

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

WEDNESDAY

SEPTEMBER 30, 2020

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Video Teleconference, pursuant to notice at 10:49 a.m. EDT, Frederick L. Hill, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

FREDERICK L. HILL, Chairperson
LORNA JOHN, Board Member
CHRISHAUN SMITH, Board Member

ZONING COMMISSION MEMBERS PRESENT:

MICHAEL TURNBULL, Zoning Commission Member

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary

OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS
JENNIFER BROWN
ANNE FOTHERGILL
CRYSTAL MYERS
MATTHEW JESICK

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACK RICE, ESQ.
DANIEL BASSETT, ESQ.
ALEXANDRA CAIN, ESQ.

The transcript constitutes the minutes from the
Regular Public Hearing held on September 30, 2020.

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

(10:49 a.m.)

1
2
3 MR. MOY: Thank you, Mr. Chairman. The Board is
4 back in session in the public hearing session of today's
5 hearing. And the time is at or about 10:49. So shall I call
6 the first case, sir?

7 CHAIRPERSON HILL: Yes. Are you going to do that
8 one that we pulled off the --

9 MR. MOY: That's correct.

10 CHAIRPERSON HILL: Yes. That's good.

11 MR. MOY: Okay. So that would be Application
12 Number 20312, of the District Department of General Services,
13 captioned and advertised for a special exception under
14 Subtitle F, Section 4910.1 from the rear yard requirements,
15 Subtitle F 4906.1 to construct an ADA-accessible elevator at
16 the back of Ross Elementary School building in the RA-8 Zone,
17 at premises 1730 R Street, Northwest, Square 155, Lot 821.

18 CHAIRPERSON HILL: All right. Thank you, Mr. Moy.
19 I guess, Mr. Young, if you've let everybody in. I'm waiting
20 for somebody's camera to come on, or someone to introduce
21 themselves.

22 MR. COHEN: Yes sir, hi Mr. Chair. This is
23 Christopher Cohen, with Holland and Knight for the record,
24 on behalf of the applicant.

25 CHAIRPERSON HILL: Okay. Mr. Cohen, are you

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1 choosing not to use your camera, which is fine, I just want
2 to know.

3 MR. COHEN: No. I'd like to, just give me one
4 second. You think I'd figure this out by now. Yes. We're
5 all good.

6 CHAIRPERSON HILL: Okay. Great.

7 (Simultaneous speaking.)

8 CHAIRPERSON HILL: Who -- good morning. And who
9 else is with you here today?

10 MR. COHEN: I have Ms. Maria Gorodetskaya, with
11 Shinberg Levinas, the architect on the project, and Mr. Burt
12 Jackson with the Department of General Services as well.

13 CHAIRPERSON HILL: Okay. I don't see them in the
14 room.

15 MR. YOUNG: They're both calling in. So I just
16 unmuted both of them. So they can speak now.

17 MS. GORODETSKAYA: Good morning. This is Maria
18 with Shinberg Levinas, the Project Manager for the project.

19 MR. JACKSON: And good morning. This is Burt
20 Jackson with DGS. Good morning.

21 CHAIRPERSON HILL: Good morning. All right. Mr.
22 Cohen, I'll go ahead and let you kind of -- Mr. Cohen, did
23 you wear a tie for us today?

24 MR. COHEN: Always. Always, Mr. Chair.

25 CHAIRPERSON HILL: That' -- I'm going to wear a

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1 tie. Next week, I'm going to wear a tie. It's been a while.

2 MR. COHEN: I didn't mean to impose that kind of
3 pressure. It's just to put me in the right mindset.

4 CHAIRPERSON HILL: You don't have to worry, you
5 won't change us. We're not getting paid, Mr. Cohen. But
6 thank you, Mr. Cohen. Let's see. If you want to go ahead
7 and walk us through the application. I'm sure you heard, we
8 pulled you off of the expedited review. If you can tell us
9 a little bit about what your client's trying to do and why
10 you believe they meet the criteria for us to grant the
11 application.

12 As I did state, I didn't think that it was
13 prejudicing any parties by moving you to the hearing today,
14 because it seems as though you've done a lot of community
15 outreach. But if you could kind of speak to how this
16 wouldn't prejudice any parties to go ahead and have this
17 hearing with you today. And you can begin whenever you like.

18 MR. COHEN: Sure. Thank you, Mr. Chair. And good
19 morning, and good morning Vice Chair John, and Mr. Smith, and
20 Commissioner Turnbull. Thank you for having us this morning.
21 And I appreciate, even though we didn't get on the expedited
22 agenda, that we were moved to today and the first case.

23 On behalf of the applicant, again, for the record,
24 my name is Christopher Cohen on behalf of the District
25 Department of General Services, and with me is Ms. Maria

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1 Gorodetskaya, and Mr. Burt Jackson.

2 And in this case, this is hopefully a rather
3 simple case. This case involves the proposed addition of an
4 ADA accessible elevator on the back of the school building.
5 Specifically, the Ross Elementary School building, which is
6 located at 1730 R Street NW. The applicant needs rear yard
7 relief from the requirements that are applicable to the
8 public school buildings in the RA-8 Zone.

9 And as we'll go through this presentation today,
10 we'll share and demonstrate how the application satisfies the
11 general review criteria under Subtitle F, Section 901.2. And
12 briefly, I'll just summarize the case record to this point,
13 as you noted, Mr. Chair, we do have the support of the ANC.
14 They submitted a letter into the record in support, which is
15 Exhibit 34. We also appreciate the fact that OP recommends
16 approval of this application. That's indicated under Exhibit
17 39.

18 I will also note that the property is located
19 within the Dupont Circle Historic District, and the applicant
20 is pleased to share that it has concept approval from the
21 CFA, and is submitting for final permit, I believe, tomorrow.
22 Ms. Gorodetskaya will speak more to that.

23 And I'm sorry, one more thing. Anticipating that
24 we might be on the public hearing agenda, we also submitted
25 a presentation into the record. I didn't know if Mr. Young

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1 could pull that up. And of course, the presentation
2 materials are supplemental record.

3 CHAIRPERSON HILL: That's all right. Actually,
4 Mr. Young, if you just want to go ahead and pull that off.
5 Why don't you just kind of tell us about it, Mr. Cohen?

6 MR. COHEN: Okay. That's totally fine. Well,
7 with that, then I'll bring in Mr. Jackson on the phone
8 because he'll speak more to the project and the overall
9 modernization effort and how this elevator addition is
10 integrated and why it's so important. So if we can get Mr.
11 Jackson on the line, that would be great. Thank you.

12 CHAIRPERSON HILL: Mr. Jackson, can you hear us?

13 MR. JACKSON: Yes, I can. Thank you very much.
14 Just to briefly describe the building. This is an existing
15 school building. It was built over 100 years ago, 130 years
16 ago, and as part of the modernization program, part of the
17 scope of work is to include an ADA accessible elevator to the
18 rear of the building.

19 There's also modernization efforts that are going
20 on within the building. As you can imagine, the property
21 within this urban environment, right now the population for
22 the kids is continuing to grow, so we're trying to expand the
23 school to accommodate that growing and needing population.

24 But the topic for today is the elevator, which is
25 desperately needed for this structure. To be located on the

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1 rear side of this existing building, which fronts on R
2 Street. There's an alley to the rear of the building. So
3 that is our request today is to be allowed to build this
4 structure.

5 Now once this structure is -- the way it's
6 currently designed and I'll defer to my colleague with
7 Shinberg and Levinas, but the structure in keeping, the new
8 elevator structure will be in keeping with the existing
9 building. It will be a brick facade. We've gone to great
10 lengths to design an elevator shaft that is the least square
11 footage impact to the square footage and footprint of the
12 building. So I think what we're talking about today should
13 be fairly straightforward, and as a benefit to these
14 elementary school kids.

15 CHAIRPERSON HILL: Okay. All right. Mr. Cohen,
16 is that it?

17 MR. COHEN: I'd like to bring in Ms. Gorodetskaya.
18 She'll speak a little bit more to the design of the elevator
19 and how it doesn't -- it's installation wouldn't create any
20 adverse impacts at the back of the building.

21 CHAIRPERSON HILL: Okay.

22 MR. COHEN: She can supplement Mr. Jackson's
23 testimony.

24 CHAIRPERSON HILL: Okay.

25 MS. GORODETSKAYA: Good morning. This is Maria

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1 Gorodetskaya with Shinberg Levinas. So we've been working
2 with DGS and DCPS very closely over the last few months to
3 develop the plan for this design. The biggest challenge here
4 is that the existing building has a very typical historic
5 footprint. It's a square pinwheel plan, symmetrical, so the
6 challenge was to figure out where to place the elevator to
7 allow that ADA access to all levels of the school for the
8 students.

9 We worked closely with HPO and CFA to determine
10 what is the best placement for this elevator shaft. And with
11 their input and agreement, and support for our plan, the
12 proposed location for the elevator is at the rear, where it's
13 least visible and has the least impact to the historic nature
14 of the building.

15 The back of the building fronts an alley. It's
16 just a service part of the lot. So we felt that this was the
17 most appropriate location. The other aspect of the design
18 was to select the smallest footprint, the smallest elevator
19 that we could specify for this installation.

20 So we've worked with DGS to gain their approval
21 to go with an elevator that's not typically allowed anymore,
22 but has the smallest footprint to really minimize the impact
23 to the rear yard.

24 CHAIRPERSON HILL: Okay. Does the Board have any
25 questions for the applicant? No. All right. I'm going to

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1 turn to the Office of Planning.

2 MS. BROWN-ROBERTS: Good morning Mr. Chairman and
3 members of the BZA. For the record, this is Maxine Brown-
4 Roberts from the Office of Planning. The Office of Planning
5 recommends approval of the requested rear yard extension and
6 we stand on the record. Thank you, Mr. Chairman and I'm
7 available for questions.

8 CHAIRPERSON HILL: Thank you. Does anyone have
9 any questions for the Office of Planning? Mr. Cohen, you
10 started to say something. You're saying no, correct?

11 MR. COHEN: I'm sorry. I was on mute. No, Mr.
12 Chair, we have no questions.

13 CHAIRPERSON HILL: Okay. All right. Great. Ms.
14 Brown-Roberts, nice to see you. I haven't seen you since you
15 came back.

16 MS. BROWN-ROBERTS: Thank you.

17 CHAIRPERSON HILL: All right. Let's see. Okay.
18 Mr. Young, is there anyone here who wishes to testify?

19 MR. YOUNG: We have no one signed up.

20 CHAIRPERSON HILL: Okay. Mr. Cohen, do you have
21 anything else you'd like to add at the end?

22 MR. COHEN: I don't, Mr. Chair. Thank you very
23 much. I appreciate it.

24 CHAIRPERSON HILL: Okay. All right. I'm going
25 to close the hearing. Is the Board ready to deliberate?

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1 Okay. All right. I can start. I didn't have an issue with
2 the application. I did think that it was something that we
3 could not have decided in expedite or review. I will agree
4 with the Office of Planning's analysis, as to how they're
5 meeting the criteria. I do not think there's going to be an
6 adverse impact for this particular elevator. And I think
7 that it's something that is obviously needed.

