

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

BOARD OF ZONING ADJUSTMENT

+ + + + +

PUBLIC HEARING

+ + + + +

WEDNESDAY

APRIL 24, 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., Carlton Hart, Vice Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

CARLTON HART, Board Member (NCPC), Vice Chair  
LESYLLEE M. WHITE, Board Member  
LORNA JOHN, Board Member

ZONING COMMISSION MEMBERS PRESENT:

MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACOB RITTING, ESQ.

## OFFICE OF PLANNING STAFF PRESENT:

HARRIET TREGONING, DIRECTOR  
JENNIFER STEINGASSER  
STEPHEN GYOR  
JOEL LAWSON  
TRAVIS PARKER  
STEPHEN MORDFIN  
KAREN THOMAS  
MAXINE BROWN-ROBERTS  
DOUGLAS WOODS  
STEVEN COCHRAN  
ARTHUR ROGERS  
MATT JESICK  
ARTHUR JACKSON  
STEPHEN RICE  
ELISA VITALE

The transcript constitutes the minutes from the  
Public Hearing held on April 24, 2019.

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

(9:43 a.m.)

1  
2  
3 VICE CHAIR HART: Okay. Good morning everyone.  
4 The hearing will please come of order. Good morning ladies  
5 and gentlemen we are located in the Jerrily R. Kress Memorial  
6 Hearing Room at 441 4th Street, N.W.

7 This is April 24, 2019 public hearing of the Board  
8 of Zoning Adjustment of the District of Columbia. My name  
9 is Carlton Hart, Vice Chairperson. Joining me today is  
10 Lesyllee White and Lorna John, Board Members. And  
11 representing the Zoning Commission is Michael Turnbull.

12 Today, copies of today's hearing agenda are  
13 available to you and are located in the wall bin near the  
14 door to my left. Please be advised that this proceeding is  
15 being recorded by a court reporter and is also webcast live.

16 Accordingly, we must ask you to refrain from any  
17 disruptive noises or actions in the hearing room. When  
18 presenting information to the Board, please turn on and speak  
19 into the microphone, first stating your name, and home  
20 address. When you are finished speaking, please turn your  
21 microphone off so that your microphone is no longer picking  
22 up sound or background noise. All persons planning to  
23 testify either in favor or in opposition must have raised  
24 your hand and been sworn in by the Secretary.

25 Also each witness must fill out two witness cards.

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1 These cards are located on the table near the door and on the  
2 witness tables. Upon coming forward to speak to the Board,  
3 please give both cards to the Court Reporter sitting to the  
4 table on my right.

5 If you wish to file a written testimony or  
6 additional supporting documents today, please submit one  
7 original and twelve copies to the Secretary for distribution.

8 If you do not have the requisite number of copies,  
9 you can reproduce copies on an office printer in the Office  
10 of Zoning located across the hall. Please remember to  
11 collate your set copies.

12 The order of procedure for special exceptions and  
13 variances pursuant to Subtitle Y 409 are included on the  
14 table at the door to my left. The record should be closed  
15 at the conclusion of each case except for any materials  
16 specifically requested by the Board.

17 The Board and the staff will specify at the end  
18 of the hearing exactly what is expected, and the date when  
19 the persons must submit the evidence to this Office of  
20 Zoning. After the record is closed, no other information  
21 shall be accepted by the Board.

22 The Board's agenda includes cases set for  
23 decision. After the Board adjourns, the Office of Zoning in  
24 consultation with me, will determine whether a full summary  
25 order -- whether a full or summary order may issue.

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1           A full order is required when the decision is --  
2 it contains is averse to a party, including an affected AMC.  
3 A full order may also be needed if the Board's decision  
4 differs from the Office of Planning's recommendation.

5           Although the Board favors the use of summary  
6 orders whenever possible, an applicant may not request the  
7 Board to issue such an order.

8           The District of Columbia Administrative Procedure  
9 Act requires that the Board, excuse me, requires that the  
10 public hearing on each case be held in the open before the  
11 public.

12           Pursuant to Subtitle 405(B) and 406 of that Act,  
13 the Board may, consistent with its rules and procedures and  
14 the Act enter into a closed meeting on a case for purposes  
15 of seeking legal counsel on a case pursuant to D.C. Official  
16 Code Subtitle 2-575(B)(4) and/or deliberating on a case  
17 pursuant to D.C. Official Code 2-575(B)(13).

18           But only after providing the necessary public  
19 notice and in the case of an emergency closed meeting after  
20 taking a roll call vote. The decision of the Board in these  
21 contested cases must be based exclusively on the record.

22           To avoid any appearance to the contrary, the Board  
23 requests that persons present not engage the members of the  
24 Board in conversation. Please be sure to turn off all  
25 beepers and cell phones at this is time so as not disrupt

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1 these proceedings.

2 Preliminary matters are those which relate to  
3 whether a case will or should be heard today such as requests  
4 for postponement, continuance or withdrawal; or whether  
5 proper and adequate notice of the hearing has been given.

6 If you are not prepared to go forward with the  
7 case today, or you, if you believe that the Board should not  
8 proceed, now is the time to raise such a matter. Mr.  
9 Secretary, do you have any preliminary matters?

10 MR. MOY: Good morning, Mr. Chairman, Members of  
11 the Board, I do have a brief announcement on cases on today's  
12 docket for the record. Appeal Number 19896 of Adams Morgan  
13 Friends and Allies has been postponed and rescheduled to May  
14 22, 2019.

15 As well as Appeal Number 19935 of Cyrus F., et al.  
16 postponed, rescheduled to June 19, 2019. There are other  
17 preliminary matters, but staff would suggest that the Board  
18 address those when I call the case.

19 VICE CHAIR HART: That's fine, thank you. Okay.  
20 So all individuals wishing to testify today, please rise to  
21 take the oath. Mr. Secretary, would you please administer  
22 the oath.

23 MR. MOY: Yes, thank you. Good morning, everyone.  
24 Do you solemnly swear or affirm that the testimony you are  
25 about to present in this proceeding is the truth, whole

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1 truth, nothing but the truth?

2 (Witnesses sworn.)

3 MR. MOY: Ladies and gentlemen, you may consider  
4 yourselves under oath.

5 VICE CHAIR HART: So excellent we will move  
6 forward, I guess, with the agenda, the agenda as you, as I  
7 made, noted earlier is in the bin off to my left.

8 If, and we are going to be going in the order that  
9 is listed on the agenda. So Mr. Moy, if you could call the  
10 first case, which is on our public meeting or actually it's  
11 an expedited review calendar.

12 MR. MOY: Yes. Thank you, sir. This for  
13 decision-making, or in the meeting session portion of today's  
14 docket. Case application number 19991 of James Anderson.

15 This is a request for special exceptions under  
16 Subtitle E, Section 5201. From the lot occupancy  
17 requirements of Subtitle E, Section 304.1 and the rear yard  
18 requirements Subtitle E, Section 306.1.

19 This would construct a two-story rear addition and  
20 to convert it, to convert an existing attached principal  
21 dwelling unit into a two-unit flat in an RF-1 zone. This is  
22 at 318 Seaton Place, Northeast, Square 3567, lot 42.

23 VICE CHAIR HART: Thank you, Mr. Moy. So I'll  
24 start with this, with this case with a discussion. Is the  
25 Board ready to deliberate on this? Okay. So I think that

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1 this case looks like a fairly straightforward case. One  
2 similar to ones that we have typically had on expedited  
3 review.

4 But I will say that unfortunately for the  
5 applicant, that I see that the information that's on the  
6 record is not clear as there seems to be some information  
7 that is somewhat inconsistent.

8 In the photographs in Exhibit 11, they didn't  
9 necessarily identify which house was, this project was  
10 focusing on and I thought it was a different house.

11 I looked at then the plans on Exhibit 3 would show  
12 a ten footed, 10-foot 2" addition to an existing single-  
13 family house. And then I saw the elevations, which were  
14 exhibit, submitted at Exhibit 31, which identified an 8-foot  
15 addition to the existing house.

16 And then finally with the Eckington Civic  
17 Association letter, I can't recall which Exhibit that is, but  
18 -- 34, thank you. It didn't include plan, but it did mention  
19 that the project was currently already constructed, and it  
20 was built already 3 feet longer than what was shown on the  
21 approved plans.

22 So then I started thinking, well 3 foot added to  
23 10 feet? Or 3 foot added to 8 feet and it, again, I think  
24 there was just, there's something that it is that we are  
25 missing with it.

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1           So while I understand that the applicant has  
2 wanted to have this on the expedited review, my suggestion  
3 would be that we do have a limit scope hearing and -- a  
4 public hearing that we actually have the applicant come to  
5 kind of talk about what it is that they are proposing.

6           Specifically, I think what I would like to see is  
7 plans that show what was existing, which I think they already  
8 have. Plans that show what was approved because again, this  
9 project has already been built. So they had plans that they  
10 use for that.

11           And then, what the, so existing, what was, what  
12 was permitted, and then what was actually built. Because I  
13 think that there were three different plans that describe a  
14 different addition.

15           And so I think that, having that information, it  
16 would be helpful for us to then be able to make a decision  
17 after we get that. But I do, I would like to have some  
18 conversation with the applicant just so that I fully, more  
19 fully understand this.

20           And so in addition to that, I think it would be  
21 helpful to understand how the basement works. Since that  
22 seems like it is a, I understand that there is a door in the  
23 front and a door in the back.

24           My problem is that I don't know where the door in  
25 the back, is, are there a set of stairs that go up? That

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1 lead it up to the, to a particular grade? They don't really  
2 show the elevation with the, with the basement stairs.

3 So it leads me to, you know, try to understand  
4 that fully. They don't have any stairs on it. I just, I  
5 think there's a number of things that, that are a bit  
6 confusing, or at least inconsistent. And it'll be helpful  
7 to kind of understand how these pieces fit together.

8 And then, I mean, this is a minor thing, but you  
9 know, they have in the plans they talk about it includes a  
10 swinging rear door in the description it, talks about,  
11 there's actually a sliding glass door in the photograph,  
12 there's a sliding glass door.

13 So again it's not that it's, they are huge things  
14 it's just, I'm just trying figure out what plans have been,  
15 we're supposed to be approving. And it's important because  
16 plans are what we base our decision on. And right now, I  
17 just don't know what the base it on. So I don't know, I'll  
18 hear from my other --

19 MEMBER TURNBULL: I would totally agree with you,  
20 Mr. Chair. I think in a normal review, under just a normal  
21 BZA case, we have a good set of drawings. And on an  
22 expedited case, you would have even very clearer, or very,  
23 it should be almost a no-brainer looking at this for an  
24 expedited review.

25 But in this case, it's not very clear. The

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1 drawings are not clear. They're not accurate. There are some  
2 confusing elements to this. And there are some confusing  
3 statements that add to it. So you're right. I think this  
4 should be taken off in consent calendar and set up for  
5 hearing.

6 VICE CHAIR HART: Anyone else?

7 MEMBER WHITE: Yes. I agree with your assessment,  
8 Mr. Chair, and also Mr. Turnbull. These are two architects,  
9 so I was prepared to kind of almost move forward with it.  
10 But they were able to take a very clear look at the plans.

11 So I'm more comfortable if we just get  
12 clarification on what's being requested. And that what's  
13 being requested is consistent with what's actually filed in  
14 the form of a plan.

15 I think for the most part this should not be a  
16 difficult thing. Even though we might have some of the  
17 parties in the audience, because it's requested under the  
18 expedited review calendar, we can't take testimony at this  
19 particular time.

20 It just means you just have to come back and  
21 provide something that's clear so we can get the two  
22 architects on board with, with things. But I, all in all,  
23 I agree with your assessment. I would like to have a little  
24 more clarity before we move forward.

25 MEMBER JOHN: Mr. Vice-Chair, I agree with

1 everything that's been said so far. I had a lot of  
2 difficulty just trying to figure out what is, what was built  
3 and what the change is.

4 And I relied on Exhibit 3, which only shows the  
5 existing second floor plan. I mean, existing plan and the  
6 proposed plan. But nothing about the as-built structure.  
7 So that for me, was, was a non-starter, even though this is  
8 not a difficult case.

9 VICE CHAIR HART: Okay. So it looks like, and the  
10 other issue that I think it would be helpful for the  
11 applicant to provide or at least follow up on is, there isn't  
12 an ANC report at all? So I --

13 It's always for us to understand how the ANC views  
14 this, and if they have any opinion of this. And if they have  
15 a -- as we give them great weight, or we're supposed to be  
16 giving them great weight, we don't have that to be able to  
17 do.

18 I understand that they have gone to the, you know,  
19 Eckington Civic Association and got a letter of support from  
20 them. But the AMC is, is who we are to give great weight to,  
21 not the, not any of the civic associations even though we do  
22 take that into account.

23 So it seems as though we are -- we would like to  
24 kind push this for or set this for a public hearing, Mr. Moy.  
25 I don't know, we're probably looking at a couple of weeks?

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1 I don't know what the Board, how the Board feels about that.

2 It don't think that we, I'm not sure that we'll  
3 be able to get the drawings within a week. And so that's why  
4 I was looking at maybe two weeks.

5 MR. MOY: Yes, I was thinking --

6 VICE CHAIR HART: But I don't know what the  
7 schedule that, you know --

8 MR. MOY: Right, right, Mr. Chairman. Given the  
9 status of the docket size, that staff would suggest that we  
10 reschedule this to June the 5th

11 VICE CHAIR HART: Okay.

12 MR. MOY: And if the Board agrees with that, then  
13 if we could request that the applicant file the supplemental  
14 information by May 17th.

15 VICE CHAIR HART: And should we get an OP  
16 supplemental, as well? I mean, they were in support of this.

17 MR. MOY: Right. You can if want to request the  
18 Office of Planning.

19 VICE CHAIR HART: Well let's just say this, if  
20 they, if Office of Planning wants to, you know, change  
21 they're -- because I don't know if the actual plans will  
22 change and if they're going to be asking for, you know, just  
23 the 11 feet, or, I, I, just don't know what the, what that  
24 change might mean. So it may be helpful just to have the  
25 Office of Planning --

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1 MR. MOY: Right. I'll reach out to the Office of  
2 Planning.

3 VICE CHAIR HART: Okay.

4 MR. MOY: And leave it optional for them.

5 VICE CHAIR HART: Okay. So do we have to take a  
6 vote on that? Or do we just set it for -- I think we can  
7 just set it for the date, the June 5th date.

8 MR. MOY: This could be by consensus or voting.

9 VICE CHAIR HART: Yes.

10 MR. MOY: It's up to you.

11 VICE CHAIR HART: It sounds like, sounds like  
12 through consensus that we've agreed to that, so let's move  
13 it to then.

14 MR. MOY: Okay.

15 VICE CHAIR HART: Okay. So actually for the next  
16 case, I'm actually recusing myself and Ms. John will be  
17 handling the case. So I'll be back in a few minutes.

18 MEMBER JOHN: Thank you, Mr. Vice-Chair. Mr. Moy,  
19 can you can call the next case, please.

20 MR. MOY: Okay. So if we can have parties come  
21 to the table to case application number 19994 of Diane  
22 Sullivan.

23 This is a request for special exception under  
24 Subtitle D, Section 5201 from the lot occupancy requirements  
25 of Subtitle D, Section 304.1 to construct a three-story rear

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1 addition to an existing three-story semi-detached principal  
2 dwelling unit, R2 zone. This is at 5332 Belt Road,  
3 Northwest, Square 1742, Lot 75.

4 MEMBER JOHN: Thank you, good morning. Can you  
5 state your name for the record, please and spell your last  
6 name?

7 MS. SULLIVAN: Good morning, my name is Diane  
8 Sullivan, S-U-L-L-I-V-A-N.

9 MEMBER JOHN: So Mr. Moy, I forgot to ask are  
10 there any preliminary matters?

11 MR. MOY: Well it's only one possibly for the  
12 Board to discuss as regarding remarks in the Office of  
13 Planning Report attending to a possible relief.

14 MEMBER JOHN: Thank you, Mr. Moy. We will address  
15 that as we go through the hearing. Sullivan, I'm going to  
16 put 15 minutes on the clock.

17 MS. SULLIVAN: Okay.

18 MEMBER JOHN: And ask you to tell us about your  
19 project and what you're planning to do.

20 MS. SULLIVAN: Do you want me to --

21 MEMBER JOHN: And --

22 MS. SULLIVAN: -- pull up the plans? Or do you --

23 MEMBER JOHN: Yes. That would be helpful.

24 MS. SULLIVAN: Okay. Can you see that? Okay.

25 Yes. We are asking for an increase of 3 percent of lot

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1 occupancy. We are located at 5332 Belt Road, Northwest up  
2 in Ward 3.

3 We are a semi-detached house. We're the white  
4 house, as see right here, attached to this yellow house. If  
5 you look at the back here, you'll notice that our neighbors  
6 have a deck. We would like to build a deck of similar size,  
7 half of which would be screened in.

8 It's my understanding that the 2016, the new  
9 zoning regulations from 2016 limit our lot occupancy by-right  
10 to 40 percent. I have learned actually that existing house  
11 is already at 43 percent.

12 So in the DCOP report, I think pointed out that  
13 not only am I asking for the 43 to 46 percent increase, but  
14 I think I need to get an approval from 40 to 46 because we're  
15 not, we were automatically non-conforming when those  
16 regulations went in.

17 The deck and we will also take out the shed here.  
18 So the deck, if you look here, will run across, similar to  
19 our neighbors. The back of this and it will extend out 12  
20 feet, and I'll show you plans in the second.

21 But if you see here, right here, I, we would like  
22 to have this area, the part that is attached here to be  
23 screened in. So here is our property; notice we just have  
24 the stairs that go into the yard. And here's our shed that  
25 we'll take down.

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1           This is our neighbor's deck. This, this is the  
2 same. It just has the measurements on it. So here you can  
3 see this is the screened-in porch area. And this is the, our  
4 neighbor's deck. So it's coming out about the same.

5           Our stairs will go down after the deck is the only  
6 difference. I will also add the OP, or it was classified as  
7 a three-story rear addition. We, this is the only addition  
8 onto the back of our original house. Is here --

9           You can see from this section in the screened in  
10 porch area we are proposing a dormer up here and a dormer  
11 here. But that is not the reason why I'm asking for the lot  
12 of occupancy increase. So in total, it would be growing from  
13 43 to 46 percent.

14           We uploaded the ANC resolution. We are happy to  
15 do what they've asked, which is plant a new tree and do  
16 stormwater bins. And then, the adjacent neighbors' letters  
17 of support are also attached. And I'm not sure what the DC  
18 OP matter was.

19           MEMBER JOHN: So the issue from OP was that as you  
20 noted, you're already non-conforming at the --

21           MS. SULLIVAN: Oh, okay.

22           MEMBER JOHN: -- 43 percent.

23           MS. SULLIVAN: Okay.

24           MEMBER JOHN: So you would have to amend your --  
25 was this a self, self-certification? I don't remember

1 offhand.

2 MS. SULLIVAN: Yes.

3 MEMBER JOHN: So you would have to amend your  
4 certification to request relief from Section 202.2, as well.

5 MS. SULLIVAN: So when I spoke with Ms. Brandice,  
6 she said we could do that on the spot here? Is that correct?

7 MEMBER JOHN: Yes. So, so we have to ask you.  
8 Are you?

9 MS. SULLIVAN: Oh, yes. I'm okay with that. Yes.

10 MEMBER JOHN: Okay. All right so, Mr. Moy, do we  
11 need to have a new one submitted at some point or is the oral  
12 confirmation appropriate?

13 MR. MOY: The amendment can take place in an oral  
14 setting here, but for our records, it would be preferred to  
15 also submit into the record a revised self-certification,  
16 revised self-cert, that, that added to this relief.

17 MS. SULLIVAN: And I just upload it to same?

18 MR. MOY: Yes, yes, yes.

19 MS. SULLIVAN: Okay. So a revised  
20 self-certification?

21 MR. MOY: That is correct.

22 MS. SULLIVAN: So I would just say from 40 to 40,  
23 I would go from 40 to 46 then. Right? Percent.

24 MR. MOY: And then referencing the, the Section  
25 202.2.

1 MS. SULLIVAN: Okay. I'm happy to do that. Yes.

2 MEMBER JOHN: Thank you. So I'm glad you  
3 clarified that you're just requesting the deck and enclosed  
4 porch because it was not clear to me looking me at the  
5 diagram. And then the Office of Planning's report was  
6 confusing.

7 And I couldn't understand if you were demolishing  
8 that rear addition and then --

9 MS. SULLIVAN: No.

10 MEMBER JOHN: -- building a new one.

11 MS. SULLIVAN: No.

12 MEMBER JOHN: So it's just the deck and enclosed  
13 porch and --

14 MS. SULLIVAN: The two dormers

15 MEMBER JOHN: The two dormers.

16 MS. SULLIVAN: Yes.

17 MEMBER JOHN: Okay. So I have no further  
18 questions. Do, do any Board members have questions?

19 MEMBER WHITE: No. I think I'm comfortable. The  
20 one issue that was kind of popping up and maybe you'll get  
21 to that, is the discussion about the ANC conditions.

22 MEMBER JOHN: Yes, I think if we go through and  
23 hear what everyone else thinks and then maybe we can discuss  
24 those proposed conditions. I don't know what is your -- Mr.  
25 Turnbull?

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1           MEMBER TURNBULL: Well I'm, I'm fine with the  
2 application. I think there's everything that I see in the  
3 application is, is fine for the lot occupancy. I have no  
4 problems with that at all.

5           MEMBER JOHN: So thank you Mr. Turnbull. So let's  
6 turn to the Office of Planning.

7           MS. VITALE: Good morning, Madam Chair, members  
8 of the Board. Elisa Vitale with the Office of Planning. I'm  
9 sitting in for Ms. Elliott. I will rest on the record.  
10 Office of Planning is recommending support for the requested  
11 lot occupancy relief.

12           As discussed, the applicant has added the C 202  
13 relief to the application today, and I'm happy to answer any  
14 questions. Thank you.

15           MEMBER JOHN: I just have one question. So you  
16 also conditioned your approval on removal of the shed. So  
17 are you proposing that as a condition, or the report speaks  
18 for itself?

19           MS. VITALE: I don't believe that was an OP  
20 condition. I believe that came up in the ANC --

21           MEMBER JOHN: Okay. I thought --

22           MS. VITALE: -- referral.

23           MEMBER JOHN: -- OP also mentioned it. But I  
24 will, I will check again. So do any Board members have any  
25 questions for the Office of Planning?

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1           MEMBER WHITE: Just to, just a simple question in  
2 terms of the applicant meeting the special exception criteria  
3 under 5201. It's OP's position. If you can just quickly,  
4 just kind of for the record, explain why you believe it met  
5 that criteria for special exception.

6           MS. VITALE: Certainly. The special exception  
7 criteria under 5201, you know, relate primarily to the, the  
8 light and air available as discussed by the applicant in the  
9 review of the plans.

10           The applicant's proposing two dormer windows at  
11 the top level of the building; the two-story addition at the  
12 rear is existing. And then the new deck and screened-in  
13 porch are similar in depth to the adjacent property.

14           They're not creating fully enclosed space. It's  
15 a screen porch. We don't believe that it would negatively  
16 impact the light and air available to the adjoining property.  
17 As stated, this is semi-detached, so you do have an open side  
18 yard on one side providing additional separation.

19           Similarly, we don't believe the proposed addition,  
20 the dormer windows, or the enclosed porch and deck would  
21 negatively impact the privacy and use and enjoyment of  
22 neighbor neighboring properties.

23           Also that, you know, kind of the final criteria  
24 under 5201 that relates specifically to the proposed  
25 construction is whether the addition or accessory structure,

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1 when viewed for this, from the street or alley would be  
2 consistent with other, other properties.

3 And I don't believe that this would be out of  
4 scale or character with, with other homes in the area.

5 MEMBER WHITE: Thank you.

6 MEMBER JOHN: So do you have a question?

7 MEMBER TURNBULL: No. I was just going to add  
8 that Page 3 of the OP report does mention that the -- it  
9 says, quoting the OP report, the applicant has indicated that  
10 an existing shed structure on the lot would be removed to  
11 lessen the increase in lot occupancy.

12 So the OP report does mention the removal of it.

13 MS. VITALE: Right. We weren't conditioning --

14 MEMBER TURNBULL: Yes. You weren't conditioning  
15 it. It's just that the applicant has brought forward that,  
16 its own condition on that.

17 MS. VITALE: Certainly. And I think that  
18 obviously was probably factored into the lot occupancy  
19 calculations.

20 MS. SULLIVAN: It was. And we're happy to remove  
21 it.

22 MEMBER JOHN: I, I believe that was the, that was  
23 the, the issue. That by removing the shed, the, the lot  
24 occupancy could be reduced to 46 percent with the removal of  
25 the shed.

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1 MS. SULLIVAN: Correct. Correct.

2 MEMBER JOHN: Otherwise it would be greater.

3 MS. SULLIVAN: That's correct.

4 MEMBER JOHN: So, Ms. Sullivan, do you have any  
5 questions for the Office of Planning?

6 MS. SULLIVAN: No.

7 MEMBER JOHN: Okay. So is the ANC here? Is there  
8 anyone in support of the application? Anyone in opposition?  
9 Are there any other questions from the Board? So can we now  
10 move on to the conditions? Do you want me to -- I think I'd  
11 like to hear from the Board before I chime in. Or I can  
12 start.

13 MEMBER WHITE: I can, can just add some brief  
14 comments. So the ANC recommended approval of your  
15 application and there were three conditions and there was  
16 some discussion about whether or not those conditions need  
17 to be incorporated into the order.

18 But there were three conditions that both you and  
19 the ANC came to an agreement with. I mean, I could make an  
20 argument that there are some ties to the relief that you're  
21 seeking with respect to the conditions.

22 There's three conditions, applicant will install  
23 a rain barrel on the new downspout attached to the addition.  
24 And you agreed to that with ANC. Applicant will remove an  
25 existing shed on the rear of the property, and the concrete

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1 pad on which the site -- on which it sits.

2 And will plant a tree in its place effectively  
3 offsetting the loss of permeable area and foliage, which you  
4 agreed to. And we also talked about fact that remove of the  
5 shed expands the lot occupancy.

6 And then finally, a request that mitigation  
7 requirements be included, which was the third thing that you  
8 agreed to. So I mean, I'm, I'm clear of the first and second  
9 one.

10 I mean, I think there could be an argument made  
11 that perhaps, you know, at least the first two conditions do  
12 have some indirect ties to the zoning relief that's being  
13 requested.

14 If we don't include it in the order, I think it  
15 still stands that both the applicant and the ANC did come to  
16 an agreement with respect to these conditions. So I think,  
17 either way I think it, it can work. And I think the  
18 applicant would still be held accountable to the request that  
19 the ANC made.

