

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

+ + + + +

WEDNESDAY

JULY 15, 2020

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Video Teleconference, pursuant to notice at 10:50 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

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

ZONING COMMISSION MEMBER PRESENT:

ANTHONY HOOD, Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS
MATT JESICK
BRANDICE ELLIOTT
ANNE FOTHERGILL
CRYSTAL MYERS

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

DANIEL BASSETT, ESQ.
JACOB RITTING, ESQ.

The transcript constitutes the minutes from
the Regular Public Hearing held on July 15, 2020.

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

2 10:48 a.m.

3 CHAIRPERSON HILL: Let me just read into the
4 hearing session and then we'll take a break. The hearing
5 will please come to order. Good morning, ladies and
6 gentlemen. We're convened and broadcasting this public
7 hearing by video conference. This is the July 15 public
8 hearing of the Board of Zoning Adjustment of District of
9 Columbia.

10 My name is Fred Hill, chairperson. Joining me
11 today is Carlton Hart, vice chair, Lorna John, board member,
12 and representing the Zoning Commission is Chairman Anthony
13 Hood.

14 Today's hearing agenda is available to you on the
15 Office of Zoning website. Please be advised this proceeding
16 is being recorded by a court reporter. It is also webcast
17 live via WebEx and YouTube Live. The video will be available
18 on the Office of Zoning website after the hearing.
19 Accordingly, everyone who is listening on the WebEx or by
20 telephone will be muted during the hearing and only persons
21 who have signed up to participate or testify will be unmuted
22 at the appropriate time.

23 Please state your name and home address before
24 providing any oral testimony or your presentation. Oral
25 presentations should be limited to a summary of your most

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1 important points. When you are finished speaking please mute
2 your audio so that your microphone is no longer picking up
3 sound and background noise.

4 If you have any issues with getting access there
5 is a hotline that you can call. It's on your screen there
6 to the top left corner. However, I will read it and repeat
7 it. The hotline number is 202-727-5471. Once again, 202-
8 727-5471.

9 All persons planning testimony either in favor or
10 in opposition must have signed up in advance and will be
11 called by name at the time of sign-up. All participants
12 complete the oath or affirmation as required by Subtitle Y
13 408.7.

14 If you wish to file written testimony or
15 additional supporting documents at the time of the hearing
16 then be prepared to describe and discuss it at the time of
17 your testimony.

18 The order of procedures for special exception and
19 variances are in Subtitle Y 409. The order of appeals are
20 in Subtitle Y 507.

21 At the conclusion of each case an individual who
22 is unable to testify because of technical issues may file a
23 request for leave to file a written version of the planned
24 testimony to the record within 24 hours. If additional
25 written testimony is accepted then parties will be allowed

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1 a reasonable time to respond. The board will then make its
2 decision at its next meeting, but no earlier than 48 hours
3 after the hearing.

4 The board's agenda may include previous cases set
5 for decision. After the board adjourns the hearing the
6 Office of Zoning in consultation with myself will determine
7 whether a full or summary order may be issued. A full order
8 is required when the decision it contains is adverse to a
9 party including an affected ANC. A full order may also be
10 needed if the board's decision differs from the Office of
11 Planning's recommendation.

12 Although the board favors to use summary orders
13 whenever possible an applicant may not request the board to
14 issue such an order.

15 The District of Columbia Administrative Procedures
16 Act requires that the public hearing on each case be held
17 before the public pursuant to 405(b) and 406 of that act.
18 However, the board may consistent with its rules and
19 procedures enter into a closed meeting of a case for purposes
20 of seeking legal counsel on a case pursuant to DC Official
21 Code Section 2-575(b)(4) and deliberating on a case pursuant
22 to DC Official Code Section 2-575(b)(13) but only after
23 providing the necessary public notice in the case of an
24 emergency closed meeting after taking a roll call vote.

25 Preliminary matters are whether a case should or

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1 will be heard today. And Mr. Secretary, since you are there,
2 do we have any preliminary matters for our hearing?

3 MR. MOY: Nothing from me to announce at this
4 point. Staff would suggest that it's more prudent to call
5 those when I call the application, Mr. Chairman.

6 CHAIRPERSON HILL: Okay. It's 10:50. You guys,
7 how about like 11 o'clock? All right. We'll see you all at
8 11. Thank you.

9 (Whereupon, the above-entitled matter went off the
10 record at 10:52 a.m. and resumed at 11:07 a.m.)

11 CHAIRPERSON HILL: All right, Mr. Moy, you can go
12 ahead and please call our first case.

13 MR. MOY: Thank you, Mr. Chairman. The board is
14 back in session after a very quick break and the time is at
15 or about 11:05.

16 This application will be the first preliminary
17 matter before the board. This is application number 20238
18 of James Silk as amended for special exception under Subtitle
19 G Section 1200, from the side yard requirements Subtitle G
20 Section 1104.1, alley centerline setback requirements
21 Subtitle G Section 1105.1, and pursuant to 11 DCMR Subtitle
22 X Chapter 10, for area variance from the minimum alley width
23 requirements Subtitle C Section 303.3(a), to construct a
24 second story addition to an existing semi-attached principal
25 dwelling unit, MU-26 Zone at premises 0203 Rear 3rd Street

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1 SE (Square 0762, Lot 0823).

2 The preliminary matter, Mr. Chairman, is that
3 there is a motion to respond or continue from the party
4 status Brian Wise. That's under exhibit 59.

5 CHAIRPERSON HILL: Okay, great. Mr. Young, could
6 you allow the parties in, please? Whoever is joining us, if
7 you just want to hover over the screen and then press the
8 left -- there you go. We've got one. Mr. Silk. Mr. Wise,
9 are you there?

10 MR. WISE: I'm here. Can you hear me?

11 CHAIRPERSON HILL: Yes, we can hear you. You're
12 choosing not to use video which is fine. I just want to make
13 sure.

14 MR. WISE: Yes, forgive me. I'm not in a
15 condition that I can use video.

16 CHAIRPERSON HILL: Okay, sounds good. All right.
17 Let's see. And Mr. Dzierzanowski?

18 MR. DZIERZANOWSKI: Can you hear me?

19 CHAIRPERSON HILL: Okay, yes. Mr. Dzierzanowski,
20 since you're -- you've got your microphone unmuted now, why
21 don't you just introduce yourself first.

22 MR. DZIERZANOWSKI: Sure. My name's Mateusz
23 Dzierzanowski. I'm with DZ Architecture and we are here on
24 behalf of the owner and client James Silk who's also on the
25 hearing call today.

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1 CHAIRPERSON HILL: Okay, great. If you could go
2 ahead and mute your line. Mr. Silk, could you introduce
3 yourself, please?

4 MR. SILK: Yes. Is this my opening statement,
5 Mateusz?

6 CHAIRPERSON HILL: No. We're just doing
7 introductions right now.

8 MR. SILK: All right. James Silk, the owner of
9 the property. Thank you guys for having us.

10 CHAIRPERSON HILL: Okay, great. Mr. Wise, could
11 you please introduce yourself?

12 MR. WISE: Sure. Brian Wise, party in opposition.
13 Adjacent property owner.

14 CHAIRPERSON HILL: Okay, great. Is that
15 Commissioner Holman?

16 MR. HOLMAN: Yes, sir. Corey Holman representing
17 ANC 6B.

18 CHAIRPERSON HILL: Okay, great. So Mr. Wise, I've
19 read your request for postponement. Could you please again
20 just go over the reasoning again for the postponement?

21 MR. WISE: Sure. I was just granted party status
22 last week at the BZA hearing and we need time. I'm in the
23 process of retaining counsel and reviewing the record to
24 develop our case.

25 It's a fairly complex issue dealing with this

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1 alley lot and I am -- I've laid out a number of the reasons
2 for that. I just simply -- including the fact that yesterday
3 a number of substantially new pieces of evidence were entered
4 into the record and I have not had a chance to review them.
5 And I would ask the board to give me adequate time to review
6 them and respond to them. Because again, they were just
7 entered into the record yesterday.

8 CHAIRPERSON HILL: Okay. Mr. Wise, you cite that
9 you're under COVID, or that your family is going through
10 COVID now?

11 MR. WISE: Yes. My family has had COVID and I'm
12 still dealing with severe complications from it.

13 CHAIRPERSON HILL: Okay. All right. So what I'm
14 going to propose, you guys, and I'll let my board members
15 here. I mean, you know, we -- the advanced party status, Mr.
16 Wise, is something that I can't remember -- there was
17 something about the dates and everything and how it all kind
18 of went down that you actually were able to get advanced
19 party status which basically just helps so that you know
20 ahead of time.

21 However, oftentimes people don't know whether they
22 get party status or not until the day of the hearing because
23 oftentimes people are given that opportunity the actual day
24 of the hearing.

25 So I think that -- but really we have postponed

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1 hearings due to people's illnesses. And I think that in this
2 case I would be able to get behind a postponement for a short
3 postponement so that we can see how you would have an
4 opportunity to recover.

5 Also then you would have had an opportunity to
6 retain counsel being that you do share a property line with
7 the applicant.

8 But Mr. Hart, I know that there are things that
9 are going to come into concern with your timing soon as well
10 as we're coming up against our summer break. So what I would
11 propose is to go ahead and -- and I will let Mr. Wise
12 respond, but I'm just telling you kind of where I am right
13 now with this. And also we can let the board members -- I
14 guess, Mr. Wise, I'll give you an opportunity to respond as
15 well.

16 But my proposal would be to go ahead and hear this
17 on the 29th which would give you two weeks. And then we
18 would still have the fifth to be able to deliberate and
19 decide before the August summer break. So that's kind of
20 what I would propose.

21 Mr. Silk, did you have anything in response?

22 MR. SILK: I think I'll defer to Mateusz.

23 CHAIRPERSON HILL: Okay.

24 MR. DZIERZANOWSKI: Yes. I mean, obviously we
25 want to take direction from the board. We don't want to make

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1 this situation I think more combative than it has been. I
2 think that the case obviously has its approvals and merits
3 and other things that we're happy to discuss further. But
4 given that you're willing to work with a quick turnaround we
5 would be willing to comply to that.

6 CHAIRPERSON HILL: Commissioner Holman, I'm sorry
7 to interrupt. Commissioner Holman, are you able to join us
8 on the 29th or no?

9 MR. HOLMAN: Yes, sir.

10 CHAIRPERSON HILL: Oh. Okay, great. All right.
11 Then I guess --

12 MR. WISE: Can I respond?

13 CHAIRPERSON HILL: Is that Mr. Wise?

14 MR. WISE: Yes. I haven't responded.

15 CHAIRPERSON HILL: Sure.

16 MR. WISE: The reason we asked for the length of
17 the postponement until September is because a number of the
18 documents that have been submitted to all of the agencies as
19 well as to the BZA itself including the documents yesterday
20 are inaccurate.

21 And one of the things that we need time to do is
22 to -- we would like to verify that the documents that were
23 considered by all of the agencies were accurate in what they
24 were presented with.

25 In fact, all of the documents in the record right

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1 now are still inaccurate and do not --

2 CHAIRPERSON HILL: Mr. Wise, I'm going to
3 interrupt. That's fine, Mr. Wise. I mean, you can make your
4 claim. I don't know what you're speaking to in terms of
5 inaccuracies.

6 And so you have been given party status. And as
7 I mentioned before, oftentimes when people are given party
8 status they find out the day of the hearing. So then they're
9 prepared the day of the hearing with their arguments.

10 And so my main really to be quite honest is that
11 you're ill. I mean, the fact that you're ill, that's
12 something that I think is really paramount in terms of given
13 this pandemic that we're in right now.

14 And so go ahead and try to get your counsel. I
15 mean, two weeks is plenty of time to take a look at the
16 things that were there. This case has been on the docket now
17 for a long time. The ANC has already gone through their
18 process. This is nothing new. This has been out there for
19 awhile.

20 And so you've been given advanced party status.
21 I really do hope that you are able to mend and I hope that
22 you take care of yourself as well as that of your family
23 because this is not -- this is the weirdest time in our
24 history. And so please do take care of yourself. And we'll
25 come back on the 29th.

1 Mr. Hart and/or Ms. John and/or Chairman Hood, do
2 you have anything else to add? You're shaking your head no.
3 All right.

4 Mr. Moy, I don't know what the 29th looks like.
5 Do you have a calendar there? Mr. Moy, you're on mute. Mr.
6 Moy? Mr. Silk, would you drive over to Mr. Moy's house --

7 MR. MOY: I apologize, Mr. Chairman. I was paged
8 at the front door.

9 CHAIRPERSON HILL: Okay. How does our calendar
10 look on the 29th?

11 MR. MOY: The 29th of July?

12 CHAIRPERSON HILL: Yes.

13 MR. MOY: The 29th of July is doable. You have
14 one, two, three, four, five new cases and one expedited case.

15 CHAIRPERSON HILL: Okay. So it's up to you guys.
16 Whenever we have a party status in opposition case we usually
17 do it last. And so I guess we can maybe try to do this
18 first. I mean, what do you guys think? Mr. Hart?

19 VICE CHAIRPERSON HART: I'm fine with either. I
20 think that we'll get through it as we get through it. It's
21 different than -- typically when we were going through that
22 people would have to come to our hearing room and just kind
23 of wait. And so we were trying to kind of manage that. But
24 this is a little bit different because people are kind of,
25 you know, they're tuning in and tuning out of the hearing at

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1 their house. So I don't think it matters to me. It does not
2 matter to me either way.

3 CHAIRPERSON HILL: Okay. I'm going to play it by
4 ear, meaning Mr. Silk and Mr. Wise. We're going to keep you
5 at last right now because what happens is I've got to get
6 through our whole docket. I've got to get through our whole
7 day. And whenever there's a case that has opposition I don't
8 know how long it's going to go. And therefore it's unfair
9 to the other people trying to get through their day.

10 And so Mr. Moy, we'll go ahead and put this on for
11 last right now and then see where we get. And let's see.
12 Was there anything else? No, I guess that was it. Okay.
13 Oh, Chairman Hood, are you with us again? Or no? You're
14 going to.

15 ZC CHAIR HOOD: Well, since as Vice Chair Hart
16 mentioned I can tune in and tune out. So I'll tune in for
17 this case on the 29th.

18 CHAIRPERSON HILL: Okay, great. Wonderful. All
19 right, then you all, we'll see you on the 29th, okay?

20 MR. HOLMAN: Thank you.

21 CHAIRPERSON HILL: Thank you. Mr. Moy, you can
22 call the next whenever you would like.

23 MR. MOY: Thank you, Mr. Chairman. So this would
24 be case application number 20261 of Ramon Argueta. I think
25 I pronounced that. It's A-R-G-U-E-T-A. Captioned and

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1 advertised for a special exception under Subtitle D Section
2 5201, from the rear yard requirements Subtitle D Section
3 306.2, and from the pervious surface requirements Subtitle
4 D Section 308.3, pursuant to Subtitle X Chapter 10, for an
5 area variance from the lot occupancy requirements of Subtitle
6 D Section 304.1, to allow a second-story rear deck addition
7 to an existing attached principal dwelling unit in the R-3
8 Zone at premises 5104 3rd Street NW (Square 3301, Lot 45).

9 And Mr. Chairman, we should be having a Spanish
10 interpreter for the applicant as well.

11 CHAIRPERSON HILL: Okay, great. Thank you. Could
12 the interpreter please identify themselves?

13 MR. GONZALEZ: Can you hear me?

14 CHAIRPERSON HILL: Yes.

15 MR. GONZALEZ: Good morning, Commissioners.
16 Julian Gonzalez, Spanish interpreter.

17 CHAIRPERSON HILL: All right, Mr. Gonzalez. Are
18 you trying to not use your video camera?

19 MR. GONZALEZ: No, I mean I --

20 CHAIRPERSON HILL: Hover over it and left click
21 on your mouse. You should see things that say video at the
22 bottom. It's like a little camera with a slash through it.

23 MR. GONZALEZ: Right. No, I don't have one. I
24 only have the microphone, Mr. Chairman.

25 CHAIRPERSON HILL: Okay. Are you on a laptop or

1 an iPad?

2 MR. GONZALEZ: No, I'm on a computer. I have a
3 laptop.

4 CHAIRPERSON HILL: Okay. It should if you hover
5 your cursor over the screen and then click the left button
6 on your mouse. Some icons should pop up at the bottom and
7 one, the second one over from the left is a video camera
8 icon. If you left click that one.

9 MR. GONZALEZ: It only shows the microphone even
10 though --

11 CHAIRPERSON HILL: That's all right. Okay. So
12 if you could please ask the gentleman who you're interpreting
13 for, I think it's a gentleman, to introduce himself.

14 MS. C. ARGUETA: Hello? Ms. Sonia Argueta is not
15 able to join the panel because she appears as an attendee,
16 not as a panelist. I don't know what happened.

17 CHAIRPERSON HILL: Mr. Young, are you able to
18 follow that?

19 MR. YOUNG: Yes, I just brought her in.

20 CHAIRPERSON HILL: Okay. So, Mr. Gonzalez, can
21 you please repeat then and ask Ms. Argueta to introduce
22 herself?

23 MS. S. ARGUETA: My name is Sonia Marisol Argueta.

24 CHAIRPERSON HILL: Okay, great. So then who's --
25 okay, great. I was just going to say is it Cely?

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1 MS. C. ARGUETA: Cely Argueta.

2 CHAIRPERSON HILL: Cely Argueta.

3 MS. S. ARGUETA: She's my niece and she's also
4 with me.

5 CHAIRPERSON HILL: Okay. All right. Did Ms.
6 Argueta introduce herself? I can't remember now.

7 MS. C. ARGUETA: My name is Cely Argueta and I'm
8 volunteering today. Also Mr. Robert Henry is present and
9 he's going to represent Ms. Argueta.

10 CHAIRPERSON HILL: Okay, Mr. Henry, could you
11 please introduce yourself?

12 MR. HENRY: Good morning. My name is Robert
13 Henry. I know Ms. Argueta. I used to work with DCRA and I
14 was just helping them, walk them through the process.

15 CHAIRPERSON HILL: Okay. Mr. Henry, are you
16 trying to not use your video or it doesn't matter?

17 MR. HENRY: It doesn't matter.

18 CHAIRPERSON HILL: Can you try to turn it on then?
19 Okay, great. All right.

20 MR. HENRY: Do you see me?

21 CHAIRPERSON HILL: I do, I do. So, Mr. Gonzalez
22 -- Mr. Henry, if you could mute your microphone. When we
23 need you we'll unmute you. As well as Ms. Argueta, Ms. Cely,
24 thank you. Mr. Gonzalez, if you could ask Sonia, I guess
25 they both have the last name so please forgive me, I'm going

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1 to use your first name. If you could ask Sonia if she
2 understands all of the different issues that are before us
3 in terms of the requirements for the relief that she's asking
4 request from.

5 MS. S. ARGUETA: Yes.

6 CHAIRPERSON HILL: Okay. All right. I guess
7 then, Ms. Argueta, I don't know who's going to be presenting
8 to us. So basically then, Ms. Argueta, you need to walk us
9 through why you believe you meet the criteria for us to grant
10 the relief requested.

11 I would suggest perhaps beginning with how you got
12 the deck built to this size to begin with. Vice Chair Hart,
13 you had a question?

14 VICE CHAIRPERSON HART: There are no notice
15 issues.

16 CHAIRPERSON HILL: Hold on, hold on, hold on.

17 VICE CHAIRPERSON HART: I was just looking to see
18 if there were issues about posting the notices on the
19 property.

20 MS. S. ARGUETA: No, there was no problem.

21 VICE CHAIRPERSON HART: I think that they're okay.
22 I was just double-checking it, that's all. They're fine.

23 (Simultaneous speaking)

24 CHAIRPERSON HILL: The affidavit of posting is
25 exhibit 38, letters to parties, exhibit 39, letters to the

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1 200 footers in exhibit 40. I do appreciate you pointing that
2 out to us. I don't really think there's an issue with the
3 posting.

4 The ANC has given a report. So Mr. Gonzalez,
5 that's okay. Well, you can translate if you'd like. I was
6 basically just talking to Vice Chair Hart.

7 Okay. So, Ms. Argueta, if you want to go ahead
8 and walk us through your presentation.

9 MR. GONZALEZ: I was just telling her, Mr.
10 Chairman, that if she could go every few sentences that I'd
11 be able to interpret it for you all.

12 CHAIRPERSON HILL: Wonderful. Gracias.

13 MS. C. ARGUETA: Sorry, this is Cely Argueta. So
14 my understanding is Mr. Robert Henry can speak to that if you
15 allow him to since he's familiar with the case and he's been
16 volunteering. If that's okay?

17 CHAIRPERSON HILL: Sure. Whoever you want to
18 present. Is that okay with you, Ms. Argueta?

19 MS. S. ARGUETA: Yes, if you please.

20 CHAIRPERSON HILL: Okay. Mr. Henry, and Mr. Henry
21 your camera is all kind of messed up. Just the -- you can
22 turn off the video if you want to. It's not necessary. I
23 just was being clear. So please go ahead and walk us through
24 the presentation. You're on mute. There you go.

25 Mr. Henry, you're on mute.

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1 MR. HENRY: Good afternoon, BZA. I became
2 familiar with this case, 5104. They were trying to get a
3 permit to build a deck with DCRA. It went through the
4 process. And after they built the deck they found out that
5 it was beyond the scope of what they needed to work. And
6 they found out it had to go the BZA, but the deck was already
7 built.

8 And so then that's when I think DCRA came out and
9 cited them. And they had a hearing.

10 CHAIRPERSON HILL: Mr. Henry? I'm sorry, Mr.
11 Gonzalez needs to translate for the applicant.

12 MR. HENRY: Okay.

13 MS. S. ARGUETA: Yes.

14 CHAIRPERSON HILL: Okay, Mr. Henry, go ahead.

15 MR. HENRY: So they built the deck and it went
16 back to DCRA. And DCRA informed them that they needed to go
17 to the BZA for their deck.

18 At that point Ms. Argueta wanted to do what was
19 right. DCRA came out and cited her for having a deck that
20 was beyond.

21 CHAIRPERSON HILL: Let me interrupt, Mr. Henry.

22 MR. GONZALEZ: Mr. Henry, if you could please talk
23 maybe for two or three sentences and I'll be able to
24 interpret for Ms. Argueta.

25 MR. HENRY: Okay.

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1 MR. GONZALEZ: Thank you.

2 CHAIRPERSON HILL: Mr. Henry?

3 MR. HENRY: Yes.

4 CHAIRPERSON HILL: How did the deck originally get
5 built? Who built the deck?

6 MR. HENRY: They hired a contractor to build the
7 deck. It went to DCRA through the homeowner center. And
8 they had plans and everything for the deck.

9 CHAIRPERSON HILL: Let me interrupt you, Mr.
10 Henry. And Mr. Henry, you're kind to volunteer your time.
11 But I'm going to ask this of Ms. Argueta. And Mr. Gonzalez,
12 if you could translate. I want to know if Ms. Argueta
13 understands the difference between a variance and a special
14 exception.

15 MS. S. ARGUETA: No.

16 CHAIRPERSON HILL: It's okay. That's all right.
17 So, I want to explain. A variance is something that's
18 outside of the Zoning Code. It's very difficult to achieve.
19 And a special exception is something that's inside, that's
20 allowed within zoning. It's not necessarily given, but it's
21 an easier burden to prove.