8 The ANC was also in support and indeed, I have no
9 objections. I thought it was pretty straightforward, and I'm
10 going to be voting to approve. Mr. Turnbull, do you have
11 anything you'd like to add?

12 COMMISSIONER TURNBULL: I would just add that you
13 have this historic building, and so trying to bring a
14 historic building up to compliance, and especially with this
15 ADA elevator, I think it meets the criteria for special
16 exception. I think that was the way to go. And I think it
17 has no impact on the neighbors. I think they've done a lot
18 of work in placing it, architecturally, they talked about
19 what they did. I think it blends in very well.

20 I think that there's no impact on the neighbors,
21 the houses and the apartment buildings across the street.
22 So you're right. I think it's right to be approved, and I
23 will be voting in favor of it.

24 CHAIRPERSON HILL: Mr. Smith?

25 MEMBER SMITH: I do agree that Mr. Chairman's --

1 Mr. Turnbull that the placement of this elevator will have
2 minimal impact on the surrounding properties, abutting an
3 alley. So there wouldn't be any impacts there. I would
4 thank the applicant for keeping the size of the elevator
5 fairly compact to reduce the size of their request. So other
6 than that, I would support their request for a special
7 exception.

8 CHAIRPERSON HILL: Thank you. Vice Chair John?
9 You're on mute, Ms. John.

10 VICE CHAIR JOHN: So I agree with everything
11 that's been said and I have nothing to add. I did want ask
12 a question of Mr. Cohen, which is out of order, but just want
13 to be sure that you filed an affidavit of maintenance.

14 MR. COHEN: Yes, Vice Chair John, we did. That
15 is Exhibit 41 in the record.

16 VICE CHAIR JOHN: Okay. Thank you.

17 MR. COHEN: Thank you.

18 VICE CHAIR JOHN: Thank you, Mr. Chairman.

19 CHAIRPERSON HILL: Thank you. All right. I'm
20 going to make a motion then to approve Application Number
21 20312 as captioned and read by the Secretary and ask for a
22 second, Ms. John?

23 VICE CHAIR JOHN: Second.

24 CHAIRPERSON HILL: The motion was made and
25 seconded, Mr. Moy. Could you please take a roll call vote?

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1 MR. MOY: Thank you, Mr. Chairman. When I call
2 your name, if you would please respond with a yes, no, or
3 abstain to the motion made by Chairman Hill to approve the
4 Application as captioned and advertised for relief. And
5 seconded by Vice Chair John. Zoning Commissioner, Michael
6 Turnbull?

7 COMMISSIONER TURNBULL: Yes to approve.

8 MR. MOY: Mr. Smith?

9 MEMBER SMITH: Yes to approve

10 MR. MOY: Vice Chair John?

11 VICE CHAIR JOHN: Yes to approve.

12 MR. MOY: Chairman Hill?

13 CHAIRPERSON HILL: Yes to approve.

14 MR. MOY: Staff will record the vote as four to
15 zero to one and this is on the motion of Chairman Hill to
16 approve the Application as advertised and captioned.
17 Seconding the motion is Vice Chair John, also in support,
18 Zoning Commissioner Michael Turnbull, and Mr. Smith, and of
19 course, Vice Chair John and Chairman Hill. We have a Board
20 seat vacant but the motion carries on the vote of four to
21 zero to one.

22 CHAIRPERSON HILL: All right. Great. Thank you,
23 Mr. Moy. Thank you, Mr. Cohen.

24 MR. COHEN: Thank you very much. Appreciate it.

25 CHAIRPERSON HILL: Bye-bye. Mr. Moy, feel free

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1 to call our next one whenever you can.

2 MR. MOY: Thank you, Mr. Chairman. So that would
3 be Case Application Number 20203 of Congressional 1018 Bryant
4 LLC, advertised and captioned for a special exception under
5 the New Residential Development Provision, Subtitle U,
6 Section 421.1. This would construct a new eight unit
7 apartment house. This is in the RA-1 Zone at premises 1018
8 Bryant Street NE, Square 3870, Lot 42.

9 CHAIRPERSON HILL: Okay. Great. Let's see. Mr.
10 Ferris, are you with us? Can you hear me?

11 MR. FERRIS: Yes. It'll be Mr. Kadlecek
12 presenting today though.

13 CHAIRPERSON HILL: Oh, got it. Oh, Mr. Kadlecek,
14 how are you?

15 MR. KADLECEK: I'm good. How are you?

16 CHAIRPERSON HILL: Haven't seen you yet, I don't
17 think.

18 MR. KADLECEK: It's been a while. I had a baby
19 so I was gone for a while.

20 CHAIRPERSON HILL: Wow, congratulations.

21 MR. KADLECEK: Thank you.

22 CHAIRPERSON HILL: You make it sound like you had
23 a lot to do with that.

24 MR. KADLECEK: Just a little.

25 CHAIRPERSON HILL: Let's see. All right. So Mr.

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1 Kadlecek, I guess you're going to be presenting to us. Could
2 you introduce your team, if you wouldn't mind.

3 MR. KADLECEK: Sure. Again, for the record, I'm
4 Cary Kadlecek with the law firm of Goulston & Storrs. With
5 me today are my colleagues, Lawrence Ferris, Brian Athey of
6 Congressional Capital, who's the developer and the applicant,
7 and Michael Cross, who's the architect. I believe that they
8 are all on.

9 CHAIRPERSON HILL: Okay. Commissioner Montague,
10 are you -- do you want to introduce yourself, please, sir?

11 MR. MONTAGUE: Commissioner Jeremiah Montague Jr.,
12 Chairman of ANC 5-c.

13 CHAIRPERSON HILL: All right. Hi Commissioner.
14 You kind of broke up there just a little bit. So we'll see
15 how your internet, you seem to be kind of jumbled, but we'll
16 see what happens.

17 MR. MONTAGUE: Do you want me to repeat it?

18 CHAIRPERSON HILL: You can. Go ahead and repeat
19 it. I just want to see if it's working.

20 MR. MONTAGUE: My name is Commissioner Jeremiah
21 Montague, Vice Chair ANC, 5-C.

22 CHAIRPERSON HILL: Okay. Great. It worked, thank
23 you. All right. Okay, let's see then. Mr. Kadlecek, why
24 don't you go ahead and just walk us through your application
25 and what your client is trying to propose, and why you

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1 believe that they're meeting the criteria in order for us to
2 grant the relief requested. I'm going to put 15 minutes up
3 on the clock just so I kind of know where we are. But if you
4 go over, you go over. And you can begin whenever you like.

5 MR. KADLECEK: All right. Thanks. We're going
6 to give a brief presentation and well actually walk through
7 the plans a little bit because they have changed since they
8 were filed back in November of last year. So if Mr. Young
9 could maybe put the presentation up.

10 Just to get a brief overview. We're here today
11 concerning the redevelopment of 1018 Bryant Street NE into
12 an eight unit multifamily building. The property's zoned RA-
13 1, so the requested relief is the special exception under U
14 421 for new residential development. Except for this relief,
15 the proposed project conforms to the RA-1 development
16 standards.

17 Since filing the application back in November of
18 last year, the applicants had an extensive and ongoing
19 communication with the community and the ANC. This started
20 with a community meeting back in February. But since then,
21 the community has become overwhelmingly supportive, which
22 Brian Athey will describe in greater detail. Based on
23 feedback from nearby residents and the Office of Planning,
24 the project design was substantially overhauled to better
25 reflect the character of the other existing development on

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1 this block of Bryant Street, and the unit count was reduced
2 from nine to eight units.

3 Michael Cross will describe the design of the
4 project and the changes in greater detail. Just before we
5 get into more specifics of the presentation, I want to note
6 that we have reports in support from the Office of Planning
7 at Exhibit 47, DDOT at Exhibit 38. ANC has also submitted
8 a report in support at Exhibit 48. And there's a petition
9 support submitted by surrounding residents at Exhibit 49.
10 And with that, I will turn it over to Mr. Athey.

11 MR. ATHEY: An interesting experience. It started
12 off with some opposition, you know, actually quite a bit of
13 opposition. And then --

14 CHAIRPERSON HILL: I'm sorry. I was muted. How
15 do you pronounce your name, sir? Athey?

16 MR. ATHEY: It's Athey. That's correct.

17 CHAIRPERSON HILL: Mr. Athey, I think missed the
18 very beginning of what you said.

19 MR. ATHEY: Okay.

20 CHAIRPERSON HILL: Can you start again?

21 MR. ATHEY: Sure. I'm happy to start again. My
22 name is Brian Athey, I'm the president of Congressional 1018
23 Bryant Street LLC. The applicant here. As you may know,
24 this project started with opposition in the very beginning.
25 Are you able to hear me okay? Yes. Okay.

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1 This project started with opposition in the very
2 beginning. We went to an ANC meeting where the neighbors
3 made it clear they opposed the initial nine unit project.
4 I took that really as an opportunity to reach out to the
5 neighbors and have extensive dialogue. I spoke to Raymond
6 Chandler, who's really kind of the Block Captain, on numerous
7 occasions.

8 I started meeting with the community, you know,
9 first I believe it was in, you know, February or March. We,
10 you know, met at Carolina Kitchen. I sat with everyone, we
11 talked at length. Had lunch. I think that helped, you know,
12 helped significantly. We were scheduled to meet a month
13 later, and then with the COVID outbreak, you know, we
14 couldn't meet in person.

15 Then we exchanged multiple emails and phone calls
16 through the course of the next six months. Then proceeding
17 with Zoom calls over the course of the last really month and
18 a half on multiple Saturdays, in which we went from what
19 started as a really sort of a modern farmhouse style, and
20 then I took the neighbors feedback to say, look, we need to
21 tone this down. Make it more consistent with the neighboring
22 properties. And I think that's what you see with the facade
23 that's on the screen.

24 And then we incorporated things like, you know,
25 of course, we have a trash enclosure in the rear. We have,

1 you know, we were asked to put a metal fence in public space
2 in the front of the property to match the other fences along
3 the street. You know, we were asked to add some greenery in
4 the front in the public space as well. And, you know, really
5 what started as a tough experience with some opposition,
6 resulted in me having what I think's a really good
7 relationship with the community, you know, with Raymond
8 Chandler and with several others. And, you know, they, the
9 neighbors suggested we reduce the scope of the project from
10 nine units downwards, so we went from nine to eight.

11 You know, I think it's a really, really a cool
12 project because each of the units has its own separate
13 entrance and, you know, which obviously is attractive for a
14 lot of different reasons. But you know, overall, this was
15 really a project where dialog and understanding sort of, I
16 think, kind of carried the day. It took a lot of -- you
17 know, I want to have a positive impact and, you know, in the
18 community. And I took the feedback to heart and tried to
19 really work with the community and, you know, I'm
20 appreciative of their dialogue and feedback, and now, I think
21 their support is reflective of that.

22 So that's really all I have.

23 CHAIRPERSON HILL: Okay. Great. Thank you, sir.

24 MR. ATHEY: Thank you.

25 CHAIRPERSON HILL: Mr. Kadlecek?

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1 MR. KADLECEK: Yes, Mr. Cross is just going to
2 walk you through the plans really quickly. The architect.