20 MEMBER JOHN: Thank you, Ms. White. Mr. Turnbull,  
21 any thoughts?

22 MEMBER TURNBULL: Well, I guess my thought is  
23 since the applicant has basically volunteered to do this, I  
24 think it could go in the Order as -- I mean, in one way it  
25 goes beyond the impacts on neighbors directly, in one sense.

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1 So it's --

2 I, I trouble with how you, how we phrase this.  
3 I, you know, you could condition it or just say the applicant  
4 has volunteered to do the following. I hate to go to the  
5 point where the, the Board is imposing conditions on it that  
6 really go beyond what we're really looking at directly.

7 But as Ms. White said, you could make a case for  
8 the lot occupancy aspect of it. But, so I am hesitant to put  
9 it hard and fast as such. But I think we could include those  
10 aspects of it. But I'm, I'll leave it to OAG to help phrase  
11 that in the order, I guess.

12 MEMBER JOHN: So, I, I looked at the ANC's letter.  
13 I read it twice. And it seemed to me that the ANC wants to  
14 put forward a policy position that every time an applicant  
15 requests zoning relief, there should be some environmental  
16 mitigation measures included in the order.

17 And I'm not willing to go that far. And I think  
18 if our standard is that there must be some impact on the  
19 adjoining or adjacent neighbors in terms of environmental  
20 impacts, then there should be some evidence of that.

21 And in this case, since we look at cases on a, we  
22 look at cases on a case-by-case basis, or decisions in a  
23 case-by-case basis based on how they make a special exception  
24 requirement. And if they meet the special exception  
25 requirement the Board doesn't have a lot of discretion to not

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1 approve it.

2           So in this case even though the applicant has  
3 agreed, which is commendable, I'm not sure that it is  
4 appropriate to impose these conditions as a policy. And I  
5 think we would be stepping into the role of the Commission,  
6 which is something the Commission should do.

7           If the Commission feels that residential  
8 properties, Mr. Turnbull, should have this added condition.  
9 Admirable as they are, conditions, you know, I'm not willing  
10 to go that far in this case. And I would rather see an  
11 agreement between the ANC and the applicant, as opposed to  
12 mandating in an order that the applicant must, you know, must  
13 carry out these mitigation strategies. Now, I mean, they're  
14 not major things. So you could say, well they're sort of  
15 minor.

16           But I think, that, that would be my thought. But  
17 I will defer it, well not defer, I would like to hear how the  
18 Board thinks we should move forward.

19           MEMBER WHITE: I think, you know, the applicant  
20 and the ANC came to an understanding with respect to these  
21 conditions. And if you make that argument, I think that I,  
22 I could go either way. I can make an argument, you know,  
23 either way.

24           But I think I would be comfortable with the fact  
25 that the applicant and the ANC have basically reached an

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1 understanding that these conditions are going to be met. And  
2 I think that that would be sufficient to make sure those  
3 things are done properly. But I'll defer to my colleague  
4 over here to see if he has some thoughts.

5 MEMBER TURNBULL: Well I would agree. I had, I  
6 would ask the Office of Attorney General. Is this something  
7 that's just supplemental that would be added as an agreement  
8 between the ANC and the applicant? Is this something, a  
9 condition that we can actually impose?

10 MR. RITTING: I have --

11 MEMBER TURNBULL: In fact I hate the word impose.

12 MR. RITTING: -- a couple of questions. I have,  
13 from what I'm hearing, I'm hearing a couple of questions.  
14 The first -- or here's how I would structure it. Let me just  
15 start again.

16 First, there's the issue of should the Board be  
17 imposing these conditions in a special exception case where  
18 you're not really clear whether or not they mitigate an  
19 adverse effect of the relief that's requested?

20 MEMBER TURNBULL: Right.

21 MR. RITTING: That's issue one. Issue two is how  
22 do you give great weight to the advice of the ANC that's in  
23 their written report, given that they've stated that there  
24 is disagreement between the applicant and ANC.

25 That they would, that these, that the applicant

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1 would abide by the conditions. And that was sort of the  
2 basis of the understanding for the ANC's approval. So you  
3 have to then state why or why not you in find the advice from  
4 the ANC persuasive that the conditions should be imposed.

5 So first, do you think that there's some  
6 connection between the relief and the conditions? And then  
7 two, how do you give great weight to the ANC's advice in  
8 light of number one?

9 MEMBER TURNBULL: Well maybe one way is simply  
10 that we can states that there is an agreement between the  
11 applicant and the ANC on the following conditions. And that  
12 the applicant has agreed to abide by those conditions.

13 MR. RITTING: And that would be a way of more or  
14 less sidestepping the issue of whether there's a connection  
15 between the --

16 MEMBER TURNBULL: Well and I think because I don't  
17 know if we have full agreement, as Ms. Jones was saying, that  
18 if we're looking simply at the special exception for the lot  
19 occupancy, can we tie in -- I mean, the shed and the concrete  
20 pad are going to be done because that they have to do that  
21 to meet the lot occupancy.

22 So I mean, maybe that's a condition. I mean, that  
23 could be a condition because they have to do that. Planting  
24 the tree and the rain barrel are the one, and I guess there's  
25 just one rain barrel on a new downspout, are nice

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1 environmental features that are good to have.

2 But does that really affect the, our review as  
3 regarding the special exception, what they ask for for the  
4 lot occupancy? It's an environmental aspect and it could go  
5 to, that's a very difficult aspect to case, since we're not  
6 looking at any green features that she's agreeing to.

7 So I, I guess, that's the difficulty I'm having  
8 is how far are we going with -- I mean, I think the ANC  
9 raises a good issue about the aspect of environmental aspects  
10 on a, on a, on a project such as this. I'm not sure we're  
11 at the point, right now, that we can actually weigh in on  
12 that.

13 I think they're nice to have measures and I think  
14 that the applicant is, ought to be commended for doing those.  
15 But the, the consequences of, of us doing that, I'm not  
16 really sure if that's something we should be --

17 As Ms. John's was saying, we're struggling with  
18 the aspects of actually, of us actually imposing it. We can  
19 say that the applicant has volunteered to plant a tree and  
20 put a rain barrel on a new downspout.

21 And has had discussions with the ANC. And  
22 included, just as such. But I think the shed, removal of the  
23 shed, and the pad are definitely conditions that need to be  
24 included because or else, they can't meet the lot occupancy.

25 MEMBER JOHN: That would be my, my thinking too.

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1 I think we're deliberating, so. So are we ready to vote on  
2 this? Okay. Oh, we didn't decide on the conditions.

3 So the condition would be that the applicant will  
4 remove the shed and the pad. And just that one condition.  
5 And then OAG will help to craft a statement that says the  
6 applicant has volunteered to install the rain barrel and  
7 plant a tree. Okay.

8 So I will make a motion to, make sure I get it  
9 right. To approve BZA case 19994 as read and captioned by  
10 the Secretary, and as amended during the hearing to add  
11 relief from the non-conforming requirements of Subtitle C  
12 Section 202.2.

13 Subject to the condition that the applicant remove  
14 the shed and pad, as stated in the OP report. All in favor,  
15 say -- Oh, I will have, may I have a second please?

16 MEMBER WHITE: Second, yes.

17 MEMBER JOHN: All in favor, say? Okay. I didn't  
18 say that right.

19 MEMBER TURNBULL: No, no. It's not that you  
20 didn't say it right. I just was going to ask for a  
21 clarification. So you're, you're imposing a condition for  
22 the shed and pad, and nothing else? Or you're --

23 MEMBER JOHN: Nothing else.

24 MEMBER TURNBULL: Okay.

25 MEMBER WHITE: Well I guess one question is

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1 whether or not you're going to include planting of the tree  
2 in the rest of the statement as part of that condition?

3 MEMBER JOHN: I believe we said those were  
4 optional.

5 MEMBER WHITE: So it would not be a condition?  
6 So only the removal of the existing shed on the rear of the  
7 property and the concrete pathway?

8 MEMBER JOHN: Right. Because as Mr. Turnbull just  
9 discussed, it will be difficult to make that connection  
10 between the lot occupancy relief and the need for those  
11 mitigation measures.

12 MEMBER WHITE: Okay.

13 MEMBER TURNBULL: I think that we left it up to  
14 the OAG to craft a -- if the ANC and the applicant have  
15 agreed to this as a voluntary measure.

16 MEMBER JOHN: Okay.

17 MR. RITTING: Understood now. I just wanted to  
18 make sure what were in the required condition were borne out.  
19 But now, now I understand. Thank you, very much.

20 MEMBER JOHN: Re-state the motion, OAG? Okay.

21 MR. RITTING: No. I think it's clear at this  
22 point.

23 MEMBER JOHN: Okay. I think we're ready to vote.  
24 All in favor, say aye.

25 (Chorus of ayes)

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1 MR. MOY: Madam Chair, before I could give a final  
2 roll call vote, I just wanted to, to announce that on further  
3 consultation with the staff that the applicant won't, will  
4 not be required to submit a revised self-certification  
5 because it's clear on the record with reference to the  
6 amendment.

7 So the staff would record the vote as three to  
8 zero to two. This is on the motion of Madam Chair John to  
9 approve the applicant for the amended relief and the  
10 conditions that's cited in her motion. Seconded the motion,  
11 Ms. White. Also in support Mr. Michael Turnbull.

12 We have a member who's recused and a member not  
13 present, not participating. Motion carries.

14 MEMBER JOHN: Thank you, Mr. Moy.

15 MS. SULLIVAN: Thank you.

16 VICE CHAIR HART: Okay, Mr. Moy, if we could call  
17 the next case, please.

18 MR. MOY: Thank you. So if we can have parties  
19 to the table. And see they're running to the table. This  
20 is case application number 19954 of Nation's Mosque, M-O-S-Q-  
21 U-E.

22 This is a request for special exceptions under  
23 Subtitle E, Section 205.5 and 5201 for the rear addition  
24 requirements. This is of Subtitle E, Section 205.4 and under  
25 Subtitle C, Section 1504 from penthouse enclosure

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1 requirements of Subtitle C, Section 1500.6.

2           And the penthouse setback requirements of Subtitle  
3 C, Section 1502.1(B) and 1502.1(C)(2)(a). This would  
4 construct an addition to an existing place of worship in the  
5 RF1 zone. This is at 1519 4th Street, Northwest, Square 521,  
6 Lot 829.

7           VICE CHAIR HART: Thank you, Mr. Moy. Good  
8 morning, if you could please give your name and an address.

9           MR. GLASGOW: Sure.

10          VICE CHAIR HART: Starting from my right.

11          MR. GLASGOW: My name's Norman M. Glasgow, Jr. of  
12 the law firm of Holland & Knight. Here on the behalf of the  
13 applicant. And law offices are located at 800 17th Street,  
14 Northwest.

15          VICE CHAIR HART: And if you could spell your last  
16 name.

17          MR. GLASGOW: G-L-A-S-G-O-W.

18          VICE CHAIR HART: Thank you. Yes, please.

19          MR. SABIR: Good morning, I'm Albert Sabir, that's  
20 S-A-B-I-R, Executive Director of the Nation's Mosque, Mashir  
21 Mohammed and resident of District of Columbia living at 615  
22 14th Street, Northeast.

23          VICE CHAIR HART: Welcome.

24          MR. KILIC: Ahmed Kilic from Urban Architects, 125  
25 V Street, Northwest, Washington D.C.

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1           VICE CHAIR HART: And if you could spell your last  
2 name, please, as well.

3           MR. KILIC: K-I-L-I-C.

4           VICE CHAIR HART: Thank you, Mr. Kilic. Yes, sir.

5           MR. MUMIN: Good morning, Mr. Chairman. I'm  
6 Ibrahim Mumin, I-B-R-A-H-I-M, last name, M-U--M-I-N. And I'm  
7 at 631 Q Street, Northwest Washington D.C. and I'm a member  
8 of the Board of Advisors at Mashir Mohammed.

9           VICE CHAIR HART: Welcome. And Mr. Glasgow,  
10 you're going to be the one presenting to us today?

11          MR. GLASGOW: Yes, I am.

12          VICE CHAIR HART: Excellent. All right.

13          MR. GLASGOW: And we have the other witnesses  
14 we'll be -- we'll be speaking to. We do have a number of  
15 people, Mr. Chairman, in the audience who are in support of  
16 the application.

17                 If you'd like, at this point in time, we can just  
18 have them stand so that the Board can see that we do have the  
19 support.

20          VICE CHAIR HART: Oh, that's, that's fine. But  
21 what I would like also is to make sure that everybody has  
22 been sworn in.

23          MR. GLASGOW: Everybody that's planning to testify  
24 has been sworn in today. But we didn't -- we didn't think  
25 we needed 15 people to testify this morning.

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1 VICE CHAIR HART: I, I appreciate that, I mean,  
2 I appreciate that you have the folks that are coming here.  
3 And that we understand that they are in support. I will give  
4 you, let's say 15 minutes to take --

5 MR. GLASGOW: Yes. So we can make --

6 VICE CHAIR HART: care of --

7 MR. GLASGOW: -- our case.

8 VICE CHAIR HART: Is the ANC here for this case?  
9 I didn't think so. I just wanted to make sure that they --

10 MR. GLASGOW: Right. They, they've been  
11 supportive of the case. And they're -- that's in the record.  
12 And we were going to focus on what was not covered at the  
13 last hearing.

14 VICE CHAIR HART: I do a fully appreciate that.  
15 That's, that is exactly what I'd for you to, to look at. I  
16 know that we had, we requested some information.

17 And if we could just focus on those, the shadow  
18 studies. I think there was an image, the schematic of the  
19 proposed wall. And then, the existing conditions of the  
20 parking areas and any changes or agreements with -- with  
21 DDOT, if you, if you have that as well.

22 MR. GLASGOW: Yes.

23 VICE CHAIR HART: So I think it's just those,  
24 those kind of three things. The shadow studies, the  
25 schematic of the wall, and then the parking area, any changes

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1 or any agreements with DDOT.

2 MR. GLASGOW: All right. We will -- we will  
3 address those and then also because of some of the issues  
4 that were raised in the opposition's letter of April 18th.

5 We wanted to make sure in the record that we have  
6 some of the comments that the zoning commission had in its  
7 Order number 14-11B as to the principal issues that were  
8 being addressed what with the 10-foot special exception  
9 provision and going, you know, beyond the 10 foot.

10 Because we think that when you take that into  
11 account it was more to address the adjoining properties  
12 because the other properties are protected by the rear yard  
13 setbacks. And I think that's clear in part of the zoning  
14 commission order. So we will read that into the record since  
15 it's about one paragraph.

16 VICE CHAIR HART: That's fine.

17 MR. GLASGOW: All right then. May we proceed, Mr.  
18 Chairman?

19 VICE CHAIR HART: I'm sorry, yes. The 15 minutes,  
20 Mr. Moy. If we could start that for them?

21 MR. GLASGOW: Thank you. First, I'd to have those  
22 that are in the audience that are in support of the  
23 application stand so that Board can see that we do have a  
24 number of supporters here today.

25 Next, we were asked to submit some additional

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1 information. And I've looked over the DDOT. I, I've seen  
2 the tape, although I was not present, I have reviewed the  
3 tape of the last hearing. And I saw there was a number of  
4 questions with respect to the DDOT and information.

5 And I think that what -- trying to discuss what  
6 DDOT may or may not do and what other discussions there are,  
7 we will stay with the written DDOT report, which unless we  
8 work something else out, we would need to remove the two  
9 spaces that are in public space and adjust the fence height.

10 VICE CHAIR HART: And did you -- do you have  
11 drawings that actually show that? Because the drawings that  
12 I think that I've seen so far, as of like Monday, whatever  
13 you had in the, like from Monday and earlier, I have seen.

14 And I think that those two spaces are still  
15 included in that. I don't know if you have any updated  
16 drawings that show those two spaces being removed.

17 And the reason I bring that up is that it is  
18 helpful for us to have that updated drawing so that we  
19 understand that either there is an agreement with DDOT or  
20 these things have been removed. One of these two things would  
21 be helpful.

22 MR. GLASGOW: Right. The way we plan on  
23 proceeding is, since that is an application for public space,  
24 we will submit for the record a plan that shows the two  
25 spaces. Not there --

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1 I think the building plot does show just the 17  
2 spaces because it's not -- it doesn't go out into public  
3 space. But we will make sure the record's clear on that.

4 Next -- but what we do want to have the  
5 opportunity is if we go back to public space and we adjusted  
6 the heights of the wall, as was discussed at the last  
7 hearing, and they do give us the additional two spaces, we  
8 don't want to be precluded from doing that.

9 Because that would be before the Public Space  
10 Committee. So we have a drawing that if Public Space  
11 Committee approves, which I think what it -- that's what  
12 you've seen now. And then, if they don't, then we'll have  
13 the two less spaces.

14 So we'll either have 19 spaces or 17 spaces.  
15 Because that's within the jurisdiction of the Public Space  
16 Committee.

17 VICE CHAIR HART: I'm not disagreeing with you.  
18 What I'm just saying is the image that we have now, show them  
19 in the public space. DDOT raised the issue and I just wanted  
20 to understand if you were keeping them, that we are looking  
21 at the images that you have provided so far. And that's what  
22 you're telling me.

23 MR. GLASGOW: Yes.

24 VICE CHAIR HART: So we can move on with the rest  
25 of the --

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1 MR. GLASGOW: Yes.

2 VICE CHAIR HART: -- images.

3 MR. GLASGOW: Okay. Thank you. Yes, that'll be  
4 the way that it is. We'll have two sets, 19 and 17, that's  
5 as the Chairman indicated.

6 First, I wanted to discuss for a second, Zoning  
7 Commission Order number 14-11B. And I'm quoting from the  
8 second paragraph there, the amendments address concerns about  
9 excessively disproportionate rear extensions adjoining  
10 attached and semi-detached building.

11 And then it lists some zones and RF zones by  
12 adding language limiting the matter of right extension to  
13 such buildings, whether as an addition to an existing  
14 building, or as new construction from extending further than  
15 ten feet beyond the farthest wall of adjoining principal  
16 residential building on an adjoining property.

17 The amendments allow a rear extension to extend  
18 further than 10 feet, if approved as a special exception.  
19 The propose limitation does not apply to detached buildings  
20 because a detached building including any rear addition would  
21 be subject to side yard requirements that provide separation  
22 from adjacent buildings.

23 So the focus is on what is your adjoining  
24 neighbor? And we do, we are going to be submitting to the  
25 record, an email from the adjoining tenant in the building

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1 next door because it's not owner occupied.

2           Who is telling us at the end of, and it's a very  
3 short email, says, best of luck on your construction project  
4 that they had a good meeting with members of the mosque. So  
5 we have that, which will be submitted to the record.

6           Next, we are going to have some additional  
7 drawings that show the separation of the lots because they'll  
8 -- the separations of the building walls on the lots because  
9 there was a question raised about that in the April 18th  
10 letter from the persons in opposition.

11           And so we now have gone out and we've done a laser  
12 wall check, rather than just the check from what's online.  
13 So that is more accurate. And the separation between the  
14 rear walls of the proposed addition to the mosque and the  
15 five buildings of the persons in opposition range from 66  
16 feet to 77 feet.

17           And so that is by an instrument, accurate  
18 instrument. And we will show those drawings because we did  
19 see that the online information there was a question raised  
20 about that by the persons in opposition.

21           And we found that two of the buildings were  
22 slightly closer to the rear than what they -- what the data  
23 would be that you just get online. And three are further  
24 away. So we have a drawing that clarifies that.

25           So we think that in response to the questions as

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1 to what would the shadow impact be of a -- the proposed  
2 building, that it is very significantly less than what would  
3 be permitted as a matter of right.

4 And so, we will have the architect will address  
5 that issue. We are pleased that we've got the ANC's support  
6 and that we have the support of the Office of Planning.

7 We think that the drawings will show how it is  
8 that we do not adversely -- do not substantially adversely  
9 impact the properties, any surrounding properties. And with  
10 that, I'd like to turn it over for a short statement from Mr.  
11 Sabir, and then we'll go to the architect.

12 MR. SABIR: Good morning.

13 VICE CHAIR HART: Good morning.

14 MR. SABIR: I'm here representing the community  
15 in the absence of our Imam, Imam Talib Shareef who is a  
16 retired, 30-year Chief Master Sergeant in the United States  
17 Air Force. Right now, he's currently serving our country by  
18 attending a conference in Denmark addressing the issues of  
19 extremists.

20 And we believe that our community, dating back the  
21 mid-1930s Master Muhammad, the Nation's Mosque is  
22 representative of the oldest established Muslim community in  
23 America's capital city. It was established as the first  
24 community mosque to be built from the ground up by American  
25 citizens in the nation's capital.

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1           And it is still currently the only mosque in  
2 Washington DC that was built by citizens and residents called  
3 pioneers. And of course, who are, and we are descendants of  
4 enslaved Africans. Now this is, mosque is located just off  
5 New Jersey Avenue, Northwest on 4th Street.

6           Was ceremoniously designated Islamic Way. And of  
7 course, the City gave us that denotation. Now Master  
8 Muhammad has long been in pooler in the neighborhood, the  
9 city of Washington, nationally, and internationally. As well  
10 as a leader in and association of numerous masajids and  
11 Islamic centers nationwide.

12           Now under the leadership of Imam, the late Imam,  
13 W.D. Muhammad, may God be pleased with him, it transitioned  
14 to mainstream Islam and has gone from smaller circles of self  
15 to broader circles of humanity, and the universal teachings  
16 of the Holy Quran and the prophet Muhammad, peace be upon  
17 Him.

18           Its members are proudly taken seriously the  
19 responsibility of citizenship and it's comprised of and  
20 associated with millions of healthy minded hard-working  
21 Muslims, who are in every field of public service and the  
22 private sector. And are making significant contributions to  
23 support, protect, and invest in the betterment of the  
24 society.

25           Now our model is now going international. The

1 model that we are presenting to the world is this, seven key  
2 elements. The teachings of W.D. Mohammed has given us an  
3 understanding of the true teaching of Islam, as he's claimed.

4 We have a strong sense of self-worth and identity.  
5 We have a strong sense of self-reliance. Economically we are  
6 tuned into job creation, we embrace citizenship, we engage  
7 civic engagement and finally, that seventh element,  
8 patriotism.

9 So we believe that those elements have helped us  
10 to be a model not just for our neighbors, not for the city,  
11 not just for the city, not just for the country, but now for  
12 the world. We believe that what we've come through as a  
13 people demonstrating that we can see that we are one human  
14 community under God.

15 I want to go forward also because I know last  
16 time, we had three members of our neighbors to come forward.  
17 And we've met with neighbors on two occasions. We've walked  
18 around the master of the building. We've showed them what  
19 we proposed.

20 We met them on another occasion with our  
21 architect. And we showed them the rendering that we had,  
22 since the first time. We've also had conversations about  
23 their needs, their concerns. Ms. Sylvia Gilbert, one of  
24 those neighbors, we showed her in the back that we weren't  
25 coming into her property. She said, oh, I thought you were.

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1           So for us, that a signal that there was some  
2 misunderstanding, or lack of understanding, or lack of  
3 knowledge in terms in terms of exactly what we were doing.  
4 We met with Ms. Mariah Rippe, Chris Agrawal, as well as Jacob  
5 Jelks. That was on the first time we met.

6           And we had a very good meeting. And we walked  
7 around the building. Second time we met, was on April 16th  
8 in our office and we sat down and talked about it. And we  
9 left that meeting. And one of the things we left with was  
10 this.

11           That we are obligated under Koran for addressing  
12 our neighborly needs, which is really kindness. And we open  
13 the door for communication and that door is still open and  
14 we invited Ms. Gilbert to one of the features that we have.

15           For the fourth year we are in line with the City  
16 Office of Aging. And we serve our neighbors lunch Monday  
17 through Thursday.

18           MR. GLASGOW: Thank you. We are experiencing some  
19 technical difficulties, here? Can, can we stop the clock  
20 while we're being assisted?

21           VICE CHAIR HART: Sure, Mr. Moy.

22           MR. GLASGOW: Thank you.

23           VICE CHAIR HART: Yes, Board Member John?

24           MEMBER JOHN: Okay. So Mr. Sabir, of those five  
25 neighbors that you spoke with, did any of them withdraw their

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1 opposition? Because we received, while we're waiting, we can  
2 probably discuss this. We received another email, another  
3 Exhibit that says five neighbors are still maintaining their  
4 opposition.

5 MR. SABIR: I saw that --

6 MEMBER JOHN: So --

7 MR. SABIR: -- submission. And those submissions,  
8 though it was slightly different from the first mission in  
9 terms of the height and the emergency exit or entrance, as  
10 well as the extension of the back.

11 MEMBER JOHN: Right.

12 MR. SABIR: Now again, when I spoke to miss Sylvia  
13 Gilbert, she seemed to have been pleased that we weren't  
14 coming back to her yard.

15 MEMBER JOHN: Okay.

16 MR. SABIR: So I was surprised to see that. But  
17 there were some other things that I also was taken aback by.  
18 Because we talked about helping the issue of emergency  
19 vehicles. We even discussed looking at, addressing this with  
20 the city, to see what can do.

21 Again, we, we told the neighbors, said, listen we  
22 are part of Amer's Interfaith Counsel. We are the founding  
23 member of the Washington D.C. Interfaith Association  
24 Conference. We said that our Iman was President of that  
25 conference.

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1           So if there are issues that are related to helping  
2 to helping our neighbors, then we're all for it. But again,  
3 I was taken aback by seeing that submission.

4           And we thought that we also talked about, I mean,  
5 even Mr. Chris Agrawal. He suggested to us to get an  
6 easement. But again, we did not go forward with that. I  
7 mean, there were things like that, that were discussed. So  
8 I was kind of taken back by seeing that, which was submitted.

9           MEMBER JOHN: Thank you.

10          VICE CHAIR HART: Have we fixed that? Fixed that  
11 issue? Mr. Kilic.

12          MR. KILIC: Yes. Thank you, Mr. Chairman. My  
13 presentation, there are four points I'd like to cover during  
14 my presentation. The first one is more enhanced exhibits  
15 about existing conditions per request from the last meeting.

16          Second one is more information about materials  
17 activities at the rear of the building by Mr. Turnbull's  
18 request from last meeting. And third one is by-right scheme  
19 options to better assist relative impact of the proposed  
20 scheme.

21          And the fourth one, is response to the neighbors'  
22 comments about increased all the exhibits and other comments.  
23 The exhibits I'll be sharing couldn't be submitted all at a  
24 time, as the materials has been evolving.

25          VICE CHAIR HART: Could you hold on a second. Mr.

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1 Moy. Thank you. Go again.