22 Do you understand that the Office of Planning is
23 currently against this application?

24 MS. S. ARGUETA: If you can repeat it again.

25 CHAIRPERSON HILL: Yes. Does she understand that

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1 the Office of Planning does not agree with the argument being
2 made for the variance, for the application.

3 MS. S. ARGUETA: No, I did not know that.

4 CHAIRPERSON HILL: Okay. So, what I understand
5 is in order to get to a size deck that would be a special
6 exception you would have to reduce the deck by 45 square
7 feet. Who originally built this deck for you?

8 MS. S. ARGUETA: There were some how do you call
9 it. There were some contractors.

10 CHAIRPERSON HILL: Okay. All right. I'm going
11 to turn to the Office of Planning.

12 MEMBER JOHN: Mr. Chairman, may I ask a couple of
13 questions of Mr. Henry?

14 CHAIRPERSON HILL: Sure, of course. Ms. John.
15 Mr. Henry, are you there?

16 MR. HENRY: Yes, I'm here.

17 MEMBER JOHN: So, Mr. Henry, you said the
18 applicant went to the homeowner center?

19 MR. HENRY: Yes, went to the homeowner center to
20 put in the plans for the deck.

21 MEMBER JOHN: Was that done before the deck was
22 built?

23 MR. HENRY: Yes.

24 MEMBER JOHN: So, did they receive a permit?
25 Typically the homeowner center would issue a permit and there

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1 would be a drawing that would go with that permit. Did they
2 issue that?

3 MR. HENRY: It was during that process that the
4 homeowner center, they put the plans in. It was during that
5 process they found out that it had to go to the BZA.

6 MEMBER JOHN: So the deck was already built at
7 that time?

8 MR. HENRY: Yes.

9 MEMBER JOHN: Okay. Thank you.

10 MR. HENRY: Ms. John, once it was built, that's
11 when they found out that they had the issues. And so that's
12 when Ms. Argueta was trying to find out what she could do to
13 rectify the problem.

14 MEMBER JOHN: Thank you.

15 MR. HENRY: And that's why she went to the ANC to
16 contact her neighbors just to find out what she could do to
17 rectify the problem.

18 MEMBER JOHN: Thank you.

19 (Simultaneous speaking)

20 MR. HENRY: Do you need me to continue?

21 MEMBER JOHN: No, thank you. Mr. Chairman, you're
22 muted.

23 CHAIRPERSON HILL: Senor Presidente.

24 (Laughter)

25 MR. GONZALEZ: Sounds better than chairman.

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1 CHAIRPERSON HILL: Mr. Henry, could you please
2 mute your microphone?

3 ZC CHAIR HOOD: Can I ask a question?

4 CHAIRPERSON HILL: Yes, please, Chairman.

5 ZC CHAIR HOOD: I don't know if you got an answer
6 to Ms. Argueta. Did they have a chance to read the Office
7 of Planning's report?

8 MS. S. ARGUETA: No.

9 ZC CHAIR HOOD: Gracias.

10 CHAIRPERSON HILL: Okay. Ms. Elliott? I have a
11 question for you. And Mr. Gonzalez, you can translate the
12 question first. Ms. Elliott, do you know how they got to
13 this point?

14 MS. ELLIOTT: Thank you, Mr. Chairman. I am not
15 privy to all of the background information related to this
16 case. Really all that I have going into this was the
17 application which doesn't provide a whole lot of information
18 regarding the relief, and certainly doesn't provide any
19 background as to how we got to this point.

20 I did speak with DCRA to clarify the relief, but
21 they were unable to really provide much background
22 information either. So, we've probably learned more today
23 than I knew when I was writing the report.

24 CHAIRPERSON HILL: I'm sorry, Mr. Gonzalez, you
25 can translate, please. Mr. Gonzalez, I'm going to ask the

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1 question again. Ms. Elliott, do you when you're working with
2 an applicant understand whether or not there may or may not
3 be a reliance issue with DCRA?

4 MS. ELLIOTT: So I guess I'm not -- I don't really
5 understand what you mean by reliance. I mean, I did consult
6 with DCRA. Is that the question?

7 CHAIRPERSON HILL: Normally, oftentimes when we're
8 dealing with an applicant you can provide a little bit more
9 clarity as to how the applicant got to this point.

10 And at this point during the story you don't know
11 how they got to this point, correct?

12 MS. ELLIOTT: That is correct.

13 CHAIRPERSON HILL: Would you -- if you had more
14 time to work with the applicant is it possible you could
15 learn how the applicant got to this situation? You're still
16 on mute.

17 MS. ELLIOTT: Better? If I had more time to work
18 with the applicant we may be able to get more background
19 information that could help. Although if we're not able to
20 get information that helps we can still work with them to
21 revise the application so that it might be something we can
22 support.

23 CHAIRPERSON HILL: So, Ms. Argueta, I know that --
24 what I would suggest is that you make an appointment with the
25 Office of Planning with an interpreter so they can explain

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1 to you the situation you're in and you can explain to them
2 how you got into this situation. That's important. You need
3 to explain to them how you got into this situation.

4 And they can give you their expert opinion as to
5 what is possible. And then we'll come back again and try to
6 have this hearing. Do you understand?

7 MS. S. ARGUETA: Yes.

8 CHAIRPERSON HILL: Okay. So Mr. Moy, if we do
9 that when can we come back?

10 MR. MOY: I think given the estimate of time when
11 the applicant will need to meet with OP hopefully this month
12 in July. If not the earliest would be a date in September.
13 So, I think that the board can see this application again in
14 the first hearing in September which would be September 16,
15 or whether or not OP needs more time.

16 CHAIRPERSON HILL: I think September 16 sounds
17 doable to me. Ms. Argueta, would September 16 be all right
18 with you?

19 MS. S. ARGUETA: Yes, I'm in agreement.

20 CHAIRPERSON HILL: Okay. And Mr. Gonzalez, please
21 let Ms. Argueta know we do know she went to the ANC and has
22 at least gone through that process already. And that DDOT
23 has provided -- the Department of Transportation has also
24 provided information.

25 Mr. Moy, you had a question?

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1 MR. MOY: The only thing that would remain, Mr.
2 Chairman, is a timeline for resubmission from the applicant
3 and a supplemental OP report. So if we're looking at
4 September 16 I would suggest perhaps the applicant file by
5 let's say September 1. New filings from the applicant and
6 the Office of Planning supplemental let's say within a week.
7 Let's make it September 8. These are both Tuesdays.

8 MS. S. ARGUETA: My question is how am I going to
9 do it when I go to the office. Will they provide me with a
10 date or how can I set up an appointment to come in?

11 CHAIRPERSON HILL: Okay. So, first I just want
12 to repeat that on -- well, okay, let's do this first. Ms.
13 Elliott, when can you meet with Ms. Argueta? And Mr.
14 Gonzalez, when can you meet with Ms. Elliott and Ms. Argueta?

15 MR. GONZALEZ: I don't know, Chairman. They have
16 to let me know.

17 CHAIRPERSON HILL: Who's they?

18 MR. GONZALEZ: The office, the interpreting
19 office.

20 CHAIRPERSON HILL: Mr. Moy, how does that work?

21 MR. MOY: That's an arrangement between the
22 parties. That's whatever time frame they're going to need,
23 that's up to them. All I'm putting together is if the
24 applicant needs to file any additional information that they
25 file it by September 1.

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1 CHAIRPERSON HILL: My question, Mr. Moy, was how
2 did Mr. Gonzalez get here in the first place.

3 MR. MOY: Oh, how did he get here? We contract
4 for an interpreter, for services for an interpreter. That's
5 from the OZ office.

6 CHAIRPERSON HILL: The Office of Zoning.

7 MR. MOY: Yes, yes.

8 CHAIRPERSON HILL: So, does the Office of Zoning
9 need to arrange for this?

10 MR. MOY: Typically off a hearing date not from
11 us. That's between the applicant and the interpreter
12 services, whatever they're called.

13 CHAIRPERSON HILL: Okay. Ms. Argueta, do you have
14 someone that can interpret for you?

15 MS. S. ARGUETA: Yes, I have somebody that can
16 interpret for me.

17 CHAIRPERSON HILL: Okay, great. So then Ms.
18 Elliott, this I don't know. Do you guys have each other's
19 email address, or can you give a time right now?

20 MS. ELLIOTT: I think I prefer to coordinate with
21 the applicant offline. I have an email address that's on the
22 application, probably also a phone number. I was able to
23 reach an interpreter previously to speak with. So I'm happy
24 to continue coordinating offline.

25 CHAIRPERSON HILL: Mr. Gonzalez, can you translate

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1 that, please?

2 MS. S. ARGUETA: Yes, she has my information.

3 CHAIRPERSON HILL: Okay. Ms. Argueta, who's that
4 with you?

5 MS. S. ARGUETA: She's my daughter.

6 CHAIRPERSON HILL: Okay. And what's your
7 daughter's name?

8 MS. S. ARGUETA: Tania Argueta.

9 CHAIRPERSON HILL: Tania, do you kind of
10 understand what's going on?

11 MS. T. ARGUETA: Yes, I do.

12 CHAIRPERSON HILL: Okay. All right, Tania. Then
13 go ahead and try to figure out a time to meet with Ms.
14 Elliott, okay?

15 MS. T. ARGUETA: Yes.

16 MS. S. ARGUETA: Yes.

17 CHAIRPERSON HILL: And the Office of Planning,
18 Tania, is again, they're the ones that can help you
19 understand how you got here. And again, it's important to
20 tell them how you got here. And they can try to help you
21 resolve this.

22 But I just want to reiterate it's a very difficult
23 case to prove. Okay? Okay. All right. Then that's it.
24 Then please, we'll see you after the holiday.

25 MS. T. ARGUETA: Okay. Thank you.

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1 CHAIRPERSON HILL: Tania, I've never been called
2 Presidente before. It was fantastic. Okay. Thank you all.
3 El Presidente. That's a new one.

4 VICE CHAIRPERSON HART: Yes, and hopefully you
5 will soon forget it.

6 CHAIRPERSON HILL: El Presidente. I'm down now.
7 Oh, Mr. Gonzalez is still with us. All right, Mr. Gonzalez,
8 bye bye.

9 MR. GONZALEZ: You're welcome, sir. Have a good
10 day.

11 CHAIRPERSON HILL: September, what was it?

12 VICE CHAIRPERSON HART: Sixteenth.

13 CHAIRPERSON HILL: That's going to be a good one,
14 Carlton. You know? All right. All right, Mr. Moy, you can
15 call our next one.

16 MR. MOY: Okay. I believe it is case application
17 number 20256 of 3905 Kansas LLC as amended for special
18 exception under the RF-use requirements Subtitle U Section
19 320.2, and under Subtitle C Section 703.2 from the minimum
20 parking requirements Subtitle C Section 701.5, to permit the
21 conversion of an existing semi-detached principal dwelling
22 into a three-unit apartment house, RF-1 Zone. This is at
23 3905 Kansas Avenue NW (Square 2906, Lot 830).

24 CHAIRPERSON HILL: Okay, great. Thank you, Mr.
25 Moy. Let's see. Okay, Mr. Sawant, I see you. Is it -- and

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1 then I see Ms. Hilley. Mr. Sawant, let me get you to
2 introduce yourself first, please.

3 MR. SAWANT: I'm Kuldeep Sawant. I'm the owner
4 and applicant for the case 20256 for my property at 3905
5 Kansas Avenue NW.

6 CHAIRPERSON HILL: And Mr. Sawant, who is here
7 with you?

8 MR. SAWANT: I have Armin Ettehadhi from Noor
9 Architects.

10 CHAIRPERSON HILL: Okay, and how do you pronounce
11 his last name please?

12 MR. SAWANT: Ettehadhi.

13 CHAIRPERSON HILL: Okay. That's pretty good. Mr.
14 Ettehadhi, can you introduce yourself please for the record?
15 Your microphone perhaps may be muted, sir.

16 MR. ETTEHADHI: Hello, can you hear me?

17 CHAIRPERSON HILL: Yes.

18 MR. ETTEHADHI: Yes. Hello, everybody. I'm Armin
19 Ettehadhi. I'm the architect for this project, Kansas Avenue.
20 I'm helping Mr. Sawant to present -- to make that
21 presentation.

22 CHAIRPERSON HILL: Okay. And Mr. -- I'm sorry,
23 Ettehadhi. Are you trying to use your video or not?

24 MR. ETTEHADHI: I can if you need it.

25 CHAIRPERSON HILL: It's not necessary, I was just

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1 curious. I want to make sure. So, and then I see -- okay,
2 thank you. And Ms. Hilley, is that correct?

3 MS. HILLEY: Yes, that's correct.

4 CHAIRPERSON HILL: Could you introduce yourself,
5 please?

6 MS. HILLEY: Yes. My name is Bennett Hilley. I'm
7 commissioner for 4C-06, the SMD where this project is
8 located.

9 CHAIRPERSON HILL: Okay. All right, great. Well,
10 welcome, Commissioner.

11 MS. HILLEY: Thank you. I just wanted to say
12 there are a couple of neighbors including adjacent neighbors
13 which I believe are on. Is there a way that they can also
14 be made panelists at some point to speak? I'm not sure.

15 CHAIRPERSON HILL: They're going to be giving
16 public testimony?

17 MS. HILLEY: I believe so.

18 CHAIRPERSON HILL: Yes. We'll bring them on
19 during the public testimony portion.

20 MS. HILLEY: Great. Thank you.

21 CHAIRPERSON HILL: Thank you. All right, Mr.
22 Sawant. If you could go ahead and kind of walk us through
23 your application and why you think we can grant it, why you
24 think you're meeting the criteria for us to grant the
25 application. I'm putting 15 minutes on the clock there in

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1 the top left just so I know where we are. And you can begin
2 whenever you like. I'm sorry, Mr. Hart?

3 VICE CHAIRPERSON HART: Yes. I think there's a
4 motion to waive the filing deadline.

5 CHAIRPERSON HILL: I appreciate that, Mr. Hart.
6 You're the waiver police.

7 VICE CHAIRPERSON HART: Part of it is just because
8 this is still kind of a new thing for us.

9 CHAIRPERSON HILL: No, I know. You're accurate.
10 So, Mr. Sawant, have you posted this and have you maintained
11 the posting?

12 MR. SAWANT: Yes, I have.

13 CHAIRPERSON HILL: So, why did you not put the
14 affidavit of maintenance in there?

15 MR. SAWANT: It should be there. I think it is.

16 CHAIRPERSON HILL: Mr. Bassett, did we get it?

17 MR. BASSETT: I don't see an affidavit of
18 maintenance in the record.

19 CHAIRPERSON HILL: Okay.

20 MR. SAWANT: I can put it up right now.

21 CHAIRPERSON HILL: Mr. Sawant, you're testifying
22 that you did maintain the posting for the appropriate amount
23 of time, correct?

24 MR. SAWANT: Yes, I did. I thought I'd also
25 posted it. Maybe it didn't actually post, but I have the

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1 document ready for posting. I can upload it right now if
2 need be. But yes, I have it.

3 CHAIRPERSON HILL: Okay, please go ahead and
4 upload it. You can please go ahead and upload it for the
5 record. Mr. Hart?

6 VICE CHAIRPERSON HART: The other issue was to
7 waive the 21-day filing requirement for -- I guess it's for
8 the PowerPoint presentation or drawings. Maybe it's the
9 drawings, updated drawings.

10 MR. BRANSON: There's an updated burden of proof
11 and updated drawings.

12 CHAIRPERSON HILL: Okay. I don't have any issue
13 with the updated burden of proof or the updated drawings
14 because I want to see the updated drawings. And since the
15 ANC commissioner is here I think that there's been enough
16 notice for this particular project. I don't have any issues
17 with the posting or waiving the 21-day requirement. Does the
18 board have any issues?

19 VICE CHAIRPERSON HART: No. I think we'll hear
20 also from the Office of Planning about any changes to the
21 plans. We'll hear from the Office of Planning. They were
22 the other group that needed to understand if there were
23 changes that were necessary, or that were helpful for them.

24 CHAIRPERSON HILL: I got it.

25 MS. HILLEY: Chairman Hill, this is the

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1 commissioner speaking. Or should I call you El Presidente.

2 A couple of the neighbors --

3 VICE CHAIRPERSON HART: Please do not do that.

4 MS. HILLEY: A couple of the neighbors that are
5 speaking including adjacent neighbor, two are architects.
6 They've had some general concerns about issues with the
7 drawings. I believe the developer Kuldeep has resolved
8 those, but I do want to make sure that they have time to look
9 at them to make sure. Just because there's been a kind of
10 out of synch in what has been uploaded officially. So I just
11 wanted to place that as a note for the updated drawings.

12 CHAIRPERSON HILL: Okay, thank you. I'm sure they
13 are listening and if so they can please make those comments
14 known at the time of their testimony.

15 VICE CHAIRPERSON HART: And one more final follow-
16 up to that, what the ANC commissioner said. This is a
17 question for OAG. If the neighbors are, let's say they're
18 registered architects. They are giving testimony that is
19 their opinion, not as a registered architect. Not as a
20 professional. And I'm asking that to OAG.

21 MR. BASSETT: Yes, I believe -- we don't have any
22 evidence of their expertise so I don't think that they would
23 be a registered professional or an expert witness at this
24 point.

25 VICE CHAIRPERSON HART: And that's fine. I just

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1 wanted to understand that -- while I understand that it's
2 just they're giving their testimony, I just don't want that
3 to be kind of confused as we are listening to it. So I
4 appreciate it. And thank you very much, ANC Commissioner
5 Hilley, for pointing that out. It's helpful to understand
6 that. I don't think that it's -- it's not a negative thing
7 that they are. I just wanted to see how we deal with that
8 in our context.

9 MS. HILLEY: That makes sense. I just wanted you
10 to have that background because their comments may be more
11 detailed than the typical resident.

12 VICE CHAIRPERSON HART: Understood. Thank you
13 very much. Okay, so I'm done with all of the procedural
14 stuff, Mr. Chairman.

15 CHAIRPERSON HILL: Okay, thank you. I do have a
16 couple of questions I guess for Mr. Sawant. Mr. Sawant, are
17 you going to be giving the testimony?

18 MR. SAWANT: Yes, I will.

19 CHAIRPERSON HILL: Okay. As you go through your
20 testimony if you could speak to the comments that the Office
21 of Planning I guess believes that you still need a waiver
22 from the rooftop element. If you could speak to that and how
23 I guess you disagree with that.

24 And then also that DDOT has a condition concerning
25 a TDM plan and that you're in agreement to that and that

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1 you're aware of that. So, that being all the case I'm going
2 to turn it over to you and you can walk us through your
3 presentation.

4 MR. SAWANT: Okay. So, should I just talk to each
5 slide?

6 CHAIRPERSON HILL: Mr. Young, can you bring up?
7 Thank you. And then Mr. Sawant, you can go ahead and ask for
8 the slide to be advanced.

9 MR. SAWANT: Okay, thank you. And I just want to
10 update you like on the affidavit of maintenance. I've
11 uploaded it right now so you should have that on the record.
12 Could we go to the next slide, please?

13 So this is the front view of the property.
14 Basically the house is in the RF-1 Zone. The house was built
15 in about 1917. It's got like two stories with a cellar. And
16 the property has been vacant for over a year. I purchased
17 it about seven months back. The property hasn't been updated
18 and there's been a lot of deferred maintenance.

19 I'm applying to the BZA in order to convert the
20 property to three units. RF-1 Zone allows two units by
21 right. I'm also requesting a special exception on the
22 minimum parking requirement. And I'll go through the reasons
23 in detail later on. So if you could go to the next slide,
24 please.

25 This is just some pictures. This is the rear view

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1 of the property. Next slide, please.

2 This is the top view of the property. So
3 basically it's like a triangular lot and there's no access
4 in the back, the rear alley. It doesn't have any current
5 parking and obviously the only way to add parking would be
6 if there was a curb cut on the front from Kansas Avenue and
7 the garage in the side. If we go to the next slide, please.

8 So this is like a current status of where we are.
9 I have met with the neighbors multiple times. I've met them
10 in person before all this COVID started. I also met them
11 over Zoom. I met them at the ANC hearing. I've spoken to
12 them. I've presented to the ANC. I also presented to all
13 the neighbors and the ANC on Zoom before that ANC meeting.

14 And I've made multiple changes based on what the
15 neighbors suggested. I presented to the ANC last week on
16 Wednesday and the ANC supports the application. The Office
17 of Planning has also recommended approval.

18 The changes that were made for which -- like I
19 requested the 21-day, the length, was basically the
20 suggestions that came from ANC and Office of Planning.
21 Basically what they wanted was they wanted to see how the
22 building looks in relation to the neighboring building. So
23 I had to add the neighboring building to the elevations.

24 In terms of Department of Transportation also has
25 no objection to the approval of this application. I have

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1 submitted a TDM plan and I obviously agree to the TDM plan.
2 And DDOT has also no objection to the approval.

3 The building footprint itself is committed as a
4 matter of right and it meets all the zoning requirements for
5 the special exception approval.

6 I have one, one abutting neighbor and they're also
7 in support of the application. We have a signed agreement
8 on the conditions to be met. And I can talk about it and so
9 on.

10 CHAIRPERSON HILL: Mr. Sawant? The DDOT plan, I
11 just want to be clear. So this would be a condition. It
12 would be implementing the TDM plan that is in exhibit 38
13 which is a --

14 MR. SAWANT: Yes.

15 CHAIRPERSON HILL: -- one year bike share and/or
16 car share membership for the first lessee or owner of each
17 residential unit as part of the move-in package, and a
18 SmarTrip preloaded with \$10 offered for each unit at initial
19 sale or lease of the units in the building. Correct?

20 MR. SAWANT: Yes, that's correct.

21 CHAIRPERSON HILL: Okay. And you agree to those?

22 MR. SAWANT: Yes, I do.

23 CHAIRPERSON HILL: Okay, thank you. Please
24 continue.

25 MR. SAWANT: The ANC also as part of the support

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1 they have some conditions including like contribution to the
2 housing fund and I am in agreement with all their conditions
3 too. If you can move to the next slide, please.

4 So this is the description of the proposed
5 addition. So I'll be like turning the attic into a third
6 story and extending the (telephonic interference) side and
7 then converting it to three units.

8 The existing roof and the dormers will be
9 maintained to keep the roof architecture elements of that
10 version of the building. The question that I had on the
11 waiver that Office of Planning requested for is the third
12 dormer that I'm adding. Like since I'm extending the
13 building to the side I'd like to match what is currently
14 there. I'll be extending the existing mansard roof and I'll
15 be putting a new third dormer to match the existing two
16 dormers.

17 Now as per my interpretation this was like a new
18 dormer on a new part of the roof. It was not original to the
19 architecture so I thought I didn't require a waiver for that.
20 But if I do require a waiver as suggested by Office of
21 Planning I requested for that waiver to add the third dormer.

22 In terms of the third story addition it will be
23 set back so that it's not as visible from the street.
24 There's also a large tree directly on the property which will
25 be maintained to limit the visibility of the addition.

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1 In terms of the building extension in the back
2 zoning allows me to go up to 10 feet past the rear of the
3 adjacent building rear walls. But the current proposal is
4 it will just be to meet the requirements of BZA. If we go
5 to the next slide, please.