3 MR. CROSS: Sure. Thank you. As mentioned,
4 Michael Cross, architect. If I can have Mr. Young possibly
5 escape out of the full screen mode so that we can see the
6 pages to cycle through them a little faster, I'd appreciate
7 it. Possibly hitting Control H to hide the toolbars when we
8 escape out.

9 The project's located at 1018 Bryant Street, as
10 mentioned. That's on the north side of Bryant between Rhode
11 Island and 12th. There you go. Perfect. If we could go to
12 the next slide, please. The project that we're proposing at
13 this property is designed to be a fully detached eight unit
14 condo building. As mentioned, all of these units will have
15 their own exterior entrances and that all units are multi-
16 story family sized two bedroom, two bath units ranging from
17 820 to 1000 square feet.

18 The project is located within a half mile of the
19 Redline Metro Station at Rhode Island Avenue, and is adjacent
20 to the Rhode Island and 10th Street bus stop. While only one
21 parking space is required, the project is currently proposing
22 five parking spaces. Next slide please. As mentioned by Mr.
23 Athey, we worked extensively with the community on this
24 project. Initially it was a nine unit building with a very
25 modern facade. As you see on the left side of your screen

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1 here. And when we, the owner met with the community back
2 just prior to the COVID shutdown in March, and received their
3 feedback on the actual facade of the building, as well as,
4 you know, feedback on a lot of other aspects of the project.

5 It was after that meeting and in conjunction with
6 OP that we worked on revising the facade to better fit into
7 the community. Later on, in August, we ultimately reduced
8 the number of units from nine down to eight, with the support
9 of the ANC. And as mentioned at that time, we also updated
10 some of the site plans to include some more landscaping at
11 the front of the property along the sidewalk. You can go to
12 the next slide. We appreciate you time and welcome any
13 questions that you might have.

14 MR. KADLECEK: All right. Thank you, Mr. Chair,
15 that concludes our presentation and we're happy to answer any
16 questions.

17 CHAIRPERSON HILL: Thanks Mr. Kadlecek. Mr.
18 Cross, I'm a little confused by that little house. Is that
19 little house part of the project?

20 MR. CROSS: On the slide that you see on the
21 screen now, the center property is the eight unit condo
22 building. The two adjacent properties are the existing
23 single-family dwellings shown here for context.

24 CHAIRPERSON HILL: Because in your slide deck, I
25 think it was like on B4 or something, you just had one of the

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1 homes.

2 MR. CROSS: I mean you don't --

3 (Simultaneous speaking.)

4 MR. CROSS: As a photograph?

5 CHAIRPERSON HILL: No.

6 MR. ATHEY: Michael, I think he may be referring
7 to the slide that showed the comparison of the old facade to
8 the new facade, or not?

9 MR. CROSS: That's possible. Yes. If we go two
10 slides --

11 (Simultaneous speaking.)

12 CHAIRPERSON HILL: No, that wasn't it. It's okay.

13 MR. ATHEY: Okay.

14 CHAIRPERSON HILL: I'm just being clear. We're
15 just talking about that property in the middle. That's all.

16 MR. CROSS: That's right.

17 CHAIRPERSON HILL: And Mr. Kadlecek, what did the
18 neighbors say on either side?

19 MR. KADLECEK: I'll leave that to Brian. I know
20 he's had dialogue with pretty much everyone on the block.

21 MR. ATHEY: My dialogue with the neighbors on
22 either side, I've spoken to the son of one of the neighbors
23 on one of the sides who actually talked to me about his own
24 potential future, you know, development plans of that
25 property. But -- and I haven't, I don't recall speaking

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1 directly to the other neighbor.

2 At least, I mean, there was no opposition or
3 nothing that was noted by, you know, most of my dialogue has
4 been with, you know, Raymond Chandler, Justin, Kelly
5 Mitchell-Carroll, multiple other neighbors. And it's been
6 over the course of six months. So I'm not even quite sure.
7 It's really been a group thing. I've invited everyone to
8 multiple Zooms and we've interfaced as a collective.

9 CHAIRPERSON HILL: Okay. Does the Board have any
10 -- Mr. Young, if you could pull the slide deck down so I can
11 just see everybody. Thank you. Does the Board have any
12 questions for the applicant? Commissioner Turnbull?

13 COMMISSIONER TURNBULL: I just wanted to get back
14 to the Exhibit 31 had lots of individuals in opposition. And
15 you mentioned the name Raymond Chandler. So, I guess I'm
16 confused. You say you haven't talked to the neighbors on
17 either side?

18 MR. ATHEY: I'm not saying that, I didn't say
19 that. I can look up who the direct adjacent. What I did say
20 was that I spoke to the children of one of the neighbors who
21 spoke, was speaking on behalf of the family. And that's
22 direct neighbor inquired about development plans and
23 potentially developing both properties together. I'd have
24 to look up which neighbor is on the other side. I've talked
25 to so many of the neighbors, I can't recall exactly who is

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1 the direct neighbor on the other side.

2 (Simultaneous speaking.)

3 MR. ATHEY: Raymond Chandler and many others are
4 fully in support.

5 COMMISSIONER TURNBULL: You know, and I appreciate
6 all your efforts to talk to people. But I guess one of the
7 key items in getting approval is that, you know, we have this
8 multiple list of people in opposition, and their arguments
9 as to why they are in opposition. But two of the key ones
10 would be the people adjacent to the property. So that's part
11 of the key issues because they're the most intimately
12 affected by the project, by the new apartment building. So
13 it would be good to know what they think.

14 MR. ATHEY: We don't have any current opposition
15 though, to this project.

16 COMMISSIONER TURNBULL: There what?

17 MR. ATHEY: We don't have any current opposition
18 to this project. Any opposition was back several months ago,
19 it was months and months ago.

20 COMMISSIONER TURNBULL: So is there any Exhibit
21 that would so state that there's no opposition?

22 MR. KADLECEK: Well, I think if you look at the
23 petition in support, that's at Exhibit 49. That lists all
24 the people. And, you know, we can't say it like person for
25 person, like, you know, who was in the initial petition

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1 versus now. But I think that it's quite clear based on the
2 number of people who signed onto Exhibit 49, that there was
3 definitely a seat change in terms of people supporting the
4 application.

5 COMMISSIONER TURNBULL: Okay. Again, my point was
6 just clarifying the neighbors on either side. And I haven't
7 heard anything one way or another on them. I'd just like to
8 clarify that. That's all. If you can do that, that's fine.
9 If you can't do that, that's fine too.

10 CHAIRPERSON HILL: I'm just going to interrupt
11 here. Right. You don't have anything from the next door
12 neighbors and the Commissioner is here, meaning the ANC
13 Commissioner, Mr. Montague, is here. So we can talk to him.
14 But what you're just saying is right. There's nothing from
15 either side. There's nothing from either of the immediate
16 next door neighbors in the record, one way or the other.
17 That's what I believe Commissioner Turnbull is asking. The
18 answer is either yes or no. So that's correct. Yes?

19 MR. KADLECEK: That's correct. Although I will
20 note, I'm looking at the Exhibit 49. It looks like the
21 residents of 1020, which is adjacent, Bryant Street, did sign
22 the petition in support.

23 CHAIRPERSON HILL: Okay. So you got one of the
24 sides.

25 MR. KADLECEK: Yes.

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1 CHAIRPERSON HILL: Okay. Commissioner --
2 (Simultaneous speaking.)

3 COMMISSIONER TURNBULL: Is that the side with the
4 gable end of the building?

5 MR. KADLECEK: 1020 would be --

6 COMMISSIONER TURNBULL: With the sloped roof.

7 MR. KADLECEK: To the east.

8 COMMISSIONER TURNBULL: That's the side with the
9 more boxier look of the building?

10 MR. KADLECEK: Yes.

11 (Simultaneous speaking.)

12 MR. KADLECEK: You're saying to the left if you're
13 --

14 COMMISSIONER TURNBULL: The right side of the
15 building is more squared off and faces one unit. The other
16 side has the gable and it's, the left side of the building
17 has a gable and it's got a sloped roof on the other neighbor.
18 So I'm just wondering which neighbor.

19 MR. KADLECEK: Yes. So 1020, if you're looking
20 at the front of the building, 1020 would be to the right.

21 COMMISSIONER TURNBULL: To the right. Okay.

22 MR. KADLECEK: Yes.

23 COMMISSIONER TURNBULL: Thank you.

24 MR. ATHEY: And just to clarify, just look through
25 my emails. The owner of 1016 Bryant son is the one I spoke

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1 to at length about my development plans, their future plans.
2 They asked me if they could use the front of the property for
3 a wedding. And, you know, I looked into insurance and the
4 whole thing. They're, you know, I don't have anything in the
5 record stating they're in support, but I've talked to them,
6 you know, at length. If they were in opposition, we'd
7 certainly know about it.

8 COMMISSIONER TURNBULL: All right. Thank you.

9 MR. FERRIS: Also just to jump in and put a little
10 more color on this, Commissioner Turnbull. Brian spoke a
11 little bit about this but basically, the process that we had
12 with the neighborhood residents was that when we met with
13 them in February and started to have a sense of their
14 concerns, we scheduled an in person meeting again in March,
15 and that was noticed to everyone on the block and the
16 surrounding blocks by posting fliers throughout the
17 neighborhood on people's doors.

18 And everyone was invited to come, have lunch, and
19 talk about the project. We had that meeting in March and
20 then COVID hit. And then we scheduled another virtual
21 meeting in August, and the same notice was given all around
22 the neighborhood by posting fliers on everyone's doors.

23 So it wasn't just coordinating with the Block
24 Captain, as Brian said, it was posting notice on everybody's
25 doors for each meeting. And then we had a second meeting two

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1 weeks later at the end of August. So anyone who would have
2 had issues had plenty of opportunity. So in addition to
3 having individual conversations with each of the neighbors,
4 there's also been, and I think that's what the petition in
5 support reflects, that very comprehensive approach to working
6 with the neighbors. So I thought it would be helpful to kind
7 of put a little more color on that.

8 COMMISSIONER TURNBULL: That's good to know. I'm
9 glad you took all those concerns to heart and actually went
10 out and have done the necessary communication with the
11 residents. I think that's, that was very prudent of you to
12 do that, and I appreciate it. Thank you.

13 MR. FERRIS: Thank you.

14 CHAIRPERSON HILL: All right. Commissioner
15 Montague, do you have any questions and/or would you like to
16 give a presentation?

17 MR. MONTAGUE: I'll speak slowly so that the tech
18 can catch up. Not so much questions for the applicant. In
19 terms of the presentation, we have submitted our 129 in
20 support of the project. We have, the Commission has
21 diligently followed this project and its development through
22 the single-member district, Commissioner Darlene Oliver and
23 we will say that as projects go, this is one that got it
24 right in that the project, the applicant, and the owner met
25 respectfully and diligently with the community and responded

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1 to their needs.