2 MR. KILIC: The exhibits I'll be sharing couldn't  
3 be submitted all at a time, as the materials has been  
4 evolving in your response to comments from Mr. Jesick, Office  
5 of Planning, and later the neighbors' comments. In addition  
6 to that, we have the original exhibit summons for March  
7 meeting.

8 I'm sorry about the multiple files, but I'll do  
9 my best to walk you through this coherently. At March 27th  
10 meeting, a month ago, the Board requested to have more  
11 enhanced drawings to better understand existing conditions.

12 I would like to take your attention to first three  
13 pages of Exhibit 41. So this page, we've seen this last  
14 week, last month. At 1519 where the red dot is, the existing  
15 barrel-vaulted mosque built in 1960.

16 It is 2800 square feet, one-story plus cellar  
17 structure. As you can see in this next page, the orchid  
18 color shows existing buildings at the site. And the red  
19 color is the addition number. So the existing buildings is  
20 2800 square feet, barrel-vaulted, one-story building and the  
21 townhouse on the right side.

22 And to respond, Mr. Hart, about the parking spaces  
23 as you can see, the property line is delineated between the  
24 darker shade of green and light shade inside the properties.

25 So two parking spaces are currently on the public

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1 space and without those we have 17 parking spaces, which  
2 comfortably exceeds the required parking for this proposed  
3 addition. And the lights --

4 VICE CHAIR HART: So you -- you said that is --  
5 that is what you -- how much parking that need? You said,  
6 that's a comfortable amount of parking?

7 MR. KILIC: Yes.

8 VICE CHAIR HART: At 17?

9 MR. KILIC: Yes. What, what we are, what we need  
10 is only four parking spaces, four new parking spaces we need  
11 to bring in. We are grandfathering 20, grandfathering I  
12 believe 33 parking spaces.

13 VICE CHAIR HART: Can, can you say that again?  
14 You're grandfathering? The --

15 MR. GLASGOW: Mr. Chairman, I can explain.

16 VICE CHAIR HART: Yes. I'm just trying to figure  
17 out -- if you could.

18 MR. GLASGOW: Sure. You've got an existing mosque  
19 facility, which is going to be based upon, for a religious  
20 institution. It's the area of the main sanctuary or in this  
21 case, the main prayer room. The existing prayer room, what  
22 is it 23?

23 MR. KILIC: 2100 square feet.

24 MR. GLASGOW: Okay. Approximately 2100 square  
25 feet. And then the -- way and so it's on its own lot, lot

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1 829. And it doesn't have any parking on its lot. Okay.  
2 Because, but the requirement --

3 VICE CHAIR HART: I understand that. But the  
4 other lots are owned by, by --

5 MR. GLASGOW: Yes. The other lots -- but well,  
6 I'll go through the parking computation, in a minute.

7 VICE CHAIR HART: Okay.

8 MR. GLASGOW: And also with the new, because the,  
9 the proposed is going to be expanded, the main prayer room  
10 to about 2900 square feet, as I recall.

11 MR. KILIC: No. It's, existing is 2100 square  
12 feet and it's going to be expanded to 2320.

13 MR. GLASGOW: So 2320. So with the 2320,  
14 just the way the regulations are structured, assuming that  
15 you needed parking for the 2320, then essentially, they say  
16 that if you don't have fixed seating, then it's seven square  
17 feet, and then for each ten. So I always just divide it by  
18 70.

19 So if you divide 2320 by 70, you get a little bit  
20 over 33, as I recall 33 required parking spaces. So that  
21 would be if you were building this new and we have, because  
22 of the proximity to Metro, we have to 50 percent reduction  
23 for Metro.

24 And so that would end up being seven. The  
25 requirement would be, 16 and half spaces or 17. And that's

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1 what we have on private property.

2 VICE CHAIR HART: Thank you. And I appreciate it.  
3 It's not that I -- you're not looking for parking relief.

4 MR. GLASGOW: No.

5 VICE CHAIR HART: So I didn't want to focus on it  
6 too much. The only question that I had with it was when you  
7 were talking about some of the -- when Mr. Kilic spoke, he  
8 provided some images that show to the by-right.

9 They didn't include or didn't seem to include  
10 parking and I was trying to understand how that was by-right  
11 if you didn't have any parking that was that was kind of  
12 required in there.

13 MR. GLASGOW: Yes.

14 VICE CHAIR HART: We can go to the shadow studies  
15 because I am interested in those. And we can discuss that.  
16 We don't need to discuss the parking, you know, too much.  
17 It's not something that's in, that you're requesting. So --

18 MR. GLASGOW: Thank you.

19 VICE CHAIR HART: -- but I do appreciate the kind  
20 of stepping through that.

21 MR. GLASGOW: Certainly.

22 MR. KILIC: So and as we can see, the next page,  
23 we have existing conditions, the bare walls, the orchid color  
24 existing buildings, and red color addition building and the  
25 rear additions. And also, I would like you to take a look

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1 at exhibits submitted today.

2           The hard copy exhibits, page 46, 46. These are  
3 a excellent view of -- pulled from Google Earth. So up  
4 there, you can see existing buildings buildings, the  
5 buildings at the back, and the heavily shade -- heavily  
6 vegetated area in between.

7           MR. GLASGOW: And all of those trees are on the  
8 neighbors' properties. None of those trees are on the  
9 property of the mosque.

10           MR. KILIC: That's right. And I would like to --  
11 next item was the shadow studies after we submitted our  
12 exhibits, sorry, the exhibits. After hearing from neighbors  
13 at the March meeting to the shadow lines of the project, we  
14 have decided to exit by-rights schemes that they could prove  
15 how reasonable the request for relief is. We have generated  
16 two different by-rights options, and posted them to either  
17 site.

18           And thanks to Mr. Jesick and Office of Planning,  
19 he entertained a third matter of right option. We created  
20 visuals for that and uploaded them as well. Exhibit 41 shows  
21 alternate one and two. Exhibit 45 shows alternate three and  
22 also comparing them all with proposed. So I'll go to Exhibit  
23 45.

24           VICE CHAIR HART: And just to also be clear,  
25 Exhibit 45 is -- was something that you will submit to the

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1 record.

2 MR. KILIC: Yes.

3 VICE CHAIR HART: It didn't actually say that.  
4 It's helpful for us to understand that that's who submitted  
5 it to us. It just had that this was some images that showed  
6 the shadow studies. So I just wanted to, just to make sure  
7 that that was on the record.

8 MR. KILIC: I see.

9 VICE CHAIR HART: You're fine. You can move  
10 forward with it. I just wanted to clarify that.

11 MR. KILIC: Actually, okay, I would like to start  
12 with Exhibit 41, Page 20. This is our alternate one. My  
13 right scheme. In this scheme we are developing the townhouse  
14 lot as a separate religious use build.

15 This by-right option for that is 60-foot height  
16 and limiting the addition to ten feet, ahead of neighbor's  
17 rear wall. The existing barrel-vaulted structure is going  
18 to be developed as detached building.

19 This will be satisfied by providing five feet from  
20 the owner/s townhouse lot and another additional five feet  
21 on the other side, which we have more than that. This  
22 structure can go up to 20 feet set back line at the rear, 60-  
23 foot high, and 18-foot penthouse structure.

24 So this is our alternate one. And the consequent  
25 shadow studies, March 21st, 4 p.m. are page -- are presented

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1 on Page 21. And our next alternate by-right -- alternate on  
2 the next page.

3 In this case, we are developing the site combining  
4 all of the lots owned by the community, including the  
5 townhouse lot. And we are setting the -- and we are still  
6 in this -- in this one also we are going ahead with a  
7 detached building. Either an attached or semi-attached.

8 So this will -- this releases us to meet the 10-  
9 foot rule imposed by the neighbors' rear wall. So as you can  
10 see, the addition is going back to 20 feet setback from the  
11 rear, 60 percent lot occupancy.

12 The gray shaded area is the footprint of the  
13 building. And the next page shows the possible massing with  
14 18 feet penthouse and consequent shadow analysis. And this  
15 is our proposed.

16 VICE CHAIR HART: So the long and short of it is  
17 that there is -- there are some by-right options that would  
18 be -- would cast longer shadows than what it is that you're  
19 proposing.

20 MR. KILIC: Yes.

21 VICE CHAIR HART: That's what you're -- you've  
22 just shone kind of number of these. But I, I kind of  
23 understood that. I wasn't exactly understanding -- well, I  
24 kind of understand why you have the various options of them.

25 I think it would probably be helpful if we just

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1 kind of focused on one of those options. And we don't have  
2 to look at, you know, this is five feet -- the reason I don't  
3 want to look at all of them is because if they get confusing.

4 MR. KILIC: I understand that.

5 VICE CHAIR HART: And so it is, you have a by-  
6 right. The by-right kind of gives you a particular, you  
7 know, direction and you have what you're proposing. And that  
8 is, you know, has a different set of impacts.

9 MR. KILIC: Yes.

10 VICE CHAIR HART: An if you could just kind of  
11 focus on that, that be helpful so that we just in -- an in  
12 an effort to kind of move through the case.

13 MR. KILIC: Yes. Okay. Sure.

14 MEMBER JOHN: May I ask a question? Can you show  
15 one of the options with the 17 parking spaces. Do you have  
16 that? Or my question should be, would you also be required  
17 to provide 17 parking spaces in any of the options?

18 Because it's only reasonable -- it's only  
19 reasonable option if you meet the parking requirement.  
20 Right?

21 MR. GLASGOW: Yes. And all of the, we have a drawing  
22 that we can show that -- for example, in the ones that you're  
23 talking -- that we're talking about right now, that would be  
24 a -- you would have a below grade parking garage that has 17  
25 spaces.

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1           We have more than enough room to do that and we  
2 can submit for the record, a plan that shows that.

3           VICE CHAIR HART: And that's fine. As long as  
4 it's a very -- which is the same question that Board Member  
5 John had. Was, how do you deal with that? But I understand  
6 that below grade is fine.

7           I just wanted focus on kind of one of these, so  
8 that we understood how it is -- the impact differences  
9 between the by-right and what's ones being proposed.

10          MR. GLASGOW: I think when you get to the sheet  
11 that you're on right now. Hopefully, at the bottom of Page  
12 41 is going to be a very less aggressive by-rights scheme  
13 that keeps the barrel-vault in the back of the church, cuts  
14 the back.

15          And then, you see that compared to the -- at the  
16 lower left-hand image is what is being proposed by the  
17 applicant. So that you have an attached structure, which  
18 gets to the last paragraph of the OP report. It said, well  
19 why -- would you compare an attached structure matter of  
20 right with your proposal, so that that could be done. That  
21 was at the very last package -- last part of Mr. Jesick's  
22 report.

23          And so that's what's shown at the bottom of the  
24 screen. If the architect can show --

25          MR. KILIC: Yes.



1           MEMBER JOHN: So for the proposed design, there's  
2 lots of designs floating around. So it's hard to keep them  
3 straight.

4           MR. KILIC: I understand.

5           MEMBER JOHN: So as you go through, could you be  
6 sure to point out the proposed design. And if you could use  
7 your cursor to show where the townhouse is, the owners'  
8 townhouses is, and the extension in the rear so that we can  
9 keep that in our heads as we go through this.

10          MR. KILIC: Yes, truly thank you. I understand  
11 it's quite -- it got quite confusing. So this is kind of a  
12 distilled version. Why you see three options to -- by us,  
13 one for Office of Planning.

14                 And the lower left corner is the proposed design.  
15 So we submitted -- this was our final submission, after  
16 Office of Planning report. So here you can see that the  
17 proposed shadow is much less than in all the proposed -- in  
18 all the by-right schemes. And the shadow is not creating an  
19 unduly inconvenience for the neighbors.

20                 So in addition, to this, after this, we had some  
21 objections from -- objection letter from the neighbors,  
22 particularly, one of them was siting that the drawings were  
23 not as accurate. After that we prepared the hard copies.

24                 So the final version of the executive summary, I  
25 will call it --

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1 MR. GLASGOW: Let me -- let me ask one questions  
2 here. Does that answer your question? I know he didn't use  
3 the cursor. But do you -- but the ones that we want to --  
4 use the cursor.

5 MR. KILIC: Yes.

6 MEMBER JOHN: If you could blow up this -- this  
7 one that you're pointing the cursor to. If you have a larger  
8 slide of this one.

9 MR. KILIC: Yes.

10 MEMBER JOHN: Where you could show where is the  
11 townhouse, and the proposed tower --

12 MR. GLASGOW: Right. Can you blow that up that  
13 up?

14 MR. KILIC: Yes. Although I should have --

15 MEMBER JOHN: It's a proposed design --

16 MR. GLASGOW: Yes, proposed design, right by-right  
17 scheme, shadow studies. It's the lower left.

18 VICE CHAIR HART: Mr. Kilic, if you could -- if  
19 I could just use in the upper -- just use one of these. And  
20 then just make it larger on the --

21 MR. GLASGOW: Yes, pulled it up. There.

22 MR. KILIC: So this is the tower, the tower  
23 they're referring to is the roof access stair. And the  
24 neighbors are at the back, over here. These are the five  
25 neighbors, at the back.

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1 MR. GLASGOW: Okay. Can you show her where the  
2 town house is. Where the townhouse is that's owned by the  
3 mosque.

4 MR. KILIC: The townhouse owned by the mosque is  
5 this yellow townhouse over here, the same color. And the  
6 first -- this is the adjacent neighbor, the reddish color is  
7 the adjacent neighbor. And the yellow townhouse with the NPD  
8 cells on top, are the owner's townhouse.

9 MEMBER JOHN: And what's the pink?

10 MR. KILIC: The pink -- the pink one is the first  
11 adjacent neighbor. Those two lines?

12 MEMBER JOHN: Yes.

13 MR. KILIC: That's just like --

14 MEMBER JOHN: Yes, over here.

15 MR. KILIC: That's like, articulation of the  
16 elevation.

17 MEMBER JOHN: Okay. Thank you.

18 MR. KILIC: So I would like to show after --

19 MR. GLASGOW: Do you want to go over -- why don't  
20 you go over to the image on the right because that was the  
21 comparison.

22 MR. KILIC: Yes.

23 MR. GLASGOW: That's the attached comparison, so  
24 you see that the wall -- use your cursor to go do down. All  
25 right. And you only -- proposed mosque is adjoining the

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1 townhouse, to its south and extends only 10 feet further.

2           So there was a request that we show the attached  
3 condition -- to do an attached, so that you couldn't take it,  
4 if you will take advantage of the 20-foot rear yard and just  
5 pull everything out to the 20-foot rear yard.

6           So we were requested to do that. And that's what  
7 that shows, so these two images show attached to attached on  
8 the south and then what the shadow impact is.

9           VICE CHAIR HART: This one also shows the  
10 townhouse that is -- that the mosque owns being kind of  
11 subsumed into that design.

12           MR. GLASGOW: That is correct.

13           VICE CHAIR HART: So that what we're seeing is the  
14 adjacent townhouse that we saw in the previous one. The  
15 adjacent neighbor and so that townhouse that they -- and it's  
16 currently there.

17           Is whatever, it's not more, it's demolished and  
18 then they built this building 10 feet beyond the building  
19 that this adjacent neighbor and that's it, they don't get in  
20 any farther distance to the rear.

21           MR. GLASGOW: That is correct.

22           VICE CHAIR HART: Okay.

23           MR. KILIC: That is correct.

24           MEMBER JOHN: So if you -- if you look at my  
25 little drawing, here this is a 10-feet, and this is the

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1 neighbor, right here. Is that where the neighbor's townhouse  
2 is?

3 MR. KILIC: Yes.

4 MR. GLASGOW: Yes.

5 MEMBER JOHN: And that is the additional 10 feet?

6 MR. KILIC: Yes, that's right.

7 MR. GLASGOW: That is correct.

8 MEMBER JOHN: Thank you.

9 MR. KILIC: And after we submitted these, we heard  
10 the neighbors' objection, and they were questioning about the  
11 massing in the back over here, which was based on like  
12 ballpark numbers.

13 And they were debating that their townhouses were  
14 shown in our exhibits too far away from the -- what it was  
15 in reality. So we went back and made some measurements with  
16 laser pointer from our property fence, by the property line.  
17 Here is an updated -- again the exhibits. And you can find  
18 them in these hard copies. So if you go to Page 43, all the  
19 hard copies that is submitted today.

20 Here, the townhouses at the back are isolated to  
21 include only the objecting neighbors and their addresses are  
22 put up there 1512 to 1520.

23 And the distances from the back of the mosque  
24 building to the second floor of these townhouses are 77 feet,  
25 66 feet, 73 feet, 65 feet, and 72 feet. From 1512 to 1520

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1 respectively, and also we realized that our initial judgment  
2 was not too much off.

3           And if you go to the next page, Page 44, where we  
4 have these yellow colored objecting neighbors' townhouses.  
5 This is the same exhibit that we are looking at on the  
6 screen, just updated with the accurate information and  
7 isolating the objecting neighbors' townhouse massing.

8           And the next page, 45 in the hard copies, shows  
9 existing townhouses at the backyards of the neighbors that  
10 are going to stay after the project. And the next page, page  
11 46 shows the existing conditions further indicating the  
12 relationship, the distances, and the vegetated area in  
13 between.

14           So the distance between the townhouses will be 60  
15 plus feet and also zoning allows 40 feet in residential RF1  
16 zones.

17           Finally I would like to quickly tell a couple  
18 things about the objection letter that we received. The  
19 proposed building is occupying 38 percent of the lot as  
20 opposed to 60 percent by-right.

21           The neighbors' objection letter refers to stair  
22 penthouse as a tower. But it is still 53 feet high. Seven  
23 foot lower, than what is allowed by-right building height,  
24 and 25 feet lower than by-right penthouse height.

25           Without that stair tower, the massing of the

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1 building, would be much more bulkier, and less fit to a  
2 residential neighborhood.

3 I would like to say a couple of words about the  
4 neighbors' objection letter. The letter calls the  
5 Committee's bias an affront to the residential nature of the  
6 block. Worship buildings are by-right, using residential  
7 flat RF zones as defined by 2016 zoning ordinances.

8 I live ten minutes walking distance to the mosque  
9 in Bloomingdale neighborhood. There are several churches in  
10 the neighborhood, none of which appear to be interrupting the  
11 quietness of the neighborhood. There is not, a church in the  
12 same block, as called out in the objection letter.

13 But the first block to the north is Fourth Street  
14 Friendship Seventh-Day Adventist Church, at 1611 4th Street.  
15 And first block at the Northeast is Mount Sinai Baptist  
16 Church on 3rd Street.

17 If the objecting five neighbors walk around the  
18 block to reach the mosque, they will be walking be walking  
19 in front of two churches across the street before they reach  
20 the mosque.

21 The objection letter cites undampened noise from  
22 mechanical equipment. We will make sure that the noise from  
23 mechanical equipment won't exceed 60 decibels at night, and  
24 55 decibels during night, as allowed by Section 2701.1 for  
25 National neighborhoods.

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1 MR. GLASGOW: That's 20 DCMR because it's not the  
2 zoning regs. That' in the --

3 VICE CHAIR HART: No, I know that.

4 MR. GLASGLOW: -- in the noise regulations.

5 MR. KILIC: In regards to the concerns about  
6 traffic at the graveyard, these no new use introduced. The  
7 kitchen, funeral ceremony, and other religious use has been  
8 there for 60 years.

9 Nothing new is introduced. All of the structures,  
10 HVAC, equipment, ramps, stairs, they are all within by-right  
11 definition, according to District of Columbia zoning  
12 regulations and building regulations.

13 MR. GLASGOW: Okay. I think you should wrap it  
14 up.

15 MR. KILIC: I think this all --

16 VICE CHAIR HART: The only one thing that I think  
17 that we had requested was the, Mr. Turnbull, the issue about  
18 just the wall itself.

19 MR. KILIC: Yes.

20 MEMBER TURNBULL: The materials.

21 VICE CHAIR HART: The materials. I know that  
22 there was a section that kind of talks of about that, but if  
23 you could just summarize that please.

24 MR. KILIC: Yes. The first page, page 15 of the  
25 hard copies and page 16 -- page 17 of the hard copies

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1 articulates the South elevation of the building, and the rear  
2 elevation.

3           Here we show -- I would like to show the  
4 materials.

5           VICE CHAIR HART: There's a camera. Mr. Moy's,  
6 got --- wait -- where's the camera that's over here?

7           MR. MOY: It's over here, I think.

8           VICE CHAIR HART: I think you may have to get a  
9 little closer. You may need to move a little closer and a  
10 little bit lower, Mr. Moy. Mr. Kilic a little closer, closer  
11 to the -- yes, there you go.

12           Okay so these are the materials that you're  
13 proposing for the --

14           MR. KILIC: Yes. The yellow color is going to  
15 match the existing building in the yellow color. As you can  
16 see, called out in page 15 is brick 5. And brick 4 is two  
17 shades of brown face brick.

18           VICE CHAIR HART: And we, we saw that. I think  
19 that, they --

20           MR. KILIC: Yes. And on page 17, we have this  
21 panel 2, the white color accent. And they will be either  
22 tele-plastic core panel, white color or painted glass. I  
23 have -- I don't have the exact color samples, but other color  
24 samples that we can share.

25           If you look at page 49 and page 48 of the hard

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1 copies, you can see the precedents for brown face brick. And  
2 precedent for on page 49, Alucobond panel plastic door panel,  
3 white color. We're going to pick one of the three whites or  
4 the glass -- back painted glass.

5 VICE CHAIR HART: Okay.

6 MR. KILIC: I think, this, this is. Thank you.

7 MR. GLASGOW: That concludes our direct  
8 presentation.

9 VICE CHAIR HART: Does the Board have any  
10 questions?

11 MEMBER TURNBULL: Yes, I wondered if you could  
12 just -- the block, what color is the block? The brick you're  
13 showing is the, that brick 4? mortar 4 on page 15?

14 MR. KILIC: Yes, prick 4 is the two shades of  
15 brown face brick.

16 MEMBER TURNBULL: Yes. So that's the band? The  
17 band is the yellow brick?

18 MR. KILIC: No. The band --

19 VICE CHAIR HART: You need to have a mic.

20 MR. KILIC: So the band will be this shiny color.

21 MEMBER TURNBULL: And the block is really the  
22 brick color?

23 MR. KILIC: The block will be the grey block is  
24 this.

25 MEMBER TURNBULL: Oh.

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1 MR. KILIC: So it's going to be two shades of  
2 gray.

3 MEMBER TURNBULL: Two shades of gray. Okay. I  
4 see.

5 MR. KILIC: So the intent was to hold, to make a  
6 solid color at the back. And then the yellow color, or the  
7 existing building's yellow color it will appear as an accent  
8 on the more public side, which is the street side, and also  
9 at the back, you can also see the relationship on page 17.

10 MEMBER TURNBULL: So that -- that gray -- one of  
11 those gray blocks is -- is also on the front of the building.  
12 Brick 4 is the -- on page 17. That the same that's on side?

13 MR. KILIC: Yes. It's not from page 17, it's the  
14 rear. Page 17 is the rear elevation facing the objecting  
15 neighbors. So we don't have front elevation use. It wasn't  
16 part of discussion.

17 MEMBER TURNBULL: Right. Okay. Okay, thank you.

18 MR. KILIC: Thank you.

19 VICE CHAIR HART: Any other questions from the  
20 Board? Okay. Let's move to the Office of Planning.

21 MR. JESICK: Good morning, Mr. Chairman and  
22 members of the Board. At the last -- My name is Matt Jesick  
23 for the record. At the last hearing, the Board asked OP to  
24 weigh in on what could be considered a matter-of-right  
25 building scheme for the property. And we did consult with

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1 the Office of the Zoning Administrator and got their advice  
2 on how the 10-Foot Rule would apply to building on this site.  
3 And I think that image that's on the screen now shows what  
4 the end result of that discussion was. That any addition --  
5 if the building is attached to the row house to the south,  
6 any addition would need to comply with the 10-Foot Rule. So  
7 the applicant has presented that as one possible matter-of-  
8 right scheme. They've also presented the two other schemes  
9 that have been discussed this morning. And OP found that all  
10 three options could be built as a matter-of-right. So I'd  
11 be happy to take any questions. Thank you.

12 VICE CHAIR HART: Does the Board have any  
13 questions for the Office of Planning? Okay. Does the  
14 applicant have any questions for the Office of Planning?

15 MR. GLASGOW: No, sir.

16 VICE CHAIR HART: Excellent. So let's have -- So  
17 the ANC is not here. Let's see if there is anyone in the  
18 audience who'd wish to give some testimony in support of the  
19 application.

20 MR. GLASGOW: We have several people that could,  
21 but I -- in the interest of time --

22 VICE CHAIR HART: That's fine.

23 MR. GLASGOW: -- we're prepared to rest.

24 VICE CHAIR HART: That's fine. Is there anyone  
25 in the audience that is in opposition to the application?

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1 Please come forward. Welcome, if you could provide your name  
2 and address.

3 MR. RENNIE: Yes, my name is Douglas Rennie. I  
4 live at 1512 Third Street NW, which is directly behind the  
5 townhouse that is proposed to be part of the development.  
6 I wanted to come this morning because I wasn't able to attend  
7 the last hearing and just voice my support of my neighbors  
8 and the protest that we filed. And in addition to the shadow  
9 issues, I did want to note that there are some privacy issues  
10 in addition to that since we do have a very large tower  
11 structure that's 50 or 60 feet, coming right up against the  
12 property line with large windows looking back over the rear  
13 of the town homes.

14 And just to briefly respond to the point that  
15 there are churches in the neighborhood, I am aware of that.  
16 None of them are on the scale of the proposal or any of these  
17 other by-right options. So I just wanted to point that out.  
18 Thank you.

19 VICE CHAIR HART: Okay, you have three minutes to  
20 present your testimony. Mr. Moy? You can begin when you'd  
21 like.

22 MR. RENNIE: Sure. Essentially I just wanted to  
23 echo what my neighbors had said in the initial letter and in  
24 the letter we submitted before, which is that we are  
25 concerned about this. We don't doubt that the mosque does

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1 good work. That all our interactions with them have been  
2 polite. But we do remain concerned about the shadows and  
3 privacy issues with this proposal. Thank you.

4 VICE CHAIR HART: Thank you. I just had one  
5 question for you. So what is your -- you've seen some of the  
6 images that they've provided that would show a possible by-  
7 right option. They're just looking at massing because what  
8 they look at is how much development would be allowed as a  
9 matter of right for that development. And what they're  
10 proposing is in -- it can be compared to that. And so what  
11 do you all -- what do you think about that? I'm only asking  
12 you because you're here. I can't ask you what they think.

