18 special exception, Exhibit 68. And you have verified that
19 the applicant has agreed to those.

20 Save for the final request from the ANC, which was
21 not to seek further zoning relief for 1511 to 1515 A Street.
22 And there's a typo there. Unless supported by this ANC, we
23 recognize that's, that's the Board's sole jurisdiction.

24 So in summary, if the BZA implements these
25 conditions pursuant to its authorities, then the ANC believes

1 the special exception may be in harmony with the general
2 purpose and intent of the zoning regulations and zoning maps,
3 and will not tend to affect adversely the use of neighboring
4 property, in accordance with the zoning regulations and
5 zoning maps.

6 The general purpose and intent of the zoning
7 regulations and zoning maps should ensure the proposed
8 development will be consistent with the existing
9 predominantly two-story residential developments in this
10 low-to-moderate density residential neighborhood.

11 In closing, ANC6A and neighbors are pleased to
12 finally review a proposal that recognizes and accedes to the
13 low-mid density RF1 zoning of the community and on and around
14 the subject property in square 1070. We're hopeful that BZA
15 will favorably consider the ANC's recommendation for
16 conditional support.

17 And then one other item, I would add to the
18 bulleted list, where we address parking. Include at least
19 six parking spaces on site at 1511 to 1515 A Street,
20 Northeast. I would note that the present renderings do show
21 seven parking spaces.

22 However, I would also note that the parking spaces
23 as arrayed presently, do not conform to the lot lines of the
24 proposed subdivision, and in fact went over there lot lines.
25 The applicant has explained to us that there would be some

1 type of internal easement negotiated among the different
2 property owners or controlling entities of the property.

3 However, I would note that in Exhibit 3, the
4 self-certification, that document which is signed by that
5 other architect, who's not present today, does indicate that
6 there will only be three parking spaces as part. So the
7 Board may wish to clarify that with the applicant, as well.
8 Thank you for the opportunity to testify.

9 CHAIRPERSON HILL: Okay, thank you. Thank you,
10 Commissioner. I mean, I guess, my response to that is that
11 the applicant has agreed to the condition to include at least
12 six parking spaces on site 1511 through 1515 A Street,
13 Northeast. Correct?

14 MR. BELLO: That's correct, Mr. Chairman.

15 CHAIRPERSON HILL: Do you have any explanation
16 concerning the Commissioner's question concerning the
17 parking?

18 MR. BELLO: Well the explanation is simply that
19 that only one parking space is required for each lot. So to
20 the extent that there are parking spaces crossing property
21 boundary lines as the Commissioner rightfully points out,
22 that only necessitates an easement issue. So there isn't
23 a zoning violation here of any sorts.

24 CHAIRPERSON HILL: Okay. So I'm just going to
25 stick with the original condition. So you're in agreement?

1 MR. BELLO: We're fine with the -- we're fine with
2 it.

3 CHAIRPERSON HILL: Okay. That's fine. So they're
4 agreeing to the original condition. So let's see, does
5 anybody have any questions for the Commissioner or the
6 representative from Capitol Hill Restoration Society? Okay.

7 Let's see, well I remember this now. Right. And
8 so, I'm glad that we're back here to where we're back here.
9 I don't think you guys have any questions for the
10 Commissioner. Correct?

11 MR. BELLO: No, we don't.

12 CHAIRPERSON HILL: But feel free if you do. But
13 you don't correct?

14 MR. BELLO: No, we don't.

15 CHAIRPERSON HILL: Okay. All right. Thank you
16 gentlemen, very much. All right. Do you have anything --
17 oh wait, hold on, something I forgot. Does anybody here wish
18 to speak in opposition? You guys, you're an ANC
19 Commissioner, you're, we're a party. You can sit there as
20 long as you like, Mr. Alcorn, Commissioner.

21 MR. ALCORN: Thank you.

22 CHAIRPERSON HILL: And so, let's see, is there
23 anyone here who wishes to speak in opposition? No? Okay.
24 Mr. Bello, is there anything you'd like to add at the end?

25 MR. BELLO: No, Mr. Chairman. We'll just rest on

1 the records.

2 CHAIRPERSON HILL: Okay. Oh sorry, sir. Go
3 ahead, Ms. White.

4 MEMBER WHITE: Can you just give me a little color
5 on the DDOT's report? They, they raised an issue regarding
6 the front porch and the areaway projections? They seem to
7 have some questions about that, and I just wanted to make
8 sure that that was being dealt with.

9 MR. BELLO: Who wants to deal with --

10 MR. ALI: I'm pulling up the cellar floor plan to
11 point out, drawing A6. Previously, we had these stairs that
12 leading down to the areaway in a different orientation that
13 was projecting more out, into public space. So this is the
14 revised stairs leading down to the areaway to comply with
15 DDOT requirements.

16 And the front porches, there was, this is the
17 revised layout is set back five inches from aligning with
18 adjoining neighbors because this exceeds the five foot max
19 limit to go beyond the property line for any projections.

20 So that was basically the two comments that we
21 had. That the stairs leading down to the areaway is too
22 further into the front yard. And the front porch is only,
23 was only like five inches beyond the five foot mark from the
24 property line. So these were revised on the plans.

25 MEMBER WHITE: So you've responded to their

1 concerns?

2 MR. ALI: Yes.

3 MEMBER WHITE: Okay. Thank you. Just wanted that
4 on the record.

5 CHAIRPERSON HILL: Okay. All right.
6 Commissioner, you have something to add?

7 MR. ALCORN: Mr. Chairman, if you'd just permit
8 one other comment?

9 CHAIRPERSON HILL: Sure.

10 MR. ALCORN: Pursuant to the discussion, that
11 Commissioner Miller had in an earlier case, I would point out
12 that the ten foot extension issue is at play here as well.
13 This property does abut a property at 1509 A Street and we
14 appreciate that Mr. Ali has designed this project in a way
15 that the first, the first building that would be developed,
16 1511 A Street extends only 10 feet beyond the abutting
17 property.

18 And then the subsequent two other properties that
19 will be developed, 1513 and 1515 A, extended further ten feet
20 beyond newly constructed building. We feel that that is a
21 reasonable sort of way to honor that particular guideline.

22 And was also part of the intent of us seeking to
23 limit further zoning relief as an extension beyond that ten
24 foot, or be on that 20 foot increment would become
25 potentially objectionable to the community.

1 CHAIRPERSON HILL: Okay. All right. Well I'm
2 going to ask a question now then that you brought it up so
3 Commissioner. And so, and so I don't know if we're going to
4 make it to lunch after this or not.

5 So I don't know whether you, I know that you been
6 here for this one for a long time. And so, in your ANC,
7 like you know about, you know, going back ten feet and going
8 back farther under special exception. Correct?

9 And, and in general I mean, I don't even know what
10 the hell I'm trying to ask -- I mean, some ANCs actually
11 don't seem to have a lot of opposition to going back farther
12 than ten feet. What is your ANC kind of seem to be leaning
13 towards?

14 MR. ALCORN: Sure. Unfortunately, as a relatively
15 new ANC Commissioner, I can't speak to the institutional
16 history of that particular practice. I can only speak to my
17 well hued knowledge of about this particular property.

18 We do have Mr. Peterson here, who as the
19 representative of CHRS does regularly confront this issue in
20 the neighborhood among different ANCs, and I would certainly
21 welcome his opinion, if that's something you would indulge.

22 CHAIRPERSON HILL: But, I mean, I don't see CHRS
23 is just right now, to speak on that particular item. But I
24 guess in terms of historical conversation, again, they down-
25 zoned. And so that's how people kind of lost the ability to

1 go ahead and fill out the, the property all the way to the
2 lot occupancy.

3 So that's where it, it continues to be a struggle
4 for me. Like I've at least been here long enough that I
5 understand how we got to this point, which may be, you know,
6 after I'm gone it will be just won't remember. Okay. So I'm
7 going to close the record unless the applicant has anything
8 that they want to add.

9 MR. BELLO: No, Mr. Chairman.

10 CHAIRPERSON HILL: Okay. Is the Board ready to
11 deliberate? Okay. I can start. I think that I'm glad to
12 see that the applicant has gotten to -- this, this property
13 been going on for a long time. I know this project has been
14 going for a long time.

15 And I'm sure that the applicant plans on doing
16 everything that they said they're going to do in terms of
17 working with the ANC, and concerning the ANC's conditions.
18 I also would agree with the analysis that was provided by the
19 Office of Planning in terms of how they're meeting the
20 standard to grant this application.

21 I'm thankful that my fellow colleague, Ms. White,
22 mentioned the issues with DDOT, and I'm glad that that has
23 been resolved. I'm going to be voting in favor. Does anyone
24 have anything they'd like to add? Going to go ahead and make
25 a motion to approve --

1 COMMISSIONER TURNBULL: Mr. Chair --

2 CHAIRPERSON HILL: Sure, certainly --

3 COMMISSIONER TURNBULL: Can I just add, I'm not
4 opposed to voting on this and voting in support. My only
5 concern right now, is being, representing a neighbor in this
6 area, I would like to see a corrected set of drawings that
7 actually shows the height of the parapet and that.

8 And that's mainly because of all the things that
9 have gone on with this project, over the years. I think a
10 corrected set of drawings would be integral too satisfying
11 everybody's needs. And it should be copied not only to BZA,
12 but ANC, and the Capitol Hill Restoration Society so that
13 they know exactly what we've got. I mean, if you want to
14 vote on it, it's fine. But I think I corrected set --

15 CHAIRPERSON HILL: That's fine.

16 COMMISSIONER TURNBULL: -- of drawings would be
17 --

18 CHAIRPERSON HILL: That's fine. I don't disagree.
19 Is the applicant able to provide a corrected set of drawings?

20 MR. ALI: Sure.

21 CHAIRPERSON HILL: When can you provide that
22 corrected set of drawings?

23 MR. ALI: Like by tomorrow. That's something that
24 would not even pass a zoning review, if it's stays there, so

25 --

1 CHAIRPERSON HILL: Okay. So you're going to get
2 a corrected set of drawings into the record by when?

3 MR. ALI: By tomorrow. It's only that building
4 section that Mr. Turnbull had pointed out regarding the
5 parapet.

6 COMMISSIONER TURNBULL: Yes, well I think your
7 elevation A22, if that's not correct. And the Section A23,
8 and whatever other sections have to do with that roof, that,
9 that the neighbors know exactly how high this building is,
10 and what it's going to look like.

11 MR. ALI: Definitely. We can have that by
12 tomorrow.

13 COMMISSIONER TURNBULL: I think it would be good
14 to have that in the record.

15 CHAIRPERSON HILL: Okay and you'll supply that to
16 the ANC, as well?

17 MR. ALI: Definitely, I will.

18 CHAIRPERSON HILL: Okay. Is the Board comfortable
19 with doing this in this manner, in terms of moving forward
20 with the deliberation, the discussion, and then allowing the
21 applicant to submit plans into the record? I'm going to say
22 by Friday. Okay?

23 I'm comfortable with that in that in this
24 particular case. And part of that is because Mr. Bello and
25 Mr. Ali come before us again -- normally what we do, is we

1 would wait, and now, not be able to deliberate, if there's
2 something else we want to see into the records, so we
3 actually get it into the record.

4 But so now, if we don't get it in by Friday, and
5 you come back again, you'll never have this opportunity
6 again. Okay? So we'll leave that open for -- we'll leave
7 the record open. Oh now, I've got OAG looking. So is that,
8 did you have a question?

9 MS. ROSE: I was just asking about closing the
10 record, but she said it's closed except for --

11 CHAIRPERSON HILL: Okay. So we're going to leave
12 the record open except for the one item that Commissioner
13 Turnbull has just asked for, which is specific drawings. And
14 those drawings will be given to the ANC, and submitted into
15 the record by Friday.

16 COMMISSIONER TURNBULL: And the Restoration
17 Society.

18 CHAIRPERSON HILL: And the Restoration Society.
19 Okay. All right. Okay. So I'm going to go ahead and --
20 does anybody have anything they'd like to add? In the
21 approval?

22 MEMBER JOHN: I was just wondering if we would
23 submit this information to non-parties? Only the ANC is a
24 party. The ANC could share the information with the Capitol
25 Hill Society, I imagine.

1 MS. NAGELHOUT: The, the information should be
2 available on ISIS, as well.

3 CHAIRPERSON HILL: Okay. So the clarification,
4 which I appreciate because we're going to be, we would come
5 up again with this, at another time, is that you'll just
6 submit information to the parties. Okay. So the party's the
7 ANC. It's going to be in the record.

8 Capitol Hill Restoration Society can also take a
9 look at that when it comes in the record on Friday. And
10 Commissioner, if you'd like to share with your colleague,
11 that would be also welcome. Okay. Anyone else? Okay. I'm
12 going to make a motion to approve application number 19913,
13 as captioned and read by the secretary, and ask for a second.

14 MEMBER HART: Second.

15 CHAIRPERSON HILL: Motion made, and seconded. All
16 those in favor say aye.

17 (Chorus of ayes)

18 CHAIRPERSON HILL: All those opposed. The motion
19 passes. Miss Rose --

20 MS. ROSE: Staff will record the vote as five to
21 zero to zero with a motion by Mr. Hill, second by Mr. Hart,
22 with Ms. White, Ms. John, and Mr. Turnbull in support of the
23 motion. And is that with conditions?

24 CHAIRPERSON HILL: Yes, I'm sorry. With the
25 conditions, as I read with, I think, I don't know if OAG

1 needs me that to read them again, but they're in there. All
2 of the conditions are in there except for the last one,
3 within the ANC's letter.

4 MS. ROSE: Thank you.

5 CHAIRPERSON HILL: Okay. All right. Thank you,
6 all very much.

7 MR. BELLO: Thank you.

8 MR. ALI: Thank you.

9 CHAIRPERSON HILL: Let's try --

10 MR. DEMUREN: Thank you.

11 CHAIRPERSON HILL: You're welcome. Let's try for
12 one more, Ms. Rose, before we break for lunch.

13 MS. ROSE: Yes, sir. Now this application number
14 19942 of Alula Abera, pursuant to 11 DCMR Subtitle X, Chapter
15 9 for a special exception under Subtitle G, Section 1200 from
16 the lot occupancy requirements of Subtitle G, Section 404.1
17 to construct a third story.

18 And convert the existing semi-detached principal
19 dwelling unit to a four-unit apartment house in the MU4 zone
20 at premises 3321 11th Street, Northwest, square 2841, lot 8.
21 And the applicant, I think will be addressing amended relief.

22 CHAIRPERSON HILL: Okay. Great. Thank you, Ms.
23 Rose. If you would please introduce yourself for the record.

24 MR. TRUITT: Joel Truitt representing Alula Abera.
25 And his mother is present, as well.

1 CHAIRPERSON HILL: Okay. Great. Could you spell
2 your last name please.

3 MR. TRUITT: T-R-U-I-T-T.

4 CHAIRPERSON HILL: Okay, Mr. Truitt. Can you
5 please introduce yourself?

6 MS. GEBRU: Alemtsehay Gebru, G-E-B-R-U.

7 CHAIRPERSON HILL: I'm sorry, could you say that
8 again?

9 MS. GEBRU: Alemtsehay Gebru.

10 CHAIRPERSON HILL: And could you spell your last
11 name for me?

12 MS. GEBRU: G-E-B-R-U.

13 CHAIRPERSON HILL: Okay. Great. Thank you. All
14 right, Mr. Truitt, are you going to be presenting to us?

15 MR. TRUITT: I will, yes.

16 CHAIRPERSON HILL: Okay. So Mr. Truitt, if you
17 could go ahead, and just walk us through your application and
18 what you're trying to accomplish. And also how your meeting
19 the standard for us to grant this application.

20 I'm going to put 15 minutes on the clock, so I
21 know where we are. And Ms. Rose if you don't mind doing
22 that. And you can begin whenever you'd like. You need to
23 push the button there, sorry.

24 MR. TRUITT: The application is for law of
25 occupancy variance to construct a third story on a two-story.

1 CHAIRPERSON HILL: Lot occupancy variance? No,
2 you're here for a special exception.

3 MR. TRUITT: Exception, I'm sorry.

4 CHAIRPERSON HILL: Okay.

5 MR. TRUITT: Yes, I'm sorry.

6 CHAIRPERSON HILL: Okay. Yes, no problem.

7 MR. TRUITT: To put a third story on a two-story
8 house and make four self-contained apartments in the
9 building. The lot is tight and I had a comment yesterday
10 from the office here that they thought that the measurements
11 on the lot were not correct.

12 But the plan as submitted, I went back and
13 re-measured and I got a difference of like one and a half
14 inches from what's on the record. They have the, the front
15 bay projects beyond the building line on the front, but the
16 building from the front door back, on the plat is 53 feet,
17 point 9 to the rear.

18 And on the back of the building, there is
19 currently a one-story wood enclosed porch. Our proposal is
20 to take that off. And we're including only the brick portion
21 of the house. On the north is an alley, public alley. So
22 it's semi-detached only because the alley.

23 So that gives us a rear yard, and it's odd shaped
24 because the way the alley cuts into the lot area. And so my
25 measurement for the lot was an inch and a half different from

1 what's on the plat at 53.9 and the width is correct.

2 In the back, we believe, and I think it's all
3 together possible, yesterday re-measuring it that we can get
4 two parking spaces in the backyard. Especially by taking off
5 this rear enclosed porch that's on the back of the building.

6 So we'd have three stories but we're proposing
7 that we would start the third story at the ceiling line of
8 the second floor. So you would take the roof off and that
9 lowers the roof line about three feet on the front because
10 of the slope of the roof is a crawl space.

11 So we would lower that down to the ceiling of the
12 second floor and go up ten feet for another floor. And
13 create a roof that also serves as the ceiling of the third
14 floor, keeping the whole height as low as possible.

15 And we had presented several pictures to the ANC,
16 as to how to deal with the front. And they were going to
17 give us their thoughts and opinions on how to handle the
18 front.

19 Simply our overall submission was a square
20 building, showing you the bulk of the building. But we
21 propose several approaches and they were going to give us
22 their thoughts. Should we go up and leave the peak that's
23 on the front?

24 We think that's a very important architectural
25 feature, on the front of the building because all of them in

1 that row have peaks on the front and mansards on the top of
2 the second floor. So we would not touch that, but go up for
3 third story.

4 CHAIRPERSON HILL: So Mr. Truitt, the, the ANC,
5 you know, I'm a little, just want to make sure, I'm --

6 MR. TRUITT: Sure.

7 CHAIRPERSON HILL: -- I'm understanding this.
8 They are in support of the design, the way it is? Or you're
9 going to have to work with the ANC on the design?

10 MR. TRUITT: Okay.

11 CHAIRPERSON HILL: No, I'm asking.

12 MR. TRUITT: I mean, the way it is? Oh, the way
13 the building is now?

14 CHAIRPERSON HILL: Yes.

15 MR. TRUITT: Oh yes, surely. Yes, we're in
16 support of that. That's right.

17 CHAIRPERSON HILL: The ANC is in support of that?

18 MR. TRUITT: Yes, yes. Good.

19 COMMISSIONER TURNBULL: What does that look like?
20 The only drawing we have is a little concept sketch.

21 MR. TRUITT: Right. I can, I can submit something
22 that would give you better. We had submitted some sketches
23 to the ANC that showed things like this -- I don't know if
24 that's --

25 CHAIRPERSON HILL: Oh, that's okay, now. Yes, I

1 mean, I'm sorry, Mr. Truitt. We're going to be a little bit
2 confused here, I can see. Because I also was, I also was
3 trying to look at your architectural drawings, even when I
4 was reviewing the file --

5 MR. TRUITT: Sure.

6 CHAIRPERSON HILL: And, and there really wasn't
7 a lot there.

8 MR. TRUITT: Okay.

9 CHAIRPERSON HILL: And so, what I'm confused by
10 in terms of the -- well, well, we're going to get through
11 everybody. We're going to get to the Office of Planning,
12 also in terms of, you know, what their thoughts were.

