

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

JUNE 12, 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 10:02 a.m., Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson  
LORNA JOHN, Board Member

ZONING COMMISSION MEMBER PRESENT:

ANTHONY HOOD, Chairperson  
PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary  
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACOB RITTING, ESQ.

## OFFICE OF PLANNING STAFF PRESENT:

ANNE FOTHERGILL  
MATTHEW JESICK  
STEPHEN J. MORDFIN  
CRYSTAL MYERS  
KAREN THOMAS

The transcript constitutes the minutes from the  
Public Hearing held on June 12, 2019.

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9:42 a.m.

BZA CHAIR HILL: Okay. Mr. Moy, I guess I want to ask you to go ahead and call our first hearing case. However, I don't need any parties to come to the table for this because I think we're just going to kind of discuss some preliminary matters. So if you're here for the appeal of -- I don't know if the number is correct, actually if that's the correct number. But if you're here for this next case, we're just going to discuss here on the dais for a couple of minutes here and see where we get to. So Mr. Moy, you can go ahead and call it.

MR. MOY: Thank you, Mr. Chairman. So that would be Appeal No. 19896 of Adams Morgan Friends and Allies. And this has been captured and advertised as an appeal from the decision made on August 3rd, 2018 by the Zoning Administrator, Department of Consumer and Regulatory Affairs, to issue Building Permit No. B, that's B as in bravo, 1800516, to construct a new three-story, 28-unit apartment house, RC-1 Zone at premises 1731 Kalorama Road Northwest, Square 2563, Lot 98.

And as you recall, Mr. Chairman, there's a number of motions in the preliminary matters.

BZA CHAIR HILL: Okay, great. So is the Board ready to deliberate on some of these preliminary matters?

1 MEMBER JOHN: Yes.

2 BZA CHAIR HILL: Okay. All right. So I guess  
3 first of all, I'm going to kind of walk through what I  
4 reviewed. So DCRA had a motion to continue due to DCRA's  
5 counsel's inability to be present which is in Exhibit 30.  
6 I think let's go ahead and table that while we kind of work  
7 through some of these issues here.

8 Then there was property owner's motions to dismiss  
9 which is Exhibit 24A and 31. At the May 22nd public hearing,  
10 the Board first considered the owner's motion to dismiss for  
11 appellant's alleged failure, one, to establish standing, and  
12 two, to state a claim. At that time, we tabled those motions  
13 in order to give appellant additional time to address the  
14 preliminary matters by supplementing appellant's initial  
15 filings. Even though per the appeal application requirements  
16 of Y302, this information should've been provided when the  
17 appeal was originally filed.

18 And those dates, we were trying to get information  
19 by 5/29 from the appellant, and that deadline was missed.  
20 At that hearing, we requested that the appellant submit  
21 several items including written authorization for an agent  
22 to represent the appellant before the Board, documentation  
23 of the appellant's status as a community organization, a  
24 written explanation of which members of the community  
25 organization are claiming to be particularly aggrieved by the

1 issuance of the building permit, and the nature of that  
2 grievance. And finally, a clear statement with supporting  
3 evidence of the specific ways the Zoning Administrator erred  
4 in issuing the building permit.

5           The Board required the applicant -- I'm sorry, the  
6 appellant to submit this information to the record by 11:59  
7 on May 29th. We were explicit that this deadline would not  
8 be extended without a statement or a motion demonstrating  
9 good cause. This was to ensure that the other parties and  
10 the Board would not be prejudiced and would have an  
11 opportunity to review and respond. A memo documenting these  
12 requests and deadlines were updated -- uploaded, I'm sorry,  
13 to the IZIS case file after the hearing and are available at  
14 Exhibit 28.

15           As I just previously mentioned, the appellant  
16 failed to submit the requested documents to the record by May  
17 29th deadline. And four days later on June 3rd, the  
18 appellant made a filing by email to BZA submissions which did  
19 not include any formal motion to waive the filing deadline.  
20 As such, it has not been added to the case record. So we  
21 basically just have the information from the record that was  
22 previously with us.

23           The appellant was advised by the Office of Zoning  
24 staff on June 4th that a motion would need to be filed to  
25 allow the Board to consider whether there was adequate good

1 cause to allow the appellant's late filing. The appellant  
2 was provided with the standard motion form and advised that  
3 it should be filed as soon as possible to allow the other  
4 parties and the Board sufficient time to review. To date,  
5 the appellant has not submitted that information.

6           Given the appellant's failure to consider -- or  
7 sorry, failure to provide the requested supplementary  
8 information, the Board has only, as I just mentioned, the  
9 initial filing to consider the ruling on the owner's motion  
10 to dismiss. So since I think that -- well, since the Board  
11 -- I think that we now can deliberate in terms of the owner's  
12 motions to dismiss in terms of the lack of standing as well  
13 as a failure to state a claim.

14           I think that in terms of the lack of standing, I  
15 didn't think that the appellant has submitted any  
16 documentation explaining how the organization or any one of  
17 its members is specifically aggrieved by the issuance of the  
18 building permit. Unless the appellant or one of its members  
19 is a next door neighbor, they must demonstrate something more  
20 than a generalized grievance. So I would actually be in  
21 favor of dismissal due to the lack of standing.

22           In addition to the motion that was made for lack  
23 of standing, the owner also made a motion to failure to state  
24 a claim. I also do that that that is correct. I mean, I  
25 think that the appellant has not specifically alleged any

1 specific violations of the zoning regulation, and the Board  
2 has previously dismissed appeals for failure to state a  
3 violation or error by the Zoning Administrator previously.

4 So those are basically kind of my thoughts. And  
5 so what do you guys think?

6 MEMBER JOHN: So I agree with your review of the  
7 case and the steps that the Board took to encourage the  
8 applicant to submit the documentation that would demonstrate  
9 that the applicant has standing to appear before the Board.  
10 And why that is important is that there has to be a person --  
11 the regulation requires that a person aggrieved or authorizes  
12 a person aggrieved to bring a case before the Board.

13 And in this case, we really have no person before  
14 the Board because there's no documentation that there is an  
15 organization. And that even if there is an organization  
16 that's been in existence since 2017, there is no  
17 authorization from that organization to the person who  
18 appeared who filed the application to represent the  
19 organization.

20 So in the absence of that information, it is  
21 difficult to find that there is standing. And in addition,  
22 the applicant has to be aggrieved as you mentioned, Mr.  
23 Chairman. And that is a very critical requirement because  
24 a general statement that the permit doesn't -- is not proper.  
25 Generalized statements to that effect do not meet the

1 standard of being aggrieved. There has to be some particular  
2 regulation that the ZA is said to have violated. And the  
3 regulation is specifically clear on that. The appellant has  
4 to state what sections of the regulation have been violated  
5 by issuing the permit.

6           So I agree with your analysis that this case  
7 should be dismissed for lack of standing. I also think that  
8 the appellant should not be allowed to litigate this matter  
9 again once the revised permit is issued, as I understand,  
10 that the parties are trying to prepare a revised permit. So  
11 if a claim is brought again, it would only relate to the  
12 issues raised by the revised permit. So that would be my  
13 suggestion, and I would support a motion to dismiss the  
14 application -- the appeal. Thank you.

15           COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I  
16 have nothing further to add. I think that was perfectly well  
17 explained. I agree with both of you.

18           BZA CHAIR HILL: Okay. All right. So then  
19 there's another issue in terms of the appellant's motion to  
20 dismiss which is in Exhibit 27. I think that since we're  
21 going to dismiss the appeal that that motion is denied as  
22 moot.

23           I would also again like to reiterate what Board  
24 Member John just brought up which is that we're talking about  
25 a permit that if there's a revised permit, the only issue

1 that could be brought before the Board again is the  
2 difference between this permit and the revised permit.

3 MEMBER JOHN: That's correct.

4 BZA CHAIR HILL: Yeah. So currently the appeal  
5 has only appealed Building Permit B1800516. And so if  
6 they're a revised permit, if there was any issues or if  
7 anybody in the community had wanted to appeal anything, it  
8 would just be on the differences between -- it would just be  
9 on the revisions or the difference for the revision. So I  
10 just wanted to also mention that.

11 So then as far as the motion to continue, since  
12 it looks like we're going to dismiss this, we don't have to.  
13 That's also now moot. And so I think that we have spoken to  
14 everything that we needed to do. So I'm going to go ahead  
15 and make a motion to dismiss Appeal No. 199896 due to the  
16 motions by the property owner for lack of standing and  
17 failure to state a claim and ask for a second.

18 MEMBER JOHN: Second.

19 BZA CHAIR HILL: Motion made and seconded. All  
20 those in favor, say aye.

21 (Chorus of aye.)

22 BZA CHAIR HILL: All those opposed? Motion  
23 passes, Mr. Moy.

24 MR. MOY: Staff would record the vote as 3 to 0  
25 to 2. This is on the motion of Chairman Hill to dismiss the

1 appeal based on the lack of standing and lack of the  
2 appellant to state a claim. Seconding the motion, Ms. White.  
3 Also in support of the motion, Zoning Commissioner Peter  
4 Shapiro. No other board members participating nor voting  
5 today. I believe the motion carries, sir.

6 BZA CHAIR HILL: It was Ms. John that made the  
7 second, sorry.

8 MR. MOY: Oh, I'm sorry.

9 BZA CHAIR HILL: That's okay.

10 MR. MOY: Ms. John seconding.

11 BZA CHAIR HILL: Okay. All right. And so we're  
12 going to switch out Zoning Commissioners again. So we're  
13 just going to take a quick five-minute break. Thanks.

14 (Whereupon, the above-entitled matter went off the  
15 record at 10:31 a.m. and resumed at 10:26 a.m.)

16 BZA CHAIR HILL: Okay. We're coming back again.  
17 We are going to move just one case around. We're going to  
18 move the last case to the first. So Mr. Moy, you can call  
19 it whenever you like.

20 MR. MOY: Thank you, Mr. Chairman. So if we can  
21 parties to the table to Application No. 20014 of Addisleigh,  
22 A-D-D-I-S-L-E-I-G-H, Park Washington Properties LLC. This  
23 is as amended for a special exception under Subtitle U,  
24 Section 513.1(n) from the prepared food shop requirements of  
25 Subtitle U, Section 512.1(d)(3); under Subtitle C, Section

1 1500.3 from the penthouse regulations of Subtitle C, Section  
2 1500; under Subtitle C, Section 703.2 from the minimum  
3 parking requirements of Subtitle C, Section 701.5; under  
4 Subtitle G, Section 1201.1 from the rear yard requirements  
5 Subtitle G, Section 405.2; and under Subtitle C, Section  
6 909.2(a) from the loading and access requirements of Subtitle  
7 C, Section 901 and C, Section 904 and pursuant to 11 DCMR  
8 Subtitle X, Chapter 10, and Subtitle G, Section 101.5 for an  
9 area variance from the floor area ratio requirements,  
10 Subtitle G, Section 402.1, to construct a new commercial  
11 building with a cellar level and a penthouse habitable space  
12 in the MU-4 Zone at premises 1803 Rhode Island Avenue,  
13 Northeast, Square 4209, Lot 5.

14 BZA CHAIR HILL: Okay, great. Thank you, Mr. Moy.  
15 If you could please introduce yourselves from my right to  
16 left.

17 MR. MONTAGUE: Commissioner Jeremiah Montague,  
18 Jr., ANC 5C.

19 BZA CHAIR HILL: You need to push the button.  
20 Sorry.

21 MS. WASHINGTON: Sorry. Lenda Washington,  
22 Developer.

23 BZA CHAIR HILL: Ms. Washington, are you going to  
24 be presenting to us today?

25 MS. WASHINGTON: The only reason --

1 BZA CHAIR HILL: That's okay. I'm just saying  
2 yes.

3 MS. WASHINGTON: Yes.

4 BZA CHAIR HILL: Okay, great. So let's see. And  
5 Commissioner, okay, did you guys get sworn in earlier?

6 MS. WASHINGTON: I did not.

7 BZA CHAIR HILL: Okay. If there's anybody who did  
8 not get sworn in and still needs to be sworn in, if you could  
9 stand and get sworn in by the Secretary to my left.

10 MR. MOY: You can stand where you are. Do you  
11 solemnly swear or affirm that the testimony you're about to  
12 present in this proceeding is the truth, the whole truth, and  
13 nothing but the truth? Thank you. You may be seated.

14 BZA CHAIR HILL: Okay. All right. So Ms.  
15 Washington, I guess if you could just kind of start by  
16 telling us what happened since the last time you were here.

17 MS. WASHINGTON: The only matter that was left  
18 open from our last presentation was that the committee had  
19 not gotten the report from DDOT regarding our parking survey.  
20 And so that report was subsequently filed on May 31st by Anna  
21 Chamberlin.

22 BZA CHAIR HILL: Okay. And also, though, you had  
23 to choose which plan you wanted, correct?

24 MS. WASHINGTON: Yes, that was decided earlier,  
25 and that was the grocery store option.

1 BZA CHAIR HILL: Okay. And you were in agreement  
2 in terms of the implementation of the TDM plan that DDOT --  
3 you guys are in agreement with DDOT's -- you guys are on the  
4 same page in terms of the --

5 MS. WASHINGTON: Absolutely.

6 BZA CHAIR HILL: -- TDM plan with DDOT?

7 MS. WASHINGTON: Yes.

8 BZA CHAIR HILL: And then also the loading  
9 management plan?

10 MS. WASHINGTON: Yes.

11 BZA CHAIR HILL: Okay. Commissioner Montague, so  
12 is this the only one you're here with us for today?

13 MR. MONTAGUE: Yes, you only got me --

14 BZA CHAIR HILL: Okay. Well, then so --

15 MR. MONTAGUE: -- here once.

16 BZA CHAIR HILL: -- you came all the way from the  
17 end to the beginning, right? Okay. You're the last one.  
18 And so we saw you in the back there, and we'll try to get you  
19 out of here today. So --

20 MR. MONTAGUE: I'm appreciative.

21 BZA CHAIR HILL: -- Commissioner, what are you  
22 here for today? What is your testimony?

23 MR. MONTAGUE: We still remain in favor of the  
24 project. And we simply just came to -- I'm always here. So  
25 to see what the outcome would be.