13 MR. RENNIE: Right.

14 VICE CHAIR HART: So you're giving the testimony  
15 for us today. And actually, I want to make sure, did you get  
16 sworn in earlier?

17 MR. RENNIE: Yes, I did.

18 VICE CHAIR HART: I usually ask that before, but  
19 I just thought about it.

20 MR. RENNIE: Yes. Well I do -- it would probably  
21 impact the neighbors to the north more so than the proposal  
22 would because of the, you know, the sun coming in from the  
23 south. I would point out though that because it would be --  
24 most of these proposals would be further back from the  
25 property line, there would be less of a privacy concern from

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1 that aspect. You wouldn't have the window 50 foot in the  
2 air, looking down over your property.

3 VICE CHAIR HART: And so you're saying that  
4 privacy less of a -- possibly less of a concern. Shadow may  
5 be still same, similar concern?

6 MR. RENNIE: Similar concern, although it might  
7 impact different properties differently.

8 VICE CHAIR HART: Okay. Do the board members have  
9 any questions for the person in opposition?

10 MEMBER WHITE: My only question is -- Well first  
11 of all, thanks for coming in. My only question is did you  
12 have -- Did you guys have a preference if you had to weigh  
13 in on the by-right options that were presented? Were there  
14 any conversations that you had in terms of what would be your  
15 preference? But you also know that churches, as far as  
16 height, you know, they have by-right, the ability to go max  
17 what 60 feet. So houses of worship have that right across  
18 the city. But I wanted to kind of get your take on the by-  
19 right options that were presented.

20 MR. RENNIE: I haven't spoken with my neighbors  
21 in detail about that, so I can't really speak for them. I  
22 would say that the initial by-right proposal looked  
23 preferable to the proposal that they're submitting.

24 VICE CHAIR HART: Okay, thank you. Any other  
25 questions?

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1 MEMBER TURNBULL: Have you talked to the applicant  
2 at all about the windows and what could be done about the  
3 design of the windows or --

4 MR. RENNIE: I did ask them before the first  
5 hearing. I did mention some of these issues that I was  
6 concerned about and I did get a very polite response. But  
7 my understanding was that they weren't willing to change the  
8 design.

9 MEMBER TURNBULL: I mean there's many different  
10 ways of doing a window. There's a lot of different angles  
11 that can be done. You didn't go through any of those or they  
12 didn't offer to maybe modify how it could be -- alleviate  
13 some of your concerns?

14 MR. RENNIE: I don't believe there was a proposal  
15 along those lines.

16 MEMBER TURNBULL: Okay, all right. Thank you.

17 VICE CHAIR HART: Does the applicant have any  
18 questions for Mr. Rennie?

19 MR. GLASGOW: No, no questions.

20 VICE CHAIR HART: Okay. I do have a question for  
21 the applicant. Thank you very much, Mr. Rennie. I do have  
22 a question for the applicant. Have you had any -- and I  
23 don't know who -- Mr. Kilic or Mr. Glasgow, who would be  
24 responding to this. But have you thought of having  
25 translucent glass or something that would help to -- you

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1 know, that would allow light, but not allow viewing through?  
2 So that way, the windows that are taller would not have that  
3 issue? But you would have the ability to, of course, have  
4 as much light -- the light itself would be able to come  
5 through, so you wouldn't have the -- you know, it wouldn't  
6 be dark.

7 MR. GLASGOW: Mr. Chairman, you were reading our  
8 minds. That's what we were discussing.

9 VICE CHAIR HART: That's what I get paid for.  
10 Sorry, I'm channeling Mr. Hill. So yes, that may be an  
11 alternative. And it may be something that we have as a  
12 condition if we go that far even today. I'm not sure when  
13 we're going down with it. But that may be something that we  
14 look for. So I would request that we at least think about  
15 that.

16 MR. GLASGOW: I think that we could submit  
17 something that shows some type of frosted window or other  
18 mechanism.

19 VICE CHAIR HART: I mean the windows are there.  
20 It would be a little weird to -- it would be hard to show  
21 that it's frosted, other than just kind of noting -- you  
22 know, having something on there --

23 MR. GLASGOW: Right.

24 VICE CHAIR HART: -- but we can discuss that. So  
25 that is something that they could be amenable to. And that

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1 may be a way to address at least the privacy concern that the  
2 neighbor, Mr. Rennie, raised earlier.

3           Okay, so I said if the ANC is here, does the Board  
4 have any -- Actually, Mr. Glasgow, do you have any concluding  
5 remarks that you'd like to make?

6           MR. GLASGOW: Just very briefly as a concluding  
7 remark. That since -- even with the tower where maximum  
8 height is 53 feet, because I was called into the case fairly  
9 late after the original -- the first hearing. I'm not  
10 completely convinced that we absolutely have to have the  
11 relief for the penthouse. Because if we call it the  
12 penthouse, there's no FAR limitation in that. Now we may  
13 have a story limitation because it's under the 60 feet  
14 height. And on many zones, we have a choice as to, if we're  
15 under the height, you know, we can either declare a penthouse  
16 part of the building or have it computed separately. But I  
17 would not want to -- Are you at the three stories right now?

18           MR. KILIC: Yes.

19           MR. GLASGOW: Okay, so he's at three stories. So  
20 that nuance in the regulations probably wouldn't get us out  
21 of the relief. So we need the relief. But the point is, is  
22 that even at 60 feet, we're still 7 feet underneath the  
23 matter of right height of the principle structure. Not even  
24 taking into account, the 18.5 feet penthouse that's  
25 permitted.

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1 VICE CHAIR HART: Okay.

2 MR. GLASGOW: So that's my conclusion. And I  
3 think that from the testimony and the Office of Planning  
4 report and the submissions that have been made by the  
5 applicant, the rest of the burden of proof, I think is in the  
6 record. So I won't go back through that.

7 VICE CHAIR HART: Thank you. So does the Board  
8 have any other final questions for the applicant?

9 MEMBER TURNBULL: I guess the only thing -- I mean  
10 we've talked about the window option now. I mean at some  
11 point, I think we're looking at eye level or below maybe  
12 being somehow a treatment that would minimize the effect of  
13 some -- I mean upper portion of windows could be clear. I  
14 mean I think that's a design issue you need to maybe look at.  
15 But is there anything -- notwithstanding the arguments, you  
16 can look at the opponents -- the neighbors behind, what do  
17 you think would be a gesture or what would you offer to them?  
18 I mean what could you condition on your design? You talked  
19 about the noise conditioning that the building is going to  
20 operate at the regulation levels. But is there anything else  
21 that you see would be a gesture to the neighbors? I'm not  
22 sure what that could be but --

23 MR. GLASGOW: Yes, I think the two things --  
24 Because we were talking about this the other day. And I  
25 think it's good to have the dialogue here, so that the

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1 frosting of the windows came up. So I think that's very  
2 positive. With respect to we looked back through the  
3 regulations and we think that where the stair tower is, is  
4 really the best location for shielding noise that they talked  
5 about from the roof. Because then that provides a buffer and  
6 the mechanical equipment is on the west side of it away from  
7 the neighbors. And I think if you started messing around  
8 with the stair tower and doing that, then all the sudden that  
9 equipment then goes on the other side of the stair tower --  
10 assuming you could even do it. And I think we've got a lot  
11 of testimony in the record that you can't. Because it's  
12 going to interfere with the prayer room.

13 MEMBER TURNBULL: I guess the only other thing,  
14 you talked about easement, but I don't know if that's  
15 something we want to consider.

16 MR. GLASGOW: We are not offering it and we're not  
17 agreeable to it.

18 MEMBER TURNBULL: I was going to say, that's not  
19 something we would even want to -- And I don't know how many  
20 times something goes back to go to those neighbors' homes.  
21 I don't know if that's -- I mean that was an issue that was  
22 brought up. And that's not something that the Board wants  
23 to get into, I think at this point in time. But I'm just  
24 wondering if there was anything else that you talked about  
25 with the neighbors that is something that would need to be

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1 incorporated. I'm just throwing that out. I'm not sure  
2 since we weren't there obviously. I didn't know if there was  
3 anything --

4 MR. GLASGOW: Well I think that because we have  
5 two pretty minor special exceptions --

6 MEMBER TURNBULL: Right.

7 MR. GLASGOW: -- I think that, that's --

8 MEMBER TURNBULL: Okay.

9 MR. GLASGOW: -- part of it too.

10 MEMBER TURNBULL: All right, I'm just throwing  
11 that out.

12 VICE CHAIR HART: I did, Mr. Glasgow, one final  
13 question again, just to make sure I kind of fully understood  
14 this or understand this. The DDOT report had one condition  
15 and you're aware of that. I can read it, but --

16 MR. GLASGOW: Yes, go ahead. Yes.

17 VICE CHAIR HART: Yes, the condition is that the  
18 applicant brings the Public Space -- brings the Public Space  
19 in front of their property up to compliance by removing the  
20 two vehicle parking spaces shown in Public Space, redesigning  
21 the noncompliant curb cut, reducing the height of the over-  
22 height fence, and adding a landscape buffer between the  
23 sidewalk and the parking area as required by the Public Space  
24 Committee on October 25th, 2018.

25 MR. GLASGOW: Yes, we're aware of all of those.

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1                   VICE CHAIR HART: Yes, but are you in agreement  
2 with that?

3                   MR. GLASGOW: Well they have jurisdiction, so we  
4 are going to have to comply.

5                   VICE CHAIR HART: Yes, but I'm saying my issue is  
6 that they are saying that they would be, I guess, in approval  
7 with that condition. And so --

8                   MR. GLASGOW: Yes. We agree with those conditions  
9 because I understand where you're heading. We do plan on  
10 going back to them one more time. If those are their final  
11 conditions and we're not able to discuss something else with  
12 them, then that's what we'll have to comply with.

13                   VICE CHAIR HART: I mean that seems like what  
14 they're saying.

15                   MR. GLASGOW: Yes.

16                   VICE CHAIR HART: That this is -- this is what has  
17 been done. You may come back and find something that's  
18 different, but right now that's what we have.

19                   MR. GLASGOW: Yes, sir.

20                   VICE CHAIR HART: Okay. And the reason I brought  
21 it up was that I had -- I was trying to understand where you  
22 all were with the -- with the fencing and the parking spaces.  
23 Because they weren't shown as -- they weren't shown on the  
24 plans the way that the DDOT condition --

25                   MR. GLASGOW: Agreed. Yes, when I saw the tape

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1 of this, I said we only have one position with respect to  
2 DDOT. And that's -- they have something in writing where  
3 they've made a decision. If we can go back and ask them to  
4 reconsider and they come up with something else, all we want  
5 is the flexibility to be able to meet what it is that DDOT  
6 says in their final decision with respect to the public  
7 space.

8 VICE CHAIR HART: Yes, and that's what we have  
9 from October 25th.

10 MR. GLASGOW: Yes, sir.

11 VICE CHAIR HART: Okay, any questions?

12 MEMBER WHITE: So the question is if in the event  
13 that we approve this, we would have to insert that DDOT  
14 condition in the order. In the event DDOT modifies it down  
15 the road, that would just basically be up to DDOT, but they  
16 wouldn't necessarily have to come back to revise the order.

17 VICE CHAIR HART: Well this one is very specific  
18 to the Public Space Committee -- as required by the Public  
19 Space Committee from this October date. So if they came back  
20 with something that was different, I'm looking over at OAG,  
21 if DDOT makes a different determination later -- and I know  
22 this is outside of our review -- but right now what we have  
23 before us is that they made a determination or a decision  
24 from October of last year. And that the condition is  
25 predicated on that particular -- the decision that they made

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1 back in October. If they make a future decision that is  
2 different than that, this particular condition if we were to  
3 approve it would be connected to that October meeting and not  
4 any future -- So if they decide to do something different in  
5 May or June, that this applicant wouldn't be beholden to this  
6 particular condition because it is specific to a particular  
7 date. I know that was long.

8 MR. GLASGOW: Mr. Chairman, may I make a  
9 suggestion?

10 VICE CHAIR HART: Hold on a second.

11 MR. GLASGOW: Okay.

12 MR. RITTING: I think what the applicant is saying  
13 is that they're going to go back to DDOT and they're hoping  
14 for a different decision.

15 VICE CHAIR HART: Yes.

16 MR. RITTING: And they're asking you to include  
17 in your condition the flexibility to allow them to change it  
18 to whatever DDOT decides in the future.

19 VICE CHAIR HART: Okay.

20 MR. RITTING: And it's up to you whether you want  
21 to do that or not. Whether you want to include that  
22 flexibility.

23 MEMBER TURNBULL: Well do we need to have two  
24 separate site plans with both conditions, A and B?

25 MR. RITTING: I wouldn't say it's required. I

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1 would say it would be preferable.

2 MEMBER TURNBULL: Okay.

3 VICE CHAIR HART: Well I think I would say it  
4 would be required because I don't -- I don't know. I just  
5 never like saying okay to something and we haven't actually  
6 seen what we're okaying. So anyhow, yes, Mr. Glasgow?

7 MR. GLASGOW: Yes, so we will submit both plans.  
8 And then I agree entirely with Mr. Ritting. And that's  
9 consistent with what the Board has done in the past, like  
10 with HPRB and things like that. If they make a different  
11 decision, that's okay. You don't have to come back.

12 VICE CHAIR HART: Okay, thank you. So okay, can  
13 I close the hearing -- oh no, I can't close the hearing  
14 because we've got some -- we have some documents that we  
15 would need to get before we can make a decision. I'm not  
16 sure if we can make a decision today because of that. I'm  
17 looking at Mr. Turnbull.

18 MEMBER TURNBULL: I think the applicant was going  
19 to submit something --

20 VICE CHAIR HART: Yes.

21 MEMBER TURNBULL: -- on the windows for the  
22 privacy issue --

23 VICE CHAIR HART: Yes.

24 MEMBER TURNBULL: -- and then I guess the two  
25 floor plans --

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1 VICE CHAIR HART: Yes.

2 MEMBER TURNBULL: -- site plans.

3 VICE CHAIR HART: Yes, and I think that we can set  
4 it for a decision.

5 MEMBER TURNBULL: A decision.

6 VICE CHAIR HART: I mean I would be able to do it.  
7 I don't know if you're able to submit something by -- I don't  
8 know, the end of this week, so that we could put this for a  
9 decision next week. Or I don't know how many cases we have  
10 on decision, Mr. Moy, for next week or the following week.

11 MR. MOY: Next week is doable, Mr. Chair. We have  
12 one case for decision.

13 VICE CHAIR HART: Okay.

14 MR. MOY: And also May 8th as well is --

15 VICE CHAIR HART: Is doable.

16 MR. MOY: -- is a good spot as well. It depends  
17 on when the applicant --

18 VICE CHAIR HART: Yes.

19 MR. MOY: -- can file.

20 MR. KILIC: We can file the design change for the  
21 glazing by the end of the week, but the site plan is prepared  
22 by a civil engineer. So I have to check with him on his  
23 schedule.

24 VICE CHAIR HART: How about we look at this two  
25 weeks out then? That would give you until the end of next

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1 week to be able to have a new site plan --

2 MR. KILIC: Okay.

3 VICE CHAIR HART: -- which is like a week and a  
4 half from now. That should be more than enough time --

5 MR. KILIC: Okay.

6 VICE CHAIR HART: -- to be able to do that. And  
7 if you cannot -- you're out. Okay, so let's do this for the

8 -- MR. MOY: I'm hearing May 15th.

9 VICE CHAIR HART: Is that what that -- Is that two  
10 weeks?

11 MR. MOY: That's a little more than that.

12 VICE CHAIR HART: I just can't -- Is that when  
13 you're back Mr. Turnbull?

14 MEMBER TURNBULL: I'm here for -- I am here for  
15 a case -- one case or something on the 15th.

16 VICE CHAIR HART: Oh, then let's do it on the 15th  
17 then. Let's do it then. And so Mr. Moy working back, that  
18 would give the applicant like two weeks to be able to give  
19 us the drawing -- everything. Do you want to say like May  
20 8th or something?

21 MR. MOY: Well if the applicant can submit sooner,  
22 that would be desirable. That gives staff more time to --

23 VICE CHAIR HART: Okay.

24 MR. MOY: -- analyze the materials -- the  
25 submission. And I'm hearing in my ear that you want ANC to

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1 weigh in on the required supplementals?

2 VICE CHAIR HART: I mean if they choose to, yes.

3 MR. MOY: Okay. Well today's April 24th and did  
4 I hear correctly that the applicant can supply the additional  
5 information within a week or was it longer than that?

6 MR. KILIC: The end of next week.

7 MR. MOY: The end of next -- So that's puts us at  
8 May the 3rd, that's a Friday.

9 MR. KILIC: Okay.

10 MR. MOY: And did I hear that the Board wanted to  
11 provide an option for the ANC or OP to comment on the  
12 submissions?

13 VICE CHAIR HART: I'm not sure if the OP -- the  
14 OP's shaking their heads. So I think it's just the ANC.

15 MR. MOY: Okay. Okay, then let's have the ANC --  
16 if applicant -- I'm hoping that -- I know Mr. Glasgow that  
17 the applicant's going to work closely with ANC. So maybe if  
18 the ANC intends to make a filing, maybe they can make that  
19 filing by that Monday, May 6th for the ANC?

20 MR. GLASGOW: Yes, if they choose to comment.

21 MR. MOY: If they choose to comment, okay. So  
22 once again, the applicant will file by Friday, May 3rd.  
23 Option for the ANC to make any filing that following Monday,  
24 May 6th. And a decision on May 15th.

25 VICE CHAIR HART: Sounds good. Thank you all very

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1 much.

2 MR. KILIC: Thank you.

3 VICE CHAIR HART: Thank you all very much for  
4 coming as well. We're going to take a five minute break.  
5 And we'll be back with the rest of the agenda.

6 (Whereupon, the above-entitled matter went off the  
7 record at 11:37 a.m. and went back on the record at 11:48  
8 a.m.)

9 VICE CHAIR HART: All right, Mr. Moy, if we could  
10 call the next case please.

11 MR. MOY: Yes, sir. Thank you, Mr. Chairman. The  
12 Board is reconvening. And my clock shows about 11:49. So  
13 if I can call parties the table to Case Application No. 19942  
14 of Alula Abera, A-B-E-R-A. This is an application requesting  
15 special exception under Subtitle G, Section 1200. This is  
16 from the lot occupancy requirements of Subtitle G, Section  
17 404.1. This would construct a third story and convert the  
18 existing semi-attached principle dwelling unit to a four unit  
19 apartment house MU-4 Zone. This is at 3321 11th Street NW,  
20 Square 2841, Lot 48.

21 VICE CHAIR HART: Thank you, Mr. Moy. Good  
22 morning. We're still at morning. Good morning. If you  
23 could, please state your name and address. You have to put  
24 the mic on. Press the button. There you go.

25 MR. TRUITT: Sorry.

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1 VICE CHAIR HART: That's okay.

2 MR. TRUITT: Joel Truitt representing the Alula  
3 Abera family and his mother is here. Mr. Abera is on  
4 assignment overseas.

5 VICE CHAIR HART: Okay, thank you.

6 MS. GEBRU: I'm Alemtsehay Gebru.

7 VICE CHAIR HART: Good morning.

8 MS. GEBRU: Good morning.

9 VICE CHAIR HART: So Mr. Truitt, let's see, you  
10 have -- you were last before us --

11 MR. TRUITT: Yes.

12 VICE CHAIR HART: -- about a month ago.

13 MR. TRUITT: A month ago, correct.

14 VICE CHAIR HART: And I didn't really have any  
15 additional questions for you. I don't know if the Board has  
16 any additional questions for you. We asked that you have  
17 some details added to the facade about the -- just kind of  
18 what the materials were, the ANC review, and possibly an OP  
19 -- supplemental OP report. And if you could, just talk to  
20 us a little bit about the details for the facade and the ANC  
21 report. And I'll talk to OP in a few minutes.

22 MR. TRUITT: Yes, sure. Unfortunately I have not  
23 received ANC report myself, so I don't know.

24 VICE CHAIR HART: Well it's actually in the  
25 record.

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1 MR. TRUITT: The record.

2 VICE CHAIR HART: Yes at Exhibit 42.

3 MR. TRUITT: Yeah, I went to two other meetings  
4 and they were very pleased with our approach and the building  
5 and saw no problems with it. They were very helpful in our  
6 dialogue of discussing it. And last time, a month ago here,  
7 some of the answers were -- and I hope we've answered in the  
8 supplemental drawings, as to retaining the front peak on the  
9 building.

10 VICE CHAIR HART: I think I remember that, that  
11 was a change from the original --

12 MR. TRUITT: Right.

13 VICE CHAIR HART: -- drawings.

14 MR. TRUITT: That was one of the options, that's  
15 right, and the ANC preferred that. So we have submitted the  
16 drawings retaining the peak on the front and putting a third  
17 story above the house, but not above the front bay. The peak  
18 is on the bay. The house is a bay front. So that bay would  
19 stop where it is. And the third story would go up from the  
20 original front wall of the house, which is the front door.  
21 So that wall would continue going up -- And it would be  
22 siding -- And the side of that addition would be siding as  
23 well. And we'd appreciate your thoughts on the color of that  
24 siding. We thought trimming it -- The house is red brick.  
25 So clean the red brick so it's restored back to red brick.

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1 It's been painted a long time ago red. So get rid of that  
2 red paint. And so appreciate your thoughts on the color for  
3 the siding. And behind the peak would be essentially a roof  
4 deck for the third story retaining the peak and some iron  
5 railing on the side of that roof deck.

6 VICE CHAIR HART: Okay. Does the Board have any  
7 questions for the applicant?

8 MEMBER WHITE: I'm not going to give you any color  
9 recommendations. I'm going to leave that to Mr. Turnbull,  
10 even though I'm pretty good with color. So the changes that  
11 you just -- Well the items that you just outlined, are they  
12 reflected in the record? Is there a rendering that --

13 MR. TRUITT: Yes.

14 MEMBER WHITE: -- incorporates all of those --

15 MR. TRUITT: We submitted all this to the Board  
16 as required. Yes, we did.

17 MEMBER WHITE: So that's --

18 MR. TRUITT: That actually just refines what we  
19 already submitted.

20 MEMBER WHITE: Okay.

21 MR. TRUITT: It answers the questions and kind of  
22 how this would look and so on. Because we were trying to  
23 refine what we had previously had submitted.

24 VICE CHAIR HART: And I think what may have been  
25 a little -- you know, I think I understand this. I think

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1 what happened is that we have two -- that one exhibit in the  
2 record has two separate attachments. One of them is the ANC  
3 report. And then we have the drawings that you said that you  
4 submitted. It looked like the drawings were attached to the  
5 ANC report, like they're the ones that submitted it. But I  
6 think what may have happened is that those two images may be  
7 -- those two documents may have gotten connected somehow.

8 MR. TRUITT: Sorry.

9 VICE CHAIR HART: Well no, it's fine.

10 MR. TRUITT: Okay.

11 VICE CHAIR HART: It's just that -- I was just  
12 trying to figure out how you have -- you said you submitted  
13 them. I didn't see the drawings. But I see the drawings in  
14 here. They just weren't in -- they were part of the ANC  
15 report.

16 MR. TRUITT: Oh, okay.

17 VICE CHAIR HART: And so it made me think that  
18 they were the ones that were submitting it. The ANC was the  
19 one that was submitting it. But that's not a problem. We  
20 have an exhibit and that works. And so in this exhibit, you  
21 show -- which is Exhibit 32 -- you have the plans and the  
22 elevations. The elevations have some handwritten notes about  
23 what the materials are. It also has the roof line change  
24 that you described --

25 MR. TRUITT: Right.

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1 VICE CHAIR HART: -- as well as that little kind  
2 of porch area, little set back from that third story. So I  
3 understand that these are the updated drawings --

4 MR. TRUITT: Right.

5 VICE CHAIR HART: -- that you all are putting  
6 forward.

7 MR. TRUITT: And we submitted them on April the  
8 9th if that helps clarify that memo if that memo is still  
9 there.

10 MEMBER TURNBULL: Mr. Chair, I don't think they  
11 are separate.

12 VICE CHAIR HART: You don't? Okay.

13 MEMBER TURNBULL: In the ANC letter --

14 VICE CHAIR HART: Oh, yes. Okay.

15 MEMBER TURNBULL: -- it says we -- It talks about  
16 -- the applicant provided the attached concept plan and  
17 elevation and we reviewed these. So these are really --

18 VICE CHAIR HART: Okay. Yes, maybe that is --  
19 maybe they are.

20 MEMBER TURNBULL: So we don't really have any  
21 record copy sent to the BZA.

22 MEMBER WHITE: Really?

23 MEMBER TURNBULL: It's only from the ANC.

24 VICE CHAIR HART: So I'm asking OAG, how do we  
25 deal with that?

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1 MR. RITTING: Well I'm looking -- I'm looking at  
2 the record now. And I don't see a submission on April 9th.  
3 So it's possible that Mr. Truitt intended to submit them or  
4 thought that he did or there was some technical problem or  
5 it just didn't get in there. But my suggestion is continue  
6 the hearing.

7 VICE CHAIR HART: Understood.

8 MR. RITTING: Allow him to submit the plans.

9 VICE CHAIR HART: Understood.

10 MR. RITTING: And then take action once you've  
11 received them and looked through them.

12 VICE CHAIR HART: I understand. Understood.

13 MEMBER TURNBULL: Mr. Chair, the only thing is  
14 that if -- when you re-submit the drawings, on the proposed  
15 third floor --

16 MR. TRUITT: Sure.

17 MEMBER TURNBULL: -- where you show the patio --

18 MR. TRUITT: Yes?

19 MEMBER TURNBULL: -- in the front, could you show  
20 an indication of the roof of the bay?

21 MR. TRUITT: The thought was to -- The peak goes  
22 back into the house. We would cut that down, so that the  
23 roof of the second floor is the floor of the patio. So the  
24 peak would stand by itself.

25 MEMBER TURNBULL: Right. Your elevation shows the

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1 peak.

2 MR. TRUITT: Right.

3 MEMBER TURNBULL: But I think if you're on that  
4 patio on the third floor -- if you're looking at a floor  
5 plan, you would see at least the outline of the roof.