13 MR. TRUITT: Okay. Sure.

14 CHAIRPERSON HILL: But the ANC report, they are
15 in support. But then they talk about the third row and the
16 architect met with the community planning committee. And
17 then it says, well the SMD Commissioner will continue to work
18 with community and the architect to finalize the design,
19 which has yet to be determined.

20 I mean, again, what the BZA has to do, they have
21 to approve whatever the plans actually are.

22 MR. TRUITT: Okay.

23 CHAIRPERSON HILL: And so, it's unclear to us,
24 I think, as to what your -- we'd, I mean, there's two
25 architects here. So I'm sure they'd love to see a full set

1 of drawings and plans.

2 MR. TRUITT: Sure.

3 CHAIRPERSON HILL: So that we can understand what
4 we're approving. But let me go ahead and turn to -- well
5 first of all, does anybody have any questions of this
6 applicant, at this point? Okay. I'm going to turn to the
7 Office of Planning.

8 MR. KIRSCHENBAUM: Good afternoon, Chair Hill and
9 members of the Board, Jonathan Kirschenbaum from the Office
10 of Planning. We recommend approval of the area, sorry of the
11 special exception for lot occupancy. And we rest on the
12 record, please let me know if you have any further questions.

13 CHAIRPERSON HILL: Okay. Does anybody have any
14 questions for the Office of Planning?

15 COMMISSIONER TURNBULL: Yes. Do you know what the
16 plan looks like? Do you know what the drawings supposed to
17 be? What the building looks like?

18 MR. KIRSCHENBAUM: It is the same plans, I
19 believe, that you have in front of you.

20 COMMISSIONER TURNBULL: Oh, okay.

21 CHAIRPERSON HILL: Okay. Okay. All right. Does
22 anybody have any questions for the Office of Planning?
23 Because I, we're going to need to see some plans, you know.
24 Okay. So, Mr. Truitt --

25 MR. TRUITT: Yes.

1 CHAIRPERSON HILL: What I think we're going to
2 have to see from you, if you could provide something in --
3 well first of all, if you can submit some plans into the
4 record.

5 MR. TRUITT: Sure.

6 CHAIRPERSON HILL: You know, that show what it is
7 exactly you are proposing. Okay?

8 MR. TRUITT: Okay.

9 CHAIRPERSON HILL: And then if you could clarify,
10 clarify into the record what it is. I mean, it's just a
11 little confusing. I'm confused as to what the ANC -- the ANC
12 seems to be saying that they're still working with you. And
13 so if you can provide something into the record that says,
14 these are the plans that the ANC has reviewed, and approved.
15 Okay?

16 MR. TRUITT: Glad to.

17 CHAIRPERSON HILL: And then, I think you've spoken
18 to the issue, the issue about the plat. I don't think I have
19 any questions about the plat issue. Do you, does anyone have
20 any issues about the plat? The one thing that I did want
21 clarification of, I guess, is that you are, I think the
22 Office of Planning would agree, that you need, they need
23 relief from C202.2.

24 MR. KIRSCHENBAUM: I, we, we are not, I believe.

25 CHAIRPERSON HILL: You're not, you're not in

1 there, you're not dealing with it. Okay. And I know that
2 the Office of the Attorney General and, and, this particular
3 attorney did not work on this case in this way. But I know,
4 they, OAG seems to think that they do need relief from
5 C202.2?

6 MS. NAGELHOUT: If I'm understanding this
7 correctly, the property is non-conforming with respect to lot
8 occupancy now, and then they would be enlarging that in such
9 a way that the, the lot occupancy would still exceed 60
10 percent.

11 MR. KIRSCHENBAUM: That is correct. So unlike in
12 R zone, or in an RF zone, there's no special exception for
13 C202.2. It's missing from the -- it's not, it's not part of
14 the MU zone. And just to also say that, you know, you can
15 have the conforming building right now in MU zone.

16 And the whole idea of the special exception is to
17 go beyond what the development standards are. Right? So
18 you're going to get a special exception for, whatever it is,
19 and then that's going to make the building non-conforming,
20 anyways. So, I mean, in this case the applicant would have
21 to get a variance from C202.2. And I'm, you know, that's a
22 much higher burden. And --

23 CHAIRPERSON HILL: Okay. Okay. Okay. All right.

24 MR. KIRSCHENBAUM: -- and the result is a
25 non-conforming building.

1 CHAIRPERSON HILL: Okay. All right. So what I'm
2 hearing in front of the Board, if you'll agree, that they do
3 not need relief from C202.2? Okay. All right. So you don't
4 need to worry about C202.2. Okay. So please submit some
5 plans into the record. Okay?

6 MR. TRUITT: Sure.

7 CHAIRPERSON HILL: That we can take a look at.
8 Also again, if you could, as I mentioned, clarify what it is
9 the ANC has approved.

10 MR. TRUITT: Okay.

11 CHAIRPERSON HILL: Okay. Because it seems unclear
12 to me. I believe then that the issue, unless the Board has
13 anything else to add, there's no other issues that we want
14 to hear from the applicant about?

15 MEMBER HART: Just, actually, just, just for
16 clarification.

17 MR. TRUITT: Yes, sure.

18 MEMBER HART: The Chairman is, has said that we
19 are looking for plans. What we're really looking for are
20 what are the materials that you using for, you know -- a
21 drawing that shows the materials that you're, you're talking
22 about for the facade. What color is it going to be? Like
23 now, we have, you know we have a pencil line drawing --

24 MR. TRUITT: Of course.

25 MEMBER HART: -- that has no detail as to what

1 that facade would look like. So an elevation -- when he's
2 talking about plans, he just means the drawings set.

3 MR. TRUITT: In detail.

4 MEMBER HART: In some, some detail in it.

5 MR. TRUITT: Sure.

6 MEMBER HART: Because as, as the, Commissioner
7 Turnbull said, we have really no idea beyond this line
8 drawing what that would look like. I mean, it is a red brick
9 building, or at least it looks it looks like it's red brick,
10 it might be painted.

11 MR. TRUITT: It is red brick. Yes, the whole row
12 is red brick. Yes.

13 MEMBER HART: And so, you know, what is this that
14 you are proposing --

15 MR. TRUITT: Okay.

16 MEMBER HART: -- to do? And you know, kind of,
17 what is that, in that context?

18 MR. TRUITT: Sure.

19 MEMBER HART: And I, I, I don't want to put words
20 in the Commissioner Turnbull's mouth, but I didn't know if
21 there were any other things that you were looking for in
22 particular, beyond that.

23 COMMISSIONER TURNBULL: No, no you hit it right
24 on. Because Mr. Truitt talked about the gable and the bump
25 out, and if you're going to do that. And if you're going

1 back, if there's a full mansard or something. You know,
2 right now, we just see a box.

3 MR. TRUITT: Okay. Let, let me get back with the
4 ANC to see what they were talking about because we, we talked
5 about various approaches. And I never got their preferred
6 opinion after that meeting. So I'd be glad to submit things.

7 CHAIRPERSON HILL: Okay.

8 MR. TRUITT: And --

9 CHAIRPERSON HILL: Okay, so Mr. Truitt, I guess,
10 I don't know if you need to go back to the ANC, or not. You
11 know --

12 MR. TRUITT: I'll just talk with them --

13 CHAIRPERSON HILL: Well we're going to have a
14 continued hearing on this --

15 MR. TRUITT: Sure.

16 CHAIRPERSON HILL: And I'm going to propose April
17 24th, which is when Mr. Turnbull's going to be back here.
18 And so, I think that if you can submit, and if the Office of
19 Planning wants to submit, a supplemental they can. Based
20 upon any drawings, I don't think it's necessary, but you can.
21 If we could get all of this information from the applicant,
22 by when Ms. Rose, in order to get to the 24th?

23 MS. ROSE: April 11th.

24 MR. TRUITT: April 11th.

25 MS. ROSE: And then responses would be due April

1 18th.

2 CHAIRPERSON HILL: Okay, response would be the
3 EANC? If they have any responses, if they have any
4 responses.

5 MR. TRUITT: Okay.

6 CHAIRPERSON HILL: Okay. So Mr. Truitt are you
7 pretty clear as what you need?

8 MR. TRUITT: I think so.

9 CHAIRPERSON HILL: Okay. Great.

10 MR. TRUITT: Yes, yes.

11 CHAIRPERSON HILL: All right. Then we will see
12 you guys back here on the 24th. Okay?

13 MR. TRUITT: Thank you, very much.

14 CHAIRPERSON HILL: Thank you, very much. Okay.
15 And we're going to take lunch. So I think that lunch is
16 going to go, yes, we're, we're going to shoot for 2:30. So
17 we're going to come back at 2:30. And yes, there you go.
18 Okay. Thank you.

19 (Whereupon, the above-entitled matter went off the
20 record at 1:50 p.m. and resumed at 2:46 p.m.)

21 CHAIRPERSON HILL: All right, Ms. Rose, let's go
22 ahead and start again.

23 MS. ROSE: The time is 2:46. And this is
24 Application Number 19945 of Philippe and Rebecca Bardet as
25 amended pursuant to 11 DCMR, Subtitle X, Chapter 9 for

1 special exceptions under Subtitle E, Section 5201 from the
2 lot occupancy requirements of Subtitle E, Section 304.1, the
3 rear yard requirements of Subtitle E, Section 306.1 and the
4 non-conforming structure requirements of Subtitle C, Section
5 202.2 to construct a second story rear addition to an
6 existing semi-detached principle dwelling unit in the RF-1
7 zone at Premises 136 Adam Street, Northwest, Square 3121, Lot
8 32.

9 CHAIRPERSON HILL: Thank you. If you could please
10 introduce yourselves for the record.

11 MR. NETTELBECK: My name is Pete Nettelbeck.

12 MS. BARDET: Rebecca Bardet.

13 CHAIRPERSON HILL: What's your last name, sir?

14 MR. NETTELBECK: It's Nettelbeck,

15 CHAIRPERSON HILL: Can you spell that?

16 MR. NETTELBECK: Sorry. Nettelbeck, N-E-T-T-E-L-B-
17 E-C-K.

18 CHAIRPERSON HILL: Okay. And, Ms. Bardet, okay.
19 Who is going to be presenting?

20 MR. NETTELBECK: Me.

21 CHAIRPERSON HILL: Okay. If you can just turn on
22 one microphone at a time. I'm sorry we have feedback. All
23 right. So, Mr. Nettelbeck, if you want to go ahead and
24 just tell us again about your project and what you're trying
25 to accomplish and then how you're meeting the standards for

1 us to grant the application. I'm going to put 15 minutes on
2 the clock, Ms. Rose, if you wouldn't mind just so I know
3 where we are. And you can begin whenever you like.

4 MR. NETTELBECK: Fantastic. Again, my name is
5 Pete Nettelbeck. I am a registered architect in D.C. and I
6 am representing Rebecca and Philippe Bardet at 136 Adams
7 Street, NW.

8 136 Adams is located at the corner of Adams and
9 Flagler Street NW. It's located in the RF-1 zone. We are
10 asking for relief from the maximum lot occupancy of 60
11 percent and the rear yard setback of 20 feet. Here's an image
12 of 136 Adams from the corner of Flagler and Adams. Another
13 image from Flagler Street. And here we can see the existing
14 two story over cellar row house with the addition off the
15 rear.

16 The addition off the rear was done maybe 15 to 20
17 years ago by the previous owner. Again, here's an image from
18 the back of Flagler Street kind of looking at the back of the
19 house. Basically what we're proposing, I'll show more images
20 later. But we're basically proposing an eight foot addition
21 on top of the existing sun room as well as a stair and
22 landing off the rear.

23 Here are some more images from Adams Street. The
24 top image is from Adams Street and we can kind of see the
25 rhythm of the row houses in the neighborhood. The bottom

1 image is back from Flagler Street showing the rear.

2 And we can see here that there are some, mainly
3 two story row houses, some three stories that are kind of the
4 nature of the neighborhood. The existing structure has a
5 nonconforming lot occupancy of 62.4 percent. You guys are
6 able to grant an additional ten percent to get to 70 percent.
7 We are asking for an additional 3.8 percent to get to 66.2
8 percent. The rear yard is currently at 19 feet three inches.

9 We are proposing a stair and landing that is four
10 feet, eight inches above grade and this would extend five
11 feet, seven inches from the rear of the house basically
12 leaving 13 feet, eight inches to the rear property line.
13 Here's the plat. The kind of grayed in area shows the
14 existing structure, the existing two story plus cellar row
15 house. The hatch, the diagonal hatch shows the sunroom which
16 is coming eight feet off the rear.

17 And again, we're proposing a second story addition
18 on top of that as well as the rear stair and landing. Again,
19 in plain view the ground floor all we're adding is the stair
20 and landing.

21 The second floor we're adding the eight foot
22 addition. From the front there's going to be no change. So
23 the same kind of rhythm of the neighborhood is going to
24 remain the same. Here is the existing side with the, so we
25 can see here the existing two story over cellar with the

1 modern sunroom off the rear. Basically what we're proposing
2 is to rework the window in the rear as well as build on top
3 of it to kind of conform more with the historic nature of the
4 neighborhood.

5 We've consulted with Steve Callcott, the Deputy
6 Preservation Officer who has helped us kind of work with this
7 plan to make it conform with the neighborhood which is now
8 historic. To the right is the existing rear and to the left
9 is what we're proposing. We reached out to many neighbors and
10 gotten 12 letters of support including both the adjacent
11 neighbors at 138 Adams Street NW as well as 2222 Flagler
12 Street NW. And here are the letters which I'm not going to
13 bore you with.

14 So we have reached out to Steve Callcott at
15 historic who has given us the, who basically said this
16 project -- Our office can approve as consistent with the
17 draft design guidelines and compatible with Bloomingdale
18 Historic Designation. We have received the support of the
19 Office of Planning. We've received many letters of support
20 by neighbors including both the adjacent neighbors. We have
21 received unanimous approval or support from the Bloomingdale
22 Civic Association as well as the ANC.

23 CHAIRPERSON HILL: Okay. My computer is just not
24 opening for some reason.

25 VICE CHAIRPERSON HART: Just if I could ask a

1 question. Thank you very much for the presentation, Mr.
2 Nettelbeck.

3 MR. NETTELBECK: Nettelbeck.

4 VICE CHAIRPERSON HART: You were saying that you
5 had talked to the, I guess the deputy of -- status
6 preservation officer. But I was trying to understand. Are
7 you saying that you, does this have to go to HPRB or not?

8 MR. NETTELBECK: I believe it can be approved at
9 the staff level. So it will not have to go, it's my
10 understanding that it's not going to have to go through HPRB.

11 COMMISSIONER TURNBULL: Are you in a historic
12 area?

13 MR. NETTELBECK: We are.

14 VICE CHAIRPERSON HART: I mean I would think it
15 would have to go to them.

16 MR. NETTELBECK: I guess I don't think it would
17 be a full submission process. So it will still have to get
18 approved by historic. But it wouldn't, my understanding is
19 that they would be able to approve it at the staff level.
20 Okay? Okay.

21 CHAIRPERSON HILL: Okay. Does anybody have any
22 more questions for the Applicant? Turning to the Office of
23 Planning please.

24 MS. MYERS: Good afternoon, again. Crystal Myers
25 for the Office of Planning. The Office of Planning is

1 recommending approval of this case and stands on the record
2 of the staff report.

3 CHAIRPERSON HILL: Okay, thank you. Does the
4 Board have any questions for the Office of Planning? Does
5 the Applicant have any questions for the Office of Planning?

6 MR. NETTELBECK: No.

7 CHAIRPERSON HILL: Is there anyone here wishing
8 to speak in support? Is there anyone here wishing to speak
9 in opposition? Mr. Nettelbeck, were you guys sworn in
10 earlier?

11 MR. NETTELBECK: I was not.

12 CHAIRPERSON HILL: Okay. Could you please stand
13 and take the oath administered by the Secretary over to my
14 left? And then if anyone else has missed the swearing in if
15 you could please stand up and raise your right hand. Thank
16 you.

17 (Witnesses sworn.)

18 MS. ROSE: You may be seated.

19 CHAIRPERSON HILL: Okay, Mr. Nettelbeck, so
20 everything you just said before you took the oath, that was
21 truthful?

22 MR. NETTELBECK: It was.

23 CHAIRPERSON HILL: Okay, all right. So, okay, do
24 you have anything else you would like to add?

25 MR. NETTELBECK: No.

1 CHAIRPERSON HILL: Okay. Does the Board have
2 anything else? No, all right. I'm going to go ahead and
3 close the record.

4 Mr. Nettelbeck, you've only, this is your first
5 time before us, correct?

6 MR. NETTELBECK: It is.

7 CHAIRPERSON HILL: Okay, you did a pretty good
8 job.

9 MR. NETTELBECK: Thanks.

10 CHAIRPERSON HILL: Okay. I'm going to go ahead
11 and close the record. Is the Board ready to deliberate?
12 Okay. So again, I would agree with the analysis that was
13 provided by the Office of Planning.

14 After reviewing the record I do think that the
15 Applicant has provided a lot of community outreach, not that,
16 that has the, that's not how we judge things, we judge them
17 through again, the standards that we review this particular
18 application. And I would agree, as I said, with the analysis
19 provided by the Office of Planning. I'm also heartened to
20 see that the ANC 5E has voted in support of the application.
21 I think it's kind of a small project and I don't really have
22 a lot of questions or concerns. Does anyone have anything
23 else they would like to add?

24 COMMISSIONER TURNBULL: Mr. Chair, I would agree
25 with your analysis. I'll just say that the rear yard

1 proposal is really de minimis because you're going up from
2 the existing building that's already there. And the only
3 thing that's really being added is the stair that's going,
4 protruding into part of the rear yard. So the rear yard is
5 only losing so much in one little section. So it's very de
6 minimis.

7 CHAIRPERSON HILL: Okay, anyone else? Okay. Can
8 I make a motion to approve Application Number 19945 as
9 captioned and read by the Secretary and ask for a second.

10 VICE CHAIRPERSON HART: Second.

11 CHAIRPERSON HILL: Motion made and seconded. All
12 those in favor say aye.

13 (Chorus of ayes.)

14 CHAIRPERSON HILL: All those opposed? Motion
15 passes, Ms. Rose.

16 MS. ROSE: Staff would record the vote as 5-0-0
17 with a motion to approve the application with a motion by Mr.
18 Hill, seconded by Mr. Hart. In support of the motion is Ms.
19 White, Ms. John and Mr. Turnbull.

20 CHAIRPERSON HILL: Okay, great. Thank you. Thank
21 you very much.

22 MR. NETTELBECK: Thank you.

23 MS. ROSE: Next is Application Number 19946 of
24 William Peterman as amended pursuant to 11 DCMR Subtitle X,
25 Chapter 9 for special exceptions under Subtitle E, Sections

1 205.5 and 5201 from the rear addition requirements of
2 Subtitle E, Section 205.4 and from the nonconforming
3 structure requirements of Subtitle C, Section 202.2 to
4 construct a partial third floor addition to an existing
5 attached principle dwelling unit in the RF-1 Zone at premises
6 432 Q Street NW, Square 510, Lot 161.

7 CHAIRPERSON HILL: Great, thank you, Ms. Rose.
8 Could you please introduce yourself for the record?

9 MR. KUHN: Good afternoon. My name is Jonathan
10 Kuhn. I'm the agent and architect for the homeowners.

11 CHAIRPERSON HILL: Okay. Mr. Kuhn, I'll give you
12 a minute there to pull up your presentation. Okay, great,
13 thank you. So, Mr. Kuhn, I know you've been here for most of
14 the day, a little bit, so you've heard a little bit of how
15 this starts. If you could go ahead and tell us about your
16 project and the kind of, what you're trying to accomplish and
17 then also tell us how you're meeting the standards for which
18 we can grant the application. I'm going to put 15 minutes on
19 the clock, Ms. Rose, if you wouldn't mind. And you can begin
20 whenever you like.