2 And thus, we have a project that's acceptable to
3 everybody that lives in the vicinity as opposed to, I tread
4 lightly on saying this, a similar project which is in the
5 neighborhood, which didn't get it the way it should have been
6 done. So we are very appreciative, as is the community, of
7 Mr. Athey and his company in this development project. So
8 that's why ANC 5C has thrown its support behind this because
9 the community has worked hard, and had their concerns
10 addressed.

11 There was one minor thing, which there was a
12 revelation in another BZA case heard earlier today where
13 there was a suggestion regarding RPP, and that DDOT may now
14 indeed have a means to prevent people in such projects from
15 getting RPP. I would think that Commissioner, excuse me,
16 Zoning Chairman Hood said that he would look into it and he
17 would report back to the BZA in general on that subject.

18 But as the, in this project, they are providing
19 five onsite parking spaces, which reduces the loss of on
20 street parking. And so ANC 5C having submitted it to our
21 Board, we stand on our record as in favor of this project.

22 CHAIRPERSON HILL: Okay. Great. Thank you,
23 Commissioner. And Mr. Commissioner, I think that as far as
24 that RPP thing goes, I even, I don't think that there is
25 technology yet with DDOT. It actually does single out a

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1 particular building from RPP or not. I know that that's
2 something that Chairman Hood was going to maybe speak to, or
3 look into. But I don't think it exists yet, just to be
4 clear.

5 MR. MONTAGUE: Oh, no, no. When it was said, I
6 said, oh really? But at least it's something to roll in the
7 back of people's heads that it may become a possibility.

8 CHAIRPERSON HILL: Okay. Great. All right.
9 Let's see. Does anyone have any questions for the
10 Commissioner? Is -- okay. The applicant doesn't have any
11 questions for the Commissioner?

12 MR. KADLECEK: No questions, thank you.

13 MR. ATHEY: No questions.

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

16 MS. MEYERS: Hello.

17 CHAIRPERSON HILL: Hello.

18 MS. MEYERS: Crystal Meyers for the Office of
19 Planning. The Office of Planning is recommending approval
20 of this case and we stand on the record of the staff reports.
21 I'm here for questions.

22 CHAIRPERSON HILL: Okay. Does anybody have any
23 questions for the Office of Planning? Okay. Does the
24 applicant?

25 MR. KADLECEK: No questions, thank you.

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1 CHAIRPERSON HILL: Okay. Mr. Young, is there
2 anyone here wishing to testify?

3 MR. YOUNG: We have no one signed up.

4 CHAIRPERSON HILL: All right. Does the Board have
5 anything before I close the hearing? If so, raise your hand.
6 No. Mr. Kadlecek?

7 MR. KADLECEK: Nothing further. Thank you.

8 CHAIRPERSON HILL: All right. I'm going to close
9 the hearing. Is the Board ready to deliberate? Okay. I,
10 well gosh, I hate to do this. I'm reopening the hearing
11 because I have just one question for Commissioner Montague.
12 So Commissioner, I mean, we get a lot of activity from your
13 ANC, and we see you actually quite a bit personally. When
14 you say they got it right, what does that mean?

15 MR. MONTAGUE: It's not trying to be catty. There
16 are projects which come to our community, which basically
17 bulldoze their way into, here we are, these are our rights,
18 and this is what's going to happen. And the interaction
19 between applicant, developer, and the community falls very,
20 very short of an amicable solution at the end.

21 In this particular case, Mr. Athey and his company
22 worked hard and even in the face of almost insurmountable
23 opposition at the beginning, was able to work with the
24 community and incorporate their concerns, and then go back
25 and verify that his changes reflected what the community

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1 wanted.

2 So if you do that, you're getting it right. If
3 you don't do that, you're going to have a bumpy road until
4 your building is standing, and it will be less received by
5 the community along the way.

6 CHAIRPERSON HILL: Okay. Great. Well, Mr. Athey,
7 you know, we see the Commissioner quite a bit, so
8 congratulations to you and the outreach you did. It sounds
9 like you're a pretty patient person. And if you have
10 children, maybe you can teach Mr. Kadlecek about being
11 patient. And if not, then whatever.

12 All right. Okay. Going to go ahead and close the
13 hearing again. Does somebody else want to start the
14 deliberations? I've been talking a lot. Mr. Turnbull, let's
15 start with you.

16 COMMISSIONER TURNBULL: Oh, God love you, Mr.
17 Chairman. I was, I'd say, I'm not sure, this is an
18 interesting, this is, what a difference a day makes, or a
19 week, or a month, or whatever it took. But it seems, I mean,
20 if you look at the set of drawings that were originally done,
21 and you look at the proposed drawings, it's really night and
22 day. And it's, I don't know whether it was the skill of Mr.
23 Montague, or the -- Mr. Athey's suddenly, or whether it's
24 the applicant's team that suddenly said, look, we've got to
25 do something here. We've got to really make a change.

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1 So it sounds like there must have been some very
2 interesting community meetings going on when they talked
3 about this piece of property. And I would say the skills of
4 the architect were highly evolved and really went to town in
5 making a change on this project. Because obviously, the
6 first building was basically a box. Not saying anything
7 about the architect's original project. But I think the box
8 didn't just fit in and I think the community recognized that.
9 I think Mr. Athey probably recognized that and said look,
10 we've got a problem. Let's go back to the drawing board.
11 Let's meet with the people to talk to them and come back with
12 a project that's really going to fit in and make everybody
13 happy.

14 And I mean if you look at the original opposition
15 list, there's a lot of names on that list from the
16 neighborhood that are saying, look, we don't want this. Now
17 the bulldozer technique obviously ended and I'm sure
18 Commissioner Montague is going to say, you know what, this
19 project here is going to be, this raises the bar for
20 development in our neighborhood. And this is going to be the
21 standard that we're going to be looking to do.

22 And I think Mr. Athey and his team have raised the
23 bar and set the standard. I think, again, going back to the
24 original project, the way it was designed, was a project that
25 could go anywhere. But now it's tailor-made, it fits in with

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1 the neighborhood. Could you tweak it a bit more, yes, sure.
2 You could maybe do a little more tweaks, but I think it
3 works. And I think significant effort was done to make it
4 work. And I think the applicant's team had done their
5 homework.

6 I mean, some of those meetings are known to be
7 very contentious and they can get -- a lot of people can get
8 upset and maybe not quite like the debate we saw last night,
9 but I'm sure you had a lot of people that were like, eh, you
10 know, whiny and complaining about a lot of things. But I
11 think this project, the way it is now, works. And I think
12 that the -- I will be voting in favor of supporting the
13 application. I think a lot of effort was done on this
14 project and I think it's to Commissioner Montague and the
15 ANC, and their team, and Mr. Athey and his team, and so I
16 would be voting in favor of this. I think it's a standard
17 that a lot of developments should be doing like that.

18 Mr. Chair, hopefully that starts us off.

19 CHAIRPERSON HILL: Thank you. Mr. Smith?

20 MEMBER SMITH: Mr. Turnbull, you started off well.
21 You took the words out of my mouth, honestly. I would say
22 there's a quote here from the ANC letter from Mr. Raymond
23 Chandler that says that this is how projects should come to
24 the community. And I've been a planner in other
25 jurisdictions and I've seen developers ram through their

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1 projects and they, you know, dig their feet in when they come
2 to the Planning Commission and then the approval body as a
3 whole and try to ram their project through.

4 And I would like to thank the developer for taking
5 the concerns of the community fully into thought and
6 redesigning this project. Not only redesigning the project,
7 reducing the number of units of within the building from nine
8 to eight out of the concerns of the larger community. And
9 the project, the response that you received really reflects
10 your appreciation for that community. Because there was a
11 lot of letters in opposition to the original project as it
12 was presented, and now you have an ANC that is in support
13 with a large list of residents that are abutting and within
14 the surrounding neighborhood that are in support of this.

15 So I would say a job well done. This is
16 definitely something that we want to see more of and I would
17 support this application.

18 CHAIRPERSON HILL: Vice Chair John? You're on
19 mute, Ms. John.

20 VICE CHAIR JOHN: So once again, I'm benefitting
21 from being at the end. And, you know, Mr. Smith and Mr.
22 Turnbull have really said it all. I would like to offer my
23 personal congratulations to Mr. Athey. Did I say that right?
24 For taking so much care to design a project that fits in with
25 the neighborhood. And we have seen, since I've been with the

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1 Board, many projects where, you know, it's a little box, like
2 what we saw before, and it's just, you know, stuck into this
3 neighborhood and doesn't look like the neighborhood. But it
4 meets the standards. And so sometimes, you know, the density
5 meets the standards, but it still really doesn't work for the
6 community.

7 And I think because of all of the development
8 that's taking place, I think we need to be more mindful of
9 things like that. This is a beautiful project and I really
10 have no hesitation in supporting it. And I appreciate the
11 work of everyone involved, including OP. OP had some
12 suggestions, Office of Planning had suggestions as well, and
13 the neighbors. And that the developer was able to listen to
14 the other side.

15 Sometimes people just don't listen. Sometimes
16 people just want to be seen and heard. And I don't want to
17 be on soapbox, I could get there very easily, but I just want
18 to thank you and aside from meeting the regulations, which
19 is the most important thing, I think this project shows a lot
20 of thought. So congratulations.

21 CHAIRPERSON HILL: Okay. Great. Thank you, Vice
22 Chair John. Mr. Athey, you should go play the lottery. Like
23 I don't know what, like you don't do this -- good for you.
24 And everybody's saying nice things, like, you know, you
25 should be happy with your team. And I also would concur with

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1 all the words that were said. But yes, you're having a good
2 day, man. You should quit today. You should go home, like,
3 you should stop working today, now.

4 All right. I would agree -- yes, Ms. John?

5 VICE CHAIR JOHN: It's very hard to make
6 Commissioner Montague happy. I'm just saying.

7 CHAIRPERSON HILL: Yes. Well, this is all
8 accurate and so I also agree with everything that my
9 colleagues said. I would actually again, point out that I'm
10 in agreement with the Office of Planning's analysis as to how
11 they're meeting the regulations and the standard. And how
12 the standard's being met for this particular application.

13 So I'm going to make a motion to approve
14 Application Number 20203 as captioned and read by the
15 Secretary, and ask for a second, Ms. John?

16 VICE CHAIR JOHN: Yes, second.

17 CHAIRPERSON HILL: Motion made and seconded. Mr.
18 Moy, could you please take a roll call?

19 MR. MOY: Yes, thank you, Mr. Chairman. When I
20 call your name, if you would please respond with a yes, no,
21 or abstain to the motion made by Chairman Hill to approve of
22 the application for the relief being requested, seconded by
23 Vice Chair John. Zoning Commissioner Michael Turnbull?

24 COMMISSIONER TURNBULL: Yes to approve.

25 MR. MOY: Mr. Smith?

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1 MEMBER SMITH: Yes to approve.

2 MR. MOY: Vice Chair John?

3 VICE CHAIR JOHN: Yes to approve.

4 MR. MOY: Chairman Hill?

5 CHAIRPERSON HILL: Yes to approve.

6 MR. MOY: Staff would record the vote as four to
7 zero to one. And this is on the motion of Chairman Hill to
8 approve the application. Seconded by Vice Chair John. Also
9 in support, Mr. Smith and Zoning Commissioner Michael
10 Turnbull. We have a Board seat vacant. Motion passes four
11 to zero to one.

