

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

MARCH 11, 2020

+ + + + +

The Regular Public Hearing convened in the
Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441
4th Street, N.W., Washington, D.C., 20001, pursuant to notice
at 9:50 a.m., Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
LORNA JOHN, Board Member
CARLTON HART, Board Member (NCPC)

ZONING COMMISSION MEMBER PRESENT:

ANTHONY HOOD, Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALEXANDRA CAIN, ESQ.
DANIEL BASSETT, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

BRANDICE ELLIOT
ANNE FOTHERGILL
MATTHEW JESICK
STEPHEN J. MORDFIN
MAXINE BROWN-ROBERTS

The transcript constitutes the minutes from the
Public Hearing held on March 10, 2020.

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

9:53 a.m.

MR. MOY: So we are in the hearing session and the first case that -- we can have parties to the table -- to Case Application Number 20206 of Tim Purdy, P-U-R-D-Y. And it's amended for special exceptions under Subtitle E, Section 5201, lot occupancy requirements, Subtitle E, Section 304.1, and from the rear yard requirements of Subtitle E, Section 306.1 to construct a rear deck addition to an existing attached principal dwelling unit. This is in the RF-1 Zone at 627 Orleans, O-R-L-E-A-N-S Place, Northeast, Square 855, Lot 367.

BZA CHAIR HILL: Good morning, everyone. If you would please introduce yourselves from my right to left.

MR. ECKENWILER: Mark Eckenwiler, Vice Chair, ANC-6C, on behalf of the ANC.

BZA CHAIR HILL: You need to push the button.

MR. PURDY: Tim Purdy, I'm the requestor.

MR. MORLES: Carlos Morles. I'm the contractor.

BZA CHAIR HILL: Can you spell your last name for me, sir?

MR. MORLES: M-O-R-L-E-S.

BZA CHAIR HILL: Okay. All right.

So, Mr. Purdy, I assume you're going to be presenting to us?

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1 MR. PURDY: I will be.

2 BZA CHAIR HILL: Okay. So, I guess, Mr. Purdy,
3 there's a couple of things that we kind of have to straighten
4 up, I suppose.

5 First of all, you had a waiver from the 21-day
6 pre-hearing deadline. Is that correct?

7 MR. PURDY: That's correct.

8 BZA CHAIR HILL: And so why is it that you -- why
9 do you need the waiver?

10 MR. PURDY: A number of the -- quite a bit of the
11 paperwork that I had that was presented, the DCRA folks got
12 back with me and there was a lot of back and forth in terms
13 of what was actually necessary on the documents so they were
14 updated. And, they were updated up until like -- you have
15 Akira and Matthew are your folks and they were very helpful
16 in terms of exactly making sure that the statutes and
17 everything else on it, on the documents that were presented
18 were accurate.

19 BZA CHAIR HILL: Okay. So you have revised plans,
20 is that correct?

21 MR. PURDY: That's correct.

22 BZA CHAIR HILL: Okay. And when did you submit the
23 revised plans?

24 MR. PURDY: I don't have the actual list in front
25 of me in terms of the timeline.

1 BZA CHAIR HILL: Okay.

2 ZC CHAIR HOOD: Mr. Chairman --

3 BZA CHAIR HILL: Yes.

4 ZC CHAIR HOOD: I just, Akira and Matthew, are they
5 in the Office of Zoning or are they in the Zoning
6 Administrator's office? You mentioned our folks. I'm trying
7 to figure out --

8 MR. PURDY: Yeah --

9 ZC CHAIR HOOD: I think you're probably talking
10 about Zoning but this is an independent agency.

11 MR. PURDY: Okay.

12 ZC CHAIR HOOD: I just wanted to clear that up for
13 the record because a lot of people get that confused.

14 MR. PURDY: Okay, thank you.

15 BZA CHAIR HILL: Okay. So that's one thing and
16 then -- there's also it looks as though the ANC is here and
17 hasn't had a chance to take a look at your most revised
18 plans. And they were in opposition to, I guess, the first
19 set of plans.

20 Mr. Eckenwiler, can you or -- Commissioner
21 Eckenwiler, can you explain what you guys' position is right
22 now?

23 MR. ECKENWILER: Based on the plans that we
24 reviewed on February 12th, which was at the time an
25 application for a variance for roughly 89 percent lot

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1 occupancy, we voted in opposition. We have not met since
2 then. So, as you say, we have not had an opportunity to
3 review the revised application.

4 BZA CHAIR HILL: Mr. Purdy, did you provide an
5 updated self-cert or a Zoning Administrator memo reflecting
6 the design changes and the updated relief?

7 MR. PURDY: That's correct.

8 BZA CHAIR HILL: You did or did not?

9 MR. PURDY: I believe it's in the record, sir.

10 MS. CAIN: So there are self-certifications at
11 Exhibit 57 and 58. We were informed by the Office of Zoning
12 that there's an issue with the architect's license number on
13 those. But there are self-certifications in the record
14 indicating that it's not special exception relief.

15 BZA CHAIR HILL: So, tell me again. What did you
16 say about the architect's license, I'm sorry?

17 MS. CAIN: We were informed by the office of Zoning
18 that there was an issue with the architect's license number
19 not matching with the listed agent on the form. And I
20 believe that they, the Office of Zoning had reached back out
21 to the Applicant about that issue. I don't know at this time
22 whether that has been fully resolved.

23 BZA CHAIR HILL: Okay, Mr. Purdy, are you aware of
24 this one?

25 MR. PURDY: Yes, I am.

1 BZA CHAIR HILL: Okay. And are you going to be
2 able to resolve that?

3 MR. PURDY: Yes.

4 BZA CHAIR HILL: Okay. All right.

5 MR. PURDY: If I can, the original request was --
6 it was for three things. It was a variance. The variance
7 was to -- the lot size was -- I was trying to maximize the
8 lot size. A long story short, I wanted -- I have a porch
9 that is rotting. It's falling down. A set of stairs, the
10 same thing. I have a fence around it and I wanted to replace
11 that. It's a liability to me and to my neighbors. So,
12 again, I got my contractor and I wanted to maximize that.
13 We went through the original permit process and I found out
14 through this year and two month mess that -- that a variance
15 would be required and two special exemptions.

16 Having gone through the ANC process I will not do
17 that again. I'd rather pay somebody to do that. It was
18 awful. And so I removed the -- we altered the plans a number
19 of times to make sure that it fit only -- the requirements
20 were only a special exemption so that it was under 70
21 percent, which -- a 15 x 30 porch turned into a 15 x 15
22 porch. I can eat that. And so that's the final plan that
23 is inside the system. And it only requires, per the folks
24 in the Zoning Administration, a special exemption and then
25 that's sort of where we're at.

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1 BZA CHAIR HILL: Okay. Thanks, Mr. Purdy.

2 So, then --

3 MR. PURDY: The parking exemption request that was
4 in there, I didn't even know what that was. I didn't know
5 that I was asking for a request not to have parking. That's
6 ridiculous. That's exactly what I wanted that spot for. So,
7 that was immediately removed from the request, the variance
8 for the 100 percent or to maximize the lot was removed. And
9 then I guess the request for E304 and E306 are all that I'm
10 asking for today.

11 BZA CHAIR HILL: Okay. Commissioner Eckenwiler,
12 so you guys had heard this already as a variance and special
13 exceptions or no?

14 MR. ECKENWILER: In its original form as it was
15 filed on February 12th -- so, as Mr. Purdy says, there was
16 the primary form of relief sought, the variance for lot
17 occupancy in excess of 70 percent. And then in addition
18 there was the rear yard special exception and also the
19 parking special exception.

20 The parking special exception appears to have been
21 removed here and the variance has now evolved into a special
22 exception request under E5201.