1           BZA CHAIR HILL: Okay, great. All right. So then  
2 does the Board have any questions for the applicant or the  
3 Commissioner? Okay. All right. So is there anyone here  
4 wishing to speak in support? Is there anyone here wishing  
5 to speak in opposition? Okay. All right. Do we have  
6 anymore questions for anybody?

7           MEMBER JOHN: So I was hoping to see a change in  
8 the burden of proof or something that sort of walks through  
9 Option B by itself. So if you could just talk to Option B.  
10 You're asking for 13 parking spaces.

11           MS. WASHINGTON: For relief from 13 --

12           MEMBER JOHN: For relief from --

13           MS. WASHINGTON: -- parking spaces.

14           MEMBER JOHN: Thirteen? Okay.

15           MS. WASHINGTON: And we have done the parking  
16 survey. I'm not --

17           MEMBER JOHN: Right. That's fine. That's fine.  
18 Just to be clear what the relief is. And the Option B has  
19 a grocery store and --

20           MS. WASHINGTON: A neighborhood grocery store that  
21 would have prepared foods --

22           MEMBER JOHN: Right.

23           MS. WASHINGTON: -- and seating for people who  
24 take then the coffee service or prepared foods.

25           MEMBER JOHN: Do you know how much seating?

1 MS. WASHINGTON: It would be minimal seating, I  
2 think 18 --

3 MEMBER JOHN: Okay.

4 MS. WASHINGTON: -- or under.

5 MEMBER JOHN: All right. Thank you.

6 BZA CHAIR HILL: All right. I don't have anymore  
7 questions. So I'm going to go ahead and close the record,  
8 close the hearing. Is the Board ready to deliberate? Okay.  
9 I was in -- well, anyway, I remember that the previous board  
10 members who are not here with us right now, they had more --  
11 they wanted more clarification in terms of the different  
12 options, or I should say choosing an option.

13 And then also on the additional information that  
14 was requested, I'm glad that the applicant has provided that  
15 information. I would be in agreement with the applicant as  
16 well as the support that they're getting from their ANC in  
17 terms of granting this approval.

18 I think that the Office of Planning has provided  
19 a good analysis in terms of how they're meeting the criteria  
20 for us to grant the approval. Also, DDOT has approved the --  
21 or has no objection given that we do implement. The  
22 applicant has agreed to implement the TDM plan as well as the  
23 loading management plan.

24 And so I don't have an issue with the application  
25 and I will be voting in approval. Is there anything else

1 anyone would like to add?

2 MEMBER JOHN: Just briefly, Mr. Chairman, that the  
3 approval would be based on the applicant submitted drawings  
4 at Exhibit -- I've forgotten the exhibit number. But it's  
5 attached to the revised Form 135, Zoning Self-Certification.  
6 And I thought I'd written down the exhibit, and that would  
7 be the Option B. And that's what we're approving.

8 BZA CHAIR HILL: Yes, agreed.

9 ZC CHAIR HOOD: Mr. Chairman, I'm inclined to make  
10 a motion if you would like.

11 BZA CHAIR HILL: Sure, go ahead.

12 ZC CHAIR HOOD: Okay. I think I would just make  
13 a statement. I'm thinking with all of the -- I think we  
14 basically heard this case previously. We just had a few  
15 things we needed to tighten up, the use and some outstanding  
16 issues. I think this was done -- this is very well done and  
17 it looks like the support of the community as well as the  
18 ANC. I think this whole project is going to be a benefit and  
19 attributes to the different -- that community as it continues  
20 to progress.

21 So pursuant to 11 DCMR Subtitle X, Chapter 9, for  
22 special exception under Subtitle U, 513.1(n) from the --  
23 okay, as amended, thank you. Pursuant to 11 DCMR Subtitle  
24 X, Chapter 9, for special exception under Subtitle U 513.1(n)  
25 from the prepared food shop requirements of Subtitle U

1 512.1(d)(3); under Subtitle C 1500.3 from the penthouse  
2 regulations of Subtitle C 1500; under the C-703.2 from the  
3 minimum parking requirements, and the caption is noted as  
4 amendment. I'm not going to read all this. I think the  
5 record speaks for itself, and that's my motion to approve.

6 MEMBER JOHN: Second the motion, Chairman.

7 BZA CHAIR HILL: The motion made and seconded.  
8 All those in favor, say aye.

9 (Chorus of aye.)

10 BZA CHAIR HILL: All those opposed? Motion  
11 passes, Mr. Moy.

12 MR. MOY: Staff would record the vote as 3 to 0  
13 to 2. This is on the motion of Zoning Commissioner Hood.  
14 Second motion, Ms. John. Also in support, Chairman Hill.  
15 No other board members present nor voting. Motion carries,  
16 sir.

17 BZA CHAIR HILL: All right. Thank you. Thank  
18 you, guys, very much.

19 MS. WASHINGTON: Thank you very much.

20 MR. MONTAGUE: Have a good day.

21 BZA CHAIR HILL: You too. Commissioner, you can  
22 hang around. We'll be here for hours.

23 MR. MONTAGUE: I'd like to indulge you, but I have  
24 committed to a whole meeting this afternoon.

25 ZC CHAIR HOOD: He's working hard for that

1 community, so we don't want to hold him up down here with us.

2 MR. MOY: All right. I believe, Mr. Chairman,  
3 we're back to the top of the order. And I believe this would  
4 be Case Application No. 20007 of Winsor Properties LLC,  
5 captioned and advertised for a special exception under  
6 Subtitle D, Section 5201 from the lot occupancy requirements,  
7 Subtitle D, Section 1204.1, to construct a two-story rear  
8 addition and a one-story side addition to an existing,  
9 attached, principal dwelling unit, R-20 Zone. This is at  
10 3011 P Street, Northwest, Square 1269, Lot 365.

11 And I believe there's a -- as a preliminary  
12 matter, there's a party status request, Mr. Chair.

13 BZA CHAIR HILL: Okay. Is the party status person  
14 here? Okay. First, go ahead and introduce yourself for the  
15 record.

16 MR. DETTMAN: Good morning, Mr. Chairman, members  
17 of the Board. My name is Shane Dettman, Director of Planning  
18 with the law firm Holland and Knight.

19 BZA CHAIR HILL: Okay. Mr. Dettman, it looked  
20 like you were about say something about the party status  
21 person.

22 MR. DETTMAN: We've been in contact with the  
23 adjacent neighbor and her counsel. And they're in support  
24 of the request for postponement. I can give some background  
25 on the request for postponement. But I have an email from

1 her counsel, Donohue and Sterns, saying they are in full  
2 support of the postponement.

3 BZA CHAIR HILL: Okay.

4 MR. MOY: Yeah, I'm sorry.

5 BZA CHAIR HILL: I don't remember this.

6 MR. MOY: Yeah.

7 BZA CHAIR HILL: Sorry.

8 MR. MOY: I forgot to mention, Mr. Chair, that  
9 there's a request for postponement.

10 BZA CHAIR HILL: Okay. But I've already reviewed  
11 the record and studied.

12 MR. MOY: Well, look at the applicant.

13 BZA CHAIR HILL: Come on.

14 ZC CHAIR HOOD: We do miss stuff --

15 BZA CHAIR HILL: Okay.

16 ZC CHAIR HOOD: -- from time to time.

17 BZA CHAIR HILL: When are you asking for a  
18 postponement until?

19 MR. DETTMAN: Late July or the --

20 BZA CHAIR HILL: Okay. And why are you asking for  
21 a postponement?

22 MR. DETTMAN: So we -- Holland and Knight got  
23 involved just only recently, more directly involved in this  
24 case. My understanding is that the application was filed.  
25 There was a letter of support from the adjacent neighbor.

1 Apparently, there was an oversight with the architect where  
2 the files that -- that the plans that were filed with the  
3 application differed from the plans that the adjacent  
4 neighbor had supported.

5 At that point in time, we became more involved in  
6 the application. We advised the applicant to request a  
7 postponement. That was the first one. We've met with the  
8 adjacent neighbor twice, just recently last week where she  
9 had requested another postponement so that the applicant  
10 could return to the ANC and present the project again. And  
11 so that's what we're here today requesting a postponement for  
12 so that the applicant can return to the ANC.

13 BZA CHAIR HILL: Okay. When are you going back  
14 to the ANC?

15 MR. DETTMAN: Their meeting in July I think is  
16 July 1st.

17 BZA CHAIR HILL: Okay. And then so you're trying  
18 to come back by the end of July?

19 MR. DETTMAN: July 24th or the 31st works.

20 BZA CHAIR HILL: Sure, okay. Mr. Moy?

21 MR. DETTMAN: If that's --

22 BZA CHAIR HILL: I mean, I know both days are just  
23 awful. So I mean, that's why -- I mean, we're going on  
24 recess. And so what day? I think the 24th maybe. I'm  
25 looking at Mr. Moy now.

1 MR. MOY: Yeah, just a second, Mr. Chairman.

2 BZA CHAIR HILL: Chairman Hood, you're not back  
3 again, are you?

4 ZC CHAIR HOOD: 24th is fine.

5 MR. MOY: Okay. If the ANC meeting is July 1st,  
6 actually it'd be preferable to return to the Board on the  
7 17th if it's possible. If not -- the only reason I say that,  
8 Mr. Chairman, is on the 24th of July, we have an appeal case.  
9 But if you want to add another application to that day,  
10 that'd be fine.

11 BZA CHAIR HILL: Can you guys get back by the  
12 17th?

13 MR. DETTMAN: I don't think that that date works  
14 for the architect.

15 BZA CHAIR HILL: For the architect? Okay. Well,  
16 you guys pay the architect, right?

17 MR. DETTMAN: We do.

18 BZA CHAIR HILL: Okay. All right.

19 MR. MOY: Just if we go to the 24th, this will be  
20 the eighth application --

21 BZA CHAIR HILL: What about the 31st?

22 MR. MOY: -- plus the appeal.

23 BZA CHAIR HILL: What about the 31st? Is there  
24 an appeal on the 31st?

25 MR. MOY: No appeal. The issue with the 31st is

1 we've got 14 cases.

2 BZA CHAIR HILL: Right. So what are you nodding  
3 to?

4 MR. DETTMAN: The 17th, I don't believe, is going  
5 to work.

6 BZA CHAIR HILL: Okay. So take it into September?

7 MR. DETTMAN: And if it has to kick to September

8 --

9 BZA CHAIR HILL: Okay, okay, good. We appreciate  
10 that.

11 MR. DETTMAN: -- we can look to early September  
12 if possible.

13 BZA CHAIR HILL: Yeah, because you can already see  
14 that just it's going to suck. Okay. Mr. Moy?

15 MR. MOY: The first hearing in September we can  
16 do for September the 11th.

17 BZA CHAIR HILL: Okay.

18 MR. MOY: Oh, 9-11.

19 BZA CHAIR HILL: Oh, well, there you go. Okay.

20 All right, Mr. Dettman. You have a nice summer.

21 MR. DETTMAN: Okay. Thank you.

22 BZA CHAIR HILL: All right. Bye-bye.

23 (Pause.)

24 MR. MOY: All right. Mr. Chairman, next  
25 application before the Board is Case Application No. 19020-B

1 of Jemal's Bulldog LLC. This is a modification of  
2 significance to the plans approved in BZA Order No. 19020 and  
3 19020-A, and pursuant to 11 DCMR Subtitle X, Chapter 10 for  
4 a special exception from the penthouse requirements, Subtitle  
5 C, Section 1500.3(c) to include a nightclub, bar, cocktail  
6 lounge, or restaurant use in the penthouse of an existing 13-  
7 story hotel building with cellar in a D-5-R Zone at 1011 K  
8 Street, Northwest, Square 342, Lot 61.

9 BZA CHAIR HILL: Okay, great. All right. If  
10 you'll please introduce yourself from my right to left.

11 MR. HUGHES: Dennis Hughes of the law firm of  
12 Holland & Knight.

13 MR. GARDINER: Phillip Gardiner with Douglas  
14 Development Corporation, Jemal's Bulldog LLC.

15 MR. CRAWFORD: Alex Crawford with Streetsense.

16 BZA CHAIR HILL: Okay. Let's see. So Mr. Hughes,  
17 I assume you're presenting?

18 MR. HUGHES: Yes sir.

19 BZA CHAIR HILL: Okay. First of all, I guess  
20 there's a couple of preliminary matters. Did you guys put  
21 in an affidavit of posting?

22 MR. HUGHES: Yes sir. It is Exhibit 19 in the  
23 record.

24 BZA CHAIR HILL: Okay. And then Mr. Crawford,  
25 you're going to be testifying as an expert in architecture.

1 Is that correct?

2 MR. CRAWFORD: Yes sir.

3 BZA CHAIR HILL: Okay. And you're not in our  
4 book. I took a look at the resume that I guess is in Exhibit  
5 24A, and I didn't have any issues with you being admitted as  
6 an expert. Did the Board have any issues?