6 This is just the tree in front of the building
7 which will be maintained. Could we go to the next slide,
8 please.

9 These are the buildings that are like in the
10 immediate vicinity of my proposed project. So if you see on
11 the top left corner 3900 is -- it's a new apartment just
12 across my house. And it's like three stories tall.
13 Similarly the building right next to it, the 3904 is also
14 three stories tall. It's got like the addition on the top.
15 Then just right next door to my house is 3907 but if you
16 leave 3907 and go to 3909 that also has a three-story
17 addition on the top and so does the building next to it,
18 3911. So basically what I'm saying is in the immediate
19 vicinity of my house there are several dwellings, all of them
20 have three-story additions. So the third story addition of
21 my building is not going to significantly alter the character
22 of the neighborhood like in the immediate vicinity of my
23 house. Next slide, please.

24 This is the street view of the property. So you
25 can see 3909, 3911 already have the third story addition.

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1 If you go to the next slide, please.

2 And this is the zoning relief. In the interest
3 of time I'll just talk to the ones where I'm requesting
4 relief. I'm requesting relief for the third unit. The
5 requirement is that it needs to be 900 square feet of lot
6 area per unit and I have 948. So it meets the requirement.

7 And the second relief requested is the parking
8 relief. And I have a slide on it so I'll cover that next.
9 And then I already spoke about the waiver for adding the new
10 dormer. If adding the new dormer, if it does not meet the
11 criteria then I would request a waiver on that based on the
12 guidance from Office of Planning.

13 On the parking relief that was requested. So as
14 you saw it's a triangular lot with no access to the rear
15 alley. So the only way to add parking is a curb cut on
16 Kansas Avenue in front of the house and I build garages. So
17 my initial plan that I had proposed and uploaded was that I
18 was proposing for curb cuts and then adding three garages on
19 the front of the property.

20 But based on feedback from the ANC, Office of
21 Planning and DDOT were all opposed to that curb cut. ANC
22 also, they passed a resolution requesting DDOT to deny the
23 curb cut. So based on all the inputs I have updated the
24 plans to remove the proposed curb cut and then seek relief
25 on the parking requirements.

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1 And the lot is a wide lot. There's about 64 feet
2 of curbside space in front of the property which is enough
3 for three cars. It's got a walk score of 90. On
4 walkscore.com it's shown as a walker's paradise so really I
5 don't see -- need a car. And the property is also, it's a
6 five-minute walk from the Metro lines and it's supported by
7 buses. I have the TDM plan and I agree with it and DDOT also
8 supports the application. Move to the next slide, please.

9 This is the front elevation. My house is on the
10 right and then you have the abutting neighbors and 3909. If
11 you go to the next slide, please.

12 This is just a rear elevation. Move to the next
13 slide. This is a side view. Move to next slide, please.
14 This is an example of the internal floor plan. So three
15 units for the building. The basement and the first floor are
16 one unit, and the second floor is a unit of its own, and
17 third floor is a unit of its own. So second and first floor
18 have almost the same layout inside. Move to next slide,
19 please.

20 That's the basement. We can move to the next
21 slide, please. So this is like I said, the first two are one
22 unit, and then you have the second and third unit on the top.
23 Move to next slide.

24 This is the site plan. So basically it shows that
25 the house will extend only up to like two inches more than

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1 where the neighbor's house extends. And it's a triangular
2 lot so there is no parking. You can move to the next slide.

3 So this is just to summarize. I've presented to
4 the neighbors and the ANC multiple times. I have one
5 abutting neighbor and we have a letter of support from them
6 and we have an agreement. The footprint itself is permitted
7 as a matter of right and the ANC supports the application.
8 Office of Planning has recommended approval and so has DDOT.
9 So my request is for BZA to also approve the application.

10 I think that's about it. Thank you. If there are
11 any questions.

12 CHAIRPERSON HILL: Thank you. Does the board have
13 any questions for the applicant?

14 VICE CHAIRPERSON HART: I have a question, Mr.
15 Chairman. So, Mr. Sawant, you are -- you're saying that your
16 understanding is that the Office of Planning was looking at
17 the right-hand, or the -- if you're looking at the facade the
18 right-hand portion of the facade or the roof was what was
19 changed.

20 But there's a rectangular piece. And I'm not
21 exactly sure what that is between the two existing dormers
22 that actually is also a change. I mean, I think that the
23 waiver is necessary. I don't think that it has to do with
24 the adding to the right-hand side of it because I'm not
25 exactly -- what is that?

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1 MR. SAWANT: That's the stairs going to the unit
2 on the top.

3 VICE CHAIRPERSON HART: Okay. Why did you put
4 them there?

5 MR. SAWANT: That's -- like it's an extension from
6 the first two floors. First two floors. Since the third
7 unit is going to be set back that's why it shows on the --
8 it shows like it is. So on the first and second floor that's
9 where the stairs, and the stairs extend on the top to reach
10 the third unit. And that's why I like, based on the Office
11 of Planning's recommendation I did update the statement to
12 request a waiver.

13 VICE CHAIRPERSON HART: Okay. And you're
14 following the property lines with your project. You're kind
15 of building out to the property line on the -- what direction
16 that is.

17 MR. SAWANT: On the right, yes.

18 VICE CHAIRPERSON HART: Yes, on the right. Okay.
19 Yes. It kind of throws off the proportions of the building
20 just looking at the front facade because it's an area that
21 is (telephonic interference) what's really being added is the
22 -- it looks like some bathroom area, or a closet area, and
23 you probably don't need to have -- necessary to have a window
24 in that facade. But it does kind of throw off the facade,
25 just the architectural rhythm of it. It's just a comment.

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1 You don't have to respond to it. I don't have any other
2 questions.

3 CHAIRPERSON HILL: Does anyone else have a
4 question for the applicant? Ms. John?

5 MEMBER JOHN: Mr. Chairman.

6 CHAIRPERSON HILL: I couldn't hear whether you did
7 have a question or you don't.

8 MEMBER JOHN: I don't.

9 CHAIRPERSON HILL: Okay. Chairman Hood?

10 ZC CHAIR HOOD: I do have a question. In the
11 Office of Planning's report it talks about some relief that
12 you're getting, some of the things that you're offering.
13 Just help me understand one of the things that you're
14 offering. It says one time one-year bike share or car share
15 membership will be issued to the first lessee or owner. So
16 the first person that leases gets that. Not the second, but
17 the first.

18 MR. SAWANT: Yes.

19 ZC CHAIR HOOD: So, why not offer that -- I'm
20 looking at the next one that says a SmarTrip card preloaded
21 with \$10 will be offered for each unit. So that's a one-time
22 shot at \$10.

23 MR. SAWANT: So basically my plan is to sell the
24 units. So once the unit is sold then obviously it goes to
25 the first person. Now, if they decide to rent it out or

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1 something I have no control on that which is why (telephonic
2 interference) that it goes to the first person.

3 ZC CHAIR HOOD: So these mitigations basically get
4 them in there. So after this is all over -- I looked at some
5 of the plans. I looked at the street. Is there RPP parking
6 on that street?

7 MR. SAWANT: Yes. So the lot is like pretty wide.
8 So it's like almost 64 feet in length which can kind of have
9 three cars that could be parked there on the curb.

10 ZC CHAIR HOOD: Okay. And I saw what it said
11 about the curb cuts. Okay. Well, it looks like you have
12 (telephonic interference). So anyway, okay, thank you.

13 MS. HILLEY: Chairman Hill, I'm not sure the
14 applicant understood Mr. Hood's question.

15 CHAIRPERSON HILL: Do you know about RPP there?

16 MS. HILLEY: Yes, I do. But I think that's one
17 of my concerns. I'm not sure the applicant is very familiar
18 with the neighborhood. But he's learning and he's been
19 willing. But RPP is on half of the block. And this is going
20 to relate to my comments later.

21 I wish I had known about the TDM because it seems
22 very minimal. I would have loved for it to be built out a
23 bit more for the impact this could possibly have on the
24 block.

25 But I can go into that later. I just want to make

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1 sure the applicant Kuldeep knows RPP is about street parking
2 and what's limited to residents.

3 ZC CHAIR HOOD: So, Commissioner Hilley, I
4 appreciate that. And I'm looking forward to having that
5 conversation because I thought the same thing. I also saw
6 the support so I said well, I'm not going to make waves. But
7 we can get into that.

8 MS. HILLEY: We can get into that because I think
9 I want the BZA to be generally aware of how we ended up where
10 we were. Because I don't think it's ideal.

11 ZC CHAIR HOOD: Okay. All right. Thank you.
12 Thank you, Mr. Chairman.

13 VICE CHAIRPERSON HART: And just so that we're
14 aware, that's residential parking permit, RPP. That's it.

15 ZC CHAIR HOOD: Which is not my favorite topic,
16 RPP. Thank you for letting everybody know.

17 VICE CHAIRPERSON HART: Are you sure?

18 CHAIRPERSON HILL: All right. Mr. Sawant, I did
19 have just one question. That neighbor that's in support of
20 you, do you know what they're going to do with their home
21 once you're done with yours?

22 MR. SAWANT: Yes. You're talking specifically
23 about the solar panel because that's one of the questions.

24 CHAIRPERSON HILL: No, I -- so that's the home
25 that has the solar panels.

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1 MR. SAWANT: No, it does not. So on the solar
2 panels they don't have a solar panel right now. And they
3 don't have like a permit or anything to put a solar panel.
4 But they're thinking of adding a solar panel in the future.
5 And my agreement with them is whenever they build it in the
6 future I will support them and I'll help raise it to the
7 required height. So I'll support them financially up to
8 \$8,000. And that's the agreement I think that we have.

9 CHAIRPERSON HILL: No, I see it. I mean I was
10 just curious if they were going to convert. That's all.
11 Okay.

12 MS. HILLEY: Chairman Hill, they're on the line
13 so you can probably ask Camilla and Paul that question
14 yourself if you'd like to.

15 CHAIRPERSON HILL: Okay. Thank you. Let's see.
16 So all right. Commissioner, do you have any questions for
17 the applicant?

18 MS. HILLEY: I don't have questions for the
19 applicant right now.

20 CHAIRPERSON HILL: Okay. I'm going to turn to the
21 Office of Planning, please.

22 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman
23 and members of the BZA. I'm Maxine Brown-Roberts from the
24 Office of Planning on application 2056. The Office of
25 Planning as outlined in our report is in support of the

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1 application for the conversion and also for the parking.

2 And as you mentioned in your introduction that we
3 also noted that there was an alteration to the rooftop
4 architectural element and we thought that they needed the
5 waiver for that. And of course we conveyed that to the
6 applicant and they adjusted their report accordingly.

7 One of the questions that was asked was if the
8 Office of Planning was aware of the changes that were made
9 by the applicant. And yes, he did send us the updated plan.
10 I think though that the last plan after conversations with
11 the ANC, the rear door was added to the building. And the
12 Office of Planning is in support of that. We (telephonic
13 interference) they have a rear exit and so the Office of
14 Planning recommends approval of the conversion and also the
15 relief for the parking. Thank you, Mr. Chairman, and I'm
16 available for questions.

17 CHAIRPERSON HILL: So, Ms. Brown-Roberts, it is
18 -- the Office of Planning is in support of the rooftop
19 element waiver, is that what you're saying?

20 MS. BROWN-ROBERTS: Yes, we are.

21 CHAIRPERSON HILL: And that you do agree with Mr.
22 Hart that it's necessary?

23 MS. BROWN-ROBERTS: Yes.

24 CHAIRPERSON HILL: Okay. And Ms. Brown-Roberts,
25 you can just let them know, everybody in the Office of

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1 Planning, we're going to go with El Presidente from now on.

2 MS. BROWN-ROBERTS: Okay, El Presidente.

3 CHAIRPERSON HILL: Okay. All right. Does the
4 applicant have any questions for the Office of Planning?

5 MR. SAWANT: No, I don't.

6 CHAIRPERSON HILL: Does the commissioner have any
7 questions for the Office of Planning?

8 MS. HILLEY: I do. Maxine, thanks for your help
9 earlier. I didn't know about the waiver related to the
10 proportions on the facade. I will say several neighbors were
11 concerned about this. This is the first time I'm hearing
12 that that was a requirement. I think of course our
13 preference would be for the facade to be maintained as much
14 as possible for the reasons that Mr. Hart brought up in terms
15 of the architectural rhythm on the block.

16 As Kuldeep showed obviously it's been disrupted,
17 but some of those disruptions, like the property two houses
18 down were prior to the current zoning code. So I wouldn't
19 like to say that I would see that as a precedent because
20 that's why we want to prevent things like that.

21 So I'd like to know whether that can be revisited
22 and whether it's truly necessary or not. That would be my
23 question for the Office of Planning.

24 MS. BROWN-ROBERTS: I'm not sure when you say it's
25 -- I think because the extended area accommodates stairs.

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1 It's not really going to living areas. So you know. That
2 would be up to the applicant to decide whether they're going
3 to change it or not. I mean, I don't see that -- I don't see
4 the waiver as something that we are against, no. But if
5 between the ANC and the applicant decides to change it that's
6 fine with us.

7 MS. HILLEY: I'm just trying to understand the
8 notification of the waiver. This is something I wouldn't
9 have had the expertise to be aware of. And I'm only learning
10 of it now.

11 MS. BROWN-ROBERTS: The waiver requirement is
12 embedded in -- let's see, let me see what the section is.
13 It's embedded in the requirements for the special exception.

14 MEMBER JOHN: U 320.2 and that would be (h).

15 MS. HILLEY: Yes, so that's what I'm trying to
16 say. If it's embedded in the special exception I wasn't
17 aware of it. Was it already baked in and I didn't read
18 carefully enough, or is this one of the items that was added
19 last minute where it's occurred later and the notice was
20 required. That's what I'm trying to understand. Because I
21 don't think I would have supported that portion. I would
22 have had this conversation.

23 MS. BROWN-ROBERTS: Usually the waiver is not
24 something that is advertised. Because it's embedded in the
25 special exception requirement. So it's not something that

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1 would be advertised. I don't think anyway. From my
2 understanding. I haven't seen any applications where they've
3 asked for waivers that it is part of the -- that it has been
4 part of the advertisement. (telephonic interference) what
5 I remember.

6 MS. HILLEY: No, I understand. I'm just trying
7 to get a sense that -- the plans have changed a lot because
8 of back and forth, and as I highlighted in the -- or we've
9 highlighted in the ANC's letter there were a lot of strange
10 things about the architectural plans where things didn't seem
11 fully baked to us. For example, why wouldn't you have a door
12 going out to the rear yard.

13 So I'm trying to understand if I missed -- because
14 I think the community would have much preferred for the --
15 as Mr. Hart had noted for the proportions of the facade to
16 continue the flow even with the addition. So that's what I'm
17 trying to see if I missed something, I missed an opportunity
18 to have that conversation, or if that conversation can still
19 occur.

20 MS. BROWN-ROBERTS: Oh yes, the conversation can
21 still occur. It's up to the BZA.

22 CHAIRPERSON HILL: Commissioner, you disappeared
23 there.

24 MS. HILLEY: Sorry. I keep hitting the camera
25 when I keep meaning to mute to block out noise.

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1 CHAIRPERSON HILL: I mean, Commissioner, my
2 understanding is that you guys approved what is before us.
3 So you have already approved the change in the rooftop
4 architectural element. You might not have known you were
5 doing that.

6 MS. HILLEY: Yes. That's what I'm -- yes.

7 CHAIRPERSON HILL: But this is -- what I'm saying
8 is you then, your ANC would have approved this design. You
9 see what I'm saying? Like, whether it was pointed out to you
10 or not, this is the design that you all liked to the point
11 that you did approve it.

12 MS. HILLEY: I understand what you're saying. I
13 think my point is that there were so many last minute changes
14 that I'm just -- we didn't have a lot of time to process.
15 But I hear what you're saying.

16 CHAIRPERSON HILL: Right. Okay.

17 MS. BROWN-ROBERTS: There was something that was
18 identified -- it wasn't a last minute change for us. We had
19 identified that he needed that (telephonic interference).

20 MR. BASSETT: So this is Dan Bassett with OAG.
21 The commissioner is asking -- if I'm understanding correctly
22 the commissioner is asking at what point was the waiver
23 requested. And that was addressed earlier by the board.

24 The waiver was included in the new burden of proof
25 statement that was submitted at the beginning of this month

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1 and the board considered at the beginning of this hearing
2 whether to waive the 21-day period for filing a new burden
3 of proof. And so in that consideration they were considering
4 whether to allow the applicant to submit this new burden of
5 proof that requested this waiver.

6 CHAIRPERSON HILL: So in other words,
7 Commissioner, it's happening now. And so -- and the reason
8 why I'm comfortable with it, and I guess why the board would
9 be -- why we've been comfortable with it in the past, this
10 is the design that you guys saw and approved. Right? Like
11 if they were coming in now with a design that had changed the
12 rooftop element that you hadn't seen then that would be a
13 different discussion.

14 MS. HILLEY: I guess my question is I thought our
15 approval was about the three-unit conversion relief and the
16 relief of the parking requirement. I never knew that it was
17 specifically affiliated with the design because we've never
18 felt like the design was detailed enough. And we kept being
19 told that the applicant was continuing to work with DCRA on
20 some of the things that we didn't quite understand why they
21 were the way they were because they didn't make sense
22 architecturally. So I must have missed that. But I didn't
23 know we were signing on to the design. I thought we were
24 signing on to -- but I understand what you're saying, if we
25 missed our opportunity.

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1 I just wanted to make sure that this change which
2 I don't know if I was alerted to, if that would have been
3 something I should have flagged, or whether it was buried
4 kind of in details. I don't love this. I can tell you I
5 would much prefer to keep the normal facade as would the
6 neighbors. So I wish I had highlighted to them this is
7 something we could have changed.

8 CHAIRPERSON HILL: Right. But the normal facade,
9 you just would have lost that one -- I forget what that
10 window thing is called.

11 MS. HILLEY: The dormer?

12 CHAIRPERSON HILL: Dormer. Thank you. You would
13 have lost that dormer.

14 MS. HILLEY: Yes.

15 CHAIRPERSON HILL: So, that's what -- and so now
16 I'm just curious. I mean it's already kind of this is what
17 went through your ANC. So you can only speak for you. But
18 you then would have preferred for there not to be a dormer
19 there?

20 MS. HILLEY: No, I would prefer the dormers to be
21 where they originally have been versus being entirely new.
22 There's the same number of dormers. That's what I'm noting.
23 But we can move on. I don't want to take up too much of the
24 time on this. I'm just trying to understand.

25 CHAIRPERSON HILL: We all are trying to learn at

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1 the same time sometimes. You've been down there before,
2 right Commissioner?

3 MS. HILLEY: To the BZA? Once before. This is
4 actually my first case other than the Hebrew Home which was
5 a very large-scale development. This is my first three-unit
6 conversion individually.

7 CHAIRPERSON HILL: I thought we had seen you
8 before for something. Okay.

9 MS. HILLEY: You might have seen me for someone
10 else's case because I was the chair for two years.

11 CHAIRPERSON HILL: Okay. All right. Well, then
12 we'll just address you as El Presidente. All right. And Ms.
13 Brown-Roberts, please don't have anybody at the Office of
14 Planning make that joke. All right. So let's see. Did I
15 already do that -- does the board have any questions for the
16 Office of Planning?

17 ZC CHAIR HOOD: Mr. Chairman, on this issue about
18 -- as we were just discussing. I'm not sure if I'm -- I
19 heard the commissioner say she didn't know. I'm not sure if
20 I'm closing the book on that. Just wanted to put that out
21 there from my standpoint because I don't think it's to a
22 point that it's not -- we're at a never ending point of
23 coming back to revisit. That's just where I am on that.

24 CHAIRPERSON HILL: Okay. All right. Anyone else?

25 VICE CHAIRPERSON HART: I don't have any questions

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1 for the Office of Planning. They responded to the question
2 that I had early on.

3 CHAIRPERSON HILL: Okay. I'm sorry, Ms. John?

4 MEMBER JOHN: I don't have any questions. I'm
5 satisfied that the dormer was in the drawings that the ANC
6 voted on. So I don't believe that's a last minute addition.
7 And so there was notice of the dormer. That would be my two
8 cents.

9 CHAIRPERSON HILL: Okay. All right. Mr. Young,
10 could you let in the witnesses, please? Mr. Young, there's
11 just two of them, is that correct?

12 MR. YOUNG: That's all I have on my list, yes.

13 CHAIRPERSON HILL: I've got three maybe. Oh,
14 okay. Is it Zubiller?

15 MR. ZUBILLER: Zubiller. Jon Zubiller.

16 CHAIRPERSON HILL: Could you please introduce
17 yourself, sir?

18 MR. ZUBILLER: Yes. My name is Jon Zubiller. I'm
19 a resident of 3918 Kansas Avenue. I'm across the street from
20 the property.

21 CHAIRPERSON HILL: All right. Sir, as a member
22 of the public you'll have three minutes to give your
23 testimony. Your clock's up there on the left and you can
24 begin whenever you like.

25 MR. ZUBILLER: All right. I had provided a

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1 document to Mr. Young. I will just ask the board. So thank
2 you all for your time today and the time for me to speak
3 here. I'll talk very quickly.

4 I wanted to address one item. There is no
5 question about adding a third story to this project. We have
6 no issue with that as long as it's within the building
7 height.

8 I do have an issue with the plans and drawings as
9 provided. They continue to not meet coordination with the
10 existing building nor coordination with themselves. This
11 document tries to address that. If you can go to the next
12 slide, please.

13 The yellow line here is showing the last -- as to
14 the existing buildings. What I'm highlighting here is the
15 elevation of the proposed facade and the openings. One note
16 here. The existing building has all of the doors and windows
17 aligned, the heads of them. And in this proposed the door
18 for whatever reason is lowered on here. Next slide, please.

19 Existing house. Next slide. Just laying over
20 what I've -- overlay of the proposal onto the existing
21 facade. You can see that the proportions of the windows is
22 different than what is existing, and also the placement of
23 the dormers does not actually correspond to their existing
24 placement.

25 The proposed facade doesn't have any parapet walls

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1 either at the adjacent property. Next slide. This is the
2 ground floor of this. At the bottom of the page is the plan
3 for -- that's submitted in the drawings. I lined up the
4 window openings on the facade. You can see they actually
5 don't align with the facade that is proposed either. Next
6 slide.

7 And similarly with the porch columns, the existing
8 porch columns are -- they're shown in red here. And you can
9 see the proposed porch is actually extended and that's not
10 been discussed here.

11 The roof plan also does not indicate how one
12 accesses the roof. I'd also want to note that we've asked
13 numerous times to provide the adjacent properties, the side
14 yard here which is actually the rear yard of the adjacent
15 property is not shown. A rear yard requires 20 feet setback
16 and by building on the property line of the side yard of this
17 house they are building within 5 feet, actually even less in
18 some cases of that adjacent property which I believe would
19 be a limit to the light and air for that unit behind. Can
20 you go to the next slide, please?

21 Additionally, the dormers that we've talked about
22 considerably on this, typical dormers align on their facades
23 and the existing building does have an alignment. This is
24 a section showing where the dormers are that the applicant
25 has provided. The dormers are out on the eave of the

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1 building for some reason. I don't understand if that is a
2 construction that they plan to do, but it just speaks to
3 again the issue that the drawings have been provided for us
4 to review do not coordinate on themselves nor have sufficient
5 information to address how they actually are going to build
6 what the applicant is trying to build.

7 I appreciate Chairman Hart's comments related to
8 the architecture of the building as well. The projection of
9 the stair at the front is sort of a thumb in the middle of
10 the face of the facade, as well as the elevations have no
11 information as to any of the brick or other details that are
12 of the existing facade shown to be maintained.