6 MR. TRUITT: You'd see the peak.

7 MEMBER TURNBULL: Yes, you'd see the peak.

8 MR. TRUITT: It would be in front of you though.

9 MEMBER TURNBULL: I think it would be good to  
10 clarify just that peak --

11 MR. TRUITT: Okay.

12 MEMBER TURNBULL: -- on the plan for us.

13 MR. TRUITT: All right. I can do a section of  
14 that showing the roof and the peak.

15 MEMBER TURNBULL: Or just like an indication like  
16 you've got the proposed second floor, which shows the bump  
17 out, the bay. Well the bay then has the peak. So I would  
18 just indicate in that same location --

19 MR. TRUITT: Okay.

20 MEMBER TURNBULL: -- the peak --

21 MR. TRUITT: Okay.

22 MEMBER TURNBULL: -- so that it's very clear that  
23 it's still there.

24 MR. TRUITT: Okay.

25 VICE CHAIR HART: And that's in the proposed plan

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1 --

2 MR. TRUITT: Yes.

3 VICE CHAIR HART: -- on Page A2 --

4 MR. TRUITT: A2, right.

5 VICE CHAIR HART: -- the third floor plan?

6 MR. TRUITT: The third floor plan.

7 VICE CHAIR HART: Does that make sense, Mr.  
8 Pruitt?

9 MR. TRUITT: Yes, indeed. We can clarify that for  
10 you. No problem.

11 VICE CHAIR HART: No, it's A2. It's the third  
12 floor plan.

13 MR. TRUITT: A4, I think, yes.

14 VICE CHAIR HART: Anyhow, it's the last page on  
15 the --

16 UNIDENTIFIED MALE 1: Yes, I think it's too bad  
17 those drawings didn't go through.

18 VICE CHAIR HART: So does the Board have any other  
19 questions for the applicant?

20 MEMBER TURNBULL: No, I think for the most part,  
21 I'm pretty satisfied with the way he's going on this. I just  
22 think we need to clarify for the record.

23 VICE CHAIR HART: Okay. I appreciate that and I  
24 would agree with you as well. Okay, let's move to the -- Mr.  
25 Truitt, do you have any other -- Were you finished with your

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1 --

2 MR. TRUITT: Yes, thank you.

3 VICE CHAIR HART: Okay. I don't know if the  
4 Office of Planning had anything they wanted to add to this?  
5 Shaking his head strongly. So are there any questions for  
6 the Office of Planning? No. Is anyone here from ANC?  
7 Anyone here from -- that's in opposition to the application?  
8 Anyone here in support of the application -- okay -- besides  
9 the applicant. I wanted to kind of get all of that kind of  
10 taken care. So Mr. Truitt, it seems as though we have just  
11 a few updated drawings to --

12 MR. TRUITT: Okay.

13 VICE CHAIR HART: -- or maybe one updated drawing  
14 or actually the set of drawings that you need to submit to  
15 us.

16 MR. TRUITT: Yes.

17 VICE CHAIR HART: We could, I think, set this for  
18 decision for next week. Mr. Moy? If you could get those to  
19 us by the end of this week.

20 MR. TRUITT: Okay, by Friday.

21 VICE CHAIR HART: That would be helpful to us.  
22 And I don't know if anybody -- Mr. Turnbull, do you have any  
23 color preferences?

24 MEMBER TURNBULL: No. No idea.

25 VICE CHAIR HART: Red brick is always nice for --

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1 MEMBER TURNBULL: Something complimentary.

2 VICE CHAIR HART: Yes. And I would look at  
3 whatever -- you know, things that are in the neighborhood to  
4 --

5 MR. TRUITT: Well one of the things I thought  
6 about was a medium grey on the siding with white trim.

7 VICE CHAIR HART: Yes, we typically don't give a  
8 lot of color --

9 MR. TRUITT: I understand.

10 VICE CHAIR HART: -- discussions.

11 MR. TRUITT: Last time there was some thought  
12 about that. So I was just bringing it up.

13 VICE CHAIR HART: But I appreciate the question.  
14 You've got to ask. So Mr. Moy, we can set this -- We do have  
15 an -- We have space in the agenda for next week to be able  
16 to set this down for a meeting. Correct?

17 MR. MOY: Yes, as soon as the applicant can  
18 clarify with the drawing or drawings by this Friday --

19 MR. TRUITT: Yes.

20 MR. MOY: -- which would be April 26th, so the  
21 Board can make a decision on May 1st.

22 MR. TRUITT: May 1st, okay. So I should come back  
23 next Wednesday?

24 VICE CHAIR HART: No, you don't need to come back  
25 for -- The decision is a conversation that the Board will

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1 have. We're not going to ask any questions at that point.

2 MR. TRUITT: Oh, I see. Okay.

3 VICE CHAIR HART: But we just needed to have this.

4 MR. TRUITT: Okay.

5 VICE CHAIR HART: And I also should say, I'm  
6 closing the record with everything except for the information  
7 that we just requested from you --

8 MR. TRUITT: Okay.

9 VICE CHAIR HART: -- the updated drawings.

10 MR. TRUITT: Okay.

11 VICE CHAIR HART: So all we need to have are those  
12 drawings and then we can make a decision next week.

13 MR. TRUITT: Okay. I'll bring them down, rather  
14 than scan them down to you.

15 VICE CHAIR HART: However you need to do it.  
16 That's fine with us. Okay, that's it. Thank you all very  
17 much.

18 MR. TRUITT: Thank you.

19 VICE CHAIR HART: Okay, Mr. Moy, you can call the  
20 next case.

21 MR. MOY: All right, I believe the next  
22 application is Case No. 19975 of Warner Capital. This is a  
23 request for a special exception under the Use Provisions,  
24 that's Subtitle U, Section 513.1A. This would permit the  
25 expansion of an existing animal care and boarding facility

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1 to an adjacent lot, MU-4 Zone. This is at 3509 through 3511  
2 12th Street NE, Square 3928, Lots 45 and 46.

3 VICE CHAIR HART: Good afternoon. I have to make  
4 sure that I know when it is. If you could, please give us  
5 your name and address starting from my right.

6 MR. FLYNN: Sure, Patrick Flynn F-L-Y-N-N. 3509  
7 12th Street NE.

8 MS. MOLDENHAUER: Good afternoon, Meridith  
9 Moldenhauer from the law firm of Cozen O'Connor. Here  
10 representing the applicant, Warner Capital.

11 VICE CHAIR HART: So Ms. Moldenhauer, I'm assuming  
12 you're going to be presenting the case to us. Do you -- ten  
13 minutes, five minutes?

14 MS. MOLDENHAUER: Five minutes I think would be  
15 fine.

16 VICE CHAIR HART: Okay. If you could put five  
17 minutes on the clock, Mr. Moy. And you can begin when you'd  
18 like.

19 MS. MOLDENHAUER: Absolutely. So we're here on  
20 behalf of Warner Capital, LLC, which is the entity that is  
21 the tenant for the project. But they are the trade name of  
22 Patrick's Pet Care. As you can see, there are two abutting  
23 properties here that are both in the MU-4 Zone that are  
24 subject to this request. We are here on a special exception  
25 relief for expanding an animal boarding facility. I'll turn

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1 it over to Patrick to kind of walk through a little bit about  
2 the case. And then we'll go through the zoning.

3 MR. FLYNN: Good -- did you say -- Did we agree  
4 it was morning?

5 MS. MOLDENHAUER: Afternoon.

6 MR. FLYNN: Afternoon, Commissioners. Thank you  
7 very much. I am the owner of Patrick's Pet Care. We have  
8 been operating currently out of the picture you're seeing on  
9 the left, 3509 property, which is the property on the right  
10 in the photograph for more than a year. We've been doing so  
11 in perfect harmony with the neighbors without any complaints  
12 and with great reception from the community. We're full  
13 every day. And it came to my -- I came to be aware that the  
14 adjacent property was available a little bit sooner than I  
15 expected. And I'm looking to take the existing business that  
16 already operates pretty much in the same place, and go  
17 through the wall into the adjacent property.

18 In terms of outreach with the community so far,  
19 I did present to the ANC -- the ANC chair represents the  
20 neighborhood where the property sits. She's in particular  
21 favor. And the entire ANC voted unanimously in favor of our  
22 relief. I also presented the proposal to the Brookland Civic  
23 Association on March 19th. And again, they were very  
24 receptive and excited that this service was being brought to  
25 a historically underserved neighborhood. And it's been

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1 relatively, I believe, uncontroversial. And I hope it  
2 remains the most boring case on your docket today.

3 VICE CHAIR HART: We will see if it remains that  
4 way.

5 MS. MOLDENHAUER: Thank you. So just to add --

6 VICE CHAIR HART: Sure.

7 MS. MOLDENHAUER: -- the ANC resolution is in the  
8 record at Exhibit 32. The plans, I think, are very self-  
9 explanatory. And you can just, you know, see the opening  
10 that will be connecting the existing structure that already  
11 has obtained the relief to the new expanded section. There  
12 is a -- This is a case under U513.1M for special exception  
13 for animal boarding.

14 We believe that the request is in harmony with the  
15 purpose and intent of the MU-4 Zone, as well as that there's  
16 no adverse effect on the neighboring property owners and  
17 numerous retail and service providers. And that there would  
18 be no material change to the existing store front. And it  
19 is obviously an easy walkable distance to surrounding  
20 residential neighborhoods, but there's no residential  
21 communities nearby or residential units nearby.

22 There are a multitude of subsections under this  
23 special exception use provision, so I will walk through them.  
24 A is that the animal boarding is entirely enclosed, which the  
25 proposal is. B is that it's designed to mitigate noise.

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1 This will be provided where there will be soundproofing --  
2 additional soundproofing drywall, as well as acoustical tiles  
3 provided to comply with Section B. C is windows and doors  
4 will be devoted to the animal use shall be kept closed. We  
5 affirm that they will be kept closed. And that no windows  
6 at the rear of the building will face any institutional uses.  
7 And the rear door will be of solid core.

8 Under D, no exterior yard space is proposed.  
9 Under E, all waste will be properly treated and obviously  
10 double-bagged and then placed in closed waste disposal areas  
11 contained for collection at least once a week. And all odor  
12 mitigation will also occur in regards to an air filtration  
13 system on site. G, the applicant intends to install an  
14 impervious and washable floor. H that no exterior facilities  
15 are proposed. And I, we don't believe that there's obviously  
16 additional requirements that would be needed to approve this  
17 case.

18 Based on that, we believe that we satisfy the  
19 special exception standard. And that the Board should  
20 approve the case. But we're here for any questions.

21 VICE CHAIR HART: You have 40 seconds, I'm just  
22 saying. Does the Board have any questions?

23 MEMBER TURNBULL: I take it that the beauty supply  
24 sign is gone?

25 MS. MOLDENHAUER: It will be.

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1 MEMBER TURNBULL: It will be. Oh, I see.

2 VICE CHAIR HART: Yes, you need --

3 MEMBER TURNBULL: Unless you're offering that for  
4 the pets, I don't know. The back of the building, are you --  
5 is one going to be boarding -- one side going to be boarding  
6 and the other side is -- or are they both going to be on  
7 both?

8 MR. FLYNN: The technical definition in my mind  
9 of boarding is that's where they stay overnight. The  
10 existing boarding use will remain in the existing structure  
11 only. The expansion will function for daycare where the dogs  
12 are there during the day hours, but are not kept there  
13 overnight.

14 MEMBER TURNBULL: For grooming or whatever?

15 MR. FLYNN: Yes.

16 MEMBER TURNBULL: Okay. And the back -- the rear  
17 of the buildings is one -- are you going to be -- are you  
18 going to have trash on both sides or can you kind of combine  
19 and get into one area?

20 MR. FLYNN: We generate a very small amount of  
21 trash and we do have collection once a week. And we only one  
22 Toter. And I can't expansion with this expansion that any  
23 more would be necessary.

24 MEMBER TURNBULL: Okay. Any parking?

25 MR. FLYNN: There are, I think three legal parking

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1 spaces.

2 MEMBER TURNBULL: Okay.

3 MR. FLYNN: But we manage to get four cars there  
4 without any issue.

5 MEMBER TURNBULL: Okay, thank you.

6 VICE CHAIR HART: Any other questions?

7 MEMBER WHITE: Just a quick question. How is the  
8 trash adverse impacts kind of mitigated? How many dogs do  
9 you have? And you said once a week and that was sufficient  
10 for the ANC? I'm thinking if you've got a lot of dogs there  
11 and you're only picking up once a week, there could be some  
12 adverse impacts. Am I wrong?

13 MR. FLYNN: It's hard for me to answer that  
14 technically. I can say that no one has complained about any  
15 odors. Our customers and our staff come in and out of our  
16 back door right where our trash is. Between all the double-  
17 bagging and sometimes quadruple-bagging --

18 MEMBER WHITE: Okay.

19 MR. FLYNN: -- there aren't any issues and haven't  
20 been any complaints. And I can't imagine that while there  
21 would be more of the same that any additional dogs would  
22 somehow change anything that's not already there.

23 MEMBER WHITE: Okay.

24 MR. FLYNN: And if no one's complaining  
25 considering we have all the chemicals from the nail salon on

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1 one side and all the grease from the breakfast joint on the  
2 other, that --

3 MEMBER WHITE: Just in combination?

4 MR. FLYNN: Yes.

5 MEMBER WHITE: Okay. Well I mean I guess if the  
6 ANC didn't express any concern and the community didn't  
7 express concern, I think they're probably comfortable with  
8 your history there. So if it becomes an issue, I'm sure they  
9 would contact you. Thank you.

10 VICE CHAIR HART: Any other questions from the  
11 Board? Okay, let's go to the Office of Planning.

12 MR. MORDFIN: Good afternoon. I'm Stephen  
13 Mordfin. And well I'd first like to point out one error in  
14 the report on Page 2 under Section 4 where it says it's  
15 required for lot occupancy. That's an error. There is no  
16 lot occupancy requirement that the applicant needs relief  
17 from. But other than that, the Office of Planning finds the  
18 application in conformance with the requirements for the  
19 special exception and recommends approval. Thank you.

20 VICE CHAIR HART: Are there any questions for the  
21 Office of Planning? Hearing none, does the applicant have  
22 any questions for the Office of Planning?

23 MS. MOLDENHAUER: No. Thank you very much.

24 VICE CHAIR HART: Okay. Is the ANC here? No.  
25 Is there anyone here speaking -- wishing to speak in support

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1 of the application? Anyone here wishing to speak in  
2 opposition? Okay, seeing none. Ms. Moldenhauer, do you have  
3 any final comments?

4 MS. MOLDENHAUER: No final comments. We believe  
5 the application is complete and look forward to the Board's  
6 deliberation. Thank you.

7 VICE CHAIR HART: Okay, so I'll close the record.  
8 Is the Board ready to deliberate? Okay, I can start. After  
9 reviewing the record and listening to the presentation that  
10 we heard and understanding that the Office of Planning has  
11 recommended approval, the ANC is in support, I would tend to  
12 agree with them on the case. After reviewing all of this  
13 information, yes, there are a number of criteria for this.  
14 I think it's probably necessary given the use and possible  
15 impacts that it might cause. But it seems as though after  
16 reviewing the applicant's submittal, I would agree that  
17 they've met the criteria -- each of the criteria. And I  
18 would be in support of the application. I didn't have  
19 anything that I would kind of add to it. But I'd like to  
20 hear my other board members to see if they -- what your  
21 thoughts are.

22 MEMBER JOHN: So Mr. Vice Chair, I thought that  
23 the application was straightforward. I agree with your  
24 analysis. It seems as if the applicant has been doing very  
25 well in the community and there doesn't seem to be any

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1 complaints. I believe the applicant has described clearly  
2 how it meets the criteria and it's brought out in OP's  
3 analysis. DDOT has no objection and we have support of the  
4 ANC 5B. I believe the applicant said that they were  
5 proposing two parking spaces, not three. So I don't know if  
6 that's reflected. And we can just consult the record to be  
7 clear what the applicant said. So I can support the  
8 application based on all of that.

9 VICE CHAIR HART: Mr. Turnbull?

10 MEMBER TURNBULL: I would support both of your  
11 comments. And I would be voting in support of the  
12 application.

13 VICE CHAIR HART: And yes, I was looking to --  
14 about the parking issue. And I'm not really sure what -- I  
15 know what they said. I'm trying to remember what they --  
16 what they had in -- Wow, that's loud -- what they had in the  
17 actual -- in the record itself. Do you have anything to add?

18 MEMBER WHITE: I'm just adding that I concur with  
19 your comments. I think they've met the special exception  
20 criteria for animal boarding use. And the applicant seems  
21 to have a stellar reputation and is very familiar with animal  
22 care. So I think with ANC and OP's support, I would also  
23 concur with your comments and support it. I didn't see  
24 anything regarding the parking but --

25 VICE CHAIR HART: I mean I don't know -- it's not

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1 something that they're requesting, so I don't think we should  
2 be kind of taking that time.

3 MEMBER WHITE: No.

4 VICE CHAIR HART: I understand you're saying that  
5 there's a -- there may be some discrepancy, but it's not  
6 something that is part of the zoning so it will remain a  
7 discrepancy.

8 MEMBER WHITE: Whatever it is.

9 VICE CHAIR HART: So I'll make a motion to approve  
10 Application No. 19975 of Warner Capital as read and captioned  
11 by the secretary. Do I have a second?

12 MEMBER WHITE: Second.

13 VICE CHAIR HART: Hearing a second, all those in  
14 favor, say aye.

15 (Chorus of ayes.)

16 VICE CHAIR HART: Any opposed? Hearing none, the  
17 motion carries. Mr. Moy?

18 MR. MOY: Yes, staff would record the vote as  
19 4:0:1. This is on the motion of Chairman Hart to approve the  
20 application for the relief being requested. Seconding the  
21 motion, Ms. White. Also in support, Ms. John and Mr. Michael  
22 Turnbull. We have no other members present today. On this  
23 application, motion carries.

24 VICE CHAIR HART: Thank you very much. Thank you  
25 all very much. Okay, you can call the next case, Mr. Moy.

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1 MR. MOY: So the next case application before the  
2 Board is Application No. 19-978 of Robert Thorsen. Mr.  
3 Chairman, this application was captioned and advertised for  
4 special exceptions under Subtitle E, Section 5108 from the  
5 height requirements of Subtitle E, Section 5102.1, alley  
6 centerline setback requirements, Subtitle E Section 5106.1,  
7 minimum pervious surface provisions, Subtitle E Section  
8 5107.1 and under Subtitle E, Sections 5108 and 5204 from the  
9 rear yard requirements of Subtitle E, Section 5104.1 and the  
10 side yard requirements of Subtitle E, Section 5105.1 to  
11 construct a second story addition to an existing alley light  
12 structure. And convert it to a detached principle dwelling  
13 unit RF-1 zone at 775 Fairmont Street NW, Square 2885, Lot  
14 862.

15 VICE CHAIR HART: Thank you. So first I'll have  
16 the -- everyone give your names. And then I'm going to make  
17 a statement and we'll see where we get from there. So if  
18 everyone could introduce yourselves and please give your name  
19 and address.

20 MR. CAMPBELL: Hi. Sorry, I'm loud to begin  
21 with.

22 VICE CHAIR HART: That's okay.

23 MR. CAMPBELL: Thomas Campbell. I reside up in  
24 Arlington, Virginia.

25 VICE CHAIR HART: Is it Campbell?

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1 MR. CAMPBELL: Yes, C-A-M-P-B-E-L-L.

2 VICE CHAIR HART: Yes, sir?

3 MR. JONES: Patrick Jones, 1517 Church Street NW  
4 in DC. I'm the architect.

5 VICE CHAIR HART: Yes?

6 MR. BELLO: Toye Bello, 1917 Benning Road  
7 representing the applicant.

8 VICE CHAIR HART: Okay. So the comment that --  
9 statement that I would like to make is -- And I guess it is  
10 because there does seem to be a lot of moving parts -- a lot  
11 of moving pieces here. And because there are so many moving  
12 pieces here, there was -- as the secretary read, there was  
13 a description that was about what the applicant was actually  
14 requesting. And then there was in the record, quite a bit  
15 of discussion about there being additional or different  
16 relief being requested. And that would have moved the  
17 request from being special exception to variances. And that  
18 in itself is somewhat -- just procedurally more of a  
19 difficulty because of the higher bar that you have -- that  
20 the applicant would have to approve for the variances.

21 And while I understand that there is some  
22 information about the variance relief, I would like to  
23 understand this -- understand this better. What I would  
24 prefer to have is a written submission by the applicant that  
25 revised the self-certification form that clearly states what

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1 relief is being sought. And addresses all of these -- the  
2 relief issues including the address of record issue and I'll  
3 kind of describe that in a minute, before proceeding with  
4 this hearing today.

5 I'd also like to have an understanding from the  
6 Office of Planning that kind of addressed that revised self-  
7 certification. Because currently it's self-certified as  
8 being a special exception case. And what I understand now  
9 is that, that's not -- that there may be some special  
10 exceptions, but there's also variances now that are being  
11 sought. And you know, there's some kind of other things that  
12 are going on that I'm trying to grapple with as well. There  
13 wasn't an affidavit of maintenance, which I understand there  
14 is an affidavit of posting. But the maintenance is not  
15 there, so that's something that is, you know, that is  
16 deficient in the application itself.

17 And I think because of that, we need to really  
18 have a clear understanding as to what is being -- what is  
19 before us. And right now, I don't think that we have that.  
20 Actually I know we don't have that. And that needs to be  
21 cleared up before we can move forward and actually hear this  
22 case. So I am suggesting that we not actually have a hearing  
23 on the case because of the inconsistencies around what is  
24 being -- what has been requested and what is in the record.

25 So because I'm looking at that, I would like to

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1 request that the applicant address some of the other  
2 questions that we've had some conversation with the Office  
3 of Attorney General about some legal concerns that are raised  
4 through this. One has to do with, is there a record lot  
5 being created? And we're not really sure if that's actually  
6 happening. I think it's a tax lot, but not a record lot.  
7 And then there's some issues regarding that.

8 Another has to do with, as I noted earlier, the  
9 variance relief that's being requested. There is a third  
10 issue, which has to do with the existing variance that's on  
11 the property. And what happens to that if it is -- if it  
12 becomes -- if it stays with the property or the applicant is  
13 seeking to -- would seek to extinguish that? The address of  
14 record issue. And then just a stronger conversation or  
15 stronger description of how the applicant is meeting the  
16 variance test. And we really need to have all of this, so  
17 that we can have a better use of the Board's time, as well  
18 as making it very clear as to what is being requested and  
19 what has been submitted for our review.

20 And the final thing is adding a -- this is fairly  
21 minor, but adding an affidavit of maintenance. And I checked  
22 this morning. There wasn't one. I don't know if there is  
23 one now. But I'm just saying that these were kind of the  
24 pieces that we are trying to gauge. And I don't know if I  
25 missed anything. If you noticed anything that I had left out

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1 of the request, I need you to --

2 MEMBER TURNBULL: No, but I would like to amplify  
3 --

4 VICE CHAIR HART: Sure.

5 MEMBER TURNBULL: -- what you said. So in the  
6 category of subdivision, there are two contradictory  
7 statements in the record that I'd like clarified. The first  
8 is in Exhibit 3, there's a statement that you're proposing  
9 to construct two new buildings, each with two units. And  
10 then subsequently in Exhibit 31, it states that you're doing  
11 a single-family. I think the Board would want some sort of  
12 a clarification about which one it is.

13 Regardless of whether you're doing a single-family  
14 or further split of the lot, there are -- there's a  
15 subdivision regulation that really should be addressed in the  
16 record. And that is Subtitle C, Section 303.3 A and B. A  
17 is the requirement that alley lots are on a 20-foot alley.  
18 B is the requirement that alley lots have a minimum lot area  
19 of 1,800 square feet. Sorry, I'm getting choked up,  
20 allergies. The lot in question appears to be 1,625 square  
21 feet, so there needs to be some clarity about whether that  
22 relief is required and whether it's being requested here.  
23 So that's the subdivision piece Part A.

24 For Part B, the address of record, in the record  
25 there's two different descriptions of the address for the

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1 property which prompted my colleagues and I to check the GIS  
2 data about whether there actually is an address of record for  
3 the property and there doesn't appear to be one. That of  
4 course is a significant issue because in order to have an  
5 address, while A, it's significant because you need an  
6 address when you call 9-1-1 so they know where to go. And  
7 B, that there's rules about how you go about getting one.  
8 And it might be futile for this project to proceed if they  
9 don't have the address of record. So that's Part B.

10 Part C has to do with the clarification of whether  
11 the variances stated in the OP report are being requested and  
12 whether they're necessary. The applicant did respond to  
13 those in Exhibit 31, but the statement stated that they were  
14 requesting the alternative variance relief in the  
15 alternative. And I think it's the Board's preference that  
16 there be a definitive statement of the relief that's being  
17 requested and not a menu of options for it to choose from.  
18 So that's Part C.

19 Part D, I think you addressed directly and that's  
20 the existing use variance. There's some question about if  
21 the existing use variance is not extinguished, whether the  
22 property could be used for both the commercial uses listed  
23 in the use variance and the single-family residential use  
24 that is requested here. And in addition to that, part of the  
25 justification for the variance has to do with the residential

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1 use, so it doesn't seem consistent with the justification  
2 that there's this additional possibility for commercial use  
3 of the property.

4           And then that brings us to -- well to expand on  
5 that even further, I think that the way to deal with that is  
6 either to expressly extinguish the existing variance before  
7 this case goes forward or before it's approved or that this  
8 case is restyled to be a modification of that existing order.  
9 And so the order number is carried through and attracts the  
10 property, but there's only one permitted use on the property,  
11 which could clear up that issue that way.

12           Finally for Part E, it's a request for an  
13 amplification of the applicant's justification for the  
14 variances given what's been stated in Exhibit 31, doesn't  
15 fully address all the prongs of the test. And given that  
16 we're requesting that the applicant provide all this  
17 additional information, this would be a great opportunity to  
18 address those as well. So that completes my rundown.

19           VICE CHAIR HART: No, I appreciate it. Thank you  
20 for the amplification. It was very helpful. Yes, Ms. White?

21           MEMBER WHITE: So that's a long list of items that  
22 need to be addressed. So assuming that this is really going  
23 to come back in a different format, notice would be required  
24 -- new notice.

25           VICE CHAIR HART: Well that's the -- That's kind

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1 of like another issue to deal with. I mean I think it would  
2 be very helpful for us to first understand what it is that  
3 is being requested. So having a clear understanding of that.  
4 And then figuring out what, if any, new notice is necessary.  
5 So there's kind of a two step, you know, process. We get the  
6 information from the applicant that says this is what we're,  
7 you know, clearly stated, new self-cert and all that. And  
8 then you know from there, kind of make that determination,  
9 do we need now further notice to be able to go out to make  
10 sure that people are aware of all of that.

11 MEMBER WHITE: Yes.

12 VICE CHAIR HART: So that's kind of where we are.  
13 So I want to make sure that is clear to you all and that's  
14 where we are.

15 MR. BELLO: Thank you, Mr. Chairman. I think most  
16 of the these issues -- I appreciate the need to make  
17 efficient use of the Board's time. And would say that the  
18 applicant is not averse to a short continuance to clear these  
19 issues up. But these issues or concerns were raised to me  
20 on Monday. And if you'll refer to Exhibits 39 and 40, which  
21 have been filed late yesterday, they address these issues  
22 specifically.