23 BZA CHAIR HILL: Okay. And so you are still of the
24 case -- or the ANC still seems to be of the case that you
25 think you guys want to take another look at the revised

1 plans?

2 MR. ECKENWILER: All I'll say, Mr. Chairman, is we
3 have not reviewed this application in its present form and
4 it's substantially different from what we reviewed last
5 month.

6 BZA CHAIR HILL: Okay. Does the Board have any
7 thoughts or questions?

8 ZC CHAIR HOOD: Mr. Chairman, I would be in
9 support. And I'm sorry Mr. Purdy thought that process was
10 difficult. It may be difficult sometimes because of the
11 questions, and I don't know either side. But I do know that
12 this ANC is very knowledgeable when it comes to zoning and
13 hopefully what you're asking for -- I don't think it is a
14 major ask. I think it could be worked out, so it would be
15 nice to have the ANC support. And also I think we -- from
16 my standpoint, I think we owe the ANC, who are our community
17 folks at the front, an opportunity to be able to look at it.
18 I think if you go back and do it again, I think you'll find
19 that experience a little different from what I've heard.

20 Once we get the personalities down, we look at
21 what's being asked for. I think that this would move along
22 just fine in working with this ANC. The ANC is very
23 knowledgeable. They're very helpful, actually, from my years
24 of experience, and I'm not taking sides. I'm just saying
25 that that is part of the process to give great weight to our

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1 elected front-line leaders. So, Mr. Chairman, I'm in favor
2 of giving Mr. Eckenwiler and the ANC another opportunity to
3 look at this ask with the changes -- I think that we owe them
4 that. That's just the due diligence. That's what I'm
5 thinking.

6 MEMBER HART: I know that variance requests are
7 very difficult. And I appreciate the ANC looking at this
8 very carefully. I think that it is moving from a variance
9 request which is a much more stringent request from the BZA
10 or I guess a request for relief from the BZA -- from the
11 zoning regulations than a special exception is. I don't know
12 where the ANC is going to be with that. They may take a
13 different tack on it because of the change from a variance
14 to a special exception. And the Applicant would -- may
15 benefit from the, you know, having a second meeting or
16 however many meetings it's been, having another chance at
17 this because of the issue with it being a full order versus
18 a summary order. And so I just think that it may be helpful
19 to have that discussion and it would benefit us to have the
20 ANC have voted on something that is actually before us as
21 opposed to something that was previously under consideration
22 but, you know, has changed since then.

23 MEMBER JOHN: Mr. Chairman, I would support giving
24 the opportunity to the ANC to take a look at the revised
25 drawing but I would just note that this is a straightforward

1 application for a special exception for a 15 foot deck. So
2 it's the type of application I could see myself supporting.
3 But I think -- I would agree that the ANC should look at it
4 again.

5 BZA CHAIR HILL: Okay. Can I just hear from the
6 Office of Planning as to what their report states at this
7 point?

8 MR. JESICK: Good morning, Mr. Chairman and Members
9 of the Board. My name is Matt Jesick.

10 The Office of Planning reviewed the revised plans
11 against the standards of 5201 and found that the application
12 met the standards. We're happy to recommend approval and I
13 can answer any questions.

14 Thank you.

15 BZA CHAIR HILL: Did you see the previous
16 application?

17 MR. JESICK: We did, yes.

18 BZA CHAIR HILL: And the previous application --
19 did you guys -- I couldn't see whether there was a report on
20 that one or not.

21 MR. JESICK: We did not write a report on the 89
22 percent lot occupancy application. We submitted a
23 preliminary report which stated that our understanding was
24 the Applicant wanted to pursue a special exception, 70
25 percent lot occupancy, but as of that date those plans were

1 not yet in the record. Once those plans were submitted to
2 the record we filed our supplemental report, which went to
3 the full analysis.

4 BZA CHAIR HILL: Okay. All right. So, OAG, I'm
5 just trying to understand. So, if we postponed this again
6 to allow the ANC to take a look at the revised plans they
7 will need a 21-day filing requirement, right? The waiver
8 now.

9 MS. CAIN: No, they would not.

10 BZA CHAIR HILL: Okay. So, Mr. Purdy, I guess,
11 you know, it seems as though to us it could possibly be a
12 much more straightforward case than you had originally gone
13 before the ANC. If you want to send your, I guess, your
14 contractor there rather than yourself if you want to. I
15 don't know, you know, whatever you think you need to do in
16 order to go ahead and present on March 11th. Is that when
17 you're going to be back there?

18 MR. ECKENWILER: Well, we meet this evening, Mr.
19 Chairman, but our zoning committee has already met for the
20 month and our attempt for this evening is already pretty
21 full. So my anticipation would be we would take this up in
22 April and not tonight.

23 BZA CHAIR HILL: Okay. So, April what?

24 MR. ECKENWILER: We typically meet on the second
25 Wednesday. I'm not sure. Sometimes that varies because of

1 religious holidays and the like. But I think the second
2 Wednesday is April 8th.

3 BZA CHAIR HILL: Okay. So, Commissioner, you can
4 get them on the April agenda?

5 MR. ECKENWILER: Yes, we can absolutely review this
6 the first Wednesday in the committee and then whenever the
7 ANC meeting is the following week. So, early April, yes.

8 BZA CHAIR HILL: Okay. All right. So, Mr. Purdy,
9 I guess that's where we are. So, go ahead and enter
10 something, you know, I guess the Board is moving this way and
11 it's understandable. And as Chairman Hood just mentioned,
12 you know, this ANC actually does seem to know quite a bit
13 about the zoning regulations. Therefore, the special
14 exception might not be as difficult as you getting a
15 variance. Then if you actually did get an approval, if you
16 did, you know, I don't know then you wouldn't have to get a
17 full order, which is different than a summary order. I don't
18 know if you know the difference between those, do you?

19 Okay. So, a full order takes anywhere up to like,
20 you know, God, 10 -- I hate to say it. It takes a long time.
21 And a summary order does not take very long. So, therefore,
22 if you have a summary order you will be able to start working
23 on it much faster than if you had a full order. And in order
24 for us to do a full order, if the ANC or the Office of
25 Planning is opposed, then we have to write a full order. So

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1 just to let you know that's kind of where you are now, so
2 even if we were to move forward with this today and you were
3 somehow able to get, you know, the Board's approval, you
4 would still be in a one-year situation in terms of the
5 permit. So, it's at least worth giving you a chance to go
6 back in front of the ANC.

7 All right. So, then, Mr. Moy, if we do this ANC
8 meeting on the 12th when can we get Mr. Purdy back with us?
9 I'm sorry, the 8th, thank you.

10 MR. MOY: If I understood the ANC Commissioner, if
11 it's the second Wednesday in April, that's Passover so I'm
12 assuming the ANC may meet the following week which would be
13 the 15th. So, the Board can schedule this for a decision
14 either the -- decision meeting either the 22nd or the 29th
15 of April. Commissioner Hood is back with the Board on the
16 29th.

17 BZA CHAIR HILL: Okay. Well, I'm just saying well
18 that's the fastest we can get it, right, the 15th. I don't
19 have a calendar. We can do it the 22nd then. Okay. All
20 right. So, we can do that.

21 Now, hold on. So, I mean, Mr. Moy, it's got to
22 be a continued hearing because we haven't really gone through
23 the hearing yet. So go ahead and put it on the hearing
24 agenda. We'll do it first as, you know, we can. And then
25 just remind me to put it first on the 22nd. Okay?