7 MEMBER JOHN: No, Mr. Chair.

8 BZA CHAIR HILL: Okay. All right. Mr. Crawford,  
9 congratulations. You're now an expert. Let's see. And then  
10 Mr. Hughes, I guess I didn't see -- like, the ANC supposedly  
11 voted in approval, but we don't have a report. Is that  
12 correct?

13 MR. HUGHES: That's my understanding as of this  
14 morning.

15 BZA CHAIR HILL: Okay. So why don't you go ahead  
16 and walk us through what you're trying to ask us to do in  
17 terms of this modification of significance. Mr. Moy, I'm  
18 going to put 15 minutes on the clock and walk us through  
19 again how you're meeting the burden -- how you're meeting the  
20 standards for us to grant this modification of significance.  
21 And then another issue if you can talk to it is the  
22 affordable housing trust fund --

23 MR. HUGHES: Yes.

24 BZA CHAIR HILL: -- and how much or the estimated  
25 contribution is given the regulations. And you can begin

1 whenever you like.

2 ZC CHAIR HOOD: Let me just ask this --

3 BZA CHAIR HILL: Sure.

4 ZC CHAIR HOOD: -- Mr. Chairman. Mr. Hughes, you  
5 mentioned that the affidavit posted was what exhibit?

6 MR. HUGHES: Exhibit 19...

7 ZC CHAIR HOOD: Okay. Do our exhibits match up,  
8 Mr. Moy, with theirs? I just want to make sure the record  
9 is clear because I have 25.

10 MR. MOY: Yeah, me too.

11 ZC CHAIR HOOD: It's 25? So we need to make --

12 MR. MOY: Exactly. It's 25.

13 MR. HUGHES: I'm sorry, Mr. Chair. That's my  
14 error.

15 ZC CHAIR HOOD: I just wanted to make sure the  
16 record is -- that letter that I have is --

17 MR. HUGHES: It's Exhibit 25.

18 ZC CHAIR HOOD: Okay, okay. All right.

19 MR. HUGHES: I was looking at an internal --

20 ZC CHAIR HOOD: I just want to make sure the  
21 record is clear. Okay. Thank you.

22 MR. HUGHES: My apologies. You're ready, Mr.  
23 Chair?

24 BZA CHAIR HILL: Sure, please. Go ahead.

25 MR. HUGHES: Good morning, Mr. Chairman, members

1 of the Board. We appear before you this morning to request  
2 a modification of significance for special exception approval  
3 to allow a rooftop level restaurant, bar, lounge use atop a  
4 hotel in the D-5-R Zone at 1011 K Street in Square 342,  
5 intersection, the northeast corner of the intersection of  
6 11th and K Street Northwest.

7           The Board previously approved this, the underlying  
8 application in the summer of 2015, July 2015. The penthouse  
9 regulations were changed and took effect in January of 2016.  
10 And they, as you know, allow rooftop restaurant bar use upon  
11 special exception approval. And the use that is otherwise  
12 permitted is a matter of right in the D-5-R Zone. So we're  
13 here this morning to request special exception approval for  
14 the rooftop use.

15           Before I turn to our witnesses for their brief  
16 testimony, I'd like to note that we have -- and I'll get the  
17 exhibits hopefully correct. We have reports from the  
18 Department of Transportation at Exhibit 27 indicating no  
19 opposition to our application and at Exhibit 30 from the  
20 Office of Planning recommending approval.

21           And I believe it was Commissioner Hood or perhaps  
22 the Chair noted regarding the penthouse habitable space, it  
23 generates either an affordable housing contribution or  
24 construction. I believe the applicant will choose to do the  
25 contribution to the trust fund, but certainly he'll determine

1 that before permit issuance if the Board approves the  
2 application. And we have provided a response to the Office  
3 of Planning request. We have provided a calculation, an  
4 estimate of that contribution and that is Exhibit 33 to the  
5 record. And that shows that the contribution is just under  
6 214,000 dollars.

7 And finally, as the Chair noted with respect to  
8 the ANC, we've met with ANC 2C on two occasions. We first  
9 met with them in December of 2018 before we formally filed  
10 the application. The ANC took action at that meeting to  
11 approve. It's a small ANC. They have three members. I  
12 think there were only two members there present and they  
13 voted two to nothing to recommend approval.

14 Two of the three commissioners were changed in the  
15 last elections, and so essentially it was a new panel. And  
16 once we had submitted our application in April, we returned  
17 to the new ANC last month at the May 14 meeting. And that  
18 ANC voted three to zero to recommend approval to the Board.  
19 Unfortunately, I don't believe there's a letter yet in the  
20 record to that effect.

21 BZA CHAIR HILL: No, I understand. I mean, when  
22 did you go before them again?

23 MR. HUGHES: December 10th, 2018 and May 14th of  
24 this year.

25 BZA CHAIR HILL: May 14th?

1 MR. HUGHES: Yes.

2 BZA CHAIR HILL: Okay. That's my ANC. So that's  
3 why I'm just like -- there's a couple new people in there,  
4 but they're a very good ANC.

5 MR. HUGHES: Very good. No, it was very cordial.  
6 And with that, I would like to just turn over to Phil  
7 Gardiner for some brief testimony, explanation of what's  
8 going on, what's proposed for the roof, and then for Mr.  
9 Crawford to address any questions you might have on the  
10 design. Thank you.

11 MR. GARDINER: Good morning. Just briefly the  
12 background on the project. The existing building on site was  
13 constructed and opened in fall of 2018 -- November 2018.  
14 It's an operating hotel owned by Douglas Development and  
15 operated by TPG Hotels and Resorts. It's a 200-unit Moxy  
16 brand which is a Marriott brand.

17 We've been open now for -- well, since November,  
18 so about seven months. The rooftop space was and is vacant  
19 currently as well as the first and second floor of the  
20 historic building which occupies the corner of 11th and K  
21 Street with the intent to occupy those spaces upon permit  
22 approval with a restaurant on the ground floor, on the first  
23 and second floor of the historic building on the corner of  
24 11th and K, and then on the rooftop. And we have an  
25 agreement in place with Atlas Restaurant Group, will operate

1 both restaurants -- both spaces on our behalf within the  
2 hotel.

3 BZA CHAIR HILL: Okay, great. I'm just curious.  
4 So there's not -- the historic -- my office is around the  
5 corner. So the historic building there, there's no  
6 connection with the historic building in the penthouse,  
7 right? You have to walk into the hotel to take the elevator  
8 up to the penthouse?

9 MR. GARDINER: Yeah, that's correct.

10 BZA CHAIR HILL: Okay.

11 MR. GARDINER: Well, there actually is a door from  
12 the main lobby of the hotel itself that would lead you into  
13 the historic building. So you can access from the hotel  
14 side, but it's intended to have its own entrances as well,  
15 specifically for the historic building. And then yes, you're  
16 correct. The rooftop is accessed through the main lobby of  
17 the hotel via elevator, stairs.

18 BZA CHAIR HILL: Got it. Okay. Mr. Crawford?

19 MR. CRAWFORD: Thank you. So today, I'm at your  
20 disposal to answer any questions relative to the  
21 architectural component. So Streetsense works with a lot of  
22 restaurant groups and retailers around the city and beyond  
23 to fit them into spaces of all sorts. And we've had no  
24 trouble doing so for this rooftop use. We believe it's a  
25 great fit.

1 BZA CHAIR HILL: Okay. That's it?

2 MR. CRAWFORD: That's it.

3 BZA CHAIR HILL: Okay. All right. Does anybody  
4 have any questions for the applicant? While you all think  
5 if you have any questions, I'll turn to the Office of  
6 Planning.

7 MR. MORDFIN: Good morning. I'm Stephen Mordfin.  
8 And the Office of Planning supports this application and  
9 recommends approval as Office of Planning has found that it  
10 is in conformance with the criteria for the approval of the  
11 modification. So therefore, OP recommends approval. Thank  
12 you.

13 BZA CHAIR HILL: Okay. And you're comfortable  
14 with the exhibit in terms of the affordable trust?

15 MR. MORDFIN: Yes.

16 BZA CHAIR HILL: Okay. All right. Anybody have  
17 any questions for the Office of Planning? Does the applicant  
18 have any questions for the Office of Planning?

19 MR. HUGHES: No sir.

20 BZA CHAIR HILL: Is there anyone here wishing to  
21 speak in support? Is there anyone here wishing to speak in  
22 opposition? Mr. Hughes, is there anything you'd like to add  
23 at the end?

24 MR. HUGHES: Just to the Chair's question about --  
25 or comments at the beginning about demonstration of

1 compliance with the special exception test. We've set that  
2 forth in our application statement in terms of compliance  
3 with the special exception test. If you'd like me to expand,  
4 we can.

5 BZA CHAIR HILL: No, that's fine. We saw that was  
6 in the record. Thank you very much. All right. Go ahead  
7 and close the hearing. Is the Board ready to deliberate?

8 MEMBER JOHN: Yes.

9 BZA CHAIR HILL: You want to start?

10 MEMBER JOHN: Okay. I'll start. So this is a  
11 modification of significance under Subsection Y 704.2. The  
12 building was previously, as approved, included a rooftop on  
13 the 13th floor which is now vacant. And the regulations were  
14 later changed to allow habitable penthouse space by special  
15 exception. And so the applicant is now seeking to use this  
16 vacant space for a nightclub, bar, cocktail use, or  
17 restaurant.

18 The record shows that the application meets the  
19 requirements for a special exception. OP has done a fairly  
20 thorough analysis of how the application meets the criteria.  
21 And usually with rooftop bars, we're concerned about the  
22 impact on the surrounding neighborhood. But in this case,  
23 there's no demonstration that there is any impact on a  
24 residential building which is typically what we pay very  
25 close attention to. And there are similar rooftops and

1 commercial buildings in the area.

2           Although there is no ANC 2C report, we -- well,  
3 we can't give it great weight because there is no report.  
4 And so we don't have anything to go on. I'll note that DDOT  
5 had no objection. And as I believe I said earlier, OP has  
6 done a great analysis and I give great weight to that.

7           I support the application.

8           ZC CHAIR HOOD: Mr. Chairman, I would echo Board  
9 Member John's exact words verbatim as she dictated them to  
10 us. I would just ask if she puts that in a motion, I would  
11 go ahead and second, unless you wanted to add something so  
12 we can save time and move forward.

13           BZA CHAIR HILL: That's okay. I'll make a motion.  
14 But just Mr. Gardiner, do you know what restaurant they're  
15 putting in there?

16           MR. GARDINER: That's a good question. We know  
17 the general concept at this point. The rooftop, I believe,  
18 is supposed to be a Japanese-Peruvian fusion. And the  
19 historic building, first and second floor, is, I believe,  
20 kind of like an oyster bar, raw bar, whiskey, chops.

21           BZA CHAIR HILL: Oh, okay. I like that better.

22           MR. GARDINER: That kind of thing, yeah.

23           BZA CHAIR HILL: Okay. All right. I'm going to  
24 go ahead and make a motion to approve Application No. 19020-B  
25 as captioned and read by the Secretary and ask for a second.

1 MEMBER JOHN: Second.

2 BZA CHAIR HILL: Motion made and seconded. All  
3 those in favor, say aye.

4 (Chorus of aye.)

5 BZA CHAIR HILL: All those opposed? The motion  
6 passes, Mr. Moy.

7 MR. MOY: Staff would record the vote as 3 to 0  
8 to 2. That was on the motion of Chairman Hill to approve the  
9 application for the modification of significance. Seconding  
10 the motion, Ms. John. Also in support, Zoning Commissioner  
11 Hood. No other board members present today. The motion  
12 carries.

13 BZA CHAIR HILL: Okay, great. Thank you, Mr. Moy.  
14 Thank you, gentlemen, very much.

15 MR. HUGHES: Thank you.

16 MR. MOY: Sorry, Mr. Chairman. So if we can get  
17 parties to the table to Case Application No. 20002 of Mattie  
18 and Sallie Johnson, as amended, for special exceptions under  
19 the residential conversion requirements, Subtitle U, Section  
20 320.2, and pursuant to Subtitle X, Chapter 10, for an area  
21 variance from the minimum area requirements, Subtitle U,  
22 Section 320.2(d). This would convert an existing flat to a  
23 three-unit apartment building, RF-1 Zone at 21 Seaton Place,  
24 Northeast, Square 3511, Lot 24.

25 MS. MATTIE JOHNSON: Good morning, Commissioner.

1 BZA CHAIR HILL: Good morning.

2 MS. MATTIE JOHNSON: My name is Mattie Johnson.  
3 I'm the co-owner of the property at 21 Seaton Place,  
4 Northeast.

5 MS. SALLIE JOHNSON: Sallie Johnson, and I am also  
6 the co-owner of the property.

7 BZA CHAIR HILL: Okay, great. If you guys could  
8 just have one microphone on at a time if you wouldn't mind.  
9 It just kind of feeds back up here. Thank you. Which one  
10 of you is going to be presenting to us first?

11 MS. MATTIE JOHNSON: I will be.

12 BZA CHAIR HILL: Okay, Ms. Johnson. All right.  
13 Ms. Johnson, if you can just kind of walk us through what  
14 you're trying to do and how you believe you're meeting the  
15 criteria for us to grant the application. I'm going to put  
16 15 minutes up on the clock so you can see on the top corner  
17 there. And you can begin whenever you like.

18 MS. MATTIE JOHNSON: Oh, yes. The issues, we are  
19 trying to make 21 Seaton Place what its legal status is. 21  
20 Seaton Place is a three-unit apartment house. It has been  
21 such since around -- between 1993 and 1994. The issue is the  
22 land area is 1,725 square feet. The requirement for a three-  
23 unit apartment is at least 1,800 feet. And that does not  
24 exist at 21 Seaton Place.