21 MR. KUHN: Okay great, thank you very much. So the
22 existing house is a two story attached row structure in an
23 RF-1 zone located at 432 Q Street NW. The proposed is a
24 partial third floor addition. What's creating the special
25 exception or why we're seeking relief is the house

1 immediately to the east, as you can see from the perspective
2 on the cover sheet here, is forward of my client's home.

3 And so what we're seeking relief from is the, what
4 is known as the ten foot rule because of the placement of the
5 addition which is also over a nonconforming structure. So the
6 existing home, as you can see in the proposed, both the
7 existing and proposed site plan, our property is the one in
8 the middle of the white with the heavy dashed line indicating
9 the property line.

10 The dark gray are the adjacent properties. So you
11 can see again, the one at 430 Q Street which is immediately
12 east sits, you know, forward of ours. And our third story
13 addition --

14 CHAIRPERSON HILL: Mr. Kuhn, just hang on for one
15 second. If you also as you're kind of going through can
16 speak to kind of like your community outreach in terms of the
17 ANC because I don't see a report from them.

18 MR. KUHN: Okay, yes. We, the homeowners went
19 door knocking. As you can see in the exhibits there are
20 letters of support from the immediate neighbors both again,
21 to the east and to the west. And then signatures of approval
22 from other neighbors in the neighborhood supporting. We
23 presented and received support from the ANC both at the ZPD
24 level and at the larger ANC council meeting. Submitted, you
25 know, documents to the Office of Planning.

1 CHAIRPERSON HILL: I'm sorry, you did present to
2 the ANC. Is that what you just said?

3 MR. KUHN: Yes.

4 CHAIRPERSON HILL: But the ANC hasn't submitted
5 a report yet?

6 MR. KUHN: They have not?

7 CHAIRPERSON HILL: No, I'm asking. As far as I
8 know I haven't.

9 MR. KUHN: I'm sorry, if we haven't received
10 anything.

11 CHAIRPERSON HILL: And then also could you tell
12 us what happened at the ANC meeting then as well?

13 MR. KUHN: Both presentations, again one at the
14 Zoning Preservation Development level we received support.
15 They were happy with and impressed that the addition was held
16 back, again because of street views even though we're not in
17 a historic district. Understanding --

18 CHAIRPERSON HILL: What was the vote?

19 MR. KUHN: The vote was unanimous.

20 CHAIRPERSON HILL: Okay. So you can continue on
21 with your presentation if you don't mind. I'm sorry, I just
22 wanted to clear that up.

23 MR. KUHN: Sure. So again, so to go off that so
24 the homeowners are just looking for additional living area
25 not wanting to cover the entire upper floor.

1 And again for the positioning and location we
2 decided to pull it back allowing for some roof deck space
3 towards the front but again, preserving the street view again
4 that you see here, so along the facade of Q Street especially
5 if you're heading from west to east.

6 And the way the topography works here as well
7 these are rather elevated homes. They're -- the homes don't
8 have basements. So it's really, you know, just two stories
9 of living space.

10 So we kept that in mind again, in the design
11 looking for the additional space. Also with the interior the
12 way it's currently laid out with the stair location this also
13 played in our favor of being able to hold back the addition.

14 Again, we did present to the ANC both at the
15 Zoning Preservation Development level and then at the broader
16 ANC meeting and gained unanimous support at both of those.
17 We have the letters of support from the immediate neighbors
18 both to the immediate east and west and then from others that
19 signed in the neighborhood.

20 These are photos. Most especially the lower ones
21 you can see, understand again kind of the offset with the
22 house at 430 that, you know, projects forward. Had we been,
23 had their house been at 434 I wouldn't even have to be
24 presenting to you because the ten foot rule wouldn't even
25 apply. So it's more of, you know, the times of development

1 of this stretch of Q Street that has created this condition
2 having to do with the ten foot rule.

3 These are existing floor plans. Again, in the existing
4 plan level two you can see the location of the stair. So our
5 proposed, I'm going to jump forward to that, is really just
6 stack the stair right over top of it and therefore the
7 landing or third floor addition kind of in the middle, if you
8 will, of the plan. And picking up a bedroom, full bathroom
9 and with the front opening to a roof deck.

10 CHAIRPERSON HILL: Okay. All right, actually I'm
11 just going to kind of ask at this point if there's any
12 questions from the Board? No, all right. I'm going to turn
13 to the Office of Planning.

14 MS. FOTHERGILL: Good afternoon. I'm Anne
15 Fothergill with the Office of Planning and we recommend
16 approval of the special exception and find that it meets the
17 review criteria of Subtitle E, Section 5201.1. And I will
18 rest on the record and I'm happy to take any questions.

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

22 MR. KUHN: No, I don't.

23 CHAIRPERSON HILL: Is there anyone here wishing
24 to speak in support? Is there anyone here wishing to speak
25 in opposition? Okay. Mr. Kuhn, I just, a quick question.

1 I was just curious in terms of the program your clients just,
2 they wanted kind of a larger roof deck or I'm just curious
3 as to why they didn't try to make a larger addition up top
4 there?

5 MR. KUHN: They didn't want a large home. They
6 weren't looking to gain the, you know, full footprint of the
7 house in living space and were looking for outdoor space and
8 that faces south and again, with the positioning it's really
9 looking at, you know, this extra space on that upper floor.
10 So, yes, looking for minimal impact to their own home but
11 wanting that little bit of additional space.

12 CHAIRPERSON HILL: I thought it was an interesting
13 design. All right, anyone else? Okay, do you have anything
14 you would like add at the end?

15 MR. KUHN: No thank you.

16 CHAIRPERSON HILL: Okay. I'm going to close the
17 hearing. Is the Board ready to deliberate? Would someone
18 else like to deliberate?

19 VICE CHAIRPERSON HART: Yes. Excuse me, Mr.
20 Chairman. After listening to the presentation from today,
21 also reviewing the full record I would be in agreement with
22 the Office of Planning report to approve this application.

23 I thought that it was a, it met the criteria for
24 the relief that they were requesting. I thought it was a
25 fairly, as a project a fairly minimal addition that was being

1 proposed and I would, I think that we should be able to agree
2 with that and approve the application as submitted and
3 presented. I didn't really have much beyond that to say and
4 I'll leave it at that.

5 CHAIRPERSON HILL: Does anyone else have anything
6 they would like to add?

7 MEMBER WHITE: I would just say that they also
8 have good neighborhood for the project. The abutting
9 neighbors support it. You know, the changes are really
10 minimal.

11 There's no objection from DDOT and the Office of
12 Planning is supporting the special exception relief and I
13 think they have met the criteria here. So I would be in
14 support.

15 CHAIRPERSON HILL: Okay, great. I'll go ahead and
16 make a motion to approve Application Number 19946 as
17 captioned and read by the Secretary and ask for a second.

18 VICE CHAIRPERSON HART: Second.

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

21 (Chorus of ayes.)

22 CHAIRPERSON HILL: All those opposed? Motion
23 passes, Ms. Rose.

24 MS. ROSE: Staff will record the vote as 5-0-0 to
25 approve the application with a motion by Mr. Hill, seconded

1 by Mr. Hart with Ms. John, Ms. White and Mr. Turnbull in
2 support of the motion.

3 CHAIRPERSON HILL: Thank you.

4 MR. KUHN: Thank you.

5 MS. ROSE: Next is Application Number 19948 of
6 James Trainum pursuant to 11 DCMR Subtitle X, Chapter 9 for
7 special exceptions under Subtitle E, Section 5201 from the
8 lot occupancy requirements of Subtitle E, Section 304.1 and
9 the rear yard requirements of Subtitle E, Section 306.1 and
10 from the non conforming structure requirements of Subtitle
11 C, Section 202.2 to construct a two story rear addition to
12 existing attached principle dwelling unit in the RF-1 zone
13 at premises 1639 Potomac Avenue SE, Square 1091 South, Lot
14 66.

15 CHAIRPERSON HILL: Okay, great, thank you. Could
16 you please introduce yourself for the record?

17 MR. JONES: I'm Kim Jones. I'm the architect
18 representing the owners.

19 CHAIRPERSON HILL: All right, Mr. Jones. Did you
20 get sworn in earlier?

21 MR. JONES: Yes.

22 CHAIRPERSON HILL: Okay, great, thank you. All
23 right, Mr. Jones. So if you want to go ahead and just walk
24 us through your application and what you're proposing and
25 then also speak to the standards at which we're supposed to

1 review your application and how you're meeting those
2 standards. I'm going to put 15 minutes on the clock so I know
3 where we are. And you can begin whenever you like.

4 MR. JONES: Do you need the --

5 CHAIRPERSON HILL: No, you can, I mean if you
6 don't need to pull anything up through that, through your
7 application, you can just speak to it. And then if you want
8 to refer us to something we have your case documents in front
9 of us as well.

10 MR. JONES: Okay. The project involves an
11 existing row house with a one story enclosed rear porch. The
12 existing building is nonconforming both in lot coverage and
13 rear yard.

14 We would like to build, remove the existing
15 enclosed rear porch and build a new two story rear addition
16 within the same footprint as the existing rear porch. So
17 we're at 62 percent existing coverage. And because the rear
18 alley has a very sharp angle in relation to the house we
19 don't meet the rear yard setback of 20 feet. But again,
20 we're building within the same footprint.

21 CHAIRPERSON HILL: Okay, all right. Does anyone
22 have any questions for the Applicant? All right, I'm looking
23 through your proposal here as well right now. But I'm going
24 to turn to the Office of Planning.

25 MS. VITALE: Good afternoon, Mr. Chair, Members

1 of the Board. Elisa Vitale with the Office of Planning. And
2 I will rest on the record in support of the requested special
3 exception relief for lot occupancy and rear yard and I am
4 happy to answer any questions, thank you.

5 CHAIRPERSON HILL: Okay. Does the Board have any
6 questions for the Office of Planning? Does the Applicant
7 have any questions for the Office of Planning?

8 MR. JONES: No.

9 CHAIRPERSON HILL: Mr. Jones, could you tell me
10 a little bit about the outreach that you guys have done? I
11 see that the ANC has approved it. I mean did you present to
12 the ANC?

13 MR. JONES: Yes. We presented to CHRS Zoning and
14 they were in favor. And we presented to ANC 6B and it was
15 unanimously in favor.

16 CHAIRPERSON HILL: Okay. Does the Board have any
17 questions for the Applicant? Is there anyone here wishing
18 to speak in support of the application? Is there anyone here
19 wishing to speak in opposition to the application?

20 Mr. Jones, is there anything you would like to add
21 at the end?

22 MR. JONES: No.

23 CHAIRPERSON HILL: All right. I'm going to go
24 ahead and close the record. Is the Board ready to
25 deliberate? Okay, I can start.

1 I thought that this was fairly straightforward
2 again in that I thought that they met the criteria for us to
3 grant this request. I would agree with the analysis that was
4 provided by the Office of Planning as well as the great
5 weight that we're to give ANC 6B. DDOT had no objections.
6 And so I will be voting to approve. Does anyone have
7 anything else they would like to add?

8 COMMISSIONER TURNBULL: I would agree with you,
9 Mr. Chair. This is basically the existing footprint just
10 going up and it's using my favorite word de minimis and I
11 would vote in favor of this.

12 CHAIRPERSON HILL: Okay, great, all right. I'm
13 going to go ahead then and make a motion to approve
14 Application Number 19948 as captioned and read by the
15 Secretary and ask for a second.

16 MEMBER JOHN: Second.

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

19 (Chorus of ayes.)

20 CHAIRPERSON HILL: All those opposed? The motion
21 passes, Ms. Rose.

22 MS. ROSE: Staff would record the vote as 5-0-0
23 to approve the application with a motion by Mr. Hill,
24 seconded by Ms. John with Mr. Hart, Ms. White and Mr.
25 Turnbull in support of the motion.

1 CHAIRPERSON HILL: Okay, thank you. Thank you,
2 sir.

3 MS. ROSE: Next is Application Number 19951 of
4 Under22 Inc., pursuant to 11 DCMR Subtitle X, Chapter 9 for
5 special exceptions under the inclusionary zoning regulations
6 of Subtitle C, Section 1001.2(e)(3) and from the lot
7 dimension minimum requirements of Subtitle C, Section 1002.2
8 and pursuant to Subtitle X, Chapter 10 for an area variance
9 from side yard requirements of Subtitle D, Section 307.1 to
10 construct two new semi-detached principle dwelling units in
11 the R-2 Zone at premises 832 48th Street NE, Square 5150, Lot
12 812.

13 CHAIRPERSON HILL: Okay. Could the Applicant
14 please come forward? If you could please introduce
15 yourselves for the record.

16 MR. SEIFU: Yes, good afternoon, Chairperson Hill
17 and Members of the Board. My name is Derege Seifu. I'm the
18 owner of this property. With me I have the architect and
19 engineer for this project. I'll let him introduce himself.

20 MR. SALLAH: Alex Sallah, engineer for the
21 project, S-A-L-L-A-H.

22 CHAIRPERSON HILL: Okay, great. So, Mr. Seifu,
23 are you going to present to us?

24 MR. SEIFU: Yes, sir.

25 CHAIRPERSON HILL: Okay. So you all have been

1 sworn in already?

2 MR. SEIFU: Yes.

3 CHAIRPERSON HILL: Okay. If you could go ahead
4 and walk through the project for us and try and tell us what
5 you're trying to do as well as how you're meeting the
6 standards with which for us to grant the application. I'm
7 going to put 15 minutes on the clock just so I know where we
8 are. One thing that I have noted if you could speak to your
9 outreach in terms of the ANC. I didn't see a report yet in
10 there. But you can speak to that as you're walking us through
11 your presentation. And you can begin whenever you like.

12 MR. SEIFU: Okay, thank you again. We are
13 proposing to build a two unit dwelling on a vacant lot that
14 is located at the corner of 48th and Hunt Place NE.

15 This lot was purchased from Department of Housing
16 and Community Development under the Vacant to Vibrant program
17 requiring 50 percent affordable housing unit. This corner
18 lot consists of 5,375 square feet with a dimension of 50 foot
19 wide and 107 foot long. We plan to build a modern semi-
20 detached home with four bedrooms, three and a half and two
21 car garage in the back for each unit. The lot is
22 substandard. We are seeking for relief for spatial exemption
23 under the IZ for lot area and lot width as well as variance
24 for the side yard.

25 We have reached the community. First we met the

1 Deanwood Community Association and we have approval and
2 support for the project. We also presented the plan to the
3 ANC executive unit and they also approved, actually they
4 recommended a couple of changes that we have complied to. And
5 also for the second time we -- twice we met with the ANC
6 meeting for the final approval. As far as the final approval
7 letter from ANC it was received this morning. I can --

8 CHAIRPERSON HILL: We have it, I'm sorry. It came
9 into the record.

10 MR. SEIFU: Okay. So I was going to present that
11 to you. Basically the five yard side yard requirement will
12 allow us to provide the two car garage for that unit which
13 is unique for that neighborhood.

14 CHAIRPERSON HILL: Okay. Does anybody have any
15 questions for the Applicant?

16 COMMISSIONER TURNBULL: I just have one. I'm just
17 curious Exhibit 34 is showing some drawings of the front
18 elevation, Exhibit 34. And I'm just curious that before the
19 previous drawings on Exhibit 11 showed two drawings. But
20 somehow the elevation has changed. I'm just curious.

21 MR. SEIFU: Yes, I'm glad you brought it up. That
22 was one of the changes the ANC requested of us. They thought
23 it was, the elevation was too high. So we managed to bring
24 it down a little bit. So the elevation between the two units
25 is about two feet now instead of, I think originally it was

1 about four feet.

2 COMMISSIONER TURNBULL: Okay. So Exhibit 34, the
3 last one with the stepped, that's the correct --

4 MR. SEIFU: That's the final one, yes.

5 COMMISSIONER TURNBULL: Okay, all right, thank
6 you.

7 MEMBER WHITE: Thanks, Mr. Chair. Just one
8 question. You said the lot was substandard?

9 MR. SEIFU: Four, to build the two units.

10 MEMBER WHITE: Can you just expand on that just
11 so I understand because that's tied to the, meeting the
12 variance standard?

13 MR. SEIFU: Okay. I guess the special exemption
14 requires the 30 foot wide and this proposed is 25 foot wide
15 and the area requires for 3,000 square feet. I think what
16 we provided was 2,687 square feet, so about, almost 300 feet
17 short, square feet shorter. So that's why.

18 MEMBER WHITE: Shorter?

19 MR. SEIFU: Yes.

20 CHAIRPERSON HILL: Okay.

21 VICE CHAIRPERSON HART: Okay, and you're also
22 saying that because of the narrowness of this lot that's
23 causing the, that's also causing the need for the variance
24 relief as well?

25 MR. SEIFU: Yes, sir, yes, sir.

1 VICE CHAIRPERSON HART: And you said typically you
2 would have to have a 35 foot width?

3 MR. SEIFU: Thirty feet.

4 VICE CHAIRPERSON HART: And so you would have a
5 15 foot lot, if you had a 35 foot lot, I mean this is 50
6 feet, correct?

7 MR. SEIFU: Yes.

8 VICE CHAIRPERSON HART: So if you had the 35 feet
9 that you needed for one lot then what's remaining would be
10 15 feet wide for the, you know, for a secondary lot and so
11 that would be less than ideal for building?

12 MR. SEIFU: I would assume so, yes, sir.

13 VICE CHAIRPERSON HART: But I just want to make
14 sure that's what you're telling us.

15 MR. SEIFU: Yes, I am.

16 VICE CHAIRPERSON HART: Yes, I was a little bit
17 confused. I'm glad you, Commissioner Turnbull asked about
18 the elevation, yes, because it's like they are very different
19 now.

20 But it looks like, I think what you ended up doing
21 you actually added in the topography and so that then had to,
22 you know, change how the, what the front elevation looked
23 like or at least how it was drawn.

24 MR. SEIFU: Yes, the community really requested
25 that it shouldn't be tall.

1 VICE CHAIRPERSON HART: And so you have, this is
2 brick with siding?

3 MR. SEIFU: Yes, brick front and then siding on
4 the sides.

5 VICE CHAIRPERSON HART: And the front also has
6 some siding as well?

7 MR. SEIFU: No, it should be all brick.

8 VICE CHAIRPERSON HART: Well the top of it --

9 MR. SEIFU: The curvature, what do you call that?
10 It's like a bay window.

11 VICE CHAIRPERSON HART: The bay window?

12 MR. SEIFU: Bay window, yes.

13 VICE CHAIRPERSON HART: That's brick around there?

14 MR. SEIFU: No, that's siding, I believe. Yes,
15 it is siding.

16 VICE CHAIRPERSON HART: And there are windows on
17 the sides because they're not on the, okay, the sides are
18 away from the property line so you can have windows that are
19 there?

20 MR. SEIFU: Yes.

21 VICE CHAIRPERSON HART: Okay. I think that's it
22 for the questions that I have. Thank you.

23 CHAIRPERSON HILL: Okay. I'm going to turn to the
24 Office of Planning.

25 MS. VITALE: Good afternoon, Chair, Members of the

1 Board. Again Elisa Vitale with the Office of Planning. The
2 Office of Planning is recommending approval of the requested
3 special exception relief. And this is from or to take
4 advantage of the IZ dimensional modifications to allow the
5 25 foot lot width and 2,500 square foot lot area by special
6 exception. And the Office of Planning is also recommending
7 approval of the requested side yard variance relief. I'm
8 happy to answer any questions should you have any, thanks.