13 It simply looks like -- well, the applicant has
14 said numerous times that he plans to maintain the facade.
15 The drawings do not show that and quite honestly we have no
16 idea how the -- what this building will look like. I would
17 feel that it would be remiss to approve a project not knowing
18 what it is going to look like rather than the intent.

19 I think there is a lot of information that is both
20 in drawings and not in drawings, and in this case the
21 information that is not in these drawings is considerable and
22 warrants further consideration before any approvals.

23 One last item I want to point out, that this is
24 a lot -- we have not talked about that it does not have
25 public alley access. It's a constrained site. The applicant

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1 is trying to build out the entire site to create three units.
2 By right he can do two units and still do the same footprint.
3 I have no problem with that. But the number of units here
4 combined with the variance for the parking I think is really
5 unfortunate for this neighborhood.

6 Converting a single-family home to three units two
7 of which are 1,700 square feet and one is 3,300 square feet
8 both far exceed the size of the typical --

9 CHAIRPERSON HILL: Mr. Zubiller, you've gone way
10 over your three minutes. I just want to know if you're
11 (telephonic interference).

12 MR. ZUBILLER: I'm sorry. I apologize. I'll wrap
13 that up. Just the size of these units far exceeds the
14 typical units that are in the area, and the fact that no
15 parking is provided for those units, of units this size I
16 find is a very big problem for those on the street.

17 Again, I would request that if there is a
18 possibility of approving this project that the restriction
19 on the RPPs are issued to these residents. Again, I thank
20 you for your time and I'm sorry for my going over. It's been
21 a long process on this.

22 CHAIRPERSON HILL: That's all right, Mr. Zubiller.
23 Three minutes is not long. Let's see. Mr. Zubiller, where
24 do you live again?

25 MR. ZUBILLER: At 3918 Kansas. So I'm across the

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1 street and about three houses down.

2 CHAIRPERSON HILL: Okay. Does the board have any
3 questions for the witness? Mr. Hart?

4 VICE CHAIRPERSON HART: Yes. Thank you, Mr.
5 Zubiller, for your -- while it was over the three minutes it
6 was fairly concise in terms of the points that you wanted to
7 bring up so it's much appreciated.

8 We actually do have to ensure that the plans that
9 we are -- if we are to approve this, the plans that we have
10 are actually ones that are what's going to be built. And I
11 have I think fairly consistently looked at and tried to
12 understand if there were inconsistencies, internal
13 inconsistencies with plans that they clean them up.
14 Partially because we're -- again, if we are approving them
15 then we have to understand what it is that we are approving.

16 The points that you bring up are something that
17 I will ask the applicant. With regard to just kind of
18 overall scale and overall consistency with where the window
19 placement, porch placement, the dormers, how it shows up in
20 section, all of these things.

21 Drawings matter. They matter because they tell
22 us what it is that is the expectation and so that we have an
23 understanding as to what it is that's being actually built.
24 And when those things don't align then that makes it really
25 hard to understand what it is that you're going to end up

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1 with.

2 And you have unfortunately the contractor then
3 having to figure out well, how do I figure this out, how do
4 I do this. And then you have these kind of very odd things
5 where the contractor just like -- like I just followed this.
6 The plans told me this and you kind of build things that are
7 very odd looking. And I know you've probably gone online and
8 seen a lot of images of what contractors build. And it's not
9 their fault. It's just that they have to go by what's there.
10 So I appreciate that.

11 I didn't have a question beyond you brought up the
12 rear yard issue, whether or not the side yard is actually a
13 rear yard. Is that what I heard you say?

14 MR. ZUBILLER: Yes. It's interesting. And this
15 goes to one of the questions that we've been pushing the
16 applicant to show is the context of the site which he still
17 has yet to do.

18 But the side yard of this property is the rear
19 yard of the adjacent property. There's no alley here. I
20 don't know if you have the ability to bring up a zoning map
21 here, but it illustrates the issue pretty well.

22 The rear, these two buildings fronting onto
23 Randolph Street, their rear yard is the side yard of this
24 property. And those buildings are within 5 feet of their
25 rear yard already. I still have a very big question as to

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1 how the applicant will be actually constructing a face on
2 line property without having constructability or access to
3 their site, especially with the constrained depth of this
4 site already.

5 VICE CHAIRPERSON HART: I understand that. And
6 I appreciate the question. We can ask the applicant and also
7 ask OP on their perspective if they're so inclined to respond
8 to that.

9 (Simultaneous speaking)

10 MR. ZUBILLER: I would just say that the RF-1 zone
11 requires a 20 foot setback at the rear yard, and by the
12 applicant putting his building face on line it requires --
13 it basically makes the adjacent property non-conforming.
14 From a fire suppression standpoint, fire protection.

15 VICE CHAIRPERSON HART: I understand. Again, we
16 can ask the Office of Planning and the applicant to further
17 explain that and maybe it's something that we need additional
18 information on. But I appreciate your testimony. Thank you.
19 No further questions.

20 CHAIRPERSON HILL: Okay. Thank you, Vice Chair
21 Hart. Does anyone else have any questions?

22 ZC CHAIR HOOD: Mr. Chairman, I just want to thank
23 Mr. Zubiller as well. I would agree with the vice chair
24 about scaling and the position. So I'll follow his lead on
25 that as he continues to ask questions as we move forward.

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1 Thank you, Mr. Chairman.

2 CHAIRPERSON HILL: Okay, great. Does the
3 commissioner have any questions for the witness?

4 MS. HILLEY: Jon and I have spoken quite a bit.
5 I share concerns. And also just to note those are two large
6 multi-family buildings that he's referring to that are on
7 Randolph where there has been no involvement from the
8 property owners as far as I know.

9 CHAIRPERSON HILL: Okay. Does the applicant have
10 any questions for the witness?

11 MR. SAWANT: No, I don't.

12 CHAIRPERSON HILL: Okay, great. All right, Mr.
13 Zubiller, thank you very much for your testimony.

14 MR. ZUBILLER: I appreciate it. Thank you very
15 much. Thank you for the time today.

16 CHAIRPERSON HILL: Thank you. You can stay there
17 right now also. We'll just see what happens. If you just
18 wouldn't mind muting yourself please. Is it Ms. Do?

19 MS. DO: I'm here.

20 CHAIRPERSON HILL: Okay, great. I'm sorry, Mr.
21 Zubiller, if you could -- oh, you did. Okay, great. Thanks.
22 Ms. Do, are you trying to have video or you're just going to
23 go ahead and give --

24 MS. DO: I don't know how I can get the video on.
25 Yes. Hi, the board. My name is Camilla and my husband Paul,

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1 we are the next door neighbor to the proposed development by
2 Mr. Kuldeep.

3 I will say we -- in the motion to support
4 something to be built because during the past there's a lot
5 of vandalism to the next door neighbors and our house was
6 broken in once. Probably related to some illegal people who
7 stay over the house that Mr. Kuldeep owns.

8 So that's our overall opinions on this. However,
9 during the process of hearing the drawings as an architect
10 in the District of Columbia I also share the concern of the
11 ANC Commissioner Bennett and Jon regarding the quality of the
12 drawings. And what it shows specifically I have questions
13 for Mr. Kuldeep about the stairwell at the front facade that,
14 as a thorn on the face actually projecting out as Jon said,
15 and Mr. Kuldeep saying that he has no other options to revise
16 the plan on it.

17 But I wonder if there's something that he could
18 consider to revise or improve. Similarly as everyone has
19 talking about the rear yard in the back of the two multi-
20 family housing on Randolph Street. I also wanted to make
21 sure that the rear yard and the property separation is done
22 as well as the opening protective allow is being considered.

23 Because as a next door neighbor I don't want a
24 fire incident in the future would impact on our property.
25 So that is our input. I would like to keep it short as

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1 everyone has seen Jon elaborated a lot of the comments and
2 questions and discrepancy on the drawings that Mr. Kuldeep
3 has presented to the board.

4 Overall we'd like to see something get built to
5 raise the value of the housing around the neighborhood as
6 well as eliminate the issue of the vandalisms and illegal
7 trespassing in the property that Mr. Kuldeep owns.

8 CHAIRPERSON HILL: Okay. Let's see. And so Ms.
9 Do, I'm just kind of going to ask a quick question. I'm a
10 little confused as to what it is that you are opposed to with
11 the design.

12 MS. DO: I'm not opposing. I'd like to get the
13 board to review the drawings and getting more of the view on
14 the back of the house regarding the two multi-family housing
15 in the back.

16 CHAIRPERSON HILL: I understand. I mean the BZA,
17 and this is also just for the commissioner and everybody, we
18 don't usually -- we don't do design review necessarily. Like
19 we do -- and Chairman Hood is going to jump on me here for
20 a second.

21 I know the character of the neighborhood are
22 things that we look into, but again, we're here for like the
23 zoning requirements, the special exception, and the variance.
24 That's kind of like what is in our purview and whether or not
25 they meet those criteria. I'll let the chairman expand on

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1 that in a moment.

2 But my only question for the Office of Planning
3 based on the things that the witnesses have brought forward.
4 Again, this is -- the massing and the height is all matter
5 of right, right? It's just the conversion they're here for,
6 correct?

7 MS. BROWN-ROBERTS: Are you talking to the Office
8 of Planning?

9 CHAIRPERSON HILL: Yes.

10 MS. BROWN-ROBERTS: Yes, yes.

11 CHAIRPERSON HILL: Okay. All right. So, for the
12 witnesses, the massing and the height of this building could
13 be done by right with two units. So we're here to determine
14 whether or not they're meeting the special exception criteria
15 for the third unit. So just to let you all know.

16 Does anybody have any questions -- this is for
17 Chairman Hood. Would you like to make a comment?

18 ZC CHAIR HOOD: Yes. Since you called on me I
19 would make a comment. I actually agree with everything you
20 said. The Zoning Commission has broader issues that we look
21 at. The Supreme Court has already said that.

22 I do want to tell you about El Presidente. There
23 are a lot of other names that people call us as well. And
24 that name would be one. I wanted to put that in there.
25 Thank you.

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1 CHAIRPERSON HILL: All right. Okay, Ms. John, do
2 you have any questions for the witnesses?

3 MEMBER JOHN: I was just thinking if I have a
4 question and I guess it's to confirm with Ms. Brown-Roberts
5 that this is a self-certified application, right?

6 MS. BROWN-ROBERTS: Yes, it is.

7 MEMBER JOHN: So the applicant has to ask for the
8 relief that he needs. And maybe Mr. Hart will chime in. So
9 if the drawings are incorrect and it cannot be built it's a
10 question for DCRA, right?

11 MS. BROWN-ROBERTS: That's correct. Yes, that's
12 correct.

13 MEMBER JOHN: Okay. So I agree with what the
14 chairman El Presidente said just to add my comments on that.

15 CHAIRPERSON HILL: Okay. I regret that. I
16 regret. Thankfully it will die after this day I hope.

17 MEMBER JOHN: As well you should, Mr. Chairman.

18 CHAIRPERSON HILL: Hey, sometimes you make a
19 mistake over here. Let's see. Okay, so therefore I'm going
20 to excuse the -- actually, Mr. Zubiller, are you still there?

21 MR. ZUBILLER: I am.

22 CHAIRPERSON HILL: So your objection to the
23 facade, I'm a little confused. It's like the alignment, or
24 you don't like the fact that the door -- I mean this is all
25 design things now. Like you don't like the fact that the

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1 door is lower than the other doors. I mean, I don't
2 understand.

3 MR. ZUBILLER: The applicant has stated numerous
4 times that he plans to maintain the facade and it just simply
5 is not the case based on what I can read from the drawings.
6 The detail is not carried through. The proportions of the
7 openings is not carried through. The alignment of the heads
8 of the openings is not carried through.

9 CHAIRPERSON HILL: Okay. I'm just trying to --
10 that's okay. I'm just going to interrupt you. Like you
11 don't like the design. That's what you're speaking to.

12 MR. ZUBILLER: Well, I don't think that the
13 drawings show the full extent of the building properly.
14 Design aside, the access does not show how one gets up to the
15 rooftop that he is developing. The roof plan -- and which
16 could affect the height of the building because of the
17 doghouse, or the penthouse that needs to go up.

18 CHAIRPERSON HILL: Mr. Zubiller, the height of the
19 building can't be affected. The height of the building is
20 the height of the building. And so they won't be able to
21 change that.

22 MR. ZUBILLER: Understood. However, what I'm
23 saying is that for him to build what is in the drawings would
24 require him to have additional height to -- based off of
25 where the roof would need to go or the penthouse.

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1 CHAIRPERSON HILL: He wouldn't be able to violate
2 the height requirements. I'm just letting you know he
3 wouldn't be able to do it. They wouldn't permit it that way.
4 He'd get kicked back if something were to be above the height
5 that he's limited at by matter of right.

6 MR. ZUBILLER: Understood.

7 CHAIRPERSON HILL: I understand your objection.
8 I was just trying to clarify what your objection was.

9 (Simultaneous speaking)

10 MR. ZUBILLER: And I am objecting to the
11 conversion to three units based off of the combination of the
12 variance for not providing parking on the site.

13 CHAIRPERSON HILL: Okay. It's not a variance just
14 to be clear. He's not here for a variance. He's here for
15 a special exception.

16 MR. ZUBILLER: Sorry. The special exception to
17 do a conversion to three units which is not matter of right
18 in combination with the exception for providing parking
19 onsite I am opposed to because -- any other three-unit
20 conversions in our area, they also provide parking on the
21 site, or some amount of parking. If it's one spot. I am not
22 aware of a single project that is a three-unit conversion of
23 a single-family residence that does not -- one, that doesn't
24 have alley access, but two, doesn't also provide at least one
25 parking space onsite.

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1 CHAIRPERSON HILL: Okay. Mr. Zubiller, did you
2 also read the Office of Planning's report or have a chance
3 to read it yet?

4 MR. ZUBILLER: That was posted on the IZ site?

5 CHAIRPERSON HILL: Yes, that's in the record.

6 MR. ZUBILLER: No, I have not seen it yet because
7 the -- a lot of the drawings and a lot of the stuff has just
8 come out this past week.

9 CHAIRPERSON HILL: No, the Office of Planning's
10 report. That came out on 7/2. If you want to go and read
11 that one.

12 MR. ZUBILLER: I did not see it yet. I did not
13 see it yet.

14 CHAIRPERSON HILL: Okay. All right, well thank
15 you very much. All right, I'm just saying you might want to
16 read it. It's kind of helpful. So all right. Well, thank
17 you very much to the witnesses. Unless the board has
18 anything else I'll excuse the witnesses. Commissioner, you
19 look like you're about to say something.

20 MS. HILLEY: Will I get a time to actually speak
21 directly on what I'd like to say other than chiming in on
22 things? Will I still get a chance?

23 CHAIRPERSON HILL: Yes.

24 MS. HILLEY: Okay, great.

25 CHAIRPERSON HILL: Yes. Okay. Let's see. And

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1 Commissioner, I apologize, I didn't go in the correct order
2 with you.

3 MS. HILLEY: That's okay.

4 CHAIRPERSON HILL: Well, I guess the reason why
5 is also you were here -- I mean, I'm a little confused. I
6 mean, your report is an approval, the ANC. And so that's why
7 -- no, I'm sorry, that's why I don't normally -- if you guys
8 were here in opposition I would have been like oh, I would
9 have given you that time. So that's why kind of -- I'm a
10 little out of order with this.

11 But you do have the same amount of time as the
12 applicant to give your presentation. And I assume that there
13 is something here in the record that gives you the authority
14 to represent the ANC, correct?

15 MS. HILLEY: There is. It's at the bottom of the
16 resolution.

17 CHAIRPERSON HILL: Okay, great. So please go
18 ahead and give any kind of presentation you would like.

19 MS. HILLEY: Great. No, I appreciate all the
20 comments that our resolution is in support. And it is
21 because we've also found that when we've come to the BZA
22 hearings, regardless of whether we oppose or support you all
23 typically pass the three-unit conversions regardless. So
24 what the ANC tries to do is get to the best place possible
25 for the community.

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1 I will say this development, while we welcome
2 density and we're excited about the conversion of a property
3 that's been vacant. We were put in a bad place with this to
4 begin with. The developer did purchase a lot which had no
5 alley access. So of course when residents were not in
6 support of the curb cuts that left us in a place of do we
7 support the special exception for no curb cuts, or do we take
8 curb cuts, eliminate more public parking, and then have
9 garages and parking in the front of the property because
10 there is no other place.

11 And so I'd like to say we're not here because this
12 is ideal, but I also think the -- I mean I do fear that if
13 developers are just buying properties where there's really
14 no way about it what room do we have. And so I'd love to
15 hear from the BZA what limitations or what can we think of
16 in terms of the future rework of the zoning code for
17 properties like this one where there is no alley access and
18 unlike most other end properties there's no direct access
19 already that's existing for parking as is the case for almost
20 every other end unit I can think of in the neighborhood.

21 Chairman Hill, I would also note that while we are
22 in support there are a lot of caveats in our letter including
23 ones that we're talking about today which is we have been
24 told several times by the applicant that he's keeping the
25 existing facade after initial feedback. He's doing that in

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1 good faith.

2 But I think as Mr. Zubiller is pointing out the
3 drawings we're seeing isn't keeping the facade. It's moving
4 the windows, it's moving the doors. And so we had a meeting
5 last night, of course one of the -- or not last night, a week
6 ago. We've already asked for one postponement. We were
7 trying to do the best we could in a very short period of
8 time, but I would like to say that I'm not sure -- I'm still
9 worried that you're saying our support is across the board.
10 It does have caveats that we would like to make sure that the
11 existing facade as we've been told is what's happening.

12 In terms of Vice Chair Hart's comments I am
13 concerned that we're hearing that there are all these
14 inconsistencies. And if it's going to be constructed as it
15 is in the drawings that's why on the first page of our
16 document -- sorry, I'm working from two computers -- says
17 that the ANC notes it is providing this resolution contingent
18 on a coordinated set of drawings be submitted to the BZA
19 prior to the scheduled hearing next week.

20 So I think we're just trying to figure out if what
21 he submitted is really what he's doing. But maybe DCRA will
22 catch that. But I am concerned there. And I also am
23 concerned -- I share the concern that the basement/first
24 floor unit is also as Mr. Zubiller pointed out 3,300 square
25 feet which is actually the size of an entire rowhome

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1 including the basement in the neighborhood.

2 I did check in with the Office of Planning before
3 this call because my other fear is that this could quickly
4 get converted and condominium-ized further, and then there
5 could be four units that would have escaped inclusionary
6 zoning requirements for affordable housing entirely.

7 So I'd love to hear the board's take on making
8 sure that the ANC would be involved in a future homeowner
9 further condominium-izing their 3,300 square foot unit. So
10 those are -- that's my testimony.

11 CHAIRPERSON HILL: Okay. Let's see. Does the
12 board have any questions for the commissioner?

13 ZC CHAIR HOOD: Yes, Mr. Chairman. I do want to
14 ask Ms. Hilley about the -- in the letter it speaks about the
15 affordable housing. As the ANC were you all able to get the
16 applicant to commit? The way I read it it's \$15,000 to the
17 housing trust -- production trust fund. Is it fifteen or ten
18 thousand?

19 MS. HILLEY: It's \$10,000 because the applicant
20 said he didn't have the financing to cover the additional
21 cost for the adjacent neighbors to raise their solar panel
22 system. And so the ANC lowered the amount so that those
23 adjacent neighbors, there would be an additional \$5,000 for
24 them to do that. So it is \$10,000.

25 The issue I have, and we're working closely. He

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1 is working in good faith with us is the timing. Typically
2 we'd ask for that money to be deposited, or at least
3 deposited in escrow fairly close to this case. But we put
4 the date pretty far out because of there not being the
5 financing available at this point which does worry me in
6 terms of the ANC's ability to track it.

7 ZC CHAIR HOOD: So I'm not really sure how in
8 terms of as related to zoning. From what I'm hearing from
9 what you're saying that he's been working in good faith. And
10 I guess if he's been working in good faith along this line
11 I believe he will continue. At least that's what I'm -- I'm
12 saying this because I'm hoping he continues to do that.

13 The other thing is as the vice chair was talking
14 about the drawings. And I think he's best suitable more than
15 I am to do that. I can follow up and opine later. I believe
16 that there is a mechanism for the community. It seems like
17 you have the talent in the community also following and
18 monitoring what's being put up.

19 And then you can always call the Zoning
20 Administrator's office depending upon which way this case
21 goes.

22 Now, to my next point about the BZA always
23 approving three-unit conversions or whatever the case was,
24 that's not really always the case. There's a lot that goes
25 into it to get there. The Office of Planning does a lot of

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1 work. What you see on one end, it may come into the door
2 with the alphabet looking like an A, but after the Zoning
3 Commission, the BZA or Zoning Commission as well and the
4 Office of Planning gets finished with it it goes out looking
5 like a W. So I want you to know in all those cases they
6 stand on their own and the merits of it are on each case.
7 So they're different. It's not just the BZA approves
8 conversions, we approve it. That does not happen.

9 I've heard that more than once. I've heard it
10 even when I've been in front of the council. But I want to
11 make sure, and I said the same thing there. There's a lot
12 of work been going into these cases. So I want to assure you
13 that there are mechanisms.

14 Now, as far as the changing, Zoning Commission
15 worked nine years on this project, on changing the code. So
16 if you see something that we may need to look at again I
17 would implore you to contact the Office of Planning, work it
18 out with them, and then they'll bring it to us. But I would
19 encourage you to participate and get involved in that. So
20 thank you again for all your work and we'll see how this
21 goes. Thank you, Mr. Chairman.

22 CHAIRPERSON HILL: Okay, thank you. Commissioner,
23 just to the point, so the conditions that you all have with
24 your approval are things in general that we wouldn't to put
25 in our order because they're not in our purview.

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1 I think like -- you've been a commissioner there
2 for a little while?

3 MS. HILLEY: Yes. So, no, I'm aware of that.
4 It's just our best way of having a record.

5 CHAIRPERSON HILL: No, no, it's okay and I
6 appreciate that. What I'm trying to say is like you all are
7 the ones I think that came up with this affordable housing
8 donation.

9 MS. HILLEY: We are.

10 CHAIRPERSON HILL: And by the way, the donation
11 that you all came up with. So it's -- what am I trying to
12 say. It's not something that as I've already mentioned we're
13 able to put into an order because it's not something within
14 our code. But I like that you all are actually thinking
15 about this kind of stuff and trying to figure out what you
16 can do to help developers kind of move along in this
17 direction.

18 I will ask a question of Ms. Roberts. So Ms.
19 Roberts, I don't even know. I mean, there is a large -- and
20 Mr. Sawant, I'm sorry, I'm not jumping on you or anything.
21 I was just curious about this. There's a big unit down
22 there. So now how would -- what could possibly happen to
23 that unit? The commissioner is concerned about something and
24 I got a little lost in that.

25 MS. BROWN-ROBERTS: You're talking about the

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1 basement unit?

2 CHAIRPERSON HILL: Yes.

3 MS. HILLEY: Basement/first floor.

4 MS. BROWN-ROBERTS: The first floor. We looked
5 at it to see if there was a kitchen or something like that
6 down there that could make that easily convertible. There's
7 a connecting stairway. So those are the things that we look
8 at to get a determination that we think that this is really
9 one unit. I think when it goes to DCRA they will take a
10 further look at it and make that evaluation.