1 MR. MOY: First case on April 22nd.

2 BZA CHAIR HILL: Okay. All right. Okay. Thank
3 you, gentlemen. Good luck to both of you.

4 MR. PURDY: Thank you.

5 BZA CHAIR HILL: All right. Mr. Moy, whenever you
6 like.

7 MR. MOY: Thank you, Mr. Chairman. If we could
8 have parties to the table to Application Number 20215 of Matt
9 Cutler. This application is captioned and advertised for
10 special exception under Subparagraph E, Section 5201, from
11 the rear yard requirements of Subtitle E, Section 306.1 and
12 pursuant to Subtitle X, Chapter 10 for an area variance from
13 the lot occupancy requirements, Subtitle E, Section 304.1,
14 to construct a new rear deck access stair for an existing
15 apartment house, RF-1 Zone at 1249 South Carolina Avenue,
16 Southeast, Square 1017N, Lot 3.

17 BZA CHAIR HILL: Okay. Could the parties please
18 come to the table.

19 Good morning. Could you please state your names
20 for the record?

21 MR. CHU: Frank Chu, I'm with Landis
22 Architects/Builders. I'm here as an agent for Matt Cutler
23 who is the property owner.

24 MR. CUTLER: I'm Matt Cutler, the property owner.

25 BZA CHAIR HILL: Great, thank you.

1 All right, Mr. Chu, if you'd go ahead and walk us
2 through the application. If you could speak a little bit
3 more to the first and second prong of the variance test in
4 terms of your application. And I'm going to put 15 minutes
5 on the clock, Mr. Moy, so I know where we are, and you can
6 begin whenever you like.

7 MR. CHU: First and second prongs as far as the
8 variance is I think the subject property is -- it's a through
9 lot which is I think of note because there is South Carolina
10 Avenue on the front and there's C Street on the back. There
11 are four apartments currently, two down, two up and there's
12 an existing two-story porch on the back.

13 There used to be a stair there that allowed the
14 two upper units to access the backyard. It's no longer there
15 and we are looking to replace that. Is there more? I'm just
16 trying to, I guess, describe the work.

17 BZA CHAIR HILL: That's all right. Okay. What
18 else do you want to tell us?

19 MR. CHU: Most of the access is from C Street
20 regarding trash, parking and stuff of that sort. There is
21 a side yard to this property. It is not owned by this
22 property. It is owned by the neighbor so the actual property
23 line is at the face of the house. So the only access would
24 be pretty much out the front and around the block.

25 MEMBER HART: Could you also talk about the -- just

1 the issue of lot occupancy issue. You're going to a variance
2 because you have a very small --

3 MR. CHU: Correct.

4 MEMBER HART: -- access that you're talking about.

5 MR. CHU: Correct.

6 MEMBER HART: I think what the Chairman is also
7 asking is, there are things that are going on with this lot
8 that you may not have with other lots that are -- if you had
9 a lot -- well, that are going with this lot, if you could
10 actually talk about that a little bit more. You know, what
11 is the lot occupancy now --

12 MR. CHU: Sure.

13 MEMBER HART: You know, this is putting you, how
14 much are you adding that gives you over what is allowed under
15 zoning.

16 MR. CHU: The existing --

17 MEMBER HART: That's available.

18 MR. CHU: I'm sorry. The existing building is
19 already over the lot coverage. So, anything we add to it,
20 we had submitted this for a permit as part of a larger
21 project and this is why we're here. So we're adding the
22 stair which would increase the lot coverage by a couple
23 percent. It's very, very small. So, that's what we're
24 seeking relief for.

25 MEMBER HART: And this is for life safety?

1 MR. CHU: It's not required by code for egress.
2 However, it's basically for access. It is the only way
3 actually to access the rear yard from the two second floor
4 apartments.

5 MEMBER HART: Thank you.

6 BZA CHAIR HILL: All right. Does the Board have
7 any questions for the Applicant? I'm going to turn to the
8 Office of Planning.

9 MS. FOTHERGILL: Good morning. I'm Anne
10 Fothergill for the Office of Planning.

11 And the Office of Planning rests on the record in
12 support of the application for both variance and special
13 exception relief. And we find it meets the three-prong
14 criteria of the variance test and I'm happy to take any
15 questions.

16 BZA CHAIR HILL: Can you walk us through the
17 variance a just a little bit?

18 MS. FOTHERGILL: Sure. So, as the Applicant's
19 architect stated, it is a through lot. It is lot line to --
20 the building is built lot line to lot line so there's no
21 access along the sides. So, my understanding is they're
22 converting the second floor to one apartment. It's two
23 currently. So, that one apartment cannot access the rear
24 yard or the street behind the property. They can't take
25 their trash out. They can't access the back street for

1 parking without going out the front doors and all the way
2 around which is an exceptional condition of this property.

3 There is as he mentioned the side yard but that's
4 on the adjacent property. It's not -- they don't have access
5 to that side yard. And the way it is configured, there is
6 no way to access the rear from that second floor apartment
7 through the interior. They go out the front door. So that
8 is an exceptional condition that meets that first prong.

9 The second prong, as the Applicant mentioned, is
10 previously there were stairs there. Some other properties
11 on the square which had a similar condition have similar
12 stairs. It wouldn't be detrimental to the public good to
13 have this access to the rear of the property and to C Street.

14 Residents of the buildings across C Street who
15 face the rear of this property have filed letters in support
16 so the second prong seems to be -- to have been met.

17 And then the third prong, providing access to the
18 rear yard from the second floor apartment, which is a
19 permitted use in the zone, wouldn't result in a building that
20 is inconsistent in the form or bulk with the intent of the
21 zone and wouldn't be harmful to the zoning regulations. So,
22 we have found through these three prongs that it meets the
23 variance test.

24 BZA CHAIR HILL: Okay, thank you.

25 Does the Board have any questions for the Office

1 of Planning? Does the Applicant have any questions for the
2 Office of Planning? Is there anyone here wishes to speak in
3 support? Is there anyone here wishes to speak in opposition?

4 Mr. Chu, is there anything you'd like to add at
5 the end?

6 MR. CHU: No. I thank you for having us, and we
7 are just seeking relief for the reasons stated.

8 BZA CHAIR HILL: Actually, I do have a side
9 question. I mean, so are you -- the Office of Planning, you
10 had recommended that they add C202 and was that added?

11 MS. FOTHERGILL: We did not state that in our
12 report. But maybe that was an OAG recommendation.

13 BZA CHAIR HILL: Okay. I don't know. OAG, do you
14 know if --

15 MS. CAIN: So, that was -- it did come from OAG.
16 I don't know if the Applicant had any discussions with the
17 ZA about it since this was a ZA memo, not a self-
18 certification. But based on our reading of the code and what
19 they're enlarging, in terms of the rear yard nonconformity
20 and the lot occupancy nonconformity, we thought it might be
21 something worth considering just to, you know, be on the safe
22 side.

23 BZA CHAIR HILL: Mr. Chu, do you understand what
24 we're talking about?

25 MR. CHU: I do not.

1 BZA CHAIR HILL: So C202 is an expansion of a
2 nonconformity and so I believe that, you know, out of an
3 abundance of caution that's something that you might want to
4 add to your relief requested. Is that something you'd like
5 to add to your relief requested?

6 MR. CHU: Yes.

7 BZA CHAIR HILL: And is the Office of Planning in
8 agreement to that?

9 MS. FOTHERGILL: Yes.

10 MR. CUTLER: Mr. Chairman -- and I don't want to
11 take up time so if I shouldn't that's fine. But I don't
12 actually know what a C202 is.

13 BZA CHAIR HILL: You have a nonconformity and
14 you're trying to expand it. So, in order for you to expand
15 it, you have to ask for relief from C202.

16 MR. CUTLER: Got it.

17 BZA CHAIR HILL: And so sometimes people don't ask
18 for it, sometimes people do, and then sometimes the Office
19 of Planning or OAG suggests that you do that as an abundance
20 of caution. So, basically -- yes. All right.