9 CHAIRPERSON HILL: Can you just walk me through
10 the analysis again of the variance?

11 MS. VITALE: Certainly. As has been discussed
12 today, the Applicant has a 50-foot lot that they're proposing
13 to subdivide and create two 25-foot lots. That 25-foot lot
14 width is available by opting into the Inclusionary Zoning
15 program. And so the Applicant is proposing to take advantage
16 of that. So with two 25-foot lots, this is an R-2 Zone, as
17 was said, normally you would have a wider lot and be able to
18 do a semi-detached house and meet that eight-foot
19 requirement.

20 In this case the Applicant is opting into IZ,
21 getting a narrower lot width, so in this instance we believe
22 that the decreased side yard made sense in order to provide
23 a workable floor plan and to allow for two semi-detached
24 units on these two lots here.

25 CHAIRPERSON HILL: Okay. Does anybody have any

1 questions for the Office of Planning? Does the Applicant
2 have any questions for the Office of Planning?

3 Is there any -- you just have to say, no, in the
4 microphone. I'm sorry.

5 MR. SEIFU: No, no, questions.

6 CHAIRPERSON HILL: Thank you. Is there anyone
7 here wishing to speak in support? Is there anyone here
8 wishing to speak in opposition? Does the Applicant have
9 anything to add at the end?

10 MR. SEIFU: No, sir.

11 CHAIRPERSON HILL: Okay. I'm going to go ahead
12 and close the record. Is the Board ready to deliberate?
13 Okay. I do -- I am going to agree with the Office of
14 Planning. I find the analysis sometimes a little bit
15 confusing just for me in terms of the variance stuff when it
16 comes to like with the Inclusionary Zoning and the fact that
17 they are able to do this as a variance.

18 However, I will agree with the analysis -- or the
19 argument, I should say, that the Applicant has made and also
20 the analysis of the Office of Planning has provided to that
21 argument, in how they are meeting the standards.

22 So I am in agreement with that. I am also
23 heartened to see again that ANC 7C has provided us a report
24 in support so we can give them great weight, and also that
25 DDOT had no objection. So again, I do believe the Applicant

1 has its burden of proof and I will be voting to approve.
2 Would anyone else like to add anything?

3 Okay. That being the case then, I'll go ahead and
4 make a motion to approve Application Number 19951 as
5 captioned and read by the Secretary and ask for a second.

6 MEMBER WHITE: Second.

7 CHAIRPERSON HILL: Motion made and seconded. All
8 those in favor say aye.

9 (Chorus of ayes.)

10 CHAIRPERSON HILL: All those opposed? The motion
11 passes, Ms. Rose.

12 MS. ROSE: Staff would record the vote as 5-0-0
13 with a motion by Mr. Hill, seconded by Ms. White, with Mr.
14 Hart, Ms. John, and Mr. Turnbull in support of the motion.

15 CHAIRPERSON HILL: Okay, great, thank you. Thank
16 you, gentlemen. All right. Just so the last case knows
17 we're going to take a quick break before we begin our appeal.
18 So feel free to come on forward and settle in and we'll see
19 you in a few minutes.

20 (Whereupon, the above-entitled matter went off the
21 record at 3:25 p.m. and resumed at 3:33 p.m.)

22 CHAIRPERSON HILL: Okay, Ms. Rose.

23 MS. ROSE: Next is Appeal Number 19938 of ANC 1C
24 pursuant to 11 DCMR Subtitle Y, Section 302 from the decision
25 made on October 5th, 2018, by the Zoning Administrator,

1 Department of Consumer and Regulatory Affairs, to issue
2 building permits B1900300, B1900301, B1900302 to renovate
3 three existing attached principle dwelling units in the RF-1
4 Zone at premises 1630 through 1634 Argonne Place, Northwest,
5 Square 2589, Lot 480.

6 As a preliminary matter DCRA has filed a motion
7 to incorporate by reference a subsequent revised building
8 permit, B1906597 issued March 11, 2019. This motion is for
9 the Board to address.

10 CHAIRPERSON HILL: Okay, great, thank you. If
11 everyone could please introduce themselves for the record
12 from my right to left.

13 MS. LORD-SORENSEN: Good afternoon, Chairman Hill
14 and Members of the Board. Adrienne Lord-Sorensen, Assistant
15 General Counsel with the D.C. Department of Consumer and
16 Regulatory Affairs.

17 MR. LEGRANT: Good afternoon. Matthew LeGrant,
18 I'm the Zoning Administrator at DCRA.

19 MS. FOX-PERRY: Hello, Amanda Fox-Perry. I am the
20 ANC commissioner for ANC 1C08 and chair of the Planning,
21 Zoning, and Transportation Committee.

22 MR. GAMBRELL: Alan Gambrell, ANC Commissioner for
23 life. I'm actually just joking, I'm just a citizen.

24 MR. SULLIVAN: Hi, Marty Sullivan on behalf of the
25 property owner.

1 CHAIRPERSON HILL: Okay, great. Well I'm glad to
2 see that there are so many expert faces here today. So we
3 already know what we're going to end up doing.

4 So we have cleared the day. So this is -- you
5 guys are the end, and so we'll see how this goes. Mr.
6 Gambrell, are you going to be starting off?

7 MR. GAMBRELL: No, I'm not.

8 CHAIRPERSON HILL: Oh, okay, great. Commissioner,
9 you're going to start?

10 MS. FOX-PERRY: Okay.

11 CHAIRPERSON HILL: No, no. Okay, so before they
12 start. So, we're going to go ahead and set up some time for
13 you to speak. And then what happens is after that the DCRA
14 as well as the property owner will have time to ask questions
15 of you in terms of the presentation or Mr. Gambrell, however
16 you guys, if you guys are tag teaming time, I don't know.

17 And then afterwards the same thing will go. DCRA
18 will present their time. The property owner will have their
19 time. And then there's also cross examination back and forth
20 with that.

21 Then we'll come back to rebuttal for you, come
22 back to rebuttal with DCRA, and the property owner and then
23 finally a conclusion in the same order. Okay, so just kind
24 of like letting you know how things work through, okay? And
25 then -- so how long do you think you need for your

1 presentation?

2 MS. FOX-PERRY: We're going to split our time.
3 I mean I'm only, so 15 minutes total.

4 CHAIRPERSON HILL: Okay. You're going to do 15
5 minutes for your presentation between the two of you?

6 MS. FOX-PERRY: Yes.

7 CHAIRPERSON HILL: Okay, all right. So let's see,
8 all right. So then, Ms. Fox-Perry, you can begin whenever
9 you like.

10 MS. FOX-PERRY: I need to be sworn in actually.

11 CHAIRPERSON HILL: Okay, great, everybody wants
12 to tell the truth, okay. Ms. Rose, if you could please swear
13 everyone in.

14 (Witnesses sworn.)

15 MS. ROSE: You may be seated.

16 CHAIRPERSON HILL: Okay, great. Well one last
17 thing I guess, Ms. Fox-Perry, since -- or, Commissioner,
18 since it seems pretty technical in nature, some of the
19 arguments. So if you could just kind of go slowly through
20 it with us as you're kind of going through so we can kind of
21 get a grasp on it, that would be possibly helpful. And so
22 you can begin whenever you like.

23 MS. FOX-PERRY: Okay. As I said, my name is
24 Amanda Fox-Perry. I'm the Commissioner for ANC 1C08. I'm
25 the current chair of ANC 1C's Planning, Zoning, and

1 Transportation Committee. We've seen many changes in Adams
2 Morgan.

3 CHAIRPERSON HILL: I apologize. I just realized
4 there is a preliminary matter that didn't happen yet. So
5 DCRA has a motion on -- to incorporate the revised building
6 permit. Could you explain the motion please, Ms. Lord-
7 Sorensen?

8 MS. LORD-SORENSEN: Certainly. So on March 13th,
9 DCRA filed a motion to incorporate the second revised permit.
10 Specifically the March 11th permit B1906597.

11 We ask that the Board grant this motion because
12 it does dispose of two of the issues that was raised by the
13 ANC. The first issue being the cellar designation and two
14 the zone reference -- the zone designation on the building
15 permit. So if the Board grants the motion then two issues
16 are resolved.

17 But also I would like to direct the Board's
18 attention to ANC's March 17th filing, where they were in
19 support of the revised plans in support of the second revised
20 permit that I just mentioned.

21 CHAIRPERSON HILL: Okay, give me one second.
22 Okay, Commissioner, do you have any -- I couldn't recall
23 whether there was anything in the record concerning the
24 motion that was put before -- by DCRA. Are you in any
25 opposition to the motion?

1 MS. FOX-PERRY: No, no we consent. Our initial
2 objection, I think it was on March 12th, was based on the
3 fact that we just didn't have any of the substantive
4 information about the motion.

5 CHAIRPERSON HILL: Okay. So does the Board have
6 any thoughts on the motion? Okay. Sorry, go ahead.

7 MEMBER WHITE: I'm just saying that I would be in
8 support of incorporating that.

9 CHAIRPERSON HILL: Okay. Does the property owner
10 have any thoughts on that?

11 MR. GAMBRELL: No, we have no objection.

12 CHAIRPERSON HILL: Okay. So we're going to go
13 ahead and approve your motion to include that, to make that
14 motion to include -- incorporate the revised permit, thank
15 you.

16 And so now once again, Commissioner, you can begin
17 whenever you like.

18 MS. FOX-PERRY: Okay. We've seen many changes in
19 Adams Morgan over the past decade where over 600 living units
20 have been added in one of the most densely developed areas
21 of the city. We have supported many of these projects and
22 we don't consider ourselves to be anti-growth. However,
23 these changes have a significant impact on our community and
24 it's our responsibility to support adherence to the
25 regulations. That's a responsibility we embrace and that's

1 the reason we're here today.

2 ANC 1C's interest in this case is made clear in
3 our November 2018 resolution, which states that ANC 1C has
4 an interest in supporting adherence to the District Zoning
5 Regulations. This is of particular importance in Lanier
6 Heights where residents successfully secured rezoning of the
7 neighborhood to RF-1.

8 ANC 1C's interest in this property stems from
9 ongoing and repetitive attempts to circumvent the regulations
10 concerning this property by different owners. In 2014, we
11 detected numerous plan misrepresentations. Those
12 misrepresentations were then repeated in identical form in
13 2018 under a new owner -- a depiction of garages and
14 bedrooms, for example.

15 So certainly you can understand our heightened
16 concern here to see the same errors repeated again. It's
17 unlikely that it's a coincidence.

18 ANC 1C is particularly concerned that the new
19 owners of these properties, who will be our future
20 constituents, might be put in an unfortunate, cumbersome, and
21 expensive legal bind in purchasing properties that lack their
22 own record lot numbers, like if they wish to subdivide into
23 two units but they lack separate record lot for their
24 specific row house and lack the necessary 1,800 square foot
25 lot size required by RF-1.

1 The zoning regulations for RF-1 zones has clear
2 language on how many flats can exist on how much space. A
3 principle structure can be divided into two flats. We
4 welcome that possibility and embrace the regulatory option
5 for the owner to pursue a path to restore the separate record
6 lot numbers including a special exception request before this
7 Board, if necessary.

8 I'm only going to briefly address error two set
9 forth in ANC 1C's appeal before turning it over to Mr.
10 Gambrell who is going to address error one. Since October
11 2018 neighbors in ANC 1C have pointed out numerous errors
12 with the building permits issued for this property, which
13 prompted the issuance of two subsequent permits. So we think
14 it should be apparent to the Board that the error two in this
15 appeal is well founded. And we therefore defer further
16 discussion of error two, as we believe the Board's time
17 should focus on error one.

18 On that note, I will yield the rest of time to Mr.
19 Gambrell, who along with other ANC 1C residents works with
20 ANC on zoning issues. Thank you.

21 MR. GAMBRELL: Good afternoon, Board Members.
22 This case, and my apologies, to me and to the ANC this case
23 is not really technical. It's really a matter of the meaning
24 of specific words in the regulations.

25 And I just don't see that as a technical issue.

1 I think I see it as a common sense issue. I mean those words
2 are proposed, construction, addition, alteration. I mean,
3 even before you is even the meaning of the word new, new
4 construction, if you can imagine that.

5 DCRA's position is that these words do not apply
6 to what is going on with this project, which is three
7 completely gutted row houses that existed on three separate
8 record lot numbers up until 2015. So they were almost 100
9 years of separate record lot numbers.

10 They're getting completely new systems inside, new
11 electrical, new plumbing, new steel beams under one of the
12 permits, new bathrooms, new kitchens, a new upper level deck
13 on one of the row houses, new stairs in the back of all
14 three, new parking spaces in all three, new bedrooms on the
15 lower levels for all three. Those are new bedrooms that were
16 mischaracterized and misrepresented formerly as garages in
17 2014 and under the current permits. And three new enclosed
18 mud rooms for all three row houses.

19 And I don't mean to be sarcastic when I say this,
20 but it appears that DCRA has engaged in linguistic jiu jitsu
21 to have this Board believed that these words mean something
22 other than what they do. As it's evident from the wording
23 in the Regulations, prior Board cases and rulings on the
24 single record lot issue, the dictionary, and just plain
25 common sense these row houses -- I believe there are 17, and

1 I live on this block and they're nearly identical.

2 And one of the three row houses in this project
3 was illegally removed. And one of the permits is to restore,
4 rebuild that removed upper deck on the front. My row house
5 doesn't have an upper floor because before I bought the house
6 in 2003 it had long ago deteriorated. I'd like to put that
7 deck back one day. If I do that I'd like to have a party.
8 You're all invited to it. Should I invite people over to
9 come see my new deck, or as in what DCRA characterizes as my
10 addition deck, I don't know. It's very confusing. Just, let
11 me briefly recap the pre-hearing statement of ANC. And as
12 I just said, the properties existed on single record lot
13 numbers for almost 100 years until 2015.

14 Our pre-hearing statement also cited a Freedom of
15 Information Act -- a series of emails actually between the
16 developer's attorney and DCRA, one of which was an email from
17 the developer's attorney that said to Matt LeGrant, can't
18 have more than one principle dwelling unit on a record lot.
19 It's acknowledgment that's what this property needs. Each
20 of these row houses needs a single record lot. There -- also
21 in our pre-hearing statement we cite Board precedent in Cases
22 19171 and 19799, under which the Board recognizes unique
23 circumstances when it comes to record lot numbers.

24 There's nothing unique here. The rest of my
25 remarks I want to recap ANC's response to the filings by DCRA

1 and the owner. And regarding DCRA's pre-hearing statement,
2 Exhibit 32, DCRA contends that the word proposed in this
3 provision means that A 301.2 does not apply to, quote, pre-
4 existing structures, and only applies to, quote, new
5 structures.

6 Similarly both DCRA and the property owner attempt
7 to convince the Board that the Argonne project is not, quote,
8 proposed construction, and thus no separate record lots are
9 required. Again, I don't mean to be sarcastic. But, you
10 know, proposed construction -- what is unproposed
11 construction? The interpretation is just a fabrication of
12 nonexistent nuances. It is written down nowhere and was
13 arrived at in a non-public manner in the pre-hearing
14 statements before you.

15 It is illogical and not supportable. As is
16 evident given this simple fact. The Argonne Place properties
17 received building permits labeled alteration and repair for
18 proposed new construction on three completely gutted
19 buildings.

20 So I just want to go through briefly why DCRA's
21 attempt to rewrite these regulations is unsupportable.
22 First, DCRA asserts that A 301.3, quote, applies to proposed
23 construction or prospective construction, and does not apply
24 in this case as the structures are, quote, preexisting
25 principle structures. That's not supported in A 301.3. A

1 301.3 actually has an extensive list of exceptions.
2 Preexisting, proposed, new, and prospective are not among
3 those exceptions. Yet, DCRA wishes to add a new exception,
4 one which is not written down in the regulations.

5 That's the Zoning Commission's job. Second, DCRA
6 asserts that, quote, the owner is not proposing to erect,
7 construct or alter a structure. This is incorrect. The
8 issued building permits are for, quote, alteration and
9 repair. Please note that the building code, which the Zoning
10 Administrator by law cannot contravene, defines alteration
11 as any construction or renovation to an existing structure
12 other than repair or addition. Repair is defined as the
13 reconstruction or renewal of any part of an existing building
14 for the purpose of its maintenance. In summary, why did DCRA
15 bother to issue building permits if nothing was being
16 proposed for construction or alteration and repair?

17 DCRA says this is not new construction. I mean
18 again, I turn back to the term, new construction. What
19 exactly is old construction? It's just an non sequitur.
20 It's an absurdity.

21 DCRA says the owner is not proposing an addition.
22 The porch is not an addition? What about the spiral
23 staircases in the back? Those parking spaces, are they not
24 new or additions? How about inside the fabric of the
25 building, those new bedrooms I spoke of, those aren't

1 additions? Are additions only what gets added on the outside
2 or are those alterations?

3 Actually this is a good time to comment on the
4 property owner's PowerPoint presentation, which you'll hear
5 in a bit, which cites Board precedent. It's Case 17971.
6 It's the Outerbridge case. And in that filing the assertion
7 is that the stairs and porch roof are not additions. I just
8 want to go into that Outerbridge case a little bit. And it's
9 important to understand the context for that case.

10 Outerbridge was about whether a set of stairs, I
11 believe, in the rear and the landing to the main level were
12 an addition to the lot occupancy of a structure. This was
13 not a matter of defining what's an addition without context.
14 That's an important context to keep in mind. The word
15 addition was assessed in relation to whether the stairs added
16 to lot occupancy. This was not a matter of whether the
17 stairs, per se, were by definition not an addition to a
18 building.

19 At Argonne, the addition is not a set of stairs,
20 it is a second floor deck. I might add also that this
21 balcony -- this deck actually, rather it does actually add
22 to lot occupancy. Once removed, lot occupancy drops. To
23 rebuild it, it goes back up. The home is still under -- at
24 60 percent lot occupancy, so it's not an issue. But I point
25 this out because this deck is an addition if you define it

1 in relation to lot occupancy.

2 So if you want to use Outerbridge as a precedent,
3 you can certainly look at what the Zoning Administrator
4 concluded in Outerbridge and what the Board concluded in
5 Outerbridge in terms of what constitutes an addition. And
6 most specifically, rebuilding that deck it is an addition to
7 lot occupancy -- compliant, but it is an addition.

8 Also I went to the trouble of actually reading the
9 BZA Order in Outerbridge. And there's one statement I'd like
10 to read. It says, rather the Board credits the Zoning
11 Administrator's testimony that the deck did not constitute
12 an addition because the deck was not an enclosed space and
13 thus did not create interior useable space in the dwelling.
14 Did not create any additional space that was not already
15 available to the homeowner, did not increase the floor area
16 ratio of the dwelling, and did not increase the lot occupancy
17 because the extension of the dwelling under the roof was
18 already part of the calculation.

19 So again, putting that deck back adds to lot
20 occupancy. Third, excuse me -- third, DCRA asserts that the
21 three row houses comprising Argonne Place that it's not new
22 construction, but pre-existing, so that the Zoning
23 Administration's interpretation was correct. This is
24 incorrect. The building permits do in fact authorize
25 multiple forms of new construction or additions. And I have

1 already gone through those. Again, newly rebuilt porch, new
2 parking spaces, new spiral staircases.

3 Inside of these gutted buildings, new steel and
4 wood beams. I'm quoting from the building permit. Fourth --
5 almost finished.

6 As for the meaning of the word "proposed" and
7 DCRA's attempt to define it as meaning new structures and
8 constructions, one can turn to Subtitle A301.1 which is
9 regarding the issuance of building permits, which uses pretty
10 much the same words as the single lot record provision:
11 proposed construction, alteration.

12 All proposed construction requires a building
13 permit, not just "new" buildings. And all parties can
14 certainly agree that the Argonne Place properties were
15 required to secure building permits for work that was
16 proposed to be undertaken, specifically the proposed
17 erection, construction, conversion, or alteration of any
18 structure.