25 We have exceptional circumstances here because we

1 purchased the property in 2002. At the time we purchased the  
2 property, it was already a three-unit apartment house. That  
3 is evidenced by the -- submitted by the neighbors who have  
4 been on that street for 10, 20 years.

5 Not only is that extraordinary that it has been  
6 renovated prior to 2015, prior to the new statute, the other  
7 problem is that it would be an undue burden and hardship on  
8 us, both person and financial, to try to convert it back into  
9 a single family dwelling or a multi-family dwelling.

10 There are no interior walls. These are three  
11 separate units with their own individual access. That would  
12 mean -- if that was even feasible, that would mean knocking  
13 down barrier walls, redoing plumbing which would create a  
14 hardship, a financial hardship. And to be quite frankly, it  
15 is something we would have to decide whether to maintain our  
16 home or to sell it. That's number one. So that's our  
17 exceptional circumstances.

18 We did not do anything to create this situation.  
19 We are not asking to add anything or do anything to the  
20 residence as to what we purchased in 2002. So because of  
21 that, we're requesting a special -- a variance, an area  
22 variance.

23 If you look at the photographs, 21 Seaton Place  
24 aligns with all other properties on the street at 21 Seaton  
25 Place. And Seaton Place, it is the same height of the

1 properties surrounding it. It does not interfere with the  
2 air, light, or enjoyment of any other properties in the area.

3 BZA CHAIR HILL: Okay, great. Thank you. Does  
4 the Board have any questions for the applicant?

5 ZC CHAIR HOOD: How did we come to -- I'm just  
6 trying to understand because I know we worked hard to put  
7 that 900 square foot. And I realize that you can't  
8 accomplish that, and I'm just trying to figure out how did  
9 it come to the -- how did you have to come -- I'm just trying  
10 to figure this whole thing out. Because if you were there  
11 before the regulations, then why now are we -- why are we  
12 here? I'm just trying to figure that out. But some of that,  
13 I may ask Ms. Fothergill. Maybe I missed it because you all  
14 are going from -- each unit is going to be about, what, 575  
15 square feet?

16 MS. MATTIE JOHNSON: Well --

17 ZC CHAIR HOOD: Turn your mic on.

18 MS. MATTIE JOHNSON: -- according to an appraisal  
19 that was done for the bank a couple of years ago -- and I  
20 submitted that as one of the --

21 ZC CHAIR HOOD: Okay.

22 MS. MATTIE JOHNSON: -- examples.

23 ZC CHAIR HOOD: Okay. That's the reason.

24 MS. MATTIE JOHNSON: Each unit has 998 square  
25 feet, the three units. And I believe that is because they

1 are counting the basement unit.

2 ZC CHAIR HOOD: They included the basement?

3 MS. MATTIE JOHNSON: Basement. But if we was just  
4 counting the amount -- a square amount, yes, that we have  
5 amount of land that we have above ground, it would be about  
6 -- the Commissioner is right. Correct, it would be about  
7 five-something --

8 ZC CHAIR HOOD: Five-something?

9 MS. MATTIE JOHNSON: -- square feet.

10 ZC CHAIR HOOD: Okay. All right. Thank you.  
11 Thank you, Mr. Chair.

12 BZA CHAIR HILL: Thank you. Anyone else? All  
13 right. I'm going to turn to the Office of Planning.

14 MS. FOTHERGILL: Good morning. I'm Anne  
15 Fothergill with the Office of Planning. To answer  
16 Commissioner Hood's question, my understanding is the  
17 applicant was going to get a license to rent the third unit  
18 and then it came to light that they don't have the  
19 appropriate C of O. They only have it for two units.

20 And so that's what started this process. That's  
21 why they're here in order to get the appropriate C of O so  
22 that they can rent the third unit. They had a change in  
23 their situation, and so now they are hoping to rent that  
24 third unit. That's my understanding.

25 ZC CHAIR HOOD: Okay.

1 MS. FOTHERGILL: And in terms of their  
2 application, while the Office of Planning generally takes a  
3 very hard line on the 900 square feet per unit, in this case,  
4 we did find that they have an exceptional situation that  
5 meets the variance test. And we have recommended approval  
6 and are in support of this application and rest on the  
7 record. But I'm happy to take any questions about it.

8 BZA CHAIR HILL: Does anybody have any questions  
9 for the Office of Planning?

10 ZC CHAIR HOOD: So thank you, Ms. Fothergill,  
11 because I too take a hard line on 900 square feet. But I  
12 think Ms. Johnson -- even before you spoke, I think Ms.  
13 Johnson's testimony persuaded me otherwise. This would be  
14 my first time since we put that rule in place. So thank you.

15 BZA CHAIR HILL: Just for Office of Planning. I  
16 know I saw it again. But how short are they in terms of what  
17 they need?

18 MS. FOTHERGILL: The requirement is 900 square  
19 feet per unit, so that would be 2,700 square feet of land  
20 area. And they have a lot that is 1,725 square feet. So  
21 they're significantly short.

22 BZA CHAIR HILL: All right. Does the applicant  
23 have any questions for the Office of Planning?

24 MS. MATTIE JOHNSON: No.

25 BZA CHAIR HILL: Okay. Is there anyone here

1 wishing to speak in support? Is there anyone here wishing  
2 to speak in opposition? All right. Either Ms. Johnsons, do  
3 you have anything you'd like to add at the end?

4 MS. MATTIE JOHNSON: No, we don't.

5 BZA CHAIR HILL: Okay. All right. Thank you.  
6 I'm going to go ahead and close the record, close the  
7 hearing. Is the Board ready to deliberate? Sure. I can  
8 start.

9 So I mean, to echo Chairman Hood, I mean, it kind  
10 of is -- I always think it's kind of interesting. The 900  
11 square feet thing is really something that the Office of  
12 Planning never seems to budge on. And so I'm a little  
13 surprised in terms of their analysis. However, I have read  
14 through it and I agree with their analysis. And so I will  
15 be in favor of this application.

16 In addition to that, I guess -- no, actually, I  
17 forgot to ask the applicant. So I'm going to ask the  
18 applicant. The ANC, what happened with your ANC again?

19 MS. MATTIE JOHNSON: Oh, we went before the ANC  
20 and they filed a report to the file, I guess. It was a  
21 unanimous agreement. They filed a report approving it. It's  
22 about Exhibit 52 or --

23 BZA CHAIR HILL: I think it's 58.

24 MS. MATTIE JOHNSON: Yes.

25 BZA CHAIR HILL: Okay. That's right.

1 MS. MATTIE JOHNSON: And we also went before our  
2 civic association, and they approve.

3 BZA CHAIR HILL: Okay. All right. Okay. So I'm  
4 going back to deliberating here. And so I was just finding  
5 a little bit more clarification in terms of the ANC. But I  
6 am seeing it here that they were in support. And so I think  
7 they've met the criteria and I'm going to vote in favor. Is  
8 there anyone that'd like to add anything?

9 ZC CHAIR HOOD: And I would just -- I think this  
10 is one of those rare cases, and I just would put on the  
11 record that this is not precedent setting. But I think this  
12 is a difficulty as Office of Planning has already mentioned.  
13 I think this is one of those rare cases that actually the  
14 first one I think I've seen which would allow for us to grant  
15 this request.

16 BZA CHAIR HILL: Okay. I'll go ahead and make a  
17 motion to approve Application No. 20002, as captioned and  
18 read by the Secretary and ask for a second.

19 MEMBER JOHN: Second.

20 BZA CHAIR HILL: Motion made and seconded. All  
21 those in favor, say aye.

22 (Chorus of aye.)

23 BZA CHAIR HILL: All those opposed? Motion  
24 passes, Mr. Moy.

25 MR. MOY: Staff would record the vote as 3 to 0

1 to 2. This is on the motion of Chairman Hill to approve the  
2 application for the relief requested. Seconding the motion,  
3 Ms. John. Also in support, Zoning Commissioner Hood. No  
4 other board members present today. Motion carries, sir.

5 BZA CHAIR HILL: Thank you. Thank you, Mr. Moy.  
6 Thank you, ladies.

7 MS. MATTIE JOHNSON: Thank you.

8 MS. SALLIE JOHNSON: Thank you for your time.

9 MR. MOY: Okay. If we could have parties to the  
10 table to Case Application No. 20012 of Andrew Engel. This  
11 is a request for special exceptions under Subtitle E, Section  
12 5201 from the nonconforming structure requirements of  
13 Subtitle C, Section 202.2, and under Subtitle E, Section 5203  
14 from the height requirements of Subtitle E, Section 303.3,  
15 to construct a third-story rear addition to an apartment  
16 house in an RF-1 Zone. This is at 539 Randolph Street,  
17 Northwest, Square 3232, Lot 102.

18 BZA CHAIR HILL: Okay, great. Thank you. Could  
19 you please introduce yourselves for the record.

20 MR. ENGEL: My name is Andrew Engel.

21 MR. FREEMAN: My name is Mark Freeman. I'm the  
22 architect with Aggregate Architecture and Design.

23 MR. CHAJON: My name is George Chajon. I work for  
24 Aggregate Architecture.

25 BZA CHAIR HILL: Can you spell your last name for

1 me, sir?

2 MR. CHAJON: C-H-A-J-O-N.

3 BZA CHAIR HILL: Okay, great. Thank you. Mr.  
4 Freeman, are you going to be presenting to us or whose going  
5 to start presenting?

6 MR. FREEMAN: We thought we would start with Mr.  
7 Engel's --

8 BZA CHAIR HILL: Okay. All right.

9 MR. FREEMAN: -- testimony and then I would follow  
10 up with technical.

11 BZA CHAIR HILL: Okay. So Mr. Engel, I guess  
12 there was a preliminary matter in terms of the affidavit of  
13 posting. You did submit an affidavit of posting?

14 MR. ENGEL: We were contacted by the office of  
15 planning late yesterday evening to revise the self-  
16 certification Form 135 and the burden of proof. We have  
17 revised those to include the subsection -- Subtitle U,  
18 320.2(m) regarding the apartment house in an RF-1 Zone. We  
19 have done that. I have eight copies of those. I believe I  
20 was to submit those to the Secretary.

21 BZA CHAIR HILL: Okay. You can submit them to the  
22 Secretary, sure. Thank you. Okay, Mr. Engel. I'm going to  
23 put up 15 minutes on the clock there, Mr. Moy, just so I know  
24 where we are. And you can begin whenever you like.

25 MR. ENGEL: Thank you very much. I had purchased

1 this property with my father late 2015. He is not here  
2 because he passed away from pancreatic cancer two years ago.  
3 So we purchased this home. This is my starter home in the  
4 District. Shortly after moving in, we found out that it was  
5 rife with construction defects, and it became full of mold.  
6 We had to gut the property and in order to make it habitable  
7 and make it compliant with D.C. building code.

8 In the process, we thought we could make a few  
9 improvements and at least have a silver lining to this  
10 debacle. In the process of correcting some of the poor  
11 design, for the deck, for example, we're trying to just  
12 capture a little bit of space to increase the habitable  
13 footprint on the upstairs. My architect will speak about the  
14 specifics of that. And that's the general parameter of the  
15 situation.

16 BZA CHAIR HILL: Okay. All right. Okay. Sure.  
17 I mean, you can -- I don't really have a lot of questions to  
18 be quite honest. Does the Board have any questions for the  
19 applicant right now?

20 ZC CHAIR HOOD: No.

21 BZA CHAIR HILL: Okay. I'm going to turn to the  
22 Office of Planning.

23 MS. THOMAS: Good morning, Mr. Chair, members of  
24 the Board. The Office of Planning is recommending approval  
25 of this application and the request. Through a series of

1 unfortunate events with respect to the applicant's property,  
2 we see no issues with respect to the renovation of the  
3 property. And we will stand on the record of our report.  
4 Thank you.

5 BZA CHAIR HILL: Okay. Thank you. Does the Board  
6 have any questions for the Office of Planning? Does the  
7 applicant have any questions for the Office of Planning?

8 MR. FREEMAN: No.

9 BZA CHAIR HILL: Okay. Just I have one question  
10 in terms of the ANC meeting when you guys went there. What  
11 was kind of the feedback from the -- I mean, they approved  
12 obviously or they were in support. But I was just curious  
13 as to what this ANC's kind of thoughts were to this type of  
14 a project.

15 MR. FREEMAN: We -- the specific ANC Commissioner  
16 lived across the street from Mr. Engel. So we reached out  
17 to her initially. We also -- during the presentation, we  
18 received full support. I believe this ANC is dealing with  
19 a lot of development, and there are a lot of bad development  
20 situations. So having that as the sort of catalyst to our  
21 request, I believe there was some empathy. But overall, we  
22 have support. And within the community, we did not receive  
23 any feedback negatively or negative feedback.

24 BZA CHAIR HILL: Okay. I'm just kind of curious.  
25 When they say bad experiences, do you know the -- what do you

1 mean? What do you think they mean by bad experiences?

2 MR. FREEMAN: Well, I believe there's been faulty  
3 construction and, you know, not necessarily bad permitting  
4 but faulty construction. From my conversations with Mr.  
5 Engel and then with the ANC Commissioner, it sounds like  
6 there's other developments that have also had some faulty  
7 construction and issues. So that's really what I mean by  
8 feedback there.