12 CHAIRPERSON HILL: Okay. Great. Thank you.

13 MR. KADLECEK: Thank you.

14 CHAIRPERSON HILL: All right, Mr. Moy, after that
15 feel good one, can we just shut down for the day also? Can
16 we just go ahead and, you know, stop?

17 MR. MOY: Well, for a couple minutes, sir.

18 CHAIRPERSON HILL: Yes. All right. You can go
19 ahead and call our next one if you like.

20 MR. MOY: All right. That would be case
21 Application Number 20267 of Frank Jackson. And this
22 application is captioned and advertised for a special
23 exception under Subtitle D, Section 5201 from the side yard
24 requirements of Subtitle D Section 206.3, pursuant to
25 Subtitle X, Chapter 10, for variance from the lot occupancy

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1 requirements, Subtitle D, Section 304.1. This would replace
2 the rear deck addition to an existing attached principal
3 dwelling unit in the R-2 Zone at premises 736 Delafield
4 Street, NE, Square 3788, Lot 51.

5 Mr. Chairman, just to note for you that there --
6 I suppose this would be a preliminary matter regarding the
7 affidavit of posting under Exhibit 32. It's deficient in
8 that it's a day late for filing and there are no photographs
9 on that. And it was not notarized. But of course, as the
10 Board is aware, during this COVID-19, the Board has been
11 lenient on postings that were not notarized, affidavits that
12 were not notarized. That's it.

13 CHAIRPERSON HILL: Okay. Thank you. All right,
14 Mr. Young, if you want to invite everybody in. I don't know
15 if we got everyone.

16 MS. NAYLOR: Yes. Everyone's in. It's just
17 Gabriel Nathaniel.

18 CHAIRPERSON HILL: Okay. Is that Ms. Nathaniel,
19 Mr. Nathaniel?

20 MR. NATHANIEL: Mr. Nathaniel.

21 CHAIRPERSON HILL: Okay. Mr. Nathaniel, are you
22 not using your video, which is fine. I just want to know.

23 MR. NATHANIEL: Yes. I can use it.

24 CHAIRPERSON HILL: Mr. Nathaniel, that's all right
25 if you can't. I don't know, can you hear me? Are you trying

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1 to use it?

2 MR. NATHANIEL: No, I can hear you. I'm trying
3 to use it. I think it's loading up now.

4 CHAIRPERSON HILL: Oh, all right.

5 MR. NATHANIEL: But I'm here, nevertheless.

6 CHAIRPERSON HILL: Okay. Well, while it's loading
7 -- actually, why don't you just don't worry about it because
8 I just want to hear you. You can still present your
9 testimony verbally. So Mr. Nathaniel, if you could go ahead
10 and walk us through your application, why you believe you're
11 meeting the standard for which we can grant the relief
12 requested. Yes, Ms. Cain?

13 MS. CAIN: You probably should address the issue
14 of the affidavit of posting first.

15 CHAIRPERSON HILL: Yes.

16 MS. CAIN: I do understand from the Office the
17 Zoning that the applicant tried to submit a notarized copy,
18 I believe within the 24 hours. They are able to request to
19 admit that into evidence during this hearing. Or you can go
20 ahead and waive the provision. It's sort of up to the Board.
21 But the applicant should address that first.

22 CHAIRPERSON HILL: Mr. Nathaniel, did you hear all
23 that?

24 MR. NATHANIEL: Yes.

25 CHAIRPERSON HILL: Can you, is that accurate and

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1 can you explain why you're late with your affidavit? You had
2 an issue with the notary?

3 MR. NATHANIEL: Yes. The original posting, the
4 original affidavit wasn't notarized. We contacted the owner,
5 has since had it notarized and it's been uploaded to the
6 record along with the picture of posting. I believe the
7 owner just kind of got the dates mixed up and didn't have the
8 information in time.

9 CHAIRPERSON HILL: Okay. Mr. Nathaniel, actually,
10 did you introduce yourself for the record? You're not the
11 owner?

12 MR. NATHANIEL: No. I'm not the owner. My name
13 is Gabriel Nathaniel. I'm here on behalf of the owner. I
14 have a Letter of Notification entered into the record also.

15 CHAIRPERSON HILL: Are you the architect?

16 MR. NATHANIEL: No. I am a representative of the
17 contractor. The general contractor that's building this
18 project.

19 CHAIRPERSON HILL: Okay. All right. I don't have
20 an issue with the affidavit of posting unless the Board does.
21 I'm going to go ahead and allow it into the record. All
22 right? We're going ahead and doing that, Mr. Nathaniel. And
23 so, Mr. Nathaniel, can you explain to the Board why you
24 believe we should grant this application?

25 MR. NATHANIEL: Well, just briefly, Mr. Jackson

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1 is looking to expand the main level of his home. He's been
2 in contact with this neighbors and he's seen other structures
3 similar to what he's requesting. And he's obtained the
4 consent and approval of this neighbors and feels as though
5 that this will expand his comfort and joy of his home.

6 CHAIRPERSON HILL: All right, Mr. Nathaniel.
7 Okay. So I'm going to turn to the Office of Planning. Can
8 I hear from the Office of Planning, please?

9 MS. FOTHERGILL: Good morning. For the record,
10 I'm Anne Fothergill with Office of Planning. Good morning
11 everyone. I'm representing the Office of Planning for piece
12 20267, 736 Delafield Street, NE, and we have recommended
13 approval and found that it meets the criteria for both the
14 special exception for the side yard, and the variance for lot
15 occupancy. And I can go into more detail if you like.

16 CHAIRPERSON HILL: Yes, Ms. Fothergill, can you
17 kind of explain your opinion of the variance in particular.
18 But you can talk about (audio interference).

19 MS. FOTHERGILL: Sure. I do. So in this case,
20 the exceptional commission of the property for the variance
21 test is this is significantly a substandard lot in the R-2
22 Zone. The (audio interference) lot area in the R-2 Zone is
23 3000 square feet, and this lot is 1300 square feet. So it's
24 significantly substandard on its own, and also compared to
25 the two adjacent properties. It's also a row dwelling, which

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1 is a nonconforming building type in this zone. So it has no
2 access to light and air from the sides. And it has a slope,
3 a significant slope from the front of the property to the
4 rear, which means it can't do a ground level patio that
5 wouldn't count towards lot occupancy. If they want to get
6 access to light and air at the ground level, it would have
7 to be a deck because of the slope.

8 So those are exceptional conditions of the
9 property that are specific to this property, and then they,
10 in order to construct a rear deck, the minimum lot occupancy
11 for this zone is 40 percent. And they can go up to 50
12 percent by special exception, but they are already at,
13 basically, 50 percent without any rear deck. They have a
14 small rear deck right now that is over 50 percent. So in
15 order to construct this deck, which would add 80 square feet
16 to the deck they have currently, they would need a variance
17 to get to 58.9 percent lot occupancy. And because of the
18 substandard lot, it is very hard to meet the lot occupancy
19 requirement of 40 percent for the R-2 Zone, when you have a
20 significantly substandard lot.

21 So they are proposing, I believe it's an 120
22 square foot rear deck that would bring them to 58.9 percent.
23 And that would provide them with some outdoor access at the
24 ground level and light and air, which is consistent with the
25 zone, and we find that it meets the three prongs of the

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1 variance test.

2 In terms of the special exception for the rear
3 yard, I mean for the side yard, my apologies. They, as I
4 mentioned, it's a row dwelling, and they have zero side yard.
5 And we, again, went through the criteria in the report and
6 found that it meets the criteria because it is this
7 nonconforming row dwelling building type in the R-2 Zone.

8 And I'm happy to take any questions.

9 CHAIRPERSON HILL: Thank you, Ms. Fothergill.
10 Does the Board have any questions for the Office of Planning?
11 Commissioner Turnbull.

12 COMMISSIONER TURNBULL: Thank you, Ms. Fothergill.
13 Just looking at the Zone Map of the plan for this area, it
14 looks like there's actually, there's one other lot that's
15 sort of looks like this, and the rest are all, they all do
16 have side yards. But it looks like down the street, there
17 is another one just like this. I'm kind of curious how that
18 develops. How most of them have the eight foot side yard,
19 but there's these two properties got sort of sandwiched
20 between them. So I see what you're saying about the
21 uniqueness of these. Thank you.

22 CHAIRPERSON HILL: Okay. Anyone else for the
23 Office of Planning? Mr. Nathaniel, do you have any questions
24 for the Office of Planning?

25 MR. NATHANIEL: I do not.

1 CHAIRPERSON HILL: Okay. Mr. Young, is there
2 anyone here wishing to testify?

3 MR. YOUNG: We have no one signed up.

4 CHAIRPERSON HILL: Okay. Ms. Fothergill, it's
5 nice to see you also as well. So nice to see people from the
6 Office of Planning.

7 MS. FOTHERGILL: Thanks.

8 CHAIRPERSON HILL: Let's see. All right. I'm
9 going to -- Mr. Nathaniel, do you have anything else you'd
10 like to add at the end?

11 MR. NATHANIEL: No, thank you.

12 CHAIRPERSON HILL: All right. I'm going to close
13 the hearing. Is the Board ready to deliberate? Okay. I can
14 start. I would agree with analysis that was provided by the
15 Office of Planning, as well as that of the applicant. I also
16 would agree, or not agree, I also am pleased to see that the
17 ANC had submitted their support because I know that that was
18 something that I was looking for for a little while, and I
19 think this is a relatively straightforward in terms of how
20 they're meeting the criteria for me to feel comfortable
21 granting the relief that's being requested, due to the
22 standards and the regulations. And so I'll be voting to
23 support. Mr. Turnbull, do you have anything you'd like to
24 add?

25 COMMISSIONER TURNBULL: Mr. Chair, I do not. I

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1 concur with your analysis and would agree with the Office of
2 Planning's report. And I think that what they're asking for
3 is almost minimal in a way. It's not really an impact at
4 all. So I would be voting in support also.

5 CHAIRPERSON HILL: Mr. Smith?

6 MEMBER SMITH: Mr. Chairman, I don't have anything
7 else to add. I think the request is reasonable from the
8 applicant. And I will also note that because this is an open
9 deck, it's not a closed deck, that there shouldn't be any
10 restrictions to light and air, or any impacts to the
11 neighboring property owners as a result of this addition.
12 I understand that it takes up more lot, no, it takes up lot
13 occupancy because of the definition of how it's elevated.
14 But I don't think it will have an impact. So I will support.

15 CHAIRPERSON HILL: Vice Chair John? You're on
16 mute, Ms. John.

17 VICE CHAIR JOHN: I can support the application
18 for a variance. I thought OP's written analysis as well as
19 testimony this morning stepped through all of the criteria
20 for a variance, particularly the size of the lot, and the
21 shape of the lot which makes it difficult for the occupant
22 to put in a deck, you know, at ground level. So I can
23 support the variance and the special exception.