19 Fifth, the Board is being asked to believe that
20 the word "proposed" means new. It does not. I want to go
21 to the dictionary, which is where we're supposed to go when
22 these terms are not defined in the zoning regulations.

23 Proposed is, in the dictionary, it means to put
24 forward an idea or plan for consideration or discussion by
25 others. It does not mean new.

1 As for the meaning of construction, very
2 fundamental but not defined in the regulations, one can again
3 turn to the dictionary definition, which is the process, art,
4 or manner of constructing something. Thus, work under the
5 building permits in any building permit issued by DCRA
6 constitutes construction by any reasonable interpretation of
7 the word.

8 Sixth, in its attempt to exempt "pre-existing"
9 structures from the separate lot of record requirement DCRA
10 may very well be inviting unknown and potentially harmful
11 outcomes. I've got to admit, I don't know what those would
12 be. But this is such a fundamental requirement that to
13 define the lot record requirement around so-called new
14 buildings and new buildings only is -- should be very
15 concerning.

16 And, seventh, once these properties are sold, what
17 if the new owners want to add a new story? According to
18 DCRA, the lower level is a cellar so it seems like they're
19 entitled to add a story and make this a three story
20 structure. If they wanted to do that they would have to get,
21 guess what, a separate record lot number.

22 It's an obligation that the current owners are
23 punting. It's an obligation they really should take on. If
24 they don't take it on and the new owners want to make a
25 change like that, if we're to buy DCRA's logic on what is an

1 addition, that new floor, that new story would be an addition
2 and those owners would have to incur the expense and the time
3 to come before this Board to get an exception.

4 In conclusion, the Board does have a path forward.
5 It's a solution that will get these buildings back in
6 business. It's to encourage the property owner to do,
7 really, what they can do. It's to apply for a special
8 exception before this Board to allow for the restoration of
9 the single family lots. And get the ANC's support. I'll
10 help that happen. And then encourage DCRA to facilitate
11 restoration of the three record lots in record time and then
12 sell the units and comply with the zoning regulations.

13 Thank you.

14 CHAIRPERSON HILL: Okay. Thank you, Mr. Gambrell.
15 Does the Board have some questions for the Applicant? I'm
16 sorry, for the Appellant?

17 MEMBER WHITE: That last point you just made about
18 the path forward --

19 MR. GAMBRELL: Yes.

20 MEMBER WHITE: -- to have the property owner apply
21 for a special exception in order to move forward with having
22 three units, in the event that the special exception was
23 granted. Is that something that's been discussed actively
24 or at all?

25 MR. GAMBRELL: Before the ANC, you mean?

1 MEMBER WHITE: Before the ANC, with the property
2 owner, or DCRA?

3 MR. GAMBRELL: Not to my knowledge. I know that
4 Mr. Sullivan's discussions with Matt LeGrant discussed the
5 fact that the prior development, which never went through,
6 when they combined the lots and it was going to be an
7 apartment building, but that was abandoned about the
8 possibility of perhaps rescinding that modification of the
9 separate record lots. But as far as special exception I
10 don't think so.

11 MEMBER WHITE: Okay. I'll save that question for
12 later.

13 MR. GAMBRELL: Thank you.

14 MEMBER WHITE: Thank you.

15 MEMBER HART: Yeah, just a quick question. The
16 Outerbridge case, can you give me the number again?

17 MR. GAMBRELL: Sure. It's 17971. I think it's
18 from 2009.

19 MEMBER HART: Thank you. I was -- as I wrote it
20 down, I realized that I put a 19 and then I got, then I was
21 like, well, where is the seven? And then I got totally
22 confused. So, as I was listening, I thought I may actually
23 go back to that at some point to be able to kind of just
24 understand some of the points that you've raised.

25 I think that -- oh, you raised an issue about

1 making sure that, like, future owners. Can you talk about
2 that a little bit more? Because what I'm trying to get to
3 is, while I understand that would be a neighborly thing to
4 do, to kind of help out somebody, that would be up to the
5 owner,, the future owner to kind of have to deal with that
6 regardless if it's one lot, two lots, three lots, whatever.

7 But can you kind of just describe the interest
8 that you all have? I mean, I think I know what it is. I
9 just want to make sure that I do have that correct.

10 MR. GAMBRELL: I was really putting it out there
11 as just being a responsible developer, a responsible owner,
12 that you have zoning regulations, that you have potential
13 buyers, that you want to be in a position to not create a
14 problem for future owners should they want to make -- and
15 again, this is if you buy the argument of DCRA that only
16 certain things are additions.

17 And they're making -- well, I just make the point
18 everybody is agree that a story is an addition, a new story
19 is an addition.

20 Well, if the current owners and developers don't
21 take on that responsibility -- which, you know, in my
22 estimation they should because these are principle structures
23 and they should each have a separate record lot number -- by
24 bypassing this responsibility they are passing it on, they
25 are punting responsibility onto unsuspecting future property

1 owners.

2 And that creates a burden, an unnecessary burden.
3 The hurdle for getting three separate record lot numbers does
4 not appear to be significant. It certainly is more
5 burdensome in this case.

6 MEMBER HART: Thank you.

7 CHAIRPERSON HILL: Sure, please go ahead.

8 MEMBER JOHN: So, just a quick question. Did you
9 by any chance look up the meaning of construct?

10 MR. GAMBRELL: Construct? Construction but not
11 construct, no.

12 MEMBER JOHN: Okay, all right. Thank you.

13 CHAIRPERSON HILL: Okay. I just want to be clear
14 of a couple of things as far as Mr. Gambrell and
15 Commissioner. So these things are already here, they're
16 already there, correct?

17 MR. GAMBRELL: Yes, they are probably three
18 quarters of the way through in terms of renovation,
19 rehabilitation. But they were gutted up until like six
20 months ago, completely gutted.

21 CHAIRPERSON HILL: Okay. So you're here before
22 us because you believe that the Zoning Administrator erred
23 in issuing those building permits. But you don't necessarily
24 have any issue with the building itself?

25 MR. GAMBRELL: Oh, absolutely not. I mean, I

1 think the entire block is thrilled to see these properties
2 finally get converted.

3 The fact that they all wanted these single-family
4 rowhouses verses two units each, frankly, if they wanted two
5 units each, that's what they're allowed to do under the
6 zoning regulations with the special exception because they
7 don't have enough square footage. I would welcome it from
8 the standpoint of density.

9 CHAIRPERSON HILL: And so, because I remember, Mr.
10 Gambrell, I remember like the first time I ever saw you and
11 there was the whole cellar thing that we were talking about
12 and everything, right? So this is -- you're not having an
13 issue with the cellar or anything like that. It's that the
14 permits were issued incorrectly. The Zoning Administrator
15 erred and these should be separate lots.

16 MR. GAMBRELL: Yes. And the fact that this
17 property has a tortured history of misrepresentation frankly
18 concerns some of us that like, for example, calling what are
19 obviously garages saying they were bedrooms. I mean, it was
20 just such a blatant misrepresentation that was done by the
21 former owner.

22 CHAIRPERSON HILL: Former owner, right. But now
23 they are bedrooms?

24 MR. GAMBRELL: No, they're -- well they are now.
25 But in 2018 when they bought, they weren't. They were

1 garages and they were misrepresented as bedrooms again under
2 a new owner. That raised our suspicion. What exactly is
3 going on with this property?

4 And the issue of having separate record lot
5 numbers seemed fundamental to making sure that these were
6 going to comply with the zoning regulations, because this
7 project, these three contiguous rowhouses, wanted to be
8 turned into an apartment building of 12 units, which they
9 withdrew that application for reasons I won't go into.

10 So, the fact that they're going to repeat the same
11 misrepresentation years later heightened our attention to
12 what exactly is being done here.

13 CHAIRPERSON HILL: I understand. And I'm just
14 trying to get the -- what I'm trying to understand is the
15 issue that the community is having with it, right? And it's
16 that -- it's not that there's an issue with the buildings
17 that are there, it's not what they are being proposed to do.
18 It's that they haven't been properly -- it hasn't been
19 properly done, right?

20 So you're saying that if you did -- if the
21 property owner had gone through the special exception
22 process, gone through the ANC, come through us again, whether
23 or not that got approved or not, that's something that at
24 this point you think that the ANC might have been in favor
25 of?

1 MR. GAMBRELL: I can't speak for the entire ANC.
2 I know I certainly would have been in favor of it. They have
3 this status for almost 100 years. I can see what the rules
4 are for. I certainly would have supported them having these
5 record lot numbers restored, and would have supported them
6 having two units each if they wanted to do that.

7 CHAIRPERSON HILL: Okay, right. So I'm just
8 trying to get to the issue of it. It's the three record
9 lots?

10 MR. GAMBRELL: Yes. And the other errors were,
11 for the most part, as the counselor for DCRA had mentioned,
12 were corrected by two subsequent errors. So the ANC was
13 correct in identifying errors that have largely been
14 corrected.

15 CHAIRPERSON HILL: Okay. And this was something
16 that, again, you know, had been a focus with the ANC
17 previously with the previous owner. I mean, I'm just saying
18 that's why there were a lot of concerns. But this actually
19 is being developed.

20 So, okay, does the Board have any other questions
21 to the Applicant? No, okay.

22 So does DCRA have any questions for the testimony?

23 MS. LORD-SORENSEN: No.

24 CHAIRPERSON HILL: Okay. Does the building owner
25 have any questions for the testimony?

1 MR. SULLIVAN: Yes, thank you.

2 CHAIRPERSON HILL: Sure.

3 MR. SULLIVAN: Mr. Gambrell, you mentioned that
4 the community and yourself would have absolutely no issue
5 with these buildings being renovated as single-family
6 dwellings. Is that correct?

7 MR. GAMBRELL: Yes.

8 MR. SULLIVAN: And your objective is to get these
9 homes back in business?

10 MR. GAMBRELL: Yes.

11 MR. SULLIVAN: Is that right? What would change
12 in the zoning review if these happened to be record lots
13 instead of tax lots? If they had record lot numbers of 10,
14 11, and 12 instead of tax lots numbers of 841, 842, and 843,
15 what would be different about how these are reviewed and
16 approved and constructed or renovated?

17 MR. GAMBRELL: Sure, they would be compliant with
18 the zoning regulations.

19 MR. SULLIVAN: Aside from that paper issue, what
20 would change outwardly? What would a neighbor notice? How
21 would it affect somebody in the neighborhood?

22 MR. GAMBRELL: That's not where my interest lies,
23 quite frankly. My interest is quite simple: it's compliance
24 with the zoning regulations. I don't take it upon myself to
25 tell people what to do with their property. But I think that

1 we all own the zoning regulations and we all have
2 responsibility to adhere to them and stick by them. And that
3 is it. If that seems overly simplistic, my apologies. But
4 that's where I stand.

5 CHAIRPERSON HILL: I understand what you're
6 saying. Okay.

7 MR. SULLIVAN: So is anybody aggrieved by the
8 Zoning Administrator's actions in approving this on one
9 record lot without the separate record lots?

10 MS. FOX-PERRY: I would say yes, and echo
11 everything that Mr. Gambrell just said. I mean, if the sort
12 of, you know, interpretive jiu jitsu, or however it was that
13 you referred to it, is being done here, you know, it just
14 sets a tone, puts us certainly on heightened alert that
15 everything, you know, is going to require this level of
16 scrutiny. You know, it would be a lot easier for everybody
17 if the rules were followed.

18 MR. SULLIVAN: Did you have any outreach with the
19 adjacent neighbors to the property?

20 MR. GAMBRELL: No, I did not. We did have a
21 listserv discussion about this. And I've got to be frank
22 with you, it was upsetting to have your neighbors say, oh,
23 I think it should be developed. There's no disagreement.
24 My next door neighbors even said, well, it sounds to me like
25 you're just putting out a message that developers are not

1 welcome in Adams Morgan.

2 I mean, instead of coming over and knocking on my
3 door and asking what my concerns were, you know, put
4 something like that out there on a listserv. So, now we have
5 neighbors who aren't speaking to each other.

6 But, you know, I decided it was probably best just
7 to go through the process of working with DCRA, which we did
8 for many months.

9 CHAIRPERSON HILL: Okay, Mr. Gambrell. I'm sorry.
10 So the answer to that was you have provided some outreach to
11 people in the area. Mr. Sullivan?

12 MR. SULLIVAN: No further questions, thank you.

13 CHAIRPERSON HILL: Okay, all right. I'm going to
14 turn to DCRA. I don't know how long we had with the
15 testimony, actually. So I'm going to go with 20 minutes, and
16 so you can begin whenever you like.

17 MS. LORD-SORENSEN: Good afternoon, Chairman Hill
18 and members of the Board. We are here today because the
19 Appellant, ANC 1C, alleged that three building permits were
20 erroneously issued to the owner of 1630-1634 Argonne Place,
21 Northwest.

22 Now, these permits allowed the owner to renovate
23 three pre-existing rowhouses on a single record lot. On
24 December 12th, 2018, the property owner obtained Revised
25 Building Permit B1902796. And approximately two months

1 later, on February 26th, 2019, Appellant filed a revised pre-
2 hearing statement acknowledging that the December building
3 permit addressed some of their concerns, some of the concerns
4 raised in the initial filing.

5 Now, according to Appellant's most recent revised
6 pre-hearing statement there are roughly two remaining issues.
7 The first, that a separate record lot was not provided for
8 each principle structure, in violation of 11-A DCMR 301.3.

9 And the second issue, which has three subparts,
10 but the overarching issue is that the permit did not comply
11 with the building permit requirements, in violation of 11-A
12 DCMR 301.

13 Now, the second part, the second argument actually
14 has three sub-issues.

15 One, that a plat was not submitted for each of the
16 three building lots on the single lot. Two, that there was
17 an incorrect zone designation. And three, that an elevation
18 drawing was not provided to support the cellar designation.

19 Given that the Board has granted the motion to
20 incorporate the second revised permit that was issued in
21 March, the last two sub-issues, the zone designation issue
22 and the cellar designation issues, actually go away.

23 So, the only matters for DCRA to address at this
24 time is the separate record lot, whether or not one was
25 required, and whether or not a plat was required for the

1 three buildings. And that's what we're going to address
2 today.

3 Okay. Board's indulgence. I'm just --

4 CHAIRPERSON HILL: That's all right. I actually
5 printed out all this stuff and I'm looking at it. So you can
6 start reading.

7 MS. LORD-SORENSEN: Okay, great. So, first issue,
8 again, whether separate record lot was required for the three
9 pre-existing rowhouses.

10 So, when you look at 11-A DCMR 301.3 it states
11 in relevant part, and I've bolded it here: a building permit
12 shall not be issued for the proposed erection, construction,
13 or conversion of any principle structure, or for any addition
14 to any principle structure.

15 So, Zoning Administrator, my first question to
16 you, is 11-A DCMR 301.3 applicable to the instant case?

17 MR. LEGRANT: It is not.

18 MS. LORD-SORENSEN: And why is that?

19 MR. LEGRANT: Okay. So, it's important, as you've
20 highlighted here, that A 301.3, how this applies, how the
21 record lot requirement applies. It applies to proposed
22 construction or prospective construction of a new erection.

23 As it says, I will highlight, a building permit
24 shall not be issued for a proposed erection, construction,
25 or conversion of a principal structure, nor for any addition

1 to the principal structure. And, it goes on, "or
2 conversion." Those are the three key things: construction
3 of a principal structure, an addition to a principal
4 structure, or a conversion.

5 MS. LORD-SORENSEN: Okay. So let's break that
6 down. So, in the instant case, if the owner is trying to
7 build something, why in your opinion doesn't 301.3 apply?

8 MR. LEGRANT: Okay. So Applicants in many cases
9 as is in the case here, they are, obviously they're building
10 something. In the interior they're renovating as part of the
11 alternation or repair of this structure to bring it back to
12 the already recognized single family row dwelling use.

13 It's not, obviously a construction of a new
14 building or the erection which I construe as erection of a
15 principle structure. Nor is it an addition and we can get
16 into more details on the addition in a moment.

17 But overall they're not adding to the height of
18 the structure or the gross floor area of the structure, nor
19 it is it a conversion. And the word conversion I have
20 consistently interpreted as to mean a change of use.

21 So the use that is recognized there, single
22 family, that remains so it's not a conversion.

23 MS. LORD-SORENSEN: So just to continue off of
24 that --

25 MEMBER HART: Can I ask a question just out of

1 clarity? So if it isn't one of those things then what do you
2 consider it?

3 MR. LEGRANT: Okay, well for the purposes of this
4 provision then it's not triggered. And then using the
5 language that is the permit, the alteration or repair then
6 it doesn't meet this test is it any one of these three things
7 that would trigger the requirement for a separate record lot.

8 No, it's not triggered. So that provision doesn't
9 apply. And they can proceed with the rest of the building
10 permit process. Again, A 303.3, A 301.3 is a trigger if
11 those three things are present that require that.

12 And I'll just say to elaborate a little bit the
13 District in its wisdom has two completely separate lot
14 systems. We have record lots and tax lots, okay. And
15 although the, like in this provision as the many other
16 provisions of the zoning regulations are keyed to record
17 lots.

18 But elsewhere there is a definition of lot that
19 specifically says it can be a record lot or a tax lot. So
20 in other cases a tax lot classification is operative.

21 We have many, many houses throughout the District
22 that are not on record lots. And people do revisions and
23 alterations of those all the time.

24 And I'll just say that to make all of that vast
25 number, and there's I can say hundreds of those that we

1 probably deal with every year, to make them get a separate
2 lot of record, a) it's not a requirement in my mind and b)
3 would be an incredible amount of new regulation that would
4 come into play if the Board granted the appeal.

5 MEMBER HART: Just for, to kind of follow up. So
6 if you don't, if you're not considering it one of those then
7 you would be considering it kind of interior renovation?
8 It's not constructing a new thing, it's already there.

9 And so that's, when I'm looking at that regulation
10 I kind of see it as unless, sorry, a building permit should
11 be issued for the proposed erection, construction or
12 conversion of any principle structure. So because it's not
13 construction of any principle structure it is a renovation
14 of that?

15 MR. LEGRANT: Yes.

16 MEMBER HART: That's what you're seeing it as?

17 MR. LEGRANT: Yes.

18 MEMBER HART: Okay, that's fine. I just was, you
19 know, this kind of, I thought that they covered a lot of
20 ground in what they were, they included in this and I was
21 trying to understand the aspect that you were considering.

22 MR. LEGRANT: Sure.

23 MEMBER HART: And I understand that. I just
24 wanted to make sure I had that clear.

25 MR. LEGRANT: Okay.

1 MEMBER JOHN: So I have a question. Can we take
2 a look at 301.1? So that's the general provision on building
3 permits.

4 And in that section it says that all building
5 permits for the erection, construction, conversion or
6 alteration must fully conform to the provisions of this type.
7 So if you're doing an alteration it must comply with the
8 title.

9 MR. LEGRANT: That's correct.

10 MEMBER JOHN: So then we go to 301.3. And so
11 what's missing there? Alteration is missing.

12 MR. LEGRANT: That's correct.

13 MEMBER JOHN: So would you say that the absence
14 of the word alteration in 301.3 is additional support that
15 this section does not apply to alterations?

16 MR. LEGRANT: Yes. And I'll, to further elaborate
17 the general section A 301.1 refers to the whole Title, so the
18 whole 1,000 pages of zoning regulations you can't get a
19 building permit unless you're in compliance.

20 MEMBER JOHN: Right.

21 MR. LEGRANT: Okay, then A 301.3 is specific now
22 okay, how does, what kind of lot has to be on that. And then
23 it's specific as to the conditions of what must be present
24 to have a record lot.

25 MEMBER JOHN: And how do you define the word

1 construct? Do you see it as, well how do you define the word
2 construct as opposed to alter?

3 MR. LEGRANT: Well as I've consistently applied
4 this provision throughout my tenure as Zoning Administrator,
5 when I look at the proposed erection, construction or
6 conversions of any principle structure. So I focus on the
7 of part is like, are we building a new structure?