11 If it is converted one of the things they -- the
12 commissioner asked me was suppose it was sold to someone else
13 and they wanted to convert it. Again, that new owner would
14 have to come in to have it reviewed. This would have to go
15 to DCRA and DCRA at that time will check to see if it is
16 still three units.

17 If there is a fourth unit then they would have to
18 come back to the BZA. If the new owner wants to add an
19 additional unit again they would have to come back to the
20 BZA.

21 CHAIRPERSON HILL: Right. But -- and it would be
22 a special exception at that point?

23 MS. BROWN-ROBERTS: No, because it would be four
24 units and only three units are permitted in RF-1. So that
25 would be an -- that would be a four-unit apartment which is

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1 not allowed as a matter of right.

2 CHAIRPERSON HILL: Right. But I'm saying if the
3 new owner --

4 MS. BROWN-ROBERTS: I think that would be a
5 variance.

6 CHAIRPERSON HILL: Right. Okay. And then so
7 Commissioner, to your question, and it's interesting to me
8 also. I mean like they're looking at is it easily turned
9 into two units. And we've had cases before when all of a
10 sudden there's a kitchen down there and it's easy to seal off
11 the stairwell. I mean, they are looking at that.

12 And then in addition to that they would have to
13 come back before us and come back before you guys and if it
14 was a variance as you know it's a much more difficult hurdle
15 to overcome.

16 (Simultaneous speaking)

17 MS. HILLEY: -- confirmation in writing because
18 I think our fear here -- I guess my fear was it's being
19 converted from one to three units now. Those are then their
20 own units. So my fear was that this is then converted later
21 to two units. You have four units onsite. This is a
22 workaround to getting the IZ one out of four in RF-1 as
23 affordable.

24 So I guess I would like confirmation in writing
25 that they would have to come back to the ANC. Because then

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1 we're also having four units onsite with no parking. So I
2 just want to make sure they have to come back through this
3 process in a variance or special exception because otherwise
4 this is a real sweet deal.

5 CHAIRPERSON HILL: Yes, I mean the regulations are
6 written, Commissioner, the way they are. There's nothing
7 that you're going to get from the Office of Planning that's
8 going to be different.

9 MS. HILLEY: Okay.

10 CHAIRPERSON HILL: Again, they'd have to come to
11 us for a variance. There is no sweet deal. And by the way,
12 Commissioner, I've got to tell you when you guys come, the
13 thing that -- now that everybody's got me going just before
14 lunch. When the commissioners come and they say we always
15 approve, we always this, we always that, I'm going to come
16 down to the ANCs and start saying you know, you guys always
17 this, you guys always that.

18 MS. HILLEY: We did do an analysis that we saw
19 that every single three-unit conversion in our neighborhood
20 has gone through. I appreciate that there is --

21 (Simultaneous speaking)

22 CHAIRPERSON HILL: And I'm sure if you did do the
23 analysis then you looked to see whether or not they met the
24 criteria for us to grant the application. If they don't meet
25 the criteria we can't grant the application.

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1 If they do meet the criteria we have to grant the
2 application. I can't say you can't do it. It's not in the
3 regulations. Everybody's yelling at me.

4 MS. HILLEY: I hear you. That's why we need to
5 be informed on the next zoning code update. And I think my
6 worry here is this was a site where he purchased it not
7 knowing that there was no way to add parking onsite other
8 than curb cuts. And so there -- just it's an additional
9 complication. I'm all for density in the neighborhood. This
10 is just different than what we usually see.

11 CHAIRPERSON HILL: Okay. I appreciate it,
12 Commissioner. Some words trigger everybody differently.

13 MS. HILLEY: And I'm sure -- we get them at the
14 ANC too.

15 CHAIRPERSON HILL: I know, I know. All right, so
16 does anybody have any more questions for anybody? Oh, Mr.
17 Hart does.

18 VICE CHAIRPERSON HART: I've got a lot of
19 questions.

20 CHAIRPERSON HILL: Oh, please go ahead.

21 VICE CHAIRPERSON HART: Actually, it's -- most of
22 these questions are actually to the applicant and to their
23 architect. And this has to do with some of the testimony
24 that we heard already from Mr. Zubiller. He brought up some
25 very accurate -- I shouldn't say accurate. He brought up

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1 some very interesting points.

2 And in looking through the drawings there's a few
3 things that I'm just not understanding and I would like to
4 get some clarity around that.

5 One of them is that the porch is changing. So the
6 porch is actually dropping. It's lowering. If you look at
7 the elevation that porch is going lower than what it is. So
8 the question is how do you get to the first floor if the
9 porch is getting lower and the door is lower. I don't know
10 how that happens. So there's something -- some set of stairs
11 that I'm just not seeing that do that. And I'm not sure why
12 that's happening. So that's one question.

13 The other question has to do with just the
14 inaccuracies in the drawing set. And in terms of the windows
15 and the alignment of the windows. I mean, I look at the
16 elevation just to kind of give me an understanding. I look
17 at the -- excuse me, not the elevation, the photograph of the
18 front elevation to understand the proportionality of the
19 windows to the doors, to the windows to each other, the first
20 floor windows to the second floor windows to the dormers, the
21 alignment of them.

22 And what's that telling me is that the first floor
23 windows are -- there's just a single window. In the drawings
24 that you have you have actually double windows, ones next to
25 each other. So there's a change that's happening there.

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1 With regard to the porch itself the columns
2 holding up the porch roof are changing, but it doesn't look
3 like the roof is changing, at least I don't think it is. But
4 I may be incorrect about that.

5 If you could talk a little bit about, and this is
6 Mr. Ettehadì, if you could talk a little bit about the
7 drawing set.

8 And actually the last one is with regard to the
9 dormer. The section that we have in the drawing set, even
10 the most recent one shows a very, I don't know, it's kind of
11 a bizarre looking item with -- and I don't quite understand
12 what's going on there. So if you could try to talk a little
13 bit about the drawing set.

14 And if they need to be internally corrected then
15 you could also say that and we could get those. But right
16 now there's a lot of kind of questions that I have that I
17 don't quite understand that -- why the front porch is
18 actually lowering, the front door is actually lowering, and
19 kind of what is that getting you. So if you could respond
20 to that I'd greatly appreciate it.

21 MR. ETTEHADI: Hello, can you hear me?

22 VICE CHAIRPERSON HART: Yes.

23 MR. ETTEHADI: Okay. So hello, everybody. I
24 wrote it down. First of all, the windows. The windows --
25 they are going, they are going to expand the front of the

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1 house. So the front of the house is going to be expanded.
2 The windows are going to be new windows on the wall which is
3 existing -- which is replacing the existing wall.

4 So these windows are not the existing windows that
5 we have. It is keeping the geometry of the windows. Of
6 course they are wider than what we have and they are
7 relocated. But what we do is that we are keeping the
8 geometry and harmony with the neighbors. So yes, if you
9 measure the existing windows from like side to side they're
10 not exactly the same thing because the plan is changing
11 because the whole house is expanding.

12 Also, the porch is the same height and the roof
13 is the same height, but we expanded because it doesn't look
14 good if we keep a small porch which we have but with a larger
15 house. We can do that easily, but it doesn't look good. We
16 are expanding the house considerably, but we have to expand
17 the porch. So we are keeping the height of the porch
18 ceiling, the porch roof with the same style, same geometry,
19 same material but we are expanding so we keep the geometry
20 in the appropriate way.

21 Yes, it's not the location of the columns, where
22 the porch ends in the elevation is not matching the existing
23 porch. But we are keeping the same geometry, just expanding
24 that with the new porch which looks exactly the same as the
25 other one in the height. That is one question I think that

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1 I answered. Two questions with the windows and the porch.
2 Any questions for these two?

3 VICE CHAIRPERSON HART: No. I mean, I fully
4 understand that you wouldn't necessarily keep the existing
5 windows. I was just wondering why there were changes to the
6 size and proportions of the windows on the first floor, and
7 why that door was dropping. So you're dropping the door --
8 I'm still not exactly sure why you're -- I mean, you said
9 something about the proportionality, but I am not exactly
10 sure how that's helping.

11 MR. ETTEHADI: Yes. That is another question.
12 So let's go one by one. Why the door is dropping down. This
13 is the question.

14 So because the reason, when we're entering the
15 house, if you see the plans and you're entering the house at
16 the first floor we're entering to the landing and then there
17 are a couple of other stairs going up to the first floor, and
18 a couple of other steps going down to the basement. So, the
19 door cannot be at the same level right now in the existing
20 building, you have a raised porch floor. We come couple
21 other steps up. We go to the porch which is at the same
22 level of the first floor. This is not happening here.

23 We come into the building right now, in the
24 proposed building, we come to the building, we come to the
25 entrance landing and then there are a couple of other steps

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1 going to the first floor up. That is why the proposed door
2 is lower than the existing door. So the entrance landing for
3 the proposed is between the first floor and the basement
4 floor. It's at the middle landing.

5 VICE CHAIRPERSON HART: So, why do you have stairs
6 going down to the cellar, to the basement?

7 MR. ETTEHADI: There is a common space there.
8 There is storage there that we are using for the upper units
9 so they have to be able to access their storage.

10 VICE CHAIRPERSON HART: This is a 1,700 square
11 foot units and you need extra storage?

12 MR. ETTEHADI: The top units has storage in the
13 basement. The whole basement is not storage, but part of
14 that is storage.

15 VICE CHAIRPERSON HART: Yes, I mean I'm looking
16 at the plan now. It's a small area that is used for storage.
17 It just seems odd to do that because you have an entire --
18 the first and basement level are one unit and these are
19 fairly large units as one of the folks that testified
20 described. It just seems a little strange to have a stairway
21 going down there.

22 And I understand what you just said. It just
23 seems very strange to do that because you're losing some
24 space there for the unit.

25 MR. ETTEHADI: It is not -- I understand, I

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1 understand. But because we didn't want to have a very huge
2 basement and we prefer to give that, part of that to the
3 upper units so they have some more rooms as storage. So
4 instead of having a large -- I was listening that most of the
5 neighbors were opposed to having a very large basement. So
6 that was something that we did to make the basement smaller
7 and give the upper units some storage space and probably a
8 laundry, a laundry probably or something like that. So that
9 is why there's stairs going down, to fit that storage space.

10 VICE CHAIRPERSON HART: I understand it, I just --
11 it seems a little strange to me. So with regard to the
12 section, the dormers that you have, I don't understand what's
13 going on at the top of the roof.

14 MR. ETTEHADI: The dormers also, the way that the
15 dormers are, we are going to mimic the -- you'll see that --
16 let me have something before that. The staircase is not
17 projecting. The staircase is at the same level of the front
18 wall. The third floor is going back.

19 So it looks that the third floor, the stairs looks
20 like projected, but the stairs is not projected. The stairs
21 is at the same front line of the other neighbors and the main
22 house. Because of the dormers and that mansard roof we have
23 to have a setback at the third level. And we cannot do that
24 with the staircase at the third floor.

25 So the staircase at the third floor looks like

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1 that it is projected, but it's not. That is one of the
2 questions.

3 And then let's go to the dormers. The dormers,
4 we are going to make the (telephonic interference) exactly
5 the same dormers as we have at the neighbor's house. These
6 are not the original dormers that we already have and they
7 are in a very bad and unstable way. Because we are
8 relocating the windows I think that we don't want to keep the
9 existing original dormers which won't be aligned with the
10 proposed windows.

11 In the proposed building dormers being aligned
12 with the proposed new windows, not the previous one, the old
13 house. So we are rebuilding the whole same dormers which are
14 fake dormers. They are like just decorated dormers. They
15 are not connecting things to anywhere else. You know what
16 I'm saying, just decorating.

17 VICE CHAIRPERSON HART: Yes, but the existing
18 dormers are at the same plane as the front facade. And so
19 what you're doing is you're --

20 MR. ETTEHADI: I understand what you say, I
21 understand. Yes, so probably that was the mistake in the
22 drafting so we can make it align, yes. I understand.

23 VICE CHAIRPERSON HART: Yes, I'm still not sure
24 that you understand what I'm saying. I mean, I fully
25 understand where the stairs are supposed to go. I get where

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1 you're trying to put the dormers. But it is a strange
2 overhang that you're creating. And I'm not exactly sure what
3 you get out of that space. It's a very odd space. I'm
4 looking at sheet number 8301 on exhibit 52. It is -- and I'm
5 not sure which page it is exactly. It's a section of it.

6 MR. ETTEHADI: I'm looking at that. At the front
7 of the unit --

8 VICE CHAIRPERSON HART: Page number -- it's the
9 tenth slide in that slide deck. And the front projection is
10 just very bizarre looking. I mean, dormers don't do that.
11 The roof actually should come down to meet the front facade
12 of the building, and then the dormers are kind of back within
13 that. And I just don't understand why that -- what you're
14 getting out of this.

15 I mean, I understood your explanation, but the
16 explanation didn't make sense.

17 MR. ETTEHADI: This one, you're right, dormer, the
18 face of the dormer should align with the face of the main
19 building. I would like to correct that.

20 VICE CHAIRPERSON HART: Yes. But what that will
21 do is it will then kind of change some of the section to --
22 it will just change some of that section, what that looks
23 like in front. And I'm not exactly sure what that will end
24 up being.

25 My point is that I would like for you to go

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1 through and make some -- make the change to this particular
2 drawing so that it is kind of consistent with the -- how the
3 -- actually, all of these dormers then are new.

4 MR. ETTEHADI: Yes.

5 VICE CHAIRPERSON HART: Is what you're saying.
6 The entire front of this building where the -- I guess you'd
7 call it a mansard roof, where that is and then when the
8 dormers are, all of that is being taken -- the existing ones
9 are being taken out and is being replaced.

10 Is the porch being removed as well?

11 MR. ETTEHADI: Yes.

12 VICE CHAIRPERSON HART: The roof of the porch
13 being removed as well?

14 MR. ETTEHADI: Yes.

15 VICE CHAIRPERSON HART: And going to be replaced
16 by something in kind?

17 MR. ETTEHADI: Yes, yes. As the elevation shows
18 that. Yes, it's in kind but it's wider.

19 VICE CHAIRPERSON HART: I mean, I understand, Mr.
20 Chairman, that we don't look at the design of projects, but
21 you're taking a building and you're really, really changing
22 the proportionality of the building in a way that I don't
23 think is a really good change.

24 The first floor is now extending down. I don't
25 know how much more, it's maybe a foot -- a little bit taller,

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1 the porch area itself. The columns for that porch are also
2 changing and kind of making them somewhat smaller, narrower.
3 Are you basing that on some existing project, or existing
4 house along the row, Mr. Ettehadi?

5 MR. ETTEHADI: So, I did not exactly understand.
6 What is your question specifically about the porch?

7 VICE CHAIRPERSON HART: The porch is changing and
8 currently you have a porch that has columns that meet the
9 floor of the porch, and then the porch kind of has its own
10 place.

11 Now you're taking the columns and you're I guess
12 going down to the ground. I don't know what they're hitting.

13 MR. ETTEHADI: They are going to the ground, yes.

14 VICE CHAIRPERSON HART: And so it throws off the
15 proportion of the building itself because you have next to
16 it something that is actually proportional to the building.
17 It's of a particular scale.

18 Again, I understand that that's not something that
19 we typically look at, but it really does make a change to the
20 way that the building is -- the face is perceived from the
21 street.

22 MR. ETTEHADI: So what we can do is that the roof
23 of the porch is exactly aligned with the existing roof of the
24 other porch at the other side.

25 VICE CHAIRPERSON HART: I understand that.

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1 MR. ETTEHADI: The other change is that because
2 the house is expanding, front of the house is expanding very
3 much, we are expanding the porch, so we have -- it looks like
4 natural and normal, not a wide house with a smaller porch.
5 Are you okay with that or no?

6 MR. BASSETT: So, this is Daniel Bassett, OAG.
7 The applicant in their burden of proof statement, the updated
8 burden of proof statement said the existing mansard roof and
9 two dormers will be retained.

10 It sounds like from this conversation that the
11 applicant is saying that they will be replaced with similar
12 ones.

13 VICE CHAIRPERSON HART: Yes.

14 MR. BASSETT: It sounds like based on this
15 conversation the applicant is going to need to update their
16 burden of proof statement to accurately reflect what is
17 happening on the plans.

18 VICE CHAIRPERSON HART: And I guess this is the
19 point, Mr. Ettehadhi and Mr. Sawant. It is because you all
20 are, you're working with the community and making some
21 changes to this. It is helpful for us to understand what it
22 is that we are approving and right now I don't have a clear
23 idea of that, or at least the drawings and what you're saying
24 are two different things, or at least they're not aligned.

25 And so it makes it hard to then say oh, we are

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1 very clear that we are actually approving this. And I
2 appreciate OAG, Mr. Bassett chiming in with that. It's very
3 helpful to understand that as well. But it is a necessity
4 for you all to have drawings that actually do that.

5 I don't think that I'd be able to opine on this
6 until I had the drawings so that I understand what is
7 actually before us. But again, what I'm looking at is there
8 is kind of a proportionality for some of the other buildings
9 on the street and it would be helpful to understand if what
10 we are being -- what is being presented to us is trying to
11 keep at least some of that rhythm of the street, of the
12 facades along the street.

13 Again, I've kind of made the point. I don't think
14 I need to go over that again. It is understanding what we
15 are seeing in terms of the removal of the dormers, the
16 removal of the mansard roof, the removal of the front porch,
17 the dropping of the front porch, the floor. And I understand
18 Mr. Ettehadi is saying that it's because they want to --
19 because of the increased width that they are proposing that
20 they needed to have more of a taller appearing first floor
21 so that that helps with the proportionality.

22 And maybe there is a side by side to show what was
23 existing and then what's being proposed, or that you're
24 saying that these are all new windows. You know, point out
25 what is to be replaced. Have an existing drawing that shows

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1 what's there, and then have, you know, these things are being
2 replaced, or these things will be new so that we have an idea
3 that that's what's happening and so it's clear to the ANC,
4 the neighbors, and to us what is actually happening. But
5 currently I just don't have that and I think -- and as I said
6 earlier drawings matter.

7 It is very helpful for us to see this because if
8 it comes to us and then we've kind of done whatever we need
9 to do. And if we decide to approve it then it would go to
10 DCRA and they're going to have the same questions that I have
11 right now. So it's to your benefit in my estimation to
12 address this so that we don't have to -- so that we have a
13 clear understanding of where we are.

14 I'm going to stop talking and thank you very much
15 for your time. You guys don't have to respond to that right
16 now. I'm just saying that's what I would like to see.

17 CHAIRPERSON HILL: Okay. All right. So a couple
18 of things. I've got a question. It's so funny. Ms. Brown-
19 Roberts, are you there?

20 MS. BROWN-ROBERTS: Yes.

21 CHAIRPERSON HILL: It's always interesting. When
22 we're talking about -- and I've been here (telephonic
23 interference) five years. So the design element's stuck.
24 It always seems to be just the general criteria that we
25 sometimes hang our hat on in terms of will not tend to

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1 adversely affect the use of neighboring property in
2 accordance with the zoning regulations, or will be in harmony
3 with the general purpose and intent.

4 I mean, there was a discussion about the rhythm
5 of the neighborhood and the fronts of the facade. Where does
6 that come into play?

7 MS. BROWN-ROBERTS: There's a section. And I'm
8 sorry, I don't have mine called up right now. But in the
9 special exception there is something there that talks about
10 the consistency with the neighborhood. The character of the
11 neighborhood.

12 CHAIRPERSON HILL: Dan, are you there? Can you
13 see where that is again? And while you're thinking about it.
14 That's okay, Dan, while you're looking for it.

15 So Mr. Ettehadi, can you --

16 (Simultaneous speaking)

17 MEMBER JOHN: Well, it was X 901. That's the
18 general special exception criteria, but it's the very general
19 criteria, harmony -- will be in harmony with the general
20 purpose and intent. And to me that's not where we address
21 the architectural elements.

22 (Simultaneous speaking)

23 ZC CHAIR HOOD: I know it's in the general
24 provisions as well. That's the whole scope of the whole
25 zoning code. It's in the general provisions.

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1 MEMBER JOHN: Yes.

2 MR. BASSETT: I know there's provisions that deal
3 with rear additions where they talk about the additional
4 impact of the addition. But I don't know that that applies
5 in this case.

6 CHAIRPERSON HILL: Okay. Well, I agree with Vice
7 Chair Hart in knowing what we're approving. So, Mr.
8 Ettehad, I mean I'm even looking at your drawings and again,
9 right, on one of the elevations (telephonic interference)
10 there's a single window, and then in the most recent
11 elevations you have the double window.

12 You did have the overhang. So Mr. Hart, can you
13 clarify for Mr. Ettehad what we need?

14 VICE CHAIRPERSON HART: Well, I just -- again,
15 it's really just having the consistent drawings and
16 elevations that -- sorry, the elevations and plans that show
17 what it is that they're proposing. And when I say internally
18 being consistent the section has something that looks a
19 little different than what is being proposed in the
20 elevation, or at least it reads differently. There needs to
21 have some continuity and consistency with that.

22 The one part that I think is helpful is the
23 section, and I think Mr. Ettehad understands that currently
24 it looks -- the section that they have on that page 10, or
25 the tenth slide. And he noticed which one it was. To have

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1 that actually be consistently showing what is -- and maybe
2 it's the elevation too, to show what is being proposed. And
3 right now it's just an odd design because you typically have
4 the dormers on the roof and the roof meeting the facade of
5 the front of the building.

6 Currently it doesn't quite do that. It's an
7 overhang. So it looks odd to have a dormer kind of
8 overhanging the front of the building. Again, it's just a
9 consistency issue. So I think that that is helpful.

10 I also think it would be helpful to have a drawing
11 or maybe it's just a photograph of the existing front facade,
12 and then having it annotated that says these things are
13 changing on it. Because currently the reason that there is
14 a difference between the elevation that we have in exhibit
15 32 and the existing facade, the photograph of it, is just
16 because they're taking out all the windows and on the first
17 floor they're actually expanding the windows. So they're not
18 going to look the same. It just wasn't clear that that's
19 what they were doing and I think a drawing that actually
20 shows these are the things that are changing from the front
21 facade. It looks like it's going to be pretty significant
22 changes to the front facade. So I think that would be
23 helpful to have here.

24 And actually while Ms. Brown-Roberts is on, one
25 of the folks that testified, Mr. Zubiller, I can't pronounce

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1 his name now. Is it Zubiller?

2 MEMBER JOHN: Zubiller.

3 VICE CHAIRPERSON HART: Zubiller, yes, Zubiller.
4 Anyhow, he talked about a side yard issue and whether or not
5 their side yard was in compliance with zoning and whether
6 that made the next door neighbor's back yard be not in
7 compliance. Can you -- and I'm sorry to put you on the spot
8 on this, if you could at least talk a little bit about that
9 so we have an understanding that no other relief is needed.

10 MS. BROWN-ROBERTS: My understanding is that yes,
11 he is -- it's a row dwelling and so he can go from property
12 line to property line. And yes, the adjacent property, it's
13 their rear yard. So both of those things are correct.

14 And actually for the apartment building they do
15 not meet the matter of right rear yard. So, it extends
16 there.

17 And so I don't think he needs an additional --
18 because I have looked into it and I don't think he needs any
19 additional relief for that. Basically what he has to address
20 is the light and air really.