21 All right. Did I ask for support? I did. Did
22 I ask for opposition? I did.

23 Mr. Chu, if there's nothing else you'd like to add
24 at the end, we're going to close the hearing.

25 Is the Board ready to deliberate? Okay.

1 I didn't have any issues with the application.
2 They had met with the Office of Planning and I would agree
3 with the analysis that was put forward by the Office of
4 Planning. They also went through ANC 6B and also ANC 6B had
5 no issues or concerns with this application. I believe that
6 they are meeting the standards for us to grant the
7 application and I will be voting in favor. Is there anything
8 else anyone would like to add?

9 MEMBER HART: No, I would agree with you, Mr.
10 Chairman. I think it was helpful to understand that this is
11 not necessarily a building code or life safety issue that
12 we're talking about but it is one about kind of improving the
13 means of egress into and out of the building, out of the rear
14 of the building. And I would agree with the Office of
15 Planning in terms of the relief requested as you noted and
16 I would also be in support of the Subtitle C202 as well. I
17 think that, you know, this is a nonconforming structure.
18 This is really just the stair that we're talking about, so
19 I think that's a fairly minimal request that we're talking
20 about, and I would be in support.

21 BZA CHAIR HILL: Okay. I'm going to make a motion
22 to approve Application Number 20215 of Matt Cutler pursuant
23 to 11 DCMR Subtitle X, Chapter 9 for a special exception
24 under Subtitle E, 5201 from the rear yard requirements of
25 Subtitle E306.1 and pursuant to Subtitle X, Chapter 10 for

1 an area variance from the lot occupancy requirements of
2 Subtitle E304.1, including C202, to construct a new rear deck
3 access stair for an existing apartment house in the RF-1 Zone
4 and premises at 1229 South Carolina Avenue, Southeast, Square
5 1017N, Lot 3 and ask for a second.

6 MEMBER HART: Second.

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

9 (Chorus of ayes)

10 BZA CHAIR HILL: All those opposed? The motion
11 passes. Mr. Moy?

12 MR. MOY: The staff would record the vote as four
13 to zero to one, and this is on the motion of Chairman Hill
14 to approve the application for the relief requested as well
15 as the amendment to add Subtitle C, Section 202.

16 Seconding the motion is Vice Chair Hart. Also in
17 support, Ms. John and Zoning Commissioner Anthony Hood. No
18 other members present.

19 BZA CHAIR HILL: Thank you, Mr. Moy. Thank you,
20 gentlemen.

21 MR. CHU: Thank you.

22 BZA CHAIR HILL: All right, Mr. Moy, whenever you
23 like.

24 MR. MOY: The next application is Number 20220,
25 Paul and Marilyn Pearlstein as amended for special exception

1 under Subtitle D, Section 5201 from the minimum side yard
2 requirements of Subtitle D, Section 507.1, accessory building
3 side yard requirements, Subtitle D, Section 5005.1,
4 nonconforming structure requirements of Subtitle C, Section
5 20202 to construct a rear addition on the existing detached
6 principal dwelling unit, R-8 Zone at 2928 Ellicott Street,
7 Northwest, Square 2270, Lot 8.

8 BZA CHAIR HILL: Okay, great, thank you.

9 If you could please, when you get a moment,
10 introduce yourselves for the record.

11 MR. MAUDLIN: My name is David Maudlin. I'm the
12 architect for the project.

13 BZA CHAIR HILL: Can you spell your last name for
14 me, sir?

15 MR. MAUDLIN: M-A-U-D-L-I-N as in Nancy.

16 BZA CHAIR HILL: Okay. Great, thank you.

17 MR. SULLIVAN: Marty Sullivan from Sullivan &
18 Barros on behalf of the Applicant.

19 BZA CHAIR HILL: Okay, great. All right, Mr.
20 Sullivan. Let's see.

21 So, we're going to go ahead and let you kind of
22 walk through this. I don't know again as in the previous one
23 whether you had requested relief from C202 and so I'll let
24 you kind of speak to that as well.

25 I'm going to put 15 minutes on the clock and you

1 can begin whenever you like.

2 MR. SULLIVAN: Thank you. We are requesting relief
3 from C202. We did not at first. So I believe we did have
4 a motion to waive the filing period on that. And that was
5 for the extension.

6 It wasn't clear to us that we were extending the
7 nonconformity, but I think after Office of Planning raised
8 the issue I agree with them that we probably do need that
9 relief so we included that.

10 I think the best to go over the overview, this is
11 the best diagram to start with and it shows --

12 MEMBER HART: North is?

13 MR. SULLIVAN: North is --

14 MEMBER HART: To the bottom.

15 MR. SULLIVAN: -- north on this.

16 MEMBER HART: The top --

17 MR. SULLIVAN: It is top. The top, yes.

18 MEMBER HART: Sorry, it's --

19 MR. SULLIVAN: It's accurate, yes. And so you see
20 the area of the one-story addition. It's just the one story.
21 We're actually providing an eight-foot side yard for the
22 addition itself. But there's two things at play here.

23 First of all, in this zone, R-8, there's a side
24 yard requirement that the side yard be a total of 24 feet
25 between the two side yards. And so we don't have that to

1 begin with. We were starting with seven feet on one side and
2 twelve feet on the other. So, we were short of the 24 feet
3 to begin with.

4 The accessory building that you see on the left
5 side there already exists. It did not exist in the side yard
6 because it was behind the building. But now it does. And
7 so as a result, we need relief both for side yard of the
8 accessory building -- and now it's part of the side yard, and
9 so the side yard has been reduced effectively, the total side
10 yard because, it's eight feet on one side and it's just two
11 feet on the other.

12 MEMBER HART: Mr. Sullivan, what is the dotted
13 line, the gray dotted line that's here do you know?

14 MR. MAUDLIN: Those are the required side
15 yard/rear yard setbacks. So that dotted line would be the
16 eight-foot line from that side of the lot.

17 MEMBER HART: And what's the -- I thought Mr.
18 Sullivan said there was 24 --

19 MR. MAUDLIN: That wouldn't be accurate for this.

20 MEMBER HART: Okay.

21 MR. MAUDLIN: It would be 24 feet total.

22 MEMBER HART: I just wanted to make sure that I was
23 not having to look at that. I appreciate the insert and I
24 understand it. I just wanted to understand it in this
25 context. But you can proceed, Mr. Sullivan.

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1 MR. SULLIVAN: So the next most helpful diagram for
2 this is not -- I apologize, it's not in the PowerPoint. But
3 it is Exhibit 2 in the record. And it shows a map, which
4 shows the relationship of this addition to the neighboring
5 properties. And I think the Board would find that helpful
6 too as we go through this. It's page 1 of Exhibit 2. And
7 you see there's no house or any -- no property nearby that
8 has a house that's close to the addition itself.

9 So again we're asking for three areas of relief,
10 from the side yard requirement itself, from the accessory
11 building side yard, which is a separate requirement, and for
12 extending the nonconformity of the side yard requirement.

13 I think I've explained these issues. I'll go into
14 the variance test. If you have any questions about the plans
15 themselves, the architect is here to answer those.

16 Here's an elevation showing the addition. This
17 is from the rear here and you can see the proposed addition
18 on the right. So we believe we meet this general special
19 exception requirement. It's a small one-story addition not
20 changing the use of the building and this won't be visible
21 from the front street.

22 Light and air, we do not believe it would unduly
23 affect anybody. It's only one story. It's still eight feet
24 off the side yard and there's no house within 50 feet of the
25 addition itself.

1 The accessory building is already existing and
2 that also does not impact neighboring properties. No impact
3 on privacy. There are some windows but it doesn't really --
4 it doesn't invade anybody's privacy unduly. There are a few
5 small windows on the east side, but there are windows on that
6 side of the building anyway. So that doesn't really alter
7 the privacy situation.

8 Not altering the front facade and not visible from
9 the front street. And the total lot occupancy after this is
10 only 30 percent as well.