24 CHAIRPERSON HILL: All right. Great. Thank you,
25 Ms. John. All right. I'm going to go ahead make a motion

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1 to approve Application Number 20267 as captioned and read by
2 the Secretary and ask for a second, Ms. John?

3 VICE CHAIR JOHN: Second.

4 CHAIRPERSON HILL: The motion's made and seconded.
5 Mr. Moy, could you please take a roll call?

6 MR. MOY: Yes. Thank you, Mr. Chairman. When I
7 call your name, if you would please respond with a yes, no,
8 or abstain to Chairman Hill's motion to approve the
9 application for the relief requested, seconded by Vice Chair
10 John. Zoning Commissioner Michael Turnbull?

11 COMMISSIONER TURNBULL: Yes to approve.

12 MR. MOY: Mr. Smith?

13 MEMBER SMITH: Yes to approve.

14 MR. MOY: Vice Chair John?

15 VICE CHAIR JOHN: Yes to approve.

16 MR. MOY: Chairman Hill?

17 CHAIRPERSON HILL: Yes to approve.

18 Staff would record the vote as four to zero to
19 one. And this is on the motion by Chairman Hill to approve
20 the application, seconded by Vice Chair John. Also in
21 support, Mr. Smith and Zoning Commissioner Michael Turnbull.
22 We have a Board seat vacant. The motion carries four to zero
23 to one.

24 CHAIRPERSON HILL: Okay. Great. Thank you.
25 Thank you, Mr. Nathaniel. All right. Mr. Moy, was there,

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1 and maybe I missed it, did 20275 get postponed?

2 MR. MOY: That's going to be up to the Board. I
3 was going to suggest when I called the case. The preliminary
4 matter in this is to hear the status of the application from
5 the applicant.

6 CHAIRPERSON HILL: Okay. All right. So you can
7 call it when you get a chance.

8 MR. MOY: That would be case Application Number
9 20275 of Charles and Dara, D-A-R-A, Mooney, captioned and
10 advertised for a special exception under Subtitle E, Section
11 5201, from the lot dimension requirements of Subtitle E,
12 Section 201.7, to convert the basement into a new fifth
13 apartment unit in the existing apartment house in the RF-1
14 Zone. This is at premises 1350 Queen Street, NE, Square
15 4076W, lots 57 and 58.

16 CHAIRPERSON HILL: Sorry. Can you just hang on
17 one second. Okay, great. Thank you. Is it Ms. Brown?

18 MS. BROWN: Can you hear me now?

19 CHAIRPERSON HILL: I can hear you now.

20 MS. BROWN: Okay.

21 CHAIRPERSON HILL: Ms. Brown, are you choosing not
22 to use video, which is fine. I just want to know.

23 MS. BROWN: No. I thought I had it on. I see
24 myself, but clearly you don't. One moment. So it's just
25 showing me a preview. Is there something that I need to do?

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1 CHAIRPERSON HILL: I guess if you like, the only
2 thing I know is at the very bottom, it says start video.

3 MS. BROWN: Okay. Start video. Got you. Sorry.
4 User error.

5 CHAIRPERSON HILL: Okay.

6 MS. BROWN: Okay.

7 CHAIRPERSON HILL: All right. So Ms. Brown, I
8 guess there is, I mean, there's a lot of things that are
9 going on that we still don't have yet with this. And I
10 assume you're asking for a postponement.

11 MS. BROWN: Correct.

12 CHAIRPERSON HILL: Okay. Where are you with all
13 of this and when do you think you'll be ready for us?

14 MS. BROWN: I'm thinking it's going to potentially
15 be about a month. There are a lot of things that are going
16 on that are outside of my control. One of them is that we
17 need a new DCRA referral memo. So we've been working since
18 probably the beginning of August to get that. We still
19 haven't received it yet. The reason we need the referral
20 memo is, we were notified by the Office of Zoning that the
21 recent zoning text amendment 19-14 under Subtitle E 201.7,
22 now stipulates that minimum lot dimension requirements are
23 no longer permitted to be approved by a special exception,
24 which is how our application was originally submitted.

25 So now it has to be amended to request via a

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1 variance relief. So that's why we need the new DCRA referral
2 memo. Once we have that, then we can proceed with revising
3 the burden of proof, re-noticing the neighboring property
4 owners, and requesting the ANC 5-D and 5-D07 vote of support
5 at their next meetings.

6 So all of this is contingent, basically, upon the
7 new DCRA referral memo, which we're still waiting to get.

8 CHAIRPERSON HILL: Okay. Mr. Moy, then when can
9 come back with this, if they're saying maybe a month. When
10 do have time to try to hear this again?

11 MR. MOY: Okay. I would like to hear from the OAG
12 counselor on this as well regarding the public notice
13 requirements for the variance. But so I'm looking at,
14 checking in November. So I'm looking at rescheduling this,
15 assuming that the additional information is recorded into the
16 record, the reschedule date of mid to late November. Unless
17 OAG tells me it should be longer than that. Otherwise, I'm
18 looking at a date, as I said, mid to late November. And so
19 that would put the Board at, one, two, three, four, five, --
20 we have eight cases on November 18th. This will be the ninth
21 case. Or we could put it for the first chairing in December,
22 which is December 2nd, where we have one appeal and four
23 applications, which would make this five applications.

24 CHAIRPERSON HILL: I'd rather put it on the day
25 with the nine cases.

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1 MR. MOY: Okay. That would be November 18th.

2 CHAIRPERSON HILL: Okay. If like Ms. Cain or Mr.
3 Rice, do you know anything more about the text amendment or
4 the timing?

5 MR. RICE: This is Jack Rice speaking on behalf
6 of OAG's office. I think that November 18 should give is
7 sufficient time. My only concern is Ms. Brown getting the
8 turnaround of the subsequent report. So I think right now,
9 11/18's probably the best date but we'll probably need to
10 touch base with her middle way through.

11 CHAIRPERSON HILL: Okay. When you say 11 what?
12 19? Is that what you said, Mr. Moy?

13 MR. MOY: It would be November the 18th.

14 CHAIRPERSON HILL: Oh, I'm sorry. The 18th.

15 MR. MOY: Yes, 18. Of course, depending on Ms.
16 Brown's process, or her timeline, of course that could be put
17 off. But at this point, let's see if we can make November
18 18th work.

19 CHAIRPERSON HILL: Okay. Ms. Brown, we'll see you
20 then. All right?

21 MS. BROWN: That sounds --

22 (Simultaneous speaking.)

23 CHAIRPERSON HILL: Unless the Board has any other
24 issues. Raise your hand if you do. Okay. All right, Ms.
25 Brown. I'm sorry, you started saying something.

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1 MS. BROWN: No. I said that sounds perfect.

2 CHAIRPERSON HILL: Okay. Great. Thank you.

3 MS. BROWN: Thank you so much.

4 CHAIRPERSON HILL: Bye-bye.

5 MS. BROWN: Bye-bye.

6 CHAIRPERSON HILL: Mr. Moy, give me one minute.

7 Okay?

8 MR. MOY: Yes sir.

9 CHAIRPERSON HILL: Okay. Great. Mr. Moy, you can
10 call our last case.

11 MR. MOY: Thank you, Mr. Chairman. So it would
12 be case Application Number 20279 of HJB Properties LLC,
13 caption and advertised for a special exception under the RF-
14 use requirements of Subtitle U, Section 320.2, including a
15 waiver of the rear additional requirements of Subtitle U,
16 Section 320.2(e) to construct a third story addition, and a
17 three-story rear addition, and convert an existing attached
18 principal dwelling unit into a three-unit apartment house.
19 This is in the RF-1 Zone at premises 1121 Morse Street, NE,
20 Square 4070, Lot 138.

21 CHAIRPERSON HILL: All right. Thank you, Mr. Moy.
22 I guess, Mr. Young, if you can let everybody in. Okay.
23 Let's see. Is that everybody, Mr. Young? Ms. Wilson, can
24 you hear me?

25 MS. WILSON: I can.

1 CHAIRPERSON HILL: Will you be presenting to us
2 today?

3 MS. WILSON: I will.

4 CHAIRPERSON HILL: Could you introduce your team
5 to us, please?

6 MS. WILSON: Yes. I'm here with Brandon Jackson,
7 who is a representative of the owner, and the architect, Greg
8 Kearley, oh, yes. He's just joined us, is part of the team
9 as well. And Greg and I will be presenting.

10 CHAIRPERSON HILL: Okay. Great. Mr. Jackson,
11 have you been before us before?

12 MR. JACKSON: Yes, I have.

13 CHAIRPERSON HILL: Okay. You look familiar.
14 Welcome back.

15 MR. JACKSON: Oh, thank you.

16 CHAIRPERSON HILL: Okay.

17 MR. KEARLEY: This is Greg Kearley, the architect.

18 CHAIRPERSON HILL: Okay. Great. Perfect. I
19 guess, so first there's a motion to waive the one year
20 waiting period for refiling. Right, Ms. Wilson?

21 MS. WILSON: Correct.

22 CHAIRPERSON HILL: So you want to walk me through
23 that motion?

24 CHAIR WILLIAMS: Absolutely. And if Paul can pull
25 up the presentation. There's actually a slide sort of

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1 explaining it and I think it's helpful to see it visually
2 with the regulations.

3 CHAIRPERSON HILL: Sure.

4 MS. WILSON: It's Slide 2 of the presentation.
5 Thank you. So our original application, the original
6 application was denied on March 7th, 2018. And the Zoning
7 Regulations state that an applicant cannot file a new BZA
8 application until either one year after the order is issued,
9 or one year after the date of withdraw if the application is
10 withdrawn after the decision is made.

11 At this point, it's been two and a half years
12 since the decision, and we still don't have an order. So the
13 one year timeline for that hasn't even started. So what we
14 did is we withdrew the application on March 6th, 2020, in
15 anticipation of filing this new one. And that at least has
16 started the timeline for second option.

17 So the specific request in front of you today is
18 to shorten the one year waiting period from the time of
19 withdraw, pursuant to Y-6000.2(f), which states that the
20 Board will grant permission to file a new appointment after
21 a shortened time period only upon motion and for good cause
22 shown, provided the shortened time period will not prejudice
23 the rights of any person.

24 In this case, regarding good cause, the applicant
25 modified the design and has worked with the neighbors and ANC

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1 to obtain support, as demonstrated by the ANC resolution in
2 support and four support letters, including that of the
3 adjacent neighbor, who previously opposed.

4 It's been almost three years since we filed the
5 original application. And two and a half years since the
6 decision. And we still have no order. The building has been
7 vacant the entire time, and so at this point, it's -- there's
8 technically five months, about five months, since we can
9 legally file a new application. Considering there are only
10 five months left, and the community and neighbors are well
11 aware and supportive of the project, shortening the time
12 period should not prejudice the rights of any person. Thank
13 you.

14 CHAIRPERSON HILL: Can you go back one slide, Mr.
15 Young?

16 MR. JACKSON: Can I also add one note in there?
17 There is just one thing that was incorrect. Sorry.

18 CHAIRPERSON HILL: Sure, Mr. Jackson.

19 MR. JACKSON: It said that the neighbor was
20 previously, the adjacent neighbor at 1119 was previously
21 opposed, but they actually were in support of the previous
22 application as well.