21 VICE CHAIRPERSON HART: Thank you. That came up
22 and I wanted to --

23 MS. BROWN-ROBERTS: Yes.

24 VICE CHAIRPERSON HART: -- heard from you. So I
25 appreciate it.

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1 MS. BROWN-ROBERTS: Can I also bring up something
2 else? You were talking about basically the architectural
3 element. And on section 320.2(h) and also 320.2(1) -- no,
4 320.2(I) and (3) talks about the compatibility to the street
5 frontage and other houses along there.

6 CHAIRPERSON HILL: Thanks. There was also, I was
7 thinking of like of (k) also, right?

8 MS. BROWN-ROBERTS: Let me take a look at that.

9 CHAIRPERSON HILL: Board of Zoning Adjustment may
10 require special treatment with design, screening, interior
11 lighting, building materials, or other features for the
12 protection of adjacent or nearby properties as to maintain
13 the general character of a block.

14 MS. BROWN-ROBERTS: Right. That's correct, yes.

15 CHAIRPERSON HILL: That's the one I was trying to
16 think of.

17 MS. BROWN-ROBERTS: Yes.

18 CHAIRPERSON HILL: Mr. Ettehadi, do you understand
19 what's being asked of you?

20 MR. ETTEHADI: Yes. Hello?

21 CHAIRPERSON HILL: Yes, can you hear me?

22 MR. ETTEHADI: Yes, I can hear you. Yes, I
23 understand that when you say maintain the main
24 characteristics of the neighbor (telephonic interference) of
25 what does it mean. Mean that you want existing -- hello?

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1 You mean that you want existing --

2 (Simultaneous speaking)

3 CHAIRPERSON HILL: Mr. Ettehad, I'm just asking
4 you if you understand what Vice Chair Hart is asking from
5 you.

6 MR. ETTEHADI: It's not very clear for me, no.

7 VICE CHAIRPERSON HART: I think what I'm really
8 looking for is an understanding of -- you're proposing
9 something. It's different from what's next to you. Please
10 explain why what you're proposing is consistent or at least
11 takes from what's existing on the block. And right now we
12 just don't have anything that talks about that. We have your
13 description of some of this, but I would like to have it in
14 writing as to how you -- the thing that you talked about in
15 terms of removing the front porch, the floor of the front
16 porch so that that is -- gives a much larger area that you
17 feel is more proportional for the expanded facade. And we'll
18 have to take a look at that and understand if we agree with
19 that or not.

20 MR. ETTEHADI: Okay. Do you just want me to add
21 that in the writing?

22 VICE CHAIRPERSON HART: I want to have an
23 understanding how you are in compliance with the zoning that
24 is before us, and I would like to have something in writing,
25 yes.

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1 MR. ETTEHADI: Okay.

2 VICE CHAIRPERSON HART: As well as the updated
3 drawings too.

4 MR. ETTEHADI: Okay.

5 CHAIRPERSON HILL: Okay. Sure, Ms. John?

6 MEMBER JOHN: So, I don't know if this is
7 intended, but looking at that porch it seems that the door
8 is not spaced centrally between the columns, or maybe the
9 columns are off.

10 And if you look at the three sets of windows the
11 columns are not proportional to the two windows to the left.
12 And I don't know -- I'm not a design expert, but if this were
13 my renovation I would question why it's like that. I don't
14 know if I've explained it correctly, but the second column
15 from the left looks it could be maybe a foot or so from the
16 right side of the window. Then the very next window, the
17 column is directly on the side of that window. And the door
18 is not placed centrally in between the columns.

19 So it just looks a little unbalanced. And that
20 would not affect whether I would support the application or
21 not. So I just thought I'd point that out.

22 CHAIRPERSON HILL: Okay.

23 MEMBER JOHN: Thank you.

24 CHAIRPERSON HILL: You're welcome. All right.

25 So then let's see. Commissioner, are you there?

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1 MS. HILLEY: Yes, I'm here.

2 CHAIRPERSON HILL: Okay, great. Let's see. All
3 right. Commissioner, I just wanted to kind of point out
4 something just again in terms of learning for all of us.
5 We've had a lot of different ANC -- well, we have a lot of
6 different ANCs that come and testify before us.

7 And oftentimes I'm not clear as to what exactly
8 we're hanging our hat on when it comes to design. So I'm
9 kind of pointing you to something that you can kind of help
10 us hang our hat on when and if this comes up in your ANC
11 again.

12 And again, it was like Subtitle U 320.2(H), (I)(3)
13 and (K).

14 MS. HILLEY: Okay.

15 CHAIRPERSON HILL: Okay? And I feel I wanted to
16 do that because other commissioners come in here and they
17 talk about like the supports to the porch and all these
18 things. And so I want to be fair in giving my ammunition to
19 everybody.

20 MS. HILLEY: Thank you. I'll circulate that as
21 well to the larger ANC community.

22 CHAIRPERSON HILL: Oh, great. Okay. So, anyway,
23 so let's see.

24 MS. HILLEY: I just want to thank you for the
25 robust discussion. I think we were just struggling. We kept

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1 saying some of the things that you all are saying and just
2 weren't getting the results and were worried that this
3 wouldn't get postponed again.

4 CHAIRPERSON HILL: Okay. Mr. Sawant, do you
5 understand everything that's going on?

6 MR. SAWANT: Yes, I do.

7 CHAIRPERSON HILL: Okay. So, Mr. Ettehadi, when
8 do you think you can get us back this information?

9 MR. ETTEHADI: I think next week.

10 CHAIRPERSON HILL: Okay. So again, and Mr.
11 Ettehadi, I hope that you're clear. If you're not clear on
12 what you need to provide please check with the Office of
13 Planning because I know I'm not an architect. I need to see
14 things. So I need to see like elevation. I need to
15 understand the things that Mr. Hart is asking about.

16 In order for me to approve it, again I have to be
17 comfortable with whatever we're approving. So that means
18 that whatever you're actually proposing to build is what
19 exactly you're going to be building. Okay?

20 So go ahead then. And I guess if you get back to
21 us. Mr. Moy, can I get a timeline from you?

22 MR. MOY: Yes. That was helpful to get an idea
23 when the applicant can make their filing. So if they can do
24 that in seven days that puts us at July 22. And then the
25 board could ask for any responses from the ANC as well as a

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1 supplemental from OP if you wish it by July 29. Then this
2 could be back before the board on August 5.

3 CHAIRPERSON HILL: Okay. Can we do decision on
4 August 5?

5 MR. MOY: You're asking your fellow board that?

6 CHAIRPERSON HILL: I'm telling. I'm telling.

7 ZC CHAIR HOOD: I think this is ripe for us to do
8 a decision on August 5. No problems with that.

9 CHAIRPERSON HILL: Because Mr. Hart has some
10 issues. And so -- meaning I need his feedback and so I need
11 him on August 5. Ms. Brown-Roberts?

12 MS. BROWN-ROBERTS: Hello.

13 CHAIRPERSON HILL: I'm just trying to think
14 whether there would be any supplemental. I mean, I guess
15 there is the whole thing about the side yard or the rear
16 yard. Could you at least give something to that effect that
17 Mr. Hart was speaking about?

18 MS. BROWN-ROBERTS: Okay.

19 CHAIRPERSON HILL: Okay. Okay, and I guess what
20 confused me about this, and Ms. Brown-Roberts you all can
21 stick with this one is my original question was that this was
22 a matter of right mass and height. Right?

23 This clarification, it shouldn't have anything to
24 do with the massing or the height. It's just whether or not
25 that -- it's going to affect the rear yard of that other

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1 property. And you would think that it wouldn't because it
2 would be matter of right.

3 MS. BROWN-ROBERTS: In my interpretation the side
4 yard is correct as shown in the plans. And the rear yard to
5 the adjacent building is also correct. So.

6 CHAIRPERSON HILL: Okay. Mr. Hart, do you need
7 anything else? Okay. If Mr. Hart doesn't need anything else
8 then Ms. Roberts. If OP wants to supply anything
9 supplemental due to seeing the drawings on the 22nd please
10 do so. Otherwise we'll stick with your original report.

11 MS. BROWN-ROBERTS: Okay.

12 CHAIRPERSON HILL: Okay? All right.

13 MS. HILLEY: Chairman, ANC 4C doesn't have a
14 meeting in August. I don't want to further delay this so I
15 can call a special meeting if we want to revise ours. When
16 will we know whether the plans -- I just don't want to call
17 a special meeting if things end up not being ready. So is
18 there -- what's the drop dead date for the new plans?

19 CHAIRPERSON HILL: The 22nd.

20 MS. HILLEY: The 22nd.

21 CHAIRPERSON HILL: And then you the ANC will have
22 until the 29th to provide any further information.

23 MS. HILLEY: Okay. That's going to be hard to
24 pull a special meeting together in just one week. Is there
25 any possibility of just one more week built in for me to do

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1 that?

2 CHAIRPERSON HILL: We can't because August 5 is
3 our last hearing before our (telephonic interference) for the
4 summer. And there's some conflicts that I have with Mr.
5 Hart.

6 MS. HILLEY: Okay.

7 MR. MOY: Mr. Chairman?

8 CHAIRPERSON HILL: Yes.

9 MR. MOY: If the ANC needs a few more days perhaps
10 you could allow the ANC to make their filing let's say -- if
11 it's not back till August 5 they could possibly go to maybe
12 that Friday which would be July 31 or the Monday of August
13 3. But I'll leave that to the board.

14 MS. HILLEY: I would appreciate that. Just to
15 make the filing later would be great.

16 CHAIRPERSON HILL: So, is the 3rd better for you
17 then, Monday the 3rd?

18 MS. HILLEY: Sure. That would be great. It will
19 just give me a little more time to call a special meeting if
20 I need to.

21 CHAIRPERSON HILL: Okay. Commissioner, and this
22 is what I'm just a little confused about with the special
23 meeting. Because I don't necessarily see anything
24 substantial changing in terms of -- I'm more asking. After
25 this long discussion that's gone on did you see anything --

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1 I mean nothing is necessarily changing about the project that
2 would cause the ANC to necessarily change their vote. Do you
3 see something?

4 MS. HILLEY: I think hearing your feedback on the
5 fact that you all take our opposition into account it made
6 me think through also working with DDOT to see if we could
7 add a bit more to the TDM because I think the TDM is pretty
8 weak. You know, \$10 on a Smart card and one bike share
9 membership. So I just thought I might use the opportunity
10 to see if there could be a little bit further negotiation
11 there for the neighborhood impact on the transportation.

12 CHAIRPERSON HILL: Okay. But as far as like --
13 anyway, now I'm just --

14 (Simultaneous speaking)

15 CHAIRPERSON HILL: -- necessarily changed. So I'm
16 just trying to make sure that's number one.

17 And then the other thing I'd like to say,
18 Commissioner. It's a vacant property that's been vacant now
19 for a pretty long time.

20 MS. HILLEY: I understand that.

21 CHAIRPERSON HILL: And the city needs housing.
22 Okay? Right?

23 MS. HILLEY: You don't need to tell me. I
24 actually work in real estate and work in affordable housing
25 and live one block away. So I'm fully on board. I'm just

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1 trying to make sure that we weigh the impacts to the
2 neighborhood of the additional on the infrastructure as well.

3 CHAIRPERSON HILL: Okay. That one unit. That one
4 unit.

5 MS. HILLEY: It's not really -- I mean these are
6 big units so yes.

7 (Simultaneous speaking)

8 CHAIRPERSON HILL: -- but it's one unit that we're
9 talking about.

10 MS. HILLEY: Yes, I understand. I'm all about
11 density. Thank you.

12 CHAIRPERSON HILL: All right. Okay. Let's see.
13 All right. Mr. Sawant, you're the last person. Well, first,
14 Commissioner, do you have anything else you'd like to add?

15 MS. HILLEY: No, that's great. Thank you.

16 CHAIRPERSON HILL: Okay. Mr. Sawant, do you have
17 anything you'd like to add?

18 MR. SAWANT: No, I'm good.

19 CHAIRPERSON HILL: Okay. Does anybody have
20 anything they'd like to add from board members? All right.
21 Then go ahead and set the dates. We're going to get the
22 drawings again by the 22nd. The ANC will have until the
23 third and we'll decide this on the fifth. I'm going to go
24 ahead and close the hearing so there's no information that's
25 needed from the board other than the information that's been

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1 requested by the architect and any feedback we'd like to get
2 from the ANC. And that's it. Okay?

3 Nice to see you guys. Bye bye. So let's go ahead
4 and take lunch. It's now 2 o'clock. I actually think I'm
5 going to go get some lunch. Is 2:40 okay? Okay? All right.
6 We'll see you guys at 2:40. Thank you.

7 MEMBER JOHN: Thank you.

8 (Whereupon, the above-entitled matter went off the
9 record at 2:00 p.m. and resumed at 2:50 p.m.)

10 CHAIRPERSON HILL: All right, Mr. Moy. Why don't
11 you go ahead and call our next one.

12 MR. MOY: Okay. Thank you, Mr. Chairman. The
13 board is back in its hearing session and the time is at or
14 about 2:49 which is pretty exact.

15 So, the board is at case application number 20258
16 of William G. Springer and Forrest Kettler. This is relief
17 for a special exception under Subtitle F Section 5201 for the
18 maximum lot occupancy requirements of Subtitle F Section
19 604.1, to construct a two-story rear addition to an existing
20 attached principal dwelling unit in the RA-8 Zone. This is
21 at premises 1416 15th Street NW (Square 195, Lot 104).

22 And I believe, Mr. Chairman, that there may be
23 needed a waiver for the affidavit of maintenance. But I will
24 ask staff (telephonic interference).

25 CHAIRPERSON HILL: Okay. Thank you, Mr. Moy. Is

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1 it Mr. Fowlkes?

2 MR. FOWLKES: Can you hear me?

3 CHAIRPERSON HILL: Yes.

4 MR. FOWLKES: Yes. I'm surprised to hear about
5 the waiver. The notice has been posted and I sent in, or at
6 least I was under the impression that I posted the affidavit.
7 And I even had it confirmed by Mr. -- I don't remember the
8 gentleman who's been helping me at the Office of Zoning.

9 CHAIRPERSON HILL: That's all right. Mr. Fowlkes,
10 are you the applicant?

11 MR. FOWLKES: I'm representing the applicant. I'm
12 the architect.

13 CHAIRPERSON HILL: Okay. Could you introduce
14 yourself, please, for the record?

15 MR. FOWLKES: Sure. First name VW like the car,
16 last name Fowlkes.

17 CHAIRPERSON HILL: Okay. And where are you
18 located, Mr. Fowlkes? Where's your office?

19 MR. FOWLKES: The office is at 1711 Connecticut
20 Avenue NW.

21 CHAIRPERSON HILL: Okay. All right. Let's see.
22 So, have you been maintaining the posting?

23 MR. FOWLKES: I'm sure there's a -- it's there.
24 I haven't had to maintain it. I posted it. I put it on a
25 yard sign and my understanding from the clients is it's still

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1 there.

2 CHAIRPERSON HILL: Okay. So unless the board --
3 since we're in this COVID world it's a little bit peculiar.
4 But meaning Mr. Fowlkes, it's kind of like there's an
5 affidavit of maintenance that basically says that you've
6 maintained the posting for the amount of time you're supposed
7 to. That's what we don't have in the record yet.

8 And we do have in the record that you have I guess
9 posted with the new hearing date. And I do see that the
10 letter has gone out to the 200 footers as well as the letters
11 that have been sent out by the Office of Zoning.

12 And the fact that the ANC has already -- that
13 you've already gone through the ANC, I'm comfortable if the
14 board is with allowing a waiver for the affidavit of
15 maintenance. Does the board have any issues with that?
16 Okay, I don't see anybody nodding yes. All right, then I'm
17 going to go ahead and move forward.

18 Mr. Fowlkes, I suppose if you could kind of just
19 walk us through what it is that your client is trying to
20 achieve and why you believe you should be granted the -- why
21 you're meeting the standard for us to grant the relief
22 requested. I'm just going to put a little bit of time on the
23 clock, but you can begin whenever you like.

24 MR. FOWLKES: Okay. Is it possible for us to
25 bring up the submission, the drawings that were submitted?

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1 CHAIRPERSON HILL: Yes. Let me see if Mr. Young
2 has access. Do you know which exhibit it is?

3 MR. FOWLKES: Well, I would say the best drawing
4 -- well, I think all the drawings are in one exhibit.

5 VICE CHAIRPERSON HART: Exhibit number 8.

6 CHAIRPERSON HILL: Exhibit number 8, Mr. Young.
7 Do you have access to that easily?

8 MR. YOUNG: Yes. Just give me one minute.

9 CHAIRPERSON HILL: Mr. Fowlkes, while they're
10 pulling up the drawings could you speak to your discussions
11 with the ANC?

12 MR. FOWLKES: Yes. We had several meetings with
13 the ANC. They voted to -- they voted to not object to our
14 proposal. There was some trepidation on some of the single
15 member representatives because our next door neighbor, or the
16 next door neighbor to the project did not provide a letter
17 of no objection.

18 We've shown this particular neighbor the drawings
19 and we asked them to provide such a letter. We've had, or
20 at least my client has had a fair amount of interaction with
21 them. They don't seem to be against it, but they just will
22 not provide this letter.

23 And so we approached them prior to this meeting
24 and asked them again and they -- they may be here, maybe
25 they're present, but they did not -- they opted not to

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1 provide this letter that we've been asking for. So here we
2 are.

3 CHAIRPERSON HILL: Okay. I mean, I see a
4 community letter of support in exhibit 30. Actually, you
5 know what, Mr. Fowlkes. We have kind of a busy day today.
6 I'm going to cut real quick to just questions that the board
7 might have.

8 MR. FOWLKES: Sure.

9 CHAIRPERSON HILL: Mr. Hart, do you have any
10 questions at this point?

11 VICE CHAIRPERSON HART: Only that there was a
12 letter, somebody is going to speak in opposition. I don't
13 know if you saw that, Mr. Fowlkes. It's a Mr. -- I think his
14 name is Nick DelleDonne. And he just raised some issues.

15 It says he is part of -- or at least representing
16 the Dupont East Civic Action Association and they have some
17 issue with the expansion in the rear of the building. There
18 was a discussion about an easement designed to allow the
19 residents in the complex of homes egress to the alley. And
20 I don't know how that would or would not impact you, but it's
21 exhibit number 41 that he provided testimony.

22 He is I think going to be here before us as well.
23 So you may hear that in testimony as we get to that portion
24 of the hearing. But I didn't know if you had any.

25 MR. FOWLKES: I don't know the gentleman who plans

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1 to testify. I hope that I can speak on that topic. I know
2 that there is an easement in the back of the house. It's
3 totally unaffected by our project. I don't know what the
4 protocol is. Do I wait?

5 CHAIRPERSON HILL: I'd just go ahead and wait, Mr.
6 Fowlkes. We'll wait and see. If you want to look at it it's
7 in exhibit --

8 VICE CHAIRPERSON HART: Forty-one.

9 CHAIRPERSON HILL: Thank you. Forty-one.

10 VICE CHAIRPERSON HART: The last exhibit of the
11 record.

12 CHAIRPERSON HILL: Ms. John, do you have any
13 questions?

14 MEMBER JOHN: None at this time.

15 CHAIRPERSON HILL: Chairman Hood, do you have any
16 questions before I turn to the Office of Planning?

17 ZC CHAIR HOOD: Yes, right quick. Mr. Fowlkes,
18 you mentioned about the ANC letter. The way I read the ANC
19 letter, it says it was in support.

20 MR. FOWLKES: Okay.

21 CHAIRPERSON HILL: It was in support. There was
22 a couple of votes against. That's what he was speaking to.

23 ZC CHAIR HOOD: Right, I know about that, but at
24 the end of the day it was 5-2. But what your statement was,
25 you said they voted not to object. But in reality they are

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1 supporting this project.

2 MR. FOWLKES: Commissioner Hood, you're clearly
3 sensitive to a nuance that I'm just not familiar with. I
4 wasn't sort of fluent enough to know that there was a
5 difference between that. But now that you say that it makes
6 sense.

7 ZC CHAIR HOOD: Okay. Now let me ask you, was one
8 of the people who voted in opposition the single member
9 district commissioner because I didn't see that? Or do you
10 know?

11 MR. FOWLKES: No. Our single member commissioner
12 was in support of it.

13 ZC CHAIR HOOD: Okay. All right. Thank you, Mr.
14 Fowlkes. Thank you, Mr. Chairman.

15 MR. FOWLKES: Thank you.

16 CHAIRPERSON HILL: All right, I'm going to turn
17 to the Office of Planning.

18 MS. FOTHERGILL: Good afternoon. I'm Anne
19 Fothergill for the Office of Planning and we rest on the
20 record in support of the lot occupancy special exception.
21 And I'm happy to take any questions.

22 CHAIRPERSON HILL: Okay. Does anybody have any
23 questions for the Office of Planning? No? All right. Mr.
24 Young, is there anyone here who wishes to speak in -- Mr.
25 Fowlkes, do you have any questions for the Office of

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1 Planning?

2 MR. FOWLKES: No.

3 CHAIRPERSON HILL: Mr. Young, could you bring in
4 the public, please? Is it Mr. DelleDonne? You need to click
5 it just once and -- there you go.

6 MR. DELLEDONNE: Can you hear me now?

7 CHAIRPERSON HILL: Yes. Can you hear me?

8 MR. DELLEDONNE: Yes, I can.

9 CHAIRPERSON HILL: Could you please introduce
10 yourself for the record?

11 MR. DELLEDONNE: My name is Nick DelleDonne. I'm
12 the president of the association called Dupont East Civic
13 Action Association. And our borders include the address in
14 this case.

15 CHAIRPERSON HILL: Mr. DelleDonne, I just want to
16 interrupt for one second. Are you choosing not to use your
17 video? I just want to know.

18 MR. DELLEDONNE: No, I had the camera up and on.
19 I don't know why you can't see me.

20 CHAIRPERSON HILL: Maybe you click it there.

21 MR. DELLEDONNE: Oh.

22 CHAIRPERSON HILL: I can hear you, I just can't --
23 oh, there you go. I can see you now. Wonderful. Can you
24 still hear us?

25 MR. DELLEDONNE: Oh, there's my whole face. There

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1 you go. All right.

2 CHAIRPERSON HILL: Well, welcome, Mr. DelleDonne.

3 MR. DELLEDONNE: Thank you. It's a pleasure to
4 be here. I want to say three things only. I attended both
5 of the ANC meetings, the one where they took the vote and a
6 week earlier where the applicant made a presentation. And
7 in both cases he was asked whether he had contacted the
8 neighbors and I'm glad to hear the recent discussion you just
9 had.

10 The applicant actually was vague about whether he
11 had actually contacted anybody. And this is an important
12 factor if nothing else is, is to let people know what you're
13 doing. And it wouldn't be only the next door neighbor. This
14 happens to be a corner. He is not on the corner, but the
15 easement that I talked about is the only egress to five
16 different housing units which each of them may very well be
17 divided into three apartments each which may include one or
18 two occupants. So we're dealing with a whole lot here.

19 And it was news to me that you said that the
20 letters had gone out. So I don't know what is fair to give
21 people a chance, but it is -- it's a nest of residents that
22 would be affected.

23 And if they're going to build up they may actually
24 have the air rights to it, but air, privacy and the other
25 factor are concerns of ours in a tight community like this.