8 Are we adding to that structure? Further on, yes,
9 for any addition to the principle structure or conversion.
10 So that's how I construed it not apply it to alterations in
11 which the other conditions are not occurring.

12 COMMISSIONER TURNBULL: Mr. LeGrant, are tax lots
13 governed by the zoning regulations?

14 MR. LEGRANT: No. Well let me put it this way tax
15 lots and record lots are not governed by the zoning
16 regulations. Zoning regulations refer in different instances
17 about what you need, you need a, generally it refers to one
18 of two ways.

19 You need a record lot for certain conditions and
20 in other instances it refers to you're on a lot and it just
21 refers to the lot in a general sense which again, if you go
22 to the definition is inclusive of either a record lot or a
23 tax lot.

24 COMMISSIONER TURNBULL: Well I guess what I'm, is
25 the creation of a tax lot a way of getting around the zoning

1 regulations, subverting the zoning regulations to get
2 something done?

3 MR. LEGRANT: No. The District allows people to
4 create tax lots for basically ownership purposes.

5 If somebody comes in and is doing something that
6 is regulated by the zoning regulations, i.e. like building
7 a building or establishing a use then I believe the zoning
8 regulations, rightly so, weigh in and then we have to see the
9 context of that particular site and how it's classified if
10 it's a tax lot or record lot.

11 COMMISSIONER TURNBULL: It sounds like this is
12 creating a lot of problems?

13 MR. LEGRANT: Well I would say it's a challenge.
14 And the intervener's attorney could probably speak to the
15 many instances in which the Districts again, two different
16 lots systems, tax lots and record lots present challenges.

17 And my office works closely with the Office of
18 General Counsel at DCRA in those instances to try to sort it
19 out. But here I believe it's pretty clear.

20 COMMISSIONER TURNBULL: Is the conversion of a
21 single family residence to a two flat a conversion or not a
22 conversion?

23 MR. LEGRANT: I would say that has not been
24 presented to me in this particular case. It's arguably a
25 change of use.

1 COMMISSIONER TURNBULL: Okay, thank you.

2 CHAIRPERSON HILL: I was just looking around to
3 see if anybody had some more questions. Okay, are you done?
4 I didn't think you were done, okay. You interrupted them.
5 Okay, great.

6 All right, so, okay, then I'll continue to
7 interrupt you and then you can go on. And so, Mr. LeGrant,
8 just because I'm a little confused, so it was three record
9 lots at one time and then it turned into one record lot when
10 they were trying to do the apartment building.

11 And then the apartment building was abandoned and
12 then they went to three, and this is where I just have to
13 kind of go back into the record so you'll kind of just help
14 me out here.

15 MR. LEGRANT: Sure.

16 CHAIRPERSON HILL: They went to, when there were
17 three record lots and they converted it into one record lot
18 there were three buildings on those three lots. And those
19 three buildings remained, they never changed, right?

20 MR. LEGRANT: That's correct.

21 CHAIRPERSON HILL: That's correct. And so then
22 now those three record lots are actually now, I'm sorry,
23 those three record lots that turned into one record lot are
24 still three tax lots?

25 MR. LEGRANT: Well again, the intervener's counsel

1 can speak to this. But the brief history is originally three
2 records lots. They were consolidated.

3 DCRA uses the word subdivision. But it was a
4 consolidation subdivision of those three into one record lot
5 which is there now. I think it's Lot 480. Then the property
6 owner has very recently now created three tax lots that
7 overlay each of the rowhouses.

8 CHAIRPERSON HILL: So they created the three tax
9 lots?

10 MR. LEGRANT: Yes.

11 CHAIRPERSON HILL: The property owner did?

12 MR. LEGRANT: Yes.

13 CHAIRPERSON HILL: So how come the property owner
14 didn't just create the three record lots?

15 MR. SULLIVAN: It doesn't meet the minimum lot
16 width.

17 CHAIRPERSON HILL: Okay. So the three tax lots
18 that you made, right, or that the property owner made and
19 just because I'm familiar with tax lots a little bit. And
20 so like those, and there are a lot of tax lots that people
21 live on and they have changed.

22 But then if someone, if they were, to follow the
23 Appellant's argument if one of these homes wanted to convert
24 into two flats, right, then they couldn't do that because
25 they were tax lots?

1 MR. LEGRANT: Again, it's not been presented to
2 me. But if the change of use from a single family to a flat,
3 which is a permitted use in the zone or an addition, like a
4 third floor addition I would believe would then trigger A
5 301.3 to require a separate record lot.

6 CHAIRPERSON HILL: So they would have to get a
7 separate record lot at that time --

8 MR. LEGRANT: Yes.

9 CHAIRPERSON HILL: -- to do that, to do anything
10 that you normally would be able to do if it were a record lot
11 now?

12 MR. LEGRANT: It's a trigger.

13 CHAIRPERSON HILL: I'm talking myself into a
14 circle. Okay, you're welcome to go right back along, Ms.
15 Lord-Sorensen.

16 MS. LORD-SORENSEN: All right. So, Mr. LeGrant,
17 in addition to the example that you just provided to the
18 Board, could you provide another example of a trigger,
19 another situation that would trigger A 301.3?

20 MR. LEGRANT: Right. So if it was, for example,
21 a vacant piece of land today and there was no building or
22 structure there and they wanted to build a new building and
23 then we would have to rely, I would have to rely on A 301.3
24 and say that would now need a separate lot of record.

25 MS. LORD-SORENSEN: Okay. In the revised, in

1 Appellant's revised pre-hearing statement they cite various
2 sections of 11-C DCMR Chapter 3. So I just want to discuss
3 the three provisions in turn and see whether or not they're
4 applicable to the incident case.

5 So the first regulation the Appellant cites is 11-
6 C DCMR, Section 302.3. No building or structure in any zone
7 may be erected to cover more than one record lot. What is
8 your position on that?

9 MR. LEGRANT: Right, that's obviously the
10 regulation. It doesn't apply here because they are not,
11 there is no erection of a building in this situation.

12 MS. LORD-SORENSEN: Okay. Now 11-C DCMR, section
13 302.2, it reads each new primary building and structure shall
14 be erected on a separate lot of record in all R, RF and RA
15 zones except as follows.

16 So that's just a portion of the reg. Is Section
17 302.2 applicable in this case?

18 MR. LEGRANT: No, it is not.

19 MS. LORD-SORENSEN: And why not?

20 MR. LEGRANT: Again, the provision doesn't apply
21 because the owner is not creating a new building or
22 structure. The three row houses that are there are pre-
23 existing.

24 MS. LORD-SORENSEN: Okay. And lastly, 11-C DCMR,
25 Section 305.1 in the R, RF and RA zones the Board of Zoning

1 Adjustment may grant through special exception a waiver of
2 Subtitle C, Section 302.1 to allow multiple primary buildings
3 on a single record lot provided that in addition to the
4 general special exception criteria, Subtitle X, Chapter 9 the
5 requirements of this section are met. Is this particular
6 provision applicable?

7 MR. LEGRANT: It is not.

8 MS. LORD-SORENSEN: Why wouldn't they -- why
9 doesn't the owner require a special exception in this case?

10 MR. LEGRANT: The existing single record lot
11 already contains three buildings and it's a nonconforming
12 situation. And so it's, this provision is not triggered.

13 MS. LORD-SORENSEN: Okay. And now I would like
14 to direct your attention to the second issue that had to deal
15 with the plat and whether or not a separate plat was required
16 for each row house.

17 So I'd like to direct you attention to 11-A DCMR,
18 section 301.2 which reads in part to determine compliance
19 with the provisions of this title each application for a
20 building permit shall be accompanied by any of the following
21 that is deemed necessary.

22 Part A, says scale drawings showing the exact
23 shape, topography, dimension, plan, elevation, parking and
24 loading plans and other information necessary to determine
25 compliance with this title. So based, in your opinion and

1 on 11-A DCMR was a separate plat required for each of the
2 three structures on the lot?

3 MR. LEGRANT: No.

4 MS. LORD-SORENSEN: Why?

5 MR. LEGRANT: Okay. So again, the provision it
6 says each application for a building permit accompanied by
7 the information and you mentioned A. But B, in question here
8 is official building plat.

9 Well there was a plat submitted that was
10 commensurate with the record lot. The record lot showed the
11 three buildings. The --

12 MS. LORD-SORENSEN: And did the plat meet the
13 requirements under 301.2(b)?

14 MR. LEGRANT: Yes.

15 MS. LORD-SORENSEN: Okay.

16 MR. LEGRANT: And I think it's important for the
17 Board to understand the plat is a tool to inform us of the
18 information so we can do a zoning analysis. And the plat in
19 this case showed the positioning of the buildings on the lot
20 so we could do, see what the relevant dimensions were, the
21 building envelope and so forth.

22 And in my view the plat that was submitted
23 provides the necessary information that we needed to do our
24 zoning analysis.

25 MS. LORD-SORENSEN: Because isn't it true that at

1 the time that you conducted your review all three structures
2 existed on one single lot, correct?

3 MR. LEGRANT: That's correct.

4 MS. LORD-SORENSEN: Okay. So with all three
5 structures on one lot then one plat would have been required
6 at that time?

7 MR. LEGRANT: Yes.

8 MS. LORD-SORENSEN: Okay. No further questions.

9 CHAIRPERSON HILL: Okay, does the Board have more
10 questions for the Zoning Administrator?

11 MEMBER JOHN: I'm going to try this one. So when
12 the building is completed, the renovations are completed
13 could the property owner then get an occupancy permit for
14 that, for each residence?

15 MR. LEGRANT: Okay. So to remind the Board a
16 Certificate of Occupancy applies to all uses in the District
17 except single family homes. So there is no Certificate of
18 Occupancy triggered at the end of construction of each of
19 those three row houses.

20 They have to pass final inspection to ensure that
21 all applicable provisions of the applicable building permit
22 were followed and the plans were satisfied. But it's a
23 little technical.

24 But there would be no Certificate of Occupancy
25 triggered for the occupancy of a single family dwelling.

1 MEMBER JOHN: So I have a follow up question. So
2 if the owner, the new owner wanted to rent that single family
3 home that owner would need to provide a Certificate of
4 Occupancy as part of their business license application. So
5 how would that work?

6 MR. LEGRANT: Okay. So the way it works again,
7 because there's no certificate of occupancy applicable here
8 the, DCRA's business license division would then and they
9 have a special process to, it's a single family rental
10 business license recognizing that a certificate of occupancy
11 doesn't apply they still, they may check with zoning, the
12 Zoning Division in my office to see if there's any issues.

13 But normally then they could proceed with a rental
14 license for that building.

15 CHAIRPERSON HILL: Okay. Does the Applicant have
16 some, I'm sorry.

17 COMMISSIONER TURNBULL: I'm sorry, Mr. Chair. The
18 Appellant brought up a question at one point or in their
19 discussion if one of the owners wanted to modify one of the
20 units on one building.

21 If one, just one out of the three wants to add a
22 deck on top or a third story, do something what is triggered,
23 what do they have to do to do that then?

24 MR. LEGRANT: Okay. So if one of the owners of
25 the subsequent dwellings wanted to put let's say a roof deck

1 it was, they would have to obviously apply for a building
2 permit.

3 I would say that the presence of a deck itself
4 would not rise to the level of an addition, okay. And
5 therefore that, whatever deck would have to be in addition
6 to meeting all of the building code requirements we would
7 look at did they put a railing on it or they would have to
8 meet with the setback requirements that the zoning
9 regulations specify for said deck railing.

10 But otherwise I believe they would be able to
11 proceed.

12 COMMISSIONER TURNBULL: Okay. I don't know what
13 the height is of the building so I can't, I don't know if
14 they're eligible for another story or part of a story. What
15 would that trigger?

16 MR. LEGRANT: Okay. If they added a story, as I
17 noted in my earlier testimony, creating new gross floor area,
18 adding bulk to the building would be an addition. We would
19 look to you would need a separate record lot.

20 COMMISSIONER TURNBULL: Okay, I just wanted to,
21 I guess I missed exactly what you said previously, but thank
22 you.

23 MEMBER JOHN: Mr. Chair, just a follow up.

24 CHAIRPERSON HILL: Sure.

25 MEMBER JOHN: So what would that owner do to get

1 this record lot designation, since we're speculating way into
2 the future beyond what's before us? But may as well carry
3 on.

4 MR. LEGRANT: Yes. So if that owner or some
5 future owner wanted to do this addition then, as I've noted,
6 the regulations are clear. They need a separate lot of
7 record.

8 It does not meet the standard. I believe the
9 Appellant has correctly noted that not meeting the standard
10 would require Board relief. They would have to pursue a
11 relief to, it doesn't not meet the dimensional standards.

12 And if they were able to successfully get relief
13 then they would be able to obtain a new record, a new
14 separate record lot.

15 MEMBER JOHN: Okay. So now they're creating an
16 nonconforming lot or would they be, or would we revert to the
17 previous nonconforming lot since they're not wide enough to,
18 so --

19 MR. LEGRANT: Let --

20 MEMBER JOHN: -- where would we be at that point?

21 MR. LEGRANT: Okay. Remember they have a lot,
22 they have a tax lot but they would not have a record lot.
23 The record lot would not meet the standards.

24 They would have to get relief from this Board for
25 not meeting the width and/or area standard because that's

1 applicable to lots in this, in the RF Zone for a single
2 family or flat which is 1,800 square feet and 18 feet in
3 width.

4 CHAIRPERSON HILL: But just to be clear, the
5 relief that they're, what's the relief again they would be
6 looking for from the Board? It's not about turning it into
7 a tax lot. That's nothing that's before us.

8 MR. LEGRANT: Right. They already have a tax lot.

9 CHAIRPERSON HILL: I'm sorry, record lot.

10 MR. LEGRANT: Yes. The sequence is this. They
11 have a tax lot with the existing nonconforming single family
12 structure. They want to do something that A 301.3 says you
13 want to build an addition or a conversion you would need to
14 be in a separate record lot. You don't meet the standard.

15 You come to this Board and ask for relief. If the
16 Board were so to grant that relief then they would come back
17 to DCRA with their order and say now I can get, I can proceed
18 with my subdivision for a substandard lot because I've gotten
19 relief. Now I get a record lot. Then I can --

20 CHAIRPERSON HILL: I'm just trying to be clear
21 again. So they come to us for relief of the substandard lot
22 and that then in turn gets them the ability to make a record
23 lot?

24 MR. LEGRANT: Yes.

25 CHAIRPERSON HILL: Okay. Anybody else?

1 MEMBER WHITE: Just ask just a couple questions
2 just so I have it on the record for DCRA. What's the
3 intended use of the buildings?

4 MR. LEGRANT: I'm sorry.

5 MEMBER WHITE: What is the intended use of the
6 buildings at issue here?

7 MR. LEGRANT: Right. It's a single family
8 dwelling.

9 MEMBER WHITE: Okay. And the challenge permits
10 authorize renovations for how many dwelling units?

11 MR. LEGRANT: It's, the three building permits for
12 each of the three row houses is each single family. So it's
13 alteration/repair or each of those row houses of which the
14 use of which is single family.

15 MEMBER WHITE: Okay. And so does the ZA
16 anticipate granting a Certificate of Occupancy for the three
17 dwelling units on this lot?

18 MR. LEGRANT: No. They will be, because the
19 building permit, DCRA issues building permits for separate
20 buildings, okay.

21 And so there was three building permits the
22 building permit would be, was issued and following the
23 successful completion of construction as documented through
24 inspection they passed the final inspection and they would
25 be basically done with DCRA.

1 MEMBER WHITE: Okay.

2 CHAIRPERSON HILL: Okay, all right. When you
3 said, I'm sorry, Mr. LeGrant, so when you said single family
4 unit, right. So you're saying, but you're saying there's
5 three single family units, correct?

6 MR. LEGRANT: Correct.

7 CHAIRPERSON HILL: Okay. So you see three single
8 family units on this one record lot?

9 MR. LEGRANT: Correct.

10 CHAIRPERSON HILL: Okay, all right. Do you have
11 any questions?

12 MR. GAMBRELL: Yes, a couple.

13 CHAIRPERSON HILL: Sure, go ahead.

14 MR. GAMBRELL: I'm sensitive to the late hour as
15 well.

16 CHAIRPERSON HILL: No, that's all right. I mean,
17 thank you.

18 MR. GAMBRELL: Mr. LeGrant, is the term tax lot
19 included in the zoning regulations?

20 CHAIRPERSON HILL: Actually, Mr. Gambrell, we're
21 going to take a break because I lost one of my Board Members.
22 And if we're actually going to have cross then we're going
23 to wait.

24 (Whereupon, the above-entitled matter went off the
25 record at 4:43 p.m. and resumed at 4:46 p.m.)

1 CHAIRPERSON HILL: Okay. Mr. Gambrell, I believe
2 we were with you asking questions of the Zoning
3 Administrator.

4 MR. GAMBRELL: Yes. The first one is, Mr.
5 LeGrant, is the term tax lot --

6 CHAIRPERSON HILL: Wait a minute, wait a minute.
7 I still have a Board Member missing.

8 MR. GAMBRELL: Okay.

9 MS. FOX-PERRY: I actually need to stop out. But
10 thank you so much and we defer to Mr. Gambrell.

11 CHAIRPERSON HILL: Commissioner, you can't leave
12 now.

13 MS. FOX-PERRY: I know, it pains me. It pains me.

14 CHAIRPERSON HILL: We're just starting to have fun
15 and we're going to start asking questions. Do you have
16 somewhere to go? It's like quarter to five, okay, all right.
17 Well thanks for coming down.

18 MS. FOX-PERRY: Thank you.

19 CHAIRPERSON HILL: You can watch it all on tape
20 I'm sure later.

21 MS. FOX-PERRY: I will.

22 CHAIRPERSON HILL: Okay, all right. We're still
23 going to wait until I get my last Commissioner, Board Member.
24 Okay, Mr. Gambrell, thank you.

25 MR. GAMBRELL: Okay. Actually before I start I

1 just wanted to clarify I'm not going to be covering any
2 questions regarding error two, like the plat issue.

3 We see those issues because we think the record
4 lot issue is so important. Also that the Subtitle C
5 discussion in our initial pre-hearing statement and revised
6 pre-hearing statement was in there because we frankly didn't
7 know what DCRA was referring to when they were talking about
8 the lots.

9 So that was simply a matter of there was no
10 citation in DCRA's emails before we brought the case forward.
11 So this is all about record lots.

12 First, I just wanted to ask a couple of questions
13 about terminology in the zoning regulations. Is the term tax
14 lot included in the zoning regulations?

15 MR. LEGRANT: There's not a specific definition
16 for tax lot. But as I think I previously testified, the
17 definition of lot in the zoning regulation's definitions also
18 includes a reference to, technically it's assessment and
19 taxation lots. It's referred to in the definition of lot.

20 MR. GAMBRELL: Okay. So having done a word search
21 on the regulations I'll take that, no, the term tax lot is
22 not found in ZR 16. Does 301.3 say pre-existing?

23 MR. LEGRANT: It does not.

24 MR. GAMBRELL: Okay. Does 301.3 say new principle
25 structure?

1 MR. LEGRANT: The word new is not there.

2 MR. GAMBRELL: Okay. In terms of again, we're
3 throwing a lot of words around here. I know one word that
4 was brought up in DCRA's testimony was renovation. Is there
5 a definition for renovation?

6 How does that relate to, say for example, the
7 terms that are in the regulations construction or alteration
8 or addition?

9 MR. LEGRANT: I would agree I don't believe the
10 word renovation exists in the zoning regulations in terms of
11 what we're discussing here, A 301.3, as I think I have
12 testified to is my understanding of the meaning of that and
13 how it applies.