11 And as you may see in the file, we have an email
12 from ANC 3F acknowledging that they did vote but we don't
13 have the actual letter. So I understand we don't, at this
14 point, have the ability to give great weight to the ANC, but
15 I think that at least shows what they did.

16 MEMBER HART: They filed.

17 MR. SULLIVAN: They did file, okay.

18 MEMBER HART: Looks like.

19 MR. SULLIVAN: Wonderful. Well, that's just an
20 email saying that they --

21 MEMBER HART: No, it's the report itself.

22 MR. SULLIVAN: Wonderful.

23 MEMBER HART: Exhibit 33.

24 MR. SULLIVAN: Great. Thank you. That's all we
25 have if there's any questions.

1 BZA CHAIR HILL: Does the Board have any questions
2 for the Applicant?

3 Okay. I'm going to turn to the Office of
4 Planning.

5 MS. ELLIOTT: Thank you, Mr. Chairman. I'm
6 Brandice Elliott representing the Office of Planning.

7 The Office of Planning is recommending approval
8 of the relief that's been requested for the side yard and
9 then the accessory building side yard, as well as for C202.2.
10 I'll stand on the record of our report but I'm happy to take
11 any questions you have. Thanks.

12 BZA CHAIR HILL: All right. Does anyone have any
13 questions for the Office of Planning? Does the Applicant
14 have any questions for the Office of Planning?

15 MR. SULLIVAN: No, thank you.

16 BZA CHAIR HILL: Is there anyone here wishing to
17 speak in support? Is there anyone here wishing to speak in
18 opposition?

19 Mr. Sullivan, do you have anything to add at the
20 end?

21 MR. SULLIVAN: No, thank you.

22 BZA CHAIR HILL: Okay. I'll close the hearing.

23 Is the Board ready to deliberate? Okay.

24 I can start. I didn't have any particular issues
25 with the application. I thought that the Applicant's burden

1 of proof has been met in terms of how they're meeting the
2 standard for us to grant the application. And I also do
3 believe that the Office of Planning's analysis is accurate
4 and I would agree with their analysis. In addition to that,
5 we don't have anything from ANC 3F in terms of their issues
6 or concerns. No, I'm sorry. They have an approved -- they
7 voted to approve the application as well as DDOT had no
8 objection. So I don't have any issues with the application
9 and I would also be voting in favor.

10 Is there anything anyone would like to add?

11 I'm going to make a motion to approve Application
12 Number 20222 of Paul and Marilyn Pearlstein pursuant to 11
13 DCMR Subtitle X, Chapter 9 for a special exception under
14 Subtitle D 5201 from the minimum side yard requirements of
15 Subtitle D50 507.1 and the accessory building side yard
16 requirements of Subtitle D5005.1 as well as C202.2 to
17 construct a rear addition on the existing detached principal
18 dwelling unit in the R-8 Zone of premises 2928 Ellicott
19 Street, Northwest, Square 2270, Lot 8 and ask for a second.

20 MEMBER JOHN: Second.

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

23 (Chorus of ayes)

24 BZA CHAIR HILL: All those opposed? Motion passes.

25 Mr. Moy?

1 MR. MOY: Staff would record the vote as four to
2 zero to one and this is on the motion of Chairman Hill to
3 approve the application for the relief requested. Second
4 motion is Ms. John. Also in support, Vice Chair Hart and
5 Zoning Commissioner Anthony Hood. No other members present.

6 BZA CHAIR HILL: All right, thank you, Mr. Moy.
7 Thank you gentlemen.

8 MR. SULLIVAN: Thank you.

9 MR. MOY: All right. I see the parties have
10 already run to the table, and this is Application Number
11 20222 of Jack Spicer Properties, LLC, as amended for special
12 exception under Subtitle C, Section 703.2 from the minimum
13 parking requirements, Subtitle C, Section 701.5, and pursuant
14 to 11 DCMR, Subtitle X, Chapter 10 for an area variance from
15 the lot dimension requirements of Subtitle D, Section 302.1
16 to subdivide the existing record lot into two separate lots
17 of record, and to internally divide the existing detached
18 principal dwelling unit into two separate semi-detached
19 principal dwelling units, R-2 Zone at 5104 to 5106 Jay, J-A-
20 Y, Street, Northeast, Square 5176, Lot 369.

21 BZA CHAIR HILL: Great. Thank you, Mr. Moy.

22 If you would please introduce yourselves for the
23 record.

24 MR. SULLIVAN: Marty Sullivan on behalf of the
25 Applicant.

1 MS. DAVIS: Lovie Davis, Realtor with Taylor
2 Properties.

3 BZA CHAIR HILL: Okay. Mr. Sullivan, I assume
4 you're going to walk this through with us.

5 MR. SULLIVAN: Yes.

6 BZA CHAIR HILL: I guess if you can go ahead and,
7 you know, walk through the presentation, tell us how you're
8 meeting the requirements and the standards for us to grant
9 the relief requested. In addition to that, there was, I
10 guess, a TDM plan that DDOT wanted and I don't think we have
11 that yet. And you can kind of speak to that as you're going
12 through the application.

13 Mr. Moy, if you could put 15 minutes on the clock
14 so I know where we are, and you can begin whenever you like.

15 MR. SULLIVAN: Thank you, Mr. Chair and Members of
16 the Board.

17 This is 5104-5106 Jay Street, Northeast.

18 The work on this was permitted and mostly
19 complete. When they applied for a C of O it was determined
20 that it was a single record lot and it could not be two
21 units. Again, to start off with a diagram, this gives the
22 best explanation of the situation of the property.

23 Everything around it is semi-detached. This was
24 a semi-detached up until the '60s. Somebody converted it to
25 a single and consolidated the two lots -- the record lots

1 that existed then. So, essentially, the request now is to
2 put it back to its original configuration. And to do that
3 we do need relief from the minimum lot width and the area.

4 In addition to that, this was the situation before
5 it was renovated. Because there is a parking space there and
6 the garage is going away and, of course, we cannot park in
7 front of the building, I thought that there was going to be
8 a parking space in the back. I was told later in the game
9 that that was difficult to do because of the grading in the
10 back. And then the Office of Planning agreed to support, as
11 well as the ANC, parking relief, because even though the
12 building was built before 1958 and parking is not required,
13 the Zoning Administrator has determined that if you have a
14 parking space in a building that was built before 1958 you
15 can't remove it if it would satisfy the requirement. So
16 we're not supposed to be able to remove that. So we need
17 that parking relief as well.

18 Some of these photos show you the situation and
19 illustrate for you the map that I showed, semi-detached
20 throughout. The specific relief being requested is from the
21 minimum lot area and I have here what the size is.

22 The original property had 5758 square feet and a
23 lot width of 45. The minimum lot width is 3000 for each lot.
24 So we're slightly under the minimum lot area required and a
25 little more under the lot width required. And the special

1 exception is for the parking. That's the plan, if you have
2 any questions about that. I'll go through the area variance
3 relief.

4 The exceptional condition is the size of the lot
5 and the history of the lot as it's double the size of every
6 other lot on the block and square. The proposed record lots
7 are based on the original record lots and will closely match
8 the size of lots on this block. So I think the exceptional
9 condition is rather obvious from the diagram, due to the size
10 of the lots. Practical difficulties -- without the relief,
11 the lot could not be subdivided and the house would remain
12 as-is, and the existing building would be marketed as a much
13 higher price and a much larger house, double the size of all
14 the other houses in this neighborhood. And we believe that
15 even with the exterior updates and the interior renovation,
16 such a home would be out of character with the neighborhood
17 in the R-2 Zone and would be more difficult to sell at the
18 higher price and also would house one less family.

19 There's no addition proposed with this. It was
20 just an interior renovation. And regarding the parking
21 relief due to the physical constraints of the property, the
22 grading issues, the parking space cannot be provided and
23 there's no parking available within 600 feet of the property
24 as well.