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1 If you elevate your visibility you can see directly into the
2 people's yards even though they may have a 6 foot fence. So,
3 the path, the egress is very narrow and it is circuitous.
4 And as I say it goes back into these people's places.

5 And if they do not egress through the back they
6 would have to go out on P Street or 15th Street which are
7 congested and traffic-ridden. And each person is entitled
8 to egresses. So we wanted to raise that issue.

9 And the third point that I wanted to say is that
10 we noticed that at 1414 there is actually a smokestack. And
11 I included a photograph of that since it's impossible to
12 describe. It only goes up so high and if you put in a two-
13 story addition it would conflict with the smokestack next
14 door.

15 CHAIRPERSON HILL: Okay. Mr. DelleDonne, I just
16 had a couple of questions. So your association, can you tell
17 me a little bit about it? Because I'm just curious also.
18 What's your association?

19 MR. DELLEDONNE: Dupont East Civic Action
20 Association. Our flagship campaign is the Masonic Temple
21 development which we protested. It is too big for the
22 historic district that it's in. It goes up five and a half
23 stories and would be a major obstruction in that part of
24 this. We have filed a lawsuit.

25 Part of our charter is to concern ourselves with

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1 historic preservation and zoning issues, that sort of thing.

2 CHAIRPERSON HILL: Did you guys get formed because
3 of the Masonic Temple thing?

4 MR. DELLEDONNE: It was the point at which we
5 originated. Yes, that was the cause of it.

6 CHAIRPERSON HILL: Just curious. Okay. Does
7 anybody have any questions for the witness?

8 VICE CHAIRPERSON HART: I had a question. Mr.
9 DelleDonne, so I'm not exactly sure, what are you saying
10 about the -- you had a photograph you said of the smokestack.

11 MR. DELLEDONNE: My written statement is only one
12 page, but the second page is a photograph.

13 VICE CHAIRPERSON HART: Yes.

14 MR. DELLEDONNE: Is that available?

15 VICE CHAIRPERSON HART: Yes, I've read through it.
16 I just was trying to understand what's the point that you
17 were trying to make with it.

18 MR. DELLEDONNE: Well, the smokestack is on the
19 ground. It comes from the basement unit at 1414. And if you
20 put in the addition that is proposed I was told that it would
21 be an illegal smokestack.

22 VICE CHAIRPERSON HART: You said that it would be
23 an illegal smokestack? Is that what you just said?

24 MR. DELLEDONNE: Yes, I think so. Do you see the
25 picture?

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1 VICE CHAIRPERSON HART: Yes.

2 MR. DELLEDONNE: Oh, good.

3 VICE CHAIRPERSON HART: Yes, I'm sorry. It is --
4 well, your exhibit 41. Yes. And you're saying this is the
5 next door neighbor that has that.

6 MR. DELLEDONNE: Yes. They have already the
7 smokestack, and if you put the addition on 1416 it would abut
8 the smokestack which comes out of the basement unit on 1414.

9 VICE CHAIRPERSON HART: Okay. I think I
10 understand that. Thank you.

11 CHAIRPERSON HILL: Okay. Let's see, Ms.
12 Fothergill?

13 MS. FOTHERGILL: Yes.

14 CHAIRPERSON HILL: I'm just curious. Do you know
15 about this smokestack and what (telephonic interference)?

16 MS. FOTHERGILL: I saw the witness's letter and
17 I -- if it doesn't meet code it would come up in permitting
18 and the applicant might have to do something to adjust to
19 make it comply.

20 CHAIRPERSON HILL: Got it. So it will come up in
21 permitting. Okay. All right. Does anybody have anything
22 else for Mr. DelleDonne? Okay. Mr. Fowlkes, do you have any
23 questions for Mr. DelleDonne? You can shake your head no.
24 For the record he's shaking his head. All right, Mr.
25 DelleDonne. Thank you very much and good luck to you.

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1 MR. DELLEDONNE: Thank you.

2 CHAIRPERSON HILL: All right. Okay. I did
3 support and opposition. Mr. Fowlkes, do you have anything
4 you'd like to add at the end?

5 MR. FOWLKES: Well, I guess they're not exactly
6 questions from Mr. DelleDonne, but I feel like I probably
7 should react to his statement. Or is it not necessary?

8 CHAIRPERSON HILL: I don't think it's necessary
9 unless you think you have to say something. We've asked the
10 questions of Mr. DelleDonne that we had intended to. And you
11 had an opportunity to ask questions of him as well unless --
12 I'd have to bring him back if there was something you wanted
13 to have a discussion about.

14 MR. FOWLKES: Okay. Well, I guess then I regret
15 saying that I didn't have any questions for him because I
16 don't really have any questions directly for him, but I do --

17 CHAIRPERSON HILL: Mr. Fowlkes, why don't you go
18 ahead and say whatever you want to say. And if I have to
19 figure out whether we have to bring Mr. DelleDonne back I
20 will.

21 MR. FOWLKES: My understanding is there is an
22 easement for parking for this house in the far end of the
23 lot. The proposed construction doesn't impact, doesn't
24 encroach upon that easement, doesn't even come close.

25 And I guess that's really the only thing I wanted

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1 to respond to.

2 CHAIRPERSON HILL: Okay. All right. Is there
3 anything else from the board for Mr. Fowlkes? No? All
4 right. Then I'm going to go ahead and close the hearing.
5 So, Mr. Hart, the last time you did this last week you guys
6 actually spoke about this. Mr. Fowlkes, I'm going to excuse
7 you now so you have a nice day.

8 MR. FOWLKES: Okay. There's no vote or anything?

9 CHAIRPERSON HILL: Well, what normally happens now
10 is because this is a virtual hearing we're not allowed to
11 vote or do bench decisions on the virtual hearing because we
12 need to allow time if there was some kind of electronic issue
13 or something that came up.

14 But what we are now starting to do is we are
15 actually now starting to -- we're experimenting with
16 deliberating now versus the next week which is when the
17 decision would actually take place. By the emergency decrees
18 that have been put forward we're not allowed to do bench
19 decisions virtually anymore. So best case the vote would be
20 happening next week if that were to happen.

21 MR. FOWLKES: Okay. Do I -- should I be present
22 next week? Is there any more role for me?

23 CHAIRPERSON HILL: No, Mr. Fowlkes, you're done.

24 MR. FOWLKES: Okay. Well, thank you.

25 CHAIRPERSON HILL: Okay? All right, you enjoy

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1 your day.

2 MR. FOWLKES: Bye bye.

3 CHAIRPERSON HILL: Bye bye. I'll wait until Mr.
4 Young has -- okay, great. So, I mean I can start. I mean
5 again, like I didn't really have a whole lot of issues with
6 this particular application. I mean, I didn't even -- the
7 testimony that the association brought forward, I didn't
8 necessarily see how it was applicable to the standards with
9 which we're reviewing this.

10 I thought that I would be agreeing with the
11 analysis that was put forward by the Office of Planning and
12 their report in exhibit 29, and then also the analysis that
13 has been given by the ANC 2B report in exhibit 31.

14 So I don't really have a lot of things to add.
15 I mean, is there anything you guys want to talk about? Mr.
16 Hart?

17 VICE CHAIRPERSON HART: No. I think I would be
18 likely to support this as well. I agree with the Office of
19 Planning report. I understand that the person that testified
20 in opposition described an issue with the egress or an
21 easement issue. I didn't think that was relevant in this
22 case.

23 The smokestack, I don't think they -- they will
24 figure out how to deal with that as part of the DCRA
25 permitting process. And the impact on the rear of the

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1 building, I think that that was -- that they brought up. I
2 think that it is helpful to understand that, but I did not
3 agree with them in terms of the impacts that they said that
4 it would bring. So, I would be leaning towards supporting
5 the application.

6 CHAIRPERSON HILL: Ms. John?

7 MEMBER JOHN: I don't have anything to add to the
8 comments so far. I thought OP's analysis was very thorough
9 and I appreciate the testimony of the witness.

10 CHAIRPERSON HILL: Chairman Hood?

11 ZC CHAIR HOOD: Yes, Mr. Chairman. I think the
12 record is complete. And the only thing that would have given
13 me some pause would have been the smokestack. But I agree
14 with the vice chair it will be dealt with during the
15 permitting at DCRA. So I'm ready to move forward, Mr.
16 Chairman.

17 CHAIRPERSON HILL: Okay. So then OAG or Mr. Moy,
18 I guess what I'm trying to understand is for the record we've
19 now deliberated. And so we'll see what happens next week.
20 But we've now had our deliberations. And so I guess -- I
21 don't even really want an answer from OAG, Mr. Bassett, I'm
22 just kind of making a point that if you have something that
23 you'd like to speak to me about please let me know.

24 We've now deliberated and we'll see. Put this on
25 for decision next week, all right, Mr. Moy?

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1 MR. BASSETT: Sorry, Dan Bassett, OAG. Just to
2 clarify and for the record these are not final deliberations
3 and that those would be next week. Or at least 48 hours
4 after this hearing.

5 CHAIRPERSON HILL: Yes. And I guess -- yes. What
6 I meant by that is we will have final deliberations next
7 week.

8 MR. BASSETT: Thank you.

9 CHAIRPERSON HILL: Okay. All right, Mr. Moy, do
10 you want to call our next case?

11 MR. MOY: Yes, thank you. This would be case
12 application 20206 of Tim Purdy as amended for special
13 exception under Subtitle E Section 5201, from the lot
14 occupancy requirements Subtitle E Section 304.1, and from the
15 rear yard requirements Subtitle E Section 306.1. This would
16 construct a rear deck addition to an existing attached
17 principal dwelling unit in an RF-1 Zone at 627 Orleans Place
18 NE (Square 855, Lot 367).

19 CHAIRPERSON HILL: Great. Mr. Young, if you can.
20 Actually you know what? Do we want to take a break now? No?
21 Ms. John? Your mike is -- I can't hear you.

22 MEMBER JOHN: After this case.

23 CHAIRPERSON HILL: Okay. Because this case might
24 take a little while. I mean, it will take at least 20
25 minutes.

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1 MEMBER JOHN: Well, let's take the break then.

2 CHAIRPERSON HILL: Okay. All right. We're going
3 to take a quick break. But you can bring the people in if
4 you want, Mr. Young. Thank you, Ms. John.

5 MEMBER JOHN: Thank you.

6 (Whereupon, the above-entitled matter went off the
7 record at 3:15 p.m. and resumed at 3:23 p.m.)

8 CHAIRPERSON HILL: Okay, go ahead then. Please.

9 MR. MOY: Okay. So this is case application
10 number 20206 of Tim Purdy as amended for special exceptions
11 under Subtitle E Section 5201, for the lot occupancy
12 requirements Subtitle E Section 304.1 and from the rear yard
13 requirements, Subtitle E Section 306.1, to construct a rear
14 deck addition. This is to an existing attached principal
15 dwelling unit, RF-1 Zone, at 627 Orleans Place NE (Square
16 855, Lot 367).

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

18 MR. BASSETT: Sorry, this is Dan Bassett from OAG.
19 Can we actually get Jake in on this case instead of me? This
20 is his case now.

21 CHAIRPERSON HILL: Okay. Mr. Young, could you do
22 that for me, please?

23 MR. BASSETT: All right. I tried to get that done
24 behind the scenes.

25 CHAIRPERSON HILL: Okay, great. All right. Mr.

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1 Purdy, could you please introduce yourself for the record?

2 MR. PURDY: Can you hear me now?

3 CHAIRPERSON HILL: Yes.

4 MR. PURDY: Okay. My name's Tim Purdy. I am the
5 petitioner requesting for this permit and the special
6 exemption for 627 Orleans Place in Northeast D.C.

7 CHAIRPERSON HILL: Okay. I thought I saw somebody
8 else in there for a second. Is it Mr. Courtney?

9 MR. PURDY: Actually, I have -- there's Drew
10 Courtney is one of the ANC commissioners. He'll be
11 participating today. And I have a couple of witnesses.

12 CHAIRPERSON HILL: Okay. Mr. Courtney, would you
13 introduce yourself for the record, please?

14 MR. COURTNEY: Sure. My name is Drew Courtney.
15 I am the ANC commissioner for ANC 6C06. I'm testifying today
16 in my individual capacity.

17 CHAIRPERSON HILL: Are you the SMD?

18 MR. COURTNEY: Yes.

19 CHAIRPERSON HILL: Okay. Right. Because you guys
20 had a hung vote, right?

21 MR. COURTNEY: Yes. A letter was sent from our
22 chair Karen Wirt laying it out.

23 CHAIRPERSON HILL: Okay. Let's see. All right.
24 So then you will be a member just testifying as a member of
25 the public. And it's weird. We'll probably give you five

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1 minutes anyway.

2 MR. COURTNEY: I won't need it.

3 CHAIRPERSON HILL: I mean, Jake, I'm just curious.
4 You don't get any more time if you're the SMD as a member of
5 the public. I would think not because you're not
6 representing anybody, but I'm just curious for the
7 regulations.

8 All right, Mr. Purdy. If you want to go ahead and
9 walk us through your application and what you're trying to
10 do and why you believe you're meeting the standards for which
11 we can grant the relief requested. I'm going to put 15
12 minutes on the clock there just so I know where you are. And
13 you can begin whenever you like.

14 MR. PURDY: I might not actually even need that.
15 You asked us to summarize this so I cut back my statement.
16 So I think the best way to go about this is at the beginning.

17 A year and a half ago I requested -- I hired a
18 contractor to put together plans for a 15 by 30 foot porch
19 in the rear of my house. He began that process through the
20 DCRA. In October 2019 everything seemed to be going well.
21 The ANC began its involvement in December. December 18 I was
22 notified by Commissioner Eckenwiler. He put forth a request
23 to me because I ended up having -- getting a hearing with the
24 BZA in February.

25 Mr. Eckenwiler asked me if I could push that

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1 hearing back to March because he would not be able to hear
2 my case until February. I said that's fine. I did that.
3 That's exhibit 21 in the record.

4 On February 12 we had that ANC meeting. The
5 commissioners voted 5-0 to deny the application for the 15
6 by 30 porch.

7 On February 24 I updated the plans for a 15 by 20
8 foot porch and uploaded those into the BZA case. On March
9 3 I updated the plans additionally, given advice from a
10 number of folks to make it a 15 by 15 foot porch and uploaded
11 those plans into the case file. And I remember it was a
12 variance that was originally with the case. So it was a
13 special exemption.

14 There was also another special exemption in there.
15 I mistakenly put in there. I thought there was a parking
16 exemption. I didn't need that because I intend to park back
17 there.

18 On March 3 we had the hearing. Board members
19 requested a delay to allow the ANC an opportunity to look at
20 the revised set of plans that were 15 by 15. COVID-19 kicked
21 in. On June 3 I was notified and we had the hearing for the
22 Planning, Zoning and Economic Development Committee with the
23 ANC. The commissioners voted 3-2 to deny the application at
24 that point.

25 June 10 the following week there was a full ANC

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1 meeting for 6C. The commissioners were deadlocked with the
2 3-3 vote to support the application. (telephonic
3 interference) point was the ANC took no position at that
4 point.

5 As evidenced by the timeline I provided it's my
6 hope my impression that I leave on the board today is that
7 throughout this permitting process I've held myself being
8 reasonable, accommodating, cooperative and willing to
9 compromise from start to finish with all the governmental
10 entities involved with the permitting process.

11 On several occasions in the process at the behest
12 of the ANC I altered my construction plans. I willingly
13 scaled back these plans three times now. The continuous
14 revisions cost me significant time and money. Regardless of
15 the fact I've shown a willingness to abide by the ANC's
16 concerns about the length of the deck.

17 The willingness clearly demonstrates my respect
18 for my neighbors, community, and the spirit of the District's
19 regulations with regards to the rear yard requirements.
20 Specifically I revised the February 2020 BZA hearing to
21 accommodate the ANC. I diligently worked with the Office of
22 Planning since May of 2019 to ensure all materials pertinent
23 to this process were provided and when necessary updated
24 which led to their approval of my permit. I modified the
25 porch construction plans three times as I said before.

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1 I believe it's important for me to address what
2 was termed as ANC considerations noted in the June 17 memo
3 as I believe they're the final obstacles to the permit
4 process here.

5 The first issue was some commissioners' concerns
6 about the privacy of the adjacent properties. The owners of
7 the adjacent properties as well as many of the other owners
8 within the 200-foot radius of this property explicitly stated
9 in letters within this file that they fully supported this
10 permit on the building plans that include a privacy fence.

11 One of my adjacent neighbors, 84-year-old Mr. A
12 li participated in the first hearing and expressed full
13 support of this effort. And upon hearing the commissioners
14 claim a decreased privacy he noted that that was completely
15 unfounded. From the rear of 625 Orleans Place, the first
16 adjacent house, and my other neighbor Freddy from 627 Orleans
17 Place said his claim is baseless and that they have no
18 privacy concerns in terms of building of a porch whether it
19 was 15 by 30, 15 by 20, or as now is the case 15 by 15.

20 Based on the smaller footprint of the deck and the
21 letters in file from the abutting neighbors it's difficult
22 for me to understand any remaining concerns about privacy as
23 that memo stated.

24 Issue number two in the letter was it was noted
25 that the revised application did not include photos showing

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1 the relationship between the proposed deck and the
2 applicant's property to the adjacent property.

3 I adhered to all the guidance that was provided
4 by the DC Office of Planning regarding photos of the rear of
5 the property. This is a new ask by the ANC. In fact, there
6 are photos of my neighbors' rear properties (telephonic
7 interference) through the original photos may not have
8 highlighted what's now being asked, exhibit 5 from October
9 of 2019. There are eight rear photos and photo number 8
10 specifically.

11 In addition, during June 3, the ANC webinar,
12 Commissioner Eckenwiler instructed me to take my computer
13 outside and show the committee the space which is exactly
14 what I did.

15 He wasn't satisfied with that and so my neighbor
16 Brent who's one of the witnesses today took his camera
17 outside, photographed the outside and sent them directly to
18 the ANC during the meeting.

19 This was apparently not enough. Although I've
20 submitted exhibit 72 from this July 5 wherein I took photos
21 of everybody's property and whatever issues that are
22 outstanding right there should be resolved.

23 Issue number three was one suggestion by the ANC
24 commission meeting was to build a shorter deck which would
25 result in ameliorating privacy issues. And my response on

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1 this is really a little bit longer. I've had three different
2 modifications to the existing plans, 30 feet, 20 feet, now
3 15 feet which includes a 5 foot exemption but which was
4 approved by the DC Office of Planning on February 28.

5 Exemptions and variances are part of the permit
6 process. However, this ANC has stated several times in both
7 hearings that they do not like approving exemptions or
8 variances. That is in fact why the ANC suggests building a
9 shorter deck.

10 So I would not be utilizing the exemptions and I
11 would not be presenting the permit before the ANC. That's
12 essentially the point that they gave me.

13 At this point given that I've met all the demands
14 to shorten the deck and only need an exemption for five feet
15 I believe I've addressed the privacy concerns and it's
16 difficult if not impossible to understand the continued
17 resistance to this proposal.

18 With this in mind I'd appreciate the general
19 clarity regarding the basis for the rejection. If they're
20 reasonable to deny a petition based on the ANC does not like
21 approving exemptions or variances I'd like that
22 clarification.

23 I argue that the ANC is using the vagueness of the
24 statute to deny my exemption. There's no established
25 criteria or specific guidance in the code or regulations to

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1 base these decisions. Rejection is based purely on
2 subjective personal opinion, not objective criteria.

3 For example, there's no concrete examples in the
4 code as to what examples -- exemptions and variances qualify
5 for approval and those that are disqualified.

6 CHAIRPERSON HILL: Mr. Purdy? I'm just going to
7 interrupt one second. I think you've spoken a lot to the
8 long history that you've had in this, and you've spoken some
9 but not much to the actual standards in which we're analyzing
10 this.

11 However, the last time you were here we didn't
12 have anything from the Office of Planning. And the last time
13 you were here I think you were here for a variance which you
14 might have learned by now the difference between a variance
15 and a special exception.

16 And so your burden is far less than it was --
17 well, you didn't have anything from the Office of Planning
18 before. But now you have something from the Office of
19 Planning and you've seen their report I assume, correct?

20 MR. PURDY: That's correct.

21 CHAIRPERSON HILL: Yes. So they are actually
22 speaking to the regulations. And they are speaking to how
23 we go about at least one part of what we do, analyzing the
24 case.

25 So, do you have anything further in terms of the

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1 specifics to the standards? Otherwise I'm going to turn to
2 the Office of Planning.

3 MR. PURDY: I'm going to shut up and let the
4 Office of Planning speak.

5 CHAIRPERSON HILL: Okay. Well, there you go. May
6 I hear from the Office of Planning?

7 MR. JESICK: Thank you, Mr. Chairman. This is
8 Matt Jesick. My camera should be coming up here shortly.
9 Can you hear me okay?

10 CHAIRPERSON HILL: I can, but I'm fascinated as
11 to what a YouCam 6 is.

12 MR. JESICK: Beats me.

13 CHAIRPERSON HILL: Okay. All right, great.

14 MR. JESICK: Well, thank you, Mr. Chairman and
15 members of the board. Again my name is Matt Jesick
16 representing the Office of Planning for BZA case 20206. And
17 I'll just simply reiterate my testimony from the prior
18 hearing which is we support the special exception relief for
19 lot occupancy and rear yard. The application has met the
20 standards for approval and I'd be happy to take any
21 questions. Thank you.

22 CHAIRPERSON HILL: I thought, Mr. Jesick, we
23 didn't have a report the first time?

24 MR. JESICK: We did. We submitted our report on
25 February 28. The hearing was on March 11. And that report

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1 analyzed the plans which resulted in a special exception lot
2 occupancy, 69.7 percent.

3 CHAIRPERSON HILL: So you haven't updated your
4 report since that day?

5 MR. JESICK: That's correct. It's the same plans
6 that were in the record at that time. So there was no update
7 necessary.

8 CHAIRPERSON HILL: Okay. Does the board have any
9 questions for the Office of Planning? Does the applicant
10 have any questions for the Office of Planning?

11 MR. PURDY: No.

12 CHAIRPERSON HILL: Okay. Mr. Courtney, you are
13 here as an individual, but you also are the SMD in the ANC.
14 Can you give your testimony, please?

15 MR. COURTNEY: Sure. I'll keep it brief. And
16 just to flag, a letter should have been sent from our chair
17 Karen Wirt laying out the ANC's decision not to take any
18 action on this application.

19 There has been a lot of conversation about it.
20 The two points that I would make is to underscore what the
21 applicant says, that this is someone who has repeatedly
22 worked with us throughout the process and taken feedback and
23 changed the application as it went.

24 The other is that one of the major concerns that
25 we've had is air, light, and privacy. We had a lot of

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1 conversation about that. In a lot of cases we have neighbors
2 signing off on things. We have very broad support for this
3 to the point where it felt appropriate for me to say if we're
4 making any concerns about air, light, and privacy when the
5 neighbors are saying this would not affect me on any of those
6 standards to me it felt important to listen to them.

7 We've had cases with neighbors in support before.
8 I'm not sure we've ever had cases with neighbors unanimously
9 in support before the way we have with this. So, I am in
10 support of this. As I say I'm speaking only in my personal
11 capacity as the SMD, but I think that this is an appropriate
12 use of the space and want to support the application.