23 CHAIRPERSON HILL: Can you go forward one more
24 slide, Mr. Young? Okay. Can you drop the slide deck for a
25 moment, please? Okay. Let's see. So, Mr. Jackson, now I

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1 remember why I remember you. Okay. Because I was here for
2 the previous, you know, one. So let's see, does the Board
3 have any questions about the waiver and/or do we want to have
4 any kind of a discussion about the waiver. I mean, I'm okay
5 with the waiver. Really, again, and I'm talking to my fellow
6 Board members. Because of the fact that it's been two years
7 since they were here.

8 And I understand in terms of when they officially
9 withdrew their application. I also think that the
10 application has changed. And so it's not the exact same
11 application. If it were the exact same application, and
12 maybe this is for a further discussion that we can have
13 later, also with OAG. But this is not the same project. If
14 we were back here with the exact same project, I might have
15 a different opinion about the waiver. But the fact that it
16 is a different project, and that it's been two years since
17 this was here before us, I don't have an issue with the
18 waiver.

19 I'm going to start again with Commissioner
20 Turnbull, go to Mr. Smith, and end with Ms. John. Mr.
21 Turnbull, do you have any thoughts or comments?

22 COMMISSIONER TURNBULL: I would agree with you,
23 Mr. Chairman, I think this project is substantially changed,
24 and as such, I feel they shouldn't have to wait a year to be
25 heard. So I'd be willing to accept the waiver and proceed

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1 with the hearing. Those are my thoughts.

2 CHAIRPERSON HILL: Mr. Smith?

3 MEMBER SMITH: I agree with accepting the waiver.
4 I went back and looked at the previous design for the project
5 at this site, and the differences between this project and
6 the current design are substantial enough for me to believe
7 that it's materially different in nature and I can support
8 the waiver.

9 CHAIRPERSON HILL: Vice Chair John? You're on
10 mute, Ms. John.

11 VICE CHAIR JOHN: I think I should just leave my
12 --

13 CHAIRPERSON HILL: Ms. John, just to let you know,
14 it's better to be on mute because if you don't know that
15 you're on mute and you say something or do something, it's
16 way better to be on mute.

17 VICE CHAIR JOHN: Oh boy. Oh boy.

18 CHAIRPERSON HILL: Just my two cents.

19 VICE CHAIR JOHN: Oh boy. So I can support the
20 waiver because of the passage of time. It's been a long time
21 and I think, you know, it's reasonable to allow this
22 application to go forward. I think, although it's the same
23 relief, it's a different design and so on that basis, I will
24 support the request for a waiver.

25 CHAIRPERSON HILL: Okay. All right. So we're

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1 going to go ahead and grant the waiver, Ms. Wilson. All
2 right. So that being the case, Ms. Wilson, I'm going to put
3 15 minutes up on the clock, just to begin with. And if you
4 want to walk us through your client's application and why you
5 believe that they're meeting the criteria for us to grant the
6 relief requested, and you can begin whenever you like.

7 MS. WILSON: Great. Thank you. Paul, could you
8 please bring up the presentation on Slide 4? Thank you. So
9 since the denial, the applicant went back to the drawing
10 board, so to speak. Hired a new architect, and came up with
11 a new design that further limits the impacts on available
12 light and air to the adjacent property at 1119 Morse, by
13 significantly reducing the size of the addition on the second
14 and third stories where the impacts to light and air would
15 be the greatest.

16 Now we are requesting relief from U-320.2 to
17 convert the building to three residential units and construct
18 a three story rear addition, and partial third story
19 addition. The applicant is also requesting a waiver from the
20 ten foot rule, as the first floor extends 32 feet past the
21 rear wall of 1119 Morse, and the second and third floors
22 extend 16 feet past the rear wall of 1119 Morse.

23 The proposal includes two parking spaces at the
24 rear of the property and the addition complies with all other
25 requirements of the RF-1 Zone. With that, I will turn it

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1 over to the architect, Greg Kearley, to give an overview of
2 the plans.

3 MR. KEARLEY: I am now unmuted, so hello all.
4 Thank you for allowing me the time today. When you go to the
5 presentation, can you go to Slide number 6, please? So in
6 doing the redesign, there was a couple of things we wanted
7 to minimize the impact on the community and the adjacent
8 neighbor. So this is the subject property and as you can
9 see, the third floor addition has been set back so it does
10 not engage with the architectural cornice and mansard roof
11 here.

12 Please go to Slide, I think we'll jump to Slide,
13 go to 7 and then 8, and you can see this in terms of the
14 context of the neighborhood. So this is a large addition to
15 what would be 1123, and so the impact on this property is
16 nonexistent, really. You'll see this when you look into the
17 design. And then we've been talking with the neighbor at
18 1119, to minimize the impact that we would have on this
19 property with the addition.

20 So if you go to Slide, if you go to, if you could,
21 if you could jump to Slide 16. So this is a rendering we
22 have of the rear of the building. And what we've done, it's
23 a layered almost wedding cake type massing of the project,
24 where down at the cellar and first floor, we come out 32
25 feet, which is actually about 16 feet less than the property

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1 located at what would be 1123. And then the biggest impact
2 on the neighbor at 1119 would be the second and third floor.
3 So we set that back an additional 16 feet, so we minimize any
4 negative impact of the development to the neighboring
5 property. And we had extensive conversations with this
6 neighbor, and I think Brandon has submitted that they're now
7 a proponent of the project and we have a letter submitted
8 talking about that.

9 So in terms of the interior, I don't think we need
10 to get too much into the interior. We have a cellar unit,
11 a first floor unit, and then a second and third floor unit.
12 So but really the redesign centered around having the least
13 impact that we could on the property located at 1119 Morse
14 Street. And so I'm glad to answer any questions about the
15 design, but I wanted to really emphasize that the layering
16 and the stepping back of the massing of the building is the
17 most significant change that we made to the exterior of the
18 property.

19 MS. WILSON: Thank you, Greg. I'm happy to walk
20 through the special exception requirements and then we can
21 answer any questions, if you have any. I think that would
22 be the best order.

23 Could you go to the next slide, please? The
24 application safely meets the general special exception
25 requirements, as a special exception is specifically

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1 enumerated in the Zoning Regulations and the proposal will
2 not adversely affect the use of neighboring properties.

3 Next slide, please. Regarding the specific
4 requirements of U 320.2, the applicant safely meets those
5 requirements as well. The overall height increase is
6 minimal, and the overall building height will be limited to
7 32 feet and 2 inches.

8 Next slide, please. There is an existing
9 residential structure on the property, and the property has
10 a total of 2795 square feet of land area.

11 Next slide, please. We are requesting a waiver
12 from the ten foot rule. The subject building and the
13 adjacent building to the west are in line. So the addition
14 will extend 32 feet past the rear wall of 1119 Morse, but
15 only on the cellar and the first floor. And the second and
16 third story addition will extend only 16 feet past, as Greg
17 pointed out. It's sort of a wedding cake design and this was
18 to mitigate the impacts to light and air on the adjacent
19 properties.

20 And as we've mentioned, the owner of 1119 Morse
21 has signed a letter in support. And the ANC also supports
22 the application and waiver. Next slide please.

23 (Simultaneous speaking.)

24 MR. KEARLEY: And quickly, Alex, I just wanted to
25 mention too that the sun studies we have support that and

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1 show the minimal impact of our addition on the neighboring
2 properties.

3 MS. WILSON: Yes. Thank you, Greg. The addition
4 will not block any chimneys, vents, or solar panels. The
5 adjacent neighbor at 1119 Morse has actually signed a chimney
6 agreement allowing the applicant to raise his chimney.

7 Next slide, please. The applicant is not
8 proposing to alter any architectural elements original to the
9 building, and is proposing to maintain the existing porch and
10 all original architectural features. And the proposed third
11 story addition is set back seven feet and six inches from the
12 front facade.

13 Could you jump to Slide 25? I'll go through the
14 shadow studies. I realize these aren't labeled. Apologies
15 for that. So this is the summer solstice, this is the shadow
16 study for the summer months. And as you can see, there is
17 a very small amount of additional shadow at 9:00 a.m. But
18 that shadow is gone by noon.

19 If you could go to the next slide, please. In the
20 winter months, there is an even smaller difference in shadow,
21 and it's primarily on the roof of the adjacent building. And
22 that shadow is gone by 4:00 p.m.

23 Next slide, please. In the fall and spring, there
24 is no difference in shadow between the matter of right
25 building, and the proposed addition.

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1 Next slide, please.

2 MR. KEARLEY: And just quickly too, the reason
3 that the impact is so minimal is the impact is really from
4 the property at 1123. That building, because of how the sun
5 moves from the east to west, that is the building that is
6 casting almost all the shadows on the neighboring property.
7 Since we're set back 16 feet from that, even 16 and then 32
8 feet from that property, our addition has almost no impact
9 because the impact really is from that larger addition that
10 was built before the Zoning Regulations changed in 2016.

11 MS. WILSON: Thank you. Regarding privacy, the
12 applicant is proposing a privacy fence between 1119 Morse and
13 the subject property. And regarding character, Greg went
14 into more detail on that, but the buildings to the east are
15 much larger and there are three full stories extending 50
16 feet past the buildings. So the proposed addition will be
17 considerably smaller than those buildings. Especially on the
18 second and third stories, and should not impact the view from
19 the street, or from the alley.

20 Next slide, please. Thank you. The applicant has
21 submitted all required plans and materials, and is not aware
22 of any special treatment that may be required. We are
23 requesting a waiver from U 320.2(e), but that waiver is not
24 in conflict with U 320.2(I).

25 If you could go to the last slide, please. Slide

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1 32. In conclusion, the Office of Planning is recommending
2 approval of the application. DDOT has no objection, and ANC
3 5D supports the application proposal. And I do want to add
4 how much we appreciate the very thorough ANC report. I
5 believe it was submitted last night. We did attend a number
6 of meetings and wanted to come up with something the ANC and,
7 more importantly, the adjacent neighbor would like and would
8 support.

9 The effort Brandon spent redesigning the building
10 and the time the ANC and neighbors took to review the design
11 are really reflected in that report. So we really appreciate
12 it and I wanted to thank the ANC. And that is my
13 presentation.

14 CHAIRPERSON HILL: Okay, Mr. Young. Can you drop
15 the presentation for me for a second? All right. Does the
16 Board have any questions for the applicant?

17 VICE CHAIR JOHN: So I have a question about the
18 chimney agreement. Is it in the record? Or do you plan to
19 submit it to the record?

20 MS. WILSON: The Office of Planning didn't request
21 that we submit it and it's my understanding that those
22 typically aren't submitted. We did send it to the Office of
23 Planning and that was enough for him. Because it's typically
24 handled at DCRA. We could not get that approved unless we
25 have that from DCRA. So if we didn't have it, we would have

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1 to come back. But we can submit that to the record.

2 VICE CHAIR JOHN: Well, I can't remember, Mr.
3 Chairman, if we've asked for it to be included in the record,
4 but I --

5 (Simultaneous speaking.)