25 Regarding the TDM, I recall a correspondence that

1 noted that DDOT wasn't requesting a TDM on this one. I'll
2 check the report on that but I know I had an email from them,
3 I think, on that. Maybe the Office of Planning has some
4 information on that as well.

5 BZA CHAIR HILL: It wasn't DDOT, right? It's
6 within the regulations?

7 MS. CAIN: It's within the regulations, and I
8 believe the Applicant's supplemental statement had indicated
9 they were in coordination with DDOT. Now, it may be that
10 DDOT responded back saying that one wouldn't be required, but
11 I think we would need documentation of that decision from
12 DDOT in the record.

13 BZA CHAIR HILL: OAG, where is it again in the
14 regulations?

15 MS. CAIN: It's pursuant to C703.4.

16 BZA CHAIR HILL: So Mr. Sullivan, you're aware of
17 this, right?

18 MR. SULLIVAN: Yes. I'm looking at the -- I'm
19 looking at the DDOT report to see if they have addressed it
20 there.

21 BZA CHAIR HILL: See whether or not they say
22 anything that they don't need the TDM plan and/or can you
23 just give us the TDM plan?

24 MR. SULLIVAN: Sure. Yes, we can --

25 BZA CHAIR HILL: Okay. So, let me -- let me get

1 to the Office of Planning here.

2 So, can I turn to the Office of Planning?

3 MS. BROWN-ROBERTS: Yes, Mr. Chairman. Oh.

4 BZA CHAIR HILL: Would you give us your report.

5 MS. BROWN-ROBERTS: I'm sorry.

6 BZA CHAIR HILL: That's all right.

7 MS. BROWN-ROBERTS: I'm sorry. I thought you were
8 going to ask me a question. I'm sorry.

9 Good morning, Mr. Chairman and Members of the BZA.
10 Maxine Brown-Roberts from the Office of Planning.

11 Let's see. The Office of Planning recommends
12 approval of the special -- the variance, I'm sorry, to the
13 lot area and the lot width as outlined in our report. And
14 we think that -- or we agree that they have met the
15 exceptional situation resulting in a practical difficulty in
16 that the existing house, the existing building were two semi-
17 detached buildings on individual lots similar to those within
18 the surrounding areas when they were built in 1994.

19 At the time, I think they were conforming lots,
20 but the zoning requirements have changed both in the 1958 and
21 the 2016 zoning regulations making them existing non-
22 conforming use structures.

23 The request to revert the subject to the original
24 state of two lots, and each with a duplex, is similar to the
25 surrounding lots and the practical difficulty would be in

1 meeting to this requirement as there is no additional land
2 to make the lots larger.

3 There's no substantial detriment to the public
4 good in that the proposed lots would be similar to those in
5 that square. Also, the development of the semi-detached
6 units would also be consistent with the other -- with the
7 other lots and, therefore, would not be a detriment to the
8 character in the surrounding development. There's no
9 substantial harm to the zoning regulations as semi-detached
10 units are permitted in the R-2 Zone. There would be no
11 external additions proposed and there would only be interior
12 updates and, therefore, they would be more consistent with
13 the semi-detached street frontage.

14 As part of this, we were also asked that -- which
15 is not a part of the original submission, is that they needed
16 the parking requirement -- that they needed parking special
17 exception and under section C703.2 I think that they need
18 the item A which is due to the physical constraints of the
19 property. They do have an alley but to get to do a parking,
20 to do parking spaces would be a constraint due to the
21 topography in the rear of the property.

22 Based on that the Office of Planning is
23 recommending approval. However, we also added two conditions
24 which are similar to what was added in the DDOT report, in
25 that the Applicant must close and remove the existing curb

1 cuts and driveway within the public area and also restore the
2 grading.

3 We think that doing that would make the property
4 even more similar to other buildings along the street
5 frontage, and so that is something that we have recommended
6 to the Applicant and had recommended that they show us plans
7 which depicted the area reverting back to its original state.

8 BZA CHAIR HILL: Did you get those plans?

9 MS. BROWN-ROBERTS: No, Mr. Chairman.

10 BZA CHAIR HILL: Okay. Well, from what we have
11 kind of talked about with OAG -- or it seems as though that
12 that, the public space issue with driveway and then the
13 grading and also the grading, I guess, OAG, you're saying
14 that is not necessarily within our purview.

15 MS. CAIN: I think it might have been the way that
16 DDOT phrased it. They had referred to it as a public parking
17 area. If it's the grading on the side of the property that
18 would be something that the Board could include as a
19 condition, but closing the curb cut and the driveway within
20 public space would not be.

21 BZA CHAIR HILL: Okay. So, OP is understanding
22 what the recommendations are from OAG, and you're still
23 comfortable moving forward with the recommendation knowing
24 that the Applicant has agreed to it?

25 MS. BROWN-ROBERTS: Yes, Mr. Chairman.

1 BZA CHAIR HILL: All right. So, Mr. Sullivan, you
2 don't have plans showing exactly what you guys are doing?

3 MR. SULLIVAN: Regarding the curb cut?

4 BZA CHAIR HILL: Yes.

5 MR. SULLIVAN: No, we don't. The curb cut revision
6 plans are not completed. They're working on that.

7 BZA CHAIR HILL: Okay. What about the grading?

8 MR. SULLIVAN: Yeah. They're working on responding
9 to that as well, yes.

10 BZA CHAIR HILL: That's also -- so I'm just trying
11 to understand. Are the plans changing in any way and if you
12 can show me where --

13 MR. SULLIVAN: Regarding the building, no. The
14 plans are not changing.

15 BZA CHAIR HILL: Is the building done?

16 MR. SULLIVAN: The building is done.

17 BZA CHAIR HILL: Okay.

18 MEMBER HART: So, does that mean that your -- what
19 we're seeing in this image is what this actually --

20 MR. SULLIVAN: Correct.

21 MEMBER HART: What it is actually -- is looks like?

22 MR. SULLIVAN: Yes.

23 MEMBER HART: There isn't an image that shows what
24 the front of it looks like or just has the parking space
25 that's there?

1 MR. SULLIVAN: There is -- well, there's the photo
2 of the starting point.

3 MEMBER HART: But what we're seeing right now is
4 this will stay --

5 MR. SULLIVAN: No, yeah, I don't have a photo of
6 the existing.

7 MEMBER HART: Yeah. Yeah, of the existing of what
8 this will look like.

9 MR. SULLIVAN: Of the existing right now.

10 MEMBER HART: Of the existing, what this will look
11 from --

12 MR. SULLIVAN: No, I don't. No.

13 MEMBER HART: Because I think that would at least
14 be helpful to understand. But it is -- currently what we
15 have is a set of -- what you've built is a set of stairs that
16 are on the kind of whatever, the left-hand side of the --the
17 right-hand side of the building and then they kind of turn
18 to a deck or something that's on the front of the building.
19 The one image that you have that shows what's existing there
20 now with the orange door. That actually shows a deck on the
21 next door. You can see that deck here.

22 MR. SULLIVAN: Right.

23 MEMBER HART: That's new, and this door is also
24 new?

25 MR. SULLIVAN: Right.

1 MEMBER HART: Yeah, I think it would helpful to
2 actually have that -- have a drawing that shows that what OP
3 is actually asking for. Currently, we have -- I think this
4 is what we -- what you see on this image is probably what we
5 would -- is what we have now for the drawings showing the
6 deck and then showing the area that's to the, I guess, right
7 underneath the deck would be where the old parking space is.

8 BZA CHAIR HILL: I guess my thought is, if it's not
9 really within our purview, then why do you need to see the
10 drawing?