13 CHAIRPERSON HILL: Okay. Does the board have any
14 questions for the commissioner? Okay. Mr. Purdy, I remember
15 your case and I'm trying to understand now, the last time you
16 were here you had the exact same size deck as you do now?
17 When you first came before us you came before us and we sent
18 you back to work with the ANC. Okay? At least that's what
19 I think I recall.

20 MR. PURDY: The issue at that point was what you
21 saw, what the board members saw, what was in the BZA file at
22 that time. The ANC did not have an opportunity to see the
23 15 by 15, the decrease to that size. So you said giving Mr.
24 Eckenwiler the opportunity to review the new plans, go see
25 the ANC again.

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1 CHAIRPERSON HILL: And I apologize. They the ANC
2 had not seen the deck yet. That's what I was trying to
3 understand.

4 MR. PURDY: No.

5 CHAIRPERSON HILL: Right. Okay. You had already
6 gone to the Office of Planning. You had this size deck and
7 the ANC had not had an opportunity yet to evaluate that size
8 deck, the current deck that you have right now, correct?

9 MR. PURDY: The 15 by 15, yes, sir.

10 CHAIRPERSON HILL: Okay. All right. So Mr.
11 Commissioner, I'm just kind of curious. You have a split
12 vote. Why was it so split?

13 MR. COURTNEY: I can only speak to my own
14 perspective on it. There was a lot of conversation in our
15 PZE committee. I think there was a sense on the other side
16 that there were ways to build a project that did not require
17 any kind of variance or special exception and that those
18 should have been pursued.

19 And then there was a question on the other side
20 which I supported that we have an individual homeowner who's
21 trying to make some modest changes to his home with broad
22 support from the community, with broad support from the
23 neighbors. It felt appropriate that the ANC stand on his
24 side on this.

25 CHAIRPERSON HILL: Okay. And Commissioner, you

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1 understand the difference between a special exception and a
2 variance, correct?

3 MR. COURTNEY: I do.

4 CHAIRPERSON HILL: Okay. All right. Mr. Young,
5 are there other people wishing to testify?

6 MR. YOUNG: Yes, I have two that are calling in
7 by phone. So if you want I'll just go one by one.

8 CHAIRPERSON HILL: Yes, please.

9 MR. YOUNG: Brent Huggins first who I will unmute
10 now.

11 MR. HUGGINS: Hello, this is Brent Huggins. Can
12 everyone hear me?

13 CHAIRPERSON HILL: Yes, Mr. Huggins. Could you
14 please introduce yourself for the record?

15 MR. HUGGINS: Yes, hello. I'm Brent Huggins and
16 I am the homeowner and resident at 623 Orleans Place, so two
17 houses down from Tim, three, something like that.

18 CHAIRPERSON HILL: Okay. If you could go ahead
19 and give us your testimony, please?

20 MR. HUGGINS: Yes. So, I am here on my behalf
21 really to enthusiastically support Tim's project. I also
22 attended the ANC PZE committee and testified and to be frank
23 I was actually kind of flabbergasted and appalled by both
24 their comments to us as community members and their decision-
25 making.

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1 You know, this is a project that I think over 50
2 people on our street, Orleans Place, support this project.
3 We are a very close-knit street. We have listservs. We have
4 Easter brunch parties together. We have lots of different
5 types of things and really like to come together as a
6 community.

7 And so we all know Tim and really support his
8 project. In fact, I would prefer he build a 30 foot deck if
9 possible because then maybe we could fit 100 people, everyone
10 that lives on our street on his deck so we could all have
11 community events there. We see this really as an asset to
12 the community, that the more places that we can gather
13 together, see each other during non-COVID times.

14 Tim is going to be in our neighborhood for a long
15 time. And also I'm very concerned because just in the past
16 year we've had four or five different families move away from
17 our street oftentimes citing that because they've had
18 children and they would like to expand their houses that our
19 ANC is so cumbersome and does not grant variances or
20 exceptions that they can't fit on our street.

21 So their position on a lot or any development
22 really is tearing at the fabric of our community and our
23 street.

24 They also said neighbors are often wrong. And
25 that we -- like implying that we weren't smart enough to

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1 decide on our own if we would support this project.

2 There was a split even in the PZE and they brought
3 up concerns like privacy. But one of the other members said
4 well, actually everyone has decks on the back of their house,
5 so everyone is infringing upon everyone's privacy. But we
6 actually really like that. We like knowing our neighbors,
7 to see each other, to know each other and our community.

8 And so I'm really dismayed. And then the other
9 thing, they also insinuated that we shouldn't really be
10 coming to them for any type of variance or exception because
11 there's a housing code regulation and basically we should
12 just live with what DC government has provided for zoning,
13 and that we shouldn't ask for variances or exceptions, even
14 though within the law and the zoning regulations it
15 explicitly allows that. Us asking the ANC is following the
16 law and the zoning requirements. We can ask for an exception
17 and a variance.

18 And so they really said that we shouldn't be doing
19 that. My partner who is a lawyer was very offended whenever
20 they said that we might not know the law, or that we might
21 not respect the law because we're asking for a variance or
22 exception.

23 I'm very concerned that our lack of development
24 or our lack of any type of changing to our houses is impeding
25 our development and really forcing many people to move from

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1 their homes.

2 So I'm very supportive of Tim's project and I
3 think that it should move forward. I would be happy if it
4 remained at 30 feet. I'm sure that can't happen in this
5 process, but thank you.

6 CHAIRPERSON HILL: Okay. Well, thank you for your
7 testimony. I kind of don't know how to respond to some of
8 the things you're bringing up. I mean, it sounds definitely
9 as though this is a discussion that's taking place within
10 your community right now.

11 And however, as far as what we do here, special
12 exceptions are things -- everyone has an opportunity and it's
13 their right to apply for a special exception and a variance.
14 And whether you meet the criteria or not, that's what this
15 board determines. So, that's within the DC regulations.

16 Well, thank you for your testimony. Does the
17 board have any questions for the witness? All right. Does
18 the applicant have any questions for the witness?

19 MR. PURDY: No.

20 CHAIRPERSON HILL: Okay. Mr. Young, you said
21 there's one more witness?

22 MR. YOUNG: Yes. We have one more, Johnny
23 Edmonds.

24 MR. EDMONDS: Yes, I'm here.

25 CHAIRPERSON HILL: Hi, Mr. Edmonds. Could you

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1 please introduce yourself for the record?

2 MR. EDMONDS: Sure. My name is Johnny Edmonds.
3 I live on 1139 6th Street NE. And I'm here in full, strong
4 and complete support of Tim's project.

5 A lot from the perspective of all the things he's
6 gone through to kind of appease and accommodate, but also
7 from the perspective of Tim is totally invested in the
8 neighborhood. And Tim basically -- I mean to the extent that
9 he does his own neighborhood watch. And I say that half in
10 jest but half serious because quite frankly my wife and I go
11 to the gym, pre-COVID, before 4 o'clock in the morning, 4:30
12 in the morning. We're actually -- I'm out putting stuff in
13 the car so that we can get to the gym, be there by 5, so on
14 and so forth.

15 On more than one occasion Tim has scared the hell
16 out of me because he walks around the neighborhood and he's
17 actually almost like a neighborhood sheriff.

18 Now, that to me is a sense of security, a sense
19 of belonging that quite frankly is missing per the other
20 gentleman's comments, probably missing in some of the other
21 ANCs or some of the other wards. And I quite frankly don't
22 think that's anything we want to lose.

23 I say all this with the no kidding, real -- I'm
24 watching two gentleman, and I use that term loosely, try to
25 break into somebody's car that I know doesn't belong to them.

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1 And I say that because Tim would have recognized them early
2 in the morning, or in the afternoon or what have you as a
3 member of the neighborhood. He is invested and his quality
4 of life absolutely deserves approval on this request. So I
5 absolutely have nothing but support for him and his request
6 for this permit. Thank you.

7 CHAIRPERSON HILL: Okay, thank you. Does the
8 board have any questions?

9 MR. EDMONDS: Can I throw one other thing in? I
10 was deadly serious about two guys trying to break into this
11 guy's car. So I'm going to drop from the call because I'm
12 going to go tell him what they're doing. Unless one of you
13 want to call the police.

14 CHAIRPERSON HILL: I'm confused.

15 MR. PURDY: I think that's occurring right now.

16 MR. EDMONDS: That is correct.

17 CHAIRPERSON HILL: Oh. I don't know. I don't
18 know, sir. I mean, don't get yourself in trouble. I don't
19 know what to tell you.

20 MR. EDMONDS: Okay, that's fine. I just wanted
21 to let you know in case I dropped off that's why.

22 CHAIRPERSON HILL: Does the board have any
23 questions? Okay. All right, sir. Mr. Purdy, do you have
24 any questions?

25 MR. PURDY: No. Call the police, John.

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1 CHAIRPERSON HILL: You're excused, sir. Thank you
2 for your testimony. Okay. All right. Mr. Purdy, do you
3 have anything you'd like to add at the end?

4 MR. PURDY: No, I don't.

5 CHAIRPERSON HILL: Okay. Does the board have any
6 further questions for anybody? Okay. I'm going to go ahead
7 and close the record. Mr. Purdy, Commissioner, nice to see
8 you guys. Good luck. Have a good day.

9 MR. PURDY: Thank you, sir.

10 CHAIRPERSON HILL: All right. Does somebody else
11 want to start our first round of deliberations? Mr. Hart?

12 VICE CHAIRPERSON HART: Sure. I appreciate the
13 timeline that Mr. Purdy gave, the summary. I appreciate also
14 having ANC Commissioner Mr. Courtney here to give some
15 testimony as well in support. I think that I would agree
16 with the Office of Planning report that I could support the
17 application.

18 I think that they've, you know, in working with
19 the community and trying to understand what was I guess more
20 acceptable the design went from actually kind of was reduced
21 by half and the applicant is only seeking a special
22 exception. And I think that they've provided information
23 that shows that they are meeting the requirements under the
24 zoning regs.

25 I don't have much more to add than that. Thank

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1 you.

2 CHAIRPERSON HILL: Ms. John?

3 MEMBER JOHN: I support everything that Mr. Hart
4 has said. And I'm looking at the exhibit at exhibit 72 with
5 all of the photographs. And I believe two or three down
6 where there are pictures of all of these decks and porches.

7 And I don't think that this application will
8 infringe on any privacy concerns any more than what is
9 already there. So I would not have any difficulty supporting
10 the application.

11 CHAIRPERSON HILL: Chairman Hood?

12 ZC CHAIR HOOD: I would just -- I think this is
13 ready for -- at the appropriate time ready. I will be
14 supporting this project and supporting this application.

15 CHAIRPERSON HILL: Okay. In terms of my thoughts
16 I did think that he's meeting the criteria under Subtitle E
17 5201. I also would agree with the analysis that was provided
18 by the Office of Planning as well as the special exception
19 criteria general of X 901.2.

20 And so we can put this on, Mr. Moy, for a decision
21 next week.

22 MR. MOY: Yes. The record is closed and the board
23 is going to make its decision on the Purdy case next week,
24 July 22 as well as the previous case.

25 CHAIRPERSON HILL: Okay, great. Thank you. And

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1 as you had mentioned, Mr. Moy, thank you so much. Yes, the
2 record is now closed. All right, Mr. Moy, whenever you're
3 ready you can call our last case.

4 MR. MOY: Okay. That would be case application
5 number 20121 of Bridges 2 Psychological Services and
6 Consultation LLC, captioned and advertised for a use variance
7 from the use requirements of Subtitle U Section 201.1, to
8 convert an existing detached residential building to a
9 medical office building, R-2 Zone, at 639 Atlantic Street SE
10 (Square 3105, Lot 72).

11 CHAIRPERSON HILL: Okay. Let's see. Mr. Bello,
12 are you there?

13 MR. BELLO: Yes, sir, Mr. Chairman.

14 CHAIRPERSON HILL: Are you choosing to turn your
15 camera on or no, Mr. Bello, just so I know?

16 MR. BELLO: Yes.

17 CHAIRPERSON HILL: Okay, great. Is it Ms.
18 Dickerson?

19 MR. BELLO: That's the owner, yes.

20 CHAIRPERSON HILL: Ms. Dickerson, could you please
21 introduce yourself for the record? Just push it once and
22 then it should be unmuted.

23 MS. DICKERSON: Are you able to hear me?

24 CHAIRPERSON HILL: Yes. Just push it once, Ms.
25 Dickerson, then introduce. You've got to click it just one

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1 time. And don't click it. Now introduce yourself for the
2 record.

3 MS. DICKERSON: My name is Angelina Dickerson.

4 CHAIRPERSON HILL: Okay. And where do you live,
5 Ms. Dickerson?

6 MS. DICKERSON: I live on 3504 Marechal Court,
7 Clinton, Maryland.

8 CHAIRPERSON HILL: Okay. Ms. Dickerson, are you
9 choosing not to use your camera just so I know?

10 MS. DICKERSON: No. For some reason, so I just
11 click on the video?

12 CHAIRPERSON HILL: Yes. Just click on the little
13 thing that has a camera on it.

14 MS. DICKERSON: Okay.

15 CHAIRPERSON HILL: Okay. Now I think you have to
16 click something else. I don't remember myself.

17 (Simultaneous speaking)

18 CHAIRPERSON HILL: -- camera from the back but
19 that's okay.

20 MS. DICKERSON: I know. That's interesting.

21 CHAIRPERSON HILL: That's all right. Now it
22 doesn't matter. I don't even know. Does anybody know? I
23 think you do it somehow in the settings or something, right?
24 Okay, never mind. Ms. Dickerson, that's all right.

25 Mr. Bello, could you introduce yourself for the

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1 record, please?

2 MR. BELLO: Toye Bello representing the applicant,
3 1917 Benning Road.

4 CHAIRPERSON HILL: Oh, there's Ms. Dickerson.
5 Okay, great. Mr. Bello, how are you?

6 MR. BELLO: I'm very well, thank you, sir.

7 CHAIRPERSON HILL: Good. Mr. Bello, did you drop
8 exhibit 69, 70, 71, 72, 73, and 74 into the record yesterday?

9 MR. BELLO: Monday. Well, actually Monday I
10 believe.

11 CHAIRPERSON HILL: Oh, Monday. Okay. Mr. Bello,
12 come on. Really?

13 MR. BELLO: Yes, sir. I apologize for that.

14 CHAIRPERSON HILL: Okay, because I don't know
15 about my fellow board members, but I have a job. And like
16 you know, we can't look at all this stuff before the hearing,
17 and the hearing was scheduled -- this particular hearing I
18 don't even remember what decade this thing started in, right?

19 I mean, I don't remember what pandemic was going
20 on when this thing first got filed, but it wasn't this one.
21 So why don't you go ahead and tell us kind of where you are
22 with this because we're not going to be able to hear this
23 today because nobody was able to read anything.

24 MR. BELLO: Well, perhaps the best place to begin
25 is where we left off at the last hearing.

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1 CHAIRPERSON HILL: Which was when?

2 MR. BELLO: December 11, 2019.

3 CHAIRPERSON HILL: Okay. December 11. Okay.

4 MR. BELLO: So the board granted leave for us to
5 submit a brief on the case law as applicable to this
6 application which would be Palmer and Gilmartin as advised
7 by the board's counsel.

8 So essentially, what we've filed is really just
9 a brief of those two cases and their applicability to our
10 situation. It's all that we've done.

11 CHAIRPERSON HILL: Okay, let me do one thing, Mr.
12 Bello. So, the first thing is I guess the filing was
13 originally due January 13, right? And was last due February
14 17. So the filing, and I don't even know if this is right.
15 So the filing is five months late.

16 MR. BELLO: Well, I think the last time we
17 scheduled a hearing was I believe April.

18 CHAIRPERSON HILL: Okay. So first we have to
19 decide whether or not we're going to accept this, meaning the
20 board. Whether we're going to accept the filings, okay. And
21 I guess we'll go ahead and take the filings. I mean, I think
22 what I want to do now is I want to -- I don't even know
23 whether the Office of Planning has had a chance to really
24 look at everything. And I don't know when we're going to
25 have to reschedule this.

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1 But does the board -- and Mr. Bello, just give me
2 one second. Does the board have any objection to accepting
3 the filings?

4 VICE CHAIRPERSON HART: I object to them being as
5 late as they are and us receiving them, you know, requesting
6 them months ago and getting them literally within the last
7 two days.

8 It just is -- I am not able to be able to
9 understand what the Office of Planning's perspective is on
10 this and also have our OAG have an opportunity to be able to
11 review this and provide us some guidance of their own. So
12 in some ways I'm kind of like -- I don't mind having them,
13 but now we have to push this, the actual hearing off because
14 we need time to digest it.

15 And that was why we had requested the information
16 so long ago, so that we could have this information. And I'm
17 just, you know, that's all I have to say right now.

18 CHAIRPERSON HILL: Okay. I saw Chairman Hood
19 shaking his head no and Ms. John. I say we go ahead and take
20 the filings. And so now we'll go ahead -- yes.

21 ZC CHAIR HOOD: You saw me shaking my head that
22 I had no issues with accepting the files. That's what I was
23 shaking my head.

24 CHAIRPERSON HILL: That's right. That's what I
25 meant, that you didn't have an issue accepting the filings.

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1 And Ms. John, you're okay with us accepting the filings?
2 Okay.

3 MEMBER JOHN: I'm fine with accepting the filings.

4 CHAIRPERSON HILL: Okay. So that being the case
5 now we got more information. We have the supplemental
6 hearing case and the case law brief. We got the sales
7 comparability. We got the affidavit of posting. We got the
8 affidavit of maintenance which that's just helpful.

9 We got a letter in support from ANC 8E and then
10 the request again to accept the untimely filings. So we'll
11 go ahead and accept the untimely filings. And I think, Mr.
12 Moy, when could we get back here if the Office of Planning --
13 I mean, Ms. Myers, how much time do you guys need for this?

14 And Mr. Bello, like this is going to be -- like
15 you're not going to get back here until September. And so
16 we're jammed up all the way through the end of the summer
17 now.

18 Ms. Myers, how much time do you need? Where are
19 you and do you want to introduce yourself for the record?

20 MS. MYERS: Hi. I'm Crystal Myers with the Office
21 of Planning. You've pretty much said what I was going to say
22 which is we haven't had enough time to really review the
23 submitted information in order to provide a supplemental
24 report. So our position hasn't changed.

25 And I also want to note since it sounds like we're

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1 going to reschedule this. We've asked the applicant to
2 provide more information about the issues with DCRA and I
3 didn't see anything new on that. So I would again just like
4 to ask the applicant if there's any information they could
5 give us about their issues with DCRA for us to review.

6 And with that we just need more information.

7 CHAIRPERSON HILL: Let me interrupt you one
8 second. Mr. Bello, do you know what information OP is
9 looking for?

10 MR. BELLO: Well, what we've provided to the
11 record is a history of the building permits that the
12 applicant was late to undertake and the expense in preparing
13 the property for commercial occupancy, all while not being
14 told that they couldn't (telephonic interference). That was
15 the only central issue relating to DCRA. We've uploaded
16 those building permits, evidence of what the applicant --

17 CHAIRPERSON HILL: Mr. Bello, I'm just trying to
18 make sure you guys are on the same page so that we're not
19 back here again in this same way the next time. So Ms.
20 Myers, is that --

21 MS. MYERS: I did see those building permits. I
22 also was looking for like a timeline. Because at the
23 previous hearing a lot of information was given by the owner
24 and what would be helpful to look at is to kind of know what
25 happened when. And that's something that I know I expressed

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1 to -- we've expressed it, actually I know I expressed it over
2 the phone. But you know, just wanted to say on the record
3 that that would be something else to add in there to have a
4 better understanding of what happened with DCRA.

5 So timing wise, if we -- just with everything we
6 have in the record right now OP could probably provide a
7 supplemental within a week. But it sounds like this might
8 be rescheduled to September so clearly we'll be ready by
9 then.

10 CHAIRPERSON HILL: Okay. Mr. Bello, can you give
11 a timeline, or can your client give a timeline the way that
12 OP is requesting?

13 MR. BELLO: I can have a timeline to OP in a week
14 or less.

15 CHAIRPERSON HILL: Okay. Mr. Ritting, you seem
16 to be trying to say something or no? Okay. All right.
17 Okay. So I guess, Mr. Moy, where are we with our caseload?

18 MR. MOY: Okay, I have two suggestions, Mr.
19 Chairman. And I think either one is doable. For September
20 16 -- you put one on for September 16 today so that would
21 give you two applications and one appeal, and two cases for
22 decision. That's for September 16.

23 If that's not acceptable then your best date after
24 that is October 14.

25 CHAIRPERSON HILL: Okay. September 13.

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1 MR. MOY: Sixteenth.

2 CHAIRPERSON HILL: Sixteenth. We have an appeal
3 on that day?

4 MR. MOY: Yes. It would be one appeal and two
5 cases, and two cases for decision. The other dates in that
6 month, there are six or seven applications.

7 CHAIRPERSON HILL: I don't want to back it up.

8 MR. MOY: Then that would take us to October 14
9 where you have three applications and one appeal. So it's
10 your choice.

11 CHAIRPERSON HILL: Well, I mean you're still
12 putting it on an appeal day.

13 MR. MOY: Yes.

14 CHAIRPERSON HILL: Okay. Give me one second.
15 Everybody, just take one minute here, okay? Okay. All
16 right, well I'm learning all kinds of things. Okay. Let's
17 see. All right, Ms. John, what about the 16th? Do you want
18 to just do it the 16th of September?

19 MEMBER JOHN: Yes, that's fine.

20 CHAIRPERSON HILL: Okay. All right, we'll do it
21 the 16th of September. Ms. Dickerson, since you're the
22 applicant do you have anything you'd like to add? You need
23 to unmute yourself, I'm sorry.

24 MS. DICKERSON: No, I do not.

25 CHAIRPERSON HILL: Okay, all right. Okay, then

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1 we'll see you guys on the 16th. Mr. Bello, really try if you
2 can -- hold on, Mr. Ritting has a question. Mr. Bello,
3 really try if you can to tighten this thing up so that we
4 don't have to -- I mean it's gone on for a long time. Mr.
5 Ritting, you had a question?

6 MR. RITTING: Yes. Did we set a date for the OP
7 report?

8 MR. MOY: I believe OP said it would take a week
9 or two, but now that we have a little bit more time. I think
10 the board should receive the report at least two weeks prior
11 to September 16 which would be -- which would be September
12 2 at the latest.

13 CHAIRPERSON HILL: Okay. All right, Mr. Bello and
14 Ms. Dickerson, we'll see you then. Ms. Myers. Bye bye. Bye
15 bye.

16 MR. BELLO: Thank you.

17 MS. DICKERSON: Bye.

18 CHAIRPERSON HILL: All right, let's see. So Mr.
19 Moy, do we have anything else before us today?

20 MR. MOY: I believe not. Certainly not from the
21 staff, Mr. Chairman.

22 CHAIRPERSON HILL: Okay. Is there anything else
23 the board has today?

24 MEMBER JOHN: No.

25 CHAIRPERSON HILL: Okay. Well then you guys, it

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1 was nice to see you. We ended somewhat early today.

2 MEMBER JOHN: Yes.

3 CHAIRPERSON HILL: Okay. Have a nice week. Bye
4 bye.

5 MEMBER JOHN: Thank you. Have a great week. Bye.

6 VICE CHAIRPERSON HART: Take care.

7 MEMBER JOHN: Bye.

8 (Whereupon, the above-entitled matter went off the
9 record at 4:10 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCBZA

Date: 07-15-20

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

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Court Reporter

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