6 CHAIRPERSON HILL: Ms. Wilson, I think you're
7 wrong. You know.

8 MS. WILSON: Okay.

9 CHAIRPERSON HILL: I'm just laughing because I
10 also, it's one of those ones where, you know, if you could
11 submit it into the record, please that would be helpful.

12 MS. WILSON: Absolutely.

13 CHAIRPERSON HILL: Okay.

14 MS. WILSON: I'll submit it right now.

15 CHAIRPERSON HILL: Okay. Great. Thank you. Any
16 other questions?

17 VICE CHAIR JOHN: No.

18 CHAIRPERSON HILL: Mr. Smith, Mr. Turnbull?
19 Somebody's keyboard is on. If they want to mute themselves.
20 Thank you. Okay. Mr. Jackson, I'm a little curious. So
21 you've got the immediate next door neighbor to sign off.

22 MR. JACKSON: Yes.

23 CHAIRPERSON HILL: Did they say that, were they,
24 I mean, I'm just kind of curious. Like what if they try to
25 do what you're trying to do now, except kind of fill out that

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1 whole thing? Are you worried about you getting boxed in?
2 Like that, you know, the wedding cake thing.

3 MR. JACKSON: If they go ten feet beyond us? Is
4 that what you're saying?

5 CHAIRPERSON HILL: Even if they match. Even if
6 they match your, and maybe I'm getting it wrong, because I'm
7 just thinking out loud. If they match your last floor and
8 try to go straight out.

9 MR. JACKSON: I mean, I didn't have a concern with
10 that. It wasn't really something I've thought about. From
11 talking to them, I don't suspect they're moving anywhere any
12 time soon. They're kind of remodeling their house and
13 they're in their 60's and early 70's, and they told me they
14 have no intention of moving any time soon.

15 CHAIRPERSON HILL: Yes. I don't know if that's
16 something that would have to come before us anyway. So I
17 think it would. And so, but I was just curious as to how you
18 got their sign off. But it sounds like you have talked with
19 them.

20 MR. JACKSON: Yes. We talked a lot. Just kind
21 of, we sat around and chopped it up many, many times, several
22 times. And they can just call and tell me what they're
23 thinking. I'm telling them what I'm thinking, and we just
24 kind of go back and forth a lot, and just, you know, it's
25 really been very, you know, kind of friendly kind of just

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1 convo that's been ongoing for a while.

2 CHAIRPERSON HILL: Got it.

3 MR. JACKSON: Just trying to do what I can do to
4 make them happy.

5 CHAIRPERSON HILL: Well, congratulations. That's
6 different from the last time. Let's see. I'm going to turn
7 to the Office of Planning.

8 MR. JESICK: Thank you, Mr. Chairman and members
9 of the Board. My name is Matt Jesick. The Office of
10 Planning is recommending approval of the application and I
11 can virtually rest on the record. The application meets the
12 criteria for the conversion of a single-family home into an
13 apartment building, as listed in Subtitle U 320.2.

14 In terms of the waiver, as the applicant noted,
15 the materials in the record demonstrate that the impacts to
16 adjacent properties would be very minimal as a result of this
17 project. The largest amount of shadow is actually cast by
18 existing buildings. And the new building would cast very
19 little new shadow. So therefore, we were fine with the
20 waiver to the ten foot rule.

21 Again, we're recommending approval and I'm happy
22 to take any questions. Thank you.

23 CHAIRPERSON HILL: Okay. Does the Board have any
24 questions of the Office of Planning? Okay. Ms. John, I
25 don't know if you had a chance to really, I mean, I've gone

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1 over the ANC thing. I forgot about that one that we
2 approved, the carriage house that is a couple doors down.
3 I mean, there's a lot of things going on on this street. You
4 know, and so I'm glad that the ANC has had an opportunity to
5 really kind of take a look at things and allow it to sink in,
6 as to the kind of changes that are going on there. And I'm
7 very thankful to the ANC Commissioners for the time that they
8 spent as well.

9 So I'm sorry, I didn't have any questions for the
10 Office of Planning myself. Did the applicant have any
11 questions to the Office of Planning?

12 MS. WILSON: No. Thank you.

13 CHAIRPERSON HILL: Mr. Young, is there anyone here
14 who wishes to speak in support or opposition?

15 (Simultaneous speaking.)

16 CHAIRPERSON HILL: Pardon me? Did you say yes?

17 MR. YOUNG: No. We have no one.

18 CHAIRPERSON HILL: Okay. Got it. All right. So
19 unless the Board has anything else, and if you do, please
20 raise your hand. Ms. Wilson, do you have anything in
21 conclusion?

22 MS. WILSON: Thank you.

23 CHAIRPERSON HILL: Okay. I'm going to close the
24 hearing. Is the Board ready to deliberate? Okay. I can
25 start. Well, I was actually kind of, one of the things was

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1 the one year waiting period for the refiling, and I think
2 that we've gotten through that. I think that I would agree
3 with the analysis that was provided by the Office of Planning
4 as well as the thorough presentation by the applicant.

5 I thought that the property owner has obviously
6 done their due diligence in terms of working with the
7 community and trying to figure out how they might be able to
8 do something that works both for the community, as well as
9 for the project. And I, you know, commend him on his ability
10 to kind of work through this and to kind of stick it through
11 because it's been quite some time. And I'm sure he's very
12 happy to kind of at least get to the next resolution,
13 whatever that might be.

14 And so I believe that they are meeting the
15 criteria for which I feel comfortable granting the
16 application. So I will be voting to approve. Mr. Turnbull?

17 COMMISSIONER TURNBULL: Thank you, Mr. Chair. I'm
18 trying to remember the old case. I think I may have sat on
19 it, but I can't remember all of Mr. Sullivan's cases. I'm
20 sort of struggling to remember this one. But it's nice to
21 see the new version of this and the changes that were made.
22 Still we get to the ten foot rule, which is the -- such a
23 nasty rule. And again, I mean, it's there for a reason to
24 safeguard, so I always struggle granting relief to go beyond
25 the ten feet. I don't feel bad going 12 feet, even 15 feet

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1 can be worked out.

2 But I always worry when I see like 32 feet. Now
3 the thing is, we always look at these cases individually.
4 So individually, I mean, just in carte blanche, when I see
5 32 feet, I go oh my God, no. But in this particular case,
6 since you've already got an existing building next to it,
7 which is huge, it goes way beyond that, which was under the
8 old rules and regulations, which they were able to get by
9 with.

10 I'm okay. I can accept this. The fact that they
11 do have, I think it's Exhibit 34, which is a letter from the
12 next door neighbor, neighbors who have agreed and they have
13 no objections to going on with that. I guess, I think, I'm
14 okay with this. But you raise a good point about what if,
15 but the point was well-raised if the next door neighbors want
16 to go up, we're going to get into another situation. But
17 that's a different day. We don't have to worry about that
18 today.

19 So as long as they've got the letter in there from
20 those neighbors saying they agree with it, and the other
21 building is, it is what it is. So in light of that, I would
22 be, I will vote in favor of agreeing with the, with going
23 back the way they are. So I would approve the application.
24 I'm going to vote in favor of approving the application.

25 But once again, I always struggle with things

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1 going beyond, especially up to 32 feet. But this is a
2 particular case. It's unique and that's what we always do
3 in the BZA, we look at the uniqueness of the case. And so
4 I would vote in favor. Thank you.

5 CHAIRPERSON HILL: Thank you, Commissioner. Mr.
6 Smith?

7 MEMBER SMITH: I share Mr. Turnbull's same
8 concerns of 32 feet, but this particular property has the
9 fortune or misfortune of having two properties to their west,
10 or east, I can't remember. To the left if I'm looking at the
11 front facade, that are substantially larger because they were
12 approved under the previous Zoning Regulations.

13 So I do want to thank the applicant for going back
14 to the drawing board with their design. And the design I
15 believe, respects the historic nature of the row houses to
16 the right, if I'm looking at the front facade, by setting
17 back that third floor beyond the parapet so that the third
18 floor doesn't overwhelm the properties to the right, when
19 looking at the front facade.

20 And I think the idea of stair stepping it, like
21 a wedding cake, was a fairly novel idea. I do share the same
22 concerns with the Chairman. That if the property owner that
23 you're speaking of, that they're in their 60's or in their
24 70's, they come back and do an addition right at the rear
25 wall of your first floor, that would create a large amount

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1 of shadows, but again, that's for another day.

2 Thank you to the applicant for coming back to the,
3 going back to the drawing board to redesign and I would
4 support this special exception.

5 CHAIRPERSON HILL: Vice Chair John?

6 VICE CHAIR JOHN: Got it. So I'm in support of
7 the application. I think the redesign was really well done.
8 I share everyone's concern about the 32 foot addition. And
9 I think this is like a waterfall. So the next neighbor,
10 assuming they have the required rear yard, can go back ten
11 feet, and the neighbor to the right, would be able to go back
12 to at least 42 feet. And so I think it just keeps going on.

13 Anyway, as Mr. Turnbull said, that's for another
14 day. But for this application, I think the record shows that
15 it meets the criteria.

16 CHAIRPERSON HILL: Okay. Great. All right. So
17 we can go ahead and make a motion to approve Application
18 Number 20279 as captioned and read by the Secretary, and ask
19 for a second, Ms. John?

20 VICE CHAIR JOHN: Second.

21 CHAIRPERSON HILL: The motion has been made and
22 seconded. Mr. Moy, could you please take a roll call vote?

23 MR. MOY: Thank you, Mr. Chairman. When I call
24 your name, if you would please respond with a yes, no, or
25 abstain to the motion submitted by Chairman Hill to approve

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1 the application for the relief requested, seconded by Vice
2 Chair John. Zoning Commissioner Michael Turnbull?

3 COMMISSIONER TURNBULL: Yes to approve.

4 MR. MOY: Mr. Smith?

5 MEMBER SMITH: Yes to approve.

6 MR. MOY: Vice Chair John?

7 VICE CHAIR JOHN: Yes to approve.

8 MR. MOY: Chairman Hill?

9 CHAIRPERSON HILL: Yes to approve.

10 MR. MOY: Then staff would record the vote as four
11 to zero to one. And this is on the motion made by Chairman
12 Hill to approve the application, seconded by Vice Chair John.
13 Also in support, Mr. Smith and Zoning Commissioner Michael
14 Turnbull. We have a Board seat vacant. The motion is passed
15 on a vote of four to zero to one.

16 CHAIRPERSON HILL: Okay. Great. All right.
17 Thank you, you guys.

18 MS. WILSON: Thank you.

19 MR. KEARLEY: Thank you.

20 CHAIRPERSON HILL: Bye-bye. All right. Mr. Moy,
21 is there anything we need to do today?

22 MR. MOY: No. There's no new business from the
23 staff, sir.

24 CHAIRPERSON HILL: Okay. Great. Is there
25 anything anyone would like to share or add? Because we're

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1 done. Okay. All right. Bye-bye. We'll see you all next
2 week. Bye-bye, we're adjourned. Thank you.

3 (Whereupon, the above-entitled matter went off the
4 record at 12:37 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: 09-30-20

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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