23 VICE CHAIR HART: Actually, a little pushback.  
24 They address some of what has been raised. The problem that  
25 we're running into is that this was originally supposed to

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1 be, as you know, a special hearing -- a discussion about  
2 special hearing relief. That's not what we have before us.  
3 We have other relief that's being -- which are variances.  
4 And as you know, are much heavier and much higher bar to be  
5 able to go over. And so the problem that we run into is that  
6 well, we're not really sure what all of that relief is  
7 because we have now options. And I don't like options  
8 because this should be very clear.

9           These are the things that are being requested.  
10 And this is what we are going to make our decision on. And  
11 right now, we don't have that information. We have no clear-  
12 cut this is what you all have said and this is what you all  
13 are proposing. So that's the problem that we're running into  
14 is that there isn't a clear delineation of what those -- of  
15 what that relief is. And I understand that you all have  
16 submitted subsequent documents to us. But again, the problem  
17 that we run into is that it's a -- self-certification is what  
18 is helpful for us to be able to see. And then be able to say  
19 oh okay, this is what, you know, that we are actually looking  
20 at. The self-certification currently says special exception  
21 for this. Correct?

22           MR. BELLO: I understand that, Mr. Chairman. But  
23 there's some ambiguity about the area relief that is  
24 required.

25           VICE CHAIR HART: Well which is also why -- which

1 is also why we're looking to get the ambiguity of it to be  
2 somewhat certain -- to be more of certain of it. Because  
3 currently we have to now decide on something that we're not  
4 exactly sure what is being requested of us. And so it makes  
5 it even harder for us to do that. And we're looking for this  
6 information to be able to then make a determination.

7           What I would like to do is to set up a date to  
8 actually get the -- this information to us. And specifically  
9 the information about the self-certification so that we  
10 understand what it is that we're actually reviewing. And  
11 then having also the Office of Planning give us a  
12 supplementary report on what that self-certification is  
13 stating. So that we have now an understanding of this is  
14 what we're moving forward with. And everybody is on the same  
15 page. Because currently it seems like -- I'm not even sure  
16 what the ANC saw.

17           So again it is -- all of this is very difficult  
18 for us to kind of grapple with because we don't have a very  
19 definitive idea about the timeline in all this. And you  
20 know, it's well this is what we're doing -- what we're  
21 requesting now. As our Office of Attorney General said, we  
22 actually early on -- one of the earlier documents says that  
23 you're looking at subdividing this. And so it doesn't seem  
24 like that's going on, but it may. So again, I'd like to have  
25 a definitive idea as to what is being requested. And what

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1 the project is, so that we don't -- We can move forward and  
2 be able to address and deliberate on the cases before us.

3 MR. BELLO: Mr. Chairman, I appreciate that. And  
4 again, we're not averse to a continuance of the case. But  
5 the issue of the area of relief required is still a subject  
6 of interpretative debate. And since the Board is the  
7 ultimate interpreter of these zoning regulations, the  
8 ambiguity actually has to do with a conflict in the section  
9 that OP relies on for determining that variance relief is  
10 what's required. And the applicant respectfully objects to  
11 that or disagrees with OP. Section 5204 --

12 VICE CHAIR HART: Well we're actually not going  
13 to get into the --

14 MR. BELLO: I'm not trying to get into it.

15 VICE CHAIR HART: So what I'm trying to do is to  
16 set up a date so that we can actually get the information  
17 from you. And I'm going to look towards Mr. Moy. And I  
18 don't know if --

19 MEMBER JOHN: I would just like to say something.  
20 Here's the issue.

21 MR. BELLO: Yes, ma'am.

22 MEMBER JOHN: We don't know what you're asking  
23 for. You've stated in your application that you had a  
24 discussion with the ZA and the ZA said this is what you need.  
25 And so you're asking for that in the alternative. So we

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1 don't do alternatives. So what we're asking for you to do  
2 is to go back and either provide a letter from the ZA saying  
3 that in the ZA's interpretation, these are the variances that  
4 you will need, in addition to the special exception. And so  
5 we can go forward.

6 I read your application and I could not tell you  
7 -- there are different things. At first I thought you were  
8 subdividing a new building, two units with two apartments.  
9 And then I read further down and that's not what you're  
10 doing. You're doing a single-family and there's no  
11 subdivision. There's also a tax lot. How are you going to  
12 build new construction on a tax lot? The regulations require  
13 a record lot. And so there are all of these things that it  
14 would be -- for efficiency, instead of taking hours to sift  
15 through all of this and to guess what it is you want, all  
16 we're asking is that you go back, either provide a letter  
17 from the ZA that says this is what you need or a new self-  
18 certification.

19 And if the variances were not advertised as the  
20 ZA interprets it or as you're asking, the practice of the  
21 Board has been to ask for a re-advertisement. So maybe 15  
22 days, depending if the plans haven't changed from how you  
23 proposed them initially, the only question is whether the  
24 neighbors now know that it is a variance, instead of a  
25 special exception. So the length of the re-posting might

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1 vary. So we can, you know, process your application, we need  
2 to know what it is you're asking clearly. So if you don't  
3 oppose a brief continuance, then we can just ask Mr. Moy to  
4 see what time would work for everyone.

5 MR. BELLO: Thank you.

6 MEMBER JOHN: Okay.

7 VICE CHAIR HART: Yes, Mr. Turnbull?

8 MEMBER TURNBULL: Yes, Mr. Chair. Also given that  
9 also is a burden on OP because they're going to have to now  
10 redo their report, so there may be further conversations  
11 between the applicant and OP. So that's another aspect that  
12 has to be taken into account.

13 VICE CHAIR HART: Oh, I fully agree with that.  
14 And I think that -- I'll be asking the applicant about that  
15 after we figure out what date we're looking at.

16 MR. MOY: Thank you, Mr. Chairman. Given the  
17 circumstances that's raised by the Board and all the moving  
18 parts, which may or may not include re-posting, the staff is  
19 going to suggest a far out date. I'm going to start with  
20 that first, Mr. Chairman. Having a continued hearing for  
21 June the 19th and working from there. The applicant will  
22 file its supplemental information by May the 31st.

23 VICE CHAIR HART: Give me a second.

24 MR. MOY: If you want to do earlier, I can do that  
25 too. But I'm starting with more of the extreme date.

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1           VICE CHAIR HART: And let me think, we have to  
2 find out from the applicant if -- excuse me -- we have to  
3 understand first what the -- to get this self -- to get this  
4 revised self-certification form. And I'm trying to  
5 understand if we all -- yes, and I guess we would need to  
6 have how they meet that relief as well. Okay, we would  
7 further need the Office of Planning to weigh in on what has  
8 been submitted to -- what the applicant has submitted so that  
9 we can understand their -- understand and be able to take,  
10 you know, take their report into account as well to give  
11 great weight to their report as well.

12           So what is that date again? You said June the  
13 19th? That's like two -- almost two months from now.

14           MR. MOY: A little bit less than that --

15           VICE CHAIR HART: Yes.

16           MR. MOY: -- by possibly a week.

17           VICE CHAIR HART: But that's also because it is  
18 the -- We're trying to -- I know that we have quite a bit of  
19 stuff that's going on -- quite a number of cases on our  
20 regular hearing agenda for the new few months.

21           MR. MOY: Right. So considering what you've just  
22 said, for me to -- to make those allowances, the earliest  
23 would be June 5th.

24           VICE CHAIR HART: So this is also a question maybe  
25 for OAG. We would need to -- Once we understand what the

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1 applicant is -- Once they submit their self-cert, then we can  
2 understand whether or not we would need to do a further  
3 notice or what that notice might be.

4 MR. RITTING: Yes, the general idea is you look  
5 at how they respond to those issues and their new self-  
6 certification. And you compare the relief that you think is  
7 necessary once that exercise has been completed with what's  
8 been advertised.

9 VICE CHAIR HART: Yes.

10 MR. RITTING: And then you would decide whether  
11 you need to do --

12 VICE CHAIR HART: That needs more.

13 MR. RITTING: -- you need more notice, yes.  
14 That's the idea.

15 VICE CHAIR HART: So since that would not be --  
16 Since that almost seems like a preliminary hearing, to make  
17 that determination if more notice is needed, that we wouldn't  
18 necessary have the hearing that date. But we could have --

19 MR. RITTING: Right, if you decided that there was  
20 notice --

21 VICE CHAIR HART: Yes.

22 MR. RITTING: -- more notice necessary --

23 VICE CHAIR HART: Yes.

24 MR. RITTING: -- then you couldn't proceed with  
25 the hearing that day.

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1           VICE CHAIR HART: Yes, but if we didn't decide  
2 that -- If we decided that we had enough -- I mean I don't  
3 know where we are -- where we would be with it, but what I'm  
4 trying to get is if we get to the June date, then is that the  
5 date that we are making a decision as to whether or not there  
6 needs to be further notice? Or would there be an earlier  
7 date to be able to decide, you know, if -- Do you see what  
8 I'm saying? If the --

9           MR. RITTING: Sure. You're asking whether it's  
10 a good idea to have an earlier date --

11          VICE CHAIR HART: Yes.

12          MR. RITTING: -- where we just decide whether  
13 notice is necessary.

14          VICE CHAIR HART: Yes. Yes, and that way we could  
15 at least --

16          MR. RITTING: Yes, I think that is a good idea.

17          VICE CHAIR HART: Okay. So maybe that's -- so I  
18 would be okay with the June date if that was actually the  
19 hearing. And that we had a date in-between now and then to  
20 decide -- Well actually, we would be actually giving public  
21 notice then. Because we would be having some notice, you  
22 know, involved in that. Just by virtue of the -- If there's  
23 a date between now and June, let's say that's three weeks  
24 from now, we would still be giving some time between that  
25 date for the preliminary matter and the date in June.

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1 MEMBER JOHN: May I say something?

2 VICE CHAIR HART: I don't know. Yes.

3 MEMBER JOHN: So if the applicant goes back to the  
4 ZA and gets a letter from the ZA, which says what type of  
5 variances are required, then that will determine whether  
6 there's re-posting. And the burden is on the applicant to  
7 properly post. So typically we give them 15 days or so if  
8 it's just a re-posting where the plans have not changed. Now  
9 it would depend on what was posted. And I didn't look at the  
10 posting notice. Did the applicant just note that there was  
11 special exceptions with no variance? If no variance was  
12 indicated, then the applicant knows that there has to be a  
13 re-posting.

14 So the applicant then should bear the burden of  
15 re-posting with the proper relief. So that in June, when we  
16 convene for the hearing, we don't have any question about  
17 what the applicant is asking and what the applicant has  
18 posted. That would be my suggestion. And the burden is on  
19 the applicant to come in and ask for the right relief. So  
20 we will decide on whatever the applicant asks for on June  
21 9th.

22 VICE CHAIR HART: So it sounds like that you would  
23 not want to have another meeting --

24 MEMBER JOHN: No.

25 VICE CHAIR HART: -- to decide. We just set this

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1 date. And this is the date that we'll actually have the  
2 public hearing.

3 MEMBER JOHN: Right, sure. It's the applicant's  
4 burden --

5 VICE CHAIR HART: Okay, that's fine. That's fine.  
6 I just wanted to make sure that we were all on the same page  
7 with it.

8 MEMBER JOHN: Yes, yes, yes.

9 VICE CHAIR HART: I didn't want to have -- to get  
10 to June and then make a decision --

11 MEMBER JOHN: No, no, no.

12 VICE CHAIR HART: -- for a further date. So I  
13 think I'm okay with that. Okay, so does the applicant  
14 understand all of that? I know that was a little back and  
15 forth. So what we're looking at is having this hearing on --  
16 having a public hearing for this on June the 19th of this  
17 year. Having all of the information that we have requested.  
18 Also having the Office of Planning supplemental report and  
19 we'll figure out what those dates are for getting all of  
20 that. And once the applicant has -- Once the applicant has  
21 determined what that relief is, then posting that -- I guess  
22 we would have to have a particular timeframe around when they  
23 would have to have decided what their relief is that they're  
24 requesting. And how long that posting should be up for.

25 MR. RITTING: Yes.

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1 VICE CHAIR HART: Okay.

2 MR. RITTING: And what Ms. John was suggesting is  
3 that they would have to take that into account before the  
4 hearing on the 19th --

5 VICE CHAIR HART: Yes.

6 MR. RITTING: -- to make sure that they have  
7 sufficient number of days before then with it posted with the  
8 right relief.

9 VICE CHAIR HART: But we should be able to at  
10 least say that we would like to have that posting a month in  
11 advance of the June meeting?

12 MR. RITTING: I think Ms. John suggested a shorter  
13 period of time would be appropriate --

14 VICE CHAIR HART: Yes, I'm just saying --

15 MR. RITTING: -- under similar circumstances.

16 VICE CHAIR HART: Well I'm just saying we have to  
17 determine that now.

18 MR. RITTING: Yes.

19 VICE CHAIR HART: That's the thing. Okay. Which  
20 is fine. I just want to make sure that we're kind of again  
21 all on the same page with it. So I guess I'll look at Mr.  
22 Moy for some dates for when all of this is -- kind of when  
23 we would like to have documents by, when they would have to  
24 do their posting by, when we'd like to have the Office of  
25 Planning supplemental report. I don't know if we -- I don't

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1 know about the ANC report. But it seems like those are the  
2 kind of key dates for us.

3 MR. MOY: Well let me ask a question too before  
4 I answer your question. When I set the date of June 19th,  
5 I was including the possibility -- the strong possibility  
6 that there may be a re-posting. Because a re-posting for the  
7 variances, as you know is 40 days. If that's going to be  
8 determined at a later point, then --

9 VICE CHAIR HART: No, I think that we were just  
10 saying that we just wanted to have -- we could determine  
11 right now what that timing was. It doesn't necessarily have  
12 to be 40 days. It could be less than that. That's what I  
13 was trying to kind of build into what we give to the -- the  
14 direction that we give to the applicant. So I've heard two  
15 weeks from -- notice posting from Ms. John. I don't know if  
16 any of the other board members have a preference. Do you  
17 want more time, three weeks, a month?

18 MR. MOY: I was looking at the Board because two  
19 weeks from today would be May the 8th.

20 VICE CHAIR HART: Yes.

21 MR. MOY: Or three weeks would be May 15th. And  
22 we can work with any of those dates.

23 VICE CHAIR HART: No, I think that -- I think that  
24 she was saying two weeks before the actual hearing.

25 MR. MOY: Oh, before the hearing?

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1 VICE CHAIR HART: Yes.

2 MR. MOY: Okay. Then two weeks prior to that  
3 would be June 5th. If you want three weeks prior to June,  
4 I think that actually would be May 29th.

5 VICE CHAIR HART: I think three weeks is probably  
6 good.

7 MR. MOY: Okay, so that's May 29th.

8 VICE CHAIR HART: Okay.

9 MR. MOY: May 29th for applicant's filing.

10 VICE CHAIR HART: Okay.

11 MR. MOY: Okay?

12 VICE CHAIR HART: And that would also be the  
13 posting on that date as well.

14 MR. MOY: Yes.

15 VICE CHAIR HART: Okay. The Office of Planning  
16 report? I just don't know the timing to get them.

17 MR. MOY: Yes, I'd like to hear from OP while  
18 she's here to allow her time. But I imagine -- I would  
19 imagine give her time before the 19th. That's more than a  
20 week, so let's say Monday, June 3rd or do you want a later  
21 date? Because the staff needs time to digest --

22 VICE CHAIR HART: Yes.

23 MR. MOY: -- information too.

24 VICE CHAIR HART: That we would want the OP  
25 supplemental report --

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1 MR. MOY: Yes.

2 VICE CHAIR HART: And I'll ask OP.

3 MS. VITALE: Could we stick with our usual ten day  
4 prior and file Friday, the 7th of June?

5 VICE CHAIR HART: That will be fine.

6 MR. MOY: Sounds good to me.

7 VICE CHAIR HART: Have I hit all the dates?

8 MR. MOY: Yes, those are the three dates.

9 VICE CHAIR HART: Okay.

10 MR. MOY: June 10th for OP filing.

11 VICE CHAIR HART: June 10th or June 7th?

12 MR. MOY: The 7th, 7th, 7th, 7th.

13 VICE CHAIR HART: Okay, 7th. So the posting and  
14 all the documents from the applicant would be May 29th.

15 MR. MOY: That's correct.

16 VICE CHAIR HART: And the actual date itself for  
17 the public hearing would be June the 19th.

18 MR. MOY: Correct.

19 VICE CHAIR HART: And the one thing that I would  
20 recommend for the applicant is to -- if you can get a  
21 referral from the ZA -- from the Zoning Administrator, that  
22 would be fine. If you want to do self-cert, that's also  
23 fine. But understand that we need to have a definitive idea  
24 about what it is that is before us because currently we just  
25 don't have that. And there are too many things that are kind

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1 of out there. And if there are issues about discrepancies,  
2 then describe what those discrepancies are that you believe  
3 are, you know, out there that you're trying to address.  
4 Because as I said, currently it just is too many kind of  
5 directions that I feel like we're moving in.

6           There's a letter from the ZA that I understand is  
7 a letter that the applicant wrote to have the ZA sign. So  
8 that seemed like it was an actually a letter from the ZA, but  
9 it's not. So again, it's just trying to understand all of  
10 the stuff is -- there's quite a bit of relief that's being  
11 requested. And having that information would be -- is very  
12 helpful for us and currently we just don't have that. And  
13 the clarity will -- what it is that you're asking for is just  
14 paramount for us to be able to move forward with it. We just  
15 can't do that today. So that's where we are.

16           MR. BELLO: Very well. Thank you, Mr. Chairman.

17           VICE CHAIR HART: Okay? All right, thank you all  
18 very much. And we'll see you on June the 19th. And you are  
19 clear about all of the dates and everything? Okay, thank  
20 you.

21           I didn't realize it was -- Yes, how about we do  
22 one more case. And then we take a little -- a lunch break.  
23 We'll try to make it quick. And then do the last three cases  
24 if I have that correct. So call Nadia -- 19979 of Nadia  
25 Shash. I hope I'm pronouncing that correctly. I'm not

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1 calling it, I'm just -- but you can come. And then the other  
2 cases, we're going to do that after lunch. Sorry for the --  
3 having you all wait, but you can go out and have lunch. And  
4 we should hopefully be back here, I don't know by about --  
5 Well I don't know how long this case is going to last. We  
6 won't be out for more than a half hour for lunch. So you can  
7 at least use that to gauge whether or not you want to go out  
8 and get something to eat. So Mr. Moy, if you can call the  
9 next case. And then we'll take a break after that.

10 MR. MOY: Thank you, Mr. Chair. So again they're  
11 at the table. This is Case Application No. 19979 of Nadia  
12 Shash. Is that right? S-H-A-S-H?

13 MS. SHASH: Yes, Shash.

14 MR. MOY: Shash, thank you. So this is a request  
15 for special exception under Subtitle F, Section 5201 from the  
16 lot occupancy requirements, Subtitle F, Section 304.1 to  
17 construct a three story rear addition to an existing attached  
18 principal dwelling unit, RF-1 Zone at 414 Constitution Avenue  
19 NE, Square 814, Lot 803.

20 VICE CHAIR HART: Okay. Good afternoon. If you  
21 could please introduce yourselves from my right to left.

22 MS. FOWLER: Before we get started, she needs to  
23 be sworn in.

24 VICE CHAIR HART: Okay, yes. Please. If anybody  
25 else is here that needs to be sworn in, you can stand as

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1 well. You don't have to be at this case. But thank you.

2 MR. MOY: Do you solemnly swear or affirm that the  
3 testimony you're about to present in this proceeding is the  
4 truth, the whole truth, and nothing but the truth?

5 MS. SHASH: Yes.

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

7 MS. SHASH: My name's Nadia Shash. My address is  
8 1135 Lake Shore Overlook, Alpharetta, Georgia currently. But  
9 I own 414 Constitution Ave NE, Washington DC.

10 VICE CHAIR HART: Thank you.

11 MS. FOWLER: And I'm Jennifer Fowler. I'm the  
12 architect on the project.

13 VICE CHAIR HART: Ms. Fowler, I'm assuming you're  
14 going to be presenting the case to us.

15 MS. FOWLER: Yes.

16 VICE CHAIR HART: Do you need ten minutes?

17 MS. FOWLER: Sure.

18 VICE CHAIR HART: Okay. Mr. Moy, if you could put  
19 ten minutes on the board. And you can start when you'd like.

20 MS. FOWLER: Okay. This one should be  
21 refreshingly simple for your cases today.

22 VICE CHAIR HART: They're all simple, right?

23 MS. FOWLER: So this is a request for a special  
24 exception for lot occupancy for a rear addition. We are  
25 asking for 69.7 percent beyond the existing porch. So we're

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1 extending beyond the neighbor at 416 by 4 feet 3 roughly.  
2 And the neighbor at 412 by 5 feet 1.5 inches. This is an  
3 existing three story dwelling -- row dwelling. And the  
4 proposed addition will be a three story above grade, plus a  
5 cellar expansion. We're also doing extensive renovations and  
6 converting -- Actually currently there's four kitchens in the  
7 house. So we're going to bring it back to two family. It  
8 was kind of chopped up as a kind of a group house or  
9 something over the years.

10 So again, we're just looking for a special  
11 exception approval. We're within the -- We're not going more  
12 than 10 feet past the neighbors. We also have a roof deck  
13 at the top with a flat roof hatch to access it. The roof  
14 deck is set back from the rear of the property. So you see  
15 on the -- the cellar and the first floor are lined up and the  
16 second floor. And then the third floor has a balcony at the  
17 back that's 4 feet set back. And then the roof deck is set  
18 back another 4 feet. So what we've tried to do is kind of  
19 mitigate the rear wall, so that it's not so tall and  
20 dominating over the rear of the property.

21 The most current plans are in Exhibit 37. We made  
22 some minor tweaks based on ANC and Office of Planning  
23 feedback. We originally had proposed a raised kind of roof  
24 hatch -- skylight hatch that was built up on a curve that was  
25 4 feet high. But it turns out that you actually need to get

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1 zoning relief for that now at DCRA. So not wanting to add  
2 additional relief, we've lowered it so it's an electric  
3 skylight. And it meets the setback requirements that they're  
4 asking for at the city.

5 We also were able to reduce the parapet height by  
6 a foot. We had 4 feet, but ANC requested that we lower that  
7 down. We also changed the railings facing the front. Even  
8 though it's not visible, we replaced them with an open  
9 railing rather than solid. So those are just some of the  
10 tweaks that they requested. After seeing those revisions,  
11 they voted to support the project unanimously at their full  
12 ANC meeting. So that's the supplemental filing that was  
13 submitted.

14 We also did a sun study, which is in Exhibit 30.  
15 I'm happy to walk you through it. It's very straightforward.  
16 There's very little impact most of the year. In June, there  
17 is some impact to kind of the rooftops and a little bit of  
18 the yards. You know, in the morning towards the west and  
19 then the afternoon towards the east. But again, I don't think  
20 it's an undue impact. We found that it was very minimal  
21 considering that we're really only expanding a few feet  
22 beyond the adjacent neighbors.

23 Additionally we have support from the Office of  
24 Planning, the CHRS offered support, Restoration Society, the  
25 ANC. And we also are on the Historic Preservation Consent

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1 Agenda for tomorrow. So we've kind of gone through all the  
2 steps. And hopefully we'll get your support as well. Thank  
3 you.

4 VICE CHAIR HART: Thank you. I noticed a letter  
5 -- email from I think it may be a neighbor, Mr. Bowler.

6 MS. FOWLER: Yes.

7 VICE CHAIR HART: And I guess, it looks like the  
8 questions that he was -- Well he had some questions about  
9 some construction impacts. If you could just speak to that  
10 for a minute.

11 MS. FOWLER: Sure. Yes, I did see that this  
12 morning when I looked at the file. We did get a letter of  
13 support from the other side, by the way that is in the  
14 application. I had a chance to review the letter that was  
15 submitted. They were shared -- The plans were shared to them  
16 a while back when we first filed. And we didn't -- We  
17 weren't able to get their support, but they never actively  
18 opposed the project. We have filed for a permit for interior  
19 renovations that required notification. Because we decided  
20 to kind of go ahead and move forward on some of the interior  
21 work because my client would like to move in. She purchased  
22 the home and needs to move in as soon as possible.

23 So I think that he was notified through that  
24 process. So a lot of the questions are referring to the --  
25 I think the Phase 1 permit, which is kind of interior and

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1 some framing changes. But I know he mentioned something  
2 about the foundations of the sunroom on the back. As part  
3 of our next phase permit, we'll have an engineer involved.  
4 We also will probably dig test pits to make sure there's no  
5 kind of structural support that needs to happen of their  
6 property. So I think -- and the drainage as well is  
7 something we'll take a look at. So nothing really that I saw  
8 that was a zoning concern. But definitely things that will  
9 be factored in when we move forward with permits.

10 VICE CHAIR HART: Thank you. Yes, any questions?

11 MEMBER JOHN: So Ms. Fowler, right?

12 MS. FOWLER: Mm-hmm.

13 MEMBER JOHN: Did you consider a construction  
14 agreement with that neighbor since he's got concerns, which  
15 would be separate from our process?

16 MS. FOWLER: We haven't. This is the first we've  
17 heard about the construction issues. So you know, and they  
18 haven't reached out directly to us about any of this. So you  
19 know, obviously when we get closer, we're going to have to  
20 send them another set of plans for the addition that has the  
21 engineer sign off and any other protections. And there's  
22 that formal notification process. But you know, we'll do our  
23 best to -- You know, we work closely with neighbors all the  
24 time on Capitol Hill. We're very used to having these  
25 situations arise. And we also like to bring in the

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1 contractors that will be good at kind of being mindful of the  
2 neighbors properties.

3 MEMBER JOHN: Okay, thank you.

4 MS. FOWLER: Sure.

5 VICE CHAIR HART: Any other questions for the  
6 applicant? Okay. I'll go the Office of Planning.

7 MR. KIRSCHENBAUM: Good afternoon, Chair Hart and  
8 members of the Board. Jonathan Kirschenbaum for the Office  
9 of Planning. I'm filling in for my colleague, Stephen  
10 Cochran on this case. We recommend approval of the lot  
11 occupancy special exception. And we rest on the staff  
12 report. Let me know if you have any questions. Thank you.

13 VICE CHAIR HART: Are there any questions from the  
14 Board for the Office of Planning? Are there any questions  
15 from the applicant for the Office of Planning?