9 ZC CHAIR HOOD: So when you say that, let me --  
10 first, let me ask this, Mr. Chairman. Is this the church  
11 that First Baptist ran? Isn't it somewhere a couple blocks  
12 -- so is it a couple blocks away or is it --

13 MR. FREEMAN: It's on the same block.

14 ZC CHAIR HOOD: Same block, First Baptist on  
15 Randolph.

16 MR. FREEMAN: Yes sir.

17 ZC CHAIR HOOD: Okay. Let's go back to the bad  
18 development. Is it materials? I'm just curious.

19 MR. FREEMAN: In our specific case, it's incorrect  
20 materiality, it's incorrect construction, not meeting minimum  
21 code standards. It's sort of all of the above. It's if you  
22 name it, this building sort of has a problem with it.

23 ZC CHAIR HOOD: So this building, but I thought  
24 we were talking about buildings in general in that area.

25 MR. FREEMAN: Well, if we can speak generally --

1 ZC CHAIR HOOD: General.

2 MR. FREEMAN: -- I believe it's materialities.

3 ZC CHAIR HOOD: Materialities. So again, this is  
4 something I've been actually looking at. I know the BZA  
5 doesn't get into materials. We need to figure out a way  
6 because hearing this actually echoes some of my issues for  
7 years about we do relief on the BZA. We don't get in  
8 materials. On the Zoning Commission, we get in materials.  
9 And I'm hearing that -- this is not the first time I've heard  
10 this. So I thank you all for bringing that again to light  
11 to put on my radar. So thank you. Thank you, Mr. Chairman.

12 MEMBER JOHN: One question. Can you explain or  
13 expand on that a little bit more? I mean, what are we  
14 talking about exactly?

15 MR. FREEMAN: In regards to the deficiencies on  
16 this specific project? Well, we had incorrect flashing.  
17 Roofing was not properly flashed to the vertical walls so we,  
18 therefore, had water freely flowing through the roof to wall  
19 connections. We had incorrect exterior trims. They used  
20 finger jointed interior trim for exterior trim, did not back  
21 prime it, did not make any effort to protect it. So those  
22 trims rotted out quickly and then penetrated the exterior  
23 perimeter.

24 We had bad flashing details on the window heads  
25 and sills. So -- and then the mechanical was another

1 situation where there was bad design. There was a package  
2 unit on the roof that had the supply and return. Those were  
3 not properly insulated, so there was condensation freely  
4 flowing from the external to the interior -- or the exterior  
5 to the interior.

6 So just this compound situation created the mold  
7 and the water intrusion. And then upon opening up, we found  
8 other significant issues such as bad wiring, incorrect  
9 connections, plumbing running uphill instead of downhill,  
10 things of that nature.

11 So it really has gone beyond what we thought we  
12 were going to have to deal with. Fortunately, Mr. Engel and  
13 his father's estate have the ability to handle the  
14 litigation. Others do not. And -- but again, as he  
15 mentioned, we are trying to create a silver lining out of the  
16 bad situation by hopefully expanding the addition of his Unit  
17 3 on the top.

18 MEMBER JOHN: Okay. Thank you.

19 BZA CHAIR HILL: Okay. All right. Mr. Engel, by  
20 the way, sorry about your loss and hopefully this gets  
21 resolved.

22 MR. ENGEL: Thank you.

23 BZA CHAIR HILL: Let's see. Is there anybody here  
24 wishing to speak in support? Is there anyone here wishing  
25 to speak in opposition? Is there anything you'd like to add

1 at the end?

2 MR. FREEMAN: I don't believe so, no sir.

3 BZA CHAIR HILL: Okay. Does the Board have any  
4 further questions? Okay. Go ahead and close the record.

5 MR. RITTING: Could I make an interjection --

6 BZA CHAIR HILL: Sure.

7 MR. RITTING: -- over here?

8 BZA CHAIR HILL: Sure.

9 MR. RITTING: You asked the applicant to address  
10 the affidavit of posting issue. And I don't think he  
11 actually answered it.

12 BZA CHAIR HILL: Right, sorry. I'm sorry. I was  
13 actually going to mention. They're in the exhibit -- they're  
14 in the last two --

15 MR. RITTING: Right.

16 BZA CHAIR HILL: -- the affidavit of posting and  
17 the affidavit of maintenance as well as a photograph of the  
18 posting notice. They're in 35, 36, and 37. And so I -- no,  
19 I appreciate OAG bringing that up. I was going to say that,  
20 and then I got, kind of, sidetracked.

21 So once again, I appreciate OAG bringing that up.  
22 That's something that was something that I had originally  
23 asked about and had a chance to do that. They also have  
24 their revised self-cert in terms of clarification for the  
25 relief. I do believe that they are meeting the criteria for

1 us to grant the relief requested. I believe that the Office  
2 of Planning's analysis is succinct. And I also am pleased  
3 to see that the ANC is in support. This is, again, as  
4 Chairman Hood just mentioned, something that we've seen a lot  
5 of in terms of these additions. And so it's just kind of --  
6 I'm just kind of sometimes interested to know why the ANC  
7 sometimes push back on some of these types of special  
8 exceptions.

9           However, I, as I stated, believe they've met the  
10 criteria and I'll be voting in support. Is there anything  
11 anyone else would like to add? Okay. I'll go ahead and make  
12 a motion to approve Application No. 20012 as captioned and  
13 read by the Secretary and ask for a second.

14           MEMBER JOHN: Second.

15           BZA CHAIR HILL: Motion made and seconded. All  
16 those in favor, say aye.

17           (Chorus of aye.)

18           BZA CHAIR HILL: All those opposed? Motion  
19 passes, Mr. Moy.

20           MR. MOY: Staff would record the vote as 3 to 0  
21 to 2. This is on the motion of Chairman Hill to approve the  
22 amended application -- the application for amended relief,  
23 rather, requested. Seconding the motion, Ms. John. Also in  
24 support, Zoning Commissioner Hood. No other board members  
25 present. Motion carries, sir.

1           BZA CHAIR HILL:    Great.    Thank you, Mr. Moy.  
2 Thank you, gentlemen.

3           All right.  Mr. Moy, let's go ahead and call the  
4 next one.

5           MR. MOY:  If we can have parties to the table to  
6 Case Application No. 20034 of Preservation DC LLC.  This is  
7 a request for a special exception under the theoretical  
8 subdivision provisions, Subtitle C, Section 305; and under  
9 Subtitle C, Section 703 from the minimum parking requirements  
10 of Subtitle C, Section 701.5; and pursuant to Subtitle X,  
11 Chapter 10, for area variances from the rear yard  
12 requirements, Subtitle F, Section 301; and the side yard  
13 requirements, Subtitle F, Section 306 to relocate an existing  
14 detached principal dwelling unit, and to construct a new  
15 six-story eight-unit apartment house, RA-4 Zone.  This is at  
16 3219 Wisconsin Avenue, Northwest, Square 1921, Lot 11.  And  
17 I believe there's a motion to accept an untimely filing of  
18 a TDM plan under Exhibit 31, Mr. Chairman.

19           BZA CHAIR HILL:  Okay, great.  Thank you, Mr. Moy.  
20 All right.  If you could, please introduce yourselves for the  
21 record.

22           MR. SULLIVAN:  Thank you.  Good morning, Mr.  
23 Chairman and members of the Board.  My name is Marty Sullivan  
24 with Sullivan & Barros on behalf of the applicant.

25           MR. WARREN:  Good morning, Mr. Chair and members

1 of the Board. My name is Charles Warren, Principal of Teass  
2 Warren Architects here on behalf of the applicant.

3 BZA CHAIR HILL: Mr. Warren, we don't normally get  
4 you.

5 MR. WARREN: Yeah, you usually get my partner.  
6 I'm here every now and then.

7 BZA CHAIR HILL: Interesting. Okay. Mr.  
8 Sullivan, I assume you're going to be speaking to us?

9 MR. SULLIVAN: Yes sir.

10 BZA CHAIR HILL: Okay. So I guess first of all,  
11 can you address why you guys were late in terms of the  
12 untimely filing?

13 MR. SULLIVAN: Yes, we were just responding to  
14 comments from the DDOT reviewer, and we were working with him  
15 on the TDM plan. And that didn't get resolved until after  
16 the 21-day period.

17 BZA CHAIR HILL: Okay. And that wouldn't have  
18 anything to do -- wouldn't reflect on anything that you  
19 presented to the ANC?

20 MR. SULLIVAN: No.

21 BZA CHAIR HILL: Okay. All right. I don't have  
22 any issue with the untimely filing. Does the Board?

23 Okay. So we're going to go ahead and accept the  
24 TDM plan. And then there was -- as you're kind of going  
25 through this, Mr. Sullivan, again, if you could tell us what

1 you guys are trying to do as well as how you're meeting the  
2 standards for us to grant the requested relief.

3 I did have a question about -- there was something  
4 about the ANC and then something about, like, the proposed  
5 consistent with the -- something about, like, the front  
6 setback in the front. So if you can kind of explain if you  
7 are, in fact, doing what the ANC has asked you to do, or at  
8 least speak to that. And then -- yeah, then we can ask  
9 questions after that. I'm going to go ahead and put 15  
10 minutes up on the clock so I know where we are, and you can  
11 begin whenever you like.

12 MR. SULLIVAN: Thank you, Mr. Chairman and members  
13 of the Board. We have a very interesting and exciting  
14 project for you here today. We'll start with some of the  
15 existing conditions, and I'll just give you an overview. And  
16 then I'll turn it over to Mr. Warren to explain the  
17 specifics. This is 3219 Wisconsin Avenue.

18 BZA CHAIR HILL: Can you go back one second? I'm  
19 sorry.

20 MR. SULLIVAN: Sure.

21 BZA CHAIR HILL: Go back one slide. So I'm  
22 confused just because that house --

23 MR. SULLIVAN: I'll clear it up for you in a  
24 second.

25 BZA CHAIR HILL: Okay.

1 MR. SULLIVAN: Yeah.

2 BZA CHAIR HILL: By the way, that's a group house  
3 that I had tons of friends that lived in. And so -- okay.  
4 Well, now it's not. But okay, go ahead. I'm sorry. I just  
5 had a huge flashback. So all right.

6 MR. SULLIVAN: Okay. So you're right. It looks  
7 different than it is in the existing conditions picture.  
8 Right now, it faces Wisconsin Avenue. It's sort of a lone  
9 wolf here as you can see on this block. It's surrounded by  
10 larger apartment buildings. This is across the street from  
11 Cactus -- one block down from Cactus Cantina. And so the  
12 next slide shows some more angles on the existing conditions,  
13 showing the apartment house across Macomb to the north and  
14 showing the side of the house.

15 So what we're proposing is a solution that -- it's  
16 a very creative solution, one that was initially proposed by  
17 HPO staff to lift the house, rotate it, make it part of  
18 Macomb Street. It'll still have a nine-foot side yard on  
19 that side, and then construct a new apartment building on the  
20 front to face Wisconsin.

21 And this solution has many benefits, one of which  
22 -- you can see the ugly wall on the existing conditions from  
23 the condo building. It's the new building. The apartment  
24 building is going to cover most of that ugly wall. It's  
25 still going to be lower in height. It's not reaching its max

1 height, and we're not reaching max FAR on this project.

2           And so the picture -- so this is what it'll look  
3 like in the end, and this is from Macomb Street. And we  
4 think this also -- it changes -- it takes the house from  
5 where it's currently out of place, puts it somewhere where  
6 it is in place, and then it fills that space with an  
7 appropriate use, and creates an additional eight housing  
8 units.

9           HPO suggested rotating the house because they  
10 wanted to save the house but they knew it didn't really  
11 belong there. The original thought was to move it somewhere  
12 completely different, but this solution works out better, of  
13 course.

14           And they also -- originally, we were going to  
15 connect the two -- connect the house to the apartment  
16 building. So we would have one principle dwelling unit --  
17 or one principle building on this record lot. And HPO wanted  
18 a separation there and HPRB approved that. And so we're  
19 asking for theoretical lot relief to handle that because it's  
20 still one record lot.

21           The zoning relief on this is actually very minor.  
22 Most of the work was with Historic Preservation. And the  
23 community is fully in support of this. The zoning relief is  
24 in three areas of the property, other than the theoretical  
25 lot relief. There's rear yard relief where you see item

1 number one there for the new multi-family building, and  
2 that's where it's up against the apartment building on  
3 Wisconsin because the street frontage is just Macomb for that  
4 building.

5 Relief number two is we only have four feet of  
6 rear yard. So we're asking for rear yard relief for the  
7 house itself, and that's where it backs up, in part, to the  
8 apartment building next door and to the mostly unused yard  
9 behind that apartment building.

10 And then area number three for relief is side yard  
11 relief for the single family house. It only has 2.38 inches  
12 of side yard, and that's, as you can tell in the area, right  
13 between the two buildings.

14 So we think all the relief is sort of contained  
15 within the property in ways where it really doesn't have any  
16 impact on any neighboring property. So I'd like to turn it  
17 over to Mr. Warren now to talk in more detail about the  
18 project. Thank you.

19 MR. WARREN: So just a quick view of the zoning  
20 map here. You can see our site sits at the intersection  
21 between the RA-4 Zone which is along Wisconsin Avenue and the  
22 R1-B zoning, which is single family to the east. And we're  
23 kind of right at the intersection of those two zones.

24 As Mr. Sullivan mentioned, this is some contextual  
25 photos of the site. You can see the large fairly looming

1 wall at the 3217 property to the south, which really creates  
2 a pretty unfriendly relationship between the single family  
3 house and that structure. And it also leaves a large party  
4 wall exposed to the neighborhood, which we've heard a lot of  
5 feedback that that's an unpleasant sight for most of the  
6 neighborhood to see. The photos at the bottom, you can see  
7 the residential makeup of the Macomb Street. It's your  
8 pretty traditional residential street in Cleveland Park.