14 MR. GAMBRELL: Okay. Just a few questions. And
15 I want to relate this to the Outerbridge case. And again,
16 I'm just going to read a clause here from the Board's final
17 order.

18 That the Board credits to Zoning Administrator's
19 testimony that the deck did not, that's the roof deck, did
20 not constitute an addition because the deck was not an
21 enclosed space and thus did not create interior, usable space
22 in the dwelling.

23 And it goes on about increasing, you know, the
24 bulk, what have you. In terms of this project on Argonne the
25 former garages that are now bedrooms under the permits, are

1 those additions too interior usable space?

2 MR. LEGRANT: As the Zoning Administrator that was
3 referred to in the Outerbridge case in 2009, because that was
4 me, I recall the case, the, no, that would not be an
5 addition. This was already an area that was, in the incident
6 case we're talking about an area that's already enclosed
7 within the shell of the building.

8 So converting it from its prior use as a garage
9 into a bedroom that was proposed and approved in the building
10 permit would not, in my mind, be an addition.

11 MR. GAMBRELL: What about the mudroom additions
12 which were formerly crawl spaces underneath, right next to
13 the garage? Each of the row houses has kind of a crawl
14 space.

15 But those are now what are called mudrooms on the
16 plans and there are new walls there. Would those be
17 considered additions --

18 MR. LEGRANT: No.

19 MR. GAMBRELL: -- to interior usable space?

20 MR. LEGRANT: No.

21 MR. GAMBRELL: And why is that?

22 MR. LEGRANT: No, there's just, they were already
23 existing within the shell of the building and did not add to
24 the bulk or size of the building.

25 MR. GAMBRELL: So just to kind of clarify that in

1 terms of the actual conditions the crawl spaces were, I don't
2 know the exact dimensions but there was no exterior wall
3 there.

4 And now there is an exterior wall to enclose that
5 space and now call it a mud room. So again, it was just a
6 crawl space where people would put junk. Now it's part of
7 the structure. Is that new interior usable space?

8 MR. LEGRANT: To be able to best answer that I
9 think I would have to refer to the plans.

10 MR. GAMBRELL: Okay, all right. Again, I'm going
11 to turn back to Outerbridge. And I think the scenario and
12 I understand the reasoning in Outerbridge that a roof deck
13 would not be considered an addition because a roof deck in
14 Outerbridge --

15 CHAIRPERSON HILL: Mr. LeGrant, could you turn off
16 your microphone? It's getting feedback up here, thanks.

17 MR. GAMBRELL: That a roof deck is on top of the
18 structure and so it does not contribute to lot occupancy.
19 At Argonne we have, one of the permits is to build a new
20 upper level deck in the front.

21 Does that upper level deck above the porch
22 constitute an expansion of lot occupancy?

23 MR. LEGRANT: No.

24 MR. GAMBRELL: And why would that not expand lot
25 occupancy?

1 MR. LEGRANT: Again, I would have to refer to the
2 plans. As I recall, it, I would really have to see the plans
3 to see what feature you're referring to.

4 As I think I've testified, the plans for these
5 renovated row houses do not create new enclosed space nor
6 gross floor area as I best recall.

7 MR. GAMBRELL: Yes, and in my question was about
8 actual lot occupancy in terms of whether or not it expands
9 lot occupancy. Again, the question being does rebuilding
10 that front porch on the second level increase lot occupancy?

11 MR. LEGRANT: I would have to refer to the plans,
12 sorry.

13 MR. GAMBRELL: Just to, maybe it might help a
14 little bit I'm going to refer to a 2013 zoning determination
15 letter. And this actually was in Lanier Heights. I believe
16 it was 1762 Lanier in which you wrote a zoning determination
17 letter about an existing front porch.

18 You said it would not count toward the 60 percent
19 lot coverage with the existing porch removed and a new
20 trellis space 25 inches on center. So to me that particular
21 zoning determination letter says to me that a porch upper
22 floor deck would in fact add to lot occupancy as a rule that
23 you've issued in a zoning determination letter.

24 CHAIRPERSON HILL: I'm sorry, Mr. Gambrell, I'm
25 just trying to figure it out. So you're, Mr. LeGrant has

1 answered a few times now that he would have to see the plans.

2 MEMBER MAUNE: Okay.

3 CHAIRPERSON HILL: And so I think that if you just
4 keep restating that question he's still going to have to
5 refer back to seeing the plans. And so if we, you know, if
6 we get to that point where he needs to take a look at the
7 plans in order to answer your question we can go ahead and
8 do that.

9 MR. GAMBRELL: Okay, that's fine. Regarding, this
10 might be my final question, you know, I'm just going to put
11 this in the context there's currently a single record lot but
12 there are three units on that single record lot. Is that
13 legal in RF-1?

14 MR. LEGRANT: Your question is that legal, I think
15 I testified already it's a pre-existing nonconforming
16 condition.

17 MR. GAMBRELL: Okay.

18 CHAIRPERSON HILL: So Mr. LeGrant, that's a yes?
19 I mean I'm just a little confused myself, I'm not trying to
20 be, you know. So it's a non-conforming use, there's three
21 there, is it legal, the answer is yes.

22 MR. LEGRANT: Yes.

23 CHAIRPERSON HILL: Okay.

24 MR. GAMBRELL: I actually do have one more, and
25 I think this is actually more of just a known, I think. Can

1 the owner seek a special exception to the 1800 square foot
2 lot minimum requirement in RF-1? Because each of these lots
3 is only 1700 square feet.

4 CHAIRPERSON HILL: You're saying if they were to
5 try to get them to be record lots, could they seek an
6 exception?

7 MR. GAMBRELL: Yes.

8 CHAIRPERSON HILL: That's an exception?

9 MR. GAMBRELL: Yes.

10 MR. LEGRANT: Yes.

11 CHAIRPERSON HILL: Okay.

12 MR. GAMBRELL: That's it.

13 CHAIRPERSON HILL: Okay. Mr. Sullivan, do you
14 have any questions for Mr. LeGrant?

15 MR. SULLIVAN: No, thank you.

16 CHAIRPERSON HILL: Okay. All right. Okay. So
17 Mr. Sullivan, you have an opportunity to give your
18 presentation, and then we'll just keep going around.

19 MR. SULLIVAN: Okay, thank you. I have -- I
20 submitted a Powerpoint, but I'm not going to go through the
21 trouble of bringing it up because I'm just going to refer to
22 one page, it's page 2, because I think we're just down to
23 that issue. And I think Mr. -- well I'm not really sure what
24 he's trying to communicate with his argument about this, but
25 it's very clear that a building permit shall not be issued

1 for the proposed erection, construction or conversion of a
2 principal structure.

3 So a building permit shall not be issued for the
4 erection of a principal structure, the construction of a
5 principal structure, or the conversion of a principal
6 structure, or for any addition to that principal structure.
7 And it's not about the definition of the word construction,
8 it's the definition of the phrase, construction of a
9 principal structure or addition to a principal structure.
10 And it's definitely not about the word proposed, and I didn't
11 really understand that line. We're not relying on the word
12 proposed at all; anything that's in a building permit
13 application is proposed just as a matter of course.

14 The tax lot record lot situation, if I could
15 explain how I understand it briefly, is rather interesting,
16 but it works. It works, and it works in conjunction with
17 301.1 and 301.3, and here's how and why it works. The record
18 lot system has been set up as a control, a zoning control,
19 over minimum lot areas, minimum lot widths; it's also a
20 control over building footprints and yards, the exterior
21 aspects of a structure.

22 And the reason why this is done, if I created a
23 record lot, the first thing I do when I propose the record
24 lot, it has -- and it's vacant -- it has to meet the
25 requirements, it has to meet minimum lot width, and the

1 zoning administrator has to sign it. So it has that
2 checkpoint. And then I go to build a house, and because I'm
3 proposing the construction of a principal structure, I need
4 a record lot. So if I -- I need a plat with a record lot in
5 order to have a building permit application for a proposed
6 new structure. That is going to allow them to know that the
7 record lot exists legally and that they can check lot
8 occupancy, yards, and they do that in dimension with the
9 record lot.

10 Once I do that, there is a principle -- and I
11 don't know how it started, but I think it's based in
12 constitutional law -- that I should be able to sell any
13 portion of my property, and this was the creation of the
14 assessment and tax lot situation. I can sell my back yard
15 if I want; however, I cannot corrupt that record lot by doing
16 so. So when I create the tax lot, it has no impact at all
17 on the record lot, which is in the surveyor's office as
18 opposed to the tax lot, which is in the Office of Tax and
19 Revenue, notwithstanding that the surveyor keeps records of
20 the A&T lots as well.

21 If I created a tax lot and sold my back yard to
22 the neighbor, and then he goes and takes that A&T lot, does
23 a plat, and tries to build a new building, which would take
24 the record lot, which would double the lot occupancy on the
25 record lot and take it out of compliance, he's caught because

1 he's proposing a new building, and they're going to say, you
2 need to have a record lot, and then he would find, I can't
3 get the record lot approved because in order for the zoning
4 administrator to sign that record lot plat, he's going to
5 have to certify that the creation of that record lot does not
6 bring out of compliance the original record lot. And so
7 everything's protected. So you can sell your property any
8 way you want, any kind of interest in a property, but you
9 can't get around the record lot situation.

10 So 301.1 and 301.3 acknowledge that reality, that
11 I need a record lot if I'm going to do an exterior addition.
12 If I'm going to impact anything that's going to extend my lot
13 occupancy or my yard setbacks, anything that's noticeable or,
14 as the zoning administrator said, increase the gross floor
15 area, number of stories, then I need a record lot plat, and
16 that's what the purpose of 301.3 is. What Alan is demanding
17 now from this point forward is that every single building
18 permit for any work at all requires an underlying record lot.

19 CHAIRPERSON HILL: Mr. Sullivan, are we on a first
20 name basis or --

21 MR. SULLIVAN: With Mr. Gambrell.

22 CHAIRPERSON HILL: Mr. Gambrell --

23 [Simultaneous talking]

24 MR. SULLIVAN: What Mr. Gambrell is demanding now
25 is that from this point forward, every single building permit

1 for any work at all requires an underlying record lot, okay.
2 I think the Board may be aware, and I did submit something
3 to the record that shows just a two-block area in Georgetown;
4 there are hundreds if not thousands of homes that were built
5 prior to 1958 which are located on tax lots. They are not
6 -- they have no underlying record lots with them.

7 Hundreds of those are not capable of getting a
8 matter of right record lot subdivision. So if I need to
9 replace a steel beam in my house in Georgetown, and I can't
10 get a record lot to do that, I have to go to the BZA to get
11 a record lot minimum lot width variance in order to install
12 a beam that's going to keep my house from falling down.

13 This is what he's proposing; it's not in
14 conjunction with 301.3. I think it all makes sense; I think
15 it all works perfectly with the record lot situation, the tax
16 lot situation. If you're doing something that is going to
17 exceed lot occupancy -- and now this is why I can talk
18 about the porch and the stairs.

19 So the porch, even though Mr. Gambrell keeps
20 saying it's a brand new porch, it was the reconstruction of
21 the porch. It was an emergency reconstruction of a porch
22 that was in danger of falling down for a long time until the
23 owner bought the property and fixed it.

24 I have an email here, this is from the adjacent
25 owner, from a property at 1628 Argon, adjacent to 1630 Argon.

1 1630 Argon is what Mr. Gambrell was referring to the
2 construction of a new porch. There are three porch roofs
3 here. There were, and they have decks on top of them for
4 these three houses. One of them was failing, and it was
5 damaging the neighbor's house. Now, I just submit this just
6 to clarify for the record that -- the circumstances behind
7 replacing this.

8 I will -- this did not increase the lot occupancy;
9 it was a replacement in kind. It was there, it was an
10 emergency reconstruction of the porch. So yes, the porch
11 roof came down and went right back up, which was required of
12 course under the architectural elements provision. Yes, it
13 was done with -- they didn't go get a permit, but it was done
14 on an emergency basis and then they went and got the permit
15 for that after. There was a stop work order as a result of
16 them doing this work, and then they went after the fact and
17 got the permit. I would just like to add too that there's
18 no connection whatsoever between the current property owner
19 and the previous property owner.

20 So a record lot is only required for additions.
21 It's clear that any work on the interior is not an addition.
22 On the exterior, we have two items of exterior work; one is
23 this replacement, which is a replacement in kind, which does
24 not increase the lot occupancy, and the other one is this
25 stair at the rear of the building which goes to the first

1 level or the level where the main entrance is. Neither one
2 of those items count in lot occupancy, and that's why they
3 don't trigger the record lot requirement, and that's why
4 they're not considered additions.

5 And the reason I submitted the Horsey case is
6 because it talked about that aspect, but there's a regulation
7 to back that up as well, and it's in Subtitle B, Section
8 324.1 as a structure in required open spaces. These are
9 exceptions to lot occupancy and exceptions to rear yard
10 requirements. Stairs leading to the ground from a door
11 located on the story in which the principal entrance of a
12 building is located may occupy any yard required under
13 provisions of this title. So the stairs don't impact lot
14 occupancy. The stairs were a replacement as well, but that's
15 -- but there's two reasons why the stairs don't count. One
16 is because these stairs don't impact lot occupancy at all,
17 so you wouldn't need a record lot for that as well. That's
18 all I have on that point.

19 The other thing is I would just like to point out
20 that they have not shown that anybody is aggrieved by this
21 action at all. I can't for the life of me understand why
22 they're here saying that they would like us to go forward and
23 spend a year or more with the Board of Zoning Adjustment to
24 get a special exception so that we can have two units. The
25 owner has been satisfied with the one unit, he checked with

1 the zoning administrator before he purchased, and that was
2 a requirement of the zoning administrator that you can't do
3 two units because of this particular situation with the tax
4 lot and the record lot.

5 It is a requirement that somebody be aggrieved;
6 both adjacent neighbors are strongly in support of the
7 property owner and opposed to this appeal; their letters are
8 in the record. So if anybody could be aggrieved, it would
9 be them, and by their testimony, they would be aggrieved if
10 the appeal were granted. So I don't understand what their --
11 what the ANC wants. It's going to be a single-family home,
12 it's going to be a single family home in a couple of weeks
13 or it will be a single family home -- three single family
14 homes in a year if they wanted to go to BZA. Another option
15 is to raze three buildings and build two buildings instead,
16 because you can meet the minimum mod width that way, too.
17 So the special exception isn't the only option.

18 But I do think they are required to show that
19 somebody's aggrieved, but I don't think that's necessary to
20 get too far into that subject because I think they have not
21 met their burden of proof that 301.3 says what they say it
22 says. Thank you.

23 CHAIRPERSON HILL: Okay. Does anybody have any
24 questions for the property owner?

25 COMMISSIONER TURNBULL: Yes, Mr. Sullivan, the

1 single tax lot was created when the owner at that time was
2 preparing to do a multi-family project?

3 MR. SULLIVAN: Correct, the record lot.

4 COMMISSIONER TURNBULL: Yes, the record -- the
5 single record lot. When the proposal, when it was changed
6 to basically do the three, just re-do the three buildings,
7 why didn't they go back and do -- go back to the single lots?
8 Was there any --

9 MR. SULLIVAN: Well, I mean, that's what I
10 originally proposed, I thought that would have been the
11 cleanest thing to do, but I think it's because there's no
12 mechanical provision, there's nothing in the regulation that
13 allows the surveyor, who's -- and now we're into the
14 subdivision regulations -- to undo a subdivision without it
15 being a re-subdivision. So the fact -- you can't undo it --

16 COMMISSIONER TURNBULL: You can't undo it?

17 MR. SULLIVAN: Well, I mean you can undo it, you
18 can re-do it, but we couldn't re-do it because now we don't
19 meet the minimum lot width. There was a non-conforming
20 record lot situation, okay. The record lots were there
21 before the minimum lot width requirements were adopted. So
22 --

23 COMMISSIONER TURNBULL: I mean, it sounds like to
24 me from what I'm hearing from the ANC that if you some way
25 can do that, they're happy. I think if you can somehow go

1 back to the three lots, that they would feel that the zoning
2 regs are intact and that this appeal could go away.

3 MR. SULLIVAN: So -- which is a good point that
4 shows nobody's aggrieved by this, because we're talking about
5 a paper issue, we're not talking about any actual harm, which
6 is required to be aggrieved by somebody. Somebody in the ANC
7 should be harmed distinctively from the general public.

8 COMMISSIONER TURNBULL: Mr. Gambrell is harmed I
9 think.

10 MR. SULLIVAN: Well he believes he is, yes. So
11 it's not -- I also agree with Mr. LeGrant's process. This
12 was the way to do it because you can do -- there are things
13 we can't do as a result. I would have loved to have gotten
14 the record lot. We could have done two units in each; we
15 maybe could have done an addition up, but this was -- and
16 that was an option for a buyer, but this buyer, or this
17 client came to me and said I have a single family, that's all
18 I want to do, all I need to do.

19 But I need, you know, or there's no margins, so
20 I need to get in and I need to get out, can I do that? And
21 I said well, let's check. And so I checked with the zoning
22 administrator, and I say hey, we have this situation, I just
23 want to confirm that this kind of work is going to be done.
24 And he said yes, as long as you don't do X, Y and Z. Don't
25 do an addition, you don't do -- well the way I read it, it

1 was a conversion, so we couldn't do two units.

2 COMMISSIONER TURNBULL: Okay.

3 MR. SULLIVAN: And so we fit that, and that all --
4 so that all worked. So it's legal --

5 COMMISSIONER TURNBULL: Yes.

6 MR. SULLIVAN: And there are, like I said, there
7 are hundreds of homes without underlying record lots.

8 COMMISSIONER TURNBULL: But the owners in each one
9 of those new homes are actually constrained in a way, I guess
10 adding on or doing a two floor?

11 MR. SULLIVAN: Adding, yes. They can't extend
12 their footprints and I think the Zoning Commission went into
13 this a couple of years ago and addressed the tax lot
14 situation, whether you can add or not for an historic tax
15 lot.

16 COMMISSIONER TURNBULL: Yes.

17 MR. SULLIVAN: And it's -- and you can't
18 technically under the zoning regulations, but luckily this
19 is not an addition, so --

20 COMMISSIONER TURNBULL: Okay. All right, well
21 thank you.

22 MR. SULLIVAN: Thank you.

23 CHAIRPERSON HILL: Okay, so I'll keep going. So
24 Mr. Sullivan, I guess I'm just kind of asking a few
25 questions. First of all I guess, in terms -- and I'm not

1 saying that your client would be interested in this or wants
2 this, but I mean in terms of how this might be able to be
3 done a different way, right, there was the possibility to go
4 for a special exception, and then they would get an apartment
5 house, or they could -- at least as I understand -- or they
6 could go to try to get a variance for the three record lots,
7 and your exceptional situation could -- I don't know, I'm
8 trying to find out what my question is in here, is whether
9 or not your client had thought about these things and/or were
10 interested in them.

11 And I guess from your testimony, it seems like
12 it's another year that this would go on and all that stuff,
13 but in terms of the variance, you know, the exceptional
14 situation could have been you know, these were there before,
15 these are there now, that's the exceptional situation, that's
16 why you have to get the variance for the lot occupancy.

17 And so my question I guess to you is your client
18 didn't want to pursue those avenues because in your testimony
19 you said the prior -- during his due diligence or her due
20 diligence, they went through this process, hired a land use
21 attorney, went to the zoning administrator and found out if
22 this could actually be done as a single-family home, and the
23 answer was yes, so that's why we're here in this appeal
24 situation rather than incurring the additional cost to go
25 through a variance or a special exception; is that correct?

1 MR. SULLIVAN: Yes, that's correct.

2 CHAIRPERSON HILL: Okay. And so, but the only way
3 that this would really probably work best for your client
4 would be to do a variance for the three lots because a
5 special exception is just going to get you an apartment
6 house; is that correct?