16 MS. FOWLER: No, thank you.

17 VICE CHAIR HART: Thank you. Okay, so I'll ask  
18 if there's -- I'm assuming the ANC is not here. But is the  
19 ANC is here? Is there anyone here wishing to speak in  
20 opposition to the case? Anyone here wishing to speak in  
21 support of the case? Seeing no one. Does the Board have any  
22 final questions for the applicant? Okay, does the applicant  
23 have a final statement they'd like to make?

24 MS. FOWLER: No, I don't have anything additional.  
25 I just wanted to send a thanks to Steve Cochran who was able

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1 to get his report in even though he had to take leave. So  
2 we appreciate his time on that. And we appreciate you taking  
3 over for him. Thank you.

4 VICE CHAIR HART: Okay. So I will close the  
5 record. Is the Board ready to deliberate? Yes, okay? I can  
6 start because I haven't really talked that much today.  
7 Sorry. So yes, I -- this case I thought was fairly  
8 straightforward. They're requesting this lot occupancy above  
9 what's allowed in the zoning regulations. The BZA is allowed  
10 to increase the lot occupancy up to 70 percent by special  
11 exception. The applicant is looking at just under that, 69.7  
12 percent. And we do have to look at Subtitle E 5201.3. And  
13 there's several criteria underneath there. Primarily they  
14 have to do with the privacy and use and enjoyment of  
15 neighboring properties. That should not be unduly  
16 compromised. And it should not visually -- substantially  
17 visually intrude upon the character, scale, and pattern of  
18 the houses along this subject street frontage.

19 And I'll just note that as I have reviewed this  
20 case and the case file -- the full record, I would agree with  
21 the Office of Planning report that is recommending to support  
22 -- approve this application. I'll note that the Capitol Hill  
23 Restoration Society has also submitted a letter in support.  
24 And I don't -- Yes, and the ANC has also put in their report  
25 to support as well. And I think that's 6:0:0. And I would

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1 -- So I would also be in support of the application. I  
2 didn't know if my fellow board members had any other final  
3 comments as well?

4 MEMBER WHITE: I just concur with your comments,  
5 Mr. Vice Chair -- Mr. Chair today. I think they met the  
6 criteria under 5201.3 in terms of the special exception  
7 criteria, meeting all the prongs. It was fairly straight  
8 forward. There was concern by one of the neighbors, but with  
9 the support of OP and the ANC, I don't see any reason to not  
10 support the application at this time.

11 MEMBER JOHN: I agree with everything that's been  
12 said so far, Mr. Vice Chair.

13 VICE CHAIR HART: Excellent. So with that, I  
14 would make a recommendation --

15 MEMBER TURNBULL: I would also agree, Mr. Chair.

16 VICE CHAIR HART: So when I looked down there, Mr.  
17 Turnbull. You didn't seem like you wanted to say anything.  
18 But would you like to say something, Mr. Turnbull -- anything  
19 else?

20 MEMBER TURNBULL: I think the drawings are very  
21 complete.

22 VICE CHAIR HART: Excellent.

23 MEMBER TURNBULL: It was very easy to understand  
24 what was going on. And I think I'm in total support.

25 VICE CHAIR HART: My apologies for not looking and

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1 specifically asking you by name, Mr. Turnbull.

2 MEMBER TURNBULL: I'll let you go this time.

3 VICE CHAIR HART: Thank you. I would make a  
4 motion to approve Application No. 19979 of Nadia Shash as  
5 read and captioned by the secretary. Do I have a second?

6 MEMBER JOHN: Second.

7 VICE CHAIR HART: Thank you. Hearing a second,  
8 all those in favor say aye.

9 (Chorus of ayes.)

10 VICE CHAIR HART: Any opposed? Motion carries,  
11 Mr. Moy.

12 MR. MOY: Staff would record the vote as 4:0:1.  
13 This is on the motion of Chairman Hart to approve the  
14 application for the relief requested. Seconding the motion,  
15 Ms. John. Also in support, Ms. White and Mr. Michael  
16 Turnbull. We have no other members with the Board today.  
17 The motion carries.

18 VICE CHAIR HART: Thank you. Thank you all.

19 Okay, so we're going to take a half hour break for  
20 lunch. And we'll do the other cases when we return. Thank  
21 you.

22 (Whereupon, the above-entitled matter went off the  
23 record at 1:04 p.m. and went back on the record at 1:52 p.m.)

24 VICE CHAIR HART: Okay, Mr. Moy, I think you can  
25 call the next case.

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1 MR. MOY: Thank you, Mr. Chairman. The Board's  
2 reconvening and the time's about 1:52. So if I can call  
3 parties to the table to Case Application No. 19987 of Edward  
4 Prince, Jr. This application is captioned and advertised for  
5 special exception under Subtitle D, Section 5201. This is  
6 from the lot occupancy requirements of Subtitle D, Section  
7 1204 to construct a new rear accessory building. This is to  
8 an existing principle attached dwelling in the R-20 Zone at  
9 2802 P Street NW, Square 1259, Lot 211.

10 VICE CHAIR HART: Thank you, Mr. Moy. Good  
11 afternoon. If you could please, state your name and address  
12 for us. Thank you.

13 MR. SULLIVAN: Good afternoon, Mr. Chair and  
14 members of the Board. My name is Marty Sullivan with  
15 Sullivan & Barros on behalf of the applicant.

16 MS. MCCORKLE: My name is Natalie McCorkle. I'm  
17 the architect for the project. And my address is 2507 P  
18 Street NW.

19 VICE CHAIR HART: Could you spell your last name  
20 please?

21 MS. MCCORKLE: M-C --

22 VICE CHAIR HART: You don't have to press the  
23 button.

24 MR. SULLIVAN: Okay.

25 VICE CHAIR HART: Just hit it once.

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1 MR. SULLIVAN: M-C-C-O-R-K-L-E.

2 VICE CHAIR HART: Thank you.

3 MS. PRINCE: My name is Leland Prince. And I live  
4 at 2802 P Street NW. And my husband Edward Prince Jr. could  
5 not be here.

6 VICE CHAIR HART: That's quite all right. Thank  
7 you for showing up in his place.

8 MS. PRINCE: Sure.

9 VICE CHAIR HART: So Mr. Sullivan, I'm assuming  
10 that you'll either start the discussion and will be handing  
11 it off --

12 MR. SULLIVAN: Yes.

13 VICE CHAIR HART: -- or figure out --

14 MR. SULLIVAN: Yes, between myself and the  
15 architect.

16 VICE CHAIR HART: Ten minutes?

17 MR. SULLIVAN: That should be plenty of time, yes.

18 VICE CHAIR HART: Excellent. You may begin when  
19 you'd like.

20 MR. SULLIVAN: Thank you, Mr. Chair and members  
21 of the Board. So the address is 2802 P Street NW. I'll give  
22 you a little overview and then the architect can take you  
23 through the plans. It involves the construction of an  
24 accessory building, which takes the lot occupancy to almost  
25 63 percent. So the request is for lot occupancy relief

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1 special exception. And the purpose of it, of course, is to  
2 just -- is to get enough room in order to be able to fit a  
3 car comfortably in the garage. The relief amounts to  
4 effectively 3 feet of additional building on the interior.  
5 You can see from this diagram, we've indicated the additional  
6 space that we're getting as a result of the request.

7           The accessory building is meant to be even with  
8 the line of the existing garage to the right of it. And at  
9 that point, it's 4 feet 8 inches off the public alley. It's  
10 actually limited. It can't go more than 5 feet off the  
11 alley. The R-20 accessory building zoning regulations  
12 require a maximum of 5 foot setback. So it can't be any  
13 further in off the alley -- or could only be 4 inches more,  
14 but then that would be offline with the story -- the  
15 overview. So we're requesting a special exception relief  
16 from the lot occupancy requirements.

17           The property's 1,665 square feet, so it's a very  
18 small lot. It has an existing lot occupancy of 45 percent.  
19 The proposed accessory building will have a footprint of 296  
20 square feet and that would take us to 62.95. We tried to get  
21 it within the 62, so we could just ask for a minor deviation,  
22 but that extra foot makes all the difference with the garage.  
23 So we need to task for the relief. As I mentioned, the  
24 garage sets back from the alley 4 feet 8 inches. And that's  
25 4 inches short of the maximum permissible setback.

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1 I'll turn it over to the architect to give you a  
2 little more description of the proposal.

3 MS. MCCORKLE: This is --

4 VICE CHAIR HART: I'm sorry, before you get a  
5 little further and I should have asked this before. You all  
6 have been sworn in, correct? Okay, that's why -- that's why  
7 I ask these questions. If anybody else is here that has not  
8 been sworn in, if you could please stand and Mr. Moy will  
9 give the -- administer the oath. And you don't have to be  
10 associated with this case. It's just if you're proposing to  
11 give any testimony, you need to be sworn in.

12 MR. MOY: Good afternoon.

13 (Witnesses sworn)

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

15 VICE CHAIR HART: So now you're fully having to  
16 -- been sworn in, you have to answer everything truthfully.  
17 Sorry, I should have asked before but I, you know, forgot to  
18 do that. Anyhow, you may proceed Ms. McCorkle.

19 MS. MCCORKLE: Okay. So 2802 is the second  
20 building in from 28th Street. You'll see this building here  
21 in yellow at the corner is 2800 P Street. There is an open  
22 space. This public alley has five garages on it of various  
23 sizes and we'll be infilling the open spot behind 2802 P  
24 Street. Here's the one open space. 2802 P Street is the  
25 white house in the background. And we have made an effort

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1 to align the structure at 2800 P Street and this has been  
2 reviewed by the Old Georgetown Board and that's what they  
3 wanted to see. I'm not sure there's much more to say about  
4 the design of the garage. It's pretty modest with a peaked  
5 roof. And it's been approved by the Old Georgetown Board.

6 MR. SULLIVAN: Thank you. So I'll just go through  
7 the special exception criteria. Of course we are required  
8 to demonstrate that the proposed addition shall not have a  
9 substantially adverse effect on the use or enjoyment of  
10 abutting or adjacent properties, in particular the light,  
11 air, privacy, and that the additional accessory structure as  
12 viewed from the street, alley, or other public way shall not  
13 substantially visually intrude on character, scale, and  
14 pattern.

15 Regarding light and air, the maximum permissible  
16 height is 20 feet. This is only a 1-story building. I think  
17 it's about 13 feet in height. And would be lining up -- As  
18 Natalie mentioned, the alleys are all filled in with  
19 accessory buildings. We're just filling that in. There's  
20 no additional shadow from the additional 3 feet. As we  
21 pointed out here, the additional amounts to this 3 feet. The  
22 difference between the 60 percent and the 62.95 percent lot  
23 occupancy.

24 Privacy use and enjoyment, the proposed garage  
25 will have no windows. And we would suggest that a garage

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1 will provide more privacy than would the parking pad.  
2 Character, I'll just say that the Old Georgetown Board has  
3 approved this so I would say that's the strongest evidence  
4 that it doesn't substantially visually intrude upon  
5 character, scale, or pattern of houses. The lot occupancy  
6 is of course under 70 percent, so it meets that criteria.

7           And in conclusion, I would note the ANC 2E  
8 officially has no comment. Office of Planning of course is  
9 recommending approval. DDOT has no objection. And we have  
10 letters in support from both adjacent neighbors of 2800 and  
11 2804. Thank you.

12           VICE CHAIR HART: Thank you. If you could, just  
13 describe a little bit the ANC meeting. I'm not sure who  
14 actually went to the meeting. I mean it's just kind of  
15 strange they wouldn't have given any comment. So I'm just  
16 not sure why they -- why they decided to take that. If you'd  
17 kind of flush that out a little bit more.

18           MR. SULLIVAN: And I didn't attend the meeting,  
19 so I may have Ms. Prince talk about it. But I will note that  
20 ANC 2E has -- they do that. That's kind of their standard.  
21 But there was a neighbor who submitted a letter to the file.  
22 You'll see a letter in the file that attended the meeting.  
23 So I think my interpretation of it was that the ANC didn't  
24 want to oppose the project, but they also just didn't want  
25 to take a stand in the middle of two neighbors. That's how

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1 I interpreted it. But I don't know, Le if you have anything  
2 to add on that?

3 MS. PRINCE: I think it's pretty much resolved.  
4 There's no ongoing question. So I think --

5 VICE CHAIR HART: They had questions during the --  
6 Is that what you're saying? Just press it and just let it  
7 go.

8 MS. PRINCE: Okay.

9 VICE CHAIR HART: You don't have to hold it.

10 MS. PRINCE: I think there's a letter in the file  
11 from one neighbor who had some thoughts and suggestions, but  
12 they weren't substantive is my impression. So we were given  
13 the approval to move forward as is.

14 VICE CHAIR HART: Okay. And no, I understand  
15 about the ANC. I just needed to -- I always have to  
16 understand if there's something that they just didn't want  
17 to, you know, discuss it or they just kind of -- that's the  
18 way they do their meetings.

19 MR. SULLIVAN: No. My understanding is they had  
20 a full airing of the case. And they officially commented  
21 that they have no comment.

22 VICE CHAIR HART: Okay. And if you could, just  
23 talk a little bit about how you meet the general special  
24 exception criteria. You know, just --

25 MR. SULLIVAN: The general criteria is that --

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1 which I don't know -- or maybe I didn't include in the Power  
2 Point is that the request to meet the spirit -- intent of the  
3 zoning regulation doesn't adversely affect the use of  
4 neighboring properties. And again, I would just point out  
5 the very minor nature of the request. And where it is, the  
6 only place where it could possibly affect properties, those  
7 two neighbors are in support. And it's within the -- well  
8 within the 70 percent and it's a minor request. So I would  
9 say for those reasons, it also meets the general special  
10 exception criteria. Thank you.

11 VICE CHAIR HART: Any questions for the applicant?

12 MEMBER WHITE: Just a quick question. I noticed  
13 that Jonathan Evans in his letter, he said basically he's  
14 supportive but he just wants to be kept up-to-date regarding  
15 any changes to the attic space above the garage. So I  
16 imagine you've kind of talked to him about that. But I just  
17 want to explore that just for a second with you.

18 MS. PRINCE: I have another email from him  
19 confirming that he and his wife went online after the ANC to  
20 look at the plans in more detail. And I have in writing from  
21 him in the email that he's seen it. He's comfortable with  
22 it. It doesn't change his approval.

23 MEMBER WHITE: Okay.

24 MS. PRINCE: Yes.

25 MEMBER WHITE: Thank you.

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1 MS. PRINCE: Sure.

2 MEMBER TURNBULL: You'd never know what you're  
3 going to put in attic storage.

4 VICE CHAIR HART: No, we don't. And the letter  
5 from -- I know we're bringing up these letters, but it just  
6 helps us to understand how -- if there are any outstanding  
7 issues that we need to be just aware of. From Michelle  
8 Evans, did you all speak about that as well?

9 MR. SULLIVAN: So she owns the property that you  
10 see on the left here. The blue --

11 VICE CHAIR HART: The blue --

12 MR. SULLIVAN: Yes.

13 VICE CHAIR HART: -- with the black awning -- the  
14 black shutters?

15 MR. SULLIVAN: Yes, yes. So she's across from the  
16 alley. And as I understood it, her concerns had something  
17 to do with just cars being in the alley and parking. But we  
18 don't think an addition of an accessory building changes  
19 that. There's a parking space there now and there's a car  
20 going in and out now. And that's why I thought it was  
21 important to point out that we're actually prohibited from  
22 moving the garage structure any further in, both just because  
23 OGB wanted it to correspond with the building next to it.  
24 But also we're up against the 5 foot maximum as well.

25 VICE CHAIR HART: And just so I understand this

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1 also. In her letter, she raises that there may be a concern  
2 about the loss of light? But if I'm reading this plan  
3 correctly, your property is to the north of her property?  
4 Because her property is --

5 MR. SULLIVAN: Yes. I don't think I have a map  
6 showing --

7 VICE CHAIR HART: Well I'm just looking at this  
8 as there's a north arrow that's here.

9 MR. SULLIVAN: Yes, yes.

10 VICE CHAIR HART: I'm just making sure that, that  
11 is correct. That, that is the north arrow for this. So your  
12 property would be north of her property. So there really  
13 isn't a light and air impact. I just want to make sure --  
14 at least not a light one because light is coming from the  
15 south. And shadows would be from her building onto the  
16 client's property.

17 MR. SULLIVAN: And I would also just point out  
18 that we're asking for 3 percent relief. So the accessory  
19 building was permitted as a matter of right as an accessory  
20 building to a height of 20 feet. And we're just doing a  
21 height of 13 feet, only 3 percent over. And I represent it  
22 as 3 percent over on the interior. You could argue that 4  
23 inches of it is on the exterior just because -- But since  
24 we're up against the 5 foot maximum, we're not allowed to  
25 move the building in any further anyways. So I think the

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1 additional space is added on the interior side of it.

2 VICE CHAIR HART: Understood.

3 MR. SULLIVAN: So I disagree with that comment.

4 VICE CHAIR HART: Understood. I didn't have any  
5 other comments. Let's move to the Office of Planning.

6 MR. KIRSCHENBAUM: Good afternoon, Chair Hart and  
7 members of the Board. Jonathan Kirschenbaum for the Office  
8 of Planning. We recommend approval of the social exception  
9 for lot occupancy to build the accessory garage. And we just  
10 recommend that if the applicant were to install any external  
11 lighting that it be just face down and away from any  
12 residential uses just given the narrow width of the public  
13 alley. Please let me know if you have any questions. Thank  
14 you.

15 VICE CHAIR HART: Does the Board have any  
16 questions for the Office of Planning? And does the applicant  
17 have any questions for the office of Planning?

18 MR. SULLIVAN: No, thank you.

19 VICE CHAIR HART: And just so I make sure that the  
20 OP describes a condition, I guess. The applicant is aware  
21 and okay with that condition?

22 MR. SULLIVAN: Yes.

23 VICE CHAIR HART: Okay. So next we'll see if the  
24 ANC is here. No one here from the ANC? Is anyone here  
25 wishing to speak in opposition to the case? Anyone here

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1 wishing to speak in support of the case? Seeing no hands.  
2 Mr. Sullivan, do you have any concluding remarks?

3 MR. SULLIVAN: No, nothing further. Thank you.

4 VICE CHAIR HART: Does the Board have any other  
5 further questions for the applicant? Okay. I will then  
6 close the record. Does anybody else want to start with the  
7 case? I feel like I've been talking all afternoon.

8 MEMBER WHITE: Yes, you have.

9 VICE CHAIR HART: Thank you. Thank you.

10 MEMBER TURNBULL: I'll start off, Mr. Chair. I  
11 think the applicant has shown that it meets the special  
12 exception criteria. And I think the relief is very de  
13 minimis. Notwithstanding there's no shadow study. I'm  
14 joking of course. I think the design -- since it has already  
15 been through the Georgetown Board, I think the design is very  
16 appropriate. I mean it looks -- I mean anybody that goes to  
17 having sliding carriage door at the rear and it looks so nice  
18 -- I mean I think that this blends in. I think it's a -- I  
19 think from our standpoint meeting the special exception  
20 criteria, I think it looks fine. And I would be in support  
21 of the application.

22 VICE CHAIR HART: Does anybody else -- Yes, Ms.  
23 John?

24 MEMBER JOHN: I just want to say that I agree with  
25 Mr. Turnbull and I have nothing to add.

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1           VICE CHAIR HART:  And I would also agree with my  
2 colleagues.  I didn't know if we wanted to add a condition  
3 regarding the light that the Office of Planning just noted.  
4 I don't know if we -- Maybe it's something that we note, I  
5 don't know.  I need to go to the OP report.  And this is  
6 regarding light shining, you know down, as opposed to out,  
7 I guess from the garage -- the alley side of the garage.

8           MEMBER WHITE:  So for example, it would be like  
9 a light that would be at the top of the entrance of the  
10 garage door pointing down.

11          VICE CHAIR HART:  Yes.  And I just want to make  
12 sure I understood it.  Mr. Kirschenbaum, you were actually --  
13 were you suggesting that as a condition or were you just  
14 saying that -- I don't know --

15          MR. KIRSCHENBAUM:  It's just a recommendation to  
16 the Board.  And you can decide what you would like to do with  
17 it, yes.

18          VICE CHAIR HART:  So that's the only other  
19 question is do we have -- do we add a condition to the --

20          MEMBER TURNBULL:  Are you saying that if they  
21 added light to -- on their yard side or on the alley side or  
22 is it both --

23          VICE CHAIR HART:  Yeah, well it says that given  
24 the narrow width -- This is Page 3 of the OP report, which  
25 is Exhibit -- I don't know what exhibit that is -- 34.  So

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1 Page 3, 5201.14, it says Given the narrow width of the public  
2 alley, OP recommends that any external lighting that may be  
3 installed by the property owner on the garage be faced down  
4 and away from the surrounding properties along the public  
5 alley be placed on a timer and be turned off automatically.  
6 So it wouldn't be long and it wouldn't be, you know, directly  
7 into another -- so it's only on the alley.

8 MEMBER TURNBULL: Oh, okay.

9 VICE CHAIR HART: I mean I don't have a problem  
10 with adding that because I think that there may be --

11 MEMBER TURNBULL: Yes.

12 VICE CHAIR HART: It seemed as though the neighbor  
13 that is actually at that building that's across the alley,  
14 they had some concerns about that.

15 MEMBER TURNBULL: Okay, yes.

16 VICE CHAIR HART: So I don't mind adding that.

17 MEMBER TURNBULL: Okay.

18 VICE CHAIR HART: And that seems like it is -- it  
19 deals with exterior lighting. I mean this seems like it's  
20 a part of the application. So I would make a -- I would add  
21 that as a condition and that -- basically just using the  
22 language that OP has.

23 MEMBER TURNBULL: Okay.

24 VICE CHAIR HART: So I could read the entire  
25 thing. Do you want me to read the entire thing for you?

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1 MR. SULLIVAN: Well I guess so, yes.

2 VICE CHAIR HART: Okay. So it is -- that any  
3 external lighting that may be installed by the property owner  
4 on the garage be face down and away from the surrounding  
5 properties along the public alley. And be placed on a timer  
6 to be turned off automatically. And that's -- what I am  
7 reading is Page 3 of the OP report. And it's under 5201.4,  
8 which has to do with special treatment that the Board may  
9 require.

10 MR. SULLIVAN: The applicant's fine with that.

11 VICE CHAIR HART: I'm just letting you know that  
12 we were going to be doing that. I appreciate your approval  
13 of it. So I would make -- If we're finished with  
14 deliberation, I'd make a motion to approve Application No.  
15 19987 of Edward Prince Jr as read and captioned by the  
16 secretary with the condition regarding external lighting that  
17 I read previously. Do I have a second?

18 MEMBER JOHN: Second.

19 VICE CHAIR HART: All those in favor say aye.

20 (Chorus of ayes)

21 VICE CHAIR HART: Any opposed? Motion carries.

22 MR. MOY: Staff would record the vote as 4:0:1.  
23 This is on the motion of Chairman Hart to approve the  
24 application for the relief being requested, along with the  
25 condition that's cited in this motion. Seconding the motion

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1 Ms. John. And also in support is Ms. White, Mr. Michael  
2 Turnbull. We have one board member not present with us  
3 today. Motion carries.

4 VICE CHAIR HART: Thank you. Thank you all.

5 MR. SULLIVAN: Thank you.

6 VICE CHAIR HART: Okay, Mr. Moy, we can call the  
7 next case please.

8 MR. MOY: Thank you, sir. That would be Case  
9 Application No. 19989 of Ryan Aires. This is an application  
10 for special exceptions under Subtitle E, Section 5201 from  
11 the nonconforming structure requirements in Subtitle C,  
12 Section 202.2, the lot occupancy requirements, Subtitle E,  
13 Section 304.1, minimum rear yard setback requirements,  
14 Subtitle E, Section 306.1, this would construct a two-story  
15 rear addition to an existing principle dwelling unit RF-1  
16 Zone, 1433 G Street NE, Square 1051, Lot 154.

17 VICE CHAIR HART: Thank you. Good afternoon. If  
18 you could, please state your name and your address.

19 MS. BRITTINGHAM: Lacy Brittingham of Brittingham  
20 Architecture. I'm the architect for the project and agent  
21 for the owner. And my address is 1134 C Street NE.

22 VICE CHAIR HART: Thank you. Yes, sir?

23 MR. AIRES: Ryan Aires, property owner of 1433 G  
24 Street NE.

25 VICE CHAIR HART: Thank you. So Ms. Brittingham,

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1 I'm assuming you're going to be giving the presentation. Ten  
2 minutes?

3 MS. BRITTINGHAM: Yes, that should be enough.

4 VICE CHAIR HART: Thank you. You can begin when  
5 you'd like.

6 MS. BRITTINGHAM: Okay. So as noted, we are  
7 requesting relief from E304.1 for lot occupancy and the rear  
8 yard setback of E306.1. And of course the existing house is  
9 an existing nonconforming structure. The existing lot area  
10 is 65.9 percent. And we are proposing to take it to 70  
11 percent, the maximum of the special exception category. And  
12 we have an existing rear yard of 17.625 feet, proposing it  
13 to be 16 feet even.

14 And that means our proposed addition will take --  
15 there is an existing enclosed porch that was enclosed by  
16 previous owner. We're going to remove that and the new two-  
17 story structure on piers would move the southern face of that  
18 structure 7.5 inches closer to the neighbor to the south,  
19 which is 647 14th Place NE. It is an extremely small lot at  
20 16 feet wide. It's only 68 feet deep. So we have just over  
21 1,000 square feet in lot area. And our proposed addition  
22 instead of being restricted to the width of the dogleg of the  
23 existing house, we are taking it property line to property  
24 line, east to west.

25 So here you can see the first floor plan. We're

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1 moving the first floor enclosed addition and proposing that  
2 it goes property line to property line. And same on the  
3 second floor. Sorry. Existing second floor removal and then  
4 the proposed second floor.

5           And so just to address the special exception  
6 criteria as far as the light and air available to neighboring  
7 properties. As mentioned we're taking the southern face of  
8 the proposed structure 7.5 inches closer to that neighbor.  
9 We have a letter of support from that owner, but we do not  
10 feel that the change in the size of the structure has much  
11 impact on her current experience of light and air. And then  
12 taking the proposed addition to the property line on the west  
13 side, that has the biggest change but we are retaining the  
14 dogleg and not filling in the dogleg with our addition. It's  
15 simply sort of capping the end of the dogleg. And so we are  
16 -- We've actually gone through a PDRM with DCRA to deal with  
17 the egress from an existing basement bedroom window to pass  
18 underneath the addition -- the proposed addition and then  
19 come out into the yard. So that's this sort of area way  
20 that's listed there with the letter.