9 Existing site plan, this is the current location  
10 of the existing house. It was built in 1901 and it is  
11 considered a contributing structure to the historic district.  
12 It sits, kind of, in the middle of the site on the east-west  
13 and justified to the north property line.

14 And as you noticed and if you lived here as a  
15 group house, it fronts on Wisconsin Avenue and leaves kind  
16 of a strange yard relationship along Wisconsin and a little  
17 gap in the urban fabric along Wisconsin Avenue. And it feels  
18 like it's really turned its back to the neighborhood to the  
19 east. And it's really become isolated and lost its original  
20 connection to the historic district.

21 So as Mr. Sullivan noted, the big idea here is  
22 really to pick up the house, rotate it 90 degrees, move it  
23 to the eastern portion of the site, maintaining a nine-foot  
24 side yard, and fronting it on Macomb Street which is a little  
25 bit better relationship for the porch and the typical

1 residential kind of relationship.

2           This, as he mentioned, frees up the western  
3 portion of the site for a residential apartment building and  
4 to take advantage of the RF-4 zoning. And just to give a  
5 little bit of background on this, and Mr. Sullivan alluded  
6 to this, we initially had approached this as a  
7 matter-of-right solution to this site, where we had a  
8 physical connection between the two buildings. And we  
9 presented that back to HPRB back in November of last year.

10           And in that scheme, the apartment building is  
11 technically in addition to that historic structure. And  
12 overall, we thought the project was -- it's pretty cramped  
13 to get that all to work on site. And we received a lot of  
14 feedback from the ANC -- many of the stakeholders, the ANC,  
15 Cleveland Park Historic Society, HPO staff, as well as the  
16 HPRB about the scheme, and we've done some pretty significant  
17 redesigns to get to the scheme that you're seeing before you  
18 today.

19           But one of the major things coming out of that  
20 process was really to try to eliminate that connection  
21 between the two buildings. It was never quite working and  
22 it didn't really work architecturally. It was really tough  
23 thing to try to pull off -- the connection to the two  
24 buildings.

25           BZA CHAIR HILL: I'm sorry. And just because I'm

1 curious, the connection again also was the building -- you  
2 were rotating the building onto Macomb. And then you were  
3 doing the same thing, you were just connecting it?

4 MR. WARREN: Yeah, exactly right. There was a  
5 physical connection between the two buildings to try to keep  
6 it as a single structure on a record lot.

7 BZA CHAIR HILL: And what are you doing now with  
8 that? I'm sorry, Mr. Chairman. What are you doing now with  
9 that? What is the use for that house?

10 MR. WARREN: Single family house. So we --

11 BZA CHAIR HILL: You're going to sell it off as  
12 a single family house?

13 MR. WARREN: That's the plan is to create a tax  
14 lot for it and fee-simple that house.

15 BZA CHAIR HILL: Okay.

16 ZC CHAIR HOOD: So let me just ask. And then I'll  
17 understand why things look different when I was reviewing  
18 this. What kind of view am I going to see on Wisconsin  
19 Avenue? I didn't see one.

20 MR. WARREN: I'll jump to that if --

21 ZC CHAIR HOOD: Okay, okay. I'll let you finish  
22 then.

23 MR. WARREN: -- you want to go into that. It's  
24 a little bit further down the presentation, but we'll get to  
25 that.

1           ZC CHAIR HOOD: Okay, okay. I'll wait for us to  
2 get there.

3           MR. WARREN: Sure. This is a conceptual view from  
4 the north. Here you can see the relationship of the historic  
5 house to the new apartment building on the right. I'm really  
6 trying to separate as much space between the two -- some  
7 breathing space between the two buildings. The distance  
8 between the two buildings is about ten feet nominally, and  
9 about eight feet from the eave line of the wraparound porch  
10 to the face of the new building.

11           In this image, you can see how the house relates  
12 to the similarly-scaled houses to the east. Really trying  
13 to set up a very typical side yard to side yard relationship  
14 between that house and the house to the east. And very  
15 typical of what you would see in the context of the  
16 neighborhood.

17           We are not showing any bay projections on the  
18 Macomb Street side. And part of that is discussions with the  
19 -- direct discussions with the ANC and also HPO staff to try  
20 to quiet the building as it turns the corner from Wisconsin  
21 Avenue and really trying to maintain the right of way and the  
22 sight lines along Macomb Street.

23           BZA CHAIR HILL: Mr. Warren?

24           MR. WARREN: Yes sir?

25           BZA CHAIR HILL: I'm sorry. Like, so IZIS was

1 down over the weekend so I didn't have as much time as I  
2 usually get to go through a lot of things. I just had a  
3 chance to, kind of, like, peruse it. But what does that  
4 light thing do at the top there? What's the top floor?

5 MR. WARREN: It's units of double height space for  
6 the units up there. So that's a single unit.

7 BZA CHAIR HILL: That's a single unit on the top?  
8 Oh, okay. I'm sorry. On the top floor?

9 MR. WARREN: Yeah, there's -- it's a double height  
10 space, so there's a mezzanine and a loft space.

11 BZA CHAIR HILL: How many units are on that floor?

12 MR. WARREN: Just one -- there's two units on this  
13 floor.

14 BZA CHAIR HILL: Got it. Okay. Thank you.

15 MR. WARREN: And one of the proposals that we also  
16 are including here is a green screen on the eastern wall of  
17 the new building. And part of that is a strategy to soften  
18 that edge and the view shed, giving it a green backdrop as  
19 you move east from Macomb Street. And it also helps to  
20 satisfy some of our GAR requirements here.

21 This image shows you that view as if you are  
22 walking down the sidewalk on Macomb Street west. We're  
23 really trying to maintain the sight lines and to keep that  
24 right-of-way line open. And you can see here the placement,  
25 and I think this addresses one of the questions from the ANC.

1 The house is placed within the range of setbacks that would  
2 be typical of other houses along Macomb Street.

3 This is a view from Wisconsin Avenue, and we're  
4 really trying to concentrate the verticality on the Wisconsin  
5 Avenue side and the bays along Wisconsin Avenue and the  
6 glassiness of the new building on the Wisconsin Avenue side.  
7 And really -- and part of this is a discussion with HP staff  
8 is really to make the primary entry of the building on  
9 Wisconsin, really making it clear that that's the front door  
10 of the apartment building and weighting that to the Wisconsin  
11 Street side, as opposed to the Macomb Street side.

12 BZA CHAIR HILL: They're going to be apartments?

13 MR. WARREN: Correct -- condos, likely. And the  
14 bays, sort of pick up that rhythm of the bays to the south  
15 on Wisconsin Avenue, sort of, bookends the developments to  
16 the south, and covers the large party wall.

17 And just quickly through the elevations -- the  
18 major elevations. So this is the Macomb Street elevation  
19 where you can see the relationship between the relocated  
20 house and the side yard to the east, and the neighbors to the  
21 east, and the space in between the two buildings. Again,  
22 it's about ten feet nominally, with the eaves of the porch  
23 projecting in. And then the height, we're right about the  
24 same --

25 BZA CHAIR HILL: Pardon me, Mr. Warren. I'm going

1 to kind of cut you off just a little.

2 MR. WARREN: Sure.

3 BZA CHAIR HILL: Does the Board have specific  
4 questions? Because I've got a couple and I'm just going when  
5 it's -- swing around to OP. No? Okay. Just if you go --  
6 I'm just curious about just when --

7 MR. WARREN: Sure.

8 BZA CHAIR HILL: -- you guys were putting this  
9 together. So how long did this whole project take?

10 MR. WARREN: We've been working on it about eight  
11 or nine months now.

12 BZA CHAIR HILL: Eight or nine months?

13 MR. WARREN: Yeah.

14 BZA CHAIR HILL: So from -- so they've been trying  
15 to put this together only for eight or nine months? If  
16 you're going to HPO -- I sorry, Historic Preservation Review  
17 and everything like that, so it's only been eight or nine  
18 months?

19 MR. WARREN: We've been through HP -- we went to  
20 HP twice and we went to ANCs -- I feel like we went six or  
21 seven times to the ANCs.

22 BZA CHAIR HILL: And then when was this -- so this  
23 -- because I'm just curious now. So this was sold to the  
24 current developer. Do you know how long ago?

25 MR. WARREN: It was about a year ago, yeah.

1 BZA CHAIR HILL: Okay. And then the building to  
2 the -- oh, which direction is it? I don't know. The  
3 apartment that's to the next -- the thing next to and down  
4 Wisconsin.

5 MR. WARREN: Yes.

6 BZA CHAIR HILL: I'm looking at a different slide  
7 that shows the -- yeah, yeah, there you go.

8 MR. WARREN: Which one? This one?

9 BZA CHAIR HILL: Yeah, that one. So do you know  
10 how long that thing's been there -- or who designed that?

11 MR. WARREN: It's been there for a while. I think  
12 that was the -- as I understand it, that was the genesis of  
13 why there's a historic district in Cleveland Park.

14 BZA CHAIR HILL: Right.

15 MR. WARREN: I think it was early '90s.

16 BZA CHAIR HILL: Okay. And that architect is  
17 gone?

18 MR. WARREN: I don't know who it was.

19 BZA CHAIR HILL: Okay.

20 MR. WARREN: We were trying to find that out.

21 BZA CHAIR HILL: Right. That's the ugliest  
22 building.

23 MR. WARREN: It's pretty terrible. I agree.

24 BZA CHAIR HILL: Okay. All right. Does anybody  
25 have anything else?

1 MEMBER JOHN: So what is that building that's --

2 MR. WARREN: It's a condo building.

3 MEMBER JOHN: Oh, it's a condo building?

4 MR. WARREN: The one to the south, yes.

5 BZA CHAIR HILL: I think those things are purple  
6 or they're blue. The --

7 MR. WARREN: Yeah, they're strange.

8 BZA CHAIR HILL: They're like -- yeah, there you  
9 go. That's it in all its glory.

10 MEMBER JOHN: Thank you.

11 BZA CHAIR HILL: Okay. All right. We'll go to  
12 the Office of Planning.

13 MS. MYERS: Hello. Crystal Myers with the Office  
14 of Planning. The Office of Planning supports this project  
15 and is recommending approval of this case and stands on the  
16 record of the staff report.

17 BZA CHAIR HILL: All right. Does anybody have any  
18 questions for the Office of Planning? Does the applicant  
19 have any questions for the Office of Planning?

20 MR. SULLIVAN: No, thank you.

21 BZA CHAIR HILL: Okay. Is there anybody here  
22 wishing to speak in support? Is there anyone here wishing  
23 to speak in opposition? Okay. I'm sorry. I just can't  
24 believe it. Like, I just can't believe you guys went through  
25 this whole thing as quickly as you did. And I just -- I

1 mean, it's -- actually, I think it's a beautiful project and  
2 it's an amazing solution as to what you guys were able to do.  
3 And I can't believe somebody thought of it. And so, you  
4 know, I love that HPO actually helped you, kind of, get to  
5 where you are. So do you have anything you'd like to add at  
6 the end, Mr. Sullivan?

7 MR. SULLIVAN: No, thank you.

8 BZA CHAIR HILL: Okay. Is the Board done? Okay.  
9 I'm going to close the hearing -- close the record. I'm able  
10 to deliberate now, is the Board ready to deliberate? Okay.  
11 I can start.

12 Just again, I've already been just shocked by the  
13 project and how I think it's just going to work within the  
14 community and the neighborhood. I think that they're  
15 definitely meeting the criteria for us to grant the relief  
16 being requested.

17 I did want to mention and I should've asked that  
18 they are -- I mean, you guys submitted the TDM plan. But  
19 you're comfortable with that being a condition as in the  
20 record, correct?

21 MR. SULLIVAN: Yes.

22 BZA CHAIR HILL: Okay. So I would go ahead and  
23 put the TDM plan as a condition, as DDOT has recommended that  
24 as a condition. I also do agree with the applicant as far  
25 as what they put forward in meeting the criteria as well as

1 the analysis provided by the Office of Planning. And I will  
2 be voting in favor and look forward to seeing that thing  
3 completed. Does anyone have anything else they'd like to  
4 add?

5 MEMBER JOHN: Just to basically agree with what  
6 you said. I thought that this is really a very interesting  
7 project, and I'm familiar with the area. So I'll be excited  
8 to see how it turns out. And I think moving the house is a  
9 novel idea.

10 I also thought that the applicant walked through  
11 why the requested rear yard relief -- rear yard and side yard  
12 relief -- variance relief was required as a result of the  
13 need to accommodate the historical building, and the need for  
14 parking approval and the requirements for the theoretical  
15 subdivision. I thought the Office of Planning also did a  
16 good job in explaining the relief and how the application  
17 meets the criteria of the regulation. And other than that,  
18 I thought this was fairly straightforward and novel. So I  
19 have -- I can support the application with the condition from  
20 DDOT.

21 BZA CHAIR HILL: Okay. All right. I'm going to  
22 make a motion to approve Application No. 20034 as captioned  
23 and read by the Secretary including the TDM plan as a  
24 condition, and ask for a second.

25 MEMBER JOHN: Second.

1 BZA CHAIR HILL: Motion made and seconded. All  
2 those in favor, say aye.

3 (Chorus of aye.)

4 BZA CHAIR HILL: All those opposed? The motion  
5 passes, Mr. Moy.

6 MR. MOY: Staff would record the vote as 3 to 0  
7 to 2. This is on the motion of Chairman Hill to approve the  
8 application for the relief requested. Seconding the motion,  
9 Ms. John. Also in support, Zoning Commissioner Hood. No  
10 other board members present. Motion carries.