11 MEMBER HART: Because the drawings are what is
12 actually being -- yeah, approved and actually being built and
13 currently what we -- if we approve this then, while the
14 Applicant says that they can change this, this is what you
15 see here is what they would be -- they could, I guess stay
16 with, because we wouldn't be giving a condition for the rest
17 of the stuff that OP has requested.

18 BZA CHAIR HILL: Mr. Sullivan, you were going to
19 say something?

20 MR. SULLIVAN: Just that we're -- there's no --
21 regarding the building itself, we're not asking for relief
22 for any of the structure, just for the lot area.

23 MEMBER HART: So, what's the timing on the
24 drawings? How soon could we get them? Are we talking weeks,
25 months?

1 MR. SULLIVAN: No, the last update I got was by the
2 end of the week.

3 MEMBER HART: Because, I mean, we could -- we could
4 put it for decision on the, you know, next week and then get
5 the drawing and then have it set for that. We could also
6 decide today and then tell them they have to, you know,
7 submit a drawing by Friday? I'm just saying it's a little
8 messier because, you know, we wouldn't have the drawings.

9 BZA CHAIR HILL: I got you. I'm just trying to
10 see what we got going on next week. What do we have going
11 on next -- there's those two -- are there two appeals next
12 week?

13 MR. MOY: Mr. Chairman, next week we have -- yeah,
14 that's the one. That's the hearing date with two -- two
15 appeals.

16 BZA CHAIR HILL: All right. So, Mr. Sullivan,
17 we're going to go ahead and put you on for decision next
18 week. So why don't you go ahead and get the drawings to us,
19 and then also go ahead and put a TDM plan into the record.

20 MR. SULLIVAN: Okay, so on that, I have an email
21 from DDOT saying that they're not requiring one so to be in
22 compliance with that can I submit that email -- I mean, we
23 would submit one but we --

24 BZA CHAIR HILL: I thought -- this is the weird
25 thing about this regulation --

1 MR. SULLIVAN: -- would submit one in response --

2 BZA CHAIR HILL: -- that I also don't get. Like
3 I mean like I've had different answers, you know. And so,
4 you know, can they have --

5 MS. CAIN: I think if there's a email from DDOT
6 saying one is not required, that's sufficient to address the
7 regulation.

8 BZA CHAIR HILL: Okay. Where is that in the
9 record?

10 MR. SULLIVAN: It's not in the record yet.

11 BZA CHAIR HILL: Oh, okay, great. So you'll put
12 that in the record. Okay, great, fine. So go ahead and add
13 that into the record and, OAG, if you can remind us of these
14 two things during the deliberation portion of your report
15 that we did get the TDM plan email as well as the revised
16 drawings, or the drawings, I should say.

17 Is there anyone here wishing to speak in support?
18 Is there anyone here wishing to speak in opposition? Mr.
19 Sullivan, is there anything you'd like to add at the end?

20 MR. SULLIVAN: No, thank you.

21 BZA CHAIR HILL: Okay. Then we'll go ahead. I'm
22 going to close the hearing except for those two items that
23 we've asked for from the Applicant. And we'll put this on
24 for decision next week.

25 Mr. Moy, do you need to let the Applicant know

1 when they should have this stuff in?

2 MR. MOY: If the Applicant can make their filing
3 by this Friday, the 13th, if possible? Perfect.

4 BZA CHAIR HILL: Okay, great. All right. Thank
5 you, Mr. Moy. Thank you all very much.

6 BZA CHAIR HILL: All right, Mr. Moy, you can call
7 the last one.

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

9 So that would be Case Application Number 20228 of
10 Vincent Hurteau, H-U-R-T-E-A-U, captioned and advertised for
11 a special exception under Subtitle D, Section 5201 from the
12 lot occupancy requirements of Subtitle D, Section 304.1, and
13 under Subtitle C, Section 1504, from the penthouse setback
14 requirements of Subtitle C, Section 1502.1B and C to
15 construct a second story rear deck addition and to use
16 existing roof space on the third story as a roof deck on an
17 existing attached principal dwelling unit, R-3 Zone. This
18 is at 2548 Massachusetts Avenue, Northwest, Square 2500, Lot
19 57.

20 BZA CHAIR HILL: Okay, great. If you would please
21 introduce yourselves for the record.

22 MR. SULLIVAN: Thank you, Marty Sullivan on behalf
23 of the Applicant.

24 MR. HURTEAU: Vincent Hurteau.

25 BZA CHAIR HILL: Would you spell the last name for

1 me, sir?

2 MR. HURTEAU: H-U-R-T-E-A-U.

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

4 All right, Mr. Sullivan, I presume you'll be
5 presenting to us.

6 MR. SULLIVAN: Yes.

7 BZA CHAIR HILL: If you could kind of walk us
8 through your client's plans and how you are meeting the
9 standard for us to grant the relief requested. Also, I
10 suppose if you can kind of talk a little bit about the access
11 to the property and whether they need to go through the
12 neighbor's property to access the garage, as well as speaking
13 to, I guess, the HPRB railing issue that was brought up and
14 kind of just a little bit of clarification on that. And then
15 also the deck is there, like, any -- will it affect the
16 neighbor in some capacity? I wasn't able to kind of see how
17 that affects the neighbor. It might adversely affect the
18 neighbor, as whether or not they need, like, some screening
19 or plants or something.

20 So those are the issues that I had. Did the Board
21 have any other specific ones other than that?

22 All right. Then Mr. Moy, would you put 15 minutes
23 up on the clock and Mr. Sullivan, you can begin whenever you
24 like.

25 MR. SULLIVAN: Thank you, Mr. Chair.

1 The rendering on the cover sheet shows the two
2 areas where the work is being done. One is the deck and the
3 greenhouse. The other is the railing that goes on top of the
4 parapet, and the railing is a building code requirement that
5 will allow him to use that as a walk-out roof deck.

6 Here's a photo of the existing conditions. You'll
7 see the area where the deck would be there to the left of the
8 white drain pipe coming down the middle of the building.

9 It's a single family row dwelling, four story, on
10 Massachusetts Avenue in the R-3 Zone. Proposing to construct
11 an 18-inch railing on top of the existing parapet wall. And
12 the addition of the deck will increase the lot occupancy from
13 56 percent to 66 percent so it will require special exception
14 relief for that.

15 Regarding the parapet, there's a partial parapet
16 wall so the railing only needs to go up an additional 18
17 inches to meet the 42-inch requirement for building code.
18 The Applicant did have discussions with HPO staff that noted
19 it would be preferred to not to disturb the existing parapet,
20 and that the railing would be a better option even though it
21 is in the rear of the property and they probably wouldn't
22 necessarily have a requirement one way or the other. But
23 that was the preferred option for HPO to not disturb that
24 since it is in the historic district.

25 The elevated deck area has a footprint of about

1 190 square feet, and it increases the lot occupancy about 10
2 percent.

3 Here is the plan showing -- a site plan showing
4 the deck and there's the roof deck.

5 Regarding the general special exception
6 requirements, not proposing to change use of the building,
7 and it won't be visible from the street or alley. So the
8 light and air available, we think it's clear it doesn't
9 affect anybody's light and air.

10 Regarding the privacy, I don't think it changes
11 the situation unless there are windows in that area. Now
12 windows facing out on that way and I believe although the
13 neighbors -- the neighbor is not in opposition to it,
14 although I don't know that they filed anything. But Mr.
15 Hurteau can talk about that.

16 MR. HURTEAU: Yeah, I went before the ANC and got
17 their approval as well. And it's a more expensive option
18 that I did. In the parapet roof above the third floor, what
19 we're doing is we're removing the attic space there, which
20 costs more. Originally the architect said it would be
21 cheaper just to have a railing or a beam put across the
22 parapet wall and build a deck above that. And that would be
23 much more visually daunting for my neighbors. Instead, I'm
24 choosing to take out the attic space under that and so that
25 way the parapet wall itself can act as much wall as possible,

1 and then just to make it the minimum requirements for
2 railing, add a small rail above that.