21           VICE CHAIR HART: Sorry. So you're looking at --  
22 You're saying this here? Is that the egress?

23           MS. BRITTINGHAM: Yes --

24           VICE CHAIR HART: Okay.

25           MS. BRITTINGHAM: -- so I can go to the basement.

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1 So see here's the basement. There's an existing bedroom  
2 coming out of a window. There's an existing window wall  
3 there now, but we're going to go down a few steps to pass  
4 underneath the proposed addition. And then have basically  
5 a window wall once you get past the structure of the addition  
6 to crawl back out into the yard. So that retains the egress  
7 from all the bedrooms in the house.

8 VICE CHAIR HART: And you're using the footers to  
9 support the addition then.

10 MS. BRITTINGHAM: Correct.

11 VICE CHAIR HART: If that's what I'm seeing.

12 MS. BRITTINGHAM: There's a section here.

13 VICE CHAIR HART: Aw, okay. Okay, thank you.

14 MS. BRITTINGHAM: So we just confirmed with DCRA  
15 that they needed the 6 feet 8 clearance to pass underneath  
16 and that's what they said.

17 So back to the light and air. We're taking it  
18 closer to the western side -- the western neighbor. But  
19 again, we'll retain the dogleg so hopefully to minimize the  
20 impact -- the change in the light and air available to the  
21 neighbor to the west. They also provided a letter of  
22 support. And then there is essentially no change to the  
23 neighbor on the east side. And they also provided a letter  
24 of support. We visited the ANC. We have actually letters  
25 of support from the ANC as well. And we also spoke with

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1 Capitol Hill Registration Society and they provided their  
2 support.

3           The other criteria of the special exception  
4 effecting the privacy of use and enjoyment. The neighboring  
5 properties is similar arguments to what I already made. It's  
6 really not a different condition than what is there now.  
7 I'll show you the rear proposed -- existing rear elevation  
8 on the left and proposed rear elevation on the right. We're  
9 keeping punched windows and regular sizes of doors typical  
10 to residential construction. And there are no windows  
11 proposed on either side elevation on the property lines.

12           And last, shall not visually intrude upon the  
13 scale and character. This house is four houses in from 14th  
14 Place, minimally visible from the street through the other --  
15 the neighboring back yards. But we are proposing a similar  
16 vocabulary again with the punched windows and typical  
17 residential doors. And then also the hardy siding, which is  
18 -- the existing is a wood siding. And I think that's all I  
19 have to say unless you have questions.

20           VICE CHAIR HART: Thank you. I think the only  
21 question I had was with regard to Exhibit 32. And I'm not  
22 really sure who this person is, but they live at 1409 G  
23 Street NE. They seem to provide a fairly general don't like  
24 it comment, but I didn't know if you one, had, had any -- if  
25 you or the client had any contact with them or -- I don't

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1 know, if there's -- what your response is to that.

2 MR. AIRES: So their note seems to indicate that  
3 we were looking to do a two-story addition on top of the  
4 house. So I think their understanding of what we're  
5 proposing to do is inaccurate and 1409 is actually -- I guess  
6 a condo building. There's 12 units. So we don't actually  
7 know the people from the condo building who actually have  
8 this objection.

9 VICE CHAIR HART: Oh, that's fine. I just didn't  
10 know if you'd had any --

11 MEMBER TURNBULL: Yes, I had read that too and I  
12 had the same -- I said they really don't understand what's  
13 going on.

14 VICE CHAIR HART: I thought it was a little bit --  
15 and it was very general. And then I couldn't understand,  
16 they were very general. It was a little bit harder. But I  
17 appreciate that. Does the Board have any questions for the  
18 applicant? No? Okay, thank you.

19 MEMBER TURNBULL: I guess my only -- I'm just  
20 curious. It's a very awkward site. And you've got the gates  
21 that sort of connect -- Is that -- What do you guys have?  
22 Like a little semi-easement to go through or --

23 MR. AIRES: I don't know legally what it is, but  
24 they've been there since we moved in.

25 MEMBER TURNBULL: I was going to say it's probably

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1 --

2 MR. AIRES: The neighbors have let us use it  
3 previously for different projects we've done, yes.

4 MEMBER TURNBULL: Okay, I was just curious. I  
5 didn't know how that worked. I thought it was -- It's nice  
6 that the neighbors let you go through like that. It's great.  
7 Just the sconces, you've heard conversations before about  
8 lighting. Are these sconces going to be something that is  
9 not going to be bright that it will -- are you looking at  
10 downlighting or what there?

11 MS. BRITTINGHAM: They're just typical wall  
12 sconces, but we would not be opposed to having sort of a  
13 gooseneck structure that shines down as well to provide light  
14 into the backyard.

15 MEMBER TURNBULL: Yes, we sometimes get neighbors  
16 that say they don't want any bright lights shining in their  
17 yard.

18 MS. BRITTINGHAM: Sure.

19 VICE CHAIR HART: Are there any lights now?

20 MR. AIRES: Yes, there's actually -- So on the  
21 left there under the awning --

22 VICE CHAIR HART: Do you have a photograph, Ms.  
23 Brittingham?

24 MR. AIRES: Yes, actually you can see it right  
25 there. Under the awning, there's like two flood lights that

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1 have been there since we moved in. I guess they're kind of  
2 kept down from the awning, but they're not great. They're  
3 flood lights.

4 VICE CHAIR HART: Yes, I'm only asking because  
5 when you add new lighting in, then that's kind of -- you  
6 know, could be an issue. But I don't know, if you already  
7 have some lighting that's there, the neighbors are used to  
8 it. We were -- at the last case we were looking at,  
9 something that was a new building and then they were adding  
10 some lighting, you know, to that. So there could be an  
11 introduction of, you know, just a nuisance for the neighbors.  
12 But I don't know, I'm not sure where I am with that. But I  
13 guess we'll discuss that a little later. Any other further  
14 questions for the applicant?

15 MEMBER TURNBULL: No, it's just you did an  
16 interesting job, I mean with the dogleg. I know you've got  
17 existing bedrooms. That was very creative on how you were  
18 able to add on. And I guess the only thing was getting out  
19 of that basement bedroom was quite a work, so I'll  
20 congratulate you on the architectural gymnastics.

21 VICE CHAIR HART: And seeing it through with DCRA  
22 as well. So I'll move to the Office of Planning.

23 MS. BRITTINGHAM: Sorry, Mr. Chairman?

24 VICE CHAIR HART: Yes?

25 MS. BRITTINGHAM: May I mention one thing?

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1 VICE CHAIR HART: Sure.

2 MS. BRITTINGHAM: I submitted a change to the  
3 drawings. I just want to discuss it for one second. The  
4 original had the rear -- the double doors swinging into the  
5 house and then the stairs going straight down. And then this  
6 page that says Revised first floor plan just has the doors  
7 swinging out. So I had to have a 3 foot landing and then the  
8 stairs down. So the stoop doesn't count towards lot  
9 coverage, so I don't know how much it matters in this  
10 conversation. But I just wanted to point out we will be  
11 going forward with a slightly larger stoop. But just the  
12 minimum size to open both leaves at the door. It's not a  
13 deck by any means.

14 VICE CHAIR HART: Could you say that one more  
15 time?

16 MS. BRITTINGHAM: Sure. So you can see on the  
17 screen right?

18 VICE CHAIR HART: Got you. I see now.

19 MS. BRITTINGHAM: Yes, okay.

20 VICE CHAIR HART: I didn't see this image before  
21 --

22 MS. BRITTINGHAM: Yes.

23 VICE CHAIR HART: -- and I kind of looked up and  
24 I was like, what are you talking about? You put them on  
25 there. But what you're saying is that you're proposing this

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1 now.

2 MS. BRITTINGHAM: No. The original submission of  
3 drawings was for the door -- what's on the screen now.

4 VICE CHAIR HART: Yes.

5 MS. BRITTINGHAM: The doors swinging in. And then  
6 you can just have the stairs going down --

7 VICE CHAIR HART: Okay.

8 MS. BRITTINGHAM: -- to grade. Once we're  
9 swinging the doors out, I need a landing. And so there's  
10 just a 3 foot landing and then the steps down, so it's a  
11 slightly larger stoop.

12 VICE CHAIR HART: You're proposing this image now.

13 MS. BRITTINGHAM: Correct.

14 VICE CHAIR HART: I'm sorry. When I said this  
15 image, I thought you had the other one up there. I thought  
16 you had this one up here.

17 MS. BRITTINGHAM: Right.

18 VICE CHAIR HART: Because I'm looking at it in the  
19 Exhibit 39. So I'm trying to figure out -- Okay, so you're  
20 just saying that these are the updated drawings. But you've  
21 already updated -- you've already submitted them into the  
22 record.

23 MS. BRITTINGHAM: Correct.

24 VICE CHAIR HART: Okay, that's fine. I appreciate  
25 you pointing it out.

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1 MS. BRITTINGHAM: I have not changed the plat  
2 though if I need -- again, the stoop doesn't count towards  
3 lot coverage. But I could upload a revised plat today if  
4 needed to.

5 VICE CHAIR HART: I mean I think that we have --  
6 when we approve plans, we approve -- we can specify that this  
7 is Exhibit 39 that we're talking about.

8 MS. BRITTINGHAM: Okay.

9 VICE CHAIR HART: I'm not sure. I don't know if  
10 OAG has any questions about this. So the question is -- No?  
11 He's shaking his head. So the question is -- I'm going to  
12 come over and ask.

13 MEMBER TURNBULL: I think the architect was saying  
14 it may change the lot occupancy or it won't change the lot  
15 occupancy?

16 MS. BRITTINGHAM: It will not change the lot  
17 occupancy.

18 MEMBER TURNBULL: Okay.

19 VICE CHAIR HART: Okay, so there's no issue. We  
20 have the plans at Exhibit 39 and we can specify those are the  
21 plans that are before us. And those are the plans that we  
22 are going to be voting on. We may or may not approve it.  
23 I'm kidding.

24 MS. BRITTINGHAM: Okay, thank you.

25 VICE CHAIR HART: Okay, so I move to the Office

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1 of Planning. Sorry for that little debriefance.

2 MS. BROWN-ROBERTS: That's fine. Good afternoon,  
3 Mr. Chairman and members of the Board. I'm Maxine Brown-  
4 Roberts from the Office of Planning for the record. The  
5 application is for special exception for the lot occupancy  
6 rear yard in addition to nonconforming structure. And these  
7 are done under Section E 5201. As outlined in our report, the  
8 applicant has met all the requirements of that section. And  
9 we recommend approval. Thank you, Mr. Chairman. And I'm  
10 available for questions.

11 VICE CHAIR HART: Thank you very much, Ms. Brown-  
12 Roberts. Does the Board have any questions for the Office  
13 of Planning? Does the applicant have any questions for the  
14 Office of Planning?

15 MS. BRITTINGHAM: No.

16 VICE CHAIR HART: Thank you. So we will ask if  
17 there is anyone from the ANC? No. Anyone wishing to speak  
18 in support of the application? Anyone wishing to speak in  
19 opposition to the application? I'm seeing no hands. Ms.  
20 Brittingham, do you have any final comment that you'd like  
21 to make in conclusion that you'd like to give?

22 MS. BRITTINGHAM: No, thank you.

23 VICE CHAIR HART: Okay. So does the Board have  
24 any final questions for the applicant? Okay. I'll close the  
25 record. Is the Board ready to deliberate? And I can start.

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1 After reviewing this case, I felt that the applicant had  
2 provided sufficient information for me to be able to approve  
3 the application. I didn't feel that it was a -- I thought  
4 it was a fairly straightforward case. I appreciate that the  
5 applicant has provided us with an understanding that there  
6 is some updated drawings in the drawings that we are  
7 reviewing -- and I'm suggesting that we approve -- or  
8 recommending that we approve, are Exhibit 39. And I thought  
9 the applicant has provided us information as to how they meet  
10 the criteria in the zoning regulations. And I didn't have  
11 any other further comments. I don't think that we need to  
12 add any condition. I don't know, Commissioner Turnbull, if  
13 you have any thoughts again about the lighting?

14 MEMBER TURNBULL: No, if my colleagues feel  
15 everything's fine, I'm not going to make a big deal about it.

16 VICE CHAIR HART: Thank you. So any other  
17 comments from my colleagues? Okay. So I'll make a -- I  
18 thought I closed the record, didn't I? I'll close the record  
19 if I hadn't. I'll make a motion to approve Application No.  
20 19989 of Ryan Aires as read and captioned by the secretary.  
21 Do I have a second?

22 MEMBER JOHN: Second.

23 VICE CHAIR HART: Hearing a second, all those in  
24 favor say aye.

25 (Chorus of ayes)

1                   VICE CHAIR HART: Any opposed? Motion carries.  
2 Mr. Moy?

3                   MR. MOY: Staff would record the vote as 4:0:1.  
4 This is on the motion of Chairman Hart -- Yes, Chairman Hart  
5 to approve the application for the relief requested.  
6 Seconding the motion, Ms. John. Also in support Ms. White  
7 and Mr. Michael Turnbull. We have no other board members  
8 with us today. Motion carries.

9                   VICE CHAIR HART: Thank you all very much.

10                  MS. BRITTINGHAM: Thank you.

11                  VICE CHAIR HART: So it looks like, Mr. Moy, we  
12 are at our final case for the day. We can wait a second  
13 while --

14                  MR. MOY: Yes, sir. We're getting there.

15                  VICE CHAIR HART: Yes. So you may call the next  
16 case.

17                  MR. MOY: All right. That would be Case  
18 Application No. 19995 of Carl Holden and Amanda Parks. This  
19 is an application that's captioned and advertised with  
20 special exceptions under Subtitle E, Section 5201, lot  
21 occupancy requirements in Subtitle E, Section 304.1. And  
22 under Subtitle E, Section 205.5 and 5201 from the rear yard  
23 requirements of Subtitle E, Section 205.4, to construct a  
24 rear addition to an existing attached principle dwelling  
25 unit, RF-1 Zone at 639 Lexington Place NE, Square 862, Lot

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1 126.

2 VICE CHAIR HART: Okay, good afternoon. If you  
3 could, please give us your name and address, starting with  
4 my right.

5 MR. HOLDEN: This is Carl Holden and I am the  
6 architect and owner. And address is 639 Lexington Place NE.

7 VICE CHAIR HART: Thank you.

8 MS. PARKS: I'm Amanda Parks. I am the owner.  
9 My address is 639 Lexington Place NE.

10 VICE CHAIR HART: Excellent, thank you. So Mr.  
11 Holden, I'm assuming that you'll be giving the presentation  
12 today?

13 MR. HOLDEN: Yes.

14 VICE CHAIR HART: Okay. You may begin when you  
15 like. Ten minutes on our -- You can have up to ten minutes.  
16 It helps me understand how much time has gone by. Sometimes  
17 it's hard to beat that.

18 MR. HOLDEN: I hope to beat that.

19 VICE CHAIR HART: We'll see. All right, you may  
20 begin when you'd like.

21 MR. HOLDEN: Okay, let's see. Is there anything  
22 to press here for the log?

23 VICE CHAIR HART: Yes.

24 MR. HOLDEN: Let's just do that and open. There  
25 we go. So this actually shows --

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1           VICE CHAIR HART: If you just hit Control L, it  
2 will get rid of all the other stuff. And you can just hit  
3 Page Up and Page Down and it should --

4           MR. HOLDEN: Okay. So we are proposing a two-  
5 story addition over what they call a cellar in your world.  
6 The rear addition here is actually part of -- the second part  
7 of a project that we're already doing at the house, which is  
8 underway now. The first project is to kind of finish out the  
9 basement and give us a little more space to live down there.

10           The second part of the project and the rear  
11 addition is to -- essentially to enlarge that ongoing  
12 basement work. And then to provide for an expanded kitchen.  
13 The Wardman houses have a compromised kitchen as it is. And  
14 we're trying to fix that after 15 years of occupying that  
15 kitchen. So this is the best kind of overall massing view  
16 of that amongst the neighboring houses, many of which have  
17 similar additions or enclosed porches.

18           Block plans. So our addition -- We're here  
19 because we are 10 feet beyond the rear wall of the adjacent  
20 house. The zoning tech told me that I needed to measure it  
21 from the rear most conditioned wall of the principle wall of  
22 the neighboring house. So that's what I've done here. I've  
23 had other architect friends tell me it should be from the  
24 back of the porch. But this is what I'm going with. And  
25 then we are 2 percent over the occupancy for the addition as

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1 well.

2           There's currently two sleeping porches there that  
3 have been there. We'll be taking those sleeping porches  
4 down. And in the new work, we will be expanding the basement  
5 here with a bathroom. Currently we only have one bathroom.  
6 It's about time for us to upgrade that. And then the  
7 expanded kitchen. Now the addition on the first floor, it's  
8 split sort of in two. So we have the interior space here,  
9 which is for the kitchen. And then we're actually going to  
10 be rebuilding a sleeping porch outside that. And then a  
11 similar thing on the second floor. We will reconstruct the  
12 porch -- the open porch on the second floor. So it's very  
13 similar to what was there today.

14           The character elevations is illustrated here. It  
15 is based actually on the front porch of these Wardman houses,  
16 which have sort of a Tuscan-style column in a travertine  
17 language to the kind of post and beam look that you see here.  
18 And the railings are very similar to the front porch as well.  
19 So this should be compatible with the character of certainly  
20 the front of the houses. And probably look better than most  
21 of the rear additions.

22           This is the subject property here. Here's the  
23 second floor porch. We have a neighbor here who has quite  
24 a large addition here and he also has a garage. He's almost  
25 at 100 percent lot occupancy. And the neighbor to other

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1 side, 637, also has a sleeping porch.

2 A couple quick shadow studies. So this is the  
3 existing -- oops, let's skip this. All right, that's kind  
4 of last in the sequence there.

5 So that's kind of the spiel there. And I will  
6 show you an updated shadow study in just a second here. So  
7 OP had me submit an existing by-right and a proposed shadow  
8 study. And I guess you won't get to see that. I'm going to  
9 try again.

10 VICE CHAIR HART: I'll see if Paul can come out  
11 to help with the -- see what's going on with this -- oh, here  
12 we go.

13 MR. HOLDEN: Here we go. And open. Here we go.  
14 So existing, we'll just kind of focus on one of these squares  
15 here. So this is June in the morning. This is the subject  
16 property here, yes. And so there's kind of the bigger house  
17 next to us casting his shadow. That's the situation today.  
18 A by-right addition to the 10 foot limit line casts a shadow  
19 that looks like this. And the additional 8 feet that I am  
20 seeking relief for casts a shadow like this. And so the  
21 impact of the shadow to the neighbor in the morning is fairly  
22 modest and really just affects the shadow in his yard for an  
23 extra couple hours in the morning. There's no additional  
24 shadow by the proposed addition outside the 10 foot limit.  
25 There's no addition shadow from that onto the windows or

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1 anything like that.

2           The shadows affecting the neighbor to the other  
3 side at 641 are over here. And so the full proposed addition  
4 will cast a modest shadow on the face of his addition. But  
5 his addition is actually set pretty far back, and so there's  
6 very little overlap there. He gets that shadow for about two  
7 hours on a late fall day. And he understands that and he's  
8 okay with that.

9           So I think light and air has a fairly modest  
10 impact on both the neighbors. Again 641 is minimally  
11 impacted just because of the size of his addition and also  
12 the kind of location of his windows and the garage. He's got  
13 quite a bit of stuff going on. He lives his whole life kind  
14 of elevated off the ground by 10 feet over there.

15           The massing of the addition, I think because it  
16 steps down. It's not two stories, the full height, you know  
17 I think also helps reduce the visual impact of the massing.  
18 Of course as does the architectural treatment of the railings  
19 and the columns and such.

20           As far as privacy and use, you know 641 has -- I  
21 think will have little impact from our work just again  
22 because of the size of his addition and his position. We  
23 will have a new kitchen window facing towards 641, but it  
24 will be looking at his blank -- his blank wall. So this  
25 kitchen window here will be looking at the current existing

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1 addition that he has. So he won't see that. And then  
2 there's no other windows facing to his property.

3 637 has probably improved privacy impact because  
4 we'll have -- this porch is closed here. This is 637 on this  
5 side. So this closed both on the first floor level open  
6 porch and the second floor level open porch here. So right  
7 now when I stand here, I can look back into his bedroom  
8 windows or his dining room windows down below this. So I  
9 think we're increasing his privacy.

10 We have had a letter of support from 641 and they  
11 understand very well what we're doing. And they've given  
12 that support. We've spent a lot of time making sure they  
13 understand the massing and the privacy issues. And they are  
14 okay with that.

15 We have been trying to contact 637. That's  
16 currently a renter-occupied house. And he's pretty quiet  
17 even with his renters. And he's not responded to any of the  
18 correspondence we've seen him even during his BZA process or  
19 during the prior work when we were doing underpinning, he did  
20 not respond to the neighbor notifications then either. So  
21 we have not -- We have actually sent him first class mail as  
22 well, in addition to the certified mail. And I can't get any  
23 -- I can't get a bite. And I think that's all I have to say.

24 VICE CHAIR HART: Thank you. Are there any  
25 questions for the applicant? Okay, let's turn to the Office

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1 of Planning.

2 MS. MYERS: Good afternoon. I'm Crystal Myers  
3 with the Office of Planning. The Office of Planning is  
4 recommending approval of this case. And stands on the record  
5 of the staff report.

6 VICE CHAIR HART: Are there any questions for the  
7 Office of Planning? No. Does the applicant have any  
8 questions for the Office of Planning?

9 MR. HOLDEN: Only one. I think when we've  
10 submitted for the permit on this and the zoning tech made a  
11 reference that I need to show -- on the plat -- the 10 foot  
12 line on the plat. And I wanted to know if I could just use  
13 the plat that's part of these exhibits as a response to that  
14 techs comments or if it's somewhere else?

15 VICE CHAIR HART: I have actually no idea. I'm  
16 looking over at the Office of Planning.

17 MS. MYERS: I was going to say you should ask the  
18 zoning tech on that one. I wouldn't want to advise you  
19 incorrectly on that.

20 MR. HOLDEN: Okay. I was trying to save myself  
21 the \$60 for a new plat. All right. That's it.

22 VICE CHAIR HART: That's fine. So hearing no  
23 questions and seeing no one else in the audience, but I'll  
24 have to go through it. Is the ANC here? Anyone here from  
25 the ANC? Is there anyone here wishing to speak in support

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1 of the application? Anyone here wishing to speak in  
2 opposition to the application? Okay, we have to go through  
3 it.

4 So Mr. Holden, do you have any conclusion that  
5 you'd like to provide? You are given the right to do that.  
6 You don't have to.

7 MR. HOLDEN: I have no further words to make your  
8 day longer.

9 VICE CHAIR HART: And Ms. Parks, do you have  
10 anything that you'd like to add since you came and spent the  
11 entire day here?

12 MS. PARKS: No, thank you.

13 VICE CHAIR HART: Listening to all of the  
14 wonderful things that go on at the BZA.

15 MS. PARKS: It's been an education. Thank you.

16 VICE CHAIR HART: Has it? Oh, well I'm glad that  
17 it's been an education. That's what we're here for. So are  
18 there any final questions for the applicant? No. Okay, so  
19 I'm going to close the record. And I can start -- Is the  
20 Board ready to deliberate? I can start. I didn't have  
21 really a lot of concern about the project. I felt that it  
22 was a fairly straightforward project. I like the fact that  
23 you are stepping back as you did. And you know, I know that  
24 you are correct in how you calculated how much distance --  
25 what the distance of the setback is. And where that 10 foot

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1 is, you are correct.

2 I felt that you met the criteria set forth in the  
3 zoning regulations as laid out in the Office of Planning  
4 report, which I also would agree with. The ANC is in support  
5 of your application. You have a number of neighbors that are  
6 in support of the application. I appreciate your going  
7 through and stepping through the conversations that you've  
8 had with your next door adjacent neighbor. I think that,  
9 that's been very helpful and helpful for us to understand.  
10 And I would be voting to approve the application. And I  
11 didn't know if my fellow board members had any other  
12 comments.

13 MEMBER WHITE: I concur with your comments. I  
14 think they met the special exception criteria for lot  
15 occupancy relief, as well as the rear yard requirement  
16 relief. The record was full. There's considerable amount  
17 of support, you know, from the neighbors, from ANC, and OP.  
18 So I would be in support of the application and have no  
19 additional comments.

20 MEMBER TURNBULL: I would concur with the both of  
21 you. I have no issues. I guess my only caveat is no  
22 annoying lighting. We've talked about that with others.

23 VICE CHAIR HART: Seems to be a theme.

24 MEMBER TURNBULL: I would be in support of the  
25 application.

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1           VICE CHAIR HART: And I'll note that while there  
2 was a kind of general letter of opposition, that letter  
3 seemed to be a little bit misguided. And didn't necessarily  
4 understand what was being put forward as a project. I mean  
5 we received it.

6           MR. HOLDEN: We did? Where was that?

7           VICE CHAIR HART: Well it's a letter in -- It's  
8 the letter that I was asking about in terms of they were just  
9 very general. They were the ones that had the -- they  
10 thought it was two levels -- they thought it was two  
11 additions -- a two floor addition on top of your building.

12          MR. HOLDEN: That was the prior case.

13          VICE CHAIR HART: Yes. And so I don't know -- I  
14 thought that was this case. Okay, I've heard too many cases.  
15 That's part of the problem. And actually -- And I was  
16 telling somebody earlier, a lot of these cases were lot  
17 occupancy. And so it's -- We've had like just a number of  
18 them. And they do get somewhat confused. I apologize for  
19 adding that into your case when it clearly was not there.

20                 So I'll make a motion to approve Application No.  
21 19995 of Carl Holden and Amanda Parks as read and captioned  
22 by the secretary. Do I have a second?

23          MEMBER WHITE: Second.

24          VICE CHAIR HART: Hearing a second. All those in  
25 favor say aye.

1 (Chorus of ayes)

2 VICE CHAIR HART: Any opposed? Motion carries.

3 Mr. Moy?

4 MR. MOY: Staff would record the vote as 4:0:1.  
5 This is on the motion of Chairman to approve the application  
6 for the relief requested. Seconded the motion, Ms. White.  
7 Also in support Ms. John and Mr. Michael Turnbull. No other  
8 members are present today. The motion carries.

9 VICE CHAIR HART: Thank you very much. And thank  
10 you all very much. Have a great afternoon. So Mr. Moy, is  
11 there anything left on our agenda?

12 MR. MOY: Not that I'm aware of, sir. Unless you  
13 want me to add something.

14 VICE CHAIR HART: No, I do not want you -- wish  
15 for you to add anything to the agenda. And with that, I will  
16 call the hearing adjourned.

17 (Whereupon, in the above-entitled matter was  
18 concluded at 2:50 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: 04-24-19

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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Court Reporter

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