11 BZA CHAIR HILL: Okay, great. Thank you, Mr. Moy.  
12 Thank you, gentlemen. Okay. So we only have two cases left.  
13 So we're actually not going to take a lunch break, but we are  
14 going to take a quick break. So we'll be back here in about  
15 10, 15 minutes. Thank you. Maybe we'll be back in five  
16 minutes.

17 (Whereupon, the above-entitled matter went off the  
18 record at 11:44 a.m. and resumed at 12:03 p.m.)

19 BZA CHAIR HILL: All right. Mr. Moy, you can go  
20 ahead and call our next case.

21 MR. MOY: Thank you, Mr. Chairman. So the Board  
22 is back in session after a very quick break and it's about  
23 12:05. So if we can have parties to the table to Application  
24 No. 19999 of Sanjay Bajaj, I think it's pronounced,  
25 B-A-J-A-J, captioned and advertised for an area variance from

1 the street frontage requirements, Subtitle C, Section 303.5,  
2 to subdivide two existing tax lots in the RA-2 and MU-4 Zone.  
3 This is at 1920 17th Street, Southeast, Square 5612, Lots 827  
4 and 833.

5           Finally, Mr. Chairman, I just wanted to also alert  
6 the Board that there have been at least five filings from the  
7 applicant this morning. And actually during the break, I was  
8 checking my computer, because I can see times when filings  
9 are submitted, and they were after these were filed.  
10 Primarily, most of them or all of them are after the 9:00  
11 deadline this morning which typically we hold those filings  
12 from --

13           BZA CHAIR HILL: That's all right, Mr. Moy. We'll  
14 figure it out.

15           MR. MOY: Okay.

16           BZA CHAIR HILL: Okay. All right. You want to  
17 introduce yourself, please, for the record.

18           MR. DZIERZANOWSKI: Sure. My name is Mateusz  
19 Dzierzanowski. I'm here from DC Architecture on behalf of  
20 the owner and applicant, Mr. Sanjay Bajaj.

21           BZA CHAIR HILL: Could you spell your last name  
22 for me again?

23           MR. DZIERZANOWSKI: Sure, it's a tough one.  
24 Dzierzanowski, that's D-Z-I-E-R-Z-A-N-O-W-S-K-I.

25           BZA CHAIR HILL: Okay. All right. Mr.

1 Dzierzanowski?

2 MR. DZIERZANOWSKI: Yeah.

3 BZA CHAIR HILL: Dzierzanowski? Okay. So Mr.  
4 Dzierzanowski, unfortunately, I think that we're going to  
5 have a little problem with you today. And I'm sorry that  
6 we're here at the end with you, but, like, so we didn't have  
7 plans from you until this morning. And it looks like there's  
8 something from the ANC that came in. I don't know when that  
9 came in, it looks like somebody just handed it to me. So we  
10 haven't really even had enough time to really kind of go  
11 through this stuff. And so it seems as though you're, kind  
12 of, getting to where you need us to be, but we're not going  
13 to hear this today.

14 MR. DZIERZANOWSKI: Okay.

15 BZA CHAIR HILL: And so the -- so one thing you  
16 can mention. So did you submit already the affidavit of  
17 posting and the affidavit of maintenance or no?

18 MR. DZIERZANOWSKI: We have. We submitted the  
19 affidavit of posting. It should be -- I can open that up.

20 BZA CHAIR HILL: That's okay.

21 MR. DZIERZANOWSKI: That was filed a long time --

22 BZA CHAIR HILL: Just, do you remember when it  
23 was?

24 MR. DZIERZANOWSKI: Correct. Yeah, it should've  
25 been literally the same date of the requirement. I have it.

1 It is Exhibit No. 36.

2 BZA CHAIR HILL: Okay. And then the affidavit of  
3 maintenance?

4 MR. DZIERZANOWSKI: No, that was -- that should've  
5 been uploaded with this morning --

6 BZA CHAIR HILL: Okay. All right.

7 MR. DZIERZANOWSKI: -- the batch that was received  
8 after the time.

9 BZA CHAIR HILL: And so the Office of Planning,  
10 you guys haven't seen the plans either yet, right?

11 MR. JESICK: The applicant showed us an earlier  
12 draft of the plans. I don't know if they've been -- it's not  
13 in the record.

14 BZA CHAIR HILL: Okay. So --

15 MR. JESICK: But we have seen something.

16 BZA CHAIR HILL: -- would you give a supplemental  
17 report to the plans, or any changes you think you might need  
18 to do?

19 MR. JESICK: Well, our analysis was not based on  
20 a project. It was just the variance for the lot width and  
21 --

22 BZA CHAIR HILL: Okay. So you don't think you'd  
23 necessarily change -- you would need to do any kind of  
24 supplement or anything based on these plans?

25 MR. JESICK: That's correct.

1           BZA CHAIR HILL: Okay. All right. Well, I don't  
2 know about you guys in terms of the Board. But I need to  
3 have time to take a look at everything. And so rather than  
4 do this now, I say we go ahead and put this off until we have  
5 an opportunity to take a look. Does the Board concur?

6           MEMBER JOHN: Yes.

7           BZA CHAIR HILL: Okay. So then Mr. Dzierzanoski?

8           MR. DZIERZANOWSKI: Yes.

9           BZA CHAIR HILL: Dzierzanoski, sorry.

10          MR. DZIERZANOWSKI: Sure.

11          BZA CHAIR HILL: It's probably going to be  
12 September.

13          MR. DZIERZANOWSKI: Okay. So may I just ask one  
14 question?

15          BZA CHAIR HILL: Sure.

16          MR. DZIERZANOWSKI: So the filings and additional  
17 information that was submitted today was just additional  
18 documentation that was presented or used in our presentations  
19 with the ANC. The form of relief being sought was  
20 specifically for the relief for the subdivisioning. And in  
21 good faith and also response to the ANC's request, we added  
22 some of the plans and intentions by the owner for the  
23 development to be done by-right following that.

24                 So any of the information, documentation, things  
25 that I'm happy to walk through right now, were just things

1 done in response to the ANC. We literally were receiving  
2 requests on a neighborly agreement up until towards the end  
3 of the day yesterday to agree to by the ANC, who last week  
4 did unanimously vote for the approval. So our reports, any  
5 of the additional drawings or design, it's all based on the  
6 approved -- I'm sorry, the --

7 BZA CHAIR HILL: But you never had any plans  
8 submitted, correct?

9 MR. DZIERZANOWSKI: Correct. Originally, there  
10 weren't plans filed in the initial application because at  
11 that time, we had discussions going on with OP with regards  
12 to any restrictions or items that did become apparent in  
13 their report. And then the plans, elevations, and other  
14 information were just provided -- or submitted to show the  
15 ANC in good faith so they understood what the intentions were  
16 once the relief to the subdivision is granted.

17 So again, the proposal and everything that's  
18 submitted there is just supporting documentation to just  
19 provide some understanding of what the intentions are and to  
20 bind the owner to those intentions. But that design for that  
21 proposal for the rest of it is by right and in accordance  
22 with the OP's report.

23 BZA CHAIR HILL: No, I understand. I mean, the  
24 problem is that we have is if we don't have any plans, we  
25 don't know what we're approving.

1 MR. DZIERZANOWSKI: Okay.

2 BZA CHAIR HILL: And so that's why -- and I don't  
3 really know -- I guess we could hear it. I don't want to  
4 necessarily stick this to September either. But I mean, what  
5 do you guys think?

6 MEMBER JOHN: Mr. Chairman, even before I learned  
7 there were plans submitted this morning, I was not inclined  
8 to hear this case today because I don't know what I'm  
9 approving. I looked at OP's recommendations and if the  
10 representation is accurate and it's a by right project, well,  
11 that's great -- it should sail through pretty easily.

12 MR. DZIERZANOWSKI: Sure.

13 MEMBER JOHN: But right now, we don't have any  
14 drawings showing that we're approving a by right project.  
15 And that would be my hesitation.

16 MR. DZIERZANOWSKI: Okay. So --

17 ZC CHAIR HOOD: I think --

18 MR. DZIERZANOWSKI: I'm sorry.

19 ZC CHAIR HOOD: -- though, Mr. Chairman, for the  
20 efficiency of time, I do see that there is some negotiations  
21 which I actually particularly like. I'm not sure I'll be  
22 here when it comes back, but I do think that I would rather  
23 have it flavored and teed up just right and have everything  
24 in order.

25 I don't like doing stuff willy-nilly. But I'm

1 looking at the report that came in from the ANC, again, that  
2 says about the IZ piece. And I really like that. I don't  
3 know what was negotiated. Those are kind of things that  
4 really make me in tune. So I guess the earliest we could  
5 have it.

6 But I would suggest and strongly encourage and  
7 recommend that we make this is fully cooked before we start  
8 hearing it and start taking bits and pieces of it and then  
9 we get -- because that adds to the issues and problems. And  
10 then you wind up having exacerbated cases as opposed to  
11 something that's confined and fine-tuned and you go along and  
12 move along quickly.

13 I understand you want to get it done today or try  
14 to get through it. But you may be better advised to hold off  
15 because it may go even longer. So those are my two cents --  
16 that's my two cents.

17 MEMBER JOHN: I agree with my fellow Board Member.  
18 I don't have anything to approve in front of me. And as I  
19 looked at the application last night, and I looked at OP's  
20 conditions, if you have a by right project, you have one.  
21 So just present it to us and then we can take a look at it.  
22 It's much better when all the i's are dotted and the t's  
23 crossed. And these applications sail through, as you can see  
24 from sitting here this morning. So that would be my  
25 recommendation to you.

1           BZA CHAIR HILL: Okay. I know what you're trying  
2 to get. I mean, I'm kind of -- I don't know. I would've  
3 been willing to discuss it a little bit further, but I've got  
4 two to one here, so you're outnumbered. So we're going to  
5 go ahead -- and if you want to supplement the record with  
6 anything you need to supplement the record by the time we  
7 meet you again. And we'll go ahead and put you on the first  
8 one in September. And so Mr. Moy, when was that again?

9           MR. MOY: September 11th, sir.

10          BZA CHAIR HILL: Okay. That's right, September  
11 11th. So yeah, I mean, you got -- I don't -- I mean, it's  
12 just that it came in today. I mean, like, even the ANC  
13 report came in today. And so --

14          MR. DZIERZANOWSKI: Right.

15          BZA CHAIR HILL: -- like, we haven't -- it's kind  
16 of like, the problem is -- and even you submitted something  
17 even after 9:00 today. And so -- and I know you just -- but  
18 it puts us at a bad place.

19          MR. DZIERZANOWSKI: Sure.

20          BZA CHAIR HILL: And so, like, we just don't have  
21 enough time to review everything. And I don't like kicking  
22 you into September either, I really don't, but we're off in  
23 August. And so what will that -- I mean, you don't have the  
24 applicant here. And so yeah, I mean, is that -- do you know  
25 what that will do to their project, in terms of September

1 11th?

2 MR. DZIERZANOWSKI: I mean, I think -- well, so  
3 what was initially filed being that it related specifically  
4 to property information was the surveys, property  
5 information, and then all the additional formwork. So since  
6 the relief was just from alley lot frontage, we provided the  
7 relevant documentation that speak to that relief and the  
8 alley lot frontage.

9 Again, the proposals for the design or for the  
10 multi-unit were only further uploaded even after discussions  
11 with OP, just in good faith, so that the ANC and the  
12 community understood --

13 BZA CHAIR HILL: No, I understand. And you're  
14 re-arguing the point.

15 MR. DZIERZANOWSKI: I understand. So --  
16 (Simultaneous speaking.)

17 MR. DZIERZANOWSKI: -- I mean, the two months  
18 obviously would be a delay and they're ready to file for  
19 permit and advance things and try to get this project moving.  
20 We received all of our approvals across the board. So our  
21 thought was that we would be coming here today and then  
22 finalizing this. So September 11th we'll make work and we'll  
23 go from there.

24 BZA CHAIR HILL: Right. I mean, the only reason  
25 why I'm, kind of, trying to figure out how to get this thing

1 -- and I'm totally understanding what the Board Members are  
2 doing. But, like, it seems as though they have figured out  
3 some way to get a couple of IZ units in there. And so as  
4 long as the property -- no, I'm not saying we're going to  
5 hear this today. I'm just trying to figure out whether we  
6 can squeeze another one in before August because then that  
7 would give us time to at least look at it. But then, oh, the  
8 17th. Mr. Moy, you said the 17th would work maybe, right?

9 MR. MOY: 17th of July?

10 BZA CHAIR HILL: July.

11 MR. MOY: Let me check first.

12 BZA CHAIR HILL: Because I think there was an  
13 appeal and then the last person that was here. Did you get  
14 sworn in by the way?

15 MR. DZIERZANOWSKI: I did, yes.

16 BZA CHAIR HILL: Okay. And so if we put it on the  
17 17th, that would give us time to look at everything.

18 MR. MOY: Yeah, this would be our tenth case and  
19 actually Mr. Hood would be here.

20 BZA CHAIR HILL: Oh, really? Oh, perfect. This  
21 is great. It's like dominos.

22 ZC CHAIR HOOD: Oh, great.

23 (Laughter.)

24 BZA CHAIR HILL: All right. So we'll go ahead and  
25 put you back on the 17th.

1 MR. DZIERZANOWSKI: That's appreciated.

2 BZA CHAIR HILL: Okay. And Mr. Moy, is that good?

3 MR. MOY: Yes sir.

4 BZA CHAIR HILL: Okay, great. So we'll put you  
5 on the 17th. And again, if you could really just make sure  
6 that everything we need is in there.