7 MR. SULLIVAN: Well, the special exception is just
8 to get relief from minimum lot width, which then would allow
9 you to do the permitted two units, because it's RF-1. It's
10 not an apartment house, it's a flat. You'd have three flats.

11 CHAIRPERSON HILL: Three or two? You'd have three
12 --

13 MR. SULLIVAN: You'd have three flats. Three two-
14 unit flats.

15 CHAIRPERSON HILL: As a special exception?

16 MR. SULLIVAN: Yes. And that was one of the
17 things we went over and said hey, if you want to go to BZA,
18 maybe you can get six units. No, I don't want to go to BZA.

19 CHAIRPERSON HILL: And how many units does he have
20 now, three?

21 MR. SULLIVAN: Yes.

22 CHAIRPERSON HILL: Three single family homes?

23 MR. SULLIVAN: Right.

24 CHAIRPERSON HILL: Okay. So that's what I'm
25 thinking. And so Mr. Gambrell, I'll come back over to you

1 and then you can ask some questions also, but -- and not to
2 be -- even when I was reading through this in the very
3 beginning, and by the way, this is a lot more technical than
4 was stated at the very beginning. But I was just trying to,
5 again, trying to figure out what it was that the ANC was so
6 concerned about. And from your testimony, it seems like a
7 lot of this came from the previous owner, and a lot of things
8 that you had going -- that the ANC had going on with the
9 previous owner, what they were trying to do, and then it got
10 to this point, and so the ANC was still kind of following
11 along with the case and kind of was like oh, well it doesn't
12 seem like -- it seems as though, you know, the zoning
13 administrator could have possibly erred and that this should
14 have been done a different way.

15 I'm just trying to get to whatever -- why the ANC
16 would necessarily pursue this or care, right? Like, I mean
17 there are three, you know, as you've already stated, they
18 wanted to get the three properties developed; it sounds like
19 this has been, you know, underutilized for a long, long time,
20 and why -- what is it that is, you know, to use the word
21 aggrieved, you know, what is it that the ANC feels so
22 strongly about in terms of this situation, and I'll just ask
23 it this way. Is it only -- or not only, I mean because
24 that's a finite thing, but that again, you think that the
25 zoning administrator erred, and you wanted to point this out,

1 and that you think that it's not appropriate for future
2 owners to be under this kind of constraint, because they
3 weren't actually three record lots, they were just three tax
4 lots? You can answer that any way you'd like.

5 MR. GAMBRELL: Yes, and I think you partially
6 answered, but as Commissioner Fox-Perry mentioned, the
7 aggrieved issue, and it's quite simple, it's not lengthy,
8 it's just really the integrity of the zoning regulations as
9 written. That the words mean something and should be applied
10 equally and fairly; it's that simple.

11 I note that Commissioner Guthrie, the chair of ANC
12 1C who was going to be here, but Commissioner Fox-Perry and
13 he are trading off cases, he expressed great concern about
14 the potential negative impact on future owners who would be
15 ANC 1C constituents who might be put in a position, if they
16 wanted to say add an addition to the structures, would be put
17 into the situation of having to seek a special exception
18 because of the way the interpretation of record lot number
19 is presented before the Board. So yes, very much a concern
20 about ANC 1C constituents and the impact that they would
21 face.

22 CHAIRPERSON HILL: Okay, so that's fine. So the
23 adherence to the zoning regulations and the future harm that
24 might be caused to future ANC people if they wanted to do
25 something with these lots. So that's -- I understand, so

1 that's what you're here for, okay.

2 MR. GAMBRELL: And there is the third thing I kind
3 of forgot, but it's the fact that this property, since 2014,
4 it's a broken record here, but that misrepresentation, I mean
5 specifically the one about these garages are bedrooms, which
6 they are not --

7 CHAIRPERSON HILL: That's okay, Mr. Gambrell, I'm
8 just going to interrupt you -- I got everything on that; that
9 is the previous owner, right? That was the previous owner.

10 MR. GAMBRELL: And the new owner repeated the same
11 misrepresentations identically.

12 CHAIRPERSON HILL: Okay, so --

13 MR. GAMBRELL: Identical --

14 CHAIRPERSON HILL: -- okay, that's right. So
15 I'll have to figure out how to --

16 MR. GAMBRELL: And stunning misrepresentations.

17 CHAIRPERSON HILL: So -- okay. So do you have any
18 questions of the property owner? Or actually, before I do
19 that, does the Board have any questions of the property
20 owner?

21 MEMBER JOHN: Just one question. What would be
22 involved in going through the subdivision process to revert
23 to three record lots? How long would that take and what's
24 the cost involved assuming we were to postpone our decision?
25 What would that process be? I'm just trying to see whether

1 there are any work arounds; I always like to look for work
2 arounds.

3 MR. SULLIVAN: I would be speculating on what the
4 -- these could be sold in a matter of a month or so, so I
5 don't know what the owner would do. If it was just a
6 subdivision and you razed the buildings and went to two
7 units, the two six-bedroom units, then between raze permit
8 and subdivision process and building permit, that's another
9 year.

10 If you were going to keep them as single family
11 homes, it would be a BZA case, and although Mr. Gambrell
12 implies that he might support that, he's also said in the
13 past that he wouldn't get involved in this case at all, and
14 then he got involved shortly after. So we would have to
15 figure it would be a 16 to 18 month process to get that
16 approval, because I would expect that it would be opposed.

17 CHAIRPERSON HILL: Okay, why would you expect that
18 it would be opposed? Just because?

19 MR. SULLIVAN: It's -- I never expected this one
20 to be opposed.

21 CHAIRPERSON HILL: So you don't know, but you're
22 assuming that's a possibility? Okay. The -- oh yes, and
23 then if the appeal is upheld, then what happens to your
24 client?

25 MR. SULLIVAN: Again, I'd be speculating.

1 CHAIRPERSON HILL: No, I'm just saying -- I'm just
2 trying to find out what actually happens.

3 MR. SULLIVAN: What happens to the property is
4 it sits, of course. I don't know what exactly happens to my
5 client.

6 CHAIRPERSON HILL: Can anybody answer me? If --
7 does DCRA know? If this appeal is upheld, what happens to
8 the property?

9 MR. LEGRANT: I guess I -- as in any appeal, we
10 would wait to see what their reasoning was in the Order to
11 tell us what would be the process going forward.

12 CHAIRPERSON HILL: Sorry I didn't understand the
13 answer, Mr. LeGrant. So you would look at the Order,
14 whatever the Order was, and then the process going -- I'm
15 just trying to figure out what happens to the -- I can ask
16 OAG, I don't know if -- I'm just trying to understand if this
17 appeal is upheld, and I'm just asking my own questions
18 because I can, what happens to the property? It just sits
19 there? Because then now you have -- if we said that there
20 was an error, then what happens to the property?

21 MR. LEGRANT: Okay, so if the Board were to grant
22 the appeal that they should be a record lot, then as I've
23 stated, the property owner would have to apply for a --

24 CHAIRPERSON HILL: For three -- for a variance to
25 get the three record lots --

1 MR. LEGRANT: -- variance before this Board.

2 CHAIRPERSON HILL: Right, or they'd have to tear
3 everything down --

4 MR. LEGRANT: Right.

5 CHAIRPERSON HILL: -- and do the two -- I mean,
6 there's other options that are available if it's a single
7 lot. If it's considered a single lot, then the property
8 owner gets to do whatever it thinks it needs to do as a
9 single lot, or it can possibly come back and try to get a
10 variance to make the three lots. I mean I'm just saying
11 that's where -- you're back -- and thank you, because it's
12 been a long 12 hours. And so you know, it's back to a single
13 lot, sorry, it's back to a -- right, okay, a single record
14 lot.

15 Okay. So anybody -- oh yes, Mr. Gambrell, did you
16 ask your questions yet?

17 MR. GAMBRELL: I have no questions.

18 CHAIRPERSON HILL: Okay. All right, Mr. Turnbull?

19 COMMISSIONER TURNBULL: Turnbull.

20 CHAIRPERSON HILL: You know, hey, I don't know.

21 COMMISSIONER TURNBULL: I just want to just kind
22 of throw another question. If they all went back to three
23 record lots, and were developed as still single family homes,
24 the owners of those lots at any time could, on their own, go
25 to make them a two-flat as a matter of right?

1 MR. LEGRANT: I would say so, yes.

2 COMMISSIONER TURNBULL: Okay, so I mean they could

3 --

4 CHAIRPERSON HILL: Can you say that again? I'm
5 sorry.

6 COMMISSIONER TURNBULL: Well you know, if the lot
7 became single family record lots, and they were still
8 developed as single-family homes, those owners at some point
9 in the future could come before the BZA for a -- to make it
10 a second flat, I mean a two-flat as a matter of right, or
11 they could do it as a matter of right without coming before
12 the BZA. No, they've got to come before the BZA.

13 MR. SULLIVAN: If it was a record lot, they could
14 do it as a matter of right. But if it stays in the situation
15 that it's in, they can come back whenever they want and ask
16 for that relief.

17 CHAIRPERSON HILL: They have to ask for the
18 relief; it's not a record lot now, that's --

19 MR. SULLIVAN: Yes, and it's something that would
20 be disclosed, too, to a potential purchaser. By the way,
21 this is RF-1, you may not know that you just get one, you
22 know, before you convert, you're going to have to go back to
23 BZA.

24 COMMISSIONER TURNBULL: Yes, but if they were
25 single family lots, they could, as a matter of right, convert

1 it later on?

2 MR. SULLIVAN: If they were record lots.

3 COMMISSIONER TURNBULL: If they were record lots?

4 MR. SULLIVAN: Correct.

5 COMMISSIONER TURNBULL: Okay, yes.

6 CHAIRPERSON HILL: But they're not record lots.

7 COMMISSIONER TURNBULL: No, but I'm just saying
8 if they were -- if the current owner decided for his own
9 benefit to help sell these units, he wanted single family
10 lots, because then it would be an incentive for future owners
11 that they could then change it at any point in the future.

12 Right now, they've got a bit of a rigamarole to go through
13 if they have to come before us and beg to make it a two-flat.
14 But if they were single-family lots, they wouldn't have to
15 do that. It's just a sales point. Just throwing that out.

16 CHAIRPERSON HILL: Okay. All right, so now we're
17 back to rebuttal, and so Mr. Gambrell, you have an
18 opportunity to rebut, and I'm just going to let you have at
19 it.

20 MR. GAMBRELL: I only have one comment, and I had
21 hoped to not have to engage in this discussion. Mr. Sullivan
22 in his pre-hearing statement made reference to my email,
23 where I said I did not want to get involved, have a happy
24 summer. Let me be clear. My disinterest in being involved
25 is it's not my role to be involved in what a private property

1 owner or a potential property owner with his or her property;
2 that's what I meant by that. It's not position what they do
3 with the home, what color they paint the home, with the
4 exception of what belongs to each of us, which is the zoning
5 regulations, and that's my position. That's my disinterest
6 in being involved. So I just want to make that comment.

7 CHAIRPERSON HILL: Okay. DCRA, do you have any
8 rebuttal?

9 MS. LORD-SORENSEN: No.

10 CHAIRPERSON HILL: Okay. Property owner, do you
11 have any rebuttal?

12 MR. SULLIVAN: No, thank you.

13 CHAIRPERSON HILL: Okay, then we're going to go
14 in reverse order here, or the same order in terms of
15 conclusion. Sorry. Yes, you can ask questions, sure. Ask
16 all you want.

17 MEMBER JOHN: The question I forgot to ask DCRA;
18 does that last permit replace the first three permits? So
19 there's a question as to whether or not the property owner
20 could continue to build under the previous three permits.
21 There's a question of whether or not you can incorporate by
22 reference, or you have to revise and replace the pre-existing
23 permits. Can you just clarify that for us?

24 MS. LORD-SORENSEN: So if you look at DCRA's pre-
25 hearing statement, Exhibit 32, specifically Exhibit 3, it

1 does include the March 11, 2019 building permit, which was
2 the second revised permit, and it mentions that it is a
3 revision, so these are just revised permits. Likewise, if
4 you look at Exhibit 2, this is a brand new permit for this
5 particular property. So the most recent permit is a revision
6 to building permit B-1902796, and that is separate and apart
7 from the building permits issued in October of 2018.

8 MEMBER JOHN: So those previous permits are still
9 valid?

10 MS. LORD-SORENSEN: They're still valid, they
11 weren't canceled or anything in the system.

12 MEMBER JOHN: Okay. All right, thank you.

13 One question for the property owner. I'm curious
14 to know, I'm trying to phrase this question. How long --
15 no, I know. How close are the renovations to completion?
16 Are we like at 60 percent, 75 percent? Where are we?

17 MR. SULLIVAN: I don't have enough knowledge to
18 be able to answer that, I'm sorry. I was just told that it's
19 a few weeks away, a couple of weeks away from being
20 completed.

21 CHAIRPERSON HILL: Okay. All right, we might have
22 answers even after the conclusion, I don't know. Mr.
23 Gambrell, you can go ahead and do your conclusion, please.

24 MR. GAMBRELL: Yes. Thank you for your time and
25 patience. In conclusion, just some key points. I think

1 what's really important about this case is that this
2 interpretation of the single record lot number not be
3 compromised in the context of what we heard about what is
4 meant by construction and what is meant by alteration; most
5 specifically on this case, what is meant by addition.

6 And in terms of Mr. LeGrant's need to see the
7 plans, I would perhaps suggest to the Board that an
8 opportunity be given to the Zoning Administrator to take a
9 closer look at specifically the deck in the front to make a
10 determination if the lot occupancy had been reduced by its
11 removal, and what had been reduced would be replaced by the
12 replacement of that roof deck, thus being an addition. That
13 would be one thing. Secondly, that mud room, that former
14 crawl space, which is now part of the building, whether or
15 not that constitutes usable interior space per the
16 Outerbridge case. Those clarifications I think would be
17 helpful to the Board.

18 So again, I think that making a determination
19 based on not compromising the impact of what is meant by
20 addition and the other terms in this very critical provision
21 of Subtitle A would be really important for the Board to
22 consider because as you know, people come before this Board
23 and they'll cite prior Board cases, and they'll say something
24 like, well, the Board determined that that was not an
25 addition, then you've got yourselves a problem.

1 I do know there was a case a couple of years ago,
2 Case 18439 where the Board made an accommodation for the
3 administrative delay in getting a record lot number. Now,
4 granted, that record lot number was forthcoming a month after
5 the Board heard the case, so that's, you know, the time frame
6 is different, but I put it out there as a possible path
7 forward that the Board has done in the past, accommodated the
8 administrative process necessary to seek and secure separate
9 record lot numbers. I think that would be the only things
10 I have to say in terms of conclusion.

11 CHAIRPERSON HILL: Okay. Thank you, Mr. Gambrell.
12 Ms. Lord-Sorensen?

13 MS. LORD-SORENSEN: Thank you. So at the
14 beginning there were two issues, but now after Mr. Gambrell
15 ceded the second issue, there's only one issue before the
16 Board; specifically, whether a separate record lot was
17 required for the three pre-existing row homes. You've heard
18 testimony from the zoning administrator that this was a non-
19 conforming situation. The three row homes were pre-existing
20 on a single lot, and so when the zoning administrator
21 reviewed the information presented in conjunction with 11A
22 DCMR 301.3, he determined that 301.3 was not triggered.

23 Specifically, when he reviewed the text, 301.3
24 specifically pertains to proposed erection, construction,
25 conversion, or any sort of addition, and none of those

1 factors apply to the instant case. The buildings were
2 already pre-existing, so erection and construction didn't
3 apply, there was no conversion; they were single-family homes
4 and that's the continued use for those three properties --
5 excuse me -- those three buildings, and there was no sort of
6 addition proposed for the property. So in light of the fact
7 that the existing conditions did not trigger 301.3, DCRA
8 asserts that the zoning administrator correctly approved the
9 issuance of the permits, and we ask that you deny ANC 1C's
10 appeal.

11 CHAIRPERSON HILL: Mr. Sullivan?

12 MR. SULLIVAN: Thank you Mr. Chair, members of the
13 Board. On the issues of reviewing plans, the property owner
14 would not be in favor of any delay to a decision, and I think
15 it's decided on the fact that the porch replacement is a
16 replacement; it's not an addition. It's a very common
17 practice, and always approved by the Zoning Administrator in
18 this situation, and I don't think that the appellant has
19 presented any evidence to the contrary on that, he's just had
20 his argument and hasn't presented any precedent of the zoning
21 administrator finding that.

22 And all homeowners are entitled to maintain their
23 buildings, including those homeowners that happen to not be
24 on record lots, and there are many of them. So if a porch
25 roof is failing, they shouldn't have to just watch it fail

1 and then it goes away, and they'd have to go back to BZA just
2 to maintain their property, and that's true obviously for the
3 interior as well. The mud room is interior, Mr. Gambrell
4 hasn't submitted any evidence otherwise that it would be an
5 addition other than to ask that question, so I don't know
6 that we need to review plans on that.

7 I think it's important that the Board focus on
8 what he's proposing here, because he said it. He said any
9 building permit is construction, and any construction
10 requires a record lot. That's just never been done, it's not
11 the case, he hasn't submitted any examples of that being done
12 for interior renovation, and the bottom line is if you're not
13 impacting a zoning variable that would have an implication
14 for review of a record lot plat, meaning increasing lot
15 occupancy, or increasing gross floor area or decreasing your
16 setback, side/rear/front setbacks, you're not required to
17 have a record lot. And I don't think that he has shown
18 anything otherwise, and I don't think that he's met his
19 burden of proof. Thank you.

20 CHAIRPERSON HILL: Okay. I'm going to see what
21 you guys want to do. If there's any more questions or
22 anything anybody has, I -- I mean, I'm going to have to think
23 about it so, but what do you all think?

24 MEMBER HART: I'm going to chime in. I appreciate
25 everybody's time and the appellant, the property owner and

1 DCRA in the number of questions that we've had just to get
2 some clarity around what was kind of before us. I think that
3 I do need some time to kind of -- not a lot of time, but some
4 time to kind of think about this a little bit more, take in
5 the information that we've gotten today to be able to make
6 a determination kind of one way or the other on it.

7 But I don't know, maybe two weeks, and then just
8 have like a public -- have a meeting and just set it for
9 decision for a couple of weeks from now, next week if you
10 want to, but I think I'd like to have -- well, we've got
11 another appeal, I don't know --

12 CHAIRPERSON HILL: This will just be a decision.

13 MEMBER HART: Yes, that's true. So anyhow --

14 CHAIRPERSON HILL: Two weeks is fine with me, I
15 don't know Mr. Turnbull, you want to come back to have the
16 discussion or --

17 COMMISSIONER TURNBULL: No, I'm fine with just
18 meeting.

19 CHAIRPERSON HILL: No, no, no I'm saying do you
20 want to come for -- you can determine that at a later time;
21 it's up to you. Anyone else?

22 MEMBER WHITE: I'd like to have at least a week
23 to kind of pull all the pieces together and then participate
24 in a meeting format. Hopefully you can select a date that
25 we're all here together.

1 MEMBER JOHN: So I'm fine with setting this down
2 for decision, we're just, you know, we're looking at one
3 discrete issue which really turns on the interpretation of
4 the regulations, so I'm fine with a short delay.

5 CHAIRPERSON HILL: Okay. All right. Okay, I
6 don't know why I went to try to read through everything in
7 my head again, but I guess there's no point in that. So
8 we'll do it in two weeks. We'll just have a decision in two
9 weeks.

10 MS. ROSE: April 10?

11 CHAIRPERSON HILL: April 10, yes we're just going
12 on -- Mr. Hood's back here April 10, isn't he?

13 MS. ROSE: Yes.

14 CHAIRPERSON HILL: Okay. All right, April 10.
15 All right you guys, thank you so much.

16 (Whereupon, the above-entitled matter went off the
17 record at 5:39 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: DC BZA

Date: 03-27-19

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.



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