3 Oh, the neighbor to the right of me has not had
4 any opposition. We've informed them of this and we've had
5 our sign up for quite a while announcing this hearing. The
6 property on the other side is owned by a religious
7 institution and is abandoned.

8 MR. SULLIVAN: Also, nothing being done to the
9 front facade, of course, and not increasing the height of the
10 building, the addition will not be visible from Mass Ave.

11 Regarding your question about the access, I wasn't
12 clear on that but Mr. Hurteau can respond to that. I
13 didn't --

14 MR. HURTEAU: Behind our house is a private alley.
15 And it uses a right-of-way. So the end house has, as our
16 property does in the back -- the backs of our properties are
17 private right-of-ways so people further in can access to
18 their properties. So there's an easement through their
19 property and through the back of my property for them to
20 access. This will not affect any of that, what we're doing.
21 And the availability of parking on our grounds remains the
22 same, and access to the garage remains available.

23 MEMBER HART: And this is, you have -- Mr.
24 Sullivan, can you talk a little bit about what's going on
25 with HPRB again? I think you said something about it, but

1 I --

2 MR. HURTEAU: I sent Steve Callcott an email and
3 I basically showed him what the diagrams that you're seeing
4 and said this is what I'd like to do, and do I need to make
5 any special session with the HPRB, and he said everything
6 looks fine as it is and sent me the email to confirm that.

7 It's basically, it's because the alley behind is
8 not a public alley, it's not visible from the street and if
9 you stand from the public alley about 20 feet from our
10 property and look up, you might be able to see the upper
11 railing.

12 MEMBER HART: And the deck itself?

13 MR. HURTEAU: The deck itself -- if you stand in
14 the very end from the alley 20 feet from our property, then
15 you could probably see the deck if you're standing at the end
16 of -- at the very end of the opening from the public alley.

17 MEMBER HART: Okay. And there's no issue with
18 attaching this deck onto the existing -- is the building
19 itself -- the building is in a historic district. Is the
20 building itself have any historic designation?

21 MR. HURTEAU: None.

22 MEMBER HART: And it's just the -- it's just the
23 overlay that's the district that you're in?

24 MR. HURTEAU: That's right. The, I believe,
25 Sheridan-Kalorama Historic District, I think.

1 MEMBER HART: And what's the -- am I looking --
2 this image, are these metal? I'm not sure what the material
3 is.

4 MR. HURTEAU: Yes, it's a metal railing and the
5 post, we were probably going to use a steel post. We can use
6 wood if that's preferred, but we were looking at possibly
7 using a metal post for that.

8 MEMBER HART: So, the members here, this would be
9 metal, this would be metal. The decking is metal or wood?
10 What's the framing of it?

11 MR. HURTEAU: The framing would be, we were
12 planning to use metal. We can use wood on that and then
13 using a Trex-like surface that basically is only visible from
14 our house and the house next door. So for the flooring
15 surface we were going to put a Trex-like surface.

16 MEMBER HART: It's more of just a question. The
17 drawings don't actually show what these members are so I was
18 more curious as to what they were.

19 MR. HURTEAU: Oh, sure, sure.

20 MR. SULLIVAN: And HPO will have to sign off on the
21 permit application as well still.

22 MEMBER HART: So is HPO -- is that pending? It
23 sounded like that was finished.

24 MR. SULLIVAN: Well, they've given advice that
25 they're okay with this, but when a permit application is

1 filed there's a trigger for the Historic to review it and say
2 whether or not it's okay or whether or not it needs to go to
3 HPRB. So, they do have to sign off on it.

4 MEMBER HART: Sure. And have any other of the
5 buildings -- I'm assuming there's buildings that are -- it
6 looks like there are buildings that are very similar.

7 MR. HURTEAU: It's part of a row of seven houses.

8 MEMBER HART: And so have any of the others done
9 this?

10 MR. HURTEAU: Yes.

11 MEMBER HART: And are they doing exactly this or
12 are they doing something that's similar?

13 MR. HURTEAU: We're actually copying 2552, what
14 they did on theirs. And they didn't go to BZA because there
15 was a deck there before. They just redid the existing deck
16 and ours is going to look similar. The main difference is
17 we're adding a greenhouse for half of the space. But it's
18 set back enough that it cannot be seen from any public space,
19 the greenhouse itself.

20 MEMBER HART: And 52 is to the west of it?

21 MR. HURTEAU: To the west.

22 MEMBER HART: Okay. Thanks.

23 MEMBER JOHN: I had a question concerning the
24 neighbor on this side. Can you clarify for me, is that the
25 neighbor that -- this one. What's the impact on that

1 neighbor?

2 MR. HURTEAU: Oh, if you're looking from the rear
3 to the right they will be able to see our deck and they will
4 be able to -- it will be within their view of their back
5 portion of their house.

6 MEMBER JOHN: And this is the neighbor that has no
7 objection?

8 MR. HURTEAU: Yes.

9 MEMBER JOHN: To your knowledge?

10 MR. HURTEAU: To our knowledge. I only want to say
11 so much, but that property was bought by a private
12 corporation and people who work there have high security
13 clearances, and they pretty much didn't want to become
14 involved.

15 BZA CHAIR HILL: Okay. Any other questions? All
16 right. Turn to the Office of Planning.

17 MR. MORDFIN: Good morning. I'm Stephen Mordfin
18 and the Office of Planning is support of this application,
19 both for the lot occupancy, which will increase as a result
20 of the deck, this deck, similar to another one that's already
21 on -- not an adjacent property, I think it's two down, and
22 so -- do you want me to go through the criteria?

23 We're also in support of the penthouse relief.
24 I did also discuss it with Historic Preservation and they
25 felt that due to the height and the minimal amount of

1 railing, which is 18 inches, and the distance it is from any
2 public alley, because the alley that runs behind this row of
3 houses if private, that you probably would not be able to see
4 it from any public way. And so they informed me that that's
5 why they didn't have any issues with that.

6 And the Office of Planning supports both the types
7 of relief that are requested in this application.

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

9 Does the Board have any questions of the Office
10 of Planning? Does the Applicant have any questions for the
11 Office of Planning?

12 MR. SULLIVAN: No, thank you.

13 BZA CHAIR HILL: Is there anyone here wishing to
14 speak in support? Is there anyone here wishing to speak in
15 opposition?

16 Mr. Sullivan, is there anything you'd like to add
17 at the end?

18 MR. SULLIVAN: No, thank you.

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

21 I would agree with the argument that the Applicant
22 has put forward in terms of how they're meeting the criteria
23 for us to grant the relief requested. I would also agree
24 with the analysis that was provided by the Office of Planning
25 as well as the report from the ANC in support with no issues

1 or concerns. And I'll be voting in favor of the application.

2 Is there anything anyone would like to add?

3 I'm going to go ahead and make a motion to approve
4 Application Number 20228 as captioned and read by the
5 Secretary and ask for a second.

6 ZC CHAIR HOOD: Second.

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

9 (Chorus of ayes)

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

12 MR. MOY: Staff would record the vote as four to
13 zero to one, and this is on the motion of Chairman Hill to
14 approve the application for the relief requested. Seconding
15 the motion is Zoning Commissioner Anthony Hood. Also in
16 support is Ms. John and Vice Chair Hart. No other members
17 present.

18 BZA CHAIR HILL: All right, great. Thank you, Mr.
19 Moy. Thank you gentlemen.

20 Mr. Moy, is there anything else before the Board
21 today?

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

23 BZA CHAIR HILL: We stand adjourned, thank you.

24 (Whereupon, the above proceeding was concluded at
25 11:10 a.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: 03-11-20

Place: Washington, DC

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my direction; further, that said transcript is a
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