7 MR. DZIERZANOWSKI: At this point, it is.

8 BZA CHAIR HILL: Okay, great. All right.

9 MR. DZIERZANOWSKI: So we'll come back with what  
10 we have submitted.

11 BZA CHAIR HILL: Okay, great. Thank you.

12 MEMBER JOHN: And in your burden of proof, you're  
13 stating that this is a by right project?

14 MR. DZIERZANOWSKI: The intended proposal for the  
15 actual multi-unit, the development, everything conforms to  
16 what is directed to us in OP's report as far as additional  
17 setbacks and building heights. So that moving forward, the  
18 rest of it is by right, correct -- assuming we receive this  
19 relief and can subdivide both properties.

20 MEMBER JOHN: I think I understand, but you just  
21 said earlier it's a by right project and the only reason  
22 you're here is for the frontage relief.

23 MR. DZIERZANOWSKI: Correct.

24 MEMBER JOHN: So your burden of proof should state  
25 that so we don't have any further questions.

1 MR. DZIERZANOWSKI: Correct. And we'll verify all  
2 of that as far as any additional information and everything  
3 has been filed.

4 MEMBER JOHN: Okay. All right. Thank you.

5 MR. DZIERZANOWSKI: No problem.

6 BZA CHAIR HILL: Okay, great. Thank you. We'll  
7 see you --

8 MR. DZIERZANOWSKI: Thank you.

9 BZA CHAIR HILL: -- on the 17th of July.

10 All right. Mr. Moy, if you can call our next case.

11 MR. MOY: Thank you, Mr. Chairman. That would be  
12 Case Application No. 19969 of 515 Jefferson Street Northwest  
13 LLC. This is captioned and advertised under a special  
14 exception under the residential conversion requirements,  
15 Subtitle U, Section 320.2, to convert the existing  
16 semi-detached, principal dwelling unit to a three-unit  
17 apartment house, RF-1 Zone, 515 Jefferson Street, Northwest,  
18 Square 3208, Lot 812.

19 BZA CHAIR HILL: Okay. If you could please  
20 introduce yourselves for the record.

21 MS. STUART: Elizabeth Stuart, Project Designer.

22 MR. CROSS: R. Michael Cross, Architect.

23 BZA CHAIR HILL: Okay. Mr. Cross, are you going  
24 to be presenting to us again?

25 MR. CROSS: I believe Ms. Stuart will --

1 BZA CHAIR HILL: Okay, great.

2 MR. CROSS: -- present to you.

3 BZA CHAIR HILL: Ms. Stuart? All right. So --  
4 okay. I guess if you could just kind of in general walk us  
5 through the project now. I don't have anything specific  
6 actually that I'd like to hear about. We'll see how it goes  
7 kind of as we kind of move through this. I'm going to put  
8 15 minutes on the clock, Mr. Moy, so I know where we are.  
9 And if you could, again, speak to the project, what you're  
10 trying to do, and how you're meeting the criteria for us to  
11 grant the relief requested. And you can begin whenever you  
12 like.

13 MS. STUART: Thank you. We are seeking a  
14 three-unit conversion in the RF-1 Zone per U, Section 320.2.  
15 The project is being proposed at 515 Jefferson Ave, Northwest  
16 which is on the north side of the block between 5th and 7th  
17 Street.

18 The proposed construction is conforming with the  
19 requirements of U, Section 320.2 including parking and the  
20 ten-foot rear addition rule, with one exception. We are  
21 seeking a waiver from the rooftop architectural element  
22 provision. We are seeking this waiver in order to be able  
23 to maintain and extend the existing cornice. You can see  
24 here, specifically on 3D view 2, where the cornice is  
25 extending with the building to maintain that mass.

1           The proposed project provides three family-size  
2 units, three bedroom, three bathroom. It provides off-street  
3 parking for each unit. Two off-street parking are required.  
4 We are providing three. We are maintaining the two-story  
5 mass at the front facade and setting back the third story.  
6 And we are maintaining the side yard to keep this a  
7 semi-detached structure.

8           BZA CHAIR HILL: I mean, and I'm going to just cut  
9 you off because we've read through this record quite  
10 extensively. And the only question I have again is just that  
11 so that one adjacent property, that was prior to obviously  
12 1411?

13           MS. STUART: I believe so, yes.

14           BZA CHAIR HILL: Okay. All right. Does anybody  
15 have any questions for the applicant?

16           MEMBER JOHN: I wasn't clear what was the length  
17 of the addition. And is that question you --

18           BZA CHAIR HILL: No, I didn't ask any questions.

19           MEMBER JOHN: And its relationship to the next  
20 door neighbor.

21           MS. STUART: Sure. The addition will extend ten  
22 feet past the adjoining adjacent neighbor.

23           MEMBER JOHN: And how long is that?

24           MS. STUART: Are you asking for the overall  
25 addition length?

1 MEMBER JOHN: Yeah.

2 MS. STUART: Just estimating based on the existing  
3 number to the left, plus the ten-foot addition, it will be  
4 approximately 53 feet total, adding on to the existing  
5 structure.

6 MEMBER JOHN: So the building would be almost lot  
7 line to lot line except for the rear yard, pretty much? Not  
8 lot line, front to back. I'm trying to get a sense of the  
9 mass and I had difficulty as I was reviewing the application.

10 MS. STUART: Sure. I think actually what we have  
11 up here, Sheet BZA 03 and BZA 04, might help describe that.  
12 On the left, we have the existing mass. And you can see  
13 coming just off the edge of the drawing where the adjacent  
14 mass is. Our new mass will almost be identical to what is  
15 existing at the neighbor. We are just adding on that by  
16 right ten-foot addition on the rear. And maybe in these 3D  
17 views of BZA 2, you can see that adjacent neighbor's mass and  
18 that will be similar to what we are proposing except we are  
19 setting back that third story.

20 ZC CHAIR HOOD: Can you show me on the screen --  
21 I think you have a screen. If you put your -- the one in  
22 front of the gentlemen there. If you can show me on the  
23 screen, circle it. You can circle it like that. Thank you.  
24 That was very helpful. Let me clear that. Okay.

25 MR. CROSS: So the adjacent building that our

1 structure will be similar to is circled there in red. You  
2 can kind of see it as the longer structure divided into three  
3 parts, ours being the one to the left with the red dot on it.

4 ZC CHAIR HOOD: This is the one you're speaking  
5 of, where it had the green?

6 MR. CROSS: That's --

7 ZC CHAIR HOOD: And then yours is the other green  
8 that I have to the lower -- the one not as deep?

9 MR. CROSS: That's right. I guess ours --

10 ZC CHAIR HOOD: Right. That's it. That's it.

11 MR. CROSS: -- is that yellow one. Theirs is the  
12 other green.

13 ZC CHAIR HOOD: All right.

14 MR. CROSS: And I think -- I'm sorry. We have --

15 ZC CHAIR HOOD: That's all right. We can clear  
16 that.

17 MR. CROSS: -- similar technology but different.  
18 The sheet, BZA 04, shows both the existing site plan and  
19 proposed. As Ms. Stuart stated, the proposed plan on BZA 04  
20 shows that we are going ten feet past the adjoining neighbor  
21 which is on the right in the gray porch and has a dimension  
22 of the remaining rear yard there which exceeds the required  
23 rear yard. I believe it is approximately 35 feet -- 33 feet,  
24 one and five-eighths.

25 ZC CHAIR HOOD: Okay. All right. Thank you.

1           BZA CHAIR HILL: Okay. I'm going to turn to the  
2 Office of Planning.

3           MS. THOMAS: Good morning -- good afternoon, Mr.  
4 Chair, Members of the Board. The Office of Planning will  
5 stand on the record of our report. We believe the applicant  
6 has met the criteria for special exception relief. Thank you.

7           BZA CHAIR HILL: Okay. Does anybody have  
8 questions for Office of Planning? Okay. Does the applicant  
9 have any questions for the Office of Planning?

10          MR. CROSS: We do not.

11          BZA CHAIR HILL: Mr. Cross, I'm kind of curious  
12 about this one. So did the owner go out and try to look for  
13 one of these. Like, the -- I mean, I don't know how many of  
14 these are out there. And so I'm always kind of curious as  
15 to -- because again, if you can only -- because of the Zoning  
16 Commission is the people who make the rules over here to the  
17 left. They did, like, ten feet beyond and you can do it by  
18 right. So then you're just here for a special exception for  
19 the conversion. But you can still go all the way back.

20                 I mean, I wonder how many of these are out there.  
21 Like, do you know if your client actually sought this out?  
22 I'm just curious.

23          MR. CROSS: I'm not aware of whether he sought it  
24 out or not. But he did bring it to us to advise him on what  
25 was possible on the site. And we evaluated it as being one

1 that had some unique characteristics.

2 BZA CHAIR HILL: Got it. And I'm just curious,  
3 like, he, she, whoever it is -- so they came to you prior to  
4 purchasing the lot, or they had already purchased the lot?

5 MR. CROSS: I can't be for sure on that. I don't  
6 know.

7 BZA CHAIR HILL: Okay, okay. All right. Anybody  
8 else? Okay. Is there anyone here wishing to speak in  
9 support? Is there anyone here wishing to speak in  
10 opposition? Is there anything else you guys -- Ms. Stuart,  
11 you'd like to add at the end?

12 MS. STUART: No, thank you.

13 BZA CHAIR HILL: Okay. Go ahead and close the  
14 hearing. Is the Board ready to deliberate? I can begin.  
15 I'm going to go ahead and begin. I agree with the Office of  
16 Planning's report. I mean, I think that they meet the  
17 criteria, I think it's a special exception for the  
18 residential conversion.

19 And so I guess I am a little surprised -- or I  
20 shouldn't say surprised -- that they did -- and we didn't  
21 speak to this, but that the ANC was in support of this. But  
22 again, they already have a big thing next to them anyway.  
23 So it's, like -- and the shadow doesn't necessarily change  
24 anything that's happening to the lots anyway. And again,  
25 this is how I believe 1411 came into existence to begin with,

1 because people were going back and filling out their 70  
2 percent, going all the way back.

3 And so I'm just curious as to -- I guess I'm  
4 somewhat curious as to how we haven't seen more of these, I  
5 suppose. You know? And so I mean, now the domino has begun.  
6 And so now I'm waiting for whatever is next door to this guy.  
7 Oh, actually, no, they're not connected. So they got the  
8 alley, right? So yeah.

9 But anyway, so I think they meet the criteria,  
10 whether or not I like this. I mean, again, there's already  
11 one next to it. So I'm going to be voting in approval  
12 because I believe they meet the criteria for us to grant this  
13 special exception. Do you guys got anything else you'd like  
14 to add?

15 MEMBER JOHN: Oh, I forgot. So sadly, I will be  
16 voting for this one because it meets the criteria. But it  
17 is really a long building. And I agree with the Chairman,  
18 I think we're going to see a lot of these. But it meets the  
19 criteria, it's a by right conversion, except for the special  
20 exception. So the Office of Planning has analyzed how it  
21 meets the special exception requirement. And because it does  
22 meet the requirement, then the Board doesn't have much  
23 discretion. So I will support the application.

24 ZC CHAIR HOOD: Actually, I am not in tune to the  
25 regulation. I actually don't even like what we put in place.

1 But that was for me -- and I'll probably say this forever.  
2 For me, that was a concession, a give and take with my  
3 colleagues because I don't like this whole format which you  
4 all have now to go by. So I guess -- do you have a proxy?

5 BZA CHAIR HILL: No. We can get another one. We  
6 can find --

7 ZC CHAIR HOOD: No, no, no, no. I'll go ahead and  
8 move forward. I'll go ahead and move forward on this one  
9 because for what's in place for you all to deal with, I think  
10 it's well covered. Office of Planning's report is well done.  
11 I'm just being honest.

12 BZA CHAIR HILL: Yeah, what are you guys going to  
13 do? I mean, we're having a discussion.

14 ZC CHAIR HOOD: I don't like the -- no, no, no.

15 BZA CHAIR HILL: No, no, I'm saying --

16 ZC CHAIR HOOD: Have you all turned any down?  
17 That's what I want to know.

18 BZA CHAIR HILL: We can't.

19 ZC CHAIR HOOD: Okay. I don't believe that  
20 either. But anyway, all right. Just -- I'm sorry, I don't  
21 believe that. I don't believe that. We need to continue to  
22 look at that which we will do. But I don't think I'm going  
23 to -- I would not -- definitely would not punish this  
24 particular applicant. So anyway, you can call for the motion.

25 BZA CHAIR HILL: Okay. All right. So I'm going

1 to call for a motion to approve Application No. 19969 as  
2 captioned and read by the Secretary and ask for a second.

3 MEMBER JOHN: Second.

4 BZA CHAIR HILL: Motion made and seconded. All  
5 those in favor, say aye.

6 (Chorus of aye.)

7 BZA CHAIR HILL: All those opposed? Motion  
8 passes, Mr. Moy.

9 MR. MOY: Staff would record the vote as 3 to 0  
10 to 2. This is on the motion of Chairman Hill to approve the  
11 application for the relief. Seconding the motion, Ms. John.  
12 Also in support, Zoning Commissioner Anthony Hood. No other  
13 board members present.

14 BZA CHAIR HILL: All right. The motion passed,  
15 Mr. Moy. Thank you all very much.

16 MR. CROSS: Thank you.

17 (Pause.)

18 ZC CHAIR HOOD: Has the hearing been adjourned?

19 BZA CHAIR HILL: Mr. Moy, does the Board have  
20 anything else in front of it today?

21 MR. MOY: Not from the staff, sir.

22 BZA CHAIR HILL: All right. We stand adjourned.  
23 Thank you.

24 (Whereupon, the above-entitled matter went off the  
25 record at 12:31 p.m.)

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: 06-12-19

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

**NEAL R. GROSS**

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